UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 96th CONGRESS
FIRST SESSION

VOLUME 125—PART 14

JUNE 29, 1979 TO JULY 13, 1979
(PAGES 17319 TO 18652)

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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Friday, June 29, 1979*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. BRADEMAS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
June 28, 1979.

I hereby designate the Honorable JOHN BRADEMAS to act as Speaker pro tempore on Friday, June 29, 1979.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

God of our fathers, by whose hand our Nation has been blessed, look with favor upon our land and be our guardian and guide. May we know our continued dependence in You in all times of need and special petition, and may Your spirit lift our spirits and may Your providence ever give us hope.

We confess our selfishness and our indulgence in the things of the world, how we have missed the mark and gone our own way.

Help us to realize our responsibility in our common society that together we may work and pray for the welfare of our Nation and all the people.

In Your name, O Lord, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

UNITED STATES-U.S.S.R. MILITARY BALANCE—MYTHS AND FACTS II

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, the widespread belief that the Soviets have surpassed the United States in military power is often based on comparative calculations of what each nation spends on defense. The CIA publishes estimates each year of Soviet defense spending, and these estimates are frequently cited as showing that the Russians spend 45 percent more than the United States on their military machine—a startling gap—and have shown real, steady growth in their total defense spending for almost 20 years.

In fact, this is not the whole picture. The CIA calculates spending on Soviet forces in dollar prices that we would pay in the United States for the same forces. This means that the high pay scales of our volunteer army are applied to the Russians' conscripted force of over 4 million men, which grossly distorts the total cost figure. Calculated in rubles instead of dollars, the CIA estimates Soviet spending on defense to be only 25 percent larger than our own, and admits that even this figure could be 10 percent too high. Other authoritative sources such as the International Institute for Strategic Studies and the Stockholm International Peace Research Institute estimate the gap as even smaller. Furthermore, if the defense spending of allies on both sides are taken into account, the gap disappears—indeed it reverses.

And finally, the CIA itself insists that total spending alone is not a good measure of the strength and effectiveness of military forces. An accurate comparison of United States and Russian military might must take into account the tactical proficiency, readiness, and morale of forces; the number and effectiveness of weapons, battle scenarios, logistic factors, and a host of other factors. The simple claim that the Soviets are militarily stronger than we are simply because they seem to spend more is not justified.

A TRIBUTE TO CHARLES E. BABB, SR.

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is with great sadness that I speak today in the House of Representatives, regarding a dear friend and resident of my own home community of Mayfield, Ky., Charles E. Babb, Sr.

Mr. Babb, age 61, died Friday, June 8, 1979, shortly after being admitted to the Mayfield Community Hospital, following a sudden illness.

A longtime member of Mayfield City Council, Charlie Babb was recognized throughout the community as a man with a sympathetic ear and genuine concern for his fellow citizens' welfare. Just prior to his death, he had been reelected to a seventh term on the city council.

Charlie Babb was a veteran of World War II, having served with distinction in the U.S. Army. Throughout his life, he was an active member of the First Baptist Church, Mayfield. Charlie was also a charter member of the Mayfield chapter of Toastmasters, International.

He is survived by his wife, Mrs. Martha Babb, who succeeds him as a member of the Mayfield City Council, a son, Charles E. Babb, Jr., and a daughter, Mrs. Ronnie Ivy. He also leaves two brothers and four grandchildren.

Charles Babb, Sr., was an outstanding citizen and an integral part of his church and community. His many contributions will be missed indeed.

TRIBUTE TO KATHRYN N. FOLGER

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRADEMAS. Mr. Speaker, I take this opportunity to express some words of appreciation to an outstanding public servant, Kathryn N. Folger, of North Carolina, who today retires after many years of service in positions of responsibility both in the Democratic Party and in the Department of State.

I first came to know Kay Folger, Mr. Speaker, during the period from 1954 to 1961, when she was director of the Speakers' Bureau of the Democatic National Committee here in Washington, D.C. During that time, Kay Folger with unfailing courtesy and wise judgment organized visits of speakers to nearly every congressional district of the United States.

Since October 1961 Kay Folger has served in congressional relations for the Department of State as a legislative management officer.

In this position, she has had primary responsibility for the Bureau of Cultural Affairs, confirmation of Presidential nominees, Office of Protocol, and the Bureau of Public Affairs. Miss Folger also

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

worked in congressional relations for the Middle East for a period of 14 years.

What I think, Mr. Speaker, has particularly impressed those of us who have come to know Kay Folger over the years has been her strong commitment to the national interest, her sense of the importance of politics in a democrary, her capacity to put the national interest over partisanship, her sound judgment of people, and her unfailing good humor.

All of those who have worked with Kay Folger will miss her as she leaves Washington, D.C., but wish her well as she returns to her native State of North Carolina.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my 1-minute speech today paying tribute to Kay Folger.

The SPEAKER pro tempore (Mr. FISHER). Is there objection to the request of the gentleman from Indiana?

There was no objection.

□ 1010

PERSONAL EXPLANATION

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, through an unavoidable scheduling conflict, I was unable to make a meeting of the House Committee on Standards of Official Conduct, which took place roughly 40 minutes ago.

I would like to state for the record that had I been at the hearing, which has now adjourned, that I would have voted with the majority of the committee to accept the resolution in the matter of the gentleman from Michigan, CHARLES C. DIGGS.

HAPPY BIRTHDAY TO TOM IORIO

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, I take advantage of this privilege to point out to the Members of the House that a very dear friend of the House and a servant of the House, Tom Iorio, will have a birthday tomorrow.

Being that we will not be here, most of us, I thought it only fitting that we wish him well and wish him a very happy birthday. I understand that he will be 78 years of age, which is incredible in view of his resiliency as he proved it last year when he suffered a very tragic accident and hovered between life and death in a nearby hospital. And with grit and determination and a tremendous resiliency of his, we would never think he had ever had an accident.

But certainly a faithful and a most loyal and efficient servant the House has seldom had.

It is a privilege to wish him well. I am sure that I reflect the sentiments of every Member of the House when I say happy birthday, Tom, and many, many more.

NEED MORE NATURAL GAS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLLINS of Texas. Mr. Speaker, what America needs is more facts regarding energy. The overload of Government regulations handicap and discourage gas and oil development. One of the best studies I have seen on oil and gas was prepared by Tom Bethell who is the Washington editor of Harper's. In the current June issue of Harper's, Bethell has prepared an excellent report titled "The Gas Price Fixers." I want you to read all of it in Harper's, but let me particularly call your attention to this section. I agree completely with his sentence that "the Government involvement in natural gas pricing has been a disaster."

Intelligent people know that only one commodity in the United States is under price control and that is oil and gas. The Government's price control has created the U.S. shortage of oil and gas.

Here is one section of the article on gas by Bethell in Harper's:

> Earl Turner, executive vice-president of the Texas Independent Producers and Royalty Owners Association, says that as of March, 1979 the new gas act has been "a liitle short of disastrous." There has been a 15 percent decline in drilling, he said, "because of confusion in meeting requirement obligations," i.e., red tape. He said that there were 300 unused drilling rigs, "stacked up," with "about 250 new rigs coming on line from the manufacturers." Before the bill was passed, of course, rigs had been hard to find. Independents, Turner explained, drill 90 percent of the exploratory wells in the United States. Most of these companies employ only half-a-dozen to a dozen people most of the time. "Now they've been asked to look at a complex law," Turner said, "and most of them simply threw up their hands."
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> Another fear is that it will take a long time for the new, higher regulated prices allowed under the act to take effect. By a 3–2 decision earlier this year, the Federal Energy Regulatory Commission (which has now replaced the old FPC) ruled that the price-escalator clauses written into old natural-gas contracts would not be automatically "triggered" by the new ceiling prices now allowed. "What this means," said David Foster, of the Natural Gas Supply Association, "is that the decision wiped out what some say is 70 percent of the price incentives we thought we were getting. The matter then came up for rehearing, and Energy Secretary James Schlesinger sent over some testimony saying that Chairman Curtis of FERC had been wrong. Then the Commission, by a 4–1 vote, did modify its interpretation somewhat. But lawyers believe it will take three years of legal maneuvering for ceiling prices to be applied to existing contracts."
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> There are already indications that the wellhead prices under the new act are turning out to be higher than the free-market price. The Oklahoma legislature, for example, has now passed a bill keeping the price of some gas sold within the state below the price ceiling allowed by the new act. Cal Hobson, the Oklahoma state legislator who introduced this bill, says that under the Natural Gas Policy Act "price ceilings are turning out to be price floors, because whenever they can, the producers have been claiming the highest price." There is little incentive for the state regulatory agencies responsible for ruling on these price claims to turn them down, because the higher the prices are (in some cases) the higher the state "severance" taxes are—taxes on oil and gas taken out of the ground. Most people seem to agree that this is the eventual fate of the regulated price; it becomes a price that no producer has any incentive to undercut. In the end, then, prices turn out to be higher than they would have been without regulation.
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> Meanwhile, there is still another provision of the new act that seriously disturbs the gas industry. This is the so-called incremental-pricing requirement, which is a plan to charge large industrial users of gas more than domestic users. A few years ago, of course, this seemed like a good idea. We were then still mesmerized by the Club of Rome and the "era of limits." But after the inter- and intrastate markets were unified, a "bubble" of one trillion cubic feet of excess supply was discovered in the intrastate market. At that point, Energy Secretary Schlesinger tried to get the industrial market back. "Schlesinger Urges Shift to Gas Use" was the surprising new york Times headline in January this year. But the act was passed by this time, the damage was done, and plans go ahead to charge industries using natural gas a higher price.
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> The fear is that many industries may already have turned to oil—fed up as they are with interrupted gas supplies, low priority if it is short, and now the threat of higher prices. Rush Moody, a former FPC commissioner, spoke before the Gas Men's Roundtable of Washington in November, 1978, and he said: "I have an intuitive feeling that a substantial portion of the traditional natural-gas industrial market has already disappeared and is not likely to return even though more gas has now become available." He attributed the surplus gas "bubble" to a fall-off in demand resulting from this "pressure against the industrial gas user," adding: "Though the commission is oft-times accused of inconsistency, I would have to say the one consistent philosophic guidepost which has remained steady through changes in commission personnel over the past eight years has been the very simple notion that boiler fuel consumption of natural gas is inherently immoral and must to the maximum extent of the commission's abilities be eliminated."
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> The result of this policy has been to force the industrial user into the market for imported crude oil. Petroleum has moved from 21.9 percent of the industrial market in 1973 to a 26.7 percent share in 1977. "How ironic," Moody concluded, "that a government avowedly dedicated to reducing U.S. dependence on imported fuels is engaged in policies which have had as their only result a greater U.S. dependence on imported fuels."
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> The worst effect of a continued shift of industrial users away from natural gas, however, will be once again to force domestic consumers to pay greatly increased prices for the diminished quantities of gas traveling in the pipeline. (At present, only one-third of the natural gas consumed is put to domestic use.) In effect, then households rather than industries will be compelled to amortize the enormous cost of pipeline construction, which, incidentally, has gone up from $120,000 per mile in 1965 to $1.7 million per mile in 1977. It was for this reason, then, that James Schlesinger recently urged industries to go on burning natural gas in their boilers.
>
> It may be seen, then, that the government involvement in natural-gas pricing has been

a disaster. It is particularly discouraging to consider how much larger the natural-gas market might have grown, as a percentage of U.S. energy needs, if the rigid price controls of the 1960s had not been in place, resulting frequently in the shunning of new gas customers. And if the market had grown, we would now be that much less dependent on foreign oil. A large part of the problem, it is now apparent, stems from the clamorous activism inherent in the word policy. Time and again, in recent years, we have been told that the United States must adopt an "energy policy." Somebody must do something about energy, and nobody seems to have appreciated that for years and years thousands of people in the oil and gas industry have been doing something, namely delivering oil and gas to U.S. consumers at the lowest price in the world. But small, and then larger interferences in the market resulted in inequalities of supply and demand, which in turn led to the appeal that government should do even more.

A Department of Energy was formed, thus creating jobs for a lot of people who had been crying out for an "energy policy," and these policymakers will be almost bound to introduce further distortions in the market. Because of their high salaries, they will not be content to do nothing, although that would probably be the best energy policy the government could adopt.

When one reads the protracted legislative debate on natural-gas pricing, it becomes apparent that the main reason legislators are unable to do anything useful in this realm is that they do not know what they are talking about. They do not have enough information at their disposal; they do not understand the business they are attempting to regulate, they are unable to act quickly enough in response to movements in the market. By no means all legislators are to blame. Many Representatives and Senators—and in recent years this has meant almost exactly half of each body—instinctively realize their shortcomings, and these are the ones who vote to deregulate. Having satisfied themselves that the industry in question is competitive, they are then prepared to let it get on with the job.

But the other half, the dangerous half, is really of a more totalitarian cast of mind, believing in their hearts that a monopoly indeed is a good thing: a government monopoly. They don't know as much as the oil and gasmen, they may concede, but they are possessed of purer motives and therefore deserve to prevail. They are concerned about consumers, not profits. They have good intentions, they know, and characteristically they find it very, very hard to believe that good intentions can produce anything but excellent results. And so they vote themselves the power to interfere—just enough to keep supply and demand out of whack.

The evidence is by now overwhelming that self-interested producers competing with one another end up serving the customer far more handsomely than idealistic legislators ever can, but unfortunately it has been difficult to persuade voters of the truth of this in recent years—especially voters with a college education. This really is the "crisis of capitalism": until we can perceive that the independent driller whose goal in life is to become a millionaire works to our advantage more effectively than the selfless "consumer advocate" in Washington, whose true goal surely is the attainment of personal power (even if he does call it "fairness"), then we will always have an energy crisis on our hands.

DECONTROL OF OIL, GAS, AND NATURAL GAS

The SPEAKER pro tempore (Mr. BRADEMAS). Under a previous order of the House, the gentleman from California (Mr. DANNEMEYER) is recognized for 15 minutes.

Mr. DANNEMEYER. Mr. Speaker, as we come to the end of the month, and the lengthening gas lines remind us of the shortcomings of our energy policy, it is time to reassess that policy and take the steps necessary to turn it in the direction of greater productivity, elimination of gas lines, and less dependence on foreign oil. Ever since wage and price controls were first imposed in 1971, the Federal Government has been trying to manage first the price of, then the supply of and most recently the allocation of crude oil, natural gas, and petroleum.

Quite obviously, as the natural gas shortage of several years ago, the gas lines of today, and the heating oil crunch predicted for this winter suggest, its attempts at management of our energy production and consumption patterns has been anything but successful. Rather than compound the problem, with something like the Ways and Means Committee's "windfall profits" tax proposal, it would seem logical that we now should look in the opposite direction for answers—that is, toward letting the free market provide the incentives needed for greater domestic fossil fuel production.

Ironically, a case can be made for the fact that Federal tampering with oil and natural gas prices even prior to 1971 may now be coming back to haunt us. I say ironically, because, back in the 1960's, the price of oil on the world market was too low rather than too high, which led the Federal Government to impose a mandatory foreign oil import quota. Even though States limited oil production somewhat to drive up price, this still meant the United States used less foreign oil, and more domestic oil, than it could have which, in turn, translates into less domestic oil now when we need it more.

In fact, our rapidly increasing dependence on foreign oil—ranging between 40 and 50 percent—is one of the most important aspects of our problem; not only can the OPEC nations drive up the price we pay for oil but the price we are paying those nations is severely and adversely affecting our balance of payments situation which, in turn, contributes to inflation.

Mr. Speaker, the bill I am introducing today would reverse these trends and remove the disincentives currently inhibiting American producers of oil and natural gas. At the same time, it would have the effect of treating American producers the same as world producers instead of as second class citizens, and it would do so without obligating the U.S. taxpayers to price supports, loan guarantees or governmental subsidies. Specifically, it would provide for the decontrol, within 30 days, of oil, petroleum, and natural gas prices so that a producer could have a reasonable expectation of being able to cover his expenses and obtain a fair return on his investment—a necessary precondition for increased production.

In addition, the bill will terminate several other control mechanisms which, indirectly at least, have an adverse affect on supply and, therefore, price. These are the authorities the President currently has to allocate gasoline and to order the refiners to change their mix of finished products, say from gasoline to heating oil or vice versa. Such mechanisms are only necessary as long as prices are controlled; with decontrol, the law of supply and demand would allocate supplies and determine refinery mixes far better than the Department of Energy can.

During the past few months, there has been a lot of talk, much of it both emotional and inaccurate, about decontrol. Many claim that it would mean "windfall profits" for the oil companies, but the fact is the average return on investment for the oil companies last year was almost a full percentage point less than that of the average for the Fortune 500 largest corporations.

Also, opponents of decontrol often forget that not only does inflation drive up oil company costs just like everyone else's but that new fields of oil and natural gas are far more difficult to find and are far less accessible than ever before. The fact is that we have found and exploited all of the oil that was easy to find. The cost of exploration and drilling has increased dramatically in recent years and the money to cover these costs has to come from somewhere. Beyond that, if opponents of decontrol were so concerned about "windfall profits" why were so few of their voices heard when the House passed, just 2 days ago, a bill that will provide anywhere from $3 billion to $20 billion in Government guaranteed price support payments to firms developing synthetic fuels

Since it is well known that one of the major synthetic fuels will be derived from coal—via liquefaction—and that the oil companies own much of our coal reserves, it does not require much insight to understand that it is not so much "windfall profits" that bother the opponents of deregulation, it is the thought that they might not control the manner in which profits are distributed. While it makes for bad public policy, tax, spend and elect obviously has a lot more political appeal than earn, invest and produce.

The fact of the matter is, however, that America was built on individual initiative leading to productive effort not on taxation and Government regulation. For evidence of that, one need look no further than the natural gas industry. Ever since 1938, natural gas in interstate commerce has been regulated whereas intrastate gas, at least up until last year, was not regulated. Several winters ago, as I need hardly remind any Member of this House, there was a severe shortage of regulated interstate gas while unregulated intrastate gas, at only a slightly higher price, was in plentiful supply.

So plentiful, in fact, that when the distinction betwen intrastate and interstate gas was, for practical purposes, removed in 1978, the price of natural gas actually dropped for a while and there was enough of an intrastate gas surplus to forestall for several years the inevitable shortage that will be caused by the remaining control. This bit of recent history should give the doomsayer of decontrol pause for reflection, for if anything it shows that an absence of price controls—in this case on intrastate gas—can encourage production and increased production is what will be of most benefit to the motorist idling his or her car for 2 hours in a gas line once or twice a week.

Confirmation for this point of view can be found in the estimates of those concerned with President Carter's phased decontrol plan. Since learned analysis agree that decontrolling oil prices between now and 1981 will add 1½ million barrels of oil to our daily totals, it logically follows that immediate decontrol would have even better results. What with crude oil production having declined from 8.83 million barrels per day in November of 1978 to 8.38 million barrels per day in April of 1979—the month before the President announced his phased decontrol plan—and with OPEC having raised its prices to an average of $23.50 per barrel yesterday, we simply cannot afford not to have this added production as soon as possible. In fact, as a Library of Congress issue brief entitled "Crude Oil Price Controls: Background and Policy Alternatives" points out, if crude oil had been decontrolled in 1978 "the total annualized price increase—would be at least 20 percent below the escalation that is to be expected by late 1979. The same reasoning applies to natural gas which, under current law, will not be fully deregulated until 1985.

Finally, one last point needs to be made and that is, for years now, many of those who oppose decontrol are in the vanguard of the conservation of energy movement. Yet, artificially low prices for both oil and natural gas may well be one of the factors that has led to our high energy consumption rate. Concurrently, as previously noted, an artificially low price, one that is less than the market value of a product, discourages production. It is as nobel laureate Dr. Milton Friedman has said, if you want a surplus, "have the Government legislate a minimum price that is above the price that would otherwise prevail." And if you want shortage, "have the Government legislate a price that is below the price that would otherwise prevail."

To that I can only add, if you want neither a Government created surplus at the taxpayers expense nor a Government created shortage at the expense of the producers and consumers, let us not have either a Government established maximum or minimum price. My proposal will do away with the Government established maximum prices in 30 days and I urge its adoption.

Mr. BADHAM. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from California.

Mr. BADHAM. Mr. Speaker, I would like to commend the gentleman on his statement, and I would like to associate myself with his remarks. I would be pleased to be a cosponsor of his legislation. I think the gentleman has done an admirable job in bringing the true case of the so-called oil, gas, and energy shortage to the American people, and I commend the gentleman for his remarks.

Mr. DANNEMEYER. I thank the gentleman for his comments.

CONGRATULATIONS TO CONGRESSMAN MATT RINALDO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 10 minutes.

● Mr. BROYHILL. Mr. Speaker, ladies and gentlemen of the House, I want to call to your attention a recent achievement of our colleague, the distinguished gentleman from New Jersey (Mr. RINALDO).

Earlier this month Mr. RINALDO became Dr. RINALDO when he was awarded a doctorate in public administration from New York University. This doctorate is an earned degree, not an honorary one which many of us have been fortunate to receive in the past.

Our colleague began his work toward a doctorate after receiving his master's degree in business administration from Seton Hall University. While working hard as a member of the New Jersey Senate, Dr. RINALDO studied nights to earn credits toward the doctorate in public administration. All his course work was completed in 1972, the year of his election to the U.S. House of Representatives.

After Dr. RINALDO was reelected last November, he began to write his doctoral dissertation and he chose a subject which he knew a lot about—Government and public opinion. The thesis which he submitted for his doctorate documented the way Members of Congress poll their constituents on issues and how they use the results. He talked with many Members of this House to learn how we use public opinion polls and how much they influence our votes.

I would like to add my personal congratulations to Dr. RINALDO on this outstanding achievement. I would also like to congratulate my distinguished colleague on his selection as the ranking minority member of the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce. I know that he will continue to distinguish himself in this new position of leadership and influence.

I am sure that my colleagues join me in extending congratulations to Dr. RINALDO.●

WILL PANAMA CANAL TREATIES INSURE EVENTUAL CONTROL BY MOSCOW AND HAVANA?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 10 minutes.

● Mr. ASHBROOK. Mr. Speaker, yesterday the Chicago Tribune published information from a secret State Department memo which links Panama and Cuba with the Sandinista terrorists who are fighting to overthrow President Somoza of Nicaragua. According to reliable sources quoted in the memo the arms supplied by Cuba were transported in Panamanian Air Force planes, contradicting testimony by the Carter administration that Panamanian involvement was not on an official basis but the work of individual Panamanians. The memo is dated May 2, fully a month before representatives of the State Department and the Army testified before the Panama Canal Subcommittee of the House on the gunrunning activities of Panama in support of the Sandinistas.

If the information in the memo is factual, we must ask what effect Panama's complicity with Cuban terrorist activities will have on the Panama Canal treaties which go into effect on October 1 of this year. What influence over the Panamanian Government do the masters of subversion, Moscow and Havana, wield in that country at this time? If Communist influence—or even control—is a reality, were the State Department and the U.S. Senate deceived when the treaties were being debated? If so, how valid are the treaties? Has Panama made a mockery of the treaty-making process, especially with regard to the so-called neutrality treaty which is one of the two Panama Canal treaties?

These are but some of the vital questions which still have to be addressed if the interests of the American people and our Nation are to be faithfully served.

I insert at this point the very important article by John Maclean of the Chicago Tribune which appeared in the final edition of the Tribune yesterday, June 27:

CUBA, PANAMA GIVE AID TO SOMOZA'S FOES: MEMO

(By John Maclean)

WASHINGTON.—The Cuban government has funneled arms to leftist Sandinista guerrillas in Nicaragua abroad Panamanian air force planes and trained hundreds of Sandinistas in Cuba, according to a secret State Department memo obtained Tuesday by the Tribune.

The memo describes how Cubans on one occasion shipped eight crates of arms, including 50 caliber machine guns designed to serve as anti-aircraft weapons, by a Panamanian air force plane for Sandinista guerrillas rallying in Costa Rica last September.

The memo quotes reliable sources who said Cuba made a second, larger delivery involving three Panamanian military planes during the week of November 5–11. That shipment included Soviet-made AK–47 rifles, 50 caliber machine guns, and hand-held mortars. By the end of November, the memo states, the Panamanians had flown those arms to Liberia, Costa Rica, where they were given to the Sandinistas.

Sandinistas are leftist revolutionaries named after Gen. Augusto Cesar Sandino, who fought the United States Marine occupation of Nicaragua until he was murdered in 1933 on orders of Gen. Anastasio Somoza, father of the present president. The Sandinista National Liberation Front began a new offensive this month to overthrow President Anastasio Somoza.

The most recent shipment occurred in April, when the Panamanian government is said to have made a delivery of guns to Sandinistas in Costa Rica, the memo said.

"On each occasion Havana has limited its own direct involvement by relying on the Panamanian government to transport the arms," the memo states.

This assertion contradicts Carter administration testimony on pending legislation to implement transfer of the Panama Canal to Panama. Administration officials argued that any gun smuggling from Panama had no connection with the Panamanian government.

The officials acknowledged the incidents in secret testimony, but disputed testimony of retired military officers that the Cuban and Panamanian governments were directly involved.

"Prior to passage of enabling legislation for the treaty, the administration tried to paint this as an isolated incident of some Panamanians trying to make money running guns," said a spokesman for the House Merchant Marine Subcommittee, which held hearings on the Panama Canal bill.

At one point in the hearings earlier this month, Lt. Gen. Dennis McAuliffe, commander of the United States Southern Command, was asked if "involvement by Panama includes arms!"

"It depends on whether you are talking about the government of Panama or Panamanian nationals who have been found to have done some of this," he said.

The State Department memo is dated May 2, more than a month before the hearing.

The memo says that at an April 13 general staff meeting of the Sandinistas, the guerrillas said their arms inventory included anti-tank rockets that Cuba had provided via Panama.

The arms were said to be of Soviet, French, and Chinese manufacture, previously provided to Cuba.

Members of the general staff also reportedly said at that meeting that Cuba had trained 300 Sandinistas in the field. The training of Sandinistas has been on the upswing since January, the memo said.

"Early that month a Panamanian emissary reached an agreement with Fidel Castro to send to Cuba FSLN [Sandinista] exiles who formerly would have been granted safe haven in Panama," the memo states.

President Castro also has promoted support for the Sandinistas among leftist groups in Central American countries, the memo says. The Cubans have urged such groups to supply arms, provide facilities for military training, and create havens for the guerrillas.

The Cubans promoted a meeting in early February in San Jose, Costa Rica, where representatives from various Latin American Communist parties talked about assistance to the Sandinistas. Plans were discussed for a follow-up meeting in Havana.●

MEMBERS OF THE NATIONAL COMMITTEE FOR AUTOMOBILE CRASH PROTECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. Dicks) is recognized for 5 minutes.

● Mr. DICKS. Mr. Speaker, in 1977 the Department of Transportation issued, and the Congress endorsed, a measure to significantly reduce the number of people who are killed and crippled in highway accidents. That measure requires that automobiles be built in a way that automatically protects people when they are involved in an accident. The American people will have the option of buying cars with automatic safety belts or air cushions.

This lifesaving measure is supported by an impressive array of individuals and organizations. More than 60 organizations that support the standard have formed the National Committee for Automobile Crash Protection. Each of these organizations recognizes the need for and strongly supports automatic crash protection in automobiles. I recently learned that our former colleague, the Honorable John E. Moss, is serving as their honorary chairman. I ask unanimous consent to list the members of this organization in the Record.

Members

Allstate Insurance Companies.

American Academy of Pediatrics.

American Association of Physical Medicine and Rehabilitation.

American Coalition of Citizens with Disabilities.

American Congress of Rehabilitation Medicine.

American Family Insurance Group.

American Insurance Association.

American Nurses Association, Division on Medical Surgical Practice.

American Public Health Association.

American Trauma Society.

Amica Mutual Insurance Company.

Association of Massachusetts Consumers.

The Atlantic Companies.

Automobile Club of Missouri.

Automobile Owners Action Council.

Susan P. Baker, Associate Professor, Johns Hopkins School of Hygiene and Public Health.

Cal Farm Life Insurance Company.

Center for Auto Safety.

Center for Concerned Engineering.

Center for Independent Living.

Chubb & Son, Inc.

Colonial Penn Insurance Company.

Commercial Union Assurance Companies.

Congress Watch.

Craig Hospital, Denver, Colorado.

Crum & Forster Insurance Companies.

Disability Rights Center.

Employers Insurance of Wausau.

Epilepsy Foundation of America.

Farmers Insurance Exchange.

Government Employees Insurance Company.

Harleysville Insurance.

The Hartford Insurance Group.

International Association of Chiefs of Police.

League Insurance Group.

Liberty Mutual Insurance Company.

Maryland Institute for Emergency Medical Services.

Mid-Atlantic Emergency Medical Services Council.

Ralph Nader, Attorney.

National Association of Emergency Medical Technicians.

National Association of Mutual Insurance Companies.

National Association of Professional Insurance Agents.

National Consumers League.

National Safety Council.

National Spinal Cord Injury Foundation.

Nationwide Insurance Company.

Norte Vista Medical Center, Hobbs, New Mexico.

Ohio Farmers Insurance Company.

Physicians for Auto Safety.

Physicians National Housestaff Association.

Prudential Insurance Company of America.

Prudential Property & Casualty Insurance Company.

Safeco Insurance Company of America.

Saint Paul Fire & Marine Insurance Company.

State Farm Insurance Companies.

S. Lynn Sutcliffe, Attorney.

Travelers Insurance Companies.

United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW).

United Services Automobile Association.

Wisconsin Consumers League.●

AMERICA MUST CONFRONT THE SOUTHEAST ASIA REFUGEE PROBLEM

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Pennsylvania (Mr. Ritter) is recognized for 5 minutes.

● Mr. RITTER. Mr. Speaker, an urgent and tragic situation confronts the world in Southeast Asia today. As a result of cruel and inhumane actions of the Vietnamese Government, entire populations are being forced into such horrible conditions of human misery that they are leaving their homes and risking their lives to escape. Countless thousands arrive crowded and penniless on unwelcome shores. Their masters from whom they fled stand in coldblooded and callous disregard of their plight. They are scornful before the rest of the world.

As many as 1 million fugitives from homelands in Vietnam, Laos, and Cambodia today dwell homeless, shattered, and wallowing in despair along the length and breadth of the South China Sea. Untold thousands who fled in boats never make it to shore. The human suffering is indescribable.

As in earlier mass flights from terror in more familiar European history, other countries are neither open nor anxious to respond in a humane way to the plight of the new victims. Only the United States which thus far has admitted over 200,000 of these people continues to respond to their plight. The Senate recently has voted to increase this number by 1,000 per month, and the President today called for a doubling of our monthly quota.

An international conference to deal with this problem has been proposed. In the House of Representatives, with my full support, we voted overwhelmingly to ask the President to convene an emergency session of the General Assembly at the United Nations to address this issue. Also, the President and other world leaders at the Tokyo summit at this very moment have agreed to place this matter on the agenda for joint international action.

I have written personally to the head of the Government of Vietnam expressing my concern for the lives of the refugees and asking that that government cease those policies which are tantamount to expulsion.

Notwithstanding, the vast problem of displacement and resettlement of hundreds of thousands of refugees from Southeast Asia remains acute, unresolved, and expanding.

And, while the United States has led the world in its humanitarian efforts on these suffering refugees' behalf, our program, too, has encountered serious problems. We have taken in over 200,000 of Southeast Asia's refugee population and continue to do so at the rate of over 7,000 per month, but we cannot do it all alone.

Our Nation cannot be the only nation seeking to resolve the terrible dilemma of the stateless and homeless refugee population. Asian nations such as Japan, as well as nations in Western Europe and North and South America must cooperate in the assistance and resettlement program we have struggled to support in the face of the near-overwhelming numbers.

In short, the industrialized countries are approaching a situation which resembles that of the pre-1938 era, when the world stood on the sidelines passively, refusing to act to grant refuge to the masses of threatened and displaced victims of accelerating Nazi persecutions.

I welcome the statement at the Tokyo summit that the President plans to take the lead in compelling the other industrial nations to face up to the Southeast Asia refugee crisis confronting the entire world.

The time is past due for the civilized nations of the world to help bear up to the international responsibilities and share with the United States in the resettlement of hundreds of thousands of helpless refugees. We Americans must continue to do our share but cannot alone carry the awesome burden of providing homes and assistance to Southeast Asia's fleeing masses.●

THE UNCHALLENGED REIGN OF KING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, with the House going into the July 4th recess, I wish to take this opportunity to sum up some of the issues I have developed in this forum.

First, I would like to remind the House and the country that as yet there have been no arrests in the case of the murder of Federal District Judge John W. Wood, or any arrests in the case of the attempted murder of assistant Federal District Attorney James W. Kerr last November.

I cannot think of a more serious continuing symptom of a basic ailment in our society than the unchallenged rein of what I call King Crime. I have pointed out what I consider to be the direct association with certain patterns of hits or murders that have taken place in the jurisdiction of the Western judicial district of the Federal judicial system. The fact that Judge Wood was murdered in the manner and fashion that he was is evidence of what I said after the attempt on James Kerr's life. It indicates for the first time a direct challenge on the part of organized crime to the constituted authorities of this country, which certainly the Congress symbolizes perhaps more than any other body in our governmental system. These are the men—the James Kerrs, the John Woods, and the officials in the law enforcement agencies—who are attempting to carry out the laws that we forge and that we approve here in this body. They are being killed at will, with little or no ability on the part of the constituted law enforcement agencies to control this nefarious activity, this murderous pattern of activity on the part of the most terrible form of crime that exists anywhere in the country.

In the United States, as I have pointed out for 10 years now, the form and manner and shape in which organized crime of the most sophisticated type has been able to penetrate every level of our society, including the highest reaches of the Federal Government, should have been cause for concern of the most intimate kind to every Member of the Congress and certainly every President, especially within the last 10 years.

I wonder at this point whether it is irretrievable. I wonder whether we have lost the ability to control this. For example, I have raised the possibility of a connection between organized crime and the mysterious and tragic death of Sante Bario just recently. After lingering in a coma since last December, when he was given a peanut butter and jelly sandwich, Sante Bario died. He choked up and went into a comatose state; he never recovered consciousness, never was able to defend himself from the charges of bribery for which he had been incarcerated in San Antonio.

Now, here we have the pattern of incidents that have happened there, not only within the confines of the Bexas County jail where Sante Bario was afflicted but throughout the area, and given the pattern of the murders that have happened that are unquestionably related, when the attempt on James Kerr's life happened, it was easy to identify it as no more than an attempt to intimidate, because had they wanted to, they could easily have eliminated James Kerr.

As a matter of fact, I do not think they would have tried to kill him in San Antonio; they would have done it with more efficiency and with a lot more impunity in El Paso. But the fact that he was not killed was proof—and I said it then—that they were merely challenging and attempting to intimidate and send a message to certain Federal officials, including District Attorney Jamie Boyd and the then judge, Judge John Wood, whose court was the forum for most of the prosecution of those elements of crime. These are elements of a highly organized ring which I pictured in prior remarks as a reflection of three mainstreams of the activity from the United States into Mexico and which has developed into a billion-dollar lucrative trade in stolen automobiles and stolen automobile parts that go into Mexico in exchange for drugs.

This is really an extensive tactic that has grown to these dimension only within the last 2 years, and it is all associated.

So I am now asking the Justice Department to go into the case of Sante Bario. There is no question that Sante Bario, who was heading the Mexico City regional office, the Office of the U.S. Drug Enforcement Agency, was working on this particular pattern of activity at the time he was arrested on the charge of allegedly taking bribes from a high-level informer, this informer having been the source that broke the case of the "French Connection" in New York several years ago which Sante Bario was credit with having resolved.

This whole series of occurrences demands an investigation. Instead, it looks as if the agencies have closed that case. I happen to know that Sante Bario was well informed and had a lot of information concerning the very activities that were possibly going to be prosecuted in John Wood's court. Had he lived long enough, much of this probably would have been brought to light in his defense. He never had a chance to defend himself.

I think the least we could do is to demand that the Justice Department enter the case now and not close the Sante Bario case, which up to now has been handled by the Drug Enforcement Administration.

On another level, Mr. Speaker, today's news is headlined by the action the House took with respect to the tax that was passed yesterday and also the action of the leading six industrialized nations in Japan, as well as the foreboding news of the OPEC action.

In January 1974, right at the time when we were emerging from the embargo and the first price raises, it was easy for me to see that the enemy unquestionably was OPEC, particularly those members of OPEC that had embargoed and boycotted the United States. They had proven to us then that they felt they had the power.

I attempted to offer an amendment here at the time that first energy bill was being debated on the House floor in January of 1974. My amendment would have provided that those nations of OPEC that had boycotted the United States would be frozen as of January 1, 1974, at the level of importation into the United States on that date. I think that is the thing we should have done. My amendment never had a vote because of a technicality—an astounding one, as I interpret it. I was ruled to be out of order, because the amendment was not germane.

Here was an amendment addressing itself to what turns out to be the No. 1 problem, and it was considered and deemed not germane to the energy bill of 1974.

In any event, today in light of the other things I have brought out, I must bring attention to the continuing weakening of our structural financial system, plus our further vulnerability to the OPEC nations, particularly the Arab portion of OPEC.

Also there is a lot of misinformation and there is a lot of false hope about how we can resolve our interest in the resources of Mexico. The truth is—and it is one that is not generally known—that we now buy from Mexico better than 75 percent of their total exports of petroleum products. Right now we are getting the overwhelming share of what they export—maybe as much as 83 percent. That is natural, and it probably will continue to remain that way.

But if Mexico were to produce its potential, it still would not satisfy the domestic needs of the United States. As a matter of fact, we import from Nigeria as much as and reaching more than what we get from the Middle East.

So yesterday's action, in my opinion, was like us shooting our leg or our foot. Instead of going to war against the enemy, we have just shot our foot.

The OPEC has given us clear notice in

today's headlines that this is just the beginning, and that if they can, they will use their ultimate weapon, which is a crisis in our financial and banking system. I have pointed out on this House floor how in the last 3 years the main private financial institutions headquartered in this Nation in New York invested their resources, and their investments rose from $3 billion to over $47 billion in less than 3 years in the developing nations which cannot pay those loans.

Yesterday, at opposite points of the globe, the leaders of the oil-producing nations and the leaders of the oil-consuming nations made some decisions. The producers decided to continue and to escalate their war against the consuming countries. The consuming countries pledged to try holding down their oil imports. The day ended with the producers still confident and the consumers confused, ineffective and suffering from yet another catastrophe.

The latest decisions of OPEC will pile still more inflationary pressure on our overheated economy; it will probably throw a quarter of a million people out of work, and it will make every one of us poorer.

The world is clearly drifting toward economic warfare, the result of which would leave everyone on the planet poorer. The actions of consuming nations have not stopped the drift. If national leaders are confused about what to do, so are we in Congress. Yesterday we passed a bill that will inevitably make the oil problem worse. Rather than aim our actions at the enemy, we have merely shot ourselves in the foot.

The President's energy policy has been summed up in his own words: We must use less and pay more. That is no policy at all. It is surrender. Around the country people are responding with bitterness and anger: Truckers are making war on each other and the rest of the country; motorists and gasoline retailers are struggling with a mystifying shortage; charlatans parade miracle solutions; and all of us wonder what will befall the country next.

Clearly, it is time for this country to get its energy act together. There are clear actions that can be taken, actions that will help us be more self sufficient and will aim our fire somewhere besides at ourselves.

First, we should do something that I advocated in 1973–74: freeze the level of imports. There more we import, the more we are subject to the demands and whims of one producer or another. These demands can and have gravely affected not just our economy, but our foreign policy as well. The consequences of our weakness are simply too great to bear. We have no choice but to start toward greater independence by freezing our import level.

To do that will mean the need to conserve energy on a much larger scale than we have heretofore attempted. But we have the means to do this. We are building automobiles that are more fuel efficient, and we can do still better. Ironically, just last week Detroit lobbied for looser fuel economy standards. Fortunately the administration held firm, and we can look toward cars that use less fuel even than the ones being produced today. We need to push Detroit on this, as hard as we can.

And we can conserve by substituting energy sources. We should waste no time on a large scale solar energy program. There are actions that local governments can take to aid this, but most of the load will have to be Federal in nature—tax incentives, financial assistance, and large scale research on better solar materials and techniques. We should not waste any time in building up the solar technology that is on hand. Neither should we hesitate to explore as rapidly as possible large scale solar generating techniques, anything from photovoltaic cells to solar satellites.

We should start right now to explore new kinds of engines, engines that do not require gasoline. Our engines are designed for a certain fuel. Maybe we should start with other fuels and see what would happen. I have nothing specific in mind—yet I have the feeling that the internal combustion gasoline engine is not irreplaceable. We should not limit our imaginations.

We should make better use of the fuels that we must use today. There is no reason why mass transit should consist only of the bus or train. It can consist also of smaller units like vans, that are far more fuel efficient than the automobile that carries just one or two people. The surface has hardly been scratched on new ways to provide transit service. We have much to learn there, much to do, and we have the means readily at hand.

If we want coal conversion, we can have it—but only if the present conflict between transportation policy and coal conversion policy is resolved. Today the ICC is allowing the railroads to charge anything they demand for coal transportation, and these charges are so high that nobody is willing to use coal if there is any choice in the matter. The administration needs to recognize that coal conversion is being destroyed by the railroads, and do something to assure that coal transportation is put on some kind of sane basis, a basis that will make the use of coal practical and attractive. As it is, the administration is idly watching the ICC as it cheers the railroads on to the utter destruction of coal conversion.

We would have to do all these things, and more, if we can successfully freeze the level of oil imports.

But we do not necessarily have to believe that the solution to energy problems is to use less, pay more.

The fact is that even in countries that pay more, energy growth is not significantly different from our own. Our growth in total energy use since 1973 has been a shade under 1 percent. In every other industrial country save Britain, the growth rate has been about the same, despite the fact that those countries pay far more than we do for energy. In Britain alone there is less total energy need today than there was 6 years ago—and that is not because of pricing, but because of a generally miserable economic performance.

I believe that we can keep our energy costs reasonable and not see unreasonable growth in energy needs. We can conserve, and we will do so—not because pricing makes us too poor to use energy, but because our technology makes our use more efficient.

Our energy program ought to include a crash effort to develop fusion, the ultimate source of electric power. It is safe, it is a technique for which there is no limit of fuel, and it will not destroy the Earth or endanger its population.

And if it is oil we need, we ought to finance development of oil resources in countries outside of OPEC, countries that will assure oil to us at a reasonable cost, in exchange for our financial and technical assistance. There are places all over the world that would welcome an arrangement that would not only make them less dependent on OPEC, but more self-reliant themselves.

We need not fall into the trap of thinking that the only way to solve our energy problems is to become immobile. We can become different in our energy consumption patterns and resources; we can become more efficient, and we can become smarter.

OPEC sent us a message yesterday. It is time we sent them one back.

□ 1035

So that unless we reduce the vulnerabilities—and I am talking about what I consider to be the two most agitating issues that I believe confront this society—without reciting them, it really is sad to say that the fundamental purposes for having a government are not being served.

One, the long-range continuing need to resolve the organized crime problem which now, as I say, has penetrated every level of our society successfully, and as long as such things a the murder of a Federal ditrict judge, something that has not happened in 130 years, certainly cries out for solution.

Then this other: the more fundamental weakening in our ability to shore up our economic defenses from the penetration and the ability to captivate us on the part of such tremendous financial resources as reflected by the Arab members of the OPEC organization and their allies.

BUILD FUTURE HEALTH REFORMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RANGEL) is recognized for 5 minutes.

● Mr. RANGEL. Mr. Speaker, holding down the Nation's health bill is of major concern to all of us. Medical costs are running well ahead of inflation. Consumers, employers, doctors, and hospital administrators are rarely guided by incentives to reduce costs—to take a more efficient approach to health care.

As proposals for national health insurance compete for attention in Congress, Chairman AL ULLMAN offers what he calls the "first floor" on which to build future health reforms.

Since I believe we need to examine all

the alternatives we will want to consider proposals to increase competition within the health industry by limiting the use of tax deductions to employers who broaden the range of health insurance to include low cost, prepaid plans.

I include Mr. ULLMAN's recent speech to the National Journal Conference on Health in today's RECORD:

SPEECH BY REPRESENTATIVE AL ULLMAN

National health insurance is a monument still waiting to be built in this country. But certainly not for lack of architects. Teddy Roosevelt ran on a national health ticket in 1912. Sixteen Presidential campaigns later, Jimmy Carter called for (and I quote) "a comprehensive national health insurance system with universal and mandatory coverage".

Campaign politics demand a major debate on health. The President will soon add his own national health plan to a list of others that have been announced this year. I am confident that his plan will give us some long-range direction.

But it is my judgment that Congress is in no mood to vote for a multi-billion dollar health package this year or next. We've just spent months struggling over a budget for the coming fiscal year. We held a tough line. And I think we can maintain that discipline and balance the budget in fiscal 1981.

Congress is not opposed to the idea of national health insurance. But Congress is opposed to any major plan that breaks the budget.

It is within that apparent contradiction that I want to propose a modest health plan for this Congress. My plan does not broaden health coverage: nor will it increase the layer of benefits. It costs the Government nothing. And it can be achieved this year.

But while the debate over the grand design of national health insurance goes on, we can start by turning around some of the incentives that have been driving up the cost of health for years. That means making this country take a collective look at exactly what the "last dollar" really buys—and whether we should spend it on something else. That means forcing the consumer, the doctor, the provider and the insurance company to open their eyes to the wide range of health benefits and their price tags—and then asking the consumer to decide exactly how much coverage he wants for his health dollar.

The proposal I will lay out today restructures the financing of our health care industry. It encourages competition within the health industry to offer more economic policies to the consumer. And it would check and stabilize today's rising proportion of the gross national product spent on health care:

My proposal has six essential cost controls:

1. Changing tax laws to encourage greater enrollment in pre-paid health plans.
2. Placing a cap on the Federal tax subsidy for medical insurance.
3. Requiring a choice of health plans where only one expensive fee for service health plan is currently offered by an employer.
4. Requiring employers to pay equally to each plan.
5. Changing medicare law to encourage elderly patients to join health maintenance organizations (HMO's), and
6. Mandating a statewide demonstration project similar to Oregon's Project Health for our low-income population.

I want to capsule a few of the most visible incentives now driving up health costs—and then explain how my plan limits them.

Our Federal tax system invites almost limitless health care spending. The way our laws are written now, medical and insurance payments by the employer for the employees are not taxed. If the same dollar were paid directly to the employee to buy his own health plan, that dollar would be taxed as ordinary income. Consequently, employees would rather have a dollar of health insurance than a dollar of wages. That tax break has encouraged tough bargaining for "first dollar", very expensive and comprehensive medical plans in contract settlements.

In short, this incentive distorts consumer choice. Instead of spending a taxable dollar on housing or food, the consumer is almost forced to take that dollar in health care to beat the tax. This must end.

Today's health system has built-in incentives for doctors to increase costs. Doctors and hospitals enjoy the finest billing system one could theoretically design. It reimburses all costs. The higher the fees, the more revenue that automatically flows. The patient and the doctor have no incentive to hold down costs.

There is also the costly tendency among doctors to practice what's known as "defensive medicine" to avoid rising malpractice suits and awards. More tests, more hospital days—more money.

Million dollar equipment and technology have become the symbols of blue-ribbon hospital care—both for the doctor and the patient. There are few incentives and few excuses in our cost-reimbursement world that encourage a hospital administrator to say no to a doctor who wants the latest novelty in high technology.

In many instances, exotic equipment has not improved health care significantly. In fact, sometimes the opposite is true.

The risk imposed by radiation may, for example, offset the benefits derived from marginal X-rays. The open-heart surgery unit is a major medical advance and has saved many lives. But it must be used at full capacity both from the standpoint of cost efficiency and decreased risk. Units operating at less than full capacity typically show greater mortality rates and higher per capita costs.

Like the billing system for doctors, hospital costs are fully reimbursed. It is the marginal decision—like an extra day in the hospital for routine lab tests—that often generates the most revenue relative to cost. With an invisible "third party" insurer paying more than 90 percent of the cost, the consumer and the doctor rarely spare the expense.

The consumer has absolutely no incentive to keep costs down. He is completely insulated from the actual cost of his care once he walks through the hospital door. In most cases, he has bargained for the Cadillac of health plans—unaware that he is paying the cost.

Thus, the effect of most present insurance plans is to distort the choice of what the doctors and the patient—at a distance—would regard as appropriate medical care. Instead, the hospitals are encouraged to add to the expense.

Although the consumer eventually pays for full cost of his care through higher prices, the choice of care—once the patient is in the hospital—clearly reflects his net out-of-pocket cost. And since that cost appears so modest, or even zero, the patient and doctor normally choose more expensive care than they would if insurance coverage weren't so handsome.

In this way, our current method of financing hospital care denies patients and their doctors the opportunity to choose effectively between higher-cost and lower-cost hospital care—and maintains the consumer's illusions that hospital care is virtually free.

Some simple but striking numbers will illustrate this point. In 1950, per capita cost for hospital care was slightly over $24 per year, and private insurance and government programs paid 49 percent of hospital bills. This meant that, on the average, the net cost to a person was $12. By 1977, per capita cost had jumped to about $297, but private and public insurance was paying 94 percent of the hospital bill, leaving a net cost of only $17. In real terms, taking into account inflation, the net annual cost for hospital care has decreased significantly during the past 27 years.

Medicaid and medicare are major social landmarks—but have turned out to be financial monsters. Both of these systems reimburse medical costs restrospectively, with disastrous results. Once again, doctors and hospitals have no incentives to control costs because federal payments are automatic no matter how high.

All tied together, these incentives are rapidly adding billions to the nation's health bill. The facts have been cited many times before but bear repeating. From 1960 to 1977, the percent of GNP spent on health increased from 5.2% to 8.8% or an increase in the share of 69 percent. Per capita health expenditures have increased from $141.63 a year to $736.92 a year over this same period. The largest source of this increase has been hospital care. In 1969, hospital care represented 32.9 percent of total health care expenditures. In 1977, that share had increased to 40.4 percent.

Various ways of changing the health care market have been discussed this morning. Some of thees ideas involve more government regulation of the health care industry. Others attempt to reduce "third party" payments and make the consumer more aware of the true cost of care, while other proposals build competition into the health care industry.

Government simply cannot regulate the entire industry effectively. Once the accelerator is stuck, putting on the brakes may slow the car—but the damage is extensive.

We can, however, identify the cost to the consumer and foster keener competition.

We've got to begin by removing the tax incentives for employers to provide very expensive coverage—when the employee might well be satisfied with a more limited plan. To turn that incentive around, I propose that all employer-paid premiums be taxed as ordinary income to the employee unless the employer's health plan meets three conditions.

First, that employers' contributions to all employee health plans be limited to the least expensive federally-qualified health maintenance organization (HMO) which the employer offers.

The emergence of HMO's has demonstrated that high-quality, comprehensive health care can be provided at less expense than a traditional indemnity plan which relies on fee-for-service reimbursements. This new and efficient delivery concept eliminates the excuse for an open-ended tax subsidy for less efficient health plans.

For employers not offering a qualified HMO, their contribution could be limited to the median cost of HMO's across the country. Employers would continue to offer more expensive plans, but employees would have to pay the additional cost. If, for example, the median cost of HMO's were $100 a month and the company's present high-payment plan costs $140, the employee must make up the $40 difference out of pocket.

Thus, workers could continue to choose a more expensive plan if they believed the benefits from such a plan were worth the extra money.

Second, I would require employers not offering federally certified HMO plans to provide a qualified prepaid health plan if one is available and can handle the business.

If no such plan is available, employers would have to offer their employees a "low option" plan costing no more than 50 percent of the median cost of federally-certified HMO's. A "low option" plan can reduce costs by requiring copayments or deductibles. This gives the consumer a direct financial stake in the cost of health care.

Employers simply must give their employees a clear choice of health plans. Right now, that choice is typically limited to one plan which often provides much more care than the employee needs. I want the employee to sit down and choose exactly what he wants for the money—the Cadillac or the Chevette.

Third, employer contributions for all plans—low-cost or high-cost—would be the same. This makes the employee's choice of plans even more critical. If he chooses a plan that costs more than the employer's fixed contribution, he would pay the difference himself. If the employee chooses a plan that costs less than the employers' contribution, he would receive the difference in cash. If, for instance, the employer's contribution were fixed at $100 and his employee wanted the low option plan costing $60, he would receive the $40 difference in his pay.

The implications of this proposal can be drawn from the Federal employees health benefit package, which already offers employees a large choice of plans. Among the plans offered is a "high option" Blue Cross-Blue Shield plan, whose cost $110 a month per family, and a "low option" Blue Cross-Blue Shield plan, whose cost is $40 a month per family. The Federal Government now pays $27 per month more toward the high benefit plan—thus subsidizing the additional, perhaps largely unneeded, coverage. My proposal would prevent the employer (in this case the Federal Government) from distorting the employee's judgment whether the extra benefit is worth the extra cost.

My proposal would also change the law to encourage prepaid plans to participate in medicare. Under today's medicare laws, HMO's may be reimbursed on a cost, or "risk" basis. The level of payment, however, is determined retrospectively—an approach that is fundamentally inconsistent with the prepaid approach.

Under my proposal, an HMO would receive 95 percent of the amount medicare pays for the same benefits in a cost reimbursement plan. That's a five percent saving to the government without any loss of benefits to older Americans. In addition, the elderly would be offered broader benefits to encourage them to join an HMO. These benefits would be paid for by the savings generated by the HMO's more cost effective medical service.

Finally, we need to experiment with alternate health care systems for the poor. For several years, Oregon has funded an interesting demonstration experiment called Project Health. In essence, Project Health is an agency for the county which acts as a broker for low-income families. It offers six health plans ranging from per capita to fee-for-service.

Once enrolled, families are counseled on what health plans would best suit their needs and provides a sliding scale of payments based on income and the type of plan chosen. The scale is highest for the most expensive plan and lowest for the least expensive plan. Yet, there is some contribution required to all plans.

This project has shown that such a system can be administered and holds the potential for reducing health care costs. I recommend that a State-wide system similar to Project Health be implemented to determine whether other forms of health care delivery can economically serve the poor. Again, I believe that competition between HMO's and fee-for-service plans will yield the finest care to the most people for the government dollar.

The proposal I am outlining today strikes at several areas.

It will reverse the incentives created by our tax system to select the most expensive health care coverage. It will create incentives for employees and employers to choose plans that contain cost incentive features. It will encourage, and ultimately force, employers to offer their employees a choice between plans that are prepaid and plans with substantial copayment features. Unions and employers can work together to establish prepaid plans that have historically shown substantial cost-reducing capability.

It changes the incentives in medicare to encourage elderly patients to select prepaid plans rather than the fee-for-service system. And finally, it sets up, on a demonstration basis, a plan to change the way health care is offered to the low-income sector of our society.

This proposal encourages the formation of alternative health care delivery systems. It does not force anyone to join prepaid plans. It does not end the tax subsidy for medical care. It simply encourages competition. Ultimately, it would encourage doctors to form alternative health care delivery systems and actively compete in the marketplace for the patronage of employee groups.

This proposal will be formally discussed as part of the committee's study of broader national health programs.

There's no question that this country needs a long-term commitment to economical and quality health care. But hammering out a national insurance program is going to take a great effort. Like building a skyscraper, we've got to progress one story at a time. I don't have the blueprint for the entire building. I just want to add the first floor.●

THE 96TH CONGRESS: A MIDPOINT REPORT ON THE FIRST SESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, the 96th Congress has reached the midpoint of its first legislative session and today begins the Fourth of July district work period.

The office of the House majority whip has prepared a legislative checklist of the achievements of the 96th Congress through June 28. Mr. Speaker, I take this occasion to report those legislative accomplishments to my colleagues:

ACHIEVEMENTS OF THE 96TH CONGRESS

ECONOMIC ITEMS

First Budget Resolution for Fiscal 1980: Congress adopted in final form the First Budget Resolution for fiscal 1980, setting spending targets of $532 billion, a deficit of $23 billion, budget authority at $604 billion and revenues of $509 billion. (H. Con. Res. 107)

Public Debt Limitation: A new law provides for a six-month extension of the temporary public debt limitation through September 30, 1979 (increased by $32 billion); increases by $8 billion the amount of Treasury bonds that can be issued with interest rates exceeding the statutory limit; and increases to 7-percent the interest rate ceiling on savings bonds. The law also requires the President and the Budget Committees of the Congress to submit alternate balanced budget proposals for fiscal 1981 and 1982 in the event that their basic budget proposals for those years call for a deficit. (P.L. 96–5)

Council on Wage and Price Stability: A new law extends the Council on Wage and Price Stability for one year, from September 30, 1979 through September 30, 1980, and authorizes $8.5 million for fiscal 1980. (P.L. 96–10)

Countervailing Duties: A new law extends retroactively the four-year period during which the Secretary of the Treasury may waive the imposition of countervailing duties (tariffs imposed on imports that have been subsidized by foreign governments) from January 3. 1979 to September 30, 1979, or until legislation to implement the international agreement or agreements on subsidy practices negotiated in the Multilateral Trade Negotiations (MTN) is enacted or either House of Congress defeats such implementing legislation, whichever occurs first. (P.L. 96–6)

Housing and Community Development Amendments: The House passed a bill to amend and extend federal housing and community development programs, including $675 million for fiscal 1980 for the Urban Development Action Grant program to stimulate private investment and jobs in distressed communities; $150 million for fiscal 1980 for Section 312 housing rehabilitation loans; $1.2 billion for fiscal 1980 for low-income public housing and Section 8 housing assistance; $2.5 billion for fiscal 1980 through 1982 for Section 202 housing for the elderly programs; and $644 million for fiscal 1980 in housing subsidies for the rural housing programs administered by the Farmers Home Administration. (H.R. 3875)

SBA Programs: A bill in conference authorizes $1.6 billion in fiscal 1980, $1.8 billion in fiscal 1981 and $1.9 billion in fiscal 1982 for small business programs, including disaster assistance. The bill continues low interest rates on loans to homeowners for natural disasters occurring between October 1, 1978 and October 1, 1982 and to businesses, including residential landlords who are unable to obtain sufficient credit elsewhere. The bill also authorizes a White House Conference on Small Business to be held not later than June 30, 1980. (S. 918)

Trade Adjustment Assistance: The House passed a bill to broaden trade adjustment assistance programs for workers and firms dislocated by import competition and federal policies to increase foreign trade. The bill extends coverage to workers of eligible firms that supply parts or services essential to the production, transport or storage of import-impacted products; to workers laid off from import-impacted firms through exercise of union seniority rights; and to workers employed a minimum of 26 of the 52 weeks or 40 of the 104 weeks immediately preceding layoff with one or more import-impacted firms. The bill also extends benefit periods for older workers and trainees; increases job search and relocation allowances; and authorizes funds for testing the use of vouchers by workers in trade-impacted areas that entitle employers and institutions to federal payment for training or services rendered. (H.R. 1543)

MILITARY AND INTERNATIONAL AFFAIRS

International Security Assistance Act of 1979: A bill in conference would authorize $880.3 million for fiscal 1980 and $865.3 million for fiscal 1981 for international security assistance programs, including grant military assistance and training, foreign military credit sales programs, peacekeeping operations, and international narcotics control programs. (H.R. 3173)

International Development Cooperation Act of 1979: A bill in conference would authorize $3.9 billion in fiscal 1980 for international development and economic assistance programs and for the Peace Corps. The bill would also remove the Peace Corps from ACTION, placing it in an autonomous status under the new International Development Cooperation Agency (IDCA) which has been proposed by Congress and the President. (H.R. 3324)

Taiwan Relations Act: A new law continues non-governmental relations with Taiwan through an American Institute and declares U.S. policy intentions and security interest with regard to Taiwan. Specifically, the law includes declarations that peace and stability in the Western Pacific area are in the U.S. political security and economic interest; that the U.S. will consider any effort to determine the future of Taiwan by other than peaceful means, including boycotts or embargoes, a threat to the peace and stability of the area and of grave concern to the U.S.; that the U.S. will maintain its capacity to resist any resort to force that would jeopardize the security of Taiwan and will provide Taiwan with defensive arms. (P.L. 96–8)

Arms Control and Disarmament Agency: Both Houses passed in differing forms a bill authorizing $19.3 million for the Arms Control and Disarmament Agency in fiscal 1980 and $20.6 million in fiscal 1981. (H.R. 2774)

State Department Authorization: Both Houses passed in differing forms a bill authorizing $2.1 billion for fiscal 1980 and $2.4 billion for fiscal 1981 for the Department of State, the International Communication Agency, the Board for International Broadcasting, and authorizing a $104.9 million fiscal 1979 supplemental for the Department of State. (H.R. 3363)

Strategic and Critical Materials Stock Piling Revision Act of 1979: Both Houses passed in differing forms a bill to provide, for the first time, congressional guidelines for the determination of stockpile requirements, to require specific authorization for acquisition of materials, and to establish a National Defense Stockpile Transaction Fund, to be funded from disposal sales and used to acquire needed materials in the future. (H.R. 2154)

Disposal of Tin From National and Supplemental Stockpiles: The House passed a bill authorizing the disposal of 35,000 long tons of tin and providing for the deposit of the proceeds of such sales and authorizing the contribution of up to 5,000 tons of tin by the U.S. to the International Tin Buffer Stock. (H.R. 595)

Special International Military Assistance: A bill in conference would authorize $1.47 billion for supplemental international security assistance for fiscal 1979 for Egypt and Israel to implement the recently signed peace treaty between those two countries. The bill would support a total program of $4.8 billion in economic and military assistance of which $1.1 billion will be in the form of grants and loans and $370 million will finance Foreign Military Sales (FMS) totaling $3.7 billion. (S. 1007)

To Waive Prohibitions on Assistance to Uganda: Both Houses passed in differing forms a bill to authorize the President to waive the prohibitions on assistance to Uganda for fiscal 1979 if he determines, and so reports to Congress, that the Government of Uganda does not engage in a consistent pattern of gross violations of internationally recognized human rights and that such assistance would further the foreign policy interests of the United States. (S. 1019)

Southeast Asian Refugees: The House passed a resolution expressing the sense of the House that the President should call upon the Secretary General of the United Nations to convene immediately an emergency session of the General Assembly to deal with the refugee crisis in Southeast Asia. (H. Res. 321)

Sanctions on Zimbabwe–Rhodesia: The House adopted a bill directing the President to lift sanctions against Zimbabwe–Rhodesia by October 15, 1979 unless he determines it would not be in the U.S. interest to do so and so reports to the Congress. (H.R. 4439)

Panama Canal Act: The House passed a bill to provide for the operation and maintenance of the Panama Canal under treaties which take effect October 1, 1979. The bill provides for the gradual turnover of the operation of the canal to Panama by the year 2000 and establishes the Panama Canal Commission as a noncorporate U.S. government agency subject to the direction of the Secretary of Defense to run the canal during the transfer period, until December 31, 1999. The bill contains the following provisions to assure the operation of the canal on a self-sustaining basis with maximum protection of U.S. government property and control of expenditures by the Congress: payment of all revenues of the Canal into the Treasury and expenditures by the Commission only pursuant to authorization and appropriations by the Congress; recovery from tolls of all costs of operation including interest, payments to Panama, capital costs and employee benefits included in the bill; limitation of appropriations to the amount of revenues from the Canal; accounting for Canal funds under the Accounting and Auditing Act of 1950 applicable to government agencies generally; requirement of authorization by Congress of all property transfers, including authority for the transfer scheduled for October 1, 1979 by the 1977 treaty; Senate confirmation of appointment by the President of the Administrator of the Commission and the U.S. members of the Board established to supervise the Commission; appointment to the supervisory Board of U.S. members from the private sector with experience in U.S. port operations, shipping and labor relations; direction of the Commission by the Secretary of Defense; and military control of operation of the Canal in war time. (H.R. 111)

ENERGY

Emergency Temperature Restrictions: Both Houses passed a resolution approving Standby Energy Conservation Plan No. 2, to restrict thermostat settings and hot water temperatures in most non-residential buildings in America in the event of a national energy emergency. (H. Res. 209)

Naval Petroleum and Oil Shale Reserves: The House passed a bill authorizing $85.2 million for the naval petroleum and oil shale reserve programs of the Department of Energy for fiscal 1980. (H.R. 3354)

Energy Information: The House passed a resolution of inquiry directing the President to provide Members of the House with information on the energy situation. (H. Res. 291)

Synthetic Fuels: The House passed a bill to extend for one year the authorities of the Defense Production Act of 1950 and to amend the Act to provide for the startup of production of synthetic fuels and synthetic chemical feedstocks. The bill would direct the President to achieve a national production goal of 500,000 barrels a day crude oil equivalent for synthetic fuels and synthetic chemical feedstocks by 1985, rising to 2 million barrels a day by 1990. The bill provides a new financial incentive for production by authorizing the President to issue contracts for the purchase of synthetics for government use or resale and authorizes $3 billion to be used to fund the difference between the contract price and the market price, if the latter is lower, either in the event the government refuses delivery for any reason or purchase the fuels for use by federal agencies. The bill establishes guidelines for the awarding of contracts and limits contract awards to any one contractor to 100,000 barrels a day crude oil equivalent. The bill also makes the direct loan and loan guarantee authorities of the Act applicable to production of synthetics, and increases the discretionary ceilings of these authorities to $48 million and $38 million respectively. (H.R. 3930)

Crude Oil Windfall Profits Tax Act of 1979: The House passed legislation which would impose a 60 percent windfall profits tax on crude oil price increases resulting from the decontrol of domestic crude oil prices or from future increases in world oil prices. The bill would result in a net windfall profit taxes of $24.8 billion for the years 1980 through 1984 out of $93.73 billion in windfall profits oil companies are expected to realize over that period. (H.R. 3919)

ETHICS REFORM AND HOUSE ACTIVITIES

House Rules Changes: The House adopted rules changes for the 96th Congress which can both help members save time and assure full participation in roll call votes. The new rules authorize the Speaker to defer some roll call votes and cluster them at times certain later, and allow a speeding up of roll call votes usually taken in sequence. They also reduce the opportunity to use strictly procedural matters for dilatory roll calls. Other changes give members at least three days to study a committee report before voting on a measure. Finally, the changes also authorize closed-circuit televising of the House proceedings.

Select Committee on Committees: The House passed a resolution to create a Select Committee on Committees which would conduct a thorough and complete study of the operation and implementation of the committee system in the House, including the committee structure of the House, the number of committees and their jurisdiction, committee rules and procedures, media coverage of meetings, staffing, space, equipment and other committee facilities. (H. Res. 118)

Select Committee on Narcotics Abuse and Control: The House passed a resolution to reestablish a Select Committee on Narcotics Abuse and Control in the 96th Congress. The select committee would not have legislative jurisdiction but would be directed to conduct a continuing comprehensive study and review of the problems of narcotics, drug, and polydrug abuse and control. The select committee would review recommendations by the President and federal agencies on drug abuse and would recommend legislative action to House standing committees. (H. Res. 13)

Select Committee on Outer Continental Shelf: The House passed a resolution reestablishing the Select Committee on the Outer Continental Shelf until June 30, 1980. The select committee would not have legislative jurisdiction but would have the authority to conduct a continuing study and review of the problems, programs and policies related to the management of energy resources of the Outer Continental Shelf and the impact the exploitation of those energy resources will have on the environment. The select committee would also conduct oversight reviews of the implementation of the Outer Continental Shelf Lands Act of 1978 and would be directed to provide requested assistance to any standing committee considering a bill related to outer continental shelf matters. (H. Res. 53)

Clarification of the Ethics in Government Act of 1978: A new law modified provisions of the Ethics in Government Act that impose certain post-employment restrictions on senior officials to make clear that the two year ban on assisting in representing a client applies only to a former employee's "personal presence" at any formal or informal appearance before his agency and applies only to matters in which the individual participated personally and substantially while an officer or employee (P.L. 96–28)

Financial Disclosure: A new law makes technical and conforming amendments to the Ethics in Government Act which requires financial disclosure by employees of all three branches, along with certain candidates for federal office. (P.L. 96–19)

GENERAL GOVERNMENT

Reorganization Plan No. 1 of 1979: The House approved the President's Reorganization Plan No. 1, to establish an Office of Federal Inspector as a coordinating authority for the various federal agencies that will be involved in the construction of an Alaska natural gas pipeline. (H. Res. 1997)

Department of Education: The House had under consideration a bill to establish a cabinet level Department of Education. (H.R. 2444)

Treasury Department International Affairs Authorization: Both Houses passed in differing forms a bill authorizing $22.4 million for the international affairs functions of the Treasury Department for fiscal 1980. (S. 976)

Trust Territories and Insular Lands: The House passed a bill authorizing funds for the insular areas of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands. In addition, the bill authorizes the Secretary of the Interior to provide a comprehensive medical program in the Northern Marshall Islands, the site of United States nuclear testing in the 1940's and 1950's and authorizes funds for medical care, research and analysis of the biological effects of radiation on the people in the Pacific Islands trust territory. (H.R. 3756)

Fire Prevention and Control Act: Both Houses passed in differing forms a bill authorizing $31 million for fiscal 1980 for the U.S. Fire Administration, the Fire Research Center and the Federal Emergency Management Agency, including $5.4 million for antiarson programs. (S. 1160)

National Historical Publications and Records Commission: The House passed a bill to reauthorize the National Historical Publications and Records Commission for two years at its current level of $4 million a year. (H.R. 3923)

State Health Planning Agency Extension Amendments: The House passed a bill authorizing the Secretary of Health, Education, and Welfare to extend conditional designations for state health planning and development agencies for such additional time as he finds appropriate if he finds that the designated state agency is making a good faith effort to comply with requirements of section 1523 of the Public Health Service Act. (H.R. 4556)

Magistrate Act of 1979: Both Houses passed a bill to expand the civil and criminal jurisdiction of U.S. Magistrates and to provide for a selection process for magistrates. (H.R. 1046)

Civil Rights Commission: Both Houses passed in differing forms a bill authorizing $14 million for the U.S. Commission on Civil Rights for fiscal 1980. (S. 721)

SOCIAL SERVICES

Supplemental Security Income Program: The House passed a bill to remove certain work disincentives for the disabled under the supplemental security income benefits program. The bill would allow those individuals who continue to meet the medical criteria for disability to have greater earnings than allowed under present law and regulations and still be found eligible for SSI disability payments and would permit disabled persons who lose their jobs to requalify for SSI without a lengthy waiting period. (H.R. 3464)

Food Stamp Excess Medical and Shelter Cost Deductions: The House passed a bill permitting the elderly, blind and disabled to deduct certain medical and excess shelter expenses in computing their eligibility for food stamp benefits. (H.R. 4303)

Food Stamp Act Amendments: The House was scheduled to consider a bill authorizing an additional $620 million for the food stamp program for fiscal 1979. (H.R. 4057)

TAX PROVISIONS

State Legislators' Tax Treatment: A bill in conference would extend for one year, through 1978, the rules relating to the tax treatment of state legislators' travel expenses away from home. The bill would also extend certain provisions related to child support and social services programs, including authority for federal matching of state costs for providing services to families not on welfare to assist them in obtaining child support from absent parents; authority to use Title XX funds to pay costs of employing welfare recipients in child care jobs; and authority to use Title XX funds to provide certain services to drug addicts and alcoholics. (H.R. 3091)

ENVIRONMENT AND NATIONAL PARKS

EPA Authorization, Fiscal 1980: Both Houses passed in differing forms a bill authorizing $381.3 million for environmental research, development and demonstration activities for fiscal 1980, mostly for the Environmental Protection Agency. (H.R. 2676)

NACOA Authorization, fiscal 1980: A new law authorizes $550,000 for the National Advisory Committee on Oceans and Atmosphere for fiscal 1980. (P.L. 96–26)

Ocean Pollution Research: A new law authorizes $4.3 million for fiscal 1980 for the National Ocean Pollution Research and Development and Monitoring Planning Act (P.L. 95–273) for fiscal 1980. (P.L. 96–17)

National Parks and Recreation Act Amendments: The House passed a bill establishing a Channel Islands National Park in California, and making technical and correcting changes in the National Park and Recreation Act of 1978. (H.R. 3757)

Alaska Lands: The House passed a bill designating approximately 126 million acres of public lands as conservation units, 67 million of them as wilderness. Specifically, the bill designates 44 million acres as parks, 77 million acres as wildlife refuges, 3.3 million acres as forests and 2 million acres as wild and scenic rivers. The bill also confirms the 17 national monuments set up in Alaska by executive order of the President on December 1, 1978, redesignates them as preserves and parks, and adds wilderness and wildlife refuge designations. In addition, the bill designates over 13 million acres in the Arctic Range as wilderness, including the coastal plain, thereby precluding any exploration or development there; opens nonwilderness wildlife refuges to discretionary oil and gas leasing; and mandates opening the National Petroleum Reserve in Alaska to private oil and gas exploration and development. The bill also leaves almost 27 million acres closed to sport hunting (a reduction of 14 million acres from that currently closed under monument designation), prohibits lumbering on 6.4 million acres of forest wilderness (in the Tongass National Forest), and places 2.5 million acres of state lands in conservation units. (H.R. 39)

Frederick Law Olmsted National Historic Site: Both Houses passed in differing forms a bill establishing the Frederick Law Olmsted home and office in Massachusetts as a National Historic site. (S. 495)

SCIENCE

FAA Authorization, Fiscal 1980: The House passed a bill authorizing $75 million for the Federal Aviation Administration for research and development in fiscal 1980 in the areas of air traffic control, navigation, aviation weather, and aviation medicine. (H.R. 2277)

NSF Authorization, Fiscal 1980: A bill in conference would authorize $999.34 million for continuation of the research and education activities of the National Science Foundation for fiscal 1980, including continuation of support of basic and applied research, science education, science information activities, science policy research, international scientific activities, and the management support of all NSF programs. (H.R. 2729)

NASA Authorization, Fiscal 1980: Both Houses passed in differing forms a bill authorizing $4.8 billion for the National Aeronautics and Space Administration in fiscal 1980, for the continuation of the space program including research and development in space flight, space science, space applications, aeronautical research and technology, space research and technology, tracking and data acquisition and necessary supporting construction and administrative effort. (H.R. 1786) A new law authorizes a fiscal 1979 supplemental of $185 million for NASA's Space Shuttle program. (P.L. 96–16)

VETERANS

Veterans Health Care Amendments: A new law establishes a readjustment counseling program and related mental health services for Vietnam veterans, a 5-year pilot program in preventive health care for certain veterans with service-connected disabilities, and a 5-year pilot program for treatment and rehabilitation of veterans suffering from alcohol or drug dependence or abuse disabilities, and require prior approval by House and Senate Veterans Affairs Committees for certain new VA medical facilities. (P.L. 96–22)

Extension of Certain Veterans Health Care Programs: Both Houses passed in differing forms a bill to authorize the VA to contract for private hospital care when the life or health of the veteran is in serious jeopardy, to authorize the VA to provide outpatient medical services for any of non-service connected disabled veterans of World War I as if such disability were service-connected, and to extend the authorization for certain expiring VA health care programs. H.R. 3892)

Veteran Senior Citizen Health Care Act: The House passed a bill to establish demonstration centers of geriatric research, education and clinical operations at at least 15 Veterans' Administration hospitals to meet a fastly growing need for medical services for senior veterans. (H.R. 4015)

Waiver of Usury Provisions for VA Loan Guaranty Benefits: The House passed a bill authorizing veterans loan guaranty benefits notwithstanding usury provisions of state constitutions or statutes. (H.R. 411)

Fort Mitchell Regional Veterans Cemetery: The House passed a bill directing the Administrator of Veterans' Affairs to establish within the National Cemetery System a new national cemetery to be located in Russell County, Alabama, and known as the Fort Mitchell Regional Veterans' Cemetery. (H.R. 3989)

MARITIME

Rebating Practices in U.S. Foreign Trade: A new law increases civil penalties for illegal rebating in ocean shipping, strengthens the Federal Maritime Commission's enforcement authority by authorizing it to suspend tariffs if a carrier refuses to provide information and, for the first time, requires foreign-flag ocean carriers to comply with FMC subpoenas and discovery orders or face exclusion from U.S. ocean trades. (P.L. 95–25)

Coast Guard Authorization: A new law authorizes $1.4 billion for the U.S. Coast Guard for fiscal 1980. (P.L. 96–23)

Fishery Conservation and Management Act: The House passed a bill authorizing $33 million in fiscal 1980, $40 million in fiscal 1981, and $47 million in fiscal 1982 for the Fishery Conservation and Management Act, and to increase the voting membership of the Pacific Fishery Management Council from 13 to 15 members. (H.R. 1798)

Anadromous Fish Conservation Act: The House passed a bill authorizing $12 million in fiscal 1980, $14.75 million in fiscal 1981 and $17 million in fiscal 1982 for the Anadromous Fish Conservation Act. (H.R. 2035)

Moratorium on Commercial Killing of Whales: The House passed a resolution calling upon the President to urge the International Whaling Commission to adopt an indefinite moratorium on the commercial killing of whales. (H. Con. Res. 143)

DISTRICT OF COLUMBIA

D.C. Oversight Commission: A new law authorizes an additional $22 million for the Temporary Commission on Financial Oversight of the District of Columbia. (P.L. 96–27)

Revenue Bonds for D.C. Housing Finance Agency: The House passed a bill amending the D.C. Home Rule Act to authorize the D.C. City Council to delegate its authority to issue revenue bonds for housing purposes to a housing finance agency established by it and to provide that the expenditure of funds derived from the sale of such bonds and the payments of principal and interest on such bonds may be made without further approval of the Congress. (H.R. 3824)

Increase D.C. Contribution for Metro Construction: The House passed a bill to lift the authorization ceiling imposed by the National Capital Transportation Act of 1969 to allow the District of Columbia to contribute "such sums as may be necessary" to fulfill its obligations under the Washington Metropolitan Transit Authority Compact in paying its share of Metro construction costs. (H.R. 3914)

OTHER LEGISLATION

Nondischargeability of Certain Student Loans: The House passed a bill providing that certain federally insured or guaranteed student loans are not dischargeable during the first five years after they become due unless the court finds such repayment will be an undue hardship on the debtor or his dependents. (H.R. 2807)

Retirement Income Security: A new law postpones for 10 months the date on which the Pension Benefit Guaranty Corporation must pay benefits under terminated multi-employer plans. (P.L. 96-24)

Marketing Penalties for Peanuts: The House passed a bill providing the Secretary of Agriculture with the authority to reduce marketing penalties for excess production of peanuts. (H.R. 3575)

Appropriations bills, fiscal 1980

[$ in millions]

	Bill	Compared with President's request
Passed House:		
Energy and Water Development (H.R. 4388)	$10,686	−$814
Agriculture (H.R. 4387)	16,699	−1,623
Military Construction (H.R. 4391)	3,482	−390
Fiscal 1979 Supplemental (H.R. 4289)	11,572	−3,720
Reported by Appropriations Committee:		
HUD-Independent Agencies (H.R. 4394)	72,216	−507
Labor-HEW (H.R. 4389)	73,567	−205
State-Justice-Commerce H.R. 4392)	7,647	−321
Transportation (H.R. 4440)	9,523	−152
Treasury-Postal-General (H.R. 4393)	8,819	−186
District of Columbia (H.R. 4580)	328	−159
Foreign Assistance (H.R. 4473)	7,889	−1,221
Legislative (H.R. 4390)	953	−82
Total	223,381	−9,380

NOTE.—Not reflected above are the Defense and Interior Appropriation Bills, Fiscal 1980, which have not been reported as yet. Budget requests being considered for these bills are $129,574 million and $8,441 million, respectively.

First Budget Rescission: A new law rescinds fiscal 1979 appropriations totaling $723,609,000 for certain programs in the Departments of HUD, HEW, Interior, Energy, the Small Business Administration and NASA. (P.L. 96-7)

Budget Deferral: The House passed a resolution disapproving the deferral of $1.8 million for the Department of Interior, Geological Survey, for the exploration of the National Petroleum Reserve in Alaska, and required the Administration to spend the money. (H. Res. 239) ●

DSG BRIEFING ON GASOLINE SHORTAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes.

● Mr. OBEY. Mr. Speaker, undoubtedly the No. 1 issue of concern to our constituents today is the gasoline shortage and long lines at filling stations. The Democratic Study Group, of which I am chairman, invited Deputy Secretary of Energy O'Leary to brief DSG members on the current situation. Mr. O'Leary gave a superb and comprehensive overview of the gasoline crisis and the outlook for the future. Following is a summary of the major points which Secretary O'Leary made at the DSG briefing on Friday, June 29:

HIGHLIGHTS OF REMARKS BY DEPUTY ENERGY SECRETARY O'LEARY

World Oil Surplus Has Vanished.—The worldwide surplus of oil, which had existed since the end of World War II (except for the time during the 1973–74 Arab oil embargo) vanished in January 1979 with the interruption of Iranian supplies of oil. World oil production is now precisely equaling demand and OPEC policy calls for never letting the surplus return.

World Oil Supply Likely to Fall.—OPEC oil production is likely to fall by about two million b/d by 1985, out of a total OPEC production of about 30 million b/d (total world production is about 60 million b/d). The decline is likely to occur in the non-Persian Gulf OPEC states, such as Nigeria and Venezuela. Although the Persian Gulf OPEC states are capable of increasing their present production of about 20 million b/d to 30 million b/d it is very unlikely they will do so.

Increase in U.S. Imports Not Enough.—U.S. imports in 1979 are about 400,000 barrels a day (b/d) higher than last year, but this is not enough to meet needs. Last year's import levels were lower than usual as oil companies used up reserve stocks. The U.S. needs about one million b/d *more* in imports in order to meet demand and replenish stocks.

U.S. Share of World Oil Reduced.—The U.S. is not getting its normal share of world oil because the U.S. system of price controls leads independent jobbers to buy and sell oil on the spot (non-contract) market outside the U.S. U.S. price controls are responsible for the loss of between 300,000 and 400,000 b/d of imported spot market oil.

Oil Companies Are Not Withholding Supplies of Oil.—There is no evidence that oil companies are withholding significant amounts of oil from refinery production. The maximum amount that oil companies could withdraw from stocks at present would increase refinery production by about 150,000 b/d, while present refinery production is about 800,000 b/d less than is needed to supply demand and replenish heating oil stocks.

U.S. Oil Consumption Down Because of Shortage.—Americans are using less oil this year because the oil is not available. There is no evidence of substantial voluntary conservation.

Decontrol Won't Increase Oil Production Over Current Levels.—The removal of price controls, as planned by the Administration, will not increase oil production over current levels, but will instead prevent a sharp decline in production which would occur if controls are continued. Decontrol, therefore, will result in a stable U.S. production of oil. Price incentives to increase production usually take five to ten years to take effect.

DOE Will Force Greater Heating Oil Production If Necessary.—If refineries are not producing enough heating oil by October to meet next winter's demands, DOE "will take away crude oil from those refineries not meeting production goals and give it to those who will." The President has made replenishment of heating oil stocks the top priority of DOE.

Heating Oil Prices Will Continue to Rise.—Prices of heating oil will not level off or decline this year, but will continue to rise.

Petroleum Shortage Will Continue Into 1980.—Supplies of oil in the U.S. will continue to be very tight for the rest of the year and will continue at least into the summer of 1980. OPEC's goal is to see that the traditional surplus of world oil supply never returns.

Depletion of Oil Stocks in 1978 Was Not Alarming.—The drawdown of petroleum stocks throughout most of 1978 by oil companies was not a cause of concern. Although the Iranian cutoff of oil put the U.S. in a very tight situation because of the very low stocks, the Federal Government does not require refiners to maintain stocks to protect against a major interruption in foreign oil supplies.

No Evidence of Slowing Oil Shipments.—There is no evidence that oil companies are delaying the transport of oil to the U.S. The waiting period at major oil import ports in the U.S. is normal.

Metro Areas Hit Hardest By Gasoline Shortage.—Metro areas have the most serious problem with the gasoline shortage because growth in consumption is higher in urban areas (DOE's growth adjustment formula does not fully satisfy increased demand), because fewer people are leaving metro areas for vacations and weekend trips, and because news coverage of supply problems in the local area is heavier in urban areas.

REVENUE RULING 71-447

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 10 minutes.

● Mr. DORNAN. Mr. Speaker, since 1971 IRS has enforced Revenue Ruling 71-447. The tax exemptions of over 100 schools in the South were revoked under these rules, 33 in the State of Mississippi alone.

In 1975 IRS adopted Revenue Procedure 75-50 which broadened the coverage. There were few objections raised at the time because schools that were truly nondiscriminatory were not adversely affected.

In 1978, however, IRS proposed a drastic new revenue procedure which would have made large numbers of tax-exempt schools "reviewable" first, if they were formed or expanded during periods of public schools desegregation, and second, if they failed to meet an arbitrary numerical test of minority enrollment. Their proposed revenue procedure was totally without statutory authority, and it would have unfairly resulted in the revocation of innocent tax exempt schools.

It is interesting that IRS assumed that

race factor alone was the only reason for the formation and expansion of many schools in the past two decades. The most cursory reading of recent history quickly reveals that the upheaval indicates that there are many reasons that parents have sought education for their children from private and church schools. To name a few I cite the following:

First. The steady decline in ACT and SAT scores since 1963.

Second. The alarming increase in school violence.

Third. The sharp rise in drug abuse.

Fourth. The rapid increase in illegitimacy.

Fifth. The banning of Bible reading and prayer in schools.

Sixth. The steady deterioration of moral standards.

IRS itself acknowledged that there were many good reasons for starting a school other than an intent to discriminate in a brief in D.C. District Court on May 10, 1977. Nevertheless, in 1978, IRS reversed its position, and announced the proposed revenue procedure.

After receiving over 150,000 letters of protest IRS rewrote the proposal. Yet, there are many flaws in the revision which make it worse than the original. In addition to the failure of IRS to respond to the substantive arguments against the original proposed revenue procedure, IRS compounded the problem by making the revision so subjective and vague that many schools would have no way of knowing whether IRS would find them to be discriminatory. Furthermore, an exclusionary "grandfather clause" allows certain schools to escape coverage. These schools take dubious comfort because the same pen which wrote them out of coverage can write them back in as soon as IRS feels strong enough to make their rules stand.

The problems that would be caused by implementation to the proposed IRS revenue procedure are so great that the only solution is to see that it is never attempted. No good purpose is served when innocent schools are subjected to the whimsical dictates of IRS.

As if this were not bad enough my office received a phone call from the legislative assistant to the Deputy Secretary of Legislation for the Office of Education, a Glenda Surovell, inquiring about my two Treasury amendments. I would like to know just what business HEW has in two amendments to the Treasury bill? One of my staff assistants called the Education Office liaison back late Wednesday afternoon, June 27, 1979, and inquired about the phone call from the Office of Education. The Deputy Assistant Secretary indicated that the Education Office was interested because my amendments dealt with education. However, since the private and Christian schools in question do not receive any Federal grants or contracts I have an idea that the HEW lobby network will be thrown into action. So it definitely appears that the IRS and HEW are working in tandem to achieve the same goals. I am appalled by this kind of manipulation.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, due to a commitment in my congressional district, I was unavoidably absent from the House for a brief period during the session of Friday, June 22, 1979. Had I been present, I would have voted as follows: "aye" on rollcall No. 275, providing additional funds for groundwater contamination research; "aye" on rollcall No. 276, providing additional funds for research, development, abatement and control of emergencies caused by environmental pollution.●

THE PRESIDENT'S ADDRESS ON THE SALT TREATY

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MICHEL. Mr. Speaker, I listened with interest to the remarks of the President on the SALT Treaty in his appearance, June 11, 1979, before a joint session of the Congress. Upon rereading his remarks, I find that if we take literally many of the things he said, numerous questions arise as to this administration's understanding of the responsibilities of leadership.

The best way to demonstrate this is to take quotations from the printed text of this speech and offer my own opinion as to why they are important. I leave to others the task of addressing the technical questions about arms limitations in the President's speech. I want to question his underlying assumptions.

The President said that in the past "willingness to risk war was the mark of statecraft. My fellow Americans that pattern of war must be broken forever * * * there can be no more cycles of war and peace. There can be only peace."

It is evident the President did not carefully ponder those words for, later in the same speech, he talks of the need for "strong military forces, strong alliances, and a strong national resolve." If it is no longer a mark of statecraft to risk war, why would we need armed might? You cannot have it both ways: Either a statesman is willing to risk war and therefore needs the armed might to do so if absolutely necessary, or else a statesman is one who, by definition, will not risk war.

If the President is willing to take the risk of war, even in a nuclear age, in the same way his predecessors have since 1945, we at least are telling the Soviet Union that there is great danger involved in attacking us. But if the words used by the President were indeed meant to be taken literally instead of in some symbolic or "poetical" sense, then his words are among the most dangerous ever spoken by any leader of a great nation.

I think he may well have been carried away with the importance of the occasion and perhaps meant to say that the risk of war cannot be taken lightly. But that is not what he said. He stated, without reservation, that we "must" not risk war. I wonder what Mr. Brezhnev thought when he heard those words? Soviet leaders are not well known for interpreting poetry. They take things quite literally.

The President said, without qualification—and, unfortunately, without documentation—that "the strength of the United States is growing", not diminishing.

What is the evidence for this alleged growth in strength? The dwindling size of our Navy? The fact that by any system of measurement the Soviet Union now has first-strike capability that can destroy our land-based missiles? Is the President referring to the Army, with its manpower problems, especially a lack of reserves?

The President then stated "Militarily, our power is second to none." If the President is using the word "power" in terms of manpower there can be no question that we are outnumbered by the Soviet Union's armed forces. If he is referring to strategic "power" he must realize that it is precisely doubts about our strategic power that concern his fellow Democrats SAM NUNN and HENRY JACKSON, among many other experts in national defense. These doubts cannot be ignored or dismissed by a ritualistic reference to "power," as if the mere assertion was enough to prove the point.

The President boasts of our economic power, admittedly mentioning in passing our "serious problems of energy and inflation." But he neglects to mention that the administration has not demonstrated any competence in dealing with these problems. Therefore mentioning our economic strength in this international context is not relevant because it is our economic and energy problems as well as our military inferiority that put us in a position of danger greater than any we have known in modern times. That we and our allies have "economic strength * * * three times greater than that of the Soviet Union and its allies" is also irrelevant. If the Soviet Union is willing to use its economic strength—aided by our computer technology, our wheat, and our credit—to strengthen their grip on what they already possess and bold enough to play the adventurer in Angola, Ethiopia, South Yemen, Afganistan, and to aid the regime in Vietnam, what difference does it make how strong the West may be on paper?

"Diplomatically" states the President, "we have strengthened our friendships with Western Europe and Japan, China and India, Israel and Egypt, and much of the Third World."

The fact is that diplomatically, this administration has confused Western Europe and Japan to such a degree that from one moment to the next their leaders do not know what the American attitude on any important issue may be. It has praised the Shah of Iran as a dear friend who was loved by his people and admired by our Nation and then watched as the Shah was violently deposed. It has unleashed Andy Young, the diplomatic equivalant of a loose cannon on the deck of a ship. The President's first visit to Europe had the distinction of being the only visit by an American President that has ever received scathing criticism for its amateur qualities from European media.

The President said we have "aligned ourselves with people everywhere who yearn for freedom." By this can he mean the Chinese on Taiwan or the white and black people of Zimbabwe-Rhodesia whose recent free election showed how much they want to avoid being ruled by the terrorists President Carter and Andy Young support and encourage?

The President stated that he "made it clear" to Brezhnev that further Cuban adventurism would "only have a negative impact on United States-Soviet relations." The President does not tell us what President Brezhnev answered when he was told this. I suspect the weary but cunning old dictator could barely repress a smile. Can anyone, for one moment, believe that the Soviet Union is going to call off its Cuban wolfpack just because an American President said that further mischief would have a "negative" effect on United States-Soviet relations? Does President Carter really believe that his warning was taken seriously? Why should it be? Two years ago the President warned the Soviet Union of the "price" it would have to pay for such adventurism. Yet, nothing has been done as the Soviets or their proxies move about the globe unhampered.

The President then stated:

"Finally President Brezhnev and I developed a better sense of each other as leaders and as men."

I have absolutely no doubt this is true.

I hope that the experts devote analysis to this speech. If it truly reflects this administrations understanding of international realities, it is perhaps one of the most extraordinary speeches ever made by an American President.

"THE GASOLINE SHORTAGE": A DSG SPECIAL REPORT

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, from time to time, the Democratic Study Group of the House of Representatives issues special reports on important issues facing us in Congress.

The most recent such report, dated June 28, 1979, is entitled "The Gasoline Shortage."

I am sure, Mr. Speaker, that Members will read with interest this report and I ask unanimous consent to insert it at this point in the RECORD:

SPECIAL REPORT—THE GASOLINE SHORTAGE

This DSG Special Report is intended to provide a brief review of the gasoline shortage. Despite increased oil imports and significant reduction in consumption, the shortage continues to spread.

This report examines factors contributing to the shortage and possible government actions. While there is nothing that Congress can do to alleviate the immediate crisis, there are a number of actions which the President could order the Department of Energy to take to increase gasoline supplies.

This Special Report contains the following sections:

I. Summary and Government Action.
the current gasoline supply shortage:

SECTION I

Summary

The following factors have contributed to the current gasoline supply shortage:

Crude Oil Stocks Depletion—Throughout 1978, oil companies reduced their reserve stocks of oil to extremely low levels.

Lower Refinery Production—Throughout 1978 and continuing into 1979, U.S. refinery production was far below capacity. Stocks of refined products dropped during 1978.

High Gasoline Consumption—Warm weather during the fall of 1978 caused unusually high levels of driving and gasoline consumption.

High Heating Oil Consumption—Severe cold weather in the winter of 1978–79 caused unusually high consumption of heating oil.

Iranian Revolution—Iranian oil exports were cut off in January and February 1979. U.S. imports did not decline, but the Energy Department warned of possible severe shortages. The oil industry responded by conserving reserve stocks of crude oil and refined products.

Continued Low Refinery Production—Despite rising imports and constant domestic production, refinery production in 1979 remained at the low levels of 1978. Domestic consumption of petroleum dropped sharply during 1979.

DOE Actions—Energy Department policies and regulations changed with great frequency in 1979, causing confusion and caution in the oil industry.

New Allocation Rules—New DOE gasoline allocation rules give greater amounts of gasoline to stations which sold more gasoline in the winter of 1978–79. This causes a reduction in gasoline supplies to those areas which had severe winter weather.

Heating Oil Stocks—Very low heating oil stocks in June 1979 will necessitate a shift in refinery production to heating oil sometime during the summer. This may cause a reduction in gasoline production.

Government action

There is nothing Congress can do to alleviate the immediate gasoline shortage, although supplies in the long run could be affected by a variety of congressional actions. The Administration, however, has a wide range of authority to deal with the immediate problem of gasoline supply. Following are some actions which the Administration could take to alleviate the gas crunch:

DOE can allocate crude oil to maximize refinery production.

DOE can change allocation rules for distributing refined products so that areas with shortages are given additional supplies.

DOE can order a switch from oil to natural gas for industrial boilers and electric power plants.

DOE can issue regulations enforcing the recently enacted restrictions on nonresidential building temperatures.

DOE can order a change in the product mix of any refinery (i.e., how much leaded or unleaded gasoline, heating oil, diesel fuel, etc. is produced.)

DOE can establish a list of priority users of gasoline and diesel who will be assured certain supply levels.

DOE can establish a state set-aside program to enable each state government to make emergency allocations based on that state's particular needs.

DOE can regulate the production of oil from federal lands, including off-shore fields.

DOE can require minimum purchases, staggered dealer hours, and odd-even rationing.

The Administration has taken the following actions to deal with the gasoline shortage:

The President has ordered a phased decontrol of crude oil prices to increase domestic production.

DOE has revised its gasoline allocation rules to reflect recent growth and fuel consumption patterns.

DOE has increased the state set-aside from 3 percent of a state's supply to 5 percent.

DOE has recently ordered increased supplies of crude oil for small, under-utilized refineries.

DOE has encouraged the transfer of electricity from coal and water power plants to areas dependent on oil-fired plants. (It has not ordered such a transfer.)

DOE has urged refineries to utilize a greater portion of their capacity.

DOE has established mass transit as a priority user of diesel fuel. It has designated agriculture, defense, and emergency activities as priority users of gasoline.

DOE has plans to increase production at the federal Elk Hills oil field by 20,000 b/d by the end of the year.

DOE plans to issue regulations enforcing the nonresidential building temperature limits sometime in July.

The President has authorized states to exercise federal authority to require minimum purchases, staggered station hours, and odd-even rationing.

EPA has deferred the scheduled phase-down of permissible lead levels in gasoline. This will allow more gasoline to be produced from each barrel of oil.

EPA has allowed refineries to continue putting MMT in unleaded gasoline, which allows a greater production of unleaded gasoline from each barrel of oil.

DOE has instituted a media campaign to encourage energy conservation.

SECTION II

Factors in the gasoline shortage

Following is a discussion of the events and factors which are related to the current gasoline supply problem in the U.S.

Depletion of oil stocks

In late 1977, world oil production was outrunning demand, yet OPEC was considering a price hike for January 1978. Saudi Arabia, the world's largest exporter of oil, also announced that it was considering cutting production to ensure that a price rise would stick.

U.S. oil companies responded to this situation by building up their stocks of crude oil and petroleum products, such as gasoline, to unusually high levels. By January 1978, U.S. crude oil inventories stood at 340 million barrels, compared to 294 million barrels held a year earlier. Gasoline stocks were 7.8 percent higher than in the previous year.

OPEC, however, did not raise oil prices in January 1978, apparently believing that the world "glut" of oil at the time would minimize the revenue gain from such a move. U.S. oil companies responded to the new situation by depleting their inventories. Oil imports fell sharply in early 1978 as the oil industry used stocks on hand. To hold down inventories of refined products, U.S. refineries ran for much of the year at rates below their 1976 and 1977 levels.

Depletion of oil stocks continued throughout 1978. In April 1978, for example, oil stocks were at 136 million barrels, the lowest level of any month since April 1974. By last summer, gasoline stocks had been reduced to levels lower than any time since the summer of 1975. Gasoline stocks bottomed out at 22 percent below 1977 stocks and 7.1 percent below 1976 stocks.

Meanwhile, consumption of petroleum in the U.S. increased. For the first half of 1978, total demand for refined petroleum was 3.9 percent higher than the corresponding period in 1977. The "Oil and Gas Journal," a leading industry publication, projected in July 1978, that total demand for refined products in 1978 would be 4.6 percent above that of 1977. Gasoline consumption was up 3.6 percent over the first half of 1977, and the "Oil and

Gas Journal" predicted that the annual consumption of gasoline would be 2.7 percent higher than 1977.

The combination of higher consumer demand and the draw by oil companies upon their oil stocks resulted in a drastically lower supply of stored petroleum during 1978. On September 30, 1978, the beginning of the 1978–79 heating season, stocks were 14.5 percent lower than the corresponding date in 1977, and gasoline stocks were lower than their 1975 levels.

Refinery production matched the drawdown in oil stocks. The highest refinery production capacity is generally considered to be the 92.6 percent level reached in February 1977. Refinery production in 1978 averaged 4.9 percent below that maximum rate through September.

The U.S. entered the 1978–79 heating season, therefore, with extremely low stocks of both crude oil and refined products, despite the fact that demand for oil was higher than the preceding year. A spurt in demand or an interruption in supplies would produce a crisis in availability of petroleum.

Higher Demand in Late 1978

As the country approached the 1978–79 winter with low oil stocks and low refinery production, warm weather in the fall contributed to an unusually long driving season. Gasoline consumption continued at summer levels through October. Because of this, DOE and the industry became concerned with gasoline supplies, so refinery production of gasoline continued at a high level past the time when refineries usually shift over to the production of heating oil. By January 1979, gasoline stocks had been increased by 10 percent over the September 1978 levels, yet they still remained below normal levels.

When the winter finally hit in December 1978, the unusually cold weather in most of the nation boosted the need for home heating oil. The use of oil brought about by the combination of the longer driving season in the fall and the cold winter weather drew U.S. stocks down even further, so that by January 1979, the nation's supply of petroleum was very low.

Revolution in Iran

Prior to the recent revolution, Iran was the second largest OPEC exporter behind Saudi Arabia. Iran contributed about 10 percent of the total world production of oil, producing between five and six million barrels a day (b/d). The political turmoil which preceded the fall of the Shah, however, resulted in the cut-off of Iranian oil exports in January and February 1979. Output resumed in March, but production has been averaging only three to four million b/d. The U.S. has made up for the loss of Iranian oil from other sources.

The events in Iran, coupled with another impending OPEC price increase, spurred a world-wide grab for crude oil, and a spurt in U.S. imports.

When Iran pulled out of the world oil market early this year, other nations filled the gap. In fact, total world production in the first quarter of this year was higher than in 1978. Saudi Arabia lifted its production to 9.5 million b/d, compared to its normal level of 8.5 million b/d.

U.S. imports of oil actually rose during and after the Iranian crisis. The following table shows the average U.S. imports of crude oil and refined products in millions of barrels a day:

U.S. oil imports

[Millions of b/d]

1975	6.1
1976	7.3
1977	8.8
1978	8.0
1979:	
January	8.5
February	8.2
March	8.5

The Administration, however, cautioned that the Iranian shutdown could have very serious consequences for the world and the U.S. supply situation. Secretary Schlesinger said in February that the Iranian cut-off could produce a shortfall in U.S. supplies that would be worse than the 1973–74 Arab oil embargo. Many oil companies expressed concern about future oil supplies and announced their intention to conserve their crude stocks.

LOW REFINERY PRODUCTION

U.S. refinery production did not increase in the first five months of 1979 following the Iranian crisis. Refineries ran at 85 percent of capacity, close to the 1978 level, when the industry was obviously trying to draw down inventories of refined products. The following table compares refinery production utilization for the first five months of 1977, 1978, and 1979:

U.S. refinery production utilization

[In percent]

	1977	1978	1979
January	89.0	85.1	87.2
February	92.6	84.1	83.8
March	98.6	84.8	82.9
April	88.8	83.2	84.9
May	89.3	88.9	84.1
Average	89.9	85.2	84.6

The data show that despite an increase in imports in the first quarter of 1979, U.S. refinery production continued well below capacity. Petroleum stocks also declined from January to March 1979, going from 1.17 billion barrels in January to 1.08 billion barrels in March. Since March, however, petroleum stocks have increased considerably, so that by June 15 the total of petroleum stocks in the U.S. was 1.15 billion barrels, only 2.9 percent less than the stock level of a year ago. Most of the increase in oil imports since March, therefore, appears to be going into petroleum reserve stocks, rather than into increased refinery production.

Lower demand in 1979

Since January of this year, U.S. demand for petroleum has fallen steadily. For the week ending June 15, total U.S. demand for petroleum was 17.5 million b/d, 4 percent lower than the comparable period last year. Demand for gasoline is 8.7 percent lower than last year. The response of the American economy to the events since the first of the year has been a significant reduction in petroleum consumption, with the conservation being especially notable for gasoline. In fact, oil consumption in this country has declined so much this year that the U.S. has already met President Carter's commitment to the International Energy Agency (comprised of oil-importing industrial nations) to cut U.S. consumption by a million barrels a day. This has occurred despite the onset of warmer weather, when increased auto driving traditionally raises petroleum consumption levels.

Energy Department Actions

The loss of Iranian oil in January and February triggered intense bidding for oil sold on a short-term basis (called the spot market). Spot prices for crude oil went as high as $36 a barrel (the average OPEC price for contracted oil is about $18). The high prices on the spot market were used to justify OPEC increases in contract prices, touching off a series of surcharges that individual OPEC nations have tacked onto the OPEC base price.

As spot market prices began climbing in March, DOE cautioned U.S. oil companies to stay out of the bidding wars for spot market oil. The department believed that the amount of oil on the spot market was growing because exporting nations were removing oil from the supplies available for contract agreements and selling it to the highest bidder on the spot market. Other oil importing nations, however, did not follow suit. The result was that the spot market price continued to skyrocket, while the U.S. did not supplement its imports through spot market purchases.

DOE has since reversed its guidelines on the spot market issue. Supplies of oil on this market, however, are extremely limited due to earlier European purchases.

In May, DOE offered a $5-a-barrel subsidy for imports of distillate oil, which includes diesel fuel and home heating oil. The subsidy was designed to help U.S. buyers get more distillate supplies from Caribbean refineries, because much of these supplies were being diverted to Europe. European nations strongly protested the U.S. government action, and prices on the Rotterdam spot market, where most American and European oil is purchased, immediately jumped $5 a barrel to offset the U.S. subsidy. The end effect, therefore, was to increase the price of spot market oil by $5 a barrel, with the U.S. government paying the increase for U.S. buyers.

In January, the Energy Department revised its prices control rules for retail sales of gasoline to allow for higher profit margins for refiners. Prices did rise, but refinerly production remained below 1978 levels.

In February, DOE updated its rules which govern the allocation of gasoline by oil companies to dealers. The purpose of the revised allocation rules was to reflect regional changes in population and fuel consumption. The change was made with just one week's notice, and some oil companies expressed confusion as to how the new rules would work. Two months later, in April, the department again revised the allocation rules.

The new allocation rules use a base period of November 1977 to November 1978 to determine how much gasoline will be allocated. If an individual station, during the period of October 1978 to February 1979, sold more than 10 percent in any given month over the 1977–78 base period, that station may use the October 1978-February 1979 period as its base period for gasoline allocation. This generally means that stations in areas with warm winter weather in 1978–79 will have a higher allocation than those areas with more severe winter weather.

In April, DOE urged refiners to build up heating oil stocks for next winter, even if it meant a reduction in gasoline production. In May, the department reversed this policy and lowered its heating oil target to permit more production of gasoline.

The department is now considering significant changes in the gasoline price control system, but details have not yet been announced.

Early in June, Secretary Schlesinger urged U.S. refineries to increase total production in order to increase the supplies of gasoline and heating oil stocks. Refinery utilization for the first two weeks of June remained virtually unchanged, maintaining a rate of under 85 percent. Refinery utilization for the week ending June 22 did show some improvement, increasing to 86.8 percent, but still below maximum capacity.

Heating oil

At the beginning of the winter heating season, October 1, the U.S. should have approximately 240 million barrels of heating oil. In December of last year well into the heating season, heating oil stocks stood at 216 million barrels.

Stocks of heating oil as of June 22 totaled 135 million barrels, compared to the 156 million barrels at the same time last year. Obviously, U.S. refineries will have to shift a greater portion of their production to middle distillates (heating and fuel oil and diesel) if the 240-million-barrel goal is to be reached. Unless total refinery utilization is increased over the current level, gasoline production will have to be decreased in order to produce more middle distillates.●

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, D.C., June 27, 1979.

Hon. THOMAS P. O'NEILL,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following items on June 21, 1979:

11(b) RESOLUTION

Florence, Alabama (Construction of Federal Bldg.).

LEASES

Departments of Treasury and Transportation, Philadelphia, Pa.

Departments of Housing and Urban Development and Environmental Protection Agency, Philadelphia, Pa.

Department of Labor, Atlanta, Ga.

Veterans Administration, Atlanta, Ga.

Federal Aviation Administration, Jamaica, N.Y.

General Services Administration and Department of Treasury, San Francisco, Calif.

ALTERATIONS

Post Office and Courthouse, Chattanooga, Tenn.

U.S. Customhouse, Baltimore, Md.

Building No. 110, Federal Center, St. Louis, Mo.

Post Office and Courthouse, Scranton, Pa.

The original and one copy of the authorizing resolutions are enclosed.

Sincerely,

HAROLD T. (BIZZ) JOHNSON,
Chairman.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation; which was read and without objection, referred to the Committee on Appropriations.

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, D.C., June 27, 1979.

Hon. THOMAS P. O'NEILL,
The Speaker, House of Representatives,
Washington, D.C.:

Pursuant to the requirements of the first section of the act of September 19, 1975 (Public Law 94-98), as amended by subsection (b) of the act of November 2, 1978 (Public Law 95-569), the Committee on Public Works and Transportation of the U.S. House of Representatives approved the attached resolution providing for the construction of Smithsonian Institution Museum Support facilities on June 7, 1979.

The original and one copy of the resolution are enclosed.

Sincerely,

HAROLD T. BIZZ JOHNSON,
Chairman.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BADHAM) to revise and extend their remarks and include extraneous material:)

Mr. BROYHILL, for 10 minutes, today.

Mr. ASHBROOK, for 10 minutes, today.

Mr. KEMP, for 20 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. DICKS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. WEAVER, for 10 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. RANGEL, for 5 minutes, today.

Mr. BRADEMAS, for 5 minutes, today.

Mr. OBEY, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. DRINAN, for 5 minutes, today.

Mr. PHILLIP BURTON, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BADHAM) and to include extraneous matter:)

Mr. CORCORAN in two instances.

Mr. CLAUSEN.

Mr. ERLENBORN in two instances.

Mr. HILLIS.

Mr. RITTER.

Mr. DICKINSON.

Mr. DANNEMEYER.

Mr. DERWINSKI in two instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. WATKINS.

Mr. OBERSTAR in two instances.

Mr. LEHMAN in two instances.

Mr. ROSENTHAL.

Mr. MCCORMACK.

Mr. WEISS.

Mr. SCHEUER.

Mr. JONES of Oklahoma.

Mr. MURPHY of New York.

ADJOURNMENT TO MONDAY, JULY 9, 1979

Mr. GONZALEZ. Mr. Speaker, I move that the House do adjourn.

The motion was agreed to.

The SPEAKER pro tempore. In accordance with House Concurrent Resolution 153, the Chair declares the House adjourned until Monday, July 9, 1979, at 12 o'clock noon.

Thereupon (at 10 o'clock and 39 minutes a.m.), pursuant to House Concurrent Resolution 153, the House adjourned until Monday, July 9, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of the rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1917. A letter from the Governor, Farm Credit Administration, transmitting a draft of proposed legislation to amend further the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes; to the Committee on Agriculture.

1918. A letter from the Acting Administrator of General Services, transmitting the determination of the average actual cost per mile for the use of a privately owned automobile on official travel, pursuant to 5 U.S.C. 5707(b)(2); to the Committee on Government Operations.

1919. A letter from the Chairman, Federal Home Loan Bank Board, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1920. A letter from the Director, Office of Personnel Management, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1921. A letter from the Comptroller General of the United States, transmitting a report on intergovernmental policy and fiscal relations (GGD-79-62, June 28, 1979); to the Committee on Government Operations.

1922. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations pertaining to the funding and sponsorship of nonpartisan public candidate debates, pursuant to section 315(c) of the Federal Election Campaign Act of 1971, as amended; to the Committee on House Administration.

1923. A letter from the Chairman, Securiites and Exchange Commission, transmitting the Commission's second report on its oversight of the accounting profession; to the Committee on Interstate and Foreign Commerce.

1924. A letter from the Special Representative for Trade Negotiations, Executive Office of the President, transmitting the reports of the Industry Policy Advisory Committee and the Industry Sector Advisory Committee on the Multilateral Trade Agreements submitted to Congress on June 19, pursuant to section 135(e)(1) of the Trade Act of 1974; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FOLEY: Committee on Agriculture. H.R. 2610. A bill to amend the Water Resources Planning Act (79 Stat. 244, as amended; with amendment (Rept. No. 96-144, pt. I'I). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 2608. A bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes; with amendment (Rept.

No. 96-194, pt. II). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JONES of Oklahoma:

H.R. 4691. A bill to amend the Trade Act of 1974, the Tariff Act of 1930, and other acts relating to trade in order to coordinate certain trade functions of the United States, and for other purposes; jointly, to the Committees on Ways and Means and Government Operations.

By Mr. DORNAN:

H.R. 4692. A bill to provide for the exclusion from the United States of aliens affiliated with terrorist organizations, to require investigations of registered agents of such organizations, and for other purposes; to the Committee on the Judiciary.

By Mr. DANNEMEYER:

H.R. 4693. A bill to amend the Emergency Petroleum Allocation Act of 1973 and the Natural Gas Policy of 1978 to eliminate Federal price control and allocation authority over natural gas, crude oil and petroleum products; to the Committee on Interstate and Foreign Commerce.

By Mr. FISHER:

H.R. 4694. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the carryover basis provisions which were added by the Tax Reform Act of 1976, and for other purposes; to the Committee on Ways and Means.

By Mr. HAGEDORN:

H.R. 4695. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

H.R. 4696. A bill to amend the Internal Revenue Code of 1954 to allow certain married individuals who file separate returns to be taxed as unmarried individuals; to the Committee on Ways and Means.

By Mr. LUKEN:

H.R. 4697. A bill to amend title 23, United States Code, to establish uniform weight and length limitations for vehicles operating on the National System of Interstate and Defense Highways, and to provide that the Secretary of Energy shall report to the Congress on fuel savings resulting from the establishment of such uniform standards; jointly, to the Committees on Public Works and Transportation, and Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

243. By the SPEAKER: A memorial of the Assembly of the State of New York, relative to property tax relief; to the Committee on Government Operations.

244. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to recodification of the Federal criminal code; to the Committee on the Judiciary.

245. Also, memorial of the Assembly of the State of New York, relative to nonconforming tourist-oriented directional signs on highways; to the Committee on Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3718: Mr. Gilman, Mr. Marriott, Mr. Roe, and Mr. Stokes.

H.R. 3990: Mr. Rostenkowski, Mr. Brodhead, Ms. Mikulski, and Mr. Nowak.

H.R. 4000: Mr. Rostenkowski and Mr. Brodhead.

H.R. 4024: Mrs. Spellman, Mr. Stokes.

H.R. 4157: Mr. Mineta.

H.R. 4158: Mr. Stokes and Mr. Richmond.

EXTENSIONS OF REMARKS

ABOLITION OF FOREIGN OIL TAX CREDIT

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. ADDABBO. Mr. Speaker, recently, my colleague from New York, Mr. Rosenthal, testified before the Ways and Means Committee about studies conducted by the subcommittee he chairs on the Government Operations Committee. I believe it would be instructful for the Members of this body to read this brief testimony and I include it to be included in the Record:

Statement of Congressman Benjamin S. Rosenthal

I greatly appreciate the opportunity to appear before the Ways and Means Committee in support of legislation which would abolish the foreign oil tax credit.

During the second session of the 95th Congress, the House Government Committee approved unanimously, a report that is relevant and timely to this committee's consideration of the foreign tax credit issue. The report, entitled, "Foreign Tax Credits Claimed by U.S. Petroleum Companies," was based on an investigation and extensive hearings by the Commerce, Consumer and Monetary Affairs Subcommittee, which I chair. It addressed the following central questions:

(1) Did the U.S. Treasury Department and the Internal Revenue Service properly administer those sections of the Tax Code relating to foreign tax credits claimed by U.S. petroleum companies operating abroad;

(2) To what extent were such private tax rulings influenced by non-tax interventions and considerations; and

(3) Were IRS's rulings consistent with the procedural and substantive requirements of U.S. tax laws?

The report concluded, essentially, that Treasury and IRS improperly administered the foreign oil tax credit provisions of the Internal Revenue Code by treating "royalty" and similar payments as legitimate income taxes for U.S. tax purposes; that IRS was improperly influenced by the State Department, the Treasury Department's Office of International Affairs and the multinational oil companies with respect to its administration of the Tax Code on foreign income tax credits; and that IRS's administration of the law, which permitted impermissible tax credits to be taken by multinational oil companies, has cost the United States Treasury close to $10 billion since 1974.

The committee report recommended that IRS prohibit U.S. petroleum companies from taking a tax credit for impermissible foreign payments. The report also recommended that IRS's Jan. 16, 1978, Aramco-Saudi Arabian ruling prohibiting such credits (unless specified criteria were met) be applied retroactively so that the U.S. Treasury could recover billions of dollars in revenues lost as a result of improperly claimed credits going back to July 14, 1976.

This past March, the Commerce, Consumer and Monetary Affairs Subcommittee held oversight hearings into the "Interrelationship Between U.S. Tax Policy and U.S. Tax Energy Policy." Witnesses at the hearing testified, convincingly, that there is virtually no coordination between tax policy experts at the Treasury Department and U.S. energy policymakers at the Department of Energy and that as a consequence the policy, of granting foreign oil tax credits was being continued to the detriment of the U.S. goal of energy independence.

Mr. Chairman and members of the committee, foreign oil "taxes" are, in reality, "royalties" that should be treated as ordinary and necessary business deductions under U.S. tax laws and not as tax credits. The foreign oil tax credit serves no useful public policy or tax policy purpose. To the contrary, even with tightened administration, it undermines taxpayer respect for our tax system and is counterproductive to the economic, energy and national security interests of the United States. In theory, the foreign tax credit is available to all companies operating abroad. In practice, however, its benefits accrue to only a very small number of firms, most of them multinational oil companies. A few IRS statistics will illustrate this point: In 1975 (the most recent year for which IRS statistics are available), total foreign oil credits amounted to $20 billion, of which $15 billion or 75 percent was claimed by oil and gas firms. The largest 11 oil and gas firms claimed over $9.9 billion of the foreign oil tax credits. Fewer than 40 companies, or less than one hundredth of one percent of U.S. firms claimed the $15 billion foreign oil tax credit in 1975.

The consequences of the present foreign oil tax credit policy include the loss of tens of billions of dollars directly to the Treasury, the indirect tax loss of many billions more due to the loss of jobs and consolidated tax offsets, and the undermining of national energy policy goals in this vital area. Direct losses to the U.S. Treasury are currently running at about $1.5 billion per year. However, with the astronomical increase in foreign crude prices and U.S. oil company payments to foreign governments, oil tax credits claimed by U.S. petroleum companies will also increase drastically. More importantly, foreign oil tax credits impair our efforts to achieve greater energy independence because they encourage foreign petroleum exploration and development at the expense of domestic production. Moreover, the foreign oil tax credit creates an unfair competitive advantage by allowing multinational oil and gas firms tax benefits for which the smaller independent domestic petroleum companies are ineligible. Our domestic petroleum producers

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

make royalty payments to the mineral land owner or pay excise taxes to local governments. These payments are treated as a normal business expense which is merely deductible from gross income. U.S., state and local income tax payments by domestic producers are similarly treated as deductions and not credits for Federal tax purposes.

Even with the decontrol of U.S. produced oil, if the current tax credit policy and Entitlements Program are retained, the incentive to import from OPEC rather than develop domestic sources of energy, will continue. Although domestic crude oil costs to refiners will be approximately the same as that for imported crude, there will be no cost advantage to purchasing the domestic crude. For U.S. multinational oil and gas firms, the after-tax costs of imported crude will effectively be less than for domestic because they will enjoy far greater after-tax profits on imports. Other important factors favoring abolition of the foreign oil tax credit are the loss of approximately 150,000 production and maintenance jobs in the domestic oil industry due to imports and the continued creation of unfavorable trade balances.

Even with a tightening by IRS of its administration of the foreign oil tax credit provisions of the Tax Code, its adverse effects are not significantly diminished. Present IRS regulations and guidelines are not substantially different today than they were in the past. The foreign oil tax credit is available to oil firms if the firm can convince a foreign government to treat its payments in a manner that will create the appearance, but not the fact, of an income tax. This requires cooperation among the multinational oil firm, the foreign government, and frankly, the U.S. Treasury Department which may assist in finding the loopholes and clearing the ultimate arrangement as a "creditable" rather than "deductible" foreign tax payment.

Mr. Chairman and members of the Committee, in all my years in the House of Representatives, I have rarely seen an instance in which a tax policy or any other kind of public policy is more deserving of rejection and repeal. The foreign oil tax credit benefits a narrow but powerful economic group in our society; it undermines our Nation's vital goal of energy independence; it creates a competitive disadvantage between multinational and domestic oil and gas firms; it fosters disrespect for the administration of our tax laws; and it allows our multinational energy companies to exercise an undue amount of influence over energy and even foreign policy determinations. I respectfully urge this committee to act immediately to abolish the foreign oil tax credit.●

NATIONAL HOSIERY WEEK

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. MARTIN. Mr. Speaker, I would like to bring to the attention of my colleagues that the ninth annual National Hosiery Week will be celebrated across the country September 9–15, 1979. The promotion is sponsored by the National Association of Hosiery Manufacturers and the hosiery industry's suppliers to focus the consumer's attention on the many diverse consistently high-quality products of the American hosiery industry.

The units produced by the domestic hosiery industry in 1978 were sufficient to provide nearly 15 pairs for every man, woman, and child in the United States. Of the 3.1 billion-plus total, 1.8 billion pairs were socks of every description in sizes to fit everyone from the smallest infant to the largest man, with the balance in women's panty hose and stockings.

The southern tier of States accounts for the great predominance of hosiery production—93.2 percent. North Carolina leads the Nation with 58.7 percent, while Tennessee accounts for 12.2 percent, and Georgia 3.2 percent, respectively, and the balance of the South, 19.1 percent. At the same time, hosiery mills are located in more than half the 50 States and in Puerto Rico.

A total of 65,000 workers in 331 companies operating 450 plants produced this hosiery. A large number of these individual manufacturing companies are small businessmen working often under difficult conditions to earn a profit while providing jobs for others and aiding the economies of numerous small towns and cities.

Thousands of retailers across the country—including department stores, supermarkets, mass merchandisers, drug stores, shoe stores, and specialty shops—will help celebrate National Hosiery Week. Through this effort, the manufacturers and retailers of hosiery hope to further educate the consumer to hosiery's many special features to help keep feet comfortable and fashionable through the busiest day.●

AMEND SECTION 105 OF TITLE 11, UNITED STATES CODE

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. MURPHY of New York. Mr. Speaker, Public Law 95–598, to establish a uniform law on the subject of bankruptcies, was signed by President Carter on November 6, 1978. The House and Senate Committee reports on the House and Senate versions of this major legislation, which codified title 11 of the United States Code, stated that the preamendment provisions of 11 U.S.C., sections 1101–1103, were incorporated into the new law with only "minor stylistic changes." However, the previous provisions of 11 U.S.C., section 1103, were not retained in the 1978 amendments.

Prior to the enactment of Public Law 95–598, 11 U.S.C., section 1103, provided that the injunctive powers of a bankruptcy court did not apply to the Maritime Administration as a preferred mortgagee under the Ship Mortgage Act of 1920. When the Maritime Administration was called upon to honor its guarantee or insurance obligations under Title XI of the Merchant Marine Act of 1936 (title XI) on vessels owned by a bankrupt, it could not be restrained by a bankruptcy court from foreclosing on its preferred ship mortgage and recovering amounts paid out. As a result of the elimination of 11 U.S.C., section 1103, the Maritime Administration will not be able to recover losses in a bankruptcy situation within a relatively short time period. Instead, it will have to go through lengthy bankruptcy proceedings. Restoring the previous provisions of 11 U.S.C., section 1103, as provided by the draft bill, is of critical importance to the title XI program, and will at the same time, comport with the intent of Public Law 95–598. The title XI program is a self-sustaining program, with both guarantees or insurance and expenses being paid out of the receipts of a revolving fund, the Federal Ship Financing Fund (Fund), established pursuant to title XI. The Fund held $70,775,476.35 in liquid assets on December 31, 1978. Guarantees or mortgage insurance outstanding at that time totaled more than $5,200 million with more than $500 million committed to be guaranteed in the future. As of June 30, 1978, there were 4,717 vessels of U.S. registry subject to title XI financing. The total principal authorized to be guaranteed or insured is $10 billion, a small portion of which is allocated by the Secretary of Commerce to the National Oceanic and Atmospheric Administration for a title XI program relating to fishing vessels.

Payments of insurance or guarantees by the Maritime Administration under title XI as a result of shipowner defaults are required by law to be made in cash from the fund within 30 days of demand. If the Maritime Administration pays a claim from the fund and cannot proceed against the mortgage security, then the liquidity of the fund would be in jeopardy. The tremendous increase in the cost of constructing vessels in recent years means that it would take far fewer bankruptcies to exhaust the fund today than in prior years.

If the liquidity of the fund were reduced to the extent that it could not respond in cash within 30 days of a demand for payment, the Maritime Administration would have to borrow from the U.S. Treasury to replenish the fund. The result of prolonged borrowings from the Treasury would be to, in effect, replace the private capital invested in the merchant marine with public funds—just the situation title XI was designed to avoid, and a situation which would be most undesirable.

The elimination of the prior section 1103 of title 11, United States Code, has several further ramifications contrary to the intent of the Merchant Marine Act of 1936. To the extent that otherwise viable vessels are prevented from freely engaging in trade as a result of involvement in ongoing, often exceedingly lengthy bankruptcy proceedings, they are not contributing to the U.S. merchant marine. If the Maritime Administration is allowed to foreclose on preferred ship mortgages while the owning company is in bankruptcy, then the ships may be withdrawn from the bankruptcy proceedings and placed back in the active service.

The Maritime Administration may now be obligated to accept cash equivalency in lieu of maintaining the security interest in the vessel. The Maritime Administration would then become an equity investor in the reconstituted bankrupt shipowner. This would be in direct conflict with the Maritime Administration's mission to promote the privately owned U.S. merchant marine and would be incompatible with its duties as the administering subsidy agency for the U.S. merchant marine.

The proposed legislation would restore language similar to that of section 1103 of title 11, United States Code, to the bankruptcy code, as it was prior to the enactment of Public Law 95-598.

Enactment of the draft legislation would not require any additional appropriations.●

EFFICIENT MODE OF TRANSPORTATION

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. DICKS. Mr. Speaker, if you will bear with me I would like to make one further addition to the RECORD.

In last Sunday's edition of the Washington Post I ran across an article entitled "Easin' Down the Road" by Lafe F. Allen, which prosaically argues on behalf of the bus as an alternative to more costly forms of transportation.

I believe that we have snubbed and ignored the use of the bus for too long now. In this era of fuel shortages I feel that we should do all what we can to conserve fuel. The bus offers us a pleasant and fuel efficient mode of transportation. We should take advantage of that fact.

By entering this article in the CONGRESSIONAL RECORD I hope to remind us all that traveling by bus can often be a very pleasurable and economical experience.

The article follows:

BUS! EASIN' ON DOWN THE ROAD

(By Lafe F. Allen)

Some of my friends sniffed a bit disdainfully when I announced recently that I intended to ride a Greyhound bus to Springfield, Mo., for a reunion with my wife, who had left Arlington a month earlier for a periodic inspection of the 600 acres of Ozark farmland on which she and her two sisters raise cattle and walnut trees.

I had several valid reasons, I thought, for taking a bus.

First of all, since my retirement last fall, I seem to have more time than money.

Secondly, I didn't want to fly—I've made the same boring trip out of National Airport so many times in the past 20 years I could do it blindfolded.

Thirdly, rail travel was out—the nearest I could get to Springfield via Amtrak was St. Louis, 200 miles short of my goal.

Finally—and most importantly—I felt that the time was ripe for checking out an alternative form of transportation if I intended to do much U.S. traveling in an era when scarce gasoline will top a dollar gallon; when some air fares are rising and schedules are contracting; when rail passenger service is shrinking.

And I felt, too, that the intercity bus—which the American Bus Association, a national organization of 400 intercity bus companies, says can yield up to 300 passenger-miles per gallon of fuel under optimum conditions—at least deserved a try at a time when everyone is being exhorted to save energy.

(Actually, according to the bus association compilations, U.S. intercity bus companies burned 178 million gallons of fuel during 1978 to carry riders for 25.4 billion passenger-miles—a rate of 143 passenger-miles per gallon. With fuller bus loads projected this year, this passenger-mile rate will increase.)

I learned from a couple of telephone calls to Greyhound information that I had a choice of seven departures from Washington to Springfield each day, and that the trip would take a little under 27 hours with changes in Pittsburgh and St. Louis.

I learned also that the fare would be $69 (compared to the $108 coach air fare) and that those 65 or older can save 25 percent with a senior citizen's ticket, but that travel at this reduced rate is restricted to Monday through Wednesday.

Advance ticket purchases for a bus trip are unnecessary and seats are not reserved. But if a bus you want to take is filled, Greyhound promises to put on a second section. If you want your choice of seats you should arrive at the station early enough to stake out a place near the head of the line at the departure gate—15 or 20 minutes is usually enough.

Promptly at 2:05 on a Wednesday afternoon, our 43-passenger bus—less than half-filled with 19 riders—inched out of the terminal at New York Avenue and 12th Street NW and began threading its way through Washington traffic toward Interstate 70 and Frederick, Md., our first stop on the road to Pittsburgh.

At 6 p.m. we pulled into tacky Breezewood, Pa. (which marches proudly under two different banners proclaiming it the "Gateway to the South" and the "Town of Motels") for our dinner stop at the Post House cafeteria. The Post House—which carries a no-nonsense sign on the front door decreeing "No shirt, no shoes, no service"—was not the refurbished Jockey Club, but the food was adequate and the restrooms were clean. I had a bowl of excellent vegetable soup, a plate of green beans and bacon, coffee and an apple—all for the satisfactory price of $1.90.

At dusk we eased through the Breezewood toll gate onto the Pennsylvania Turnpike, which slices through the Alleghenies toward Pittsburgh. It was at the Columbus, Ohio, station, a modern low-slung building in the heart of the city's Civic Center district, that I got a first-hand view of Greyhound's efforts to make their stations safer. A smartly uniformed guard patrolled the station, and restrooms were locked from 11 p.m. to 7:30 a.m. Admission to the restrooms was provided by the ticket agent, who pressed an electronic button that swung open the appropriate doors.

This element of security was noticeable at every big-city station where I stopped. I remembered a decade or more ago when bus stations seemed too often to be havens for drifters.

I had slept reasonably well (due to past experience on all-night ski bus rides from Washington to New England, and the fact that I had a double seat to myself). Our next major stop was Indianapolis, where we arrived at 6 a.m. for a breakfast and rest stop (at a restroom that was dirty). I had scrambled eggs in the station cafeteria, along with buttered toast and jelly, coffee and an apple. Total bill: $1.72.

There were 38 passengers aboard when we departed from Indianapolis for a ride through highly productive farming country and rolling, wooded hills. We breezed by Brazil, Ind., and made a brief stop at Terre Haute.

Miles before reaching St. Louis we could see Gateway Arch, an inverted weighted catenary curve of stainless steel soaring 630 feet above the grounds of the Jefferson National Expansion Memorial. The arch commemorates St. Louis as the gateway to the West.

We made a brief stop in run-down East St. Louis, Ill., to discharge a pair of passengers before proceeding to St. Louis across the mighty Mississippi, swollen by heavy spring rains and runoffs of melting winter snow, and looking muddier and angrier than usual.

The St. Louis bus station was an architecturally agreeable structure looking not unlike a small Dulles Airport terminal. Nestled in the heart of the city's expensive and expansive urban renewal area, it is light, airy and clean—clearly the best-looking station on my tour and a perfect example of the contribution to traveler comfort and urban renewal the bus companies can make if they are so inclined.

The St. Louis station stands in the shadow of the plush Bel Air Hilton Hotel, but I was too near my final destination to stop off for a Rest and Rehabitation interlude. Stopovers are permitted on your bus tickets, however, and first-rate hotels are located near the various bus stations.

The journey from St. Louis to Springfield—cutting through the rugged hills, plateaus and deep valleys of the Missouri Ozarks—was to me the most scenically satisfying of any portion of my trip.

At 4:40 p.m.—the exact minute promised by the Greyhound timetable—our bus drew into the station at Springfield, Mo., culminating my 27-hour ride.

Highlights of the bus trip:

I liked leaving the turnpikes for the few miles' drive into towns like Terre Haute, Ind., Washington, Pa., Effingham, Ill., Wheeling, W. Va. This fascinating eyeball contact with small-town America is something denied the traveler 35,000 feet in the sky.

I liked meeting and talking with people who ride the bus and who make up in common sense what they may lack in sophistication—people like the bearded Amish farmer who, with his wife, was on his way to Kentucky for a reunion with his brother who had just returned from Paraguay after eight years' service as an Amish missionary; the young driver for a Junction City, Kan., recreational vehicle manufacturer who spends his days criss-crossing the United States delivering new RV's to various dealers, then returning to Junction City for a new assignment, the real estate man who quietly expressed to me his readiness to die if he failed to survive open-heart surgery scheduled two days later, the college piano teacher who was en route to Los Angeles to visit his two wealthy maiden aunts.

I liked watching the ever-changing landscape—the Allegheny Mountains, the flat, fertile farmlands of Illinois, the rolling hill country of Indiana. I liked seeing and crossing rivers with such ear-pleasing names as the Monongahela, the Meremec, the Gasconade, the Scioto and the Wabash. (We also crossed Mad River and Mud Creek.)

I liked seeing examples of small-town boosterism, like the sign on a petroleum truck owned by the Lowe Oil Co. of Clinton, Mo., declaring that "Business Is Good"—which sentiment, I'm sure, would not be disputed by the sheiks of Saudi Arabia.

And I especially liked the delicious—

albeit brief—periods of time when no one could get to me by telephone, by letter, by mailgram or by ringing my doorbell as I rolled serenely along between, say, Richmond, Ind., and Teutopolis, Ill.

As for specifics on the bus operations:

Drivers were extremely courteous, but when they repeatedly extended a helping hand as I clambered down the bus step I began to wonder if my age was showing more than I like to believe.

There were plenty of rest stops along the road, and there is a restroom on the bus that will do in an emergency. The restrooms themselves were usually clean, but there always seemed to be a singular lack of soap in the liquid dispensers. Hot air machines, with which all restrooms were equipped, substituted functionally for paper or roller towels. Sometimes there was hot water, other times not. Toilets were of the 10-cent, pay variety.

Shun the three bus seats in the last row of the vehicle—they don't recline. But a young couple, riding out of St. Louis for Dallas, found these rear seats perfect for spreading out their two babies. Seats were comfortable and the buses air-conditioned. Cigarette smokers were required to sit in the rear of the bus, while pipe and cigar smoking was prohibited entirely.

No alcoholic beverages were permitted aboard the bus, but cocktail lounges in some of the stations along the route helped fill this void. For insomniacs, individual reading lights did fine when the overhead bus lights were turned off.

The bus stations were generally comfortable, well-lighted and amply supplied with lockers, telephones, eating spots, gift shops and the like. The D.C. station was the least impressive of any of the big-city terminals I visited, but even it was a far cry from the dimly-lit, generally depressing spot I remember years ago when I used to catch the commuter bus to College Park after a day's work at United Press.

I've been amazed at how few of my friends have ridden an intercity bus in the past 10 or 20 years—or, for that matter, how few have ever ridden such a bus. Bus travel has been bad-mouthed, and it does have certain disadvantages which might not willingly be endured in a period when alternative travel is less difficult.

Nevertheless, my suggestion is to try the bus—you may like it. For starters you might take short Greyhound trips to places like historic Frederick, Md. (round trip, $9.90); Colonial Williamsburg (round trip, $24.80); or a bit longer journey to Pittsburgh through some of the prettiest country you'll see in the United States for a round-trip price of $44.40.

Trailways—Greyhound's big continental rival for the bus rider's dollar—also offers a multitude of short and long trips out of Washington. For example, you could try one of the many non-stop express trips the company operates each day from D.C. to midtown Manhattan. Time for most of the runs is 4 hours and 20 minutes and the price tag is $34 round trip. Or if you're not in a Big Apple mood, Trailways will haul you the other way to Richmond, Va.—rich in Revolutionary and Civil War shrines—for $16.55 round trip.

Such junkets will give you a chance to check out the bus stations, the restrooms, the riding qualities of the bus itself and to ask questions. If you and the two major bus companies still feel compatible after these or similar trial runs, you could consider buying passes that are good for unlimited travel on any of their lines in the United States and Canada. You pay $99.50 for seven days; $149.50 for 15 days; $199.50 for 30 days.

And if you're feeling really adventurous, you might even try a trip to Springfield, Mo. The Ozarks are beautiful this time of the year.

(Allen is a retired Washington newsman who free-lances when not riding buses.) ●

SOLVENT REFINED COAL PROGRAMS

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. DICKS. Mr. Speaker, Mr. Lehman my close friend and fellow member of the Washington Congressional delegation recently made an important statement before the Subcommittee on Energy Development and Applications in support of the solvent refined coal programs.

This is a proven technology and one that the Federal Government should move ahead with immediately, as my colleague, Congressman McCormack, so articulately advocated.

I am certain his comments will be of great interest to Members of the House concerned about the energy crisis this Nation faces.

The comments follow:

Statement by Congressman Mike McCormack on the Need for SRC Plants

Mr. McCormack. Dr. Deutch, I welcome you back again.

I must say that with as much respect as I have for you and your colleagues, I am deeply distressed by your testimony, and by the Administration's position. I think that it constitutes a colossal disservice to this country.

You said, Dr. Deutch, and I think I quote you accurately, "competition (between SRC–I and SRC–II) in such a way as makes the most sense."

In my opinion, any such competition, in and of itself, makes no sense at all. I simply cannot understand this continual foot-dragging by the Administration with respect to coal. We are being asked to approve doing the same things over and over and over and over again, year after year after year after year; and the only one constant aspect about the entire exercise is that we never make any real progress.

The most we have accomplished so far is to develop SRC–I and SRC–II, and several similar technologies in private industry. But these have been in existence for several years now.

As a matter of fact, they were successful demonstrations underway before this present Administration came into office. Yet here we are, two years later, being asked to approve a competitive run-off between the two different technologies, both of which are already in existence, and both of which have a market; indeed both of which could easily be economically competitive with imported oil by the time commercial demonstration plants for SRC–I and SRC–II come on the line, even if we start at once.

Here we are, importing $50 billion or more worth of oil a year, and suffering inflationary impact as a result; and suffering economic and military vulnerability because of these imports; and here we are talking about a competition between two technologies, both of which we need now. Here we are quibbling about the affordability of industrial demonstration plants when your estimated cost of both would be just one-twenty fifth of one year's imports of petroleum—that's four per cent of one year's petroleum costs; and the Administration is quibbling about our ability to afford them.

Why, in the name of God, can't we do something? It seems to me that every energy technology the Administration touches turns to slush. Nothing gets done. All we have is more studies. I don't think we can just go plodding along toward some distant goal while our national interests are threatened today. I think it is time to stop fooling around. We can finance both of these plants easily. I think we should start construction of two plants as soon as possible. One plant using SRC–I, and one using SRC–II. We can easily guarantee to buy all the products at a fair price. We can't wait for perfection. We cannot wait for guarantees of economic profit. We can't wait for studies of economic hazards. There is plenty of room for other technologies when they come on the line.

To say we don't want to take one or another because we might have a better one later, or because someone might be offended, is, in my mind, ridiculous. We need to solve our energy problems now, with technologies available now. I hope you will take this message back to the Administration. I am sick to death of sitting here year after year, and hearing nothing but why don't we do anything constructive. I suggest we get started and this is one place we should start. We need domestically produced liquid fuels to relieve our dependence on imports. These technologies work. Let's get started.

Mr. Chairman, I don't have a question, only that statement. ●

IRONY OF U.S. ENERGY POLICY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. RAHALL. Mr. Speaker, as each day passes the energy future for the United States grows more dim. Throughout our Nation people continually ask, "Why Not Coal?" Yet, the administration has no answer to this question nor any immediate solution to the problem. I submit this letter by the president of the American Mining Congress, J. Allen Overton, Jr. who again expresses what obstacles are facing increased coal use. How long will it take before we realize that coal is the answer to the problem, and how long will it take before we take steps to allow it to provide the answer?

The letter follows:

The Irony of U.S. Energy Policy: Paucity in the Midst of Plenty

At the annual American Mining Congress Coal Convention in St. Louis last month, we were privileged to hear some eloquent speakers offer some very cogent presentations. The address by West Virginia's Governor Jay Rockefeller, who is also Chairman of the President's Commission on Coal, is reprinted in this issue of the Journal and other talks will appear in next month's issue.

A common theme of these speeches is that the only hope for the United States to reduce its dangerous reliance on imported oil, at least in the near future, is to increase the production and use of its abundant domestic coal reserves. Yet, as Governor Rockefeller points out, since the 1973 OPEC oil embargo the nation's oil consumption has gone up 15 percent, its domestic production has dropped 6 percent and its imports have jumped 33 percent.

Gradual decontrol of oil and gas prices will encourage exploration, but it's unrealistic to expect that discoveries will be sufficient to reverse the trend. Conservation of energy can make a significant contribution, but it can go only so far in offsetting growth in demand. Non-fossil fuel sources of energy may hold great promise over the long range, but they will not meet our needs for the short range. Coal remains the single solution.

Yet, what has been happening to coal in America? There are today some 13,000 miners unemployed in the nation's coal fields and thousands more are working short weeks. Current estimates are that by 1985, coal will be supplying about 20 percent of the country's energy needs vs. just under 19 percent now. Governmental restrictions have curtailed demand to the point where the coal industry is saddled with some 100 million tons of excess capacity, or over 10 percent of the total available.

In short, the United States is blocking the only exit from its present predicament.

It is imperative that the conditions which have brought about this dismal state of affairs be changed and changed fast, and the responsibility rests squarely on the federal government. There are four main areas in which fundamental reforms of policies are urgently required.

MINING COAL

The recently issued regulations on surface mining of coal should be revised and made more realistic. The Interior Department should devise a workable program for leasing federal coal lands, which would include correcting the adverse impacts of present "diligent development" regulations and royalty policies.

MOVING COAL

The many federal regulations that now add unnecessarily to the costs of transporting coal should be carefully evaluated, and steps to improve transportation systems must be facilitated.

BURNING COAL

There should be an accelerated reassessment of ambient air quality standards, including the speeded development of objective scientific evidence relating to the impact of air quality on public health and the long-term effects of increased coal use. Achieving these goals will require more accurate and objective air quality monitoring and modeling.

Reconsideration of existing regulations, as well as evaluation of any proposed revisions and new regulations, should be accompanied by rigorous analysis of the costs, risks and benefits involved. In this process, it is essential to secure the thorough participation of competent agencies other than the one that is funding the program under consideration and has a budgetary stake in its future. No single entity, such as the Environmental Protection Agency, should be judge and jury of its own tasks and performance.

Of immediate and specific importance, the President should use his authority—and Congress should extend the period and broaden the scope of this authority—to permit temporary codification of State Implementation Plans under the Clean Air Act to allow greater use of coal. The Clean Air Act should also be amended to allow the most cost-effective methods to be employed in meeting ambient air quality standards.

Also, federal policies should encourage wheeling of coal-fired power to oil-dependent areas, the running of coal-fired plants at higher capacity, and conversion back to coal use by existing plants that could burn coal but now use oil.

SELLING COAL

Heightened energy self-reliance through expanded use of coal requires that it be competitive with alternative sources of power. Government controls that hold prices of coal-competing fuels to artificially low levels should be phased out and subsidies for imported oil should be ended.

Because inflation adds force to the adage that time is money, it is vital to reduce the time required for obtaining government permits for mining, moving and burning coal.

It is likewise necessary to modernize tax laws to encourage capital investment, particularly in coal production and conversion from oil or gas to coal. Moreover, there ought to be additional federal funding for coal-related research and development, including commercial-scale demonstration of synthetic fuel technologies by industry.

By instituting immediate reforms in these four major areas, the government of the United States could go far toward restoring rationality to the national energy policy and erasing the irony of paucity in the midst of plenty.

J. Allen Overton, Jr.,
President, American Mining Congress.●

THE PLIGHT OF THE BOAT PEOPLE

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. BLANCHARD. Mr. Speaker, the world today is again witness to the tragic plight of people wandering on the open seas in search of a home. I shudder at how closely the plight of these Southeast Asians resembles the cold shoulder that was given to Jews during World War II who sought asylum from the Nazis.

They have become known as the "boat people" and the mere use of that label is an indication of the unwillingness of the free world countries to allow these people on their shores. Boats have, in fact, become the only way station for these brave individuals who risked their lives, separated from their families and left behind their heritage and homeland to flee from tyranny. For many, these boats have also become their final resting place.

It is truly appalling and indeed even terrifying to consider that free people, many of whom recall with shame the lack of world response to pleas for aid during World War II, can once again turn the other way, or even outrightly refuse to help these people. I raise this connection to the plight of the Jews during World War II because, as a member of the President's Commission on the Holocaust, I have spent the past 5 months recalling the painful memory of the holocaust.

I have worked with scholars who have studied the events of the holocaust and the world's response to it; with public officials who witnessed the role of governments throughout the world during the war; and perhaps most importantly, with victims of the holocaust—survivors who through their very existence provide a chilling reminder of the past and all the reason needed to justify helping anyone in the world who seeks freedom from injustice.

One of the main goals of the Holocaust Commission is to come up with ways of educating today's world as well as future generations about the holocaust. It is a painful and sometimes distasteful lesson, but nevertheless, it is one that must be recognized and learned. The plight of the boat people demonstrates that the task before us is a difficult one. Their plight can only be viewed as a step backward for the free world.

I call upon all countries to rectify this tragic situation by providing the boat people with refuge and asylum. I want to commend President Carter for his decision to double the immigration quotas to allow more boat people to enter the United States. The United States must serve as the leader for this cause. Now other countries of the free world must demonstrate their commitment to human rights and human dignity by opening their borders to the boat people.

Can we not, at the very least, through either the United Nations or through some mutual agreement of countries, establish a free port where these people can wait until the necessary arrangements can be made to find them a new homeland?

Doubling the U.S. quota will not be enough. People throughout the world who have fought for freedom, and who today cherish and defend that freedom, must rise to this occasion and open their gates and their hearts to the boat people.

I want to bring to the attention of my colleagues a fitting statement made by Mr. Elie Wiesel, the distinguished chairman of the President's Commission on the Holocaust, and himself a survivor. The statement follows:

Statement by Elie Wiesel

We who live with the memory of the Holocaust, we who judge all things by its shadow and in its light are particularly distressed by the specter of silence and apathy which greets the fate of the "boat people." We are outraged at the sight of people set adrift with no country willing to welcome them ashore. We are horrified at the imposition of quotas which exclude women and children in the full knowledge that such a policy of exclusion can be a sentence of death. We know that this failure to act will take its moral toll on those who stand on the sidelines as well as a physical toll on the victims.

Therefore, as Chairman of the President's Commission on the Holocaust, and on behalf of the Commission, I implore all countries to open their borders and to extend rights of refuge and asylum to the boat people. We call upon the nations of the world to coordinate their activities and to extend themselves with humanitarian generosity so that we may not once again be divided into a world of perpetrators, victims, and bystanders.

We know that the President of the United States, in the spirit of this Administration's commitment to human rights and human dignity, will do all within his power to alleviate this situation and assume a leadership role in resolving this problem. We hope that this Nation will grasp this clear opportunity to learn from the history of the Holocaust not to err again.

Now is the time for this country and for the world to take decisive action to save the boat people. Now, before it is too late.

Elie Wiesel.●

SOUTH CICERO BASEBALL ASSOCIATION HOSTS TOURNAMENT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. HYDE. Mr. Speaker, Cicero, Ill., is one of the finest communities in America and I am proud that it is a part of the sixth district that I have the honor to represent.

Within that community we have many effective civic organizations, but none more active than the South Cicero Baseball Association.

From July 27 to August 1, this group will sponsor the 1979 Illinois State Senior Babe Ruth All-Star Baseball Tournament, consisting of seven teams from all over Illinois. Each team has approximately 20 players whose ages are from 16 to 18 years, and so a great deal of participation by our youngsters is guaranteed.

Chairman Ron Banaszak and cochairman Mike Longo deserve a lot of credit for their efforts in making this the most successful tournament in the history of Illinois.

I should like to invite anyone who will be in the Chicagoland area on those dates to visit us in Cicero and cheer for their favorite team.●

SMALL MEDICAID INCREASE WILL FORCE OUT NURSING HOME PATIENTS

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. FLIPPO. Mr. Speaker, a flaw in the current medicaid law still causes many older Americans who need nursing home care to lose their coverage. A small increase in a monthly Federal pension can invoke a severe penalty on elderly individuals causing them to lose needed care. For senior citizens with limited incomes the loss of medicaid benefits as a result of a small cost-of-living increase can mean catastrophe for them and their families.

I have introduced legislation (H.R. 338) which would correct the inadequacies of current legislation and protect the medicaid benefits eligibility of the small number of individuals who find themselves trapped in these unfortunate circumstances. This measure was considered in the 95th Congress which resulted in the Subcommittee on Health incorporating this provision as part of the Child Health Assurance Program (CHAP). Former Rep. Paul Rogers was instrumental in bringing my legislation before the Health Subcommittee he chaired. The CHAP program however did not pass in the 95th Congress. I am hopeful that this provision to protect the medicaid eligibility of these older Americans will soon be considered by the House in this session.

This loss of medical benefits cannot adequately be measured by merely an examination of the laws and regulations alone. The accounts of inequities which individuals and families must endure as a result of the quirk in the law are more eloquent statements of why we must act to insure that this "Catch 22" is corrected.

Current regulations ignore this problem and when enforced these older Americans lose the level of assistance they have qualified for and deserve. Instead they receive a small pittance in their Federal pension checks which was meant as a means to keep up with inflation. Regulations have resulted in actions which Congress did not intend.

Aged individuals and their families deserve the protection which a change in this provision of the law would bring. We need to insure that the elderly receive the benefits of pensions they worked for and earned without the fear of losing essential medical benefits.

The human effects caused by the inadequacy in the current law are stated clearly in these examples from a newspaper article I would like to share with my colleagues.

The article follows:

[From the Birmington (Ala.) Post-Herald, June 27, 1979]

BENEFITS ABOVE CEILING: NURSING HOME PATIENTS FACE OUSTER

(By Ted Bryant and Bill Hudgins)

A number of Medicaid patients in Alabama must leave nursing homes or begin paying their own way July 1 because of a recent cost-of-living increase in Social Security and Railroad Retirement benefits.

An increase of 9.9 percent in retirement income from those sources will go into effect July 1.

The state imposes a ceiling of $383 per month on the personal income of patients eligible for Medicaid. The increase in retirement benefits raises the personal income of some recipients over that ceiling.

The action will affect people like Mrs. Alma Freeman, 88, who has been a resident of Pleasant Grove Nursing Home since last December. Before that her daughter, Mrs. Grace Forrest of Ensley, supported both of them on her small pension of $400 per month and her mother's income from Social Security and Railroad Retirement benefits.

Mrs. Freeman is bedridden. She has to have help when bathing and moving around, although she can feed herself and get in and out of bed alone. While she was living with her daughter, it was necessary to hire someone several hours a day to assist the mother. Mrs. Freeman did not apply for Medicaid until she went to the nursing home, her daughter said.

Mrs. Freeman will lose her Medicaid benefits when the 9.9-percent increase takes effect. She received notice last week that she had until then to make arrangements either to pay the difference between her income and Pleasant Grove's fee of $764.43 or to find another place to stay.

"I haven't got it. After paying rent and food costs, I have nothing left. I don't think it's right," Mrs. Forrest said. She figures that to keep her mother in the home, including the new income, she would have less than $100 to live on per month.

Mrs. Forrest said she intends to take her mother back home to live with her.

Mrs. Barbara McNutt, director of nursing services at Pleasant Grove, said there are businesses and services that will help people care for those who need special attention. However, she added that these all cost the family and that although short-term Medicare may pick up some of the costs, it will not pay for all.

Michael Dray, administrator of the home, said the state's refusal to raise the ceiling will add costs by reducing people with some income to the same kind of status as indigents. He also said that many patients would have to spend increased time in hospitals "at up to five times the cost per day over nursing homes.

"These individuals going over the ceiling are those who have worked hard all their lives to get security in later years—if they hadn't, they'd be in no difficulty," Dray said.

Charles L. Mowery's mother, Mrs. Tommie V. Mowery, is 83 years old. She has been in the nursing home for about three years, paying for her care through Medicaid and through black lung benefits. Mowery said she had cared for his father for 20 years after he was paralyzed.

"Mother was just in the hospital. She's under Medicare right now. It'll be an almighty hardship on us. I'd go bankrupt," he said. Mrs. McNutt said Mrs. Mowery would be covered under Medicare for 10 days after leaving the hospital. At that time she will be re-evaluated by Medicare. Once Medicare payments stop, Mowery said she would probably go to live with her sister.

"I'm taking care of my 90-year-old mother-in-law right now and I just can't take care of two of them."

Dray said the home would assist in any way it could. "It seems like the federal government is telling the state of Alabama that it can't afford to take care of these people. How can they expect the private owner to take care of them if the state or the county can't do it?"

Gov. Fob James could increase the ceiling by executive order, but has made the decision to retain the $383 figure because of the dire financial condition of the Medicaid program, said Kay Ivey, a James assistant.

Ms. Ivey said the Medicaid program will be about $38 million in the red by the end of the fiscal year.

Medicaid authorities notified the governor that they have identified 69 persons in nursing homes whose increased pensions will push their income above the $383 ceiling.

That figure could increase by 80, making a total of about 150 who are being told they must leave or pay their own way.

Notices have been sent to an undetermined number of persons to notify them of their ineligibility. The notices are from Jack Worthington, commissioner of the Medical Services Administration, which handles the Medicaid program in Alabama.

Families already have complained that the increases in retirement benefits place a family member just over the limit, meaning their personal costs of maintaining the patient in a nursing home will increase by $300 or more a month.

One family said that a member's pension increase amounted to about $35, enough to raise the pension over the $383 level by $10 a month.

That family was notified last Thursday that the patient will not be eligible for Medicaid on July 1, allowing nine days for the family to assume the costs now paid by Medicaid or to remove the patient from the nursing home.

Ms. Ivey said she was advised by a representative of the U.S. Department of Health, Education and Welfare that pension recipients do not have the option of turning down the increase to maintain their Medicaid eligibility.

Under the Medicaid program, the state takes all the personal income of a nursing home patient except $25 a month.

The state then applies the personal income toward the cost of the patient's care and pays the remainder, using a combination of state and federal funds.

The Medicaid program in Alabama had a budget of $244 million during the current fiscal year, compared with $268 million for the previous year.

For those whose incomes are barely over the line, Ms. Ivey advised that they contact their congressmen and attempt to deal with the problem at the federal level, possibly through an allowance for the pension recipients to reject the increase.

The Legislature is considering a bill that would increase Medicaid's appropriation for the current fiscal year, but indications are that the supplement will not be sufficient.●

CONGRESSIONAL BLACK CAUCUS TESTIMONY IN SUPPORT OF THE FAIR HOUSING ACT AMENDMENTS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mrs. COLLINS of Illinois. Mr. Speaker, recently, Congresswoman SHIRLEY CHISHOLM testified before the Civil Rights Subcommittee of the House Judiciary Committee and set forth the Congressional Black Caucus position of strong support for the Fair Housing Amendments Act of 1979, H.R. 2540. As Congresswoman CHISHOLM pointed out, every caucus member has cosponsored the Fair Housing Act, and the caucus legislative agenda for the 1st session of the 96th Congress made the addition of cease-and-desist powers under the Fair Housing Act a major caucus priority.

Congresswoman CHISHOLM's testimony indicates that some 16 Federal agencies presently have cease-and-desist authority, but the Department of Housing and Urban Development has had to enforce the Fair Housing Act for 11 years without this critical enforcement tool. There is no question that providing greater housing opportunities for minority groups which continue to face housing discrimination in suburban as well as urban areas can move us far toward a more equitable and just society. The need for a strong civil rights law for housing is parallel to the need for increasing production of low-income housing through such means as the public housing program.

Congresswoman CHISHOLM's testimony follows:

TESTIMONY OF THE HONORABLE SHIRLEY CHISHOLM

Mr. Chairman and members of this committee, I am pleased to be here today to forward my full support for H.R. 2540, the Fair Housing Amendments Act of 1979. The legislation before you carries with it the potential for the ultimate realization of the nation's objectives. Set down in Title VIII of the Civil Rights Act of 1968, to insure that all Americans have an equal opportunity to get decent housing and reside in the neighborhood they choose.

Although there have been improvements in the area of housing discrimination through the Fair Housing Law, for the past 11 years title VIII has remained a statement of goals. Rather than an active force against discrimination in the housing market. Housing discrimination continues to be an all pervading factor against the evolution of an equal and integrated American society. All Americans suffer from the ills of segregated housing, which deny us the opportunity to break down prevailing racial barriers and the impacts upon the educational and employment opportunities of the victims of discrimination.

I believe it is important to begin to assess in human terms the real impact of the legacy of generations of discriminatory treatment against certain groups in our society as a professional educator, I know only too well that discrimination in our public schools is closely intertwined with the evils of bias in the housing market. Housing discrimination lies at the root of our segregated educational system. When we survey the patterns of segregated housing in this country, it is no wonder that much of the Nation's public school system continues to suffer the ills of racial segregation, 25 years after its unconstitutionality was declared.

I am heartened by the care and dedication which has obviously guided the drafting of H.R. 2540, and I am proud to be a cosponsor, along with all my colleagues in the Congressional Black Caucus and other Members committed to alleviating injustices in the housing market. As the bill is now drafted, the major inadequacies and ambiguities of current law have been addressed and substantially corrected.

In the 11 years since passage of title VIII, the absence of administrative powers to enforce fair housing laws has surfaced as the critical factor obstructing elimination of housing discrimination. The Department of Housing and Urban Development, although charged with responsibility for enforcing title VIII has been limited to the process of conciliation and persuasion as their only available enforcement mechanisms. The extremely small percentage of complaints that have been resolved through the conciliation method is evidence enough that enforcement powers of HUD must be strengthened. Since the Federal Government is entrusted with major responsibility for securing compliance with housing discrimination laws, enforcement should be relegated to Federal agencies that are equipped with adequate administrative tools to carry out this mission.

The most important provisions of H.R. 2450 involve the administrative mechanisms available to HUD to enforce the fair housing law. The Secretary will be granted the authority to investigate and file a charge of housing discrimination on her own initiative, which will greatly aid in the identification of patterns and practices of such discrimination. The bill will empower HUD to issue appropriate orders, including cease and desist orders, through administrative proceedings and authorize the secretary to impose substantial civil penalties as a sanction against continued discriminatory activities. Thus, HUD could order realistic relief in the event of a finding of discrimination and no longer be hindered by the inadequacies of conciliation.

Clearly this legislation has the potential to loosen the grip of discriminatory practices that now engulf the housing market. This new authority for HUD can impact substantially on the incidents of housing discrimination and the remedies available to its victims.

The availability of authority to issue such rapid administrative relief would undoubtedly reduce the incidence of discriminatory practices and provide an important incentive for voluntary conciliation of grievances. Currently, there exists little disincentive for a respondent to agree to a respondent to agree to a remedy, or even enter into the conciliation process. For the most part, these parties can be assured that they run little risk of further proceedings; hence they are encouraged, rather than discouraged, from continuing their discriminatory actions.

The availability of quick and decisive administrative relief would also relieve the burden on our court system which now serves as the most consistent arena in which housing discrimination cases are resolved. The courts have, by and large, been true to the objectives of title VIII, and indeed, much of the clarification of law that this legislation achieves is a result of prior judicial rulings. However, judicial relief has not been readily available to great numbers of Americans who suffer from housing discrimination.

In addition, judicial proceedings can be lengthy due to technical and cumbersome court procedures which create a greater opportunity for delays in proceedings for reasons unrelated to the merits of a case. It is obvious that housing cases, more than in any other area, demand a speedy forum for relief. In many instances, a complainant may eventually receive a favorable judicial ruling, but in the meantime the unit in question may have already changed hands. Thus, the question of "relief" is rendered moot. Cease and desist authority for HUD would streamline the injunctive process and assure that meaningful relief for the prevailing party is secured.

Adequate administrative enforcement powers would ease the burden of cases in the courts, increase the likelihood of speedy remedies, insure greater uniformity and predictability of decisions, and focus relief from housing discrimination on the entity that is responsible for alleviation of the problem—the Department of Housing and Urban Development.

It can be safely assumed that critics of broadening administrative powers for HUD, many of whom are critics because they foresee increased compliance activity, will voice their concerns couched in arguments about the growth of bureaucracy and the taxpayers' burden. I would point out to these critics that American society is presently paying for the costs of housing segregation and its impact on the real estate market through "racial steering" and "block busting." We must ask ourselves why, in view of the fact that some 16 Federal agencies presently have cease and desist authority, that the Secretary of HUD has been without such powers for the 11 years since the passage of title VIII? In effect, we have been indicating during that time that housing discrimination is a matter of secondary national importance.

In addition to increased administrative enforcement authority, I would also like to highlight and applaud several other provisions of this legislation.

The inclusion of "handicap" as another prohibited ground for discrimination in housing is of great importance to the many Americans who find themselves denied their rightful choice of residence. I fully support this provision. This inclusion will carry no financial burden on an owner of property, but will insure that an individual is not discriminated against in housing activities on the basis of a handicap. It will also allow the individual to make reasonable accommodations at his or her own expense.

I am also pleased to see that the legislation will clarify the fair housing law by emphasizing that the practice of redlining by mortgage lending institutions is prohibited. Redlining by the primary and secondary mortgage has had disastrous effects on individuals, and as a result neighborhoods desiring to upgrade their living environments. I hope that this clarification and the similar language prohibiting discrimination in property insurance will put an end to such practices.

Other provisions in this legislation which will further the objectives of the fair housing law and which I fully support include:

The clarification and enhancement of the Attorney General's power to intervene in cases that raise an issue of general public importance;

A liberalization of the current unrealistic statute of limitations, to permit an aggrieved person to commence civil action at anytime up to 3 years after the alleged discriminatory housing practice occurred;

Allowing the prevailing party reasonable attorney fees in either judicial or administrative proceedings; and

Removal of the $1,000 restriction on punitive damages currently under title VIII.

Tomorrow marks the 25th anniversary of the Supreme Court's decision in Brown vs. the Board of Education, which declared that separate is inherently unequal, and that racial segregation is a detriment to all Americans. Yet, a quarter of a century later we are still struggling with rampant segregation and discrimination. There have been too many false promises and symbolic gestures that have done little or nothing to move this country toward racial equality and eradication of segregation. It is my sincere hope that passage of this legislation in the 96th Congress will lead us away from the recalcitrance that we have witnessed in achieving an equal society, and mark a firm new commitment to the goal of equality.●

COST-OF-LIVING ADJUSTMENTS FOR FEDERAL RETIREES AND SOCIAL SECURITY RECIPIENTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. WEISS. Mr. Speaker, in many regards the first budget resolution is a disaster for the people of America. Programs vital to the growth of our children and the survival of the aged and the disabled will be debilitated almost beyond recognition.

A particularly poignant example of this trend is the recommendation to decrease the rate of cost-of-living adjustments for Federal retirees from semiannually to annually. Fortunately, this is still only a recommendation. However, while we focus on such destructive suggestions there is constructive work left undone.

There have been attempts to increase the frequency of cost-of-living adjustments for social security recipients from once to twice yearly. It is there that we should focus our energies. In this period of spiraling inflation, the people hurt most are those on a fixed income. We should be working on legislation to make their lives more bearable, not less so. Reducing the frequency of cost-of-living adjustments is economizing at the expense of those who are already bearing the brunt of inflation.

We are entering a period of economic scarcity, in which all segments of our society must show some restraint. However, I fail to understand why that restraint must always be shown by those least able to afford it. It is unconscionable that, with the Consumer Price Index up 10.8 percent since this time last year, we can even discuss reducing the rate of cost-of-living adjustments. In effect, we are telling the aged of this country that we intend to economize by allowing them a little less food, a little less heat, than they had last year. There is no true thrift in depriving a whole segment of our population of the basic necessities of life, and there is no logic in asking the greatest sacrifices from those with the least to give.

It is time for us to reexamine our attitude toward the aged, and to put their health and well-being back into our list of priorities.●

THE OPEC PRECEDENT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1979

● Mr. VENTO. Mr. Speaker, I am sure as thousands of motorists wait in long gasoline lines they mutter "Why can't something be done" about the shortage, and especially about OPEC's oil blackmail of not only the United States, but the other powerful free world nations. We stew in completely helpless frustration while a bunch of petty tyrants twirl the valves of crude oil supply, pipelines, playing Russian roulette with the world economy.

It may be small consolation, but from a most unlikely quarter, the International Association of Machinists, comes a challenge to OPEC. The IAM has filed an antitrust suit against the Organization of Petroleum Exporting Countries, the only effort so far of opposition against the oil blackmailing marauders.

The Washington Star in an editorial admiringly comments on the audacity of the IAM to take on Goliath while the U.S. Government, in its awesome grandeur, stands petrified. The editorial follows:

[From the Washington Star, June 26, 1979]

THE OPEC PRECEDENT

There's a tendency to take a rather lighthearted view of the latest in David-Goliath collisions—the effort of the International Machinists' union to bring OPEC, the international oil cartel, to book in a U.S. court for violations of the Sherman Antitrust Act. The Machinists filed their complaint last December; a West Coast judge is hearing it this week.

Conspiracy to fix prices in restraint of trade is the charge in a nutshell: a charge which the 13 "defendants" don't bother to deny. At last notice, in fact, the fixers of international oil prices hadn't bothered themselves with the case at all. Maybe they remembered the words of a mogul of our Gilded Age—Commodore Vanderbilt or somebody—who is said to have exclaimed: "The law? What do I care about the law? Haint I got the power?"

OPEC certainly has "the power"; and it may be that even the sternest judgment by a single American court would be as ineffectual as a papal bull against a comet.

But even if the Machinists' case falters—and we gather there are substantial technical questions about the applicability of U.S. antitrust laws to foreign sovereigns—it could at least focus our attention on the supineness that characterizes the world's response to oil cartelization.

"It is astonishing," remarked Sen. Daniel Patrick Moynihan the other day in a New York commencement address, "how the world's democracies have resigned themselves to this savage assault on the world economic order . . . sustained by the mindless greed and effortless manipulation of a handful of petty tyrannies."

Those are strong words; and when Senator Moynihan speaks strong words weak spirits quail. But there is no denying the gravity of OPEC's "assault" on the free-trade rules and consultative mechanisms designed after World War II to insure the world economic order against forms of international piracy that helped bring that conflict on.

According to a study recently prepared by two distinguished New York law firms, and cited by Senator Moynihan, the U.S. silently condones "the most flagrant form of antitrust violations" by OPEC. And, it adds, "in a world of increasing scarcity in raw materials and food stuffs, OPEC is too dangerous a precedent for the keepers of our antitrust laws to ignore."

This being so—at least in the judgment of well-versed antitrust lawyers—the Machinists' suit can hardly be dismissed as idle legalism. Yet the initial response in Washington was a panicky discussion of intervention in OPEC's behalf. After all, it was asked, might some hare-brained judge levy punitive fines against OPEC? What if in contemplation or consequence of this action, there was a huge flight of OPEC money from our financial institutions? Good questions, no doubt, but symptomatic of the bind OPEC has us in.

Senator Moynihan admits that he has no ready remedy for the unchecked rapacity of OPEC, although he suggests several interim measures that might be tried: a speedy agreement on energy imports with Mexico, or assistance to poor nations with petroleum prospects, or the release of Alaskan production on the world market. And why, he asks, do not the U.S. and other prosperous industrial democracies, strained but not ruinously so by OPEC price gouging, "raise the political and moral issue of what OPEC is doing to poor Third World countries"? Outlandish oil prices are, as he says, "the cause of hungry children in Bangladesh or central Africa . . . But the poor countries are too frightened to speak, and will do nothing so long as they see the mighty U.S. equally tongue-tied."

It is Senator Moynihan's wont to think broadly about these questions, and a bit too boldly for timid imagination. Still, his contentions are far from trivial. OPEC holds in its hands the power of world recession—a power never contemplated for 13 maverick nations over the world economic order designed in 1945–46. And little is being done to check this power. "There are not three people in the U.S. government," the senator complains, "who have as their task the designing of strategies and tactics to break the cartel."

Could this be true? If it is true—and we have seen no evidence to the contrary—this question arises: Must the agitation of vital questions touching the livelihood of the whole planet be left to the lawyers of the International Association of Machinists? And it is not a disturbing development that our officials should, however briefly or tentatively, contemplate engaging themselves as cheerleaders on the side of Goliath?●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent from the House of Representatives on Tuesday, June 26, 1979. Had I been present, I would have voted: "Aye" on rollcall No. 280, a motion to limit debate on section 3 of H.R. 3930, the Defense Production Act; "no" on rollcall No. 282, an amendment to strike the language of H.R. 3930 authorizing the President to require suppliers to provide the Government with synthetic fuels in cases which he deems to meet national defense needs; "aye" on rollcall No. 283, an amendment to prohibit purchase contracts to be awarded to major oil companies; "aye" on roll call No. 284, final passage of H.R. 3930 extending the Defense Production Act of 1950 and providing for the purchase of synthetic fuels and synthetic chemical feedstocks.●

CARTER'S RHODESIAN POLICY: "DECISION BY INDECISION"

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. MARRIOTT. Mr. Speaker, the current controversy over Rhodesian sanctions, and the Carter administration's lack of a policy, would be comical if they did not have such a negative impact on that country's hope for a free and stable future.

What are the standards by which we should judge Rhodesia?

The answer should be simple, since they were established by Congress when it passed the Case-Javits amendment to the International Security Assistance Act. This amendment requires the President to lift sanctions when two conditions are satisfied:

First. Rhodesia must agree to negotiate in good faith, under international auspices, with all parties concerned, and on all relevant issues; and

Second. Rhodesia must install a new government, elected in free elections in which all political and population groups are allowed to participate freely—and which are held under impartial and internationally recognized observers.

These should be the only standards by which we judge Rhodesia, since we are the ones who set the standards. As the debate has dragged on, however, three other questions have been raised:

First. How fair is Rhodesia's Internal Agreement, or Constitution?;

Second. Will the United States' relations with other African nations suffer if we recognize the Muzorewa government? In particular, what about Nigeria, which supplies 17 percent of American crude oil imports; and

Third. What if we recognize the new administration, and it is later overthrown, putting us on the losing side as in Iran?

The answers to all five questions, in my opinion, clearly mark the route this Nation must take—if it has the courage and the integrity to do so.

How fair were the Rhodesian elections?

From all accounts, the Rhodesian elections were "free and fair," in spite of efforts by the Carter administration to sabotage them.

In March—a full month before the elections—Secretary of State Cyprus Vance declared the election offered no hope for settling the conflict. And, he was joined by British Home Secretary David Owen in call for U.N. supervised elections. Vance's statement was, at best, prejudicial; at worst, his comment could have undermined the efforts of Rhodesia's white and black leadership working together.

Most importantly, U.N. supervision of the elections was not a condition of Case-Javits.

Adding insult to injury, the Americans and the British refused to send observers to monitor the elections, saying the elections would not be valid unless the Patriotic Front participated.

What is overlooked in all this is the fact that it was the Patriotic Front's choice not to participate.

As early as February, Rhodesia's transitional Government said it would "be prepared to consider concessions" if the British and American Governments revived direct or indirect negotiations with the Patriotic Front. This clearly contradicts the claim of critics that Smith and Muzorewa are unwilling to deal with the Front.

In March, the Executive Council observed that—

> Dr. Owen knows that the Patriotic Front has consistently refused all talks.

It was also pointed out that Britain and the United States had not called an all-party conference, although they had promised to do so 5 months earlier. The reason? The Patriotic Front refused to attend unless the conference was on their own terms.

In other words, we are penalizing Rhodesia for not negotiating when it is the other party who is refusing to negotiate.

The fact is, Rhodesia has kept faith with the Case-Javits call for negotiation. It is we who have not kept our side of the agreement.

The same is true of the elections. Five political parties took part, including one of the major allies of the Patriotic Front. Over 1,800,000 votes were cast. That is better than 64 percent of the electorate, much more than elected Jimmy Carter President.

And, there were over 70 official observers and over 160 foreign journalists covering the elections. Not one of the observer teams, and not one of the journalists has reported that the elections were anything but "free and fair."

Observers calling the elections "free and fair" include former New York Congressman Allard Lowenstein, civil rights leader Bayard Rustin, the Institute of American Relations, and the American Conservative Union.

The only serious criticisms of the election have come from the Reverend Ndabaning Sithole, leader of the Zimbabwe African National Union (ZANU) party. He charged that there were "gross irregularities" and challenged the validity of the elections.

Sithole's sincerity and veracity are called into question by the fact that he only discovered these alleged "irregularities" when he found out that he had fared badly in the election. Moreover, as late as 11 a.m. on the last day, before the returns were in, Sithole told Bayard Rustin that the elections were fair and free. And, third, he has been unable to substantiate his charges; in fact, the Washington Post's correspondent, who was present at Sithole's news conference, said he "repeatedly contradicted himself."

In short, Rhodesia has met both of the conditions set forth in the Case-Javits amendment. So, why is there any question as to what our response should be? Does Congress not have the courage of its convictions?

The other objections raised by those who oppose lifting the sanctions are even weaker.

What if the Patriotic Front later overthrows the Muzorewa government?

It seems to me that the recent erosion of America's leadership position can only be worsened if we make it our policy to penalize a legitimate government simply because it is threatened.

The Patriotic Front chose not to participate in either the elections or the negotiations.

It should be noted, at the same time, that the low level of success in the Patriotic Front's efforts to disrupt the elections belies their claims of power, numbers, and popular support.

What if lifting sanctions alienates other African nations?

The most obvious answer is that our decision on the reaction of other African nations is "foreign policy by fear."

More importantly, it should be noted that fear of retribution from the Arab world—which supplies us with much more oil than does Nigeria—did not deter the President from sponsoring Israeli-Egyptian peace talks. In fact, Carter argued that other Arab states could be brought in after the treaty was signed.

Such an approach clearly recognizes our leadership role. Why not use it in the Rhodesian controversy?

In no other case has America withheld recognition of a government or imposed penalties on it, because of "the quality" of its constitution or its election process. We have recognized Nazi German, the Soviet Union, and the People's Republic of China; and, no one—except perhaps Andrew Young—would be foolish enough to suggest that those nations are freer than Rhodesia.

What about those who feel the Constitution (internal agreement) is unfair?

To put it simply, the facts are not on their side.

In fact, the Constitution was drawn up by a coalition of black and white leaders. It was designed—please note: purposely designed—to provide a reasonable and orderly transition.

There is nothing in the Constitution which does not follow a pattern used successfully many times in the British decolonization efforts.

The Parliamentary formula, which now gives whites 28 of 100 seats, although they are only 5 percent of the population is entirely consistent with the policy of protecting minority, as well as majority rights, during the transition period. Moreover, it is revocable by a simple majority after 10 years, and by a two-thirds vote in the meantime.

That means that, for sufficient cause, the black majority could change the formula today. If they do not seem anxious to do so, perhaps it is because, having had their rights restricted, they are not as anxious for revenge as Ambassador Young seems to be.

One other feature of this document is that it was drawn up as an alternative to a plan proposed by Young and Owen. Their proposal called for the complete dismantling of the armed forces and the establishment of a new defense force built around the Patriotic Front guerrillas. Not only is that not a requirement of Case-Javits, but it was seen by the Rhodesian whites and blacks as a sure formula for national suicide.

What should our course of action be?

Again, the answer is simple—but not easy. It will require us to live up to the conditions set forth in our own legislation, and will demand the leadership qualities and commitment to justice that this nation seems increasingly unwilling to demonstrate.

If we are to pass legislation that sets conditions on others for us to act in a certain way, then the only honest thing to do is to act that way when the conditions are met.

Rhodesia has met our conditions; we must now fulfill our pledge.

A so-called neutral stand is not neutral at all; it is "decision by indecision." And, it will offer aid and comfort to the guerrillas, since it will appear that we are acting out of fear, or hypocritical self-interest, or both. It is time we started standing for something again. And, it is time for all of us in Congress—and for the President—to realize that we must act—calmly, deliberately, and decisively. For, after all, it is useless to shout louder than you act.●

LEGISLATION ADDRESSING PROBLEMS OF TRUCKERS AND FARMERS

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. PASHAYAN. Mr. Speaker, yesterday I was joined by 14 of our colleagues in introducing House Concurrent Resolution 156, legislation addressing the problems of the truckers and the effects that is having on the farmer in the West and the consumer in the East.

Just a few days ago I reported that one grower had been forced to destroy $217,000 worth of tomatoes. Today one grower in Brawley, Calif., was forced to destroy $600,000 worth of tomatoes. Another near King City reports losing three-quarters of a million dollars in just the past few days.

Cantaloupe and onion growers are getting panicky because the crop is coming in and no trucks are available. One packer called for eight trucks and got two. He asked for railcars, he got none.

This should be most disturbing to my eastern colleagues who represent urban areas. Just about 4 percent of an average supermarket's sales receipts per day, during the summer months, is accounted for in cantaloupes, nectarines, peaches, and plums.

While House Concurrent Resolution 156 is one approach, and one way, hopefully, to help resolve some of the conflicting interests, I would urge this body to do everything it could to see that this Nation's transportation system gets back to what it does best, trucking this Nation's goods to where they are needed.●

THE LEHIGH VALLEY'S GASOLINE CRUNCH

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. RITTER. Mr. Speaker, over the last several weeks I have devoted most of my time and effort to working toward a solution to the gasoline crunch that has threatened to paralyze the Lehigh Valley and other parts of Pennsylvania.

Some progress has been made, which I would like to summarize here. But more work remains to be done if we are to prevent the serious shutdowns that would directly affect the livelihood of the half million people I represent.

The causes of the immediate gasoline supply crunch have been twofold. First, the recent strike by independent truckers prevented deliveries of gasoline into and out of the big gasoline storage areas in my district.

Second, independent service station owners threatened to close their stations in protest against Federal regulations which they say are driving them out of business.

This week, I have been actively trying to solve both causes of our gasoline crunch.

Yesterday, I met with leaders of the Pennsylvania independent service station organization, along with Lt. Gov. William Scranton, Deputy Energy Secretary John O'Leary, and other Pennsylvania Congressmen. During the course of a lengthy meeting, the service station owners explained the reasons why Federal regulations have made it virtually impossible for them to remain in business. These people are small, independent businessmen. If they should be driven out of business, only the major oil companies would be left to completely control gasoline retailing. That, to me, would be extremely harmful to the people of this country, and I do not believe the people of the Lehigh Valley want to see it happen.

Outdated, unfair, and unrealistic Federal regulations pertaining to allocation of fuel to independent service stations, and to their allowable margin, are at the root of the problem.

As a result of my meeting yesterday morning, I immediately sent a telegram to the Secretary of Energy, urging him to change the outdated regulations. My telegram reads as follows:

JUNE 27, 1979.

Hon. JAMES R. SCHLESINGER,
Secretary, Department of Energy,
Washington, D.C.

DEAR MR. SECRETARY: In my Congressional District, the Lehigh Valley of Pennsylvania, we are confronted with a critical gasoline allocation and distribution situation which demands the immediate attention of your Office for resolution.

Department of Energy regulations on allocation practices as they affect the Lehigh Valley seem to be a root cause of the very severe gasoline shortage threatening to paralyze Lehigh and Northampton Counties.

Department of Energy Deputy Secretary O'Leary, in a meeting with me in Washington today, characterized several of the regulations in question as "stupid". I agree with that assessment.

Consequently, I ask that the DOE's energy regulations governing margin and allocation, which are threatening independent service station operators, be revised immediately.

Thank you for your consideration and I look forward to hearing from you on this matter.

Sincerely,

DON RITTER,
Member of Congress.

Several hours later, upon learning that the Department of Energy had agreed to review its regulations within 10 days, the gasoline station owners postponed their strike.

I am pleased that our action yesterday resulted in additional time to try to convince the Department of Energy that this serious situation needs to be cleared up without further delay. To me, it is inexcusable that the Department has waited this long before even agreeing to seriously listen to the need for change in these outdated regulations.

I might add that my top Lehigh Valley staff member has also been in direct contact with Lehigh and Northampton County independent service station owners throughout this difficult period, and that I am personally keeping in close touch with developments, both in the Lehigh Valley and in Washington.

With respect to the independent truckers' strike, I met with truckers in Washington today, including several from the Lehigh Valley. I also was able to get a representative of Lehigh Valley truckers into an important gathering in the White House so that these truckers could be represented in the critical negotiations. I have also requested a meeting with truckers in the Lehigh Valley on Saturday, June 30, 1979.

Of course, violence and intimidation cannot be tolerated in a free society, and I do not believe our Nation's economy and safety can be allowed to be threatened. However, as in the case of the service station owners, the truckers are small businessmen, who work very hard to do a job. They only want the chance to make a decent living and to support their families, like all of us.

Unfortunately, the insensitive and counterproductive regulatory actions of the Federal Government have made that next to impossible in both cases.

In summary, Mr. Speaker, I intend to continue working to reach a solution to the problems, which in large part are caused by the Federal Government, and lie at the root of this summer's very sharp fuel crunch. In the long term, our entire national energy policy must be drastically improved. We must find better ways to produce and conserve new energy, and we must adopt a tough new attitude toward the OPEC price gougers.

With responsible action by our legislators, the pressure can be kept on the administration and the regulators, and we can pull out of the impossible situation we have been having at the gas pumps.●

JEWS AND BOAT PEOPLE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. SOLARZ. Mr. Speaker, I am happy to take this opportunity to commend the President for his leadership in announcing at the Tokyo summit today that the United States will double its efforts to assist the desperate refugees of Indochina by admitting 14,000 people per month over the course of the next fiscal year.

Once again the United States has shown its determination to protect the basic human rights of people—and particularly those who have been forced from their homeland, because of an apparently deliberate policy on the part of the Vietnamese Government to exclude all those of Chinese ancestry—a policy which harkens back to the days of the Nuremberg laws in Nazi Germany.

In agreeing to accept additional refugees, the United States has indicated to the responsible nations of the world our willingness to respond to serious problems in a generous and timely fashion, particularly when other nations are also willing to admit and assist as many of these Indochinese refugees as their own resources will allow.

Without the President's willingness to exercise his leadership on this issue, many thousands more of Vietnamese, Cambodian, and Laotian refugee might have died as the countries of first asylum have been overwhelmed by the large numbers seeking refuge and have reluctantly refused to admit any more refugees. In addition it might have proved impossible to move the rest of the world community to increase their aid and resettlement offers to these refugees without some demonstration of the continued interest of the United States in seeking a solution to the refugee crisis.

Each of the countries at Tokyo has now agreed to a substantial increase in their assistance to the refugees, and has pledged to work for the success of the conference to be held under U.N. auspices in July.

Mr. Speaker, in conclusion, I would like to bring to my colleagues' attention a recent statement by Mr. Hyman Bookbinder, the distinguished Washington representative of the American Jewish Committee. Mr. Bookbinder draws an unforgettable parallel between the experiences of Jews 40 years ago and that of the Indochinese boat people of today.

I am proud to say that the President's actions today are a further proof that we have indeed learned from the tragic mistakes of the past, when the first boat people could find no refuge—and that we remain committed in word and deed to preventing the needless deaths of innocent people.

Mr. Speaker, I insert Mr. Bookbinder's statement in the RECORD:

JEWS AND BOAT PEOPLE

(By Hyman Bookbinder)

(Hyman Bookbinder, Washington Representative of the American Jewish Committee, is a member of the President's Commission on the Holocaust, and serves as Chairman of its Subcommittee on Crimes Against Humanity.)

There is an important difference, though not the only one, between the Nazi Holocaust and the one now engulfing hundreds of thousands, perhaps millions of Indochinese refugees.

To this day, there are Germans and non-Germans who insist—never mind the overwhelming evidence that they were not as ignorant as they claim—that they did not know what was happening at Auschwitz or Buchenwald. That excuse for silence, for inaction, for indifference to the most horrible crime in human history, simply won't be available for any of us when in years to come we look back at yesterday and today and tomorrow.

How many more tomorrows must there yet be, telling us, on our television screens and in our morning papers, of thousands more turned away from this shore or that one, of boats capsizing, of uncounted numbers dying in places never meant to shelter human life, dying in the unbearable stench of their own excrement and the even worse stench of other people's indifference?

The President's Commission on the Holocaust is now completing its recommendations for an appropriate national memorial for those who died in the Nazi Holocaust. But from its earliest deliberations, there has been unanimous agreement that, whatever will be the nature of the memorial itself, the most appropriate way truly to honor the memory of the six million Jews and the others slaughtered by Hitler is "to prevent apathy in the face of a potential recurrence for any group."

That is what Elie Wiesel, the Chairman of the Commission and perhaps the world's most noted survivor of the concentration camps, tried to do last week when he called upon the nations of the world "to co-ordinate their activities and to extend themselves with humanitarian generosity so that we may not once again be divided into a world of perpetrators, victims, and bystanders."

And in that same spirit, at the historic Holocaust memorial in the Capitol Rotunda on April 24, President Carter declared that "We must harness the outrage of our memories to banish all human oppression from the world."

The United States has done, in statistical sense, more than its fair share, accepting 70% of the 300,000 Indochinese refugees resettled in the last four years. But it can do more, and must do more. Every day that it waits for the world community to do more, thousands more will die. Even while we accelerate our diplomatic efforts for long-term solutions, we must do two things at once: Provide safe haven for as many of the refugees as possible on American ships or in Guam or some other life-saving facility; and double our own refugee quota to 14,000 a month.

We can do this, and more, and without any of the dire consequences irresponsibly and ignorantly predicted by critics of a liberalized refugee policy, these critics have always opposed such a policy with calamitous predictions, and they have always been wrong. Despite significant racial and cultural differences, the recent experience in absorbing over 200,000 Indochinese refugees into our American communities has been exemplary. The voluntary agencies and religious groups involved in this proud record have only one complaint: they cannot fill all the pending requests from American homes to receive and help resettle these escapees from tyranny who wish to become Americans. In the tradition of previous refugee movements, the Indochinese have enriched our culture and our economy—in addition to providing us with spiritual nourishment in a world and at a time of massive indifference to human suffering.

The term "boat people" evokes in Jews memories both painful and gratifying. We shall never forget, and expect our children and theirs never to forget, the boats of Nazi escapees who could find no safe haven in an uncaring world. But we remember too those boats at the turn of the century that brought our parents and our grandparents to American shores in their escape from pogroms and the culminating Holocaust years latter.

But six million Jews did not board those boats in time. And when their systematic extermination was underway, the world preferred not to note it. Today, in "living" color, we see the anguished faces of Indochinese children and their hysterical mothers trying to wade ashore—knowing that many of these faces will never be seen again. How many Anne Franks are dying every day?

No, we will never be able to tell our grandchildren, thirty years from now, that we didn't know. We know. We've known. Will we have done enough?●

DEPRAVITY IN IRAN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. DERWINSKI. Mr. Speaker, the chaos in Iran continues. The misdirection of domestic and foreign policy in that country is truly appalling. I wish to insert a brief but penetrating editorial commentary, appearing in the June 24, Chicago Sun-Times, which analyzes the situation in Iran.

The editorial follows:

DEPRAVITY IN IRAN

Revolutionary "justice," as it's called in Iran, has descended from the uncivilized to the depraved.

Since the February victory of the Islamic revolution under Ayatollah Ruhollah Khomeini, more than 300 Iranians have been condemned by drumhead courts and summarily shot to death.

Now Sheik Sadeq Khalkhali, who administers this psuedojudicial murder mill, has anounced a $131,000 reward for the assassination of the country's former shah, Mohammed Reza Pahlavi, who is living in exile in Cuernavaca, Mexico.

The sheik sank even deeper into the moral muck by especially inviting the former empress, Pahlavi's wife Farah, to gun for the bounty. You kill, we pay—same price and never mind that it's family.

The crowning abomination is that these horrors at the hands of men are being perpetrated in the name of God.●

A SALUTE TO JOHN H. BUSTAMANTE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. STOKES. Mr. Speaker, I would like to take this opportunity to acquaint my colleagues with a black man who has been the "life's blood" of Cleveland for many years—Mr. John H. Bustamante. "Distinguished lawyer," "philanthropist," "civil rights activist," "astute businessman," and "community peacemaker"—all of these phrases underscore the decisive impact John H. Bustamante has made on the Cleveland community and the Nation at large.

John Bustamante is both a successful businessman and humanitarian. He is also a proud man—and one who is even prouder of all of the potential for success within the Cleveland community.

Perhaps the secret of his continuing achievements is rooted in his background. A native of Jacksonville, Fla., he was president of his high school senior class and graduated with honors. Mr. Bustamante graduated in the top 10 of his class at Boston University's School of Law and was selected as a John Hay Whitney fellow at Harvard University. These early foundations of excellence have budded into a brilliant career as a business leader and outstanding citizen for Mr. Bustamante.

Locally, John Bustamante is known and respected for his exemplary business professionalism and is a role model for what can be done with a little perseverance and a lot of commitment. To his credit, he is the founder of a major banking institution in Cleveland and has assumed the ownership of the Call and Post newspaper in that city.

Simultaneously, he has maintained a thriving law practice and participated actively on the policymaking boards of area organizations like the Greater Cleveland Growth Association.

Because of his achievements, he has been honored by many associations. Time magazine named him as one of the "200 American Leaders of the Future." His involvement with the civil rights movement and the work of the late Dr. Martin Luther King earned him the Freedom Award presented by the late civil rights leader. The exhaustive list of honors also includes an honorary degree bestowed upon John Bustamante by Wilberforce University.

The impeccable character of this man has manifested itself by many corporations and organizations coming to him for advice and assistance. Currently, he serves as an adviser to the Reverend Jesse Jackson's PUSH for excellence program. Additionally, he has dedicated a lot of time and energy to the work of the United Negro College Fund.

Put succinctly, his unfaltering commitment to excellence and generally enhancing the quality of life among all people, has earned him the highest respect thoughout the Nation.

He is both the friend and confidant of the disadvantaged as well as the more fortunate citizens. Similarly, he has been the champion of causes for community leaders in addition to being the conscience of high level elected officials many of whom are also his friends.

Probably most importantly, his quiet demeanor yet aggressive approach to getting the job done has placed him often in the role as peacemaker in Cleveland area politics, business, and community affairs.

Therefore, Mr. Speaker, at this time, I would like to salute both my personal friend and friend of the Cleveland community—Mr. John H. Bustamante.●

THE CIA IS AT IT AGAIN

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. WEISS. Mr. Speaker, I am appalled by the recent report in the Washington Post that a CIA officer who rifled the files of the House Assassinations Committee went unprosecuted. Apparently the CIA took it upon itself to decide whether or not its employee should be charged with a crime, and decided that dismissal would be sufficient punishment.

"We're satisfied that it was just a matter of curiosity," the Post quotes a CIA official as saying in response to the incident.

Who or what invested the CIA with the power to decide whether or not laws have been broken and to erect a different legal standard for its employees than that which is supposed to apply to all Americans?

The Committee on Government Operations, of which I am a member, recently approved a report investigating the CIA's handling of internal crimes and suggesting some new methods with which to deal with this problem. Officers of the CIA came before us and testified that in January of 1978 the Director of Central Intelligence signed a memorandum providing that all crimes committed within the CIA be reported to the Department of Justice. The memorandum added that, while national security considerations might determine whether they would request the Justice Department to refrain from prosecution, they would leave to the Department the final decision on prosecution. The committee expressed its approval of this procedure.

And now we have a new instance indicating that the CIA has directly contradicted its own pledge to report criminal actions to the Justice Department. Mr. Speaker, the CIA has violated U.S. law by not reporting an apparent crime to the appropriate authorities, and they have misinformed a congressional committee about their conduct in such cases.

The era of CIA misdeeds and arrogant disregard for the laws of our Nation is not over. The agency continues to place itself above and beyond the standards that are supposed to apply equally to all Americans.

It is time that this Congress put an end to CIA lawlessness and forced the agency to abide by our laws and to tell the truth to this body. Clearly there is a large, unmet need for a charter delineating precisely what the CIA and the other intelligence agencies may and may not do. I urge my colleagues to join me in insisting that such a charter be drafted and approved.●

U.S. SHIPYARDS AND NATIONAL DEFENSE

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. McCLOSKEY. Mr. Speaker, in the debate over the request for shipyard subsidies in H.R. 2462, the Maritime authorization bill, reference is frequently made to a key role for the U.S. shipbuilding industry in national defense. Yet this role is rarely mentioned in other than the vaguest of terms. To clarify the issues involved, I have prepared the following memorandum so the debate can proceed in a more informed way:

U.S. SHIPYARDS AND NATIONAL DEFENSE

Twice in this century, the U.S. has had to enter a world war without a merchant marine fleet large enough to provide vital support and transport services for our armed forces. Once, this gap was closed by a crash program that turned out thousands of Liberty ships, ships which became a crucial link in the chain of forces that defeated the Axis. But once, in World War One, it wasn't; foreign shipping bore the brunt of the war effort, and despite an emergency building program, by the time new U.S. ships came sliding down the ways, the war had ended.

If another major war or national emergency caught our merchant fleet short, would U.S. shipyards again be able to close the gap? Congress has spent over $3 billion in shipyard subsidies since 1936 in an attempt to guarantee that the answer to this question would be yes. But would it?

This question seems straightforward enough. But before it can be answered, several other questions which it implies must first be addressed. Among these questions are:

1. What kinds of wars or national emergencies do U.S. shipyards most need to be ready for?

2. How big and what kind of a merchant marine fleet do we need to meet these contingencies?

3. How well does our present fleet measure up to these requirements?

4. How big a shipbuilding base is sufficient to support/replace an adequate fleet?

5. How can the necessary shipbuilding mobilization base best be maintained?

Unfortunately for policymakers, there are no universally-agreed upon answers to these questions, although there is no shortage of opinions, informed and otherwise. Perhaps the best approach to these issues is to look at what background information is available.

First, regarding the kinds of wars the U.S. might face, the most commonly-discussed scenarios are of three types: a quick, all-out nuclear holocaust; a NATO-Russian confrontation which eventually escalates into nuclear war; or a large, lengthy non-nuclear involvement, either in Europe, the Middle East or a country like Vietnam. The mobilization capacity of U.S. shipyards would be relevant only to the third scenario; and it is worth noting that some informed observers regard this as the least likely possibility.

How large a merchant fleet, and of what type, would the U.S. need to meet the demands of such a lengthy war? Again, there is no agreed-upon figure, and this question in turn involves other considerations. One is the matter of specialization: 50 years ago most cargo ships were much alike, and could handle most kinds of cargoes in most ports. Thus they could easily be converted to military auxiliary duty. Today, however, merchant ships are highly specialized, both in terms of the type of cargo they carry and the equipment they need for loading and unloading. Most modern ships would be much less able to meet the equally specialized demands of military support work. In addition, most of the larger merchant vessels, especially the supertankers, would be easy targets for enemy torpedoes or bombs, because of their size, comparatively slow speed and poor maneuverability.

Thus the number and kind of merchant ships needed for national defense purposes, and how closely our existing fleet approximates these requirements, are all complicated, uncertain and hotly-disputed issues. Predictably, the next question of how large a shipbuilding base the U.S. should maintain to achieve these undefined defense purposes is equally in doubt. The Navy, for instance, has had a study of the question underway for some years without any conclusive results, possibly to avoid offending the shipbuilders. The GAO has twice called for such a determination, first in its 1975 report on "Government Support of the Shipbuilding Industrial Base," and again last year; the second report said it was "imperative that reasonably accurate predictions of emergency needs for shipyards be made to identify (1) the capacity and capability needed and (2) where it is needed." But this year, when Under Secretary of the Navy James Woolsey testified before the Merchant Marine and Fisheries Committee, he was asked to submit such predictions for the record but failed to do so.

Shipyard lobbyists regularly imply that all the yards are needed, and if anything the number should be larger. On the other hand, massive expansion of shipyard capacity was achieved very rapidly in both World War One and World War Two, and it has been argued that the same thing could be done again if necessary, so the actual number of active shipyards at any given time is largely irrelevant.

In any event, one of the few widely-agreed upon points in this entire debate is that the number of active U.S. shipyards is likely to decrease substantially in the next several years. That's because the world shipbuilding industry has been in a deep depression since 1973, and shows no signs of pulling out of its slump before the mid-1980s. A shipyard subsidy race, parallel to—and just as irrational as—the arms race has developed among major maritime nations. This is a race the U.S. Congress in its present economy mood is unlikely to want to join. It is also one with which the present U.S. shipyard subsidy program is completely unable to cope.

For that matter, it is increasingly doubtful that the present program of shipyard subsidies is at all realistically related to the final, bottom line issue of how best to maintain a shipbuilding base for defense purposes. For one thing, in the absence of coherent, coordinated policy answers to the prior questions of likely contingencies, actual size and capability of the existing fleet, and optimum defense requirements, the subsidy program makes at best only the most tenuous, vague sort of sense. In addition, the program's internal defects are so numerous as to vitiate its usefulness if it were a part of an effective overall policy.

It has been poorly administered; its lack of coordination with naval building programs has been shown by GAO studies to accentuate the industry's destructive boom-and-bust cycles; it has not stopped the decline of the U.S. merchant fleet—rather it has accelerated it; it has not improved the industry's efficiency and productivity and of particular importance in the current competitive squeeze, the bulk of the subsidy funds are going, not to the marginal yards which most need assistance, but to the strongest, most competitive yards which have the fullest orderbooks and need help the least.

In this situation, it is not surprising that advocates of maritime policy reform have focussed initially on a drive to eliminate these shipyard subsidies as ineffective, irrational and a waste of taxpayer's money. Nor is it surprising to hear the subsidy program's defenders, with so little of substance to recommend it, falling back repeatedly on the assumed importance of the program to national security, invoking a concept which is almost as hard to oppose as it is to define. As we have seen, however, all this slogan really describes is an unsuccessful subsidy program, for an undesignated number of shipyards, to provide some unspecified mobilization capacity, to meet an undefined set of contingencies.

While the elimination of shipyard subsidies by itself would remove one major embarrassment from the federal maritime apparatus, it can best be understood as but the curtain-raiser to a broad review of U.S. maritime policy and programs. Such a broader review process will soon begin in the Merchant Marine and Fisheries Committee. To be successful, this review must produce solidly-researched, coherent policies in answer to all the questions involved in shaping the future national defense role of the shipbuilding industries.

Our current policies are little more than a collection of old slogans and leftover programs that are a generation past their usefulness. It will take a lengthy and painstaking effort by Congress to sort out and resolve these issues. We can only hope the shipbuilding industry—and the nation—are not faced with a war or national emergency in the meantime.●

MISSING TWO RECORDED VOTES

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. KOSTMAYER. Mr. Speaker, yesterdav afternoon, June 27. I requested a meeting at the White House to avert a gasoline service station dealer strike in Pennsylvania.

Fortunately, an agreement was reached and a strike scheduled for yesterday at noon was averted.

The meeting at the White House resulted in my missing two recorded votes.

Had I been present, I would have voted as follows:

Rollcall No. 291, "no."

Rollcall No. 292, "no." ●

STATE DEPARTMENT LIES TO COVER UP CASTRO-TORRIJOS ASSAULT ON LATIN NEIGHBORS

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. HANSEN. Mr. Speaker, proof of outright lies told by the U.S. State Department to gain passage of Panama Canal Treaty implementation legislation has now been discovered.

Testimony that the Government was withholding vital information of this nature was heard from key witnesses during recent House hearings, but concrete proof that documents, indeed, exist has now been published in a leading newspaper.

I intend to launch an immediate request for hearings by the proper committees of Congress to investigate the State Department's apparent willingness to lie to Congress and the American public.

I enclose for the RECORD and article from the Chicago Tribune by John Maclean dated June 27, 1979, and a story from the July 3, 1979, Washington weekly by Reed Irvine:

CUBA, PANAMA GIVE AID TO SOMOZA'S FOES: MEMO

WASHINGTON.—The Cuban government has funneled arms to leftist Sandinista guerrillas in Nicaragua aboard Panamanian air force planes and trained hundreds of Sandinistas in Cuba, according to a secret State Department memo obtained Tuesday by The Tribune.

The memo describes how Cubans on one occasion shipped eight crates of arms, including 50 caliber machine guns designed to serve as anti-aircraft weapons, by a Panamanian air force plane for Sandinists guerrillas rallying in Costa Rica last September.

The memo quotes reliable sources who said Cuba made a second, larger delivery involving three Panamianian military planes during the week of Nov. 5–11. That shipment included Soviet-made AK–47, rifles, 50-caliber machine guns, and hand-held mortars. By the end of November, the memo states, the Panamanians had flown those arms to Liberia, Costa Rica, where they were given to the Sandinistas.

Sandinistas are leftist revolutionaries named after Gen. Augusto Cesar Sandino, who fought the United States Marine occupation of Nicaragua until he was murdered in 1933 on orders of Gen. Anastasio Somoza, father of the present president. The Sandinista National Liberation Front began a new offensive this month to overthrow President Anastasio Somoza.

The most recent shipment occurred in April, when the Panamanian government is said to have made a delivery of guns to Sandinistas in Costa Rica, the memo said.

"On each occasion Havana has limited its own direct involvement by relying on the Panamanian government to transport the arms," the memo states.

This assertion contradicts Carter administration testimony on pending legislation to implement transfer of the Panama Canal to Panama. Administration officials argued that any gun smuggling from Panama had no connection with the Panamanian government.

The officials acknowledged the incidents in secret testimony, but disputed testimony of retired military officers that the Cuban and Panamanian governments were directly involved.

"Prior to passage of enabling legislation for the treaty, the administration tried to paint this as isolated incidents of some Panamanians trying to make money running guns," said a spokesman for the House Merchant Marine Subcommittee, which held hearings on the Panama Canal bill.

At one point in the hearings earlier this month, Lt. Gen. Dennis McAuliffe, commander of the United States Southern Command, was asked if "involvement by Panama includes arms!"

"It depends on whether you are talking about the government of Panama or Panamanian nationals who have been found to have done some of this," he said.

The State Department memo is dated May 2, more than a month before the hearing.

The memo says that at an April 13 general staff meeting of the Sandinistas, the guerrillas said their arms inventory included anti-tank rockets that Cuba had provided via Panama.

The arms were said to be of Soviet, French, and Chinese manufacture, previously provided to Cuba.

Members of the general staff also reportedly said at that meeting that Cuba had trained 300 Sandinistas in the field. The training of Sandinistas has been on the upswing since January, the memo said.

"Early that month a Panamanian emmissary reached an agreement with Fidel Castro to send to Cuba FSLN [Sandinista] exiles who formerly would have been granted safe haven in Panama," the memo states.

President Castro also has promoted support for the Sandinistas among leftist groups in Central American countries, the memo says. The Cubans have urged such groups to supply arms, provide facilities for military training, and create havens for the guerrillas.

The Cubans promoted a meeting in early February in San Jose, Costa Rica, where representatives from various Latin American Communist parties talked about assistance to the Sandinistas. Plans were discussed for a follow-up meeting in Havana.

THE BACKGROUND

Cuba's re-entrance into Latin American revolutions follows more than three years of intervention by President Fidel Castro's troops in Africa.

Castro's troops were involved in two African wars in Angola and Ethiopia. In both cases, the Cuban fighters played decisive roles.

CASTRO first intervened in the Angolan civil war in 1975 with a troop commitment that grew to more than 20,000. Despite a promise to withdraw, most of these soldiers and civilian technicians remain in Angola today.

Then in 1978, Castro intervened in the Ethiopia-Somali struggle, pouring 12,000 soldiers into the Horn of Africa. The Cubans maintain military advisors in more than a dozen African nations.

Castro's first efforts to export revolution to Latin America ended in the 1960s with the death of Che Guevera in Bolivia.

STATE DEPARTMENT CLAMS UP

WASHINGTON.—The Department of State pays high salaries to a substantial number of people who are charged with providing answers to questions from the press and public. Every week day, the spokesman, Hodding Carter III, or one of his deputies meets with reporters at noon to answer queries. The answers to the questions are usually not very informative, except on such important matters as the schedule of the Secretary of State. However, what the spokesman is not willing to say is often quite revealing. The exchanges are also interesting for the light they cast on the attitudes of the newsmen who cover State Department.

The following is from a transcript of the briefing on June 8. The spokesman was Tom Reston, son of famed New York Timesman, James Reston. I sought to get comments on some hot testimony that had been given the previous day at a hearing on Capitol Hill on Panamanian support for terrorist activity in Nicaragua.

Irvine: Various officials of the State Department have said in the last few days that the fighting in Nicaragua is not the fault of Nicaragua's neighbors, but rather because of the nature of the Nicaraguan government. Yesterday, Col. James C. Thomas, who was responsible for Latin American affairs in the Office of the Secretary of Defense for six years until his retirement on May 1, 1979, testified that the files at the Pentagon and other government agencies were replete with intelligence reports implicating Cuba, Panama, and Costa Rica in efforts to overthrow the Government of Nicaragua. Could you tell us why the State Department continues to exculpate these governments in view of the mounting evidence of their culpability and the statement of Col. Thomas?

Reston: I haven't seen the statement. I really have nothing to add to what Dep. Asst. Sec. Brandon Grove had to say about these questions on the Hill yesterday, and also what Gen. McAuliffe of the Southern Command had to say about these questions.

Irvine: Do you dispute Col. Thomas's testimony that these intelligence reports do exist. . . . Do you challenge that at all?

Reston: I don't have to deal with it. What I have to do in my job is to tell you what the official policy of the Administration is.

I made another vain attempt to get some admission that the existence of these reports was known, since the State spokesman had for many months been denying that they had such information. I thought other reporters might join in trying to smoke out these documents, but the next question was by Barry Schweid of the AP, who changed the subject. At my next opportunity, I took up another explosive charge made at the hearing.

Irvine: Lt. Gen. Gordon Sumner, former head of the Inter-American Defense Board, testified yesterday that "leftist dictators are all given white hats and designated as human righteous by a small group in the White House and State." He identified as members of that group Patt Derian (Asst. Sec. of State for Human Rights), Brady Tyson (aide to Andy Young), and Robert Pastore (staff of the National Security Council). Is there any evidence what you know of that would rebut Gen. Sumner's charge as far as these individuals are concerned?

Reston: I think they're ridiculous.

Irvine: Do you have any evidence? Have they ever condemned leftwing dictators?

Reston: I am not required to deal with the most foul characterizations of administration officials and required to come forth with reams of evidence to try to defend—They are prominent and responsible officials of this administration. I regard those charges as childish.

Barry Schweid of the AP then asked if the Secretary of State had any other appointments. When I sought to ask a follow up question, Mr. Schweid asked if the session could be ended. I noted that since a filing break had already been called, he was free to leave, but I had another important question to ask. Mr. Schweid said he was obliged to remain, lest he miss some news. He then remarked: "Calling someone a leftist is not a criminal charge."

Don't look for any AP stories on the above questions and non-answers.●

LABOR/HEW APPROPRIATIONS, 1980

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. STOKES. Mr. Chairman, yesterday during consideration of the Labor/HEW bill I had intended to offer an amendment to strike section 102 of the Labor-HEW appropriations bill which stated that "none of the funds appropriated under this title shall be used to pay prisoners for work performed during their incarceration." However, because of a parliamentary rule, I decided not to do so. Instead, my colleague, the gentleman from Nebraska, Mr. CAVANAUGH, offered an amendment intended to clarify and perfect the original language which was accepted by voice vote. The bill now contains language that allows prisoners within 180 days of their presumptive release date to utilize CETA funds for employment purposes.

Even though this language clarifies the original language in the bill, I believe that this provision is clearly inappropriate in an appropriations bill.

The abuses which prompted this language—that some prisoners in the Lorton Reformatory have earned thousands of dollars even though they have up to 10 years before release—was in clear violation of the 1977 CETA regulations. The Mayor of the District of Columbia has acknowledged this problem for he immediately instituted new directives limiting the amount a prisoner could earn, as well as permitting only those persons eligible for release within 18 months to participate in the program.

Further, it is my understanding that Secretary Marshall has the authority to require the District of Columbia to repay into the Federal coffer these misspent funds. Most importantly, there is no data, and I repeat no data, to indicate that this situation has occurred anywhere except in the District of Columbia.

I might also point out that GAO has begun a study that will delve more deeply into the concerns voiced by my distinguished colleague, Mr. CAVANAUGH. Until that report is completed, I believe that the most responsible action this Congress could have taken would have been to refrain from enacting legislation which will have an adverse national impact on job programs for prisoners. Moreover, a real danger exists in legislating national policy based on a local circumstance, without regard to other offender programs that are well thought out and run.

Congress, itself, identified offenders as a special target population in section 122 (b)(3)(A) of the reauthorized CETA legislation. Our aim was to give prisoners an opportunity for training so that prison would not be punitive, but rehabilitative.

The language of section 102, while now more liberal than before, will still effectively preclude an estimated 150,000 prisoners nationwide from participating in a federally funded jobs training and employment program. Most work-release programs involve a combination of both employment and training. This is both a natural and a commonsense way to operate a rehabilitation program. The 6 months rule in the bill is too restrictive to allow work-release programs to operate.

First, there is a question of equity. All other participants of CETA programs are allowed up to 18 months of participation; offenders one-third of this amount. By the time the necessary paperwork is completed, prisoners will have only 3 to 4 months to actively participate in a CETA employment program. Finally, while most offenders are from urban environments, prisons are predominantly located in rural areas. When prisoners return to their homes, they forfeit the ability to participate in the same CETA position. Thus, we have now denied offenders the opportunity to build dependable and consistent records of work achievement, to learn marketable skills, and to become self-supporting contributors to society.

But, so what? Why the concern for offenders? After all, have not these people forfeited their opportunity for meaningful jobs?

We cannot, must not, take this attitude. The undeniable fact is that unemployment is a leading contributor to street crime—something we have all spoken so ardently against. Less often talked about is the more than 290,000 adult offenders in American correctional institutions who lack the necessary education and skills to obtain and maintain gainful employment. We have at least made some steps toward correcting this problem by providing for work opportunitise for offenders through CETA resources. It now appears that these gains will be lost. Offenders will once again reenter society penniless and jobless, forced to commit untold acts for survival.

Dr. Harvey Benner, a noted professor at Johns Hopkins University, estimated that a 1-percent increase in unemployment results in 3,340 additional State prison admissions. On the other hand, job training and the existence of a job upon release is the single most effective way of reducing recidivism. Thus, it is clear that the language in this bill will only compound the revolving door syndrome of the criminal justice system.

My friend and colleague, the gentleman from Michigan, Mr. CONYERS, recently received a letter from the Secretary of Labor. I think this letter clearly states the case for removal of this restrictive language. I would like to read this letter which reads as follows:

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 22, 1979.

Hon. JOHN CONYERS, Jr.,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CONYERS: This letter is in response to your request for the views of the Department of Labor on an amendment to the Labor Department's Appropriation bill that would prohibit the use of funds for paying "prisoners for work performed during their incarceration. The Department is opposed to the amendment.

Prisoners nearing release from prison participate in programs run by prime sponsors throughout the country under the decentralized titles of the Comprehensive Employment and Training Act (CETA). They also participate in programs funded pursuant to the statutory requirement for offenders programs under title III of CETA.

The amendment would appear to eliminate work experience and public service employment programs for all prisoners, although training programs would seem not to be affected because there is no "pay for work" in such a case. Less clear, however, is what is meant by "incarceration." A broad reading of the term would mean that prisoners eligible for parole, those eligible for work release programs, and those in halfway houses and like situations could not participate in public service employment or work experience programs.

We are opposed to limiting the participation of prisoners near release. The transition into society after release from prison is difficult. We believe job experience can substantially ease this transition. Clearly, concern with the high unemployment among those released from prison was one of the reasons Congress adopted the title III offenders program.

We understand that the amendment is a result of reports of prisoners who are not near release from prison participating in CETA job programs at high wages. If this is the situation that the amendment was intended to eliminate, the amendment is both unnecessary and overbroad.

The new CETA law and regulations emphasize that the purpose of CETA jobs programs is to transition persons into regular employment and to enhance self-sufficiency. We do not believe that prisoners who are not near release are intended to be served. In order to make clear that this type of prisoner is not eligible for CETA programs, the Department will issue proposed regulations allowing the inclusion in CETA programs only of prisoners who are within 18 months of potential release. We also would point out that most of the prisoners in CETA programs are receiving only the minimum wage since the new CETA law provides strict wage limitations.

We feel any question about prisoner eligibility for CETA programs will be clarified by the proposed regulatory change. Therefore, we believe no legislative change is necessary to limit prisoner eligibility. We urge that the amendment be deleted from the Appropriations bill.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Mr. Chairman, I have taken the time of this body to bring to their attention a very serious flaw in the Labor/HEW bill which the House passed yesterday.●

THE U.S. MERCHANT MARINE: BACKGROUND OF A FAILED POLICY

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. McCLOSKEY. Mr. Speaker, when the House debates my amendments to H.R. 2462, the Maritime Authorization bill, in the near future, you will probably hear many statements about the present desperate condition of the U.S. merchant marine, and its seemingly dismal future.

The attached memorandum tells briefly just how our merchant marine came to be in such sad condition, and shows clearly how the maritime policies embodied in the bill, which my amendments seek to change, have been chiefly responsible for the merchant marine's condition of chronic decay.

Soon after this debate the House Merchant Marine and Fisheries Committee will begin hearings on an omnibus bill to revamp our failed maritime policy. To succeed, this policy reform must be sweeping and trenchant. I believe the House can signal its support for such a basic revision of maritime policy by voting to end funding for the discredited program of shipyard subsidies and to lift the associated "Buy American" restrictions which are its keystones, and which are continued in H.R. 2462. My amendments will make these changes and I hope that, after considering the following memo the House will support them:

THE U.S. MERCHANT MARINE: BACKGROUND OF A FAILED POLICY

For a brief moment in the 1850's, the American merchant marine fleet almost replaced that of Great Britain as the largest on the seas. Our shipbuilders, using the abundant timber from our forests and the skills of a productive, well-paid labor force, were turning out high quality ships at the lowest prices anywhere. Our clipper ships were the fastest vessels on the water, breaking speed records on nearly every voyage. Our merchant fleet carried two-thirds of the nation's rapidly-growing foreign commerce, and was competing aggressively for the rest of the world's sea trade.

For the U.S. to supplant the British would have been a remarkable feat: Britania had been the world's preeminent sea power for centuries and controlled the trade of a vast empire, while we were younger, smaller, and had no colonies at all. But British shipowners were burdened with restrictions designed to protect domestic shipbuilders by obliging them to buy British-built ships, which were substantially more expensive than U.S. ships. Higher ship prices meant higher operating costs and thus higher, less competitive shipping rates. British shipowners complained bitterly about this restriction; but the government was unwilling to take on the politically powerful shipbuilders. Instead, the shipowners were placated by the granting of monopolies on the trade of the Empire to British ships.

The empire was big enough to support a sizable fleet. But the Empire was not the world, and outside it the upstart Americans were rapidly closing the gap, sailing everywhere in their cheaper, faster ships, winning cargoes and carrying them off. At the high point of the American surge, our fleet was ninety percent as big as Britain's.

But this growth faltered, and then the tide turned steadily against the U.S. merchant fleet. The process of decline that set in soon afterward has only been reversed momentarily after the two World Wars, when the government sold large fleets of surplus cargo ships cheaply to civilian owners.

There were several reasons for the decline of the American merchant marine. The fleet peaked in size just as the Civil War began. During that conflict many ships were sunk, and many others were sold abroad to escape combat. Secondly, Britain repealed its restrictive maritime policies in the early 1850s: its shipowners, now free to buy ships wherever they could get the best price and deprived of their old trade monopolies, fought to stay competitive by purchasing inexpensive American vessels, and succeeded in lowering their costs. This meant a brief boom for American shipyards; but in those same years the wooden ship was rapidly being replaced by iron and steel vessels. Because the British steel industry was then the world leader, British owners were soon able to buy the best and cheapest new ships at home.

All of these, however, were only temporary setbacks. Most damaging of all to the U.S. fleet over the long haul was the fact that our maritime laws retained the same protectionist restraints the British had just repealed: U.S. shipowners were required to buy U.S.-built ships. When the American shipbuilders were the best and cheapest in the world, this was not a problem. But with the coming of steel ships, American-built ship lost their cost advantage, and the "Buy American" restriction became an albatross around the necks of our ship operators, an albatross that still hangs there, dragging them down.

The growth of the British merchant fleet after the Civil War was phenomenal, especially considering that it was the largest in the world to start with. By the early 1900s, British merchant ships, without any substantial government assistance, had captured fully half of the entire seaborne trade of the whole world. In the meantime, the U.S. fleet's share of American foreign trade, which had continued to grow rapidly as the nation kept expanding, had fallen from 76 percent in the 1850s to an embarrissing 10 percent by the beginning of World War One.

The story since then is not much different: our trade has kept increasing, and the U.S. merchant marine has continued to decline. Our shipyards are now two to three times more costly than foreign builders. Our merchant marine is now about tenth in size, and carries only four percent of the huge volume of our foreign commerce.

Despite the chronic anemia produced in our fleet by these mistaken policies, Congress has stuck by them steadfastly, heeding the protectionist calls of the shipbuilding industry. Moreover, many shipowners have submitted to this state of affairs. They have demanded, instead of a chance to compete better by buying their ships wherever they could get the best prices, the equivalent of British navigation monopolies, in the form of cargo preference laws which oblige many shippers to use their ships and pay premium subsidized rates. These cargo preference laws cost the Treasury hundreds of millions of dollars each year (exact figures are impossible to obtain). In addition, the shipyards and the merchant marine have received extensive direct subsidies, both for ship construction and operation.

These cargo preference and subsidy programs are complex and various, but they have two common characteristics: First, they have cost the taxpayers large amounts of money, and second, they have all failed to halt the chronic decay of the American shipbuilding and merchant marine industries, which was their primary objective.

Today these policies seem to be nearing the end of their road. The worldwide shipbuilding industry, which is heavily overbuilt, is undergoing a massive contraction, U.S. yards included. Thus despite the spending of over $1.7 billion in shipyard subsidies since 1970 alone, the Shipbuilders Council of America recently predicted that no more than half of the U.S. yards would survive the 1980s. On the water, two of the ten subsidized U.S. shipping lines went bankrupt in 1978. Three more could go broke soon, knowledgeable observers have predicted. And most of the other five are in precarious financial shape.

In this context, a continuation of the status quo in maritime policy seems very likely to result in the near-extinction of the merchant marine and shipbuilding industries it was supposed to save. In its place, Congress appears to have only two real options: (1) appropriate vastly greater sums for shipping subsidies and cargo preference, maintaining the industries as complete wards of the Federal government; or (2) rethink and rewrite federal maritime policy from the ground up, freeing the merchant marine from the protectionist restraints which have so thoroughly stunted its growth—as Britain did in the early 1850s to meet the American threat.

Trade experts agree that U.S. foreign commerce will continue to increase steadily in the next decades. Most of this trade will travel by sea. In the absence of a competitive American merchant fleet, this enormous growth will benefit the fleets and treasuries of other nations to an even greater extent than is now the case.

Moreover, among the major beneficiaries of our policy's failure will be the Russians, whose merchant fleet has recently become an aggressive and effective competitor in world sealanes, and whose role in world shipping has strategic as well as economic implications.

Moreover, the Chinese will soon enter this contest as well; they have just purchased a large merchant fleet very cheaply on the depressed world market, and will be sending these low-cost ships out to complete for cargo and earn needed foreign exchange for Peking's ambitious modernization plans.

Given the country's anti-government spending mood, it is unlikely that Congress will commit huge amounts of funds for new subsidies to our uncompetitive and inefficient maritime industry. But there is hope that in the face of extinction the other option, that of lifting the protectionist restrictions on the industry, will soon be seriously explored. Next month the House Merchant Marine and Fisheries Committee will begin a series of hearings on omnibus bills to revamp maritime policy. Committee Chairman John Murphy scheduled these hearings after waiting in vain for the Administration to show leadership in the field through a report from its Inter-Agency Task Force on maritime policy. The Task Force, however, was unable to reconcile the views of various executive agencies involved in maritime affairs, and its report, now eight months late, may never be issued.

The provisions of these omnibus bills are still under discussion by Members and staff of the Committee. It is to be hoped, however, that they will finally open the way for the U.S. merchant fleet's revival. Certainly the opportunity for growth will be there. Even with the most favorable policy environment, however, it will take time to rebuild a viable U.S. merchant marine after 120 years of steady decline. We may not get another chance to become the largest merchant sea power in the world. But with an intelligent maritime policy and a renewed spirit of maritime enterprise, we can again look forward to becoming a major competitor, with a merchant fleet worthy of the flag it flies.●

THE HEAVENS OF BABYLON

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. FOWLER. Mr. Speaker, our former colleague, Charles Longstreet Weltner, represented the Fifth Congressional District in Georgia from 1962 until his voluntary resignation from the Congress in 1966. Many here will remember his fine mind and his vision of the public purpose.

Since leaving the Congress, Charles Weltner has pursued learning and scholarship, as well as continuing his public service to the people of Georgia. His reelection as judge, Superior Court of Fulton County, assures the continuation of his unique talents in behalf of the public interest.

For over 30 years, Judge Weltner has wrestled with a problem which has puzzled the disciplined minds of Euclid, Archimedes, and thousands of geometers for centuries. It is known as the "Trisection Problem"—how to divide any angle into three equal parts. To date none has ever done it. Trisection is thought to be impossible.

Undaunted by past failures, Judge Weltner's labors led him beyond the fields of geometry and mathematics. Amazingly, he discovered the trisection movement described in the Old Testament book of Ezekiel, in the Prophet's account of a vision in the year 592 B.C.

Judge Weltner has published an account of this phenomenon, which I submit for the benefit of our colleagues and its excellence as original scholarship:

THE HEAVENS OF BABYLON—EZEKIEL'S VISION AND THE TRISECTION PROBLEM

(By Charles Longstreet Weltner)

I

The Trisection Problem—how to divide any angle into three equal parts—is the oldest puzzle of the ordered mind.

Euclid, Nicomedes, Pappus, Archimedes—and every schoolchild—tried it. "For centuries the Greek geometers and their followers sought for a solution; only within the present century has it been shown that such attempts must necessarily fail". Encyclopedia Americana. "Again, if the construction is to apply to any angle (certain special angles such as a right angle are, of course, readily trisected) and if ruler and compasses only may be used, the problem is impossible, i.e., there is no construction". Encyclopaedia Brittanica.

* * * * *

How astounding, then, to find the Trisection movement described by the exile Ezekiel, in the Prophet's vision by the River Chebar, outside the walls of Babylon, in the year 592 B.C.

The Throne Chariot—called "Thronwagenvision" by German theologians—appears in the first and tenth chapters of the Book.

Ezekiel saw four creatures in the likeness of a man, each having four faces and four wings (1:5,6).[1] The wings are joined one to another (1:19) and are straight, one toward the other (1:23). The creatures "ran and returned" (1:14) or "darted to and fro like a flash of lightning (1:14, RSV)". ". . . ; they turned not as they went; they went everyone straight forward" (1:9).

Each creature had the face of a man, the face of a lion on the right side, that of an ox on the left side, and the face of an eagle (1:10).

The Prophet saw also: ". . . a wheel upon the earth beside the living creatures, one wheel for each of the four of their faces (1:15, RSV (Heb.)). ". . . and they four had one likeness; and their appearance and their work was as it were a wheel in the middle of a wheel" (1:16). "When they went, they went upon their four sides, and they turned not as they went" (1:17). Or, "When they went, they went in any of their four directions without turning as they went" (1:17, RSV). "When they went, they went upon their four sides; they turned not as they went, but to the place whither the head looked they followed it; they turned not as they went" (10:11).

The creatures and the wheels moved in response to a spirit.

". . . whither the spirit was to go, they went . . ." (1:12). The spirit ". . . went up and down among the living creatures;" (1:13).

That is the vision which appeared to the Prophet in the heavens of Babylon and again in the skies of Jerusalem—and ever since, Biblical scholars have struggled mightily to make sense of it.

II

What Ezekiel described—almost 300 years before Euclid—was the movement of a rotating diameter which transects an arc of three times its central angle upon the circumferences of smaller circles, the centers of which move along intersecting horizontal and vertical lines.

In geometric terms, the "creatures" are four wheels, or circles, their heads being their centers. Two of the centers are fixed upon a horizontal line, and the other two upon its perpendicular bisector. Each circle is tangential to two others, the center of each circle being joined to the centers of its two tangential circles by rays (wings stretched out straight, touching one another).

As the horizontal circles move toward each other, the vertical circles of necessity move away from each other, thrust apart by the connecting rays, or touching wings. Thus the creatures "run and return", or "dart to and fro". "And they went everyone straight forward: . . . they turned not as they went" (1:12).

Within each circle representing the four creatures are four circles of one-half diameter (". . . one for each of the four of their faces", the faces being the four cardinal points)—a wheel in the middle of a wheel!

The smaller circles are likewise tangential, and run and return upon a horizontal and vertical path (in the directions in which the heads look).

". . . whither the spirit was to go, they went" (1:12). "Whithersoever the spirit was to go, they went, thither was their spirit to go; . . ." (1:20).

The creatures thus move in response to the movement of the spirit, and that movement—given the relationship of the creatures—is the geometric equivalent of the rotation of a diameter which is fixed at the intersection of the horizontal and vertical paths.

When this diameter has moved from the horizontal clockwise through 10 degrees, the horizontal creatures (circles) have moved inward to the extent that the diameter has moved through, or transected, an arc of 30 degrees upon the circumferences of the horizontal circles.[2] The vertical circles are thus pushed from their position (centered at the fixed point of the rotating diameter) in such manner that the diameter has also transected upon their circumferences arcs of 30 degrees—from 270 degrees to 240 degrees.

As to the smaller circles (16 altogether, one for each of the four faces of each of the four creatures); the movement of the rotating diameter by 10 degrees has transected upon the circumference of the first circle an arc of 30 degrees, which in turn has caused the inward movement of the smaller circles to the extent that the rotating diameter of the first circle has transected upon the circumferences of the second circles 90 degrees.

III

The movement of the spirit—the rotating diameter—is cosmic in its implications.

Assume a circular Universe with a radius of one. When the diameter of this Universe is horizontal, then the central angle of the diameter and the horizontal bisector of the Universe is zero. The creatures which move along the horizontal paths stand (the centers of their circles are fixed) at the midpoints of both radii, the circles having a radius of .25. Both vertical creatures stand at the intersection of the horizontal and vertical bisectors (the center of the Universal circle) occupying the same point in space, as angelic bodies are well-known to do. The wings of the north vertical creature are stretched out to touch the right wing of the east and the left wing of the west horizontal creatures, and the wings of the south vertical creature are stretched out to touch the other wings of the horizontal creatures.

(All this, notwithstanding that the untrained eye sees only a circle encompassing three smaller, tangential circles upon the horizontal bisector.)

Within the arc of each creature's wingspan are the centers (hubs) of four wheels (one for each of their four faces), whose radii are measured as .125—one-half that of the creature. The position of the smaller wheels within each circle is identical to that of the creatures within the universal circle when the central angle of the universal diameter is zero. Hence, the west smaller circle of the west creature has its center upon the west circumference of the west creature. Its west circumference then falls half-way between the larger circle's west circumference and the limit of the Universe (.25 minus .125=.125).

Project an endless succession of circles of ever-diminishing size, each of a radius one-half that of its predecessor, and it will be seen that an infinite number of diminishing circles may be constructed, all within the universal circle. The limit of that Universe can never thus be reached, just as in Zeno's paradox of Achilles and the tortoise.

Further, the trebling of transections described above from the central angle to the first circle (10 degrees to 30 degrees) and from the first circle to the second circle (30 degrees to 90 degrees), is continued ad infinitum through as many diminishing circles as the mind can conceive!

What happens is this: the diameter of the .25 circle remains tangent at its circumference to the universal diameter as it rotates. To remain tangent, the .25 circle moves inward as the universal diameter rotates clockwise from a horizontal position, the .25 diameter itself rotating in order to follow the universal diameter. When the universal diameter was moved through a central angle of 60 degrees, it has transected 180 degrees upon the .25 circle, moving it inward until its east circumference is at the center of the Universe. In continuing, that portion of the universal diameter below the horizontal bisector of the Universe then transects, upon the south hemisphere of the .25 circle, another 180 degrees, pushing the .25 circle through the center of the Universe so that the universal diameter has now transected 360 degrees upon the .25 circle, returning to the zero point of the .25 circle, whence its other half began the transaction. 360 degrees has been transected by the universal diameter, which, itself, moved clockwise through a central angle of 120 degrees (one-third of 360).

It will be seen that the creatures rush together and pass through each other, going to each other's beginning point, which is the outer limit of their circuit.

When the universal diameter has rotated 180 degrees, the figure appears as it did at the beginning—except that the east circle is now west, and the west circle is now east, and the north and south circles have moved from the center all the way north and south respectively, and have returned to their original positions. Upon each circumference of each creature, the universal diameter has transected 540 degrees (3 times 180).

As the universal diameter continues its rotation (from horizontal at 180 and back to the point of beginning) the horizontal creatures return toward each other, passing through each other at the center, and reach their points of origin when the universal diameter completes one full rotation. The vertical creatures (having gone from the same point in the center to the beginning points of their circuits and returned), now pass through each other, the north creature going to the south limit, and the south creature going to the north limit, then returning to occupy, once again, the same point at the center of the Universe.

The universal diameter has now transected upon the circumference of each creature 1,080 degrees (3 times 360).

The same movement occurs as to the four smaller circles (.125 radius) within each creature, to the same extent as though the rotating diameter of each creature were itself a universal diameter. And with succeeding smaller circles, of course, the same movement is repeated.

As example, when the universal diameter transects 10 degrees at the center of the Universe, it has transected 30 degrees on the .25 circle. The .125 circles have, in turn, been transected by the rotating diameters of the .25 circles to the extent of 90 degrees. Constructing within the .125 circles four circles of a radius of .0625, the diameters of the .125 circles have transected 270 degrees upon the circumstances of the .0625 circles—drawing their horizontal circles together to occupy the same space concentrically with the .125 circles, and parting the vertical circles to the limit of their circuits. (The figure of each .125 circle being exactly the same as the beginning figure of the universal circle, were it given a quarter turn).

It is not necessary to describe the same movement for successively smaller circles, save only to note in the example of the .0625 circle (which has been drawn to the center of its larger circle and transected by 270 degrees) that its smaller circles (.03125) have been drawn by the diameter of the .0625 circle from their beginning positions to the center, pushed through each other to the opposite limits, and returned to the center—the .03125 circles making 3 times the movement of the next larger .0625 circle (from circumference to center; center to opposite circumference; circumference to center again).

Footnotes at end of article.

Successively smaller circles will traverse 3 radii for each radius traversed by the next larger, encompassing circle, as follows: .015625 circle—9 radii; .0078125 circle—27 radii; .00390625 circle—81 radii; .001953125 circle—244 radii; etc., etc. The vertical components commensurately, are pushed from the center to the limit, back to the center and to the opposite limit—accomplishing movements in the same ratio of three to one.

Further observation shows that when the west radius of the universal diameter has moved so as to form with the horizontal bisector of the universal circle a central angle of 80 degrees, it has moved through 90 degrees on the west .25 circle, as has the diameter of the .25 circle. In turn, the north .25 circle, concentric with the universal circle at zero degrees, has been pushed north, so that the east radius of the universal diameter has transected upon its south hemisphere 90 degrees (from 270 degrees to 180 degrees), as has the diameter of the north .25 circle. (The east and south circles have moved west and south in same measure).

The complementary angle of the central angle of 30 degrees is, of course, 60 degrees. Viewing the west hemisphere of the north circle, it will be seen that the universal diameter transects upon it 180 degrees (its south circumference being now at the universal center). As the universal diameter rotates, it moves through 180 degrees on this hemisphere to zero degrees at such time as the complementary angle as formed by the west universal radius and the vertical bisector (path of the north and south creatures) becomes zero degrees. Its complement is now 90 degrees.

Precisely the same movement occurs upon the east hemisphere of the west creature—if the zero degree point for the complementary angle of the 90 degree angle formed by the west radius and the horizontal bisector of the universal circle be considered as the south cardinal point of the west circle, and the beginning location of the west circle to be concentric to the universal circle. Thus, the east radius of the universal diameter (now pointing south) forms with the vertical path of the west .25 circle an angle of zero degrees. As the universal diameter rotates counter-clockwise, it pushes the west circle from the universal center to the west, and when the central angle of the universal diameter's west radius with the vertical bisector of the universal circle is 60 degrees, the universal diameter (by first its east radius, then its west radius) has transected upon the west circle's east hemisphere 180 degrees (from zero degrees to 180 degrees)—this latter being three times the central angle of the west universal radius and the vertical bisector of the universal circle.

Returning to the 30 degree central angle of the west universal radius and the horizontal bisector of the universal circle (transecting 90 degrees on the circumference of the .25 circle) it will be seen that its supplementary angle (150 degrees) is trebled upon the .25 circle if it be considered that the circle, now in the west hemisphere of the universal circle, is in reality the east .25 circle, which has moved from its beginning point (centered at .5 on the east radius of the universal diameter), through the universal center and westward, and that the radius is the east radius of the universal diameter, rotating counter-clockwise. Thus the universal diameter has, from 0 degrees on the east .25 circle, transected one complete ambit of the .25 circle (360 degrees) plus another 90 degrees, for a total of 450 degrees, or 3 times 150 degrees.

In this view it follows that the progression of transection on the .25 circumference is also counter-clockwise (from east to north to west to south to east and one additional movement to north).

* * * * *

The movement of the circles within the Universe can be understood as though the diameter of each circle has clutched, at its circumference, upon the rotating diameter of its larger, encompassing circle.

Another apperception of the movement is this: the mid-point of the universal radius (a length of .5 from the center and from its limit), remains tangent to the vertical path (perpendicular bisector) of the first horizontal circles and tangent to the horizontal paths of the first vertical circles, and to the linear extensions thereof. Thus, the rotation of the universal diameter—clutched by the first horizontal circles' diameters at various points from .75 on its radii, through its center to .75 on its opposing radii,[3] the midpoints (.5) of the radii of the universal diameter fixed at varying points along the vertical paths of the horizontal creatures and the horizontal paths of the vertical creatures, and extensions thereof[4]—orders the movement of the creatures.

Similarly, the rotating diameters of the first (.25) circles are attached to and govern the movement of the second (.125) circles. and thus ad infinitum.

* * * * *

Further, it will be noted that a point along the universal diameter which is .25 from the center remains fixed to the circumference of the first circle. As the first circle moves inward and the universal diameter rotates, this point (.25 from the center) moves from 0 degrees at the east circumference of the west .25 circle to 90 degrees on the .25 circle when the universal diameter, moving clockwise, has transected 270 degrees on the first circle. bringing the first circle concentrically to the universal circle, the universal diameter having moved to form a central angle with the horizontal besector of the universal circle of 90 degrees. When the first circle passes through the center to its opposite end, this point on the universal diameter remains affixed to the circumference of the .25 circle. moving always through the same number of degrees on the circumference of the .25 circle as the central angle of the universal diameter and the horizontal bisector.

* * * * *

Summarizing, the .25 diameter, at its circumference, slides along the rotating universal diameter. The mid-point of the universal diameter's radius (.5) slides along the vertical and horizontal paths of the horizontal and vertical creatures, respectively. The .25 point of the universal diameter's radius remains fixed to the circumferences of the .25 circles in all phases of their movement.

* * * * *

Each diameter, then, is to its succeeding smaller diameter both the conchoid of Pappus and the straightedge of Archimedes!

* * * * *

The diameter of every circle, no matter how remote from the universal center, rotates through three times the number of degrees as its larger, tangent diameter, all the while clutching on to that larger diameter, which moves the smaller circle from one end of its circuit, through the center of the encompassing circle to its opposite limit, and back through that center to the point of beginning. In turn, the connecting rays of tangent circles (west to north and south; east to south and north—wings stretched out straight touching one another) effect reciprocal movement of the creatures. As the east and west creatures dart to, the north and south creatures dart fro.

Footnotes at end of article.

IV

The addition of but a few diminishing circles vastly increases the Universe's population of creatures. As described by the Prophet (the wheels of the four creatures, plus one wheel for each of the four faces thereof) there are 20 circles. Extending the number of diminishing circles to five creates a population of 1,364 creatures. Ten extensions yields 1,398,100 creatures. Twenty extensions create one trillion, 463 million creatures!

These creatures become infinitesimal, the 28th extended circle having a radius only of 1 billionth the length of the universal radius. Infinitesimal, that is, unless the universal radius stretch out for one quadrillion miles, in which case the radius of the 28th circle is 931,322,600 miles!

Notwithstanding, and no matter the number of extensions, there will always remain infinite additional extension.

For the circles near the edge of the Universe, then, the slightest, quivering tremor of the universal diameter will send their diameters whirling through billions of degrees, traversing to and fro their encompassing circles in millions of circuits for each tremor.

That is a cosmic thought.

V

The movement of the circles within the Universe is such that as the universal diameter rotates through any fraction or number of degrees which may be multiplied successively by a factor of three to yield a product of 90, all smaller horizontal circles are concentric to the largest circle which has been transected by 90 degrees. To rest concentrically within that larger circle, the remoter circles, if extended far enough, will have to pass to and fro through the center of their encompassing circles millions of times.

When the universal diameter has rotated through 60 degrees, the extended horizontal circles of the west creature have reversed their positions at zero (that is, extending west and east from the west and east circumferences of the west circle), and now extend east and west from those circumferences of the west circle, (the west circle's east circumference being now at the center of the Universe), as do all other horizontal components of the first horizontal circle.

When the universal diameter has rotated through 60 degrees, the east and west component circles of the vertical circles are now concentric, just as those of the horizontal circles were at 30 degrees.

When the universal diameter has rotated through 90 degrees, then all of the millions of horizontal component circles are concentric, with all east and west components centered upon the same point in space. In turn, the vertical circles are now at their outer limit, with their vertical component circles extending beyond the circumferences of their encompassing circles, so that the whole figure is identical to the beginning aspect of the Universe, turned a quarter.

When the universal diameter has rotated through 120 degrees, the configuration of the Universe is a mirror-image of itself at 60 degrees—that is, the first west horizontal circle has passed through the center, heading east; the first east circle has passed through the center, heading west. The west components of the west circle which, at 60 degrees, extended from the center of the Universe eastward, now extend from the center of the Universe westward, and conversely for the equivalent components of the east circle. Equivalent mirror images appear when the universal diameter has rotated through 150 degrees (obverse of 30 degrees) and 180 degrees (obverse of 0 degrees).

Obviously, the continued rotation of the diameter, from 180 degrees to 360 degrees (or back to zero) simply continues the process, moving the creatures and all their components back through the universal center to their points or origin.

VI

Ezekiel has outlined and I have filled in a portrait of Infinity.

Because the limit of this Universe can never be reached, the ultimate calculation is always infinity—or infinity raised by the power of infinity.

To aid finite minds in that concept, the diameter of the 100th extended circle (whose radius would be measured by writing a decimal point followed by 29 zeros followed by the digits 1577721), for each single degree of rotation of the universal diameter, would rotate through a number of degrees which would be written as 1546132 followed by 42 zeros.

The 200th circle would, for each degree, traverse a number of degrees written as 7968419 followed by 89 zeros. The diameter of that circle would make the number of complete rotations, for each degree, which is written as 2213449 followed by 87 zeros!

* * * * *

Because each diameter is one-half that of its encompassing circle, and because its movement is treble, in degrees, that of its larger connecting diameter, its speed of rotation at its circumference is one and one-half that of the larger diameter. (3 (degrees of rotation) times one-half (length of radius) equals 1.5).

Assume that the universal diameter rotates at a speed of one foot per second at a point on its length measured by .5 from its center. The 18th circle's diameter would rotate at a speed of 1,007.65 miles per hour—faster than the speed of sound.

And the 52nd circle's diameter would rotate at a speed almost half again that of the speed of light (671 million miles per hour).

It is no wonder that Ezekiel wrote: "As for the wheels, they were called in my hearing the whirling wheels". (1:13, RSV).

VII

The Throne Chariot is a vision of the very Mind of God—powerful, orderly, illimitable—and of the Universe which He created—infinite, disciplined, at first view incredibly complex.

Yet this Universe is created in constant proportions of one-half to one.

It moves in constant ratio of one and one-half to one.

Its moving spirit traverses its creatures in an unbroken theme of trinity.

EPILOG

From Ezekiel, through Euclid and Archimedes and almost three decades of halting, groping search, I have stumbled upon this Unexpected Universe (Eiseley's phrase)—in its reach and symmetry, beauty itself.

I have not succeeded in trisecting the angle.

I may never do so.

Knowing the place of the Spirit within this Universe, we can by undeniable proofs fix the precise location of any one of its billions of creatures.

Perhaps this is the nature of Divinity: while we might observe the effect of that spirit upon all its creatures, however remote, we are not permitted to see it face to face!

FOOTNOTES

[1] Book of Ezekiel, King James Version, unless indicated "RSV", Revised Standard Version.

[2] That this construction will effect trisection was shown by Archimedes, using a marked straightedge. Let any acute angle AOC (the central angle of a circle) be the angle to be trisected, and let radius AO be extended as a horizontal bisector of the circle. If a line CB (the straightedge of Archimedes) could be drawn from point B on line AOB (the extended horizontal bisector of the circle) to point C so that the length of its segment BD (which falls outside the circle) is equal to a radius of the circle, then angle ABC is one-third of angle AOC, as follows:

1. DB is equal to OD (by construction). Hence the base angles of the triangle OBD (angles DOB and DBO) are equal, and will be called "angle a".

2. Angle ODC, being the exterior angle of triangle OBD, is equal to the sum of the remote interior angles, OBD and DOB (the equivalent of 2a).

3. As in Step 1, angle ODC (or 2a) is equal to angle OCD, also 2a.

4. As in Step 2, angle AOC (the exterior angle of the triangle OBC) is equal to its remote interior angles OCB (2a) and OBC (a), or 3a.

Therefore, angle ABC is one-third of angle AOC. Q.E.D.

The commentary to Euclid's Principles (Book 1, Proposition 9) attributes to Pappus a trisection by the conchoid of Nicomedes, which reaches a similar conclusion by alternate proofs.

These constructions are "non-Euclidean", i.e., impossible of construction by unmarked straightedge and compasses only.

[3] E.g., at zero degrees on the west .25 circle, its diameter touches point .75 of the west radius of the universal diameter; at 90 degrees on the .25 circle, point .5; at 135 degrees on the .25 circle, point .25; at 180 of the .25 circle, point zero, or the center of the universal diameter. Thence, at commensurate points along the east radius to point .75, whereupon the diameter of the .25 radius will have rotated through 540 degrees, to a movement of 180 degrees by the universal diameter, or three to one.

Further movement of the universal diameter (from 180 degrees to 360 degrees) brings the .25 diameter from point .75 on the east radius, through its center and back to point .75 on its west radius, and the point of beginning, for a total rotation by the .25 diameter of 1,080 degrees, compared to a rotation of 360 degrees by the universal diameter, or three to one. Commensurately, the east .25 circle and the north and south .25 circles move in same measure.

[4] E.g., when the .5 point of the west universal radius is at the center of the .25 west circle (at point 0 of its north vertical path), the universal diameter transects 0 degrees on the .25 west circle; at point .25 on the vertical path of the .25 circle, it transects 90 degrees (forming a central angle with the universal horizontal bisector of 30 degrees). At point .4330 (being .5 times .8660, the sine of 60 degrees) it has transected 180 degrees on the .25 circle, bringing its east circumference to the universal center, and forming a central angle of 60 degrees. Thence, the east radius of the universal diameter traverses the south hemisphere of the .25 circle, so that, when the .5 point of the universal radius is at point .5 of the vertical path of the .25 circle, the .25 circle is concentric with the universal circle, and the universal diameter has now transected 270 degrees on the .25 circle, forming a central angle of 90 degrees—and so on through a complete rotation of the universal diameter, as the .25 circle moves from the universal center to its east limit, and back through the center to its point of beginning, centered at point .5 on the west horizontal bisector of the universal circle.

SPECULATIONS

The Hebrews understood the Second Commandment to forbid the making of any likeness of any thing (Ex. 20:4), and there is therefore almost a total want of iconography which might illuminate Biblical texts. The influence of Egypt and Mesopotamia is undeniable, however, and those cultures abound in curious parallels.

"And every one had four faces, and every one had four wings" (1:6).

The Oriental Institute Museum of Chicago holds an Old Babylonian votive figure of a four-faced god found at Ishchali. A common figure in cylinder seals of the Neo-Babylonian Era (Ezekiel's time) is a four-winged hero grasping two beasts.

"Their legs were straight, the soles of their feet were like the sole of a calf's foot" (1:7).

The lamassu, or winged man-bulls of Assyria, Babylon's suzerain-vassal-ally over the centuries, are familiar forms even today.

"And they had the hands of a man under their wings on their four sides" (1:8).

The principal Egyptian goddess Ast, called Isis by the Greeks, is often shown with wings outstretched, her hands extends to one-half their span. (Burial Chamber of Seti, Valley of Kings; gold pectoral of Ast, Boston Museum of Fine Arts; bas-reliefs at Philae, with her sister goddess Nebt-het (Nephthys); gilded shrine, tomb of Tutankhamen).

Pazuzu, a destructive demon of second millenium Mesopotamia, is depicted with four wings and human, taloned hands (Musèe du Louvre). He was lord of the scorching north wind. The arms are about one-half the length of the wings.

("And I looked, and behold, a whirlwind came out of the north, . . ." (1:4)).

If the creatures' wingspans be considered twice the radii of their wheels (the first circles), and if the wings be seen as overlapping ("their wings were joined one to another; . . ." (1:9)) with each wingtip upon the shoulder of each creature's neighbor (the center of the tangent circles), then the hands "under their wings" would extend one-half the wingspan to the circumferences of each of the first circles at their points of tangency. Thus might the hands be viewed as clasping each other and the circumferences of the wheels (west to north and south, east to south and north) at their points of tangency.

This view would require that the wheels be lifted up from the earth, to the height of the out-stretched wings—which should present no problem for such wheels as these! ("Wherever the spirit would go, they went, and the wheels rose along with them; . . ." (1:20 RSV) ". . . and when those rose from the earth, the wheels rose along with them;" (1:21 RSV)".

"As for the likeness of their faces, each had the face of a man in front; the four had the face of a lion on the right side, the four had the face of an ox on the left side, and the four had the face of an eagle at the back (1:10 RSV)".

The anthropomorphic beings of the Egyptian pantheon are well-known. Among the most prominent of the gods are: Temu, the ancient creator of God, always man-headed; Sekhmet, the avenging goddess of war and cruelty, lion-headed; Het-Heru (Hathor) the benign mother goddess who was the other manifestation of Sekhmet, most usually cow (ox)-headed; and Heru (Horus), the sun god, hawk (eagle)-headed.

Doublets, or opposite manifestations of a divine principle, were often representated as a two-headed, Janus-like beings (e.g., Horus-Seth). Note that the lion and ox heads (Sekhmet-Hathor?) of Ezekiel's creatures face in opposite directions.

Mesopotamia also abounded in creatures combining the body of a man and the head of an animal, oftentimes with wings. (Lion-headed, man-creature of Ninevah, palace of Sennacherib, seventh century, British Museum; copper relief of lion-headed eagle, wings outstretched, from Tell al Ubaid, third millenium Sumeria; similar creature on silver vase of Entemena, Governor of Lagash, Sumerian period, twenty-fifth century; stone relief of eagle-headed, winged, man-bodied deities, palace of Assurnarsipal, Nimrud, ninth century Assyria.

"The four wheels had rims and they had spokes, and their rims were full of eyes round about" (1:18 RSV).

The chariot was a wide-spread subject for the art of Egypt and Mesopotamia. Uniformly, wheels were portrayed with six spokes. (Mounted figure of Rameses II, Temple of Luxor; gilded shrine, and dismantled chariots, tomb of Tutankhamen; relief of Ashurnarsipal hunting lions; relief of Darius, who reigned some 70 years after Ezekiel's vision slaying a rampant lion).

There is no reason to suppose that the wheels and spokes of the Vision were any different from those which were in use for centuries before, and after, the time of the Prophet.

The mathematics of Babylon, Sumerian in origin, was sexagesimal in nature, i.e., wherein 60 units of the same order make one unit of the next higher order, as distinguished from our decimal system, which is based upon orders of ten units.

How many eyes surrounded the rim of each wheel?

Could it be 60 for each of the six sectors delineated by the six spokes of the wheel? A total of—360?

Finally, an Old Babylonian tablet preserves geometric exercises for the calculation of areas of various shapes, and reads as follows: "A square, the side of which is one. Inside it are four quadrants and 16 boat shapes. I have drawn five regular concave sided tetragons. This area, what is it?"

Four of the boat shapes are formed by the overlapping of the five circles—(one inscribed in each of the four quadrants, and one of equal diameter concentric with the square). The remaining 12 boat shapes (three more for each of the four quadrant circles) are similar to the four within the central circle. Horizontal and vertical parallel lines (three of each) are drawn through the centers of the circles.

Tilt this ancient copybook (a thousand years older than Ezekiel himself) through 45 degrees, and—Behold!

There are the four creatures!

Wings stretched out straight, touching one another—four tangent circles—forming a square set upon its corner.

Join the opposite corners of the square by diagonals and—Behold!

There are the vertical and horizontal paths, on which the creatures might dart to and fro "like a flash of lightning."

Examine the middle of the three horizontal parallels and—Behold!

—there is the universal diameter, having transected upon the circumferences of each of the four creatures 135 degrees.

* * * * *

Ezekiel was of the educated, priestly class, and most surely was familiar with the theophanies of Israel (the six-winged seraphim of Isaiah 6:2, the two-winged cherubim with the ten-cubit wingspread of I Kings 6:27—later reflected in the six-winged creatures of Rev. 4:7,8, each with one of the four faces of the creatures of Ezekiel's vision).

Nonetheless, for five years before his Vision the young captive was surrounded by the learning of Babylon's sages and the imagery of her gods. Winged beings were not foreign to Jerusalem. But the four-faced, four-winged, animal-headed, human-handed, calf-soled, man-bodied creatures of the Vision may properly be viewed as composites from Ezekiel's pagan surroundings.

* * * * *

"And above the firmament over their heads, there was the likeness of a throne, in appearance like sapphire; and seated above the likeness of a throne was a likeness as it were of a human form (1:26). Such was the appearance of the likeness of the glory of the Lord" (1:28).

Perhaps Ezekiel deliberately seized upon the science and symbolism of Israel's ancient enemies and conquerors to proclaim the supremacy—over all of these things—of the God of Abraham, of Isaac, and of Jacob.●

HAIL TO THE CHIEF

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. WAMPLER. Mr. Speaker, on Saturday, June 30, one of the Government's most distinguished civil servants will retire after 40 years on the job.

I am referring to John R. McGuire, Chief of the Department of Agriculture's Forest Service. His illustrious career deserves more than just passing attention. Let me take a few moments to review it for you.

Born in Milwaukee, John McGuire graduated with a bachelor of science degree from the University of Minnesota in 1939, and attained his master's degree in forestry at Yale University in 1941. In 1954, he received a master of arts degree in economics from the University of Pennsylvania.

From his first Forest Service employment in 1939 as junior field assistant in the Central States, Mr. McGuire held increasingly responsible positions, most of them concerned with forestry research in various parts of the country.

In 1962, he was assigned to the Forest Service headquarters in Washington, D.C. as staff assistant in research. This was followed by 4 years as Director of the Forest and Range Experiment Station in Berkeley, Calif. His work has involved direction and coordination of Forest Service Research in California and Hawaii, including research in timber and range management, wildlife habitat, forest protection, recreation, economics, and management sciences.

From 1967 to 1971, Mr. McGuire served as Deputy Chief in charge of the Service's program planning and legislation. He became Associate Chief of the Forest Service in June 1971. On April 30, 1972, he was named Chief—and has served brilliantly in that position ever since.

During his forestry career, Mr. McGuire has written or collaborated in writing a number of scientific papers. He is a member of the Society of American Foresters. He is also a veteran of World War II, having served from 1941–46 with the U.S. Army in Japan, the Philippines, and the Southwest Pacific.

Mr. Speaker, John McGuire has received a number of awards during his career, including the President's Award for Distinguished Civil Service, the highest honor which can be accorded to a member of the Federal career service. The award was presented in May 1979 for "providing outstanding and inspiring leadership to Forest Service programs and policies and for providing a comprehensive action plan that balances national needs against resource capabilities and insures protection, wise use, and perpetuation of our Nation's natural resources."

He has also been honored with a National Civil Service League Award (1976), the U.S. Department of Agriculture Distinguished Service Award (1974), and the University of Minnesota Outstanding Achievement Award (1973).

Mr. Speaker, Chief McGuire has appeared on innumerable occasions before the House Agriculture Committee on which I have the honor of serving as ranking Republican Member. He has also testified before numerous other congressional committees during his tenure with the Forest Service. Each time, Mr. McGuire has been most helpful to the Congress in producing legislation beneficial not only to the Forest Service but to the country as well. He will be missed.

As John McGuire starts his retirement this weekend, I suggest an appropriate "Hail to the Chief" would be in order from Members of this body to a great American for a job well done.●

LABOR-HEALTH, EDUCATION AND WELFARE APPROPRIATION FOR 1980—SUMMER STIPENDS FOR 3,500 MEDICAL AND DENTAL STUDENTS TO ENGAGE IN HEALTH RESEARCH PROJECTS

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. PATTEN. Mr. Speaker, I insert here in the RECORD, from House Report 96–244, page 26, paragraph 3 the language unanimously and with bipartisan support inserted by the House Appropriations Subcommittee on Labor-HEW and approved by the full House Appropriations Committee:

> The Committee believes that careers in health research should be actively fostered. The law authorizes up to 4 percent of the funds appropriated for National Research Service awards to be awarded in the form of stipends for periods of 3 months or less to medical and dental students during the summer months or other off-periods to permit them to engage in health research projects. Some of these students might in this way be attracted to research careers, and thus increase the numbers of MD's and DMD's going into basic and clinical research. The Committee intends that the National Institutes of Health should explore the possibility of starting such a program and be prepared to discuss it in the hearings on the 1981 budget.

Mr. Speaker, it is the clear intent of the committee that the above policy be effective with the commencement of the fiscal year 1980 to which this report refers, and that, beginning with the fiscal year 1980, which some medical and dental students may not understand fully means on October 1, 1979, the National Institutes of Health and the Department of HEW are expected to devote the full

4 percent authorized by Public Law 95-622 out of the amounts appropriated for the National Research Service Awards to stipends of 3 months or less for some 3,500 medical and dental students, primarily in their first and second years to be employed in the high national purpose of health research. We will, as the report states, hold NIH and HEW responsible for the full 4 percent program for the benefit of those 3,500 medical and dental students throughout the U.S.A. and to report to the Appropriations Committee on how well they have lived up to the intent of Congress when their fiscal 1981 budget comes up to the Congress in approximately January 1980.

Mr. Speaker, because the printed hearings on HEW for fiscal 1980 had closed before these communications were received, I further insert in the Record at this point: First, a letter of June 25, 1979, from Dr. Geza J. Jako of the Boston University Medical School faculty; second, a telegram of June 26, 1979, from Dr. Daniel L. Azarnoff of Illinois and the Kansas University Medical School faculty; third, a letter and telegram of June 7, 1979, from the distinguished dean of the University of Mississippi School of Dentistry, William V. Mann, Jr., D.M.D.; fourth, a letter with three enclosures including the two page statement of Prof. Langdon P. Marvin, president, National Institute in Health Research, Washington, D.C. and New York City, representing Dr. Michael E. DeBakey and 31 leaders of U.S. Health Research, of June 20, 1979, from the illustrious dean of the University of Pennsylvania School of Dental Medicine, D. Walter Cohen, D.D.S., and fifth, a two-page letter of June 7, 1979, from the Deputy Assistant Secretary of DHEW, showing they are ready to start the summer stipends at once for the U.S. medical and dental students.

June 25, 1979.

Congressman Silvio O. Conte,
Rayburn Building,
Washington, D.C.

My Dear Congressman: Our mutual friend, Langdon Marvin, has told me of the various statesman-like way in which you raised before the Secretary of HEW and Director of NIH the question of the unfortunate decline of M.D.'s going into research and the need to reverse that trend.

I am particularly impressed, Congressman, what almost might be termed a new bill of rights in health research condensed into one sentence which can be understood all the way from the Oval Office down to the janitor's office, and I am now quoting from your page 26 of the committee print from your House Report 96-244:1—"The committee believes that careers in health research should be actively fostered".

It is my hope, Congressman Conte, that you and some of the majority members may join in the brief expression of intent on the floor of the House when your bill comes to passage and make clear that the committee intends that this policy be effective with the fiscal year beginning October 1, 1979 and that you expect a report when your hearing on fiscal 1981 begins in January of 1980.

In this way, while the summer of 1979 is already lost to us, the summer of 1980 will be saved and the medical and dental students can make their plans in accordance with the 4 percent set aside which your committee has already agreed to.

We ask nothing, Congressman, by way of an increase but merely a speed-up in the administration of the wise and sound policy which already has bipartisan and unanimous support.

I do not need to say, Congressman, that both Professor Marvin at (202) 862-8800 and myself at (617) 662-7440 are at your entire disposal should you need any additional data or material, and we would see that you would get it at once not only before the time you need it but also in the form in which it will be most useful to you.

Again, my thanks for your notable public service.

Sincerely yours,

Geza I. Jako, M.D.

CC: Professor Marvin, 1135 16th St., NW., Washington, D.C. 20036, (202) 628-6957 or (202) 862-8200, Ext. 416.

[Telegram]

June 26, 1979.

Congressman George M. O'Brien,
Washington, D.C.:

I greatly admire the sound statement of policy contained in your House Report 96-244 on the HEW appropriation for fiscal 1980 being the 3rd full paragraph on page 26 reading:

"The Committee believes that careers in health research should be actively fostered."

The statement made by 32 distinguished MDs, DMDs and civilian leaders of the health research fields appears on pages 274-295 of your own part 10 of your hearings on H.R. 4389 which I understand will come upon the floor of the House on approximately Wednesday, June 27. The names on page 275 of part 10 I hope will show you the high caliber of people who have endorsed this program for summer stipends for medical and dental students including, for example, Dr. Michael E. DeBakey, the President of Baylor as well as so many Deans and top scientific industrialists. The summer of 1979 is already gone as far as medical and dental students are concerned, but the summer stipends of $1500/summer for 3500 medical and dental students throughout the country to engage in health research projects should commence in full with the fiscal year 1980. Therefore the last sentence of paragraph 3 on page 26 should be straightened out we hope by a bi-partisan statement of intent on the floor of the House that the summer stipend program authorized by law for 4% of the National Research Service Awards which comes to about $6 million should get started this coming fall so students can necessarily plan ahead for the spring and summer of 1980 and your Committee should wisely as it has done call the National Institutes of Health to report on whether they fully comply with the 4% allotment when you begin your hearing in February 1980 on fiscal '81. Your Statement of Intent will get 3500 medical and dental students started on health research careers next spring and summer and save a whole year of delay. I very much hope that you will not hesitate to call upon Professor Langdon Marvin at 1135 16th St., N.W., Washington, D.C. (202-862-8800, Ext. 416) or myself to show you exhibits from medical journals and the National Research Council supporting this view. We are very grateful for your having in effect pioneered the magna carta in your one sentence of policy quoted above. I congratulate you and your distinguished colleagues of both parties for the commendable public service you have rendered to build up again the dangerously declining number of MDs and DMDs now engaged in health research and the future health of the American people will benefit greatly on what you have done and what we hope you are going to do further.

Daniel L. Azarnoff, M.D.

The University of Mississippi
Medical Center,
Jackson, Miss., June 7, 1979.

Prof. L. P. Marvin, Jr.,
National Institute for Health Research,
Washington, D.C.

Dear Professor Marvin: I enjoyed our conversation and commend you on your activities to obtain research stipends for dental and medical students. I would like to apologize for my facetious remark about sending a copy of the mailgram to you. Apparently Mr. Ginsberg took me too seriously. I will learn not to make light of such serious business, but I try to keep my sense of humor in this mad, mad world.

Sincerely,

Wallace V. Mann, Jr., D.M.D.,
Dean, School of Dentistry.

Enclosure.

[Mailgram]

School of Dentistry,
University of Mississippi,
Jackson, Miss., June 5, 1979.

This mailgram is a confirmation copy of the following message:

Representative Jamie Whitten,
Chairman, House Committee on Appropriations, House of Representatives, Washington, D.C.:

I urge your strong support for summer stipends for dental and medical students to engage in health research. This legislation is vital to the development of research programs in our young dental schools. The relatively small investment involved will enhance the training of our state's future dentists and add another positive dimension toward our common goals of improving the quality of life for our fellow Mississippians.

Wallace V. Mann, Jr.,
Dean, University of Mississippi
School of Dentistry.

University of Pennsylvania,
Philadelphia, Pa., June 20, 1979.

Hon. Richard S. Schweiker,
U.S. Senate, Senate Office Building,
Washington, D.C.

Dear Senator Schweiker: Enclosed please find a copy of our 2-page statement urging an appropriation of $5,670,000 for Fiscal 1980 for the National Institutes of Health to be used for stipends for medical and dental students to become involved in health research projects.

Our statement was not able to be presented to your subcommittee by Langdon P. Marvin, Jr. in Washington until the very end of your hearings so I wanted to be sure it didn't miss you in time for your consideration at the mark-up sessions on HEW which I understand will begin this May 10, 1979.

I hope these views and the supporting data in the Exhibits may be of some use to you and that you will not hesitate to call on Langdon Marvin at (202) 862-8800 or myself for any further information.

Sincerely,

D. Walter Cohen, D.D.S.,
Dean.

cc: Professor Langdon P. Marvin Jr., President, National Institute for Health Research, Suite 1111, 888-17 Street, NW., Washington, D.C. 20006.

Harvard School of Dental Medicine,
Boston, Mass., May 8, 1979.

Congressman Silvio O. Conte,
Rayburn Building,
Washington, D.C.

Dear Congressman Conte: Here is a copy of our 2-page statement urging an appropriation of $5,670,000 for Fiscal 1980 for the National Institutes of Health to be used for stipends for medical and dental students to become involved in health research projects.

Our statement was not able to be presented to your subcommittee by Langdon P. Marvin, Jr. in Washington until the very end of your hearings so I wanted to be sure it didn't miss you in time for your consideration at the mark-up sessions on HEW which I understand will begin this May 10, 1979.

I hope these views and the supporting data in the Exhibits may be of some use to you and that you will not hesitate to call on Langdon Marvin at (202) 862-8800 or myself for any further information.

Sincerely,

PAUL GOLDHABER, D.D.S.,
Dean.

Enclosure.

cc: Mr. Langdon P. Marvin, Jr., 1135-16 Street, NW., D.C. 20036.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., June 7, 1979.

Hon. CARL D. PURSELL,
House of Representatives,
Washington, D.C.

DEAR MR. PURSELL: I have been asked to respond to your letter to Dan Dozier in which you posed three questions related to employment patterns for medical students.

1. How great is the decline in the number of M.D.'s going into medical research?

We do not have the data that would give a definitive answer to this question. Recent amendments to the National Research Service Award authority (P.L. 95-622), authorizing cost-of-living increases for research training stipends, should prove to be helpful. However, the level of support available from all sources is lower for those who choose to pursue research than for clinical training.

2. Don't many medical students take non-medical jobs during their vacations and off-quarter periods just to pay their bills?

We have no firm basis for an affirmative answer to this question, but we assume the answer is yes, since any student applying for financial assistance through the schools is expected to earn a certain amount as summer and/or term-time earnings and such earnings are considered as being available to the student when financial need is determined.

Although students may attempt to obtain positions associated with their career goals, we believe that many students take jobs which will pay the highest wages and which may not have an association with professional interests. In addition medically related jobs are not as numerous as students seeking employment. Further, many students may obtain employment in hospital settings, but in capacities which do not necessarily enhance their professional knowledge.

3. Should there be a plan to expose and sponsor more medical students in medical research projects during their off-periods?

We agree that exposure to the research environment is useful, and the National Institutes of Health has sponsored such programs in the past. With the enactment of the National Research Service Award Act in 1974, it became difficult to administer short-term training because all research training support was subject to a service or monetary payback. However, the recent amendments referred to above also provide an exemption from payback for research training programs of less than three months. This will permit the NIH to reinstitute short-term training programs along the lines you suggest.

Please let me know if we can provide additional information.

Sincerely yours,

LARRY S. GAGE,
Deputy Assistant Secretary for
Legislation (Health).

THE UNIVERSITY OF
MICHIGAN MEDICAL SCHOOL,
April 27, 1979.

Subject: NIH Appropriations, esp. NIGMS, Stipends for Medical and Dental Students to be Exposed to Health Research Projects.

STATEMENT BY

George J. Brewer, MD, Professor of Human Genetics and Internal Medicine, University of Michigan.

Geza J. Jako, MD, Research Professor of Otolarynogology, School of Medicine, Boston University.

Daniel L. Azarnoff, MD, Professor of Medicine, College of Health Sciences, University of Kansas.

Michael E. DeBakey, MD, President, Baylor College of Medicine.

Edward N. Brandt, Jr., MD, Ph.D., Vice President of Health Affairs, University of Texas.

John J. Manion, Jr., President, W. B. Saunders Co., Publishers, Philadelphia.

John B. Francis, Board Chairman, Puritan-Bennett Corp., Kansas City, Board Chairman, Parker B. Francis Foundation, Member Harvard Overseers' Visiting Committee on Harvard Medical School and Harvard School of Dental Medicine.

Thomas C. Chalmers, MD, President Mount Sinai Medical Center and Dean, Mount Sinai School of Medicine of City University of New York.

Maurine Henderson, MD, Associate Vice President, Health Services, Warren G. Magnuson Health Sciences Center, University of Washington.

Erling Johansen, DMD, Ph.D., Dean, Tufts University School of Dental Medicine.

Paul Goldhaber, DMD, Ph.D., Dean, Harvard School of Dental Medicine.

Michael Chisick, President, American Student Dental Association (ASDA).

Henry P. Becton, Board Chairman, Becton, Dickinson & Co., Paramus, N.J., and Trustee, Fairleigh-Dickinson University.

Bruce Breckenridge, MD, Ph.D., Chief, Pharmacology, College of Medicine and Dentistry of New Jersey, Rutgers Medical School.

John J. Burns, Ph.D., Vice President, Hoffman-Laroche, Inc., N.J.

Thomas M. Mints, Jr., Chairman of the Board, President, and Chief Executive Officer, Sargent-Welch Scientific Co., Ill.

Carl D. Bays, Chairman of the Board, American Hospital Supply Corp., Illinois.

Arnold O. Beckman, Board Chairman, Beckman Instruments, Inc., California.

Jane F. Desforges, MD, Professor of Internal Medicine and Hematology, Tufts University.

Daniel D. Federman, MD, Dean for Students, Harvard Medical School.

Robert W. Berliner, MD, Dean, Yale University School of Medicine.

Louis W. Sullivan, MD, Dean and Director, School of Medicine, Morehouse College, Atlanta.

Charlie Clements, President, American Medical Students Association (AMSA).

Kenneth L. Melmon, MD, Chairman, Department of Medicine, Stanford University, and President, American Society of Clinical Investigation.

M. Maurice Goldman, Ph.D., Acting Dean, Professor of Medicine, Professor of Community Medicine, University of Massachusetts Medical School, Worcester.

S. Philip Caper, MD, Vice Chancellor for Health Affairs, University of Massachusetts.

William G. Anlyan, MD, Vice President for Health Affairs, Duke University School of Medicine.

Walter Cohen, MD, DDS, Dean, School of Dental Medicine, University of Pennsylvania.

S. Sigmund Stahl, DDS, MS Associate Dean for Academic Affairs, Professor and Chairperson, Department of Periodontics, New York University Dental Center.

Francis A. Sooy, MD, Chancellor, University of California, San Francisco, School of Medicine,

James J. Ferguson, Jr., MD, Associate Dean for Institutional Research and Graduate Education, the School of Medicine, University of Pennsylvania, and concurred in and presented personally to the House Appropriations Subcommittee on Labor-HEW by:

Langdon P. Marvin, Jr., President, National Institute for Health Research, Suite 1111, 888 17th Street, NW, Washington, DC 20006 (202) 638-6957, (202) 862-8800 and NYC (212) 752-3122, 832-9180.

Mr. MARVIN: Mr. Chairman Natcher, Mr. Ranking Minority Member Michel, and Distinguished Members of the Appropriations Subcommittee:

Involvement of physicians in medical research has fallen off at an alarming rate in the last 10 years. This decrease is most drastic with young MD's, indicating a serious decline in basic and clinical research careers among newly trained physicians. Data supporting these points, plus additional data establishing the severity of the problem, is given in the accompanying editorial entitled "Clinical Investigation: Is it in a Fatal Decline?", by George J. Brewer, MD.

This decline in MD involvement in clinical research could not come at a more inopportune time. Never has the information explosion in basic biomedical research, with its accompanying promise of potential patient benefit, been more intense. Never, too, has the questioning by all segment of society of traditional medical practices, been more severe. People are rightly questioning whether various approaches to disease management have been scientifically tested. The answer often is that a particular practice has been adopted because of "clinical impression", rather than research. Both types of research, that is the introduction of new ideas into medicine, and the rigorous testing of old ideas, is an absolute requirement for MD involvement.

An important factor contributing to the declining involvement of MD's in research is the lack of opportunity for medical students to be exposed to research experiences. Experience has taught those of us dealing with young medical students that if they are exposed to research, an appreciable percentage will elect this career choice. The laboratories and the professors to provide these research experiences are available at all medical schools. What is missing are summer (or other off period) stipends so that the medical students can do research projects rather than take summer jobs at stores, etc., which they take in order to obtain a little income.

Funds for training for combined MD-Ph.D. or DMD-Ph.D. degrees only reach students already committed to research; we are trying to reach out to the uncommitted to medical and dental students in their early training, especially in their first and second years and catch their interest in research, so that, instead of having to wait on tables to keep going, they can be involved in the high national purpose of health research.

Specifically, what is urgently needed is a program providing approximately 10 percent (or 3,000) principally of the nation's first and second year medical student classes with a three month stipend. To this number should be added 500 students in the 60 dental schools in the country, since the same important need to stimulate research careers occurs in the several fields of dental research. From these 3,500 students we anticipate some portion will elect a research career later. This stipend should be $500 a month, or $1,500 for a 3 month period, with flexibility for this same amount to be spread over a longer period if necessary to conform with academic scheduling, for 3,500 students for a total of $5,250,000, plus 8 percent overhead, or $5,670,000 annual cost. This is a modest appropriation for an area which will be a crisis problem within a short period if action is not taken.

Respectfully submitted to House Appropriations Subcommittee on Labor-HEW.

LANGDON PARKER MARVIN, Jr.●

WILL PANAMA CANAL TREATIES INSURE EVENTUAL CONTROL BY MOSCOW AND HAVANA?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. ASHBROOK. Mr. Speaker, yesterday the Chicago Tribune published information from a secret State Department memo which links Panama and Cuba with the Sandinista terrorists who are fighting to overthrow President Somoza of Nicaragua. According to reliable sources quoted in the memo the arms supplied by Cuba were transported in Panamanian Air Force planes, contradicting testimony by the Carter administration that Panamanian involvement was not on an official basis but the work of individual Panamanians. The memo is dated May 2, fully a month before representatives of the State Department and the Army testified before the Panama Canal Subcommitee of the House on the gun-running activities of Panama in support of the Sandinistas.

If the information in the memo is factual, we must ask what effect Panama's complicity with Cuban terrorist activities will have on the Panama Canal treaties which go into effect on October 1 of this year. What influence over the Panamanian Government do the masters of subversion, Moscow and Havana, wield in that country at this time? If Communist influence—or even control—is a reality, were the State Department and the U.S. Senate deceived when the treaties were being debated? If so, how valid are the treaties? Has Panama made a mockery of the treaty-making process, especially with regard to the so-called Neutrality Treaty which is one of the two Panama Canal treaties?

These are but some of the vital questions which still have to be addressed if the interests of the American people and our Nation are to be faithfully served.

I insert at this point the very important article by John MacLean of the Chicago Tribune which appeared in the final edition of the Tribune yesterday, June 27.

The article follows:

CUBA, PANAMA GIVE AID TO SOMOZA'S FOES: MEMO

WASHINGTON.—The Cuban government has funneled arms to leftist Sandinista guerrillas in Nicaragua aboard Panamanian air force planes and trained hundreds of Sandinistas in Cuba, according to a secret State Department memo obtained Tuesday by the Tribune.

The memo describes how Cubans on one occasion shipped eight crates of arms, including 50 caliber machine guns designed to serve as anti-aircraft weapons, by a Panamanian air force plane for Sandinista guerrillas rallying in Costa Rica last September.

The memo quotes reliable sources who said Cuba made a second, larger delivery involving three Panamanian military planes during the week of Nov. 5–11. That shipment included Soviet-made AK–47 rifles, 50 caliber machine guns, and hand-held mortars. By the end of November, the memo states, the Panamanians had flown those arms to Liberia, Costa Rica, where they were given to the Sandinistas.

Sandinistas are leftist revolutionaries named after Gen. Augusto Cesar Sandino, who fought the United States Marine occupation of Nicaragua until he was murdered in 1933 on orders of Gen. Anastasio Somoza, father of the present president. The Sandinista National Liberation Front began a new offensive this month to overthrow President Anastasio Somoza.

The most recent shipment occurred in April, when the Panamanian government is said to have made a delivery of guns to Sandinistas in Costa Rica, the memo said.

"On each occasion Havana has limited its own direct involvement by relying on the Panamanian government to transport the arms," the memo states.

This assertion contradicts Carter administration testimony on pending legislation to implement transfer of the Panama Canal to Panama. Administration officials argued that any gun smuggling from Panama had no connection with the Panamanian government.

The officials acknowledged the incidents in secret testimony, but disputed testimony of retired military officers that the Cuban and Panamanian governments were directly involved.

"Prior to passage of enabling legislation for the treaty, the administration tried to paint this as isolated incidents of some Panamanians trying to make money running guns," said a spokesman for the House Merchant Marine Subcommittee, which held hearings on the Panama Canal bill.

At one point in the hearings earlier this month, Lt. Gen. Dennis McAuliffe, commander of the United States Southern Command, was asked if "involvement by Panama includes arms!"

"It depends on whether you are talking about the government of Panama or Panamanian nationals who have been found to have done some of this," he said.

The State Department memo is dated May 2, more than a month before the hearing.

The memo says that at an April 13 general staff meeting of the Sandinistas, the guerrillas said their arms inventory included anti-tank rockets that Cuba had provided via Panama.

The arms were said to be of Soviet, French, and Chinese manufacture, previously provided to Cuba.

Members of the general staff also reportedly said at that meeting that Cuba had trained 300 Sandinistas in the field. The training of Sandinistas has been on the upswing since January, the memo said.

"Early that month a Panamanian emissary reached an agreement with Fidel Castro to send to Cuba FSLN [Sandinista] exiles who formerly would have been granted safe haven in Panama," the memo states.

President Castro also has promoted support for the Sandinistas among leftist groups in Central American countries, the memo says. The Cubans have urged such groups to supply arms, provide facilities for military training, and create havens for the guerrillas.

The Cubans promoted a meeting in early February in San Jose, Costa Rica, where representatives from various Latin American Communist parties talked about assistance to the Sandinistas. Plans were discussed for a follow-up meeting in Havana.●

PRODUCTIVITY IMPROVEMENT—THE CASE OF JAPAN

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. CORCORAN. Mr. Speaker, earlier this month, the Joint Economic Committee held 2 days of hearings on productivity. The first day's witnesses included Mr. Joji Arai, manager of the U.S. office of the Japan Productivity Center. For a country which depends so heavily on foreign supplies of energy and raw materials, Japan has done remarkably well, particularly in the area of productivity. While Japan's productivity improvement increased at a rate of 8.9 percent on an annual basis during 1960–76, the United States trailed with 2.8 percent.

Ironically, the United States provided financial support to Europe to establish productivity efforts through the Marshall plan. Our own productivity center was allowed to go out of existence last year after only 3 years of operation. In the meantime, the Japan Productivity Center has 300 employees in Japan. That center is supplemented by seven regional productivity centers which each employ 10 to 20 people and 19 local productivity councils which each employ additional staff. The Japan Productivity Center has offices in London, Paris, Frankfurt, Rome, and here in Washington, D.C. The U.S. office employs 11 people while there are only 2 employees assigned to our own National Productivity Council. While the number of employees and offices does not tell the whole story, I believe that these statistics are certainly indicative of the commitment on the part of Japan and the lack of commitment on the part of the United States.

Without corresponding increases in productivity, increases in wages and prices can only lead to increased inflation. While productivity improvement in the private sector offers greater potential "payoff" than the public sector, public sector productivity improvement must not be overlooked. Accordingly, on March 8, I introduced H.R. 2735, the Intergovernmental Productivity Improvement Act of 1979. The Senate companion bill, S. 1155, was introduced on May 15 by Senator PERCY. This legislation would encourage State and local government productivity improvement through expanded Intergovernmental Personnel Act authority.

Mr. Speaker, for the benefit of my colleagues, I submit for the RECORD the testimony delivered June 5 before the Joint Economic Committee by Mr. Joji Arai, manager of the U.S. Office of the Japan Productivity Center.

TESTIMONY BY MR. JOJI ARAI

JAPAN'S LACK OF NATURAL RESOURCES

Japan is a nation without natural resources. She depends upon overseas supplies for 90% of her energy and raw materials. The long list of dependency ratio of natural resources starts with 100% reliance on foreign supplies of aluminum, nickel, and 88% of iron ore. On the energy side the list starts with 100% uranium 99.7% crude oil and 78.5% coal. Thirty percent of our food supply comes from foreign sources. The country is about 1/25 the size of the U.S. and only 14% of it is suitable for human habitation, agriculture and industry.

EXCELLENT PRODUCTIVITY RECORD

Yet Japan is now the third most productive nation in the world-after the United States and the USSR. Her gross national product is about one half that of the United States, and her per capita gross domestic product has doubled in the last 10 years and is now about 70% of the United States'. Japan is the third largest producer of steel with a production of 100 million tons. Annually she produces 6 million tons of plastics, 12 million TV sets and 8 million automobiles.

During the decade prior to 1973, when the Arab oil embargo dampened the economic growth of the world, Japanese industries continued to increase their productivity at an annual rate of 9.8%. Though the rate of the productivity rise declined somewhat in recent years, Japan's industries still registered an increase of 132% in the last quarter of 1978 from the 100% level of 1975, and an 8% rise in 1978 over the previous year.

Many other factors contributed to the rapid growth of productivity of her industries.

Some of the major ones are:

1. Government policies and programs that actively and passively support the economic expansion.

a. Industrial Restructuring Plan.

b. Special tax measures and currency conversion rate for export promotion in the 1950s.

c. Accelerated depreciation and other preferential tax measures for growth industries in the 1960s.

d. Preferential bank loans.

e. Tax enforcement of anti-monopoly laws.

f. Administrative guidance.

2. Capital investment.

3. Technological innovation—Research and Development.

4. Rise in the educational level of the work force.

5. Improved skill and work ethic of employees.

6. Harmonious labor management relations.

7. Economy of scale.

8. Systems improvement.

9. Effective catalysts for nation-wide productivity movement.

Although Japan is under a democratic rule and upholds the principles of capitalism and free economy, her people are also aware of the limits of her ability and power because of the scarcity of natural resources and virtual non-existence of a military force for even her own defense. The well-planned and coordinated economic policy was necessary to set the nation back on its own two feet at the end of the war through the allocation of natural resources to those sectors where they would produce the best results.

In the 1950's and 60's preferential tax exemptions and accelerated depreciation rates were given to the export-oriented industries so that with the favorable conversion rates for foreign currency, Japan could build up its foreign exchange reserves and buy technology and new equipment from abroad.

As the industries matured, the protective tariffs and special tax measures were gradually decreased, and many were removed by the 1970's.

COORDINATED APPROACH

The government of Japan is a well-structured planning organization with much leverage in the form of special tax measures, foreign exchange controls and administrative guidance which is used in influencing the decisions of the private sector. It is run by bureaucrats. Because of the unique function of government, the cream of the graduates from the finest schools tend to choose government careers over business. In the United States and European countries government employees represent over 20% of the total labor force; in Japan less than 10% works for the government.

In pursuit of attaining the desired economic growth for Japan's survival through the planned allocation of limited natural resources the legislative and executive branches coordinated their programs and policies so that the government would not hinder economic growth. Unlike the United States where upholding the rules of democracy and free competition sometimes results in policies and programs that adversely affect some sectors of society, such as the strict enforcement of Antitrust laws and regulations, the Occupational Safety and Health Act, and the Equal Employment Opportunity Act, the Japanese government sometimes encourages mergers and technical cooperation among competing companies in order to strengthen their economic base.

HEAVY CAPITAL INVESTMENT

One of the important factors for increasing productivity is capital investment. The level of annual investment in plants and equipment was 29% of real output between 1962 and 1972 which was considerably higher than that of other countries.

Scandinavian countries are now planning to set aside a certain percentage of labor's share of profit for investment in plants and equipment. In Japan the natural cycle of labor's investment, with deposits of over 20% of workers' income at financial institutions, helped the growth of companies, as debt-financing has been the most prevalent mode of expansion in our country.

The oil embargo of 1973 and the subsequent worldwide recession adversely affected our investment picture. Now the investments of all industries stand at the level of 82% of 1973. Cognizant of the importance of capital investment, however, many industries still endeavor to maintain their ten year "scrap and rebuild plan" so as to remain competitive in the international market.

RESEARCH AND DEVELOPMENT EFFORTS

The third factor to be considered is the research and development effort. A recent report put out by the Department of Commerce indicated that between 1929 and 1969, technological innovations contributed toward a 45% growth of the Gross National Product. It pointed out that high technology companies created jobs 85% faster than other businesses during 1957 and 1973, the productivity of those companies grew 38% faster than the others.

TECHNICAL BREAKTHROUGHS

The importance of technological breakthroughs to increasing productivity cannot be over-emphasized. Japanese corporate executives are and have been cognizant of this fact and have been increasing their investment between 15% and 20% annually in the last decade. Even after the 1973 oil embargo contributed toward Japan's reducing her growth rate from the past decade to about 5% down from 13%, the investment on research and development remained at the anual level of 16% in 1977. Major Japanese corporations spent approximately 10 billion on research and development in 1977. While this amount is considerably less than the 21 billion in investments made by U.S. corporations during the same period of time, the almost total amount of 10 billion went for research and development of commercial products as compared to the heavy emphasis on space exploration and weapons production in this country.

Japan has placed heavy emphasis on the development of high speed and large scale computers, peripheral equipment, medical electronics, and communications equipment. A serious attempt is also being made to develop a series of sophisticated sensor/computer/machine interaction devices with practical industrial application through the joint efforts of a score of leading high technology companies with the enthusiastic encouragement of the government.

In June 1976 the Ministery of International Trade and Industry completed the basic design of an unmanned manufacturing plant with approximately 250,000 square feet of floor space. The original plan called for the plant to be located underground and will produce machine tools with some 2,000 different parts. This prototype was expected to be completed by 1983 and to be operated by ten persons, rather than the 750 workers normally required for this type of operation. This plan was of such magnitude that it was later scaled down, but it triggered invaluable research in the area.

GOOD EMPLOYER/EMPLOYEE ATTITUDE

As in the United States, the intellectual level of workers has contributed substantially toward increasing production. While in this country about 48% of high school graduates go on to college, in Japan 42% do. Although this is lower than in the United States, the Japanese figure is higher than that of European countries. The relatively high academic level of workers enabled Japanese companies to pursue the fruits of technological innovations.

In order to improve the worker's skill, Japanese companies usually spend more money per employee than their American counterparts do on training their workers.

In management as well as on shop floors, participatory and consensus-based decision making is prevalent in Japanese companies. This team work concept was greatly expanded to include blue collar workers when Dr. Duran and Dr. Deming introduced statistical and total quality theory to Japanese business in the 1950's. While Dr. Duran's plan involved only the middle managers, the Japanese used it as a base on which to build their own version of the quality control program, called the QC Circle, within the framework of their culture.

The QC Circle can be defined as a group of workers and shop foremen who voluntarily meet to solve job-oriented quality and productivity problems.

There are literally tens of thousands of cases reported in which the worker's voluntary programs resulted in a drastic increase in productivity and a decrease in the production of defective parts and products.

The adversary system, so deeply inbred in social, legal and economic life in the United States and Europe, never took hold in the Japanese environment. Even in the area of labor-management relations the idea persisted that progressive management and democratic trade unionism could co-exist. The Japanese propensity to reject or avoid adversary situations and the observation of the successful rationalization movement in Germany in the late 1950's prompted many Japanese companies to create labor management councils in their corporate structure. The council usually consists of three executives from the company, such as vice president of manufacturing, industrial relations and corporate planning; and from the labor union the president, vice president, and the secretary. The council often meets to discuss such subjects as changes in production volume and schedules, process and speed; introduction of new equipment and machines; plans for capital investment; recreational and welfare programs; occupational health and safety as well as long range planning and employment policies which basically belong in the arena of management prerogatives in the United States.

This system provides a constant means of communication between management and labor, enabling them to reach amicable settlements on controversial issues before they resort to either strikes or lockouts. Of the fourteen million organized workers, eleven million subscribe to such a system. This system enables management and labor to maintain the constant communication which is a prerequisite for solving problems before the situation deteriorates so that the unions have to call a strike. The existence of the council in a majority of Japanese corporations results in their losing about 1.5 million man days to strikes per year as compared to their American counterpart's loss of about thirty-five million man days in 1977.

ECONOMY OF SCALE

The seventh factor is the economy of scale. In an attempt to meet the demand of shipowners for building ever larger tankers and dry cargo carriers, Japanese increased docks of over 60,000 ton capacity from 21 in 1962 to 57 in 1976, and particularly those docks with a capacity of over 90,000 GT from 13 in 1962 to 35 in 1976.

The increased dock capacity and introduction of new technology enabled a yard to launch the 484,377 DW ton Nishomaru in 1975. This drastically reduced the cost per ton of the carrying capacity as compared to the conventional tanker of smaller size, and this increased productivity.

In the steel industry 51.4 percent of Japan's 72 blast furnaces had large inner volumes of more than 2,000 cubic meters compared with 2.6 percent of 192 of the U.S. furnaces when Japan's steel export became a controversial issue in 1974. The result has been a tremendous reduction in cost and an increase in productivity as expressed in terms of man hours per ton of steel. As compared with 25.5 hours in 1964, it was down to 9.2 hours in 1974. The U.S. mills which were nearly twice as productive as the Japanese a decade ago have gone from 13.1 hours in 1964 to 9.8 hours in 1974.

We learned system engineering from Americans, and we are still learning.

In order to cope with the shortage of labor and reduce the cost of production, Japanese manufacturing industries initiated the dramatic onslaught to automate the production line by the extensive use of computer assisted material handling systems. In some phases of the manufacturing process of automobiles, steel, home appliances, watches and other industries you can see the third shift completely taken over by computer run machines and robots. Many have incorporated vendors delivery service into the system so that there are practically no waiting semi-processed products between sub-systems. One automobile company requires them to deliver parts twice a day on schedule in order to reduce the assembly time of the cars. To assure the high quality standard of the parts to be delivered by vendors, companies involve them in the designing as well as the QC Circle program.

JAPAN PRODUCTIVITY CENTER

In 1955, when the Japan Productivity Center (JPC) was established, Japan was suffering from a chronic deficit in her balance of payments, and her industries faced low productivity problems and many long strikes. Per GDP only amounted to 1/16th that of the United States level and 1/10th that of the United Kingdom.

The United States Department of State, which under the Marshall Plan had successfully sponsored productivity study teams from Great Britain and other European countries, proposed that the Japanese Government establish a productivity center patterned after the European Productivity Agency in Paris. The Japan Productivity Center was established in March 1955 as a tripartite, non-profit, non-governmental foundation representing management, labor and academe to promote productivity in Japan. It was decided that our productivity movement must be a voluntary, nationwide movement and that the best way to start such a movement was to have an effective catalytic agent so the public, business, academe and labor could fully understand their roles.

Between 1955 and 1962 with a grant totalling 6.4 million dollars, the Japan Productivity Center carried on its technical exchange program in cooperation the U.S. Agency for International Development.

The original programs included the sending of business executives and labor union leaders to the U.S. to observe manufacturing technology, management methods and industrial relations; we also sponsored in Japan seminars, workshops and conferences on scientific management techniques developed in the U.S. Gradually the scope of operations was expanded to include the establishment of (1) Management Academy and Training Center; (2) Labor College; (3) Productivity Research Institute; (4) Training Center for Systems Analysts and Programmers for Small Business; (5) Labor-Management Counseling Service (6) Consulting Services. Currently we are initiating new programs to combat occupational mental health problems and to promote the concept of anticipatory democracy involving businessmen, labor union members, academicians, environmentalists and consumer movement activists.

MAINTENANCE OF GROWTH

The factors I have described worked well until 1973—then came to an abrupt halt with the worldwide recession of 1974 and 1975 which followed the oil crisis. Inadequate investment in social security, welfare and pension programs, housing, sewage, road systems, and environmental protection brought forth a serious imbalance in the quality of life of the Japanese people. The expansion-oriented economic policy is being severely criticized and inviting reprisals against the Japanese trade practices.

Management faced the critical issue of maintaining their work force on the payroll under the conventional lifetime employment system as sales of their products sharply declined. Stricter environmental regulations require them to spend 20% to 30% of their investment on pollution control and abatement equipment. This meant that while output was reduced, input remained the same resulting in a drastic decline in the growth rate of productivity.

Only through aggressive programs of encouraging early retirement of employees and diversifying into new product lines have Japanese industries been able to recover the productivity growth rate of 8% in 1978 from a near zero growth of a few years ago.

THE FUTURE

The future is not so bright for Japan. However, I still believe that for many years to come Japan will be able to maintain the highest increase in productivity among the industrialized nations although it will not increase at the pre-1973 rate of 9.8%. The reasons for this prediction are:

1. Capital investment is increasing.

2. Research and development efforts are accelerating.

3. Given the thriftiness of the Japanese worker, who maintains over 20% of his disposable income, an abundant supply of needed capital is assured.

4. The drastic shift from the extended family to the nuclear family society is taking place at a rather slower pace than predicted by sociologists. The survival of the extended family will assure a high moral character and ethical standards of the people.

5. The modified lifetime employment system may produce an optimal mixture of meritocracy and the traditional Japanese system.

6. Management is aggressively pursuing the strategy to accomplish structural change of corporation to cope with the rapidly changing business environment.

7. The workers' sense of participation in the national and corporate goals continues.

I firmly believe that Japan can only retain such growth through cooperation with our biggest trading and political partner, the United States. In spite of the rapid growth of all Japan's industries, her average productivity is still considerably lower than that of the United States. We still need to learn much from the United States.●

WAGE-PRICE CONTROLS: JUST A MATTER OF TIME

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. WEISS. Mr. Speaker, there can no longer be much doubt about the gravity and persistence of our Nation's inflation crisis.

The 1.1-percent hike in the cost of living during May indicates that price rises are not slowing down. They are, in fact, accelerating. If purely seasonal factors are eliminated from the computation, the compound annual rate of inflation for 1979 now stands at a most disturbing 13.8 percent, the second highest rate since the end of World War II.

The Carter administration has now implicitly conceded that its voluntary guidelines policy is a failure. As Barry Bosworth, Director of the President's Council on Wage and Price Stability, admitted to the Joint Economic Committee June 27:

> I see no significant moderation in consumer prices for several months.

In other words, Mr. Speaker, the American people are being told to expect no real relief from the worsening squeeze on their standard of living.

I submit that this House must immediately act to bring inflation under control before it cripples the U.S. economy. Since the administration continues adamantly to reject any meaningful move to control prices and wages, it is clearly up to us to take the leadership on this issue.

The case for giving the President authority to impose mandatory controls, whether he asks for it or not, is cogently presented by New York Daily News columnist James Wieghart in a June 27 analysis of "the greatest crisis since the Great Depression of the 1930's."

I strongly commend Mr. Wieghart's views to my colleagues:

IT IS WAGE-PRICE CONTROLS, FOR DOUBLE-DIGIT SURE

(By James Wieghart)

WASHINGTON.—If the latest inflation figures don't convince President Carter and his economic advisers to drop their unqualified opposition to mandatory wage and price controls, the national economy is going to face its greatest crisis since the Great Depression of the 1930s.

The 1.1 percent rise in the Consumer Price Index reported by the Labor Department for May jumps the annual inflation rate for the first five months of this year to 13.4 percent more than two percentage points higher than the inflation of 1974, which spun the economy into deep recession. What makes the current bout with double-digit inflation even more dangerous is the growing evidence that, even though the economy is already slipping into recession, the end of the inflationary spiral is nowhere in sight. Since inflation feeds recession by reducing the buying power of consumers and businesses, the longer it continues, the deeper will be the recession.

The inflation-recession combination is particularly deadly because the President will be inhibited from employing the usual economic-stimulus devices to ease recessionary unemployment. Those tools—tax cuts, jobs programs and deficit spending—all tend to make inflation even worse.

Carter got into this fix by commiting himself last fall to an anti-inflation program that ruled out the use of wage-price controls. Instead, he opted for the classic conservative approach of reduced federal spending, high interest rates and tight money, along with voluntary wage and price guidelines. The President and his economic advisers felt this would be sufficient to slow down the economy and reduce inflation without causing a recession—the so-called soft-landing scenario. To be fair to the administration, this might have worked if food prices had only behaved in a more normal fashion and if the OPEC nations had showed more restraint in their oil-pricing policies.

But, as luck would have it, neither proved to be the case. Food prices, particularly beef and produce, climbed out of sight, and OPEC, cashing in on petroleum shortages caused by the Iranian upheaval, jacked up world prices 40 percent and more. While food prices are rising at a slower rate now, OPEC oil ministers meeting in Geneva are in the process of raising oil prices again, even though the last series of oil and gasoline prices haven't yet worked their way through the economy.

All of this has made a shambles of Carter's voluntary wage-price guidelines. With all of their costs rising rapidly, business and industry simply cannot hold down prices any more than workers—hit by runaway housing, food and transportation prices—can hold their wage demands within the 7 percent guideline.

What makes things so difficult for Carter now is that he has painted himself into so many corners. By condemning wage and price controls as unworkable, the President has made it almost impossible for him to go to Congress now with a request for stand-by authority to impose such controls.

He finds himself in a similar weak position in dealing with the cutting edge of the energy crunch—the gasoline and diesel fuel shortage, which is also slowing down the economy while feeding inflation, thanks to widespread price gouging at the pumps. Having washed his hands of responsibility for gaining stand-by authority for gasoline rationing following the defeat of his proposal to accomplish this last month in the House, Carter is once again in a weak position to demand that Congress quickly rush through a rationing plan now.

But it would be foolhardy for Carter to let past mistakes paralyze him at a time when quick and forceful action is clearly needed on both the economic and energy fronts. Undoubtedly, at least some of his economic advisers are still urging caution on the ground that, while the economy has turned down, it is not yet in recession and therefore a "soft landing" is still possible. Technically, they are right, since a recession is defined in economic terms by two consecutive quarters of no growth or negative growth. But with housing, auto production and consumer buying all sharply down, Carter might be able to get quick congressional approval for stand-by wage and price controls and gasoline rationing authority if he acts dramatically and decisively.

Carter could set the stage for this by cutting short the economic summit in Tokyo and rushing back to Washington to make the request before a joint session of Congress. Such a dramatic gesture by Carter, who has consistently shied away from the bold and dramatic, might just shock the thus far lethargic 96th Congress into action.●

OUR FUEL SHORTAGE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. LEHMAN. Mr. Speaker, south Florida, like many of our country's major metropolitan areas, has been involved in a critical and distressing gasoline shortage. Though independent truckers virtually stopped the flow of gasoline to the public from the Port Everglades storage terminals, the real problem began before the truck stoppage and will be with us long after the truckers go back to work.

The basic reason for the shortage is that the demand for gasoline has increased while supplies are limited. At the present rate, we are consuming more fuel in this country than we can produce or afford to import.

To solve this problem, we need to determine the true causes of the limited supply and find the most effective remedies that will bring demand in line with supply. I believe that there are three main causes of our current difficulties and four remedies that we should undertake.

CAUSES

First. Although the Department of Energy did not cause the shortage, it has made the shortage worse by creating an imbalance in allocations. DOE, in trying to manage the distribution of our limited supplies, has grossly distorted what was once a smoothly functioning market. The simple but mutually satisfactory method of gasoline dealers matching willing suppliers with willing purchasers has been replaced by complicated allocation procedures which do not adequately consider the needs of growth areas such as South Florida.

Second. Price controls on oil have subsidized increased consumption, discouraged conservation, and reduced incentives to increase production. Controls will not create more oil, and have not even succeeded in holding down the prices at the gas pumps. Furthermore, by stimulating consumption, price controls have made us even more dependent on foreign oil.

Third. Big oil companies' actions have been a combination of both greed and poor planning. During a temporary oil glut last year, the oil companies reduced their inventories and were faced with the Iranian crisis with oil literally "at the bottom of the barrel." In addition, following the President's decision to decontrol oil, the oil companies withheld supplies from the market in anticipation of higher prices.

SOLUTIONS

We have listed the causes, but we must also come up with the solutions to deal with this dilemma.

First. I believe we should have a standby gasoline rationing plan in place. Until longer range solutions can be implemented, we will be subject to periodic shortages. If these shortages should become severe, a rationing plan will be the only alternative to more gas lines and chaos. People do not self-ration because the amount they save only provides more fuel for the "gas guzzler down the street," and does not assure them of supplies when they really need gas.

Though no rationing plan is absolutely fair, rationing distributes fuel supply to the rich and the poor equally, and one can always conserve coupons for when the gas is most needed. Moreover, reduction in consumption by rationing would give the United States its best bargaining chip with OPEC.

Second. We must go forward with the decontrol of oil. Decontrol will cause higher prices, but only on 30 percent of our oil. The rest is already at the world price. More important is the fact that decontrol will reverse the decline in U.S. oil production, which for 5 years has been dropping dangerously. New production is expensive, but decontrol will bring in 700,000 more barrels per day by 1985. That is oil we will otherwise have to import.

With oil at decontrolled prices, alternative sources become economically feasible. Coal liquefaction, for example, costs the equivalent of oil at $20 to $30 a barrel. Solar collectors, which would make oil more available for transportation needs, are economic when oil costs about $30 a barrel. Greater U.S. production of oil and the development of alternative sources of energy will strengthen the dollar and will eventually offset much of the inflationary impact of decontrol.

Unless we let domestic oil prices rise to world levels, OPEC nations will not take our conservation efforts seriously and will only take further advantage of our increasing dependence on imported oil. Unless we unshackle productive resources in this country, we will never have enough fuel to run our cars and maintain our economy.

I support the decontrol of domestic oil, but only in conjunction with a strong windfall profits tax on the oil companies. The proceeds from such a tax should go into a fund for the development of alternative fuels, improved public transportation, and assistance to the poor who can least afford the higher energy costs.

Third. We must institute a bold program of developing alternatives to oil to the point at which they are economically competitive. The House recently sent a message to OPEC by passing legislation committing this country to the creation of a synthetic fuels industry capable of producing 2 million barrels per day within 10 years. At the present time, the United States has virtually no capacity to produce synthetic fuels, while

South Africa, Brazil, and other countries have made steady progress in this field.

Fourth. We need to move rapidly forward with fixed rail mass transit and to expand as quickly as possible our sadly inadequate urban bus systems. We must reprogram some of the billions we spend for our highways into buses and transit rail cars. We need to maintain existing highways and roads, but right now our priorities call for rapid development of alternatives to the passenger cars.

There are other causes and other remedies to consider, but the success of any solution to the energy crisis will depend on the collective good sense of the American people. We must share the burden fairly so that our citizens will be willing to work together to solve our energy problem. Only then can we preserve our free enterprise system and meet the basic transportation needs of our country.●

FURTHER NEED FOR A FEDERAL NONPROFIT CORPORATION TO PURCHASE ALL THIS NATION'S IMPORTED PETROLEUM REQUIREMENTS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. ROSENTHAL. Mr. Speaker, as each oil producing nation moves to further nationalization of their oil operations by direct sale of oil and its byproducts, the need for a Federal nonprofit corporation to purchase all of this Nation's imported oil becomes enhanced. H.R. 3604 is such a necessary vehicle.

Accordingly, I wish to draw my colleagues' attention to the following news excerpt based on a June 19 statement by Venezuelan Energy and Mines Minister Humberto Calderon Berti where he stated Venezuela is moving to nationalize sales of its crude oil and oil products through direct sales which obviously will affect present transportation and marketing methods of marketing Venezuelan crude in this country.

STATEMENT BY HUMBERTO CALDERON BERTI

Venezuela is preparing to make its oil nationalization more complete by developing its own technology, increasing its direct oil sales to foreign customers and continuing exploration and other programs designed to insure medium and long range expansion, said Energy and Mines Minister Humberto Calderon Berti to an assembly of Association of Chambers of Commerce and Industry [Fedecamaras] in Porlamar.

Calderon Berti was the first speaker from the government sector at an oil forum held today in which Julio Cesar Arreaza, vice president of Petroleos de Venezuela, and other oil industry leaders, as well as the presidents of the operating companies of Lagoven, Maraven, Meneven, Corpoven and the Venezuelan Technological Oil Institute are participating. On this first working day of the annual Fedecamaras conference, Calderon Berti presented the basic outlines of Venezuela's oil policy for the next 5 years of the present administration. In referring to the deepening of nationalization as the fundamental aspect of the oil policy, Calderon Berti said that it will be based on two essential points, which are increasing Venezuela's own technology through the development of intense and varied research in different centers of the country and through the direct sale of oil and its by-products by the national oil enterprise, which will be assumed in an increasing and constant manner.●

LETTER BY HUD SECRETARY HARRIS

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. HILLIS. Mr. Speaker, on June 21, when the House had the HUD/independent agencies appropriation bill under consideration, I took the floor to outline a regrettable situation in which I was unable to receive a response from HUD concerning a contractor in my district who I thought should be investigated. As outlined in my June 21 statement, HUD had consistently refused to respond in an adequate manner to my persistent inquiries.

I have today received a letter from Secretary Harris outlining HUD's determinations to date concerning my request for an investigation. I understand that since my June 21 statement, Secretary Harris has become personally involved in this matter and for that I thank her. Since I had brought this matter to the attention of the House I feel it only proper that I share Secertary Harris' letter with my colleagues and am, therefore, inserting it in the RECORD at this point.

THE SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C.

Hon. ELWOOD HILLIS,
House of Representatives,
Washington, D.C.

DEAR MR. HILLIS: I have reviewed a copy of your statement made on the floor of the U.S. House of Representatives June 21, 1979. I agree with you that HUD's response to your inquiries concerning Mr. Richard B. McCool Sr. has been inadequate. It is my intent that the Department respond to all Congressional and public inquiries on a timely basis, and while that was not done in this case, I assure you that I have taken appropriate steps to minimize the possibility of it happening again.

With respect to the concerns which you have raised regarding HUD's review of the previous activities of individuals seeking HUD assistance, I would like to describe briefly HUD's procedures.

A previous participation clearance procedure must be completed before any project proposal is approved. This involves a review of all HUD applicants for multifamily mortgage insurance programs and is conducted by HUD headquarters personnel. When a firm or an individual applies to participate as an owner, general contractor, management agent or consultant, the applicant must execute a Form 2530 Certificate which discloses each HUD project in which the applicant has previously been or is presently involved in, and whether such projects are experiencing any default under the mortgage. This Form 2530, which is certified by the applicant, is given a preliminary review by a field office, and is then forwarded to headquarters together with any applicable comments. The files for each project listed on the Form 2530 Certificate are reviewed by headquarters staff and a determination is made as to whether there are any unresolved problems. The items reviewed include:

(1) Mortgage defaults, assignments or foreclosures;

(2) Office of Inspector General audit and investigative reports;

(3) Management deficiencies in existing projects;

(4) Construction problems, including delays;

(5) Improper financial reporting;

(6) Violation of the HUD Regulatory Agreement; and

(7) Failure to follow HUD instructions or procedures.

Should any one of the above problems be found, the case is referred to the Multifamily Participation Review Committee for a decision as to its approvability. Any decision to deny approval must be based upon evidence that the problems were within the control of the applicant. An administrative hearing is offered to those whose approval is withheld.

This process is conducted in addition to the mortgage credit and underwriting review conducted by a field office to determine whether the principal has the financial resources to complete and/or operate the project being proposed.

Your specific inquiries are related to Mr. Richard B. McCool, Sr., who has participated in HUD multifamily projects in Indiana and Kentucky. Mr. McCool is building three projects in Kentucky and two in Indiana. Both projects in Indiana have been completed to the Department's satisfaction albeit in a less than timely manner. However, on June 27, the Department was informed that Mr. McCool is in technical default of the mortgage held on Kokomo Manor in Indiana.

Of the three HUD projects under construction in Kentucky none are presently complete. Two are more than 90% complete; the third is 64% complete. On none of Mr. McCool's projects, in Kentucky has there been a default in the mortgage. However, HUD's Louisville Area Office has serious concerns with Mr. McCool's ability to complete the projects in Kentucky as well as his financial capability to carry additional work at this time.

In the past year Mr. McCool has not been approved to participate in any new HUD projects. In June 1978, the Indianapolis Area Office sought and secured Mr. McCool's withdrawal from a project which had a conditional commitment. This was done as a result of the Area Office determination that Mr. McCool was financially overextended at that time. Several weeks later, HUD's Louisville Area Office disapproved a project proposal from Mr. McCool for similar reasons.

The Multifamily Participation Review Committee will not issue any 2530 clearance on Mr. McCool until the Louisville Area Office indicates that he has completed the projects he is already constructing to the Area Office's satisfaction. Should Mr. McCool submit any further housing project proposals to HUD, the 2530 clearance review in Washington will take into account his performance on the present Kentucky and Indiana projects and in particular the technical default on Kokomo Manor. This is consistent with the aforementioned review criteria. In the event that a formal disapproval would be issued, Mr. McCool would have available the hearing process previously mentioned.

Within the 2530 review process to date, there has been no evidence of fraudulent activity on the part of Mr. McCool. If you are aware of specific activity which Mr. McCool may have undertaken in an attempt to defraud HUD, please forward the relevant information to me and I will instruct Inspector General Charles Dempsey to investigate it fully.

Assistant Secretary for Legislation and Intergovernmental Relations, William B. Welsh and his staff are responsible for ensuring that your concerns are handled promptly and accurately. If you have any further questions, please contact his office directly.

Sincerely yours,

PATRICIA ROBERTS HARRIS.●

RITTER QUESTIONS CARTER NOMINEE TO MOSCOW AMBASSADORSHIP

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. RITTER. Mr. Speaker, the appointment by President Carter of Thomas J. Watson, Jr., as our next Ambassador to the Soviet Union strikes me as an error of significant consequence.

Without intending any adverse reflection on the outstanding record and capabilities of former IBM chairman, Mr. Thomas Watson, I nevertheless feel that at this dramatic turning point in the delicate history of U.S.-Soviet relations, the role of the American Ambassador in Moscow is more important than ever.

The immediate agenda of Soviet-American relations is the SALT II Treaty. All parties are concerned over the deteriorating health of Chairman Brezhnev. A priority question is who among the powerful Soviet hierarchy will replace Brezhnev in the event of his being incapacitated or his death.

The issues of loosening of restrictions on immigration and communication pursuant to the Helsinki accords, the questions of the Jackson-Vanik restrictions on credits and whether to increase U.S. trade with the Soviet Union also are imminent and are of potentially long-term worldwide consequence.

Also of importance is the changing nature of the Soviet relationship with the Eastern European nations. Great historical forces are at work creating upheavals among the Soviet Union's large ethnic minorities and nationality groupings as well as in Christian Eastern Europe.

While Mr. Watson would certainly hold a strong suit in the business side of trade with the Soviets, we must ask ourselves whether this is the dominant overshadowing issue in current U.S.-U.S.S.R. affairs. I personally believe it is not.

In addition, wars raging in Africa with Soviet-Cuban cooperation are like brush fires which could burn with far greater intensity. The Soviet Union is the prime destabilizing factor in the Middle East.

Through my own personal experience, living in the U.S.S.R., I can attest to the hard-bargaining toughness employed by the Soviets in dealing with foreigners. Our Ambassador in Moscow cannot be too expert in the Russian language, or be too familiar with the various tactics, strategies, and negotiating patterns employed in Moscow as part of the Russian version of the Marxist-Leninist approach to international issues.

At this time when our complex relations with the Soviet Union are being stretched to the near-breaking point by aggressive and irresponsible Soviet actions around the globe, the United States needs its very best representation in Moscow.

Former Ambassadors Charles Bohlen and George Kennan were among the many distinguished Soviet affairs experts who trained for decades before assuming the role of U.S. Ambassador to Moscow. Our next envoy, replacing retiring Ambassador Toon this summer, must be equally prepared considering the critical importance America gives to this key post in the Soviet Union.

I urge the President, and the U.S. Senate, which must examine the credentials of Mr. Watson prior to confirming the nomination to the Moscow post, to carefully consider whether this particular nomination is in the United States' best interests at this precise time in the long, arduous history of American-Soviet relations.●

CLEAN AIR ACT DEADLINES

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. WATKINS. Mr. Speaker, on July 1, just 2 days from now, the economic future of our States will be plunged into limbo. That is the date each State must have an approved State implementation plan (SIP) to carry out the mandates of the Clean Air Act Amendments of 1977. Only 20 States have submitted complete SIP's to the Environmental Protection Agency, but not one SIP will be approved by July 1.

The following material indicates each State's status in obtaining EPA approval of its SIP:

STATES WITH APPROVED SIP'S

None.

STATES WITH COMPLETE SIP'S SUBMITTED AND AWAITING EPA APPROVAL

Arkansas, Colorado, Delaware, Georgia, Louisiana, Maine, Maryland, Mississippi, Montana, Nevada, New Hampshire, New Mexico, North Carolina, Oklahoma, South Carolina, South Dakota, Texas, Vermont, Virginia, Wyoming.

STATES WHICH HAVE SUBMITTED PARTIAL SIP'S

Alabama, Arizona, District of Columbia, Florida, Massachusetts, Michigan, Minnesota, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Utah, Washington, Wisconsin, Wyoming.

STATES WHICH HAVE NOT SUBMITTED SIP'S*

Alabama, California, Connecticut, Guam, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Missouri, Nebraska, Ohio, Oregon, Puerto Rico, West Virginia.

(No SIP is required for North Dakota, Virgin Islands, Hawaii, American Samoa and the Northern Mariana Islands.)

The Clean Air Act Amendments provide that the following sanctions can be imposed against states which fail to have approved SIP's in place by July 1. (1) a ban on construction permits for any new major emitting sources in a nonattainment area (which includes every major metropolitan area with the exception of Spokane, WA, and Honolulu, HA), (2) a cut-off of most federal highway funds, and (3) a cut-off of wastewater treatment facility grants.

To its credit, EPA has pledged to go a long way—perhaps too far—in avoiding these sanctions. The agency says it will issue conditional SIP approvals (but still several months after the July 1 deadline), approve construction permits providing construction does not begin until after the state's SIP is approved, and it will not invoke sanctions against any state which is making a "good faith" effort to submit its SIP. Even with all these caveats, EPA admits it will have to impose sanctions against some states in October.

I'm afraid EPA is bending the law so far it's going to break. The agency has left itself wide open for a lawsuit by any environmental group. Imagine what would happen in your Congressional district if an injunction were filed forcing EPA to cut off wastewater facilities grants, highway funds and construction permits! EPA, in its good intentions, may be leading us down the primrose path!

My bill, H.R. 1150, would protect the states from bearing the economic brunt of such a lawsuit. It simply extends the July 1 deadline for approval by one year, giving both EPA and the states adequate time to devise, approve and implement the SIP's.

The bill was referred to the Subcommittee on Health and Environment of the Interstate and Foreign Commerce Committee in January, but still no hearing date has been set. It is time for the Congress to face up to what could be an impending disaster.

Consequently, I have reserved one hour of time on special order for Tuesday, July 10, to address this issue. I urge the 125 House co-sponsors and the rest of my colleagues to join me in this discussion of the issues.

If you would like to speak about H.R. 1150 and the Clean Air Act Amendments during this special order, please contact my staff assistant, Ted Coombes, at extension 5-4565. The economic future of your state may depend on it.●

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*As of June 19, 1979.

DECLARATION OF RIGHTS OF THE CHILD

HON. JIM LLOYD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. LLOYD. Mr. Speaker, the third grade students of Willow School in Rancho Cucamonga, Calif. are participating in the International Year of the Child and have written their own Declaration of Rights of the Child as an update to the 1959 United Nations declaration.

Their declaration reflects some of the new concerns on the minds of today's children. And certainly the thoughts of children are well worth heeding and recognizing during this International Year of the Child.

WILLOWS DECLARATION OF RIGHTS OF THE CHILD—1979

Each child should have the right:

To be listened to and heard;

To assist in choosing where and with whom they live as a family;

To a nice warm house and caring parents;

To enjoy all wildlife and a clean environment;

To accept responsibility for his or her own actions; and

To openly express emotion.●

THE CONFERENCE OF CALIFORNIA HISTORICAL SOCIETIES

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. CLAUSEN. Mr. Speaker, recently I was privileged to be the keynote speaker at the 25th annual meeting of The Conference of California Historical Societies in Sonoma, Calif. So that my colleagues and people across the Nation may become aware of the need to preserve history and the vital functions that the historical societies in California play in this and future generations, I am placing into the RECORD the remarks I made at the event, based on the in-depth historical research effort of my summer intern, Denis P. Edeline:

STATEMENT BY CONGRESSMAN CLAUSEN

Fabulous California! The origin of the melodious name is still something of a mystery, but about the time Columbus discovered America, a 15th century Portuguese fiction writer was having tremendous success with a Spanish romance story. In his work, the fictional "California" was an island kingdom. Close to the earthly paradise, abundant in precious metals and rare gems and was governed by Califia, a militant queen, who possessed as part of her military strength, a great number of griffins. Eventually, the land named for this myth became a seductive legend. Sunny climate, treasure-laden streams, and the tinsel glory of Hollywood made the real California a place that stirred the imagination and beckoned restless souls with the promise of a better life. The major theme of California history has been the arrival of people—endless waves—and the swift conversion of an empty, isolated country into one of the great centers of civilization.

Though the settlement of California began in 1769, the history of the State began with the activities of Fernando Cortez, the conqueror of Mexico. His first exploring expedition in 1532 ended disastrously with the loss of all on board. In the second expedition the next year, lower California was discovered, but most of the explorers were slain by Indians. The long peninsula was then thought to be an island.

At this time it was commonly believed in Europe that there was a northwest passage from the Atlantic to the Pacific Ocean, as the width of North America was never suspected. This mythical passage was known as the "Strait of Anian" and was sought by the explorers of all the European Nations holding interests in the New World, as its discovery would give a tremendous advantage to the country making it. Most of the explorations made were inspired by the hope of finding this route. In 1542, Cabrillo sailed with two ships from New Spain—now Mexico—and discovered San Diego Bay. He reached Catalina Island, San Pedro Bay, Santa Monica, Ventura and Point Conception. He cruised along the coast to Fort Ross without seeing the Bays of Monterey, San Francisco or Drake's.

In November he discovered Drake's Bay, becoming the first in European history to visit the shores of Upper California.

The most famous visitor of the Sixteenth century was Sir Francis Drake, who in 1579 spent about a month on the California coast before continuing his historic voyage around the world.

By the closing years of the Eighteenth century, Spanish California was firmly established. The population in 1800 included more than 1,000 missionaries, soldiers, settlers, wives, and children, together with some 13,000 Indians. The first California code of laws, contained in 17 paragraphs, was written in 1773. It encouraged immigration by providing for the transportation of settlers from Mexico with the promise of free rations for five years and a sailor's wage for two years. For some 60 years the Catholic mission remained the dominant institution in California life.

California became a province of Mexico in 1822, after Mexico won its independence from Spain. The province set up its own legislature and established a military force. The Californians rebelled against having their affairs dictated by these outsiders, and in 1846, the United States and Mexico went to war. Without knowing that war had been declared, a band of American settlers took over Mexico's headquarters in Northern California, at Sonoma. After capturing the Fort, the settlers unfurled a homemade flag bearing a single star, a Grizzly Bear, and the words "California Republic." After the United States won the Mexican War in 1848, Mexico surrendered its claim to California, which then became part of the United States.

California became the 31st State in 1850. Thousands of settlers went west after the Civil War and the first transcontinental railroad system linked Sacramento with the eastern United States in 1869. During the 1880's, a great publicity campaign brought thousands of persons to California. So many came to southern California in 1877 that a land boom occurred, agriculture and industry flourished as the population increased.

During the early 1900's, California grew rapidly in population and in the development of natural resources. Farming increased greatly after irrigation turned many desert areas into fertile land. Development of oil and natural gas was accompanied by the growth of new industries. Other minerals besides gold were found, and mining became more important. By 1910, Hollywood had become the motion-picture capital of the world. After the United States entered World War I in 1917, shipyards, rubber plants, and other factories were established in California.

Present day California is still making history in actions that are becoming history—Proposition 13—the taxpayers' revolt; clean air standards—one year ahead of the nation; and a leader in strong local government. Carrying the torch in modern history, California has 10 percent of our country's population, is a trend setter for many national issues and is still the land of opportunity and leadership. California is where skateboards and hula-hoops originated, if we do something there's a good chance the rest of the country will follow.

California is indeed at a turning point in modern history, because of the golden image of our past. To preserve history is to preserve the future. I'm reminded of what an ancient philosopher once said: "Those who forget the bitter lessons of the past are destined to relive them."

I'd like to take this opportunity to commend all of you historians for taking such an active interest in the history of our area, but more importantly for your personal commitment to the preservation of history.

By thorough and painstaking research, and by establishing facts while debunking myths you lend credibility to our history and make our heritage and culture more meaningful to our residents. This research makes people proud of their area and instills in them a desire to become more involved in their community.

Thus, in a sense, you historians are at least partially responsible for what I believe is the most significant political development of the seventies—that is a vigorous movement on the part of people to regain control of their governments. And, as in so many other fields, we Californians are in the forefront of the movement.

The history of California is literally a microcosm of the history of America. Nearly every generation of families is the son or daughter of someone who came from somewhere else. California is the end product of the migration pattern that started years ago—when they said, "Go west Young Man." The Europeans came west to America, the Americans came west to California.

People of California have a proud heritage, built on a heritage of freedom:

Freedom of movement;

Freedom to speak;

Freedom to congregate in a church or synagogue of their choice; and

Freedom to experiment in the development of ideas and ideals.

Functioning Democracy at its best is nothing more than a continuing experiment in the Government Process. If we experiment at the national level, failure can be chaotic and costly. Experimentation should take place within each political subdivision of the entire Federal System.

Our communities, our institutions, our homes and our neighbors are only as good as people make them.

People make the difference. As Will Rogers used to say "You can't milk a cow thru the mail." Everyone must become involved. All the people in this organization have made the difference—in the shaping of Sonoma's and California's history.

We've got doers and talkers. We've got producers and parasites. We've got do-gooders and do-nothings. It's the do-nothings I'm concerned about. We've got people who are so lazy their feet hurt before they get out of bed. I know a fellow who swallowed a teaspoon as a youngster—and hasn't stirred since. He's so lazy he can fall asleep while running for a bus.

The American Revolution of the 1700's was the first of many revolutions in our history. We have also gone through the Agriculture Revolution; the Industrial Revolution and the Technology Revolution. The Knowledge Revolution is now under way and we're utilizing our great communication and transportation systems to disperse the knowledge we've gained.

California's economic and social progress indeed, the environment for future living has been built on the fruits of agriculture and industrial production. California's advancing technology teams have contributed immeasurably to America's defense.

We are at a unique point in America's history. Some say we are at the crossroads of world history. We have the power and technology to destroy the world. We also have the power and technology to build a better world. We have the knowledge that can be shared with the people of the world, and the technological capability to disperse that knowledge. But, its going to take people to implement that effort. A dedicated, dynamic and determined people, patterned after the people attendiing this Historical Society Conference.

This is the challenge to the young people of this generation. We have the tools of technology and we have the knowledge. All we need is the commitment.

Our international purpose will be judged by our domestic performance. The eyes of the world are on America and its People. They're asking the question, "Which Way America?" I say, "Take a page out of California's great history." This has been an experiment in functioning democracy within a republican form of government that has really stood the test of time. I say, "Let's put Freedom on the Move." We are the leaders of the Free World. We are the leading advocates of a free and open society. Let's demonstrate to the developing countries of the world that freedom and free institution building is the "wave of the future."

Which way America? I say, domestically we need decentralization—let's return the rights, responsibilities and revenues back to the people. Let's develop a new sense of dynamism in democracy thru decentralization. Let's revitalize our Federal system. Let's disperse the power away from Washington and back to the people.

Internationally, let's move toward a free institution merger between the developed and developing countries of the world. Resource interdependence factors require it. The survival of this nation, and its people demands it.

In closing I leave you with a thought. "Liberty is always dangerous, but it is the safest thing we have." Thank you for the privilege of sharing these thoughts with you.●

H.R. 3604—PURCHASING PETROLEUM THROUGH SEALED BIDS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. ROSENTHAL. Mr. Speaker, to state that this Nation has energy problems is to state an obvious. To state that OPEC is a root cause is also obvious. To state that U.S. multinational companies and the Department of Energy are also basic causes is also becoming more obvious.

At the Commerce, Consumer and Monetary Affairs Subcommittee's hearings June 11, Mr. Dougherty of the Federal Trade Commission testified that current gasoline shortages could not be explained by crude shortages. This judgment agreed with the findings and conclusions of a study independently arrived at by the subcommittee staff. Following the hearings on June 14, Secretary of Energy Schlesinger admitted that we had more than adequate crude oil inventory stock and that he would undertake to use the Department of Energy's allocation authority to urge recalcitrant refiners in the direction of serving the consuming public. He pointed out that "prudent" company management was not in such instances consistent with the national interest.

On Thursday, June 21, Secretary Schlesinger reversed his stand, expressing fear that the U.S.-multinational oil companies might retaliate by withholding crude oil from the United States. It is most difficult to believe the fears he expressed could be real. The American market for imported oil is the world's largest. Every oil producing country needs dollars and wants to trade with only the possible exceptions of Saudi Arabia, Kuwait, and the United Arab Emirates. There is little doubt that each producing ket. A refusal to supply the U.S. market is not a real option for the multinational oil companies. Thus, it becomes obvious country wants its share of the U.S. mar- that much of the blame for current gasoline shortages must also be ascribed to deliberate actions by the oil companies and the Department of Energy.

This "blackmail" threat by the U.S. multinational oil companies to ship crude oil to Europe instead of the United States calls for a vigorous response by this Nation. It is for such a reason that I have introduced H.R. 3604 with Representatives JOHN CONYERS and CHARLES ROSE. This bill would create a Federal, nonprofit corporation which would be the sole purchasing agent of all U.S. imported petroleum and petroleum products through the use of sealed competitive bids. We can no longer play by OPEC and the multinational oil companies rules where they are free to drive up the price of oil at will and artificially through threat and dislocation create shortages. We must assume this responsibility since the Department of Energy possesses this authority it will not exercise it. "Prudent" management by the multinational oil companies is to make profits and maintain their interrelationships with the OPEC countries. Only by forcing the oil producing countries to bid against each other for a piece of our market do we have a chance of breaking the price spiral and the monopoly control of marketing. Accordingly, I urge my colleagues to join me in moving H.R. 3604 to reality and operation.●

JOHN DAY

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to bring to the attention of my distinguished colleagues the civic contributions of a young Ohioan on the occasion of his receiving the Eagle Scout Award.

John Day is a great asset to his church and community. He has been active for many years in his church and was honored with Scouting's God and Country Award in 1977. He is an officer in his Methodist Youth Fellowship organization. He has been active in other programs including little league baseball and high school dramatics. In 1977, the Toronto Junior Civic Club honored him with its Good Citizen Award.

On July 7, 1979, John Day will become an Eagle Scout. As an Eagle Scout he joins a small number of Americans who have received this honor for their initiative and dedication to public service. Since its inception in 1913, 1,000,000 of the 65,000,000 Boy Scouts of America have received the Eagle Scout Award, including former President Gerald Ford and astronaut Neil Armstrong. Many Eagle Scouts have advanced to careers of public service including some of my colleagues in the Congress.

It is a privilege to acknowledge the civic contributions of such a fine young man, and thank him on behalf of those I represent in the 18th District of Ohio. We look forward to many years with John Day as our friend and a good citizen.●

PRODUCTIVITY IMPROVEMENT WAITING FOR THE INVISIBLE HAND

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. CORCORAN. Mr. Speaker, productivity improvement is essential if the United States is to recover from the economic uncertainty which exists today. Increases in wages and prices can only lead to increased inflation unless there are corresponding increases in productivity. While the major concern about the effects of productivity stagnation is with respect to the private sector, the public sector, too, offers opportunities for productivity improvement. With this in mind, on March 8, I introduced H.R. 2735, the Intergovernmental Productivity Improvement Act of 1979. The Senate companion bill, S. 1155, was introduced on May 15 by Senator PERCY. This legislation would encourage State and local government productivity improvement through expanded Intergovernmental Personnel Act authority.

A most perceptive paper on the importance of productivity improvement and what can be done about it now, has recently been brought to my attention. Written by Terence G. Jackson, Jr., the director of the Productivity Study Center here in Washington, the paper recites all of the relevant statistics regarding productivity in the United States and other countries. More importantly, however, this paper lists several ways in which productivity at the plant level could be improved in the United States with little Government involvement or cost.

Mr. Speaker, for the benefit of my colleagues, I submit for the RECORD the text of the paper written by Terence G. Jackson, Jr., director of the Productivity Study Center:

PRODUCTIVITY IMPROVEMENT: WAITING FOR THE INVISIBLE HAND

For more than a decade the parade of popular economic issues has slowly begun to include some mention of the productivity performance of the United States. Treatments of the subject in the daily press have grown from obscure references in the financial section to prominent mention on the editorial page. Business Week, Fortune, and Forbes feel obliged to devote at least one special treatment to it each year. The coverage must usually begin (as must this article) with reference to the numbers published by the Bureau of Labor Statistics.

In the period of 1960–1976, Denmark and Belgium led Western Europe with an average annual increase of 6.8 percent improvement in output per employee-hour followed closely by West Germany with annual improvements of 5.9 percent. Japan led the industrial world with improvements of 8.9 percent each year while the United States trailed with 2.9 percent. Rates below 2 percent are now projected for us in the future.

It is important to say at the outset that output per employee-hour is a statistical shorthand for expressing the productivity performance of an economy. Actually, behind every hour of work there is a supportive mix of technology, capital, and people at all levels of the enterprise, operating in an environment of government regulation in a more or less free market. To avoid the comfortable notion that labor is at fault, the contribution of "employee" in the output per hour measurement must be understood to include everyone involved in management, staff support, production and distribution.

Comparative international statistics are important warning signals for the economy, but it does not follow that extended interrogation of the economists and statisticians who prepared the numbers will help us to resolve the problem. That is what the rest of this article is about.

BARRIERS TO PRODUCTIVITY IMPROVEMENT

It now appears that all aspiring and practicing economic policy makers must accompany suggested fiscal, monetary and other correctives for our economy with a ritual mention of the need for productivity improvement. This is both gratifying and frustrating for those persons throughout the nation who have been concerned with the issue for over a decade. Gratification stems from the dawning recognition that productivity improvement is a vital part of the economic problem.

Frustration occurs when reasons for poor performance are reviewed in formal hearings. The first step is to cite the melancholy statistics, as we have just done and conclude, once again, that for the past decade performance improvement in the United States lags behind most of the industrial nations of the world. After the numbers have been recited, the witnesses are asked to account for them. From this point the discussion strays into deceptively attractive byways.

At the moment, a popular diversion is to cite the stifling effects of government regulation. This very real problem can easily be converted into an exercise that provides the research community with professionally gratifying opportunities to appear before the Congress and to have a paper entered into the Record. Unembarrassed by the absence of data, wildly varying dollar impacts are enthusiastically debated. Lost in this noise is the question of how West Germany and Swedish businessmen manage to outpace us in regulatory environments at least as onerous as our own.

In the early 1970's, no public discussion could afford to ignore "The Decline of the Work Ethic" and the subject is still popular today. Once again, since there is neither definition nor data, this one is fun to debate without the risk of indicated action. Behavioral scientists and pollsters have responded with a secular version of this spiritual topic in the attractive but undefined notion of low or high "job satisfaction" which is widely measured, reported upon and deplored.

An old favorite in accounting for the performance of the economy is to point to the low productivity of the Federal, State, and local governments. At any given time, there are enough examples of low performance to provide critics of this undefended target with a sense of civic virtue and at the same time help us to ignore the private sector where profits and wages are earned and taxes generated. It should be noted that the low productivity statistics that start these discussions were derived from the private and not the public sector.

A permanent topic on the productivity performance agenda is the unsupported assertion that we are not spending enough money for research and development. In a world where the contributions of science may be learned for the price of a journal subscription and technology is broadly available through purchase, license or theft, we must reflect that our most effective competitors spend far less on R. & D. that we do. Their most successful products often represent science and technology that has been available for years.

GOVERNMENT RESPONSE

In the last year, the tone of these and other harmless fingerpointing diversions has changed for the worse. There are now signs that the government has joined its professional, academic, and business advisors and concluded that we simply will have to learn to adjust to our position at the end of the line.

Government officials, when pressured by the Congress, are quick to agree that productivity improvement has been the source of growth in the past and is vital to our economic future. Having subscribed to this bold proposition, there appears to be a curious reluctance to take the next step and actively promote policies and practices that will improve productivity. As an example, the outgoing Director of the Council on Wage and Price Stability, Barry Bosworth, viewed the situation with alarm before the Joint Economic Committee of the Congress last July saying that, "We just don't have an explanation of why productivity in this country has been so slow in this last decade."

At the same meeting, Senator Javits is reported to have patiently asked, as he has for years, that the Administration embark on a nationwide campaign to stimulate productivity, to which Bosworth replied that, "It (the Administration) wouldn't know how to advise workers to be more productive."

CONGRESSIONAL INTEREST

This exchange was not the first nor will it be the last example of Congressional persistence, and one must guess frustration, in trying to persuade the executive department and the nation at large to get on with the business of productivity improvement. Senators Jacob Javits, Sam Nunn, Gaylord Nelson, Charles Percy, and a small devoted group of other legislators have been trying to stimulate action on this topic for years. Legislation has been proposed and passed to encourage labor-management councils, provide special manpower training to offset plant layoffs, and generous funding has been provided to Federal agencies for the stimulation of research, development, technological innovation and the improvement of productivity in general. The Congress has provided support for a presidential Commission on Productivity and later for a small Federal agency devoted to the improvement of "Productivity and the Quality of Working Life" which has recently been abolished.

PUBLIC INTEREST

In addition to the efforts of the Congress, we have been treated to frequent pronouncements from distinguished private citizens and prominent officials in several administrations. In 1971, the then Secretary of Labor, George Shultz, issues a "National Policy Statement on Productivity." In the following year, Secretary of Commerce Peter Peterson called for a "National Crusade for Productivity." The latest word from the private sector was a plea for a "National Alliance for Productivity" delivered in November of 1978 by Mr. David Rockefeller.

Somber reports on productivity performance now appear on an almost daily basis in the public press. In one of the latest of these, Joseph Kraft, writing in the Washington Post of January 28, 1979, tells us that, "The bad news of the future was delivered most authoritatively in the Annual Economic Report. One of the highlights—or as Charles Schultz, Chairman of the Council of Economic Advisors, calls it, "lowlights"—of the document was a report on productivity, which measures output per hour of work."

For many citizens the real "lowlight" of the Annual Economic Report is not in the performance record but in the quotation that follows the numbers. "The reasons for the weakening of productivity growth in our country, especially its poor performance last year, are complex and not fully understood." The topic is closed with the warning that, "If we ignore the realities of slower productivity growth—if the governments continue to press forward with unabated claims on our resources and private citizens continue to demand large gains in money incomes, our inflatory problems will worsen."

For most Americans, and for our international trading partners, who watch us with deepening alarm, acceptance of "The realities of slower productivity growth," is an invitation to disaster. Rates of productivity growth in the United States must be roughly comparable to the other industrial nations of the world if divisive and destructive protectionism is to be avoided. Because of the immense scale of their economy, Americans cannot afford to accept "the reality of slower productivity growth," without threatening their own economic well-being and that of other nations as well.

ACTIONS CAN BE TAKEN NOW

Over the last decade, congressional inquiries and executive department responses have been overwhelmingly concerned with questions of measurement and analysis. In counseling acceptance of slower productivity growth, the President is faithfully reflecting the research problems of professional economists which he receives disguised as "advice." It must be said that in the context of professional economic research, the reasons for the weakening of productivity growth are complex and not fully understood and, like many problems in what is called science, will remain so for the indefinite future. Economists in Belgium, Denmark, West Germany, and Japan are equally baffled but their state of mind somehow does not become public policy. While our nation and its government await that full understanding, we might profitably consider some less complex and better understood facts:

Productivity measurement is practiced at the level of the plant and firm by many U.S. companies of all sizes with sufficient precision to identify gains in output per employee-hour that are equal or superior to any in the world. How-to-do-it information on productivity auditing techniques is broadly available.

Participative management and productivity gains-sharing incentive plans have been functioning for years to provide highly motivated and handsomely paid workers in scores of U.S. companies that are among the most productive in the world. The number of such plants has more than doubled in the last decade. Details on the installation and operation of such democratizing industrial practices are broadly available.

As predicted by Phillip Murray a generation ago, hundreds of plant and company-based labor-management councils in the U.S. are organized and functioning to provide a collaborative counterbalance to the traditional adversary relationship. Far from weakening collective bargaining, such councils make the adversary proceedings more effective.

Computer aided manufacturing technology is available and in limited use in the United States that will yield 300 to 400 percent improvements in output for batch parts manufacturing. The original foreign licensees of such U.S. equipments are aggressively making their own improvements and have recently shown a declining interest in our own machine tool products.

The rapid replacement and modernization of capital plant in the leading industrial nations is accomplished by public and private fiscal and other policies that are freely available for use by American industry and government.

The national labor forces that have led the world in rates of productivity growth are characterized by broad and continuing manpower training programs in which the national stock of human skills and individual employment security and mobility are continuously improved. The expense of these advanced public and private programs is recognized not as a cost to be borne but as an investment in human as well as economic growth.

Flexible Working Hours, a West German innovation, has dramatically altered the climate of the workplace in a growing number of U.S. companies.

Japanese quality assurance practices in which specially trained workgroups in a plant meet to resolve customer complaints and defects in manufacture have been successfully imported by scores of U.S. firms determined to improve the quality of their products. In Japan, management has released the energies of 6 million persons in its well educated work force by the use of these quality control circles.

This is only a small sample of the kinds of actions on productivity improvement that can be searched out and applied by the diligent. Most of them are in the public domain. The most successful firms are generally enlightened enough to realize that productivity improvements cannot be hoarded like proprietary chemical formulae. Many of them have volunteered to tell the Congress, or whoever will listen, just how they have succeeded.

While some productivity improvements are the products of deliberate research, the overwhelming majority are made by firms and individuals who are alert to the need for the continuous adoption of best practice from whatever source. In this sense, productivity improvement represents a state of mind that is supposed to characterize capitalism.

All of the productive innovations at the level of the plant and the firm can be adopted and successfully employed without reference to the economists and statisticians who prepare or debate about our national performance numbers. Much of the material is available through colleges, universities, and consultant firms. Some of the most useful information can be obtained from the 20 productivity centers that now exist throughout the nation. These independent organizations were stimulated by the now disbanded national Center for Productiivty and Quality of Working Life.

PRODUCTIVITY MUST IMPROVE

Productivity in the United States must and can grow. The process will necessarily be long. As Americans, we should remember that our Bicentennial, which we celebrated in the year of 1976, actually represented a process that took 13 years from the Revolution to the adoption of the Constitution and the Bill of Rights. The process will be prolonged, but we have no choice. It will cost too much not to try.

Until about a decade ago, U.S. productivity growth had averaged 3.1 percent since 1950. A one-tenth of one percent increase in output per employee hour would have translated into about a billion in gross national product in 1971. If productivity had been increased to an average of 3.2 percent over the decade of the 70's (as it has not) and if the gains were used to provide more goods and services, we might have registered some 60 billions of 1970 dollars in additional gross national product.

Without that full understanding of the complexities of productivity, growth at the national level called for in the Economic Report, progress is being made. Millions of workers, supervisors, managers and government officials in West Germany, Japan and elsewhere have produced substantial and sustained rates of performance and quality improvement. We can no longer explain this by freedom from regulation, low wages, sharp practice, subsidies, or Marshall Plan aid rendered 30 years ago. The invisible hand that some of us look to for help is actually our own and we are sitting on it.●

POLITICIZING AMERICAN EDUCATION

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. ERLENBORN. Mr. Speaker, one of the primary reasons why a Department of Education should not be created is its potential for politicizing education in America.

During hearings before the Government Operations Committee on H.R. 2444, the bill now before us to create a Department of Education, Senator Daniel Patrick Moynihan made some serious charges on this subject. He testified:

> Why are we (being asked to pass this bill) at all? The answer is this, and is a painful one to present: It is being done for political purposes. It is being done, Mr. Chairman, to win the next election. That I think to be not simply unworthy as an exercise at one of the most solemn levels of American Government, which is the creation of a Cabinet department. . . .
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> We are now told we must have a Department of Education by 1980 for the implicit purpose of beefing up the precinct organization of the Democratic Party. As a Democrat I would be ashamed to ask a Republican to vote for this bill. It seems to me that anybody who believes in the two-party system should be ashamed to ask anyone else to vote for this bill.
>
> It may well be the Democratic candidates would benefit from it in the next election, but who will benefit in the election after that? In any case, can this possibly be a proper motive for the creation of a Cabinet department?

Many people scoff at the fear that creation of a Department of Education would politicize American education, and they scoffed at Senator Moynihan when he made these charges. But in the last 2 days, articles have appeared in three widely respected publications which give substantial credence to this judgment.

An article in the Chronicle of Higher Education discusses the debate among supporters of the Department over who would be the best candidate for the Nation's first Secretary of Education. The primary question in the debate, according to the Chronicle, is "Which would do more to help Mr. Carter's chances in the 1980 election—a woman or a man, a black, a white, or a Chicano?" The journal quotes Stanley J. McFarland, director of Government relations for the bill's major proponent, the National Education Association, as saying:

> The appointment will be based not only on the (candidate's) ability to run the department, but also on the political implications. President Carter is facing another election, and that has to be an important consideration here.

The Washington Post has reported on how the Carter administration is politicizing the present Office of Education in an effort to gain votes for creation of a Department. The Post states that the administration pressured its own nominee for the position of Acting Commissioner of Education to withdraw his name, because certain Members of Congress had said that they would vote against the Education Department bill if the man received the appointment. No charges whatsoever were made about the man's competence for the job.

The New York Times is outraged by the incident reported in the Post. In an editorial entitled "Education Disgraced," the Times labels Vice President Mondale's actions "shameless" and calls them "a new reason for opposing the Education Department." The editorial submits:

> Those who hurl such (absurd) charges (of racism) and those who appease them should never be entrusted with education or scholarship in any setting.

Mr. Speaker, one of the great strengths of American education has always been its freedom from partisan politics. I am deeply concerned that establishment of a Department of Education would mean forsaking that heritage. Politicizing education carries serious implications for the relative independence of local, nonpartisan school boards, and ultimately for the quality of our children's education. Are not our kids too important to be used as pawns in electoral politics?

The three articles I have referred to follow:

[From the Chronicle of Higher Education, June 25, 1979]

WHO WILL BE THE FIRST U.S. SECRETARY OF EDUCATION?

(By Lorenzo Middleton)

Washington.—As the House of Representatives continued debating the establishment of a separate, Cabinet-level Department of Education last week, the Carter Administration was just beginning its search for a Secretary for the proposed agency.

One White House sources said the Presidential personnel office had started "sending out feelers" in government and education circles for people who might be interested in the position.

"About a dozen names" have been gathered so far, the source said. Many more were expected to be added to the list by the time the education department becomes a reality.

Administration officials would not identify those under consideration. According to one White House staff member, the official search will not begin until Congress passes legislation to establish the department.

That could take time.

The bill to create the new department, H.R. 2444, was stalled on the House floor for the second time last week as the Representatives took up more pressing appropriations measures.

The lawmakers have debated the bill for nearly 30 hours, with opponents of the proposed department seeking to delay or kill the measure with numerous amendments.

PROGRAMS BARRED BY AMENDMENTS

The House recently approved an amendment by Rep. Harry A. Waxman, Democrat of California, that would block the transfer to the new department of scholarship, grant, and loan-guarantee programs for medical and nursing students.

Another amendment accepted by the House would block the transfer of Indian-education programs from the Department of the Interior.

Meanwhile, supporters of the proposed department have been debating what kind of person would be the best candidate for the nation's first Secretary of Education.

"The appointment," said Stanley J. McFarland, director of government relations for the National Education Association, "will be based not only on the [candidate's] ability to run the department, but also on the political implications. President Carter is facing another election, and that has to be an important consideration here."

JOB QUALIFICATIONS

The debate includes such questions as:

Which would do more to help Mr. Carter's chances in the 1980 election—a woman or a man, a black, a white, or a Chicano?

Should it be someone from within the Administration, or from among notable figures in education circles who could bring respectability and visibility to the new department?

Should the new Secretary have a strong orientation to higher education or to elementary and secondary schools?

Or should the post go to someone with a strong management background, even though he or she might have had little experience in education?

Here are some of the names that have come up frequently:

Mary F. Berry. Now Assistant Secretary for Education in the Department of Health, Education, and Welfare. Mrs. Berry avoids saying directly whether she would like to be Secretary, but one of her high-level staff members says: "She wants it very much, and we think she's in a good position to get it."

The staff member admitted, however, "I know that's contrary to what most people think. A lot of people at the White House are saying things like: 'It's not in the cards for her. She's not visible enough, and she isn't an asset.'"

Her supporters respond by saying she has the "solid" support of black organizations—among them the N.A.A.C.P. and the Urban League—as well as the tentative support of the National Education Association.

None of those groups have openly announced their choice.

Mrs. Berry's aide added: "What is the Administration going to do with her if she doesn't get it? What are they going to do with a black woman who currently occupies the highest education position in the country at a time when black unemployment is running rampant, and at a time when they have just cut back on the CETA [Comprehensive Employment Training Act] jobs that would have been helpful in employing a lot of the unemployed teenagers who are now on the streets, and at a time when black communities all over are taking a licking from the government?

"It was the black community that turned out for Carter so overwhelmingly in '76. They're going to have to reckon with the black community."

Before coming to H.E.W., Mrs. Berry was chancellor and professor of history and law at the University of Colorado at Boulder.

Jerry Apodaca. The former governor of New Mexico became known as an "education activist" during his four-year term that ended in 1978.

He was also "the first and possibly the only chicano who helped Carter in the [1976] campaign," said Pepe Barron, executive director El Congreso Nacional de Asuntos Colegiales, one of a number of Hispanic higher-education organizations supporting the department and Mr. Apodaca as its head.

Mr. Apodaca denied that he was "campaigning" for the post.

"A Cabinet position is not anything you run for or ask for," Mr. Apodaca said. "It is something you are asked to serve in."

While noting that he has not been asked, Mr. Apodaca said: "Should the opportunity ever present itself, it is something we would consider very seriously."

Wilson C. Riles. According to a spokesman, rumors that Mr. Riles, California's superintendent of public instruction, was being considered for a Cabinet position first began circulating when he met with President Carter just after the 1976 election.

Those rumors now have been revised with the debate over the proposed Department of Education, the spokesman for Mr. Riles said, "but I can assure you that he has not expressed an interest and has not been courted."

Harold Howe, II. A former U.S. Commissioner of Education who is now vice-president for education and research at the Ford Foundation, Mr. Howe said, "My name has been mentioned in jocular ways by different people, but I haven't spent any time suffering under that notion, and don't intend to unless it becomes a reality."

Mr. Howe suggested that Wilson Riles would be a strong political asset for the Administration. "Carter needs to get California, and Riles gets more votes in California than Jerry Brown," Mr. Howe said. "So if I were the President, I'd get Riles."

Terry Sanford. President of Duke University and former governor of North Carolina. Mr. Sanford is one of the few possible candidates who denies emphatically any interest in the job.

"I'd rather serve as vice-president of Duke than as vice-president of the United States, and I'd rather be unemployed than be the Secretary of Education," he has been quoted as saying.

Despite his feelings about the Cabinet position, he said in an interview, "I'm one of the relatively few university presidents who supported the department."

He has testified in Congress on behalf of the proposal and has headed a coalition of college and university presidents who have written open letters in its support.

Who does he think should be Secretary of Education?

"I hope it would be a person who understands that the strength of education lies in its diversity and not in expanding federal control over our local school systems," he said.

"If President Carter called and asked my opinion. I'd give him Bill Friday's name."

William C. Friday is president of the University of North Carolina system which is involved in a legal dispute with the Department of Health Education and Welfare. Mr. Friday has charged that H.E.W. in attempting to impose federal desegregation guidelines on the university system, has violated the state's sovereignty.

[From the Washington Post, June 27, 1979]

Education Office Nominee Blocked by Black Caucus

(By Spencer Rich)

The Congressional Black Caucus has blocked the appointment of a white man, Marshall Smith, as acting commissioner of education by threatening to oppose President Carter's proposed education department, sources said yesterday.

Members of the 17-member caucus, led by Rep. Parren J. Mitchell (D.-Md.), reportedly told the White House and aides to Vice President Mondale that Smith was unacceptable because a book he helped research had "racist overtones."

Caucus members reportedly told the White House later that if Smith received the appointment, they would vote against the education department bill when it comes up for a final vote in the House next month. The vote on the bill, one of Carter's last big government reorganization initiatives, is expected to be close.

A White House source said some Black Caucus members said they would try to have the group take a formal unified position against the bill.

Fearing the opposition of the caucus to Smith, White House and Mondale aides then pressed Smith to withdraw and Undersecretary of Health, Education, and Welfare Hale Champion to nullify the appointment. But Champion, arguing that Smith was not a racist, strongly resisted.

Smith, however, finally concluded that he should step down to avert conflict and withdrew his name Monday afternoon in a phone conversation with Champion. He will remain as assistant education commissioner for policy studies. He had been chosen for the acting commissioner slot about a week ago by HEW Secretary Joseph A. Califano, Jr., effective July 1.

Mary Berry, a black and assistant secretary of HEW for education, was named yesterday to fill the post of acting commissioner for 30 days.

Friends of Smith in the educational community scoffed at charges he may have racist ideas.

"He is no more a racist than the man in the moon," said David Breneman, a senior fellow at the Brookings Institution. "It's absolutely outrageous."

One White House official, a leader of those who urged both Smith and Champion to withdraw the appointment, declared yesterday that he does not believe Smith has racist ideas.

However, he said, after members of the Black Caucus had warned they had doubts about Smith and might vote in a block against the embattled education department bill, he urged Smith to withdraw.

Smith was one of the principal researchers on the 1972 Christopher Jencks book "Inequality," although the conclusions of the book are attributed solely to Jencks. That book held that "equalizing educational opportunity would do very little to make adults more equal," that "the long-term effects of segregation on individual students are quite small" and that "the characteristics of a school output depend largely on a single input—namely, the characteristics of the entering children."

Jencks said family background was the most important factor.

It was these conclusions that came under attack from Black Caucus members, although Jencks also concluded that "blacks . . . can and should be guaranteed the right to attend predominantly white schools."

Mitchell and Champion could not be reached for comment.

The commissioner's job became open because of the resignation of Ernest Boyer. It would have been an interim appointment until the new education department is approved by Congress.

[From the New York Times, June 28, 1979]

Education Disgraced

The charge of "racism" is rolling too easily off too many tongues these days. Those who find such reckless smears politically useful should think again; their cynicism brings us close to the point where genuine complaints against racial discrimination are being discounted by serious people. These smear tactics debase not only language but politics itself.

In a particularly sordid use of the epithet, some members of the Congressional black caucus caused the White House this week to withdraw the designation of Marshall Smith as Acting Commissioner of Education. The caucus members preferred Mary Berry, hoping that she would thus gain the inside track for Secretary of Education if Congress finally agrees to make it a separate Cabinet department. So they denounced Mr. Smith for having done research on a book with "racist overtones." And they warned Vice President Mondale that all blacks would vote against the Education Department if Mr. Smith received the interim appointment. Shamelessly, Mr. Mondale went to work, until Mr. Smith withdrew.

Leave aside the question of who should head the Government's education office. And note a new reason for opposing the Education Department. These tactics were cruel and the charges were absurd; the offending book, "Inequality" by Christopher Jencks, is a serious treatise that no responsible person would condemn as racist. Those who hurl such charges and those who appease them should never be entrusted with education or scholarship in any setting. And Mr. Smith deserves the apology of his Government. Even in the politics of education, individuals are still supposed to matter.●

THE CARRYOVER BASIS SIMPLIFICATION ACT OF 1979

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. FISHER. Mr. Speaker, today, I am introducing the Carryover Basis Simplification Act of 1979. It is designed to promote tax justice and equity by improving the administration of important income tax reforms of 1976 so that they can be implemented effectively at the end of this year.

In 1976, Congress adopted a Tax Reform Act which included substantial revisions in the sections concerning income, estate, and gift taxation, including the adoption of carryover basis.

Carryover basis is a rule which requires an heir who receives property to use the same basis as the decedent had, generally the cost of the asset to the decedent. Thus, upon subsequent sale of the property, the heir would be required to pay a tax on the capital gain.

The adoption of carryover basis was accompanied by substantial liberalization of other estate tax provisions. The basic exemption was increased from a $60,000 deduction to a tax credit equal to a deduction of approximately $175,000. The highest estate tax rates were cut substantially. In addition, liberalized rules were provided to permit estates in which a substantial portion of the assets were comprised of small businesses and family farms to pay the estate tax over 15 years rather than 10 years.

Today there is great pressure from the American Bankers Association, many members of the bar, farmers, and small businessmen to repeal the carryover basis rules while retaining the liberalizations of the estate tax law. They say carryover basis is unworkable and an administrative nightmare.

I believe that my bill, the Carryover Basis Simplification Act—which has been reviewed by Treasury Department officials, the Joint Tax Committee staff, members of the bar, accounting profession and banking community, farmers and small businessmen—is a reasonable, workable proposal. It is, necessarily, a compromise. It balances competing interests and provides simple, administrable rules. The bill is a refinement of the legislation introduced by Senator Hathaway, Congressman Steiger, and myself last year and incorporates many of the recommendations made by various tax practitioners.

In summary, my bill aims to simplify the 1976 law as it relates to the carryover basis. It retains the central feature of that law which is to tax inherited property when it is sold according to its appreciation from December 31, 1979. Alternative ways of arriving at this cost basis are established in my bill so as to make the tax fairer and its calculation easier.

As a result of this bill, which exempts estates of up to $175,000, an increase from $60,000 set out in the 1976 law, it is estimated that only 2.7 percent of the estates of persons dying each year would be affected. The bill would also simplify administration of the tax for those larger estates and would provide relief from liquidity problems that might occur when carryover property is sold.

Unless my bill or some other bill "cleaning up" the carryover provisions of the 1976 law is passed this year, then the postponement of the 1976 law will run out and the 1976 provisions will go into effect beginning in 1980. I believe my bill will be an improvement that will receive wide approval, and it will end uncertainty with respect to the matter. Furthermore, it would be greatly preferable to repealing the 1976 law and reverting to the situation that left appreciation in the value of inherited property that occurred prior to the decedent owner's death untaxed.

The estate tax was first imposed in 1916, the income tax having been enacted 3 years earlier. Estate taxes are imposed on the value of property owned by a decedent. The value is determined by fair market value at date of death (or, in some cases, 6 months thereafter). Deductions are permitted from the value of the estate for debts of the decedent, administrative expenses, and transfers to charitable organizations and the decedent's spouse. Prior to 1976, there was also an exemption for $60,000 of estate tax value. The rate of tax was graduated upward to 77 percent.

When property is sold, an income tax is imposed on the resulting capital gain. The gain is measured by the difference between the sales proceeds and the basis of the property. In general, the basis is equal to the original cost of the property although adjustments are often made, such as to reflect deductions for depreciation. Before the Tax Reform Act of 1976, an heir received property from the decedent on a "stepped-up" basis—the fair market value of the asset at the time of the death of the former owner. As a result, the gain which accrued while the owner held the asset during his life was permanently exempted from the capital gains tax. When the heir sold the property, no tax would be imposed on such gain since the basis had been increased to fair market value at the death of the former owner.

The stepup rule involved only a relatively small number of extremely wealthy taxpayers, but they could enjoy incredible tax savings. The Treasury, for example, has documented four recent cases involving amounts of tax-free appreciation ranging from $1.8 to $6.6 million.

The Joint Tax Committee staff has estimated that there is $20 billion untaxed appreciation which will pass to heirs in 1979. Of this $20 billion, $15 billion would go to the wealthest 4 percent of the Nation.

I would also note a point arising from the Congress action last year in greatly reducing capital gains taxes. In the Revenue Act of 1978, the Congress cut the maximum rate from approximately 50 percent to 28 percent. It is a travesty of tax justice to repeal the carryover basis after the capital gains rates have been sliced in half. The result is that the wealthiest 4 percent of the country would get even richer as the taxes of middle-income citizens are raised to offset this windfall.

Several critics of the 1976 changes erroneously contend that carryover basis was "slipped in" the conference report on the Tax Reform Act of 1976 at the last minute.

Carryover basis has been in the gift tax law since 1921. It has worked smoothly and without any discernible difficulty in the case of lifetime gifts for 58 years, and the amount of gifts involving carryover basis has been substantial. For example, in the 4 years 1959, 1961, 1963, and 1966 (the most recent years for which data are available) $8.9 million carryover basis gifts were made. The 1976 act merely extended this rule to property transferred at death.

The Ways and Means Committee considered carryover basis as far back as 1963.

The Ways and Means Committee also held extensive hearings on tax reform in 1973. Most members of a distinguished panel of tax experts commented on the "stepped-up" basis problem. One suggested solution was carryover basis.

Furthermore, during hearings on estate and gift tax reform held in March 1976, by the Ways and Means Committee, Treasury officials specifically discussed carryover basis.

The provisions which became part of the Tax Reform Act of 1976 were reported by the Ways and Means Committee on August 2, 1976. All of the conferees on the 1976 act signed the conference report containing the carryover basis provisions. On September 16, the House passed the carryover basis and estate tax changes 228 to 181; the Senate passed those same provisions by a vote of 82 to 2. Since that time oversight hearings have been held by both the Ways and Means and Senate Finance Committees.

In conclusion, I believe it is imperative that the facts be clarified and the myths exploded. Income tax reform, including carryover basis, is an essential element of tax equity and justice.

I believe the rules of carryover basis must be simplified and enacted. I look forward to working closely with the professional community and my distinguished colleagues to assure the passage of the Carryover Basis Simplification Act of 1979.

The American people need assurances that effective January 1, 1980, the Congress will have finally and effectively closed a loophole which costs the Treasury billions of dollars each year and discriminates against more than 95 percent of our citizens.

I believe that our country and its economic and political systems were founded on the principle that there shall be equal opportunity for all. Our tax system should reflect this principle. It should encourage the continuation of family farms and businesses. It should not discriminate in favor of those with large fortunes which are passed from generation to generation without tax being imposed on the substantial appreciation in the properties.

Discrimination in favor of some persons and against others, because of wealth contrasts sharply with traditional principals of free and open competition for everyone to share in the enormous potential of this country.●

JOHN McGUIRE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. OBERSTAR. Mr. Speaker, today is the last day on the job for one of the Federal Government's most professional and effective public servants: John McGuire, of the U.S. Forest Service.

Chief since 1972, John McGuire on June 30 concludes a distinguished career of 39 years with the service.

I have had my differences with the Forest Service. I have not always agreed with the decisions it has made, but I have never had anything but the greatest respect for the competence, the professionalism, the integrity, and the dedication of Chief McGuire and the entire Forest Service staff.

In much of my district, the Federal Government is the Forest Service. While the mission given the Forest Service by the administration, or by the Congress, is not always popular, respect for the men and women of the service is high. For those of us who have worked with John McGuire, the same is true.

The President's proposal to transfer the Forest Service from the Department of Agriculture to the Department of the Interior aroused considerable opposition in the House because of its anticipated impact on the service. The Members of this House had come to expect a great deal from the Forest Service and did not wish to see the effectiveness of that agency diminished. John McGuire can take considerable credit for the esteem of this body for the Forest Service.

I am truly sorry to see him leave public service.

I know my colleagues join me in offering thanks for his many years of service and in wishing him all the best for the future.●

IT IS GOOD FOR CONGRESS TO TRAVEL

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. DERWINSKI. Mr. Speaker, when we adjourn this afternoon for the 4th of July district work period, many of the Members, in pursuit of their committee responsibilities, will be traveling abroad. This legitimate travel will be subject to automatic criticism from the media.

Therefore, I wish to direct the attention of the Members and those objective media types who follow the RECORD, to an article appearing in the June 5, Christian Science Monitor, by J. Robert Schaetzel. Mr. Schaetzel speaks from a position of experience, having served as U.S. Ambassador to the European Community.

As the article requires no further commentary on my part, I insert it at this point:

IT'S GOOD FOR CONGRESS TO TRAVEL

(By J. Robert Schaetzel)

As surely as spring brings daffodils, travel abroad by the congressmen brings the cheap media shot: an image of skies dark with junketing legislators, vacations at government expense, contrived investigations best done at home, if at all. In point of fact, constituents and the press should urge not less but more overseas travel.

By every measure the country is becoming each year not so much isolationist as anti-internationalist. Not only do domestic issues preoccupy members of Congress, responding as they must to the heavy pressure of interest groups, but the role of ombudsman further tightens the bonds of the legislator to his constituency. The system weighs against a reasonable balance of congressional attention between domestic and foreign issues.

One argument for foreign travel is the opportunity it provides the congressman or senator to think and reflect away from the Capitol Hill pressure cooker. But foreign travel's overriding value is to counteract congressional insularism.

The center of gravity of international relations shifts steadily toward economic issues—energy supply, the plight of the dollar, foreign markets and import competition, foreign aid. An inner-oriented Congress—whose work is conducted primarily through a battery of functional House and Senate committees, each with a preeminently domestic orientation—can casually and even without conscious intent create by its actions immediate and far-ranging international waves.

Foreign travel introduces a new dimension. Members of Congress hear criticism, learn of alternative approaches to similar problems, and discover that other countries struggle with an equally difficult agenda of issues—and are subject to the same array of domestic political pressures.

As congressional life, its pace and distraction, puts a premium on ear-learning, it is this direct contact which can deal with what the theologian describes as "vincible ignorance." This is the state of mind of those who withhold their attention from readily available data that would enable them to make an informed choice. As ambassador to the European Community I saw this educational process at work firsthand when several years ago two-thirds of the members of the Ways and Means Committee made their first trip overseas. Three days of intense discussion in Brussels informed the committee about the European scene, had a lasting effect on the congressmen, and made an equally positive and enduring impact on the Europeans.

This and other contacts with the European Community provided, for example, a perspective assuring a more sophisticated treatment of the Tokyo trade package now before the Congress than would otherwise have been the case.

A strong argument is the effect of congressional travel on foreigners. Our political system with its separation of powers mystifies a world accustomed to parliamentary democracy; there is even despair that the American political system can work at all.

The Europeans, for instance, see a President consigned to idle proposing and a Congress mindlessly disposing—or more likely, failing to act at all. Exposure to American legislators won't dispel this apprehension. But it can lead to a more mature, balanced assessment of a different political structure, the virtues of which include the committee hearing process, the congressional oversight function, and the new budget procedure.

The essence of the case for overseas travel, however, is to open the minds and broaden the vistas of a Congress, half of whose members have been elected for the first time since 1974, of men and women whose youth denied them exposure to the conditioning experience of World War II, the Marshall Plan, the design and launching of the postwar system of international institutions—even the trauma of the Korean war is no more than a vague historical footnote. And these are tomorrow's leaders.

This is not a lament for the "good old days." Indeed a maelstrom of change suggests the need for a basic assessment of the relevance of inherited policies and institutions of ideas for change and innovation. A young and more assertive Congress holds a place at the center of the world stage. It can play an irresponsible or a constructive role. Travel, exposure to foreign situations, problems, and ideas enhance the prospect that this role will be responsible.●

J. MILLARD TAWES

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mrs. BYRON. Mr. Speaker, I would like to take this opportunity to honor the memory of one of Maryland's outstanding citizens, former Gov. J. Millard Tawes of Crisfield, Md.

Mr. Tawes was the State's chief executive during most of the turbulent 1960's and was a dominant figure in Maryland politics for over 40 years. He was the only Marylander ever to hold all three posts on the State board of public works—Governor, comptroller, and treasurer. Former Governor Tawes returned to public life after serving two terms as Governor and became the State's first secretary of natural resources. He devoted much of his life to conservation of the Chesapeake Bay and the development of its seafood industry.

Former Governor Tawes will be greatly missed by his wife, Helen, his family and all who knew him. He pulled Maryland through some of its roughest times, for which his fellow citizens are grateful. I know my colleagues will join me in extending the official sympathies of the House to the family of this unselfish and civic-minded American.●

A BILL TO SAVE THE AFRICAN ELEPHANT

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. MURPHY of New York. Mr. Speaker, on June 28, 1979, I introduced a much-needed piece of legislation: A bill to provide for the control of the importing into, and the exporting from, the United States of elephants and elephant products.

Mr. Speaker, in recent years, increasing concern on the part of knowledgeable biologists, responsible Government authorities, and many citizens of the United States and other countries has been voiced that the populations of the African elephant have been shrinking, in some cases drastically, and that strong action to slow and eventually halt such decrease in numbers is imperative if eventual extinction of wild populations is to be avoided.

The African elephant once ranged from the Mediterranean to the southern tip of Africa. It was extirpated from northern Africa in Roman times and is presently confined to remnants of the remaining historical range. Testimony taken at the December 1977 hearings of my Committee on Merchant Marine and Fisheries indicated the species is presently found in 33 African countries, having recently become extinct in four others.

While disagreement still exists as to estimates of individual populations and hence of the total, it is widely accepted that the trend in nearly all populations is down, in some instances by as much as 30 percent in recent years. Where true, such a rate of decrease would lead to individual population extinction in as few as 3 to 5 years. In those instances where populations appear to be stable or even slightly increasing, there is no reason to expect a return to former numbers of abundance.

Elephants themselves are items in restricted commerce, mostly for purposes of exhibition in circuses and zoos, but the numbers involved are inconsequential to the cause of elephant conservation. Such elephant parts or products as hides, feet and tail hair have commercial value, but these materials nearly always come from animals killed for reasons of population reduction, for depredations protection, in defense of human life and for their ivory. The value of the ivory in both legal and illegal commerce has been clearly shown to be the principal cause of large-scale elephant killing and remains the acknowledged key to the elephant conservation problem.

Elephant ivory comes from the tusks—specialized teeth—of the animal. Elephant ivory, formerly sought for such utilitarian purposes as pistol grips, knife handles, piano keys, heads of walking-sticks, and billiard balls, is today largely used for works of jewelry and art. World trade in raw—that is, unworked—ivory in 1976 was reported as 1,093 metric tons—2,409,000 pounds. At values averaging $13 per pound, that volume represents over $31 million. At more recent values of $30 per pound, such a volume would be worth over $70 million. World trade in worked ivory in 1976 amounted to over $21 million as well.

Testimony was delivered at the 1977 hearings before my committee that anywhere from 100,000 to 400,000 elephants per year might be killed to provide the ivory entering trade from poaching alone.

As noted at these 1977 House hearings, many African nations have reserves in which shooting is illegal. Where such reserves provide adequate habitat for elephants and where law enforcement is effectively carried out, elephant protection is meaningful. In most cases, however, keeping elephants on reserves is a problem and they are not protected when they leave park/reserve boundaries. Law enforcement in many countries is also ineffective as poaching success demonstrates.

At my urging, the African elephant was listed on June 11, 1978, by the Department of the Interior as a "threatened species" under provisions of the Endangered Species Act of 1973, as amended. This action established protective regulations for the species which are binding on all U.S. citizens and others subject to U.S. jurisdiction, including ivory importers, of course. The regulations issued as a result of this listing do not curtail trade in elephant products completely but they do prohibit commercial import of African elephant parts or products from any nations which are not members of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Also, individual American citizens can bring into this country only those African elephant products which originate in nations which are members of CITES. While the regulations were clearly intended to limit trade to those countries party to CITES, a number of nonparty nations—CAE, China, Japan, Taiwan, Italy, Kenya, Spain, and Sudan—were reported to have imported ivory into the United States between July and December 1978. Additionally, it has been reported that nonparty countries, such as China, Taiwan, and the Republic of Korea, continued to successfully export to the United States in early 1979. It is evident from records which have been made available to my committee that the present system is woefully inadequate and that is the purpose of H.R. 4685.

H.R. 4685 is a good bill which has had input from the environmental and conservationist community, the Department of the Interior, and American citizens engaged in the production of scrimshaw. It is a tough bill, but toughness is needed at this time if the African elephant is to survive the indiscriminate slaughter currently taking place by illegal, brutal poachers.

The bill calls for a 6-month ban on importation of elephant or elephant products. This ban will become effective 90 days after enactment of the bill. This 90-day hiatus was inserted at the urging of the Department of the Interior and is designed to protect American citizens abroad who might not learn of the legislation and unwittingly purchase ivory or elephant products. During this 90-day period, however, importation of all worked ivory for purposes of resale will be banned and the total amount of raw ivory imported will be 5 tons—that which is required to keep American scrimshaw artisans employed. This amount can be easily supplied from the tusks of elephants which die of natural causes.

I am joined on this bill by my committee colleague, John Breaux, chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Glenn Anderson, Joel Pritchard, and David Emery. Also joining me is Tony Beilenson, the author of H.R. 2826 which had 66 cosponsors.

The primary difference between H.R. 4685 and H.R. 2826 is that H.R. 4685 will allow the Secretary of the Interior, with the approval of the House Merchant Marine and Fisheries Committee and the Senate Committee on Environment and Public Works, to grant import permits to those African states which have implemented good management programs for their elephants. I believe that this will be an important incentive which will encourage African states to preserve their elephant populations rather than destroy them as unwanted pests which returns no revenue.

Hearings have been scheduled by my committee for July 25 and 26, 1979. Representatives from African elephant exporting states will be asked to testify as well as other recognized authorities from the United States and abroad. These hearings will allow for the airing of all available evidence on the merits of H.R. 4685 and will portend new American legislative efforts in support of conservation of the African elephant.●

THE PRESIDENT'S SOLAR ENERGY PROGRAM DESERVES SUPPORT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1979

● Mr. MAZZOLI. Mr. Speaker, President Carter recently called for the creation of a $2.5 billion program to help move the country ahead toward the commendable goal of getting 20 percent of its power from the sun by the year 2000.

His plan, which deserves congressional support, proposes:

A $100 million solar energy bank to finance solar energy research, development, and production;

A 15 percent tax credit to encourage installation of solar equipment by industry;

A 20 percent tax credit of up to $2,000 for owners of new homes equipped with so-called passive solar equipment (equipment built into the structure to collect and save heat);

A 15 percent tax credit on the purchase and installation of airtight woodburning stoves in principal residences; and,

A permanent exemption from the 4-cent-a-gallon Federal gasoline tax for gasohol, a mixture of 90 percent unleaded and 10 percent alcohol.

As one who has long supported stepped-up emphasis on solar energy as a clean and efficient response to the Nation's serious energy problems, I applaud the President's solar initiatives and intend to support him to the fullest.●

AMOS DAVID—A SPECIAL MAN

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. ALEXANDER. Mr. Speaker, on July 4, his friends and associates will join with the citizens of Caraway, Ark., to honor Amos David for his many years of community leadership and service.

Amos David is one of those individuals who looks around to see what needs to be done—and then does it. He is dedicated to betterment of life for his fellow man. By his very dedication and enthusiasm he builds support for the projects he undertakes. Over the years those endeavors have spanned a wide range from industrial development and promotion to public utilities, clinics, and recreation projects. As the Northeast Arkansas Town Crier said of him in 1976:

> Amos believes * * * "You are your brother's keeper."

He began to learn the developmental needs of a community in his teen years working in his father's business, the Caraway Ice & Electrical Co. In those days he certainly was not an executive, however. He was a doer—working on the ice trucks and climbing the poles to install electrical systems. "I helped wire every home in Caraway for its first electricity," he remembers.

During the depression years prior to World War II he built a job selling appliances on commission into his own appliance and LP gas business. Those were some of the hard times. He recalls with a smile those long days of appliance demonstrations when "we would put out washings for three families in 1 day, heating water in the yard in a kettle."

When Uncle Sam wanted him for the war, Amos was ready. He volunteered in 1942. Before he was honorably discharged in 1947 he had spent 25 months in the Pacific area as a Seabee.

After the war he returned to Caraway and operated a retail business until he obtained a wholesale distributorship in heating and air-conditioning in 1957.

He then realized there was something else a small community needed to keep it growing—a bank. During the years between 1962 and 1976 he organized three banks and served as chief officer of all of them simultaneously.

Although he has been "semiretired" since at least 1976 Amos still exhibits a seemingly inexhaustible energy and enthusiasm for everything he undertakes.

He has served on the State Employee Retirement Board and the boards of Arkansas Enterprises for the Blind, Arkansas State Chamber of Commerce, and the Arkansas Boys' Training School. Again, the Town Crier says, "one of his greatest contributions to his community is his involvement with youth." "You show Amos you want to work and he will see that you get a chance to make it," one young man said. He has been President of the Arkansas LP Gas Association and a leader in the legislative committees of the Arkansas Bankers Association at the State and local levels. He is also active in many church, lodge, and civic oragnizations.

In 1971 he received the C. E. Palmer Award for community development from the Arkansas Jaycees.

Amos is quick to give credit for any achievements in business and civic life to the cooperation of towns in which he lives and works and to the support of his faithful wife of 46 years:

> Without Mildred with the washing machines and the cotton sack, my family and friends, who supported me in every venture, my life would have been naught.

But we all know it takes a special man to deserve the support of a community and to be able to martial its resources for improvement. Caraway knows that, too, and I am happy to join them in honoring a special friend who is a "doer" for the people we serve together.●

TRUCKING DEREGULATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. LEHMAN. Mr. Speaker, the Congress will soon begin to debate the issue of trucking deregulation. Earlier this week, the Miami Herald printed an editorial expressing strong support for deregulation. I urge my colleagues to read the following editorial and give serious consideration to the arguments presented in favor of the administration bill.

The article follows:

GREEN LIGHT FOR PRESIDENT ON TRUCKING DEREGULATION

Does it make any sense for the Government to so overregulate interstate trucking that one trucker may carry paint in two-gallon cans but not in five-gallon containers? Or may carry desks and chairs but not tables? Or may pass through a town but be forbidden to make deliveries there? Or may be forbidden to carry anything at all on his return trip, with the result that 20 per cent of all truck miles are driven empty?

Of course it doesn't. Excessive regulation costs U.S. consumers an unnecessary $5 billion a year, or $100 per average family, the White House says. It wastes precious fuel. It stifles competition. It requires 2,000 Interstate Commerce Commission bureaucrats just to keep track of the 7,000 pages of rate filings the ICC receives every day.

If common sense dictated its decisions, Congress would pass without delay the truck-deregulation bill introduced Thursday by President Carter. The bill would extend to ICC-regulated truckers a phased deregulation similar to the deregulation that has brought U.S. airlines record profits and record traffic while saving consumers $2.5 billion to boot.

But common sense won't dictate Congress' decision. Muscle will, and the trucking industry and the Teamsters Union have pledged to fight the bill with every ounce of political muscle they possess. Rest assured they possess it by the truckload.

The reason for the truckers' fondness for regulation is obvious. Last year the eight largest ICC-regulated truck lines earned an average return on their equity of 29 per cent. That's about double the earnings of unregulated manufacturing firms.

Moreover, the truckers operate under an antitrust exemption granted in 1948 when Congress overrode President Truman's veto. The ICC doesn't set truckers' rates. The carriers themselves do, and the ICC merely rubber-stamps them.

The Administration bill would repeal this antitrust exemption and thus stimulate competition through price-cutting. It would end immediately the restrictions of "backhauling," which now require many trucks to return empty. It would permit proprietary haulers, such as Sears, which carry their own goods to backhaul merchandise of their affiliates and subsidiaries. It would end by 1984 all restrictions on routes and permissible cargo.

Opponents say deregulation would enable big trucking firms to drive out competition by cutting prices, then raise their rates to exorbitant levels. This argument is specious. Deregulation instead would give the 100,000 independent truckers far more operating flexibility than they now have. And just as the airlines have done, truckers would find and enter markets where they can make a profit.

The industry also says deregulation would deprive small towns of truck-carried goods—which means most of what the average American family uses every day. But this argument doesn't hold water either. The ICC says it has had not one request to discontinue service to small towns in the present fiscal year, but several of the largest truck lines have applied for permits to serve small towns.

Yet it is true that the trucking industry has operated under the ICC's umbrella for 40 years, so total and sudden deregulation would be unwise. The Carter bill recognizes that; hence its phased-in steps to allow the industry time to adjust.

Among those supporting the truck-deregulation bill is Frank Borman, president of Eastern Airlines. Mr. Borman fought airline deregulation tooth and nail, and he now concedes that he was wrong. The trucking industry—and Congress—should bear Mr. Borman's change of heart in mind, because what deregulation did for the airlines, it can do for trucking too.●

CONGRESSIONAL FIELD REVIEW OF INVASION OF NICARAGUA

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. HANSEN. Mr. Speaker, an investigative task force from the House Merchant Marine and Fisheries Subcommittee on the Panama Canal was scheduled to depart on Friday, June 29, for Panama, Costa Rica, and Nicaragua to evaluate the impact of revolutionary activities in that area on the security of the Panama Canal and other U.S. interests. This trip has been deferred until after the July 4 recess since the Government of Nicaragua seems to have stabilized the military situation somewhat.

We were going to check on the validity of widespread reports and evidence that Panama, with cooperation from Cuba, Costa Rica, Nicaraguan dissidents, the U.S. State Department, and several leftist nations of Latin America, is engaging in direct or indirect acts of terrorism and armed revolution potentially damaging to the stability of the Western Hemisphere with a severe possible impact on the welfare of the people of the United States.

We are hoping to gain an accounting from the U.S. State Department and the Governments of Panama, Costa Rica, and others regarding their obviously unacceptable behavior. The following questions need answers:

First. Why Costa Rica can be used as a staging area for invasion of a neighboring state in violation of OAS and U.N. Charters and have no complaint lodged against them by other nations—and particularly the U.S. Government?

Second. Why Panama can be used as a staging area for the assembling and training of revolutionaries and arms supply of said mercenaries to overthrow a neighboring state in apparent violation of OAS and U.N. Charters and the newly signed Panama Canal treaties?

Third. Why the U.S. State Department calls for an arms embargo by the United States and other nations on opposing elements of the Nicaraguan conflict with full knowledge that such an embargo only applies to the Government of Nicaragua while providing for the massive arming of invading guerrilla forces since:

The Somoza Government has long ago discontinued receiving U.S. military assistance and the United States is pressuring neighboring states friendly to Somoza to deny him any support under the threat of losing U.S. aid.

The Government of Panama has been supplying the Castro-trained Sandinista revolutionaries and terrorists operating, not only in wartorn Nicaragua, but in most Central American nations, with thousands of rifles and huge amounts of ammunition and other military equipment largely from Cuba and the United States—the U.S. operation working both through highly questionable State Department export licensing and a huge illegal gunrunning operation now officially identified by Miami Federal grand jury criminal indictments against officials and employees of the Panamanian Government.

Fourth. Why the U.S. State Department persists in dignifying an outright invasion of Nicaragua by Castro- and Torrijos-backed insurrectionists by calling it a civil war and a popular uprising, even in face of the fact that the Nicaraguan people have failed to rise against Somoza when given ample military opportunity to do so?

Fifth. Why the U.S. Government exerts severe pressure on rightist governments north of Nicaragua to stop all assistance to the friendly Government of Nicaragua while ignoring and even assisting efforts of leftist governments south of Nicaragua to heavily arm and train unfriendly revolutionary forces attempting to overthrow the Government of Nicaragua?

Sixth. Why the U.S. State Department is heavily involved in fanning anti-Yankee sentiment in Latin America by gross intervention in Nicaraguan affairs:

Through an intense effort to discredit and overthrow the Somoza government.

Through the duplicity of arming revolutionaries while calling for arms control and a peacekeeping force.

Seventh. Why the U.S. State Department persists in embargoing arms to the friendly nation of Nicaragua and arming Nicaragua's enemies while rewarding the unfriendly and bloody acts of Panama with continued aid programs and a multi-billion-dollar windfall gift of the capital and cashflow assets of the Panama Canal?

Eighth. Whether the Government of Panama is (a) an emerging Cuba-style, revolution-exporting imperialist nation, (b) a "lackey" of the U.S. Government engaging in revolution and terrorism to manipulate the Latin world as the "master planners" in the State Department may determine, or (c) a bumbling but well-intended busybody illegally attempting to influence the affairs of neighboring nations?

Ninth. Whether the Panama Canal becomes impossible to maintain in neutrality free from military reprisal, as called for by the new treaties, and impossible to adequately defend with the loss of the 10-mile-wide buffer zone (which will occur under the treaties) in light of Panama's expanding involvement in violent efforts to undermine neighboring governments?

Tenth. Whether the recent large-scale riots against the Government of Panama over food, fuel, and the economy in addition to a committed policy of revolution render it too unstable to proceed with treaty implementation?

Eleventh. Whether the United States can in good conscience involve itself in domestic Nicaraguan politics by demanding that President Somoza resign and leave the country because his liberal party has been in power for 42 years and because he may have lost popular support, when our own President is at a record low in the polls and presides over a party (Democratic) which has controlled the U.S. Government for some 42 years with only one brief exception?

Certainly a June 28, 1979, UPI account, which I include for the record, regarding the ongoing Castro-Torrijos assault on Nicaragua, Guatemala, El Salvador, emphasizes the need for answers to the above questions. The article follows:

NICARAGUA-CUBA

WASHINGTON (UPI)—A secret U.S. intelligence report, confirmed today by the State Department, charged that Cuba has, with Panamanian help, trained, advised and armed hundreds of Sandinista guerrillas now fighting the Anastasio Somoza regime.

The analysis, made available to several reporters, said the Fidel Castro regime hopes the fall of Somoza will have "ripple effects" on neighboring Guatemala and El Salvador, where Havana is also supporting insurgent groups.

The report, published earlier this week by the Chicago Tribune is the first detailed U.S. account of the extent of Cuban involvement in the Nicaraguan crisis, the support it has received from Panama and its links with Communist groups in Costa Rica, Honduras and other Central American Countries.

State Department spokesman Tom Reston confirmed the existence of the May 2 report. "It is not a State Department document. It is a document from an intelligence agency," he said. Reston declined further comment on it.

However, it seems the report may have been the basis for recent charges made by Secretary of State Cyrus Vance and other top Department officials about the growing involvement of Cuba and other nations in the Nicaraguan conflict.

The report said since last fall Cuba has not only increased the training on the Island of Sandinista guerrillas (some 300 in all, it estimated), "But has on at least two and probably three occasions supplied arms—for the first time in many years—to the Sandinista National Liberation Front (FSLN)."

Thus, in late September Cuba shipped eight crates of arms—including .50-caliber machine guns designed to serve as an anti-aircraft weapon—to Panama via a Panamanian Air Force plane for later transshipment to FSLN forces in Costa Rica.

Cuba made its second shipment of arms in early November 1978.

According to a reliable source, during the week of November 5–11 three Panamanian Air Force planes returned to Panama from Cuba carrying crates that contained AK–47 rifles, .50-caliber machine guns and hand-held mortars.

By the end of the month, the Panamanians had flown these arms to Liberia, Costa Rica, where they were given to the FSLN, the intelligence report said.●

DR. STARR ON ENERGY

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, June 29, 1979

● Mr. McCORMACK. Mr. Speaker, on June 4 of this year, Dr. Chauncey Starr, vice chairman of the Electric Power Research Institute, addressed the power division meeting of the American Nuclear Society in Atlanta, Ga. Dr. Starr's remarks are entitled "Socially Responsible Energy Futures."

Dr. Starr's remarks bring an important message to all Americans, and especially to all Members of Congress and the administration, and emphasize the absolute necessity for those of us involved in formulating energy policies for this country and the free world to base our policies on scientific, engineering, and economic facts; dealing with truth and reality rather than prejudicial opinion and fanciful illusion.

I recommend Dr. Starr's remarks as serious reading for every Member of Congress. His address follows:

Socially Responsible Energy Futures

I'd like to take the opportunity this afternoon to discuss with my colleagues in the American Nuclear Society a phase of the international nuclear debate that is not often addressed. The nuclear critics have attacked many aspects of nuclear power, ranging from the safety of reactors to waste disposal, the possible diversion of civilian material for weapons, and more recently, the institutions and economic structure that are associated with nuclear power systems. Basically the antinuclear position is that nuclear proponents are seeking to develop an energy future that is not socially responsible. It is that issue that I wish to explore with you.

In public discussions of nuclear power the antinuclear groups have claimed that they have a superior moral position for several reasons. First, they generally do not have a perceived financial or vested interest and therefore present their case as an objective one. Second, they focus on protecting the public from involuntary exposure to the hazards of extreme catastrophes, hazards that are presumably acceptable to the nuclear industry in order to make a profit. In essence, the antinuclear position is that the nuclear industry is prepared to sacrifice human lives for the sake of economic reward. Finally, as an alternative to this catastrophic threat to the individual, the critics propose a risk-free Utopia based on conservation and solar power.

The proponents of nuclear power, of whom I am one, have made narrow responses to these arguments. We have taken the analytic cost-benefit position that the risks of nuclear power are projected to be very low and that the economics of nuclear power offers substantial cost savings that can be passed on to the consumers of electricity. In addition, we emphasize that the available alternative to nuclear power is coal, not solar, and that coal is in most respects more damaging to the environment and human health than nuclear power, although acceptable nevertheless.

This argument is emotionally unappealing to the public because it implicitly confirms the involuntary exposure of the individual to an uncertain risk, and seems to prove that the drive for nuclear power is primarily economic. We appear to accept the numbers. We have not effectively advanced a case that is based chiefly on a visible concern with social values and the future welfare of humanity.

Such a broader case for nuclear power has always existed—a case based on the motivations that initially spurred the development of this energy resource over the past several decades, but one that we have tended to neglect in the public debate.

A concern to avoid worldwide catastrophe is central to this broader case for nuclear power. We perceive the threat as resulting directly from the pending unavailability of petroleum and natural gas at a reasonable cost. This unavailability could lead to global tensions and political instabilities, economic crises, and ultimately, military conflicts based on the need to obtain and control liquid fuel resources. We believe that past history and current events substantiate the threat inherent in the international struggle for raw materials.

The broader—and more compelling—case for nuclear power lies in its potential for removing a major threat to the peace, stability, and welfare of the world inherent in the growing scarcity of petroleum and natural gas resources, and the limited geographical availability of coal.

The catastrophe that could be avoided is at least as threatening as the one projected by those who oppose the use of nuclear power, and, I would argue, more realistic in its potential for world-shattering impacts. The issue then is whether the depletion threat that we see is a credible one, and whether there are other credible means—such as solar power and conservation—for avoiding this threat.

With this in mind, let us briefly examine the two key energy problems that the world faces: (1) the dwindling availability of liquid fuels to meet the needs of the industrialized world, and (2) the questionable ability of the Third World nations to find enough energy to start or continue their development.

Because development in the latter group of nations is so fragile and their needs so overriding, the industrial nations have a particular responsibility to help in every way possible, including increasing the availability of energy resources at reasonable costs.

The potential contribution of nuclear power to meet the energy supply problems of the industrialized countries, including the United States, is something that is generally recognized. To avoid a substantial slowing down in the economic growth and dynamism of the industrial countries, or alternatively to avoid international conflict over necessary fuel resources, would be reason enough to support the development of nuclear power.

However, I do not plan to dwell on this relatively more familiar aspect of the argument: instead I will devote the bulk of my remarks to a less well-appreciated side of the story—the potential importance of nuclear power in helping to meet the energy needs of the countries of the Third World.

The most flexible and valuable energy fuel we have today is oil, but the evidence indicates that as future energy demands grow, resources of oil (and its sister, gas) will gradually be unequal to the needs, their costs will rise, and serious supply stringencies will develop. Coal, an abundant fossil fuel in the United States and a few other places, is limited geographically, is less versatile, and more costly when converted to synthetic liquid fuel as a replacement for oil. The same is true of shale oil and tar sands.

Thus in comparing the long-term availability and costs of fossil fuels with the world's expectations of economic growth and development, it becomes clear that there will be a very real supply constraint in meeting the associated energy requirements, unless both conservation and the accelerated development of non-fossil sources can open doors to a great deal of new energy.

There is much that conservation can do to reduce energy consumption in the industrialized countries. But, as an example of its limited potential impact, even if we were to assume an average 20 percent conservation reduction in per unit energy use in the United States by the end of the century, the cumulative energy consumption in this country between now and the end of the century would still outstrip all of our presently estimated domestic recoverable resources of oil and gas.

Given the anticipated problems with oil and gas supplies, the obvious approach is to seek substitutes as well as to encourage conservation. Starting with conventional energy sources, it is technically, although not yet economically, feasible to convert coal into liquid and gaseous fuels and to develop oil shale and tar sand deposits.

These technologies are complex and capital intensive, and apparently exhibit significant economics of scale. These factors, coupled with geographic distribution of resources, make these technologies best suited to the U.S. and USSR. Developments are not expected to be significant until after the year 2000, but in time may reduce the U.S. appetite for imports.

Nuclear power is already displacing oil and gas directly for electricity generation. Indirectly, nuclear power can displace oil and gas through electrical applications such as the heat pump, electric furnaces in industry and eventually in electric vehicles.

Solar energy, in its various renewable forms, has recently received enthusiastic support both publicly and politically as a future resource alternative. The realities of this potential have recently been assessed and reported by the Domestic Policy Review of Solar Energy Integration Group, a U.S. government multi-agency team.

Their public review status report, issued August 25, 1978, summarizes their findings. While the report stresses the uncertainties of its estimates, it projects for the year 2000 a base case example in which the solar contribution to total energy need of the U.S. is as follows: low temperature heat (active and passive) is about 2 percent, electricity is 0.7 percent, biomass is 2.7 percent (up from 2.3 percent at present), and hydro is 3 percent (down from 3.8 percent at present). Currently, hydro and biomass contribute about 6 percent of our energy use, so that their projected increment by year 2000 is an additional 2 percent of a higher base.

The small contribution projected for solar is due to the expected development times needed to produce competitive technologies, and to the long time historically needed for new energy source integration. The most promising near-term solar applications are those using low temperature heat—hot water, space heating, drying, etc. Under some circumstances these are competitive today. Such low temperature applications represent about one-fifth of current U.S. energy use, and solar should gradually penetrate a portion of such uses.

Wind machines without storage are approaching a competitive position as fuel displacers and will be limited by their intermitten nature to a few percent of their connected electric grid capacity.

Solar electric for daytime operation, without storage, is presently about 5 to 10 times more capital intensive than conventional sources, and is subject to similar integration restrictions as wind. Novel technologies are needed to make solar electric a competitive resource. The variety of approaches being investigated for both solar conversion and energy storage engenders qualified optimism that a few of these developments may be successful in the future. However, responsible long-range planning cannot be based on such speculation.

To become a major resource that could substantially replace base load generation plants (fossil and nuclear), energy storage technology must advance well beyond its current state. The combination of increased collector requirements and storage to provide a 24-hour resource results in costs 4 to 5 times greater than intermittent load applications. Therefore, it is generally agreed that foreseeable solar electric installations will likely be part of a network mix of sources.

Biomass is already in use where residues are available, but dedicated plantations will be evaluated against the production of crops for uses as food, livestock feeds, fiber (an application that can compete with oil-produced synthetic materials), and fertilizer. Thus far, fuel use has been ranked less valuable than these other applications. An attraction of biomass is the storable nature of the fuel.

So, there are sources that can partially substitute for oil and gas, but they require large capital investments, research and development, and time. However, even assuming eventual success in each, their total contribution in the next many decades will still replace only a fraction of the world's liquid fossil fuels.

Now let us consider the world's needs for energy in the foreseeable future. The world's population is now about 4 billion and is projected to be 6 billion by the year 2000 and 8 billion by 2030. The developing countries will have the highest rate of increase in population, economic growth, and liquid fuel use. More important than the general rate of growth, however, is the fact that developing countries must grow in stages, beginning with small-scale technologies that require little capital.

For these countries, liquid fuel is a primary need because of its flexibility of scale, storage, application, and the small capital investment required for liquid fuel engines. Partly because of this new demand for oil and gas, conventional oil sources will be greatly depleted by the year 2000. By 2030, synthetics from coal and oil shale will be the principal replacement.

Unfortunately, although there may be large resources of coal and oil shale in the ground, the annual production rate of synthetics from them is likely to be limited by environmental constraints and the availability of water. The production of methanol from agricultural products is likely to always be a small supplement, as it is in direct competition with world food production.

So, the world demand for liquids may use most of the coal and oil shale production output by 2030, and coal for electricity generation is likely to be undesirable—just as oil and gas are today. Almost certainly the world will need affordable alternative energy sources after the turn of the century.

If the industrial countries do not find substantial alternatives to their fossil fuel energy use in the next several decades, they will remain the major oil and coal consumers of the world, with the inevitable result of driving up the world prices of these scarce resourecs. As prices rise, the developing countries will be deprived of the basic fuel supplies they need.

To quote Thomas C. Schelling, in reference to OPEC oil production limitations, "As long as we take seriously that our European allies, Japan, and other countries are part of our mutual security system; as long as we care about French or Japanese policy toward the Middle East; as long as we care about successful development in the poorer countries of the world, the most serious 'vulnerability' of the United States to a contrived energy emergency is likely to be the effect it will have on other countries that matter to us, even more than its effect on us."*

A current example is clearly described in the Wall Street Journal of May 30, 1979, in an article headlines "Third World Trauma: Oil-Price Surge Clobbers Less-Developed Nations Such as Kenya and Cuts Their Living Standards."

Simply put, I believe that the industrial nations of the world have an obligation to develop all the reasonable alternatives to fossil-fuel-based energy. Only these countries have the resources and technology, skills and capital to engage in very expensive development efforts. But above all, the United States and other industrial nations have the social obligation to give developing countries access to reasonably priced liquid fuels (natural or synthetic) by reducing their own consumption through conservation and the use of alternative energy sources.

Given this situation, what are the risks and benefits of the nuclear and nonnuclear futures? The nuclear critics have cited many risks related to nuclear power, the principle ones being the following. First is the impact on public health associated with the accidental release of radioactivity from the nuclear power cycle. The second is the proliferation of nuclear weapons that might result from the development of civilian nuclear power in nonweapon countries. The third argument, more sociological, focuses on the centralization of facilities and institutions related to the generation, administration, and regulation of nuclear power. The concern is that nuclear power will encourage more centralized social control, which the critics believe has already gone too far.

Although there are risks associated with nuclear power which introduce a moral dimension in expanding its use, there are also risks carrying a moral dimension in an energy future without nuclear power. As I have previously indicated, without nuclear developments in the industrialized world, there is a real possibility that the world market price of liquid fuels may rise so high as to make them unavailable to the Third World countries. The results may range from blocking economic growth in such countries to such a catastrophe as mass starvation caused by a severe world-wide reduction in energy-intensive agricultural production. And there are equally serious risks to the developed world: In supply interruptions and in failures of oil production to expand rapidly enough to meet growing needs. There are also risks of Soviet intervention, either open or covert, in impeding the flow of oil from the Middle East. Under such world-wide supply constraints the industrial nations might be driven to extremes in the effort to obtain fuel resources to meet their own needs. This might lead even to nuclear war. Thus nationally authorized military use of nuclear weapons may be a greater risk than the possibilities of unauthorized weapons proliferation in nonweapons states.

Finally, the centralization of social power in nuclear institutions may be minor compared to the coercive power that will be required in a nonnuclear world to make both the industrial and developing countries accept mandatory restrictions on energy consumption and the modest life-styles that would result.

What has not been discussed by the antinuclear proponents is the consequence of a failure to achieve their Utopian objectives. I have already mentioned that the large-scale use of solar, particularly for generating electricity, is speculative. If it does not develop—that is, if nations cannot afford the capital investment to convert to solar energy—how will the world's energy needs be met? As a nuclear proponent, I do not view the future as either solar or nuclear; in fact, nuclear power may be a transition fuel to a solar future, if such a future develops. But the questions remains: Will such a solar future develop?

The antinuclear proponents also implicitly assume that the world as a whole will accept limits on developing nuclear power. But suppose that some nations refuse to accept such limits and proceed to develop nuclear power on a large scale.

If, as presently appears to be the case, such power is much less costly than fossil fuel or solar power, these countries could gain a sizable economic advantage. They might then be in a position to economically dominate nations that for ideological reasons have limited themselves to higher-cost nonnuclear alternatives.

In a world in which we haven't been able to achieve agreement among the major powers to avoid even the burden of nuclear weapons, it is extremely unlikely that it would be possible to convince all nations to deny themselves the advantages they see in nuclear power. Economic nuclear disarmament may be more difficult to achieve then military nuclear disarmament.

The antinuclear proponents generally assume that conservation in substantial amounts will be achieved on a worldwide basis, that solar energy in its various forms can quickly become our largest energy resource, and that the people of the world, particularly those of the industrial countries, will be willing to accept a more modest life-style.

Some go further and promise a very attractive steady state world based on a constant flow of renewable resources serving a limited and stable population. This vision depends for its success on the behavioral conformity of all nations.

What is wrong with this scenario? First, the required conformity to its objectives carries with it the hidden coercion by veto, which withdraws options rather than provides the freedom to choose among alternative life-styles such as exist today. Second, the proponents of this Utopia assume that the social values that are the foundation of their vision will be fixed and unchanging.

They do not consider what will happen some generations hence if some societies shift their objectives. Third, a society with no economic powers is especially vulnerable to control by its neighbors.

In sum, it appears that the nonnuclear world has not been well thought out in terms of its future risks, the implications of its coerciveness, and the effects of its foreclosure of options. Unlike the nuclear proponents, who have reacted to attack by attempting to quantify risks and to defend the logic of their arguments, the nuclear critics have paid almost no attention to the quantitative risks of a nonnuclear world.

How then can the proponents of nuclear power respond to the challenges of the critics? The nuclear case has been weak partly because it does not describe a clear, simple future, because it deals with the many issues of reality more than with simple hopes. To us the world is complex, and the future murky. We assume that we cannot predict life-styles of future generations and that we cannot control the preferences of large bodies of people.

Our future does not have the emotional attraction of Walden Pond or the nostalgia of the family picnic. We intend only to offer more alternatives—and the freedom of choice that goes with having many options.

As one of the nuclear proponents, I have repeatedly stated my full support for the development of all reasonable alternative energy sources, including solar in its various forms, because their successful development would further expand our social options.

I believe that it is important for the industrial world, which has both the skills and resources for pioneering in high technology, to undertake a major effort to develop energy sources that can delay or avoid resource depletion.

In this respect, I believe that the pronuclear position is substantially more socially responsible than the antinuclear posture. Certainly, if the breeder reactor is successful, this will help all peoples of the world, directly or indirectly.

If it is not, we have not foreclosed concurrent efforts to develop solar, fusion, or any yet-unanticipated energy source. We also offer a greater chance of international social stability than the antinuclear proponents. We offer less total risk to the people of the world and to coming generations. We offer more, rather than less, access to energy resources. We demand less conformity among nations and peoples. Finally, we offer a flexible future that can be modified to meet the needs and challenges of coming generations.

I believe these are the strengths of the pronuclear case. It is a case that we who believe in nuclear power should take to the public. A nuclear future is a socially responsible future, and we have a social responsibility to spread that message. Let us take the high ground in this debate.●

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*"Thinking Through the Energy Problem," Committee for Economic Development, 1979.

HOUSE OF REPRESENTATIVES—*Monday, July 9, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, creator of all things, we praise Your name for the gifts of the universe—for all the glories that help give wonder and joy to life.

We give thanks for friends who inspire, encourage, and comfort, we are grateful for the potential of each new day with opportunities, both great and small, where we may serve our neighbor.

Make us sensitive to those about us that we may be aware of their needs and faithfully serve them in the spirit of love and compassion. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

FORMULATING A NATIONAL ENERGY STRATEGY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, today I have obtained permission to address the House under special order for the purpose of advising my colleagues of the contents of a letter I have sent to the President today on energy. Current news accounts report that the President is formulating a national energy strategy to deal with the energy shortage that America is experiencing. I would like to add my two-bits to the discussion on energy.

Basically, Americans can no longer afford to import 8-million-plus barrels of oil per day from foreign oil-producing countries. The foreign oil stimulates inflation which lowers America's standard of living. The United States as a nation cannot afford to export its wealth which the 1978 trade deficit reflects at $28.5 billion and with the recent OPEC price increase the cost of imported oil for this year is expected to rise to $65 billion which is likely to produce a 1979 trade deficit of about $50 billion.

Mr. Speaker, it is time to switch from an oil-based economy to a mixed energy economy.

WAGE AND PRICE CONTROLS NEVER WORK BECAUSE THEY ATTEMPT TO CONTROL SYMPTOMS OF INFLATION, INSTEAD OF ITS CAUSE

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, in their excellent book, "Forty Centuries of Wage and Price Controls," Robert Schuettinger and Eamonn Butler show clearly why wage and price controls never work, because they attempt to control symptoms of inflation, instead of its cause. If only everyone in this Congress would read this book, I do not believe there would ever be another attempt on the floor to institute compulsory controls. But as the problems caused by inflation worsen, we heard more and more rumblings about the ancient practice of controlling people's lives, instead of the size and spending of Government. Instead we should be discussing the abolition of COWPS—the misnamed Council on Wage and Price Stability.

Until we recognize that is there is but one cause of inflation—increasing the money supply—we will never eliminate it. Today, even the liberals realize that the money supply is important. But they call it only one of the many factors contributing to ever-rising prices.

In Germany in 1913, there were 6 billion marks in circulation. By 1923, this had risen to 92 quadrillion marks. No one denies the significance of this kind of massive increase in the money supply, nor the horrendous price increases it caused. In 1913, a pair of shoes cost 12 marks; in 1923, they cost 32 trillion.

If the importance of the money supply is obvious under these circumstances, why is it not when the Federal Reserve increases the money supply 20 percent and prices rise 20 percent?

When that simple fact becomes commonplace knowledge, we can stop inflation once and for all.

CARTER URGED TO SHIFT THE BLAME TO OPEC

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, the Saturday Washington Post release of the Eizenstat memo provides firm evidence of probably the most cynical political approach to America's problem yet:

> I do not need to detail for you the political damage we are suffering from all of this. It is perhaps sufficient to say that nothing which has occurred in the Administration to date—not the Soviet agreement on the Middle East, not the Lance matter, not the Panama Canal treaties, not the defeat of several major domestic legislative proposals, not the sparring with Kennedy, and not even double digit inflation—have added so much water to our ship. . . . We have a better opportunity than ever before to assert leadership . . . to shift the cause for inflation and energy problems to OPEC . . . to regain our political losses. We should seize this opportunity now and with all our skill.

He continues the same sleight of hand and I quote:

> We have provided you with a tough statement that will accomplish those ends, and buy us a week or so before the public will expect more specifics. . . . Your decision to eliminate or cut short your Hawaii stop vividly demonstrates your commitment. . . .

Then apparently following his own advice, President Carter's chief domestic adviser told the Governors conference that the crisis was on the road to a solution and that the administration is working on a plan. That may buy somebody a week or so, but I think the public expects and demands more. Eizenstat should go.

□ 1210

WHAT IS HAPPENING TO OUR COUNTRY?

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, what is happening to our country?

In many parts of America, people are waiting in long lines for gasoline.

Truckdrivers are facing great hardships in bringing goods to the marketplace.

The public cannot get straight answers as to whether there is truly a fuel shortage or not.

The President announces he is going to make a major speech on energy—and then he backs out at the last minute.

The Nation desperately wants and needs leadership. They want honest to goodness solutions to our national problems.

Many of us hoped some of these solutions would come out of Camp David over the weekend.

But, instead of solutions to real problems, all we have gotten is more of what President Carter has become famous for—style rather than substance.

We learned of the administration's plan to blame all our woes on OPEC.

We hear that Jody Powell is going to be given more staff authority.

We hear rumors that Secretary Schlesinger may be fired.

Regardless of the merits of these individual moves, they do nothing to solve the basic problems confronting the Nation. They are only designed to shift public attention away from the dismal job being done by the President.

When—oh, when—are we going to get real leadership out of the White House? When will we get statesmanship—rather than showmanship, and politics as usual? When will we get more energy—rather than someone to blame?

LEGISLATION INTRODUCED TO COMPLETE INTERSTATE 5 AND STATE ROUTE 99, STOCKTON, CALIF.

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Mr. Speaker, today I am introducing legislation which will greatly assist the people of my district in California.

In my home city of Stockton, there exists two north-south freeways, Interstate 5 and State Route 99; these comprise Stockton's approximate east-west boundaries. Some years ago, a 3.8-mile lateral crosstown freeway was proposed and construction of the freeway was commenced, the goal being to join permanently Highways 5 and 99. However, in the years since, only a 1.6-mile portion has been completed, leaving a 2.2-mile section yet to be finished. Needless to say, this crosstown link is a vital component of the transportation system in Stockton.

My bill would designate the uncompleted 2.2-mile portion as part of the Interstate Highway System. Since the future of the project lies in the hands of California's Transportation Commission, it is my hope that the passage of this legislation would demonstrate a commitment to the project and thereby have it included in the commission's 5-year plan.

Because this link is still incomplete after so many years, crosstown vehicular traffic has had to take a slow and fuel-consuming alternate route through the inner city. The result has meant continually clogged lanes and deteriorating roadway conditions due to the heavy truck traffic as well as the sheer number of vehicles.

I ask my colleagues to join me in supporting the designation of this crucial 2.2-mile link as part of the Interstate Highway System.

COAL CAN HELP DIMINISH GASOLINE LINES

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, our country is beset by great difficulties from the Atlantic to the Pacific, from Canada to Mexico. We are told that there is a shortage of gasoline, but records show we have 131 million barrels at the present time, while at the same time last year we had 4 million barrels less. With this increase in supply, it is difficult to explain to one's constituents why it is necessary for them to wait in line for the gasoline which takes them to work.

Mr. Speaker, great efforts must be undertaken to increase our energy supply. This can be done through the use of coal, coal in place of oil or gas in the powerplants throughout our country, and it should be done immediately. This alone could provide sufficient energy to overcome any alleged shortage.

Mr. Speaker, not only should we use coal in powerplants throughout our country, we should immediately ask the many distilleries, which at the present time are underutilized, to manufacture alcohol, and require that the oil companies in the United States mix gasoline with alcohol to the extent of 10 percent. This action would improve the farmers' lot and, again, would increase the supply of fuel.

Third, synfuels should be produced from coal, coal and biomass. South Africa now produces no less than 25 percent of its fuel from coal. Again, we would increase our supply of energy and, at the same time, by increased mining of coal restore prosperity to the coal mining regions of this country.

To accomplish these purposes it will take a united House. The energy problem faces all of us and should be undertaken on a bipartisan basis.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 10.

SURFACE TRANSPORTATION TECHNICAL AMENDMENTS

Mr. HOWARD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4249) to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 103(e)(4) of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to a designation made under section 139 of this title.".

Sec. 2. (a) Section 103(e)(5) of title 23, United States Code, is amended by striking out "(5) Notwithstanding any other provision of law—" and inserting in lieu thereof "(5) Notwithstanding any other provision of law, in the case of any withdrawal of approval before November 6, 1978—".

(b) Paragraph (2) of section 107(f) of the Federal-Aid Highway Act of 1978 (Public Law 95–599) is hereby repealed.

(c) Paragraph (6) of section 103(e) of title 23, United States Code, is renumbered as paragraph (8), and paragraph (7) of such section is renumbered as paragraph (9), including any references thereto, and such section 103(e) is further amended by inserting immediately after paragraph (5) the following new paragraphs:

"(6) Notwithstanding any other provision of law—

"(A) in the case of any withdrawal of approval on or after November 6, 1978, of a route or portion thereof on the Interstate System, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

"(B) in the case of any withdrawal of approval on or after November 6, 1978, of any route or portion thereof on the Interstate System under this section, a State shall not be required to refund to the Highway Trust Fund the costs of construction items, materials, or rights-of-way of the withdrawn route or portion thereof if such items, materials, and rights-of-way were acquired before November 6, 1978, if by the date of withdrawal of approval the Secretary has not approved the environmental impact statement required by the National Environmental Policy Act of 1969, and if such construction items, materials, or rights-of-way will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to any other public purpose determined by the Secretary to be in the public interest on condition that the State gives assurances satisfactory to the Secretary that such construction items, materials, or rights-of-way have been or will be so applied by the State, or any political subdivision thereof, to a project under clause (i), (ii), or (iii) within ten years from the date of withdrawal of approval;

"(7) In any case where a withdrawal of approval of a route or portion thereof on the Interstate System on or after November 6, 1978, does not come within the provisions of paragraph (6)(B) of this subsection, the State shall refund to the Highway Trust Fund the costs of construction items, materials, and rights-of-way of the withdrawn route or portion thereof, except that if the State gives assurances satisfactory to the Secretary that such items, materials, and rights-of-way have been or will be applied to a transportation project permissible under this title within ten years from the date of withdrawal of approval, the amount of such repayment shall be the difference between the amount received for such items, materials, and rights-of-way and the amount which would be received in accordance with the current Federal share applicable to the transportation project to which such items, materials, and rights-of-way were or are to be applied; and".

Sec. 3. Section 109(l)(1)(A) of title 23, United States Code, is amended by striking out "any aspect of".

Sec. 4. Clauses (1) and (2) of subsection (b) of section 115 of title 23, United States Code, are redesignated as (A) and (B) respectively, including any references thereto. Such subsection (b) is further amended by inserting "(1)" immediately after "(b)" and by adding at the end thereof the following new paragraph:

"(2) For any project under construction on January 1, 1978, on the Interstate System and converted to a regularly funded project after January 1, 1978, for which the proceeds of bonds issued by the State, county, city, or other political subdivision of the State were used, any interest earned and payable on such bonds by the date of conversion is an eligible cost of construction, to the extent that the proceeds of such bonds have actually been expended in the construction of such projects.".

Sec. 5. (a) The fifth sentence of section 118(b) of title 23, United States Code, is amended to read as follows: "Any amount apportioned to the States for the Interstate System under subsection (b)(5)(B) of section 104 of this title shall continue to be available for expenditure in that State for a period of two years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unexpended at the end of such period shall lapse."

(b) The amendment made by subsection (a) of this section shall apply to all amounts apportioned under section 104(b)(5)(B) of title 23, United States Code, for the fiscal year 1978 and for subsequent fiscal years.

Sec. 6. Section 131(c)(5) of title 23, United States Code, is amended by striking out "distribution of" and inserting in lieu thereof "distribution by".

SEC. 7. (a) The first sentence of section 144(d) of title 23, United States Code, is amended by striking out "or rehabilitating such bridge with a comparable facility" and inserting in lieu thereof "such bridge with a comparable facility or in rehabilitating such bridge".

(b) Section 144(m) of title 23, United States Code, is amended by striking out "major repairs" and inserting in lieu thereof "major work".

SEC. 8. The third sentence of subsection (g) of section 144 of title 23, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and for any project for a highway bridge the replacement or rehabilitation costs of which is less than $10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge.".

SEC. 9. Section 215(f) of title 23, United States Code, is amended by striking out "chapters 1 and 5" and inserting in lieu thereof "chapter 1".

SEC. 10. (a) The last sentence of section 219(c) of title 23, United States Code, is amended by striking out "construction" and inserting in lieu thereof "improvement".

(b) Subsection (g) of section 152 of title 23, United States Code, is amended by striking out "September 30" and inserting in lieu thereof "December 30", and by striking out "January 1" and inserting in lieu thereof "April 1".

SEC. 11. Section 321(b) of title 23, United States Code, is amended by striking out "paragraphs (1), (2), (3)" and inserting in lieu thereof "paragraphs (1), (2)," and by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

SEC. 12. Subsection (e) of section 123 of the Federal-Aid Highway Act of 1978 (Public Law 95-599) is hereby repealed.

SEC. 13. (a) Subsection (a) of section 143 of the Federal-Aid Highway Act of 1978 (Public Law 95-599) is amended (1) by striking out "section 129" and inserting in lieu thereof "sections 129 and 301", (2) by inserting "for I-88 traffic" immediately after "are free of tolls" each of the two places it appears, and (3) by inserting "and reconstruction" immediately after "construction".

(b) Subsection (b) of such section 143 is amended to read as follows:

"(b) The Secretary of Transportation is authorized to approve as a project on the Interstate System the construction of an additional lane in each direction on route I-90 between exits 24 and 25½ on condition that all lanes on I-90 between exits 24 and 26 are free of tolls for I-88 traffic.".

SEC. 14. Section 144 of the Federal-Aid Highway Act of 1978 (Public Law 95-599) is amended by adding at the end thereof the following new subsection:

"(d) This section shall not apply to the Commonwealth of Puerto Rico.".

SEC. 15. Section 147 of the Federal-Aid Highway Act of 1978 (Public Law 95-599) is amended by inserting immediately after the fourth sentence of such section the following new sentence: "Such additional funds as may be necessary to complete the projects shall be set aside for such purpose from the amount authorized for the fiscal year ending September 30, 1981, by section 202(6) of the Highway Safety Act of 1978, before any apportionment of such amount under section 144(e) of title 23, United States Code, and such funds shall be available for obligation in the same manner and to the same extent as funds set aside under authority of the preceding sentence.".

SEC. 16. (a) The first sentence of section 164 of the Federal-Aid Highway Act of 1978 (Public Law 95-599) is amended by striking out "toll".

(b) The second sentence of such section 164 is amended by striking out "portions which remain free to public travel." and inserting in lieu thereof "those portions which have not been incorporated into the Interstate System; and also determine a method of allocating bonded indebtedness between those portions of the Interstate System on which tolls are collected and those portions which are toll free.".

(c) The third sentence of such section 164 is amended by striking out "recommended" and inserting in lieu thereof "recommend".

SEC. 17. (a) Section 5(a)(2)(A) of the Urban Mass Transportation Act of 1964 is amended by striking out "subparagraph (C)" and inserting in lieu thereof "subparagraph (B)".

(b) The last subparagraph of paragraph (2) of subsection (a) of section 5 of the Urban Mass Transportation Act of 1964 is amended by striking out "(C)" and inserting in lieu thereof "(B)".

(c) The last sentence of section 5(a)(3)(A) of the Urban Mass Transportation Act of 1964 is amended by striking out "capital" and inserting in lieu thereof "construction".

(d) The third sentence of section 5(a)(4)(A) of the Urban Mass Transportation Act of 1964 is amended by striking out "in the construction of bus-related facilities", and inserting in lieu thereof "and the construction of bus-related facilities".

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. HOWARD) will be recognized for 20 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Mr. Speaker, consistent with the oversight character of this session of the Congress, the bill contains no new programs. The bill is a simple housekeeping measure and should not require lengthy deliberation by the House.

The bill H.R. 4249 is the result of the oversight activities of the Committee on Public Works and Transportation of the administration by the Department of Transportation of the Surface Transportation Assistance Act of 1978. At the time the Subcommittee on Surface Transportation held oversight hearings on the administration of the landmark legislation, the committee asked the Department of Transportation to provide a list of provisions which the Department viewed as requiring grammatical, clerical or other technical changes or were otherwise difficult to interpret or administer. After reviewing these, the committee included 12 of the amendments suggested by the Department in this bill. In addition, other provisions of the Surface Assistance Act which required technical correction or clarification came to the attention of the committee and appropriate amendments were included in the bill. One such provision clarifies the requirements for repayment of Federal funds when a State withdraws an approved highway segment from the Interstate System. Other provisions conform the statute to changes made by the conference committee on the Surface Transportation Assistance Act. Finally, others make technical improvements to sections of the act which are unwieldy to administer.

The bill involves no additional cost to the Government and makes minor changes in the law. I urge its adoption by the House.

Mr. PERKINS. Mr. Speaker, will the distinguished gentleman from New Jersey yield?

Mr. HOWARD. I will be happy to yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, I wish to compliment the distinguished gentleman from New Jersey for making certain corrections in the original measure that was passed 1 year ago. This is a great piece of legislation and should be passed. I personally hope that there is not a vote in the Chamber against the measure.

Mr. HOWARD. I thank the gentleman. We do not intend to call for a record vote.

Mr. ANDERSON of California. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from California.

Mr. ANDERSON of California. Mr. Speaker, I want to thank my colleague for yielding to me, and compliment him as chairman of the Surface Transportation Subcommittee on the job he does regularly, but particularly on this bill.

Mr. Speaker, I want to rise in support of this measure, H.R. 4249.

Mr. Speaker, I thank the able subcommittee chairman from New Jersey for yielding. Certainly, I commend him for the fine job he has done on this bill, and for the overall job he and the subcommittee are doing this year, as in years past.

I strongly support H.R. 4249. I only have a brief statement to make in support of the bill, because it should be noncontroversial legislation which simply clarifies some of the details of a very major bill which this body passed last year, the Surface Transportation Assistance Act of 1978. Mr. Speaker, as you know, the House has been working diligently to perfect its oversight function during this session of Congress. The bill, H.R. 4249 represents an excellent example of the outcome of oversight activities by the Committee on Public Works and Transportation. In the course of oversight hearings on the Surface Transportation Assistance Act the committee sought and received from the Department of Transportation suggestions concerning certain provisions of the act which the Department found difficult to administer. After reviewing those suggestions and others offered by the members of the committee, the Subcommittee on Surface Transportation put together this bill which for the most part makes very minor modifications to the basic statutes involved. I want to emphasize the fact that this bill maintains the basic thrust of the Surface Transportation Assistance Act, and in particular a matter that concerns me. This is the requirement that States, in withdrawing segments of highway from the Interstate System, shall under certain conditions refund to the highway trust fund money spent from the trust fund. This will be required if the environmental impact statement had been approved prior to the withdrawal of the project. I support this legislation and yield back the balance of my time.

Mr. HOWARD. Mr. Speaker, I reserve the balance of my time.

□ 1220

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill and I concur in the remarks as presented by our very distinguished chairman, the gentleman from New Jersey (Mr. HOWARD).

Mr. Speaker, last year, the Congress overwhelmingly passed the Comprehensive Surface Transportation Assistance Act of 1978 which, for the first time in history, combined highways, highway safety and mass transit in a single bill. That legislation was the product of several years of hearings and reflected testimony by many hundreds of witnesses. It was a good bill that established a direction for transportation policy in the years ahead.

The bill before us today, Mr. Speaker, is simply an attempt to perfect the law we passed last year.

Earlier this year, the Subcommittee on Surface Transportation held oversight hearings on the way the act was being implemented by DOT. During the course of that review, it became apparent that certain technical corrections were necessary to preserve legislative intent. Additionally, DOT recommended several revisions that it felt would help make the act run smoother. These suggestions are reflected in this bill.

And very importantly, the bill does not cost 1 red cent. It does not create new budget or spending authority, and with the possible exception of the discretionary bridge fund, it will not result in the shift of any funds.

This legislation is a simple, straightforward measure which deserves the overwhelming support of the House.

I urge its adoption.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman from California yield?

Mr. CLAUSEN. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Speaker, I would like to ask my distinguished colleague from California (Mr. CLAUSEN) and the chairman, Mr. HOWARD, about the intent of the proposed amendment to section 144(g) of the Surface Transportation Act which authorizes the $200 million to the Secretary's discretionary fund for bridge replacement and rehabilitation. Presently, only bridge projects costing $10 million or more are eligible for funding from the discretionary fund. The proposed amendment would also make eligible those projects costing more than two times the State's allocation under the regular bridge replacement and rehabilitation program. I congratulate the gentleman's subcommittee on making this important change. Many vital bridge projects which impact entire regional transportation networks cost many times the annual allocation of certain States' regular bridge rehabilitation replacement allocation but cannot be funded because projects are less than $10 million.

In Delaware, for example, the Augustine Bridge, a vital arterial link which has been closed since June 1978 falls into this category and I hope that my distinguished colleague from California will agree that this amendment will help resolve the problem of projects such as the Augustine Bridge in Delaware.

Mr. CLAUSEN. I have talked to the committee about this particular matter and I strongly believe the Augustine Bridge should be funded from the Secretary's discretionary fund.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from New Jersey.

Mr. HOWARD. I wish to thank the gentleman for bringing up this subject. We did have a $10 million floor for the special discretionary program. That was when we came out of committee with the bill and, at that time, we had anticipated approximately $2 billion per year for the entire program. As you know, in the House that was reduced to $1.5 billion. Later in conference it was reduced to about a $1.1 billion average over the 4 years. We found later with the lowering of the total amount available for bridges, that this would then put some States in jeopardy which would not have been in jeopardy with the additional funds we originally authorized and so it seemed only fair that in order not to wipe out the State's total allocation for several years that we would make provision for either a floor of $10 million or an amount equal to 2 years' regular appropriation to a State and we wish to thank the gentleman, who is one of those who brought it to our attention so we could make that correction in this bill.

Mr. EVANS of Delaware. I thank the gentleman from New Jersey for his important contribution and for developing a program that is fair and equitable and recognizes that costs alone are not necessarily the equivalent of need. There are other factors.

I ask the gentleman from California to yield further.

Mr. CLAUSEN. I will be happy to yield.

Mr. EVANS of Delaware. I thank the gentleman from California and the gentleman from New Jersey for their support for this type of project which does have significant regional impact.

There is another problem regarding the funding of these kinds of projects. The Surface Transportation Act provides for the transfer of urban system moneys to fund State bridge replacement and rehabilitation programs when the regular funds are not adequate. In Delaware, it was necessary for the Delaware Department of Transportation to transfer moneys from its urban system allocation to permit construction bids to be let for the Augustine Bridge. Otherwise, we would have had a tremendous backlog. This will delay much needed urban system projects in Delaware and is clearly an example of where we are robbing Peter to pay Paul.

I would hope my colleague from California would agree with me that the Federal Highway Administration should permit the transfer back of urban system moneys to urban projects where a bridge project which becomes eligible under this amendment has already been funded from a State's urban system allocation.

Mr. CLAUSEN. We agree with the statement that has been made by our colleague from Delaware that the transfer of urban system moneys back to the urban system projects should occur where a bridge project such as the Augustine Bridge becomes eligible under this amendment, has already been funded from a State's urban system allocation. I would urge the Federal Highway Administration to permit this transfer of moneys.

Mr. HOWARD. Will the gentleman yield?

Mr. CLAUSEN. I yield to the chairman of the committee.

Mr. HOWARD. I would like to say the gentleman does bring up a good point. Should this not be completely clear in the law, I would state to the gentleman that it is the intention of the subcommittee, due to the fact that we feel we are going to be bumping the ceiling on discretionary bridge money and also priority primary money, that during the second session of this Congress we do intend to hold hearings on the Surface Transportation Act and will certainly consider that if we need to have a direct change in the wording of the law itself.

Mr. EVANS of Delaware. Will the gentleman yield further?

Mr. CLAUSEN. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. I thank the gentleman from New Jersey and the gentleman from California for this important clarification.

I think we have developed some significant legislative history on this issue, and I hope the Federal Highway Administration will be following it in the future.

I now yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Speaker, the Federal Highway Act of 1973 authorized each State to designate approximately 5 percent of its eligible mileage as priority routes. This law authorized the creation of a special category of primary roads lower than the interstate in importance but above the status of the primary system.

These priority primary routes were designed to serve as connectors between interstate routes and to supplement the interstate system as major transportation arteries.

Highway 61, which stretches over 70 miles of my district from Interstate 80 to Dubuque, is presently two lanes. There are plans for improvement and conversion of this highway to a four-lane system. Highway 61 is the only connection between an interstate highway and Dubuque, Iowa, which is one of only two midwestern cities with a population over 50,000 that does not have direct access to an interstate highway.

This route has been submitted by the Iowa DOT for classification as priority primary and has been approved by the Federal DOT. It only requires further designation for priority funding for major construction.

I would like to ask the distinguished chairman of the committee, the gentleman from New Jersey (Mr. HOWARD), if he knows of any reason why Highway 61 in my district in Iowa could not be designated for priority funding under this program.

Mr. HOWARD. Will the gentleman from California yield?

Mr. CLAUSEN. I yield to the gentleman from New Jersey.

Mr. HOWARD. I would respond to my colleague from Iowa that Highway 61 would appear to meet all the qualifications for primary priority funding. It is the intent of the subcommittee that Highway 61 should be funded in accordance with the availability of funds, and I believe the legislative history being created here would serve that purpose.

Mr. TAUKE. I thank the distinguished chairman.

Mr. CLAUSEN. On behalf of the minority, I want to concur in the statement as presented by our distinguished chairman on behalf of the committee.

Mr. Chairman, I yield back the balance of my time.

Mr. TAUKE. I thank the gentleman from California.

Mr. HOWARD. Mr. Speaker, I yield back the balance of my time.

● Mr. HARSHA. Mr. Speaker, I rise in support of H.R. 4249. This is a simple and straightforward bill. It makes certain technical, conforming, and clarifying amendments to the Surface Transportation Assistance Act of 1978 (Public Law 95–599).

The Surface Transportation Assistance Act was passed in the final hours of the 95th Congress after a relatively short conference considering the complexity of the legislation and the substantial differences that existed between the House and Senate versions of the bill. It is a measure of unprecedented scope in the transportation field. Highway, highway safety, and public transportation programs were combined for the first time in a single enactment.

However, since enactment of Public Law 95–599 on November 6, 1978, it has become obvious that amendments are needed to correct certain provisions which have had unintended effects or have proved susceptible to misinterpretation by the Department of Transportation. The need for these amendments is based on staff review of the act and its implementation, extensive staff discussions with the Department of Transportation and other affected parties, and 2 days of oversight hearings held by the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation.

H.R. 4249 contains 17 amendments, 12 of which were recommended by the Department of Transportation.

Section 1 makes it clear that the prohibition against new interstate designations does not extend to existing Federal-aid primary highways which can be designated a part of the Interstate System in accordance with 23 U.S.C. 139.

Section 2 makes clear congressional policy with regard to repayment for withdrawn interstate segments. I would like to highlight one point discussed in House Report 96–288. The committee has directed the Secretary of Transportation to notify the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works prior to any decision being made on any application for relief from the repayment requirement. In addition, the Secretary must provide a quarterly report on the projects for which the Secretary has not required or is not requiring payback and the projects which are under consideration for no payback. In this way, the committee intends to monitor closely implementation of this provision in order to assure sound fiscal management and responsible stewardship of Federal funds.

Section 3 clarifies the intent of Congress in regard to the provision in Public Law 95–599 relating to the location of utilities on Federal-aid highway rights-of-way.

Section 4 clarifies congressional intent regarding Federal participation in interest payments on interstate projects.

Section 5 restores the period of availability of interstate resurfacing, restoration, and rehabilitation funds to 4 years. The period of availability had been unintentionally reduced to 2 years by section 115 of the Surface Transportation Assistance Act.

Section 8 corrects an unintended hardship which resulted in States with small apportionments under the bridge replacement and rehabilitation program. These States are unable to accumulate sufficient funds for expensive bridge projects. This section makes discretionary funds available for replacement or rehabilitation of any unsafe bridge costing more than $10,000,000 or more with twice a State's apportionment, whichever is less.

Section 10 clarifies congressional intent that at least 50 percent of the safer off-system funds obligated in any State in any fiscal year be obligated for highway safety improvement projects.

Section 12 eliminates an unintended 2-year grace period during which the Secretary of Transportation would not have had a procedure for assuring the enforcement of size and weight laws.

Section 15 clarifies congressional intent with regard to the program to develop and demonstrate a comprehensive approach to accelerating bridge construction and reconstruction. Congress adopted this important provision as part of its comprehensive attack on the backlog of the Nation's unsafe bridges, and the need to cut through the redtape and delay holding up bridge construction. The two demonstration projects are being explicitly designed and carried out from the outset with acceleration of completion as their principal objective. I am confident that these projects will yield experience generally applicable across the board and lead to economies throughout the bridge program exceeding many times over the cost of these two projects. This section amends section 147 of Public Law 95–599 to assure that sufficient resources are set aside from fiscal year 1981 bridge replacement and rehabilitation funds to complete the projects.

Sections 6, 7, 9, 11, 13, 14, 16 and 17 make a number of other technical and clarifying changes to certain provisions in the Surface Transportation Assistance Act.

Before concluding my remarks, Mr. Speaker, I would like to comment on two general matters which are discussed in the committee report.

First, I want to make it clear that none of the provisions in the Surface Transportation Assistance Act are intended to alter the traditional Federal-State partnership in the Federal-aid highway program. The program remains a federally-assisted, State-administered program. In this regard, it should be noted that a number of executive branch proposals which would have provided for greater Federal involvement in the decisionmaking process were specifically rejected by the Congress during consideration of Public Law 95–599.

Second, none of the provisions in the Surface Transportation Assistance Act are intended to change in any way the existing procedures and requirements of the Department of Transportation for preparing environmental impact statements. This is especially important in light of the deadlines which are in Public Law 95–599 for submission of environmental impact statements for interstate segments. Clearly, the deadline date would have been different if Congress had intended that the scope and coverage of the environmental impact statements be significantly expanded. This is an area which the committee intends to monitor closely.

In closing, I think it would be inappropriate to let this moment pass without expressing our appreciation to the gentleman from California (Mr. JOHNSON), chairman of the Committee on Public Works and Transportation, and the gentleman from Pennsylvania (Mr. SHUSTER), the ranking minority member on the Subcommittee on Surface Transportation, for their efforts.

In particular, I want to express my appreciation to the gentleman from New Jersey (Mr. HOWARD) who, as chairman of the Surface Transportation Subcommittee, has worked hard and displayed extraordinary knowledge of the subject. He has worked with a formidable command of detail to make the Surface Transportation Assistance Act and this technical amendments bill measures which will significantly improve this Nation's transportation system. Public Law 95–599 would not have been enacted, and this bill would not be on the floor today, had it not been for the dedication, knowledge, and patience of the gentleman from New Jersey.

Mr. Speaker, H.R. 4249 is worthy of the support of Members on both sides of the aisle. I urge its passage.●

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of the bill, H.R. 4249. Although the bill contains no major changes, it is the result of considerable work by the committee in discharging its basic oversight responsibility with respect to the Surface Transportation Assistance Act of 1978. As the able chairman of the subcommittee has indicated, the bill is essentially a legislative housekeeping measure, necessitated by problems which the Department of Transportation has in administering certain language of the Surface Transportation Assistance Act and problems created by the interplay of the various complex provisions in the act.

The bill contains technical changes to title 23 of the United States Code and technical, clerical, and conforming changes to title 23 of the United States Code, the Urban Transportation Act and certain freestanding provisions of the Surface Transportation Assistance Act. I urge its adoption by the House.●

The SPEAKER pro tempore (Mr. PEYSER). The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD) that the House suspend the rules and pass the bill H.R. 4249, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COOSA RIVER BANK EROSION CONTROL

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2814) to authorize the Secretary of the Army to correct certain slope failures and erosion problems along the banks of the Coosa River, as amended.

The Clerk read as follows:

H.R. 2814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembed, That the Secretary of the Army, acting through the Chief of Engineers, shall take such action as may be necessary to correct slope failures and erosion problems along the banks of the Coosa River in order to protect the Fort Toulouse National Historic Landmark and Taskigi Indian Mound in the county of Elmore, Alabama.

"SEC. 2. Appropriations for any actions authorized by this Act are authorized for those fiscal years which begin on or after October 1, 1979."

The SPEAKER pro tempore. Is a second demanded?

Mr. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) will be recognized for 20 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material on the bill, H.R. 2814, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTS. Mr. Speaker, H.R. 2814, as reported, authorizes the Secretary of the Army, acting through the Chief of Engineers, to take such action as may be necessary to correct slope failures and erosion problems along the banks of the Coosa River, Ala., in order to protect the Fort Toulouse National Historic Landmark and Taskigi Indian Mound in the county of Elmore, Ala.

Fort Toulouse and the Taskigi Indian Mound are being threatened by a serious erosion problem which exists along the shores of the Coosa River. Photographs indicate that as much as 30 feet of the bank in some areas have sloughed in recent years. Some artifacts in the vicinity of the bank are being lost as a result of the continuing bank deterioration. The partially restored Fort Toulouse is approximately 40 feet from the shores of the bank and will undoubtedly be destroyed if corrective action is not taken in the near future.

The Corps of Engineers has investigated a variety of solutions to the problem and has identified two as being the most promising. One consists of a cutoff about 9,600 feet long which would isolate the unstable slope in the bend of the river. Some of the excavated material would be used to fill the present river channel. The estimated cost is $14 million. The other potential solution consists of a curved 4,500-foot-long cutoff within the inside of the bend opposite the unstable slope. Here also some of the excavated material would be used to fill the river channel. The estimated cost of this proposal is $10 million.

With either approach, it would also be necessary to include protective works along the reaches of the Coosa River upstream and downstream of Fort Toulouse. A rough estimate for the cost of this work is about $5 million.

The bill authorizes the Secretary of the Army, acting through the Chief of Engineers, to undertake measures such as these, or any others determined by the Chief of Engineers to be necessary to protect Fort Toulouse and Taskigi Indian mound from damage caused by slope failures and erosion problems.

I urge enactment of this badly needed legislation.

☐ 1230

Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I thank the gentleman for yielding. I want to compliment the chairman of the subcommittee on the gentleman's interest in this particular situation. It is an urgent situation, Mr. Speaker. The floods of this spring caused an additional one acre of this land to be eroded. We have lost some 80 Indian skeletons there and numerous artifacts. It is very urgent, and I compliment the gentleman.

Mr. Speaker, I rise in support of H.R. 2814, a bill to authorize certain bank abatement work to be conducted near the site of the confluence of the Tallapoosa and Coosa Rivers.

This legislation is intended to provide the American people an opportunity to preserve an important portion of their cultural and historic heritage. Unless action is immediately taken historic artifacts from precolonial and colonial periods will be lost.

At this juncture of two of Alabama's most important rivers, Indians and colonial settlers built towns, trading centers, military outposts, and sacred burial mounds. This site has been proclaimed as the most important historic location in Alabama and one of the two most important historic and archeological finds in the United States during this century. But slowly nature is washing away the history that is waiting to be rediscovered by archeologists searching for keys to our historic past.

This legislation is intended to authorize the Corp of Engineers to perform the necessary work to save the site commonly known as Fort Toulouse. This site overlooks the Coosa River, standing on high clay banks, nearly 30 feet above the river. During the spring floods, the river rises to the edge of these banks and as the rivers recedes, the bank sloughs into the river.

The State of Alabama has invested more than a half a million dollars to save the fort, but engineering studies reveal that unless extraordinary action is taken, the fort and the Taskigi Indian mound will be washed into the river.

Already, the skeletal remains of more than 80 Indians have been lost from the mound and untold artifacts have been lost from the fort immediately adjacent to the mound.

Man has inhabited the site for at least 2,000 years. It was first utilized by the Indians and then from 1717 into the 1800's by white settlers including the French, British, and Americans.

The Federal Government has spent thousands of dollars to support ongoing research projects at the Fort Toulouse National Historic Park and even the French Government has provided moneys in research and preservation efforts. In a publication released by the Department of the Interior in February of this year, Fort Toulouse was designated as an "area of national significance—where known or anticipated damage or threats to the integrity" of the area exists.

For many years my colleagues from Alabama and I have attempted to involve the Federal resources necessary to preserve the Fort Toulouse location. Action must be taken now to assure the future of the site. Damage and bank erosion to the area increases with each flood and unless authorization is provided for this project it will continue until the entire area is literally washed away.

I hope that Members of the House join my colleagues and I in supporting this legislation.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2814, which will authorize the protection of historic Fort Toulouse and Taskigi Indian Mound from the streambank erosion which threatens to destroy these sites. These two historic areas contain artifacts dating back hundreds of years. Fort Toulouse dates from 1717 and the Indian mound goes back much further.

Last year the Committee on Public Works and Transportation approved a measure which directed, as part of the Water Resources Development Act of 1978, the Corps of Engineers to undertake streambank erosion protection for these sites. Unfortunately, that measure failed for lack of a quorum in the House on the last day of the 95th Congress. Since that time new storms have brought higher water levels and increased erosion beyond that which was expected. Just this past April high water came within 18 inches of the fort and many trees were lost to the river. Unless we act soon the fort may well be lost forever.

Therefore, Mr. Speaker, I urge my colleagues to favorably consider H.R. 2814 since it is estimated that it will take 3 years to complete the protection works once authorized and funded. It is my understanding that the appropriations bill recently passed by the House for energy and water development contains funding to implement these efforts. Thus, it is vital that we act now to authorize the corps to carry out this project.

Mr. Speaker, the minority has no objection to the amendment in the bill. It is our understanding that the purpose of the amendment is to insure that this legislation complies with the requirements of the Budget Act. Since we are authorizing this project at this time it might be possible that a supplemental appropriations for fiscal year 1979 could be approved which contained funding for the Fort Toulouse project. If this were to happen it would be a violation of the intent of the Budget Act in that at the time the fiscal year 1979 budget resolution was adopted this project was not contemplated for funding. However, funds have been included in the fiscal year 1980 appropriations bill for energy and water development, passed by the House on June 18. Therefore, Mr. Speaker, I recommend adoption of the amendment since it will preserve the 1979 concurrent budget resolution and, at the same time, will not delay the project since funds will be available on October 1 to prosecute the budget.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. Mr. Speaker, I will be happy to yield to the gentleman from Alabama (Mr. Dickinson) who has brought this to our attention, along with the gentleman from Alabama (Mr. Nichols).

Mr. DICKINSON. Mr. Speaker, I would like to express my sincere appreciation to the chairman and ranking member of the Subcommittee on Water Resources and also to the chairman of the Subcommittee of the Energy and Water Development of the Committee on Appropriations, for their expeditious handling and cooperation in supporting the legislation now pending.

This is not actually in my district. However, it is only a mile or two outside my district, and is considered part of the Montgomery, Ala., area, which is my home. It is in the district of the gentleman from Alabama (Mr. Nichols), and the two of us have been working on this now for quite some time. This is certainly one of the most historic sites in the country and in my State. As has been pointed out, the Indian mounds go back centuries. They are the historic burial grounds of the Creek Indians and before them another tribe of Indians, who are presumed to have come up from Central and South America and not a part of the general Creek Tribes of North America.

Fort Toulouse has an important history going back more than 250 years. Because of the confluence of the two rivers there, a fort was built in 1717 by the French. It was the largest installation west of the Mississippi at the time it was built. It has played a very important part in the development of the United States. Andrew Jackson restored part of the fort when he went on his way to fight the battle of New Orleans.

Fort Toulouse has an important history going back to 1717.

The Water Resources Subcommittee has had three separate hearings on the legislation in the past 2 years. Extensive documentation, including pictures and slides clearly show the need for action. Authorization of funds for relief was included in the 1978 water resources development bill that was reported by the House, but the bill went by the wayside in the rush to adjournment.

The heavy rains and flooding of recent months have greatly aggravated the situation, as the Fort Toulouse area was inundated by some of the heaviest rain in nearly two decades. The water crept to within 18 inches of the fort. Nearly 100 trees were lost, including some that had been tied down with cables to protect them from being washed away. At one time it was possible to paddle a boat over nearly one-third of the park area. Thirty feet of the bank in some areas has sloughed off, due to the flooding.

The sad thing about this is that when dirt is washed away, it can always be replaced; but when artifacts and fortifications are washed away, as has been happening, they are lost forever. As the report on this bill makes clear, Fort Toulouse "will undoubtedly be destroyed if corrective action is not taken in the near future."

Fort Toulouse is an important part of the history and heritage of both the State of Alabama and our Nation. It should be preserved and H.R. 2814 will accomplish this purpose. Therefore, I strongly urge the House to pass this bill and save the historic area.

I would also like to have the text of an editorial from the April 16, 1979, Alabama Journal endorsing this legislation printed in the Record at this point.

Fort Toulouse: Going

History is going down the river hunk by hunk at Fort Toulouse. It is history not only of Alabama but of the nation that is being swept away as the meandering Coosa River eats into the area.

This loss can be brought to a halt through engineering. But getting the money for the job has not been simple. A provision providing funds for such a project was included in a bill last year that passed Congress but was killed by veto. Now U.S. House members Bill Dickinson and Bill Nichols are trying to pry loose federal funds to stop the erosion.

The cost of shifting the flow of the river to correct the problem is roughly estimated at about $15 million to $19 million. The two Alabama congressmen have introduced legislation to get the money appropriated. Dickinson has said he is optimistic that it will be approved.

Fort Toulouse, near Wetumpka, goes back to 1717. The site has been occupied by the Creeks, Spanish, French and Americans. The Americans were under the command of Andrew Jackson, who went on to become president. An Indian mound goes back to a much earlier date.

Work is going on to develop Fort Toulouse into a prime tourist attraction for this part of the state. Archeological excavations are turning up more and more information. But in the meantime the river relentlessly keeps eating away.

Over the years Congress has thrown money with a grand flourish into waterway projects of marginal worth. It now has the opportunity for a balancing of the record by saving a treasured place of the past.

Mr. CLAUSEN. Mr. Speaker, I want to state in conclusion that the three gentlemen from Alabama, Mr. Dickinson, Mr. Nichols, and Mr. Bevill, have brought this problem very vividly to our attention. As most of the members of the committee and the Congress know, I am also the ranking member on the Committee on Interior and Insular Affairs. We thought possibly because of the historical factors, that it might have been considered by that committee; but in order to address what I perceived to be a major emergency, we thought this was the quickest way to get action and resolve the serious erosion problem; so I urge support for it.

● Mr. JOHNSON of California. Mr. Speaker, I rise in support of this bill, H.R. 2814, which would authorize the Corps of Engineers to take such action as may be necessary to correct slope failures and erosion problems along the banks of the Coosa River, Ala., in order to protect the Fort Toulouse national historic landmark and Taskigi Indian mound.

This historic landmark and the Indian mound are of extremely significant archaelogocial and historic importance. Their preservation as a part of this Nation's heritage is vital. Some artifacts in the vicinity of the bank are already being lost as a result of the continuing bank deterioration. Also, the partially restored Fort Toulouse is only about 40 feet from the bank of the Coosa River and will undoubtedly be destroyed if corrective action is not taken in the near future.

The corrective action authorized by this bill will enable Fort Toulouse and the Taskigi Indian mound to be preserved for future research and restoration and insure their availability for interpretation by and education of future generations. I urge passage of the bill.●

Mr. CLAUSEN. Mr. Speaker, I have no further requests for time.

Mr. ROBERTS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 2814, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WATER BANK AUTHORIZATIONS

Mr. BREAUX. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2043) to amend the Water Bank Act for the purpose of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Water Bank Act (16 U.S.C. 1302) is amended by striking out the third sentence and inserting in lieu thereof the following: "The Secretary shall, beginning in 1979, reexamine the payment rates at the beginning of the fifth year of any such ten-year initial or renewal period and before the beginning of any renewal period in light of the then current land and crop values, and make needed adjustments in annual rates for any such initial or renewal period as provided in section 5. In addition, the Secretary shall, in 1979, reexamine the payment rates in any agreement which has been in effect for five years or more in light of current land and crop values and make any such needed adjustments.".

SEC. 2. The fourth sentence of section 3 of the Water Bank Act (16 U.S.C. 1302) is amended to read as follows: "As used in this Act, the term 'wetlands' means (1) the inland fresh areas described as types 1 through 7 in Circular 39, Wetlands of the United States, published by the United States Department of the Interior (or the inland fresh areas corresponding to such types in any successor wetland classification system developed by the Department of the Interior), (2) artificially developed inland fresh areas which meet the description of the inland fresh areas described in paragraph (1), and (3) such other wetland types as the Secretary may designate.".

SEC. 3. The fifth sentence of section 3 of the Water Bank Act (16 U.S.C. 1302) is amended by inserting after "July 1, 1971," the word "or".

SEC. 4. Section 5 of the Water Bank Act (16 U.S.C. 1304) is amended by adding at the end thereof the following: "The rates of annual payment shall be adjusted annually, to the extent amounts are provided for in advance by appropriation Acts, in accordance with section 3.".

SEC. 5. (a) Section 11 of the Water Bank Act (16 U.S.C. 1310) is amended by striking out "$10,000,000" and inserting in lieu thereof "$30,000,000".

(b) This section shall become effective October 1, 1979.

The SPEAKER pro tempore. Is a second demanded?

Mr. EVANS of Delaware. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. BREAUX) will be recognized for 20 minutes, and the gentleman from Delaware (Mr. EVANS) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2043 is a bill to improve the water bank program which is an important component of the Nation's wetlands conservation and protection effort. Under the Water Bank Act, the Secretary of Agriculture is authorized to make payments to landowners and farm operators for the purpose of conserving wetlands which are important as migratory waterfowl habitat. The Secretary is presently authorized to spend up to $10 million each year on a continuing basis to accomplish wetlands preservation. The funds are committed under agreements with landowners or operators for a period of 10 years. During this period the contracting party is required to maintain specific wetlands habitat.

The habitat subject to agreements is presently being destroyed at an annual rate of 350,000 acres. The U.S. Fish and Wildlife Service estimates that there remains 10 million acres of prime wetland habitat in urgent need of protection. In addition to wetlands' importance as fish and wildlife habitat, their naturally beneficial values include sediment and flood control, water quality maintenance, water supply, and recharge. These additional benefits of wetlands preservation constitute public resources which are often neglected in the course of land management.

H.R. 2043 seeks to strengthen and improve the capability of the water bank program to protect wetlands. Presently the areas eligible for coverage are somewhat restricted and the terms of the 10-year agreements are too inflexible to accommodate rising land values. The program excludes some wetland types which are very important water fowl wintering areas. They are presently being drained and cleared for agricultural purposes at a rate of 30,000 to 65,000 acres annually mostly in the Lower Mississippi Valley. In addition, it has been determined that many conservation agreements under the water bank program have been terminated because the annual payment rates are fixed at the beginning of the 10-year agreement period. The payments therefore fail to keep pace with rising land values caused by inflation and other factors.

The bill would remedy these program defects by allowing the Secretary to include wooded and shrub swamps in the water bank program and to adjust payment rates periodically to more accurately reflect the true cost of the land involved. These improvements expand the program to focus on the areas most seriously threatened. Incentives for landowners and operators to seek water bank agreements are increased. The amendments also greatly encourage contracting parties to remain in the program when inflation threatens to force them out and put the land to uses of less public benefit. To accomplish these improvements, H.R. 2043 also revises upward the $10,000,000 annual ceiling of program expenditures. A new ceiling of $30,000,000 each year on a continuing basis is provided.

The water bank program provides a unique voluntary approach to resource conservation and an alternative to permanent acquisition of valuable natural areas. Permanent acquisition is often unpopular with the landowner and expensive for the public. The program contributes to the protection of a broad range of public benefits only recently realized and constitutes an effective form of national thrift. The provisions in H.R. 2043 serve to strengthen an already effective program which currently protects about 530,000 acres of valuable waterfowl habitat. I urge its adoption to accelerate the achievement of wetlands protection.

Mr. EVANS of Delaware. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2043, a bill to amend the Water Bank Act of 1970.

The water bank program has proven to be very successful in terms of conservation management on certain privately owned lands containing important migratory waterfowl nesting and breeding areas. Under this program, landowners enter into 10-year agreements to carry out conservation plans for eligible wetlands in return for annual payments. These agreements prevent the landowners from draining or otherwise destroying the wetland character of the habitat for purposes such as agricultural production. It is an example of the incentive system properly applied.

Since enactment of the Water Bank Act in 1970, the program has set aside about 559,000 acres of waterfowl habitat. Presently, the act covers types 1 through 5 wetlands as described in the U.S. Department of the Interior's circular 39. These are inland freshwater areas found mostly in the prairie pothole region of the Upper Midwest—an area I might add where wetlands are being lost at the rate of 35,000 to 60,000 acres per year, because inflation and rising land prices encourage farmers to put their land into crop production.

H.R. 2043 would amend the Water Bank Act to expand the coverage of wetlands eligible for the program to include types 6 and 7—areas containing shrub and wooded swamps. This will enable the Secretary to enter into agreements with landowners in California, the lake States, the Southeast, and the lower Mississippi Valley. All of these regions contain prime waterfowl wintering habitat which is seriously threatened by drainage and clearing for agriculture production. For example, from 1950 through 1969 more than 200,000 acres were being drained annually in the Arkansas, Mississippi, and Louisiana regions. Hopefully, expanding the program to include types 6 and 7 wetlands will encourage landowners in these regions to preserve their valuable wetlands until we have some other type of program to ensure that this valuable wildlife habitat is not lost forever. It should also be noted that our proposed amendments to the act will give the Secretary the authority to include other wetland types which may be appropriate for inclusion in the program but are not classified under types 1 through 7.

H.R. 2043 will also amend the Water Bank Act to allow the Secretary to adjust the payment rates to landowners every 5 years. The purpose of this amendment is to provide an additional incentitve for landowners to seek agreements, as well as to decrease the number of agreements which are terminated, because of increased land values and rental rates.

In order to decrease the backlog of requests and to cover the additional acreage resulting from expansion of the program and additional moneys needed to adjust the payments, H.R. 2043 would increase the annual authorization ceiling from $10 to $30 million annually.

The U.S. Fish and Wildlife Service estimates that there still remains about 10 million acres of prime wetlands which are vitally in need of protection. It is imperative that we have this type of program, especially in view of the rate wetlands are being drained or otherwise lost each year. The water bank program offers an alternative to the permanent conveyance of their land and yet provides an incentive for wetlands preservation.

Mr. Speaker, I urge my colleagues to join me in support of the amendments to the Water Bank Act. This legislation is badly needed if present and future generations are to enjoy the benefits of migratory bird populations.

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Mr. BREAUX. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I first want to compliment the gentleman from Louisiana (Mr. BREAUX) for expediting action on this legislation. Considering the very heavy schedule of legislation of our subcommittee, the gentleman has nonetheless given this bill priority. He has done so because it is so important to wetlands, to the migratory waterfowl of this country, and to the needs of farmers. The gentleman has recognized those needs and moved this legislation along through his own personal interest and dedication.

The waterbank program has been one of the most successful of all Federal programs. It is accepted by farmers, by sportsmen, and by local government alike. It is a program that has worked because it is simple and practical. It preserves wetlands without taking them away from their owners, the farmers. It protects the Federal budget by setting aside those lands that are marginal for agriculture but are very highly productive for waterfowl.

Water bank makes good sense. It is the kind of program we ought to encourage and which this legislation in fact does encourage.

Mr. Speaker, earlier this year, I introduced H.R. 2043 to improve the waterbank, not because the program was a failure, but because I wanted to see a successful program made even better.

Congress passed the Water Bank Act in 1970 to encourage preservation of our Nation's wetlands.

The 1970 act authorizes the Secretary of Agriculture to enter into 10-year agreements with landowners and farm operators for the purpose of wetlands conservation.

The Secretary does not acquire any property and the agreements place no permanent restrictions on the property at the end of the 10-year agreement. The voluntary program is extremely popular among farmers, who receive compensation for using their lands in the interests of conservation. The program has won widespread support among conservationists and sportsmen who value our Nation's wetlands as wildlife habitat.

There are three major problems in the present waterbank: First, the $10,000,000 annual authorization is too low; second, waterbank agreements may be entered into only for the preservation of wetlands types 1 through 5; and third, payment rates under existing agreements may not be adjusted even in the face of rapidly increasing crop and land values.

The purpose of waterbank is to encourage conservation-minded farmers rather than bankrupt them by freezing payments without regard to inflation. In my home State of Minnesota, and in North Dakota, the States with the two largest waterbank programs, cancellations of agreements are increasing because of the rising price of farmland and escalating rental rates.

H.R. 2043 makes three major improvements: First, it permits the Secretary to revise payment rates to reflect increased crop and land values at the beginning of the fifth year of a 10-year agreement—a sort of midcourse correction. H.R. 2043 would also permit the Secretary to revise payments on a one-time basis for agreements which are beyond the beginning of the fifth year; second, expands categories of wetlands eligible for protection to include shrubs and wooded swamps—wetlands types 6 and 7. In addition, H.R. 2043 would permit the Secretary to include such other wetlands types as he may designate. It would also allow the recognition of successive wetlands classification systems, if developed by the Department of the Interior, to replace the current system described in Interior's Circular 39; and third, H.R. 2043 increases the annual authorization from $10,000,000 to $30,000,000.

This increase in authorization is absolutely essential to enable the Secretary of Agriculture to expand the program and reduce the loss of critical wetlands. The Department of the Interior estimates we are losing 300,000 acres of valuable wetlands each year. The greatest losses are presently occurring in the lower Mississippi River region—35,000–65,000 acres annually as the result of drainage of hardwood swamps, shrub swamps, and bogs. The river bottomlands are among the most important breeding areas for wood ducks and are a major wintering area for many species of waterfowl. Much of this area contains wetlands types 6 and 7—now ineligible for the program.

To finance upgrading of the contracts and expansion of agreements to include types 6 and 7, meet the rising costs of future agreements, and increase the total number of wetlands areas protected, we need the $30 million authorization.

Water bank is a simple program. It does not reduce the amount of private property in the county, or the county's tax base. The program relies upon a voluntary agreement between the farmer and the Government. No condemnation or coercive action is involved.

Since 1970, over one-half million acres of prime waterfowl habitat have been preserved under the program.

We need water bank. It is not just that preservation is cheaper than restoration. We cannot restore wetlands once they have been converted to other uses—the loss is irretrievable.

The administration has been inconsistent on water bank. In 1978, the administration requested no funds for water bank. But the Appropriations Committee restored the full $10,000,000 appropriation. In 1979, the President requested $10,000,000, and that amount was appropriated. This year, the administration again eliminated water bank from the budget. Here again, the House Appropriations Committee recommended the full $10,000,000, which the full House later approved. We owe a tremendous debt of gratitude to the members of that committee, for their longstanding commitment to water bank, for sustaining what is one of the most cost-effective and operationally effective programs the Federal Government has for conservation.

Three-quarters of the payments under water bank agreements go to my home State of Minnesota and to the States of North Dakota and South Dakota. It is my great hope that this legislation will expand water bank in States which now only have small water bank programs and in those States which are not participating, but which have large wetland areas that should be protected.

Mr. Speaker, I urge an overwhelming vote in favor of the water bank amendments.

Mr. BREAUX. Mr. Speaker, I thank the gentleman from Minnesota (Mr. OBERSTAR) for his fine statement, and I yield myself such time as I may consume.

I can only point out in conclusion, Mr. Speaker, that one of the good features of this program in our effort to try to save our wetlands around the United States is the fact that this is a voluntary type of program. A landowner can voluntarily agree with the Federal Government to set aside a certain amount of his private property for the purposes of preserving the valuable wetlands and habitats that are found in those wetland areas.

Let me point out also that it is not a permanent conveyance. It is sort of a rent-lease type of operation, and the owner of the land does not relinquish title to his property, which I think is a much better way to proceed.

● Mr. MURPHY of New York. Mr. Speaker, the purpose of H.R. 2043 is to increase the funding authorization for the Water Bank Act and to expand the types of wetlands eligible for participation under the act.

The Water Bank Act was enacted in 1970 to assist in the conservation of wetlands identified as valuable migratory waterfowl nesting and breeding habitat. The act authorized the Secretary of Agriculture to enter into 10-year agreements with owners of wetlands, types 1 through 5—consisting primarily of inland fresh meadows, marshes, and open water—with a view toward preserving such lands for migratory waterfowl purposes. The act authorized the Secretary of Agriculture to make annual payments not in excess of $10 million per year to owners of wetlands included in agreements.

Of the approximately 40 million acres of types 1 through 5 wetlands in the United States, 14 million acres have been identified by the Department of the Interior as being of primary importance to waterfowl. Since the inception of the program, more than 4,900 agreements have been entered into involving about 500,000 acres of these wetlands. About 170 counties in 12 States have been approved as having lands eligible for participation under the program. Most of the lands included in the program thus far are in Minnesota and North and South Dakota.

Mr. Speaker, on an annual basis more than 300,000 acres of valuable wetlands are being converted to other uses, such as for farming and industrial purposes. The water bank program has assisted in curtailing conversions. However, such conversions are still occurring at an excessively high rate, particularly in the lower Mississippi River region and along the Atlantic and Gulf coast areas.

Mr. Speaker, to further deter conversions and to bring other vitally needed wetlands under the program, H.R. 2043 would expand the program to include types 6 and 7 wetlands—primarily shrub and wooded swamps—and coastal wetlands. In addition, the bill would require an adjustment in the payment rates at the end of the 5th year of new agreements and after the 5th year of existing agreements to reflect the then current land and crop values. To meet these increased expenditures, the bill would increase the amount authorized to be expended under the act from $10 to $30 million per year.

With the expansion of the program to cover coastal wetlands areas, this will allow the North Eastern States increased participation in the program. For example, the State of New York will be eligible to participate, because of the valuable habitat for black ducks in its coastal areas.

Mr. Speaker, the act has proven to be most popular with owners of wetlands because it offers them an alternative to the permanent conveyance of their lands. H.R. 2043 does not have the support of the administration, because of a study underway in the Department of Agriculture to determine the best programs and approaches for conservation of our natural resources. However, the Department of the Interior is in strong support of the role of the water bank program in our Nation's overall wetland preservation efforts. Also, in President Carter's 1977 environmental message to Congress, concern was expressed over the rapid loss of our Nation's remaining wetlands. His message stated:

> The lasting benefit that society derives from these areas often far exceed the immediate advantage their owners might get from draining or filling them. Their destruction shifts economic and environmental costs to other citizens—often in other States—who have no choice in the decision to alter them.

H.R. 2043 was unanimously reported by the Committee on Merchant Marine and Fisheries and it has the strong support of the National Wildlife Federation, the Wildlife Management Institute, and in general wildlife organizations throughout the country.

Mr. Speaker, the motion to suspend the rules and pass the bill, as amended, also includes two technical amendments. The first amendment closes the quote on page 5, line 5, by inserting a period after "3." The second amendment inserts "(a)" on page 5, line 6, after "5," and adds a new subsection (b) to section 5 of the bill to provide that the section shall become effective October 1, 1979. The latter amendment brings the bill into compliance with section 402(a) of the Budget Act to make it clear that the new authority for increased funds provided in section 5 would apply to the fiscal year beginning with 1980 and not any sooner. Otherwise, to overcome the prohibition in section 402(a), H.R. 2043 would have had to have been reported by May 15, 1978.●

Mr. EVANS of Delaware. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX) that the House suspend the rules and pass the bill, H.R. 2043, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2043, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

FISH AND WILDLIFE CONSERVATION ACT OF 1979

Mr. BREAUX. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3292) to assist the States in developing fish and wildlife conservation plans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fish and Wildlife Conservation Act of 1979".

SEC. 2. DECLARATION OF FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Fish and wildlife are of ecological, educational, esthetic, cultural, recreational, economic, and scientific value to the Nation.

(2) The improved conservation of fish and wildlife, particularly nongame fish and wildlife, will assist in restoring and maintaining fish and wildlife and in assuring a productive and more esthetically pleasing environment for all citizens.

(3) Many citizens, particularly those residing in urban areas, have insufficient opportunity to participate in recreational and other programs designed to foster human interaction with nongame fish and wildlife and thereby are unable to have a greater appreciation and awareness of the environment.

(4) Existing State conservation programs for nongame fish and wildlife have been supported largely by hunting and fishing license revenues and excise taxes on certain hunting and fishing equipment. These traditional financing mechanisms are neither adequate nor fully appropriate to meet the conservation needs of nongame fish and wildlife.

(5) Each State should be encouraged to develop, expand, and maintain, in consultation with appropriate Federal, State, and local and regional agencies, a plan for the conservation of fish and wildlife, particularly those species which are indigenous to the State, in urban and nonurban areas.

(b) PURPOSE.—It is the purpose of this Act to provide financial and technical assistance to enable the States to develop and revise conservation plans for fish and wildlife.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term "conservation plan" means a plan which—

(A) is developed by a State for the conserving of fish and wildlife, or nongame fish and wildlife, and meets the standards set forth in section 4;

(B) will conserve the plan species and their significant habitats in a systematic and comprehensive manner; and

(C) is based upon an inclusive inventory and assessment of the plan species and their significant habitats conducted by the designated State agency in a manner consistent with scientific resource management and on such other information as may be available.

(2) The terms "conserve", "conserving", and "conservation" mean to use, and the use of, methods and procedures that enhance fish and wildlife and their habitats.

(3) The term "designated State agency" means the commission, department, division, or other agency of a State which has primary legal authority for the conservation of fish and wildlife. If any State has placed such authority in more than one agency, such term means each such agency acting with respect to its assigned responsibilities.

(4) The term "fish and wildlife" means wild vertebrate animals that are in an unconfined state, including, but not limited to, nongame fish and wildlife.

(5) The term "nongame fish and wildlife" means wild vertebrate animals that are in an unconfined state and that—

(A) are not ordinarily taken for sport, fur, or food, except that if under applicable State law, any of such animals may be taken for sport, fur, or food in some, but not all, areas of the State, any of such animals within any area of the State in which such taking is not permitted may be deemed to be nongame fish and wildlife;

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531–1543); and

(C) are not marine mammals within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362 (5)).

Such term does not include any domesticated animal that has reverted to a feral existence.

(6) The term "plan species" means, with respect to any State, the nongame fish and wildlife, and such other fish and wildlife as the designated State agency deems appropriate, that are within the State and are valued for ecological, educational, esthetic, cultural, recreational, economic, or scientific benefits by the public.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 4. STANDARDS FOR CONSERVATION PLANS.

The conservation plan of any State must—

(1) provide for the vesting in the designated State agency of the overall responsibility for the development and revision of the conservation plan;

(2) identify the plan species;

(3) with respect to the plan species, specify—

(A) the size, range, and distribution of their populations, and

(B) the extent and location of their significant habitats;

(4) identify the significant problems which may adversely affect the plan species and their significant habitats;

(5) specify those actions that the State intends to take to conserve the plan species and their significant habitats;

(6) establish the priorities for implementing the conservation actions specified under paragraph (5);

(7) provide for the monitoring on a regular basis, of the plan species and the effectiveness of the conservation actions specified under paragraph (5);

(8) provide for plan review, and revision if appropriate, at intervals of not more than 5 years;

(9) require that the public be given full opportunity to make its views known, and that those views be considered, during the development and revision of the plan; and

(10) require the designated State agency to consult and coordinate actions, with appropriate Federal, State, and local and regional government agencies during the development and revision of the plan, in order to minimize duplication of efforts and to ensure that the best information is available to all such agencies.

SEC. 5. REIMBURSEMENT OF STATE COSTS FOR DEVELOPING AND REVISING CONSERVATION PLANS.

(a) IN GENERAL.—Any State may apply to the Secretary for reimbursement under this section for costs incurred by the State for the following:

(1) The development of a conservation plan.

(2) The revision of an approved conservation plan.

(b) APPLICATIONS.—Application for reimbursement under this section shall be made in such manner as the Secretary shall by regulation prescribe and shall contain such information as is necessary to enable the Secretary to determine whether the State meets the eligibility requirements set forth in subsection (c).

(c) ELIGIBILITY.—No State is eligible for reimbursment under this section unless the Secretary finds that the costs, for which reimbursement is sought, have been incurred by the State as follows:

(1) If reimbursement is sought under subsection (a)(1), such costs have been incurred in developing a conservation plan that meets the requirements set forth in section 3(1).

(2) If reimbursement is sought under subsection (a)(2), such costs have been incurred in revising the plan in a manner consistent with the requirements set forth in section 3(1).

(d) REIMBURSEMENT.—Subject to the limitations in subsection (c) and the terms and conditions imposed under section 6, the Secretary shall reimburse each State which the Secretary finds to be eligible therefor under subsection (c).

(e) LIMITATIONS.—(1) The total amount of the reimbursement paid to any State under this section with respect to any fiscal year may not exceed the allocation available to the State under section 7 for such year.

(2) No reimbursement may be paid under this section to any State for any cost incurred by the State during any fiscal year—

(A) after September 30, 1982, in developing or revising a conservation plan;

(B) in developing or revising a conservation plan that covers fish and wildlife if more than 20 percent of all funds that are made available to the State under this Act are obligated or expended, or both, during the fiscal year for such development with respect to other than nongame fish and wildlife.

(3) The amount of the reimbursement paid to any State under this section with respect to any fiscal year beginning before October 1, 1982, for the development and revision of a conservation plan may not exceed 90 percent of the cost of such development and revision during such fiscal year.

(4)(A) In computing the costs incurred by any State during any fiscal year in developing or revising conservation plans, the Secretary shall—

(i) take into account, in addition to cash outlays, the value of in-kind contributions and real and personal property received and applied during such year by the State for such purposes; and

(ii) disregard any other Federal moneys received by such State and applied by it, directly or indirectly, for such purposes.

(B) For purposes of subparagraph (A), in-kind contributions may be in the form of, but are not limited to, personal services rendered by volunteers in carrying out surveys, censuses, and other scientific studies regarding fish and wildlife. The Secretary shall by regulation establish (i) the training, experience, and other qualifications which such volunteers must have in order for their services to be considered as in-kind contributions; and (ii) the standards under which the Secretary will determine the value of in-kind contributions and real and personal property for purposes of subparagraph (A).

(C) Any valuation determination made by the Secretary for purposes of this paragraph shall be final and conclusive.

SEC. 6. TERMS AND CONDITIONS OF REIMBURSEMENT.

Reimbursement made to the States under section 5 shall be subject to such terms and conditions as the Secretary shall by regulation prescribe as being necessary and appropriate to protect the interests of the United States. Such terms and conditions shall include, but not be limited to, the following:

(1) Each State and each designated State agency shall keep such records as the Secretary shall require as being necessary and appropriate for fully disclosing the amount and purposes of costs incurred by the State for which reimbursement under section 5 is, or may be, sought. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to such records.

(2) Upon a finding by the Secretary, after notice and opportunity for an agency hearing on the record, that any State has received reimbursement under section 5 for which it is not eligible, or has violated any term or condition imposed under this section, the State shall thereafter be ineligible to receive reimbursement under such section until restitution satisfactory to the Secretary is made, such violation ceases, or adverse effects resulting from such violation are remedied.

SEC. 7. ALLOCATION OF FUNDS FOR ADMINISTRATION AND REIMBURSEMENT OF STATES.

(a) IN GENERAL.—The total amount appropriated pursuant to section 10 for any fiscal year shall be available for administration and for allocation among the States as provided in this section.

(b) ALLOCATION FORMULA.—Of the total amount appropriated for any fiscal year pursuant to section 10—

(1) the Secretary shall deduct so much, but not to exceed 5 percent thereof, as may be necessary for administering during such fiscal year the provisions of this Act relating to the purpose for which so appropriated; and

(2) less the deduction under paragraph (1), the Secretary shall allocate for each of the States a sum—

(A) one-third of which is based on the ratio which the area of such State bears to the total area of all such States, and

(B) two-thirds of which is based on the ratio which the population of such State bears to the total population of all such States,

except all sums allocated under this paragraph shall be adjusted equitably so that no State shall be allocated a sum which is less than one-half of 1 percent of the amount available for allocations under this paragraph for any fiscal year or more than 5 percent of such amount.

(c) TREATMENT OF AMOUNTS ALLOCATED BUT NOT USED FOR ANY FISCAL YEAR.—(1) That portion of any amount deducted by the Secretary under subsection (b)(1) for administrative purposes for any fiscal year and not expended during such fiscal year shall remain available for administrative purposes until the close of the next succeeding fiscal year and if not expended by the close of such succeeding fiscal year shall be available for disbursement by the Secretary without regard to subsection (b), to the States to carry out the purposes of this Act.

(2) That portion of any amount allocated to any State under subsection (b)(2) for any fiscal year and not disbursed to the State for such fiscal year under section 5 shall remain available for disbursement to the State under such section for the next succeeding fiscal year and if not disbursed for such succeeding fiscal year shall be available for disbursement by the Secretary, without regard to subsection (b), to the States to carry out the purposes of this Act.

SEC. 8. OTHER FEDERAL ASSISTANCE AND ACTIONS.

The Secretary and the chief executive officer of any other appropriate Federal department or agency may loan to any State such personnel and equipment of the department or agency, share such scientific or other appropriate information, and provide such other assistance as the Secretary or officer determines appropriate for purposes of assisting any State to develop or revise conservation plans.

SEC. 9. DISCLAIMERS.

Nothing in this Act shall be construed as affecting the authority, jurisdiction, or responsibility of the States to manage, control, or regulate fish and resident wildlife under State law.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for purposes of making reimbursements under section 5 to States for the development and revision of conservation plans not to exceed—

(1) $3,000,000 for the fiscal year ending September 30, 1980;

(2) $8,000,000 for the fiscal year ending September 30, 1981; and

(3) $8,000,000 for the fiscal year ending September 30, 1982.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Louisiana (Mr. BREAUX) will be recognized for 20 minutes, and the gentleman from Delaware (Mr. EVANS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3292, the Fish and Wildlife Conservation Act of 1979, establishes a matching grant program to assist the States in developing conservation plans for fish and wildlife, with an emphasis on the States nongame fish and wildlife species.

Nongame species, which comprise 83 percent of the fish and wildlife found in the United States receive relatively minor scientific and management assistance to assure their continued existence. Only 12 percent of available State and Federal wildlife dollars are spent for the specific benefit of nongame species. The effect of this lack of attention is illustrated by the fact that about 86 percent of the vertebrate species now classified as endangered were considered nongame species at the time of their listing. An effective nongame conservation effort would hopefully reduce the number of species which will otherwise decline to an endangered status in the future.

H.R. 3292 consists of a matching grant program, 90 percent Federal, 10 percent State funding, which would enable the States to develop comprehensive plans for the conservation of all fish and wildlife in the State identified as being important for ecological, educational, esthetic, cultural, recreational, economic, or scientific purposes. The bill would enable States for the first time to conduct a thorough inventory and assessment of resident species of fish and wildlife. Most States identify this objective as their highest priority and cite a large number of benefits to be derived from comprehensive planning. These benefits include:

A more coordinated and effective wildlife conservation program;

The availability of data for inclusion in environmental impact statements; and

The availability of resource information to assist in the early planning and evaluation of development proposals.

H.R. 3292 authorizes $3 million in fiscal year 1980, and $8 million for fiscal years 1981 and 1982 for the development of conservation plans. The States will be able to receive matching funds according to a formula based on the State's area and population. The plans developed by the States are to identify the size, range, and distribution of fish and wildlife habitats of each species. The plan will also specify those actions which should be taken to conserve the plan species. H.R. 3292 directs that at least 80 percent of the funds used to develop the conservation proposals be focused on nongame species.

I believe the legislation represents an important first step in promoting the well-being of the Nation's entire fish and wildlife resource for the enjoyment of all of our people and I strongly urge that H.R. 3292 be adopted.

Mr. EVANS of Delaware. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the enactment of the Fish and Wildlife Conservation Act would represent no less than the dawning of a new era in fish and wildlife management in this country. The primary focus of H.R. 3292, which provides matching funds to the States for the development of comprehensive conservation plans for fish and wildlife, will be on those species which are not hunted for sport, food, or fur—the so-called nongame species.

Although the Pittman-Robertson and Dingell-Johnson programs have gone a long way toward fulfilling the conservation needs of game species, the sad truth is that no comparable legislation exists for the conservation and enhancement of nongame fish and wildlife, despite the fact that approximately 83 percent of all vertebrates found within the United States are considered nongame species. In fact, of the 3,700 vertebrates found within the contintental United States, less than 10 percent receive any scientific management to insure their welfare, and, with few exceptions, these represent the game species.

The lack of attention which has been paid to nongame fish and wildlife over the years is reflected by the fact that 86 percent of the vertebrate species which are currently listed as endangered were considered nongame species at the time of their listing. This fact alone points to the disproportionate impact of man's activities on nongame fish and wildlife. Unfortunately, the problem is likely to grow worse. It is estimated that in the absence of a program such as that provided for in the Fish and Wildlife Conservation Act, 450 nongame species could be added to the endangered list by 1990—120 within the next 5 years.

H.R. 3292 will provide the first step in establishing a comprehensive conservation program for nongame species. It accomplishes this purpose by providing moneys to enable the States to complete a comprehensive inventory and assessment of the current status of, and the problems facing, these species. The legislation also recognizes that game and nongame species live in the same habitats and, therefore, provides money for the development of comprehensive conservation plans which cover game species.

In addition to establishing a conservation plan for the majority of the fish and wildlife species found within the United States, H.R. 3292 will reduce environmental-developer conflict by providing data which can be used in the early assessment of projects. Currently, we are faced with the unpleasant situation of having many projects well underway before the impact of the project on the fish and wildlife in the area is known. This usually leads to extended litigation and unreasonable delay. With the information developed under H.R. 3292 project sponsors will be able to anticipate any adverse impacts on fish and wildlife and can plan projects in such a way as to minimize this impact.

In the same way, the inventories and assessments developed under this bill will permit swifter compliance with the National Environmental Policy Act. No longer will project sponsors be forced to spend large sums of money to develop fish and wildlife data for the preparation of environmental impact statements. No longer will projects be delayed or stopped because of the failure to prepare adequate impact statements with respect to fish and wildlife.

For these reasons I urge the passage of the Fish and Wildlife Conservation Act, legislation which is supported by the administration, all 50 States, and over 260 environmental organizations.

● Mr. BURLISON. Mr. Speaker, H.R. 3292, Fish and Wildlife Conservation Act of 1979, is another example of the Congress creating a new program for the States with funding by the Federal Government. With a public debt approaching $900 billion we are again giving money to States, many of which are in the black and do not need it. It is another program that starts with minimal cost, that is, $3 million for fiscal year 1980, but will cost scores of millions annually in just a few years.

There is another and more parochial reason for my opposition to the bill. The Fish and Wildlife Service as administered in my district has become obstructionist and is apparently unable to identify basic environmental concerns. The Fish and Wildlife Service has joined with EPA to thwart and delay and seek to destroy an essential drainage and flood control project.

This is the Castor River phase of the St. Francis Basin projects in northeast Arkansas and southeast Missouri. At least once a year and usually with greater frequency, scores of farmers on this river have their farms flooded and suffer all of the inconveniences inherent in this situation, in addition, of course, to loss of income. The Corps of Engineers has worked patiently and understandingly and compromisingly for years in an effort to reach an accommodation. When the corps thinks it has an agreement and moves to proceed, the Fish and Wildlife Service then backs out and again thwarts progress. These Agencies seem to ignore all of the environmental destruction to plant and animal life with each flooding and, of course, they are totally insensitive to human suffering which inures to the destruction of these farmers. I have hoped for years that the Fish and Wildlife Service in my district might adopt some sense of balance and some semblance of priorities on values of real importance to my congressional district. This seems now a forlorn hope destined to never reach fruition.●

● Mr. MURPHY of New York. Mr. Speaker, H.R. 3292 would assist the States in developing and revising comprehensive plans for the conservation of all vertebrate species of fish and wildlife.

The basic purpose of this bill is to benefit those species of fish and wildlife which are not taken for sport or food. These so-called nongame species have received little direct benefit from State fish and wildlife programs up to now, although they are enjoyed by increasing numbers of urban and rural Americans. The available habitat for these nongame species has decreased at the same time the public is demanding increased opportunities to enjoy nongame wildlife experiences.

Nongame fish and wildlife represent the overwhelming majority of the 3,700 vertebrate species found in the continental United States. Yet, at the present time, only 10 percent of these species are subject to any form of scientific management, and in most instances these are game species. State wildlife conservation programs are primarily supported by funds derived from the sale of State hunting and fishing licenses and from Federal excise taxes on sporting arms and ammunition and fishing equipment. As a result State management efforts have been focused primarily upon those game species of fish and wildlife which are of interest to the hunters and fishermen paying the excise taxes which fund the program.

This bill recognizes the fact that the vast majority of Americans do not hunt. It also recognizes the fact that more and more urban Americans are seeking improved outdoor recreation opportunities within or adjacent to our cities.

This body recently passed the historic Alaska Lands Conservation Act, which I wholeheartedly supported. Most Americans, nevertheless, will never have the privilege of visiting Alaska. They do, however, have an opportunity to visit local and regional parks and wildlife refuges within their own State. This bill will assist the States in providing local recreational opportunities to these urban Americans.

Mr. Speaker, H.R. 3292 would authorize any State to apply to the Secretary of the Interior for reimbursement costs incurred in developing or revising a comprehensive conservation plan for fish and wildlife. Any reimbursement to a State would be limited to 90 percent of the cost of developing or revising a plan. However, such reimbursement could not be in excess of the allocation available to such State which is based on the size and population of such State as compared to all States. There would be authorized to be appropriated $19 million over a 3-year period to carry out the purposes of the act.

Mr. Speaker, H.R. 3292 was unanimously reported by the Committee on Merchant Marine and Fisheries, and it has the strong support of the administration, the International Association of Fish and Wildlife Agencies, and all major fish and wildlife conservation organizations throughout the country.●

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Mr. BREAUX. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX) that the House suspend the rules and pass the bill, H.R. 3292, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

SMITHSONIAN SOUTH QUADRANGLE PLANNING AUTHORIZATION

Mr. NEDZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3504) to authorize the Smithsonian Institution to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at 10th Street, Southwest, in the city of Washington.

The Clerk read as follows:

H.R. 3504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Board of Regents of the Smithsonian Institution is authorized to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington.

SEC. 2. Effective October 1, 1979 there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $500,000 to carry out the purposes of this Act.

SEC. 3. Any portion of the sums appropriated to carry out the purposes of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan (Mr. NEDZI) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3504 authorizes an appropriation of $500,000 in fiscal year 1980 for the planning and development of the so-called South Quadrangle of the Mall by the Smithsonian Institution. This is an area bounded by the Smithsonian Castle, the Freer Gallery, the Arts and Industries Building, and Independence Avenue.

Although not specifically stated in the legislation, the preliminary plans for the South Quadrangle project include a structure to house an Oriental Art Museum—to complement the Freer Collection—and the relocation of the Museum of African Art from its current Capitol Hill site to the Mall. In addition, underground facilities would accommodate the Smithsonian Rare Book Library, reference services, Smithsonian Associates offices, and parking. The parking facility, financed with non-Federal funds, is expected to be self-liquidating within 20 years and 408 spaces will be available to staff and the public.

The Smithsonian has used $160,000 of nonappropriated trust funds to conduct preliminary engineering feasibility studies—including investigation of subsoil condition and examination of adjacent building foundations—conceptual drawings, and program and space allocation plans. The $500,000 appropriation request would initiate formal architectural and engineering planning and design.

The preliminary plans show a concerted effort by the Smithsonian to integrate museum requirements with existing structures. While providing much needed exhibit, reference, office, and parking space on the Mall, the attractive above-ground structures are lowlying and unobtrusive, thus allowing a nearly full view of the Smithsonian Castle from Independence Avenue. In addition, the two buildings serve as buffers to create an intimate and peaceful atmosphere in the proposed garden area.

On the matter of cost, the Smithsonian estimates the total construction costs to be $49 million (in 1983 dollars), financing of which will be a mix of Federal and non-Federal dollars.

The President's fiscal year 1980 budget request to the Congress includes an amount of $500,000 for the purpose described in H.R. 3504. The availability of this sum is contingent upon enactment of this legislation, which was approved by the Senate on May 21, and on favorable action by the Appropriations Committees. If the authorization and appropriations are passed, the Smithsonian intends using the funds to develop architectural plans, cost estimates, and a detailed financial plan which would form the basis of a further legislative request to authorize construction.

Let me emphasize here that passage of H.R. 3504 would not constitute approval of an overall design or cost of a building program, only approval to develop architectural and financial plans.

The legislation has received extensive review from five congressional subcommittees and committees having authorization authority over the Smithsonian and all have found the initial design and plans commendable. The Senate has already voiced its approval. Passage of the bill would provide the funding for further refinement of the design plans. I urge approval of H.R. 3504.

Mr. BAUMAN. Mr. Speaker, I yield myself 5 minutes. I understand there will be others on our side who want to speak. I would like to get some questions answered about this bill; that is why I take this time now.

First of all, the bill has no report, and when it passed the other body there was no debate whatever on it. I am informed that the Appropriations Committees of both Houses have rejected the $500,000 funding this year, and there is no money to carry out this authorization.

But there is a larger question. Although the gentleman has referred to a $49 million amount of money for this expansion of the Smithsonian, I have seen figures that go as high as $60 million. I would like to know where in existence is the legislative authorization for this project. What we have before us purports to be a down payment in the form of one-half million dollars for planning. The bill contains a rather ambiguous section 3, which is not terribly clear, saying that funds can be transferred to GSA from the Smithsonian, and this authorizes the GSA to enter into contracts. What are the limits on those contracts? And where is the legislation which has approved all of these plans?

Will this House eventually get a chance to decide whether or not any of this should be done, rather than starting with no report, no explanation, and the word of one or two Members, who obviously have seen it? The rest of us are in the dark.

Mr. NEDZI. If the gentleman will yield, I am not sure I understand the gentleman's question.

Mr. BAUMAN. I will be glad to restate my question if the gentleman wants me to.

Is this the authorization for a $60 million Smithsonian addition?

Mr. NEDZI. No; there is no authorization for a $60 million building. That comes down the road, as specifically stated in my statement. What we are authorizing there is planning. Once their plans are made, the Smithsonian has to come back and get authorization for the building.

Mr. BAUMAN. I understood the gentleman to say that plans have already been made, that this will allow them to go into architectural detail and many more activities, which would presume that we are going to go ahead and spend this to the tune of $50 or $60 million.

Mr. NEDZI. I think it is reasonable to suppose that there is some intention to go ahead with the project once you have formal plans for it. Nevertheless, the final approval is in the hands of the Congress. The Smithsonian has to come back. They cannot proceed beyond preparation of the plans.

Mr. BAUMAN. Mr. Speaker, I would further say that the gentleman has intimated that there is some requirement on the part of the Smithsonian to come up with private funding through its own resources. It has, of course, an enviable record for being able to do that for various of their projects. But I see nothing in this bill that requires such joint private and public financing, and it seems to me that you have the start of a very expensive project.

The House should have a far better explanation. I have had a chance to read Mr. Ripley's testimony before the other body, and most of these assurances are on faith and luck and very little of it on the basis of explicit legislation.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Mr. Speaker, I will be glad to yield to the gentleman. I yield to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Speaker, my particuar interest in this legislation is that any authorization for the building of this museum facility will have to come through the subcommittee of which I am chairman, the Subcommittee on Public Buildings and Grounds. In connection with this legislation, our subcommittee did have hearings with respect to the initial planning for this facility. It was the opinion of the subcommittee that the initial planning stage which is being funded by this was moving in the appropriate direction. But we will not approve the funding of the authorization for construction without legislation being introduced based upon detailed plans and detailed specifications. With the type of constraints which the subcommittee in recent years has put on, if we think it is meritorious, will be able to have that opportunity at that time to make the decision.

□ 1300

We received assurances from the Smithsonian that they are going to raise, they hope, approximately 50 percent of the cost of this building from private resources. They have already had a commitment from the Japanese Government for a million dollars for a portion of the funding for the oriental art project, and there is no way that the Congress can make a decision as to whether the project is worthwhile or cost effective in the absence of having the information which would be provided by the authorization.

Mr. BAUMAN. Is the gentleman from Georgia satisfied this legislation does not constitute any authorization beyond the planning stage, and that the House and the other body will have a chance to vote on the overall project prior to the time any money is made available for actual construction.

Mr. LEVITAS. I can assure my colleague that is precisely the concern which JOHN and the gentleman from South Dakota, the ranking minority member of the committee, did have. We made it quite clear that no further money could be appropriated without authorization.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Speaker, I just wanted to say that the subcommittee did have a very thorough hearing on this matter under the leadership of the chairman, the gentleman from Michigan. I think it is clear, as the gentleman from Maryland full well knows, that one need not issue a report on something brought up under suspension asking for action under a specified limit, that this is an appropriate bill to be brought up under suspension.

We did hold hearings, and it was coordinated with my colleague from Georgia and his subcommittee.

It very clearly, as it is stated, is simply an authorization for $500,000 and does not in any sense, by implication or otherwise, require the House to approve any further moneys. I will go further and say that there is a specific advantage to this approach and that is that it does allow time for the Smithsonian, with more thorough planning and with a more effective presentation, to increase the amount of private moneys they will be able to raise in order to minimize the cost to the Federal Government.

I think it is a good bill. It is a very workmanlike job on the part of the gentleman from Michigan. I would hope the House would approve it.

Mr. NEDZI. Mr. Speaker, I thank the gentleman for his additional clarification.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. I thank the gentleman from Michigan for yielding.

Mr. Speaker, I am pleased to advise my colleagues that the Subcommittee on Public Buildings and Grounds of the House Public Works and Transportation Committee, which I am privileged to chair, has held two separate hearings on the proposal encompassed within the bill, H.R. 3504, currently under consideration.

On March 7, 1979, the subcommittee held a hearing on the President's fiscal year 1980 budget as it related to the Subcommittee on Public Buildings and Grounds, at which time the distinguished Secretary of the Smithsonian, Hon. Dillon Ripley, testified in behalf of a request in the amount of $500,000 for fiscal year 1980 providing for the preparation of detailed architectural plans and cost estimates for proposed facilities in the South Garden Quadrangle, located between the Smithsonian Institution Building and Independence Avenue and flanked on the east by the Arts and Industries Building and on the west by the Freer Gallery of Art. At that time, the Board of Regents of the Smithsonian had authorized the expenditure of $160,000 of nonappropriated trust funds for development of a preliminary conceptual plan for the quadrangle and related feasibility studies. Drawings and a model for a concept were well underway and the subcommittee, as a result of Mr.

Ripley's detailed testimony, supported the $500,000 request for fiscal year 1980.

On June 12, 1979, the subcommittee held a hearing on the bill, H.R. 3504. The subcommittee was again pleased to have Mr. Ripley appear and testify indepth on the proposal for the South Quadrangle development. At this time, the model was completed and was terribly impressive. As viewed, a visitor approaching the quadrangle from Independence Avenue, will encounter two low-profiled, delicately-styled structures, and have a majestic view of the original Smithsonian Building between and beyond these proposed newest additions. It is proposed that the entire area will be landscaped attractively to create a quiet enclave for the public in the midst of this busy city. It should be pointed out that the Smithsonian Institution began considering ways of meeting the space requirements of the Freer Gallery of Art for conservation, libraries, research, and education more than 10 years ago.

In addition, the matter of an appropriate home for the Museum of African Art was necessitated as a result of Public Law 95-414 which authorized the Smithsonian Institution to acquire the Museum of African Art. Last, a high priority has been assigned by the Institution to providing proper environmental conditions for the Institution's rare book library, together with the expanding programs of the Smithsonian associates, the absence of a central education facility, and the public demand for parking in the Mall area. As a result of careful and enthusiastic planning the Smithsonian proposal for development of the South Quadrangle appears sound. It consists of three building elements which have evolved from primary programmatic requirements to strengthen certain areas of their collections and exhibit programs and to provide additional services to the public.

The first element is a building on the east side of the Quadrangle that would provide space for the Museum of African Art. The above ground area would be allocated exclusively for public use, and below grade space would be used for additional exhibitions, staff, and supporting services.

A second element, on the west side of the Quadrangle would provide an extension to the Freer Art Gallery allowing for additional exhibit space for Oriental art. Approximately the same size as the Museum of African Art—its above ground area would also be devoted to exhibition and below ground would provide adequate space for conservation, research, storage, and related museum activities.

A third building element, located beneath the Quadrangle, would provide parking for approximately 400 cars. It would be available to staff and to the public and would be operated as parking with receipts applied against the cost of its construction. Other levels of this element would provide space for a rare book library and related services, quarters for the national and resident associates programs, and a central educational facility.

The proposal as presented to the subcommittee appears to be responsible with primary emphasis directed toward improving services to the public and caring for the treasures with which the Smithsonian is charged. The $500,000 in requested funds will be utilized to produce detailed architectural plans and specifications, to make precise space allocations integrated with mechanical and environmental systems, and to develop a comprehensive financial program. It is envisioned that completion of all of the above will form the basis of a further legislative request to authorize additional planning and construction of the proposed facilities. Officials of the Smithsonian Institution states the current estimates indicate that the total project cost would be $49 million, however, the Smithsonian expects to raise a substantial portion of the funds required for Quadrangle development from a variety of sources outside the Government. The Japanese Government has already pledged $1 million toward construction of the proposed Oriental gallery.

Mr. Speaker, I strongly support enactment of H.R. 3504, and look forward to working closely with the Smithsonian Institution on this proposal.

Mr. Speaker, I would like to point out for the benefit of all Members that the House Committee on Public Works and Transportation initially requested a sequential referral of the bill, H.R. 3504, since it was referred exclusively to the Committee on House Administration. It is the committee's position that since our committee is charged with the jurisdiction of measures relating to the construction, maintenance, and care of the buildings and grounds of the Smithsonian Institution that the planning provisions encompassed within H.R. 3504 should fall within that jurisdiction. Specifically, when you define the term "construct" under most acts within the jurisdiction of the House Public Works and Transportation Committee it will include preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, specifications, and other similar actions necessary for the construction of a building. Further, it should be noted that our committee has expertise in the overall field of public buildings and that we have legislated previously with matters associated with the Smithsonian Institution.

The request for sequential referral of the bill was within as a result of an agreement between myself and chairman of the Subcommittee on Libraries and Memorials of the Committee on House Administration, the Honorable **Lucien Nedzi**. Specifically, in the interest of time and in an effort to expedite the legislation, it was agreed that the Subcommittee on Public Buildings and Grounds would hold an oversight hearing with the proviso that if any amendments to the bill were recommended as a result of our hearing, the House Committee on Administration would give them serious consideration prior to House floor action. I am pleased to advise that the subcommittee strongly supports the legislation, as reported by the House Committee on Administration.

I thank the distinguished chairman of the full committee, the Honorable **Frank Thompson**, and my distinguished colleague, **Lucien Nedzi**; I appreciate the time. I feel it is important to clearly reaffirm the jurisdictional position of the Committee on Public Works and Transportation; namely, that a joint referral of the bill when originally introduced would have been in order. I again support enactment of H.R. 3504.

WASHINGTON, D.C.,
June 11, 1979.

Hon. LUCIEN N. NEDZI,
Chairman, Subcommittee on Libraries and Memorials, Committee on House Administration, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of June 8, 1979, regarding H.R. 3504, a bill to authorize the Smithsonian Institution to plan for the development of the area south of the original Smithsonian Institution building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington.

In light of the fact that the bill would have been sequentially referred to the House Public Works and Transportation Committee pursuant to our understanding, however, bearing in mind the time frame associated with anticipated House floor action, the Subcommittee on Public Buildings and Grounds will hold an oversight hearing on H.R. 3504 on Tuesday, June 12, 1979 at 2 p.m. As we previously agreed upon, the Subcommittee will advise you of any proposed amendments to the legislation prior to House floor action.

With every best wish, I remain,
Very truly yours,
ELLIOTT H. LEVITAS,
Chairman, Subcommittee on Public Buildings and Grounds.

WASHINGTON, D.C.,
June 8, 1979.

Hon. ELLIOTT H. LEVITAS,
Chairman, Subcommittee on Public Buildings and Grounds, Rayburn Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reference to our telephone conversation of this morning regarding H.R. 5304, the Smithsonian Institution planning authorization bill.

We are advised that in order for the bill to be formally sequentially referred, a report to accompany the bill is required. In view of prior Senate approval and the unanimity of support in both the subcommittee and the full committee and among all interested parties, the filing of a report appears to be an unnecessary burden to all concerned. Should there be any problem we are, of course, prepared to cooperate in every way. Anything you can do to expedite bringing the bill to the floor is deeply appreciated.

I appreciate very much your cooperation in this matter.

Cordially,
LUCIEN N. NEDZI,
Chairman, Subcommittee on Libraries and Memorials.

Mr. NEDZI. Mr. Speaker, I yield such time as he may consume to my friend, the great chairman of the Committee on House Administration, the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, I thank the gentleman.

First, Mr. Speaker, I would like to commend my colleague, the gentleman from Michigan, the chairman of the Subcommittee on Libraries and Memorials, for bringing this legislation here. I can understand rather readily some of the questions raised by my friend from Maryland (Mr. Bauman).

The Smithsonian is indeed and in fact a unique institution, it having more numerous resources than any institution, I suppose, of its nature in the world. It is really totally unique. It has resources, which the gentleman has alluded to, and capabilities for raising private funds.

The gentleman from Georgia referred to a commitment by a foreign government in the amount of a million dollars, demonstrating the interest of that government in this project.

The gentleman from Michigan has presented the case extremely well.

I think, among other things, that it should be pointed out that ultimately if the plan is approved by the House, as the gentleman from Georgia (Mr. Levitas), has said, there exists now the African Art Museum, which occupies some extremely valuable and old real estate on Capitol Hill, some of it 18th century, some early 19th century, I understood, and I am given to understand including the Douglass House.

The gentleman from California (Mr. Mineta), as I, are relatively new regents of the Smithsonian Institution. I can testify to the fact that this was gone over very carefully by the regents and with even greater care in terms of detail by the gentleman from Michigan, before whose subcommittee I appeared.

Mr. Speaker, I would ask unanimous consent to include part of my testimony before the subcommittee in the Record.

The fact is historically, the gift of the Freer Gallery, which is one of the great gifts which this Nation has received, is in a very real sense restricted, and the only way to expand it to include the full collection would be ultimately to adopt this legislation and subsequent necessary legislation implemented.

The collection is larger than the building in which it is currently housed.

The African Museum collection is ever expanding and ever more important in terms of not only local but national interests and Third World interests, and in my view, at least, if for no other reason the moneys called for in this piece of legislation, are indeed very necessary in order for a reasonable and rational development and indeed a very studied development of the Smithsonian Institution in order best to improve the African Art Museum and the Freer collection.

I would like to compliment my friend and colleague from Michigan, the chairman of the subcommittee, and urge the adoption of this very important piece of legislation. I say very important advisedly, because Washington is the National Capital of the United States, and the intention in acquisitions made by persons from other nations such as the African nations and the Oriental nations as represented in the Freer Gallery, are extremely important to the millions of visitors representing all parts of the United States. I do hope that this bill is approved.

Mr. Speaker, this bill, H.R. 3504, to develop the quadrangle south of the old Smithsonian castle, serves several important purposes.

First, it authorizes the Smithsonian to expand the support facilities of the Freer Gallery, and to permanently house the Museum of African Art—a matter which the subcommittee and full committee left unresolved when we considered the museum legislation last Congress.

Second, it provides authorization for numerous other museum and academic support services and facilities, such as needed space for the Institution's rare book collection, and educational facilities for activities of the Smithsonian Associates and the various fellowship programs, to name just a few.

In addition, the bill will authorize the expenditure of $500,000 in planning and engineering funds, in anticipation of a $50 million construction program to erect two buildings and their associated underground facilities.

Dr. Ripley is proposing a plan to meet numerous needs and obligations of the museum in a future-oriented, integrated, and I believe cost-effective and aesthetic manner.

By approving this bill, the Smithsonian will be able to formalize plans for the buildings, and consequently it will be able to move forward on several collateral administrative plans, which have been constrained by the lack of suitable facilities. An example would be the inclusion of a central educational facility in the complex.

As a cosponsor of the bill, I would ask for your serious, and favorable consideration of this bill.

Mr. YATES. Mr. Speaker, will the gentleman yield for a question?

Mr. NEDZI. I yield to the gentleman from Illinois.

Mr. YATES. Is the building project intended to be financed exclusively from Federal funds? What will the total cost of the building project be?

Mr. NEDZI. As I indicated in my statement, the total cost was estimated to be $49 million, which will be a mix of Federal funds and such contributions as the Smithsonian is able to secure outside of appropriations. And there have been some pledges already toward that end.

□ 1310

Mr. Speaker, I have no further requests for time.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. Abdnor).

Mr. ABDNOR. Mr. Speaker, I can well understand the gentleman from Maryland's original concern about the building. I am sure the colloquy that took place here has settled any questions he might have had in his mind.

Mr. Speaker, H.R. 3504 was referred to and subsequently approved by the House Administration Committee. However, since the construction of facilities by the Smithsonian Institution fall under the jurisdiction of the Public Works and Transportation Committee, the Subcommittee on Public Buildings and Grounds had a great deal of interest in H.R. 3504 and therefore held oversight hearings on this legislation.

The bill authorizes $500,000 that shall be expended for the purpose of obtaining detailed planning specifications for the development of the area south of the original Smithsonian building and bounded by the Freer Gallery of Art, the Arts and Industries Building, and Independence Avenue.

It is the intent of the Smithsonian to provide a new center for the exhibition and study of oriental art and a new home for the Museum of African Art; rare book, and other library needs, as well as administrative, support, and underground parking services.

The Subcommittee on Public Buildings and Grounds agreed unanimously with the action taken by the House Administration Committee.

We believe the studies will enable the Smithsonian to proceed efficiently with the planning and design development of the south quadrangle and further at the appropriate time, enable the Public Works Committee to properly review a detailed proposal and cost estimate that will be vital in determining the feasibility of authorizing the proposed construction.

I urge the Members of this body to join in supporting the passage of H.R. 3504.

Mr. BAUMAN. Mr. Speaker, I appreciate the assurances given. It is still $500,000 and I look on it as a downpayment.

The gentleman from Georgia (Mr. Levitas) has adequately explained the mechanism we will have available eventually to test whether the Congress wishes to approve such a project. It is just that I have been around here long enough in the sense of having seen so many costly buildings and so many expensive projects in the District of Columbia. Repeatedly we are told it will not cost the taxpayers anything or there will be financing arrangements in which private parties will be involved. We have the example of the Kennedy Center, the Kennedy Stadium, the so-called Visitors Center which now will be reconverted back to a railroad station. We have been through this so many times. I am sure many think we need an Oriental Art Museum and a Black History Museum and so on. These may be worthy projects, but there are other claims on the U.S. taxpayers including deficit spending and its consequences, inflation.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Illinois.

Mr. YATES. The gentleman is entirely correct in respect to the white elephants that he spoke about and the cost to the taxpayers. Yet I think he ought to remember that the record of the Smithsonian Institution in constructing its buildings is a very good one. For example, the most recent building constructed by the Smithsonian, the Air and Space Museum, was under the cost estimated. It had been estimated to be a certain cost and it came in several million dollars under that cost. The Smithsonian's record is a very good one in respect to protecting the taxpayers by making sure, to the best of its ability, that construction costs are within the estimates.

Mr. BAUMAN. Mr. Speaker, I appreciate the gentleman from Illinois' assurances, knowing as I do that he has a very important role in the financing of such projects as chairman of the Subcommittee on Interior Appropriations. I hope that example he just cited will serve as an example for the future.

I have no further requests for time and I yield back the balance of my time.

Mr. NEDZI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. NEDZI) that the House suspend the rules and pass the bill, H.R. 3504.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 927) to authorize the Smithsonian Institution to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at 10th Street, Southwest, in the city of Washington, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Board of Regents of the Smithsonian Institution is authorized to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington.

SEC. 2. Effective October 1, 1979, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $500,000 to carry out the purposes of this Act.

SEC. 3. Any portion of the sums appropriated to carry out the purposes of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3504) was laid on the table.

GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 927, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ARCHEOLOGICAL RESOURCES PROTECTION ACT OF 1979

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1825) to protect archeological resources owned by the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Archaeological Resources Protection Act of 1979".

FINDING AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation's heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness;

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage; and

(4) there is a wealth of archaeological information which has been legally obtained by private individuals for noncommercial purposes and which could voluntarily be made available to professional archaeologists and institutions.

(b) The purpose of this Act is to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "archaeological resource" means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promuglated pursuant to this Act. Such regulations shall include, but not be limited to: pottery, basketry, bottles, weapons, weapon projectiles (other than arrowheads and bullets), tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, nonfossilized and fossilized paleontological specimens, or any portion or piece of any of the foregoing times when found in an archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least one hundred years of age.

(2) The term "Federal land manager" means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this Act of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term "Federal land manager" means the Secretary of the Interior.

(3) The term "public lands" means—

(A) lands which are publicly owned and administered as part of—

(i) the national park system,

(ii) the national wildlife refuge system, or

(iii) the national forest system; and

(B) all other lands the fee title to which is held by the United States other than lands on the Outer Continental Shelf.

(4) The term "Indian lands" means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or Regional or Village Corporation as defined in, or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688).

(6) The term "person" means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Indian tribe, or of any State or political subdivision thereof.

(7) The term "State" means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

EXCAVATION AND REMOVAL

SEC. 4. (a) Any person may apply to the Federal land manager for a permit to excavate or remove any archeological resource located on public lands or Indian lands and to carry out activities associated with such excavation or removal. The application shall be required, under uniform regulations under this Act, to contain such information as the Federal land manager deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work.

(b) A permit may be issued pursuant to an application under subsection (a) if the Federal land manager determines, pursuant to uniform regulations under this Act, that—

(1) the applicant is qualified, to carry out the permitted activity,

(2) the activity is undertaken for the purpose of furthering archeological knowledge in the public interest,

(3) The archaeological resources which are excavated or removed from public lands will remain the property of the United States and such resources and copies of associated archeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution, and

(4) the activity pursuant to such permit is not inconsistent with any management plan applicable to the public lands concerned.

(c) If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Secretary of the Interior, before issuing such permit the Secretary shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for the purposes of section 9.

(d) Any permit under this section shall contain such terms and conditions, pursuant to uniform regulations promulgated under this Act, as the Federal land manager concerned deems necessary to carry out the purposes of this Act.

(e) Each permit under this section shall identify the individual who shall be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this Act and other law applicable to the permitted activity.

(f) Any permit issued under this section may be suspended by the Federal land manager upon his determination that the permittee has violated any provision of subsection (a), (b), or (c) of section 6. Any such permit may be revoked by such Federal land manager upon assessment of a civil penalty under section 7 against the permittee or upon the permittee's conviction under section 6.

(g) (1) No permit shall be required under this section or under the Act of June 8, 1906 (16 U.S.C. 431) for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe, except that in the absence of tribal law regulating the excavation or removal of archaeological resources on Indian lands, an individual tribal member shall be required to obtain a permit under this section.

(2) In the case of any permits for the excavation or removal of any archaeological resource located on Indian lands, the permit may be granted only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribe.

(h) (1) No permit or other permission shall be required under the Act of June 8, 1906 (16 U.S.C. 431–433) for any activity for which a permit is issued under this section.

(2) Any permit issued under the Act of June 8, 1906, shall remain in effect according to its terms and conditions following the enactment of this Act. No permit under this Act shall be required to carry out any activity under a permit issued under the Act of June 8, 1906, before the date of the enactment of this Act which remains in effect as provided in this paragraph, and nothing in this Act shall modify or affect any such permit.

(i) Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 106 of the Act of October 15, 1966 (80 Stat. 917; 16 U.S.C. 470f).

(j) Upon the written request of the Governor of any State, the Federal land manager shall issue a permit, subject to the provisions of subsections (b)(3), (b)(4), (c), (g), (h), and (i) of this section for the purpose of conducting archaeological research, excavation, removal, and curation, on behalf of the State or its educational institutions, to such Governor or to such designee as the Governor deems qualified to carry out the intent of this Act.

CUSTODY OF RESOURCES

SEC. 5. The Secretary of the Interior may promulgate regulations providing for—

(1) the exchange, where appropriate, between suitable universities, museums, or other scientific or educational institutions, of archaeological resources removed from public lands and Indian lands pursuant to this Act, and

(2) the ultimate disposition of such resources and other resources removed pursuant to the Act of June 27, 1960 (16 U.S.C. 469–469c) or the Act of June 8, 1906 (16 U.S.C. 431–433).

Any exchange or ultimate disposition under such regulation of archaeological resources excavated or removed from Indian lands shall be subject to the consent of the Indian or Indian tribe which owns or has jurisdiction over such lands. Following promulgation of regulations under this section, notwithstanding any other provision of law, such regulations shall govern the disposition of archaeological resources removed from public lands and Indian lands pursuant to this Act.

PROHIBITED ACTS AND CRIMINAL PENALTIES

SEC. 6. (a) No person may excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 4, a permit referred to in section 4(h)(2), or the exemption contained in section 4(g)(1).

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indians lands in violation of—

(1) the prohibition contained in subsection (a), or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance or permit in effect under State or local law.

(d) Any person who knowingly violates, or counsels, procures, solicits, or employs any other person to violate, any prohibition contained in subsection (a), (b), or (c) of this section shall, upon conviction, be fined not more than $10,000 or imprisoned not more than one year, or both: *Provided, however,* That if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of $5,000, such person shall be fined not more than $20,000 or imprisoned not more than one year, or both. In the case of a second or subsequent such violation upon conviction such person shall be fined not more than $100,000, or imprisoned not more than five years, or both.

(e) The prohibitions contained in this section shall take effect on the date of the enactment of this Act.

(f) Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to an archaeological resource which was in the lawful possession of such person prior to the date of the enactment of this Act.

CIVIL PENALTIES

SEC. 7. (a)(1) Any person who violates any prohibition contained in a regulation or permit issued under this Act may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under the subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors—

(A) the archaeological or commercial value of the archaeological resource involved, and

(B) the cost of restoration and repair of the resource and the archaeological site involved.

Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person. The amount of any penalty assessed under this subsection for any violation shall not exceed an amount equal to double the cost of restoration and repair of resources and archaeological sites damaged and double the fair market value of resources destroyed or not recovered plus $1,000 in the case of a first violation, or $2,000 in the case of a second or subsequent violation.

(b)(1) Any person aggrieved by an order assessing a civil penalty under subsection (1) may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such a person resides or transacts business. Such a petition may only be filed within the thirty-day period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (1), or

(B) after the court in an action brought under paragraph (1) has entered a final judgment upholding the assessment of a civil penalty,

the Federal land manager may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In such action, the validity and amount of such penalty shall not be subject to review.

(c) Hearings held during proceedings for the assessment of civil penalties authorized by subsection (a) shall be conducted in accordance with section 554 of title 5 of the United States Code. The Federal land manager may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

REWARDS; FORFEITURE

SEC. 8. (a) Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay an amount equal to one-half of any penalty assessed under section 7, but not to exceed $1,500, to any person who furnishes information which leads to the finding of civil violation with respect to which such penalty was assessed. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnished information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

(b) All archaeological resources with respect to which a violation of subsection (a), (b), or (c) of section 6 occurred and which are in the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

(1) such person's conviction of such violation under section 6,

(2) assessment of a civil penalty against such person under section 7 with respect to such violation, or

(3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

(c) In cases in which a violation of the prohibition contained in subsection (a), (b), or (c) of section 6 involve archaeological resources excavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payment to the Indian or Indian tribe involved of all penalties collected pursuant to section 7 and for the transfer to such Indian or Indian tribe of all items forfeited under this section.

CONFIDENTIALITY

SEC. 9. (a) Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this Act or under any other provision of Federal law may not be made available to the public under subchapter II of chapter 5 of title 5 of the United States Code or under any other provision of law unless the Federal land manager concerned determines that such disclosure would—

(1) further the purposes of this Act or the Act of June 27, 1960 (16 U.S.C. 469–469c), and

(2) not create a risk of harm to such resources or to the site at which such resources are located.

(b) Notwithstanding the provisions of subsection (a), upon the written request of the Governor of any State, which request shall state—

(1) the specific site or area for which information is sought,

(2) the purpose for which such information is sought,

(3) a commitment by the Governor to adequately protect the confidentiality of such information to protect the resource from commercial exploitation,

the Federal land manager concerned shall provide to the Governor information concerning the nature and location of archaeological resources within the State of the requesting Governor.

REGULATIONS; INTERGOVERNMENTAL COORDINATION

SEC. 10. (a) The Secretaries of the Interior, Agriculture, and Defense, after consultation with other Federal land managers, Indian tribes, representatives of concerned State agencies, and after public notice and hearing, shall promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of this Act. Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat. 469; 42 U.S.C. 1996).

(b) Each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations under subsection (a), as may be appropriate for the carrying out of his functions and authorities under this Act.

COOPERATION WITH PRIVATE INDIVIDUALS

SEC. 11. The Secretary of the Interior shall take such action as may be necessary, consistent with the purposes of this Act, to foster and improve the communication, cooperation, and exchange of information between—

(1) private individuals having collections of archaeological resources and data which were obtained before the date of the enactment of this Act, and

(2) Federal authorities responsible for the protection of archaeological resources on the public lands and Indian lands and professional archaeologists and associations of professional archaeologists.

In carrying out this section, the Secretary shall, to the extent practicable and consistent with the provisions of this Act, make efforts to expand the archaeological data base for the archaeological resources of the United States through increased cooperation between private individuals referred to in paragraph (1) and professional archaeologists and archaeological organizations.

SAVINGS PROVISIONS

SEC. 12. (a) Nothing in this Act shall be construed to repeal, modify, or impose additional restrictions on the activities permitted under existing laws and authorities relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

(b) Nothing in this Act applies to or requires a permit for, the collection for private purposes of any rock, coin, or mineral which is not an archaeological resource, as determined under uniform regulations promulgated under section 3(1).

(c) Nothing in this Act shall be construed to affect any land other than public land or Indian land or to affect the lawful recovery, collection, or sale of archaeological resources from land other than public land or Indian land.

REPORT

SEC. 13. As part of the annual report required to be submitted to the specified committees of the Congress pursuant to section 5(c) of the Act of June 27, 1960 (74 Stat. 220; 16 U.S.C. 469–469a), the Secretary of the Interior shall comprehensively report as a separate component on the activities carried out under the provisions of this Act, and he shall make such recommendations as he deems appropriate as to changes or improvements needed in the provisions of this Act. Such report shall include a brief summary of the actions undertaken by the Secretary under section 11 of this Act (relating to cooperation with private individuals).

The SPEAKER pro tempore. Is a second demanded?

Mr. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes; and the gentleman from California (Mr. CLAUSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1825.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I join in support of the adoption of H.R. 1825, as recommended by the Interior Committee.

I commend our minority leader (Mr. RHODES) and our colleagues on the committee, Mr. CLAUSEN and Mr. SEBELIUS, who have helped develop a measure which will solve this growing problem.

I want to commend the chairman of the subcommittee, Mr. PHILLIP BURTON, who has spent a good deal of time and effort in perfecting this bill. Without his assistance, it would have been difficult to have this measure before the House in the form it is today.

I want to take just a moment to explain to the House why this legislation is needed. In the West, where most of the public lands of the United States are located, and where the archeological resources are rich, there is a growing tendency on the part of a few industrious entrepreneurs to locate likely sites of ancient ruins to move in a backhoe or similar equipment, and to proceed to mine the area for any artifacts they might unearth.

It does not seem to matter to these thoughtless persons that these buried remains could help unravel the mysteries of past civilizations or that their activities are unlawful. They simply see an opportunity to make a fast buck with relatively little risk. This situation was exacerbated by the decision of the Ninth Circuit Court of Appeals which held the criminal provisions of the Antiquities Act unconstitutionally vague.

The bill now before the House attempts to correct this situation.

It prohibits the wanton destruction of archeological sites and resources located on the public domain or on Indian lands.

It provides a reasonable procedure for responsible persons to request permission to scientifically and systematically excavate archeological sites.

It requires the consent of Indian tribes, or individual Indians under appropriate circumstances, before permits may be issued for the excavation of sites on Indian lands.

It provides that recovered archeological resources will remain the property of the United States and requires appropriate action for their documentation, preservation, care and custody.

It establishes effective penalties for those who knowingly violate the prohibitions in the act.

I want to emphasize in the boldest terms possible what this bill does not do:

It specifically does not interject any new procedure, requirement, or restriction on any activity permitted under existing laws.

It does not apply to the collection of arrowheads, bullets, rocks, coins, or minerals.

It does not affect any lands other than the public lands of the United States and lands held in trust by the United States for Indian tribes or individual Indian allottees.

Certainly, no sponsor of this legislation and probably no reasonable person would want some overzealous bureaucrat to arrest a Boy Scout who finds an arrowhead along a trail or a purple bottle out in the desert. The bill is not drafted for this purpose at all. It is expected that those responsible for the administration and enforcement of the act will use good judgment and exercise moral persuasion where violations unwittingly occur. The thrust of this act is not to harass the casual visitor who happens to find some exposed artifact, but to stop the needless, careless, and intentional destruction of archeological sites and the organized and intentional theft of the valuable remains of previous civilizations.

Mr. Speaker, H.R. 1825, as perfected by the committee amendment, should accomplish this result. It will put everyone on notice that these national treasures are not to be disrupted without following proper procedures for their excavation, documentation, and preservation. Those who knowingly violate the law will be subject to substantial penalties and may, upon conviction, be incarcerated. Only by providing such enforcement will the thieves be deterred.

I urge my colleagues to join me in support of the adoption of H.R. 1825, as amended.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1825, the Archaeological Resources Protection Act of 1979. As an original cosponsor of the bill and as the ranking minority member of the Interior Committee, I have worked in close cooperation with the distinguished chairman (Mr. UDALL), and the minority leader, Mr. RHODES, in an effort to produce a balanced piece of legislation which protects irreplaceable archeologic resources, yet does not infringe on the people's use and enjoyment of the public lands. I believe the bill before the House today accomplishes that goal and I wish to commend the efforts of all my colleagues who have contributed to this end.

H.R. 1825 was introduced to provide a strong deterrent to the activities of a relatively small group of persons who illegally excavate and remove for private gain priceless archeological resources from the public and Indian lands. Under the Antiquities Act of 1906, the penalties for such activities amount to a maximum of $500 and 90 days in jail. Coupled with the unlikelihood of being caught in the vastness of western Federal lands and the holdings by the Ninth Circuit Court of Appeals that the Antiquities Act was unconstitutionally vague, the potential profit to be gained by illegal excavation far outweighed any potential risk.

As introduced, H.R. 1825 remedied this problem by establishing stiff new criminal and civil sanctions as a deterrent to would-be offenders. However, the committee recognized that the original language of the legislation could potentially adversely affect the overwhelming majority of the public who use the Federal lands in appropriate ways for recreation, as well as other important multiple use activities, such as grazing, flood control, timber harvesting, mineral leasing, reclamation, and so forth. For this reason, the committee adopted several amendments which significantly improved and tightened the scope of the legislation, thereby addressing the concerns voiced by constituents in the Western States.

In order to clarify the intent of these amendments, many of which were offered by the minority with bipartisan support, I will briefly summarize their effect for the legislative history:

First. Three significant amendments were adopted to narrow the range of the objects which could be considered as "archeological resources." First, the minimum age of items covered by the bill was raised from 50 to 100 years. In other words, nothing can be considered an archeological resource unless it is at least 100 years of age.

Concern has been expressed that many items of importance to the history of the western frontier would not be included under this act with a 100-year requirement. A distinction must be made, however, between items of historic significance and items of archeological interest. Historic buildings and objects are to a large degree afforded protection under such statutes as the National Historic Preservation Act of 1966 and the Historic Sites, Buildings and Antiquities Act of 1935. In contrast, this act intends to protect "archeological resources" which are usually thought of as being much older—often prehistoric. The 100-year time frame therefore imposes a more reasonable reference within common perception and cures the vagueness problems delineated in the Diaz decision as well.

The definition of items to be covered was amended by excluding "arrowheads and bullets" from the definition of "weapon projectiles" to allow the continued collection of these objects as souvenirs of American history.

Finally, an amendment was adopted which clarifies the intent of the bill to cover only objects which are found in an "archeological context." Isolated bottles, coins, arrowheads, pottery, and so forth (or any piece or portion of such items), should not require a permit to be legally removed from public lands. As a practical matter, including such artifacts under the bill would create a virtually unenforceable provision. The precise definition of what constitutes an archeological context has been left subject to further regulation, but it is clear that scattered, isolated objects not associated with an archeological site or a context evidencing a grouping or collections of artifacts, are not intended to be included under this legislation.

Second. The term "public land" was amended to clarify that only lands which are owned in fee title by the United States are covered by this act. State and private lands, including inholdings in conservation units such as parks, are not included within the definition.

Third. The committee adopted a so-called grandfather amendment—subsection 6(f)—to remedy the concerns expressed regarding legally obtained collections of artifacts which are possessed by private individuals, museums, and other institutions. The committee does not intend for these collections to be jeopardized by the provisions of this act. As long as the collections have been legally obtained they may be sold, exchanged, donated, and so forth, without being subject to this bill's prohibitions. In addition, the rewards provisions of the bill are not intended to be used to encourage harassment of individuals or institutions with such collections.

Fourth. The committee adopted a provision—subsection 12(a)—which protects multiple use activities on the public lands. The committee recognized that existing laws and regulations already require surveys, mitigation measures, and salvage of archeological resources in relation to multiple uses of the Federal lands and federally assisted projects. Concern was expressed that this legislation could be interpreted to add new impediments to recreational uses, timber harvesting, reclamation projects, flood control, mining and mineral leasing activities to give just a few examples.

By adopting subsection 12(a), the intent and language of the bill clearly indicate that it is not to be construed to require new permits to carry out the provisions of the Archeological Recovery Act of 1960 for example, or as requiring a permit to conduct archeological surveys prior to oil or gas drilling activities. In short, provisions of existing law and regulations were deemed sufficient by the committee as they relate to multiple uses of the public lands and by passing this act there is no intention to add a new layer of administrative or procedural delay which would impede approved activities or projects on the public lands.

Fifth. Finally, several other amendments were adopted by the committee which improved the bill's provisions regarding: The right of a State Governor to obtain otherwise confidential information about sites within his or her jurisdiction; the ability of a Governor to obtain permits in a facilitated manner for qualified persons to conduct excavation and curation of resources for the benefit of the State; the applicability of felony provisions to second time offenders only; fostering increased cooperation among private individuals, the archeological community, institutions, States and the Federal Government; recognizing the rights of Indians and Indian tribes in relation to their own lands; and finally clarifying the civil penalties sections to eliminate redundant provisions.

Mr. Speaker, the amendments which have been adopted by the Interior Committee and incorporated into the bill before the House today, are all very important. They have eliminated to a great extent the potential for controversy regarding this bill, as can be judged by the use of "suspension" procedures for consideration.

Again, I commend my colleagues on both sides of the aisle for their efforts in producing a balanced bill which gives needed protection to archeological resources, but remains sensitive to the people's need for use and enjoyment of public lands, particularly in the West.

The committee adopted a provision (subsection 12(A)) which protects multiple use activities on public lands. (This is the amendment to avoid any misunderstanding that this act cannot be used to delay Federal flood control or reclamation project.) Obviously, with the adoption of this amendment the committee has recognized that existing laws and regulations already require surveys, mitigation measures, and salvage of archeological resources in relation to multiple uses of the Federal lands. Therefore, by adopting subsection 12(A) the committee and this body clearly interprets this legislation not to be construed to require new permits prior to construction of Federal reclamation, flood control, or any other type of permissible activity on Federal lands. This amendment states precisely that there is no intention to add a new layer of administrative or procedural review which would impede approved activities or projects on public lands.

An important amendment was adopted which clarifies the definition section of what is an archeological resource. This relates to the language that states that the bill is intended to cover only objects which are found "in an archeological context." Isolated bottles, coins, arrowheads, pottery, and the like (or any piece or portion of such items), should not require a permit to be legally removed from public lands. As a practical matter if such objects were included under the bill then "archeological resources" would mean public lands. If this was the case, nothing would have been accomplished by this legislation since this would be an unenforceable provision. By narrowing the scope of the bill to include only objects when found in an archeological context, we have gotten at the primary objective of this act which is to protect valuable archeological sites from ruinous pillaging and excavation. Clearly, this is what this legislation was designed to protect, and this was the intention of the committee by emphasizing that "archeological resources" pertain to objects when found in an archeological context.

Mr. Speaker, at this time I am happy to yield such time as he may consume to the distinguished minority leader, the gentleman from Arizona (Mr. Rhodes).

Mr. RHODES. Mr. Speaker, I thank my colleague from California. This is a good bill and I am pleased and privileged to have had the opportunity of working with my distinguished friend and colleague from Arizona (Mr. Udall), and with the distinguished ranking minority member (Mr. Clausen).

I think the bill will provide some protection to archaeological findings on public lands which have been long needed. As the gentleman from Arizona has said, the bill stands on its facts and does not go into other areas. It will not be the vehicle by which lawsuits can be brought to stop other activities on public lands. It was not intended that way. In fact, we have worked very hard to make sure that the legislative history is abundantly clear that no such peripheral activities or meanings are intended.

It would be my hope, Mr. Speaker, that the bill would pass.

Mr. CLAUSEN. Mr. Speaker, will the gentleman from Arizona yield for two questions concerning section 4(c).

Mr. UDALL. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, there has been some questions raised about the ambiguity in section 4(c), relating to the protection of Indian religious sites on public lands, and I would like to raise two questions with the chairman of the Interior and Insular Affairs Committee.

First, it is my understanding that section 4(c) is not meant to impose a positive duty upon the Secretary of the Interior to be independently aware of sites of religious significance to any Indian tribe, but, rather, requires him to notify and consult with the appropriate tribe or tribes where he has some previous knowledge of possible religious significance concerning a proposed excavation site. Does the gentleman agree with this understanding?

Mr. UDALL. The gentleman correctly states the intent of the subsection.

Mr. CLAUSEN. Secondly, Mr. Speaker, it has been brought to my attention that some Indian tribes are reluctant to specifically identify sites of religious significance, either because secrecy is a part of their traditional religious practice or because they fear that identifying a site will bring the very desecration they wish to prevent.

Is it the understanding of the chairman that section 4(c) would permit an Indian tribe or tribes and the Secretary to enter into a prior agreement that the Secretary would notify a tribe of an application for an excavation permit within a general area identified in the agreement to determine if the specific application site infringed upon religious rights?

Mr. UDALL. I think section 4(c) would permit this approach.

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Mr. Speaker, I yield back the balance of my time.

● Mr. PASHAYAN. Mr. Speaker, I rise in support of H.R. 1825, the Archaeological Resources Protection Act of 1979, and in support of the remarks of Mr. Udall and Mr. Clausen. Clearly, the bill is intended to apply to exploitation by a small group of opportunists and not to the scattered discoveries of small hobby collectors, rockhounds, off-road users, and others of us who enjoy the use of our Nation's public lands. If I may, I would like to underscore the remarks of those distinguished gentlemen and possibly clarify one or two of the points in the act.

Mr. Clausen has raised the question of the meaning of the term "archaeological context" in section 3(1) of the act. I would agree with his assessment that our intent is not to include scattered, isolated objects not associated with an archeological site within the prohibitions of the act. Those items which would be protected are each of the items mentioned in section 3(1) and any others that will be added later by the Secretary of the appropriate land management agency when regulations are promulgated.

In other words, the "archaeological context" language applies to each of the enumerated items as well as to the broad category of "material remains of past human life or activities which are of archeological interest." Although definition of an archeological context is difficult, our intent is not to cover widely scattered objects or those with little archeological significance. An old bullet here or a piece of pottery there may be interesting to its finder, but we should not devote our enforcement resources and attention to the occasional discovery by a small hobby collector, rockhound, or prospector of scattered items such as these. That kind of enforcement is a waste of resources and is not intended to be covered by the act.

Mr. Udall has listed a number of items that are specifically excluded from the coverage of the act, including arrowheads, bullets, rocks, coins, and minerals. These are classes of materials which include a number of varieties within each class. For example, the class of "bullets" encompasses a wide variety of specimens, ranging from a very small derringer bullet or fragment all the way up to somewhat larger items such as small cannon balls or shots.

I believe the present wording allows all such projectiles that are launched from guns or weapons with barrels, such as pistols, rifles, mortars, and cannons, to be excluded from the provisions of the act.

Similarly, the committee has excluded from the intended coverage such items as bottles, unless they are found within an archaeological site. Mr. Clausen has already stated that bottles, pottery, and the like, or any piece or portion of such items, are not covered. Bottles or containers found in mining areas or short-lived evacuation sites are considered to be archaeologically significant in the context of this act. A few scattered beer bottles more than 100 years old may be very interesting to a collector of beer bottles but they do not constitute the kind of substantial historical or cultural evidence which is meant to be protected here. The intent behind this act is to protect unique or one-of-a-kind items in a true archaeological setting. Bottles are not such unique items.

All of the classes of items not covered in this bill include items that are found on the ground as well as those found under the surface, although the report from the Committee on Interior and Insular Affairs neglects to mention the latter. Mr. Udall makes it clear that the bill does not apply to any collection of arrowheads, bullets, rocks, coins, or minerals, making no distinction whether they are found above or below the surface of the ground. Indeed, the bill specifically protects that class of archaeological resources described in section 3(1) whether they are found on the surface or underground. That is more properly in accordance with the understanding of the committee during markup of the bill.

I support the bill, but am nevertheless concerned about the possibility of unintended restrictions on the use of public lands by all those of us who wish to enjoy them. The committee has made substantial improvements from the version originally drafted. Although I still have some reservations about the bill, we are in agreement that our intent is to control the exploitation of public lands by the few. We must be sure, however, that the final bill does not prevent the enjoyment of public lands by generations to come. We mean to discourage pillaging and to encourage such recreational use as is exemplified by the family outings and collecting activities, treasure hunts, and similar types of activities. I believe that as presently worded the bill accomplishes that purpose.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 1825, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to protect archeological resources on public lands and Indian lands, and for other purposes."

A motion to reconsider was laid on the table.

POSTAL SUPERVISORS' ARBITRATION

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 827) to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the U.S. Postal Service, as amended.

The Clerk read as follows:

H.R. 827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1004 of title 39, United States Code, is amended by adding at the end thereof the following subsections:

"(c) (1) If the Postmaster General and an organization of supervisory and other managerial personnel (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to agree, within 60 days after the organization submits a written notice to the Postal Service, upon a program for consultation or a plan to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory and other managerial personnel (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters), either party shall have the right to refer the dispute to an arbitration board established under the provisions of subsection (d) of this section.

"(2) If the Postmaster General and an organization of supervisory and other managerial personnel (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to agree with respect to pay policies and schedules, fringe benefit programs, and other programs related to such personnel, which affect all or a substantial portion of such personnel on a long-term or permanent basis, after participating directly in the planning and development thereof, either party, upon a 30-day written notice, may refer the dispute to an arbitration board established under the provisions of subsection (d) of this section.

"(3) If the Postmaster General and an organization of supervisory and other managerial personnel (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section are unable to reach an agreement as to whether or not a particular issue is subject to consultation or direct participation under this section, either party, upon a 30-day written notice, may refer the dispute to an arbitration board established under the provisions of subsection (d) of this section.

"(4) An organization of supervisory and other managerial personnel (other than officers, postmasters, and employees engaged in personnel work in Postal Service headquarters) recognized by the Postal Service under subsection (b) of this section, shall have the exclusive right to invoke the arbitration provisions of subsection (d) of this section on behalf of such personnel.

"(d) (1) An arbitration board shall be established to consider and decide a dispute arising under subsection (c) of this section and shall consist of three members, one of whom shall be selected by the Postal Service, one by the recognized organization, and the third by the two thus selected. If either of the parties fails to select a member within 30 days after the dispute is referred to an arbitration board under this section, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made by the Director of the Federal Mediation and Conciliation Service.

"(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity for each party to present evidence in support of its claims and an opportunity to present its case in person, by counsel, or by other representative as such party may elect. Decisions by the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

"(3) Costs of the arbitration board shall be shared equally by the Postal Service and the recognized organization.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Missouri (Mr. CLAY) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri (Mr. CLAY).

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous matter on the bill, H.R. 827.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill introduced by my colleague, CHARLES H. WILSON of California, along with 39 cosponsors, of which I am pleased to say I am one, seeks to establish arbitration rights for postal supervisors.

H.R. 827 is long overdue. It is greatly needed. It is a simple bill. The bill establishes a three-member arbitration board to settle disputes between recognized supervisory organizations and the U.S. Postal Service. The legislation is needed to protect these supervisory employees from capricious postal management decisionmaking. I am sure many of my colleagues are familiar with the merits of this legislation since it passed the House in both the 94th and 95th Congresses. Unfortunately, no action was taken by the other body. Now, however, I am pleased to see that for the first time, a Member of that body has introduced a companion bill to H.R. 827 so that prospects for favorable consideration of this legislation now seem to be a reality.

As chairman of the Postal Personnel and Modernization Subcommittee, I have become deeply concerned about postal management's failure to acknowledge the important role supervisors play in postal operations.

The fact is that postal management has failed to implement a provision contained within the Postal Reorganization Act of 1970 which required management to provide a program of consultation with supervisory organizations. These organizations are entitled by law to participate directly in the planning and development of pay policies and schedules, fringe benefit programs, and other programs relating to supervisory employees. It is clear, however, that postal management has viewed "consultation" as nothing more than holding pro forma sessions with these organizations and advising them of what management intended to do.

As a result of this lack of give and take on management's part, the supervisory organization has had no choice but to take the Postal Service to court in order to be heard and to force the Postal Service to comply with the law. The supervisors' organization has filed three lawsuits concerning pay issues—two of which they won and the third was recently remanded by the U.S. Court of Appeals for the District of Columbia to the U.S. District Court for the District of Columbia for further consideration. One of the issues in question is whether the Postal Service complied with the 1970 statute's requirement that recognized associations of supervisory and management personnel be permitted to "participate directly in the planning and development of their pay and related benefits." As the appeals court read the statute and legislative history, "participation" between supervisory associations and top postal management in the development of pay and benefit schedules means something more active than consultation but considerably less than negotiation.

Mr. Speaker, this is the crux of the issue, for the Postal Service has abused the meaning of direct participation as one-sided consultation. This has not only led to a deterioration in the morale of postal supervisors but it has been a costly and unnecessary one for the supervisor's organization who has had to go through the courts to obtain simple justice and what, in fact, was due them some 9 years ago.

After careful deliberation of this issue by my subcommittee and the full Committee on Post Office and Civil Service, we have come to the realization that there is an easier way to deal with this problem and that is by enacting H.R. 827 so that when disputes do arise they can be settled expeditiously, fairly, and impartially through an arbitration system. I want to emphasize to my colleagues that this is not a collective bargaining bill as some have attempted to purport. To equate the right to settle disputes fairly and reasonably through arbitration is a far cry from collective bargaining.

The costs of an arbitration board are to be shared equally by the Postal Service and the supervisory organization. The Congressional Budget Office, which has reviewed this legislation, states that it will have no impact on the Federal budget and that the costs of the board, which would be negligible in any event, would be covered by Postal Service revenues.

H.R. 827 will settle disputes quickly and encourage cooperation and consultation between the supervisory organization and the Postal Service which is long overdue.

I urge my colleagues to vote for passage of H.R. 827.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend to the Members the supplemental views in the report, which spell out the objections to this bill. I should point out a little bit of legislative history. We have had the same bill before us the last three Congresses, so we are accustomed to going over this ground in committee and on the floor.

I should say to my good friend from Missouri that I share with him a great affection for our friend from California, Mr. WILSON, the sponsor of this bill. Yet, the legislative arena being what it is, it is perfectly permissible to have nothing but the greatest of personal affection for a Member, yet have differences of opinion. That is the position we find ourselves in.

I point out to the Members that while our beloved President is at Camp David, at one of the great summit meetings of our times, we here in the House this afternoon are being asked to pass a bill that is objected to by the Secretary of Labor, by the Postmaster General, by the White House, by the Bureau of the Budget, and by the Office of Personnel Management. Because of the preoccupation of the White House with the summit conference, they are not active against this bill at this time, so I am taking it upon myself to remind the Members of the opposition of the executive branch.

Mr. Speaker, this bill would start a chain reaction that would ultimately destroy the U.S. Postal Service.

It would achieve that result by pitting postal management against postal management, depriving the Postmaster General and his managerial team of the unity and control which exist in the private sector and elsewhere in Government. That makes it easy to understand the strong opposition to this bill from the White House, the Office of Personnel Management, the Office of Management and Budget, and the Postal Service.

This bill is completely inconsistent with the National Labor Relations Act. Secretary of Labor Ray Marshall has pointed out that supervisors are part of management and, as such, are treated differently than other employees by the NLRA. That principle was reaffirmed in the Civil Service Reform Act of 1978, which excluded supervisors from labor organizations having representation rights.

Alan K. Campbell, the highly respected Director of the OPM, in describing how the Postal Service would be required to bargain with its supervisors and managers on pay policies and schedules, fringe benefit programs and other programs, he said:

> This is not consultation; it is negotiation, pure and simple.

He went on to say:

> Nothing could be more inimical to the legitimate role of Government as "employer" or to the management of a Government organization than the establishment of a collective bargaining framework between managers and supervisors on the one hand and top management on the other.

Postmaster General William Bolger was on target when he said the bottom line in H.R. 827 was money. The National Association of Postal Supervisors views this legislation as the legislative instrument for forcing higher pay increases which cannot be justified. A recent report by the Comptroller General said pay for supervisors in the Postal Service "has exceeded the pay for comparable work elsewhere in the Federal Government." In addition, despite a pay consultation process which NAPS says is not working, the supervisors received a 3-percent increase in basic salaries, effective June 2, and will receive another 3-percent increase on October 6. This is in addition to the so-called merit pay adjustments.

This is nothing more than special interest legislation, which is inconsistent with the 1970 Postal Reorganization Act which does provide for consultation—not negotiation—affecting postal supervisors and managerial employees.

If the Postal Service is to operate efficiently and economically, it must be able to rely on the support and cooperation of all of its supervisors and managers. H.R. 827 encourages and promotes divided loyalty in the management of postal operations.

To pass this bill would establish a dangerous precedent which would make the Postal Service unmanageable.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, I have some comments to make about this legislation. It was my privilege to serve on the subcommittee which heard some evidence concerning the arbitration and the need for it.

Mr. Speaker, I rise to speak in opposition to the bill, H.R. 827, the postal supervisor's arbitration bill. This potentially disastrous bill should be renamed the management by arbitration bill. It has been rejected by two previous Congresses and does not deserve the attention of this Congress. Should this ill-conceived piece of legislation be approved and signed into law, it could set a dangerous precedent for the granting of de facto collective bargaining rights to supervisors throughout all Government agencies and into the private sector. The simple fact is this legislation is not as simple as the National Association of Postal Supervisors would have you believe.

Let me briefly explode a few myths regarding H.R. 827 and its impacts. Myth No. 1 is that the postal supervisors are underpaid. This opinion has been rejected by none other than the Controller General to the Congress, who stated in a report dated February 1, 1979, that "the pay for these * * * supervisors has exceeded the pay for comparable work elsewhere in the Federal Government and in the private sector." Those men who act as postal supervisors are well paid for the essential function that they perform as an arm of management of the Postal Service.

Myth No. 2 is that the U.S. Postal Service has not dealt with the postal supervisors in good faith or in accordance with the law. The U.S. Court of Appeals for the District of Columbia, in a decision dated June 14, 1979, states that—

> We have no difficulty holding that the Postal Service met its obligation to afford the Associations with an opportunity to understand, analyze and criticize the Postal Service's compensation proposals.

This decision of the court of appeals reverses a previous decision of a district court and clearly shows the Postal Service as having acted in good faith in attempting to work with the representatives of the postal supervisors in the setting of compensation.

Myth No. 3 is that this legislation will offer the National Association of Postal Supervisors the same rights as other unions. This is patently absurd in light of the provision that allows them to be considered the representatives of a broadly defined spectrum of postal employees without benefit of representation elections. This bill ignores time honored methods and procedures used by the National Labor Relations Board in determining representation and simply offers sweeping authority to NAPS for representing up to 51,200 employees of the USPS.

Myth No. 4 is the assertion by NAPS that H.R. 827 does not give them the rights of collective bargaining. This law allows for binding arbitration if the Postal Service does not come to terms with NAPS. This becomes a very strong lever that gives the postal supervisors de facto collective bargaining powers. This is a dangerous power to place into the hands of middle- and lower-level management who could effectively veto decisions of top level management. I strongly believe that it is inappropriate to give supervisors collective bargaining rights.

This view was reflected by Congress in the Civil Service Reform Act of 1978 wherein the principle of collective bargaining for supervisors was clearly rejected. Furthermore, it is not even included in the Labor Management Relations Act that guides management and labor relations in the private sector. I find it inappropriate that management personnel should be organized in a manner such as a labor union.

Postal supervisors are an integral part of Postal Service management and must be treated as such. This must necessarily be the case in an organization that employs 685,000 persons and is 85 percent labor intensive. These individuals must function as an arm of management if the total organization is to function effectively. H.R. 827 would permit postal supervisors to cripple management by giving them an effective veto over management decisions.

I feel that we all should consider this bill in the light of improving postal service to the Nation. The U.S. Postal Service is one organization that serves all of our constituents. This legislation could act to reverse whatever improvements have been made by the USPS since the Postal Reorganization Act of 1970. I urge my colleagues here not to impair postal service, and thereby do a disservice to each of your constituents, by voting for a bill that stands to benefit a very narrowly defined group that scarcely needs the tremendous powers that H.R. 827 affords them.

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Mr. DERWINSKI. I yield 5 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. I appreciate the distinguished gentleman from Illinois yielding me some time on this bill. I would like to associate myself with him in opposition to the bill. I think there are several reasons why we would not want to enact legislation of this sort in this particular Congress. The gentleman has alluded to one of those reasons and that is the potential cost and raid on the Treasury that legislation like this would effect for the Postal Service and other agencies of our Government. This bill sets a bad precedent. There would be many others in management throughout the Federal Government who would take action to garner for themselves the same kind of authority which we would be giving to the postal supervisors should this legislation be passed.

Second, it would significantly fragment the management within the U.S. Postal Service at a time when I think we need more streamlined, more attainable and more cohesive management within that organization.

Finally, as the original author of the legislation, the gentleman from California (Mr. CHARLES H. WILSON) well knows, I do not always agree with the Postmaster General but in this particular case I certainly agree with him and I would commend to the Members of the House the letter which the chairman of our full committee, the gentleman from New York (Mr. HANLEY) received on May 9 of this year from Postmaster General Bill Bolger in which he raised some questions and problems that this legislation would give the Postal Service and the entire Federal bureaucracy as well.

I would, therefore, urge my colleagues to reject this ill-advised legislation.

Mr. DERWINSKI. I thank the gentleman from Illinois for his very statesmanlike position on this bill.

Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I yield 5 minutes to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, the gentleman from Illinois (Mr. DERWINSKI) listed all of the administration people who he claims are in opposition to this legislation. Perhaps that is the reason why we should give such serious consideration to passing the legislation.

The people he listed have been the losers, as far as I am concerned, in presenting legislation that would meet with the approval of Congress. Perhaps we would be doing the administration a favor by passing something they may temporarily disagree with but which they probably will find would bring peace and harmony into the Postal Service that does not now exist among certain levels of management.

Mr. Speaker, I am very pleased to be the sponsor of H.R. 827 and on behalf of myself and the gentleman from Missouri (Mr. CLAY), the full committee chairman, the gentleman from New York (Mr. HANLEY), and the several dozen cosponsors of the bill, I would urge the support of the House of this fair and practical system of dispute resolution for personnel supervisors.

These supervisors, 38,000 of them across the country, are truly the backbone of our postal work force and they have not warranted the kind of shabby treatment which they have received in many instances from top personnel management since the Organization Act of 1970.

If we are to have a highly efficient personnel service in this country we cannot permit the kind of debilitating antagonism which has existed between personnel supervisors and top management to continue. As the gentleman from Missouri (Mr. CLAY) has outlined, H.R. 827 would establish an equitable means of resolving these disputes. What we now have is negotiation through Federal court suits. This ridiculous situation will be ended by passage of this bill and the morale of the personnel supervisors undoubtedly will be restored.

Mr. Speaker, I ask for a solid vote of confidence in this legislation. This is a good bill and I hope we can pass it through the suspension procedure.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 827, the postal supervisors arbitration bill. I urge my colleagues to support this important, long overdue measure.

As a cosponsor of this legislation in this and the previous two Congresses, I commend this measure to my colleagues as an equitable and necessary means for providing arbitration rights for postal supervisors.

By establishing the arbitration board called for by H.R. 827—to settle disputes between the postal supervisors and the Postal Service—we will be rectifying the unfortunate situation which now finds the Postal Service ignoring an earlier congressional mandate designed to insure that the postal supervisors and other managerial officers have the right to "participate directly" in the determination of their pay and related benefits.

The postal supervisors, having no other recourse than to seek relief in the courts in 1972, have, 5 years after an agreement was reached stemming from that action, still been unable to secure compliance by the Postal Service to the terms of that understanding.

In an effort to insure that postal supervisors obtain the benefits contained in this agreement, last Congress the Subcommittee on Postal Personnel and Modernization, of which I am now the ranking minority member, unanimously approved a measure, virtually identical to the legislation now before us, providing postal supervisors with specified arbitration rights. The Post Office and Civil Service Committee reported the bill by voice vote, and the House passed the legislation also by voice vote. This year our committee again reported the bill by voice vote.

Accordingly, in order to provide postal supervisors with the arbitration rights to which they are rightfully entitled, I urge my colleagues to suspend the rules and pass H.R. 827.

Mr. CLAY. Mr. Speaker, I yield back the balance of my time and move the previous question.

Mr. DERWINSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and pass the bill, H.R. 827, as amended.

The question was taken.

Mr. DERWINSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed until tomorrow.

FTC ACT PROVISION EXEMPTIONS FOR SAVINGS AND LOAN BANKS

Mr. SCHEUER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3978) to amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such act, as amended.

The Clerk read as follows:

H.R. 3978

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by inserting after "banks," the following: "savings and loan institutions described in section 18(f)(3),".

(b)(1) Section 6(a) of the Federal Trade Commission Act (15 U.S.C. 46(a)) is amended by inserting after "banks" the following: ", savings and loan institutions described in section 18(f)(3),".

(2) Section 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)) is amended by inserting after "banks" the following: "savings and loan institutions described in section 18(f)(3),".

(3) The proviso at the end of section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended—

(A) by inserting after "banks" the following: ", savings and loan institutions described in section 18(f)(3),"; and

(B) by inserting ", in business as a savings and loan institution," after "banking".

(c)(1) Section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended—

(A) in the first sentence thereof—

(i) by inserting "or savings and loan institutions described in paragraph (3)" after "banks" each place it appears therein; and

(ii) by inserting "or (3)" after "(2)";

(B) in the second sentence thereof, by inserting after "System" the following: "(with respect to banks) and the Federal Home Loan Bank Board (with respect to savings and loan institutions described in paragraph (3))"; and

(C) in the last sentence thereof—

(i) by inserting "each" before "such Board" the first place it appears therein;

(ii) by striking out "such Board finds that "(A)" and inserting in lieu thereof "(A) either such Board finds that";

(iii) by inserting "or savings and loan institutions described in paragraph (3), as the case may be," after "banks" the first and second places it appears therein;

(iv) by inserting after "or (B)" the following: "the Board of Governors of the Federal Reserve System finds; and

(v) by striking out "the Board" and inserting in lieu thereof "such Board".

(2) Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended by redesignating paragraphs (3), (4), and (5) thereof as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) thereof the following new paragraph:

"(3) Compliance with regulations prescribed under this subsection shall be enforced under section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) with respect to Federal savings and loan associations, section 407 of the National Housing Act (12 U.S.C. 1730) with respect to insured institutions, and sections 6(i) and 17 of the Federal Home Loan Bank Act (12 U.S.C. 1426(i), 1437) with respect to savings and loan institutions which are members of a Federal Home Loan Bank, by a division of consumer affairs to be established by the Federal Home Loan Bank Board pursuant to the Federal Home Loan Bank Act.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. SCHEUER) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. RINALDO) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Speaker, I yield myself such time as I may consume.

At the outset, Mr. Speaker, let me recognize the diligence and leadership of the gentleman from New Jersey (Mr. RINALDO) and the gentleman from New York (Mr. OTTINGER) in bringing this serious matter of overregulation and duplicative regulation to our attention. The gentleman from New Jersey (Mr. RINALDO) did a great deal of the work in preparing this legislation and working with our colleagues in the other body. I wish to commend him and express my appreciation for the tremendous leadership he has displayed on this piece of legislation.

Mr. Speaker, I urge passage of this legislation which has the unanimous endorsement of both the Subcommittee on Consumer Protection and Finance and the Full Committee on Interstate and Foreign Commerce.

This is a bill which reduces duplicative and overlapping Federal regulation by exempting savings and loan institutions from the Federal Trade Commission Act since they are already subject to regulation by both the Federal Home Loan Bank Board and the Federal Trade Commission.

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This is an area in which we are looking with a particularly sharp eye and focusing as best we can on areas of unnecessary Federal intrusion, both into our personal lives and into the business establishment. This is an area where savings and loans institutions have been adequately regulated by the Federal Home Loan Bank Board. There seems to be no reason whatsoever to continue this duplicative regulatory jurisdiction.

In effect, this legislation would put the savings and loan institutions on a parity with commercial banks for regulatory purposes. Now, neither the banks nor the savings and loans would be exempted from the Clayton Antitrust Act, which is of course enforced by the Justice Department.

Mr. Speaker, the bill is not only not inflationary, but it is anti-inflationary. It will reduce regulatory expenditures and if it has any impact at all on the banking industry, it will be to reduce the burden of duplicative legislation.

Mr. Speaker, I have not heard of any opposition to the legislation from any of our colleagues. As I said before, the conversations that the gentleman from New Jersey (Mr. RINALDO) and I had with Members of the other body led us to believe that this measure would be adopted over there in expeditious fashion in the form in which it appears before us today.

Mr. Speaker, along with the bill is a technical amendment.

I respectfully recommend, Mr. Speaker, that the rules be suspended and that the bill, H.R. 3978, be passed by this House.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

First of all, I would like to commend my colleague for his work in expediting this legislation and also I think the House should take note, I believe, that this is the first appearance of the distinguished gentleman from New York as chairman of the Subcommittee on Consumer Protection and Finance, the first bill that the gentleman has brought to the floor of the House.

Mr. SCHEUER. Mr. Speaker, if the gentleman will yield, a very successful maiden voyage, I might say.

Mr. RINALDO. A very successful maiden voyage, as the gentleman put it.

I urge that this body suspend the rules and pass H.R. 3978. As the subcommittee chairman has already pointed out, the bill would exempt savings and loan associations from regulation by the Federal Trade Commission.

This legislation should be enacted for several reasons. First, unlike savings and loans, banks are now exempt from the Federal Trade Commission Act and have enjoyed this exemption since the FTC Act was first enacted. In my view, there is no good reason to treat the two kinds of financial institutions differently. In effect, then, this bill would grant the same treatment to savings and loan associations as is now accorded banks. Indeed, the term "bank" under current law is understood to mean not only commercial banks, but mutual savings banks and cooperative banks which are quite similar to savings and loan associations. Passage of H.R. 3978 will bring to an end the present discrimination between various types of savings institutions.

An end to FTC regulatory authority is also warranted because savings and loan associations are now fully regulated by the Federal Home Loan Bank Board. Further, they are subject to policing by the Justice Department with respect to compliance with the Clayton Act. Consequently, there is no need to lodge duplicative regulatory authority in the Federal Trade Commission.

Specifically, the bill exempts savings and loan associations from sections 5 and 6 of the FTC Act. Further, whenever the FTC promulgates a rule under section 18 of the act with respect to unfair or deceptive practices, the Bank Board must issue a substantially similar rule applicable to savings and loans. The Bank Board, however, may forego issuing such a rule if it determines that such acts or practices with respect to savings and loan associations are not unfair or deceptive.

The final determination here will be made by the Bank Board, not the FTC. The committee expects that the Bank Board in making this determination will conduct a full and open hearing to solicit the views of all interested persons. This is the same kind of regulatory scheme that now applies to rules promulgated by the Federal Reserve Board applicable to banks.

In summary, this legislation would put an end to duplicative regulatory authority which is both unnecessary and unwise. The present regulatory scheme only causes confusion to those who must live under it. The Bank Board has a sufficient supply of regulatory tools available to it to fully police the savings and loan business. Duplicative authority in the FTC does not enhance this ability to any extent. It is unneeded and therefore it should be done away with. For these reasons, I hope that this body will pass H.R. 3978.

Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL), the distinguished ranking minority member of the full committee.

Mr. BROYHILL. Mr. Speaker, I thank the gentleman very much for yielding. I rise in support of this legislation. The purpose has already been outlined by the gentleman from New York, the chairman of the subcommittee, and the gentleman from New Jersey, the ranking minority member of the subcommittee; that is, that it would exempt savings and loan institutions from the purview of the Federal Trade Commission in the same manner in which banks are presently exempt.

I would point out to the Members an excellent letter that has been written by the Federal Home Loan Bank Board to the committee and attached as a part of the report, on page 6, in which the Board outlines very clearly not only their legal authority, but also their ability—the expertise and the experience that they have in carrying out the purpose of protecting the consumers.

Also, the letter points out that under the Clayton and Bank Merger Acts there is adequate authority to prevent interlocks or any other attempts to monopolize on the part of S. & L.'s in the United States.

I want to commend the gentleman from New Jersey for introducing this bill. This is similar to the bill that the gentleman and others had introduced in this and previous Congresses. I want to commend the gentleman and the gentleman from New York for bringing this to the floor.

Hopefully, this will go through this year.

Mr. Speaker, I yield back the balance of my time.

Mr. SCHEUER. Mr. Speaker, I have already expressed my thanks and appreciation to the gentleman from New Jersey for the great leadership role the gentleman played in bringing this legislation to the floor.

I especially want to congratulate my distinguished friend and colleague, the gentleman from North Carolina (Mr. BROYHILL), on the gentleman's first public appearance as ranking minority member of the full committee of the Committee on Interstate and Foreign Commerce.

I want to say publicly what a pleasure it has been for me to have worked with the gentleman from North Carolina (Mr. BROYHILL). The gentleman is an extraordinarily diligent, well-informed thoughtful member of this House. The gentleman has exemplified the highest qualities of nonpartisanship and concern for the public interest. I mourn that the gentleman is no longer going to continue to serve as ranking minority member of the subcommittee. Perhaps the subcommittee's loss is the full committee's gain.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the gentleman.

Mr. BROYHILL. Mr. Speaker, I thank the gentleman very much for those overgenerous remarks.

I would point out, however, that under our rules I am still a member of the subcommittee and perhaps the gentleman might be seeing me too often. I hope that the gentleman can repeat those remarks the next time we come to the floor.

Mr. SCHEUER. We look forward to it and we are pleased that so thoughtful and constructive a member is stepping into the gentleman's shoes. We look forward with great pleasure to working with the gentleman from New Jersey (Mr. RINALDO). We assume without any question that the pattern of cooperation and mutual helpfulness that has been so clear in the working of our subcommittee will continue unabated.

Mr. Speaker, I have no further requests for time on this side.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

First of all, I would like to once again thank the chairman for his very generous remarks and assure the gentleman that the same spirit of cooperation that has heretofore existed between the majority and minority on the Consumer Protection Subcommittee will continue. We appreciate the diligence of the chairman in getting at the facts and ascertaining that only the most carefully drafted legislation can survive the very careful scrutiny that it is given in the subcommittee; so I do thank the gentleman. I do look forward to working with the chairman and to a very productive session.

Mr. Speaker, at this time I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

☐ 1350

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague, the gentleman from New Jersey (Mr. RINALDO) for yielding this time to me, and I thank the gentleman from New York (Mr. SCHEUER) for bringing this bill to the floor—H.R. 3978. This is of course all set to exempt savings and loan institutions from the Federal Trade Commission jurisdiction.

Having been a former member of the Committee on Banking, Finance and Urban Affairs, I know this legislation is needed. I wish to compliment the committee for moving it so positively and my colleague, the gentleman from New Jersey (Mr. RINALDO), for sponsoring the legislation.

This is another signal that Congress is responding to remove unnecessary duplication from two regulatory bodies, because it is not needed to have both agencies regulating unfair and deceptive trade practices.

I want to not only express my support of H.R. 3978 but to thank the committee for moving it so aggressively. I hope the other body responds as quickly.

I also want to compliment, as my colleague, the gentleman from New York (Mr. SCHEUER) has, the new ranking member of the committee, the gentleman from North Carolina (Mr. BROYHILL), for being here to make sure that this sails through smoothly.

I think this is another indication that Congress is responding to the overwhelming request from the general public to remove unnecessary duplications in regulatory control by the Federal Government. The Home Loan Bank Board has done a more than adequate job in protecting the consumers in the savings and loan field, and I think this subcommittee of the Committee on Banking, Finance and Urban Affairs and the subcommittee of the Committee on Interstate and Foreign Commerce should be complimented for taking the initiative in such a positive way. I know that our colleague, the gentleman from Ohio (Mr. WYLIE), the ranking minority member of the subcommittee, and the gentleman from Rhode Island (Mr. ST GERMAIN) the chairman made sure that the hearings that were held and were conducted in such a way that H.R. 3978 was moved very swiftly. We know that the Committee on Rules had positive notice that the Committee on Banking, Finance and Urban Affairs was anxious to cosponsor this legislation.

Chairman McKinney of the Federal Home Loan Bank Board stated in a letter sent to the committee:

> The comprehensive and intensive Bank Board authority and experience as to unfair methods of competition, as well as to unfair and deceptive trade practices, of S. & L.s present squarely the further issue of excessive and duplicative Government regulation that was a focus of the H.R. 2313 hearings, and which is reflected also in anti-overregulation bills such as H.R. 2364, sponsored by various members of your committee. Our own experience corroborates the premise of H.R. 2364 that public, as well as industry, concern and resentments become especially acute when overregulation and its burdens are perceived as substantially due to duplication of supervision by different Government agencies. As escalating public concern has also indicated, overregulation, both actual and perceived, results in public overreaction and invites pressures for legislative constraints which would hinder regulation needed in the public interest.

Those are good reasons for passage of this legislation.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

Mr. RINALDO. Mr. Speaker, I yield 3 additional minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. SCHEUER. Mr. Speaker, will my colleague yield?

Mr. ROUSSELOT. I am pleased to yield to the gentleman from New York.

Mr. SCHEUER. Mr. Speaker, I thank the gentleman for yielding.

I wish to thank the gentleman from California (Mr. ROUSSELOT) for his kind words. I do not wish to put any words in the mouth of my colleague, the ranking minority member of the full committee, or in the mouth of the ranking minority member of the subcommittee, but since they are here to defend themselves, I would like to say—and I think I say this on behalf of all three of us—that one of the hallmarks of the work of this committee from here on in will be to scrutinize whatever regulatory processes we have under our jurisdiction to make sure that there is an analytical way of assessing costs and benefits, and where there is not a clear benefit to be achieved from the regulatory process that is demonstrably greater than the cost, we intend to cut and we intend to eliminate.

Mr. ROUSSELOT. Mr. Speaker, I want to say that I am delighted to hear that pledge from the chairman of the subcommittee. I know that my good friend and colleague, the gentleman from New Jersey (Mr. RINALDO), and my colleague, the gentleman from North Carolina (Mr. BROYHILL), have always felt that we should constantly be on the alert for ways to defuse unnecessary regulation, that is, unwinding the unnecessary redtape and reducing unnecessary controls where they are no longer needed or are perhaps outdated.

So I am delighted, as I am sure my colleagues are, to hear the pledge of the chairman of the subcommittee (Mr. SCHEUER) that the subcommittee will move ahead during this session to eliminate unneeded controls.

Mr. SCHEUER. Mr. Speaker, I might say that we may occasionally disagree as gentlemen on what the benefits are and how much the so-called benefits are needed.

Mr. ROUSSELOT. Or what the costs are.

Mr. SCHEUER. The costs generally are easier to identify. I think that up to now in our society we have not sufficiently identified the costs of health regulations, of safety regulations, or of environmental regulations, but when we try to do it, it is far easier to identify costs than it is to quantify benefits.

Mr. ROUSSELOT. Benefits to the general public or consumer.

Mr. SCHEUER. That is correct. As I say, we may occasionally disagree on what the benefits are, but I do not think we disagree very often on what the costs are. I do not think we will disagree at all on one of the major purposes of this committee, which is in effect to provide a little sunset type of scrutiny to regulatory processes that may have gone on for several decades to see how they can justify themselves under a cold analytical scrutiny in terms of today's needs and today's costs.

Mr. ROUSSELOT. Mr. Speaker, I thank the chairman of the subcommittee, and I thank my colleague from New Jersey (Mr. RINALDO) also for that additional pledge, especially the suggestion of the gentleman from New York that we begin to apply sunset concepts to many of these laws that come before us either for renewal or new authorization or in the appropriation process. I think that is an important function of this Congress.

I am more appreciative than I can say for the pledge of the gentleman from New York (Mr. SCHEUER) that we will undertake both this cost analysis and an analysis of the benefits to the public.

Mr. Speaker, I thank my colleague, the gentleman from New Jersey (Mr. RINALDO), for yielding and especially for providing this deregulation legislation.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from California (Mr. ROUSSELOT) for his assistance and for his support of this legislation. I also want to commend the chairman of the subcommittee for his attitude on Federal regulations.

Every day there are headlines concerning energy and inflation. We read of the President's summit meeting on these problems, and yet both of them are exacerbated as a result of needless Federal regulations, duplicative Federal regulations, and obsolete Federal regulations.

So I think it is important that we establish in our subcommittee a positive approach and I commend the chairman of the subcommittee for his desire to examine carefully Federal regulations with a view toward eliminating those that are no longer needed, are antiquated, or have outlived their usefulness. The gentleman is keeping with the midstream of public thinking and is rendering a tremendously useful public service by focusing on problems that not only business but people in every walk of life face.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. SCHEUER) that the House suspend the rules and pass the bill, H.R. 3978, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SCHEUER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

UNITED NATIONS COMMISSION ON MIA'S

Mr. WOLFF. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 10) to express the sense of Congress that a United Nations Special Investigatory Commission should be established to secure a full accounting of Americans listed as missing in Southeast Asia.

The Clerk read as follows:

H. CON. RES. 10

Whereas approximately twenty-three hundred Americans remain unaccounted for in Southeast Asia since the cessation of the Vietnam conflict; and

Whereas learning the fate of those American servicemen and civilians listed as missing remains of utmost importance to the United States, and is considered as such during the negotiations between the United States and the Socialist Republic of Vietnam; and

Whereas the General Assembly of the United Nations adopted Resolution 3320 (XXIX) calling for assistance and cooperation in accounting for persons who are missing or dead in armed conflicts; and

Whereas such resolution recognized "that one of the tragic results of armed conflicts is the lack of information on persons—civilians as well as combatants—who are missing or dead in armed conflicts"; and

Whereas such resolution further states that "the desire to know the fate of loved ones lost in armed conflicts is a basic human need which should be satisfied to the greatest extent possible, and that provision of information on those who are missing or who have died in armed conflicts should not be delayed merely because other issues remain pending"; and

Whereas the Socialist Republic of Vietnam, despite assurances that it is conducting an extensive search for Americans listed as missing and for information that might indicate their fate, has provided but meager information concerning the fate of these missing Americans; and

Whereas present efforts to secure a full accounting of these Americans listed as missing are not productive and are ill-served by existing procedures and institutional frameworks: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President should instruct the Secretary of State to seek the good offices of the Secretary General of the United Nations for the purpose of establishing a special investigatory commission charged with the responsibility of securing a full accounting of Americans listed as missing in Southeast Asia. The commission should be composed of individuals selected because of their impeccable credentials and their longstanding service to the principles embodied in the United Nations Charter. The commission should be authorized to hold hearings, receive written communications, and seek the full cooperation and the facilities of the Socialist Republic of Vietnam for purposes of verifying crash sites, confirming information on the last known whereabouts of missing Americans, and taking other appropriate measures to secure a full accounting of Americans listed as missing in Southeast Asia. The commission should be directed to submit a report summarizing its findings to the appropriate body of the United Nations.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. WOLFF) will be recognized for 20 minutes, and the gentleman from New York (Mr. GILMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I am happy to speak with regard to the measure before us today. House Congressional Resolution 10 has been approved unanimously by the Subcommittee on Asian and Pacific Affairs, and by the full Foreign Affairs Committee. I would like to commend my colleague from Ohio, the Honorable TENNYSON GUYER, who is ranking minority member of the Asian and Pacific Subcommittee who is ill today and cannot be with us on the floor at this time. Mr. GUYER introduced this measure and brought it to us, and energetically obtained some 65 cosponsors along the way.

It is clear that this action, which is a repeat in some respects of legislation passed by the House but not by the Senate in the last Congress, has the support of a great many Members of this body.

This measure calls upon the President to ask the good offices of the Secretary General of the United Nations in creating a commission of the United Nations to pursue an accounting for Americans missing in Vietnam. There will be no cost involved with this. It invokes a principle to which both the United Nations and its member states, including Vietnam, subscribe—that nations should for humanitarian and compassionate reasons provide all information available on persons killed or missing in armed conflict.

I understand, in this connection, that Mr. GUYER would like to visit with Secretary General Waldheim on this matter, much as some other Members and I did 2 weeks ago concerning the problem of Indochinese refugees. I believe that this could be a useful step at the appropriate time. We need to pursue this channel, because it is as yet an unexplored avenue which may provide some satisfaction to the families of the MIA's. It should be noted that the Subcommittee on Asian and Pacific Affairs will visit Hanoi and Moscow in August to further pursue the refugee question, and the MIA/POW issue.

Mr. Speaker, later this week, the National League of Families of American Prisoners and Missing in Action in Southeast Asia will hold their 10th annual convention here in the Washington area. The following week, July 18, the Nation will hold its first POW/MIA Day in accordance with Public Law 95-349. The timing of this action today could not be more appropriate.

Our action is timely not only because it is retrospective, in that it seeks to honor those who are missing, and whose remains lie somewhere in Vietnam, Cambodia, and Laos, but because it is prospective, in that it calls for action to be taken now, and in the future. This issue is not simply a ghost from the Vietnam war. It is a real, living, significant aspect of our prospective relations with the Socialist Republic of Vietnam.

We need this action to be true to ourselves. We also need this action to remind the Government in Hanoi that we will not forget, nor easily gloss over, their failure to respond to legitimate compassionate appeals for information on the fate and whereabouts of Americans who never returned from Vietnam—particularly those whom we know were at one time in Vietnamese custody. The expert witnesses who have appeared before our subcommittee have confirmed the judgment that the Vietnamese are in possession of additional information which they have failed to disclose.

I need to point to one fact which has lent a new urgency to this effort. The return of Robert Garwood, a marine private first class who has just come back after 14 years in Vietnam, has revealed to us in a dramatic way that, despite Vietnamese claims, at least one was alive and in captivity—therefore there may be another, or others. This is not to bandy false hopes. It is however to recognize a reality which we cannot ignore, and are dutybound to pursue.

Another dimension of this ongoing tragedy pertains to the families of those missing men. This resolution also serves to demonstrate to them a renewed effort to leave no path unexplored in securing definitive information to ease the heartaches of uncertainty.

The Subcommittee on Asian and Pacific Affairs and the Task Force on Prisoners and Missing in Southeast Asia have the responsibility and the task to explore this issue within the Congress' general oversight jurisdiction. As in the past, we will continue to explore all possible leads to bring about a final accounting.

I urge my colleagues to support this legislation.

□ 1400

Mr. Speaker, at this time I am happy to yield to the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Committee on Foreign Affairs.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of the resolution (H. Con. Res. 10) to express the sense of Congress that a United Nations special investigatory commission should be established to secure a full accounting of Americans listed as missing in Southeast Asia.

Mr. Speaker, at the very outset, I wish to commend our colleague, the gentleman from New York (Mr. WOLFF), the chairman of the Subcommittee on Asian and Pacific Affairs, as well as the principal sponsor of the concurrent resolution, the gentleman from Ohio (Mr. GUYER), for their efforts in bringing this resolution before us. As our colleague, the gentleman from New York (Mr. WOLFF), has said, as long as there is one iota of doubt that there are still some who are in prison or who are in Vietnam voluntarily or involuntarily and that Government knows of them, it is incumbent upon us to see that we have a full accounting of the prisoners of war or those missing in action.

House Concurrent Resolution 10 was approved by the Committee on Foreign Affairs, without amendment, on May 10, 1979, by a voice vote. The resolution calls on the President to work through the Secretary of State and the United Nations Secretary General to establish a commission to conduct an exhaustive search and pursue all leads and information in order to obtain absolute accounting of those Americans who are slated as missing in Southeast Asia. The commission established would have authority to hold hearings, thoroughly explore all leads and seek the complete assistance of the Government of the Socialist Republic of Vietnam.

The information is necessary to allay the minds of the families who have been tortured by the anxiety of not knowing the fate of their loved ones lost in Southeast Asia. The recent appearance of Robert Garwood from Vietnam has served to heighten such anxious emotions in the hearts of these families.

Mr. Speaker, I urge the adoption of the resolution.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a privilege for me to be managing this resolution today on behalf of the minority in the absence of the distinguished gentleman from Ohio (Mr. GUYER), the sponsor of the bill, who is ill today and cannot be present. The gentleman from Ohio is the chairman of the Task Force on the Missing in Action. He has worked long and hard to bring this legislation to the floor.

I was pleased to have sponsored this bill in the 95th Congress, during which time we passed the measure in the House. Unfortunately, passage came about too late in that session for the Senate to complete action on it. I am hopeful that at this timely moment in the session, as we are about to celebrate the first National POW-MIA Day on July 18, and as we approach the eve of the 10th annual convention of the National League of Families of the Missing in Action, this measure will be overwhelmingly adopted and supported by both the House and the Senate so that we can once again focus attention on this important issue, not only in our Nation but throughout the world.

I, too, want to commend the gentleman from New York (Mr. WOLFF) for bringing the measure before his Subcommittee on Asian and Pacific Affairs of the House Foreign Affairs Committee, and bringing it to the attention of the full committee, and the gentleman from Wisconsin (Mr. ZABLOCKI), for enabling the measure to be considered early in the session and for obtaining the support of the full Committee on Foreign Affairs.

Mr. Speaker, House Concurrent Resolution 10 calls upon the United Nations to assist the United States in our process of accounting for the hundreds of Americans still listed as missing in action in Southeast Asia.

This is important legislation in that it focuses international attention on the accounting efforts that the United States has made to date, and because it calls upon an objective body, the United Nations, to carry out its humanitarian responsibilities. The Vietnamese have not been cooperative in their efforts to account for the hundreds of Americans still listed as missing in action. They have taken the easiest route in all negotiations and conferences pertaining to the return of remains—preparing some remains for the occasion of a visitation by a congressional delegation to Vietnam, and when handing those remains over appearing to show grave concern and great humanitarian efforts regarding our missing. To date, we have received only 75 remains of 2,500 individuals unaccounted for and have not enjoyed the cooperative relationship which was promised us by the Vietnamese.

It is particularly important at this time to enlist the help of the U.N., particularly in light of ongoing and recent refugee reports which indicate that Americans are still alive in Southeast Asia. These reports cannot be verified without further assistance; it is critical that the United States be aided in determining the location of any Americans who may be alive in Southeast Asia.

The legislation was passed by the House last year, though the Senate never had the opportunity to vote on it, due to a heavy legislative program. It is my hope that following its passage in the House, the Senate will consider this bill shortly.

The bill urges the President to seek the good offices of the Secretary General of the U.N. for the purpose of establishing a special U.N. Investigatory Commission charged with the responsibility of securing a full accounting of those Americans listed as missing in action. It is my deepest hope that such a Commission, composed of individuals selected because of their impeccable credentials and their longstanding service to the principles embodied in the U.N. Charter would succeed in such a mission, and it is my firm intention to seek that requisite assistance for the successful completion of such a task.

Several Members of Congress intend to request a meeting with the U.N.'s Secretary General Kurt Waldheim, to discuss how the United Nations can best assist the United States in our efforts toward recovery of remains and the accounting procedure. At that time, we would stress the need for international cooperation in our venture. Also, a congressional delegation will be in Hanoi during the month of August and at that time, it intends to further pursue this matter vigorously with the Vietnamese.

Creation of such a commission would be consistent with the spirit of the recommendations outlined in the "Final Report: Americans Missing in Southeast Asia," dated December 1976 by the House Select Committee on Missing Persons in Southeast Asia, that the United States should stress the humanitarian nature of the accounting, and also, press for the establishment "of a Mechanism" "whereby an accounting would be facilitated."

Mr. Speaker, I urge my colleagues to join in supporting this important legislation. July 18 having been designated as "National POW-MIA Day," I see no more fitting way to commemorate that occasion than by the passage of this legislation.

□ 1410

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. LAGOMARSINO), who has devoted a great deal of time and attention to this issue.

Mr. LAGOMARSINO. Mr. Speaker, as a member of the Task Force on Prisoners and Missing, I would like to add my strong support for this resolution (H. Con. Res. 10).

I want to join in paying tribute to the Chairman (Mr. ZABLOCKI), to the gentlemen from New York (Mr. WOLFF, and Mr GILMAN), and especially to the gentleman from Ohio (Mr. GUYER), who introduced the resolution. He is unable to be here today because of illness.

As you know, 2,400 military men are still listed as MIA's or POW's in Vietnam. After years of prodding from the State Department, the Vietnamese have only turned over the remains of 75 of these Americans. This resolution—calling on the State Department to ask the U.N. to establish a Special Investigatory Commission—would put the full weight of the U.N. behind our efforts to determine the fates of these 2,400 Americans.

In testimony before the Asian and Pacific Affairs Subcommittee, participants indicated that Americans may still be held captive in Vietnam. A congressional investigation 2 years ago in Vietnam led to a discovery of 2 Americans in Vietnam prisons. Yet the Vietnamese continue to deny that any Americans are being held captive in Vietnam.

There is no reason to expect Vietnam to change its story. The latest expulsion of its own citizens again demonstrates that Government's contempt for human rights. That is why an immediate investigation of the POW-MIA situation is essential. Evidence shows that the answers are there—they only need to be revealed.

As you know, July 18 is National POW-MIA Day—a day that will again haunt the families of the 2,400 military personnel. I urge the House to adopt this resolution, hopefully to help answer the questions these families continue to ask, year after year.

Mr. GILMAN. Mr. Speaker, I would like to thank the gentleman from California (Mr. LAGOMARSINO), for his important contribution to this issue.

I would like to note, that there are almost 70 Members of Congress who have expressed support of this measure by becoming cosponsors. I would also like to note that at noon on July 18, National POW-MIA Day, that there will be a solemn observance at the National Cathedral. I urge my colleagues not only to support this measure, but also to attend that ceremony honoring our missing in action.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank my colleague for yielding.

I want to express my gratitude to our two colleagues, the gentleman from New York (Mr. WOLFF) and the gentleman from New York (Mr. GILMAN), for insisting that we persevere on this issue.

I think it is regrettable that we have not had better cooperation on this issue, especially when the ones we are trying to get the information from proclaim to be great advocates of peace. Yet they will not follow through on this important issue to so many American families and others who just want an appropriate, reliable accounting of those missing in action.

I think that my two colleagues, and of course many others, are to be complimented for absolutely insisting that we follow through on this issue and that we not quit just because supposedly peace has been declared—which it really is not and really does not exist—but at least both of the gentlemen and others are making sure that the Congress does not quit on this issue and that we are going to demand a full accountability.

As both of my colleagues know, I do not have much confidence always that the United Nations will follow through on these kinds of things. I do think that it is appropriate that we ask them to at least go ahead with a simple commission of this nature.

I again think that I speak on behalf of a great number of Members of this body that we do appreciate what these gentlemen have done, and of course many of the other cosponsors of the legislation, to insist that we have this final accountability.

Mr. GILMAN. I want to thank the gentleman from California (Mr. ROUSSELOT), for his kind remarks and for his supportive statements. He has long been an advocate of the cause of seeking an accounting of our missing in action. I hope together we will finally see a resolution of this painful issue in the days to come.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. GILMAN. Mr. Speaker, at this time I have no further requests for time.

Mr. WOLFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I should like to at this point indicate to my colleague from California, who has been so effusive in his praise of the activities of the subcommittee that we appreciate his help and encouragement all along the way. We do not anticipate this is the be-all or end-all of our efforts. It is just an additional channel that we are taking in order to pursue every avenue that exists to find a final resolution of the problem.

I also want to take this opportunity to thank the chairman of the full committee, who has provided me with the opportunity of pursuing this activity, having assigned the work of the Select Committee on the Missing in Action to the Subcommittee on Asian and Pacific Affairs.

The gentleman from Wisconsin has been determined in his efforts to bring not only this measure to the floor, but the continuing effort at finding a final solution to this problem for which we—I know I can speak for the entire body in saying that we are grateful to him.

● Mr. GUYER. Mr. Speaker, I am pleased to be able to address this body on the matter before us. I want to commend Mr. ZABLOCKI of the full Foreign Affairs Committee and Chairman LESTER WOLFF of the Subcommittee on Asian and Pacific Affairs for their assistance in bringing this measure to the floor today. I also want to commend the 65 or so cosponsors who joined me in introducing this resolution. There is no better indication of the importance the United States attaches to the question of the fate of our prisoners and missing in Southeast Asia than that the entire subcommittee, most of the Foreign Affairs Committee, and dozens of other Members have added their voice to the call we are sending out today.

Mr. Speaker, this issue is especially timely today. On July 18, the Nation will observe the first time National POW/MIA Day, in accordance with Public Law 95-349 (H.J. Res. 963) which the Congress enacted on August 1, and August 11, 1978, and the President signed into law on August 18, 1978. It is also timely because later this week the 10th annual convention of the National League of Families of American Prisoners and Missing in Southeast Asia will meet here in the Washington area. It is only appropriate that we complete our legislation on this particular item as we approach this special day.

It is appropriate too, Mr. Speaker, at any time because in a real sense we dare not forget the victims whose fate has never clearly been determined. It would be simple in the eyes of some to say "Let's put that all behind us. It's over and done with, and only the fanatic or cynical profitseeker wants to keep this issue alive." However, this is an aspect of a peculiar kind of war that we dare not let go by. It is not an issue which is the concern only of the fanatic or the cynic.

Nor is looking for the fate of the prisoners and missing any effort to keep the war issue alive. The war is over; this is one scar which time alone should not be allowed to heal. I say this because there are 2,500 or so Americans whose circumstances are still unknown. Of these about half are persons about whom the Vietnamese are known or strongly suspected to have specific knowledge. Once it seemed to be an article of official belief by the U.S. Government that there are no Americans left alive in Vietnam. Now it is no longer possible to cling to that position. Now it is clear that we have to keep the door open to the possibility that there may be Americans alive.

The reason the issue is still alive is because Marine Pfc. Robert Garwood is still alive. There is a possibility that MacKinley Nolan, regarded as a deserter, is still alive. On the basis of comments by refugees and others who affirm that it is common knoweldge that there are Americans alive in Vietnam, we cannot for certain assume that there are no Americans left alive. As long as the possibility exists that one American is to be found alive, we must continue to press to determine the fate of all of the prisoners and missing.

It is commonly asserted that this kind of concern creates false hopes in the minds of the families. Mr. Speaker, not one of the families believes that it is likely that their son or husband or father will come home. But they would be so pleased for anyone to come home, that they are solidly in favor of this effort. They realize how important loyalty is, and loyalty, not false hope, is the issue.

It is because of loyalty that the Subcommittee on Asian and Pacific Affairs has undertaken this task after the dissolution of the Select Committee on Missing in Action. It is because of loyalty that Chairman Wolff created a Foreign Affairs Task Force on Prisoners and Missing in Southeast Asia, a bipartisan group to stay abreast on this issue. It is because of loyalty that the subcommittee and the task force have had hearings, talked with officials of this and other governments, interviewed refugees in several countries, traveled to Illinois to meet with Pfc. Garwood, and in general has done its level best to make sure that this issue is given the proper attention.

This year already we have had three hearings on this subject, designed to explain the policies and procedures of this Government with regard to POW/MIAs. We heard from several distinguished witnesses. We determined that there are questions in the minds of the American League of Families members about the intent and willingness of our Government to pursue an accounting. We also learned, I am grateful to say, that there is a serious administration intention to devote appropriate energy and resources to this issue. We were encouraged by several steps the Department of Defense is taking in this connection.

Ms. Ann Mills Griffiths, executive director of the National League of Families of Prisoners and Missing in Southeast Asia, set forth three goals which I think are reasonable. They are: First, to obtain a return of any and all prisoners who may still be alive; second, the fullest possible accounting for those whose fate remains in question; and third, the repatriation of remains of those who died serving our country.

In fulfillment of those aims, it is our duty to pursue every avenue. As I noted just now, we have gone many miles and talked with many people about this issue.

There remains, Mr. Speaker, one approach to this problem which we have not exhausted. That is the international. Vietnam is a member of the United Nations. That body has gone on record as favoring assistance for humanitarian reasons in determining fate of persons killed or missing in armed conflict. Both the United Nations and Vietnam should be bound by this principle. We would be remiss if we did not seek assistance through this channel. And when we pass this resolution, and it is passed on by the President, I am going to seek an appointment with Secretary Waldheim to discuss this matter. There is no reasonable step which we will not take to obtain further information from the governments of Vietnam, Laos and Cambodia.

Mr. Speaker, almost 70 Members of Congress have already expressed support of this bill by adding their names as cosponsors. I urge the rest of my colleagues to add their names in passing this unanimously.

It is the least we can do in honor of National POW/MIA Day. There will be solemn observances at the National Cathedral, I understand on that day. The services will take place at 12:30 p.m. on July 18, and I would like to encourage as many Members as possible to be in attendance.

In conclusion, Mr. Speaker, I would just like to add that the United States has no national flower. In this connection, our flower should be the forget-me-not. Keeping loyalty to those whose fate is unknown is the least a great country can do.●

● Mr. BROOMFIELD. Mr. Speaker, I would like to commend Chairman Zablocki of the Committee on Foreign Affairs and Chairman Wolff of the Subcommittee on Asian and Pacific Affairs for bringing House Concurrent Resolution 10 to the floor of the House today. Also, I want to pay special tribute to the gentleman from Ohio (Mr. Guyer) who introduced the resolution before us.

I think it is revealing that the National League of Families is having its 10th national convention to consider the job yet to be done with regard to obtaining a full accounting of those Americans who have not yet come home from Vietnam. There remain 2,500 cases which have not been accounted for. This is one of those wounds of war which must be healed before we can put the Vietnam nightmare behind us. It is not something we can ignore, or wish away.

Mr. Speaker, July 18 will be the first day under Public Law 95-349 to be observed as National POW/MIA Day. We need to remember those who never came back from all the wars in which the United States has fought. We also need to be especially aware of those for whom the agony is real and recent. Uncertainty is perhaps the most difficult of tensions to experience. The families of those who are missing would like to know what happened. They would like to resolve the issue of whether one man remains alive somewhere in a Vietnamese prison. They would like the remains of those who died brought home to rest.

I consider this the least we can do, Mr. Speaker. I know that we may not be able to expect too much from Hanoi on the basis of this or any other measure we might pass. Yet no stone ought to remain unturned. No path ought to be unexplored. No avenue ought to be ignored. House Concurrent Resolution 10 is the least we can do. I urge my colleagues to pass this by a unanimous vote. We need to let both the U.N. and the Vietnamese know that we have not forgotten our countrymen who did not come home.●

● Mr. FOUNTAIN. Mr. Speaker, I rise in support of House Concurrent Resolution 10. This resolution, which I have cosponsored, expresses the sense of the Congress that a United Nations special investigatory commission be established to secure a full and complete accounting of Americans listed as missing in Southeast Asia.

The Vietnam war, regrettably, is not yet over for the families and loved ones of the approximately 2,300 Americans who remain unaccounted for in Southeast Asia over 4 years after the official end of American military involvement there. Past and present efforts to get an accurate and reliable accounting of Americans listed as missing have not proved entirely productive. Existing investigatory procedures have not been wholly satisfactory.

Mr. Speaker, learning the fates of the missing American servicemen and civilians in Southeast Asia is of the utmost importance to their families and to the people of the United States. Many of those most affected personally have carried their burdens for several years, not knowing whether their husbands, fathers, sons, and brothers are living or dead. After weathering the stresses and the strains over long periods of time, MIA families are not afraid of the truth. With the help of the Nation's prayers, most will accept the ultimate fate of their loved ones. However, it is essential that they know the truth—that their uncertainty is removed and their encumbrances eased.

I urge support for this resolution as a means of expressing the continuing sympathy and concern of the Congress over the plight of the missing and the losses endured by their families and loved ones here at home. Hopefully, a coordinated international effort through the United Nations will bear fruits which heretofore have not been produced.●

Mr. WOLFF. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. Wolff) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 10.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WOLFF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES AUTHORIZATION ACT, 1980

Mr. BOLAND. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3821) to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. Boland).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3821, with Mr. Danielson in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule the gentleman from Massachusetts (Mr. Boland) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. Robinson) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. Boland).

□ 1420

Mr. BOLAND. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, today's consideration of H.R. 3821 marks only the second time that the House has considered legislation authorizing expenditures for the Nation's intelligence and intelligence-related activities.

On the first occasion, the 95th Congress approved a bill authorizing intelligence and intelligence-related programs without publicly disclosing the actual sums which it authorized.

The committee today brings before the House a bill similar in form to the fiscal year 1979 authorization act.

Those differences which occur, and the recommendations which the Committee has made, can only be determined by reading the classified schedule of authorizations, and the classified annex to accompany the Intelligence Committee's report.

The reason for this secrecy is well founded.

Those programs which would be authorized by H.R. 3821 are truly essential to the preservation of the Nation's security.

They range from highly sophisticated technical systems to use of the classic secret agent.

Unlike weapons systems, with their long development cycles, such intelligence sources and techniques are uniquely susceptible to instant compromise.

While protected from public disclosure, however, all intelligence and intelligence-related programs are fully described in the committee's classified annex to its public report.

The committee has made a determined effort this year to make its annex complete and self-explanatory.

This effort comes in the wake of the comments made by members during the debate on last year's authorization bill.

I believe that this year's annex has been better received by members who have commented to the committee after reading it.

The committee will continue to seek to improve its efforts in future years.

Mr. Chairman, I believe that the committee has done a very responsible and competent job in its review of the fiscal year 1980 budget.

Further, I believe our Nation's intelligence capabilities will be strengthened if its recommendations are accepted.

Mr. Chairman, the members and staff of the Subcommittee on Program and Budget Authorization have worked long and hard on this bill—more than 50 hours of hearings alone.

Their efforts have made this bill the excellent recommendation that it is.

They are led by the distinguished and hard-working chairman of the subcommittee, Bill Burlison, and by the equally distinguished ranking minority member, Ken Robinson.

Also serving faithfully have been Norm Mineta, Bill Whitehurst, and Clem Zablocki.

Before yielding all the remaining time to Mr. Burlison, who will control the time and manage the bill for the majority, and Mr. Robinson, who will control the time and manage the bill for the minority, I would like to emphasize how important is the process this bill represents.

Congress now scrutinizes, and regularly authorizes annually, all of the intelligence programs of the Government.

It does so, in what I believe has proved to be a very conscientious fashion, and with every possible precaution for safeguarding the very sensitive information that the process involves.

It is my sincere hope that this House—as well as the Senate—will continue on this course.

I want to congratulate Members of this body for the responsible and politic consideration which they gave the intelligence authorization for fiscal year 1979.

I trust that today's consideration will continue that policy.

Mr. Chairman, I also want to congratulate the staff of this committee. I am sure the staff will be applauded by the chairman and ranking majority member of the subcommittee. The staff of that subcommittee is one of the best staffs in the Congress and includes Mr. James Bush, Mr. Martin Faga, Mr. Duane Andrews, Ms. Annette Smiley, and Ms. Ilene Katz. To all of them I want to offer my thanks for the job that they have done in putting this bill together, a highly complex bill when one looks into the classified annex, but one which I think protects the public interest and security of the United States.

Mr. BURLISON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the full committee chairman, the gentleman from Massachusetts, has just alluded to the fine help that we have had from the staff on this bill and the work that the members of the subcommittee have put in. I want to express my deep appreciation for the work of the chairman of the full committee on this authorization bill. He has been a full and active member of the subcommittee and has attended virtually all of our hearings, some 55 hours or so of hearings. I want the chairman to know of our appreciation for his contribution to our bill.

Mr. Chairman, this bill provides specific authorization for intelligence and intelligence-related activities. It authorizes those activities which make up what we call the national foreign intelligence program. The NFIP provides intelligence of a very broad nature for the senior level of government, particularly the President, the Cabinet and the Joint Chiefs of Staff. These activities are conducted by several departments and agencies but are coordinated and tasked by the Director of Central Intelligence who is also responsible for budget preparation. Further, this bill authorizes intelligence-related activities of the Department of Defense which are programs that are integral to the defense force structure but which are similar to national intelligence programs and are often tasked for national intelligence purposes. The similarity of programs and functions between the national intelligence programs and the intelligence-related activities of the Defense Department is the reason that both are considered by the Select Committee on Intelligence and authorized in this bill. We have worked to assure that the program areas are complementary and mutually supportive but not duplicative. The referral of this bill to the Committee on Armed Services has assured that the judgments we have made from an intelligence viewpoint are equally sound from a military perspective. We work closely with that committee on a continuous basis and achieved a position agreeable to both committees even before referral.

Mr. Chairman, most intelligence activities are classified and necessarily so. In some cases, even the very existence of the program or activity is held secret. This sensitivity limits the description we can offer here on the floor. The schedule of authorizations to accompany the bill and the classified annex to the report have been available to members since May 23. A number of members have reviewed these materials. The committee was criticized last year for preparing a classified annex which was too specialized and difficult to read. We revised it substantially this year and some members have commented on the improvement.

The committee considered again this year the question of disclosure of the intelligence budget. This subject has been considered many times. The matter was brought to the floor of the House in 1975 with an amendment to the Defense appropriations bill which would have disclosed the CIA budget. That amendment was defeated by a margin of almost 2 to 1.

This year the committee voted not to recommend disclosure based on a number of considerations. The disclosure of a single budget number might not itself be harmful but some explanation of the contents and meaning of the number would be essential. Such an explanation would be excessively revealing. Moreover, the committee felt that intelligence is inherently secret and any disclosure is the beginning of an erosive process. In discussing this point, people often refer to the degree of disclosure of our military budget and systems. It is not a good analogy: The existence of military systems must be known in order to have deterrent value. If deterrence fails, military systems are effective in battle because of their numbers, manner of employment and the skill of the personnel using them. Conversely, in the case of intelligence the mere awareness of an intelligence activity can easily reduce or eliminate its effectiveness, may endanger lives, and may lead to the collection of false information contrived by our adversaries to confuse or mislead us.

Mr. Chairman, I would like to summarize briefly the organization of H.R. 3821.

Title I provides for the bulk of our intelligence and intelligence-related activities. As I said earlier, funds and program details are in the classified schedule of authorizations and the annex to the report. One exception is the authorization for the counterterrorism program of the FBI. The committee amended title I to increase the funding of this activity by $1.8 million bringing it to a total of $13.4 million.

Title II provides for the intelligence community staff. This group of 245 people assist the Director of Central Intelligence with his responsibilities for overall coordination of intelligence and preparation of the budget. An authorization of $11.5 million is recommended which is $1.1 million less than requested. The reduction is in the area of external contracts.

Title III provides authorization of $51.6 million for the Central Intelligence Agency Retirement and Disability System. This is a program approved by Congress in 1964 to provide for those CIA personnel who perform hazardous duties or are in special situations, usually abroad, which limit the length of their careers.

Title IV is an authorization for supplemental appropriations for fiscal year 1979 for intelligence activities.

Title V is a technical provision which authorizes additional appropriations for intelligence personnel pay and benefits which might result from some general government personnel act.

Mr. Chairman, the first authorization bill for intelligence was passed last year. In addition to specific budget ceilings, the committee offered dozens of recommendations to the intelligence community. The intelligence agencies have responded very well and some significant cost savings have resulted. We expect similar results from this year's bill.

This bill authorizes less than the administration requested but still permits some real growth over last year. Some proposals have been deferred, others terminated, while a few have been increased. The net reduction is in contrast to a substantial addition by the other body. We have reduced the request by 2–3 percent while the other body has increased it by a similar amount. Much the same scenario occurred last year.

Not all matters considered in the authorization process are budgetary matters. We try to insure that every program and expenditure is worthwhile in terms of the intelligence gained. Moreover, we try to assess whether those programs which risk lives or the position and prestige of the United States throughout the world are worth the risk. If not, they are not approved.

Intelligence has become more complex and more important to the interests of our country for a number of reasons:

The increase in Soviet military strength makes thorough knowledge of military technology, weapons, unit strength, and other factors more important than ever;

Attempts to reduce the threat of war through strategic arms limitations increase the demands on intelligence. Verification is fundamental to any viable agreement; and

Increased U.S. interdependence with many other nations, causing an enlargement of the geographical coverage which our intelligence people must cover, and an increase in the range of topics on which intelligence is needed: Political and economic as well as military.

These increased demands for intelligence are being faced in an era of tightening budgets. Funding increases are few and numbers of personnel have been declining slightly in recent years. Sophisticated electronics, computers, modern communications, and other technical contributions have helped efficiency and productivity. Nonetheless, the proper balance between technical collection and that conducted by humans, between effort spent to collect information and that spent to analyze it, and many other trade offs are difficult to make and will continue to be matters of serious debate.

Mr. Chairman, H.R. 3821 is an important bill. I urge its passage.

□ 1430

Mr. ROBINSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I join my colleagues in urging support of H.R. 3821, the fiscal year 1980 Intelligence and Intelligence-Related Activities Authorizations Act. I want to join my colleagues, the gentleman from Massachusetts (Mr. BOLAND) and the gentleman from Missouri (Mr. BURLISON), the chairman of the full committee and subcommittee respectively, in paying credit to our staff. I personally would like to give credit to them in terms of their unfailing respect for the minority, their courtesy with regard to our position, and to the staff for its skilled, competent, and unfailing nonpartisan cooperation with the minority as well.

Last year I stood before this body supporting the first House bill specifically authorizing appropriations for intelligence activities of the United States. That bill, committee report and classified annex to the committee report detailing recommended authorization actions and associated funding levels, were drafted following an extensive review of intelligence activities by the Permanent Select Committee on Intelligence.

Authority over the resources available to intelligence agencies, as represented by the annual authorization of funds, continues to provide the committee with a key means to carry out its responsibility of insuring effective congressional oversight of the U.S. intelligence effort.

H.R. 3821 is the culmination of an examination of our Government's intelligence needs begun last year following enactment of the fiscal year 1979 bill and highlighted by a detailed review of fiscal year 1980 intelligence resources requested by the President. Concurrent with this review of intelligence resources was a program-by-program review of all intelligence activities, especially covert activities.

As a member of the select committee's Subcommittee on Program and Budget Authorization, I participated in this exhaustive examination. Many hours of hearings, thousands of pages of testimony, program justification material and special studies have gone into the preparation of this bill. I would like to emphasize the thoroughness of the select committee's examination of the fiscal year 1980 request and assure my colleagues that the committee has vigorously pursued its intelligence community oversight responsibilities as set forth in House rule XLVIII (48), sharpened by a year's experience.

The severe challenges facing the United States, both at home and abroad, including the ever shifting balance in both strategic and tactical military power and the volatile nature of our political and economic alliances, underscore the need for high quality and timely intelligence.

In reviewing the fiscal year 1980 budget request the committee placed special emphasis on providing sufficient resources to meet the challenges of today as well as anticipated future intelligence needs.

The conclusion of a SALT II agreement or any of the other arms control agreements we are negotiating with the Soviet Union will present important new demands for intelligence. The committee examined in detail our current and programed capabilities to monitor agreements and funds are being recommended to continue and strengthen these capabilities.

The adequacy of our national effort in this regard could become crucial, in a future year, to the very survival of this Nation.

We know that we seek only a peaceful coexistence with the Soviet Union, as with all other nations.

We have approached, and we will continue to approach, international arms reduction talks in all good faith.

We hope for the same commitment and spirit on the other side, but we cannot afford a misreading of what we perceive as good will.

We must not forget, my colleagues, General Secretary Brezhnev's reminder of the unabashed expediency of Communist morality when he said this in 1976—I quote:

> We may recall Lenin's words that in our society all is moral that serves the interest of building communism.

Is it not obvious, therefore, that we must provide ourselves with an information-gathering complex of the highest efficiency and dependability?

Unfortunately for a balanced view of the intelligence community mission, the word "intelligence," in the context in which we consider it here today, evokes exciting images of the clandestine activities which are the stuff of suspenseful motion pictures.

In point-of-fact, what your committee undertakes to oversee—and to authorize the commitment of taxpayer funds to—in this bill, more often involves tedious, painstaking analysis of countless bits of information, the application of dispassionate judgment, and the assembly of coherent statements of situations impacting on the course of human events around the globe.

For example, in recent years, timely intelligence on political and economic events around the world has become increasingly important to the Nation. Examples include information on long-term implications of the production and distribution of food, energy resources, narcotics traffic, and international terrorism. Programs in these categories were examined thoroughly. This bill would authorize appropriations to maintain and improve those intelligence capabilities which the committee believes are needed.

Finally, H.R. 3821 would authorize appropriations for military intelligence activities. An essential ingredient in maintaining a balance of forces is a knowledge of a potential enemy's strengths, weaknesses, and intentions. The select committee spent many hours examining strategic and tactical military intelligence needed. In fact, most of the intelligence activities which would be authorized by this bill, including some major new initiatives, help provide military intelligence support.

In reviewing the fiscal year 1980 budget request, I was particularly concerned that the United States not abandon critical tactical intelligence capabilities in cost tradeoffs with highly sophisticated systems for treaty monitoring or other high level national intelligence. The select committee examined carefully the balancing of national intelligence versus tactical military resource requirements—with special emphasis on NATO and Korean support needs—and I am convinced we have provided for esssential military intelligence capabilities within the always-present budget constraints.

For those programs contained within the defense budget request to provide direct intelligence support to military operations—referred to in this bill as intelligence-related activities—we share jurisdiction with the Committee on Armed Services. Our committees worked together in an atmosphere of full cooperation and understanding and reached agreement on all matters jointly considered.

For fiscal year 1980, the administration requested a modest increase in overall intelligence funding over fiscal year 1979 levels. I fully support our committee's recommendation not to publicly disclose the amounts of these requested funds and will, therefore, not discuss specific committee recommendations. Details of these recommendations are contained in the classified annex to our committee report which, along with the classified schedule of authorizations referred to in H.R. 3821, have been available for review by Members of the House since May 23.

I would like to assure those Members who have not reviewed these documents that the Permanent Select Committee on Intelligence has reviewed the President's request carefully and that the committee recommendations represent what I believe to be a nearly optimum reconciliation of fiscal prudence with highest priority intelligence needs.

While the committee generally supported the funding levels requsted by the President, we were not persuaded that all of the specific programs were fully warranted and a net reduction is recommended. The committee's recommendations would delete or defer certain programs and in other cases would increase program funding.

The gentleman from Missouri, (Mr. BURLISON) has outlined the structure of the bill by title, so I shall not repeat this material.

I should like to refer briefly, however, to one program authorized to be funded under title I—the FBI program on counterterrorism in the United States.

This is a domestic program, and the projected cost is set forth in the bill, including a committee amendment to increase the fiscal year 1980 authorization by $1.8 million, for a total of $13.4 million—the same level as last year—a cut proposed.

Almost daily, acts of terrorism elsewhere in the world are reported by the news media.

We have not been immune to terrorism in this country, and we cannot expect to be immunized against this unpredictable danger by even the best efforts of the FBI and agencies providing support for its counterterrorism mission. Hijacking to Cuba just last week and one in-country this week.

It is the considered opinion of the committee that the program of the FBI in this area is a sound one which has been effective in reducing the terrorism threat.

We must acknowledge, however, that we have had in the United States the benefit of a considerable measure of good luck.

Because the techniques of terrorism emphasize unpredictability and a seeming irrationality, we cannot count on a persistence of such luck, or on remaining reasonably safe with a lower order of counterterrorism effort.

The reduction in funding for this program of the FBI recommended by the Office of Management and Budget would press our luck.

The figure in the committee amendment is a well considered figure of prudence.

I urge your acceptance of the authorization at that level.

In closing, Mr. Chairman, this bill provides for a program that will effectively meet the near-term intelligence needs of our Nation, as well as providing for the investment needed to sustain the intelligence capabilities and technologies essential to our national security and foreign policy in the future.

I fully support the bill and urge its passage.

☐ 1440

Mr. BURLISON. Mr. Chairman, I yield 3 minutes to the ranking member of the full committee and the ranking member of the subcommittee, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. I thank my subcommittee chairman for yielding.

Mr. Chairman, I rise in support of H.R. 3821 and support the bill just exactly as it has been reported from the subcommittee and the full committee hoping that any amendments offered in the Committee of the Whole will be defeated.

I believe this is one of the most important pieces of legislation the Congress deals with. Only to the extent we have adequate intelligence and knowledge of events abroad can we deal with problems, not only international but serious domestic economic problems as well.

It is a very important piece of authorizing legislation.

Yes, it has been a controversial issue in the past but, Mr. Chairman, I would be remiss if I did not say at this point we owe a debt of gratitude to the chairman of the Permanent Select Committee on Intelligence, our colleague and respected friend, the chairman of the committee, the gentleman from Massachusetts (Mr. Boland).

I have been pleased to serve on the subcommittee headed by the gentleman from Missouri (Mr. Burlison) as well as with the ranking member of the subcommittee, the gentleman from Virginia (Mr. Robinson).

As has been stated, Mr. Chairman, this legislation has undergone extensive hearings. There was close scrutiny of every request made by the executive branch. I would be the first to confess I was unable to attend the meetings as religiously as I should have because of other duties. However, I am proud to join in the commendation of the staff which has always been willing to summarize and advise me of what I missed by not being at all of the hearings and at some of the other meetings.

I understand my good friend from Kentucky (Mr. Mazzoli) will offer an amendment the purpose of which would be to make public the total amount appropriated for fiscal year 1980 for the national foreign intelligence program.

Now, Mr. Chairman, if this were a figure for foreign affairs, for defense or whatever other authorizing legislation, we would have no reason to be concerned. However, in the area of national foreign intelligence, the bottom-line figure would be subject to questions which would reveal information that would be used by those who are not friendly to the United States. This would be the case even if the figure were given as a percentage of the overall amount.

If, in future years, the amount would be increased or lowered there would be questions about the increase, why was it increased, why was it lowered and for what reason.

I feel we are dealing with very sensitive matters in this legislation and our national security should not be placed in jeopardy by disclosing even the total figure. I hope any such amendment will be defeated, Mr. Chairman. I hope the legislation before us, H.R. 3821, authorizing the necessary appropriations for the intelligence communities and related intelligence matters will be overwhelmingly approved.

☐ 1450

Mr. ROBINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. Whitehurst), a member of the subcommittee and a member of the full committee.

Mr. WHITEHURST. Mr. Chairman, I am pleased to join my fellow Virginian and my colleagues in adding my support to H.R. 3821.

As previously mentioned, this bill is intended to authorize appropriations for both the intelligence and intelligence-related activities of the United States. The latter category—intelligence-related activities—consists of a number of Department of Defense programs which provide intelligence to military operational commanders. Because of the nature of these activities, the Permanent Select Committee on Intelligence shares authorization jurisdiction with the Committee on Armed Services. As a member of both committees, I can attest that the committees worked together in an atmosphere of cooperation and reached complete agreement on all matters that were jointly considered.

This is my first year on the Intelligence Committee and its Subcommittee on Program and Budget Authorization. I have been impressed by the thoroughness with which the members and staff have examined the President's fiscal year 1980 budget request for intelligence activities and I firmly believe this bill provides sufficient resources to maintain an intelligence capability second to none.

I urge House passage of H.R. 3821 as recommended by the committee.

Mr. BURLISON. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. Mazzoli).

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding.

I wish to join other members of the committee in extending commendation to the gentleman from Missouri, the chairman of the subcommittee, and the gentleman from Massachusetts (Mr. Boland), chairman of our full committee, for another outstanding effort.

I would include in these econiums the gentleman from the other side of the aisle, the gentleman from Virginia (Mr. Robinson) for the same effort.

It will be my intention, tomorrow, during the 5-minute rule to advance an amendment to this bill which would require certain steps to be taken to disclose the NFIP portion of the total figure for the budget for intelligence related activities.

The gentleman from Kentucky will, tomorrow, discuss in more detail his approach and the rationale that leads him to believe that this would be the proper step for this committee and this Congress to take.

I believe that this will have obviously the support of some Members of the House and will have the strong opposition of other Members.

I would like to state the case that I believe Members who are very thoughtful and sensitive and diligent can reach opposite sides of the fence on this particular issue. It is not an easy issue. It is one which again will take people who have a very thoughtful view about their country and its national defense posture and they can reach opposite views on it; but the gentleman from Kentucky will advance an amendment and I appreciate during the committee consideration the patience and I would say certainly forbearance of the gentleman from Missouri in allowing the gentleman from Kentucky to have his day in court, so to speak, and also for allowing the full argument to be made and then to allow the vote to be taken.

With that, Mr. Chairman, I appreciate this help. With that one exception, this amendment, I fully support this bill. I think it reflects a very serious effort on the part of our committee to serve the ends of national defense, to serve the ends of the intelligence community. I think in that connection it serves the best ends of our Nation.

Mr. ROBINSON. Mr. Chairman, I yield 3 minutes to a very valuable member of the committee, the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of H.R. 3821, to authorize appropriations for intelligence and intelligence-related activities of the U.S. Government for the next fiscal year, fiscal year 1980.

I likewise want to commend the subcommittee chairman and the ranking member and all members of the subcommittee for their very able work in scrutinizing carefully and developing this piece of legislation.

Also, I support the committee amendment to retain the FBI counterterrorism authorization for fiscal year 1980 at the fiscal year 1979 level. As the administration request was for $1,800,000 less than the 1979 level, we are restoring those funds.

The money would be used for 9 men in Headquarters Management, 74 men in the field and 2 in the Terrorist Research and Bomb Data Center. Director Webster has revealed that unless the nine men are restored to Headquarters Management, the counterterrorism program cannot be adequately carried out.

Terrorism continues to be a problem both within our country and throughout the world. The FBI has the responsibility as the lead agency in our Government's counterterrorism program within the United States. They must have the funds and the manpower to prevent terrorism within the United States by both domestic and international terrorist groups. This is especially true with our country's hosting of next year's Olympic games—which history has shown to be a target of terrorists.

The FBI counterterrorism program has both a preventive and reactive phase. While the reaction program to terrorism—that is SWAT teams and investigation after the violent crime is committed—is important, it is prevention that is most important.

Mr. Chairman, as our colleague, the gentleman from Massachusetts (Mr. Early), told Attorney General Bell during the House Appropriations Committee hearings on March 14 of this year:

> I think we can be penny wise and pound foolish in the terrorism prevention area. If you detect something and remove it before it presents a problem, the American public will appreciate it. It is certainly a most wise use of our dollar.

I agree with our colleague from the other side of the aisle. We have the responsibility to insure the American people that the FBI counterterrorism program is capable of protecting them.

Mr. Chairman, I urge a vote for the committee amendment.

Mr. BURLISON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Armed Services Committee has concurrent jurisdiction with this authorizing committee, the Intelligence Committee, on intelligence-related activities which are a very important part of this bill. This committee has worked very closely with the Armed Services Committee, very cooperatively, and I want to express the appreciation of this committee to the Armed Services Committee for the fine rapport that we have developed and have continued throughout the 2 years that we have been considering this bill in this fashion.

Mr. Chairman, at this time I yield 1 minute to the distinguished chairman of the full Committee on Armed Services, the very distinguished gentleman from Illinois (Mr. Price).

Mr. PRICE. Mr. Chairman, I want to thank the gentleman from Missouri (Mr. Burlison) and the gentleman's subcommittee for the consideration that they have given not only this year, but in previous years, in considering this legislation.

Mr. Chairman, this is the second year that the Permanent Select Committee on Intelligence and the Armed Services Committee worked together to report the authorization bill for intelligence and intelligence-related activities of the intelligence community.

As the members will recall, the Armed Services Committee shares responsibility for authorizing certain elements in the intelligence authorization bill with regard to intelligence-related activities for the Department of Defense, and I am most pleased to report on the continued excellent working relationship with, and cooperation of, the select committee members and staff in arriving at complete agreement on all items of joint responsibility.

As part 2 of the report states, the results of our recommendations are classified and are included in the classified annex to the report on H.R. 3821 prepared by the select committee.

For the information of the Members, the overall funds jointly authorized fall in budget category 050 and are in the Armed Services Committee authorization figures contained in H.R. 4040 which was reported to the House on May 15, 1979.

Mr. ROBINSON. Mr. Chairman, I have further requests for time and yield back the balance of my time.

Mr. BURLISON. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Weiss).

Mr. WEISS. Mr. Chairman, I certainly appreciate the courtesy of the gentleman yielding time to me and want to thank him for doing so.

Mr. Chairman, I am sure that all of the credits and compliments that have been given to all the members of the select committee on both sides of the aisle are well deserved. I want to pay special respect to the gentleman from Kentucky (Mr. Mazzoli, because I know how difficult it is when you have broad, general consensus to stand up and say that even though you agree with everything else the committee has done, there is one important item with which you so disagree as a matter of principle that you have to take that to the floor of the House.

Mr. Chairman, I fully share the position of the gentleman from Kentucky. It seems to me, Mr. Chairman, that sometimes in our overwhelming concern for national security, we fail to recognize that freedom and liberty are the basic pillars of our national security. Every single individual and agency in a position of responsibility has taken the position that disclosure to the American people of a single aggregate figure of the amount we spend on national foreign intelligence programs is justified and warranted and would cause no harm to the security of our country.

☐ 1500

It seems to me peculiarly out of place then for the people's House of Representatives to say, even though the Director of Intelligence of the Central Intelligence Agency has approved the disclosing of the total figure, "No, no, we are more concerned about national security than the head of the Central Intelligence Agency." I think that such an attitude fails to note the grave harm that can be done to the institutions of freedom and liberty by an obsessive concern with national security.

I believe that should freedom and liberty ever disappear, they will not disappear in one fell swoop. It will happen because good people, overly concerned with security, let democracy erode over a period of time.

Mr. Chairman, I hope the amendment that the gentleman from Kentucky (Mr. Mazzoli) will offer tomorrow is adopted. I intend to support it because I think to do otherwise would do a disservice to our great democracy.

Mr. BURLISON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to join my colleagues in paying tribute to the ranking minority member of our subcommittee, our very good friend, the gentleman from Virginia (Mr. Robinson), for the tremendous work and the time and the diligence he has put into our committee hearings and our markup sessions.

I also want to echo the accolades of other members of the committee for the extraordinary staff we have and the work we get from our staff director, Jim Bush, and his colleagues, Mr. Long, Mr. Andrews, Mr. Faga, Ms. Smiley and Ms. Katz. It is an extraordinary staff, and we appreciate the work they do. In addition, we appreciate the work that the gentleman from Virginia (Mr. Whitehurst) does on the committee.

Mr. Chairman, I yield back the balance of my time, and I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Zablocki) having assumed the Chair, Mr. Danielson, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3821) to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. BURLISON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill we have had under consideration, H.R. 3821.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

SENECA FALLS TO HOUSTON—MINUTEWOMEN SERIES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, today begins the Minutewomen series. Each legislative day in July, I will use the first minute of the day's proceedings to focus on women who have been important in the founding, pioneering, and industrial and cultural development of America. Because all of women's contribution to American history cannot be told in 17 minutes, I will also be inserting items on women in American history into the Extension of Remarks of the Congressional Record. I invite my colleagues to do the same.

The first American women's rights convention was held in 1848 in Seneca Falls, N.Y. In 1977 the first National Women's Conference was held in Houston, Tex. To commemorate the historic link between these two events, a lighted torch was passed hand to hand across 2,600 miles on the trail to Houston from Seneca Falls.

Maya Angelou, poet and playwright, wrote a declaration of sentiments entitled "To Form a More Perfect Union." This declaration was carried on a scroll by the torchbearers on their journey.

Like the torch, our history has passed hand to hand, mother to daughter, sister to sister since the founding of our Nation. We honor our foremothers and their early dreams of equality. Yet today, millions of women still face discrimination, limited opportunity and economic hardship.

This July let us recall the gifts and commitment of our foremothers as we continue the struggle to "form a more perfect Union."

I can think of no better way to kick off the series than with Maya Angelou's "To Form a More Perfect Union"—a poem which captures the spirit of the Minutewomen:

To Form a More Perfect Union

(By Maya Angelou)

We American women view our history with equanimity.
We allow the positive achievement to inspire us and the negative omissions to teach us.

We recognize the accomplishments of our sisters,
Those famous and hallowed women of history and those unknown and unsung women whose strength gave birth to our strength.

We recognize those women who were and are immobilized by oppression and crippled by prejudice.

We recognize that no nation can boast of balance until each member of that nation is equally employed and equally rewarded.

We recognize that women collectively have been unfairly treated and dishonorably portrayed.

We recognize our responsibility to work toward the eradication of negatives in our society and by so doing,
Bring honor to our gender, to our species, and to ourselves individually.

Because of the recognition set down above we American women unfold our future today.

We promise to accept nothing less than justice for every woman.

We pledge to work unsparingly to bring fair play to every public arena,
To encourage honorable behavior in each private home.

We promise to develop courage that we may learn from our colleagues and patience that we may attack our opponent.

Because we are women, we make these promises.

LT. GEN. EDWARD L. ROWNY, U.S. ARMY: A MAN FOR ALL SEASONS

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, a true American patriot, Lt. Gen. Edward L. Rowny, U.S. Army retired from active service on June 29, 1979 after more than 38 years of active military service.

General Rowny has had a distinguished career as an officer in combat during the time of war and in various assignments in time of peace. General Rowny is also a scholar who holds three advanced degrees. He is fluent in several languages. He is a man for all seasons.

From 1973 until his retirement, General Rowny has served as the Joint Chiefs of Staff Representative for strategic arms limitations talks (SALT II) in Geneva, Switzerland. During those 6 years he faithfully represented the views and reservations of the Joint Chiefs with respect to U.S. negotiating positions. From my own observations as a visitor to the SALT II negotiations, I can assure you that the SALT II treaty now before Congress would have been even less acceptable than it now is if it had not been for General Rowny's presence at the negotiations. For his work at SALT II, and for his entire 38 years of devoted service, the people of the United States owe him a debt of gratitude.

I was honored to be invited to General Rowny's retirement ceremony at Fort McNair on June 29, 1979. I was impressed by his brief farewell address during which he expressed his belief:

> . . . that strategic arms limitations are useful provided that the agreements reached are equitable and verifiable and do not diminish our national security."

In the forthcoming debate on the SALT II treaty, and the hearings which will precede that debate, it would be wise if our military leaders would heed General Rowny's advice on the following points:

> This is a time when once again our military may have lost the regard of many of their fellow citizens because they are perceived as not completely fulfilling their obligation to give professional military advice to appropriate civilian authority. Loyalty to civilian leadership should not be confused with blind subservience to bureaucracy.
>
> If military leaders do not provide straight and unambiguous military advice, or if they give military advice tempered by personal ambition or lack of intestinal fortitude, then all of us . . . military leaders, political leaders, and the citizenry . . . are the losers.

Upon his retirement, General Rowny was awarded the Defense Distinguished Service Medal by the Secretary of Defense. Mr. Speaker, I ask unanimous consent to insert the citation which accompanied that award, General Rowny's remarks, and a biographical summary in the Record at this point.

Citation to Accompany the Award of the Defense Distinguished Service Medal to Edward L. Rowny

Lt General Edward L. Rowny, U.S. Army, distinguished himself by exceptionally meritorious service from March 1973 through June 1979 while serving as The Joint Chiefs of Staff Representative for Strategic Arms Limitations Talks. In the course of the delicate and arduous negotiations that ultimately resulted in the second Strategic Arms Limitations Treaty, General Rowny's dedication to the demanding negotiations process and skillful exposition of the U.S. military point of view contributed immeasurably to the definition of the points at issue and to an understanding of the national security interests that were involved. During the intensive internal and interagency debates within the U.S. government, the formulation of JCS and U.S. policy was materially aided by General Rowny's brilliant analyses and soundly-based presentations of the issues. He faithfully represented the JCS views and positions at Cabinet-level meetings at home and in the counsels of the SALT Delegation at the negotiating sites abroad. His discussions with representatives of our allies in Europe and with members of the U.S. Congress provided additional and valued policy inputs for the JCS. His depth of knowledge and skill in reflecting the interests of the U.S. were recognized by his selection by the President as the first American general officer to participate directly in the ministerial-level negotiations that began in March 1977. The caliber and quality of General Rowny's professional and personal advice and the cogency of his assessments have significantly advanced the military security of the United States. By his exemplary performance of uncommonly sensitive and taxing duties, General Rowny has reflected great credit upon himself, the Organization of the Joint Chiefs of Staff, and the United States Army.

Remarks of Lt. Gen. Edward L. Rowny

Secretary Duncan, General Meyer . . . Distinguished Guests . . . Friends:

I am greatly honored and profoundly moved that so many of you chose to come here to share with me this last hour of the active duty phase of my military career.

My thanks go to the members of the Old Guard and the Army Band for a flawless review.

I am particularly pleased that General Meyer is our host today. I have known Shy Meyer for many years. I knew him as a little pup. He's top dog now. Years ago I found him a budding young officer; now he holds the highest rank in the Army. He is not only a manager, he is a leader. I predict he will make a great Chief of Staff.

I am also honored that Secretary Duncan has come here this afternoon. He has always found time to talk to me and has always listened carefully to the arguments I put before him. He is a true gentleman. Someday I hope he'll tell me how Coca Cola out-negotiated Pepsi Cola in the Soviet Union.

Thirty-eight years ago I took the oath to uphold and defend the Constitution of the United States.

I did not then . . . and do not now . . . take that oath lightly. In the years between . . . consistent with that oath . . . I fought in three wars: World War Two, Korea, and Vietnam.

Then . . . six and a half years ago I got caught up in a series of battles as fierce as those encountered in any of those three wars. I was assigned the job of military representative to SALT because of my belief in arms control . . . A belief to which I still am committed.

I have supported . . . tenaciously . . . the positions of the Joint Chiefs of Staff. I continue to believe . . . as do they . . . that strategic arms limitations are useful . . . provided that the agreements reached are equitable and verifiable and do not diminish our national security.

A little over a month ago . . . reluctantly, and with deep sadness and disappointment . . . without bitterness . . . I asked to be relieved of my duties.

Much has changed in our society during my 38 years in uniform. The Army, too, has changed to keep us in step with the shifts in our society. But through it all, the simple basic principles, in which I strongly believe, have remained constant: duty . . . honor . . . country, and the abiding maxims of integrity and acceptance of civilian control.

I look back with pride and satisfaction on my career in uniform. The military have not always been held in high regard in our country.

Just before World War Two, the professional soldier was either disregarded or denigrated. But when war came, the professionals, like Marshall, Bradley, McNair, Patton, MacArthur and Eisenhower, were not found wanting. I pray such a time will not come again. But if it does, I am confident that our military men . . . and our women too . . . will again rise to the challenge and will lead with distinction.

This is a time when once again our military may have lost the regard of many of their fellow citizens because they are perceived as not completely fulfilling their obligation to give professional military advice to appropriate civilian authority. Loyalty to civilian leadership should not be confused with blind subservience to bureaucracy.

If military leaders do not provide straight and unambiguous military advice, or if they give military advice tempered by personal ambition or lack of intestinal fortitude, then all of us . . . military leaders, political leaders, and the citizenry . . . are the losers.

I am sure my confidence is neither blind nor misplaced. Our military people are sustained by deeply-held beliefs in human dignity, in the democratic process, and in the virtues of our nation . . . It is, without question, the best country on earth.

You here . . . my superiors, my ex-bosses, colleagues, and friends . . . have given me always your advice, your help, your support and your understanding.

For all of this I am greatly appreciative and sincerely grateful. To the scores of ex-aides, executives, staff officers, sergeants and secretaries, I owe an especial debt of gratitude for your dedication and your loyalty.

Stalin once asked how many divisions the Pope had. Looking around today, one may ask how many aunts, uncles and cousins Rowny has. I am glad you all came. A special word to my family. My greatest joy and satisfaction is that we have been a close-knit family. We have always loved, prayed for, and helped one another. I am blessed with a beautiful and fine daughter and four absolutely top-notch sons. Two of my children are married to wonderful people and two soon will be . . . one, in fact, tomorrow. I have a splendid father and a dear mother, a talented and unpretentious brother, and two lovable sisters-in-law. My wife's sister has lit candles for me . . . and under me. Above all, my most precious asset has been my good wife. She has been my most exacting critic, my staunchest defender, and my dearest friend.

To you . . . associates, friends, family . . . I pledge that I will continue to work to protect and enhance the security of the United States and not simply fade away. In taking off my uniform I shall not cast off the oath I took 38 years ago. Neither shall I forget the principles of duty, honor, and country. I shall strive to do my best to be honest, honorable, disciplined and responsible.

I thank you all for your friendship, your loyalty, your patience, and your trust in me. How puny any of us would be without the understanding, the help, and love we get from others. God bless you all.

LT. GEN. EDWARD L. ROWNY

Lieutenant General Edward L. Rowny has for the last six years been the senior military representative to the Strategic Arms Limitation Talks and principal advisor to the Joint Chiefs of Staff on Strategic Arms Limitations.

General Rowny is concluding over 38 years of military service. He holds a Bachelor of Science Degree in Civil Engineering from Johns Hopkins University, two Master's Degrees from Yale University—one in International Relations and the other in Civil Engineering—and was awarded a Doctor of Philosophy Degree in International Studies by the American University. He is also a graduate of the Command and General Staff College, the Armed Forces Staff College, and the National War College.

Commissioned as a Second Lieutenant in the Corps of Engineers from the United States Military Academy in 1941, his career has included command of a company, an engineer combat battalion, an infantry battalion and a regimental task force during World War II; command of the 38th Infantry—"Rock of the Marne"—Regiment during the Korean War; Assistant Division Commander, 82d Airborne Division and Commanding General of the 24th Infantry Division in Germany, and the I Corps (Group), Camp Red Cloud, Korea.

More recent assignments include Deputy Chief of Research and Development and Deputy Chairman, NATO Military Committee. He was also the first Chairman of the Mutual and Balance Force Reduction (MBFR) Working Group in NATO.

General Rowny has been awarded the Distinguished Service Medal, the Silver Star (with two Oak Leaf Clusters), the Legion of Merit (with three Oak Leaf Clusters), the Bronze Star (with "V" Device), the Air Medal, and the Combat Infantryman's Badge (with Star).

General Rowny is a native of Baltimore, Maryland. He and his wife, Mary Rita, have five children.

LIMITING IMPORTS OF MEXICAN TOMATOES: A THREAT TO OUR NATIONAL INTEREST

(Mr. BARNES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BARNES. Mr. Speaker, 10 days from today the Treasury Department is expected to rule on an antidumping petition filed by the Florida tomato growers against Mexican tomato exports. On the basis of 3 days of talks last week with Mexican and U.S. officials in Mexico City, I am convinced that an affirmative decision on this petition would be a disaster for United States-Mexican relations.

The Mexicans are not engaging in dumping within the meaning of the Anti-Dumping Act. They are selling perishables, and when you sell perishables, you sell them for whatever may be the best price you can get. You cannot put a tomato away in a warehouse and save it for sale next year. And the Florida tomato growers know that; they will sell at the best possible price, too.

But more fundamentally, the tomato issue is too important to be disposed of as a narrow legalistic determination by Treasury's General Counsel. It is an issue of foreign policy whose ramifications could be felt far beyond the price of tomatoes this winter.

The Mexicans estimate that an adverse decision will cost them 120,000 jobs, in an economy in which half the workforce is already underemployed. And we are all too well aware of whose border it is that unemployed Mexicans cross in the search for work.

More fundamentally, the Mexicans feel that, as they struggle to develop their economy, every time they develop a product for export to the United States we find a way to block its import in order to protect our own industry. If that perception is reinforced by an antagonistic decision of Mexican tomatoes, it will hardly contribute to an open and promising approach to the question of Mexican oil production and exports to the United States, as well as other issues such as controlling ilegal immigration and narcotics traffic.

Despite these possible consequences, indications are that Treasury may take a strictly technical approach to the issue, and decide in favor of the Florida growers. Mr. Speaker, I have no desire to hurt the Florida growers, but I do not think they should be allowed to hurt American consumers and the vital interests of the United States, as well as the fair rights of our Mexican neighbors, by taking advantage of a technicality.

This decision is too important to be left to the technocrats. I urge the President and the Secretary of the Treasury to take immediate steps to resolve the tomato issue in a way that helps set a pattern of cooperation—and not confrontation—with a nation whose own economic and resource decisions can have a critical impact on our own.

I also note that three major newspapers agree with me on this issue, and I wish to insert their editorials on this subject at this point.

[From the New York Times, June 28, 1979]

THE TOMATOES IN YOUR FUTURE

Unless reason prevails, the Treasury Department, by a single decision, is about to exacerbate tensions with oil-rich Mexico, guarantee higher prices for vegetables next winter and increase the flow of illegal aliens into the Southwest. Reason, however, has little to do with the nation's trade regulations in general, and perishable Mexican tomatoes in particular.

Each winter, Mexican growers sell us some $200 million worth of tomatoes, cucumbers, squash and eggplants. American consumers benefit because, without the Mexican supply, winter vegetables would be less plentiful and prices would be much higher. Mexico benefits because the exports provide jobs for that country's swollen labor force and a diversified market to support rural development. But the 20-year-old winter vegetable industry in Florida does not benefit from competition. And the Florida growers have been demanding that the Government limit vegetable imports because they are sometimes sold below the full cost of production.

The drafters of the legislation that bars such "dumping" never contemplated the special problems associated with perishable agricultural commodities. Farm products must routinely be sold for whatever price the market will bring, even if it is below cost; growers—including those in Florida—must aim to cover costs over the year rather than a single growing season. But under pressure from powerful Florida Congressmen, the Treasury Department appears inclined to go along with the Florida growers.

If it does, the importers of Mexican tomatoes would be required to post a bond pending a formal finding of how much below actual production costs the tomatoes were sold. Mexican growers would probably withdraw from the American market, raising our winter vegetables prices. Thousands of rural Mexican laborers would be left without jobs—at least on their side of the border. American producers of other perishable commodities sold by Mexico—notably strawberries—will file parallel antidumping suits. And the Mexican Government will probably retaliate in negotiations over oil and natural gas sales.

It may be possible next year to get Congress to pass legislation specifically exempting perishables from the antidumping statutes. In the meantime, however, it is imperative that the Treasury not play into the hands of protectionists. If necessary, these cases should be fought out in the courts. Open trade—and good relations with Mexico—are too important to be bartered for the votes of some Florida farmers.

[From the Wall Street Journal, July 2, 1979]

ROTTEN TOMATO

In a strange flirtation with policy madness, the U.S. Department of the Treasury is now considering whether to apply the Antidumping Act of 1921 against Mexican winter vegetables coming into this country, including the vine-ripened Mexican tomato. The Antidumping Act is not a terrific legislative achievement to begin with; but its use against the Mexican tomato would manage to increase U.S. food prices, make the Mexican government very peeved at us, and sentence

American consumers to more of what Alfred Kahn called "those stones" that Florida growers pass off as tomatoes in the winter vegetable markets.

The "problem" the Treasury feels compelled to grapple with is simply that Mexico sells us around $200 million worth of winter vegetables a year—including tomatoes, bell peppers, cucumbers, squash, and eggplant. The vegetables constitute Mexico's biggest export item after oil, and the enterprise of growing them employs some 200,000 Mexican agricultural workers. Their main competition is from Florida, whose growers also do a $200-million-a-year business.

The Florida growers do not like their Mexican competition, and for years have been coming up with predictably ingenious attempts to thwart it. They have tried to get regulations requiring a larger minimum size for vineripened tomatoes than for the artificially ripened ones that Florida produces. They have tried to raise the Mexicans' costs with a law forcing them to conform to American packaging practices. And now the Florida growers have petitioned the Treasury to start anti-dumping proceedings against the Mexican veggies.

Rumor has it that Treasury is actually leaning towards a finding that the Mexican tomatoes have been dumped. It is extremely hard on general economic grounds, to see why. The Florida growers say the Mexicans are dumping, because they make sales below cost. But selling below cost means something a bit different in the perishable produce trade from what it means elsewhere. What characterizes perishable produce is that its production can't be halted once begun and that its excesses cannot be stored. Therefore selling below cost at certain times during a season is routine practice, and not only among the Mexicans.

This isn't the kind of dumping, or sales below "fair value," that the Antidumping Act seems to have had in mind; it's certainly not the kind of dumping that it would be fair to impose penalties against.

Besides being based on a dubious rationale, going after Mexico in this way promises to have harmful consequences of truly luxuriant variety. For those worried about inflation, there's Mr. Kahn's estimate that squeezing out the Mexican vegetables would significantly increase food costs next winter. For those worried about the nation's energy situation, there's the fact that this sniping at the Mexicans is not exactly the way to get them to part with their oil and gas. For those worried about the ongoing migrations to the U.S. from Mexico, there's the prospect that we could end up causing increased agricultural unemployment there.

There's a legitimate role for an anti-dumping law in this country, both because some cases of predatory dumping do occur and because we need some kind of mechanism for handling the protectionist pressures that we're never going to be free of. Furthermore, Treasury has by and large done a good job of not being a pushover for anti-duping petitions; it appears that one reason behind the currently budding agitation for a new U.S. Department of Foreign Trade is that plenty of people want to get enforcement of the anti-dumping laws out of Treasury's grubby free-trade hands.

But in the tomato case there's obviously been considerable pressure on Treasury to fold. We wish they wouldn't. It would be the kind of monkeying around with functioning markets that's given government a bad name.

[From the Journal of Commerce, July 5, 1979]

The Anti-Dumping Gambit

Quite some years ago we found ourselves expressing bewilderment on various occasions concerning the enigmatic role the Department of Agriculture had assigned itself as regards the production and export of tomatoes by Mexican farmers.

Initially, USDA's role had been that of the good samaritan. In the first flush of good Latin American comradeship that followed the Marshall Plan, Washington undertook to advise and instruct a number of countries south of the Rio Grande on how to find steady, profitable export outlets in the world's greatest market, namely the continental United States. This was the period in which the phrase "Trade, Not Aid" was immensely popular and much quoted in Washington.

And Mexico, being close at hand, came in for a good deal of attention. A team of USDA soil experts ran tests and found that, yes, Mexico was ideally suited to produce smallish tomatoes, generally classed as winter tomatoes, which could be plucked from the vine while red and shipped north across the border without deteriorating. The Mexicans were thankful for the advice and straightaway took it. That ends the first chapter of a strange story.

The second chapter opened when imported Mexican tomatoes began competing in U.S. markets with a very different type of tomato produced in Florida at the time the Mexican crop was coming into the American market.

These were considerably larger in size. They were picked by machine and picked green and hard, which meant that in order to gain any acceptance in American households they had to be dyed something that might, but usually didn't, pass for tomato red. Alas, the Florida product found little welcome. Despite its impressive size and artificial color, most people found it stone-hard and, worse, tasteless.

Washington soon began hearing bitter complaints about the threat of cheap Mexican tomatoes to agricultural workers in Florida. Florida being a state that packs some political clout in national affairs, USDA found itself under pressure to "do something" about a situation it was blamed for creating. USDA obligingly switched to another role altogether. By a series of nagging administrative orders which required no approval from Congress, it put into play a variety of devices designed to limit the influx of those popular Mexican tomatoes.

Alas, however, it didn't issue enough of them to satisfy the Florida growers, and is unlikely to do so now that President Carter is seeking a deal that will provide the U.S. with Mexican oil at a price that won't prompt the Canadians to demand an increase in the prices at which they export oil to the United States.

This brings us to the third chapter of a story that gets no better as it goes along. Apparently deciding that USDA is too weak to reed to save them, the Florida growers are now pinning their hopes on the Treasury Department. They are pressing for a decision that the Mexican producers are violating the 1921 Anti-Dumping Act by pushing tomatoes into the U.S. market at prices below their production costs.

At the time of writing, the Treasury has not decided to open formal proceedings against the Mexicans under this law, but it seems that there is a good deal of pressure being brought on behalf of the Florida producers, and it also seems that the latter have made a considerable impression on the Treasury.

There is therefore some prospect that the Mexican growers will be thrown on the defensive by utilization of a law that has long been controversial and just imprecise enough to appeal to those on the home front who find themselves unable to get the protection they seek via administrative actions, tariff increases or import quotas.

In other words, things haven't changed much in at least one respect during the past 58 years. If you're seeking protection from imports, and nothing else works: try the Anti-Dumping Act. It sometimes turns up some pleasant surprises.

Because Mr. Carter might find it awkward to kick the Mexicans where it hurts at the very time he is seeking from them an accommodation on oil prices, we doubt if much will come of this gambit, regardless of the reported trend in Treasury thinking.

But that is not the only factor that should give him pause. If the prices of Mexican tomatoes are forced up by punitive actions taken in Washington under the Anti-Dumping Act, either the price of tomatoes paid by American housewives will go up, or the quality of the home-produced items they must settle for will go down. Either way, it will add up to more inflation, not less.

We have observed over the years that few transgressions on the commercial rights of nations are as difficult to define as dumping. We can think of few nations, including this one, that haven't been accused of it, and few hard-pressed producers who haven't charged their foreign competitors with it. At the very best the 1921 act is a two-edged weapon, uncertain both in application and effect, and as dangerous to the user as to his intended target.

NATIONAL MIME WEEK

(Mr. KINDNESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINDNESS. Mr. Speaker, this past April a remarkable collection of mimes, clowns, and well-wishers gathered at the west front of this edifice to begin a procession down Pennsylvania Avenue in silent tribute to National Mime Week.

The parade of over 200 talented performers was part of a nationwide observance of mime as a cherished national treasure in our heritage of performing arts.

The tradition of mime and pantomime has its roots in ancient Greece. American mime holds a unique position in the development of this internationally acclaimed and long esteemed art form.

Because of American mass media, our national mime is perhaps the best known and most respected international form of pantomime.

The magic of the motion picture brought the talents of Charlie Chaplain, Buster Keaton, and other early silent film comedians within the reach of millions.

With the advent of television, a new generation of silent story tellers found a dynamic medium through which to tell their stories. How many of us have laughed uproariously at the antics of Red Skelton, Dick Van Dyke, and Jackie Gleason? How many of us will admit that we are old enough to remember the silent movement of Ben Blue?

American mime is the most diverse form of silent story telling in the world today. Its perimeters are difficult to define, and limiting an art form would be fulsome; but certainly a survey of American mime would not be complete without noting the brilliance of Emmett Kelly, the avant garde mask theatre productions of Peter Schumann's Bread and Puppet Theatre, and the thousands of children's theatre companies now performing in public and private schools using silent story telling to develop the imaginations of children.

Pantomime has been successfully employed in special programs for the handicapped as well. For instance, the National Theatre of the Deaf has used silent story telling to share the great joys and tragedies of classical plays with deaf adults throughout the world. This American group has been in the forefront of presenting great works of art previously unavailable to the deaf.

As a Nation, we are happier and healthier because of the contributions of these silent artists.

Mr. Speaker, the art of mime emphasizes economy, discipline, and clarity, three elements we frequently struggle to infuse into the deliberations of this body.

All across the Nation, plans are well underway to celebrate the second annual observation of National Mime Week; a tribute to those three elements, discipline, economy, and clarity. Accordingly, today I am introducing a House joint resolution to authorize the President to proclaim the week of April 1–7, 1980, as National Mime Week. The junior Senator from California is today introducing the same resolution in the other body. As a semanticist and a Senator, I am sure he well understands the eloquence of silence, a virtue to contemplate in this city of filibuster.

I would certainly welcome the support of my colleagues for the following resolution which will appear in today's CONGRESSIONAL RECORD with the extension of these remarks:

H.J. RES. 374

Authorizing the President to Proclaim the Week of April 1 Through April 7, 1980, as "National Mime Week"

Whereas, the tradition of mime and pantomime parallels the development of democratic civilization from the time of ancient Greece;

Whereas, American mime artists are respected worldwide for their unique and dynamic contribution to this classic art form;

Whereas, the thousands of mime artists currently creating, producing and performing in our nation have given us a better view of ourselves and our world through silent films, street theatre, television and theatre for the deaf;

Whereas, the art of mime and pantomime should be recognized as a cherished national treasure in our performing arts;

Whereas, the nature of mime and pantomime is celebration;

Whereas, the people of the United States should be encouraged to share in the special magic of mime by attending live performances and media presentations of this prized art form:

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the week of April 1 through April 7, 1980, as "National Mime Week" and to encourage the people of the United States to observe such week with appropriate activities.

CONGRESSMAN GREEN VOTES ON WINDFALL PROFITS TAX PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 10 minutes.

● Mr. GREEN. Mr. Speaker, all of us are greatly concerned about our current energy problems and no simple solutions are in sight. We have been burdened with a scarcity of gasoline of late and the frustrations of long lines when we find a station which does have gas for sale. I am also very concerned about the availability of home heating fuel for the coming winter, and the recent OPEC decision to increase petroleum prices is most disturbing. Whatever else we may be doing in the short term to ease our problems, there is no question but that we must be more realistic about assuring future supplies.

I supported the President in April of this year when he announced his intention to begin to lift gradually the controls we have had on the price of domestic crude oil. I believe that the artificially deflated prices resulting from those controls have greatly contributed to the severe energy difficulties we in New York and around the country are currently facing. It seems to me that the best way to approach the oil supply problem is to allow the market mechanism to work to the greatest possible extent. Thus, decontrols seems to make eminent sense for the energy well-being of the American people.

However, there can be no doubt that the lifting of controls and the resulting rise in price will result in significantly increased profits for the oil companies, and I share the concerns of many of my constituents and colleagues here in the House about what will happen to these increased profits. Clearly, in the case of old oil, the companies will be experiencing real windfall profits which should be used to deal with our country's energy problem. Consequently, I favor imposition of a tax on these increased earnings and supported passage of H.R. 3919 in the House on June 28.

At the outset, it should be understood that the proposed tax, though it has been called a "windfall profits" tax, is not a tax on profits at all. It is a tax on production that is due whether the producer is or is not making a profit. The tax is a percentage of the difference between selling price and an arbitrary base that varies by category of production involved; that is, lower tier oil, generally consisting of oil discovered before 1973; upper tier oil, generally consisting of oil discovered between 1973 and the present; and new oil that is to be discovered in the future.

While I favor a tax on the so-called windfall profits, I certainly was not completely satisfied with the proposal which was presented to the House by the Ways and Means Committee and which was considered on the floor on June 28. I had some serious questions about that specific proposal and felt that improvements could be made in the bill. Unfortunately, the rule under which we debated the measure was very limiting and, therefore, I think it is appropriate for me to set forth in some detail my views on this issue.

I am in agreement with the League of Woman Voters and other organizations concerned about the creation of a trust fund for revenues raised by the excise tax levied by H.R. 3919. In approving this tax we will raise substantial revenues without knowing what those funds would provide. I am hopeful that we will see from this fund significant investments in synthetic and renewable energy sources and in mass transit, and a provision to assist the elderly and low-income families with home heating costs. I am disappointed that the question of the use of these revenues was not fully addressed by the House at the time of passage of the tax bill and, to that extent, we were and are proceeding blindly.

In my view, the ideal windfall profits tax bill which the House could create would tax old oil, on which the artificial OPEC price does give a windfall profit, but not oil to be produced in the future, since any tax on future oil discourages exploration and tertiary recovery to expand production. By the beginning of this calendar year we had experienced the OPEC price increase of December 1978 and the Iranian upset, and it seemed likely that the President intended to lift controls on domestic crude. Exploration for and production of oil prior to January 1, 1979, was done under the assumption of a price prior to imposition of controls or of a controlled price and a return on investment related to that controlled price. Thus, it seems logical to conclude that for oil discovered prior to the first of this year, decontrol and resulting price increases to artificial OPEC levels result in a true windfall profit. However, it seems also to make sense that oil discovered after January 1 should not be subject to the "windfall" tax, because certain investments for new oil simply will not be made (and could not be justified economically) unless there is a higher price to make such investment feasible. We should not destroy the intent of decontrol (to stimulate new discovery and increase production) by taxing away the incentive.

As I indicated, the rule under which we considered this measure was very restrictive and did not allow for extensive "fine tuning" of the proposal. I voted against the rule, because of its limitation on amendments, but it was adopted on a vote 292 to 118. The Ways and Means Committee then offered a bloc of amendments, the sum of which presented the House with the choice of voting for the committee version of the tax or for President Carter's original proposal. I voted for the committee amendments, because rejection of the committee amendments would have left us in a most confused parliamentary situation, in that the only amendments permitted under the rule were drafted to amend the committee version of the bill and not the President's draft. The committee position prevailed 230 to 185.

The amendment offered by Representatives MOORE and JONES was one of only two noncommittee amendments to H.R. 3919 which were in order. This amendment reduced the rate of tax from 70 percent to 60 percent on lower tier, upper tier, and stripper crude. I supported the amendment, because it will recover "windfall" oil company income even more than the tax proposed by the President, but is less discouraging to increased future production than either the committee's proposal or the President's plan.

This lower rate would also apply to certain marginal wells where considerable expense would be incurred to increase production. It seems to me to be sound policy to tax these tertiary recovery wells at the lower rate because of the unusual costs involved in this process. While in most cases there are not exploration costs to be considered, the production costs are extraordinary and, at times under present prices, prohibitive. I was pleased that on a vote of 236 to 183 the House adopted the Moore-Jones amendment, which provides the industry with an incentive to proceed with new exploration and expensive recovery of old oil without allowing an inequitable windfall.

Further, I supported adoption of the amendment proposed by Congressman SHANNON, which would have decreased from 1.5 to 1.25 percent the quantity of lower tier oil that would be exempted each month from the higher tier 1 tax. This would have had the effect of extending the tier 1 (highest level) tax from a July 1984 phaseout date as proposed by the committee to a May 1985 date. It seemed to me that this would have improved the bill, which gives too great an exemption to old oil. There is no reason to give oil companies a tax break on the windfall profit they will make, because of price increases for previously discovered oil. As I have indicated, the investment in such cases was made with the expectaton of the lower, controlled price, or the even lower pre-1973 market price, and thus, I thought the higher tax was in order. The incentives should be concentrated on newly discovered oil. Also, the decline rate for tier 1 oil in the Shannon amendment was closer to the average actual depletion rate of operating wells. However, this amendment failed 172 to 242.

The House then considered a motion to recommit the bill to the Ways and Means Committee with instructions that it add language to provide a credit of 75 percent against the windfall tax if the company would make certain investments in domestic oil and gas production. This credit would have been allowed only in those cases where the investment exceeded the company's average investment over the preceding 3 years or had "spent a larger percentage of its revenues on these activities than in the past."

Only 3 days before, on June 26, the House passed H.R. 3930, which amends the Defense Production Act to stimulate the development of synthetic fuels by use of guaranteed purchases, long-term loans, and other devices. I cosponsored that bill and was pleased to see the House take prompt action on it.

I had hoped the motion to recommit the windfall profits tax bill would have included more flexible language to specify that one use of the tax revenues, in addition to those I have already mentioned, would be to finance in part the program of "synfuel" promotion provided for in H.R. 3930. I would have wanted it to be clear, however, that no company receiving a loan guarantee or a long-term purchase contract under H.R. 3930 would have been eligible for the windfall tax credit as well. Although the motion was not this broad, I was 1 of 186 Members who supported it, as against 229 who constituted the majority in opposition. The bill, as amended, was adopted by a voice vote and I supported it.

In summary, I think the artificial OPEC price does provide a windfall for producers who drilled on the basis of earlier, lower prices. It is, therefore, appropriate for the Government to impose an excise tax on such production. However, with decontrol, prospective producers of oil do not get a windfall, and they explore or institute tertiary recovery on the assumption of decontrol. Any excise tax they face clearly discourages their efforts and reduces future production. My votes on the "windfall" profits tax measure have been based on those fundamental principles.●

INTRODUCTION OF LEGISLATION TO CREATE OIL IMPORT CORPORATION; WAYS AND MEANS TRADE SUBCOMMITTEE TO HOLD HEARINGS ON OIL IMPORT POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, today I am introducing legislation to establish a Federal nonprofit corporation as the importing agent for crude oil and petroleum products imported into the United States. This bill is similar to bills introduced by Representatives CONYERS, ROSENTHAL, ROSE, BINGHAM, and others. It also incorporates some language from H.R. 8800 of the 95th Congress and H.R. 6860 of the 94th Congress (which passed the House of Representatives) spelling out how oil imports will be auctioned among domestic users of oil.

The Subcommittee on Trade of the Committee on Ways and Means will hold hearings on these various oil import policy proposals next week, July 16 and 17. As the hearing announcement indicates, the subcommittee will seek testimony from the administration and the general public on—

The oil import limitation policy adopted at the Tokyo summit, including such issues as the impact of the agreement on the economy, how oil purchases are to be made from potential suppliers, how imports will be allocated among domestic users, the role of refined imports, and so forth. The subcommittee seeks information necessary to develop legislation to carry out the commitments made at the Tokyo summit and to insure equitable systems of oil import allocations in future years;

Legislation to amend the President's authority to control oil imports and to restructure the method by which the United States imports oil. Among the bills which the subcommittee solicits testimony on are proposals to create a national oil import/purchase authority (see H.R. 2156, H.R. 3329, H.R. 3604, H.R. 3885, and a proposal to be introduced by Chairman VANIK July 9, 1979).

Methods by which the Customs Service monitors oil imports.

I welcome the initiatives taken at the Tokyo summit to respond to the most recent supply and price crises created by OPEC. I hope that this latest unwarranted price increase by OPEC will spur the Nation to actions which will insure our energy independence in the future. I believe that the Subcommittee on Trade's hearings can help build public understanding and support for the need to respond to OPEC through legislative and administrative actions.

The Tokyo summit agreement to limit oil imports means that in the future, the United States must have some way of allocating purchases and supplies of oil and refined product. As we plan to fulfill the commitments made at the summit, we should consider the creation of a Federal oil corporation to be responsible for the purchase of oil, perhaps on a sealed bid basis, and its allocation within the United States.

During the economic emergency of 50 years ago, the Nation created the Tennessee Valley Authority and the Bonneville Power Administration to take charge of certain massive public projects and to serve as a yardstick for providing public service in the energy sector. Today, we are faced with an equally grave economic emergency—one which again threatens us with economic hardship and dislocation. We should give serious consideration to the creation of new TVA's and Bonnevilles' in the oil sector. There are some 63 Government-run or owned oil corporations throughout the world. It is time that the United States establish such a corporation to provide a yardstick against which we can measure the activities of the private oil companies and which can be used in dealing with foreign government corporations in the petroleum sector.●

ENERGY REPORT NO. 3: AMERICANS CAN NO LONGER AFFORD TO IMPORT FOREIGN OIL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

● Mr. ALEXANDER. Mr. Speaker, no single issue will affect the lives of Americans during the last quarter of the 20th century more than energy. Every industrial nation is now competing for enough energy to sustain their respective standards of living. For various reasons Americans have refused to accept the fact that we can no longer afford to import most of the energy we consume. Our trade deficits continue to plummet into deeper national bankruptcy as we export the wealth of this Nation in exchange for imported oil from foreign producers. I propose an alternative which is summarized as follows in a letter to the President, to wit:

CONGRESS OF THE UNITED STATES,
July 9, 1979.

The Honorable JIMMY CARTER,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I would like to add my two-bits to the discussion on energy.

Americans can no longer afford to import eight million plus barrels of oil per day (8M b/d) from foreign oil producing countries costing more than forty-one billion dollars ($41B) last year. The 1978 trade deficit was twenty-eight billion five hundred thousand dollars ($28.5B) which has produced the double digit inflation we are now experiencing. Based upon the recent Organization of Petroleum Exporting Countries (OPEC) price increase the cost to Americans of imported oil in 1979, is estimated to be about sixty-five billion dollars ($65B) which is likely to produce a 1979 trade deficit of approximately fifty billion dollars ($50B). If this occurs Americans can anticipate twenty percent (20%) inflation.

Not only are Americans being victimized by the OPEC pricing policies, several OPEC countries are using U.S. oil dependence to hold this Nation a political hostage to achieve their foreign policy goals, to wit: Nigeria issued a veiled threat to withhold its oil which supplies the U.S. with nine percent (9%) of the supply if the U.S. should recognize the recently elected Muzorewa government in Zimbabwe Rhodesia, and, Saudi Arabia's Sheik Yamani recently warned that "If the United States does not force Israel to withdraw from Arab occupied territories along the West Bank and in the Gaza Strip to provide a homeland for Palestinians, Americans should be prepared to face the consequences." Dependence on foreign oil has made the United States vulnerable to those kinds of political intimidation.

Both economic and political considerations dictate that the United States switch from an oil based economy to a mixed energy economy. Accordingly, I recommend the following to be considered as a part of a national energy strategy, to-wit:

Crude oil savings in barrels per day

I. Production:

- (1) Coal: Maximize coal use in electric utility plants, 1.5 million.
- (2) Nuclear: Fully utilize existing nuclear power facilities, 1.5 million.
- (3) Synthetic fuel: Support H.R. 3930, Synthetic Fuel Development/Defense Production Act Amendments of 1979, passed by the House on June 26. Energy produced from coal gasification and liquefaction, shale, lignite, peat, solid waste, and the conversion of agricultural and other organic material, 0.5 million.
- (4) Gasohol: Utilize an average gasoline fuel mixture containing at least 10 percent alcohol on a nationwide basis, 0.5 million.
- (5) Solar: Continue to encourage passive solar heating and cooling technology development and applications, 0.5 million.
- (6) Hydroelectric: Improve existing hydroelectric generating facilities, 0.5 million.
- (7) Other sources: Develop energy sources from wind, ocean thermal, hydrogen, etc., 0.5 million.

II. Conservation:

- (1) Transportation: Fund the Inter-City Bus and Terminal Program for mid-sized cities (under 50,000 population), small towns and rural communities and the countryside. Improve the energy efficiency of private vehicles, 1.5 million.
- (2) Improved energy efficiencies for farm, home, and business: Provide tax incentives and low-interest loans for alcohol-powered farm equipment and home and business energy improvements, 1.0 million.

Total crude oil savings, 8.0 million barrels per day.

While it is important to achieve the objectives established by the National Environmental Policy Act of 1969 (NEPA), which I supported, it is mandatory that the Nation somehow break the impasse created when the forces of energy production are stopped by the forces of environmental protection. For every energy action there is an equal and opposite environmental preservation reaction. This stoppage must be resolved. Therefore, I propose the establishment of an Emergency Energy Production Board (EEPB) empowered with authority similar to the War Mobilization Board of the World War II era. The EEPB could resolve the present log-jam that prevents more energy production.

I am looking forward to working with you to resolve the energy crisis that plagues this Nation.

With warmest personal regards and best wishes, I am,

Sincerely yours,
BILL ALEXANDER,
Member of Congress.●

CAPITAL COST RECOVERY ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Oklahoma (Mr. JONES) is recognized for 5 minutes.

● Mr. JONES of Oklahoma. Mr. Speaker, recently my colleague from New York (Mr. CONABLE) and I introduced H.R. 4646, the Capital Cost Recovery Act of 1979.

This legislation would scrap existing depreciation schedules for business plant, equipment, and rolling stock, and substitute in its place a simplified system of rapid depreciation for such assets. Our plan has been referred to in shorthand as the "10–5–3" proposal, which translates into a 10-year writeoff for buildings, 5-year writeoff for equipment, and 3-year writeoff for a limited investment in cars and light trucks.

When the tax reduction bill passed last year, we started working on further capital formation suggestions. We studied and rejected a wide range of suggestions ranging from further reduction in the corporate income tax rates, elimination of double taxation of dividends, and reductions in capital gains beyond the changes made last year. Of all the possible methods we examined, we found that most of the interest centered around reform of the existing depreciation schedules.

Our aim in introducing this legislation is overhaul completely the antiquated system of depreciation currently embodied in our tax code. The concept of "useful life" and the asset depreciation range (ADR) work to inhibit investment and capital formation in our country. This chronic low level of investment has resulted in sagging productivity, sluggish production, and faltering competitiveness in world markets.

The Capital Cost Recovery Act is designed to encourage real economic growth by stimulating investment in better, more efficient plant and capital equipment. This is not a probusiness bill, it is procapital formation. Increased investment will create jobs both directly and indirectly. Our preliminary estimates indicate that up to 1.2 million jobs will be established in the next 5 years if H.R. 4646 is passed.

This is no quick-fix solution to the short-term problem of a stagnant economy. It is a long-range attempt to stimulate capital investment and make the United States more competitive in world markets. Our proposal is designed to lower the cost of capital to businesses. Long depreciation periods erode capital investment, and increase the amount of debt financing by business.

To many people, depreciation reform is not a sexy issue, but to those of us concerned with the future economic health of our country, it is the cornerstone of increased productivity, real wage increases, lowered inflation, and rational tax policy. The purpose of introducing the bill at this time is to build support for the proposal. If economic predictions are accurate, it seems likely that Congress will consider another tax cut later this year or early in 1980. We intend to make this legislation the centerpiece for business tax reduction and reform.

At this time, Mr. Speaker, I would like to place in the RECORD some statistics which indicates the depth of our capital formation problems along with a description of the highlights of H.R. 4646:

BACKGROUND AND ANALYSIS OF JONES/CONABLE CAPITAL COST RECOVERY ACT OF 1979

JUNE 27, 1979.

Most public opinion polls indicate that inflation is the number one problem in the minds of most Americans. Countless articles have been written on this subject, and one method after another has been propounded to cure our inflationary woes.

Along with the long-term problem of inflation, there is growing evidence of an economic slow-down for the immediate future. The traditional remedy for such a condition has been increased federal spending which has poured more money into the economy. This, in turn, has fueled inflation because more consumer dollars are chasing fewer goods. In effect, the American economy has been chasing its tail for the past few years, and in the process, spiraling downward, due to sluggish economic growth in our industrial sector, coupled with low levels of capital investment. Recent statistics point out the depth of our problem.

American productivity gains have been slipping for the past few years. From 1959 to 1969, we registered eight years with productivity gains of two percent or better. From 1969 to 1978, only three years registered productivity growth over the two percent mark, and two years showed productivity losses:

TABLE 1.—CHANGES IN PRODUCTIVITY

[Percent changes from preceding period, seasonally adjusted, for the nonfarm business sector]

Year	Percentage change	5-yr period	5-yr average
1959	3.3		
1960	1.0		
1961	2.7		
1962	4.3		
1963	3.4	1959-63	2.94
1964	3.6		
1965	3.4		
1966	2.6		
1967	1.7		
1968	3.2	1964-68	2.90
1969	−.3		
1970	.1		
1971	3.1		
1972	3.6		
1973	1.7	1969 73	1.64
1974	−3.1		
1975	1.9		
1976	3.5		
1977	1.3		
1978	.6	1974-78	.84

Source: Economic Report of the President, 1979, Bureau of Labor Statistics, Department of Labor.

Even more alarming is a comparison between world productivity rates and those for the United States. The 1979 report of the Joint Economic Committee compares average annual percent changes in productivity, and it shows the United States lagging behind its trading partners:

TABLE 2.—AVERAGE ANNUAL PERCENT CHANGE IN PRODUCTIVITY

	1950-67	1967-72	1972-77	1950-77
Japan	7.4	9.2	3.5	7.0
West Germany	5.0	4.8	3.5	4.7
Italy	5.3	5.0	1.0	4.4
France	4.7	4.5	3.1	4.3
Canada	2.5	2.8	.8	2.3
United Kingdom	2.2	3.0	1.2	2.2
United States	2.4	1.1	.6	1.8

Source: 1979 Report of the Joint Economic Committee.

Production growth rates for the U.S. industrial production have also been lagging behind our competition. Production growth rates measures the ability to supply goods to our population. Reduced amounts of goods increases demand, and this in turn, fuels our inflationary fires.

TABLE 3.—GROWTH IN INDUSTRIAL PRODUCTION

[1967=100]

Year	Japan	Canada	West Germany	France	United States	United Kingdom
1967	100.0	100.0	100.0	100.0	100.0	100.0
1968	115.2	106.4	109.2	104.0	106.3	106.8
1969	133.4	113.7	123.1	114.0	107.4	110.3
1970	151.7	115.3	131.1	120.0	107.8	110.9
1971	155.8	121.5	133.6	129.0	109.6	110.6
1972	167.2	130.7	138.7	135.0	119.7	113.2
1973	190.5	143.0	147.7	145.0	129.8	123.0
1974	183.1	147.5	145.1	148.0	129.3	120.0
1975	163.9	139.6	137.1	139.0	117.8	114.3
1976	182.0	146.7	149.1	149.0	129.8	117.4
1977	189.5	152.6	152.7	152.0	137.1	123.1
1978	201.1	160.8	155.8	154.7	144.9	126.8

Source: Economic Report of the President, 1979, and Foreign Industrial Production: December 1978, U.S. Department of Commerce.

The United States is also lagging behind our world competitors in the rates of investment in nonresidential business investment. As measured by a percentage of our gross domestic product, the following statistics show the U.S. falling behind all of its major trading partners:

TABLE 4.—*Real nonresidential fixed investment as a percent of real gross domestic product, 1966–76*

	Percent of gross domestic product
Japan	26.4
West Germany	17.4
Canada	17.2
France (1970–75)	16.7
United Kingdom	14.9
United States	13.5

Source: *Economic Report of the President, 1979*, Organization for Economic Cooperation and Development.

We must reverse these trends. Our inflationary problems will not go away as long as consumer demand for dwindling goods and services remains high. We can follow the advice of "no growth" advocates and attempt to apportion demand in some equitable fashion. It would seem more preferable, however, to encourage increased production to meet that demand, thus allowing the United States to both satisfy citizen needs and participate in the growing world trade markets.

Among the various options available to stimulate increased capital formation and investment—reduction of the corporate tax rates, elimination of the double taxation of dividends, further capital gains reductions—there seems to be growing support for reform and changes in the area of depreciation. Our current tax policy has discouraged new investments by American industry, and this has led to our sagging production rates, aging production capacity, and lack of competitiveness in world trade markets.

The current system of "useful life" embodied in the I.R.S. Code ignores the fact that most of our competitors have rejected such a system in favor of rapid cost recovery of investment. Belgium, Germany, The Netherlands, France, Japan, Australia, Italy, Sweden, Canada, and the United Kingdom all allow cost-recovery of capital assets within a time period of no more than ten years as a general rule. The United States has an average cost-recovery period in excess of 15 years.

The Asset Depreciation Range (ADR) System of schedules and depreciation rates has over 130 categories of assets, and it is a complex nightmare for the average small businessman. Reports indicate that less than five percent of small businesses make use of the ADR System.

The Capital Cost Recovery Act of 1979 was introduced in response to these problems. It eliminates the unwieldly A.D.R. System, and abolishes the antiquated "useful life" concept in favor of a modern approach to capital cost recovery.

The Capital Cost Recovery Act of 1979 provides for a more rapid recovery of capital investment in productive assets. It will streamline and simplify the depreciation of plant and capital equipment.

The streamlining is achieved by separating an asset's depreciation lifetime from its useful lifetime. Current tax law measures the capital recovery period by the asset's useful lifetime. The simplification is achieved by replacing the current complex array of depreciation lifetime schedules with a standardized set of depreciation lifetimes for most capital assets.

The Capital Cost Recovery Act establishes three classes of depreciable property.

Class I—Ten-year depreciation for buildings and their structural components (excluding residential rental property).

Class II—Five-year depreciation for equipment and other tangible personal property (except for Class III).

Class III—Three-year depreciation for automobiles and light trucks (up to $100,000 per year).

All Class I and Class II property will be eligible for the full ten-percent investment tax credit, as long as the property is of the character eligible for the credit. Class III property will be eligible for a six-percent investment tax credit. This modification is an improvement over the current application of the investment tax credit which varies with the lifetime of the asset.

Property will be eligible for depreciation and the investment tax credit when the taxpayer actually pays for the asset, or when the property is placed in service, whichever is the earlier.

The proposal contains safeguards to prevent abuse and retain the freedom of choice for taxpayers. When a depreciated asset is sold, the previously depreciated amounts will be recaptured as ordinary income. Also, early disposal of an asset will trigger a partial recapture of the investment tax credit. Taxpayers will have the option to claim less than the full depreciation allowance permitted under the proposal and to carry forward the unused allowance to any future year.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mrs. SPELLMAN (at the request of Mr. WRIGHT), for July 9 and 10, on account of illness.

Mr. EMERY (at the request of Mr. RHODES), for the week of July 9, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CORCORAN) to revise and extend their remarks and include extraneous material:)

Mr. GREEN, for 10 minutes, today.

(The following Members (at the request of Mr. BAILEY) to revise and extend their remarks and include extraneous matter:)

Mr. WEAVER, for 10 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. ALEXANDER, for 15 minutes, today.

Mr. JONES of Oklahoma, for 5 minutes, today.

Mr. DRINAN, for 60 minutes, today.

Mr. PEASE, for 60 minutes, on July 10.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CORCORAN) and to include extraneous matter:)

Mr. VANDER JAGT in two instances.
Mr. GREEN.
Mr. CARTER.
Mr. DERWINSKI in three instances.
Mr. PAUL in five instances.
Mr. CONTE.
Mr. CONABLE.
Mr. MICHEL.
Mr. LAGOMARSINO in two instances.
Mr. ROUSSELOT.

The following Members (at the request of Mr. BAILEY) and to include extraneous matter:)

Mr. ANDERSON of California in 10 instances.
Mr. GONZALEZ in 10 instances.
Mrs. BYRON in 10 instances.
Mr. ROSENTHAL in 10 instances.
Mrs. BOUQUARD in five instances.
Mr. HAMILTON in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Ms. HOLTZMAN in 10 instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. CAVANAUGH in five instances.
Mr. D'AMOURS.
Mr. BINGHAM in 10 instances.
Mr. VENTO.
Mr. HOLLAND in five instances.
Mr. MAZZOLI.
Mr. EDGAR.
Mr. FARY.
Mr. DRINAN in two instances.
Mr. ALEXANDER.
Mr. SIMON.
Mr. OBERSTAR.
Mr. MOAKLEY in two instances.
Mr. DE LA GARZA in 10 instances.
Mr. MATTOX.
Mr. BEVILL.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4556. An act to amend section 1521 of the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to extend conditional designations of State health planning and development agencies.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1007. An act to authorize supplemental international security assistance for the fiscal year 1979 in support of the peace treaty between Egypt and Israel, and for other purposes.

ADJOURNMENT

Mr. BAILEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 7 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 10, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1925. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Federal Seed Act (53 Stat. 1275) to update its provisions, and for other purposes; to the Committee on Agriculture.

1926. A letter from the Assistant Secretary of Defense (Comptroller), transmitting notice of various transfers of funds between categories of appropriations to the Department of Defense, pursuant to section 834 of the Department of Defense Appropriation Act, 1979; to the Committee on Appropriations.

1927. A letter from the Administrator of Veterans' Affairs, transmitting a report of a violation of the Anti-Deficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

1928. A letter from the Administrator of Veterans' Affairs, transmitting a report of a violation of the Anti-Deficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

1929. A letter from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to amend title 37, United States Code, to authorize advance pay upon registration of an allotment for dependents, within 60 days of deployment of unit; to the Committee on Armed Services.

1930. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting a report on negotiated contracts for experimental, developmental, test or research work, or for industrial mobilization in the interest of the national defense, covering the period January–June 1978, pursuant to 10 U.S.C. 2304(e); to the Committee on Armed Services.

1931. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense equipment to the Coordination Council for North American Affairs, pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

1932. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of defense equipment to Saudi Arabia (Transmittal No. 79–48), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

1933. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact of U.S. readiness of the Air Force's proposed sale of certain defense equipment and services to Egypt (Transmittal No. 79–53), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

1934. A letter from the Secretary of the Treasury, transmitting the annual report on the operations of the Exchange Stabilization Fund for fiscal year 1978, pursuant to section 10(a) of the Gold Reserve Act of 1934, as amended (84 Stat. 1659); to the Committee on Banking, Finance and Urban Affairs.

1935. A letter from the first vice president and vice chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction involving nuclear facilities with Furnas Centrais Eletricas S A., Brazil, pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

1936. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of District of Columbia Act 3–57, "To establish policies regarding the provision of day care services by the District of Columbia Department of Human Resources," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

1937. A letter from the Acting Secretary of Health, Education and Welfare, transmitting a draft of proposed legislation to extend the authorization of appropriations for the Institute of Museum Services through fiscal year 1985; to the Committee on Education and Labor.

1938. A letter from the Commissioner of Education, transmitting proposed regulations for determining the amount of Federal funds that must be refunded in cases in which an audit reveals a violation of title I of the Elementary and Secondary Education Act, pursuant to section 431 (d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1939. A letter from the Chairman, Minimum Wage Study Commission, transmitting the Commission's report on the extent to which the exemptions from the minimum wage and overtime requirements of the Fair Labor Standards Act may apply to employees of conglomerates, pursuant to section 2(e) (2) of Public Law 95–151; to the Committee on Education and Labor.

1940. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1941. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the American Institute in Taiwan's intention to offer to sell certain defense articles and services to the Coordination Council for North American Affairs (Transmittal No. 79–44), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1942. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the American Institute in Taiwan's intention to offer to sell certain articles and services to the Coordination Council for North American Affairs (Transmittal No. 79–45), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1943. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the American Institute in Taiwan's intention to offer to sell certain defense articles and services to the Coordination Council for North American Affairs (Transmittal No. 79–46), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1944. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Army's intention to offer to sell certain defense articles and services to Saudi Arabia (Transmittal No. 79–48), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1945. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Air Force's intention to offer to sell certain defense articles and services to Egypt (Transmittal No. 79-53), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

1946. A letter from the Deputy Under Secretary of Agriculture for International Affairs and Commodity Programs, transmitting a report on the status of planned programing of Public Law 480, title I commodities as of June 29, 1979, pursuant to section 408(b) of the Agricultural Trade Development and Assistance Act, as amended; to the Committee on Foreign Affairs.

1947. A letter from the Chairman, Foreign Claims Settlement Commission of the United States, transmitting a supplemental report on the Micronesian Claims Commission; to the Committee on Foreign Affairs.

1948. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend section 5924(4)(B) of title 5, United States Code; to the Committee on Government Operations.

1949. A letter from the Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system for the Department of the Army, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1950. A letter from the Acting Administrator, U.S. Environmental Protection Agency, transmitting a semiannual report on the activities of the Agency's Office of Inspector General; to the Committee on Government Operations.

1951. A letter from the Comptroller General of the United States, transmitting a report on data base management systems which have been developed to improve the management and control of data maintained in Federal computer-based systems (FGMSD-79-35, June 29, 1979); to the Committee on Government Operations.

1952. A letter from the Secretary of the Interior, transmitting notice of the proposed refund of $1,783.07 in royalty payments to the Atlantic Richfield Co., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

1953. A letter from the Secretary of the Interior, transmitting additional data to accompany the proposed 5-year oil and gas leasing program for Outer Continental Shelf lands, previously submitted pursuant to section 18(c)(3) of the Outer Continental Shelf Lands Act, as amended; to the Committee on Interior and Insular Affairs.

1954. A letter from the Secretary of the Interior, transmitting an analysis of the capital infrastructure needs of Guam, pursuant to section 1(a)(6) of Public Law 95-348; to the Committee on Interior and Insular Affairs.

1955. A letter from the Secretary of the Interior, transmitting a report on the financial condition of the Virgin Islands, pursuant to section 4(d) of Public Law 95-348; to the Committee on Interior and Insular Affairs.

1956. A letter from the Under Secretary of the Interior, transmitting a progress report on efforts to establish a permanent location for the displaced people of Bikini Island, pursuant to section 2(c) of Public Law 95-348; to the Committee on Interior and Insular Affairs.

1957. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of the receipt of a loan application under the Small Reclamation Projects Act from the Lewiston Orchards Irrigation District, Idaho, pursuant to section 10 of the act to the Committee on Interior and Insular Affairs.

1958. A letter from the Director, Office of Water Research and Technology, Department of the Interior, transmitting proposed regulations setting forth his office's policies, procedures, and practice in connection with inventions, patents, technical data, and copyrights, pursuant to section 411 of Public Law 95-467; to the Committee on Interior and Insular Affairs.

1959. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting a report of the Council's Task Force on Archeology Policy; to the Committee on Interior and Insular Affairs.

1960. A letter from the Clerk, U.S. Court of Claims, transmitting the court's judgment order in docket Nos. 352 and 369-A, *Aleut Community of St. Paul Island and Aleut Community of St. George Island* v. *The United States;* to the Committee on Interior and Insular Affairs.

1961. A letter from the Assistant Attorney General (Antitrust Division), transmitting a report on the Interstate Compact to Conserve Oil and Gas, pursuant to section 2(a) of Public Law 94-493; to the Committee on Interstate and Foreign Commerce.

1962. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a quarterly report for the period January through March 1979 on imports of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal; reserves and production of crude oil, natural gas, and coal; refinery activities; and inventories; together with data on exploratory activity, exports, nuclear energy, and electric power, pursuant to section 11 (c)(2) of Public Law 93-319, as amended; to the Committee on Interstate and Foreign Commerce.

1963. A letter from the Director, Office of Congressional and Public Affairs, Federal Energy Regulatory Commission, transmitting proposed rules to encourage the small-scale production of electric energy, required by section 210 of Public Law 95-617; to the Committee on Interstate and Foreign Commerce.

1964. A letter from the president and chief executive officer, U.S. Railway Association, transmitting the Commission's first monitoring report on the performance of the Consolidated Rail Corp., pursuant to section 307 (c)(4) of the Regional Rail Reorganization Act, as amended (92 Stat. 2400); to the Committee on Interstate and Foreign Commerce.

1965. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend title 18, United States Code, to include certain employees within the scope of section 1114; to the Committee on the Judiciary.

1966. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1967. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

1968. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the act; to the Committee on the Judiciary.

1969. A letter from the Director, Administrative Office of the U.S. Courts, transmitting his report and recommendations on the operation and administration of pretrial services agencies established under title II of the Speedy Trial Act of 1974, pursuant to 18 U.S.C. 3155(b); to the Committee on the Judiciary.

1970. A letter from the General Counsel, National Council on Radiation Protectiton and Measurements; transmitting the audit report of the Council for calendar year 1978, pursuant to section 14(b) of Public Law 88-376; to the Committee on the Judiciary.

1971. A letter from the Counsel to the Pacific Tropical Botanical Garden, transmitting the audit report of the Garden for calendar year 1978, pursuant to section 10(b) of Public Law 88-449; to the Committee on the Judiciary.

1972. A letter from the Acting Chairman, National Advisory Committee on Oceans and Atmosphere, transmitting the eighth annual report of the committee, pursuant to section 4 of Public Law 95-63; to the Committee on Merchant Marine and Fisheries.

1973. A letter from the Secretary of Health, Education, and Welfare, transmitting a report of the investigation of allegations concerning practices at the Social Security Administration's Teleservice Center in Parlin, N.J., pursuant to 5 U.S.C. 1206(b)(3)(A); to the Committee on Post Office and Civil Service.

1974. A letter from the Under Secretary of Defense (Research and Engineering); transmitting a report on Defense Department procurement from small and other business firms during October 1978, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

1975. A letter from the Under Secretary of Defense (Research and Engineering), transmitting a report on Defense Department procurement from small and other business firms during October–November 1978, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

1976. A letter from the Chairman, Agricultural Technical Advisory Committee for Trade Negotiations on Dairy, transmitting the committee's report on the Multilateral Trade Negotiations Agreements initialed in Geneva on April 12, 1979, pursuant to section 135(e)(1) of the Trade Act of 1974; to the Committee on Ways and Means.

1977. A letter from the Chairman, International Trade Commission; transmitting the Commission's 18th quarterly report on trade between the United States and the nonmarket economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

1978. A letter from the Comptroller General of the United States, transmitting a report on the implications of international and domestic factors affecting the U.S. refining industry (EMD-79-59, June 29, 1979); jointly, to the Committees on Government Operations and Interstate and Foreign Commerce.

1979. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the Panama Canal Company and the Canal Zone Government for fiscal year 1978, pursuant to section 106 of the Government Corporation Control Act, as amended (H. Doc. No. 96-159); jointly, to the Committees on Government Operations and Merchant Marine and Fisheries, and ordered to be printed.

1980. A letter from the Comptroller General of the United States, transmitting a report on needed improvements to the claims processing system under medicare (HRD-79-76, June 29, 1979); jointly, to the Committees on Government Operations and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on June 29, 1979, the following reports were filed on July 3, 1979*]

Mr. ULLMAN: Committee on Ways and Means. H.R. 4537. A bill to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes (Rept. No. 96-317). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANLEY: Committee on Post Office and Civil Service. Report pursuant to section 4(b) of the first concurrent resolution on the budget for fiscal year 1980 (Rept. No. 96-319). Referred to the Committee of the Whole House on the State of the Union.

Mr. GARCIA: Committee on Post Office and Civil Service. House Joint Resolution 353. Resolution congratulating the men and women of the Apollo program upon the 10th anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance" (Rept. No. 96-320). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[*Submitted July 5, 1979*]

Mr. PERKINS: Committee on Education and Labor. H.R. 4476. A bill to extend programs under the Higher Education Act of 1965 for 1 year, and for other purposes; with amendment (Rept. No. 96-318, Pt. I). Referred to the Committee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344. Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEREUTER:

H.R. 4698. A bill to modify the North Bend and Morse Bluff flood control projects on the Platte River, Nebr.; to the Committee on Public Works and Transportation.

By Mr. JENRETTE:

H.R. 4699. A bill to provide for an epidemicological study of fluorosis in certain areas where fluoride occurs naturally in drinking water systems, and to suspend the application of the fluoride standard in such areas under the Safe Drinking Water Act pending the completion of such study, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MITCHELL of Maryland:

H.R. 4700. A bill to require the President to submit to the House of Representatives and the Senate a report on nationalizing the oil industry; to the Committee on Interstate and Foreign Commerce.

By Mr. OBEY:

H.R. 4701. A bill to provide the American consumer the assurance that foreign dairy products marketed in the United States meet minimum standards of quality by requiring the inspection of these products at the U.S. ports of entry, at the foreign milk processing plants which provide dairy products for export to the United States, and at the foreign dairy farms which supply milk to foreign milk processing plants for the production of dairy products to be exported to the United States; to the Committee on Agriculture.

H.R. 4702. A bill to require that dairy products which are imported be labeled to disclose such fact; to the Committee on Interstate and Foreign Commerce.

By Mr. SHUMWAY:

H.R. 4703. A bill to direct the Secretary of Transportation to designate 2.2 miles of the proposed Crosstown Freeway in Stockton, Calif., as part of the Interstate Highway System; to the Committee on Public Works and Transportation.

By Mr. TRAXLER:

H.R. 4704. A bill to amend the Flood Control Act of 1948 to provide for the dredging of the Kawkawlin River, Mich.; to the Committee on Public Works and Transportation.

By Mr. VANIK:

H.R. 4705. A bill to establish a Federal nonprofit corporation as the importing agent for the crude oil and petroleum products imported into the United States; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. KINDNESS:

H.J. Res. 374. Joint resolution authorizing the President to proclaim the week of April 1 through April 7, 1980 as "National Mime Week;" to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

246. By the SPEAKER: Memorial of the Legislature of the State of Colorado, relative to the proposed SALT II Treaty; to the Committee on Foreign Affairs.

247. Also, memorial of the Legislature of the State of Colorado, relative to Federal grant-in-aid programs; to the Committee on Government Operations.

248. Also, memorial of the Legislature of the State of Colorado, relative to Laetrile; to the Committee on Interstate and Foreign Commerce.

249. Also, memorial of the Legislature of the State of Colorado, relative to Federal estate and gift taxes; to the Committee on Ways and Means.

250. Also, memorial of the Legislature of the State of New Jersey, relative to proposed legislation to deny tax exempt status for State and local bonds for financing home mortgages and improvement loans; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LEDERER introduced a bill (H.R. 4706). A bill for the relief of Munir P. Benjenk, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 80: Mr. Ichord.

H.R. 286: Mr. Stark.

H.R. 357: Mr. Dornan, Mr. Dan Daniel, Mr. Lloyd, Mr. Collins of Texas, Mr. de la Garza, Mr. Richmond, Mr. Hall of Texas, Mr. Derwinski, Mr. Marriott, Mr. Sawyer, Mr. Natcher, Mr. Zablocki, Mr. Bafalis, Mr. Forsythe, Mr. Bowen, Mr. Burgener, Mr. Roe, Mr. Fuqua, Mr. McClory, Mr. Gilman, Mr. Holland, and Mr. Brown of Ohio.

H.R. 3238: Mr. Leach of Iowa.

H.R. 3612: Mr. Addabbo, Mr. Akaka, Mr. Ambro, Mr. Baldus, Mr. Barnes, Mr. Bedell, Mr. Beilenson, Mr. Benjamin, Mr. Bonior of Michigan, Mr. Bonker, Mr. Brodhead, Mr. Brown of California, Mr. Buchanan, Mr. Carr, Mr. Corrada, Mr. Cotter, Mr. Daschle, Mr. Dodd, Mr. Downey, Mr. Drinan, Mr. Edgar, Mr. Edwards of California, Mr. Ertel, Mrs. Fenwick, Mr. Fithian, Mr. Fowler, Mr. Gephardt, Mr. Gibbons, Mr. Gray, Mr. Hanley, Mr. Harris, Mr. Holland, Mr. Hollenbeck, Mr. Horton, Mr. Hughes, Mr. Hyde, Mr. Jenrette, Mr. Kastenmeier, Mr. Kildee, Mr. LaFalce, Mr. Lederer, Mr. Lee, Mr. Lehman, Mr. Leland, Mr. Lundine, Mr. McCloskey, Mr. McDade, Mr. Maguire, Mr. Markey, Mr. Mazzoli, Mr. Mikva, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Murphy of Pennsylvania, Mr. Nedzi, Mr. Nolan, Mr. Nowak, Mr. Oberstar, Mr. Ottinger, Mr. Panetta, Mr. Pease, Mr. Pepper, Mr. Perkins, Mr. Pritchard, Mr. Pursell, Mr. Reuss, Mr. Richmond, Mr. Rinaldo, Mr. Roe, Mr. Rosenthal, Mr. Sabo, Mr. Seiberling, Mr. Simon, Mr. Solarz, Mrs. Spellman, Mr. Stark, Mr. Stokes, Mr. Traxler, Mr. Vento, Mr. Walgren, Mr. Waxman, Mr. Weaver, Mr. Weiss, Mr. Wolpe, Mr. Won Pat, and Mr. Young of Missouri.

H.R. 3782: Mr. Marks.

H.R. 4533: Mr. Sebelius, Mr. Grassley, Mr. Bedell, Mr. Robinson, Mr. Lagomarsino, Mr. Devine, Mr. Kindness, Mr. Donnelly, Mr. Derwinski, Mr. Campbell, and Mr. Stangeland.

H.R. 4549: Mr. Guyer.

H.R. 4550: Mr. Guyer.

H.J. Res. 326: Mr. Addabbo, Mr. Atkinson, Mr. Bennett, Mr. Brown of California, Mr. Buchanan, Mr. Chappell, Mr. Courter, Mr. Dougherty, Mr. Evans of the Virgin Islands, Mr. Fazio, Mr. Findley, Mr. Flippo, Mr. Ginn, Mr. Gray, Mr. Green, Mr. Guarini, Mr. Hall of Ohio, Mr. Heftel, Mr. Hinson, Mr. Hutto, Mr. Hyde, Mr. Leach of Louisiana, Mr. Loeffler, Mr. Luken, Mr. Madigan, Mr. Murphy of Pennsylvania, Mr. Railsback, Mr. Rudd, Mr. Stenholm, Mr. Traxler, Mr. Whittaker, Mr. Wolpe, and Mr. Wyatt.

H. Con. Res. 10: Mr. Dickinson, and Mr. Walgren.

H. Con. Res. 71: Mr. Dougherty.

H. Con. Res. 103: Mr. AuCoin, Mr. Horton, Mr. Oberstar, Mr. Moakley, Mr. Mitchell of Maryland, Mr. Corrada, Mr. Wolpe, Mr. Waxman, Mr. Lagomarsino, Mr. Ertel, Mr. Rousselot, Mr. Flood, Mr. Frost, Mr. Ritter, Mr. Marriott. Mr. Hughes, Mr. Mineta, Mr. Lungren, Mr. Evans of the Virgin Islands, Mr. Stokes, Mr. Downey, Mr. Drinan, Mr. McHugh, Mr. Scheuer, Mr. Dornan, Mr. Rudd, Mr. Frenzel, Mr. Gray, Mr. Harris, and Mr. Garcia.

H. Res. 250: Mr. Tauke.

H. Res. 251: Mr. Tauke.

H. Res. 252: Mr. Tauke.

H. Res. 253: Mr. McEwen, and Mr. Tauke.

H. Res. 254: Mr. McEwen, and Mr. Tauke.

H. Res. 255: Mr. McEwen, and Mr. Tauke.

H. Res. 256: Mr. McEwen, and Mr. Tauke.

H. Res. 257: Mr. Tauke.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

165. By the SPEAKER: Petition of the city council, New York, N.Y., relative to urging the Soviet Government to issue an emigration visa to Prof. Solomon Alber and his family; to the Committee on Foreign Affairs.

166. Also, petition of the city council, New York, N.Y., relative to urging the Soviet Government to issue an emigration visa to Lev Roitburd and his family; to the Committee on Foreign Affairs.

167. Also, petition of the town board, Cheektowaga, N.Y., relative to the Federal share of advanced wastewater treatment facilities payments; to the Committee on Public Works and Transportation.

168. Also, petition of AMVETS Department of Massachusetts, Boston, Mass., relative to veterans' programs; to the Committee on Veterans' Affairs.

169. Petition of Stewart W. Pierce, Richmond, Va., relative to compulsory delivered pricing; jointly, to the Committees on Public Works and Transportation, and the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4580

By Mr. STOKES:

—Page 3, line 4, delete "$191,500,000" and insert in lieu thereof "$200,500,000".

—Page 4, line 2, delete "$67,399,700" and insert in lieu thereof "$70,899,700".

—Page 9, line 5, delete "$47,354,500" and insert in lieu thereof "$52,854,500".

SENATE—*Monday, July 9, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by Hon. Howell T. Heflin, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Thanks be to Thee, O God, for grace which restores the soul and for rest which renews the body. Thanks be to Thee for work to do and strength with which to do it. Make us fit and keep us fit workmen in this place for Thy kingdom.

Spare us, O Lord, from impatience and restlessness. But keep us unsatisfied until the correct solution is found for the most difficult and aggravating problems. Guide by Thy higher wisdom the President and his counselors and all in authority over the Nation. Help us to do now what must be done for the good of this Nation and the welfare of mankind. And may goodness and mercy abide with us all our days.

In Thy holy name, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. Magnuson).

The second assistant legislative clerk read the following letter:

U S. Senate,
President pro tempore,
Washington, D.C., July 9, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Howell T. Heflin, a Senator from the State of Alabama, to perform the duties of the Chair.

Warren G. Magnuson,
President pro tempore.

Mr. Heflin thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATEMENT BY MAJORITY LEADER ROBERT C. BYRD AT MEETING WITH U.S.S.R. PRESIDENT LEONID BREZHNEV AT YALTA ON JULY 4, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement which constitutes my remarks that I made in my opening presentation during my meeting with President Brezhnev on last Wednesday, July 4.

By way of further explanation, this is the verbatim statement which I had prepared and which I read following a statement by Mr. Brezhnev, with the exception of some sensitive material which I have deleted, the deletion of which is indicated by asterisks.

President Brezhnev interrupted my statement several times. I do not show those interruptions, nor do I show what they consisted of.

I feel that, on behalf of my colleagues, I should present for the Record the statement I made, as it was prepared, as I sought to represent their concerns as well as mine during my meeting with President Brezhnev.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Majority Leader Robert C. Byrd at Meeting With U.S.S.R. President Leonid Brezhnev at Yalta on July 4, 1979

ROLE AS MAJORITY LEADER

I am here in my capacity as Majority Leader of the United States Senate, in which role I am deeply committed to seeing the Senate reach a sound decision about whether or not to approve the SALT II agreement.

I have not yet made up my own mind about the Treaty. I do not know if I shall support or oppose it.

I have served in the Senate 21 years. Thirteen years ago, I was elected by my Democratic colleagues to the Senate leadership. I am now in my third year as the Senate Majority Leader. So, I think it not immodest of me to state that there are few who know the Senate better than I.

ROLE OF THE SENATE

As I am sure you know, the role of the Senate—as stated in the Constitution—is equal to that of the President in the making of treaties. The President negotiates treaties, but that is only the first half of the process. The other half is up to the Senate, and that is where the ball is now. The Senate's role is completely independent of the President's. It can approve or reject treaties—as it did with the Versailles Treaty—or it can amend. The Senate zealously guards this independent prerogative.

CANDID APPRAISAL OF TREATY PROSPECTS

I want to give you today a candid appraisal of the prospects for the SALT II Treaty in the Senate. It is my opinion, that, if there were a vote today, the Senate probably would not approve the SALT II Treaty—the votes of two-thirds of the Members being needed for approval.

The Senate Foreign Relations Committee will begin hearings on the Treaty next week. The Senate Armed Services Committee will begin hearings during the week of July 23. All Committees are scheduled to submit their reports by September 25. I have scheduled the debate in the full Senate to begin by October 1. Much can happen between now and the final vote—which could occur by late November. It is possible that by then, there may be a two-thirds majority in favor of the Treaty, but this is by no means certain. Events that transpire between now and then could affect the outcome.

MAJOR CONCERNS

It may be helpful now to refer to some of the major concerns and areas of possible Senate action on the Treaty. For example, verifiability as to compliance is a matter of major importance to the Senate. In particular, the Treaty provision prohibiting any telemetry encryption which impedes verification is viewed by the Senate as being of very great importance.

It would also be a significant help in the area of verification if we could have an in-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

dication from you that you could agree to notification—on a voluntary basis—in advance of all ICBM test launches. Such a step would, undoubtedly, have a favorable impact on the Senate debate.

Let me turn to certain other areas of concern—areas in which the Senate may act to clarify specific points. Such action by the Senate may improve the likelihood for Treaty approval.

For example, the Protocol expires on December 31, 1981. The Senate will, likely, specify that the provisions of the Protocol do not constitute a precedent for future negotiations, and the Senate may also specify that there can be no extension of the Protocol, except by explicit consent of the Senate.

Furthermore, the parties have agreed on a non-circumvention provision in the Treaty. It is understood that this provision would not affect existing patterns of collaboration with our allies, and the Senate may want to reaffirm this point as well.

Moreover, the Soviet Government has given assurance that the production of the TU-22M bomber (Backfire) will be limited to thirty per year, and that the Backfire's radius of action will not be increased so as to give it an intercontinental capability. The Senate may want to formalize its understanding that the United States enters into the SALT II agreement on the basis of the commitment contained in the Soviet statement, and that it considers the carrying out of these commitments to be essential to the obligations assumed under the Treaty.

Finally, as we keep in mind that the Treaty is only at the halfway mark, I know that we both realize that the climate of opinion is very important to any prospects for Senate approval of the Treaty. And there are ways that the Soviet Government could contribute to a favorable atmosphere for Treaty consideration.

Another way the Soviet Government could assist in contributing to a more favorable atmosphere for the SALT II Treaty debate would be to refrain from objecting to a continuing U.N. presence in the Sinai as Israel withdraws. We know that you do not endorse the Egyptian-Israel Treaty, but if your government could avoid opposing a continued U.N. presence, this would be favorably perceived by the Senate.

Also, it is of vital importance that inflammatory statements be avoided. The Senate will not be intimidated; it will not act out of fear; it will not act in haste. I have cautioned against inflammatory statements on both sides.

In the course of the heated national debate on the Treaty in the Senate, there are going to be extreme statements made by some. But I would urge restraint in responding to any such rhetoric. Responding in kind can only be counterproductive.

I, perhaps better than anyone, know the heartbeat of the Senate, and I offer these candid observations, borne of years in the Senate leadership, and in the spirit of friendship.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair.

I will shortly yield back my time.

WELCOME HOME TO SENATOR ROBERT C. BYRD FROM HIS JOURNEY TO THE SOVIET UNION

Mr. BAKER. Mr. President, I take this opportunity to greet my friend and colleague on the other side of the aisle at the time of the reconvening of the Senate to welcome him home from his journey to the Soviet Union.

We watched with great interest here as his travels were reported and as he himself reported to the country through television on Sunday. I must say that he conveyed a great deal of information. It will be highly useful not only to me, but I am sure to the Senate, and will once again prove that his journey in this respect was useful, not only, I am sure, to him but to the Senate as well.

I wish to express my appreciation for his effort in that respect.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader for his kind words.

My journey was a constructive one. I feel that it was useful. I think it will be useful to the Senate as well as useful to the leaders of the Soviet Union. I think it will prove to have been useful in the long run.

I will be talking with my colleagues privately about my meetings that were held with Mr. Gromyko and Mr. Brezhnev, and with other leaders in the Soviet Union. The distinguished minority leader will be one of those with whom I will be discussing the talks that were held.

I thank him. It is characteristic of him to do just what he has done.

Mr. BAKER. Mr. President, I thank the Senator.

I genuinely mean the remarks I made. I think the majority leader has performed a service for the Senate.

I am pleased he is back. I look forward to talking with him about the so-called economic summit at Camp David. We will be doing that at another time, and I expect privately before we continue that colloquy.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no need for the remainder of my time under the standing order, and if there are no requests for time to be yielded to Members I will be happy to yield it back.

Mr. President, I hear no such request. I am prepared now to, and I do, yield back the remainder of my time under the standing order.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 20 minutes, with statements therein limited to 5 minutes each.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, Senate Joint Resolution 28, which will be stated by title.

The second assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 28) proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I rise to express once more my support for Senate Joint Resolution 28, the proposed amendment to the Constitution that would abolish the electoral college and institute a system for the direct election of the President and Vice President. As a cosponsor of this measure in the last Congress, I wish to commend my good friend and colleague, Senator BAYH, for his sustained efforts to reform our electoral system.

The electoral college is an arcane and outmoded institution. The purposes for which it was designed are no longer appropriate to our mode of Government. The framers of the Constitution did not believe that the people were qualified to elect their top leaders. As a result, they insulated the most important offices in the land by creating the intermediary structure of the electoral college.

We know too well today the dangers of a presidency insulated from the people. The electoral system developed by the founders of this Nation was a unique and brilliant one, but it was not meant to outlive its relevance. In fact, the original electoral system lasted for only 16 years until the rise of party politics made it necessary to enact the 12th amendment.

Our Nation has evolved into a representative democracy that has benefited all of us and served as a model to the world. But our system is flawed in one overwhelming respect. Our people still do not directly elect their top leaders. This must be changed.

A blue-ribbon American Bar Association committee, after years of careful study, has concluded that the electoral college system is "archaic, undemocratic, complex, ambiguous, indirect, and dangerous." Even so, amending the Constitution is serious business; to do so, one must make a strong case for the necessity of modification. I believe that such a case has been made.

This Nation—its people and its Constitution—have experienced unprecedented shocks in the last decade. The revelations of Watergate and related abuses of power have punctured our deeply held belief in the inherent integrity of our Government. We have seen a President resign under the threat of certain impeachment.

We have seen a Vice President resign because of his criminal activities. We have had our first nonelected Vice President, and our first nonelected President. That we have survived these shocks intact is a tribute to the resiliency and strength of our free institutions.

The patience of our people cannot be relied upon forever. The retention of the electoral college extends the glaring potential for mass frustration and constitutional instability.

On three separate occasions, men who have lost the popular vote became President: John Quincy Adams, Rutherford B. Hayes, and Benjamin Harrison—all were quirks of our electoral system. Fortunately, there has not been a Presidential victor who lost the popular vote in nearly 90 years. Yet recently we have come far too close for comfort.

In the elections of 1948, 1960, and 1968, a shift of less than 1 percent of the popular votes in a few key States would have thrown these elections into Congress.

Our most recent election also illustrates the danger of retaining the electoral college. Had there been a shift of 3,687 popular votes in Hawaii and 5,559 in Ohio, my own State, or .21 percent of the votes cast in these States, Ford would have had 269 electoral votes, Carter 268 and Reagan 1, and the election would have gone to the House of Representatives.

A related flaw and potential source of instability is the "faithless elector" problem. In many States, electors are not bound to vote for the candidate who carried their States. In the past three Presidential elections, electors have cast their votes for a candidate other than the popular victor in their State. This situation removes the election of the President even further from the people's control.

No one wants to have a President rejected by the people. There is no rationale in favor of it, and there is no excuse for its occurrence. Tradition is no defense for irrelevance. The way to insure that this does not happen is to pass Senate Joint Resolution 28. The country needs it and the people want it. Opinion polls have shown that over 80 percent of the people of this country favor direct popular election of the President.

In addition to insuring the popular election of the President, there are other advantages to abolishing the electoral college. We have accepted the egalitarian principle of "one man, one vote." Yet, under our present system, millions of votes do not count if they are cast for the loser in a particular State. A system of direct election of the President would give every vote the same weight, no matter what the size of the particular State or the choice of other people in that State.

Finally, one of the dangerous drawbacks of our present system is the power given to the House of Representatives to choose a President if no candidate receives an electoral college majority. It goes completely against the grain of the American spirit for the Presidency to be decided by a political bargaining process in the House. Had George Wallace's popular support been somewhat stronger in 1968, he could have brought the election into the House and negotiated for the candidate of his choice. No power brokers should tell us who will be President, except the ultimate power brokers—the people.

Senate Joint Resolution 28 provides a more rational system for choosing a President in the unusual case where there is no clear victor. If no pair of persons receives at least 40 percent of the whole number of votes cast, a popular runoff will be held among the two pairs of persons who receive the highest number of votes. The people will decide, as they should.

Mr. President, the need for this constitutional amendment is clear. Our democratic spirit requires it. The stability of our institutions requires it. And the people call out for it. I urge swift passage of this proposed constitutional amendment.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I would like to say at the conclusion of the very impressive speech of our distinguished colleague from Ohio how much I appreciate the contribution he has made to this effort over the last several years. As a member of the Senate Judiciary Committee he has been there to hear the issue discussed.

He has been a stalwart supporter of the one-man, one-vote principle. He recognizes the fact that with direct popular election we are going to insure that the President will be the person who gets the most votes. In addition, we will make it possible for larger population centers in small States to get the attention they deserve. As it stands now there has been a significant effort to give more attention to small communities in large electoral vote States, because of the imbalances created by the unit rule of the electoral college.

I want to say to my friend that I am impressed by his persuasiveness and gratified by his continued tenacious support. I thank him very much for his contribution today.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, what is the pending business before the Senate?

The ACTING PRESIDENT pro tempore. The pending resolution is Senate Joint Resolution 28 and the pending amendment is 280, by the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. THURMOND. Mr. President, we feel that most of the Senators, if not all of them, have made up their minds on this matter and we are willing, instead of having a cloture vote tomorrow, to have a vote at the time set for cloture on this question. The main purpose in getting cloture is to bring the matter to a vote, and if the opposition to the amendment is willing to forgo cloture, than we could vote.

It is my hope that this would save time, because if we have cloture, we will have another week or 10 days of debate. The majority leader says that he wants to save all the time he can. The majority leader indicated this would meet his approval and the minority leader indicated it would meet his approval. Those who wish to offer amendments can do so. In fact, the amendment of the distinguished Senator from Virginia, I believe, is the pending business now. As soon as he comes back from lunch, we could see if he is ready to vote, or, if there is any opposition to that amendment, those who are opposed to it could speak so we can proceed.

I want to make it clear that those who oppose the direct election of the President, those who are leading the fight against it, are willing to vote. No cloture is necessary and we feel we can save time by calling off the cloture.

Mr. HATCH. Will the distinguished Senator yield?

Mr. THURMOND. I am pleased to yield to the able Senator from Utah.

Mr. HATCH. Is there any question that, if the opponents of direct election are willing to go ahead with an up or down vote, and let this issue finally be decided, that the cloture vote could be vitiated and that we could go ahead with a time limitation agreement?

Mr. THURMOND. I hope that that will be the case. The distinguished Senator from Indiana, the author of the amendment, is here. Possibly he would like to say something on this subject.

Mr. HATCH. If the Senator will yield again, please?

Mr. THURMOND. I am pleased to yield.

Mr. HATCH. I should like to ask my distinguished friend and colleague from Indiana: Is there any problem with vitiating the cloture vote, setting a time limitation on an up or down vote on the Senator's amendment, and letting the chips fall where they may? All cloture does is end the debate, so that we can have a vote, anyway.

At that point—that is, assuming there is cloture, and I am not conceding this point—go with an up or down vote by, say, 2 o'clock tomorrow, I think that would be in the best interests of the distinguished Senator from Indiana. I cannot imagine any reason why a unanimous-consent agreement could not be entered into among the parties here.

Mr. BAYH. May I respond to the question of my friend from Utah?

Mr. HATCH. I would appreciate it if the Senator would.

Mr. BAYH. There is only one reason I can think of, or at least, one I can think of rather quickly. It goes beyond the immediate question of whether we could reach agreement among the three parties now standing on the floor. There is a problem with one of our distinguished colleagues who is not with us, the author of the pending question. The amendment of the Senate from Indiana is not the pending question; the amendment of our good friend from Virginia is.

Mr. HATCH. That is correct.

Mr. BAYH. Unless he is willing to go along with the unanimous-consent request, it would not be possible to enter into it.

Mr. HATCH. Will the Senator yield on that point?

Mr. BAYH. Yes.

Mr. HATCH. Let us assume that Senator BYRD, the distinguished Senator from Virginia, would be willing to go along with the unanimous-consent request and withdraw his amendment. I do not know whether he would or would not be willing to do that, but I am certainly willing to ask. Then, would the Senator from Indiana be willing to enter into a stipulated unanimous-consent request to have his amendment voted at 2 o'clock tomorrow, up or down, and vitiate the cloture vote?

Mr. BAYH. I would prefer to make that Wednesday or Thursday, because many of our people have been led to believe that we were going to have a cloture vote, maybe even two cloture votes, and they have taken this into account in planning their schedules.

Mr. HATCH. Not by us. As I recall, Senator THURMOND, my friend from South Carolina, stated, on the last day of the debate before the recess that he was willing to go ahead with an up or down vote. That was 2 weeks ago. Personally, I think everybody has made up his or her mind and, frankly, I am willing to go ahead with the vote. I think Senator THURMOND is willing to go ahead with it.

Let us vote tomorrow and let us vote up or down at 2 o'clock.

Mr. THURMOND. I might say, if the distinguished Senator from Virginia desires, maybe we could have a vote on his amendment today.

Mr. HATCH. Sure.

Mr. THURMOND. If he insists on a vote on his amendment, maybe we can have it today. Is there any reason that we could not vote on the amendment of the distinguished Senator from Virginia today?

Mr. HATCH. Will the distinguished Senator from South Carolina yield again?

Mr. THURMOND. I am pleased to yield.

Mr. HATCH. I am grateful to him.

Mr. President, the thing I want to make very clear is that there has been no desire on the part of anybody, to my knowledge, opposed to Senate Joint Resolution 28 to obstruct a vote on that amendment up or down. That desire may conceivably arise as debate is protracted if we do not agree, but I do not want to have the opponents of direct election, an amendment which I consider to be detrimental to the basic foundations of this country, to look like obstructionists on this issue. Therefore, I suggest again that we vitiate the cloture vote and vote up or down tomorrow at 2 o'clock, the time presently set for the cloture vote.

We can decide the matter right there, up or down. If the distinguished Senator from Indiana prevails, then I shall applaud his efforts. If he loses, I shall also applaud his efforts, but then that is the end of the matter. He will have had his day in court, something he has not had before.

I think we should do this rather than going through the charade of continued debate.

I think, basically, that everybody has made up his or her mind at this point.

I think that a time agreement would be a very wise and judicious thing for us to do.

I thank the Senator from South Carolina.

Mr. THURMOND. I might say that the main purpose of cloture is to bring debate to an end.

We want to bring the debate to an end. As far as we are concerned, it is at an end. We are ready to vote, and we can vote today or we can vote tomorrow at 2 o'clock.

So, why have a cloture vote? That is going through a ceremony that is unnecessary.

The main purpose, I repeat of having a cloture vote is to bring debate to an end. That is the main purpose of cloture.

Cloture would also cut off amendments. However, Senators want to offer amendments, they have a right to offer them. Senator BYRD may want to offer his amendment, or he may not. Maybe we can vote on his amendment this afternoon.

In other words, we are ready to proceed. We are ready to act. There is no delay on our part.

If there is any delay, I want to make it clear that it cannot be placed on the side of the opponents of the direct election of the President.

We feel that this is one of the most dangerous proposals that could be brought before the Congress. It destroys federalism. It will transfer the control of handling elections from the States to the National Government. We feel that this will destroy the rights of the States. We feel this is centralizing more power in Washington and that it will be a great mistake.

At any rate, I will not discuss the merits now. The point is that we are ready to vote. We are ready to call off the cloture. We are ready now.

Mr. HATCH. Will the distinguished Senator yield again?

Mr. THURMOND. I am pleased to.

Mr. HATCH. I do not think there has been any serious indication by anybody on our side that this matter was going to be filibustered.

Mr. THURMOND. Is it not strange that the motion to end debate was made when there was no indication of a filibuster?

Mr. HATCH. That is what I feel.

When the cloture motion was filed I was frankly surprised, because there has been no suggestion that we would not be willing to work hard on our side to reach a set time agreement.

There was never any mention of a filibuster on this matter.

I have to say that as of right now, I am personally prepared to go to a vote up or down on this matter tomorrow at 2 o'clock. Now, if we cannot make up our minds about this, each of us will have to reserve their options. But I would prefer to get the matter over with, and save the extra 2 or 3 days that I think can be saved, for other matters. Everybody, I think, is prepared to vote on this matter one way or the other.

It will be a close vote. I am not sure which way it is going to go. But I am willing to take my chances, and I think the people on our side are willing to take their chances, in the hope that enough of our fellow Senators have recognized the danger of this amendment.

So, with the consent of the distinguished Senator from South Carolina, I would like to make it very clear that, if there is delay, it is not caused by this side.

If, however, we happen to go to a cloture vote tomorrow and we win it, we may never want it to come to a vote.

But, my own personal feeling is that we ought to get it over with.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER (Mr. EXON). The Senator from Indiana.

Mr. BAYH. Mr. President, I must say, I appreciate the willingness of my two colleagues to bring this matter to a vote. I find a rather significant thread of inconsistency between the arguments I have heard expressed today by my good friends and colleagues, when they are willing to vote on this, when we have had only 1 full day of debate on this, a constitutional amendment, with other pronouncements that were made when we tried to get this matter discussed earlier.

I will be specific, because I think what we are talking about here is delay.

Mr. HATCH. I think so.

Mr. BAYH. With all respect to my good friend from South Carolina, there is no other Member of the U.S. Senate who has done more to delay this issue. He has been completely within his rights, for he thinks this proposal is a bad idea.

Mr. HATCH. Will the Senator yield?

Mr. BAYH. Certainly, in a moment. Now he has had a change of heart, and he wants to have this up for a vote.

Now, the Senator from Indiana is as perceptive as his two friends from Utah and South Carolina. I have a sneaking suspicion they probably figure we do not have 67 votes, and they may be right. But it is my judgment that there are 10 or 12 of our colleagues who have not made up their minds on this matter.

This, I will admit, is not the most important issue facing the Nation today. As strongly as I have pursued this proposal for 10 years, I must say that if anybody while I was back home on July 4 had come up and talked to me about direct election instead of inflation, gas rationing, or SALT, I would have thought he was out of his mind.

But it is my feeling that my colleagues now that they are back, are expecting to have 2 or 3 days to make up their minds, to study the issue, I think they should have that amount of time to look at some of the nuances, of the runoff for example, and the possibility of recounts or fraud. All of the questions that the Senator from Utah has raised deserve our colleagues attention.

I think they need to have a chance to hear some of us respond to these questions, and then sit down in the quiet of their offices or homes and make a final decision.

I have not said and am not saying now that my friends on the opposite side of the issue are trying to delay it. Quite the contrary. I do not think that.

In fact, when the cloture motion was filed, it was not to prevent delay.

May I direct to the distinguished Presiding Officer two or three parliamentary inquiries?

The PRESIDING OFFICER. The Senator will state them.

Mr. BAYH. It has been said that the only reason for filing a cloture motion is to shut off a filibuster.

Mr. THURMOND. Mr. President, I said the main reason—the main reason.

Mr. BAYH. Well, I think it has been said that that was the only reason, but I accept the revised comment.

Mr. HATCH. Will the distinguished Senator yield?

Mr. BAYH. May I ask the question first? Then I will be glad to yield.

Mr. President, if the cloture vote is vitiated and this matter is put to a vote tomorrow, what will be the pending question?

The PRESIDING OFFICER. The amendment by the Senator from Virginia to Senate Joint Resolution 28.

Mr. BAYH. Then it is fair to say the Senator from Virginia has every right to offer that amendment?

The PRESIDING OFFICER. That amendment has already been offered.

Mr. BAYH. And to offer revisions of that amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. And that the Senator from North Carolina can come in and offer an abortion amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. Or a busing amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. Or a prayer amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. In other words, there is a whole array of proposed constitutional amendments that are of interest to some Members of this body which can be added to this constitutional amendment, and it would be completely within the rights of our colleagues to do so?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. The Senator from Indiana feels very strongly that a constitutional amendment is of such significance that it is a mattter of monumental import when we propose to amend the Constitution, that a constitutional amendment should have a chance to be voted up or down on its own merits, without being bogged down by add-ons that are not germane to the question at hand.

That is the reason why several Members of the Senate have suggested to the Senator from Indiana and to our distinguished majority leader that the best way to resolve this question and have a vote up-or-down on the direct popular vote for the President is to invoke cloture.

I would be perfectly happy to agree to a unanimous-consent request. But I do not think we should even begin to propose those until the distinguished Senator from Virginia is here, because he is the one who is in the batter's box right now, and I do not know whether he is inclined to waive his right to pursue his amendment.

Mr. HATCH. I take it then that the purpose of the cloture motion was not to suggest that there was a filibuster proceeding, but rather to cut off nongermane amendments so that the Senator from Indiana could have a vote on his amendment, up-or-down.

Mr. BAYH. Yes. That is what the Senator from Indiana said when we last discussed this.

Mr. HATCH. I agree with the distinguished Senator from Indiana that the Senator from Virginia has every right to see his amendment voted upon if he chooses.

What I am suggesting is that a unanimous-consent request could prevent further nongermane amendments from coming up. I presume the Senator from Indiana is well aware of that. That would accomplish the same thing without the necessity of going through cloture.

Mr. BAYH. Mr. President, was a question proposed?

Mr. HATCH. Does the Senator agree that this is standard procedure?

Mr. BAYH. Yes. I would be prepared to do that.

As one of the pursuers of direct popular elections, I have been reminded of the reality of the world in which we live, that this is not the most important issue on the minds of people today, or the minds of Senators.

Mr. HATCH. May I ask the distinguished Senator another question, along the same line?

Mr. BAYH. Yes.

Mr. HATCH. Is it the intent of the distinguished Senator from Indiana to prevent a vote. Should the distinguished Senator from Virginia want to pursue his amendment? Or is it the intent of the distinguished Senator from Indiana to allow an up-or-down vote on the amendment of the distinguished Senator from Virginia which is now the pending business?

Mr. BAYH. The Senator from Indiana would prefer that the process of considering the direct popular vote amendment be separate from the proposal of the Senator from Virginia. He feels strongly about this matter and has been pursuing it almost as long as the Senator from Indiana has been pursuing the direct popular vote.

Mr. HATCH. That is correct.

Mr. BAYH. I cannot be critical of him for that. I have told him—and I say for the record—that it is the plan of the Senator from Indiana to continue the hearings we have started, so far as our subcommittee is concerned, and to try our best to resolve this matter at the subcommittee level so as not to act as a roadblock.

Mr. HATCH. Mr. President, will the Senator yield for a question?

Mr. BAYH. I yield.

Mr. HATCH. Perhaps the distinguished Senator from Indiana, who is chairman of the subcommittee upon which I serve as ranking minority member, might consider the history of what Senator BYRD has tried to do here. He has tried, for years to propose a balanced budget constitutional amendment without reaching a final up-or-down vote. We presently have at least a dozen balanced budget or spending limitation constitutional amendments before our committee which are a long way from an up-or-down vote.

Perhaps the distinguished Senator from Virginia would be willing to withdraw his amendment if the distinguished Senator from Indiana would agree to a subcommittee vote on a balanced budget amendment within a relatively short period.

I believe that this is what the distinguished Senator from Virginia is really after; he wants to see the desire of the American people, to have a balanced budget amendment considered, is realized. He would like to avoid a constitutional convention through congressional consideration of balanced budget constitutional amendment.

Mr. THURMOND. Mr. President, I wonder whether the Senator from Virginia will express himself.

Mr. HARRY F. BYRD, JR. Mr. President, my feeling is that, regardless of the merits of the amendment offered by the Senator from Indiana, the public as a whole is more concerned about the importance of the Federal Government balancing its budget and putting its financial house in order, than it is in regard to the change in the electoral process. I do not say that in opposition to the amendment offered by the Senator from Indiana. It just seems to me that there is more concern on the part of the public about our financial situation, about the need for a balanced budget to combat inflation, than there is in the other field.

I should like to suggest a time limitation on the amendment offered by the Senator from Virginia and a time certain to vote on it: a time limitation of 2 hours equally divided, or 10 hours equally divided, whatever the Senator from Indiana might choose. Then we could vote on the balanced budget proposal, thus get it out of the way, one way or the other.

It seems to me that this is the one opportunity the Senate will have to vote on the question of a balanced budget. I do not see any other opportunity it will have.

Would anyone be interested in a time limitation and then a vote?

Mr. BAYH. Mr. President, the Senator from Indiana can speak only for himself. However, I have talked with a number of my colleagues who are strong supporters of direct election who do not share the feeling of the Senator from Virginia that the best way to balance the budget is to amend the Constitution.

It happens that the Senator from Indiana has been working on this amendment for 10 years. That should not in any way dissuade any other Senator from pursuing his rights and the issues that are of importance to him. But if the balanced budget amendment is added on to the direct popular vote amendment, I fold up my bag and go home. It is dead.

For that reason, I feel that the only responsible way I can pursue this issue and fulfill the responsibility I have to the supporters of direct election is to see that this issue is voted up-and-down on the merits.

I am not willing—I have said this to my friend and colleague from Virginia—to stand there like Horatio at the bridge or act as some spoilsport in the subcommittee, to keep from voting on this. We are talking about a rather serious business. The Senator from Virginia probably knows its serious nature more than anybody else, because he has studied it. But I am not going to support any procedure—at least in the subcommittee—that will prevent us from having an adequate chance to study this matter.

My proposal would be, at least so far as our subcommittee is concerned—and the distinguished ranking minority member will play a role in this—to go ahead with hearings. So far, we have not been able to get past members of Congress, because there are so many Senators who want to be heard.

Mr. HATCH. When does the Senator think would be a reasonable time for the hearings?

Mr. BAYH. As I told the Senator from Virginia, my hope would be that they could be completed before the end of this year and we could have a vote in the subcommittee on this. We would finish the hearings, vote on it up or down, and that would be one step out of the way.

As the Senator knows, there are other steps along the way. As I am painfully aware in pursuing direct election of the President, there are many other steps along the way. So I have nothing but sympathy for the Senator from Virginia as regards the mission he is pursuing here.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BAYH. I am not too sure I have the floor.

Mr. HATCH. Will the Senator from South Carolina yield?

Mr. THURMOND. I am pleased to yield.

Mr. HATCH. It is apparent to me that unless we can agree to a time limitation on an up-or-down vote on direct election, the amendment of the distinguished Senator from Virginia will not be voted upon up or down.

If that is so, then the distinguished Senator from Virginia will still have done his characteristic good service to the people of America by bringing it up in the first place. But rather than go through debate the next 2 days discussing a matter which may never come to a final vote, perhaps what we should do, if the distinguished Senator from Indiana would be amenable, is suggest here, in good faith, to our friend and colleague from Virginia that we will expeditiously complete subcommittee hearings on various constitutional amendment proposals to balance the budget and limit spending, and that we will have a final subcommittee vote no later than the end of this year at a reasonable time.

And then, assuming that the matter is reported out of subcommittee, the distinguished chairman of the Subcommittee on the Constitution and myself as ranking minority member on that subcommittee, will work for a full committee vote sometime before the end of this year.

I believe that we could work within that timeframe. I think that this would please our friend from Virginia. And it would certainly please millions of Americans all over this country who would like to see this matter brought to a final vote.

The distinguished Senator from Indiana, along with the Senator from Utah, will also work hard to see that it comes to a floor vote in the Senate if successful in committee.

If we could promise that, I think the distinguished Senator from Virginia, who is always accommodating in these matters, may be willing to withdraw his pending amendment so that we can talk about direct election, have vitiation of the cloture vote, and vote up or down tomorrow at 2 o'clock on the amendment of the Senator from Indiana.

I suggest that this is a reasonable way of resolving the problem rather than going through what is an unnecessary charade of a cloture vote tomorrow. I believe that we can have this matter disposed of one way or the other tomorrow. The distinguished Senator from Indiana, who has fought so valiantly for this over the years will have had his day in court, one way or the other. He will either win or he will lose tomorrow.

Mr. BAYH. I do not want anyone to labor under false impressions here. I do not think it is fair to expect me to go along with the distinguished Senator's request. It is certainly a worthy request, but let me say the Senator from Indiana does not believe it is fair——

Mr. HATCH. Then it must not be fair.

Mr. BAYH (continuing). To suggest that after our colleagues should have to vote tomorrow having operated under the assumption that, well, there is going to be a cloture vote on Tuesday. That may or may not pass. Usually it takes a second cloture vote. That will be on Thursday. So the time we really have to make a final decision on direct election is Thursday afternoon or Friday.

Now, we are going to suddenly surprise them and we are going to make them vote on it at 2 o'clock tomorrow.

I am not prepared to do that. I am prepared to accept the unanimous-consent request that this be voted on by no later than 2 o'clock on Thursday, that the normal germaneness rules apply, and to be as congenial as I know how—and that is pretty congenial—to work with the majority leader as I have in the past to allow direct election to be set aside. I was just asked if after the treaty vote we might not set it aside for a reorganizational proposal of some kind. I said, of course. Let us go ahead with the other business of the Senate. But let us allow Senators to know in advance of the vote. Let us say, "OK, you are going to have to vote here, fellows." I ask my distinguished colleague from Utah to help me establish a time for the vote to give our colleagues a chance to really come to grips with that.

Right now I do not think all of our colleagues have made a final decision on this.

Mr. THURMOND. Is there any reason why the vote on the amendment of the Senator from Virginia, if he does not withdraw it with the understanding that it will be acted on by the subcommittee this year, could not be held this afternoon or tomorrow morning prior to the planned 2 o'clock cloture vote. That way, cloture could be vitiated and we could have an up and down vote on the amendment of the Senator from Indiana tomorrow at 2 o'clock.

Mr. HARRY F. BYRD, JR. That is perfectly satisfactory to the Senator from Virginia.

Mr. THURMOND. Will the Senator from Virginia be willing to vote this afternoon on his amendment?

Mr. HARRY F. BYRD, JR. Yes.

Mr. THURMOND. Does the Senator from Indiana agree to that? Is there any reason why we cannot vote on the amendment of the Senator from Virginia? Does he wish to speak more on the amendment? Does he want to filibuster the amendment? What is his attitude on the Byrd amendment?

Mr. BAYH. I hate to keep repeating myself, but I want direct election to have a fair shot of passing or failing on its own merits. This matter of balancing the budget by constitutional amendment has a good deal of appeal to it. The Senator from Indiana in his own mind as we hold these hearings is trying to determine what is the best way to go. Is balancing the budget through a constitutional amendment the best idea, or are there other ways?

I have already made up my mind that it is better for us to pass a constitutional amendment than to have a constitutional convention. I have already resolved that in my mind.

Now, the question I am faced with is are there other ways better than a constitutional amendment? If not, what is the best structure of such a constitutional amendment?

I just have not resolved these issues in my own mind, and I cannot ask everyone else to stand up and be counted on this issue. It would take 67 votes to pass the amendment of the Senator from Virginia, it only takes 51, might even take 45 or 46, a majority of those voting, to add it onto the direct election proposal—thus killing it. A smaller number of supporters of the resolution of the Senator from Virginia could effectively prohibit the use of direct popular vote from being decided on its merits.

I do not really think that is an unreasonable request to make, and that is why the Senator from Indiana has been endeavoring with the cooperation of the leadership, to have a vote up or down on the direct popular vote proposal.

Now, I am prepared to accept any reasonable unanimous consent agreement, and I think the leader is, also. I think we should, of course, clear it with him before it is proposed formally.

Mr. THURMOND. Would it suit the distinguished Senator from Indiana to vote on the Byrd amendment at 10 o'clock tomorrow and then vote at 2 o'clock on the direct election?

Mr. BAYH. No.

Mr. THURMOND. Does the Senator from Indiana intend to prevent a vote on the Byrd amendment prior to 2 o'clock tomorrow?

Mr. BAYH. With all due respect, if it is possible, I feel I must do that. I do not know why I have to keep repeating myself. Shall I try one more time?

Mr. HATCH. We understand the Senator's position.

Mr. President, will he yield to me?

Mr. BAYH. I am not even sure I have the floor.

Mr. THURMOND. I will be glad to yield.

Mr. BAYH. We are having a polite colloquy and a polite difference of opinion.

Mr. THURMOND. I yield.

Mr. HATCH. My friend from Indiana has indicated to my friend from Virginia that he will hold the necessary hearings. As the ranking minority member on the committee, I will participate to the best of my ability in those hearings, as well. We will attempt to have a vote on some balanced budget or spending limitation amendment by the end of this year with a vote in the subcommittee and full committee. I think that I am right in assuming that from what my friend from Indiana said; is that correct?

Mr. BAYH. That is accurate. Might I just ask for an opportunity to expand on that answer.

Mr. HATCH. Sure.

Mr. BAYH. I find myself in a very difficult position here, because I know how hard the Senator from Virginia has pursued this, but I do not know how to get around the dilemma that a majority vote for his amendment, appending it to my proposal, would thereafter make it impossible to vote solely on the direct popular vote amendment. I just do not know how to get around that. I am of the opinion we are within shooting distance of getting 67 votes, for there is still that group which has not made up its mind yet. But I think, at least it is my feeling, that we are going to lose a chunk of those if the distinguished Senator from Virginia succeeds in his efforts.

We might pick up some votes too, I do not know. My distinguished colleague from Arkansas is one Senator who is able to support both of the proposals, but I think he would prefer that each one be considered on its own merits. I would not want to put that in his mouth, but I suspect that is the way he feels.

Mr. THURMOND. Mr. President, may I ask the distinguished Senator from Indiana when he could hold hearings and have the subcommittee act on the Byrd balanced budget amendment?

Mr. BAYH. I have already stated a couple of times——

Mr. THURMOND. If we can get some satisfaction on that, maybe the distinguished Senator from Virginia will agree to withdraw his amendment, and we could have a vote tomorrow at 2 o'clock on the Bayh amendment and vitiate the vote on cloture.

Mr. BAYH. I think I said a couple of times before that I see no reason——

Mr. THURMOND. As I understand, the Senator from Indiana is willing to do that if Senator BYRD is willing to withdraw his amendment. How soon would the——

Mr. BAYH. I have told my friend from Virginia I am going to do the very best I know how, and I do not see any reason why we cannot complete hearings and have a vote in subcommittee before the end of this year.

Mr. HATCH. I see no reason, either.

Mr. BAYH. I said to him, and I believe he knows I am sincere, that we all know there are other hurdles that have to be overcome however.

Mr. HARRY F. BYRD, JR. As the Senator from Indiana points out, that is the problem. The subcommittee hearings and the subcommittee vote is one procedure, and that would be an important step forward. But that needs to be followed by a committee vote, and there is little indication that there is any real enthusiasm in that committee for the balanced budget amendment. It is also a question of scheduling on the floor, so the route being suggested is a long one.

Mr. BAYH. It is one the Senator from Indiana has traveled for a number of years.

Mr. HARRY F. BYRD, JR. I might say that is not precisely the case today. Refresh my memory, but did not this originally come before the Senate without having been approved by the committee?

Mr. HATCH. That is right. As a matter of fact, it was brought up under Senate rule XIV.

Mr. HARRY F. BYRD, JR. That is right.

Mr. HATCH. Rule 14, of course, circumvents the normal committee process.

Mr. BAYH. I will reiterate that it is a route I have traveled before. I have been chairman of the Subcommittee on the Constitution for a good number of years, and I remember painfully well how my distinguished colleague from South Carolina filibustered this amendment on more than one occasion in the subcommittee. We could not even get a vote in the subcommittee, my own subcommittee.

Mr. HATCH. We have come a long way.

Mr. BAYH. And he has filibustered this proposal in full committee, and he had every right to do that. We got it out on the floor, and then what happened? The poor old thing went to seed, it was filibustered to death, and we never did get a vote.

So I have traveled that route, and thus I appreciate the trials of the Senator from Virginia.

I can only point out that the Senator from Indiana will not add to that burden, but rather will try to expedite it in his official capacity as chairman.

Mr. HATCH. Could we indicate to the distinguished Senator from Virginia that both of us will vote, not only to get it out of committee, but also to see that there is full committee action taken on the matter before the end of the year? I think that is a reasonable request. The full committee, of course, can do whatever it wants to do with it, but at least if we have those two votes the people of this country can see that there is some evidence of something being done. If the full committee decides to turn it down, that is up to the full committee.

Mr. BAYH. I do not want to mislead anyone, certainly I do not want to mislead the Senator from Virginia, in this exchange to try to get him to forego his rights. Frankly I do not know how I might vote on an amendment to balance the budget by the time it gets to the full committee.

I just got through saying we have only just begun to hold hearings on this issue. We have not had any real economic witnesses yet. We keep hearing from Members of Congress on the subject.

Mr. HATCH. Mr. President, if the Senator will yield, we understand that, and there is, of course, no obligation upon the Senator to vote for a balanced budget amendment. But there would be an obligation to hold hearings before the subcommittee.

Mr. BAYH. I pledge you that. I think I have some control over that.

Mr. HATCH. And have a vote in the full committee, as well?

Mr. BAYH. I beg your pardon?

Mr. HATCH. A vote in the full committee as well?

Mr. BAYH. I do not know whether I am going to vote for it or against it in full committee. I do not know whether I am going to vote for or against it in the subcommittee.

Mr. HATCH. What we are asking on behalf of the distinguished Senator from Virginia is that we hold hearings on the balanced budget constitutional amendment, that there is a subcommittee vote on the amendment before the end of this year, and that you and I will, assuming that it passes the subcommittee, then work to place it on the full committee agenda with a vote there before the end of the year.

Mr. BAYH. The fact is that you and I have some influence over what happens in our subcommittee, since I am the chairman and you are the ranking minority member.

Mr. HATCH. We can do that.

Mr. BAYH. We can within reason make certain judgments as to what might happen there. I think it would be very misleading to our colleague from Virginia to go very much further than that.

After we passed it out you would have a whole year at it, and I think you could reasonably hope there would be a chance to have it on the floor.

I think a great deal depends on the weight and caliber of evidence that we are able to generate in our hearings. At least in my mind, in thinking of which way to go, I am trying to look for the facts.

I have not made a preconceived judgment as to what ought to be done. I think the Senator from Virginia knows pretty well what the situation is.

Mr. THURMOND. Mr. President, as I understand it, the distinguished and able Senator from Indiana is willing to take up this matter in subcommittee, hold hearings and get action by the end of the year in the subcommittee. Then it will be up to the full committee as to what is done there. Is that a correct assessment.

Mr. BAYH. That is accurate.

Mr. THURMOND. That is a correct assessment. So, in other words, he will do what he can to expedite the matter, hold hearings, and have the subcommittee take action this year.

EXECUTIVE SESSION

ESTATE AND GIFT TAX TREATY WITH THE FRENCH REPUBLIC; PROTOCOL TO THE INCOME TAX CONVENTION WITH THE FRENCH REPUBLIC; THIRD PROTOCOL TO THE 1975 TAX CONVENTION WITH THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, AS AMENDED; ESTATE AND GIFT TAX TREATY WITH THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; TAX CONVENTION WITH THE REPUBLIC OF KOREA; TAX CONVENTION WITH THE HUNGARIAN PEOPLE'S REPUBLIC

The PRESIDING OFFICER. The Chair is sorry to break in, but by previous order of the Senate he must do so at this time.

Under the previous order, the hour of 1:50 p.m. having arrived, the Senate will now go into executive session and proceed to the consideration of six treaties: Executive J (96th Congress, 1st session), Estate and Gift Tax Treaty with the French Republic; Executive K (96th Congress, 1st session), Protocol to the Income Tax Convention with the French Republic; Executive Q (96th Congress, 1st session), Third Protocol to the 1975 Tax Convention with the United Kingdom of Great Britain and Northern Ireland, as amended; Executive R (96th Congress, 1st session), Estate and Gift Tax Treaty with the United Kingdom of Great Britain and Northern Ireland; Executive P (95th Congress, 2d session), Tax Convention with the Republic of Korea; and Executive X (96th Congress, 1st session), Tax Convention with the Hungarian People's Republic. Debate thereon will be limited to a total of 10 minutes, to be equally divided and controlled by the Senator from New York (Mr. Javits) and the Senator from Idaho (Mr. Church).

Who yields time? If no time is yielded, the time runs equally against both parties.

Mr. CHURCH. Mr. President, today the Senate has before it six tax treaties or protocols to existing tax treaties. These are: First, a protocol to the existing income tax treaty with France, second, an estate and gift tax treaty with France, third, a protocol to the pending income tax treaty with the United Kingdom, fourth, an estate and gift tax treaty with the United Kingdom, fifth, an income tax treaty with Hungary, and sixth, an income tax treaty with South Korea.

The Committee on Foreign Relations held public hearings on the proposed tax treaties and protocols on June 6, 1979. On June 12, 1979, they were considered by the committee and ordered favorably reported without reservation by a unanimous vote of the committee with a recommendation that the Senate give its advice and consent to their ratification.

The witnesses at the hearings included several experts in the area of international taxation and representatives of several organizations interested in the area as well as witnesses representing taxpayers who would be affected by the treaty. There was a general concensus that these treaties and protocols are sound, that on balance they are beneficial to the United States and its taxpayers, and that they should be approved.

The only objection to the approval of these treaties and protocols was made by the International Association of Drilling Contractors to a provision contained in the protocol to the United Kingdom income tax treaty. That provision would generally allow the United Kingdom to tax U.S. independent drilling contractors operating in its waters and would allow the United States to tax British contractors operating in U.S. waters. Following the hearings, however, the objection to the approval of the treaty was withdrawn by the U.S. drilling contractors. A telegram to that effect appears at page 58 of the committee report accompanying the United Kingdom protocol.

In view of the absence of controversy as to the approval of these treaties and protocols, I will keep my comments very brief. I would, however, like to comment on one aspect of the protocol to the pending United Kingdom income tax treaty.

The pending treaty was approved by the Senate during the last Congress with a reservation which deleted a provision which would have restricted the manner in which States of the United States could tax British multinational corporations through the application of the unitary method of apportionment. This protocol deletes that State taxation provision in conformity with the Senate's reservation. In the testimony on this protocol, those who wish to see limitations placed on the rights of the States to use the unitary method have made it clear that they support the approval of this protocol. However, they have also attempted to utilize this protocol as a vehicle to promote Federal legislation which would prohibit the States from using the unitary method.

I wish to make it clear that while I agree that this is an area that should be investigated with an open mind by the committees which would have jurisdiction, it is not a simple question. Any limitation by the Federal Government on the taxing powers of the States raises a number of very serious issues. There is the obvious issue of federalism—the Federal Government should interfere with the States' taxing powers only with great reluctance. This is particularly true in an area such as this where there is a great deal of controversy as to whether the unitary method used by the States or the arm's-length method used by the Federal Government is the better method of apportionment of income.

In this connection, I ask unanimous consent to have printed in the Record a letter from the California Franchise Tax Board challenging the arguments made by those testifying in favor of Federal legislation limiting the rights of the States to tax.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Franchise Tax Board,
Sacramento, Calif., June 13, 1979.

In reply refer to 410:BFM:kf
Hon. Frank Church,
Chairman, Senate Foreign Relations Committee, Russell Senate Office Building, Washington, D.C.

Dear Senator Church: Thank you for the opportunity to testify at the Committee's hearing on June 6, 1979, and for the opportunity which you extended to us to submit supplemental comments.

In reviewing the testimony offered by Senator Mathias and Marlow W. Cook, we are struck by the apparent basic misconception of the unitary method upon which their testimony is based. The unitary method does not place a tax on the worldwide income of any business enterprise. The unitary method is a means of determining the amount of income which is properly attributable to a geographic area. As stated in Section 25101, California Revenue and Taxation Code, it is a means of determining a tax "measured by the net income derived from or attributable to sources within this state." This fact has been recognized by the United States Supreme Court for over 50 years, *Bass, Ratcliffe & Gretton, Ltd.* v. *State Tax Commissioner*, 266 U.S. 271 (1924), *Underwood Typewriter Company* v. *Chamberlain*, 254 U.S. 117 (1920), and is, in fact, constitutionally mandated when the corporation subjected to tax is not domiciled or incorporated in the state.

To state that "international multiple taxation is the inevitable result, if not the fundamental purpose, of the unitary tax system" is absurd.

Senator Mathias, in his statement, alleges that the opponents of Article 9(4) conceded that the question of the application of the unitary method should be legislatively addressed. This is not correct. The states objected to the use of the treaty process to circumvent full consideration by both Houses of Congress. The states, however, do not believe that a problem exists which requires federal legislation. A review of the printed record of the hearings held by Senator Mathias on what is currently Senate Bill 983 will reveal that not a single state supported the legislation proposed in the income tax area.

Mr. Cook's testimony reveals his misunderstanding of California's application of the unitary method. Under California court decisions the use of the unitary method is required, *Honolulu Oil Corp.* v. *Franchise Tax Board*, 60 Cal. 2d 417 (1963), *Superior Oil Co.* v. *Franchise Tax Board*, 60 Cal. 2d 406 (1963).

The Franchise Tax Board has no discretion in this matter. (The language authorizing separate accounting in Section 25137, California Revenue and Taxation Code, applies only where segments of a corporation are parts of different unitary businesses or give rise to nonbusiness income.) California's test of what constitutes a unitary business remains the same. Either the three-unities test, *Butler Bros.* v. *McColgan*, 17 Cal. 2d 664, 315 U.S. 501 (1941) or the contribution and dependency test, *Edison California Stores, Inc.* v. *McColgan*, 30 Cal. 2d 472 (1947) must be met. Ownership of more than 50 percent of the stock of a subsidiary is not sufficient to establish unity. In point of fact, a court in San Francisco has recently ruled that a 51.5 percent owned subsidiary was not unitary even though the other unitary elements were satisfied. *ASARCO* v. *Franchise Tax Board*, San Francisco Superior Court Docket No. 712–405.

Mr. Cook also states that the states are seeking to tax income which the Internal Revenue Service has decided is foreign source income under section 482 of the Internal Revenue Code. As pointed out previously, the unitary method does not tax such income. But more importantly, the Internal Revenue Service has not classified such income as foreign source income under Section 482. The taxpayer has so classified the income, and the Internal Revenue Service, in order to attack such characterization, must rely on Section 482; but this is a far different state of facts than Mr. Cook's assertion that "the Secretary of Treasury has determined, for federal income tax purposes, income properly should be allocated under Section 482 of the Internal Revenue Code to foreign operations . . ." Finally, Mr. Cook should examine the summary and explanation of President Carter's 1978 Tax Program where the Treasury specifically criticizes ineffectiveness of Section 482. (Pages 282–297)

Finally, Mr. Cook refers to the United States Supreme Court's recent decision in *Japan Lines, Ltd.* v. *County of Los Angeles*, (April 30, 1979). Even a cursory reading of the opinion makes it obvious the Court was addressing a very limited question involving *ad valorem* property taxes and specifically so limited its decision. Of particular note was the Court's failure to even discuss, let alone overrule *Bass, Ratcliffe & Gretton, Ltd.*, *supra*, a decision dealing directly with the imposition of a state income tax on a foreign country corporation, utilizing a formula method to determine the measure of the tax. The Court has clearly not ruled the unitary method inapplicable to foreign corporations. If, in fact, the Court should so rule, then the need for Article 9(4) and Senate Bill 983 would be obviated.

In conclusion, we urge that the Senate Foreign Relations Committee approve the United States–United Kingdom Tax Convention and the Protocols attached thereto without any reservation or recommendation on Senate Bill 983.

Very truly yours,

BRUCE W. WALKER,
Chief Counsel.

Mr. CHURCH. In conclusion, these tax treaties and protocols will be of substantial benefit to U.S. taxpayers doing business or living in the countries involved. The proposed treaties and protocols with the United Kingdom and France represent important modernizations in our treaties with those countries and reflect changes in the domestic laws of the countries involved since the treaties were last negotiated. For example, under the pending United Kingdom Income Tax Treaty which is contingent upon approval proposed United Kingdom protocol, U.S. investors in United Kingdom corporations will receive British tax refunds at a rate of approximately $100 million a year. The proposed French protocol would alleviate double taxation of U.S. citizens resident in France which would otherwise result from recent changes in French jurisdictional tax rules. The proposed treaties with Korea and Hungary represent important expansions of our treaty programs with developing countries and countries of eastern Europe.

Mr. President, these treaties are significant steps in reducing non-tariff barriers to trade and in alleviating double taxation. I urge that the Senate give its advice and consent to their ratification.

The PRESIDING OFFICER. The time of the Senator from Idaho has expired. The Senator from New York has 4 minutes.

Mr. JAVITS. Mr. President, I rise in support of the six tax treaties with the United Kingdom, France, South Korea, and Hungary that are before us today. The Foreign Relations Committee has held hearings on all the treaties and has ordered them favorably reported by a vote of 13 to 0, with the recommendation that the Senate give its advice and consent to ratification of each of the Treaties.

While each treaty is significant with respect to the regularization of tax relations between the United States and the particular country, it is the United States-United Kingdom Tax Treaty that has received special attention for well over 2 years. While I advocated last year ratifying that tax treaty without reservation, I am, nevertheless, pleased that today we will be acting favorably on the amended text.

The problem caused by the continued ability of the states to use worldwide combination under the unitary tax system remains, however. It is imperative that an equitable solution be found since our companies operating overseas may one day find themselves subject to such worldwide combination by political subdivisions of other countries. It will be very difficult for the U.S. Treasury to defend the interests of our corporations against such taxation practices in information tax treaty negotiations until we have resolved the issue in the United States. I call the attention of my colleagues to the fact that, in its report on the United States-United Kingdom Tax Treaty, the Foreign Relations Committee urged the tax writing Committees of the Congress—the Finance Ways and Means Committees—to hold hearings on S. 983, the interstate taxation bill introduced by Senator MATHIAS, which would accomplish legislatively for all nations what article 9(4) of the United States-United Kingdom Tax Treaty sought to accomplish for the United Kingdom. Resolution of this issue is critical for the maintenance of a favorable climate for foreign investment in the United States, and the Congress should have the opportunity to take a position on the merits of the issue.

While the issues raised by article 9(4) will continue to be important and must be resolved, we have before us a balanced tax treaty, which provides substantial benefits to both the United States and the United Kingdom. Once ratified here, I hope that the Parliament will consider expeditiously the treaty so that these benefits can begin to accrue to each side.

Both the number of tax treaties we have before us today and of those that are in the various stages of negotiation underline the new-found importance of these treaties in resolving the conflicts that result from different national taxation systems. The existence of such treaties facilitates the free flow of capital among countries and, hence, is an important element in the growing interdependence of the various national ecenomies.

To assist the Senate with its constitutional duties, I shall ask the chairman of the Foreign Relations Committee to have the committee undertake a thorough study of our tax treaty program. Such an in-depth analysis, which would include hearings with expert witnesses from the administration and private sector, could focus on the emerging requirements for tax treaties resulting from these conflicts in national taxation systems and whether the procedures followed by the Treasury for both public and congressional involvement in the tax treaty making process are adequate and whether and how they could be improved. I look forward to working very closely with the distinguished chairman of the Foreign Relations Committee as well as with the international tax experts of the Joint Committee on Taxation in this endeavor.

Mr. WALLOP. Mr. President, the United States-United Kingdom Tax Treaty has been the subject of considerable controversy, particularly its attempted limitation on the States in taxing foreign source income. When the Senate considered the treaty last June, article 9(4) was essentially removed by reservation. During Senate consideration at that time, some Senators argued that the appropriate forum for discussions of limitations on the States should involve both Houses of Congress.

In the March 8, 1977 House Ways and Means Committee report dealing with State taxation of foreign source income, several pertinent questions were addressed. I ask unanimous consent that part IV of the report (pages 25–30) be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. I also would like to point out that Senator MATHIAS has introduced legislation, S. 983, which addresses the problem of States' rights to use the worldwide combined reporting system. Because of the controversy and complexity of the issue, I hope that Congress will have an opportunity to fully examine this question.

EXHIBIT 1

IV. STATE TAXATION OF FOREIGN SOURCE INCOME

Present law and background

General structure of State taxation of corporations.—The question of State taxation of foreign source income is one aspect of the larger question of State taxation of businesses operating in more than one State. This larger question involves the problem of determining a State's jurisdiction for taxing a corporation's income and uniform rules for apportioning and allocating that income among the States in which a corporation does business. Of the 45 States which impose a corporate income tax, all use some kind of formula to apportion business income between the various States in which a corporation operates. However, the specific formula used varies substantially from State to State.

In determining income earned within a State, most States (30 out of 45) use some variation of a basic three-factor apportionment formula. Under this formula the income of a corporation is apportioned to each State according to the average ratio of three factors: the sales, payroll, and property values of the corporation. For example, a corporation which has one-half of the value of its property, three-fourths of its payroll, and one-fourth of its sales in a particular State would take the average of these three fractions (one one-half) to determine the amount of income subject to tax in that State.[1]

A State's apportionment formula is usually applied only to income of a corporation where the business activity from within the State is dependent upon, or contributes to, business activities of the same corporation outside of the State. Ordinarily, in a case where the business activity in the State is unrelated to other businesses of the corporation outside of the State, all of the income from that business within that State is allocated to that State (and the income from the other businesses is not allocated to the State).

Some States, primarily California and Oregon, have adopted what is known as the "unitary method" of applying the three-factor apportionment formula. Under this method the formula is applied not only to the income of the specific corporation operating in the State, but also to any income of related corporations (subsidiaries, parent corporations, or brother-sister corporations) where the related corporations' activities outside of the State are dependent upon or contribute to the business of the corporation within the taxing State.

In many States, not all of the income of a corporation is subject to that State's apportionment formula. For example, in many States passive income such as dividend income is allocated entirely to the State of the "commercial domicile" (or in some cases the State of the "principal business location") of the corporation and is thus excluded from the income subject to the apportionment formula.

Taxation by States of foreign source income.—Virtually all States include the income of foreign branches of domestic corporations in the income which is subject to their apportionment formula. For example, if a corporation had two-thirds of its sales abroad, but the other one-third of its sales, one-half of its property, and two-thirds of its payroll in one State, the corporation would be taxed on one-half of its income by that State.

In those States which have adopted the unitary method and thus apply their apportionment formula to income of a related group of corporations, the income of foreign affiliates of U.S. corporations is subject to apportionment if the activities of the foreign affiliates are dependent upon or contribute to the business of the corporation within the taxing State. These States thus treat income of foreign corporations related to U.S. corporations in the same manner as most States treat income of foreign branches of U.S. corporations.

Dividends of a foreign subsidiary are sometimes subject to State tax when received by a domestic corporation. In these cases the dividends are taxed in the same manner as dividends from domestic corporations (i.e., taxed by the State where the corporation is commercially domiciled or has its principal place of business, added to the income subject to the apportionment formula of the taxing State, or, in some cases, taxed in both States). However, many States do not significantly tax any dividends from related corporations.

Previous attempts to modify present law.—As a result of court decisions in the late 1950s and early 1960s which expanded the constitutional limits of a State's jurisdiction to tax corporations with minimal levels of economic activity within the boundaries of that State, Federal legislation was enacted which required that a corporation at least accept and approve sales orders within any State before that corporation can be subjected to the income tax of that State. In more recent years, legislation mandating greater uniformity in the rules for State taxation of corporations has been introduced and studied. One such bill, which was reported by the House Judiciary Committee, passed the House in 1969 but was not enacted.

In 1969, a group of States reacted to the possibility of Federal legislation by adopting a multi-state tax compact, which established the Multistate Tax Commission whose duties are to establish uniform income tax regulations, auditing standards and tax forms for member States. Presently, 20 States are members of the compact (the majority of the States are Midwestern and Western States). Under the compact, the regulations of the Multistate Commission are effective in all member States, but any member State can adopt overriding regulations if they choose. Since most of these States have adopted some overriding regulations, the methods of taxing corporations still vary substantially among States which are members of the compact.

Issues

Although a larger controversy exists over the States' jurisdiction to tax income and the need for uniform rules among the States, the basic issue before the task force was whether the Federal Government should prohibit States (a) from taxing foreign source income directly, or (b) from taking into account foreign source income under the unitary method (as described above).

Alternatives

Limitations in applying the unitary method of apportionment.—States could be prohibited from requiring the reporting of income and related items of foreign corporations even though related to U.S. corporations which operate within that State. Under this proposal, the unitary method would not be applied either to foreign subsidiaries of U.S. corporations, to foreign parents of U.S. subsidiaries, or to other affiliated foreign corporations. This would not, however, prevent a State from taxing dividends paid by foreign subsidiaries, interest, or royalties received from foreign affiliates or other foreign sources, nor would it prevent the application of the three-factor formula to branch income from foreign operations of U.S. corporations operating in the State.

The reporting of income and related items of foreign corporations could be limited to activities of U.S. corporations which relate to exports from or imports to the United States, but the treatment of dividends, etc., could remain the same as above for income from other corporations.

The reporting of income and related items could be barred in the case of foreign-owned corporations with affiliates operating in any State, but allowed with respect to foreign subsidiaries of U.S.-owned corporations operating within the State (as would be done with U.K.-owned companies in the proposed convention between the United States and the United Kingdom). Dividends, etc., could remain taxable as above. Under this proposal, in the case of foreign-owned affiliated group of corporations, any State would be limited to applying its apportionment formula to the income of any member of the affiliated group operating within that State or other States.

Limitations on direct taxation of foreign source income.—States could be prohibited from directly taxing in any way foreign source income. This means they not only would not tax income through the unitary method, but also would not tax dividends from foreign subsidiaries, foreign source interest or royalties, or branch earnings of U.S. corporations. The States could also be prohibited from taxing foreign income of individuals.

States could be prohibited from taxing through the unitary method foreign affiliates not doing business in the State or from taxing dividends from foreign affiliates of U.S. companies, but allowed to tax interest or royalties or branch income.

Analysis

Limitations on the unitary method of apportionment.—For Federal income tax purposes, an apportionment formula is not used to divide income and costs between United States and foreign countries. Instead, income and costs are allocated between related companies using the criterion of what the costs and prices would be between these parties if they were independent parties dealing at arm's length (sec. 482). On the other hand, in computing what portion of the income of a single company is from foreign sources, an allocation of income and deductions approach is used (sec. 861). This approach already produces significant problems when applied at the Federal level and would be virtually impossible to administer at the State level as applied to interstate transactions. Thus, there is no significant disagreement that the States must use some type of apportionment formula (as distinguished from making an allocation of income and deductions by separate accounting), since there would be no practical way of determining what income of a company is earned within a State as opposed to being earned within other States (or in foreign countries).

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[1] The 15 States which do not follow this three-factor formula use other apportionment formulas, some based on property values only and other based on a combination of sales and property or sales and payroll or property and payroll. Even among those States which do use the basic three-factor formula, the manner of measuring the three items in the formula may differ. For example, in some States a sale is taken into account by the State where the sale originated (generally, the location of the seller) while in other States the sale is allocated to the State of destination (generally where the buyer is located).

The rationale presented for using the unitary method to combine the business activities of related corporations which contribute to the business activities of a corporation within a taxing State is that the operations form an integrated business, and whether the business is conducted through a number of separate corporations or through one single corporation should not affect tax liability.

It is disputed whether those States applying the unitary method of taxing corporate business income under an apportionment formula do, in fact, tax the income of related foreign corporations. For example, under the three-factor apportionment formula, if it takes the same dollar amount of sales, the same value of property and the same sized payroll to achieve a given level of income in the foreign subsidiary as it takes in U.S. operations, then no foreign income would be taxed by any State because the three factors would apportion the appropriate amount of income to foreign countries and to the State.

However, it is argued that in many countries abroad wages and property values are lower in proportion to income than in the United States. It is argued that, given these circumstances, the inclusion of foreign corporations under the unitary method of apportionment leads indirectly to State taxation of foreign source income by apportioning too much income to the United States. Whether or not this actually is the result in any specific case depends on whether the proportion of income to wages, property costs and sales in the specific country in which a corporation operates is higher than the proportion of the same items in the United States. In some cases, the unitary method operates to apportion more income to the United States than most people would agree should be so apportioned if each affiliate were treated as an independent entity operating on an arm's-length basis. However, in other cases the application of the unitary method may apportion less income to a State than would be apportioned under other acceptable methods.

An additional problem raised in relation to those States which have adopted the unitary method is the administrative burden which that method places on corporate taxpayers, particularly those which are foreign owned. For example, a corporation with one manufacturing plant in a unitary State has to obtain for that State's tax purposes the income, sales, property and payroll figures of all of its affiliates operating worldwide if the activities of those affiliates are dependent upon or contribute to the activities of the corporation within that State. In the case of a foreign parent corporation, this compliance burden could be particularly costly because a foreign-owned foreign corporation ordinarily would not otherwise keep the books of its operations outside of the United States in terms of U.S. dollars or in a manner which would conform to U.S. accounting concepts.

The need for applying the unitary method may not be as great when taking into account foreign source income than when taking into account income from a number of States. The number of transactions in any State linked to foreign operations is ordinarily substantially fewer than the number of transactions linked to different States. Moreover, since taxpayers are in any event required to allocate income between U.S. and foreign sources for Federal income tax purposes, the States could adopt the Federal rules for apportioning income from foreign transactions between domestic and foreign sources.

Some critics of the unitary method of apportionment would nevertheless permit its use where the States can show that there is less than arm's length pricing in foreign transactions. If the unitary method were allowed only in this case, the State affected to the most substantial extent would be California. California State tax officials estimate that such a limitation would cost that State approximately $125 million in revenue, or about 12 percent of total corporate tax revenues.

It has also been suggested that the application of the unitary method could be limited to those cases where the business activities of the foreign subsidiary are related to exports from or imports into the United States. Export-related transactions generate the most difficult income allocation questions under the Federal tax rules, and thus it is suggested that it is appropriate to allow the States to decide whether Federal rules should be followed in those circumstances.

If the administrative burden which the unitary method causes taxpayers is viewed as the primary problem, the application of the unitary method to foreign corporations owned by foreigners could be prohibited.

Limitations on directly taxing dividends from foreign subsidiaries.—

Except as that result may be achieved indirectly under the unitary system, no State taxes the income of foreign subsidiaries (not doing business with the State) of U.S. corporations as that income is earned; that income is taxed only when it is remitted to a U.S. corporation as a dividend. In those States which tax foreign source dividends, it is argued that double taxation results because no credit is allowed for foreign taxes paid.

The Federal Government taxes dividends from foreign subsidiaries of U.S. corporations when they are brought back to the United States, but allows a foreign tax credit for foreign (national, state and local) income taxes paid by the subsidiary. Thus, to the extent that foreign income taxes do not exceed 48 percent of foreign taxable income, the tax burden on foreign source income also taxed by a State is no greater than the tax burden on domestic source income which is taxed by the Federal Government at 48 percent and by the State as well.

As in the case of State taxation of dividends from domestic corporations, the lack of uniform rules among the States does lead to over-taxation or under-taxation in various cases. If the taxation of dividends of foreign subsidiaries is prohibited, domestic source income in some cases will be taxed more heavily than foreign source income because all income taxes paid to local governments in foreign countries, as well as the income taxes paid their national governments, are creditable against U.S. Federal tax while income taxes paid to U.S., State and local governments are only deductible, and not creditable for Federal purposes.

Recommendations

The task force makes the following recommendations with respect to State taxation of foreign source income:

(1) *Income of foreign affiliates not subject to Federal income tax.*—It is recommended that the States be precluded from taking into account, under the unitary method or any other method, the income of foreign affiliates of corporations doing business within the States until such time as that income is subject to Federal income tax.

(2) *Income of foreign affiliates subject to Federal income tax.*—It is further recommended that no limitation be placed on the power of the States to apply the three-factor formula on a domestic basis, under the unitary method or otherwise, to income of foreign affiliates which had been excluded under paragraph (1) above if and when such income becomes subject to Federal income tax.

Mr. JAVITS. I yield 1 minute to the Senator from Alaska.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Senate will now proceed——

Mr. JAVITS. Mr. President, I ask unanimous consent that I may yield 1 minute to the Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, last year when the United States-Korean Tax Treaty was pending on the calendar, Several Senators expressed their concerns about article 10. This provision raised substantial issues regarding incentives which encourage the construction and operation of foreign-flag vessels and the provision's implication regarding traditional U.S. treaty response to this issue. The Secretary of the Treasury assuaged the Senators' concerns and expressed the Department's endorsement of a strong U.S. merchant marine fleet.

While the Secretary's response addressed the immediate concerns raised by this particular treaty, further questions remain unanswered. I find it disturbing that certain tax code provisions encourage flag of convenience shipping; possibly at the expense of the American maritime industry and the U.S. Treasury. Following are five sets of questions relating to these tax incentives which I would like the Treasury Department to investigate. Responsible congressional action in this area requires the availability of information on existing code provisions and their demonstrated effect on foreign-flag vessels. Attention to these questions will do much to aid Congress in its pursuit of tax provisions which are in the best national interest.

First, what U.S. tax mode provisions currently exist which encourage American shippers to register in a foreign country? How do these incentives change the proportion of U.S. owned and registered ships to flag of convenience vessels? What revenue effect is the result of this change?

Second. To what extent do these tax provisions affect the number of vessels built in U.S. shipyards? Assuming a reduction in American vessels built, what repercussions are there for employment, both in the shipbuilding industry and related industries, such as steel? Do these losses represent a substantial reduction in revenues to the U.S. Treasury?

Third. Foreign flag shippers need not comply with U.S. laws and are therefore not required to abide by our labor laws nor our environmental safety standards. To what extent does this fact discourage the hiring of American labor and subsequently affect transfer payments from the U.S. Treasury: Does the escapement from U.S. environmental safety standards endanger our marine and coastal environments thus posing potential economic loss for both shipping concerns and the U.S. Treasury?

Fourth. Given that the flag of convenience vessels must abide by the shipping requirements for the country in which the vessels are registered, to what extent are trade routes impacted? Is there an impact on the quantity or variety of goods shipped to or from the United States? Is there a revenue loss as a result?

Fifth. Does the use of foreign flag vessels influence our balance of payments?

It is my belief that encouragement of foreign flag vessels may be detrimental to the maintenance of a strong merchant fleet and may undermine efforts to deal with unemployment, environmental safety, and the trade deficit. A thorough study of the composite effects of this encouragement will be invaluable to Congress as we pursue legislation which is in our best national interest. I urge the committee to join with me in requesting answers to these questions.

UNITED STATES-UNITED KINGDOM TAX TREATY

Mr. MORGAN. Mr. President, last summer, during the initial consideration of the United States-United Kingdom Tax Treaty, I advised my colleagues after the inclusion of the Church reservation, that by voting for that reservation they had placed themselves at the mercy of the British Parliament not to reconsider their own tax concessions to us and that we were thus relying on their good will which we were not willing to show ourselves. I forecast that this issue is far from closed and expressed that I had no doubt that this body will again be asked to deliberate a new tax treaty with the United Kingdom, one which will unfortunately be less favorable than the version which was originally before us last summer.

Evidently, there is considerable concern among the members of the British Parliament concerning the use of the worldwide combined reporting system of taxation assessment.

I would ask unanimous consent that a copy of the Early Day Motion filed in the House of Commons on June 11, 1979, indicating the support of 59 members of the House of Commons, be printed in the Record in connection with the treaty. I understand that now more than 100 members of the House of Commons have expressed their support of that motion.

There being no objection, the motion was ordered to be printed in the Record, as follows:

Double Taxation Relief Treaty Between the United States of America and the United Kingdom

Mr. Geoffrey Rippon, Mr. William Clark, Mr. Peter Hordern, Mr. Michael Grylls, Mr. Roger Moate, Mr. Patrick McNair-Wilson, Mr. Peter Emery, Mr Bentley Heddle, Mr. John Hunt, Mr. Mark Wolfson, Sir Anthony Meyer, Mr. Peter Rost, Mr. Robert Dunn, Mr. John Corrie.

Mr. Michael Ancram, Mr. Graham Bright, Mr. Eldon Griffiths, Mr. Christopher Murphy, Mr. John Stokes, Sir Nigel Fisher, Mr. Geoffrey Dodsworth, Mr. Charles Irving, Mr. Nicholas Winterton, Mr. Tom Normanton, Mr. Ian Grist.

Mr. Robert Rhodes James, Sir John Langford-Holt, Mr. David Price, Mr. Tim Rathbone, Mr. John Hannam, Mr. Hal Miller, Mr. Walter Clegg, Mr. Michael Shaw, Mr. A. P. Costain, Mr. Victor Goodhew, Mr. Malcolm Thornton, Mr Michael Mates, Mr. John Loveridge, Mr. Jim Spicer, Mr. Michael Brown, Mr. Timothy Eggar, Mr. Ralph Howell.

Mr. Robert McCrindle, Mr. Sydney Chapman, Mr. John Selwyn Gummer, Mr. Keith Wickenden, Mr. Ivan Lawrence, Mrs. E. Kellett-Bowman, Mr. Keith Proctor, Mr. Michael Colvin, Mr. R. Graham Page, Mr. John Ward, Mr. Richard Body, Mr. Barry Henderson, Mr. Ivor Stanbrook, Mr. Robert Atkins, Mr. John Spence, ★59, Mr. Alastair Goodlad, Mr. Charles Fletcher-Cooke.

That this House is of view that a vital feature of any relationship between the United States of America and the United Kingdom regarding relief from double taxation should be a clear understanding prohibiting the use of the worldwide combined reporting system in assessing the tax of corporations doing business in both countries, such as would have been accomplished by Article 9(4) of the original Double Taxation Relief Treaty between the United States of America and the United Kingdom; and urges Her Majesty's Government to do its utmost to ensure that any contrary arrangement be rectified so as to avoid a harmful international precedent and serious consequences for both British and United States companies with overseas interests.

★The figure following this symbol gives the total number of names of Members appended, including those names added in this edition of the Notices of Questions and Motions.

Mr. MORGAN. Mr. President, it will note that they feel that a vital feature of any relationship between the United States of America and the United Kingdom regarding relief from double taxation should be a clear understanding prohibiting the use of the worldwide combined reporting system in assessing the tax of corporations doing business in both countries.

Ultimately, I would prefer to have the tax issue raised in a bill rather than a treaty so that both Houses would have an opportunity to discuss the fiscal implications of this issue. I understand that Senator Mathias has introduced S. 983, section 303 of which would seek to eliminate double taxation by prohibiting the use of a worldwide combined reporting system. It appears essential to the adoption of the treaty by Parliament that this bill receive a complete review. Until that occurs it still appears that this issue is far from closed.

UNITED STATES-UNITED KINGDOM INCOME TAX TREATY

● **Mr. PELL.** Mr. President, it is with great satisfaction that I support the third protocol to the Income Tax Treaty between the United States and the United Kingdom. Even before the treaty itself was submitted to the Senate last year, I was active in support of the effort embodied in the second protocol to this treaty to correct a serious inequity affecting U.S. citizen women married to U.K. subjects residing in Britain. I have, therefore, a very direct and personal interest in this treaty.

Last year, I was the majority floor manager for this treaty, which received the advice and consent of the Senate subject to a reservation which had the effect of nullifying article 9(4). This article would have restricted the power of individual States to apply the "unitary method" of taxation to U.K. companies. I am pleased that the British Government agreed to renegotiate this provision in the form of the third protocol, as an up-to-date agreement on income taxes is important to individuals and corporations of both countries.

In last year's debate on article 9(4), a major argument advanced by the opponents of this article was that States employing the "unitary method" of taxation should not be forced to abandon that system of taxation with respect to United Kingdom corporations through a treaty. Instead, it was argued, the limited change provided for in article 9(4) should be addressed through legislation involving the House as well as the Senate. Thus, the senior Senator from Idaho, who sponsored the reservation on article 9(4), said at the time the Senate was considering the treaty that "article 9(4) could serve as a precedent for fashioning internal tax policy via agreements with foreign governments. As such, a new method will have been devised for obtaining legislation through the treaty process, circumventing the tax-writing committees of both the House and the Senate."

I am confident that the Senate will give its advice and consent to the third protocol that is before us today. I hope, therefore, that with the approval of this protocol, early consideration will take place of the kind of legislation on taxation methods that Senator Church and other opponents of article 9(4) spoke of last year.

One such legislative approach is S. 983, sponsored by Senator Mathias. Other approaches may also be developed, but the important thing in my view is that with the approval of the third protocol, the Senate should take a close look at the "unitary method" of taxation as it relates to foreign corporations.●

UNITED STATES-UNITED KINGDOM TAX TREATY

● **Mr. HUDDLESTON.** Mr. President, earlier this month I had the opportunity to meet Michael Grylls, Member of the House of Commons. Mr. Grylls was in Washington to attend the hearing on the United States-United Kingdom tax treaty before the Senate Foreign Relations Committee. During our conversation Mr. Grylls made it plain to me that the British consider an ultimate resolution to the problem posed by the use by certain States of the worldwide combined reporting system method of tax assessment essential to any relationship regarding double taxation between the United Kingdom and the United States. He advised me that an early day motion had been filed in the House of Commons which clearly made that point.

I submit for the Record a copy of the statement of Michael Grylls, Member of the House of Commons, which was included in the testimony of Senator Mathias before the Senate Foreign Relations Committee on June 6, 1979, concerning the United States-United Kingdom tax treaty. A copy of the early day motion is included in that statement.

The material follows:

Statement of Michael Grylls MP, Regarding the Double Taxation Relief Treaty Between the United States and the United Kingdom

I have been a Member of the House of Commons since 1970. As I was involved in private business prior to my first election I have been vitally interested in the relation of government and industry, both nationally and internationally. I am a member of the Conservative Commonwealth Council, a Fellow of the Royal Institute of International Affairs, and have served as Vice-Chairman of the Conservative Industry Committee.

Thus, I followed the discussions in Parliament regarding this Treaty between the United States and the United Kingdom quite closely, with particular attention to the treatment in the Treaty of the use of the worldwide combined reporting systems in assessing the taxation of companies doing business in both countries, even elsewhere. When the House of Commons considered the Treaty on January 12, 1977, it was pointed out that no complaint was being made in England about reducing barriers to international investment and that the consequences of the Treaty, especially regarding remittances, looked far more favourable to the United States and its Internal Revenue Service, than to the United Kingdom.

Article 9 (4) of the Treaty was considered to be an essential part. Its importance was due to the fact that it would put right the plainly wrong situation wherein certain states in the United States could impose taxes on companies not by virtue of their operation in a single state alone, but by the size of their operations throughout the world.

When we considered the Treaty we did so without the benefit of knowing how the United States Senate would treat the Treaty. That body subsequently removed Article 9 (4). A third Protocol to that effect has resulted and is now before the United States Senate for ratification. Of course, if approved by the Senate, approval must also be obtained from Parliament.

There is substantial evidence that the absence of an Article 9 (4) type prohibition in the Treaty will cause it to be subject to very close scrutiny and enlarged debate as we consider it in the House of Commons. The confederation of British industry, which is the leading representative body of British industry, both public and private, has recently written to the Chancellor of the Exchequer, Sir Geoffrey Howe, suggesting that the Treaty should not be adopted in its present form. The confederation pointed out to the Chancellor that the "combined reporting unitary system" of taxation leads to multiple taxation and in fact has been condemned by the Organisation for Economic Co-operation and Development of which both the United States and the United Kingdom are members. I understand that the United States Supreme Court has in a recent decision also condemned taxation by states upon instruments of foreign commerce when it results in double taxation or prevents the United States from speaking in one voice regarding such international activities.

The Chairman of the Bowater Corporation Limited, The Rt Hon Lord Erroll of Hale, in his statement contained in its 1978 Annual Report and Accounts, said that such taxation systems "if widely adopted, could cause groups of companies which operate internationally to suffer multiple taxation on their profits. This would clearly be both unjust and inimical to the proper flow of international investment".

A resolution has been placed before the International Chamber of Commerce which makes clear the need for one voice in matters on international taxation by political subdivisions and urges all possible measures be taken to ensure that the terms of an agreement or treaty dealing with taxation on income shall bind all authorities having jurisdiction within the boundaries of each contracting state.

Attached to this statement is a copy of an Early Day Motion which will be introduced in the House when it returns from recess on June 11, 1979. That motion reveals that prohibition of the use of the worldwide combined reporting systems of taxation assessment is essential to any United States–United Kingdom relationship regarding multiple taxation. Personally, I have been amazed at the short-sighted view taken by the Third Protocol and have marveled that my country and the United States which together have the largest numbers of multinational corporations in the world, and thus the most to lose from setting such a precedent, would negotiate such an open ended arrangement making available this practice of multiple taxation to other countries and their political subdivisions.

I have reviewed the hearings of the Senate Foreign Relations Committee regarding the Treaty and read the pages of the Congressional Record containing the debate concerning its ratification. I noticed an admission among those who expressed opposition to Article 9 (4) that there was a problem caused by the unrestrained use of the worldwide combined reporting system and that the proper avenue towards a solution was one of legislation which would be considered by both Houses of Congress.

I am aware that legislation has been introduced in the United States Senate sections of which address this problem. From my understanding of the recent United States Supreme Court decision it appears that if the Treaty does not deal with this problem, and the United States Congress otherwise fails to address it, then aggrieved companies will certainly be in a position to resort to the United States courts for relief though costly and time consuming.

British industry and Parliament shall be following with great interest the discussions of the Treaty by the Senate Foreign Relations Committee and the full Senate. Indications and assurance that the problems caused both the United States and the United Kingdom by the use of the worldwide combined reporting system are being rectified either in the Treaty or by legislation which will be passed by the United States Congress will be quite helpful in obtaining approval of any treaty submitted to Parliament for approval.

HOUSE OF COMMONS,
London SWIA OAA.

EARLY DAY MOTION TO BE SUBMITTED TO THE HOUSE OF COMMONS ON 11TH JUNE 1979

That this House is of the view that a vital feature of any relationship between the United States of America and the United Kingdom regarding relief from double taxation should be a clear understanding prohibiting the use of the worldwide combined reporting system in assessing the tax of corporations doing business in both countries, such as would have been accomplished by Article 9(4) of the original Double Taxation Relief Treaty between the United States and the United Kingdom; and this House urges Her Majesty's Government to ensure that arrangements be made to rectify a harmful international precedent and serious consequences for both British and United States companies with overseas interests.●

● Mr. MATHIAS. Mr. President, I would like to make a few comments about the article 9(4) issue in the United Kingdom tax treaty, not to urge that the treaty be altered again, but rather to urge support for my effort to address the problem legislatively. I have introduced S. 983, the interstate taxation bill, and that bill, in section 303, would accomplish for all nations what our negotiators attempted to achieve in article 9(4) for the United Kingdom alone.

The legislative approach not only will resolve the problem across the board rather than on a treaty-by-treaty basis, but it will also answer the requests of those House Members who, during the Senate debate on the treaty, spoke with me about the possibility of substituting the bill for article 9(4), because a legislative approach would give them an opportunity to address the issues raised by the article.

Since the introduction of the bill, several events have taken place which should give increased impetus to such a legislative solution. The Supreme Court of the United States in the recent *Japan Line, Ltd.* v. *County of Los Angeles* case No. 77–1378, decided April 30, 1979, seems to be moving in the direction of ruling that the use of worldwide combined reporting system of taxation violates the commerce clause of the Constitution.

As indicated in the statement of Michael Grylls, Member of the House of Commons of Great Britain, which was included in my testimony before the Senate Foreign Relations Committee regarding the treaty, Parliament will not accept the treaty as it is now drafted unless it receives assurances that a legislative resolution of the problem is imminent. In fact, the Confederation of British Industry, which is the equivalent of the U.S. Chamber of Commerce, has recommended that the treaty be renegotiated if the legislation fails of passage. Also, an early day motion has been filed in Parliament and has, at last count, 100 supporters. That motion would express the sense of the House of Commons that the worldwide combined reporting system should be eliminated.

Of course, this problem concerns other countries and their relations with the United States and U.S. corporations. The United States must speak with one voice in its foreign relations, and the Constitution requires that the Federal Government provide that voice. There is also the possibility that, if the United States continues to allow more than one voice in taxation of international enterprise, other countries and their political subdivisions will follow suit.

I would like to quote from page 6 of the report of the Committee on Foreign Relations on the third protocol to this treaty, June 15, 1979:

> The [Foreign Relations] Committee urges the tax-writing committees of the Congress—the Finance and the Ways and Means Committees—to hold hearings in the very near future on S. 983 in order to permit all sides of the issue to have their views known for the record. In addition, such legislation will give the Congress, which has the responsibility to resolve on the federal level inconsistent state taxation policies, the opportunity to take a position on the merits of the issue.

Keeping these considerations in mind, I look forward to complete and adequate hearings on S. 983 in September so that we can move forward in solving this serious problem and furnish the British Parliament with sincere assurances that we understand and appreciate the gravity of the situation and are striving toward a solution.●

● Mr. GLENN. Mr. President, I supported the United States-United Kingdom tax treaty when it was considered by the Senate in June of 1978. During the consideration of that treaty in the Foreign Relations Committee, I also favored its approval without a reservation to article 9(4), a provision which would have restricted the ability of a State to use the worldwide combined reporting system in assessing the State income tax liability of a United Kingdom corporation. That article, of course, was removed from the treaty by such a reservation.

The controversial feature of the worldwide combined reporting system is its extraterritoriality. The apportionment calculation under this unitary method of taxation is applied, not simply to the corporation which is doing business within the State, but also to affiliated corporations which may not be doing any business in the State, or in the United States for that matter. This extension of State taxing power through the unitary method to foreign corporations not doing business in the State, or perhaps in the United States, could subject them to double taxation. That causes concern.

Since the Senate considered this matter in June of 1978, there have been developments of which we should be cognizant. A recent decision of the U.S. Supreme Court in the case of *Japan Line, Ltd.* v. *County of Los Angeles*, No. 77-1378, which was decided on April 30, 1979, has established that when a State seeks to tax the instrumentalities of foreign, rather than interstate, commerce, a court must first inquire whether the tax creates a substantial risk of international multiple taxation, regardless of apportionment. Second, that decision holds that the Court must inquire whether the tax prevents the Federal Government from "speaking with one voice when regulating commercial relations with foreign governments."

More recently, the Supreme Court has decided to hear an appeal brought by Mobil Oil Corp. from a decision of the supreme court of Vermont that deals with the issue of whether it is constitutional for a State to tax dividends from foreign subsidiaries and investments received by corporations that are not based in the State.

Also, Senator Mathias has introduced a bill, S. 983, which provides in its section 303 for a prohibition against the use of the worldwide combined reporting system by States in assessing the tax of corporations doing business in more than one country, I feel that the Senate should give its fullest consideration to this issue, given the recent history of Supreme Court actions.●

UNITED STATES-UNITED KINGDOM TAX TREATY

Mr. PERCY. Mr. President, the Senate is today voting on the third protocol to the United States-United Kingdom tax treaty. When the treaty itself was considered by the Senate a year ago, a reservation was adopted which removed article 9(4) dealing with the use of unitary taxation formulas by the individual States. I regretted and spoke against that action at the time.

The unitary taxation issue is still very much with us however, and an indication of Congress intent to deal equitably with it is key to the final ratification of the treaty by the United Kingdom.

A legislative solution to this issue is pending before the Congress and strong interest in it has been expressed by Members in both Houses. This measure, section 303 of S. 983, introduced by Senator Mathias, prohibits the use of the worldwide combined reporting system by the States. States would thus be required to utilize the same method of taxing multinational corporations as that utilized by the Federal Government. This change is considerably more equitable than the unitary systems now employed by a very few States and will, in my opinion, prove to be more beneficial to the economies of the States than continued or expanded use of the unitary system would be.

I understand that the Finance Committee intends to hold hearings on S. 983 and I urge my colleagues there to act expeditiously on section 303.

ESTATE AND GIFT TAX TREATY WITH THE FRENCH REPUBLIC

The PRESIDING OFFICER. The resolutions of ratification of all six protocols, conventions, and treaties having been read, the Senate will proceed to vote on the first treaty, the estate and gift tax treaty with the French Republic.

The resolution of ratification of Executive J, 96th Congress, 1st session, was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Estates, Inheritances and Gifts, done at Washington on November 24, 1978 (Ex. J, Ninety-sixth Congress, first session).

The PRESIDING OFFICER (Mr. Pryor). The question is on agreeing to the resolution of ratification of Executive J, 96th Congress, 1st session, the Estate and Gift Tax Treaty with the French Republic.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Packwood) and the Senator from South Dakota (Mr. Pressler) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 154 Ex.]

YEAS—98

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—2

Packwood
Pressler

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROTOCOL TO THE INCOME TAX CONVENTION WITH THE FRENCH REPUBLIC

The resolution of ratification of Executive K was read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the 1978 Tax Protocol with the French Republic, together with an exchange of notes relating thereto, done at Washington on November 24, 1978 (Ex. K, Ninety-sixth Congress, first session).

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive K, 96th Congress, first session, the protocol to the Income Tax Convention with the French Republic. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. Packwood), and the Senator from South Dakota (Mr. Pressler) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 155 Ex.]

YEAS—98

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—2

Packwood
Pressler

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THIRD PROTOCOL TO THE 1975 TAX CONVENTION WITH THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, AS AMENDED

The resolution of ratification of Executive Q was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the 1979 Tax Protocol with the United Kingdom of Great Britain and Northern Ireland, done at London on March 15, 1979 (Ex. Q, Ninety-sixth Congress, first session).

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive Q, 96th Congress, first session, the third protocol to the 1975 Tax Convention with the United Kingdom of Great Britain and Northern Ireland, as amended. On this question the yeas and nays have been ordered, and clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 156 Ex.]

YEAS—98

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—2

Packwood
Pressler

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ESTATE AND GIFT TAX TREATY WITH THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

The resolution of ratification of Executive R was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Estates of Deceased Persons and on Gifts, done at London on October 19, 1978 (Ex. R, Ninety-sixth Congress, first session).

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive R, 96th Congress, first session, the Estate and Gift Treaty with the United Kingdom of Great Britain and Northern Ireland. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 157 Ex.]

YEAS—98

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—2

Packwood
Pressler

The PRESIDING OFFICER. Two-thirds of the Senators present and voting, having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TAX CONVENTION WITH THE REPUBLIC OF KOREA

The resolution of ratification of Executive P was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the 1976 Tax Convention with the Republic of Korea, together with an exchange of notes relating thereto, signed at Seoul on June 4, 1976 (Executive P, Ninety-fourth Congress, second session).

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive P, 94th Congress, 2d session, the Tax Convention with the Republic of Korea. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 158 Ex.]

YEAS—98

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—2

Packwood
Pressler

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TAX CONVENTION WITH THE HUNGARIAN PEOPLE'S REPUBLIC

The resolution of ratification of Executive X was read as follows:

> *Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of the Convention Between the Government of the United States of America and the Government of the Hungarian People's Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with an exchange of notes relating thereto, done at Washington on February 12, 1979 (Ex. X, Ninety-sixth Congress, first session).

The PRESIDING OFFICER. The question is on agreeing to the resolution of ratification on Executive X, 96th Congress, 1st session, the Tax Convention with the Hungarian People's Republic. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 159 Ex.]

YEAS—98

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—2

Packwood
Pressler

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I move that the President be immediately notified.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISAPPROVAL OF REORGANIZATION PLAN NO. 2

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, with the approval of the minority leadership and the approval of the Senators who are involved on both sides of the aisle, that the Senate at this time proceed with the consideration of Calendar Order No. 227, Senate Resolution 140, a resolution disapproving Reorganization Plan No. 2, that there be a time limit on that measure of not to exceed 1 hour, and not to extend beyond 4 p.m. today, that the time be controlled by Mr. RIBICOFF and Mr. PERCY, and that the vote occur at 4 p.m. up or down on the resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The resolution will be stated by title.

The second assistant legislative clerk read as follows:

> A resolution (S. Res. 140) disapproving Reorganization Plan No. 2.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the discussion of and votes on the pending issue: Connie Evans, Lawrence Grisham, Alison Rosenberg, and Scott Cohen.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Connecticut yield to me briefly?

Mr. RIBICOFF. I am pleased to yield to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, the order provides for a vote up or down on the pending resolution at 4 p.m. In discussing the matter with the two distinguished Senators, the chairman and the ranking minority Members, Mr. RIBICOFF and Mr. PERCY, respectively, I find that it is very likely that the debate will be concluded prior to that time; so it may very well be that a rollcall vote could occur as early as 3:30 p.m. or even before.

Therefore, I hope that our respective cloakrooms will notify Members that the vote, which is now scheduled for 4 p.m., could very well occur earlier.

Mr. RIBICOFF. Mr. President, reorganization plan No. 2 should significantly improve the way the U.S. Government makes development decisions affecting the Third World. It will do so without costing any additional money, or increasing the number of Federal employees. I urge the Senate to support the reorganization by voting no on this resolution of disapproval.

The plan establishes an independent agency, the International Development Cooperation Agency (IDCA), to better administer and coordinate the bilateral and multilateral portions of this country's development assistance programs. It will serve as a focal point within the U.S. Government for consideration of overall policy matters which significantly affect the developing world. It will establish a single official whom the Congress can hold accountable for the effectiveness of the various aspects of the country's foreign aid program.

At the same time, the reorganization will not impose any additional costs, or increase the number of Federal employees working on development matters. The total size of the staff of the new agency, even when it has reached full strength, will include no more than 35 to 50 professionals. These positions will be transferred from existing positions in State, Treasury, or AID to avoid any net increase in the number of employees on the Federal payroll. The actual cost of implementing the reorganization will also be absorbed by the agencies involved, so there will not even be a one-time cost for implementing the reorganization.

Nor will the reorganization in any other way increase the total cost to the taxpayers of the foreign assistance program. To the contrary, it will only make the current U.S. foreign aid program, and other policies toward the developing world, more effective, so that the American taxpayer gets more for the money it already spends.

Senator Hubert Humphrey had the original idea for this reorganization just before his death. It has been studied and refined for the past 18 months by the executive branch and committees in the Congress. In response to concerns raised by me and other members of the Governmental Affairs Committee, the administration made a number of significant improvements in the plan after it was first introduced.

It was subsequently supported by the Governmental Affairs Committee by a vote of 10 to 3.

The Senate should allow the plan, as now amended, to go into effect.

The following is a more specific description of the proposed reorganization and what it will accomplish.

First. The reorganization will significantly change the way the United States participates in the multilateral development banks—the World Bank Group, the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund. U.S. contribution to these banks represents the largest single part of this country's development assistance program. In 1979, for example, the United States contributed in paid in or callable capital a total of $2.5 billion to the development banks. The reorganization transfers authority over the developmental aspects of our participation in these multilateral development banks from the Treasury Department to IDCA. The reorganization also transfers from the State Department to IDCA budget and policy responsibility for eight international development programs of the U.N. or the Organization of American States. These include the U.N. Development Program, UNICEF, the World Food Program, and the U.N. Disaster Relief Organization.

Currently, the agencies responsible for U.S. participation in these multilateral organizations, Treasury and State, do not have the resources or the expertise necessary to follow these programs closely. For example, only two employees at Treasury are responsible on a full-time basis for reviewing the loans, worth $10 billion or more, that the banks may make in the course of any year. As a result Treasury cannot insure the Congress and the country that U.S. participation in the programs is effective. Recent studies by the Governmental Affairs Committee of U.S. participation in the international organizations, and the development banks, have found a lack of coordination between the bilateral and multilateral programs, and a failure to devote sufficient attention to monitoring U.S. participation in the multilateral organizations.

The reorganization will address these problems by placing a single development agency, with sufficient staff and expertise, in charge of the developmental aspects of our participation in the multilateral, as well as bilateral, programs. For the first time there will be an agency to insure proper balance and consistency between this Nation's bilateral and multilateral aid program.

Two. The reorganization provides that the IDCA Director will be the President's principal adviser on development matters. In addition, the plan states that the IDCA Director shall advise the President on all other matters significantly affecting the developing world, including such areas as trade, science and technology. This covers such issues as U.S. policy on forgiveness of debts, commodities, the environment, human rights, and energy as they affect the developing world.

The head of the new organization will thus have authority to pull together into a comprehensive policy all the scattered elements of this country's policy toward the developing world. For the first time there will be an agency with sufficient stature and independence to highlight, and to require other agencies to consider, the effect that a wide range of nonaid issues may have on U.S. relations with developing countries.

Third. The effect of the reorganization will also be to establish a single officer who can speak with authority before Congress on all aspects of the country's development program, and who can be held accountable by Congress for the success of those programs. Currently, responsibility for presenting to Congress requests for foreign assistance funds is scattered among four agencies, Treasury, State, AID, and Agriculture. IDCA will be charged by the President with developing each year an overall development policy covering all related U.S. policies and programs, and their budgets. Once approved by the President, this policy and budget statement will contribute broad guidance to all the affected agencies. Because IDCA has a broad mandate to develop these annual policy guidelines, the head of IDCA will be able to speak to Congress with both knowledge and objectivity about the effectiveness of each particular development program. And when problems arise in the implementation of the programs, Congress will have a single person who can provide answers and insure necessary program changes.

Fourth. The reorganization establishes IDCA as a permanent agency that is independent of the State Department. AID will operate as a separate, identifiable unit within IDCA. The Director of IDCA will have budget and policy control over AID, but IDCA will not administer the day-to-day activities of the aid program so that IDCA may exercise most effectively its broad policy responsibilities.

Establishing a small, independent agency with these functions will not add an unnecessary additional layer of bureaucracy. Instead, such an agency is an essential part of any effective reorganization in this area. Because IDCA will be charged with coordinating our bilateral and multilateral assistance programs, and weighing the competing needs and benefits of both approaches, it will have to act as an "honest broker." To do this effectively it cannot be too closely identified with either bilateral or multilateral aid, or too closely identified with one portion of the country's bilateral programs to the exclusion of another part. IDCA will have the independence and stature necessary to arbitrate these different interests. Establishing IDCA as a separate agency, independent of the State Department, will also insure that its judgment on a broad range of developmental issues will not be unduly influenced, or submerged altogether, under short-term foreign policy concerns.

By contrast, AID is simply an administrative unit within the State Department charged with administering bilateral assistance. As such, it does not now have, and never could have, either the necessary independence or stature to establish or coordinate this Nation's overall development assistance policy.

Far from opposing this reorganization, Secretary of State Vance wrote the Members of the Senate that the plan "will ensure that the scarce U.S. resources for international development are allocated in the most efficient and effective manner."

I believe this reorganization is very much worth doing. At no cost, and minimal disruption, it should increase the overall effectiveness of our development policies.

I therefore urge the defeat of Senate Resolution 140.

Mr. PERCY. Mr. President, it is a very unusual thing, in the relationship that the distinguished chairman of the Governmental Affairs Committee and I have had, and in the relationship I have had with the second ranking Republican member on the Governmental Affairs Committee, the distinguished senior Senator from New York (Mr. JAVITS), who preceded me as the ranking minority member of this committee, for us to disagree. Generally, we are able to work things out in such a way that we have a commonality of interests and see eye to eye.

However, in this case, there is no possibility of compromises, amendments, changes. You vote the issue either up or down. This is a reorganization plan sent to us by the President of the United States, and my colleagues know that I feel very strongly about it, for a number of reasons.

First, I have probably dealt with the aid program longer than I have with any other program in the Federal Government. I feel as strongly about it as the distinguished chairman feels very strongly about anything happening at HEW. Dwight D. Eisenhower asked me at one time to head the MSA program—Mutual Security Agency—to consider leaving business, and I did spend a considerable amount of time studying it.

I have taken missions abroad over the years, beginning with MSA, the Mutual Security Agency program, which was the first of many, many names and reorganizations of our AID program abroad.

The evolution of this concept has been an interesting one. One of the first things any administration tends to want to do is reorganize. One of the early things this administration did is try to shake up the AID program. By so doing, by shaking it up, somehow they believe they have done something about it and made it better. But it is the same old program, getting older and older.

I would say the bureaucracy entrenched in the program does need looking at. On the other hand, having seen so many reorganizations of it without a substantive change resulting, I am highly skeptical.

Another reason that I feel very strongly about this matter is that we have far too many governmental functions responsible directly to the President now. I would think that Senator RIBICOFF and Senator JAVITS, who are very familiar with the institution of the Presidency, who have worked with many Presidents in the past, would be the first to say that if we are really going to streamline and reorganize the executive branch of Government, what we should do is ease this situation and not have no many people reporting to the President. He is overburdened as it is now, and when he takes a couple weeks out on a continuing basis to work on the Mideast or another problem, the Government sort of grinds to a halt. The problem is also that when so many things are subject to a decision by the President, he may not be able to give his personal time to them. There is then the risk that instead of the function being in a department or agency, reporting to a supervising Cabinet official, someone unelected, unconfirmed, down in the White House superstructure could be making the decision for the President.

Look at some of the decisions that are made there—including the decision to cancel the President's speech the other day. I do not know who made the recommendation that he make the speech if he did not have a substantive, new, bold plan to announce. But the power of the White House staff is immense, and the President himself realizes that they many times overstate that authority in the name of the President.

Why, in the light of all of that, would we now want to add one more function with the responsibility ending up in the White House? With our foreign assistance taken out of the State Department by this reorganization, there is a chance that you might have a program operating in isolation from our foreign policy. You might have a program in a country where drastic changes occur. For example, we have seen evidence in recent months of a dramatic change in Afghanistan. Of course, there is human need to be fulfilled there. But we want to know what government and through what agencies of government in that country this AID program will be handled. And the State Department decision is, we should cut off some of those programs until such time as there is a normalization of the relationship between our countries.

But we will have an AID program with this plan that is really outside the Department of State with the Secretary of State given some nominal authority, but not the authority of direction. Now there is this authority of direction, which is much clearer. So for those reasons I feel very concerned about this reorganization.

With this reorganization we are just moving boxes around, giving the impression we are doing something when in substance nothing is being done. What we are doing is creating a whole new agency, another layer of bureaucracy, with 30 to 50 professional people. And then what does it supervise? Well, it supervises OPIC, which will be autonomous and which many of us believe should go in a new department of trade. In fact, we will be holding hearings on this very soon.

I think the distinguished chairman of the Governmental Affairs Committee would say, given the choice of having OPIC—a private sector insurance program—in this new department of trade or having it off on the side mixed up with AID, "No, it does not belong there."

The Senator from Illinois would certainly concur with him.

Then the only other component in IDCA is a proposed Institute for Scientific and Technological Cooperation that has been disapproved by one House.

What is there to be gained, then, by setting up IDCA to supervise on a direct line basically one department? Why do you need that line of supervision? Why not admit that what you are doing is taking the AID program out of the State Department, one step farther away from our overall foreign policy, and have it become the responsibility of the President? And if the Secretary of State is not able, with all that he has on his shoulders today, to provide day-by-day supervision of our aid program, how much less supervision is the AID program going to receive with the reorganization?

Mr. President, the stated purposes of the proposed International Development Cooperation Agency are to provide greater coordination of U.S. overseas development programs and a stronger voice for those with development expertise. While I do not question these goals, I do question whether the IDCA plan can meet these goals. Rather than achieving real and necessary change, I believe that this reorganization would mask a failure to solve basic problems behind a veil of illusory progress.

Since efforts at reorganizing foreign aid began last year, a myriad of adjustments and compromises have been made along the way to obtain the support of all parties concerned. The result is a halfhearted attempt to meet ill-defined goals. Those of us who wanted a clearly defined, comprehensive and effective reorganization should oppose this plan as vehemently as those of us who oppose it for other reasons.

If IDCA were crucial to achieving an effective development program or would result in substantial cost savings or administrative efficiencies, then this reorganization could be justified. But, in my view, any such claims have not been substantiated.

It is easy to suggest that even if the improvements are marginal, IDCA should on balance be supported. But we must be careful to avoid the trap of assuming that box shuffling is a cost-free process. A statement attributed to Petronius Arbiter in 210 B.C. expresses this quite well:

> We trained hard . . . but it seemed that every time we were beginning to form up into teams we would be reorganized . . . I was to learn later in life that we tend to meet any new situation by reorganizing; and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency, and demoralization.

This plan would not improve efficiency. It would not lead to cost savings. It would not in any meaningful way improve coordination. Worst of all, it would be totally misleading, creating the false impression that—by shuffling a few boxes in an organization chart—something substantive was being achieved.

Based on all the information I have been able to obtain from my study of the plan in the Governmental Affairs Committee, I have concluded that this proposal would simply add a new layer of ever-expanding bureaucracy and place new pressures on an already overburdened President. At a time when the President needs to be devoting more time to pressing domestic issues, such as energy and the economy, we cannot afford to burden him with interagency disputes on foreign aid.

I have long been a supporter of Government reorganization when it makes sense. But when the same ends can be reached by working within the existing structure, this is clearly preferable. When reorganization would actually serve to slow progress toward concrete improvements, it should be staunchly opposed.

Creation of IDCA is unnecessary. There are now more than 50 separate agencies. IDCA would make one more, and I believe that would be at least one too many.

I urge my colleagues to oppose this reorganization plan, and vote for this resolution of disapproval.

Mr. President, simply stated, my primary reason for opposing the IDCA is that it will accomplish very little. It will not in any significant way improve efficiency or coordination or lead to cost savings. What it will do is create the false impression that by shuffling a few boxes on an organization chart, something substantive is being achieved.

The IDCA will have very few components, and of these it will have real authority over only one, the Agency for International Development. The status of the other two components must be seen as uncertain at this time. The Overseas Private Investment Corporation is something which some Senators, including the distinguished Senator from Connecticut (Mr. RIBICOFF), believe more properly belongs in a Department of Trade, if one is created. Even under the IDCA it will be business as usual for OPIC.

The status of another key component, the Institute for Scientific and Technological Cooperation, is also a question at this point. As you know, the Senate defeated the legislation to create the Institute.

Finally, proponents of the reorganization have claimed that a new, independent development agency is needed to bring development concerns to bear on the Treasury Department's decisionmaking process with regard to U.S. participation in the multilateral development banks. Once upon a time it was hoped by some that the entire responsibility for participation could be shifted out of the Treasury Department. Under this plan, the Secretary of the Treasury will still retain significant control over U.S. participation in the MDB's, so responsibility is still diffused within the executive branch. My point here is, Mr. President, that we do not need a new agency to do what this plan does with regard to the banks.

The proponents of the plan proudly state that it will cost practically nothing, will create no new positions, and yet will miraculously turn the tide on the way we conduct the whole sweep of our foreign development assistance activities. We just cannot have it both ways, Mr. President. In my view, the facts of this plan and the pronouncements of its supporters are very far apart.

Mr. COHEN. Mr. President, will the Senator yield?

Mr. PERCY. I would be happy to yield

to my distinguished colleague from Maine.

Mr. COHEN. I thank my colleague for yielding.

I want to commend my distinguished colleague, Senator PERCY, for his excellent leadership in opposing the President's Reorganization Plan No. 2. The proposed International Development Cooperation Agency (IDCA) would add a needless layer of bureaucracy without clearly moving us toward the objectives of the reorganization. While we are all in agreement that our foreign assistance programs need better coordination, Senator PERCY has offered many very good suggestions for how this coordination could be carried out within the existing organizational framework.

As Senator PERCY has pointed out, many steps have recently been taken to give the AID Administrator more coordinating authority. The role of the Development Coordination Committee (DCC) has been strengthened. It seems that these measures should be given an opportunity to work before creating a whole new bureaucracy.

Under the President's plan as it stands, the staff, except for a very few top-ranking positions, would be taken from the staffs of other agencies. The overall personnel ceiling would essentially remain the same. While this may be true in the short run, I feel certain that, eventually, IDCA would be requesting more personnel and more money.

The President's plan is supposed to give the director of IDCA authority over aid programs. However, the status of the Public Law 480 food for peace program, which accounts for a significant portion of our aid efforts, would remain unchanged. Its administration would continue under the Department of Agriculture and the DCC would have no more power for coordination than now exists. The IDCA director could advise on food policy, but would have no real policymaking authority.

In many situations under the reorganization proposals, the President would be called upon to settle interagency disputes.

So it seems somewhat contradictory and, I would suggest, inefficient, to have to rely on getting the ear of the President in order to carry out the objectives of the reorganization.

One of the objectives of his proposal is to have more control over the development implications of the multilateral development banks (MDB's). The focus of our aid policy has changed over the years. When AID was created, nearly all our aid programs were administered bilaterally. Now, a large portion of our foreign assistance is administered through the MDB's. The IDCA director would have authority over the development aspects of the MDB's unless the Secretary of Treasury finds compelling financial or other nondevelopment reasons that require a different position. Again, this type of coordination is a laudable goal. But there are ways to accomplish the goal within the existing framework.

So for the reasons I have just outlined, I want to urge my colleagues to join the Senator from Illinois in rejecting the President's reorganization plan No. 2.

I thank the Senator for yielding.

Mr. PERCY. Mr. President, I do wish to thank very much indeed my distinguished colleague for his perception, for the support that he provides to this, and the way he saw it through, and I think the sound reasoning he has used supports our conclusion that we should reject reorganization plan No. 2.

Mr. COHEN. Mr. President, will the Senator yield? I ask unanimous consent that Miss Peggy Weeks be given the privileges of the floor during the debate on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. I am pleased to yield to my distinguished colleague from New York.

Mr. JAVITS. Mr. President, it is unfortunate that Senator PERCY, Senator RIBICOFF, and I are apart on this matter. But, Mr. President, that is the stuff of which democracy is made.

Senator PERCY said that he had a world of experience with aid. With all due respect, I was in the House of Representatives when we first debated and passed the Marshall plan, and I have worked on aid now for well over 30 years.

Mr. President, based on my over 30-year relationship with development issues, I rise in opposition to Senate Resolution 140 and urge my colleagues to support the President's reorganization plan No. 2 for establishing the International Development Cooperation Agency.

As the ranking minority member of the Foreign Relations Committee and as a senior member of the Governmental Affairs Committee, I have long been concerned with our policies vis-a-vis the critically important developing countries and especially how the U.S. Government is organized to deal with these issues.

The importance of IDCA goes beyond any specific functions or the transfer of specific responsibilities from other agencies that can be placed in a neatly diagramed organization chart. Rather, it can be found in the clear potential of such a high-level development agency for improving our overall—political as well as economic—relations with the developing world.

Specifically, the reorganization envisaged by this plan will go a long way to improving the efficiency and effectiveness of the Government's policymaking process in this important domain without—I repeat, without—significantly increasing any U.S. Government personnel. In fact, the Governmental Affairs Committee report indicates that only a net addition of three new positions will be required to direct the new agency, with all other positions to be transferred from State, Treasury, and AID.

In addition, these will not even be a one-time cost associated with implementing this reorganization since the actual costs will also be absorbed by the Treasury, State, and AID. Thus, the reorganization will not cost the U.S. taxpayer any additional money.

While the lack of any increased personnel or costs is an important selling point in favor of the reorganization plan, it is by no means the only one. In fact, if it had been the only benefit accruing from the reorganization plan, I would not be here urging my colleagues to vote against this resolution of disapproval. The fact is, Mr. President, that the United States as well as the continued health of the international economy need an agency that will be responsible for—and coordinate in certain instances—our policies and programs in the developing world.

Yesterday, I returned from a series of meetings with officials of the OECD and the International Energy Agency in Paris and with officials of the GATT and UNCTAD in Geneva.

These discussions with some of the leading energy and economic experts confirm some of my worst concerns that the developing nations will once again be hardest hit by the most recent outrageous increase by OPEC in the price of oil. The non-oil-exporting developing countries will especially be facing some very hard choices in the near future about how to generate the additional foreign exchange needed to pay for these increased energy imports. They will have to choose between cutting back their economic growth or continuing to undertake the burden of additional external debt.

At the same time, we in the industrialized countries will be making some very tough decisions about the direction of our own economy which will very directly affect the economies of these countries. For example, to the extent that we can lower our consumption of energy and especially of imported oil and increase the supply of alternative sources and forms of energy, we will be freeing up vitally needed energy sources for these LDC's. To the extent that we can be fair about trade with the developing countries in the United States and other industrialized countries, we will be insuring LDC exports fair access to our markets, enabling them to service their growing debt and avoid defaults, which this time may very well have significant repercussions throughout the entire international monetary and commercial banking systems. And, to the extent that these developing countries can grow, they will continue to be important markets for U.S. exports. We now sell them 40 percent of our exports, which will keep Americans employed in meaningful and productive jobs.

The growing interdependence of the nations of the world requires us to insure that our trade, monetary, energy, commodity, technology, and other economic policies take into consideration their repercussions on the developing countries. To do so, we must have a high-level spokesman for development in the administration who will bring this critical perspective into the economic decision and policymaking process at the highest levels of Government.

This is the essence of the President's reorganization plan. Not only will it consolidate bilateral and multilateral development programs which are presently scattered among such agencies as AID, the Treasury, and State, under one agency: but the plan will also help insure that these moneys are used efficiently.

The late Senator Humphrey understood the need for increasing the efficiency of our foreign aid and development efforts when he proposed in his final days the creation of such a high-level development agency. I am pleased to have been a cosponsor, with the chairmen of the Foreign Relations and Governmental Affairs Committees among many others, of that legislation. It was the Congress that adopted last year legislation proposing that the President create this Agency. The reorganization is in direct response to that Congressional mandate.

Mr. President, this reorganization plan is not a bleeding-heart proposal. On the contrary, the new IDCA will work in the self-interest of the United States by permitting the U.S. economy to reap the benefits of development. With the IDCA in place, development will no longer be defined solely as grant or concessional assistance to the poorest elements of the poorest countries. While we must continue to provide such aid through our bilateral program as well as through our contributions to the World Bank and to the other regional development banks, we must also focus our development efforts on promoting economic growth in the middle-income developing countries and the so-called Newly Industrialized Countries (NIC's). This will be a primary objective of the IDCA, which will be responsible for developing new programs best suited to the facilitation of the involvement of the U.S. private sector in the development process of those developing countries that want such involvement.

I urge the new Director to fill his limited staff of 35 to 50 professionals with economists and other specialists who understand the "politics" and the nature of these broad issues subsumed under the term "development." These people, while being familiar with how development works, should not be super specialists who by focusing on the "trees of development" miss the "forest." Furthermore, they should understand how this new concept of development relates to the broader economic issues facing the United States and international economies. The effectiveness of the new agency will depend on the Agency's ability to attract competent and imaginative professionals who are not tied down to the conventional wisdoms associated with past development efforts.

Most importantly, this new concept of "development" as implemented by the IDCA will complement the efforts of the governmental structure that is expected to be established to promote U.S. trade and especially U.S. exports to the LDC's. This new emphasis on development in all the countries of the Third World will make the job of promoting and selling our exports in those countries easier. In fact, when the time comes later this year for us to consider trade reorganization, I hope that this Chamber will seriously consider moving OPIC from the IDCA to the new trade organization. OPIC's development objectives are important, but they cannot substitute for the hard decisions that American business must first make with respect to where it will invest its capital. It can facilitate such investment decisions by providing political risk insurance in developing countries where the overall investment climate is favorable.

Although I believe that it is more appropriate for OPIC to be found in a trade-oriented agency, until that happens I am confident that the OPIC will be able to operate effectively within the IDCA.

The IDCA Director will be the President's principal international development adviser; and, by making him responsible directly to the President, the reorganization plan takes development out of the daily travails of international politics. The Director will, however, be subject, like all other agencies that operate internationally—Treasury, HEW, HUD, and so forth—to the foreign policy guidance of the Secretary of State. Secretary Vance believes this arrangement not only to be workable but also preferable to the present fragmented policy-making apparatus and, accordingly, supports the reorganization plan without reservation.

In conclusion, the developing countries have become a critical lynchpin in the international economic system. My most recent discussions in Paris and Geneva reconfirm my view that the rest of the world continues to look at the United States for dynamic and imaginative leadership in the North-South dialog. Rejection of this reorganization plan would be taken very seriously overseas as a further sign of the erosion of our leadership in a critical part of the world at a critical time for the health of the world economy.

I urge my colleagues to permit the U.S. Government to get on with the "business" of development by voting against this resolution disapproving the establishment of IDCA.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. JAVITS. Of course.

Mr. RIBICOFF. I believe the distinguished Senator from New York has such great experience in this whole field. Talking about loans from all the major international banks, does the Senator feel from his broad experience that two men in Treasury can supervise $10 billion worth of loans a year?

Mr. JAVITS. I certainly do not. In addition, we in the Congress act quickly to place restraints on how AID and Treasury can act in providing aid. For example, we pass laws that prohibit them from voting for loans to countries and for commodities of which we disapprove. But when we pass laws we do not emphasize the positive. What about giving them authority to manage better foreign aid plans when these plans will contribute to a real development opportunity for a country?

Let me point this out to you, Mr. President, and all my colleagues: There is a new phenomenon in the developing world I have already mentioned but which I want to reemphasize at this point in the debate. That phenomenon is the newly industrialized country. The OECD has given the acronym, NIC, to 10 of these countries, which include Brazil, Mexico, Korea, Taiwan, and Singapore.

Now, Mr. President, these countries represent the opportunities that a successful development effort can produce. These countries provide excellent models for other countries development efforts.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. RIBICOFF. Of course, the biggest problem the world faces now is the problem of oil and energy, and where it comes from. The World Bank is now in a position to advance loans to many of these Third World countries for the development of new oil deposits which will alleviate the stranglehold which OPEC has on the industrial world. Is that not correct?

Mr. JAVITS. There is no question about the fact that private resources offer a tremendous opportunity, and the World Bank is quite correctly pushing resources in that direction.

Mr. President, there has been no restructuring of the U.S. foreign aid program in terms of its administration since 1961. Think of that. That is 18 years in which we have done nothing about this problem.

Since that time, however, there has been no question about the fact that our program has changed dramatically, and that the world has changed dramatically.

In 1961, there were only 73 independent developing countries; today there are over 130. In 1961 the total contribution of the United States, both bilateral, directly to countries, and through the international financial institutions, was $2.2 billion. During the 1960's subscription payments to the multilateral development banks like the Inter-American Development Bank and the World Bank, et cetera, were 2 percent of U.S. official development assistance.

In 1979, however, the total multilateral and bilateral assistance programs amounted to over $7 billion, and the largest single part of that, $2.5 billion, was contributed in both callable and paid-in capital to the multilateral development banks.

The United Nations, which has many faults, has realized the importance of economic development, because in that intervening period it has developed a U.N. development program in order to carry on with more intelligence its own aid activities.

My own feeling over the years has been that what the aid program most needed were two things: First, the participation of the private sector in development, and second, intelligent application of our aid policy. I saw in the IDCA an opportunity for both.

My colleague said something very interesting, which touched me very deeply, and that was "Let us leave this with the State Department." I could not think of a deader hand on private sector activity than the State Department. That is one of the big problems we have in the world. A businessman comes into an American Embassy and asks for help in a particular situation. If he were Japanese, British, French, or German, his Embassy would undertake every effort to help him. But not with us. With us, the first thing they do is look down their noses and say, "Oh, you want to make a profit. That is bad; we are not here to help you make a profit. We are only here to do the diplomatic work of the United States." And in most cases, this businessman goes out the door. I will, however, note parenthetically, a new-found dedication among certain commercial officers to help U.S. business abroad that I have met in recent trips abroad, but they are still very few and continue to be faced with a great amount of official reluctance on the part of their superiors in the State Department.

It is precisely because of this general attitude that still pervades the State Department that I want this function out of the State Department and that I favor this reorganization. They may be wonderful when it comes to SALT treaties and general diplomacy, but they certainly do not know how to run a railroad. That is not their business. The business of official development in many developing countries now is the fostering of private development, not just helping people eat. We have gone through all that for years and years, and the best thing we can do for them now is show them how to own their own, grow their own, and be self-sustaining. This reorganization is at least making some effort in that direction, to lift this fog in which foreign aid has been enveloped.

I have worked for foreign aid, because I believed that there was an urgent need in our world for helping the poorest. But when an opportunity is afforded to build a better mousetrap, to do a better job, I do not see why we should turn it down, especially since it will not cost any more money, and will actually improve the coordination of development in the U.S. Government.

Let me read a letter of June 22, 1979, written by Cyrus Vance, the Secretary of State, to our Senate majority leader.

He says:

> DEAR MR. LEADER: An effort may be made on the Senate floor to disapprove the President's reorganization plan for establishing the International Development Cooperation Agency. I urge your support for the plan and your vote against disapproval.
>
> The President's plan originated as a Congressional initiative. Beginning with Senator Humphrey, many in Congress urged that the varied U.S. efforts to help developing countries be guided by a single agency. Last year Congress adopted legislation proposing that the President create this agency. The reorganization is in direct response to that mandate.

Let me point out, in last year's conference report on foreign aid, the Foreign Relations and the International Affairs Committees made the following statement on page 42:

> The committee of conference urges the President to consider establishing an International Development Cooperation Administration, to supersede the Agency for International Development, which would have, subject to the foreign policy guidance of the Secretary of State, primary responsibility within the U.S. Government for coordination of international development-related activities and which would have within its organizational framework the maximum possible range of U.S. Government agencies and programs related to international development.

Now I go on with Secretary Vance's letter. He refers to the plan, in this letter to Majority Leader BYRD, as follows:

> The plan will not add any personnel or costs to the Federal budget. Rather, it will ensure that the U.S. bilateral assistance program compliments the assistance programs of other developed countries, of the multilateral development banks, and of the United Nations development organizations. IDCA will be responsible for ensuring that development goals are taken fully into account in all Executive Branch decisions involving trade matters, monetary affairs, and other economic policy issues affecting developing nations. The head of IDCA will be the President's principal international development advisor.
>
> No single Federal agency is now charged with these tasks. The President's plan will not, therefore, add another layer to Federal bureaucracy. It will insure that the scarce U.S. resources for international development are allocated in the most efficient and effective manner.
>
> Sincerely,
>
> CYRUS VANCE.

Now let us go on with this situation, because it is very interesting.

As I have pointed out, since 1961 the aid program has been run in one way. Now we are trying to make a change for the better without spending any money, and some say that it is wrong.

Why is it wrong? This is where I come to the key point. One of the dangers in any debate is that advantage is taken of a certain pattern of thought, and therefore it is felt that if that pattern is invoked, it *ipso facto*, automatically will damn the opposing argument. I am referring to the argument that the vote for IDCA is a vote for an expanded bureaucracy.

This is a great Government, Mr. President, with hundreds of thousands of people working in it. The Government runs not only these aid programs but also runs deeply necessary functions of the United States. If you dismiss the whole Government, out of hand, on the ground that the bureaucracy is no good, then I can hardly see how you can believe in our country. We listen with the utmost respect to many people who testified before us. They are Government bureaucrats, and they run programs, in many cases, quite well, a fact of which many of us are very proud.

If you try to strike everything down, good, bad, or indifferent, by this call—"it is a bureaucracy, so kill it"—then you are attacking all of the institutions of which we are proud, for what is this Government all about? Who are we? We work for the United States. We are bureaucrats, too. Let us have a little humility about this point, and try, where we can, not to be guilty of the thing of which we accuse other people; that just by name calling, we try to kill something which may have real merit.

I think this does. It is an effort to try to put us on a better road than we have followed.

Finally, Mr. President, my colleague and my beloved friend—and he knows I mean every word of it, there is no question about that—Senator PERCY, spoke about authority of direction.

I ask any Member who is going to vote on this resolution, taking his whole experience over the years, whether he really feels there is authority of direction in the AID. I think if he consults his conscience, he probably feels that any change is bound to be a change for the better. And in this particular situation, I think it has, for as ABE RIBICOFF said, after a lot of haggling and working it out, we have worked out a good plan which relates to the extent of policy direction by the President, the extent of the control of the Secretary of the Treasury over these multilateral development banks and the role of the Secretary of State.

So, Mr. President, to summarize, there is a difference, a rather very real difference of opinion here, about this particular matter. Based upon my experience with foreign aid, and the fact that I have seen where the AID program has failed to do many of the things which we have a right to expect of it—especially in the more modern approach of giving these developing countries the opportunity to better enable themselves to fend for themselves—I am supporting this reorganization. I think, therefore, this is an intelligent effort to do better in that field at a very timely moment.

Again I emphasize the fact that for the first time there are emerging nations from the Third World which are crossing over the threshold into the developed world. There are now 10 of them, as I have described. It is very important that the techniques which these nations have followed be understood and applied as far as the other developing countries are concerned.

IDCA represents an effort to give a broader kind of service than the narrow service which is given by AID today, which essentially provides funds and technical help to the present continues.

I think the reorganization is a creative and intelligent way in which to try to tackle the development problem somewhat differently than we have before, given the different circumstances the world is in today. An effort will at last be made in this field to adjust our bureaucracy to changing conditions. I believe it does not do any more than we are doing now at the very worst, and at the very best it will help us very, very materially, in terms of a modern recognition of what development means and how to attain it, with some excellent examples in these 10 newly industrialized countries.

For all of those reasons, with the utmost love and respect for my colleague, I hope that the Senate will reject this resolution.

(Mr. PRYOR assumed the chair.)

Mr. PERCY. Mr. President, before yielding to my distinguished colleague from Rhode Island, I would like to make a brief comment on one phrase used by my beloved colleague, Senator JAVITS, who said that any change would be a change for the better. The implication of that statement is that things are pretty bad right now, so almost anything would improve the situation. It reminds me of my father, who used to say, "Cheer up, things could be worse. I cheered up and, sure enough, things did get worse."

I think it is possible, as bad as the situation may be, to create even more confusion.

All I ask of my colleagues is to think about whenever they have been in an organization when it has been shaken up. If they do, they will recall how much the uncertainty costs the organization, how much lack of progress there is, and how much effort is wasted waiting for a new sense of direction. In this case, how long will it take the new Director of IDCA to get organized?

How long will it be before he finds out what he really has to supervise, when there is only one agency for sure, AID, under his control, with the other two being in limbo?

So I think it is possible that the situation, as bad as it may be now, could be worse. By agreeing to this reorganization plan, we will not only make the situation worse, but mask the deficiencies with the illusion that we are really doing something. I will further address this idea in my concluding comments. However, at this point I am happy to yield to our distingiushed colleague from Rhode Island, Senator PELL. He is a distinguished member of the Foreign Relations Committee, and the only Member of the U.S. Senate who has served as a Foreign Service officer. He really sees the bureaucracy from the inside out, and has some very, very strong feelings on this matter.

Mr. PELL. I thank my colleague from Illinois. I am glad to join with him in vigorously opposing Reorganization Plan No. 2 which would create IDCA, the new independent International Development Cooperation Agency.

While I would be the first to support reorganization efforts which demonstrably improved the efficiency of our Government, the IDCA plan, in my view, would have just the opposite impact. The implementation of this plan would create a new, superfluous bureaucratic superstructure which would only have the effect of further diffusing and muddling the lines of authority in U.S. assistance programs. Although IDCA would start out small, I am confident that it would, as with other agencies, grow and grow. What we need is the simplification of bureaucratic structure—not the creation of yet more layers.

Another reason for my opposition to IDCA is that this new agency would entrench the current structure of bilateral aid, which runs absolutely counter to my own ideas on how our aid program should be structured.

I would add here that my ideas stem out of both my experience in the Foreign Service and in private voluntary organizations.

In Senate Resolution 92, I proposed that our economic assistance be channeled through international development institutions, such as the World Bank, and private organizations, and that whatever bilateral aid is considered necessary for political reasons should be provided through the State Department.

To spell that out, my thought was that a private agency, like the International Rescue Committee on which the Senator from New York and I serve as directors, can better carry out an aid function overseas at less expense to the taxpayers than the Government. I know, because I spent a year in charge of the International Rescue Committee's operation of looking after Hungarian refugees after the abortive revolution in 1956. I know how much money we spent and how well we were received locally compared with the Government representatives who were there.

When it comes to the aid that must be kept bilateral, it is my view that when we have to extend aid to a government we do not really approve of, like South Korea, but we have to do it for political reasons, then I think that would best be done under the aegis of the State Department.

The administration is now studying the desirability of the approach I suggested in Senate Resolution 92 and will submit a report to the Congress by September 5. In my view, we should wait for that report before acting on IDCA.

If IDCA ever had a shred of justification—as an umbrella for the various elements of the U.S. assistance program—that rationale has now almost totally disappeared as a result of the Senate's action on June 19 to disapprove the creation of the Institute for Scientific and Technological Cooperation, or ISTC. Even before the vote on the ISTC, most of the authority envisioned for IDCA had been chipped away so that now, the Director of IDCA would preside not over several agencies, but over only one—AID.

However, even an IDCA encompassing several agencies would cause me great concern, for the head of IDCA is to report directly to the President rather than through the Secretary of State—supposedly to give IDCA a new degree of independence from short-term foreign policy considerations. It seems naive to me to believe that bilateral aid programs can or should be truly independent of U.S. foreign policy. I must say I foresee a situation where a new foreign aid "czar" would be tempted to conduct relations with a foreign country without proper coordination with the Department of State. The potential for new and deleterious interagency disputes and an outside perception of great confusion and inefficiency in our bilateral programs is considerable.

It is my firm belief that the positive elements in Reorganization Plan No. 2 can far better be accomplished within the present aid structure or, even better, through the approach I have proposed in Senate Resolution 92. One of the arguments advanced by proponents of IDCA is that a new agency is required to coordinate properly the Treasury Department's decisionmaking process with regard to U.S. participation in the multilateral development banks. It should be quite obvious, however, that this function would be substantially borne by the AID component of IDCA in any event and the question arises: How would a new bureaucratic layer make this effort more efficient?

In conclusion, I believe it is apparent that what may have been a well-intentioned effort to streamline our foreign assistance programs has turned into a hollow exercise of reorganization. We are now confronted with an initiative that continues to be pursued even though it has been stripped of almost all of its original authority. Let us not, through indifference or inattention, create yet another bureaucratic encumbrance in the name of reorganization.

We have done it many times in the past and I am sure we shall do it many times in the future. But usually, we have done it unaware of what we are doing. Here we are aware. Our notice has been invited to what we are doing and it is exactly the wrong direction to go.

We should be streamlining the existing apparatus of assistance rather than creating new ones. I see no support in the country for an enlarged assistance bureaucracy and, therefore, urge my colleagues to put IDCA to rest and to concentrate the Senate's efforts on moving toward channeling much more of our assistance through multilateral and private organizations, which better achieve our objective of, one, trying to create a climate and environment that is barren from the viewpoint of the development of communism; and, two, that better use the tax dollars at less expense and with less ruffled feathers, less rough edges, than is usually the case now. Our usually pretty well set up AID missions live a pretty fair life in comparison with those who represent the voluntary agencies.

I believe that the voluntary agencies can do an effective job of providing humanitarian and economic aid. These agencies represent the Catholics, Protestants, Jews, and different other groups in the country. Whereas now, AID has no constituency in the United States, if they adopted the approach I have proposed, they would have a constituency.

Foreign aid is unpopular in this country, speaking as one just back from my State. The question I got repeatedly is "What is the good to the United States of this aid program? Why give all this money away? Why not help our own people?"

Of course, all of us know that we are behind other nations in providing aid; we rank about 12th in the world as a percentage of GNP in what we provide in aid. But it is very unpopular. One way of making it popular is not to create a new level of bureaucracy, but to put this more in the hands of the voluntary agencies, who can appeal to their own constituents, who are our constituents.

I hope this resolution of disapproval will pass, as one who sees it from the viewpoint of a former State Department official and as an officer of a private voluntary organization.

Mr. PERCY. Mr. President, I want to comment on a few things that have been said on the floor this afternoon. Senator JAVITS has made the point that we need to involve the private sector more in development. I certainly agree with this. I have always favored using the private sector over the public sector whenever possible. I have always preferred private investment—which carries with it technology, know-how, and experience—to the investment of Government funds—which brings along with it, sometimes, an expertise but often no real follow-through.

Regarding the need for more personnel to improve our foreign aid effort, that is not really at issue here today. What is at issue is whether we need to create another superstructure, IDCA. I think we can just as well make improvements within the present structure.

Also, because we are talking about a new structure which, supposedly, will not add any new dollars, I asked Congressional Research Service to make an analysis for me of several independent agencies to see what has been the pattern of growth over a 10-year period. I ask unanimous consent that this analysis be printed in the RECORD, because I think the pattern is very evident. The agencies included in this analysis were picked at random. You can see anywhere from a 25-percent increase in personnel and budget up to a several thousand percent increase.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 9, 1979.

To: Senate Committee on Governmental Affairs—Attn: Connie Evans

From: Alice Mosher, Analyst, Government Division.

Subject: Budget and Personnel Growth in Selected Agencies

Attached, per your request, are tables showing the budget authorizations and employment levels in several independent agencies for the ten-year period following their establishment. The authorizing legislation and/or statutory basis are noted for each agency. All the budget figures were obtained from the Budget of the United States Government for the appropriate fiscal year. Only actual budget figures are presented, except for the estimated budget levels for fiscal years 1979 and 1980.

The employment figures were taken from the monthly releases of Federal Civilian Work Force Statistics issued by the Office of Personnel Management. The figures reflect total agency employment, including overseas personnel when applicable.

I hope these tables will be useful. If I can provide further assistance, you may contact me at 287-5821.

ACTION

Peace Corps Act of 1971 (75 Stat. 612; 22 U.S.C. 2501).

Domestic Volunteer Service Act of 1973 (87 Stat. 394; 42 U.S.C. 4951).

	FY budget authority (in thousands of dollars)	Employment as of June 30
1971	90, 184	------
1972	151, 773	1, 762
1973	174, 680	1, 746
1974	168, 699	1, 797
1975	177, 743	1, 864
1976	184, 507	1, 932
1977	189, 363	2, 089
1978	204, 460	2, 088
1979 (estimated)	235,009	*2,010

* As of April 30, 1979. 1972–79, $+54.8 percent, staff + 14 percent.

Administrative Conference of the United States

Administrative Conference Act of 1964 (5 U.S.C. 571–576).

	FY budget authority (in thousands of dollars)	Employment as of June 30
1966	250	------------
1967	0	------------
1968	67	5
1969	250	20
1970	254	16
1971	380	20
1972	408	17
1973	450	18
1974	600	22
1975	750	21

1969–75, $ +200 percent, staff +—.

Appalachian Regional Commission

Appalachian Regional Development Act of 1965 (79 Stat. 5; 40 U.S.C. App. 1).

	FY budget authority (in thousands of dollars)	Employment as of June 30
1965	1, 290	6
1966	0	10
1967	1, 100	10
1968	757	9
1969	852	8
1970	890	10
1971	2, 665	9
1972	1, 113	9
1973	1, 217	9
1974	1, 492	10

1966–74, $ +16 percent, staff +67 percent.

Commission on Civil Rights

Civil Rights Act of 1957 (71 Stat. 634).

	FY budget authority (in thousands of dollars)	Employment as of June 30
1959	777	82
1960	780	82
1961	888	83
1962	888	100
1963	960	79
1964	985	89
1965	1, 280	109
1966	1, 912	167
1967	2, 489	173

1960–67, $ +220 percent, staff +111 percent.

Commodity Futures Trading Commission

Commodity Futures Trading Commission Act of 1974 (88 Stat. 1389; 7 U.S.C. 4a).

	FY budget authority (in thousands of dollars)	Employment as of June 30
1975	4, 168	291
1976	11, 483	406
1977	13, 080	484
1978	13, 945	448
1979 (est.)	15, 829	*481

1976–79, $ +38 percent, staff +18 percent.

*As of April 30, 1979.

Consumer Product Safety Commission

Established by Consumer Product Safety Commission Act of October 27, 1972 (86 Stat. 1207).

	FY budget authority (in thousands of dollars)	Employment as of June 30
1973	1, 215	579
1974	34, 682	901
1975	36, 952	959
1976	39, 564	962
1977	39, 754	1, 048
1978	40, 457	1, 051
1979 (est.)	43, 485	*948

1974–79, $ +25 percent, staff +5 percent.

*As of April 30, 1979.

Environmental Protection Agency

Reorganization Plan No. 3 of 1970, effective December 2, 1970.

	FY budget authority (in thousands of dollars)	Employment as of June 30
1970	1, 003, 984	------------
1971	1, 288, 781	7, 133
1972	2, 447, 476	8, 854
1973	7, 427, 143	9, 404
1974	5, 952, 445	10, 711
1975	8, 516, 362	10, 772
1976	771, 347	11, 089
1977	2, 763, 429	12, 290
1978	5, 498, 126	13, 100
1979 (est.)	5, 410, 166	*13, 001

1971–79, $ +439 percent, staff +83 percent.

*As of April 30, 1979.

Equal Employment Opportunity Commission

Title VII of the Civil Rights Act of 1964 (78 Stat. 241; 42 U.S.C. 2000a). Operational July 2, 1965.

	FY budget authority (in thousands of dollars)	Employment as of June 30
1965	2, 250	61
1966	3, 250	227
1967	4, 993	360
1968	6, 626	476
1969	9, 031	644
1970	13, 247	850
1971	16, 044	856
1972	22, 818	1, 315
1973	31, 756	1, 756
1974	44, 135	2, 088

1966–74, $ +1,258 percent, staff +820 percent.

Federal Maritime Commission

Reorganization Plan No. 7, effective August 12, 1961.

	FY budget authority (in thousands of dollars)	Employment as of June 30
1962	1, 306	188
1963	2, 267	251
1964	2, 575	231
1965	2, 946	251
1966	3, 173	257
1967	3, 412	270
1968	3, 590	245
1969	3, 743	238
1970	3, 993	233
1971	4, 648	277

1963–71, $ +256 percent, staff +47 percent.

National Aeronautics and Space Administration

National Aeronautics and Space Act of 1958 (72 Stat. 426; 42 U.S.C. 2451 et seq.).

	FY budget authority (in thousands of dollars)	Employment as of June 30
1958	117, 276	*7, 966
1959	305, 365	9, 235
1960	523, 575	10, 232
1961	964, 000	17, 471
1962	1, 824, 930	23, 686
1963	3, 673, 041	29, 934
1964	5, 099, 714	32, 499
1965	5, 249, 727	34, 049
1966	5, 174, 924	35, 708
1967	4, 965, 618	35, 860

*As of September 30, 1958. 1961–67, $ + 415 percent, Staff + 105 percent. 1959–67, $ + 1,528 percent, Staff + 288 percent.

National Foundation on the Arts and the Humanities

National Foundation on the Arts and the Humanities Act of 1965 (79 Stat. 845; 20 U.S.C. 951 note).

	FY budget authority (in thousands of dollars)	Employment as of June 30
1966	5, 750	74
1967	11, 823	91
1968	12, 945	127
1969	15, 285	137
1970	20, 111	103
1971	36, 594	167
1972	68, 823	280
1973	88, 700	300
1974	131, 488	412
1975	168, 642	503

1967–75, $ + 1,326 percent, Staff + 453 percent.

National Science Foundation

National Science Foundation Act of 1950 (64 Stat. 149; 42 U.S.C. 1861–1875); additional authority from National Defense Education Act of 1958 (72 Stat. 1601; 42 U.S.C. 1876–1879).

	FY budget authority (in thousands of dollars)	Employment as of June 30
1951	225	43
1952	3, 500	117
1953	4, 750	181
1954	8, 000	188
1955	14, 250	170
1956	53, 000	251
1957	40, 500	323
1958	51, 750	413
1959	138, 500	544
1960	154, 773	734

1952–60, $ +4,322 percent, staff +527 percent.

Small Business Administration

Small Business Act of 1953 (67 Stat. 232); present authority derives from Small Business Act (72 Stat. 384; 15 U.S.C. 631 et seq.).

	FY budget authority (in thousands of dollars)	Employment as of June 30
1954	2, 500	601
1955	2, 370	736
1956	45, 000	821
1957	96, 900	1, 161
1958	122, 322	1, 471
1959	231, 271	2, 015
1960	154, 940	2, 244
1961	55, 943	2, 633
1962	227, 050	3, 181
1963	305, 879	3, 387

1956–63, $ +580 percent, staff +313 percent.

U.S. Arms Control and Disarmament Agency

Established September 26, 1961 (75 Stat. 631; 22 U.S.C. 2551)

	FY budget authority (in thousands of dollars)	Employment as of June 30
1962	1, 831	99
1963	6, 500	153
1964	7, 500	171
1965	9, 000	175
1966	9, 965	187
1967	9, 000	180
1968	8, 984	186
1969	8, 999	170
1970	9, 499	177
1971	8, 645	179

1963–71, $ +33 percent, staff +17 percent.

U.S. Postal Service

Sec. 2 of the Postal Reorganization Act of August 12, 1970 (84 Stat. 719; 39 U.S.C. 101 et seq.).

	FY budget authority (in thousands of dollars)	Employment as of June 30
1972	1, 417, 522	696, 840
1973	1, 410, 000	682, 120
1974	1, 698, 000	707, 202
1975	1, 874, 741	699, 174
1976	1, 708, 416	576, 653
1977	2, 266, 170	658, 390
1978	1, 787, 288	650, 320
1979 (est.)	1, 785, 176	*660, 363

1973–79, $ +26 percent, staff −5 percent.

*As of April 30, 1979.

Mr. PERCY. If IDCA is created, I would watch its growth with interest so it does not grow as some of these agencies have.

I would now like to quote from the testimony of Elmer Staats, Comptroller General of the United States, before the Committee on Governmental Affairs. Mr. Staats stated that:

> The creation of IDCA in itself will do little to increase the focus upon inter-program coordination. One approach to this problem would be to develop sectoral policy papers designed to provide guidance for both U.S. bilateral programs and U.S. participation in multilateral programs.

He concludes this particular comment by saying:

> Developing such papers and strengthening the multiyear country papers will require more staff effort and, therefore, does potentially, run afoul of the President's decision to reorganize within existing personnel ceilings.

So, what we are doing is creating more overhead instead of expanding and improving expertise. Since we are not creating additional positions, we must be taking these people out of productive jobs, perhaps decisionmaking jobs, in which they are presently engaged.

In the letter of the Secretary of State, which was read by my distinguished colleague (Mr. JAVITS), the Secretary does reference the congressional mandate for IDCA. I remember very distinctly that there was no such specific mandate by Congress.

One assertion which is made by proponents of the IDCA is that the reorganization is a direct response to a congressional mandate contained in legislation proposing that the President create this agency.

Mr. President, the International Development and Food Assistance Act of 1978 calls for a "strengthened system of coordination," but makes no mention of a new agency.

That is what it said, "a strengthened system of coordination." It did not say anything that I could find anyplace about creating a whole new agency.

The language in the accompanying conference report suggests that the President "consider establishing an International Development Cooperation Administration," and I would assume that this is the mandate we hear about. However, the conference report goes into more detail about what this IDCA should be, and I suggest the plan before us falls very short of the mark:

First, the IDCA suggested in the conference report was to supersede the Agency for International Development.

We are not superseding it at all. We are keeping it intact. We are just borrowing a few people, putting them upstairs in other professional categories, but leaving the Agency for International Development intact. "Supersede" means "to take the place of," to "replace," to "succeed."

Now, if we were talking about that kind of reorganization plan, then we would possibly have something substantive. The administration's plan simply places another layer on top of AID—AID continues to exist in a very recognizable form.

Second, the IDCA suggested in the conference report was to have within its organizational framework the maximum possible range of U.S. Government agencies and programs related to international development. It is my contention that the IDCA has only a lopsided group of agencies and programs under its wing, and that it is far from the reorganization suggested by the authors of the conference report.

I think we have to draw the line between what can be justified as even a step in the right direction, and what is simply not worth the trouble. I have to put this reorganization proposal in the latter category. I must put it in the latter category. It just falls very short of the mark. Let us not approve this plan just for the sake of appearing to do something.

In the Secretary of State's letter, it is also indicated that, IDCA will improve coordination among all our foreign development activities. No single agency currently in charge.

The proponents of the IDCA have claimed the administration has claimed, that it will bring greatly improved coordination among our bilateral and multilateral development assistance programs and U.N. development-related activities. They also make the point that no single Federal agency is now in charge of all these activities.

I would point out to my colleagues that an organizational framework already exists for this purpose—the Development Coordination Committee, or DCC, established by legislation just a few years ago. It is very difficult to see how a staff of 30 professionals, mostly transferred from AID, will be able to make a significant new contribution.

The DCC is an interagency coordinating body. The Departments of State, Treasury, Commerce, Agriculture, and Labor, plus the Executive Office of the President, Export-Import Bank, OPIC, and the Special Trade Representative are all represented on the DCC.

IDCA itself would be composed of few components. It would only have real authority over AID. Both OPIC and the Institute for Scientific and Technological Cooperation, if it is created, would be virtually autonomous. As a result, IDCA would, in reality, be a super AID.

In March of last year the President strengthened and expanded the DCC, chaired by the AID Administrator, who also chairs the OPIC board. In addition, the Chairman of the DCC was given the following responsibilities:

Serve as chief adviser to the President and the Secretary of State on development policy.

Serve as chief spokesperson for development aid before Congress.

Prepare an annual development policy statement providing overall policy guidance for each component of the AID program.

Advise State Department on the policies and proposed budgets for all U.N. development-related activities.

Generally speaking, the responsibilities of the IDCA Director will simply be transferred from another administration official who heads an organization which already exists to coordinate U.S. development activities. It seems logical that any strengthening of and changes in the coordination system could just as easily be accomplished within the existing organizational structure, and does not require the formation of a new agency.

Finally, Mr. President, IDCA will bring box-shuffling but no fundamental change in philosophy or operations. It will be perceived abroad as business as usual.

Bruce Stokes of the Worldwatch Institute in Washington has charged that the proposed IDCA will make little substantive difference abroad. He points out that the reorganization has failed to bring what he feels is a necessary change: some shift away from highly centralized programs toward community-level efforts to encourage self-reliance.

In a Christian Science Monitor article, Stokes makes some very important points which should be considered by everyone who is seriously interested in constructive—not cosmetic—change:

> Despite the pro forma rhetoric about the value of a more efficient management of international assistance, the administration's reorganization plans could turn out to be no more than a case of musical chairs at AID . . . Without a shift in foreign aid philosophy toward greater support for self-help and local problem-solving, the proposed International Development Cooperation Administration may look better in Washington—but it will look like more of the same old thing in Africa, Asia, and Latin America.

Mr. President, I ask unanimous consent that the full text of Mr. Stokes' article be printed in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Christian Science Monitor, Jan. 30, 1979]

CARTER RESHUFFLES AS WORLD'S POOR YEARN

(By Bruce Stokes)

President Carter is sending to Congress a proposal that would change the form but not the substance of American foreign aid. In reviewing the White House's suggestions, Congress should realize that a bureaucratic reshuffling will do little to improve the situation of the world's poor unless it's accompanied by some shift away from highly centralized programs toward community-level efforts to help people help themselves.

The administration would like to replace the Agency for International Development (AID) with an International Development Cooperation Administration. This new sub-Cabinet agency, which would have more independence and authority than AID, would oversee most bilateral and international aid by unifying scattered programs. The proposal is a pared-down version of one of Hubert Humphrey's last legislative initiatives and is the result of a year-long review of the much-maligned management of American international assistance.

Many people in the development community pointed out during this review process that the foreign assistance bureaucracy should be geographically decentralized, with more decision-making taking place outside Washington. They suggested that recipients of aid should be able to participate more directly in identifying their own needs and in carrying out programs. And many argued that where organizational efficiency conflicts with efforts to meet the basic needs of the poor, the latter should take priority.

The administration's proposal will make some of these changes easier but falls woefully short of mandating them.

During the past decade, there have been more and more attempts to solve at the international level problems that were once handled exclusively in local communities. The difficulties with this approach are now evident. Despite massive infusions of foreign aid, for example, more than 800 million people in developing countries still lack adequate housing and health care, according to World Bank estimates. These poor have scarcely been touched by government-to-government financial transfers over the years.

Yet most people, no matter how low their incomes, find a way to put some sort of roof over their heads by building or rehabilitating their own dwellings. Realizing this, the World Bank has restructured its housing program to facilitate self-help housing. A restructured AID should consider similar programs, for the answer to the misery of squatter settlements in New Delhi or Manila is not public housing but land tenure and small government loans that can capitalize on the ingenuity and resourcefulness of the poor who can often get things done that are beyond the reach of international bureaucracies.

Similarly, ever greater investments in hospitals, drugs, and medical technology are largely irrelevant to health-care problems in developing countries. Living healthier and longer lives often depends on great individual and community access to simple medical care and on preventive health measures that rid neighborhoods of the causes of disease. But long-standing ties to Western curative medicine have impeded a shift in this direction.

A few countries, notably Cuba, have broken this pattern. In many Cuban neighborhoods, minimally trained health workers—local students, housewives, or retired women—check hygiene, diet, and minor illnesses of children and pregnant women. The results have been encouraging. Such success has not been due to new organizational charts but to a whole new approach to basic health care.

The success of a development strategy designed to help people help themselves is increasingly well documented. Despite the *pro forma* rhetoric about the value of a more efficient management of international assistance, the administration's reorganization plans could turn out to be no more than a case of musical chairs at AID. A bureaucracy is only as effective as the philosophy it embodies. Without a shift in foreign aid philosophy toward greater support for self-help and local problem-solving, the proposed International Development Cooperation Administration may look better in Washington—but it will look like more of the same old thing in Africa, Asia, and Latin America.

Mr. PERCY. Mr. President, in conclusion I say to my distinguished colleagues that the Senator from Illinois has not tried to rush this matter to the floor. He was well aware of the fact, which was admitted by the administration, that it appeared we had the votes to defeat it before the recess, and I think we did.

But I saw no reason why the administration should not have a chance to work over Members of our body and plead their case as best they possibly could.

I know a number of my colleagues have been called by the administration. So we agreed to hold this over until after the recess.

I have not the slightest idea what happened in the meantime. The head count may well have changed because of the administration's lobbying.

I will pledge that, if the resolution of disapproval is not approved and if IDCA goes into being, I will work side-by-side with my colleagues in trying to make the very best out of something I do not have much hope for. This reorganization plan will not achieve the goals and objectives we have set out to try to reach.

I do not disagree with these goals and objectives. We need greater efficiency and better coordination.

But I certainly do hope that this resolution of disapproval passes and IDCA does not come into being because I do not feel it will help.

Mr. RIBICOFF addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I hope the resolution of disapproval is rejected.

I do commend the Senator from Illinois for pledging his cooperation because, after all, the oversight of IDCA will be in the Foreign Relations Committee. There will be annual authorizations. There will be an opportunity to carefully monitor the activities of this new agency to assure that we really have a strengthened system of coordination.

I point out that the chairman of the Foreign Relations Committee and the ranking minority member of the Foreign Relations Committee, who have the main responsibility in this field, are in favor of IDCA. My thinking in IDCA was guided greatly by the feeling and the thinking of the Senator from Idaho and the Senator from New York.

The Senators from Rhode Island and Illinois, who have doubts, will have an opportunity to monitor the reorganization very carefully; and I am sure that with careful attention from the Senators from Idaho, New York, Illinois, and Rhode Island, we will be assured that a strengthened and more effective system of coordination will be achieved in this entire field.

IDCA does have the opportunity to do a very important job. The Senator from Rhode Island says that foreign aid is unpopular. It is unpopular because it is perceived by the American people that the work, and its achievements, are ineffective, and not as meaningful as it should be.

I feel very strongly, as Senator Humphrey did and as Senator Javits and Senator Church do, that this area has been a faltering opportunity for the United States in a troubled world, where you have the rise of so many new countries which need constructive help, important help. IDCA should be the instrument to make sure that the billions of dollars we are spending throughout the world place us in a position of strength to be helpful not only to these countries, but also to American foreign policy.

I point out that, on a bipartisan basis, in the Governmental Affairs Committee the vote was 10 to 3 in favor of IDCA and the rejection of the resolution of disapproval.

POWERS OF IDCA

It is suggested that the plan is unnecessary because AID already has many of the functions IDCA would receive under the reorganization. In fact, IDCA would exercise a number of significant authorities AID does not now exercise.

AID can only advise the Treasury Department on U.S. participation in the multilateral development. The Treasury Department can listen to what AID suggests, or not, as it wishes. IDCA's judgment on developmental matters, on the other hand, will be determinative in most cases. As a result, IDCA will have far more responsibility for U.S. participation in the multilateral development banks than AID does today. And this is a very significant change since U.S. support of the development banks represents the single, largest part of the overall U.S. development program.

Today AID plays only an advisory role concerning our participation in the development organizations of the U.N. such as the U.N. development program. IDCA, on the other hand, will have final responsibility for policy and budget matters concerning U.S. participation in the U.N. development program, UNICEF, the world food program and five other development programs or organizations of the United Nations or the Organization of American States.

AID is not a formal member of key interagency committees dealing with U.S. policy towards the developing world such as the National Advisory Council on International Monetary and Financial Policies, and the Trade Policy Committee. IDCA will be made a formal member of these key committees, as well as others dealing with a broad range of issues affecting U.S. relations with the Third World.

NEED FOR A SEPARATE AGENCY

It is suggested that IDCA would not accomplish anything of significance which could not be accomplished within the present AID structure, if it were given more authority. Yet, under the present structure AID, as simply an administrative unit within State, has proven itself incapable of effectively coordinating development policies. The establishment of IDCA as a separate agency is in fact the key to improving the effectiveness of our development assistance policy.

For an agency to serve as the effective and influential focus for development concerns it must be more than simply this Government's bilateral assistance agency. To be successful, it has to act as an honest broker, balancing this Nation's multilateral program with its bilateral program. It has to balance bilateral assistance programs run by AID with other bilateral assistance programs run by other agencies. It has to consider not just the effect of AID's bilateral assistance on the developing world, but a broader range of other issues outside the competence of AID such as trade, science, and technology. AID has already demonstrated that, because it is the agency responsible on a day-to-day basis for this country's bilateral assistance program, it cannot carry out these coordinating functions effectively. IDCA, precisely because it will be more than AID, and somewhat separated from AID, should be able to carry out these coordinating responsibilities effectively.

Under the current structure AID is simply an administrative unit within State. It is subject to the budget and policy direction of the State Department on all matters. As a result, AID does not have the independence or stature necessary to be an effective spokesman for development concerns. As long as the spokesman for developmental concerns remains a part of the State Department, these issues will be in danger of being submerged under other priorities, or sacrificed for other, more short-term foreign poicy considerations. And as long as the coordinating responsibilities rest in a unit that is part of the State Department, it will not be able to effectively coordinate the concerns of the State Department with the concerns of other agencies and departments such as the Departments of Treasury or Agriculture.

EFFECT OF IDCA ON THE SIZE AND COMPLEXITY OF THE BUREAUCRACY

It is suggested that the new agency would establish another layer of ever-expanding bureaucracy which would place new burdens on the President by establishing one more agency competing for the President's time. In fact, it will do just the opposite.

Now there is no official outside the White House who can resolve differences between agencies on development issues. The head of IDCA for the first time will have the effective power as the President's principal adviser on development issues to pull together these issues, to resolve most of them, and to present the few issues requiring Presidential decisions in an orderly and comprehensive fashion. IDCA should thus actually reduce the need for Presidential involvement in issues which are now referred to the White House because there is no other effective mechanism for resolving the interagency disputes. Rather than establishing an additional layer of bureaucracy, IDCA will do the opposite, help rationalize and simplify current decisionmaking among a number of agencies.

While the establishment of a separate IDCA is in fact a key to an effective reorganization, it will not add any new bureaucracy. The plan will add no new Federal employees to the payrolls. All positions for staffing the agency will be transferred from existing positions in other agencies or offset by staff reductions elsewhere in agencies working on foreign assistance matters. By making more effective and efficient programs possible, the plan will, instead of costing the American taxpayer money, allow the United States to stretch its limited resources farther.

The projected size of the new agency, even when it reaches full strength, will be 35 to 50 professionals. Because the money for IDCA will have to be annually authorized, the Foreign Relations Committee will have a full oportunity each year to examine the effectiveness of IDCA and its personnel needs. IDCA would never exceed its projected size of 35 to 50 professionals, or even retain this strength, unless the committee, and Congress generally, want it to. As a senior member of the Foreign Relations Committee, the Senator from Illinois will have every opportunity to prevent any further growth in the size of the agency.

PRESERVING STATE'S FOREIGN POLICY ROLE

It is suggested that the concept of IDCA is wrong because development assistance cannot, and should not, be divorced from overall foreign policy. The reorganization does not in fact try to divorce development assistance entirely from foreign policy.

The head of IDCA will remain subject to the guidance of the Secretary of State in foreign policy matters. And it will remain subject, of course, to any congressional directives on such matters.

What the reorganization will do is insure that there will be an independent voice who can identify and articulate long-term developmental concerns, rather than immediate foreign policy considerations, in meetings where such development concerns are ignored today because there is no agency with the necessary stature to insure their consideration in the decisionmaking process.

Secretary of State Vance has made it very clear that, rather than opposing this reorganization, the State Department actively supports it.

THE DCC DOES NOT MAKE A NEW AGENCY UNNECESSARY

It is also argued that IDCA is unnecessary because the Development Coordination Committee (DCC) already fulfills the necessary coordinating functions. In fact the DCC has proved ineffectual in the past, and will continue to be ineffective because of its basic structure.

The DCC is ineffective because it is chaired by AID. As discussed above, AID is ineffective as a Governmentwide coordinator because it is simply an administrative unit within State directly responsible for the bilateral assistance programs. As such, AID can not act as an honest broker coordinating the activities of AID itself with those of other agencies responsible for other foreign assistance programs. The inevitable ineffectiveness of the DCC approach is also demonstrated by the difficulties the CIA has had, as one intelligence agency, coordinating all the other intelligence agencies.

The current DCC structure will also not work because it lacks the necessary direct authority over the multilateral programs and other parts of the Government's development assistance program. As discussed above, IDCA will have considerably more direct authority over components of the Government's development activities than AID. This will make the job of coordinating the Government's development activities considerably easier.

I therefore urge the Senate to reject Senate Resolution 140, so as to allow this reorganization plan to go into effect.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. JAVITS. First, this reorganization will eliminate the basic reason for the Development Coordination Committee, which is an interdepartmental coordinating committee. It is inadequate to this task, and it has not worked.

Second, there has been much talk about superstructure. This is not a superstructure. It is the structure, because AID will be in IDCA, and so will OPIC. Therefore, you will subsume under one heading all these functions.

Finally—and, to my mind, decisively—the fact is that most of our money is being spent for multilateral aid.

I appreciate Senator PELL's feeling about voluntary organizations. The difficulty is that they are too small and limited in their operations to take over the operations of foreign aid. We do a good deal with them now. He does not agree with me, but that is my feeling; and that is why his proposal was decisively defeated in the Foreign Relations Committee when he brought it up.

I hope, therefore, that the Senate will reject this resolution.

Mr. PELL. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PELL. Mr. President, it is my recollection that the Bangladesh aid operation was done with the considerable use of voluntary agencies. That is one of the largest, more difficult operations that occurred, and it was done quickly. The voluntary organizations took over much of the work and did it well.

In addition, I know that in Vienna, after the Hungarian Revolution, the total sum of money in the voluntary agencies was as much as the Government or more.

I think if the demand is put on them, they can do it. If the opportunity is there, they will do it.

The most important point is, as the Senator from Connecticut said, that the foreign aid program is not popular; and the way to make it popular is for the people in the local churches and Rotary groups and synagogues and every other organization to feel that they have a stake in the program. We do that by turning this responsibility over to them.

In further reference to what the Senator just said, there still will be a head of AID and a head of IDCA. If that is not a new structure, I do not know what is. There will not be much else for the head of IDCA to do but to supervise what the head of AID does.

Mr. JAVITS. Not at all. The head of IDCA will now deal not only with AID but with the Secretary of the Treasury in the international financial institutions. In addition, he will be responsible for all issues that affect development in the trade, monetary, energy, as well as other economic policy areas. The picture will thus be a very much more live one than it is today and along modern lines.

Mr. PERCY. Mr. President, will the Senator yield for a question of clarification?

Mr. RIBICOFF. I yield.

Mr. PERCY. As I understood the distinguished Senator from New York, he stated that the Development Coordination Committee—DCC—would be superseded.

Mr. JAVITS. Our information is that if IDCA is voted, the head of the DCC will be the IDCA Director.

Mr. PERCY. I refer the Senator to pages 18 and 19 of our report, the middle of the page:

> The Administration testified that the Director of IDCA will "become a member of a variety of formal and informal policy councils including DCC."

At the top of page 19, the first sentence in the first paragraph:

> The head of IDCA as chairman of the Development Coordination Committee will be the official responsible for establishing the exact nature and structure . . .

So it does not appear that the Development Coordination Committee is being phased out of existence or superseded. It is just being added to, and the chairman of IDCA will become the chairman of it.

Mr. JAVITS. It will truly become a coordinating committee with the right kind of agency head. The present head, the Aid Administrator cannot effectively coordinate policies in such areas as the MDB's, since he has no authority in the area. The IDCA Director will have that authority and give the DCC or any other coordinating group real power.

Mr. PERCY. I once again turn to my two colleagues: We have all had to recruit people. We all know the problems we have had through the years of trying to get people to head the AID program.

Now we are saying that, in addition to all the other problems, the head of AID, who runs the program and has the day-by-day management, is now going to be superseded as chairman of the Development Coordination Committee, which he now serves as chairman.

Therefore, the quality, the character, the type of person you get to head AID is now going to be scaled down. You put a guy in to coordinate when you do not really know whom to put in charge, I guess. So we are adding confusion to confusion. At least now, we know where the buck stops. I think we are creating an organization where we do not even know where the buck stops.

Mr. JAVITS. This is completely confusing, as explained, and that is what it is intended to do.

The fact is that the head of IDCA is going to be Tom Ehrlich, an extremely able man, who already has been chosen. He was the head of the Legal Services Corporation and is as able a man as you will find to run this operation.

Second, AID will be a part of IDCA. That is not a superstructure.

Mr. PERCY. Who will head it?

Mr. JAVITS. Douglas Bennett, an extremely able man, who comes out of the State Department.

So let us not throw dust in the air on this. We know just what we are doing and who is going to do it, and that is what commends it, because at long last we are on a solid track.

Mr. PERCY. On that note of agreement, I yield back the remainder of my time.

● Mr. LEAHY. Mr. President, it is with mixed feelings that I will vote for this resolution of disapproval and against the proposed reorganization structure of our foreign assistance programs, IDCA. While I recognize, indeed consider imperative, the need for a reorganization in this area, I do not believe that this reorganization would be effective. It is unfortunate that this administration chose to present us with an option which I and many others cannot support, despite our agreement on the basic issue—the need for overall foreign assistance reform.

The Presidential Commission on World Hunger, of which I am a member, has carefully analyzed the proposed reorganization, not only in light of world hunger, but perhaps more importantly, in terms of development in general. Indeed, the Commission considers the reorganization of our foreign assistance activities so important, that as of our last meeting this past weekend, this issue was No. 1 among our recommendations. While it would be premature for me to share with you at this time what those specific recommendations will be, I can share those concerns which we have discussed and analyzed in formulating our recommendations.

While the Commission as a body, and I as an individual, affirm the need for new and improved structural and organizational coordination of development policies and programs in the executive branch, a need which IDCA partially addresses, we also believe that the proposed reorganization structure may well be incapable of fulfilling the task. These reservations relate largely to the question of what new authority IDCA really has compared to the current AID organization?

Our basic concerns include the adequacy of IDCA's director's status at the sub-Cabinet level, which viewed in connection with the Department of State's continued "guidance" authority over IDCA, seriously brings into question the ability of the new organization to make development policy decisions outside the influence of short-term political foreign policy considerations. It is telling, that other U.S. agencies which also have wide-ranging and critical international roles, such as Defense and Energy, are not subject to the same "guidance" from the Department of State. It is also the belief of the Commission that many "nonaid" factors, such as trade, must be part of any realistic development policies which this country adopts. Under the proposed IDCA organization, these factors are not addressed. Even direct foreign assistance related authority, such as determination of U.S. participation in the international funding institutions and the U.N. organizations would not be part of IDCA's responsibilities. Finally, when one looks specifically at hunger related programs, IDCA has no authority over the food for peace program, nor most of the myriad of U.S. Government agencies which deal with food issues domestically and abroad.

In light of all these restrictions one must ask how would IDCA be different from the current AID structure, and if the answer is not significantly, then why create another bureaucratic level of questionable competency to address the problems of development which pose one of the most challenging and critical arenas for world security and global well-being today. ●

● Mr. DECONCINI. Mr. President, I rise in support of the pending resolution. Reorganization plan No. 2 is so seriously flawed that the only proper and responsible course, in my judgment, is to disapprove it. The reshuffling the administration recommends in plan No. 2 is clearly the product of bureaucratic infighting. Not surprisingly, it serves merely to gloss over and thus perpetuate the organizational provincialism and programmatic incoherence that has come to characterize our foreign assistance effort. What is needed and what I had hoped to see is a comprehensive realignment of all the elements of our foreign assistance machinery, not simply the addition of another largely irrelevent layer of supergrade bureaucracy along with a few dotted lines on the existing table of organization which, unfortunately, is what plan No. 2 turned out to be. Real institutional changes, as opposed to the kind of cosmetic tinkering plan No. 2 incorporates, must flow from well-defined, lucidly articulated policy concepts coupled with a thorough and objective assessment of the organizational forms required for their effective implementation. This, indeed, is what I understand by reorganization, and it is what we should insist upon in the present case. To approve the ad-hoc, jerri-rigged hodgepodge of divided and ambiguous authority, concessions, to bureaucratic inertia, and plain bad administrative structure that plan No. 2 entails is to make an admittedly bad situation worse. To do so is to fall far short of the possible and to foreclose the opportunity to make this kind of substantial improvement in the framework of our development policy which I think a majority of us would be pleased to support.

Let me take a moment, Mr. President, to detail what I believe to be the more significant defects in plan No. 2:

First. The International Development Cooperation Agency (IDCA) which plan No. 2 would create as the means of securing greater integration and coordination of foreign assistance policymaking is institutionally incapable of doing so. The only activities that are clearly and unambiguously subject to its direct authority and control are the Agency for International Development (AID) and a proposed Institute for Scientific and Technological Cooperation (ISTC) authorization for this latter entity was, as you will recall, deleted from the development assistance authorization bill on June 19. Thus, all that remains of IDCA as a unified organization is AID.

Second. Significantly, the multilateral aspects of foreign assistance remain under plan No. 2, beyond IDCA's institutional boundaries, and, despite some last minute memos purporting to establish lines of coordination and consultation among IDCA, State, and Treasury, beyond its operational reach as well. The plain fact is that the management of our international organizations activities remains in the State Department, while actual authority over the Multilateral Development Banks is left with the Secretary of the Treasury. On March 20 of this year, Secretary Blumenthal appeared before the Foreign Operations Subcommittee of the Committee on Appropriations. His remarks with respect to this reorganization proposal are illuminating, and, I think, suggest what IDCA's chances are of exerting anything more than marginal influence on U.S. policy vis-a-vis the MDB's.

Third. Although IDCA as presently constituted is apt to be ineffectual, it will nonetheless be quite expensive. Current estimates for personnel benefits alone for fiscal year 1980 range from in excess of $2 million to over $3.6 million. I think for this kind of money, we ought to get real reorganization, one with better prospects for putting our assistance effort into some semblance of order.

Mr. President, I have always believed in calling an ace an ace and a spade a spade. What we have before us in plan No. 2 is no reorganization worthy of the name—It is a turkey and it is a long time until Thanksgiving.●

● Mr. GLENN. Mr. President, I support reorganization plan No. 2, which would establish a new International Development Cooperation Agency to consolidate the bilateral and multilateral development programs of the United States under one agency.

This proposal comes to the Congress at its own invitation, issued in the conference report accompanying the International Development and Food Assistance Act of 1978, which suggested that the President:

> Consider establishing an International Development Cooperation Administration, to supersede the Agency for International Development, which would have, subject to the foreign policy guidance of the Secretary of State, primary responsibility within the U.S. government for coordination of international development-related activities and which would have within its organizational framework the maximum possible range of U.S. government agencies and programs related to international development.

In response to that suggestion, the President did, on April 10, 1979, submit reorganization plan No. 2, now before us with amendments submitted by the President after hearings before the Committee on Governmental Affairs. The plan was approved by the committee on a vote of 10 to 3.

The establishment of IDCA will greatly enhance the coordination among this country's bilateral and multilateral assistance programs, and it will provide a focal point for developing a consistent and coherent policy for our various development assistance programs. This can be achieved, without additional costs to the taxpayer. The plan does not require any additional personnel or budget outlays to meet its goals.

That does not mean that IDCA works no real change. It most certainly does. The reorganization will significantly alter the ways in which the United States participates in the multilateral development banks, such as the World Bank, the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund. Currently, the Treasury Department has full responsibility for U.S. participation in the banks, with AID playing an advisory role. Plan 2 before us today would transfer authority over the developmental aspects of our participation in the banks to IDCA, as well as transfer from the State Department to IDCA the budget and policy responsibility for eight major international development programs. These programs would include the U.N. Development Program, UNICEF, the World Food Program, the U.N. Disaster Relief Organization, and four others in the U.N. or the Organization of American States. IDCA also would include the Agency for International Development and, if it should come into being, the proposed Institute for Scientific and Technological Cooperation. The Director of IDCA, however, would not administer the day-to-day activities of these agencies, but, rather, would exercise broad policy responsibilities. He would, however, replace the Administrator of AID as Chairman of the Board of Directors of the Overseas Private Investment Corporation.

This restructuring would represent the the first major alteration of the U.S. foreign aid programs since the creation of AID in 1961. It is responsive to the change that has taken place worldwide in the intervening years. In January of 1961 there were only 73 independent developing countries, according to the Library of Congress. Today, there are more than 130. In fiscal year 1961 the total contribution of the United States to bilateral and multilateral assistance was $2.2 billion. During the 1960's subscription payments to the multilateral development banks represented only 2 percent of total U.S. development assistance. Today, the total multilateral and bilateral assistance programs amount to more than $7 billion and the largest single portion of that is the contribution in both callable and paid-in capital to the multilateral development banks. In 1961 the U.N. Development Program, which represents the largest source of development assistance in the U.N. did not exist.

IDCA is proposed to permit the United States to better cope with these changes by establishing an agency with an identity separate from the State Department, separate from Treasury, and with greater responsibility to oversee the policies affecting both our bilateral and multilateral assistance programs.

In his message to the Congress transmitting reorganization plan No. 2, the President stated that IDCA will provide the United States with governmental machinery far better able to fulfill our commitment to assist people in developing countries to eliminate hunger, poverty, illness, and ignorance. I believe that to be so. It is so because one agency, one director, will be in charge of setting a coherent and balanced set of policy goals in this most important area. The report of the Governmental Affairs Committee points to a number of examples of inefficiencies resulting from the present fragmentation of bilateral and multilateral development programs—inefficiencies this plan is aimed at eliminating.

The plan meets the mandate of Congress. We should approve of it by accepting the recommendation of the committee, which by a vote of 10 to 3 recommended that the pending resolution of disapproval be rejected.●

● Mr. ROTH. Mr. President, as a Senator who is very concerned about waste and inconsistency in our foreign aid and development programs, I will vote in favor of the reorganization plan.

The studies of the Senate Governmental Affairs Committee, in which I have participated, have shown that there is very little effective coordination of our bilateral foreign aid program, administered through AID, with the activities of multilateral development agencies and international financial institutions.

There is virtually no evaluation of the use made of the hundreds of millions of taxpayer dollars contributed each year to the development banks.

There is no single administration official accountable and answerable to the Congress for the Nation's foreign aid programs and developmental efforts.

The establishment of the International Development Cooperation Agency, as proposed in the reorganization plan, does not involve additional expenditure nor add new Government personnel.

I would hope that by giving Congress a better handle on the foreign aid effort, it would result in the elimination of many wasteful programs which are having little, if any, tangible impact on development.

I would caution, however, that the reorganization plan establishes only a structure in which more effective management and evaluation might be carried out. It will require strong oversight by the Congress, and particularly committees like the Foreign Relations Committee and the Governmental Affairs Committee, to see that real changes in U.S. policies, coordination, and evaluation are implemented.●

Mr. CHURCH. Mr. President, last year, when the Congress passed title III of the International Development and Food Assistance Act of 1978, it directed the President to institute a strengthened system of coordination of all U.S. foreign aid programs. The Congress adopted title III because we recognized that improved coordination is requiréd to insure that our foreign aid objectives are achieved at the least cost to the taxpayer.

After considerable effort and close consultation with the Foreign Relations and Governmental Affairs Committees of both Houses, the President submitted reorganization plan No. 2, proposing the establishment of the International Development Cooperation Agency. Surely, each of us in this body can agree with the objective of the plan: to improve the effectiveness of our foreign assistance effort. The question we debate today is whether this reorganization plan will achieve that objective.

Mr. President, the report of the Governmental Affairs Committee on this resolution cites several instances in which bilateral and multilateral programs were working at cross purposes in the same country at the same time. I suspect that these four examples do not exhaust the list of bungled programs which have cost the taxpayers money. But these examples have a common thread: Problems arose because the aid programs were administered by separate agencies which did not effectively coordinate their efforts.

Mr. President, we understand why bureaucracies have trouble coordinating programs. When a bureacracy is responsible for a program, it will cling to its turf like a tick to a dog—head buried, drinking its fill; oblivious to the outside world. Coordination is what the other fellow does to make his programs match yours. This iron law of bureaucracy applies to all Federal programs, foreign or domestic.

In the case of foreign aid, the coordination problem is extraordinarily complex. We do not have one foreign aid program—we have more than 30. Our aid is provided bilaterally through AID, and multilaterally through the World Bank, Asian Development Bank, Inter-American Dvelopment Bank, African Development Fund, the International Fund for Agricultural Development, and a host of U.N. agencies. Aid is administered by three Cabinet-level departments and several sub-Cabinet agencies. The reorganization which we consider today will bring these programs into one agency. It will fix responsibility for their management on one official who, working under the foreign policy guidance of the Secretary of State, will have the authority necessary to establish budget priorities and set development policies. Most importantly, this plan will not cost the taxpayers additional money. It creates no additional job slots. It requires no additional appropriations. This plan, through improved coordination, improved efficiency, and increased effectiveness, will save money and help us to achieve important foreign policy objectives.

Mr. President, a thoughtful man wrote:

> The quest for coordination is in many respects the 20th century equivalent of the medieval search for the philosophers stone. If only we can find the right formula for coordination, we can reconcile the irreconcilable, harmonize competing and wholly divergent interests, overcome irrationalities in our Government structure, and make hard policy choices to which no one will dissent.

That man is, or course, right. This reorganization plan is not the panacea which will cure all the ills afflicting our aid programs. But this plan is the fundamental step required to resolve serious problems which now impair the effectiveness of our $8 billion aid effort.

Mr. President, I support this plan. I will vote against the resolution of disapproval. As chairman of the committee which will be responsible for the oversight of the IDCA and the programs it administers, I can assure this body that we will work closely with its officials to help achieve those objectives about which we all agree—to improve the effectiveness of our foreign aid programs and to insure that the taxpayers' dollars are well spent.

● Mr. DOLE. Mr. President, Senate Resolution 140 would disapprove the Reorganization Plan No. 2, that establishes a new International Development Cooperation Agency. The Senator from Kansas believes it would be advantageous to consider the benefits of total bureaucratic reorganization, but the establishment of a new agency is not the way to improve the function of Government. There has been a great deal of criticism of the present administration for failing to establish or maintain a consistent approach to international affairs. Some among us have called for a new bipartisanship in the conduct of U.S. foreign policy—one that could provide a foundation for cohesiveness, for coherence, and most important for a new vitality in our approach to international relations. However, the pooling of our foreign assistance programs will not achieve the positive change that is so badly needed.

This plan would consolidate bilateral and multilateral development programs under one agency, but do little to enhance governmental efficiency. This plan combines existing programs but does not address the real problem of establishing coherent policies in our international lending programs. The delivery of U.S. foreign assistance would not be improved and this consolidation would only add a new and unneeded layer of bureaucracy at a time when the American public wants relief from bureaucracy. Those changes proposed by this reorganization could just as easily be accomplished within the present structure.

One of the primary arguments in favor of this plan is that it would give the Development Agency a new degree of independence from foreign policy considerations. It is specious at best to believe foreign aid should be independent from foreign policy. This incoherence of action and policy is the hallmark of the current administration but the Congress should not, by accepting such a plan, make this incoherence mandatory in the future. Development activities must be undertaken within the context of our overall policies, to do otherwise is to short-change the American taxpayer who ultimately foots the bill.

The purpose of this reorganization plan is to better organize U.S. coordination, implementation, and funding of many worthwhile and humanitarian programs that the United States has traditionally funded, and found to be in its best, long-term national interests. Many of those changes which would be made by this reorganization could be accomplished just as easily and much less expensive within the present organizational structure. These programs include bilateral assistance, international disaster assistance, the Agency for International Development (AID) and voluntary American contributions to international organizations. These programs have in the past come under criticism because of costs, but they have also achieved great progress in serving traditional American, humanitarian goals, helped to provide peace and stability in deprived and volatile areas of the globe, and contributed to the development of Third World nations. As the projects we have undertaken in the past begin to bear fruit and as more international cooperative ventures begin to address these same problems, it is to be hoped that the United States will continue to be able to provide leadership in this area.

The Senate proposes, by the passage of this measure, to create a means of reducing costs through adding to the ever-expanding bureaucracy. But there are many ways to achieve an objective, not all of them good, not all of them cost effective, not all of them necessary. I believe we must support Government reorganization in order to improve the efficiency of our Federal programs and policies. The proponents of this plan suggest that this new agency will not increase the size of Government nor will it be an added burden on the taxpayer. However, Mr. President, we can expect it to grow, as all such agencies grow, at a time when we are trying to reduce the deficit and achieve a balanced budget let us not go forward and create an embryonic agency that will expand each year and demand more and more of the Federal dollar.●

Mr. RIBICOFF. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the resolution. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Carolina (Mr. MORGAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. MORGAN) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oregon (Mr. PACKWOOD), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. (Mr. BAUCUS) are there any Senators in the Chamber who wish to vote?

The result was announced—yeas 45, nays 51, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—45

Armstrong
Baker
Bellmon
Boren
Boschwitz
Burdick
Byrd, Harry F., Jr.
Cochran
Cohen
DeConcini
Dole
Domenici
Durenberger
Durkin
Garn
Gravel
Hart
Hatch
Heinz
Helms
Hollings
Humphrey
Inouye
Kassebaum
Laxalt
Leahy
McClure
Melcher
Nunn
Pell
Percy
Roth
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stevenson
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—51

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cranston
Culver
Danforth
Eagleton
Exon
Ford
Glenn
Goldwater
Hatfield
Hayakawa
Heflin
Huddleston
Jackson
Javits
Jepsen
Johnston
Kennedy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stewart
Stone
Talmadge
Tsongas

NOT VOTING—4

Morgan
Packwood
Pressler
Williams

So the resolution (S. Res. 140) was rejected.

The PRESIDING OFFICER. The Senate will be in order.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT

The PRESIDING OFFICER. The Senate will now resume the consideration of the unfinished business, which the clerk will report.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 28) proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

The Senate resumed the consideration of the joint resolution.

LEGISLATIVE PROGRAM

Mr. STEVENS. Mr. President, may I ask the distinguished majority leader what is the program for the remainder of the day, and whether we may expect votes throughout the remainder of this day?

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order. The Senate will be in order. Senators who wish to converse will please retire to the cloakrooms and clear the aisles.

The Senator may proceed.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his question and I thank the Chair for securing order.

I know of no other rollcall votes to occur today. The Senate may debate the pending constitutional amendment as long as it wishes, but I would suggest that we now have a period for the transaction of routine morning business, so that Senators who wish to speak on other matters may do so, if this meets with the approval of the Senator from Indiana (Mr. BAYH), who is managing the unfinished business.

Mr. BAYH. I have no objection. I do know that the Senator from Nebraska had a speech that he was intending to make, and I think the Senator from Wyoming has a speech. I do not know how the majority leader cares to work that around with morning business, but if it meets with their approval I have no objection.

Mr. ROBERT C. BYRD. Mr. President, the Pastore rule of germaneness has run its course, and we have had morning business earlier today, so Senators may speak at this time on any subject they wish to speak on. I am informed by Senator BAYH that there are Senators who wish to speak on the unfinished business, the Senator from Wyoming and others. I ask unanimous consent that at no later than 5:30 p.m. today, if no Senator seeks recognition, at some point the Chair will recess until tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR KENNEDY TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that after the two leaders have been recognized under the standing order tomorrow, the Senator from Massachusetts (Mr. KENNEDY) be recognized for not to exceed 15 minutes, after which the Senate resume the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

SALT II AND DEFENSE SPENDING: SENATOR PROXMIRE'S VIEW

Mr. CRANSTON. Mr. President, today the hearings on SALT II started before the Senate Foreign Relations Committee and will continue throughout the month of July. The Armed Services Committee starts hearings on July 16 and the Select Committee on Intelligence will be examining the treaty as well.

There are many significant issues and important questions raised by SALT II. Though I am not a member of any of these three committees, I hope to have some germane comments on these issues and questions as the hearings proceed and before the actual debate on the Senate floor begins.

Certainly one of the central issues and most perplexing questions raised by SALT II is the effect of treaty ratification on defense spending. During the Fourth of July recess, the distinguished senior Senator from Wisconsin, William Proxmire, issued a statement which was sharply critical of SALT II because the Senator foresaw an increase of $100 billion for defense spending even with ratification of the treaty.

I share my colleague's concern. I, too, would prefer that defense spending would be curtailed—not increased—under SALT II. And I, too, presently believe it would be preferable that the development of a new missile ICBM system by either side be prohibited—not permitted—under SALT II.

But certainly nothing in the text of the SALT II treaty causes—or requires—an increase in defense spending, or the development of the MX.

The real issue is not whether defense spending will go under SALT, but whether defense spending will go up more without SALT.

The issue is not whether one new missile system may be developed under SALT, but whether unlimited development of new and improved missile systems will occur without SALT.

Defense spending will go up to a far higher level—possibly by as much as as $200 billion—if SALT II is rejected. The recent study by the Congressional Budget Office on defense spending with and without SALT II concluded that a SALT breakdown could add as much as $100 billion to defense spending over the next 15 years. This is in addition to and exclusive of the $100 billion rise predicted by Senator Proxmire—a figure that consists primarily of his estimate of $70 billion for a new MX missile system.

The Department of Defense estimates the MX cost at $30 billion. It is difficult at this time to calculate which estimate is closer to the mark—but I suspect that Senator Proxmire's figure may be the more accurate.

As to the general cost of defense with or without SALT, it should be recognized that if the Senate ratifies SALT II, we would be placing a limit on the number of United States and Soviet missile launchers and bombers. That would give us an excellent chance of keeping well below the $100 billion increase that Senator Proxmire forecasts for defense spending.

Without SALT II, however, the odds will be heavily against those of us who are trying to hold military spending down to what is realistically required for national defense. The more belligerent atmosphere that would follow Senate rejection of the treaty would almost certainly heat up the arms race and accelerate military spending on both sides.

The only real way to save money—and to increase national security—is to negotiate with the Russians a significant mutual reduction in nuclear weapons. That is SALT II. But the only way to get to SALT III, is through SALT II. There would, of course, be an absolutely incalculable cost—in resources, property, and, most of all, in lives—of nuclear war with the Soviet Union.

We and the Soviets must get to SALT III and nuclear arms reduction before we land in World War III and nuclear holocaust. Mr. President, I know Senator Proxmire and I shape a deep and common commitment to avoid that nuclear holocaust of World War III. I know, also, that Senator Proxmire and I share a deep and common concern over a sharp increase in defense spending that would lead to greater insecurity. And although I disagree with some of my distinguished colleague's conclusion that regarding the increase in defense spending that is likely to accompany the ratification of SALT II, and although I believe ratification will prevent an even greater increase, I think his statement warrants our consideration.

I ask unanimous consent that the press release of Senator William Proxmire issued on Thursday, July 5, 1979, be printed in the Record.

There being no objection, the press release was ordered to be printed in the Record, as follows:

Press Release of Senator William Proxmire

Sen. William Proxmire (D-Wis.) in a statement from his Washington office Thursday said: "The price tag of the SALT II Treaty is heading for the roof—possibly $100 billion or more. This may be the most expensive arms control agreement in the history of the world."

Proxmire is a member of the Defense Appropriations Subcommittee and is Chairman of the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee.

If you think SALT will save any money—forget it. Just about everyone from the Pentagon to the Congress agrees that SALT II will not save tax dollars.

But what has gone unstated is that SALT II will be costly—very costly. These costs have been understated and in some cases just not discussed. Here is a breakdown of what to expect.

First is the MX. Pentagon figures indicate that the MX in the trench mode currently in favor will cost $30 billion for 200 missiles with 2,000 re-entry vehicles of medium yield and 4,000 shelters. This estimate is badly understated. First, it is given in constant 1980 dollars—not the dollars that taxpayers will have to pay. Therefore it does not take inflation into account. Furthermore the $30 billion estimate neglects to account for the additional 4,000 hard points necessary to defend against future Soviet attack (vice current Soviet capabilities), a full costing of the sprint capability of the missile/vehicle or cost overruns. The real total costs of MX likely will top $70 billion and could be even more. And finally, the Pentagon estimates do not take into account operation and maintenance of the system after deployed.

Second, the Air Force is making a strong pitch for two new strategic bombers. Citing research and development in the Soviet Union for several bomber models, the Air Force is pushing hard for an interim, near-term U.S. bomber and a long-term bomber. The near-term bomber would be a modified F–111 called the FB–111B. The current fleet of 66 FB–111As and 89 F–111Ds would be stretched, fitted with new B–1 bomber engines, and given new electronics. The price tag for this SALT II derivative would be a minimum of $7 billion (for the 66 FB–111A modifications alone), not including operation and maintenance costs.

In the longer run, the Air Force wants to deploy a new bomber to carry the air launched cruise missiles and possibly to penetrate Soviet airspace much as would the cancelled B–1. It is impossible to cost out this plan accurately but it would be unreasonable to expect anything less than $15 billion for a replacement of the active B–52s.

The list does not stop there. Soviet production of the BACKFIRE bomber, which is continued under the Treaty at a rate not to exceed 30 per year, will create strong pressures to deploy a new generation of air defense missiles, aircraft and early warning systems for continental air defense. F–15 squadrons as interceptors, the Patriot as a surface-to-air missile system, AWACS for early warning—these reactions will cost tens of billions basically because we did not draw the terms of the Treaty tight enough to limit the perception of bomber threat to the United States.

There are too many variables to add these individual items and reach an overall estimate with great precision. However it could well total over $100 billion.

That is enough to give one pause to consider if this is really arms control.

SALT AND NATO

Mr. PERCY. Mr. President, at the appropriate time during Senate Foreign Relations Committee hearings on the SALT II Treaty, I am considering introducing two understandings to the treaty. They are designed to reassure our NATO allies that the treaty will not work against their interests and to demonstrate to the Soviet Union the strength and vitality of our bonds to our European allies. I will not make a final decision on these two understandings until I have heard the administration's full testimony. Hearings in the Senate Foreign Relations Committee began this morning at 10 a.m. and will continue except during the August recess into September.

The first understanding would state that the Treaty Protocol which, among other things, limits the deployment of ground and sea launched cruise missiles above a 600-kilometer range cannot be extended without the advice and consent of the Senate. The second understanding would state that nothing in the treaty prohibits the United States from continuing traditional patterns of allied defense cooperation, including the transfer of cruise missile technology if it deems such a transfer necessary.

On May 16, the defense ministers of NATO officially announced their support for SALT II. Concluding their semiannual meeting, the NATO ministers stated in a communique that "equitable limitation of nuclear weapons capabilities of the Soviet Union and the United States will improve the security of NATO."

European support for SALT makes sense. Limits on strategic competition can reduce tensions between the two superpowers and European security is greater in an atmosphere in which United States/Soviet rivalry is constrained. Moreover, essential equivalence between the United States and the U.S.S.R. in strategic capability could lead to a greater awareness and political will to do something about the conventional imbalance between NATO and the Warsaw Pact in Europe. Money that does not have to be spent in an unlimited strategic arms race with the Soviet Union could be available for improving NATO's posture.

In consultation with the United States during the SALT talks, our allies consistently urged that the so-called forward based systems that the United States maintains in Europe—the FB-111's, the F-4's, F-16's, and various carrier-based aircraft—be exempt from SALT, and they are. Neither are the nuclear forces of our European allies constrained by SALT. On the other hand, two major Soviet weapons system presenting a direct threat to Europe—the SS-20 and the Backfire bomber—remain outside SALT limits. These systems and the threat they pose cannot be ignored.

Our NATO allies support SALT II but we know that protocol restraints on cruise missiles, the possible counter to the aggressive Soviet posture in Europe, did cause them concern. I have been concerned about range restrictions on cruise missiles since the cruise missile issue was brought up in negotiations several years ago. It occurred to me then and it still seems odd that we should be limiting a system that may prove to be very useful in allied defense. I believe that the option of the cruise missile should be open and real. It should not be foreclosed by SALT II.

My two understandings made it clear that the cruise missile option will remain open.

Senator HART is also concerned about extension of the protocol and has introduced some language intended to settle the issue. I am sure that he and I can work together on this issue and present the Senate Foreign Relations Committee with some mutually agreeable language. The principle should not be controversial. In April hearings in the Senate Foreign Relations Committee on the Taiwan treaty termination issue, I asked witnesses whether the President could act alone to extend the duration of a treaty. There was a consensus that the President did not have this power. In answer to a written question, Larry Hammond, Deputy Assistant Attorney General wrote, "If the term expires, the treaty no longer remains in force and the President cannot extend the treaty as a treaty."

The second understanding clarifies the U.S. position on the transfer of cruise missile technology to our NATO allies. This language should allay our allies' concern that in SALT II we are restricting our traditional pattern of defense cooperation.

If these two understandings are accepted by the Senate, they will go a long way toward countering the precedential aspect of the range limits on cruise missiles agreed to in the protocol and will clarify the U.S. position that these weapons are still a viable option for both U.S. and NATO defense.

THE AMERICAN BAR ASSOCIATION'S MOVE TO SUPPORT THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in 1950 the Senate Foreign Relations Committee first held hearings on the ratification of the Genocide Convention. During those hearings, representatives of numerous groups, with a total membership of approximately 100-million people, urged ratification. However, the influential and prestigious American Bar Association chose to oppose the convention.

Although the ABA sympathized with the treaty's general purpose, it refused to give all out support because the convention involved "important constitutional questions" which had not been satisfactorily resolved.

Since then, however, a great deal of discussion on these constitutional questions has taken place. Many questions first raised by the bar have been clarified and resolved. In 1976, the American Bar Association House of Delegates voted overwhelmingly to recommend the ratification of the Genocide Convention.

In his 1977 testimony to the Senate Foreign Relations Committee, Bruno Bitker, chairman of the ABA's Committee on International Human Rights, aptly summarized the group position:

> There appears no provision in the Convention that would support a successful attack on constitutional grounds. No objections asserted on a legal basis justifies delaying ratification.

To many people, the ABA's constitutional reservations in supporting the Genocide Convention signaled that caution toward ratification was indeed well founded. In fact, opponents of the treaty frequently cited the American Bar Association's position as justifying U.S. inaction.

This excuse no longer exists.

The ABA's resolution gives strong legal support to the argument that the Genocide Convention does not violate our country's Constitution. The last barrier to passing the treaty is Senate approval.

I strongly urge my colleagues to remove this final barrier. Let us join the American Bar Association along with numerous other groups devoted to human rights in supporting the ratification of the Genocide Convention.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT

The Senate continued with the consideration of Senate Joint Resolution 28.

Mr. STENNIS. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is Senate Joint Resolution 28, and the pending question is on agreeing to amendment No. 280.

Mr. STENNIS. Mr. President, is there a time limitation?

The PRESIDING OFFICER. There is no time limitation.

Mr. STENNIS. Mr. President, I will not detain the Senate for any great length of time. I am involved in an emergency matter, and I will not try to keep the floor very long.

Mr. President, this matter of a constitutional amendment that would sweep aside and repeal and totally substitute a new system for the election of the President of the United States is fundamental and far reaching, and should not be undertaken under any circumstances as a casual matter.

I have wished many times for circumstances for consideration of matters like this under which the Members of this body could gather around a large table and there deliberately discuss, question each other, exchange views, and get one another's opinions on various questions that arise. I know that is not possible, but that is exactly the way that this plan was worked out in the beginning.

It was not a conglomeration of people at the Constitutional Convention, to start with; it was an assembly of representatives of the States, and for all these years that the Constitution has been in effect, this system has worked in an orderly way, and has furnished to that executive chair many, many of the most outstanding men in public life. Certainly there have been very few, if any, who could be called poor Presidents or worthless Presidents, or misfits, or failures. So I think the system that has proven itself through all those years, from the time when the Nation was a feeble and infant nation in world affairs with a highly uncertain future, in a new country, a new land, and a wilderness, more or less, coming down through those 200 years of change, and furnished as fine a product and as fine a group of Presidents as it has, has not only proven itself but has proved that it should not be carelessly or readily cast aside.

Moreover, we still maintain the identity of those States, plus other areas that have been created in the States, which have proven their worth and their worthiness, and ought to march forward, always forward, to growth, to strength, to recognition, to higher and higher standards of living, to higher and higher standards of political achievement, whereas today we are not only powerful in the financial world and in the world of technology, but we are forward and foremost, as we believe, in other major fields of endeavor for many, many generations, and we hope and believe we will endure.

We have nothing novel here. We have no system which is not known without a history, but we have a proven fact.

I think the main argument against this system we have now is that it is not in line with a newer concept of one man, one vote. Well, I will not stop to reargue the wisdom of that Supreme Court decision. It was not a legislative body which brought forth that decision. But we have it here, and I would not disturb it as far as ordinary elections go. But this is an extraordinary election, and I hope we will always keep it where any segment of our population—now estimated to total 265-million people at the turn of the century, only a few years away—regardless of how high that figure goes, as long as they remain States, whomever is running for the Office of Chief Executive, the President of the United States, will always have to deal with those people for that area, whether it is Texas with its vast domain or space, California with its great population, or Rhode Island with the smallest area; whether it be a State of the West, of the rugged mountains of the West, or whether it be in my area of the country or anywhere. Those candidates will have to have it instilled into their minds and included in their promises to those people that they will do what they can in that great office to see that the people get fair consideration of their problems and a fair deal, so to speak, in attempting solutions. No one will have all the solution needed, but the people will at least be considered and will have a part, and that they will have voices here on the floor of this Senate based at least partly on statehood.

I know what the next step will be. If we abolish this one, then some of those of the same thought who want to abolish this system have as the next step to abolish a State itself. If they are so small, so significant, according to the argument to move to the larger and stronger, there will have to be an adjustment of political power. They will throw out of balance the certain practical consideration that we have now whereby they do play a part, these people living in these separate States, and they play another part in that they send representatives to this Chamber who have an equal number of votes, and up to their personality and ability they can have equal or exceedingly better representation as the largest most populous State of any State in our great body of States.

We put it over here on the great Senate Office Building in stone just a few years ago, the U.S. Senate, "A Union of States of the United States."

So this is a very serious assault, whether it is intended to be or not, upon the concept of the U.S. Senate.

Going back to this one man, one vote, as I said we did not achieve this instrument in the beginning with national majorities, but it was a majority of the States of the United States. The people elect Senators now on the same basis, Senators from States of the United States. The Supreme Court, and I speak with great deference to the Court, are not chosen on the basis on one man, one vote, or one man, one area. We have a loose law with reference to area representation. They are appointed not on a basis at all of what the majority might want, but they do represent the majority of the people the very best they can.

This matter has gone far enough unless there is another strong, basic reason given for changing this electoral college. I think it should be modified some, but this proposes to abolish it, to kick it out, to throw it away. What has been attributed to it? Only the possibility of someone not obeying the instructions, in effect, as given by the voters of their State. Well, that is a relatively minor matter, as time has shown, but that can be amended by just a very slight change in the system rather than just throwing this thing out bag and baggage.

I know we cannot have this consultation—and I speak of consultations all the time with the membership of this body. I find if we can get them around the table and get quiet for a while, and the fewer who are not Members who are in there with them the better, and if we get them concentrating on the problems of this Nation as a whole, the better answer we are able to come up with with reference to bills and measures we have to consider.

If we cannot have a meeting of that kind, I hope we will never offer this amendment after many struggling days of interruptions, of intermissions, and skipped days such as the Fourth of July. It is all right to observe the Fourth of July, but this has been a hop, skip, and jump matter.

With all due deference to the committee there had not been very much really serious minded and consistent floor consideration of this matter. When I weigh the plus reasons in favor of keeping the present system as compared to what may be a little reason or two here or there for the proposed system, the pluses are so much in favor I think we certainly ought to keep the system we have until someone can present a matter which shows positive improvement or the great chance for improvement, not just a will-o'-the-wisp hope.

If the States want to continue as States—and I appeal at this point to the membership of the State legislatures—if they want to continue as States, as the place of power and effectiveness in the handling of their affairs, not only in the election of the President, we should keep this time-tested system that has meant so much in the building of our Nation.

So, Mr. President, I rise in opposition to Senate Joint Resolution 28 which proposes that the Constitution be amended to provide for the direct popular election of the President and Vice President. I strongly believe that the electoral college should be retained substantially in its present form. I am convinced that if we adopt the proposal embodied in Senate Joint Resolution 28 we will bring about a further erosion in the system of federalism which is the basis of our form of government.

More than 500 amendments to the constitutional electoral college system have been proposed since Senator Benton's first proposed amendment in 1824. No other section of the Constitution has had more amendments offered to it. Despite this, the electoral college is the world's most tested and vindicated mechanism for choosing a chief executive, and I believe it is an overwhelming testament to the strength of the electoral college system that Congress has never seen fit to alter the basics of that method of choosing our President and Vice President.

The electoral college system was a method carefully devised as a result of a great compromise between the large States and the small States. The direct popular election of the President was one of the methods considered and rejected by the Philadelphia Convention in 1787. The electoral college system was agreed upon and it has stood the test of time. In defending it I am not defending some 18th century anachronism that time has passed by. I am defending a system that has evolved and grown, shaping and being shaped by all of the mechanics and instruments of politics, particularly the two-party system.

The electoral college system does not, of course, function today as the Founding Fathers intended—that is, as a deliberative body of electors from the several States who would choose the most qualified man in the country as the chief magistrate. The development of political parties in this country has turned the process into one which embodies the best features of both the electoral college and popular elections.

However, the development of political parties and the introduction of popular elections for electors did not change or alter the critical and basic features of the electoral college system which I am convinced the Founding Fathers would have insisted upon even had they instituted a system of popular election. These two features are the method of counting and reporting votes by States and the allocation of electoral votes to States based on their respective numbers of Senators and Representatives.

I say, again, Mr. President, that the very fact that for more than 175 years proposals have been advanced for changing the electoral college and that no plan has been as yet devised which was considered to be an improvement over the present system is itself a strong and cogent argument for the retention of that system. The electoral college was a part of the bargain made in writing the Constitution in 1787 whereby the individual States surrendered a portion of their sovereignty in order to form a Federal union and a central government. By 1796 three major changes had taken place in the practice of electing Presidents and Vice Presidents. The third of these, which was the practice of candidates for President and Vice President forming tickets, led to the first and only major revision of the electoral college system, the 12th amendment. This amendment simply provides that electors designate one of their two votes as a vote for President and the other as a vote for Vice President. This was designed to avoid a recurrence of the political crisis that followed the election of 1800 when the Democratic-Republican Presidential candidate, Thomas Jefferson, and his Vice Presidential running mate, Aaron Burr, each received an identical number of electoral votes.

The 25th amendment, ratified in 1967, provides for the filling of vacancies in the office of the Vice President through Presidential appointment and confirmation, a process that has already been used twice, in 1973 and 1974.

Let me repeat for emphasis that the electoral college system has stood both the test of time and the challenge of hundreds of proposals for changes. I fear that Senate Joint Resolution 28 is more than a revamping of our existing method of selecting the President and Vice President. It goes straight to the heart of the federal system of this country and could do great harm to it. We have already seen far too many of the once solid walls of Federal-State relations breached and torn down.

In return for the action of the individual States in surrendering a portion of their sovereignty the Constitution afforded them certain protections. One of the most important of these was the voice each State was to have in the selection of the chief executives. Regardless of the method by which States used to select its electors—by legislatures as the Founding Fathers intended or by popular vote as the practice developed—nothing has ever happened to change the bargain or to justify deleting from the Constitution the role which each State now has in the Presidential and Vice Presidential selection process.

The separate interests and requirements of the several States and their citizens exist today in the same manner and to the same extent that they existed at the time of the formation of the Federal system. A direct popular vote system would almost totally remove the role of the States in the election process. Since an electoral plurality within a State can now give a candidate all of that State's electoral votes, the entire strength and organization of Presidential campaigns are based upon the States. Those who push with such vigor for a change to a direct popular election system seldom address the question of what this would do to the role of the States as presently guaranteed in the Constitution. We are not dealing here with a matter of small importance. We are dealing instead with a great, fundamental, and basic system that has endured through changing times and through tremendous constitutional crises and other stresses and strains.

Furthermore, the proposal for a direct popular election would be a great disservice to the small States. One of the justifications for and virtues of the electoral college is that it insures the small States a significant role in electing the chief executive. By giving each State two electors for their Senators regardless of population, the Founding Fathers saw the wisdom of insuring that even small States had an important voice and would not be overwhelmed by the larger States.

Despite assertions to the contrary, I take the position that it is clear that the abolition of the electoral college would weaken the electoral role of the smaller States. A study by the Library of Congress conducted in March of this year shows that 31 States plus the District of Columbia would lose relative voting strength under a direct election plan. A study plan which appeared in the March 10, 1979, Congressional Quarterly shows that 33 States plus the District of Columbia, would have a higher share of the national total using its electoral vote than it has when using its popular vote.

One of the reasons advanced for abolition of the electoral college is concern about the so-called faithless elector who does not vote for the candidate who carries his State. Actually, of the 17,000 electors since 1789, about 10 have been "faithless." None has altered the result of an election. Even if this should be a real problem it can be eliminated by making changes which leave the electoral college in place. In any event, such a small deviation from the rule seems to be entirely inadequate justification for such a severe and drastic reform as is here being proposed.

Proponents of the direct election plan assert that the electoral college tends to produce "minority Presidents." This has happened only three times in our history, the last time being the election of Benjamin Harrison in 1888. Eleven other Presidents have been elected with less than 50 percent of the popular vote, but this is hardly an argument which can be used by proponents of the direct election method because their own proposal allows election by 40 percent of the popular vote. Under the present system the winning candidate has to receive a majority of something—the votes of the electoral college. Senate Joint Resolution 28 would even take that away and substitute for it a system where a candidate could be elected with a plurality of 40 percent.

Proponents of the direct popular election hold up as a scarecrow the specter of a candidate getting the most popular votes but losing in the electoral college count. That, however, is not nearly as frightening to me as the prospect that, if this amendment is adopted, a candidate could carry two or three large States by a large margin and lose all the remaining States by a small margin and still be elected. That prospect is very distasteful to me because it would mean that you could have a candidate elected with purely regional interests and backgrounds. The electoral college promotes unity and legitimacy by helping to generate margins that are broad both geographically and ideologically.

When all is said, however, the most fundamental reason for retaining the electoral college is that it has served the country well. It continues to serve it well, and there is simply no compelling evidence to the contrary. No electoral method is perfect, but the chief executives produced by our system match any other in the world. It has produced many great Presidents and few poor ones. In addition, the "exaggerating" effect of the electoral college vote tends to legitimize the victory and help the new President govern effectively.

The most frequently cited argument in favor of the direct election of the President is one-man, one-vote and majority rule. But this argument is simplistic and unsophisticated. It is basically an argument that, in this important constitutional area, we should follow court-made rules in entirely unrelated areas. No one who understands our electoral and governmental system would argue that it is based on an unrestrained majority rule. It is a complicated system of countervailing powers, checks and balances, competing majorities, and protection of minority rights. The Presidency is an integral part of this system which was wisely devised by the founding fathers. To alter it in the drastic way proposed by Senate Joint Resolution 28 would be to tamper with the Federal union of States, the guarantees given small States in 1787, and the very foundation of our stable two-party system.

Our federal system of government is not based upon national majorities and never has been. We came into being as a Nation, not by virtue of a national majority, but as the result of the ratification of the Constitution by the individual States.

Amendments to our Constitution are not achieved by national majorities. They require approval by a two-thirds vote in each House of Congress, and ratification by three-fourths of the individual States.

The veto question is not controlled by majorities, national or otherwise. The one-man veto can only be overridden by a two-thirds vote in each House.

The election of Senators and Representatives are not based on national majorities. Senators are elected by and from States and Representatives by and from congressional districts. On at least four occasions, in both the House and the Senate the party in control received a minority of the aggregate national vote.

The Supreme Court perhaps most clearly illustrates that our Government is not based on national majorities. None of the nine members of the Court are elected by any constituency. Yet these nine men—five of them, really—can invalidate laws passed by the Congress and have sweeping powers over the lives, liberties, and properties of Americans.

To argue then that one-man, one-vote, unrestrained majoritarian rule dictates that we go to a direct popular election systems flies directly in the face of our historic and well-established principles of Federal Government.

Finally, Mr. President, let me say that I agree with our distinguished majority leader when he says that time is a precious commodity. The time of this body is also in critically short supply. I strongly believe that we could more profitably utilize our time by concentrating on matters of greater interest and importance to the people of this country than is this proposed amendment. My mail fails to indicate that there is any widespread interest in this amendment or any public groundswell for or against it. I see absolutely no justification for bringing it up at this time, particularly in view of the approaching Fourth of July nonlegislative period.

There are other matters which are of far greater concern and importance to the Nation and the people than is this amendment. One of these is the soaring inflation which is ravaging the country. This is grinding the people down, depleting their savings, and limiting their purchasing power. I know from my mail that it is creating real hardship in many, many cases. We can best serve the people, I believe, by addressing ourselves to this problem. One of the ways which we can do this is to amend the Constitution so as to mandate a balanced budget and put the country on a pay-as-you-go basis. Many proposed amendments to so amend the Constitution have been introduced. They remain in the committee and subcommittee from whence this amendment came. I would hope that a balance-the-budget amendment would be soon reported to the floor. This would give us the opportunity to act positively on a matter of major importance and to make a real contribution to the public and national welfare.

For all of these reasons, Mr. President, I hope that the pending resolution will not be adopted.

Mr. THURMOND. Will the Senator yield?

Mr. STENNIS. I yield.

Mr. THURMOND. Mr. President, I rise to compliment the distinguished Senator from Mississippi for his splendid remarks on this subject. The able Senator from Mississippi was a judge before he came to the U.S. Senate.

He is held in high esteem here, not only as the able chairman of the Committee on Armed Services, but also as a distinguished and outstanding lawyer. His opinion on this matter is something that should be of deep interest to all Members of the Senate. I compliment him.

Mr. STENNIS. Mr. President, I thank the distinguished Senator from South Carolina.

Mr. WALLOP. Mr. President, I compliment the distinguished Senator from Mississippi. I have grown to respect him. I have known him only a short time, since I have been a Member of this body, but even when we are not in agreement, I find his logic to be compelling. I agree on many occasions with him and find my statement to be much along the same line as his.

I compliment the Senator on what he has to say.

Mr. STENNIS. I thank the distinguished Senator.

Mr. WALLOP. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Wyoming.

Mr. WALLOP. I thank the distinguished Senator from South Carolina.

(Mr. WALLOP's remarks are printed in their entirety later in the RECORD, by unanimous consent.)

Mr. ROBERT C. BYRD. Mr. President will the Senator yield to me?

Mr. WALLOP. I am happy to yield to the majority leader without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Wyoming for his characteristic courtesy in yielding.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I am going to propound a unanimous-consent request which has been cleared with Mr. BAYH and Mr. THURMOND, the managers of the resolution, Senate Joint Resolution 28. The request has also been cleared with Mr. HATCH, with Mr. CANNON, and with Mr. BAKER, Mr. STEVENS, Mr. WEICKER, Mr. HARRY F. BYRD, JR., and other Senators. It is as follows:

That the vote up or down occur at 5 p.m. tomorrow on Senate Joint Resolutions 28, proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States, with paragraph 3 of rule XII waived; provided further that no amendment to the resolution be in order, with one exception. That exception may or may not be executed. That exception would be a possible amendment by Mr. BAYH.

Mr. HATCH. Could we have the exact language on that amendment so that we know exactly what we are agreeing to?

Mr. ROBERT C. BYRD. He will explain that later.

I ask unanimous consent that a vote occur up or down on Senate Joint Resolution 28 at 5 p.m. tomorrow with paragraph 3 of rule XII waived; that no amendments to the resolution be in order with the exception of one amendment by Mr. BAYH, which he may or may not offer; and that Mr. HARRY F. BYRD, JR., will, in the meantime, withdraw his amendment following a short colloquy in connection with an understanding that he has reached with Mr. HATCH and Mr. BAYH; and that the vote on the cloture motion, which was to occur tomorrow under Senate rule XXII, be vitiated.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. I reserve for the purpose of advising the majority leader that, as far as we can tell, we have cleared that request on this side, particularly with Mr. WEICKER, and with others who are here on the floor and who can, of course, speak for themselves. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Reserving the right to object, and I shall not object, perhaps we should have the colloquy as part of the RECORD. I notice that the distinguished Senator from Virginia has just arrived. Perhaps we should have that colloquy in the RECORD at this point so that the two distinguished Senators, from Virginia and Indiana, will be in clear agreement with regard to the desires of the Senator from Virginia.

Mr. ROBERT C. BYRD. That is all right with me. I should like, if we could, to get the agreement nailed down. We have the understanding between Mr. BYRD and Mr. BAYH. Perhaps if Mr. HATCH will agree, the colloquy would appear in the RECORD just prior to the presenting by the Chair of the question.

Mr. HATCH. It is all right with me. Senator BYRD was not here before. He is here now.

Mr. HARRY F. BYRD, JR. It will only take a moment or two, if the Senator will yield.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request for the moment, if the colloquy might ensue.

Mr. BAYH. Mr. President, I realize how strongly the Senator from Virginia feels about the importance of his balancing-the-budget amendment. In an effort to get the direct popular vote proposal before us so that we may vote on it on its own merits, uncluttered by other amendments—which may be equally meritorious in the minds of some though not in the minds of others—I hope that our distinguished colleague from Virginia will consider the very courteous move of withdrawing his amendment. I have said earlier that I have some personal understanding of the track he is treading, because I have been treading that same track for about 10 years or so. There are a number of land mines along the way.

One of those land mines is moving an amendment out of the Subcommittee on the Constitution. As chairman of that subcommittee, I have said to our distinguished colleague from Virginia that I would do all in my power to see that we finish the hearings that have been started on this amendment, or I should say amendments, and then the Subcommittee on the Constitution will take a final vote before the end of this year.

I realize full well that that is not the final consummation of this act. I have told him earlier I am still in the process of trying to resolve how I might vote on this. I want to pledge him a good-faith effort to get the subcommittee on record, having had a good, solid set of hearings on this subject matter before the conclusion of this calendar year.

Mr. HARRY F. BYRD, JR. I thank the Senator from Indiana. The proposal made by the Senator from Indiana, that the subcommittee complete its hearings and that the subcommittee be called into session to vote on a proposal—before the end of 1979—mandating a balanced budget or putting a limit on Government expenditures, is a very substantial improvement over what we have been able to get in the past in regard to consideration of a balanced-budget constitutional amendment.

I personally would feel that the balanced budget amendment is probably of greater importance to the people of the country as a whole than the one dealing with elections now pending before the Senate.

But there is no way under the rules that a vote can be forced on the present constitutional amendment to require a balanced budget, which is the pending question. One or more Senators can present a vote and my understanding is that a vote would not be permitted on that until after a cloture vote. If cloture prevailed then this amendment would not be germane.

I am prepared to agree to the unanimous-consent agreement which will be put to the Senate by the majority leader.

I think it is very important, may I say to the Senator from Indiana, that his committee does finish its hearings and that the subcommittee have an opportunity to vote one way or the other on one or more of the constitutional amendments now before that subcommittee. The Senator from Indiana has given such assurances.

The Senator from Virginia is not concerned whether the amendment finally approved by the subcommittee, if it is approved, be a Byrd amendment. It could be an amendment of the Senator from Utah (Mr. HATCH), the Senator from Arkansas (Mr. PRYOR), or that offered by anyone else.

My interest is in mandating a balanced budget—and I believe that is what the American people want.

I wish I could get a vote today on my proposal to require a balanced budget and put a limit on Government spending. But there is no way that the issue can be forced to a vote now.

I do think it is very important, however, that the Senate have an opportunity at the earliest practical date to vote on whether or not the Constitution shall be amended to require a balanced budget.

So with the assurances just given by the distinguished Senator from Indiana, I am prepared to acquiesce in the unanimous-consent agreement made by the Senator from West Virginia. Senator Bayh's promise is a significant step forward for those of us who seek a balanced budget constitutional amendment.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Virginia.

May I renew my request——

Mr. HATCH. Would the distinguished majority leader yield——

Mr. ROBERT C. BYRD. The distinguished Senator from Wyoming who has the floor will yield.

Mr. WALLOP. I am happy to yield without losing my right to the floor.

Mr. HATCH. I thank the Senator from Wyoming.

There is one other aspect here. Would the distinguished Senator from Indiana read his amendment, the one he may or may not offer tomorrow?

Mr. BAYH. Will the Senator from Wyoming yield?

Mr. WALLOP. Under the same circumstances, of course.

Mr. BAYH. I can say to my distinguished colleague from Utah that the language will be identical or very similar to the language he has in one of his amendments which would require that a candidate elected President under the direct popular vote provided for in Senate Joint Resolution 28 achieve a plurality in at least a third of the States in the country.

Mr. HATCH. In addition to the 40 percent?

Mr. BAYH. In addition to the 40 percent of the popular vote.

The purpose of the amendment is to guarantee that there be a greater likelihood of a truly national election.

I have never doubted in my own mind that there would be national elections under direct popular vote, but there are some who feel very sincerely that there would be an overconcentration in certain regions of the country at the expense of others.

I do not think that this would happen or I would not be such a staunch supporter of direct election. But this amendment would tend to guarantee that such is not the case.

I might raise one other matter here, realizing we have discussed the unanimous-consent agreement which the leader is in the process of proposing.

The Senator from Indiana would feel much better about that agreement if it would permit my colleagues like the Senator from Maryland, or the Senator from Connecticut, who I understand does not now care to do so, to have the option of introducing the automatic plan. They have said they do not care to do so, and they do not have to, but I would like it if they could. Or to allow the Senator from Nevada or the Senator from South Carolina the option of introducing a proportional plan.

Mr. HATCH. The problem is that this is not in accordance with what we have just agreed to outside.

Mr. BAYH. That is why I am raising it here now.

Mr. HATCH. I would prefer not to do that.

Mr. THURMOND. Mr. President, as I understand it, we reached an agreement and it is only a matter of stating it for the Record—is that correct?

Mr. BAYH. We have reached an agreement except we have not consulted with every Senator who has a proposed substitute amendment. As the one who is sort of leading the charge on the direct popular vote, I do not want any of my colleagues, maybe on the other side, to feel we pulled the rug out from under them.

The Senator from Maryland is an example. I know the Senator from Nevada has been contacted, and he says it is all right with him. But I heard something about the Senator from New Mexico (Mr. Domenici) having a possible automatic plan.

I am not for that, but I do not want, in the process of approving the plan I support, to deny others the right to propose their amendments which are germane.

Mr. SARBANES. Will the Senator from Wyoming yield?

Mr. WALLOP. I am happy to, under the same set of conditions, that I do not lose my right to the floor.

Mr. SARBANES. My interest and involvement in this matter stems from some careful thought, and I put in an amendment today, prior to the deadline running under the cloture rule, so it would be in order to be considered if cloture had been invoked, which is modeled after what Senator Ervin proposed a few years back, which would eliminate the faithless elector and provide that if we did not obtain a majority of the electoral college, that the top two candidates would be chosen by a joint session of the Congress, House, and Senate sitting together.

I see that as the two defects in the electoral college, which I think merit correction.

I do not support the proposal that has been brought forward by the Senator from Indiana, the direct election of a President, and so I was not a participant in those conversations. I sense there may be good reason for just going to the vote at 5 o'clock tomorrow afternoon, without the offering of amendments in the interim, and having an up or down direct vote on this proposition, Senate Joint Resolution 28, that is now before us.

But the reason I reserved when the unanimous-consent request was propounded is that I had put in that amendment earlier today which goes to the two present aspects of the electoral college that I think do cry out for change.

Beyond that, I would not want to go.

Mr. HATCH. Will the Senator yield?

Mr. WALLOP. I am happy to.

Mr. President, may I inquire of the majority leader, are we operating on a 5:30——

Mr. ROBERT C. BYRD. No.

Mr. President, I ask unanimous consent that the Chair recess the Senate no later than 6:30 p.m. this evening, or at such time as no Senator prior to that time seek the floor.

Mr. WALLOP. I thank the majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SARBANES. If what I sense is correct, I would not interpose an objection if this unanimous consent agreement has been worked out for a vote, but I just wanted to make this point.

That is the route, it seems to me, that is the one that ought to be taken on the merits on this question.

Mr. HATCH. I appreciate the comments.

This has been a very tenuous agreement as we can all imagine.

Senator Bayh has fought for more than 10 years to have an up or down vote on this amendment. On our side, we have agreed to a time limitation with a single exception—the new Bayh amendment. We are cautious about disturbing this tenuous agreement. We would rather have this unanimous consent agreement and vote up or down on the Bayh proposal tomorrow at 5 o'clock.

I would encourage, to the extent I can, my friend from Maryland to go with this agreement. I will do my best to work with the Senator from Maryland on his own proposal in subcommittee.

Mr. SARBANES. There is also the principle that if this approach to direct election is not accepted by the Senate, the committee could undertake hearings on the issue to deal with those matters, such as the one I have outlined or as others have outlined, which deal with defects in the electoral college about which hardly anyone differs.

Mr. THURMOND. I think that there is merit in the point raised by the able Senator from Maryland. However, in view of this tenuous arrangement, it would be very much appreciated if he would delay until a later date.

Mr. BAYH. Mr. President, I would not want to hold out any false hope to my friend from Maryland that his amendment could follow the path that it has to go. I have tried that myself. Everybody here can do their own thing, so to speak. I just want to make sure that my silence is not considered affirmation.

Mr. SARBANES. I understand that. However, my view is that the proposal contained in Senate Joint Resolution 28 may well have sweeping consequences that no one fully appreciates and that we should not go down that path. There are other paths that I think are worth thinking about in connection with improving the operation of the electoral college in the election of the President. But in view of the fact that an agreement has been worked out carefully, I do not intend to interpose an objection in regard to the request.

The PRESIDING OFFICER. Is there

objection? The Chair hears none, and it is so ordered.

The text of the agreement follows:

Ordered, That the Senate proceed to vote on S.J. Res. 28 (Order No. 66), proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States, at 5:00 p.m. on Tuesday, July 10, 1979, with no amendments, except a possible amendment by the Senator from Indiana (Mr. BAYH), to be in order during the further consideration of the resolution.

Ordered further, That the cloture motion filed on S. J. Res. 28 be vitiated.

Ordered further, That the time for debate on S.J. Res. 28 on Tuesday, July 10, 1979, be equally divided and controlled, respectively by the Senator from Indiana (Mr. BAYH) and the Senator from South Carolina (Mr. THURMOND).

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Maryland (Mr. SARBANES) for his consideration in this matter.

I also thank all other Senators who have participated in the discussions leading up to the agreement.

Let me make sure that everything is understood. The order for the vote that was to occur on the cloture motion under rule XXII tomorrow has now been vitiated.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. The vote will occur, up or down, tomorrow at 5 p.m. on Senate Joint Resolution 28, with no amendments in the meantime being in order, with the possible exception of an amendment by Mr. BAYH, which has been explained and which may or may not be called up.

Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that the control of the time on Senate Joint Resolution 28 tomorrow be equally divided between and controlled by Mr. THURMOND and Mr. BAYH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, the able Senator from Wyoming has the floor. Senator CANNON has to leave in a few minutes, and the Senator from Wyoming has agreed to yield 5 minutes to him. I express my sincere appreciation to him for yielding at this time.

Mr. WALLOP. I thank the Senator from South Carolina. I am happy to yield to the Senator from Nevada. After that, the Senator from Maryland has asked permission to insert some material into the RECORD.

I ask unanimous consent that the intervening dialog that has taken place be shown at some other point in the RECORD and that my statement be shown as if delivered in its entirety.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I have previously spoken against Senate Joint Resolution 28, but because of the recess, and the fact that I sincerely believe this is one of the most important issues this body will consider in this or any other year, I rise again to reiterate my strong opposition to direct election.

In my last statement on this subject, I discussed at length my opinion regarding the potential adverse effect direct election could have on our federal system and particularly on small states. I also addressed the issue of the "defects" of the electoral college, and reminded my colleagues that a candidate could win the Presidency under direct election without any electoral majority, for Senate Joint Resolution 28 simply requires 40 percent of the vote be received, however distributed. Additionally, I spoke about the fact that direct election would nationalize the administration of elections. I do not intend to repeat those arguments here. Instead, I would like to briefly comment on several other points raised during the debate on this subject.

My distinguished colleague, Senator BAYH, has remarked several times about the disenchantment of the American public with the political process and has blamed the electoral college for everything from the so-called low ebb of political parties, to decreasing voter turnout. Mr. President, I wish to remind my good friend that over the past several years this country has been through some very trying times. I cannot help but think that, for instance, the Watergate episode has greatly disappointed a number of our citizens who may have lost faith in politics in general and not particularly the electoral college.

In addition, in 1977, when I chaired the hearings on S. 1072, the bill to establish a uniform system of election day registration at the polls, a great deal of time was spent discussing the subject of voter turnout. It was generally agreed that most Americans, in order to vote, must establish their eligibility by registration prior to election day. Obviously, this requirement makes voting a more difficult act than it otherwise would be. In the words of Steven J. Rosenstone and Raymond E. Wolfinger of the University of California, Berkeley:

> Not only must a citizen care enough to go to the polls, but to register he must also make an earlier expenditure of time and energy. Indeed, registration is often more difficult than voting. It requires a longer journey, at a less convenient hour, to complete a more complicated procedure—and at a time when interest in the campaign is far from its peak. This aspect of the American electoral system is unusual. In most democratic countries the government assumes responsibility for enrolling all citizens on a permanent nationwide electoral register. This difference is widely considered a major cause of the low rates of voter turnout in the United States.

I could go on at great length discussing the subject of voting laws and turnout, but that is not the matter before us today. Senator SIMPSON has made the point, and I agree, that the burden of proof is not on the defender of the present system, but rather on the proponent of direct election. It has been stated many times that we cannot be precisely certain why our carefully balanced political system has worked, nor what elements of the system are essential to its success. Direct election would be a radical change, the most radical change yet in our system of government. We cannot predict what will happen under direct election except that as a matter of certainty it would be possible for a candidate to be elected President with only 40 percent of the total vote.

One further point, my distinguished colleague from New York, Senator MOYNIHAN, very aptly discusses in his eloquent statement on this subject how government legitimacy and trust could be lost under direct election. I believe he is right when he says that "the reign of television would be Orwellian and the Republic would decline." I would urge each Senator to take a few moments to reflect on the possibility of an increased media role in the electing of the President, which is what we would have under direct election.

Mr. President, the simple fact is that the case, let alone the overwhelming case, for this significant change has not been made. I would be the first to admit that the electoral college is not perfect; however, steps could be taken to eliminate the problem of the faithless elector which would not necessarily require a constitutional amendment. But, when compared to direct election, with its defects and unknowns, the electoral college is superior. Again, I urge defeat of Senate Joint Resolution 28.

Mr. President, as the Senator from Maryland has said, many improvements could be made in this law, in the present structure. I have been a cosponsor or a sponsor of many of those over the years and had an amendment ready to offer at this time. However, in terms of the issue of getting this flat up or down, I have been willing to agree not to offer my alternative proposal. There are other actions we could take in order to take care of the situation concerning the faithless elector. I have had some experience in that connection.

I was one of the tellers, in the time I have been in Congress, when we did have the situation of a faithless elector, one faithless elector. It did not change the outcome, but conceivably, under certain circumstances, it might have.

I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, an editorial against direct election published in today's New York Times; an article by Albert R. Hunt, Jr., from the July 5, 1979, Wall Street Journal, and James J. Kilpatrick's article from the July 7, 1979, Washington Star.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CANNON. Mr. President, the article in the New York Times mentions my State of Nevada and explains how the imbalance was deliberately structured with respect to giving the votes to the small State compared to the big State, and we do not and should not have the so-called one-man, one-vote rule. So I commend to my colleagues the reading of that article.

The Wall Street Journal article is entitled "Don't 'Fix' the Electoral College." The article says:

Still, certain changes in the present arrangement are needed. The discretion of individual electors should be eliminated to avoid the "faithless elector" problem. The States should consider dividing their solid blocs of electoral votes in proportion to the votes each candidate receives, instead of continuing the current winner-take-all system.

That is the proposal I have made in the proportional system for some period of time.

There may be some merit in the suggestion by Sen. Russell Long to retain the electoral college but award bonus electoral votes to the popular-vote winner, though that raises some of the same problems of the direct-election approach.

Mr. Kilpatrick's article in the Washington Star of July 7 says:

Direct election is a bad idea.

I commend these editorials to my colleagues.

Exhibit 1

[From the New York Times, July 9, 1979]

A Vote for the Federal President

A strong alliance of reformers is again pushing the idea that we elect our Presidents by direct popular vote, without the filter of an Electoral College. Counting every vote equally sounds so simple and attractive that normally cautious politicians find it difficult to resist. A Constitutional amendment to abolish the College reaches the Senate this week with an outside chance of obtaining the necessary 67 votes.

One would think that the reformers' zeal for "one person, one vote" might as logically lead them to abolish the Senate. If any of our Federal institutions offends arithmetical justice it is the one that grants the same two votes to 22 million Californians and 650,000 Nevadans. For reasons that Senators should value, these United States have found it useful and in no sense undemocratic to retain some imbalance and geographical color in their Federal system. Simplicity is not the synonym of democracy. Voter parity is not the only source of stability. A Presidential election that is federal is not therefore unsound.

Every youngster understands our rules for electing a President. The winner of the popular vote in every state receives its total "electoral vote." Each state's electoral vote equals the size of its delegation in Congress; as in the Senate, this arithmetic favors smaller states. But in a close election, there is compensation for voters in more populous states. As urban minorities have recognized, winning a large state by a slight margin yields a richer prize than winning a small state by a landslide.

The unplanned effects of this system have been mostly good. It turns the contest for President into 52 races (including the District of Columbia and Puerto Rico). It makes it impossible for candidates to write off the less populous regions or overcrowded city slums; both count for slightly more than their numerical weight. Moreover, the system blunts single-issue fury. Citizens who oppose gun control or abortion cannot simply unite nationally to elect, or defeat, a President; they must join, state by state, with other voters moved by other passions.

This necessity for compromise, in turn, holds most voters inside our two federal parties, and the parties are thus held near the middle of the political road. To elect a President, even arrogant majorities must be solicitous of minorities; even alienated minorities must work with majorities. The system encourages moderation in radical times and protects against parochial passions. It discourages minor parties yet rewards their protest with major-party attentiveness. It is widely understood and accepted. It is a bond with history, a source of stability.

So why abandon it?

Because to many a "direct" and "popular" election sounds more democratic. They also want to avoid the largely theoretical risk that electoral votes might elect a candidate who lost the popular vote. That could happen—but it hasn't happened since 1888.

To guard against that small risk, Senator Birch Bayh and 38 cosponsors of his amendment would abandon all the advantages of federal voting and run dangerous new risks. Knowing that a direct election would encourage third and fourth and fifth parties to run their own candidates, they would let a vote of 40 percent determine the winner. Sensing that minor candidates might skim off enough votes to leave no one with even 40 percent, they would then run a *second* election between the two top contenders, who had maybe 37 and 32 percent of the original vote. Just imagine their sordid barter for the support of the first-round losers.

The clamor for abolition of the Electoral College was born in the fear of George Wallace in 1968. Some thought the strident Alabaman might parlay a mere 10 percent of the popular vote into enough electoral votes to deny Richard Nixon or Hubert Humphrey a majority. And because electoral votes are cast by real people in the Electoral College, he might have traded their ballots for a heavy price. Mr. Nixon, especially, might have paid well to avert a deadlock that threw the choice to a Democratic House of Representatives.

It didn't happen. And the chances that Mr. Wallace would have won still more votes in the first round of a "direct" election—and thus enormous influence in the runoff. But that is only one of the flaws of the proposed reform. The danger of tawdry trading in the Electoral College is easily averted without any radical change. The desirable amendment would abolish the flesh-and-blood electors yet retain the counting of electoral votes. Why change what works?

[From the Wall Street Journal, July 5, 1979]

Don't "Fix" the Electoral College

(By Albert R. Hunt, Jr.)

"If it ain't broke, don't fix it."
—Bert Lance

WASHINGTON.—When the Senate soon considers a constitutional amendment to abolish the Electoral College and elect Presidents by direct popular vote, many civic-minded citizens and organizations will be cheering for the change.

Supporters include national political figures ranging from Republican Sen. Robert Dole to President Carter, "good government" groups—the League of Women Voters, Common Cause and the American Bar Association—and powerful interests from the AFL-CIO to the U.S. Chamber of Commerce.

They argue the Electoral College is an anachronism and the only virtuous alternative is direct election. "In our system of politics," suggests the noted political author Theodore H. White, "anything that can be described as virtuous automatically enlists the support of all high-minded people, most of the media and all those pressure groups that respond to the call of virtue as Pavlov's dog to his bell."

Supporters claim direct election would affirm the principle of "one man, one vote." Equally basic is their negative view that the Electoral College system is a political time bomb waiting to explode. An earnest League of Women Voters lobbyist, contending a candidate defeated in the popular vote might well carry enough states to command a majority in the Electoral College, explains: "We face a constitutional crisis here."

If so, it is amazingly elusive; the nation has escaped that danger in the past 22 presidential elections. Moreover, the current electoral system has distinct advantages: It provides many states with a stronger political identity and offers a time-tested mechanism for resolving a lack of clear national consensus in the popular vote.

To be sure, the Electoral College system has flaws. Most obvious is the so-called "faithless elector"—the rebel who on rare occasion casts a vote at odds with the popular-vote results in the state he's representing. Thus in 1976, although Gerald Ford carried Washington in the general election, one of that state's electors voted for Ronald Reagan in the Electoral College.

THE SYSTEM AIN'T BROKE

But, overall, to borrow Bert Lance's phrase, the system ain't broke.

Moreover, the fixes envisaged under the proposed constitutional amendment are likely to aggravate, not alleviate, any existing deficiencies. Direct elections would depoliticize presidential contests, enhance the role of media merchants trying to manipulate public opinion and possibly produce a proliferation of parties and candidates.

The drive for a direct-election amendment—which must win approval of two-thirds of both the Senate and House and then three-fourths of the state—invariably follows a close presidential election, such as 1976. Accordingly, Sen. Birch Bayh (D., Ind.), the long-time champion of this amendment, now is pressing his big point: "Under the Electoral College, one American's vote is not equal to another's, simply on the basis of where he happens to live. Only with direct elections would all votes be equal."

Sen. Bayh has little regard for the "system ain't broke" argument. He contends that's "sort of like saying to the farmer whose barn is not on fire, 'don't take out fire insurance.' "

The Indiana Democrat insists the nation needs insurance for the presidential election system. He notes that not just the 1976 contest but two others among the past five elections involved "near misses." In 1976, if no more than 9,246 Jimmy Carter votes in Ohio and Hawaii had gone instead to President Ford, the Republican would have won even though receiving some 1.7 million popular votes less than Mr. Carter. In 1968, with third-party candidate George Wallace in the race, a shift of only 70,000 votes in a few states would have deadlocked the Electoral College and thrown the decision into the House of Representatives. The 1960 Kennedy-Nixon race was another squeaker.

Sen. Bayh recognizes the danger that his amendment might lead to a proliferation of presidential candidates. To keep anyone from winning the White House with only, say, 33% of the popular vote, his amendment would create a runoff between the top two finishers if no candidate receives at least 40% of the total.

There's a recurring argument, too, over whether the political power of small states would suffer if the Electoral College with its state-by-state representation were done away with. But that argument misses a more fundamental point: the damaging effect that direct election would have on the political process in all states, big and small.

Mr. White, an opponent of direct election, believes the damage would be significant: "It is good when a voter in Indiana goes to the polls that he thinks of himself as a Hoosier trying to move his state; that a proud Texan thinks of himself as a shaker in the Lone Star State; that a man from Boston thinks of himself as a Baystater, the state of mavericks. We are a nation of communities—ethnic communities, religious communities, rural communities, urban communities and yes, above all, historic communities. Americans do not want to be homogenized. Each election night, every four years, we fit the jigsaw of America together all over again."

That may be an overly romanticized picture, but it's true politicians and volunteers down to the precinct level do organize and work together to carry a state for their presidential candidate.

MEDIA IMAGERY

Mr. White is not alone in foreseeing that this process would be weakened by the simple, sanitized direct-election system. Political scientist Aaron Wildavsky, for instance, argues: "By removing the main incentives our political parties have to coalesce—the necessity of creating a coalition across diverse states to make a majority—abolition of the Electoral College would drive the last nail in the coffin of our party system."

Into the breach would step the image-makers. Why spend money on campaign organization rather than on national television time? "The contest would not be between those who could recruit and organize," says elections expert Curtis Gans, "but rather who could most effectively and skillfully manipulate media imagery."

The runoff proposal leads to other problems. With the Bayh amendment's formula, the national race "would resemble the Boston Marathon, with presidential candidates representing every special-interest group in the country," contends Sen. Orrin Hatch (R., Utah). "Each will seek to push the major parties . . . below the 40% threshold and position themselves to negotiate during the pre-runoff period."

It's instructive to envision the effects of direct election in a close contest, such as the 1960 Kennedy-Nixon race. John Kennedy won that election by only 110,000 popular votes, but he captured the electoral vote by a more decisive 302 to 219. To change that outcome, Mr. Nixon would have had to alter the results not only in Illinois, where the fabled Cook County Democratic machine produced suspect results, but in at least one other state as well.

With direct election, the 1960 outcome would have been decided by less than one-half of 1% of the total vote, creating a powerful demand for a nationwide recount. It would have taken months to determine the winner and it's doubtful that even the recount would have ended the suspicions or charges of chicanery.

So it's perfectly plausible that a direct-election system might become more of a political time bomb than the present indirect system. Sooner or later, a 1960-style squeaker might come along again.

Still, certain changes in the present arrangement are needed. The discretion of individual electors should be eliminated to avoid the "faithless elector" problem. The states should consider dividing their solid blocs of electoral votes in proportion to the votes each candidate receives, instead of continuing the current winner-take-all system. There may be some merit in the suggestion by Sen. Russell Long (D., La) to retain the Electoral College but award bonus electoral votes to the popular-vote winner, though that raises some of the same problems of the direct-election approach.

But certainly the politicians should tread carefully before dismantling a system that not only ain't broke but seems to be functioning rather well.

[From the Washington Star, July 7, 1979]

DIRECT ELECTION IS A BAD IDEA

(By James J. Kilpatrick)

The pending order of business in the Senate this month is Birch Bayh's proposal to provide for the direct national election of future presidents.

This was a bad idea when the gentleman from Indiana first trotted it forth in 1963. It remains a bad idea today.

Under Bayh's resolution, Article II of the Constitution would be drastically rewritten. Bayh would abolish the Electoral College altogether.

In its place he would provide for a national popular election in which presidential and vice presidential tickets would compete. If no ticket received as much as 40 per cent of the vote, a runoff would be held between the top two tickets. Thirty days later the winner would be officially proclaimed.

The existing system of presidential elections admittedly is flawed. We vote state by state for surrogate electors, but these electors can violate their trust with impunity. If no candidate wins a majority of the electoral vote, the election goes to the House of Representatives, where each state casts a single vote.

Many observers object to the scheme of "winner take all," by which a state's entire electoral vote goes to the top vote-getter.

Acknowledging these imperfections, skeptics rightfully may inquire if Bayh's popular election plan is any better. In my own view, the senator proposes a cure far worse than the mild disease.

The Bayh amendment, if it ever were ratified, would wipe out the last vestiges of a substantive two-party system. Granted, not much remains of the two-party system now, but the form is there and we have built our legislative and executive structures around it.

So long as candidates compete for electoral votes in each separate state, it remains formidably difficult for a third-party ticket to make a significant showing. Only four times in this century have minor party candidates figured noticeably in the records—Roosevelt in 1912. LaFollette in 1924. Thurmond in 1948 and Wallace in 1968. In no instances were their electoral votes sufficient to affect the outcome.

Under direct popular election, all this would change. Bayh's amendment purports to leave it to each individual state to decide which names would appear on its ballot, but the senator cannot truly mean this.

A national election, at the very least, must be national; every voter must have an identical opportunity to choose among identical slates of tickets. Election laws would have to be precisely uniform throughout the country.

Once the Bayh plan went into operation, we could expect to see a multiplicity of parties in the European fashion—a black party, a women's liberation party, a resurgent socialist party, a pro-abortion and an anti-abortion party, an anti-busing party, an anti-gun control party, and so on.

None of these splinter groups realistically could hope to win a national election outright. Collectively, they quite plausibly could prevent either major party ticket from winning 40 per cent of the vote. In a runoff, the minor parties would barter their support to the most promising bidder.

Perhaps the American people want to plunge headlong into political disorder, but I doubt it. My guess is that many of the highminded outfits that are supporting the Bayh amendment have not thought the thing through. The concept of popular election has a fine, simplistic appeal.

The trouble is that our constitutional system is not simple. It is marvelously complex. It rests fundamentally upon the concept of federalism, the grand design by which political power is distributed among the states respectively. This is the true genius of the American Constitution.

Bayh would wreck the grand design. He would obliterate one of the basic compromises of our federal system, and in the process he would disturb the beautiful balance of the Constitution as a whole.

It seems to me unlikely that two-thirds of the Senate—or the House—will support any such radical surgery, and still less likely that 38 states could be persuaded to ratify the amendment. But Bayh has his baby on the floor, and if his troops can break a filibuster, we will soon get to the yeas and nays.

Mr. WALLOP. Mr. President, I appreciate the position the Senator from Nevada has taken.

Mr. THURMOND. Mr. President, I commend the able and distinguished Senator from Nevada for the excellent statement he has made here today on this subject.

For a number of years, the Senator from Nevada has been interested in the proportional plan and so have I. I think the proportional plan or the district plan, either one, would be an improvement over the situation in which the winner takes all.

The direct election plan is a different matter entirely. The direct election plan deprives the States of a part in the election which they now have in the electoral college.

I commend the Senator from Nevada for the fine stand he has taken. I hope that, in the future, those of us who think alike on this subject can get together and work out a reasonable amendment that will accomplish what we feel should be accomplished, an amendment that will aid the Constitution and not hamper it.

Mr. CANNON. I thank the Senator.

Mr. WALLOP. Mr. President, how much time does the Senator from Maryland require?

Mr. SARBANES. Three or four minutes.

Mr. WALLOP. I yield 4 minutes to the distinguished Senator from Maryland, without losing my right to the floor.

Mr. SARBANES. I thank the Senator from Wyoming for his courtesy.

Mr. President, I think one of the most thoughtful statements that has been made on this question was made by Senator Ervin almost a decade ago when he proposed a change in the electoral college which dealt with simply two issues. These two are the changes that I feel need to be made. One is the faithless elector, and Senator Ervin proposed a change which would have precluded that possibility. The other is how to pick the President in an instance when a candidate does not obtain a majority in the electoral college.

As you know, at the moment the names of the top three candidates are placed before the House of Representatives and each State delegation has a vote, a single vote, and the winner is chosen then by a majority of the States, each State voting as a delegation. This, of course, is clearly unfair to the more populous States which have only one vote in that process.

What Senator Ervin proposed at that time was that in an instance in which a candidate did not achieve a majority of the electoral college the election would be made by a joint session of the Congress, the House of Representatives and the Senate, sitting together with each Member having one vote.

I have been listening to the debate. I do not agree with the proportional or district approach. And if one were seeking to change the system and that was the proposal, I would not support it.

I really put forth two changes in the amendment I spoke about earlier, which I think is all that is required—leave it alone in other respects, on the theory that if it is not broken, do not try to fix it. I think this is the case with the electoral college.

Mr. President, I ask unanimous consent that Senator Ervin's statement be printed in the Record at this point along with four articles which he included at that time, one by Alexander Bickel entitled "The New Age of Political Reform," another by Alexander Bickel entitled "Is Electoral Reform the Answer?", another by Richard N. Goodwin entitled "Electoral College Finds a Defender," and the fourth by Theodore H. White entitled "Direct Elections an Invitation to National Chaos."

There being no objection, the material was ordered to be printed in the Record, as follows:

Senate Joint Resolution 191—Introduction of a Joint Resolution to Reform the Electoral College

Mr. Ervin. Mr. President, I introduce for appropriate reference a joint resolution proposing an amendment to the Constitution reforming the electoral college method of electing the President.

The Senate will soon consider perhaps the most fundamental change ever suggested to our constitutional and political structure and, undoubtedly, one of the most important matters to come before any recent session of Congress. I refer to the matter of changing the way the American people elect their President. As we all know, the House of Representatives has already passed a resolution proposing the abolishment of the electoral college and the institution of a system of direct election. The Senate Judiciary Committee will very shortly consider the direct election proposal along with other proposals for reform.

While I have introduced for many years a proposal which would provide for a proportional counting of each States' electoral votes, at this point I have decided to abandon this method, Senate Joint Resolution 2, in favor of the one which I plan to introduce today. I do this because it is becoming increasingly obvious that, practically speaking, there are only two alternatives open to the Senate dealing with electoral college reform. One is to pass the direct election proposal, whose easy adaptability to sloganeering has hidden its many dangers, and the other alternative is to do nothing. I find both of these courses unacceptable.

The plan which I propose today has been around for quite awhile. In fact, in 1966 then Attorney General Katzenbach proposed it in his testimony to the House Judiciary Committee. The plan is simple and it only attempts to reform our present system rather than ripping it out by the roots and substituting an untried and drastically different method.

Simply put, my proposal would eliminate electors but would retain the electoral vote system. In other words, it would eliminate the "faithless elector" and would insure that a State's electoral votes would be cast for the plurality winner in the State. Also, under my proposal, if no nominee had an electoral vote majority, the deadlock would be broken by a vote taken at a joint session of Congress on the basis of one vote for each Member of the House and Senate.

Generally, I believe that two fundamental considerations should govern our deliberations on this matter. First, there are certain acknowledged defects in the present process of electing the President which have undermined public confidence therein and clearly require reform. One is the ever-present possibility of a "faithless elector" who does not cast his vote as the majority who chose him directs. Another is the method of selecting the President in the case of an electoral college deadlock. As I have stated, these defects can be corrected quite easily, and without the danger of effecting a radical change in the Nation's political institutions.

The second fundamental point is that despite its minor defects, the electoral college system has unquestionably provided this Nation with the most successful method for electing national leadership known in modern history. It has been instrumental in creating a stable, progressive and responsible national leadership which has guided our country for almost two centuries. During this time the electoral system has seen us through crisis after crisis. We have grown from a small coastal, agrarian collection of States to the mightiest industrial Nation on earth. From diverse races, nationalities, creeds, and interests we have been forged into one people under one President and most important, we have changed that President every 4 or 8 years with no disruption, no constitutional crisis, no dispute as to who the successor was to be and whether he had a legitimate claim to the office. Surely Senator John Kennedy was right when he opposed direct election on the floor of the Senate and quoted Falkland:

"When it is not necessary to change, it is necessary not to change."

I believe that my proposed constitutional amendment which would eliminate the acknowledged defects in the present system without making fundamental changes in it is the responsible approach to electoral reform. The unquestionable success of the electoral system for almost 200 years in giving the Nation stable national leadership places a heavy burden of proof upon those who call for radical change. Only one time in its history has the electoral college elected a President who received less popular votes than another presidential candidate. This happened in 1888 when Grover Cleveland lost the election to Benjamin Harrison. Cleveland's voting edge was only 100,000 votes which could certainly not be considered an overwhelming popular mandate for him. Thus, this is a record no other political institution devised by fallible men can match. I have no confidence that direct election will work as well, and I share with individuals of both parties and many political persuasions that it is extremely ill advised.

Turning to the specific of my proposal, I believe there is good reason to eliminate the office of elector. Not for 170 years have electors convened in assembly to deliberate the election of the President. Clearly, the original purpose for choosing electors has disappeared. Nevertheless, the present system continues to protect an elector should he decide to exercise his technical constitutional prerogative of voting for whomever he chooses, regardless of the popular vote in his State. While the number of "faithless electors" have been so few as to dispel any widespread alarm, six out of more than 16,000 over the past 182 years, the existence of such a possibility does constitute good reason for eliminating the office of elector.

For almost two centuries, all of a State's electoral votes have been cast for the presidential candidate receiving a plurality of the State's popular votes. I have expressed doubts about this traditional practice in the past; however, coupled with the additional votes which are now given to the smaller States because of their senatorial representation this has been essential to the preservation of our Federal structure. Because it helps preserve our two-party structure, lessens the chance for fraud and contested elections, and is in every way superior to direct election in terms of giving the American people confidence in the new President, I do not believe it should be abolished in favor of the direct election proposal.

In the unlikely event that no candidate for the Presidency receives a majority of electoral votes, I believe that the election of the President should be entrusted to a joint session of Congress, with each Member having one vote. The joint session would choose between the two presidential candidates receiving the largest number of electoral votes. Such a provision would contrast with the present contingency election by the House of Representatives with each State delegation having one vote to be cast according to the majority vote of the State delegation. This proposed alternative in the contingency election would more equitably represent the popular electorate than the present arrangement. It would also eliminate the possibility which exists under the present arrangement of nullifying a State's representation in the balloting when no candidate wins a majority within the State's House delegation. As with the case of the delinquent elector, the reason for unit rule in the contingency House election has disappeared with history. It should be changed.

These three changes meet much of the criticism directed at the present system of electing the President. They would restore public confidence in the system for electing the President. In contrast with direct election, my proposal would not bring about fundamental changes in the fabric of our political system. The merit of this approach—of perfecting the present system—stands in sharp contrast to the likely consequences of direct popular election of the President.

To abolish the electoral system and to substitute direct popular election is not only to substitute one form of election machinery for another, but to affect in unforeseen ways all those other political processes and institutions, at Federal, State, and local levels, which have developed over the years in response to the present system for presidential election. Clearly, providing constitutional guarantees that every vote shall have mathematical equivalence and that every President shall have at least one more popular vote than his nearest opponent is not the only consideration involved in determining the process by which the Nation should select its President.

One of the greatest political traditions of the United States is the two-party system. It would be difficult to overestimate the importance of this tradition to the stability of the Nation's Government and to the continuity in its political life. The development of broadly based national political programs necessary for success in national elections; the creation and maintenance of formal and informal machinery for compromise within both major parties; the subtle but significant emphasis upon political organizations capable of governing a nation rather than political instruments dedicated to sectional or ideological advancement—these are a few of the contributions of America's two-party system.

Any alteration in the institutions and processes of electing the President must be considered with a view as to the possible impact of that alteration on the two-party system.

There can be little doubt that the electoral college system has bolstered the two-party system by discouraging third-party candidates for the Presidency. The particular feature of the present system primarily responsible for this effect is the unit rule. Though not constitutionally required, from an early date in the Nation's history "pledged electors" have traditionally cast their votes for that presidential candidate receiving the largest number of popular votes in the State. By awarding to the winner of a plurality in the State the State's entire electoral vote, the present system requires that any serious presidential contender secure sufficient popular support in States with enough electoral votes to affect the electoral college decision.

With few exceptions, only candidates with a strong enough regional base to capture State electoral votes have seriously challenged the two-party domination of presidential politics. The reasons are spelled out in the statistics of past presidential elections. In 1912 there were two important minor-party candidates, Theodore Roosevelt broke away from the Republican Party and received 4,127,788 popular votes to 6,301,254 for the winner, Woodrow Wilson. While Wilson won 435 electoral votes, Roosevelt captured only 88. Eugene Debs received 901,255 popular votes out of the total vote of approximately 15 million. He won no electoral votes.

Again in 1920 despite the fact that Debs won almost 1,000,000 popular votes out of 26,000,000 cast he had no electoral votes. Senator LaFollette, breaking away from the Republican Party in 1924 won 4,832,532 popular votes, more than one-half the popular total for the losing Democratic nominee, Davis. Nevertheless, while Davis' vote was translated into 136 electoral votes, LaFollette received a meager 13. Finally in 1948, Henry Wallace received a popular vote of 1,157,326 out of approximately 49,000,000 votes cast. He too won no electoral votes. By contrast and in that same election, Storm Thurmond, the States' Rights Party candidate, received a similiar popular vote of 1,176,125 but was able to capture 39 electoral votes because of the regional concentration of his popular support.

These lessons of history must have been particularly persuasive during the presidential election of 1968. Among others, Richard N. Goodwin has recently described the impact of electoral college on the temptations of many antiwar critics in 1968 to mount a fourth-party drive for the White House. In an article appearing in the Washington Post, of October 6, 1969, Goodwin states that recognition of the extreme difficulty in winning any electoral votes despite the prospect of a large national popular vote was the primary reason that he and others of similar political views did not challenge the major party presidential candidates. The effect of a "peace candidacy" would most likely have been, in Goodwin's judgment, a further enhancement of the election prospects of the Republican candidate.

Similarly, the appeals to Wallace supporters not to waste their vote—made by Republicans in the South and by Democrats in the North—significantly lowered the popular vote for Wallace in 1968. Under a popular vote system, a four-way race would certainly have prevented Nixon from getting a clear popular majority and conceivably might have necessitated a runoff. The impact on the party ties of candidates for congressional and State offices of such a four-way race would have weakened the party structure seriously in Congress and in the States. One can imagine in future elections, single-issue candidates running in the November election to demonstrate their popular support as a way of gaining influence over the major candidates who will need those votes in the runoff.

The encouragement that direct election would give to minor party candidates could not occur at a worse time than now. Professor Ernest Brown of Harvard Law School reminds us—

"At a time when the country suffers from sharp divisions, we should be cautious lest, though with the best of intentions, we encourage further division and discourage coalition."

Finally, the likelihood of the proliferation of political parties resulting from direct popular election raises the ironic possibility that a system designed to assure the election of a candidate most reflective of the popular will could result in the continuing election of Presidents by a considerably smaller proportion of the popular vote than has historically been the case. Despite the rejection of a candidate by just a little under 60 percent of the total voting population, under the direct election proposal he could capture the White House if he nevertheless won 40 percent plus one more vote than his nearest opponent. Division of the popular vote by an increased number of serious presidential candidacies would seriously undermine the ability of any candidate to attract that broad popular support which has given the Presidency much of its influence and power. The runoff provision constitutes even further encouragement to minor party candidacies. Even if a candidate is certain of not being able to win the Presidency for himself, he will be tempted to enter the race when he commands enough popular support to force a runoff. His bargaining position in the runoff would be powerful. The likelihood of broadly supported coalition candidates presenting themselves to the electorate would decrease. One issue, doctrinaire candidates would proliferate and devisiveness would abound across the country.

One of the primary criticisms of the present electoral system is the alleged political chaos into which the Nation would be thrown upon the election of a presidential candidate who receives less popular votes than an opponent in the case of a close popular election. Aside from the historical evidence suggesting that this possibility is largely a theoretical concern, the proposal for direct election would appear to offer no more assurance of avoiding political chaos where the Nation is evenly divided as to its choice for President. In many respects it encourages the possibility of close votes, and increases the danger that doubt will surround election of the new President.

In the case of the close popular election, such as in 1960 and 1968, the legitimacy of any candidate to presidential power will be subject to serious question under any system. The adverse public reaction to and the handicapped presidential leadership resulting from a situation in which the electoral vote winner falls a few popular votes shy of an opponent must be weighed against the public dismay and prolonged indecision inevitable in the face of widespread voting fraud allegations. Voting irregularity is of considerably more significance under a system in which any single vote cast in any one State might be determinative of the election. Professor Brown, of Harvard Law School, suggests that the Nation could anticipate a "reexamination of every ballot box and voting machine in the country, not to mention also the records of registration and qualification of voters."

It is important to consider that two voting tabulations—the November election and then the runoff—might be involved, and that both might be subject to allegations of fraud. Furthermore, in the first election it would be necessary not only to ascertain the exact total vote for each major presidential candidate to determine the winner, but it would also be critical to establish the total popular vote cast to determine the necessity for a popular runoff. This would involve the determination of the validity of write-in votes, possibly illegible, possibly for unknown persons of fictitious origin. If a runoff turns on the resolution of contested votes, the runoff campaign would be fought at the same time as the recount of the November election.

All of these difficulties in determining a winner, and then making the transition from one President to another, must take place within the short 10-week period between the November election and the January inauguration which is now exclusively devoted to the formation of the new administration. Without enumerating all the possible difficulties inherent in accurately tabulating the wishes of 70 to 80 million voters, in such circumstances it is easy to imagine strain which would be placed upon the Nation's institutions and the public's patience over the weeks and months following the actual election. Whatever the virtues of direct popular election, the assurance of avoiding chaos in the case of close elections is not one of them.

In contrast, the present system tends to minimize voting fraud allegations by requiring challenges to votes in States with sufficient electoral votes to change the outcome. It also has had the virtue, in the case of close popular elections, of magnifying narrow popular margins of victory. Such exaggeration has tended to secure greater public acceptance of the new President. The significance of this consideration is underlined by the number of times this century in which narrow popular margins have been translated into unquestionable electoral vote victories:

Year	Winner	Percent popular vote	Percent electoral vote
1912	Wilson	46.00	62
1916	do	49.00	52
1948	Truman	50.00	57
1960	Kennedy	50.08	62

Direct popular elections would necessitate uniform Federal voting requirements and centralized administration of presidential election machinery. Because of the States' constitutional authority, voter qualifications do in fact vary from State to State. There is considerably more than an "imaginary line" between the States in the course of a national presidential election. Differences in minimum age requirements, residency requirements, party registration and voting, individual States would be pressured to compete in altering their respective laws regardless of the merits of the alterations, so as to assure the greatest possible political influence for their citizens in a presidential election. Indeed, Senate Joint Resolution 1, as introduced by Senator BAYH and others, proposing direct election, authorizes Congress to establish such uniform rules. A necessary concomitant to direct election, national registration and voting requirements, would represent a radical departure from the traditional constitutional prerogative of the States in this area.

A uniform system for ballot qualifications, a national system for counting and reporting election results, and a centralized agency to assure fairness and to resolve disputes would be required under direct elections. The power of this centralized administration over the presidential election would of necessity be quite considerable. The danger of its misuse is both obvious and frightening. Accusations of election manipulation, whether founded or not, will impair national confidence in the election results. And, again, such a significant involvement by the Federal Government in election procedures would represent an important departure from practices by the past.

Finally, there is, of course, no certainty that voter qualifications and election machinery for State and local elections, continuing under State control, would parallel those for presidential elections. The spectacle of confused citizens registering twice under different requirements, voting at different places and in different ways for State and presidential offices is a likely prospect. There is certainly no need to increase the confusion which already surrounds the citizen's exercise of his franchise.

Direct popular election is likely to affect the very nature of the Presidency. The Presidency is our only national elective office. The man elected to this high office must be President of all the people. But being President of all the people means much more than being elected by 51 percent of the voters on a particular election day as the proponents of direct election would seem to suggest. He must be the President of 200 million people who are engaged in untold different economic and social occupations, who live in large cities, small towns, isolated communities or individual homesteads, and who possess radically different views of what is best for themselves, their communities, and their Nation.

A leader of this Nation must not only represent large numbers of our people; he also must represent a diverse cross section of our people. Mere numbers, 51 percent or 41 percent are not enough. A man elected President because of the overwhelming support from a relatively narrow group of people—perhaps people from a rural, conservative area, or from a highly urban, industrialized area—would be the choice of the majority in one sense only—that of mere numbers. He would not be the representative of all the people's interests.

This is shown dramatically by the results of the 1968 election, if we consider other possible outcomes. In 1968, Hubert Humphrey was the popular choice of 13 States plus the District of Columbia. Had he simply carried New York State by the margin which Lyndon Johnson carried it by in 1964, and maintained his 1968 margin in Massachusetts, he could have lost by narrow margins all of the other States which he won and still have been elected President by over 500,000 votes. He would, however, have been the preferred choice of the voters of just one out of 50 States and the District of Columbia. In a Federal system such as ours, it is certainly no more acceptable that a man should be President when he is the popular vote winner but the choice of only a handful of States representing a narrow segment of the political spectrum than when he is the winner in the electoral college but the loser in the popular vote.

The electoral system, on the other hand, builds into the process a very necessary element of diversity of support. It requires a winner to reach for national support. It does this by stressing victories in States as units. States are important instruments for defining and reflecting the diversities of the Nation. Each of the individual States are large and varied enough to reflect many, if not most, of the differences, social, economic, class, background, interests, and geography, that make up the entire Nation. Each of them, to an extent, is a microcosm of the diversities of our entire Nation, though the parts are arranged with different emphasis from State to State.

Certainly, a candidate who is the choice of a large number of States will have had to appeal and gain the support of a diversified group of interests. He will have to have a broad base of support and approval throughout the Nation. By requiring him to win States as units, and by making the total he must get large enough, the present electoral system satisfies this essential requirement for national leadership. The man who wins under this system is truly the choice, not only of the majority of voters, but of a majority which is as diverse in its interests as it is spread throughout the country.

Mr. President, there are many other reasons why direct election is not an advisable system to adopt for election of the President. These can be elaborated on at great length, and as the debate develops, I intend to do so from time to time. These statements will show, as I have tried to do so today, that electoral reform is not a Republican or Democratic issue, or a liberal versus conservative issue. In some ways, direct election will hurt liberal interests, in other ways it will help them. Similarly direct election may weaken conservative political power in some ways, and strengthen it in others. Basically, however, direct election will shake the political and constitutional strength of our Nation, and this is something all parties and all political groups should join in preventing.

Mr. President, at this time, I ask unanimous consent that the text of my proposed constitutional amendment be printed in full in the RECORD. Also, for unanimous consent to insert in the RECORD following the printing of my joint resolution an article by Prof. Alexander Bickel of Yale Law School from the December 1968 Commentary magazine entitled "Is Electoral Reform the Answer?"; a review of Professor Bickel's book, "The New Age of Political Reform," written by Prof. Ernest J. Brown of the Harvard Law School which appeared in the December 1969 volume o fthe Pennsylvania Law Review; an article by Theodore H. White from the January 30, 1970 issue of Life magazine entitled "Direct Elections: An Invitation to National Chaos"; and, an article in the Washington Post of October 5, 1969, by Richard N. Goodwin entitled "Electoral College Finds a Defender."

The PRESIDING OFFICER (Mr. BELLMON). The joint resolution will be received and appropriately referred; and, without objection, the joint resolution and other material will be printed in the RECORD.

The joint resolution (S.J. Res. 191) proposing an amendment to the Constitution reforming the electoral college method of electing the President, introduced by Mr. ERVIN, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 191

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourth of the several States within seven years from the date of its submission by the Congress.

SECTION 1. The President and the Vice President shall be elected as provided in this article. No person constitutionally ineligible for the office of President shall be eligible for that of Vice President.

SEC. 2. On the Tuesday next after the first Monday in November of the year preceding the year in which the regular term of the President is to begin, unless the Congress shall by law appoint a different day, there shall be held in each State and in the District of Columbia an election in which the people thereof shall cast their votes for President and for Vice President. In such election, each voter shall cast a single vote for two persons, one a candidate for President and the other a candidate for Vice President, who shall have consented to the joining of their names on the ballot. The places and manner of holding the election shall be prescribed in each State by the legislature thereof but shall be subject to regulation by the Congress. The voters in each State shall have the qualifications requisite for persons voting for members of the most numerous branch of the State legislature. The voters in the District of Columbia shall have the qualifications prescribed by the Congress.

There shall be cast for the persons receiving the greatest number of votes for President and Vice President in each State a number of electoral votes equal to the whole number of Senators and Representatives to which that State may be entitled in the Congress. There shall be cast for the persons receiving the greatest number of votes for President and for Vice President in the District of Columbia a number of electoral votes equal to the whole number of Senators and Representatives to which the District would be entitled in the Congress if it were a State, but in no event more than the number cast by the least populous State.

Within forty-five days after the election, or at such other times as the Congress may direct, the official custodian of the election returns of each State and of the District of Columbia shall prepare, sign, certify, and transmit sealed to the seat of the Government of the United States, directed to the president of the Senate, a list of all persons for whom votes were cast for President and a separate list of all persons for whom votes were cast for Vice President. Upon each such list there shall be entered the number of votes cast for each person whose name appears thereon, the total number of votes cast for all such persons, and the name of the person for which the electoral votes of each State or District are cast.

SEC. 3. On the 6th day of January following the election, unless the Congress shall by law appoint a different day not earlier than the 4th day of January and not later than the 10th day of January, the President of the Senate shall, in the presence of the Senate and the House of Representatives, open all the certificates, and the electoral votes shall then be counted. The person having the greatest number of votes for President shall be the President, and the person having the greatest number of votes for Vice President shall be the Vice President, if such number be a majority of the whole number of electoral votes. If no person has a majority of the whole number of electoral votes for President or for Vice President, then from the two persons receiving the highest number of electoral votes for such office the Senate and the House of Representatives sitting in joint session shall immediately choose such officer by ballot. A quorum for this purpose shall consist of three-fourths of the whole number of the Senators and Representatives. The vote of each Member of each House shall be publicly announced and recorded, and in addition there shall be cast for the person for whom the electoral votes of the District of Columbia were cast a number of votes equal to the number of such electoral votes. The person receiving the greatest number of votes shall be chosen.

SEC. 4. If, at the time fixed for the counting the electoral votes as provided in section 3, the person who would have been entitled to receive a majority of the electoral votes for President shall have died, the person who is entitled to receive the majority of the electoral votes for Vice President shall be President.

The Congress may by law provide for the case of the death of any of the persons for whom the Senate and the House of Representatives may choose a President or a Vice President whenever the right of choice shall have devolved upon them; for the case of the death of both the persons who, except for their death, would ave been entitled to become President and Vice President; and for the case of the death or withdrawal, prior to the election provided for in Section 2, of a candidate for President or for Vice President.

SEC. 5. The Congress shall have power to enforce this article by appropriate legislation.

The articles, presented by Mr. ERVIN are as follows:

THE NEW AGE OF POLITICAL REFORM

(By Alexander M. Bickel)

OCTOBER 1969.

DEAR SENATOR: Permit me to commend to you Alexander Bickel's small but valuable book, *The New Age of Political Reform*. Professor Bickel is concerned, as I have been concerned, about the effects of S.J. Res. 1, should it be approved and ratified [1] That resolution is, as I am sure you know, the resolution for a constitutional amendment on electoral change proposed and supported by Senator Birch Bayh, of Indiana, and by the American Bar Association.[2] I respect the pur-

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poses of those who support S.J. Res. 1. Indeed, we are, almost all of us, so deeply imbued with respect for the democratic process that any proposal for direct popular election carries an appreciable momentum for acceptance. Nevertheless, the expression of an ideal is not enough, or should not be; we should at least be careful to examine the probable workings of any proposal. This is the great merit of Professor Bickel's book. He is not halted, or satisfied, simply by a call for what is termed "electoral reform." He insists on looking to find and appraising the practical differences, political and institutional, that the proposed "reform" will make. And he insists on considering and appraising alternatives where some change seems called for. If these seem attributes that are to be expected in the consideration of any important public issue, their presence has not been markedly notable in other discussions of the proposed twenty-sixth amendment.

I think that our electoral experience, including particularly several recent campaigns and elections, warns us of some of the things we should not do at least as clearly as it indicates some of the changes that are needed in the method of electing the President and Vice President. I hope that you will find the following comments worthy of your consideration in reaching a decision on S.J. Res. 1. Many of them reflect Professor Bickel's ideas, but the emphasis, or order, is somewhat different. He gives emphasis and priority in discussion to the political costs of the proposed twenty-sixth amendment. I have varied his order and emphasis to suggest greater importance for the institutional costs. We agree that some change is desirable, and would eliminate the individual electors and make some change in the method of choice should no candidate receive a majority of the electoral vote. But before going into that alternative, let me indicate the considerations that appear to bear heavily in an evaluation of S.J. Res. 1.

1. THE RUN-OFF

In my opinion, the most unfortunate feature of S.J. Res. 1 is the provision for a run-off election should no candidate attain forty per cent of the popular vote. I know that Senator Bayh and the ABA Commission justify this provision by suggesting that a figure less than forty per cent would not furnish a sufficient mandate for election to the Presidency, and could weaken the two-party system by encouraging the formation of splinter parties.

The evidence, I suggest, supports the conclusion that the run-off provision would make the very results that Senator Bayh and the ABA Commission seek to avoid more probable. We are not without experience in that area. In the southern states, the run-off is a feature of many primary elections. One sees that in those states it is regularly accompanied by multiple candidacies in the first primary, by the prevalence of personal factions or followings, and by party structures that are at best very loose, even by American standards, and at worst shadowy to nonexistent. The ABA Commission seems oblivious of the effect of a run-off system upon party structure, even in the face of evidence that its own report cites, but appears to misunderstand. In connection with assertions concerning the basis of the two-party system, its report refers to works of Key,[3] Schlattschneider,[4] and Sindler.[5] Yet if one checks those references, particularly the first two, they point strongly to the conclusion that a plurality system of election tends to bring into being and support a two-party organization, whereas the requirement for a run-off encourages the formation of multiple parties, and multiple candidacies. Perhaps even more instructive, though not referred to by the ABA Commission, is the late V. O. Key's notable study, *Southern Politics*; references to the operation and effects of a run-off system appear throughout the book.[6] On more broadly based evidence, Duverger's *Political Parties* reaches even firmer conclusions on the effects of a run-off, or second-election, system.[7]

Cause and effect are, of course, difficult to establish beyond doubt or argument when one considers the structure of political organization or government. But it is not fundamentally difficult to see why the evidence is at least consistent with, and appears rather strongly to support, the conclusion that a run-off system is destructive of two-party organization. A plurality, one-shot election encourages coalition to reach maximum strength. In pure abstraction, a high degree of fragmentation is a mathematical possibility. But the evidence indicates, as one might expect, that in practice a plurality election tends to reduce the serious contenders to two, and to give the winner either an absolute majority or a plurality very close to an absolute majority. Most of our governors and senators are elected in plurality elections. Any appreciable fragmentation of the field is rare, and the winner usually achieves an absolute majority.

But a run-off system offers attractive possibilities for a great many candidacies. First, there is the chance that the electorate might be so split among numerous candidates that one might achieve the run-off with the support of only a minor fraction of the electorate. But the more plausible goal is that even if one does not achieve first or second place in the original contest, any substantial nucleus of support gives great bargaining power should there be a run-off.

The objective of every candidate under a run-off system is thus, at the minimum, to cause a run-off, if he himself cannot win. How is this best achieved? In a large and varied electorate, fractionating the electorate along doctrinaire lines is perhaps the most effective method of preventing any candidate's receiving the vote required to win without a run-off. A one-issue doctrinaire candidate thus stands to profit if other one-issue doctrinaire candidates split off enough segments of the electorate to prevent the formation of a majority coalition. Even though their doctrine may squarely oppose his, he is confident that he can amass a nucleus of support sufficient to give him bargaining power in a run-off.

Professor Bickel suggests, and I think correctly, that had the election of 1968 been by direct popular vote, with a run-off provided, we would have had at least one, and possibly several, additional one-issue candidates. "Every consideration that brought forth antiwar candidates for the Democratic nomination would with equal—and greater—validity have propelled an antiwar candidate into the general election."[8] The leading candidates would in all probability, have achieved not 43 percent of the popular vote, but some figure much closer to 30 or 33 per cent. I think I need hardly stress the divisive effect upon the country of a campaign conducted under such conditions. Moreover, the candidate who wins in a run-off hardly has a strong mandate. This is particularly true if, as has often been the case in run-off elections, he ran second in the first contest. The majority that supports him in the run-off is at best a reluctant majority, and he remains substantially in pledge to those who swung support to him in the run-off, since it has been demonstrated that he could not have won without them. In addition, recent evidence, including some from mayoralty run-offs, suggests that run-off elections are likely to be particularly doctrinaire, strident, and divisive.

Because a run-off system does tends to produce multiple candidacies and thus to divide the electorate, it is rather meaningless to cite figures, as the ABA Commission Report does,[9] to show that in the past the leading candidate for the Presidency has almost invariably received more than forty per cent of the popular vote. There is little reason to think that that would continue, once a run-off system was put in operation.

It is true that we have something of a rudimentary run-off system at present. I refer, of course, to the fact that the elections of the President and Vice President are transferred to the House and Senate, respectively, if no candidate receives a majority of electoral votes. But this type of run-off is most difficult to achieve, and has in fact not been utilized since 1824, when there was little or no party organization or identification. The reason for the difficulty is clear: it requires not popular votes at large, but a nucleus of electoral votes. Professor Bickel graphically illustrates the difference by reference to the 1948 election, when Senator Strom Thurmond and Mr. Henry Wallace achieved almost the same number of popular votes, but Senator Thurmond achieved thirty-nine electoral votes, and Mr. Wallace none.[10]

But with a substantial regional base, and the prospect of an otherwise close election, our limited run-off system presents the occasional invitation to divisive minor candidacies that would be regularly and quadrennially presented by a run-off after a direct popular election. It is clear that Governor Wallace's strategy and objective in the 1968 campaign was to deny a majority of electors, or electoral votes, to either major candidate, and thereby to achieve great bargaining power. Whether he hoped to achieve this by influencing electoral votes committed to him or to his discretion, or by exerting influence on House delegations, or by both processes, does not alter the picture. By one device or another, if he could prevent a first-round verdict, he sought to be a President-maker. He did not succeed. I suggest that success might have been achieved more easily by Governor Wallace, or by some one or more other one-issue candidates, had the provisions of S.J. Res. 1 controlled the recent election. At a time when the country suffers from sharp divisions, we should be cautious lest, though with the best of intentions, we encourage further division and discourage coalition.

The run-off system mandated by the proposed resolution appears to me to present a substantial threat to the stability of our political institutions—to the pattern that requires any presidential candidate to take a position somewhere near the center of the political spectrum, and to build out from there, if he is to have any chance of success. But even if one believes that a run-off system has the virtues that the ABA Commission attributes to it, would it not be adequate, and wiser, simply to give Congress authority to provide for a run-off, rather than making a rigid constitutional requirement that that system be adopted? If S. J. Res. 1 were adopted and the run-off system proved to be as unfortunate as some of us fear, then it would require a further constitutional amendment to eliminate it. But if Congress were simply given authority to provide for a run-off, we could adopt it, modify it, or abandon it, as experience might dictate. Even if a run-off system were desirable, it is difficult to believe that there is inevitable magic in the 40 per cent figure. Experience might indicate that it would be better if the figure were 45 per cent or 50 per cent, or perhaps even 35 per cent. One hears no justification for freezing the particular details of the resolution into the Constitution, even from staunch supporters of the proposal.

II. NATIONWIDE DIRECT POPULAR ELECTION

If the run-off provision were eliminated, or even modified to make it nonmandatory, the

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question of nationwide direct popular election of the President and Vice President, as opposed to an election with the popular vote segmented by states, would be much closer on the merits. However, it is both important and appropriate to see what we would gain and what we would lose by substituting a nationwide direct popular vote for a system of segmenting the vote by states under a modification of the present system. Not all of the arguments in support of the change are of eqqual weight, and there are opposing considerations that require appraisal.

A. The myth of minority disenfranchisement

It is said that the present system of segmenting the popular vote by states, rather than providing for a nationwide direct popular vote "cancel[s] all minority votes cast in the state"[11] or "suppresses as an intermediate stage, all minority votes cast in a state."[12] This argument means slightly more, than saying that the losers in an election have lost. In a statewide election for Governor or Senator, we do not regard the votes cast for the losing candidate as having no weight, or having been suppressed or cancelled, or those who cast them as having been disfranchised. Those votes and voters fully performed the function of any vote or voter in an election where a single candidate was to be chosen. There were simply not enough of them to elect the loser and defeat the winner. One is confident that Senator Bayh does not regard the votes cast for Mr. Ruckelshaus for Senator from Indiana in November, 1968, as having been cancelled or suppressed, or the Indiana voters who supported Mr. Ruckelshaus as having been disfranchised.

The slight base of meaning in such statements is that it is possible, but barely possible in any practical and nonabstract sense, that a nationwide majority or plurality of popular votes may produce only the second highest number of electoral votes. Except as a matter of remote mathematical chance[13] having little relation to reality or probability, this result can only come about in the event of an extremely close popular vote. It has happened once in our history, in the very close election of 1888.[14] Otherwise, our history of 180 years of presidential elections—many of them with very close popular votes, as in 1960 and 1968—indicates that an electoral majority follows a popular majority or plurality, except that in percentage terms the electoral majority tends almost invariably to be much larger than the popular Schattschneider has demonstrated why this is usually the case in a districted or segmented representative election system[15] but the ABA Report does not mention this aspect of his book.

While it may be unfortunate that there is any chance, however slight, that the winning candidate or party in a presidential election may have received slightly fewer popular votes than the losing candidate or party, the presidential election is not the only area under our constitution where such a result is possible. The House of Representatives may have a Democratic majority though the Republican candidates received a larger total of popular votes, or vice versa. And, of course, the majority of the members of the House will elect a Speaker, one of the most powerful officers of our government, even though that majority of the membership may, in the aggregate, have been chosen by a slight minority of the popular vote. The same may be the case with the third of the Senate chosen in any given election year, or with the Senate as a whole. The only way to eliminate this possibility is to have the House and Senate chosen by proportional representation and nationwide electorate. Few would believe that the slight risk warrants the radical remedy.

Therefore, though S.J. Res. 1 would guarantee that the candidate who receives the largest number of popular votes becomes President (though with the run-off system retained, that candidate might well not be the first choice of the majority or plurality), it accomplishes on this score (its principal function) only slightly more than is for all practical purposes completely assured by the present system.

On those occasions where the election is so close that there is some possibility that a result similar to 1888's may come about, we must recognize that in terms of a popular mandate, the election is, as Professor Bickel puts it, a "stand-off, and the question is merely of a convenient device—any convenient device previously agreed upon—for letting one of two men govern."[16] Remembering the large number of persons who because of illness, travel, business, weather, or similar factors may be disabled from voting on a particular day, one must have almost a mystical belief in the arithmetic of simple numbers to believe that under those circumstances the result in 1888 frustrated the national will, and was not an acceptable method of disposing of what was, in terms of political strength, effectively a tie vote.

B. Uncertainty and delay

Two of the three most recent presidential elections have been extremely close in terms of the popular vote. If either election had been conducted under the terms of S.J. Res. 1, we should not have known the result for days or even weeks. The resultant uncertainty and its consequences are perhaps enough to warrant some caution before deciding in favor of a nationwide direct popular vote. But the stage beyond presents even more distressing prospects. I refer to the probability of a nationwide contest following a close presidential election conducted by direct popular vote.

Under our present system of segmentation by states, each segment is insulated from the others. If a question of irregularity arises, it is limited to a particular state. A significant contest is rendered less likely. In 1960, some question was raised concerning the vote count in Illinois. But even if the result had been reversed in that state, it would have left the national electoral result unchanged, and there still would have been no contest. We have had only one contested presidential election, in 1876, but its history strongly suggests that repetitions are to be avoided if possible. If one does occur, under our segmented system, it is at least localized in a few states.

On the other hand, a close and contested presidential election under a nationwide direct popular vote would invite opening every ballot box and every voting machine in the nation to re-examination and challenge. The process of contest might not stop there, considering the magnitude of the prize. It might well require the further step of examining, subject to contest, registration records in every precinct in the country. I think it unnecessary to depict the state of the nation—and of the world—while such a process was in progress. We have, in recent years, seen several state governments paralyzed during gubernatorial election contests. The nation could hardly afford a similar misfortune, magnified to a vastly larger scale.

Consideration of the possibility of contested elections brings to light an added disadvantage of the proposed run-off system. With forty per cent of the vote required to avoid a run-off, the possibility of a nationwide recount and contest to determine whether a run-off was required, is not a remote one. The result might turn upon a few tens or hundreds of votes, even though one candidate has an obvious and substantial plurality. At this stage we would meet a complicating factor not present even in the normal election contest. We would have to determine accurately not only the votes received by the leading candidate or candidates, but also determine with accuracy the total number of votes cast. For example, if it were determined, perhaps after a recount, that the leading candidate had received exactly 32,000,000 votes, then a run-off would be required if the total vote were 80,000,001, but not if it were 79,999,999. This would require the determination of the validity of write-in votes, possibly illegible, possibly for unknown persons who might be fictitious or historical characters. The total number of votes would be as significant a number, and equally subject to contest, as the votes for a given candidate. The grounds of question and contest would be innumerable.

C. National primaries

One can hardly consider election procedures without giving some thought to nominating procedures as well. Very probably, our national party conventions, as now conducted, do not constitute an ideal nominating process, though the system undoubtedly has functions and merits that the television cameras do not disclose. One of Professor Bickel's most thoughtful and valuable chapters analyzes the functions of the convention system, appraises its performance, and makes suggestions for improving a process in which he has been personally involved. Happily, there is movement to bring a substantial number of these improvements into being.

If we are to adopt a system of nationwide direct popular vote for the election of the President and Vice President, it is beyond question that the nominating procedure must change radically. Our national parties are coalitions or amalgams of state party units. The present nominating system reflects that fact, and, indeed, it is based upon the current segmented system by which the President and Vice President are elected.

A markedly different system of election would inevitably produce a wholly different nominating system. The nominating system, if it is to have any meaning, must to a substantial degree reflect or be shaped by the system of election. What it would be is difficult to predict. But it is incumbent upon the proponents of a wholly changed election system to give thought as well to the nominating system that would accompany it, and to make explicit to the public what they think that nominating system should be.

Some have suggested national nominating primaries.[17] Possibly that would prove to be an acceptable system, but we can only speculate on what it would produce. It appears that the cost in money and energy would far exceed anything in our experience were we to have nationwide primaries and elections both possibly followed by run-offs. The continuing availability of very large amounts of funds would certainly be a pre-condition to any effective candidacy.

Such a system has one other inevitable cost. As I mentioned earlier, our nominating and election systems have made a position at or near the center of the political spectrum, as it may be defined at any given time, almost always the only position having any chance of success. A nationwide primary nominating system would bring new factors and followings into play. It is not entirely predictable that this would produce a political course veering sharply between left and right. But one can say with some certainty that many of the factors now leading toward stability and gradual adjustment would be removed.

In connection with the highly uncertain shape of political institutions that would follow the adoption of S.J. Res. 1, may I recommend a recent study by Nichols.[18] He demonstrates how our political institutions, slowly and gropingly, over a period of almost sixty years, adjusted to become effective un-

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der our constitutional electoral machinery. He recounts the past, but the lesson is clear. Wholly different machinery will call into being wholly different institutions. Unless we are quite sure that we wish to junk our present political institutions in favor of whatever may develop under new election machinery, an appraisal more careful and more practical than the proponents of S.J. Res. 1 have thus far made is clearly required.

D. Limited virtues of the resolution

Let me sum up the balance, as I see it, between the institutional aspects of the nationwide direct popular election on the one hand, and popular election segmented by states, subject to some changes to be noted below on the other.

The nationwide direct popular election would eliminate the remote possibility that in a very close election the candidate receiving the largest number of popular votes might trail in electoral votes, and thus not be elected. This is really the only item on the plus side contributed by S.J. Res. 1—the elimination of a possibility that has occurred once in 180 years of presidential elections. To weigh against that, we have (1) all the unfortunate aspects of a run-off system, (2) the enhanced risk of uncertainty in results and of damaging election contests, and (3) a wholly unpredictable change in our nominating procedures and in the political institutions shaped by the nominating and electing process.

Perhaps it is not inevitable how this balance should be struck. However, it is my judgment, as it is Professor Bickel's, that the weightier considerations favor the retention of a vote segmented by states, subject to changes to be noted immediately below.

III. IMPROVEMENTS

Some changes in our system would undoubtedly constitute improvements, while causing no significant alterations in our political institutions; almost everyone concerned with our electoral process agrees that at least these changes should be made. The difficulty in effecting them arises because the proponents of direct election, of the district plan, and of the proportional plan wish to go even further in their separate directions. These changes are:

A. Elimination of the individual electors

The elimination of individual electors would remove many of the weaknesses in the present system stressed by the ABA Commission and by Senator Bayh. It would eliminate the problem of the "faithless elector" and the potentially more serious problem of unpledged electors. This latter device, you will recall, was supported by Mississippi and Alabama in 1960. In effect, it permits states having unpledged electors to withhold their effective vote until the result in other states is ascertained. If their electoral vote is then needed to make a majority, they gain tremendous bargaining power. It is, in effect, a variant on Governor Wallace's 1968 strategy. No one has made a substantive argument of any weight in favor of retention of individual electors.

B. Change in the procedure existing today should no candidate receive a majority of electoral votes

As you know, the present system, in that contingency, transfers choice of the President from among the top three candidates to the House, voting by states. The concept behind voting by states in the House, with each state having one vote, may have been appropriate for a loose confederation. Little can be said in favor of it today. Among other faults, it may disable the House from electing at all, because of evenly divided delegations. There is little reason why choice should be made from among the top three rather than the top two. This may be another factor that could disable the House from electing. Several alternatives are possible:

1. Election by the House, with each member casting one vote.

2. Election of both President and Vice President by a joint session of the House and Senate, with each member of either body casting one vote.

3. Election by a plurality of electoral votes, thus eliminating the quasi-run-off now in our system.

I think that the second of these three alternatives would gain the largest measure of support, and it should be entirely acceptable. It was proposed by President Johnson,[19] was sponsored by Senator Bayh [20] before he transferred his allegiance to S.J. Res. 1, and is the choice of Professor Bickel.[21] However, I believe that the third alternative is preferable, for it would strengthen our two-party system by eliminating the incentive for any candidate primarly seeking post-election bargaining power. A majority of electors was required before we had any party structure, when communication was difficult, and when it was contemplated that individual electors would exercise personal choice. Provision for a plurality choice would, I believe, consolidate the electoral vote rather than fractionate it. While the third alternative seems the wisest to me, either the second or the first would be completely acceptable.

These improvements, incorporated in an amendment such as that proposed by President Johnson and sponsored by Senator Bayh, would accomplish another purpose of some importance. They would make explicit in the Constitution the provision that the President was to be elected by popular vote. It is still constitutionally possible, if politically implausible, to have electors chosen, and the electoral vote determined, by state legislatures or otherwise by state government process. And such an amendment would give to Congress a regulatory power over presidential elections similar to that which it has over elections of Representatives and Senators. At present, the constitutional basis of its power over presidential elections is at best tenuous.[22]

I have set forth above what I consider the institutional aspects of S.J. Res. 1, and Professor Bickel recognizes these as serious and important. But he gives initial emphasis to the great shift in political power that would be occasioned by the adoption of the proposed twenty-sixth amendment.

Under the present system of giving each state the number of electoral votes that it has members of the House and Senate, the least populous states gain some increment in power because of their two "senatorial" electors and by virtue of the fact that each state has at least one member of the House, even though its population is as small as Alaska's. On the other hand, the large blocks of electoral votes possessed by the most populous states are the great prizes in a contest for the Presidency. This is the result of the fact that the unit rule is almost universal [23] in the choice of electors, and that these strategically vital blocks of electoral votes go as units to the winners in the several states. How the balance between these increments of power should be struck is not subject to exact determination, but Professor Bickel and most observers believe that it swings substantially to the states of large and, as is most frequently the case, varied population. A President can hardly be elected without carrying at least some of the big and heterogeneous states, and if he carries most of them he is almost sure to be elected. Issues that will carry the large majority of the most populous states may, and often will, elect a President. Hence, candidates and Presidents are responsive to those states of large and varied population, and their political power is great.

It seems wholly clear that the adoption of S.J. Res. 1 would shift power very markedly away from states with large and diverse populations towards the states with more homogeneous populations, whether they be large, or only medium-sized—principally toward the agricultural states of the midwest. At an earlier time, the shift of power might also have been toward the south, but the homogeneous or heterogenous character of the electorate of the south is now rather uncertain.

Close elections show with some clarity the distribution of power under one system or another, and I suggest that the election of 1960 demonstrates how different the distribution of power would be under S.J. Res. 1. If we look at the results of that election, we see that under direct popular election, the then Vice President Nixon's plurality in Nebraska (6 electoral votes) alone (148,011) would have slightly more than offset the then Senator Kennedy's aggregate plurality (147,275) in Pennsylvania (32 electoral votes), New Jersey (16 electoral votes), and Illinois (27 electoral votes). If we substitute Iowa (10 electoral votes; 171,816 plurality for Nixon) for Nebraska we get an ever larger overbalancing of Pennsylvania, New Jersey and Illinois, and if we substitute Kansas (8 electoral votes; 198,261 plurality) we get a still larger overbalancing. In the same election the Indiana result (13 electoral votes; 222,762 plurality for Nixon) would have been more than six times as significant in the determination of the ultimate result as the California result (32 electoral votes; 35,623 plurality for Nixon). And the vote in Massachusetts (16 electoral votes; 510,424 plurality for Kennedy) would have outweighed in significance the result in New York (45 electoral votes; 383,666 plurality for Kennedy).

Such a shift in political power is not insignificant. A President may be President of all the people, but he is likely to be particularly sensitive and responsive to the needs and desires of the constituency that elected him, and that may re-elect him. If we look back to some of the significant legislation of the past eight years that required strong presidential leadership for enactment—the Civil Right Acts of 1964 and 1965, for example—can one think that that legislation would have been enacted if the electoral system that then prevailed had not awarded large blocks of electoral votes to New York, Pennsylvania, New Jersey, Ohio, Illinois, and Michigan?

These political considerations may equally well supply a reason why some should support S. J. Res. 1 as why others should oppose it. I suggest only that one should be aware of these potential shifts of power, whether that gives one ground for support, for opposition, or for disregarding them as immaterial. Professor Bickel writes, I believe, primarily to an audience that would be likely to oppose S.J. Res. 1 if it fully understood the implication for shifts of political power. I think that every voter and every member of Congress should be fully aware of those political implications, whatever the direction in which they might lead him. But I have stressed the institutional implications because, as I see the balance to be struck, those must more generally lead voters and members of Congress to doubt the wisdom of the resolution.

I shall be grateful if you will give these matters your consideration, and I shall be happy if you agree with the conclusions that Professor Bickel and I have reached, though with somewhat different emphasis on our reasons.

Sincerely yours,

ERNEST J. BROWN.

FOOTNOTES

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[1] *See also* H.J. Res. 681, a resolution similar in purpose, that was approved by the House of Representatives, 91st Cong., 1st Sess., 115 CONG. REC. 8142 (1969), on September 18, 1969 (399 in favor, 70 opposed, 21 not voting).

[2] ABA COMM'N ON ELECTORAL COLLEGE RE-

FORM. REPORT ON ELECTING THE PRESIDENT (1967) [hereinafter cited as ABA REPORT].

[3] V. O. KEY, POLITICS, PARTIES & PRESSURE GROUPS (5th ed. 1964).

[4] E. SCHATTSCHNEIDER, PARTY GOVERNMENT (1942).

[5] A. SINDLER, POLITICAL PARTIES IN THE UNITED STATES (1966).

[6] *See*, V. O. KEY, SOUTHERN POLITICS IN STATE AND NATION 406–23 (1949). *See generally id.*

[7] *See* M. DUVERGER, POLITICAL PARTIES 216–28, 239–45 (1951).

[8] A. BICKEL, THE NEW AGE OF POLITICAL REFORM 16 (1968) [hereinafter cited as BICKEL].

[9] ABA REPORT 8.

[10] BICKEL 15.

[11] ABA REPORT 4.

[12] ABA REPORT 4–5.

[13] The same type of remote mathematical chance will demonstrate that it is possible to obtain a majority in a perfectly apportioned legislature with approximately 26% of the popular vote, if the vote is distributed in just the one way that will produce this result. For example, if a legislature has 100 seats, to obtain a majority, one party must secure 51 seats. If that party receives no votes whatsoever for the 49 seats in the minority, and only 51% of the vote for the seats it wins, its majority is the product of 26% of the vote.

[14] *See* BICKEL 17.

[15] E. SCHATTSCHNEIDER, PARTY GOVERNMENT 74–80 (1942).

[16] BICKEL 17.

[17] *See id.* 21–23 & app. VIII, at 74.

[18] R. NICHOLS, THE INVENTION OF THE AMERICAN POLITICAL PARTIES (1967).

[19] *See* BICKEL 20 & Apps. V, VII, at 67, 72.

[20] *Hearings Before the Subcomm. on Constitutional Amendments of the Senate Comm. on the Judiciary, Election of the President*, 89th Cong., 2d Sess. & 90th Cong., 1st Sess. 18–24 (1968).

[21] BICKEL 20.

[22] *Cf.* Burroughs v. United States, 290 U.S. 534 (1934).

[23] It had been universal for many years until Maine provided that a presidential elector should be chosen from each congressional district, and two at large. Maine P.L. Chap. 131 (1969), *amending* ME. REV. STAT. ANN. tit. 21 §§ 1181, 1184 (1964).

IS ELECTORAL REFORM THE ANSWER?

(By Alexander M. Bickel)

For the first time since the Progressive era of sixty years ago, the American political system may be at a point of significant mutation. The Progressive era gave us women's suffrage and the popular election of senators, without which the federal government would surely now seem hopelessly anachronistic; the direct primary, which has become a domesticated household creature; and also the initiative, the referendum, and the recall, which have survived here and there, but for the most part wildly, in a state of nature, owing to lack of regular contact with humans. These reforms answered essentially to the populist idea—identified in the American political tradition with Andrew Jackson and in some measure with everyone else ever since—that the ills of society and its government will be cured by giving a stronger and more certain direction of affairs to a popular majority. Today, as earlier, this idea remains the battle cry of reform. It alone inspired the Supreme Court's reapportionment decisions from 1962 onward, which may be viewed either as having inagurated the current age of political reform or as a reflection of it; and it alone is the overt inspiration of proposals, for which the performance of the system this season has generated much support, to abolish the electoral college and the Presidential nominating conventions.

Confidence in the majority crosses class and ideological lines; nearly everyone believes that if the majority were but allowed to speak often and loudly enough, it would speak with its own voice. Even for those who would try to control the processes by which a majority is formed, and who would restrain and educate the majority before yielding to its wishes, the democratic faith is, finally, faith in the good will and good sense of the preponderant number of men. Nevertheless the populist principle in its unqualified state is simplistic and insufficient. Over time, it begets a dialectic or illusion and disillusion. Its sanguine slogans sound hollow and become terms of derision with extraordinary rapidity. "The Old Order Changeth," wrote William Allen White in 1910. In 1920 he said to Ray Stannard Baker: "What a —— world this is. . . . If anyone had told me ten years ago that our country would be what it is today . . . I should have questioned his reason."

The proclamation of a New Politics will also be recalled in irony later if it is given nothing but a populist content now. It is nice to think that there is an immediate majority out there which necessarily favors great good works, and which consists of persons each moving in an individual orbit, adrift from parties and other structures, and yet capable of exercising power if only every man had one vote. But the body politic is not like that. Majorities do not arise spontaneously and are not found; they must be constructed and then maintained. They are conglomerates of many groups, all of them minorities, each of which must have its share of power, some of which weigh in with intensity of feeling rather than numbers, and some of which must sometimes even be granted a veto, in order that there may be peaceable government enjoying common consent. If this is the Old Politics, it is the part which is a permanent necessity.

Unqualified populists or not, political reformers must in any case proceed with caution. James I spoke of the mystery of the King's power. The institutions of a secular, democratic government do not generally advertise themselves as mysteries. Yet they are. The actual operation must be assessed, often in sheer wonder, before they are tinkered with, lest great expectations be not only defeated, but mocked by the achievement of their very antithesis. Defeat and mockery, to assert briefly what is common knowledge, were the partial result of the direct primary, and certainly of the referendum, the initiative, and the recall, which turned into tools of minority pressure; and defeated expectations and unwanted consequences, to assert briefly what will in time also be common knowledge, have followed from the Supreme Court's reapportionment decisions.

There are great virtues in a conservative attitude toward the structural features of government. The sudden abandonment of institutions is an act that reverberates in ways no one can predict, and many come to regret. There may be a time when societies can digest radical structural change: when they are young and pliant, relatively small, containable, and readily understandable; when men can watch the scenery shift without losing their sense of direction. We are not such a society. We are well served by an attachment to institutions that are often the products more of accident than of design, or that no longer answer to their original purposes and plans, but that offer us the comfort of continuity, and challenge our resilience and inventiveness in bending old arrangements to present purposes with no outward change. The English know this secret, and so does the common law that we inherited from them. We have, of course, many institutions and arrangements that, as they function, no longer conform to the original scheme, and we have bent most of them quite effectively to the purposes of our present society, which in all respects differs enormously from the society of nearly two hundred years ago. The Supreme Court is one such institution, and the Presidency itself is another. The fact that we have used them without modifying their structures has lent stability to our society and has built strength and confidence in our people.

THE ELECTORAL COLLEGE

The "Humpty-Dumpty electoral college," as one of its critics has called it, is another old institution put to interesting new uses. Now the chief target of reformers, the electoral college was unquestionably invented to serve ends most of which we no longer care to serve, and most of which it no longer serves. Only in form does it remain what it was invented to be. Pursuant to Article II of the Constitution and the Twelfth Amendment, it still consists of as many electors from each state as the state has senators and representatives, and it still convenes quadrennially to elect a President and a Vice President of the United States. But although it was probably intended and clearly not forbidden to act independently, it has hardly ever done so, certainly not in modern times. Electors compete for the office in a popular election, but with very infrequent exceptions, which have never proved significant, they do so in complete anonymity; electors are pledged to Presidential and Vice-Presidential candidates for whom, if they win by a majority or plurality, they cast their state's electoral vote.

These features of the system, unforeseen and unintended by its originators and sanctioned by custom rather than by the Constitution, have in modern times made the large, populous, heterogeneous states—where bloc voting, as by ethnic or racial minorities or other interest groups, often determines the result—the decisive influence in Presidential elections. Recently, Mr. John F. Branzhaf, III has analyzed the various possible arrangements of electoral votes, and the circumstances in which any given state could change the result of an election. He has also calculated the chances of a voter affecting the outcome in his state, and the chances that the outcome of a national election would then itself be altered. His conclusion is that voters in "states like New York and California have over two and one-half times as much chance to affect the election of the President as residents of some of the smaller states." Pennsylvania, Ohio, Michigan, Illinois, and even the lesser industrial states, are also in advantageous positions. The reason is that while a voter in a large state has less chance of influencing the result in his state (because there are, of course, more people voting) he potentially influences a larger number of electoral votes; and so, despite the apparent dilution of his vote, he actually exercises much greater control over the outcome of the national election. This power he derives directly from the electoral college system.

What we have known to be true, then, is true. We can now establish mathematically why modern Presidents have been particularly sensitive to urban and minority interests—modern Presidents of both parties, that is to say, have been more responsive to urban interests than have other factions in their parties. And only men who can be thus responsive are generally nominated and elected. Goldwater in 1964 is something of an exception; he was nominated. Mr. Nixon in 1968 was no exception. If he made some unfamiliar sounds, that was because of the particular urban mood of the day.

In modern times and in most of our politics, urban interests in the big states have contended against interests that have a more rural, nativist, and Protestant orientation. The latter interests have tended to dominate Congress, the former the Presidency. Urban-rural, pluralist-homogeneous—this has been the great divide in American politics. The task of the Presidential candidate, Republican or Democratic, is to bridge it from either side. The electoral college does not guarantee the Presidency to the Democrats. Rather the system requires both parties at least to make inroads into the urban and ethnic vote in order to win. Mr. Nixon in 1968 barely did, and he barely won. But then it was a three-way race, and some of the Wallace urban vote is to be credited to Nixon, either directly or as a subtraction from Humphrey strength. In any case, the industrial states were, as ever, the decisive battleground. The big states would matter in any scheme that took account of the popular vote in whatever fashion, directly or with qualifications. But the electoral college as it has evolved is so rigged that the big states count disproportionately. That is its critical attribute.

Each of our major parties is, in consequence, as James M. Burns has recently reminded us, two allied parties—a Congressional party, rural and small-town moderate to conservative in orientation, and a Presidential party, which is substantially more urban-liberal. (How often has it been true that the Republicans have lost Congress to the Democrats, and the urban liberals have lost the Democrats to Congress!) No doubt, the urban electorate is not always progressive, humane, and large-minded, and the more homogeneous rural and small town electorate sometimes is. The drift of attitudes among big city voters is nothing to be proud of just now, nor was it in the early 1950's. On the other hand, the Progressive movement of a half-century ago had deep roots in the rural West and Midwest. Still, the urban and the rural-small town outlooks and interests do generally differ. So long as that remains true, the former should properly exert particular influence through the Presidency because the latter are likely to prevail in Congress.

The difference in interest and outlook may not always obtain. The demography of the United States and its politics will not necessarily abide unaltered, world without end. The country, we are told, is increasingly urban, and TV and the other "media" are, God help us, levelling cultural and other distinctions. But urban is a term that can cover many ways of life; the ethnic and racial composition and the traditions and attitudes of an urbanized Nebraska or Georgia are still not those of New York, Chicago, or Cleveland. If there are major changes in the offing, they are not here yet, and their nature is not readily predicted.

The proposal to abolish the electoral college that is now being actively considered emanated from a special committee set up by the American Bar Association, and it has a very great deal of bipartisan Congressional support. It has even spawned a thoroughly documented and well-argued book. The proposal calls for a constitutional amendment providing for election of Presidents and Vice Presidents by nationwide popular vote, with a run-off in the event that no candidate attains a plurality of 40 per cent. Such a system would put a premium, not on carrying the big industrial states, but on achieving the largest possible majority in the smaller, more homogeneous ones. It would create a Presidency with little or no incentive to act as a counterweight to Congress, and as a particular spokesman for urban and minority groups.

Recognizing that the proposal would most likely achieve this result, advocates of the direct popular election contend that no counterweights is needed, or is any longer proper, in view of the Supreme Court's reapportionment decisions. It was fitting—so the argument goes—for the President to be oriented toward the cities and minority groups so long as Congress looked the other way, but Congress looked the other way because of malapportionment and malapportionment is no more. Hence the reasons, such as they were, for tolerating the undemocratic aberration of the electoral college no longer hold. It is time for the system to be ideologically pure. The Court has said that the Constitution commands equal, apportionment. We should, therefore, reapportion the Presidency. In effect, we must now amend the Constitution to make it mean what the Supreme Court has said it means.

This is, in itself, an arresting argument. But its paradoxical nature is not the main thing wrong with it. What is fundamentally wrong is that it fails to take account of a whole order of very different considerations. A system of countervailing centers of power may be better for a country as large and still as diverse as ours than one in which Congress and the President represent more nearly the same constituency. Under the present system we are able to strike a nice balance in our government, and make it an instrument for achieving general consent, rather than merely for working the will of some supposed majority of the moment; therefore, instead of changing the Constitution to make it conform to the Supreme Court's reapportionment decisions, we ought perhaps to work to overturn those decisions.

Even if one accepts the reapportionment decisions and their exclusively majoritarian bias, however, the trouble is that the proponents of the direct popular election wildly overestimate the immediate impact and durability of these decisions, it is, to begin with, impossible without additional constitutional amendment to reapportion the House entirely; state lines prevent. Secondly, it is foolhardy to bank on the permanence of the reapportionment decisions, just exactly as we now know them; they are subject to relitigation every decade, with every census. Third, gerrymanders, which the Court has not yet attempted to control, can accomplish all that the most sophisticated or antiquated malapportionment ever achieved. But fourth and most important, we do not know that Congress is what it is because of malapportionment. It is quite probable that in much larger measure the nature of Congress is determined by its internal methods of distributing power—chiefly the seniority and committee systems. These are very solidly entrenched. They reward length of service and expertise, as in one fashion or another all legislatures, really all permanent institutions, must. Long tenure is, in turn, most often the gift of a homogeneous district, which will tend also to liberate a Congressman from the varied concerns of a closely divided and diverse constituency, and thus enable him to specialize singlemindedly in a branch of legislative business. Congress finally, may be what it is because any districted constituency will vote for a Congressman from a more restricted and probably more conservative perspective than when it votes as part of the entire national constituency in Presidential elections. Herein may lie the explanation of a certain divergence between the Senate, atrociously malapportioned and proof against reform even by constitutional amendment but elected by Statewide voters, and the districted House of Representatives. All this means that in any circumstances the President is fairly bound to represent a constituency that is not the same as that of the House, but it means more plainly that Congress cannot be radically changed by reapportionment, and that the system should emphasize and preserve rather than seek to suppress the different orientation of the Presidency.

There is yet another, quite discrete objection to the proposal for direct popular election, which would be sufficient in itself. This is that the monopoly of power enjoyed by the two major parties would not likely survive the demise of the electoral college. Now the dominance of two major parties enables us to achieve a politics of coalition and accommodation rather than of ideological and charismatic fragmentation, governments that are moderate, and a regime that is stable.

Without forgetting that of all the mysteries of government the two-party system is perhaps the deepest, one can safely assert that each major party exerts centripetal force; that it ties to itself the ambitions and interests of men who compete for power, discouraging individual forays and hence the sharply-defined ideological or emotional stance; that it makes, indeed, for a climate inhospitable to demogogues; and that it provides by its continuous existence a measure of guidance to the marginally interested voter who is eminently capable of casting his ballot by more irrelevant criteria. The system, in sum, does not altogether take mind out of politics, but it does tend to insure that there are few irreconcilable losers, and that the winners can govern, even though—or perhaps because—there are equally few total victories. Multi-party systems also govern by compromise and coalition; they compromise and coalesce, however, not before the election, but after, having first offered the voter his choice among pure positions. Self-contained ideologies thus take root, and become hard-edged. Accommodation is more difficult, partial, grudging, short-lived, and often impossible. Such a system makes for more mind, perhaps, and certainly less government.

The electoral college deters challenges to the two major parties, because an effective challenge must have not merely some popular appeal, but support of sufficient regional concentration to garner an electoral vote. In 1912, William H. Taft, the real third-party candidate in the extraordinary circumstances of that year, had 23.2 per cent of the popular vote and 8 electoral votes, and in 1924 Robert M. LaFollette had 16.6 per cent and 13 electoral votes. Only from a regional base can a third party penetrate the electoral college. Thus in 1948 Strom Thurmond had such a base, and Henry Wallace did not. Each got 2.4 per cent of the popular vote, but Thurmond had 39 electoral votes, 31 more than Taft in 1912, and Wallace had none. George Wallace this year also ran on about the only issue which still massively unites a region—hence his 45 electoral votes. Otherwise, his 13 percent of the popular vote would have been as meaningless as Taft's or LaFollette's.

With popular election, non-regional interests that have failed to influence conventions would unquestionably be tempted to enter the general election in the hope of gathering enough votes to bargain within a run-off. And enough entrants may be foreseen to insure a run-off every time. In such conditions the two major parties could not long sustain themselves. A geographically-based candidacy such as that of George Wallace would have no less incentive to manifest itself under a system of popular election than it does now. All other possible separate candidacies, ideological but not regional, would have more. Thus we would see on a national scale the kind of unstructured politics that characterized much of the single-party South in its heydey. The real election was the Democratic primary, which would draw several candidates, who then sorted themselves out between the first vote and the run-off. Two or four years thence, everything started afresh.

Apart from a theoretical attachment to pure majoritarianism, proponents of the direct popular election of the President rely also on a parade of possible horrible consequences of the present system. Both the electoral college and the direct popular election can produce plurality Presidents, like Nixon in 1968, who come in ahead of their opponents by less than a clear majority of the total popular vote. The electoral college, however, can also bring a minority President into office—that is, one who got fewer popular votes than his runner-up. Yet putting aside an esoteric dispute in 1960 about how to apportion the popular vote in Alabama, there has not been a minority President in this century; and in an election that was not stolen, as in 1876, or thrown into the House, as in 1824, we have had only one such President in our history. But it made little difference that Grover Cleveland lost in 1888 to Benjamin Harrison even though he had 100,000 more votes: he won four years earlier, when he did become President, by only 23,000. It would have made equally little difference if, without affecting the actual result in the electoral college, Mr. Nixon had nosed out John F. Kennedy in 1960 by 100,000 votes, or Mr. Humphrey had prevailed by a small margin in 1968. When some 70 million votes divide so closely, only an immensely dogmatic majoritarianism would insist that the so-called winner has the sole legitimate claim to office. In truth, there is a stand-off, and the question is merely of a convenient device—any convenient device previously agreed upon—for letting one of two men govern.

Unquestionably, the legitimacy of the electoral college result and the effective discharge of the office would be affected should the loser of the popular vote by a substantial margin win the Presidency. But of this, as past statistics consistently show, the risk is minuscule, and it is offset by the advantages of the electoral college in the more likely case of a close popular vote. For in the electoral college, a narrow popular victory is perceived through a magnifying glass. Indeed, even if it should put a narrow loser in office, the electoral college would probably insure greater acceptance for him than the winner by a very small margin could expect in a system of direct popular election.

Beside electing a minority President, which it is not apt to do, the electoral college is capable of two other tricks, both of which George Wallace has badly frightened people with. Since the Constitution permits the college to act as an independent, deliberative body, individual electors may take it into their heads to behave accordingly, and should no one have a majority of electoral college votes, some uncommitted or third-party electors could certainly play a decisive role. Obviously they should not, since they are obscure men who were not elected to perform a deliberative function. This is an eventuality that should be guarded against, but it calls for perfecting the present system, not for abandoning it. The Johnson administration has proposed a constitutional amendment which would abolish the electors and their college as a physical entity, and would automatically award the total electoral college vote of each state, calculated as at present, to the winner of a majority or plurality of the popular vote in that state.

A difficulty of rather another sort, and one not so easily solved, is the deadlock. The Constitution now provides that should no one succeed in obtaining a majority in the electoral college, the House of Representatives shall elect a President; each state shall have one vote, to be cast in accordance with the wishes of a majority of that state's delegation in the House. One may think it unlikely that patriotic men, committed in virtually every other aspect of their activities to majoritarian principles, would do today what was done in 1824, and vote into office not the winner of the popular vote by a substantial plurality (Andrew Jackson), but his runner-up (John Quincy Adams). Nevertheless, the possibility of intolerable abuse exists, and there is no reason not to guard against it. One suggestion, put forward by Representative Jonathan Bingham of New York, is to have a run-off election still within the electoral college system—that is, a repetition of the previous exercise, but this time between the two top candidates. This has some of the disadvantages of the popular election proposal with its run-off, since it might also tend to make splinter candidacies more profitable and hence more likely. Another possibility, favored by the Johnson administration is to recognize frankly that in the event of a deadlock a choice is required through a deliberative process, rather than through a process—which by hypothesis has just failed—of registering the popular wish. I shall touch presently in some detail on the coalition-making that precedes the general election in the present system. Deadlock means that it has failed and must be tried again. Coalition-making is a function for representative, deliberative institutions. Congress sitting in joint session and reaching decisions by a majority of the individual votes of its members is the best available deliberative institution for this purpose, and Congress is the institution the Johnson administration proposal would use.

THE NATIONAL PARTY CONVENTION

Originally, Presidential candidates were nominated by Congressional caucuses, but by 1824 this system had come to seem insufficiently representative and was replaced by the national party convention, beginning in 1832. Now that system, too, has come to seem insufficiently representative, and also inadequately deliberative. More and more, as the increasing incidence of first-ballot nominations plainly suggests, it merely registers the previously-expressed wishes of a constituency. What that constituency is, however, whether it is in any sense the masses of party adherents, or merely the professional party cadre, is gravely in question. And so the majoritarian reformers would substitute a national primary election for the convention.

A national primary would undoubtedly attract numerous candidates, and its decisive stage would be the run-off. Consequently, as Nelson Polsby and Aaron Wildavsky have written "the United States might have to restrict its Presidential candidates to wealthy athletes. No man without enormous financial resources could ever raise the millions required for the nominating petition, the first primary, the run-off primary, and the national election; and no one who was not superbly conditioned could survive the pace of all these campaigns." Polsby and Wildavsky argue also that a national primary would badly strain the two-party system, because in periods of the dominance of one of the parties, which of course occur, voters would be drawn to that party's primary, viewing it as their only real opportunity to participate decisively in the entire electoral process, and they would be drawn in such unnaturally large numbers as to threaten the other party with atrophy.

In any event, a national primary would not avoid the coalition-building function, which must be discharged, whether before or after the general election. The consequence would be merely that this function would be de-institutionalized. Between the first primary and the run-off, men would come together, without structure and without form, and sort out their support for one of the two candidates who had emerged in the leading positions. This would be the time and this would be the fashion of the coalition-forming process in each party, and, ultimately, if Polsby and Wildavsky are right, in one party alone, as—again—in the once solid South.

Of course, if Polsby and Wildavsky are right, the general election would be a formality of little moment, and we would have the least desirable of all systems of direct popular election, one that provides for no prior nominating process of any sort. It would amount to a multi-party system, for which the bargaining that is essential for constituting a government is postponed until after the election. The disadvantages that would follow have been mentioned. They are enormous. But even assuming that Polsby and Wildavsky are too pessimistic, that the two parties would survive, and that the work of making a coalition would proceed in each party between the first primary and the run-off, the upshot would be a coalition-forming procedure scarcely more responsive to an appropriate constituency than the most irresponsible convention we are likely to witness. The two top contenders would have been chosen by popular pluralities, to be sure, though their vote would likely be of the order of 20 to 25 per cent, and whatever choice between them the rest of the candidates and their managers made would require ratification in the run-off, just as convention choices are up for ratification in the election now; but subject to this constraint, which operates equally on the conventions, the candidates and the managers would make their decision in some back room, at least as free of any other constraint as the convention bosses who picked Harding in 1920. This is scarcely what the proponents of the national primary intend, yet it is what they would get—at best.

To reject the national primary is not to concede, however, that the national party convention as we now know it is acceptable. No American political institution is more visible than the convention, and none is less visibly constituted and run. An examination of the 1968 Democratic Convention, for example, reveals some rather remarkable practices, which are common, with an occasional variation, in the Republican party as well. There are states where all or part of the delegation to the national convention is appointed by the governor or state chairman (e.g., Georgia, Louisiana), or by the state executive committee (e.g., New York), which may last have been elected two or four years earlier (e.g., Pennsylvania, Maryland), or by a state convention whose members, in turn, are appointed by local party functionaries (e.g., Michigan, Illinois).

The Democratic Convention was studied in the summer of 1968 by an unofficial, privately-funded Commission on the Democratic Selection of Presidential Nominees, of which Governor, now Senator, Harold F. Hughes of Iowa was chairman. (It was brought together on the initiative of a few delegates who were members of the Convention's Credentials and Rules Committees, and it made recommendations, and issued a report from which the facts about the convention that I am here able to cite are chiefly drawn.) Over 600 delegates to the 1968 Convention, the Hughes Commission found—approximately half the number needed to win a nomination—"were selected by processes which have included no means [however indirect] of voter participation since 1966." This is utterly unjustifiable.

A party's professional cadre should, no doubt, have a voice. The professionals are, if nothing else, a faction that deserves representation, and it is sound instiutional policy to reward their services with a measure of influence. They symbolize, moreover, the continuity of the party, and play a principal role in giving it an identity. But if they lend the party its character of an "organized appetite," as Felix Frankfurter once wrote, their appetite is sometimes keener for power in the organization than for organizing to secure the power of government. At any rate, no one need fear that the professionals will go unrepresented. Even in states where delegates are elected in direct primaries, the cadre knows how to maintain its foothold (as David, Goldman, and Bain have pointed out). The problem in constructing a convention is not to assure a voice for the professionals, but to dislodge them from a controlling position.

Methods of delegate selection that do bear scrutiny, as appointment by the professional cadre will not, are election by a state convention to which representatives are chosen, in turn, either directly or through an additional stage of district conventions, at precinct caucuses open to all party members; and direct election either in a winner-take-all, at-large primary as in California, or in at-large and district primaries, with (e.g., New Hampshire), or without (e.g., New Jersey) an accompanying state-wide preferential poll, in which the people have a chance to vote for actual Presidential candidates.

It would be difficult and unwise to opt on a national basis for any one of these acceptable methods to the exclusion of the other ones. The winner-take-all state primary has its virtues. It is a trial heat, a shakedown cruise for candidates, and a preview for the public. It catches attention and generates interest. Politics is an educational endeavor before and after it is anything else, and in this endeavor the major state primary helps. The drama is heightened for all concerned by the winner-take-all feature: for the candidate with little support from the professionals, the attractiveness of the primary is enhanced, as for the public is its authenticity as a preview. And the winner-take-all primary injects into the convention's process of judgment a prediction that is more than a guess, and more reliable than a poll, of what the party faces in the general election. But the state-wide, winner-take-all primary as universal practice would avoid few of the shortcomings of a national primary. If a reasonably obvious national winner were turned up, the convention would merely register the choice. Or else, if the state primaries produced no conclusive winner, as would more often happen, the convention's task would be what it is today, but its composition would be most unsuited to a satisfactory performance of that task.

There are, by and large, as I have been implying, two sorts of multi-member democratic institutions: the representative, deliberative assembly, and the body meant to register a single prior decision of its constituency. Congress is the typical institution of the former sort, the electoral college of the latter. Institutions charged with registering the decision of a majority of their constituency should consist of members responsive to that majority, and of no one else. (In 1796, a Federalist voter said of a member of the electoral college: "Do I choose Samuel Miles to determine for me whether John Adams or Thomas Jefferson is the fittest man for President of the United States? No, I choose him to act, not to think.") Deliberative institutions, on the other hand, should reflect as many significant factions in the total constituency as possible. That is why all American legislatures are districted. None is elected at large, to be a creature wholly of the majority, nor does any state send to Congress an entire delegation elected on a state-wide basis. It is particularly necessary to represent the minority in a deliberative, assembly that, like the national party convention, sits only briefly and periodically, and has as its sole object the composition of a governing coalition. The minority must be there, quite simply in order that some portion of it may be coalesced with; or more accurately, no relevant majority exists for purposes of constituting such a deliberative assembly until the assembly's own majority-building work is done, and that work can be done only if the total or near-total constituency is present through its delegates. Thus delegations chosen in winner-take-all primaries, speaking for a majority, and perhaps a plurality of a state party, are welcome as one element in the mix of the convention, not as the universal element.

Delegations selected in district primaries are likely, subject to the accidents of geography, to represent minorities as well as majorities in a state party, and so are delegations chosen at state conventions whose members were elected at open precinct caucuses—but this last will be so only if one highly important condition has been met. At many precinct caucuses, district conventions, and then state conventions, the unit rule prevails, so that at each stage minorities may be left unrepresented. This is, to be sure, not the practice everywhere, but the Hughes Commission confirmed some of Senator McCarthy's complaints that it was the practice used to his disadvantage by the Democratic party in some states; and used here and there, one may add, by the McCarthy people themselves, when they had the chance. Hence, while accepting the value of the winner-take-all primary in a few states, the Hughes Commission recommended absolute abolition of the unit rule at all levels; it also recommended abolition of any system of "direct appointment" of delegations in whole or in part, by state party executives or other officials, and the selection of delegates by procedures that "permit meaningful popular participation" within a period of not more than "six months before the Convention itself."

Somewhat to everyone else's surprise, and perhaps also to its own, the 1968 Democratic Convention adopted the following resolution offered by a minority of the Rules Committee:

> It is understood that a state Democratic Party, in selecting and certifying delegates to the National Convention, thereby undertakes to assure that such delegates have been selected through a process in which all Democratic voters have had full and timely opportunity to participate. In determining whether a state party has compiled with this mandate, the convention shall require that:
>
> (1) The unit rule not be used in any stage of the delegate selection process; and
>
> (2) All feasible efforts have been made to assure that delegates are selected through party primary, conventions, or committee procedures open to public participation within the calendar year of the National Convention.

This is almost the whole of the Hughes Commission recommendation. In addition, as the Hughes Commission also suggested, the chairman of the Democratic National Committee was instructed to set up a special committee charged with helping the states implement these policies.

The millennium is not yet here. The language of the resolution is in some respects fairly specific—and means that most professional appointment and minority-exclusion practices (in non-primary states) are out. But appointment of some delegates, or in New York, by a state committee itself elected in the year of the convention, remains possible. Even where it is specific and entirely satisfactory, moreover, the policy must be implemented, and there are portions of it which call for further legislative efforts prior to implementation. One surmises from prior experience, unfortunately, that a certain gradualism is likely to characterize implementation of this new policy.

In the course of implementation, a difficult problem is bound to surface, concerning access to the party and adherence to it, or if you will, concerning the definition of the party. One aspect of this problem emerged in the loyalty-oath controversies that have bedeviled the Democratic party for a generation. The American major party is a coalition formed every four years from a center of gravity that is apt to shift ever so often. The stable factor is that the center of gravity of the Republicans is generally somewhere to the Right of the Democratic one, and at any rate, always somewhat different. But each party reaches out every four years, the one usually to the Left, the other usually to the Right, and both toward the center of the continuum of public opinion and private interest, in the effort to create as large a governing majority as its centripetal force can command. Therefore, although each has a professional cadre, and although each exerts its centripetal force from a different point on the spectrum of opinion and interest, each is also something of a new coalition every quadrennium. The implications for the loyalty-oath issue, which the Democrats ultimately accepted, are that it is hardly consistent to require any group, as a condition for coming to the convention and engaging in the coalition-making process, to promise beforehand to abide by the result, even though, as may happen, it is affirmatively excluded from the coalition. The convention is the occasion of forming the party for a particular election, and no one can say with detail assurance beforehand what kind of a party it will be. Hence, although the issue was fudged somewhat in the patchwork compromise about the Georgia delegation at the 1968 Democratic Convention, the Democrats require only that delegates promise to use their influence to see to it that the nominees of the convention are listed as Democratic nominees on the ballot in their states not that they promise necessarily to support the nominees.

The implications for procedures of delegate-selection should be similar. It ought not to be necessary, as it is in many states, to have been a registered Democrat or Republican at some prior time in order to participate in a Democratic or Republican primary, or in party caucuses. The party ought each year to be open to all those groups which in that year wish to enter into the process of forming the coalition that will be the Democratic or Republican party. If the parties were as open as they should be, large numbers of people who had voted Democratic in the past might in 1968 have moved to form in the Republican party a coalition around Rockefeller, or Charles Percy, or John Lindsay—candidates oriented more to the Right in some respects than would normally suit them, but more satisfactory than what they foresaw as the probable Democratic nominee. Or anti-Vietnam Republicans might have helped put together in the Democratic party an alliance turning on the war issue, under such a candidate as Eugene McCarthy. But the truly open party would encounter difficulties, more serious in primaries than in local caucuses and conventions, and more serious in precinct caucuses than in state, let alone national conventions, with their larger membership, more demanding activities, and greater exposure.

The trouble is that each party is periodically a new coalition, all right, but each is also, and ought to be, an organism with a continuous existence, particular characteristics, and a corps of permanently loyal supporters. And the two parties must compete, else there will soon be one, and then many, whether in the guise of parties or factions. What can happen when the permanent loyalists are free to float is exemplified in the few states that do allow cross-over of voters or that might allow, as California did until just recently, cross-filing by candidates. The upshot in California in primaries for state office was the nomination, not infrequently, of the same man in both primaries. This destroyed party competition rather effectively. Nor is competition apt to flourish when there is a cross-over of voters intent on selecting the candidate most desirable from the other party's point of view, the weakest candidate, easiest to beat. The cross-over voter may also be happy with the probable (or certain, if there is no contest) outcome in his own party, and go into the other primary in search of, as nearly as possible, the same result. This is not coalition-building, but coalition duplicating. It is too nearly the same as the joint nomination of a single man through cross-filing. The two parties would not discharge their function if they did not overlap, or if they assumed polar positions, but though the ground on which they maneuver for differentiation is narrow, they must remain distinct in order to remain two. Party caucuses open to everyone are also subject to being captured by forces wishing to short-circuit party competition.

Nothing in the resolution adopted at the 1968 Democratic Convention suggests a way out of this dilemma. The special committee to be established by the Democratic National Committee will need to grapple with it on its own. In the Republican party, any approach to a solution of this problem, as to other reforms, is even more remote. The Democratic committee will probably be inclined at first to go along with restrictive practices, which grant access to the party only to those who have in the past indicated adherence to it, or at least not registered as members of the other party. That would be understandable, but wrong. The open party, with its risks, is the prime objective. For party habits are strong, and Machiavellian cross-overs, while they occur, are rare. What is more common, and should be encouraged, is unaffiliated floating by voters who, if excluded at the nominating stage, are likely to be disaffected by the limitations of choice in the general election.

Each party should, accordingly, be open in each election year, in primaries and caucuses, to everyone willing at the time to register as a member. The registration would be largely symbolic and would not necessarily exclude cross-overs, if for no other reason than that it would be impossible as it would be ill-advised to try to bind individuals to vote the party ticket in the general election. But the symbolism would be endowed with some consequences. Certainly it should be stipulated that a voter may participate in the nominating process of only one major party in any given year.

MINOR PARTIES

The survival of the convention and of the two-party system it sustains is not a unanimously shared objective, particularly in this season. Its virtues rather than its imperfections gain for the two-party system its most implacable enemies. The moderate coalition, the sensible accommodation, the muted ideology, the politicians who strive to borrow each other's protective coloration and who jostle one another in the center—all this, the price of broadly-based government, of general acquiescence and of stability, is paid in frustration. The choice in the general election between two candidates either of whom can satisfy most people, or at least radically dissatisfy very few, always leaves some of us with no choice at all. Hence the minor party, a steady obbligato in our political symphony. It is sometimes a regional, and commonly an ideological, interest group, which has not been accommodated because it wants something too precise, too clearcut, because it wants it on principle now and not later wants all of it, wants it intensely, of course, and wants it when someone who is otherwise in a better position to bargain wants the very opposite with equal intensity.

The minor party is also a group which has summoned the courage to bring prematurely to the fore a basic issue, perhaps a moral one, that the country must face, and in time will face. The word "prematurely" is used here from the point of view of the major parties, the defect of whose virtues is that they are liable to be sluggish in addressing newly arisen fundamental issues, moral ones especially. They are too intent on power to take the risk before they have to. Again and again, minor parties have led from a flank, while the major parties still followed opinion down the middle. In time, the middle has moved, and one of the major parties or both occupy the ground reconnoitered by the minor party; or to change the figure, the major parties, as Disraeli said of Peel and the Whigs, at last catch the minor parties bathing and walk away with their clothes. So it was with the anti-slavery Free Soilers, with the Populists in 1892, with the LaFollette Progressives and even the earlier Eugene V. Debs Socialists—and, to be sure, with the Prohibitionists, who are a useful reminder that the Anti-Masonic, Know-Nothing, Thurmond States' Rights, and George Wallace Independent parties must not go unmentioned, lest small-party romanticism run away with one. But as an outlet for frustration, as often a creative force and a sore of conscience, as an ideological governor to keep major parties from speeding off into an abyss of mindlessness, and even just as a technique for strengthening a group's bargaining position for the future, the minor party would have to be invented if it did not come into existence readily and regularly enough. It is an indispensable part of the system whose beneficent chief aim is to suppress it. And its existence is at any rate constitutionally protected.

The two-party system, as the late Justice Robert H. Jackson once said in another context, is a political practice "which has its origin in custom [and] must rely upon custom for its sanctions." Therefore, even though it is up to state legislatures under Article II, Section 1 of the Constitution to prescribe the manner in which electors who will choose a President and Vice President are themselves to be chosen, an attempt by law to secure the major parties' monopoly of Presidential power would most assuredly fail. It would founder against the Equal Protection Clause of the Fourteenth Amendment, which forbids unreasonable discriminations among voters and also among candidates—which, in other words, safeguards a right to vote free from unreasonable discriminations, and also a right to be a candidate. And it would run afoul as well of the First Amendment, as incorporated into the Due Process Clause of the Fourteenth, for the First Amendment has been interpreted to guarantee a right of effective political association, and that right would be denied by any statute making it impossible to achieve the end for which political association is ultimately undertaken.

It is true that no state actually decrees in so many words that in order to be allowed to vote or run for President or for Presidential elector a person must be a member, or submit himself to the procedures of the Democratic or Republican party. And only Ohio has come near to saying as much indirectly. Ohio allowed no independent, non-party candidacy, and a minor party could place a candidate on the ballot only if it filed a petition signed by voters equal in numbers to 15 per cent of the total vote cast in the last gubernatorial election—in 1968, upwards of 430,000. Additional difficulties were also put in the way. The minor party had to organize itself through primary elections on the same scale as the major ones, and persons who voted in a major party primary at the previous election were not qualified to participate in organizing the minor party. On October 15, 1968, in the first decision of its kind, the Supreme Court held the Ohio scheme unconstitutional. The suit was brought in behalf of George Wallace, whose name the Court ordered placed on the ballot. A federal district judge had remarked at an earlier stage of the case that the "two-party system is not a cliche in Ohio, but a statutorily enforced fact." It is no more.

Other states may not quite make the two-party monopoly a statutory fact, but a great many make life hard for the minor party. The requirement of signatures on a petition in a number equal to 15 per cent of the total vote at a past election, itself a grave impediment, is rare, but Arkansas imposes it also. And a number of states have distribution requirements, which also present serious obstacles. Thus in Idaho a petition must be signed by 3,000 voters, no more than 150 of whom are residents of any single county; Illinois requires 25,000 signatures, with 200 from each of at least 50 counties; and New York requires 12,000, fifty at least from each county. In Florida, where a very substantial portion of the population lives in Dade County, no more than 13.3 per cent of the total number of necessary signatures may come from any single county. Finally, a very large number of states, while they have workable provisions for getting a new ticket on the ballot, set early dates for qualification, as early as March in Pennsylvania and apparently in Alabama; April in Kentucky and West Virginia; May in Michigan and New Jersey; and June, July, and August in may more.

The legal position respecting obstacles of the kind just described is not clear. A court would be unlikely to hold that the states may not encourage the two-party system by giving a certain edge to the major parties. But it is a long way from achievement of this objective to choking off all political action that is not encompassed by the two established parties. The latter the states may not do, and the problem is to define what amounts to doing the latter. In general terms the courts would probably agree to the proposition that laws which make it impossible for an initially small group of voters to put a candidate on the ballot through a reasonable and not prohibitively expensive effort in a reasonable amount of time are unconstitutional. A criterion such as this should work out to render unconstitutional a requirement for obtaining the signatures of anything over 5 per cent of the electorate.

Under existing analogous judicial decisions, the most vulnerable requirements are those concerning distribution. The Illinois one was upheld by the Supreme Court in 1948 but that was before the Supreme Court's more recent reapportionment decisions. Today it could be strongly argued that any distribution requirement is a form of malapportionment, a way of giving more weight to a signature in a small county than in a large one, and therefore invalid under the reapportionment cases—and, one may say in passing, invalid for better reason than malapportionment of a legislature itself.

Early qualifying dates obviously do not in themselves present insuperable barriers. The argument against many of them would be that a state may seek to give an edge to the two established parties, and for that reason discriminate against independent candidates and persons who wish to cast their votes for them, but—administrative and housekeeping necessities to the side—it may discriminate only by means that are rationally suited to favor the two-party system. Now the important third-party movements in our history—George Wallace this year is a point-proving exception—came into being after the two major party conventions, and were enabled to come into being at that time because major party conventions used to be held much earlier than at present. In 1892, Harrison and Cleveland were nominated in June. The Populists, disappointed by the Democrats, met later and nominated a third candidate, General James B. Weaver. In 1912, Theodore Roosevelt fought his heart out in the Republican convention in June. Having been defeated, he formed the Progressive party. Again, in 1924, Coolidge and Davis were nominated in June. The third-party LaFollette candidacy took shape in July. The characteristic American third party, then, consists of a group of people who have tried to exert influence within one of the major parties, have failed, and later decide to work on the outside. States in which there is an early qualifying date tend to force such groups to forego major-party primary and other pre-nomination activity and organize separately early in an election year. For if they do not, they lose all opportunity for action as a third party later. From the point of view of fostering the two-party system this is counter-productive. It is calculated to induce third-party-movements, like the present George Wallace party; calculated to drive people away from the coalition-building process that is the genius of the two-party system, and into a premature and more likely permanent ideological separatism, which is precisely what the two-party system successfully prevents.

Major party conventions now tend to be held in August. Any qualifying date earlier than the end of September or even early in October can hardly be supported by any practical reason having to do with the printing of ballots and the like. The only purpose of earlier qualifying dates, therefore, can be to encourage two-party action and discourage third parties. This is, to a degree, a valid purpose, but to force people to commit themselves to third-party action without trying first to influence the major parties is no way to enhance the two-party system.

It is, of course, not possible to predict just what the courts would do in detail on questions of this kind, but since state election statutes are shot through not only with anti-third party provisions that are wrong on principle, but also with many which positively disserve the objective of protecting the two-party system, wholesale legislative reform is called for, regardless of what the courts may do.

The country, Walter Lippmann wrote in September 1968, "has entered a period of revolutionary change of which no one can foresee the course or the end or the consequences." For, he continued, "the central institutions of the traditional life of man"—the family, the church, the territorial state, the schools, and the universities—"are increasingly unable to command his allegiance and his obedience." Naturally, Mr. Lippmann's diagnosis was that the old two-party system is shattered. This also is the conclusion of many who speak from positions rather radically to the Left of Mr. Lippmann's. For myself, I cannot deny it, but my instinct is to disbelieve it, I thought that such a figure as Robert Kennedy would have been capable even this year, let alone four years hence, of restoring a sufficiency of order to what Mr. Lippmann, quoting Erasmus, calls the "irremediable confusion of everything." Men want change, and they turn away, or to George Wallace, because the major parties are sluggish, but they do not turn in either direction inevitably or irremediably; many of those same people turned earlier to Robert Kennedy, and many even to Eugene McCarthy.

This is not the place to speculate on whether the United States deserves a revolution, needs one, or will get one regardless. But short of a revolution, the work of politics in the United States, and the work of politics even for those who set radical social goals, is most effectively and enduring done within the regime, not in opposition to it as such; within the system whose improvement I advocate, but which I praise. And even if the old two-party system, as Mr. Lippmann says, is shattered without knowing it, and destined to come down, it is hardly arguable that for that reason it should hasten to bring itself down with such innovations of at best unpredictable and at worst baneful effect as the direct popular election of Presidents and the national primary. Nor is there any reason why it should not reform its electoral college, its conventions, and its election laws in ways consistent with its nature and designed to advance its values. After all, the system may yet belie the jeremiads and disappoint the revolutionaries. It may persist in the mystery of survival, and against that event, it might as well improve itself.

Electoral College Finds a Defender

(By Richard N. Goodwin)

Nothing could be more startling or instructive than the unanimity with which the Establishment of politics and media is rushing to embrace a constitutional amendment which might unhinge the entire political structure. For there is good reason to believe that direct popular election of the President might end that two-party system which has helped make the United States the most stable and long-lasting democracy in the history of the world.

Coming, as it does, at a time of deepening national division and ideological strife, that result is even more likely. Yet this immense possibility—a likelihood in my judgment—has been barely mentioned in the curiously muted debate over a proposal to change a constitutional system which has worked well for two centuries.

To make this judgment, one must first separate out the very different issues whose casual blending has seriously obscured discussion. First is the electoral principle itself, in which all the votes allotted to a state go to the candidate with the most popular votes. Second is the legal right of an individual elector to defy the popular will and vote for the candidate of his personal choice. Third is the question of what happens if no candidate receives a majority of electoral votes.

The second and third issues raise a very different problem from the legitimacy of the electoral system itself. It is whether a small group of men acting on their individual opinions and motives, should ever be allowed to select the President. Moreover, this is not just an academic possibility. Electors have gone off on their own, and twice the House of Representatives has chosen as President a man who did not receive a plurality of popular votes. (Jackson and—in a rather sordid way—Tilden were deprived of the presidency by Congress despite popular pluralities.)

Certainly nearly everyone will agree that the modern presidency is too important an office to be filled by private maneuvering, deals and coalitions. Still, these abuses can be forestalled without touching the electoral system itself simply by automatically counting a state's electoral votes for the popular winner and providing that a plurality of electoral votes wins. There could also be a provision for a runoff if the leading candidate fell below a specified percentage.

THE 1888 EXCEPTION

None of this requires eliminating the electoral principle itself, which is an unrelated and far more serious matter. That principle is like many other elements of our constitutional structure. It no longer serves the purpose which the founders intended but has assumed other important and rarely articulated functions.

There is, one must admit, the theoretical possibility that a presidential candidate could receive the most popular votes while his opponent won the most electors. Yet in almost two centuries, this has only happened once—in 1888, when Grover Cleveland lost the election to Benjamin Harrison. Even then, Cleveland's popular edge was only 100,000 votes, hardly an overwhelming popular mandate.

If the system has been accurate for over 80 years, it is even more likely to work in the future. For television and other mass media operate to make an election more than ever an expression of a national mood rather than of differences based on state lines. Thus the direct election proposal violates the single most important rule of constitutional amendment: If something is working, don't change it.

We have never before amended the Constitution in anticipation of possible abuse or on the basis of abstract theory. Only after an abuse has manifested itself, and usually after considerable public pressure, have we acted, and even then with reluctance. Surely this is one of the reasons why the American Constitution has endured while more volatile republics rose and fell.

We must remember that no one really knows why this curious mixture of pure democracy, sectional power, protected interests and divided governments has lasted so long. That ignorance should give us pause before we begin to tinker with the mechanism of the Republic on the basis of abstract democratic theory.

THIRD PARTY POSSIBILITIES

One must equally admit that it is impossible to be certain of the consequences of the projected change to direct elections. Yet it is a fact that the only third parties which have lasted in this country have been those with a geographical base—those that could carry states. The most noteworthy modern example has been the Southern Party, from the Dixiecrats through Wallace.

The others have proved transient, or have never begun, in important part because they could not hope to carry any states and would thus receive no electoral votes. (In 1948 Strom Thurmond and Henry Wallace received approximately the same popular vote but Wallace got no electoral votes to Thurmond's 39. The Southern Party is still with us and the Progressives passed away.)

Many of those who were tempted by third party movements—and I know this from personal experience in 1968—have been discouraged by the knowledge that their activities would only help swing a state's electoral votes to that candidate who was ideologically furthest from them. With only the popular vote at stake, however, regional roots become irrelevant. Groups united by general conviction or special interest might well think it in their interest to form a new party.

Such a party might bargain with one of the major parties in return for an endorsement or offer to withdraw in the course of a campaign in return for endorsement. It might also run candidates in the hope of forcing a runoff election in which its votes would be eagerly and profitably sought. Based on our historical experience, this could prove an extremely fruitful course.

Fifteen of our Presidents have been elected with less than a majority of the popular votes. Therefore, in almost half of our elections, a third party, at least theoretically, could have held the balance of power. And two of our last three elections have been virtual popular ties.

The experience of some of our largest states demonstrates that this is more than a theoretical possibility. We now have four parties in New York State, with both the Liberal and Conservative parties exercising influence far out of proportion to their strength. Nor is California a stranger to third party politics.

Had direct election been in effect last year, we probably would have had an anti-war party (and I would have joined). The possibilities for the future are limitless. Direct election might well bring us a farmers' party, a senior citizens' party, a black party and other groups coalescing around common interest and belief.

A TIME OF FRAGMENTATION

The possibility of multiparty activity is as much a matter of the psychology of presidential politics as of pure reason, which is probably why it is so little discussed, for relatively few of those involved have had direct experience in presidential campaigns. Yet I believe that our history combines with modern experience to demonstrate that the inability to receive any electoral votes has been a powerful deterrent to third and fourth and fifth party movements.

If this is so, then direct election could not come at a worse time—when the tendency to political fragmentation and ideological division is reaching new heights. This, to me, is the central issue of reform and deserves the most serious consideration. (It will always be possible, of course, for a new major party to emerge; that might well happen in 1972, for the first time since the 1850s.)

Other objections to direct election have been rather fully discussed. No great principle is involved in the speculation that it might increase the importance of small states. Purely as a matter of interest, however, I believe that those who anticipate such a consequence would be seriously disappointed.

Most presidential campaigns are directed at a "swing vote" of about 10 to 20 per cent of the electorate. Any candidate in search of those votes must focus his money and efforts on the large states, for that is where the people are and where the most volatile vote is to be found.

In 1968, about half the total vote for the two major candidates came from just seven states. A change of less than 1½ per cent in those states would have canceled out Richard Nixon's entire Southern margin over Hubert Humphrey. No political strategist could wisely advise a candidate to take the slightest risk in the big states in order to pick up a few Southern or border states.

Thus if direct election is approved, the proponents of the "New Federalism" will preside over the dissolution of one of the few remaining levers which less populated sections have on national politics. This may be a healthy thing, but it always helps to be clear about what you are doing when you change the Constitution.

NO PURE DEMOCRACY

The electoral college has not only faithfully reflected the popular will; it has usually strengthened it by giving a candidate with a narrow popular margin a far larger electoral mandate. Against this historical experience is now set the argument that the electoral system offends the theoretical democratic principle of "one man, one vote."

This is certainly so, at least in abstract possibility. We must remember, however, that this is not the uniform principle of our government. The Supreme Court, with its power to overrule President and Congress, is responsible to no electorate. And its insulation from popular will has helped strengthen it to protect liberties.

A Senator elected by a few hundred thousand votes in Idaho has as much power over national affairs as a man selected by several million citizens of New York. Yet the Senate has often been a more liberal and principled body than the House. Men like the Secretary of Defense, whose power over our lives far exceeds that of most of our earlier Presidents, are appointed and removed by one man.

Our national government is not a pure democracy, nor does anyone suggest that it should be. None of our institutions of government acts exactly as the Founding Fathers expected. Yet they have managed to evolve some kind of enduring and relatively fruitful harmony.

The system is not perfect, and I believe we need some fundamental changes. But when we are asked to change an institution as basic as the Electoral College, the only relevant questions are practical ones. How is it working? What are its functions? What will be the consequences of the change? To act on the basis of rhetoric about pure democracy may have threatening consequences for the future of our actual democracy, and would be in a spirit foreign to the Constitution itself.

For all the influence of mass media and fast planes, we are still a continent, sheltering diverse peoples with very different ways of living. The Electoral College has been one of the institutions tending to strengthen the curious, irrational and frustrating political system which has held us together. Before embarking on the irrevocable course of abolition, we should be sure that we understand and are willing to risk the possible results.

DIRECT ELECTIONS AN INVITATION TO NATIONAL CHAOS

(By Theodore H. White)

Last September, in a triumph of noble purpose over common sense, the House passed and has sent to the Senate a proposal to abolish the Federal System.

It is not called that, of course. Put forth as an amendment to the Constitution, the new scheme offers a supposedly better way of electing Presidents. Advanced with the delusive rhetoric of *vox populi, vox Dei*, it not only wipes out the obsolete Electoral College but abolishes the sovereign states as voting units. In the name of The People, it proposes that a giant prebiscite pour all 70,000,000 American votes into a single pool whose winner—whether by 5,000 or 5,000,000—is hailed as National Chief.

American elections are a naked transaction in power—a cruel, brawling year-long adventure swept by profound passion and prejudice. Quite naturally, therefore, Constitution and tradition have tried to limit the sweep of passions, packaging the raw votes within each state, weighing each state's electoral vote proportionatetly to population, letting each make its own rules and police its own polls.

The new theory holds that an instantaneous direct cascade of votes offers citizens a more responsible choice of leadership—and it is only when one tests high-minded theory against reality that it becomes nightmare.

Since the essence of the proposal is a change in the way votes are counted, the first test must be a hard look at vote-counting as it actually operates. Over most of the United States votes are cast and counted honestly. No one anymore can steal an election that is not close to begin with, and in the past generation vote fraud has diminished drastically.

Still, anyone who trusts the precise count in Garry, Ind.; Cook County, Ill.; Duval County, Texas; Suffolk County, Mass.; or in half a dozen border and Southern states is out of touch with political reality. Under the present electoral system, however, crooks in such areas are limited to toying with the electoral vote of one state only; and then only when margins are exceptionally tight. Even then, when the dial riggers, ballot stuffers, later counters and recounters are stimulated to play election-night poker with the results, their art is balanced by crooks of the other party playing in the same game.

John F. Kennedy won in 1960 by the tissue-thin margin of 118,550—less than ⅕ of one percent of the national total—in an election stained with outright fraud in at least three states. No one challenged his victory, however, because the big national decision had been made by electoral votes of honest-count states, sealed off from contamination by fraud elsewhere—and because scandal could as well be charged to Republicans as to Democrats. But if, henceforth, all the raw votes from Hawaii to Maine are funneled into one vast pool, and popular results are as close as 1960 and 1968, the pressure to cheat or call recounts must penetrate everywhere—for any vote stolen anywhere in the Union pressures politicians thousands of miles away to balance or protest it. Twice in the past decade, the new proposal would have brought America to chaos.

To enforce honest vote-counting in all the nation's 170,000 precincts, national policing becomes necessary. So, too, do uniform federal laws on voter qualifications. New laws, for example, will have to forbid any state from increasing its share of the total by enfranchising youngsters of 18 (as Kentucky and Georgia do now) while most others limit voting to those over 21. Residence requirements, too, must be made uniform in all states. The centralization required breaches all American tradition.

Reality forces candidates today to plan campaigns on many levels, choosing groups and regions to which they must appeal, importantly educating themselves on local issues in states they seek to carry.

But if states are abolished as voting units, TV becomes absolutely dominant. Campaign strategy changes from delicately assembling a winning coalition of states and becomes a media effort to capture the largest share of the national "vote market." Instead of courting regional party leaders by compromise, candidates will rely on media masters. Issues will be shaped in national TV studios, and the heaviest swat will go to the candidate who raises the most money to buy the best time and most "creative" TV talent.

The most ominous domestic reality today is race confrontation. Black votes count today because blacks vote chiefly in big-city states where they make the margin of difference. No candidate seeking New York's 43 electoral votes, Pennsylvania's 29, Illinois' 26 can avoid courting the black vote that may swing those states. If states are abolished as voting units the chief political leverage of Negroes is also abolished. Whenever a race issue has been settled by plebiscite—from California's Proposition 14 (on Open Housing) in 1964 to New York's Police Review Board in 1965—the plebiscite vote has put the blacks down. Yet a paradox of the new rhetoric is that Southern conservatives, who have most to gain by the new proposal, oppose it, while Northern liberals, who have most to lose, support it because it is hallowed in the name of The People.

What is wrong in the old system is not state-by-state voting. What is wrong is the anachronistic Electoral College and the mischief anonymous "electors" can perpetrate in the wake of a close election. Even more dangerous is the provision that lets the House, if no candidate has an electoral majority, choose the President by the undemocratic unit rule—one state, one vote. These dangers can be eliminated simply by an amendment which abolishes the Electoral College but retains the electoral vote by each state and which, next, provides that in an election where there is no electoral majority, senators and congressmen, individually voting in joint session and hearing the voices of the people in their districts, will elect a President.

What is right about the old system is the sense of identity it gives Americans. As they march to the polls, Bay Staters should feel Massachusetts is speaking, Hoosiers should feel Indiana is speaking, blacks and other minorities should feel their votes count; so, too, should Southerners from Tidewater to the Gulf. The Federal System has worked superbly for almost two centuries. It can and should be speedily improved. But to reduce Americans to faceless digits on an enormous tote board, in a plebiscite swept by demagoguery, manipulated by TV, at the mercy of crooked counters—this is an absurdity for which goodwill and noble theory are no justification.

Mr. SARBANES. Mr. President, I also ask unanimous consent to print in the Record following that material the editorial from today's New York Times, "A Vote for the Federal President"; an article that appeared by Albert Hunt, one of our most able political writers, in the Wall Street Journal, "Don't Fix the Electoral College"; an editorial from the Washington Star entitled "The Plebiscitary Presidency"; an article by Curtis B. Gans "An Alternative Is Possible—The Bayh Gambit"; an article from the National Journal entitled "An 'A' for the Electoral College"; an article by George F. Will entitled "Don't Fool With the Electoral College"; and an article by James J. Kilpatrick, "Direct Election Is a Bad Idea."

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, July 9, 1979]

A VOTE FOR THE FEDERAL PRESIDENT

A strong alliance of reformers is again pushing the idea that we elect our Presidents by direct popular vote, without the filter of an Electoral College. Counting every vote equally sounds so simple and attractive that normally cautious politicians find it difficult to resist. A constitutional amendment to abolish the College reaches the Senate this week with an outside chance of obtaining the necessary 67 votes.

One would think that the reformers' zeal for "one person, one vote" might as logically lead them to abolish the Senate. Many of our Federal institutions offends arithmetical justice it is the one that grants the same two votes to 22 million Californians and 650,000 Nevadans. For reasons that Senators should value, these United States have found it useful and in no sense undemocratic to retain some imbalance and geographical color in their Federal system. Simplicity is not the synonym of democracy. Voter parity is not the only source of stability. A Presidential election that is federal is not therefore unsound.

Every youngster understands our rules for electing a President. The winner of the popular vote in every state receives its total "electoral vote." Each state's electoral vote equals the size of its delegation in Congress; as in the Senate, this arithmetic favors smaller states. But in a close election, there is compensation for voters in more populous states. As urban minorities have recognized, winning a large state by a slight margin yields a richer prize than winning a small state by a landslide.

The unplanned effects of this system have been mostly good. It turns the contest for President into 52 races (including the District of Columbia and Puerto Rico). It makes it impossible for candidates to write off the less populous regions or overcrowded city slums; both count for slightly more than their numerical weight. Moreover, the system blunts single-issue fury. Citizens who oppose gun control or abortion cannot simply unite nationally to elect, or defeat, a President; they must join, state by state, with other voters moved by other passions.

This necessity for compromise, in turn, holds most voters inside our two federal parties, and the parties are thus held near the middle of the political road. To elect a President, even arrogant majorities must be solicitous of minorities; even alienated minorities must work with majorities. The system encourages moderation in radical times and protects against parochial passions. It discourages minor parties yet rewards their protest with major-party attentiveness. It is widely understood and accepted. It is a bond with history, a source of stability.

So why abandon it?

Because to many a "direct" and "popular" election sounds more democratic. They also want to avoid the largely theoretical risk that electoral votes might elect a candidate who lost the popular vote. That could happen—but it hasn't happened since 1888.

To guard against that small risk, Senator Birch Bayh and 38 cosponsors of his amendment would abandon all the advantages of federal voting and run dangerous new risks. Knowing that a direct election would encourage third and fourth and fifth parties to run their own candidates, they would let a vote of 40 percent determine the winner. Sensing that minor candidates might skim off enough votes to leave no one with even 40 percent, they would then run a second election between the two top contenders, who had maybe 37 and 32 percent of the original vote. Just imagine their sordid barter for the support of the first-round losers.

The clamor for abolition of the Electoral College was born in the fear of George Wallace in 1968. Some thought the strident Alabaman might parlay a mere 10 percent of the popular vote into enough electoral votes to deny Richard Nixon or Hubert Humphrey a majority. And because electoral votes are cast by real people in the Electoral College, he might have traded their ballots for a heavy price. Mr. Nixon, especially, might have paid well to avert a deadlock that threw the choice to a Democratic House of Representatives.

It didn't happen. And the chances are that Mr. Wallace would have won still more votes in the first round of a "direct" election—and thus enormous influence in the runoff. But that is only one of the flaws of the proposed reform. The danger of tawdry trading in the Electoral College is easily averted without any radical change. The desirable amendment would abolish the flesh-and-blood electors yet retain the counting of electoral votes. Why change what works?

[From the Wall Street Journal, July 6, 1979]

DON'T FIX THE ELECTORAL COLLEGE

(By Albert R. Hunt, Jr.)

(*"If it ain't broke, don't fix it."—Bert Lance*)

WASHINGTON.—When the Senate soon considers a constitutional amendment to abolish the Electoral College and elect Presidents by direct popular vote, many civic-minded citizens and organizations will be cheering for the change.

Supporters include national political figures ranging from Republican Sen. Robert Dole to President Carter, "good government" groups—the League of Women Voters, Common Cause and the American Bar Association—and powerful interests from the AFL–CIO to the U.S. Chamber of Commerce.

They argue the Electoral College is an anachronism and the only virtuous alternative is direct election. "In our system of politics," suggests the noted political author Theodore H. White, "anything that can be described as virtuous automatically enlists the support of all high-minded people, most of the media and all those pressure groups that respond to the call of virtue as Pavlov's dog to his bell."

Supporters claim direct election would affirm the principle of "one man, one vote." Equally basic is their negative view that the Electoral College system is a political time bomb waiting to explode. An earnest League of Women Voters lobbyist, contending a candidate defeated in the popular vote might well carry enough states to command a majority in the Electoral College, explains: "We face a constitutional crisis here."

If so, it is amazingly elusive: the nation has escaped that danger in the past 22 presidential elections. Moreover, the current electoral system has distinct advantages: It provides many states with a stronger political identity and offers a time-tested mechanism for resolving a lack of clear national consensus in the popular vote.

To be sure, the Electoral College system has flaws. Most obvious is the so-called "faithless elector"—the rebel who on rare occasion casts a vote at odds with the popular-vote results in the state he's representing. Thus in 1976, although Gerald Ford carried Washington in the general election, one of that state's electors voted for Ronald Reagan in the Electoral College.

THE SYSTEM AIN'T BROKE

But, overall, to borrow Bert Lance's phrase, the system ain't broke.

Moreover, the fixes envisaged under the proposed constitutional amendment are likely to aggravate, not alleviate, any existing deficiencies. Direct elections would depoliticize presidential contents, enhance the role of media merchants trying to manipulate public opinion and possibly produce a proliferation of parties and candidates.

The drive for a direct-election amendment—which must win approval of two-thirds of both the Senate and House and then three-fourths of the states—invariably follows a close presidential election, such as 1976. Accordingly, Sen. Birch Bayh (D., Ind.), the long-time champion of this amendment, now is pressing his big point: "Under the Electoral College, one American's vote is not equal to another's, simply on the basis of where he happens to live. Only with direct elections would all votes be equal."

Sen. Bayh has little regard for the "system ain't broke" argument. He contends that's "sort of like saying to the farmer whose barn is not on fire, 'don't take out fire insurance.' "

The Indiana Democrat insists the nation needs insurance for the presidential election system. He notes that not just the 1976 contest but two others among the past five elections involved "near misses." In 1976, if no more than 9,246 Jimmy Carter votes in Ohio and Hawaii had gone instead to President Ford, the Republican would have won even though receiving some 1.7 million popular votes less than Mr. Carter. In 1968, with third-party candidate George Wallace in the race, a shift of only 70,000 votes in a few states would have deadlocked the Electoral College and thrown the decision into the House of Representatives. The 1960 Kennedy-Nixon race was another squeaker.

Sen. Bayh recognizes the danger that his amendment might lead to a proliferation of presidential candidates. To keep anyone from winning the White House with only, say, 33% of the popular vote, his amendment would create a runoff between the top two finishers if no candidate receives at least 40% of the total.

There's a recurring argument, too, over whether the political power of small states would suffer if the Electoral College with its state-by-state representation were done away with. But that argument misses a more fundamental point: the damaging effect that direct election would have on the political process in all states, big and small.

Mr. White. an opponent of direct election, believes the damage would be significant: "It is good when a voter in Indiana goes to the polls that he thinks of himself as a Hoosier trying to move his state; that a proud Texan thinks of himself as a shaker in the Lone Star State; that a man from Boston thinks of himself as a Baystater, the state of mavericks. We are a nation of communities—ethnic communities, religious communities, rural communities, urban communities and yes, above all, historic communities. Americans do not want to be homogenized. Each election night, every four years, we fit the jigsaw of American together all over again."

That may be an overly romanticized picture, but it's true politicians and volunteers down to the precinct level do organize and work together to carry a state for their presidential candidate.

Mr. White is not alone in foreseeing that this process would be weakened by the simple, sanitized direct-election system. Political scientist Aaron Wildavsky, for instance, argues: "By removing the main incentives our political parties have to coalesce—the necessity of creating a coalition across diverse states to make a majority—abolition of the Electoral College would drive the last nail in the coffin of our party system."

MEDIA IMAGERY

Into the breach would step the image-makers. Why spend money on campaign organizations rather than on national television time? "The contest would not be between those who could recruit and organize," says elections expert Curtis Gans, "but rather who could most effectively and skillfully manipulate media imagery."

The runoff proposal leads to other problems. With the Bayh amendment's formula, the national race "would resemble the Boston Marathon, with presidential candidates representing every special-interest group in the country," contends Sen. Orrin Hatch (R., Utah). "Each will seek to push the major parties . . . below the 40%

threshold and position themselves to negotiate during the pre-runoff period."

It's instructive to envision the effects of direct election in a close contest, such as the 1960 Kennedy-Nixon race. John Kennedy won that election by only 110,000 popular votes, but he captured the electoral vote by a more decisive 302 to 219. To change that outcome, Mr. Nixon would have had to alter the results not only in Illinois, where the fabled Cook County Democratic machine produced suspect results, but in at least one other state as well.

With direct election, the 1960 outcome would have been decided by less than one-half of 1% of the total vote, creating a powerful demand for a nationwide recount. It would have taken months to determine the winner and it's doubtful that even the recount would have ended the suspicions or charges of chicanery.

So it's perfectly plausible that a direct election system might become more of a political time bomb than the present indirect system. Sooner or later, a 1960-style squeaker might come along again.

Still, certain changes in the present arrangement are needed. The discretion of individual electors should be eliminated to avoid the "faithless elector" problem. The states should consider dividing their solid blocs of electoral votes in proportion to the votes each candidate receives, instead of continuing the current winner-take-all system. There may be some merit in the suggestion by Sen. Russell Long (D., La.) to retain the Electoral College but award bonus electoral votes to the popular-vote winner, though that raises some of the same problems of the direct-election approach.

But certainly the politicians should tread carefully before dismantling a system that not only ain't broke but seems to be functioning rather well.

[From the Washington Star, Apr. 6, 1979]

The "Plebiscitary Presidency"

Congressional Quarterly tells us that the "most ambitious offensive in years" is now being mounted to replace the electoral college with a system for direct popular election of presidents. Hearings on Sen. Birch Bayh's constitutional amendment, to achieve that end, have already started in the Senate.

The friends of this dubious cause represent it as the greatest stroke for democratic principles since universal suffrage. But theirs is a conception of democracy strikingly different from the one enshrined in the Constitution—which at many points, by various intermediary means, and in the name of valid principles of freedom, dilutes or hinders the raw voting power of popular majorities.

Not that they object to all constitutional bafflings of majoritarian voting power. The American Bar Association, supporting the Bayh amendment, calls the electoral college "archaic, undemocratic, complex, indirect and dangerous," yet is not troubled by the "undemocratic" fact that five Supreme Court justices on lifetime tenure can strike down a law overwhelmingly favored by Congress and the public. Nor do supporters of direct popular election gag at the presidential veto (one official overruling hundreds) or the process of treaty ratification (34 senators thwarting the will of 66).

The impulse, then, is not to purge the Constitution altogether of what is "archaic, undemocratic, complex, (and) indirect" but to swap a traditional way of assembling presidential majorities for a novel one, which is admittedly more "direct" but not necessarily simpler.

The American federal system organizes and channels public consent in many ways other than by mass plebiscite. It is not obvious, therefore, why only the electoral college, among vital organs of federalism, should be condemned for modifying in some valuable way the "one man, one vote" ideal.

Some sensible people do worry—and the worry is substantial, if hypothetical—that someone could be made president by the electoral vote total (one cast for each congressman and senator in every state), while losing the popular vote. (In 1976, it is said, a shift of 10,000 votes in Ohio and Hawaii could have given electoral victory to Gerald Ford, though he lost the popular vote.)

It happened for the only time in U.S. history in 1888, when Grover Cleveland lost to Benjamin Harrison. There was no "crisis of legitimacy," however—no one questioned Harrison's authority—since people did not find the notion strange that presidents are chosen by states and electors rather than by popular votes. As the spirit of federalism declines, that may be a larger concern today. And the electoral college does entail the risk.

But as Professor Aaron Wildavsky observes in a compelling defense of the electoral college, the key question about the electoral college is "compared to what?" The answer today, of course, is compared to Senator Bayh's amendment, which carries risks of a potentially debilitating nature—including the virtual certainty of an occasional "minority" presidency.

Advocates of the Bayh Amendment have never explained why, if that risk is the great bugaboo of the present system, their substitute would not erase it and might even enlarge it. Under the Bayh plan, in a contest of three or more candidates, a president could be elected by one vote more than 40 per cent of the total popular vote, becoming far more of a "minority" president than any who could be produced by the electoral college.

But this is perhaps the least of the objectionable prospects opened up by what Professor Wildavsky accurately calls "the plebiscitary presidency," directly elected by popular vote. It would probably complete the destruction of a two-party system already seriously weakened by the steady de-emphasis of traditional "intermediary" institutions in the nominating process.

A party can win the presidency now only by processes of brokerage and compromise that tend to knit factions into broad coalitions. Under direct popular election, this centripetal force could vanish. The field would quickly fill up with splinter parties and candidates, all campaigning on nationwide television with little or no attention to the states, and many on sharp and even extreme platforms. States and regions would lose their traditional importance in presidential electioneering, and with it such protection of their peculiar interests as presidential politics traditionally offers.

These objections should be fatal to Senator Bayh's drastic "reform." The electoral college system has its quirks, all right, but its positive features are no less important than federalism itself.

The search for perfecting touches (for instance, to remove or reduce the "risk" of a minority president) should continue. A recent study panel of the Twentieth Century Fund has recommended, for instance, the addition of 102 "bonus" electoral votes for the winner of the popular vote. It is an idea worth considering.

Meanwhile, the electoral college system—like judicial review, like the presidential veto. like the Senate filibuster, like the two-thirds requirement for treaty ratification, like the mechanics of "dual federalism" itself—builds into democracy vital features of representation, federalism, stability and minority protection. Those features are worth preserving; all would be at hazard in a "plebiscitary" system of choosing presidents.

[From the SUN, Mar. 1, 1979]

Gambit

An Alternative Is Possible—The Bayh

(By Curtis B. Gans)

WASHINGTON.—Senator Birch Bayh is about to demonstrate (some might even say pull) an entirely new trick on the U.S. Senate, the Constitution and the American people.

With the acquiescence of Senate Majority Leader Robert Byrd, Mr. Bayh intends to bring his constitutional amendment (for direct election of the president) to an early Senate vote without hearings either in his own Constitutional Amendments Subcommittee or before the full Judiciary Committee.

The Democrat from Indiana is seeking to promote a constitutional amendment of dubious validity by means that do a disservice to the Senate and show disrespect for the Constitution.

As a matter of procedure, no amendment to the Constitution should be brought to a vote in the Senate until it has had a full, fair and complete hearing in the appropriate Senate committees.

Concerning the substance, Mr. Bayh is seeking to deal with three very real problems for American democracy:

The possibility that the American people will cast a majority of plurality of their votes for one candidate only to see another candidate win a majority of the Electoral College and the presidency.

The possibility that a minority candidacy—a third party or an individual demagogue—might win enough of the electoral vote to force the election into the House of Representatives, depriving the American people of their say in the ultimate outcome; and

The continuing reality that because votes are counted by state rather than on a nationwide basis each individual's vote is not equal to that of every other individual.

Mr. Bayh's solution to these problems is simple and direct: Eliminate the Electoral College and remove the possibility of an elected president who has received fewer popular votes than his leading opponent; establish direct elections and assure that each vote is equal to every other vote; provide for run-off elections and insure that no minority candidacy can dominate or effectively manipulate the democratic process to the disadvantage of the American people.

Unfortunately, for all its simplicity and directness, Mr. Bayh's constitutional remedy is likely to create at least as many serious and dangerous complications as the diseases he is seeking to cure.

While seeking to guarantee that the majority will is heeded, Mr. Bayh may also be insuring with his amendment that the voices of significant minorities won't be effectively heard at all any more. In the hope of ending the potential for demagogic manipulation of the political process, the amendment could create the conditions for mass manipulation by electronics. In the name of establishing voter equality, the amendment might accelerate the national trend toward voter non-participation. In the name of creating a more egalitarian and direct democracy, Mr. Bayh inadvertently may be eroding the underpinnings upon which American democracy rests.

1. Minority Voices—Blacks, farmers, Chicanos, Jews and the rural poor have but one thing in common. Their statistical incidence in the American population is small enough that should presidential elections become a giant national referendum, as the Bayh amendment would have it, each of their minority interests might be ignored with impunity.

It is only because each is an influential minority in some states and because the Electoral College system forces presidential candidates to compete state by state for electoral votes, that a candidate ignores the views of these and other minorities only at his peril.

2. Media Manipulation—Increasingly, during the past two decades, the dominant mode of conducting statewide and national cam-

paigns has been through the use of television advertising.

What has suffered has been truth and those aspects of politics involving the actual participation of people—political parties, volunteer activities, precinct organization, local clubs, storefront campaigning or interest group involvement.

The fact that vestiges of these activities survive at all and that people are not completely left out of the conduct of national campaigns is directly attributable to the need to capture electoral votes in various states. A change to direct elections would only hasten the day when democratic politics—the poltiics of the *domos* or people—would become, in reality, electronic politics and the politics of manipulation.

3. The Disappearing Voter—For the past two decades the percentage of eligible Americans willing to vote has been steadily declining. So has the belief that the vote makes a difference. Direct elections would only accelerate these trends.

Because direct elections would entail a politics increasingly devoid of popular participation, it would increase the likelihood that citizens would not vote. Non-voters tend to be non-participants in *any* organized aspect of society, voters, by contrast, tend toward multiple involvements.

Because direct elections would create one huge national voter pool, it would also decrease public belief in the importance of the individual vote. Citizens can grasp the importance of their vote when, say, only 300 votes spell the difference between victory and defeat in a particular state, such as Maine in 1976. They may find it somewhat harder to think that their vote matters when the difference on a national level is counted in the millions.

4. Old Foundations—Of all the checks and balances written into the Constitution by the Founding Fathers, none may be more important in the long run than the federalism that ceded power to the states and protected that power by insuring that national elections would be determined by state electoral votes.

Bluntly, the experiment of American democracy has survived and prospered despite demagogues like George Wallace; a minority president such as Rutherford B. Hayes and a few near misses.

Hearings would certainly help to illuminate the real nature of the choices involved and they might, just might, lead to a compromise reform almost all Americans could support—abolishing the human electors in the Electoral College and providing for a run-off election should no candidae exceed 40 per cent of the popular vote.

The first provision would eliminate the possibility that an individual elector or group of electors would cast their vote for someone other than the winner of their state's presidential election; the second would insure that every president would enter office with a mandate sufficient to govern.

Such an amendment might not be as revolutionary as Mr. Bayh's, but it would have the virtues that it is needed, it comes at minimal cost to other aspects of American democracy and it is likely to pass without having to be railroaded through the Senate without hearings.

[From the National Journal, Apr. 28, 1979]

AN "A" FOR THE ELECTORAL COLLEGE

(By Dom Bonafede)

The proposal to replace the Electoral College system with the direct election of the President—"one man, one vote"—is an appealing notion that seems simple enough on the surface. After all, what could be more egalitarian than to guarantee that the ballot of each voter go directly to the candidate of his or her choice, with the one receiving the most votes being declared the winner? The result would be a revival of grass-roots democracy.

Furthermore, advocates say, direct presidential elections would eliminate the complexities of the Electoral College system and preclude the possibility of a victorious minority candidate.

The idea has been debated among academics and serious-minded politicians for years and has been under consideration by the Senate Judiciary Committee for more than a decade. Because it would constitute a revolutionary change in the election process, movement on it has been slow, as well it should be. Of late, however, its proponents have been speeding up their campaign.

Like so many public issues, the proposal is considerably more complicated than it appears and is filled with potential hazards, the significance of which has been barely assessed.

Writing in Commonsense (Winter 1979), a "journal of thought and opinion" published by the Republican National Committee, political scientist Aaron Wildavsky offers a formidable argument against jettisoning the Electoral College for direct presidential elections.

According to Wildasky, whose views presumably are nonpartisan in nature, considering his reputation, the proposed reform would confuse rather than simplify matters by encouraging an overabundance of candidates and destroying what remains of the two-party system. Instead of making presidential elections more democratic, it would lead to the creation of an elitist class of professionals who would replace state party officials. And candidates, instead of seeking office through a structured process, including national conventions and competitive two-party elections, would make their appeal to the electorate almost solely through the news media. The result would be presidency by plebiscite.

"Abolition of the Electoral College would create the appearance of direct mass election and the reality of indirect elite manipulation," writes Wildavsky.

Those who stand to lose from direct elections, he maintains, are "people who lack education, high income or prestigious occupational status or who wish to limit their participation: in short, people who need intermediaries stand to lose. Political participation by the poor or working or middle-class citizens requires intermediary organizations like trade unions or political parties. Left alone, without the customary anchor of party, faced with a bewildering array of candidates, many of them unknown or appearing for the first time, citizens will have little on which to base their choices. Once having chosen, they might have even less of a basis on which to hold incumbents responsible. . . ."

Wildavsky notes that the Electoral College system is federal in nature and that the winner is required to gain not merely the most votes, but the most votes in the most states. "Thus," he says, "the candidates and parties are forced to make broader, less extreme appeals, and politics as a result is more moderate and more stable than it might be otherwise. . . .

"Removing the requirement that pluralities be achieved in sufficient states to create national majorities would negate the main function of a major party—to nominate a candidate who can coalesce sectional into national priorities. By removing the main incentive our political parties have to coalesce—the necessity of creating a coalition across diverse states to make a majority—abolition of the Electoral College would drive the last nail in the coffin of our party system."

Wildavsky contends that direct elections would lead to a proliferation of candidates, parties and elections. Minor parties and fringe candidates, encouraged by the prospects of public financing of their campaigns, might enter the race for publicity purposes or to use their minority position to influence the outcome. And with the increased number of candidates, the chances of any one receiving the required 40 per cent of the vote is reduced, thereby forcing a runoff.

"The likelihood of a runoff in the primary would be even greater than in the general elections," Wildavsky writes, "It is quite probable that many candidates—perhaps as many as 10 of them—might obtain enough signatures on nominating petitions to get on the ballot."

The disruption in the party system, according to Wildavsky, would have a perilous impact on the presidency. No longer would the President operate from a strong federal base in dealing with Congress, state and local officials and interest groups. "Do we want Presidents appealing over the heads of Congress, governors and anyone else out there, not as an extraordinary matter, but as part of the usual method of operation?" Wildavsky asks. "Has our experience taught us to love Presidents so well we wish to set them up outside the political structure we depend upon to restrain them? Do we hate them so much we wish to separate them from sources of party support in the states and in Congress, which they will need in hard times?"

Wildavsky suggests that under the direct election method, national political campaigns might resemble the launching of a new play. "Each time, a new list of backers would be assembled. Sometimes they might collapse in the tryouts; other times they might make it to opening night. The lucky ones might collect and the rest recuperate for the next production. In the theater, this endless cycle—birth, death, regeneration—is appropriate because no one risks anything except his own money or a boring evening. A traveling road-show, however, complete with financial angels and aspiring ingenues, and an audience full of passive observers (which is what the voters would become), while it does allow a limited avenue of expression, is not exactly a desirable model for presidential elections."

[From Newsweek, Apr. 4, 1979]

DON'T FOOL WITH THE ELECTORAL COLLEGE

(By George F. Will)

President Carter has joined Sen. Birch Bayh's crusade to abolish the electoral college, the world's most tested and vindicated mechanism for choosing a Chief Executive. For years the Indiana Democrat has been advocating direct election so "the people" can choose presidents, and because the electoral college is "undemocratic" and dangerous.

One of Bayh's terrors is the "faithless elector" who does not vote for the candidate who carries his state. Actually, of the 17,000 electors since 1789, about ten have been "faithless," none has altered an election. If this specter haunts Bayh, it can be exorcised by abolishing the office of elector, and leaving the electoral college in peace.

Bayh also says the electoral college must go because in three elections (1824, 1876, 1888) the electoral-vote winner was not the popular-vote winner. Actually, even if in "only" 45 of 48 elections the same person won both, that would not justify Bayh's calling the electoral college "electoral roulette."

In 1876 and 1888, exuberant fraud on both sides probably involved more votes than the narrow victory margins. In 1824 all four candidates were together on ballots in only five of 24 states. Six states (including New York) had no elections: the legislatures selected the electors. Only about 350,000 of the 4 million eligible white males voted. Andrew Jackson won 38,149 more votes than John Quincy Adams, but neither had a majority of electoral votes. So the House of Representatives decided, picking Adams.

JUSTIFYING REVISION

This was before the emergence of the two-party system. But Bayh says the events of 1824 (and 1876 and 1888) justify fundamental constitutional revision.

Actually, an electoral-vote victory by a candidate who loses the popular vote by a substantial margin is improbable and has never happened. And only extremely dogmatic majoritarians think democracy would be "subverted" (Bayh's word) if the electoral college gave the Presidency to a candidate who lost the popular vote by a wafer-thin margin. It is odd to say that the "nation's will" could be "frustrated" in a standoff.

Bayh is fond of the somewhat feverish thought that under the electoral college a candidate "could" win with just 25 per cent of the vote by narrowly winning in the eleven largest states, even if he did not get a single vote in any other state.

But under direct election a candidate "could" sweep Alaska's 231,000 eligible voters, lose 49 states by an average of 4,700 votes, and win. This "possibility" is about as probable as the one that Bayh is fond of imagining.

Bayh is not apt to produce what Madison was too sober to attempt, a constitutional arrangement under which no unwanted outcome is even theoretically possible. Serious people consider probabilities, not possibilities. And direct election would make probable a grave difficulty.

The electoral-vote system, combined with the winner-take-all rule (a custom, not a constitutional requirement), discourages ideological third parties: such parties are unlikely to win pluralities in many states, so they are effectively shut out of the decisive electoral-vote competition. But direct elections would *incite* such parties. They could hope to prevent any candidate from receiving a national majority, or even an impressive plurality of popular votes.

SUBSTANTIAL DANGER

Bayh's remedy for this defect in direct elections poses a substantial danger. He proposes a *second* election, a runoff between the two leaders, if neither gets 40 per cent the first time. But a runoff would be an *incentive* to minor parties. They would try to force a second vote so they could sell their support.

Bayh evidently is undisturbed by the fact that direct election might frequently produce "41 per cent" presidents. The electoral college has only produced three presidents with such low pluralities, in 1824, before the two-party system developed, and in 1860 and 1912, when the two-party system was in disarray. But Alexander Bickel of Yale warned that direct elections might make disarray permanent:

"The monopoly of power enjoyed by the two major parties would not likely survive the demise of the electoral college. Now, the dominance of two major parties enables us to achieve a politics of coalition and accommodation rather than of ideological and charismatic fragmentation, governments that are moderate, and a regime that is stable."

The genius of the Constitution is the effect it has on the *character* of majorities. The electoral college promotes unity and legitimacy by helping to generate majorities that are not narrow, geographically or ideologically, and by magnifying (as in 1960, 1968, 1976) narrow margins of victories in the popular vote.

Such considerations are of no interest to single-minded majoritarians, who consider democracy a matter of mere numbers. They note that in 1976, 123,545 Alaskans determined three electoral votes, one for each 41,181 voters, but in California (7,867,043 voters, 45 electoral votes) there was only one electoral vote for each 174,823 voters. Is an Alaskan four times more powerful than a Californian? Is a Californian more powerful because he helps to determine a larger bloc of electoral votes? Bayh says that in any case, the system is "undemocratic." His understanding of democracy has the charm of simplicity: "Every vote should count the same." That, he says, is constitutional propriety, as stated by the Supreme Court in its "one man, one vote" reapportionment ruling. But Bickel revealed the foolishness of this argument by expressing it this way: "It is time for the system to be ideologically pure. The Court has said that the Constitution commands equal apportionment. We should, therefore, reapportion the Presidency. In effect, we must now amend the Constitution to make it mean what the Supreme Court says it means."

ARITHMETICAL MAJORITARIANISM

As Irving Kristol and Paul Weaver have written: "In recent decades, the democratic idea has been vulgarized and trivialized. From being a complex idea, implying a complex mode of government, appropriate to a large and complex society, the idea of democracy has been debased into a simple-minded arithmetical majoritariansim—government by adding machine."

Defenders of the electoral college are defending not an eighteenth-century artifact, but a system that has evolved, shaping and shaped by all the instruments of politics, especially the two-party system. It is an integral part of a constitutional system with premises too subtle and purposes too varied to be summed up in slogans like "one man, one vote." Bayh insists that the electoral college "is, by simple definition, undemocratic." But this constittuional democracy was not devised by, and should not be revised by, persons addicted to simple definitions of democracy.

[From the Washington Star, July 7, 1979]

DIRECT ELECTION IS A BAD IDEA

(By James J. Kilpatrick)

The pending order of business in the Senate this month is Birch Bayh's proposal to provide for the direct national election of future presidents.

This was a bad idea when the gentleman from Indiana first trotted it forth in 1963. It remains a bad idea today.

Under Bayh's resolution, Article II of the Constitution would be drastically rewritten. Bayh would abolish the Electoral College altogether.

In its place he would provide for a national popular election in which presidential and vice presidential tickets would compete. If no ticket received as much as 40 per cent of the vote, a runoff would be held between the top two tickets. Thirty days later the winner would be officially proclaimed.

The existing system of presidential elections admittedly is flawed. We vote state by state for surrogate electors, but these electors can violate their trust with impunity. If no candidate wins a majority of the electoral vote, the election goes to the House of Representatives, where each state casts a single vote.

Many observers object to the scheme of "winner take all," by which a state's entire electoral vote goes to the top vote-getter.

Acknowledging these imperfections, skeptics rightfully may inquire if Bayh's popular election plan is any better. In my own view, the senator proposes a cure far worse than the mild disease.

The Bayh amendment, if it ever were ratified, would wipe out the last vestiges of a substantive two-party system. Granted, not much remains of the two-party system now, but the form is there and we have built our legislative and executive structures around it.

So long as candidates compete for electoral votes in each separate state, it remains formidably difficult for a third-party ticket to make a significant showing. Only four times in this century have minor party candidates figured noticeably in the records—Roosevelt in 1912, LaFollette in 1924, Thurmond in 1948 and Wallace in 1968. In no instance were their electoral votes sufficient to affect the outcome.

Under direct popular election, all this would change. Bayh's amendment purports to leave it to each individual state to decide which names would appear on its ballot, but the Senator cannot truly mean this.

A national election, at the very least, must be national; every voter must have an identical opportunity to choose among identical slates of tickets. Election laws would have to be precisely uniform throughout the country.

Once the Bayh plan went into operation, we could expect to see a multiplicity of parties in the European fashion—a black party, a women's liberation party, a resurgent socialist party, a pro-abortion and an anti-abortion party, an anti-busing party, an anti-gun control party, and so on.

None of these splinter groups realistically could hope to win a national election outright. Collectively, they quite plausibly could prevent either major party ticket from winning 40 per cent of the vote. In a runoff, the minor parties would barter their support to the most promising bidder.

Perhaps the American people want to plunge headlong into political disorder, but I doubt it. My guess is that many of the highminded outfits that are supporting the Bayh amendment have not thought the thing through. The concept of popular election has a fine, simplistic appeal.

The trouble is that our constitutional system is not simple. It is marvelously complex. It rests fundamentally upon the concept of federalism, the grand design by which political power is distributed among the states respectively. This is the true genius of the American Constitution.

Bayh would wreck the grand design. He would obliterate one of the basic compromises of our federal system, and in the process he would disturb the beautiful balance of the Constitution as a whole.

It seems to me unlikely that two-thirds of the Senate—or the House—will support any such radical surgery, and still less likely that 38 states could be persuaded to ratify the amendment. But Bayh has his baby on the floor, and if his troops can break a filibuster, we will soon get to the yeas and nays.

Mr. SARBANES. Mr. President, I commend these editorials and articles to my colleagues.

I think one thing is very obvious just by reciting the authors and the sources and that is that they come from a wide part of the political spectrum. They are so-called liberal columnists and so-called conservative columnists, all of whom have written on this very, very serious subject and all of whom, I think, have written very well, pointing out the possible negative consequences of moving to a direct election system for choosing a President of the United States.

I urge my colleagues, before this vote takes place tomorrow afternoon, to review the arguments that are made in this material.

I have found it extremely helpful and the material I have printed in the RECORD has had an influence on my thinking on this very, very important subject. I thank the Senator from Wyoming for his yielding time so I could print this material in the RECORD.

Mr. WALLOP. Mr. President, I may say to the distinguished Senator from Maryland that I appreciate the thoughtfulness with which he approaches not only this subject but other issues, and I am certain that the material that he is printing in the RECORD is of value to all Senators and I commend it to their reading.

I am only sorry, as the Senator from Mississippi stated, that when we get to matters of this importance we do not have the Senate in attendance to try to make a collective decision of some responsibility.

Mr. SARBANES. Mr. President, if the Senator will yield on that, when it comes right down to the time of the vote I think more and more Members of the Senate are turning their very thoughtful attention to this question, and one of the reasons I printed so much material at this point in the RECORD is that many of these articles and columns are extremely thoughtful and they have been done by some of, I think, our best political commentators that we have had in the last decade in this country. I think as we now come up to the vote it behooves every Member of the Senate to focus on what the consequences of this proposal might be in terms of operation of our political system.

Mr. WALLOP. I thank the Senator.

Mr. President, I wish to say that, in addition to my patience in the matter of yielding to a variety of Senators, the Senator from Nebraska (Mr. EXON) has been patient as well. He has been waiting to succeed me. Now I shall try to conclude my remarks as quickly as I can. But I do want to deliver them in full, because they essentially express what many of my colleagues have argued before me—that the direct election proposal before us is a casual idea, a gimmick, if you will, to take care of the perceived problems with the electoral college that may very well do away with some of the very fundamental precepts of the foundation of a political philosophy that guided our country throughout its 203 years.

Mr. President, after considerable study and reflection, I rise in opposition to Senate Joint Resolution 28, the proposed amendment to the U.S. Constitution which would replace the electoral college with a system of direct popular election of the President and Vice President of the United States.

As a member of the Judiciary Committee in the 95th Congress, I heard testimony from many witnesses on the relative merits of Senate Joint Resolution 1, the predecessor to the proposed amendment before us now. The distinguished chairman of the subcommittee is to be commended for inviting witnesses who represented the broad spectrum of opinion on the direct election proposal. Senator BAYH was especially accommodating of my desire to hear from media specialists and campaign strategists on the very practical ramifications of a direct election amendment, for which I take this opportunity to thank him once again.

The extensive hearing record on the direct election amendment bears out that there are some flaws in the process by which the President and Vice President of the United States are elected today. The most commonly cited problems with the electoral college system include the faithless elector, the winner-take-all rule, the possibility of a candidate gaining Executive office without garnering the popular vote, and the procedure for congressional selection in the event no candidate receives a majority of the electoral votes.

Over the years, numerous amendments have been proposed to remedy these problems including one which would abolish the office of the elector and substitute instead an automatic elector system; others which would replace the unit rule winner-take-all system with either a proportional plan or a district plan for allocating votes within the State; and the direct election proposal pending before us now.

The question this body must answer is whether the existing mode of electing our chief Executive officers is so inherently flawed as to compel replacing it with a system of direct popular election. In my judgment, the answer simply has to be in the negative. The direct election amendment is far too pervasive, too drastic a solution to the problems associated with the electoral college which I just mentioned and others have pointed out, its adoption portends radical and undesirable changes in the fabric of our Federal democracy.

The minority views on Senate Joint Resolution 28 set forth the arguments against the direct election amendment.

I wish to be associated with that thorough, probative, and persuasive analysis of the proposed constitutional amendment and the effects it is likely to have on this country and our system of government. Rather than reiterating all the keenly logical arguments in opposition to Senate Joint Resolution 28, I will focus the balance of my remarks on the major reservations I have about the proposed amendment.

THREAT TO FEDERALISM AND THE ROLE OF STATES IN THE NATIONAL POLITICAL PROCESS

Under the electoral college system, States maintain an important role in selection of the President since electoral votes are awarded on a State-by-State basis. This system requires the participation of political parties and organization in each of the States. It assures the development of working coalitions consisting of the national candidates or campaign organizations and political organizations in each of the States. Under the existing system, State political parties have a voice in the national campaign and have some opportunity to shape issues and platforms which reflect State, local and regional interests and needs.

Direct election of the President will substantially reduce the role State and political organizations in the States now play in the election of the President and Vice President. Today each State represents the plurality of its voters when it casts its electoral votes; the citizens of the State have reached consensus on the candidate who best represents them individually and as a State. This will not be the case under direct election, as Theodore White comments:

> Once you erase the States lines in a Presidential election as the proposal suggests, you erase the traditional communities in America. Nothing any of you can ever do could be more disastrous than undermining the Federal system of the United States, the association of proud communities and States who make ours the wonderful, difficult and mysterious country it is. This Federal system should not be tampered with lightly. I understand the emotional appeal of one man, one vote. It makes the potato-grower in Maine, and the lettuce-grower in California feel that they are fully equal. But we will serve them both better if we let them choose their President clustered in their own communities—rather than by tossing them into a giant pool as digital blips on the network computers.

Whereas today national candidates appeal to local, State and regional coalitions in order to generate organizational support in each of the States, the move under direct election will be away from these States organizations because they will no longer be needed. No candidate will have to address specific local concerns if the majority of America is unmoved or disinterested in that particular matter. Professor Harry Bailey of Temple University's Center for the Study of Federalism, posts a very real concern, which I share, when he says, and I quote:

> What direct election would accomplish would be to transfer much of the power of State and local politicians to national politicians . . . the balance between national and State power would be considerably altered.

A Washington Star article entitled, "Anti-Federalist Thinking," February 8, 1977, discusses the impact of direct election on Federalism in this country:

> Under the electoral college system, which counts votes by States, it is all but inconceivable that a President could be chosen without the substantial electoral vote of at least two sections of the country or scattered electoral support in all sections. Under the popular vote plan supported by the ABA and Senator BAYH, that need not be true. By rolling up heavy popular majorities in a few populous States a President could be elected with only the slightest "national" constituency. One's view of whether this would be a desirable change depends, of course, on one's view of the Federal system—we recognize that the States are regarded as mere nuisances in some quarters. As we have observed before, the electoral college is neither more nor less defensible than the Federal system, of which it is a keystone.

Mr. President, I believe very strongly in our Federal system, and I am convinced that this proposed electoral reform measure will seriously undermine that system.

SMALL STATE INFLUENCE

While I am aware of conflicting studies on this issue, I find the Congressional Research Service's analysis entitled "Effect of the Adoption of Direct Popular Election of the President and Vice President on the Relative Influence of the Several States in Electing the President and Vice President in 1976" very telling in its conclusion that numerous small States will lose influence under a direct election system. That table demonstrates that 19 States would gain influence under direct election including the 14 most populous States in the Nation. My own State of Wyoming would suffer a percentage loss estimated at 65.62 percent. I would again refer my colleagues to the discussion of the small State versus large State issue under direct election at pages 55–57 of the minority views on Senate Joint Resolution 28 which discusses the conflicting studies on this point and which casts real doubts about the reliability of a second study upon which the majority relies.

REGIONAL BLOCKS: SMALL STATES' VOICE

I have heard the assertions of the distinguished floor manager of this amendment, Mr. BAYH, that Wyoming would not lose influence under the direct election amendment. He argues that no Presidential candidate—either Republican or Democrat—made a campaign stop in Wyoming during the last Presidential race. So, he concludes that, at worst, we will experience the same benign neglect under a direct election system.

Mr. President, I have reviewed the maps and the figures and have questioned Mr. Douglas Bailey, of Bailey-Deardourff & Associates, a Republican consulting and advertising firm, on this subject as well. I cannot dispute the fact that Wyoming was not viewed as a necessary stop of either major candidate on their campaign trails during the 1976 election. However, to agree with Senator BAYH's assertion without saying more is to ignore a very important benefit many small States enjoy under the electoral college system their voice as part of a region.

If, for the sake of argument, Wyoming is not visited by a major candidate for office under the existing system, there remains a distinct and numerically significant political voice for Wyoming in the region in which it is located. Wyoming and several of her neighboring States experience similar problems and share many views in common. No candidate under the present system can afford to neglect that kind of regional political consensus—not in terms of formulating platforms reflective of regional issues, and certainly not in terms of the number of electoral votes in that region, a candidate may not stop in Wyoming, but he or she will certainly stop in Denver or Salt Lake City, as the 1976 campaign maps show, and Wyoming's concerns will, to some extent, be heard.

More than that, those candidates will have political organizations operating in those States, and those candidates will visit those States in the primary elections because it is best for them.

While the regions of this country do make a difference under the electoral college system, that will not necessarily be the case under a system of direct election. Candidates will not have to focus on State or regional interests. They will, instead, tend to concentrate on the larger constituencies in urban centers to the detriment of most State, local, and regional interests. The regional block of electoral votes will be overshadowed by the huge voting population blocks in our largest cities.

Mr. President, the diminution in both State and regional voice and input into the election of the President and Vice President is but another reason why I decry the adoption of direct election of the President.

MODERN ELECTION TECHNIQUES COUPLED WITH CAMPAIGN FINANCING LAWS; "MIRACLE-TUBE" PRESIDENCY

We have already discussed the declining role of State and local political organizations under the direct election proposal. It is now time to focus on what they will be replaced by in each State and region of the country.

Mr. President, modern electoral technologies coupled with our campaign financing laws will turn Presidential elections into centralized media dominated and controlled events removed from the people of this country.

We will see a change in the kind of candidate for President and the constituency to whom he or she appeals.

I would speculate that they will be beautiful, jelly-brained people who are capable of looking good on television and in the other media.

In a statement before the Judiciary Committee in 1977, Curtis Gans of the Americans for Democratic Action summed up the dominant role media would play under a system of direct popular vote:

> For two decades, or ever since the advent of television as a central factor in American lives, the practice of politics has been increasingly dominated by the political commercial image-making and mass media manipulation. Only the need to maximize the vote in key States has forced national campaign managers to expend resources for organization in the several States.
>
> However, should this nation move to a system of direct popular vote for President, what few remaining incentives to political organization would be lost. Electoral contests would be between Pat Caddell and Robert Teeter, between Deardourff and Bailey and Jerry Rafshoon. The contest would not be among those who could recruit and organize the largest number of participants in the process, but rather who could most effectively and skillfully manipulate media imagery.

Theodore White's remarks on the power of television under a direct election system for electing our Chief Executive officers also bear repeating:

> What this new plebiscite proposal implies appalls me, in the 9 years since I last testified here, the power of television, its grip on politics and the imagination has multiplied frighteningly. A minute of prime time that used to cost $50,000 nationwide will, this coming fall, in the Presidential campaign probably run to $200,000. Such enormous sums of money as are required must be managed by professionals, managers expert in the reach, the impact, the audience of every kind of media exposure. Every headquarters in a Presidential campaign has its maps of the 50 States, and their electoral votes, but in the back offices of the media manipulators are those maps which show what they call "the major media markets."
>
> Once you erase the State lines in a Presidential election as this proposal suggests, you erase the traditional communities of America. The rules of the game change. The new bosses will be the media professionals, or the men who pay the media professionals. They will draw sinuous winding curves showing the demography of the United States as a geological map shows the contours of its height, depth, and terrain. They will be able to ignore the States of the Union as election constituents. What candidate, whose experts draw a demographic map of the U.S.A. will pay attention to the vote in Gary or Hammond, Ind., Senator BAYH? What candidate will any longer consider Roxbury, North Dorchester, or Cambridge-Somerville as a seriously important factor in his campaign; Senator KENNEDY? Massachusetts will no longer exist except as an administrative unit.
>
> This plebiscite proposal will withdraw from us a large and throbbing memory of our history—all those lovely maps of election which tell school children as well as grown ups how the country has swung section by section, from mood to mood, instead we will have this boiling pot of 70,000,000 or 75,000 votes, stirred by mix-masters, manipulators and television, understandable only by statisticians and social scientists . . .

Testifying on behalf of the Robert Goodman Agency in Baltimore, Md., a firm which has planned and produced advertising media presentations for various Senatorial, congressional and gubernatorial candidates for office in the past 11 years, Mr. Ronald Wilner focused on how media campaigns operating under a direct election system will influence the way we elect our Presidents. I would like to read excerpts from his testimony which are material to the discussion at hand:

> Lacking the need for a State-by-State strategy, they would be prime candidates as network advertisers, as opposed to being selected market purchasers.
>
> Like the commercial advertisers who find networks perfectly suited to their distribution patterns, their product—candidates and the commercial advertisers—would be available equally and without exception everywhere.
>
> This will encourage a trend toward centralized campaigning for President in a time when many of us are beginning to see at least some benefits in the decentralizing of our institutions.
>
> But picture in this scenario a time when electoral boundaries have disappeared and, with them, the pivotal roles of State organizations, local political personalities and vocal minorities.
>
> With so much at stake . . . and so few responsible people in the way. Doesn't that at least conjure up possible abuses of the media power?
>
> With only the image and the public perception of it involved in a centralized campaign, couldn't we admen be moved out or absorbed into some new kind of think tank of master psychologists and opinion analysts that know exactly what buttons to push to guarantee a winning image?
>
> This new kind of national media candidate needn't be under any electoral pressure to come anywhere to meet any persons or any audiences. He can be very content to be isolated with his programmed television exposures and his national polls that tell him its working.
>
> However, I for one would like to have the free press, the good sense of American people and the good men and women of our State and local political organizations who worked hard to get where they are effectively act as a buffer between the candidate and the majority via the media.
>
> To scrap the electoral college, faulty though it may be in its patchwork applications, is to eliminate the need of these State people in a Presidential election, and the safeguard they often provide.

Two summers ago, Mr. President, the National Geographic magazine published a picture of this country taken in the middle of the night by satellite. It was called "The American Milky Way." I have an enlargement of that photograph with me here, for all my colleagues to see. I see I have no colleagues on the floor to view it, so I will make the picture available on my desk for those who may come in.

I would point out, Mr. President, that if you look at the map of the United States and ignore the white at the very top, which represents the northern lights, those areas which are light are heavily populated areas—areas where candidates will spend money. You will see light areas, for example, coming down the east coast to Florida, a little bit of the gulf coast in the south, Galveston, Houston, Dallas, Fort Worth, then over to San Francisco, the communities in the Pacific Northwest, around to the Great Lakes and the cities in that region. That is where the people of the country are concentrated and that is where the kind of electioneering techniques we are talking about will be focused. Since a candidate can get the most for the dollar there. The rest of the country is black.

(During the foregoing remarks, Mr. RIEGLE assumed the chair.)

Mr. BAYH. Mr. President, will the Senator yield?

Mr. WALLOP. Mr. President, I know we are working on a 6 o'clock time frame. The Senator from Nebraska has asked me to complete this. I would be happy to come back and discuss the matter tomorrow, but I would like to complete my remarks now.

Mr. BAYH. Let me make one observation: that the map is a beautiful map, and it also is an identical reproduction of where the money is being spent now under the electoral college system.

I thank the Senator for yielding.

Mr. WALLOP. Mr. President, I thank the Senator from Indiana for thanking me for yielding to him, inasmuch as I did not yield, but I will be happy to permit his remarks to remain.

Mr. BAYH. I ask unanimous consent that the remarks be stricken from the RECORD or appear later on, when perhaps I might get the floor.

Mr. WALLOP. Those other areas—the South, Middle West, the West—which are not part of the American Milky Way, will be virtual second-class citizens in the direct election process as compared to the masses in the other portions of the country. It is not impossible that they will never again have their local, State, or regional interests considered as a balancing factor on tickets.

The direct election proposal is bound to give birth to candidates who appeal to the masses of people concentrated in the largest population centers where network and other media has its greatest impact and is therefore cost efficient. The media effort will be directed to the urban masses at the expense of the vast number of Americans who do not live in those highly populated areas.

Judith A. Best, associate professor of political science at the State University of New York, in a paper entitled "The Case for the Electoral College," explains that one of the virtues of the electoral college system—its tendency to deter sectional, devisive candidates and to promote broad coalitions of support—will be lost under direct election. This is particularly true in light of the tremendous influence media will have in selling its candidate to the limited number of densely populated sections of the country. I quote from her discussion of the electoral college.

> The system demands cross-sectional support. It demands a broadly based victory. It demands political and not simply arithmetical pluralities. It is a system that finds numbers to be necessary but not enough. It is a system that recognizes the differences between a people and a mass.
>
> We have good reason to know that sectional candidacies breed civil strife and civil war. We are a continental Nation; we are a heterogeneous people with a wide variety of religious, racial, ethnic, economic, and ideological interests that must be consulted and considered. The electoral college bias in favor of broad cross-sectional candidacies is highly functional in such a nation.
>
> The Federal-geographic rider works in the electoral college the same way that it does for the Congress. It incorporates the Presidency into the system of concurrent majorities. It forces candidates to create broad coalitions. It provides the incentive to our national parties, as James MacGregor Burns pointed out, to '"widen and 'flatten out' their vote." In fact, Burns concluded that this is "the historic achievement of the Presidential party," the party whose strategy is shaped by the electoral college.

I ask unanimous consent that Professor Best's entire report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. Mr. President, I will talk briefly about campaign financing laws.

CAMPAIGN FINANCING LAWS

Mr. President, we have already witnessed a change in the way politicians campaign for the Presidency as a result of the enactment of the Campaign Financing Law in 1974. With the end of 1976, the Nation completed one cycle of an entirely new system for public financing of Presidential candidates. As observed in the Washington Post on June 14, 1979, the campaign financing laws have made campaigns more like businesses—centralized, heavily regulated, and loaded with accountants; with a decline in the potential for grassroots participation and State-by-State flexibility.

If we adopt this direct election amendment, Mr. President, we will exacerbate this phenomena of campaign centralization at a time when the people are seeking to restore power for themselves and the States. Adoption of direct election in light of this phenomenon will virtually assure the elimination of any meaningful involvement of the body politic of our States, communities and regions in the election of the President and Vice President.

A good, concise summary of how mass media and the campaign laws will effect elections if this amendment is adopted is embodied in an article in the May 1977 issue of the New Republic. I quote from an article entitled "A Bad Idea Whose Time Has Come":

> The enormous impact that television has had on Presidential politics, the recent spread on primary elections, last year's public financing experiment all reflect a trend toward nationalizing Presidential politics. Proposals for direct election of the President and national primaries will prejudice our politics in the same direction; both diminish the role of the States and devalue the nomination of the major parties . . .

NATIONALIZING THE ELECTION PROCESS: DIRECT ELECTION OF THE PRESIDENT PORTENDS A FEDERAL ELECTION CODE

Mr. President, as media plays a greater role in the selection of candidates and election of the President and Vice President, and as States and political organizations within the States are phased out of the central role they now play in the election process, we will see still another change if the direct election proposal becomes constitutional law: That is, we will see an increasingly more dominant role played by the Federal Government in presidential elections.

Dr. Richard G. Smolka, professor of government at American University, noted in his paper "Possible Consequence of Direct Election of the President" that it will be necessary for Congress to enact implementing legislation if the direct election amendment becomes law. In fact, he posited that the adoption of any direct election amendment in the absence of a national election code would be an invitation to a disputed Presidential election such as has not been seen since 1876. Mr. President, I ask unanimous consent that the Smolka paper be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WALLOP. The principal election-related issues Congress would most likely resolve by Federal law include:

First, candidate access to the ballot: How political parties and candidates obtain a ballot position.

Second, arrangement of the ballot: Whether office block, party column, straight-ticket option, or party position will prevail.

Third, exercise of the franchise: Who will be eligible to vote in a national election; increased likelihood of national voter registration.

Fourth, election day practices: Rules governing hours, places, and methods of voting.

Fifth, vote counts and recounts: Standards and procedures for vote tallying and recounts.

Keeping in mind that the several States now approach these matters in accordance with their own State law, it is immediately obvious that State law will be preempted by whatever decisions Congress makes for the conduct of direct elections of the President. Uniform judgment for the conduct of election will prevail over the judgments of the 50 legislatures. I concur with the conclusions of Dr. Smolka's article that whatever their merits, congressional decisions will cause substantial change in State election codes and practices. For this reason, and because Congress may amend its own provisions at any time, States may decide, as a matter of policy, to separate State elections from Federal elections, such a decision would directly affect voter turnout in State elections and in congressional elections held in nonpresidential election years.

For those who believe that the judgment of the Congress is superior to the States on questions involving election practices and procedures, there would seem to be no quarrel with the adoption of a uniform election law. But such opinion evidences a short-sightedness with regard to the impact of a nationalized Federal election on State politics itself.

In addition to changes in State elections and national elections under a direct election system, there is a strong possibility that shock waves will reverberate through and affect the conduct of State primaries and national conventions. Quoting Dr. Smolka once again, one of the few scholars to address this matter:

> . . . Congress will regulate Presidential primary elections, prescribing dates, methods of voting, and thereby directly affecting the national convention and Presidential nominating process of the major political parties.

Introducing the Congress, Mr. President, as well as the executive branch—by way of its input into the legislative process—into the primary and national convention processes will vest the Federal Government with extraordinary powers in the election of the President now exercised by the people of the various States, the State legislatures, State political organizations, and the political parties, themselves. How ironic that in the name of "one man-one vote," we may in reality be taking a giant step toward empowering the Federal Government to make, shape, or break elections of the President and Vice President.

Mr. President, I am indeed concerned about the impact direct election and the inevitable adoption of implementing legislation will have on State elections, on the conduct of Presidential primaries in the 33 States and in the District of Columbia that now hold them—and any others that may be thinking about holding them—and the impact on the convention process itself. I hope that I have impressed upon my colleagues the need to look beyond the surface appeal of the direct election amendment and to consider the adverse consequences it could have on our national and State political structure as we now know it.

Mr. President, in conclusion, it has been and will remain my philosophy that our Federal Constitution should only be amended when a compelling case has been made for doing so. The possible risks of adopting the direct election amendment far exceed the benefits to our system of government and for that reason I cannot support this measure.

Mr. President, I yield the floor.

Exhibit 1

The Case for the Electoral College

(By Judith A. Best)

The case for the electoral college system is that it is compatible with and supportive of the American idea of democracy, and that it is an integral part of our "solar system of governmental power." The distinctive element of the electoral college system is the federal unit rule principle not the office of presidential elector. This system emerged in 1832 at the same time as the national party nominating convention system.

The American idea of democracy is complex not simple, federal not all-national, consensual not strictly majoritarian. It was designed to balance two frequently incompatible things: liberty and equality. The organizing principle of the American system of government is the principle of the concurrent majority under which coalition-building and compromise create broad cross-sectional majorities that provide moderate government and are resistant to tyranny.

The electoral college system has a bias in favor of: (1) the winner of a cross-sectional popular plurality, (2) a single election, (3) the two-party system, (4) large, competitive two-party states and well organized or self-conscious minorities in urban-suburban areas within such states, (5) ideologically moderate candidates and parties, and (6) electoral certainty. It has a bias against: (1) sectional candidates, (2) contingency elections, (3) third parties, (4) homogeneous regions and one-party states, (5) ideologically extremist candidates and parties, and (6) the premium on fraud. These biases of the electoral college flow directly from the federal unit rule principle.

Critics of this system are too prone to indulge in games of mathematical speculation and to ignore the political and historical realities. They have yet to make the case against federalism and the principle of the concurrent majority. If and when they do, we must consider a complete revision in our system of government, including the Senate, the Supreme Court, the Amending Procedure and, indeed, the Constitution itself.

The following case for the electoral college system is not a case for the system established by the Founders in the Constitution. Contrary to the usual understanding, the date of the emergence of our current presidential election system is approximately 1832 not 1789. The original system devised by the Founders not only did not work as they had intended but was a mere embryo of the system as we know it today. The distinctive element of the electoral college system is the unit rule, according to which the popular votes for President are aggregated under a federal principle that awards all of a state's electoral votes to the candidate who wins a statewide popular plurality.

The Constitution left it to the states to decide how their presidential electors would be selected. As a result, a diversity of methods were employed during the first eleven presidential elections.[1] As late as 1828, one fourth of the states did not use the unit rule. In 1828, Maine, Maryland, New York and Tennessee used the district method of aggregating popular votes and in Delaware and South Carolina the electors were chosen by the state legislature. By 1832, all but two states had adopted the unit rule; Maryland used the district system and in South Carolina the electors were chosen by the legislature. 1832 was the year when the system assumed its peculiar, characteristic form.

The essential component of the electoral college system is the unit rule and not the office of presidential elector. Faithless electors make headlines and arouse our moral indignation, but they have had no practical effect on any election. More than 17,000 electoral votes have been cast since the founding, and less than 10 of them can be called faithless or miscast. If the office of elector alone were abolished, the system as we know it would not be altered. Whether there remains some potential utility in this office or not, whether the benefits of eliminating the office of elector justify the effort to pass a constitutional amendment are minor, indeed, side issues.[2] The intrinsic character of the electoral college system is derived from the unit rule and not from the theoretical independence of electors. The actual, the paramount question about the electoral college system is whether the popular vote for President should be aggregated under the federal unit rule principle.

No electoral system is neutral. Every electoral system, as a practical matter, favors certain groups and interests and discriminates against others. Therefore, the issue is not whether the electoral college has biases, but rather whether the biases of the electoral college are compatible with and supportive of the American idea of democracy, whether the electoral college is an integral part of our system of government. As Senator John Kennedy put it, when he and Senator Paul Douglas led the fight against a proposal to change the system, "it is not only the unit vote for the Presidency we are talking about, but a whole solar system of governmental power. If it is proposed to change the balance of power of one of the elements of the solar system, it is necessary to consider the others."[3]

What, then, is this "solar system", what is the American idea of democracy? It is, has been, and was intended to be a system of concurrent majorities designed to balance two very high but frequently incompatible things—liberty and equality. We are not, have never been and were not intended to be a simple majoritarian democracy, the regime whose dedication to equality is so single-minded that it will readily sacrifice liberty to achieve its goal. No attentive reader of the Constitution or of the Federalist Papers can fail to recognize the Founders' overwhelming fear of majority faction, of majority tyranny.

Their fear, however, was moderated by hope, the hope that a solution had been found, a remedy discovered that would allow men to enjoy both liberty and equality. That solution was a large heterogeneous society governed by majorities created by coalition-building within the framework of a federal system. The solution was a system that divided and redivided power, that set interest against interest, ambition against ambition; a system that could operate only through compromise, negotiation, bargaining and accommodation. Diversity and division of power would safeguard liberty in a democratic regime. Coalition-building and compromise would create cross-sectional moderate majorities that can satisfy the egalitarian principle of democratic regimes as well as govern.

The American idea of democracy is not the populistic principle of the unlimited sovereignty of the majority, and particularly not of the unlimited sovereignty of all-national majorities. The unlimited, unrestrained, unqualified exercise of power by the one, or the few, and yes even by the many is, according to the American principle of democracy, the very essence of tyranny.

Our "solar system of governmental power" is filled with devices or intermediary institutions to protect minorities, to prevent the formation of all-national majorities and to limit the power of ordinary majorities. To mention just five of the most obvious and important ones, there are the Constitution itself, the amendment procedure, the Supreme Court of the United States, the United States Senate and, of course, the electoral college system. All of these directly or indirectly incorporate the federal principle, impose a federal-geographic limitation on the exercise of governmental power.

None of these institutions and procedures operates simply under the principle of one citizen, one equally weighted direct vote. One third of the power of the national government, that lodged in the most powerful court of law the world has ever known, is

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exercised by nine men who are neither selected by nor subject to removal by the direct popular votes of the people. One half of the legislative power of the national government is exercised by one hundred men who are selected by the people under the constitutional principle of the constant two. This principle means that the voters in the least populous state have the same number of Senators as the voters in the most populous state. If equity lies in numbers alone, the Senate is a severe anomaly in a democratic republic.

But the American idea of democracy is not the idea of a simple doctrinaire majoritarianism. It is not government by adding machine. And this, because the size of the popular vote, whether a plurality of a simple majority, does not suffice to maintain free government, because the distribution of the popular vote is an essential support for moderate and free government, because the intensity of preferences must be considered along with the number of preferences, because equality is not the only goal of the regime.

If, then, the principle of the concurrent majority is the organizing principle of our solar system of governmental power and if the American idea of democracy is a balancing of liberty and equality, are the biases of the electoral college system compatible with and supportive of this system, this idea?

As it actually operates, the electoral college system has a significant number of biases. It has a bias in favor of: (1) the winner of a cross-sectional popular plurality, (2) a single election, (3) the two-party system, (4) large, competitive two-party states and well organized or self-conscious minorities in urban-suburban areas in such states, (5) ideologically moderate candidates and parties, and (6) electoral certainty. It has a bias against: (1) sectional candidacies, (2) contingency elections, (3) third parties, (4) homogeneous regions and one-party states, (5) ideologically extremist candidates and parties, and (6) the premium on fraud. These biases must be closely examined to determine how they operate and interact.

The presidential election system is a two stage election in which popular votes are converted into electoral votes under a federal principle. In the 1976 general election, Jimmy Carter won with 50.5 percent of the vote for a margin of 2.1 percent over Gerald Ford. When these votes were aggregated in the second stage under the federal unit rule principle, Carter won 297 electoral votes or 55 percent of the total. Thus, Carter won a higher percentage of the electoral vote than of the popular vote. There was nothing unusual about this disparity. It occurs time and again. Its political significance is that it reinforces the plurality penchant of the college.

The system is essentially a plurality system that magnifies the national plurality winner's margin of victory in the electoral vote. Because the unit rule awards 100 percent of a state's electoral vote to the candidate who achieves a statewide plurality, the President-Elect will receive a higher percentage of the electoral vote than he has won in the popular vote. In the thirty-six elections held since 1832, the average increase in the national plurality winner's margin in the electoral vote is 19.3 percent. In every election but one, the multiplier effect of the unit rule worked to the advantage of the undisputed winner of the popular plurality.

This does not mean that the multiplier effect gives the plurality candidate a greater mandate. The electorate largely misses the fact of the electoral college, and election analysts know full well that the multiplier effect is artificial, that the real mandate is derived from the popular vote. What this multiplier effect does mean is that the system is biased in favor of the winner of the national popular plurality, and that it makes a contingency election highly improbable.

There is but one addendum to this bias of the electoral college system, but one exception to the advantage given to the plurality winner: the bias against a purely or predominantly sectional candidacy. A candidate whose appeal is sectional and not cross-sectional, a candidate whose popular vote support is geographically narrow and deep loses the advantage of the multiplier effect. There are no electoral vote bonuses for candidates who win a state by a landslide. The top prize is 100 percent of a state's electoral votes whether a candidate polls a simple plurality or 85 percent of the statewide popular vote.

This bias against sectional candidacies is clearly illustrated by the election of 1888, when Grover Cleveland, who had a narrow popular plurality, lost to Benjamin Harrison, after running a sectional campaign. Cleveland emphasized the sectional tariff issue and increased the Democratic party's margins in the already solid South by 5 to 17 percent over the election of 1884. The average increase in the Southern states was 9 percent. To put it mildly, this strategy was dysfunctional since the unit rule gives greater rewards to candidates who muster a statewide plurality than to candidates who win a state by a landslide, such as Cleveland's 83 percent in South Carolina. Any votes a candidate gathers in excess of a statewide plurality are "wasted" because they do not yield electoral votes. In a closely contested election, geographic concentration of the popular votes is as strategically undesirable as it is politically undesirable.

Furthermore, the multiplier effect works well, produces a plurality President, even in the closest elections, and it will continue to work well as long as our power oriented parties give as much concern to the distribution of their popular votes as to the number of their popular votes. In the closest election in our history, the election of 1880, when Garfield led Hancock by a miniscule 0.1 percent of the popular votes, Garfield won 57.9 percent of the electoral vote for a magnification of 9.6 percent over his popular vote.

In 1960, the second closest election, when Kennedy apparently led Nixon by less than 0.2 percent of the popular vote, it increased Kennedy's electoral vote percentage by 6.7 percent. In 1884, when Cleveland led Blaine by a mere 0.2 percent of the popular vote, it worked again, exaggerating Cleveland's electoral vote percentage by 6 percent. In 1968, when Nixon led Humphrey by 0.7 percent of the popular vote, it expanded Nixon's electoral vote percentage by 12.5 percent. Under the unit rule the distribution of the popular votes may be as important as the number. Not every sectional dispute can be moderated by an election system, but the antisectional bias of an electoral system in a country that has already suffered one civil war too many should be prized.

A word must be said about the shift-in-votes argument used by several analysts to suggest that the system is not a reliable plurality system.[5] In large part this argument is a parlor game of speculation in which numbers are moved from one column to another in a political vacuum and often without regard to the election laws.[6] Several analysts have argued that a switch of less than 1 percent of the votes in New York in the 1844 election would have made Henry Clay a runner-up President. As a simple mathematical proposition, it is true. But it abstracts from the political world where such shifts would have to occur. What would produce such a shift? Is it likely that whatever produced such a shift would have no effects in any other state? If the cause of such a shift is some political act, (and if it is not, does this mean that votes are cast randomly and arbitrarily?) then the effect would not be isolated to one state but could change or reverse the results in other closely contested states.

In games of speculation, all kinds of fancies may be entertained. Let us suppose, to take an obvious example, that Clay had held firm to his preconvention opposition to the salient issue of the annexation of Texas. This might have provided him with the votes he needed to win New York. But we cannot conclude that this would have made him a runner-up President since this same political act would probably have cost him votes in Tennessee where he had a margin of but 113 popular votes. Without Tennessee, Clay would not have been elected even if he did win New York.

Unless the proposed shifts occur in and are limited to the states selected in our game of speculation, the predicted result will not obtain. Numbers are easier to manipulate and control than voters, and it is fun to create a parade of horribles in a conjectural world over which we have complete control. Evaluations of basic political institutions, however, are more reliably derived from practical effects than games of speculation. What experience has demonstrated is that the electoral college system is a system strongly biased in favor of the winner of a cross-sectional popular plurality.

Is this bias functional given the American idea of democracy? Plurality systems are an aberration of majoritarian theory which requires that elected officials have the support of a majority of all citizens. Jimmy Carter is a majority President, that is he received a majority of the popular votes, but he was not the choice of a majority of the people. Only 53 percent of the electorate bothered to vote, and Carter was the choice of merely 50.5 percent of that 53 percent. Thus, he was the choice of approximately 27 percent of the people. Despite this deviation from strict majoritarian theory, the people are not disturbed, and give every appearance of accepting the Carter Presidency with good heart and hope.

In practice the majority requirement is too stringent. It would necessitate compulsory voting. Run-off elections with all their attendant cost, confusion, intrigue and delay would become the rule if the majority requirement were strictly enforced. We are a pragmatic people, and though a plurality system does not satisfy doctrinarie majoritarians, it has satisfied us.

Indeed, our plurality Presidencies compare quite favorably with our majority Presidencies. For fifteen presidential terms we have been governed by a minority President, one who received a plurality rather than a majority of the popular vote. Among these terms are seven that have been rated among the best in our history: those of Polk, Lincoln, Cleveland twice, Wilson twice and Truman. When we recall that Richard Nixon, the President who won the highest popular vote majority in the history of the Presidency, resigned the office in disgrace under the threat of impeachment, or when we recall that Lyndon Johnson, the President with the second highest popular vote majority, could not seek a second nomination while engaging in the most unpopular war in the nation's history, we may begin to perceive that the majority principle is not a panacea. We may begin to understand why a pragmatic people does not worship at its alter. In the interval of merely eight years, from 1964 to 1972, the people have witnessed two record book presidential popular victories turn into national disasters. Strict adherence to majoritarian theory is no guarantee of good government.

Nor are we fastidious about even the popular plurality principle. We have just calmly weathered the Presidency of Gerald Ford, a man for whom not a single popular presidential ballot was cast before he attained the office. There are situations when the uninterrupted flow of government is of higher priority than theoretical purity. The lessons

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of the decade indicate that the people are quite tolerant of practical and prudential compromises of majoritarian theory. What the people really will not tolerate is a President whose policies or whose advisors are thought to be immoral, even if he has been selected by an overwhelming popular majority.

Even if a plurality system is sufficiently equitable, this plurality system is unusual because of its bias against sectional candidacies. A candidate can win a sectionally based popular plurality and lose the election. The system demands cross-sectional support. It demands a broadly based victory. It demands political and not simply arithmetical pluralities. It is a system that finds numbers to be necessary but not enough. It is a system that recognizes the difference between a People and a mass.

We have good reason to know that sectional candidacies breed civil strife and civil war. We are a continental nation; we are a heterogeneous people with a wide variety of religious, racial, ethnic, economic and ideological interests that must be consulted and considered. The electoral college bias in favor of broad cross-sectional candidacies is highly functional in such a nation.

The federal-geographic rider works in the electoral college the same way that it does for the Congress. It incorporates the Presidency into the system of concurrent majorities. It forces candidates to create broad coalitions. It provides the incentive to our national parties, as James MacGregor Burns pointed out, "to widen and 'flatten out' their vote." In fact, Burns has concluded that this is "the historic achievement of the presidential party", the party whose strategy is shaped by the electoral college.[7]

Our deep and legitimate concern about sectional candidacies was recently reflected in the 1976 election. As the election night vigil wore on and one by one the states fell to Carter or Ford, the maps of the United States, used by the media to graphically illustrate the election returns, began to show a disturbing pattern, a sectional pattern, an apparent East-West split, an apparent division of the country into two opposing if not hostile camps. The only state that Carter won in the West was Hawaii. The commentators in the television media began to remark about it. The next day newspaper stories focused on it. Finally, President-Elect Carter was asked about it in a press conference in Plains, Georgia. Given the East-West split of the states, did the President-Elect believe he had a mandate to govern? Could he effectively lead the whole country?

The pattern, of course, was inaccurate, which is why the issue quickly disappeared. Carter was not merely a sectional candidate, and he knew he could not be if he were to be victorious. He had worked diligently to overcome Eastern, Midwestern and Western voter perceptions of him as a Southern candidate. Some of his campaign errors, such as the *Playboy* interview, may be attributed to his zeal to overcome the taint of sectionalism. His efforts were moderately successful. He did have significant support in the West. He was very close in California and Oregon and reasonably close in New Mexico, Washington, North Dakota and South Dakota. Even so, the Harris poll indicates that his entire margin of victory came from the South. Outside of the South, Ford had a 0.3 percent margin over Carter. Thus, while sectionalism was a factor in the 1976 election, it might have been a bigger factor if the electoral college system had not been there to provide the incentive to "widen and flatten out" the vote.

The multiplier effect of the unit rule not only favors the plurality candidate, it produces a single election. Once the electoral college system had fully evolved, the likelihood of contingency elections became remote. We have not had one since the unit rule was adopted by almost all of the states. And, in light of recent history, it seems more probable that the Twenty-fifth Amendment, dealing with vice-presidential vacancies and presidential disabilities, will be far more important to the institution of the Presidency than the contingency election procedures established by the Founders.

The contingency procedure is utilized only if no candidate receives a majority of the electoral votes. This could occur in an election with more than two serious candidates. The electoral college, however, discriminates against both sectional and national third parties, and the multiplier effect continues to magnify the plurality winner's margin of victory in the electoral vote. In years when more than two candidates won electoral votes, the average increase in the plurality candidate's electoral vote over his popular vote was 17.1 percent only 2.2 percent less than the average for all elections.[8]

The college's strongest bias is against national third parties with no sectional base. Such national third parties, like sectional third parties, may act as spoilers and change the balance of power between the two major parties, but unlike sectional third parties they cannot win electoral votes, and therefore cannot deadlock the college. An excellent illustration of this is the 1948 election when Henry Wallace, the candidate of a national third party, and Strom Thurmond, the candidate of a sectional third party won 2.38 and 2.40 percent respectively of the popular vote. Thurmond won 39 electoral votes and Wallace none.

The college's bias against national third parties is widely recognized, but its bias against sectional third parties is not as clearly understood. A sectional candidate is under a severe handicap because the unit rule favors a cross-sectional vote distribution pattern. Many of the popular votes for a sectional candidate are "wasted" because of their narrow and deep distribution.

Despite the sectional third party candidate's apparent advantage over a national third party candidate, he cannot win the election. It is feared, however, that he could deadlock the college and provoke a contingency election. This would be a marvelous feat, something akin to walking a bouncing tightrope while simultaneously being pelted by competitors and buffeted by spectators. To deadlock the college, a candidate would have to win some electoral votes. Then he would have to accurately gauge the strength of each of the major party candidates in each of the fifty states and the District of Columbia. He would have to take votes away from both of the major parties, and these votes must be strategically placed in specific states. Too much here or too little there not only will mean failure to deadlock but also could produce an electoral vote landslide for one of the two major party candidates. While such a candidate is raiding the major parties, they are not complacent and indulgent. They rush out to secure their followers and to recapture those who have strayed. The efforts of the major parties and the prospect of casting a wasted vote in a close election create strong counter-pressure on the voters to whom the third party candidate must appeal.

The third party candidacy of George Wallace in 1968 is a classic example of the single election bias of the college. Wallace was a sectional candidate who ran a national campaign and amassed 4,100,000 votes outside the South for which he received no electoral votes. Although he won 13.5 percent of the popular vote, he won only 8 percent of the electoral vote, less than half of the average distortion of the multiplier effect in three-way electoral vote contests. His attempt to deadlock the college was a dismal failure.

By focusing on what could happen in a theoretical mathematical world rather than on what does happen in the actual political world, critics of the electoral college system attempt to convert the system's successes into failures. They are so intent upon mathematical possibilities that they forget about such political factors as voter psychology and most especially the role of our power oriented political parties.

Despite the fact that the 1968 popular vote contest was the fourth closest in our history, it was not a close electoral vote contest. With the unit rule magnifying his margin of victory by 12.5 percent, Nixon won 56 percent of the electoral vote as compared to Truman's 57 percent in 1948 or Carter's 55 percent in 1976. There was little danger of a deadlock in 1968. For all his effort, George Wallace won only six more electoral votes than Stromm Thurmond, and reduced Nixon's electoral vote percentage over Truman's by a mere 1 percent.

The result of the 1968 Wallace deadlock strategy is merely a part of a larger pattern, a pattern of defeat for third party strategies. There have been eleven presidential elections in which a third party candidate won electoral votes. In none of these elections were we close to a deadlock, and in five of them the victor's percentage of the electoral vote surpassed sixty percent. Several of these third party candidates polled high percentages of the popular vote: Millard Fillmore received 21 percent in 1856. Breckinridge and Bell had a combined total of 31 percent in 1860. Robert La Follette received 17 percent in 1924. None of these prodigious efforts were any match for the multiplier effect of the unit rule. In 1856, Buchanan won with an electoral vote of 58.7 percent for an increase of 13 percent over his popular vote. In 1860, Lincoln jumped from a popular vote of merely 38.7 percent to an electoral vote of 59.4 percent, an increase of 19.7 percent. In 1924, Coolidge won an electoral vote landslide with 71.7 percent for an increase of 17.7 percent over his popular vote.

As it actually operates, the college has a bias in favor of a single election. Is this functional, is this congenial with our governmental system? Yes, it is because it makes for stability, reduces uncertainty, prevents intrigue, shortens the period of interregnum, and allows time for the smooth transition of power. Over and above these things, the single election bias of the college supports the two-party system, the system that, in the words of Austin Renney and Willmore Kendall "more than any other American Institution, consciously, actively and directly nurtures consensus."[9]

The college's bias in favor of the two-party system is sustained not only by its bias against sectional and national third parties, but also by its bias in favor of a single election. Frequent continguency elections of any kind would weaken or destroy the two-party system whose vitality may depend, as Schattschneider argued upon its control over nominations.[10] If, as is the case under the current system, a contingency election is highly unlikely, disenchanted partisan factions have little to gain and a great deal to lose by bucking the party nomination procedure. But if the electoral system has no bias toward a single election, if a contingency election is probable, then the second-chance psychology will spread. The parties could fragment as factional leaders scramble to enter the contest. The parties having lost control over the crucial nominating function would cease to be parties at all.

In this continental, heterogenous nation, the two-party system has developed as an extra-constitutional institution to perform a critically necessary function, a coalition-building, unifying function. Madison's idea was to divide and diversify, to encourage the development of numerous contending minority factions rather than a monolithic

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majority faction. That could be a sound plan if and only if something would serve to create coalitions, concurrent majorities, that could govern. Majorities of some kind are a democratic requirement, and we were, after all, to be a democratic regime. Thus, a major problem posed by the Madisonian system of a large heterogeneous federal republic, with its cultural pluralism and its separation of powers, was to provide some unity and coherence, to provide political majorities.

The two-party system arose in response to this necessity for coalition-building. Not surprisingly, our national party nominating convention system arose at the same time that the unit rule reached full development, 1832–1836. The two-party system is an integral part of the American idea of democracy, and the electoral college's bias in its favor is highly desirable. It is especially desirable at this moment in our history when the two-party system is somewhat indisposed, when the other non-institutional supports for two-partyism have decayed, when politics is individualized and the number of Independents is rising.

The college's partiality is not simply for two-partyism; it prefers moderate candidates and parties. The federal-geographic dispersion requirement quells tendencies to organize parties on class, racial, religious, ethnic, economic or ideological lines. Such factions cannot readily combine their votes across state lines. Even if the two-party system were to survive the abandonment of the unit rule, the parties could be drastically changed becoming highly ideological and dysfunctionally immoderate. Absent the unit rule, factionalism could run wild as candidates would be relieved of the necessity to create broad coalitions. Now, a victorious strategy cannot be based on narrow appeals and extravagant promises to popular majorities in one section of the country such as the populous Eastern megalopolis, or to a dominant racial group, the whites, or to a dominant religious group, the Christians, or to a single-interest consistency such as the anti-forced-busing faction.

Factionalism unleased is the fatal disease of democracy. The electoral college system is a key institution, one that has harnessed this turbulent force and made it work for rather than against the regime. Now, we are not likely to see a presidential election contest in which Jimmy Carter runs as the Southern Baptist candidate against Jesse Jackson as the black candidate, and Ted Kennedy as the Catholic candidate, and General Brown as the military candidate, and George Meany as the labor candidate, and Earl Butz as the farm candidate. Our long experience under the electoral college system makes such a scenario seem absurd. But it may not be as absurd as it appears when we consider what has happened in Italy, France and Germany, when we remember that to change the rules is to change the game and to change the character, the skills and the strategies of the successful players.

The system also has a bias in favor of large competitive, two-party states and of urban and suburban voters in such states. Again it is the unit rule that accounts for this partiality. The most populous states have large blocs of electoral votes at their disposal, and if they are competitive, if each of the two major parties has a real chance of victory in such states, they will become the major battlegrounds. Since these states are much more representative of the diversity of the nation as a whole than the homogeneous one-party states, these are the most appropriate and functional battlegrounds. The kinds of coalitions that can win in such states are the kinds of coalitions that can win a cross-sectional victory and therefore can govern. Within such states urban-suburban voters have an apparent advantage. A number of election analysts have reached this conclusion along with Yunker and Longely who stated that the data "confirm the urban-ethnic hypothesis at least in the aggregate sense." [11] Again, this urban-suburban advantage is suitable in a nation that becomes more urban-suburban each year. But beyond suitability, it is complementary because it balances the rural-small-town bias of the Congress.

Although no election system can completely prevent fraud, the current system does have a bias against fraud because of the unit rule. Under any system, the closer the election the greater the inducement to cheat. But when, as now, each state is a separate electoral arena, the state boundaries quarantine the disease. Irregularities within a state can contaminate only the electoral votes of that particular state. A few states have a less than sterling reputation for electoral honesty, but in many close elections the results would not be reversed unless the irregularities occurred in from five to eight states and those states are not necessarily the states whose honesty is suspect. Furthermore, because of the multiplier effect, close popular vote contests are not always close electoral vote contests, and the point of the fraudulent activity is to affect the electoral votes through the popular votes. The two stage factor in the election complicates the situation and impedes the activity of the dishonest.

As a result of this bias, few elections are likely to be contested by the loser even when he has good reason to suspect fraud in some states because the fraudulent activity does not always determine the victory. The candidate who demands a recount in the hope of reversing the results must not only pick up votes and/or invalidate some of the votes for his opponent, but he must do so in particular states. A bias against fraud is desirable in any election system, and a bias in favor of electoral certainty is especially advantageous in the American democracy where public sentiment is of such overwhelming importance. Disputes, delay, uncertainty and suspicion could cripple the ultimate winner before he takes the oath of office.

The biases of the electoral college flow directly from the federal unit rule principle. The real questions about the electoral college system are whether the federal unit rule principle should be utilized in selecting the President, whether factionalism is still dangerous to democracy, and whether this principle is an important check on factional tendencies.

If federalism is an anchronism, if cross-sectional, concurrent majorities are no longer necessary to maintain liberty, then perhaps we should abandon federalism for the national legislature as well as for the executive. To do one without the other, particularly to make the President the recipient of the only all-national mandate could change our governmental solar system, could change the balance in executive-legislative relationships to the advantage of the President. The authenticity of the voice of the Congress, speaking for a concurrent majority, could be seriously undermined by a truly plebicitary President claiming to speak most directly and clearly for the general will. The sobering experience of the Watergate era should make us reluctant to further aggrandize the Presidency.

Is the electoral college system compatible with and supportive of the American idea of democracy? The answer, I believe, is yes. The electoral college system is an integral part of our governmental solar system. It exists in a symbiotic relationship with our two-party system. It corresponds to and complements the organizing principles of the Congress. The system is complicated, but we are a complex not a simple democracy. The system is federal, but we are a federal republic. The system is pluralistic, but ours is not a strictly majoritarian regime. The system is resistant to ideological extremists, but we are not an ideological people. The system is predisposed toward two-partyism, but multiparty systems are notoriously unstable, and one-party systems are undemocratic. The system looks to the formation of concurrent rather than simple arithmetical majorities, but the organizing principle of the whole governmental system is the concurrent majority. But above all else, the system balances the principles of liberty and equality because it at once utilizes the numerical votes of factions while restraiting their destructive potential.

FOOTNOTES

[1] Neal R. Peirce, "The People's President: The Electoral College in American History and the Direct Vote Alternative" (New York, 1968), pp. 310–311.

[2] For comment regarding elector utility see: Wallace S. Sayre and Judith H. Parris, "Voting For President: The Electoral College and the American Political System" (Washington, 1972), p. 149; and Judith Best, "The Case Against Direct Election of the President: A Defense of the Electoral College" (Ithaca, N.Y., 1975), pp. 188–190.

[3] Congressional Record, Vol. 102, Pt. 4, 84th Cong., 2d sess. (1956), p. 5150.

[4] For a complete picture of the distortion between popular and electoral vote percentages see Best, "Case Against Direct Election," pp. 56, 59, 62.

[5] For this argument see: Peirce, "People's President"; and Harvey Zeidenstein, "Direct Election of the President" (Lexington, Mass., 1973).

[6] For a fuller analysis of this argument see Best, "Case Against Direct Election," pp. 72–79.

[7] James MacGregor Burns, "The Deadlock of Democracy" (Englewood Cliffs, N.J., 1965), p. 251.

[8] Best, "Case Against Direct Election," p. 91.

[9] "Democracy and the American Party System" (New York, 1956), p. 508.

[10] E. E. Schattschneider, "Party Government" (New York, 1967), p. 83.

[11] "The Biases of the Electoral College," in Donald R. Matthews, ed., "Perspectives on Presidential Selection" (Washington, 1973), p. 193.

EXHIBIT 2

POSSIBLE CONSEQUENCES OF DIRECT ELECTION OF THE PRESIDENT

(By Richard G. Smolka*)

The U.S. Senate is now considering Senate Joint Resolution 1, a proposed constitutional amendment to elect the president of the United States by a direct popular vote.

If a direct election amendment is passed and ratified, Congress must implement it by appropriate legislation. It is most unlikely that any direct election of the president could be conducted by a continuation of existing laws and practices in the various states, plus the current election laws of Puerto Rico, the Virgin Islands, Guam, and the trust territories if these are extended the franchise.

Congressional legislation to implement a direct election amendment must address at least five fundamental questions relating to political parties, candidates, ballots, and voters.

1. How do political parties and candidates obtain a ballot position?

2. What uniform type of ballot arrangement—office block, party column, straight-ticket option, party position on the ballot—will prevail?

3. What will be the uniform qualifications for voting in a national election?

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4. What rules governing voting—hours, places, method of voting—will apply?

5. What will be the standards and procedures for vote tallying and recounts?

Some of these questions may be answered by Congress now, if it chooses to do so. A direct election amendment, however, would require this type of legislation and would give Congress a unique opportunity to structure a national election code to achieve specific political and/or social purposes.

This article presents a general overview of current state election law practices and, based upon the research findings of political scientists, speculates about the impact of some possible federal election laws which could be enacted to implement the direct election of the president.

ACCESS TO BALLOT

One of the most immediate and important questions which Congress will be required to address is the manner by which candidates and political parties are listed on the ballot. Who is entitled to be listed? Who determines the nominee of a political party and how is that nomination decided? Can independent candidates without any party affiliation qualify for the ballot? May a candidate who has been denied the nomination of his party obtain a ballot listing as a new party or as an independent candidate? Events which occurred during the 1976 presidential campaign illustrate the complexities of ballot access laws and the administrative consequences of last-minute court decisions interpreting these laws. Thirteen presidential candidates qualified for the ballot in six or more states, but no state ballot contained all 13 names. Twelve candidates qualified for ballot positions in New Jersey and Washington, but in five states (Arkansas, Georgia, Maryland, West Virginia, and Wyoming) only the two major party candidates were on the ballot.

President Gerald R. Ford and Democratic nominee Jimmy Carter were on the ballot in all states. The 12 minor party and independent candidates and the number of states in which their names were listed on the ballot are shown in Table 1.

TABLE 1—*Number of States in which Candidates Qualified for Ballot Position*

Candidate and party	*Number of States listed on ballot (a)**
Jimmy Carter (Democrat)	51
Gerald R. Ford (Republican)	51
Roger MacBride (Libertarian)	31
Eugene McCarthy (Independent)	29
Peter Camejo (Socialist Workers)	28
Lyndon LaRouche (U.S. Labor)	24
Lester Maddox (American Independent)	20
Gus Hall (Communist)	20
Thomas Anderson (American)	18
Julius Levin (Socialist Labor)	10
Benjamine Bubar (Prohibition)	9
Frank Zeidler (Socialist)	7
Margaret Wright (People's)	6
Ernest Miller (Independent)	1

*States include the District of Columbia.

Not all candidates were listed under the same party label in every state. In New York, President Ford was on the Conservative Party line as well as on the Republican line, and Jimmy Carter was on the Liberal Party line as well as on the Democratic line. Mr. Carter was also listed twice in Vermont, as a Democrat and as the nominee of the Independent Vermonters.

Unusual party listings included Libertarian Party nominee Roger MacBride as Civil Libertarian Economic Freedom in Wisconsin, Free Libertarian in New York, and Alabama Libertarian in that state; Lyndon LaRouche as International Development Bank and Julius Levin as Industrial Government Party in Minnesota; Margaret Wright as Peace and Freedom in California, Human Rights in Michigan, and Bicentennial Reality in Washington; Eugene McCarthy as McCarthy '76 Principle in Minnesota, McCarthy '76 in New Hampshire, Pennsylvania, and Vermont, as Non-Partisan in Delaware, and No Party in Iowa; and Thomas Anderson as American Constitution in Washington.

In some states, if a political party did not qualify for the ballot, its candidates were listed as Independent. For example, Gus Hall (Communist), Peter Camejo (Socialist Workers), and Roger MacBride (Libertarian) were all identified as Independent on California ballots.

There were disputes over the use of the American Independent or American Party label. In Michigan, where two factions disputed the nomination, each conducted a nominating convention and attempted through administrative procedures and court action to obtain a ballot position. Michigan recognized only one American Independent Party and would not rule on which faction held the "official party convention." Michigan offered to list any candidate both factions could agree upon and this position was upheld by the courts. Although the party could not agree on its nominee for president and, therefore, had no candidate listed for that position, any candidate nominated by either faction would have been listed as the official party candidate if there was no duplicate nomination for the position.

Although the courts ordered the names of some candidates off the ballots, there were instances when the decision came so close to the date of the election that it was administratively impossible to remove the names from the absentee ballots and even from some ballots at the polling places. For example, the New York Court of Appeals, that state's highest court, ruled on October 27 that McCarthy's name should not be on the ballot, but the very next day the chief judge granted a one day stay of the order pending appeal to the U.S. Supreme Court.[1] Only after the U.S. Supreme Court refused to consider the case on October 29, the Friday before the election, were local officials free to remove McCarthy's name from the ballots. By this time, however, almost all absentee ballots had been sent out and most had been returned. In addition, most voting machines had already been sent to the polling places and McCarthy's name was never removed from some machines. Although votes for McCarthy were not counted, many of those who voted for him did not know and probably still do not know this and, of course, they did not have another chance to vote for a candidate for whom their vote would have counted.

The federal court decisons from state to state and even within a state were not necessarily consistent. On September 14, 1976, U.S. Supreme Court Justice Lewis F. Powell declined to overturn a lower court ruling which denied McCarthy a position on the Texas ballot because he had not demonstrated prior community support in time for verification and that to allow him on the ballot would "disrupt the entire election process in this state." After Justice Powell's first decision, McCarthy went to the Fifth U.S. Circuit Court of Appeals and was turned down. His subsequent appeal to Justice Powell was then successful and on September 27, two weeks after his first decision, Powell ordered Texas Secretary of State Mark White to place McCarthy on the ballot.[2]

The methods by which each minor party or candidate qualified for the ballot in each state are shown in Table 2. States in which the candidates conducted active write-in campaigns are also listed in Table 2.

The potential impact of third-party or independent candidates was made clear in 1976 even though the number of votes pulled from the major parties was far fewer than it was in 1968 when George Wallace was on the ballot in all 50 states. In Oregon, Ford won by only 1,559 votes while McCarthy drew 40,296. In Ohio, which Carter carried by 11,116 votes, McCarthy drew 58,258 votes. On the other hand, McCarthy was not on the ballot in Hawaii where Carter won by a slim margin of 7,372 votes or in New York where Carter's margin was 278,767 out of more than 6.6 million votes cast. Most observers believe that in those states where McCarthy's name was on the ballot, Carter suffered.

The question of ballot access by minor parties is directly related to the constitutional right of association. How much support will be needed to demonstrate a national candidacy? What type of support? If petitions, how many and what will be the procedure by which they will be verified and tabulated?

If ballot access is made "too easy," the number of candidates and/or parties may well tax the capacity of existing voting equipment and may result in a total paper ballot presidential election. If, however, ballot access is made "too restrictive," the courts, cognizant that the same Congress which prescribed the requirements has a substantial interest in maintaining the status of the two major parties, may well strike down the law.[3]

It appears unlikely, based on 1976 federal court decisions, that laws which effectively exclude from the ballot serious, if not widely supported, candidates would be upheld.

There is also a major distinction between an independent presidential candidate, such as Eugene McCarthy, and the nominee of a political party, as were all the other candidates whose names appeared on the ballot in 1976. In state law, parties may qualify for ballot position by the number of votes received in past elections or by the number of registered voters. These types of criteria do not apply to independent candidates; yet, the direct election of the president may be viewed as a move toward a contest between candidates rather than the current legal presumption of a contest between parties.

BALLOT ARRANGEMENT

After the question of candidate access to the ballot has been determined, the next major question pertains to the arrangement of the ballot. Basically, there are two types of ballot formats in use today, the party column and the office-block ballot. In 29 states, the voter also has an option to cast a straight ticket by a single mark on the ballot or a single pull on a lever. Although the straight-party lever or option is associated almost exclusively with party column ballots, the introduction of punch-card ballots has created situations in which the candidates are listed by office but a straight-ticket option is made available to the voter. This was the situation in Illinois.

A national election code must address the straight-ticket option. Recent federal and state campaign regulations assume that there are advantages to several candidates by combining presidential, congressional, and state candidates on a single slate for advertising purposes and asking the voter to exercise the straight-ticket option. Must a national election law require the separation of the presidential, congressional, and state contests on the ballot because these may be governed by different laws and procedures?

Other possibilities include prohibition of a straight ticket by a national election code or separation of the presidential ticket from the balance of the other races by state legislation. Either way, there are serious consequences for presidential, congressional, and state elections.

The impact of ballot arrangements has been studied by political scientists. Jerrold G. Rusk's study of races between 1876 and 1908 found that ticket-splitting increases with the absence of party voting devices and that office-block ballots are more likely to

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produce split tickets than ballots with party columns or rows.[4] Angus Campbell and Warren Miller found a 15 percentage point difference in split-ticket voting between states with party circles or levers and those with no straight-ticket option.[5] Milton C. Cummings obtained similar results from his study of presidential elections and congressional districts from 1932 to 1964.[6]

TABLE 2.—BALLOT LISTINGS OF MINOR-PARTY AND INDEPENDENT CANDIDATES FOR PRESIDENT

[The following table shows States in which minor party and independent candidates for President are listed on the ballot (indicated by ×), how they gained access to the ballot (1—based on past results, 2—petitions, 3—legal action, 4—other methods), and States in which those candidates have active write-in campaigns (indicated by W). The figures in the last column represent the minimum number of petition signatures required this year by minor-party or independent candidates to gain access to the ballot.]

	Anderson (American)	Maddox (American Independent)	Hall (Communist)	McBride (Libertarian)	Wright (People's)	Bubar (Prohibition)	Zeidler (Socialist)	Levin (Socialist Labor)	Camejo (Socialist Workers)	LaRouche (U.S. Labor)	McCarthy (Independent)	Other	Number of signatures required
Alabama		×(1)	×(2)	×(2)		×(1)							5,000
Alaska				×(2)									2,957
Arizona				×(3)					×(2)		×(2)		(1)
Arkansas	W										W		38,219
California	W	×(4)	×(2)	×(2)	×(4)			W	×(2)		W		99,284
Colorado			×(2)	×(2)		×(2)		W	×(2)	×(2)	×(2)		5,000
Connecticut		×(1)	W	W						×(2)	W		14,093
Delaware	×(1)					×(1)		×(2)		×(2)	×(3)		2,609
District of Columbia			×(2)	×(2)					×(2)	×(2)			2,362
Florida	×(2)			W			W	W			×(3)		36,213
Georgia	W	W							W		W		108,394
Hawaii				×(4)									3,500
Idaho		×(3)		×(2)						×(2)			1,500
Illinois			×(2)	×(2)				×(2)	×(2)	×(2)	×(2)		25,000
Indiana	×(2)								×(2)	×(2)			8,406
Iowa	×(4)		×(2)	×(2)			×(2)	×(2)	×(2)	×(2)	×(2)		1,000
Kansas	×(1)	×(3)		×(3)		×(1)					×(2)		2,500
Kentucky	×(2)	×([illegible])	×(2)	×(2)					×(2)	×(2)	×(2)		1,000
Louisiana		×(2)	×(2)	×(2)					×(2)		×(3)		1,000
Maine						×(2)					×(2)		10,918
Maryland													51,155
Massachusetts	×(1)			W	W	W		W	×(2)	×(3)	×(3)		37,096
Michigan	W	W	W	×(2)	×(1)	W		×(2)	×(2)	×(2)	×(3)		17,674
Minnesota	×(2)		×(2)	×(2)	×(2)		×(2)	×(2)	×(2)	×(2)	×(2)		2,000
Mississippi	×(4)	×(2)		×(2)					×(2)		×(2)		1,000
Missouri											×(3)		18,000
Montana	×(1)												15,938
Nebraska		×(3)		×(3)							×(3)		2,000
Nevada		×(1)		×(2)								×*	8,500
New Hampshire				×(2)				×(2)	×(2)	×(2)	×(2)		1,000
New Jersey		×(2)	×(2)	×(2)	×(2)	×(2)	×(2)	×(2)	×(2)	×(2)	×(2)		800
New Mexico				×(4)		×(4)	×(4)		×(4)				N/A
New York			×(2)	×(2)					×(2)	×(2)			20,000
North Carolina	×(2)			×(2)						×(2)	W		(2)
North Dakota	×(2)	×(2)	×(2)	×(2)		×(2)	×(2)		×(2)	×(2)	×(2)		(3)
Ohio		×(2)	×(2)	×(2)		W		W	×(2)	×(2)	×(2)		(4)
Oklahoma											×(3)		40,243
Oregon											×(4)		(5)
Pennsylvania		×(2)	×(2)						×(2)	×(2)	×(2)		30,584
Rhode Island			×(2)	×(2)				×(2)	×(2)				1,000
South Carolina	×(1)	×(1)											10,000
South Dakota		×(2)	×(2)						×(2)				(6)
Tennessee	×(2)	×(3)	×(2)	×(3)		×(2)				×(2)	×(3)	×**	25
Texas	×(2)								×(2)		×(3)		16,650
Utah	×(1)	×(1)	×(3)	×(2)					×(3)		×(3)		500
Vermont									×(2)	×(2)	×(3)	×***	1,411
Virginia	×(2)			×(2)					×(2)	×(2)			9,007
Washington	×(4)	×(4)	×(4)	×(4)	×(4)		×(4)	×(4)	×(4)	×(4)	×(4)		100
West Virginia													7,624
Wisconsin		×(2)	×(2)	×(2)	×(2)		×(2)	×(2)	×(2)	×(2)	×(2)		3,000-5,000
Wyoming													6,347

Other Ballot listings:
*"None of These Candidates."
**Ernest Miller (Independent—petitions).
***Jimmy Carter (Independent Vermonters—caucus).
Petition Requirement:
[1] Minor party, 11,044; independent, 5,522.
[2] Minor party, 10,000; Independent, over 100,000.
[3] Minor party, 15,000; Independent, 300.
[4] Convention, 1,000; minor party, 37,660.
[5] Convention, 1,000; minor party, 37,660.
[6] Minor party, 27,823; independent, 2,782.

Donald G. Zauderer intensively studied the consequences after Ohio shifted in 1950 from a party-column, straight-ticket-option voting to an office-bloc ballot. Zauderer found that the effect was precisely that which was intended by the dominant Republican party of the day—a sharp decline in straight tickets and a marked roll-off in voting for offices further down the ballot. He also found that this roll-off affected lower educated groups, black and white, disproportionately, thereby hurting Democratic candidates for less prominent offices. Zauderer also found that office-bloc voting was beneficial to candidates with greater name identification.[7]

If Zauderer's findings applied to national elections, the Republicans might gain from mandated office-bloc ballots and, conversely, Democrats may gain an advantage from mandated straight-party-ticket options.

EXERCISE OF THE FRANCHISE

A basic election question is "Who can vote?" In most of the United States, registration prior to election day is a prerequisite for voting, and in most states registration closes 30 days prior to an election. Federal law makes exemptions for federal elections for certain classes of persons, including military, citizens residing overseas, and persons who change their residence immediately prior to an election. Six states permit registration on election day.

In all probability, Congress will not wait for the direct amendment to be ratified before enacting some type of national voter registration. Proposals to create a national voter registration agency and to establish a mail registration system have been before Congress since 1971. President Carter favors a registration for voting in federal elections. If this approach is adopted, any resident of a precinct who can satisfy polling place officials of his identity, qualifications, and residence, will be permitted to vote.

ABSENTEE VOTING

Who can vote depends not only on suffrage and registration requirements, but also on absentee ballot laws. About 4 percent of the votes cast in presidential elections are on absentee ballots. Absentee registration requirements, eligibility for requesting an absentee ballot, and procedures for casting an absentee ballot vary widely among the states. Moreover, procedures for tabulating absentee ballots vary and in some cases may inadvertently violate the secrecy of ballot.[8]

The simplest laws accept requests for absentee ballots at face value. The most complex may require precise reasons for absentee voting, notarization of the ballot application request, the returned voted ballot or, in the case of illness, a medical certificate or statement. The time periods in which ballots may be requested differ substantially. Deadlines for receipt of the ballot may be set prior to election day at various hours on election day, or merely postmarked no later than election day and delivered to the election officials within two weeks after election day.

HOURS OF VOTING

At present, election day hours vary not only among states but also within states. Factors affecting variations include the size of the community and the type of voting equipment. Some states permit local option within prescribed limitations. In general, the variations in voting hours have been accepted where they exist, but court tests of such practices are rare. During the last three Congresses, legislation has been introduced to standardize hours of voting on election day. Although there is little evidence of the polit-

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ical effects of the variations, congressional or judicial concern for greater uniformity if not absolute equality in election day practices remains a distinct possibility.

National reporting of election returns would also be affected by a simultaneous close of the polls. Will the networks then draw a national sample of precincts and predict a national result within minutes of simultaneous close of the polls? Will Presidential election returns continue to be reported by state if state returns have no special meaning? Perhaps it is more likely that a national election code would mandate equal hours of voting rather than simultaneous voting.

What if election day is declared a national holiday? Although several states now proclaim election day a state holiday, the holiday appears to be honored primarily by government workers, schools, and banks. Retail and commercial establishments frequently ignore state-declared holidays and some retailers have even turned more widely honored national holidays such as the Fourth of July and George Washington's birthday into "gigantic sale" days. If election day is not declared a national holiday, will those states that celebrate an election day holiday give their residents an election advantage that may be considered unconstitutional?

Apart from these consequences, what of the political consequences? Will more or fewer voters come to the polls? Which voters are most likely to be affected? In general, supporters of an election day holiday have argued that turnout will be greater.

All of the above potential complications of the election procedures, together with the probability that Congress will amend such laws with regularity, may well induce the states to move state elections to odd-numbered years. States already have been avoiding presidential election years—only 14 governors were elected in November 1976 and two states (New Jersey and Virginia) will elect a governor in 1977.

A change of date in state elections will affect turnout both in congressional and state elections. By far the greater number of voters vote at presidential elections. If a state election is conducted in a year other than a federal election year, barring any radical change in voting behavior, the turnout will be lower, further, if there is no state election in even-numbered, nonpresidential election years, turnout in those congressional election years is likely to drop very sharply. If past experience is any guide, the drop-off will occur primarily among the less-educated, less-motivated segments of the population. There is little doubt that the costs of campaigning, at least to turn the vote out, will escalate in all nonpresidential election years.

VOTE COUNTS AND RECOUNTS

Voting equipment

The manner in which votes are counted depends upon the method by which votes are cast. (Each state now has its own standard for testing vote-counting equipment and for establishing the integrity of its procedures.) About 60 percent of the voters now cast their ballots on mechanical lever machines, about 20 percent vote on punch-card ballots and, with few exceptions, the remainder vote on paper ballots.

The mechanical lever voting machine prevents the voter from casting an overvote through a locking mechanism. Provisions for setting up lever machines, verifying their mechanical condition, and tallying the results vary from jurisdiction to jurisdiction. Because there is no individual ballot, only summaries from each machine may be checked. Oregon prohibits this system because there is no individual ballot audit trail.

Punch-card voting, which is rapidly gaining acceptance, remains prohibited in 17 states because the names of the candidates are not printed on the ballot itself; because the punchcard ballots can be folded, mutilated, or otherwise damaged and thereby prevented from being counted by various readers; or because of other reasons which indicate a lack of confidence in the system, for example, jurisdictions which use punchcard ballots are required to establish "duplicating boards," consisting of persons who must "duplicate" all ballots which cannot be read by machine. This process increases the need for ballot security.

Even paper ballots, technically the simplest method, produce major problems of interpretation when the voter marks the ballot in ways other than those prescribed by law. In some states, balolts not marked in accordance with the law are voided. This is done to prevent identification of individual ballots by counters or watchers. The trend in recent years, when greater honesty is assumed, has been to count ballots if the "intent of the voter" can be determined. In an attempt to obtain impartial rulings on the intent of the voter during the John Durkin-Louis Wyman New Hampshire contest in 1975, the U.S. Senate Rules Committee built ballot holders to enable the senators to see the marks without seeing the names of the candidates.

It would seem logical that a national election law would provide at least the basic ground rules about which paper ballot marks should or should not count rather than permitting identical marks to be counted in one state and thrown out in another. Similarly, the basic standards for ballot security, whether computers, lever voting machines, or paper ballots are used, would probably be included in national legislation.

The impact of such changes, as with some of the other procedures identified above, will depend in large measure on the differences between what is adopted nationally and the existing practice in effect in any given state.

Recounts

The last point is the recount of the votes cast in a direct presidential election. Will a recount be a right of candidates? Who will be able to ask for a recount and under what conditions? How will a national recount be conducted? Will it be possible to conduct a partial recount in selected states or counties or precincts?

The recount situation in presidential elections is confusing now. According to a study by the Congressional Research Service, only 16 states had laws on the books in 1976 which provided for recounts of votes cast for presidential electors. There is further confusion in the states about the proper state function in conducting recounts of congressional elections. Despite the Supreme Court decision in *Roudebush* v. *Hartke*,[9] which treats recounts as part of the original vote count under state jurisdiction, several states, such as Michigan, have not provided for recounts of congressional elections because they assume that the appropriate house of Congress will exercise jurisdiction over such matters.

If a popular direct election is close, perhaps a margin of two-tenths of one percent of all votes cast, will it be possible or desirable to have a recount? What if there appears to be a major error in the vote tally in a particular community? Can a recount be focused on only a single city or state? If so, does the apparent winner of the first count have the right to ask to have other jurisdictions recounted if his victory is reversed? Who will supervise the recount and under what rules will it take place? Neither the senate nor the house of representatives is bound by state law in conducting recounts of congressional elections. In the 1961 *Roush* v. *Chambers* contest, the house of representatives counted ballots cast by voters which could not be counted under Indiana law.

If procedures have been established in advance, at the very least contestants will know which rules prevail. Otherwise, we will be back to 1876 and perhaps another presidential election commission.

A CONCLUDING NOTE

While this article has concerned itself with the significant administrative questions which must be answered by either the states or the federal legislature, it has not attempted to deal with the significant theoretical questions which are inherent in the issues raised. Nevertheless, as with all exercises in policy analysis, the theoretical and administrative relationships cannot be separated. For example, the question of candidates' access to the ballot, a technical question in many respects, nevertheless requires a specific definition of political party, a definition on which state laws, court decisions, and political scientists do not agree. In addition, the relationship between the formal electoral processes and social units arises when a determination must be made about whether an election is a contest among individual candidates or among political parties.

Because there are widely divergent theories currently held in the states, one consequence of which is illustrated by the number of presidential candidates on the ballot and how they get there, the theory which is ultimately accepted by Congress will have a major impact on all elections in the states.

These congressional decisions, whatever their merits, will cause substantial change in state election codes and practices. For this reason, and because Congress may amend its own provisions at any time, states may decide, as a matter of policy, to separate state elections from federal elections. Such a decision would directly affect voter turnout in state elections and in congressional elections held in nonpresidential election years. More certain is the possibility that Congress will regulate presidential primary elections, prescribing dates, methods of voting, and thereby directly affecting the national convention and presidential nominating process of the major political parties.

FOOTNOTES

[1] *Contessa* v. *McCarthy*, 40 N.Y. 2d 629, decided Oct. 27, 1976.

[2] *McCarthy* v. *Briscoe*, U.S. District Court for the Western District of Texas, No. A–76–CA–158.

[3] The potential conflict of interest of a legislature in election laws was noted in *Kramer* v. *Union Free School District*, 395 U.S. 621 (1969).

[4] Jerrold G. Rusk, "The Effect of the Australian Ballot Reform on Split Ticket Voting," *American Political Science Review*, vol. 64 (1970), pp. 1220–39.

[5] Angus Campbell and Warren Miller, "The Motivational Basis of Straight and Split Ticket Voting." *American Political Science Review*, vol. 51 (1957), pp. 293–312.

[6] Milton C. Cummings, Jr., *Congressmen and the Electorate* (New York, N.Y.: Free Press, 1956), pp. 174–79.

[7] Donald G. Zaudeer, "Ballot Reform in Ohio: An Assessment of Consequences" (paper delivered at the 1972 Annual Meeting of the American Political Science Association, September 5, 1972).

[8] Indiana University, Poplars Research and Conference Center, "Analysis of Laws and Procedures Governing Absentee Registration and Absentee Voting in the United States," Report No. IU–GAO–53–175–50–75–1 (prepared for the Office of Federal Elections, U.S. General Accounting Office, June 1975).

[9] *Roudebush* v. *Hartke*, 405 U.S. 15 (1972).

Mr. THURMOND. Mr. President, I wish to take this opportunity to commend the able Senator from Wyoming for the excellent address he has delivered concerning the direct election of the

President. The distinguished Senator has shown by his address today that he is truly a scholar on the subject of the electoral college and its implications to our form of government. He has shown that he understands what federalism means and the importance of federalism in our type of government. He also understands the full effect of this direct election proposal, which would give complete control of all elections to the National Government and deprive the States of any part therein.

I want to take this opportunity to commend him for his outstanding address.

Mr. WALLOP. I thank the able Senator from South Carolina. I appreciate his remarks more than I can say.

I know the Senator from Nebraska has been waiting patiently for a good long time. I thank him for his patience.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I start out by saying that I am certainly not for the nationalization of elections. As I listen to the debate which has been going on for a long time I think we sometimes get off course in trying to understand what the basic situation is. I do not know what is going to happen when we vote tomorrow, but I think that what we must recognize is that there are many of us in the Senate who are asking simply for one thing: The right for people to vote for the President of the United States and have their vote count.

That does not necessarily mean that we have to federalize the whole process to get that done.

Mr. President, the debate on Senate Joint Resolution 28 in the Senate has been informative, interesting, and possibly one of the classics in terms of interpretation of original constitutional intent and how that should or should not affect our modern-day system of democracy.

I am a believer, generally, in the strictest construction of the U.S. Constitution and am opposed to frivolous changes of that fundamental document. That outstanding masterpiece has survived successfully the test of time for many reasons, not the least of which are the provisions for its successful amendment, upon carefully designed and protected procedures. Few would argue that the Constitution should never be changed. Likewise, few would argue that it should be amended promiscuously.

What we are about here is the legitimate question of whether, after all these years, we can or should attempt to improve our faith in and respect for the manner in which we elect the most important office in our system, the President of the United States.

I suggest that what was devised two centuries ago for Presidential selection, for the most part to satisfy and mollify then vastly different views, geographically and philosophically, is not necessarily pertinent or persuasive today. The electoral college system may have served its purpose in the beginnings of our great system, but it is as outmoded today as was the original provision that U.S. Senators be selected or elected by the individual State legislative bodies, rather than directly by the people.

To deny the State legislatures, as representative of the States citizens, even the right to take up the issue and vote, up or down, on the proposed constitutional amendment for the direct popular election of the President is, in my opinion, shortsighted.

One of the strongest arguments of the opponents of direct election is the fear regarding the erosion of States rights and federalism, and I concede that some well intentioned and reasoned arguments in this regard have been advanced. But, Mr. President, I submit the best method to resolve the issue of States rights is through in-depth considerations in the 50 State legislatures over the months and years to come on this matter.

I am interested in, and, frankly, somewhat concerned by the argument that direct popular elections of the President would tend to dismantle further the two-party system which I firmly believe has been, with its admitted shortcomings at times, a great strength for good and stability, providing the checks and balances that our preferred system requires.

I am, however, struck by similar arguments made years ago during the debate in the Senate on the 17th amendment to the U.S. Constitution, which provided for direct popular election of U.S. Senators, which I referred to a few moments ago. Senator McCumber of North Dakota criticized that amendment on this floor on June 12, 1911, for its "tendency to destroy party affiliations." Senator McCumber went on to say that—

> The nomination and election of United States Senators by popular vote will do more than anything else to destroy the dominant party and finally result in party elimination entirely.

The Senator, history has shown, was wrong in his appraisal, however sincere and well motivated. He misjudged the situation as to the effect of the 17th amendment.

I suggest to my colleagues that we think likewise about some of the statements that have been made that are not far removed from what that North Dakota Senator said in 1911.

In any event, Mr. President, this Senator has listened to and reflected upon these concerns so ably advanced by my friends and colleagues from Utah and New York and other States, including the address we just heard by the Senator from Wyoming.

It is claimed that numerous splinter parties and candidates may tend to complicate the Presidential election process. The possible alternative it seems to me, however, is even much worse.

Where would the standing and public confidence in our system, now already under some distress, be if we should find a person assuming the Presidency when an opponent obtained more votes, as now allowed under the existing electoral college procedure? Attempting to govern under such a cloud would be at best chaotic and at worst impossible. Such a situation would certainly cause a fully justified public outcry which would do great harm to the public's respect for the Constitution. Should that occur, I submit, Mr. President, there would be an immediate demand from the people to abolish the electoral college and the Congress would quickly respond.

There has been created a cloud of misunderstanding to arouse suspicion or fear that the lesser populated States are "giving up" something to their more populous cousins if the popular election of the Presidency should be endorsed here and subsequently approved by three-fourths of the State legislatures. I suggest that such concerns are not justified, but even if that should be the product of the change, Senate Joint Resolution 28 does address the overriding consideration which is whether or not one believes the person serving in the highest elective office in the land should serve, under any circumstances, without obtaining the most votes in a free and direct election.

Mr. President, I shall enthusiastically support the considered additional amendments that may be offered by the Senator from Indiana, or possibly others, that would require a candidate perhaps to carry at least one-third of the States in addition to 40 percent of the popular vote before serving as President. I have heard here on the floor today, and I have heard it before during this debate, that it is all a good idea, but the mechanism that we are using here is wrong. It reminds me, Mr. President, of the old story about the people that are all for the construction of the new church, but they fight the location.

Where are all these people that have stood up here and said, "Yes, we need some change in the system, but this is not the way to do it"? Why is it that we have not been able to get together as reasonable people if most of us agree that a change has to be made?

I suggest to you, Mr. President, that maybe the proposal offered by the Senator from Indiana is not the perfect method. I am not certain that it is and I am not certain that we are going to win tomorrow. But one thing we are going to accomplish tomorrow: I think, when we take that vote and count it tomorrow, and then when we look at the statements that have been made on the floor of the U.S. Senate by those who say, oh, yes, we want a change, but we do not want this one—that has been going on now for how many years? I do not really believe it has ever come to a very sincere vote in the U.S. Senate. If we accomplish nothing else tomorrow, we are going to put the Senate on record, I think, for the most part, and most of the U.S. Senators will either vote for this measure or will have made statements on the floor of the U.S. Senate that might pin them to the wall, to where we can make some changes in this system that I still say is outmoded.

Therefore, I shall be supporting some amendments, very likely, if they are offered.

I have never been sure, Mr. President, that most of the people understand that, under the outmoded electoral college system, millions of votes cast in each Presidential election are never in fact "counted" for the candidate of the voter's choice. The system effectively disenfranchises multimillions of legally cast votes in every State of the Nation in every Presidential election. I dare say that the majority of our registered voters alive today likely have experienced, whether they realize it or not, the effect of having their legally cast ballot for President ignored.

Under the present system, a Presidential voter in any State, in effect, has his or her vote thrown out and not counted unless they happen to vote with the majority in the State for President.

A specific well documented example, directly on point, is the situation in Nebraska. In the Presidential general elections of 1976, there were 360,000 votes cast in Nebraska for candidate Ford and 233,293 for candidate Carter. As a result, President Ford won the State and consequently, under the system, all of Nebraska's five electoral votes since they are the only votes that actually count in electing a President. The point is that how can it reasonably be justified that, as a result of that unfair system, the 233,293 Nebraskans who voted for President Carter were effectively and completely disenfranchised?

Likewise, in 1964, President Johnson carried Nebraska with 307,307 votes as opposed to 276,847 votes for Senator Goldwater. It was a close election, but all of Nebraska's five electoral votes went to President Johnson on the winner takes all philosophy. Because of this unfair hodgepodge, 47.4 percent of all Presidential voters in Nebraska, numbering 277,000, never had their ballots counted in support of their Presidential choice, Barry Goldwater.

In fact, since my State has been voting in Presidential elections, a total of 4,309,630 voters have been ignored and their votes for President effectively not cast. They might just as well have not bothered to even vote for President under the winner takes all theory of the electoral college system. If the rights of the minority were ever more trampled upon than under this system, I would like it explained.

The bottom line consideration, it seems to this Senator from Nebraska, is that John and Mary Doe's vote in Nebraska, for the top office of President of the United States, should be worth no less and no more than John and Mary Doe's vote in New York, or California, or Texas, or Maine, or in any other State.

Equally important is the major consideration that all of their votes should not only be counted but should be cast for the individual's choice for President of the United States.

I thank the Chair.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I listened with a great deal of interest to the remarks of our distinguished colleague from Nebraska.

It seems to me that the Senator from Nebraska comes to this argument with a perspective and a background which makes him particularly qualified to judge some of the rather ridiculous assertions that have been made on the impact of the direct popular vote.

In addition to being our colleague, he, of course, has seved a good number of years as the Governor of the State of Nebraska.

I think it is fair to say, knowing his strong roots in that cornhusker sod, that he would not support a proposition that he thought would be detrimental to his State or to the people of his State.

I want to thank him for lending his support and his eloquence to the debate which is presently going on.

Mr. EXON. Will the Senator yield?

Mr. BAYH. I am glad to yield.

Mr. EXON. I thank my good friend from Indiana.

Mr. President, I want to make another comment on the point the Senator just made.

If I really felt down deep and sincerely that Nebraska's interests would not be served, I certainly would not be casting my vote as I intend to cast it.

I would like to say something, if I could, to try and explode this myth that has been painted here by some that if you live in Wyoming or Nebraska or Iowa, or I suppose South Dakota, you are going to be ignored if we go to the direct popular elections of the President. I suggest just the opposite is true.

We just heard a speech from the distinguished Senator from Wyoming, and I believe he said that neither one of the Presidential candidates even came to Wyoming last year. Why was that?

I would suggest, Mr. President, that the reason none of the candidates came to Wyoming was the fact that one did not have to be a miracle person to understand that Wyoming was going to go for the Republican candidate and, therefore, there was no incentive for the Republican candidate to go to Wyoming and spend time or money, and there was certainly no incentive for the Democratic candidate to go there.

Maybe that is conjecture, but it is not conjecture in Nebraska.

The Democratic candidate for President of the United States did not come into Nebraska during the campaign, but the candidate for Vice President did and I spent an evening with him at a rally. He said:

> How are things going in Nebraska?

I said:

> Not very well for the Democratic Presidential ticket, and it would be my suggestion to you, Senator Mondale, that the best thing for you to do is to go somewhere else where you have a chance to pick up some votes for the ticket you support because I suspect you are not going to carry Nebraska. Even if you campaign hard here, even if you spend thousands upon thousands of dollars, you would not pick up more than 30,000 to 40,000 more votes, and that is still far short of the votes you need to pick up all of the Nebraska votes under the electoral college system.

Therefore, the winner-take-all, I suggest, Mr. President, and to my colleague from Indiana, the winner-take-all philosophy has a directly opposite effect from what is being preached here on the floor of the Senate.

Indeed, if every vote in Nebraska, every vote in Wyoming, and every vote in these smaller States, did count into a grand total, then I suggest that the candidates would have to come in there and campaign, and not really as they are relying now on the map that was held up to photograph by the distinguished Senator from Wyoming, to show where the people in the United States live.

The fact of the matter is that if you will check the record, I am sure that you will see that both of the major candidates spent by far the largest portion of their money way out of any proportion to population in a heavily populated State.

I suggest to my colleague from Indiana that, indeed, it would help the interest in elections and make the votes in the small States count more than they do now if we would go to the direct popular election of the President of the United States.

I thank the Senator for yielding.

Mr. BAYH. Mr. President, I appreciate the further comments of my good friend from Nebraska.

I have listened to some of the reasons for opposing direct popular vote from colleagues whose judgment I usually respect, even when I find myself on the opposite side of an issue with them. But on this issue their judgment seems on many occasions to be run through a screen of misconceptions as to how they presume the political process works, rather than actually looking at the numbers, the dollars, talking to the national political figures, and listening to them describe in real terms how the elections work today.

I thought it was particularly unfortunate when one of our colleagues this afternoon suggested that there had been only casual consideration of this issue, and then proceeded to put into the Record a few editorials which showed that som people disagreed with the direct election proposal favored by some of us.

For the sake of a balanced record, I ask unanimous consent to have printed in the Record some material which shows that this matter has been considered thoroughly by a number of people for a long period of time in the academic as well as the journalistic world. By far, the preponderance of editorial support has been in favor of the direct popular vote over the years.

There being no objection, the material was ordered to be printed in the Record, as follows:

Electoral College Doesn't Help Blacks

(By Carl Rowan)

Washington.—Whether this country ought to abandon the electoral college and go to direct election of the president and vice president is becoming a heated issue again.

A bill sponsored by Sen. Birch Bayh, D-Ind., has been pushed onto the Senate floor, but it faces an unbelievable phalanx of opposition; opponents of direct election, like Sen. Strom Thurmond, R-S.C., are quoting blacks (National Urban League leader Vernon Jordan most prominent among them) who argue that the electoral college gives blacks and other minorities special political clout. Puzzled Senate liberals say they don't want to vote for anything that is construed as disenfranchising blacks, but they wonder how Jordan, Eddie Williams of the Joint Center for Political Studies and other blacks wind up on the same side as Thurmond and the most conservative members of the Senate.

I can tell them why, Jordan, Williams and a few others are hung up on the myth that black political power is concentrated in nine large states, and that blacks hold the swing votes in New York, California, Pennsylvania, Michigan, Texas, Ohio, Illinois, New Jersey and Indiana.

The Senate should understand many blacks now reject this idea, because recent elections have shown that not only is black power no longer concentrated in these areas, but that the electoral college system nullifies millions of blacks votes in these states. Most black members of Congress now understand this, which is why Louis Stokes (Ohio), Parren Mitchell (Maryland), John Conyers (Michigan) and others favor direct election of the president.

Black supporters of direct election know how close the country came in 1968 to having George Wallace manipulate his handful of electoral votes so that he could decide who would be president.

Black supporters of direct election now understand that the electoral college flies in the face of "one man, one vote"—that in 1968 some 616,000 people in Connecticut who gave Hubert Humphrey eight electoral votes, were wiped out by 261,000 people in South Carolina who gave Richard Nixon eight electoral votes.

But what about this notion that the electoral college protects black political power? In 1976 blacks voted overwhelmingly for Jimmy Carter in Illinois, Indiana, Michigan and California—but every black vote was nullified, because every electoral vote in these states went to Jerry Ford.

In Indiana, only four times in history have black votes from Indianapolis, Gary and other cities "counted," because in all other elections (including all since 1964) Indiana's electoral votes have been cast opposite the state's black vote.

For Jordan, Williams and others to talk about the nine states mentioned above is to ignore the fact that, because of the Voting Rights Act, the South is the area of resurgent black political power.

Blacks in the South have really been shafted by the electoral college. Ever since heavy registration took place beginning in 1965, black Southerners have voted about 9-to-1 for Democrats, but until 1976 the "winner-take-all" provision of the electoral college wiped out black votes. In 1968, 593,000 Southern blacks voted for Humphrey, but all the electoral votes went to Wallace. In 1972 a million black votes in the South were recast by electors for Richard Nixon.

If Vernon Jordan and others will look at the record, they will see that this elitist electoral college scheme (which was predicated on the assumption that ordinary Americans need an elector to check and perhaps overrule their judgment) is no protector of minorities. Then they will stop letting the foes of electoral progress hide behind the pretense that they are looking out for "those poor black folk."

Mathematics/Computer Science,
Wilkes College,
Wilkes-Barre, Pa. June 22, 1979.
Sen. Birch Bayh,
363 Russell Senate Office Bldg.,
Washington, D.C.

Dear Senator Bayh: In response to your inquiry, let me summarize my findings concerning the likelihood of a divided verdict in a Presidential election, i.e., an election in which one candidate wins in the Electoral College while the other wins the popular vote. As you know, any decision concerning retention of the Electoral College system must take account of quantitative estimates of the many subtle effects of this method of choosing the President. Detailed documentation of these conclusions are published in "Empirical Estimates for the Likelihood of a Divided Verdict in a Presidential Election," which appeared in the journal Public Choice, Vol. 33 (1978), pp. 127–133.

My analysis, based on the state by state voting records for the period 1900–1976 indicates that in a race as close as the Carter-Ford contest, the likelihood of a divided verdict is about 23 percent. If the election is as close as the Kennedy-Nixon race, this likelihood is about 47 percent. Based on a more recent portion of the data, namely the period 1952–76, the corresponding likelihoods are 46 percent and 11 percent.

Thus, whereas the likelihood of a divided verdict has decreased somewhat as more states have come to reflect national trends, it is still very substantial and for very close elections remains near 50 percent. Furthermore, the relationship between this likelihood and voting patterns is so subtle that we have no assurance that this likelihood will not increase in the future.

In a 3-way election with Electoral strength distributed in the proportions of the election of 1968, the probability that the popular vote winner fail to win the Electoral College is 63 percent (if based on 1900–76 data) and 56 percent (if based on data for only 1952–76).

For the national bonus plan, now under consideration by a subcommittee of the House Judiciary Committee, a similar analysis indicates that the likelihood of a divided verdict in races as close as the two described above would be about 3 percent (Carter-Ford) and about 11 percent (Kennedy-Nixon), respectively. Although the national bonus would, of course, reduce the likelihood of a divided verdict, it would by no means prevent it.

I am also enclosing a copy of a letter which I sent to each member of the House Judiciary Committee's Subcommittee on Monopolies and Commercial Law, which is currently considering the national bonus plan. A similar letter was sent to the members of the Task Force on the Reform of the Presidential Election Process sponsored by the Twentieth Century Fund.

I hope that this material can be of use to you in the coming debate.

Sincerely,

Samuel Merrill III,
Associate Professor of Mathematics/Computer Science.

Enclosures.

Neal Paisley The People's President

CHANCES OF A MISFIRE

Despite the apparent tendency of the electoral count to inflate a winner's margin of victory, the fact is that on any close election, the disparity between popular and electoral votes can easily cause the man who lost the popular vote to win in the electoral college. In fact, in the seven Presidential elections in which the leading candidate had a popular-vote lead of less than 3 percentage points over his closest competitor, the electoral college has elected the "wrong man"—the popular-vote loser—in two instances, or almost 30 percent of the time.[1]

Careful analysis shows that the danger of an electoral college misfire is not just historical but immediate in any close contest. In fact, only sheer luck has saved the nation from the choice of the popular-vote loser in the electoral college in several recent elections. These dangers lurking in the dual count system emerged clearly from a statistical analysis of Presidential voting patterns commissioned for this book and prepared by Charles W. Bischoff of the Department of Economics, Massachusetts Institute of Technology. The experience of the past 50 years, Bischoff concluded, shows that in an election as close as that between Kennedy and Nixon, there is no better than a 50–50 chance that the electoral vote will agree with the popular vote as to the winner. When the leading candidate has a plurality of about 500,000 (or 0.57 percent, based on a 70-million-vote turnout), the verdict would still be reversed about one time in three. Even a plurality of 1 to 1½ million votes (a percentage point lead of 1.1 to 1.7) would provide not quite three chances out of four of winning the election, and a 2-million-vote plurality might not suffice one time out of eight. Projected 40 years hence (to the election of 2008), when the voter turnout will probably be at least 140 million, even a 1-million-vote plurality will fail to elect the popular vote winner in one election out of three. A plurality of 2 to 3 million votes will not quite provide three chances out of four of winning the election. A 4-million-vote plurality may still fail to elect the winner in one election out of eight.

Bischoff counsels that it is not possible to make precise probability statements because the chance of a reversal depends in substantial measure on the particular candidate and the particular political climate in which an election takes place. For instance, as long as the South remained solidly Democratic, the Democratic party almost invariably needed more than 50 percent of the national major-party popular vote to win an election—a result of large Democratic pluralities in Southern voting, which in effect were "wasted" because they could not increase the region's electoral votes.

But Bischoff was able to arrive at some fascinating conclusions about the elections of recent decades by assuming various shifts in the popular votes between the two leading candidates in each contest. These conclusions, in turn, cast light on the possible problems of the next decades, regardless of what the exact political conditions of the time may be.

Bischoff's method postulated a range of uniform shifts in the percentages of popular votes received by major party candidates in each election. The impact of these assumed shifts on the electoral vote results was then calculated for each election. In 1948, for example, Truman received 52.38 percent of the major-party vote. If his vote had been reduced by 1 percent, he would have received 51.86 percent of the major-party vote (52.38 percent less 1 percent of 52.38 percent, or .5238 = 51.86 percent). The method further assumes that the percentage reduction occurred uniformly in each state, with a corresponding increase in the popular vote for the opposing major-party candidate—in this example, Dewey—in each state.[2] Minor-party votes in each election were assumed to remain unchanged. In the 1948 example, the question may then be asked, would Truman still have won in the electoral college? The answer is "no," for with a reduction of 1 percent of his vote total in all states, Truman would have lost Ohio, California and Illinois—three of the states he carried by the narrowest margins. This would have left him with only 225 electoral votes and would have given Dewey 267 electoral votes and the election. By repeating this experiment with different percentages, Bischoff discovered the minimum percentage of the major-party vote needed by each party to win an electoral college majority in the elections between 1920 and 1964:

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[1] The elections included in this count are 1844, 1876, 1880, 1884, 1888, 1916 and 1960. The two which clearly "misfired" were those of 1876 and 1888. The count excludes the election of 1824, when Jackson ran 10.3 points ahead of Adams in the rather incomplete national popular-vote count, yet lost in the electoral college.

[2] Bischoff notes that some assumption about the distribution of the reduced vote is needed and that this symmetrical assumption seems to be the *most reasonable* one to make.

MINIMUM PERCENTAGE OF MAJOR-PARTY POPULAR VOTE NEEDED TO CARRY THE ELECTORAL COLLEGE

	Needed by Democrats	Needed by Republicans
Year:		
1920	51.34	48.66
1924	50.36	49.64
1928	48.75	51.25
1932	50.14	49.86
1936	52.25	47.75
1940	51.71	48.29
1944	51.36	48.64
1948	52.24	47.99
1952	50.32	49.68
1956	49.71	50.29
1960	49.82	50.31
1964	48.67	51.38

It is interesting to note that with growing two-party competition in the South, the Republicans have lost the comparative advantage they enjoyed up to the early 1950s. If the year 1960 could be taken as a norm for elections in the immediate future, the parties would seem to be on a fairly even footing in terms of the percentage of the vote they need to win election.

But it would be incorrect to assume that the haphazardness of the system depends only on phenomena like solid-party voting in the South. Bischoff concludes that the more important, and perhaps more permanent, feature of the system depends on the existence of strong two-party systems in the large states of the Union like New York, California and Illinois. As long as these states are likely to swing either way, thus throwing large blocs of electoral votes into one column or the other, the electoral college will often fail to reflect the popular vote in a close election. By rearranging and summarizing the data in the table above, Bischoff developed this chart showing the number of electoral vote victories each party would have enjoyed at set percentages of the national vote in the 12 elections since 1920:

ELECTIONS WON BY EACH MAJOR PARTY SINCE 1920 ASSUMING THE SPECIFIED DIVISION OF MAJOR-PARTY POPULAR VOTES [1]

	Democratic Victories	Republican Victories
Division of Major-party vote:		
Democratic 52.5% (5% Point Lead)	12	0
Democratic 52.0% (4% Point Lead)	10	2
Democratic 51.5% (3% Point Lead)	9	3
Democratic 51.0% (2% Point Lead)	7	5
Democratic 50.5% (1% Point Lead)	7	5
Democratic 50.4% (0.8% Point Lead)	7	5
Democratic 50.2% (0.4% Point Lead)	5	7
Tie Vote	4	8
Republican 50.2% (0.4% Point Lead)	3†	†8
Republican 50.4% (0.8% Point Lead)	2	10
Republican 50.5% (1% Point Lead)	2	10
Republican 51.0% (2% Point Lead)	2	10
Republican 51.5% (3% Point Lead) (or greater)	0	12

The dangers of electoral defeat the Democrats faced in every close election, even when they won the most votes, are clear from the figures. But even with the advantage the Republicans generally enjoyed because of the Democrats' "wasted" popular votes in the one-party South, the Republicans would have lost from a third to a fifth of the elections in which they received from 50.2 to 51.0 percent of the total popular vote.

The American public may have failed to notice the haphazard nature of the electoral college because of the "runaway" nature of many recent elections. But almost any halfway reasonable electoral system, Bischoff notes, can elect the right man in a landslide election. The times in which a good electoral system is needed are precisely those times in which it does make a difference—that is, in close elections. With spirited two-party competition in every region of the country, there is every possibility that the nation may experience a string of close elections like those of the 1870s and 1880s. And if history and mathematics can be our guide, the country will run a high chance of electoral disaster in every such election.

Let the Voters Choose the President

The Senate will vote on Tuesday on a motion to curtail debate on a constitutional amendment that provides for the election of the president by popular vote. The motion should be passed. Its purpose is to focus debate on the electoral college by getting rid of extraneous riders. That is as it should be: The issue is important enough to be taken up seriously and alone.

The popular vote amendment has been sitting around Capitol Hill for more than 10 years. One version passed the House in 1970 but died in a Senate filibuster. The current version is now threatened by an effort on the part of its opponents to add to it their own pet constitutional amendments, like the one to balance the budget. The idea is that such excess baggage will drag down and defeat this effort to abolish the electoral college.

In one sense, this amendment embodies the most radical change ever proposed to the Constitution. It would eliminate state boundaries as a factor in the election of the president and give the choice directly to the voters for the first time. Under its terms, the presidential candidate who gets the most votes will be elected, regardless of where those votes come from. If no candidate gets 40 percent of the total, a runoff would be held between the top two candidates. This system was recommended by the Senate Judiciary Committee after 42 days of hearings over several years during which many alternative proposals were considered.

There are those who regard this as a formula for political chaos. Charges of fraud and demands for recounts could delay the decision on who had won a close national contest, they say. Or, many serious candidates might make the race every four years, instead of two or, occasionally, three. Candidates would ignore the small states and focus on population centers. Voters would lose an important sense of citizenship in a state.

Ranged against this are two strong arguments. The first is that a vote cast for president ought to count for the same value whether it is cast in North Dakota or New York; but it does not when small states have proportionally more electoral votes than large states. The other is that until the electoral college is abolished, the country will run the risk every four years of electing a president who has finished second in the popular vote. These are the best reasons that the Senate should vote cloture on Tuesday and approve the direct-election amendment itself later in the week.

Questions and Answers on Direct Election of the President

Question 1. Would direct popular election weaken the two-party system?

Answer. Whatever the historical reasons for the initial appearance of two parties on the American political scene, most political scientists are agreed that its continued existence is due mostly to the fact that in the United States political contests are decided in single-member districts. In other words, in an election there is but one prize to be won. The electoral mechanics of the single member district, in terms of its effect on the party system, are such that they tend to force factions to combine in order to be certain of capturing a popular vote plurality and victory. Since direct popular election would not affect the nature of the Presidency, and it would remain a single member office, there is little likelihood of direct election splintering the parties.

Conversely, the simplest way to splinter the parties would be to offer a share of power to factions in proportion to their relative strengths. Direct popular election, unlike other proposed changes in how we elect our Presidents, would avoid the prospect of multiple parties by offering only one prize, thus maintaining the incentive to coalesce around the two major parties.

In addition, S.J. Res. 28 proposes a 40 percent plurality requirement as a further safeguard against a proliferation of the parties. The 40 percent requirement would encourage potential splinter groups to continue to operate within the framework of the two-party system, since no minor party could reasonably hope to win 40 percent of the total popular vote. Its role as a spoiler would be limited, since if by itself or even in aggregate with other minor parties it is able to keep both leading parties from achieving 40 percent of the vote, its ability to deliver popular votes to one of two remaining candidates, is doubtful and there are no tangible rewards to be gained as a result of forcing a runoff.

On the contrary, the Electoral College encourages and rewards both regional and spoiler candidates. A regional candidate such as George Wallace in 1968 is well able to gather enough electoral votes to prevent an Electoral College majority, thus putting himself in the position of being able either to broker his electors, or to become himself a candidate in the House of Representatives. The spoiler candidate such as Eugene McCarthy in 1976 is able with a small number of votes to switch the entire bloc of votes in a state. Had McCarthy stayed on the ballot in New York, it is entirely possible that he might have changed the outcome of the national election with less than 1 percent of the popular vote.

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[1] The preceding chart, which was developed by applying uniform percentage shifts to the votes of each party, showed the percentage of the popular vote that would have given it a bare majority in the electoral college in each election. The chart on this page simply "adds up" the number of elections either party would have won at any set percentage of the national popular vote. For instance, there were seven elections when the Democrats needed 51.0 percent *or less* of the popular vote to win the election—1924 (when they needed only 50.36 percent), 1928 (48.75 percent), 1932 (50.14 percent), 1952 (50.32 percent), 1956 (49.71 percent, 1960 (49.82 percent) and 1964 (48.67 percent). But in five other elections, the Democrats needed *more* than 51.0 percent of the popular vote to win, and thus would have lost, even if they had polled that much—1920 (when they needed 51.34 percent), 1936 (52.25 percent), 1940 (51.71 percent), 1944 (51.36 percent) and 1948 (52.24 percent). Therefore the fourth line on this chart, which assumes that the Democrats had received 51.0 percent in *all* elections between 1920 and 1964, shows that in that event, the Democrats would have won seven elections and the Republicans five. The notation of a percentage-point lead on the chart is simply a translation of the absolute percentage-point figure. If a party has 51.0 percent of the major-party vote, the other party has 49.0 percent—2.0 points less.

† One election would have gone to the House of Representatives for decision.

If splinter parties were to survive under direct popular election, it would become necessary for them to expand their political base and become, in effect, national parties. Traditionally, political organizations are based on state and local foundations. For a party to have true viability, it must be able to compete for county sheriff, commissioner, mayor, congressman and governor, as well as for the Presidency.

Direct popular vote can actually strengthen meaningful grass roots political organization. Under the present system, there is little incentive to increase the margin of victory or decrease the margin of defeat in any given state, because a candidate receives the state's entire electoral vote whether the popular vote margin is one vote or one million. In an election by direct popular vote, every precinct committee-man in each party would know that every extra vote registered and cast would actually count in the national total. This system would in reality increase the incentive to vote and strengthen meaningful political activity.

Question 2. What effect, if any, would direct popular election have on our federal system of government?

Answer. Direct popular election is perfectly consistent with the constitutional principle of federalism, which recognizes the dual existence of the states and the national government as separate entities. The Presidency, within this constitutional framework, is a *national* office, and the President, in fact as well as in theory, is *the Chief Executive of all the people*. Therefore, the choice of a President should rest with all of the people. It should be remembered that James Madison, the major architect of the federal structure, himself preferred direct election.

As former Senator Mike Mansfield pointed out in a statement urging the abolition of the electoral college:

"The Federal System is not strengthened through an antiquated device which has not worked as it was intended to work when it was included in the Constitution and which, if anything, has become a divisive force in the Federal System by pitting groups of states against groups of states. As I see the Federal System in contemporary practice, the House of Representatives is the key to the protection of district interests just as the Senate is the key to the protection of State interests as State interests. These instrumentalities, and particularly the Senate, are the principal constitutional safeguards of the Federal System, but the Presidency has evolved, out of necessity, into the principal political office . . . for safeguarding the interests of all the people in the states. And since such is the case . . . the Presidency should be subject to the direct and equal control of all the people."

Question 3. How would direct popular election affect the distribution of political power between large states and small states and between urban voters and rural voters?

Answer. Some spokesmen for urban America have claimed that we should retain the present electoral system because it represents "the only effective hold on power that the urban population centers have in the federal government today." On the other hand, some spokesmen for rural America have stated that the present electoral vote formula, which entitles each state to as many electoral votes as it has Senators and Representatives, inflates the voting power of the citizens of the smaller states. Such is the dichotomy of the large state-small state argument. In all fairness, both sides of this argument are theoretically correct.

The ratio of electoral votes to population indicates that the smaller states have a mathematical voting advantage under the present vote formula embodied in Article II of the Constitution. This theoretical advantage, however, is offset by the effects of the unit rule. Under the unit rule, all of the state's electoral votes are awarded to the candidate who wins a popular vote plurality—regardless of whether the plurality is one vote or a million votes. The consequence of this "winner-take-all" system is that Presidential campaigns and political power are concentrated in the large, closely contested urban states, where entire state blocs of electoral votes can be won by the narrowest of margins. The campaign strategists are keenly aware that the candidate who carries the 11 most populous states and the District of Columbia is elected President even if he is soundly defeated in the remaining thirty-nine states. In those elections where the large electoral vote states divide evenly, the mathematical advantage of small states can become an effective advantage. In those elections where the large electoral vote states gravitate towards the same candidate, the practical advantage of the unit rule for the large states becomes self-evident.

Direct popular election's greatest merit is the fact that it eliminates all of the weighted factors in the election process. Regardless of the statistics of any given election, the direct popular vote removes any political advantage that urban groups or rural groups may find in the present system. Under direct election, the unit of voting is the individual vote. Each vote would count the same regardless of where it is cast. Therefore, it is the individual who would benefit from direct popular election.

There can be no denying that a community or a state with large numbers of residents would have greater political impact under a popular vote plan than a less populous neighbor. But under direct popular vote each community the same size would have the same influence on the electoral process. This is not the case under the present electoral college system. Today's political campaigners stop in Oakland, California and ignore Omaha, Nebraska, of similar size. The reason is California's large electoral vote.

Under direct popular election each vote counts the same; communities of one thousand, ten thousand or five hundred thousand people will have the same effect on the outcome of the election as any other community the same size—whether in a large state or a small one.

Question 4. Would popular election work to the disadvantage of minority groups?

Answer. Under direct election, every vote counts the same, and no person is advantaged or disadvantaged. The argument that the Electoral College advantages minorities is built on the theory that large electoral vote states are favored by the present system, that blacks and other racial and ethnic groups are heavily concentrated in those states, and are, therefore, also advantaged by being able to "swing" these large blocs of electoral votes. This argument overlooks several realities. Blacks, for example, are slightly underrepresented in the largest states, averaging 9.6% of the population in these states, and 9.7% of the nation as a whole. Therefore, their power is not diluted in the national vote but remains a powerful fraction of the total as able to influence an election on the national scene as in a state.

Where blacks are heavily concentrated is in the Southern states, generally considered disadvantaged under the Electoral College by most analysts. The black vote in the South, with the exception of the 1976 race and a southern candidate, has been consistently "wasted" since the southern states' blocs of electoral votes have gone contrary to the choice of the black community. Some 2,122,896 black votes have been wasted in the South in presidential elections since the enactment of the Voting Rights Act.

The disfranchisement effect of the Electoral College also works to the detriment of blacks in the large Northern states. Some 944,745 blacks saw their votes in effect recast for President Ford in 1976 in Illinois, California, Michigan, and New Jersey, with no change to pool their votes across state lines with other black votes.

The Jewish population is at present concentrated in the largest states, but studies show it to be dispersing to the South and Midwest. Therefore, whatever special advantage the Jewish community may have had in New York because of its size (12% of the state's population) is eroding. Like the black community, Jewish voters tend to vote as an identifiable group.

Question 5. Would popular election produce delayed results, and lead to uncertainty because of recounts?

Answer. The vote counting mechanics of direct popular election would be exactly the same as those now used in statewide elections for Governors and United States Senators. The separate states would have the primary responsibility. The essential requirements of an accurate and speedy vote count have been met in thousands of direct elections throughout the United States. In New York and California millions of popular votes are cast and tabulated without difficulty. There is no reason why similar requirements cannot be met in the election of the President. In fact, with the ever increasing use of mechanical vote counting devices, the whole election process is likely to become more streamlined.

In any close election, regardless of the system used, a recount is a possibility. The pertinent question here is, would the chances of a recount be greater, or increase the uncertainty of final outcome to a greater degree under direct election than is the case today under the electoral college system.

Those concerned with a popular vote recount envision a recount of 70 million votes, starting at vote one and proceeding to vote 70 million. A more realistic procedure would give each state the responsibility of conducting its own recount. Of course, Congress would have to establish the regulations governing this procedure, including the criteria which would have to be met to qualify a state for a recount. Then all of the states granted a recount would proceed to recount their votes during the same time interval. Thus, from a practical standpoint, the time required for a popular vote recount under direct election would be the time required to recount the votes in one state.

How does this compare with the recount problem under the electoral college system? Clearly, the possibility of a recount exists under the present system whenever the electoral vote tally is likely to be close—particularly where the change of a few popular votes in one of the major states can change a large bloc of electoral votes from one candidate to another.

In 1960, a recount was conducted in Hawaii, and whereas Nixon had been adjudged the winner in the initial return, Kennedy was determined the final victor by recount. The final outcome in Hawaii was not forthcoming until the last part of December.

Question 6. What about the incentive for fraud under direct popular vote?

Answer. Opponents argue that direct popular election will increase the temptation for widespread voting fraud. In truth, however, it is the present system that encourages voting irregularities because a handful of fraudulently procured popular votes can determine the outcome of a large bloc of electoral votes. Who can forget Illinois in 1960, where charges and counter-charges of a stolen election were freely exchanged? Under direct election, fraud—if it did occur—would affect only the actual number of popular votes involved. It would not, as under the present system, produce a distorted statewide result.

Question 7. Will direct popular election mean federal control and regulation in each precinct?

Answer. Under the provisions of S.J. Res. 28, the places and manner of holding elections and regulations governing inclusion on the ballot would be prescribed, in the first instance, by state legislatures subject to a reserve power in Congress. The primary responsibility would be with the states. This procedure parallels the provisions of Article I, Section 4 of the Constitution, governing the election of Representatives and Senators.

S.J. Res. 28 specifies that qualifications for voting in Presidential elections should be the same as those for voting in Congressional elections. The qualifications for voting for members of Congress, as spelled out in Article I, Section 2 of the Constitution, are actually set by state law, since they are tied to the qualifications necessary to vote for members of the "most numerous branch of the state legislature." In the event that at some later date the disparity in age and residency requirements among states would present a significant problem, the power is reserved for Congress to seek uniformity in these two areas. But the major thrust of S.J. Res. 28 is to permit the states to set the qualifications for voting in Presidential elections and also to run the election process, as is now the case in Federal elections which choose Senators and Representatives to serve in the Congress of the United States.

Question 8. Which electoral reform plan has the greatest opportunity for acceptance by the Congress and the people?

Answer. Gallup and Harris polls taken in 1977 both showed that over three-quarters of the people polled responded favorably to a direct election. Regional statistics were uniformly high.

An impressive number of national organizations have carefully reviewed the electoral question and declared their support for the direct election plan. Among these are the American Bar Association, the U.S. Chamber of Commerce, the AFL–CIO, the League of Women Voters, Common Cause, the United Auto Workers, the National Federation of Independent Business, the National Small Business Association, the American Civil Liberties Union, and Americans for Democratic Action.

A strong majority of State legislators have indicated in polls, the most recent taken in 1979, that they, too, favor direct election, and would vote to ratify such a plan.

The direct election plan passed the House overwhelmingly in 1969 but became enmeshed in a Senate filibuster and was never voted on in the Senate.

Question 9. Under the direct popular election, won't the ten largest states be able to dictate the outcome? Would direct election produce regional presidents?

Answer. Only if we make the unrealistic assumption that every voter in the ten largest states will vote for the same candidate. This has never happened. In fact, the large states are precisely those where election results are the most evenly divided.

Regional presidents are no more likely under direct election than under the Electoral College. It has been shown above that the Electoral College can, in fact, encourage a regional candidate, as in the George Wallace race in 1968. The election of 1888 is the only example that can be produced where popular voting strength from one region would have produced a popular vote winner over an Electoral College winner, and in that case as in all races following the end of Reconstruction well into this century, the pluralities in the South were greatly exaggerated by the almost total disfranchisement of blacks. In fact, in 1888, the Electoral College magnified the effect of this disfranchisement in Southern states by giving Grover Cleveland 27% of the electoral vote, and only 11% of the popular vote.

Opponents of S.J. Res. 28 sometimes charge to the contrary that direct election could produce a President who did not win a majority of votes in any one state. Such an assertion must assume that the election is between three or four strong parties, since experience with direct election for offices within the states shows that the vast majority of races are quite close. For example, in all the governors' elections in the last years, only % have produced a plurality of over 70%, indicating that it is highly unlikely that any presidential candidate could amass the kinds of pluralities in some states to allow large numbers of low plurality states.

Question 10. Would the district plan, the proportional plan, the automatic plan, or the bonus plan correct the flaws in the present system?

Answer. In terms of more accurately reflecting the popular will, the district plan represents no improvement over the present system. In effect, it merely shifts the "winner-take-all" formula and its attendant inequities from fifty statewide elections to electoral districts. In 1952, for example, the district system would have so distorted the popular will that President Eisenhower's 55.1 percent of the popular vote would have produced 70.6 percent of the electoral vote. Or, to use another example, President Johnson's 61.8 percent of the popular vote in 1964 would have given him 86.6 percent of the electoral vote under the district plan. It is important to remember that these distortions are built into the district plan and could easily produce a President who was not the first choice of the American people.

The main defect of the district system is that it completely discounts the size of the vote and the margin of victory. The winner is not necessarily the candidate with the most votes.

The proportional plan, it is true, would provide us with a more accurate reflection of the popular vote than either the present system or the district plan, but it still could not guarantee the election of the popular choice. A computer study revealed, for example, that a Presidential election decided by 500,000 votes (in 1968 the margin was 499,704) had a 25 percent chance of backfiring under the proportional plan and producing a minority President.

Under very easily imagined circumstances, the proportional plan could produce exactly the kind of result we find so unsatisfactory in the present system. If one candidate won most of his or her electoral votes in the small, safe states, and the large states were fairly evenly divided, the popular vote winner likely would be the electoral vote loser. In fact, this is exactly what would have happened in 1896 had the proportional system been in effect for McKinley captured 51.1 percent of the popular vote, and Bryan 46.7 percent of the nationwide total. By dividing each state's electoral vote proportionally, however, Bryan would have emerged as President.

The proportional plan, in addition, would have the very undesirable effect of stressing the value of one party states and rewarding states with low voter turnouts. More radically, by retaining the "constant two" electoral votes but eliminating the unit rule, small states would benefit greatly, while large states lost any countervailing advantage they now receive under the Electoral College.

The automatic plan acts to cure only one of the flaws of the Electoral College, the faithless elector. All other inequities remain—different weights given to votes accordingly solely to the state in which they happen to be cast, the chance of a winner with less votes than his opponent, the rewards given to states with low turnout. Further, for the first time the winner-take-all rule would be incorporated into the Constitution.

The bonus plan is in effect a direct popular election, accomplished through very complex means. The bonus of 102 extra electoral votes to the popular vote winner virtually assures that the candidates with the greatest number of popular votes wins. From the practical viewpoint of a presidential campaign, considerations of popular votes would almost entirely overcome interest in acquiring a large plurality of electoral votes. Studies have shown however, that the chances of a divided verdict still remain, even if only 11 percent in the election as close as the Nixon-Humphrey race of 1960.

The unnecessary complexity of the bonus plan has the added disadvantage of allowing a candidate with a low popular mandate to win, in the event that there should ever be a strong three or more party field. The magnifier effect of the Electoral College most apparent in close state races would provide an adequate electoral vote base to provide an Electoral College majority along with the extra 102 electoral votes granted to a popular vote winner with perhaps only 30 percent of the national vote.

The only system which guarantees that the President will be the candidate who receives the most votes is the direct popular election proposal.

Question 11. What is the purpose of the 40 percent run-off provision of S.J. Res. 28 Doesn't this increase the chance of a Presidential run-off?

Answer. Quite the contrary. The purpose of the 40 percent provision is to minimize the chances of a run-off and strengthen the traditional two-party system of our political structure. To have true viability, a minority party must seek to affect the outcome of the election by preventing either majority party from winning in the first election. To accomplish this goal under a 40 percent provision, a minority party would have to capture at least 20% of the popular vote. However, if a majority of the popular vote was required to win, even a relatively insignificant splinter party could prevent a final decision in the event of a closely divided popular vote between the two major parties.

We are searching for a system that has the maximum amount of credibility and certainty. Americans have become accustomed to accepting the credibility of a President who received less than a majority of the popular vote (i.e. Nixon, Kennedy, Truman, Wilson). But reason would dictate that there is a floor of nationwide support below which a President's credentials would be seriously questioned. Forty percent of the popular vote seems, historically, to represent a reasonable line of demarcation. In fact, only one President in history received less than 40% of the popular vote. In 1830 Abraham Lincoln received only 39.76% of the popular vote, but his name was omitted from the ballot in ten states.

Thus, it would seem that the 40% popular vote level meets the necessary minimum of national support required for presidential credibility. In addition, the chance of an election producing results in which one of the candidates received less than this figure, thus necessitating a run-off, is relatively remote.

THE ELECTORAL COLLEGE BIASES REVEALED: THE CONVENTIONAL WISDOM AND GAME THEORY MODELS NOTWITHSTANDING

(By Carleton W. Sterling)

(NOTE: This paper is an offshoot of a project originally supervised and encouraged by Theodore Lowi. Special thanks is also owed to Lawrence Longley for encouragement of my alternative approach. Revision of earlier drafts was facilitated by useful comments from Alan Stone, Roger Durand, John Roos, Peri Arnold, and Judith Sterling. My appreciation also to Carmella Rulli and the faculty typing pool at the University of Notre Dame.)

Many political scientists contend that the electoral college system of electing the President has important policy consequences which adoption of direct election would eliminate. It is argued that the present system makes presidential policy more welfare-oriented and generally liberal by giving disproportional weight to the votes of big city and ethnic minority voters in the large states. This thesis is so widely accepted in the political science discipline that I will join Lawrence Longley in terming it "conventional wisdom." This paper challenges the validity of the conventional wisdom and the game theory models of power used to support an otherwise basically impressionistic analysis of the biases in the electoral system.[1]

Spokesmen for the conventional wisdom have pointed to the selection of Presidents supposedly more liberal than their own party members in Congress. Although the different character of presidential as compared to congressional policy positions may be attributable to the President's national leadership role and interstate constituency, the conventional wisdom assumes that the modification of popular voting by the electoral college system is a crucial factor. Given the multiplicity of influences on the formation of presidential policies, it would be reckless to attempt to assess directly the relative output of liberal policies from the White House under direct election as opposed to the present system. A more cautious approach is to examine whether voter coalitions that might support liberal policies have disproportional influence in presidential elections under the current rules.

The basic features of the current system are familiar to most American political scientists. The Constitution apportions electoral votes to states according to their representation in both houses of Congress, with the District of Columbia apportioned the same electoral votes as the smallest state. Two major party tickets usually dominate competition for control of the electoral votes. The states have, with some qualifications, each adopted a winner-take-all system awarding the state's entire bloc of electoral votes to the leading presidential ticket in the state-wide popular vote.[2] Although orginally entrusted to the states, the definition of the electorate has been virtually standardized throughout the nation. Direct election of the President would eliminate the present electoral apportionment and the bloc voting by states and give the presidency to the ticket with the most popular votes nationally. Provisions for contingent or run-off elections are outside the scope of this analysis.

This paper will examine the conventional wisdom about liberal policy consequences of the current system which rests on the thesis that liberally oriented groups are disproportionally concentrated in the large politically competitive states. Determining possible policy consequences of the electoral system requires a comprehensive analysis of the interaction of a complex set of biases, including electoral vote apportionment, bloc voting by states, and the distribution of voter coalitions. Impressionistic essays that characterize much of the traditional literature on the electoral system fail to reveal the net effect of the biases. The conventional wisdom now claims the support of mathematical models derived from game theoretic analysis resting on probability theory. Although game theory models of analysis tend to dominate recent literature on the electoral college biases. I will argue that failure to recognize their inherent limiting assumptions has misled political scientists to see these models as confirming the conventional wisdom. I will present an alternative model suited to analyze the interaction of the electoral rules with policy-oriented coalitions in testing the conventional wisdom's claims about the policy consequences of the current electoral system. This analysis will reveal that large state voters are not necessarily advantaged politically and that voter coalitions based on liberals, ethnics, and city residents can not count on exercising disproportional power under the present system, and thus such groups have no selfish interest in retaining the current system.

LARGE STATES' GAME THEORETIC POWER

The first game theoretic analysis of the impact of the electoral college rules was directed at examining the impact of electoral apportionment combined with bloc voting by states. Small states have disproportional electoral vote strength because of the apportionment of a constant two votes to each state regardless of size, but students of politics have suspected that power is not directly proportionate to electoral strength, and casting votes in state blocs might give large states a disproportional chance to affect elections. To support this intuitive judgment, indices of the relative electoral power of the states based on the electoral apportionments and bloc voting by states were developed by Lloyd S. Shapley, William Riker, Martin Shubik, Irwin Mann, and other game theorists.[3] In their approach, each state's electoral power is defined as its relative chance of contributing electoral votes essential for an electoral majority to one of two competing coalitions. Considering all the ways in which the states can be divided into two groups, if one state contributes essential votes to a majority coalition twice as frequently as another state, then the first state is treated as having twice the power of the second. Because of all the permutations of state coalitions in a two-coalition system, computing the relative probabilities of states being decisive to a majority requires the aid of high-speed computers. Mann and Shapley computed these probabilities and normalized the relative power of each state to create an index of power suitable for comparison with the electoral strengths of each state.[4] Based on the 1960 census, New York with 45 electoral votes had a Mann-Shapley power index of 47.6. Similar results for other apportionments demonstrate that the large states are slightly more likely to cast essential electoral votes than their apportionment would suggest. This bias due to bloc voting by states, however, does not come close to offsetting the small state bias of the constant two votes apportioned each state regardless of size.[5] As Shapley and Shubik note, New York in 1960 had 15 times the electoral votes of Nevada, not quite 17 times the electoral power index, but more than 40 times the population.[6]

THE THEORETIC POWER OF LARGE STATE RESIDENTS

The power indices of states developed by Shapley et al., based on a state actor model of voting, do not support the proposition of a large state bias on the basis of bloc voting by states. An extension of their analysis to the theoretical power of individual voters, however, is used to suggest that voters associated with the populous states are disproportionately powerful despite the bias against them in the apportionment. The greater theoretical power of large state residents has been argued by John F. Banzhaf III, who presented a power index of the relative probabilities that individual voters could cast a decisive ballot in electing the President.[7] The Banzhaf index is based on computing for each state the product of the probability that a single voter will cast a decisive vote for one of two tickets in his state and the probability that his state will cast the decisive electoral votes for one of two national tickets. The probability of a single voter being decisive to a majority in his state is calculated by using the binomial distribution to find the chance of an exactly even division of an even numbered population when each member of the population is equally likely to join either of two coalitions. Whenever an even numbered population splits in half, an additional odd voter will cast the decisive vote. The theoretic probabilities are the same as an even split between heads and tails of a "fairly" tossed population of coins. The chance of an even split, allowing the extra odd voter to cast the decisive ballot, obviously must decline with the increase in the size of the population. The trick is that the relative probabilities will not decrease precisely proportionate to the population. Indeed, the probability of an even split is inversely proportional to the *square root* of the population considered a phenomenon inherent in the central limit theorem of probability distributions.[8]

As state populations increase, the electoral power of states increases at a faster rate than the decrease in the relative chance of an individual deciding control of his state. When these two measures are combined as a product in the Banzhaf index, the constant two bias is very quickly overwhelmed. Treating the 1960 census population by states as "citizen-voters," Banzhaf calculates that residents of the (then) largest state, New York, had a power index of 3.312 times that for residents of the District of Columbia.[9] This widely cited ratio may overstate the indexed "power" of large as opposed to small states because of the peculiar apportionment of the District of Columbia. Nevertheless, the very largest states have power indices about twice that of the least populous states. Banzhaf asserts that his calculations support the thesis that President must be "particularly sensitive to the needs of urban minority groups."[10]

The Banzhaf indices were given wide credence as providing evidence for a large state bias beneficial to urban minority groups.[11] The relative probabilities of single voters deciding a presidential election, however, tells us nothing about effective political power. Individual voters under the Banzhaf model can not have useful power because their chances of affecting the outcome of a Presidential election alone are ridiculously small. The power index can not measure the collective influence of groups under the electoral system because, under the random voting assumption of the Banzhaf model, each vote must be statistically independent. Electoral power as calculated by Banzhaf is not reflective of electoral strength that can be bargained with in popular elections because it rests on the assumption that coalition formation is a random, not policy-conscious, phenomenon.

Footnotes at end of article.

THE ELECTORAL POWER APPLIED TO GROUPS OF VOTERS

While the Banzhaf model treats voting as a random variable with one outcome as likely as the other, political scientists are more interested in what happens when voters join together in non-random coalitions. In an accompanying comment to the "One Man, 3.312 Votes" article, Neal Price, the foremost critic of the electoral college system, observed that whatever the theoretical individual power of a voter, he has an interest in joining a coalition that cuts across state lines.[12] Pertinent as this observation is, it does not go far enough. It leaves unchallenged the unwarranted inference drawn from the Banzhaf model that the large state voters contribute more to their chosen coalitions than the small state voters. Many proponents of the thesis that the electoral rule favors groups associated with the big states incorrectly accept the Banzhaf model as confirming their intuitive judgment, because they implicitly assume that aggregating voters aggregates their power as measured by the indices. They ignore the clear warning provided by the state actor model that when votes are aggregated to the state level, the bias of the Banzhaf model evaporates and the constant two factor reasserts itself as shown by Shapley et al.

Lawrence Longley, a major scholarly critic of the electoral college, rightly sought to test the interaction of the electoral rules with the distribution of potential voters. With John Yunker, he modified the Banzhaf model to seek measures of the relative power of various demographic groups that cut across state lines. The groups whose population distributions they examine are blacks, blue-collar workers, foreign stock, urban, central city, suburban, rural farm, and rural non-farm residents. The Longley-Yunker model conforms to the implicit assumption that groups of voters can bring their individual electoral power of the Banzhaf model with them into a voting coalition. They simply multiply each group's state population by the respective state's individual electoral power index created by Banzhaf and sum over all the states. Dividing these presumed measures of each group's total electoral power by its total population, they claim a per capita index of power for each group. Comparing these indices, they report substantial but not unqualified support for the conventional wisdom because urban and central city as well as foreign stock populations have higher measures of "power" as they calculate it. Blacks who are associated with the medium-sized states of the South has a relatively low power index, and suburban voters being associated with central cities by census definition have a high index of power. Substituting voting data for population, they report, reaffirms the power of metropolitan and large-state voters.[13] The Longley-Yunker model fails to assess group power, however, because it violates its own assumptions. The Banzhaf model is an integral part of their model of voting, but they assume that members of particular groups will tend to vote together, while the Banzhaf model assumes that the behavior of every voter is statistically independent. Because these are incompatible assumptions, the power of a group can not be treated as the sum of the respective probabilities that each of its members will alone decide an election.

ANALYZING CORE COALITIONS

Aggregating demographic groups to assess their power is a reasonable prerequisite to testing the conventional wisdom, as Longley suggested. What is needed is an analysis that retains Longley's assumption about groups voting as coalitions avoids the error of incorporating the assumption that voting choice is a random phenomenon. We should consider what assumptions would be both reasonable and useful for analyzing what groups seem best distributed for affecting elections under the rules, if they were to combine their votes. Suppose, as an illustration, that we knew the proportion of Catholics in each state population and wished to calculate Catholic voting power under a model of the electoral rules that treated the nation's population as the electorate, and assumed that the Catholic population would vote as a single bloc. Assuming that Catholics vote as a bloc for one of two competing tickets, we need some reasonable and useful assumptions about how non-Catholics might vote. It is unreasonable to assume nothing about non-Catholic voting and treat their votes as randomly cast because non-Catholic votes would be expected to split fairly evenly and the Catholic bloc would always control elections. It is useless to assume that non-Catholics vote as a bloc whenever Catholics vote as a bloc because then the Catholic minority would lose every election. We must devise reasonable and useful assumptions allowing us to evaluate the effect of population distribution on the structure of political competition. It is reasonable to assume that a strong tendency of Catholics to vote together will tend to drive many non-Catholics into the opposing coalition, but that some non-Catholics might have reasons for allying with the basically Catholic coalition. Thus a Catholic coalition could compete by broadening its appeal to some members of the majority group. To compete against its opposition, the basically Catholic coalition must extend its appeal until it has attracted enough non-Catholic support to approach an electoral majority. Because we have not specified any particular groups likely to join the Catholics in a voting coalition, it will be assumed that non-Catholics defect to the basically Catholic coalition at a constant rate throughout the country. If the basically Catholic coalition can expand to control an electoral majority before it reaches a popular majority, then it would enjoy a favorable distribution of support under the present system. The smaller the share of the popular votes needed for one of the coalitions to carry an electoral majority the greater the distributional bias in its favor.

The mechanics of identifying distributional biases affecting various demographic groups under the assumptions of this model of coalition formation can be illustrated by examining the distribution of Catholic population among the states in the 1970s as a proportion of the 1970 total census population.[14] In the first column of Table 1 below, the states are ranked according to the proportional population strength of Catholics in descending order. The percentage of Catholics in each state, listed in the second column, represents the proportion of "citizen-voters" in each state providing the core support for a national coalition contesting an opposition based on non-Catholics. With only the core supporters, the Catholic coalition can control the electoral votes of only Rhode Island and Massachusetts. As non-Catholic voters are added to the core supporters at a constant rate in each state, the Catholic coalition will pick up additional states in the order listed in the table. We are concerned with the critical point at which the coalition can carry an electoral majority, which under the 1970 census apportionment requires at least 270 votes. As each state enters the Catholic-based coalition it contributes it apportioned electoral votes listed in column three. Column four shows the accumulated electoral votes after each state has swung into the coalition. Accordingly, Ohio is identified as the pivotal state for the Catholic coalition, providing the last votes essential to the electoral majority. Because the Catholic coalition needs to carry only 19 of the 51 states it is disproportionally strong in the populous states, which the conventional wisdom holds are crucial to winning electoral majorities. With the Catholic core coalition mustering only about 21.8 percent of the popular vote in the pivotal state of Ohio, it would require the addition of another 28.2 percent of the state's voters or about 36.0 percent of the non-Catholic voters. Because the analysis assumes that a core coalition will pick up the same proportion of non-Catholics nationwide, the coalition will add 27.4 percent of the voters (36 percent of the non-Catholic 76 percent of the nation's "citizen-voters") Adding non-Catholic supporters totaling 27.4 percent of the nation's voters to the total Catholic vote of 24.0 percent creates a coalition containing 51.4 percent of the nation's voters. By the same token, the opposing coalition requires only about 48.6 percent of the nation's voters to swing Ohio's twenty-five votes into its coalition for a non-Catholic based electoral majority.

TABLE 1.—CATHOLIC "CITIZEN VOTERS" (POPULATION) TREATED AS THE CORE SUPPORTERS OF A MINIMAL WINNING COALITION

Ranked States (1)	Percentage Catholics (2)	Electoral votes (3)	Cumulative electoral votes (4)
1. Rhode Island	63.707	4	4
2. Massachusetts	53.390	14	18
3. Connecticut	45.570	8	26
4. New Jersey	39.327	17	43
5. Louisiana	35.510	10	53
6. New Hampshire	35,481	4	57
7. New Mexico	35.121	4	61
8. New York	34.801	41	102
9. Wisconsin	34.265	11	113
10. Vermont	33.868	3	116
11. Illinois	31.997	26	142
12. Pennsylvania	31.731	27	169
13. North Dakota	27.711	3	172
14. Maine	26.623	4	176
15. Minnesota	26.150	10	186
16. Michigan	25.802	21	207
17. California	23.076	45	252
18. Arizona	22.751	6	258
19. Ohio	21.845	25	283
20. Nebraska	21.417	5	288
21. Delaware	20.902	3	291
22. Nevada	20.461	3	294
23. South Dakota	20.382	4	298
24. Montana	19.183	4	302
25. Texas	18.974	26	328
26. Iowa	18.684	8	336
27. Colorado	18.380	7	343
28. Missouri	16.325	12	355
29. Florida	15.509	17	372
30. Kansas	14.224	7	379
31. Alaska	13.941	3	382
32. Indiana	13.828	13	395
33. Washington	13.688	9	404
34. Oregon	13.574	6	410
35. Wyoming	13.548	3	413
36. District of Columbia	12.674	3	416
37. Maryland	11.519	10	426
38. Kentucky	10.691	9	435
39. Idaho	8.919	4	439
40. West Virginia	5.497	6	445
41. Hawaii	5.471	4	449
42. Virginia	5.162	12	461
43. Utah	4.885	4	465
44. Oklahoma	4.152	8	473
45. Mississippi	3.729	7	480
46. Arkansas	2.867	6	486
47. Alabama	2.674	9	495
48. Tennessee	2.674	10	505
49. Georgia	2.150	12	517
50. South Carolina	1.962	8	525
51. North Carolina	1.540	13	538
United States	23.966	538	538

Footnotes at end of article.

According to the projections, the Catholic population would appear unfavorably distributed because a coalition based on its core support would require more national popular votes than its opposition for an electoral majority. The bias against the Catholic distribution is apparent in comparing Catholic strength in the pivotal state with its national strength. So much of its voter strength is expended in its strongest states, that by the time it reaches the pivotal state under the present apportionment, it is left with a smaller percentage of the voters than its nation-wide strength. Assuming that the same rate of shift toward the Catholic coalition in the pivotal state applies to the national voters merely helps us identify the magnitude of the bias. Once the percentage of the popular vote needed for both coalitions is identified, we can express the relative advantages for the two coalitions as a "swing" bias of 1.4 against the Catholic-based coalition. A swing of 1.4 percent of the votes from the position of voter coalitions of equal popular strength is necessary to reach the pivotal point for each majority electoral coalition. The percentage that each coalition requires above or below the equal division of the popular votes will differ if different states are pivotal for each coalition, which occurs when electoral deadlocks are possible either because of potential ties or the withholding of some electoral votes from both major coalitions. In anticipation of an analysis of biases affecting actual presidential contests when third parlar votes needed by each of two major coalities may withhold electoral votes from the principal coalitions, I define the swing bias more precisely as the mean difference between the percentages of major-party poputions for its electoral majority. In this case, the swing bias is $(51.4-48.6)/2=1.4$, which identifies the relative bias against the first coalition compared to the second coalition.

Applying the procedure illustrated with Catholic population distribution to the nine demographic groups whose collective power Longley attempted to measure, contradicts Longley's conclusion that the conventional wisdom on the whole correctly identifies the groups advantaged by the present system. Table 2 below lists the percentages of the census population of the various groups, the percentages projected for minimal winning coalitions, and the swing biases using the same 1960 and 1970 data employed by Longley.[15] The first four of the nine groups in Table 2 display biases in the expected directions, unfavorable to the rural groups and favorable to the urban and metropolitan groups. But the swing biases against the two rural-based coalitions decline suspiciously toward almost zero between the two census dates. The urban group is favorably distributed, but we must beware that the census defines urban areas to include what city people would consider "small towns" as well as the "central cities" with populations over 50,000. The Standard Metropolitan Area residents are very well distributed under the projections, but a claim of a "metropolitan" area bias with policy consequences in the system requires the assumption that metropolitan voters would form the core support of a single coalition, while we know that big city and suburban voters actually tend to support opposing coalitions. Moreover, when the central city and suburban populations are separately analyzed, neither is found favorably distributed in the measures for either 1960 or 1970. Using the population measures suggested by Longley, blue-collar workers and foreign stock population were not favorably distributed in either year. Black population was unfavorably distributed in both 1960 and 1970, which Longley also contends.

TABLE 2.—BIASES IN THE DISTRIBUTION OF LONGLEY-YUNKER'S SELECTED DEMOGRAPHIC GROUPS IDENTIFIED THROUGH PROJECTIONS FROM CORE COALITIONS

Group	Percentage population		Percentage for minimal winning coalition		Swing bias + value indicates disadvantage		Projected pivotal States 1960, 1970
	1960	1970	1960	1970	1960	1970	
Rural farm	7.5	4.1	51.0	50.1	1.0	0.1	Michigan, Texas.
Rural nonfarm	22.6	22.4	50.3	50.1	.3	.1	Wisconsin, Missouri.
Urban	69.8	73.5	48.1	49.7	−1.9	−.3	Maryland, Michigan.
SMSA	63.0	68.6	48.0	46.6	−2.0	−3.4	Florida, Texas.
Central city	32.3	31.4	50.5	50.7	.5	.7	Pennsylvania, Wisconsin
Suburban	23.2	29.1	51.3	49.7	1.3	.3	Nevada, New York.
Foreign stock	19.0	16.5	50.5	51.4	.5	1.4	Arizona, Oregon.
Black	10.5	11.1	51.3	51.1	1.3	1.1	Ohio, Ohio.
Blue collar	9.3	9.5	50.3	50.0	.3	0	Tennessee, Missouri.

These measures of distribution bias, it must be stressed, do not measure the effectiveness of particular groups when added to coalitions of other specified groups. The measures treat each group as the core of a coalition and then test for the distributional effect by augmenting or reducing national popular strength until a minimal electoral majority is identified. It can not be assumed that combining groups that are identified as favorably distributed as the core of their respective coalitions will produce a favorably distributed group. Each group voting as a bloc must first be specified and then the bias of its distribution can be calculated by projecting either defections or accretions of strength. Thus, one should not claim that because the swing bias favored a particular group that the group is disproportionally important in actual coalition building. The advantage of a particular group's distribution will depend on the voting preferences and the distribution of everyone else in the electorate. Applying the model to the various population groups suggested by Longley and Yunker does demonstrate the very different results achieved when we abandon models based on random voting and begin to incorporate information about what groups might form coalitions. Not only do the biases not confirm the conventional wisdom, but the biases are revealed as so unstable relative to their small size from one census to the next that they can not warrant the argument that any particular population groups have a stake in preserving the present electoral rules for future elections.

DISTRIBUTION BIASES AFFECTING ACTUAL COALITIONS

My tests of the biases inherent in the population distributions of various groups took no account of actual voter turnout rates nor the actual appeal of presidential tickets to various voters, but the projections of core coalitions are readily applicable to actual voter coalitions. Indeed, the model for identifying distributional biases in core coalitions actually approximates the way partisan coalitions have expanded and contracted over a series of elections, as Louis Bean demonstrated in his study of the relationship between state and national voting.[16] The essential assumptions of the core coalition model are also inherent in Charles Bischoff's analysis of the vulnerability of popular pluralities to electoral college upset presented in *The People's President* by Neal Peirce.[17] Despite its ability to test distributional biases, this approach has been largely ignored in recent scholarly evaluations of the conventional wisdom in favor of game theory models relying on probability distributions.

Application of the core coalition analysis to actual competitive coalitions will demonstrate that the biases in translating popular votes into electoral strength have been modest and unstable during the period of Democratic-Republican two-party competition. Extension of the analysis will show causes for the swing bias other than state size. Finally, it will be argued that the system can not be expected to favor either large state residents, urban minority groups or liberal policy preferences. This analysis will draw on the official election returns since the Civil War for contests in which the major voter coalitions were sufficiently competitive so that less than 5 percentage points separated their relative popular vote strengths nationally.[18] Part A of Table 3 indicates that in only two of these eleven elections, 1876 and 1888, was the swing bias sufficient to upset the popular count favorite. However, in three other elections, 1880, 1960, and 1968, the projected biases were large enough to upset the apparent popular favorite but the biases coincidentally supported the more popular ticket. Thus, although electoral college upsets of popular vote favorites are not frequent, the danger of such upsets was not limited to the nineteenth century when they actually occurred. The oscillation in the magnitude of the swing bias confirms the earlier observation of the instability of the pattern of advantages for voter coalitions. There is one systematic aspect to the pattern of biases in actual elections, however. From 1876 through 1948 the swing bias measured to a tenth of a percentage point never favored the Democrats. Thus, Republican coalitions were immunized against electoral upset of their popular pluralities during this period, while two Democratic tickets suffered electoral upsets of their national population pluralities. Later, it will be argued that the pattern of biases can no longer be expected to favor one political party over another.

Footnotes at end of article.

TABLE 3.—BIASES IN NATIONAL VOTER COALITIONS' CONTROL OF ELECTORAL VOTES ANALYZED THROUGH PROJECTIONS FROM CORE SUPPORTER COALITIONS BASED ON 2-PARTY SUPPORT IN THE 10 MOST COMPETITIVE ELECTIONS SINCE THE CIVIL WAR

Year	(1) Actual national voter percent 2-party voters		(2) Percent 2-party voters projected for each major party's winning coalition		(3) "Swing" Bias (Democrats percent—Republicans percent)/2 +value favors Republicans —value favors Democrats	(4) Projected pivotal States (Democrats Republicans)
	Democrats	Republicans	Democrats	Republicans		
A. Biases relative to major parties:						
1876[1]	51.5	48.5	51.8	48.2	1.8	South Carolina (both).
1880[2]	49.9	50.1	50.8	49.2	.8	New York (both).
1884	50.1	49.9	50.1	49.9	.1	Do.
1888[1]	50.4	49.6	51.0	49.0	1.0	Do.
1892	51.7	48.3	50.1	50.1	0	Illinois, New York.
1896	47.8	52.2	50.2	49.8	.2	Ohio (both).
1916	51.6	48.4	51.4	48.6	1.4	California (both).
1948	52.3	47.7	52.1	48.1	2.0	California, Illinois.
1960[2]	50.1	49.9	49.8	50.3	−.2	Missouri, New Jersey.
1968[2]	49.6	50.4	51.2	49.1	1.0	Illinois, Ohio.
1976	51.1	48.9	50.2	49.8	.2	Wisconsin (both).

[1] Distribution of popular votes gave electoral majority to runner-up in the popular vote count.

[2] Swing bias was larger than popular vote plurality but favored the leader in the popular vote count and so prevented an electoral college upset.

Year	(1) Projected number of States in winning coalition		(2) Net "bonus" votes + value favors Republicans — value favors Democrats	(3) Percent 2-party voters projected for each party under population apportionment		(4) "Swing" Bias under population apportionment + value favors Republicans — value favors Democrats	(5) Projected pivotal States under population apportionment for Democrats, Republicans
	Democrats	Republicans		Democrats	Republicans		
B. "Bonus" votes for major parties and swing bias controlling for constant 2 factor:							
1876[1]	18	21	6	50.3	49.7	0.3	Connecticut (both).
1880	22	17	−10	50.8	49.2	.8	New York (both).
1884	20	19	−2	50.1	49.9	.1	Do.
1888	20	19	−2	51.0	49.0	1.0	Do.
1892	19	23	8	50.1	50.1	0	Illinois, New York.
1896	27	19	−16	50.2	49.8	.2	Ohio (both).
1916[1]	29	20	−18	51.9	48.1	1.9	West Virginia (both).
1948[2]	27	19	−16	52.1	48.1	2.0	California, Illinois.
1960[2]	21	31	20	49.7	50.3	[3] −.3	New Jersey[2] (both).
1968	19	30	22	51.2	49.2	1.0	Illinois, New Jersey.
1976	23	29	12	50.2	49.8	.2	Wisconsin (both).

[1] Elimination of constant two votes would have altered actual election outcome.

[2] Elimination of the constant two factor would have altered the "swing" bias, but not the outcome of the election.

[3] Calculated by crediting all of Alabama's electoral votes to the Democratic national ticket. If only the electors actually voting for the Kennedy-Johnson ticket are counted, then New Mexico is pivotal for the Democrats. However, the "swing" bias is not noticeably changed measured to the nearest tenth of a percentage point.

Year	(1) Percent voters in States essential to winning coalition for each major party under population apportionment		(2) Apportionment "swing" (percent in Democratic States—percent in Republican States)/2 + value favors Republicans — value favors Democrats
	Percent votes in Democratic States	Percent votes in Republican States	
C. Malapportionment against voters and the distribution of partisan pluralities (national percentage of major party votes cast for both major party tickets in the States composing each projected minimum winning coalition under apportionment based on State populations):			
1876	49.5	51.9	−1.2
1880	52.6	59.7	−3.5
1884	51.1	60.4	−4.6
1888	47.8	63.9	−8.1
1892	42.5	67.3	−12.4
1896	47.5	59.9	−6.2
1916	48.6	53.0	−2.2
1948	51.3	65.6	−7.2
1960[1]	47.7	65.3	−4.3
1968	57.6	56.0	.8
1976	50.3	52.2	−1.0

[1] Calculated by crediting all of Alabama's electoral votes to the Democratic national ticket; counting only the electors who actually voted for Kennedy-Johnson would project a new pivotal state and the "swing" bias for population apportionment would drop modestly to −4.0.

This analysis not only allows the identification of the pattern of electoral bias in actual election contests, but it can help identify the sources of the biases. Although the conventional wisdom stresses a large state bias, there is obviously a small state bias in the apportionment. Coalitions get a bonus of two electoral votes for each state they carry regardless of size. This augments the electoral strength of coalitions appealing disproportionately to small-state residents. Part B of Table 3 gives the number of states in each major party coalition that would be needed to carry an electoral majority given the relative vote distributions in the eleven competitive elections since the Civil War. It also gives the net bonus votes for the projected coalition whose winning majority would draw on more states. The projected bonus votes have favored the Republican coalitions since 1960, a pattern which is likely to continue given the disproportionate Republican strength in the Plains and Mountain states. In the period from 1896 through 1946, the Democratic coalition had a clear advantage among the smaller states. In most of the close elections since the Civil War, however, the bonus votes provided no advantage. This is because, with bloc voting by states, a sufficiently large pivotal state can deliver enough votes to offset the net bonus votes available to the opposition. This effect can be demonstrated by calculating the swing bias that would pertain in the absence of the constant two votes, that is with an apportionment based on representation in the lower house of Congress. Comparing minimum winning coalitions under the actual and the population apportionments, the same states would be pivotal for each voter coalition in six of the eleven elections. Thus the swing bias, which is based on coalition strength in pivotal states, was not affected by the bonus vote in these elections. In two elections, 1948 and 1968, population apportionment would have altered the swing bias, but by less than a tenth of a percentage point. In 1960 the constant two votes affected the swing bias slightly favorable to the Republicans but it could not completely offset the biases of other aspects of the electoral system which favored the 1960 Democratic coalition. Nevertheless, bonus votes can be crucial in close elections, as in 1876 and 1916. In 1876 the winning Republican coalition required all six of its bonus votes to upset the popularly favored Democratic ticket even after all twenty disputed electoral votes were awarded to the Republicans. In 1916, the slim Democratic majority depended on bonus votes without which other biases in the system were sufficient to elect the Republican ticket, which trailed somewhat in the popular vote count. The constant two factor is not the most important bias in the present system and has never been responsible for upsetting a popular vote favorite. Nevertheless, contrary to the conventional wisdom, voter coalitions are vulnerable to electoral upset of popular pluralities to the extent that they are overdependent on the votes of the more populous states.

Other than the sporadically active small-state bias, the net swing bias derives from the relative pluralities of winning tickets in each state and the relative turnout for the competing tickets throughout the states. Measured to a tenth of a percentage point, the swing bias, for a population apportionment, never favored the Democratic voter coalitions in the close elections of 1876 through 1948. This persistent bias relates to the peculiar nature of voting in the South where, beginning in 1876, blacks were driven from the electorate and a one-party system rallied voters around the banner of white supremacy. Overconcentration of popular support in the South meant that the Democratic coalition had fewer popular votes available to contest for essential electoral votes elsewhere. The wastefully large pluralities provided by the southern wing of the Democratic party led Nelson Polsby and Aaron Wildavsky to conclude that direct election would shift political power dramatically to the South.[19]

The Polsby-Wildavsky thesis of southern disadvantage under the present system requires qualification. First, the South's wastefully large pluralities were at least partly offset by the apportionment based on state population. The one-party system provided very limited popular participation, yet the South cast the same share of electoral votes regardless of how few of its citizens voted. The partisan advantage of apportionment independent of voter turnout is illustrated in Part C of Table 3. Column (1) presents the share of the two-party electorate contained in states essential for the major coalitions under a population apportionment to control for the constant two bias. Column (2) gives the swing from an unbiased division of the voters in states essential for the major coalitions. This swing is not directly comparable to those presented in Parts A and B because the partisan impact of the apportionment swing is discounted by the extent of competition across state coalition lines. Thus if both partisan tickets split state electorates fairly evenly in all states, then each coalition would expend approximately the same number of popular votes to carry an essential bloc of electoral votes regardless of the apportionment. The swing measured in Part C gives the partisan impact that is approached as competition within the states declines toward zero with virtually all voters in a state supporting either one coalition or the other. With that caveat, the swing favorable to the Democratic coalition grows quite large with the end of Reconstruction, although fluctuating from election to election.[20] It declines in value and loses its pro-Republican bias after the 1960 election with the civil rights revolution. The apportionment for population rather than voters thus affected southern power precisely when the South was casting large pluralities for the Democratic tickets. This bias combined with the asymmetry of partisan pluralities across the states (i.e., one party laden with excessive state pluralities more than the other) accounts for the biases in the electoral system beyond the constant two factor. Table 4 shows that Polsby and Wildavsky correctly indicated the traditional direction of the net bias against the coalition supported by the South, but their focus on the asymmetrical pluralities ignoring apportionment relative to voters mistakenly suggested a greater bias against southern strength than actually existed. Moreover, Polsby and Wildavsky have mistakenly relied on past voting patterns to project the future effects of direct election, while the one-party exclusionary system upon which their analysis rested was dissolving. In 1960 for the first time in the series of elections examined, the swing bias shifted in favor of the Democratic coalition. The three-generation pattern of bias based on black exclusion must be considered past, and we must now expect that the distributional biases will fluctuate in a not readily predictable manner. This is precisely the fluctuating pattern identified by applying the core coalition analysis to hypothetical coalitions based on demographic data.

TABLE 4.—IDENTIFICATION OF PIVOTAL STATES IN 1960 AND 1968 WITH STATES SUPPORTING MAJOR PARTIES RANKED BY DEMOCRATIC PERCENTAGE OF 2-PARTY VOTES

1960

Ranked States	Percent Democratic votes	Electoral votes	Cumulative votes
Louisiana	63.814	10	10
Rhode Island	63.628	4	14
Georgia	62.561	12	26
Massachusetts [1]	60.358	16	42
Alabama	57.657	[2] 11	53
Arkansas	53.822	8	61
Connecticut	53.731	8	69
Maryland	53.614	9	78
West Virginia	52.733	8	86
New York [1]	52.636	45	131
North Carolina	52.109	14	145
South Carolina	51.238	8	153
Pennsylvania [1]	51.164	32	185
Nevada	51.162	3	188
Mechigan	51.010	20	208
Texas [1]	51.010	24	232
Delaware	50.821	3	235
Minnesota	50.716	11	246
New Jersey [1]	50.402	16	262
New Mexico	50.370	4	266
Missouri	50.258	13	279
Illinois [1]	50.091	27	306
Hawaii	50.031	3	309
California [1]	49.725	32	341
Alaska	49.959	3	344
Washington	48.780	9	353
Montana	48.744	4	357
Florida	48.485	10	367
Wisconsin	48.135	12	379
Oregon	47.378	6	385
Virginia	47.249	12	397
Ohio [1]	46.716	25	422
New Hampshire	46.582	4	426
Kentucky	46.409	10	436
Tennessee	46.381	11	447
Idaho	46.215	4	451
Utah	45.180	4	455
Colorado	45.114	6	461
Wyoming	44.985	3	464
Indiana	44.765	13	477
North Dakota	44.547	4	481
Arizona	44.415	4	485
Iowa	43.251	10	495
Maine	42.952	5	500
South Dakota	41.786	4	504
Vermont	41.350	3	507
Oklahoma	40 980	8	515
Kansas	39.280	8	523
Nebraska	37.929	6	529
United States	50.087		537

(The State of Mississippi firmly withheld its 8 electoral votes from either major coalition.)

1968

Ranked States	Percent Democratic votes	Electoral votes	Cumulative votes
District of Columbia	81.181	3	3
Rhode Island	66.829	4	7
Massachusetts [2]	65.706	14	21
Hawaii	60.719	4	25
Minnesota	56.565	10	35
Maine	56.216	4	39
West Virginia	54.881	7	46
Michigan [1]	53.752	21	67
New York	52.901	43	110
Connecticut	52.751	8	118
Pennsylvania	51.947	29	147
Washington	51.143	9	156
Maryland	50.962	10	166
Texas	50.781	25	191
Missouri	49.361	12	203
New Jersey [1]	48.817	17	220
Ohio [1]	48.705	26	246
Alaska	48.501	3	249
Illinois [1]	48.399	26	275
California [1]	48.336	40	315
Wisconsin	48.037	12	327
Delaware	47.977	3	330
Oregon	46.770	6	336
Kentucky	46.228	9	345
New Hampshire	45.742	4	349
Nevada	45.295	3	352
Vermont	45.210	3	355
Montana	45.114	4	359
Colorado	45.019	6	365
South Dakota	44.061	4	369
South Carolina	43.735	8	377
Iowa	43.502	9	386
New Mexico	43.393	4	390
Florida	43.284	14	404
Indiana	43.032	13	417
Virginia	42.838	12	429
Tennessee	42.583	11	440
North Carolina	42.528	13	453
North Dakota	40.597	4	457
Oklahoma	40.149	8	465
Utah	39.623	4	469
Arizona	38.998	5	474
Wyoming	38.909	3	477
Kansas	38.763	7	484
Idaho	35.058	4	488
Nebraska	34.716	5	493
United States	49.595		538

(5 States firmly withheld their combined 45 electoral votes, from either major coalition. They were Alabama, Arkansas, Georgia, Louisiana, and Mississippi.)

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[1] 9 States with the largest blocs of electoral votes in the 1960 election and containing a majority of the nation's population.

[2] 6 members of the Democratic ticket in Alabama were not loyal to the national ticket; however, the same states remain pivotal without those votes under the actual apportionment.

The failure of the conventional wisdom to explain correctly the biases in the electoral system is most dramatically evidenced by the election of 1968. Both the Kennedy and Humphrey Democratic voter coalition was generally strongest in the large industrial states with the support of big city and ethnic voters who exercise disproportional influence in presidential elections according to the conventional wisdom. In 1968 the Democratic convention was shorn of its disproportional southern support and thus was even more dependent on the big-city northern groups which the conventional wisdom asserts are especially effective in presidential elections. If these groups cast disproportional weight, it should have produced a Democratic advantage in 1968, but projecting the swing bias indicates a modest Democratic advantage in 1960, which shifts to a strong disadvantage. Both Democratic coalitions were more popular in the populous states but they were also more dependent on big-state support than the Republicans. Interestingly, Humphrey apparently improved on Kennedy's support generally in the large industrial states despite running behind in the relative popular vote contest nationally. Kennedy won only 51.1 percent of the two-party votes in the nine biggest states which contained a majority of the nation's population in 1960, while Humphrey won 51.4 percent of the two-party votes in these same states.[21] Nevertheless, Kennedy won seven of these nine states for 180 electoral votes compared to only five states with 128 votes for Humphrey because Kennedy's popular strength was far better distributed within the large states, a phenomenon that is unrecognized by the conventional wisdom about distributional biases. An examination of Table 4 suggests some of the problems with Humphrey's distribution in the big states. Although nationally somewhat less popular than Kennedy relative to Nixon, Humphrey picked up relative popular support in five of these nine states and lost support in four. The largest changes in relative Democratic support between 1960 and 1968 brought increased Democratic support in Massachusetts and Michigan, where additional support was superfluous. Humphrey ran slightly behind Kennedy in Illinois and New Jersey, which cost him those two states. Since better distribution within these states alone would have blocked the election of Richard Nixon, Humphrey's over-concentration of support in some of the largest states facilitated the election of Nixon.

Table 4 clearly indicates that Kennedy's election in 1960 depended in large part on his ability to carry large blocs of electoral votes by very slim margins compared to Nixon's generally more substantial margins. Part of this is accounted for by the highly competitive voting in the large states when the national voting is highly competitive. Paper thin majorities are efficient in carrying electoral votes with minimum popular support but they are also vulnerable to upset with very slight changes in the behavior of the electorate.

With the Democratic coalitions of 1960 and 1968 remarkably similar in the ordering of the state pluralities except in the South, it appears that Humphrey was the victim of the modern pattern of biases in which major parties are competitive throughout the nation, and small alterations in the distribution of coalitions can work both for and against the same basic type of voter coalition in unpredictable ways. That Humphrey was hurt mainly by the asymmetry of the state pluralities is confirmed by considering the measures based on projecting minimum winning coalitions as reported in Table 3. Comparisons of Table 3 Parts A and B indicates that the constant two bias alone in 1968 had virtually no effect on the net bias. The apportionment bias measured in Part C of Table 3 was only slightly against the Humphrey voting coalition and must be sharply discounted because of the competitiveness of the two major coalitions throughout the states. This leaves the asymmetry of state pluralities to account for the substantial net bias against the 1968 Humphrey coalition.

METHODOLOGY AND THE STUDY OF POLITICS

This analysis of electoral college biases, which challenges the conventional wisdom, is based on projecting the divisions of the popular votes critical to electoral majorities for major presidential tickets. Readers have asked why these projections from core coalitions are any more revealing than indices based on probability models of voting. Recapitulating, the advantage of the core coalition analysis is that it can measure the biases of the opportionment and bloc voting by states as they interact with the essential makeup of voter coalitions. The projections of major voter coalitions at the critical points at which electoral majorities are mobilized by assuming a constant rate of popular defection of state voters toward the electorally weaker coalitions reveals the distributional biases controlling for coalition size. This control uncovers distributional biases that would otherwise have been overlooked either because of their small size relative to the popular plurality or their coincidental support of the popularly favored coalition. Analyzing both actual and hypothetical voter coalitions revealed the vulnerability of all nationally competitive voter coalitions to electoral college upset of small popular pluralities. Even slight shifts in the composition of a coalition could convert a favorable into an unfavorable bias at the same level of popular strength. The system generally favored the Republican coalitions from 1876 (given the official vote count) through 1948. Because the persistence of this pattern was associated with pre-modern noncompetitive voting in the South, future upsets of popular pluralities could as easily affect either party. This analysis has not attempted to measure directly the relative importance of components of major coalitions because the impact of any group on the strength of its coalition depends on the voting of other groups. Thus, it may be said that black voting "swung" the 1976 presidential election and the associated popular vote count to Jimmy Carter, but the ability of blacks to cast a decisive bloc of votes depended on their being added to a sufficiently large Democratic vote of non-blacks.

Electoral college models based on the binomial probability distribution that purport to measure the relative power of various components of the electorate are purely theoretical; they are not applicable to actual non-random voter coalitions and they reveal nothing about the way the electoral college impacts on the strength of any group of voters. Once it is assumed that voters within each state are equally likely to support either of two coalitions it is logically impermissible also to assume voting according to known political alliances. Because of their employment of these incompatible assumptions, the Longley-Yunker indices are not measures of relative group power as they purport to be. Assuming random voting, each state electorate is expected to split fairly evenly foreclosing any measurable bias for coalitions due to apportionment or asymmetrical pluralities. Thus the electoral power models based on random voting are mathematical games irrelevant to the appeal of various tickets mobilizing particular groups in a non-random fashion. The electoral indices based on these games are in no way measures of political power.

Mathematician Guillermo Owen, in defending the game theoretic approach, states that "from a theoretical (constitutional) point of view, the inequities reflected in the Shapley or Banzhaf values are more serious than those which are due to voting patterns, i.e., that constitution writers should avoid the Shapley inequities more seriously than they should avoid the others."[22] Suggesting that considerations of the distribution of group strength should be subordinated to mathematical "equity" under random voting in establishing electoral systems is political naivete of the highest order. More important, the fundamental issue in dispute is the validity of the conventional wisdom's assumption that particular groups are favored by the present system.

The probability models of the electoral college have received so much attention because they appear to supply rigorous mathematical analysis of the relative power of particular groups. Once random voting is assumed, the distribution of power (relative chances of affecting outcome) across the states can be calculated by high-speed computers according to indisputable mathematical principles. The key assumption of random voting, which excludes information about politically likely distributions of voter coalitions, escapes sufficient challenge because the resulting indices accord with the conventional wisdom of the disproportional advantage of large state voters.

Proponents of the conventional wisdom have been overawed by the pivotal states and decisive pluralities without considering the core coalitions that determine what states and voters can claim to swing elections between coalitions. They thus tend to load all policy consequences on the voters in the pivotal states where the major coalitions are most competitive. Such spokesmen for the conventional wisdom as Wallace Sayre and Judith Parris are so impressed by the small pluralities they see swaying decisive blocs of electoral votes under the present system that they predict that direct election would dramatically shift the attention of presidential contenders toward the less competitive states with important policy consequencies.[23] They apply no rigorous test of their impressionistic judgment and thus overlook the impact that the shift of a coalition's policy appeal to the less politically competitive states might have on voters in states that are now highly competitive. The game theoretic models based on probability distributions, which seem to test rigorously the impressionistic judgments of the conventional wisdom, suffer the same fundamental methodological flaw. They focus on "decisive" voters in "pivotal" states to the exclusion of underlying interstate coalitions. The core coalition analysis corrects for this flaw by examining the distribution of entire coalitions.

The symbiotic relationship of the conventional wisdom and the game theoretic models appears in recent discussions in the *American Political Science Review*, where analysis based on probability models is used to confirm the conventional wisdom. In the *APSR*, Stephen Brams and Morton Davis present a model of electoral college biases measuring the probabilities of "uncommitted voters" swaying to particular tickets once the basic appeals of the tickets have been established.[24] Brams and Davis assume that all committed voters are evenly split between two competing tickets and these committed voters compose the same proportion of the electorate in each state. Having excluded any possibility of biases in the distribution of committed coalitions, they assume that the probability of each uncommitted voter supporting each ticket is solely based on the relative allocation of campaign resources between the competing tickets in each state. With these assumptions, they conclude that electoral support is maximized by devoting disproportional campaign resources to the more populous states. The best strategy for presidential tickets with equal campaign resources divisible among the states, they argue, is to allot these resources to the states in the ratio of

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Footnotes at end of article.

their populations raised to the 3/2 power. It is important to recognize that this analysis depends on the binomial distribution except that the probability of each uncommitted voter's supporting a ticket is not necessarily $p = .5$ as Banzhaf assumes, but some other specified probability depending on relative campaign resources. Nevertheless, Brams and Davis are measuring the same fundamental phenomenon of probability distributions related to size of populations as did Banzhaf. Not surprisingly, Brams and Davis report an index of 2.92 for the relative attractiveness of voters in the largest state as campaign targets based on the 1970 census, which is comparable to Banzhaf's power index of 3.312 for the relative power of the largest state's residents based on the 1960 census.

Under the aegis of the conventional wisdom, Brahms and Davis conclude that the attractiveness of large state "urban" voters gives "disproportional weight to the attitudes and opinions of the voters of these states."[25] No one has noted that voters with any special attitudes or opinions would tend to commit themselves to particular coalitions and thus fall outside the terms of the Brams and Davis model, which treats only "uncommitted voters" swaying according to the expenditure of campaign resources. The advantage of the Brams and Davis approach is that it appears to have some empirical verification, because the actual allocation of campaign time of members of presidential tickets is better predicted by the 3/2 rule than by a simple proportional distribution among the states by population size. Ordeshook and colleagues rightly argue in rebuttal, however, that there are other reasons for expecting disproportional campaign resources to the large states than that intimated by the Brams-Davis model.[26]

Campaign managers with resources capable of attracting additional voter support in individual states independent of the general appeal of coalitions will indeed want to concentrate sparse resources in competitive states with large blocs of electoral votes, but campaign budgets are not central to policy choice. It is the underlying coalitions themselves that determine which states are so competitive that the outcome might rest on such influences as motorcade itinerary.

The alternative analysis that I have presented is suitable for analyzing the interaction of the electoral rules with policy-oriented coalitions. This politics-oriented analysis mounts a serious challenge to both the conventional wisdom and the false inferences drawn from game theory models based on specified probability distributions. The thesis that the electoral college has served the special policy interests of liberals, ethnics, and city residents is disconfirmed by this analysis. Not only do the measured biases conflict with the conventional wisdom, but they only worked in a consistent direction when constitutional rights of free political competition were violated. Granted national voter rights and trans-sectional party competition, the residual biases are too sensitive to slight shifts in voting coalitions reliably to favor particular policy-oriented coalitions.

In identifying the methodological flaws in the support of the conventional wisdom, my analysis suggests the need for caution in drawing inferences from mathematical models. This is not to argue against introducing mathematical rigor into our political analysis, because if we properly understand the assumptions inherent on a particular model, we will find warnings about inferences that are not warranted by the model. Such warnings were identified in the game theory probability models, but other scholars ignored them because the models were mathematically sophisticated and seemed to confirm the conventional wisdom. The probability models appealed to both the methodologically unsophisticated students of politics already impressed by the conventional wisdom and the game theorists who virtually treat political science as a subdiscipline of mathematics. As social scientists we must seek methodological procedures useful to our exploration of politics, but in borrowing sophisticated mathematical tools we must be wary that the attached assumptions are appropriate to our own political analysis. No matter how rigorous their structure or intuitively appealing their assumptions, models can not perform the crucial analysis themselves any more than computer routines based on models can substitute for human thought. Political scientists must give great care to constructing models useful to their purposes and interpreting the results so as to illuminate the political process outside the models.

FOOTNOTES

[1] The conventional wisdom is expounded in a Brookings Institution study, which followed a major conclave of scholars on the presidential election system, by Wallace S. Sayre and Judith H. Parris, *Voting for President* (Washington, D.C.: Brookings, 1969). Their arguments in whole or in part may also be found in Alexander M. Bickel, *Reform and Continuity* (New York: Harper and Row, 1971), pp. 4–21; Albert Rosenthal, "Some Doubts Concerning the Proposal to Elect the President by Direct Popular Votes." *Villanova Law Review* 14 (1968): 87–95; Allan Sindler, "Presidential Election Methods and Urban-Ethnic Interests," *Law and Contemporary Problems* 27 (1962): 212–33; Nelson W. Polsby and Aaron B. Wildavsky, *Presidential Elections*, 3rd ed. (New York: Scribners, 1971), pp. 258–71; and James MacGregor Burns, *The Deadlock of Democracy* (Englewood Cliffs: Prentice-Hall, 1963), pp. 302–6. This is not an exhaustive list of citations of the conventional wisdom. Further pertinent scholarship is referenced in Appendix B of the second edition of Lawrence D. Longley and Alan G. Braun, *The Politics of Electoral College Reform* (New Haven: Yale University Press 1975), also in Appendix 2 of John H. Yunker and Lawrence D. Longley, "The Electoral College: Its Biases Newly Measured For the 1960's and 1970's, *American Politics Series in Sage Professional Papers* (Beverly Hills: Sage Publications, 1976).

[2] In most recent elections one elector at least has failed to vote for the ticket he was apparently elected to support; and, starting in 1972, Maine exercised its constitutional power to allow its two congressional district constituencies to control one elector each. Such deviations from the basic rules are beyond the scope of this paper.

[3] William Riker and Lloyd S. Shapley, "The A Priori Voting Strength of the Electoral College," in Martin Shubik, ed., *Game Theory and Related Approaches* (New York: Wiley, 1964), pp. 154–64; Irwin Mann and L. S. Shapley, "Values of Large Game IV: Evaluating the Electoral College Exactly," Rand Corporation RM-3158 PR (Santa Monica, California, 1962); L. S. Shapley and Martin Shubik, "A Method for Evaluating the Distribution of Power in a Committee System," *American Political Science Review* 48 (September 1954): 787–92.

[4] The difference between a state's electoral strength and its "power" can be illustrated by a "toy" electoral system in which 31 electoral votes are apportioned among five states with the distribution (3:4:6:6:12). By examining all combinations of these states into two coalitions, it can be verified that no coalition with an electoral majority would need the votes of the smallest state to retain a majority of at least 16 votes. Essential votes are contributed by each middle state when it is allied with the largest state or when all three middle states are allied. The largest state is essential to each of the three coalitions allying it with one middle state. Thus the ratios of the states' power is (0:2:2:2:3). The Mann-Shapley power index was calculated by computing the possible orders in which the states might vote and treating as "pivotal" the last state in each permutation to contribute votes necessary for an electoral majority. Obviously, the sequence with which states cast their electoral votes has no electoral significance. However, the "pivotal state" method yields a proportional measure of relative opportunity to contribute decisive votes to an electoral majority. In our "toy" system, the number of permutations in which each state is pivotal is (0, 12, 12, 12, 18) respectively for each state. Because each order is equally probable, this yields the power ratio (0:2:2:2:3). Once the ratio for an actual apportionment is determined, each value can be multiplied by any constant as with the Mann-Shapley index. Power defined in terms of a state's bloc of votes or other weighted value actor being "pivotal" is explained in J. G. Kemeny at al., *Introduction to Finite Mathematics*, 2nd ed. (Englewood Cliffs: Prentice Hall, 1957), pp. 74–77, 108–10.

[5] This is not to suggest that small states necessarily gain useful advantage from the electoral system, because the model only measures power of isolated states with no knowledge of the politics of actual coalition formation, which will be examined further on in this paper.

[6] Shapley and Shubik, "A Method for Evaluating. . . ."

[7] John F. Banzhaf III, "One Man, 3.312 Votes," *Villanova Law Review* 13 (Winner 1968): 303–46.

[8] See John F. Banzhaf III, "Weighted Voting Doesn't Work" A Mathematical Analysis," *Rutgers Law Review* 19 (Winter 1965): 317–43. For the "inversely proportional to square root of population" effect see also Mann and Shapley, "Values of Large Games IV: Evaluating the Electoral College Exactly." The square root factor also appears in all the other probability models of voter power analyzed in this paper, which helps explain why they all suggest a large state bias.

[9] We do not criticize the Banzhaf model for treating census persons as voters. First, Banzhaf argues along the lines of the reapportionment claims where the courts interpreted "equal protection" in terms of "one census person, one unit of representation" whatever the actual wording of the slogan. Second, population is a fairly stable measure compared to voting. And for our purposes, it is reasonable to seek to identify biases in population distribution independent of actual voting, as long as we are careful not to claim too much based on population distributions.

[10] Banzhaf, "One Man, 3.312 Votes."

[11] Albert Rosenthal described "One Man, 3.312 Votes" as "brilliant" confirmation of the conventional wisdom's thesis that the electoral college compensates urban minority groups for other disadvantages within the political system. Because he attributes concern for balancing the biases of the political system to the two-to-one vote against direct election in a 1961 survey of heads of university political science departments, he also takes the Banzhaf model as apparent confirmation of the sagacity of the discipline's leaders. Albert J. Rosenthal, "The Constitution, Congress, and Presidential Elections," *Michigan Law Review* 67 (November 1968): 1–11.

[12] Neal R. Pierce, "Comment," *Villanova Law Review* 13 (Winter 1968): 342–46.

[13] Lawrence D. Longley and Alan G. Braun, *The Politics of Electoral College Reform* (New Haven: Yale University Press, 1972), pp. 96–128; Lawrence D. Longley and John H. Yunker, "The Biases of the Electoral College: Who Is Really Advantaged?" in Donald R. Matthews, ed., *Perspectives on Presidential Selection* (Washington, D.C.: Brookings, 1973), pp. 172–203; and Yunker and Longley,

"The Electoral College: Its Biases Newly Measured for the 1960s and 1970s."

[14] The distribution of Catholic population is as taken from *The Official Catholic Directory* (New York: Kennedy, 1975), appended summary table.

[15] Total, rural nonfarm, farm, urban, Standard Metropolitan Sampling Areas, central city, suburban (SMSA urban other than central city), black, and foreign stock populations for 1970 are taken from the U.S. Bureau of the Census, *Congressional District Data Book—Districts for the 93rd Congress* (Washington, D.C.: G.P.O. 1973), items 18, 30, 31, 28, 32, 35, 36, 40, and 60 respectively supplemented with data for the District of Columbia from the U.S. Bureau of the Census, *1974 Statistical Abstract*. For 1960 the data are from the Congressional District *Data Book—Districts for the 88th Congress* (Washington, D.C.: G.P.O., 1963), and U.S. Census of Population, v. 9, Part A (Washington, D.C.: G.P.O., 1961). Blue-collar workers for 1960 and 1970 are numbers of thousands of employees of industrial establishments by states from U.S. Department of Labor, *Manpower Report of the President* (Washington, D.C.: G.P.O., 1975), p. 295.

Using their model, Longley and colleagues also measure the supposed power of various regions by averaging the Banzhaf indices. My own analysis is concerned with coalitions that cut across both state and regional lines, and thus I do not attempt to project regional biases. For citations of the work of Longley and colleagues see footnote 13.

[20] Bean's analysis shows that rises and declines in percentages of two-party votes nationally tend to be reflected throughout the states over time so that the core coalition model approximates how partisan coalitions win and lose support across the states. Because of the considerable consistency in the distribution of partisan coalitions, Bean was able to predict the approximate percentage of the national two-party popular votes needed by each party for an electoral majority. Observing the relation between the Democratic percentage of the majority-party popular votes and its proportion of the electoral votes from 1916 to 1944, he predicted that Democratic coalitions would need between 52 and 53 percent of the popular votes for an electoral majority. The bias calculated by the procedure outlined in this paper for the actual 1948 major-party vote distribution falls within that range, as we shall see. After 1948 the persisting pattern of bias against the Democratic coalition collapsed due to a critical realignment and expansion of the electorate that we shall also consider. Louis Bean, How to Predict Elections (New York: Knopf, 1948).

[27] Charles Bischoff calculated minimum percentages for winning electoral coalitions for the major parties based on the actual vote returns in 1920 through 1964; these were reported in Neal R. Pierce, The People's President (New York: Simon and Schuster, 1968), pp. 141–45.

[28] Voting returns for the 1948, 1960, 1968, and 1976 elections were compiled by the Congressional Quarterly Service. They appear in Congressional Quarterly Weekly Report and in Richard Scammon, America Votes (Washington, D.C.: Congressional Quarterly Service and Government Affairs Institute, biennial); returns for earlier elections are found in Svend Peterson, A Statistical History of American Presidential Elections (New York, Ungar, 1963).

[29] Polsby and Wildavsky, Presidential Elections.

[30] These findings fit into the pattern of sectional voting that E. E. Schattschneider identifies for the South except that he does not identify the fluctuations in the partisan impact of these biases even within political eras. See E. E. Schattschneider, The Semi-Sovereign People (New York: Holt, Rinehart & Winston, 1960), chapter 5.

[21] The nine largest states with the largest blocs of electoral votes in 1960 were New York, California, Pennsylvania, Illinois, Ohio, Texas, Michigan, New Jersey, and Massachusetts. After the 1960 census Florida was apportioned the same votes as Massachusetts which had previously been the ninth largest state. The nine largest states in the 1960 election were selected for comparison because they contained a majority of the nation's population, and, except for Texas, they were the northern states deemed particularly decisive by the conventional wisdom.

[22] Guillermo Owen, "Communication," *American Political Science Review* 70 (December 1976): 1223–24. For his version of the Banzhaf analysis see Guillermo Owen, "Evaluation of a Presidential Game," *American Political Science Review* 69 (September 1975): 947–53.

[23] Sayre and Parris, *Voting for President*, pp. 71–72.

[24] Stephen J. Brams and Morton D. Davis, "The 3/2's Rule of Presidential Campaigning." *American Political Science Review* 68 (March 1974): 113–34; and Brams and Davis, "Comment on 'Campaign Resource Allocation Under the Electoral College'," *American Political Science Review* 69 (March 1975: 155–56.

[25] Brams and Davis, "The 3/2's Rule of Presidential Campaigning," p. 134.

[26] Claude S. Colantoni, Terrence J. Levesque, and Peter C. Ordeshook, "Campaign Resource Allocations Under the Electoral College" (with Comment by Brams and Davis and Rejoinder), *American Political Science Review* 69 (March 1975): 141–61.

THE ELECTORAL COLLEGE: WHY IT WAS CREATED

(By John D. Feerick)

Congress is now engaged in a major study of our system of electing the President. It may conclude that the electoral college should be retained as is, or modified, or abolished in favor of direct popular vote. In considering the question of reform, it is helpful to review the intent of the framers of the Constitution. This article attempts to trace the development of the electoral college provision at the Constitutional Convention and to describe the lines of thinking that led to its adoption.

When the founding fathers met in Philadelphia in 1787, the United States extended from the Atlantic to the Mississippi and from the Great Lakes almost to the Gulf of Mexico, embracing approximately 880,000 square miles. The country's population was close to 4,000,000 (excluding Indians), of which almost 700,000 were Negro slaves (90 per cent living in the South) and more than 2,300,000 were white women and children.[1] Most of the population was concentrated near the coast. Approximately 97 per cent of the people lived in rural areas—on farms and plantations and in log cabins and shacks. About 100,000 people lived beyond the Appalachian Mountains. Only five cities had a population over 10,000. Philadelphia was the largest city, with about 40,000 people. Virginia, with close to 700,000 inhabitants, was the most populous state.[2]

In the America of 1787 the forest was the dominant land feature and agriculture was the principal means of livelihood. Industry existed on a small-scale handicraft basis. There was an absence of power-driven machinery, books were scarce, schools and libraries were few, and poverty and illiteracy were common. Horseback, wagon, stagecoach, boat and foot were the main modes of transportation. But, "roads were bad, bridges few, ferries leaky, rivers whimsical, stagecoaches cranky, and inns ill-kept."[3] To go by stagecoach from Boston to New York was a journey of from three to six days; from New York to Philadelphia, two or more days. In the South transportation was even poorer since roads and stagecoaches were almost nonexistent. The mail and word-of-mouth were the principal channels of communication. Newspapers were usually distributed on a weekly basis, had limited circulations and contained mostly local news.

In pre-Constitution America political parties did not exist, and the right to vote was limited to a small fraction of the total population. Each of the thirteen states had a chief executive, a legislature and a judiciary. A bicameral legislature existed in all but two of the states.[4] In eight states the executive was chosen by the legislature.[5] In four of the five where the governor was elected directly, he was chosen by the legislature if he did not obtain a majority of the popular vote.[6]

At the national level, the Articles of Confederation, which had become effective on March 1, 1781, constituted the basic charter of government. They vested the authority of the government in a Congress in which each state had a single vote. The assent of nine of the thirteen states was required for important decisions and the unanimous consent of all thirteen was necessary to amend the articles. Congress had no power to tax, to regulate domestic and foreign commerce or to enforce its decisions. Moreover, there was no national judiciary or chief executive. The articles merely permitted Congress to create such "committees and civil officers as may be necessary for managing the general offices of the United States under their direction". Although the Congress was empowered to appoint one of its members to preside over it as "President", he was little more than a presiding officer, serving for no more than one term of one year in any three years.

On February 21, 1787, the Congress decided that a constitutional convention should be held for the sole and express purpose of revising the articles. Thereupon, every state appointed delegates to attend, except Rhode Island, which opposed the movement toward a stronger national government. Seventy-four delegates were named but only fifty-five attended, of whom thirty-nine signed the final document. The group included the most prominent and influential men of the day—"thirty-nine former members of Congress, eight signers of the Declaration of Independence, twenty-one veterans of the Revolutionary War, seven who had been governors of states, and eight who had aided in the framing of state constitutions."[7] Two were college presidents, three were or had been professors and more than one third were college graduates. Two-thirds were lawyers. Of the fifty-five delegates, five were under thirty years of age and four were sixty years or more. The average age was about forty-four. Generally, the framers were representative of the wealthier classes—merchants, bankers, professional men and plantation owners.

The Convention began its deliberations on May 25, 1787. Four days later, after the Convention had adopted its rules,[8] the first plan for a national government was submitted by Edmund Randolph of Virginia. This plan (the Virginia Plan) recommended an entirely new framework of government consisting of an executive, a two-house legislature and a judiciary. Both houses of the legislature were to be apportioned according to population. The lower house was to be elected by the people and the upper house was to be chosen by the lower from persons nominated by the state legislatures. The executive, whose term was not specified, was to be chosen by Congress and not eligible for re-election. The plan did not specify whether the executive should be single or plural. Another plan of government was introduced the same day by Charles Pinckney of South Carolina. Although the original of this plan has never been located, it is believed to have contained similar provisions regarding the executive.[9]

Footnotes at end of article.

VARIOUS PLANS FOR CHOOSING THE PRESIDENT

On May 31 the convention resolved itself into a committee of the whole to discuss the Virginia Plan point by point. In committee, a number of proposals were made as to the method of electing the executive. It was proposed that the election be by the people; [10] by Congress; [11] by the Senate alone; [12] by electors chosen by the people in districts within each state; [13] by the state legislatures or by electors voting for candidates nominated by the state legislatures; [14] or by the state executives, with each governor having as many votes as the state had in the election of the Senate.[15]

On June 13 the committee reported out the Virginia Plan, as amended. With respect to the executive, the committee recommended a single executive elected by Congress for seven years and not eligible for another term. It also suggested, to the dissatisfaction of the small states, that representation in both houses of Congress be proportional. On June 14 discussion of Virginia Plan was postponed, at the request of William Paterson of New Jersey, so that another plan could be offered.

On the following day Paterson presented nine resolutions (the New Jersey Plan), which provided for the continuation of the Articles of Confederation with certain changes. The power of the Continental Congress was to be enlarged but the national government was not to be sovereign. There was to be a unicameral legislature in which each state would have one vote. The plan called for a supreme judiciary and a plural executive elected by Congress. The executive was to be ineligible for a second term and removable by Congress on application of a majority of the executives of the several states.

During the course of the intense debate which followed on whether the convention should proceed with the Virginia or New Jersey Plan, Alexander Hamilton of New York sketched his plan of government on June 18. It provided for an executive chosen for life by electors elected by the people in districts. Hamilton's plan was quietly received by the delegates and was never formally considered by the Convention.

On June 19 the convention rejected the New Jersey Plan and decided to proceed with discussion of the amended Virginia Plan. For the next few weeks the delegates devoted much of their time to the legislative article. When it appeared that they were irreconcilably at odds on a formula of representation in Congress, a committee of eleven was appointed to find a solution. On July 5 the committee suggested what became the Great Compromise of the Convention—an upper house in which all states would have equal votes and a lower house with proportional representation. After days of debate, the Great Compromise was adopted on July 16 by a vote of 5 to 4.

On the next day the delegates focused on recommendations for the method of electing the executive. The pros and cons of direct election and a legislative election were vigorously debated. Gouverneur Morris and James Wilson of Pennsylvania supported the former, while George Mason of Virginia, Roger Sherman of Connecticut and Charles Pinckney of South Carolina urged the adoption of the latter. On the vote, direct election was defeated 9 to 1; [16] election by electors appointed by the state legislatures was rejected 8 to 2,[17] and election by Congress was approved 10 to 0. The delegates also agreed that there should be a single executive and that he should be eligible for reelection.

Two days later, on July 19, the delegates reconsidered the method of electing the President. Thereupon, direct election was proposed by Gouverneur Morris, who said: "If [the President] . . . is to be the Guardian of the people let him be appointed by the people." James Madison of Virginia added that "the people at large was . . . the fittest" source.[18] Other suggestions advanced on July 19 were election by electors chosen by the people.[19] by electors chosen by the state legislatures with one to three electors for each state depending on the state's population,[20] and by electors appointed by the state executives.[21] Wilson observed that "the idea was gaining ground, of an election mediately or immediately by the people". Reversing its actions of July 17, the convention then decided that the President should be chosen by electors appointed by the state legislatures.[22]

On the following day, July 20, the delegates turned their attention to the number of electors. Madison suggested that it either be made temporary or flexible so as to adjust to the increasing population of the states. Elbridge Gerry of Massachusetts proposed, as he had the previous day, that in the first election, the electors be allotted in the proportion of one each for Deleware, Georgia, New Hampshire and Rhode Island, two each for Connecticut, Maryland, New Jersey, New Jersey, New York, North Carolina and South Carolina; and three each for Massachusetts, Pennsylvania and Virginia. Gerry's proposal passed 6 to 4.[23]

In another turnabout, the convention on July 24 reconsidered the electoral plan, rejected it and reinstated election by Congress.[24] Following this action, Wilson made the interesting proposal that Congress select by lot not more than fifteen of its members as electors and that they proceed immediately to the choice of President. When a few delegates objected on the ground that the proposal left too much to chance, Wilson said it was not his best proposal, since "his opinion remained unshaken that we ought to resort to the people for the election". No vote was taken.

On July 25 the delegates once again reconsidered the method of electing the President. Among the proposals made, but not adopted, were that he be chosen by: Congress and, when running for re-election, by electors appointed by the state legislatures,[25] the chief executives of the states, with the advice of their councils or, if no councils, with the advice of electors chosen by their legislatures,[26] electors chosen by the state legislatures, with the votes of all states equal,[27] the people,[28] and the people of each state choosing its best citizen and Congress, or electors chosen by it, selecting the President from those citizens.[29]

On July 26, after deciding that the President should be ineligible for a second term and be appointed for seven years, the convention adjourned so that its committee of detail could draft a constitution embodying the principles which had been adopted. On August 6 the committee reported, and in Article X of its report recommended a single executive chosen by Congress for a term of seven years and not re-eligible. During the next several weeks the report of the committee was examined clause by clause.

The recommendations regarding the election of the President were taken up on August 24. Daniel Carroll of Maryland promptly made a motion, seconded by Wilson, to substitute direct popular vote. The motion was rejected 9 to 2.[30] Gouverneur Morris then proposed that the President be selected by electors chosen by the people. This proposal was defeated by a vote of 6 to 5.[31] On the question of using electors to select the President, the states were equally divided and therefore the proposition failed.

One week later, on August 31, Wilson observed that the method of choosing the President had not been "yet fully determined . . ."[32] A committee of eleven was then commissioned to report on those parts of the Constitution which had been postponed or not acted upon.[33]

On September 4 the committee presented a partial report which recommended an office of Vice President and a change in the method of electing the President. It suggested that the President and Vice President be chosen for four year terms by electors who, in turn, would be elected in such a manner as the state legislatures might establish. Each state would be entitled to a number of electors equal to its total representation in Congress. The committee's plan called for the electors to meet in their respective states and vote by ballot for two persons for President, one of whom could not be an inhabitant of their state. These votes were to be listed, certified, sealed and sent to the President of the Senate, and then opened and counted. The person who received the greatest number of votes would be President provided that number were a majority of the number of electors. If more than one person had such a majority and the same number of votes, then the Senate would choose one of them for President by ballot. If no one had a majority, the Senate would choose the President from the five highest on the list. The Vice President would be the person having the greatest number of votes after the President had been chosen. If more than one had such a number, the Senate would choose the Vice President from among them.

On September 4, 5 and 6 vigorous debate took place regarding the proposed method of electing the President.[34] Said Wilson:

"This subject has greatly divided the House and will also divide people out of doors. It is in truth the most difficult of all on which we have had to decide."

THE REASONS FOR THE ELECTORAL COLLEGE

At the outset of the debate on September 4 Gouverneur Morris listed the committee's reasons, and his own, for the creation of the electoral college. If the President were elected by Congress, he said, there would be the danger of intrigue and faction, the inconvenience of an ineligibility for reelection required by that method and the difficulty of finding a body other than Congress to handle impeachments. Morris continued, "No body had appeared to be satisfied with an appointment by the Legislature. . . . Many were anxious even for an immediate choice by the people." "It was an indispensable necessity", he said, that the President be independent of Congress. He declared that the electoral method avoided the "great evil of cabal," and made it "impossible also to corrupt" the electors, since they were to vote at the same time throughout the United States and at a great distance from each other. Morris stated that the Senate was selected for the contingent election "because fewer could then, say to the President, you owe your appointment to us".

During the debate several delegates strongly objected to the proposal on the ground that most elections would be thrown into the Senate.[35] They said variously that no candidate would obtain a majority of the electoral votes because the electors would be attached to citizens of their own states or would be strangers to the candidates and unable to judge and decide on their merits. Other delegates felt that persons of national reputation would increase as intercourse among the states increased. To them, the possibility of the Senate electing the President was remote.

In order to prevent a contingent election, Mason and Hamilton suggested the elimination of the requirement that the President obtain a majority of the electoral votes. The objection that a person could be elected with a small number, said Hamilton, was offset by the fact that "the Senate may take the candidate having the smallest number of

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Footnotes at end of article.

votes, and make him President". Mason's motion to eliminate the majority vote was defeated 9 to 2, as was a subsequent motion by Madison and Williamson to reduce the required vote to one third.[36]

Another subject of discussion was whether the contingent election should be assigned to the Senate.[37] Gerry suggested that the contingent election should be assigned to the tingent election be by six Senators and seven Representatives chosen by joint ballot of both houses. Wilson suggested that it be given to Congress. He argued that if the Senate were to select, it would try to scatter the electoral votes to get the election before it. The President then would "not be the man of the people as he ought to be, but the Minion of the Senate". Wilson was also among the delegates who felt the Senate was not suitable because of its roles in the impeachment, treaty-making and appointive processes. Others believed that the small states would have too much influence in selecting the President, while some delegates argued that it was proper for small states to have such an influence, since it would balance the influence of the large states in the original election. Sherman argued that if Congress were to select, the vote should be taken by states in view of the advantage the large states would have in nominating candidates.

Madison expressed the view that a contingent election by Congress should be rendered remote. He reasoned that if Congress, in which large states would predominate, had the final choice, the large states would devote most of their time to nominating candidates instead of concentrating on an "effectual appointment". If the Senate, in which small states would be predominant, had the final say, the large states would do their utmost to make the first election conclusive.

THE CONVENTION FINALLY DECIDES

On September 6, the convention made its final decisions: that the President be selected by electors chosen by the state legislatures (9 to 2); that a vote of a majority of the electors appointed be necessary for election as President (8 to 3); and, on motion by Sherman, that the contingent election of the President be by the House of Representatives, with each state having one vote [10 to 1].[38]

On September 7 the electoral college proposal was amended, on Gerry's motion, to require a concurrence of a majority of all the states in the election of the President by the House of Representatives.[39] On the following day the Constitution was referred to a committee of style empowered to "revise the style of and arrange the articles agreed to by the House". The committee made no substantive changes in the electoral college method,[40] and on September 17 the Constitution was sent to the states for ratification by popularly elected conventions.

There was little discussion in the ratifying conventions regarding the method of electing the President. In the North Carolina, Pennsylvania, South Carolina and Virginia conventions, delegates stressed that the people would have a vital role in selecting the President under the electoral college system. Thus, at the Pennsylvania convention James Wilson stated that the choice of President "is brought as nearly home to the people as is practicable. With the approbation of the state legislatures, the people may elect with only one removed." [41] At the South Carolina convention, Charles Cotesworth Pinckney asserted that the President was "to be elected by the people, through the medium of electors chosen particularly for that purpose".[42]

The electoral college provision underwent some criticism at the Virginia convention. James Monroe said that since the President was to be elected by electors, he would "owe his election . . . to the state governments, and not to the people at large" as he "ought to . . .".[43] George Mason argued that it would not be "once out of fifty" that the President would be chosen by the people in the first instance, because a majority of the votes of all the electors was required for election.[44] Mason further argued that by allowing the House of Representatives to choose from the five highest, persons with small numbers of votes would be "constantly" elected.

Generally, the electoral college was favorably considered in the ratifying conventions. Said Alexander Hamilton in No. 68 of The Federalist:

"The mode of appointment of the chief magistrate of the United States is almost the only part of the system, of any consequence, which has escaped without severe censure, or which has received the slightest mark of approbation from its opponents."

Hamilton added that if the electoral college method "be not perfect, it is at least excellent".

THE FRAMERS' REASONS FOR CREATING THE COLLEGE

In retrospect, it is clear that the framers settled upon the electoral college partly because of the objections to a legislative election. While election by Congress received the stamp of approval on several occasions at the convention, the predominant view among the delegates seemed to be that such a method would involve cabal corruption and possible forign influence. It also was felt that under that method, the President would have to be ineligible for a second term; otherwise, he would be too dependent on Congress, since he would have to count its members for re-election. An ineligibility requirement was not favored because, among other things, it would remove some of the incentive for doing a good job and would deprive the country of further service from Presidents who had demonstrated a capacity to govern.

Another reason for the adoption of the electoral college was the strong feeling of many delegates that the method of electing the President should involve the people and have their confidence. "It was desirable", said Hamilton in No. 68 of The Federalist, "that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided." Direct election, which had impressive support was rejected largely because of the belief that the people did not possess the necessary knowledge and judgment to vote for President. Mason, who favored an election by Congress, had this to say on July 17:

> [I]t would be as unnatural to refer the choice of a proper character for chief Magistrate to the people as it would to refer a trial of colours to a blind man. The extent of the Country renders it impossible that the people can have the requisite capacity to judge of the respective pretensions of the Candidates.

On July 25 Gerry argued that the "ignorance of the people" would make it possible for an organized group such as the Society of the Cincinnati [45] to "in fact elect the chief Magistrate in every instance, if the election be referred to the people". It was also asserted during the debates that the people would be partial to candidates from their own state, so that popular vote would favor the large states; that the people would be unable to give one candidate a majority of the votes; and that direct election would place the Southern states at a disadvantage due to limited suffrage.

THE ELECTORAL COLLEGE—"FREE OF CABAL"

When direct election failed to master enough support for passage, Madison, Wilson and Morris, the leading supporters of that method, turned their attention to and became the chief architects of the electoral college. They, as others, believed that the college would bring the election as close to the people as possible, except for direct election itself, and would be free of cabal and corruption. The delegates felt they had sufficiently guarded against cabal and corruption by having the President elected by electors chosen specially for that purpose instead of by a pre-established body which could be tampered with; by excluding from eligibility as electors those who might be partial to the President in office; by requiring the electors to assemble on the same day within their respective states, which would expose them to fewer pressures than if they were all to meet together at one place; by requiring the electoral votes to be listed, certified, sealed and sent to the President of the Senate, and then opened and counted by him before a joint session of Congress and by directing the House of Representatives to choose the President immediately in the event no one had a majority.

The evidence is compelling that most of the framers envisioned a system under which persons of the highest caliber would be chosen as electors. These electors would meet quadrennially in their respective states on the same day; examine and consider the merits of qualified persons for President; and, exercising their own judgment, cast two intelligent electoral votes for the persons of their choice. In casting their votes, they would take into account the views of the people, but not be bound by them.[46] It appears that many of the framers assumed that the state legislatures would provide for a popular election of electors.[47]

The assignment of a number of electoral votes to each state in accordance with the state's representation in Congress does not appear to have been, as often is contended, a compromise of any significance between large and small states. Indeed, the debates are practically silent regarding this provision. Rather they reveal that the large-small state compromise in the electoral college area was with respect to the contingent election provision, under which each state would have one vote in the House of Representatives regardless of its population. This equality of voting was designed to compensate small states for the advantage possessed by large states in the electoral voting. A number of the framers were of the view that most elections would actually be decided in Congress.

An examination of Presidential elections from 1789 to the present makes it plain that the system which emerged in practice is not the system contemplated by the founding fathers.[18] As a Senate select committee stated in 1826:

> In the first election held under the Constitution, the people looked beyond these agents, fixed upon their candidates for President and Vice President, and took pledges from the electoral candidates to obey their will. In every subsequent election the same thing has been done. Electors, therefore have not answered the design of their institution. They are not the independent body and superior characters which they were intended to be. They are not left to the exercise of their own judgment; on the contrary, they give their vote, or bind themselves to give it, according to the will of their constituents. They have degenerated into mere agents, in a case which requires no agency, and where the agent must be useless, if he is faithful, and dangerous if he is not.[48]

FOOTNOTES

[1] These statistics are based on the 1790 census U.S. Bureau of the Census, Historical Statistics of the United States, Colonial Times to 1957 7–16 (1960).

[2] Next was Pennsylvania (434,373); then North Carolina (393,751); Massachusetts (378,787); New York (340,120); Maryland (319,728); South Carolina (249,073); Connecticut (237,946); New Jersey (184,139); New Hampshire (141,885); Georgia (82,548);

Rhode Island (68,825); and Delaware (59,096).

[3] Rossiter, 1787; The Grand Convention 25 (1966).

[4] Georgia became bicameral in 1789 and Pennsylvania in 1790.

[5] He was elected by the people in Connecticut, Massachusetts, New Hampshire, New York and Rhode Island.

[6] In New Hampshire and Massachusetts the house of representatives nominated two from the four highest candidates, and the senate selected the governor from the two. In Connecticut and Rhode Island the legislature selected the governor.

[7] Warren, The Making of the Constitution 55 (1928).

[8] It was decided among other things, that not less than seven states would constitute a quorum and all questions would be determined "by the greater number of these which shall be fully represented", that each state would have one vote, and that any question already determined by a majority could be reconsidered.

[9] See 3 The Records of The Federal Convention of 1787 606 (Farrand ed. 1911 & 1937) (hereinafter cited as Farrand).

[10] By James Wilson of Pennsylvania on June 1. This was the first proposal made in committee.

[11] By Roger Sherman of Connecticut on June 1. He thought the executive should be absolutely dependant on Congress, since the latter's will was to be executed. His proposal was aproved on June 2 by a vote of 8 to 2. Also approved was a provision that the executive be ineligible for a second term. 1 Farrand 81, 87. A seven-year term was approved on June 1 and 2. On June 4 a motion was passed that there be a single executive.

[12] By John Rutledge of South Carolina on June 1.

[13] By Wilson on June 2. Wilson's proposal under which all of the electors would meet at one place, was rejected 8 to 2. Pennsylvania and Maryland cast their votes for it. 1 Farrand 81.

[14] By Elbridge Gerry of Massachusetts.

[15] By Gerry on June 9. It was overwhelmingly defeated. 1 Farrand 175, 178.

[16] Pennsylvania was the only state to vote in favor of the proposal. 2 FARRAND 32.

[17] This method was recommended by Luther Martin of Maryland. See note 34 infra.

[18] However, said Madison, "there was one difficulty . . . of a serious nature attending an immediate choice by the people. The right of suffrage was much more diffusive in the Northern than the Southern States; and the latter could have no influence in the election on the score of the Negroes. The substitution of electors obviated this difficulty and seemed on the whole to be liable to the fewest objections." 2 FARRAND 57.

[19] By Rufus King of Massachusetts.

[20] By Oliver Ellsworth of Connecticut. A substantially identical proposal was made by William Paterson.

[21] By Gerry. Gerry's favorite proposal was for an election by the state executives.

[22] This vote came about after the states had divided on Ellsworth's motion. See text accompanying note 20. A separate vote was taken on the question of whether the executive should be appointed by electors. It passed 6 to 3. Another then was taken on the question of whether the electors be appointed by the state legislatures. It passed 8 to 2. The convention rejected a motion that the President be made ineligible for re-election, and it approved a term of six years instead of seven.

[23] 2 FARRAND 64. A motion by Ellsworth that two electors be given to New Hampshire, since its population was over 100,000, and to Georgia was defeated 7 to 3. No vote was taken on a motion by Williamson to amend Gerry's proposal so that in future elections the number of electors would be regulated by the number of representatives each state had in the House of Representatives. A motion by Gerry and Gouverneur Morris that the electors could not be members of Congress, officers of the United States, or candidates for President was passed.

[24] The vote was 7 to 4. William Houstoun of Georgia made the motion resulting in this vote. He argued that it was improbable "capable men would [serve as] . . . electors from the more distant states." During the debate Gerry, who felt the best men would so serve, suggested that the state legislatures vote for President in the same proportion as they would choose electors. If no candidate received a majority, the House would nominate two candidates from the four highest, and the Senate would choose the President from the two. There was practically no support for this proposal.

[25] By Ellsworth. It was defeated 7 to 4.

[26] By Gerry.

[27] By Pierce Butler of South Carolina.

[28] By Gouverneur Morris, John Dickinson of Delaware and Madison. Summarizing the defects in the various methods that had been proposed, Madison concluded that the choice lay between an election by electors chosen by the people and direct election. He stated that he liked direct election "best" and that, although he was from the South where the suffrage was limited, he was "willing to make the sacrifice", since "local considerations must give way to the general interest".

With respect to direct election, Hugh Williamson of North Carolina suggested on July 25 that each voter cast three votes. Gouverneur Morris and Madison favored the casting of two votes, one of which could not be cast for a person from the voter's own state. These proposals were designed to overcome the supposed partiality of the people to citizens of their own states.

[29] By Dickinson, who regarded the people as the "best and purest source". In making this proposal, Dickinson said that the "greatest difficulty" with a popular vote "seemed to arise from the partiality of the States to their respective Citizens". His proposal was designed to turn that partiality to a "useful purpose".

[30] 2 FARRAND 402. Pennsylvania and Delaware voted for the motion.

[31] 2 FARRAND 404. The five voting in favor were Connecticut, Delaware, New Jersey, Pennsylvania and Virginia. The delegates also discussed on August 24 whether the election by Congress should be by a joint vote of both houses or by separate sessions. The former was approved.

[32] This was underscored when the convention, by a vote of 9 to 1, eliminated the reference to the legislative method in that portion of the committee of detail's report dealing with the first election. See FARRAND 180, 480.

[33] Its members were Abraham Baldwin of Georgia, David Brearley of New Jersey, Pierce Butler of South Carolina, Daniel M. Carroll of Maryland, John Dickinson of Delaware, Nicholas Gilman of New Hampshire, Rufus King of Massachusetts, James Madison of Virginia, Gouverneur Morris of Pennsylvania, Roger Sherman of Connecticut and Hugh Williamson of North Carolina. Because its delegates were absent, New York was not represented on the committee.

At this juncture in the convention the alignment of many delegates on the question was fairly clear. Sherman, Rutledge, Randolph, Pinckney, Houstoun, Spaight and Mason had expressed their support for an election by Congress. Wilson, Madison, Morris, Dickinson and Carroll, on the other hand, had advocated direct election. Additionally, Madison, Morris and Wilson, along with Hamilton and King, also had indicated their support for a system of electors chosen by the people. Gerry, Ellsworth, Butler, Luther Martin and Paterson had proposed a system of electors chosen by the state legislatures. Williamson had criticized the introduction of Presidential electors, particularly those chosen by the people. 1 FARRAND 81; 2 FARRAND 58, 100. He felt electors would make the government more complex and would not be persons of the highest caliber. Caleb Strong of Massachusetts had expressed a similar view. 2 FARRAND 100.

[34] The electoral college plan seems to have been patterned after the Maryland system of electing state senators under the constitution of 1776. Senators were chosen by forty electors who, in turn, were selected on a county basis by the qualified voters. Each county selected two electors except Annapolis and Baltimore, which chose one each. The electors took an oath to select as senators persons "as they, in their judgment and conscience, believe best qualified for the office"—men "of the most wisdom, experience and virtue" See ANDREWS, HISTORY OF MARYLAND: PROVINCE AND STATE 330–331 (1929). This system was replaced by popular election in 1837.

[35] These were Mason, Hamilton, Pinckney, Rutledge and Williamson.

[36] Gerry voiced the objection that a one-third vote would put the election into the hands of three or four states. In reply, Williamson remarked that less than one sixth of the people would have the power in the Senate, since seven of the thirteen states had less than one third of population. The motion was defeated 9 to 2.

[37] A related question involved was as to the number of candidates to be considered in the contingent election. The committee of eleven recommended five so that "obscure characters" would be excluded.

[38] The committee's recommendations regarding the Vice President were accepted. Other motions which passed on September 5 and 6 were that: the electoral votes be counted in the presence of the Senate and House of Representatives; the election be on the same day throughout the United States; a member or members from two thirds of the states be required for a quorum in the House; no person be appointed an elector who was a member of Congress or held an office of profit or trust under the United States; and that the President and Vice President be elected for four years and be eligible for re-election. Among those motions which failed were that: discussion of the legislative method be resumed, all the electors meet at the seat of the national government and decide without any reference to the Senate; the majority be of the electors "who voted"; the contingent election be in Congress and the vote be by states; and that a majority of the House be present at the contingent election.

[39] Prior to this motion, a majority of the states present could elect the President, provided there was a quorum of two thirds of the states. Madison noted during the September 7 discussion that "the representatives of a minority of the people, might reverse the choice of a majority of the States and of the people". 2 FARRAND 536.

[40] Although the method of selecting the electors was left to the state legislatures, it is interesting to note that when the report of the committee on style was considered on September 12, Madison remarked: "He [the President] is now to be elected by the people and for four years." 2 FARRAND 587. It is also noteworthy that Madison, in referring to the proposal which passed the convention on July 19 (i.e., selection by electors appointed by the state legislatures), stated on July 26: "It has been proposed that the election should be made by Electors chosen by the people for that purpose." 2 FARRAND 119. Similar expressions regarding the role of the people appear in Nos. 39, 64, 68 and 69 of THE FEDERALIST. See also text accompaning notes 41–42 infra and note 43.

[41] 2 ELLIOT. THE DEBATES IN THE SEVERAL STATE CONVENTION ON THE ADOPTION OF THE FEDERAL CONSTITUTION 512 (2d ed. 1836).

[42] 4 id. at 304.

[43] 3 id. at 488. In contrast, Edmund Randolph, who preferred election by Congress,

stated at the Virginia convention: "How is the President elected? By the people—on the same day throughout the United States—by those whom the people please." Id. at 201. Madison declared that there was no better way than the electoral college of selecting the person in whom the people would place their "highest confidence." Id. at 494. He also pointed out that the contingent election provision, while objectionable, was designed to give small states an advantage to compensate for the advantage possessed by large states in the electoral voting for President. Id. at 495.

[44] Mason declared that the electoral college was "a mere deception—a mere ignis fatuus on the American people—and thrown out to make them believe they were to choose" the President. "The people will, in reality, have no hand in the election." Id. at 493.

[45] This was an association of army officers formed at the close of the Revolutionary War to perpetuate friendships, promote the welfare of the country and aid members and their families. Membership was restricted to officers and was also hereditary. George Washington was the society's first president.

[46] Alexander Hamilton expressed in No. 68 of THE FEDERALIST the widely held view that under the electoral college system the election of the President "should be made by men most capable of analizing the qualities adopted to the station, and acting under circumstances favourable to deliberation and to a judicious combination of all the reasons and inducements, which were proper to govern their choice. A small number of persons, selected by their fellow citizens from the general mass, will be most likely to possess the information and discernment requisite to so complicated an investigation." See also No. 64.

[47] In the early days of the nation, however, the state legislatures used a variety of methods of selecting the electors, including election by the legislatures themselves. See Paullin, "Political Parties and Opinions, 1788–1930," THE ATLAS OF THE HISTORICAL GEOGRAPHY OF THE UNITED STATES (1932).

[48] It should be noted that the Twelfth Amendment, adopted in 1804, effected several changes in the electoral college framework. It provided for separate votes for President and Vice President; required each to obtain a majority of the total number of electors appointed; reduced to three the number of candidates to be considered by the House of Representatives in a contingent election for President, and in the contingent election for Vice President, limited the Senate's choice to the candidates having the highest two numbers.

[49] SENATE SELECT COMMITTEE, RESOLUTIONS PROPOSING AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES, S. REP. No. 22, 19th Cong., 1st Sess. 4 (1826). See generally AMERICAN BAR ASSOCIATION COMMISSION ON ELECTORAL COLLEGE REFORM, ELECTING THE PRESIDENT (1967).

Resource Allocations in the 1976 Campaigns

(By Steven J. Brams)

There has been considerable discussion in the pages of this Review and elsewhere on the manner in which the unit-rule feature of the Electoral College affects the resource-allocation decisions of candidates in presidential elections. Davis and I, for example, found a substantial large-state bias in the campaign behavior of presidential and vice-presidential candidates in the 1960 through 1972 campaigns based on the number of campaign appearances the candidates made in each state (Brams and Davis, 1974). Analyzing the same data, Colantoni, Levesque, and Ordeshook (1975a) confirmed this bias but offered a different explanation for it, which gave rise to some controversy (Brams and Davis, 1975; Colantoni, Levesque, and Ordeshook, 1975a). Young (forthcoming), who proposed still a different model that predicts allocations directly proportional to the electoral votes of each state, analyzed broadcast expenditure data and similarly found that the candidates spent disproportionally greater amounts on advertising in the large states, but not to the extent predicted by the Brams-Davis "3/2's rule."

Although not based on resource-allocation models, the Shapley-Shubik and Banzhaf a priori power indices for citizens indicate that those living in the largest states have approximately three times as much voting power as those living in the smallest states (Owen, 1975a; 1975b). (These figures have also generated controversy; see the exchange between Spatt and Owen [1976].) Coincidentally, the 3/2's rule shows up an almost identical disparity between the attractiveness (as campaign targets) of citizens living in the largest and smallest states.

How well did these models hold up in the 1976 presidential campaign? Data on "campaign stops" of presidential and vice-presidential candidates in the 1976 campaigns are now available for comparison with the theoretical predictions of the different models (U.S. Senate, 1977, p. 29). The product-moment correlation coefficients between the number of campaign stops of the 1976 Democratic and Republican slates (presidential and vice-presidential stops combined in each state) and the various model predictions are shown in Table 1. (The Colantoni-Levesque-Ordeshook model makes no single set of predictions and is therefore not included in Table 1.)

TABLE 1.—*Correlation coefficients of different model predictions and campaign stops of party slates*

	Democratic slate	Republican slate
Proportional rule	0.91	0.92
3/2's rule	0.91	0.90
Shapley-Shubik index	0.90	0.90
Brazhaf index	0.90	0.90

It is perhaps surprising that the coefficients are all high and virtually indistinguishable. To be sure, one would expect that the 3/2's rule and the two power indices, which all predict large-state biases and are highly intercorrelated (3/2's rule and Banzhaf index: 0.998; 3/2's rule and Shapley-Shubik index: 0.92; Banzhaf index and Shapley-Shubik index: 0.89) would give very similar results. The proportional rule, however, also does well but does not correlate highly with the 3/2's rule (0.36), the Banzhaf index (0.35), or the Shapley-Shubik index (0.35).

The explanation for the almost idetnical coefficient lies in the fact that the 1976 campaign-stop date fall generally between the predictions of the proportional rule and the other model predictions. If the fifty states and the District of Columbia are partitioned into large (20 or more eltcoral votes), medium (10 to 19 electroal votes), and small (9 or less eltcoral votes), for example, the proportianal and 3/2's rules predict the percent allocations shown in the first two rows of Table 2. The actual percent allocations made by each slate in 1976 are shown in the second two rows and indicate that the candidates—especially the Democrats—made greater-than-proportianal expenditures in the large states. but not as great as the 3/2's rule (or power indices) predicts.

TABLE 2.—*Percent allocations*

	Small States	Medium States	Large States
Proportional rule	30.9	29.9	39.2
3/2's rule	16.1	26.4	57.5
Democratic slate	16.1	30.4	53.6
Republican slate	27.1	28.9	44.0

There is thus a large-state bias, but not of the magnitude predicted by most of the models. By way of comparison, it is interesting to contrast the actual allocations of the Democratic candidates with planned "percent of effort" figures for the Carter-Mondale campaign in each state, based on a scheduling formula devised by campaign director Hamilton Jordan prior to the general-election campaign (Schram, 1978, appendix 3). Jordan's figures correlate highly with the proportional rule (0.96) but no other model predictions(0.43 with the two power indices, 0.44 with the 3/2's rule). In fact, their correlation with the Democratic slate's actual allocation is not as high (0.84) as any model correlations in Table 1.

What happened? While Jordan's formula succeeded in giving each state more or less its due—a proportional allocation—this egalitarian ideal was abandoned in the actual campaign. I conclude that even the best-laid plans of candidates may be upset when a perverse institution like the Electoral College dictates nonegalitarian allocations.

REFERENCES

1. Brams, Steven J., and Morton D. Davis (1975), "Comment on 'Campaign Resource Allocations under the Electoral College,'" *American Political Science Review,* 69 (March), 155–156.

2. ——— (1974), "The 3/2's Rule in Presidential Campaigning," *American Political Science Review,* 68 (March), 113–134.

3. Colantoni, Claude S., Terence J. Levesque, and, Peter C. Ordeshook (1975a) "Campaign Resource Allocations under the Electoral College," *American Political Science Review,* 69 (March), 141–154.

4. ——— (1975b), "Rejoinder to 'Comment' by S. J. Brams and M. D. Davis," *American Political Science Review,* 69 (March), 157–161.

5. Owen, Guillermo (1975a), "Evaluation of a Presidential Election Game," *American Political Science Review,* 69 (September), 947–953.

6. ——— (1975b), "Multilinear Extensions and the Banzhaf Value," *Naval Research Logistics Quarterly,* 22 (December), 741–750.

7. Schram, Martin (1978), *Running for President: A Journal of the Carter Campaign.* New York: Pocket Books, 1978.

8. Spatt, Chester, and Guillermo Owen (1976), in "Communications," *American Political Science Review,* 70 (December), 1221–1224.

9. U.S. Senate (1977), *The Electoral College and Direct Election* (Supplement), Hearings before the Subcommittee on the Constitution of the Committee on the Judiciary, 95th Congress, 1st Session (July 20, 22, 28, and August 2).

10. Young, H. P. (forthcoming), "The Allocation of Funds in Lobbying and Campaigning," *Behavioral Science.*

Direct Election of the President

(By Harvey Zeidenstein)

PART II—THE CASE AGAINST DIRECT ELECTION: ANALYSIS AND REBUTTAL

PROTECTING URBAN INTERESTS—MYTH OR REALITY?

Most students and practitioners of politics agree that the wellsprings of liberal electoral strength flow from the large, metropolitan states. Some liberals also assume that such states now have an electoral advantage in the Electoral College. They claim this advantage would be lost in a direct election of the President. The urban interests argument is composed of the following propositions, some explicit, some implicit.[1]

1. The direct vote plan abolishes electoral votes and the unit rule. This would eliminate the prize that the most populous states "can offer of a large bloc of [electoral] votes available to the highest bidder."

2. Because the popular vote for President tends to be close in the urban, populous states, a numerically small group which votes

Footnotes at end of article.

in a bloc can swing all the electoral votes of its state to one party or the other.

3. Such cohesive voting groups include racial and ethnic minorities dwelling in or near the large inner cities, such as blacks, Jews, the Irish, Puerto Ricans, and Italians. These groups are presumed to be "liberal" and cohesive with each other [implicit proposition], and cohesive with "progressive urban-suburban Republics. . . ." In sum, there is a "metropolitan bloc" composed of "liberal urban Democrats and progressive, urban-suburban Republicans [which has] tended to dominate presidential politics. . . ."

4. Because of the electoral clout of such cohesive, balance-of-power groups (see propositions 2 and 3), the entailment is that "modern presidents have been particularly sensitive to urban and minority interests—modern presidents of both parties, this is to say, have been more responsive to urban interests than have other factions in their parties."

5. This special consideration by Presidents is perceived as equitable in our pluralistic democracy, because "urban interests in the big states have contended against interests that have a more rural, nativist, and Protestant orientation. The latter interests have tended to dominate Congress, the former the presidency." [Two implicit propositions about the process of determining public policy are hidden here. The first is that the Presidency, far more than Congress, is the source of liberal, urban-oriented programs. The second is that the Presidency, with relatively little cooperation from Congress, or even against its active hostility, has effectuated the passage of whatever liberal, urban-oriented programs the nation now has or may have.]

6. One consequence of adopting direct election would be a predicted shift of electoral influence away from the populous states with their liberal, metropolitan bloc to smaller, conservative states and localities. Black citizens in particular would lose their alleged "special leverage" in presidential politics. The black votes presumed necessary for carrying New York or Michigan would no longer be courted, according to Bickel. "Enough to get millions of votes there, which can be added to the large majorities on the Border, in the South, in Southern California, and in solid Republican country in the middle."[2] Bickel has bought all of Kevin Phillips' argument.[3] [Implicit propositions: that the national electorate is predominantly small town and rural in its demographic characteristics and predominantly conservative (maybe even racist?) in its political orientation.]

Bickel fears that "direct election would create a presidency with little or no incentive to act as a counterweight to Congress, and as a particular spokesman for urban and minority groups." This portends possible changes in the "ethnics politics of the presidency," diminishing the influence of "blacks, Jews, Irish, Puerto Ricans, and Italians, among others," write Sayre and Parris.

The groups cited by Sayre and Parris as gaining electoral influence are southern whites and blacks (if they voted), and German-, Scandinavian-, and Anglo-Americans in the Midwest.

SIX HYPOTHESES IN SEARCH OF A TEST

The urban interests argument should have an innate appeal to political science. It is potentially more than political rhetoric because (1) all its propositions are statements of empirical behavior, (2) their logical interrelationships give the propositions an important property of a narrow- to middle-range theory, and (3) the propositions are, in principle, capable of being stated in terms of testable hypotheses, i.e., of being invalidated on the basis of empirical evidence.

It is the absence of the third condition that robs the argument of intellectual (or, at least, scientific) respectability. With one exception, dealt with below, the purveyors of the argument offer no evidence to support their propositions. Indeed, they have a tendency to cover their flanks against the possibility of empirical invalidation by using conditional statements and caveats which blunt the impact of contrary empirical evidence. Thus, Bickel's plea to the jury:

> The electoral college doe not guarantee the presidency to a Democrat or to a liberal. The system does require both parties to at least make inroads in the urban and minority vote in order to win. It thus opens up for cohesive groups of liberal orientation in large industrial states a possibility of influence that they would not otherwise have, even though it holds out no guarantee that the influence will always be effecive.[4] (Emphasis added.)

This is a slippery argument to come to grips with. *Not* because it refuses to "guarantee" a given outcome (political science is resigned to dealing with probability statements rather than universal laws), but because the outcome is not specified in any testable manner. If the Electoral College "does not guarantee" that the President will be a Democrat, a liberal, or both, how often must a Republican, a conservative, or both, be elected before one concludes that the Electoral College has little or no influence as an independent variable? Similarly, how big must be the "inroads" that both parties must make in the urban and minority vote "in order to win?" Was Barry Goldwater's 6 percent of the nonwhite vote in 1964 too small for him to win, but Richard Nixon's 12 percent in 1968 big enough? If so, why didn't Nixon's 32 percent of the nonwhite vote in 1960 carry him to victory? Clearly, other things were not equal.

Finally, while "possibility" statements are attached to urban influence under the Electoral College (with no hint as to how such influence might be measured in terms of public policy outputs), something approaching an absolute statement is made that such influence would be lost under direct election (". . . a possibility of influence that they would not otherwise have . . ."). It isn't cricket to make conditional statements about the existence of a phenomenon in one institutional setting (the Electoral College) and absolute statements about the absence of the same phenomenon under a different setting (direct election) without supporting evidence for either statement.

What remains to be done, then, is to state the propositions of the urban interests argument in the form of testable hypotheses, to delineate the available empircal evidence and/or future conditions requisite to testing these hypotheses, to set some standard of empirical evidential weight for the tests applied, to apply the tests, and to appraise the validity of the hypotheses in the light of the results of the tests.

The hypotheses are stated below. Closely related hypotheses—those stemming from the same construct or tested with similar kinds of data—are designated by the same Arabic number and different alphabetical letters:

1. In close elections within the most populous states, these states can be "swung" to one candidate or another by a liberal bloc of metropolitan voters.

2. Because this bloc is, by definition, "liberal," we would expect the most populous states to go predominantly (e.g., more than 50 percent of the time) to the most liberal available presidential candidate. We assume such a candidate is always a Democrat. Failing such a Democratic advantage, we may question one or both of the following assumptions: there *is* a cohesive metropolitan bloc; the bloc is liberal.

3. A. Accepted premise: In a nationwide, direct election, the goal of each candidate would be to amass a large, popular vote plurality. In such elections, voters in large states would lose electoral influence to voters in less populous, but politically more homogeneous states, because the more homogeneous states would turn in larger popular vote pluralities than the large states.

3. B. Unaccepted premise: Voters in smaller, more homogeneous states (those which yield high pluralities) are politically more conservative than voters (especially metropolitan voters) in large, heterogeneous states. Therefore (if the premise were valid), taking all homogeneous, high plurality states together, both big states and small, on balance (a) we would expect liberal (Democratic) candidates to net smaller popular vote pluralities than conservative (Republican) candidates in the high plurality states, and (b) we would expect liberal (Democratic) candidates to win nationwide pluralities which are larger than their pluralities in the high plurality states.

4. Blacks, in particular, would lose electoral influence in direct election of the President.

5. Under direct election, public policy positions of the President would become more conservative because liberal bloc voters would be outvoted by conservative voters.

6. Under direct election, national public policy would become more conservative because, in the past, it has been liberal Presidents who have both originated and effectuated liberal programs against a predominantly conservative Congress.

Hypothesis 1: Liberal "swing" voters

Empirically, the liberal, swing voter hypothesis is a contradiction in terms. If we operationally define a "swing vote" group as one that does not frequently give 51 percent or more of its votes to presidential candidates of the same party, then the liberal, urban groups are not swing voters. Except for selected defections induced by McGovern's candidacy in 1972, such groups consistently give majorities to Democratic candidates.[5]

For the five presidential election from 1952 through 1968, Democratic voters among nonwhites ranged from 61 percent in 1956 to 94 percent in 1964. Nonwhites also registered an 87 percent vote for McGovern in 1972. From 1952 to 1968, the Democratic vote among Jews ranged from 75 percent in 1956 to 81 percent in 1960, with about 60 percent voting Democratic in 1972. Nationwide data specific to Irish, Italians, and Puerto Ricans are not available. But it is reasonable to assume that these ethnic groups, along with Poles and many Americans whose forebearers hail from the Balkan states, are subsumed under Catholics. The percentage of Catholics who voted Democratic ranges from 51 percent in 1956 to 78 percent in 1960, but dipped to 48 percent in 1972. Finally, members of labor union families voted Democratic by percentages ranging from 56 percent in 1968 to 73 percent in 1964, with 46 percent voting for McGovern in 1972.[6]

Hypothesis 2: Tipping the big States

Even if they admit the swing-vote hypothesis is invalid, proponents of the urban interests argument take shelter behind a fallback position. It is not so much their "swing" characteristic that makes urban minorities important, they contend, but that are critically situated in the large, competitive states with huge blocs of electoral votes that can be tipped to the presidential candidate of their choice. As demonstrated above, their choice is usualy a Democrat. Thus, we can test the second hypothesis that if populous states can be tipped in the direction willed by the urban or metropolitan bloc, most of these states should go Democratic more than 50 percent of the time, i.e., in a proportion greater than chance.

The eleven most populous states (whose combined electoral votes exceeded a majority of the Electoral College in 1972) are listed in Table 3–1.

Footnotes at end of article.

Table 3-1 shows which party carried each of these states in each of the four presidential elections of the New Deal period and the seven elections in the post-New Deal era. If the metropolitan bloc can be credited with carrying any or all of these states for the Democrats to a degree greater than chance, it was in the New Deal era. Only Indiana, which went Democratic two of four times, failed to exceed the 50 percent criterion. No less than 9 of the 11 states always went Democratic during the heyday of Franklin Roosevelt.

TABLE 3-1.—PARTISAN CHOICE OF BIG 11 STATES: 1932-72

[D = Democratic; R = Republican]

State	4 New Deal elections					7 post-New Deal elections							
	1932	1936	1940	1944	Democratic wins out of 4	1948	1952	1956	1960	1964	1968	1972	Democratic wins out of 7
California	D	D	D	D	4	D	R	R	R	D	R	R	2
Florida	D	D	D	D	4	D	R	R	R	D	R	R	2
Illinois	D	D	D	D	4	D	R	R	D	D	R	R	3
Indiana	D	D	R	R	2	R	R	R	R	D	R	R	1
Massachusetts	D	D	D	D	4	D	R	R	D	D	D	D	5
Michigan	D	D	R	D	3	R	R	R	D	D	D	R	3
New Jersey	D	D	D	D	4	R	R	R	D	D	R	R	2
New York	D	D	D	D	4	R	R	R	D	D	D	R	3
Ohio	D	D	D	R	3	D	R	R	R	D	R	R	2
Pennsylvania	R	D	D	D	3	R	R	R	D	D	D	R	3
Texas	D	D	D	D	4	D	R	R	D	D	D	R	4
Democratic States out of 11	10	11	9	9		6	0	0	7	11	5	1	

But the elections of the post-New Deal period are a different story. Even if we generously stipulate that three of these seven elections can be considered "half," only Texas and Massachusetts exceeded the 50 percent mark by going Democratic more than three times. And the four states with the largest metropolises, the most potent urban machines, strong unions, and heavy concentrations of blacks and white ethnics—Illinois, Michigan, New York, and Pennsylvania—sent their large blocs of electoral votes into the Democratic column in only three of the post-Roosevelt elections. Collectively, in close elections when they were most needed, the big states went Democratic in a proportion greater than chance in 1960 (7 of 11) but less than chance in 1968 (5 of 11). The Democratic disasters of the Eisenhower era and Nixon's re-election in 1972 are self-evident. So is the countervailing nationwide Democratic landslide of 1964.

The urban, Democratic voters no longer dominate the presidential politics of their states, largely because they are outnumbered by suburbanites, most of whom tend to cast Republican ballots.[7] There is no cohesive "metropolitan bloc."

This does not, of course, even consider the accretion of Republican votes from the small cities and rural hinterland. When added to the votes of the metropolitan suburbs, these votes can, in the words of Senator Jacob Javits, "cancel out" the votes of the largest cities. For this reason, Javits observes, the attention candidates pay to big states such as New York or California is not necessarily centered on minority groups in the city, but may be just as effectively directed at a strong showing in other areas of the state.

To summarize, the second hypothesis has not been validated.

Paradoxically, two of the academic members of the urban interests school are cognizant of the traps in their reasoning. Sayre and Parris recognize that "any one of a number of voting groups can be identified as crucial," that "suburbs as well as core-city areas" can determine the outcome in a state, that "suburban electorates are growing more rapidly than are central city electorates," and most critically of all, that "there is no assurance that the views of all groups in metropolitan areas will always be liberal or internationalist."

How do they resolve these remarks with their espousal of the urban interests attack on direct election? By the following reasoning: granted that "the predominant views and even the balance of power may shift within the large metropolitan areas; *but in any case* they have important leverage in presidential elections that they would not have without the general-ticket [unit rule] electoral-vote system." (Emphasis added.)

The leverage "in any case" argument can have only two possible interpretations. The first is the traditional concept of an electoral bloc. If this is the correct interpretation, then Sayre and Parris ignore the necessarily cohesive property of electoral bloc influence. The error is to assume that an aggregation of voters has "leverage" despite the fact that it splits its vote among two or more parties. To speak of metropolitan areas in bloc terms is a politically meaningless reification when there is no bloc—when inner city majorities go Democratic and suburban and exurban majorities vote Republican. One side's candidate must win, one side's candidate must lose.

The second interpretation sidesteps the pitfalls of the first by maintaining that, because metropolitan voters can carry states with large electoral votes, both parties nominate candidates that are more liberal than they otherwise would be. In short, the fact that inner cities may vote for Democrats and suburbs for Republicans is irrelevant if both Democratic and Republican candidates lean toward the middle to middle-left, and neither are really "right." The implication is that with a direct election system, one or both parties would nominate more conservative candidates than they do under the status quo. But this implication must be based on the premise or hypothesis that there are more conservatives in the electorate-at-large than there are liberals. Since this premise is tested as the fifth hypothesis, its validity will be dealt with below.

However, at this point we can give the hypothesis a rough and ready test. If it were true, then in any election in which a liberal candidate faced a "genuine" conservative, the liberal should have won the election primarily because he carried most or all of the Big Eleven states, and we ought to see the conservative candidate (1) winning a goodly number of small and medium-sized states, or (2) winning a respectably large share of the nationwide popular vote, or (3) both. Two elections of the modern era, 1936 and 1964, can be said to have had a "genuine" conservative opponent for a liberal. In 1936, Alfred M. Landon, running against the New Deal, carried two States, Maine and Vermont. In 1964, Barry Goldwater carried six states, five of them in the deep South, primarily on the basis of his states' rights position. Goldwater, received 38.5 percent of the popular vote and Landon won 36.5 percent—both among the all-time lows for major party candidates.

If both parties refrain from nominating outright conservatives these days, it is less because the metropolitan areas utilize the unit rule than because the nation-at-large will not have them. And, recognizing this, both parties have followed historical demands for an accepted degree of the welfare state.

Another Cut: Relative Voting Power of Urban Groups. The preceding discussion helps to place in realistic, political perspective the mathematical-gaming evidence that most urban groups do have a form of electoral advantage under the Electoral College. To display and appraise such evidence, we must refer in some detail to the work of Banzhaf and its discussion and extension by Longley and Yunker.[8]

Beginning with the gaming assumption that voting power is the probability of each voter to affect the outcome of an election, Banzhaf's analysis of the Electoral College System followed three stages. He first determined the chance each state has of casting the pivotal tie-breaking vote in creating an Electoral College majority. Banzhaf next determined the number of voting combinations, out of all possible voting combinations of citizen-voters, in which any given citizen-voter can, by changing his vote, alter the way his state's electoral votes will be cast. (The term "citizen-voter" is used because Banzhaf's calculations are based on census data, rather than on the number of actual voters, in keeping with the apportionment of electoral votes largely upon population.) In the third stage, the results of the first two steps were combined to calculate the chance each voter has of affecting the presidential election through the instrumentality of his state's electoral votes. These chances were normalized by giving the state whose citizens have the least chance of affecting an election (the District of Columbia) a voting power index of one, and setting the voting power indices of all other states at values greater than one. The result is an index of relative voting power of the citizen-voter in each state compared to the citizen-voter in every other state.

Based on the index of relative voting power, the citizen-voters of the most highly populated states do, indeed, enjoy a relatively greater chance to determine an election's outcome than the citizen-voter in smaller and medium-sized states. New York and California citizen-voters, for example, have the most opportunity—3.312 and 3.162 chances respectively, compared to 1 chance for District of Columbia voters, who choose only three electors. (There is sufficient population

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Footnotes at end of article.

in the nation's capital to entitle it to four electoral votes. It is constrained by the Twenty-third Amendment, which limits the District to no more electoral votes than the number held by the least populous state. It appears that electoral equity for black citizens in the District is correlated with the birth rate of Eskimos in Alaska.) Similarly, the only other states with an index of relative voting power of 2 or above are New Jersey, Michigan, Texas, Ohio, Illinois, and Pennsylvania. With direct election, all voters in all states would have the same index of voting power—1.

Longley and Yunker build upon Banzhaf's work in several imaginative ways. The one most germane to our purpose is their calculations of relative voting power for various groups, differing in the size of their place of residence, ethnic and occupational characteristics, and region of the country. The first step is to calculate a national average index of per-citizen voting power. The number of citizen-voters in a state (the state's population) is multiplied by Banzhaf's index of relative voting power for citizens in that state. These 51 products (including the District of Columbia) are summed, then the sum is divided by the total number of citizen-voters in the nation (the total population). The resulting quotient is the national average per citizen voting power. It is 2.158. This index can then be compared to the average voting power of various groups. The second step is computing such group averages. For example, the average voting power of all urban residents under the Electoral College is calculated by multiplying each state's relative voting power index (from Banzhaf) by its number of urban residents. The sum of these 51 products, divided by the total number of urban residents in the nation, equals the national average voting power per urban resident. The third step is to calculate the percent deviation of this urban average from the previously determined national average of per-citizen voting power, which is 2.158. The same process is followed in calculating percent deviations from the national per-citizen average for the other groups considered. "This percent deviation gives an indication of how this particular group in the electorate fares in comparison with other groups, as well as with all of the electorate."

Since the national per-citizen average does not deviate from itself, its percent deviation value is zero. All other groups are then scaled against this zero value, with plus signs if their percent deviation is above the per-citizen average and minus signs if their percent deviation is below the average. Longley and Yunker's findings are arrayed in Table 3-2.

On the basis of the measurement used, the urban interests argument appears to be supported. Residents of central cities are advantaged, but not quite as much as residents of their suburbs. Residents of both coastal areas have an advantage over citizens of the South and Middle America. The pro-Democratic blue collar workers are slightly ahead of the average citizen, and traditionally Democratic first- and second-generation ethnics of foreign stock have a considerable advantage. But black citizens have markedly less opportunity to influence elections than does the average citizen-voter. As Longley and Yunker note, this is because of high concentrations of the black population in the medium-sized states of the deep South, such as Alabama, Georgia, Louisiana, and Mississippi. This point will be developed below.

TABLE 3-2.—PERCENTAGE DEVIATIONS FROM NATIONAL AVERAGE VOTING POWER FOR SELECTED GROUPS UNDER THE ELECTORAL COLLEGE

	Percent
Residency groups:	
Suburbs[1]	+9.1
Central cities	+8.0
SMSA's	+7.2
Urban areas	+4.2
National average	0
Rural nonfarm	−8.0
Rural	−9.6
Rural farm	−14.6
Ethnic and occupation groups:	
Foreign stock	+10.2
Blue collar	+2.5
National average	0
Blacks	−5.1
Regional groups:	
Far West	+26.5
East	+14.2
National average	0
Midwest	−4.2
South	−15.4
Mountain States	−38.4

[1] Defined as urban areas other than central cities within SMSA's.

Source: Adapted from Lawrence Longley and John Yunker' "Who is Really Advantaged By the Electoral College—And Who Just Thinks He Is?," a paper presented at the 67th Annual Meeting of the American Political Science Association, Chicago, Ill., Sept. 7-11, 1971, figures 10, 11, and 12. The same data also appears in Lawrence Longley and Alan Braum, The Politics of Electoral College Reform (New Haven: Yale University Press, 1972), 123.

However, the foregoing is literally a numbers game. For this reason, it is also a "numbers game" in the rhetorical sense that the findings have little relevance to the real world of presidential elections. This is demonstrated by Longley and Yunker, who exhibit intellectual rectitude in their discussion of the limitations embodied in their analysis. Distilled and somewhat amended, these limitations are as follows:

First, Banzhaf's indices of relative voting power are a theoretical measure of a citizen's long-range, average chance of affecting the outcome of an election. Although they reflect inequalities built into the electoral structure, they do not consider such other crucial political variables as one-party domination in a state and voter turnout. Both may affect a citizen's voting power in any given election.

Second, the Banzhaf indices are based on relative, not absolute, probabilities of affecting an election outcome. As such, the indices are likely to overestimate the value of the pivotal power approach in large electorates. Although pivotal power may be influential in small bodies, e.g., courts and legislative committees, it is dissipated in an electorate of upwards of 70 million.

In absolute terms, the chance a citizen in state A has of changing the outcome of the election is very small in comparison with the chance that a Supreme Court Justice has of changing the outcome of a case. Hence, the relative power differences, though they are evident in the present Electoral College and proposed systems other than the direct vote plan, may be severely outweighed by the extremely low absolute chances of a citizen affecting the outcome.[9]

The third and fourth limitations inhere in the crucial assumptions made in the pivotal power, or tie-breaking vote, concept itself. The central assumption is that the only meaningful vote is the one that breaks a tie. This, in turn, means that the sole object of the game is to win by casting the tie-breaking vote. But as Mann and Shapley observe about their own pivotal power study based on 51 states, "[W]e are forced to insist that the players (i.e., the states) all be independent agents, free from prior commitments and uninfluenced by considerations outside the stated objectives of the game. These unrealistic assumptions would at once invalidate any attempt to apply the power indices in an actual presidential campaign."[10] The same constraints would apply to individual citizen-voters in Banzhaf's analysis, for the voter's objective is not to become pivotal by, for example, changing his intended vote to alter the outcome. It is to vote for the candidate to whom he is already committed for whatever reasons of issue-, party-, or personality-orientation that are sufficient unto the voter. Moreover, even if the voter did consider his sole objective as affecting the outcome, there is no way of his knowing before the election if, and in what combination with others, he could be pivotal. Thus, because of imperfect information, as well as prior political commitment, the voter cannot act as an independent agent.

The fourth limitation is that because the pivotal power concept assigns power only to the single, tie-breaking vote, additional votes inflating the size of the majority are not considered powerful under the rules of the game. But in practical presidential politics, the size of the winner's majority can be exceedingly important. Presidents who win by landslides tend to have longer, and far more romantic, honeymoons with Congress than Presidents who barely win. This is especially true if fellow partisans ride in on his coattails to swell the President's support on the Hill.[11] To the extent that the electorate casts its vote for a President not as an end, but as a means of affecting public policy, it is in their interest, too, to accrue as many votes as possible beyond the pivotal one.

Finally, the voting power analysis skirts the problems of demonstrating voters' influence over a candidate's issue positions and excluding voters outside the winning coalition from receiving some rewards.

We agree with Longley and Yunker that Banzhaf's analysis (and their own extension of it), being "divorced from the political realities of party affiliation and voting, does not at all examine the coalitions of voters which have formed in actual presidential elections."

It is to this task, begun with the testing of hypotheses 1 and 2, that we now return in considering hypotheses 3.A and 3.B.

Hypotheses 3.A and B: Who wins the big pluralities?

Sayre and Parris contend that under direct election,

> The electoral power of each state would no longer depend on the size of its total electoral vote bloc instead on the size of the popular vote margin the state gave the winning candidate. The plan would place a premium on areas where a candidate could roll up large popular pluralities. This would mean prominence for a different group of states than the eleven with the most electoral votes under the existing system.

The last sentence is the basis for hypothesis 3.A, that the Big Eleven states will turn in smaller total pluralities than other states and, consequently, lose electoral influence to the smaller states. Sayre and Parris offer what they consider empirical support for the hypothesis by listing the states which had turned in popular vote pluralities of at least 100,000 votes in the close presidential elections of 1960 and 1968. These states, with Big Eleven states indicated by italics, are as follows:

1960 (12 states: Georgia, *Indiana*, Iowa, Kansas, Louisiana, Massachusetts, Nebraska, *New York*, *Ohio*, Oklahoma, Pennsylvania, Rhode Island.

1968 (21 states): Alabama, *California*, *Florida*, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, *Massachusetts*, *Michigan*, Minnesota, Mississippi, Nebraska, *New York*, North Carolina, Oklahoma, Pennsylvania, Rhode Island, Virginia, District of Columbia (considered a "state" for present purposes).

Footnotes at end of article.

From the above list, Sayre and Parris conclude: "Thus the direct-vote plan would mean a strategic position for the states that are politically more homogeneous as well as at least fairly populous," and "Smaller cities, towns, and rural areas would gain relative to metropolitan areas."

These conclusions outrun the data base in a number of ways. To dispose of two lesser problems, their two lists constitute an intersection of the sets of Big Eleven states and other states. To this extent, the magnitude of relative loss of Big Eleven state "electoral power" to "a different group of states" is problematic. Secondly, the discussion suddenly shifts from states as jurisdictions to "smaller cities, towns, and rural areas," with no methodological gearing down for this transition.

More importantly, utilizing a single, open-ended category of a 100,000 vote plurality or more hides a wealth of variation in the size of these pluralities from state to state. The pluralities range from 110,530 in Rhode Island in 1960 to 510,424 in Massachusetts in the same year. Also, the listing says nothing about the distribution of these pluralities among different presidential candidates. It is idle to talk about one group of states being more homogeneous than another group if, in fact, within the same group one state's Republican plurality is offset by another state's Democratic plurality.

Most critically of all, the Big Eleven states with large pluralities would lose "electoral power" only if their net pluralities for one candidate were exceeded by net pluralities for another candidate in other high plurality states. Finally, since Presidents are elected by the entire nation, not by selected groups of states, high plurality, Big Eleven states would lose "voting power" in a direct election only if the net pluralities for their candidate among all high plurality states were lower than the nationwide popular vote plurality for their candidate.

These considerations constitute the theoretical rationale for hypothesis 3.B. Assuming that Democratic candidates win net pluralities in the Big Eleven states (an assumption validated below), hypothesis 3.B states that (a) liberal (Democratic) candidates will net smaller popular vote pluralities than conservative (Republican) candidates in the high plurality states, and (b) (Democratic) candidates would win national pluralities that are larger than the Democratic net pluralities in the high plurality states.

Both hypotheses, 3.A and 3.B, are tested by the data arrayed in Table 3-3. These data are from the high plurality states of 1960 and 1968 as defined by Sayre and Parris (pluralities of 100,000 votes or more).

TABLE 3-3.—STATES WITH POPULAR VOTE PLURALITIES OF AT LEAST 100,000: 1960 AND 1968

[In thousands of votes]

	Election of 1960				
		Plurality		Electoral votes	
Candidate	States	Number	Percent	Number	Percent
5 States of big 11:					
Kennedy	3	1,010	67	93	71
Nixon	2	496	33	38	29
Total	5	1,506	100	131	100
7 other States:					
Kennedy	3	471	41	26	45
Nixon	4	681	59	32	55
Total	7	1,152	100	58	100

Exhibit: Popular vote pluralities: For the 12 big plurality States, a Democratic plurality of 301,000; for the nation, a democratic plurality of 113,000. Electoral vote pluralities: For the 12 big plurality States, a Democratic net plurality of 49; for the nation, a Democratic plurality of 84.

	Election of 1968				
		Plurality		Electoral votes	
Candidate	States	Number	Percent	Number	Percent
8 States of big 11:					
Nixon	4	830	36	93	46
Humphrey	4	1,465	64	107	54
Wallace					
Total	8	2,295	100	200	100
13 other States:					
Nixon	6	895	36	54	49
Humphrey	3	432	18	17	16
Wallace	4	1,136	46	39	35
Total	13	2,463	100	110	100

Exhibit: Popular vote pluralities: For the 21 big plurality States, a Democratic plurality of 172,000; for the Nation, a Republican plurality of 510,000. Electoral vote pluralities: For the 21 big plurality States, a Republican plurality of 23; for the Nation, a Republican plurality of 110.

Source: Popular vote pluralities and electoral votes won from Politics in America, 3d ed. (Washington, D.C.: Congressional Quarterly Service, May 1969), 125 and 127. Percentages computed by author.

As can be observed from comparing the total pluralities of Big Eleven states to other states, hypothesis 3.A is invalid for the election of 1960 but valid for the 1968 election. In the whisker-close 1960 election, the total plurality from the five Big Eleven states exceeded that of the seven other high plurality states by 354,000 votes, 1,506,000 to 1,152,000. The direction, but not the magnitude, was reversed in 1968, when the total pluarity for 13 other states was but 168,000 votes greater than the total for eight Big Eleven states, 2,463,000 to 2,295,000. Considering that 1960 was a much closer election than 1968 (Kennedy's national plurality was 113,000 in 1960, Nixon's was 510,000 in 1968), one is not impressed by the argument that in close national elections Big Eleven states will lose voting power to other states.

But more importantly, neither group of states was homogeneous in either election. Both groups split up among at least two candidates. This split is evident using several different measures—the number of states within each group that is carried by each candidate, the size of the plurality carried by each candidate (both in absolute and percentage terms), and the electoral votes won by each candidate (both in absolute and percentage terms). In partisan terms, democratic candidates were favored among Big Eleven states. Democrats won handsome majorities of both popular votes and electoral votes in both elections. Conversely, the Republican candidate bettered the Democrat in the seven other states in 1960, while in 1968 the Republican ran second to George Wallace in popular votes but won the most electoral votes in 13 other states.

In short, there are not simply "homogeneous" states; there are Democratic states and Republican states. And now, probably, there are, or may be, Wallace states. This is nothing new. The partisan direction of pluralities will be of importance in a direct election system up to, but no more than, the same extent it is under the Electoral College system—in determining who will win the election.

That brings us to hypothesis 3.B. As shown in the exhibits of "Popular Vote Pluralities" in Table 3-3, both parts of hypothesis 3.B are invalidated for both elections. Among all the high plurality states, the Democratic candidate won a larger net popular vote plurality than the Republican candidate, not a smaller one. And in nationwide terms, in both elections the Democratic candidate won more popular votes from all the high plurality states than he won in the nation as a whole, not less. Kennedy's 1960 plurality over Nixon in high plurality states was almost three times the size of his nationwide plurality. In 1968, Humphrey beat Nixon by 172,000 votes in the high plurality states while Nixon won the nation with a 510,000-vote plurality over Humphrey.

Democratic candidates also seem to do better in winning popular votes than electoral votes in the high plurality states. As demonstrated in the exhibits of "Electoral Vote Pluralities," in 1960 Kennedy won 49 more electoral votes than Nixon in the high plurality states, compared to 84 more electoral votes than Nixon in the entire country. Yet Kennedy's popular vote margin over Nixon in the high plurality states was, to repeat, three times his national popular plurality. The 1968 election presents a similar pattern. Among the high plurality states, Humphrey received 172,000 more popular votes than Nixon, but Nixon won 23 more electoral votes than Humphrey. If the 1960 and 1968 elections are any guide (and they were selected by Sayre and Parris to buttress *their* case, not ours), Democrats would fare better in the high plurality states under direct election than they would with the Electoral College.

What does it all mean?

1. It means that the conventional wisdom that the most populous states are highly competitive compared to other states is a myth. Although the Republican-Democratic split of the popular vote in these states may be relatively close in percentage terms, when translated into the absolute numbers of popular votes cast, there are huge popular vote pluralities to be won in each state, and in the Big Eleven states collectively. This is largely because these states contain a vast reservoir of voters.

2. It means that because politicians "go where the ducks are," candidates of both parties will continue to pay attention to, and actively campaign in, the most populous states and their large metropolitan centers, under a system of direct election. Experienced campaign managers of both political parties have already so stated.[12]

3. It means that even in close elections the popular vote pluralities of the Big Eleven states tend to split favorably for Democratic candidates with a clear urban and liberal bias (Kennedy and Humphrey as cases in point). Consequently, there is no reason to believe that the cities will lose whatever influence they may have had over Democratic presidential politics, or whatever lesser influence they may have had in liberalizing Republican presidential politics.

Hypothesis 4: What's in it for the blacks?

Invalidation of the preceding hypothesis impugns the credibility of the hypothesis that black voters would lose influence under direct election. That hypothesis can be completely laid to rest if the likelihood of two propositions can be demonstrated:

1. Blacks could effectively transfer their voting strength, actual and potential, to the national stage and be considerably effective there. "The newly enfranchised blacks from southern states like Georgia and Alabama would be able to combine their votes with blacks from New York, Illinois, and Michigan and thus constitute a formidable national voting bloc that the parties would ignore at their peril."

2. A necessary, if not sufficient, condition for the first proposition is that discrimina-

tory practices intended to keep southern blacks from the polls are eliminated.

Evidence supporting the first proposition is arrayed in Table 3-4, which shows the incidence of voting participation of blacks by region and place of residence in 1968. The total number of blacks who voted in the South, nearly 3.1 million, almost equals the 3.2 million who went to the polls in the North and West. But under the unit rule of the Electoral College, the three million black votes in the South were translated into electoral votes for Richard Nixon or George Wallace in all the states but Texas.

However, it is the sizable number of potential black votes in the South that should give direct election a special appeal to liberals. The number of blacks who did not vote totaled nearly 2.9 million in the South compared to 1.7 million in the North and West. The nonvoting black citizens in the South reside in about equal numbers in SMSAs and nonmetropolitan areas. In the North, the lion's share of nonvoting blacks (1.3 million out of 1.7 million) reside in the large metropolitan areas with populations in excess of one million. (See Exhibit in Table 3-4.)

TABLE 3-4.—BLACKS OF VOTING AGE—VOTING PARTICIPATION BY REGION AND SIZE OF PLACE OF RESIDENCE: NOVEMBER 1968

(Numbers in thousands; percentages in parentheses)

	North and West			South		
Residence	Total	Voted	Did not vote	Total	Voted	Did not vote
Metropolitan (SMSA's)[1]	4,651 (100.0)	3,033 (65.2)	1,619 (34.8)	3,158 (100.0)	1,720 (54.5)	1,438 (45.5)
Nonmetro[2]	293 (100.0)	173 (59.2)	119 (40.8)	2,832 (100.0)	1,374 (48.5)	1,459 (51.5)
Total, all blacks	4,944 (100.0)	3,206 (64.8)	1,738 (23.8)	5,991 (100.0)	3,094 (51.6)	2,898 (48.4)
Exhibit: Large metro (SMSA's of 1,000,000 or more)	3,680 (100.0)	2,419 (65.7)	1,261 (34.3)	1,166 (100.0)	608 (52.2)	558 (47.8)

[1] For definitional characteristics of SMSA's see p. 5 of source cited below, or any Bureau of the Census publication utilizing SMSA's.

[2] All population not living in SMSA's, composed of nonfarm (non-SMSA urban areas and rural persons not on farms) and farm population. For more detailed definitional characteristics, see p. 6 of source cited below, or any Bureau of the Census publication utilizing these concepts.

Source: U.S. Bureau of the Census, Current Population Reports, series P-20, No. 192, "Voting and Registration in the Election of November 1968," (Washington, D.C., U.S. Government Printing Office, 1969), tables 2 and 3, pp. 13-17.

The pattern is clear. Two large, untapped reservoirs of black voters lie in the major cities of the North and West and, especially, in the urban and rural South. The three channels needed to unite these bodies are direct election, vigorous enforcement of civil rights statutes guaranteeing the right to register and vote, and active registration and get-out-the-vote campaigns by political organizations.

That brings us to the conditional proposition—the extent to which discriminatory practices, especially in the South, can be diminished or eliminated. Certainly the public record, both legal and political, tends to support the proposition that the incidence of voting discrimination has waned, and would continue to diminish, under direct election. Consider these items:

1. In 1970 Congress extended the duration of the Voting Rights Act of 1965 to 1975. The act suspends literacy tests in selected southern states and provides for the registration of southern blacks by federal registrars. These provisions of the 1965 act, and the states covered by them, continue under the 1970 extension. An amendment adopted in 1970 suspended literacy tests for all elections in all states until 1975.[13]

2. In August 1972, the Gallup poll reported:

For the first time in polling history, as high a proportion of non-whites as whites say they are registered [to vote]. While the national figure for all adults has increased only four points since the study earlier this year—from 71 percent to 75 percent—the figure for non-whites nationwide has increased 8 percentage points—from 66 percent to 74 percent. The most dramatic increase in registration is recorded among non-whites in the South.[14]

3. The likelihood is great that the increase in blacks registering would be buttressed by practical political considerations. When interviewed by Peirce a few years ago, experienced political campaign managers of both parties "agreed that a direct vote would also increase the pressure to register the greatest pool of voters who do not yet participate fully in U.S. presidential elections—the blacks of the South. They also anticipated an effort to reach the 'missing million' of black males (mostly in northern cities) who have never been registered, and to register the migrating citizen and get him to the polls."

Hypothesis 5: Are most Americans conservative?

The fifth hypothesis contends that under direct election, a President would be more conservative on civil rights and social welfare issues because such policy postures would reflect the majority sentiment of the American electorate at large. The hypothesis is inferred from assumptions about the conservatism of old-line American, white Anglo-Saxon Protestants living in the South and in the small cities and rural areas of Middle America.

Besides positing a more direct linkage between public opinion and public policy than necessarily exists,[15] the hypothesis is not supported by knowledge about the direction and structure of public opinion gained from many academic and commercial opinion polls. Indeed, the findings of such polls constitute evidence invalidating the hypothesis.

Before examining this evidence, we must first distinguish between civil rights and "law and order." The former refers to such legislative and judicial policies as desegregating schools and removing discrimination in job opportunities, voting rights, and access to public accommodations. The latter reflects opposition to violent demonstrations (or demonstrations that become involved in violence) and especially opposition to street crimes and to urban riots, with their attendant looting, fire bombing, and sniping. In the course of his interviews with the public in 1968, Lubell found strong negative attitudes toward the "excesses" tied into the law and order issue. But when respondents were asked which civil rights laws enacted in the past 15 years they would keep or repeal, "The overwhelming majority expressed no desire to turn back the civil rights clock."[16] Two exceptions were open housing laws and school busing (an instrument of overt integration), which were opposed by sizable majorities in both North and South.

Similarly, in February 1969 the Harris Poll found that favorable dispositions toward law enforcement were held along with favorable attitudes toward federal aid to education, antipoverty programs, and Medicaid without engendering cognitive or affective dissonance.

Such generalized, nationwide findings can be corroborated by academic research which offers more detail on the incidence of opinion on social welfare issues by region, size of place of residence, and ethnic group. We can test the fifth hypothesis, therefore, not only by asking if a majority of the nation takes essentially conservative positions on social welfare programs, but also if majorities of small city residents, farmers, Protestants, and Americans of English, German, and Scandinavian extraction are conservative. As we shall see, quite the contrary is the case. Majorities of the nation, and of selected subsample groupings, are liberal in terms of social welfare programs.

The preceding generalization summarizes the opinion elicited in a 1964 study by Lloyd Free and Hadley Cantril.[17] Their survey was conducted by the Gallup polling organization, and consisted of two samples of about 1,600 respondents each. The first sample was interviewed in late September and early October, the second in the last half of October. Since several items were included in both surveys, there was a combined sample of about 3,200 respondents, which is large enough to permit subsample comparisons among different population groups.

The Free and Cantril study confirms what students of public opinion have long suspected—that Americans tend to respond in a conservative direction to abstract principles that underlie contemporary conservative rhetoric, but simultaneously favor social welfare programs that are the foundation of liberal public policy. Free and Cantril utilize what they term Ideological and Operational Spectrums in public opinion. These are, respectively, scales based on responses to five items measuring abstract, ideological principles, and five quite different items measuring response to specific social welfare programs. Because the distinction between ideological conservatism and operational (public policy) liberalism is critical, and because we shall emphasize the distribution of group opinion along the Operational Spectrum, the items for both spectrums and the distribution of national public opinion on each of them are presented below. The sample size for each set of five is given in parentheses.

Ideological Spectrum (N = 1,611):

1. "The federal government is interfering too much in state and local matters." Agree, 40 percent; Disagree, 47 percent; Don't know, 13 percent.

2. "Social problems here in this country could be solved more effectively if the government would only keep its hands off and let people in local communities handle their own problems in their own ways." Agree, 49

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percent; Disagree, 38 percent; Don't know, 13 percent.

3. "The government has gone too far in regulating business and interfering with the free enterprise system." Agree, 42 percent; Disagree, 39 percent; Don't know, 19 percent.

4. "Generally speaking, any able-bodied person who really wants to work in this country can find a job and earn a living." Agree, 76 percent; Disagree, 21 percent; Don't know, 3 percent.

5. "We should rely more on individual initiative and not so much on governmental welfare programs." Agree, 79 percent; Disagree, 12 percent; Don't know, 9 percent.

Items 4 and 5 are interesting not only because they are the only ones in which a majority takes a conservative position, but because this position is agreed to by elements in the population whose low income and high incidence of unemployment should, rationally, prompt them to disagree with the statements. Yet seven out of ten respondents with family incomes of less than $5,000 a year agreed that an able-bodied person seeking employment can find it, as did six out of every ten black respondents. Similarly, seven out of ten low income respondents and six out of ten black respondents agreed with the statement that we should rely more on individual initiative than on welfare programs. The Puritan Ethic is as alive and well in the ghetto as in the board room.

But the Social Gospel is a closer interpretation of the overwhelming public support for government programs which insulate the individual from the chilling realities of competition in the "free market place." Free and Cantril found that 75 percent of their respondents agreed that the government has a responsibility to try to reduce unemployment. They also cite Gallup and Harris polls from early 1967 which show that 54 percent of those interview favored present or increased levels of spending for the controversial Community Action Program to combat poverty in cities and neighborhoods, 67 percent favored present or increased expenditure levels for the Head Start Program, and 75 percent agreed that retraining poorly educated people for the job market deserved present or increased levels of funding. This liberal perspective is reflected and amplified in the response to items in the Operational Spectrum.

Operational Spectrum ($N = 3{,}215$):

1. "A broad general program of federal aid to education is under consideration, which would include federal grants to help pay teachers' salaries. Would you be for or against such a program?" For, 62 percent; Against, 28 percent; Don't know, 10 percent.

2. "Congress has been considering a compulsory medical insurance program covering hospital and nursing home care for the elderly. This Medicare program would be financed out of increased social security taxes. In general, do you approve or disapprove of this program?" Approve, 63 percent; Disapprove, 30 percent; Don't know, 7 percent.

3. "Under the federal housing program, the federal government is making grants to help build low-rent public housing. Do you think government spending for this purpose should be kept at least at the present level, or reduced, or ended altogether?" At least at present level, 63 percent; Reduced, 12 percent; Ended, 10 percent; Don't know, 15 percent.

4. "Under the urban renewal program, the federal government is making grants to help rebuild run-down sections of our cities. Do you think government spending for this purpose should be kept at least at the present level, or reduced or ended altogether?" At least at present level, 67 percent; Reduced, 10 percent; Ended, 11 percent; Don't know, 12 percent.

5. "The federal government has a responsibility to try to do away with poverty in this country." Agree, 72 percent; Disagree, 20 percent; Don't know, 8 percent.

The distribution of the national sample along both spectrums is presented in Table 3–5, a clear demonstration that the public would not have the government practice what some of its conservative officials preach, even though half the public might agree with the sermon.[18]

The weight of public opinion at the liberal end of the Operational Spectrum remains when opinion is controlled for selected socioeconomic, regional, and political characteristics. As shown in the third column of Table 3–6, a majority of all the selected subsample groups score in the liberal categories. These majorities are uniform among all the groups which, according to the fifth hypothesis, would combine to form a conservative influence in direct presidential elections—farmers, Protestants, residents of small cities and rural areas, southerners, and white, Anglo-Saxon, old-line Americans of English, German, and Scandinavian extraction. Even those respondents from southern states which were carried by Goldwater in 1964 were predominantly liberal, if not in such large proportions as southerners from states carried by Johnson.

TABLE 3-5.—IDEOLOGICAL AND OPERATIONAL SPECTRUMS

[In percent]

National sample	Ideological spectrum		Operational spectrum	
Completely liberal	4	16	44	65
Predominantly liberal	12		21	
Middle of the road	34		21	
Predominantly conservative	20	50	7	14
Completely conservative	30		7	
Total	100 N=1, 491		100 N=3, 041	

Source: Lloyd Free and Hadley Cantril, The Political Beliefs of Americans (New York: Simon and Schuster, 1968), 32, 207, 209.

Hypothesis 6: President or Congress? Chicken or Egg?

The sixth hypothesis perceives the public policy process as a kind of political seesaw, with the President sitting at the liberal, activist end and Congress perched on the conservative, passive end. Elect a President by direct vote, the sixth hypothesis warns, and you upset the delicate balance by having the President slide down the board to join Congress at the conservative end.

Even if the balancing image were a valid representation of reality, it has already been demonstrated that direct election per se would be unlikely to cause an exchange of liberal, activist Presidents for conservative, ministerial ones. In the presence of the evidence that all segments of the electorate are operationally liberal, the electorate may be expected to elect broadly the same types of President in the future as it did in the past, regardless of whether the electoral system tinkers with popular votes or simply counts them. By failing to validate the fifth hypothesis, we have also failed to validate the sixth. Therefore, if Congress is conservative and merely reacts to presidential initiatives, and if the President is the only truly liberal, innovating actor of the two, then direct election should not alter these characteristics.

The temptation to leave the sixth hypothesis is strong. But it will be resisted, for there is a growing body of scholarly opinion which contends, with some degree of persuasiveness, that the aforementioned images of the President and Congress are caricatures of reality. This is a many-faceted subject. We will confine our remarks to a bare surface examination of the contentions that the President is the dominant influence in the legislative process, that he is the source of liberal or innovative proposals (or both), and that he represents the national interest against the particularistic or "parochial" interests represented in Congress.

TABLE 3-6.—DISTRIBUTION ALONG OPERATIONAL SPECTRUM BY SELECTED GROUPS

[In percent]

Groups	Completely liberal	Predominantly liberal	Total liberal	Middle of road	Predominantly conservative	Completely conservative	Total
National sample (N=3,041)	44	21	(65)	21	7	7	100
Farmers[1]	34	24	(58)	21	12	9	100
Protestants[2]	38	22	(60)	22	9	9	100
City size:							
500,000 plus	55	19	(74)	17	4	5	100
50,000 to 499,999	43	21	(64)	22	8	6	100
2,500 to 49,999	31	24	(55)	25	10	10	100
Under 2,500 and rural	36	23	(59)	23	10	8	100
Region:							
East	54	18	(72)	19	5	4	100
South—Goldwater	33	24	(57)	16	10	17	100
South—Johnson	44	23	(67)	18	8	7	100
Midwest	39	23	(62)	23	9	6	100
West	37	22	(59)	25	7	9	100
Ethnic group:							
English[3]	30	21	(51)	27	12	10	100
German[3]	34	20	(54)	28	10	8	100
Scandinavian[3]	39	20	(59)	24	10	7	100

[1] Smallest "total liberal" majority of all occupations, excepting "professional, business," at 54 percent.

[2] Smallest "completely" or "total liberal" percentages of 3 major regions.

[3] Smaller "completely" or "total liberal" percentages than Irish Catholics, Italians, and Eastern or Central Europeans.

Source: Same as for table 3–5.

On the question of dominant influence in the legislative process, Chamberlain's 1946 study of 90 major laws enacted in the preceding 50 years found that about 20 percent of them could be credited to the President, roughly 40 percent were the product of Congress, 30 percent were influenced about equally by both branches, and something under 10 percent were pushed through by external pressure groups.[19]

More recent scholarship arrives at essentially the same conclusion about the executive-legislative relationship, in spite of such phenomena as the Republican southern Democrat Conservative Coalition and a good deal of fashionable talk about presidential and congressional wings in both parties. Cronin examines various case studies of the legislative history of New Frontier and Great Society programs, then concludes that presidential initiatives were tempered and buttressed by Democratic party orientations, the unfinished business of previous Presidents, and by congressional incubation of liberal measures and congressional-presidential dialogue over their substance.[20]

The spectacular legislative record of the 89th Congress is the case in point. Most of President Johnson's legislative program had been previously "incubated"—kept alive to pick up support, wait a better political climate, or be hatched when the problems it addressed became more important—in Congress. To this must be added the critical variable of the 89th Congress having sufficient northern Democratic votes to do for Johnson's program what the 88th Congress was unable to do for most of Kennedy's—pass it.[21]

Similarly, Congress is not a passive recipient of presidential proposals. Nor does it invariably play the parochial, self-interested Roman Senate to the President's noble, disinterested Caesar. As Cronin observes:

Sometimes the presidency, and sometimes Congress, play the dominating role in initiating legislation. But the initiation as well as the enactment of virtually all major legislation in domestic and economic policy matters results from extensive "conversions" between presidency and Congress, and between both of these institutions and strategic interest groups. To conceive of the presidency as representing the national interest or general welfare and Congress merely as the tool of special or particularistic interest is as naive today as it was thirty years ago when Pendleton Herring cautioned—"In fact presidential policy, however 'pure' in motivation, must mean the promotion of certain interests at the expense of others."

The point of all this is not that the President has been downgraded in importance, but that Congress is more important than it has been given credit for. Influence in the legislative process is not a zero-sum game, where one player acquires more only if the other player retains less. To return to our original simile, the legislative process is not "like a seesaw where as one end goes down the other must automatically go up. It is, rather, like a gasoline engine which operates most efficiently when all of its cylinders are functioning."

What the presidential liberals reply, of course, is that the congressional cylinders misfire because they are conservative and ill-represent the popular will. To the extent the charges have validity in terms of past congressional performance, one rejoinder might be that the reapportionment decisions should effect more equitable representation of popular views in the House. There is, of course, no assurance that such views will be liberal enough to please the critics. Most new and reapportioned congressional districts have followed the population to the suburbs. Even allowing for the time lag imposed by the seniority system, the power centers of the House should have a different geographical base a decade or two hence from what they had a decade or two in the past.

However, the reapportionment decisions have not convinced all opponents of direct election that the historical leverage of rural, conservative groups in Congress has been redressed. Bickel, for example, makes a five-point argument. We can present, and deal with it, forthwith:[22]

1. Reapportionment does not affect equal representation of states in the Senate or the constitutional minimum of one House seat for each state, regardless of population.

This is a time-honored ploy in political argumentation—refuse to accept incremental reforms which are possible in lieu of massive renovations which are not. Second, and politically most important, the argument conveniently ignores the fact that liberalism and a social-welfare orienation are not one-to-one correlates with the size or urbanization of the state a Senator represents. One need only call to mind such liberal senators as Mike Mansfield (Montana), Frank Church (Idaho), George McGovern (South Dakota), Harold Hughes (Iowa), Fred Harris (Oklahoma), and Gale McGee (Wyoming). Conversely, large, metropolitan states have sent to the Senate such conservatives as Frank Lausche (Ohio) and Everett Dirksen (Illinois).

2. It would be "foolhardy [writes Bickel] to bank on the permanence of the reapportionment decisions, *just exactly as we now know them*. They are subject to relitigation every decade, with every census." (Emphasis added.)

This is the wispiest of straw men. No champion (or enemy) of direct election assumes that today's legislative district boundary lines will remain unchanged. Indeed, it is opposition to the permanence of district lines despite population shifts that underlies the one man, one vote decisions.

3. Gerrymandering, which the courts have not attempted to control, can accomplish all that malapportionment ever achieved. This is especially the case when the courts throw out other considerations, such as groupings of political subdivisions, in the interests of an overriding criterion of exact mathematical equality.

It is difficult to disequate gerrymandering and malapportionment without a more precise list of their common evils. Bickel's only expressed concern is that political subdivisions (whose residents presumably have common demands with respect to public policy) will be split into different legislative districts for state and/or federal representation. This is a complex issue, not easily resolved in a few sentences. But one can point out that in any kind of tradeoff between having one's township or country remain intact within the boundaries of a single legislative district, or being grossly underrepresented in the legislature because of the massive population of one's district compared to other districts, a citizen might be foolhardy to opt for the former instead of the latter.

4. Bickel suggests that Congress may not be what it is because of malapportionment, but because of its internal methods of distributing power. Notable among these are seniority and the committee system, and the rules of debate, which maximize the possibilities of group veto and minority resistance. Seniority is won by legislators from homogeneous districts with simple concerns, writes Bickel. Such men concentrate single-mindedly in an area of specialization, achieve legislative power in it, and use this power to bargain with their less influential peers. Because legislators from big states and urban districts represent more complex constituencies, they are disadvantaged in the race of seniority and power.

This is a familiar rendering. It combines elements of what Wolfinger and Heifetz call the "textbook theory" and the "insiders' theory."[23] According to the textbook theory, the congressional Democratic party is fragmented because the lack of party competition in the South results in greater seniority for southern Democrats than for northern Democrats. The insiders theory observes that there are many safe seats in the North, especially in big city House districts. But Democrats from these districts fritter away their potential seniority by committee hopping and by leaving the House when an executive or judicial position opens up in their home state.

By empirical investigation, Wolfinger and Heifetz invalidate the "insiders' theory" on every count. The southern advantage in total chairmanships is best accounted for by the textbook theory—lack of two-party competition in the South—and by a Republican sweep of many northern Democratic districts in the 1946 mid-term election which severely cut into the potential for northern Democratic seniority in succeeding years.

However, the textbook theory is becoming increasingly less valid. Election data clearly show a trend toward more safe seats and more seniority for Democrats in the urban North with a parallel loss of safe Democratic seats in the rural South. The North has been recovering from the Democratic disaster of 1946, while southern seniority has fallen victim to some Republican victories, to incumbents losing in primaries, and to redistricting. The prognosis is that within a few years northern Democrats will assume greater influence in the House, and "the decline of the southerners will be accompanied by a Democratic President's greater ability to get his way with Congress."[24]

The most empirically defensible of Bickel's charges relate to the rules of debate. Certainly the filibuster offers great leverage, if not absolute control, to numerical minorities. On balance, the filibuster has historically been the tool of conservative interests. But filibusters can be stopped, as demonstrated by the successful two-thirds cloture votes on civil rights legislation in 1964, 1965, and 1968. And the filibuster has occasionally been the tool of liberal Senators. Three administration proposals in 1971 alone were affected by liberal filibusters: appropriations for supersonic transport planes, a government loan to the Lockheed Aircraft Company, and extension of the draft laws. And late in the 1972 session, filibustering liberals killed a tough antibusing bill which had passed the House.

5. Bickel contends that a congressional constituency may vote for its congressman from a more self-centered and probably more conservative outlook than it votes for a President when it is part of a national constituency. The consequences are that the President is likely to represent a different constituency than does the House, that Congress "cannot be radically changed," and that the electoral system should "emphasize and preserve rather than seek to suppress the different orientation of the presidency."

These three conclusions emerge from an empirically unsubstantiated assertion. To suggest that self-centered and conservative attitudes motivate voters in congressional elections is to fly in the face of what is known about congressional constituencies. In their study of the 1958 congressional election—which, being mid-term, would be more likely to turn on congressional candidates and issues than would an election in a presidential year—Miller and Stokes found an abysmal ignorance of both congressional candidates and issues. Fewer than one in five respondents had read or heard anything about both candidates, well over half had read or heard nothing about either, and less than 3 percent of the voters interviewed made comments about any kind of legislative issue. Some 84 percent of the vote in 1958 was cast

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Footnotes at end of article.

by party identifiers for, and on the basis of the party affiliation of the congressional candidate. "What is more, traditional party voting is seldom connected with current legislative issues."[25] Only about 15 percent of the party identifiers mentioned current issues of public policy as reasons for what they liked and disliked about the parties.

Measured in terms of public opinion, there is no evidence that the President represents a "different constituency" than does the House, collectively. But even if he does, and we followed Bickel's advice to preserve the "different orientation" and different constituency for the President, then logic would dictate that this difference would be more nearly accomplished by direct election than by election through the Electoral College. Senators and Representatives are elected on the basis of imaginary lines, visable only on maps of the United States. To the extent those lines influence legislators' orientations toward public policy (and they do),[26] a different orientation for Presidents is more likely to result from sweeping aside all lines but the national borders in electing him.

FOOTNOTES

[1] Unless otherwise noted, the following propositions stem from these sources: Wallace Sayre and Judith Parris, Voting for President (Washington, D.C.: The Brookings Institution, 1970), 71–73, 80–81; Alexander Bickel, Reform and Continuity (New York: Harper Colophon Books, 1971), 5–13, 17–19; and Bickel's testimony in Hearings before the Senate Judiciary Committee on Electoral College Reform, 91st Cong., 2nd Sess. (April 15, 16, and 17, 1970), 50. These hearings will be cited hereafter as Senate Hearings.

[2] Remarks of Senator Sam Ervin in 116 Cong. Rec. S16557 (daily ed., September 25, 1970), quoting from Bickel's article, "Direct Election of the President," The New Republic (September 26, 1970).

[3] Kevin Phillips, The Emerging Republican Majority (Garden City, N.Y.: Doubleday, 1970).

[4] Bickel, Reform and Continuity, 7. Sayre and Parris enter a similar disclaimer in Voting for President, 47.

[5] A Gallup Poll taken in mid-October 1972 clearly indicates that Senator Edward Kennedy would have run a stronger, although still losing, race against President Nixon than did McGovern. Kennedy would have been especially potent in retaining the vote of Catholics and manual workers, whose support eroded from McGovern. (Gallup release, as published in The Sunday Pantagraph [Bloomington, Ill.], November 12, 1972.)

[6] Data on nonwhites, Catholics, and labor union families are from the Gallup poll press release of December 14, 1972. The data on Jews for the elections of 1952 to 1968 are from Survey Research Center findings reprinted in Hugh A. Bone, American Politics and the Party System (4th ed.; New York: McGraw-Hill, 1971), 508. The datum on Jews for 1972 is from a Time magazine precinct study reported in Time, November 20, 1972, 17.

[7] On the greater number of voters in the suburbs than in the shrinking central cities, see U.S. Bureau of the Census, Current Population Reports, Series P–20, No. 192 "Voting and Registration in the Election of November 1968" (Washington, D.C.: Government Printing Office, 1969), 15, and the report on rapidly growing suburban counties in Congressional Quarterly Weekly Report, September 4, 1971, 1883–1889. Evidence that the growing suburban vote is predominantly, if not inexorably, Republican appears in a 1968 CBS precinct study, reported in Congressional Quarterly Weekly Report, November 8, 1968, 3116, and in the Congressional Quarterly report on growing suburban counties cited above. See also Hugh Bone and Austin Ranney, Politics and Voters (3rd ed.; New York: McGraw-Hill, 1971), 50.

[8] This subsection draws heavily upon the discussion in Lawrence D. Longley and John H. Yunker, "Who is Really Advantaged by The Electoral College—And Who Just Thinks He Is?" a paper presented at the 67th Annual Meeting of the American Political Science Association, Chicago, Ill., September 7–11, 1971, 9, 11–13, 16–17, and 18–21. I am indebted to Professor Longley for sending me a manuscript draft of this paper prior to its delivery and the paper itself after the Chicago meeting.

[9] Ibid., 19. Emphasis in original.

[10] Irwin Mann and L.S. Shapley, "The A Priori Voting Strength of the Electoral College," in Martin Shubik, ed., Game Theory and Related Approaches to Social Behavior (New York: John Wiley and Sons, 1964), 154, quoted ibid., 19.

[11] For the difference coattails made in Kennedy's and Johnson's legislative records, see Joseph Cooper and Gary Bombardier, "Presidential Leadership and Party Success," The Journal of Politics, 30 (November 1968), 1012–1027. It should be noted that this fourth point is not made by Longley and Yunker, although it could have been. Rather, starting from the same premise about additional votes being "power-free," they point out that stopping the process of coalition formation exactly at the point that one has a majority requires perfect information—a commodity in notoriously short supply in the real world. Therefore, in their uncertainty, members of a winning coalition may create a coalition larger than needed to insure that they do win. See Longley and Yunker, "Who Is Really Advantaged by the Electoral College," 20, or the companion article by John H. Yunker and Lawrence D. Longley, "The Biases of the Electoral College: Who is Really Advantaged?", in Donald R. Matthews (ed.), Perspectives on Presidential Selection (Washington, D.C.: The Brookings Institution, forthcoming in 1973).

[12] In interviews with Neal R. Peirce. Peirce spoke with Lawrence O'Brien, key strategist in the Kennedy campaigns of 1960 and 1964, with Senator Thurston B. Morton, former Republican national chairman and a member of Nixon's 1960 campaign strategy board, and with Theodore C. Sorenson, who had been a key Kennedy campaign adviser and white House aide. See Peirce's The People's President (New York: Simon and Schuster, 1968), 276–77.

[13] PL 91–285, 84 Stat. 314 (1970), as described in Congressional Quarterly Weekly Report, December 25, 1970, 3093–94.

[14] The Gallup Opinion Index, August 1972, 17. This survey finding was based on interviews with 4,149 adults aged 18 and older, conducted in June, July, and August. The earlier study referred to was conducted in January, February, and March of 1972.

[15] V. O. Key, Jr., Public Opinion and American Democracy (New York: Alfred A. Knopf, 1967), Chaps. 16, 18, 19, and 21. Also see Warren Miller and Donald Stokes, "Constituency Influence in Congress," American Political Science Review, 57 (March 1963), 45–56.

[16] Samuel Lubell, The Hidden Crisis in American Politics (New York, W. W. Norton, 1970), 71.

[17] Lloyd Free and Hadley Cantril, The Political Beliefs of Americans (New York: Simon and Schuster, 1968).

[18] The *N*'s for the spectrums are slightly smaller than the *N*'s for the samples responding to the question items given in the text above. This is because the first step in calculating both spectrums was to eliminate from consideration all respondents who answered "Don't know" to three or more of the items. For a technical description of how the five intervals in the spectrums were devised, see ibid., 207–210. The *N* for the Operational Spectrum is about twice as large as the *N* for the ideological Spectrum because the operational items were included in both samples.

[19] Lawrence H. Chamberlain, "The President, Congress, and Legislation," in Aaron Wildavsky, ed., The Presidency (Boston: Little, Brown, 1969), 443.

[20] Thomas E. Cronin, "The Textbook Presidency and Political Science," paper delivered to the 66th Annual Meeting of the American Political Science Association in Los Angeles, California, September 7–12, 1970, 31–33.

[21] Cooper and Bombardier, "Presidential Leadership."

[22] Bickel, Reform and Continuity, 18–19.

[23] Raymond Wolfinger and Joan Heifetz, "Safe Seats, Seniority, and Power in Congress," American Political Science Review, 59 (June 1965), 337–349, at 337.

[24] Ibid., 348.

[25] Miller and Stokes, "Constituency Influence in Congress," 54. Similarly, Gallup polls taken over the years tend to find that majorities or large minorities of the public do not know the name of their congressman.

[26] See, e.g., Chap. 6, "Why the Senate is More Liberal than the House," in Lewis A. Froman, Jr., Congressmen and Their Constituencies (Chicago: Rand McNally, 1963), 69–84.

Protecting the Two-Party System

A recurrent line of argumentation is that direct election would destroy the two-party system and, consequently, would weaken the legitimacy of the Presidency. The argument grows as a tree of causality; various dysfunctional consequences branch out from a few main premises. For analytical purposes, this chapter will focus primarily on the issue of the putative growth of minor parties and the next chapter will deal with alleged threats to the sanctity of the Presidency. However, because both aspects are interrelated, the entire argument is outlined below:

I. The Electoral College and the unit rule permit the existence of only two viable parties, both of which must be broadly based geographically and politically. These two characteristics, in turn, cause:

A. Parties to be politically moderate, which causes:

1. Stability of government, defined as the peaceful exchange of public office and the enactment of legitimate public policy.

II. Direct election, especially with a runoff provision, would cause:

A. A multiplicity of parties and candidates, many of which would be ideologically rigid. Such a multi-party system would cause:

1. A pattern of runoff elections, which would cause:

(a) Major party candidates to bargain for minor party support in the runoff. Such bargaining would cause:

(1) Diminished legitimacy for the Presidency and . . .

(2) Government less capable of taking decisive action, and . . .

(3) The possibility of electing in the runoff the candidate who came in second on the first ballot. (The runner-up could also win the runoff without bargaining.) Such a "minority President" would cause:

(i) Diminished ability of the President to govern, and . . .

(ii) Diminished legitimacy of the electoral verdict in the eyes of the citizenry, especially if the runner-up won a runoff election which had substantially fewer voters than there were on the first ballot.

2. If the President were elected with a 40 percent plurality on the first ballot, this would cause:

(a) Election of a "minority President" who had been rejected by 60 percent of the voters and who may have been elected on a single issue. Both conditions constitute too narrow a mandate for governing. Or . . .

(b) Secret deals with minor party candidates before the first ballot. Major party candidates whose chance of winning would be hurt by minor parties would make concessions to keep them out of the election; major party candidates who would be helped by minor parties would make promises to encourage them to run.

If one accepts this line of reasoning at face value, the tree of reform bears bitter fruit. However, the argument is vulnerable at virtually every point on one or both of two counts—reasonable empirical expectations of political behavior, and normative democratic theory about the kinds of functions political parties ought to perform in our society. The main emphasis in these pages will be on empirical analysis. However, some of the normative arguments will be mentioned in passing, largely because they are made by members of the United States Senate, and so presumably carry weight with some of the political actors directly charged with affecting change.

THE ELECTORAL COLLEGE AND THE TWO-PARTY SYSTEM

The Electoral College system is composed of four fundamental components, all four of which are reputed to be the underpinnings for a system of two, moderate, broad-based parties. These components are election of a single man to a single office, by a majority of electoral votes, said electoral votes distributed in a fixed number to each state, and the states casting their votes by unit rule. The electoral consequences are that the candidate of only one of the two largest parties can win, that to achieve the winning majority, major party candidates must campaign in nearly all states and appeal to a wide range of minority interests to create their majority coalition, and that the resulting coalition must be both "geographically dispersed and ideologically moderate."[1]

Because of the unit rule, the argument continues, only third parties with regional strength are capable of winning any electoral votes. Third parties with a minority of popular votes nationally but without a plurality in any state are shut out of the electoral vote sweepstakes. But even electoral votes won by strong regional parties are too few in number to win the Presidency. Therefore, minority political interests must modify their demands to make them compatible with both major parties. Again, the result is a politics of moderation, accommodation, and compromise inherent in two broad-based, heterogeneous parties.

This thesis supposes a straight-line chain of causality among three variables: (1) the Electoral College unit rule is at least a necessary condition to cause (2) the two-party system, and the two-party system is at least a necessary condition to cause (3) moderation and compromise. Neither of the relationships, between the first and second variables or the second and third, are supported by empirical evidence or by the judgment of political scientists who are recognized scholars of political parties.

With respect to the first relationship, after a comprehensive survey of the works of students of political parties, the ABA Commission on Electoral College Reform found that none attribute the development of our two-party system to the Electoral College.[2] The institutions which are credited with helping to shape the two-party system are the single office of the Presidency and the single-member legislative district whose representative is elected by a plurality of the popular vote. Conversely, the consensus of scholarly opinion is that multiple parties are encouraged by multi-member legislative constituencies which elect by proportional representation, and by cabinets whose ministries can be parceled out among several legislative parties. But direct election would not change the structure of legislative elections or the single-member executive.

To be sure, potential third party movements with national as opposed to regional appeal may have been deterred by the knowledge that they would be unlikely to win any electoral votes. This knowledge also makes it difficult to aggregate the financial resources to mount a national campaign. But as Richard Goodwin testified about peace groups and civil rights groups who considered forming a third party for the 1968 election, "They have also been held back by the argument that the probable result of their effort would be to take away votes from the major party candidate closest to them in conviction, thus throwing the entire electoral vote of a state to his opponent."[3]

The same argument carries weight in a direct election under certain circumstances. A third party effort could have the dysfunctional consequence (for that party) of throwing enough of the national popular vote to the major party candidate farthest from the third party to elect him on the first ballot. Any assumption that this would not happen rests on the belief that a runoff election is a calculated risk. This calculation, in turn, must be derived from empirical data that with that third party in the race, the popular vote for the two major parties will be close enough and low enough that neither major party candidate can win at least 40 percent of the vote on the first ballot. Such data could be elicited from opinion polls, but the data itself might be questionable. A putative third party would have to decide whether to run before it committed itself to running. This decision would have to be based on polling questions which either exclude the third party from consideration, or mention it as a speculative party running a speculative candidate. All responses to such questions would be given before the actual presidential campaign began, and would, therefore, be justifiably suspect.

The point is not that the possibility of helping to elect the worst of two major party candidates will unalterably deter minor parties from forming. It is that it may limit the number of minor parties which do form, and it may cut into the popular vote of such parties.

The second casual linkage in the argument is that the two-party system causes moderation and compromise. However, many political scientists believe that it is just the opposite, that a two-party system is the consequence of moderation and compromise in the American political culture.

The premise underlies two of the four theories which attempt to explain the existence of two American parties, as summarized by Sorauf.[4] The first has already been discussed. It is the institutional theory of the single executive and the single-member legislative district with election by plurality. The second is the dualist theory. Two parties are the natural consequence of a historical duality of opposing political interests, from the early eastern financial and commercial interests opposed by western frontiersmen, to the sectional conflict over slavery and the civil war, to current divisions between urban and rural or higher and lower socioeconomic interests. Other dualistic interpretations touch on in-party versus out-party and liberal versus conservative.

The cultural theory is the third school of thought. It holds that the Anglo-American nations have developed a political culture recognizing the need for compromise, short-term pragmatism, and the avoidance of dogmatism. The fourth theory assumes that two moderate parties are the result of a fundamental social consensus. Unlike European peoples with their histories of feudalism, monarchism, religious wars, and socialist thought, Americans reached a consensus on the basic institutions of our society. With agreement on fundamentals, the political conflict that does exist in over secondary matters—means rather than ends—which permits compromise within each major party, and between them.

In appraising these four theories, Sorauf suggests that they may be as much the result of the two-party system as the cause. Once established, the two parties have a vested interest in perpetuating electoral systems hostile to minor parties, in channeling complex political demands into two alternatives, in socializing the public in the values of moderation and compromise, and in maintaining social consensus by denying a podium to dissident movements which challenge the consensus on basic American institutions.

Sorauf's last two points merit comment. It is likely that Americans reach their majority with the values of moderation, compromise, and majority rule already instilled in them by the socialization process of family, schools, and voluntary associations. To assume that a young adult sheds his dogmatism and replaces it with moderation upon the act of registering to vote or identifying with a party is to assume that parties create instant social values. It is more likely that parties both reflect and reinforce values already extant. Which leads to Sorauf's last point. To be sure, major parties deny their good offices to radical dissenters from the fundamental consensus. Failure to do so would result in losing elections and very likely the demise of any major party that acted otherwise. Communists and Socialists have lost elections as separate parties precisely because Democrats are not about to lose elections for them, as well as because most Democrats adhere to capitalistic principles. Similarly, Birchites and the American Nazi Party are separate political entities because the Republicans, as a party, not only disagree with their positions but would become extinct as a party if they did not.

Inferentially, Sorauf is cognizant of these factors, for he finally opts for the consensus theory as the main independent variable which allows the others to interact.

If the preceding discussion appears far removed from electoral votes and the unit rule, that only serves to demonstrate that "the suggestion that the two-party system is primarily or even significantly sustained by the Electoral College seems to be a classic case of putting the cart before the horse."[5]

DIRECT ELECTION AND MINOR PARTIES

In addition to the discredited argument that the Electoral College is the underpinning of our two-party system, those who fear the rise of minor parties base their predictions on four models: New York State, southern Democratic primaries, continental Europe, especially France, and splinter parties.

In varying degrees, all four models compare unfavorably to more reasonable estimates of future partisan developments under direct election. The interrelated questions that must be asked are: What is the likelihood that one or more minor parties will become quadrennial institutions? And if institutionalized, what are such parties likely to accomplish?

Minor parties in New York

Since World War II, New York has had a viable Liberal party. By holding a balance of power in close elections, the Liberals have influenced the choice of candidates and policies of the Democrats. In the last few years, a Conservative party has emerged to follow a similar strategy with respect to the Republican party. Direct election, we are told, would infect the national body politic with the multi-party virus of New York. Unable to win with their own candidates for President, minor parties could exercise disproportionate influence by determining which major party candidates win or lose.

Extrapolating New York's history to the nation's future overlooks some obvious incongruities. The fact that New York is the only state with viable minor parties suggests that their existence can be attributed to conditions peculiar to New York. That is precisely the point made by a man in a position to know, U.S. Senator James Buckley of New York, elected in 1970 on the Conservative

Footnotes at end of article.

party ticket. In a televised interview with his brother, Senator Buckley expressed a strong preference for a two-party system and recommended against the spread of minor parties to other states. Senator Buckley attributed the need for a Conservative party in *his state* to the Liberal party's influence in making both major parties gravitate in a leftward direction. But this need, in turn, results from conditions endemic to New York. According to Buckley, that state does not have a viable primary election system for statewide office; therefore, it is not feasible for conservative Republicans like him to fight for control within the Republican party structure. Also, Buckley attributes the success of the Liberal party to unusual conditions. Its ability to maintain continuity and organization over a long period is possible because the party is composed primarily of members and officers of other existing institutions, two labor unions based in New York City. Union officials and the ongoing union organization therefore handle the continual paper work and other demanding details of political party organization. Finally, highly competent union leaders, e.g., Alex Rose of the International Ladies Garment Workers Union, play a dual role as able Liberal party leaders.[6]

Southern primaries

That political conditions unique to New York account for its minor parties is corroborated by the fact that those parties exist despite the absence of runoff elections, not because of them. Therefore, those who contend that runoffs encourage minor parties must shift their geographical and political grounds from general elections in New York to Democratic primaries in the South. This is done with great aplomb, invariably by referring to Key's classic "Southern Politics," but ignoring its content. Thus, Bickel feels free to write that with direct election, "There would be *little inducement to unity in each party* at or following the conventions. Everything would be preparation for later coalitions. We would see on a national scale the kind of *unstructured politics* that characterized much of the *single party South* in its heydey, and that still characterizes some of it. The *real election was the Democratic primary*, which would regularly draw several candidates, some intent on no more than obtaining say, the Commissionership of Agriculture through a judicious *later bargain*. The candidates sorted themselves out between the first vote and the runoff. Two or four years thence, *everything started afresh*.[7] (Emphasis added.)

Deferring the matter of bargaining for later consideration, we can now emphasize that Democratic party disunity in its own party primary is a luxury that cannot be afforded in the context of a general election for President with strong Republican competition. The same, of course, applies to Republicans facing Democratic competition in a general election. Indeed, one of Key's *major findings* about southern politics was that even within the context of Democratic primaries, the degree of unity in a state Democratic party and the extent to which it maintained continuity of leadership over time was in almost direct proportion to the competition offered by the Republican party. Key found the most cohesive Democratic parties—those with only a major and a minor faction—in Virginia, North Carolina, and Tennessee; states with at least a modicum of Republican opposition. "The cohesiveness of the majority faction in these states points to the extraordinary influence of even a small opposition party. . . . In all three states Republican opposition contributes to the creation of one tightly organized Democratic faction."[8]

The southern model of disunity falls short on a second critical dimension. Presidential minor parties are to be feared, we are told, because they would be ideologically hidebound and issue-oriented. The prognosis is for at least four parties covering the ideological spectrum: New Left, Democratic, Republican, and a Wallace-type party of the Right. However, Key found that the most faction-ridden southern Democratic primaries, those with the greatest number of candidates fracturing the first ballot vote, were contested on issueless and ideologically-free bases. The main casual factor for multiple candidacies, Key found, was simply localism. Almost any citizen who cared to run for Governor could poll a big vote from his "friends and neighbors." This pattern, with some variation among states depending on whether a figure with statewide recognition was running, e.g., a Ferguson in Texas or a Bilbo in Mississippi, was present in the three most faction-ridden states Key studied—Texas, Mississippi, and Florida. The low salience of issues and exemplified by the comment of a north Florida county judge, who observed: "Issues? Why, son, they don't have a damn thing to do with it."

Key attempted to grapple with the hypothesis that the legal possibility of a primary runoff causes multi-factionalism (many candidates in the first ballot primary). While election by plurality requires factions to unite before the election, in a runoff situation each factional candidate can take his chance that his vote, however small, may be sufficient to place him in the runoff. "Like many beautiful theories," Key wrote, "the truth of the general idea is hard to determine."[9] One could, he observed, compare Virginia and Tennessee—states without runoffs—to other states with runoffs, and conclude that plurality election foists greater party unity upon Virginia and Tennessee. But this conclusion would ignore such other variables as the sizable minority of Republican voters in those states, as well as in North Carolina, to which Key attributes Democratic cohesion. He also finds Arkansas an exception to the hypothesis, for that state's factionalism more closely approximated a dual form since the adoption of the runoff in 1939 than before. Also, the New Deal had some effect on Arkansas' factional structure.

European elections: Austria and France

When left to his own devices, an opponent of direct election may conjure up as many political parties as there are professional football teams. Professor Black of the Yale Law School asks why we may not expect 10 or 20 parties. Each, as in France, with a special mission a special issue, instead of the present situation which promotes accommodation within the framework of two parties.[10]

As we shall see, this model of French politics is as inaccurate for contemporary France as it would be for the United States. In both cases the reason is the same: direct election to a single office cannot sustain a plethora of parties because the total popular vote does not fragment in even rough proportion to the number of parties in an election. The creation of 10 parties would no more mean that each would receive approximately 10 percent of the vote than the existence of five parties means that each would poll approximately 20 percent of the vote.

Why? Because most issues and most candidates are perceived by the electorate as falling into a relatively few clusters, and the popular vote that mobilizes behind each cluster is finite and of approximately constant size. A left and a right and a middle constituency of voters are not like accordians. They do not expand to accommodate additional candidates. They are like pies. Each additional candidate seeking a share of the left bloc pie means either that each left candidate receives a smaller slice of pie, or that the most popular one or two candidates of the left will divide the pie between them. The same is true of candidates in the middle and the right. Therefore, in the context of American politics, we might expect the Democrats and Republicans to continue sharing the large electoral constituency of the middle with, at most, one candidate for each of the much smaller right and left constituencies.[11]

To the extent this analysis is valid, and to the extent it is heeded by political elites, we would expect a relatively high degree of accommodation. Those on the moderate left and on the moderate right could be expected to retain their traditional membership in the Democratic and Republican parties, respectively. Those on the extreme left and extreme right would have to unite behind one candidate each, if they choose to run their own candidates at all.

The foregoing propositions are supported by empirical data from presidential elections in Austria and France. Since World War II, Austria has held five direct elections of its President, the first in 1951, the most recent in 1971. An absolute majority of popular votes is required for election, with a runoff if necessary. Only in the first election of 1951, which had six candidates on the first ballot, was there a runoff election. In the four succeeding elections there was a winner on the first ballot because only the two major parties ran candidates, despite the fact that at least three, and sometimes four, parties held seats in the Austrian parliament.

The Austrian case not only demonstrates the paucity of minor party candidates in direct presidential elections, but also the need for minor parties to accommodate themselves to the major party closest to them in the political spectrum. The two major parties in the 1951 election were the People's Party and the Socialists. While neither party's candidate received a majority on the first ballot, the People's Party candidate had a 1 percent plurality over the Socialist. Between the first ballot and the runoff, the Communist party instructed its people to vote for the Socialist candidate, who won the runoff with 52.1 percent of the total vote. Socialists have defeated People's Party candidates in two-way presidential elections ever since.

In 1962, the French Constitution was amended to provide for direct election of the President by an absolute majority of the popular vote. Two elections have been held under that provision, in 1965 and 1959. Table 4-1 displays the vote polled by each candidate in those elections. Although both elections had no less than six candidates in the field, and both were decided in a runoff two weeks after the first ballot, these elections demonstrate the principle of marginal candidates sharing the same small constituencies. In both elections, about 90 percent of the total vote on the first ballot was captured by the top three candidates, representing what passes in France for the established party alignments of the left, middle, and moderate conservative.

TABLE 4-1.—PERCENT OF POPULAR VOTE POLLED IN FRENCH PRESIDENTIAL ELECTIONS OF 1965 AND 1969

Candidate	1st ballot		2d ballot
Election of Dec. 5 and 19, 1965:			
De Gaulle (Gaullist)	44.6		55.2
Mitterand (Left Federation)	31.7	91.9	44.8
Lecanuet (Democratic Center)	15.6		....
Tixier-Vignancour (Extreme Right)		5.2	....
Marcihacy		1.7	....
Barbu		1.2	....
Election of June 1 and 15, 1969:			
Pompidou (Gaullist)	44.0		57.6
Poher (Centrist)	23.4	88.9	42.2
Ducios (Communist)	21.5		....
Defferre (Socialist-SFIO)		5.1	....
Rocard (United Socialist-PSU)		3.7	....
Ducatel		1.3	....
Krivine (Trotskyite)		1.1	....

Source: Lowell G. Noonan, France: The Politics of Continuity and Change (New York: Holt, Rinehart, and Winston, 1907), 262, 452.

Footnotes at end of article.

A second lesson of the French elections is that neither would have required a runoff if 40 percent of the vote, rather than an absolute majority, were sufficient for election. In both elections, the top candidate on the first ballot polled a comfortable 44 percent of the vote (higher than Nixon's 43 percent in 1968). Given that multiple parties are a far stronger political tradition in France than in the United States, the French experience does not support the contention that direct election in this country will either foment numerous parties, or that if formed, such parties would succeed in creating a pattern of runoff elections. As a spokesman for the U.S. Chamber of Commerce envisioned the future under direct election, a few splinter parties would form in the first few elections. But these parties would fail to cause a runoff, "and their adherents will determine thereafter never again to waste their votes."

That viable minor parties are not necessarily the consequence of runoff elections is demonstrated by the states of Arkansas, Georgia, Rhode Island, and Texas. These states require election by absolute majority both in their primary *and general elections*, with runoffs if no candidate achieves a majority.[12] All four states are in the mainstream of two-party competition.

Splinter candidates and spoilers

Some opponents of direct election insist that any or all seekers of the Presidency who failed of nomination in their party's convention would run as splinter party candidates, either to play the spoiler role by denying the prize to the party that refused to nominate them, or to hope for a deadlock on the first ballot and play kingmaker by bargaining with the two front-runners for splinter party support in the runoff. The premise is that splinter candidates rarely run now because of their inability to carry enough states under the unit role provision of the Electoral College.

This bare bones theory then speculates about what might have happened in 1968, or what could happen in the future, under a direct election system. Some opponents of direct election hypothesize that the three candidates in 1968 might have been joined by others who failed of nomination in the major party conventions. The field might have included Eugene McCarthy and John V. Lindsay to the left of Humphrey, Nelson Rockefeller to the left of Nixon and Ronald Reagan to his right, along with George Wallace. Almost the same cast of characters would fit a 1972 scenario, with the addition of Republicans Pete McCloskey and John Ashbrook, and Democrats Edward Kennedy, Edmund Muskie, and George McGovern.

The pertinent but purely speculative questions are: Would any of these hpyothetical splinter candidates actually have run in a direct election in 1968? And if any had run, would that have effected a deadlock on the first ballot by denying either Nixon or Humphrey 40 percent of the vote? Finally, even if there had been a deadlock and a runoff election, what difference would that have made? The rest of this chapter will address itself to the first two questions. The third question will be considered in the next chapter.

To name a host of putative seekers of a party's nomination is not equivalent to listing a roster of candidates in the general election. For one thing, not all nominal "candidates" for the nomination really expect to receive it, or announce their "availability" with that goal in mind. They may simply be engaging in a dry run for the nomination four years in the future. Or they may hope—as did McCloskey and Ashbrook in 1972—to exert influence over the platform or the policy position of their party's nominee. They may even "run" to retain the political leadership of their states' delegations, or to prevent front-runners from entering their home state presidential primary and causing divisiveness in the state party. Reagan's 1968 "candidacy" kept everyone but himself out of the California Republican primary, and may have achieved in some degree some of the other goals of quasi-candidates.

A second damper on splinter candidacies is that the Rockefellers and the Reagans, the Kennedys, the Humphreys, and even the McCarthys, are professional politicians, with more than a modicum of party loyalty. The pattern in both parties is for internecine strife before the nomination, then a rallying 'round the party's banner after it. There are exceptions, e.g., Theodore Roosevelt's conviction that the nomination was "stolen" from him at the Republican convention of 1912, the Progressive Party and Dixiecrat candidacies in 1948, and Wallace's insurgency in 1968. But by and large, politicians of national stature in both parties support—or not overtly oppose—their party's standard bearer.

In addition to an abstract sense of party loyalty, those who lose a nomination also support their party's candidate because (and if) he is the clear choice of a majority of the party's rank-and-file voters in the nation. This is not only obeisance to the normative doctrine of majority rule, but a realistic recognition that candidates who cannot command a large majority of their own partisans cannot win an election even with their party's nomination, no less without it.

With respect to the 1968 nominations, after a careful analysis of opinion polls taken just before the conventions, Scammon and Wattenberg conclude that Humphrey and Nixon were far and away the favorites of Democratic and Republican voters, respectively.[13] In 1972, Nixon remained the overwhelming choice for renomination among Republicans, while McGovern edged Humphrey and Wallace as the candidate preferred by a plurality of Democrats responding to a Gallup poll conducted prior to the Democratic convention.[14]

All these factors cast considerable doubt on the allegation that many splinter candidates would have entered a direct election in 1968 or, hving entered, could have affected a deadlock. Certainly Nixon's candidacy was the least likely to be threatened by defections from his own party. Neither Rockefeller nor Reagan had sufficient reason, or sufficient popular following, to oppose him. Moreover, once the Republican party nominated Nixon, large numbers of those Republicans who previously favored Reagan or Rockefeller would have shifted their support to Nixon—even if he had been opposed by one or both of the former as splinter candidates. *Party loyalty plays its role among the rank-and-file as well as among political activists.*[15] Most of the voters that Nixon actually *did* lose were disgruntled Democrats who preferred Nixon to Humphrey, but who voted for Wallace. Similarly, much of McCarthy's early support (which was more anti-Johnson than pro-McCarthy) dissipated late in the campaign, but crystalized as electoral support for Wallace.[16] In short, Nixon's 43 percent of the popular vote, enough to win a direct election on the first ballot, looks pretty stable in retrospect.

But even failing a deadlock, might splinter candidates not run with the minimal expectations of playing the spoiler? The answer is not unqualified yes, for there are both institutional and motivational factors that enter the picture.

On the institutional side, a spoiler candidate is most likely to achieve his goal in a direct election only if the two major party candidates are in a close race. But this is precisely when a spoiler is likely to be effective under the Electoral College. If, for example, Eugene McCarthy had wanted to punish the Humphrey forces by throwing the election to Nixon in 1968, he could have accomplished it with virtual certainty simply by filing for election in New York state and giving all that state's electoral votes to the Republican candidate, much as Henry Wallace did in 1948. But in 1968 the McCarthy forces were not motivated to attempt a spoiler role.

They were not motivated because there are only four reasons that, singly or in combination, prompt a splinter candidate to run. These reasons are quite independent of the form of the election, whether direct or Electoral College, and none were sufficient salient to the liberal wing of either party in 1968. The four motivations for a splinter candidacy are:

1. The splinter candidate feels that he is really the popular choice of his party's rank-and-file for the nomination, but that the nomination was "stolen" from him by machinations in his party's convention.

2. As a result of the first reason, the splinter candidate believes he might win the election if he runs.

3. The splinter candidate represents a wing of his party which is ideologically closer to the other major party than to the wing of his party which succeeded in nominating its leader. Therefore, in terms of public policy, the splinter candidate may countenance, or even prefer, a victory of the other major party's candidate over the candidate of his former party.

4. The splinter candidate represents a shade of political opinion so extreme that it is beyond the mainstream of either major party. Therefore, the candidacy is mounted as an ideologically doctrinaire protest against both parties. Perhaps there is also the belief that a good showing in the election will move at least one of the major parties closer to the position of the minor party during the election campaign, after the election, or in the next election. In some toxologies, minor parties that form largely from this motivation may as properly be considered "doctrinal-ideological" as "splinter-secessionist."[17]

The first and third reasons almost certainly motivated the Bull Moose candidacy of Theodore Roosevelt in 1912, and the second also may have been present. The Dixiecrats of 1948 were clearly motivated by the fourth reason, and possibily by the third. The fourth reason is the only tenable explanation of Henry Wallace's pro-Soviet candidacy for the Progressive party in 1948. Finally, George Wallace's 1968 campaign was in the same tradition as the Dixiecrat rebellion of 1948 and was probably motivated primarily by the same reason, the fourth, with overtones of the third.

But none of the reasons were salient for Democratic doves in 1968. Despite the self-perpetuating rhetoric about "boss rule" at the Democratic convention (like football teams, political factions like to "psych themselves up" for the big game), the opinion poll findings clearly demonstrate that Humphrey did not "steal the nomination" from McCarthy, and McCarthy had to know this. Nor could McCarthy or his supporters conceivably have found Nixon's policies more palatable than Humphrey's. To reiterate Goodwin's statement, one of the reasons the McCarthy forces did not enter the general election was a fear of throwing electoral votes to Nixon.

Nor was the McCarthy faction outside the mainstream of the Democratic party. Their only *policy* difference with the administration forces at the convention was over the wording of the Vietnam plank. The administration plank agreed to halt the bombing of North Vietnam contingent on some degree of lessened hostilities by North Vietnam, and favored free elections in South Vietnam after the war. The minority "peace plank" pledged unconditional cessation of bombing and favored a negotiated (not elected) coalition government in Saigon that would include the National Liberation Front. That the minority plank was hardly radical is indicated by the fact that it received 40 percent of the votes at the convention, while McCarthy and Mc-

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Footnotes at end of article.

Govern together polled only 29 percent of the vote on the first, and only, presidential nominating ballot. Moreover, later in the campaign, Humphrey moved toward the minority position, first by announcing that he would have found "no difficulty" in accepting the minority plank, and later by announcing his willingness, if elected, to risk a cessation of bombing. Five days before the election, that is exactly what President Johnson did do. The McCarthyites affected the issue positions taken in the campaign and the acts of an incumbent President without running their own candidate (although they could not predict they would be successful).

The lesson of 1968, as of other presidential years, is that splinter parties neither spring forth nor die primarily because of the electoral system. Although the method of aggregating and assigning votes has some influence as an independent variable, of more importance are the perceptions of the degree of political deprivation inherent in a two-party structure. These perceptions may or may not be sufficient to motivate insurgent candidates, depending on the particular political circumstances at the time. The circumstances of the Republican convention of 1912 varied greatly, in degree and in kind, from the situation at the Democratic convention of 1968. Their own rhetoric notwithstanding, professional politicians invariably make more intelligent appraisals of political conditions than do some students of politics, or intellectual dilettantes who spend more time writing about politics than observing it, more time prescribing political norms than researching political behavior.

Whatever happened to parties as the voice of the people?

Shifting the perspective from empirical analysis to normative prescription, the case against multiple parties can be faulted for the implications it has for the role of political parties in democratic theory. Minor parties with a strong regional base, such as the Dixiecrats in 1948 or southern slates of uncommitted electors, are unquestionably advantaged under the unit rule provisions of the Electoral College, but would have less electoral impact under direct election. Conversely, minor parties with an electoral base insufficiently concentrated to carry even a single state, but which might poll a respectable percentage of the nationwide popular vote, would benefit by direct election. In short, the two types of minor party, regionally-based or nationally-based, are not a common footing under the Electoral College. Nor would they be under direct election. The normative question, then, turns on whether presidential elections should be open to the possibility of influence by nationwide forces of discontent (liberal, conservative, or both), or by regional ones (deep southern opposition to integration).

A preference and justification for nationwide minor parties was expressed by Republican Senator Howard Baker of Tennessee in Senate debate. Under the 40 percent direct election plan, he observed, a minor party might poll up to 10 or 20 percent of the vote. But if it did, it would not be a small party; the Republican party was even smaller in 1856. Therefore, he concluded, there ought to be room for splinter parties that can poll that large a vote nationally, but not regionally. A purely regional party can possibly throw an election into the House of Representatives, but regionalism, he insisted, is wrong. The 40 percent rule recognizes the legitimacy of national splinter parties.

So too, indirectly, does the runoff provision. In criticizing the contingency provisions of the Griffin-Tydings plan, which would preclude a runoff election, Baker argued that Congress has no right to attempt to legislate out of existence efforts by third parties. Third parties prosper or fail in "direct relationship to the effectiveness of the job that the two national parties do in seeking out and determining the views of the people and translating them into effective policies for government." Under direct election, Baker observed, the major parties will simply have to become more responsible in competing for every vote.

Similar sentiments were expressed by former Senator Fred Harris of Oklahoma, who informed his Senate colleagues: "... I do not fear that the political system in America is so weak that to allow the people to express their will will destroy it. I would say, if that will destroy it, then perhaps it is destroyed already."

The sentiments of Senators Baker and Harris can be expressed in more precise, empirical terms. The probability of a runoff being required is a function of the dispersion of the vote among three or more parties on the first ballot. The degree of dispersion, in turn, reflects the degree of political dissensus in the polity. Consequently, if there were a runoff election, the runoff would not be a cause of political dissatisfaction and instability, but a reflection and manifestation of them. Different types of electoral and party systems vary in the form and to the extent to which they permit socialization of conflict. But despite these variations, any electoral/party system which consistently chokes off legitimate grievances and, by so doing, prevents their resolution by the political system, is engendering a future spasm of outraged reaction in exchange for a false sense of temporary tranquillity. A political system is like a kettle of boiling water and the electoral/party system is analogous to its cover. The cover does not cause the heat. But it can contain a safety valve which slowly but consistently lets off the accumulated steam, or it can remorselessly clamp down on the constantly expanding force until the explosion.

We now turn to the question of what difference it would make if the President did have to be elected in a runoff.

FOOTNOTES

[1] Senate Report No. 91–1123, 91st Cong., 2nd Sess., Judiciary Committee, "Direct Popular Election of the President" (August 14, 1970), 31. Hereafter cited as Senate Report.

[2] The scholarly works consulted were those by Goodman, Grum, Holcombe, Key, Penniman, Rossiter, Schattschneider, Sindler, Sharp, and Duverger. (See comment by Senator Birch Bayh of Indiana in Hearings before the Senate Judiciary Committee on Electoral College Reform, 91st Cong., 2nd Sess. [April 15, 16, and 17, 1970], 93, hereafter cited as Senate Hearings, and Electing the President: A Report of the Commission on Electoral College Reform of the American Bar Association [January 1967] 5, note 2, hereafter cited as ABA Report. The ABA Report is reprinted in the appendix to Senate Hearings, 291–348.)

[3] Senate Hearings, 80, 93.

[4] Frank Sorauf, Party Politics in America (2nd ed.; Boston: Little, Brown, 1972), 37–40.

[5] Neal R. Peirce, The People's President (New York: Simon and Schuster, 1968), 261.

[6] "Firing Line," PBS telecast, August 18, 1971, William F. Buckley, Jr. interview with Senator James Buckley.

[7] Alexander Bickel, Reform and Continuity (New York: Harper Colophon Books, 1971), 24–25.

[8] V. O. Key, Jr., Southern Politics (New York: Random House Vintage Books, 1949), 300.

[9] Ibid. 420.

[10] Senate Hearings, 143.

[11] On the essentially moderate-middle political orientation of most Americans, see, e.g., Richard Scammon and Ben Wattenberg. The Real Majority (New York: Coward-McCann. 1970); V. O. Key, Jr., Public Opinion and American Democracy (New York: Alfred A. Knopf, 1961); and Samuel Lubell, The Hidden Crisis in American Politics (New York: W. W. Norton, 1970). As Scammon and Wattenberg observe, the middle in American politics may move from year to year, but most voters move with it (p. 78).

[12] Remarks of Senator Bayh in 116 Cong. Rec., 31149 (September 10, 1970).

[13] Scammon and Wattenberg, Real Majority, 148–49.

[14] Congressional Quarterly Weekly Report, July 15. 1972, 1778.

[15] This is a well-established generalization from political research. The older the partisan, e.g., the longer he has voted for and identified with the same party, the more likely he is to continue to vote for his party's candidates. This is why a disproportionate number of Wallace voters outside the South were under 30. (See Philip E. Converse and others, "Continuity and Change in American Politics: Parties and Issues in the 1968 Election," the American Political Science Review, 63 [December 1969], 1103–04.)

[16] Ibid., 1091–93.

[17] See Hugh A. Bone, American Politics and the Party System (4th ed.; New York: McGraw-Hill, 1971), 86.

PROTECTING THE PRESIDENCY: RUNOFFS, BARGAINING, AND ILLEGITIMACY

Direct election is impugned as an invitation to back-room bargaining for the White House and to electing the second choice of the nation's voters. With contributions from both liberals and conservatives, this indictment becomes a stirring chord of argumentation. But as we hope to demonstrate, close inspection reveals the argumentation to be false.

RUNOFFS AND BARGAINING

Drawing on the model of democratic primaries in the South, some opponents of direct election insist that the period between the first ballot and the runoff would be a time of unsavory bargaining. Minor party candidates eliminated on the first ballot would extract promises and concessions from one or both of the two front-runners in exchange for delivering their blocs of voters to them in the runoff.[1] But since the southern model is not sufficiently disturbing in its implications, the predictions go well beyond it. Bargaining advantages would accrue to a variety of minor party extremists, to a black separatist party,[2] "to demagogues, to quick-cure medicine men, and to facists of left and right."

The runoff election would become divisive and bitter, it is argued, for the candidate who came in second on the first ballot would court the extremists, the racial, or dogmatic voting groups. His only chance to win the runoff would be to win their votes, and in seeking them he would change the tone of the campaign. The very bargaining process itself would assume an aura of sinister secrecy. Under the present system, interest groups bargain with aspirants for the Presidency, but "The coalition supporting the nominees is now developed in the reasonably open processes of preconvention and convention politics and is well publicized during the days when the delegates are gathered together. . . ." With a runoff, presidential selection would return to the "smoke-filled rooms" of the past.

These predictions ignore an inherent problem in "secret" bargains over issues and ideological percepts. If the concessions wrung from a major party candidate are kept secret, the minor party candidate has no grounds on which to publicly urge his followers to vote for that candidate. The more extreme the demands of the minor party, the more it would have to explicate the nature of the prize it has won to its

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members. For example, since many of the followers of George Wallace are presumably opposed to integration through school busing, Wallace's public endorsement of any other candidate would have to enlighten Wallace voters about that candidate's position on that issue. Similarly, any black separatist party would have to tell *its* members why they should choose one white man over another in the runoff.

It is precisely because the coalition for a runoff requires the active participation of huge segments of the entire electorate that electoral politics are perhaps the most aboveboard of any. By contrast, coalition formation in legislative bodies and in nominating conventions involve, at most, a few hundreds of members, most of whom are socialized in the sometime secret ways of professional politicians. It was on these grounds that in 1970 a majority of the Senate Judiciary Committee deemed a runoff the "most appropriate contingency in a situation where the country is so divided that no candidate receives 40 percent of the popular vote. The Committee reasoned that no other contingency procedure would insure as much legitimacy and would be less susceptible to intrigue and closed-door deals."

But secrecy aside, the argument is made that two minor party candidates, "one regional and one ideological," could poll close to 20 percent of the vote. This would put them in an enviable bargaining position to offer their votes to a major party candidate, either before the first ballot (thus ensuring his election on it) or before the runoff. Either way, the runoff provision:

". . . opens the door to public political bargaining with the most far-reaching consequences. Concessions wrung from major party candidates either before or after the first election would be made in a heated atmosphere conducive to the creation of public distrust. Given the fact bargaining before the runoff election would take place under conditions of division and disappointment, cynical political moves might in themselves lead to a crisis of respect and legitimacy in the selection of the President." [3]

This hypothetical illegitimacy is one reason for claiming that the President would be incapable of governing. Another is that in a multi-candidate situation consensus candidates would be at a disadvantage. Each electoral faction would unite behind the candidate who expressed most clearly its parochial view. Support for middle-of-the-road candidates would consequently dry up on the first ballot, *perhaps to the point where they would be excluded from the runoff*. With two extremist candidates in the runoff, the winner would be unable to produce a consensus and, therefore, would be incapable of governing the nation.

But middle-of-the-road electoral support would dry up *only* if a majority of the electorate were no longer middle-of-the-road. Two extremist candidates could come in first and second on the first ballot only if the overwhelming majority of the voters were, themselves, polarized into two extreme groups, each holding intensely to irreconcilable positions. But this is the stuff of which civil wars are made; its peaceful resolution lies outside the capacity of any democracy.[4] Moreover, so high a degree of political volatility is neither caused nor permanently retarded by anything as superficial as the *way* we elect our Presidents. The chronic error in this line of argument is the assumption that a particular form of electoral structure dampens explosive political attitudes, much as carbon rods inserted into an atomic pile prevent critical mass.

Constraints on bargaining

Any intelligent appraisal of the nature and consequences of runoff elections, then, must be based on the character of the electorate, and of political parties, as we now know them. The central characteristics of both are moderation and pragmatism. Given these operational values, the amount of mischief that a runoff election could foment is severely limited by the constraints placed on the ability of both major and minor parties to bargain with each other.

Consider the charge that the major party candidate who comes in second on the first ballot would strike bargains with extremist parties before the runoff, or even that both major party candidates would compete for the fringe or extremist vote. We define fringe or extremist parties in the conventional sense as those whose demands are contradictory to the wishes of a majority of voters. Both candidates in the runoff would be constrained against bowing to these demands by the fear of losing large segments of the moderate voters, Republican or Democratic, who voted for them on the first ballot. And the more extreme the minor party demands, the less a major party candidate could accede to them without alienating his first ballot supporters in the runoff.

There is historical precedent to support this conclusion. In 1896 the Democrats nominated William Jennings Bryan, who got the support of the Populists but lost the election disastrously. Indeed, the election of 1896 relegated the Democrats to clearly minority status in the nation for a generation. And in the 1968 campaign, both major party candidates pledged they would not deal with George Wallace for his electors if neither of them received a majority in the Electoral College.

A different set of circumstances would prevail if a minor party were moderate, rather than extreme, in its demands. We can define a "moderate" minor party as one whose demands are favored by a minority of voters (the minor party voters) and are not opposed by a substantial minority or by a majority of voters. But these kinds of demands are precisely the ones that a majority party would rationally adopt as part of its own program. By so doing, the majority party adds the putative minor party voters to its electoral coalition without erosion of other coalition members. In certain circumstances, a majority party might even accept a position on an issue which is favored by a minority but opposed by a larger minority or by a majority. This would be the kind of position favored by a "passionate minority," one for which major party support on that issue is more important than the major party's stand on all other issues.[5] The issue position would also have to be opposed by an "unpassionate" majority, i.e., the intensity of opposition by a majority of voters must be low enough that the major party's stand on that issue is of less importance to the majority than the party's position on other issues.

It is in this manner that, historically, major parties have accrued new members to their coalition and, in so doing, have swallowed up the raison d'etre of moderate minor parties. As Senator James Eastland points out:

"Traditionally, these parties have disappeared because one or both of the major parties would embrace in whole or in part the issue advocated by the supporters of the splinter party, or because social or economic conditions which caused the emergence of this issue changed. We can expect this to hold true in the future." [6]

There are also constraints on the capacity of issue-oriented, ideological minor parties to bargain with major party candidates. No minor party can really hold a balance of power position in a runoff election unless it can "deliver" its voters with equal ease to either major party. This would be possible only if both major party candidates and major party platforms were equally agreeable or disagreeable to it. But in the context of American politics, this is patently absurd. How effectively could a black party bargain with a Humphrey, a McGovern, or a Kennedy by threatening that it would tell its members to vote for a Nixon or an Agnew in a runoff? Or by threatening to instruct its voters not to vote in the runoff? In either case, Nixon or Agnew would win. It would be equally difficult for someone like George Wallace to threaten Nixon that Wallace supporters could be "delivered" in the runoff to some northern, liberal Democrat. Clearly, except for rabid revolutionary theorists—whose doctrine is that things must get worse (to precipitate the revolution) before they get better—any splinter group rationally must vote for the major party candidate whose ideological position is closest to it. To vote for the other major party, or to refrain from voting, is irrational. It accepts the greater of two evils.

The corollary constraint is that minor party candidates are unable to "deliver" their voters to any candidate or party that those voters do not wish to vote for. In the words of Senator Eastland, an opponent of S.J. Res. 1:

"It is unrealistic and unreasonable to think that the candidate of such a splinter party [one created to advocate an issue], or its leaders, could instruct their followers how to vote in a runoff election. These people voted on the issues in the first election, and they would vote on the issues in the runoff election. They would vote for the major party candidate in the runoff election who more nearly embraced their ideas and expressed their feelings. . . .

"Our whole political history suggests that even in personality-oriented elections it is very hazardous for an eliminated candidate to advise his supporters which of two remaining candidates to support. The normal human reaction is to resent such instruction." [7]

Senator Eastland is joined by two other opponents of direct election, Senator Ervin and Richard Goodwin, who (perhaps in an unguarded moment) also expressed doubt that political leaders can "deliver" their supporters.

A few electoral vignettes (they will be described too briefly to be called case studies) offer empirical corroboration of these two generalizations: (1) dissident elements throw their electoral support to the major party candidate closest to them in his political orientation, and (2) candidates have great difficulty in delivering their voters to other candidates.

The 1971 Mississippi democratic gubernatorial primary nicely illustrates both generalizations. Charles Evers, Mayor of Fayette, Mississippi and a nationally-publicized civil rights leader, was the first black man in the history of Mississippi to run for Governor. He appeared on the general election ballot as the candidate of the "loyalist" Democrats of Mississippi, an integrated group recognized as the "official" Democratic party of the state by the Democratic National Committee. As the candidate of a separate party, Evers did not enter the primary of the regular Democratic party. Of the six candidates who did, two—Jimmy Swan and Marshall Perry—ran on strictly racial appeals. The other candidates were by Mississippi standards, moderates, perhaps in part because some 280,000 blacks were registered for the 1971 primary, a significant increase from the 180,000 registered in 1967 and the 25,000 registered in 1963. One candidate, Lt. Governor Charles Sullivan, even promised to place blacks in

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state jobs if elected. However, Evers urged Mississippi blacks to vote for the segregationist, Swan, on the grounds that he would be easier for Evers to defeat in the general election.

Most observers believed this was far too great a risk for blacks to take, that black voters would support Sullivan. These observers were correct. On the first ballot, Sullivan won almost 39 percent of the vote, second place went to William Waller (also a racial moderate) with 29 percent, and Swan finished a poor third with 16 percent (104,000 votes). The remaining 16 percent of the vote split fairly evenly among the other four candidates with Perry, the other segregationist, polling less than 3 percent. Considering that something over 644,000 votes were cast on the first ballot, it would appear that few of the 280,000 registered blacks heeded Evers' plea to vote for an avowed segregationist. Not many whites did, either. Waller went on to defeat Sullivan in the runoff, a campaign centered on nonracial issues.

In general election for Governor Waller defeated Evers by some 528,000 votes (77 percent) to 151,000 (22 percent), with the remaining 1 percent of the vote going to another independent candidate. Although an unusually high turnout of white voters reportedly swelled Waller's margin, Evers' 151,000 votes was not much more than half of the 280,000 blacks who had registered for the primary. Either large numbers of blacks failed to vote, or many of those who did voted for Waller rather than Evers, or both. (Waller had promised to place qualified blacks in his administration.) Evers not only failed to manipulate black voters in the primary, he was also singularly unsuccessful in retaining their bloc support for his own candidacy.

Manipulation of the electorate is not a characteristic of French presidential elections either. The 1962 runoff pitted De Gaulle against Mitterand of the Left Federation. Based on the findings of French public opinion polls, one student of French politics writes: "Between the two ballots (candidate preferences having been clearly established already), television viewers spent little time listening to candidates not of their choice. After the first ballot, former supporters of defeated candidates quickly made their choice between De Gaulle and Mitterand." The 1965 election runoff was between Pompidou, a Gaullist, and Poher, a Centrist. Prior to the first ballot, it was believed that the Communists would endorse Poher in the runoff if Duclos, the Communist candidate, were eliminated on the first ballot. He was, but the anticipated shift in Communist support was exploded when the Communist party leadership avowed that it saw little difference between Pompidou and Poher, and called on its members to abstain from voting in the runoff. However, "*Le Monde* estimates that the Communist party's demand for abstention was rejected by approximately one-fourth of the Communist electorate and that perhaps 1,200,000 of its voters cast for Poher." [8]

If the relatively highly disciplined French Communist party cannot control all of its voters, there is little reason to believe that parties indigenous to the United States can. This appears to be the case even in elections in which the electorate is more concerned with personalities and party than with issues. In the almost issueless election of 1956, Eisenhower's landslide reelection was attributed primarily to personality appeal. But Eisenhower could not deliver his own voters to Republican candidates for Congress while the nation was still predominantly Democratic. Despite Eisenhower's endorsement of fellow Republicans, the Democrats not only retained their majority in Congress in 1956, they increased it.

The low probability that a minor party candidate could sell his popular vote in a runoff also must be balanced against the higher probability that he could deliver his pledged electors if no one wins an Electoral College majority. After the 1968 campaign, "it was revealed that Wallace had obtained written affadavits from all his electors in which they promised to vote for Wallace 'or whomsoever he may direct' in the electoral college." [9] The alternate opportunities for third parties are cogently compared by William Gossett of the ABA:

"A candidate rarely, if ever, is able to deliver a block [sic] of voters who supported him. On the other hand, he often can deliver the electors; and that is exactly what George Walace wanted to do and apparently was prepared to do had a deadlock occurred. There would seem to be little incentive for the creation of third parties when they know they have no chance of winning—that the maximum product of their effort would be to require a run-off election; and in any such election, they would have little or no control over those who voted for them. Negotiation for the votes of electors and behind-the-scenes bargains on that level are quite feasible; but dickering for the support of the general public is quite another matter.[10]

The relative disadvantage of minor parties in a runoff would be increased in proportion to their number and degree of political opposition to each other. Several politically divergent, possibly antagonistic minor parties would be unable to coalesce into a united front, with a united bloc of popular votes to offer a major party. Consequently, their bargaining position, singly and collectively, would be considerably weaker than that of a single third party candidate holding a regionally-based balance-of-power in the Electoral College or in the House of Representatives.

The foregoing analysis of bargaining politics may be summarized by the following propositions:

1. Any bargains struck between the first ballot and the runoff would have to be made public if they were to significantly affect the distribution of the vote in the runoff.

2. Because their electoral constituencies are essentially moderate, both major parties would be unable to accede to extremist demands without losing more votes than they gain. Consequently, presidential elections would not become radicalized.

3. While either major party would be advised to augment its electoral coalition by making concessions on moderate demands (those not considered reprehensible by a majority of the major party's electorate), this act would undermine the viability of moderate minor parties by removing their reason for being. But even failing the demise of moderate minor parties, their continued existence would not radicalize presidential elections (anymore than the Liberal and Conservative parties have radicalized New York politics).

4. Given that minor parties cannot deliver their voters to candidates those voters oppose, or effectively order all their voters to abstain from voting if they do not wish to abstain, only two possibilities are open to minor parties. Either they cannot bargain efficaciously with either major party, or they are constrained to bargaining only with the major party whose issue positions are already closest to those of the minor party. In the former situation, bargaining is precluded and the voters make up their own minds immediately after the first ballot, as in the 1965 French presidential election. In the latter circumstance, since there is only one major party to approach, it follows that the substantive terms extracted from the bargain will be limited. When there is only one buyer, the price the market will allow is low. Again, as in the second proposition, the consequence is that presidential elections would not become radicalized.

5. The fractionalized popular vote of ideologically opposed minor parties constitute a less valuable bargaining prize in a runoff than do the electors or House members loyal to a single third party candidate under the status quo.

Those who fear bargaining express a degree of panic far in excess of its justification.

OTHER ASPECTS OF ILLEGITIMACY

Discounting the venality of bargaining by its improbability undercuts, to a degree, three other aspects of illegitimacy attributed to direct election. However, theoretically these aspects can exist independently of bargaining between the first ballot and the runoff, so they deserve separate attention. They are:

1. A "minority" president would be elected if the candidate who comes in second on the first ballot were elected in the runoff. Such a President would have a questionable mandate to govern, and the mandate would be even weaker if there were a lower voter turnout in the runoff than in the first ballot election.

2. Even election on the first ballot could produce a "minority" President; one whose 40 percent plurality means he was rejected by 60 percent of the voters. And he might be elected because of his position on a single issue. Either of these conditions constitutes too narrow a mandate to govern.

3. Election by a 40 percent plurality invites secret deals before the first ballot. A major party whose first ballot plurality would be less than 40 percent if a minor party were running would bargain with that party to keep it from entering the election. The other major party would secretly encourage that minor party to run on the first ballot. The minor party would make its decision on the basis of which of the major parties offered the most attractive inducements.

Let us consider these arguments in turn.

Runoffs and minority Presidents

If the runner-up candidate on the first ballot should win in the runoff, we are warned that this would constitute election "of the candidate who is the second choice of most of the voters." The consequence would be to undercut the President's mandate, weaken the Presidency, and even threaten the stability of the system itself.

The issue at hand is whether a second place finisher on the first ballot who wins the runoff is a "second choice" President. Senator James B. Allen of Alabama makes a superficially strong case that he would be.

Senator Allen hypothesizes a first ballot distribution of the popular vote among four candidates as follows:

	Percent
Candidate A	39.0
Candidate B	21.0
Candidate C	20.5
Candidate D	19.5

The runoff would be between A and B. Since A is the front runner, Senator Allen assumes the other candidates all oppose him "and would band together in the runoff and could very likely cause the election of the 21-percent candidate. So that under this plan we would certainly end up with the second choice of the American people being elected as President of the United States." [11]

The more likely situation is that the three trailing candidates could not coalesce against A, in which case A would likely win the runoff. But even if they did manage to unite to elect B, he can be called a "second choice" President only with heavy qualification. The rationale for these statements is as follows:

Footnotes at end of article.

Given that A is but a scant 11 percentage points from an absolute majority, and given that B, C, and D divide the remaining 61 percent of the vote almost equally, Senator Allen is correct in saying that B, C, and D—and more importantly, their respective voters—would have to "band together" to elect B in the runoff. Assuming B keeps all his own voters, to be elected he would also need either all of C's voters and a majority of D's voters, or he would need huge majorities of both C's and D's voters. However, either of these combinations would be possible only if B, C, and D were ideologically closer to each other than any of them is to A. How likely is that in the real world of politics? Especially when opponents of direct election assume that it would encourage minor parties of both the right and the left? Suppose A is Richard Nixon, B is George McGovern or Edward Kennedy, C is George Wallace, and D is Hubert Humphrey. While Humphrey's voters might vote for McGovern, a large proportion of Wallace's voters would not. Many would vote for Nixon in the runoff as their second choice to Wallace, and help elect Nixon.[12] Using the same four-way distribution of the first ballot vote, try any other combination of four candidates, providing it includes candidates both to the left and the right of the two major parties in the center. The results would be the same. The first ballot front runner would win the runoff. He would have enough first and second choice votes to equal a majority of all voters.

Now consider the politically implausible situation of a runoff in which B does defeat A because B, C, and D all do have more in common with each other than any of them have in common with A. To make this less abstract, let A be Nixon, B be McGovern, C be Kennedy, and D be Humphrey. If McGovern, Kennedy, and Humphrey voters band together to elect McGovern in the runoff, then clearly McGovern is preferred by a majority of voters over Nixon in the runoff. In the four-candidate situation of the first ballot, Nixon was admittedly the first choice of a larger percentage of voters than was McGovern, but when the number of available candidates decreases to two, the voters whose first choice is out of the running have to choose from among the secondary choices that are still available. This is nothing new. The two-party system presents voters with this situation all the time. The only difference is, the early winnowing process takes place in majority party conventions or primaries instead of general elections.

Yet, curiously, when the two parties present the voters with a choice of only two candidates (a Hobson's choice, according to some), this is the salvation of the Republic. If the voters do it themselves, it suddenly becomes the ruination of the Republic.

There is another critical consideration that will be developed below. If A, the leader on the first ballot, is defeated by B in the runoff, then on the first ballot most C and D voters must have ranked B no higher than their second choice, but they ranked A no higher than their third choice.[13]

Having accomplished Senator Allen's purpose by electing B, we now see that if B is "the second choice of the American people," it is only because a majority of the voters do not have a first choice. Even 40 percent do not have a first choice. Inferences: (1) This fracturing of the vote reflects a preexisting fracturing in the political system. The vote is effect, not cause. (2) In this condition of dissensus, the first choice of even a large plurality (40 percent) cannot be elected because he does not exist. But because the purpose of a democratic election is to elect the available candidate most preferred by the most voters, in this condition that would be the candidate who is the first or second choice of a majority of all voters. (3) The runoff accomplishes this purpose, regardless of whether it is won by the first- or second-place finisher on the first ballot.

The third inference can be illustrated with the earlier examples. If the front runner A wins the runoff with his first choice 39 percent of the vote plus most of D's 19.5 percent who consider A their second choice, A clearly has a majority over B's 21 percent first choice votes and C's 20.5 percent who favor B as their second choice. Now the second example. If B is elected in the runoff, he does so because he adds to his 21 percent first choice voters at least three-fourths of the combined 40 percent of C and D voters who consider him their second choice and A their third choice.

If one is entertaining the nagging suspicion that something is ethically wrong in a system in which the first choice of 39 percent of the voters loses to someone who is first choice of only 21 percent, consider the alternative. To insist that A "should be" elected instead of B is to insist that the President should be the first choice of 39 percent (A's voters), at best the second choice (and more likely the third choice) of 21 percent (B's voters), and unquestionably the third choice of 40 percent (C's and D's voters). Since the C and D voters prefer B to A, it is reasonable to assume that had B not made the runoff, B's voters would prefer C or D in a runoff with A. That is why A is most likely also the third choice of B's voters, as well as of C's and D's. This means that if A were President, he would be the first choice of 39 percent and the third choice of 61 percent.

One can make one's own decision as to whether this would be ethically preferable to the election of B, who would be the first choice of 21 percent, the second choice of 40 percent, and at worst, the third choice of A's 39 percent.

To sum up, Senator Allen's model is vulnerable when his abstractions, A, B, C, and D, become empirically realistic candidates representing actual ideological positions. The model's premises may be valid only for two of America's political processes, and then only occasionally. One process is preconvention and convention politics, when several candidates for a party's nomination might combine to attempt to stop the front runner from winning the nomination on an early ballot, opening the way for a compromise candidate or even a dark horse. But the possibility of several candidates still in the running after many convention ballots is far different from a second, and final, runoff election in which only the top two candidates on the first ballot appear.

The Allen model might also be an accurate representation of some cases of issueless, job-oriented, multi-factional southern primaries. Candidate B might court the support of C and D by promising them patronage, financial payment, or both. But, again, no one claims that multi-party presidential politics would be free of issues. Quite the contrary.

In a variation on the "minority" President theme, Sayre and Parris also surmise that with direct election more people would be unwilling to accept the election results if their favored candidate loses. This would result from more parties and more emphasis on turnout raising the intensity of political conviction. The trouble with this hypothesis is that it doesn't happen when it should. Elections do not bring mass disgust or insurrection in democracies which have much higher voter turnout than the United States—Japan, Israel, England, Italy, France, and West Germany, to name a few. Note, too, that many of these nations have multi- or modified multi-party systems. Also scholarly research finds that the strongest Republican and Democratic identifiers are the people who are most likely to vote and who have the firmest political convictions and the greatest interest in politics. Yet strong Democrats accept the election of Republican Presidents, and confirmed Republicans pay their taxes to Democratic administrations.

The broader implication of the Sayre-Parris hypothesis is that as the intensity and variability of political demands increase, the number of alternatives from which the public can democratically make its final choice should decrease. In effect, this says that democratic procedures are bankrupt in those situations when they are most needed. Just as the First Amendment is invoked only in cases of suppression of unpopular opinion, a democratic electoral system is required most when people disagree about the course of government. As Scammon sees it, the Electoral College is undemocratic in a three- or four-way election. In the old days, he observes, government programs came after the election. Now programs are at issue before the election. To the extent this means the nation no longer has all shades of political opinion neatly collected into a two-party system, the one-stage Electoral College could give the nation a minority President. For this reason, Scammon favors the Bayh proposal with the runoff contingency.[14]

Confusion about the principles of a free election is implicit in such statements as the following: "Undoubtedly, the aura of legitimacy would be all the more in doubt where the runner-up in the initial contest wins the runoff by wooing third-party support. In such a case, the question of legitimacy is sharpened even further if the turnout in the second election is substantially lower than in the first election."[15]

The secondary issue of turnout can be deferred for the moment, for the principal charge has implications raising more questions of legitimacy than it settles. To say that the second place candidate should not win the runoff with the help of minor party voters implies either that such voters should not vote in the runoff, or that if they do, they should not be allowed to freely choose between the two alternatives available. But a vote without choice is not a vote. In short, a first ballot vote for a minor party candidate becomes, in effect, a philosophical justification for disenfranchisement in the runoff election. This violates two fundamental canons of legitimacy in democratic elections, universal suffrage and free choice.

An example can illustrate the problem. Suppose the front runner is Spiro Agnew, the second place candidate is Edward Kennedy, and the minor party eliminated on the first ballot is an ultra-liberal Democratic splinter group led by, say, the Rev. Jesse Jackson. To argue that the first ballot Jackson voters should not be allowed to help elect Kennedy on the second ballot is to say that stray sheep should not be allowed to rejoin their original flock, but must either forego all further rights as sheep, i.e., Democrats, or join a herd of goats by voting for Agnew.

A second implication is that the front-runner candidate might be allowed to win the runoff with the support of minor party voters, but the runner-up candidate should not. The distinction between the legitimacy of the former and the illegitimacy of the latter is unfathomable. To respond that neither of the top two candidates should solicit minor party votes is to suggest that minor party demands should be completely ignored by both major parties, regardless of their substance. That would give the nation a *de facto* two-party dictatorship.

The third implication is that those who voted for the first and second place candidates on the first ballot would be locked into staying with their original choices in the runoff. Although this is highly probable, other things being equal, other things are not always equal. If, for example, there were two minor party candidates eliminated on the first ballot, one liberal and one conservative, the front runner might seek the support of one of those minor parties as assiduously as the runner-up would court the votes of the other minor party. But if the front runner makes concessions perceived as too extreme by his first ballot followers, some of them might switch to the second-place candidate in the runoff. In this situation, it is possible that the runner-up would win the runoff with the help of some former supporters of his opponent, as well as with minor party votes.

All three implications can be summed up to say that unless there is freedom for the voters to elect the second-place candidate in the runoff, it is not truly a democratic election. And if it is not, one might as well elect as President the candidate with the highest plurality on the first and only ballot, regardless of how small that plurality may be.

The foregoing helps put the secondary issue of turnout in its proper perspective. But even considered in isolation, the importance of turnout is minimal or nonexistent. Let us skip the knotty problem of operationally defining when turnout in a runoff is "substantially lower" than in the first election. Assuming consensus on that, we should note that were it not for those minor party voters willing to switch their support to one of the remaining candidates, the runoff would have an even lower turnout. But for minority party voters who favor the second place candidate, a necessary condition for their participation in the runoff is the knowledge that their voters may help elect him. Therefore, to lament low turnout and simultaneously condemn a condition that increases it is egregious.

Generally speaking, if an election is based on universal suffrage, offers some degree of choice, and is decided by an honest count, a low turnout reflects the political satisfaction, dissatisfaction, malaise, or apathy of people who choose not to vote. But this is self-imposed political exile. Those who do not vote are voluntarily foregoing a right which is exercised by those who do. For this reason, the legitimacy of an election's outcome centers on the choice of those who vote, not those who abstain. Under these conditions, the issue of turnout as an index of legitimacy is a red herring.

French presidential elections demonstrate this. The 1965 runoff between De Gaulle and Mitterand polled 2.5 percent fewer valid votes than were cast in the first ballot. In the 1969 Pompidou-Poher runoff, the drop in valid votes between the first and second ballots was a whopping 16.2 percent. The French did not consider one election more "legitimate" than the other, although De Gaulle's candidacy in the 1965 contest made it more stimulating. That probably minimized the drop-off in votes.

These elections suggest that turnout varies directly with how important it is to the voters which candidate wins. If this hypothesis is valid, then if a second-place candidate wins a runoff with a markedly low turnout, it may be because large numbers of nonvoters don't care which of the two finalists is elected. That is hardly a condition prompting widespread cries of illegitimacy. Neither candidate would enter the White House with the cheers of multitudes ringing in his ears. Conversely, if a second-place candidate wins a runoff with a high turnout, then the low turnout/legitimacy argument is, again, irrelevant.

First ballot winners as minority presidents

Even if there were no runoff, the "Minority" President charge is leveled at any candidate who might win on the first ballot with less than an absolute majority of the popular vote. A President elected with only 40 percent of the vote, warns Senator Goldwater, is a man who was turned down by 60 percent of the voters.

He may also, write Sayre and Parris, have a narrowly-based, one-issue constituency, such as a Democrat who wins by promising urban dwellers he will save their decaying cities, a Republican who appeals to suburbanites chafing under taxes or inflation, or concerned about law and order, or a candidate who wins 40 percent of the vote solely on the peace issue. "The actual support for such a President might prove to be shallow; his coalition might extend no further than the issue on which he was elected." In short, the direct vote proposal would eliminate "the President's solid mandate to govern . . ."

The argument withers under examination. Admittedly, a President who wins 40 percent of the electorate has also lost 60 percent. But it has been demonstrated above that in a multi-party situation in which no candidate has majority support, the winner will inevitably be the first choice of only a minority of the voters. Indeed, minority Presidents have been elected 15 times under the Electoral College. That the Electoral College may dissuade certain types of minor party candidates from running more frequently than they do is beside the point. When only two major party candidates face each other, the winner's majority is automatic. Consequently, even a "majority" President is not necessarily the first choice from among all possible candidates, but only between the two in the election. A majority of 50.1 percent does not, in and of itself, make the President a tribune of the people.

Conversely, a plurality approaching a 40 percent low does not automatically condemn the President as a usurper, rejected by the people and unable to govern. Wilson carried but 41.85 percent of the popular vote in 1912, yet he conducted an activist administration that had popular support. Nixon won a lowly 43.42 percent of the popular vote in 1968, and the Democrats again won the Congress. This did not inhibit him from proposing many new departures in domestic and foreign policy, and carrying through on several of them.

The first Nixon administration (among others) also flatly contradicts Senator Ervin's charge that a President elected with a 40 percen plurality would likely have the support of not more than 40 percent of the people when he is inaugurated, and that his initial support would diminish month after month until he is supported by considerably less than 40 percent.[16] In fact, a President's popular support after his inauguration is invariably greater than his popular vote in the preceding election. The evidence is found in the monthly Gallup polls which ask a sample of the public whether it approves or disapproves of the way an incumbent is handling his job as President. Compare Nixon's unimpressive 43 percent of the popular vote in 1968 to the 59 percent of the public which approved his handling of the Presidency in January, 1969, the 61 percent who approved in February, and the 63 percent who were favorable in March.

This is typical. Since the Gallup organization began surveying presidential popularity in 1937, every President has begun a new term of office with a sizable majority of public support, regardless of how he fared in the election. Call it a honeymoon period or a halo effect, the pattern is clear. The President is legitimized by his office, not by the size of his vote.

A minority President with a mandate to govern on one issue but no other is pretty far-fetched. For one thing, the "mandate" of a presidential election is far from explicit. When the President's party remains in office, the electorate has done very little more than register sufficient satisfaction with existing conditions. It is also a vote of confidence in the in-party's past behavior and an act of faith in its ability to deal with the future.[17]

But even when it is "time for a change," the particular parameters of change usually are not spelled out during the campaign. For one thing, too specific an enumeration of future policy could cost any candidate some votes. Note McGovern's retreat, in 1972, from his original proposal of a thousand-dollar-a-year per person minimum income for the needy. More importantly, conditions—or judgments about them—may change after the inauguration. Roosevelt's 1932 campaign promise to balance the budget was not kept. Nor was the vast scope of the early New Deal mapped out in the campaign. Nixon labeled his policy to end the Vietnam war "secret" during the 1968 campaign. He was elected largely because the public believed a new face might be able to do something about a chronic problem in Southeast Asia. But what Nixon would do, or how he would attempt to do it, was unknown, perhaps even to Nixon.

In addition to the vagueness of their mandates, elections rarely, if ever, turn on a single, discrete issue. While a politician may catapult into national prominence on a single issue (Vietnam was the springboard for McGovern, integrated schools for Wallace), candidates for presidential nominations invariably broaden their appeals. Thus, in the 1972 primaries, McGovern and Wallace took positions not only on Vietnam and school busing, but also on welfare and tax reform, the economy, the size of the defense budget, and amnesty for draft-evaders and deserters. To these issues, the general election campaign added the Watergate Hotel bugging affair.

Since it is manifestly improbable that 40 percent of the electorate would favor a candidate's stand on one issue but oppose and/or be indifferent to his positions on all other issues, the likelihood of a "minority" President also being a "one-issue" President is, to be generous, remote. And in the improbable circumstances that an election turns exclusively on a single issue, the President would have a mandate on the only issue that mattered to the public. Since such an issue would have to have universal importance and be universally beneficial, e.g., reducing inflation or unemployment or keeping the nation at peace, the winning candidate would probably receive a majority of the popular vote. He would not be a "minority" President.

Bargaining before the first ballot

Although election by a 40 percent plurality is intended to minimize the probability of a runoff, there is a body of opinion which favors a runoff if no candidate receives a majority on the first ballot. This view has been expressed by Senator Baker, who supports the Bayh proposal, and by Senator Eastland, who opposes it. Senator Eastland presents an interesting reason for his position.

Senator Eastland's argument draws heavily on his scenario of the critical role of minor parties before the first ballot if it could be won with a 40 percent plurality. Suppose, he suggests, that a poll taken in the spring of a presidential election year shows that, in a two-party race, the prospective Republican nominee would receive 52 percent of the vote and the prospective Democratic candidate 48 percent. Suppose also that the same poll showed the following vote distribution in a three-way race with a splinter candidate: the Democrat, 44 percent; the Republican, 43 percent; the splinter candidate, 13 percent.

"It should go without saying," Senator Eastland then says, that leaders of the Republican party would "do everything legally and honorably possible to persuade the splinter party candidate not to enter the field," while Democrats would strongly encourage him to run.[18] The leaders of both parties would make secret promises and com-

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Footnotes at end of article.

mitments to the splinter party candidate about future policies and appointments. The splinter candidate would make his decision on the basis of the relative inducements forthcoming from each party. Should he hurt the Republicans by deciding to run, the Democrats "might also be compelled to arrange for considerable campaign financing of the splinter party candidate."

Senator Eastland admits that under his proposed election by majority vote, deals and promises can be made prior to the runoff to obtain the support of minor party candidates.

"However, the great difference between the two situations is that in the runoff under the 50-percent system, any deals would be open deals openly arrived at. By the nature of things the entire voting public would know about any effort of one of the two candidates in the runoff to obtain the support of certain groups. Any promises made to these groups to obtain their support would be public promises designed to attract their support."[19]

Conversely, election by 40 percent opens a much greater possibility of "secret wheeling and dealing" before the first ballot.

Except for transposing the popular vote percentages (and, therefore, the victor) between the major party candidates, Senator Eastland's "hypothetical" situation bears a striking resemblance to the 1968 election, and to what might have happened in 1972 had Wallace not been disabled. This lends it an aura of credibility. Certainly those who might not hold President Nixon in high esteem could imagine him trying to keep George Wallace from running by "secretly" making all kinds of "southern strategy" policy concessions, perhaps even by promising Wallace an appointment as Secretary of Health, Education, and Welfare. (Whether Wallace would want such a post is another matter. It would be a good position for firing all the "pointy-headed bureaucrats" Wallace condemned in his 1968 campaign.)

However, even those who opposed Humphrey or McGovern in 1972 might be hard put to seriously conceive of either of them encouraging Wallace's states' rights candidacy, no less depleting the minimal Democratic campaign chest by making under-the-table grants to Wallace's campaign. Politics may make strange bedfellows, but a secret Humphrey-Wallace or McGovern-Wallace liaison verges on the politically obscene. Without restricting the argument to particular personalities, the same conclusion would hold with respect to any moderate liberal *vis-a-vis* a conservative minor party candidate, or any moderate conservative who would have to court a liberal splinter candidate. *From this perspective,* the Eastland scenario rests on the premise that any splinter candidate's demands are about equidistant, politically, from both major party candidates, yet close enough to both so that both would at least consider bargaining with him. The validity of the premise is highly questionable.

However, the premise of equidistance is unnecessary for Eastland's thesis if one deduces it from a different set of assumptions: that a Democratic liberal on civil rights, such as McGovern, *would* encourage a Wallace-type candidate to run because (1) the liberal would perceive this act as a precondition to his own election, and victory takes precedence over principles, and (2) since the bargaining would be secret, the public would not know that the liberal had "sold out" his principles. By and large, these tacit assumptions must underlie the Eastland thesis if we are to accept it as tenable.

The unanswered, and unanswerable, question is how tenable are the assumptions? Both presume a degree of cynicism and opportunism in major party presidential candidates that is common in political novels and television dramas, but which may be more a matter of literary license than of empirical evidence. No one is denying a power drive within men who aspire to the Presidency. But short of convincing evidence to the contrary, one may also assume that the Presidency is sought after for reasons of public policy as well as personal ambition. The Presidency is a means through which men can effect the course of a nation. To assume that candidates would bargain away their issue positions to the point of reversal or revocation is to assume that a major motivation for seeking the prize is nonexistent.

Moreover, Senator Eastland would have us believe that such amoral and possibly dysfunctional bargaining will commence solely on the basis of very early soundings of possibly uncrystallized public opinion. As stipulated by Eastland, the poll would be conducted in the spring of an election year—well before the realities of intra-party coalition formation are tested in the nominating conventions and well before any party has even begun its general election campaign. Although the hypothetical spring poll indicates a three-way race would result in a 44 to 43 percent Democratic advantage, the actual election might well reverse these figures. Not only is the one point difference well within the bounds of chance sampling error (as would be a four or five point spread in a typical national sample of 1,500 to 3,000 respondents), but early poll findings showing one candidate the victor 'if the election were held today" are often reversed in later polls, on election day, or both. Politicians are not likely to forget 1948 or the close races that developed during the campaigns in 1960 and 1968. By encouraging a third party candidacy in spring the Democratic candidate might be cutting his own political throat in November.

The Eastland thesis also assumes that a major party candidate who consummates a bargain could be confident that his "sellout" would remain secret. Although the chance of secrecy is considerably greater before the first ballot than prior to the runoff, it is by no means absolute. One cannot assume that the news media would not unearth any leaks from political insiders, in both the major and the minor party, who were either privy to the deal or who suspect it had been made. Certainly one source of unkept secrecy would be within the following of the minor party candidate, as exemplified by the situation facing George Wallace in late 1972. Some of his staff and supporters in Alabama did not want him to run for the Presidency in 1972, while many conservatives in other states who had backed him in 1968 wanted him in the race at the head of a full third party ticket[20] Thus, regardless of which decision the potential splinter candidate makes—to run or not to run—he will disappoint, and possibly embitter, some of his followers. At the least, he would presumably be required to confide in them the reason for his decision, e.g., the provisions of the deal he had made. And as the circle of deception widens, the chances of maintaining secrecy diminish. Especially if the deal which prompted the decision were insufficiently persuasive to those in his entourage who disagreed with the decision.

Nor is a major party candidate a man alone. Those in his party who knew of the deal, and who might resent the concessions made, would be a second source of security leakage. Even if the deal were publicized in the guise of unconfirmed rumors or speculation (a not unknown practice in the news media), it would hurt him. A major party candidate would spend much of his effort denying allegations that he could neither disprove nor admit. That, too, is a not unknown practice in American politics.

On balance, Senator Eastland may be recommending the right course for the wrong reasons. Requiring an absolute majority for election has some appealing aspects to those who do not contemplate minor parties with hysteria. For one thing, the actual vote polled by minor party factions on the first ballot is a far more accurate measure of their popular support than the leaders of such factions claim during primaries, conventions, and in the general election. It might be quite healthy if, for example, a neo-isolationist peace group or an ultraconservative group had to put up or shut up in a general election. If their respective followings proved to be quite small, this would serve to moderate the political scene. At the least, their flamboyant rhetoric could be ignored. If their first ballot strength were sizable, both major parties would be on notice that large segments of public opinion are moving ahead of them and that they had better catch up or do a better job of educating minor party voters about the error of their ways. In either situation—a small minor party vote or a large one—democracy would be served.

Even if minor parties forced the election to a runoff, the final decision would be made between the two top candidates. That preserves the *essential* principle of two-party competition. Finally, if a majority vote could only be achieved through the runoff contingency, that would permit those who voted for minor parties on the first ballot to reappraise their wants in terms of their next best choice—an option that would not be available if a 40 percent plurality were sufficient for election.

FOOTNOTES

[1] Bargaining in southern Democratic primaries is used as a point of departure by Alexander Bickel, "Reform and Continuity" (New York: Harper Colophon Books, 1971), 25, by Wallace Sayre and Judith Parris, "Voting for President" (Washington, D.C.: The Brookings Institution, 1970), 75–76, and by Professor Ernest J. Brown, visiting Professor of Law at the University of Pennsylvania, in his testimony during the Hearings before the Senate Judiciary Committee on "Electoral College Reform," 91st Cong., 2nd Sess. (April 15, 16, and 17, 1970), 120. This latter source will be cited hereafter as Senate Hearings.

[2] Testimony of Congressman William Clay of Missouri in Senate Hearings, 68, 70. Clay's fears are echoed with approval in the minority views in Senate Report No. 91–1123, 91st Cong., 2nd Sess., Judiciary Committee, "Direct Popular Election of the President" (August 14, 1970), 41–42. Hereafter cited as Senate Report.

[3] Senate Report, 16.

[4] See the discussion in Robert A. Dahl, "A Preface to Democratic Theory" (Chicago: University of Chicago Press, 1956). 96–98.

[5] Gerald Pomper, "Elections in America" (New York: Dodd, Mead, 1968), 154. This paragraph draws upon and extends Pomper's discussion on pp. 153–154.

[6] 116 Cong. Rec. 31143 (September 10, 1970).

[7] Ibid.

[8] Lowell Noonan, France: "The Politics of Continuity and Change" (New York: Holt, Rinehart, and Winston, 1970), 454.

[9] "Politics in America" (3rd ed.; Washington, D.C.: Congressional Quarterly Service, May 1969), 81.

[10] Senate Hearings, 194.

[11] 116 Cong. Rec. 33579 (September 24. 1970).

[12] See the report of the Gallup poll, as published in the Sunday Pantagraph (Bloomington, Ill.), November 7, 1971.

[13] If D voters considered C their second choice, then B would rank as their third choice and A as their fourth choice. Similarly, C voters might prefer candidate D to candidate B, and candidate B to candidate A. But to forego unnecessary complications, the discussion will assume that the two candidates in the runoff rank no lower than the second or third choice of all minor party voters. In a relative sense, this is no different than if they ranged third or fourth, since

only two candidates remain for which a vote can be cast.

[14] Comment by Richard Scammon during a roundtable discussion, "What Kind of Majority—'Republican,' 'Real,' 'For Change,' or None?" held the evening of September 10, 1971, at the 67th Annual Meeting of the American Political Science Association in Chicago, Illinois.

[15] Separate views of Senators Robert Griffin and Joseph Tydings, in Senate Report, 16.

[16] 116 Cong Rec. 33837 (September 25, 1970).

[17] V. O. Key, Jr. "Politics, Parties, and Pressure Groups" (5th ed.; New York: Thomas Y. Crowell, 1965), 526ff.

[18] 116 Cong. Rec. 31143 (September 10, 1970).

[19] Ibid.

[20] Congressional Quarterly Weekly Report, October 30, 1971, 2221–23.

A MELANGE OF OTHER CHARGES

Opponents of direct election do not lack for originality or variety in the arguments they muster. What remains are the red herrings, the mini-arguments which lack the political profundity of those dealt with, with deservedly more attention in earlier chapters.

These other charges are that direct election will engender electoral fraud and time-consuming recounts, require complete federal administration of presidential elections, tatter the fabric of federalism, and replace the national convention with a national primary. Failing all else, the final warning is that a direct election amendment would not be ratified by three-fourths of the states.

FRAUD AND RECOUNTS

Journalist and author Theodore White contends that the Electoral College minimizes the incidence and effect of fraud in presidential elections. Under the present system, White argues, states are self-sealing containers. Any dishonest voting or vote-counting that may occur is limited to a very few states with both a large electoral vote and a close popular vote (e.g., Illinois in 1960). But had direct election been in effect in the close contests of 1960 and 1968, fraud might have run rampant even in such "honest" states as Minnesota, Connecticut, California, and Oregon. "Under direct election," White warns, "a premium would be placed on stealing every vote in every precinct in every state."[1]

The corollary is that because the electoral vote is counted by state, the present system removes the incentive for the party which loses a state to demand a time-consuming recount. For example, in most cases it would make no difference whether there is a question of irregularity about 400 or 500 votes in a few precincts in Austin, Texas. Since the President-elect usually wins proportionally more electoral votes than popular votes, the national electoral vote would probably not be close enough to make any difference which party wins the Texas bloc of electoral votes. Consequently, there would be insufficient reason to demand a recount of a few hundred votes in Austin. On the other hand, even if the national electoral vote were very close, if the party which won Texas' electoral votes carried the state by a landslide, again a few hundred votes would not matter enough to warrant a recount. In sum, this compartmentalization theory of the Electoral College is that (1) fraud is localized to a few states and (2) the electoral votes of these states would not change the outcome of an election; therefore, (3) losing presidential candidates do not insist on recounts.

What if the national popular vote were close in a direct election? Then, the theory continues, recounts which changed a few hundred votes in each of many states, or which changed a few thousand votes in a few states, would be critical. It wouldn't matter whether a statewide vote were close if the national vote is. Charges of fraud in one state, county, or precinct would be met with countercharges of fraud in other jurisdictions. The recounts would escalate in scope, possibly take months to complete, and conceivably leave the nation without a President on the day of inauguration.

Even if fraud were not charged, a close election on either the first or second ballots would entail time-consuming recounts. The elapsed time between the first ballot and the runoff would prolong the period of uncertainty. And if one or more candidates came close to the 40 percent plurality needed for victory on the first ballot, a winner still could not be declared until the total number of votes cast were known. This number might be determined by absentee ballots; again, political leaders would be tempted to demand recounts.

Fraud

The major flaw in the compartmentalization theory is its second premise: that a few thousand fradulent votes in a few states could not affect the outcome of an election under the Electoral Collge. Because the unit rule delivers a state's electoral votes in a bloc, quite the contrary is true. As Senator Marlow Cook of Kentucky observed of the 1960 election in California, a change of 25,000 popular votes would have shifted 40 electoral votes. California's 40 electoral votes equal 7 percent of all electoral votes, but 25,000 popular votes equal 0.000385 percent of 65 million popular votes. In 1948, Truman's popular vote plurality exceeded two million. But a change of less than 9,000 votes in California and some 3,600 votes in Ohio—less than one-fifth of 1 percent of the nation's popular vote—would have elected Dewey in the Electoral College. Similarly, a switch of but 11,874 popular votes in five states in 1960 would have given Nixon a majority of the Electoral College and the Presidency.

The principle is clear. As Senator Cook cogently observes, fraud is encouraged or discouraged by its likely impact on an election. And because the change of a few votes in each "insulated state" can shift large blocs of electoral votes, while a few thousand changed votes would be of miniscule importance in a statewide or nationwide pool of millions, the impact of fraud is magnified under the present system. In sum, compartmentalized electoral votes by state breeds the very effect it is alleged to discourage.

What of Theodore White's allegation that direct election would corrupt previously "honest" states, would result in nationwide fraud? Senator Cook properly terms this charge a non sequitur. Certainly everyone knew, before election day, that the 1960 contest would be close in both popular and electoral votes. Why, then, does White assume such states as California, Minnesota, and Oregon were honest in a close election under the Electoral College but would have been corrupted in a direct election? In 1960, California's 32 electoral votes were won with a plurality of less than 36,000 votes; Minnesota's 11 electoral votes were carried by a 22,000 vote plurality; and Oregon's 6 electoral votes were delivered with a plurality of less than 41,000 votes. In all three states the vote was close enough to make fraud appealing to fraudulent men, had there been any.

Moreover, in Senator Birch Bayh's opinion, local politicians are less likely to think the presidency is worth cheating for than the office of sheriff, county commissioner, or governor—positions which dispense patronage. A case in point is the celebrated 1960 election in Illinois. Kennedy carried the state by fewer than 9,000 votes. The day after the election Republicans charged that Mayor Richard Daley's Democratic organization had "stolen" the election in Chicago. The chief Republican purveyor of this charge was Benjamin Adamowski, the Cook County state's attorney. A long-time adversary of Daley's Adamowski himself lost reelection in 1960 by 25,000 votes. The Republicans demanded and received a recount at their expense. In the words of Mike Royko, from his hostile biography of Daley, "Boss":

> In nine hundred precincts in which paper ballots were still used, the recheck caused a switch to ten thousand votes, narrowing Adamowski's margin of defeat to fifteen thousand.
>
> Nixon gained very little in the nine hundred precincts, showing clearly that the Machine was more concerned with beating Adamowski than electing Kennedy.[2]

Recounts and delays

In addition to the futile Chicago recount, there was a recount in Hawaii in 1960. However, it was not instigated by the Republicans, but by the courts. Nixon appeared to have won the state's three electoral votes by a margin of 141 votes. The recount found Kennedy the victor by 115 votes.

These episodes of 1960 illustrate a historical pattern. Although the cost of recounts is relatively low (compared to campaign expenditures), and a change in a few thousand votes in two or three states could alter the outcome of close elections, losing presidential candidates do not ask for recounts. Nor except for exceptionally close elections, do statewide candidates. The reason for this disinclination to challenge election results is probably a fear of negative reactions by the voters in the contested election and in future ones. Americans disdain sore losers. As a spokesman for the American Bar Association put it: "If presidential candidates have for 180 years passed up recounts involving only a few states, why are we concerned with the risk of recounts that would involve all fifty states, with doubtful results?"

The infrequency of recounts notwithstanding, those which do occur are both administratively feasible and can be conducted rapidly. The spreading use of electronic voting systems, as well as voting machines, not only diminishes the possibility of fraud or error inherent in paper ballots, but assures speedy counts and recounts.

The allegation that recounts bring delays is vehemently denied by Clay Myers, the Oregon Secretary of State in 1970. Oregon's first statewide recount was in the 1968 U.S. Senate election between Robert Packwood and Wayne Morris. The only delay, writes Myers, was statutory, to certify the first election result, to allow time for a recount demand, and for posting bond. "The total time to actually recount was very brief—even including the certification by all the counties of the recount results, and Senator Packwood had no trouble taking his seat before Congress convened. . . . [I]t is possible to recount hundreds of thousands of votes in five days. We count that number every election."[3]

Myers offers unqualified assurance that there will be a President on the day of inauguration. Even if there were a runoff election on the first or second Tuesday of December (allowing up to a month between the first and second ballots), more than another month would elapse before an inauguration. In Myers' opinion, Congress need make only minor statutory changes in the date the states make the final determination of their election results.

FEDERAL ADMINISTRATION OF ELECTIONS

Opponents of direct election contend that its adoption will inevitably lead to direct and complete federal administration of presidential elections. Congress would have to adopt uniform standards of voter eligibility and uniform legislation insuring that all candidates would be on the ballot in every state. Both the fear of fraud and the "logic" of a national popular vote count would dictate a centralized, national canvass of the vote, perhaps beginning with federal election offi-

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cials in every one of the nation's 180,000 precincts.

In any practical sense, these fears are without foundation.

The direct vote proposal provides that qualifications for voters shall be the same for voting for President as for voting for the most numerous house of a state legislature, except that a state legislature may prescribe less restrictive residence requirements and Congress may establish uniform residence qualifications.[4] Congress has already done so, and more. Legislation adopted in 1970 limits residency requirements to no longer than 30 days for presidential elections, abolishes literacy tests in all states, and sets the voting age at 18.[5] Uniform standards of voter eligibility is no longer an issue.

The proposal further provides that the times, places, and manner of holding elections, and the criteria for placing candidates on the ballot, shall be prescribed by the legislature of each state. However, at any time Congress may make or alter such regulations by law. In terms of practical politics (Congress is not disposed to easing the birth trauma of minor parties), as well as by the expressed intent of proponents of direct election, this reserve power of Congress would be used only in those cases where states attempt to keep major party candidates off their ballots. This happened to Lincoln in 10 states in 1860 and to Democratic candidates in Alabama in 1948 and 1964. Otherwise, advocates of direct election recommend that states continue to have primary responsibility for including the names of candidates on their ballots.

Their sentiments are the same with respect to the states retaining their function of counting and certifying the vote, Granted, the direct election proposal states that "The Congress shall prescribe by law the time, place, and manner in which the results of such elections shall be ascertained and declared." [6] While this language gives Congress carte blanche, a federally administered election is envisioned only by opponents of direct election. Its advocates see Congress' role as setting minimal standards for an honest canvass of the vote and a deadline date by which the states shall submit their final, certified count. But within these broad guidelines the states would be given a wide latitude in developing their own laws affecting registration of voters, control of the polling places, and counting and recounting the vote.

THE MYSTIQUE OF FEDERALISM

Few defenses of the Electoral College (and attacks on direct election) rest on such empirically unsubstantiated myth and intellectually arid symbolism as the federalism theory. In its narrowest sense, the theory contends that both small states and large derive disproportionate political leverage from the College. In its more sweeping pronouncements, the theory imputes an intangible but philosophically important quality of character to popular majorities pressed through the sieve of the Electoral College.

Large States and small States

"Many political leaders in small states," writes Sayre and Parris, "view the general ticket [unit rule] as serving their interests, because with two electors based on their equal representation in the Senate, they have a greater percentage of the electoral college vote than of the popular vote. And many political leaders in populous states believe that the system serves *their* interests because of their large blocs of electoral college votes." [7]

The leverage that large states are supposed to derive from the Electoral College is more shadow than substance. As Gus Tyler points out, the large states do not unify into a decisive bloc of electoral votes because in *close elections* they divide and cancel each other out. In 1948 and again in 1968, the eight largest states split evenly—four going Republican, four Democratic. In every close election of this century, 1916, 1948, 1960, and 1968, writes Tyler, the five largest states have split three to two.[8]

The theoretical advantage of small states is also largely mythical. Not having common interests, such states do not vote as a bloc. The District of Columbia is not likely to follow the lead of North Dakota or Rhode Island the lead of Idaho.[9]

By contrast, the strong regional continuity of southern states prompts them to vote more or less cohesively. Selective historical disenfranchisement of blacks has reinforced this regional homogeneity. More importantly, it has contributed to the South's consistently having a voter turnout far below the national average and even farther below the South's cohesion at the conservative end of the spectrum on selected issues and *its historically low popular vote compared to its electoral vote* is what Tyler calls the "Dixie Edge" in the Electoral College. It explains, writes Tyler, why there have been repeated southern movements for a third party to throw the election into the House of Representatives, why George Wallace almost succeeded in his 1968 venture and why the southern strategy has a special appeal to some of Nixon's political advisers. Tyler concludes that "The politicking for the present system revolves around on amoral axis. The big state pols believe the present system favors them; the small state pols believe it favors them; the low vote state pols *know* it favors them." (Emphasis added.)

Tyler's analysis is corroborated by the fact that the most cohesive opposition to direct election emanates from southern political leaders. Southern cohesion is exemplified in the two unsuccessful attempts to close debate on the direct vote proposal (S.J. Res. 1) in the waning days of the 91st Congress. Southern Senators (those from the 11 states of the old Confederacy plus Kentucky and Oklahoma) were far more unified in preventing a vote on the proposal than were Senators from small states (those with 8 or fewer electoral votes).

On the first cloture attempt, 20 of 26 southern Senators voted against ending debate, while small-state . . . Senators split almost evenly: 25 for cloture, 21 against, and 6 not voting.

On the second cloture attempt, 20 of 26 southern Senators again voted against ending debate, while small-state Senators split evenly: 23 for, 23 against and 1 not voting.[10]

As Pierce observes, another reason "that 'overrepresentation' of a state is an illusory advantage is that the people of a state do not vote unanimously for one Presidential candidate or another—although the unit vote system of casting electoral votes may make it look as if they had. But it is *people* who have preference, not states." [11] The point is well taken. Nevada's three electoral votes grossly overrepresent its population. In 1960 those electoral votes went to Kennedy. The small "state" advantage was, in reality, an advantage to the 54,880 Nevadans who voted for Kennedy at the expense of their 52,387 fellow citizens who voted for Nixon.

Qualitative majorities

Here is a riddle. According to opponents of direct election, when is a majority vote for President not a majority vote for President? Answer: When it is not a "reasonable" majority—one that respects the rights of others. "The central character of American politics requires that we be concerned not just with the *size* of majorities but with their *character*." [12]

This sentiment, expressed by Senators Eastland, McClellan, Ervin, Hruska, Fong, and Thurmond, is the old concurrent majority principle in thin disguise. It should therefore be no surprise that four of the six Senators subscribing to these words represent the South, as did John C. Calhoun. Yet prior to the adoption of the Voting Rights Act of 1965, the "character" of voting majorities in much of the South was small in size, white in race, and not very "reasonable" in respecting the rights of black citizens.

But the grand mystique of federalism is by no means restricted to southern Senators. A northern liberal, Richard Goodwin, expresses similarly curious views about the nature of American democracy. As he rightly observes, the federal government is not constituted along the lines of the pure democracy of a town meeting. The Supreme Court is accountable to no electorate, although it can overrule both the Executive and Legislative branches, which are. The Senate is numerically undemocratic in composition but currently is the most progressive and liberal branch of all. And a powerful President can appoint Attorneys General and Secretaries of State who, themselves, have more power over the destiny of the people than most of our early Presidents. "And so," says Goodwin, "to determine if a structure or process is democratic we ask *not how many decide and in what manner*, but whether it adds to oppression or increases freedom, confines opportunity or enhances the general welfare, fragments the union or perfects it. By that standard, the electoral college is not undemocratic." [13] (Emphasis added.)

In point of fact, the only way to determine whether a "structure or process" is democratic is to ask the very questions that Goodwin rejects: how many decide and in what manner? As questions about procedures, they are legitimate inquiries into the form of government. But Goodwin commits the generic intellectual error of many of the self-styled "liberals" of the late 1960s and early 1970s. He defines "democracy" principally in terms of the substance of public policy. The key question of democracy is no longer how many people can control the selection of their leaders, but what the leaders do for the people.

What is wrong with that? Everything. In terms of the logic of democratic theory, Goodwin's thesis leads to the reducto ad absurdum that the one-man, authoritarian regime of a "benevolent" dictator is democratic. (But only, of course, for those citizens who receive the benefits.) Far more importantly, in the day-to-day political arena, Goodwin's definition of "democracy" is no longer ideologically neutral. Terms like "oppression," "freedom" "opportunity" and "union" mean quite different things to Goodwin, William F. Buckley, Jr., George Wallace and Eldridge Cleaver. Or for that matter to Francisco Franco and Fidel Castro. To define democracy as Goodwin does is to risk escalating disagreements over public policy into conflict over the far more critical question of the structure of American government. That is the essence of radical politics of both the left and the right.

Nor are Goodwin's references to the "undemocratic" branches of government relevant. No proponent of direct election wants Senators, Supreme Court justices and members of the Cabinet elected by the nation-at-large. Just the President—who appoints judges secretaries of state and attorneys general—and who therefore should be responsible to all the people for his appointments.

Popular election of the President would leave unscathed the genuine protection of pluralistic interests inherent in our federal system. In contemporary practice, the House of Representatives remains the repository of local interests while the Senate protects the interests of states, as such, and is the principal safeguard of our federal republic. But the Presidency has evolved as the sole elective office responsible for the overall national interest to the citizenry as a whole, much as the federal courts are the legal bulwark of

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both the public interest and the procedural and substantive rights of individuals. Moreover, any President—whether elected by "reasonable" or "unreasonable" majorities—will remain subject to the checks and balances of two legislative chambers and the Supreme Court. The Bill of Rights no more rests on the Electoral College than does the pork barrel.

The creed of American federalism is "E Pluribus Unum" ("Out of Many, One"). Nowhere is the practical application of this slogan better expressed than in the words of Tom Wicker: "We may be 50 states in Congress but we are one people in the White House—or should be—and the President ought to be ours to choose."

NATIONAL PRIMARIES

Opponents of direct election insist that it will destroy the political power of state party organizations, for the "logic" of direct election leads to replacing the nominating convention, composed of state party delegations, with presidential primaries that would probably be national in scope. To Professor Ernest J. Brown, this portent approaches the immutability of natural law: "If you have direct popular election, the nominating procedure must necessarily follow in some way the election procedure. If there were such a thing as electoral physics, I would be tempted to put this as a law of physics."[14] We would probably have, Brown concludes, a nationwide primary for each party.

Professor Brown's statement is an assertion, not a validated empirical generalization. As a matter of "logic," there is no reason whatsoever why a national convention cannot nominate a candidate who will be directly elected. Institutions of nomination are quite independent of electoral institutions, as exemplified by France, where Presidents are elected by the people but not nominated by them. American nominating conventions would continue to be composed of state party delegations because that is an administratively and politically convenient way to organize them, just as the counting of general election ballots in the states is administratively convenient.

There are also cogent political reasons to retain the nominating conventions. A strong champion of direct election, Neal Peirce, mentions a few of them:[15]

1. The convention is a forum in which disparate elements of the party can reach the compromises needed to agree on a party platform.

2. Since the convention nominates both the presidential and vice-presidential candidates, there is a natural pressure to select men who can run on the platform and a subsequent pressure on them to live up to the broad principles enunciated in it.

3. The party professionals who attend the convention are aware that their nominee must appeal not only to strong partisans, but to independent voters as well. Independents would presumably be excluded from the party's nominating primary. The experienced, professional judgment of party "pols" in picking a man who appeals to independents is of no small consequence. As V. O. Key concluded from his study of state primaries, the strongly partisan voters may nominate a man too much in their own image; one who pleases rabid Democrats or Republicans voting in their respective primaries but who has insufficient support to carry a majority in election.[16]

4. There may be cases when none of the candidates for nomination has built a really broad base of national support. In these circumstances (admittedly rare), the convention can "draft" candidates, such as Charles Evans Hughes in 1916 and Adlai Stevenson in 1952.

5. If both presidential and vice-presidential candidates were elected in a nationwide primary, the men chosen to run together might represent sharply antagonistic points of view or even be antagonistic toward each other. However, this contingency could be obviated by allowing the presidential candidate to choose his own running mate, as is present practice.

In sum, good politics as well as good logic dictates retaining the nominating convention. Nominations are for parties; elections are for voters. "Rather than the electoral college, the conventions should be recognized as an institution that produces a 'concurrent majority' in American Presidential politics."[17]

RATIFICATION BY THE STATES

A constitutional amendment requires approval by a two-thirds vote in each house of Congress and ratification by three-fourths (38) of the states. Would an amendment to replace the Electoral College with a direct vote muster the necessary support from legislatures in the smaller states? Or would their opposition prevent a three-fourths majority from being reached? Not being gifted with prescience, we cannot offer a definitive answer. The question is raised only because opponents of direct election claim it would not be ratified, but the available evidence suggests that it might.

In the summer of 1969, Senator Robert Griffin of Michigan conducted a mail questionnaire of all the state legislators in the 27 smallest states. Forty-four percent of those questioned responded, and of these, 64 percent endorsed direct election. In only two of the 27 states was there less than a majority who said they would vote to ratify a direct election amendment. The Griffin survey corroborated the findings of an earlier poll conducted by Senator Quentin Burdick of North Dakota in the summer of 1966. Burdick wrote to the 8,000 state legislators in all the states and received answers from 2,500 of them. Fifty percent or more of the respondents in 44 of the 50 states supported direct election of the President and 58.8 percent of all state legislators endorsed the proposal. The Burdick poll showed almost equal support for direct election from small states as well as from medium- and large-sized states.

While the Griffin and Burdick polls do not make ratification of a direct vote amendment a foregone conclusion, they are impressive empirical indicators for two reasons. First, both polls offered legislators alternative proposals to direct election, such as retaining the Electoral College, the district plan, and the proportional plan. Given the number of options which could fractionalize the response, the absolute majority for direct election is even more impressive. Second, the surveys were conducted before an amendment had even passed Congress and been sent to the states. Consequently, the proposal had not acquired the degree of public notoriety and popular support that may be expected when (and if) the states are presented with an amendment. While there is little doubt that there will be strong lobbying against, as well as for, direct election, given the overwhelming popular support for the proposal recorded in Gallup polls, it seems safe to surmise that an even larger number of state legislators will vote for an actual amendment than supported a hypothetical one.

FOOTNOTES

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[1] Quoted in Senate Report No. 91–1123, 91st Cong., 2nd Sess., Judiciary Committee, "Direct Popular Election of the President" (August 14, 1970), 42. Hereafter cited as Senate Report.

[2] Mike Royko, Boss: Richard J. Daley of Chicago (New York: New American Library Signet Books, 1971), 124.

[3] Letter, Clay Myers, Oregon Secretary of State, to Senator Birch Bayh, September 4, 1970, printed in 116 Cong. Rec. 32354–56 (September 17, 1970), at the request of Senator Mark Hatfield of Oregon.

[4] H.J. Res. 681, 91st Cong., 1st sess., sec. 2, and S.J. Res. 1, 91st Cong., 2nd sess., sec. 2.

[5] PL 91–285, 84 Stat. 314 (1970).

[6] H.J. Res. 681, 91st Cong., 1st sess., sec. 4, and S.J. Res. 1, 91st Cong., 2nd sess., sec. 4.

[7] Wallace Sayre and Judith Parris, Voting for President (Washington, D.C.: The Brookings Institution, 1970), 64.

[8] The states are New York, Pennsylvania, Ohio, Illinois, and California. These paragraphs draw heavily on the brilliant analysis in Tyler's written statement published in the Hearings before the Senate Judiciary Committee on Electoral College Reform, 91st Cong., 2nd Sess. (April 15, 16, and 17, 1970), 217–218. Hereafter cited as Senate Hearings.

[9] True enough. But there is a tendency for the really small states—defined as those with four or fewer electoral votes—to go disproportionately, if not unanimously, Republican in close elections such as 1960 and 1968. In 1960 there were 15 small states with a total of 54 electoral votes. Ten states with 37 electoral votes went to Nixon, five states with 17 electoral votes were won by Kennedy. There were 16 small states in 1968 with 58 electoral votes among them. Twelve states with 43 electoral votes were won by Nixon, four states with 15 electoral votes were carried by Humphrey. However, (1) not only is the total electoral votes of such states relatively small, but (2) the electoral votes of small states won by Democrats come close to wiping out the "constant two" electoral votes advantage of the small states that went Republican. On balance, Tyler's argument stands, if with qualifications.

[10] Congressional Quarterly Weekly Report (April 23, 1971), 944. The four senators from the border states of Kentucky and Oklahoma split three to one in favor of cloture on both motions. The dissenter was John Sherman Cooper of Kentucky. If Kentucky and Oklahoma are excluded from the definition of the South (leaving only the 11 former Confederate states), and Oklahoma (with its eight electoral votes) is defined as a small state, the cohesion of the South is even more manifest. On the first cloture attempt, 19 of 22 southern senators voted against ending debate, the three dissenters being Baker and Gore of Tennessee and Yarborough of Texas, while small state senators divided 27 for cloture (including Harris and Bellmon of Oklahoma), 21 against, and 6 not voting. On the second cloture vote, the distribution among southern senators was the same as on the first, and small state senators split 25 for cloture, 23 against, and 1 not voting. Note that Congressional Quarterly has included in its "vote" pairs for and against, and senators who announced their position or declared their position in a Congressional Quarterly poll, even if they did not actually cast a yea or nay vote on the floor. These categories of "vote" included but a few senators, and are certainly reasonable in the light of the main purpose—to plumb political sentiment on this issue. (See Congressional Quarterly Weekly Report, issues of September 18, 1970, .2240 and September 25, 1970, 2349 for first cloture vote, and the issue of October 2, 1970, 2396 and 2429 for the second cloture vote.)

[11] Neal R. Peirce, The People's President, (New York: Simon and Schuster, 1968), 263.

[12] Minority views in Senate Report, 29.

[13] Goodwin's testimony in Senate Hearings, 86.

[14] Testimony in Senate Hearings, 122–123.

[15] Peirce, People's President, 268–269.

[16] V. O. Key, Jr., American State Politics: An Introduction (New York: Alfred A. Knopf, 1966), 152–165. It is important to note that Key's conclusions are based on a primary electorate which is small in number and unrepresentative of the larger population of party identifiers.

[17] Pierce, People's President, 269.

[From the Christian Science Monitor, June 8, 1977]

ABOLISH THE ELECTORAL COLLEGE?

(By Roscoe Drummond)

WASHINGTON.—It is quite likely that in the next presidential election the majority of the nation's voters, not the majority of the Electoral College, will decide the outcome.

It is evident that there is growing support in Congress and in the country for abolishing the Electoral College and substituting for it the direct election of the president and the vice-president.

Congress has taken a long time to respond to public opinion on this matter. Ever since professional polling began nearly 40 years ago, the American public has shown itself overwhelmingly in favor of doing away with the Electoral College which is the last barrier to direct election to the two nationally chosen federal executives.

The latest Harris survey confirms the steadily mounting support for such an amendment. It shows a 74-to-11 percent popular demand for abolishing the Electoral College. Support has rarely been under 60 percent.

The prospect now is that if the Senate submits the enabling amendment this session, ratification can come in time to take effect in 1980.

I am not being cozy or indecisive when I express the hope that the Senate will examine closely and debate fully the proposed amendment before passing it along to the states to take it or leave it.

My own judgment is definitely that on balance it would be desirable to end the recurring risk of a candidate receiving the lesser popular vote becoming president by an Electoral College majority vote. But there are honest and intelligent theoretical arguments against abandoning the state-by-state electoral vote which deserve to be brought out fully in Senate debate and widely understood by the public before the final decision is taken.

One such argument is advanced by columnist George Will in an article in Newsweek. He notes that the electoral system combined with the custom in which the winner in each state gets all the state's electoral votes, however narrow the majority, "encourages ideological third parties." And as the end result he sees direct vote for the president further weakening the two-party system and the stability of our political system.

The sponsors of the amendment to abolish the Electoral College propose to get around this possible consequence by having a run-off presidential election if neither of the two leading candidates gets at least 40 percent of the vote. The apprehension on this point is that this could provide a further incentive for third parties to try to force a run-off vote in order, as Mr. Wills puts it, "sell their support" to one of the leading contenders.

I have called this a theoretical argument. The contention that the American voters will rally to third parties because of voting directly for president is without proof or probability. It seems to me wiser to reduce the risk of minority presidents, even if it means accepting the possibility of increasing the power of third-party movements.

If the two-party system has been weakened in recent years in favor of voter independence, it has been its own fault and nothing else. It is certainly a greater risk to continue the danger of electing a president who gets fewer votes. This is not a theoretical danger, it is real and has happened three times in our history. It has come perilously close other times as it did last year.

The fact is that after the Electoral College lost most of its independence in the mid-18th century, the two-party system grew in strength. I can see the two-party system being nourished, not weakened, by the direct election of the president.

[From the ABA Journal, August 1977]

DIRECT ELECTION OF THE PRESIDENT: ISSUES AND ANSWERS

(By Paul A. Freund)

The defects of the present system of electing the President of the United States are too familiar to require any extended discussion. Few responsible observers could be found to argue for the retention of flesh-and-blood electors, who are either ciphers or potential wild cards in the electoral deck. Few likewise could make a case for the so-called contingency election in the House of Representatives, each state having one vote.

The defects, however, go deeper, as is also generally acknowledged. There is always the risk that the will of the popular majority, or plurality, will be defeated by the arithmetic of the electoral count, as happened twice and could have happened in fifteen elections with a shift of less than 1 per cent of the national vote. Moreover, the leverage of the unit count in each state means that the weight of a ballot will depend on the voter's residence: A margin of 100,000 votes in a state may carry with it three or forty-three electoral votes. "Swing votes" in a state have a power grossly disproportionate to their number, and the disproportion increases with the size of the state. Again, the minority votes in a state are not only discarded before reaching the national tally; in effect they are added to the electoral strength of the victor in that state. The disincentive to go to the polls is powerful indeed in a state dominated by one party. Finally, there is the related inequity that a state's vote is dependent not on the voter turnout but on its population (or more exactly, its population as adjusted by bonus votes reflecting equality of representation in the Senate).

The plan of direct popular election would overcome these anomalies and hazards. It is difficult in principle to object to the selection of our two great national leaders by the national popular will, expressed in the same way as the popular will is made manifest in local, state and Congressional elections. Nevertheless, several objections have been raised by thoughtful observers, and these deserve analysis.

Effect on urban or minority interests.—It has been argued that the present electoral count, by giving the force of leverage to minority interests in large, closely contested states, compels attention to their needs and prevents them from being submerged in the great mass of the electorate, and that a system of direct popular vote would eliminate this corrective power. The factual assumptions behind this argument are by no means plainly accurate; other observers read the calculus of forces quite differently. Thus, some of the most earnest political opposition to the direct popular vote comes from spokesmen in the smaller states, who fear an actual enhancement of the influence of urban and minority groups.

THE BEES WILL FOREGATHER WHERE THE NECTAR IS THICKEST

We are dealing here with conjectures and imponderables. It may well be that direct popular vote will increase the weight of minority and urban interests by enabling their votes, wherever cast, to coalesce with similar votes in other states. And attention will be paid to concentrations of voters in populous states, for where the nectar is thickest, the bees will naturally foregather. As the country is becoming more thoroughly urbanized, it may be more important for urban centers in nonindustrial states to pool their interests with those in the more industrial states than for the latter groups to seek to retain a local leverage that may in any event be illusory.

None of this is clear one way or the other as a matter of pragmatic calculation, although the spread of urban concentration could be expected to exert a strong pull on the political parties under a national popular vote and to make the argument based on local leverage less important. What is clear, however, and important as a matter of principle, is that the weight of interests suppressed under the present system of the electoral count should be allowed to be reflected in the national tally, whether they constitute majority or minority in a given state. This eminently equitable principle is at the heart of the system of direct popular vote.

Effect on the two-party system.—It has been argued that, just as the unit count in the electoral system has tended to suppress minor parties, the direct popular vote would encourage them. The argument runs in this form: (1) the two-party system should be preserved; (2) the best way to discourage third-party candidacies is to show the voter that a vote for such a candidate would be wasted; and (3) this is in fact accomplished by the present system and would not be achieved under a plan of national popular vote. That a responsive and broadly representative two-party system should be preserved can be taken as common ground; for the rest, the argument is seriously misleading.

The argument overlooks the fact that the electoral system has not prevented, indeed has fostered, the development of one-party political dominance in certain states by effectively suppressing any incentive there for a national minority party in a Presidential election. At the same time, elsewhere a local third party can substantially affect the two-party system by holding, or appearing to hold, a balance of power in a given state, thus wielding power far beyond its numerical strength.

WHEN GRAVE ISSUES ENLIST STRONG LOYALTIES

Upon analysis, the argument based on the maintenance of the two-party system is not persuasive. Under the present electoral plan, third parties with substantial sectional strength are actually encouraged; it is not, after all, the supporters of George Wallace who are calling for reform. Even nonsectional parties emerge when issues of grave importance enlist strongly committed loyalties and the major parties fail to accommodate these sentiments within their own programs: witness the birth of the Republican Party itself. The power of third-party movements to induce these accommodations depends on their credible power to affect the outcome of an election, either by carrying certain states or by siphoning off enough votes from a major-party candidate to deprive him of a plurality, as was the case in New York in 1948 when defections to Henry Wallace deprived Harry Truman of the state's electoral vote. Thus, even the present system does not nip third-party movements in the bud and does require responsiveness on the part of the major parties.

Whether a system of direct popular vote would in more instances than at present stimulate third-party or splinter-party movements is highly conjectural. One can state with more confidence that such movements running against the grain of the two-party system in Congressional elections, depend more upon the intensity of sentiment around certain pressing issues and the response of the major parties to those issues than upon the existence of one or the other form of presidential election.

AN IMPONDERABLE CALCULUS FOR THIRD PARTIES

It is sometimes argued, however, that under a direct election minor parties would be stimulated to pursue their candidates to the end in order to exert a greater (and more baleful) influence at the point of a runoff election. Such a proliferation of candidates might be encouraged if there were a requirement of an absolute majority in the initial vote; this is largely the explanation of multiple candidacies in intraparty state primaries. But with a 40 percent requirement, as the direct election plan provides, the calculus of power becomes much more problematical for a third or minor party. It conceivably might hope to win the necessary plurality of the popular vote. More probably, it might hope to accomplish the difficult feat of preventing either major party from receiving a 40 percent plurality and thus to force a run-off. In that event, it would have to make a credible show of power to transfer its millions of individual votes to a major party as part of a publicly disclosed, or surmised, bargain that would not in turn alienate an equivalent number of regular party voters. These cumulative contingencies in all likelihood would prevent any accommodation different in kind from that which is familiar under the present system.

LESS WHEELING AND DEALING IN A RUNOFF ELECTION

A runoff election is in fact less susceptible to last-minute wheeling and dealing or the suspicion thereof than a process that depends on relatively few individuals, whether an electoral college or the Congress. Moreover, to employ the Congress as the vehicle for election, in the unlikely event that no candidate receives 40 percent of the vote, would introduce new and disturbing side effects on the two-party system. Members of Congress are not chosen to perform this function. If it were assigned to them, the voter's preference among Presidential candidates might well determine his vote for senator or representative. Split ballots would be discouraged. In some districts or states third-party candidates for Congress might be stimulated, in order to provide a strategic balance-of-power position in the election of the President. Furthermore, a vote in the Congress would reflect party strength not necessarily contemporaneous with the current election, since two thirds of the Senate would have been chosen two or four years earlier.

Thus, the plan would not be comparable to the parliamentary system in its choice of a prime minister. If the dominant party in Congress were not the party of the leading Presidential candidate, the members would face the dilemma of renouncing their party allegiance or rejecting the most successful of the candidates in favor of one having perhaps markedly less popular support. Relations between Congress and a chief executive elected by it on party lines would be subjected to new complications. Coalitions would probably be harder to achieve, while there would be no structural strengthening of party discipline, on which an effective government of the parliamentary type depends.

For all these reasons, a runoff election emerges as a means superior to any alternative for resolving an inconclusive initial election should the need arise. By scheduling the runoff closely following the conclusion of the original election, the disadvantages of a repetitious campaign or the risk of protracted bargaining could be minimized.

Counting the vote—It has been suggested that under a direct popular vote the incentive to vote fraud would be increased, since in a close election every vote would assume real importance. If this prognosis were true, it would underscore the virtue of the popular vote. Surely it is a poor way of dealing with potential fraud to discourage it by detracting from the value of honest votes in the electoral count. Actually, however, persons fraudulently inclined are more likely to operate within a system where a margin of a few votes in one or several states can carry enormous leverage, as at present, to affect the national outcome.

It also has been argued that, apart from fraud, the regular processes of counting and certifying votes, settling challenges and perhaps passing on demands for recounts would be unmanageable in a national popular election. Again, it is hardly a virtue of the present system if it tends to suppress these contests in some states because the size of the popular margin in the vote is immaterial: The losing candidates are written off and the state's electoral vote depends on its population, not on an accurate and lawful count of all the ballots cast.

It is not beyond the capacity of the greatest technology on earth to provide a means of prompt and accurate counting. The problem does not differ in kind from that which exists in all state-wide elections. As for contests over registration, eligibility and the like, uniform state laws or, if necessary, an act of Congress can provide minimum procedural standards for resolving them and designate the tribunals to make the determinations. If direct popular vote serves as a stimulus to more expeditious and trustworthy procedures for casting and counting ballots and settling contests, it will have produced a welcome by-product in the electoral process.

DIRECT POPULAR ELECTION—AN IDEA WHOSE TIME HAS COME

In sum, the change to a direct popular vote invites conjectures about imponderables, most of which are ambiguous at best, and none of which seem to present a genuine impediment to the adoption of an idea whose time has come. The fascination of pursuing these speculations should not obscure the real dangers and inequities in the present system and the simplicity and rightness of the principle of direct popular election for our two great national offices.

[From the New York Times, Sept. 16, 1977]

Black Voting Power

(By Tom Wicker)

Politically concerned blacks have usually opposed abolition of the Electoral College and the substitution of direct popular voting in Presidential elections. But now that the Senate Judiciary Committee has approved a constitutional amendment to that effect, black leaders owe it to their constituents at least to re-examine their position.

When Vernon Jordan, executive director of the Urban League, criticized President Carter last summer for paying too little attention to the needs of blacks, for example, one of his specific targets was Mr. Carter's support for abolishing the Electoral College. Mr. Jordan's position was amplified, as follows, in later testimony to a Senate subcommittee by Eddie N. Williams of the Joint Center for Political Studies:

"Blacks are ten percent of the national electorate; they are strategically concentrated in the metropolitan areas of key states with large numbers of electoral votes; historically they have tended to vote as a block; and they are widely regarded as being able to wield a balance of power in close elections in key states."

That view apparently was reinforced by last year's election, in which the Joint Center calculated that black voters were directly responsible for Carter victories in Ohio, Pennsylvania, Missouri, Texas, Louisiana, Mississippi and Maryland—more than enough states to account for Mr. Carter's slender 297-to-241 electoral-vote margin.

But that leaves out of account the fact that Mr. Carter lost Illinois, in which he had heavy black support, as well as Michigan, Indiana and Virginia, in each of which more than 90 percent of black voters supported Mr. Carter. The winner-take-all effect of the Electoral College nullified every one of those black votes; and it greatly diminished the electoral significance of hundreds of thousands more in states Mr. Carter won by wide margins (he'd have gotten the same number of electoral votes with a popular plurality of one vote).

Mr. Carter won the popular vote, moreover, by about 1.7 million votes. Therefore, it would have taken a switch to Gerald Ford of about 850,000 non-black votes to change the popular outcome. But just 9,245 non-black votes switching from Mr. Carter to Mr. Ford in Ohio and Hawaii would have given Mr. Ford an Electoral College victory, while hardly changing the popular-vote totals. What would all those black votes for Jimmy Carter—nearly six million—have been worth in that event?

Besides, since Senator John F. Kennedy defended the Electoral College in the 1950's on the ground that it increased the importance of minority voting, more sophisticated statistical studies have been made possible by computer techniques and game theory. They show as conclusively as statistics ever do that blacks actually are disadvantaged by the Electoral College and that suburbanites—who are mostly white—benefit most from electoral voting.

Lawrence D. Longley of Lawrence University has shown, for example, that only the six largest states are given added voting power by the Electoral College, with the others suffering from it; a California resident, for example, had 2.546 times as much potential for determining the outcome of the Carter-Ford race as a citizen of the most disadvantaged electoral unit, the District of Columbia.

But only 37.1 percent of the black population lives in those six largest states. On the other hand, states where the percentage of blacks is higher than their percentage of the national population are generally Southern states where voters are most disadvantaged by electoral voting.

Working from such figures, Mr. Longley and a colleague, John H. Yunker, calculate that a black voter on the average has 2.4 percent less voting power in the Electoral College than the average American voter. And in a separate, unpublished study, Douglas H. Blair of the University of Pennsylvania also concluded that suburban whites consistently had the most weight in electoral voting, while blacks were among the most disadvantaged groups.

The outlook now is for Senate and House debate on the Electoral College amendment to be delayed until next year, when there will be time to outlast the expected filibuster. Numerous other arguments will be made against the change; but as for black voting strength, much evidence appears to confound the old assumption. As Professor Blair put it in a letter to me, abolition of the Electoral College actually "would largely benefit those social groups now relatively deprived of both political and economic power in American society."

Mr. BAYH. Mr. President, I call to the attention of the Members of the Senate the fact that I have never been involved in an issue which has received more grassroots support from organizations that do not lend their support casually or lightly.

The American Bar Association studied this matter for more than a year before reaching a conclusion. That is hardly a casual response to a popular idea.

The Chamber of Commerce lent its support after polling its members. The AFL–CIO of the UAW, the National Farmers Union, the League of Women Voters are also supporters.

The League of Women Voters conducted a thorough study, a discussion study, of all their chapters before reaching a conclusion. As I recall, about 85 percent or 86 percent of the League of Women Voters chapters supported the direct popular vote.

Interestingly enough, despite the fact that the breakdown in the Senate has tended to be on a geographical basis in past consideration of this amendment, the breakdown with respect to the League of Women Voters was almost identical, regardless of which part of the United States the study took place in.

So this matter has been considered thoroughly. The question is: Are we going to let the people of this country determine who their President is directly, and are we going to give them and the President the common confidence of knowing that the person who is President is the person chosen by most of the people? That, it seems to me, is rather basic.

Some of our colleagues who talk about the direct popular vote and say it is a radical scheme which will destroy the country, totally ignore the fact that there is not a Member of this body who has not been chosen by direct popular vote. There is not a Member of the House of Representatives who has not been chosen by direct popular vote. Governors, State legislators, county sheriffs, mayors, and city officials are all chosen by direct popular vote. Where does this idea of radicalism come from?

For those who lean on the electoral college as a reed of federalism, I must say it is a mighty weak reed. The Federalists who put together the electoral college, soon had to admit it did not work the way they had intended and, by 1804, they had come along with the 12th amendment to change it.

If one looks at where the emphasis of Presidential candidates is placed under the electoral college system, they can find very little evidence of protection of small State interests, if indeed that was one of the basic goals of the Founding Fathers.

I think we all realize that the U.S. Senate is the major protection of small State interests. It is the major component of the Federal system which made it possible for populous States and not so populous States to join in the original Union some 200 years ago.

So, rather than a radical proposal, I think the proposal utilizes the traditional criteria by which we have always chosen all of elected officials—all except our President. Rather than suggest that this is destructive to the Federal system, I find it a compelling case that the measure will really strengthen the Federal system by requiring candidates to conduct truly national campaigns. Now, as the Senator from Nebraska pointed out, candidates do not engage in national campaigns. You look at where the large numbers of electoral votes are, and that is where you campaign.

It is amazing to me that the Senator from Wyoming held up a map showing where people live, where the bright lights are, and suggested that this is what is going to happen if we have direct popular vote; does he not recognize that candidates are going to go where the bright lights are now, with one noted exception.

They go where the bright lights are in the large electoral vote States while often totally ignoring the bright lights in the small electoral vote States.

We did a study of the 1968 election, which, by the way, was almost tossed into the House of Representatives because of a man named Wallace. How soon we forget what happened just 10 years ago.

Back to my point. During that study, we followed the campaign trails of both candidate Nixon and candidate Humphrey, and we found that they both went to cities the size of Oakland, Springfield, Battle Creek, Lancaster, Rochester—but only in large electoral vote States. However, they completely ignored several major sized cities in small electoral vote States.

So to suggest that the present system is a boon to the residents of small States in Presidential elections is to ignore reality.

As I said the other day, I find it extremely ironic that a Senator from Wyoming would rush to the defense of this system because it protects his State. Neither Carter nor Ford went there in 1976 and the political parties did not spend one dime there.

As the Senator from Nebraska pointed out, they did not go there because in one instance they knew they were going to carry it regardless, and the other side said, "We can't win even if we do go there." So they both ignored it, and the State of Wyoming was left out in the cold in the process.

There was no incentive to go into Wyoming, into Cheyenne, in order to "get another 10,000 votes or another 50,000 votes for our side, to win by 10,000 votes more, or to cut the margin of defeat by 10,000 votes."

There is no incentive, whether it is Wyoming or Nebraska or Indiana or New York. Once you have decided that you are going to carry the State, forget it and move on.

I have listened to a lot of people talk about advantages, and I suppose it is only natural that we, as Senators, will say, "How is this proposal going to affect my States? Is it going to affect me?"

So we have some people saying, "Well, the present system affects my State positively, so I am going to have to vote against the direct popular vote."

Others might say, "Well, the converse is true."

I have found the ultimate irony to be that some of the real champions of the one man, one vote procedure as it applies to our election processes, some of those who have actually walked down Constitution Avenue is pursuit of the principle of one man, one vote, are now saying: "Wait a minute. I belong to a certain minority group, I live in a large State and political leaders come into my State and knock on my door and ask me for my political support. Because of that influence, I like to keep the system as it is."

It seems to me that this totally ignores the fact that a large number of those same minority citizens living in other parts of the country are totally ignored.

If you are really concerned about minority vote participation in the political process, you should be for the direct popular vote system. In the last election, every voter who voted Democratic in the city of Gary, Indiana, which happens to be about 70 percent black, had their vote counted for Gerald Ford, the Republican.

And I know from personal experience there that was probably about a 90 percent vote in some of the strongest minority-vote precincts. Every black voter in the State of Michigan, in the city of Detroit, who voted for Jimmy Carter last year as our distinguished Presiding Officer, the distinguished senior Senator from Michigan who is a strong supporter of direct popular vote, knows—all of those minority citizens, despite the fact they voted for Carter, when they added up their votes in the electoral college, how were they cast? Well, they were cast for Jerry Ford.

Every black voter's vote in Chicago in the last election that was cast for Jimmy Carter ended up being counted for Jerry Ford.

All of the black constituents of Tom Bradley in Los Angeles, all of the Chicago voters in the Southwest that everyone wants to protect saying that the electoral college system is protecting minority voters, if you look at how most all of those voters voted, they voted Democratic in the last election and they had their vote counted the other way around.

And so it can be said for the Republican voters in Ohio, all of whom cast their vote for Gerald Ford, we assume, nevertheless, their votes had been counted for Jimmy Carter. And the same in the State of New York and the State of Pennsylvania.

What I am suggesting is that the Senator from Nebraska, it seems to me, hit on one of the important points when he said we want everyone's vote to count the same and we want the winner to be the one who gets the most votes, but we also want to have everyone's vote counted for the candidate for whom it is cast.

As he pointed out the situation that existed in Nebraska in the last election also existed in Indiana for his vote and mine were cast for the same presidential candidate but counted for the other party.

I must say I find that a very distressing fact and find it distressing to have us engaged in a process where a number of our citizens are going to be trying to determine whether they have an advantage under one system or another. It seems to me what we are looking for is a system where no one has an advantage or a disadvantage, where everyone's vote counts, it counts the same, and it is counted for the candidate for which it is cast.

Now, we have sat here over the last 3 or 4 days and we have listened to some of the most dire predictions of what is going to happen in this country if we have direct popular vote. We have heard it said that if we have direct popular vote there is going to be great emphasis on television, that television producers are the ones who are going to run the campaign and elect the President.

I thought that was what was happening now. I do not see how anyone can suggest that the electoral college system has protected us from the media, if indeed you call it protection. It certainly has not shielded us from the tremendous impact of television and money spent on television in the political campaigns of this country.

Sure, you look in the television markets. Sure, you carve out your budget with emphasis on television.

Under the electoral college system the present system certainly has not lessened the influence of television. It has, if anything, exacerbated it.

Now I would not be completely honest, and as strongly as I feel I still wish to be honest about the impact of the direct popular vote system: If we have a direct popular vote system there is still going to be a lot of money spent on television, but in my judgment there will be a new dimension. Where now some of that money is spent primarily in the large central areas of the country, the bright light areas that were referred to by the distinguished Senator from Wyoming, that money is going to have to be spent in Lincoln, in Omaha, in Chicago, in Denver, and in places where you have significant population centers in small electoral-vote States. I think that change will occur, but I cannot see a lessening of influence of television.

The parties we are told are disintegrating. Certainly confidence and strength in the parties are not high. We are told the vote is very low, the turnout is low, and certainly it is. But I remind the doomsday naysayers that all of this has transpired under the electoral college system. The electoral college system has not created an incentive to vote. It has not created a strong belief in the party structure. Although I do not believe the direct popular vote is a panacea for all of our ills, one way to shore up confidence in the system is to know that your vote is going to count when it is cast, and one way to shore up activity in the political process is to give the message to each precinct committee man and woman, the shock troops of the party structure, that when you get out an extra vote it is going to count, and whether you lose or whether you carry your State there will be a greater incentive for the precinct committee workers to get out extra votes on both sides because they know that those votes will count in a direct popular vote system.

Mr. President, I will conclude by one last comment because I see our distinguished colleague from Pennsylvania is waiting to be heard. It seems to me that one of the things we are trying desperately to do today is to find a way in which we can stop the increasing disenchantment of our citizens in the political process and restore confidence in our political institutions.

This disenchantment, this lack of confidence, of course, has occurred for many reasons. Certainly the electoral college system has not prevented it from happening and is hardly a reason for refusing to change.

I do not suggest that direct popular vote will automatically wave disenchantment into the history books and out of the future, nor immediately restore confidence in our political institutions. But I suggest to you that a President who is elected and who is not the choice of most of the people is not the kind of President that can restore confidence in political institutions of this country and a free election system. The wishes, the will, and the votes of the majority of the people of this country being ignored while a jury rigged electoral vote winner assumes the mantle of office as President of the United States is hardly the kind of event which will inspire confidence in our political institutions.

So, Mr. President, I hope that tomorrow when we vote we will look at what contribution the direct popular vote system can make to guarantee that everyone's vote counts, counts the same and is counted for the candidate for whom it is cast, to guarantee that everywhere people are located in the country the politicians are going to have to give equal attention to equal numbers of people, to guarantee that the large numbers of black voters who have been on the registration rolls in the South receive the same kind of attention and have their votes counted the same as equally large numbers of black voters in the North, and to guarantee that wherever you live, whatever your political predisposition, you have an equal chance at being able to affect the system.

That, Mr. President, it seems to me, will do more to begin the long road back toward reestablishing confidence in our political institutions than anything I can think of right now.

It is not going to suddenly make the day dawn without clouds in the sky, but I think when we begin to take those first steps toward restoring confidence, we will protect ourselves from the devastating consequences of a President trying to govern when a majority of the people say, "He is not my President because I voted for the other guy."

Mr. SCHWEIKER. Mr. President, after careful consideration of the issues, I have concluded that I cannot support Senate Joint Resolution 28 which proposes an amendment to the constitution abolishing the electoral college.

I think we can all agree that the electoral college has some imperfections. The so-called rogue elector problem is probably one. But, on balance, the system has worked well for almost 200 years. Most importantly, the system reflects the historic balance between large and small States which is at the heart of our constitutional system. Abolition of the electoral college is more than a minor adjustment, more than a technical correction of our electoral system. It tampers with a basic element of our Constitution. While other nations and governments have gone through a series of constitutional revolutions, our has withstood the test of time and change and remains with us in substantially the same form as it was drafted.

Those who support this change in the basic substance of our constitutional system justify it on the basis of speculation about what might happen, or what could have happened. But I too can speculate on the results of the abolition of the electoral college; we might seriously undermine a vital element of our Federal system; we might encourage the fractionalization and splintering of our two-party system. We could seriously erode the popular legitimacy of Presidents who, under a system of direct election, might gain their office as the candidate of a region rather than the choice of a nation.

Against these competing speculations, we have the record of an electoral system which has worked reasonably well since its inception. The burden of proving a need to abolish the system demands evidence that we can safely disregard nearly 200 years of national experience. It requires evidence that some other system will be responsive to majorities while protecting minorities, that some other system will reflect the commitment to equal rights for all—while preserving individual freedom and liberties, and, that some other system will preserve the intricate constitutional balance between centralized national authority and dispersed State authority. Conceding its imperfections, the present system has served these complex goals, and it has done so without precipitating a major "constitutional crisis."

We are faced with a choice between a theory about what might be better, and a proven system which embodies basic principles of our constitutional system. In the light of nearly two centuries of experience, I do not wish to substitute theory for the proven wisdom of the Founding Fathers.

Abraham Lincoln said:

> I want to stand firm enough to not fall backwards yet not go forward fast enough to wreck the country.

Mr. President, that is a very fine balance, one that takes a lot of hard thinking and analysis.

I have given this matter a lot of personal study over the Senate recess period, and I believe on balance we should stand firm on the system that has worked well for nearly 200 years. The burden of proof in this case is on the proponents of change, and they have not made the case that the present system has failed and needs to be changed. In fact, the present system has not failed but has done remarkably well over the years and, therefore, should be retained.

Mr. THURMOND. Mr. President, I wish to take this opportunity to commend the able Senator from Pennsylvania for the statement he made. Although his statement was brief, it covered many areas, and I hope every Member of this body will take occasion to read his splendid statement. Again I commend the able Senator from Pennsylvania.

Mr. HATCH. Mr. President, I would like to also commend my friend and colleague from Pennsylvania for the thoughtful statement that he has made. I know he has anguished over this problem and has tried to do what is right. I appreciate the opportunity to commend him here today.

DIRECT ELECTION AND "SEPARATION OF POWERS"

Mr. President, one of the aspects of direct election that has been widely overlooked is its likely impact upon the concept of "separation of powers" in this country. Direct election, by altering the basic Presidential constituency, would sharply increase the influence of the executive branch of Government with respect to the legislative branch.

Presently, both the executive and legislative branches are elected through the same basic constituencies—the people expressing their will in the context of 50 separate, State elections. As a result, the ultimate source of each of their powers is the same. The political legitimacy of each of these branches is the same. Each claims authority from, and reflects, the same broad constituency.

This would no longer be the case under a system of direct election. While the legislative branch would continue to be selected in the present manner, the executive branch would now be elected by the people through the vehicle of a single national election. I believe that this would have considerable, although subtle, impact upon the delicate balance of powers between these two branches of the Federal Government.

Consider, for example, the President and Congress locked in a major national debate on some topic or another—budget proposals, SALT, welfare reform, or any other issue in which Congress chooses to challenge the legislative initiatives of the White House. The President could easily draw up the unique source of his authority to dissuade Congress from exercising its legitimate will. "I", the President may well say, "I am the President of all the people. I alone have been elected as a truly national representative. Each of you in Congress is merely the representative of parochial, State interests. I, alone, am free of that burden."

With wholly different constituencies, it would be far more difficult to argue against this proposition than is presently the case. The manner in which powers are finely distributed between the President and Congress would be significantly altered. By involving the States deeply in the election processes of both branches, the Founding Fathers sought to prevent either branch from abusing its powers through resort to independent constituencies.

In addition, the current separation of powers balance is likely to be affected by the erosion of State and local party organizations under direct election. In the same manner that the direct election debate illustrates the difficulty in stating precisely how much of a State's power or influence stems from the electoral vote system, it is difficult to state for certain how much congressional influence stems from the positions of influence most Senators and Congressmen hold within their own State and local party organization.

Eliminate the overriding need for Presidential candidates to rely on these structures, and you eliminate a certain measure of congressional influence with the President. What the evolving relationship would be between a President, independent of the States and possessing a political organization independent of State political organizations, and Congress is wholly conjectural.

Mr. President, I would ask my colleagues to consider extremely carefully the implications of abolition of the electoral vote system for the relationship between these two branches of Government.

SOME QUESTIONS AND ANSWERS ON DIRECT ELECTION AND THE ELECTORAL VOTE SYSTEM

Mr. President, there have been a number of questions which have been raised during the debates concerning various aspects of this particular amendment.

I have prepared a series of some of these questions with some answers thereto.

I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WINNER-TAKE-ALL

How can you defend the present "winner-take-all," or unit-rule system that accompanies the present system? Under that system, if I am a member of a political minority in some State, I not only lose my voice in the Presidential election, but my vote is actually aggregated and goes to the candidate to whom I am opposed. Doesn't the unit-rule, in effect, disenfranchise political minority voters?

A. Nothing in the Constitution of the United States requires "winner-take-all" or the unit-rule. Article II, Section 1 of the Constitution allows the Legislature of each State to determine how its electoral votes shall be apportioned. Since 1832, it is true that there have been only rare exceptions to the unit rule. In 1969, however, the State of Maine decided to apportion its votes on a non- "winner-take-all" basis, with the Statewide popular vote winner receiving two electoral votes, and the popular vote winner in each Congressional district receiving the other two votes.

B. The fallacy of the "lost vote" argument is that it confuses the fact that there are fifty separate Presidential elections under our present system, not a single national election. The democratic, "winner-take-all" principle with respect to Presidential elections is no different than the "winner-take-all" elections on a Statewide basis for Senate elections. If Senator Jones receives 51% of the vote, he is not required to allow the opposition party to determine how he casts his vote 49% of the time.

C. The unit-rule further makes a number of substantial contributions to our system of government. It is no accident that a moderate, two-party system has developed in this country. It has developed because the present electoral system encourages it. Under the present system, there are no incentives to win overwhelmingly within a single State, or to maximize one's margin within that State. The only incentives are to put together a narrow majority of the popular vote, thereby receiving all the State's electoral votes. Thus, once a majority coalition has been put together in one State, Presidential candidates will go on to another State to do the same. As a result, a broad appeal is required. Majorities are "flattened out," and dispersed. There are no incentives to receive 80–90% within a single State, margins that tend to make likely 80–90% opposition in other States. Instead of the achievement of such divisive majorities, the present system encourages the achievement of conciliatory "cross-sectional" majorities, or majorities roughly reflective of the nation as a whole. There is concern for both the magnitude and the character of the majority. While direct election encourages extraordinary majorities within a few States, the present system encourages narrow majorities within a large number of States.

D. Under the unit-rule, minority parties are under inducement to extend their appeal as broadly as possible, since anything less than outright victory within a State will result in zero electoral votes. Both parties will inevitably have to appeal to large numbers of the same voters and groups of voters who may not unalterably be identified with either party. The parties tend to become more and more like each other in the broad sense, promoting consensus and stability and moderation.

E. Because of the unit-rule, there are virtually no incentives for third parties to participate in a meaningful way in Presidential elections. Such parties know that unless they are capable of receiving an electoral majority or plurality within a State, they have no hopes whatsoever of influencing the Presidential election. The "wasted vote" argument weighs heavily upon many of their potential voters.

F. The so-called "disenfranchised" voter is a dubious argument. Such a voter who votes for the ultimate electoral winner in States where he loses have no complaint; their candidate wins anyway. Such a voter who votes for the ultimate electoral loser in States where he loses have no complaint either; not since 1888 (arguably) would it have been the case that, had their votes not have dropped out of further calculation but added to a national popular vote total, their candidate would have emerged the President.

ONE-MAN, ONE-VOTE

How can you continue to defend a system of presidential selection which runs counter to the basic principle of 'one-man, one-vote' majority rule? Why shouldn't all citizens have an exactly equal voice in the selection of the president?

A. The present electoral vote system is a democratic, majoritarian institution, but within the States. There are fifty separate democratic elections rather than a single national democratic election. Those who favor direct election would not make the system any more democratic, but only more national.

B. There are a number of non-majoritarian, non-'one-man, one-vote' institutions in our Constitutional system. These include (a) the Presidential veto whereby a single individual can overrule the decisions of up to 2/3 of each House of Congress; (b) judicial review whereby a majority of the Supreme Court can overrule a unanimous legislative and executive branch; (c) the constitutional amendment process, including the very process under which S.J. Res. 28 is being considered; (d) the Senate itself wherein each State is represented equally regardless of population; and (e) the Bill of Rights wherein the people are guaranteed certain inalienable rights regardless of what a majority of their fellow citizens might desire.

C. Majoritarianism or 'one-man, one-vote' is a basic element of the American Constitutional fabric, but only a single element. Other principles that Congress must consider when it acts, particularly in the area of Constitutional amendments, include federalism, geographic balance, separation of powers, checks and balances, concurrent majorities, limited government, and minority rights. None of these principles can be considered in isolation, or subordinate all of the other ones.

D. If the 'one-man, one-vote' principle is to be imposed upon the selection of the executive branch, how can the legislative branch remain immune? Does the legislative branch consider any less important matters? Is it any less important to our scheme of government? Direct election is not only a bad idea in and of itself, but it carries with it the most radical of political implications. Its ratification will undermine the philosophical and constitutional basis of many of the other basic institutions of our government.

E. In at least four Congressional elections since 1900, the political party winning the majority of the national popular vote has failed to gain control of Congress. Can this be tolerated if majoritarianism is to be the sole guiding principle of our system of government?

F. It is the achievement of Jefferson's "reasonable" majority toward which our Constitution is directed. Such majorities in the opinion of the Founding Fathers, were not to be "adding machine" majorities, but majorities roughly reflective of the citizenry as a whole.

Wallace Candidacy

George Wallace came extremely close in 1968 to stalemating the presidential election. Why should we tolerate an electoral system in which third parties can wreak so much potential damage and exercise such critical influence?

A. Rather than illustrating the flaws of the present system, the 1968 Wallace candidacy illustrates well the strengths of the present system. George Will has noted: "It was the electoral college, more specifically the unit-rule that revealed the fundamental truth which was that George Wallace in 1968 was a regional candidate. Therefore, it made clear in late October to those elsewhere who might have been tempted to vote for him that he was in essence a frivolous, a wasted vote. This caused the withering away of his support in the final days."

B. George Wallace, who received in excess of 20 percent of the popular vote in the late opinion polls eventually wound up with only 13 percent of the popular vote as the 'wasted vote' syndrome came into play. This 13 percent translated into only 8 percent of the total electoral vote. Under a system of direct election, there would have been no 'wasted vote' factor; each vote that Wallace would have received—whether inside or outside his areas of strength—would have counted toward denying any major party candidate 40 percent of the vote. Wallace would have likely ended up with more than 20 percent of the total popular vote.

C. The fact that George Wallace came close to exerting influence under the present system is simply reflective of the fact that he was a fairly strong candidate with some segments of society. There is no way that any electoral system could—or should—deny all influence to such a candidate, whatever we may think of his politics.

D. Under a system of direct election, all third parties exert real influence, however insignificant, because each one of their votes goes toward denying any candidate 40 percent of the vote. While no single candidate may be able to do this by himself, third and fourth and fifth party candidates may be able to do this in the aggregate. If successful in forcing a run-off, each of these parties would be positioned to negotiate for their support and exert a variety of questionable commitments and promises from the two major parties. This is influence that far exceeds the extent of their influence under the present system.

Small States vs. Large States

Which States would suffer under a system of direct election, the smaller States or the larger States? You cannot have your cake and eat it too by suggesting that each of them will suffer.

A. There are two alternative lines of thinking: First, those who believe that the small States will suffer under direct election the better view argue that it would eliminate the bonus-2 votes that are accorded each State by the electoral vote system. Mathematically, each of the smaller States would have less total influence under a popular vote calculation than under an electoral vote calculation. Second, those who believe that large States will suffer under direct election suggest that the present unit-rule encourages each candidate to spend far more time in those States where the change of a relatively few votes could result in 45 electoral votes rather than in those where the change would result in 4 electoral votes.

B. In one sense, each of the States will suffer under a system of direct election. Direct election would totally eliminate the role of the States as States in the electoral process. Once direct election comes, it will make no difference whether or not Alabama or Maine or Colorado has become more powerful. That is a concern that is relevant only to the extent that States matter at all in the electoral process. By removing States as intermediaries in the electoral process, each of the States, whether large or small, become less of an influence on the executive branch of the government.

C. It is interesting to note that, for many years, advocates of direct election argued on the floor, "We cannot tell who is going to benefit from direct election. These are the type of parochial interests that direct election is designed to eliminate." All of a sudden, they are relying upon a variety of fancy computer studies which suggest that the small States will.

D. In fact, what their computer studies suggest is not that the larger States benefit under the present system but that at some hypothetical moment in time the individual voter within the large State has greater potential to affect electoral votes. Even these studies do not purport to demonstrate that the influence of the large States in the collective sense is greater than the proportionate influence of the small States in the collective sense. Professor John Banzhaf, the author of one of these studies, has stated that it has been employed in an "incorrect, incomplete, and misleading" manner in the context of the direct election debate.

E. The Great Compromise, which direct election proponents believe was applicable only to the composition of the legislative branch of the national government, was designed expressly to protect the smaller states from being overwhelmed by the larger States. The exact same compromise, however, was directly extended to the composition of the executive branch of the national government through the electoral college. The objective was exactly the same—to protect the smaller States in their participation in the national government..

F. Whatever is demonstrated by the array of computer studies on this point, the critical point is the psychological one of how Presidential candidates themselves view the importance of the smaller States. Former Presidential candidate, Barry Goldwater, has observed that these studies miss the "human factor". "I am afraid that direct election would destroy the special extra weight now given in elections for the protection of the smaller States for even if a candidate fails to visit a given State, he may well take a particular position on this or that issue calculated to attract voters in that State."

G. Former JFK–LBJ Presidential Advisor Richard Goodwin: "Most Presidential campaigns are concentrated on no more than 20 percent of the vote, the swing vote, on the assumption that the rest are pretty well committed. Today, nearly every State has a swing vote which, even though very small, might win the State's electoral vote. Thus, nearly every State is worth some attention."

Faithless Electors

Under the present electoral system, there is no constitutional guarantee that electors will vote for the candidates to whom they are pledged. Such faithless electors have the potential to throw an election to an individual who did not carry a majority of the popular vote either within a state or nationally. How can you justify this kind of situation?

A. I myself do not look approvingly upon the 'faithless elector'. It is a flaw in our present electoral system, and I have supported efforts to preclude it from arising again. At the same time, it must be stressed that the issue is a red herring. It must be placed in its proper perspective and not be used as justification for toppling a workable system in virtually all other respects.

B. Since the beginning of the nation, there have been no more than one dozen 'faithless electors' out of a total of more than 17,000 electoral votes. None of these electors has come anywhere near affecting an election, with most of them simply using the opportunity to cast a symbolic protest vote. Most would not have cast such votes had their votes been critical in any way.

C. There are more appropriate and narrowly focused solutions to the problem of the 'faithless elector'. Professor Charles Black of the Yale Law School, for example, has suggested that the problem could be corrected totally on a statutory, non-constitutional basis. Let the States impose a $50,000 fine and a 10-year prison sentence upon the 'faithless elector'—an individual who in many States has made an express agreement to vote as directed—and see how many 'faithless electors' remain.

D. Let it be conceded that the institution of the elector has become a genuine anarchronism, but let us not impose a radically new system of Presidential selection upon the country where narrower solutions exist to correct the problem. Let us use a rifle not a shotgun.

Contingency Elections

How can you justify a system of presidential selection in which, if no candidate receives a majority of the electoral votes, a contingency election takes place in the House of Representatives where each State, regardless of population, is entitled to a single vote for President?

A. Under the 12th Amendment to the Constitution, in the event that no candidate receives a majority of the electoral votes, a contingency election is held in the House with each State delegation casting a single vote for one of the three highest candidates. In the Senate, each Senator is entitled to a single vote for Vice President for one of the two highest candidates.

B. As with the "faithless elector", it is difficult for me to defend this system because it does not adopt the principles of the Great Compromise whereby both population and Statehood have influence. As with the "faithless elector" issue, however, this is also a red herring.

C. The virtue of the present system is that there has not been resort to the contingency election procedure for more than 155 years. Since the election of 1924, and the general adoption by the States of the unit-rule, there has never been the need to conduct a contingency election. Each and every general election has resulted in a decisive winner.

D. Because the unit-rule has the effect of (a) discouraging the involvement of third parties in the electoral system; and (b) magnifying the victory margin of the winning candidates in the States, i.e. a 51 percent popular vote winner will normally achieve at least 55–60 percent of the electoral votes, it is a strong mathematical unlikelihood that we will ever have to resort to contingency procedures under the present electoral/unit-vote system.

E. In comparison, the contingency procedures under S.J. Res. 28 are critical, i.e. run-off elections, because it is likely that we will always have to resort to them. Because of the 40 percent threshold requirement for avoiding run-offs, and the encouragement given third parties by direct election, contingency elections will be commonplace. The great virtue of resolving the selection of the President in a single operation will be lost.

Experience of Electoral College

The present electoral system has already backfired on at least three occasions. Why should we tolerate the possibility of a reoccurance of a runner-up President and risk a genuine constitutional crisis?

A. Let us consider the three instances in which the electoral college supposedly has "backfired": *Adams over Jackson* (1824)—Adams received fewer popular votes than Jackson largely because some of Adams' strongest States, including New York, cast no popular vote for President. Their legislatures still determined their electoral votes. *Hayes over Tilden* (1876)—The most corrupt Presidential election in the history of the country with Tilden suffering a one-vote electoral loss at the hands of a partisan election fraud commission. One historian has suggested that "we will never know who actually received more popular votes in this election." *Harrison over Cleveland* (1888)—Cleveland who received 0.7 percent more popular vote lost for exactly the reason the Founders would have intended for him to lose; he waged a largely sectional rather than a national campaign. Also, the Library of Congress has asserted that, absent voter fraud and intimidation against Black/Republican voters in some Southern States, Harrison would have won the popular vote.

B. No Constitutional crises accompanied any of these elections. Until recent years as a result of repeated expressions of concern about a Constitutional crisis upon election of a runner-up President, it was generally felt that the Constitution itself conferred legitimacy upon Presidents elected pursuant to its provisions. How could there be a Constitution crisis where Presidents were elected in the manner that they were supposed to be?

C. Consider, however the conceivable crises in legitimacy that could arise under a system of direct election: (a) Sectionalist Presidents—Presidents with massive support in a few areas of the country and virtually no support in other areas; (b) Stateless Presidents—Presidents with moderate support throughout the country, but enthusiastic support nowhere; (c) Minority Presidents—Presidents, as a matter of course would be elected with little more than 40% of the vote if they even managed to avoid a run-off; (d) Runner-Up Presidents—Presidents elected in run-offs who may have been runner-ups in the general election and opposed by large majorities of the electorate.

D. Which is the greater "crisis" under an electoral system: the election once every two centuries of a President with 49% of the popular vote, or the election of sectionalist Presidents who may be looked upon by different parts of the country as "our" President and "their" President? Which is the greater and more permanent crisis? The former crisis occurred in 1888, the year Cleveland was narrowly deefated; the latter crisis occurred in 1860, the year Lincoln was elected. Which was the worst crisis?

Minorities vs. Small States

You suggest that the present electoral system is of advantage to the smaller States of the Union, yet at the same time you rely heavily upon the arguments of such people as Vernon Jordan of the Urban League and the American Jewish Congress. These groups are, of course, all talking about the advantages of the present system for the larger States. How do you reconcile these arguments?

A. That is not precisely what these groups are saying. They are not saying that the present system provides an advantage to the larger States, but simply that it provides an advantage to certain insular or discrete minorities within those States that are positioned to exercise the balance of power.

B. Alexander Bickel: "The seeming paradox embodied in the electoral college of a system which offers the possibility of disproportionate influence to the small States and to cohesive groups in the large States should not seem strange in this chamber. It is embodied also in the Senate itself. The at-large popular election of Senators means that in the big industrial States cohesive groups can have disproportionate influence in the election of Senators just as under the electoral college system they can have disproportionate influence in the election of the President."

C. What Bickel and Jordan and the Jewish community recognize are that these minority groups are disproportionately concentrated in the metropolitan areas of larger States. Because such States generally have had a highly competitive two-party system, these groups are positioned to exercise decisive influence in close State elections, and close national elections. What they are arguing is not so much that the large States will lose influence in the national outcome, but that the metropolitan areas will lose influence in the State outcome.

D. Minority groups are also correctly concerned that there will be irresistible temptation among many of their members to form splinter parties upon the establishment of direct election. These parties will often be based upon racial or ethnic lines. Vernon Jordan states: "Direct election will inevitably mean the formation of black political parties voting along racial lines and increasingly separated from the major parties which would themselves be weakened and dependent upon coalitions with splinter groups. This would not only weaken the political system but would be destructive of racial harmony."

Madison

James Madison was one of the strongest supporters of direct election at the Constitutional Convention.

Madison held different views on direct election at different times in his career. Not only was he an eloquent defender of the electoral system in the Federalist Papers, but he observed at the Convention that "there are advantages in the intervention of Electors and inconveniences in a direct vote by the people."

Madison also opposed the concept of contingency elections unless absolutely necessary. He feared that if the election were drawn out long enough to provide a second electoral vote, there would be too much chance for extraneous management and intrigue."

Mythical Vote Shifts

If Ford had received only x more votes in New Jersey and y more votes in Florida, he would have won the Presidency with fewer popular votes than Carter.

Professor Judith Best: "Numbers are easier to manipulate and control than voters; it is fun to create a parade of horribles in a conjectural world over which we have complete control."

While this argument makes for a fine parlor game, its shortcoming is simply that elections do not occur in a vacuum; an event or occurrence or statement made by a candidate sufficient to induce a shift of votes is likely also to induce a shift in an opposite direction with some other group of voters, either within the same State or another State.

Fraud and Recounts

Why should direct election lead to increasing numbers of fraud allegations and recount demands?

It is, of course, true that direct election will not foster any more or less dishonesty in the administration of Presidential elections. At the same time, however, it will create new incentives or inducements for both fraudulent activity, and for assurances that such activity has not occurred.

Professor Ernest Brown: "The present system insulates the States. When the vote is counted by the States, those lines insulate the area of contest and keep it local, and they insulate the significance of the contest." Under direct election, there are incentives for fraudulent activity and for vote recounts only in those States in which the election is close. Under direct election, they will be such incentives in each and every one of the 200,000 precincts across the country. The alteration of a very few votes per precinct over a large number of precincts could easily affect an election.

THE ELECTORAL COLLEGE—IF IT AIN'T BROKE DON'T FIX IT

Mr. HATCH. Mr. President, an excellent article was recently printed in Midstream, a monthly Jewish review, entitled "The Electoral College—If It Ain't Broke, Don't Fix It," by Will Maslow.

I ask unanimous consent that this be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Electoral College—If It Ain't Broke, Don't Fix It

(By Will Maslow)

The ten year effort to abolish the electoral college and to substitute a nation-wide direct election for the Presidency once more is about to receive Congressional consideration. Few issues have resulted in such an amazing lineup of sides and in such disagreement among political scientists. For Jews and for blacks, however, it is not a political science abstraction. Scrapping the electoral vote system means a reduction of their influence in presidential elections.

Under our present electoral system, each state receives an electoral vote proportionate to its population, except that each state, no matter how small, is allotted three votes. By state law, not constitutional requirement, all the states except Maine assign all their electoral votes to the candidate winning the popular vote in that state. The Constitution requires a majority vote in the electoral college. If no candidate receives that majority, the contest is transferred to the House of Representatives with each state delegation voting as a unit for any of the three persons receiving the highest votes in the electoral college. (This happened once, in 1824, when John Quincy Adams was chosen over Andrew Jackson.) It is theoretically possible for a candidate to lose the popular vote but win the electoral vote and be chosen as president. (This happened once, in 1888, when Benjamin Harrison won out over Grover Cleveland, although 95,000 votes behind in the popular vote.) Occasionally, a "faithless elector" betrays his pledge and votes for a candidate other than the one he has promised to vote for, but these rare defections have never affected the outcome of an election.

To cure these "defects" in our election machinery, Senator Birch Bayh with widespread Congressional support has proposed a constitutional amendment which would eliminate the electoral college and provide that the winner of the popular vote would be deemed elected if he received 40 percent of the total vote cast. If no candidate received such a plurality, there would be a nationwide run-off election limited to the two candidates receiving the highest popular vote.

The issue has created some strange bedfellows. Supporting it are not only such traditional liberal groups as Common Cause and the League of Women Voters, but also the AFL–CIO, the U.S. Chamber of Commerce, the American Bar Association, and five of seven Jewish Senators. Opposing it are almost all Jewish and black groups, the Republican National Committee, *The New York Times*, the Farm Bureau, the *New Republic*, the *Wall Street Journal*, and such liberals as Professor Charles Black, Judge Marvin Frankel, Max Lerner, Joseph Rauh, Arthur Schlesinger, and Theodore H. White. A study sponsored by the Brookings Institution also opposed direct elections.

That direct election would mean a sharp drop in the political influence of the large industrial states, with their huge blocs of electoral votes, can hardly be disputed. The ten largest states—California, New York, Pennsylvania, Illinois, Texas, Ohio, Michigan, Florida, New Jersey, and Massachusetts—together account for 259 electoral votes, only 11 shy of the 270 required for a majority. Moreover, the winner in a state gets all of its electoral votes and the loser gets none. These facts, of course, influence the choice of candidates, the party platforms, and the political issues featured in the election campaign. As the Brookings Institution study noted:

> The importance of populace states, their major metropolitan areas, and their large blocs of ethnic groups has tended to make presidential candidates "liberal" in domestic policy, sensitive to urban ethnic group concerns in both domestic and foreign policy, and "internationalists" in foreign policy—or at least more so than they otherwise would be.

Of the 5,780,000 Jews in the United States, 78 percent or 4,523,000 are strategically located in these ten states (*American Jewish Yearbook*, 1979). In New York State they constitute 12 percent of the population but a much higher percentage of the voting population and are a highly articulate and influential voting bloc. In California, they are 3.1 percent of the population and in Florida, 4.6 percent. Since 1932, no person has been elected president who has lost both California and New York, the two states with the largest Jewish population (N.Y., 2,143,485; California, 688,555). In 1948, Truman lost New York but gained California, winning over Dewey. In 1960, Kennedy lost California but won New York, nosing out Nixon. In 1976, Carter lost California but won New York and became President. Can anyone doubt that a Republican or Democratic presidential candidate will be sensitive to Jewish concerns, at least before election? These key states are closely divided in presidential elections. In the election contest of 1960, Kennedy won 7 out of 10; in 1968 Nixon won 6 out of 10 and in 1976, Carter won 6 out of 10.

But in any direct election, every vote will have the same weight, regardless of the residence of the voter. Under such a system, the candidate who does not win a popular majority in any state will still be entitled to all his votes on the losing side. Thus, if New York splits 51 percent to 49 percent, it will not be catastrophic for the losing side. The Jewish vote may still be important but it will no longer be crucial.

The same can be said for the black vote. Being largely metropolitan area dwellers, they too are concentrated in these ten key states. A study by the Joint Center for Political Studies (a black think tank) noted:

> Blacks derive their political leverage from a combination of several characteristics: they are 10 percent of the national electorate; they are strategically concentrated in the metropolitan areas of key states with large numbers of electoral votes; and historically, they have tended to vote as a bloc. This strategic concentration has been especially important, and it is this factor that would be lost under the proposed reform.

Blacks constitute an even higher percentage of the key electoral states. According to the Joint Center, the percentage of blacks in the voting age population ranges from 7.3 percent in California to 12.6 percent in New York, a significant segment of the population.

The Joint Center concluded:

> Clearly, we do not know enough at present about the implications of the reform being proposed. As newcomers on the political block, blacks have too much at stake to gamble on the unknown. Support for such a change should be based on nothing less than conclusive evidence that the advantages of the proposed reform far outweigh its disadvantages.

Direct election would hurt in still another way. At present, the number of electors to which a state is entitled depends on its population, whether or not they are alien, old enough to vote, or indeed do not vote at all. In a direct system, it is only the voters who count. Thus racial minorities who are notoriously politically apathetic will have their influence further reduced. The Joint Center estimates that the black turnout in presidential elections is from 10 to 15 percent lower than that of the white voter.

It was for these reasons that the Black Leadership Forum, a coordinating group of the 14 most influential black organizations in the country, including the NAACP and the Urban League, recently wired a group of Senators that it opposed the Bayh resolution because "it would not only result in the dilution of the votes of blacks and other minority groups but it would have negative consequences for the nation's political process as a whole."

If the electoral college were indeed a pernicious and obsolete political organ, Jewish and black groups would be hard put to defend it solely because it enhanced their political influence. But Jews and blacks have a stake in the political system apart from the question of their influence in it. What are the "negative consequences" that threaten to unravel the basic political fabric of our country?

The popular appeal of direct election is based on the fear that a "minority" president will some how be elected. But a presidential contest is not a basketball game where it would be unthinkable for the side with fewer baskets to be proclaimed the winner.

Benjamin Harrison, a "minority" president, was elected in 1888 but there was no political crisis and the country survived. Indeed Grover Cleveland who lost the election that year (but not the popular vote) was elected in 1892, receiving 363,000 more votes than Harrison. Statisticians tell us that in close elections we never can be sure who really won, for the routine errors in the count are far greater than a minute discrepancy between the winner and the loser. But suppose the second highest candidate in the first election wins the second election? Will not this second choice president be deemed a minority president with his mandate disputed during his term of office.

The electoral college, as it developed during two centuries, denies victory to a candidate who wins by a landslide in one region while losing the others by narrow margins. It therefore compels a candidate to seek support not from one region or one race or one economic class or one ideology but from all. It requires what Calhoun called "concurrent majorities" in which the vital interests of important minority segments cannot be disregarded. Our political system is based on a wholesome unwillingness to entrust the fate of such minority segments to the caprice of a transitory majority.

To illustrate, in 1976 Carter's popular margin over Ford was only 1,605,905. Yet his popular majority in Georgia was 487,000—more than a quarter of his total margin. The bloated vote in his home state was enough to outweigh Ford's margin of victory in 22 states combined. Conversely, Ford's largest popular margin was in his own home state, Michigan, which he won by 191,000 votes. This plurality exceeded his popular margin in 15 of the 22 states referred to above.

The genius of our institutions is that we are not governed as in a New England town meeting by a show of hands. Our very Constitution is a reminder that the majority may not always have its way. And we take pride in an oligarchic life-tenured Supreme Court, appointed not elected, which can balk the popular will.

Another standing rebuke to those who favor rule by simple majority is our two-chambered Congress, with two Senators and one Representative assigned to each state regardless of population.

Metropolitan dwellers have not been treated fairly by our rural-dominated Congress which lodges power in its committees in a fashion unparalleled in any parliament in the world and which puts a premium on being elected from safe seats, immune to shifts in public opinion.

John Kennedy, when he was Senator, was therefore right when he reminded his colleagues considering revision of the electoral college:

> . . . We are talking about . . . a whole solar system of government power. If it is proposed to change the balance of power of one of the elements of the solar system, it is necessary to consider the others.

The states of course play a key role in the electoral college, because of the unit rule or the winner-take-all system. Consequently, a candidate, or a president seeking reelection, must nourish cooperative relations with state and local leaders who command the party machinery and can help to get out the vote. Thus, Mayor Koch of New York City can expect help from President Carter for his recurrent budgetary problems, since a sullen New York City Mayor may cost the President the loss of New York State and perhaps the election. Mayor Koch in turn responds to the demands of his constituents and has ready access to the White House where he can appear on behalf of these constituents. But if New York State is no longer crucial, then a busy President faced with competing demands on his time and budgetary funds is no longer so accessible.

The candidate then depends on his charisma or a demagogic appeal across party lines. Instead of relying on his party, he seeks to gain support, for example, from all those who clamor for a balanced budget. Our national parties are in fact coalitions of 50 state parties which in turn are coalitions of county and local organizations. Diminishing the influence of these state parties promises further to weaken our two-party system. Thus direct election is another blow aimed at our Federal system, which will lead to the nationalization of our political life, a consummation devoutly to be feared.

Theodore H. White, author of The Making of the President series, has pointed out:

> If States are abolished as voting units T.V. becomes absolutely dominant, campaign strategy changes from delicately assembling a winning coalition of "vote market." Instead of courting regional party leaders by compromise, candidates will rely on media masters. Issues will be shaped in national T.V. studios, and the heaviest swat will go to the candidate who raises the most money

to buy the best time and most "creative" T.V. talent.

Tinkering with a political institution that has survived almost 200 years is a hazardous occupation, particularly when the consequences of a direct election are so uncertain and so likely to cause mischief. As Lord Salisbury put it some time ago:

> A violent, isolated, artificial improvement in the institutions of a community, undertaken without regard to the condition of the other portions of the machinery in concert with which it is to work, is a danger so great that no improvement at all is almost to be preferred.

Let us now examine some of the probable consequences of direct election to make sure that the cure is not worse than the disease. First, it will lead to the proliferation of ideoogical or single-issue parties which will undermine our two-party system. These single-issue groups count for almost nothing under our present electoral system but if every vote in the nation must be reckoned with and tallied, they will be encouraged to mount national campaigns, not for electoral purposes but to attract and demonstrate their popular support. Should one not recoil at the prospect that in a presidential election there may be candidates from every conceivable special interest group? Indeed, these seprate groupings may prevent a major party candidate from achieving the 40 percent required in the popular election by Senator Bayh's resolution. Experience shows that the mere possibility of a run-off increases the number of participants in the first election, thus giving further encouragement to ideological contenders. Needless to say, each of these groupings will serve to confuse and becloud the major political issues that should be debated.

The two-party system, as the 1977 Minority Report of the Senate Judiciary Committee put it, is not a product of chance. "Public opinion has no inherent tendency to divide itself into two and only two major political groupings." We have seen the consequences in other countries of a proliferation of parties and the consequent inability to form stable, enduring governments. The ultimate cause of two-party politics in the United States is the electoral college system and the necessity of winning a majority vote among those 538 electors. Third-party movements have been sporadic and ineffectual, largely because they could not translate their popular support into a bloc of electoral votes. (In 1948, the Wallace Progressive Party and the Thurmond Dixiecrats together received only 39 electoral votes but 2.7 million popular votes.)

Our major parties are not ideologocial groups but rather centrist in their orientation. When a party forgets this cardinal principle or the political convention is captured by an extremist faction, the result is a political landslide for the other side. Witness Goldwater in 1964 and McGovern in 1972. Thus, both parties tolerate a broad spectrum of opinion and avoid alienating any important interest. If these ideological or interest groups desert the major political parties in our quadrennial elections and seek their own political mandate, expressed in terms of total votes cast, they will continue the process of weakening our already debilitated parties.

The unit rule is a powerful stabilizing force within a state, preventing party splits, the cancer that destroys a party. A party split means inevitably that the state's electoral vote will go to the other side. But under a direct election system, there is no such powerful disincentive and factionalism is encouraged.

Secondly, in the event of a close election, we would face the horrors of a national recount of every single vote cast. Such a recount, never before required in our history, would take weeks, perhaps months, delayed inevitably by court challenges, which would disrupt our political machinery and paralyze the country. Even when one candidate has clearly won the popular election, it may still be necessary to recount the vote to ensure that the winner actually received his required 40 percent, which means that even in states where there was no doubt as to the outcome it will be necessary to recount. Nor can we forget that some states still lack automatic vote-counting procedures.

There may be another mischievous ripple effect of direct elections: the end of the national political convention. These conventions play a moderating and compromising role in American politics, not only in drawing up of the party platform but in the choice of candidates. But the next logical step after the direct election of the president is to establish a national primary system, another step toward participatory democracy. We have only to look at the mischief created by the various state initiative and referendum laws, hailed in their time as means of by-passing reactionary legislatures, to realize that national primaries sound the death knell of our national parties. Their crucial role is to control access to candidacy. A party that loses such control ceases to be a party.

In closing it may be helpful to recall the caution of Alexander Bickel:

> There are great virtues in a conservative attitude towards structural features of government. The sudden abandonment of institutions is an act that reverberates in ways no one can predict and many come to regret. There may be a time when societies can digest radical structural change, when they are young and pliant, relatively small, containable, and readily understandable; when men can see the scenery shift without losing their sense of direction. We are not such a society.

Or to express it in a homely adage: "If it ain't broke, don't fix it."

PROPOSED CONSTITUTIONAL AMENDMENTS MANDATING A BALANCED FEDERAL BUDGET

● Mr. MUSKIE. Mr. President, I rise today to speak once again on the subject of balancing the budget—this time to oppose proposed constitutional amendments for this purpose which may come before the Senate in the next few weeks.

Mr. President, the timeless simplicity of our Constitution is its greatest inherent strength. It is designed to serve just two essential functions. It outlines the architecture of our Government and it defines our fundamental rights. There is no room in it for back-of-the-envelope schemes, nor for complex mathematical calculations.

There is certainly no room there for deeply flawed fiscal gimmicks such as the "balanced budget" amendments to Senate Joint Resolution 28, a proposed constitutional amendment to provide for the direct popular election of the President. I would like to review some of the deficiencies of such amendments.

I will also touch briefly on the fiscal innovations which have passed the Congress in 1979. These new measures have made it all the more apparent that there is no need and no justification for a new constitutional amendment to balance the Federal books.

Mr. President, the proposed constitutional amendments mandating a balanced budget or imposing a surtax following years when a balanced budget is not achieved are simply without merit. But the public anger and frustration which gave birth to the balanced budget movement is another matter entirely. A government which seems to grow endlessly without delivering demonstrable benefits raises dangerous questions whether the government is in control.

The public's frustration with seemingly endless inflation is also genuine. It is certainly understandable. Inflation can destroy the fruits of a lifetime's labor and undermine an entire social order.

But Federal deficits, harmful though they sometimes are, are not the root of the problem. More importantly, changing the fundamental law of the land to mandate an unworkable Federal balance in good times and bad is not the solution. On the contrary, it could provoke an even deeper dilemma.

We as legislators must respond to the public anger and frustration—but with leadership, poise, and responsible solutions. I believe that we are doing so.

Indeed, the Congress has already institutionalized a formal mechanism for promoting balanced budgeting—a mechanism which is more important than any fiscal innovation since the enactment of the Budget Act itself.

With the adoption of the Long amendment to the debt ceiling bill, the Congress instructed the Budget Committees to formulate two alternative paths to balance. Ultimately, Congress accepted the more stringent of the two. We chopped the deficit more dramatically than many thought possible. We adopted a budget path leading to balance in fiscal 1981.

I do not need to tell you that the Long amendment originated in the Senate and that the House gave it a different interpretation than was intended by those of us who authored it here. It is worth noting, however, that the final conference agreement adopted by both Houses did include a budget plan for balance in 1981. The Senate conferees, in the statement of managers of the conference spelled out the detailed functional breakdown for such a plan.

With adoption of the Packwood amendment to the debt ceiling bill, the Congress instructed the President to follow a similar course at the other end of Pennsylvania Avenue. If the administration submits a budget for fiscal 1981 or for fiscal 1982 which is not in balance, the President must also submit an alternative, detailed budget which is in balance.

Thus the administration has been required by the Congress and the Congress has committed itself either to balance the budget or to know why not. Only by examining the multiyear process of achieving and maintaining a balanced budget and the consequences of doing so can we truly understand whether there are contingencies which warrant putting aside the discipline imposed by the presumption of a balanced budget. We cannot responsibly substitute a formula for this process of careful evaluation.

We need no new constitutional alterations to get our job done. We need only discipline and a sustained commitment to fiscal responsibility. No statute or amendment can supply those ingredients for us.

Many people assume that a balanced budget mandate would constitute a simple, effective, and efficient way to restrain the growth of Federal spending and limit future budgets, but these new ideas are anything but simple or effective.

A nightmare of semantics, administration, accounting, potential evasion, and other inherent flaws are integral elements of any of the sweeping proposals for a year-to-year balance under all conditions.

For example, consider the amendment offered by the senior Senator from Virginia. That amendment would specify that total outlays of the Federal Government not exceed total receipts.

The defects of his approach are as simple as its langauge, it limits or even eliminates the Federal Government's ability to respond quickly and flexibly to changing economic conditions. If the cost of indexed programs goes up during the year, how can the Government respond?

Moreover, a balanced Federal budget may be flatly impossible to achieve in times of severe recession. In a deep recession millions of individuals could lose their jobs, and consequent sharp reductions in personal income cause sharp reductions in Federal tax collections.

The Byrd amendment would allow Congress to waive this requirement "in the case of a national emergency." Curiously, though, the amendment fails to provide a definition of a state of "emergency." Because it fails to do so, we could anticipate prolonged debate and confusion just when prompt, effective action might be most necessary. And the end of that debate might well come too late to allow for meaningful responses to econmic cnditions.

Of course, since this proposal would require a two-thirds vote of Congress to open the escape hatch, we might never have to concern ourselves with responding at all. A two-thirds vote is difficult to obtain on any issue. That is why the cloture rule now calls for a three-fifths vote instead of the traditional two-thirds.

Who would take the lead to suspend the Constitution, to unbalance the Federal budget?

Furthermore, this proposal poses serious enforcement problems. What would happen if the economy weakened suddenly, causing an unexpected loss of tax revenues, or if uncontrollable spending exceeded projections? We control the budget by controlling budget authority, and budget authority spends out over a period of 1 to 40 years, depending upon whether the budget activity is for salaries or housing subsidies. If our spendout projections are slightly off, should social security benefits be suspended in the last weeks of the fiscal year so that outlays do not exceed receipts? Who should go to jail if outlays in fact exceed receipts?

Finally, the real test of congressional determination to balance the budget is not in votes on proposed constitutional amendments but in the cold realities of constructing a balanced budget that confront us each year as we adopt congressional budget resolutions. Just 2 months ago this body took a hard look at the 1980 budget and concluded that a deficit of $23 billion was the tightest realistic budget we could achieve for next year.

The proposed DeConcini amendment mandates that Congress attempt to balance each year's budget, and in addition specifies that any deficit that did occur would have to be erased by the end of the next fiscal year by imposition of a proportionate surtax.

Apart from promoting a spend now, pay later mentality, that idea would impose a terrible economic burden in times of recession. A deficit year caused by an unexpectedly weak economy would be followed by a subsequent attempt at budget balance and a surtax. That combination might plunge us into a raging depression by forcing a tax increase at precisely the time when tax reduction is needed to stimulate the economy and create jobs.

Herbert Hoover tried to tax us into balance once. The year was 1932. It was not a good year for the economy. It was not a good year for Herbert Hoover.

Mr. President, I hope this brief analysis is adequate to demonstrate that the good intentions which stand behind these proposals are poorly served in practical effect.

These good intentions are rooted in the desire to respond to the public frustrations that I noted earlier. But real as those frustrations are, they are also wrapped up with some misconceptions.

Not long ago, Dr. Walter Heller testified before the Senate Budget Committee and added his name to the growing consensus of leading economists who oppose the mandatory balance concept.

Dr. Heller identified six fundamental misconceptions which lie at the heart of public anxiety about the Federal budget and its role in our society. I believe that Dr. Heller has captured the essence of the popular perception. He has also formulated some cogent responses. Let me summarize them here.

Fallacy No. 1—Households have to balance their budgets. Why can not Uncle Sam do the same?

Dr. Heller points out that most households run proportionately huge deficits when families buy a home, a car, a boat, or even send their children to college.

And unlike the household, the Federal Governmnet must budget not only for its own expenses, but also for unemployment and recession on the one hand, or for an overheated economy on the other.

Fallacy No. 2—Consumers, it is said, must pay back their debts, but Washington's debt just keeps on growing.

The truth bears no resemblence to that mythology. Since World War II, the Federal debt has been the slowest growing form of major debt in America. The Federal debt today is less than 3 times the size it was in 1950. Consumer debt is nearly 14 times its 1950 level.

American consumers who cluck their tongues and shake their heads about the size of the Federal debt are the very individuals who once paid cash and now carry five or six well worn credit cards.

Fallacy No. 3—it is argued that State and local governments must balance their budgets—why not the Federal Government?

Unlike the States, Washington throws capital and operating budgets into the same pot. If these expenses were separated out, the way the States separate them, the deficit would indeed be lower. But the desirability of that sort of budgeting at the Federal level has been seriously questioned.

Moreover, a State or local budget can be balanced by tax hikes or spending cuts without jarring the entire national economy—not so for the Federal budget. The Federal budget is called upon by business and labor alike to provide a balance wheel to moderate swings in the economy, to reduce the length and depth of recessions, to dampen the effects of inflation.

Fallacy No. 4—it is almost a matter of faith that Federal deficits are the major, if not the only source of inflation.

The record says otherwise. During hard times, the deficit is anything but destructive. It helps the economy back to its feet by activating additional demand for goods and services and by putting idle workers and machines in business again.

Moreover, in the 1970's, the deficit has had little bearing on the real prime movers of inflation such as the cost of food and energy.

In the post World War 1 era, rapid inflation was accompanied by Federal budget surpluses. From 1959 to 1965, Federal deficits were the order of the day yet price inflation was little more than 1 percent per year.

There simply is no strong historical correlation between deficits and inflation.

Fallacy No. 5—it is taken for granted that the Federal budget has run wildly out of control, and that a constitutional limitation is the only possible restraint.

Again, the facts fail to support the mythology. Statistical measures ranging from Federal spending as a proportion of GNP to Federal spending growth patterns show that the upward trend of the 1960's and early 1970's has been reversed.

The congressional budget process has brought an historically unprecedented level of discipline and control to the Hill's budgeting procedure and capabilities.

We have begun to see the results. In 1975, the first year of operation for the new budget process, Federal spending represented 22.4 percent of our GNP. In 1980, we are budgeting for 21 percent—in 1981, for 20.4 percent, and in 1982, for 19.2 percent.

It took the most extraordinary kind of discipline and responsible restraint to produce a budget path leading to balance in fiscal 1981. But this Congress accepted that discipline and embraced that responsibility. And if our economy behaves in a manner reasonably consistent with our projections, the budget will be balanced long before a constitutional amendment could be passed and ratified.

Mr. President, this spring we adopted

a budget resolution for fiscal 1980 and a 3-year budget plan which will take us to balance in the shortest practicable time and in the most responsible manner possible. It is workable and eloquent rebuttal to the rhetoric of those who insist that Congress cannot manage the fiscal affairs of the Nation unless its hands are tied and its constitutional powers of discretion are eliminated or sharply constrained.

Our job now is to carry forward the plans put in place in the first concurrent resolution. We must make good on our earlier commitment with responsible spending decisions that follow the fiscal blueprint which is before us. We have a demanding job to do that requires the earnest efforts of every committee and every Senator. Our resolve in accomplishing that job—not a mechanical contrivance attached to the Constitution—will allay the public unrest so evident today.

The Constitution of the United States is one of the most impressive achievements of our Republic. It is the foundation for all the achievements which followed it. There is no room there for simplistic gimmicks, nor for the permanent legitimization of transient schemes.

The framers of our Constitution have left us a remarkable legacy—a model for republics which followed and for those yet to be born. We owe the Founders much more than patchwork addenda to the elegant structure they built.

We owe more than that to ourselves. I strongly urge my colleagues to vote against amendments for a constitutional mandate to balance the Federal budget.●

REFORM, NOT REPEAL, OF THE ELECTORAL VOTE IS NEEDED

● Mr. GOLDWATER. Mr. President, I rise to discuss the subject of Presidential election reform. As a former candidate of one of the two major parties, I have some thoughts to share with my colleagues

First, Mr. President, I must state my opposition to the direct election plan. I do believe there are positive changes that should be made, but this is not one of them.

To my mind, the direct election proposal is undemocratic, inconsistent, chaotic, and divisive.

I.

It is undemocratic because it is not based on the concept of majority rule. Instead, it substitutes a procedure under which a candidate might be elected without capturing a plurality in even one State. So long as a candidate gathers 40 percent of the vote nationally and no other candidate receives more, he is declared the winner, without a run-off.

The direct election plan is inconsistent because it does not provide for an accurate selection of the "people's choice," as promised. Instead, it is arbitrarily assumed that if the majority of voters were allowed to choose among the top two candidates, they would always pick the same person who won a plurality in the first election.

This means one person's vote may be sufficient to elect the President if he votes for the same candidate as 40 percent of the people.

His vote will be meaningless if he joins with 60 percent of the electorate who prefer someone else. Thus, a voter who is among the 40 percent bloc will command an inflated vote, which is superior to those cast by 60 percent of his fellow citizens, just the same as a citizen whose vote is now said to be inflated by the unit rule.

II.

Mr. President, the plan is chaotic because it would lead to a rash of vote contests that might spread throughout the Nation in any close election. This would be true whether or not fraud was charged. Human and mechanical error would be sufficient by itself to make it worthwhile for a losing candidate to challenge the election outcome. When the impact of a mistaken count in one city or county is no longer insulated within the boundaries of a single State, but can directly affect the result across the entire Nation, it will be mandatory for the losing candidates to demand a recount in almost every political unit in the United States.

Once any recounts get started, all 178,000 precincts will be involved. A switch of votes in Illinois will no longer affect the outcome in that State alone. It might change the result nationwide. And so it goes down the line.

Mr. President, this raises several practical problems about the administration of direct election. For example, is a vote contest to be resolved by a State election panel or a Federal one? Is the challenge to be initiated before an administrative commission or board, or by petition directly to a court? How many days should a candidate be given to uncover evidence before he will lose his right to challenge a vote or demand a recount? How many stages of appeal should be allowed? How much time should be granted for making an appeal after a decision is reached at any one of these levels?

By the time the candidates get through filing petitions for recounts, the election outcome would be thrown into a state of utter confusion. Even providing that results shall be declared no later than the 30th day after an election is not a clear answer. Unless the fifth amendment is repealed, it would take several months to exhaust the many avenues of legal proceedings and appeals that must be granted in order to satisfy the basic requirements of due process. The results may have been filed, but they are not necessarily final. All the while the country would be operating without a recognized head-of-State.

Other regulations would have to be established to put order into direct election. The Federal Government would have to legislate uniform rules as to how a person can qualify to be listed as a candidate on the ballot in each State. A decision will have to be made as to whether a State can allow aliens to vote for President or even can put 17- or 16-year-olds on the rolls to enlarge its impact in the election.

III.

Mr. President, I contend direct election is divisive because it would encourage a proliferation of splinter parties. At least seven past witnesses have agreed that the number of "third parties" will increase under direct election.

For example, Theodore White, who has written several well-known books on Presidential campaigns, said that direct election "results in less compromise. It opens up the possibility of ideological parties or racist parties."

Richard Goodwin, a former writer for both Presidents Kennedy and Johnson, has explained why he believes direct election would promote splinter parties. From personal experience, he said:

> I do know in 1968 when the people who wanted to organize a party came to those of us who were working with Senator McCarthy and were anxious to start a new party and had actually done studies of ballot and election laws, the principal argument that stripped that movement of its force was the effect would be simply to throw States into the Nixon column. They could not carry States.

Mr. Goodwin added:

> At a minimum, you would arrive nationally where you now are in New York State, for example, where you have four parties, because a party that can command a million or two million votes only organized in three or four States, has the balance of power, just as the Liberal party can achieve the balance of power in a governorship or Senatorial fight in New York. And I think that it would be a great incentive for people to form these groups in order, if not to win the election, to maximize their own influence.

As Mr. Goodwin put it:

> You can be very powerful if you have the capacity to make other win or lose . . . even though you can never win yourself.

Representative William Clay of Missouri has also testified from personal experience that direct election would cause a proliferation of minor parties. In 1967, Mr. Clay was a member of a national steering committee which hoped to run a third party candidate. But, he said, the main consideration that kept the group from fielding a candidate was the belief they could not win any States; they could not become an important factor in denying electoral votes to candidates of the major parties. On the other, Mr. Clay said that if you eliminate the necessity of winning the electoral votes in a State "you are asking and encouraging people to run with sectional appeals."

In this manner the present system acts to discourage the creation of splinter parties. But, if the popular vote is substituted for the electoral vote, special interest groups which are highly convinced of the rightness of their own cause may seek to run solely as a matter of vindictiveness. Quoting from Mr. Clay again:

> People who perhaps didn't have their way or didn't get their particular points at the national convention, would strike out on their own and start campaigning in an effort not to win, but just to defeat those within that two-party structure.

IV.

Mr. President, I am also concerned that direct election will destroy our Federal system. Yes, I am aware of intricate calculations which claim to show a disparity in voting power for residents of smaller States.

But, what these mathematical studies miss is the human factor. They do not take account of the human psychology which governs real-life politics.

Academic calculations fail to consider the identity of States as communities of citizens who hold a feeling of association with each other. The harmful effect that direct election would have on this attitude was described by Theodore White, who warned in earlier testimony that direct election:

> Would take away an equally vital part of the political system in abolishing the sense of community in our various states. The States vote as communities. They are proud of how they vote. People like to be New Yorkers or Kentuckians or Missourians or Hoosiers. To deprive them of this sense of belonging to a voting unit and being sunk in the electronic dots that go over a tote board, that could be perhaps the gravest political danger that this new resolution invites.

Richard Goodwin testified to the same point. He explained:

> Most Presidential campaigns are concentrated on no more than 20 percent of the vote, the swing vote, on the assumption the rest are pretty well committed. Today, nearly every State has a swing vote which, even though very small, might win the State's electoral vote. Thus, nearly every State is worth some attention. If the focus shifts to numbers alone, then the candidate will have to concentrate almost exclusively on the larger States. This is where the people and where the most volatile vote is to be found.

Thus, I am afraid that direct election would destroy the special extra weight now given in elections for protection of smaller States.

V.

Now, I have heard it argued that someday one candidate might receive a majority of the electoral votes and another a majority of the popular votes. In fact, it is suggested that Gerald Ford could have won a majority of the electoral vote had there been a shift of a few thousand votes in two scattered States.

The fallacy of this argument is that if the popularity of former President Ford had been great enough to have given him sufficient additional votes to win these particular States, in all likelihood he would have enjoyed a proportionate increase in his strength in many other States as well. The shift would not have been limited to those two States alone. Thus, the result would have been a plurality for Mr. Ford of the total popular votes nationwide, as well as in those given States.

This can be demonstrated by examining the vote count in Hawaii, one of the two States selected for theoretical calculations. It would have required a switch of only 0 0127 percent of the total votes cast in Hawaii to make Gerald Ford the winner there. But if the same shift of barely over 1 percent in votes had occurred across the Nation, Mr. Ford would have won a clear purality of all votes cast in the 1976 election.

And while we are considering theoretical hypotheses, we might examine the fact that under direct election a candidate stands a technical chance of winning the election with the votes of a single State alone.

We were not far from just that situation in 1968. Massachusetts gave Hubert Humphrey a majority of over 700,000 votes. This exceeded by nearly 90 percent the winning margin given to any candidate in any other State. It was even greater than the margin by which Richard Nixon won any of three entire regions of the country—the South, West, and Midwest. One extreme result of this kind could easily distort the whole election whenever the vote is close throughout the remaining States.

VI.

Mr. President, while I oppose direct election there are recommendations I would make to bring our voting procedures into line with 20th century conditions.

First, and most obvious of all, we should make it mandatory for each State to choose its electoral votes by the will of its people. While it is an almost forgotten fact, the Constitution presently allows individual State legislatures to determine the manner by which Presidential electors are chosen. In the early days of our history, legislatures often made this choice. In fact, the State legislature in South Carolina continued this practice until 1860 and it was used in Colorado in 1868 and in Florida in 1876.

It is inconceivable that the people would ever want this right to be taken away from them again. For this reason, I believe a constitutional amendment is in order to prevent the States from appointing electors by any means other than direct popular vote. Here is one setting in which direct election is the only acceptable method.

Second, we must eliminate the problem of the "faithless elector." The electoral votes of each State or district should be cast automatically and not be left to the whim of individual electors.

Third, we should concentrate on removing the last vestigates of outmoded technicalities or administrative barriers that make it impossible for otherwise qualified citizens to vote. For example, polls should remain open for longer hours, preferably on a 24-hour basis, so that citizens have an expanded choice of convenient times for balloting.

Fourth, we should amend the electoral college system by making it representative. In other words, if Mr. Smith gets 55 percent of the votes and Mr. Jones 45 percent in a State, then divide the electoral votes up in that manner and do away with the winner taking all, even if the winner margin is only by a tenth of 1 percent. I am a cosponsor with Senator CANNON of exactly such a proposed amendment.

In summary, I believe there are many avenues still open by which we can provide for the widest possible participation by our people in elections.●

VIEWS OF PAST AMERICANS ON ELECTORAL REFORM

Mr. THURMOND. Mr. President, electoral reform, as the Senator from Indiana has pointed out on several occasions, has been debated in this country almost since the first Presidential election. However, for just as long there has been a strong defense of an electoral, as opposed to a direct, system of electing our chief executive. This defense may have been in support of a different electoral method like the district or proportional plans, which I support, or in support of the electoral college; but the point is, that these defenders realized the dangers to our republic that are inherent in direct election of the President. I would now like to share with my colleagues the thoughts of a few of these Americans who have so well defended our institutions throughout history.

In Federalist number 68, Alexander Hamilton, writing as Publius, commented on the electoral college. He admitted that it was not without blemish but indicated that with all the differing views of the States, it was the best system available to the constitutional framers. His exact words were:

> I venture somewhat further, and hesitate not to affirm that if the manner of it be not perfect, it is at least excellent. It unites in an eminent degree all the advantages the union of which was to be wished for.

Hamilton also realized that an electoral system was representative of the people in the sense of our Federal Government. He stated that the reason for an electoral college instead of the President being chosen by Congress was so that "the sense of the people should operate in the choice of the person to whom so important a trust was to be confided."

While realizing that the "sense of the people" should be paramount, Hamilton stated that the electoral college provided a "moral certainty." Mr. President, direct election does not provide this moral certainty for as Hamilton put it:

> Talents for low intrigue, and the little arts of popularity, may alone suffice to evaluate a man to the first honors in a single state; but [an electoral system] will require other talents, and a different kind of merit, to establish him in the esteem and confidence of the whole Union, or of so considerable a portion of it as would be necessary to make him a successful candidate for the distinguished office of President of the United States.

James Madison, after he had viewed our federal system in operation, was no friend of direct election either. I have previously referenced the assistant editor of "The Papers of James Madison," Donold O. Dewey, who indicated Madison's support for a district system in the 1820's but not for direct election. Madison stated that the district system was what the original drafters of the Constitution had intended.

When in the early 1820's an amendment calling for direct election was introduced Madison commented:

> There are advantages in the intervention of Electors, and inconveniences in a direct vote by the people . . ."

Mr. Dewey reports that one of these inconveniences was that Madison—

> feared that if the people were entrusted with the power of choosing their Chief Executive, their response would be based too much upon emotion.

This closely parallels the warnings of Ron Wilner, a political adviser, and Theodore White that direct election will move the selection of our Chief Executive solely into the hands of media experts. The candidate who best projects on television and other media will control the emotions and the votes on election day.

Although I have not heard his name mentioned regarding this debate, Abraham Lincoln was also a defender of the electoral college. Lincoln, in reply to a friend who had advocated the abolition of the college, stated:

> I was once of your opinion . . . but a more thorough knowledge of the causes that first introduced them has made me doubt. The convention that framed the Constitution had this difficulty: the small states wished to form the new government as that they might be equal to the large ones, regardless of the inequality in population; the large ones insisted on equality of population. They compromised it by basing the House of Representatives on population, and the Senate on states regardless of population, and the execution of both principles by the electors in each state, equal in number to her senators and representatives. Now throw away the machinery of electors and the compromise is broken up and the whole yielded to the principle of the larger states.

So, just as has been echoed in this body, Lincoln realized the electoral system was a part of that great compromise between all the States which resulted in our Federal Government. If we now do away with it and adopt direct election, then, as he put it, "the compromise is broken up and the whole yielded to the principle of the larger States."

Let us move to more recent history. In the late 1940's and 1950's there was considerable debate regarding electoral reform. This debate, however, was almost entirely centered around proposals for either the district or proportional plans. In fact, in 1956, a proposal sponsored by Senator Mundt of South Dakota of which I was a strong supporter, received a majority vote although not the necessary two-thirds of the Senate. This resolution would have permitted the States to chose between a proportional or district method.

In 1950, the Senate was debating a proportional plan. One of our former members from Arkansas, J. William Fulbright, made an indepth speech supporting change but expressly denouncing direct election. Senator Fulbright observed that an electoral system

> Preserves the compromise between the large and small States that permitted the adoption of the Constitution and the formation of a more perfect Union and leaves the States free to determine the qualifications requisite for voters. On the other hand, direct popular election is entirely inconsistent with this theory. I believe this to be so, because I cannot conceive of the States being permitted to qualify whomever they please, regardless of . . . any proper qualification, in order to throw undue weight to its voting population in a contest with other States. The promotion of sectional rivalries under such a system is obvious.

Senator Fulbright's statement is similar to a line of questioning I was following during the recent hearings on Senate Joint Resolution 28. Briefly, I asked what would prevent a State, if direct election were accepted, from reducing its voting age to 16 to gain more influence in the selection of President. After considerable discussion, the witness finally responded that there was nothing to prevent this. The alternative to this, of course, is total Federal control of these elections. Therefore, the only solution to the obvious "sectional rivalries" as Senator Fulbright put it, would be a system of increased Federal regulation and control resulting most assuredly in the creation of another enormous bureaucracy.

Six years later, in 1956, a Senator from Massachusetts who later became President, John F. Kennedy, was speaking regarding electoral reform. Senator Kennedy's words during that period have been quoted often and I do not want to repeat covered areas. Suffice it to say that he supported the electoral college and opposed the proportional and district plans as well as direct election. In response to Senator Holland of Florida, Senator Kennedy on March 21, 1956, said:

> I have a strong belief that the Federal system is the best system. I should hate to see abolishment of State lines . . . Therefore, I think the Federal system should continue to apply in this instance. The presidential election is determined on the basis of 48 separate units. I think the election should be decided in each one of them. The alternative is to abolish State lines and to have direct election of the President.
>
> The Senator from Florida does not favor that; I do not favor it.

This quote should clear up any doubt as to how John Kennedy felt about direct election.

No discussion of constitutional issues in the Senate would be complete without some mention of our illustrious former colleague, Sam Ervin. Senator Ervin, as one would expect, made a number of statements in opposition to direct election. However, none were more persuasive than his comments in the August-September 1974 issue of Congressional Digest. He began by attacking the simplistic majoritarian concept of direct election:

> A leader of this Nation must not only represent large numbers of our people; he also must represent a diverse cross-section of our people. Mere numbers, 51 per cent or 41 per cent are not enough. A man elected President because of the overwhelming support from a relatively narrow group of people—perhaps people from a rural, conservative area, or from a highly urban, industrialized area—would be the choice of the majority in one sense only—that of mere numbers. He would not be the representative of all the people's interests.

He then defended the electoral system as machinery fundamental in the operation of our Federal Government. Senator Ervin wrote that—

> Electoral system builds into the process a very necessary element of diversity of support. It requires a winner to reach for national support. It does this by stressing victories in States as units . . . The man who wins under this system is truly the choice, not only of the majority of votes, but of a majority which is diverse in its interests as it is spread throughout the country.

Mr. President, I urge my colleagues to take heed of these words of the past. Whether they support the present electoral college as did Hamilton, Lincoln, Kennedy, and Ervin or support reasonable reform as did Madison, and Fulbright and as I do, we should join ranks and oppose this radical proposal. If you feel like Hamilton that the electoral college provides a moral certainty, then oppose direct election. If you are concerned like Madison with emotion controlling our elections, then oppose direct election. If like Lincoln, you once opposed the electoral system but now fear that direct election will ensure that the compromise that launched our great Nation is broken up, then you must oppose Senate Joint Resolution 28.

If like Fulbright, you fear sectional rivalries that will ensue, you should oppose direct election. If you agree with Sam Ervin that this country is made up of diverse interests that are not accurately represented by mere numbers, then oppose direct election. Finally, if, like John Kennedy, you realize that the Federal system is the best system and that State lines should be maintained in this country when we choose our Chief Executive, then I implore you as representatives of the people of your respective States and of this great republic to oppose this threat that is called direct election.

THE ELECTORAL COLLEGE

Mr. THURMOND. I ask unanimous consent that a series of responses to points in support of direct election, including typical questions and answers about direct election, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Facts About Direct Election

I. ANSWERS TO POINTS IN SUPPORT OF DIRECT ELECTION

1. Direct election would ensure that we do not elect a "runner-up President", that is, a President who has received fewer votes than his opponent.

RESPONSE

A runner-up President has been elected only once in our history. It is very unlikely that under the modern two-party system with its broadly based, national campaigns, that this would happen again. Benjamin Harrison, the runner-up winner in 1888, received a slightly smaller share of the popular vote [the difference was less than one percentage point] mainly because of the margin of Grover Cleveland's win in the South. Cleveland had conducted a sectionalist campaign aimed at that region. Harrison's support was more broadly based.

The "one-man, one-vote" majoritarian principle is only one of our political values. The Founding Fathers established a government where the will of the national majority does not express itself directly—even as limited by the Bill of Rights—but only through the federal system. Citizens participate in the election of federal representatives—members of Congress and President—only through their states. The effect of this and of the compromises made with small states has been that federal power—both legislative and executive—reflects regional/geographical as well as population factors. Regions of the country with smaller populations have been given a slightly greater influence over federal decisions that would be due them because of their share of the national population. This arrangement has served the cause of national unity.

The election of a President who had received broad support—hence, an electoral vote victory—but slightly fewer popular votes, would be very unlikely to produce a crisis. A crisis did not occur in 1888, as indicated, nor even in 1974 when Gerald Ford became the President despite receiving no popular votes.

Constitutionally valid procedures automatically produce results that have great legitimacy. This legitimacy would be undermined only if influential political and opinion leaders constantly claim that a runner-up President would be undemocratic and lacking in legitimacy. Therefore, when such leaders predict a future crisis, they are in effect making self-fulfilling prophesies. The American people are perfectly capable of understanding and accepting the reasons why the electoral vote system was developed and the advantages which it still possesses over direct election.

2. Direct election removes the office of electors and thus ensures there will not be anymore faithless electors.

RESPONSE

Of the nearly 18,000 electors that have been selected in U.S. history, no more than a dozen have failed to cast their votes as pledged. None of these has come anywhere near affecting the outcome of an election. Nevertheless, few if any of the supporters of the electoral vote system defend the office of elector. We merely question the significance of the problem. What could easily be cured by a simple and noncontroversial amendment certainly should not be used as a justification for a change as radical as direct election.

3. Direct election abolishes the undesirable "winner-take-all" rule that is utilized by every state except Maine.

RESPONSE

The "winner-take-all" rule is not in the U.S. Constitution. The Constitution merely assigns to states their total electoral votes. The people of each state decide how they want to allocate that total. One state, Maine, gives a portion of the total to the winner in each of many districts of Maine. Most states probably adhere to the "winner-take-all" rule because it maximizes their influence on the election outcome of the majority choice, which in effect is accepted as the state choice, representing the collective choice of all citizens of the state. Nevertheless, the citizens of any state could—if they desired—follow the lead of Maine and abandon the "winner-take-all" rule.

Moreover, there are other proposals that are less radical that would abolish the winner-take-all rule. The proportional and district plans would accomplish this result if that is all the proponents of direct election seek.

4. The contingency election in the House of Representatives, with each state's delegation having one vote, is changed to a more democratic system by direct election.

RESPONSE

The runoff provision of S.J. Res. 28 creates even more uncertainty in our election process. If one accounts for a recount in the general election to determine the runoff participants and a recount after the runoff, then the Presidency may not be decided until well into January. This could be a dangerous uncertainty in a time of national emergency. Moreover, the basic arguments against direct election itself apply to the runoff procedure.

In the proportional plan and other reasonable reforms, the contingency election is changed to provide for a joint session of Congress with each member having one vote. This is preferable to the current method and still within the doctrines of our federal government. This could be accomplished with a less controversial, and less dangerous amendment.

II. TYPICAL QUESTIONS AND ANSWERS ABOUT DIRECT ELECTION

Q. Would direct election increase the likelihood of a "sectionalist" President?

A. Yes. The direct election system would permit the election of a President who received an overwhelming margin in one section or even one state of the country, yet who lost everywhere else. The electoral vote system, on the other hand, is biased in favor of candidates who receive geographically broad support. Since the margin of victory within a state is irrelevant under the electoral vote system, extra wide margins in a few states cannot make up for losses in other states with a greater total number of electoral votes.

Q. Which would be the more likely and more damaging result—the election of a "runner-up" President under the electoral vote system or the election of a "sectionalist" President under the direct election system?

A. Election of a President who had received broad support but slightly fewer popular votes would probably not produce a crisis, just as there was no crisis after the election of 1888.

On the other hand, election of a President who had received little support in all but one region of the nation might well result in a major crisis, with the people of most states regarding the President as not their President, with the President seeking to serve the interest of the special constituency that elected him, and with substantial friction between the President and the Congress (with its nationwide constituency and slightly disproportionate influence for less populated states).

Q. Would direct election hurt our two-party system?

A. Yes. Politics under direct election would probably resemble that of the multiple party states on the European continent. The electoral vote system and the "winner-take-all" rule together operate to discourage third parties since there is no possibility that such parties can gain electoral votes except by winning on a statewide level. Rather than "throw away" their votes by casting them for individuals who have no chance to win electoral votes, many sympathizers of third parties vote for one of the major party candidates. Direct election would encourage third parties since statewide victories would not be necessary.

S.J. Res. 28 contains an additional incentive for the formation of minor parties. In the event no candidate received 40 percent of the popular votes, a runoff election would be required between the top two candidates. Therefore, if the votes cast for minor party candidates taken together denied the major candidates the 40 percent plurality necessary to avoid a runoff, such minor parties would be in a very good position to negotiate for policy and personnel concessions prior to the runoff election. For example, if five Presidential candidates received 39, 39, 11, 10, and 1 percent of the vote, respectively, then each of the minor parties, including the smallest, could deliver victory to either major party in the runoff election.

Q. Would direct election damage federalism?

A. Yes. Under direct election the states would have no significance. Under the electoral vote system votes are counted separately for each state. A state choice is selected to reflect the majority view in a state. The feeling of being a citizen of one's own state, as distinguished from other states, is strengthened through the electoral vote process. Other federal elections do not have the same effect. Voting in Congressional elections does not affect the outcome outside the voters' own states. Consequently, there is no sense of one state choice versus the choices of other states.

Whatever strengthens the awareness and pride of state citizenship and the realization of separate state interests, will strengthen the federal system by reducing the desire of voters to see powers flowing from their state to the national government in Washington or even to the local representative of that national government [who would still be responsible ultimately to a national constituency].

Q. Only three Presidents in our history have been elected with less than 45 percent of the popular vote. S.J. Res. 28 provides that a 40 percent plurality would be sufficient for electoral victory. Wouldn't such a provision make it likely that most Presidents, elected under direct election, would receive a lower percentage of the popular vote than is usually received by a winning candidate under the electoral vote system?

A. Yes. Because of its encouragement of minor parties, S.J. Res. 28 would probably result in Presidential elections where the victors would receive little more than 40 percent of the vote unless a runoff election were held. Such a change seems antidemocratic and destructive of legitimacy, allegedly major concerns of direct election supporters.

Q. Will direct election dilute the influence of small states in the election of President?

A. Yes. A study prepared by the Library of Congress illustrates that 31 states plus the District of Columbia will lose influence under a direct election system.

Q. Is there a resounding call from the American people for the adoption of this amendment?

A. No. There was a poll taken that indicated a large percentage of the American people supported this proposal, however, as one witness stated, 'If you let me frame the question I will get the answers.' There has been very little constituent interest or press coverage of this proposal in the 96th Congress. On the other hand, this amendment is actively opposed by most minority groups, including the NAACP, National Urban League, Black Leadership Forum, the American Jewish Congress and the Anti-Defamation League. In addition, the American Farm Bureau, National Association of Manufacturers and most constitutional scholars oppose this amendment.

FACTS ABOUT DIRECT ELECTION

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD certain editorials concerning the electoral college and the proposed direct election amendment.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

ELECTORAL COLLEGE THREATENED AGAIN

Say what you will about Indiana's U.S. Sen. Birch Bayh (and we can think of several things to say about the liberal Democrat), he must be credited with persistence, even in a bad cause.

At the moment, the senator is back on his long-running crusade to replace the electoral college system of electing the President with one based on the direct popular election. To be sure, there is a surface appeal to the notion that the President, as most other public officials of the land, should be elected by a majority of citizens voting in a given election. But there are offsetting disadvantages which argue against any such change.

In the first place, the electoral college is both an integral part and an extension of the unique federal system which characterizes the United States. This becomes manifest when one considers the fact that each state is entitled to as many Presidential electors as it has members in Congress. Thus, the system perpetuates the "Great Compromise" embodied in the Constitution—the arrangement whereby each state is entitled to equal (two members) representation within the Senate but proportional representation in the House, based upon population.

To discard that system in favor of an undifferentiated tally of votes nationwide would immediately lessen the influence of smaller states and increase that of the populous states which already carry great weight in Presidential elections because of their sizable allotment of House seats.

This alteration likewise would lessen the incentive of Presidential candidates to campaign in small states since their efforts logically would be concentrated in the teeming population centers.

Admittedly, there are some inequities in the electoral college system. Chief among them, in our judgment, is the "winner take all" feature which gives all of a state's electoral vote to the candidate who wins a majority, or even a plurality, of the votes cast within that state in a Presidential contest. That procedure tends to nullify all ballots, no matter how many, except those cast for the candidate who carries the state.

A fairer system would distribute the electoral votes in direct proportion to the popular vote. A 50–50 split here in South Carolina, for example, would give each of the two major candidates half of the state's electoral vote, or four each (assuming there was no appreciable showing by a third or fourth candidate).

Roughly the same purpose could be served by having the vote within each congressional district decide how that district's electoral college vote would be cast, with the two "senatorial" votes being determined by the outcome of statewide voting.

Incidentally, the individual states have the constitutional authority to adopt either of those systems, or some other, if they decide to eliminate the "winner take all" arrangement.

In all fairness, however, it must be said that adoption of such a change likely would be opposed by minority voting blocs, which often are able to tip a state's electoral vote one way or the other with a relatively small percentage of the total popular vote.

To wind up on a purely practical note, let it be recorded that South Carolina and 30 other states—under a direct election—would wind up with a smaller percentage of the national popular vote than the percentage of the electoral college vote they now exercise.

Thus, as a matter of practical politics as well as political philosophy, let us hope that Senator Bayh's latest effort to gut the electoral college will fall by the wayside.

[From the Washington Star, July 7, 1979]

DIRECT ELECTION IS A BAD IDEA

(By James J. Kilpatrick)

The pending order of business in the Senate this month is Birch Bayh's proposal to provide for the direct national election of future presidents.

This was a bad idea when the gentleman from Indiana first trotted it forth in 1963. It remains a bad idea today.

Under Bayh's resolution, Article II of the Constitution would be drastically rewritten. Bayh would abolish the Electoral College altogether.

In its place he would provide for a national popular election in which presidential and vice presidential tickets would compete. If no ticket received as much as 40 per cent of the vote, a runoff would be held between the top two tickets. Thirty days later the winner would be officially proclaimed.

The existing system of presidential elections admittedly is flawed. We vote state by state for surrogate electors, but these electors can violate their trust with impunity. If no candidate wins a majority of the electoral vote, the election goes to the House of Representatives, where each state casts a single vote.

Many observers object to the scheme of "winner take all," by which a state's entire electoral vote goes to the top vote-getter.

Acknowledging these imperfections, skeptics rightfully may inquire if Bayh's popular election plan is any better. In my own view, the senator proposes a cure far worse than the mild disease.

The Bayh amendment, if it ever were ratified, would wipe out the last vestiges of a substantive two-party system. Granted, not much remains of the two-party system now, but the form is there and we have built our legislative and executive structures around it.

So long as candidates compete for electoral votes in each separate state, it remains formidably difficult for a third-party ticket to make a significant showing. Only four times in this century have minor party candidates figured noticeably in the records—Roosevelt in 1912, LaFollette in 1924, Thurmond in 1948 and Wallace in 1968. In no instance were their electoral votes sufficient to affect the outcome.

Under direct popular election, all this would change. Bayh's amendment purports to leave it to each individual state to decide which names would appear on its ballot, but the senator cannot truly mean this.

A national election, at the very least, must be national; every voter must have an identical opportunity to choose among identical slates of tickets. Election laws would have to be precisely uniform throughout the country.

Once the Bayh plan went into operation, we could expect to see a multiplicity of parties in the European fashion—a black party, a women's liberation party, a resurgent socialist party, a pro-abortion and an anti-abortion party, an anti-busing party, an anti-gun control party, and so on.

None of these splinter groups realistically could hope to win a national election outright. Collectively, they quite plausibly could prevent either major party ticket from winning 40 per cent of the vote. In a runoff, the minor parties would barter their support to the most promising bidder.

Perhaps the American people want to plunge head long into political disorder, but I doubt it. My guess is that many of the high-minded outfits that are supporting the Bayh amendment have not thought the thing through. The concept of popular election has a fine, simplistic appeal.

The trouble is that our constitutional system is not simple. It is marvelously complex. It rests fundamentally upon the concept of federalism, the grand design by which political power is distributed among the states respectively. This is the true genius of the American Constitution.

Bayh would wreck the grand design. He would obliterate one of the basic compromises of our federal system, and in the process he would disturb the beautiful balance of the Constitution as a whole.

It seems to me unlikely that two-thirds of the Senate—or the House—will support any such radical surgery, and still less likely that 38 states could be persuaded to ratify the amendment. But Bayh has his baby on the floor, and if his troops can break a filibuster, we will soon get to the yeas and nays.

THE ELECTORAL COLLEGE: WHY BAYH IS WRONG

(By James J. Kilpatrick)

The opening gavel had barely fallen last month upon the 96th Congress before Sen. Birch Bayh was on his way to the clerk's desk. He was bearing the same old shopworn, unloved resolution he has tried to sell the country since he came to the Senate 16 years ago—for a constitutional amendment establishing direct election of our presidents.

While Bayh was thus occupied in the Senate, Rep. Barber Conable of New York was trying to get an alternative started in the House: the old "District Plan." If we are going to rewrite Article II of the Constitution, Conable's approach is infinitely superior to Bayh's, but there is yet another alternative more desirable still. Let me come back to it in a moment.

At present, as every schoolboy knows, the people vote in their several states for presidential electors equal in number to the state's total representation in the Congress. Virginia, for example, has ten members of the House and two senators, hence 12 electors. Following the November general election, the electors meet and cast their surrogate votes for president and vice president. If no pair of candidates wins a majority of the 538 electoral votes, the election must go to the House, where each of the 50 state delegations will cast a single vote.

Under Bayh's amendment, the electoral college would be obliterated root and branch. The people would vote directly for president and vice president. If the winning team polled at least 40 per cent of the total vote, nothing more would be required. If the winning plurality were less than 40 per cent, a run-off would be held between the two highest candidates.

Conable's resolution, by contrast, would preserve the basic structure of electoral votes within the several states. But instead of awarding a state's entire electoral vote to the statewide winner, Conable would divvy up the votes by congressional district. Suppose that in Virginia in 1980, Republican Ronald Reagan carries seven congressional districts, Democrat Jimmy Carter carries three. Reagan wins the statewide popular vote. Under the District Plan, Reagan gets nine electoral votes (for seven districts plus the whole state), Carter gets three.

The vice in Bayh's radical plan is that it would destroy the last vestiges of federalism in our country. Under the Constitution, whenever we act politically, we act through our states. The concept of a union of separate, sovereign states has served us wonderfully well for nearly 200 years. This bedrock principle of American government ought not to be destroyed without the most compelling cause.

Conable's proposal is attractive. While the rule of winner-take-all is sound enough in electing a county sheriff, it is widely perceived as unfair in electing a president. In 1976, Carter carried Ohio by only 11,000 votes but claimed all of the state's 25 electoral votes. Meanwhile, Ford carried California by only 140,000 (out of 7.5 million votes cast) and claimed all 41 electorial votes there. The District Plan would more fairly reflect the people's wishes.

But there is great wisdom in the maxim that says: If it ain't broke, don't fix it. The electoral machinery may be clumsy and antiquated, but it works. If Article II is to be modernized at all, prudence suggests mild repairs instead of massive overhaul. We ought to protect the country from the risk of the maverick elector who dishonors his surrogate duty; such electors have appeared in each of the past three elections. And we ought to discard the provision that allows each state but one vote if an election were thrown into the House.

Bayh feels his proposal has been hashed over long enough. He promises to seek an early vote in the Senate. The Conable substitute will be pushed in the House, though perhaps not as vigorously. One way or another, this important constitutional issue is heading for a showdown. We ought to be thinking about it, and we ought to be thinking about it now.

[From Newsweek Magazine, April 4, 1979]

DON'T FOOL WITH THE ELECTORAL COLLEGE

(By George F. Will)

President Carter has joined Sen. Birch Bayh's crusade to abolish the electoral college, the world's most tested and vindicated mechanism for choosing a Chief Executive. For years the Indiana Democrat has been advocating direct election so "the people" can choose presidents, and because the electoral college is "undemocratic" and dangerous.

One of Bayh's terrors is the faithless elector" who does not vote for the candidate who carries his state. Actually, of the 17,000 electors since 1789, about ten have been "faithless," none has altered an election. If this specter haunts Bayh, it can be exorcised by abolishing the *office* of elector, and leaving the electoral college in peace.

Bayh also says the electoral college must go because in three elections (1824, 1876, 1888) the electoral-vote winner was not the popular-vote winner. Actually, even if in "only" 45 of 48 elections the same person won both, that would not justify Bayh's calling the electoral college "electoral roulette."

In 1876 and 1888, exuberant fraud on both sides probably involved more votes than the narrow victory margins. In 1824 all four candidates were together on ballots in only five of 24 states. Six states (including New York) had no elections: the legislatures selected the electors. Only about 350,000 of the 4 million eligible white males voted. Andrew Jackson won 38,149 more votes than John Quincy Adams, but neither had a majority of electoral votes. So the House of Representatives decided, picking Adams.

JUSTIFYING REVISION

This was before the emergence of the two-party system. But Bayh says the events of 1824 (and 1876 and 1888) justify fundamental constitutional revision.

Actually, an electoral vote victory by a candidate who loses the popular vote by a substantial margin is improbable and has never happened. And only extremely dogmatic majoritarians think democracy would be "subverted" (Bayh's word) if the electoral college gave the Presidency to a candidate who lost the popular vote by a wafer-thin margin. It is odd to say that the "nation's will" could be "frustrated" in a standoff.

Bayh is fond of the somewhat feverish thought that under the electoral college a candidate "could" win with just 25 per cent of the vote by narrowly winning in the eleven largest states, even if he did not get a single vote in any other state.

But under direct election a candidate "could" sweep Alaska's 231,000 eligible voters, lose 49 states by an average of 4,700 votes, and win. This "possibility" is about as probable as the one that Bayh is fond of imagining.

Bayh is not apt to produce what Madison was too sober to attempt, a constitutional arrangement under which no unwanted outcome is even theoretically possible. Serious people consider probabilities, not possibilities. And direct election would make probable a grave difficulty.

The electoral-vote system, combined with the winner-take-all rule (a custom, not a constitutional requirement), discourages ideological third parties: such parties are unlikely to win pluralities in many states, so they are effectively shut out of the decisive electoral-vote competition. But direct elections would incite such parties. They could hope to prevent any candidate from receiving a national majority, or even an impressive plurality of popular votes.

SUBSTANTIAL DANGER

Bayh's remedy for this defect in direct elections poses a substantial danger. He proposes a second election, a runoff between the two leaders, if neither gets 40 per cent the first time. But a runoff would be an incentive to minor parties. They would try to force a second vote so they could sell their support.

Bayh evidently is undisturbed by the fact that direct election might frequently produce "41 per cent" presidents. The electoral college has only produced three presidents with such low pluralities, in 1824, before the two-party system developed, and in 1860 and 1912, when the two-party system was in disarray. But Alexander Bickel of Yale warned that direct elections might make disarray permanent:

"The monopoly of power enjoyed by the two major parties would not likely survive the demise of the electoral college. Now, the dominance of two major parties enables us to achieve a politics of coalition and accommodation rather than of ideological and charismatic fragmentation, governments that are moderate, and a regime that is stable."

The genius of the Constitution is the effect it has on the character of majorities. The electoral college promotes unity and legitimacy by helping to generate majorities that are not narrow, geographically or ideologically, and by magnifying (as in 1960, 1968, 1976) narrow margins of victories in the popular vote.

Such considerations are of no interest to single-minded majoritarians, who consider democracy a matter of mere numbers. They note that in 1976, 123,545 Alaskans determined three electoral votes, one for each 41,181 voters, but in California (7,867,043 voters, 45 electoral votes) there was only one electoral vote for each 174,823 voters. Is an Alaskan four times more powerful than a Californian? Is a Californian more powerful because he helps to determine a larger bloc of electoral votes? Bayh says that in any case, the system is "undemocratic." His understanding of democracy has the charm of simplicity: "Every vote should count the same." That, he says, is constitutional propriety, as stated by the Supreme Court in its "one man, one vote" reapportionment ruling. But Bickel revealed the foolishness of this argument by expressing it this way: "It is time for the system to be ideologically pure. The Court has said that the Constitution commands equal apportionment. We should therefore, reapportion the Presidency. In effect, we must now amend the Constitution to make it mean what the Supreme Court says it means."

ARITHMETICAL MAJORITARIANISM

As Irving Kristol and Paul Weaver have written: "In recent decades, the democratic idea has been vulgarized and trivialized. From being a complex idea, implying a complex mode of government, appropriate to a large and complex society, the idea of democracy has been debased into a simple-minded arithmetical majoritarianism—government by adding machine."

Defenders of the electoral college are defending not an eighteenth-century artifact, but a system that has evolved, shaping and shaped by all the instruments of politics, especially the two-party system. It is an integral part of a constitutional system with premises too subtle and purposes too varied to be summed up in slogans like "one man, one vote." Bayh insists that the electoral college "is, by simple definition, undemocratic." But this constitutional democracy was not devised by, and should not be revised by, persons addicted to simple definitions of democracy.

[From the Washington Star, Feb. 22, 1979]

"IF IT AIN'T BROKE, DON'T FIX IT," MR. BAYH

(By Edwin M. Yoder, Jr.)

Sen. Birch Bayh still yearns to liberate the American presidential voter from the elitist clutches of the electoral college.

That ambition has smitten more thoughtful men. But Senator Bayh runs the Senate subcommittee on constitutional amendments, and his views on electoral college "reform" enjoy a pertinence which their superficiality scarcely warrants.

Senator Bayh is a "one man, one vote" zealot. The only truly "democratic" elections as he sees it, are by raw head count, with every vote "counted the same." The electoral college, he said in a recent interview with this newspaper, "has totally outlived its usefulness." Some quite considerable students of the Constitution (the late Profs. Alexander Bickel and Martin Diamond, for example, as well as Prof. Arthur Schlesinger Jr. and the late President John Kennedy) have thought otherwise. But Senator Bayh, ignoring them, attributes the resistance to reactionaries who want "political protection" for their states.

Before the senator's zeal sweeps us to irreparable change, let us recall the Bert Lance principle: "If it ain't broke, don't fix it."

Is the electoral college system really "broke," as Senator Bayh and company insist? They worry that it could produce a president who pulled a smaller popular vote than his rival. That is a possibility; but as the number of one-party states declines, it is increasingly remote. Grover Cleveland, ninety-odd years ago, was the last presidential candidate so victimized, and the only one in U.S. history. Since then the electoral college vote has faithfully followed the popular verdict and often amplified it.

In fact, the main argument for the electoral college system is the oldest argument of all. It works. It works to reinforce popular majorities; it buttresses the two-party system; it draws the attention of candidates, in the winner-take-all system, to states that would otherwise be easy to ignore; it affords politically sensitive minorities (blacks, labor, ethnics, southerners) a crucial role in closely fought states; and it is very nearly the last fixture of dual federalism in the national political picture—giving the states a role that would vanish in a national popular vote.

Another of Senator Bayh's worries is the menace of the "faithless elector"—the presidential elector who flouts the popular verdict in his state. It has happened, although to no effect. But is it true, as Senator Bayh claims, that "electors . . . are completely free to ignore the wishes of the electorate"? Not at all. The Supreme Court has ruled that the fidelity of presidential electors is a "political" matter, for states to decide. State legislatures may enforce compliance with the popular vote. When they choose to do otherwise they risk defiance of their own voters, at no cost to the rest of us. But the faithless elector threat, if such it is, could be removed without radical overhaul of the electoral college system. A simple constitutional amendment abolishing elector discretion would do the trick.

Senator Bayh obviously won't be content with tinkering; he insists on sweeping change. Would the senator's radical "reform" improve the system of presidential selection?

That depends on what one means by "improvement." Would the nationalization and homogenization of elections (and the submergence of vital state and minority interests) be an improvement? Would the encouragement of multiple candidacies and splinter parties be an improvement? Would runoffs—second elections when the leading candidate failed to obtain the necessary 40 per cent plurality—be an improvement? "The runoff," one critic has observed, "would be the true election, and the initial election would look a bit like the start of the Boston Marathon with its motley crowd of contestants."

And you could count on another hitch. In closely contested elections, every local political boss would lock up the ballot boxes for a second count and maneuver to make deals and share the spoils. Now we wait on election night for states to come in: under the Bayh popular vote plan, we might have the dubious privilege of waiting for dozens, even hundreds or thousands, of later precincts.

Senator Bayh and his allies don't seem to recognize that in politics, as in nature, there is a natural balance of forces. Fundamental "reforms," even at best, entail tradeoffs of good and bad.

Presidential elections by popular vote would satisfy a late-blooming populistic theory of one-man-one-vote democracy. But at what price? The further reduction of states to political ciphers? Further erosion of the two-party system, and with it the exercise of collective political accountability? Presidential elections dominated by network television exposure, giving less and less weight to political competence and more and more to pinchbeck glitter and glamor? A run of contested, unstable presidencies?

Senator Bayh probably won't renounce his zeal for reform. But he ought to remember that every reform has its nemesis.

FOREIGN AID FOR WHAT?

Mr. HATCH. Mr. President, the Carter administration's proposed budget for fiscal year 1980 calls for approximately $7.0 billion for a broad-range of economic assistance programs for other nations. This represents an increase of $500 million over fiscal year 1979, or more than 7.5 percent. Despite the fact that U.S. foreign assistance programs have no significant domestic constituency, they continue to be well funded year in and year out largely because it is difficult to take issue with the humanitarian impulses that underlie them.

As observed by Prof. P. T. Bauer, the distinguished developmental economist at the London School of Economics—

> Foreign aid is perhaps the only item of public expenditure in the West which is never criticized in principle. It is of course said to be insufficient. . . . But this criticism is itself merely the basis for advocating that aid should be directed to more appropriate targets as well as increased.

In a highly provocative article in a recent issue of Commentary, Professor Bauer, and John O'Sullivan, a British journalist, proceed to explore this treatment of foreign aid, and argue that the basic premises for the program ought to be reconsidered. I would like to call to the attention of my colleagues the complete article.

The article follows:

Foreign Aid for What?

(By P. T. Bauer and John O'Sullivan)

"Do not attempt to do us any more good. Your good has done us too much harm already."—Sheik Muhammed Abduh an Egyptian in London 1884)

Foreign aid[1] is perhaps the only item of public expenditure in the West which is never criticized in principle. It is of course often said to be insufficient. Past aid programs too are sometimes denounced as inappropriate—in particular aid which has financed obviously wasteful investment or aid to oil-rich countries with a high per-capita income. But this criticism is itself merely the basis for advocating that aid should be directed to more appropriate targets as well as increased.

Nor is this advocacy confined to mere rhetoric. Of all forms of public expenditure aid is the last to be cut in times of crisis even when the crises are caused by balance-of-payments deficits to which aid contributes far more directly than say domestic welfare programs. And when aid has been cut in extremis as in Britain during the unusually severe 1976 sterling crisis those reductions have been the first to be made good.

In public discourse those whose views reach the general public—with a few notorious exceptions—have an almost umbilical attachment to extensive and continuing aid. That aid is virtuous and desirable is no longer the conclusion of an argument; it is the starting point of all arguments an axiom. The implications of this axiomatic status were crisply summarized in a 1972 editorial in the scientific journal, Nature: "If 1 percent, in total, is the present target, what is wrong with 2 percent?" And if 2 percent, why not 4, or 8, or 16? For you can never have too much of a good thing.

But the validity of an axiom is independent of what occurs in the real world. Whatever happens in recipient countries can therefore be adduced to support maintenance or extension of aid. Progress is evident of its efficacy and so an argument for its expansion; lack of progress is evidence that the dosage has been insufficient and must be increased. Some advocates argue that it would be inexpedient to deny aid to the speedy (those who advance); others, that it would be cruel to deny it to the needy (those who stagnate). Aid is thus like champagne: in success you deserve it, in failure you need it.

Accordingly, and with perfect logic, the terms "increase" and "improvement" are synonymous in aid discussions. Thus, according to an official OECD report in 1972: "In these GNP terms, the biggest *increases* were made by Sweden, Denmark, Portugal, France, with the United Kingdom also doing quite well. Belgium, Germany, Italy, Norway, and the United States also *improved* their performance . . ." (emphasis added).

So familiar are we with terminology in which giving more is unhesitatingly equated with doing better that we may not notice how perverse it is. It equates benefits with costs. Of course, benefits *may* accure to someone. But we cannot simply assume that is is so. Nor can we assume that the beneficiaries, if any, will necessarily be the *peoples* in less developed countries (LDC's) rather than their governments. Still less can we take it for granted that their benefit will vary in line with our sacrifice. Yet we make this very assumption without realizing it when we equate greatly increased expenditures with improvement and a smaller increase with "doing quite well."

In short, if one starts from the axiom that aid is a good thing, not even an avalanche of evidence will produce any other conclusion. Yet to dispense altogether with arguments and evidence would amount to a social and intellectual solecism. Numerous rationalizations are therefore deployed. The most familiar as that aid is indispensable for development; that it is necessary for the relief of poverty; that it is an instrument for international redistribution of income; that it represents restitution for past wrongs; and that it serves the political and economic interests of the donors. Aid advocates shuffle these arguments free—primarily in response to the shifting demands of intellectual and political fashion. There were few appeals to the restitution argument in the 1950's, for example, when the West had not yet built a religion out of the White Man's Guilt.

DEVELOPMENT

It used to be argued in the early days of foreign aid that it was indispensable for the development of poor countries. Without aid, incomes would be too low to generate the capital required for investment and thus higher incomes. This argument was popularized as "the vicious circle of poverty."

Yet we know that all the present developed societies began poor and subsequently progressed without external aid. Large areas of what are now LDC's also progressed rapidly long before foreign aid—for instance, Southeast Asia, West Africa, and Latin America. Moreover, Western societies made great progress in the past under conditions far more difficult than those which face LDC's today. These latter can draw on vast external markets, on an abundant supply of capital, and on a wide range of technologies which were not available in the early stages of Western development. It is plainly not true that aid is indispensable for development.

A more sophisticated version of this argument holds that external subsidies are required because, without them, LDC's will run into balance-of-payments difficulties, supposedly inherent in the early stages of development. Professor Gunnar Myrdal, in his book *An International Economy*, argued that ". . . there must be something wrong with an underdeveloped country that does not have foreign-exchange difficulties." Hong Kong, Singapore, and Malaysia, among others, then, are presumably guilty of succeeding in the face of the best professional opinion. And, of course, contrary to Professor Myrdal's prescription, all Western countries developed and enjoyed rapid economic progress without running up against payments deficits.

Might it be, however, that the West was able to advance without alms but that LDC's today cannot do so? There is just this much truth in the argument: namely, that economic achievement depends principally on people's attitudes, motivations, mores, and government policies. People in LDC's may place a high value on factors that obstruct material progress. They may be reluctant to take animal life, they may prefer the contemplative life over an active one, they may oppose paid work by women, or they may simply be fatalistic. If, on account of such factors, they are uncongenial to material progress, then external doles will not promote development. For if the conditions for development other than capital are present, the capital required will either be generated locally or be available commercially from abroad. If the required conditions are not present, aid will be ineffective and wasteful.

It might be argued in reply that aid, while not indispensable for progress, is nonetheless likely to accelerate what would otherwise be a very slow rate of development. This contention, which differs substantially from the vicious-circle-of-poverty argument, is inconclusive. Aid means at most that some capital is supplied more cheaply than if it had been obtained commercially. But in the context of development, this benefit is offset by at least two disadvantages. Capital supplied commercially has to be adjusted to market factors and to general local conditions much more closely than official gifts and loans (which can be, and often are, written off). It is therefore much more likely to be productive. And, as we shall see, aid inflows set up a whole host of unfavorable repercussions on the basic determinants of development.

POVERTY

To reduce poverty and distress is an irreproachable and unambiguous aim. That is perhaps one reason why this justification has come to loom large in aid propaganda. But there are certain moral and practical anomalies concealed here.

Aid to relieve poverty is not merely unconnected logically with aid as a spur to development; it is largely at variance with it. These two objectives differ in much the same way as alms to a beggar differ from scholarships to promising students, or assistance to an invalid from loans to establish young people in business. The poorest people in any society are unlikely to have, to the same extent as the better off, the aptitudes and motivations that encourage economic achievement. Aid based upon the criterion of poverty,

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therefore, will have little impact on the economic progress of the recipient society as a whole.

This confronts donors with a dilemma familiar to 19th-century social reformers. Are they simply to dispense aid and do nothing more? If so, they run the risk of transforming poor people into paupers permanently dependent on the dole. But the alternative is hardly more attractive. It is that donors should intervene extensively to instill in the recipient poor those qualities conducive to economic success.

In many Asian and African societies, such god-like intervention would require wholesale reform of local social institutions and cultural values and therefore large-scale coercion of the alleged beneficiaries. This stern necessity is recognized, indeed almost welcomed, by some of the more clear-sighted supporters of development aid like Professor Myrdal. In his vast tome, Asian Drama (1968), he specifies what would be required in India if "the government were really determined to change the prevailing attitudes and institutions and had the courage to take the necessary steps and accept their consequences." His proposed measures include the abolition of caste, a rational policy for husbandry, including the killing of cows, and "in general, enactment and enforcement, not only of fiscal, but also of all other obligations on people that are required for development."

But as Professor Myrdal tentatively admits elsewhere in the book, ". . . institutions can ordinarily be changed only by resort to what in the region is called compulsion—putting obligations on people and supporting them by force." Is such social upheaval justified by the aim of relieving poverty? And even if it is, would aid be accepted by the recipients if they understood the terms? And would such measures even relieve poverty—or would they intensify it, by transforming a living society into a dejected, inert, apathetic mass?

Perhaps it is fortunate that official aid in reality has little to do with the relief of poverty. It goes to governments and is spent by politicians and civil servants. Its allocation is inevitably influenced by their personal interest, and by the political objectives of the groups to which they belong. Is it surprising then that the beneficiaries of aid usually turn out to be those same politicians and civil servants, academics and businessmen close to them, and social groups which are connected to the government in some way, perhaps through tribal, family, or ideological links, or whose support is considered valuable? Only by rare accident are the poorest likely to come into any one of these categories. Indeed, the most indigent groups in the LDC's are largely outside the orbit of aid—for instance, aborigines, pygmies, and desert peoples. These groups contain many millions of people, but they are practically never mentioned in the literature.

Many of the schemes now being canvassed as an extension of Third World aid—commodity agreements covering primary products, for instance—can benefit the poor only haphazardly, if at all. Exporters of primary products are by no means always poor. Many developed countries are net exporters of primary products—as, of course, are the very rich OPEC countries. And quite apart from OPEC, primary producers are often the more prosperous LDC's—for instance, Malaysia, the Ivory Coast, Colombia, and Brazil. Within the exporting countries, moreover, it is the well-off, in particular established producers as well as politicians and administrators, who stand to benefit from commodity agreements.

If anything, the poor are likely to be harmed by such arrangements. They raise the price of necessities to poor people in both rich and poor countries. And to maintain prices, which is the raison d'être of such schemes, suppliers have to be restricted by excluding potential producers who are generally much poorer than those who benefit.

Finally, many governments receiving aid have pursued policies which have reduced per-capita incomes in their countries and aggravated the lot of the poorest. The expulsion of small traders from Zaire, for instance, had both these results. But if the criterion of the relief of poverty were to be applied uncritically, then such governments would qualify for more aid. Paradoxically this would encourage policies of impoverishment.[2]

REDISTRIBUTION

Since the U.N. General Assembly declared its support for a new international economic order in 1974, the redistribution of world income has become a leading aim of foreign aid. But this is a misleading phrase. When "world income" is "redistributed," what happens is that a proportion of incomes in developed countries is confiscated and handed over to the governments of recipient countries and the administrators of aid agencies.

Foreign aid is thus seen by many of its advocates as the natural extension of progressive taxation onto the international plane. Even the British humor magazine, Punch, traditionally known for its insular conservatism, wrote some years ago in an editorial: "In a sane world, the rich countries would be required to surrender a proper fraction of their productive resources to an international body charged with the duty of assisting the economic programs of the needy nations: progressive taxation at the international level."

But this is again misleading. Aid is a transaction between governments. Unlike progressive taxation, it cannot be even imperfectly adjusted to the personal and family circumstances of payers and recipients. Indeed, many people in donor countries are far poorer than many in recipient countries, especially those in recipient countries who actually benefit from aid. Hence, in the now familiar formulation, aid takes money from the poor in rich countries and gives it to the rich in poor countries.

Another argument for international "redistribution" is the need to contain an allegedly widening gap between the rich and poor countries. Yet the concept of such a widening gap is arbitrary, and the evidence for it nebulous. It is based on faulty statistics and comparisons which overlook differences of physical and social context.[3]

There is, however, one gap between the West and the Third World which is more significant and precise than the nebulous gap in living standards. This is the difference in life expectancy between LDC's and the developed world. It declined sharply between 1950 and the early 70's. Life expectancy in LDC's rose from 35–40 years in 1950 to 52 years by 1970—an increase of between 30 and 50 per cent. By comparison, the developed-world increase was from 62–65 years to 71 years over the same period. This represents a fall in the ratio between the two aggregates from 1.7 to 1.3–1.4 and a decline in the absolute difference from about 26 to about 19 years.

Here then is a gap, relatively free from conceptual ambiguity, which has not widened but narrowed recently. And (as Macaulay insisted in his review of Southey's Colloquies on Society"), "We might with some plausibility maintain that the people live longer because they are better fed, better lodged, better clothed, and better attended in sickness. . . ."

The idea of world redistribution is thus full of ambiguities and defects. At the same time, it inspires policies which are both futile and destructive. For policies of world redistribution are usually based on the tacit assumption that people's attitudes, motivations, and mores are essentially uniform and that, accordingly, differences in incomes and wealth are somehow abnormal results of accident or exploitation. Yet, as we have seen, these factors are the underlying causes of visible differences in incomes and living standards. Three clear conclusions follow. First, any serious attempt to realize international equality by wealth transfers would have a purely temporary effect. The underlying factors would soon reassert themselves to produce visible income differences. So the process would need to be repeated endlessly.

Secondly, once this was grasped and the leveling process extended to reduce the underlying differences, a wide-ranging and persistent coercion would be required. Just how much coercion might be needed would depend on the degree of standardization sought and the strength of a given people's attachment to their established customs. But the process of coercion would certainly have to include much heavier taxation on all Western countries; additional taxes on relatively prosperous groups in LDC's; and the ruthless uprooting of all customs and attitudes standing in the way of material progress. Obviously such a forcible remolding of both individuals and nations could not even be attempted by democratic national governments. Some international authority with near-totalitarian powers would be required.

Thirdly, unless a uniform ability to take advantage of economic opportunities were to be instilled into the various peoples of the earth, wealth transfers would reallocate resources from those who use them more productively to those who use them less so. This result would come on top of any disincentive effect, or other adverse repercussion, of the transfers in the West or the Third World. So the exercise is bound to reduce total world income.

RESTITUTION

When other arguments fail, appeals are addressed to the West's guilty conscience and foreign aid is urged as restitution for past wrongs inflicted on the Third World. In fact, some of the poorest Third World countries were never colonies. And such victims of colonialism as there were (people killed or maimed in colonial wars, tribal farmers dispossessed by colonists, slaves, etc.) are now dead and beyond the reach even of the World Bank.[4] Their descendents have gained greatly from being born into the modern colonial and post-coloial world rather than into the circumstances of pre-colonial Africa and Asia. Indeed, millions of people, who would otherwise have died, have survived because of Western techniques and ideas, notably medicine and public security, imported by colonial governments. Would the rest really have preferred a low life expectancy, continued poverty, disease, slavery, and incessant wars in order to retain undisturbed control of mineral resources they were unable to develop adequately?

Even if it could be established that colonialism was on balance harmful to the colonized, any theory of restitution would still fail because of the obvious impossibility of righting historical wrongs. What date would we fix after which crimes might be considered for compensation? Any choice would be arbitrary and therefore unjust. How would we identify the victims and the beneficiaries? Not, surely, on racial grounds alone with their primitive implication of collective guilt ("his blood be on us, and on our children"). And would all historical crimes be brought to book (Arab slave trading, pre-colonial wars of aggression in Asia and Africa), or only Western and colonial crimes? A statute of limitations on historical wrongs is more than just; it is unavoidable.

More often, however, it is not the past but the very existence of international income

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differences in the present which is denounced as a Western crime on the grounds that such differences necessarily reflect Western economic exploitation. Thus, in *Christianity Today*, an influential evangelical journal, Professor Ronald J. Sider wrote, under the heading "How We Oppress the Poor": "It would be wrong to suggest that 210 million Americans have sole responsibility for all the hunger and injustice in today's world. All the rich developed countries are directly involved. . . . We are participants in a system that dooms even more people to agony and death than the slave system did" (July 16, 1976). And Jill Tweedie, a prominent British journalist, wrote in the *Guardian* (London): ". . . a quarter of the world's population lives, *quite literally*, by killing the other three-quarters" (emphasis added).

In recent years, such virulent allegations have become commonplace in the advocacy of wealth transfers. Yet they are absurd and unfounded, as can be seen from the single fact alone that in the Third World today the poorest nations are those with the fewest Western contacts, the richest those with the most extensive links. Conversely, some of the richest Western countries, notably Sweden and Switzerland, had until recently little economic contact with the Third World.

These baseless assertions of Western responsibility for poverty in the Third World have received some ostensible academic stiffening from the argument that the Third World has been held back by Western manipulation of the terms of trade. Yet even if it were true (which in point of fact it is not) that the terms of trade were unfavorable to LDC's or deteriorating, it would not follow that they are damaged by trading links with the West, merely that they do not derive quite as much benefit as they would under more favorable terms. They would be even worse off if there were no trade to have terms about.

SELF-INTEREST

Finally, there is the suggestion—frequently put forward by aid advocates with Machiavellian pretensions—that aid serves the political strategy of the donors and that it promotes exports.

Yet to serve Western interests, aid would need to have clear conditions attached to it, and to be adjusted to the conduct of the recipients. Such criteria have been notably absent from its operation. (Only recently the European Economic Commission assured the Marxist government of Angola that EEC aid would be free of political conditions.) Multinational aid, a large and increasing proportion of the total, is specifically supported on the grounds that it does not lend itself to arm-twisting or blackmail—a curious use of the concept in which it is the payers and not the recipients who engage in blackmail.

But in practice, Western interests are also largely ignored in bilateral aid. Many, possibly most, recipients of aid, especially in Asia and Africa, have confiscated Western enterprises and yet have continued to receive aid. Examples include Algeria, Ghana, India, Mozambique, Sri Lanka, Tanzania, Zaire, and Zambia. The hostility of many aid recipients to Western donors and their friendliness toward the Soviet bloc are also a familiar feature of the international scene.

The anomalous and baffling absence of conditions to protect or promote the interest of the Western donors paradoxically arouses suspicion in the recipient countries. It suggests that aid is a covert attempt to buy influence, that it is only partial restitution for past wrongs, or that it is an instrument for dumping unsellable goods on the recipient countries. Such allegations are advanced even by aid recipients friendly to the West.

Very recently, it has come to be argued that aid could serve a wider political interest by promoting human rights in the recipient countries. In practice, however, expressions of concern about human rights are determined by the vagaries of political fashion and by the talents for propaganda of different groups. How else can we explain the absence of protest at, or even the explicit tolerance of, such large-scale brutality and inhumanity by aid recipients as the forcible sterilization of hundreds of thousands, probably millions, of people (predominantly the poorest) in India under Mrs. Gandhi, or the enforced herding of millions into collectivized villages in Tanzania, as well as massacres in Burundi, Ethiopia, Nigeria, Tanzania?

If a strict and disinterested criterion of human rights were to be applied to foreign-aid programs, there would be very little aid granted to LDC's: President Carter himself recognized this implicitly last year when he asked Congress to remove human-rights restrictions on U.S. funds for the World Bank. So much for aid as an instrument of human rights.

When addressing domestic politicians, labor leaders, and businessmen, advocates of aid often urge that aid promotes exports and employment. In its crudest form the argument is that aid funds are used to buy exports, and thus sustain employment. But aid is taxpayers' money. It therefore reduces the domestic demand for other goods which the taxpayers would have bought if their taxes had been lower. To argue that aid helps domestic employment is like saying that a shopkeeper benefits from being robbed if the burglar spends part of the money in his shop. Direct subsidies to export industries would simplify the process. This method would also generate more employment, because less money would "leak" abroad—in the sense of not being spent on the exports of the donors—to the detriment both of employment and the balance of payments.

According to another version of this argument, aid benefits the donor economies and sustains employment by promoting the long-term development of the recipients. As we have seen, this argument prejudges the issue by assuming that aid is necessarily effective, which is doubtful at best. The argument also ignores the alternative and more productive use of aid funds in the donor countries and elsewhere. That such uses exist is suggested by the fact that aid programs and policies have to be financed from taxes. Were they as attractive as alternatives, they could be financed through the market. And there is also the difficulty aid recipients have in servicing even very soft loans, which indicates that much of the capital supplied has been wasted.

II

If aid were like manna which simply descended from heaven, both costless and enriching everyone equally, producing no unlooked for and damaging consequences, then it could only be beneficial. But mundate aid is not at all like manna. It unleashes a host of repercussions, damaging to economic performance and development, which can easily outweigh the marginal effect of an inflow of subsidized resources.

Aid promotes the widespread politicization of life in the Third World. This is because it goes to governments, not to the people at large—a distinction obscured by conventional terminology which identifies a government with the people. Aid therefore necessarily increases the power, resources, and patronage of government in the society. This result is reinforced by preferential treatment of governments which try to establish state-controlled economies—a preference supported by the spurious argument that comprehensive state planning is necessary for material progress. In fact, economic controls introduced in the name of so-called development planning divorce output from consumer requirements and generally waste resources and obstruct their growth. These effects are particularly pronounced and damaging in poor countries where there are rarely enough trained and experienced administrators to fulfill the essential functions of government, let alone embark on sophisticated economic tasks which have baffled the British Treasury for thirty years. Indeed, an important economic effect of development planning is the waste of that scarce resource—administrative talent.

Aid also enables Third World governments to extend these economic controls and to manipulate them for purely political aims. Such controls—state monopolies in major sectors of the economy, including imports, exports, and the purchase of farm produce; ubiquitous state enterprises in trade, industry, banking, and transport; extensive licensing of economic activity; and special taxation of particular groups—serve to strengthen the grip of rulers over their populations, to reward or placate their supporters, to undermine their opponents, and even to confiscate their incomes and property. Mrs. Gandhi, during the Indian "emergency," was able to intimidate and suppress a great many political opponents, especially in the press and business world, without recourse to legislation or administrative measures of a nakedly repressive character. She simply manipulated long-standing economic controls, which had been granted to the government ostensibly for quite different purposes (e.g., import licenses and price controls), against them and their suppliers or customers. Such manipulation of economic controls is taken for granted in most of the Third World. It evokes resistance or criticism only if it leads to economic breakdown or if some victims are unexpectedly intractable or become visible, as, for instance, the Asians expelled from East Africa.

The beneficiaries are politically effective groups, especially politicians, but also the military, civil servants, and politically acceptable businessmen. The victims are such unpopular groups as landowners, small traders, or members of particular tribes like the Ibo in Nigeria. Large sections of the rural population are often severely harmed, sometimes directly, more often because measures against minorities disrupt the trading system on which their livelihood largely depends. Ethnic minorities are often the worst affected; in the Third World economic controls are used widely and sometimes explicitly against the Indians in Burma, or against the Chinese in Malaysia.

In a politicized society, economic success or survival, and often even the physical survival of large numbers of people, come to depend on political developments and administrative decisions. This diverts the energies and activities of ambitious and resourceful men from economic life to politics, to the civil service and the politicized military—to the detriment of economic prosperity and progress. All this inevitably raises the political temperature and provokes acute political tension, especially in multi-racial, multi-criminal, and multi-tribal societies—that is, practically all LDC's.

What has all this to do with aid? Much state brutality and political instability would occur in any event. But in various ways, aid has encouraged or even made them possible. It has increased the stakes of political power. Are not well-rewarded and relatively secure political posts more attractive than striving after economic success that probably depends anyway on the arbitrary and uncertain will of politicians? Altogether, the flow of aid, the criteria of its allocation, and the dominant ideology of aid advocates and administrators, have served to further the politization of life throughout the Third World, especially in Asia and Africa.

Apart from promoting or helping along this disastrous politicization, aid has other adverse economic repercussions. It encourages restrictions on the inflow and deployment of private capital and enterprise. Such restrictions are imposed by most aid recipients—an evident anomaly, as a shortage of capital is the avowed ground for aid. But this anomaly becomes readily understandable when it is recognized that, whatever they say about development or equality, the prime purpose of most aid-recipient governments is to strengthen their hold over the societies they rule.

Aid also often supports projects so wasteful that they not only incur losses year after year, but absorb more domestic resources than the value of their output. Yet they are continued for such political reasons as the reluctance of the government to lose prestige at home, or contacts with the donors, especially when these are politically congenial, or a desire to appear technologically up-to-date. To mention but one of many examples, some years ago Tanzania received bush-clearing equipment under a Yugoslavian aid scheme. This was designed for use in temperate climates. Much labor and scarce water were necessary for cooling to keep it going somehow in the tropics. It was only after protracted pressure from external advisers that the Tanzanian government agreed to abandon the equipment.

Aid often biases social and economic policies toward inappropriate Western models. In many Asian and African countries Western-style universities have been financed with aid when there is neither adequate personnel to staff them nor suitable jobs for their graduates who become a discontented intellectual proletariat. Western-inspired trade unions are another instance of inappropriate external models in aid-recipient LDC's: if they are effective, they inflate costs and thus impair both competitiveness and local employment opportunities. But the most familiar and most inappropriate external prototypes are prestige industries and activities such as engineering complexes, steel works, and airlines. Even Laos and Ethiopia have, or at least had, their own national airlines (operated for them by foreign airlines who supply personnel, organization, and equipment).

Aid also encourages balance-of-payment crises because these can be used as a ground for demanding more aid. If a deficit occurs in the course of development planning, it may even be regarded by people like Gunnar Myrdal as the outcome of laudable efforts. Not unnaturally, this encourages Third World governments to pursue inflationary policies, to run down their exchange reserves, and to generate payments deficits. These in turn inhibit private saving and investment and encourage the flight of capital. Both the policies and their consequences justify the imposition of further economic controls and create an atmosphere of crisis. All of which stimulates requests for more aid—and so on ad infinitum.

Major psychological repercussions of aid also deserve notice. Aid encourages the delusion that a society can progress from indigence to prosperity without the intermediate stage of economic effort and achievement. Insistence on the need for external donations obscures the necessity for the people of poor countries themselves to develop the faculties and attitudes and to adopt the conduct and the mores required for sustained material progress—if this is what they wish to do. (Of course, they may reasonably prefer to remain poor and to hold on to their traditional ways.) Aid also subtly confirms and perpetuates ideas and modes of conduct which obstruct economic development—notably the idea that an improvement in one's fortunes depends on other people, the state, the rich, one's superiors, local rulers, or foreigners.

Some observers have emphasized the profoundly disturbing effects of the sudden impact of Western contact in LDC's. Official aid is much more likely than commercial contacts to produce such effects. Whereas the success of those who stake their own resources depends on estimating correctly the appropriate local conditions, those who direct taxpayers' funds from far away are under no such constraint. Hence the British government's celebrated East African groundnut scheme of 1947–50, in which huge sums were spent with virtually no regard to local conditions and which finally produced no groundnuts at all. By contrast, those who invest or work in LDC's often have to recognize not only local resources and mores, but local customs, susceptibilities, and hierarchies as well.

Moreover, the disturbing effect of Western commerce is partial, gradual, tentative, and almost casual, as against the sudden and coercive modernization of traditional society so often associated with foreign aid. Thrust between two cultures, neither directed by traditional customs nor inspired by Western incentives, the people in aid-recipient countries are probably less able to take advantage of economic opportunities than they were before.

III

How did it happen, then, that such a far-reaching and momentous policy was advanced on the slender basis of negligible rationalizations; that it was nonetheless supported by public men and prominent academics with a notable lack of caution or skepticism; and that, despite plentiful evidence of its perverse and harmful consequences, it finally achieved the status of an undeniable axiom?

"In the beginning was the word." The concept of a less developed world, eventually to become the Third World, was forged after World War II, largely under U.S. auspices, to denote the whole of Asia other than Japan; Africa, except occasionally South Africa and Rhodesia; and Latin America. The less developed world or Third World is thus in effect the whole world outside the West and Japan, and it includes some two-thirds of mankind.[5]

But "the word" was less a description of reality than an attempt to change it. Phrases like "the less developed world" served to provide a spurious veneer of unity to a vast aggregate of radically different, deeply divided, and often mutually antagonistic or bitterly hostile components. What is there in common between, say, Papua New Guinea and Algeria, or between Malaysia and Argentina, or between Thailand and Botswana, or between Sri Lanka and Ecuador, or between Chad and Peru? In most LDC's even today, the majority of people do not even know of the existence of other less developed countries, let alone feel a common solidarity. Some are in a state of uneasy truce with their neighbors, as for instance India and Pakistan, as well as many African states. Others, like Algeria and Morocco, are in a state of intermittent hostilities; yet others are engaged in deadly combat, as are Ethiopia and Somalia.

In one respect only are these various countries at all united—in distinction to and, as time has progressed, in opposition to the West (from which they nevertheless demand and receive aid). But this invented and theoretical unity has served an important practical purpose. For Third World governments, and agencies, and certain groups within the West, it has become a source of ideological and even financial advantage.

Ideologically, the invention of the Third World both reflects and promotes the radical-equalitarian belief that economic and social differences perform no useful function and are therefore abnormal and reprehensible. By this standard the West stands condemned both for its internal arrangements, which permit of such differences, and also because it is more prosperous than most of the Third World. Removing resources from or otherwise undermining the position of this corrupt metropolis thus becomes an instrument for promoting international equality, reducing the power of the West, and encouraging state-controlled economies in Asia, Africa, and Latin America.

In giving practical effect to these ideas, international organizations, notably the UN and its affiliates, have been a major force. Prominent staff members within these bodies—occupying highly paid and prestigious positions—have discarded even the appearance of neutrality to become, in effect, union organizers for the Third World. Thus, Dr. Mahbub ul Haq, director of the Policy Planning Department of the World Bank, an influential speech writer for Robert McNamara, wrote in his book, The Poverty Curtain: Choices for the Third World:

"A major part of the bargaining strength of the Third World lies in its political unity. This unity is going to be even more important in the struggle ahead. One of the essential tactics of the Third World should be to proceed through the process of collective bargaining so that whatever bargaining strength its individual members possess is pooled together.

"Such distinguished apparatchiks have done much to popularize the idea of a homogeneous less developed world with a common interest, and to organize concerted action by the most diverse countries against the West."

Social scientists and academic economists form another pressure group which advocates— and benefits from—official aid. Before World War II, indeed, development economics did not exist as a well-defined academic subject. It owes its birth very largely to the emergence of foreign aid, which led to a proliferation of posts in universities and foundations. Those who toil in the vineyard of development economics can aspire to well-paid and prestigious posts with aid agencies and international bodies or in organizations supported by them.

But there are more subtle advantages to be gained from the extension of aid. For if we try to see the world as aid advocates would wish us to do, it appears to be divided into two sharply distinct categories. The one category is represented by the people of the Third World, sunk in poverty, helpless and at the mercy of their environment, exploited by the West, caught in a vicious circle of poverty, unable to control their own fertility, devoid of will and with little capacity for individual action. In short, they are like paupers or children. On the other side of a vast gulf are the prosperous people in the West, partly conditioned by their environment but with a will of their own, active but villainous, responsible for the plight of the world's poor, but refusing to take the actions required to improve it.

There is no doubt which is the superior in this scenario. We emerged from poverty; they cannot. Their poverty is the result of our past exploitation; their chance of a better future rests with us. Whatever happens to the people of the Third World is determined by us. In short, what poses as compassion comprises much condescension. And this condescension readily leads to coercion by enlightened guardians who will act in everyone's best long-term interests. Thus, writes Dr. ul Haq (Kings College, Cambridge, Yale; Pakistan Planning Commission; the World Bank):

"The Third World can help its cause a great deal by establishing a substantive secretariat to serve the needs of its own forums . . . manned by the best people from the Third World and its main task should be to produce well-researched, well-documented, specific proposals which harmonize the political and economic interests of the Third World."

Can anyone doubt that the "best people" will be drawn from such institutions as Cambridge, Yale, the Pakistan Planning Commission, the World Bank, and their surrogates in the Third World? And is it therefore any wonder that such people are fervent believers in aid and in the kind of future it contributes to creating?

FOOTNOTES

[1] Throughout this article, all references to "aid" and to "foreign aid" are to official, government-to-government economic aid, whether bilateral or channeled through international organizations. Aid also includes the grant element in subsidized loans, debt cancellations, and certain kinds of international commodity schemes. We generally follow the common practice of referring to "aid" when the primary emphasis is on development or the relief of poverty, and to "wealth transfers" when it is on global redistribution or restitution.

[2] For a fuller discussion of this point, see "Against the New Economic Order," by P. T. Bauer and B. S. Yamey, COMMENTARY, April 1977.

[3] Some doubts about the significance of the widening gap, especially as a ratio of incomes, have recently crept into the aid literature. According to a World Bank study, the average per-capita GNP of the collectivity of LDC's (excluding China) grew in recent decades at a faster rate than that of the collectivity of developed countries. *25 years of Economic Development* 1950–75, by David Morawetz, World Bank, 1977, Chapter 2. See also, for a detailed analysis of the fallacies involved in the concept of a widening gap, "Against the New Economic Order," *op. cit*.

[4] A more detailed account of the many absurd and false allegations against the West by those anxious to stimulate its considerable feelings of guilt will be found in "Western Guilt and Third World Poverty," P. T. Bauer, COMMENTARY, January 1976.

[5] The treatment of the oil states and of the Communist countries is often ambiguous. Until 1973 the oil states were invariably classified as less developed countries even though some already had very high per-capita incomes. In political discourse they are still often included in the Third World. The position of the Soviet bloc is apt to be left undefined. Such practice illustrates the political nature of the division of the world into developed countries and less developed countries, or the West and the Third World.

[6] Note, incidentally, one pertinent aspect of aid. From its earliest days to the present global egalitarianism, Western countries have largely financed the spokesmen who assail them, the organizations which shelter these spokesmen, and the platforms for their attacks.

CONSTITUTIONAL MATHEMATICS

Mr. HATCH. Mr. President, there is an interesting connection between the two proposed amendments to the Constitution that are currently being considered by the States.

Consider a situation in which the constitutional amendment which would provide the District of Columbia with voting representation in Congress were to be ratified before June 30, 1982. This date is critical, because it is also the new ratification deadline for the proposed Equal Rights Amendment. The 94th Congress, in its waning days, approved a 39-month extension in the ratification deadline from its original March, 1979 deadline.

The District of Columbia amendment does more than provide Senators and Congressmen to the District. It also permits the District to participate in the constitutional amendment process itself "as though it were a State."

Suddenly then the Equal Rights Amendment would have to be ratified under article V of the Constitution not by three-fourths of the 50 States, but by three-fourths of the 50 States plus the pseudo-State. That is, by three-fourths of 51 jurisdictions.

Now a bit of quick mathematics. Three-fourths of 50 is 37.5. This is raised to the next whole number—38. Thus, constitutional amendments, including the ERA, now require the approval of 38 States prior to being written into the Constitution. Three-fourths of 51 is 38.25. If this is raised to the next highest whole number, we see that, upon the adoption of the District amendment, the approval of 39 States will be required for the ratification of constitutional amendments.

Given that whatever body in the District is designated to ratify constitutional amendments is almost certain to ratify the ERA (the District's City Council is a strong supporter of the national ERA boycott), that is a "wash" for the ERA. One more ratifying jurisdiction, but one more ratification is needed.

This untroublesome scenario, however, is subject to the dark shadow of some little noticed testimony that took place in the hearing rooms of the House Judiciary Committee in the fall of 1977. During the course of testimony by a panel of individuals on the constitutional aspects of the District representation amendment, one of them, a distinguished expert on constitutional law, made some interesting remarks on the constitutional three-fourths requirement for the approval of amendments. Prof. Arthur S. Miller is a noted professor of constitutional law at the National Law Center of Georgetown University, the author of numerous articles on the subject for legal journals, and a former consultant to the Senate Judiciary and the Senate Watergate Committees.

Professor Miller argued in behalf of the possibility that the three-fourths requirement does not necessarily demand that, with respect to fractions, we invariably seek the next highest number in order to determine the number of States needed for ratification. The suggestion was made that, in the manner of the IRS, we round off to the nearest whole number. In the event of the District's admittance to the amendment ratification process, this theory would require the ratification of (still) 38 States rather than the generally assumed 39 States.

In this approach, Professor Miller was seconded by the delegate from the District of Columbia, and the chief pusher of the District amendment, WALTER FAUNTROY. FAUNTROY observed:

> Inasmuch as we generally in this country round off to the nearest tenth, I believe it would be 38. So, I fail to understand the suggestion that we break with tradition and round it off to 39.

Although FAUNTROY subsequently indicated second thoughts about this position, there is no record that Professor Miller thought to reconsider his theory.

Despite the "traditions" of Representative FAUNTROY, the standard interpretation of the three-fourths requirement has been that it requires three-fourths; that is, 75 percent of the States. It has never before been considered to allow 70 or 72 percent or 74.8 percent of the States to ratify. Where fractions arise, the next higher number has always been considered necessary. Only, however, in the case of the 11th amendment is there any precedent for the "next highest" rather than the "rounding off" theory. Even that is a bit marred precedent, though, as a result of the difficulty that President John Adams had in ascertaining the precise dates of ratifications in several States (a new State—Tennessee—had been admitted into the Union in the late stages of the ratification effort).

Should the Miller interpretation of the three-fourths requirement be accepted (again working under the premise that the District ratifies the ERA), the proposed Equal Rights Amendment will, in effect, be granted a "free" State toward reaching its three-fourths total. Fully one-third of its remaining battle (assuming rescission is impermissible) would be accomplished in the form of the District of Columbia amendment.

While the Miller interpretation seems farfetched to most observers, it does not seem as farfetched as it might have a year ago. At that time, it would have seemed equally farfetched that Congress could unilaterally extend the ratification deadline for a constitutional amendment, that they could undo by a simple majority vote a deadline that had been approved by a two-thirds vote, and that they could extend the deadline only for States which had not ratified the amendment, with the ratifying States locked in forever to their positions.

Perhaps most intriguing is that the same scholars who have bequeathed these novel constitutional doctrines upon us have also concluded that, with respect to constitutional amendment procedures, congressional decisions shall never be questioned. Yes, the same people who have done so much to involve the Federal judiciary in every dispute and conflict in society have sought to preclude its participation in interpreting the meaning of the Constitution itself. By this view, Congress can "round off" if it wants to and there will be no Court review. Indeed, by this view, Congress can engage in whatever mathematical sophistry it wishes to and conclude that three-fourths of the States equals 35 of them. Presto, it's ratified.

While the latter ploy may be a bit much, the confluence of the Miller theory and the "Congress can do whatever it wants in the area of constitutional amendments" theory could suddenly save the day for the ERA. It could be a case of the most important fraction in the history of the Republic.

THE 50TH ANNIVERSARY OF THE INAUGURATION OF HERBERT C. HOOVER AS THE 31ST PRESIDENT OF THE UNITED STATES

Mr. HATFIELD. Mr. President, in introducing the series of essays I intend to place in the RECORD to commemorate the 50th anniversary of the inauguration of Herbert Hoover in 1929 as our 31st President, I suggested that Hoover's accomplishments were as diverse and extraordinary as those of any of our Presidents. I would like to share with my colleagues today an essay, written by Prof. Benjamin Weissman of Rutgers University at Newark, concerning one of those achievements: A 2- or 3-year part-time project which resulted in the saving of perhaps millions of lives.

In 1929, a devasting famine struck Soviet Russia. With Europe still struggling to recover from World War I the United States was the only nation in a position to send aid. Hoover was then Secretary of Commerce and head of the American Relief Administration which, according to Weissman, was the most effective famine-fighting organization in the world. After receiving President Harding's approval, Hoover pushed through Congress in a matter of days a $20 million aid appropriation for a country whose Government we did not even recognize! He organized the relief effort with typical efficiency, drawing upon his experience with rescue efforts in Belgium during the war, and in feeding much of Europe during the armistice period. During the Soviet aid program, a total of 180 Americans distributed 540,000 tons of food plus medical supplies.

After the program was concluded, the Soviet Government issued the following tribute:

> Thanks to the enormous and entirely disinterested efforts of the ARA, millions of people of all ages were rescued from death, and whole cities and districts were saved from the horrible catastrophe that threatened them.

Although the Soviet Government was later to attribute the American philanthropy to the need to relieve a "capitalist crisis" by disposing of an agricultural surplus, Dr. Weissman has found that, even today, Russians of that generation recall the relief effort with tremendous affection.

Mr. President, I ask unanimous consent that the essay by Professor Weissman, plus a brief biographic sketch of the author, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HERBERT HOOVER AND THE FAMINE IN SOVIET RUSSIA, 1921–1923

(By Benjamin M. Weissman)

No review of Herbert Hoover's career would be complete without at least a summary of a momentous but almost forgotten event in which he played a leading role—the rescue of a substantial portion of the population of Soviet Russia during the great famine of 1921. The American relief mission, undertaken and directed by Hoover and partly financed by a Congressional appropriation, was the first, and has remained the most intimate, engagement between the United States and the Soviet government.

In the Spring of 1921, reports of a devastating drought began to circulate in Moscow. It was a time of great political crisis for the Soviet regime. Although the revolt in the former Bolshevik stronghold, the naval base at Kronstadt, had been crushed, discontent was widespread and a new uprising seemed imminent. The economy of the country was in ruins; the means of subsistence were in scarce supply everywhere. As early as March, Lenin had warned:

"If there is a harvest, then everybody will hunger a little and the government will be saved; otherwise since we cannot take anything from the people who do not have the means of satisfying their own hunger, the government will perish."

There was no bountiful harvest. After three rainless months, Russia faced a disaster that threatened the lives of ten to thirty million people. According to a League of Nations investigating commission, it was the worst famine in the history of modern Europe. The hard-pressed Soviet government had neither the means nor the experience to cope with crisis. Lenin's worst fears seemed about to be realized.

As a last, desperate measure, the Bolshevik government permitted the remnants of the political opposition in Russia to form a broadly based famine relief committee to collect food and money within and outside the country. The most prominent member of the committee, the renowned writer Maxim Gorky, broadcast a pathetic plea to "all honest European and American people" to come to the rescue of his starving countrymen. All that Lenin and his associates hoped to gain from Gorky's appeal were several trainloads of food from sentimental Westerners.

Lenin himself launched an appeal to an audience from whom he believed he had the right to expect massive help even if it meant great sacrifice—the workers of the world. The real situation, however, was that neither European philanthropy nor the world proletariat was in any position to come to the aid of the famine-stricken in Russia. The continent had not yet recovered from the destruction of the first world war. Throughout Europe food was in short supply; wages were low; unemployment was growing. Only in the United States was there a surplus of food that could be used to fight a famine in a foreign country. America possessed another scarce resource—a "private" agency that was generally acknowledged to be the most effective famine-fighting organization in the world—the American Relief Administration (ARA). The head of the ARA—a successor to an official American food relief agency and the inheritor of its funds—was Herbert Hoover.

In 1921, Hoover was Secretary of Commerce in the Harding administration; but he was much more widely known throughout the world as a famine-fighter without equal. His rescue of the Belgian population during the war and his success in feeding a large part of Europe during the Armistice period had made him one of the most popular figures of the time. To millions of Europeans, Hoover and his famine fighters symbolized America—the rich, generous giant who could dispense life-giving food to entire populations at the stroke of a pen. To the heads of government, however, and especially to the Soviet leadership, Hoover also represented American anti-communism at its most adamant. According to Hoover's own testimony, he did not hesitate to use the vast food resources at his command to "stem the Bolshevist tide" by distributing supplies to anti-communist governments and groups during the Armistice period. In 1921, he was the leader of the group in the Harding administration that worked constantly to prevent recognition of the Soviet regime by the United States. On July 23, 1921. Hoover publicly answered Gorky's appeal by offering to feed as many children and invalids as the ARA's resources permitted "without regard to race, creed, or social status." He undertook specifically to supply one million children with food, clothing, and medical supplies and pledged that his organization would abstain from engaging in any kind of political activity.

The world press caught the high drama of Hoover's offer and featured news about the ensuing negotiations between ARA and Soviet representatives on the front page day after day. There was one country that did not publicize the unique event. The Soviet press was, for the moment, silent. As revealed in comments of Trotsky, Stalin, and others, some of the important Bolshevik leaders looked upon Hoover's initiative with misgiving. Lenin, on the other hand, was convinced that Hoover was primarily interested in renewing trade with Russia and not in a new intervention.

Hoover's team of negotiators under the leadership of the ARA's European director, Walter Lyman Brown, met with Lenin's sole emissary, Maxim Litvinov in Riga, Latvia on August 10. It took ten days of wrangling between Hoover and Lenin through their chosen surrogates before an agreement to feed the hungry children of Russia was reached. The "treaty" (as it became known in Soviet literature) was unique. It reflected both the dire need and suspiciousness of the Soviet leadership on the one side and Hoover's deep distrust on the other.

According to the terms of "the treaty," the American personnel of Hoover's "private" organization were granted virtual immunity from arrest during their stay in Russia. The Soviet government, however, retained the right to charge Americans with violations of Soviet law, including engaging in political activity of any sort. The ARA agreed to withdraw any of its employees against whom the Soviet government lodged a complaint that was based on "even a moral showing of revolutionary or political activities." This latter provision entailed no sacrifice on Hoover's part. He had earlier sent Brown a secret cablegram in which he asked his subordinate to "impress on each [member of the ARA] the supreme importance of their keeping entirely aloof not only from action but even from discussion of political and social questions. Our people are not Bolsheviks but our mission is solely to save lives and any participation even in discussion will only lead to suspicion of our objects." Throughout the stay of the ARA in Russia, the Soviet authorities never entered a complaint that an American relief worker had departed from this policy.

The European press greeted the agreement with unrestrained enthusiasm. Some commentators believed that the Hoover relief mission held the promise of something beyond the rescue of millions of the starving. (At the time, it was assumed that the success of any project attempted by Hoover was a foregone conclusion.) Respected observers were convinced that the Secretary of Commerce's initiative signaled the beginning of a new era of friendship and cooperation between the leading capitalist country and the first communist government.

In the United States, organized opinion divided according to ideology and interest. The left took Hoover to task for insisting that the release of all Americans imprisoned in Russia for any reason whatsoever take place before negotiations started. Liberals and philanthropic organizations echoed the complaint that Hoover had interposed "political demands" into what should have been purely humanitarian considerations. Right-wing extremists (Henry Ford, for instance) denounced Hoover for coming to the assistance of the godless Bolsheviks just as the regime was beginning to lose its grip on the country. The "business community" took its cues from the redoubtable Secretary of Commerce and expressed full faith and confidence in his integrity as both anti-communist leader and incorruptible defender of American ideals.

Agriculture and dairy interests, acting through representatives in Congress, swamped Hoover's office with bids to supply the relief mission. There was, at the time, a glut of farm products due to the sudden end of the first world war. Much later, the Soviet leadership was to attribute Hoover's philanthropy solely to the urgent need to dispose of the agricultural surplus and thus relieve the "capitalist crisis."

Hoover himself did not entirely discount the practical advantages of moving American produce out of the domestic market. He saw nothing wrong in helping the American farmer while rescuing millions of Russian children. Except for the ideologically imbued, the American public seemed inclined to agree with him.

For Hoover, the Russian mission was another opportunity to practice a profession that he had practically invented and in which his reputation was without rival. He applied to the extremely complicated project the resourcefulness and the ruthless efficiency that marked his earlier ventures into the wholesale rescue of starving populations. In a matter of days after receiving the approval of President Warren G. Harding (which he composed himself), Hoover pushed through Congress a $20 million appropriation for aid to Bolshevik Russia! It is a fair conclusion that only a certified anti-communist like Hoover could have reassured Congress that feeding starving Russian children did not promote world revolution. Ironically, it was through Hoover's persuasiveness that Congress enacted the first significant foreign aid program and authorized the first "wheat deal" for the benefit of a country whose government the United States did not even recognize.

To man the mission, Hoover recruited a small, dedicated army of famine-fighters from a pool of veterans of the Belgian relief mission, demobilized soldiers in Europe, former Rhodes scholars, and thousands of volunteers who lined up outside ARA headquarters in New York City. According to a successful candidate from the latter group, one of the important qualifications was an evident lack of interest in politics. The rewards for serving Hoover's famous relief mission in cold, remote areas of Russia were almost entirely psychological; remuneration offered by the ARA was close to nothing beyond room, board, and occasional refreshments imagined necessary to maintain body temperature.

For almost two years, a total of some 180 Americans supervised the feeding of approximately 30 million Soviet citizens (restriction of the program to children was quickly dropped) throughout 25 provinces in Russia and the Ukraine, and in Moscow and Petrograd. Inevitably, there were conflicts between the ARA and Soviet authorities on all levels, including several deep disagreements that threatened to terminate the mission. The most serious of these arose when the ARA sought (successfully) to protect its Russian employees from arrest and imprisonment. Both sides, however, were earnestly committed to the goal of defeating the famine. And, as the official press and Soviet authorities involved in the struggle against the famine freely acknowledged, the part played by Hoover and the ARA was critical in the final victory over the famine.

The contribution of the ARA cannot be measured solely in terms of supplies delivered—some 540,000 tons of food plus badly needed medical supplies. Early in the mission, the ARA decided that it would be useless to save people from starvation only to have them succumb to typhus, cholera, and other endemic diseases. The Americans therefore undertook to rebuild the water supply system over large parts of the country and to impose higher standards of cleanliness and sanitation in the hospitals. The threat for failure to comply with the ARA's standards was cessation of aid. This was enough to effect a transformation of hospital procedures throughout Russia. In fact, the usual basis for promotion of hospital officials became the achievement of a high rating in the "American evaluation."

No less valuable than the corn from Iowa and the condensed milk from Wisconsin were the advanced techniques of relief administration introduced by the ARA, and, not least, the creation of a spirit of almost unreasonable confidence. The immediate successes of the ARA revived fading hopes that the famine could be overcome and inspired Soviet leaders to demand that the government's own relief workers emulate the Americans. It was the first instance of Soviet exhortation of the citizenry to adopt the methods of the representatives of the leading "bourgeois imperialist" country. Stalin and Khrushchev were to repeat these demands many times.

When the famine was over and the American relief mission was preparing to leave Russia, the Council of People's Commissars tendered a state banquet in honor of the ARA. In the presence of press representatives from all over the world, the Soviet government expressed its gratitude to the ARA and presented a handsome plaque to its director, Colonel Haskell. The testimonial read, in part:

"Thanks to the enormous and entirely disinterested efforts of the ARA, millions of people of all ages were rescued from death, and whole cities and districts were saved from the horrible catastrophe that threatened them.

"At this time, now that the famine is over and the tremendous work of the ARA has come to an end, the Council of People's Commissars, in the name of the millions who have been rescued, and of all the working-people of Soviet Russia and the Union Republics, considers it its duty, before the representatives of the entire world, to express its deepest gratitude to this organization, to its leader, Herbert Hoover, to its representative in Russia, Colonel Haskell, and to all its workers, and to declare that the people of the Union of Soviet Socialist Republics will never forget the help rendered to them through the ARA, perceiving in it a guarantee of the future friendship of the two nations."

As an exercise in cooperation for humane purposes between Americans and Russians across the chasm of ideological hostility, Hoover's relief mission was an outstanding success. What he did not anticipate was the effect that his efforts would have on the prospects for survival of the Soviet regime. A widely accepted view attributes the rescue of the Soviet economy, and with it, of Soviet rule, to Lenin's New Economic Policy (NEP). But the restoration of free trade in grain—the most vital change under NEP—had little meaning in a country paralyzed by famine. As one eyewitness put it:

"Free trade and certain reestablished privileges could not have brought Russia very far at a time when the worst famine ever experienced was raging all over the country, and when all the moral resources of the nation were almost exhausted. The country was in dire need of both moral and physical help from the outside. The ARA broke the mood of desperation. Help from the outside had come."

In providing "help from the outside" at a critical time, Hoover's relief mission set up the necessary, if not sufficient basis for the maintenance of Soviet power in Russia.

Nicolo Machiavelli, a political thinker who has never been celebrated as a humanitarian, wrote, "An act of humanity will at all times have more influence over the minds of men than violence and ferocity." This turned out to be true, at least in regard to the people who actually received American relief assistance during the famine of 1921. The ARA files are bulging with fervent testimonials written by individuals from all sections of Soviet society, including heads of government agencies. Every Russian over the age of 60 interviewed by the writer almost a half-century after the event remembered "ARA," as it was known throughout Russia, with great affection. Pardoxically, the memory of Hoover's aid has been kept alive by the Soviet government itself by its propaganda attacks that continued for over four decades, through all the changes in the top leadership. It is only recently that an edition of the Great Soviet Encyclopedia has returned to a more factual account of the ARA and its work in Russia.

In his final report to Hoover, Colonel Haskell wrote, "To America, this is a passing incident of national duty, undertaken, finished, and to be quickly forgotten. The story of it will be told lovingly in Russian households for generations." His prediction was accurate on both counts. As far as most American history books covering the period are concerned, this chapter in Hoover's career is a non-event. Through the exquisite irony of history, however, the remembrance of Hoover's assistance during the famine of 1921 remains deeply imprinted in the memories of an entire generation of Russians, including the aging Communist Party leadership, many of whom may very well be among those saved from death at an early age by the famous American famine-fighter and devout anti-communist—Herbert Hoover.

Biographic Sketch of Benjamin M. Weissman

Present position: Associate Professor, Political Science, Rutgers University—Newark Campus, Newark, N.J. 07102.

Education: Bachelor of Science, City College of New York, Master of Arts, City University of New York, Doctor of Philosophy, Columbia University.

Professional experience: Chairperson, Political Science Department, Rutgers University—Newark, 1975–1977, Faculty, Political Science Department, Rutgers University—Newark, 1968–present Lecturer, Political Science, C.C.N.Y.—1964–1968, Member, Columbia Faculty Seminar on Scope, and Methods in Social Sciences, 1973–present.

Fields of specialization: American politics, humanist theory, Soviet government and foreign policy.

Publications: Herbert Hoover and Famine Relief to Soviet Russia, 1921–1923. Hoover Institution Press, Stanford, Cal., 1974. "The Aftereffects of the American Relief Mission to Soviet Russia," Russian Review, Vol. 29, No. 4, Oct. 1970. "Herbert Hoover's 'Treaty' with Soviet Russia: August 20, 1921," Slavic Review, Vol 28, No. 2, June 1969.

ADM. JAMES B. STOCKDALE

Mr. THURMOND. Mr. President, the distinguished newspaper columnist, Anthony Harrigan, released June 21, 1979, a column about the leadership qualities of the new president of The Citadel, Vice Adm. James B. Stockdale.

Among other qualities noted by Mr. Harrigan, particular attention is given to Admiral Stockdale's emphasis on courage as a virtue. It is pointed out that in these days of great technological advances and stress on management that attributes in these fields are not necessarily synonymous with leadership.

Mr. President, this article is well done and I commend it to my colleagues in the Congress. It draws attention to what I would term the "old time values" which today are not given enough attention and thought.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

ADMIRAL STOCKDALE'S COUNSEL

(By Anthony Harrigan)

Few Americans have greater moral authority than Vice Admiral James B. Stockdale, the new president-designate of The Citadel in Charleston, S.C., who was a prisoner of the North Vietnamese for seven and one-half years. He is an example of courage and endurance not only to professional military men but to the entire nation.

After his retirement from the U.S. Navy, in August, Admiral Stockdale will assume the presidency of the famous old military college which has furnished officers to all the services for decades.

Admiral Stockdale will be in a position of educational leadership for civilians as well as the military. Indeed, he has important things to say to all Americans, irrespective of age or calling.

In monthly editorials in the Naval War College *Review*, Admiral Stockdale repeatedly stressed the primacy of courage as a virtue. He pointed out that in recent years the country has put an excessive emphasis on technology and ignored the decisive role of courage.

In a recent issue of the magazine, Admiral Stockdale also made the important point that management and leadership aren't synonymous. Referring to warfare, he noted that "The toll of human life in battle does not lend itself to cost-benefit analysis." To design a strategy along a middle course for bureaucratic reasons, he said, "is to aim at what Winston Churchill has called the bull's eye of disaster."

To be sure, Admiral Stockdale was talking about a special human activity—combat. His emphasis is on honor, loyalty, and spirit. In combat, men are asked to go into harm's way. Proficiency alone isn't an adequate standard of behavior.

The admiral's message applies to other aspects of human life and activity. No great corporation is created by management expertise alone. Every creative enterprise requires authentic leadership. Boldness in action is the mark of the creative individual, whatever his field.

In the past, Americans were known for boldness, adventurous spirit, and courage. In recent times, the national spirit has been impaired by the notions of "collective responsibility" and reliance on machine or group decision-making. Courage has been downgraded in civilian life.

As the 1970s draw to an end, we need to repair our national spirit. An essential first step is to reform our educational systems, in order to stress boldness and personal accountability.

While machines are enormously important parts of our lives, we must appreciate anew that the lonely individual is the ultimate decision-maker, the final bearer of responsibility from the home to the workplace. The country isn't in need of a new dose of "social responsibility," but an awakening to individual responsibility.

In his new role at The Citadel, Admiral Stockdale will have an important forum for stressing fundamental personal and national values.

FAILURE IN TRANSPORTATION

Mr. THURMOND. Mr. President, the gasoline crisis has affected all of us and is of vital concern to every American. As the long gasoline lines continue to wind for blocks in almost every neighborhood, the need for more effective mass transit systems is becoming apparent.

An article in the Union Daily Times of Union, S.C. points out the sad state of much of the public transportation in this country and notes the greater role mass transit will play in our future.

Mr. President, in order to share this article with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FAILURE IN TRANSPORTATION

(By Don Graff)

Well, we certainly brought this one on ourselves.

The subject is again the gasoline pinch, which is responsible for lengthening lines at stations, noticeably reduced highway traffic in more and more sections of the country and also a rediscovery of mass transit by multitudes of commuters and long-distance travelers long accustomed to wheeling it on their own.

But there's a hitch. The nation's transit system as it semiexists today cannot accommodate these masses of new customers.

Surprise. Which is what it certainly should not be to anyone even slightly familiar with transportation trends of the past 30 or 40 years.

The oil exporting cartel may have us over a barrel. What can we really do to halt their game of price leapfrogging as long as our economy is so dependent upon energy supplies available from them and, very likely for some time to come, from them alone?

Big oil may or may not be manipulating the situation for its own profitable benefit. In the crossfire of statistics, explanations and accusations between industry and government, what can the public really do except declare a plague on both houses—and pay up?

We have, however, no one to blame but ourselves for the patchwork transit system we must now turn to in time of need. For decades we, the public, have been deserting public transportation, allowing passenger rail and urban bus routes to shrink and facilities to deteriorate while we overindulged our love affair with the automobile.

In the process, we seduced ourselves into a multi-billion-dollar orgy of highway building that compounds the present problem. The expressways transformed once compact cities into sprawling suburban-dominated complexes, created by and for the private auto, that are today much more difficult and expensive to serve even if mass transit can be upgraded to the task.

That last is a massive "if." Systems in many cities are putting old but still operable vehicles back into service and some may make emergency use of vans, and even school buses. New equipment is on order, but production facilities are limited and even should orders be multiplied several times over, it would be a year or most likely more before the results would be evident in expanded service.

There is also the problem of financing. Most municipal systems, currently not paying their way, don't have anything approaching the money necessary for the job. They look to Washington, but the current federal budget includes only $3.2 billion for transit aid, compared with a minimum $15 billion estimated to be needed.

One source might be the Federal Highway Trust Fund, the special account drawn from federal gasoline taxes that built the interstate system and which mass transit advocates long have sought to tap for public transportation. The fund, however, is not what it used to be and as the interstates age and deteriorate, more and more of it must be allocated to road repair. There is no thought of allowing the highway system built up at such cost and effort to go the neglected way of the railroads.

The present gasoline crisis will ease at some point. But availability is never going to be as free and easy as it once was. There is no way of escaping a greater role for public transit in our future.

In the end, the funds to pay for it are most likely going to have to come out of general revenues, at consideraable cost to budget-balancing efforts, not to mention the tax-paying public.

In the meantime, it will be standing room only for many members of that public who must crowd onto available buses and trains.

But then, we did bring it on ourselves.

THE PROPOSED ENERGY ANTI-MONOPOLY ACT OF 1979

Mr. THURMOND. Mr. President, several Members of Congress have proposed antitrust legislation which is purported to protect against the growth of monopoly of major petroleum companies. In recent weeks, however, expert testimony in hearings on this bill has clearly demonstrated that this proposed legislation, S. 1246, the Energy Antimonopoly Act of 1979, would actually cause the opposite to occur. Additionally, it would be counterproductive to the public interest with respect to the improvement of this Nation's very serious energy situation. While there are undoubtedly some aspects of the major oil companies' activities that do need our special attention during these days of critical shortages, this particular legislative proposal directly conflicts with the types of action needed to help solve the energy problem.

In order that we not create for ourselves, and for the citizens of this Nation, a much worse long-run energy situation than we already face. I urge my colleagues in the Senate to consider very carefully the testimony we are hearing on this bill and also the many well-reasoned messages that are being presented on this subject to the American people.

Mr. President, while we may desire to place some extensive portions of the hearings testimony in the RECORD at a later date, I feel it is extremely important that some brief statements and articles on this subject be emphasized at this time.

On Tuesday, June 19, 1979, Mr. Heath Larry, president of the National Association of Manufacturers, testified before the Subcommittee on Antitrust, Monopoly, and Business Rights, of the Judiciary Committee, on the bill, S. 1246. He expressed the strong opposition of that group to S. 1246. He also emphasized, as many others have, the recognition that section 7 of the Clayton Act is clearly broad enough to prevent any conglomerate merger which should be prohibited for legitimate antitrust reasons.

Mr. Larry referred to the discriminatory features and the probable unconstitutionality of the bill since it deals only with the oil industry. He then pointed out several misconceptions that are apparently held by the proponents of the bill, including the alleged need for supplementing the antitrust laws, the alleged aggregate concentration fears, and the alleged need to prevent oil companies from diversifying. In discussing this latter allegation, he emphasized four very significant points; namely,

First. It is unlikely that the bill will fulfill its misguided purpose of prohibiting companies from diversifying. The companies could not only seek investments abroad but could always distribute accumulated cash to stockholders by repurchasing or retiring stock or through dividends;

Second. The oil companies could carry out nonoil or gas ventures through de novo investments and expansion, or even acquire nonrelated companies having less than $100 million in assets;

Third. By forcing the oil companies to invest in petroleum exploration, S. 1246 would have the effect of increasing concentration in the domestic petroleum industry and, therefore, make the top 16 oil companies more competitively powerful vis-a-vis the remainder of the industry, thus increasing the likelihood of monopoly with the industry; and

Fourth. There are indications that the bill may result in detrimental effects to the Nation's energy program. The modest diversifications by the major oil companies are a way of minimizing the inherent risk in the petroleum industry; if these risk reductions are restricted, it is reasonable to assume the companies will resort to conservative, antirisk decisions in exploration and research and development.

On Thursday, June 21, 1979, before this same subcommittee, an excellent and objective analysis of the implications and the impact of S. 1246 was presented by Dr. James P. Wallace III and Dr. Rantch A. Isquith, both vice presidents of the Chase Manhattan Bank, N.A. Both are highly knowledgeable and responsible professionals working in the Energy Economics Division of that bank. While their statement was tremendously impressive in providing analytical facts and bases for their presentation, I think that a portion of their concluding statement will be of particular interest and value to my colleagues. From that section of their paper, I quote:

> It has never been more clear that the U.S. must take every reasonable action designed to reduce its dependence on imported oil. As a result, it is certainly understandable why Members of Congress might consider legislation which would seemingly force the largest U.S. oil companies to produce more oil domestically rather than acquire other companies. However, our analysis suggests that this legislation [S. 1246] is extremely counterproductive.
>
> The justifications of this proposal appear to be based on numerous misconceptions and most important, rather than increase domestic oil production, the proposed legislation would actually increase U.S. imported oil requirements by at least 3–4 million barrels per day by 1990.

Mr. President, in addition to these brief references and excerpts from these recent hearings, there are two other articles directly related to this matter that I wish to call to the attention of my colleagues.

One is a statement titled, "Has America Become Shortsighted?", which was placed by the Chase Manhattan Bank, N.A., in the June 14, 1979, issue of the Washington Post—and in other newspapers around the country.

The other is an editorial titled, "'Big is Bad' Is Bad Business," which appeared in the Pittsburgh Press on June 12, 1979.

Both articles provide keen insights into some of the very real and critical problems that could occur if legislation such as S. 1246 is enacted.

Mr. President, in order to share these two excellent statements with my colleagues, I ask unanimous consent that they be printed in the Record following my remarks.

There being no objection, the statements were ordered to be printed in the Record, as follows:

Has America Become Shortsighted?

America once had a vision of its future.

And that vision led us to become the most productive nation on earth, with our citizens enjoying the highest standard of living of any nation in the world.

Today, inflation erodes our economic growth. Inadequate capital investment limits opportunity and undermines our international competitive position. Our companies are hard pressed to keep up with accelerating technological developments. Productivity has been growing much faster in other major industrial nations than it has in the United States.

Why has American economic performance slipped?

Essentially, we seem to have lost sight of what truly drives our economy and what is required to keep our products and services competitive in world markets. Worse, our vision of the future appears to have narrowed to include only that which is politically fashionable and expedient for the short-term.

It is politically fashionable, for example, to charge that company profits are too high . . . are a "windfall" . . . or even "obscene". Yet profits constitute the key support for expanding company facilities, financing new research and development, replacing outmoded and inefficient equipment and, ultimately, ensuring greater productivity, higher wages and more jobs.

It's also politically fashionable to demand greater governmental "safeguards", i.e., regulations on the activities of companies. Yet each year, government regulations cost our society—both companies and individuals—about $100 billion. Much of which could be used instead for new plants, for new products, for new research, for new technology and to create new jobs. All of which would make us more competitive in world markets.

It's politically expedient for government—in the interest of "protecting the general welfare"—to spend billions of taxpayer dollars on overregulation without fully weighing costs against benefits Government overspending, and the resulting federal budget deficit, remains a primary cause of our nation's most serious problem, inflation. . . . From a statement by Chase Manhattan Bank, N.A., in the Washington Post, June 14, 1979.

"Big Is Bad" Is Bad Business

Senator Edward M. Kennedy has taken another tack in his "big is bad" campaign again American business.

Having already put a bill into the congressional hopper aimed at preventing large business mergers in general, he now has drafted a separate bill that would zero in on oil companies.

The first bill would prohibit the merger of U.S. companies with $2 billion worth of assets or sales. The new one, which makes no better sense, would prevent the nation's 16 largest oil companies from acquiring any other firm with assets over $100 million.

Senator Kennedy seems to believe that bigness in business is evil per se, a notion that has a number of advocates in high government places.

His first bill would require no showing that a proposed merger would actually decrease competition. If the companies involved fell within the Kennedy cutoff range, it would be no go.

What's magic about the $2 billion figure is not entirely clear. What is clear is that Senator Kennedy's bill could have significantly harmful effects.

It could prevent a financially solid big firm from taking over a wobbly one that might make a go of it with an infusion of capital and better management.

It could stifle the growth of large companies by saying to them that when they reach a certain size they can't look around for other profitable ventures.

It could increase the flow of American capital abroad. For if big companies are foreclosed from investing in the United States, they are likely to look overseas.

Not only could this result in American jobs being wiped out or exported, it could lead to greater pressures on the federal government to prop up failing companies. One need only look to Great Britain's disastrous ventures into nationalization of business to see the dangers in that.

All in all, Senator Kennedy's anti-big crusade is bad business. Congress should tell him so by consigning his bill to a dusty shelf.—An editorial from Pittsburgh Press, June 12, 1979.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Under the authority of the order of June 27, 1979, the Secretary of the Senate on July 2 and July 5, 1979, received message from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on July 2 and July 5, 1979, are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING THE RECESS

Under the authority of the order of June 27, 1979, the Secretary of the Senate, on June 28, 1979, received a message from the House of Representatives, which reported that the House has passed the following bill, without amendment:

S. 1317. An act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program.

The message also reported that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 901. An act to extend the time limits contained in the industrial cost recovery moratorium provision of the Clean Water Act of 1977 (91 Stat. 1610).

The message further reported that the House has passed S. 932, an act to extend the Defense Production Act of 1950, as amended; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Reuss, Mr. Moorhead of Pennsylvania, Mr. Ashley, Mr.

WRIGHT, Mr. BLANCHARD, Mr. VENTO, Mr. STANTON, Mr. MCKINNEY, and Mr. KELLY were appointed managers of the conference on the part of the House.

The message also reported that the House agrees to the amendment of the Senate to H.R. 4556, an act to amend section 1521 of the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to extend conditional designations of State health planning and development agencies.

The message further reported that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4303. An act to amend the Food Stamp Act of 1977 to eliminate certain restrictions on excess shelter expense deductions with respect to households which contain a member who is age 60 or older or who is a recipient of benefits under title XVI of the Social Security Act and to allow deductions for certain medical and dental expenses in the computation of incomes for such households.

ENROLLED BILL SIGNED

The message also reported that the Speaker has signed the following enrolled bill:

S. 1317. An act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program.

The enrolled bill was subsequently signed by the Vice President.

JOINT RESOLUTION SIGNED

Under the authority of the order of June 27, 1979, the Secretary of the Senate, on June 29, 1979, received a message from the House of Representatives, which reported that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 14. A joint resolution to amend the Public Health Service Act and related health laws to correct printing and other technical errors.

The enrolled joint resolution was subsequently signed by the Vice President.

Under the authority of the order of June 27, 1979, the Secretary of the Senate, on July 2, 1979, received a message from the House of Representatives, which reported that the House agrees to the amendment of the Senate to the amendments of the House to S. 1007, an act to authorize supplemental international security assistance for the fiscal year 1979 in support of the peace treaty between Egypt and Israel and related agreements, and for other purposes.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:35 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1007. An act to authorize supplemental international security assistance for the fiscal year 1979 in support of the peace treaty between Egypt and Israel, and for other purposes; and

H.R. 4556. An act to amend section 1521 of the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to extend conditional designations of State health planning and development agencies.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 4303. An act to amend the Food Stamp Act of 1977 to eliminate certain restrictions on excess shelter expense deductions with respect to households which contain a member who is age 60 or older or who is a recipient of benefits under title XVI of the Social Security Act and to allow deductions for certain medical and dental expenses in the computation of incomes for such households; to the Committee on Agriculture, Nutrition and Forestry.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on June 28, 1979, he presented to the President of the United States the following enrolled bill:

S. 1317. An act to extend the existing antitrust exemption for oil companies that participate in the Agreement on an International Energy Program.

The Secretary of the Senate reported that on June 29, 1979, he presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 14. A joint resolution to amend the Public Health Service Act and related health laws to correct printing and other technical errors.

The Secretary of the Senate reported that on July 9, 1979, he presented to the President of the United States the following enrolled bill:

S. 1007. An act to authorize supplemental international security assistance for the fiscal year 1979 in support of the peace treaty between Egypt and Israel, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-1689. A communication from the Deputy Under Secretary for International Affairs and Commodity Programs, Department of Agriculture, reporting, pursuant to law, on the status of planned programming of Public Law 480, Title I commodities as of June 29, 1979; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1690. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1691. A communication from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to amend title 37, United States Code, to authorize advance pay upon registration of an allotment for dependents, within sixty days prior to deployment of unit; to the Committee on Armed Services.

EC-1692. A communication from the Deputy Assistant Secretary of Defense for Installations and Housing, transmitting, pursuant to law, notification of 8 construction projects to be undertaken by the U.S. Army Reserve; to the Committee on Armed Services.

EC-1693. A communication from the Director of the Defense Security Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Israel for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-1694. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Can the Individual Reserves Fill Mobilization Needs"; to the Committee on Armed Services.

EC-1695. A communication from the Senior Deputy Assistant Secretary of Commerce for Industry and Trade, transmitting, pursuant to law, a report and statistics of restrictive trade practices or boycotts as reported under the provisions of part 369 of the Export Administration Regulations, for the period April 1, 1978 through September 30, 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC-1696. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the second report of the Commission on the Accounting Profession and the Commission's Oversight Role; to the Committee on Banking, Housing, and Urban Affairs.

EC-1697. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend Title 18, United States Code, to include certain employees within the scope of section 1114; to the Committee on Commerce, Science, and Transportation.

EC-1698. A communication from the President and Chief Executive Officer of the United States Railway Association, transmitting, pursuant to law, the first monitoring report on the performance of the Consolidated Rail Corporation; to the Committee on Commerce, Science, and Transportation.

EC-1699. A communication from the Acting Chairperson of the National Advisory Committee on Oceans and Atmosphere, transmitting, pursuant to law, the eighth annual report of the Committee for the year ended June 30, 1979; to the Committee on Commerce, Science, and Transportation.

EC-1700. A communication from the Chairman of the Administrative Conference of the United States, transmitting, pursuant to law, the Conference's report on rulemaking procedures under section 18 of the Federal Trade Commission' Act; to the Committee on Commerce, Science, and Transportation.

EC-1701. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report on rulemaking procedures under section 18 of the Federal Trade Commission Act; to the Committee on Commerce, Science, and Transportation.

EC-1702. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report of the National Transportation Safety Board for calendar year 1978; to the Committee on Commerce, Science, and Transportation.

EC-1703. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the infrastructure needs of Guam and the Government of Guam's Capital Improvement Projects for fiscal years 1980 through 1990; to the Committee on Energy and Natural Resources.

EC-1704. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the financial condition of the Virgin Islands; to the Committee on Energy and Natural Resources.

EC–1705. A communication from the Secretary of the Interior, transmitting, pursuant to law, a notice concerning oil and gas lease sale No. 58, Gulf of Mexico, scheduled to be held on July 31, 1979; to the Committee on Energy and Natural Resources.

EC–1706. A communication from the Under Secretary of the Interior, transmitting, pursuant to law, a progress report on the efforts to establish a permanent location for the displaced people of Bikini; to the Committee on Energy and Natural Resources.

EC–1707. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law a quarterly report on imports of crude oil, residual fuel oil, refined petroleum products, natural gas and coal; refinery activities; and inventories; including data on exploratory activity, exports, nuclear energy, and electric power; to the Committee on Energy and Natural Resources.

EC–1708. A communication from the Assistant Attorney General, Antitrust Division, transmitting, pursuant to law, a report on the Interstate Compact to Conserve Oil and Gas; to the Committee on Energy and Natural Resources.

EC–1709. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report enentitled "Federal Facilities for Storing Spent Nuclear Fuel—Are They Needed?"; to the Committee on Energy and Natural Resources.

EC–1710. A communication from the Chairman of the Foreign Claims Settlement Commission, transmitting, pursuant to law, a supplemental report on the Micronesian Claims Commission; to the Committee on Energy and Natural Resources.

EC–1711. A communication from the Secretary of the Interior, transmitting correspondence between the Governors of the affected States and himself relating to the proposed 5-year OCS Oil and Gas Leasing Program; to the Committee on Energy and Natural Resources.

EC–1712. A communication from the Federal Cochairman, Appalachian Regional Commission, and the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report relating to the Appalachian Regional Commission child development program; to the Committee on Environment and Public Works.

EC–1713. A communication from the Director, Office of Water Research and Technology, Department of the Interior, transmitting, pursuant to law, a report entitled "Patents, Data, and Copyrights—Proposed Policies and Procedures"; to the Committee on Environment and Public Works.

EC–1714. A communication from the Secretary of Transportation, transmitting, pursuant to law, a Study Plan for the Highway Cost Allocation Study; to the Committee on Environment and Public Works.

EC–1715. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the Work Incentive (WIN) program; to the Committee on Finance.

EC–1716. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the Professional Standards Review Organization (PSRO) program; to the Committee on Finance.

EC–1717. A communication from the Acting Comptroller General, transmitting, pursuant to law, a report entitled "More Can Be Done to Achieve Greater Efficiency in Contracting for Medicare Claims Processing," June 19, 1979; to the Committee on Finance.

EC–1718. A communication from the Chairman, United States International Trade Commission, transmitting, pursuant to law, the eighteenth quarterly report on trade between the United State and the nonmarket economy countries; to the Committee on Finance.

EC–1719. A communication from the Chairman, Agricultural Technical Advisory Committee for Trade Negotiations on Dairy, transmitting, pursuant to law, the committee's report on the Multilateral Trade Negotiations Agreements initiated in Geneva on April 12, 1979; to the Committee on Finance.

EC–1720. A communication from the Special Trade Representative for Trade Negotiations, transmitting, pursuant to law, reports of the Industry Policy Advisory Committee and Industry Sector Advisory Committee on the Multilateral Trade Agreements; to the Committee on Finance.

EC–1721. A communication from the Assistant Legal Adviser for Treaty Affairs, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC–1722. A communication from the President, Inter-American Foundation, transmitting a proposed amendment to the Foreign Assistance Act to authorized FY 1981 appropriations for the Inter-American Foundation; to the Committee on Foreign Relations.

EC–1723. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, Act 3–57, "Day Care Policy Act of 1979" and report, adopted by the Council on June 29, 1979; to the Committee on Governmental Affairs.

EC–1724. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Perspectives on Intergovernmental Policy and Fiscal Relations," June 28, 1979; to the Committee on Governmental Affairs.

EC–1725. A communication from the Acting Administrator, General Services Administration, reporting, pursuant to law, relating to cost of operating privately owned vehicles to employees while engaged on official travel; to the Committee on Governmental Affairs.

EC–1726. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements of the Panama Canal Company and the Canal Zone Government for the Fiscal Year Ended September 30, 1978," June 17, 1979; to the Committee on Governmental Affairs.

EC–1727. A communication from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, relating to allegations concerning practices at the Social Security Administration's Teleservice Center in Parlin, New Jersey; to the Committee on Governmental Affairs.

EC–1728. A communication from the Chairman, Federal Home Loan Bank Board, transmitting, pursuant to law, a report on a new record system; to the Committee on Governmental Affairs.

EC–1729. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Data Base Management Systems—Without Careful Planning There Can Be Problems," June 29, 1979; to the Committee on Governmental Affairs.

EC–1730. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report on a new system for a personnel record system; to the Committee on Governmental Affairs.

EC–1731. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, the fourth report on the implementation of title II of the Speedy Trial Act of 1974, June 19, 1979; to the Committee on the Judiciary.

EC–1732. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 586 reports concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

EC–1733. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, the fourth annual report on the implementation of the Speedy Trial Act of 1974, June 28, 1979; to the Committee on the Judiciary.

EC–1734. A communication from the U.S. Commissioner of Education, transmitting, pursuant to law, certain published interpretations by the Department of H.E.W. regarding various aid to education programs administered by the Department; to the Committee on Labor and Human Resources.

EC–1735. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Hospital Loan Assistance Programs: Actions Needed to Reduce Anticipated Defaults"; referred to the Committee on Labor and Human Resources.

EC–1736. A communication from the Acting Secretary of H.E.W., transmitting a draft of proposed legislation to extend the authorization of appropriations for the Institute of Museum Services through fiscal year 1985; to the Committee on Labor and Human Resources.

EC–1737. A communication from the Secretary of H.E.W., transmitting, pursuant to law, the Annual Report of the National Institute on Alcohol Abuse and Alcoholism for the fiscal year 1977; to the Committee on Labor and Human Resources.

EC–1738. A communication from the Secretary of H.E.W., transmitting, pursuant to law, the final report on the Influenza Immunization Program; to the Committee on Labor and Human Resources.

EC–1739. A communication from the Secretary of H.E.W., transmitting, pursuant to law, the report on the current status of the immunization program conducted under the National Swine Flu Immunization Program of 1976; to the Committee on Labor and Human Resources.

EC–1740. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations pertaining to the funding and sponsorship of nonpartisan public candidate debates; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES SUBMITTED DURING THE RECESS

Under the authority of the order of June 27, 1979, the following reports of committees were submitted on June 29, 1979:

By Mr. MELCHER, from the Select Committee on Indian Affairs:

Special Report Relating to Budget Allocations (Rept. No. 96–234).

Under the authority of the order of June 27, 1979, the following reports of committees were submitted on July 6, 1979:

By Mr. CHURCH, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

S. 14. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes (together with additional and supplemental views) (Rept. No. 96–235).

By Mr. McGOVERN, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment and an amendment to the title:

S. 1309. A bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program (together with minority views) (Rept. No. 96-236).

By Mr. McGOVERN, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 195. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1309. Referred to the Committee on the Budget.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on Governmental Affairs, with amendments:

S. 1037. A bill to establish an actuarially sound basis for financing retirement benefits for police officers, fire fighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits (Rept. No. 96-237).

By Mr. METZENBAUM, from the Committee on the Judiciary, with amendments:

S. 390. A bill to expedite and reduce the cost of antitrust litigation, and for other purposes (Rept. No. 96-238).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE:

S. 1448. A bill to authorize the transfer of a vessel by the Secretary of Commerce to the Superior-Douglas County Museum for use as a maritime museum; to the Committee on Commerce, Science, and Transportation.

By Mr. WEICKER:

S. 1449. A bill to require the President to ration the purchase of gasoline; to the Committee on Energy and Natural Resources.

By Mr. CHURCH (by request):

S. 1450. A bill to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes; to the Committee on Foreign Relations.

By Mr. CANNON (by request):

S. 1451. A bill to amend section 105 of title 11, United States Code; to the Committee on Commerce, Science, and Transportation.

S. 1452. A bill to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance; to the Committee on Commerce, Science, and Transportation.

S. 1453. A bill to amend section 502(a) of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

By Mr. CANNON (for himself and Mr. Magnuson) (by request):

S. 1454. A bill to amend the Act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code; to the Committee on Commerce, Science, and Transportation.

By Mr. DOMENICI:

S. 1455. A bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAXALT:

S. 1456. A bill for the relief of Mahmooda Haquani; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 1457. A bill to amend the Merchant Marine Act, 1936, to further promote the development of the United States dry bulk fleet, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1458. A bill to further the development and maintenance of an adequate and well-balanced American merchant marine by requiring that certain mail of the United States be carried on vessels of United States registry; to the Committee on Commerce, Science, and Transportation.

S. 1459. A bill to amend section 502 of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

S. 1460. A bill to amend the Shipping Act, 1916, to clarify and improve the provisions related to cooperative activity among common carriers by water, to permit the establishment of shippers' councils, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1461. A bill to increase the role of the Secretary of Commerce in administering section 901 of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

S. 1462. A bill to amend the Shipping Act, 1916, and the Merchant Marine Act, 1936, to promote comity with United States trading partners, and to encourage certain maritime agreements in the foreign commerce of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1463. A bill to amend the Shipping Act, 1916, to improve the efficiency, service, and organization of common carriers by water in foreign commerce, to extend existing antitrust law exceptions to intermodal transportation agreements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BOSCHWITZ:

S. 1464. A bill to direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians; to the Select Committee on Indian Affairs.

By Mr. TALMADGE (for himself, Mr. McGovern, Mr. Morgan, Mr. Pressler, Mr. Dole and Mr. Zorinsky):

S. 1465. A bill to amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. KASSEBAUM (for herself and Mr. Church):

S. 1466. A bill to provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the Absentee Delaware Tribe of Western Oklahoma in Indians Claims Commission dockets 27-A and 241, 289, and 27-B and 338, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. DOLE (for himself and Mr. Bentsen):

S. 1467. A bill to amend the Internal Revenue Code of 1954 to provide that the retirement-replacement-betterment method of accounting for property used by a common carrier (including a railroad switching company or a terminal company) is an acceptable method for determining depreciation allowances for income tax purposes; to the Committee on Finance.

By Mr. BAYH:

S. 1468. A bill to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act; to the Committee on the Judiciary.

By Mr. HATCH:

S. 1469. A bill to restate, with greater emphasis, the intent of Congress to provide equal employment opportunities without regard to an individual's race, color, religion, sex, or national origin; to the Committee on Labor and Human Resources.

By Mr. ARMSTRONG:

S.J. Res. 93. A joint resolution proposing an amendment to the Constitution of the United States which requires (except during fiscal years during which the United States is at war or during which suspension is approved) that the annual deficit of the United States be eliminated, which requires tax rates to be reduced to offset the effects of inflation, and which establishes a procedure for the approval of bills or joint resolutions effecting taxes; to the Committee on the Judiciary.

By Mr. HAYAKAWA:

S.J. Res. 94. A joint resolution authorizing the President to proclaim the week of April 1 through April 7, 1980, as "National Mime Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER:

S. 1449. A bill to require the President to ration the purchase of gasoline; to the Committee on Energy and Natural Resources.

MANDATORY GASOLINE COUPON RATIONING

● Mr. WEICKER. Mr. President, I am today introducing legislation to implement within 60 days a mandatory gasoline coupon rationing program.

As my colleagues recall, on May 9, the Senate approved the administration's standby gasoline rationing plan (S. Res. 120), with amendments, by a vote of 58 to 39. However, the House rejected this standby plan on May 10, by a vote of 246 to 159.

Mr. President, the legislation I introduce today is similar to the provisions of the gasoline rationing plan approved by the Senate on May 9, except that it is a mandatory not a standby plan.

The President and others advancing a standby rationing scheme argue that rationing should not be implemented unless the supply of gasoline falls significantly below national current demand.

Now, after the latest sobering round of OPEC blackmail in sharply higher prices and the nationwide disruptions caused by gasoline shortages, there is no longer any question as to whether the energy situation threatens the economic well-being of this Nation.

Those who would argue that drastic action in the form of mandatory conservation measures is not now necessary are simply not willing to face reality.

The reality of today's energy crisis is not a new reality, a sudden development. This Nation has known since the 1973 embargo that it is weak and defenseless against the economic terrorism of the OPEC oil lords.

Our defenselessness is not inherent or even predictable. As a Nation, the American people are deservedly admired for their collective courage and strength in the face of adversity. However, faced with the prospect of making some small sacrifice in energy consumption in order to preserve their independence, Americans have been unthinkingly selfish in increasing, not decreasing, their energy profligacy.

It has taken the recurrence of long and wasteful gas lines to jolt Americans back into energy consciousness. When people get over their initial reaction—pointing the blame at everyone else, a reaction promoted by many loose-fingered politicians—they are beginning to focus on the reality of the energy situation.

For we are all responsible for the mess we are in now, for the weak-willed dependency on foreign oil, for ever-increasing consumption, for the negligible conservation efforts, and most importantly for the absence of a coherent and bold energy battle plan.

All of us—the President, Senators, Representatives, business, labor, and citizens alike—share the blame for not facing up to our greatest crisis. And we share a common fate—one of economic disaster and national insecurity—unless we wake up to fight back.

It is easy to point fingers and pick fall-guys. It is so much easier. But there lies the trap.

Whether we select the oil companies or the OPEC blackmailers, we ignore the biggest enemy we have in the struggle for energy independence.

The enemy is not them, whoever them may be.

The enemy is us. And we know who we are—or do we?

We are a nation built on principles of sacrifice and sharing, now suddenly unwilling to sacrifice to share the burdens fairly.

We are a nation nurtured by strong and forceful leadership, now suddenly and destructively afflicted with indecision, lack of vision, and a sense of helplessness.

Mr. President, I appeal to my colleagues to join together in offering leadership to the American peoeple. Leadership is a risky business, I admit; but partisanship has served us very poorly indeed in this area. We Members of Congress must not abdicate our responsibility to lead in favor of political posturing.

The American people have been shocked into energy consciousness. I believe the Nation is prepared to adopt an energy policy involving sacrifice that is shared by all.

However, the opportunity for leadership must not be lost. Six years after the crippling embargo, we still hesitate even as prices double in 1 year. What further persuasion must we endure?

Mr. President, it is not merely to address the long gas lines that I am again proposing mandatory rationing. It is most importantly to establish a workable procedure to deal with the continuing supply shortages we can frankly expect in the near- to mid-term future.

The gasoline coupon rationing plan I propose would be implemented within 60 days after enactment in order to insure equitable distribution of available supplies. This plan is identical to the administration's plan as amended by the Senate except that it is mandatory rather than conditional on some percentage shortfall in supply.

This plan thus has been thoroughly debated and approved by the Energy Committee and the full Senate, except for its mandatory implementation. Thus the issue for the Senate would seem to be whether a significant supply shortfall exists now. While I believe debate on this issue is unnecessary, I would be happy to respond to any doubters.

Should the Senate in its wisdom determine that a sufficiently short supply shortfall does not exist at this time, I would urge my colleagues to consider the realities of OPEC production. The OPEC producers have successfully imposed one embargo and could do so again at any time. OPEC production has been cut back recently and there is no assurance that production will be increased or even maintained at present levels. OPEC has learned that by controlling production, it can control prices—a simple yet potentially devastating principle.

How do we combat these tactics? Only by controlling our consumption through tough conservation measures and increasing our own production and developing alternative resources. A simple solution to a clear-cut problem, maybe, but implemented only through strong leadership and difficult sacrifice by all.

The President's action to limit the import quotas of oil, the building up of home heating fuel stocks for the coming winter, political instability among the Middle East nations, and the increase in the consumption of energy among industrial states are certain to tighten the oil market more than it is currently. Therefore it is imperative that we pass legislation such as this gasoline coupon rationing plan in order to insure the equitable distribution of gasoline supplies for all Americans.

Mr. President, I sincerely believe that the Senate should vote on this action immediately, and to recommend the House of Representatives to do likewise. The time is passing quickly; a bad situation is growing worse. Our inaction is causing unnecessary present harm and posing future danger to all Americans.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the Record. I also urge the Senate to move expeditiously to debate and a vote on this gasoline rationing plan.

There being no objection, the bill was ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the President shall implement within 60 days after the date of enactment of this Act a program to ration the purchase of gasoline by the issuance of coupons under procedures specified in the Standby Gasoline Rationing Plan number 1, submitted by the President to the Congress on March 1, 1979 and as amended by Standby Gasoline Rationing Plan number 6 submitted by the President to Congress on May 8, 1979, pursuant to the Energy Policy and Conservation Act.●

By Mr. CHURCH (by request):

S. 1450. A bill to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes; to the Committee on Foreign Relations.

FOREIGN SERVICE ACT OF 1979

● Mr. CHURCH. Mr. President, I introduce by request a bill to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

The bill has been requested by the Secretary of State and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the Record at this point, together with the section-by-section analysis of the legislation, and the letter from the Secretary of State to the President of the Senate dated June 20, 1979.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Title I of this Act may be cited as the "Foreign Service Act of 1979".

TITLE I—THE FOREIGN SERVICE ACT OF 1979

Chapter 1—GENERAL PROVISIONS

SEC. 101. FINDINGS AND OBJECTIVES.—(a) The Congress finds that—

(1) that a career Foreign Service, characterized by excellence and discipline, is essential in the national interest to assist the President and the Secretary of State in conducting the foreign affairs of the United States;

(2) that the Foreign Service of the United States, established under the Foreign Service Acts of 1924 and 1946, must be preserved, strengthened and improved in order to carry out its mission effectively in response to the complex challenges of modern diplomacy and international relations; and

(3) that the Foreign Service should be representative of the American people, aware of the principles and history of the United States and informed of current concerns and trends in American life, knowledgeable of other nations' affairs, cultures and languages, available to serve in assignments throughout the world, and operated on the basis of merit principles.

(b) The objectives of this Act, in order to strengthen and improve the Foreign Service of the United States, are—

(1) to assure, in accordance with merit principles, admission through impartial and rigorous examination, acquisition of career status only by those who have demonstrated their fitness through successful completion of probationary assignments, effective career development, advancement and retention of the ablest, and separation of those who do not meet the requisite standards of performance;

(2) to foster the development of policies and procedures which will facilitate and encourage entry into and advancement in the Foreign Service by persons from all segments of American society, and equal opportunity and fair and equitable treatment for all without regard to political affiliation, race, color, religion, national origin, sex, marital status, age or handicapping condition;

(3) to provide for more efficient, economical and equitable personnel administration through a simplified structure of Foreign Service personnel categories and salaries;

(4) to establish a statutory basis for participation by the members of the Foreign Service, through their elected representatives, in the formulation of personnel policies and procedures which affect their conditions of employment, and to maintain a fair and effective system for the resolution of individual grievances;

(5) to minimize the impact of the hardships, disruptions and other unusual conditions of overseas service upon the members of the Foreign Service, and to mitigate the special impact of such conditions upon their families;

(6) to provide salaries, allowances and benefits that will permit the Foreign Service to attract and retain qualified personnel and to provide a system of incentive payments and awards to encourage and reward outstanding performance;

(7) to establish a Senior Foreign Service characterized by strong policy formulation capabilities, outstanding executive leadership qualities, and/or highly-developed functional and area expertise;

(8) to improve Foreign Service managerial flexibility and effectiveness;

(9) to increase efficiency and economy by promoting maximum compatibility among the agencies authorized to utilize the Foreign Service personnel system, as well as compatibility between the Foreign Service and the Civil Service; and

(10) otherwise to enable the Foreign Service to serve effectively the interests of the United States and to provide the highest caliber of representation in the conduct of foreign affairs.

SEC. 102. DEFINITIONS.—When used in this Act, the term—

(1) "abroad" means all areas not included within the United States;

(2) "agency" means an agency of the United States Government as defined in 5 U.S.C. 551;

(3) "chief of mission" means a principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary as diplomatic in nature (including any person assigned under this Act to be temporarily in charge of such a mission or office);

(4) "Department" means the Department of State;

(5) "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion or activity;

(6) "Government" means the Government of the United States of America;

(7) "merit principles" means the principles set out in 5 U.S.C. 2301;

(8) "principal officer" means the officer in charge of a diplomatic mission, consular mission (other than a consular agency), or other Foreign Service post of the United States;

(9) "Secretary" means the Secretary of State;

(10) "Service" means the Foreign Service of the United States;

(11) "United States", when used in a geographic sense, means the fifty states and the District of Columbia.

SEC. 103. PERSONNEL OF THE SERVICE.—The personnel of the Service shall consist of the following:

(1) chiefs of mission, appointed under section 302(a)(1) or assigned under section 511(c);

(2) ambassadors at large, appointed under section 302(a)(1);

(3) the Senior Foreign Service, appointed under section 302(a)(1) or 303, who shall provide the corps of leaders and experts for the management of the Service and the performance of its mission;

(4) Foreign Service officers, appointed under section 302(a)(1), who shall have general responsibility for carrying out the functions of the Service;

(5) Foreign Service personnel; appointed under section 303, who are citizens of the United States and who provide skills and services required for effective performance by the Service;

(6) foreign national employees, appointed under section 303, who provide clerical, administrative, technical, fiscal and other support at Foreign Service posts abroad; and

(7) consular agents, appointed under section 303, who provide consular and related services as authorized by the Secretary at specified locations abroad where no Foreign Service posts are situated.

SEC. 104. FUNCTIONS.—Members of the Service shall, under the direction of the Secretary—

(1) represent the interests of the United States in relation to foreign nations and international organizations, and perform the functions relevant to their appointments and assignments, including (as appropriate) functions under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, other international agreements to which the United States is a party, the laws of the United States and orders, regulations and directives issued pursuant to law;

(2) provide guidance for the conduct of programs and activities of the Department and other agencies which relate to the foreign relations of the United States; and

(3) perform functions on behalf of any agency or other Government establishment (including any in the legislative or judicial branch) requiring their services.

Chapter 2—MANAGEMENT OF THE SERVICE

SEC. 201. THE SECRETARY OF STATE.—Under the direction of the President, the Secretary shall administer and direct the Service, and shall coordinate its activities with the needs of the Department and other agencies. The Secretary is authorized to prescribe such regulations as the Secretary may deem appropriate to carry out functions under this Act, and may delegate such functions which are vested in the Secretary to any employee of the Department or member of the Service.

SEC. 202. OTHER AGENCIES EMPLOYING FOREIGN SERVICE PERSONNEL.—(a) The Director of the International Communication Agency, the Director of the International Development Cooperation Agency and the head of any other agency authorized by law to utilize the Foreign Service personnel system shall exercise the functions vested in the Secretary by this Act, with respect to personnel of the Service in their respective agencies, subject to the provisions of chapter 12 and other applicable laws.

(b) Except as otherwise provided, references in this Act to the "Department" and to the "Secretary" shall be deemed, with respect to the personnel and functions of the International Communication Agency, the International Development Cooperation Agency, and other agencies authorized by law, to utilize the Foreign Service personnel system, to be references to such agencies and to the heads of those agencies, subject to the provisions of chapter 12 and other applicable laws. References in this Act (or other law) to "Foreign Services officers" shall, with respect to the International Communication Agency, be deemed to include references to Foreign Service information officers.

(c) Chapters 10 and 11 of this Act shall apply only to the Department, the International Communication Agency and the International Development Cooperation Agency.

(d) Nothing in this Act shall be construed as diminishing the authority of the Director of the International Communication Agency or the Director of the International Development Cooperation Agency.

SEC. 203. THE CHIEF OF MISSION.—(a) Under the direction of the President, the chief of mission to a foreign country—

(1) shall have full responsibility for the direction, coordination and supervision of all Government officers and employees in that country, execpt for personnel under the command of a United States area military commander; and

(2) shall keep fully and currently informed with respect to all activities and operations of the Government within that country, and shall insure that all Government officers and employees in that country, execpt for personnel under the command of a United States area military commander, comply fully with all applicable directives of the chief of mission.

(b) Any agency having officers or employees in a foreign country shall keep the chief of mission to that country fully and currently informed with respect to all activities and operations of its officers and employees in that country, and shall insure that all of its officers and employees in that country, except for personnel under the command of a United States area military commander, comply fully with all applicable directives of the chief of mission.

SEC. 204. THE DIRECTOR GENERAL.—There shall be a Director General of the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, from among the career members of the Senior Foreign Service. The Director General shall assist the Secretary in the management of the Service and shall perform such functions, including functions under chapter 12, as the Secretary may prescribe.

SEC. 205. THE INSPECTOR GENERAL.—(a) There shall be an Inspector General of the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, from among the career members of the Senior Foreign Service. Under the direction of the Secretary, the Inspector General shall inspect the work of each Foreign Service post at least every three years, shall inspect periodically the bureaus and offices of the Department of State, and shall perform such functions as the Secretary may prescribe.

(b) Under the direction of the Secretary, the Inspector General may review the conduct of the Government's programs and activities performed under the direction, coordination and supervision of chiefs of mission for the purpose of ascertaining their consonance with the foreign policy of the

United States and their consistency with the responsibilities of the Secretary and the chief of mission.

(c) Whenever the Secretary has reason to believe that it is necessary in the public interest, the Secretary may authorize any Foreign Service inspector acting on behalf of the Inspector General to suspend from duty any member of the Service other than a chief of mission. If the member so suspended is a principal officer, the Secretary may authorize a Foreign Service inspector to serve in the place of the suspended officer for a period not to exceed ninety days.

SEC. 206. THE BOARD OF THE FOREIGN SERVICE.—The President shall establish a Board of the Foreign Service to advise the Secretary on matters relating to the Foreign Service, including furtherance of the objectives of maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system and compatibility between the Foreign Service and the Civil Service. The Board of the Foreign Service shall be chaired by a career member of the Senior Foreign Service designated by the Secretary and shall include senior representatives of the Department, the International Communication Agency, the International Development Cooperation Agency, the Office of Personnel Management, the Office of Management and Budget, and such other agencies as the President may designate.

Chapter 3—APPOINTMENTS

SEC. 301. GENERAL REQUIREMENTS FOR APPOINTMENT.—(a) Only citizens of the United States may be appointed to the Service, other than for service abroad as a consular agent or as a foreign national employee.

(b) The Secretary shall prescribe appropriate written, oral, physical and other examinations for appointment to the Service (other than as a chief of mission) in accordance with merit principles.

(c) The fact that an applicant for appointment as a Foreign Service officer candidate is a veteran or a disabled veteran as defined in 5 U.S.C. 2108 (1) or (2) shall be considered an affirmative factor in making appointments to the Service.

SEC. 302. PRESIDENTIAL APPOINTMENTS.—(a) (1) Appointment in the Service as a chief of mission, as an ambassador at large, as a career member of the Senior Foreign Service, or as a Foreign Service officer, shall be made by the President by and with the advice and consent of the Senate.

(2) The President may, by and with the advice and consent of the Senate, confer the personal rank of career ambassador upon a career member of the Senior Foreign Service, in recognition of especially distinguished service over a sustained period. Such personal rank shall be in addition to the member's salary class, and no additional compensation shall be paid to a career ambassador solely by virtue of such personal rank.

(3) The personal rank of ambassador may be conferred by the President in connection with a special mission for the President not exceeding six months in duration if the President, before conferring such rank, transmits a written report of his intent to confer such personal rank to the Committee on Foreign Relations of the Senate and transmits with that report all relevant materials concerning any potential conflicts of interest by the proposed recipient of such personal rank.

(4) Except as provided in this section, appointment to any position having the title or rank of ambassador or minister shall be made by the President by and with the advice and consent of the Senate.

(b) If a member of the Service is appointed to any position by the President, by and with the advice and consent of the Senate or by the President alone, the period of the member's service in that position shall be regarded as an assignment under chapter 5, and the member shall not, by virture of the acceptance of such assignment, lose his or her status as a member of the Service. A member of the Senior Foreign Service who accepts such an assignment may elect to continue to receive the salary of his or her class and remain eligible for performance pay under chapter 4 in lieu of receiving the salary of the position to which the member is appointed by the President.

SEC. 303. SECRETARIAL APPOINTMENTS.—The Secretary is authorized to appoint the members of the Service, other than the categories described in section 302(a), in accordance with the provisions of this Act and such regulations as the Secretary may prescribe.

SEC. 311. APPOINTMENT OF CHIEFS OF MISSION.—

(a) (1) The position of chief of mission to a foreign country should be accorded to persons possessing clearly demonstrated competence to perform the duties of a chief of mission, including, to the maximum practicable extent, a useful knowledge of the principal language or dialect of the country in which they are to serve, and knowledge and understanding of the history, the culture, the economic and political institutions, and the interests of such country and its people.

(2) No person should be accorded the position of chief of mission to a foreign country primarily because of contributions to political campaigns.

(3) To the extent practicable, career personnel of the Service should be given consideration for appointment to chief of mission positions.

(b) (1) The Secretary shall from time to time furnish the President with the names of career members of the Service qualified for appointment or assignment as chiefs of mission, together with pertinent information about such members, in order to assist the president in selecting qualified candidates for appointment or assignment as chiefs of mission.

(2) Each person appointed by the President as ambassador or minister shall, at the time of nomination, file with the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report of contributions made by such person and by members of his or her immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination. The report shall be verified by the oath or affirmation of the nominee, taken before any officer authorized to administer oaths. The chairman of the Committee on Foreign Relations of the Senate shall have printed in the Congressional Record each such report. As used in this paragraph, the term "contribution" has the same meaning given such term by section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 (e)), and the term "immediate family" means a person's spouse, and any child, parent, grandparent, brother, or sister of such person and the spouses of any of them.

SEC. 321. APPOINTMENT TO THE SENIOR FOREIGN SERVICE.—Appointment to the Senior Foreign Service shall be to a salary class established under section 411, and not to a position. The total number of noncareer members of the Senior Foreign Service shall not exceed 5 percent of the members of the Senior Foreign Service.

SEC. 322. CAREER APPOINTMENTS.—(a) Each candidate for a career appointment in the Service shall first serve under a limited appointment as a career candidate for a trial period of service prescribed by the Secretary. During a candidate's trial period of service. the Secretary shall decide whether or not—

(1) to offer a career appointment to the candidate, or

(2) to recommend to the President that the candidate be given a career appointment.

(b) Decisions by the Secretary under this section shall be based upon the recommendations of boards composed entirely or primarily of career members of the Service who shall evaluate the fitness and aptitude of candidates for the work of the Service.

SEC. 323. ENTRY LEVELS FOR FOREIGN SERVICE OFFICER CANDIDATES.—A Foreign Service officer candidate shall not be initially assigned under section 431 to a salary class higher than class 4 in the Foreign Service Schedule established under section 421 unless—

(1) the Secretary determines in an individual case that assignment to a higher class is necessary because of the qualifications and experience of the candidate and the needs of the Service; or

(2) the candidate is currently serving under a career appointment in the Service at a salary rate equal to or higher than class 4 of such Schedule.

SEC. 324. RECALL AND REEMPLOYMENT OF CAREER PERSONNEL.—(a) Whenever the Secretary determines that the needs of the Service so require, the Secretary may recall for active duty any retired member of the Service who served under a career appointment. A retired member may be recalled under this section to any appropriate class, except that a retired member may not be recalled to the Senior Foreign Service in a class higher than the member held at the time of retirement unless appointed to such higher class by the President by and with the advice and consent of the Senate.

(b) Former career personnel of the Service may be reappointed under section 302(a) (1) or 303, without regard to section 322, in a salary class which the Secretary considers appropriate in light of the qualifications and experience of each such candidate for reappointment.

SEC. 331. LIMITED AND TEMPORARY APPOINTMENTS.—Non-career and other limited appointments in the Service (other than as a chief of mission), including appointment of a person who is an employee of an agency, shall in no event exceed five years in duration and, except as provided in section 333, may not be extended or renewed. A time-limited appointment in the Service for not to exceed one year shall be a temporary appointment.

SEC. 332. REEMPLOYMENT RIGHTS FOLLOWING LIMITED APPOINTMENT.—Any employee of an agency who accepts a limited appointment in the Service with the consent of the head of the agency in which the employee is regularly employed shall be entitled, upon the termination of such limited appointment, to be reemployed in the same position the employee occupied at the time of appointment to the Service, or in a corresponding or higher position. Such reemployment shall include receipt of any within-grade salary advancements the employee would have received in accordance with law or regulation had the employee remained in the position in which regularly employed.

SEC. 333. FAMILY MEMBERS OF GOVERNMENT EMPLOYEES.—(a) The Secretary, when employing persons abroad in positions to which career Foreign Service personnel are not customarily assigned (including vacant positions normally filled by foreign national employees when continuity over a long term is not a significant consideration), shall give equal consideration to employing available qualified family members of Foreign Service and other Government personnel assigned abroad. Family members so employed shall serve under renewable limited appointments and be paid either in accordance with the Foreign Service Schedule established under section 421 or a local compensation plan established under section 451, as appropriate.

(b) Employment of family members in accordance with this section must be consistent with the needs of the Service for positions for career personnel.

(c) The Secretary shall prescribe regulations for the guidance of all agencies regarding the employment at posts abroad of family members of Government personnel.

SEC. 341. DIPLOMATIC AND CONSULAR COMMISSIONS.—(a) The Secretary may recommend to the President that a member of the Service who is a citizen of the United States be commissioned as a diplomatic or consular officer or both. The President may, by and with the advance and consent of the Senate, commission such member of the Service as a diplomatic or consular officer or both. The Secretary may commission as a vice consul a member of the Service who is a citizen of the United States. All official functions performed by a diplomatic or consular officer, including a vice consul, shall be performed under such a commission.

(b) Members of the Service commissioned under this section may perform under their commissions any function which any category of diplomatic officer (other than a chief of mission) of consular officer is authorized by law to perform.

(c) The Secretary shall define the limits of consular districts.

Chapter 4—COMPENSATION

SEC. 401. SALARIES OF CHIEFS OF MISSION.—(a) Each chief of mission shall receive a salary as determined by the President, at one of the annual rates provided by law for levels II through V of the Federal Executive Salary Schedule (5 U.S.C. 5313–5316), except as provided in section 302(b).

(b) The salary of a chief of mission shall commence upon the effective date of appointment to that office. The official services of a chief of mission shall not be deemed terminated by the appointment of a successor, but shall continue for such additional period, not to exceed fifty days after relinquishing charge of the mission, as the Secretary may determine. During that period, the Secretary may require the chief of mission to perform such functions as the Secretary may deem necessary in the interest of the Government.

SEC. 411. SALARIES OF THE SENIOR FOREIGN SERVICE.—The President shall prescribe salary classes for the Senior Foreign Service and shall prescribe an appropriate title for each class. Salary rates for the Senior Foreign Service shall not exceed the maximum rate or be less than the minimum rate of basic pay established for the Senior Executive Service under 5 U.S.C. 5382, and shall be adjusted at the same time and in the same manner as rates of basic pay are adjusted for the Senior Executive Service.

SEC. 421. THE FOREIGN SERVICE SCHEDULE.—The President shall prescribe nine classes of salary rates for members of the Service who are citizens of the United States and for whom other salary rates are not provided by this chapter. The basic salary of the highest class established under this section, which shall be designated class 1, shall not exceed the highest rate of basic pay established for grade 15 of the General Schedule described in 5 U.S.C. 5104. Salary rates for the Foreign Service under this section shall be established in accordance with subchapter I of chapter 53 of title 5, United States Code, and shall be adjusted at the same time and in the same manner as rates of basic pay are adjusted for the General Schedule.

SEC. 431. ASSIGNMENT TO A SALARY CLASS.—(a) The Secretary shall assign to an appropriate salary class established under this chapter each person appointed to the Service, other than a chief of mission or member of the Senior Foreign Service whose salary is determined by the terms of his or her appointment.

(b) The salary class to which a member of the Service is assigned under this section shall not be affected by the member's assignment to any position or post under chapter 5. Except as authorized by chapter 35 of title 5, United States Code, changes in the salary class of a member of the Senior Foreign Service or a member receiving a salary under the Foreign Service Schedule shall be made only in accordance with chapter 6.

SEC. 441. PERFORMANCE PAY.—(a) Members of the Senior Foreign Service who are serving—

(1) under career or career candidate appointments, or

(2) under limited appointments with reemployment rights under section 332 to the Senior Executive Service,

shall be eligible to compete for performance pay in accordance with this section. Performance pay shall be paid in a lump sum and shall be in addition to the basic salary as prescribed under section 411 and any other award. The fact that a member of the Senior Foreign Service competing for performance pay would receive compensation thereby exceeding the compensation of any other member of the Service shall not be taken into account in consideration for the award or its payment.

(b) Awards of performance pay shall take into account the criteria established by the Office of Personnel Management for performance awards under 5 U.S.C. 5384 and rank awards under 5 U.S.C. 4507. Such awards shall be subject to the following limitations:

(1) not more than fifty percent of the members of the Senior Foreign Service may receive performance pay in any one year;

(2) performance pay for a member of the Senior Foreign Service may not exceed twenty percent of the member's annual rate of basic salary except as provided in paragraph (3);

(3) not more than six percent of the members of the Senior Foreign Service may receive performance pay in any year in amounts which exceed the percentage limitation specified in paragraph (2). Payments under this paragraph to a member of the Senior Foreign Service may not exceed $10,000 in any year, except that payments of up to $20,000 may be made to up to one percent of such members; and

(4) the total amount of basic salary plus performance pay received by any member of the Senior Foreign Service may not exceed in any fiscal year the salary provided by law for level I of the Federal Executive Salary Schedule (5 U.S.C. 5312).

(c) The Secretary shall determine the amount of performance pay as described in subsection (b)(2) available each year for distribution among the several classes of members of the Senior Foreign Service, and shall make distribution to particular individuals on the basis of recommendations by selection boards established under section 603.

(d) The President may grant awards of performance pay as described in subsection (b)(3) on the basis of annual recommendations by the Secretary of members of the Senior Foreign Service who are nominated by their agencies as having performed especially meritorious or distinguished service. Recommendations by the Secretary under this subsection shall be made on the basis of recommendations by special interagency selection boards established by the Secretary for the purpose of reviewing and evaluating the nominations of agencies.

SEC. 442. WITHIN-CLASS SALARY INCREASES.—(a) Any member of the Service receiving a salary under the Foreign Service Schedule shall receive an increase in salary at periodic intervals to the next higher rate for the class in which such member is serving unless the member's performance during any such interval is found in a review by a selection board established under Section 603 to fall below the standards of performance for his or her class.

(b) Without regard to any other law, the Secretary is authorized to grant to any member of the Service to whom subsection (a) applies additional increases in salary within the salary range established for the class in which the member is serving, based upon especially meritorious service.

SEC. 451. LOCAL COMPENSATION PLANS.—(a)(1) The Secretary shall establish compensation plans for foreign national employees of the Service, and for United States citizens employed in the Service abroad who are family members of Government personnel described in section 333. Such compensation plans shall be based upon prevailing wage rates and compensation practices for corresponding types of positions in the locality (including participation in local social security plans) to the extent consistent with the public interest. Compensation plans established under this section may include provision for leave of absence with pay for foreign national employees in accordance with prevailing law and employment practices in the locality of employment without regard to 5 U.S.C. 6310.

(2) The Secretary may make supplemental payments to any civil service annuitant who is a former foreign national employee of the Service (or is a survivor of a former foreign national employee of the Service) in order to offset exchange rate losses, if the annuity being paid such annuitant is based on—

(A) a salary that was fixed in a foreign currency that has appreciated in value in terms of the United States dollar; and

(B) service in a country in which (as determined by the Secretary) the average retirement benefits being received by those who have retired from competitive local organizations are superior to the local currency value of civil service annuities plus any other retirement benefits payable to foreign national employees who have retired during similar time periods and after comparable careers with the Government.

(b) For the purpose of performing functions abroad, any agency or other Government establishment (including any in the legislative or judicial branch) is authorized to administer employment programs for its employees who are foreign nationals or family members of Government personnel serving abroad, in accordance with the applicable provisions of this Act.

(c) The Secretary may prescribe regulations governing the establishment and administration of local compensation plans under this section for the guidance of all agencies, and Government establishments.

SEC. 452. SALARIES OF CONSULAR AGENTS.—The Secretary is authorized to establish the salary rate for each consular agent, after taking into account the workload of the consular agency and the prevailing wage rates in the locality where it is located.

SEC. 453. COMPENSATION FOR IMPRISONED FOREIGN NATIONAL EMPLOYEES.—(a) The head of any agency or other Government establishment (including any in the legislative or judicial branch) may compensate any current or former foreign national employee, including a foreign national employee who worked under a personal services contract, who is or has been imprisoned by a foreign government if the Secretary (or, in the case of an employee of the Central Intelligence Agency, the Director of Central Intelligence) determines that such imprisonment is the result of the foreign national's employment by the United States. Such compensation may not exceed an amount that the agency head determines approximates the salary and other benefits to which the employee or former employee would have been entitled had he or she remained employed during the period of such imprisonment, and may be paid under such terms and conditions as the Secretary deems appropriate. For the purposes of this section, the agency head shall have the same powers with respect to imprisoned foreign national employees and former employees as those of an agency head under subchapter VII of chapter 55 of title 5, United States Code, to the extent that such powers are consistent with this section.

(b) Any period of imprisonment of a foreign national which is compensable under this section shall be considered for purposes of any other employee benefit to be a period of employment by the Government, except that a period of imprisonment shall not be creditable—

(1) for purposes of subchapter III of chapter 83 of title 5, United States Code, unless the individual either—

(A) was subject to section 8334(a) of such title during the period of his or her Government employment last preceding the imprisonment; or

(B) qualified for annuity benefits under such subchapter III by reason of other service; or

(2) for purposes of subchapter I of chapter 81 of title 5, United States Code, unless the individual was employed by the Government at the time of his or her imprisonment.

(c) No compensation or other benefit shall be awarded under this section unless a claim therefor is filed within three years after—

(1) the termination of the period of imprisonment giving rise to the claim, or

(2) the date of the claimant's first opportunity thereafter to file such a claim, as determined by the appropriate agency head.

(d) The Secretary may prescribe regulations governing payments under this section for the guidance of all agencies and Government establishments.

SEC. 461. TEMPORARY SERVICE AS PRINCIPAL OFFICER.—For such time as any member of the Service is temporarily in charge of a post during the absence or incapacity of the principal officer he or she shall receive, in addition to the basic salary for his or her class an amount equal to that portion which the Secretary may determine to be appropriate of the difference between such salary and the basic salary provided for the principal officer, or, if there be none, of the former principal officer.

SEC. 462. SPECIAL ALLOWANCES.—The Secretary may pay special allowances, in addition to compensation otherwise authorized, to Foreign Service officers who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements.

Chapter 5—CLASSIFICATION OF POSITIONS AND ASSIGNMENTS

SEC. 501. CLASSIFICATION OF POSITIONS.—The Secretary shall designate and classify all positions to be occupied by members of the Service (other than chiefs of mission), including positions at posts abroad and in the Department. Position classifications under this section shall be established, without regard to chapter 51 of title 5, United States Code, in relation to the salary classes established under chapter 4.

SEC. 511. ASSIGNMENTS TO FOREIGN SERVICE POSITIONS.—(a) The Secretary may assign a member of the Service, in accordance with merit principles, to any position classified under section 501 in which he or she is eligible to serve (other than as chief of mission), and may transfer a member from position to position as the needs of the Service may require.

(b) Positions classified as Foreign Service positions normally shall be filled by the assignment of members of the Foreign Service to those positions. Subject to that limitation—

(1) Foreign Service positions may be filled by personnel of the Department and, under interagency agreements, personnel of other agencies (including military personnel); and

(2) Senior Foreign Service positions may also be filled by other members of the Service.

(c) The President may assign a member of the Service serving under a career appointment to serve as charge d'affaires or otherwise as the head of a mission for such period as the public interest may require.

SEC. 521. ASSIGNMENTS TO AGENCIES, INTERNATIONAL ORGANIZATIONS AND OTHER BODIES.—(a) The Secretary may assign a member of the Service for duty—

(1) in a non-Foreign Service (including Senior Executive Service) position in the Department or another agency, or in an international organization, international commission or other international body;

(2) with domestic or international trade, labor, agricultural, scientific or other conferences, congresses or gatherings;

(3) for special instruction, training or orientation at or with public or private nonprofit institutions, or commercial firms; and

(4) in the United States, or in any territory or possession thereof, or the Commonwealth of Puerto Rico, with a State or local government, public school, community college, or other public or private nonprofit organization, including assignment to a Member or office of the Congress so long as assignments under this paragraph emphasize service outside Washington, D.C.

(b)(1) The salary of a member of the Service assigned under this section shall be the salary of the member's class, irrespective of the salary of the position to which assigned, and shall be paid from appropriations made available for the payment of salaries and expenses of the Service. Such appropriations may be reimbursed for all or any part of the salaries of members assigned under this section.

(2) A member of the Service assigned under subsection (a)(4) to a Member or office of the Congress shall be deemed to be an employee of the House of Representatives or the Senate, as the case may be, for purposes of payment of travel and other expenses.

(c) Assignments under this section shall not exceed four years of continuous service for any member of the Service, unless the Secretary approves an extension of such period in special circumstances.

SEC. 531. SERVICE IN THE UNITED STATES AND ABROAD.—(a) Career personnel of the Service shall be obligated to serve abroad, and shall be expected to serve abroad for substantial portions of their careers. The Secretary shall establish by regulation limitations upon assignments of members of the Service within the United States. No member of the Service may be assigned to duty within the United States for any period of continuous service exceeding eight years unless the Secretary approves an extension of such period in special circumstances.

(b) Consistent with the needs of the Service, the Secretary shall seek to assign career members of the Service who are citizens of the United States to duty within the United States at least once during each period of fifteen years in the Service.

(c) The Secretary may grant a sabbatical to a career member of the Senior Foreign Service for not to exceed eleven months in order to permit the member to engage in study or uncompensated work experience which will contribute to the member's development and effectiveness. A sabbatical may be granted under this subsection under conditions specified by the Secretary in light of the provisions of 5 U.S.C. 3396(c) which apply to sabbaticals granted to members of the Senior Executive Service.

SEC. 541. TEMPORARY DETAILS.—A period of duty of not more than six months in duration by a member of the Service shall be considered a temporary detail. Such a detail, whether at the commencement during the course of, or at the close of an assignment, shall not be considered an assignment within the meaning of this chapter.

Chapter 6—PROMOTION AND RETENTION

SEC. 601. PROMOTIONS BASED ON MERIT.—(a) Promotions in the Service shall be based upon merit principles.

(b) Promotions of—

(1) members of the Senior Foreign Service, and

(2) members receiving salaries under the Foreign Service Schedule (including promotions of such members into the Senior Foreign Service),

shall be based upon the recommendations and rankings of selection boards established under section 603, except that the Secretary may by regulation specify categories of career personnel receiving salaries under the Foreign Service Schedule who may receive promotions on the basis of satisfactory performance.

SEC. 602. PROMOTION INTO AND RETENTION IN THE SENIOR FOREIGN SERVICE.—(a) Promotions into the Senior Foreign Service shall be recommended by selection boards only from among those members of the Service who are serving under career appointments at class 1 of the Foreign Service Schedule and who request that they be considered for promotion into the Senior Foreign Service. The Secretary shall prescribe the period (within any applicable time in class limitation specified under section 641(a)) during which such members may be considered for entry into the Senior Foreign Service by selection boards.

(b) Decisions by the Secretary on promotions into and retention in the Senior Foreign Service shall take into account the needs of the Service to plan for the continuing admission of new members and for effective career development and reliable promotional opportunities.

(c) The affidavit requirements of 5 U.S.C. 3332 and 3333(a) shall not apply with respect to a member of the Service who has previously complied with those requirements and who subsequently is promoted by appointment to any class in the Senior Foreign Service without a break in service.

SEC. 603. SELECTION BOARDS.—The Secretary shall establish selection boards to evaluate the performance of members of the Senior Foreign Service and members receiving salaries under the Foreign Service Schedule. Selection boards shall, in accordance with precepts prescribed by the Secretary, rank the members of a class on the basis of relative performance and may make recommendations for—

(1) promotions under section 601(b);

(2) awards of performance pay under section 441(c);

(3) offer or renewal of limited career extensions as described in section 641(b); and

(4) such other actions as the Secretary may prescribe by regulation.

SEC. 612. BASIS FOR SELECTION BOARD REVIEW.—(a) Recommendations and rankings by selection boards shall be based upon records of the character, ability, conduct, quality of work, industry, experience, dependability and general performance of members of the Service, including reports of Foreign Service inspectors, performance evaluation reports of supervisors, records of commendations, awards, reprimands and other disciplinary actions, and (with respect to the Senior Foreign Service) records of current and prospective assignments.

(b) Precepts for selection boards shall include a description of the needs of the Service for performance requirements, skills and qualities to be considered in recommendations for promotion. The precepts for selection boards responsible for recommending promotion into and within the Senior Foreign Service shall emphasize performance which demonstrates the strong policy formulation capabilities, executive leadership qualities, and/or highly developed functional and area expertise required for the Senior Foreign Service.

SEC. 613. CONFIDENTIALITY OF RECORDS.—The records described in section 612(a) shall be maintained in accordance with regulations prescribed by the Secretary. Except to the extent that they pertain to the receipt, disbursement and accounting for public funds, such records shall be confidential and subject to inspection only by the President, the Secretary, such officers and employees of the Government as may be authorized by law or assigned by the Secretary to work on such records, the legislative and appropriations committees of the Congress charged with considering legislation and appropriations for the Service, and representatives duly authorized by such committees. Access to such records relating to a member of the Service shall be granted to such member, upon written request.

SEC. 621. IMPLEMENTATION OF SELECTION BOARD RECOMMENDATIONS.—Recommendations for promotion made by selection boards shall be submitted to the Secretary in rank order by class or in rank order by specialization within a class. The Secretary shall make promotions and, with respect to the career Senior Foreign Service, shall make recommendations to the President for promotions, in accordance with the rankings of the selection boards. However, in special circumstances set forth by regulation, the Secretary may remove an individual name from the rank order list submitted by a selection board or delay the promotion of an individual named in such a list.

SEC. 631. OTHER RECOMMENDATIONS FOR PROMOTION.—(a) The Secretary may, pursuant to a recommendation of the Foreign Service Grievance Board, an equal employment opportunity appeals examiner, or the Special Counsel of the Merit Systems Protection Board, or pursuant to a decision of the Merit Systems Protection Board—

(1) recommend to the President a promotion of a member of the Service;

(2) promote a member of the Service; or

(3) grant to a member of the Service performance pay or a within-class salary increase.

(b) In special circumstances set forth by regulation, the Secretary may make retroactive promotions and grants of performance pay and within-class salary increases, and may recommend retroactive promotions by the President, under section 621 and subsection (a) of this section.

SEC. 641. RETIREMENT FOR EXPIRATION OF TIME IN CLASS.—(a) The Secretary shall, by regulation, specify the maximum time during which—

(1) career members of the Senior Foreign Service,

(2) Foreign Service officers, and

(3) career members in such other Foreign Service personnel categories as may be designated by the Secretary who are paid salaries comparable to the salaries of Foreign Service officers,

may remain in class (or a combination of classes) without a promotion. The Secretary may, by regulation, increase or decrease such maximum time for a class (or a combination of classes) as the needs of the Service may require.

(b) Members of the Service whose maximum time in class under subsection (a) expires—

(1) after they have attained the highest class for their respective personnel categories, or

(2) while they are serving as members of the Senior Foreign Service in classes designated by the Secretary,

may continue to serve only under limited extensions of their career appointments. Such limited extensions shall not exceed five years in duration and may be granted and renewed by the Secretary in light of the recommendations of selection boards established under section 602 and the needs of the Service. Personnel serving under such limited career extensions shall continue to be considered career members of the Service.

(c) Any member of the Service who does not receive a promotion within an applicable time in class limitation specified under subsection (a), or whose limited career extension under subsection (b) is terminated or not renewed, shall be retired from the Service and receive benefits in accordance with section 643.

SEC. 642. RETIREMENT BASED ON RELATIVE PERFORMANCE.—(a) The Secretary shall prescribe regulations concerning the standards of performance to be met by career members of the Service who are citizens of the United States. Whenever a selection board review board indicates that the performance of such a career member of the Service may not meet the standards of performance for his or her class, the Secretary shall provide for administrative review of the member's performance. The review shall include an opportunity for the member to be heard.

(b) In any case where the administrative review conducted under subsection (a) substantiates that a member of the Service has failed to meet the standards of performance for his or her class, the member shall be retired from the Service and receive benefits in accordance with section 643.

SEC. 643. RETIREMENT BENEFITS.—(a) A member of the Service—

(1) whose limited extension of a career appointment under section 641(b) is terminated or not renewed; or

(2) who is otherwise retired under section 641 or 642—

(A) after becoming eligible for voluntary retirement under section 835, or

(B) from the Senior Foreign Service or from class 1 of the Foreign Service Schedule, shall receive retirement benefits in accordance with section 821.

(b) Any other member of the Service who is retired under section 641 or 642 shall receive—

(1) one-twelfth of a year's salary at his or her then current salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his or her then current salary rate, payable without interest from the Foreign Service Retirement and Disability Fund, in three equal installments on the first day of January following the member's retirement and on the two anniversaries of this date immediately following: *Provided*, That in special cases, the Secretary may accelerate or combine the installments; and

(2) refund of the contributions made to the Foreign Service Retirement and Disability Fund as provided in section 841, except that in lieu of such refund a member who has at least five years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military or naval service) may elect to receive retirement benefits on reaching age sixty in accordance with section 821. In the event that a member has elected to receive retirement benefits and dies before reaching the age of sixty his or her death shall be considered a death in service within the meaning of section 832.

(c) Notwithstanding section 3477 of the Revised Statutes (31 U.S.C. 203) or any other law, a member of the Service who is retired under section 641 or 642 shall have the right to assist to any person or corporation the whole or any part of the benefits receivable by him or her under subsection (b)(1). Any such assignment shall be on a form approved by the Secretary of the Treasury and a copy thereof shall be deposited with the Secretary of the Treasury by the person executing the assignment.

SEC. 651. SEPARATION FOR CAUSE.—(a) The Secretary may separate any member from the Service for such cause as will promote the efficiency of the Service. No member serving under a career appointment and paid a salary specified for the Senior Foreign Service or in the Foreign Service Schedule shall be so separated until he or she has been granted a hearing before the Foreign Service Grievance Board and the cause for separation established at such hearing, unless the member waives in writing the right of a hearing. This section shall also apply to any member of the Service who is in a probationary status or whose appointment is limited or temporary, when separation is by reason of misconduct. The hearing provided under this subsection shall be in lieu of any other administrative procedure authorized or required by this or any other law.

(b) Any participant in the Foreign Service Retirement and Disability System separated under subsection (a) shall be entitled to receive a refund of the contribution made by the participant to the Foreign Service Retirement and Disability Fund as provided in section 841. Except in cases where the Secretary determines that separation was based in whole or in part on the ground of disloyalty to the United States, a participant who has at least five years of service credit toward retirement under this System (excluding military or naval service) may elect, in lieu of such refund, to receive retirement benefits on reaching age sixty in accordance with section 821.

(c) Any member of the Service separated under subsection (a) who is not a participant in the Foreign Service Retirement and Disability System shall be entitled only to such benefit as shall accrue to him or her under the retirement system in which the member is a participant.

SEC. 661. TERMINATION OF LIMITED AND TEMPORARY APPOINTMENTS.—(a) Except as provided in subsection (b), and notwithstanding any other law, the Secretary may terminate at any time the services of any member of the Service who is paid a salary specified for the Senior Foreign Service or in the Foreign Service Schedule or is a family member serving under a local compensation plan, and who is serving under a limited or temporary appointment.

(b) The termination of a limited appointment described in subsection (a) because of misconduct shall be subject to the provisions of section 651.

Sec. 671. Termination of Consular Agents and Foreign National Personnel.—Notwithstanding any other law, the Secretary may terminate at any time the services of any consular agent or foreign national employee after giving due consideration to the criteria and procedures normally followed in the locality in similar circumstances.

Chapter 7—FOREIGN SERVICE INSTITUTE, CAREER DEVELOPMENT, TRAINING AND ORIENTATION

Sec. 701. Foreign Service Institute.—(a) The Secretary shall maintain and operate the Foreign Service Institute (hereinafter "the Institute") originally established under section 701 of the Foreign Service Act of 1946 (60 Stat. 1018), in order to promote career development within the Service and to provide necessary training and instruction in the field of foreign relations to personnel of the Service, and of the Department and other agencies. The Institute shall be headed by a Director, who shall be appointed by the Secretary.

(b) The Secretary may, in addition, provide to members of the families of such personnel in anticipation of their assignment abroad or while abroad—

(1) appropriate orientation and language training; and

(2) functional training for anticipated prospective employment under section 333.

(c) To the extent practicable, the Secretary shall provide training under this chapter which meets the needs of all agencies, and other agencies shall avoid duplicating the facilities and training provided by the Secretary through the Institute and otherwise.

Sec. 702. Foreign Language Requirement.—The Secretary shall establish foreign language proficiency requirements for members of the Service who are to be assigned abroad in order that posts abroad will be staffed by personnel having a useful knowledge of the language or dialect common to the country where the post is located. The Secretary shall arrange for appropriate language training of members of the Service at the Institute or elsewhere in order to assist in meeting such requirements.

Sec. 703. Training Authorities.—In the exercise of functions under this chapter, the Secretary may—

(1) provide for the general nature of the training and instruction to be furnished in the Institute, including functional and geographic area specializations;

(2) correlate training and instruction with courses given at other Government institutions and at private institutions which furnish training and instruction useful in the field of foreign affairs;

(3) encourage and foster programs complementary to those in the Institute, including through grants and other gratuitous assistance to nonprofit institutions cooperating in any of the programs under this chapter;

(4) Pay the tuition and other expenses of personnel assigned or detailed in accordance wtih law for special instruction or training, including orientation, language and career development training;

(5) employ personnel in accordance with the civil service laws and regulations and chapter 51 and subchapter III of chapter 53 of title 5, United States Code, except that, when deemed necessary by the Secretary for the effective administration of this chapter, personnel may be employed without regard to the civil service laws and regulations and chapter 51 and subchapter III of chapter 53 of title 5, United States Code, at any of the rates specified in the General Schedule described in 5 U.S.C. 5104 (including in the absence of suitably qualified United States citizens persons who are not citizens of the United States) by appointment on a full-time, part-time, or intermittent basis or by contract for services in the United States or abroad;

(6) provided special monetary or other incentives to encourage Foreign Service personnel to acquire or retain proficiency in esoteric foreign languages or special abilities needed in the Service; and

(7) acquire such real and personal property and equipment as may be necessary for the establishment, maintenance and operation of the facilities necessary to carry out the provisions of this chapter without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) and section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252).

Sec. 704. Training and Orientation Grants.—(a) To facilitate orientation and language training provided to members of families of Government personnel under this chapter, the Secretary may make grants to family members attending approved orientation and language programs of study. No such grant may exceed the amount actually expended for necessary costs incurred in conjunction with such attendance and in no event may any such grant exceed $300 per month per individual. No individual may receive such a grant for more than six months in connection with any one assignment.

(b) If a member of the family of a member of the Service who is assigned abroad is unable to participate in language training provided by the Department at the Institute or elsewhere, the Secretary may compensate that family member for all or part of the costs of the language training, related to the assignment abroad, which is undertaken at a public or private institution.

Sec. 705. Career Counseling.—(a) In order to facilitate their transition from the Service, the Secretary may provide professional career counseling, advice and placement assistance, by contract or otherwise, to members and former members of the Service other than those separated for cause.

(b) The Secretary may facilitate the employment of spouses of Foreign Service personnel by—

(1) providing regular career counseling for such spouses;

(2) maintaining a centralized system for cataloguing their skills and the various governmental and nongovernmental overseas employment opportunities available to them; and

(3) otherwise assisting them in obtaining overseas employment.

Chapter 8—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

Sec. 801. Administration and Maintenance of the System.—(a) In accordance with such regulations as the President may prescribe, the Secretary shall administer the Foreign Service Retirement and Disability System (hereinafter "the System"), originally established by section 18 of the Act of May 24, 1924 (43 Stat. 144).

(b) The Secretary of the Treasury shall maintain the special fund, known as the Foreign Service Retirement and Disability Fund (hereinafter "the Fund"), originally constituted by section 18 of the Act of May 24, 1924 (43 Stat. 144).

Sec. 803. Participants.—(a) The following persons (hereinafter "participants") shall be entitled to the benefits of the System:

(1) Every person serving under a career appointment—

(A) in the Senior Foreign Service, or

(B) under the Foreign Service Schedule; and

(2) every chief of mission, not otherwise entitled to be a participant, who—

(A) has served as chief of mission for an aggregate period of twenty years or more, and

(B) has paid into the Fund a special contribution for each year of such service in accordance with section 811.

(b) Any otherwise eligible person who is appointed to a position by the President, by and with the advice and consent of the Senate or by the President alone, shall not by virtue of the acceptance of such appointment cease to be eligible to participate in the System.

Sec. 804. Definitions. When used in this chapter, unless otherwise specified, the term—

(1) "annuitant" means any person, including a former participant or survivor, who meets all requirements for an annuity from the Fund under this or any other Act and who has filed a claim therefor.

(2) "child" means—

(A) an unmarried child of a participant under the age of eighteen years (or an unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support) who is—

(i) an offspring, or adopted child of the participant,

(ii) a stepchild or recognized natural child, who received more than one-half support from the participant, or

(iii) a child who lived with and for whom a petition of adoption was filed by a participant, and who is adopted by the surviving spouse of the participant after the latter's death; and

(B) an unmarried student below age twenty-two (for this purpose a child whose twenty-second birthday occurs before July 1 or after August 31 of a calendar year, and while a student is deemed to have become twenty-two years of age on the first day of July after that birthday);

(3) "Foreign Service normal cost" means the level percentage of payroll required to be deposited in the Fund to meet the cost of benefits payable under the System (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for Government employees and less the cost of credit allowed for military service;

(4) "Fund balance" means the sum of—

(A) the investments of the Fund calculated at par value, plus

(B) the cash balance of the Fund on the books of the Treasury;

(5) "lump-sum credit" means the compulsory and special contributions to a participant's or former participant's credit in the Fund plus interest thereon at four percent a year compounded annually to December 31, 1976, and after such date for a participant who separates from the Service after completing at least one year of civilian service and before completing five years of such service, at the rate of three percent per year to the date of separation. Interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from an annuitant for recall service or other service performed after the

date of separation which forms the basis for annuity.

(6) "military and naval service" means honorable active service—

(A) in the Armed Forces of the United States,

(B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or

(C) as a commissioned officer of the National Oceanic and Atmospheric Administration or predecessor organization after June 30, 1961,

but does not include service in the National Guard except when ordered to active duty in the service of the United States;

(7) "student" means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university or comparable recognized educational institution (a child who is a student shall not be deemed to have ceased to be a student during any period between school years, semesters or terms if the period of nonattendance does not exceed five calendar months and if the child shows to the satisfaction of the Secretary that he or she has a bona fide intention of continuing to pursue his or her course of study during the school year, semester or term immediately following such period);

(8) "surviving spouse" means the surviving wife or husband of a participant or annuitant who, in the case of a death in Service or marriage after retirement, was married to the participant or annuitant for at least one year immediately preceding his or her death or is the parent of a child born of the marriage;

(9) "unfunded liability" means the estimated excess of the present value of all benefits payable from the Fund over the sum of—

(A) the present value of deductions to be withheld from the future basic salary of participants and of future agency contributions to be made in their behalf, plus

(B) the present value of Government payments to the Fund under section 865, plus

(C) the Fund balance as of the date the unfunded liability is determined.

SEC. 811. CONTRIBUTIONS TO THE FUND.—(a) Seven percent of the basic salary received by each participant shall be contributed to the Fund for the payment of annuities, cash benefits, refunds and allowances. An equal sum shall also be contributed from the respective appropriation or fund which is used for payment of the participant's salary. The amounts deducted and withheld from basic salary together with the amounts so contributed from the appropriation or fund shall be deposited by the Department in the Fund.

(b) Each participant shall be deemed to consent and agree to such deductions from basic salary. Payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which the participant shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the individual's salary.

(c)(1) If a member of the Service under another retirement system for Government employees becomes a participant in the System by direct transfer, such member's total contributions and deposits that would otherwise be refundable on separation (except voluntary contributions), including interest thereon, shall be transferred to the Fund effective as of the date such member becomes a participant in the System. Each such member shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands aaginst the other Government retirement fund on account of service rendered prior to becoming a participant in the System.

(2) No member of the Service whose contributions are transferred to the Fund under paragraph (1) shall be required to make additional contributions for periods of service for which required contributions were made to the other Government retirement fund; nor shall any refund be made to any such member on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed by subsection (d).

(d) Any participant credited with civilian service after July 1, 1924—

(1) for which no retirement contributions, deductions, or deposits have been made, or

(2) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited,

may make a special contribution to the Fund equal to the following percentages of basic salary received for such service:

Service	*Percent of basic salary*
July 1, 1924 through October 15, 1960, inclusive	5
October 16, 1960, through December 31, 1969, inclusive	6½
On and after January 1, 1970	7

Notwithstanding the foregoing, a special contribution for prior nondeposit service as a national Guard technician which would be creditable toward retirement under subchapter III of chapter 83 of title 5, United States Code, and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the above schedule multiplied by the percentage of such service that is creditable under section 851. Special contributions shall include interest computed from the midpoint of each service period included in the computation, or from the date refund was paid to the date of payment of the special contribution or commencing date of annuity, whichever is earlier. Interest shall be compounded at the annual rate of four percent to December 31, 1976, and at three percent thereafter. No interest shall be charged on special contributions for any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments (including by allotment of pay) when authorized by the Secretary.

(e) No contributions shall be required for any period of military or naval service, or for any period for which credit is allowed to persons of Japanese ancestry under section 851 for periods of internment during World War II.

(f) A participant or survivor may make a special contribution at any time before receipt of annuity and may authorize payment by offset against initial annuity accruals.

SEC. 821. COMPUTATION OF ANNUITIES.—(a) The annuity of a participant shall be equal to two percent of his or her average basic salary for the highest three consecutive years of service multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with sections 851 and 853. However, the highest three years of service shall be used in computing the annuity of any participant who serves as chief of mission and whose continuity of service as such is interrupted prior to retirement by appointment or assignment to any other position determined by the Secretary to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted. The annuity shall be reduced by ten percent of any special contribution described in section 811(d) due for service for which no contributions were made and remaining unpaid unless the participants elects to eliminate the service involved for purposes of annuity computation.

(b)(1) Except as provided in paragraph (2), any married participant who retires shall receive a reduced annuity and provide a maximum survivor annuity for his or her spouse. Such a participant's annuity or any portion thereof designated in writing by the participant as the base for the survivor benefit shall be reduced by two and one-half percent of the first $3,600 plus ten percent of any amount over $3,600. If an annuitant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to fifty-five percent of the full amount of the participant's annuity computed under subsection (a), or by fifty-five percent of any lesser amount the annuitant designated under paragraph (2) at the time of retirement as the base for the survivor benefit.

(2) A married participant may elect in writing at the time of retirement to waive or reduce the maximum survivor annuity for his or her spouse described in paragraph (1). In recognition of the special sacrifices made by spouses of Foreign Service personnel, whose opportunities to achieve economic independence and self-sufficiency are severely curtailed by the disruptions of frequent reassignment and by the inherent limitations of service abroad on employment and career development, such an election may be made only with the written concurrence of the participant's spouse if the spouse has resided with the participant on assignments in the Service, including assignments abroad, for an aggregate period of ten years or more.

(3) An annuity payable from the Fund to a surviving spouse shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the survivor's remarriage prior to attaining age sixty, or death. If a survivor annuity is so terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

(c)(1) If an annuitant dies and is survived by a spouse and by a child or children, in addition to the annuity payable to the surviving spouse, there shall be paid to or on behalf of each child an annuity equal to the smaller of—

(A) $900, or

(B) $2,700 divided by the number of children.

(2) If an annuitant dies and is not survived by a spouse but by a child or children, each surviving child shall be paid an annuity equal to the smaller of—

(A) $1,080, or

(B) $3,240 divided by the number of children.

(3) The amounts specified in this subsection are subject to—

(A) cost of living adjustments as specified under section 882(c)(3), and

(B) the minimum specified in subsection (1) of this section.

(d) If a surviving spouse dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such spouse or child had not survived the participant. If the annuity to a surviving child is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities to all currently eligible children in the family were then being initiated.

(e) The annuity payable to a child under subsection (c) or (d) shall begin on the day after the participant dies, or if the child is not then qualified, on the first day of the month in which the child becomes eligible. A child's annuity shall terminate on the last day of the month which precedes the month in which eligibility ceases.

(f) At the time of retirement an unmarried participant may elect to receive a reduced annuity and to provide for an annuity equal to fifty-five percent of the reduced annuity payable after his or her death to a beneficiary whose name shall be designated in writing to the Secretary. The annuity payable to a participant making such election shall be reduced by ten percent of an annuity computed as provided in subsection (a), and by five percent of an annuity so computed for each full five years the person designated is younger than the retiring participant, but such total reduction shall not exceed forty percent. No such election of a reduced annuity payable to a beneficiary shall be valid until the participant shall have satisfactorily passed a physical examination as prescribed by the Secretary. The annuity payable to a beneficiary under this subsection shall begin on the day after the annuitant dies and shall terminate on the last day of the month preceding the survivor's death. An annuity which is reduced under this subsection or any similar prior provision of law shall, effective the first day of the month following the death of the individual named under this subsection, be recomputed and paid as if the annuity had not been so reduced.

(g) An annuitant who was unmarried at retirement and who later marries may, within one year after such marriage, irrevocably elect in writing a reduced annuity with benefit to any surviving spouse who qualifies under section 804(8). Receipt by the Secretary of notice of an election under this subsection voids prospectively any election previously made under subsection (f). The reduction in annuity required by an election under this subsection shall be computed and the amount of the survivor annuity shall be determined as if the election were made under subsection (b)(1). The annuity reduction or recomputation shall be effective the first day of the month beginning one year after the date of marriage.

(h) A surviving spouse shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees.

(i) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under section 871 shall, unless the annuitant elects in writing to the contrary at that time (subject to the same conditions as are specified in subsection (b)(2) of this section), have the supplemental annuity reduced by ten percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to fifty-five percent of the annuitant's supplemental annuity and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or to whom the annuitant had been married for at least one year at the time of death or who is the parent of a child born of the marriage.

(j) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence), be recomputed and paid as if the annuity had not been so reduced. Upon remarriage the retired participant may irrevocably elect during such marriage, in a signed writing received by the Secretary within one year after such remarriage, a reduction in annuity for the purpose of allowing an annuity for the annitant's spouse in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage, and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity elected under subsection (b)(1).

(k) The Secretary shall, on an annual basis, inform each participant of his or her right of election under subsections (g) and (j).

(l)(1) The monthly rate of an annuity payable under this chapter to an annuitant, or to a survivor annuitant other than a child, shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.).

(2) The monthly rate of an annuity payable under this chapter to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.) or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

(3) This subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.).

SEC. 822. PAYMENT OF ANNUITY.—(a) Except as otherwise provided, the annuity of a former participant who has met the eligibility requirements for annuity shall commence on the day after separation from the Service or on the day after pay ceases. The annuity of a former participant who is entitled to a deferred annuity under this Act shall become effective on the day he or she reaches age sixty.

(b) The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application therefor supported by such proof of eligibility as the Secretary may require. If such application or proof of eligibility is not submitted during an otherwise eligible person's lifetime, no annuity shall be due or payable to his or her estate.

(c) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

(d) Recovery of overpayments under this chapter may not be made from an individual when, in the judgment of the Secretary, the individual is without fault and recovery would be against equity and good conscience or administratively infeasible.

SEC. 831. RETIREMENT FOR DISABILITY OR INCAPACITY.—(a) Any participant who has five years of service credit toward retirement under the System, excluding military or naval service, and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness or injury (not due to the participant's vicious habits, intemperance or wilful conduct), shall, upon his or her own application or upon order of the Secretary, be retired on an annuity computed as prescribed in section 821. If the disabled or incapacitated participant has less than twenty years of service credit toward retirement under the System at the time of retirement, his or her annuity shall be computed on the assumption that the participant has had twenty years of service, but the additional service credit that may accrue to a participant under this subsection shall in no case exceed the difference between his or her age at the time of retirement and age sixty.

(b) In each case, the participant shall be given a physical examination by one or more duly qualified physicians or surgeons designated by the Secretary to conduct examinations. Disability shall be determined by the Secretary on the basis of the advice of such physicians or surgeons. Unless the disability is permanent, like examinations shall be made annually until the annuitant has reached age sixty. If the Secretary determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he or she can return to duty, the annuitant may apply for reinstatement or reappointment in the Service within one year from the date recovery is determined. Upon application the Secretary shall reinstate such recovered disability annuitant in the class in which the annuitant was serving at time of retirement, or the Secretary may, taking into consideration the age, qualifications, and experience of such annuitant, and the present class of his or her contemporaries in the Service, appoint or recommend that the President appoint the annuitant to a higher class. Payment of the annuity shall continue until a date six months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Service, whichever is earlier. Fees for examinations under this section together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the Fund. If the annuitant fails to submit to examinaion as required under this subsection, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

(c) If a recovered disability annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Service, he or she shall be considered to have been separated within the meaning of section 834 as of the date of retirement for disability and shall, after the discontinuance of the disability annuity, be entitled to the benefit of that section or of section 841 except that he or she may elect voluntary retirement if eligible under section 835.

(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself or herself under subchapter I of chapter 81 of title 5, United States Code, covering the same period of time, except that a participant may simultaneously receive both an annuity under this section and scheduled disability payments under 5 U.S.C. 8107. This subsection shall not bar the right of any claimant to the greater benefit conferred by either this Act or such subchapter for any part of the same period of time. Neither this subsection nor any provision of such subchapter shall be so construed as to deny the right of any participant to receive an annuity under this Act and to receive concurrently any payment under such subchapter by reason of the death of any other person.

(e) Notwithstanding any other law, the right of any person entitled to an annuity under this Act shall not be affected because such person has received an award of compensation in a lump sum under 5 U.S.C. 8135, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal Employees' Compensation Fund. Before such person shall receive such annuity he or she shall—

(1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or

(2) authorize the deduction of such amount from the annuity payable under this Act, which amount shall be transmitted to the Department of Labor for reimbursement to such Fund. (Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever he or she finds that the financial circumstances of the annuitant are such as to warrant deferred refunding.)

(f) A claim may be allowed under this section only if the application is filed with the Secretary before the participant is separated from the Service or within one year thereafter. This time limitation may be waived by the Secretary for a participant who at the date of separation from the Service or within one year thereafter is mentally incompetent, if the application is filed with the Secretary within one year from the date of restoration of the participant to competency or the appointment of a fiduciary, whichever is earlier.

SEC. 832. DEATH IN SERVICE.—(a) If a participant dies and no claim for annuity is payable under this Act, the lump-sum credit shall be paid in accordance with section 841.

(b) If a participant who has at least eighteen months of civilian service credit toward retirement under the System dies before separation or retirement from the Service and is survived by a spouse, such surviving spouse shall be entitled to an annuity equal to fifty-five percent of the annuity computed in accordance with subsection (e) of this section and section 821(a). If the participant had less than three years creditable civilian service at the time of death, the survivor annuity shall be computed on the basis of the average salary for the entire period of such service.

(c) If a participant who has at least eighteen months of civilian service credit toward retirement under the System dies before separation or retirement from the Service and is survived by a spouse and a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(1) and (d) of section 821.

(d) If a participant who has at least eighteen months of civilian service credit toward retirement under the System dies before separation or retirement from the Service and is not survived by a spouse, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(2) and (d) of section 821.

(e) If, at the time of his or her death, the participant had less than twenty years of service credit toward retirement under the System, the annuity payable in accordance with subsection (b) shall be computed in accordance with section 821 on the assumption he or she has had twenty years of service, but the additional service credit that may accrue to a deceased participant under this subsection shall in no case exceed the difference between his or her age on the date of death and age sixty. In all cases arising under subsection (b), (c), (d) or (e), it shall be assumed that the deceased participant was qualified for retirement on the date of death.

(f) If an annuitant who elected a reduced annuity dies in service after being recalled under section 324 and is survived by a spouse entitled to a survivor annuity based on such an election, such survivor annuity shall be computed as if the recall service had otherwise terminated on the day of death and the deceased's annuity had been resumed in accordance with section 871. If such death occurs after the annuitant had completed sufficient recall service to attain eligibility for a supplemental annuity, a surviving spouse, shall be entitled to elect, in addition to any other benefits and in lieu of a refund of retirement contributions made during the recall service, a supplemental survivor annuity computed and paid under section 821 (i) as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his or her annuity determined anew, a surviving spouse may elect, in lieu of any other survivor benefit under this chapter, to have the annuitant's rights redetermined and to receive a survivor annuity computed under subsection (b) on the basis of the annuitant's total service.

(g) Annuities that become payable under this section shall commence, terminate and be resumed in accordance with subsection (b)(2), (e) or (h) of section 821, as appropriate.

SEC. 834. DISCONTINUED SERVICE RETIREMENT.—Any participant who voluntarily separates from the Service after obtaining at least five years of service credit toward retirement under the System, excluding military or naval service, may upon separation from the Service or at any time prior to becoming eligible for an annuity elect to have his or her contributions to the Fund returned in accordance with section 841, or to leave his or her contributions in the Fund and receive an annuity, computed as prescribed in section 821, commencing at age sixty.

SEC. 835. VOLUNTARY RETIREMENT.—Any participant who is at least fifty years of age and has rendered twenty years of creditable service, including service within the meaning of section 853, may on his or her own application and with the consent of the Secretary be retired from the Service and receive retirement benefits in accordance with section 821.

SEC. 836. MANDATORY RETIREMENT.—(a) Except as provided in subsection (b), any participant shall be retired from the Service at the end of the month in which the participant reaches age sixty, and shall receive retirement benefits in accordance with section 821.

(b) Any participant who reaches age sixty while occupying a position to which he or she was appointed by the President by and with the advice and consent of the Senate may continue to serve until that appointment is terminated. In addition, whenever the Secretary shall determine it to be in the public interest, any participant who has reached age sixty may be retained on active service for a period not to exceed five years. Any participant who completes a period of service after reaching age sixty as authorized by this subsection shall be retired at the end of the month in which such authorized service is completed.

SEC. 837. RETIREMENT OF FORMER PRESIDENTIAL APPOINTEES.—If a member of the Service who is a participant in the Foreign Service Retirement and Disability System completes an assignment under section 302(b) in a position to which he or she was appointed by the President, and if within three months of the termination of such assignment (plus any period of authorized leave) has not been reassigned, the member shall be retired from the Service and receive retirement benefits in accordance with section 821.

SEC. 841. LUMP-SUM PAYMENTS.—(a) Whenever a participant becomes separated from the Service without becoming eligible for an annuity or a deferred annuity under this chapter, a lump-sum credit shall be paid to the participant.

(b) Whenever an annuitant becomes separated from the Service following a period of recall service without becoming eligible for a supplemental or recomputed annuity under section 871, the annuitant's compulsory contributions to the Fund for such service, together with any special contributions the annuitant may have made for other service performed after the date of separation from the Service which forms the basis for annuity, shall be returned.

(c) If all annuity rights under this chapter based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump sum credit, the difference shall be paid in the order of precedence shown in subsection (f).

(d) If a participant or former participant dies and is not survived by a person eligible for an annuity under this chapter or by such a person or persons all of whose annuity rights terminate before a claim for survivor annuity is filed, the lump-sum credit shall be paid in accordance with subsection (f).

(e) If an annuitant who was a former participant dies, annuity accrued and unpaid shall be paid in accordance with subsection (f).

(f) Payments authorized in subsections (c) through (e) shall be paid in the following order of precedence to such person or persons surviving the participant and alive on the date entitlement to the payments arises, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person—

(1) to the beneficiary or beneficiaries last designated by the participant before or after retirement in a signed and witnessed writing received by the Secretary prior to the participant's death, for which purpose a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed shall have no force or effect;

(2) if there be no such beneficiary, to the surviving wife or husband of such participant;

(3) if none of the above, to the child (without regard to the definition in section 804 (2)) or children of such participant (including adopted and natural children but not stepchildren) and descendants of deceased children by representation;

(4) if none of the above, to the parents of such participant or the survivor of them;

(5) if none of the above, to the duly appointed executor or administrator of the es-

tate of such participant or the survivor of them;

(6) if none of the above, to other next of kin of such participant as may be determined in the judgment of the Secretary to be legally entitled thereto, except that no payment shall be made under this paragraph until after the expiration of thirty days from the death of the participant or annuitant.

(g) Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery for any other person: first, to the duly appointed executor or administrator of the estate of the survivor annuitant; second, if there is no such executor or administrator, to such person as may be determined by the Secretary (after the expiration of thirty days from the date of death of such survivor annuitant) to be entitled under the laws of the survivor annuitant's domicile at the time of death.

(h) Amounts deducted and withheld from basic salary of a participant under section 811 from the beginning of the first pay period after the participant has completed thirty-five years of service computed under section 851, but excluding service credit for unused sick leave under section 851(b), together with interest on the amounts at the rate of three percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 811(d), and any balance not so required shall be refunded in a lump sum to the participant after separation or, in the event of a death in service, to a beneficiary in the order of precedence specified in subsection (f).

SEC. 851. CREDITABLE SERVICE.—(a) Except as otherwise specified by law, all periods of civilian and military and naval service and all other periods through the date of a participant's final separation from the Service that the Secretary determines would be creditable toward retirement under the Civil Service Retirement and Disability System (5 U.S.C. 8322), shall be creditable for purposes of this chapter. Conversely, any such service performed after December 31, 1976, that would not be creditable under specified conditions under 5 U.S.C. 8332, shall be excluded under this chapter under the same conditions.

(b) In computing any annuity under this chapter, the total service of a participant who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes, without regard to the thirty-five-year limitation imposed by section 821(a), the days of unused sick leave to the participant's credit, except that these days will not be counted in determining average basic salary or annuity eligibility under this chapter. A contribution to the Fund shall not be required from a participant for this service credit.

(c)(1) A participant who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of Government employees may, within sixty days after entering on that leave without pay, file with the employing agency an election to receive full retirement credit for such periods of leave without pay and arrange to pay concurrently into the Fund through the employing agency, amounts equal to the retirement deductions and agency contributions on the Foreign Service salary rate that would be applicable if the participant were in a pay status. If the election and all payments provided by this subsection are not made for the periods of such leave without pay occurring after November 7, 1976, the participant may not receive any credit for such periods of leave without pay occurring after such date.

(2) A participant may make a special contribution for any period or periods of approved leave without pay while serving, before November 7, 1976, as a full-time officer or employee of an organization composed primarily of Government employees. Any such contribution shall be based upon the suspended Foreign Service salary rate, and shall be computed in accordance with section 811. A participant who makes such contributions shall be allowed full retirement credit for the period or periods of leave without pay. If this contribution is not made, up to six months' retirement credit shall be allowed for such periods of leave without pay each calendar year.

(d) A participant who has received a refund of retirement contributions (which has not been repaid) under this or any other retirement system for Government employees covering service which may be creditable may make a special contribution for such service under section 811. Credit may not be allowed for service covered by the refund unless the special contribution is made.

(e) No credit in annuity computation shall be allowed for any period of civilian service for which a participant made retirement contributions to another retirement system fro Government employees unless—

(1) the right to any annuity under the other system which is based on such service is waived, and

(2) a special contribution is made under section 811 covering such service.

(f) A participant who during a period of war, or national emergency proclaimed by the President or declared by the Congress, leaves the Service to enter the military service is deemed, for the purpose of this chapter, as not separated from the Service unless the participant applies for and receives a lump-sum payment under section 841. However, the participant is deemed to be separated from the Service after the expiration of five years of such military service.

(g)(1) An annuity or survivor annuity based on the service of a participant of Japanese ancestry who would be eligible under 5 U.S.C. 8332(1) for credit for civilian service for periods of internment during World War II shall, upon application to the Secretary, be recomputed to give credit for that service. Any such recomputation of an annuity shall apply with respect to months beginning more than thirty days after the date on which application for such recomputation is received by the Secretary.

(2) The Secretary shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited or annuity recomputed under this subsection, of their entitlement to such credit or recomputation.

(3) The Secretary shall, on request, assist any individual referred to in paragraph (1) in obtaining from any agency or other instrumentality of the United States information necessary to verify the entitlement of the individual to have any service credited or any annuity recomputed under this subsection.

(4) Any agency or other instrumentality of the United States shall, upon request, furnish to the Secretary any information it possesses with respect to the internment or other detention, as described in 5 U.S.C. 8332(1), of any participant.

(h) A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress of the United States shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant's employing office in the Congress shall make a matching contribution (from the appropriation or fund which is used for payment of the participant's salary) to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made pursuant to this subsection shall be counted as creditable service for purposes of this chapter and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Federal staff retirement system.

SEC. 853. EXTRA CREDIT FOR SERVICE AT UNHEALTHFUL POSTS.—The Secretary may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one year and a half in computing the length of a participant's service for the purpose of retirement, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who shall have been paid a differential under 5 U.S.C. 5925 for such service.

SEC. 861. ESTIMATE OF APPROPRIATIONS NEEDED.—The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the Fund, and shall make actuarial valuations of such funds at intervals of not more than five years. The Secretary of State may expend from money to the credit of the Fund an amount not exceeding $5,000 per year for the incidental expenses necessary in administering the provisions of this chapter, including actuarial advice.

SEC. 863. INVESTMENT OF FUND.—The Secretary of the Treasury shall invest from time to time in interest bearing securities of the United States such portions of the Fund as in his or her judgment may not be immediately required for the payment of annuities, cash benefits, refunds and allowances. The income derived from such investments shall constitute a part of the Fund.

SEC. 864. ATTACHMENT OF MONEYS.—(a) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from such annuity for such purposes as the Secretary in his or her sole discretion considers appropriate.

(b)(1) Payments under this chapter which would otherwise be made to a participant or annuitant based upon his or her service shall be paid (in whole or in part) by the Secretary to another person to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

(2) Paragraph (1) shall apply only to payments made under this chapter after the date of receipt by the Secretary of written notice of such decree, order, or agreement, and such additional information and documentation as the Secretary may require.

(3) As used in this subsection "court" means any court of any State or the District of Columbia.

(c) None of the moneys mentioned in this chapter shall be assignable either in law or equity, except under subsection (a) or (b) of this section or under section 643(c), or subject to execution, levy, attachment, garnishment or other legal process, except as otherwise may be provided by Federal law.

SEC. 865. PAYMENTS FOR FUTURE BENEFITS.—(a) Any statute which authorizes—

(1) new or liberalized benefits payable from the Fund, including annuity increases other than under section 882;

(2) extension of the benefits of the System to new groups of employees; or

(3) increases in salary on which benefits are computed;

is deemed to authorize appropriations to the Fund to finance the unfunded liability created by that statute, in thirty equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefits, extension of benefits or increase in salary is effective.

(b) There is authorized to be appropriated to the Fund for each fiscal year an amount equal to the amount of the Foreign Service normal cost for that year which is not met by contributions to the Fund under section 811(a).

SEC. 866. UNFUNDED LIABILITY OBLIGATIONS.—(a) At the end of each fiscal year, the Secretary shall notify the Secretary of the Treasury of the amount equivalent to—

(1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and

(2) that portion of disbursement for annuities for that year which the Secretary estimates is attributable to credit allowed for military service.

(b) Before closing the accounts for each fiscal year, the Secretary of the Treasury shall credit such amounts to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated.

(c) Requests for appropriations to the Fund under section 865(b) shall include reports to the Congress on the sums credited to the Fund under this section.

SEC. 871. ANNUITY ADJUSTMENT FOR RECALL SERVICE.—(a) Any annuitant recalled to duty in the Service under section 324 shall, while so serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service the recalled annuitant shall make contributions to the Fund in accordance with section 811. On the day following termination of the recall service, the former annuity shall be resumed, adjusted by any cost-of-living increases under section 882 that became effective during the recall period.

(b) If the recall service lasts less than one year, the annuitant's contributions to the Fund during recall service shall be refunded in accordance with section 841. If the recall service lasts more than one year, the annuitant may, in lieu of such refund, elect a supplemental annuity computed under section 821 on the basis of service credit and average salary earned during the recall period irrespective of the number of years of service credit previously earned. If the recall service continues for at least five years, the annuitant may elect to have his or her annuity determined anew under section 821 in lieu of any other benefits under this section. Any annuitant who is recalled under section 324 may upon written application count as recall service any prior service that is creditable under section 851 that was performed after the separation upon which his or her annuity is based.

SEC. 872. REEMPLOYMENT.—(a) Notwithstanding any other law, any member of the Service who has retired and is receiving an annuity under this chapter, and who is reemployed in the Government service in any part-time or full-time appointive position, shall be entitled to receive the salary of the position in which he or she is serving plus so much of the annuity payable under this chapter which when combined with such salary does not exceed during any calendar year the basic salary the member was entitled to receive under this Act on the date of retirement from the Service. Any such reemployed member of the Service who receives salary during any calendar year in excess of the maximum amount which he or she may be entitled to receive under this subsection shall be entitled to such salary in lieu of benefits under this chapter.

(b) When any such retired member of the Service is reemployed, the employer shall send a notice to the Department of such reemployment, together with all pertinent information relating thereto, and shall pay directly to such member the salary of the position in which he or she is serving.

(c) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed member of the Service or from any other moneys, including annunity payments, payable under this chapter.

SEC. 881. VOLUNTARY CONTRIBUTIONS.—(a) The voluntary contribution account shall be the sum of unrefunded amounts heretofore voluntarily contributed by any participant or former participant under any prior law authorizing such contributions to the Fund, plus interest compounded at the rate of three percent per year to date of separation from the Service or in case of a participant or former participant separated with entitlement to a deferred annunity to the date the voluntary contribution account is claimed, or to the commencing date fixed for the deferred annunity or to the date of death, whichever is earlier. Effective on the date the participant become eligible for an annuity or a deferred annuity and at the participant's election, his or her account shall be—

(1) returned in a lump sum; or

(2) used to purchase an additional life annunity; or

(3) used to purchase an additional life annuity for the participant and to provide for a cash payment on his or her death to a beneficiary whose name shall be notified in writing to the Secretary by the participant; or

(4) used to purchase an additional life annuity for the participant and a life annuity commencing on his or her death payable to a beneficiary whose name shall be notified in writing to the Secretary by the participant with a guaranteed return to the beneficiary or his or her legal representative of an amount equal to the cash payment referred to in paragraph (3).

(b) The benefits provided by subsection (a)(2), (3) or (4) shall be actuarially equivalent in value to the payment provided for by subsection (a)(1) and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Secretary of the Treasury.

(c) A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant if application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement to an annuity or a deferred annuity, or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 841(g).

SEC. 882. COST-OF-LIVING ADJUSTMENTS OF ANNUITIES.—(a) A cost-of-living annuity increase shall become effective under this section on the effective date of each such increase under 5 U.S.C. 8340(b). Each such increase shall be applied to each annuity payable from the Fund which has a commencing date not later than the effective date of the increase.

(b) Each annuity increase under this section shall be identical to the corresponding percentage increase under 5 U.S.C. 8340(b).

(c) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase except as follows:

(1) An annuity (except a deferred annuity) payable from the Fund to participant who retires and receives an immediate annuity, or to a surviving spouse of a deceased participant who dies in service or who dies after being separated with benefits under section 643(b)(2), which has a commencing date after the effective date of the then last preceding general annuity increase under this section shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of such last preceding increase. In the administration of this paragraph, the number of days of unused sick leave to a participant's or deceased participant's credit on the effective date of the then last preceding general annuity increase under this section shall be deemed to be equal to the number of days of unused sick leave to his or her credit on the day of separation from the Service.

(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor, except a child entitled under section 821(c) or 832(c) or (d), shall be increased by the total percentage increase the annuitant was receiving under this section at death.

(3) For purposes of computing or recomputing an annuity to a child under section 821(c) or (d) or 832(c) or (d), the items $900, $1,080, $2,700 and $3,240 appearing in section 821(c) shall be increased by the total percentage increases by which corresponding amounts are being increased under 5 U.S.C. 8340 on the date the child's annuity becomes effective.

(d) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar, except such installment shall after adjustment reflect an increase of at least $1.

(f) Effective from its commencing date, there shall be an increase of ten percent in the annuity of each surviving spouse whose entitlement to annuity resulted from the death of an annuitant who, prior to October 1, 1976, elected a reduced annuity in order to provide a spouse's survivor annuity.

Chapter 9—TRAVEL, LEAVE, AND OTHER BENEFITS

SEC. 901. TRAVEL AND RELATED EXPENSES.—The Secretary may pay the travel and related expenses of members of the Service and their families, including costs or expenses incurred for—

(1) proceeding to and returning from assigned posts of duty;

(2) authorized home leave;

(3) family members to accompany, precede or follow a member of the Service to a place of temporary duty while a member or family member is en route to or from a post of assignment;

(4) representational travel within a member's country of assignment or, when not more than one family member participates, outside the country of assignment;

(5) obtaining necessary medical care for an illness, injury or medical condition while

abroad in a locality where there is no suitable person or facility to provide such care, without regard to those laws and regulations limiting or restricting the furnishing or payment of transportation and traveling expenses, including expenses for—

(A) an attendant or attendants for a member or family member who is too ill to travel unattended or is a family member too young to travel alone, and

(B) a family member incapable of caring for himself or herself if he or she remained at post;

(6) rest and recuperation travel of United States citizen members of the Service, and members of their families, while serving at posts specifically designated by the Secretary for purposes of this paragraph, to—

(A) other locations abroad having different social, climatic or other environmental conditions than those at the post at which such personnel are serving, or

(B) to locations in the United States:

Provided, That unless the Secretary otherwise specifies in extraordinary circumstances such travel expenses shall be limited to the cost for a member of the Service and the member's family of one round trip during any continuous two-year tour unbroken by home leave, and two round trips during any continuous three-year tour unbroken by home leave;

(7) removal of the members of the family of a member of the Service, and the member's furniture and household and personal effects (including automobiles), from a post where there is imminent danger because of the prevalence of disturbed conditions, and the return of such persons, furniture, and effects to such post upon the cessation of such conditions, or to such other post as may in the meantime have become the post to which the member of the Service has been reassigned;

(8) up to two round trips each year by members of the Service for purposes of family visitation in situations where the member's family is prevented by official order from accompanying the member to, or has been ordered from, the member's assigned post because of imminent danger due to the prevalence of disturbed conditions, except that, with respect to any such member whose family is located abroad, the Secretary may authorize such additional trips, as deemed appropriate, not to exceed the equivalent cost of two round trips of less than first class to the District of Columbia;

(9) round-trip travel from a post abroad for purposes of family visitation in emergency situations involving personal hardship;

(10) preparing and transporting to their designated homes in the United States or to a place not more distant, the remains of members of the Service and of the members of their families who may die abroad or while in travel status;

(11) transporting the furniture and household and personal effects of a member of the Service to successive posts of duty and, on the termination of service, to the place where the member will reside;

(12) packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of a member of the Service—

(A) when absent from post of assignment under orders, or when assigned to a post to which the member cannot take or at which the member is unable to use such furniture and household and personal effects, or when it is in the public interest or more economical to authorize storage;

(B) in connection with assignment or transfer to a new post, from the date of departure from his or her last post or from the date of departure from the member's place of residence in the case of a new member and for not to exceed three months after arrival at the new post, or until the establishment of residence quarters, whichever shall be shorter; and

(C) in connection with separation of a member of the Service, the cost of packing and unpacking, transporting to and from a place of storage, and storing for a period not to exceed three months of the member's furniture and household and personal effects;

(13) transporting, notwithstanding any other law, for or on behalf of a member of the Service, a privately owned motor vehicle in any case in which the Secretary determines that water, rail or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination: *Provided*, That not more than one motor vehicle of any such member may be transported under authority of this paragraph during any four-year period, while the member is continuously serving abroad, except as a replacement for such motor vehicle—

(A) determined, in advance, by the Secretary to be necessary for reasons beyond the control of the member and in the interest of the Government, or

(B) incident to a transfer when the cost of transporting the replacement motor vehicle does not exceed the cost of transporting the motor vehicle that is replaced;

(14) the travel and relocation of members of the Service, and members of their families, assigned within the United States, including assignments under 5 U.S.C. 3371–3376, (notwithstanding 5 U.S.C. 3375(a)) if an agreement similar to that required by 5 U.S.C. 3375(b) is executed by the member of the Service.

SEC. 902. LOAN OF HOUSEHOLD EFFECTS.—The Secretary may, as a means of eliminating transportation costs, provide members of the Service with basic household furnishing and equipment for use on a loan basis in personally owned or leased residences.

SEC. 911. REQUIRED LEAVE IN THE UNITED STATES.—(a) The Secretary may order to the United States on statutory leave of absence any member of the Service who is a citizen of the United States upon completion of eighteen months' continuous service abroad and shall so order as soon as possible after completion of three years of such service.

(b) While in the United States for leave of absence, the service of any member shall be available for such work or duties in the Department or elsewhere as the Secretary may prescribe, but the time of such work or duties will not be counted as leave.

SEC. 921. HEALTH CARE.—(a) The Secretary may establish a health care program to promote and maintain the physical and mental health of members of the Service, and (when incident to overseas service) designated eligible personnel of the Department and other agencies, and members of their families.

(b) Any such health care program may include medical examinations for applicants for employment and for personnel of the Department or the Service who are citizens of the United States, and for members of their families; examinations necessary to establish disability or incapacity of participants in the Foreign Service Retirement and Disability System; and inoculations or vaccinations for such personnel and the members of their families.

(c) The Secretary may establish health care facilities and provide for the services of physicians, nurses or other health care personnel at posts abroad at which, in the opinion of the Secretary, sufficient personnel are employed to warrant such facilities or services.

(d) In the event any person eligible for health care under this section incurs an illness, injury or medical condition while abroad which requires hospitalization or similar treatment, the Secretary may pay all or part of the cost of such treatment. Limitations on such payments established by regulation may be waived whenever the Secretary determines that the illness, injury or medical condition clearly was caused or materially aggravated by the fact that the person concerned is or has been located abroad.

(e) The Secretary is authorized to provide health care under this section beyond the date of separation of any eligible personnel, and to their families beyond the date of death of such personnel or dissolution of marriage.

(f) The Secretary shall review on a continuing basis the health care program provided for in this section. Whenever the Secretary determines that all or any part of such program can be provided for as well and as cheaply in other ways, the Secretary is authorized for such persons, locations and conditions as may be deemed appropriate, to contract for health care pursuant to such arrangements as may be deemed appropriate.

SEC. 931. REPRESENTATION.—Notwithstanding the provisions of 5 U.S.C. 5536, the Secretary is authorized to provide for official receptions and entertainment and representational expenses to enable the Department and the Service to provide for the proper representation of the United States and its interests.

Chapter 10—LABOR-MANAGEMENT RELATIONS

SEC. 1001. LABOR-MANAGEMENT POLICY.—The Congress finds—

(1) that experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

(A) safeguards the public interest,

(B) contributes to the effective conduct of public business, and

(C) facilitates and encourages the amicable settlement of disputes between employees and their employers involving conditions of employment;

(2) that the public interest demands the highest standards of performance by members of the Service and the continuous development and implementation of modern and progressive work practices to facilitate their improved performance and efficiency; and

(3) that the unique conditions of Foreign Service employment require a distinct framework for the development and implementation of modern, constructive and cooperative relationships between management officials and organizations representing members of the Service. Therefore, labor organizations and collective bargaining in the Service are in the public interest and are consistent with the requirement of an effective and efficient government. The provisions of this chapter shall be interpreted in a manner consistent with the requirement of an effective and efficient government.

SEC. 1002. DEFINITIONS. For purposes of this chapter, the term—

(1) "Board" means the Foreign Service Labor Relations Board, established by section 1011;

(2) "collective bargaining" means the performance of the mutual obligation of the management representative of the Department and of the exclusive representatives of employees to meet at reasonable times and to consult and bargain in a good-faith effort

to reach agreement with respect to the conditions of employment affecting employees, and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but this obligation does not compel either party to agree to a proposal or to make a concession;

(3) "collective bargaining agreement" means a signed agreement (which may be of a comprehensive and long-term nature) entered into as a result of collective bargaining under this chapter;

(4) "conditions of employment" means personnel policies, practices and matters within the discretion of the Secretary affecting working conditions (established by rule, regulation or otherwise), except that such term does not include policies, practices or matters—

(A) relating to the designation or classification of any position,

(B) relating to prohibited political activities,

(C) specifically provided for by Federal statute,

(D) relating to Government-wide or multi-agency responsibilities of the Secretary affecting agencies other than those to which this chapter applies;

(5) "confidential employee" means an individual who assists, or otherwise acts in a confidential capacity to, a management official (except an individual who assists in a purely clerical capacity a management official who is not engaged in the administration of this chapter or in the formulation of the personnel policies and programs of the Department);

(6) "dues" means dues, fees and assessments;

(7) "employee" means—

(A) a member of the Service who is a citizen of the United States, wherever serving, other than a management official, a confidential employee, a consular agent or any person who participates in a strike in violation of 5 U.S.C. 7311; or

(B) a former member of the Service as described in subparagraph (A) whose employment has ceased because of an unfair labor practice under section 1031 and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Board;

(8) "exclusive representative" means any labor organization which is certified as the exclusive representative of employees;

(9) "labor organization" means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a primary purpose dealing with the Department concerning grievances and conditions of employment, but does not includes—

(A) an organization which by its constitution, by-laws, or tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, political affiliation, marital status or handicapping conditions;

(B) an organization which advocates the overthrow of the constitutional form of government of the United States.

(C) an organization sponsored by the Department or composed solely of management officials;

(D) an organization which participates in the conduct of a strike, work stoppage or slowdown or which imposes a duty or obligation to conduct, assist or participate in such an action;

(10) "management official" means an individual who—

(A) is a chief of mission or principal officer;

(B) is serving in a position to which appointed by the President, by and with the advice and consent of the Senate or by the President alone: or

(C) occupies a position which in the sole judgment of the Secretary is of comparable importance to the offices mentioned in paragraph (A) or (B), above;

(D) is serving as a deputy to any of the above;

(E) is assigned as a Foreign Service inspector; or

(F) is engaged in the administration of this chapter or in the formulation of the personnel policies and programs of the Department;

(11) "Panel" means the Foreign Service Impasse Disputes Panel, established by section 1014;

(12) "person" means an individual, a labor organization or an agency.

SEC. 1003. APPLICATION.—(a) The President may by Executive order exclude any subdivision of the Department from coverage under this chapter if the President determines that—

(1) the subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(2) the provisions of this chapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(b) The Secretary may suspend temporarily any provision of this chapter with respect to any post, bureau, office or activity, in the United States or aboard, when the Secretary determines in writing in emergency situations that such a temporary suspension is necessary in the national interest.

SEC. 1004. EMPLOYEE RIGHTS.—(a) Every employee has the right to form, join or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal. Each employee shall be protected in the exercise of such right.

(b) Except as otherwise provided under this chapter, such right includes the right—

(1) to act for a labor organization in the capacity of a representative and, in that capacity, to represent the views of the labor organization to the Secretary and other officials of the Government, including the Congress, or other appropriate authorities; and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by members of the Service under this chapter.

SEC. 1005. MANAGEMENT RIGHTS.—(a) Nothing in this chapter shall affect the authority of the Department, in accordance with applicable law and regulations—

(1) to determine the mission, budget, organization and number of types and classes of employees and internal security practices of the Department;

(2) to hire, promote, assign, direct, lay off and retain employees, or to suspend or remove, or to take other disciplinary action against such employees;

(3) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which the Department's operations shall be conducted;

(4) to fill positions from any appropriate source;

(5) to determine the need for uniform personnel policies and procedures between or among the agencies to which this chapter applies;

(6) to take whatever actions may be necessary to carry out the Department's mission during emergencies.

(b) Subsection (a) shall not preclude the Department and the exclusive representative from negotiating—

(1) at the election of the Department, on the numbers, types and classes of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods and means of performing work;

(2) procedures which management officials of the Department will observe in exercising their functions; or

(3) appropriate arrangements for employees adversely affected by the exercise of any function under this section.

SEC. 1011. FOREIGN SERVICE LABOR RELATIONS BOARD.—(a) There is established the Foreign Service Labor Relations Board. The Board shall be composed of three members, one of whom shall be the Chairman of the Federal Labor Relations Authority, who shall chair. The remaining two members shall be appointed by the Secretary from nominees approved in writing by the agencies to which this chapter applies, and the exclusive representative (if any) of employees in each such agency. In the event of inability to obtain agreement on a nominee, each agency and each exclusive representative whose agreement is required shall select two nominees and each such agency and exclusive representative, in an order determined by lot, shall in turn strike a name from a list of such nominees until only one remains.

(b) The Chairperson shall serve on the Board while serving as Chairman of the Federal Labor Relations Authority. One of the two original members of the Board other than the Chairperson shall be appointed for a two-year term, and one for a three-year term. Thereafter, each member other than the Chairperson shall be appointed for a period of three years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(c) A vacancy on the Board shall not impair the right of the remaining members to exercise the full powers of the Board. The Chairperson may at any time designate an alternate Chairperson from among the members of the Federal Labor Relations Authority.

(d) The members, other than the Chairperson, may not be employees of the Government, and shall receive compensation at the daily rate paid an individual at Level V of the Federal Executive Salary Schedule (5 U.S.C. 5316) for each day they are performing their duties (including travel time);

(e) The Secretary may remove a Board member, other than the Chairperson, upon written notice, for corruption, neglect of duty, malfeasance or demonstrated incapacity to perform his or her functions, established at a hearing, except where the right to a hearing is waived in writing.

(f) The Board may obtain facilities, services and supplies through the general administrative services of the Department. All expenses of the Board, including travel and travel-related expenses, shall be paid out of funds appropriated to the Department for obligation and expenditures by the Board. At the request of the Board, officers and employees of the Department and members of the Service may be assigned as staff employees for the Board. Within the limits of appropriated funds, the Board may appoint and fix the compensation of such other employees as the Board considers necessary to carry out its functions.

SEC. 1012. FUNCTIONS OF THE BOARD.—(a) The Board shall—

(1) supervise or conduct elections and determine whether a labor organization has been selected as the exclusive representative by a majority of employees who cast valid ballots and administer the provisions of this chapter relating to the according of exclusive recognition to a labor organization;

(2) resolve complaints of alleged unfair labor practices;

(3) resolve issues relating to the obligation to bargain in good faith; and

(4) take any action considered necessary to administer effectively the provisions of this chapter.

(b) In the exercise of its responsibilities, the Board shall give such consideration as it deems appropriate to the decisions of the Federal Labor Relations Authority under 5 U.S.C. 7105.

(c) In order to carry out its functions under this chapter, the Board may—

(1) adopt regulations concerning its organization, procedures and functions under this chapter;

(2) conduct appropriate inquiries wherever persons subject to this chapter are located;

(3) hold hearings;

(4) administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas; and

(5) Require the Department of a labor organization to cease and desist from violations of this chapter and require it to take any remedial action it considers appropriate to carry out this chapter.

(d) Except as provided in 28 U.S.C. 518, attorneys designated by the Board may appear for the Board and represent the Board in connection with any function carried out by the Board under this chapter or as otherwise authorized by law.

(e) The Board shall maintain a file on its proceedings and copies of all available agreements, and shall publish the texts of its decisions and the actions taken by the Panel under section 1014.

SEC. 1013. JUDICIAL REVIEW AND ENFORCEMENT OF BOARD ACTIONS.—(a) Except as provided in section 1024(d), any person aggrieved by a final order of the Board may, during the sixty-day period beginning on the date on which the order was issued, institute an action for judicial review of the Board's order in the United States Court of Appeals for the District of Columbia, which shall conduct its review on the same basis as an appeal from a decision of a district court.

(b) The Board may petition the United States Court of Appeals for the District of Columbia for the enforcement of any order of the Board and for appropriate temporary relief or restraining order.

(c) Subsection (c) of 5 U.S.C. 7123 shall apply to judicial review and enforcement of actions by the Board in the same manner that it applies to such review and enforcement of actions by the Federal Labor Relations Authority.

SEC. 1014. FOREIGN SERVICE IMPASSE DISPUTES PANEL.—(a) The Foreign Service Impasse Disputes Panel shall assist in resolving negotiating impasses arising in the course of collective bargaining under this chapter. The Chairperson of the Board shall designate the members of the Panel, who shall include two members of the Foreign Serivce (neither of whom shall be a management official, a confidential employee or a labor organization official); one representative of the Department of Labor; one member of the Federal Service Impasses Panel; and one public member who is not an employee of the Government. The Chairperson of the Board shall set the terms of office for Panel members and determine who shall chair the Panel.

(b) Panel members who are not employees of the Government shall receive compensation for each day they are performing their duties (including travel time) at the daily rate paid an individual at Grade 18 of the General Schedule described in 5 U.S.C. 5104.

(c) Upon the request of either the Department or an exclusive representative, the Panel shall promptly consider a negotiation impasse, and shall assist the parties in resolving the impasse through mediation.

(d) If the parties do not arrive at an agreement after assistance by the Panel under subsection (c), the Panel may—

(1) hold hearings (in the course of which it may administer oaths, and take the testimony or deposition of any person under oath); and

(2) take whatever action is necessary to resolve the impasse.

(e) Notice of any final action of the Panel under this section shall be served promptly upon the parties, and shall be binding during the term of the agreement, unless the parties agree otherwise, or the Secretary finds that the Panel's action is contrary to the best interests of the Service.

SEC. 1021. EXCLUSIVE RECOGNITION.—(a) The Department shall accord exclusive recognition to a labor organization if the organization has been selected in a secret ballot election by a majority of the employees who cast valid ballots.

(b) If a petition is filed with the Board by a person—

(1) alleging (with the support of thirty percent of the employees in the units)—

(A) that the employees are not represented and wish to be represented for the purpose of collective bargaining by an exclusive representative, or

(B) that the exclusive representative is no longer the representative desired by the majority of the employees; or

(2) seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

then the Board shall review the petition, and if there is reasonable cause to believe that a question of representation exists, the Board shall provide an opportunity for a hearing after reasonable notice. If the Board finds that a question of representation exists, the Board shall supervise an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted if, in the preceding twelve calendar months, a valid election has been held.

(c) A labor organization which—

(1) has been designated by at least ten percent of the employees; or

(2) is the exclusive representative of the employees involved;

may intervene with respect to a petition filed under subsection (b) and shall be placed on the ballot of any election under subsection (b) with respect to the petition.

(d)(1) The Board shall determine who is eligible to vote in any election under this section and shall establish rules governing such election, which shall include rules allowing employees who are eligible to vote the opportunity to choose—

(A) from any labor organizations on the ballot, that labor organization which the employees wish to represent them; or

(B) not to be represented by a labor organization.

(2) In any election in which more than two choices are on the ballot, the Board's rules shall provide for preferential voting. If no choice receives a majority of first preferences, the Board shall distribute to the two choices having the most first preferences the preferences as between those two of the other valid ballots cast. The choice receiving a majority of preferences shall be declared the winner. A labor organization which is declared the winner of the election shall be certified by the Board as the exclusive representative.

(e) A labor organization seeking exclusive recognition shall submit to the Board and to the Department a roster of its officers and representatives, a copy of its constitution and by-laws and a statement of its objectives.

(f) Exclusive recognition shall not be accorded to a labor organization—

(1) if the Board determines that the labor organization is subject to corrupt influence or influences opposed to democratic principles;

(2) in the case of a petition filed under subsection (b)(1)(A), if there is not credible evidence that at lease thirty percent of the employees wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition; or

(3) if a petition is filed within two years of the date a labor organization has been certified as the exclusive representative.

(g) Nothing in this section shall prohibit the waiver of hearings by stipulation for the purpose of a consent election in conformity with regulations or decisions of the Board.

SEC. 1022. EMPLOYEES REPRESENTED.—The Department shall constitute a single and separate worldwide bargaining unit, from which there shall be excluded—

(1) management officials and confidential employees;

(2) employees engaged in personnel work in other than a purely clerical capacity; and

(3) employees engaged in criminal or national security investigations or who audit the work of individuals to insure that their functions are discharged honestly and with integrity.

SEC. 1023. REPRESENTATION RIGHTS AND DUTIES.—(a) A labor organization which has been accorded exclusive recognition is the exclusive representative of, and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit described in section 1022. An exclusive representative is responsible for representing the interests of all employees in that unit without discrimination and without regard to labor organization membership.

(b)(1) An exclusive representative shall be given the opportunity to be represented at—

(A) any formal discussion between one or more representatives of the Department and one or more employees in the unit (or their representatives), concerning general conditions of employment, including general personnel policies and practices, unless the specific application of those conditions to the particular employees is the sole issue;

(B) any examination of an employee by a Department representative for purposes of an investigation if—

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee, and

(ii) the employee requests such representation.

(2) The Department shall annually inform employees of their rights under paragraph (1)(B).

(c) The rights of an exclusive representative under this section shall not preclude an employee from—

(1) being represented by an attorney or other representative of the employee's own choosing, other than the exclusive representative, in any separation for cause or appeal proceeding; or

(2) exercising grievance or appeal rights established by law, rule or regulation.

(d) The duty of the Department and the exclusive representative to negotiate in good faith shall include the obligation—

(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on appropriate conditions of employment;

(3) to meet at reasonable times and convenient places as frequently as may be necessary and to avoid unnecessary delays;

(4) for the Department to furnish the exclusive representative, upon request, and to the extent not prohibited by law, data (other than information which constitutes guidance, advice, counselor training provided for management officials or confidential employees)—

(A) which is normally maintained by the Department in the regular course of business,

(B) which is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of bargaining;

(5) to negotiate jointly with respect to conditions of employment applicable to employees in more than one of the agencies to which this chapter applies, as determined by such agencies;

(6) if agreement is reached, to execute, upon the request of either party to the negotiation, a written document embodying the agreed terms, and to take the steps necessary to implement the agreement.

(e) (1) An agreement between the Department and the exclusive representative shall be subject to approval by the Secretary.

(2) The Secretary shall approve the agreement within thirty days after it is executed unless the Secretary finds that the agreement is inconsistent with an applicable law, order or regulation or the requirements of national security or foreign policy.

(3) Unless the Secretary disapproves the agreement by making a finding under paragraph (2), the agreement shall take effect after thirty days from its execution and shall be binding on the Department and the exclusive representative subject to all applicable laws, orders and regulations.

(f) The Department shall consult with the exclusive representative with respect to multiagency or interagency matters affecting the rights, benefits or obligations of employees which are not subject to collective bargaining solely because of section 1002(4)(D).

SEC. 1024. RESOLUTION OF IMPLEMENTATION DISPUTES.—(a) Any dispute between the Department and the exclusive representative concerning the effect, interpretation or a claim of breach of a collective bargaining agreement shall be resolved through procedures negotiated by the Department and the exclusive representative. Any procedures negotiated under this section shall—

(1) be fair and simple,

(2) provide for expeditious processing, and

(3) include provision for appeal to the Foreign Service Grievance Board by either party of any dispute not satisfactorily settled.

(b) Either party to an appeal under subsection (a)(3) may file with the Board an exception to the action of the Foreign Service Grievance Board to resolve the implementation dispute. If, upon review, the Board finds that the action is deficient—

(1) because it is contrary to any law, rule or regulation; or

(2) on other grounds similar to those applied by the Federal Labor Relations Authority under 5 U.S.C. 7122;

the Board may take such action and make such recommendations concerning the Grievance Board action as it considers necessary, consistent with applicable laws, rules and regulations.

(c) If no exception to a Grievance Board action is filed under subsection (b) within thirty days after such action is communicated to the parties such action shall become final and binding and shall be implemented by the parties.

(d) Resolutions of disputes under this section shall not be subject to judicial review.

SEC. 1031. UNFAIR LABOR PRACTICES.—(a) It shall be an unfair labor practice for the Department—

(1) to interfere with, restrain or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion or other conditions of employment;

(3) to sponsor, control or otherwise assist any labor organization, other than to furnish upon request customary and routine services and facilities on an impartial basis to labor organizations having equivalent status;

(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint or petition, or has given any information, affidavit or testimony under this chapter;

(5) to refuse to consult or negotiate in good faith with a labor organization, as required under this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;

(7) to enforce any rule or regulation which is in conflict with an applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

(8) to fail or refuse otherwise to comply with any provision of this chapter.

(b) It shall be an unfair labor practice for a labor organization—

(1) to interfere with, restrain or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to cause or attempt to cause the Department to discriminate against an employee in the exercise by the employee of any right under this chapter;

(3) to coerce, discipline, fine or attempt to coerce a member of the labor organization as punishment or reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's functions as an employee;

(4) to discriminate against an employee with regard to the terms and conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or Service status, political affiliation, marital status or handicapping condition;

(5) to refuse to consult or negotiate in good faith with the Department, as required under this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;

(7) (A) to call, or participate in, a strike, work stoppage, or slowdown, or to picket the Department's operations, but informational picketing in the United States which does not interfere with such operations shall not be considered an unfair labor practice;

(B) to condone any activity described in subparagraph (A) by failing to take action to prevent or stop such activity;

(8) to deny membership to any employee in the unit represented by the exclusive representative except—

(A) for failure to tender dues uniformly required as a condition of acquiring and retaining membership, or

(B) in the exercise of disciplinary procedures consistent with the organization's constitution or bylaws and this chapter; or

(9) to fail or refuse otherwise to comply with any provision of this chapter.

(c) The expression of any personal view, argument or opinion, or the making of any statement, which—

(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such an election;

(2) corrects the record with respect to any false or misleading statement made by any person; or

(3) informs employees of the Government's policy relating to labor-management relations and representation,

if the expression contains no threat of reprisal or force or promise of benefit and was not made under coercive conditions shall not—

(A) constitute an unfair labor practice under this chapter, or

(B) constitute grounds for the setting aside of any election conducted under this chapter.

(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 1131(b), an employee has an option of using the grievance procedure under chapter 11 or on appeals procedure, issues which can be raised under section 1024 or chapter 11 may, in the discretion of the aggrieved party, be raised either under such section or chapter or else raised as an unfair labor practice under this section, but may not be raised both under this section and under section 1024 or chapter 11.

SEC. 1041. STANDARDS OF CONDUCT FOR LABOR ORGANIZATIONS.—(a) The Department shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b), an organization is not required to prove that it is free from such influences if it is subject to a governing requirement adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including—

(A) provisions for periodic elections to be conducted subject to recognized safeguards, and

(B) provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) A labor organization may be required to furnish evidence of its freedom from corrupt influences opposed to basic democratic principles if there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from, or is subject to other sanction by, a parent labor organization, or federation of organizations with which it has been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a); or

(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary of Labor shall prescribe such regulations as are necessary to carry out this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as the Assistant Secretary considers appropriate to carry out the policies of this section.

(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a confidential employee, or any other employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of the management official or confidential employee.

(f) If the Board finds that any labor organization has wilfully and intentionally violated section 1031(b)(7)(A) by omission or commission with regard to any strike, work stoppage, prohibited picketing or slowdown, the Board may—

(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

(2) take any other appropriate disciplinary action in addition to or in lieu of such revocation.

SEC. 1051. ADMINISTRATIVE PROVISIONS.—(a) If the Department has received from any person a written assignment which authorizes the Department to deduct from the salary of that person amounts for the payment of regular and periodic dues of the exclusive representative, the Department shall honor the assignment. Any such assignment shall be made at no cost to the exclusive representative or the individual. Except as provided in subsection (b), any such assignment may not be revoked for a period of one year from its execution.

(b) An assignment for deduction of dues shall terminate when—

(1) the dues-withholding agreement between the Department and the exclusive representative is terminated or ceases to be applicable to the individual; or

(2) the employee is suspended or expelled from membership in the exclusive representative.

(c) During any period when no labor organization is certified as the exclusive representative of employees in the Department, the Department shall have the duty to negotiate with a labor organization which has filed a petition under section 1021(b)(1)(A) if the Board has determined that the petition is valid. Negotiations under this subsection shall be concerned solely with the deduction of dues of the labor organization from the pay of the employees who are members of the labor organization and who make a voluntary allotment for that purpose. Any agreement between the Department and a labor organization under this subsection shall terminate upon the certification of an exclusive representative of any employees to whom the agreement applies.

(d) The following provisions shall apply to the use of official time:

(1) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceedings, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this paragraph shall not exceed the number of individuals designated as representing the Department for such purposes.

(2) Any activities performed by any employee relating to the internal business of the labor organization, including the solicitation of membership, elections of labor organization officials and collection of dues, shall be performed during the time the employee is in a non-duty status.

(3) The Board shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Board shall be authorized official time for such purpose during the time the employee would otherwise be in a duty status.

(4) Except as provided in paragraphs (1), (2) and (3), any employee representing an exclusive representative, or engaged in any other matter covered by this chapter, shall be granted official time in any amount the Department and the exclusive representative agree to be reasonable, necessary and in the public interest.

Chapter 11—GRIEVANCES

SEC. 1101. DEFINITION OF GRIEVANCE.—(a) Except as provided in subsection (b), for purposes of this chapter, the term "grievance" means any act or condition subject to the control of the Department which is alleged to deprive a member of the Service who is a citizen of the United States of a right or benefit authorized by law or regulation or which is otherwise a source of concern or dissatisfaction to the member, including but not limited to the following:

(1) involuntary separation of a member allegedly contrary to law or regulation or predicated upon alleged inaccuracy, omission, error, or falsely prejudicial information in any part of the member's official personnel record;

(2) other alleged violation, misinterpretation, or misapplication of applicable law, regulation, or published policy affecting the terms and conditions of the member's employment or career status;

(3) allegedly wrongful disciplinary action against the member;

(4) dissatisfaction with respect to the member's physical working environment;

(5) alleged inaccuracy, error, omission or falsely prejudicial information in the member's official personnel file which is or could be prejudicial to the member;

(6) action alleged to be in the nature of reprisal or other interference with freedom of action in connection with the member's participation in procedures under this, chapter;

(7) alleged denial of an allowance, premium pay or other financial benefit to which the member claims entitlement under applicable law or regulation.

(b) A grievance may not be filed under this chapter with respect to any of the following:

(1) an individual assignment or transfer of a member ordered in accordance with law and regulation;

(2) the judgment of a selection board established under section 603, a tenure board established under section 322(b), or any other equivalent body established by law or regulation which similarly evaluates the performance of members of the Service on a comparative basis;

(3) expiration of a limited or temporary appointment or termination of a limited or temporary appointment under section 661; or

(4) any complaint or appeal where a specific statutory hearing procedure exists, except as provided in section 1131(b).

(c) The scope of grievances described in this section may be modified by written agreement between the Department and the labor organization accorded recognition as the exclusive representative of members of the Service under chapter 10 (hereinafter "the exclusive representative").

SEC. 1102. GRIEVANCES CONCERNING FORMER MEMBERS.—Within the time limitations specified in section 1104, a former member of the Service or the surviving spouse (or, if none, another member of the family) of a deceased member or former member of the Service may present a grievance with respect to allegations described in paragraph (7) of section 1101(a).

SEC. 1103. FREEDOM OF ACTION.—(a) Any person presenting or filing a grievance (hereinafter "the grievant"), and any witness or other person involved in a grievance proceeding, shall be free from any restraint, interference, coercion, harassment, discrimination or reprisal in those proceedings or by virtue of them;

(b) A grievant who is a member of the bargaining unit represented by an exclusive representative shall be represented at every stage of the proceedings only if represented by that exclusive representative (which may approve the participation in the proceedings by an additional person on the grievant's behalf). Such a grievant has the right to present a grievance on his or her own behalf; however, the exclusive representative shall have the right to be present during the grievance proceedings. Any grievant who is not a member of such a bargaining unit has the right at every stage of the proceedings to representation of the grievant's own choosing. The grievant and any representative who is a member of the Service or an officer or employee of the Department shall be granted reasonable periods of administrative leave to prepare and present the grievance, and to attend proceedings under this chapter.

(c) Any witness who is a member of the Service or an officer or employee of the Department shall be granted reasonable periods of administrative leave to appear and testify at any such proceedings.

(d) The Foreign Service Grievance Board is authorized to assure that no record of—

(1) a determination by the Secretary to reject a Grievance Board recommendation,

(2) a finding by the Grievance Board against the grievant, or

(3) the fact that a proceeding is pending or has been held,

shall be entered in the personnel records of the grievant (except by order of the Grievance Board as a remedy for the grievance) or those of any other person connected with the grievance. The Department shall maintain records pertaining to grievances under appropriate safeguards to preserve confidentiality.

(e) The Department will use its best endeavors to expedite security clearance procedures whenever necessary to insure a fair and prompt resolution of a grievance.

SEC. 1104. TIME LIMITATIONS.—(a) A grievance is forever barred, unless it is presented within a period of three years after the occurrence or occurrences giving rise to the grievance or such shorter period as may be agreed to by the Department and the exclusive representative.

(b) There shall be excluded from the computation of the three-year period specified in subsection (a) any time during which, as determined by the Foreign Service Grievance Board, the grievant was unaware of the grounds for the grievance and could not have discovered such grounds through reasonable diligence.

(c) If a grievance is not resolved under Department procedures (which have been negotiated with the exclusive representative, if any) within ninety days of written presentation, the exclusive representative (on behalf of a grievant who is a member of the bargaining unit) or a grievant who is not a member of such bargaining unit shall be entitled to file a grievance with the Foreign Service Grievance Board for its consideration and resolution.

SEC. 1111. THE FOREIGN SERVICE GRIEVANCE BOARD.—(a) There is established the Foreign Service Grievance Board (hereinafter "the Board"). The Board shall consist of not fewer than five members, all of whom shall be independent, distinguished citizens of the

United States, well known for their integrity, who are not presently serving as officers, employees or consultants of the Department or as members of the Service.

(b) The chairperson and other members of the Board shall be appointed by the Secretary, from nominees approved in writing by the agencies to which this chapter applies and the exclusive representative (if any) of employees in each such agency. Each member of the Board shall be appointed for a term of two years, subject to renewal with the same written approvals required for initial appointment. In the event of a vacancy on the Board, an appointment for the unexpired term may be made by the Secretary in accordance with the procedures specified in this section. In the event of inability to obtain agreement on a nominee, each agency and each exclusive representative whose agreement is required shall select two nominees and each such agency and exclusive representative in an order determined by lot, shall in turn strike a name from a list of such nominees until only one remains.

(c) Members of the Board who are not employees of the Government shall receive compensation for each day they are performing their duties (including travel time) at the daily rate paid an individual at Grade 18 of the General Schedule described in 5 U.S.C. 5104.

(d) The Secretary may remove a Board member upon written notice of corruption, neglect of duty, malfeasance or demonstrated incapacity to perform his or her functions, established at a hearing, except where the right to a hearing is waived in writing.

(e) The Board may obtain facilities, services and supplies through the general administrative services of the Department. All expenses of the Board, including necessary costs of a grievant's travel and travel-related expenses, shall be paid out of funds appropriated to the Department for obligation and expenditure by the Board. At the request of the Board, officers and employees of the Department and members of the Service may be assigned as staff employees for the Board. Within the limits of appropriated funds, the Board may appoint and fix the compensation of such other employees as the Board considers necessary to carry out its functions. The members, officers and employees so appointed or assigned shall be responsible solely to the Board, and the Board shall prepare the performance evaluation reports for such members, officers and employees. The records of the Board shall be maintained by the Board and shall be separate from all other records of the Department.

Sec. 1112. Board Procedures.—The Board may adopt regulations concerning its organization and procedures. Such regulations shall include provision for the following:

(1) The Board shall conduct a hearing at the request of a grievant in any case which involves—

(A) disciplinary action or a grievant's retirement from the Service under section 641 or 642, or

(B) issues which, in the judgment of the Board, can best be resolved by a hearing or presentation of oral argument.

(2) The grievant, the grievant's representatives, and the Department's representatives are entitled to be present at the hearing. The Board may, after considering the views of the parties and any other individuals connected with the grievance, decide that a hearing should be open to others. Testimony at a hearing shall be given by oath or affirmation which any Board member or person designated by the Board shall have authority to administer.

(3) Each party shall be entitled to examine and cross-examine witnesses at the hearing or by deposition, and to serve interrogatories upon another party and have such interrogatories answered by the other party unless the Board finds such interrogatory irrelevant, immaterial or unduly repetitive. Upon request of the Board, or upon a request of the grievant deemed relevant and material by the Board, an agency shall promptly make available at the hearing or by deposition any witness under its control, supervision, or responsibility, except that if the Board determines that the presence of such witness at the hearing is required for just resolution of the grievance, then the witness shall be made available at the hearing, with necessary costs and travel expenses provided by the Department.

(4) During any hearing held by the Board, any oral or documentary evidence may be received, but the Board shall exclude any irrelevant, immaterial or unduly repetitious evidence as determined under 5 U.S.C. 556.

(5) A verbatim transcript shall be made of any hearing and shall be part of the record of proceedings.

(6) In those grievances in which the Board holds no hearing, the Board shall offer to each party the opportunity to review and to supplement, by written submissions, the record of proceedings prior to its decision. The Board decision shall be based exclusively on the record of proceedings.

(7) The Board may act by or through panels or individual members designated by the Chairperson, except that hearings within the continental United States shall be held by panels of at least three members unless the parties agree otherwise. References in this chapter to the Board shall be considered to be references to a panel or member of the Board where appropriate. All members of the Board shall act as impartial individuals in considering grievances.

(8) If the Board determines that the Department is considering the involuntary separation of the grievant, disciplinary action against the grievant, or recovery from the grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the Board, and that such action should be suspended, the Department shall suspend such action until the Board has ruled upon the grievance. Notwithstanding such suspension of action, the head of the agency concerned or a chief of mission or principal officer may exclude the grievant from official premises or from the performance of specified functions when such exclusion is determined in writing to be essential to the functioning of the post or office to which the grievant is assigned.

(9) A grievant whose grievance is found not to be meritorious by the Board may obtain reconsideration by the Board only upon presenting newly discovered or previously unavailable material evidence not previously considered by the Board, and then only upon approval of the Board.

Sec. 1113. Board Decisions.—(a) Upon completion of its proceedings, the Board shall expeditiously decide the grievance on the basis of the record of proceedings, and in light of previous adjudications of similar issues under this chapter and under section 1024. In each case the decision of the Board shall be in writing, and shall decide findings of fact and a statement of the reasons for the Board's decision.

(b) If the Board finds that the grievance is meritorious, the Board shall have the authority, within the limitations of the Secretary's authority, to direct the Department—

(1) to correct any official personnel record relating to the grievant which the Board finds to be inaccurate, erroneous or falsely prejudicial;

(2) to reverse an administrative decision denying the grievant compensation or any other perquisite of employment authorized by law or regulation when the Board finds that such denial was arbitrary, capricious or contrary to law or regulation;

(3) to retain in the Service a member whose separation would be in consequence of the matter by which the member is aggrieved;

(4) to reinstate the grievant with back pay, under applicable law and regulations, where it is clearly established that the grievant's separation or suspension without pay was unjustified or unwarranted;

(5) to take such other remedial action as may be appropriate in procedures agreed to by the Department and the exclusive representative.

(c) Orders of the Board under this chapter shall be final, subject only to judicial review as provided in section 1141, except as provided in subsection (d).

(d) If the Board finds that the grievance is meritorious and that remedial action should be taken that relates directly to promotion or assignment of the grievant or to other remedial action not otherwise provided in this section, or if the Board finds that the evidence before it warrants disciplinary action against any officer or employee of the Department or member of the Service, it shall make an appropriate recommendation to the Secretary. The Secretary shall make a written decision on the Board's recommendation. A recommendation of the Board may be rejected in whole or in part if the recommendation would be contrary to law, would adversely affect the foreign policy or security of the United States, or would substantially impair the efficiency of the Department or the Service. If the Secretary rejects the recommendation in whole or in part, the decision shall specify the reasons for such action. Pending the Secretary's decision, there shall be no ex parte communication concerning the grievance between the Secretary and any person involved in the Board's proceedings. The Secretary shall, however, have access to the entire record of the Board's proceedings.

Sec. 1121. Access to Record.—(a) In considering the validity of a grievance, the Board shall have access, to the extent permitted by law, to any agency record considered by the Board to be relevant to the grievant and the subject matter of the grievance.

(b) The Department shall, subject to applicable law, promptly furnish the grievant any Department record which the grievant requests to substantiate the grievance and which the Board determines is relevant and material to the proceedings. When deemed appropriate by the Board, a grievant may be supplied with only a summary or extract of classified material. If a request by a grievant for a document is denied prior to or during the Department's consideration of a grievance, such denial may be raised by the grievant as an integral part of the grievance before the Board.

(c) This chapter does not require disclosure of any agency record to the Board or a grievant where the head of agency or deputy determines in writing that such disclosure would adversely affect the foreign policy or national security of the United States.

(d) The grievant in any case decided by the Board shall have access to the Board's record of proceedings and decision.

Sec. 1131. Relationship to Other Remedies.—(a) A grievant may not file a grievance with the Board if the grievant has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered or resolved and relief be provided, under another provision of law, regulation, or Executive order, and the matter has been carried to final decision thereunder on its merits or is still under consideration.

(b) If a grievant is not prohibited from filing a grievance under subsection (a), the grievant may file with the Board a grievance which is also eligible for consideration, resolution, and relief under chapter 12 of title 5.

United States Code, or a regulation or Executive order other than under this chapter. Such an election of remedies shall be final upon the acceptance of jurisdiction by the Board.

Sec. 1141. Judicial Review.—Any aggrieved party may obtain judicial review of regulations prescribed by the Secretary under this chapter and final action of the Secretary or the Board on any grievance in the district courts of the United States in accordance with the standards set forth in chapter 7 of title 5, United States Code. Section 706 of title 5, United States Code, shall apply without limitation or exception.

Chapter 12—COMPATIBILITY OF PERSONNEL SYSTEMS

Sec. 1201. Compatibility Between the Foreign Service and Other Government Systems.—The Service shall be administered to the extent practicable in conforming with general policies and regulations of the Government. The Secretary shall consult with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget and the heads of other agencies as the President shall determine, through appropriate mechanisms, in order to assure compatibility of the Service to the extent practicable with other Government personnel systems.

Sec. 1201. Compatibility Between Civil Service and Foreign Service Retirement Systems.—(a) In order to maintain existing conformity between the Civil Service Retirement and Disability System (subchapter III of chapter 83 of title 5, United States Code) and the Foreign Service Retirement and Disability System (chapter 8 of this Act), whenever a law of general applicability is enacted which—

(1) affects current or former participants, annuitants or survivors under the Civil Service Retirement and Disability System; and

(2) alters substantially identical treatment existing immediately prior to the enactment of such law, under a corresponding provision of law affecting participants, former participants, annuitants or survivors under the Foreign Service Retirement and Disability System;

such provision of law shall be deemed to extend to the latter System so that it applies in like manner with respect to Foreign Service Retirement and Disability System participants, former participants, annuitants or survivors.

(b) The President is authorized by Executive order to prescribe regulations to implement this section and to make such extension retroactive to a date no earlier than the effective date of such provision for the Civil Service Retirement and Disability System. Any provisions of an Executive order issued under the authority of this section shall modify, supersede or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective date of the provision of such Executive order, and

(2) any prior provision of an Executive order issued under authority of this section.

Sec. 1203. Compatibility Among Agencies Employing Foreign Service Personnel.—The Service shall be administered to the extent practicable in a manner that will assure maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system. To this end, the heads of such agencies shall consult regularly with the Secretary.

Sec. 1204. Consolidated and Uniform Administration.—The Secretary shall on a continuing basis consider the need for uniformity of personnel policies and procedures and (in accordance with section 23 of the Act of August 1, 1956 (22 U.S.C. 2695)) consolidation of personnel functions among agencies utilizing the Foreign Service personnel system. Where feasible, the Secretary shall encourage the development of uniform policies and procedures and consolidated personnel functions in consultation with such agencies.

Sec. 1205. Exclusive Functions of the Secretary.—The Secretary alone among agency heads shall perform the following functions, on behalf of all concerned agencies as appropriate:

(1) designation of offices abroad as diplomatic in nature under section 102(3);

(2) supervision and direction of the Director General under section 204 and the Inspector General under section 205;

(3) functions under section 206 regarding the Board of the Foreign Service;

(4) issuance of regulations under section 333(b) regarding employment of family members of Government personnel;

(5) recommendations to the President under section 341 that personnel of the Service serve under diplomatic or consular commissions;

(6) recommendations to the President under section 441(d) that members of the Senior Foreign Service be awarded grants of performance pay for especially meritorious or distinguished service;

(7) issuance of regulations under section 451(c) regarding local compensation plans;

(8) determinations under section 453(a) and issuance of regulations under section 453(d) regarding compensation for imprisoned foreign nationals;

(9) operation of the Foreign Service Institute under chapter 7;

(10) administration of the Foreign Service Retirement and Disability System under chapter 8;

(11) administration of health care programs under section 921;

(12) appointment and removal of members of the Foreign Service Labor Relations Board and provision of facilities to such Board under section 1011; and

(13) appointment and removal of members of the Foreign Service Grievance Board and provision of facilities to such Board under section 1111.

TITLE II—TRANSITION, AMENDMENTS TO OTHER LAWS. REPEALS AND MISCELLANEOUS PROVISIONS

Chapter 1—TRANSITION

Sec. 2101. Conversion to the Foreign Service Schedule.—(a) The Secretary of State (hereinafter "the Secretary") shall convert to the appropriate class in the Foreign Service Schedule established under section 421 of the Foreign Service Act of 1979 those members of the Foreign Service—

(1) who on the effective date of this Act are serving under appointments at or below class 3 of the schedule established under section 412 or 414 of the Foreign Service Act of 1946 or at any class in the schedule established under section 415 of such Act as—

(A) Foreign Service officers,

(B) Foreign Service Reserve officers with limited or unlimited tenure, or

(C) Foreign Service Staff officers or employees, and

(2) who (with respect to Reserve and Staff officers and employees) the Secretary determines are available for world-wide assignment.

(b) Those Reserve and Staff officers and employees who the Secretary determines are not available for world-wide availability shall also be converted to the appropriate class under such section 421 if—

(1) the Secretary certifies that there is a need for their services in the Foreign Service; and

(2) they affirm in writing their obligation to accept world-wide availability for assignment as a condition of employment.

Sec. 2102. Conversion to the Senior Foreign Service.—(a) Foreign Service officers and Foreign Service Reserve officers with limited and unlimited tenure who are serving under appointments at class 2 or a higher class of the schedule established under section 412 or 414 of the Foreign Service Act of 1946 on the effective date of this Act may at any time within 120 days after such date elect in a written instrument submitted to the Secretary to request appointment to the Senior Foreign Service.

(b) Except as provided in subsection (d), if a request under subsection (a) is submitted by a Foreign Service Reserve officer with limited tenure, the Secretary shall grant a limited appointment of such officer to the appropriate class established under section 411 of the Foreign Service Act of 1979.

(c) Except as provided in subsection (d), if a request under subsection (a) is submitted by a Foreign Service officer or a Foreign Service Reserve officer with unlimited tenure, the Secretary shall recommend to the President a career appointment of such officer, by and with the advice and consent of the Senate, to the appropriate class established under section 411 of the Foreign Service Act of 1979.

(d) If the Secretary determines that a Reserve officer with limited or unlimited tenure who submits a request under subsection (a) is not available for world-wide for assignment, an appointment under subsection (b) or a recommendation for appointment under subsection (c) shall be made only if—

(1) the Secretary certifies that there is a need for the services of such officer in the Senior Foreign Service; and

(2) such officer affirms in writing his or her obligation to accept world-wide availability for assignment as a condition of employment.

(e) If a request for appointment to the Senior Foreign Service as described in subsection (a) is submitted to the Secretary, but more than 120 days after the effective date of this Act, the Secretary (in the case of a Foreign Service Reserve officer with limited tenure) may grant a limited appointment or (in the case of a Foreign Service officer or Foreign Service Reserve officer with unlimited tenure) may recommend to the President a career appointment of the requesting officer to the appropriate class established under section 411 of the Foreign Service Act of 1979, subject to the conditions specified in subsection (d) and such other conditions as the Secretary may prescribe in light of the provisions of the Foreign Service Act of 1979 relating to promotion into the Senior Foreign Service.

(f) Any officer of the Foreign Service who is eligible to submit a request under subsection (a) and—

(1) who does not submit such a request within 120 days after the effective date of this Act, or

(2) who submits such a request more than 120 days after the effective date of this Act and is not appointed to the Senior Foreign Service for any reason other than failure to meet the conditions specified in subsection (d),

may remain in the Foreign Service for not more than three years after the effective date of this Act. During such period, the officer shall be subject to the provisions of the Foreign Service Act of 1979 regarding members of the Senior Foreign Service, except that such officer shall not be eligible to compete for performance pay under section 441 of such Act, and shall not be eligible for a limited career extension as described in section 641(b) of such Act. Upon separation, any such officer who is a participant in the Foreign Service Retirement and Disability System shall be entitled to retirement benefits determined in accordance with chapter 8 of the Foreign Service Act of 1979.

Sec. 2103. Conversion to the Civil

SERVICE.—(a) Members of the Foreign Service who are serving on the effective date of the Act in a personnel category described in section 2101(a)(1) or 2102(a) and who are not converted into an appropriate class in the Foreign Service Schedule under section 2101 or in the Senior Foreign Service under section 2102 because they do not meet the conditions specified in section 2101(b) or 2102(d) shall, not later than three years after the effective date of this Act, be converted to the appropriate grade in the General Schedule described in 5 U.S.C. 5104, notwithstanding any other law, except that such members who meet the eligibility requirements for the Senior Executive Service and who elect to join that Service shall be converted to the Senior Executive Service in the appropriate rate of basic pay established under 5 U.S.C. 5382.

(b)(1) This section shall not apply prior to July 1, 1981, to personnel of the International Communication Agency who are covered by an existing agreement with the exclusive representative of those personnel. Prior to that date, members of the Service exempted from conversion by this subsection may elect to remain in the Foreign Service and, notwithstanding any other provision of law, the status, promotion, class, and tenure of such personnel shall continue to be governed by the Foreign Service Act of 1946 and Public Law 90-494 (as those Acts were in effect immediately prior to the effective date of this Act). The Foreign Service Act of 1979 (except sections 411, 421, 431, 441, and 531) shall also apply to such members of the Service, and such personnel shall be considered personnel of the Service for purposes of sections 103, 442, 511, 521, 561 and 803 of this Act.

(2) The President shall prescribe salary rates for the personnel who are temporarily excepted from conversion under this subsection in accordance with the salary classes established under sections 414 and 415 of the Foreign Service Act of 1946. Salary rates for such personnel shall be adjusted at the same time as rates of basic pay are adjusted for the General Schedule and in such manner as to preserve without prejudice the comparable rates of pay for each class.

SEC. 2104. PRESERVATION OF STATUS AND BENEFITS.—(a)(1) Every member of the Foreign Service who is converted to a different personnel system or category under this chapter shall be converted, notwithstanding any other law, to the class or grade and salary rate that most closely corresponds to the class and step at which the member was serving prior to conversion, except that no conversion shall cause any individual to incur a reduction in his or her class, grade or basic rate of salary: *Provided*, That until such conversions are made the affected personnel shall receive basic salary and allowances as if they had been converted under section 2101 or 2102, as appropriate, on the effective date of this Act.

(2) Conversions of members of the Foreign Service to new salary schedules under sections 2101 and 2102 shall in each case be to a class and step determined, in accordance with regulations prescribed under section 2105, to correspond to the class and step under which the member was serving immediately prior to conversion. Such regulations shall assure that no such conversion shall cause any individual to incur a reduction in salary.

(b) Any participant in the Foreign Service Retirement and Disability System who would normally participate in the Civil Service Retirement and Disability System by virtue of the enactment of this Act or conversion under this chapter shall remain a participant in the Foreign Service Retirement and Disability System for 120 days after participation in such system would otherwise cease. During such 120-day period, the individual may elect in writing to continue to participate in the Foreign Service Retirement and Disability System instead of the Civil Service Retirement and Disability System. If such an election is not made, the individual will then be transferred to the Civil Service Retirement and Disability System and contributions made by the participant to the Foreign Service Retirement and Disability Fund will be transferred to the Civil Service Retirement and Disability Fund.

(c) Members of the Foreign Service who are converted under this chapter shall be converted to the type of appointment which corresponds most closely in tenure to the type of appointment under which they were serving immediately prior to such conversion: *Provided*, That no conversion shall operate to extend the duration of any limited appointment or previously applicable time in class. Any member of the Service who is converted to the Civil Service under this chapter shall be deemed to be an employee for purposes of subchapter II of chapter 75 of title 5, United States Code.

(d) Any person who on the effective date of this Act is serving—

(1) under an appointment in the Foreign Service, or

(2) in any other office or position continued by this Act,

may continue to serve under such appointment, subject to the provisions of this Act, and need not be reappointed by virtue of the enactment of this Act.

(e) Section 642 of the Foreign Service Act of 1979 shall become applicable effective five years after the effective date of this Act to members of the Foreign Service—

(1) who are serving under career appointments on the date of enactment of this Act, and

(2) who were not subject to section 633(a)(2) of the Foreign Service Act of 1946 immediately prior to the effective date of this Act.

SEC. 2105. REGULATIONS.—Under the direction of the President, the Secretary is authorized to prescribe regulations for the implementation of this chapter.

SEC. 2106. AUTHORITY OF OTHER AGENCIES.—The heads of agencies other than the Department of State which employ Foreign Service personnel are authorized to perform any of the functions vested in the Secretary by this chapter with respect to personnel of the Service in their respective agencies. Such agency heads shall consult with the Secretary in the exercise of such functions.

Chapter 2—AMENDMENTS TO OTHER LAWS

SEC. 2201. BASIC AUTHORITY.—(a) The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2684 et seq.) is amended by adding at the end thereof the following new sections:

SEC. 24. GIFTS.—(a) The Secretary of State may accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Department of State including the Foreign Service or for the carrying out of any of its functions. Conditional gifts may be so accepted at the discretion of the Secretary, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, but no gift shall be accepted which is conditioned upon any income thereof unless such expenditure has been approved by Act of Congress.

"(b) Any unconditional gift of money accepted pursuant to the authority granted in subsection (a), the net proceeds from the liquidation pursuant to subsection (c) or (d) of any other property so accepted, and the proceeds of insurance on any such gift property not used for its restoration, shall be deposited in the Treasury of the United States and are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Department of State including the Foreign Service, and the Secretary of the Treasury may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such gifts and the income from such investments shall be available for the expenditure in the operation of the Department of State including the Foreign Service and performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Foreign Service by Congress.

"(c) The evidences of any unconditional gift of intangible personal property, other than money, accepted pursuant to subsection (a), shall be deposited with the Secretary of Treasury, who may hold or liquidate them, except that they shall be liquidated upon the request of the Secretary of State whenever necessary to meet payments required in the operation of the Department including the Service or the performance of its functions. The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditures as provided in subsection (b).

"(d) The Secretary of State shall hold any real property or any tangible personal property accepted unconditionally pursuant to subsection (a), and shall permit such property to be used for the operation of the Department including the Service and the performance of its functions, or may lease or hire such property, and may insure such property, and deposit the income thereof with the Secretary of the Treasury to be available for expenditure as provided in subsection (b). The income from any such real property or tangible personal property shall be available for expenditure at the discretion of the Secretary of State for the maintenance, preservation, or repair and insurance of such property and any proceeds from insurance may be used to restore the property insured. Any such property when not required for the operation of the Department including the Service or the performance of its functions may be liquidated by the Secretary, and the proceeds thereof deposited with the Secretary of the Treasury whenever in the Secretary's judgment the purposes of the gift will be served thereby.

"(e) For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted by the Secretary under this section shall be deemed to be a gift, devise, or bequest to and for the use of the United States.

"SEC. 25. AUTHORIZATION TO RETAIN ATTORNEYS.—The Secretary of State may, without regard to 5 U.S.C. 3106, authorize a principal officer of the Foreign Service to procure legal services whenever such services are required for the protection of the interests of the Government or to enable a member of the Service to carry on the member's work efficiently.

"SEC. 26. EMPLOYMENT OPPORTUNITIES FOR FAMILY MEMBERS.—(a) In order to expand employment opportunities for family members of United States Government personnel assigned abroad, the Secretary of State shall seek to conclude such bilateral and multilateral agreements as will facilitate the employment of such family members in foreign economies.

"(b) Any member of a family of Foreign Service personnel may accept gainful employment in a foreign country unless such employment—

"(1) would violate any law of such country or of the United States; or

"(2) could, as certified in writing by the Chief of the United States Diplomatic Mission in such country, damage the interests of the United States.

"SEC. 27. USE OF VEHICLES. Notwithstanding the provisions of section 5 of the Act of July

16, 1914 (31 U.S.C. 638a), the Secretary of State may authorize any principal officer to approve the use of Government owned or leased vehicles located at the principal officer's post for transportation of United States Government employees and their families when public transportation is unsafe or not available.

"Sec. 28. Educational Facilities. Whenever the Secretary of State determines that educational facilities are not available, or that existing educational facilities are inadequate, to meet the needs of children of American citizens stationed outside the United States engaged in carrying out Government activities, he is authorized, in such manner as he deems appropriate and under such regulations as he may prescribe, to establish, operate, and maintain primary schools, and school dormitories and related educational facilities for primary and secondary schools, outside the United States, or to make grants of funds for such purposes, or otherwise provide for such educational facilities. The provisions of the Foreign Service Buildings Act, 1926, as amended, and of paragraphs (h) and (i) of section 3 of this Act, may be utilized by the Secretary in providing assistance for educational facilities. Assistance may include, but shall not be limited to, hiring, transporting, and payment of teachers and other necessary personnel.

"Sec. 29. Malpractice Protection.—(a) The remedy—

"(1) against the United States provided by sections 1346(b) and 2672 of title 28 of the United States Code, or

"(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under such sections,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, pharmacist, or paramedical (including medical and dental assistants and technicians, nursing assistants, and therapists) or other supporting personnel of the Department of State in furnishing medical care or related services, including the conducting of clinical studies or investigations, while in the exercise of his or her duties in or for the Department of State or any other Federal department, agency, or instrumentality shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or his or her estate) whose act or omission gave rise to such claim.

"(b) The United States Government shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his or her estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or her or an attested true copy thereof to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

"(c) Upon a certification by the Attorney General that the defendant was acting within the scope of his or her employment in or for the Department of State or any other Federal department, agency, or instrumentality at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 of the United States Code and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court except that where such remedy is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in that event, the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28 of the United States Code and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28 of the United States Code shall not apply to any tort enumerated therein arising out of negligence in the furnishing of medical care or related services, including the conducting of clinical studies or investigations.

"(f) The Secretary may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of subsection (a) of this section apply, for damages for personal injury, including death, negligently caused by any such person while acting within the scope of his or her office or employment and as a result of the furnishing of medical care or related services, including the conducting of clinical studies or investigations, if such person is assigned to a foreign area or detailed for service with other than a Federal agency or institution, or if the circumstances are such as are likely to preclude the remedies of third persons against the United States provided by sections 1346(b) and 2672 of title 28 of the United States Code, for such damage or injury.

"(g) For purposes of this section, any medical care or related service covered by this section and performed abroad by a covered person at the direction or with the approval of the United States Ambassador or other principal representative of the United States in the area shall be deemed to be within the scope of employment of the individual performing the service.";

"Sec. 30. Post Employee Services.—(a) The Secretary of State may authorize and assist in the establishment, maintenance, and operation by civilian officers and employees of the Government of non-Government-operated services and facilities at posts abroad, including the furnishing of space, utilities, and properties owned or leased by the Government for use by its diplomatic, consular and other missions and posts abroad. The provisions of the Foreign Service Buildings Act of 1926 (22 U.S.C. 292-300) and section 13 of this Act may be utilized by the Secretary in providing such assistance.

"(b) The Secretary may establish and maintain emergency commissary or mess services in places abroad where in the Secretary's judgment, such services are necessary temporarily to insure the effective and efficient performance of official duties and responsibilities. Reimbursements incident to the maintenance and operation of commissary or mess service under this subsection shall be at not less than cost as determined by the Secretary and shall be used as working funds: *Provided,* That an amount equal to the amount expended for such services shall be covered into the Treasury as miscellaneous receipts.

"(c) Services and facilities established under this section shall be made available, insofar as practicable, to officers and employees of all agencies and their dependents who are stationed in the locality abroad. Such services and facilities shall not be established in localities where another agency operates similar services or facilities unless the Secretary determines that additional services or facilities are necessary. Other agencies shall to the extent practicable avoid duplicating the facilities and services provided or assisted by the Secretary under this section.

"(d) Charges at any post abroad for a service or facility provided, authorized or assisted under this section shall be at the same rate for all civilian personnel of the Government serviced thereby, and all charges for supplies furnished to such a service or facility abroad by any agency shall be at the same rate as that charged by the furnishing agency to its comparable civilian services and facilities.".

(b) The authorities conferred upon the Secretary of State by sections 24 and 25 of such Act shall continue to be available to the Director of the International Communication Agency and the Director of the International Development Cooperation Agency.

Sec. 2202. Conforming Amendments.—(a) The Peace Corps Act (22 U.S.C. 2501 et seq.) is amended as follows:

(1) In section 5(f)(1)(A), strike out "section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1))" and insert in lieu thereof "section 851(a) of the Foreign Service Act of 1979";

(2) In section 5(h)—

(A) strike out "section 1091 of the Foreign Service Act of 1946" and insert in lieu thereof "section 31 of the Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1956 (22 U.S.C. 2684 et seq.)"; and

(B) strike out "Director of Action" and insert in lieu thereof "President";

(3) In section 7(a)(1)—

(A) strike out "the Foreign Service Reserve and Staff under the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)" and insert in lieu thereof "the Foreign Service under the Foreign Service Act of 1979";

(B) strike out "section 528" and insert in lieu thereof "section 332";

(C) strike out the word "Reserve" the last place it appears and all that follows and insert in lieu thereof a period.

(4) Section 7(a)(2) is amended to read as follows:

"(2) The President may utilize such authority contained in the Foreign Service Act of 1979 relating to members of the Foreign Service and other United States Government officers and employees as the President deems necessary to carry out functions under this Act, except that—

(A) no Foreign Service appointment or assignment under this paragraph shall be for a period of more than five years unless the Director of the Peace Corps, under special circumstances, personally approves an extension of not more than one year on an individual basis; and

(B) no person whose Foreign Service appointment or assignment under this paragraph has been terminated shall be reappointed or reassigned under this paragraph before the expiration of a period of time equal to that person's preceding tour of duty. Such provisions of that Act as the President deems appropriate shall apply to persons appointed or assigned under this paragraph, including in all cases, the provisions of section 332 of that Act: *Provided, however,* That the President may by regulation make exceptions to the application of section 332 in cases in which the period of the appointment or assignment exceeds thirty months: *Provided further*, That members of of the Foreign Service appointed or assigned pursuant to this paragraph shall receive within-class salary increases in accordance with such regulations as the President may prescribe: *Provided further*, That under such regulations as the President may prescribe persons who are to perform duties of a more routine nature than are generally performed by members of the Foreign Service at the lowest class may be appointed to an unenumerated class ranking below the lowest class of the Foreign Service Schedule and be paid basic compensation at rates lower than those of the lowest class.";

(5) In section 14(b), strike out "section 901 of the Foreign Service Act of 1946 (22 U.S.C. 1131)" and insert in lieu thereof "section 931 of the Foreign Service Act of 1979".

(b) The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended as follows:

(1) Section 625(d)(1) (22 U.S.C. 2385(d)) is amended to read as follows:

"(1) employ or assign persons, or authorize the employment or assignment of officers or employees by agencies of the United States Government, who shall receive compensation at any of the rates provided for under section 411 or section 421 of the Foreign Service Act of 1979, together with allowances and benefits under that Act; and persons so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 332 of that Act for persons appointed to the Foreign Service.";

(2) Section 631(b) (22 U.S.C. 2391) is amended by striking out the second sentence and inserting in lieu thereof "Such chief shall be entitled to receive such compensation and allowances as provided for in the Foreign Service Act of 1979, not to exceed those authorized for a chief of mission (within the meaning of that Act), as the President shall determine to be appropriate.";

(3) Section 631(c) is amended by striking out the second sentence and inserting in lieu thereof "Such person may receive such compensation and allowances as are authorized by the Foreign Service Act, not to exceed those authorized for a chief of mission (within the meaning of that Act), as the President shall determine to be appropriate.".

(c) Section 42 of the Arms Control and Disarmament Act (22 U.S.C. 2582) is amended to read as follows:

"FOREIGN SERVICE PERSONNEL

"SEC. 42. (a) The Secretary of State may authorize the Director to exercise, with respect to members of the Foreign Service appointed or employed for the Agency the following authority:

(1) The authority available to the Secretary of State under the Foreign Service Act of 1979, and

(2) the authority available to the Secretary under any other provisions of law pertaining specifically or generally applicable to such members.

"(b) Limited appointments of Foreign Service personnel for the Agency may be extended or renewed, notwithstanding section 331 of the Foreign Service Act of 1979, so long as the service of the individual under such appointment does not exceed ten consecutive years without a break in service of at least one year.".

SEC. 2203. SALARY FOR AMBASSADORS AT LARGE.—Section 5313 of title 5, United States Code, is amended by adding at the end thereof:

"(24) Ambassadors at Large."

SEC. 2204. ATTORNEYS FEES IN BACKPAY CASES.—Section 5596(b) of title 5, United States Code, is amended—

(1) by amending paragraph (1)(A)(ii) by inserting immediately after "chapter 71 of this title," the words "or under chapter 11 of the Foreign Service Act of 1979,";

(2) by amending paragraph (3)—

(A) by inserting immediately after "section 7103 of this title" the words "and (with respect to Foreign Service personnel) in sections 1002 and 1101 of the Foreign Service Act of 1979"; and

(B) by inserting immediately after "section 7116 of this title" the words "and (with respect to Foreign Service personnel) in section 1031 of the Foreign Service Act of 1979".

SEC. 2205. LEAVE FOR SENIOR FOREIGN SERVICE.—Section 6304 of title 5, United States Code, is amended—

(1) in subsection (a) by striking out "and (f)" and inserting in lieu thereof "(f), and (g)"; and

(2) by adding at the end thereof the following new subsection:

"(g) Annual leave accrued by a member of the Senior Foreign Service shall not be subject to the limitation on accumulation otherwise imposed by this section.".

Chapter 3—REPEALS

SEC. 2301. REPEALED PROVISIONS.—There are repealed—

(1) the Foreign Service Act of 1946 (22 U.S.C. 801–817, 821, 822, 826, 827, 841–843, 846, 861, 866–873, 876, 877, 881, 882, 886, 889, 890, 896, 900–902, 906–915, 921–924, 926–932, 936–939, 946, 947, 951, 961–966, 968, 981, 986, 987, 991–996, 1001–1009, 1016, 1017, 1021, 1022, 1026–1028, 1031, 1036, 1037–1037c, 1041–1048, 1061–1065, 1071, 1076–1079s, 1081, 1082, 1084, 1086, 1091, 1093, 1095, 1101, 1103, 1106, 1111, 1112, 1116, 1121, 1131, 1136–1138a, 1139, 1148–1151 and 1156–1160);

(2) sections 401 and 413 of the Foreign Relations Authorization Act, Fiscal Year 1979 (92 Stat. 981, 986);

(3) section 413 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 857);

(4) sections 117, 120 and 522 of the Foreign Relations Authorization Act, Fiscal Year 1977 (90 Stat. 827, 829, 846);

(5) section 6 of the Department of State Appropriations Authorization Act of 1973 (87 Stat. 452);

(6) the Act entitled "An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency through establishment of a Foreign Service Information Officer Corps, approved August 20, 1968 (22 U.S.C. 929–932, 1221–1232);

(7) paragraph (2) of subsection (d) and subsections (e), (g), (j) and (k) of section 625 of the Foreign Assistance Act of 1961 (22 U.S.C. 2385(d)(2), (e), (g), (j) and (k)), except that the effective date of the repeal of subsection (k) shall be January 1, 1982;

(8) section 7(b) of the Peace Corps Act (22 U.S.C. 2506(b)); and

(9) section 124(a)(2) of the International Development and Food Assistance Act of 1977 (91 Stat. 542).

Chapter 4—SEVERABILITY, SAVING PROVISION, REPORTS AND EFFECTIVE DATE

SEC. 2401. SEVERABILITY.—If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

SEC. 2402. SAVING PROVISION.—All determinations, authorizations, regulations, orders, agreements, exclusive recognition of an organization or other actions made, issued, undertaken, entered into or taken under the authority of the Foreign Service Act of 1946 or any other law repealed, modified or affected by this Act shall continue in full force and effect until modified, revoked or superseded by appropriate authority. Any grievances, claims or appeals which were filed or made under any such law and are pending resolution on the effective date of this Act shall continue to be governed by the provisions repealed, modified or affected by this Act. References in law to provisions of the Foreign Service Act of 1946 or other law superseded by this Act shall be deemed to include reference to the corresponding provisions of this Act.

SEC. 2403. REPORTS.—Not later than eighteen months after the effective date of this Act, the Secretary of State shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing the steps taken in furtherance of this Act's objective (as set out in sections 101(b)(9) and 1203 of the Foreign Service Act of 1979) of achieving maximum compatibility among the agencies utilizing the Foreign Service personnel system and including such recommendations as the Secretary believes will assist in achieving that objective. The Secretary shall keep the Congress informed on a continuing basis on progress made in pursuit of the goal of maximum compatibility.

SEC. 2404. EFFECTIVE DATE.—This Act shall take effect on January 1, 1980.

SECTION-BY-SECTION ANALYSIS OF THE BILL TO PROMOTE THE FOREIGN POLICY OF THE UNITED STATES BY STRENGTHENING AND IMPROVING THE FOREIGN SERVICE OF THE UNITED STATES AND FOR OTHER PURPOSES

INTRODUCTION

The proposed legislation (hereafter "the Bill") is the product of three years of study. This study was suspended in 1978 while the Civil Service Reform Act (Public Law 95–454) was pending in the Congress. When that Act was passed and the pattern and direction of Civil Service reform thus clarified, it became possible to take this important new legislation into account in completing the study of the Foreign Service personnel system.

The last comprehensive revision of Foreign Service legislation was contained in the Foreign Service Act of 1946. The current study has affirmed the continuing validity of many of the 1946 Act's provisions. But it has also shown the need, after thirty-three years, for substantial changes in order to achieve a number of primary objectives. A new Foreign Service Act is needed—

To provide a clear distinction between Foreign Service and Civil Service employment, and to eliminate the anomalous "domestic" Foreign Service personnel category;

To simplify and rationalize the various categories of Foreign Service personnel and to establish a single Foreign Service salary schedule;

To make more uniform the statutory terms and conditions of Foreign Service employment;

To establish a Senior Foreign Service (SFS) with rigorous entry, promotion, and retention standards based on performance, and with performance pay for outstanding service;

To provide a statutory basis for labor-management relations in the Foreign Service;

To improve interagency coordination in the interest of maximum compatibility among agencies employing the Foreign Service personnel, and compatibility between the Foreign Service and Civil Service;

To consolidate the various laws relating to Foreign Service personnel which have been enacted outside the framework of the existing Foreign Service Act.

The Bill is divided into two titles. Title I, made up of twelve chapters, is a permanent body of law concerning the structure and administration of the Foreign Service. Title II, made up of four additional chapters, contains transitional and technical provisions, and amendments to and repeals of other laws.

PROVISIONS OF THE BILL

Short title

Section 1 states that title I of the Bill may be cited as the "Foreign Service Act of 1979." Title I (hereinafter "the 1979 Act") is a general revision of the Foreign Service Act of 1946, which is repealed by section 2301(1) of the Bill.

TITLE I—THE FOREIGN SERVICE ACT OF 1979

CHAPTER 1—GENERAL PROVISIONS

Findings and objectives

Section 101, consisting of two subsections, states the findings upon which the Bill is based on the objectives which it seeks to realize.

The findings, contained in subsection (a), begin with a statement that an excellent, disciplined, career Foreign Service is essential to the national interest in order to assist the President and Secretary of State in conducting the foreign affairs of the United States.

It is found further in this subsection that the Foreign Service of the United States established under the Foreign Service Acts of 1924 and 1946 must be preserved, strengthened, and improved to carry out its mission effectively.

Following section 111(2) of the 1946 Act, it is also found that the Foreign Service should be representative of the American people and informed of current concerns and trends in American life. Additionally, following section 500 of the 1946 Act, it is found that the Foreign Service should be knowledgeable of other nations' affairs, cultures and languages, should be available for worldwide assignment, and should be operated on the basis of merit principles.

Section 101(b) states the objectives of the 1979 Act. These are in part derived from section 111 of the 1946 Act.

Section 101(b)(1) follows section 111(5) of the 1946 Act in stating the objectives that the Service be governed by merit principles, adding specifically that admission to the Service should be on the basis of impartial and rigorous examinations; acquisition of career status should be conditioned upon successful completion of a probationary period; and advancement, retention, or separation should be based on performance.

Section 101(b)(2) reaffirms the objective that policies and procedures should facilitate and encourage equality of opportunity for entry into and advancement in the Foreign Service. This paragraph complements the finding in section 101(a)(3) that the Foreign Service should be representative of the American people. It is derived from the merit system principles contained in 5 U.S.C. 2301(b) (1) and (2), which are made explicitly applicable to the Foreign Service by the Bill.

Section 101(b)(3) states the objective of simplifying and rationalizing the Foreign Service personnel categories and salary structure to eliminate inefficiencies and inequities which have resulted from the overlapping of personnel categories and pay schedules.

Section 101(b)(4) notes that the Bill will establish a statutory basis for labor management relations in the Foreign Service. These relations have been previously governed by Executive Order No. 11636 of December 17, 1971 (36 F.R. 24901). They will now be governed by chapter 10 of the 1979 Act, which is derived in part from the Executive Order and in part from chapter 71 of title 5, United States Code. Section 101(b)(4) also notes that the system for the resolution of individual grievances, which was established under sections 691–694 of the 1946 Act, as amended, will be continued (in chapter 11 of the 1979 Act).

Section 101(b)(5) states the objectives of minimizing the impact of the hardships of overseas service upon members of the Foreign Service, and mitigating the special impact of such hardships on their families.

Section 101(b)(6), drawn from section 111(7) of the 1946 Act, states that the Act will provide salaries, allowances, and benefits that will attract and retain qualified personnel, and as well as incentive payments and awards to encourage and reward outstanding performance.

Section 101(b)(7) states that the Act will establish a Senior Foreign Service to provide a highly qualified corps of senior officers who possess outstanding capabilities for policy formulation, executive leadership and/or carrying out specialized functional and geographic responsibilities.

Section 101(b)(8) follows section 111(8) of the 1946 Act in stating the objective of improving managerial flexibility and effectiveness.

Section 101(b)(9) states as an objective the promotion of maximum compatibility among agencies authorized by law to use the Foreign Service personnel system, as well as compatibility between the Foreign Service and the Civil Service. Chapter 12 of the 1979 Act addresses this subject.

Section 101(b)(10) restates the general objective of enabling the Foreign Service to serve effectively the interests of the United States and to provide the highest possible caliber of representation in the conduct of foreign affairs.

Definitions

Section 102 defines the key terms used in the Act. Many of the definitions are substantially the same as those contained in section 121 of the 1946 Act. The defined terms have been arranged in alphabetical order.

Section 102(1) follows section 121(7) of the 1946 Act in defining "abroad" to include all areas not within the United States.

"Agency" is defined by section 102(2) to conform with the definition in 5 U.S.C. 551 (1), which excludes Congress, the Federal Courts, the governments of U.S. territories and possessions, and the government of the District of Columbia. The scope of the term is essentially the same as under section 121(4) of the 1946 Act.

Section 102(3) defines "chief of mission" as any principal officer in charge of a diplomatic mission or of an office designated by the Secretary as diplomatic in nature, including an officer who is temporarily in charge of a mission. This definition is substantially the same as under section 121(9) of the 1946 Act.

Section 102(4) follows section 121(3) of the 1946 Act in using "Department" to mean the Department of State. This definition is subject to the provisions of section 202(b) of the Bill, which state that such references to the Department also include other agencies authorized to use the Foreign Service personnel system.

Section 102(5) defines "function" to include any duty, obligation, power, authority, responsibility, right, privilege, discretion or activity. This subsection, which has no parallel in the 1946 Act, is added to avoid the need for repetitious use of terms throughout the Bill.

Section 102(6) defines "Government" as the Government of the United States of America. This subsection follows verbatim section 121(5) of the 1946 Act.

Section 102(7) states that merit principles for purposes of the Act will mean the principles set forth in 5 U.S.C. 2301, enacted as part of the Civil Service Reform Act of 1978. Among the principles set forth in 5 U.S.C. 2301 are that: 1) recruitment should be from qualified individuals, and selection and advancement should be determined solely on the basis of relative ability and skills after fair and open competition; 2) discrimination on the basis of race, sex, age, religion, national origin, marital status, or handicapping condition should be prohibited; 3) equal pay should be provided for equal work, with appropriate performance recognition; and 4) retention and separation should be based on performance. These merit principles are referred to in subsequent sections of the Bill governing personnel administration.

Section 102(8) defines "principal officer" as the officer in charge of a diplomatic mission, or a consular or other post of the Foreign Service other than a consular agency. Its scope is essentially the same as that of section 121(8) of the 1946 Act. However, it also includes special purpose posts, such as the Sinai Support Mission, which were not contemplated by the 1946 Act.

Section 102(9) follows section 121(3) of the 1946 Act in defining "Secretary" to mean the Secretary of State. As in the case of section 102(4), this definition is subject to the qualification of section 202(b) of the Bill. "Secretary" thus includes the heads of other agencies authorized to use the Foreign Service personnel system except with respect to exclusive functions of the Secretary, such as those specified in chapter 12. In this analysis likewise, the term Secretary (unless otherwise indicated) includes the heads of other agencies utilizing the personnel authorities in the Bill.

Section 102(10) states that "Service" shall mean the Foreign Service of the United States. This follows section 121(2) of the 1946 Act verbatim.

Section 102(11) defines "United States," when used in a geographic sense, as the fifty states and the District of Columbia. This definition follows substantially the definition of "continental United States" in the 1946 Act with the obsolete "continental" omitted.

Personnel of the service

Section 103 lists the personnel of the Service. It corresponds in function to section 401 of the 1946 Act.

There are seven groups of personnel under the 1979 Act: 1) chiefs of mission; 2) ambassadors at large; 3) members of the Senior Foreign Service; 4) Foreign Service officers; 5) Foreign Service personnel; 6) foreign national employees; and 7) consular agents. Ambassadors at large were not expressly included among the categories of Foreign Service personnel under section 401 of the 1946 Act. The Senior Foreign Service is established by the 1979 Act and had no single parallel category under the 1946 Act. The separate categories and subcategories of Foreign Service Reserve and Foreign Service Staff personnel under the 1946 Act are abolished. The functions enumerated in this section for the various groups of personnel are descriptive rather than limiting.

Functions

Section 104 describes in general terms the functions of members of the Foreign Service.

Section 104(1) states that members of the Service, under the direction of the Secretary, shall represent the interests of the United States in dealings with foreign nations and international organizations, and shall perform such other functions as are appropriate to their appointments and assignments, e.g., 1) observing, reporting on, and interpreting events abroad, 2) assisting Americans abroad and foreigners wishing to visit the United States, and 3) providing management and administration for the conduct of foreign affairs. This subsection is substantially derived from section 301 of the 1946 Act. The subsection adds a reference to functions performed under the Vienna Convention on Diplomatic Relations (23 UST 3227, TIAS 7502) and the Vienna Convention on Consular Relations (21 UST 77, TIAS 6820), two widely accepted multilateral agreements of particular significance because they codify much of customary international law with respect to diplomatic and consular relations and functions.

Section 104(2) states that members of the Foreign Service shall provide guidance for the conduct of United States Government programs and activities which relate to the foreign relations of the United States.

Section 104(3) states that members of the Service may perform functions on behalf of any agency or other Government establishment requiring their services. This provision carries over the substance of section 311 of the 1946 Act. It permits members of the Foreign Service to use the authorities of other agencies at their request where necessary or appropriate. For example, a General Services Officer at a post abroad is thereby empowered to use Department of Agriculture contracting authority and funds in executing and administering contracts at the request of the Department of Agriculture.

CHAPTER 2—MANAGEMENT OF THE SERVICE

This chapter identifies the officials who are primarily responsible for the administration of the Foreign Service and delineates their respective functions.

The Secretary of State

Section 201 states that the Secretary of State shall direct and administer the Service and coordinate its functions. The section authorizes the Secretary to prescribe regulations and delegate functions to carry out the Act. This section consolidates several provisions of existing law. Sections 302 and 303 of the 1946 Act provide authority for regulations by both the President and the Secretary. Further, central authority for direction and administration of the Foreign Service was placed with the Secretary by section 3 of Public Law 81–73, 63 Stat. 111 (1949), which made the Secretary, rather than various subordinate Department of State officials, responsible for the overall administration of the 1946 Act. Section 4 of Public Law 81–73 provided that the Secretary might promulgate rules and regulations necessary to carry out his functions, and could delegate authority to perform any such functions to officers and employees under his direction. Sec 201 carries forward the substance of these provisions.

In view of this consolidated single authority for regulations, it is unnecessary to follow the practice of the 1946 Act in referring to "regulations as the Secretary may prescribe" throughout the Bill. Such references have been eliminated as redundant.

Other agencies employing foreign service personnel

Section 202, consisting of four subsections, authorizes other agencies employing Foreign Service personnel to make use of the authorities contained in the Act. This section makes clear within the basic Foreign Service legislation how the Act's authorities are available. It supersedes corresponding provisions in the Foreign Assistance Act and in Public Law 90–494 which are repealed by section 2301 of the Bill.

Section 202(a) authorizes the Director of the United States International Communication Agency (USICA), the Director of the International Development Cooperation Agency (IDCA), and the head of any other agency authorized by law to utilize the Foreign Service personnel system to exercise the functions vested in the Secretary of State by the 1979 Act with respect to Foreign Service personnel of their respective agencies, except where the functions are exclusively committed to the Secretary of State or otherwise limited by applicable law.

Section 202(b) states that in this context, except as otherwise provided, references to the Department shall be read as reference to other agencies authorized to use the Foreign Service personnel system, and that references to the Secretary refer to the heads of those agencies, again subject to the limitations of applicable law. The second sentence of section 202(b) states that references to Foreign Service officers shall include, with respect to USICA, reference to Foreign Service information officers.

Section 202(c) states that the labor-management relations and grievances chapters of the Act are applicable only to the Department of State, the International Communication Agency, and the International Development Cooperation Agency, and not to the other agencies utilizing the Foreign Service personnel system. This corresponds to existing law (section 692 of the 1946 Act and section 2 of Executive Order 11636).

Section 202(d) disclaims any interpretation of the 1979 Act as causing a diminution of the authority of either the USICA or the IDCA Director.

The Chief of Mission

Section 203 delineates the interagency direction, coordination and supervision authorities and responsibilities of a chief of mission to a foreign country, and the responsibilities to the chief of mission of United States agencies conducting activities in a country. This section is identical in substance to section 12 of Public Law 93–475, 88 Stat. 1439 (1974).

Section 203(a)(1) states that the chief of mission under the President's direction, has full responsibility for the direction, coordination, and supervision of all Government officers and employees in the country where he serves, except for personnel under the direction of a United States area military commander.

Section 203(a)(2) states that the chief of mission has the responsibility to keep fully informed with respect to all United States Government activities in the country and to insure that all Government officers and employees subject to his or her directives comply with them.

Section 203(b) requires any agency of the Government having employees in a foreign country to keep the chief of mission fully and currently informed concerning their activities and operations. Any such agency must also insure that employees, except for personnel under the command of an area military commander, comply fully with all applicable directives of the chief of mission.

This section does not apply to military personnel serving under the command of a United States military area commander (e.g., CINCEUR, CINCPAC). Such military personnel in the field report to the President (in his capacity as Commander-in-Chief) through military channels rather than through chiefs of mission. All other United States military personnel in a foreign country, however, are subject to the direction, coordination, and supervision of the chief of mission. See, e.g., section 515(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321(e)).

The Director General

Section 204 states that there shall be a Director General of the Foreign Service, who shall assist the Secretary in the management of the Service and perform such functions as the Secretary directs. In particular, the Director General is authorized to assist the Secretary in carrying out responsibilities for interagency coordination and compatibility under chapter 12 of the Act. The Director General would be appointed by the President, by and with the advice and consent of the Senate, from among the career members of the Senior Foreign Service. Section 201 of the 1946 Act stated that the Service would be administered by a Director General appointed by the Secretary from among Foreign Service officers of class 1 or the class of career minister. Section 3 of Public Law 81–73, 63 Stat. 111 (1949) amended the 1946 Act to vest primary authority for administration of the Foreign Service in the Secretary rather than directly in the Director General.

The Inspector General

Section 205 provides for an Inspector General of the Foreign Service and delineates the functions of that officer. It is derived in part from section 681 of the 1946 Act, which provided for Foreign Service inspectors, but not the office of Inspector General.

Section 205(a) provides for the appointment of an Inspector General of the Foreign Service by the President, with Senate advice and consent, from among the career members of the Senior Foreign Service. The subsection also provides that the Inspector General shall inspect each Foreign Service post at least every three years and shall periodically inspect the bureaus and offices of the Department of State. This section does not authorize inspections of offices in other agencies in the United States.

Section 681 of the 1946 Act required inspection of posts every two years. Section 205(a), while permitting inspections as frequently as they are considered necessary, permits a three-year inspection cycle where experience has shown that more frequent inspections are not needed. This will permit a more efficient allocation of resources. Also, section 681 did not specifically provide for the inspection of bureaus and offices of the Department, which has been provided for through Department regulations.

Section 205(b) states that the Inspector General may review the conduct of the Government's programs and activities performed under the direction or supervision of chiefs of mission for the purpose of ascertaining their consonance with the foreign policy of the United States and their consistency with the responsibilities of the Secretary and the chief of mission. This subsection replaces the authority contained in section 124 of Public Law 95–88, 91 Stat. 542 (1978), which gave the Inspector General of the Foreign Service, so far as the President determines necessary, authorities formerly possessed by the Inspector General, Foreign Assistance. Reviews conducted under section 205(b) will, as stated, be designed to determine if the programs and activities of United States missions abroad are consistent with United States foreign policy goals and with the responsibilities of the Secretary and the chief of mission. Such reviews will not be detailed fiscal audits of other agencies, and are not intended to replace the detailed audits carried out by the agencies or by the Comptroller General. The Inspector General will continue to cooperate with other agencies as under current procedures.

Section 205(c) states that the Secretary may authorize a Foreign Service inspector to suspend from duty any member of the Service other than a chief of mission appointed by the President. The Secretary may authorize a Foreign Service inspector to serve in the place of a suspended officer for not to exceed ninety days. These authorities are carried over in substance from section 681 of the 1946 Act.

The Board of the Foreign Service

Section 206 provides that the President shall establish a Board of the Foreign Service to advise the Secretary on matters relating to the Service such as promoting the objectives of maximum compatibility among agencies authorized by law to use the Foreign Service personnel system, and compatibility between the Foreign Service and the Civil Service. Such a Board was originally established by the 1946 Act. Its functions were transferred to the President by Reorganization Plan in 1965, and the Board was continued thereafter by Executive Order 11264, as amended. Its members include the Agency for International Development, the International Communication Agency, the Department of Commerce, the Department of Labor, and the Office of Personnel Management. The quasi-judicial functions in labor-management relations and separation for cause heretofore exercised by the Board are now vested by the Bill in the appropriate bodies described in chapters 10 and 11, respectively.

CHAPTER 3—APPOINTMENTS

This chapter consolidates and simplifies the various Foreign Service appointment authorities contained in existing law. Basically, it contemplates two appointing authorities—the President (by and with the advice and consent of the Senate) and the Secretary. And it contemplates two types of appointments—career and limited—to meet the needs of the Service.

General requirements for appointment

Section 301(a) carries forward the current requirement of sections 515, 522 and 534 of the 1946 Act that only citizens of the United States be appointed to the Service, other than for service abroad as a consular agent or foreign national employee.

Section 301(b) authorizes the Secretary to prescribe examinations for appointment to the Service. Section 212 of the 1946 Act had placed authority to prescribe such examinations with the Board of Examiners of the Foreign Service, but these functions were transferred to the Secretary pursuant to reorganization plan (Reorganization Plan No. 4 of 1965) and Executive Order (E.O. 11264, 31 F.R. 67). The Board now exercises these functions under a delegation from the Secretary and it is expected that it will continue to do so. The nature of the examinations will depend upon the type of appointment involved. In particular, Foreign Service officer candidates will continue to be subject to different examinations than candidates for other personnel categories.

Section 301(c) carries forward in substance section 14 of Public Law 90–494, which is repealed by the Bill. It states that veteran status or disabled veteran status shall be an affirmative factor in considering appointments of Foreign Service officer candidates. The weight to be accepted to such status will be determined in regulations issued by the Secretary. This provision complements, and does not detract from, current veteran's preference laws.

Presidential appointments

Section 302 provides for the appointment of certain members of the Foreign Service by the President, and specifies the effect of Presidential appointment of a member of the Service to a position.

Section 302(a)(1) states that chiefs of mission, ambassadors at large, career members of the Senior Foreign Service, and Foreign Service officers shall be appointed by the President by and with the advice and consent of the Senate. This paragraph carries forward the substance of section 501(a) of the 1946 Act with respect to chiefs of mission, and follows section 516 of the 1946 Act with respect to Foreign Service officers. The senior Foreign Service is a new personnel category created by the 1979 Act whose members will be drawn predominantly from the career Foreign Service. This paragraph assures that all such senior career personnel will have equal status, whether they formerly served under a career appointment by the President (i.e., as a Foreign Service officer) or by the Secretary.

Section 302(a)(2) authorizes the President (with Senate advice and consent) to confer upon a career member of the Senior Foreign Service the honorary rank of career ambassador. This rank may be awarded in exceptional cases of sustained, especially distinguished service, and no additional compensation attaches to the conferral of such honorary personal rank.

Section 302(a)(3) preserves the limitation that the President may confer the personal rank of Ambassador upon an appointee only in connection with a special mission of not more than six months duration. Section 302(a)(4) states that all other conferrals of ambassadorial or ministerial rank require the advice and consent of the Senate. Paragraphs (3) and (4) of this subsection together constitute a restatement of section 501(c) of the 1946 Act.

Section 302(b), derived from section 571(b) of the 1946 Act, permits a member of the Foreign Service to retain his or her status in the Service when serving in a position to which appointed by the President. It provides that the appointment of a member of the Service to any position by the President shall be regarded as an assignment and shall not deprive the appointee of his or her status as a member of the Service. Section 302(b) adds the new provision that such a member of the Senior Foreign Service may choose to receive the salary of his or her class and remain eligible for performance pay in lieu of receiving the salary of the position to which the member is appointed. Thus, a member of the Senior Foreign Service, selected because of outstanding qualifications to serve as a chief of mission or Assistant Secretary, would not be required to forgo eligibility to compete for performance pay under section 441 of the Act. In the absence of this new provision, some of the most able senior officers would incur a financial loss in accepting positions of increased responsibility. This subsection parallels 5 U.S.C. 3392(c), which provides for similar retention of status and pay for the Senior Executive Service.

Secretarial appointments

Section 303 provides that members of the Service not required by section 302 to be appointed by the President shall be appointed by the Secretary. These include limited appointments in the Senior Foreign Service and as Foreign Service officer candidates, and appointments (limited and career) of all other American and foreign national personnel in the Foreign Service. The section combines authorities found in sections 522, 531, 541, and 551 of the 1946 Act, as well as section 15 of Public Law 90–494.

Appointments of chiefs of mission

Section 311 states criteria and procedures designed to ensure that persons appointed as chiefs of mission are qualified for such appointments.

Section 311(a)(1) carries forward the substance of section 500 of the 1946 Act in stating that the position of chief of mission should be accorded to persons of clearly demonstrated competence, including to the maximum practicable extent knowledge of the language, culture, institutions, and interests of the country in which they are to serve.

Section 311(a)(2) states that the position of chief of mission should not be accorded to an individual as a reward for contributions to political campaigns. This statement is carried over from section 104 of the Foreign Relations Authorization Act, Fiscal Year 1976 (Public Law 94–141, 89 Stat. 757).

Section 311(a)(3) states that to the extent practicable career personnel of the Service should be given consideration for appointment to chief of mission positions. This provision restates the Congressional policy set forth in section 120 of the Foreign Relations Authorization Act, Fiscal Year 1977 (Public Law 94–350, 90 Stat. 829).

Section 311(b)(1) provides that the Secretary shall assist the President in selecting qualified candidates for appointment or assignment as chiefs of mission by furnishing the President from time to time with the names of and pertinent information about qualified career members of the Service. This subsection carries forward the substance of section 502 of the 1946 Act.

Section 311(b)(2) requires that each person appointed by the President as ambassador or minister file with the Senate Foreign Relations Committee and the Speaker of the House at the time of his or her nomination a report of political contributions made by such person and by members of his or her family for the past four years. This provision is taken nearly verbatim from section 6 of the Department of State Appropriations Authorization Act of 1973 (Public Law 93–126, 87 Stat. 491).

Appointment to the Senior Foreign Service

Section 321 provides that appointment to the Senior Foreign Service (SFS) shall be to a salary class established under section 411 and not to a position. This preserves with respect to the SFS the general principle that in the Foreign Service rank follows the person rather than the position. In addition, it continues for the senior ranks the practice established by section 511 of the 1946 Act of appointment to a specific salary class.

Section 321 also provides that non-career members of the Senior Foreign Service shall not exceed five percent of the total number of members. A person serving in a career Government position outside the Foreign Service who accepts a limited SFS appointment, either as a career candidate or for a limited period with reemployment rights (cf. section 528), would not fall within this limitation. Any other person serving under a limited SFS appointment (including any SFS career candidate) would be considered "non-career" for purposes of this limitation.

Career appointments

Section 322(a) requires that each candidate for a career appointment in the Service first serve a trial period under a limited appointment, during which the Secretary shall decide whether or not to offer a career appointment to the candidate, or to recommend the candidate to the President for a career appointment, as appropriate. According to section 331 of the Bill, a limited appointment may never exceed five years. For a Foreign Service officer candidate, probationary limited appointments will normally be for four years. Different periods may be prescribed, as appropriate, for various occupational categories of Foreign Service personnel. For example, a single year should be a sufficient probationary period in some cases.

The limited appointment trial period prescribed in this subsection is adapted from two provisions of existing law. Section 516(c) of the 1946 Act, enacted in 1977, provides that Foreign Service officer candidates may be given limited appointments of up to five years as Foreign Service Reserve officers. (The 1979 Act abolishes the Foreign Service Reserve as such.) Section 15(a) of Public Law 90–494 provides that Foreign Service Reserve officers must be given unlimited tenure or separated from the Service between their third and fifth years as Reserve officers.

Section 322(b) states that decisions by the Secretary on whether or not to offer or to recommend career appointments shall be based upon the recommendations of boards composed entirely or primarily of career members of the Service who will evaluate the fitness and aptitude of the candidates for the work of the Service. This extends for general application in the Service the "tenure board" procedure now used to evaluate Foreign Service officer candidates.

Entry levels for foreign service officer candidates

Section 323 states that a Foreign Service officer candidate shall be initially assigned under section 431 of the Act to a salary class no higher than class 4 unless the Secretary determines that an individual's qualifications and experience and the needs of the Service make assignment to a higher class necessary or unless the candidate is currently serving under a career appointment in the Service at a salary rate equal to or exceeding that of class 4. The first exception is intended primarily for lateral entrants from outside the Foreign Service, while the second exception would be applicable to the lateral transfer of a career employee from another Foreign Service category to Foreign Service officer.

This section is derived in part from sections 516 and 517 of the 1946 Act. Section 516 provided that Foreign Service officers would normally be appointed to class 8, although an initial appointment to class 7 could be made if the age, experience, and other qualifications of the appointee warranted it. Section 517 permitted appointment of Foreign Service officers with four years of service with a Government agency (or three years of such service if over age thirty) to any Foreign Service officer class determined to be warranted by the candidate's age experience, and qualifications.

Section 323 continues the policy of a normal Foreign Service officer entry level, while permitting lateral entry to higher salary classes where individual qualifications warrant it. However, this section avoids specifying the factors in as rigid a manner as section 517 of the 1946 Act had done. The section is not intended to preclude or limit programs designed to encourage entry at higher levels by members of previously disadvantaged groups since such appointments are ultimately based on the qualifications of the individual, and the needs of the Service.

The normal entry level of not higher than class 4, specified by this section, is roughly comparable to class 6 under the present Foreign Service officer salary schedule. This slightly expands the normal entry range for officer candidates in recognition of the somewhat broader range of educational backgrounds and experience of Foreign Service officer candidates in recent years.

Recall and reappointment of career personnel

Section 324 provides authority for the Secretary to recall to active duty any retired career member of the Service, and to reappoint former career members without requiring them to complete a new period in probationary status.

This section is derived in part from section 520 of the 1946 Act. However, the scope of the two provisions differs somewhat. Section 520 of the 1946 Act permitted the recall of any Foreign Service officer who had been separated from the Service. Section 324(a) permits recall of any retired member of the Service who served under a career appointment, thus including not only Foreign Service officers but also other categories of career Foreign Service personnel. Section 520 required reappointment by the President except where the officer was recalled on a temporary or limited basis to a class no higher than that held at the time of retirement. Section 324(a) requires Presidential appointment only when the recall would involve promotion into or within the Senior Foreign Service. This is in keeping with section 621 of the Bill, which provides that promotions within the Foreign Service Schedule (cf. section 421) are effected by assignment by the Secretary and not by appointment by the President to the higher class and with sections 602 and 621, providing that promotion into and within the Senior Foreign Service shall be by Presidential appointment.

The length of service by a recalled member of the Service beyond mandatory retirement age is limited to five years by section 836(b) of the Bill, and the effect of recall upon a retired member's annuity is determined by section 871.

Section 324(b) also provides that former career personnel reappointed in the Service need not serve probationary appointments under section 322 and may be assigned to a salary class appropriate to their qualifications.

Limited and temporary appointments

Section 331 provides that non-career and other limited appointments in the Service shall not exceed five years in duration. Limited appointments may not be extended or renewed except for family members of Government employees (cf. section 33(a)). A limited appointment in the Service for one year or less is designated a temporary appointment in order to facilitate the identification of those limited appointments whose incumbents are ineligible, under Civil Service regulations, for certain benefits such as leave accrual and participation in the Civil Service Retirement and Disability System.

Section 331 is derived in part from section 531 of the 1946 Act, which gave the Secretary authority to make temporary or limited appointments to the Staff Corps, and section 522, which authorized limited appointments in the Foreign Service Reserve. Section 331 is more general than its predecessors, while continuing to protect the basic career structure of the Foreign Service personnel system.

Reemployment rights following limited appointment

Section 332, derived from section 528 of the 1946 Act, provides that an employee of a Federal agency who accepts a limited appointment in the Service with the consent of his or her agency head is entitled to reemployment by that agency in his or her former position or in a corresponding or higher position when the limited appointment expires. Section 332 is general in its scope, whereas section 528 of the 1946 Act applies only to limited service as a Foreign Service Reserve officer.

As in section 528 of the 1946 Act, this reemployment right includes entitlement to any within-grade salary increases the employee would have received in accordance with law or regulation had he or she remained with the agency instead of accepting the limited appointments. Such increases could include merit pay, if applicable, under Civil Service regulations.

Family members of Government employees

Section 333 prescribes policies for the employment in the Foreign Service of family members of Government personnel abroad.

Section 333(a) provides that equal consideration shall be given to hiring qualified family members of Foreign Service and other Government personnel for positions abroad not customarily filled by career personnel, including foreign national positions. Section 333(b) adds the caveat that such employment of family members must be consistent with the needs of the Service for positions for career personnel. These subsections derive from section 413 of the Foreign Relations Authorization Act, Fiscal Year 1978, Public Law 95-105, 91 Stat. 856, and from section 401 (a) (2) of the Foreign Relations Authorization Act, Fiscal Year 1979, Public Law 95-426, 92 Stat. 977. Section 333(a) adds the administrative provisions that such family members will serve under renewable limited appointments and will be paid under the Foreign Service Schedule or under a local compensation plan. The choice between an American and a local salary rate will normally depend upon the usually applicable pay schedule for the position concerned.

Section 333(c) states that the Secretary shall prescribe regulations to guide all agencies in the employment at posts abroad of family members of Government personnel. This provision parallels section 441(d) of the 1946 Act, as amended in 1978. The regulations prescribed under sections 333(c) shall be advisory and designed to set forth uniform standards and criteria.

Diplomatic and consular commissions

Section 341 combines several provisions of prior law relating to diplomatic and consular commissions. In providing for commissions of diplomatic and consular officers by the President on the recommendation of the Secretary (with Senate advice and consent), this section combines sections 512, 524, and 533 of the 1946 Act relating separately to commissioning of Foreign Service officers, Foreign Service Reserve officers, and Foreign Service staff personnel, respectively. The authority contained in section 533 of the 1946 Act for the Secretary to commission a staff officer or employee as vice consul is expanded to permit such commissions to be granted to any member of the Foreign Service who is a United States citizen. This authority will be available, for example, to commission as a vice consul a Foreign Service officer candidate serving under a probationary appointment. Section 11 of Public Law 90-494, 82 Stat. 810, relating to the commissioning of Foreign Service information officers as diplomatic or consular officers, is also subsumed under section 341.

In providing that members of the Service commissioned under this section perform all official functions under such commissions, section 341(a) follows the provisions of sections 512, 524, and 533 of the 1946 Act. In providing that members of the Service with diplomatic and consular commissions may perform under their commissions any function which any category of diplomatic officer (other than a chief of mission) or consular officer is authorized by law to perform, section 341(b) follows modern diplomatic and consular practice.

Section 341(c) adopts verbatim the language of section 513 of the 1946 Act stating that the Secretary shall define the limits of consular districts. This and all of the other functions of the Secretary under section 341 are exclusively functions of the Secretary of State and may not be exercised by the heads of other agencies employing Foreign Service personnel.

CHAPTER 4—COMPENSATION

Chapter 4 governs the basic salaries of Foreign Service personnel, as well as additional compensation based on performance and conditions of service. It differs from existing law chiefly in its simplification of the salary structure, and its provisions for performance pay.

Salaries of chiefs of mission

Section 401(a) provides that each chief of mission shall be compensated at one of the annual rates provided by law for levels II through V of the Federal Executive Salary Schedule, except for members of the Senior Foreign Service who may elect under section 302(b) of the Act to receive the salary of their class and to remain eligible for performance pay. This is consistent with section 411 of the 1946 Act, under which chief of mission positions were divided into four salary classes ranging from level II to level V of the Federal Executive Salary Schedule. The revised provision does not require the President to continue always to use all four permissible salary rates. The President could decide in the future to move toward a single salary rate for all chiefs of mission.

Section 401(b) states that the salary of a chief of mission commences upon the effective date of appointment and may be continued for up to fifty days after a chief of mission has relinquished charge of the mission, even if a successor has been appointed, and subject to the requirement that the former chief of mission perform such functions as the Secretary deems necessary. Section 401(b) carries forward the substance of section 431 of the 1946 Act. The statement in section 431(a) of the 1946 Act that a chief of mission is not entitled to salary while absent from his post without authorization or justification has been deleted as surplusage. The provision in section 431(a) delineating the salary entitlement of a person appointed as chief of mission at a second post of a higher salary class is deleted as superfluous in view of the general prohibition in 5 U.S.C. 5533 against dual pay for more than one position. Section 431(c), authoriizng supplementary compensation for a Foreign Service officer appointed chief of mission at a salary less than his or her Foreign Service salary, has been replaced by the option for a member of the Senior Foreign Service to receive his or her Senior Foreign Service salary in lieu of the salary of the appointed position (cf. section 402(b)).

Salaries of the Senior Foreign Service

Section 411 authorizes the President to prescribe salary classes and titles for the new Senior Foreign Service which is established by the Bill. Salary rates for the Senior Foreign Service will be comparable to those for the Senior Executive Service established by the Civil Service Reform Act of 1978, Public Law 95–454, 92 Stat. 1111. The minimum and maximum rates of salary for the Senior Foreign Service are those of the Senior Executive Service, which pursuant to 5 U.S.C. 5382 may not be more than the rate for level IV of the Executive Schedule. Salary rates for the Senior Foreign Service shall be adjusted at the same time and in the same manner as rates of basic pay are adjusted for the Senior Executive Service.

It is expected that, at the outset, the President will prescribe three salary classes for the Senior Foreign Service, entitled Counselor, Minister-Counselor and Minister. These would replace the present classes 2, 1 and career minister under the 1946 Act.

The Foreign Service schedule

Section 421 authorizes the President to prescribe a single Foreign Service salary schedule of nine classes for members of the Service who are United States citizens and who are not compensated under any of the other salary provisions of chapter 4. (These other provisions are those for the Senior Foreign Service, foreign national employees, and consular agents, i.e. sections 411, 451, and 452.) The highest class of the Foreign Service Schedule will be designated class 1 and its salary rate will not exceed that for GS–15. Promotion above class 1 would be into the Senior Foreign Service as provided in section 602 of this Act.

Section 421 provides that salary rates for the Foreign Service Schedule will be established in accordance with the pay comparability system policies and procedures of 5 U.S.C. 5301–5308. The new salary rate schedule will be adjusted at the same time and in the same manner as pay rates for the General Schedule.

The single schedule authorized by section 421 replaces the two separate schedules under sections 412, 414, and 415 of the 1946 Act for Foreign Service officers, Foreign Service Reserve, and Foreign Service staff respectively. The unified schedule authorized by section 421 is intended to overcome difficulties caused by the present overlapping salary schedules, especially as between Reserve and staff personnel, as well as to simplify and improve personnel administration.

Assignment to a salary class

Under section 431(a), the Secretary is authorized to assign each member appointed to the Service to an appropriate salary class, except (as in the Senior Foreign Service) where salary is determined by the terms of appointment. This provision marks a change from section 413 of the 1946 Act, under which Foreign Service officers are appointed by the President to a particular salary class. Under present law, each promotion of a Foreign Service officer requires a new appointment, and Senate confirmation. By separating appointments from salary classification below the senior levels, the Bill avoids the inequitable delays that have attended promotions of Foreign Service officers, as compared to promotions of Reserve officers of comparable rank who are promoted without the need for reappointment.

Section 431(b) states that the salary class to which a member of the Service is assigned is not affected by the position or post to which he or she is assigned to serve. That is, rank in the Foreign Service is personal as in the military, and not dependent on the position to which assigned as in Civil Service. Rank-in-person has been a basic principle of the Foreign Service personnel system since it was first established, and is necessary to the functioning of this highly mobile corps.

Section 431(b) also states, principally as a cross-reference, that a change in the salary class of a member of the Senior Foreign Service or a member paid under the Foreign Service Schedule must be in accordance with the promotion provisions of chapter 6 of this Act, except as authorized by reduction-in-force procedures specified in chapter 35 of title 5, United States Code.

Performance pay

Section 441 authorizes the award of additional compensation to career members of the Senior Foreign Service (and career candidates) for outstanding performance. These performance awards parallel those available to members of the Senior Executive Service under 5 U.S.C. 5384.

Section 441(a) provides that such awards will be in addition to basic salary and will not be limited by any ceiling based on the amount of compensation received by the chief of mission or other member of the Service. The first of these provisions parallels 5 U.S.C. 5384(a)(2). The second supersedes a long-standing administrative limitation that a chief of mission must earn at least $100 per year more than any subordinate personnel at post.

Section 441(b) states that performance pay awards shall take into account criteria established by the Office of Personnel Management for performance awards under 5 U.S.C. 5384 and for rank awards under 5 U.S.C. 4507 to members of the Senior Executive Service. Criteria and requirements unique to the Foreign Service shall also be taken into account. Section 441(c) also establishes limits on the number and amount of performance pay awards that parallel limits under 5 U.S.C. 5384 and 5 U.S.C. 4507. No more than fifty percent of the members of the Senior Foreign Service may receive performance pay awards in any one year and these awards generally may not exceed twenty percent of the member's basis rate of salary. Up to five percent of the members of the Senior Foreign Service may receive performance pay awards that exceed the twenty percent limitation by $10,000 and one percent may receive such awards up to $20,000.

Section 441(b)(4) limits the total salary plus performance pay for members of the Senior Foreign Service to that provided by law for level I of the Federal Executive Salary Schedule. The same limitation is imposed on members of the Senior Executive Service by 5 U.S.C. 5383(b).

Section 441(c) provides that performance pay awards up to the twenty percent limitation in subsection (b) will be based upon recommendations by selection boards (cf. section 603(2)) and that the Secretary will determine the total amount of funds available each year for such performance pay. The first of these provisions parallels 5 U.S.C. 5384(c), which states that agencies shall award performance pay to members of the Senior Executive Service based on the recommendations of performance review boards established pursuant to 5 U.S.C. 4314. The second provision indicates that members of the Senior Foreign Service are not entitled to any particular amount of performance pay and that the total amount made available for distribution in any year is in the discretion of the Secretary.

Section 441(d) authorizes the President to make grants of performance pay exceeding the twenty percent limitation in subsection 441(c)(2). Such Presidential awards (up to $10,000 to not more than five percent of the Senior Foreign Service and up to $20,000 to not more than one percent of the Senior Foreign Service) shall be based upon recommendations by the Secretary of State. The Secretary will receive annually from all concerned agencies nominations of Senior Foreign Service personnel who have performed especially meritorious or distinguished service. The agency nominees will be reviewed by special interagency selection boards (which may include public members), and the Secretary will make recommendations to the President on the basis of the review and evaluation by the boards.

Within-class salary increases

Section 442 combines and simplifies the substance of sections 625 and 642 of the 1946 Act, which provide separately for periodic within-class salary increases for different categories of Foreign Service personnel whose work has met the requisite standards. (These increases parallel the step increases provided to Civil Service employees under subchapter III of chapter 53 of title 5, United States Code.)

This section makes two principal differences from existing law. First, it allows the timing of step increases to be set administratively for all personnel (e.g., on an anniversary date) rather than specifying a July 1 effective date for some categories of personnel. Second, it provides authority for denial of a step increase on the basis of a selection board finding that a member does not meet the standards of performance for his or her class. The authority in the 1946 Act to grant additional step increases for especially meritorious performance is retained.

As thus revised, this section authorizes the denial of step increases or the grant of additional step increases on the basis of relative performance. Mediocre performers will not be rewarded; outstanding performers will receive additional compensation; and selection board procedures will assure uniform and fair consideration of similarly situated individual employees.

Local compensation plans

Section 451(a)(1) authorizes the Secretary to establish compensation plans for foreign national employees, and for family members of United States Government personnel who are employed abroad pursuant to section 333 of the Act. It follows section 444(a)(1) of the 1946 Act in stating that local compensation plans shall be based upon prevailing wage rates and compensation practices in the locality to the extent consistent with the public interest and that leaves of absence with pay (such as annual leave and sick leave) may be granted to local employees in accordance with local law or customs without regard to the limitation on such leave contained in 5 U.S.C. 6310. An express reference to participation in local social security plans is added to emphasize the objective of maximum compliance with compensation benefits provided under local law.

Section 451(a)(2) is also derived from section 444 of the 1946 Act. It authorizes the Secretary to make supplemental payments to Civil Service annuitants who are former foreign national employees or their survivors in order to offset losses caused by the appreciation of a foreign currency relative to the dollar. Such payments are permitted only where the employee's salary was fixed in terms of the foreign currency and the retirement benefits received by the annuitant are less than the average retirement benefits received by similar retirees from other local organizations.

Section 451(b) authorizes other agencies and United States Government entities to administer their programs for foreign national employees or family members of Government personnel serving abroad in accordance with section 451 and other applicable provisions of the Act. Section 451(b) closely follows section 444(b) of the 1946 Act.

Section 451(c) is a new provision which

authorizes the Secretary to prescribe regulations governing the establishment and administration of local compensation plans for the guidance of all agencies and other Government establishments. The purpose of these regulations would be to provide agencies using the authority contained in section 451 (b) with a source of informed guidance on how to structure local employment programs.

Salaries of consular agents

Section 452 authorizes the Secretary to establish the salary rate for each consular agent after taking into account the workload of the consular agency and prevailing local wage rates. This section combines features of sections 418 and 445 of the 1946 Act, but will provide somewhat greater flexibility in setting salary rates for consular agents on a case-by-case basis.

Compensation for imprisoned foreign national employees

Section 453 reenacts 444(c) of the 1946 Act, without substantive change.

Section 453(a) authorizes agencies to compensate current or former foreign national employees for periods of imprisonment by a foreign government determined by the Secretary of State to have resulted from employment by the United States Government. Such compensation is limited to an amount approximately equal to the salary and benefits the employee would have received had the employee been employed by the United States for the period of imprisonment. Agency heads are further authorized to exercise with respect to imprisoned foreign national employees or former employees the powers provided under subchapter VII of chapter 55 of title 5, United States Code, relating to missing American employees.

Section 453(b) provides that a period of imprisonment compensable under section 453(a), is to be considered creditable employment for purposes of other benefits, except for Civil Service retirement (unless the employee was a participant in the Civil Service Retirement and Disability System) and for compensation for work injuries (unless employed by the Government at the time of imprisonment).

Section 453(c) provides that a claim for compensation under this section must be filed within three years after the release of the claimant from imprisonment or within three years after the claimant's first opportunity thereafter to file a claim. The agency head shall determine the date of the claimant's first opportunity to file a claim.

Section 453(d) continues the authority of the Secretary of State to prescribe regulations governing payments under this section for the guidance of all agencies.

Temporary service as principal officer

Section 461 authorizes the Secretary to provide additional compensation to a member of the Service who serves temporarily as principal officer during the absence or incapacity of the principal officer. Such additional compensation is limited to the difference between the member's salary and the basic salary provided for the principal officer. Section 461 combined the provisions of section 421 and 422 of the 1946 Act, which deal separately with temporary service as the head of a diplomatic and a consular post.

Special allowances

Section 462 authorizes the Secretary to pay special allowances in addition to other compensation to Foreign Service officers who are required to perform additional work on a regular basis in susbtantial excess of normal requirements. This section is identical in substance to section 451 of the 1946 Act, and is in lieu of overtime or other premium pay under subchapter V of chapter 53 of title 5, United States Code.

CHAPTER 5—CLASSIFICATION OF POSITIONS AND ASSIGNMENTS

Chapter 5 continues the existing authority of the Secretary to classify Foreign Service positions in the Department and at posts abroad, and to assign Foreign Service personnel to those positions.

Classification of positions

Section 501 authorizes the Secretary to designate and classify positions to be occupied by members of the Service (except chiefs of mission), including positions at posts abroad and in the Department. Positions will be classified according to the Foreign Service salary classes established by chapter 4 and without regard to chapter 51 of title 5, United States Code. Section 501 combines and simplifies the two separate subsections of section 441 of the 1946 Act.

Assignments to Foreign Service positions

Section 511 (a) provides that the Secretary may assign a member of the Service to any position classified under section 501 for which he or she is eligible, and may transfer a member from position to position as the needs of the Service may require. This section combines authorities for assignment and transfer of various categories of Foreign Service personnel separately stated in sections 514, 523, 532 and 542 of the 1946 Act. The classification under section 501 of the position to which a member is assigned need not correspond to the rank of the person assigned to it under the rank-in-person concept applicable to the Foreign Service.

Section 511(b) states the general policy that Foreign Service positions will normally be filled by assignment of members of the Foreign Service. Flexibility is preserved by allowing the Secretary to assign non-Foreign Service employees of the Department and personnel of other agencies (under interagency agreements) to Foreign Service positions. It is also provided that Senior Foreign Service positions may be filled by other members of the Service, thus permitting assignments of outstanding middle-grade officers to positions of increased responsibility as a part of their career development. Section 511(b) has no precise parallel in the 1946 Act, but reflects current practice.

Section 511(c) authorizes the President to assign a career member of the Service as charge de'affaires or to act otherwise as head of a mission for such period as the public interest may require. This subsection carries forward the substance of section 501 (b) of the 1946 Act, which provided for Presidential assignment of Foreign Service officers to act as charge d'affaires or minister resident.

Assignments to agencies, international organizations and other bodies

Section 521 combines several provisions of the 1946 Act in authorizing the Secretary to assign a member of the Service for duty in non-Foreign Service positions both within the Federal Government and with international organizations and other bodies. Such assignments provide members of the Service opportunities for valuable training and work experience, and also offer other agencies and organizations opportunities to benefit from the expertise of members of the Service.

Section 521(a)(1) follows section 571(a) of the 1946 Act in authorizing the Secretary to assign a member of the Service to a non-Foreign Service position in another agency or to an international body. Section 521(a) (1) also makes explicit that the Secretary's assignment authority extends to assigning a member of the Service to a non-Foreign Service position in the Department.

Section 521(a)(2) follows section 574 of the 1946 Act in authorizing assignment of members of the Service to domestic or international conferences, congresses, or gatherings. Section 521(a)(3) follows section 573(b) of the 1946 Act in authorizing the assignment of a member of the Service for special instruction or training at or with institutions or firms offering such instruction or training.

Section 521(a)(4) follows section 576 of the 1946 Act (added by a 1974 amendment) in authorizing the assignment of a member of the Service to service in the United States with a state or local government, with a member or office of Congress, or with a public or private nonprofit organization. It also provides that such assignments shall emphasize service outside Washington, D.C. This emphasis is in lieu of the percentage limitation in section 576 of the 1946 Act on assignments to the Congress, and is intended to achieve the same purpose.

Section 521(b)(1) departs from 571(c) of the 1946 Act in providing that a member of the Service assigned under this section will receive the salary of his or her Foreign Service class rather than the salary of the position to which the member has been assigned. Section 571(c) distinguishes between assignments to Foreign Service and non-Foreign Service positions in this regard. The provision in section 571(c) for a salary differential for certain assignments has tended to impede some assignments, and detracts from the fundamental rank-in-person concept of the Foreign Service. Section 521(b)(1) also provides, following section 571(d) of the 1946 Act, that the salary of a member assigned under this section shall be paid out of the appropriation for salaries of members of the Service, which appropriation may be reimbursed.

Section 521(b)(2) provides that a member of the Service assigned under section 521(a)(4) shall be deemed to be an employee of the House or Senate for purposes of payment for travel and other reimbursable expenses. This new provision will permit the person assigned to be compensated for travel on official business of the Congress.

Section 521(c) establishes a limitation of four years on assignments to positions outside the Foreign Service, unless the Secretary approves an extension due to special circumstances. This limitation is independent of the eight year limitation on assignments within the United States to any positions (Foreign Service or non-Foreign Service) contained in section 531 of the Bill.

Service in the United States and abroad

Section 531(a) requires that all career personnel of the Service shall be obligated to serve abroad. The anomalous "domestic" Foreign Service personnel category will be abolished and those not available for worldwide service will be converted to the Civil Service under section 2103. No member of the Service may be assigned to duty within the United States for any period of continuous service exceeding eight years except with the approval of the Secretary in special circumstances. This limitation carries forward the policy of section 571(a) of the 1946 Act.

Section 531(b) states that members of the Service who are citizens of the United States will normally be assigned to duty within the United States at least once during each period of fifteen years in the Service. This provision carries forward the policy of section 572 of the 1946 Act, which provided that every Foreign Service officer was to be assigned to duty in the United States for at least three years in his or her first fifteen years of service. Section 531(b) broadens the scope of the provision to cover all members of the Service who are citizens of the United States, and also allows discretion to make assignments consistent with the needs of the Service.

Section 531(c) authorizes the Secretary to grant a paid sabbatical to a career member of the Senior Foreign Service for up to eleven months to permit the member to engage in study or uncompensated work experience that will contribute to the member's development and effectiveness. Such sabbaticals may be granted under conditions specified by the Secretary in light of the conditions which apply to sabbaticals for members of the Senior Executive Service (SES) under 5 U.S.C. 3396(c). Those statutory conditions include: 1) a member of the SES may receive no more than one sabbatical in any 10-year period and may not receive a sabbatical if eligible for voluntary retirement; and 2) a sabbatical agreement must specify that if the member fails without good and sufficient reason to carry out the agreement, the member shall be liable to the United States for payment of all expenses, including salary, of the sabbatical.

Temporary details

Section 541 provides that a period of duty of not more than six months in duration shall be considered a temporary detail rather than assignment within the meaning of chapter 5. This means, for example, that a six-week detail to Washington for consultations with the Department would not be considered a new assignment to duty in the United States.

CHAPTER 6—PROMOTION AND RETENTION

Chapter 6 retains the basic concepts of promotion and retention in the Foreign Service based upon demonstrated merit. It adopts the merit principles established in the Civil Service Reform Act, and applies them in a manner designed to provide for advancement and retention in the Foreign Service on the basis of performance.

Promotions based on merit

Section 601(a) states the general requirement that promotions in the Service be based upon merit principles. This policy was stated with respect to Foreign Service officers in section 621 of the 1946 Act.

Section 601(b) states that the procedure of basing promotions on the recommendations and rankings of selection boards, now required only with respect to Foreign Service officers, will apply to all Foreign Service personnel receiving salaries under the Foreign Service Schedule and all members of the new Senior Foreign Service. An exception to the selection board process is authorized only for categories of career and career candidate personnel under the Foreign Service Schedule who may be designated by regulation to receive promotions based on satisfactory performance. This exception will permit the initial promotions of officer candidates and certain specialists who enter the Service in "career ladders" after completion of a specified period of satisfactory performance without the need to await the scheduling of a selection board to review these comparatively routine promotions.

Promotion into and retention in the senior Foreign Service

Section 602(a) establishes procedures for promotion into the Senior Foreign Service. Only career members of the Service serving at class 1 of the Foreign Service Schedule are eligible for promotion into the Senior Foreign Service. A candidate must request consideration for such promotion, and promotion decisions will be based upon recommendations and rankings by selection Boards. The Secretary is authorized to prescribe the period during which members may be considered for entry into the Senior Foreign Service. For example, a Foreign Service officer who requests promotion into the Senior Foreign Service might be considered by up to five consecutive annual selection boards and, if passed over, would then no longer be eligible for entry into the Senior Foreign Service. In order to avoid congestion in class 1 of the Foreign Service Schedule by less productive individuals no longer eligible for promotion, the Secretary could prescribe a separate time in class under section 641(a) of the Bill during which such a passed-over member could remain in the Service.

Section 602(b) directs the Secretary, in making decisions on promotions into and retention in the SFS, to take into account the needs of the Service to plan for the continuing admission of new members and for effective career development and reliable opportunities for promotion. This subsection reinforces a fundamental tenet of the 1946 Act that the Foreign Service must have sufficient attrition in the senior ranks to maintain its vitality. Subsequent provisions in this chapter provide the authority to assure that such attrition will occur, based on comparative evaluations of performance.

Section 602(c) provides that the affidavits required upon appointment by 5 U.S.C. 3332 (affirming that no consideratoin has been paid for appointment) and 5 U.S.C. 3333(a) (affirming loyalty to the United States and that employee will not participate in strikes against Government) need not be repeated when a promotion by appointment into or within the Senior Foreign Service occurs without a break in service. This provision parallels section 621 of the 1946 Act, which waived these requirements as to promotions of Foreign Service officers by appointment to a higher class. Under the 1979 Act, this provision remains relevant only to the Senior Foreign Service (cf. sections 321, 431).

Selection boards

Section 603 continues the authority of the Secretary, presently contained in section 632 (a) of the 1946 Act, to establish selection boards to evaluate the performance of members of the Service. However, whereas the 1946 Act's provision applied expressly only to Foreign Service officers, section 603 applies generally to members of the Senior Foreign Service and members who are paid under the Foreign Service Schedule.

Selection boards will rank the members of a class on the basis of their relative performance and, as appropriate, make recommendations concerning promotions, awards of performance pay to members of the Senior Foreign Service, offers or renewals of limited extensions of career appointments under section 641(b) to members of the Service whose maximum time in class has expired, and such other actions as the Secretary may prescribe. The functions assigned to the selection boards by this section are not necessarily exclusive. The boards may be assigned additional functions, such as recommending retirement based on relative performance under section 612, or the award of additional step increases to particular individuals or the denial of step increases under section 442. The functions assigned to a board are to be carried out in accordance with precepts prescribed by the Secretary.

Basis for selection board review

Selection boards evaluate individual members of the Service on the basis of their performance and in light of the needs of the Service. Section 612 describes how the selection boards will be informed about the individuals (through personnel records) and about Service needs (through precepts prescribed by the Secretary). On the basis of this information, the selection process is intended to identify the individuals who are best qualified to perform the functions required of the Service.

Section 612(a) states that recommendations and rankings by selection boards will be based on relevant personnel records kept by the Department which depict the character, ability, conduct, quality of work, industry, experience, dependability, and general performance of members of the Service. The description of personnel records is drawn from section 611 of the 1946 Act and is intended to describe service-related characteristics. Such records may include, but are not limited to, the reports of Foreign Service inspectors, performance evaluation reports of supervisors, records of commendation and disciplinary action, and awards. For the Senior Foreign Service, the consideration of records of present and prospective assignments is expressly contemplated. Such records would be available to members of the Service in accordance with section 613 and alleged inaccuracies in such records could form the subject of a grievance under chapter 11. The total file to be presented under this section to the selection board is parallel to the "efficiency record" defined by section 601(1) of the Act. This definition, like the definition of "efficiency report" in section 601(2) of the 1946 Act, serves no current purpose and is not repeated.

Section 612(b) prescribes those guidelines which selection board precepts must reflect. In accord with merit principles, precepts shall emphasize performance which demonstrates those qualities necessary to the Service. More detailed guidelines, such as the need for responsiveness to challenges and acceptance of hardships, will be developed administratively as necessary. For the Senior Foreign Service, the precepts are to emphasize Service needs for policy formulation capability, ability to provide executive leadership, and/or functional and area expertise. In this regard, section 612(b) carries forward the policy of section 626 of the 1946 Act that specialization should not retard orderly advancement in the Service.

Confidentiality of records

Section 613 prescribes that the personnel records described in section 612(a) shall be kept confidential, except to the extent that they pertain to the receipt, disbursement and accounting of public funds. In addition to this general confidentiality requirement, access to such records is limited to the President, the Secretary, those committees of Congress which oversee the Service and the representatives of such committees, and officers and employees of the Government authorized by law or assigned by the Secretary to work on such records. Section 613 is derived from section 612 of the 1946 Act, which operates to exempt Foreign Service personnel records from public disclosure. This section retains the requirement of existing law that personnel records be made available upon written request to the individual to whom they pertain.

Implementation of selection board recommendations

Section 621 specifies that the recommendations for promotion made by selection boards shall be submitted to the Secretary in rank order by class or by specialization within a class. The Secretary then will make promotions or submit recommendations to the President for promotions in strict accordance with the rankings of the selection boards. But the Secretary may prescribe regulations specifying special circumstances in which an individual name may be removed from the rank order list or a promotion delayed. Section 621 follows section 623 of the 1946 Act, which applied only to Foreign Service officers, and gives it general application.

Other recommendations for promotion

Section 631 authorizes the Secretary to make (or recommend that the President make) a promotion, or grant an award of performance pay, or within-class salary increase pursuant to a recommendation of the Foreign Service Grievance Board, of an equal employment opportunity hearing examiner, or a decision of the Merit Systems Protection Board or recommendation of the Board's Special Counsel. The purpose of this authority is to permit the smooth implementation of the decisions and recommendations of these authorized and administrative forums for redress of grievances or complaints. Section 631(a) generally follows section 632(b) of the 1946 Act (as amended in 1973). The references to the Merit Systems Protection Board and its Special Counsel are new.

Section 631(b) authorizes the Secretary, under special circumstances set forth by regulation, to make retroactive promotions and pay awards, and to recommend retroactive promotions by the President. Section 631(b) also generally follows section 623(b) of the 1946 Act. It applies to actions under subsection (a) of this section as well as promotions delayed pursuant to section 621.

Retirement for expiration of time in class

Section 641(a) provides that the Secretary shall prescribe regulations specifying the maximum time in which members of the Senior Foreign Service and Foreign Service officers may remain in a salary class or combination of classes without a promotion. The Secretary may change such time-in-class limitations as the needs of the Service may require. Other categories of career Foreign Service personnel who earn salaries comparable to those of Foreign Service officers may also be subject to time-in-class limitations when designated by the Secretary. Time-in-class regulations may distinguish among occupational categories.

Section 641(a) continues the authority for retirement based on excessive time in class for Foreign Service officers provided in section 633 of the 1946 Act. It expands this authority to cover career personnel of the most senior rank, who were not subject to time-in-class limitations under section 633 of the 1946 Act. It also authorizes coverage of other relatively senior personnel to the extent the Secretary determines advisable. It is contemplated that time-in-class limitations will be shorter than the present limitations at the Senior levels. For example, the time in class for the Senior Foreign Service will not exceed the five year maximum specified for limited extensions of career appointments under section 641(b).

Section 641(b) provides that members of the Service whose maximum time in class expires after they have attained the highest class for their respective personnel categories may continue to serve under renewable limited extensions of their career appointments, on the basis of selection board review (cf. sec. 603(3)). These extensions may not exceed five years, subject to possible renewal. Personnel serving under such limited career extensions would continue to be career members of the Service, e.g., for performance pay, retirement based on relative performance, and participation in the Foreign Service Retirement and Disability System.

Section 641(b) is a new provision. It is designed to maximize flexibility and efficiency in the management and utilization of the senior personnel of the Service. It makes retention in the senior ranks dependent on performance and the needs of the Service. Only those who had demonstrated a strong ability and desire to perform and for whom onward assignments were available would be given limited career extensions or have them renewed.

Section 641(c) provides that anyone who does not receive a promotion within an applicable time-in-class limitation prescribed pursuant to section 641(a) or whose limited career extension under section 641(b) is terminated or not renewed shall be retired from the Service and shall receive retirement benefits in accordance with section 643.

Retirement based on relative performance

Section 642 continues the authority of section 633(a)(2) of the 1946 Act to retire a Foreign Service officer for failing to meet requisite standards of performance. Section 642 extends this authority to cover all career members of the Service who are United States citizens. However, section 2104(f) of the Bill exempts those members currently on the rolls of whom section 633(a)(2) of the 1946 Act does not now apply until they are eligible for voluntary retirement.

Section 642(a) provides that the Secretary will prescribe regulations concerning the standards of performance to be met by career members of the Service. Where selection board review of the member's performance indicates that the member has not met the standards of performance for his or her class, there will be an administrative review of the member's performance, which will include an opportunity for the member to be heard. The right of a member to be heard is intended to codify the requirement for administrative procedures which have been developed and employed in the Foreign Service to implement the decision in *Lindsey v. Kissinger*, 367 F. Supp. 949 (D.D.C. 1973). This provision is not intended to require expanded hearing procedures for administrative review of a member's performance.

Section 642(b) provides that if the administrative review confirms that a member of the Service has failed to meet the standards of performance for his or her class, the member will be retired from the Service and receive benefits under section 643.

It should be noted that the member's performance is judged against the standards of his or her class, on a relative rather than an absolute basis. The determination that a member has not met the standards of his or her class does not necessarily imply fault, inefficiency, or unsatisfactory performance. It means rather that most of the member's class have performed better than he or she.

Retirement benefits

Section 643 delineates the benefits available to a member of the Service who is retired pursuant to section 641 or 642.

Under section 643(a) those members retired after limited career extensions under section 641(b) or who are retired from the Senior Foreign Service or from class 1 of the Foreign Service schedule will receive immediate annuity benefits computed in accordance with section 821, as will other members of the Service retired after becoming eligible for voluntary retirement under section 835. In providing immediate annuity benefits for such senior personnel, section 643 parallels section 634(a) of the 1946 Act, which afforded such benefits to Foreign Service officers of classes 1, 2 or 3 separated from the Service under time-in-class limitations or for failing to meet requisite standards of performance.

Section 643(b) provides severence pay to any member of the Service retired under section 641 or 642 who is not eligible for annuity benefits under section 643(a). The retiree is paid one month's salary for each year of service, up to a year's salary. The retiree may also receive a refund of contributions to the Foreign Service Retirement and Disability Fund. A retiree with at least five years of service may elect, in lieu of receiving a refund of his or her contributions, a deferred annuity commencing at age sixty. Section 643(b) closely parallels section 634(b) of the 1946 Act.

Section 643(c), which is identical in substance to section 634(c) of the 1946 Act, authorizes a retiree to assign his severance pay benefits, notwithstanding the general prohibition on assignment of claims against the United States contained in 31 U.S.C. 203.

Separation for cause

Section 651(a) continues the Secretary's authority, presently contained in section 637 of the 1946 Act, to separate any member of the Service for such cause as will promote the efficiency of the Service. Members serving under career appointments in the Senior Foreign Service or under the Foreign Service Schedule are entitled to a hearing before the Foreign Service Grievance Board prior to separation at which the cause for separation must be established. Those serving under limited or temporary appointments, including probationers, are also entitled to such a hearing if separation is based on misconduct. These hearing rights are the exclusive administrative procedure for challenging separation for cause.

Section 651(a) differs from the 1946 Act in two respects. One new provision is that the hearing rights constitute the exclusive administrative procedure which avoids the potential of duplicate hearings for those few members who may also have access to the Merit Systems Protection Board. The second change is the specification of the Foreign Service Grievance Board to conduct hearings under this section. That Board, which did not exist when the 1946 Act was enacted, is the best qualified body to adjudicate these cases. The Board of the Foreign Service has heretofore performed this function in an advisory capacity to the Secretary.

Section 651(b) provides that members of the Service who are separated for cause will receive a refund of their contributions to the Foreign Service Retirement and Disability Fund. A member with five years of retirement credit may choose instead a deferred annuity, unless separation has been for reason of disloyalty to the United States. Section 651(b) is virtually identical to section 637(b) of the 1946 Act.

Section 651(c) provides that any member of the Service separated under section 651(a) who is not a participant in the Foreign Service Retirement and Disability System (that is, those on limited appointments) shall receive only those benefits to which he or she is entitled under the retirement system in which he or she is a participant. Section 651(c) is virtually identical to section 637(c) of the 1946 Act.

Termination of limited and temporary appointments

Section 661(a) provides that the Secretary may at any time terminate the limited or temporary appointment of any member of the Service who is paid a salary specified for the Senior Foreign Service or in the Foreign Service Schedule, subject to limitations enumerated in section 661(b). Among those serving under limited or temporary appointments are career candidates (section 322) and non-career appointees (section 331). Family members of Government personnel serving under local compensation plans (cf. section 333) are also covered by this section. Section 661(a) in effect combines authorities contained in two sections of the 1946 Act, section 635, permitting termination of probationary Foreign Service officers, and section 638, permitting termination of the limited appointments of Foreign Service Reserve officers and Foreign Service staff personnel. This section does not apply to expiration of a limited or temporary appointment at the end of its specified term.

Section 661(b) specifies that the termination of a limited appointment on grounds of misconduct requires a hearing before the Foreign Service Grievance Board pursuant to section 651. This provision follows section 638 of the 1946 Act.

Termination of Consular agents and personnel serving under local compensation plans

Section 671 authorizes the Secretary, notwithstanding any other law, to terminate at any time the services of any consular agent or a foreign national employee, after giving due consideration to the criteria and procedures normally followed in the locality in similar circumstances. Section 671 combines and broadens the authorities provided by three sections of the 1946 Act, section 671 (consular agents may be terminated for unsatisfactory performance, misconduct or malfeasance), section 663 (alien clerks and employees may be separated for misconduct or malfeasance), and section 662 (alien clerks and employees may be separated for unsatisfactory performance). The principal purpose of section 671 is to ensure that provisions of Federal law applicable to domestic employment do not limit authority to effect separations of foreign nationals employed abroad.

CHAPTER 7—FOREIGN SERVICE INSTITUTE, CAREER DEVELOPMENT, TRAINING, AND ORIENTATION

Chapter 7 continues the authority of the Secretary to maintain the Foreign Service Institute and to provide training and counseling. This chapter makes only minimal changes from existing law. Primarily, it vests authority for the operation of the Institute in the Secretary, consolidates in a single chapter various existing authorities for training, career development and counseling, and makes explicit reference to training for family members of Foreign Service personnel.

Foreign Service Institute

Section 701(a) continues the present exclusive authority of the Secretary to maintain and operate the Foreign Service Institute, established by section 701 of the 1946 Act, and continues the Secretary's authority to provide training and instruction to personnel of the Service, the Department, and other agencies. The Institute will continue to be headed by a Director appointed by the Secretary.

Section 701(b) provides that members of the families of personnel who are or will be assigned abroad may receive language and orientation training at the Institute, as well as functional training for anticipated employment at post pursuant to section 333. Section 701(c), as in present law, states that the Institute shall provide training to meet the needs of all agencies and other agencies shall avoid duplicating the Institute's facilities and training.

Foreign language requirements

Section 702 provides that the Secretary shall establish foreign language proficiency requirements for personnel of the Service who will be assigned abroad and shall arrange for appropriate language training at the Institute or elsewhere. Section 702 follows in part section 578 of the 1946 Act. Its purpose is to carry out the objective stated in section 500 of the 1946 Act and in section 101(a)(3) of the 1979 Act that Foreign Service personnel be knowledgeable of the languages spoken in the countries where they are assigned.

Training authorities

Section 703 describes authorities which the Secretary may exercise in connection with the functions of the Institute. Section 703(1) and (2) provide for the establishment of the Institute's curriculum and its correlation with courses given by other Government institutions and at private institutions. These provisions are derived from section 702 of the 1946 Act. Section 703(3) provides for the encouragement of programs complementary to the Institute and permits grants and other gratuitous assistance for this purpose to non-profit institutions. Section 703(3) is derived from sections 702 and 703 of the 1946 Act. Section 703(4), which is substantially identical to section 705 of the 1946 Act, authorizes the Secretary to pay the tuition and other expenses assigned for instruction or training. Section 703(5), which is derived from section 704 of the 1946 Act, authorizes the employment, including where necessary employment without regard to otherwise applicable Civil Service laws, of personnel for the Institute at any of the rates specified in the General Schedule and permits the employment of non-citizens if qualified U.S. citizens are not available. Section 703(6), which is derived from section 704(f) of the 1946 Act, authorizes the Secretary to provide special incentives to encourage proficiency in foreign languages or other special skills needed in the Service. Section 703(7), derived from section 707 of the 1946 Act, authorizes the acquisition of real and personal property without public advertising to carry out the provisions of chapter 7.

Training and orientation grants

Section 704, which follows closely the provisions of section 708 of the 1946 Act (added by a 1978 amendment), provides for training and orientation grants to members of families of Government personnel for training authorized elsewhere in this chapter, to assist in their preparation for assignments abroad. Such grants are limited to $300 per month per individual and may not exceed the amount actually expended for necessary costs incurred. The duration of such grants is limited to six months per assignment.

Section 704 also continues the present authority for reimbursement of a Foreign Service family member for costs of language training at a public or private institution related to an assignment abroad, if the family member is unable to participate in language training provided by the Department at the Institute or elsewhere. Limitations on such reimbursement would be prescribed by regulation.

Career counseling

Section 705(a) provides that the Secretary may provide career counseling, advice and placement assistance to members and former members of the Service, other than those separated for cause. Section 705(a) is derived from section 639 of the 1946 Act.

Section 705(b) provides that the Secretary may facilitate the employment of Foreign Service spouses by providing career counseling, maintaining a central system cataloguing their skills and the employment opportunities available to them abroad, and otherwise assisting them in obtaining overseas employment. Section 705(b) is derived from section 413 of the Foreign Relations Authorization Act for Fiscal Year 1978, Public Law 95–105, 91 Stat. 856.

CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

Chapter 8 is a restatement substantially without substantive change of the existing provisions of title VIII of the 1946 Act concerning the Foreign Service Retirement and Disability System. Voluntary and mandatory retirement provisions presently in title VI of the 1946 Act have also been incorporated. Changes have been confined to matters of style and terminology in the interest of clarity and conformity with the terminology used elsewhere in the Bill. The text includes changes authorized to be made by Executive order pursuant to the authority in section 805 of the 1946 Act to maintain existing conformity with the Civil Service Retirement and Disability System.

Administration and maintenance of the system

Section 801 combines sections 801 and 802 of the 1946 Act. It provides that the Foreign Service Retirement and Disability System will be administered by the Secretary of State, subject to regulations prescribed by the President, and that the Foreign Service Retirement and Disability Fund will be maintained by the Secretary of the Treasury.

Participants

Section 803(a) names as participants in the Foreign Service Retirement and Disability System those career personnel who are in the Senior Foreign Service or the Foreign Service schedule, together with chiefs of mission who accumulate twenty years of service in that capacity. This provision will not alter the present categories of participants. (cf. section 803 of the 1946 Act, sections 9 and 15 of Pub. L. 90–494, 82 Stat. 810, and section 625(k)(1) of the Foreign Assistance Act of 1961, 22 U.S.C. 2385(k)(1)).

Section 803(b) provides that any otherwise eligible person who is appointed to a position by the President shall not by virtue of accepting such appointment cease to be eligible to participate in the System.

Definitions

Section 804 defines certain key terms for purposes of chapter 8 in accordance with section 804 of the 1946 Act. The definition of "lump-sum credit" is derived from section 841(a) of the 1946 Act, and the definition of "price index" found in section 804(9) of the 1946 Act is omitted as obsolete. The definitions are arranged in alphabetical order.

Contributions to the Fund

Section 811 is substantially the same as section 811 of the 1946 Act. It provides that seven percent of a participant's salary shall be contributed to the Fund and an equal sum shall be contributed from appropriations. It also provides that a new participant's contributions to another Government retirement fund will be transferred to the Fund. Provision is also made for special contributions to the Fund to cover periods of creditable service for which no contributions had previously been made, except that such contributions are not required for periods of military service or for periods for which credit is allowed to persons of Japanese ancestry interned during World War II.

Computation of annuities

Section 821, like its predecessor in the 1946 Act, states the rules for computation of annuities to be paid to retired members of the Service or their beneficiaries.

Section 821(a) provides that the basic annuity shall equal two percent of the member's average basic salary for the three consecutive years of the service when that salary was highest multiplied by the number of years of service credit (up to a maximum of thirty-five years).

Section 821(b)(1) provides for a survivor annuity for the participant's spouse unless the participant elects otherwise in writing at the time of retirement.

Section 821(b)(2) is new; it requires the consent of a spouse who has resided with the participant during a substantial period, including service abroad, before the participant may waive or reduce the survivor's annuity. This provision gives explicit recognition to the interest in a survivor annuity of a spouse who has shared the Foreign Service life of the participant, and has thereby incurred a diminution in independent ability to provide for his or her own livelihood and income.

Section 821(b)(3) provides rules for computation of the basic annuity and the survivor annuity, and for when payment shall begin and cease.

Section 821(c) provides for a survivor annuity to the children of a deceased participant.

Section 821(d) provides for recomputation of the children's annuity upon the death of the surviving spouse or one of the children.

Section 821(e) provides rules for the beginning and termination of the annuity paid to the children of a deceased participant.

Section 821(f) provides that an unmarried participant may elect to provide a survivor annuity to a beneficiary designated by the participant. It also provides rules for computing the basic annuity and survivor annuity when such election is made.

Section 821(g) permits a participant who marries after retirement to elect a survivor annuity for his or her spouse and prescribes how the election is to be made.

Section 821(h) requires that a surviving spouse elect to receive the survivor annuity instead of any other annuity to which he or she may be entitled under a Government employee retirement system as a condition of receiving such annuity.

Section 821(i) provides that any married annuitant entitled to a supplemental annuity by reason of additional service through reappointment or recall after an initial period of retirement shall have that supplemental annuity reduced to provide a supplemental survivor annuity for his or her spouse unless the annuitant elects otherwise in writing, subject to the condition regarding the spouse's consent as described in section 821(b)(2), above.

Section 821(j) provides for recomputation of the basic annuity of a married annuitant who subsequent to retirement becomes single through death or divorce. The subsection also allows such an annuitant to elect a survivor benefit in the case of remarriage.

Section 821 (k) provides for annual notice to annuitants of their rights under subsections (g) and (j).

Section 821(l) provides that the basic annuity and the survivor annuity to a spouse shall not be less than the smallest primary insurance amount payable under Title II of the Social Security Act. It establishes a similar minimum for the survivor annuity paid to a deceased participant's child. However, this subsection will not apply to an annuitant or survivor entitled to receive any other periodic payments from the Federal Government that would exceed the smallest primary insurance amount payable under Title II of the Social Security Act.

Payment of annuity

Section 822 states rules for the commencement of payment of an annuity, for submission of proof of eligibility for survivor benefits, for waiver of all or part of an annuity, and for recovery of overpayments. It is substantially identical to section 822 of the 1946 Act.

Retirement for disability or incapacity

Section 831 prescribes rules for disability retirement of participants in the System. Section 831 is substantially identical to section 831 of the 1946 Act, with the addition of a conforming change (now effective by Executive Order) concerning a time limit on submission of claims for disability retirement.

Section 831(a) provides for disability retirement of a participant with five or more years of service who has become totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury. This subsection also provides that the annuity of a disability retiree with less than twenty years of service will be computed as if the retiree had served twenty years.

Section 831(b) provides for physical examinations to determine disability or its persistence. It also provides for reinstatement of recovered disability retirees.

Section 831(c) provides that a recovered disability retiree who is not reinstated may elect voluntary retirement (if eligible), lump-sum payment under section 841, or a deferred annuity beginning at age sixty.

Section 831(d) states that a participant may not receive both benefits under this section and benefits under 5 U.S.C. 8101–8151 other than scheduled compensation provided under 5 U.S.C. 8107.

Section 831(e) permits a disability retiree to receive lump-sum compensation under 5 U.S.C. 8135 so long as it does not cover the same period as the annuity benefits for the same disability. In such a case, provision is made for refund of a portion of the lump-sum to the Department of Labor.

Section 831(f) authorizes approval of a disability annuity up to one year after the date of separation from the Service. Under present practice, if the participant retires or otherwise separates from the Service before the discovery or diagnosis of a disabling condition, a disability annuity may not be authorized. Section 831(f) is modeled after an identical provision authorizing approval of disability annuities under the Civil Service retirement system contained in 5 U.S.C. 8337(b).

Death in service

Section 832 lists the benefits payable when a participant dies in service. Section 832(a) states the residual rule that if no annuity benefits are payable under the Act, then the lump-sum credit consisting of contributions to the Fund and interest thereon shall be paid. Section 832(b) provides survivor annuity benefits for the spouse of a participant who dies in service with at least eighteen months of civilan service credit towards retirement under the System. Section 832 (c) and (d) similarly provide annuity benefits to children of such a deceased participant. Section 832(e) provides computation rules for such annuities, stating that if the participant had less than twenty years of service, the annuities shall be calculated as if the participant had served twenty years. Section 832(f) provides for a supplemental survivor annuity to the spouse of a participant who dies in service after being recalled from retirement pursuant to section 324. Section 832(g) states the rules for commencement of such annuities.

Discontinued service retirement

Section 834 provides that a participant who voluntarily separates from the Service with five or more years of service credit towards retirement under the System may choose between a lump-sum refund of contributions to the Fund and an annuity commencing at age sixty, computed in accordance with section 821.

Voluntary retirement

Section 835 is identical in substance to section 636 of the 1946 Act. It provides that any participant who is at least fifty years of age and has rendered twenty or more years of creditable service may retire with the consent of the Secretary and receive an annuity computed in accordance with section 821.

Mandatory retirement

Section 836 replaces sections 631 and 632 of the 1946 Act. Section 631 referred to career ambassadors, who will no longer constitute a separate salary class (cf. section 302(a)(2) of this Act). Section 836(a) follows section 632 of the 1946 Act in providing that the mandatory retirement age for participants in the System shall be age sixty, subject to certain exceptions. These exceptions, stated in section 836(b), were also stated in both sections 631 and 632 of the 1946 Act. First, any participant who reaches age sixty while occupying a position to which he or she was appointed by the President by and with the advice and consent of the Senate may continue to serve until that appointment is terminated. It should be noted that this exception applies only to appointments to positions (e.g., chief of mission, Assistant Secretary) and not to appointments to the Senior Foreign Service or as Foreign Service officers. Second, the Secretary may retain on active service for a period of up to five years a participant who has reached age sixty if the Secretary determines that it is in the public interest to do so. These provisions are identical to current law.

Retirement of former presidential appointees

Section 837 provides that if a member of the Service is not reassigned within three months after completing an assignment in a position to which he or she was appointed by the President, the member shall be retired from the Service and receive annuity benefits in accord with section 821. Section 837 is derived from section 519 of the 1946 Act. The scope of section 837 is somewhat broader in scope in that, unlike section 519 of the 1946 Act, it extends to Presidential appointees under section 302(b) who are not necessarily chiefs of mission.

Lump-sum payments

Section 841 provides for the return of a participant's contribution to the Fund if the participant is separated from the Service without becoming eligible for an annuity under the System. Section 841 is identical in substance to section 841 of the 1946 Act, except that the definition of "lump-sum credit" contained in section 841(a) of the 1946 Act has been transferred to the definitions section (section 804(5)) and the remaining subsections accordingly relettered.

Section 841(a) provides for the payment of a lump-sum credit to participants who separate from the Service without becoming eligible for a present or deferred annuity. Section 841(b) provides for a lump-sum credit for contributions made during a period of recall service that does not make the annuitant eligible for a supplemental or recomputed annuity. Section 841(c) provides that if annuity rights terminate before an annuity amount equal to the lump-sum credit has been paid, the difference will be paid in accordance with subsection (f). Section 841(e) prescribes payment in accordance with subsection (f) of any accrued but unpaid annuity owing with respect to a deceased participant. Section 841(f) prescribes the order of precedence for payments of lump-sum credits under subsections (c) through (e) to survivors of the participant. Section 841(g) prescribes the order of precedence for payment of any annuity accrued and unpaid on the death of a survivor annuitant. Section 841(h) provides for payment of a lump-sum credit based on contributions to the Fund made by a participant after completing thirty-five years of service, unless such contributions are applied toward any special contribution owing under section 811(d).

Creditable service

Section 851 sets forth rules specifying periods that are creditable toward retirement under the System. Section 851 follows section 851 of the 1946 Act as amended by Executive Order, except for the addition of subsection (h) which is explained below.

Section 851(a) authorizes credit for periods of civilian and military and naval service. Section 851(b) authorizes credit for unused sick leave. Section 851(c) provides for contributions by a participant while serving as an officer or employee of an organization composed primarily of Government employees while on approved leave of absence without pay and authorizes credit for such periods of service. Section 851(d) allows a participant who has received a refund of contributions covering otherwise creditable service to make a special contribution under section 811 in order to have such period of service credited to his retirement under the System. Section 851(e) provides that no credit toward annuity computation shall be made for any period of civilian service under another retirement system unless the participant waives the right to any annuity under such other system and makes a special contribution to the Fund pursuant to section 811 covering such service. Section 851(f) provides that a participant who leaves the Service to enter the military service during a period of war or national emergency is not deemed to have been separated from the Service for retirement purposes for a period of five years unless the participant requests and receives a lump-sum payment pursuant to section 841. Section 851(g) provides that the annuity or survivor annuity of a participant of Japanese ancestry who was interned in the United States during World War II may be recomputed to allow credit for such period of internment upon application to the Secretary. Other provisions of the new subsection provide that the Secretary will take steps to identify and assist individuals who may be entitled to credit under this subsection, and that other agencies having information on such participants will furnish it on request to the Secretary. This provision was extended to the Foreign Service by Executive Order.

New section 851(h) provides that a participant who serves as a full-time paid employee of a member or office of the Congress while on approved leave without pay shall continue to make contributions to the Fund based on the salary he would be receiving if on active duty in the Service. The subsection also provides that the employing office of the Congress will make a matching contribution to the Fund and that such periods of service will be creditable to retirement under the System. The purpose of this new subsection is to set forth clear rules governing the retirement obligations and benefits applicable in such employment and to prevent a participant from obtaining a windfall benefit by remaining a member of the Service and continuing in Federal employment and so receiving service credit without a corresponding obligation to contribute to the Fund.

Extra credit for service at unhealthful posts

Section 835 authorizes credit towards retirement at the rate of one year and a half for each year of actual service at posts designated as unhealthful by the Secretary. Such credit is in lieu of a post differential under 5 U.S.C. 5925.

Estimate of appropriations needed

Section 861 requires the Secretary of the Treasury to prepare annual estimates of the appropriates required to be made to the Fund and to make actuarial valuations of such funds at least every five years. Section 861 also authorizes the Secretary of State to expend up to $5,000 per year from the Fund for necessary incidental administrative expenses of the System.

Investment of fund

Section 863 authorizes the Secretary of the Treasury to invest in interest-bearing securities of the United States portions of the Fund not necessary for immediate operations.

Attachment of moneys

Section 864 provides for two exceptions to the rule stated in section 864 of the 1946 Act that moneys receivable under the System are not assignable (except for severance pay) and are not subject to execution, levy, attachment, or other legal process. These exceptions were extended to the Foreign Service by Executive Order. Section 864(a) permits an individual entitled to an annuity from the Fund to make allotments or assignments of amounts from such annuity for such purposes as the Secretary considers appropriate. Section 864(b) authorizes payment of sums otherwise due to an annuitant or participant to another person pursuant to the terms of any court decree of divorce, annulment, or legal separation or to the terms of any court order or court-approved property settlement incident to divorce, annulment or separation. Such payments will be made only after written notice and other required information and documentation have been furnished to the Secretary. Section 864(c) restates the former rule, as modified by new subsections (a) and (b), that moneys payable under chapter 8 are not otherwise assignable in law or equity and are not subject to legal process except as otherwise provided by Federal law. This section does not affect 42 U.S.C. 659, which makes compensation of federal employees subject to legal process to enforce legal obligations for child support and alimony.

Payments for future benefits

Section 865 provides that any statute authorizing new or liberalized benefits, extensions of benefits, or salary increases that increase the liability of the Fund is deemed also to authorize appropriations to finance the unfunded liability created by that statute in thirty equal annual installments. Section 865 also authorizes an appropriation for each fiscal year of the Foreign Service normal cost (cf. section 803(3)) for that year which is not met by contributions to the Fund under section 811(a).

Funded liability obligations

Section 866(a) provides that the Secretary of State shall notify the Secretary of the Treasury at the end of each fiscal year of the amount equivalent to the interest on the unfunded liability computed for that year and that portion of disbursement for annuities attribtable to credit allowed for military service. Section 866(b) provides that the Secretary of the Treasury shall credit such amounts as are reported in section 866(a) to the Fund out of any money in the Treasury not otherwise appropriated. Section 866 (c) provides that requests to Congress for appropriations to the Fund under section 865(b) shall include reports on the sums credited to the Fund under section 866(b). Obsolete transitional provisions contained in the corresponding section of the 1946 Act have been deleted.

Annuity adjustment for recall service

Section 871 is identical in substance to section 871 of the 1946 Act. Section 871(a) provides that an annuitant recalled to active duty in the Service will receive his or her salary in lieu of an annuity and will make contributions to the Fund while on recall service, but that the annuity shall resume on the day following the termination of recall service. Section 871(b) provides for refund of the annuitant's contribution to the Fund during recall service which lasts a year or less, for a supplemental annuity if the recall service lasts more than a year, and for a recomputation of the basic annuity if the recall lasts more than five years.

Reemployment

Section 872(a) establishes a ceiling on the amount a retired member of the Service may receive upon reemployment by the Federal Government from his or her salary and annuity combined. While such member may receive his or her salary regardless of amount, he or she will be paid only so much of his or her annuity as, when combined with the salary, will not exceed the basic salary which the member was entitled to receive at the time of retirement.

Section 872(b) provides that an agency or other entity of the Federal Government that employs a retired member of the Service shall notify the Department of such reemployment and shall pay the member's salary directly to such member.

Section 872(c) provides for recovery of overpayments of annuities made in excess of the amounts to which a retired member is entitled under section 872(a) by withholding from his or her salary or from other moneys, including annuity payments, payable under chapter 8 of the Act.

Voluntary contributions

Section 881, which is identical in substance to section 881 of the 1946 Act, provides for the disposition of voluntary contributions to the Fund made under prior laws authorizing such contributions. On the date on which the participant becomes eligible for an annuity or a deferred annuity, he or she may choose to have such voluntary contributions refunded in a lump sum or used to purchase an additional annuity or annuities.

Cost-of-living adjustments of annuities

Section 882 provides for cost-of-living adjustments to annuities under the System to correspond to similar adjustments of annuities under the Civil Service Retirement System.

CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

Chapter 9 continues the Secretary's authority to pay travel and related expenses, and to provide for home leave, health care and representation allowances for Foreign Service personnel and their families. This chapter contains no significant changes from existing law.

Travel and related expenses

Section 901 collects all the provisions for payment of travel and related expenses for members of the Foreign Service and their families. The authorities contained in this section will be implemented by regulations, primarily the Foreign Service Travel Regulations. Section 901 is largely derived from section 911 of the 1946 Act. Provisions of section 942 of the 1946 Act, relating to travel for medical purposes, have also been incorporated.

Section 901(1) authorizes payment of expenses of proceeding to and returning from assigned posts of duty. This provision combines authorities contained in section 911(1) and (2) of the 1946 Act.

Section 901(2) authorizes payment of expenses incurred while traveling on authorized home leave. This provision combines authorities contained in section 911(1) and (2) of the 1946 Act.

Section 901(3) authorizes payment of expenses occasioned when a family member accompanies a member of the Service on temporary duty. This provision is substantially the same as section 911(10) of the 1946 Act.

Section 901(4) authorizes payment for representational travel of a member of the Service and his or her family, subject to the limitation that no more than one family member may accompany the member of the Service on representational travel outside the country of the member's assignment. Both the authority and the limitation are substantially the same as under section 911(1) and (2) of the 1946 Act.

Section 901(5), which is derived from section 942 of the 1946 Act, authorizes payment for travel to obtain necessary medical care while abroad in a locality where there is no suitable person or facility to provide such care. The scope of the provision is clarified by the inclusion of the term "medical condition" to indicate that medical travel may be authorized for prenatal care or other necessary medical attention. A new provision allows payment of the travel expenses of a family member incapable of caring for himself or herself at post. This authority is especially important with respect to infants whose parents are medically evacuated.

Section 901(6) authorizes payment for travel for rest and recuperation from posts designated by the Secretary which present significant hardships for the member of the Service and his or her family, such as isolation, unfavorable climatic conditions, or inadequate recreational services. Such travel is limited to one trip per two-year tour or two trips per three-year tour, but the Secretary may allow an additional trip or trips in extraordinary circumstances. Section 901(6) is derived from section 911(9) of the 1946 Act. The authority for the Secretary to permit additional trips in extraordinary cases is added because there are a few posts at which members of the Service encounter such isolation and difficult conditions that more frequent trips for rest and recuperation are essential to the well-being of individuals and the efficiency of operations.

Section 901(7) authorizes payment of travel expenses and transportation costs incident to the evacuation of family members and shipment of personal effects, including automobiles, from a post where there is danger arising from unsettled conditions due to war, civil strife, natural disasters, etc. Section 901(7) also authorizes payment for the return of family members and property when the disturbed conditions have ceased.

Section 901(7) is substantially the same as section 911(7) of the 1946 Act.

Section 901(8) authorizes payment of travel expenses for two trips a year by members of the Service to family members unable to live with the member at post because of continuing disturbed conditions there. Additional trips to family members located abroad may be authorized so long as the total cost of such trips does not exceed the cost of two trips to the District of Columbia. Section 901(8) is derived from section 911 (11) of the 1946 Act. A provision that facilities of the Military Airlift Command be used where possible has been deleted as unnecessary.

Section 901(9) authorizes payment for emergency family visitation. It is derived from section 911(11).

Section 901(10) authorizes payment for the costs of preparing and transporting to their homes the remains of members of the Service or their families who die abroad or while in travel status. This subsection is identical in substance to section 911(8) of the 1946 Act.

Section 901(11) authorizes payment for the transporting of the furniture and household effects of members of the Service to their duty posts and to their place of residence upon termination of duty abroad. This subsection is identical to section 911(3) of the 1946 Act.

Section 901(12) authorizes payment for packing and storing the furniture and effects of a member of the Service. Section 901(12) is derived from section 911(4) and (5) of the 1946 Act. Section 901(12) deletes a provision of former law stating that the maximum weight of goods stored shall not exceed the maximum weight that could be shipped under applicable regulations as unnecessary. The limitation will be implemented in accordance with the applicable maximum combined storage and shipment allowance stated in the Foreign Service Travel Regulations.

Section 901(13) provides for the transporting of a privately-owned motor vehicle for a member of the Service once every four years the member is continuously serving abroad. A replacement vehicle may be transported for a member of the Service if the Secretary determines such replacement to be necessary for reasons beyond the control of the member and in the best interest of the Government or if, in connection with a transfer, the cost of transporting the replacement vehicle is less than or equal to the cost of shipping the member's present vehicle from the former post of duty to the new post. Section 901(13) is derived from section 913 of the 1946 Act. The provision for replacement of a vehicle incident to transfer if new, and should avoid the unnecessary expense of transporting older vehicles which are about to be replaced.

Section 901(14) authorizes payment of the travel and relocation expenses of members of the Service and their families in connection with assignments in the United States, including assignments to state and local governments. Section 901(15) provides authority similar to that contained in section 576(f) of the 1946 Act with respect to assignments to state and local governments under the Pearson program under that section. It also permits reimbursement of relocation expenses incurred by members of the Service on other assignment to or within the United States for which they are not now authorized to be reimbursed and for which other employees of the Government are reimbursed under 5 U.S.C. 5724a. Section 901(15) would also authorize members of the Service assigned to state and local governments under the Intergovernmental Personnel Act (5 U.S.C. 3371–76) to be reimbursed on the same basis and under the same rules as are now authorized in connection with all other types of Foreign Service assignments.

Loan of household effects

Section 902 authorizes the loan of household furnishings and equipment to members of the Service for use in personally owned or leased residences as a means of reducing transportation costs. Section 902 is substantially the same as section 912 of the 1946 Act.

Required leave in the United States

Section 911 authorizes the Secretary to order a member of the Service to take a statutory leave of absence in the United States after eighteen months of service abroad and requires the Secretary to do so as soon as possible after the member has completed three years of service abroad. Section 911 also provides that members of the Service in the United States on statutory leave of absence may be given work in the Department, but that such periods of work will not be counted as leave. Section 911 is identical in substance to section 933 of the 1946 Act.

Health care

Section 921 combines and revises several sections of the 1946 Act relating to the provision of health care for members of the Service.

Section 921(a) authorizes the Secretary to establish a health care program to promote and maintain the physical and mental health of members of the Service and their families, and of such other personnel of the Department or other agencies and members of their families who are abroad and are designed as eligible through regulation of interagency agreement.

Section 921(b), which is derived from section 943 of the 1946 Act, provides that such program may include, for example, medical examinations for applicants for employment and for Department personnel and members of the Service and their families and may include inoculations and vaccinations for such personnel and family members. Other health care not specified, such as non-cosmetic dental care, could also be provided.

Section 921(c) authorizes the Secretary to establish health care facilities at posts abroad to the extent such facilities are warranted. Section 921(c) is identical in substance to section 945 of the 1946 Act.

Section 921(d) authorizes the Secretary to pay the costs of hospitalization or similar treatment for persons eligible for health care under this section, if the illness, injury or medical condition being treated was caused or materially aggravated during periods abroad. Section 921(d) is derived from section 941 of the 1946 Act. It eliminates a specific $35 deductible provision and a 120-day maximum coverage for payment for hospitalization or similar treatment of a family member of a member of the Service in certain circumstances. It also eliminates the proviso that treatment for an illness or injury is not compensable if the condition resulted from "vicious habits, intemperance, or misconduct." It is intended that limits on payment under this section will be established by regulation which will permit adjustment to take account of the factors addressed specifically in the 1946 Act.

Section 921(e) provides that the Secretary is authorized to provide health care under section 921 beyond the date of separation of eligible personnel and to provide health care to family members beyond the date of death of such personnel or dissolution of marriage. Section 921(e) is derived from section 944 of the 1946 Act. The provision allowing benefits to continue after the dissolution of marriage is new. It avoids the need for immediate termination of a family member's medical treatment for a condition sustained abroad if the employee later obtains a divorce.

Section 921(f) authorizes the Secretary to contract for health care where he or she deems it advisable and is identical in purpose and similar in form to section 941(c) of the 1946 Act.

Representation

Section 931 is derived from section 901 of the 1946 Act. It authorizes the Secretary to provide for official receptions and entertainment and representational expenses of members of the Service in order to enable the Department and the Service to provide proper representation of the United States and its interest. The prohibition in 5 U.S.C. 5536 against extra pay for personnel would continue to be expressly inapplicable to representation allowances under this section.

CHAPTER 10—LABOR-MANAGEMENT RELATIONS

This chapter is based upon title VII of the Civil Service Reform Act (chapter 71 of title 5, United States Code) with modifications considered appropriate in the light of experience under Executive Order 11636, which has governed labor-management relations for the Foreign Service since 1972. As provided in section 202(c), this chapter is applicable to the International Communication Agency and the International Development Cooperation Agency as well as the Department. References to "the Department" in this chapter should, accordingly, be read as including all three agencies.

Labor-management policy

Section 1001 contains Congressional findings which establish the policy basis for the labor-management chapter and provides that this chapter is to be construed in a manner consistent with efficient and effective government.

Definitions

This section defines the basic organs of administration, personnel categories, and labor relations terms utilized by this chapter.

The "collective bargaining" definition reflects this concept as it has existed for many years in the private sector. The definition confirms the mutual obligation of the Department and exclusive employee representative bilaterally and in good faith to negotiate the conditions of employment affecting employees, and to incorporate the successful results of such negotiations into a written agreement, if requested by either Party.

"Conditions of employment" are personnel policies, practices, and matters affecting working conditions which are within the discretion of the Secretary. Excluded are: matters related to prohibited political activities, position classification, Government-wide or multi-agency responsibilities of the Secretary affecting agencies not covered by this chapter, and matters specifically provided for by law—e.g. pay and benefits. Other exclusions are listed under section 1004. Conditions of employment were undefined in Executive Order 11636. This definition is essentially identical to that contained in 5 U.S.C. 7102(a)(14), as added by the Civil Service Reform Act of 1978.

"Employee" includes United States citizen members of the Foreign Service, or former members whose employment ceased because of an unfair labor practice under section 1031. Excluded are management officials, certain confidential employees and any participant in a strike in violation of 5 U.S.C. 7311 (same as 5 U.S.C. 7103(a)(2)(B)(iv)). The definition of employee is central to chapter 10 in establishing those individuals eligible for labor organization representation.

"Management official" includes a chief of mission, principal officer, one who holds a position of comparable importance, a deputy to any of the foregoing, a Foreign Service Inspector, or one engaged in the administration of this chapter or in the formulation of personnel policies and programs of the Department. Management officials and employees acting in a confidential capacity to them constitute agency management responsible for representing the interests of the United States Government in dealing with the labor organization representing the Department's employees. This definition establishes the line of delineation between the bargaining unit and management.

"Confidential employee" includes individuals who assist or act in confidential capacities to management officials (except certain individuals who assist in purely clerical capacities).

The Foreign Service is unique within U.S. Government civilian employment systems in its characteristics of rank-in-person, world-wide availability for periodic reassignment and supervisory responsibility reaching into the junior ranks. It is to accommodate a labor relations system to these factors that chapter 10 does not adopt the approach of Title VII to the Civil Service Reform Act (CSRA) which excludes from the scope of its labor relations program any individual possessing one or more prescribed criteria of supervisory authority.

Experience under Executive Order 11636, containing a similar definition of management official, has shown this delineation between agency management and the bargaining unit to be workable and constructive. The highly centralized and integrated nature of the Foreign Service personnel system is also conducive to maintaining this delineation.

Application

Section 1003 authorizes the President to exclude by Executive Order any subdivision of the Department from coverage under this chapter for national security requirements, or to exclude a Foreign Service post temporarily in emergency situations. Subdivisions of the Department subject to such exclusion in the discretion of the Secretary must have as a primary function intelligence, counterintelligence, investigative, or national security work. This section is similar to 5 U.S.C. 7103(b). Temporary suspension authority in emergency situations was vested in the Secetary by section 3(b) of the Executive Order 11636.

Employee rights

Section 1004 provides employees the right to form, join, or assist a union, or to refrain from such activity.

These rights include acting as representative of a union and presentation of its views to the Secretary, Congress, or other authorities, as well as negotiating conditions of employment through representatives chosen by employees.

This statement of basic employee rights existed in substantial part in section 1(a) of Executive Order 11636, and tracks 5 U.S.C. 7102.

Management rights

Section 1005 reflects the public policy against the Department being required to bargain on basic Federal Government personnel prerogatives. Bargaining is not required on such matters as the mission, budget, organization, number of employees and internal security practices of the Department; the right to hire, promote, assign, direct, layoff and retain employees, or to suspend, remove, or take other disciplinary action against such employees; to assign work, contract out, and determine personnel by which operations shall be conducted; to fill positions from any appropriate sources; to require uniform personnel policies and procedures between or among agencies covered by this chapter and to take necessary actions in an emergency to carry out the Department's mission.

This section closely tracks 5 U.S.C. 7106. It permits the Department to decide to deal with a labor organization over one or more management rights specified in section 1005(b).

This section makes explicit the distinction which arose from interpretation of the management rights provision under Executive Order 11636: while management's decision-making in exercising the reserved rights is non-negotiable, the procedures which management officials will observe in exercising their functions are within the obligation to negotiate. However, management is not obligated to negotiate over a procedure so cumbersome or time-delaying as would negate, in essence, the exercise of a reserved management right.

Foreign Service Labor Relations Board

Section 1011 provides for the Foreign Service Labor Relations Board (FSLRB).

The FSLRB is chaired by the Chairman of the Federal Labor Relations Authority and has two Executive Level V public members appointed by the Secretary upon nomination by affected agencies and labor organizations. FSLRB members are removable only for cause after notice and a hearing. The Department supplies general administrative services, facilities and supplies to the FSLRB. The FSLRB may request Department employees and members of the Service to be detailed to its staff, and FSLRB may appoint and fix the salaries of such other employees as it deems necessary.

The FSLRB is charged with supervising elections and certifying exclusive bargaining agents; deciding negotiability appeals and unfair labor practice complaints; and taking other actions necessary to effectuate the provisions of this chapter. The FSLRB possesses broad authority to prescribe regulations concerning its functions and the obligations of the Department and labor organizations thereunder, to interpret and apply the provisions of this chapter, to issue major policy determinations, to issue cease and desist and remedial action orders, and to defend or seek enforcement of its orders in the Court of Appeals for the District of Columbia in the same manner as is applicable to the Federal Labor Relations Authority under the CSRA.

Executive Order 11636 charged the Employment-Management Relations Commission (EMRC) with the basic functions now assigned the FSLRB. However, the EMRC was wholly comprised of Government officials, and its orders were not subject to judicial review and enforcement. While the EMRC performed with distinction and was accepted by the Department and affected exclusive employee representatives, Foreign Service labor-management relations have evolved to the stage where third party administration should be conducted by a body having every appearance of total impartiality in addition to *de facto* neutrality.

Foreign Service Impasse Disputes Panel

Section 1014 provides for a Foreign Service Impasse Disputes Panel (the "Panel"). The Panel, like its namesake operating under Executive Order 11636, will resolve negotiation impasses between the Department and the exclusive bargaining representative. The Panel will carry over the basic composition of its predecessor, but will constitute an independent entity. The Panel's decisions will be final and binding upon the parties unless the Secretary finds a decision to be inconsistent with the best interests of the Foreign Service.

Exclusive recognition

Section 1021 provides for exclusive recognition by the Department of a labor organization selected by a majority of employees voting in a secret ballot election. The FSLRB is authorized to conduct preferential elections when more than two choices are contained on the ballot to obviate the undue expense and time-delay of runoff world-wide mail ballot elections.

Employees represented

Section 1022 provides for a single bargaining unit consisting of all Foreign Service personnel of the Department, excluding management officials, confidential employees, personnel officers, investigators, and Foreign Service Inspectors. (ICA and IDCA similarly would be single bargaining units.) Executive Order 11636 prescribed a Department world-wide bargaining unit; a requirement carried over herein because of the highly centralized Foreign Service personnel system and the constant and regular world-wide movement of all Foreign Service personnel.

Representation rights and duties

Section 1023 requires an exclusive bargaining representative to represent the interests of all employees in the unit without regard to labor organization membership. Exclusive bargaining representatives are entitled to represent and negotiate collective bargaining agreements on behalf of all unit employees; to be present during personnel-related meetings between the Department and other employee groups; and to be present when requested by an employee subject to Department examination who reasonably believes that the examination may result in disciplinary action against him or her.

This section also provides for consultation with the exclusive representative on matters which are excluded from the scope of collective bargaining because they involve interagency responsibilities of the Secretary. Under section 1023(f), the exclusive representative will be given an opportunity to express views on such issues as proposed significant changes in the Standardized Regulations (Government, Civilians, Foreign Areas), which prescribe overseas allowances and differentials in implementation of 5 U.S.C. 5921–5925 for personnel of all agencies.

Resolution of implementation disputes

Section 1024 establishes a procedure for the resolution of disputes between the Department and the exclusive representative which arise out of the implementation of collective bargaining agreements. This section is modeled on 5 U.S.C. 7121, 7122 as those provisions relate to such "institutional" grievances.

Section 1024(a) provides that a dispute over the effect, interpretation, or a claim of breach of a collective bargaining agreement shall be resolved by negotiated procedures, which shall include provision for appeal to the Foreign Service Grievance Board. (The Grievance Board is the statutory equivalent for the Foreign Service of the third-party arbitration of individual Civil Service employee grievances under Title VII of the Civil Service Reform Act.)

Section 1024(b) provides for review of Grievance Board actions by the Foreign Service Labor Relations Board at the request of either party. The scope of such review is the same as that of Federal Labor Relations Authority review of arbitral awards under 5 U.S.C. 7122.

Section 1024(c) provides that Foreign Service Grievance Board action becomes final and binding on the parties to an implementation dispute if no request for review is filed within thirty days. Section 1024(d) provides that resolutions of disputes under this section are not subject to judicial review. These sub-sections parallel the Civil Service Reform Act (cf. 5 U.S.C. 7122(b), 7123(a)). This subsection does not affect the right of judicial review of an individual grievance as provided by section 1141 of the Bill.

Unfair labor practices

Section 1031 identifies unfair labor practices in a manner consistent with 5 U.S.C. 7116. Some unfair practices are of such a nature that they could be committed by either the Department or a labor organization. Others could be committed only by the Department or only by a labor organization.

Unfair labor practices by either a labor organization or the Department are:

Interfering with employee rights under the chapter;

Refusing to consult or negotiate in good faith;

Failing or refusing to cooperate in impasse procedures or decisions;

Otherwise failing to comply with any provisions of the chapter.

Unfair labor practices by the Department are:

Encouraging or discouraging union membership;

Sponsoring or controlling a union;

Taking reprisal against an employee for filing a complaint under this chapter;

Enforcing agency regulations that conflict with a pre-existing negotiated agreement.

Unfair labor practices by labor organizations are:

Attempting to cause the agency to discriminate with regard to an employee's exercise of labor relations rights;

Hindering a member's productivity or discharge of duties as an employee;

Discriminating with regard to membership for prohibited reasons;

Calling or engaging in a strike or slowdown, or picketing that interferes with Government operations, or condoning such activity by failing to take action to prevent or stop it.

An election of remedies provision corresponding to 5 U.S.C. 7116(d) precludes the consideration of a complaint both as an unfair labor practice and under grievance procedures.

Standards of conduct for labor organizations (section 1041)

Under Section 1041 recognition shall be accorded only to labor organizations which are free from corrupt influences or influences opposed to basic democratic principles. This section is derived from 5 U.S.C. 7120.

Standards of conduct for labor organizations are administered and enforced by the Assistant Secretary of Labor for Labor-Management Relations. Labor organizations must file financial and other reports with the Assistant Secretary.

The Foreign Service Labor Relations Board must withdraw exclusive recognition or take other appropriate disciplinary action if the labor organization is found to have violated the prohibition against strikes, work stoppages, or slowdowns.

The Employee-Management Relations Commission performed the foregoing oversight function under Executive Order 11636, but this function is more appropriately placed with the Assistant Secretary for Labor because of the latter's long experience and expertise in this area, and in the interest of consistent administration.

Administrative provisions

Section 1051 prescribes basic policies on dues allotments (which are cost-free to exclusive employee representatives and revocable at one year intervals); official time for employees who negotiate and participate in other proceedings on behalf of labor organizations; and prohibition on use of official time for activities relating to the internal business of a labor organization.

CHAPTER II—GRIEVANCES

This chapter essentially reenacts Part J of Title VI of the 1946 Act. Some changes are made to conform to the style of the 1979 Act, and for reasons of clarity and organizational format. Obsolete provisions are deleted, and the exclusive representative of employees in a bargaining unit made the exclusive party who can invoke the jurisdiction of the Foreign Service Grievance Board on behalf of employees in the unit.

Definition of grievance

Section 1101(a) carries forward the definition of grievance contained in section 692 (1) (B) of the 1946 Act, as amended. "Grievance" is broadly defined to encompass any act or condition subject to the Department's control alleged to deny a United States citizen member of the Foreign Service of rights and benefits authorized by law or regulation, or otherwise to constitute a source of concern or dissatisfaction to the employee. Some examples are listed: involuntary separation; adverse impact upon terms and conditions of employment or career status; disciplinary action; dissatisfaction with physical working environment; prejudicial or potentially prejudicial defective entries in an employee's official personnel file; alleged reprisals for participating in the grievance procedures; and alleged wrongful denial of allowances, premium pay or other financial benefit.

Section 1101(b) is patterned on that part of section 691(1)(B) of the 1946 Act which specifies the subjects on which grievances may not be filed. Other than deletion of reference to judgments on examination for appointment, which is deleted as unnecessary, and the addition of reference to tenure boards (cf. section 321(b)), the exceptions are the same as in the 1946 Act.

Section 1101(c) expands a parenthetical clause in section 692(1)(B) of the 1946 Act, which permitted an agency and the exclusive representative of the employees of that agency to agree to exclude additional matters from grievances. Under section 1101(c), the agency and the employee organization may modify the scope of grievances as stated in the Bill, not only to exclude additional matters but also to include matters now excluded. This will permit the parties to a collective bargaining agreement to agree on additional functions for the Foreign Service Grievance Board which are compatible with the Board's primary responsibilities.

Grievances concerning former members

Section 1102 carries forward section 692 (1)(C) of the 1946 Act. Former members of the Foreign Service, or their survivors, may file grievances within the period specified in section 1104, but only with respect to an alleged wrongful denial during the period of service of an allowance or other financial benefit. Consistent with current practice of the Foreign Service Grievance Board, matters which have only a consequential effect upon financial benefits are not covered by this section.

Freedom of action

Section 1103(a) carried forward the first part of section 692(5) of the 1946 Act. It protects participants in the processing of a grievance from any restraint, interference, coercion, harassment, discrimination, or reprisal.

Sections 1103 (b) and (c) carry forward the remainder of section 692(5) of the 1946 Act. These sections provide for the right of representation and for making witnesses available. The provision on representation has been modified to provide that a member of a bargaining unit represented by an exclusive representative may be represented only by that exclusive representative, although the exclusive representative can approve additional co-representation of a grievant.

Section 1103(d) carried forward section 692 (15) of the 1946 Act. It authorizes the Grievance Board to protect against disclosure of proceedings or findings with respect to a grievant and requires the Department to maintain confidentiality.

Section 1103(e) carries forward Section 692(9) of the 1946 Act, by requiring the Department to expedite the processing of security clearances.

Time limitations

Subsections (a) and (b) of section 1104 carry forward section 692(3) of the 1946 Act.

Section 1104(a) excludes consideration of any grievance under these procedures not presented within a period of three years after the occurrence or occurrences giving rise to the grievance. A new provision has been added, stating that the three year period may be shortened by agreement between the Department and the exclusive employee representative.

Section 1104(b) authorizes the Grievance Board to exclude from the three year (or shorter agreed) maximum period during which the grievant was unaware of the grounds for the grievance and could not have discovered such grounds through reasonable diligence.

Section 1104(b) is based on section 692(1) of the 1946 Act. It provides for the Department and the exclusive representative to negotiate procedures for Department review of grievances. The exclusive representatitve or an individual employee who is not a member of the bargaining unit may file a grievance with the Board if his or her grievance is not resolved under the Department procedures within ninety days of written presentation.

The Foreign Service Grievance Board

Section 1111 is derived from section 692(2) of the 1946 Act and provides for the continuation of the Board established under the 1946 Act.

The Grievance Board consists of not fewer than five members. Appointees may not be serving as officers, employees or consultants of the Department or as members of the Service.

Members of the Board shall be appointed for two year terms by the Secretary from nominees approved by agency management and exclusive employee representative(s). If the agencies and exclusive representative(s) fail to agree, the nominees will be determined by parties striking names from a list.

Non-Government employee members of the Board, including retired Federal Government annuitants, are compensated at the daily rate of GS-18.

Section 1111(d) insulates Board members from removal unless the Secretary finds under prescribed due process procedures corruption, neglect of duty, malfeasance, or demonstrated incapacity of a member to perform his or her functions.

Section 1111(e) authorizes the Department to provide the Board with physical and personnel resources for performing its functions.

Board procedures

Section 1112 carries forward sections 692(4), (10) and (11) of the 1946 Act.

The Grievance Board is authorized to adopt regulations concerning its organization and procedures, but is required to conduct a hearing at the request of a grievant in any case involving disciplinary actions, a grievant's retirement from the Service under section 641 or 642, or issues which the Board decides can best be resolved through hearing or oral argument.

Grievance Board hearings shall result in a verbatim transcript; hearing testimony shall be given by oath or affirmation; parties shall be free to examine and cross-examine witnesses and present documentary evidence which is not unduly repetitious within the bounds of relevancy and materiality. Parties may engage in pre-hearing discovery through interrogatories and depositions subject to the aforementioned standards.

Section 1112(6) provides that in cases where the Board holds no hearing, its record of proceedings shall be fully available to the parties for review and supplementation by the parties, and that the Board shall base its decision solely upon that Record.

Section 112(7) permits the Board to conduct hearings through panels.

Section 1112(8) authorizes the Board to grant a grievant interim relief by ordering the Department to suspend actions in the nature of separating, disciplining, or recouping monies from a grievant, where related to a grievance pending before the Board. The Board's authority to grant interim relief does not affect the authority of an agency head, chief of mission, or principal officer to exclude a grievant from official premises or from performance of official functions for good cause as stated in writing.

Section 1112(9) is new but reflects existing practice of the Board. It states the grounds upon which reconsideration by the Board may be requested.

Access to records

Section 1121 carries forward sections 692 (7) and (8) of the 1946 Act.

The Board shall have access, to the extent permitted by law, to agency records relevant to the grievant and the subject matter of the grievances. The Department shall furnish the grievant with records determined by the Board to be relevant material to the proceedings. The Board, as appropriate, may grant a grievant a summary or extract of classified material. The head or deputy head of the agency may prohibit the disclosure of any agency record upon determination in writing that such disclosure would adversely affect the foreign policy or national security of the United States. Section 613 of the Bill concerning the confidentiality of Foreign Service personnel records is applicable to the Grievance Board.

Relation to other remedies

Section 1131 carries forward section 693 of the 1946 Act. It precludes a grievant from seeking relief under these grievance procedures when he or she has sought relief under another provision of law, regulation, or Executive Order. The grievant will be bound by his or her election to use these grievance procedures or the other procedures. This election of remedies provision modified the general exclusion of matters subject to another specific statutory hearing procedure under section 1101(b)(4), by providing that a grievant may elect to seek relief under this chapter of a complaint that is also cognizable under Chapter 12 of title 5, United States Code.

Judicial review

Section 1141 carries forward section 694 of the 1946 Act. It provides that any aggrieved party may obtain judicial review of regulations prescribed by the Secretary and of final action of the Secretary or the Grievance Board. Suit may be filed in the District Courts of the United States in accordance with chapter 7 of title 5, United States Code. The standard of judicial review is contained in 5 U.S.C. 706.

Board decisions

Section 1113 carries forward sections 692 (12), (13), and (14) of the 1946 Act.

The Board must expeditiously decide grievances. It must make decisions setting forth findings of fact and the rationale.

Sections 1113(b) and (c) authorize the Board, within the limitations of the Secretary's authority, to order the Department to take prescribed courses of remedial action. The Department must comply with such remedial orders unless it seeks judicial review as provided in Section 1141. To assure administrative finality, only judicial review is permitted.

The Grievance Board may recommend to the Secretary, rather than order, remedial action relating to the promotion or assignment of the grievant, other remedial action not provided for in section 1113, or appropriate disciplinary action. The Secretary may modify or reject a Grievance Board recommendation upon limited prescribed grounds, and state the rationale for so doing in writing. In performing this function, however, the Secretary may not communicate with any persons involved in the underlying Grievance Board proceeding.

CHAPTER 12—COMPATIBILITY OF PERSONNEL SYSTEMS

Compatibility between the Foreign Service and other Government personnel systems

Section 1201 continues the policy stated in section 5 of Public Law 90–494, 82 Stat. 810, of administering the Foreign Service personnel system in conformity with the general policies and regulations of the Government to the extent practicable. Section 1201 provides for consultations by the Secretary with the Directors of the Office of Personnel Management and the Office of Management and Budget, and with other agencies as the President may direct, to assure such compatibility. This section contemplates the continuation of existing consultation arrangements under E.O. 11434 (33 F.R. 16485), which provides for consultation with the Office of Management and Budget and the Office of Personnel Management.

Compatibility between Civil Service and Foreign Service Retirement systems

Section 1202 provides that whenever a law of general applicability affects participants, annuitants, or survivors under the Civil Service Retirement and Disability System and alters previously existing conformity between that system and the Foreign Service Retirement System, then such law may also be extended to the Foreign Service Retirement and Disability System as well. The President is authorized to prescribe regulations by Executive order to implement this section. Section 1202 is identical in substance to section 805 of the 1946 Act.

Compatibility among agencies employing Foreign Service personnel

Section 1203 directs that the Service be administered to the extent practicable so as to assure maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system. Consultations between the Secretary and the heads of such agencies are prescribed in order to facilitate such compatibility.

Section 1203 extends to all agencies with Foreign Service personnel authority the policy of Section 5 of Public Law 90–494, which prescribes that the Foreign Service information officer personnel system shall be compatible within the Foreign Service officer personnel system. It is intended that compatibility be maximized to the extent consistent with the different operations and functions of the various agencies.

Consolidated and uniform administration

Section 1204 encourages the development of uniform policies and procedures among agencies in administering the Foreign Service personnel system, and of consolidating personnel functions where feasible. Consolidations pursuant to this section shall be in accordance with section 23 of the basic authorities of the Department of State, as enacted by section 111(a) of Public Law 95–426, 92 Stat. 967 (the Foreign Relations Authorization Act, Fiscal Year 1979).

Exclusive functnions of the Secretary

Section 1205 specifies certain functions that only the Secretary of State among agency heads may perform. These functions indicate exceptions to the general authority of other foreign affairs agency heads (cf. section 202) to exercise the Secretary's authority with respect to the Foreign Service personnel of their agencies. The particular functions involved are those which must necessarily be exercised by a single authority, including designations and recommendations related to diplomatic missions, matters concerning the Board of the Foreign Service, administration of the Foreign Service Retirement and Disability System, operation of the Foreign Service Institute, and prescription of uniform regulations for the guidance of all agencies. This section does not detract from the Secretary's powers of delegation (cf. section 201).

TITLE II—TRANSITION, AMENDMENTS TO OTHER LAWS, REPEALS AND MISCELLANEOUS PROVISIONS

CHAPTER 1—TRANSITION

Conversion into the Foreign Service schedule

Section 2101 provides authority for the conversion of present members of the Service, including Foreign Service offices, Foreign Service Reserve officers, and Foreign Service staff officers and employees, to appropriate classes in the new Foreign Service Schedule. To be converted under this section, personnel must be available for assignment abroad. Personnel who are not available for worldwide assignment will be converted to the Foreign Service Schedule only if the Secretary certifies there is need for their services in the Foreign Service. Otherwise they will be converted to the Civil Service under section 2103. This section is intended to eliminate the continued presence in the Foreign Service of personnel who serve only in the United States. It is not intended to affect personnel who have served abroad and whose availability for assignment abroad is temporarily interrupted by personal circumstances.

Conversion into the Senior Foreign Service

Section 2102 provides for conversion into the new Senior Foreign Service.

Section 2102(a) provides that world-wide-obligated Foreign Service officers and Reserve officers (with limited and unlimited tenure) serving under appointments at class 2 or higher may elect to enter the Senior Foreign Service within 120 days after the Bill's enactment.

Section 2102(b) provides that the Secretary will grant a limited Senior Foreign Service appointment to a Reserve officer with limited tenure who makes an election under subsection (a). Section 2102(c) provides that the Secretary will recommend to the President a career appointment in the Senior Foreign Service of a Foreign Service officer or Reserve officer with unlimited tenure who makes such an election.

Section 2102(d) states an exception for Reserve officers who are not currently available for assignment abroad. Such officers will be allowed to enter the Senior Foreign Service only if the Secretary certifies that there is a need for their services and they affirm in writing their obligation to accept world-wide availability for assignment as a condition of employment. This provision is intended to serve the same purpose as section 2101(b) of the Bill.

Under section 2102(e), an officer who does not submit an election to enter the Senior Foreign Service within the 120-day period specified in subsection (a) may later submit a request for a Senior Foreign Service appointment. In that event, the officer may be appointed to the Senior Foreign Service only in accordance with such conditions as the Secretary may prescribe in light of the 1979 Act's provisions regarding Senior Foreign Service entry in the post-transition phase.

Section 2102(f) provides that an officer who does not elect to enter the senior Foreign Service (or whose request for entry after the initial 120-day period is denied) must retire from the Foreign Service within three years after the Bill's effective date. Prior to their retirement, the conditions of service for such officers will be governed by the 1979 Act, but they will not be eligible for performance pay or limited extensions of their career appointments, and their assignment possibilities would be limited. This subsection does not apply to officers whose conversion to Senior Foreign Service is prevented by their unavailability for world-wide assignment. Such officers would be converted to the Civil Service under section 2103 if they wished to remain in Government service.

Conversion into the Civil Service

Section 2103 provides that members of the Service serving in categories subject to conversion to the Foreign Service Schedule or the Senior Foreign Service who are not so converted because they are not available for world-wide assignment shall be converted to the Civil Service in a comparable grade of the General Schedule or to the Senior Executive Service. The purpose of this provision is to convert those current "domestic" Foreign Service personnel to the Civil Service without loss of salary or grade.

The three year mandatory conversion period for "domestic" Foreign Service personnel in the International Communication Agency (USICA) will not commence until July 1, 1981, in consideration of pre-existing collective bargaining agreement with the labor organization representing such personnel.

Preservation of status and benefits

Secton 2104 provides that the conversions made pursuant to this chapter shall be accomplished in a manner so as to preserve the status and benefits that members of the Service enjoyed prior to conversion. Section 2104(a) provides that a conversion to a new personnel system, category, or salary schedule shall be to a corresponding class or grade without a reduction in salary. Section 2104(b) permits those who are converted to the Civil Service to elect to remain participants in the Foreign Service Retirement and Disability System. (Such an individual could choose between the Civil Service System's provisions for a higher maximum annuity and exemption from mandatory retirement or the Foreign Service System's provisions for earlier retirement and somewhat more liberal computation formula.) Section 2104(c) provides that members shall be converted to a type of appointment which corresponds as closely as possible in tenure to the type of appointment from which they were converted. It also provides that members converted to the Civil Service shall be entitled to the appeal rights specified in 5 U.S.C. 7512 in the event of an adverse action. Section 2104(d) provides that persons with appointments in the Service or other offices or positions continued by the 1979 Act may continue to serve and need not be reappointed by virtue of the enactment of the 1979 Act or the repeal of the 1946 Act. This includes, for example, current chiefs of mission and current members of the Foreign Service Grievance Board. Finally, section 2104(e) defers for five years the application of the Bill's provisions for retirement based on relative performance with respect to current personnel who are not now subject to such retirement (cf. section 642).

Regulations, authority of other agencies

In section 2105 the Secretary is authorized to prescribe regulations for implementation of this chapter, under the direction of the President. In section 2106, heads of other agencies employing Foreign Service personnel are authorized to perform any of the functions of the Secretary with respect to Foreign Service personnel in their agencies, in consultation with the Secretary.

CHAPTER 2—AMENDMENTS TO OTHER LAWS

Basic authority

Section 2201(a) contains seven paragraphs, each of which will add a new section to the Act to provide certain Basic Authority for the Department of State (PL 94-855, 70 Stat. 890). That Act contains a number of statutory authorities which apply to the State Department as an agency. Section 2201 would place in that Act (hereafter referred to as "the Basic Authority") a number of authorities now found in the Foreign Service Act of 1946, as amended, or in annual State Department authorization acts.

(1) Gifts (new section 24). Section 1021 of the Foreign Service Act of 1946 as amended, contains the authority of the Secretary of State to accept and use gifts for the purposes of the State Department, including the Foreign Service. Section 24 is identical to current law.

(2) Authorization to Retain Attorneys (new section 25). Section 1031 of the Foreign Service Act of 1946, as amended, provides that the Secretary of State may authorize a principal officer of the Foreign Service to procure legal services.

(3) Employment Opportunities for Family Members (new section 26). Section 401(a) of the Foreign Relations Authorization Act, Fiscal Year 1979 (PL 95-426, 92 Stat. 977) and section 413(c) of the Foreign Relations Authorization Act, Fiscal Year 1978 (PL 95-105, 91 Stat. 856) contain provisions designed to facilitate the employment of members of the families of the United States Government employees abroad. Those provisions are not incorporated in sections 333 or 451 of the Foreign Service Act (Title I of this bill) because they do not pertain to appointment to the Foreign Service or compensation in the Foreign Service. The provisions involved are a direction to seek to negotiate agreements to facilitate employment of family members abroad and an authorization for such members to accept employment abroad unless to do so would violate a local law or damage the interests of the United States.

(4) Use of Vehicles (new section 27). Section 914 of the Foreign Service Act of 1946, as amended, provides that the Secretary of State may authorize a principal officer to approve the use of Government owned or leased vehicles for transportation at post when public transportation is unsafe or unavailable. Section 27 contains the same authority.

(5) Educational Facilities (new section 28). Section 1081 of the Foreign Service Act of 1946 as amended, authorizes the Secretary of State to establish, operate, and maintain abroad primary schools and school dormitories and related educational facilities for primary and secondary schools, as well as to make grants for such purposes and to otherwise provide for such facilities. Section 28 is identical to current law.

(6) Malpractice Protection (new section 29). Section 1091 of the Foreign Service Act of 1946, as amended, provides that the exclusive remedy for malpractice claims against State Department medical personnel arising out of health services furnished in course of official duties shall be a tort claim against the United States. It also contains the related procedural provisions for holding such medical personnel harmless through insurance or otherwise from personal liability. Section 29 is identical to current law.

(7) Post Employee Services (new section 30). This section contains authorities for the operation of, and assistance to, employee operated commissary and other services and facilities. This authority is now found in Title IV, Part C, of the Foreign Service Act of 1946, as amended, which applies generally to United States Government employees abroad. Section 921 of the 1946 Act is the substantive provision which corresponds to new section 30 of the Basic Authority.

Subsection (c) of section 2201 provides that the Director of the United States International Communication Agency (USICA) and the Director of the International Development Cooperation Agency (IDCA) may continue to utilize the authority of section 24 (acceptance and use of gifts) and section 25 (retaining attorneys). Under current law the two agencies have these authorities by virtue of provisions which permit them to utilize the authorities of the Foreign Service Act of 1946, as amended. In the case of ICA these provisions are contained in section 2 of Executive Order 10477 (18 F.R. 4540 1953), section 10 of PL 90-494 (82 Stat. 812) and section 7 of Reorganization Plan No. 2 of 1977 (42 F.R. 62461). In the case of IDCA these provisions are found in section 625(d)(2) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2385).

Conforming amendments

Section 2202 conforms to the appropriate citations of the 1979 Act various references to the 1946 Act contained in the Peace Corps Act (22 U.S.C. 2501 et seq.), the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), and the Arms Control and Disarmament Act (22 U.S.C. 2551 et seq.). Section 2402 of the bill includes a general saving provision that references in other laws to the 1946 Act shall be considered references to corresponding provisions of the new Act, but it is desirable to amend specifically those provisions of these three laws which are so directly related to the personnel authorities of the three agencies concerned. The conforming amendments are as follows:

(a) Sections 5(f)(1)(A), 7(a) and 14(b) of the Peace Corps Act (22 U.S.C. 2504, 2506, and 2513);

(b) Sections 7625(d)(1), 631(b), and 631(c) of the Foreign Assistance Act (22 U.S.C. 2385 and 2391); and

(c) Section 42 of the Arms Control and Disarmament Act (22 U.S.C. 2582).

This section also continues the current authority of the Arms Control and Disarmament agency for a single renewal or extension of a limited Foreign Service appointment. This exceptional authority will allow that small agency to staff effectively those overseas positions requiring continuity over periods exceeding five years.

Salary for Ambassadors at Large

Section 2203 adds the category of Ambassadors at Large to the officers who are authorized salary at Executive Level II under 5 U.S.C. 5313. Under the Foreign Service Act of 1946, as amended, Ambassadors at Large are classified for salary purposes at class 1 of the four classes of Chief of Mission under section 411 of the 1946 Act, which corresponds to Executive Level II. Section 103(2) of the new 1979 Act, however, identifies Ambassadors at Large as being separate from Chiefs of Mission. Accordingly, section 2203 provides authority for the continuation of current practice.

Attorney fees in backpay cases

Section 2204 amends 5 U.S.C. 5596(b) which was amended by the Civil Service Reform Act to permit the award of attorneys fees for Civil Service employees in certain unfair labor practice and grievance cases. Section 2204 extends the application of these provisions to comparable situations involving Foreign Service personnel in proceedings under the 1979 Act which correspond to the Civil Service proceedings already specified in 5 U.S.C. 5596(b).

Leave for Senior Foreign Service

Section 2205 authorizes members of the Senior Foreign Service, like members of the Senior Executive Service, to carry over leave balances in excess of those permitted by 5 U.S.C. 6305 for employees generally.

CHAPTER 3—REPEALS

Repealed provisions

Section 2301 repeals a number of provisions of laws which will be superseded, made obsolete or redundant, by the enactment of the Bill.

(1) All the provisions of the Foreign Service Act of 1946, as amended, are either replaced by Title I of the Bill, moved into the Basic Authority of the Department of State by section 2201, or considered obsolete or duplicative of other provisions of law. Ac-

cordingly, the 1946 Act is repealed in its entirety.

(2) Two provisions of the Foreign Relations Authorization Act, Fiscal Year 1979 (PL 95–426), are repealed. These are:

Section 401, which pertains to employment of family members overseas, and which has been incorporated in sections 333 and 451 of the 1979 Act and in section 26 of the Basic Authority under section 2201(a)(3) of the Bill; and

Section 413, which requires a report to Congress on review of Foreign Service personnel requirements and compensation by January 20, 1979, and which has been implemented.

(3) Section 413 of the Foreign Relations Authorization Act, Fiscal Year 1978 (PL 95–105), is repealed. That section, which relates to employment of Foreign Service spouses, is covered by the provisions of sections 333, 451, 701(b), 704 of the the Bill.

(4) The following provisions of the Foreign Relations Act, Fiscal Year 1977 (PL 94–350), are repealed:

Section 117, which required a report to Congress on proliferation of personnel categories within the State Department and the United States Information Agency by a date 180 days from enactment, and which has been implemented;

Section 120, which expressed the sense of Congress that career Foreign Service personnel should occupy a greater number of ambassadorial positions, and which has been incorporated in substance in section 311(a)(3) of Title I of the Bill; and

Section 522, which provided for conversion into the Foreign Service Retirement System of Foreign Service Staff officers and employees with unlimited appointments has accomplished its result.

(5) Section 6 of the Department of State Appropriations Authorization Act of 1973 (PL 93–126) is repealed. That section required a report on political contributions by nominees for ambassador or minister and is incorporated in substance in section 311(b)(2) of the Bill.

(6) The Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency through establishment of a Foreign Service Information Officer Corps (PL 90–494) is repealed. Some provisions are inconsistent with the chapters 3 and 4 of Title I of the Bill which eliminates staff and reserve personnel categories and provides for a Senior Foreign Service officer; other provisions are carried forward by specific provisions of the 1979 Act, such as sections 202 and 1203 (compatibility), and section 301(c) (veterans status an affirmative factor in appointment).

(7) Certain provisions of the Foreign Assistance Act are not conformed by section 2202(b) of the Bill, but repealed. These are:

Section 625(d)(2), which authorizes utilization of the authorities of the Foreign Service Act, becomes unnecessary because section 202 of the bill makes clear that the Director of the IDCA has the new Foreign Service personnel authorities in the same way for his agency as the Secretary of State does for the State Department;

Section 625(e), which provides authority for a selection-out system, becomes unnecessary because the Director of IDCA, like the Secretary of State and the Director of ICA, has that authority under sections 641 and 643 of the bill;

Section 625(g), which provides for application of foreign language competence principles, is eliminated, but it would be applicable to IDCA under section 702 of the Bill; and

Section 625(k), which provides for staged conversion of AID employees into the Foreign Service Retirement System, will be repealed effective January 1, 1982, at which time the process will have been completed.

(8) Section 7(b) of the Peace Corps Act, which authorizes selection-out for Peace Corps staff, is eliminated as unnecessary because similar authorities under sections 641 through 643 of the Bill will be available to the Peace Corps under section 202 of the Bill.

(9) Section 124(a)(2) of the International Development and Food Assistance Act of 1977, which provides authority for the performance by the Inspector General of the Foreign Service of the functions of the former Inspector General, Foreign Assistance, is superseded by section 205 of the Bill.

CHAPTER 4—SEVERABILITY, SAVING PROVISION, REPORTS, AND EFFECTIVE DATE

Severability

Section 2401 provides that if any provision of the Bill, or application of a provision to any person, is held invalid, the remainder of the Bill and the applicability of provisions of the Bill to other persons or in other circumstances shall be unaffected. It is modeled on section 1062 of the 1946 Act.

Saving provision

Section 2402 preserves all actions taken under the 1946 Act or any other Act repealed, modified or affected by this Bill until modified, revoked, or superseded. The section also provides that references to superseded Acts shall be considered to include references to corresponding provisions of the Bill. It is similar to section 1135 of the 1946 Act.

Reports

Section 2403 requires a report to the Congress from the Secretary of State within eighteen months after the Bill's effective date. The report is to describe steps taken in furtherance of the objective of maximum compatibility among agencies authorized to use the Foreign Service personnel system, and should include the Secretary's recommendations on further steps in this regard. This section also requires the Secretary to keep the Congress informed on a continuing basis on progress made in pursuit of this objective.

Effective date

Section 2404 states that the Bill will become effective on January 1, 1980.

THE SECRETARY OF STATE,
Washington, D.C., June 20, 1979.

Hon. WALTER F. MONDALE,
President, U.S. Senate

DEAR MR. PRESIDENT: I transmit herewith on behalf of the Administration a Bill to promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States and for other purposes.

The Congress took a major step last year to improve the management and efficiency of the federal service by enacting the Civil Service Reform Act. This Bill is a companion measure to increase the effectiveness of the foreign policy arm of the government. It also responds to a Congressional directive (Sec. 117 of PL 94–350) to prepare a "comprehensive plan for the improvement and simplification" of the personnel systems of the Department of State and the United States International Communication Agency (previously the United States Information Agency). In addition, the Bill contemplates use of the Foreign Service personnel system by the proposed new International Development Cooperation Agency.

The last comprehensive Foreign Service personnel legislation was the Foreign Service Act of 1946. The need is clear, after more than three decades, for substantial legislative changes to strengthen and improve the Foreign Service to enable it to fulfill its essential role and mission now and in the years ahead.

I believe that this new Foreign Service Act is needed:

To provide a clear distinction between Foreign Service and Civil Service employment, and to convert to Civil Service status without loss those Foreign Service personnel who are obligated and needed only for domestic service;

To improve efficiency and economy by simplifying and rationalizing the various categories of Foreign Service personnel and by establishing a single Foreign Service salary schedule;

To establish a Senior Foreign Service (SFS) with rigorous entry, promotion and retention standards based on performance, with performance pay for outstanding service;

To make more uniform the statutory terms and conditions of Foreign Service employment based on merit principles;

To provide a statutory basis for labor-management relations in the Foreign Service;

To consolidate and codify the various laws relating to Foreign Service personnel which have been enacted both within and outside the framework of the existing Foreign Service Act;

To improve interagency coordination by promoting compatibility among the personnel systems of the agencies employing Foreign Service personnel and with those of other departments and agencies.

I am confident the Congress will agree that it is in the national interest to maintain and strengthen a professional Foreign Service, representative of the American people, to assist the President and the Secretary of State in managing the country's foreign relations.

I believe this Bill strengthens the professional character of the Foreign Service of the United States by:

(1) limiting Service status to those who accept its discipline including the obligation to serve anywhere in the world often under dangerous or unhealthy circumstances;

(2) requiring that all persons seeking career status pass successfully through a strict but fair tenuring process; and

(3) establishing closer links between performance and promotion, compensation and incentive payments, and retention in Service.

The Bill will also improve the management of the Foreign Service and promote economy and efficiency by reducing the number of personnel categories under a single pay schedule, establishing a Senior Foreign Service comparable to the Senior Executive Service of the Civil Service, and by encouraging interchange and maximum compatibility of personnel systems among the foreign affairs agencies.

The Bill has been the subject of extensive consultations. Its provisions reflect comments and suggestions which have been received from the members of the Foreign Service and the employee organizations which represent them, and from interested agencies within the Executive Branch.

The Bill is divided into two titles. Title I, made up of twelve chapters, is the Foreign Service Act of 1979, a permanent body of law concerning the Foreign Service Personnel system. Title II consists of transitional and technical provisions, and amendments to and repeals of other laws.

The Office of Management and Budget has advised that enactment of this legislation would be consistent with the Administration's objectives.

Sincerely,

GENE VANCE.●

By Mr. CANNON (by request):

S. 1451. A bill to amend section 105 of title 11, United States Code; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, I introduce today, at the request of the Secretary of Commerce, a bill to amend section 105 of title 11, United States Code.

I ask unanimous consent that the text of the bill, the letter of transmittal and the statement of purpose and need of the legislation be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1451

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 105 of Title 11, United States Code, is amended by adding at the end thereof a new subsection (c) to read as follows:

"(c) Notwithstanding subsection (a) of this section, no powers vested in a bankruptcy court under this Title shall be construed or be deemed to affect or apply to any rights of the United States as a creditor under a preferred ship mortgage, as defined in the Ship Mortgage Act, 1920, as amended, including but not limited to the right to take title to the vessel or vessels covered by such mortgage and any other rights granted to the mortgagee under such mortgage and any and all rights granted to mortgagees under the Ship Mortgage Act, 1920, as amended, unless the Secretary of Commerce files a written waiver of this provision with the court."

The Secretary of Commerce,
Washington, D.C., June 13, 1979.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed are six copies of a bill "to amend section 105 of Title 11, United States Code," together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this legislation to the Congress from the standpoint of the Administration's program.

Sincerely,

Juanita M. Kreps,
Secretary of Commerce.

Enclosures.

Statement of Purpose and Need

"To amend section 105 of Title 11, United States Code."

Public Law 95-598 "To establish a uniform Law on the Subject of Bankruptcies," was approved by the President on November 6, 1978. The House and Senate Committee reports on the House and Senate versions of this major legislation, which codified Title 11 of the United States Code, stated that the preamendment provisions of 11 USC §§ 1101-1103 were incorporated into the new law with only "minor stylistic changes." However, the previous provisions of 11 USC § 1103 were not retained in the 1978 amendments.

Prior to the enactment of P.L. 95-598, 11 USC § 1103 provided that the injunctive powers of a bankruptcy court did not apply to the Maritime Administration as a preferred mortgagee under the Ship Mortgage Act, 1920. When the Maritime Administration was called upon to honor its guarantee or insurance obligations under title XI of the Merchant Marine Act, 1936 (Title XI) on vessels owned by a bankrupt, it could not be restrained by a bankruptcy court from foreclosing on its preferred ship mortgage and recovering amounts paid out. As a result of the elimination of the provision, the Maritime Administration will not be able to recover losses in a bankruptcy situation within a relatively short time period. Instead, it will have to go through lengthy bankruptcy proceedings.

Restoring the previous provisions of 11 USC § 1103, as provided by the draft bill, is of crucial importance to the Title XI program, and will comport with the intent of Public Law 95-598. The Title XI program is a self-sustaining program, with both guarantees or insurance and expenses being paid out of the receipts of a revolving fund, the Federal Ship Financing Fund (Fund), established pursuant to Title XI. The Fund held $70,775,476.35 in liquid assets on December 31, 1978. Guarantees or mortgage insurance outstanding at that time totalled more than five billion, two hundred million dollars, with more than five hundred million dollars committed to be guaranteed in the future. As of June 30, 1978, there were 4,717 vessels of U.S. registry subject to Title XI financing. The total principal authorized to be guaranteed or insured is ten billion dollars, a small portion of which is allocated by the Secretary of Commerce to the National Oceanic and Atmospheric Administration for a Title XI program relating to fishing vessels.

Payments of insurance or guarantees by the Maritime Administration under Title XI as a result of shipowner defaults are required by law to be made in cash from the Fund within 30 days of demand. If the Maritime Administration pays a claim from the Fund and cannot proceed against the mortgage security then the liquidity of the Fund would be in jeopardy. The tremendous increase in the cost of ships in recent years means that it would take far fewer bankruptcies to exhaust the Fund today than in prior years.

If the liquidity of the Fund were reduced to the point that it could not respond in cash within 30 days of a demand for payment, the Maritime Administration would have to borrow from the United States Treasury to replenish the Fund. The result of prolonged borrowings from the Treasury would be to, in effect, replace the private capital invested in the merchant marine with public funds—just the situation Title XI was designed to avoid.

The elimination of the prior 11 USC § 1103 has several other ramifications contrary to the intent of the Merchant Marine Act, 1936. To the extent that otherwise viable vessels are precluded from freely engaging in trade as a result of involvement in ongoing, often exceedingly lengthy bankruptcy proceedings, they are not contributing to the United States merchant marine. If the Maritime Administration is allowed to foreclose on preferred ship mortgages while the owning company is in bankruptcy, then the ships may be withdrawn from the bankruptcy proceedings and placed back in the active service.

The Maritime Administration may now be obligated to accept cash equivalency in lieu of maintaining the security interest in the vessel. The Maritime Administration would then become an equity investor in the reconstituted bankrupt shipowner. This would be in direct conflict with the Maritime Administration's mission to promote the privately owned United States merchant marine and would be incompatible with its duties as the subsidizing agent for the United States merchant marine.

The proposed legislation would restore language similar to that of 11 USC § 1103, as it was prior to the enactment of P.L. 95-598, to the bankruptcy code.

Enactment of the draft legislation would not require any additional appropriations.●

By Mr. CANNON (by request):

S. 1452. A bill to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, I introduce today, at the request of the Secretary of Commerce, a bill to extend the provisions of title XII of the Merchant Marine Act, 1936. relating to war risk insurance.

I ask unanimous consent that text of the bill, the letter of transmittal and the statement of purpose and need of the legislation be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title XII of the Merchant Marine Act, 1936 (46 U.S.C. 1281 et seq.), is amended by striking section 1214.

The Secretary of Commerce,
Washington, D.C. June 11, 1979.

Hon. Walter F. Mondale,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed are six copies of a bill "to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance," together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this legislation to the Congress from the standpoint of the Administration's program.

Sincerely,

Juanita M. Kreps,
Secretary of Commerce.

Enclosures.

Statement of Purpose and Need

The draft bill would extend permanently the life of title XII of the Merchant Marine Act, 1936 (46 U.S.C. 1281-1294). Section 1214 of the Act, pursuant to amendment by P.L. 94-523 (90 Stat. 2474), now provides that the authority under that title shall expire on September 30, 1979.

Title XII authorizes the Secretary of Commerce (Secretary), with the approval of the President, to provide insurance against loss or damage by war risks with respect to vessels, cargoes, crew life and personal effects, and liabilities related to ownership or operation of the vessels, when commercial insurance cannot be obtained on reasonable terms and conditions. The purpose of title XII is to maintain the flow of the U.S. waterborne commerce, including the maintenance of essential transportation services for the Department of Defense. War risk insurance was provided by the Government in both World War I and World War II, and proved effective in protecting the civilian and military commerce of the United States, with total premium receipts in excess of losses paid.

Title XII of the Merchant Marine Act, 1936, was enacted with the outbreak of the Korean War in 1950. It was temporary legislation that expired in five years. Past extensions of the title XII authority had been for five year periods, expiring on September 7 of each fifth year. The last extension was for three years, terminating on the date corresponding to the end of the new fiscal year established by the Congressional Budget and Impoundment Control Act of 1974.

War risk protection has been provided through the issuance, for a fee, of interim binders under which Government war risk insurance will attach immediately when commercial war risk insurance terminates under the automatic termination clauses in the commercial policies. These clauses provide that such insurance will terminate immediately upon (a) the outbreak of war (whether there is a declaration of war or not) between any of the following countries: the United States of America, the United Kingdom, France, the Union of Soviet

Socialist Republics, and the Peoples Republic of China; or (b) the occurrence of any hostile detonation of any nuclear weapon of war, whether or not the covered vessel is involved. Our binders give back-to-back coverage with the commercial policies. The war risk insurance coverage under the binders ends 30 days after it attaches. At that time, the premiums for coverage during that period would be fixed retroactively, and terms for the continuation of war risk insurance coverage for the ensuing period would be determined on the basis of the circumstances existing at that time.

Section 1203(a) of the 1936 Act authorizes the Secretary to provide insurance not only to American vessels, but also to "foreign-flag vessels owned by citizens of the United States or engaged in transportation in the waterborne commerce of the United States or in such other transportation by water or such other services as may be deemed by the Secretary to be in the interest of the national defense or the national economy of the United States when so engaged." Public Law 94–523 (90 Stat. 2474), which reinstated the authority of the Secretary to issue war risk insurance until September 30, 1979, also amended this section to require that the Secretary consider specified general criteria in determining whether to issue war risk insurance to foreign-flag vessels. It provided further that all American and foreign-flag vessels with such insurance coverage shall be subject to vessel location reporting requirements as the Secretary may establish by regulation.

The Maritime Administration has developed criteria for eligibility of foreign-flag vessels, including types, tonnages, speed, and age. These criteria have been set forth in regulations published in the FEDERAL REGISTER on November 20, 1978. These regulations also include vessel location reporting requirements.

Enactment of this legislation would require no additional appropriations.●

By Mr. CANNON (by request):

S. 1453. A bill to amend section 502(a) of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, I introduce today, at the request of the Secretary of Commerce, a bill to amend section 502(a) of the Merchant Marine Act, 1936.

I ask unanimous consent that the text of the bill, the letter of transmittal and the statement of purpose and need of the legislation be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third sentence of section 502(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1152(a)), is amended by striking the words ", at any time prior to June 30, 1979,".

THE SECRETARY OF COMMERCE,
Washington, D.C., June 11, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of the bill "to amend section 502(a) of the Merchant Marine Act, 1936," together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this legislation to the Congress from the standpoint of the Administration's program.

Sincerely,

JUANITA M. KREPS,
Secretary of Commerce.

Enclosures.

STATEMENT OF PURPOSE AND NEED

Section 505 of the Merchant Marine Act, 1936, provides that all vessel construction in respect to which a construction-differential subsidy is allowed shall be performed as a result of competitive bidding. This provision was in the 1936 Act prior to the enactment of the Merchant Marine Act of 1970. One of the purposes of the 1970 Act was to bring the shipyards into the design work on vessels so as to achieve economies of production. Since a shipyard is basically in the construction, not the design business, it could not be expected to develop a design at its own expense if it could not be assured of being awarded the related construction contract. It was, therefore, necessary to provide a means whereby the designing yard was not required to submit its design to competitive bidding at which it could not be certain that it would be the lowest responsible bidder.

The 1970 Act, therefore, included an amendment to section 502(a) of the 1936 Act authorizing the Secretary of Commerce, under certain conditions, notwithstanding the provisions of section 505 of the 1936 Act, at any time prior to June 30, 1973, to accept, for purposes of computing construction-differential subsidy, a price for construction of a ship that has been negotiated between a shipbuilder and a proposed ship purchaser.

Under section 502 of the 1936 Act, the Secretary is authorized to contract with a shipyard for construction of the vessel and concurrently to contract with the proposed ship purchaser for sale of the vessel upon its completion at the estimated cost of construction less construction-differential subsidy, if he determines that such purchaser possesses the ability, experience, financial resources and other qualifications necessary for the operation and maintenance of the vessel. This section has not been used since private financing became a viable means of constructig vessels with title XI aid in 1954. The provisions of this section with respect to negotiation, however, are incorporated by reference in section 504 of the 1936 Act, under which the Secretary agrees to pay the shipyard the construction-differential subsidy and the ship purchaser agrees to pay the shipyard the balance of the construction cost. Since 1954, all vessels with respect to which construction-differerential subsidy has been paid have been built under section 504.

P.L. 93–71 extended the negotiating authority under section 502 and 504 to June 30, 1976. P.L. 94–372 further extended this authority to June 30, 1979.

The conditions under which the negotiating authority under section 502 and 504 may be utilized until June 30, 1979, are if (1) the proposed ship purchaser and the shipyard submit backup cost details and evidence that the price is fair and reasonable, (2) the Secretary of Commerce finds that the price is fair and reasonable, and (3) the shipyard agrees that the Comptroller General of the United States shall, until 3 years after final payment, have the right to examine any pertinent books, documents, or records of the shipyard or its subcontractors related to the negotiation or performance of the contract. These conditions with respect to negotiating were imposed by the Merchant Marine Act of 1970, were continued by each of the extensions of this authority and will be continued on a permanent basis by the draft bill.

Throughout the shipbuilding world, negotiated pricing is the method used for contracting for the construction of ships. Negotiated pricing facilitates marketing endeavors by shipbuilders to produce standard ships and avoids the building of custom made ships which is promoted by competitive bidding.

The history of negotiated pricing since its enactment in 1970 demonstrates the significance of this provision for shipbuilding in the United States. Of the 80 vessels for which construction-differential subsidy has been awarded since 1970, 78 were the subject of negotiated prices.

Enactment of this legislation requires no additional appropriations.●

By Mr. CANNON (for himself and Mr. MAGNUSON (by request):

S. 1454. A bill to amend the Act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, I introduce today, at the request of the Secretary of Commerce, and on behalf of myself and my colleague, Mr. MAGNUSON, a bill to amend the Act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code.

I ask unanimous consent that the text of the bill, the letter of transmittal, and the statement of purpose and need be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1454

Be it encted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 3(a) of the Act of August 10, 1956, as amended (70A Stat. 619) (33 U.S.C. 857a(a)), is amended by adding at the end thereof the following new paragraph:

"(13) Section 716, Commissioned officers: transfers between armed forces.".

SEC. 2. Section 716 of title 10, United States Code is amended—

(1) by inserting the words "or the Commissioned Corps of the National Oceanic and Atmospheric Administration" after the term "armed force" wherever it appears in the first sentence;

(2) in the second sentence, by striking out the word "and" after the word "Defense" and inserting in place thereof a comma, and by inserting after the word "operating" the words ", and the Secretary of Commerce"; and

(3) inserting the following sentence at the end thereof; "An officer transferred under this section shall be credited for retirement and pay purposes with the same years of service with which he had been credited on the day before his transfer.".

SEC. 3. Section 1006 of title 37, United States Code, is amended by inserting the following sentence at the end of subsection (a): "For the purpose of this section the term "armed force includes the Commissioned Corps of the National Oceanic and Atmospheric Administration.".

SEC. 4. Title 5, United States Code, is amended as follows:

(1) Clause (1)(B) of section 8501 is amended to read "(B) as a member of the

armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;" and

(2) Clause (a) (1) of section 8521 is amended by inserting the phrase "or the Commissioned Corps of the National Oceanic and Atmospheric Administration" after the phrase "armed forces.".

SECRETARY OF COMMERCE,
Washington, D.C., May 14, 1979.
Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a bill

"To amend the Act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code.",

together with a statement of purpose and need in support thereof.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of this legislation to the Congress from the standpoint of the Administration's program.

Sincerely,

ELSA A. PORTER,
Acting Secretary of Commerce.

Enclosures.

STATEMENT OF PURPOSE AND NEED

The purpose of sections 1, 2, and 3 of this bill is to permit the permanent voluntary transer of commissioned officers between the military services of the Department of Defense (DOD), the National Oceanic and Atmospheric Administration (NOAA), and the Coast Guard when authorized by the Secretaries concerned. Such interservice transfers have been authorized between the military services since August 6, 1958, and between them and the Coast Guard since September 1, 1970. The authority would be expanded by this bill to include commissioned officers of NOAA.

The varying requirements of the military services, the Coast Guard, and NOAA, with regard to officer qualifications and organization strength, result in excesses and shortages of officers in various grades and skills. It is a distinct advantage to the Government to be able to transfer officers between services to best utilize the total manpower resource. There is increased emphasis on expanding the civil economy. In conjunction with U.S. efforts in marine and atmospheric sciences and engineering, there is a continuing need for expertise in the NOAA Commissioned Officer Corps.

This bill will serve to accommodate the varying needs of the services as well as afford individual officers an opportunity to continue a uniformed service career when their original organization can no longer effectively utilize their skills. In addition to satisfying the needs of the Government, this will aid in improving morale by providing lateral career choices among the uniformed services, thus expanding the sphere within which an officer can serve.

At the present time, if an officer of the armed forces desires to transfer to the NOAA Commissioned Corps, he must resign his commission and seek a new commission in NOAA. Although several officers have taken this course, full utilization of "surplus" armed forces officers has not been possible because NOAA's statutory authority limits appointments to the lowest three grades. Unfortunately, officers in grades higher than lieutenant are thus dissuaded from such a transfer. This bill would effectively remove such a restriction and permit the lateral transfer of officers at any grade. Permanent transfer of NOAA officers to the armed forces is similarly obstructed under existing law. Resignation, followed by appointment to the new service in the lower grades, is the only course now open.

Presently, there are many highly trained officers such as oceanographers, hydrographers, geophysicists, and meteorologists, who leave the armed forces for various reasons and whose talents are, therefore, lost to the Government. NOAA's growing need for such talent in marine and atmospheric programs could be augmented by transfer of these officers, and at the same time, such transfers would utilize the extensive and valuable training acquired by these officers at Government expense.

Under existing law (33 U.S.C. 855), officers of NOAA are subject to transfer to military services in time of national emergency. Such transfer is temporary and is confined to the period of the emergency. The law further requires (33 U.S.C. 858) that the Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations for the cooperation of NOAA with the military departments in time of peace in preparation for its duties in war. Enactment of this bill would enhance existing law because the transfer of armed forces officers to NOAA would permit their retention on active duty in a capacity that would insure their availability for military duties if future national requirements so dictated.

Section 1 would amend section 3(a) of the Act of August 10, 1956, as amended (33 U.S.C. 857a(a)), to add section 716 of title 10, United States Code, to the list of those provisions of title 10 which have been statutorily assimilated to the Commissioned Corps of the National Oceanic and Atmospheric Administration. This amendment would permit the voluntary permanent transfer of commissioned officers between the armed forces and NOAA when it is advantageous to the Government.

Section 716 of title 10, United States Code, authorizes the President to transfer, within authorized strengths, any commissioned officer with his consent from his armed force to another armed force. It provides further that any officer so transferred may not be assigned precedence or relative rank higher than that which he held on the day before his transfer.

Section 2 would make technical amendments to section 716 of title 10, United States Code, to provide for the permanent voluntary transfer of commissioned officers between the armed forces and NOAA and would insure that an officer transferred between the armed forces and NOAA would not lose years of service credit for pay and retirement purposes as a result of such transfer.

Section 3 would authorize advance payments to members of the Commissioned Corps of NOAA under the same conditions such advance payments are presently authorized for members of the armed forces.

Under the current provisions of section 1006 of title 37, the authority to make advance payments applies only to members of the armed forces.

The purpose of these advance payments is to provide a member with funds to meet extraordinary expenses incident to a change of permanent station, when on duty at a distant station where pay and emoluments to which he is entitled cannot be disbursed regularly, or when his dependents are ordered evacuated from a place by competent authority.

Since members of the Commissioned Corps of NOAA are subject to the same extraordinary expense in the situation described, this legislation would extend the authority to make advance payments to them under similar circumstances.

Under the provisions of section 1006, title 37, advance payment regulations of the "Secretary concerned" would be uniform and consistent with those approved by the Secretary of Defense.

Section 4 of the bill is needed because under the current provisions of Chapter 85, title 5 of the United States Code, an officer of the Commissioned Corps of NOAA, coming within the definition of "Federal employees," may qualify for unemployment compensation after discharge or release from active service only in the state in which he was last assigned to duty.

Subchapter II of chapter 85, title 5 of the United States Code, recognizing that a member of the armed forces rotates from one assignment and geographical location to another during active service, provides that such members may qualify for unemployment compensation in any state in which he first files a claim after separation from active service. This portion of the bill would extend this authority to the Commissioned Officers of NOAA.

The existing law is inequitable because commissioned officers of NOAA are subject to assignment rotation similar to members of the armed forces and it would be mere happenstance should a commissioned officer of NOAA be separated from active service in his "home" state.

This situation is recognized in title 37 of the United States Code which authorizes travel and transportation allowances for all members of the uniformed services to the place from which ordered to active duty, home of record, or home of selection, depending on the type of separation.

This legislation would amend sections 8501 and 8521 of title 5 so as to treat officers of NOAA the same as officers of the armed forces for purposes of unemployment compensation.

Enactment of this legislation would require no additional appropriations.●

By Mr. INOUYE:

S. 1457. A bill to amend the Merchant Marine Act, 1936, to further promote the development of the U.S. dry bulk fleet, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1458. A bill to further the development and maintenance of an adequate and well-balanced American merchant marine by requiring that certain mail of the United States be carried on vessels of U.S. registry; to the Committee on Commerce, Science, and Transportation.

S. 1459. A bill to amend section 502 of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

S. 1460. A bill to amend the Shipping Act, 1916, to clarify and improve the provisions related to cooperative activity among common carriers by water, to permit the establishment of shipper's councils, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1461. A bill to increase the role of the Secretary of Commerce in administering section 901 of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

S. 1462. A bill to amend the Shipping Act, 1916, and the Merchant Marine Act, 1936, to promote comity with U.S. trading partners, and to encourage certain maritime agreements in the foreign commerce of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1463. A bill to amend the Shipping Act, 1916, to improve the efficiency service, and organization of common carriers by water in foreign commerce, to extend existing antitrust law exceptions to intermodal transportation agreements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

● Mr. INOUYE. Mr. President, the promotional part of our national shipping policy is intended to establish and maintain a strong merchant fleet built and owned by American citizens, operated by American crews, and fully capable of serving our international economic, military and political commitments under all foreseeable circumstances. It recognizes that even in times of peace, economic and political tensions and other unforeseen contingencies may seriously disrupt or distort traditional patterns of commercial intercourse on international trade routes. As such it reflects the realization that an international power such as the United States cannot be dependent upon ocean transportation media owing allegiance to alien flags without threatening its national security. It also recognizes that a strong merchant fleet is essential to our national defense.

These objectives are not being achieved, however. A brief review of the state of our merchant fleet, the extent to which it is participating in our waterborne foreign commerce, the state of our shipbuilding industry, and the present capability of our merchant marine to serve as a fourth arm of defense, should indicate why.

Status of the active fleet. Our current active merchant fleet as of March 1979, consisted of the following:

U.S. OCEANGOING MERCHANT MARINE, MAR. 1, 1979

[Tonnage in thousands]

	Privately owned			Government owned			Total		
	Number of ships	Gross tons	Deadweight tons	Number of ships	Gross tons	Deadweight tons	Number of ships	Gross tons	Deadweight tons
Active fleet:									
Combo pass/cargo	4	45	37	5	56	38	9	101	75
Freighters	109	1, 216	1, 515	18	157	200	127	1, 373	1, 715
Bulk carriers	15	270	484	0	0	0	15	270	484
Tankers	257	6, 712	12, 791	2	14	21	259	6, 726	12, 811
Intermodal	129	2, 521	2, 572	0	0	0	129	2, 521	2, 572
Tug/barge	8	126	242	0	0	0	8	126	242
LNG	7	556	469	0	0	0	7	556	469
Total active fleet	529	11, 444	18, 110	25	228	259	554	11, 672	18, 386

As indicated by the following table this represents a considerable decrease in the number of ships since 1960.

U.S. OCEANGOING MERCHANT MARINE, DEC. 31, 1960

[Tonnage in thousands]

	Privately owned		Government owned			
	Ships	Deadweight tons	Ships	Deadweight tons	Ships	Total deadweight tons
Active Fleet						
Combo pass/cargo	30	228	2	13	32	281
Freighters	539	5, 851	32	309	571	6, 160
Bulk carriers	51	742	0	0	51	742
Tankers	293	6, 085	0	0	293	6, 085
Intermodal	10	77	0	0	10	77
Total active fleet	932	13, 023	34	322	957	13, 345

Moreover, according to the following statistics furnished by MarAd, about 72 percent of the tankers and approximately 34 percent of the freighters in the current fleet are involved in Jones Act coastal trade.

JONES ACT SHIPS IN THE PRIVATELY OWNED U.S. OCEANGOING MERCHANT MARINE, MAR. 1, 1979

[Tonnage in thousands]

	Number of ships	Deadweight tons
Bulk carriers	4	102
Tankers	179	6, 677
Intermodal	38	541
Tug/barge	6	95

The National Maritime Council further told my Merchant Marine Subcommittee that in addition, 71 ships are primarily employed in U.S. Agency Operations (MSC or Public Law 480 break-bulk charter). Leaving the United States with approximately 255 ships that are eligible for participation in ocean-going, international commerce.

The state of our merchant fleet is perhaps best illustrated in terms of its size vis-a-vis other major merchant fleets of the world. At the end of 1960, our privately owned fleet was the fourth largest in the world in terms of the number of ships and deadweight tons. According to the latest statistics released by MarAd, as of June 30, 1977, the United States ranked 10th in both categories.

MAJOR MERCHANT FLEETS OF THE WORLD—JUNE 30, 1977

Country	Number of ships	Rank by number ships	Deadweight tons (thousands)	Rank by deadweight tons
Liberia	2, 722	1	154, 292	1
Japan	2, 097	3	67, 837	2
United Kingdom	1, 526	6	56, 012	3
Norway	1, 003	7	51, 946	4
Greece	1, 969	4	41, 617	5
Panama	1, 699	5	26, 385	6
France	461	15	20, 660	7
U.S.S.R	2, 439	2	19, 754	8
Italy	627	9	17, 805	9
United States (privately owned)	577	10	16, 520	10
Germany (West)	562	8	15, 124	11
Sweden	335		14, 204	12
Spain	481	13	10, 919	13
Singapore	485	12	10, 012	14
Denmark	374		8, 514	15
All others	6, 455		95, 114	

I also wish to note that in 1970 there were 19 U.S.-flag liner companies, whereas only 10 are operating today. Within the last year, two companies—Pacific Far East Lines and States Steamship Co.—have gone into bankruptcy.

In remarks at the United States and International Shipping Conference on March 28, 1979, then Assistant Secretary of Commerce for Maritime Affairs, Robert J. Blackwell, made the following assessment of the U.S. merchant fleet:

> Tankers: U.S.-flag tanker carriage of our oil imports is near an all time low.
>
> Dry-bulk vessels: . . . dry bulk cargoes now comprise nearly 40 percent of this Nation's foreign trade, and are projected to nearly double by the turn of the century.
>
> The fact that less than 2 percent of this trade is moved in American-flag vessels is explained by the fact that our dry-bulk fleet consists of only 19 vessels averaging over 25 years of age—four of which are in lay-up. As a point of reference, there are some 5,000 dry-bulk vessels in the world fleet.
>
> In addition, the high degree of obsolescence of our dry-bulkers will put most of them in the hands of scrap breakers before very long.
>
> Liner shipping: . . . overtonnaging, rate-cutting, rebating and proliferation of government-owned carriers in our liner trades are jeopardizing the $6 billion-plus investments represented in the ships, containers, barges, terminal facilities and other equipment of American-flag liner companies.
>
> Yet, even within the government, conflicting, and often opposing, views have thwarted resolute steps of action from being taken to restore stability to our trades.

Second. U.S.-flag participation in U.S. waterborne foreign commerce. Statistics indicate that U.S.-flag participation in our waterborne foreign commerce is not only substantially below the level prescribed by the Merchant Marine Act of 1936, as amended, it is also much lower than the participation of other nations in their national waterborne trade.

As against the 4 percent of total U.S. trade carried by American-flag ships, the Soviet fleet carries about 50 percent of Russia's foreign trade; about 40 percent of Japan's foreign trade is carried on its national-flag vessels; the Greek-flag carries about 45 percent of its international waterborne commerce; for Norway and Spain the amount is 37 percent; Great Britain, 34 percent; and West Germany and France, 30 percent.

The results of a trade forecast study, released by the Maritime Administration last year indicate that in 1978 our waterborne imports accounted for 62 percent of this trade tonnage, with petroleum and metallic ores the leading commodities. Of our total trade 55 percent moved in tankers, 30 percent in nonliner vessels, and 6 percent in liners. As indicated, U.S.-flag carriage only accounted for about 4 percent of the total 819 million tons which were moved. By ship category the U.S. share breaks down as follows:

Three percent of the volume of the tanker cargo.

Less than 2 percent of the 315 million tons of dry-bulk cargo.

And 33.6 percent of the liner tonnage. That figure is reduced to about 24.9 percent when Government-impelled cargo is excluded, however.

Third. Status of U.S. shipbuilding and repair industry. Our national policy commitment to the maintenance of "efficient facilities for shipbuilding and ship repair" is also in jeopardy because of the serious threat to the stability of the U.S. shipbuilding industry.

According to the Shipbuilders Council of America, the active U.S. shipbuilding industrial base currently is comprised of 26 major shipyards. Ten of those yards are now engaged in the construction of naval vessels, four of which are also building merchant ships. A total of 13 shipyards are engaged in the construction of oceangoing or Great Lakes merchant ships. Under presently projected workloads the Shipbuilders Council estimates the number of yards building naval ships will drop to six, and no more than three additional yards will be sustained by the anticipated market opportunities for merchant ship construction. The Council predicts that no more than eight or nine shipyards will hold major shipbuilding contracts in 1984.

MarAd informed my subcommittee that although 11 construction-differential subsidy (CDS) contracts have been awarded for the construction of 26 new ships in the last 2½ years, this has not been sufficient to offset the severe impact of the slump in CDS contracting during the 23 months prior to June 1976, when there was no effective construction contracting. The overall shipbuilding orderbook backlog has diminished in spite of the recent contracting. Currently five of the shipyards that have been CDS contractors since the 1970 act require contracts for new vessels immediately in order to maintain an adequate backlog for available facilities and manpower.

MarAd further said that even with CDS funding, it is likely that several U.S. shipyards will go out of business within the next few years of anticipated low-level contracting for new U.S.-built ships. Nevertheless, CDS can help minimize the erosion of the shipbuilding mobilization base.

The situation has been exacerbated by the drastic lowering of foreign ship prices—in some cases apparently below actual construction costs—in the wake of the worldwide shipbuilding depression which followed the 1973-74 oil embargo, according to MarAd. Most major shipbuilding nations have intervened directly to help secure export orders, provide shipbuilding subsidies and restructure the industries to help them recover their economic health.

Fourth, present capability of the industry as a fourth arm of defense. Inasmuch as the United States is self-sufficient in only 3 of 71 strategic materials essential to our national defense, and when the role of the U.S. merchant fleet is considered in the historical context of our country's involvements and commitments throughout the world since the beginning of World War II, the foregoing assessments of U.S. ship operation and building become especially alarming. Many have expressed concern over the fleet's ability to serve "as a naval and military auxiliary in time of war or national emergency," as a consequence.

In World War II, U.S. shipping and production in American shipyards were major factors in turning the tide of victory against the Axis powers. This was publicly acknowledged by General Eisenhower when he was Supreme Commander of the forces in Europe. Today in the event of a NATO wartime contingency, the United States would have access to the shipping resources of its NATO allies. In the event of other threats to our national security which do not involve our NATO allies, however, it is doubtful whether their resources would be available to us. For example, during the October 1973 Middle East war, our NATO allies did not give us landing rights for military aircraft, let alone shipping support because such cooperation would have offended the Arab nations upon whom they were depending for energy supplies. The Vietnam war was another conflict in which the United States could not rely on NATO shipping for support. In fact, many of these allies denounced our military operations in that country, and the U.S. merchant marine provided the sealift nearly singlehandedly.

Further, a Navy/MarAd study completed in 1977 and updated in 1978 indicates that the current U.S. shipbuilding mobilization base of between 60 and 70 construction and repair yards would be only marginally adequate to meet U.S. needs in a short NATO war and would require augmentation in a long war. According to MarAd the shipyard requirement is sensitive to the level of wartime ship loss and damage, and the study will be updated again this year to reflect new Navy estimates of the ship loss and damage to be expected in a NATO war.

MarAd also informed my subcommittee that approximately 20 percent of the capacity in the construction yards is now supported by CDS work, and there can be no assurance in a NATO war that European or Japanese shipyards would be available. It is probable, the agency said, that many European yards would be in, or close to, the NATO combat zone and all European yards would be vulnerable to enemy air attack. Thus the European yards represent an uncertain resource at best. The status of Japan is also uncertain. If Japan were a neutral in a NATO war it is not clear that that country would be in a position to support a U.S. war effort. Furthermore Japanese yards are too far removed from the United States and the NATO theater to be of much—if any—help with the ship activation and damage repair tasks that would constitute most of the shipyard workload in a short war.

Significantly, MarAd believes that "a policy of dependence on foreign shipyard in wartime would be highly questionable."

Recently, the Secretary of the Navy, W. Graham Claytor, Jr., in testimony before the House Armed Services Committee summed up the state of our merchant marine and its capability to serve as the Nation's fourth arm of defense. Secretary Claytor said:

> Maritime superiority is not a matter of naval strength alone. Much too often overlooked or neglected is the merchant marine's vital role in our national security. The U.S. merchant marine is, by any measure, stagnating, and the commercial shipbuilding outlook is highly pessimistic. This is not a satisfactory state of affairs . . . There is absolutely no doubt that continued erosion of our merchant fleet, and its supporting shipbuilding industry and labor force, is going to weaken our national defense. We must find the means to keep our maritime industry alive and well.

The assessment of our efforts to implement the promotional aspect of our national maritime policy which appeared in the June 16, 1978, edition of the British publication Marine Week regrettably sums up the situation all too accurately, in my judgment. Marine Week said:

> The U.S., as the world's largest trading nation, not only lacks a merchant fleet commensurate with [its] true requirements but will shortly lack the means to achieve it.

Mr. President, the other part of our shipping policy, the regulatory part, is embodied in the Shipping Act, 1916. It is aimed at preserving competition in our international liner trades by requiring that all carriers operating in them compete with one another openly and fairly.

Congress intended that this policy be implemented by the Federal Maritime Commission which has exclusive responsibility for administering the Shipping Act of 1916.

Among other things, the FMC is charged with guarding against unauthorized monopoly in the waterborne commerce of the United States and assuring that America's international trade is open to all nations on fair and equitable terms, without undue prejudice and unjust discrimination.

The agency thus protects the interests of exporters and importers by maintaining surveillance over steamship conferences and common carriers by water; by assuring that a common carrier charges only the rate on file with the Commission and does not operate under an unapproved agreement with another carrier or person subject to the Shipping Act; and by guaranteeing equal treatment to shippers and carriers by terminal operators and freight forwarders as well as other persons subject to the shipping statutes.

Section 15 is the heart of the Shipping Act. It expressly authorizes the FMC to approve agreements for economic cooperation among carriers operating in our international liner trades. Once these agreements are filed and approved they are immunized from the impact of our antitrust laws.

Congress found it necessary to immunize these anticompetitive agreements from the antitrust laws to secure, among others, the following advantages in our liner trades:

Regularity and dependability of service

Extended periods of stable rates
Uniformity of rates to all shippers
Reasonable rates.

Almost 70 years ago, the Alexander committee concluded that open competition in our liner trades could not be assured for any length of time unless such agreements were permitted to continue. The committee explained that—

> The entire history of steamship agreements shows that in ocean commerce there is no happy medium between war and peace when several lines engage in the same trade. Most of the numerous agreements and conference arrangements . . . were the outcome of rate wars, and represent a truce between the contending lines. To terminate existing agreements would necessarily bring about one of two results; the lines would either engage in rate wars which would mean the elimination of the weak and the survival of the strong, or, to avoid a costly struggle, they would consolidate through common ownership.

Section 15 thus attempts to assure that the shipping public receives the benefits of competition and the benefits of the conference system.

How well this scheme has worked in practice is, I believe, illustrated by Mr. Blackwell's assessment that our liner trades are highly unstable because of overtonnaging, rate cutting, and illegal rebating; the opinion of the FMC Chairman that the Department of Justice does not regard the Shipping Act, 1916, as the law of the land as evidenced by the fact that DOJ has consistently opposed all agreements for conference control of ocean freight rates and practices for which carriers have sought FMC approval as required by section 15; and expert testimony before my subcommittee that there is no future for the liner segment of our fleet if the present chaos, which has been created in large part as a result of the administrative and judicial effect given antitrust principles and laws in relation to section 15, continues.

Mr. President, to remedy this deplorable and totally unacceptable threat to the liner segment of our merchant fleet and our liner trades many, including myself, believe we must immediately undertake legislative action. Our options, in this regard, it seems to me, are two.

Legislatively restore and update the primacy of the Shipping Act vis-a-vis our antitrust laws and principles in ocean commerce.

Or, amend our shipping laws to bring them more in conformity with the laws and practices of the other developed maritime nations as much as reasonably possible within the framework of our own laws and values.

Briefly, I would like to discuss some of the considerations underlying each of these options.

First. Restore and update the primacy of the Shipping Act vis-a-vis our antitrust laws and principles in ocean commerce. Prior to the 1961 amendments to the Shipping Act agreements among carriers were considered to be exempt from the antitrust laws. Those amendments, as subsequently interpreted by the Supreme Court in *Carnation Company* v. *Pacific Westbound Conference*, 383 U.S. 213 (1966), and *Federal Maritime Commission* v. *Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968), brought shipping matters under those laws. To what extent Carnation, Svenska, and their progeny have done so is still uncertain, however.

Although the boundaries between the Shipping Act and our antitrust laws are confusing, clearly the commercial standards which Congress intended to control the approvability of section 15 agreements are now in practice outweighed by the standards of our antitrust laws.

Further exacerbating this situation are the consistent, formal efforts of the Justice Department urging the FMC that more and more types of concerted activities by carriers conflict with the antitrust laws, and also urging a narrower scope of commercial circumstances warranting approval where such conflict exists. As the Chairman of the FMC testified, the Department has consistently opposed all agreements for conference control of ocean freight rates and practices for which carriers have sought Commission approval. In view of the court of appeals ruling in the *Marine Space Enclosures* case (420 F. 2d 577 (D.C. Cir. 1969)) requiring that all but the most frivolous protests to section 15 agreements are entitled to a hearing before approval, the Department's formal protests cause carriers to abandon the vast majority of major section 15 proposals they file with the FMC for approval.

In other words the very kinds of agreements Congress found necessary to promote the viability and stability of our liner trades and provided for accordingly in section 15 of the Shipping Act, are, as a practical matter, not possible because the law of the land has been overridden by judicial fiat and administrative action.

In this regard, I would anticipate those who disagree on the grounds that by inaction Congress agrees with what the courts and the agencies have done. As the Supreme Court has told us:

> It is at best treacherous to find in Congressional silence alone the adoption of a controlling rule of law. (*Girouard* v. *United States*, 328 U.S. 61, 69)

The confusion and attendant frustration caused by the emergence and predominance of antitrust considerations in adjudicating and administering section 15 of the Shipping Act is in and of itself sufficiently grave. The situation is further compounded, however, by repeated efforts of the Department of Justice to apply the antitrust laws directly to the shipping industry. Again made possible chiefly through judicial not legislative action.

Section 15 has never expressly declared whether failure to file and obtain approval of agreements was a matter for the agency to deal with under the Shipping Act, or whether the courts had jurisdiction under the antitrust laws. Nevertheless, as I have said, it appears that between enactment of the Shipping Act, 1916, and the 1961 amendments to that act, the Supreme Court and the lower courts consistently immunized Shipping Act matters from the antitrust laws, whether or not a section 15 agreement covering such matters had been approved.

That was all changed, of course, by the Supreme Court in the Carnation case. As a consequence of that case and its progeny, antitrust laws now have a direct impact upon the shipping industry because conduct not clearly and lawfully within the scope of FMC approved agreements is governed by them.

At the same time the Supreme Court was expanding the reach of the antitrust laws over shipping in the Carnation case, the FMC adopted a more restrictive reading of what activity was encompassed within an approved agreement, and therefore exempt from the antitrust laws.

As many liner conference members and their executives have discovered to their sorrow, they must make the difficult decision between activities inside and outside their approved agreements at their peril. Should they decide incorrectly, their violation of the antitrust laws is, among other things, a felony punishable by up to 3 years in prison per count, a fine of $100,000 for individuals per count, and a fine of $1,000,000 for corporations per count.

The recent indictment of 7 liner companies and 13 of their executives is the inevitable and most serious consequence of the judicial and administrative actions which reversed the 1916 statutory scheme to immunize shipping matters from the antitrust laws. Such a result must inevitably have an additional chilling effect on agreements among carriers and therefore further unsettle our trades.

Mr. President, the Department of Justice's two-pronged antitrust assault on our shipping laws is consistent with its expressed determination to change the present regulatory system which Congress has found necessary. In its 1977 report, "The Regulated Ocean Shipping Industry," the Department urged repeal of the antitrust exemption for ocean carriers, or failing that, a number of alternatives all adding up to more antitrust regulation.

It is against this background, including the 1961 amendments which interposed the Sherman Act as a threshold obstacle to approvability of section 15 agreements, that I believe Congress should consider, as an option for reestablishing the vitality of our liner fleet and the stability of our trades, restoring and updating the primacy of the Shipping Act vis-a-vis our antitrust laws.

Second, amend our shipping laws to bring them more in conformity with the laws and practices of the other developed maritime nations. Generally, liner shipping throughout the world is organized through conferences which are associations of shipping companies.

Except for conferences which are formed to operate in the U.S. liner trades, these associations are quite restrictive and are usually closed to outside carriers.

The members make their own decisions as to whether other carriers should be admitted to their conference, and use a variety of devices to insure the loyalty of shippers to its members.

These conference agreements together with the tying arrangements with shippers give a conference sufficient strength to be commercially viable and durable.

Conference practices in other than the U.S. trades include: Conference agreements; rate-setting agreements; intermodal rates; pooling agreements; joint services; rationalization agreements; talking agreements; interconference agreements; dual rate contracts; and deferred rebates.

The formation of conferences in our liner trades is authorized by section 15 of the Shipping Act. These conferences and their practices differ markedly from those operating in foreign trade routes, however.

First, before a conference agreement goes into effect it must be approved by the FMC. Because the 1961 amendments to the Shipping Act have interposed the antitrust laws as a threshold obstacle to approvability of section 15 agreements the FMC's approval is so slow incoming carriers are discouraged from seeking it.

Moreover, the FMC has adopted a very restrictive approach as to what it has approved in passing on these agreements.

In effect therefore the ability to form conferences and to utilize the traditional practices which make them effective is severely limited. One such practice, deferred rebates, is prohibited absolutely under the Shipping Act.

Second, under the Shipping Act, conferences operating in our foreign trades must be "open" to all applicants desiring membership, provided they meet certain limited qualifications.

Mr. President, critics of our "open conference system" contend that it is the "worst of all possible worlds" providing few of the benefits alleged to accrue from either increased or decreased competition.

As long as our liner trades are open to any prospective entrant, they contend that overtonnaging by vessels with no incentive to provide high-quality service will continue to impede the efficiency of our ocean trade.

They also point out that the open conference system has had difficulty adapting to the major political, technological, and commercial developments of recent years, including overtonnaging, the growth of maritime nationalism, the proliferation of third-flag carriers in our trades, and the increasing incursion of state-controlled carriers.

The Council of American-flag Ship Operators (CASO) has observed that "while our open conference, easy entry posture sounds appealing to free competition theorists, it is plainly counterproductive to our merchants who need lean distribution costs to stay competitive in foreign markets [with] producers of other nations who enjoy the more economic rates that emanate from closed conferences and rationalized services provided in their trades."

Thus, in their view, current transportation strategies in the U.S. liner trades do not work to the fullest advantage of any of the principal protagonists of our commercial shipping market—shippers, carriers, or consumers. Moreover, our regulatory attitudes toward these trades represent a souce of frequent conflict between the United States and the policies of our maritime trading partners.

Since the rest of the world will continue to place restraints on competition in the liner shipping industry, those critics maintain that it may be prudent for the United States to seek shipping policies that accommodate foreign policies and practices as much as reasonably possible within the framework of our own laws and values.

Support for this view is reinforced by the imminent ratification of the United Nations Conference for Trade and Development (UNCTAD) Code of Conduct for Liner Conferences. That code when it goes into effect will provide as among the ratifying countries for closed conferences, a cargo-sharing formula, shippers' councils, a 15-month interval between rate increases, and a complex mechanism for resolution of disputes.

Even though the United States will not ratify the code, when it comes into force, it will have consequences for our trades and affect our merchant fleet. It is only prudent therefore that we be prepared to focus on the compatibility of our regulatory structure with a regime of international law.

To this end, they have suggested that the thrust of U.S. shipping policy should be to determine the most efficient way to provide ocean transportation at the lowest reasonable price with the greatest range of services.

According to them, the open conference system, not only inhibits attainment of this goal, but services as a perfect catalyst for inflation by creating low utilization rates and subsequently high freight rates. And, as a crowning touch, it promotes excessive consumption of precious fuel resources by encouraging overtonnaging and the constant deployment of excess vessels.

These critics therefore contend that the most reasonable strategy for keeping shipping rates at their lowest possible level is through the establishment of a rationalization scheme containing tonnage and revenue pooling agreements within the context of a tightly organized closed conference system.

Such a scheme would undoubtedly give conferences a dominant position in each of our trades. To assure that the conferences do not abuse their freedom to the detriment of the shipping public, the proponents of this view recognize that the formation of shippers' councils should be permitted, and that the scope and authority of the FMC's oversight capacity would have to be increased accordingly.

Mr. President, by definition the second option I have mentioned involves several fundamental changes in our present shipping laws, including those which prohibit closed conferences, and creation of shippers' councils, and interpose the antitrust laws as a threshold obstacle to approvability of agreements for economic cooperation.

Mr. President, I am not prepared to say which of the two approaches I have discussed offers the better opportunity to stabilize our liner trades and enable the U.S.-flags to compete evenly and fairly with foreign carriers in our trades. At this point it is sufficient to reiterate my support for those objectives, and to express my belief that remedial action by Congress is long overdue.

Mr. President, although I have discussed the promotional and regulatory parts of our national shipping policy separately, I do not mean to imply that they are independent of one another. To the contrary, they should be complementary.

It makes no sense whatsoever to spend hundreds of millions of dollars a year to promote our merchant fleet and shipbuilding capabilities on one hand, if, on the other, we regulate the most lucrative part of our international waterborne commerce—the liner trades—in a manner which prevents our merchant fleet from competing fairly and effectively with foreign-flags.

Conversely, it would be equally unreasonable to achieve open and fair competition in our liner trades, and assure that our merchant fleet had the opportunity to carry a substantial portion of the cargo in our foreign commerce, if there were not sufficient U.S. tonnage available to carry the cargo.

I believe therefore that the Congress must fashion a broad legislative remedy which deals with the problems afflicting the U.S. merchant marine and shipbuilding industry, and assures that all government agencies having responsibilities or programs bearing on the objectives of our national shipping policy give the consideration which Congress intends to those objectives when discharging their responsibilities and administering their programs.

Among the regulatory issues in our liner trades which we must face are those involving relations between carriers, that is, open or closed conferences, rationalization, cargo-sharing arrangements, and intermodal service; relations between shippers, that is, shipper councils, relations between carriers and shippers, that is, commercial consultations and conference loyalty arrangements, and the proper regulatory approach to deal with these mechanisms and practices.

Among the problems facing our promotional efforts is cargo allocation. U.S.-flag vessels carry less than 5 percent of our total waterborne international trade. As I have indicated, the Soviet fleet carries about 50 percent of its foreign trade; Japan, 40 percent; Greece, 45 percent; Norway and Spain, 37 percent; Great Britain, 34 percent, and West Germany and France, 30 percent.

Closely related to this issue are questions about the effectiveness of the present requirement in the Merchant Marine Act of 1936, that 50 percent of Government-sponsored cargo move on U.S.-flags; and whether the requirement that U.S. mail be carried on U.S.-flags should be reinstated.

We must also face the reality that for all practical purposes we have no dry-bulk fleet of any consequence; that it is essential in the national interest that we have one; and to that end something must be done to encourage dry-bulk construction.

Mr. President, the foregoing is by no means a definitive list of issues which I believe Congress must face and seek to resolve now. They are starting points, however.

Today, therefore, I am introducing a series of individual bills intended to address many of the problems I have mentioned. I wish to stress that these measures are intended to be catalysts so that the administration, we in the Congress, the shipping industry, and the public will proceed forthwith to seek solutions to them.

Accordingly, I neither specifically endorse any of these measures, nor any particular provisions in them. In fact, some provisions in one bill may overlap, differ, or even contradict those in another.

Shortly, my Merchant Marine Subcommittee will begin individual hearings on these bills and the problems they are intended to remedy.

Mr. President, I ask unanimous consent that the text of the bills and a section-by-section analysis of each be printed in the Record.

There being no objection, the bills and material were ordered to be printed in the Record, as follows:

S. 1457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 503 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1153), is amended by striking the second sentence thereof and inserting in lieu thereof the following: "Except for any dry bulk cargo vessel, the vessel shall remain documented under the laws of the United States for not less than 25 years, or so long as there remains due the United States any principal or interest on account of the purchase price, whichever is the longer period. If the vessel is a dry bulk cargo vessel it may be removed from documentation under the laws of the United States coincident with a sale of the vessel to a person not a citizen of the United States after 10 years of such documentation but such removal shall be upon the conditions that (1) prior to removal the owner shall pay the United States all principal or interest due the United States on account of any purchase price, and (2) the owner shall deposit into its capital construction fund the net proceeds from any sale of the vessel occurring at the time the vessel is removed from documentation under the laws of the United States. The use of such deposits to liquidate purchase money indebtedness shall be limited to purchase money indebtedness with respect to the new dry bulk cargo vessel to be constructed as required in the following sentence. Unless otherwise determined by the Secretary of Commerce, the owner shall enter into an agreement with the Secretary to contract for the construction of a new dry bulk cargo replacement vessel within 1 year after any sale of a dry bulk cargo vessel prior to the expiration of 25 years after the date of delivery of such vessel from construction. The purchaser of any vessel sold pursuant to the third sentence in this section shall enter into an agreement with the Secretary, binding upon such purchaser and any later owner of the vessel and running with title to the vessel, that the vessel will be made available to the United States in time of emergency and just compensation for title or use, as the case may be, shall be paid in accordance with section 902 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1242), without regard to section 802 thereof. The sale shall be subject to such further conditions as the Secretary imposes under sections 9, 37, and 41 of the Shipping Act, 1916".

Sec. 2. The fourth sentence of section 504 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1154), is amended to read as follows: "Such vessel shall be documented under the laws of the United States and any sale to a person not a citizen of the United States shall be subject to conditions as provided in section 503 of this title.".

Sec. 3. Section 606 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1176), is amended by inserting immediately before the period at the end thereof the following: ": *Provided,* That the operator of a dry bulk cargo vessel who receives subsidy with respect to repairs shall have an option to perform such repairs in a place other than the United States or the Commonwealth of Puerto Rico without receiving subsidy for such repairs".

Sec. 4. Section 607(b)(1)(A) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(b)(1)(A)), is amended by striking out everything after the phrase "without regard to this section)" and inserting in lieu thereof "which is attribtuable, except in the case of any dry bulk cargo vessel, to the operation of the agreement vessels in the foreign or domestic commerce of the Untied States or in the fisheries of the United States and, in the case of any dry bulk cargo vessels, attributable to the operation of such agreement vessels without regard to where they are operated,".

Sec. 5. Section 607(b)(1) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177 (b)(1)), is further amended by (1) striking the word "and" at the end of subparagraph (C), (2) striking the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and (3) by adding at the end thereof the following new subparagraphs:

"(E) if the transaction is not taken into account for purposes of subparagraph (A), that portion of the dividends includable in the gross income of the owner or lessee (computed as provided in chapter 1 of the Internal Revenue Code of 1954 but without regard to this section) with respect to the stock of any controlled foreign shipping corporation, which is attributable to the net proceeds (as defined in joint regulations) from, (i) the sale or other disposition of any agreement vessel, or (ii) insurance or indemnity attributable to any agreement vessel; and

"(F) if the transaction is not taken into account for purposes of subparagraph (A), that portion of any distribtuion other than a distribution described in subparagraph (E) with respect to the stock of a controlled foreign shipping corporation which is attributable to the net proceeds (as defined in joint regulations) from, (i) the sale or other disposition of any agreement vessel, or (ii) insurance or indemnity attributable to any agreement vessel.".

Sec. 6. Section 607(d)(1) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177 (d)(1)), is amended by (1) striking the word "and" at the end of subparagraph (D), (2) striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and (3) adding at the end thereof the following new subparagraphs:

"(F) gross income (determined without regard to this section) for the taxable year shall be reduced by an amount equal to the amount deposited for the taxable year out of amounts referred to in subsection (b)(1) (E), if an amount equal to the net proceeds (as defined in joint regulations) from the transaction to which such amounts are attributable are deposited in the fund; and

"(G) gain from a distribution described in subsection (b)(1)(F) shall not be taken into account if amounts equal to the net proceeds (as defined in joint regulations) from the transaction, to which such distribution is attributable, are deposited in the fund.".

Sec. 7. Section 607(e)(2) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177 (e)(2)), is amended by (1) striking the word "and" at the end of subparagraph (C), (2) striking the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and (3) adding at the end thereof the following new subparagraph:

"(E) amounts referred to in subsection (b)(1)(F) other than that portion thereof that represents gain taken into account by reason of subsection (d)(1)(G).".

Sec. 8. Section 607(e)(3)(A) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(e)(3)(A)), is amended by striking the words "referred to in subsection (b)(1)(C) or (b)(1)(D)" and inserting in lieu thereof "referred to in subsection (b)(1)(C), (b)(1) (D), or (b)(1)(F)".

Sec. 9. Section 607(e)(4) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177 (e)(4)), is amended—

(1) in subparagraph (A) by striking the words "referred to in subsection (b)(1)(A)" and inserting in lieu thereof "referred to in subsection (b)(1)(A) or (b)(1)(E)", and

(2) in subparagraph (B) by striking the words "referred to in subsection (b)(1)(C) or (b)(1)(D) and inserting in lieu thereof "referred to in subsection (b)(1)(C), (b)(1) (D), or (b)(1)(F)".

Sec. 10. Section 607(f)(1)(A) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(f)(1)(A)), is amended by striking the word "vessel," and inserting in lieu thereof "vessel: *Provided,* That such vessel must be a dry cargo vessel in the case of a qualified withdrawal designated as representing all or any part of an amount equal to the deposits of the income attributable to an eligible vessel owned by a foreign shipping corporation or of the net proceeds of the sale or other disposition of a dry bulk cargo vessel built with construction-differential subsidy under a contract entered into after the date of enactment of this proviso where such sale or other disposition has occurred prior to the expiration of 25 years after the date of delivery of such vessel from construction.".

Sec. 11. Section 607(f)(1) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(f)1)), is further amended by adding at the end thereof the following new sentence: "The amount of qualified withdrawals from the fund available for purposes other than the construction of dry bulk cargo vessels shall be exclusive of the amount of deposits into the fund of income attributable to eligible vessels owned by foreign shipping corporations and the net proceeds of the sale or other disposition of a dry bulk cargo vessel built with construction-differential subsidy under a contract entered into after the date of enactment of the provisions of this sentence.".

Sec. 12. Section 607(k)(1) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177 (k)(1)), is amended by—

(1) striking the words "The term 'eligible vessel' means any vessel—" and inserting in lieu thereof "The term 'eligible vessel' means, except in the case of any dry bulk cargo vessel, any vessel—", and

(2) adding at the end thereof the following new sentence: "For purposes of any dry bulk cargo vessel the term 'eligible vessel' means any vessel, irrespective of whether constructed or reconstructed in the United States or documented under the laws of the United States, and without regard to where it is operated.".

Sec. 13. Section 607(k) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177 (k)), is further amended by adding at the end thereof the following new paragraphs:

"(9) The term 'foreign shipping corporation' means any foreign corporation owning one or more eligible vessels.

"(10) The term 'control' means the ownership of at least 50 percent of the total combined voting power of all classes of stock entitled to vote.

"(11) The terms 'owner or lessee' include, in the case of any eligible vessel owned or leased by a foreign shipping corporation, any citizen of the United States having control over such foreign shipping corporation for at least 30 days during the taxable year of such foreign shipping corporation.".

SEC. 14. Section 804 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1222), is amended—

(1) in subsection (a) thereof by inserting the words ", other than a foreign-flag dry bulk cargo vessel," immediately after the words "foreign-flag vessel", and

(2) by adding at the end thereof the following new subsection:

"(f) The Secretary of Commerce shall promulgate such regulations, with respect to the exemption of foreign-flag dry bulk cargo vessels provided by subsection (a) of this section, as may be necessary to prevent (1) unfair competition as a result of such exemption with any person, firm, or corporation operating exclusively United States-flag vessels, and (2) the diversion of subsidy in favor of foreign-flag operations.".

SEC. 15. Section 905(a) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1244), is amended by (1) striking the words "section 607" and inserting in lieu thereof the words "title VI" and (2) by inserting after the words "capital construction fund" the words "and operating-differential subsidy".

Statement of the Purpose and Need for the Bill To Amend the Merchant Marine Act, 1936, to Further Promote the Development of the United States-Dry Bulk Fleet, and for Other Purposes

The proposed legislation will promote the construction of dry bulk ships in the United States and the operation of those ships under the U.S. flag. By doing so, the draft bill would eliminate a potentially critical dependence on foreign-flag shipping, strengthen the U.S. ship operating and construction industry, and recover part of the revenues paid to foreign-flag carriers for carriage of U.S. dry bulk trade.

Dry bulk shipping represents about 45 percent of U.S. foreign trade. The United States is a major exporter of coal, grain and other dry bulk commodities and a major importer of iron ore, bauxite and alumina and other bulk commodities. The United States is substantially dependent on imports for most of the strategically critical commodities and for several, is totally dependent on foreign supplies.

Economic projections by private firms and the Maritime Administration indicate that dry bulk trades will continue to expand in the future to support growth of the world economy. The major bulk trades—grain, iron ore and coal—are expected to grow markedly in the next ten years. Comparable growth is foreseen in the minor bulk trades, which include such items as finished and semi-finished ferrous metal products, motor vehicles, forest products, various organic and inorganic refined chemicals and fertilizers, and various non-ferrous metallic ores and concentrates.

At the end of World War II, U.S. trade in dry bulk commodities was a small fraction of total U.S. trade. Since 1950, the tonnage of dry bulk cargoes moving in U.S. foreign trade has grown nearly 800 percent. About 45 percent of U.S. ocean-borne foreign trade, more than 285 million tons, consisted of dry bulk cargoes in 1977. The U.S. flag bulk fleet in 1950 carried over 20 percent of U.S. bulk trade. In the following years, the U.S. dry bulk fleet did not grow with the trade and in 1977 U.S. ships carried only 5.7 million tons, about two percent of the trade.

In recent years, the the world bulk fleet continued to grow, the U.S. flag fleet continued to decline. From 1973 through 1977 the world fleet increased from 3,539 to 4,932 bulk vessels, 133 of them larger than 100,000 DWT. In the same period, the U.S. bulk fleet diminished from 32 ships to 17 with two more constructed in 1978. Thirteen of the 19 ships were built between 1944 and 1948; as a group, they have an average age of 33 years. Of the remaining ships, one was built in 1961, two in 1973, one in 1974, and two in 1978. The average age of the world bulk fleet is nine years. With the exception of the last two ships, the average tonnage of the U.S. bulk fleet is 22,807 DWT. The world average is 35,000 DWT.

As a result of this decline, U.S. bulk exports are now carried primarily in ships provided by buyers. Bulk imports are carried chiefly in U.S.-owned, foreign-registered ships and in ships under European flags. Foreign carriage of U.S. bulk cargoes deprives the U.S. economy of jobs in the ship operating and ship construction industries, adds to the balance of payments deficit, deprives the Government of substantial tax revenues, and leaves the United States dependent on foreign flag shipping for a continued supply of raw materials to support the civil economy and war production in time of war.

The situation has come about less because of aggressive foreign competition than by a lack of effective action by the United States to create and maintain a bulk fleet. One of the major objectives of the Merchant Marine Act, 1970, was to stimulate the growth of the U.S. flag bulk fleet. By the end of the 1960's, it had become apparent that the Merchant Marine Act of 1936, although it provides a useful and effective tool with which to foster the growth and maintenance of the American liner industry, did not lend itself to the promotion, construction and operation of bulk type vessels and fell short of the stated goal of developing and maintaining an adequate and well-balanced merchant marine. As a result, the Congress made certain amendments to the 1936 Act which were designed to modify and broaden the scope of the programs in order to encompass the bulk sector of the industry.

There were a few significant responses to the initiatives of the 1970 Act. However, in late 1973 the world economy entered a recession. In the marine sector new vessel orders were reduced significantly as vessel owners under contract to build new ships attempted either to cancel or renegotiate existing contracts. The situation in the U.S. shipbuilding industry although improving, remains generally depressed with most market analysts predicting a return to equilibrium in the early to mid-1980's.

Although the 1970 Act stimulated new vessel construction in the tanker sector of the fleet, except for two ore/bulk/oil carriers, there was no new construction of dry bulk vessels to replace the small, overaged U.S.-flag dry bulk fleet. In response to this situation, the Maritime Administration held a series of meetings in 1976 and 1977, both in-house and with leading industry representatives, to determine why the bulk program had failed to develop to the degree expected.

The most often emphasized statement made at the industry and government meetings was that, despite consideration given the bulk area by the 1970 Act, the Merchant Marine Act of 1936 as a whole remained primarily liner oriented. The expansion of consideration to bulk operators in the subsidy areas was a vital and necessary step toward the development of a U.S. bulk shipping program. Nevertheless, the Act's regulatory framework continued to impose rules, which had been developed for one segment of the marine industry, on an operationally distinct segment of that industry. Liner operations are characterized by highly structured conferences, defined trade areas, cargo agreements and rate mechanisms which, compared to bulk operations, tend to dictate an ordered pattern. Because of this, the liner segment lends itself to and benefits from a more rigid set of regulations structured for known or predictable operating patterns. In contrast, bulk trading vessels operate in an opportunistic, high risk and constantly changing market environment which requires the maximum degree of trading freedom that can be provided.

Where unrestrained trading flexibility is unnecessary and perhaps detrimental in the liner area, it is basic and essential in the bulk sector. The market is characterized by rapid changes in the availability of cargo and the ships needed to carry it which creates market rate instability and fosters an often fiercely competitive environment. Success or failure in this market hinges on an operator's ability to have his ships in the best position with the best freight rate, often only pennies below the next competitor. Stated quite simply, the regulatory framework appropriate to the development of the liner industry cannot be applied to the bulk sector without severely handicapping operations of the American flag bulk vessel owner.

After giving consideration to numerous recommendations submitted by government and industry, the Maritime Administration has developed a set of proposed amendments to the 1936 Act designed to make it more responsible to the requirements of bulk operators. The proposed changes represent an important move in the direction of developing a comprehensive maritime program which is responsive to both the liner and bulk segments of the industry.

Enactment of the proposed legislation would establish the basis for accelerating the rebuilding of the U.S. flag dry bulk fleet toward a level commensurate with the position of the United States as the world's leading bulk trading country.

Expenditures for the construction of dry bulk vessels would come out of construction differential subsidy funds. If additional funds are not appropriated, then the construction of any dry bulk vessels would reduce the number of non-dry bulk vessels which could be built under the CDS program. However it is not possible to accurately forecast the number of applications for CDS subsidies for dry bulk vessels which would be filed on a yearly basis after enactment of this bill.

Section by Section Analysis

Section 1. The draft bill would amend section 503 to change the period of required United States documentation to 10 years for dry bulk cargo vessels. The draft bill would also require that the net proceeds from any sale of a CDS-financed dry bulk cargo vessel to a person who is not a citizen of the United States must be deposited in the capital construction fund, and unless otherwise determined by the Secretary of Commerce, the owner/seller must agree to enter into a contract for the construction of a new dry bulk cargo vessel within one year. The right of the United States to requisition the vessel sold would be maintained by an agreement with the purchaser.

The law currently requires that vessels built with the aid of CDS must remain documented under the laws of the United States for at least 25 years, or so long as there remains due the United States any principal or interest on account of the purchase price, except that the minimum is 20 years in the case of certain liquid bulk cargo vessels.

Foreign flag dry bulk cargo vessel owners freely buy and sell vessels when, in their judgment, depreciation and vessel sales market factors make it commercially advantageous. Generally, a foreign flag vessel may be held for eight to ten or more years after delivery and then sold as circumstances warrant. The amendment to section 503 would also provide dry bulk CDS-built vessel owners with the flexibility to sell such vessels abroad when they determine it to be in their best economic interest even though such vessels may not have reached the end of a 25-year economic life. This flexibility would enable these owners to more freely sell vessels and thus reduce the competitive disadvantage which they have vis-a-vis dry bulk foreign flag owners.

Section 2. The law presently makes the U.S. documentation requirement found in section 503 applicable to construction financed in part by construction-differential subsidy payments.

The draft bill would make clear that the conditions applying to a sale to a person not a citizen of the United States will apply to construction aided pursuant to section 504.

Section 3. Presently, section 606(6) provides that a ship operator who receives subsidy with respect to repairs shall perform such repairs within any of the United States or the Commonwealth of Puerto Rico, except in an emergency.

The draft bill would amend section 606(6) so as to permit the operator of a dry bulk cargo vessel to have repairs made foreign while at the same time retaining eligibility for subsidy for repairs performed in the United States or Puerto Rico. This amendment would allow the dry bulk operator to schedule the fleet for repairs and to carry the cargo fixed in the most efficient way without losing eligibility for repair subsidy. Requiring a dry bulk operator to perform all its repairs in the United States creates restrictions on a dry bulk cargo vessel that limits operational flexibility and reduces the potential revenues. This amendment would be another step to enhance the U.S. dry bulk operator's competitive position.

Sections 4–13. Subpart F of the Internal Revenue Code of 1954 (the Code) sets forth an exception to the general rule that foreign source income of a foreign corporation is subject to U.S. income tax only when it is distributed to the U.S. shareholder as a dividend. Subpart F states that income from certain activities conducted by foreign corporations controlled by U.S. shareholders is deemed to be distributed to the U.S. shareholders as taxable income before they actually receive the income as a dividend.

Subpart F has contained a number of exceptions to the deemed distribution rule. Subpart F now provides that a U.S. shareholder of a controlled foreign corporation may exclude from his gross income as a deemed distribution all income that is reinvested in "qualified shipping assets." As a result the earnings from foreign-flag cargo vessels, including dry bulk cargo vessels owned by foreign subsidiaries of U.S. parent corporations, are not subject to U.S. income taxation if the earnings are used to build more foreign-flag dry bulk cargo vessels, but are subject to taxation if they are repatriated and used to build U.S.-flag dry bulk cargo vessels.

The recent amendments to Subpart F by the tax legislation enacted in 1975 and 1976 have not in any way remedied this problem. Indeed, the limitation of the shipping income exclusion to so much of such income as is reinvested in "qualified shipping assets" only exacerbates the problem for the U.S.-flag dry bulk fleet. Foreign subsidiaries are now likely to redouble their efforts to invest their shipping income in foreign shipping assets, rather than invest in other types of foreign investments in order to avoid the tax consequences of Subpart F. This can result only in increased competition for U.S.-flag dry bulk cargo vessels from the tax-sheltered, foreign-flag dry bulk cargo vessels of U.S. controlled foreign subsidiaries.

The purpose of sections 4–13 is to provide an incentive to the U.S. shareholders of foreign corporations engaged in dry bulk shipping operations to invest the earnings from these operations in dry bulk cargo vessels built in the United States and documented under the United States flag. This draft bill would provide that a Capital Construction Fund (CCF) may be established for the purpose of depositing income earned by any dry bulk cargo vessel regardless of where it is documented, operated, constructed or reconstructed. Currently, CCF's may be established only with respect to vessels constructed or reconstructed in the United States, which are documented under the laws of the United States and operated in an approved trade.

All amounts deposited in a CCF maintain their tax deferred status only if they are used to construct or reconstruct cargo vessels in United States shipyards. The draft bill would make no change in this regard.

Section 14. Section 804 of the Act presently provides, in pertinent part, that it is unlawful for any contractor receiving operating-differential subsidy under Title VI of the Act, or any affiliate thereof, to own, charter, act as agent or broker for or operate any foreign-flag vessels which competes with an essential U.S.-flag service, unless granted a waiver upon a showing of "special circumstances and good cause."

The maritime industry had claimed that section 804 has always constituted a practical bar to the development of a dry bulk cargo fleet. The dual-flag issue in the dry bulk segment of the industry is somewhat accentuated by the nature of the enterprise. Faced with a smaller percentage of long-term chartering opportunities and less stable markets, dry bulk cargo vessel operators need a greater degree of operational latitude than their counterparts engaged in the relatively more predictable petroleum trades.

The draft bill eliminates the restrictions of section 804 with respect to foreign flag dry bulk vessel activities thus removing section 804 disincentives to construct and operate new U.S.-flag dry bulk cargo vessels.

Section 15. The existing law restricts dry bulk vessels operating with the aid of ODS to the United States foreign trade between a United States port and a foreign country.

Foreign flag dry bulk vessels may trade freely throughout the world, without any restrictions imposed by the country of registry. A substantial part of all dry bulk vessel operation is based on world-wide charter competition. In order to reduce the competitive disadvantages suffered by United States flag dry bulk operators and stimulate the construction and operation of United States flag dry bulk cargo vessels, such vessels operated with ODS should not be restricted to trade between a United States port and a foreign country, but instead should be free to trade and to be chartered for trade world-wide. The draft bill would amend section 905(a) to permit dry bulk vessels under ODS Agreements freely to compete with foreign flag vessels in the same manner as bulk vessels built with the aid of CDS are not allowed to compete, subject to rules and regulations promulgated by the Secretary.

S. 1458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title IV of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.) is amended by adding at the end thereof a new section 405 to read as follows:

"SEC. 405. (a) The Postal Service shall contract for the use of vessels of United States registry to originate any international sea transportation of mail of the United States in any case in which the common carrier which operates or controls such vessel is engaged in the provision of regular transportation services to the destination specified by the Postal Service. The Postal Service shall not be required to enter into any such contract if no such vessels are available at the time the Postal Service seeks to arrange for the transportation of such mail.

"(b) Any rate charged for the sea transportation of mail of the United States under subsection (a) of this section shall comply with the provisions of the Shipping Act, 1916 (46 U.S.C. 801–842). Any such rate shall not be less than the sum of—

"(1) the fully distributed costs of common carriers for the carriage of such mail; and

"(2) a fair and reasonable profit.

"(c) In any case in which two or more common carriers seek to enter into a contract offered by the Postal Service under subsection (a) of this section, the Postal Service shall award such contract by competitive bidding. The duration of any such contract may not exceed 1 year.

"(d) The Postal Service shall not give any preference to any common carrier for the carriage of mail by sea based upon the basis of length, height, or width of cargo containers. No advertisement or invitation to bid for the carriage of such mail may specify carriage of mail in containers of any specified length, height, or width.

"(e) For purposes of this section, the term 'common carrier' means any common carrier, other than any ferryboat running on regular routes, engaged in the transportation by water of passengers or property between the United States (or any of its districts, territories, or possessions and any foreign country, whether in the import or export trade, except that a cargo boat commonly referred to as an ocean tramp shall not be considered to be a common carrier.".

SEC. 2. Section 410(b) of title 39 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(9) Section 405 of the Merchant Marine Act, 1936, as amended.".

Statement of the Purpose and Need of the Bill "To Further the Development and Maintenance of an Adequate and Well-Balanced American Merchant Marine by Requiring That Certain Mail of the United States be Carried on Vessels of United States Registry"

Because there is no provision of law requiring otherwise, 35% of the mail which the U.S. Postal Service contracts to be shipped via international sea transportation is carried by foreign-flag vessels. For fiscal year 1930, this means that the U.S. Postal Service will pay foreign-flag carriers over $5 million for carrying U.S. mail.

The U.S. Postal Service furnished the following information. It lists foreign postal administrations which use U.S.-flag vessels to transport mail to the U.S. It gives some idea of how many more reserve their mail cargoes for their national vessels.

Foreign postal administrations which use American-Flag carriers to transport mail to the United States:

Italy, France, Switzerland, Turkey, Israel, Greece, The Netherlands, India, Brazil, and Uruguay.

This list may not be complete. It reflects the information which we have been able to obtain. Where a foreign administration uses its own carriers, it is not known whether this is as a result of a conscious preference or of price or service considerations."

A general requirement that United States mail be transported on U.S.-flag vessels first appeared in merchant marine laws in 1920. Section 24 of the Merchant Marine Act of 1920, 41 Stat. 998, provided in pertinent part that "[A]ll mails of the United States shipped or carried on vessels shall, if practicable, be shipped or carried on American-built vessels documented under the laws of the United States."

This requirement was continued in the Merchant Marine Act of 1928, 45 Stat. 689, which also established a program of indirect subsidies to U.S. flag lines through the awarding of very generous ocean mail service contracts. The Merchant Marine Act of 1936, 49 Stat. 1985, replaced this program, which had become quite controversial, with programs of direct subsidy to the U.S. flag lines, but the requirement that U.S. mails be carried on U.S. flag vessels was continued in this enactment. Section 405(a) thereof provided,

> All mails of the United States carried on vessels between ports between which it is lawful under the navigation laws for a vessel not documented under the laws of the United States to carry merchandise shall, insofar as praticable, be carried on vessels of United States registry.

The above cited provisions of the 1920 and 1936 Merchant Marine Acts remained in force until 1960, when Congress enacted a complete revision of Title 39 of the U.S. Code on the Postal Service. That Act, P.L. 86–682, 74 Stat. 578, included a new § 6104 of Title 39, the wording of which was quite similar to § 405(a) of the 1936 Merchant Marine Act:

> Mail of the United States shall, insofar as practicable, be carried on vessels of United States registry between ports between which it is lawful under the navigation laws for a vessel not documented under the laws of the United States to carry merchandise.

The Act also repealed, in §12(c), the provisions of the 1920 and 1936 Merchant Marine Acts which were cited above.

When in 1970 Congress again enacted a complete revision of Title 39, P.L. 91–375, 84 Stat. 719, no provision comparable to this § 6104 was included in the legislation. No explanation for this omission was provided in either the House or Senate Committee reports on the legislation, H. Rpt. 91–1104 and S. Rpt. 91–912. The procurement of mail transportation service by the Postal Service is currently covered in 39 U.S.C. § 5001–5605, and the major provisions concerning the transportation of mail by vessel are that such contracts for transportation between the United States and a foreign port are to be made subject to cancellation by the Postal Service or the Congress, 39 U.S.C. § 5602, and that the Postal Service may contract for such transportation without advertising for bids for periods of not in excess of four years, 39 U.S.C. § 5605.

The attached bill, if enacted, would establish a new § 405 of the Merchant Marine Act of 1936 in place of the one repealed by the 1960 Postal Service Act.

S. 1459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third sentence of section 502(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1152(a)), is amended by striking the phrase ", at any time prior to June 30, 1979,".

STATEMENT OF THE PURPOSE AND NEED OF THE DRAFT BILL "TO AMEND SECTION 502(a) OF THE MERCHANT MARINE ACT, 1936"

Section 505 of the Merchant Marine Act, 1936, provides that all vessel construction in respect to which a construction-differential subsidy is allowed shall be performed as a result of competitive bidding. This provision was in the 1936 Act prior to the enactment of the Merchant Marine Act of 1970. One of the purposes of the 1970 Act was to bring the shipyards into the design work on vessels so as to achieve economies of production. Since a shipyard is basically in the construction, not the design business, it could not be expected to develop a design at its own expense if it could not be assured of being awarded the related construction contract. It was, therefore, necessary to provide a means whereby the designing yard was not required to submit its design to competitive bidding at which it could not be certain that it would be the lowest responsible bidder.

The 1970 Act, therefore, included an amendment to section 502(a) of the 1936 Act authorizing the Secretary of Commerce, under certain conditions, notwithstanding the provisions of section 505 of the 1936 Act, at any time prior to June 30, 1973, to accept, for purposes of computing construction-differential subsidy, a price for construction of a ship that has been negotiated between a shipbuilder and a proposed ship purchaser.

Under section 502 of the 1936 Act, the Secretary is authorized to contract with a shipyard for construction of the vessel and concurrently to contract with the proposed ship purchaser for sale of the vessel upon its completion at the estimated cost of construction less construction-differential subsidy, if he determines that such purchaser possesses the ability, experience, financial resources, and other qualifications necessary for the operation and maintenance of the vessel. This section has not been used since private financing became a viable means of constructing vessels with title XI aid in 1954. The provisions of this section with respect to negotiation, however, are incorporated by reference in section 504 of the 1936 Act, under which the Secretary agrees to pay the shipyard the construction-differential subsidy and the ship purchaser agrees to pay the shipyard the balance of the construction cost. Since 1954, all vessels with respect to which construction-differential subsidy has been paid have been built under section 504.

Public Law 93–71 extended the negotiating authority under section 502 and 504 to June 30, 1976. Public Law 94–372 further extended this authority to June 30, 1979.

The conditions under which the negotiating authority under section 502 and 504 may be utilized until June 30, 1979, are if (1) the proposed ship purchaser and the shipyard submit backup cost details and evidence that the price is fair and reasonable, (2) the Secretary of Commerce finds that the price is fair and reasonable, and (3) the shipyard agrees that the Comptroller General of the United States shall, until 3 years after final payment, have the right to examine any pertinent books, documents, or records of the shipyard or its subcontractors related to the negotiation or performance of the contract. These conditions with respect to negotiating were imposed by the Merchant Marine Act of 1970, were continued by each of the extensions of this authority and will be continued by the draft bill. The draft bill would give the Secretary permanent negotiating authority.

Throughout the shipbuilding world, negotiated pricing is the method used for contracting for the construction of ships. Negotiated pricing facilitates marketing endeavors by shipbuilders to produce standard ships and avoids the building of custom made ships which is promoted by competitive bidding.

The history of negotiated pricing since its enactment in 1970 demonstrates the significance of this provision for shipbuilding in the United States. Of the 75 vessels for which construction-differential subsidy has been awarded since 1970, 73 were of the subject of negotiated prices.

Enactment of this legislation requires no additional appropriations.

S. 1460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Shipping Act of 1979".

SEC. 2. Section 1 of the Shipping Act, 1916 (46 U.S.C. 801) is amended by striking out all of the existing language and inserting in lieu thereof the following: "That it is hereby declared to be the policy of the United States, and the intent of Congress that this Act be administered and enforced so as, to provide a system of ocean transportation regulation that seeks to promote, encourage, and develop—

"(1) efficient innovative and economically sound ocean transportation in the foreign and domestic offshore commerce of the United States;

"(2) substantial participation by vessels of United States registry in the foreign commerce of the United States in order to further both the economic and national defense goals of the Nation;

"(3) protection of the rights of shippers and consumers by the prevention of discriminatory prejudicial, unfair, or deceptive practices proscribed by this Act;

"(4) encouragement of the lowest possible freight rates and the highest quality service to shippers and consumers consistent with other objectives of this Act;

"(5) encouragement of exports from the United States to achieve and maintain a favorable international balance of payments;

"(6) comity with nations engaged in trade with the United States; and

"(7) development and maintenance of a regulatory environment responsive to the needs of the public in which decisions are reached promptly and fairly to facilitate adaptation of the ocean transportation system to the present and future needs of the foreign and domestic offshore commerce of the United States.

"SEC. 1a. As used in this Act:

"(1) 'agreement' means and includes understandings and arrangements, written or oral, and any modification or cancellation thereof;

"(2) 'common carrier by water' means a person, whether or not actually operating a vessel, who holds himself out to engage in water transportation for hire as a public employment and undertakes to carry for shippers indifferently, but does not include one who holds himself out to engage in transportation by ferryboat or ocean tramp;

"(3) 'common carrier by water in foreign commerce' means a common carrier by water between the United States or any of its territories or possesions and a foreign country, whether engaged in the import or export trade, and whether or not its service operates through or originates or terminates at ports of the United States or its territories or possessions;

"(4) 'common carrier by water in domestic offshore commerce' means a common carrier by water between the continental United States and any offshore State, territory, or possession of the United States, or between any two offshore States, territories, or possessions of the United States, whether or not as part of a through route or under joint rates with any other carrier;

"(5) 'conference' means an association of two or more vessel operating common carriers by water which provide ocean transportation for the carriage of cargo on a particular route or routes within specified geographic limits and which operate within the framework of an agreement establishing freight rates and any other conditions of service;

"(6) 'contract shipper' means a person who is a party to a patronage contract as defined in this section;

"(7) 'freight forwarding' means the dispatching of shipments by any person on behalf of others, via common carriers by water in commerce from the United States or its territories or possessions to foreign countries, and processing the documentation or performing related activities incident to such shipments;

"(8) 'independent ocean freight forwarder' means a person carrying on the business of forwarding for a consideration who is not a shipper or consignee nor a seller or purchaser of shipments to foreign countries, nor has any beneficial interest therein, not directly or indirectly controls or is controlled by such shipper or consignee or by any person having such a beneficial interest;

"(9) 'intergovernmental maritime agreement' means an agreement between the Government of the United States and a foreign government or goverments which relates to the carriage of cargo by common carriers by water between or among the signatories;

"(10) 'intermodalism' or 'intermodal transportation' means the utilization of two or more different modes of transportation from origin to destination, at least one of which is ocean transportation subject to this Act;

"(11) 'national shipping line' of a given country means a vessel operating carrier which has its head office of management and its effective control in that country and is recognized as such by an appropriate authority of that country or under the law of that country. Lines belonging to and operated by a joint venture involving the national interests of two or more countries and whose head office of management and whose effective control are in one of those countries may be recognized as a national line by either or both of those countries;

"(12) 'offshore State' means the State of Hawaii and Alaska;

"(13) 'other person subject to this Act' includes any person not included in the term 'common carrier by water', if such person directly or indirectly engages in activities regulated herein, including but not limited to shippers, consignees, or any person carrying on the business of freight forwarding or furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier by water;

"(14) 'patronage contract' means an agreement with a carrier or conference of such carriers by which a shipper obtains a lower rate by committing all or a fixed portion of its cargo to such carrier or conference;

"(15) 'person' includes individuals, corporations, companies, associations, firms, partnerships, societies, joint stock companies, the Government or any governmental agency of the United States, or any State, territory, or possession thereof, or of any foreign country. Person also includes a trustee, receiver, assignee, or personal representative of a person;

"(16) 'shipper' means an owner or person for whose account the ocean transportation of goods is provided;

"(17) 'shippers' council' means an association of shippers or their agents for the purpose of discussing and agreeing upon rates, rules, practices, and services in connection with ocean transportation;

"(18) 'tariff' means any schedule of rates, changes, classifications, rules and regulations pertaining to ocean transportation and includes any supplement, amendment, or reissue;

"(19) 'territory or possession' includes the Commonwealth of the Northern Marianas, the Commonwealth of Puerto Rico, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States;

"(20) 'United States' or 'State' includes the District of Columbia.".

SEC. 3. Section 14b of the Shipping Act, 1916 (46 U.S.C. 813a), is amended to read as follows:

"SEC. 14b. The Commission shall, after notice and hearing, permit the use by any common carrier or conference of such carriers in foreign commerce of any patronage contract which is available to all shippers and consignees on equal terms and conditions unless the Commission finds that (1) the contract is inconsistent with the policy set forth in section one of this Act or any other provision of this Act, or (2) the contract fails to expressly—

"(A) permit prompt release of the contract shipper from the contract with respect to any shipment or shipments for which the contracting carrier or conference of carriers cannot provide space requested on reasonable notice by the shipper;

"(B) provides that whenever a tariff rate for the carriage of goods under the contract becomes effective it shall not be increased on less than 90 days notice unless otherwise ordered by the Commission, except that a rate subject to the contract may be increased on not less than 30 days notice if the increase is to a level no higher than that from which the particular rate was reduced within 180 days immediately preceding the filing of the increase;

"(C) cover only those goods of the contract shipper as to the shipment of which the contract shipper has the legal right at the time of shipment to select the carrier: *Provided*, That it shall be deemed a breach of the contract if, before the time of shipment and with the intent to avoid its obligation under the contract, the contract shipper divests itself, or with the same intent permits itself to be divested, of the legal right to select the carrier and the shipment is carried by a carrier which is not a party to the contract;

"(D) limit damages recoverable for breach by either party to actual damages to be determined after breach in accordance with the principles of contract law, except that the contract may specify that in the case of a breach by a contract shipper the damages may be an amount not exceeding the freight charges computed at the contract rate on the particular shipment, less the cost of handling;

"(E) permit the contract shipper to terminate at any time without penalty upon ninety days notice;

"(F) permit the carrier or conference on ninety days notice to terminate the contract rate system in whole or with respect to any commodity without penalty;

"(G) provide for a spread or series of spreads between ordinary rates and rates charged contract shippers which the Commission finds to be reasonable; and

"(H) contain such other provisions as the Commission shall require or permit.

The Commission shall withdraw permission for the use of any patronaage contract if it finds, after notice and hearing, that the use of such contract is inconsistent with the provisions of this section, the policy set forth in section 1 of this Act, or any other provision of this Act. After termination or withdrawal of permission, no carrier or conference of carriers may reinstate such contract rate system or part thereof without prior permission by the Commission in accordance with this section.".

SEC. 4. Section 15 of the Shipping Act, 1916 (46 U.S.C. 814) is amended to read as follows:

"SEC. 15. (a) Every common carrier by water, or other persons subject to this Act, shall file immediately with the Commission a copy, or, if oral, a complete memorandum, of every agreement with another such carrier or other person subject to this Act to which it may be a party or conform in whole or in part, which relates to transportation by water in the foreign or domestic offshore commerce of the United States, and which provides for—

"(1) discussing, negotiating, fixing, or regulating transportation rates or fares;

"(2) giving or receiving special rates, accommodations, or other special privileges or advantages;

"(3) controlling, regulating, or preventing competition;

"(4) pooling or apportioning earnings, losses, or traffic;

"(5) allotting ports or restricting or otherwise regulating the number and character of sailings between ports;

"(6) limiting or regulating in any way the volume or character of freight or passenger traffic to be carried;

"(7) any manner of an exclusive, preferential, or cooperative working arrangement;

"(8) establishing and operating a shippers' council;

"(9) acquiring, directly or indirectly, the whole or any part of the capital stock or assets of a common carrier by water; or

"(10) any form of merger or consolidation of two or more common carriers by water; or The provisions of this subsection do not apply to agreements to provide or furnish wharfage, dock, warehouse, or other terminal facilities to the extent that such services or facilities are to be provided outside the United States, its territories or possessions.

"(b) Every common carrier by water in foreign commerce and every conference of such carriers and every common carrier by water in domestic offshore commerce shall file with the Commission a copy of every agreement with any air carrier, rail carrier, motor carrier or other water carrier which provides for—

"(1) the establishment of through routes for the movement of cargo;

"(2) the interchange of cargo, equipment or both;

"(3) the fixing of through or joint rates or concurrence in tariffs;

"(4) any arrangement for handling claims or prorating liability for cargo loss or damage;

"(5) divisions of rates or revenues; or

"(6) any exclusive, preferential, or cooperative working arrangement.

"(c) Every agreement submitted for approval pursuant to this section shall be accompanied by a statement setting forth the economic and transportation objectives of such agreement.

"(d) The Commission may by regulation prescribe the form and manner in which agreements shall be filed; and the Commission is authorized to reject any agreement which is not filed in conformity with such regulations.

"(e) The Commission shall approve any agreement which it finds to be (1) a reasonable means of achieving the objectives of the parties, and (2) consistent with the policy set forth in section 1 of this Act and the other provisions of this Act.

"(f) There shall be a presumption that (1) agreements implementing intergovernmental maritime agreements, (2) conference agreements that contain a right of independent action on reasonable notice, and (3) agreements (except for agreements between or among shippers) that are favorably endorsed by the shippers' councils of the trades to which the agreement applies are consistent with the policy set forth in section 1 of this Act and with the other provisions of this Act.

"(g) The Commission may, in its discretion, upon notice but without hearing or proceeding, (1) grant temporary approval for up to 1 year to any agreement pending the Commission's final disposition of the agreement under this section, and (2) withdraw such temporary approval at any time. In determining whether to grant temporary approval, the Commission shall consider—

"(i) whether the parties to the agreement would be substantially harmed if the agreement were not immediately implemented;

"(ii) whether any persons would be substantially harmed if temporary approval were granted; and

"(iii) whether it appears from all the information available to the Commission that temporary approval is necessary to meet an emergency or to fulfill an important public need.

"(h) The Commission shall not approve

any agreement, nor shall continued approval be permitted for any agreement—

"(1) between carriers not members of the same conference or conferences of carriers serving different trades that would otherwise be naturally competitive, unless in the case of agreements between carriers, each carrier, or in the case of agreements between conferences, each conference retains the right of independent action;

"(2) which fails to provide that a member carrier of a conference or other rate-fixing agreement has a right of independent action to serve any United States port designed for the accommodation of ocean-going vessels at the same ocean freight rates charged by the conference or rate-fixing body at the nearest port within the geographic scope or scope of such conference or rate-fixing agreement; or

"(3) which fails to provide for the right of independent action by air carriers, rail carriers, motor carrier, or water carriers not subject to this Act to establish their portion of rates or charges or to establish rules and regulations which apply exclusively to the services performed by such carrier pursuant to an intermodal agreement.

"(i) The Commission shall, after notice and hearing, disapprove, cancel, or modify—

"(1) any agreement which fails to meet the standards set forth in subsection (e) of this section,

"(2) any conference or other rate-fixing agreement upon a finding of inadequate policing of the obligations under such agreement, or upon a finding of failure or refusal to adopt and maintain reasonable procedures for promptly and fairly hearing and considering the requests and complaints of shippers, and

"(3) any conference agreement which, by operation or effect, fails to provide reasonable and equal terms and conditions for admission or readmission to conference membership for any national shipping line serving the foreign trade of its country or fails to provide that any member may withdraw from membership upon reasonable notice without penalty for such withdrawal. In any hearing concerning a conference agreement pursuant to clause (i) (3) of this subsection, the burden of proof shall be upon the conference whose agreement or practice is in question.

"(j) (1) Every agreement required to be filed under this section, and every patronage contract permitted to be used under section 14b of this Act, and all actions to implement such agreements or contracts shall be exempt from all United States antitrust laws and amendments thereto.

"(2) Any persons, and their officers, employees, or authorized representatives, implementing an agreement or contract described in paragraph (j) (1) of this subsection are exempt from the operation of all United States antitrust laws with respect to such activity.

"(k) (1) It shall be unlawful for any agreement or patronage contract subject to this Act to be implemented without the approval or permission of the Commission.

"(2) Whoever violates this subsection shall be subject to a civil penalty of not more than $25,000 for each day that the violation continues."

SEC. 5. Sections 18(a) and 19 of the Shipping Act, 1916 (46 U.S.C. 817(a) and 46 U.S.C. 818), are amended by striking the phrase "common carrier by water in interstate commerce" whenever it appears therein and inserting in lieu thereof "common carrier by water in domestic offshore commerce".

SEC. 6. Section 1 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 843), is amended to read as follows: "That as used in this Act, the term 'common carrier by water in domestic offshore commerce' means a common carrier by water between the continental United States and any offshore State, territory, or possession of the United States, or between any two offshore States, territories, or possessions of the United States, whether or not as part of a through route or under joint rates with any other carrier."

SEC. 7. Section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844) is amended by striking the phrase "common carrier by water in intercoastal commerce" and inserting in lieu thereof "common carrier by water in domestic offshore commerce".

SEC. 8. All agreements approved under section 15 of the Shipping Act, 1916 (46 U.S.C. 814), and all contracts permitted to be used under section 14b of the Shipping Act, 1916 (46 U.S.C. 813a), prior to the effective date of this Act shall remain lawful after the effective date of this Act until disapproved or disallowed by the Commission.

SEC. 9. The title of the Shipping Act, 1916, is amended to read as follows: "An Act to regulate common carriers by water and other persons engaged in the foreign and domestic offshore commerce of the United States."

SEC. 10. The provisions of this Act shall take effect 120 days after the date of enactment of this Act.

Statement of the Purposes and Need for the Bill "To Amend the Shipping Act, 1916, to Clarify and Improve the Provisions Related to Cooperative Activity Among Common Carriers by Water, to Permit the Establishment of Shippers Councils, and for Other Purposes"

OCEAN SHIPPING ACT OF 1979

This bill would amend the Shipping Act of 1916 in three general areas.

First, the initial section of the Act is replaced by new definitions and a Declaration of Policy.

Second, section 14b of the Act, which now sets forth the authority and requirements for dual-rate contracts is amended to provide for more flexiblity in the contract system.

Third, Section 15 of the Act is replaced with new language which would streamline the process of approval of agreements in international liner shipping and would clarify the antitrust immunity of such agreements and the Federal Maritime Commission's authority and role over such agreements.

The bill would also make certain technical and conforming amendments to other provisions of the Shipping Act, 1916 and the Intercoastal Shipping Act, 1933.

SECTION-BY-SECTION ANALYSIS

Section 1 is the title of the bill.

Section 2 contains a declaration of policy and definitions which would replace the existing language of section 1 of the Shipping Act, 1916. The objectives of ocean transportation regulation set forth in the policy declaration include efficient and low cost transportation, protection of shippers, encouragement of exports, comity with other nations and substantial paricipation by U.S.-flag vessels in our foreign commerce. These objectives are intended to guide the Federal Maritime Commission in its administration of the Act.

The definitions set forth as section 1A of the Shipping Act are an attempt to clarify and codify many of the concepts which have been inherent in the administration of the Shipping Act since its original enactment and to make certain substantive changes in the Commission's authority. An example of the former is the inclusion of non-vessel-operating common carriers within the definition of "common carrier by water." The latter is exemplified by the inclusion of shippers and consignees within the definition of "other person subject to the Act", a definitional change which brings such persons under other substantive provision of the Act which convey both new rights and new responsibilities upon shippers and consignees.

The Commission's authority over common carriers by water offering intermodal services is also clarified by these definitions.

Among the new definitions set forth in this section are those of "intergovernmental maritime agreement" and "national shipping line", concepts which are utilized in substantive changes to section 15 of the Act.

Section 3 of the bill amends section 14b of the Shipping Act, 1916 to permit carriers or conferences to utilize patronage contracts which make available more than two levels of rates. For example, a contract system could be implemented which specified one level of discount if only the shipper were a contract signatory and a second, higher level of discount from the non-contract rate if both the shipper and consignee were contract signatories. This type of system may be attractive to parties who wish to reduce the incentive for a shipper to sell his goods on a F.A.S. or F.O.B. basis in order to utilize a carrier other than those with which the contract has been signed.

The maximum permissible spread of fifteen percent between contract and non-contract rates has also been removed to permit greater flexibility by the parties in drawing up a contract which suits the circumstances of a particular trade.

Certain existing restrictions on rate adjustments have been lifted and the language permitting shippers to utilize other "natural routings" has been eliminated because of the difficulties of applying this concept to intermodal services which are becoming more prevalent in this industry.

The standards which the Commission is to utilize in determining whether to permit the use of any contract have been changed to reflect the existence of the new declaration of policy in section 1 of the Act and to avoid the controversy which has historically surrounded the terms "detrimental to the commerce of the United States" and "contrary to the public interest" which appears as standards in the existing section 14b.

Section 4 of the bill would amend section 15 of the Shipping Act in a number of significant areas, all of which are designed to facilitate and expedite the implementation of agreements which experience has shown to be in our national interests. The major changes are:

(1) authority to form and operate shippers councils;

(2) FMC jurisdiction over mergers and acquisitions of common carrier by water;

(3) FMC jurisdiction over agreements which provide for intermodal service;

(4) A presumption in favor of:

(a) agreements implementing intergovernmental maritime agreements;

(b) conference agreements which contain a right of independent action; and

(c) agreements endorsed by the applicable shippers' councils;

(5) Authority to implement agreements quickly under temporary authority from the FMC;

(6) The limitation of open membership in conferences to national shipping lines of the trading partners;

(7) Absolute antitrust immunity for activities within the FMC's jurisdiction under the Shipping Act; and

(8) Significantly increased civil penalties for violations of these provisions.

Section 5 of the bill would amend sections 18(a) and 19 of the Shipping Act, 1916 to reflect the definition of "common carrier by water in domestic offshore commerce."

Sections 6 and 7 of the bill would amend the Intercoastal Shipping Act, 1933 to make the language thereof consistent with the new definition of "common carrier by water in domestic offshore commerce."

Section 8 of the bill would "grandfather" all agreements and contracts which are lawful under the Shipping Act provisions at the effective date of this legislation.

Section 9 of the bill makes it effective one hundred and twenty days after the date of enactment to permit the promulgation of rules by the FMC to administer its provisions.

S. 1461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 901(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1241(b)), is amended to read as follows:

"(2) The Secretary of Commerce shall have the sole responsibility for determining and designating those programs which are subject to the requirements of this subsection. Every department or agency having responsibility for the programs so designated by the Secretary of Commerce shall administer such programs with respect to this subsection under regulations issued by the Secretary of Commerce. The Secretary of Commerce shall review such administration and shall annually report to the Congress with respect thereto.".

STATEMENT OF THE PURPOSE AND NEED OF THE BILL "TO INCREASE THE ROLE OF THE SECRETARY OF COMMERCE IN ADMINISTERING SECTION 901 of the MERCHANT MARINE ACT, 1936"

In his report (CED-78-116, June 8, 1978) "Cargo Preference for Government-Financed Ocean Shipments Could be Improved", the Comptroller General highlighted disagreements between the Maritime Administration (MarAd) and other departments and agencies as to the applicability of the Cargo Preference Act of 1954, section 901(b)(1) of the 1936 Act, as amended, 46 U.S.C. 1241(b)(1), and recommended to Congress that—

"Section 901(b) of the Merchant Marine Act of 1936 should be clarified concerning the types of programs to be covered under cargo preference legislation and the extent of MarAd's authority to determine the applicability of cargo preference legislation to specific programs."

Specifically, the applicability of section 901(b) was in dispute as to Department of Defense Coproduction and offset military sales agreements, various Federal grants, Eximbank's insurance and medium term loan guarantees, and Department of Commerce/Economic Development Administration loans. The common thread in all these disagreements appears to be the Maritime Administration's interpretation that section 901(b) applies to all cargoes that would not have moved if the Federal government had not been financially involved.

The disagreements mentioned in Chapter 3 of the C/G's report arose because the Maritime Administration insisted on its interpretation of section 901(b)(1). The disagreements continued, at least at the time the report was issued, because the Maritime Administration did not clearly have authority to make a final determination as to the applicability of section 901(b)(1) to agency programs. Vesting the Maritime Administration with such authority should effectively end these disagreements.

Except for programs that the Congress specifically excludes from cargo preference applicability, enactment of this amendment would provide the Maritime Administration with general authority to determine which government programs are subject to the section 901 cargo preference provision.

S. 1462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is recognized that both the United States and its trading partners have valid interests in their maritime commerce and in the maintenance and promotion of their respective merchant marines, and that international cooperation and comity require mutual respect be accorded to their respective commercial and maritime policies, and nondiscrimination be applied by each nation toward the carriers of the other; and that to accommodate each respective interest it is necessary and desirable that the procedures for the regulation of liner shipping between the United States and its trading partners be improved through the establishment of expedited procedures for approval by the Federal Maritime Commission of certain classes of agreements between United States-flag carriers and reciprocal carriers which are found to be presumptively in the public interest, as well as through the adoption of standards to be followed by the United States when negotiating international maritime agreements.

SEC. 2. This Act may be cited as the "Bilateral Liner Shipping Act of 1979".

SEC. 3. Section 15 of the Shipping Act, 1916, as amended (46 U.S.C. 814), is further amended by designating the existing paragraphs as subsections (a) through (f) respectively, and adding at the end thereof a new subsection as follows:

"(g)(1) Notwithstanding any provision of subsection (d) of this section, carriers are authorized to enter into reciprocal ocean transport agreements. Such an agreement shall be deemed to be approved, and may be implemented by the carriers involved, 30 days after notice of such agreement has been published in the Federal Register. The agreement shall remain in effect until terminated by the parties upon 45 days notice to the Commission, unless suspended by the Commission pursuant to paragraph (6) of this subsection or until finally disapproved by the Commission pursuant to paragraph (3) of this subsection.

"(2) For the purposes of this subsection—

"(A) the term 'reciprocal ocean transport agreement' means an agreement between one of more United States-flag carriers and one or more reciprocal carriers that—

"(i) establishes a cargo revenue pool or pools, in which the United States-flag carriers collectively have and receive a share equal to the share or combined shares of reciprocal carriers or have rights equal to those of the reciprocal carriers;

"(ii) provides for rationalization of sailings, services, capacity, equipment, or facilities among such carriers;

"(iii) provides for the apportionment of earnings, losses, revenues, or traffic between or among carriers; or

"(iv) establishes equal access to liner cargoes, including government controlled or impelled cargoes other than goods or supplies of or for the armed forces or mail.

Any such agreement may also provide for participation by common carriers other than United States-flag carriers or reciprocal carriers;

"(B) the term 'United States-flag carrier' means a United States-flag common carrier by water in foreign commerce.

"(C) the term 'reciprocal carrier' means a common carrier by water in foreign commerce recognized as a national carrier by the government of the reciprocal nation that contains the ocean port of origin or destination of the cargo that is the subject of a reciprocal ocean transport agreement;

"(D) the term 'reciprocal nation' means the foreign nation (or an organization of foreign nations which have agreed among themselves to act for purposes of administration of their respective cargo preference laws as a single entity) in which the ocean port of origin or destination of the cargo that is the subject of a reciprocal ocean transportation agreement is located.

"(3) The Commission, upon complaint of any United States-flag or reciprocal carrier, shipper, exporter, importer, or port, shall disapprove a reciprocal ocean transportation agreement on findings if, after notice and hearing, such agreement is determined to—

"(A) unreasonably restrict or delay membership and participation in the agreement of all United States-flag carriers applying to serve the trade;

"(B) unreasonably restrict or delay membership and participation in the agreement of all reciprocal carriers applying to serve the trade, unless the reciprocal nation elects to limit the participation of its carriers;

"(C) contain any provision other than those establishing revenue or cargo pool or pools, equal access to liner cargoes, rationalization of sailings, services, capacity, equipment, or facilities, apportionment of earnings, losses, revenue, or traffic, and administrative provisions necessary or proper to effectuate the foregoing provisions or to admit other carriers;

"(D) fail to establish the collective share of the United States-flag carriers at not less than the greater of 40 percentum of the cargo or revenue, or the collective share of the reciprocal carriers;

"(E) unless excepted by unanimous agreement among the United States-flag and reciprocal carriers, apply to less than all cargo within the geographic scope of the agreement which originates or terminates in the United States and the reciprocal nation, but shall not include goods or supplies of or for the armed forces and mail;

"(F) subject less than all carriers participating in the trade to effective independent neutral body policing; and

"(G) be unjustly discriminatory to United States-flag carriers, shippers, exporters, importers, or ports or between exporters from the United States and their foreign competitors.

"(4)(A) Any reciprocal ocean transportation agreement (1) that covers the trades between the United States and Western Hemisphere nations with which the United States had in force on May 1, 1979, a Memorandum of Understanding or a Memorandum of Consultation concerning the maritime trades between that nation and the United States, and (2) provides for equal access to cargo controlled or impelled by the Government of the United States or the government of the reciprocal nation shall provide that upon complaint by any United States-flag carrier that such carrier has been offered or allotted an unfair allotment of the United States portion of any pool among United States-flag carriers, such complaint shall be the subject of commercial negotiations among the United States carriers and, if such negotiations do not produce unanimous agreement as to negotiated subshares among the United States-flag carriers, the dispute as to proper pool subshares shall be subject to binding commercial arbitration. In such arbitration, the tribunal shall take into account historic and proposed service, cargo capacity, ports served, tonnage required in the trade, and all other relevant factors.

"(B) All reciprocal ocean transportation agreements, except those covered by subparagraph (4)(A) of this section shall provide that upon complaint by a United States-flag carrier that it has been offered or allotted an unfair allotment of the United States portion of any pool among United States-flag carriers, such complaint shall be the subject of commercial negotiations among the United States-flag carriers and, if such negotiations do not produce unanimous commercial agreement as to negotiated subshares among the United States-flag carriers, the dispute as to proper pool shares shall be subject to full and free competition among United States-flag carriers for cargo within the United States pool share.

"(5) Any reciprocal ocean transportation agreement which implements an intergovernmental agreement and which provides for equal access to cargo controlled or impelled by the Government of the United States or the government of the reciprocal nation, and the effect of which shall be to deny access to such cargo to nonparties of the reciprocal ocean transportation agreement, shall provide that upon complaint by any United States-flag carrier or reciprocal carrier that any provision of such reciprocal ocean transportation agreement, other than a provision as to pool shares, is unfair to it, shall be the subject of commercial negotiations among the parties to the reciprocal ocean transportation agreement and any other carriers in, or proposing to serve the trade: but if, after such negotiations, the complaint has not been resolved, it shall be the subject of government-to-government negotiation and resolution by the respective agencies of the United States and the reciprocal nation which administer the cargo preference laws of the said countries. The effectiveness of any agreement shall not be affected by such arbitration.

"(6) The Commission may, on the complaint of an aggrieved carrier, shipper, exporter, importer, or port, after notice to the parties to the agreement and preliminary hearing, within the 30-day period following its filing with the Commission, suspend, for a single period not to exceed 120 days, the effectiveness of a reciprocal ocean transportation agreement upon a finding that (A) it is probable that the agreement fails to comply with the requirements in paragraph (3) of this subsection, or fails to contain the provisions required by paragraph (4) of this subsection; and (B) irreparable injury will result to the complaining party; and (C) such suspension will not substantially harm the parties to the agreement; and (D) such suspension will not adversely affect the free flow of commerce between the United States and the reciprocal nation involved.

"(7) At any hearing under this subsection, the burden to show that the reciprocal ocean transportation agreement involved should not become effective or should be suspended or disapproved shall be upon the opponent of the agreement. In considering whether to disapprove or suspend any such agreement, the Commission shall take into account the following policies:

"(A) It is the policy of the United States, as set forth in the Merchant Marine Act, 1936, as amended, to carry a substantial portion of the foreign trade of the United States in United States-flag vessels.

"(B) Many reciprocal nations have promulgated policies in order to foster their own merchant marine or otherwise control their national economic development.

"(C) It is in the best interests of the United States to reconcile any conflict arising out of the implementation of these policies through intergovernmental agreements which provide means to implement the policies of both the United States and the reciprocal nation in a manner which gives full effect to both countries policies and does not discriminate against United States-flag carriers or reciprocal carriers.".

SEC. 4. The Merchant Marine Act, 1936, as amended (46 U.S.C. 1101–1294), is further amended by adding the following new title:

"TITLE X—LINER SHIPPING AGREEMENTS

"SEC. 1001. As used in this title, the term 'Liner Shipping Agreements' means agreements, understandings, or similar arrangements entered into by the United States Government and any other government or governments, or any entity or entities acting in behalf of a government or governments, which in whole or in part fixes, regulates, or established the terms or conditions under which any carrier may participate in the carriage of liner cargo in the foreign commerce or foreign trade of the United States, or the transportation rates, fares, charges, classifications, rules, or regulations for such carriage between the United States and one or more foreign countries or between foreign countries.

"SEC. 1002. No liner shipping agreement which provides or limits access to liner cargo in the foreign commerce or foreign trade of the United States, except an agreement covering the trades referred to in subsection 15(g) (4) (A) of the Shipping Act, 1916, shall be entered into by the United States Government, unless such agreement satisfies the following criteria:

"(a) Membership and participation are open at all times, and without unreasonable delays, to all United States-flag carriers applying to serve the trade;

"(b) Membership and participation are open at all times, and without unreasonable delays, to all reciprocal carriers applying to serve the trade, unless the reciprocal country elects to limit the participation of its carriers;

"(c) The collective share of the United States-flag carriers is not less than the greater of 40 percent of the cargo or revenue, or the collective share of the reciprocal carriers;

"(d) All liner cargo (other than goods or supplies of or for the armed forces, and mail), which originates or terminates in the United States and the reciprocal country, and is within the geographic scope of the agreement, shall be subject to the agreement, unless excepted by unanimous agreement among the United States-flag and reciprocal carriers;

"(e) There is full and free competition among United States-flag carrier members of the agreement for liner cargo within the United States share if the United States-flag carrier members, including any newly admitted member, are not in unanimous commercial agreement as to negotiated subshares;

"(f) All carriers participating in the trade shall be subject to effective neutral body policing; and

"(g) There are no provisions in the agreement and no requirements of the reciprocal country, which discriminate against, or limit entry by, or unreasonably inhibit or restrict operations of, any United States-flag carrier beyond limitations permitted under subsections (a) through (f) of this section.

"SEC. 1003. (a) The Secretary of Commerce shall establish a Maritime Industry Advisory Committee (hereinafter referred to as the 'Committee') to advise the United States Government on the negotiation and implementation of liner shipping agreements. The Committee shall consist of at least seven members who have been nominated by United States-flag carriers that are or would be affected by such agreements, and shall designate one of its members as Chairman.

"(b) The Secretary of Commerce shall seek and give appropriate consideration to the recommendations and views of the Committee throughout the process of negotiating any liner shipping agreement.

"(c) The Committee shall meet, at least quarterly, at the call of the Chairman, and shall submit, at least annually, a report to the Secretary of Commerce containing its recommendations and views on liner shipping agreements in force or which may be under consideration.

"(d) The Committee may designate at least one representative to be a fully accredited member of each delegation of the United States Government to any international conference or meeting at which a liner shipping agreement is to be negotiated or considered.

SEC. 1004. (a) Liner shipping agreements are deemed to be in furtherance of the declaration of policy which is set forth in section 101 of this Act, and in the public interest. The United States Government shall therefore undertake to negotiate and conclude such agreements wherever possible. The Secretary of Commerce, as the lead agency, in consultation with the Secretary of State, shall be responsible for negotiating and concluding such agreements.

"(b) Negotiation and conclusion of liner shipping agreements, except agreements specified in subsection 15(g) (4) (A) of the Shipping Act, 1916, shall further the opportunity of United States-flag carriers to participate in the reciprocal nation's trades with countries other than the United States. The Secretary of Commerce, in consultation with the Secretary of State, shall be authorized to restrict or ban participation of vessels registered in countries other than the United States if the nation whose flag the carrier flies or is domiciled fails to assure United States-flag carriers equivalent participation in that nation's trades with countries other than the United States.

"SEC. 1005. Nothing in this title shall supersede the provisions of Section 901 of this Act; the Military Ocean Transportation Act (10 U.S.C. 2631); or Public Resolution Numbered 17, Seventy-third Congress (48 Stat. 500), as amended.".

STATEMENT OF THE PURPOSE AND THE NEED FOR THE BILL "TO AMEND THE SHIPPING ACT, 1916, AND THE MERCHANT MARINE ACT, 1936, TO PROMOTE COMITY WITH UNITED STATES TRADING PARTNERS, AND TO ENCOURAGE CERTAIN MARITIME AGREEMENTS IN THE FOREIGN COMMERCE OF THE UNITED STATES, AND FOR OTHER PURPOSES"

The purpose of this bill is to establish and implement a statutory shipping policy toward any bilateral arrangements. This part of U.S. policy could then properly accommodate cargo allocation policies of other governments and facilitate the evolution of commercial rationalization approaches, while protecting the interests of all U.S. carriers and shippers. Competition should be preserved in each category of trade sharing: U.S.-flag, trading partner flag, and third-flag.

The bill would accomplish this by: (a) amending the Shipping Act, 1916, to enable ocean carriers to enter into Reciprocal Ocean Transportation Agreements (ROTA), and provide for an accelerated section 15 approval procedure by the Federal Maritime Commission for such agreements; and (b) amending the Merchant Marine Act, 1936, to require the United States Government to conclude intergovernmental Liner Shipping Agreements (LSA) wherever possible and provide the standards for such agreements.

SECTION 1

The preamble clearly sets forth the Congressional recognition that both the United States and its trading partners have valid interests in their maritime commerce and in the maintenance and promotion of their merchant marines, and that international cooperation and comity require mutual respect of their commercial and maritime policies, and non-discrimination towards the carriers of the other; and that to accommodate their interests it is necessary and desirable that the procedures for the regulation of liner shipping between the United States and its trading partners be improved through the establishment of expedited procedures for approval by the Federal Maritime Commission of certain classes of agreements between United States flag carriers and reciprocal carriers which are found to be presumptively in the public interest, as well as through the adoption of standards to be followed by the United States when negotiating international maritime agreements.

SECTION 2

This section states that this Act may be cited as the "Bilateral Liner Shipping Act of 1979".

SECTION 3

This section amends section 15 of the Shipping Act, 1916, by adding a new subsection (g). Paragraph (1) provides that carriers may enter a ROTA and implement such an agreement thirty days after notice of such agreement has been published in the *Federal Register* on which date such agreement shall be deemed to be approved. A ROTA remains in effect until terminated by the parties upon 45 days notice to the Commission, unless suspended pursuant to paragraph (6), or disapproved by the Commission pursuant to paragraph (3).

Paragraph (2) contains the definition of terms. A ROTA is defined as an agreement between one or more United States flag carriers and one or more reciprocal carriers which: (A) establishes a cargo revenue pool or pools, in which the United States flag carriers collectively have a share equal to the share or combined shares of and/or have rights equal to those of the reciprocal carriers; and/or (B) provides for rationalization of sailings, services, capacity, equipment or facilities among such carriers; and/or (C) provides for apportionment of earnings, losses, revenue or traffic between or among such carriers; and/or (D) establishes equal access to liner cargoes, including government controlled or impelled cargoes other than goods or supplies of or for the armed forces or mail. Other terms are "United States flag carrier", "reciprocal carrier", and "reciprocal nation".

Paragraph (3) provides that the Federal Maritime Commission, upon complaint of any United States flag or reciprocal carrier, shipper, exporter, importer, or port, must disapprove a ROTA if, after notice and hearing, such agreement is determined to (A) unreasonably restrict or delay membership and participation in the agreement of all United States flag carriers applying to serve the trade; (B) unreasonably restrict or delay membership and participation in the agreement of all reciprocal carriers to serve the trade, unless the reciprocal nation elects to limit the participation of its carriers; (C) contain any provision other than those establishing revenue or cargo pool or pools, equal access to liner cargoes, rationalization of sailings, services, capacity, equipment or facilities, apportionment of earnings, losses, revenue or traffic, and administrative provisions necessary or proper to effectuate the foregoing provisions or to admit other carriers; (D) fail to establish the collective share of the United States flag carriers at less than the greater of 40 percent of the cargo or revenue, or the collective share of the reciprocal carriers; (E) unless excepted by unanimous agreement among the United States flag and reciprocal carriers, apply to less than all cargo within the geographic scope of the agreement which originates or terminates in the United States and reciprocal nation, but not include goods or supplies of or for the armed forces and mail; (F) subject less than all carriers participating in the trade to effective independent neutral body policing; and (G) be unjustly discriminatory to United States flag carriers, shippers, exporters, importers, or ports or between exporters from the United States and their foreign competitors.

Paragraph (4) provides the mechanism to settle disagreements as to how to allocate cargo within the United States flag carrier share in the event such carriers cannot agree to an allocation among themselves through commercial negotiations.

Paragraph (5) provides that a ROTA which implements an inter-governmental agreement and which provides for equal access to cargo controlled or impelled by the United States or the reciprocal nation, and which denies access to such cargo to non-parties, must provide that upon complaint by a United States flag carrier or reciprocal carrier that any provision of such agreement except as to pool shares, is unfair to it, must be the subject of commercial negotiations among the parties to the agreement and any other carriers in, or proposing to serve the trade: but if, after such negotiations, the complaint has not been resolved, it must be the subject of government to government negotiation and resolution by the agencies of the United States and the reciprocal nation administering the cargo preference laws.

Paragraph (6) provides that the Federal Maritime Commission may, on the complaint of an aggrieved carrier, shipper, exporter, importer, or port, after notice to the parties to the agreement and preliminary hearing, within the 30-day period following its filing, suspend, for a single period not to exceed 120 days, the effectiveness of a ROTA upon a finding that (A) it is probable that the agreement violates paragraph 3, or fails to contain the provisions required by paragraph 4; and (B) irreparable injury will result to the complaining party; and (C) such suspension will not substantially harm the parties to the agreement; and (D) such suspension will not adversely affect the free flow of commerce between the United States and the reciprocal nation.

Paragraph (7) provides that at any hearing under this subsection, the burden to show that the ROTA should not become effective or should be suspended or disapproved is upon the opponent of the agreement. In considering whether to disapprove or suspend any such agreement, the Commission must take into account a number of important commercial and maritime policies.

SECTION 4

This section amends the Merchant Marine Act, 1936, by adding a new Title X, entitled Liner Shipping Agreements. Section 1001 defines the term "Liner Shipping Agreements".

Section 1002 establishes the criteria which must be contained in a LSA, including: (A) membership and participation are open at all times, and without unreasonable delays, to all United States flag carriers applying to serve the trade; (B) membership and participation are open at all times, and without unreasonable delays, to all reciprocal carriers applying to serve the trade, unless the reciprocal country elects to limit the paticipation of its carriers; (C) the collective share of the United States flag carriers is not less than the greater of 40 percent of the cargo or revenue, or the collective share of the reciprocal carriers; (D) all liner cargo (other than goods or supplies of or for the armed forces and mail), which originates or terminates in the United States and the reciprocal country, and is within the geographic scope of the agreement, must be subject to the agreement, unless excepted by unanimous agreement among the United States flag and reciprocal carriers; (E) there is full and free competition among United States flag carrier members for liner cargo within the United States share if the United States flag carrier members, including any newly admitted member, are not in unanimous commercial agreement as to negotiated subshares; and (F) all carriers participating in the trade must be subject to effective neutral body policing.

Subsection (a) of Section 1003 requires the Secretary of Commerce to establish a Maritime Industry Advisory Committee to advise the United States Government on the negotiation and implementation of LSA's. The Committee is to consist of at least seven members who have been nominated by United States flag carriers and the Committee is to designate one of its members as Chairman.

Subsection (b) directs the Secretary of Commerce to seek and give appropriate consideration to the recommendations and views of the Committee throughout the process of negotiating any LSA.

Subsection (c) requires the Committee to meet at least quarterly, at the call of the Chairman, and to submit, at least annually, a report to the Secretary of Commerce Containing its recommendations and views on LSA's in force or which may be under consideration.

Subsection (d) authorizes the Committee to designate at least one representative to be a fully accredited member of each delegation of the United States Government to any international conference or meeting at which a LSA is to be negotiated or considered.

Subsection (a) of section 1004 provides that LSA's are deemed to be in furtherance of the declaration of policy which is set forth in section 101 of this Act, and in the public interest. The United States Government is directed to negotiate and conclude such agreements wherever possible. The Secretary of Commerce, as the lead agency, in consultation with the Secretary of State, is to be responsible for negotiating and concluding such agreements.

Subsection (b) provides that the negotiation of LSA's is to further the opportunity of United States flag carriers to participate in the reciprocal nation's trades with countries other than the United States. The Secretary of Commerce, in consultation with the Secretary of State, is authorized to restrict or ban participation of vessels registered in countries other than the United States if the nation whose flag the carrier flies or is domiciled fails to assure United States flag carriers equivalent participation in that nation's trades with countries other than the United States.

Section 1005 disclaims any intention to supersede section 901 of Merchant Marine Act, 1936; the Military Ocean Transportation Act; or of Public Resolution Numbered 17, Seventy-third Congress.

S. 1463

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is necessary for the economic and military security of the United States and the proper growth of its foreign commerce to encourage and facilitate cooperation, operating efficiences, and improved services and organization among common carriers by water in foreign commerce, and among conferences of such carriers, subject to review and oversight by the Federal Maritime Commission, and further that it is necessary for the orderly development of intermodal transportation that the antitrust law exception under the Shipping Act of 1916, be extended to intermodal cooperative agreements between common carriers by water, surface, or air, as the case may be, and to intermodal cooperative arrangements to which one or more conference or rate bureau of such common carriers is a party.

SEC. 2. This Act may be cited as the "Shipping Reform Act of 1979".

SEC. 3. Section 14b of the Shipping Act, 1916 (46 U.S.C. 813a), is amended by striking the words "(7) provides for a spread between ordinary rates and rates charged contract shippers which the Commission finds to be reasonable in all the circumstances but which spread shall in no event be more than 15 per centum of the ordinary rates;" and inserting in lieu thereof "(7) provides for a spread between ordinary rates charged contract shippers that is not greater than 18 percent of the ordinary rates if both shipper and consignee are party to the contract, or that is not greater than 13 percent of the ordinary rates if only the shipper or the consignee is a party to the contract;".

SEC. 4. (a) The first paragraph of section 15 of the Shipping Act, 1916 (46 U.S.C. 814), is amended by adding at the end thereof the following new sentences: "Such term shall also include (1) intermodal agreements between common carriers by water or any conference or conferences of such carriers on the one hand and carriers or groups of carriers subject to the Intercoastal Shipping Act, 1933 (46 U.S.C. 843 through 848), subtitle IV of title 49 of the United States Code (49 U.S.C. 10101 through 11916), or the Federal Aviation Act of 1958 (49 U.S.C. 1301 through 1551) on the other hand; (2) acquisition or merger of any common carrier by water incorporated in or citizen of the United States by or with any other such United States common carrier by water; (3) acquisition of 50 percent or more of the operating assets of any common carrier by water incorporated in or citizen of the United States by any other such United States common carrier by water; and (4) shippers councils formed under section 15b of this Act. Agreements to be performed entirely within any foreign country or place, and agreements in regard to transportation or transportation services between foreign countries or places that do not involve import or export of the transported goods into or out of the United States, shall not be subject to this Act; except that any common carrier by water in foreign commerce that is a citizen or resident of the United States may elect to submit any such agreement to which it is a party, or any modification or cancellation thereof, to the Commission for approval and when approved by the Commission such agreement, modification or cancellation whether or not subject to the antitrust laws of the United States shall be afforded all the exceptions from the antitrust laws of the United States that are afforded to waterborne foreign commerce under section 15 of this Act.".

(b) The second paragraph of section 15 of the Shipping Act of 1916 (46 U.S.C. 814), is amended by inserting after the first sentence thereof the following new sentences: "Agreements described in the first paragraph of this section, and contracts and arrangements described in section 14b of this Act, are presumptively in the public interest as set forth in this Act. The Commission or any person opposing approval of any such agreement, contract, or arrangement shall have the burden of establishing that such agreement, contract, or arrangement is contrary to the standards set forth in this Act and therefore may not be approved.".

(c) The fourth paragraph of section 15 of the Shipping Act, 1916 (46 U.S.C. 814), is amended by striking the words ", if otherwise in accordance with law," and inserting in lieu thereof the words ", if otherwise in accordance with this Act,".

(d) The sixth paragraph of section 15 of the Shipping Act, 1916 (46 U.S.C. 814), is amended by striking all the language before the proviso and inserting in lieu thereof the following:

"Whoever violates this section, section 14b or section 15a of this Act by implementing any agreement or any modification of an agreement (1) prior to receiving approval by the Commission as provided for in this section or section 15a of this Act or (2) after disapproval or cancellation by the Commission as provided for in this section or section 15a of this Act, shall be subject to a civil penalty of not more than $25,000 for each day such violation continues:".

(e) Section 15 of the Shipping Act, 1916 (46 U.S.C. 814) is further amended by adding at the end thereof the following new paragraphs:

"The penalties, charges, damages, remedies, or reparations provided by this Act shall be the sole penalties, charges, damages, remedies, or reparations for any violation of this section or section 15a of this Act in regard to any agreement, or any modification of such an agreement, that occurs before or after the enactment of this paragraph, and any such violation and the underlying acts of any such violation are excepted from the antitrust laws of the United States and any penalties, charges, damages, remedies, or reparations provided for in the antitrust laws of the United States.

"The Federal Maritime Commission shall have exclusive jurisdiction over all activities undertaken, both before and after the enactment of this paragraph, under authority of section 14b or of agreements approved under this section, section 15a, or section 15b of this Act. If, after hearing and notice, the Commission finds that any such activity is lacking such authority or otherwise in violation of this section or section 14b or section 15a of this Act, the penalties, charges, damages, remedies, or reparations provided for such violations by this Act shall be the exclusive penalties, charges, damages, remedies, or reparations for such violations, and such activities and violations are excepted from the antitrust laws of the United States and any penalties, charges, damages, remedies, or reparations provided for under such antitrust laws.

"Every agreement or modification approved under this section or section 15a of this Act shall remain lawful and effective until canceled by the parties thereto, or until expiration by the terms thereof, or until the disapproval by the Commission upon a final determination, after notice, hearing and appeal, if any, that the agreement or modification violates this section or section 15a of this Act.".

SEC. 5. The Shipping Act, 1916, as amended by inserting the following new section immediately after section 15 thereof:

"SEC. 15a. (a) Except as provided in subsection (b) of this section, all agreements and modifications filed under section 15 of this Act, other than agreements or modifications that provide or limit access to cargo, shall be deemed to be approved 60 days after such agreement or modification is filed with the Commission.

"(b) At any time prior to the expiration of such 60-day period, the Commission may suspend the effective date of any agreement described in subsection (a) of this section for a period not to exceed 7 months if the Commission, upon the complaint of a carrier, shipper or port and after preliminary hearing, finds that—

"(1) the complainant has shown a reasonable probability that the agreement or modification is in violation of this Act.

"(2) that there will be no substantial harm to the public interest or to the proponents of the agreement or modification if approval is delayed, and

"(3) the complainant will be irreparably injured in the interim if the agreement or modification is allowed to go into effect before a final decision on the merits.

Prior to the expiration of any such suspension, the Commission shall approve the agreement or modification unless, after final hearing, the Commission finally determines that such agreement or modification violates this Act. In every preliminary or final hearing conducted under this subsection, the burden of proof and initial presentation of evidence shall be on the opponents of the agreement or modification.".

SEC. 6. The Shipping Act, 1916, is amended by inserting immediately after section 15a, as added by this Act, the following new section:

"SEC. 15b. Shippers or consignees or both may organize into shippers' councils, approved under section 15 of this Act, for the purpose of (1) mutual consultation and exchange of information or views in regard to their general level of rates, rules, practices, or services, and (2) agreement upon common positions for the purpose of consultation and exchange of information or views with common carriers by water in foreign commerce, conferences of such carriers, or the parties to intermodal agreements in regard to their general levels of rates, rules, practices, or services. Such approved shippers' councils, their members, and the carriers, conferences of carriers, or parties to intermodal agreements with whom they consult, or exchange information or views, or to whom they present complaints or requests under this section or the third paragraph of section 15, shall enjoy all the exceptions from the antitrust laws of the United States afforded by section 15 of this Act in regard to such consultations, exchanges, common positions, or presentations, and any implementation thereof by such carriers, conferences of carriers, or parties to intermodal agreements.".

SEC. 7. Section 18(b)(5) of the Shipping Act, 1916 (46 U.S.C. 817(b)(5)), is amended by adding to the end thereof the following new sentences: "Whenever the Commission finds any such charge or rate to be so unreasonably high or low as to be detrimental to the commerce of the United States, it may require that such charge or rate be canceled, and that a revised charge or rate, accompanied by written justification based upon costs, nature of service, or other transportation conditions be filed. Notwithstanding the provisions of paragraph 6 of this subsection, disapproval of any rate or charge, and the requiring of a filing of a revised rate or charge pursuant to this paragraph, shall be the only sanction for violation of this paragraph.".

SEC. 8. Section 18 of the Shipping Act, 1916 (46 U.S.C. 817) is amended by adding to the end thereof the following new subsections:

"(d) The Commission shall have exclusive jurisdiction over all activities undertaken, both before and after the enactment of this subsection, under color of authority of this section. If, after notice and hearing, the Commission finds that such activities are lacking such authority or otherwise in violation of this section, the penalties, charges, damages, remedies, or reparations provided by this Act for such violations shall be the exclusive penalties, charges, damages, remedies, or reparations for all such violations.

"(e) The participants in each agreement approved under section 15 which in whole or in part fixes or regulates carrier transportation rates, fares, charges, classifications, rules, or regulations by vote of the parties, and each carrier not a member of such an agreement shall engage the services of an independent neutral body to police the obligations of carriers under this Act or approved agreements. The Commission may disapprove any such agreement, or may suspend for up to 12 months the tariff or tariffs of any such agreement of nonmember carrier, whenever it finds, after notice and hearing, inadequate policing of such obligations.".

SEC. 9. The first sentence of section 22 of the Shipping Act, 1916 (46 U.S.C. 821) is amended by inserting the words "shipper, consignee," immediately after the words "by a common carrier by water,".

SEC. 10. Section 26 of the Shipping Act, 1916 (46 U.S.C. 825), is amended to read as follows:

"SEC. 26. (a) Upon complaint, the Commission shall investigate the actions of any foreign government whenever it shall appear that the laws, regulations, or practices of such foreign government operate in such a manner as to fail to assure that vessels of the United States engaged in foreign trade, or United States carriers, or instruments of international commerce recognized by the United States Government and utilized by such vessels or carriers are afforded equal privileges with vessels or instruments of international commerce of carriers of such foreign country, or of other foreign countries, or are otherwise discriminated against, in respect to (1) trade to or from the ports or places of such foreign country or (2) passengers or goods intended for shipment or transportation to or from ports of other countries in such vessels of the United States or their instruments of international commerce.

"(b) The Commission shall report the results of its investigation along with its recommendations to the President, and the President may seek to secure by diplomatic means the removal of such discrimination and the establishment of equal privileges for such vessels or carriers of the United States and their instruments of international commerce. If such discrimination has not been removed and equal privileges have not been established within 90 days after the President receives the report of the Commission, the President may order that no vessel of the flag of the foreign government and/or no instrument of international commerce utilized by such vessels or by carriers by water of such foreign country be entered or admitted into the United States until such time as the Commission has found and certified that the discrimination has ceased and equal privileges have been established. Upon receiving the report of the Commission, the President shall advise the Congress as to the facts, his conclusions and actions, and, if deemed appropriate, his recommendations as to Congressional action.

"(c) This section shall not apply to trades between the United States and any nation of the Western Hemisphere with which the United States had in force on May 1, 1979, a Memorandum of Understanding or a Memorandum of Consultation concerning the maritime trades between that nation and the United States that provides for equal access to cargo controlled or impelled by the Government of the United States or the government of such nation of the Western Hemisphere.".

SEC. 11. This Act shall not be construed to affect sections 9 or 37 of the Shipping Act, 1916 (46 U.S.C. 808, 835), or any other provision of law governing the transfer of vessels to foreign ownership.

SEC. 12. The provisions of this Act shall take effect 90 days after the date of its enactment.

SHIPPING REFORM ACT OF 1979—SECTION-BY-SECTION ANALYSIS

INTRODUCTION

The Shipping Reform Act of 1979 (the Reform Act) would make several major changes to the Shipping Act, 1916 (the Shipping Act), notably to Sections 14b, 15 and 18. These changes would broaden and strengthen the authority of the Federal Maritime Commission (FMC) to administer and enforce the Shipping Act, as well as allowing ocean carriers and shippers to conduct their operations in a more efficient manner. These changes also would streamline the procedures followed by the Commission in considering agreements and modifications, and enable the FMC to grant anti-trust immunity to certain intermodal, merger and acquisition agreements which are currently beyond the scope of Commission jurisdiction.

Section 1 Preamble. The Preamble is intended to clearly demonstrate the Congressional intent that our national security and commercial interest necessitate the development of a more effective and economical framework for cooperation among ocean common carriers; that the FMC shall have the exclusive jurisdiction to review and oversee the agreements entered into; that the FMC shall have the authority to exempt such agreements fully from the anti-trust laws; and that such agreements may include intermodal arrangements between carriers and groups of carriers subject to the Shipping Act, the Intercoastal Shipping Act, the Interstate Commerce Act and the Federal Aviation Act.

Section 2 Short Title. This Act may be cited as "the Shipping Reform Act of 1979".

Section 3 Loyalty Agreements. Section 14b of the Shipping Act authorizes carriers or conferences to use dual rate contracts. These contracts permit carriers or conferences to offer freight rates lower than ordinary published rates to shippers or consignees who agree to give all or a fixed portion of their patronage to such carrier or conference. The spread between ordinary rates and discount rates must be found by the FMC to be "reasonable" but in no event more than 15 percent.

Because of the dual nature of this contract, it is quite easy for shippers (exporters or importers) to avoid patronizing the carrier or conference when another carrier, in order to attract cargo, files a rate below the discount contained in the dual rate contract. Section 3 of the Reform Act is designed to strengthen loyalty agreements by establishing a three tiered rate system. Specifically, this provision would authorize a triple rate contract structure, allowing discounts up to 18 percent from the ordinary rate in the case of a three party contract, and up to 13 percent in the case of a two party contract.

Section 4 Agreements. (a) The first paragraph of Section 15 of the Shipping Act contains the definition of the term "agreement", a most important provision because the FMC's authority to grant immunity from the anti-trust laws is limited to lawful agreements. Agreements include understandings, conferences and other arrangements which fit into one of seven categories set forth in the same paragraph.

The courts in recent years have tended to interpret the term agreement, and thus the FMC's anti-trust exception authority, very narrowly. In *FMC* v. *Seatrain Lines*, 411 U.S. 726, the Supreme Court held that ". . . in enacting Section 15, Congress did not intend to invest the Commission with the power to shield anti-trust liability, merger or acquisition of assets, agreements which impose no on-going responsibility. Rather, Congress intended to invest the Commission with jurisdiction over only those agreements, or those portions of agreements, which create on-going rights and responsibilities and which, therefore, necessitate continuous Commission supervision." Similarly, in *American Mail Line, Ltd.* v. *FMC*, 503 F.2d157, (C.A.D.C. 1974), the Court of Appeals noted that ". . . the legislative history of Section 15 evidences a sharp recognition of the differences between cooperative working arrangements which are subject to the Act and mergers and acquisitions which are not" and further stated that Section 15 agreements must be agreements between the parties subject to the Act.

Clearly today, under the "on-going responsibilities" and "persons subject to the Act" standards, the FMC may not consider an agreement involving an acquisition, joint venture, or merger. Additionally, the FMC lacks authority to approve agreements involving individual carriers or groups of carriers which are not subject to the Shipping Act.

Section 4(a) of the Reform Act is specifically intended to overrule these decisions, and to expand the scope of the term agreements to include intermodal agreements, acquisitions and mergers where both parties are United States common carriers by water, and to shippers' councils (see Section 6 below). Additionally, it makes clear that agreements to be performed entirely within foreign countries and not involving United States import or export cargo will only be subject to the Act if the parties to such agreements elect to file them with the FMC.

(b) The second paragraph of Section 15 of the Shipping Act contains certain standards which the FMC must consider prior to approving any agreement. The FMC must disapprove any agreement that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers or ports, or between exporters from the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, or to be contrary to the public interest.

In 1961, following several years of hearings, the Congress amended the paragraph by adding the "public interest" test. This broad, undefined standard has seriously hampered the FMC, and has enabled the Department of Justice to regularly intervene in Section 15 proceedings, interjecting a series of anti-trust policy issues which the Shipping Act was initialy enacted to preclude. The "public interest" test has placed an extraordinary burden on the parties to a proposed agreement to demonstrate that their agreement is in the public interest and not contrary to anti-trust principles. See *FMC* v. *Svenska Amerika Linien*, 390 US 238.

Section 4(b) of the Reform Act is intended to reverse this trend. It states that agreements which meet the requirements of Section 15, as well as discount-rate contracts and arrangements concluded under Section 14b, are presumptively in the public interest. The opponent of the agreement will have the burden of proving that the agreement does not meet the standards set forth in the Shipping Act and thus is not approvable. The Shipping Act standards are made exclusive.

(c) The fourth paragraph of Section 15 of the Shipping Act allows tariff rates, charges, and similar matters to take effect upon publication by an approved conference "if otherwise in accordance with law". Section 4(c) of the Reform Act will delete this vague clause and make clear that the standards to be considered are those contained within the Shipping Act itself.

(d) The sixth paragraph of Section 15 of the Shipping Act provides for a civil penalty of not more than $1,000 per day for violations of this Section or of Section 14b. Section 4(d) of the Reform Act will increase the maximum penalty for violations to $25,000 per day while also providing that such penalty shall be the exclusive remedy for Shipping Act violations.

(e) Section 4(e) of the Reform Act will add three paragraphs to Section 15 of the Shipping Act. The first two provide that all activities undertaken under authority of Sections 14b, 15, 15a and 15b of the Shipping Act shall be subject to the exclusive jurisdiction of the FMC, and shall not be subject to the constraints and penalties of other statutes, notably the anti-trust laws. The third paragraph will establish a precise standard for the duration of Section 15 and 15a agreements, which shall remain effective until canceled by the parties, or until expiration by their terms, or until disapproval by the Commission after determination that the agreement in question is in violation of the Shipping Act. Both paragraphs are intended to strengthen the authority of the FMC. Both also are intended to assure shipowners that actions subject to the Shipping Act are to be judged solely by the standards and provisions of that Act.

Section 5 Expedited Processes. This Section of the Reform Act will add a new Section 15a to the Shipping Act, designed to streamline the FMC's agreement consideration processes. It provides that all Section 15 agreements, except those limiting or giving access to cargo, shall be approved and effective sixty (60) days after being filed with the FMC. During this period the FMC may suspend the agreement for a single period up to seven months if a complainant shipper, carrier, or port has demonstrated reasonable probability that the agreement is in violation of the Act, irreparable injury if the agreement becomes effective, and that no substantial harm to the parties will occur if approval is delayed. Prior to the expiration of any suspension period, the FMC must either approve the agreement or make a final determination that the agreement is in violation of the Act. The burden of proof and initial presentation of the evidence will be upon the complainant.

This Section is intended to force decisions to be made on Section 15 agreements within a reasonable period of time, and to eliminate the very common practice of *de facto* suspending the effectiveness of the agreements indefinitely through administrative delay upon complaint or intervention by the Department of Justice or other party not directly affected by the agreement's terms. The criteria for considering a motion to suspend made by an interested party are those which have long been used by the Federal courts in considering a motion for preliminary injunction.

Section 6 Shippers' Councils. This Section of the Reform Act will allow shippers or consignees to enter into agreements to form shippers' councils, to file such agreements with the FMC, and when lawful under the Act, to receive immunity from the anti-trust laws under Section 15 of the Shipping Act. At present, the FMC cannot grant such immunity to shippers or consignees.

Shippers' councils have functioned for many years in non-U.S. trades. They provide an effective balance for the conferences, and enable discussions on rates and services to be held in an equitable, business like, and economical manner. American shippers and carriers are disadvantaged by their inability to consult on a wide range of matters of common concern. This Section would remedy the problem by enabling Shippers' Councils to be formed, to serve as a focal point for consultation, and to exchange information with ocean common carriers and conferences regarding general freight rates, services and similar matters.

Section 7 Rate Standards. Section 18(b)(5) of the Shipping Act presently provides that the Commission shall disapprove any rate filed which, after hearing, it finds so unreasonably high or low as to be detrimental to the commerce of the United States. However, Section 18(b)(5) does not provide for any further action by the FMC, although Section 18(b)(6) does allow the imposition of a civil penalty up to $1,000 for each day the violation continues. Section 7 of the Reform Act will strengthen the authority of the FMC by allowing the Commission to require the cancellation of rates and charges, and the filing of an appropriate revision. It also provides the disapproval and re-filing order is to be the only sanction for violating this Section.

Section 8 Exclusive Jurisdiction. This Section of the Reform Act will add two new subsections to Section 18(b) of the Shipping Act. The first states that the FMC will have exclusive jurisdiction over all actions taken under color of authority of Section 18. Paralleling amendments to Section 15 discussed above, it also provides that penalties and sanctions in the Act shall be the only ones impossible for violations of the Act. The second provides that conferences and independent carriers must engage the services of an independent neutral body to police the obligations of carriers.

Section 9 Complaints and Violations. Section 22 of the Shipping Act provides that any person may file a complaint with the FMC, alleging violations of the Act by a common carrier or by any other person subject to this Act. The latter term is defined in Section 1 to include certain forwarders and terminal/warehouse operators; but neither shippers nor consignees are included in that Section. Section 9 of the Reform Act will strengthen the authority of the FMC to enforce the Shipping Act, particularly in the area of rebating, by enabling complaints to be filed against shippers and consignees, as well as against those who are presently included.

Section 10 Foreign Discrimination. This Section of the Reform Act is intended to strengthen the authority of the FMC to investigate discriminatory practices imposed by foreign governments on United States carriers and instruments of international trade such as containers and shipborne barges. It will replace Section 26 of the Act which has proven to be a virtually useless tool. Section 10 of the Reform Act specifically authorizes and empowers the President to bar foreign flag vessels as well as foreign instruments of international trade from our ports, in instances where the nation where they are registered are engaged in discriminatory practices which adversely affect United States interests and has refused to correct these practices. With the increasing development of bilateralism and maritime protectionalism in foreign nations, it is most important that our government have the express authority to ensure equitable treatment for U.S. carriers.

Section 11 Foreign Vessel Transfers. This Section is intended to ensure that nothing in the Reform Act is construed to affect the current statutory provisions pertaining to the transfer of vessels to foreign ownership.

Section 12 Effective Date. The amendments made by the Reform Act become effective 90 days after enacted.

● Mr. WARNER. Mr. President, I would like to commend Senator INOUYE, chairman of the Commerce Committee's Merchant Marine and Tourism Subcommittee, for his leadership in introducing a series of bills that will serve to focus the subcomittee's attention on several areas of our national maritime policy that are sorely in need of legislative attention. Hopefully, through these and similar measures, we will be able to create an economic climate in our foreign commerce that will allow America's ocean fleet to grow and prosper. As the ranking minority member of the Merchant Marine and Tourism Subcommittee, I wish to voice my support for Chairman INOUYE in this effort.

The United States is the world's largest trading nation. Yet, our foreign trade is dominated by foreign-flag ships. Only 4.5 percent of the U.S. ocean-borne foreign trade tonnage moves on American bottoms. Only 3.5 percent of U.S. petroleum imports are carried in U.S.-flag tankers. U.S.-flag dry bulk carriage amounts to a minuscule 2 percent of our trade. Although the American-flag liner cargo share is about 30 percent, our liner fleet is plagued by unfair rate-setting practices of Eastern bloc countries, severe over-tonnaging, and rampant illegal rebating. Moreover, the maritime policy of the United States is outdated and inconsistent with the policies of many of our major trading partners.

Mr. President, 30 years ago the strength of the U.S. fleet helped to make us a world power. Today, our fleet ranks 10th worldwide in deadweight tonnage and 11th in the number of ships. As of December 31, 1977, the U.S.S.R. had 2,456 ships compared to our 571 privately owned vessels.

Today, the industry is looking to the Federal Government, particularly the Congress, to bring about the changes necessary to strengthen the U.S. maritime industry. However, the questions before us are complex and may be approached from various perspectives. I view the bills which Senator INOUYE has introduced as offering possible solutions to these difficult problems. When the Merchant Marine and Tourism Subcommittee begins hearings on these and other maritime policy legislation, I intend to work diligently toward the development of the kind of positive, meaningful legislation that is necessary to help reconstruct American maritime superiority.●

By Mr. BOSCHWITZ:

S. 1464. A bill to direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians; to the Select Committee on Indian Affairs.

● Mr. BOSCHWITZ. Mr. President, today I am introducing a bill that will once and for all settle a land dispute in Minnesota.

Sherman Holbert of Mille Lacs County, Minn., holds title to a 25-acre parcel of land in Mille Lacs County generally referred to as Government Lot 4. While Mr. Holbert was planning to develop this land, a claim was presented to the Mille Lacs County Planning Commission by the President of the Mille Lacs Chippewa Reservation Business Committee stating that the land belonged to the Mille Lacs Chippewa Indians. As evidence, he cited Joint Resolution 40 passed by Congress on May 27, 1898, which "perpetually reserved the above property (Lot 4) as a burial place for the Mille Lacs Indians." The Congress reserved the property for the Mille Lacs Indians, however, it was never purchased on their behalf by the Government.

The Department of the Interior confirmed that the land had been reserved for the Indians by Congress in 1898. Attempts were made between 1901 and 1941 to pass legislation to authorize the Secretary of Interior to purchase the land, however, no legislation passed.

Currently there is no dispute that the land should belong to the Mille Lacs Indians. During the 95th Congress, Congressman NOLAN sponsored legislation (H.R. 14224) which "authorized and directed" the Secretary to purchase the land. In the closing days of the session, the bill was amended to remove the words "and direct." This wording was passed by the House and the Senate and became Public Law 95–571.

The words "authorize the Secretary to purchase" indicates that the Secretary can purchase the land at fair market price. However, he is not required to purchase the land. If the Secretary and Mr. Holbert cannot agree on a price, the title stays with Mr. Holbert.

The words "authorize and direct" instruct the Secretary that he must purchase the land. If a price cannot be agreed upon, the Secretary can exercise Eminent Domain. The purchase would then be settled in the courts.

Upon passage of Public Law 95–571, the Department of the Interior and Mr. Holbert discussed a purchase price. The Department offered what they considered fair market price for the land. Mr. Holbert, however, has in mind a price substantially larger than the Department offered. He is including his investment into development and also what he could have made developing. The Department rejected his price and Mr. Holbert remains holder of the title to Government Lot 4, which he cannot realistically hope to develop since it is the site of Indian burial ground.

Therefore, Mr. President, I am introducing legislation to amend Public Law 95–571 that would add the language "and direct." Congressman Nolan has introduced similar legislation in the House. Such language would provide the means for condemnation proceedings, which would then allow the courts to establish a fair market price.

Mr. President, I hope the Senate will quickly pass this legislation so that the Chippewa Indian burial ground will be returned to its rightful owners.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1 (a) of the Act entitled "An Act to authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians", approved November 2, 1978 (92 Stat. 2452), is amended to read as follows:

"(a) The Secretary of the Interior is authorized and directed, if the Secretary finds legal title to such lands to be in private ownership, to acquire by purchase the following lands located in township 43 north, range 27 west, fourth principal meridian, Mille Lacs County, Minnesota:

"(1) Government lot 4 located in section 28.

"(2) The southwest quarter of the southwest quarter of section 28.

"(3) The southeast quarter of the southeast quarter of section 29.".

(b) Section 1 of such Act is further amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) No lands may be acquired pursuant to subsection (a) unless the Secretary acquires all the lands described in subsection (a).".●

By Mr. TALMADGE (for himself, Mr. McGovern, Mr. Morgan, Mr. Pressler, Mr. Dole, and Mr. Zorinsky):

S. 1465. A bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARM CREDIT ACT AMENDMENTS OF 1979

● Mr. TALMADGE. Mr. President, I am pleased today to introduce the Farm Credit Act Amendments of 1979. This legislation, which was approved by the Federal Farm Credit Board and the Governor of the Farm Credit Administration, would make several major revisions in, and otherwise update, the Farm Credit Act of 1971.

The Farm Credit Act of 1971 was designed to serve as a new charter for the farm credit system. The act was designed to bring the system into tune with the times, and make it responsive to the changing needs of rural America.

Those of us who sponsored and supported the act of 1971 in the 92d Congress had high hopes for what it would do for American agriculture. I believe the record shows that, 8 years after its enactment, the Farm Credit Act of 1971 has more than lived up to our expectations.

Today, the farm credit system is the single largest source of credit for American agriculture. It supplies a third of the total amount of credit used by farmers and ranchers and two-thirds of the credit used by farmer cooperatives. The borrower-owners of the farm credit system pay for the borrowed funds and for all of the operating expenses of the system—including those incurred by Government examination and supervision provided by the Farm Credit Administration. The system operates at no cost to the U.S. Treasury, but, just as agriculture continues to change, so do the credit needs of farmers. The farm credit system must be reexamined periodically to insure that it remains responsive to those ever-changing needs. About a year ago, each Farm Credit district was asked by the Federal Farm Credit Board to make recommendations it thought appropriate for amending the Act of 1971. A total of 81 proposals for amending the act were made.

During this time, I was asked to address the National Conference of Farm Credit Directors, which was being held in Atlanta. At the conference, I advised the directors to give any proposal for change thorough study before it was brought to Congress. I also urged that all components of the farm credit system reached a unified position in support of the package of proposals before they are introduced as legislation. Apparently, this advice was taken to heart. On April 4, 1979, the Federal Farm Credit Board unanimously recommended to Congress that 28 amendments be enacted into law. While the legislation I am today introducing is not as all encompassing as the Act of 1971, it contains provisions that are of major importance to American agriculture. Although there are 28 proposed amendments, I would like to discuss in detail seven proposals in the bill.

First, the bill would establish that at least 60 percent of the voting members of a co-op must be farmers for it to be eligible to borrow from a bank for cooperatives. The present minimum is 80 percent, except for rural electric and telephone cooperatives, which are required to have at least 70 percent farmer-members. This proposal would enable the system to adjust its bank for cooperatives lending programs to the new realities of rural America. Simply stated, a number of cooperatives, and especially rural electric cooperatives, must serve a larger number of nonfarm rural residents today than they did in 1971 if they are going to do the job they should. At the same time, the minimum requirement of 60 percent farmer-members insures that the principle of farmer control will be maintained. An added safeguard in this regard is that Farm Credit district boards would retain the authority to set minimum requirements in excess of 60 percent for their own bank for cooperatives.

Second, this legislation would permit the Federal land banks to make loans for more than 85 percent of the appraised value of farm real estate when these loans are guaranteed by a Federal agency, such as Farmers Home Administration, or by a State government. This would make it possible for Federal land banks to expand financing to limited-equity farmers—especially young farmers—and would keep pace with the Farmers Home Administration's desire to make more use of its guaranteed loan programs.

Third, the bill would broaden the authority of Federal land banks and production credit associations to finance processing and marketing activities that are directly related to an agricultural producer's operations and those of other bona fide producers. This proposal is intended to assist farmers, ranchers, and fishermen, who are now eligible to borrow from the system, to acquire or improve a processing or marketing capability for their own agricultural production. By extending their operations closer to the point of consumption, producers may be expected to improve their farm income.

Under the proposed amendment, district Farm Credit boards would be authorized to establish their own limits for Federal land bank/production credit association financing of processing and marketing. These limits would, in turn, be subject to the approval of the Farm Credit Administration, which would be charged with the responsibility of insuring that the best interests of agricultural producers and their cooperatives are protected.

Fourth, the legislation would authorize the banks for cooperatives to finance agricultural export transactions in which a U.S. cooperative is a primary beneficiary. This proposal entails authorizing banks for cooperatives to make deposits in foreign banks, buy and sell bankers acceptances, purchase time drafts payable by foreign buyers of agricultural products, and engage in currency exchange. In addition, the proposal would authorize bank for cooperatives financing of trading facilities which are jointly owned by a U.S. cooperative and a foreign cooperative. The proposal would also authorize bank for cooperatives to invest in foreign financial institutions or servicing operations related to export trade. Finally, bank for cooperatives would be authorized to directly finance equity investors who build facilities or provide equipment for lease to a U.S. farmer cooperative. All of these specific proposals are being advanced as a means for promoting the expansion of U.S. agricultural exports.

Fifth, the legislation would expand the farm credit system's capacity to serve the credit needs of producers and harvesters of aquatic products. Last year, Congress passed the Allen-Weaver bill, which allows production credit associations to extend 15-year term loans to fishermen. It appears that this new authorization has already had a discernible impact on the U.S. fishing industry.

Since its enactment, there has been a dramatic increase in the volume of production credit associations aquatic loans.

The legislation I am introducing today would further expand aquatic financing by the farm credit system. It would allow Federal land banks to make long-term loans to fishermen for the purpose of constructing docking and storage facilities. It would clarify that co-ops solely engaged in furnishing aquatic business services are eligible to borrow from the banks for cooperatives. The bill would also permit Federal intermediate credit banks to discount aquatic loans of "other financing institutions," that is, commercial banks and other institutions that provide credit to agricultural producers but are not part of the farm credit system.

Sixth, the bill contains provisions that would foster greater cooperation between farm credit system institutions and commercial banks in meeting the growing credit needs of American agriculture. This would be accomplished primarily in two ways—first, by authorizing the Federal land banks to sell loans to and participate in loans with lenders outside the system; second, by authorizing production credit associations to issue participation certificates to commercial bankers and other lenders. Both proposals stem in part from a desire to expand the present participation arrangements production credit associations now have with commercial banks.

Finally, the bill contains several noteworthy housekeeping proposals designed to improve the ability of the Farm Credit Administration to recruit, hire, and retain qualified personnel to examine and supervise the $50 billion farm credit system. The bill would delegate to the Federal Farm Credit Board the authority to set, within certain limits, the salaries of the Governor and Deputy Governors of FCA. It would authorize the Farm Credit Administration to manage salaries below the Deputy Governor level, employee qualification requirements, as well as travel, procurement, and property policies. It would also provide for improved portability of sick leave and retirement benefits between the farm credit system and the Farm Credit Administration.

These seven major proposals constitute the heart of the Farm Credit Act Amendments of 1979. The remaining amendments contained in the legislation are designed primarily to clarify provisions of existing law or are of importance to the internal operations of the system.

Yet all of this is not to say that every proposal in the Farm Credit Act amendments is noncontroversial. Certain of its provisions may raise questions in the minds of some and require changes. One question I have concerns the banks for cooperatives' export proposal. I certainly concur with the intent of this proposal, which is to enable banks for cooperatives to finance and otherwise assist U.S. cooperatives to export agricultural commodities. At the same time, I think there is room for questions about the appropriateness of this proposal. Specifically, I question whether the farm credit system should become involved in financing foreign entities. I can assure you that my Committee on Agriculture, Nutrition, and Forestry will carefully evaluate the answer given to this question and other questions about this proposal.

I also have questions about another proposed amendment in the bill. This amendment would authorize the Farm Credit Administration to charter corporations that perform service and finance functions for Farm Credit institutions. As I understand it, the proposal is intended to increase the efficiency of the system in performing certain internal functions. My question about this proposal is whether the amendment is drafted in such a way as to insure that it will not authorize an expansion in the scope of the system's insurance services. For example, would the Farm Credit Administration be empowered to charter an insurance corporation? Donald E. Wilkinson, the Governor of the Farm Credit Administration, has assured me that this is not the intent of the proposal and the amendment does not grant this authority.

The ability of the system to meet the needs of American farmers, ranchers, and fishermen is a true success story. The bill I am introducing today seeks to continue the work initiated by the 1971 act. Other questions can and should be raised about specific proposals but, in general, this legislation does advance the interests of American agriculture.

We must continue to recognize that American agriculture is a dynamic institution and it is necessary for those who are providing credit to agriculture to develop new ideas as well as refine old means of serving the ever-changing needs of this industry. Our amendments to the Consolidated Farm and Rural Development Act last year recognized this need with respect to the Farmers Home Administration, and these amendments to the Farm Credit Act recognize this same need for the institutions of the farm credit system.

I ask unanimous consent that there be printed in the RECORD the text of the bill and the letter from Governor Wilkinson transmitting the legislation.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Credit Act Amendments of 1979".

TITLE I—FEDERAL LAND BANKS AND ASSOCIATIONS

SEC. 101. Section 1.4 of the Farm Credit Act of 1971 is amended by—

(1) striking out in paragraph (6) "loans and" and inserting in lieu thereof "and participate in loans, make";

(2) inserting before the period at the end of paragraph (12) ", participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18, and participate with lenders which are not Farm Credit System institutions in loans that the bank is authorized to make under this title ";

(3) striking out everything after the second comma in paragraph (15) and inserting in lieu thereof "and, as may be authorized by its board of directors and approved by the Farm Credit Administration, (i) sell to lenders which are not Farm Credit System institutions interests in loans, (ii) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (iii) make other investments."; and

(4) adding new paragraphs (22) and (23) as follows:

"(22) Accept contributions to its capital from Federal land bank associations and account therefor as authorized by the Farm Credit Administration.

"(23) Agree with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose, as may be authorized in regulations of the Farm Credit Administration.".

SEC. 102. Section 1.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out in subsection (b) "hypotheticated" and inserting in lieu thereof "hypothecated";

(2) striking out the first sentence of subsection (d) and inserting in lieu thereof two new sentences as follows: "Nonvoting stock may be issued to the Governor of the Farm Credit Administration to borrowers as patronage refunds, and may also be issued to Federal land bank associations in amounts which will permit the bank to extend financial assistance to eligible persons other than farmers, ranchers, and producers or harvesters of aquatic products. Nonvoting stock also may be issued to and shall be retired for other Farm Credit System institutions as may be authorized by its board of directors and approved by the Farm Credit Administration."; and

(3) adding new subsections (f) and (g) as follows:

"(f) Patronage refunds may be paid in nonvoting stock, participation certificates, allocated surplus, and other equities of the bank, or cash, or in both equities and cash, as determined by the board of the bank, to borrowers of the fiscal year for which such patronage refunds are distributed. All patronage refunds shall be paid in the proportion that the amount of interest on the loans to each borrower during the year bears to the interest on the loans of all borrowers during the year or on such other proportionate patronage basis as the Farm Credit Administration may approve.

"(g) Equities to evidence contributions to capital may be issued to Federal land bank associations when the bylaws of the bank so provide.".

SEC. 103. Section 1.6 of the Farm Credit Act of 1971 is amended to read as follows:

"SEC. 1.6. REAL ESTATE MORTGAGE LOANS.—The Federal land banks are authorized to make or participate with other lenders in long-term real estate mortgage loans in areas defined by the Farm Credit Administration, and make continuing commitments to make such loans under specified circumstances, or extend other financial assistance of a similar nature to eligible borrowers, for a term of not less than five nor more than forty years.".

SEC. 104. Section 1.7 of the Farm Credit Act of 1971 is amended by inserting before the period in the first sentence "as provided in section 4.17".

SEC. 105. Section 1.8 of the Farm Credit Act of 1971 is amended by striking out in clause (1) "and ranchers" and inserting in lieu thereof ", ranchers, or producers or harvesters of aquatic products".

SEC. 106. Section 1.9 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans originated by a Federal land bank or in which it participates with a lender which is not a Farm Credit

System institution shall not exceed 85 per centum of the appraised value of the real estate security, or such greater amount as may be authorized in regulations of the Farm Credit Administration for loans guaranteed by Federal, State, or other governmental agencies, and shall be secured by first liens on interest in real estate of such classes as may be approved by the Farm Credit Administration.".

SEC. 107. Section 1.10 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans made by the Federal land banks to farmers, ranchers, and producers or harvesters of aquatic products may be for any agricultural or aquatic purpose and other credit needs of the applicant, including financing for basic processing and marketing directing related to the applicant's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products: *Provided*, That the applicant's operations shall supply at least the percentage of total processing or marketing for which financing is extended that is required by the board of directors of the bank under regulations of the Farm Credit Administration.".

SEC. 108. Section 1.11 of the Farm Credit Act of 1971 is amended by inserting "and aquatic" before "operations".

SEC. 109. Section 1.12 of the Farm Credit Act of 1971 is amended by striking out "(a)".

SEC. 110. Section 1.15 of the Farm Credit Act of 1971 is amended by—

(1) striking out in paragraph (13) "shall";

(2) striking out in paragraph (14) "may" the second time it appears; and

(3) adding a new paragraph (21) as follows:

"(21) Contribute to the capital of the bank.".

SEC. 111. Section 1.16 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the sixth sentence of subsection (a) "fair"; and

(2) adding a new subsection (c) as follows:

"(c) Notwithstanding the provisions of subsection (a), the purchase of stock need not be required with respect to that part of any loan (1) made by a Federal land bank which it sells to a lender which is not a Farm Credit System institution, or (2) which such lender retains or acquires in participating in the loan with a Federal land bank.".

SEC. 112. Section 1.17 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the last sentence of subsection (a) "excess" and inserting in lieu thereof "excess"; and

(2) amending subsection (b) by inserting ", and pay patronage refunds, or do any of them, as provided in its bylaws," after "dividends", and striking out "with" and inserting in lieu thereof "the".

SEC. 113. Section 1.18(b) of the Farm Credit Act of 1971 is amended to read as follows:

"(b) Any association may declare a dividend or dividends and pay patronage refunds, or do any of them, as provided in its bylaws, out of the whole or any part of its net earnings available therefor which remain after (1) maintenance of the reserve required in subsection (a) hereof and (2) bank approval. All patronage refunds shall be paid on the proportionate patronage basis approved by the bank. Dividends shall be non-cumulative, and the rate of dividends may be different between different classes and issues of stock and participation certificates on the basis of the comparative contributions of the holders thereof to the capital or earnings of the Federal land bank by such classes and issues, but otherwise dividends shall be without preference.".

SEC. 114. Section 1.19 of the Farm Credit Act of 1971 is amended by adding at the end thereof a new sentence as follows: "Associations also may enter into agreements with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by the bank in accordance with regulations of the Farm Credit Administration.".

SEC. 115. Section 1.20 of the Farm Credit Act of 1971 is amended by inserting after "stock" the second time it appears "or participation certificates," and inserting after "Administration" "or other Farm Credit System institutions".

TITLE II—FEDERAL INTERMEDIATE CREDIT BANKS AND PRODUCTION CREDIT ASSOCIATIONS

SEC. 201. Section 2.1 of the Farm Credit Act of 1971 is amended by—

(1) striking out in paragraph (13) everything after "agency" the second time it appears and inserting in lieu thereof ", and, as may be authorized by its board of directors and approved by the Farm Credit Administration, (1) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (ii) make other investments.";

(2) amending paragraph (18) to read as follows:

"(18) Agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by its board of directors and approved by the Farm Credit Administration."; and

(3) inserting before the period at the end of paragraph (20) ", and participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18".

SEC. 202. Section 2.2 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of the first sentence of subsection (d) ", and may be issued to and, notwithstanding the provisions of subsection (g), shall be retired for other Farm Credit System institutions as may be authorized by its board of directors and approved by the Farm Credit Administration";

(2) striking out in the second and fourth paragraphs of subsection (g) "fair".

(3) striking out everything through "Governor" in subsection (h) and inserting in lieu thereof "Except with regard to stock or participation certificates held by the Governor or other Farm Credit System institutions"; and

(4) striking out in subsection (i) "fair".

SEC. 203. Section 2.3 of the Farm Credit Act of 1971 is amended by—

(1) amending subsection (b) to read as follows:

"(b) The Federal intermediate credit banks are authorized to discount for, or purchase from, any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products, with its endorsement or guaranty, any note, draft, or other obligation the proceeds of which have been advanced or used in the first instance for any agricultural purpose, including the breeding, raising, fattening, or marketing of livestock, or for the production or harvesting of aquatic products; and to make loans and advances to any such financing institution secured by such collateral as may be approved by the Farm Credit Administration: *Provided*, That no such loan or advance shall be made upon the security or collateral other than notes or other such obligations of farmers and ranchers and producers or harvesters of aquatic products eligible for discount or purchase under the provisions of this section, unless such loan or advance is made to enable the financing institution to make or carry loans for any agricultural purpose or for the production or harvesting of aquatic products."; and

(2) inserting in the second sentence of subsection (c) before "if" "or for the production or harvesting of aquatic products,".

SEC. 204. Section 2.4 of the Farm Credit Act of 1971 is amended by inserting in the first sentence after "Administration" "as provided in section 4.17".

SEC. 205. Section 2.5 of the Farm Credit Act of 1971 is amended by inserting after "on-farm" "and aquatic".

SEC. 206. Section 2.6(c) of the Farm Credit Act of 1971 is amended by inserting in the second sentence before "25 per centum" "or more than".

SEC. 207. Section 2.10 of the Farm Credit Act of 1971 is amended by striking out the comma after "States" and inserting in lieu thereof a period.

SEC. 208. Section 2.12 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of paragraph (11) "and buy from and sell to such banks interests in loans and in other financial assistance extended and nonvoting stock, as may be authorized by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration".

(2) inserting before the period at the end of paragraph (13) "and when authorized by the bank participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18"; and

(3) amending paragraph (15) to read as follows:

"(15) Agree with other Farm Credit Systems institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration."

SEC. 209. Section 2.13 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of subsection (e) "or in lieu of nonvoting stock";

(2) striking out in the first sentence of subsection (f) "fair";

(3) amending the last sentence of subsection (f) to read as follows: "Notwithstanding any other provision of this section, for a loan in which an association participates with a commercial bank or other financial institution other than a Farm Credit System institution, nonvoting stock or participation certificates may be issued to the commercial bank or other financial institution in satisfaction of the requirement that the borrower own stock or participation certificates, which requirement shall apply only to the portion of the loan which is retained by the association.";

(4) striking out in the first sentence in subsection (g) "fair";

(5) striking out everything through "Governor" in subsection (j) and inserting in lieu there of "Except with regard to stock or participation certificates held by the Governor or other Farm Credit System institutions"; and

(6) striking out in subsection (k) "fair".

SEC. 210. Section 2.15 of the Farm Credit Act of 1971 is amended by—

(1) amending clause (1) in the first sentence of subsection (a) to read as follows: "(1) bona fide farmers, ranchers, and the

producers or harvesters of aquatic products, for agricultural or aquatic purposes and other requirements of such borrowers, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products: *Provided*, That the borrower's operations shall supply at least the percentage of total processing or marketing for which financing is extended that is required by the supervising bank under regulations of the Farm Credit Administration,"; and

(2) inserting in subsection (b) after "borrowers" "as provided in section 4.17".

SEC. 211. Section 2.16 of the Farm Credit Act of 1971 is amended by inserting after "on-farm" "and aquatic".

TITLE III—BANKS AND COOPERATIVES

SEC. 301. Section 3.1 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of paragraph (11) ", and participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18";

(2) inserting in the first sentence in paragraph (12) after "System" "or any other financial organization, domestic or foreign, as may be authorized by its board of directors and approved by the Farm Credit Administration";

(3) amending paragraph (13) to read as follows:

"(13) (A) Buy and sell:

"(i) Obligations of or insured by the United States or of any agency thereof, or securities backed by the full faith and credit of any such agency;

"(ii) Bankers acceptances which are obligations of any member bank of the Federal Reserve System;

"(iii) As may be authorized by its board of directors and approved by the Farm Credit Administration, other obligations which, for purposes of this paragraph, shall include but not be limited to drafts, notes, checks, loans, acceptances, accounts, currencies, or obligations payable in recognized currencies, originating in the ordinary course of transactions which the bank may finance under section 3.7.

"(B) As may be authorized by its board of directors and approved by the Farm Credit Administration, (i) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and

"(ii) make other investments.

"(C) As may be authorized by its board of directors and approved by the Farm Credit Administration, invest in ownership interests in business entities, foreign or domestic, to facilitate obtaining credit information and performing loan servicing and financial services related to international transactions."; and

(4) adding new paragraphs (18) and (19) as follows:

"(18) As authorized by the board of directors and approved by the Farm Credit Administration, maintain credit balances and pay or receive fees or interest thereon, for the purpose of assisting in the transfer of funds to or from parties to transactions authorized by this title.

"(19) Agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose, as may be authorized by its board of directors and approved by the Farm Credit Administration.".

SEC. 302. Section 3.3 of the Farm Credit Act of 1971 is amended by adding a new subsection (f) as follows:

"(f) Participation certificates may be isued to parties to whom voting stock may not be issued.".

SEC. 303. Section 3.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out the first three sentences and inserting in lieu thereof three new sentences as follows: "Any nonvoting stock held by the Governor of the Farm Credit Administration shall be retired to the extent required by section 4.0(b) before any other outstanding voting or nonvoting stock or participation certificates shall be retired except as may be otherwise authorized by the Farm Credit Administration. When those requirements have been satisfied, nonvoting investment stock and participation certificates may be called for retirement at par. With the approval of the issuing bank, the holder may elect not to have the called stock or participation certificates retired in response to a call, reserving the right to have such stock or participation certificates included in the next call for retirement."; and

(2) striking out in the fourth sentence "fair book value not exceeding".

SEC. 304. Section 3.7 of the Farm Credit Act of 1971 is amended by—

(1) inserting "(a)" immediately before the first sentence and inserting in the first sentence "currency exchange," before "collateral"; and

(2) adding new subsections (b) and (c) as follows:

"(b) A bank for cooperatives is authorized, in connection with transactions of an association which is a voting stockholder, to make or participate in loans and commitments to a domestic or foreign party in which such association has at least the minimum ownership interest approved in accordance with regulations of the Farm Credit Administration, or which engages in transactions with such association for the purchase, sale, or exchange of agricultural commodities, farm supplies, or aquatic products or the lease of real or personal property and extend to such domestic or foreign party other technical and financial assistance if a bank for cooperatives determines, pursuant to such regulations, that the voting stockholder will benefit substantially as a result of such loan, commitment, or assistance.

"(c) Loans, commitments, and assistance authorized by subsection (b) of this section shall be extended in accordance with policies adopted by the board of directors of the bank and approved by the Farm Credit Administration.".

SEC. 305. Section 3.8 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the first paragraph the comma the second time it appears and inserting "or aquatic" before "business";

(2) striking out in subsection (c) "or farm business services" and inserting in lieu thereof "farm or aquatic business services, or services to eligible cooperatives"; and

(3) striking out in subsection (d) "not less than 80 per centum (70 per centum in the case of rural electric, telephone, and public utility cooperatives)" and inserting in lieu thereof "not less than 60 per centum".

SEC. 306. Section 3.9(a) of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof a new sentence as follows: "Each borrower entitled to hold voting stock shall, at the time a loan is made by a bank for cooperatives, own at least one share of voting stock and shall be required by the bank with the approval of the Farm Credit Administration to invest in additional voting stock or nonvoting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan.".

SEC. 307. Section 3.10 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period in the first sentence of subsection (a) "as provided in section 4.17";

(2) striking out in the first sentence of subsection (d) "book" and inserting in lieu thereof "market" and adding a new sentence as follows: "In no event shall the bank's equities be retired or cancelled if the retirement or cancellation would adversely affect the banks' capital structure, as determined by the Farm Credit Adminstration.".

SEC. 308. Section 3.11 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the second sentence of subsection (b) "less than 25 per centum" and inserting in lieu thereof "less than or more than 25 per centum"; and

(2) striking out the first sentence of subsection (c) and inserting in lieu thereof a new sentence as follows: "The net savings of each district bank for cooperatives, after the earnings for the fiscal year have been applied in accordance with subsection (a) or (b) of this section, whichever is applicable, shall be paid in stock, participation certificates, or cash, or in any of them, as determined by the board, as patronage refunds to borrowers to whom such refunds are payable who are borrowers of the fiscal year for which such patronable refunds are distributed."

TITLE IV—PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF INSTITUTIONS OF THE SYSTEM

SEC. 401. Section 4.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the first sentence "presidents" and inserting in lieu thereof "president" and inserting before the period at the end thereof "or his designee"; and

(2) striking out in the third sentence "subcommittee's" and inserting in lieu thereof "subcommittees".

SEC. 402. Section 4.10 of the Farm Credit Act of 1971 is amended by striking out "name" and inserting in lieu thereof "same".

SEC. 403. Title IV of the Farm Credit Act of 1971 is amended by adding new sections 4.17, 4.18, and 4.19 as follows:

"SEC. 4.17. INTEREST RATES.—In order that lending can continue on a self-sustaining basis, interest rates on loans made by institutions of the Farm Credit System shall be determined with the approval of the Farm Credit Administration as provided in this Act, notwithstanding any interest rate limitation imposed by any State constitution or statute or other law, which is hereby preempted for purposes of this Act.

"SEC. 4.18. PARTICIPATION LOANS.—Notwithstanding any other provisions of this Act, the terms of any loan participated in by two or more Farm Credit System institutions operating under different titles of this Act, including provision for capitalization of the portion of the loan participated in by each institution, shall be as may be agreed upon among such institutions and authorized by the Farm Credit Administration, except that for purposes of determining borrower eligibility, membership, term, amount, loan security, and purchase of stock or participation certificates by the borrower, the provisions of law applicable to the loan shall be the provisions in the title under which the institution that originates the loan operates.

"SEC. 4.19. TRUTH IN LENDING.—The provisions of any State statute or any other law or regulation which impose, with regard to a credit transaction, any duty or requirement that had been imposed by the Truth in Lending Act (83 Stat. 146) prior to any amendment thereto shall not be applicable to credit transactions of Farm Credit System institutions.".

SEC. 404. Title IV is amended by adding at the end thereof a new Part D as follows:

"PART D—SERVICE ORGANIZATIONS

"SEC. 4.25. ESTABLISHMENT.—Any bank of the Farm Credit System, or two or more of such banks acting together, may organize a corporation or corporations for the purpose of performing functions and services for or on behalf of the organizing bank or banks, other than the extension of credit, which said bank or banks may perform pursuant to this Act. A corporation so organized shall have no greater authority with respect to such functions or services than the organizing bank or banks possess under this Act. The organizing bank or banks shall apply for a federal charter for the corporation by forwarding to the Governor of the Farm Credit Administration a statement concerning the need for the corporation and proposed articles specifying in general terms the objects for which the corporation is formed, the powers to be exercised by it in carrying out the functions and services, and the territory it is to serve. The Governor for good cause may deny the charter applied for. Upon the approval of articles by the Governor and the issuance of a charter, the corporation shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"Sec. 4.26. Powers of the Governor.—The Governor shall have power, under rules and regulations prescribed by him or by prescribing in the terms of the charter or by approval of the bylaws of the corporation, to provide for the organization of any corporation chartered under this part and the territory within which its operations may be carried on, and to direct at any time such changes in its charter as he finds necessary for the accomplishment of the purposes of this Act. The powers of the Governor to provide for the organization of any corporation chartered under this part include, but are not liimted to approval of—

(1) Corporate title.

(2) General corporate powers.

(3) Eligibility for membership on, and the powers, composition, selection, terms and compensation of the board of directors.

(4) Classes, issuance, value, and retirement of stock.

(5) Sources of operating funds.

(6) Dissolution, liquidation and distribution of assets on liquidation.

(7) Application and distribution of earnings.

"Sec. 427. Supervision and Examination.—The corporations organized pursuant to this part shall be institutions of the Farm Credit System and shall be subject to the same supervision and examination by the Farm Credit Administration as are the organizing bank or banks under this Act.".

TITLE V—DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION

Sec. 501. Section 5.2 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the last sentence of subsection (b) "three" and inserting in lieu thereof "two"; and

(2) striking out in the first sentence of subsection (c) "three" and inserting in lieu thereof "two".

Sec. 502. Section 5.8(h) of the Farm Credit Act of 1971 is amended by striking out in the first sentence "the sum of $100 a day" and inserting in lieu thereof "compensation at a rate equal to the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5 of the United States Code".

Sec. 503. Section 5.11 of the Farm Credit Act of 1971 is amended to read as follows:

"Sec. 5.11. Compensation; Salary and Expense Allowance.—The compensation of the Governor of the Farm Credit Administration shall be at the rate fixed by the Federal Farm Credit Board but not to exceed the maximum rate of basic pay in the Executive Schedule (5 U.S.C. §§ 5311–5317). The Board shall fix allowances, or per diem in lieu thereof, for necessary travel and subsistence expenses of the Governor while traveling on official business. In addition, the Board may fix (1) allowances, or per diem in lieu thereof, for necessary travel, relocation, and subsistence expenses of a person newly appointed as Governor and the immediate family of such person, and (2) allowances for necessary travel and subsistence expenses of persons under consideration for appointment to the position of Governor incurred in connection with interviews requested by the Board.".

Sec. 504. Section 5.13 of the Farm Credit Act of 1971 is amended to read as follows:

"Sec. 5.13. Farm Credit Organization.—The Governor of the Farm Credit Administration is authorized, in carrying out the powers and duties now or hereafter vested in him by this Act and acts supplementary thereto, to establish and fix the powers and duties of such divisions and instrumentalities and to appoint such number of Deputy Governors as he may deem necessary to the efficient functioning of the Farm Credit Administration and the successful execution of the powers and duties so vested in the Governor and the Farm Credit Administration. The salary for the positions of Deputy Governor shall be at the rate or rates fixed by the Federal Farm Credit Board but not to exceed the maximum rate of basic pay in the Executive Schedule (5 U.S.C. §§ 5311–5317). The Governor is further authorized, without regard to the provisions of the competitive civil service and classification statutes and regulations issued thereunder, to establish, determine the level of responsibilities of, make appointments to, and fix in advance salaries for, such other positions in the Farm Credit Administration as may be necessary to carry out its functions: *Provided,* That the salary for any such position may not exceed the annual rate of basic pay for positions at Level V of the Executive Schedule. With the approval of the Federal Farm Credit Board, the Governor may fix without regard to the provisions of Chapter 57, title 5 of the United States Code (1) allowances, or per diem in lieu thereof, for necessary travel and subsistence expenses of officers and employees of the Farm Credit Administration while traveling on official business, (2) allowances, or per diem in lieu thereof, for necessary travel, relocation, and subsistence expenses of new appointees, and of officers and employees of the Farm Credit Administration who are transferred in the interest of the Farm Credit Administration from one official station to another for permanent duty, and their immediate families, and (3) allowances for necessary travel and subsistence expenses of applicants for employment with the Farm Credit Administration incurred in connection with preemployment interviews.".

Sec. 505. Section 5.15 of the Farm Credit Act of 1971 is amended by—

(1) inserting in the first sentence after the second comma "and without regard to the provisions of law relating to the acquisition of property and services by the Government of the United States,"; and

(2) adding at the end thereof a new sentence as follows: "The Farm Credit Administration may dispose of property so acquired without regard to the provisions of law relating to the disposal of Government property, and any amounts collected from the disposition of such property shall be deposited in the special fund provided for in section 5.16(b) and shall be available to the Administration in the same manner and for the same purposes as the funds collected under section 5.16(a)."

Sec. 506. Section 5314 of title 5 of the United States Code is amended by striking out paragraph (57).

Sec. 507. Section 6308 of title 5 of the United States Code is amended by inserting in the first sentence before "(vi)" "or", and by striking out ", or (vii)".

Sec. 508. Section 8332(b) of title 5 of the United States Code is amended by—

(1) striking out in paragraph (8) after the semicolon "and";

(2) striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and";

(3) adding a new paragraph (10) as follows:

"(10) service in the employment of a Farm Credit System institution which is not otherwise included as service under this subsection if he later becomes subject to the provisions of this subchapter.";

(4) inserting before "For the purpose of paragraph (5) of this subsection—" a new sentence as follows: "The Office of Personnel Management shall accept the certification of the Governor of the Farm Credit Administration or his designee concerning service for the purpose of this subchapter of the type performed by an employee named by paragraph (10) of this subsection."; and

(5) inserting at the end of thereof a new sentence as follows: "Service referred to in paragraph (10) is allowable only in the case of persons who are subject to this subchapter on, or become subject thereto after, the effective date of the Farm Credit Act Amendments of 1979."

Sec. 509. Section 8339(i) of title 5 of the United States Code is amended by adding at the end thereof a new sentence as follows: "With respect to an annuity which is based upon service credited under section 8332(b)(10) of this title, unless the employee or Member elects to eliminate the service involved for the purpose of the annuity computation, the annuity is further reduced by an amount equal to that portion of any retirement benefit payable to the annuitant for the year under a Farm Credit System institution retirement plan which is allocable to such service, or where there has been a lump sum payment under the plan to the annuitant, by an amount which the Office of Personnel Management determines would have been payable to annuitant for the year and allocable to the service if the lump sum payment had not been made.".

Farm Credit Administration,
Washington, D.C., June 28, 1979.

Hon. Herman E. Talmadge,
Chairman, Committee on Agriculture, Nutrition and Forestry, United States Senate, Washington, D.C.

Dear Mr. Chairman: Transmitted herewith, by direction of the Federal Farm Credit Board, is a bill to further amend the Farm Credit Act of 1971.

This proposed legislation is the product of intensive review by the institutions of the Farm Credit System and the Farm Credit Administration of their experience under the Farm Credit Act of 1971. Many suggestions for legislative changes were surfaced in the course of that review. The list of suggestions was studied and refined, and a set of recommendations for legislation was submitted to the Federal Farm Credit Board for its consideration. The proposals approved by the Board, which are reflected in the enclosed bill, would assist the System in achieving the objective, as stated in the 1971 Act:

"Of improving the income and well-being of American farmers and ranchers by furnishing sound, adequate, and constructive credit and closely related services to them, their cooperatives, and to selected farm-related businesses necessary for efficient farm operation."

There is a broad consensus within the System in support of these proposals.

Some of the proposals would reflect changed circumstances affecting agriculture in the United States. Some would permit the institutions of the Farm Credit System more adequately to meet the credit and related needs of their member-borrowers. And some would enhance the effectiveness of the Farm Credit Administration in carrying out its statutory responsibilities of supervising and examining Farm Credit System institutions.

The proposed legislation would add several major authorities to the current statute. Under current law, a cooperative is eligible to borrow from a bank for cooperatives only if at least 80 percent (70 percent in the case of rural utility cooperatives) of its voting control is held by farmers, producers or harvesters of aquatic products, or eligible cooperatives. The proposed legislation would lower the requirement for such control to 60 percent or (as the law presently provides) such higher percentage as the district boards may establish. Growing membership in rural cooperatives by non-farmers makes it increasingly difficult for the banks for cooperatives to serve these organizations under the standards currently in the Act. The proposed authority would enable the banks to continue to serve the credit needs of cooperatives in rural America without abandoning the principle of farmer control as a condition of eligibility.

Another major authorization would permit the Federal land banks to make loans in excess of 85 percent of the appraised value of the real estate security. The change would be limited to loans guaranteed by State, Federal or other governmental agencies. The Federal land banks have been involved with the Farmers Home Administration in programs which are now giving greater emphasis to loan guarantees. Modification of the present 85 percent standard would permit the land banks to continue to reach borrowers, particularly young farmers, they have been serving under programs of agencies such as the Farmers Home Administration.

The legislation proposed would also authorize the Federal land banks and the production credit associations to make loans to farmers and ranchers and producers or harvesters of aquatic products for financing basic processing and marketing directly related to their operations and those of other such farmers, ranchers, and producers. This proposal would permit the land banks and production credit associations to expand the scope of their services in the processing and marketing areas to bona fide farmers and aquatic producers who already are eligible to borrow from the System. Borrowing for these purposes would, however, be limited to those producers whose own operations supply at least that percentage of the total processing and marketing financed which is established by the boards of directors of the banks involved.

Finally, the legislation proposed would authorize the banks for cooperatives to finance transactions for the exportation of agricultural or aquatic commodities by American cooperatives which are borrowers from the banks. This would be accomplished by authorizing the banks, in connection with transactions of a member cooperative, to make or participate in loans to a foreign or domestic party in which the member cooperative has an ownership interest or which engages with the cooperative in the purchase or sale of agricultural or aquatic commodities or farm supplies or the lease of real or personal property. Also the banks would be authorized to extend to such parties other technical and financial assistance. However, such financing and assistance could be provided only upon a determination by the bank involved that the member cooperative would benefit substantially therefrom. This authority would also permit the banks to finance leverage lease transactions of member cooperatives.

The proposals would also permit the banks to provide their member cooperatives with other financial services to enable them effectively to participate in foreign markets for agricultural and aquatic products. These would include buying and selling of obligations originating in export transactions, making deposits in domestic or foreign financial institutions approved by the Farm Credit Administration, maintaining credit balances, and participating in ownership interests in business entites for the purpose of collecting information about foreign markets and expediting export transactions for their members.

The proposed legislation has several other significant features. The accompanying summary describes them. It is hoped that prompt consideration can be given to this bill and that early enactment can be accomplished.

The enclosed bill is submitted pursuant to the responsibility of the Farm Credit Administration, under the Farm Credit Act of 1971, to recommend legislation directly to the Congress. It has not previously been referred for clearance to the Office of Management and Budget. It is, however, being referred to that office concurrently with this submission. We are, therefore, unable to state at this time whether the proposals are consistent with the administration's program.

Sincerely,

DONALD E. WILKINSON,
Governor.

SUMMARY OF OTHER SIGNIFICANT PROVISIONS OF THE PROPOSED FARM CREDIT ACT AMENDMENTS OF 1979

Some of the provisions of the proposed legislation cover Farm Credit institutions in more than one banking group (the term "group" refers, respectively, to (1) the Federal land banks and Federal land bank associations, (2) the Federal intermediate credit banks and the production credit associations, and (3) the banks for cooperatives). Some of the provisions cover only the institutions in one banking group; others pertain to the Farm Credit Administration. The provisions are summarized under headings reflecting this arrangement.

PROVISIONS AFFECTING MORE THAN ONE BANKING GROUP

1. New authority would be granted to the Federal land banks, Federal intermediate credit banks, banks for cooperatives and production credit associations to buy from and sell to other Farm Credit institutions interests in loans, and to participate with such institutions in making loans. While the Federal land banks are presently authorized to participate in loans with other Federal land banks, and the Federal intermediate credit banks, production credit associations and banks for cooperatives are authorized to participate in loans with like Farm Credit institutions and, in the case of the latter institutions, with other lenders, System institutions in one banking group have not heretofore been authorized to participate in loans with institutions in other banking groups. The new authority for participation would be accomplished through participation agreements or by inter-group sales and purchases of loans. The terms of any loans participated in by Farm Credit institutions under this authority would be as agreed upon by such institutions, except that factors such as borrower eligibility, membership term, loan amount, loan security and purchase of stock would be governed by the provisions of law applicable to the institution originating the loan. Therefore, either by investment or direct participation, System institutions operating under different titles would be authorized to cooperate in making loans. Further, the land banks would be authorized to sell interests in their loans to non-Farm Credit System lenders and to participate with such lenders in making loans. These provisions would permit System institutions to make more efficient use of their equity capital base and more fully meet the financing needs of creditworthy borrowers.

2. Several of the proposals would affect producers and harvesters of aquatic products. The draft bill would authorize the Federal land banks to make loans to producers and harvesters of aquatic products, thus permitting them to provide long-term first mortgage real estate loans to these borrowers for purposes such as the construction of docking and storage facilities. Another provision would authorize the Federal intermediate credit banks to discount for other financial institutions loans made to such producers and harvesters. Under present law, the banks may not discount such loans for other financial institutions even though production credit associations are authorized to make loans to aquatic producers and harvesters. This proposal would give loans made by other lenders to producers and harvesters of aquatic products the same treatment now accorded to loans made to farmers and ranchers. Finally, there are provisions which would make clear that cooperatives solely engaged in furnishing aquatic business services are eligible to borrow from the banks for cooperatives.

3. The proposed bill would also permit Federal intermediate credit banks and banks for cooperatives to transfer more than 25% of their net savings to an allocated surplus account and thus create and maintain risk funds which they believe to be adequate. Presently, not more than 25% of such savings may be transferred to this account.

4. The proposed legislation would make clear that all Farm Credit institutions are authorized to enter into general loss sharing agreements with other institutions of the System without regard to the type of loss.

5. The bill would authorize the institutions of the Farm Credit System to organize corporations to perform non-lending service functions which the institutions are themselves authorized to perform. The Act presently authorizes agreement between institutions in a district for the provision of joint services to borrowers and agreements between districts for those services which can be most effectively made available by joint undertakings. The proposed change would permit the System institutions to take advantage of the organizational benefits found in the corporate form in carrying out these joint service functions. The corporations, which would be chartered by the Farm Credit Administration, would not have power to perform any service function which the organizing Farm Credit institutions themselves are not authorized to perform nor would the corporations be authorized to make loans or extend other similar financial assistance. They would be subject to supervision and examination by the Farm Credit Administration.

6. The bill would revise the process for the election of district directors by reducing from three to two the number of nominees who would be candidates in the election poll. This would ensure that the person elected district director would receive a majority of the votes cast and would bring the process into line with the practice generally followed in most elections.

7. The Act presently requires that the presidents of Farm Credit banks serve on the finance committees or subcommittees which have responsibilities with respect to the funding of the System. It is proposed that the president be authorized to designate a person to serve in his stead on the finance committee or subcommittee. This would permit the president to utilize, for this purpose, the best qualified resources available to him and more effectively to utilize his own time and talents.

8. The legislation includes provisions which would make clear beyond any question that lending by System institutions is not subject to limitations on interest rates imposed by State law. It has been the position of the Farm Credit institutions, supported by language of the Act as well as by expressions of intent by the Congress, that the interest rates applicable to loans of the Farm Credit System are not subject to State interest rate limitations. From time to time questions have arisen, in periods of elevated interest rates, as to whether the present language of the Act compels the conclusion that System institutions may continue to lend on a self-sustaining basis, even if so

doing results in interest rates exceeding those allowed by State law. To dispel any such questions, the proposed bill would make explicitly clear that State limitations on interest rates are not applicable to lending by System banks and associations.

9. The proposed legislation also contains a provision which would make clear that if the Federal Truth-in-Lending law is amended (for example, to remove agricultural credit from its coverage), requirements similar to those formerly contained in the Federal statute could not be reimposed upon System institutions by State law.

PROVISIONS AFFECTING ONLY THE FEDERAL LAND BANKS—FEDERAL LAND BANK ASSOCIATIONS

10. The bill would redefine equity in the land bank system. It would authorize banks to institute capitalization programs which would involve transfers of equity from land bank associations to the banks, and these transfers could be considered adjusted or donated capital and accounted for as such by the banks.

11. The Federal land banks are authorized by current law to pay dividends to Federal land bank associations, including differential dividends. The proposed bill would authorize the Federal land bank associations which pay dividends to land bank borrowers, to pay them on a differential basis. Further, both the land banks and the land bank associations would be authorized to pay patronage refunds, an authority which is presently available to the production credit associations and the banks for cooperatives.

PROVISIONS AFFECTING ONLY THE PRODUCTION CREDIT ASSOCIATIONS

12. To facilitate production credit association loan participation transactions, the associations would be authorized to issue participation certificates to commercial banks and other lenders with respect to that portion of the loan held by the associations.

PROVISIONS AFFECTING THE FARM CREDIT ADMINISTRATION

The proposed legislation contains several provisions relating to the Farm Credit Administration itself. They would provide the Farm Credit Administration with flexibility in connection with salary and other personnel matters to enable FCA to obtain and retain a staff having the capabilities that the responsibilities of the agency demand. It would also provide the Farm Credit Administration with certain other authorities to effectively discharge its responsibilities.

13. Under the bill, the per diem for members of the Federal Farm Credit Board would be established at the daily equivalent of the rate prescribed for officials at the GS-18 level. This would be consistent with the approach recently adopted for the board of the Consumer Cooperative Bank.

14. The Federal Farm Credit Board would be authorized to fix the salaries of the Governor and the Deputy Governors of the Farm Credit Administration at levels which could not exceed the maximum rate of basic pay in the Executive Schedule. FCA would be authorized to establish its own salary and classification system for employees below the Deputy Governor level, but salaries could not exceed the annual rate of basic pay for positions at Level V of the Executive Schedule.

15. The bill would also authorize FCA to establish its own qualification requirements for positions by exempting FCA from the competitive examination requirements presently applicable to it. And FCA would be exempted from present Federal travel, procurement and property disposition regulations.

16. A degree of portability of employees from the Farm Credit System to the Farm Credit Administration would be authorized by providing for transfer of annual and sick leave accrued by System employees to Federal employment when they are employed by the Farm Credit Administration. Portability of retirement benefits would also be provided for through treating, for Federal Civil Service Retirement purposes, the years of employment in the Farm Credit System as Federal service, subject to a restriction prohibiting duplicate retirement benefits.●

● Mr. ZORINSKY. Mr. President, I am pleased to rise in support of the Farm Credit Act amendments bill of 1979.

As chairman of the Senate Agriculture Subcommittee on Agricultural Credit and Rural Electrification, I have a particularly strong interest in this legislation. The farm credit system has long played a major role in providing credit and related services to American farmers and ranchers and their cooperatives. Today, the system provides, at no cost to the U.S. taxpayer, a third of the total amount of credit used by farmers and ranchers and two-thirds of the credit used by farmer cooperatives.

The legislation being introduced today is designed to revise the Farm Credit Act of 1971 to insure that the system continues to play its progressive role in U.S. agriculture. A total of 28 proposed amendments is contained in the bill. Several of these proposals are of a housekeeping nature; that is, they are designed to enhance the efficiency of the internal operations of the system. Several other proposals, however, address some of the salient questions facing American agriculture today.

One question concerns the problems faced by young farmers. As is well known, many young, low equity farmers face severe problems getting started in agriculture. Congress addressed this problem last year when it passed the Agricultural Credit Act of 1978 (P.L. 95-334). The legislation I am cosponsoring today would complement the Agricultural Credit Act of 1978 by allowing Federal land banks to make loans for more than 85 percent of the appraised value of the real estate security where guarantees provided by the Farmers Home Administration or other Governmental units are provided.

A second question addressed in the Farm Credit Act amendments bill is the need to expand U.S. agricultural exports. Agricultural exports are today one of the relatively few bright spots in the U.S. balance-of-trade picture. An estimated $16 billion of the amount the United States has to pay for the importation of petroleum products this year will come from money earned abroad by this Nation's farmers. One provision in this bill is intended to help American farmers to do an even better job than they are doing today in exporting their products. This provision would authorize the banks for cooperatives to engage in international banking activities which benefit U.S. farmer cooperatives. Specifically, the banks for cooperatives would be authorized:

First. To establish correspondent relations with foreign banks by depositing funds in such banks and receiving deposits from them.

Second. To streamline the transfer of collections and other funds arising from foreign sales by holding credit balances from the cooperatives.

Third. To purchase time drafts payable by foreign buyers of agricultural products.

Fourth. To engage in currency exchange.

Fifth. To make loans to parties related to cooperatives through ownership affiliation or trade relationships where there will be substantial benefit to a farmer cooperative.

Sixth. To participate in the ownership of foreign banks to accommodate the extension of credit services for the international business of cooperatives.

While I have some questions about the provisions of this particular section, I do not doubt the desirability of examining in detail all proposals which may serve to increase American agricultural exports. I look forward to a thorough evaluation of the Farm Credit Administration's proposed amendment by members of the Agriculture Committee.

A third key policy question this legislation addresses concerns rural development. Various legislative remedies have been enacted throughout the year which are designed to do something about the problems of rural America. Yet, many of the problems remain and some problems have become even more severe. The Farm Credit Act Amendments bill is not a panacea for all rural ills. However, two provisions in the bill could contribute to a lessening of the problems facing America's rural population.

One such provision would broaden the eligibility criteria for financing by Federal land banks and production credit associations to include processing and marketing activities directly related to an applicant's agricultural operation and those of other bona fide agricultural producers. This proposal would provide creditworthy farmers, ranchers, and fishermen with the means for obtaining credit to improve their processing and marketing activities. Experts in agricultural economics have pointed out that improving a farmer's processing and marketing capacity is one important way of improving farm income, which, in turn, can help stimulate local rural economics.

The second major provision in this legislation which should contribute to rural development concerns the farmer-member eligibility requirements for banks for cooperative financing. Under present law, 80 percent of the voting members of a cooperative (70 percent in the case of rural electric cooperatives) must be farmers in order for the co-op to be eligible for banks for cooperative financing.

While these requirements may have been perfectly sensible in 1971 or even several years ago, the population mix and needs of rural America have changed dramatically in recent times. In order to fully serve the credit needs of rural America, the percentage requirement must be lowered. This bill would lower the requirement to 60 percent or to such higher percentage as district Farm Credit System boards may establish.

It deserves to be emphasized that the bill I am cosponsoring today would do something about the problem of young farmers, agricultural exports, and rural development without any expenditure of public funds. The farm credit system is completely self-sufficient financially and the net impact on the Federal budget of the 28 proposals would be nil.

In short, I believe the Farm Credit Act Amendments of 1979 bill is for the most part timely and constructive legislation. I can promise that it will be carefully considered by the Subcommittee on Agricultural Credit and Rural Electrification and recommend that it be carefully considered by Congress as a whole.●

By Mrs. KASSEBAUM (for herself and Mr. CHURCH):

S. 1466. A bill to provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the Absentee Delaware Tribe of western Oklahoma in Indian Claims Commission dockets 27–A and 241, 289, and 27–B and 338, and for other purposes; to the Select Committee on Indian Affairs.

● Mrs. KASSEBAUM. Mr. President, today I introduce for Senator CHURCH and myself a bill which seeks to complete a small piece of unfinished business left over from the 95th Congress. This bill simply provides compensation for the Kansas and Idaho Delaware Indians who were inadvertently excluded from sharing in the distribution of funds already appropriated to pay judgments stemming from the breach of the 1854 treaty between the United States and the Delaware Indians.

The bill provides that Kansas and Idaho Delaware Indians will be recompensed the identical amount, $1,488.12, they would have received had they not been wrongfully excluded from the appropriations legislation in 1972. The bill also contemplates the inclusion of all lineal descendants of the Delaware Tribe as it existed at the time the 1854 treaty was breached. It further provides for payment of attorneys' fees and expenses as agreed to by the Department of the Interior and the Kansas and Idaho Delaware Indians.

This bill is the logical conclusion of several years of litigation surrounding this matter. Litigation was recently concluded in the Supreme Court in *Delaware Tribal Business Committee. et al.*, v. *Weeks, et al.*, 97 S.Ct. 911 (1977). At issue in this case was not whether the Kansas and Idaho Delawares should share in the payment of judgment, but whether their exclusion was such an irrational exercise of Congress power in Indian affairs that the statute excluding them was void under the fifth amendment, as the Federal court in Oklahoma found.

The Court ruled that the action of Congress was not so irrational as to cause the voiding of the entire Appropriations Act on grounds of unconstitutionality. Rather, the Court, recognizing the unique and fully constituted power of Congress in Indian affairs, held that the power to remedy the wrong, lay in the Congress, not in the Court. This point regarding Congress power to redress the wrong was reinforced by Justice Stevens, who, even in dissent, stated that the exclusion of the Kansas Delawares was so manifestly unjust and arbitrary as to constitute "a malfunction of the legislative process."

Mr. President, in the waning days of the 95th Congress my predecessor, Senator James Pearson, joined by Senator CHURCH, introduced a proposal similar to the bill I am now offering. The bill Senator CHURCH and I introduce today merely makes technical improvements on that earlier proposal. The intent of the original bill, to correct an unintentional wrong by a previous Congress, remains unchanged.

I urge my colleagues to support this effort and make right a wrong whose history is long and complicated.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds and declares that:

SECTION 1. The Secretary of the Interior shall prepare a roll of all persons who were born on or prior to and living on October 3, 1972, who were citizens of the United States and who are descended from a lineal ancestor whose name appears on the "Registry" filed in the Office of the Commissioner of Indian Affairs pursuant to Article 9 of the treaty with the Delaware Indians of July 4, 1866 (14 Stat. 793) or who are descended from a lineal ancestor whose name appears on the "Register" prepared pursuant to the Agreement dated April 8, 1867, between the Delaware Tribe of Indians and the Cherokee Nation. No person shall be eligible for enrollment under this section who was paid, or was eligible to be paid, pursuant to the Act of October 3, 1972 (82 Stat. 762).

SEC. 2. (a) Upon completion of the roll provided for in section 1 of this Act, the Secretary shall segregate and establish a separate fund from the funds appropriated by the Act of December 15, 1972, (85 Stat. 627), for the award in Docket 289, the Act of March 21, 1972, (86 Stat. 86), for the award in Dockets 27–A and 241, and the Act of March 7, 1978, (92 Stat. 107), for the award in Dockets 27–B and 338. Such separate fund shall be in an amount equal to $1.488.22 multiplied by the number of persons whose names appear on the roll prepared in accordance with section 1 of this Act.

(b) The Secretary shall pay 10 percent of the fund established by subsection (a) of this section to the Kansas Delaware Tribe of Indians, Inc., and to the Delawares of Idaho, Inc., in a ratio proportionate to their respective number of members enrolled under section 1 of this Act, for the sole purpose of enabling such corporations to pay attorneys' fees for the representation of such members in connection with their efforts to achieve participation in the distribution of funds under the Act of October 3, 1972, and in addition thereto, shall pay to such corporations all expenses in connection therewith which the Secretary finds to be reasonable.

(c) After payment made pursuant to subsection (b) of this section, the Secretary shall distribute the balance of the fund established pursuant to subsection (a) of this section on a per capita basis to those who have been enrolled by the Secretary under section 1 of this Act.

SEC. 3(a) The funds appropriated by the Act of December 15, 1971, for the award in Docket 289, by the Act of March 21, 1972, for the award in Dockets 27–A and 2481, and by the Act of March 7, 1978, for the award in Dockets 27–B and 338, including all interest and investment income accrued thereon, less expenses allowed by the Secretary and less attorney fees allowed in section 2(b) of this Act, and less the fund established pursuant to subsection 2(a) of this Act, shall be divided per capita, in amounts as equal as possible, among all persons whose names appear on a roll prepared by the Secretary to include all persons born on or prior to and living on the date of this Act who are citizens of the United States and whose names or whose lineal ancestors' names are found on any of the following rolls or records:

(1) The "Registry" prepared pursuant to Article 9 of the Treaty of July 4, 1866;

(2) The Delaware (Cherokee Delaware) Indian Per Capita Payroll approved by the Secretary of the Interior on April 20, 1906;

(3) The "Register" prepared pursuant to the Agreement of April 8, 1867, between the Delaware Tribe and the Cherokee Nation;

(4) The membership Roll of the Delaware Tribe of Western Oklahoma brought current to the date of this Act;

(5) The Absentee Delaware Constructed Base Census Roll of 1940; or

(6) Any rolls or records found acceptable to the Secretary in administering the Act of September 21, 1968, (82 Stat. 861), for the distribution of the award in Indian Claims Commission Docket 337.

(b) The per capita amount determined pursuant to subsection (a) of this section with respect to any person (except a person enrolled pursuant to section 1 of this Act) (1) who would have been eligible to have shared in the per capita distribution made pursuant to the Act of October 3, 1972, but who did not for any reason so share, or (2) who was born after October 3, 1972, shall not be less than the amount of per capita payment such person would otherwise receive if no separate fund had been established pursuant to subsection 2(a) of this Act.

(c) The Secretary shall identify those persons who qualify and are enrolled under section 3(a)(1) and (3) of this Act exclusive of those persons who qualify under section 3(a)(2) of this Act. The amount of their individual shares shall be multiplied by the number of such enrollees. The Secretary shall pay 10 percent of this total amount to the Kansas Delaware Tribe of Indians, Inc., and to the Delawares of Idaho, Inc., in a ratio proportionate to their respective number of members enrolled under section 3(a) of this Act for the sole purpose of the payment of their attorneys' fees in connection with their efforts to achieve participation in the funds set forth in subsection (a) of this section and, in addition thereto, shall pay to such corporations all expenses in connection therewith which the Secretary finds to be reasonable. After the payment of attorney's fees and expenses, the Secretary shall distribute the balance of the amount on a per capita basis to those who have been enrolled by the Secretary under section 3(a) of this Act subject to the requirements of section 3(b) of this Act.

(d) No person shall be entitled to more than one per capita share under subsection (a) of this section.

SEC. 4. Per capita shares of deceased individual beneficiaries shall be paid by the Secretary to the heirs and legatees as determined pursuant to regulations governing such situations arising in per capita distributions under the Act of October 19, 1973, (87 Stat. 466, 25 U.S.C. 1401), and section 1 of the Act of August 12, 1953 (67 Stat. 558-25 U.S.C. 375c), without regard to the monetary and land provisions contained therein. Per capita shares of legal incompetents and minors shall be paid by the Secretary to their legal representatives and such shares shall be protected and preserved pursuant to subsection (b)(1) of section 3 of the Act of October 19, 1973 (87 Stat. 466, 25 U.S.C 1403(b)(1)). Any distribution of funds under the provisions of this Act shall be subject to the provisions of section 7 of the Act of October 19, 1973 (87 Stat. 468).

SEC. 5. Nothing contained in this Act shall be construed as recognizing either the Kansas Delaware Indians, the Kansas Delaware Tribe of Indians, Inc., the Idaho Delaware Indians or the Delawares of Idaho, Inc. as federally recognized Indian tribes.

Sec. 6. The Secretary is authorized to prescribe rules and regulations to implement this Act, including the establishment of deadlines for enrollment.●

By Mr. DOLE (for himself and Mr. BENTSEN):

S. 1467. A bill to amend the Internal Revenue Code of 1954 to provide that the retirement-replacement-betterment method of accounting for property used by a common carrier (including a railroad switching company or a terminal company) is an acceptable method for determining depreciation allowances for income tax purposes; to the Committee on Finance.

RAILROAD DEPRECIATION

● Mr. DOLE. Mr. President, our Nation's railroads have for many years used the retirement-replacement-betterment (RRB) method of accounting for the depreciation of railroad track. RRB has been allowed for over 75 years by the Interstate Commerce Commission. It is a conservative method of reporting and one which provides a greater cash flow than other depreciation methods because it reflects the current cost of replacing the assets.

I am introducing with the Senator from Texas (Mr. BENTSEN) legislation which codifies this method of accounting. I believe this country must commit itself to a viable rail transportation system. This proposal will help clarify existing law and help the industry meet the demands of the future.

Mr. President, under the RRB method of accounting, when additions to track structures are made, the costs are capitalized. No depreciation is allowed on the capital investment until the asset is retired from service when its initial cost can be deducted as "retirement." RRB is more sensitive to inflation than other methods of depreciation because the current cost of replacing the assets is treated as a cost of operation. Since railroad track has a long life, the inflation currently present in our economy provides a better cash flow than other methods of depreciation, which allows the industry to recover only its original costs. In recent years the RRB method has come under review by the Interstate Commerce Commission, the Securities and Exchange Commission, and the Department of Transportation. There is some concern that the Internal Revenue Service will also question its continued use.

DOLE PROPOSAL

The bill which I introduce today would preserve the RRB method for tax purposes regardless of the action of other regulatory agencies. The capital needs for the railroad industry are well documented. The capital outlays exceeded, in 1977, internally generated cash flow by $1.6 billion. This shortfall would be dramatically increased if there was any adverse change in the depreciation accounting for track. Because my proposal continues what has been practice in the industry for many years, there is no loss to the Federal Treasury. I would hope that the Senate Finance Committee will act expeditiously on this matter.●

By Mr. BAYH:

S. 1468. A bill to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act; to the Committee on the Judiciary.

● Mr. BAYH. Mr. President, today I am introducing legislation which is designed to bring the largest and most guilty price fixers to judgment and to assure that smaller, less culpable, and innocent defendants do not pay the penalties of an entire industry.

As we seek more strict enforcement of the antitrust laws against price fixers, we must also assure fairness to those defendants—especially small and middle-sized businesses—who may be wrongly accused. Laws which are designed to deter and punish wrongdoers should not be used instead to permit sweetheart settlements with the largest or most culpable while coercing larger payments from smaller or more vulnerable defendants.

Currently, a defendant in a price-fixing case is liable for damages attributable not only to his sales to the plaintiff or plaintiffs, but also for the sales of all coconspirators, whether or not they are also defendants. Accordingly, a defendant faces the prospect of liability for all damages caused by any conspirator and, particularly in a class action suit, may be caused to settle rather than litigate even if he feels he has a very good case merely because of the risk involved. It also means that if one or more defendants settle a price-fixing case without getting the plaintiff to agree not to seek treble damages with respect to the settling defendants' sales, the remaining defendant or defendants face the prospect of an enormous liability since they would remain liable for damages on other persons sales as well as their own. Moreover, a defendant is not only liable for damages on all the conspirators' sales but is also liable for damages on sales by a nonconspirator if the plaintiff can prove that the prices on the sales of such nonconspirator were affected by conspiracy.

The effect of this joint and several liability is to allow plaintiff's counsel to settle relatively inexpensively with a few defendants and force the remaining defendants—often those who have the best case or are in the poorest financial position, usually smaller companies—to settle at a higher price rather than run the risk of litigation and liability for everybody else's damages. The accompanying proposed amendment to the Clayton Act would allow a defendant to seek contribution from anyone else adjudged to be a coconspirator whether or not sued by the plaintiff. The defendant could do this in the same action or by instituting a separate action. As a practical matter, this would mean that in most cases, except for example where a coconspirator was insolvent or not present in the United States, a defendant would be liable in the end only for damages caused by his sales and proportionate portion of damages attributable to sales by a nonconspirator.

The right of contribution would not complicate antitrust cases. In those cases where the claim for contribution was brought as a cross-claim or by way of impleader in the main action, the plaintiff's claim would be in no way affected. The defendants would each be liable for the damages caused by their own sales. The damages caused by each party's sales would have to be determined as part of the plaintiff's case, in any event. In those cases where a defendant chose to pursue his right of contribution in a second action, he would have to prove that the alleged coconspirator was in fact a coconspirator—assuming the other conspirator had not been a party to the original action—but that would be the first coconspirator's problem and would in no way affect the plaintiff's rights or complicate their lawsuit.

To the extent a defendant is made liable for damages caused by a codefendant without recourse against such codefendant, the present law creates the potential for abuse.

My bill applies to both vertical and horizontal price-fixing cases; it will bring equity to a situation which has too long gone without the necessary adjustment.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting after section 4H the following new section:

"SEC. 4I. (a) Two or more persons who are subject to liability for damages attributable to an agreement to fix, maintain, or stabilize prices under section 4, 4A, or 4C of this Act may claim contribution among them according to the damages attributable to each such person's sales or purchases of goods or services. A claim for contribution by such person or persons against whom an action has been commenced may be asserted by cross-claim, counterclaim, third party claim, or in a separate action, whether or not an action has been brought or a judgment has been rendered against the persons from whom contribution is sought.

"(b) A release or covenant not to sue or not to enforce a judgment received in settlement by one of two or more persons subject to contribution under this section shall not discharge any other persons from liability unless its terms expressly so provide. The court shall reduce the claim of the person giving the release or covenant against other persons subject to liability by the greatest of: (1) any amount stipulated by the release or covenant, (2) the amount of consideration paid for it, or (3) treble the actual damages attributable to the settling person's sales or purchases of goods or services. Under item (3) above, actual damages shall not be trebled in proceedings under section 4A of this Act.

"(c) A release or covenant, or an agreement which provides for a release or covenant, entered into in good faith, relieves the recipient from liability to any other person for contribution, with respect to the claim of the person giving the release or covenant, or agreement, unless the settlement provided for in any such release, covenant, or agreement is not consummated.

"(d) Nothing in this section shall affect the joint and several liability of any person who enters into an agreement to fix, maintain, or stabilize prices.

"(e) This section shall apply only to actions under section 4, 4A, or 4C of this Act commenced after the date of enactment of this section.".●

By Mr. HATCH:

S. 1469. A bill to restate, with greater emphasis, the intent of Congress to provide equal employment opportunities without regard to an individual's race, color, religion, sex, or national origin; to the Committee on Labor and Human Resources.

Mr. HATCH. Mr. President, immediately before the Independence Day recess, the U.S. Supreme Court handed down its decision in the case of the United Steelworkers against Weber. In that decision, a majority of the Court interpreted the provisions of title VII of the Civil Rights Act of 1964 to permit an apprentice-hiring program which provided a preference to individuals on the basis of their skin color. Conceding that neither statutory language, legislative history, nor precedent mitigated on behalf of this decision, the Court nevertheless concluded that the "spirit" of the act was on their side. It would be "ironic," in the words of Justice Brennan, for a law "triggered by a nation's concern over centuries of racial injustice" to prohibit "all race-conscious affirmative action."

Not fully appreciating this "irony," I went back to reread the pertinent provisions of the 1964 act. Section 703(a), 42 U.S.C. 2000e–2(a) provides:

> (a) It shall be an unlawful employment practice for an employer—
>
> (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or
>
> (2) to limit or classify his employees or would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

Section 703(d), 42 U.S.C. 2000e–2(d) further provides:

> (d) It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or re-training, including on-the-job training programs, to discriminate against any individual because of race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

Finally, section 703(j), 42 U.S.C. 2000e–2(j) reads:

> (j) Nothing contained in this subchapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group . . .

How this language could be reconciled with a collective bargaining agreement which reserved 50 percent of the openings in in-plan craft-training programs for black individuals, with respect to a plant and company never found in violation of any civil rights laws in the past, is beyond me.

Thus, I took heart at Justice Blackmun's concurring opinion which stated that—

> If the Court has misperceived the political will, it has the assurance that because the question is statutory Congress may set a different course if it so chooses.

The more that I thought about it, however, the more clear it became to me that I could not improve upon the language of the original statute. I cannot think of alternative language which would be as well-drafted, as precise, as clear, and as specific, as the language that the Court purported to interpret.

As a result, I have decided to introduce legislation, designed to overturn the Weber decision, which would incorporate the identical language of the present law, with several minor modifications. Section 1 of my bill would restate the language of the current section 703(a) while appending at the end thereof the following provision: "and we mean it this time." Section 2 of the bill would restate the language of the current section 703(e) while further specifying that: "The language of this subsection is designed to accurately and faithfully reflect the spirit in which Congress acts in approving it."

I am confident that such amendments will work wonders in encouraging the Supreme Court to reconsider its action.

By Mr. HAYAKAWA:

S.J. Res. 94. A joint resolution authorizing the President to proclaim the week of April 1 through April 7, 1980, as "National Mime Week"; to the Committee on the Judiciary.

NATIONAL MIME WEEK

● Mr. HAYAKAWA. Mr. President, today I am introducing legislation authorizing the President to proclaim the week of April 1 through April 7 as "National Mime Week." The same resolution is being introduced in the House of Representatives by Congressman KINDNESS of Ohio. Last year I sponsored Senate Resolution 124, which expressed the support and appreciation of the U.S. Senate for the art of pantomine by proclaiming the week of April 1 "National Mime Week."

The art of mime and pantomime as performed by American artists is recognized internationally to be an innovative and unique form of theatrical excellence. The thousands of mime artists that are currently creating, producing and performing in our country are contributing immeasurably to the richness of our cultural heritage. It is only fitting that a time should be set aside each year for the purpose of acknowledging pantomime as a cherished national treasure in our performing arts. As the nature of mime and pantomime is one of celebration, all Americans should be encouraged to share in the special magic of mime during this week by attending live performances, films and other media which present this highly prized art form.

Last year during Mime Week there was the National Mime Parade featuring Red Skelton. The parade marched down Pennsylvania Avenue in silent celebration of that historic occasion. Two marching bands joined in, pretending to play their instruments, miming their way to the Corcoran Gallery. They were met there by Mrs. Mondale, and the festivities continued throughout the weekend, ending with a special performance in the Kennedy Center. Special recognition for that occasion must be given to Mr. Joe Jeff, regional representative for the International Mimes and Pantomimists in the Washington area, who was very instrumental in that celebration.●

ADDITIONAL COSPONSORS

S. 18

At the request of Mr. McCLURE, the Senator from South Carolina (Mr. THURMOND), the Senator from North Carolina (Mr. HELMS), the Senator from Utah (Mr. HATCH), and the Senator from New Hampshire (Mr. HUMPHREY) were added as cosponsors of S. 18, a bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for certain amounts of savings.

S. 76

At the request of Mr. STONE, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 76, a bill to amend title XVIII of the Social Security Act to authorize payment under medicare for certain services performed by chiropractors.

S. 246

At the request of Mr. BENTSEN, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 246, a bill to amend the Internal Revenue Code of 1954 to encourage greater individual savings.

S. 336

At the request of Mr. MATHIAS, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S 336, a bill to amend the Internal Revenue Code of 1954 to provide that married individuals who file separate returns may be taxed at the same rate as an unmarried individual.

S. 378

At the request of Mr. BELLMON, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 378, a bill to authorize the Robert A. Taft Institute of Government Trust Fund.

S. 446

At the request of Mr. WILLIAMS, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 446, the Equal Employment Opportunity for the Handicapped Act of 1979.

S. 451

At the request of Mr. SCHWEIKER, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 452, the Diabetes Research and Training Amendments and the National Diabetes Advisory Board Extension Act.

S. 467

At the request of Mr. INOUYE, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 467, a bill to amend title 38, United States Code, to provide that the Administrator of the Veterans' Administration may furnish outpatient dental services and treatment for a nonservice-connected disability to any war veteran who has a service-connected disability of 80 percent or more.

S. 474

At the request of Mr. INOUYE, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 474, a bill to amend chapter 34 of title 38, United States Code, to authorize the Administrator of the Veterans' Administration, under certain circumstances, the period within which a veteran must complete a program of education under such chapter.

S. 506

At the request of Mr. MATHIAS, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 506, the Fair Housing Amendments Act of 1979.

S. 681

At the request of Mr. COHEN, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 681, a bill to amend title XVIII of the Social Security Act to provide for reciprocal agreements for services covered outside the United States.

S. 715

At the request of Mr. BELLMON, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 715, a bill to allow State and local governments to collect State and local taxes on alcoholic beverages and tobacco products sold or consumed on military and other Federal reservations.

S. 753

At the request of Mr. INOUYE, the Senator from Idaho (Mr. CHURCH) and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 753, a bill to amend the Internal Revenue Code of 1954 to increase the amount of credits for the elderly and adjust adjusted gross income limitation.

S. 1008

At the request of Mr. INOUYE, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1008, a bill to amend the Social Security Act to provide for the inclusion of services of licensed registered nurses under medicare and medicaid.

S. 1107

At the request of Mr. HAYAKAWA, the Senator from Wyoming (Mr. WALLOP) and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 1107, a bill to encourage youth opportunity by extending the subminimum wage enjoyed by full-time students to all persons between the ages of 16 and 20, and for other purposes.

S. 1121

At the request of Mr. HAYAKAWA, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of S. 1121, a bill to amend the Saccharin Study and Labeling Act.

S. 1200

At the request of Mr. BAYH, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 1200, the Alcohol Fuels Regulatory Simplification Act of 1979.

S. 1211

At the request of Mr. CRANSTON, the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. CHURCH), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1211, a bill to amend the Social Security Act to extend medicaid eligibility to certain low-income pregnant women.

S. 1252

At the request of Mr. BENTSEN, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1252, a bill to amend the Comprehensive Employment and Training Act and the Internal Revenue Code to boost productivity.

S. 1253

At the request of Mr. BENTSEN, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1253, a bill to amend the Comprehensive Employment and Training Act and the Internal Revenue Code to boost productivity.

S. 1254

At the request of Mr. BENTSEN, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1254, a bill to amend the Comprehensive Employment and Training Act and the Internal Revenue Code to boost productivity.

S. 1255

At the request of Mr. BENTSEN, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1255, a bill to amend the Comprehensive Employment and Training Act and the Internal Revenue Code to boost productivity.

S. 1256

At the request of Mr. BENTSEN, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1256, a bill to amend the Comprehensive Employment and Training Act and the Internal Revenue Code to boost productivity.

S. 1257

At the request of Mr. BENTSEN, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1257, a bill to amend the Comprehensive Employment and Training Act and the Internal Revenue Code to boost productivity.

SENATE JOINT RESOLUTION 87

At the request of Mr. STONE, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Joint Resolution 87, expressing the determination of the United States with respect to claims by U.S. nationals for property seized by the Castro regime.

SENATE RESOLUTION 188

At the request of Mr. GRAVEL, the Senator from Vermont (Mr. LEAHY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Vermont (Mr. STAFFORD), the Senator from Colorado (Mr. HART), the Senator from New York (Mr. MOYNIHAN), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of Senate Resolution 188, regarding transitional rules governing the use of tax exempt State and municipal bonds known as mortgage bonds.

AMENDMENT NO. 231

At the request of Mr. DOMENICI, the Senator from New Mexico (Mr. SCHMITT), the Senator from South Dakota (Mr. PRESSLER), the Senator from Illinois (Mr. PERCY), the Senator from California (Mr. CRANSTON), and the Senator from Maine (Mr. COHEN) were added as cosponsors of Amendment No. 231 intended to be proposed to S. 1149, the Housing and Community Development Amendments of 1979.

AMENDMENT NO. 232

At the request of Mr. DOMENICI, the Senator from New Mexico (Mr. SCHMITT), the Senator from South Dakota (Mr. PRESSLER), the Senator from Illinois (Mr. PERCY), the Senator from California (Mr. CRANSTON), and the Senator from Maine (Mr. COHEN) were added as cosponsors of Amendment No. 232 intended to be proposed to S. 1149, the Housing and Community Development Amendments of 1979.

AMENDMENT NO. 239

At the request of Mr. SASSER, the Senator from New York (Mr. JAVITS) was added as a cosponsor of Amendment No. 239 intended to be proposed to S. 712, the Amtrak Authorization Act of 1979.

SENATE RESOLUTION 195—ORIGINAL RESOLUTION REPORTED DURING THE RECESS TO WAIVE CONGRESSIONAL BUDGET ACT

Mr. McGOVERN, from the Committee on Agriculture, Nutrition, and Forestry, on July 6, 1979, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 195

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 1309, a bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program. Such waiver is necessary because S. 1309 authorizes the enactment of new budget authority that would first become available in fiscal year 1979, and the bill was reported after May 15, 1978.

S. 1309 is emergency legislation that would authorize increased appropriations for the 1979 food stamp program. The amount of appropriations currently authorized for the 1979 program will not be sufficient to provide participants in the food stamp program with full program benefits through the end of the 1979 fiscal year.

AMENDMENTS SUBMITTED FOR PRINTING

DIRECT ELECTION OF THE PRESIDENT AND VICE PRESIDENT—SENATE JOINT RESOLUTION 28

AMENDMENTS NOS. 299 AND 300

(Ordered to be printed and to lie on the table.)

Mr. SARBANES submitted two amendments intended to be proposed by him to Senate Joint Resolution 28, a joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

NOTICE OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

• Mr. PELL. Mr. President, on July 13 the Committee on Rules and Administration is scheduled to consider Senate Resolution 170, introduced by Senator HATFIELD and cosponsored by the full membership of the Select Committee on Ethics. This resolution would alter Senate procedures for reimbursement from Senators' official office accounts by generally requiring that documentation be submitted with vouchers claiming reimbursement.

In light of the impact this change will have on financial procedures in Senate offices, I want to inform all of my colleagues of the Rules Committee plan to consider this measure Friday. As chairman of the Rules Committee, I invite comments from all Senators wishing to express themselves on this resolution.•

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

• Mr. CHURCH. Mr. President, the Subcommittee on Energy Research and Development, of the Committee on Energy and Natural Resources (chaired by Senator JACKSON) will hold hearings on July 12 and 19, 1979, on title VIII of S. 1308, "Gasohol." This title is identical to the bill S. 750, which requires that the total quantity of gasoline sold in the United States shall contain 1 percent of alcohol motor fuel by 1981, increasing to 10 percent by 1990. The hearings will be held in room 3110, Dirksen Senate Office Building, beginning at 2 p.m.

All questions and inquiries should be addressed to Mr. Lee Wallace and Mr. Ira Dorfman at 224-4431.•

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

• Mr. FORD. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Resources and Materials Production of the Committee on Energy and Natural Resources will hold 2 days of hearings on S. 1388, the Omnibus Geothermal Energy Commercialization Act of 1979.

The first day of hearings will be on July 18, 1979, at 2 p.m. in room 3110, Dirksen Senate Office Building; the second day will be July 20, 1979, at 10 a.m., 3110 Dirksen Senate Office Building.

Questions should be directed to Thomas L. Laughlin of the subcommittee staff at 224-2564.•

SUBCOMMITTEE ON ENERGY REGULATION

• Mr. JOHNSTON. Mr. President, on Thursday, July 19, 1979, the Committee on Energy and Natural Resources, Subcommittee on Energy Regulation, will hold an additional day of hearings on legislation before the committee on nuclear facility siting and waste policy. These bills include S. 685 which Senator JACKSON and Senator CHURCH and I are sponsoring; S. 797, the administration's proposed away-from-reactor storage legislation; and S. 594, Senator McGOVERN's bill dealing with State concurrence in nuclear waste facility siting. These hearings will commence at 9:30 a.m. in room 1114 of the Dirksen Senate Office Building.

Questions about these hearings should be directed to Benjamin S. Cooper of the committee staff at 224-9894.•

SUBCOMMITTEE ON ENERGY REGULATION

• Mr. JOHNSTON. Mr. President, on Friday, July 20, 1979, the Committee on Energy and Natural Resources, Subcommittee on Energy Regulation, will hold a hearing on S. 1371, the Domestic Energy Policy Act of 1979. This hearing will begin at 9:30 a.m. in room 1202 of the Dirksen Senate Office Building.

Questions about this hearing should be addressed to Benjamin S. Cooper or James T. Bruce of the committee staff at 224-9894.•

SUBCOMMITTEE ON ENERGY REGULATIONS

• Mr. JOHNSTON. Mr. President, on Monday, July 23, 1979, the Subcommittee on Energy Regulations of the Committee on Energy and Natural Resources will hold a hearing to receive an update on the current energy supply situation from the Energy Information Administration. A similar such hearing was held on June 14. The subcommittee tentatively plans to hold regular hearings like this one to receive reports from EIA to clarify the background information available to describe existing energy shortages. The hearing on July 23 will begin at 2 p.m. in room 3110 of the Dirksen Senate Office Building. Questions about this hearing should be directed to Benjamin S. Cooper or James T. Bruce of the subcommittee staff at 224-9894.•

SUBCOMMITTEE ON THE CONSTITUTION

• Mr. BAYH. Mr. President, the Subcommittee on the Constitution, Committee on the Judiciary, will hold a hearing on the proposed constitutional amendment providing that the term of office of Members of the U.S. House of Representatives shall be extended to 4 years (S.J. Res. 34).

The hearing will commence on July 11, 1979, at 9:30 a.m. in room 1224, Dirksen Senate Office Building. Anyone wishing to submit testimony for the hearing record should send their statement to or contact Mary K. Jolly, Subcommittee on the Constitution, 102B Russell Senate Office Building, Washington, D.C. 20510.•

SUBCOMMITTEE ON CIVIL SERVICE AND GENERAL SERVICES

• Mr. PRYOR. Mr. President, I wish to announce that the Subcommittee on Civil Service and General Services will hold hearings on the Civil Service Retirement System and current issues which could affect the System, on July 12, 1979, at 9:30 a.m. in room 357 of the Russell Senate Office Building.

Anyone wishing additional information about the hearing may contact the subcommittee staff at 224-4551.•

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the sesssions of the Senate Monday through Thursday, July 9, 10, 11, and 12, to hold hearings on SALT II.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Judiciary be authorized to meet during the session of the Senate today, beginning at 2:30 p.m., to hold confirmation hearings on several nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A BUSHEL FOR A BARREL

• Mr. McGOVERN. Mr. President, let me call Senators attention to a major article appearing in the Sunday, July 8, 1979, Outlook Section of the Washington Post entitled "Cheaper Crude Or No More Food" by Dan Morgan, the Post's agriculture commodity expert. No stranger to the world of international grain transactions, Mr. Morgan is the author of a new book only recently in the stores entitled "Merchants of Grain" which carefully traces the history of the major grain companies and explains in detail the manner and mode of these complications. "Merchants of Grain" has received favorable reviews by such major journalists as James Risser, the twice Pulitzer Prize winner who writes on agricultural matters for the Des Moines Register.

Having referred to Mr. Morgan's credentials, let me say that he is better able to convincingly defend the "bushel for a barrel" concept than perhaps any other journalist writing today. I have long been convinced that this administration and others have underestimated the bargaining power we have in U.S. wheat and feed grains. Senators BELLMON, MELCHER and I have traveled to Winnipeg to confer with our counterparts in the Canadian Parliament and they have come to Washington to pursue these talks further. We are all convinced that wheat, our major product for human consumption, is being sold in international commerce far too cheaply. Though we have not advocated the drastic shifts in policy advocated by Mr. Morgan, we have continually prodded the Department of Agriculture to convene talks with the major exporters, the United States, Canada, Australia and New Zealand who control 85 percent of the some 70 million tons of wheat which moves annually in international commerce leading to market shares and a substantially better price for producers. Such an arrangement would have a dramatic effect on our balance of payments, as well as guaranteeing our farmer producers a reasonable return. The Senate Committee on Foreign Relations has reported a sense of the Senate resolution to this effect, and the Senate has adopted it by an overwhelming vote.

Perhaps Mr. Morgan's article will add to the efforts we have made in the Congress in terms of a more aggressive outlook at the Department of Agriculture on this question. His conclusions have great support in the wheat growing areas of our country and I am quick to admit that with some tough thinking at the administration, he could well be a prophet of things to come.

I ask that the article to which I have referred be printed in the Record.

The article follows:

CHEAPER CRUDE OR NO MORE FOOD

USING U.S. WHEAT AGAINST OPEC: NOT AS FARFETCHED AS YOU THINK

(By Dan Morgan)

American farmers are sticking a defiant message on the bumpers of the pickup trucks these days: "Cheaper Crude or No More Food."

The farmers believe the United States could force the Organization of Petroleum Exporting Countries to brake its price increases by denying U.S. grain to the oil cartel. Members of the militant American Agricultural Movement would settle for merely raising wheat prices in step with the oil price increases ordained by the cartel.

"A bushel for a barrel" sounds lighthearted, and government officials tend to dismiss the crusaders as misguided rural xenophobes. It wouldn't work, the administration argues. Besides, isn't it faintly immoral to tinker with the world's food supply in such a hardhearted manner?

But the bumper stickers are not all that farfetched. If one examines the world grain market today, its future and its potential for America, there are extraordinary similarities with the world oil market. If U.S. policymakers have the will to play international "hard ball" with the grain-importing countries, particularly the oil nations of OPEC, the squeeze might produce dividends for us. At least the idea deserves more serious consideration than Washington has given it.

U.S. ECONOMIC LEVERAGE

This would require an important political decision—one Americans generally have abhorred except in emergencies. The government would have to create a national grain-trading board, one empowered to set a national price on our wheat and prepared to make other countries pay our price or do without. Is this time of soaring oil prices, of rampant inflation and threatened recession, a national emergency? Does it justify a counter-cartel? The militant farmers think so.

The potential for U.S. leverage on world grain prices is supported by the statistics in a recent study by the respected International Wheat Council in London. Its surprising conclusion is that OPEC's wheat imports are growing faster than those of any other groups of nations. They reached almost 10 million tons in 1970. This is 14 percent of the entire world wheat trade.

Many nations, including several OPEC countries, grow and export wheat. But only a handful export on a scale of 10 million tons. The clear implication is that, with regard to OPEC's wheat needs, the two criteria for U.S. economic leverage exist:

Doing without grain imports, though possible, would be economically disruptive and possibly politically destabilizing.

Only the United States and Canada can guarantee a continuing supply of wheat of that magnitude. The United States, moreover, is in the peculiar position this summer of being the only country that can fill new wheat orders. It already supplies OPEC with more than half of its 10 million tons a year.

The dependency of OPEC countries is dramatically evident in the case of Iran, the oil exporter whose temporary shutdown caused so many problems. During Iran's revolutionary spring, the oil stopped going out—but U.S. grain kept going in there.

Agriculture Department officials say Iran purchased more than a million tons of white (Pacific Northwest) wheat in the year ended June 30, and already has booked orders for 115,000 tons this year. (This is about in line with previous years.) Iran also bought more than 300,000 tons of U.S. rice last year. Its total grain imports have been running close to 3 million tons—an amount that gives Iran a margin of protection against food inflation.

This dependency on U.S. food was vigorously promoted by the grain trade and by the U.S. Agriculture Department's "market development" teams in the 1960s. They used the Food for Peace program and other incentives to convert Iran to the American diet of grain-fed meat and poultry. Iran became a U.S. agricultural client state, and even after the revolution its need for foreign grain is a reality that its new rulers must take into account.

Given the fact that U.S. food is feeding Iranians, the ayatollah's rantings against the United States seem particularly ungracious. A counter-squeeze using U.S. food might show us what the ayatollah is really made of.

Contrary to the popular image, OPEC is not a collection of desert nations with only a handful of people to feed. OPEC's 13 members include the world's fifth most populous country (Indonesia), the largest in Africa (Nigeria), and a populous tropical nation whose climate is not well suited to growing wheat (Venezuela).

Wheat, eaten as bread or couscous, is a staple in Algeria, Libya, Iran, Iraq and Saudi Arabia. But only three OPEC countries—Algeria, Iran and Iraq—grow wheat on a large scale, and none is self-sufficient except when their crops are unusually bountiful.

Indonesia and Nigeria are rice-eating nations, but both rely heavily on imports—not only of rice but also of wheat—to supplement the food available in the commercial marketing systems on which their huge urban populations depend.

Population in OPEC is rising at 2.8 percent a year, about the average for all developing countries, and the populations of several countries have been swollen by immigration of foreign workers who need to be fed. Kuwait's population, for example, is growing 6 percent a year.

Oil revenues have given OPEC countries the means to import more food. This in turn has led to a rapid rise in per capita wheat consumption, from 40 kilograms at the start of the decade to 55 kilograms now.

But perhaps the major factor behind OPEC's rising consumption is that imported grain has been a bargain—particularly since it is being purchased with dollars that have been sharply devalued by inflation.

Artificially cheap oil in the postwar era made "petroleum junkies" out of the industrial countries. They postponed adopting energy conservation policies and thereby created the conditions for their present reliance on OPEC.

Now the OPEC nations are following a similar pattern in terms of our grain trade. Foreign nations have gone on a food-buying binge; demand for imports is still increasing, and OPEC is no exception. There are a variety of reasons for this phenomenon—population growth, prosperity, the increasing popularity of bread and poultry in countries that once ate rice and potatoes.

It is an irreversible trend. Virtually all experts acknowledge that though food self-sufficiency was a realizable goal for many nations in the 1920s and 1930s, it no longer is today. Dependence on U.S. food is permanent. That is why nations such as Saudi Arabia have built new flour mills. Wheat for those mills, like oil for East Coast oil refineries, will have to come from abroad.

Since 1970, wheat prices have tripled, but oil prices have increased nearly ninefold. In 1970, a bushel of wheat was selling for $1.45 at the Gulf of Mexico, compared with about $1.70 for a barrel of Saudi Arabian crude oil. This spring—before the latest OPEC price increases—wheat was just over $4 a bushel, while oil was at $14.50 a barrel.

It is true, of course, that wheat, unlike oil, is a renewable resource, grown year after year. But it takes oil to produce food, so there is a direct connection.

More than most other businessmen, American farmers are sensitive to the intimate economic relationship between oil and grain. Farmers use a prodigious amount of energy in growing and marketing their crops. It takes natural gas to operate irrigation pumps, dry grain and produce the anhydrous ammonia for fertilizer. It also takes oil to produce diesel fuel for tractors and combines and to make the herbicides and pesticides sprayed onto crops. So it is not surprising that the slogan "a bushel of grain for a barrel of oil" emanates from rural America.

The same countries that have been raising oil prices have been getting a bargain—an American subsidy, some might call it—on the grain produced, processed and transported with that oil. In effect, the United States exports energy back to OPEC in the form of wheat, corn, rice and vegetable oil. So the "cheaper cruders" argue that it is equitable for OPEC to offer its food suppliers, including the United States, a lower price on oil, or a higher price for the grain.

Up to now, Carter administration officials have maintained that if we tied grain prices to oil prices, customers abroad would buy less, would produce more food of their own or would turn to other grain suppliers. But these arguments are debatable.

PATTERNS IN OIL AND GRAIN

The world is not running out of food. But the record of the past five years shows that increasing food production abroad is far more difficult to achieve than expected.

World grain and oil production are comparable in that the period of "easy" advances in grain output, brought about by hybrid seeds, irrigation and use of new farmland, is over. Just as in oil, future increases in food production will be harder to achieve and more costly—in part because the energy ingredient has become so costly. Opening new breadbaskets, like making new oil finds, is turning out to be tough.

The Soviet Union has poured vast sums of money into new wheat lands since the late 1950s, but this year it is still importing 15 million tons of grain from the United States alone.

Brazil has failed to emerge as the agricultural Garden of Eden some believed it would become. It imported 4 million tons of U.S. wheat last year. The soil of its tropical forests is not well suited to growing food grains. As its oil and food import bill rises, moreover, pressures remain strong to devote available farmlands to export crops such as coffee.

Agriculture has not had a good decade in the OPEC countries either. Food production hasn't kept pace with population growth, and a grandiose scheme of Arab rulers to create a breadbasket in the Sudan—a scheme that underscores the Arabs' sense of vulnerability on the food issue—has yet to produce results.

For these countries, food conservation is no more palatable an alternative than oil conservation is in the West. It is one thing to slaughter poultry and livestock to conserve feedgrains, as Iran has been doing. But it is another thing to reduce consumption of foodgrains for humans.

World wheat consumption, like that of OPEC, is on a steadily rising plane—350 million tons in 1975; 379 million tons in 1976; 395 million tons in 1977; 416 million tons in 1978, and an estimated 431 million tons this year.

World wheat imports have stayed strikingly constant in this period, varying only a few million tons on either side of 70 million tons. And the last three years have seen excellent crops worldwide, a pattern that is not holding this year.

Dozens of countries grow wheat. But only five—the United States, Canada, Australia, France and Argentina—cover the bulk of the world's wheat trade. Two of them, Canada and the United States, provided two-thirds of it, and today these two countries are holding most of the surplus wheat stocks.

In the next few months, only the United States will be able to fill new orders for wheat. Crops in Australia and Argentina already are committed to customers. France's wheat crop has suffered from a severe winter, and Canadian shipments have been snarled by transportation problems and a West Coast dock strike. That is exactly why grain prices are now rising so rapidly here. It is a seller's market.

DO WE WANT TO TAKE THE WHEEL?

All of these facts put the United States in in the driver's seat—if it wants to take the wheel. The transition period would involve the same kind of political trauma and dislocations that occurred among OPEC nations as they struggled in the early 1970s to take control of their own asset, petroleum. Those difficulties and the uncertainty of political anger around the world—not the question of feasibility—may be the real reasons why U.S. officials are so cool to the slogans.

The structure of the world grain trade today resembles the way world oil looked in the 1960s—before the cartel gained its maturity. That was a time when oil prices were low, when oil exporting countries were disunited, and when a handful of huge multination companies organized the marketing and allocation of the surpluses. This is a rough approximation of the situation prevailing today in the global grain markets.

One clear indication that wheat prices are too "low" is that Japan, the European Common Market, the Philippines and other countries all levy stiff import taxes on U.S. wheat to protect their own farmers. Food authorities in Japan currently purchase wheat at this country's gateway ports for $4.50 a bushel and resell it to Japanese millers for twice that. The Japanese millers are not buying less wheat.

But the handful of countries that produce major wheat surpluses have shown little inclination to unite in a cartel to capture more wheat revenues for the producers. In fact, the United States and Canada have waged price-cutting wars over the past 15 years whenever unsold surpluses have accumulated.

The two countries also have taken different approaches to grain production in the last two years—ones that mirror different approaches of several OPEC nations to oil production.

The United States, like Libya, has attempted to limit output in order to increase prices; farmers have received incentives to idle their wheat lands. Canada, on the other hand, has applied the Saudi policy of continuing to go all out; Canada's wheat planners have refused to order a cutback.

Officials of leading wheat exporting countries (except France) met in Winnipeg recently but took no steps toward forming a cartel or fixing a price floor. Fortunately for grain farmers, prices are now rising rapidly.

The idea of a cartel fixing grain prices for the world horrifies those who are concerned about poorer nations. Yet it could be argued that a stiff increase in grain prices is just what those countries need to force their rulers to devote adequate resources to agriculture, farmers and land reform. By controlling exports, the government would also be in a position to soften the impact of what is happening now—a sharp run-up in grain prices due to strong foreign demand.

THE ROLE OF THE MULTINATIONALS

There is, however, one large "but." Before OPEC could work its will on its industrial customers, the OPEC governments had to supplant the multinational companies that controlled the oil upstream in the Persian Gulf.

Canadian wheat is marketed through a quasi-governmental agency, the Wheat Board. But multinationals still control the system in the United States—the source of half of all grain and soybeans moving into the world markets. The government is involved in agriculture through farm programs, but not in the marketing system.

Dominating the system in the United States are a handful of companies that resemble the oil giants in their control of communications systems, marketing channels, river barges, grain hopper cars, storage depots, processing plants and financial facilities.

It is a highly complex system. U.S. grain regions are a mosaic of thousands of farms producing many different crops, from wheat to birdseed, each with specialized markets at home and abroad. For the government to take charge of the pricing and marketing of the grain would disrupt the system and do damage, the multinationals say.

Just as oil multinationals fought the takeover of Persian Gulf oil fields, grain companies now are strongly resisting creation of a U.S. grain board—a proposal contained in legislation submitted this year by Democratic Rep. Jim Weaver of Oregon and supported by 53 co-sponsors.

Weaver's plan calls for a board, under the Commodity Credit Corporation, to sell, barter or approve the sale of grain abroad. The grain companies could continue to make deals with their customers and to drum up business—but only at a price approved in Washington. Inherent in this is the government's ability to fix the price of all grain to foreign buyers.

The idea is not unprecedented. The government controlled the grain trade in both world wars. It required licensing of grain sales to communist countries until 1971, and it embargoed soybean exports in 1973.

Nationalization of the grain trade would be a drastic step. But then, say the farmers who carry the banner for "cheaper crude," this is not time for the faint-hearted.●

DOROTHY F. UNGER

● Mr. LUGAR. Mr. President, the people of Indianapolis recently paid tribute to an outstanding member of the community, Dorothy F. Unger, who is retiring after a career in social service spanning 45 years. During the past 12 years, Mrs. Under served as executive director of Indianapolis Settlements, Inc.

On June 26, Mayor Bill Hudnut proclaimed "Dorothy Unger Day" in Indianapolis, and Dorothy's friends gathered to celebrate her years of service. I was not able to be present on that occasion, but I wrote Dorothy a letter, which said in part:

> I personally recall your hard work and perseverance as executive director of Indianapolis Settlements, Inc., during my two terms as Mayor of Indianapolis. Your compassion and sensitivity for problems of individuals and families was always reflected in the advice and counsel you provided on such matters as the multi-service center system, community development funding and human service planning.
>
> Your imprint on this community will be a lasting and positive one. I join with the citizens of Indianapolis honoring a career totally dedicated to improving the quality of life for all of us.

The June 26, 1979, issue of the Indianapolis Star also honored Mrs. Unger with an article reviewing her career and some of her thoughts on social work over the years. I ask that the following material taken from that article be printed in the RECORD.

The material follows:

SOCIAL SERVICE PROBLEMS UNCHANGED

(By Carol Elrod)

Nearly 100 persons will gather at noon today in Stouffer's Indianapolis Inn to honor Dorothy F. Unger, who is retiring after 45 years in the social service field, the last 12 as executive director of Indianapolis Settlements Inc.

As she thinks back over her career, Mrs. Unger notices that settlement house professionals work with neighborhood residents differently now. Today's social workers help residents to organize and teach them how to solve their own problems.

By contrast, years ago, social workers served as advocates for residents, who were largely passive.

"We see our present role as a helping one," Mrs. Unger reports.

The problems, she says, haven't changed much over the years. In fact, when she recently re-read a book about Jane Addams, founder of Chicago's Hull House, Mrs. Unger realized that the 1889 complaints about terrible housing, inadequate sanitation and bad schools in the inner city sounded like the minutes from our block club meetings.

"It's much the same kind of world."

During her career, Mrs. Unger has supervised the practical experience training of many social work students and finds those of today different from their counterparts in the 60s and early 70s.

Then, many of the students and just-out-of-school professionals were "activist and impatient." Now, most entering the field are more calm and "helping-oriented. Things are more stable."

Mrs. Unger has served as field instructor for students in Massachusetts, Pennsylvania, New York, Missouri and Indiana.

In the Hoosier State, she has been executive director of Concord Center Association, a group work consultant and director of the Haughville Multi-Problem Family Project for Christamore House, a consultant for the Veterans Administration Hospital at Marion and a group work supervisor at the Jewish Community Center.

Mrs. Unger plans to remain busy with

volunteer work at the Central Indiana Council on Aging, the Marion County Council on Aging and the Community Service Council's neighborhood services study, to name a few of her involvements.

"When those jobs are finished, there'll be more," she says.●

CONGRESS SHOULD AUTHORIZE CREDIT UNION SHARE DRAFT ACCOUNTS

● **Mr. GRAVEL.** Mr. President, on June 13, I introduced legislation to authorize federally chartered credit unions to utilize share draft accounts. This matter is currently under consideration by the Banking Committee's Subcommittee on Financial Institutions, chaired by Senator ALAN CRANSTON of California.

The share draft issue is being considered in the context of several financial reform packages pending before the House and Senate. While the packages propose to address various issues including the future of Regulation Q and NOW accounts, each proposal contains a provision that would allow federally chartered credit unions to continue offering share draft services to their members. The need to continue these programs does not appear to be in dispute.

For the information of other Members of Congress, I ask that a letter from the National Association of Federal Credit Unions and an article from the July 16 issue of Business Week both dealing with the share draft issue be printed in the RECORD.

The material follows:

NATIONAL ASSOCIATION OF
FEDERAL CREDIT UNIONS,
Washington, D.C., July 5, 1979.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRAVEL: The principles embodied in legislation (S. 1332) you recently introduced in the Senate, which would allow federally chartered credit unions to offer interest-bearing share draft accounts to their members, has the vigorous support of the National Association of Federal Credit Unions (NAFCU), the only national trade association exclusively representing Federal credit unions. The devastating impact termination, or even the slightest interruption, of share draft services would have been upon credit unions and the hundreds of thousands of consumers throughout the country who are the owners/members of these credit unions cannot be adequately stressed. You are to be commended for your efforts to expeditiously correct a situation which threatens the economic security of millions of small savers throughout the country.

Senator Gravel, share drafts have enjoyed an extremely high level of consumer acceptance and utilization since first being introduced in 1974. According to figures compiled by the National Credit Union Administration (NCUA), as of the quarter ending December 31, 1978:

Number of FCU's with operational share draft programs	740
FCU applications filed and awaiting action	336
Members utilizing FCU share draft accounts	791, 971
Dollar amount of FCU share draft accounts	$720, 518, 440
Estimated cost to process each draft	$0. 199
Average number of drafts paid per month per account	11. 15
Average amount of FCU drafts	$62. 11
Average amount paid out of each FCU share draft account per month	$692

During the last quarter of 1978, 26.5 million share drafts were processed totalling almost $1.7 billion. Additionally, there are approximately 800 state-chartered credit unions operating in 33 states with a total of one-half million more share draft accounts.

Senator Gravel, a review of financial reform legislation introduced in both chambers this session suggests that a large number of your colleagues agree with you: action must be taken before the adjournment of the first session of this Congress to assure that share draft programs may continue uninterrupted. Different transaction account "packages" are being discussed in both the Senate and the House; however, each of these proposals would allow federally chartered credit unions to continue offering share draft services to their member/owners. The need to continue these programs does not appear to be in dispute!

This issue needs to be addressed squarely and quickly. While we recognize that additional matters affecting financial institutions merit legislative consideration in this session, we believe that an equitable solution to the share draft problem cannot wait for the resolution of other issues.

On behalf of the approximately 5,000,000 shareholders represented by the membership of the National Association of Federal Credit Unions, I respectfully urge you to do all in your power to effect the swift consideration and approval of legislation authorizing continuation of share draft programs.

I have instructed the NAFCU staff to be available to offer their continued full cooperation and support to you and your colleagues, as you continue your efforts to secure passage of this vital piece of legislation.

Sincerely yours,

ROY HOLLIHAN,
President.

A BLITZ ON BEHALF OF CREDIT UNIONS

Although the entire industry is dwarfed by any one of several of the nation's major banks, credit unions have always wielded a disproportionate share of legislative clout in Congress, thanks to their large and loyal base of 42 million saver-members. That is why they usually have been able to hold their own while their bigger financial competitors—savings and loan associations, mutual savings banks, and commercial banks—slugged it out for legislative privileges.

But now the industry is out in front, leading the fight for reforms in this year's Congress. Faced with what they perceive as a threat to their financial lives, credit unions are waging an all-out battle to save their interest-paying share-draft checking accounts before these transactions become illegal on Jan. 1. A federal appeals court ruled on Apr. 20 that the share drafts—in effect, checks written on a credit union savings account—violate banking laws against paying interest on checking accounts. But the court set a Jan. 1 deadline to give Congress a chance to act. Now, hundreds of credit union members are tramping through congressional offices, hundreds of thousands are writing letters, and scores more are nabbing legislators who returned home for the July 4 recess.

The campaign already has drawn responses from 90% of the House's 435 members, an unprecedented number for a financial issue. As a result, the stalled and troubled financial reform legislation providing for interest-paying checking accounts will probably be approved by a House banking subcommittee later this month, despite heated protests from smaller banks and savings and loan associations, which have usually held sway on such issues. "In a sense, credit unions have gone out on point for the larger banks and thrifts who want interest-paying checking to survive," says one veteran House staffer. "They've pushed members who would never have supported it before."

BIG-BANK BACKING

"Credit unions see this legislation as critical. If it does not pass, they could easily wind up with negative growth for the year," says the industry regulator, Lawrence Connell Jr., chairman of the National Credit Union Administration. He estimates that the industry, with $63 billion in deposits, could face a $2 billion outflow in funds if the effort fails.

What is most surprising is the support credit unions have picked up from some of the nation's larger banks. The banks, who clear share drafts through the Federal Reserve system for fees of 2.8¢ to 4.55¢ per item, now have enough volume to be profitable, says Elinor Upton, vice-president at Chase Manhattan Bank, the nation's largest sharedraft clearing bank. "They want to keep it," she says. Some 40 other banks, including First Pennsylvania in Philadelphia, Security Pacific National Bank in Los Angeles, and First National Bank in Dallas, are also backing the legislative drive.

Larger banks also have a less visible stake in preserving their competitors' share drafts. Credit unions have pioneered a system of checking, called "truncation," that avoids the return of cancel checks to depositors, cutting their checking costs about in half. Big banks would like to do the same if credit unions can successfully defuse consumer opposition, which they have so far.

Moreover, because about 80% of the nation's 22,000 credit unions are affiliated with businesses, their letters often carry an identification with big companies or labor unions. The House's own Wright Patman Federal Credit Union has key staffers on its board, including House Doorkeeper James T. Molloy and House Banking Committee counsel Michael P. Flaherty. "Those identifications are not lost on members," notes one credit union opponent.

BETTING THE POT

Ironically, the biggest obstacle to the credit union bill—which would also give interest-paying checking to banks and other competitors—is Frank Annunzio (D-Ill.), chairman of the Banking Committee's consumer subcommittee, who wants to stop national interest-paying checking because, he says, it will lead to new service charges on consumers. Many bankers, however, say those charges are coming whether interest on checking passes or not.

In the meantime, the credit unions are betting everything on share-draft approval. "We're hanging our hat entirely on this legislation. If it does not pass, I frankly do not know where we will get the 6% money to fund our loans," says Joseph J. Ferreira, general manager of the $50 million-deposit Ebtel Federal Credit Union in Haywood, Calif., which would lose up to 12% of its deposits by yearend without a bill.●

THE SENIOR SENATOR FROM LOUISIANA

● **Mr. DOLE.** Mr. President, I am delighted to place before you an impressive profile of one of our most impressive colleagues, the distinguished senior Senator from Louisiana, Russell B. Long. The untimely death this past weekend of Prof. T. Harry Williams, a brilliant scholar whose study of Senator Long's father ranks as one of America's great political biographies, reminds us anew of the special place of Senator Long and his forebears in the development of Louisiana and the South.

Reader's Digest has given its 42 million readers a profile less exhaustive than Professor Williams'; but no less fascinating, nor any less revealing of the way the political process can be made to work by a man dedicated to achievement instead of hand wringing. In a word, Russell Long works. I cannot think of a Member of this body who works harder, nor with greater dedication to this institution and this Nation.

As ranking minority member on the Finance Committee, I have had occasion to disagree with Senator Long. We do not always see eye to eye on specifics of tax reform, health insurance, or energy production. But political differences are never allowed to stand in the way of personal friendships. And we could all learn a lesson in legislative effectiveness from this man, whom Reader's Digest quite rightly labels "one of this country's great movers and shakers."

At a time when America stands at a crossroads, I feel better knowing that men like Russell Long are going to have a hand in pointing our future course. We are all fortunate to share such a historical opportunity with such a man.

I ask that the article on Russell Long, as it appeared in the Reader's Digest of July 1979, be printed in the Record.

The article follows:

Russell Long—"The Most Talented Politician in Congress"

(By Irwin Ross)

Sen. Russell B. Long of Louisiana is a man who knows how to get things done. A crafty politican with 30 years' experience in the Senate, at once a consummate strategist and persuasive advocate, a power broker and wheeler-dealer par excellence, he has become, in ways rarely understood by the public, one of this country's greatest movers and shakers.

In the process, the Democratic Senator has chalked up an impressive list of legislative achievements—from the earned-income credit for the poor to the recent cut in the capital-gains tax—and proved that he can be an invaluable ally to any of his colleagues—or a formidable foe.

The power of Russell Billiu Long derives in large part from his 13-year chairmanship of the Senate Finance Committee, which has jurisdiction over such vital matters as taxes, Social Security, welfare, foreign trade, Medicare and Medicaid. The Senator's influence, however, is also an emanation of the man himself: his colleagues not only admire his political skills, but they like him personally. He is friendly, approachable, utterly unpretentious.

The 60-year-old Long is one of those outsize figures around whom legends cluster. He is not physically a giant, being a chunky man of average height, with a large, balding head and small, quick-darting blue eyes behind horn-rimmed glasses; he usually manages to appear rumpled even in a well-cut suit. It is his personality that is slightly larger than life. Fast-talking, bubbly, primed by endless nervous energy, he literally bounces around in his swivel chair, alternately biting the end of an unlit cigar or gesturing with it as the words tumble forth.

For a politician, it is surprising how often ideas fill him with sudden, irrepressible enthusiasm. "He gets ideas in a rush and he'll dictate until your arm falls off," says Wayne Thevenot, the Senator's former chief legislative assistant. Staff members often fear being caught alone with him when he is struck by an inspiration. A former aide recalls going to the Senator's apartment one Saturday morning for a meeting and finding the maid, cleaning implements at her feet, sitting transfixed as the Senator expounded some technical amendments he had just thought up for the Medicare and Medicaid programs.

GETTING HIS WAY

On the Senate floor, Long is an odd combination of the emotional enthusiast and the shrewd tactician. In full flood of oratory, the Senator's voice rises to a high squeak and he shoots his clenched fists aloft. He is a superb salesman, though he tends to get carried away at times. In a debate last year, he characterized a bill he opposed as "a delusion, a fraud and a snare," and then sought to illustrate how a snare works by describing in great detail a hunter using decoys and a duck call to attract unwary ducks flying overhead.

"The hunter goes to work with that duck call," he said, "and makes the most beautiful quacking sound . . . like the mating call of a little hen duck on the water." The deluded mallard lands and is welcomed with a shotgun blast. The American taxpayer would meet the same sad fate, Long concluded, if the legislation he opposed should pass. He balances such sonorous flights by later sallying forth to convert the unpersuaded, siding up to a fellow Senator and wrapping an arm around his shoulder while whispering in his ear—a characteristic armlock celebrated in countless photographs.

The payoff comes in the legislation he gets passed, including one unusual bill that has become part of the Senator's reputation for legislative legerdemain—enabling New Orleans to obtain a professional-football-team franchise. Always the shrewd tactician, Long attached the latter legislation as a rider to a totally unrelated tax bill; it was introduced and passed in a night session late in the year when Senate members were preoccupied with other matters.

Long's power and politial skill have often been displayed by his successful defense of the oil and gas industry—a major employer in Louisiana. When a provision in the House version of the 1975 Tax Reduction Act ended the depletion allowance for oil and gas producers, including independents, Long warned of a protracted fight that would slow down Senate action on the vital anti-recessionary tax cuts. There was even threat of a filibuster. In the end, though the depletion allowance was scaled down, it was preserved for independent producers and royalty holders.

THE POWER SOURCE

Long often achieves what he wants because he deftly weaves a complex web of reciprocal, often unstated, obligations. He is inclined to "take care" of people who frequently go along with him. Three years ago, for example, Sen. Daniel Inouye (D., Hawaii), who tends to follow Finance Committee proposals, was concerned about a provision in the 1976 tax-reform bill that sought to reduce tax-free frolicking by Americans at conventions abroad. He said he feared foreign retaliation against American resorts (Hawaii, of course, has a large resort industry). Long, the legislation's manager on the Senate floor, accepted an Inouye amendment that would have virtually nullified the proposed measure. (The Inouye amendment, however, failed to win acceptance in the House-Senate Conference Committee.) Much of Long's power comes from that cooperative spirit.

In soliciting support for his legislation, Long seasons sober argument with a light touch. Sen. Robert W. Packwood (R., Oreg.) recalls the time Long was trying to persuade the Finance Committee to vote for some minor tax bill that would benefit Louisiana. Encountering resistance, Long told the story of a poker player who, upon displaying a winning hand, is about to haul in the pot when he is stopped by another player, who reveals his apparently valueless cards and explains, "This is known as a phloogie." Then he points to a sign on the wall that says, "A phloogie beats anything." Despite his chagrin, the loser continues playing until he too comes up with a phloogie. But he is again prevented from collecting, his attention now being directed to another sign behind him, "Only one phloogie a day wins." After the laughter, Long explained that the bill he wanted was "just a phloogie for Louisiana—a little one-time thing." The Finance Committee went along.

THE LONG MARCH BEGINS

It was no genteel school of politics from which Long emerged. His father, Huey, was as controversial a politician as the South has produced. With his slogan of "Share the wealth," Huey was viewed as a messiah by his admirers, a dangerous demagogue by his detractors. He served a turbulent term as governor, barely managing to avoid impeachment, and was a U.S. Senator when he was assassinated in September 1935 at age 42. Russell Long, the second of three children, was then 16.

He had revered his father, and became fixed on the idea of carrying on Huey's populist crusade. He launched his political career at Louisiana State University. When he was a junior, he says, "I felt that if I became president of the student body, I could become governor one day." At LSU, this was not an absurd ambition, for Louisiana was an intensely political state and important campus elections were regarded as trial heats for the big events later on. Being a Long, he got enormous publicity when he triumphed in a flamboyant three-side race.

At age 20, Long married Katherine Mae Hattic. After getting a law degree from LSU in 1942, he went off to the Navy. He trained in landing craft operations and took part in the invasions of Africa, Italy and France. Back in Baton Rouge, in 1946, he opened a law office, but after a year he was politicking full time, stumping the state for Uncle Earl Long, a flamboyant loudmouth and eccentric who was running for governor.

HIS FATHER'S SON

After Earl won the election, he made Russell his executive counsel. Then accident intervened, with the sudden death of Sen. John H. Overton. Uncle Earl wanted to appoint his nephew, but there was a slight problem—Russell was six months short of 30, the minimum age for Senators. The governor found a stand-in appointee for the rest of the year. Russell ran in the Democratic primary—tantamount to election in Louisiana—and just managed to squeak through on the strength of the family name, winning by 10,475 votes out of more than half a million cast.

Thereafter, the Senator's victory margins widened. Running for a full term in 1950, he piled up a handsome 68.4 percent of the primary vote and last time around in 1974, topped the poll with 74.7 percent. Piling up

Senatorial seniority (he now ranks No. 4), he became chairman of the Finance Committee early in 1966. By then, the Democrats had elected him Party whip.

Long's performance was becoming erratic, however, partly because of a growing drinking problem. His marriage was also breaking up, and he was generally miserable. In 1969, he lost the whip's post to Sen. Edward Kennedy. Soon afterward, he and his wife of 30 years were divorced. He then married Carolyn Bason, a North Carolinian who had worked on Capitol Hill as a secretary since 1945. Long finally overcame his drinking problem and for years has been a model of sobriety.

As a self-styled populist, Long has had a hand in the major improvements of Social Security benefits in recent years. He is personally responsible, as well, for the earned-income credit, which allows low-income taxpayers with children to get a ten-percent income-tax credit on the first $5,000 of their earnings. (In previous years, it was $4,000.) The point of the program is to encourage people who might otherwise be on welfare to go to work. No work, no tax credit. In 1978, an estimated six million families availed themselves of the program.

POPULISM AND PROFITS

While Long wants to reward the working poor, he takes a hard line with people who avoid their responsibilities. He is the author of a federal program to pursue fathers who fail to provide child support, thereby consigning the mothers and offspring to welfare rolls. In the last fiscal year, the government collected more than $1 billion from almost one million errant fathers; with a cost to the government of less than one-third of the sum collected, the program has been exceedingly cost effective.

Long's brand of populism is by no means inconsistent, in his view, with his solicitude for the oil and gas industry and for the Louisiana sugarcane industry, on whose behalf he works continually to raise price supports. Both are large employers in Louisiana. One of his arguments:How can anyone complain against trying to provide tax incentives to get people to explore for new sources of fuel in the United States?

Nor does Long appear distressed by criticism that he has profited personally from the oil and gas industry while championing its legislative interests. His financial-disclosure statement last year, for example, showed that of a net worth of $2.3 million, over $1.1 million involved anticipated royalties from oil and gas properties. "It's not a conflict of interest," he insists, "but an identity of interest," given the economic facts of life in Louisiana. It would be unthinkable for him to vote against the interests of his state.

While he has never let Louisiana down, he has also made vital contributions to the nation. As a result, his fellow Senators are full of encomiums for Long: "the most talented all-around politician in the Congress," according to Sen. Gaylord Nelson (D., Wis.); "the smartest legislator I've ever met," in the view of Senator Packwood. Even his frequent opponent, Fred Wertheimer, senior vice president of Common Cause, acknowledges Long's expertise: "If you come to Washington with a problem, and your choice is an hour with the President or 15 minutes with Russell Long, I wouldn't have any doubt that you should go to Long's office."●

THE MYTH OF ARMS RESTRAINT

● Mr. McGOVERN. Mr. President, one of President Carter's most promising new policy initiatives was his pledge to turn U.S. arms sales into an exceptional tool of foreign policy in which the burden of proof would be placed on those who favored the sale rather than on those who opposed it. I welcomed this new policy because it showed that, along with the shift in our human rights policy, our country was beginning to learn the lessons of the Vietnam era.

Unfortunately, this promise has not been realized. Arms sales continue under the Carter administration to be an ordinary and acceptable—rather than an exceptional—foreign policy device. An independent study by Max Holland of the Center for International Policy, entitled "The Myth of Arms Restraint," has found that arms exports to 98 percent of the Third World market will increase more than 85 percent from fiscal year 1977—the last budget wholly prepared by the Ford-Kissinger administration—to fiscal year 1980 even after inflation is taken into account.

U.S. arms sales abroad represent not only a moral problem. They also fail to secure American interests. Despite $20 billion worth of arms sales, the United States could not protect the Shah of Iran against his own people. Despite millions of dollars worth of repressive police-type equipment to the Somoza, the United States cannot influence political developments in Nicaragua. By feeding the illusion that we can rely on dictators to defend American interests, arms sales undermine a realistic and constructive role for the United States in the developing world.

"The Myth of Arms Restraint" offers a comprehensive survey of arms sales developments of the past 3 years. It should prod the Carter administration to return to its original commitment to reduce the American role as the leading arms salesman in the world.

I ask to print the text of "The Myth of Arms Restraint" in the Record.

The text of the article follows:

The Myth of Arms Restraint

(By Max Holland)

Yemen. Thailand. Egypt. The Philippines. Somalia. Indonesia. Israel. Even China.

Every day the news media carry reports of yet another country that wants to buy U.S. arms. Often these reports coincide with the visit of heads of state to Washington; but just as frequently they arise because high-ranking U.S. officials, from Vice President Mondale to Secretary of Defense Brown, dispense arms on their world travels as though they were a proven panacea for international conflict.

A few items from months past:

The Thai prime minister comes to Washington, seeking anti-tank missiles, tanks, artillery and air-to-air missiles on an expedited basis. Reportedly he wants to spend $400 million in fiscal 1980—as much as Thailand has bought from the United States in the previous 38 years.

The Administration announces that more than $400 million worth of F-5 fighters, M-113 armored personnel carriers. M-60 tanks and TOW anti-tank missiles will be shipped to North Yemen within a matter of weeks. The sophisticated weaponry is intended for a 10,000-man army with fewer than 1,000 soldiers who can read or write. Simultaneously President Carter overrides the prerogative of Congress to review this massive sale.*

On the eve of a treaty, the Egyptian and Israeli defense ministers arrive in Washington not to celebrate peace, but to get more weapons. The Administration tentatively approves a package to Egypt that includes Hawk air-defense systems, destroyers, submarines, armored personnel carriers and F-4 Phantom fighter-bombers. Meanwhile Israel will garner more M-60 tanks, armored personnel carriers, artillery, Maverick air-to-ground and Sidewinder air-to-air missiles. The total $4.5 billion cost is presented to the U.S. taxpayer as the "price for peace."

(The chart mentioned in text is not printed in the Record.)

The chart on page three illustrates vividly that despite all the flourishes and rhetoric, the Carter Administration persists in the very tactics it once scorned—unrestrained arms exports to the Third World. The chart compares exports during fiscal 1977 (the last budget wholly prepared by the Ford-Kissinger Administration) to Pentagon estimates for fiscal 1980.

In current dollars arms exports to Latin America and Africa will decrease from 1977. But together these regions account for less than 2 percent of the U.S. market and the dominant trend is found elsewhere. At first glance exports to the Mideast & South Asia will also decrease, but after Iran (which has cancelled its 1977 orders and will not buy in 1980) is excluded from the comparisons, arms exports will actually increase 141 percent to the rest of the countries in this region. And in East Asia, exports will be almost double the 1977 total. Even after inflation is taken into account, the fact is that arms exports to 98 percent of the Third World will increase more than 85 percent from fiscal 1977 to fiscal 1980.

The figures are all the more sobering in that they are "moderate" estimates by Pentagon reckoning. If past accuracy is any indication the 1980 figures will inevitably creep and sometimes leap higher. Arms destined for Israel and Egypt, as noted earlier, may increase the 1980 Mideast estimate by a billion or more.

Yet as a candidate Jimmy Carter denounced uncontrolled growth in U.S. arms exports and made it a key example of the would-be difference between his and Henry Kissinger's foreign policy. "I am particularly concerned," he told the N.Y. Foreign Policy Association in 1976, "by our nation's role as the world's leading arms salesman." Carter attacked those who "try to justify this unsavory business on the cynical grounds that by rationing out the means of violence we can somehow control the world's violence."

There are identifiable differences between the conventional arms policy of Kissinger and Carter. The United States no longer sells virtually anything to anybody. Some transfers that previously were routine are not approved by the Carter Administration, often on the grounds that the recipient government is a gross violator of its citizens' human rights.

But these differences are superficial; in fact they are outweighed by similarities. The Carter Administration persists in supporting corrupt and repressive regimes from the Philippines to Zaire on the specious grounds of "national security." In the Third World's poorest areas, the Administration still contributes to the diversion of resources from economic development, and to self-fulfilling prophecies that military regimes are good "nation-builders." Most ominously, the Administration continues to transfer U.S. weaponry to nations with aggressive designs or to highly tense regions. In language worthy of Orwell, the implements of war are depicted as pacific cures for instability and insecurity.

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*See glossary for definition.

Why is there such a gap between 1976 rhetoric and 1980 results? The answer lies in Carter's failure to translate campaign criticism into substantive changes in policy. While decrying Kissinger's excesses, President Carter nevertheless adopted the same underlying premise when shaping his own policy: namely that arms exports to Third World countries generally promote U.S. national security. What is troublesome is that no amount of foreign policy disasters—either in Ethiopia, or most recently, Iran—has proved sufficient to dissuade the Administration from this dubious contention.

THE POLICY'S ORIGIN: THE NIXON DOCTRINE

Although the United States has been exporting arms to the Third World since the late 1940s, the contemporary rationale for the policy is rather recent. It arose from a shift in tactics dictated by the U.S. debacle in Vietnam.

Because of that war, public consensus over foreign policy—intact since the Truman Administration—broke down as Americans began to question the premises that had led them into the longest and most bitter foreign involvement in U.S. history. To many it seemed fundamentally wrong both in terms of American values and genuine security, for the United States to have as its allies in a so-called "free world" some of the most repressive, unpopular and corrupt governments in existence.

The Nixon-Kissinger Administration recognized the new restraints the Indochina experience placed on foreign involvement. But to them "no more Vietnams" did not mean an end to U.S. support for dictators or the national security justification syndrome. The key question was tactical, i.e., whose manpower would be used to fight dirty little wars. The use of American troops was politically undesirable, so threatened allies would have to assume primary responsibility for manning their own defenses. The United States' role except in extraordinary circumstances would be limited to providing necessary material and training. In other words more and better arms.

This new tactic was first spelled out in 1969, six years before the war ended, as the Guam or Nixon Doctrine. Initially it seemed to be a diplomatic cover for Nixon's plan to Vietnamize the war and reduce the high U.S. profile in Asia. But it soon became apparent there was another consideration behind its formulation: the final demise of Great Britain, America's erstwhile partner in safeguarding Western interests. Unable to support large forces abroad any longer, Britain announced in 1968 it would withdraw the balance of its troops from east of the Suez by 1971. For the United States, already stretched to the limit by a war and NATO commitments, supplanting this force was impossible, so the Nixon Doctrine conveniently expanded. As *quid pro quo* for U.S. arms, selected allies would not only defend themselves but U.S. interests as well. Among the first deputies were Iran and Saudi Arabia, for they supplied a vital commodity which required protection after the British left.

It received little notice at the time, but one of the corollaries of the Nixon Doctrine had a profound effect on U.S. arms links to the Third World. All allies, but regional deputies in particular, began to seek access to more sophisticated arms, now that the use of U.S. troops was curtailed. These arms were not to be found in excess Pentagon stocks nor would Congress finance procurement of them when countries like Taiwan were quite able to pay. So a shift from the 20-year-old policy of giving most U.S. arms away to selling them occurred. In one region, the Mideast and South Asia, the shift had already begun in the mid-60s. But in the rest of the Third World the quiet revolution in supplier-recipient relations took place after 1969. Sales became dominant, negotiated either through the Pentagon (Foreign Military Sales or FMS) or directly with U.S. manufacturers (Commercial Sales). By the early 1970s total Third World sales had irrevocably surpassed grants.

Reasons for the shift, however, were not only related to foreign policy. There were ample domestic economic reasons. U.S. corporations and the Pentagon praised it because of the promise sales carried of solving some of their problems. For corporations, high procurement levels during the Vietnam war had created a boom in the arms and aerospace industries not seen since the heady days of World War II. But as U.S. involvement in the war necessarily declined, these industries faced the inevitable prospect of a shrunken market and reduced production. Since economic incentives or government inducements to convert these industries to peacetime production were meagre or nonexistent, arms sales to new and lucrative markets were virtually the only way out.

Meanwhile at the Pentagon cost overruns had become a way of life. Sloppy procurement practices and cozy corporate-military relations were only part of the reason; increasingly, the costs of advances in metallurgy, ballistics, aerodynamics, optics and electronics exceeded available funds, and as costs rose, the Pentagon faced forced reductions in the number of weapons on order. Selling these same products abroad, however, would alleviate this problem in several ways. Not only could research and development costs be distributed among foreign customers, but extended production lines would significantly lower the per-unit cost. Moreover "peacetime" production would guarantee industrial preparedness in case the United States became involved in another crisis.

In essence, the United States found itself burdened with a war economy that desperately needed new markets just as the Nixon Doctrine willingly provided them.

These economic imperatives were potent additions to the traditional national security rationale. For the first time a genuine domestic constituency existed to promote arms exports, strikingly similar to the one that profited from U.S. defense spending. Corporations and unions alike touted exports for the number of jobs they created in a Massachusetts or California congressional district, and representatives were not above pressuring the State Department to approve specific sales. Then in 1974 yet another economic motive for arms exports emerged. The price of oil abruptly quadrupled, creating the first U.S. balance of payments deficit in almost one hundred years. What better and more expedient way to reduce this deficit and recoup some petrodollars than by selling more arms, particularly to OPEC countries with a newly-precious resource to protect?

THE NIXON DOCTRINE'S PARADIGM

One country above all others epitomized post-Vietnam policy—Iran. It had all the prime ingredients to become a regional policeman: clear ties to U.S. interests because of its resources and location; a large population; an economy awash in petrodollars; and most convenient of all, a ruler eager to assume the role because he had visions of another Persian Empire.

For all its wealth, however, Iran was firmly rooted in the Third World. The government was a corrupt and notoriously repressive dictatorship, and the country faced explosive socio-economic pressures from population growth, unemployment, dwindling food production and sprawling urbanization. Fulfilling the Nixon Doctrine would come at the expense of these basic problems.

In retrospect U.S. policy toward Iran between 1945 and 1970 was restrained and circumspect, although few Iranians would agree who remembered the 1953 CIA-instigated coup that brought the Shah back from exile. But whatever restraint existed ended in 1971 during a meeting at Tehran's airport, when Richard Nixon personally assured the Shah he could purchase all the weapons he desired. In return Iranian armed forces would ostensibly protect the transit of oil from the Persian Gulf.

In an unprecedented departure, Kissinger then ordered the State and Defense Departments to sell the Shah even the most advanced weaponry, explicitly stating the Iranian government would be the final arbiter of its own needs and not U.S. analysts.

Pentagon figures testify to the results. From $135 million in FY 1970, exports rose to $392 million, $515 million and $2.2 billion in successive years. Massive corruption, waste and unnecessary purchases went hand-in-hand with mounting exports, as U.S. corporations, generals and admirals virtually fell over one another trying to persuade government officials to buy one weapons system or another. Iranian officials were easily convinced especially when a "10 percent commission" or share in the profits accompanied the sale. The Shah's brother-in-law, then head of the Air Force, along with the Vice Minister of War for Armaments became widely known for the millions of dollars they netted in arms deals. Conservative estimates put all such payoffs at more than a billion dollars, not including commissions paid to U.S. advisors.

The 1973 Mideast war and the quadrupling of oil prices merely accelerated the Shah's profligacy. In FY 1974 alone Iran signed new agreements worth more than $4.3 billion, more than 40 percent of all U.S. weaponry sold that year to the entire world. From 1974 to 1976 the Shah spent an average $7.4 million a day on U.S. weapons for his armed forces that had doubled in size since 1968 to 410,000 men. As former U.S. diplomat George Ball observed, the Nixon Doctrine's blank check to the Shah was akin to "giving an alcoholic the keys to the world's largest liquor store."

Iran also illustrated U.S. corporations' mounting dependency on foreign countries for their profits and sometimes, sheer survival. The case that stands out occurred in 1974, when Grumman Aircraft faced bankruptcy because of massive cost overruns and losses incurred from its F-14 contract with the U.S. Navy. Grumman's bankers refused to lend it more money. But the Shah, who had ordered 80 of the sophisticated F-14 interceptors, had a vested interest in Grumman's continued viability. An Iranian bank loaned the company $75 million, and persuaded U.S. counterparts to put up an additional $125 million. The Shah rescued Grumman from financial ruin.

While Iran represented the most conspicuous application of the Nixon Doctrine, by no means was it an isolated example. A staggering growth in exports occurred to all regions during 1970–76. Exports to Africa totaled $421 million, a prorated increase of 251 percent when compared to 1962–69. Arms to Latin America during the same period amounted to $1.1 billion, up 91 percent, and to East Asia they totaled $18.6 billion, a 128 percent increase. Notwithstanding these increases, the most astonishing one occurred in the Mideast and South Asia, where exports reached $33 billion, a 1,255 percent increase after the advent of the Nixon Doctrine. No more than 12 percent of this sum could be attributed to resupplying Israel after the 1973 war.

ARMS EXPORTS: UNDERMINING U.S. SECURITY

By the mid 1970s it began to be clear the doctrine's exercise led to unexpected and unprecedented consequences apart from increases. Criticism dwindled over how well arms exports *promoted* U.S. interests, which had been the main point of contention in the past. Instead the question became how much unrestrained exports *threatened* U.S. national security.

The most profound danger was the tendency of arms to aggravate festering Third World conflicts that could entangle the United States. The avowed purpose of U.S. policy was to secure a peaceable world where conflicts were settled through negotiation. But wanton arms exports cultivated an incompatible climate where the resort to force was made possible, acceptable, even attractive. While this was hardly a novel problem, having existed since the Truman Administration, the Nixon Doctrine greatly exacerbated it. The cause was not simply the large amounts or sophisticated kinds of weaponry being exported; a key reason was the subtle change in supplier-recipient relations that occurred because of the Nixon Doctrine's shift from grants to sales.

When grant aid was predominant, the United States unilaterally decided what recipients needed and why they needed it. Like grateful dependents, recipients generally took what they were given and seldom used the weapons for purposes that might incur their donor's wrath. But when recipients began to pay for weapons, they gradually grew more aggressive about what they needed and less inhibited about where and when the arms would be used. U.S. purposes in selling began to bear little resemblance to recipients' purposes in buying.

One result was to immerse the United States in local arms races throughout the world. In South America, East Africa, Northeast Asia and especially the Mideast, U.S. arms added fuel to smoldering and incipient rivalries. Invariably U.S. exports were justified as prudent steps to redress military imbalances between Chile and Peru, or South and North Korea. But perfect balances only existed on paper because rivals never synchronized their buildups. Newly assertive U.S. recipients would request weaponry that could overcome, not only match, their rivals' arsenals. The State Department bureaucracy would go through the motions of weighing the risks, and when the weaponry arrived its net result was to incite the other side to further increase the ante. Since the "other side's" supplier most often was the Soviet Union, there was the ever-present danger that actual hostilities could provoke a superpower confrontation.

In addition to potential wars, the Nixon Doctrine ensnared the United States in several real wars. In some instances the U.S. link to the violence was incontrovertible, as when both Indonesia and Morocco annexed territories (East Timor and part of the Spanish Sahara respectively) using U.S.-origin weapons. These invasions violated international law and the U.N. charter, not to mention the "self-defense only" terms under which the U.S. provided the arms.

At other times U.S. links to hostilities were less direct, but equally out of control. During 1977 in the Horn of Africa, for example, the United States found itself tied in some degree to every belligerent party although it professed neutrality. Five U.S. arms recipients—Iran, Egypt, Israel, Saudi Arabia and Yugoslavia—were reportedly involved in retransferring U.S. weapons to third parties in the conflict or relied on American weapons to replace what they sent to the Horn. Yugoslavia sent tank parts and Israel delivered spare parts to Ethiopia; Egypt sent Soviet-made arms to Somalia after the Saudis promised to reimburse them with U.S. arms; and Iran reportedly sent old U.S. tanks to Somalia and German light arms to Eritrean rebels, secure in the knowledge that more modern U.S. arms would replace them. Such "third-country transfers" frequently were made clandestinely (Yugoslavia made its contribution to the fighting without U.S. consent, for example), further evidence of the minimal control the United States exercised over where and when American-supplied weaponry would actually be used.

U.S. involvement in conventional arms races, wars of aggression, clandestine transfers—these were only three risks the Nixon Doctrine posed to U.S. national security. As the doctrine continued to unfold during the early 1970s, hazards became manifest in several other ways:

Presence of U.S. technicians. Although the Nixon Doctrine supposedly obviated the need for large contingents of Americans abroad to defend Third World allies, practice differed greatly from theory. In Iran, for example, a 1976 Senate study found that nearly 25,000 U.S. technicians were needed to train Iranians to properly use and maintain their high technology weapons. But qualified recruits couldn't be found fast enough and Americans frequently ended up operating and maintaining the equipment they were ostensibly training Iranians to use. The study concluded: ". . . Iran could not go to war in the next five to ten years with its current and prospective inventory of sophisticated weapons . . . without U.S. support on a day-to-day basis."

The profusion of these so-called "white-collar mercenaries" implied a U.S. commitment to several countries that had never been formally agreed to by Congress. The dangers were obvious. If war broke out, U.S. technicians would almost surely be regarded as combatants by all sides and the United States could easily be sucked into the conflict. And if U.S. technicians were somehow ordered to avoid participation, the host country would undoubtedly seek retribution. In either case U.S. interests would suffer and particularly if this occurred in the Mideast.

Need for follow-on support. Sophisticated weapons not only required on-site American expertise, but increased long-term dependency on the United States for spare and repair parts or "follow-on support." Indeed countries invariably spent more to operate and maintain U.S. weapons than they spent on the original purchase price. Needless to say this fact increased potential U.S. involvement in conflicts not of its own choosing, with all the attendant risks of continuing or cutting off an arms pipeline.

Exposure of U.S. technology. Exporting the same weapons to the Third World that America procured for its own arsenal posed perhaps the most immediate everyday threat to U.S. security. It wasn't essential for a pilot to fly an F–14 loaded with advanced Phoenix missiles to the Soviet Union to compromise classified technological secrets; all that was necessary was a copy of the maintenance manual. But whenever concern over this possibility was raised, notably when exports to Iran were discussed, State and Defense Department officials sanguinely assured Congress that America's "special relationship with the Shah" made the chances of disclosure very remote. They weren't.

Spread of U.S. know-how. Numerous Third World countries began to insist on manufacturing or assembly rights to the weapons they purchased, partially to defray costs. By 1977 more than 35 coproduction arrangements (administered by the Pentagon) or licensing agreements (straight commercial ventures) existed with such countries as Iran, Brazil and Korea. The technology transferred included everything from F–5E jet fighters down to M–16 rifles and ammunition.

Permitting other countries to manufacture weapons represented a quantum leap beyond the problems associated with being the sole supplier. As a Texas Instruments president once noted, "The release of know-how is an irreversible decision. Once released, it can neither be taken back nor controlled." This fact meant such transfers bolstered the independent war-making capacity of recipient countries, and greatly increased the number of potential sources of U.S.-designed weapons.

Effect on U.S. readiness. The Pentagon's traditional policy was to satisfy Foreign Military Sales (FMS) customers without degrading U.S. forces. Because of burgeoning exports under the Nixon Doctrine, however, sometimes popular items had to be diverted or withdrawn from U.S. units. A 1977 GAO study found that it took the U.S. Army four years to rebuild its depleted inventory of M–113 armored personnel carriers after the 1973 Mideast war because recipients like Morocco were given higher priority. In another instance, TOW missile deployment to 13 Army installations was delayed because of expedited sales abroad.

The GAO concluded that "diversion and withdrawal of end-items and spare and repair parts have been made to the point where minimum essential quantities have been denied to U.S. forces." And while better management could partially alleviate the problem, the GAO said future competition between U.S. forces and foreign customers for follow-on support could make it even worse.

CONGRESSIONAL ATTEMPTS AT RESTRAINT

With an Administration bent on exporting arms no matter what the costs, the only institution capable of opposition was the legislative branch. And for the first time in more than 20 years, Congress began to significantly question the efficacy and prudence of being the chief arms supplier to the Third World. Contrary to the Executive Branch, whose response to the debacle in Vietnam was to revise U.S. policy into the Nixon Doctrine, numerous congressmen did not believe the answer lay in supplanting American boys with American weapons. Arms exports were part of the problem, not a solution, and several laws were passed that attempted to restrict the massive flow of U.S. weaponry. That these laws were long overdue was a failure second only to the fact that they provide to be largely ineffective.

A statute known as 502B posed the most fundamental, if not a heretical, challenge to the Nixon Doctrine. It derived from an unprecedented series of hearings that began in 1973 under the direction of Rep. Donald Fraser (D-MN), an early opponent of the Vietnam war. The hearings examined the status of human rights in many countries receiving U.S. arms and economic aid, and a disturbing picture emerged. Third World regimes violated human rights because of truly indigenous economic, social and political contradictions. While the United States was not necessarily responsible for these conditions, the evidence was unmistakable that America had helped create the apparatus and readiness to suppress legitimate dissent over these contradictions. In country after country notorious for human rights violations—Uruguay, Guatemala, Korea, Indonesia, Iran, Zaire—the United States was in effect an accessory to the crime.

To break this link would contravene a basic tenet of the Nixon Doctrine, indeed of arms export policy since Truman. Professed anti-communism was a cardinal requirement for U.S. arms and training, not respect for fundamental human rights. Nevertheless, in a tentative and limited way the Fraser subcommittee set out to sever U.S. ties to repressive dictatorships. In 1973 Congress enacted a provision that declared "the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes." This statute was strengthened gradually until by 1976 Section

502B of the Foreign Assistance Act read, "No security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights," unless extraordinary circumstances existed.

Kissinger's resistance was so complete, however, that during his tenure the provisions of 502B were never carried out by the Executive Branch. Congress in turn resorted to specific sanctions on arms exports to several countries because of human rights violations. In 1974 arms exports to Chile were cut off, and limitations placed on assistance to South Korea because of "serious concern about the increasingly repressive measures" taken by its government. In 1976, Congress prohibited Uruguay from receiving weaponry during fiscal 1977 after testimony before Fraser's subcommittee showed it had the highest number of political prisoners per capita in the world. In addition to these country-specific sanctions. Congress also terminated an entire program that most flagrantly implicated the United States in human rights violations. The 1974 ban on arms or training to foreign law enforcement forces closed AID's Office of Public Safety, which had been enjoying even greater support under the Nixon Doctrine than it had during the heyday of counterinsurgency under the Kennedy and Johnson Administrations.

Unrestrained arms exports came under attack for one other reason that was almost as potent a criticism as human rights. The issue was U.S. national security, or more precisely, a definition of what constituted genuine U.S. national security interests. Second only to the conviction that the United States should not unflinchingly support corrupt and repressive dictatorships was the widespread belief in Congress that U.S. interests were not at stake in every corner of the world. Loose and reckless definitions of "vital interests" fostered costly and tragic foreign entanglements such as Vietnam. These sentiments led Congress to focus attention on arms exports per se because they were the cutting edge of U.S. involvement in the Third World.

Cuts in war aid to Indochina during the early 1970s were the first indications of congressional opposition to arms exports. But the landmark year was 1976 when Congress revised all the pertinent legislation in a new statute called the Arms Export Control Act. For the first time the Pentagon was required by law to make quarterly reports to Congress about new sales agreements, the number of American technicians abroad, the effect of pending sales on U.S. readiness, and several other aspects of the arms trade. The size and activities of MAAGS and MILGROUPS—acronyms for U.S. military advisors stationed abroad—were significantly curtailed. Another provision required the President to give Congress 30 days in which to veto all government-to-government (FMS) sales in excess of $25 million, or FMS sales in excess of $7 million if they included major defense articles.*

Moreover, the Arms Export Control Act contained the first specific repudiation of the Nixon Doctrine and its concept of U.S. national security. An amendment sponsored by Senator Dick Clark (D-Iowa) prohibited arms exports to Angola and served notice that Congress would no longer agree to explanations of U.S. interests in a Third World country that were dictated primarily by the level of Soviet involvement.

Nevertheless the spate of new legislation accomplished precious little. Part of the fault lay with Congress itself: committees and individual members were unwilling or unable to take the time to learn the intricacies of arms exports, and as a result many of the laws had glaring defects easily exploited by the Executive Branch. The 1974 ban on weapons to Chile, for example, was so ridden with loopholes that the Pentagon consummated more than $55 million in new FMS and Commercial Sales *after* the purported ban went into effect. It took nearly two more years and several more amendments to fashion an ironclad prohibition.

Another example was the ostensible restriction on arms and training to law enforcement forces. In passing the 1974 law, Congress ignored the fact that in countries like El Salvador, the Philippines and Nicaragua there were few distinctions between military and police forces. They often used the same facilities, rotate personnel back and forth, and particularly when martial law was in effect (as it frequently was) military forces performed police duties as a matter of course. A 1976 GAO report subsequently found that the Pentagon exploited these very weaknesses in the law and that U.S. support for "law enforcement" in the Third World had by no means ended.

Occasionally congressional efforts to restrain arms exports even made a bad situation worse; a case in point was the statute that curtailed the number of U.S. advisors abroad. While it reduced permanent military missions, it was so poorly written that it allowed the Pentagon to create whole new classes of "mobile" advisors (Survey Planning Teams, Mobile Training Teams, Technical Assistance Field Teams and Technical Assistance Teams) who carried out precisely the same tasks but with less visibility and congressional oversight. The law also accelerated the trend toward using civilian personnel, who were even more difficult to control, to train and advise foreign armed forces.

It is unnecessary to recite all the details about legal inadequacies in order to reach a conclusion about congressional attempts at arms restraint. There were really only two important facts: despite the laws arms exports to the Third World rose to new highs year after year from 1970 to 1976; and that most countries methodically violating their citizens' human rights continued to enjoy unimpeded access to the arsenal of democracy.

In the final analysis, however, Congress had neither the resources nor the expertise to keep abreast of bureaucracies intent on selling more and more arms. Passing laws is generally a clumsy instrument for forcing a policy onto the Executive Branch, and all the more so when it is a foreign policy. Genuine change would have to await different concepts and perceptions of national interest—and a change in Administration.

CARTER'S POLICY

If campaign rhetoric was a measure of intent, the prospects for reducing arms exports were great when Jimmy Carter was elected in 1976. During his campaign Carter had criticized arms exports both on the grounds of human rights and national security, particularly the latter. The United States cannot be "both the world's leading champion of peace and the world's leading supplier of the weapons of war," Carter had said, and he had vowed "to increase the emphasis on peace and to reduce the commerce in weapons."

Upon assuming office it seemed Carter would promptly carry out that pledge. One of his first acts was to order the National Security Council to undertake a comprehensive review of U.S. policy, including all the political, military and economic considerations. The result was PRM-12 (for Presidential Review Memorandum) which provided the factual basis for Carter's "policy of arms restraint" announced on May 19, after barely four months in office.

And on first reading, it seemed there was going to be a clear and unmistakable departure from past practices. The United States "will henceforth view arms (exports) as an exceptional foreign policy implement, to be used only in instances where it can be clearly demonstrated that the transfer contributes to our national security interests," Carter declared. The impact of arms exports on human rights and economic development in the Third World would be fully taken into account, Carter said; moreover, the United States would lead multilateral attempts by suppliers and recipients to reduce international trafficking in weapons.

The crux of the policy was to be a set of six controls Carter established to insure arms restraint toward the Third World. The controls promised to:

1. Reduce the dollar volume of U.S. arms exports;

2. Preclude the United States from being the first to introduce new sophisticated weapons into a region;

3. Prohibit development of advanced weapons solely for export;

4. Ban new coproduction of major weapons abroad;

5. Restrict third-country transfers of U.S.-origin weaponry; and

6. Constrain U.S. officials and corporate agents from promoting arms sales.

Nevertheless from the outset, critics of unrestrained arms exports were disappointed with Carter's policy. First there was the policy's inexplicable failure to address several major issues, chiefly economic incentives that spurred the United States to sell and Third World countries to buy.

The NSC study had gone into considerable detail about the effects of a cutback on the U.S. economy, yet Carter's policy sounded as though economic pressures had nothing to do with arms exports. Far from offering new proposals, Carter did not even extend lukewarm support for Senator George McGovern's (D-S.D.) longstanding attempts to pass "economic conversion" legislation that would ameliorate procurement cutbacks; nor did he express greater support for an already extant program, the Pentagon's Office of Economic Adjustment.* This oversight virtually guaranteed corporate and union opposition to his nascent policy. Each $1 billion in arms exports translated into 51,000 American jobs, according to a Labor Department study coincidentally released at that time.

Carter's policy also ignored the other set of economic incentives behind arms exports, namely U.S. government-financed credits that were extended annually to about 70 percent of America's customers in the Third World. Over the years the Pentagon had devised a number of different credit schemes to make purchasing U.S. weaponry as economically painless as possible, particularly for countries making the transition from grants to sales under the Nixon Doctrine. In 1977 the main method involved using a little-known Treasury Department agency, the Federal Financing Bank, to borrow funds on domestic money markets to lend to foreign governments. As a U.S. government entity, the FFB always obtained its funds at the lowest market rates and this savings was passed onto Third World borrowers. In effect a country like the Philippines paid less interest on an FFB loan to buy jet fighters than it paid on a loan from the U.S. Export-Import Bank to purchase tractors. The program also enabled chronic credit risks like Zaire to buy arms on credit even as they teetered on the brink of bankruptcy because of wholesale government corruption.

Neither was the provision of credit defensible from a military point of view in many instances. As the NSC study pointed out, the State and Defense Department bureaucracies extended credits chiefly for political reasons (namely what signal would be perceived by an increase or decrease from previous levels), and "without due regard to specific military requirements or precise knowledge of how they will be used." This fact, when added to the rule that economically attractive credits generally must be used within two years, meant U.S. financing induced recipients to order weaponry they might have otherwise done without. Carter's policy said nothing about such enticements, and left this program intact.

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* See glossary for definition.

* One year later, however, in Executive Order 12049 Carter expanded and strengthened the Economic Adjustment Committee, a Cabinet-level group created to help economically threatened communities.

Public, congressional and press attention did not focus on these omissions, however, even though they highly prejudiced the new policy from the outset. Instead the issue became the six controls the Carter Administration had imposed on itself. Administration proponents claimed these controls would result in genuine restraint, but critics noted they contained so many fine-print exceptions, exemptions and waivers as to possibly render the whole exercise meaningless. The debate would be over how the Administration observed its own controls in practice.

Two years have now passed since Carter unveiled his policy, and the record shows it has equaled business as usual under the guise of restraint. As the outline below illustrates, the highly vaunted controls have amounted to little more than legerdemain, and some are in the process of being shelved.

Reductions in volume. More attention has been paid to the "arms sales ceiling" than any other control, which is not surprising since here the Administration's manipulations are as captivating as the circus game where audiences guess which shell hides the peanut. The Administration established its first ceiling on FY 1978 FMS Sales to Third World countries. The limit was set at $8.6 billion, ostensibly a real 7.5 percent reduction from the $9.3 billion worth of weaponry sold in FY 1977 to the Third World.

Two months after the $8.6 billion ceiling was announced, the GAO reported that "inconsistencies and errors" in Pentagon accounting had overstated FY 1977 sales by $594 million, making Carter's ceiling only a $66 million or .7 percent reduction from FY 1977 levels. Even with so modest a cut, the Administration was forced to resort to a creative accounting device to stay within self-imposed bounds. It devised a new distinction between the approval of an arms sale in principle and the actual signing of a contract. Without causing much delay in delivery dates, this distinction allowed substantial portions of sales to be counted years after they were truly negotiated.

Undaunted, the Administration maintained it had achieved a real 7.5 percent reduction irregardless of the facts; it subsequently announced an $8.5 billion ceiling for FY 1979, again, another ostensible 7.5 percent reduction after inflation was factored in. While this time the accounting appeared sound, recent events in Iran and U.S.-Taiwanese relations made the ceiling more meaningless than it was the first time. The 1979 ceiling assumed nearly $2.5 billion in FMS Sales to Iran and Taiwan, but Iran will probably purchase next to nothing and Taiwan is banned for one year from making new purchases because of the normalization agreement with China. Far from representing a limit the $8.5 billion will probably become a target, as a recent Senate study points out.

On its own terms then, this guideline has proven to be a sleight-of-hand. But it is important to note the ceiling is more bogus than the above finagling would indicate. First, the ceiling excludes "non-weapons related" sales, like construction services, even though such sales provide necessary military facilities such as naval ports or airfields. In FY 1978 this category doubled in value to $3 billion. Second, the ceiling does not apply to Commercial Sales, which to some Third World regions account for as much as 30 percent of recent arms exports. At the same time FMS Sales were lowered in the first ceiling by $66 million in FY 1978, the value of licenses issued for Commercial Sales rose $497 million—more than offsetting the FMS reduction.

The irony is, having come under heavy criticism from U.S. arms makers, the concept of a ceiling is on the verge of being dropped because other suppliers have not shown "similar restraint."

Curbs on selling advanced weaponry. This control seemed unequivocal: "The United States will not be the first supplier to introduce into a region newly-developed, advanced weapons systems which could create a new or significantly higher combat capability." And aircraft sales (or permission to transfer planes with American engines) to Ecuador, India, Guatemala, Pakistan and Taiwan have been rejected on these grounds. But the control has proven weakest precisely where it is needed most, in those regions where the potential for starting world wars is greatest. Scarcely four weeks after Carter announced his policy he invoked his prerogative to waive this control because of "extraordinary circumstances" and agreed to sell highly sophisticated AWACS radar surveillance planes to the Shah, a clear signal to the world that despite the rhetoric it was business as usual with Iran. The Air Force exerted tremendous pressure to approve this sale because of cost overruns on its own AWACS procurement.

Nine months later Carter again breached this guideline when he proposed one of the single largest arms packages ever to the Third World: $4.4 billion worth of F-15s and F-16s to Israel and Saudi Arabia, a sale that had Machiavellian aspects. It enhanced Israel's already clear air superiority, then significantly degraded it by turning Saudi Arabia into a confrontation state. Again, the fact that the F-15 had incurred cost overruns of nearly $400,000 per plane had a telling effect on decision-making.

The latest nonobservance of this control could be the Administration's pending decision to sell South Korea 60 F-16s. These warplanes have about twice the range and far greater maneuverability and electronic sophistication than any aircraft currently in North or South Korea's arsenals.

Ban on weapons for export only. This guideline was a misleading one from the start. As shown earlier, the great danger under the Nixon Doctrine was the export of the *same* highly advanced weaponry present in U.S. arsenals to volatile regions in the Third World, and not simply sales of stripped-down or unique versions. Nevertheless the Administration skirted even this faint control every time it approved sales of Northrop's F-5E/F jet fighter, a weapons systems developed solely for export. (Not coincidentally, F-5E/F sales were crucial to Northrop, the U.S. corporation most dependent on arms exports for its profits.) And in December 1978 a State Department official admitted the Administration is considering development of another fighter solely for export, said to be a composite of Northrop's F-5E and General Dynamics' F-16.

Limits on coproduction. Of all the controls instituted by Carter, this guideline has been followed the most stringently. (A cynic might note it is also the one control generally favored by U.S. manufacturers because coproduction agreements reduce profits.) But there has been one exception: Israel. The Administration turned down two Israeli requests—to coproduce the F-16 jet fighter and a tactical communications system—but it has approved more. Israel will jointly produce two hydrofoil craft suitable for naval patrols with Grumman Corporation, and is currently negotiating to fit Israeli-built avionics into the 75 F-16s it bought. And in an unprecedented decision, the Carter Administration permitted Israel to use $107 million in FMS credits to build a third production line for its indigenously designated "Charlot" tank.

Restriction on third-country transfers. When Carter set down this guideline it represented little more than a reaffirmation of existing law; the real test was whether he (unlike other presidents) would back up his words with sanctions when the inevitable happened, that is, when a recipient clandestinely transferred U.S.-origin equipment without permission. But this did not occur when U.S. arms found their way into the Horn of Africa conflict during 1977, nor were sanctions imposed when nearly a dozen Huey helicopters were transferred from Israel to Rhodesia. Third-country transfers are no more restrained than before.

Constraints on promotion. Early on, the Administration went to some lengths to attempt to scale down the most blatant hawking of U.S. weaponry. In a cable sent to all posts the same day the arms restraint policy was announced. Carter set up new standards of conduct for U.S. military and diplomatic representatives. They were instructed to avoid encouraging interest in U.S. weaponry and to cease giving special advice or support to corporate salesmen. (This latter provision inspired U.S. industry to call the cable "the leprosy letter.") Among other restrictions, the Administration also required private manufacturers for the first time to obtain State Department approval for their promotion efforts.

But the success of these constraints is highly dubious. The restrictions are almost impossible to enforce because by and large they are administered by U.S. military advisors who have a vested interest in keeping up arms exports, and who see their foreign counterparts on a day-to-day basis far out of the Embassy's control. And at least one of the constraints is in the midst of being significantly eased after considerable pressure from U.S. industry. According to the Pentagon general who oversees arms exports, the Administration will relax restrictions on U.S. government participation in international arms bazaars because such displays contribute to the United States' "worldwide image of strength and prowess."

A BLEAK FUTURE FOR ARMS RESTRAINT

May 1979 marks the second anniversary of President Carter's declaration of unilateral arms restraint, a policy that has nevertheless resulted in more arms for the Third World. But though this policy to date has proven weak and insufficient the near future may be even bleaker.

One reason has to do directly with the policy itself. It may be dropped, a disturbing prospect because even presidential rhetoric has some value in bringing an important issue to the fore. Members of the Administration are dropping unsubtle hints that arms restraint is almost a dead initiative. In December 1978 Undersecretary of State Lucy Wilson Benson said, "There is no question but that we will not keep on with reductions (sic) in arms sales unless we get cooperation from other arms exporters."

Another set of reasons involves the atmosphere in which U.S. foreign policy is conducted. While this report has narrowly focused on the single subject of arms exports to the Third World, this is but one facet of U.S. foreign policy and should be placed in context.

And the current atmosphere is not conducive to arms restraint. In the wake of the Iranian debacle U.S. policymakers are noticeably jittery because the Nixon Doctrine's epitome predictably has been the first to illustrate the utter bankruptcy of the policy. So the doctrine is being rethought, but not in a manner that shows needed lessons have been learned. Instead, the thought of *direct* U.S. intervention is creeping back into the Administration's foreign policy lexicon. The Pentagon is establishing a force of 100,000 troops, including 40,000 combat soldiers, for quick intervention in the Mideast. There is also talk of creating a Fifth Naval Fleet or at least increasing patrols by existing ships in the Indian Ocean and Arabian Sea. To these developments must be added the Administration's stance on congressional attempts to bring back the draft. Its opposition is so lukewarm that it is tantamount to implicit endorsement.

But harking back to and preparing for direct involvement does not mean the role of arms exports will diminish. On the contrary, the Administration is considering a new refinement—a plan to have combat aircraft, tanks and other advanced weapons instantly available for friendly nations facing a crisis.

The future pace of arms exports must also be related to the pending SALT II agreements. The U.S.-Soviet rivalry either explicitly or implicitly is constantly in the minds of U.S. policymakers when they seek to justify arms exports. Failure by the Senate to ratify the agreement will increase all nations' insecurity and undoubtedly motivate them to seek more and better arms to quell their fears. How can the "backward" nations of the Third World solve their conflicts peaceably if the United States cannot reach the smallest of accommodations with the Soviet Union?

Yet in the final analysis, grounds for pessimism mostly reside in the meaning the Carter Administration attaches to that almost mysterious term, "national security." This term is so ill-defined and overextended by the Administration that it unnecessarily involves the United States in Third World conflicts, or implicates this country on the side of repression and corruption. Americans may rightly ask how long it will be before the logic which compels the United States to support dictatorships abroad begins to seep back and poison this country's democratic institutions.

Most importantly, in the instances where U.S. national interests truly are at stake—as in the Mideast—this same national security justification is used to pursue policies that are truly inimical to the United States. Besides the actual participants few nations will suffer more than America if the fullscale war the superpowers have thoroughly prepared their allies for breaks out in the Mideast.

All the threats to U.S. security that became evident as arms exports dramatically rose in the early 1970s are still there, and no doubt increasing as more and more commitments to sell arms are made by the Carter Administration. Up until now criticism of unrestrained arms exports has been mostly anticipatory, however, compared to what is going to occur in the early 1980s.

The Administration has admitted as much in one of the few candid statements it has made about arms exports since it took office. While testifying before a House subcommittee last year, Leslie Gelb, the State Department's outgoing Director of Politico-Military Affairs said, "Since 1970 Western and Eastern suppliers have made arms transfer commitments of about $140 billion to developing countries. Most of this equipment has not yet been delivered, much less absorbed. When these arms are delivered and when the recipients learn to use them, they will change the face of world politics. For the first time, many states throughout the world have arms of much the same sophistication and quality as those of the few major powers."

GLOSSARY AND SOURCES

The biggest difficulty in writing about or compiling tables of arms exports is which figures to choose. With most categories of arms exports there are at least two sets available—figures which represent what is *programmed* and what is *delivered* during a given fiscal year. This difference arises primarily from the lag time between when an order is placed and when actual delivery begins, which could be years later if the weaponry is sophisticated.

In this report program figures are almost exclusively used because they more closely indicate the nature and timing of political decisions about arms exports. The only exceptions are the numbers which represent Commercial Sales. Here the most reliable figures available are ones which reflect actual deliveries.

All figures are derived from three U.S. government publications: *Fiscal Year Series*, Department of Defense Security Assistance Agency. December 1978; *Foreign Military Sales and Military Assistance Facts*, Department of Defense Security Assistance Agency, December 1978; *Congressional Presentation: Security Assistance*, Department of State, FY 1980.

An associated difficulty is the confusion surrounding terms used to describe the arms trade. Often descriptions like military aid, military assistance, security assistance, arms sales, arms transfers or arms exports are used interchangeably when in fact they have quite different meanings. In this report arms exports refers to the total value of U.S. arms, training or services transferred to foreign governments either through grants (MAP and IMET) or cash/credit sales (FMS and Commercial). The term military aid, meanwhile, is used to describe the level of U.S. financial assistance (MAP, IMET and FMS Credits) that is part of or contributes to total arms exports.

The following glossary of terms used in this report is not all-inclusive. There are some channels of arms exports, such as Facilities Transfers, Ship Transfers and Excess Defense Articles, that have not been included because their value is negligible when compared to the bulk of the program.

Commercial Sales. Sales of military goods, services or training made by private U.S. manufacturers to foreign governments that require licenses issued by the State Department's Office of Munitions Control. The most significant difference between Commercial and FMS channels is that classified or government-manufactured equipment is available only through the latter. In addition, if a Third World country wants to make a single purchase worth more than $25 million it must use FMS and not Commercial channels, although there are ongoing efforts to raise this ceiling.

FMS (Foreign Military Sales). Under this program, the Defense Department provides, or contracts with private U.S. manufacturers for military equipment, training or services to a foreign country. The transaction is legally considered to have taken place between governments even though the Pentagon may be essentially acting only as a procurement agency. Many countries prefer FMS to Commercial channels for this reason, however.

FMS. Credits. Funds appropriated annually by Congress to help countries buy U.S. weaponry either through FMS or Commercial channels. Two kinds of credit programs exist, direct and guaranty. Direct credits, the smaller of the two, are loans issued by the Pentagon to the poorest credit risks and require full appropriations. In contrast, guaranty credits only require a 10 percent appropriation because the Pentagon only insures the actual loan which is made by another Federal agency, the Federal Financing Bank.

Most countries do not use all their credits in the year they are originally appropriated, but the credits are transferable for two fiscal years or more if circumstances warrant. The loans are generally repayable within 8 to 10 years.

IMET (International Military Education and Training). Training and instruction of foreign military personnel at bases and schools in the United States and abroad, including the Panama Canal Zone. As a grant program, funds for IMET are subject to annual appropriation by Congress.

Major Defense Article. Defined as an article with a non-recurring research and development cost of more than $50 million or a total production cost of more than $200 million.

MAP (Military Assistance Program). Military equipment or services granted to a foreign government, although the United States retains title to all MAP-supplied equipment. Once the largest channel of U.S. arms exports to the Third World, MAP is scheduled to be phased out by FY 1980 to most countries in lieu of sales.●

EAST/WEST RELATIONS

● **Mr. DOMENICI.** Mr. President, the SALT II Treaty which will shortly be considered for ratification has become the focal point for East/West relations. However, there is other legislation pending which may be equally important to Eastern bloc nations. The further extension of the President's waiver authority under section 402 of the Trade Act, including his authority to continue the waivers permitting most-favored-nation (MFN) tariff treatment are of considerable economic importance to Eastern bloc countries. It is a valuable device for the promotion of U.S. interests.

One of the nations I am specifically considering is Romania, a country who seems to have evidenced a desire for improved relations with our Nation. Romania remains committed to a Communist political system. Extension of MFN for Romania in no way implies approval or support for such political system. In fact there are profound differences in questions of political freedom, basic human and social rights between our countries.

However, Romania has exhibited a rare independence in foreign policy among Communist bloc nations.

Last November, at the Moscow Warsaw Pact summit meeting, Romania opposed initiatives which concerned increased military expenditures, consolidation of the Warsaw Pact command structure, and maintenance of a united front against China.

In several speeches in Bucharest upon his return from the summit meeting, President Ceausescu made public Romania's stand on the controversial issues and indicated that under no circumstances would Romania permit its military to take orders from other countries.

Romania strongly condemned Vietnam's invasion of Kampuchea, stressing that no country should infringe upon the territorial sovereignity of another.

Alone among Warsaw Pact countries, Romania supported the Israel-Egyptian Peace Treaty and U.S. efforts in that area.

Romania continued its efforts to play a constructive role in the Middle East by attempting to bring together countries with differing points of view.

Economically, Romania continued to broaden its ties with the non-Communist world. Since 1974 more than half its trade has been with non-Communist partners and this proportion has continued to grow.

Romania, as one of the most determined supporters of the concept of European security and cooperation, continued to play an important role in preparations for the Madrid CSCE review meeting in 1980.

It is for these reasons I support continued MFN treatment for Romania.

However, there is anxiety in Eastern bloc countries that as a result of SALT II they may suffer. The Soviet Union has rhetorically warned the Senate it had better not amend the treaty signed by the President. Such an admonishment is akin to daring the Senate to knock that chip from the Soviet shoulders.

Those Eastern bloc countries who have taken the initiative of increased autonomy now fear they may become the whipping boys for the growls of their Russian neighbors. Without Western economic incentives, they will be forced to return to reliance on the Soviet Union—and face disciplinary action for their divergence.

So I urge my colleagues to remember when voting on most-favored nation ratification the old adage that it is easier to attract a bee with honey than with vinegar. Let us individually consider the progress of nations evincing a desire for closer relations, rewarding the deserving and casting away the recalcitrant.●

FARMERS, ALCOHOL AND ENERGY SELF-SUFFICIENCY

● Mr. BAYH. Mr. President, an article appeared in the Wall Street Journal which I would like to point out to my colleagues. It demonstrates how one Minnesota farmer has coped with OPEC and the major oil companies.

The article concerns Alan Zeithamer, who through his hard work and ingenuity developed an alcohol still which converts corn to alcohol. The still is inexpensive in cost but saves him from having to depend on foreign sources of fuel and the large domestic oil companies. The alcohol is mixed with gasoline and provides Mr. Zeithamer with all of his fuel requirements. What is left of the corn that is put through the still—a high protein, nonalcoholic slush—then serves as feed for his cattle herd.

The time has come for us to stop relying on huge energy production systems and concentrate on those systems which are less expensive, more reliable, and which utilize the renewable energy sources which are so abundant in this Nation.

Once again our Nation's farmers have provided us with a solution to our increasingly difficult energy situation. This is the time to do something about these problems and investigate answers such as Mr. Zeithamer has come up with.

I ask that the Journal article be printed in the Record.

The article follows:

Some Farmers Find New Source of Fuel To Plant Their Corn

(By Lawrence Rout)

Alexandria, Minn.—Alan Zeithamer has a backyard still, but he isn't your typical country moonshiner.

You won't hear him touting the mind-numbing qualities of his 160-proof spirits. What gets fired up on Mr. Zeithamer's alcohol is his tractor, along with his combine, trucks and other farm vehicles. And next winter the alcohol distilled from corn he and his father, Archie, grow on their farm, will be warming Mr. Zeithamer's home.

"We want to be completely energy self-sufficient," the 25-year-old farmer explains, "and not have to rely on OPEC, oil companies or anybody else."

Mr. Zeithamer's still has created a stir in farm country. He has been besieged by thousands of visits and countless calls and letters from people who also want to know how to grow their own energy. So many, in fact, that he has begun charging $100 a visit to hold down the traffic.

But he may not remain an anomaly for long. The current shortage of diesel fuel and uncertainty over future prices and supplies are worrying farmers all across the Plains States. So far this year the Bureau of Alcohol, Tobacco and Firearms has given out some 800 permits for alcohol-fuel plants, mostly to individual farmers. Last year it issued 18.

MIXING IT UP

Farmers, of course, aren't the only ones interested in alcohol fuels. Gasohol, a mixture of 90% gasoline and 10% ethyl alcohol, has been getting a lot of attention lately. The federal government has waived the four-cent-a-gallon federal excise tax on the blend, and motorists are filling up with it in a dozen states. "It's highly accepted in urban areas as well as among the farm population," says Mary Holz-Clause of the Iowa Development Commission.

But farmers are less interested in buying gasohol than in making fuel at home. "Farmers just have to have some control over their own fuel supply," says William Scheller, professor of chemical engineering at the University of Nebraska at Lincoln. "When you need the fuel in farming, it has to be there. If it comes two weeks later, it may be too late."

Mr. Zeithamer feels the same way, so two years ago he decided he needed a still. It had to be larger than the typical bootlegger's version, but smaller than industrial models. It also had to be cheap and, therefore, homemade.

His initial efforts were discouraging. "We went to the university people and the industry people, and they all said it couldn't be done," he recalls. But after spending weeks with an old Alabama bootlegger and pouring over books in the Library of Congress in Washington, Mr. Zeithamer began putting his still together in a barn.

TANKS AND PIPES

The contraption doesn't give the impression of being a technological marvel. In the middle of the barn, which is littered with old tires, hoses and shovels, stands a black, 4,000-gallon cooker. Corn, water and enzymes are mixed here and heated by a furnace that burns wood and cornstalks. Three smaller tanks surround the cooker, with a cinder-block chimney and a steel distilling column rising 22 feet in back of it. Besides a few valves, gauges and electric pumps, that's about all there is to it.

So far, Mr. Zeithamer has been mixing the alcohol he produces with gasoline or diesel fuel. But when he gets the still up to its capacity of 750 gallons a week this fall, he plans to burn the alcohol straight in farm machines, after making a few engine adjustments. "Alcohol burns more efficiently than gasoline or diesel fuel; it burns cleaner and cooler," he says.

In addition, burning straight alcohol eliminates the need to redistill it several times to remove the last of the water, as is necessary if the alcohol is to be blended with gasoline.

What is left of the corn put through the still is a high-protein, nonalcoholic slush known as distiller's grain, Mr. Zeithamer's 100 head of cattle gobble it up. "A lot of that corn was going to feed the cattle anyway," he says. "Now we can get an extra use out of it."

Mr. Zeithamer says he gets about 2½ gallons of alcohol from a bushel of corn and also distills some potatoes. Considering that he has no transportation costs and can use what is left over of the corn as feed, he figures he can produce a gallon of fuel for less than 50 cents. Diesel fuel, by contrast, runs about 87 cents a gallon in his area. Mr. Zeithamer expects to recoup his $16,000 investment in the still in 2½ years.

The Agriculture Department is a good deal more cautious about such projects. "The homework hasn't been done," says Donald Fink, energy-policy analyst for Secretary Bob Bergland. "We don't know what the various technological options are, what the minimum capital requirements are. We don't want to see a lot of farmers, who are already in debt up to their eyeballs, getting in farther for something that may not work for them."

The department is studying alcohol fuel, Mr. Fink says, and by the end of the summer, it should be ready to make policy recommendations on such matters as research grants and tax incentives.

One reason for the caution is the cost of stills. Most observers doubt that many farmers could build one as cheaply as Mr. Zeithamer did, suggesting $40,000 as a more likely price. Indeed, Donald Smith, of Colby, Kans., has formed a company called Alternative Energy Ltd. that plans to sell stills for up to $50,000. But as one farm-state Congressman, Democrat Berkley Bedell of Iowa, notes, nowadays "that's just a little more than a tractor's cost."

For farmers without livestock, the protein byproduct also could be a problem, Distiller's grain rots in about five days unless it is dried out, but "drying could easily double the production costs," says Dennis Vander Griend, a South Dakota State University engineering student who has built an experimental still as a school project.

Whether energy is saved by the process is a matter of debate. "If you're using grain, you have to fertilize, plant, collect, separate and prepare it," all processes that consume energy, notes S. M. Harris, chief of the Energy Department's "biomass energy systems" branch. As a result, he says, making alcohol on the farm probably uses either a little or a lot more energy than it yields, "depending on what expert you talk to." But he concedes that when alcohol is burned straight and isn't redistilled, the energy balance "could be a little positive."

Proponents of the stills like to point out that the grain distilled in them is, in a way, a solar-energy collector. In addition, many farmers say those who claim that stills are uneconomical have their figures wrong.

"They're looking at plants that make drinkable booze, where everything has to be ultra-fine, pure and redistilled again and again," say Lance Cromble, a Webster, Minn., farmer who holds a Ph.D. in microbiology and has built his own still. "With fuel, you can use it cheap and dirty," he adds.

Mr. Cromble contends that he can make alcohol fuel for as little as 30 cents a gallon, a proposition so attractive it has caught the eye of some backwoods veterans of the technology. "They're interested in switching to making fuel; there isn't that kind of profit in moonshining," Mr. Cromble says.

Meanwhile, at the Bureau of Alcohol, Tobacco and Firearms, officials doubt that all of their new permit-holders are pouring 100 percent of their output into tractors. "I'm sure that some are drinking it," says William Foster, a tax specialist at the bureau. But given the rudimentary stills that most farmers have, he sees little cause for concern. "We don't feel they are getting something very many would want to drink," Mr. Foster says. "It just would taste pretty raunchy."●

DANGERS OF THE MX

● Mr. McGOVERN. Mr. President, the SALT hearings began this morning in the Committee on Foreign Relations. It became clear very quickly that the important issues in those hearings are not only the technical provisions of the treaty but the additional military programs which the United States could adopt while complying with the treaty.

The MX ICBM is the most important and controversial of these new weapon systems. The President has decided to develop the largest missile possible with the largest number of warheads permitted under SALT II. In a recent article in Politics Today, Robert Shrum has provided us with an excellent summary of the technical and political developments behind the MX thus far. Most importantly, he notes the role of the MX as a counterforce weapon which could destabilize long-term prospects for substantial arms reductions. Indeed, this morning in the SALT hearings, I heard Secretary of Defense Brown describe the MX as a key part of a new flexible response strategy which would give the United States the capability to fight a limited nuclear war.

With the Nation's attention focused on SALT, I believe that my colleagues in Congress can benefit from the insights on the MX raised by Robert Shrum. I submit the article, "The Shell-Game Strategy" for printing in the Record for their further consideration.

The text of the article follows:

THE SHELL-GAME STRATEGY

(By Robert Shrum)

It is a project called "MAP" for multiple aim points. Imagine 3,000 "silos," metal-lined holes in the ground. Inside 300 of these silos would be an "MX" missile ("missile experimental"). Each would carry a cluster of independently targeted warheads, accurate and powerful enough to knock out the most secure of Soviet missile silos. It would be "Star Wars" on "western Kansas farm and range land," said moderately conservative Republican Gov. Robert Bennett of Kansas, a mild-mannered man usually given to cautious understatement, in an October 2 letter, to the President of the United States. The MX missiles would be the peas in the nuclear age's megadeath version of an ancient con game—"the shell-game strategy," as the air force has nicknamed it.

To spread the 3,000 silos far apart enough to frustrate a Russian attack would take up to 4 million acres, a missile field larger in area than the state of Connecticut. Commented Bennett: "Potentially 8 percent of the entire state of Kansas [would] be removed from civilization." Each year the system would consume enough electricity to supply a city of 50,000. The idea, Bennet concluded, was "utterly unbelievable and inconceivable."

The Pentagon first conceived of mobile missiles in the late 1950s. The initial plan envisioned missiles on trains randomly wandering the railroads so the Soviets could not predict or target their locations. The concept arose in the late 1950s during the most hotly contested lap of the missile race—not between the United States and the Soviet Union, but the interservice rivalry between the air force and the navy, which had just proclaimed the virtues of its "virtually invulnerable" Polaris submarine missile, as a recently declassified air force history of the period phrases it. The air force eagerly seized on the notion of a mobile land-based alternative. In June 1960, the air force staff settled on a plan for five missiles per train; when deployment was completed, there were to be a total of 300 mobile missiles—coincidentally the same number that the air force would be contemplating 18 years later.

Through the summer of 1960, the air force tested the mobile missile in trial railroad runs code-named "Project Big Star." That December, Secretary of the Air Force Dudley Sharpe approved plans for 30 trains with three missiles each as phase one of the project; the Boeing Corporation immediately began designing the missile trains. But December was also the month when John Kennedy picked Robert McNamara as his secretary of defense. Within weeks of coming to the Pentagon, McNamara became publicly dubious about "the missile gap"; he told the air force he was "deferring" the development and deployment of missile trains. The air force tried again in July 1961, with a study prepared especially for McNamara reiterating the request for 300 missiles. The paper, the official air force history drily records, "was returned to the Air Force for further study." Eventually the idea died in the doldrums of successive, inconclusive reviews.

Or so it seemed. The air force was far from willing to give mobile missiles up for dead. Instead the planners searched for ways around the objections to putting the megatons on railroad tracks. The first objection related to "command and control," the nuclear strategists' term for preventing a single crew, or a mad general or colonel, from launching a missile—and World War III—on their own. It was virtually impossible to devise precautionary electronic interlocks on missile fleets riding the rails. There were other, obvious risks with missile trains that all the air force analysts and all the Pentagon computers could never solve—the risks of sabotage or an accident triggering a fuel explosion or a nuclear spill along the main line of, say, the Atchison, Topeka and the Santa Fe. But in 1967, the air force offered a new, apparently safer variant on the old idea: rather than being continually mobile on the rails, the missiles would be moved periodically around a field of silos, some empty and some full. In McNamara's waning months as secretary of defense, the "Strat X Team," assigned to review strategic options, analyzed this shell game. The team's top secret final report rejected it because of the likelihood that, in response, the Soviets could develop sensors to detect which silos actually contained missiles.

But at the dawn of the 1970s, mobile missiles suddenly started to seem like an *idée fixe* whose time had finally come. The latest strategic threat was the ABM—the antiballistic missiles that in theory could blast offensive missiles out of the sky before they hit their targets. The Pentagon and the Nixon administration not only wanted an American ABM, but in order to counter the Soviet version, they decided they also wanted to equip US missiles with MIRVs—multiple independently targeted reentry vehicles, each of which could deliver a nuclear warhead on a different target. By 1972, it was clear that the ABM (the original rationale for MIRVs) was, in the words of one arms control official, "expensive technological junk." Successive SALT agreements limited the US and the Soviet Union to two ABM complexes; then one each. The US has chosen to forgo even that one.

The Nixon administration considered a SALT agreement to forgo MIRVs as well, especially given the restrictions on ABMs. But the Pentagon insisted that MIRVs would enable the US to leapfrog Soviet missile advances. The Joint Chiefs argued that American MIRV technology was five years ahead; it would be softheaded not to take advantage of the lead. The Pentagon view prevailed. A Senate arms expert characterizes the decision as "typical of the psychology of the arms race. It's like being on the world's longest escalator and saying 'let's keep this thing going—we're five feet ahead!' "

Paul Nitze, one of the SALT I negotiators and an increasingly adamant hard-liner, resuscitated the notion of mobile missiles soon after the SALT I pact. The Russians could develop their own MIRVs within a few short years, which was how that "long lead time" of five years was suddenly being described in the Pentagon; then they could deploy enough warheads to overwhelm US land-based missiles. This threat, Nitze suggested and air force officials instantly concurred, was a serious one only so long as US missiles were stationary inside their silos.

Still, the rationale for land-based mobile missiles was incomplete. American submarine missiles and a substantial portion of the bomber force would survive any Soviet first strike; the Polaris and Poseidon submarines alone could fire 22 nuclear warheads for each Soviet city with a population over 100,000. American forces, it appeared, would have plenty of megatons left for overkill. But in 1974, then Secretary of Defense James Schlesinger came up with a reason why all that overkill still wasn't enough: a nuclear exchange would not necessarily begin with an all-out attack on population and production centers. Instead of this "countervalue" strategy, the Soviets might launch a "counterforce" strike, a mininuclear war solely against US missile and bomber forces. Land-based missiles, the only part of the US arsenal capable of retaliating with sufficient accuracy against Soviet missile installations, could be all but wiped out. The president would face a choice between an escalated countervalue response, jeopardizing the lives of tens of millions, perhaps 150 million more Americans than the relatively few lost in the initial Soviet counterforce strike, or conceding permanent nuclear superiority and major political advantages to the Kremlin—perhaps even Communist hegemony in Western Europe.

One crucial assumption of this scenario was that the American casualties of a Soviet counterforce strike would be minimal, perhaps as low as 800,000, according to a Pentagon study cited by Schlesinger. Disbelieving senators asked the congressional Office of Technology Assessment to review the Pentagon data; that office found glaring errors and the Defense Department was forced to redo the analysis. In fact, as many as 22 million Americans might become the incidental victims of counterforce; the Pentagon also discovered an extra 800,000 potential Canadian victims, foreigners whose fate wasn't even considered in the original study.

An administration official regards the counterforce nightmare as "just a bad dream" because, whether the number of American dead was 1 or 20 million, the Soviets could never be certain that a president wouldn't order total retaliation: "They would be risking extinction on a guess," Admiral Thomas Moorer, former chairman of the Joint Chiefs, doubts that "you would have a war simply involving the land-based missiles. I cannot conceive how this would happen because I do not think a commander would be willing to take that kind of chance." The experts even disagree about precisely how vulnerable land-based missiles will be. Paul Nitze estimates that by the early 1980s the Soviets will have a high probability of destroying "better than 90 percent of our Minuteman missiles in their silos." But the MIT-Ford Foundation Program in Science and Technology for International Security has concluded that even after 1985, the Soviets' probability of knocking out a given Minuteman in its silo will be only 60 percent.

Just before leaving office in January 1977, Schlesinger's successor as secretary of defense, Donald Rumsfeld, approved a $294 million item in the proposed military budget to move toward production of the mobile missile. But Paul Nitze and his cohorts in the Committee on the Present Danger, the lobby for a military buildup, were alarmed about the incoming Carter administration. Not only had none of those who clearly saw the present danger been appointed to high offices, but Paul Warnke, who favored détente, had been picked as chief American SALT negotiator. "It was then," recalls a Senate aide, "that Nitze entered his Queeg-like period."

Nitze had good reason to be apprehensive. The administration kept changing its mind about mobile missiles. Defense Secretary Harold Brown decided in February 1977 to delay the project. By October, however, he was satisfied that it was sound enough to proceed; he put it down for $245 million in the tentative defense budget he submitted to the White House. Then, a civilian physicist visited Brown and pointed out basic defects that the air force downplayed in evaluating the latest proposal for missile mobility: 13-mile-long underground concrete trenches with the missiles inside constantly riding back and forth on railroad tracks. Presidential science adviser Frank Press sent the president a report expressing his doubts; the General Accounting Office concluded that the trench plan was technologically flawed and the Office of Management and Budget weighed in against a full appropriation for the plan. Carter decided to cut $90 million and delay any production decision for another year, while the air force tested the trench and other options.

The air force established a "Tiger Team" to investigate the alternatives. There were already 22 possibilities, a technological fantasia of modes for mobile missiles. In addition to moving armed missiles around on railroad cars, the air force had considered putting them on trucks roaming the interstate highway system. In both cases, there was, as the air force euphemistically put it, "a severe public interface problem." Next came a soil tunnel, which could not survive even a relatively small nuclear hit, and the rock tunnel, which the air force concluded was "risky" (shifting rock formations could crack it or cave it in) and incredibly expensive (analysts could hardly even imagine the total cost of many tunnels miles long, dug and dynamited through hard rock, each with multiple exit hatches through which to fire a missile). Then there was the horizontal hardened capsule, aptly described by the air force as a "coffin-like structure," lying on the ground. Missiles hidden inside some of the coffins would be periodically shuffled; it was an appropriately funereal variant of the shell game.

Even more exotic was a plan for hundreds of miles of canals with missiles hidden in pods on the bottom; one of the grave difficulties with this one, according to the air force, was that a nuclear explosion anywhere along the canal could drain it and "expose the missiles." But air force analysts saw a silver lining: "The canal concept did . . . lead to the pool-canal concept." Shallow canals would be interspersed with pools 40 feet deep that would remain full even if the canal was breached. But then it occurred to the planners that it would be cheaper to build roads between the pools, with sloped concrete ramps for watertight transporters to carry missiles down to the bottom. This idea in turn brought the planners back half circle to the 1967 proposal for roads between silos rather than pools. (On further reflection, the air force had found serious problems with the deep pools. For example, even if they weren't breached and drained by a nuclear blast, the heat might vaporize the water.) "It all costs too much to laugh," says a State Department arms expert, "but it's too funny to cry."

Before finally settling on the silo shell game, the air force conducted last-ditch tests of the buried trench. One set of tests at the Planet ranch on the Bill Williams River, 35 miles from Lake Havasu, Arizona, was called "Misers Bluff"; another set, code-named "Have Host" and located seven miles outside Dateland, Arizona, used "two sections of buried trench," according to the air force, to check a number of factors, including the "erection mechanism" that would raise the missile vertically off the trench tracks prior to launch.

Appropriately, one of the problems was "the zipper effect"; a nuclear hit might open the trench down its entire length. "Last year the air force was treating the trench as the neatest thing since night baseball," a Senate aide says. "But before they finished testing it, they knew they had a dud." Even the most hardened trench was vulnerable. A nuclear hit anywhere along its length might propel the missile inside, surrounded by an air-locked pressurized environment, to the other end of the tunnel where it could be smashed to pieces. Or the Soviets might use a 50-megaton warhead, 2,500 times the size of the Hiroshima bomb, thereby trapping the missile inside a trench buried under a literal mountain of debris.

The air force explored remedies such as the "hybrid trench" with side spurs off the main tunnel. But nothing, the "Tiger Team" decided, was likely to render "in-trench nuclear uncertainties" more than "partially resolvable." The price per mile of the trench had been estimated before the tests at anywhere between $500,000 and $5 million. Afterward, the cost per surviving missile was clearly so high that, as one official says, it "caused even the air force brass to suck in their bellies."

Last June, Undersecretary of Defense William Perry, in a closed session of the Senate Armed Services Committee, said that the trench idea would almost certainly have to be abandoned.The air force had little choice, it seemed, other than a shell game approach with 10 or 20 silos for each missile. A "transporter erector launcher" would move from hole to hole; the Soviets, as a Senate staff expert explains it, "wouldn't know where and when the transporter dropped its load." Or would they? Spy satellites might detect a change in the transporter's weight; so the system would have to include dummy cannisters weighing as much as those containing real missiles and the transporters would have to insert the dummies in exactly the same way the real missiles were put into the silos. To avoid other means of detection such as sensors, the dummies would need to have the same "radioactive signature' as the live warheads. The Air Force Science Advisory Board has assigned a "Red Team" to draw up the blueprints.

The decoys, however, could snarl verification procedures under arms control agreements. If the dummies appeared genuine, how could Soviet satellites reveal whether the US was cheating on SALT limits on the number of missiles? Paul Nitze has suggested what a Defense Department official calls "peekaboo verification." According to Nitze, "both sides could agree on short notice to open all the doors to all the silos and cannisters, in one or more clusters [of missiles] randomly selected" to confirm that only one silo in a cluster contained a live missile.

According to an administration national security aide, making dummy cannisters that could serve as both effective decoys and verifiable duds would "cost almost as much as the real missiles—maybe even more." To sustain the masquerade, maintenance crews would have to be dispatched to dummy cannisters whenever any missile in a cluster had to be checked or repaired; otherwise, the simplest satellite observation would reveal the location of the live hole.

The air force continues to believe that all the technical difficulties can be overcome. But the MX missile has proved too controversial a weapons system to be left entirely to the generals. This is partly because it was the first weapon ever subjected to the National Environmental Policy Act, which requires an environmental impact statement before the system can be built. The air force issued a five-volume draft of the MX impact statement last July; it issued a final version in October. These impact statements stirred a fierce backlash in the eight areas identified as possible sites for mobile missiles. The air force even included maps of the areas, all in the Midwest and Southwest, that made it instantly obvious to people that their land or community was a prime candidate for the world's largest missile field. In the South Platte area, encompassing 8,000 square miles of northeastern Colorado and western Kansas and Nebraska, as many as 200,000 people might have to be relocated.

MX silos could dot a span of the world's best farmland larger than the entire area of any five states, including Connecticut and New Jersey. "Maybe this is part of the government's new acreage set-aside program," a farmer from Sidney ruefully noted. The impact statement conceded that as much as $6 billion a year in agricultural production could be lost due to the mobile missiles. By October 10, 2,500 Nebraskans had sent letters or signed petitions to the Pentagon in opposition to the system. Politicians in the normally conservative "Cornhusker State" quickly lined up to condemn any plan to aim mobile missiles at Mcscow from a site anywhere near their constituents, not one of whom had written a favorable letter when public comments were invited. The Republican and Democratic candidates for governor and the U.S. Senate blasted the idea of a Nebraska site; the Democratic Senate candidate, incumbent Gov. J. E. Exon, went further, "I generally oppose the MX missile," he announced. The usually mossback *North Platte Tribune*, noting that it was "given to complaining about 'government red tape' and 'those damn environmentalists,' " offered its editorial endorsement, this one time, for "just that government red tape, and the concern of environmentalists which made possible a . . . public hearing" on the MX missile.

In Nebraska, the air force offered its public briefing in the Ogallala High School Auditorium last September 20. Air Force Major Al Sabsevitz sought to allay the anxieties of the 500 people packing the auditorium by emphasizing that there were two very different basing plans. While "area security" would close off thousands of square miles, it was far from a certain choice. There was also "point security," which would fence off only four or five acres around each silo, a total of just 23 square miles for the entire missile field. By October 1, Air Force Chief of Staff, Lew Allen, Jr., was expressing a preference for point security and promising that the air force was working "much harder" to make it effective.

At the Ogallala briefing Major Sabsevitz added that point security could easily "co-exist" with farms. It sounded as though the intrusion hardly would be noticed. In fact, not only would 23 square miles of the missile field be fenced off, but restrictive easements would have to be imposed on 7,000 square miles of land. No habitable structures would be permitted there. And the final environmental impact statement admitted: "Unless a great deal of care were used in siting the aim points people would [have to] be relocated and mining operations would [have to] cease . . . in total areas of a size similar to . . . area security"—the very option that had the Nebraskans so upset. Moreover, the MX missile and the transportation vehicle shuttling it from hole to hole would weigh 1 million pounds, would sprawl 150 feet in length and 22 feet in width and would soar 22 feet high. The impact statement foresaw "stringent security procedures" while the weapons were "in transit" or in "shelters." This, the statement explained, would prevent a "vehicle with an armed nuclear warhead . . . [from being] hijacked." Point security is "a euphemism," says a Senate expert. "This Air, Force wouldn't allow regular traffic anywhere in the vicinity, or people, or maybe even cows." The American Federation of Scientists' Michael Mann predicts: "Living near the aim points would be like living in a police state."

Another fear, unrelated to the particular design of the missile fields, was nourished by a vivid, if maladroit metaphor offered by Air Force Chief of Staff Lew Allen during 1978 congressional testimony. One advantage of mobile missiles, he happily explained, was that the area where they were deployed would be "a great sponge" of targets to "absorb" Soviet warheads. Now this may have seemed an advantage to the general, but "it terrifies even the most conservative farmers," says Marilyn McNabb, the leader of Nebraska's grass-roots reaction. Rep. Berkley Bedell (D-Iowa) bitingly understated that Allen's remark about a "great sponge . . . should make any American living west of the Mississippi River dubious about deploying such a system." Bedell wrote a letter to Carter cosigned by 50 of his House colleagues, demanding postponement of the MX.

Major Sabsevitz had one last consolation for the worried Nebraskans at Ogallala High School. "If the comments we hear tonight are voiced the way they're voiced," he reassured his audience, "well, there's 14 other states [with possible sites], right?" The night before, in one of those other states at the Yuma, Colorado, High School, Sabsevitz had volunteered similar reassurance. And the day after the Ogallala briefing, in Goodland, Kansas, he repeated the reassurance. The Kansas audience stomped and cheered as a farmer lectured Sabsevitz about the misiles: "When you get back to Washington, tell them we don't want them."

"Even those who want it want it in someone else's state," says a Pentagon official. Senate defense policy expert John Holum comments: "Even in the Pentagon, no one wants credit for the MX; no one wants to be responsible for it. The thing is a turkey." Air Force official Wayne Hudson, who directed the drafting of the environmental impact statement, nervously tells a caller: "You should talk to someone who's more familiar with the MX system, with the nuts and bolts."

In the end, the MX may prove to be worse than a waste; it may become a positive menace. Before the Senate Armed Services Committee last April, Undersecretary Perry warned that "any of the systems" for mobile missiles "would be in violation of our present SALT I treaty, not to mention a possible SALT II or SALT III. . . ." Subsequently, the administration labored hard to persuade Soviet arms negotiators to accept mobile missiles. The effort delayed a SALT treaty, but the White House calculated that it was essential to the fragile hopes for Senate ratification. A presidential go-ahead for the MX not only might soften up Senate hard-liners; it could keep the generals, especially the air force generals, from jumping the arms control track. The chairman of the Joint Chiefs of Staff, General David Jones, explicitly held SALT hostage for the MX in a July speech: He "would have deep reservations about not being able to proceed [under a SALT treaty] with a survivable ICBM." An acceptable treaty had to be one in which "mobiles are authorized."

Ironically, a State Department official says, "More than any other weapon, mobile missiles could irretrievably ruin arms control." Even the use of elevators to raise the missiles and dummies for spy satellites to verify the difference, an expensive mechanism that the Russians might refuse to install if they bulit mobile missiles, "could probably be easily spoofed," according to Herbert Scoville, deputy director of research for the CIA. A Senate aide asks, for example, "When they raised the elevators, how would we know that there wasn't a second tier of missiles underneath?" Once both superpowers embark on the nuclear shell game, contends Scoville, those now calling loudest for mobile missiles would then begin crying wolf. An administration dove adds: "All the hawks will darkly suspect that the Russians have 4,000 missiles hidden, say, in old mine shafts, all ready to be put in the empty silos."

A civilian Pentagon expert allows that "there will always be some number of Soviet missiles that could overwhelm any U.S. system of mobile missiles, but we can make that number sufficiently high to render the option too costly." Thus Paul Nitze has suggested that any system "should be designed for the contingency that a significant number of additional holes in the ground will be required." The air force's environmental impact statement envisions a larger "ultimate size" for the system.

It might then become the United States that would find the shell game too costly. More missiles, and more empty holes, would far overrun the initial estimate of $30 to $40 billion for the MX program. The Federation of American Scientists has calculated, for example, that expansion of the system in response to Soviet countermoves could soon raise the cost to over $70 billion. Ultimately the Air Force might have to use all of the currently identified sites for mobile missile fields—seven or eight Connecticuts pockmarked with 14,000 nuclear and fiscal black holes. And on the horizon of strategic sanity looms the specter of a new antimissile system to further protect land-based missiles. And this would not necessarily be an ordinary run-of-the-mill ABM. Arms control expert Richard Garwin has foreseen a giant "pebble-projector fan" that would spit a ten-ton barrage of steel pellets, at a density of 10 pellets per square meter, toward an incoming Soviet warhead. "God alone knows what that one would cost," says an administration arms controller, "and even he probably couldn't afford to pay it."

Even the cost of the basic plan, without any such extras, appears to be underestimated, as usual. "I haven't seen any cost estimate that anybody really believes is realistic," says the Federation of Scientists' Mann. "They're all ballpark estimates—and they're all in the infield," John Holum suggests. The estimates, for example, do not include special heavy-duty roads to carry the million-pound transporter, cannister and missile around the silo field. (The Defense Department has been acutely sensitive to the relationship between heavy weapons and highway weight limits since the atomic cannon that was designed to provide portable tactical nuclear firepower in Europe started sinking through the concrete of the autobahn.) Finally, present cost estimates provide nothing to buy land for missile sites. In three of the proposed areas, over 90 percent of the land is privately owned. Even by the air force's conservative reckoning, each MX will run at least $141 million.

Inside the administration, there are dissenters opposing the MX and the shell game. Secretary of State Cyrus Vance and Leslie Gelb, director of State's Bureau of Politico-Military Affairs, have blasted the holes in the ground as positively dangerous to national security if the Soviets move to their own version of the system. And a political firestorm seems likely to flare in states with possible MX sites as the administration pushes ahead with the project. "The people out there want water projects," says a House committee staffer, "not nuclear bombs on the back 40."

The Carter administration may try for a compromise, rejecting the silo shell game in favor of an air-mobile missile. The MIT-Ford Foundation arms impact statement recommended missile-carrying helicopters as an alternative to multiple holes in the ground. "That would be fine if only we had helicopters that were large enough to lift an ICBM and the equipment to launch it," says a Senate Armed Services aide. A Pentagon policymaker jokes: "Now I wouldn't want to concede that American ingenuity couldn't build a helicopter to lift Mount Everest." But he suggests that the more practical air mobile option is to put the missiles on jumbo jets. In 1974, tests with a cement mock-up of an advanced Minuteman III and then with a real missile demonstrated the feasibility of launching an ICBM from an aircraft in flight. "An air mobile system would be more visible and therefore more verifiable," argues a State Department advocate of this option who sees it as "probably compatible with arms control."

A Defense Department planner sees something else: "All those missile-loaded helicopters or planes hovering over U.S. cities and towns. It makes the shell game look good by comparison." In truth, all of it, from even a slight distance, can seem "well, crazy," as someone in the upper reaches of the State Department put it. "The bottom line is that it's crazy. But there is a seductive internal logic to it. You have to accept the idea that there are things with a greater or lesser degree of nuttiness."

At a 1978 session of the Arms Control Association, Sen. John Culver (D-Iowa) systematically ticked off the most fanciful and fearful of the strategic theories, scenarios and war games. To state them, he appeared to be saying, was to refute them. As Culver finished, an angry Paul Nitze rose to protest that he deeply resented it that people who saw the real dangers of Soviet power were being referred to as "Dr. Strangeloves." Culver replied, "I didn't say that at all, Paul. You were the one who used that term."

Currently, a U.S. official confides, "The Soviets don't expect us to attack them out of the blue. They give a lot of their missile crews weekends off. They are in a low posture, but MX would change that fast." In a shiny futuristic present, Star Wars on earth is a scenario rushing toward reality. The Hudson Institute's senior research analyst, Colin Gray, notes that by the late 1980s, shortly after a mobile MX could become fully operational, "it could [also] be vulnerable to laser technology." Already, another expert says, "We could wage war on the Russians simply by exploding our own missiles inside our silos. The resulting fallout would kill millions of Russians as it floated across the Soviet Union."●

THE RETIREMENT OF KAY FOLGER

● Mr. EAGLETON. Mr. President, we are told by historians that "There is no indispensable man" or, to rephrase it in this less chauvinistic world, "There is no indispensable person." So it may be. However, there is one individual who comes darn close to being indispensable. I refer to Kay Folger, who is retiring soon after 18 years in the State Department's Congressional Relations Office.

I know of no individual who has been more dedicated or more attentive to her duties than Kay Folger. Truly, very truly, Mr. President, she will be greatly missed by every Member of the Senate.●

FAIR IMMIGRATION REFORM

● Mr. HUDDLESTON. Mr. President, the Federation for American Immigration Reform (FAIR) is a relatively new organization established to promote a rational and sound U.S. immigration policy. One of its principal functions is to make recommendations on U.S. immigration policy which reflect the best interests of the Nation as a whole rather than the perspective of a special interest group. I believe that FAIR is well on its way to becoming one of the leading voices on the issue of immigration reform.

Unfortunately, the only piece of immigration legislation which is being pushed through the Congress at this time is the refugee assistance bill, S. 643. This bill would make substantial and permanent changes in our immigration laws as they affect approximately 14 million refugees in the world today. The social, economic, political, and demographic impact of this proposed legislation upon the United States will be significant and I believe that all points of view should be heard on it. This is why I requested an analysis of S. 643 by FAIR. The analysis prepared by the executive director, Mr. Roger Conner, represents a comprehensive and sensitive grasp of the many aspects of our immigration problems.

I believe that FAIR's recommendation to offset additional refugee admissions against the total immigration quota is a humane and practical approach which would permit us to continue to offer needed assistance to refugees without imposing substantial new immigration burdens upon this country. I plan to pursue this suggestion when S. 643 comes out of committee.

I submit the following statement by FAIR to be printed in the Record.

[An analysis of S. 643]

SUMMARY

It is, as novelist Hëinrich Boll remarked, "the century of refugees and prisoners." The Third World is awash in millions of homeless, displaced by the political upheavals of the last two decades.

S. 643 has been widely described as America's response to the current refugee crisis. But even the bill's supporters concede that only a fraction of the world's growing millions of refugees can be brought to this country. Thus S. 643 is not a comprehensive solution to the refugee crisis. Rather, it is the immigration component thereof. The principal effect of the bill on immigration law is to remove Congressional control over the level of total immigration into the United States. The bill gives the President alone the power to raise the worldwide ceiling on immigration into the U.S. *without limit*.

Congress does face growing domestic and international pressure to take decisive action to aid the "boat people." While supporters of S. 643 have argued that the U.S. should admit additional refugees as a partial response to the current problem, the hearing record is barren of any rationale either for raising the worldwide ceiling on immigration rather than allocating a larger share to refugees within the existing limit; or for giving the President unfettered power to raise total immigration into the United States.

As an alternative, Congress could increase refugee admissions without increasing total immigration by increasing the proportion of the current overall ceiling (290,000) to refugees.

I. THE NUMBER OF REFUGEES IN THE WORLD IS HUGE AND GROWING

The dramatic plight of the boat people has captured the world's attention, but should not obscure the plight of millions of others whose lot is equally desperate. Of course, S. 643 is not limited to "boat people" or even Southeast Asia but rather to all "refugees." Therefore to evaluate the ramifications of the bill requires consideration of the worldwide refugee situation.

Consider Africa: According to *Die Zeit* of Hamburg, one hundred thousand Tutsis fled from genocide at the hands of the Hutu tribe in Ruanda after independence; twenty percent of the population has fled the dictatorship of Guinea-Bissau; 500,000 Angolans have sought refuge in Zaire while 225,000 Zairians have fled to Angola; more than a million have been uprooted in the Ogaden; 40,000 Namibians and 120,000 black Rhodesians have abandoned their land.

Current events are making more refugees almost daily. Afghans take refuge in Pakistan from a Moscow-dominated government. Some 3,000 of Idi Amin's followers in Uganda have fled into the Sudan. Thailand already had 161,000 Cambodians before the Khmer Rouge refugees began coming in—the ones who are being pushed back now. The Sudan has one-quarter of a million refugees from Ethiopia as well as the new arrivals from Uganda. Jordan staggers under a load of 683,000 Palestinian refugees; Lebanon has 212,000 and Syria 198,000. Cyprus, Haiti, Chile, North Korea, Tibet, Cuba, Pakistan, the Soviet Union, Cambodia and now Viet Nam have all spawned large-scale migrations since the Second World War.

The State Department's 1979 Refugee Assessment warns that the flow of refugees "could increase dramatically in the months ahead." Before the Senate Judiciary Committee this year, Ambassador Dick Clark confirmed that "the number of refugees is growing on every continent."

II. THE U.S. CANNOT HOPE TO SOLVE THE WORLD REFUGEE PROBLEM WITH IMMIGRATION ALONE

Current estimates of refugees worldwide run as high as 14 million. Given pressures from explosive population growth, inadequate resources, income disparities, and ideological and racial clashes the number can only increase. If emigration to the U.S. is remotely possible, most of these refugees will seek it.

The case of Southeast Asia is illustrative. One UNHCR poll found that 90% of the Vietnamese refugees hope to come here. In 1977, State Department officials argued that "only by paroling more refugees into the United States can we end this tragic loss of innocent lives." But by early 1979, observers like James Reston recognized that "there are clearly political and economic limits on what (the U.S.) can do." The Washington Post editorial of June 18, 1979 reflects a growing consensus among even the strongest advocates of increased refugee admissions: "Up to this point it has been the receiving countries and their friends who have tried to cope with the problem. They have failed; the flow, currently running at a monthly rate of 50,000 plus, is too great."

It is well to emphasize that while refugees already number in the tens of millions, this is only the beginning. World population will grow to 6 billion by the year 2000, 5 billion in regions afflicted with desperate poverty. There is no way we can hope to admit more than a small fraction into the United States.

What is worse, to hold out the hope that many more will be admitted may worsen the problem. James Reston reported in January that:

"Even officials in Malaysia who are complaining that the U.S. has been slow and unsympathetic concede that the wider we open the gates to the United States, the greater will be the flood from Southeast Asia."

Thus we face a tragic dilemma. If we are not prepared to admit the larger wave called forth by today's promises, our rhetoric will have perpetrated a cruel delusion upon them.

Seen in this light, S. 643 is not a comprehensive solution to the worldwide refugee problem. Rather it is the immigration component of a comprehensive solution; and a component, it is well to recall, which will benefit only a tiny fraction of the world's 14 million refugees. A comprehensive solution to the world's refugee problem will include greater aid to countries of first asylum; diplomatic and economic pressures on countries such as Viet Nam to stop the vicious, racist policies which create refugees, and ultimate repatriation where truly voluntary repatriation is feasible.

III. THE PRINCIPAL EFFECT OF S. 643 ON THE IMMIGRATION LAW WILL BE TO TRANSFER FROM CONGRESS TO THE PRESIDENT THE AUTHORITY TO RAISE THE WORLDWIDE CEILING ON IMMIGRATION TO THE UNITED STATES WITHOUT LIMIT

With regard to the total number of immigrants to the United States, the bill does three things:

1. Raises the worldwide ceiling on immigration from 290,000 to 337,600, and allocates the increase to refugees (Sec. 207(a)(1));

2. Authorizes the President, to raise the worldwide ceiling at the beginning of the fiscal year and allocate the increase to refugees if he determines that more refugees should be admitted (Sec. 207(a)(2)); and

3. Authorizes the President to raise the worldwide ceiling even further if he determines that an "Emergency Situation" exists (Sec. 208).

All of the testimony before the Judiciary Committee centers on the need to admit more refugees (and, coincidentally, on the need for more money to pay for the costs of resettlement); the record contains no rationale for increasing the worldwide ceiling on immigration into the United States rather than increasing the share of refugees within the current ceiling.

Interestingly, the Justice Department's support for increasing the worldwide ceiling to accommodate refugees constitutes a reversal of its past position. In 1977 the Department testified that S. 3056—which also provided for an increased flow of refugees—should be amended to subtract additional refugee admissions from other immigration categories, so that total immigration would remain unchanged. Justice offered no explanation for the shift during the course of recent Senate Judiciary Committee hearings.

This administration request to grant the President unlimited authority to raise the worldwide immigration ceiling is unprecedented. Since the first immigration quotas were set in 1924, Congress has determined the level for immigration. The sole discretionary authority for the executive branch—the parole authority—was explicitly intended for use in only a small number of individual cases. Even though this administration may intend a limited use of the power in S. 643, there is no way to prevent a future abuse of the power to admit large numbers of people whom neither this Congress nor this Administration intends. The effect of S. 643 could ultimately be to make refugee policy more political and less democratic.

The proposed increase in total immigration is particularly inappropriate since the Select Commission on Immigration and Refugee Policy has just begun its work. Congress has asked the Commission to examine the "demographic, social, economic, and political" implications of immigration into the United States." The Commission must wrestle with fundamental questions: How fast should U.S. population grow in a period of approaching energy scarcity? Will population growth induced by immigration perpetuate the loss of primary agricultural land by urban expansion? Can we develop jobs fast enough for a rapidly expanding population, or will increased immigration be at the expense of disadvantaged Americans?

These are difficult questions. Unless Congress has the answers it should not increase total immigration until the Commission has completed its task. In the meantime, how can Congress respond to growing international pressures for us to do more? One alternative is to authorize the President to increase the proportion of refugees within the existing worldwide ceiling of 290,000.

IV. REFUGEE ADMISSIONS CAN BE INCREASED WITHOUT RAISING TOTAL IMMIGRATION

S. 643 could be amended to deduct additional refugee admissions from the overall numerical limitation. Recognizing that unforeseen emergencies may arise, proposed Presidential authority to increase refugee admissions in emergency situations could be retained in a different form: He would be empowered to reallocate admissions within the current overall ceiling. This approach offers several advantages over S. 643:

First, countries which could send correspondingly fewer emigrants to the U.S. would be thus enabled to share the burden of responding to the refugee crisis.

Second, it would reassure the American public. The energy crisis, resource scarcity, inflation and unemployment are all exacerbated by population increase regardless of the source. In such circumstances, the prospect of unlimited increase will severely test the historic generosity of the American people; especially since other countries are doing so little.

Third, substitution would accommodate more refugees but take into account that—unlike other potential recipient countries—the U.S. is already receiving 400,000 legal immigrants and hundreds of thousands of illegal immigrants each year; and it appears that the administration is waiting until next session even to propose a response to illegal immigration.

Fourth, substitution would maintain the current total immigration levels until the Select Commission on Immigration and Refugee Policy completes its comprehensive review.

Fifth, it would provide some protection against abuse of the Emergency Situation authority by future administrations.●

A TIME FOR TRUTH

● **Mr. McCLURE.** Mr. President, the most critical energy problem facing the United States at this moment is public cynicism and misunderstanding, which has been promoted by individuals and organizations who are either ignorant of the facts concerning our energy problems or who—for various motives—are deliberately misleading the people.

It is somewhat encouraging to see rays of truth breaking through here and there, in attempts to tell people the facts. If we do not know where we are or how we got here, the chances for moving ahead with real solutions to our energy problems are almost zero.

One such bright ray is an editorial from the Sandpoint Daily Bee, from Sandpoint, Idaho. It opens with what should be understood by all Americans:

> There is a real gasoline shortage. . . . For as long as we are dependent upon foreign oil wells for half of your supply, the supply is going to be subject to interruption.

The Congress was warned over a decade ago that this was coming. But what was the congressional response? We imposed more and more Federal controls to block the development of domestic energy sources. And, as the Sandpoint Daily Bee so accurately summarizes: "We cannot legislate artificially low prices for fuel and then expect to have an abundant supply . . . We cannot raise environmental objections to nuclear power and every other practical alternative for generating electricity and still avoid blackouts or brownouts."

The solutions to our energy problems have not changed over the past decade. But, somehow, the Congress must change its attitudes toward those solutions. Instead of more Federal controls, accompanied by demagoguery about "conspiracies and hidden supplies," we must adopt the policies required to break this dangerous dependence on foreign oil. What are these policies? The Daily Bee lists some:

> "Our immediate suggestions for the Congress:
>
> Don't try to prevent the President from phasing out price controls on domestic crude oil. It should have been done years ago.
>
> Deregulate gasoline prices.
>
> Enact a standby gasoline rationing plan without further delay. This is no time for nitpicking or gameplaying. Be willing to compromise parochial interests.
>
> Don't rule out nuclear power. Instead, encourage the development of safer nuclear power plants and the safe storage of nuclear waste. Encourage solar power, coal liquefaction, gasohol and all other sources of energy not dependent upon imports.
>
> Keep up the pressure on Detroit to down size passenger cars.
>
> Maintain reasonable environmental controls but balance them with economic considerations.
>
> Encourage all Americans to conserve. We must develop a conservation ethic. The energy conservation that has occurred so far has been the result of efforts by industry, not individuals."

And, while we fight the political battles that will—unfortunately—erupt over such a positive program, we should keep remembering that we got ourselves into this mess, and we can get ourselves out. As the editorial states: "We can do better. But first we have to quit blaming a conspiracy for our troubles. We must concede that a real crisis exists. And we must face the consequences."

Another encouraging ray of truth comes from the Wall Street Journal editorial of June 22, 1979, "The Great Oil Robbery." This editorial directly exposes the hypocrisy and foolishness behind the irrational taxing proposals of the President and the House of Representatives. An excess profits tax on oil companies is definitely called for. In fact, I have introduced such a measure—S. 890—and again invite my colleagues to consider it.

But, the proposals coming to the Senate are not designed to stimulate domestic production of fuel and energy, but to raise more revenue for the Federal Government to waste. Combined with the synthetic fuels legislation that is being railroaded through the Congress, the "windfall profits" proposal will only perpetuate and expand the Federal controls which have created our energy dilemma. As the editorial states:

> The men in Washington have made it clear that what comes first with them is not to solve the country's energy problems, but to profit by them. The tax is designed to make the U.S. Government a beneficiary of all future OPEC price increases. And combined with the huge subsidies for synthetic fuel also rolling through Congress, it will come close to nationalizing the energy industry, reducing the oil companies to two roles: marketing OPEC oil and performing contractual services for the U.S. Government. Investment in energy development will not flow to the cheapest alternatives, but to those that spread government largess to the widest number of congressional districts.
>
> The tax will simultaneously discourage U.S. oil exploration and deprive the industry of the revenues necessary to establish itself in new technologies and energy sources.

The people of the United States might well wonder what could be the motivation behind such an irrational approach to our Nation's energy problems. The answer, unfortunately, is simple—politics. As the Journal so accurately describes:

> There are no economic or energy reasons for discouraging the domestic production of relatively cheap natural fuels and establishing the government in the business of funding the development of relatively expensive synthetic fuels. But there are plenty of political reasons for doing so. Politicians can curry favor with voters by punishing oil companies for the gasoline lines caused in fact by DOE regulations, and they can use the multi-billions of dollars in new tax revenues to hand out favors. Foremost of all is the additional power that accrues to government from control over the production and allocation of energy. Who can afford not to "cooperate" with Washington when he needs a government energy allocation before he can produce a product, offer a service or build a plant?

The outcome of such an approach should be obvious to all of us familiar with government programs. Our dependence on foreign oil would continue, our production of domestic fuels and energy would be strangled, and desperately needed synthetic fuel plants would become black holes for our tax dollars, with no hope of production. The Wall Street Journal summarizes the problem with a question: "Do we really want energy provided in the same manner as mail and rail services, at the same expense as defense-cost overruns, and by the same people whose energy policies have given America the only gas lines in the world?"

The answer from the Congress has to be "no." Tax away any profits used to buy department stores or circuses, but do not take away the funds needed to break our dependence on foreign energy sources. Remove the Federal roadblocks preventing synthetic fuels development, but do not create another giant bureaucracy like the Department of Energy. Production, not regulation, should be the basic philosophy of the Congress in dealing with energy problems.

Those of us who have spent years working on the energy problem know that it can be solved. The gasoline lines in this country today are the creatures of the Congress and the administration, with some occasional midwifing by the Federal court system. To eliminate them, let us first examine the realities of energy. Not energy as we would like it to be, but energy as it really is.

One excellent source with which to begin such an examination is the statement of Prof. Thomas C. Snellings of Harvard University, before the Joint Economic Committee on June 27, 1979. Professor Snellings has prepared a logical, concise analysis of our present situation and has accurately identified the reasons for our difficulties.

I hesitate to attempt a summary of his fine work, but I will do so while at the same time requesting that the full text of his statement appear in the RECORD at the conclusion of my remarks.

To begin with, Professor Snellings answers the question, Are we running out of fossil fuel?

> The answer is that there is more fuel than we shall ever burn. We'll never run out. Especially in the United States, the quantities of fossil fuel are huge.

He does include, however, a warning "that the cheapest fuels, the easiest fuels to extract and transport and refine and clean up after, are getting scarce."

The key to the energy supply problem is price. As Professor Snellings states:

> The energy problem is not to keep the price of fuel from rising. If fuel prices do not rise enough to cover the increasing costs of producing the fuels, the fuels will just not be available to buy.

The Congress has gone to irrational lengths to prevent fuel costs from rising, including a subsidy for foreign oil. It is hard to believe that the so-called "entitlements" program has been in existence for over 5 years, but still is unknown to most Americans. People find it difficult to believe that a Congress and administration which talks so much about reducing foreign oil imports would continue a regulatory program which penalizes domestic producers and rewards importers. As my colleagues are, of course, aware of the details of this insane program, I will not go into detail here. But, we should carefully heed Professor Snellings' warning—

> That when we postpone the price increases by subsidizing the refineries at the expense of the crude oil producers, the price increases, when they ultimately come, come with a vengeance.
>
> It is barely six months since people were appalled at the thought of a 14.5 percent oil price increase over a fifteen month period; we do not need any more evidence that a cheap fuel policy does not make fuel cheap. Let me explain what I mean by a cheap fuel policy. We have been regulating the price of domestic fuel oil. There are two sides to the regulation. One is that the producers of crude oil receive substantially less for the oil they produce than what oil is worth on world markets. The second is that refineries have been paying, and mostly passing on to their customers, prices substantially below the cost of imported oil and below the cost of new domestic oil. There has been an averaging process that allows refineries and their customers to pay a price between the controlled domestic prices and the world price level. *The effect is the same as if domestic producers were taxed, and the proceeds were used to subsidize imports.* The system not only saves the American consumer from paying the full replacement costs of the oil he obtains from old domestic wells; the system makes him spend it on high-cost imported oil that looks cheaper than it is. *We have been using the proceeds of domestic price control to subsidize imports from OPEC.* It is hard to imagine a more wonderfully effective way to inflate the prices we pay. Today's controls on domestic prices are the fulcrum on which we lever upwards the price of OPEC oil tomorrow.
>
> It is worse than that. By stimulating the use of liquid fuels, and hence stimulating imports, we not only bid up the price we pay for the petroleum that OPEC sells, we make ourselves even more vulnerable to shortrun disruption by increasing the fraction of our liquid fuel that we depend on from interruptible overseas sources. And we aggravate our balance of payments problem, the declining value of the dollar, and the resulting inflationary potential, not to mention the lost confidence of other countries in the ability of the United States to maintain the dollar as a world standard currency. (Emphasis added.)

Mr. President, in summary, then, the present energy problems confronting us are of our own making. We had many warnings—both accurate and timely—but they were ignored. We continued to regulate the price of natural gas, thereby creating a dangerous natural gas shortage. We initiated—and expanded—a regulatory price and allocation control program for oil, thereby creating a dangerous dependence on OPEC, long lines for gasoline, and the threat of cold homes and closed factories during the approaching winter. We passed law upon law, regulation upon regulation, to strangle nuclear energy and the use of coal, thereby raising the specter of electrical brownouts and blackouts during the 1980's. And, now, we are preparing to impose the nonproductive hand of the Federal Government on synthetic fuels development, thereby eliminating the hope of future independence from conventional fuel sources.

Fortunately, not all of the people have been fooled by the rhetoric and anti-energy propaganda emanating from Washington, D.C. I have presented here today just three examples of the logical, clear, productive thinking which is necessary to remove this burden of energy shortages from our society. I hope that my colleagues will study what these Americans have said and will use their thoughts as the basis for our legislative energy program.

Mr. President, I ask that the statement of Thomas S. Snellings and the editorials from the Sandpoint Daily Bee, dated May 21, 1979, and the Wall Street Journal, dated June 27, 1979, be printed in the Record at this point.

The material follows:

[From the Sandpoint Daily Bee,
May 21, 1979]

Some Thoughts on Energy

There is a real gasoline shortage. It has complex causes. It will spread nationwide. It could continue for a year. It could get worse before it gets better. And it could recur after that.

For as long as we are dependent upon foreign oil wells for half of our supply, the supply is going to be subject to interruption.

And the demand keeps rising. In California alone there are three-quarters of a million more motor vehicles registered than a year ago. America's love affair with the automobile is renewed with each new generation of American drivers.

Even a 5 percent reduction in supply—such as resulted from the revolution in Iran—wreaks havoc, when accompanied by a 10 percent increase in demand.

Gasoline is such an important element in our way of life that even a small shortfall is serious. Of course, people become concerned. Some panic was inevitable, and so were the strong feelings of resentment and anger that have accompanied the crisis.

But the emotional reaction will be futile unless it is directed and controlled. In Pogo's immortal words, "We have met the enemy and he is us."

We cannot legislate artificially low prices for fuel and then expect to have an abundant supply.

We cannot waste energy with careless extravagance and not expect to face the consequences sooner or later.

We cannot raise environmental objections to nuclear power and every other practical alternative for generating electricity and still avoid blackouts or brownouts.

We cannot allow our elected representatives to continue voting the narrow parochial interests of their constituents while the entire nation plunges deeper into crisis.

Our immediate suggestions for the Congress:

—Don't try to prevent the president from phasing out price controls on domestic crude oil. It should have been done years ago.

—Deregulate gasoline prices.

—Enact a standby gasoline rationing plan without further delay. This is no time for nitpicking or gameplaying. Be willing to compromise parochial interests.

—Don't rule out nuclear power. Instead, encourage the development of safer nuclear power plants and the safe storage of nuclear waste. Encourage solar power, coal liquefaction, gasohol and all other sources of energy not dependent upon imports.

—Keep up the pressure on Detroit to down size passenger cars.

—Maintain reasonable environmental controls but balance them with economic considerations.

—Encourage all Americans to conserve. We must develop a conservation ethic. The energy conservation that has occurred so far has been the result of efforts by industry, not individuals.

We can do better. But first we have to quit blaming a conspiracy for our troubles. We must concede that a real crisis exists. And we must face the consequences.

[From the Wall Street Journal, June 22,
1979]

The Great Oil Robbery

We have said from the first that the President's "windfall tax" proposal was a revenue measure in thin disguise. This week the House Ways and Means Committee underlined the point with a vengeance, voting by 20-16 to raise the marginal tax on newly discovered oil to 70 percent instead of the 50 percent proposed by the President. The committee also amended the President's proposal in specific ways designed to squeeze more tax revenues out of Alaskan oil, marginal wells and old oil. All in all the committee's bill amounts to an additional tax of $28 billion on domestic energy production over the next five years—a marvelous disincentive to the oil companies to reduce our dependence on OPEC oil, and a marvelous new slush fund for buying votes.

The men in Washington have made it clear that what comes first with them is not to solve the country's energy problems, but to profit by them. The tax is designed to make the U.S. government a beneficiary of all future OPEC price increases. And combined with the huge subsidies for synthetic fuel also rolling through Congress, it will come close to nationalizing the energy industry, reducing the oil companies to two roles: marketing OPEC oil and performing contractual services for the U.S. government. Investment in energy development will flow not to the cheapest alternatives, but to those that spread government largess to the widest number of congressional districts.

The tax will simultaneously discourage U.S. oil exploration and deprive the industry of the revenues necessary to establish itself in new technologies and energy sources. U.S. oil will be sold at the OPEC price, but U.S. producers will not receive that price. A benchmark price for U.S. oil is established, and the government takes 70 percent of the excess. The higher the OPEC price rises above the benchmark, the higher the government take, and the lower the incentive to recover oil from increasingly expensive environments.

Meanwhile, numerous bills have been introduced to give some of this money back to the oil companies to develop even more expensive energy, making synthetic fuels. For example, in the Senate there is legislation afoot to establish a Synthetic Fuels and Alternative Fuels Production Authority to the tune of $75 billion. In the House there is legislation to establish a government-owned Synthetic Fuels Reserve Corporation. According to Rep. Toby Moffett, who has played a leading role in creating the energy problem, "The synthetic fuel thing is greased. You've never seen such a locomotive."

There are no economic or energy reasons for discouraging the domestic production of relatively cheap natural fuels and establishing the government in the business of funding the development of relatively expensive synthetic fuels. But there are plenty of political reasons for doing so. Politicians can curry favor with voters by punishing oil companies for the gasoline lines caused in fact by DOE regulations, and they can use the multi-billions of dollars in new tax revenues to hand out favors. Foremost of all is the additional power that accrues to government from control over the production and allocation of energy. Who can afford not to "cooperate" with Washington when he needs a government energy allocation before he can produce a product, offer a service or build a plant?

Some oil companies, especially those with little or no U.S. oil, might look forward with relief to becoming government contractors. There's nothing like cost-plus contracts to remove the risk from new ventures and untried technologies—or to balloon the cost of energy to the consumer. Many of the companies have already been trained to this role by the foreign governments who expropriated their equity and transformed them from owners to contractual marketing agents.

Faced with de facto nationalization of their energy activities, the oil companies naturally will try to protect the private equity they retain by diversifying into new lines of activity, limiting their energy role to no-risk government contracts. Having lost their property rights in oil abroad, they are now undergoing a full-fledged attack on them at home. The U.S. government is not yet expropriating department stores or electrical equipment manufacturers, so private capital seeks safety in these investments.

The future currently being sketched out in Congress is cushy for the politicians, and perhaps comfortable enough for some of the oil giants. But it is also a prescription for permanent and mounting energy problems. Do we really want energy provided in the same manner as mail and rail services, at the same expense as defense-cost overruns, and by the same people whose energy policies have given America the only gasoline lines in the world?

STATEMENT OF THOMAS C. SNELLINGS

Mr. Chairman, members of the Committee: I am Thomas C. Snellings, Professor of Political Economy at the John F. Kennedy School of Government, Harvard University. I am a member of the study group on Energy: The Next Twenty Years, organized by Resources for the Future, whose report on energy policy is nearing completion. Before that I was a member of the study group on Nuclear Energy Policy, organized by the Mitre Corporation, which published Nuclear Power: Issues and Choices, in early 1977. Before that I was project director and author of the policy statement of the Committee on Economic Development on Nuclear Energy and National Security. And I am the author of a sixty-two page booklet, Thinking Through the Energy Problem, published in March of this year by the Committee for Economic Development.

My statement today is based mainly on that most recent publication. It was difficult enough to cover the subject in sixty-two pages. This morning I must be even more brief. If the Committee will accept that longer published statement I shall be happy to submit it for the record to supplement the very brief outline to which I must restrict myself here.

I'd like to begin, Mr. Chairman, with the question, is there really an energy shortage? Are we running out of fossil fuel? How much fuel is there out there, and when will we run out?

The answer, Mr. Chairman, sounds like good news. But it is not. The answer is that there is more fuel than we shall ever burn. We'll never run out. Especially in the United States, the quantities of fossil fuel are huge. The bad news is that the cheapest fuels, the easiest fuels to extract and transport and refine and clean up after, are getting scarce. Successive tens of billions of tons of coal will be more expensive because of quality, depth and thickness, location, and, especially, the environmental effects of mining, transporting, and burning it. Oil can be had even from abandoned deposits at higher extraction costs. Deeper wells can be drilled; oil can be obtained from the ocean bed; it can be brought expensively by pipeline across the entire state of Alaska. Eventually shale and tar sands can yield immense quantities of liquid fuel but at costs that have not been, and still are not, competitive with the common fuels. Liquid fuels can eventually be obtained in large quantity from coal, but only at prices that, except possibly in the last few weeks, have never been paid for crude oil.

The problem is often described as the overtaking of supply by demand and the development of a gap. But the image of the "gap" neglects the fundamental economics of energy: the amounts of fuel that can be economically exploited depend on the prices that people will pay for them. More and more expensive sources of supply will have to be used. Rising demand will provide the market for them, but only at the higher prices that will cover their costs.

The energy problem is not to keep the price of fuel from rising. If fuel prices do not rise enough to cover the increasing costs of producing the fuels, the fuels will just not be available to buy. The problem is to meet the rising economic cost of fuel with policies that minimize the burdens, that allocate them equitably, that avoid disruptions in the economy, and that keep the costs from rising more than necessary.

Once the problem is formulated as a matter of cost, not of absolute gaps and shortfalls, we can try to measure the size of the problem. My estimate is that the fuel portion of our GNP, roughly 5 or 6 percent of our GNP, may double in cost over the next couple of decades, so that while the GNP is doubling we shall lose about 5 or 6 percent of it in the higher cost of producing fuel and the higher cost of producing exports to pay for imported fuel. At some date around the end of the century when our GNP might otherwise have been double what it is today, it will be only 90 percent greater; to put it differently, it may take a couple of years longer for the GNP to double than it would if unlimited fuel were available at today's costs. In both its magnitude and its incidence on the rich and the poor, the result would be about as though a 5–6 percent sales tax were gradually but permanently imposed between now and the end of the century.

There is a complex of world energy problems, disruptive and frightening problems, that transcend the economics of cost increases. Many of those national security problems relate to the fact that half the world's petroleum reserves are located in countries that contain 1 percent of the world's population, countries with no modern tradition of government, located in an unstable part of the world. Twenty million barrels of oil per day go through the narrow Straits of Hormuz. Furthermore, most of our allies and many important underdeveloped countries are far more dependent on overseas supplies of fuel than we are. There is plenty of reason to think of the world energy problem as a crisis. But the U.S. energy problem, although vulnerable to shortrun import disruptions, is merely a serious problem, not the most serious domestic problem but one of them.

The danger is that we may attempt to insulate ourselves from the rising cost of energy by trying to hold prices down. We may deceive ourselves into believing that the costs do not have to be paid because we do not pay them openly and directly. But if they are not paid, the energy will not be there when we need it. If the costs do not have to be paid by users, consumers need not care and cannot know what it is worth to save energy.

If we attempt to hold prices down while genuine costs are rising, there is a danger that our energy policy will aggravate the problem it attempts to solve. We shall simply waste energy resources in subsidized consumption, deny ourselves the enlarged supplies that could be available at higher prices, and delay the technological development needed to to cope with rising costs.

I believe we may be witnessing dramatic evidence right now that we have been doing exactly that. Newspapers report that the spot price of crude oil—the price paid for crude oil not sold under long-term contracts—reached thirty dollars per barrel. Iranian production may still be down by a couple of million barrels per day below what it probably would have been if the Iranian revolution had not occurred. Saudi Arabian production may be up from what it would have been, but not by a full two million barrels per day.

It is hard to guess how much of a ratchet effect this will have on the permanent OPEC price, and it is hard to estimate how much difference it might have made if U.S. oil imports could have been reduced by even one million barrels per day over the past few years, but it seems likely that we shall pay a permanent penalty—a sizeable penalty in the OPEC oil price—for having kept the price of oil in the United States artificially low during the past several years, stimulating consumption rather than conservation. I am afraid we could not have asked for a more dramatic demonstration, or a more discouraging one, that when we postpone the price increases by subsidizing the refineries at the expense of the crude oil producers, the price increases, when they ultimately come, come with a vengeance.

It is barely six months since people were appalled at the thought of a 14.5% oil price increase over a fifteen month period; we do not need any more evidence that a "cheap fuel" policy does not make fuel cheap. Let me explain what I mean by a "cheap fuel" policy. We have been regulating the price of domestic fuel oil. There are two sides to the regulation. One is that the producers of crude oil receive substantially less for the oil they produce than what oil is worth on world markets.

The second is that refineries have been paying, and mostly passing on to their customers, prices substantially below the cost of imported oil and below the cost of new domestic oil. There has been an averaging process that allows refineries and their customers to pay a price between the controlled domestic prices and the world price level. The effect is the same as if domestic producers were taxed, and the proceeds were used to subsidize imports. The system not only saves the American consumer from paying the full "replacement costs" of the oil he obtains from old domestic wells; the system makes him spend it on high-cost imported oil that looks cheaper than it is.

We have been using the proceeds of domestic price control to subsidize imports from OPEC. It is hard to imagine a more wonderfully effective way to inflate the prices we pay. Today's controls on domestic prices are the fulcrum on which we lever upwards the price of OPEC oil tomorrow.

It is worse than that. By stimulating the use of liquid fuels, and hence stimulating imports, we not only bid up the price we pay for the petroleum that OPEC sells, we make ourselves even more vulnerable to shortrun disruption by increasing the fraction of our liquid fuel that we depend on from interruptible overseas sources. And we aggravate our balance of payment problem, the declining value of the dollar, and the resulting inflationary potential, not to mention the lost confidence of other countries in the ability of the United States to maintain the dollar as a world standard currency.

Deregulation of crude oil prices in the United States will immediately increase the price of crude oil and increase the price of refinery products, and the prices we pay for gasoline, heating fuels, and anything else dependent on the industrial use of petroleum. That rise in the price of the things we buy that are made from crude oil is deplorable, but it is the purpose of deregulation.

The object is to affect the tilt of the trajectory of energy prices. Raising the prices we pay for energy will begin to inhibit our demand; higher prices will promise to cover the costs of enlarged future supplies; and new technologies that conserve fuel, not economical at today's energy prices, will be introduced to save fuel because they save money. The trade-off is between today's prices and future prices: getting all of us to behave in accordance with the true cost of fuel today may lower the prices we pay the day after tomorrow.

I have been reading estimates from many different sources about the amounts of liquid fuel that may be conserved or produced by 1985 with the elimination of crude oil price regulation. The amounts look rather modest, about a million barrels a day roughly of reduced consumption and enhanced supply. That makes it look as though we don't get much resolution of the problem, while we get some enhanced burden on the particular people who consume more fuel than the average. And in particular, the poor are thought of as being especially hard hit by rising prices of heating oil and gasoline.

May I suggest, Mr. Chairman, that 1985 is the very near future, and if we focus on that date we'll always be blinded to the long-term problem and tempted to go on subsidizing the importation of OPEC oil. Energy saving and energy producing are long-lead time activities.

Home heating depends on the technology of housing construction, furnaces, insulation, storm doors and windows, the improvements that will result from responses to higher fuel prices cumulate over the years, and 1985 is barely the day after tomorrow. Even the gasoline mileage of automobiles and light trucks and vans involve time periods of a decade or more; with today's known technology we can improve mileage by 1985, but with cars and trucks and vans lasting ten years or so, it will be the 1990's before we have flushed out yesterday's models, and new technologies will take a few years to develop and another decade to work into the fleet.

On the supply side, bringing in oil from shale or liquid fuel from coal, or even conventional oil from depth and distances (like the north slope of Alaska) where costs are high, involves typically a decade or more planning and financing and physical activity. 1985 is barely tomorrow. We are already in the 1990's, where results are concerned, in the crucial decisions made today and tomorrow in response to fuel prices.

I would like to state emphatically that I believe consumers are done a disservice by offering the option of deceptively cheap petroleum products, when their response to those cheap products will simply make them more expensive in the future. I believe the poor people in this country will suffer even more from high energy prices ten years from now if we do not soon stop stimulating and subsidizing fuel consumption through a price-control system that is popular only because its long-term effects are not visible. We can postpone the problem, we cannot keep it buried forever.

But a legitimate question does arise, can we save ourselves from paying to those lucky people who owned oil wells half a dozen years ago the world price of a product that they are able to sell because of decisions they took when the price of oil was a small fraction of what it is today? Can we, in other words, continue to control the price of "old oil"? And should we plan to capture the excess profits of new oil that is brought in in the future?

Mr. Chairman, if we could separate the present from the future and simply deny the people who had profitable oil wells some years ago, the appreciation of their properties that go along with the rise in the price of petroleum, I'd go along with the idea that we should do so. Discriminating in favor of "new oil" and against "old oil" would appear to capture the "undeserved gains" of people who luckily invested in oil wells before 1973 without inhibiting new exploration and development. But old oil was once new oil. Today's new oil may be declared old tomorrow, and tomorrow's new oil declared old the day after. The same logic by which this year's "windfall gains" can be taxed away while letting consumer prices go to a market level may be just as appealing when oil and gas prices have increased another 20% or 50%.

The market cannot be divided convincingly between "present" and "future." It's time dimension is continuous. The prices to which today's behavior is a response—the prices that provide the incentives for current decisions on future supply and new investment—are the expected prices for five, ten, or even twenty years from now. Even consumer decisions on heating systems, insulation, or gasoline mileage depend on the prices anticipated for five years from now.

Development now of new fuel sources that may begin to come on the market ten years from now will be a response to the prices expected in the second decade hence. It is predicted prices, not current prices, that determine investment decisions.

And here we come to a fundamental asymmetry in the way profits and losses are treated. Whether we are thinking of potential price regulations or potential excess profits or windfall profits taxes, there is a tendency for the federal government to depress the incentives for exploration and the development of new supplies of energy, whether conventional petroleum or synthetic liquid fuels from shale or coal, or whatever it may be.

It is a rather captivating idea that we should tax away the "excess profits" of those who strike it lucky in their petroleum development, or their development of synthetic liquid fuels, and that we allow "normal" profits but no more. There are few lines of business in which people strike it rich more dramatically than in prospecting for oil. Reasonable profits may appear to be a necessary incentive to exploration and development, but "unreasonable profits" can clearly be captured for the benefit of us consumers.

But prospecting for oil, like prospecting for any natural resource, is usually a gamble. If you are lucky you strike it very rich, and if you're not lucky you lose a lot of money. The prospects for losing a lot of money are balanced by the possibilities of striking it rich. If the government skims away the occasionally lucky strike, it may seem to be taking only the "excessive profits" of the exceedingly fortunate, but it can't help but affect the average prospective return.

Any windfall profits tax, or excess profits tax, that applies to future discoveries and developments of fuel, is very much like the IRS treatment of casino gains and losses. The government proposes to capture only the "excessive profits" of the lucky strikes that lead to profits in excess of cost. If you gamble in the casino, or on the horses, and win handsomely, the IRS will share your winnings with you, and indeed the bigger you win, the higher the share the IRS takes. If you lose, you lose alone; the IRS neither commiserates nor shares in your loss. The scheme is asymmetrical; it exists largely because people believe that this is a way to discourage gambling.

This is a sure way to discourage risky enterprises. It is built into our income tax policy because it does.

To apply it to natural resource development is therefore misguided. We want people to invest risk capital in the search for new petroleum, and in the development of new technologies for liquid fuel. If we promise them that we'll share their happy investments, taking a cut for the Treasury as windfall profits, but if they lose they lose alone, we are simply applying to liquid fuels development the philosophy that has historically been found attractive and effective in discouraging risky enterprise.

I wish it were possible to tax away today's and yesterday's windfall profits without causing any anticipation that we may do the same thing next year, and the year after, and ten years from now. But you cannot forever treat bygones as bygones without people anticipating that you'll do it again. That is why I would propose that the price of crude oil be deregulated and that any windfall profits taxes be emphatically and definitely applied to sources of crude oil currently regulated and not to new sources.

I believe I disagree with the President on this. As I understand his proposals, both his crude oil pricing proposals of the National Energy Plan of 1977 and his more recent proposals for deregulation and windfall taxes, he would subject to special taxation new sources of crude oil brought in from now on as well as applying the tax to price increases in the future beyond those required to bring domestic prices up to the world price level. I believe it is crucially important to establish a cutoff. I go along with the idea that "old oil" can be subject to a kind of confiscatory taxation. I don't like the principle, but the consequences make it attractive. But people have memories, and this is something you cannot do repeatedly. If people think that new oil will be declared old oil after it is discovered, you cannot effectively distinguish old from new. It makes sense to deregulate future oil completely, and not attempt to drag out price controls into the future. It will always be tempting to capture the "windfall" when the OPEC price goes up; but as soon as that becomes anticipated, the effect will do more harm than good. When "old oil" is not any longer oil identified by a fixed historical date, but is any oil that has already been developed, it will no longer be possible to surprise people who invested in hopes of profit and discover that their profits would be taken away.

I therefore support, Mr. Chairman, prompt deregulation, with any windfall profits or excess profits tax being applied only to some clearly defined category of "old oil" so that consumers as well as producers will let themselves be guided by the real economic cost of liquid fuels. Crude oil price regulation does not reduce the cost of fuel, it only disguises it so that we make bad decisions that aggravate our problems. It will not help the poor of ten years from now to entice us today to overconsume and to underproduce and to subsidize imports of oil from a part of the world where tankers go through a narrow passage that could be blockaded with primitive technology.

One final point. I think it important to consider how to use any proceeds of a "windfall" tax. I do not see any reason to let mass transit or home solar heating or anything else have a special claim on a large amount of money that is collected primarily to keep what consumers spend from going to the oil producers.

The money indirectly comes from consumers in a manner that raises the cost of living index. I would like to see it go back to consumers in a manner that reduces the official consumer price index.

Thank you, Mr. Chairman.●

RETIREMENT OF THE STATE DEPARTMENT'S KAY FOLGER

● Mr. PELL. Mr. President, it is with a profound sense of regret that I call the Senate's attention to the fact that Kathryn N. Folger—Kay to her legion of friends in Congress—retired on June 29 from the State Department's Office of Congressional Relations. For almost 20 years, Kay has been a tireless soldier in the effort to harmonize relations between the executive branch and the Congress—for 14 of those years, she ably handled Congressional aspects of the Middle East for the State Department. Before joining the State Department, I had the good fortune of knowing and working with her in the political arena for some years.

Early in Kay's dealings with the Congress, she earned the genuine respect and affection of all who came into contact with her. Her unfailing good grace, thorough grasp of issues, and sensitivity to the prevailing political currents made her exceptional at her job. Indeed, if there were more Kay Folgers around, it is quite certain the irritations which periodically characterize relations between the Congress and the executive branch would be substantially minimized.

Personally, I valued our long relationship and the judgment and perspective Kay brought to the many problems which we have mutually addressed over the years. The regret I feel over her departure is tempered to a great extent by the knowledge that she leaves behind her a record and style which should serve as a model for all who dare to venture into the minefield of representing the executive branch in the Congress. She will be sorely missed both as a true professional and a gracious, warm and talentel individual. I know all of my colleagues join me in extending to Kay Folger our fondest best wishes for the future.●

SENATE FINANCE COMMITTEE TO CONSIDER TRANSITIONAL RULES FOR TAX-EXEMPT MORTGAGE BONDS

● Mr. GRAVEL. Mr. President, the Senate Finance Committee has scheduled Senate Resolution 188 for consideration on July 12. This resolution expresses the sense of the Senate regarding transitional rules governing the use of tax-exempt State and municipal bonds known as mortgage bonds. It would, in effect, provide the first formal congressional approval of rules for the bonds following the introduction of H.R. 3712, a bill to end the tax-exempt status of mortgage bonds. Because this bill contains a section making its provisions retroactive to the date of the bill's introduction, its mere introduction has caused great uncertainty in the bond market and has threatened the sale of many pending issues.

I strongly urge my colleagues on the committee and in the Senate to lend their support to this resolution. I ask that a recent article from the Daily Bond Buyer detailing the impact of the bill on a Colorado issue appear in the Record along with an article from the June 19 issue of the Wall Street Journal which indicates that the coming downturn in housing will be sharper and longer than originally forecast.

I also ask that the following Senators be added as cosponsors of Senate Resolution 188: Senator Leahy, Senator Randolph, Senator Domenici, Senator Stafford, Senator Hart, Senator Moynihan, Senator Bumpers, and Senator Pryor.

[From the Daily Bond Buyer, June 18, 1979]

Delivery of Colo. Mortgage Issue Delayed by Ullman Bill Uncertainty

Despite the willingness of some issuers, underwriters and bond counsel to proceed with single-family mortgage bonds caught in the pipeline by the bill introduced by Rep. Al Ullman, D-Ore., which would bar or severely limit their issuance, some deals are being delayed until all the confusion has been resolved.

Goldman, Sachs & Co., the managing underwriter of the winning bond bid received on April 24 for the $75 million single-family mortgage revenue bonds being issued by Aurora, Colo., has requested a meeting in New York today to discuss the legal implications and the current status of the Ullman bill. The Aurora financing is part of the estimated $3.26 billion bonds caught in the pipeline.

The uncertain status of the bill has required Goldman, Sachs to poll the more than 45 members of its underwriting syndicate and the institutional investors that have agreed to purchase bonds to determine if the bonds can be accepted prior to final passage of the proposed legislation.

That process was to have been completed by June 13, but due to the large number of participants involved, Goldman, Sachs had not received all the answers by that date and requested a delay until today.

Through members of the Colorado Congressional delegation, Rep. Ullman has indicated that the transitional rules as finally adopted will permit the delivery of the Aurora bonds.

Rep. Ullman at adjournment of the Ways and Means Committee meeting on June 6, 1979, reiterated that the transitional rules as proposed would be adopted regardless of the final form of the bill. However, one representative evidently said that the Committee could not guarantee that such a transitional rule would finally be enacted even though it had already passed the Committee by voice vote.

Based on these facts, Goldman, Sachs, as manager of the underwriting syndicate felt compelled to inform and poll the syndicate and the institutional investors involved.

The discussion today is expected to determine the course of action to be taken to complete the transaction. It is likely that the closing will be delayed until after the meetings of the Ways and Means Committee on June 28.

Ways and Means delayed until June 28 further consideration of the panel's package of restrictions to limit the use of mortgage revenue bonds or the alternative proposal by Rep. Andrew Jacobs, D-Ind., to replace the tax-exempt financing with tax credits for qualified homebuyers.

On that day, the Committee hopes to find out if Mr. Jacobs' plan for a tax credit can be tailored to the restrictions that would be imposed on mortgage bonds. A Committee spokesman has said, "If it can't, we go back to where we were."

Rep. Ullman told the Committee that if the Jacobs' concept can be developed into a plan for serious consideration he will want to hold another set of hearings.

[From the Wall Street Journal, June 19, 1979]

Housing Downturn Now Is Expected To Be Sharper and Longer Than Forecast Earlier

(By Liz Roman Gallese)

For William Berkes, 1979 is going from bad to worse.

Mr. Berkes, president of Deck House Inc., an Acton, Mass., maker of factory-built custom homes, figured six months ago that a looming recession in the housing industry might keep his own unit sales flat in the fiscal year ending next March. But now, he expects a 20 percent drop in unit sales from the 360 homes sold last year. And he is scrambling for buyers in areas of the country that are growing.

"What I thought would be a level year went into a decline," he says. "We're tightening our belts further."

So are a lot of housing executives across the country. With the supply of mortgage money dwindling, mortgage-interest rates climbing and new savings-industry regulations threatening to push interest rates even higher, builders are bracing for tougher times than they had been expecting earlier.

"MAJOR REVISION"

Today, in fact, Michael Sumichrast, chief economist for the National Association of Home Builders, plans to release new figures predicting a housing downturn deeper and nearly twice as long as previously forecast. In what he calls a "major revision" of the trade group's predictions, he says housing starts, which peaked at a 2.2 million annual rate in the 1978 fourth quarter, will slide to a low ranging from a 1.4 million to 1.45 million rate in the second or third quarter of next year. Six months ago, in contrast, he projected a low of 1.5 million in the 1979 third quarter, and subsequently he predicted that the low would come in the 1980 first quarter.

What's more, Mr. Sumichrast says, housing starts for all 1980 will drop below 1.6 million, down from a previously forecast 1.7 million and below this year's estimated 1.6 million (itself below previous expectations).

"The outlook is far different from what we expected earlier. The possibility of a rebound early next year isn't there," he says.

SOME WORSE SLUMPS

Glum as that outlook is, it isn't as bad as as the big slump five years ago. Then, housing starts plunged 65 percent to 880,000 from 2.5 million within less than two years. In fact, the 34 percent-to-36 percent drop that Mr. Sumichrast is predicting nearly matches the 35 percent decline in housing starts from December 1958 to December 1960 and the 37 percent slide from January 1969 to January 1970. And it is considerably milder than the 49 percent decline from December 1965 to October 1966.

Moreover, the Commerce Department said yesterday that housing starts in May increased to a seasonably adjusted annual rate of 1.8 million units, up 5 percent from a revised rate of 1.7 million in April. The rate for single-family units fell slightly, however.

Finally, many experts are more optimistic than Mr. Sumichrast about the timing of the current decline. Ken Goldstein, an associate economist for the Conference Board, a business research organization, has pushed ahead his estimate low point, but only to year-end from the third quarter of this year. Partly as a result of even this change, however, he expects a general economic recession that will be a little longer and deeper than he previously anticipated.

"It's like a storm that took longer to materialize. All sectors, including housing, got that much more overheated," he says.

A. George Gols, a vice president of Arthur D. Little Inc., a Cambridge, Mass., consulting firm, notes that as housing turns down, so will related industries, such as building materials, appliances and furniture. But he adds that a slump in housing and related industries may be largely offset by brisk capital spending and high government outlays. As a result, he says, the overall economy may merely bouncedownward in an irregular patterns over the next few quarters.

"I'm looking for a chronic, dull and persistent pain, rather than a quick, sharp acute one," he says.

KEY PROBLEMS

Probably the key reasons for the worsening outlook for housing, economists say, are sharply rising mortgage-interest rates and a tightening supply of mortage money.

Mr. Sumichrast of the trade group says he expects mortgage rates to continue climbing to more than 12 percent by year-end from about 11.5 percent now and to remain near the higher level for months. Fueling the increase, he says, will be new regulations that, effective July 1, will permit savings institutions that provide mortgage loans to raise the interest rate paid on passbook accounts to 5½ percent from 5¼ percent and to offer new higher-interest, four-year savings certificates.

Although the new regulations will help savings institutions attract more lendable funds; the catch is that mortgage rates also will rise, he says. "And for every one-point jump in the mortgage-interest rates, there are three million fewer potential buyers" of homes, he says. While "we aren't sure what buyers will do—we're surprised they're paying today's rates—my conclusion is that we won't have buyers" at higher rates, he adds.

However, despite earlier gloomy forecasts, demand hasn't abated yet, builders say. With a growing number of prospects in the key 25 to 44 age group, more families with two wage earners, and soaring inflation that has made houses a good buy even at high interest rates, "the buyers are out there, and they're going to get that new house," says William Fannin, president of a medium-sized builder of single-family homes that is based in Columbus, Ohio. Or, as Mr. Berkes of Acton puts it: "Demand is still high, but buyers stub their toes when they go to the banks."

DROP IN LENDING SEEN

Thus, a drop in the availability of mortgage money could severely hurt the housing market. The U.S. League of Savings Associations, whose 4,500 member institutions lend more than half of all mortgage money, expects lending to fall 10 percent to 20 percent this year to a range of $90 billion to $95 billion from $107 billion last year. After adjustment for the inflation in home prices, the drop in real terms may be 20 percent to 30 percent.

Behind that slowdown, says Dennis Jacobe, an economist at the league, is the fact that net new savings—new deposits less withdrawals and interest—plunged to a negative figure of $1.5 billion in April and will be at breakeven for the next three to six months. He blames, in part, a new banking regulation that, effective March 15, prohibited these institutions from paying higher interest rates than commercial banks on six-month money-market certificates. The change removes an incentive for savers to put funds into thrift institutions, he says.

As the supply of money to these institutions dwindles and cost of the money that they do attract rises, mortgage interest rates will increase further before the supply itself dries up by year-end, Mr. Jacobe adds. "The cost pressure is real. There is a squeeze on earnings, and something has to give," he says. "So the question is whether savings and loan associations will be able to continue to lend."

For builders, the question is what will be the effects of a longer, deeper downturn in housing starts. Hardest hit, economists say, will be smaller contractors, newcomers that haven't gone through a recession before and builders of single-family homes, which are especially likely to experience a slump in demand.

To cope with the problem, Forcier Inc., a small, privately held builder based in Coventry, R.I., plans to switch from single-family homes into motels, condominiums and commercial buildings, such as small warehouses. "It's the only way of survival for the small builder," Robert Forcier, president says.

While he says he could have lived with a short recession that bottomed out in mid-1979, a slump that goes into 1980 would produce "a nervous situation that could turn into a real disaster."

Reflecting on his unsold homes during the last downturn, he says he plans to build his few remaining houses this year under a federal program that permits lower down payments and lower mortgage rates. "Sure, some people would pay higher conventional rates, but not many," he says, adding, "I did all my gambling in the last recession and sweated it out."

Although most big builders prepared well for a short recession by keeping home inventories lean and arranging financing ahead of time, many say they now are counting on long-term strategies to see them through a longer slump. U.S. Home Corp., for example, planned two years ago to switch to a mix of 70% single-family homes and 30% condominiums by 1980 from an 85%–15% ratio; it hopes to cater to the growing numbers of young adults and retirees. With mortgage-interest rates rising, "people who can't afford financing for a $50,000 single-family home can afford money for a $39,000 condominium," says Guy Odom, chairman and president.

TIGHTER REIN

Similarly, Kaufman & Broad Inc., which says its specific outlook depends on price range and geographic area, is keeping an even tighter rein on inventories. "The caution signs are out, more so than six months ago. Now mortgages are difficult to get, and rates are up," Robert Levenstein, president, says.

Some big builders say they are considering further changes in plans. Butler Housing Corp., a privately held concern based in Irvine, Calif., figured on a recession this year and a rebound next year. So in the fiscal year ending next March 31, the company planned to build 780 single-family homes, the same number as last year, and 1.200 next year. But given the new outlook, Butler says it might trim next year's 1,200 by 10% to 20%.

"Basically, we follow Mike (Sumichrast's) forecasts," Merrill Butler, president, says. "If he shifts the low point to the 1980 third quarter, rather than the first quarter, I'm concerned."●

PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALE

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that five such notifications were received on June 28, 1979.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notifications follow:

Defense Security
Assistance Agency,
Washington, D.C., July 28, 1979.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
Lt. Gen. Ernest Graves,
Director, Defense Security Assistance Agency.

Defense Security Assistance Agency,
Washington, D.C., June 28, 1979.
In reply refer to: I–3693/79ct

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,
Lt. Gen. Ernest Graves,
Director, Defense Security
Assistance Agency.

Defense Security Assistance Agency,
Washington, D.C., June 28, 1979.
In reply refer to: I–4454/79ct

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security

Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

Lt. Gen. Ernest Graves,
Director, Defense Security Assistance Agency.

Defense Security Assistance Agency,
Washington, D.C., June 28, 1979.

In reply refer to: I-4661/79ct

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Far East country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

Lt. Gen. Ernest Graves,
Director, Defense Security Assistance Agency.

Defense Security Assistance Agency,
Washington, D.C., June 28, 1979.

In reply refer to: I-4832/79ct

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

Lt. Gen. Ernest Graves,
Director, Defense Security Assistance Agency.

PROPOSED ARMS SALES

Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record at this point the notification I have just received.

The notification follows:

Defense Security Assistance Agency,
Washington, D.C., June 28, 1979.

In reply refer to: I-4455/79

Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-47, concerning the Department of the Navy's proposed Letter of Offer to Israel for defense articles and services estimated to cost $64.9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Lt. Gen. Ernest Graves,
Director, Defense Security Assistance Agency.

[Transmittal No. 79-47]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Israel.

(ii) Total Estimated Value:

	(In millions)
Major defense equipment *	$42.8
Other	22.1
Total	64.9

* As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: Fourteen (14) PHALANX Close-In Weapon Systems MK-15 and in-country support for 2 years.

(iv) Military Department; Navy (LCF).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: June 28, 1979.

PROPOSED ARMS SALES

Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the Record at this point the four notifications I have just received.

The notifications follow:

Defense Security Assistance Agency,
Washington, D.C., July 3, 1979.

In reply refer to: I-6031/79

Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-44, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $165.6 million.

Sincerely,

Lt. Gen. Ernest Graves,
Director, Defense Security Assistance Agency.

[Transmittal No. 79-44]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Coordination Council for North American Affairs (CCNAA), pursuant to P.L. 96-8.

(ii) Total Estimated Value: Major Defense Equipment* $108.8 million, other $61.8 million, total $165.6 million.

(iii) Description of Articles or Services Offered:

Government-furnished equipment portion of thirty-nine (39) F-5E and nine (9) F-5F aircraft to be co-produced in Taiwan, twenty-nine (29) laser target designator sets (LTDS), and forty-eight (48) Maverick missile modification kits.

(iv) Military Department: Air Force (SEC).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 3, 1979.

Defense Security Assistance Agency,
Washington, D.C. July 3, 1979.

In reply refer to: 1-18/79ct

Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-45, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $25 million.

Sincerely,

Lt. Gen. Ernest Graves,
Director, Defense Security Assistance Agency.

[Transmittal No. 79-45]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Coordination Council for North American Affairs (CCNAA), pursuant to P.L. 96-8.

(ii) Total Estimated Value: Major Defense Equipment* $24.3 million, other $0.7 million, total $25.0 million.

(iii) Description of Articles or Services Offered; Five hundred (500) MAVERICK missiles and one hundred (100) MAVERICK single-rail launchers.

(iv) Military Department: Air Force (ACG).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 3, 1979.

Defense Security Assistance Agency,
Washington, D.C., July 3, 1979.

In reply refer to: I-1904/79ct

Hon. Frank Church,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79-46, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $50.0 million.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

Sincerely,
Lt. Gen. Ernest Graves,
Director,
Defense Security Assistance Agency.

[Transmittal No. 79–46]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser: Coordination Council for North American Affairs (CCNAA), pursuant to Public Law 96–8.

(ii) Total Estimated Value: Major Defense Equipment* $0.0 million other $50.0 million, total $50.0 million.

(iii) Description of Articles of Services Offered: Cooperative logistics supply support, FMSO II for follow-on spares and supplies for support of U.S. origin aircraft (F–100, F–104, F–5, T–33 and C–119) and missiles (SIDEWINDER).

(iv) Military Department: Air Force (KBL).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 3, 1979.

Defense Security Assistance Agency,
Washington, D.C., July 3, 1979.

In reply refer to: I–4478/79ct

Hon. Frank Church,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 79–48, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $46.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,
Lt. Gen. Ernest Graves,
Director, Defense Security
Assistance Agency.

[Transmittal No. 79–48]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective Purchaser. Saudi Arabia.

(ii) Total Estimated Value: Major Defense Equipment* $32.7 million, other $13.7 million, total $46.4 million.

(iii) Description of Articles or Services Offered: Thirty two (32) M60A1 tanks.

(iv) Military Department: Army (UZI).

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: July 3, 1979.

CELEBRATING THE BIRTHDAY OF JOSEPH BEGUN

● Mr. BRADLEY. Mr. President, I would like to call the attention of the Senate to the prolonged suffering of one persecuted man, Mr. Joseph Begun. Mr. Begun is being held as a prisoner of conscience in the Soviet Union. This man is in exile for having the audacity to seek to practice his Jewish heritage in the Soviet Union and to seek immigration to Israel when that right of personal expression was denied.

Joseph Begun is not without friends in the West. Numerous Members of Congress, including the distinguished Representative from New Jersey, James J. Florio, have transmitted their concern for Mr. Begun to President Brezhnev. But most important, the torch is held high for Joseph Begun by his cousin, Mrs. Leah Wasserman of Passaic, N.J. For some time she has tried to draw the attention of others to the plight of her cousin. She has written to Soviet officials. She has roused the interest of concerned organizations, and she has called upon her Government to do what it can to ease the unjust persecution of Joseph Begun.

Mrs. Wasserman happens to be a schoolteacher in Passaic. She introduced the tragic case of Joseph Begun to her sixth grade class as a lesson in the meaning of freedom and encouraged these youngsters to write their Representatives, in this way to observe the workings of democracy. One boy writes in his plea for action on Mr. Begun's behalf:

> I want to know if you could do me a favor and talk to the President of Russia to see if you could make him get this man named Joseph Begun out of Siberia. He needs his family.

Mr. President, I cannot help but be moved by the words of this child, and by the suffering of Joseph Begun. I know my distinguished colleagues here would agree. I would hope that President Brezhnev and the Soviet authorities who confine Joseph Begun will take the opportunity of this day—the birthday of Joseph—to end his internal exile and allow him to relocate with his family to the land he has sought to reach for 8 years, the land of Israel.

Joseph Begun's ordeal began in April of 1971 when he first applied for a visa to emigrate to Israel. Soviet authorities denied this first application, and have denied each succeeding application, on the grounds that as an engineer, Mr. Begun possessed important official secrets.

Mr. Begun gave up his engineering job when he first applied to leave the Soviet Union. Ever since, he has been unable to find work in his field. In desperation, he took a job as a night watchman. But after he participated in a hunger strike outside the Central Telegraph Office in 1973—for which he served a 15-day sentence—Joseph Begun was fired from this position.

In January of 1977, Soviet television showed, at prime time, a program depicting Soviet Jewish refusniks and activists as "soldiers of Zionism inside the Soviet Union," and accused them of being part of a Western-based anti-Soviet conspiracy. The documentary, entitled "Trader of Souls," took the unprecedented step of naming several activists including Mr. Begun and showing others carrying out allegedly "subversive" activities. Joseph Begun, together with Vladimir Slepak, Uli Koshorovsky, and Anatoly Shcharansky filed a suit against the TV authorities accusing them of defaming the honor of Soviet Jews.

He was promptly arrested by Soviet police and released a few hours later. Over the course of the next 4 days, he was detained and released two more times, and his son, Boris, was subjected to harassment by Soviet police. Then on March 3, Begun was again arrested, now charged with being a "parasite" on the Soviet state. While he awaited trial, he was denied all visitors and forbidden to consult with his lawyer. On March 28, he began a hunger strike that lasted more than 100 days. Despite being force-fed every 3 days, Joseph Begun grew ill and feeble. His trial was continually postponed.

Finally, on June 1, he was brought to trial, where he wore a kippah or scull-cap and asked for a prayer book and a Bible before sentencing. The Soviet court found him guilty of "vagrancy"—meaning that he was leading a "parasitic way of life." For this crime, Begun was sentenced to 2 years in exile. After serving 1 year of the sentence, he was released in early 1978.

Before his first arrest, Begun privately taught the Hebrew language. He had applied for an official teaching certificate, but was refused on the grounds that Hebrew was not a recognized subject in the Soviet Union. Nevertheless, Begun continued his activities aimed at nourishing and preserving his religious and cultural heritage. His loyalty to his heritage and persistence in exercising his basic right of cultural expression antagonized Soviet authorities. Only a few months after his release from exile, Begun was again arrested, this time for allegedly violating internal passport regulations. For this, he was once again sentenced to 3 years of internal exile in Siberia.

In exile, he was separated from his family and his health began to seriously deteriorate. Then late this spring, Begun's family was permitted to join him in exile in a small rented apartment. However, the rental is only for 1½ months and no doubt the family's reunion will be brief.

Mr. President, I appeal to President Brezhnev and the Government of the Soviet Union to make that reunion permanent, to free Joseph Begun to emigrate with his family to their cultural homeland in Israel. Continuing to keep him in miserable exile can serve no further purpose. This man has already suffered beyond reason for the simple desire on his part to maintain his ties to his heritage. The Soviet Government denied to him the right to maintain those ties within his country of birth, and then again denied him the right to emigrate to a country where he might do so, the country of Israel. For his great "crimes," he has lost the right to practice his profession; lost the right to earn a living; has been banished to exile from his wife and children; has sacrified his health and has suffered the stigma of being labeled a traitor.

There is no reason in this; there is no justice. Therefore, today, on the day of Joseph Begun's 47th birthday, I say to President Brezhnev:

> Joseph Begun is ill. He is kept from his family. He is no traitor. He knows no "secrets". He seeks only to go to a land where he may practice his faith freely. Allow Joseph Begun to serve out the remaining two years of his sentence in external exile in Israel.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

Pursuant to an informal understanding, the Department of Defense has agreed to provide the Committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that 10 such notifications were received on July 3, 1979.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S-116 in the Capitol.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 3, 1979.
In reply refer to: I-489/79
Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
U.S. Senate,
Washington, D.C.

DEAR MR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a European country tentatively estimated to cost in excess of $25 million.

Sincerely,
Lt. Gen. ERNEST GRAVES,
Director, Defense Security
Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 3, 1979.
In reply refer to: I-6024/79
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,
Lt. Gen. ERNEST GRAVES,
Director, DefenseSecurity,
Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 3, 1979.
In reply refer to: I-1828/79ct.
Dr. HANS BINNENDIJK
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Near Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
Lt. Gen. ERNEST GRAVES,
Director, Defense Security
Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 3, 1979.
In reply refer to: I-6033/79ct.
Dr. HANS BINNENDIJK
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country tentatively estimated to cost in excess of $25 million.

Sincerely,
Lt. Gen. ERNEST GRAVES,
Director, Defense Security
Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 3, 1979.
In reply refer to: I-6034/79ct.
Dr. HANS BINNENDIJK
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country tentatively estimated to cost in excess of $25 million.

Sincerely,
Lt. Gen. ERNEST GRAVES,
Director, Defense Security
Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 3, 1979.
In reply refer to: I-6032/79ct.
Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle East country tentatively estimated to cost in excess of $25 million.

Sincerely,
Lt. Gen. ERNEST GRAVES,
Director,
Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 3, 1979.
In reply refer to: I-6017/79ct.
Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

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Lt. Gen. ERNEST GRAVES,
Director,
Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 3, 1979.
In reply refer to: I-6076/79ct.
Dr. HANS BINNENDIJK,
Professional Staff Member,
Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

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Lt. Gen. ERNEST GRAVES,
Director,
Defense Security Assistance Agency.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 3, 1979.
In reply refer to: I-6025/79ct.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, Washington, D.C.

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Lt. Gen. ERNEST GRAVES,
Director, Defense Security
Assistant Agency

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 3, 1979
In reply refer to: I-3232/79ct.
Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, Washington, D.C.

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Lt. Gen. ERNEST GRAVES,
Director, Defense Security
Assistance Agency. ●

TVA'S DAVID FREEMAN DEFINES ENERGY PROBLEMS AND CITES LACK OF LONG-RANGE PLANNING

● Mr. SASSER. Mr. President, on April 20, 1979, David Freeman, Chairman of the Tennessee Valley Authority spoke to the World Affairs Institute in Morgantown, W. Va. Mr. Freeman discussed the effects our current energy problems are having on national economic growth and our stature in the world community. He suggested that this instability is a threat to national security and feels that to combat it we need to match our best energy resources in each region of the Nation with the real needs of the people. For example, we cannot afford to continue to import oil into the coal-rich Appalachian region.

In outlining our hesitancy in dealing with energy policy, he recognized that one of our colleagues in the Senate called for the establishment of the national fuels and energy policy to implement a program for insuring efficient use of all energy resources as early as 1959.

More than 35 years ago—during the peak of World War II—a young Congressman named Jennings Randolph sought to dramatize the possibilities of synthetic fuels. On November 6, 1943, he flew with pilot Arthur Hyde from Morgantown, W. Va., to National Airport in Washington, a 175-mile flight over mountains. Their single-engine aircraft was fueled by gasoline made from coal in the Bureau of Mines laboratories at Pittsburgh. It was the first and only such flight in the United States.

In urging passage of the Synthetic Fuels Act of 1944—which he sponsored as a Member of the House of Representatives—Randolph said:

> We must not, for the sake of our national security, come to depend on foreign countries. We must plan for the conservation of our national oil resources and the immediate development of practical methods for the commercial production of synthetic fuels—so that it cannot be said in the future, "too little and too late."

Mr. President, if we had listened to Senator Jennings Randolph then, or in 1959, and in successive years, we would now have our energy situation under control. His resolution considered on the Senate floor in September of 1959, would have created a joint committee on national fuel policy. But that resolution did not receive adequate support and it was not until May 5, 1971, 12 years hence, that the Senate passed Senate Resolution 45 to make a comprehensive study of programs and policy required to meet national needs. This study provided much of the background used to write our first comprehensive national energy policy, 7 years later in 1978.

Mr. President, I encourage all of my colleagues to consider the approach suggested in the text of this address and I submit it for printing in the Record.

The address follows:

Remarks by S. David Freeman

It's a privilege for me to be asked to keynote this important symposium and again be in your beautiful and great State. I am gratified and honored to address this symposium, not just because of its importance, but because I was invited by your distinguished Senator Jennings Randolph, who I have long admired and respected.

This Nation finds itself mired in a critical energy crisis which is endangering the national and indeed international security. It could have been avoided if the Nation had listened to those national leaders who saw the crisis coming decades ago. One such leader was Senator Randolph.

I recall that in 1970 he sent a letter to the Nixon administration suggesting a National Commission on Fuels and Energy, made up of leading members of Congress and the executive branch, to "ensure a coordinated fuels and energy policy." The Senator recognized that the Nation was ignoring the need to develop new technologies for using coal and other fuels. He said, "The national fuels and energy policy is needed to establish a program for ensuring the most efficient use of all energy resources, without sacrificing or degrading environmental quality." The Senator's proposal went unheeded, and the Nation lost a rare opportunity to put its energy house in order.

Energy instability is a threat to national security. My presence in this program reflects this harsh fact. In the past, such a program would have included primarily members of the military, not someone who has spent the last decade in the energy field.

I need not detail the extent to which the free world today is imperiled by the energy crisis. All of you know our energy lifeline is tied to one of the world's most unstable parts. Our energy security and our national securtiy hang in precarious balance. The events in Iran only point up how precarious the situation is, and how overnight our lives can be altered dramatically by external events. In effect, we aren't controlling our own destiny. We can be manipulated by the whims of a few tiny nations which have a fraction of the population and military strength of the United States.

We cannot allow this to continue. The problem cries out for solutions—hammered out nationally and internationally. Yet just because this is a national and world-wide problem doesn't mean that there is one solution that fits all nations, or even all of America. Obviously, solar energy will not be as useful to European nations as it is to Africans. Japan has no coal resources. China has an abundance. In the same way, Arizona isn't likely to benefit from wood resources. But we in the Eastern United States have millions of acres of prime forest land.

National energy policy should not try to pour all of America into a single quart bottle of homogenous policv. We need to match best resources in each region of the Nation with the real needs of the people. Instead we import oil into coal-rich Appalachia, and fail to harness the solar power in the Sunbelt. As a Nation we have abundant energy resources, but we seem addicted to gluttonous consumption of petroleum—the one source of energy which is in short supply. The heart of the energy crisis is still with the 350-cubic-inch engine.

For decades we have continued our gluttonous energy habits, neglecting technologies to put our abundant sources to use, and increasing our use of petroleum, oblivious to our increasing dependence on Middle Eastern oil and the resulting instability of the entire world. Because we failed to take action 20 years ago as Senator Randolph suggested, and the resulting instability of the entire world, the problems have grown into a full-blown international crisis. It's time to come to our senses.

Today, I'd like to offer some ideas about how this can be done, and how TVA can help the Nation get its energy budget balanced.

It may sound presumptuous for me to talk about TVA within the context of a speech about international security. But the best way the Nation can balance its energy budget and strengthen national security is for each region to become as self-sufficient as possible. We are doing this in the Tennessee Valley as a demonstration that a balanced budget can be achieved, new energy sources developed, and old energy sources improved. Efficiency, diversity, and self-sufficiency must be the watchwords of the energy future.

The first step is to implement effective programs which cut energy waste and thus fight inflation. We must assure that the values and costs external to market forces—such as environmental problems, human concerns, and foreign policy—are addressed. And available resources need to be developed with concern for the health and safety of people and our land, water, and air that are perhaps our most limited resources.

We must balance our energy supply and demand in order to keep our economy growing. But economic growth based on a fuel supply that is insecure or unsafe is a dangerous trap.

I hope that the Tennessee Valley can help lead the way toward energy stability in this world. TVA began life as a national demonstration because the Tennessee Valley was identified by President Roosevelt as the country's number one economic problem. TVA's first job was to put a green cover on brown, eroded, and unproductive land, and to harness the Tennessee River for the good of the people. With the help of the people our land largely is productive again.

TVA promised unified resource development. TVA was not just a power company bringing low-cost energy to the farm and the average homeowner. It helped the people marshal all the Valley's resources to stimulate the economy and improve the people's living standards—a people whose per capita income was less than half the national average in the 1930's. For the most part the people have lifted themselves from the vise of poverty. Even so, large pockets of poverty remain and our average income is only 80 percent of the national average.

But this is not the 1930's. Our problem is not a great depression. Rather it's an energy and environmental crisis that continues to rage, and it's complicated by runaway inflation that is eating away at the dollar. These complex problems demand a new set of priorities and a fresh approach to unified regional development.

Congress in its wisdom clothed TVA with the flexibility of a private corporation to get jobs accomplished. For more than four decades of constant change the TVA Act has endured as an instrument of progress, giving TVA the mandate to use its resources and expertise in behalf of the people. Even more fundamental, TVA has a "can do" attitude, which is crucial at a time when the Federal establishment and much of business has become synonymous with lethargy and red tape.

I believe TVA can be a living laboratory for the Nation. The Valley is blessed with a diversity of energy and human resources. And it faces the same tough energy and environmental problems as other parts of this country and the world. So I'd like to spend a few minutes talking about these issues and what TVA is doing to address them.

The most obvious place to begin is to talk about coal. The region sits atop some of the Nation's richest coal reserves. We are the Saudi Arabia of coal. Each year TVA steam plants use about 35 to 40 million tons of coal, making TVA the Nation's largest coal user. Last year TVA produced about 60 percent of its electricity from coal-fired steam plants, and coal will remain the backbone of our power system for years to come. Under these circumstances finding cleaner, more efficient ways to use coal is an obvious for TVA. It's an obvious must for the country.

A few years ago I said that our coal resource was a sleeping giant, but the problem with coal was "you couldn't mine it and you couldn't burn it," in a socially acceptable way. But technology hasn't stood still, and neither have our efforts to require better safety, reclamation, and pollution control.

We are making good progress toward socially acceptable means of using coal.

TVA is now setting a good example. We are implementing the most comprehensive environmental protection program ever undertaken by an electric power supplier, under a program to comply with the Clean Air Act.

The purpose of this program is to remove some one million tons of sulfur oxides and particulates put into the air each year by TVA steam plants. But the settlement offers other rich economic opportunities for Appalachia. The settlement will allow us to continue using Eastern coal reserves—including high-quality coal from West Virginia—as well as using the latest pollution control technology. We want, and you want, to gèt our industries off Mid-East oil and on to electricity from Appalachian sources. And this agreement gives us the opportunity to carry out this goal.

I mentioned the use of present technology to achieve this end. On the consumption end, at some of our plants it is more economical to install scrubbers that use the abundant high-sulfur coal than to use scarcer low-sulfur coal. We believe these scrubbers are now feasible to use. In fact at one plant we are planning to use magnesium oxide scrubbers, which also produce a usable byproduct, sulfuric acid. We have awarded a contract for the largest baghouse installation in the country, which will remove the tiny particulates scientists tell us may be the most damaging to our lungs. TVA also is building two large coal-cleaning plants, and is working on other coal-cleaning processes with several research organizations, other electric power systems, and the Federal Government.

Much of the coal found east of the Mississippi River contains too much sulfur to meet clean air standards. We must find ways to use this abundant resource. We believe the fluidized bed boiler provides one answer. It is a new type of coal burner which can be designed to control pollution and do so more economically than existing technology. TVA is planning a 200-megawatt fluid bed combustion plant expected to be in service in the mid-1980's. If this technology proves successful, it will allow the use of coal of virtually any quality at reasonable costs and still enable us to meet present environmental standards.

Strip mining has butchered the land—one has only to look at the hills and valleys of Appalachia to see the devastation. We now have stronger laws to control the evils of strip mining. Effective enforcement of these laws is essential and must be demonstrated. TVA is playing a cooperative role with the Department of Interior toward that end, supplemented by controls of our own where necessary.

The TVA power system is well known for its large hydroelectric system, but we also have six large nuclear power plants under construction. The recent events at Three Mile Island in Pennsylvania underscore the compelling need to stress nuclear safety. We are presently reevaluating our nuclear plants to make sure they will be as safe as humanly possible.

The accident in Pennsylvania simply underscores the need for diversity in energy sources. We dare not put all our eggs in one basket. And President Carter is certainly correct in his concerns about the dangers to world peace inherent in the nuclear fuel cycle under present arrangements for safeguarding weapons-grade materials.

I for one don't believe this Nation or the world can produce their way out of this energy crisis so long as we keep wasting energy in such huge, quantities. We'll never catch up if we keep trying to heat the outdoors and joyride in big cars. Energy conservation is our cheapest and quickest form of supply. The energy we can save will fuel the economy as well as save consumer's money.

Conservation must also be evaluated in terms of the problems of inflation and productivity. Energy production requires huge capital investments. To the extent that national policy encourages investments in power conservation, it saves enormous amounts of capital needed for more expensive power generation. Considering the size of the energy sector, the American economy may be wasting as much as $100 million in the next 15 years on unnecessary production facilities unless we get serious about conservation.

Conservation often is pictured as leading to economic stagnation. But conservation is not a program for doing without or stopping growth. We are simply speaking of getting more useful work out of the energy we use—better mileage cars, better insulated homes, and such. The capital saved will fight energy inflation and keep our economy healthy. And we are proving conservation really works on the TVA power system.

TVA's present program combines home energy surveys and interest-free loans for insulation and weatherization, with payback in the monthly electric bill. We just completed our audit of home No. 100,000. Our estimates are that in just eight years the home insulation program can save about 2.7 billion kilowatthours each year and save our consumers about $25 million annually.

For the TVA power system this conservation program means short range we buy less expensive power from neighboring electric systems. Conservation from this one program can shave about 1,000 megawatts from our needs for future power plant capacity—amounting to a saving of about $1 billion.

The commercial and industrial sector—especially the small businesses and factories—are as wasteful as the homeowner. So TVA is offering these customers self-help with a similar program. By 1990 we believe we can add another 6.6 billion kilowatthours in savings and shave another 1,000 megawatts from system capacity needs.

The logic of investing in conservation has equal application to solar energy and other renewable resources. Solar energy is one of the Nation's most popular forms of energy. And solar energy is economical today for supplying heat to buildings. It can help consumers save money by providing an inflation-proof, pollution-free energy source.

But solar energy cannot be economical unless it is integrated with the electric power system to avoid system peaks. And that's precisely what TVA is doing. TVA already has a large demonstration home solar water heating program going great guns in Memphis, Tennessee. We are providing front-end money with 20-year, low-interest loans for these solar water heaters and some technical assistance to help develop standards of performance. We are doing this because these solar collectors will save our consumers more money each year as the price of fuel continues to increase in the years to come.

It is important to recognize that most people in the world live in the Sun Belt. A truly comprehensive solar energy effort—one with moonshot intensity—could be more important to world peace than an increase in our defense budget.

The road to world peace thus includes a combination of energy conservation, better utilization of coal, and going for the sun—which of course includes using wood and hydroelectric power where available. But the heart of the problem is our addiction to oil and that means cars and gasoline.

The gluttonous use of gasoline is the most glaring example of energy waste, and causes the growing volume of imports. Fifty billion dollars each year is already going overseas to pay for imported oil. It is a terrible drain on our economy. The dependence on gasoline from imported oil is what makes us so vulnerable to an energy crisis.

Thus in a very direct way, the electric car that can be powered by local fuels may be the key to energy stability. The electric car is in its infancy but it can mature overnight. I hope that TVA will be a leader in demonstrating that the electric vehicle is practical. If we do, we can interest others in doing the same, and help create a market. The electric car not only reaches the core of the energy crisis but it can clean up the air in our cities as well.

The energy crisis of course isn't a crisis at all; it's something much worse. It's a test of our national will to innovate and change. And it will require a rebirth of our national spirit of innovation as the petroleum age comes to an end. If we fail, we risk more than a blackout. There is a very real question whether a democratic form of Government will be able to cope with the problem if we wait much longer in getting on with the urgent job of breaking the petroleum habit to which we are so addicted.

It's ironic that when imported oil could be bought at prices below the domestic price, it posed a threat to our "national security," and at the oil industry's urging we imposed quotas to keep it out. National security was used synonymously with protection of the oil industry. Now imports are a real threat to our national security and we simply must take steps to cut our dependence on foreign oil.

The country has rich diverse resources to accomplish the job. We must push our coal resource to the limit; we must take advantage of solar to the greatest extent possible. And nuclear power, under strict safeguards, can play a role. In the development of these alternatives we must begin to view our energy budget in terms of national security. For if we drift along into the 1980's the full reality of a dwindling petroleum resource will surely restrict the mobility and way of life of the average consumer.

The TVA "yardstick" was originally designed as a measure of the price of electricity. Today TVA has a "new yardstick." The ideas are really not new. In many fundamental ways they are simply a rededication to the original "yardstick" concept. But a national demonstration that our energy budget can be balanced—that we can achieve energy self-sufficiency, keep our economy growing, and our environment clear—never has been more urgent.

At TVA we hope to set that example for the country. It is a greater challenge than taming the Tennessee. We cannot be sure of success but we dare not fail to try.●

ALASKAN OIL PROFITS INCREASE

● **Mr. RIEGLE.** Mr. President, the Senate will soon consider a proposal that will restrict the export of Alaskan crude oil. This issue is quite controversial, with valid points to be made on both sides of the matter. I, for one, believe that exporting Alaskan oil will do nothing to lessen our dependence on foreign sources of oil. It would impede the development of our domestic refining and transportation systems, and will only serve to obscure the true extent and critical nature of our energy problem.

Many questions have been raised about the current profitability of Alaskan oil. Some producers have indicated an unwillingness to increase production on the North Slope in the absence of an export market, given the sporadic surplus of Alaskan crude oil on the West Coast. This surplus, which varies between 100,000 and 300,000, must be shipped through the Panama Canal to the Gulf Coast, increasing transportation costs and decreasing net profits to Alaskan producers.

In recent months, however, OPEC has come to the rescue of the Alaskan producers. Since Alaskan oil is pegged to world prices of crude oil, OPEC increases result in price increases for Alaskan oil. An article in the June 18, 1979, "Petroleum Intelligence Weekly," an industry-oriented publication, graphically illustrates the increased profits that North Slope companies have realized in 1979. Entitled "Alaska Profits Boom as Oil Prices Track OPEC's Upper Tier," the report forecasts an 85-percent increase in after-tax profits on Alaskan sales to the West Coast and Gulf Coast markets. Even Gulf Coast sales of Alaskan oil are reaping substantial profits, with the profit differential between Gulf and West Coast markets less than 40 cents a barrel. In short, Mr. President, Alaskan oil remains a profitable venture without the need for export or exchange to foreign nations, as the following article makes abundantly clear.

I submit the following report to be printed in the RECORD:

ALASKA PROFITS BOOM AS OIL PRICES TRACK OPEC'S UPPER TIER

Oil companies producing Alaskan North Slope crude have increased their profits by more than 70% thus far this year by tracking the leading edge of OPEC price increases. After-tax profits on Alaskan sales to the United States West Coast and Gulf Coast markets have soared past $3 a barrel and could reach as much as $4.10 (an 85% jump) when the latest boost is fully applied, according to a Petroleum Intelligence Weekly analysis. Alaskan crude oil prices are effectively free of U.S. price controls and can be sold at world market levels, delivered to West or Gulf Coast markets. The price of Alaskan oil at the wellhead is now between $9.50 and $10.50 a barrel and could move as high as $12.93 under present price control rules.

Alaskan crude oil prices have traditionally been linked with Saudi Arabian Light crude (with some adjustments for quality). But producers are clearly not following Saudi price "moderation" this year. In fact, one company openly endorses a higher $17 a barrel "de facto" price for marker crude, rather than the official $14.55. The higher de facto marker price was first proposed by Algerian Sonatrach's Nordine Ait-Laoussine (PIW May 28, p. 3) and other African OPEC nations and North Sea producers have raised their prices accordingly. North Slope producers are following suit, and one key seller (ironically, a Sonatrach customer) says "Ait-Laoussine's view of the world isn't all that crazy."

Higher Alaskan prices are emerging from a rough-and-tumble of hectic price moves in recent weeks. While the specifics vary depending on buyer and seller, prices are up as much as 40 percent over end-1978, an increase of more than $5 a barrel on both the West and Gulf Coasts. Buyers say Sohio has been the most aggressive in seeking price increases (it has 52.6 percent of the North Slope's 1.22-million b/d), while Exxon and Arco (with 20.6 percent each) are said to be more "moderate." Last year when crude oil was in surplus, Alaskan crude buyers put producers in a squeeze, forcing substantial price reductions. "Those that squeezed hardest then are probably regretting it most now," a supplier notes.

The target price on North Slope contract sales to West Coast buyers is now about $17.80 a barrel. That's $2.00 a barrel higher than the theoretical delivered price of "cheap" Arabian light crude, but a real bargain compared with alternative imported crude supplies. By comparison, North Slope crude, last December, was selling for $1.30 less than the landed price of Saudi Arabian Light. "Even if you could get extra Iranian or Kuwait or Abu Dhabi crude at official prices—and you can't—Alaskan looks good. Compared to $35 spot crude, North Slope is a steal at $17.80," according to a West Coast refiner.

At a $17.80 selling price on the West Coast, producers would reap an overall profit of $4.11 a barrel after tax, PIW estimates. That's at least 40¢ more than the profit possible on sales to the more distant Gulf Coast markets and explains why producers are moving to boost West Coast sales. Volumes are already up to 875,000 b/d, more than anyone originally expected, and the companies now talk confidently of selling 950,000 b/d in that market as total North Slope production rises to 1.4-million b/d later this year. The limitation is the ability of California refiners to handle relatively high sulfur Alaskan, though this has not proved a major obstacle in recent times. Demand is strong for the crude's larger fuel oil fraction, and refiners are a lot less picky now that crude is short.

Alaskan suppliers are clearly not interested in selling to Gulf Coast buyers at the moment and have cancelled many deals as soon as contract terms allowed. Some have even refused offers to "fully match" West Coast prices, PIW understands. The nominal Gulf Coast selling price sought by some suppliers is now about $18.55 a barrel, leaving producers a very substantial $3.71 after-tax profit. This price is basically connected with Mexico's pricing. One buyer tells PIW: "The Saudi price isn't the basis for the Gulf Coast any more; we're watching Mexico." The big $3 jump in Mexican prices April 1 (to $17.10) was largely the basis for the $2 May jump in Alaskan prices at the Gulf. Much of the Alaskan crude moving to the Gulf is part of exchange deals involving higher quality imported crudes. A large volume also moves to the Virgin Islands refinery of Amerada Hess.

The following tabulation shows PIW's analysis of costs and profits on North Slope oil production based on prices asked and paid in early June. But it doesn't reflect the latest $1 a barrel that North Slope sellers are seeking and West Coast buyers will probably pay. Profits are shown on both crude oil production and the Alaskan pipeline operation, with overall margins presuming an equal share in both sectors (though shares vary among the companies). PIW has selected "typical" prices for each time period, though there are substantial differences due to the confused nature of the market (prices were changed in mid-quarter and even mid-month). The "June" price was typically asked by sellers early this month, though some are still selling for much less. In May, for example, the prices under Gulf Coast contracts varied between $16.38 and $17.10 a barrel.

ESTIMATED TYPICAL TAX-PAID COST AND PROFIT AND ALASKAN NORTH SLOPE CRUDE OIL

[In dollars per barrel]

	Delivered to west coast					Delivered to gulf coast				
	4th quarter, 1978	1st quarter, 1979	April	May	June	4th quarter, 1978	1st quarter, 1979	April	May	June
Delivered price	$12.65	$13.76	$14.41	$15.44	$16.80	$13.30	$14.25	$14.75	$16.75	$17.55
Less: Shipping cost [1]	.90	.95	.95	.95	.95	3.05	2.90	2.95	2.90	2.85
Valdex fob price	11.75	12.81	13.46	14.49	15.85	10.25	11.35	11.80	13.85	14.70
Less:										
Liability fund	.05	.05	.05	.05	.05	.05	.05	.05	.05	.05
Pipeline loss	.05	.05	.05	.05	.05	.05	.05	.05	.05	.05
Pipeline tariff	6.20	6.22	6.22	6.22	6.22	6.20	6.22	6.22	6.22	6.22
Wellhead price	5.45	6.49	7.14	8.17	9.53	3.35	5.03	5.48	7.53	8.38
Less:										
Royalty (12.5 percent [2])	.60	.73	.81	.94	1.11	.41	.55	.60	.86	.97
Severance tax [3]	.67	.75	.82	.94	1.10	.67	.67	.67	.87	.97
Property tax	.17	.17	.17	.17	.17	.17	.17	.17	.17	.17
Field operating cost	.44	.44	.44	.44	.44	.44	.44	.44	.44	.44
Field financing cost	.22	.24	.24	.24	.24	.22	.24	.24	.24	.24
Depreciation [4]	.85	.85	.85	.85	.85	.85	.85	.85	.85	.85
Oil profit before income tax	2.50	3.31	3.81	4.59	5.62	1.19	2.11	2.51	4.10	4.74
Less:										
State income tax (9.4 percent)	.24	.31	.36	.43	.53	.11	.20	.24	.39	.45
U.S. income tax [5]	1.20	1.52	1.75	2.11	2.59	.57	.97	1.16	1.89	2.18
Oil profit after tax	1.06	1.48	1.70	2.05	2.50	.51	.94	1.11	1.82	2.11
Pipeline profit [6]	1.20	1.30	1.30	1.30	1.30	1.20	1.30	1.30	1.30	1.30
Overall post-tax profit	2.26	2.78	3.00	3.35	3.80	1.71	2.24	2.41	3.12	3.41

[1] Shipping costs to the Gulf of Mexico often involve producers' internal charges and are estimates.

[2] Assumes average 6.5 cents deduction from wellhead price to cover collection and transport to Pump Station 1 before calculation of royalty. This deduction has been challenged successfully in the courts by the State of Alaska but companies are continuing to take deduction on tax returns pending appeal.

[3] 11.7 percent in 1978 and 11.54 percent in 1979, with a minimum 66.5 cents per barrel.

[4] Includes depreciation and amortization.

[5] 48 percent in 1978 and 46 percent in 1979.

[6] After tax. Estimate based on average 1,100,000 bbl/d throughput in 1978 and 1,200,000 currently. ●

A SALT GLOSSARY

● Mr. MATHIAS. Mr. President, in recent days, I have read descriptions of the SALT II Treaty in at least two major journals which claim that this treaty limits "missiles." SALT II, of course, does not limit "missiles," it limits missile "launchers."

The distinction is important. The Soviet Union and the United States are both believed to have more missiles than ICBM and SLBM launchers. SALT II forbids the stationing of extra missiles close to launch facilities in order to prevent rapid reloading of launchers after initial firing.

I made this point not to embarrass knowledgeable editors, but because it underscores the difficulties which confront all of us in discussing SALT. The special vocabulary associated with this treaty invites—often unintentional—errors of fact, such as the one I mentioned earlier.

Every American has an interest in making SALT's complicated vocabulary more simple and understandable. It is one way we can simplify what is by nature a very complex business. I, therefore, request that a glossary of key SALT-related terms, culled from a longer glossary published by the Arms Control and Disarmament Agency, be printed in the Record at the end of my statement.

Constituents who write Senators about the SALT II Treaty may find this glossary useful. If Americans are to be able to evaluate this treaty, they must understand its terms. To understand the terms, people must understand the language used to record them. I hope this glossary will help illuminate the treaty itself and its meaning. At very least, I hope it will prevent the error, confusion, and misunderstanding that can arise from imprecise definitions.

The glossary follows:

SALT II Glossary of Terms

ABM Treaty: Formally entitled the "Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems," this Treaty is one of the two agreements signed at Moscow on May 26, 1972, known collectively as the SALT I agreements. The ABM Treaty entered into force on October 3, 1972 and is of unlimited duration. The original ABM Treaty limited each side to two ABM deployment areas (one national capital area and one ICBM silo launcher area) with restrictions on the deployment of ABM launchers and interceptors (100 of each per area) and ABM radars at these areas. A Protocol to the Treaty signed in 1974 further restricted each side to only one ABM deployment area.

Aggregate: The SALT II agreement provides for several "aggregate" numerical limits on various categories of strategic offensive arms. The term "aggregate" refers principally to the overall aggregate of ICBM launchers, SLBM launchers, heavy bombers, and ASBMs. The SALT II agreement places an initial ceiling of 2,400 on this aggregate with reductions to 2,250 beginning in early 1981 to be finished by the end of that year. There are also aggregate sublimits of 1,320 on MIRVed ICBM launchers, MIRVed and SLBM launchers, MIRVed ASBMs, and heavy bombers equipped for cruise missiles capable of a range in excess of 600 kilometers; 1,200 on MIRVed ICBM launchers, MIRVed SLBM launchers, and MIRVed ASBMs; and 820 on MIRVed ICBM launchers through 1985.

Air-Launched Cruise Missile (ALCM): A cruise missile designed to be launched from an aircraft.

Air-to-Surface Ballistic Missile (ASBM): A ballistic missile launched from an airplane against a target on the earth's surface. For the purposes of SALT II an ASBM is considered to be such a missile capable of a range in excess of 600 kilometers when carried by an aircraft.

Backfire: The NATO designation of a modern Soviet two-engine, swing-wing bomber. It is currently being deployed to operational units for use in a theater or naval strike role as a replacement for older Soviet medium bombers. Backfire has characteristics which fall between the characteristics generally attributed to existing heavy bombers and those of medium bombers. Under certain flight conditions, the Backfire is assessed to have an intercontinental capability.

Ballistic Missile: Any missile designed to follow the trajectory that results when it is acted upon predominantly by gravity and aerodynamic drag after thrust is terminated. Ballistic missiles typically operate outside the atmosphere for a substantial portion of their flight path and are unpowered during most of the flight.

Cruise Missile (CM): A guided missile which uses aerodynamic lift to offset gravity and propulsion to counteract drag. A cruise missile's flight path remains within the earth's atmosphere.

Data Base: As an adjunct to SALT II, the U.S. and the U.S.S.R. have agreed on a Memorandum of Understanding which lists, for each side, the numbers of strategic offensive arms by category subject to the limitations provided for in the Treaty. This data base will be periodically updated in the Standing Consultative Commission (SCC).

Deliberate Concealment: SALT II provides that verification of compliance with the provisions of the agreement shall be by national technical means (NTM). The sides have agreed not to use deliberate concealment measures which impede verification by NTM of compliance with the provisions of the agreement. Deliberate concealment measures are measures carried out deliberately to hinder or deliberately to impede verification by NTM of compliance with the provisions of the Treaty. Deliberate concealment measures could include, for example, camouflage, use of coverings, or deliberate denial of telemetric information, such as through the use of telemetry encryption, whenever such measures impede verification of compliance with the provisions of the agreement.

Encryption: Encryption is encoding communications for the purpose of concealing information. In SALT II, this term has been applied to a practice whereby a side alters the manner by which it transmits telemetry from a weapon being tested rendering the information deliberately undecipherable.

Fixed ICBM Launcher: There are two categories of ICBM launchers, fixed and mobile. Fixed ICBM launchers have traditionally been referred to as either "soft", whereby the missile and most of its launch equipment remain above-ground, or "hard", equipment are contained in a hardened underground silo. In both cases the launcher—the equipment which launches the missile—is in a fixed location.

Fractional Orbital Bombardment System (FOBS): A missile that achieves an orbital trajectory, but fires a set of retro-rockets before the completion of one revolution in order to slow down, reenter the atmosphere, and release the warhead it carries into a ballistic trajectory towards its target. While a normal ICBM follows an arching, elliptical path to target, and is highly visible to defending radars, a weapon in low orbit, e.g., 100 miles altitude, can make a sharp descent to earth, cutting radar warning time substantially. A FOBS path accordingly would consist of a launch into low orbit, a partial circle to the earth target, and a rapid descent.

Fractionation: The division of the payload of a missile into several warheads. The use of a MIRV payload is an example of fractionation. The term "fractionation limits" is used to describe the Treaty limitations on the maximum number of reentry vehicles per missile.

Ground-Launched Cruise Missile (GLCM): A cruise missile launched from ground installations or vehicles.

Heavy (Ballistic) Missile: For the purposes of SALT II, ballistic missiles are divided into two categories according to their throw-weight and launch-weight: light and heavy. Heavy missiles (ICBMs, SLBMs, and ASBMs) are those missiles which have a launch-weight greater or a throw-weight greater than the launch-weight or throw-weight of the Soviet SS–19 ICBM.

Heavy Bomber: The term used in SALT II to describe those aircraft included in the aggregate limitations of the agreement. Heavy bombers consist of four categories of airplanes:

(a) Current types are the B–52 and B–1 for the U.S. and the TU–95 (Bear) and Myasishchev (Bison) for the Soviets;

(b) Future types of bombers which can carry out the mission of a heavy bomber in a manner similar or superior to that of the bombers listed above;

(c) Types of bombers equipped for cruise missiles capable of a range in excess of 600 kilometers; and

(d) Types of bombers equipped for ASBMs.

ICBM Silo Launcher: An ICBM silo launcher, a "hard" fixed ICBM launcher, is an underground installation, usually of steel and concrete, housing an intercontinental ballistic missile and the equipment for launching it.

Intercontinental Ballistic Missile (ICBM): A land-based fixed or mobile rocket-propelled vehicle capable of delivering a warhead to intercontinental ranges. Once they are outside the atmosphere, ICBMs fly to a target on an elliptical trajectory. An ICBM consists of a booster, one or more reentry vehicles, possibly penetration aids, and, in the case of a MIRVed missile, a post-boost vehicle. For the purposes of SALT II, an ICBM is considered to be a land-based ballistic missile capable of a range in excess of 5,500 kilometers (about 3,000 nautical miles).

Interference: The SALT II Treaty provides that each Party shall use national technical means of verification (NTM) at its disposal to provide assurance of compliance with the Treaty. In this connection, each Party has undertaken a commitment not to interfere with the NTM of the other Party. This means that neither side can destroy or attempt to negate the functioning of the NTM of the other side (e.g., blinding of photoreconnaissance satellites.)

Interim Agreement: Formally entitled the "Interim Agreement between the United States of America and the Union of Soviet Socialist Republics on Certain Measures with Respect to the Limitation of Strategic Offensive Arms," this agreement comprises one of two agreements signed at Moscow on May 26, 1972, and known collectively as the SALT I agreements. The Interim Agreement entered into force on October 3, 1972 and formally expired on October 3, 1977. In September 1977, the U.S. and the U.S.S.R. separately stated that they did not plan to take any action inconsistent with the provisions of the Interim Agreement pending conclusion of the SALT II negotiations.

Joint Statement of Principles: SALT II consists of three parts: a Treaty which will last through 1985, a Protocol which will last through 1981, and a Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations. The Joint Statement of Principles (JSP) provides a general statement of objectives for negotiations in SALT III.

Launcher: That equipment which launches a missile. ICBM launchers are land-based launchers which can be either fixed or mobile. SLBM launchers are the missile tubes on a ballistic missile submarine. An ASBM launcher is the carrier aircraft with associated equipment. Launchers for cruise missiles can be installed on aircraft, ships, or land-based vehicles or installations.

Light (Ballistic) Missile: For the purposes of SALT II, ballistic missiles are divided into two categories according to their throw-weight and launch-weight: light and heavy. The Soviet SS–19 ICBM is recognized as the heaviest of the existing light ICBMs.

Mobile ICBM Launcher: Equipment which launches an ICBM and which can move or be moved from one location to another. Mobile ICBM launchers could include ICBM launchers on wheeled vehicles, launchers on vehicles which travel on rails, and launchers which are moved among launch-points which might themselves be "hard" or "soft."

Modernization: The process of modifying a weapon system such that its characteristics or components are altered in order to improve the performance capabilities for that weapon system. SALT II provides that, subject to provisions to the contrary, modernization and replacement of strategic offensive arms may be carried out.

Multiple Independently-Targetable Reentry Vehicle (MIRV): Multiple reentry vehicles carried by a ballistic missile, each of which can be directed to a separate and arbitrarily located target. A MIRVed missile employs a post-boost vehicle (PBV or other warhead-dispensing mechanism. The dispensing and targeting mechanism maneuvers to achieve successive desired position and velocities to dispense each RV on a trajectory to attack the desired target, or the RV's might themselves maneuver toward their targets after they reenter the atmosphere. For the purposes of SALT II, MIRVed ICBMs, SLBMs, and ASBMs are defined as those which have been flight-tested with two or more independently-targetable reentry vehicles, regardless of whether or not they have also been flight-tested with a single reentry vehicle or with multiple reentry vehicles which are not independently targetable.

Multiple Reentry Vehicle (MRV): The reentry vehicle of a ballistic missile equipped with multiple warheads where the missile does not have the capability of independently targeting the reentry vehicles—as distinct from a missile equipped for MIRVs.

National Technical Means of Verification (NTM): Assets which are under national control for monitoring compliance with the provisions of an agreement. NTM include photographic reconnaissance satellites, aircraft-based systems (such as radars and optical system), as well as sea and ground-based systems (such as radars and antennas for collecting telemetry). SALT II provides that the sides undertake not to interfere with the NTM of the other party nor to use deliberate concealment measures which impede verification by NTM of compliance with the provisions of the agreement.

New Type of ICBM: The U.S. and the U.S.S.R. have agreed, for the period of SALT II, to limit each side to only one new type of ICBM. Specific technical criteria have been established to distinguish between new types of ICBMs and existing types of ICBMs. These criteria include such physical parameters as missile length, maximum diameter, throw-weight, launch-weight, and fuel type.

Non-Circumvention: SALT II provides that each Party undertakes not to circumvent the provisions of this Treaty, through any other state or states, or in any other manner. This provision simply makes explicit the inherent obligation any state assumes when party to an international agreement not to circumvent the provisions of that agreement. This provision will not affect existing patterns of collaboration and cooperation with our allies, including cooperation in modernization of allied forces.

Protocol: The SALT II agreement consists of three parts: a Treaty which will last through 1985, a Protocol which will last through 1981, and a Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations. The Protocol establishes temporary limitations on mobile ICBM launchers, ground- and sea-launched cruise missiles, and ASBMs.

Qualitative Limitation: Restrictions on capabilities of a weapon system as distinct from quantitative limits, e.g., on numbers of strategic delivery vehicles. In SALT II, such qualitative limitations include, *inter alia*, a prohibition on more than one new type of ICBM for each side, restrictions on missile launch-weight and throw-weight, and limitations on the number of reentry vehicles a missile may carry.

Quantitative Limitation: Numerical limits on the number of weapons systems in certain categories, as distinct from qualitative limits on weapons capabilities. For the purposes of SALT II, such limitations include the various aggregate limits.

Reentry Vehicle (RV): That portion of a ballistic missile which carries the nuclear warhead. It is called a reentry vehicle because it reenters the earth's atmosphere in the terminal portion of the missile trajectory.

Sea-Launched Cruise Missile (SLCM): A cruise missile launched from a submerged or surface ship.

Standing Consultative Commission (SCC): A permanent U.S.-Soviet commission first established in accordance with the provisions of the SALT I agreements. Its purpose is to promote the objectives and implementation of the provisions of the various treaties and agreements achieved between the U.S. and the U.S.S.R. in the SALT negotiations. The SCC meets at least twice a year. The Commission deals with matters such as questions of compliance with the provisions of the treaties and agreements, and the working out of procedures to implement the SALT agreements. The SCC will continue these functions with respect to SALT II.

Strategic Arms Limitations Talks (SALT): A series of negotiations between the U.S. and the U.S.S.R. which began in November 1969. The negotiations seek to limit and reduce both offensive and defensive strategic arms. The first round of negotiations known as SALT I, concluded in May 1972 resulting in two agreements, the ABM Treaty and the Interim Agreement on Certain Measures with Respect to the Limitation of Strategic Offensive Arms. SALT II, begun in November 1972, includes a Treaty, a Protocol of shorter duration, and a Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations.

Submarine-Launched Ballistic Missile (SLBM): A ballistic missile carried in and launched from a submarine. For the purposes of SALT II, SLBM launchers are launchers installed on any nuclear-powered submarine or launchers of modern ballistic missiles installed on any submarine, regardless of its type. "Modern" SLBMs are, for the U.S., missiles installed in all nuclear-powered submarines; for the U.S.S.R., missiles of the type installed in nuclear-powered submarines made operational since 1965; and for both parties, any SLBM first flight-tested since 1965 and installed in any submarine, regardless of its type.

Telemetry: Telemetry refers to data, transmitted by radio to the personnel conducting a weapons test, which monitor the functions and performance during the course of the test.

Throw-Weight: Ballistic missile throw-weight is the useful weight which is placed on a trajectory toward the target by the boost stages of the missile. For the purposes of SALT II, throw-weight is defined as the sum of the weight of:

(a) The RV or RVs;

(b) Any PBV or similar device for releasing or targeting one or more RVs; and

(c) Any anti-ballastic missile penetration aids, including their release devices.

Verification: The process of determining, to the extent necessary to adequately safeguard national security, that the other side is complying with an agreement. This process of judging adequacy takes into account the monitoring capabilities of existing and future intelligence-collection systems and analysis techniques and the ability of the other side to evade detection if it should attempt to do so. This process also assesses the political and military significance of potential violations and the costs, risks, and gains to a side of cheating. It also takes into account the degree to which advantages conferred on the United States by a particular provision outweigh the disadvantages caused by problems of monitoring.

Warhead: That part of a missile, projectile, torpedo, rocket, or other munition which contains either the nuclear or thermonuclear system, the high-explosive system, the chemical or biological agents, or the inert materials intended to inflict damage.

Yield: The energy released in an explosion. The energy released in the detonation of a nuclear weapon is generally measured in terms of the kilotons (KT) or megatons (MT) of TNT required to produce the same energy release.●

TRAVEL OF FEDERAL EMPLOYEES

● Mr. **SASSER**. Mr. President, as my colleagues may recall, I introduced legislation (S. 697) on March 19, 1979. This legislation is designed to reduce by $500 million the amount which may be spent for travel and transportation of Federal employees during fiscal year 1980. This would still allow $7.4 billion for travel and transportation purposes. This amount should be sufficient, I believe, to transact the Nation's business.

Based on testimony from the Director of the Office of Management and Budget and from Alice Rivlin, the Director of the Congressional Budget Office, I am more convinced than ever of the feasibility and need for a travel limitation such as I have introduced.

Mr. President, I introduced this legislation because I believe that my colleagues in the Senate as well as the public at large share a common concern about Government travel; that is, there is simply too much of it.

The President has shown his concern by asking Federal agencies to reduce Government travel costs for the coming fiscal year.

22,000 GOVERNMENT-FINANCED TRIPS A DAY

Nevertheless, the administration's 1980 budget includes $3.1 billion for "transportation of persons." Using the Congressional Budget Office cost of an average trip per CBO employee of slightly less than $380, this yields 8 million Government-financed trips per year.

Dividing that by 365 days per year yields 22,000 Government-financed trips a day, every day of the year, Saturdays, Sundays, Christmas, and New Year's Day included.

Mr. President, this means there are probably more than 20,000 Federal employees in the air at any given moment—and this does not even count the non-Government employees who are traveling on Federal Government grants and contracts.

Since introducing S. 697, the Legislative Branch Subcommittee, which I chair, has conducted hearings in which Mr. Elmer Staats, Comptroller General of the United States, testified on certain aspects of Government travel costs.

USE OF TRAVEL AGENTS IN GOVERNMENT TRAVEL

More specifically, Mr. Staats answered a series of written questions regarding the possible lifting of an 1899 regulation which forbids the Government from using private sector travel agents.

These questions were posed because of my concerns that this apparently obsolete travel regulation was preventing the Government from taking advantage of airline group fares, thus increasing Federal travel costs.

In response to my questions, Comptroller General Staats has agreed to lift the prohibition on an individual agency basis if any agency can show that such action will result in a more efficient and less costly operation.

Mr. President, I submit for printing at this point in the RECORD several of the pertinent questions I posed to Comptroller General Staats along with his answers.

(The questions and answers follow:)

GOVERNMENT TRAVEL COSTS

Question: Mr. Staats, you are probably aware of my increasing concern that the Federal Government's travel budget is out of control—too many employees are traveling, very few (if any) are using discount or package fares, too many are going first class, and nowhere in the government is anyone in control of the recordkeeping auditing apparatus needed to manage this too costly, too inefficient function. I have learned—via my own efforts to get a legislative grip on the problems—that you have issued a number of reports in recent years documenting many of my concerns about the excessive waste and inefficiency in government travel. I commend you for those reports, but I think they leave a number of disturbing questions unanswered. For example, I have learned that GAO keeps in force an 1899 regulation which forbids the government to use private sector travel agents in the procurement of travel tickets. This seems startling in light of our needs for this service. I would appreciate if you will explain to the Committee the rationale for the retention of this anachronistic, costly regulation in the light of current circumstances. Also what is the statutory authority for GAO's regulation?

Answer: GAO recently took an indepth look at its prohibition on the use of commercial travel agents. The information developed was inconclusive as to whether or not a change in the prohibition is warranted. Some Government agencies stated that they would have no objection. Many of the agencies could see neither cost savings nor any other advantage in using travel agents. Some of the disadvantages were:

Increased number of Government transportation requests would result in more carrier bills, thus increasing the cost of paying carrier bills.

Increased fares would ultimately result from carriers' paying commissions to travel agents.

Involving a third party would be inherently inefficient.

Increased administrative costs would be incurred to select and monitor the large number of travel agents serving Government travelers.

Travel agents are likely to be unfamiliar with Government travel requirements and regulations.

Reservation changes, ticket cancellations, or refunds, etc., are more readily done directly through carriers.

Travel agency may not respond to special or unforeseen Government need, in certain instances.

Efficiencies associated with teleticketing machines and related automated payment procedures would be lost.

Agency administrative controls over travel would be decreased with resulting inefficiencies.

The advantages of using commercial travel include:

Travel agents could effectively service certain small groups of Government employees, in some instances.

Travel agents may be able to obtain special group and excursion fares.

Current costs of renting teleticketing equipment and purchasing official airline guides could be avoided.

The travel agent would be valuable from time to time in some circumstances, if travel agent use was at the agency's option.

After evaluating all of these factors, GAO took the position that it would not object to lifting the prohibition on an individual agency basis if any agency can show that such action will result in a more efficient and less costly operation. The lifting of the prohibition would, of course, be contingent on overcoming major problems, such as getting the airlines to allow travel agents to represent them in arranging Government travel and getting the agents to agree to a procedure whereby Government Transportation Requests would continue to be made payable only to the airlines.

The prohibition on the nonuse of travel agents is found in 52.3 of Title 4 of the Code of Federal Regulations. The statutory authority for the regulation is provided under sec. 311, 42 Stat. 25; 31 U.S.C. 52. Interpret or apply sec. 309. 49 Stat. 25; 31 U.S.C. 49 sec. 112, 64 Stat. 835; 30 U.S.C. 66, unless otherwise noted.

Question: Since deregulation of the airline industry, there has been an explosion in the variety of super-saver and other discount fares available to travelers. Yet Congressional hearings have demonstrated that the government has failed to use these fares. I wondered why, especially since cheaper fares can cut costs anywhere from 25 percent to 45 percent per flight, and I found the answer in one of your recent reports, which showed that the government ticketers lacked the training and computer facilities to book discount or package fares. Yet private travel agents routinely seek out ways of saving money for their clients through the use of these devices, at no loss of travel efficiency. Why then is GAO perpetuating a bureaucratic ticketing system which is costly and inefficient when the private sector has the personnel, expertise, and the hardware to book the cheapest fares for government travel?

Answer: This question, like the preceding one, is based on the premise that the GAO prohibition is inflexible. However, as mentioned in our response to the first question, we have taken the position that if an agency can demonstrate the potential for savings or improvements in its travel operations, and if problems like those cited above can be overcome, GAO will lift the prohibition.

Whether or not private travel agents have sufficient expertise or devices to insure application of discount fares is questionable. Many agencies go directly to the airlines which should know as much about their rates as anyone else.

Question: One of your recent reports recommended that the government begin to train its employees in ticketing and—still more to the point—embark on a costly capital-intensive program to upgrade each agency's computer facilities so that the agency could more efficiently and cheaply procure travel for that agency's employees. Why should we appropriate the taxpayer's money for an expensive program which we hope will eventually provide the government with a valuable service, when that same service is now available to the government, free of charge, from private industry?

Answer: The present method of procuring Government travel offers opportunities to achieve savings and improve efficiency in Government operations. Regardless of the degree of travel agent participation, the in-house expertise is still essential. There will always be situations and locations where travel agents cannot or will not serve. Also, there are functions they cannot assume. Therefore, such training is necessary.

Question: One aspect of governmental travel which I have found particularly distressing is that it seems out-of-control. For example, I have tried without success to find out how many government employees are traveling first class. No one knows. One wonders how can Congress properly provide appropriate funds for government travel if the government's recordkeeping and auditing apparatus is incapable of telling Congress how much is spent on first class travel. Or conversely, how much has been saved through use of discount fares? I assume the prohibition against private sector ticketing of government travel was originally—80 years ago—based on the belief that the government could better audit travel if the government booked the travel. Clearly that assumption is no longer true and hence I ask: Why cannot the U.S. Government use private sector travel agents just as U.S. corporations do? Those companies get regular computer printouts from their travel agents of who traveled where, on what flight, at what cost. Why is the government denied the savings and efficiencies of using private sector facilities, especially since it would not cost one dime extra? Why should the government maintain a manual, costly and ineffective recordkeeping apparatus (or upgrade that apparatus at substantial cost over many years), when the private sector already has a sophisticated one in place?

Answer: Government travel is unlike that of any private concern. The volume is immense and procurement disbursed worldwide. If Government travel were opened to all travel agents, the Government would be dealing with some 13,000 agents of varying sizes and capabilities. Some might have access to computers, most would not. Instead of having a single computer printout showing the desired statistics, the Government would get thousands of reports in many shapes and forms. It would not be possible to screen these manually and get any meaningful or accurate statistics in a timely manner.

Question: As I have tried to find the best way that Congress can legislate to reduce government travel costs and government travel waste, I have examined the President's budget with great care and have noticed that he recommends zero funding for the U.S. Travel Service on the grounds that the private sector performs the same function. Are not the same arguments applicable for lifting GAO's ban on private sector ticketing of government employees, especially since your agency has estimated that over $9 million is spent annually in salaries and equipment for Federal Government ticket writers who simply duplicate the services which private travel agents would provide at no cost?

Answer: The $9 million cited does not represent the cost of duplicate services. It is the cost of personnel involved in travel agent type functions. We are unable to determine what part, if any, of this could be saved if the travel functions were turned over to travel agents. Also, it would be pointed out that the use of travel agents is not necessarily without cost. More than likely the commissions paid to travel agents will be passed on by the airlines to all travelers—Government and private as well.

Question: I reviewed the hearings held last year by the House Small Business Committee on the GAO ban. The hearings indicated that the travel agent business is highly decentralized—in that sense classic small business—but it is also highly modernized. The hearings also indicated that the travel agents would like to bid on government travel but the GAO ban prevents them, making travel the only area of government activity (exception the printing of the *Congressional Record* and the *Federal Register*) from which the private sector is precluded. Is there justification for such an exception.

Answer: As mentioned earlier, GAO has taken the position that it will waive its prohibition if a Government agency can show that it is in the best interest of the Government to do so. Therefore, the private sector is actually not precluded, but merely must demonstrate some advantage.

SAVINGS POSSIBLE IN GOVERNMENT TRAVEL

Mr. SASSER. Mr. President, with the lifting of the prohibition against the use of travel agents, it appears that additional savings should accrue in the area of Government travel.

This further supports my conviction that Federal travel costs could be trimmed by $500 million.

This would have the effect of grounding 2,000 Federal employees a day and keeping them at their desks, conducting, we hope, the essential affairs of this Nation. Such a cutback might also encourage the executive branch to tighten up its travel regulations and utilize the new discount fares whenever and wherever possible.

So, Mr. President, I urge my colleagues to join as cosponsors of S. 697. It is designed to reduce by $500 million the amount that may be spent for travel and transportation of Federal employees during fiscal year 1980. I point out that this is a bipartisan effort to reduce nonessential travel expenditures. This proposed legislation is being cosponsored by Senators BAYH, LEAHY, SARBANES, PROXMIRE, DANFORTH, HUDDLESTON, LEVIN, HOLLINGS, STEWART, FORD, EXON, BOREN, HEINZ, THURMOND, COHEN, BENTSEN, BAUCUS, PERCY, BURDICK, HARRY F. BYRD, JR., DECONCINI, ROBERT C. BYRD, MORGAN, WALLOP, BUMPERS, STONE, HATCH and HEFLIN.

I urge my colleagues to join us by contacting me or the subcommittee clerk, Mr. Terrence Sauvain, at 224-7251.●

RECESS UNTIL 11 A.M. TOMORROW

The PRESIDING OFFICER (Mr. RIEGLE). The hour of 6:30 p.m. having arrived, under the previous order the Senate will stand in recess until 11 a.m. tomorrow.

Whereupon, at 6:31 p.m., the Senate took a recess until tomorrow, Tuesday, July 10, 1979, at 11 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate July 2, 1979, under authority of the order of the Senate of June 27, 1979:

NATIONAL CONSUMER COOPERATIVE BANK

The following-named persons to be members of the board of directors of the National Consumer Cooperative Bank for terms of 3 years: (New Positions)

Ronald Grzywinski, of Illinois.

Joseph L. Hansknecht, Jr., of Michigan.

Frances Levenson, of New York.

Albert Joseph McKnight, of Louisiana.

Juan J. Patlan, of Texas.

Derek N. Shearer, of California.

Roger C. Altman, Assistant Secretary of the Treasury.

Carol Tucker Foreman, Assistant Secretary of Agriculture.

Geno Charles Baroni, Assistant Secretary of Housing and Urban Development.

Sam W. Brown, Jr., Director of the ACTION Agency.

Lawrence Connell, Jr., Chairman, National Credit Union Administration Board.

Executive nominations received by the Secretary of the Senate July 5, 1979, under authority of the order of the Senate of June 27, 1979:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Jane McGrew, of Maryland, to be General Counsel of the Department of Housing and Urban Development, vice Ruth Prokop, resigned.

THE JUDICIARY

James M. Sprouse, of West Virginia, to be U.S. Circuit Judge for the Fourth Circuit, vice a new position created by Public Law 95-486, approved October 20, 1978.

Matthew J. Perry, Jr., of South Carolina, to be U.S. District Judge for the District of South Carolina, vice a new position created by Public Law 95-486, approved October 20, 1978.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be rear admiral (upper half)

Herbert R. Lippold, Jr.

To be ensigns

Paul D. Moen
David L. Kummerlowe
James M. Herkelrath
Shelia M. Barrett
Ned J. Jerabek
David C. Melita
David I. Actor
Paul E. Pegnato
Marlene Mozgala
Colin J. Shellum
Allison M. Gillery
Susan C. Carlson
Mary N. Newson
Gail K. Braten
Gary P. Bulmer
Christopher P. Hancock
Denise J. Holloman
David J. Kruth
Eric C. Stirrup
Stephen L. Carlson

EXTENSIONS OF REMARKS

THE DRAFT—WELFARE STATE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. PAUL. Mr. Speaker, the draft, one of the worst imaginable violations of individual rights, is simply an extention of the welfare state.

If the Government can take the fruits of your life, and distribute them as it wills, why cannot it take your body as well?

In reality, both violate moral principles and the Constitution.

Recently, Dr. Charles Fried, professor of law at Harvard Law School, wrote about this for Regulation, the thought-provoking magazine of the American Enterprise Institute.

Although Dr. Fried and I are not in complete agreement, I find his article to be an eloquent and compelling one, and and I would like to share it with my colleagues.

The article follows:

FAST AND LOOSE IN THE WELFARE STATE

(By Charles Fried)

Friedrich Hayek's apocalyptic forecast in The Road of Serfdom had always seemed a bit exaggerated. Yet certain ominous voices in the populist/egalitarian chorus now openly proclaim a readiness to jettison a crucial aspect of personal liberty—liberty of choice in type and place of occupation—in order to prevent the disintegration of their favorite schemes. Arguments are now being discovered to justify requiring, in peace time, that free men and women convicted of no crime spend years of their lives at jobs and in places they do not choose, under the pain of financial penalties or of an outright bar on practicing the profession for which they have trained. Some of these partisans, going totally overboard, have proposed that every young person serve a period of years doing good works at the pleasure of the government or of some delegated nonprofit agency of good works.

The entering edge of the wedge is represented by proposals to cure the perceived maldistribution of physicians, although there already are incentive programs designed to deal with this maldistribution. The National Health Manpower and Training Act of 1976 allows forgiveness of student loans and assistance in setting up practice for those settling in underserved areas. Apparently because of the extravagant financial and other rewards available in attractive urban and suburban settings, this system of incentives has proven ineffective. So schemes have been proposed whereby all but the wealthiest medical students would be forced to accept assignment for a period of years in rural or central-city practices designated by some governmental authority. Medical schools receive large quantities of federal monies to support the training of physicians; and since tuition payments (the loans to pay for these

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

are the lever of the insufficient incentives in the 1976 act) cover only a fraction of the cost of educating a medical student, the proposal is that medical students be required to pay back a major share of this subsidy, unless they agree to practice for a time in areas of governmentally designated need.

While there may be a maldistribution of doctors in our society, it is much more questionable that there is a maldistribution of lawyers. It is true that poor people have difficulties litigating their claims. But then so do middle class people. Nevertheless, there is a vocal coterie of "public interest" lawyers, judges, and law professors who believe that what the poor need, above all, is not more money but more legal services. Alan Morrison, who heads the Litigation Group for Ralph Nader's Public Citizen organization, has proposed that it be a condition of admission to the bar (that is, of being free to practice the profession for which they have been trained) that law school graduates be required to spend a one-year public service internship handling cases for those who cannot command the time and attention of lawyers on the usual basis. Morrison adds that such a system might serve the additional function of improving the general professional competence of law graduates. But he is candid enough to admit that, "first and most important," the program would make lawyers available to clients and in situations where lawyers apparently do not otherwise wish to serve in large numbers. Second, he notes that "because the internship would be mandatory, salaries could be maintained at a relatively low level. . . ." In other words, though there may be educational benefits, the motivating force behind the proposal is its ability to compel cheap labor in the service of what Ralph Nader's organization believes to be the public good.

Judge Marvin Frankel (who recently resigned his federal judgeship in the Southern District of New York to enter private practice) has found some of the same needs Morrison found and has proposed an even more radical solution. Frankel recognizes that large corporations and wealthy individuals can command the time, energy, and ingenuity of lawyers in a way that smaller businesses or ordinary persons cannot. Therefore he would simply socialize the whole legal profession. Under his proposal, prospective clients would obtain lawyers from a government agency, which would ration them out according to the urgency and merits of the client's case and reimburse them under a uniform salary schedule. Frankel is not clear whether law practice outside of this government monopoly should be forbidden, but at the least he claims there should be powerful deterrents to such legal free-booting—for instance, denial of the tax deductibility of legal fees paid to bootleg lawyers. (This last is but a detail in a scheme clearly intended to make government employment, distribution, and allocation of all lawyers the norm.)

And, finally, a wide array of public personages—senators, media pundits such as Eric Sevareid, and professional moralizers—have thought it would be a very good thing to go far beyond compelling professionals with scarce talents to serve somebody's conception of the public good. They propose that we revive the draft, generalizing it so that one's "obligation to the community" could be discharged by a period of public service. A number of Pentagon and congressional armed services personalities have been quick to jump on this bandwagon, recognizing that even the fevered imagination of reformers would be unlikely to provide a year's useful—or even supposedly useful—employment for every man and woman reaching the age of eighteen. Consequently, a fair number of these young persons would in fact enter the military, thus reducing the budgetary pressure of the present voluntary army. In this way, older citizens would get the defense establishment they desire at somebody else's expense; reformers and activists would have a huge pool of unwilling manpower at their command; and ideologues could proclaim the principle that every citizen owes not only his fair share of tax revenues but a fair measure of his person, life, and liberty—to be given in community service as defined in congressional legislation, implemented in agency regulations, and administered by the vast horde of not-for-profit public interest organizations that would surely jump on this bandwagon.

The principal point is this: in a free society a person may go where he wishes and, so long as he harms no one (a fortiori where he serves in a useful way as do doctors and lawyers), may do as he pleases with whom he pleases. It is the very essence of a tyranny for a government to assert a general power over its citizenry, directing where they shall live, what work they shall do, with whom they shall associate. If liberalism stands for nothing else it affirms that each person owns himself—whatever other property may be accorded to him—and that no one's person (at least) belongs to another, not even to every other, that is, not even to the community as a whole. These are axioms so basic, so deeply ingrained in Western society, that it is almost embarrassing to have to repeat them. Yet the quality of public debate today makes it plain that many American politicians and many more intellectuals have cut quite loose from these fundamental moorings. How has this come about?

I start with academic lawyers, because I know them best and because for generations they have rationalized what their former students have practiced in the political arena. Academic lawyers are trained to pose embarrassing questions designed to show that no principle is so fundamental, no case so clear, that a seemingly slight variation in the facts will not put it into doubt. Do I say that a free man in a free society may go where he pleases and engage in what harmless pursuit he wills? The academic lawyers respond: But what if he has not the fare in his pocket or the wherewithal to facilitate his favorite pastime? He is not free, then, is he? And do we not pay him, put money in his pocket, make him free for *social* purposes, for the good of the community? So why can we not restrict and direct his choices directly in the name of that same good?

That is how the argument goes. It starts by eliding the distinction between coercion and lack of opportunity and ends by justifying whatever coercion government proposes. So it is no surprise that someone who sees no differences between ordering another where to go and simply failing to make it possible for that person to go wherever he pleases will not long hesitate to propose solutions for social problems that involve directing people how and where to live their lives.

Now it is said that doctors and lawyers are a scarce resource—and have we not learned in the regulation of utilities and businesses affected with a public interest that scarcity is a predicate for regulation? Here again one is left almost speechless by the moral obtuseness that treats people as public utilities and cannot see the threat to liberty implicit in equating men and women with trolley lines or electric companies. To be sure there are arguments about the wisdom or morality of much regulation of business and property, but a sensible person knows when an argument or a doubt is being pushed too far. And it is just my point that those intellectuals who follow their own arguments to the point of contemplating the socialization of people have quite simply taken leave of their common sense.

Surely, it is argued, the case of the doctor is special. Not only are doctors a scarce resource, but in their case (unlike that of lawyers) a lot of public money has been spent for training, and so they owe a portion of time to the same public. Once again, rather than play the game of distinction and analogy, I ask those who use this dreadful sophism to consider its implications. Who in this society has not been trained and nurtured in part by public funds? Do we then all belong to the state? May it command the lives of any of us whenever the regime of free choice begins to seem too costly, too inconvenient, as one pursues some "moral equivalent of war" on cancer, or illiteracy, or slum housing, or billboards, or smoking, or impure air, or junk food?

Now I agree that, in the last analysis, the arguments of the academic apologists are not what will precipitate us into the slough of compulsion. It is the politicians who will do that, which means it is the forces making personal compulsion politically attractive that need to be identified. In general the forces are fueled by money and power. The resort to personal compulsion is a last resort when politicians fear that the public will not pay the cost of programs pushed on behalf of abstract principles or, more likely, on behalf of some client group.

Consider again the suggestion that every young lawyer be forced to serve for a year at less than market wages. This is after all just the most recent version of an earlier suggestion that law schools assess all students a fee for support of public interest research groups. Now it is surely no accident that those who made their reputations organizing public interest law should see in that activity a universal panamea to the society's ills. And if it appears that not enough recruits are lining up to enlist in one's crusade, one turns to coercion. But why are they not lining up? Not because there are not enough lawyers—indeed, many lawyers find it hard to obtain employment and thousands leave the practice every year or never enter it after graduating from law school. So the bodies are there, but the pay and conditions of work seem unattractive, even compared to alternatives outside the profession. Presumably, if society believed that the service the Naderites envisage were indeed essential, it could offer (from tax revenues) salaries to attract persons to it, but obviously no one believes that the public would be willing to tax itself towards this end. Thus, though Marvin Frankel is convinced that universal equal access to legal counsel is essential, the voters and taxpayers in our democracy probably are not—at least not enough to pay for it.

The political thrust for conscription of doctors is similar but its environment much more complex. Although reasonable salaries could probably attract young lawyers to any interesting, useful line of legal work, doctors seem to be able to create lucrative practices in the same overserved desirable locations almost ad lib. The reason, of course, is that doctors (far more even than lawyers) have operated for generations as a conspiracy in restraint of trade, systematically resisting institutions like pre-paid health plans, interstate licensing, consumer control of hospital and insurance boards, provision of basic services by nurses or paraprofessionals. Until recently government has been totally compliant.

Now when it is apparent that the dream of equal access cannot be achieved at anything less than staggering cost, the reflex of the health care ideologues has not been to reexamine the dream to see if anyone really wants its fulfillment enough to pay his share. Nor yet is it their reflex to break the monopoly power of the medical profession in order to allow organized groups of consumers—such as employers, labor unions, fraternal groups—to shop around for the level of care their members desire, delivered at competitive prices. No, such a strategy might show that different people really do differ in their preferences for health care (when faced with the true costs and real alternatives), and this would undermine the plausibility of arguing for one level of health care for everyone. And so while ten and twenty years ago politicians failed to work for a competitive regime in health care out of fear of the medical profession's political power, today that same failure may perhaps be traced to the threat that a free market spells to the very plausibility of egalitarian slogans.

But, financing apart, obviously any Gleichschaltung (or bringing into line) of all parts of health care provision would require massive doses of compulsion at every level. Doctors could not be allowed to set their fees. And if they cannot set their fees they cannot demand more money for working in places and at specialties that seem less desirable to them. So compulsory assignments would again be the inevitable resort of planners who can neither persuade nor pay workers to go along with their schemes. Indeed, since we are a larger, richer, more ornery nation than Great Britain (for example), I doubt that a private practice option could be kept within limits here. Patients would have to be forced to accept their medical care solely from the single national provider. Healing acts between consenting adults would have to be made illegal, unless approved by the government.

The menace is real. Egalitarian ideals, together with an understandable reluctance to pay or to ask one's supporters to pay the cost of these ideals, make the temptation to resort to conscription—to personal compulsion—almost irresistible. It starts with the doctors, goes on to the lawyers, and eventually gets to all young people so that the rest of us can have an army without really paying for it. Then perhaps we would conscript teachers, and finally we would find that everybody is so useful, or so unique, or so much affected with a public interest, that we all may be drafted into the service of the state. Which only demonstrates once again that whoever finds arguments to justify the loss of his fellow citizen's liberty is destined to lose his own.●

ENERGY AND DEFENSE: THE LEADERSHIP DELEGATION TO EUROPE, JUNE 29–JULY 7, 1979

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. CARTER. Mr. Speaker, in three European capitals of industrialized nations and allies in NATO we were able to discuss mutual concerns regarding energy supply and defense matters. While the circumstances varied among the countries there was common concern for finding a solution to energy dependence on OPEC and for maintaining a strong defense capability. Our meetings in Norway, the Federal Republic of Germany, and England were very beneficial.

The U.S. House of Representatives recently passed a significant synthetic fuels program in the Defense Production Act bill. During our visit to the Federal Republic of Germany and England those countries expressed their own intent to move even faster in the production of synthetic fuels from coal. In Germany the government indicated a stronger emphasis on its program for the liquifaction and gasification of coal. The Chairman of the National Coal Board announced on television that England was speeding up its synthetic fuel program.

In addition to candid and informative discussions on defense matters, we were able to see the "state of the art" for synthetic fuel production in Europe. In both England and Germany we toured facilities for synthetic fuels production and talked with experts.

Following is a country-by-country summary of our findings:

NORWAY

PRIME MINISTER NORDLI

We met with Prime Minister Odvar Nordli and had a free exchange on matters of defense, energy and health services in Norway. The meeting with the Prime Minister lasted longer than expected and Ambassador Lerner indicated that, in his view, the discussion was quite productive and candid, especially in the area of defense cooperation and energy supply.

The Prime Minister was very emphatic in his support of NATO and his concern for maintaining Norwegian defense capabilities. He emphasized, however, that neither the East nor the West will dictate Norwegian defense policy within its own borders. He admitted that one very key goal in Norway's defense posture was to maintain a strong defense and keep stability without increasing tensions with Russia in the Northern regions of their countries.

Another defense concern was the "two-way-street" of NATO, namely U.S. procurement of weapon systems from NATO allies such as Norway's surface-to-surface Penguin missile. The Prime Minister also stressed the need for American troops to be trained better in cold climate conditions. He urged that our troops be better equipped for such cold weather fighting and that they have proper training experience. He also acknowledged that Norway has a limited weapons production capacity but still seeks a greater part in NATO's co-production program such as the F–16 components currently being produced in Kongsberg, Norway.

Prime Minister Nordli expanded somewhat on his reported remark that Norway could serve as a bridge to OPEC. Norway finds itself in the unique position of being an industrialized oil producing state, thus having a potentially significant role with the OPEC countries. The Prime Minister felt that this role could be beneficial for oil consuming countries but seemed to view the role as a quiet informal thing outside the existing OPEC structure. The Prime Minister was very emphatic about the need to find a better way to handle contacts between OPEC and oil consumer nations in the future. If contacts are not improved, it is feared that economic pressures might seriously threaten peace. The "bridge" role for Norway is to try to use quietly its contact with OPEC to reduce a crisis situation in the world.

On energy, Prime Minister Nordli frankly urged the U.S. to raise its domestic price of energy. He stated that Norway raised its price for gasoline (which now sells for $2 30 a gallon), even though domestic Norwegian oil production is ten times greater than domestic oil consumption. Norway is also trying to cut commercial uses of energy.

Norwegians are spending about 20 to 25 percent of their gross national product each year on social health systems. While the people are basically satisfied with health care services there are problems which the government is trying to resolve. The Prime Minister suggested that they were looking at reducing the number of hospitals with highly technical and specialized services which were expensive. He hinted that there was a need for less specialized, general health care and that more out-patient services could be a way to cut costs. In sum, they needed better, less specialized and cheaper health care for the less critical illnesses.

Mr. Nordli suggested that the structure of health care services must be changed: the "how" is the question. The Prime Minister candidly admitted that Norway had a "price problem" with health care services, but no solution as yet. Health care services just consumed too much of their gross national product.

KONGSBERG VAPENFABRIKK

Our delegation traveled to Kongsberg, southwest of Oslo, to visit the Kongsberg Weapons Factory. We received a briefing on co-production within NATO by industry officials. Our visit also included a tour of the plant and assembly area for the co-production of component parts of the F-16 aircraft under the co-production program.

In addition, we were able to meet briefly with General Sverre Hamre, Chief of Norwegian Defense, other top defense ministry officials and business representatives of companies doing defense work.

FEDERAL REPUBLIC OF GERMANY

MINISTER HAUFF

We met with Dr. Volker Hauff, Minister of Research and technology. Dr. Hauff indicated that we need a global approach to the energy problem and we must collectively face the tough problems if we are to succeed. Although Germany's energy squeeze is similar to our own, there is little chance that conservation can help reduce consumption to any significant extent. Consistently high energy prices have already forced as much fuel economy as can be expected. Instead, Germany is turning to technology to increase efficiency and reduce fuel waste, especially in heat generation.

Dr. Hauff stressed that we must also face the difficult issues surrounding nuclear energy. Germany presently gets 10 per cent of its electricity generation from nuclear energy (about 3 per cent of its total energy needs). Waste disposal is a problem, but Dr. Hauff stressed that the difficult decisions must be made.

Germany has recently announced its intention to speed up its efforts on coal liquefaction and gasification, seeking to ease the energy shortage and reduced imported oil (which now represents 52 per cent of Germany's energy consumption). Synthetic fuels produced from coal is only expected to replace 2 per cent of its oil needs in the near term and will only displace about 10 to 15 per cent of fuel consumption during the 80's *if* a strong effort for synfuels is made now and continues. In current terms Germany is still in the "pilot" stage on synfuels, and is building on the technology developed during World War II.

RHEINBRAUN COAL LIQUEFACTION PLANT

We toured the coal liquefaction facility and were briefed extensively by plant officials on their coal mining and production policies and operations. Power generation represents the use of 85 per cent of the coal and the remainder is made into briquets for home heating. Liquefaction is used to produce gasolines, light and heavy oils.

DEFENSE MINISTER

We met with Defense Minister Dr. Hans

Apel, who has been mentioned as a possible successor to Chancellor Helmut Schmidt. He was most impressive in our visit. Dr. Apel was open, candid and had a keen sense for grasping the political aspects of both the defense and energy situations.

Minister Apel's comments focused on a wide range of issues, including the strength of U.S. armed forces in the Federal Republic of Germany and SALT II. With respect to SALT II, Apel pointed out that, in their estimation SALT II would not prevent the development of new weapons systems but failure to ratify SALT would have immediate ramifications for the East-West conflict. In his view the heavy flow of West Germans into East Germany is threatening the future of communism in that state. Thus the Soviet bloc might seize on rejection of SALT II to abandon détente and close its borders. This political effect, he argued, might be of greater importance to the NATO alliance than the purely military effect of the treaty itself.

LONDON

NATIONAL COAL BOARD

Our delegation met with Mr. Joe Gibson and other staff directors for a briefing on the National Coal Board (NCB) and its functions. The NCB is a public corporation created by Parliament. It operates as a private corporation, but has a virtual monopoly on coal production in England.

NCB's purpose is to coordinate coal production and to participate, along with the Ministry of Energy, in directing the efficient use of coal within England's overall energy policy. Mr. Gibson presented a short slide presentation of England's coal needs and discussed their alternative approaches for displacing crude oil with synthetic fuel from coal.

One interesting point showed the different positions of England and America. The United States faces an immediate shortage of oil and the threat of future reductions. England has North Sea oil and is expected to remain energy self-sufficient until 1988 to 1990 and has the luxury of time to experiment with pilot projects for synfuel production. The English have already initiated a rather comprehensive plan to solve their future energy needs.

The basic elements of the British energy plan include: (1) conservation, (2) coal and (3) nuclear energy. Conservation is directed toward improving the efficiency of *all* sources of energy and reducing waste. Coal is expected to provide mid-term energy by using the fluidized bed concept, and liquifaction is expected to produce energy in the long term. Nuclear energy is seen as an essential element for the future. The English are cooperating with other nations on fast breeder reactors and other aspects of nuclear energy.

NATIONAL COAL BOARD, COAL RESEARCH ESTABLISHMENT, CHELTENHAM, ENGLAND

We helicoptered to Cheltenham, about 120 miles south of London, to view the NCB research facility for coal liquifaction. Because they have time, the British are looking at two different approaches and have small demonstration units operating with both technologies. They feel they have time before deciding which technology to operate on a commercial scale. The two approaches are supercritical gas extraction (SGE) and liquid solvent extraction (LSE).

The U.S. and Britain are sharing information in this area under a specific agreement. The small experimental units allow the British to continue to try new catalysts and refine the approaches. It appears that sharing such information would be beneficial to the United States in our search for synthetic fuels from coal.●

WHALING MORATORIUM NEEDED

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. VANDER JAGT. Mr. Speaker, I would like to commend my colleagues, Representatives Les AuCoin and James Jeffords, for sponsoring legislation in the House urging an international moratorium on commercial whaling, and I would like to stress today my strong support of House Concurrent Resolution 143, urging that the International Whaling Commission (IWC) join forces and impose an indefinate moratorium on the slaughter of whales used for commercial purposes.

It is rather ironic that only last week 41 sperm whales, a significant number, beached themselves on the shores of Oregon, each to die a natural death by the weight of its own body and lack of water. There is absolutely nothing natural, though, about a 200-pound 6-foot, explosive harpon being blasted into the side of a whale sending it into thrashing, bloody agony for sometimes hours before it finally dies. Whaling is no longer the romantic, traditional production that it used to be, for modern technology has equipped the industry with such means as to make the mighty whale a helpless creature with no chance against their electronically equipped killer boats.

The plight of the magnificent whale is a sad one. Thoroughly recognized for its awesome intelligence and beauty, it is still facing dangerous threats of extinction. In less than 5 years the mature whale population has decreased almost 50 percent, with some species declining as much as 96 percent. Some stocks are so depleted that even under the present IWC quota system their replenishment is questionable. This is not to even mention the industry of "private" whaling, all of which is outside IWC jurisdiction and quotas.

If the IWC is going to uphold its conviction on the conservation and protection of whales, then it must go to more extreme measures than its present quota system. An international moratorium on commercial whaling is undoubtedly necessary, not only to make up for the killings of nonmembers, but to merely give the whale population a chance of becoming a secure species. Statistics on whale stocks are so inadequate and untrustworthy that it is hard to even estimate the present danger of some species, which is why it is essential that a ban be implemented now—before it is too late—before we have to speak of the whale as a graceful, unique mammal that once placidly swam our seas.

The economic factor involved with the whaling industry is no longer a sound argument for whaling nations. Japan and Russia, the two largest whaling nations, offer the excuse that their need for whale oil and meat justifies their exploitation. Virtually every product made from whales, though, can be made synthetically and efficiently. Can we consciously let an endangered species with potential extinction be slaughtered and sold in the form of cosmetics, shoe polish, pet food, and soap? That surely is a sad conclusion for so grand and respected a creature. And as for Japan's claim to needing whale meat for subsistence, only 1 percent of Japan's total protein intake comes from whale meat; hardly a justifiable claim against such a crucial environmental factor as the safety of a whole species.

With passage of House Concurrent Resolution 143, I sincerely hope that the voice of America will be strongly heard at the IWC meeting in July. It is high time we stop merely waiting for the last whale hunt; we must put an end to the hunt now before we put an end to the whale itself.●

DECLARATION OF INDEPENDENCE

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. FARY. Mr. Speaker, distinguished colleagues, the first Congress that met in Philadelphia in 1776 was, in many ways, similar to this body to which we have all been elected. In declaring America's independence from England, the Founding Fathers were acting as true representatives of their fellow colonists. If we read the record of their proceedings for July 4, 1776, it is obvious that the Declaration of Independence was the formal protest against the denial of their rights as citizens that all Americans of the time had experienced. The declaration lists the English king's infringements on man's God-given, human rights. Jefferson wrote that "Governments are instituted among men" to secure the rights to "Life, Liberty, and the pursuit of Happiness." Let us reflect on these often repeated words and ask ourselves: Does this branch of our Government work to guarantee those rights?

A few days ago, we took a positive step toward guaranteeing the right to life by voting to leave intact the language of the Hyde amendment to the Labor/HEW appropriations. Despite this great step forward, we have not kept faith with the Founding Fathers. Not everyone is guaranteed the right to life that they held to be "self-evident." Can we truly believe that we are carrying on in the spirit of the declaration as long as there are preborn children in this country who are denied their "inalienable" right to stay alive? Can we honestly claim to believe that, along with life, liberty, and the pursuit of happiness are each man's birthright unless we actively advocate human rights for all people? Surely, our consciences cannot allow us to reread this Declaration of Independence without feeling that all human beings should have these rights and that the preborn, political prisoners, and all oppressed and captive peoples are, to some extent, our responsibility.

At this point, I would like to insert the text of the Journal of the Proceedings of the Continental Congress for July 4, 1776, so that we can reflect on how best to live up to these ideals:

Thursday, July 4, 1776

Resolved, That an application be made to the committee of safety of Pennsylvania for a supply of flints for the troops at New York; and that the colony of Maryland and Delaware be requested to embody their militia for the flying camp, with all expedition, and to march them, without delay, to the city of Philadelphia.

JOURNALS OF CONGRESS

Agreeable to the order of the day, the Congress resolved itself into a committee of the whole, to take into their farther consideration, the declaration—and, after some time—the president resumed the chair. Mr. (Benjamin) Harrison reported, that the committee of the whole Congress have agreed to a Declaration, which he delivered in.

The Declaration being again read, was agreed to as follows:

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA

When, in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the Powers of the earth, the separate and equal station to which the Laws of Nature and Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. That, to secure these rights, Governments are instituted among Men, deriving their just Powers from the consent of the governed. That, whenever any form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such Principles, and organizing its Powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established would not be changed for light and transient causes; and, accordingly, all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same Object, evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future Security. Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of People, unless those People would relinquish the right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole Purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the People.

Resolved, That the Board of War be empowered to employ such a number of persons, as they shall find necessary, to manufacture flints for the continent; and, for this purpose, to apply to the respective assemblies, conventions and councils, or committees of safety of the United American States, or committees of Inspection of the counties and towns thereunto belonging, for the names and places of abode of persons skilled in the manufactory aforesaid, and of the places, in their respective states, where the best flint stones are to be obtained, with samples of the same.

Resolved, That Dr. (Benjamin) Franklin, Mr. (John) Adams and Mr. (Thomas) Jefferson, be a committee, to bring in a device for a seal for the United States of America.

Resolved, That the Secret Committee be instructed to sell 25 lb. of powder to John Garrison, of North Carolina.

Adjourned to 9 o'Clock to Morrow.●

BARREL FOR BUSHEL

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. D'AMOURS. Mr. Speaker I would like to share with my colleagues an excellent article written by Dan Morgan, author of "Merchants of Grain," which explores important similarities in the international oil and grain markets.

This article makes a convincing case that the United States does have a bargaining lever to use against OPEC—if it has the will to use it.

I believe we do have that will, that rural and urban America can work together toward a goal that will benefit both. Consequently, I have cosponsored legislation with my colleague Representative JIM WEAVER of Oregon to implement the "Barrel for Bushel" concept.

The House Agriculture Committee has already begun hearings on this important bill, H.R. 4237, and I hope my colleagues will make this priority legislation for the 96th Congress.

The article follows:

Using U.S. Wheat Against OPEC: Not as Farfetched as You Think

(By Dan Morgan)

American farmers are sticking a defiant message on the bumpers of their pickup trucks these days: "Cheaper Crude or No More Food."

The farmers believe the United States could force the Organization of Petroleum Exporting Countries to brake its price increases by denying U.S. grain to the oil cartel. Members of the militant American Agricultural Movement would settle for merely raising wheat prices in step with the oil price increases ordained by the cartel.

"A bushel for a barrel" sounds lighthearted, and government officials tend to dismiss the crusaders as misguided rural xenophobes. It woudn't work, the administration argues. Besides, isn't it faintly immoral to tinker with the world's food supply in such a hardhearted manner?

But the bumper stickers are not all that farfetched. If one examines the world grain market today, its future and its potential for America, there are extraordinary similarities with the world oil market. If U.S. policymarket today, its future and its potential "hard ball" with the grain-importing countries, particularly the oil nations of OPEC, the squeeze might produce dividends for us. At least the idea deserves more serious consideration than Washington has given it.

U.S. ECONOMIC LEVERAGE

This would require an important political decision—one Americans generally have abhorred except in emergencies. The government would have to create a national grain-trading board, one empowered to set a national price on our wheat and prepared to make other countries pay our price or do without. Is this time of soaring oil prices, of rampant inflation and threatened recession, a national emergency? Does it justify a counter-cartel? The militant farmers think so.

The potential for U.S. leverage on world grain prices is supported by the statistics in a recent study by the respected International Wheat Council in London. Its surprising conclusion is that OPEC's wheat imports are growing faster than those of any other groups of nations. They reached almost 10 million tons in 1970. This is 14 percent of the entire world wheat trade.

Many nations, including several OPEC countries, grow and export wheat. But only a handful export on a scale of 10 million tons. The clear implication is that, with regard to OPEC's wheat needs, the two criteria for U.S. economic leverage exist:

Doing without grain imports, though possible, would be economically disruptive and possibly politically destablizing.

Only the United States and Canada can guarantee a continuing supply of wheat of that magnitude. The United States, moreover, is in the peculiar position this summer of being the only country that can fill new wheat orders. It already supplies OPEC with more than half of its 10 million tons a year.

The dependency of OPEC countries is dramatically evident in the case of Iran, the oil exporter whose temporary shutdown caused so many problems. During Iran's revolutionary spring, the oil stopped going out—but U.S. grain kept going in there.

Agriculture Department officials say Iran purchased more than a million tons of white (Pacific Northwest) wheat in the year ended June 30, and already has booked orders for 115,000 tons this year. (This is about in line with previous years.) Iran also bought more than 300,000 tons of U.S. rice last year. Its total grain imports have been running close to 3 million tons—an amount that gives Iran a margin of protection against food inflation.

This dependency on U.S. food was vigorously promoted by the grain trade and by the U.S. Agriculture Department's "market development" team in the 1960s. They used the Food for Peace program and other incentives to convert Iran to the American diet of grain-fed meat and poultry. Iran became a U.S. agricultural client state, and even after the revolution its need for foreign grain is a reality that its new rulers must take into account.

Given the fact that U.S. food is feeding Iranians the ayatollah's rantings against the United States seem particularly ungracious. A counter-squeeze using U.S. food might show us what the ayatollah is really made of.

Contrary to the popular image, OPEC is

not a collection of desert nations with only a handful of people to feed. OPEC's 13 members include the world's fifth most populous country (Indonesia), the largest in Africa (Nigeria), and a populous tropical nation whose climate is not well suited to growing wheat (Venezuela).

Wheat, eaten as bread or couscous, is a staple in Algeria, Libya, Iran, Iraq, and Saudi Arabia. But only three OPEC countries—Algeria, Iran and Iraq—grow wheat on a large scale, and none is self-sufficient except when their crops are unusually bountiful.

Indonesia and Nigeria are rice-eating nations, but both rely heavily on imports—not only of rice but also of wheat—to supplement the fool available in the commercial marketing systems on which their huge urban populations depend.

Population in OPEC is rising at 2.8 percent a year, about the average for all developing countries, and the populations of several countries have been swollen by immigration of foreign workers who need to be fed. Kuwait's population, for example, is growing 6 percent a year.

Oil revenues have given OPEC countries the means to import more food. This in turn has led to a rapid rise in per capita wheat consumption, from 40 kilograms at the start of the decade to 55 kilograms now.

But perhaps the major factor behind OPEC's rising consumption is that imported grain has been a bargain—particularly since it is being purchased with dollars that have been sharply devalued by inflation.

Artificially cheap oil in the postwar era made "petroleum junkies" out of the industrial countries. They postponed adopting energy conservation policies and thereby created the conditions for their present reliance on OPEC.

Now the OPEC nations are following a similar pattern in terms of our grain trade. Foreign nations have gone on a food-buying binge; demand for imports is still increasing, and OPEC is no exception. There are a variety of reasons for this phenomenon—population growth, prosperity, the increasing popularity of bread and poultry in countries that once ate rice and potatoes.

It is an irreversible trend. Virtually all experts acknowledge that through food self-sufficiency was a realizable goal for many nations in the 1920s and 1930s, it no longer is today. Dependence on U.S. food is permanent. That is why nations such as Saudi Arabia have built new flour mills. Wheat for those mills, like oil for East Coast oil refineries, will have to come from abroad.

Since 1970, wheat prices have tripled, but oil prices have increased nearly ninefold. In 1970, a bushel of wheat was selling for $1.45 at the Gulf of Mexico, compared with about $1.70 for a barrel of Saudi Arabian crude oil. This spring—before the latest OPEC price increases—wheat was just over $4 a bushel, while oil was at $14.50 a barrel.

It is true, of course, that wheat, unlike oil, is a renewable resource, grown year after year. But it takes oil to produce food, so there is a direct connection.

More than most other businessmen, American farmers are sensitive to the intimate economic relationship between oil and grain. Farmers use a prodigious amount of energy in growing and marketing their crops. It takes natural gas to operate irrigation pumps, dry grain and produce the anhydrous ammonia for fertilizer. It also takes oil to produce diesel fuel for tractors and combines and to make the herbicides and pesticides sprayed onto crops. So it is not surprising that the slogan "a bushel of grain for a barrel of oil" emanates from rural America.

The same countries that have been raising oil prices have been getting a bargain—an American subsidy, some might call it—on the grain produced, processed and transported with that oil. In effect, the United States exports energy back to OPEC in the form of wheat, corn. rise and vegetable oil. So the "cheaper cruders" argue that it is equitable for OPEC to offer its food suppliers, including the United States, a lower price on oil, or a higher price for the grain.

Up to now, Carter administration officials have maintained that if we tied grain prices to oil prices, customers abroad would buy less, would produce more food of their own or would turn to other grain suppliers. But these arguments are debatable.

PATTERNS IN OIL AND GRAIN

The world is not running out of food. But the record of the past five years shows that increasing food production abroad is far more difficult to achieve than expected.

World grain and oil production are comparable in that the period of "easy" advances in grain output, brought about by hybrid seeds, irrigation and use of new farmland, is over. Just as in oil, future increases in food production will be harder to achieve and more costly—in part because the energy ingredient has become so costly. Opening new breadbaskets, like making new oil finds, is turning out to be tough.

The Soviet Union has poured vast sums of money into new wheat lands since the late 1950s, but this year it is still importing 15 million tons of grain from the United States alone.

Brazil has failed to emerge as the agricultural Garden of Eden some believed it would become. It imported 4 million tons of U.S. wheat last year. The soil of its tropical forests is not well suited to growing food grains. As its oil and food import bill rises, moreover, pressures remain strong to devote available farmlands to export crops such as coffee.

Agriculture has not had a good decade in the OPEC countries either. Food production hasn't kept pace with population growth, and a grandiose scheme of Arab rulers to create a breadbasket in the Sudan—a scheme that underscores the Arabs' sense of vulnerability on the food issue—has yet to produco results.

For these countries, food conservation is no more palatable an alternative than oil conservation is in the West. It is one thing to slaughter poultry and livestock to conserve feedgrains, as Iran has been doing. But it is another thing to reduce consumption of foodgrains for humans.

World wheat consumption, like that of OPEC, is on a steadily rising plane—350 million tons in 1975; 379 million tons in 1976; 395 million tons in 1977; 416 million tons in 1978, and an estimated 431 million tons this year.

World wheat imports have stayed strikingly constant in this period, varying only a few million tons on either side of 70 million tons. And the last three years have seen excellent crops worldwide, a pattern that is not holding this year.

Dozens of countries grow wheat. But only five—the United States, Canada, Australia, France and Argentina—cover the bulk of the world's wheat trade. Two of them, Canada and the United States, provided two-thirds of it, and today these two countries are holding most of the surplus wheat stocks.

In the next few months, only the United States will be able to fill new orders for wheat. Crops in Australia and Argentina already are committed to customers. France's wheat crop has suffered from a severe winter, and Canadian shipments have been snarled by transportation problems and a West Coast dock strike. That is exactly why grain prices are now rising so rapidly here. It is a seller's market.

DO WE WANT TO TAKE THE WHEEL?

All of these facts put the United States in the driver's seat—if it wants to take the wheel. The transition period would involve the same kind of political trauma and dislocations that occurred among OPEC nations as they struggled in the early 1970s to take control of their own asset, petroleum. Those difficulties and the uncertainty of political anger around the world—not the question of feasibility—may be the real reasons why U.S. officials are so cool to the slogans.

The structure of the world grain trade today resembles the way world oil looked in the 1960s—before the cartel gained its maturity. That was a time when oil prices were low, when oil exporting countries were disunited, and when a handful of huge multination companies organized the marketing and allocation of the surpluses. This is a rough approximation of the situation prevailing today in the global grain markets.

One clear indication that wheat prices are too "low" is that Japan, the European Common Market, the Philippines and other countries all levy stiff import taxes on U.S. wheat to protect their own farmers. Food authorites in Japan currently purchase wheat at this country's gateway ports for $4.50 a bushel and resell it to Japanese millers for twice that. The Japanese millers are not buying less wheat.

But the handful of countries that produce major wheat surpluses have shown little inclination to unite in a cartel to capture more wheat revenues for the producers. In fact, the United States and Canada have waged price-cutting wars over the past 15 years whenever unsold surpluses have accumulated.

The two countries also have taken different approaches to grain production in the last two years—ones that mirror different approaches of several OPEC nations to oil production.

The United States, like Libya, has attempted to limit output in order to increase prices; farmers have received incentives to idle their wheat lands. Canada, on the other hand, has applied the Saudi policy of continuing to go all out; Canada's wheat planners have refused to order a cutback.

Officials of leading wheat exporting countries (except France) met in Winnipeg recently but took no steps toward forming a cartel or fixing a price floor. Fortunately for grain farmers, prices are now rising rapidly.

The idea of a cartel fixing grain prices for the world horrifies those who are concerned about poorer nations. Yet it could be argued that a stiff increase in grain prices is just what those countries need to force their rulers to devote adequate resources to agriculture, farmers and land reform. By controlling exports, the government would also be in a position to soften the impact of what is happening now—a sharp run-up in grain prices due to strong foreign demand.

THE ROLE OF THE MULTINATIONALS

There is, however, one large "but." Before OPEC could work its will on its industrial customers, the OPEC governments had to supplant the multinational companies that controlled the oil upstream in the Persian Gulf.

Canadian wheat is marketed through a quasi-governmental agency, the Wheat Board. But multinationals still control the system in the United States—the source of half of all grain and soybeans moving into world markets. The government is involved in agriculture through farm programs, but not in the marketing system.

Dominating the system in the United States are a handful of companies that resemble the oil giants in their control of communications systems, marketing channels, river barges, grain hopper cars, storage depots, processing plants and financial facilities.

It is a highly complex system. U.S. grain regions are a mosaic of thousands of farms producing many different crops, from wheat to birdseed, each with specialized markets at home and abroad. For the government to take charge of the pricing and marketing of the grain would disrupt the system and do damage, the multinationals say.

Just as oil multinationals fought the takeover of Persian Gulf oil fields, grain companies now are strongly resisting creation of a U.S. grain board—a proposal contained in legislation submitted this year by Democratic Rep. Jim Weaver of Oregon and supported by 53 co-sponsors.

Weaver's plan calls for a board, under the Commodity Credit Corporation, to sell, barter or approve the sale of grain abroad. The grain companies would continue to make deals with their customers and to drum up business—but only at a price approved in Washington. Inherent in this is the government's ability to fix the price of all grain to foreign buyers.

The idea is not unprecedented. The government controlled the grain trade in both world wars. It required licensing of grain sales to communist countries until 1971, and it embargoed soybean exports in 1973.

Nationalization of the grain trade would be a drastic step. But then, say the farmers who carry the banner for "cheaper crude," this is no time for the faint-hearted.●

COMMONSENSE ABOUT THE GAS SHORTAGE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. PAUL. Mr. Speaker, I was gratified to see that last week the Department of Energy concluded that gas lines waste time and gas. Certainly any 6-year-old child could have told them that, but it is reassuring to know that the Department is on top of things.

It would be too much to expect them to understand the following article, I guess, so I am placing it in the RECORD rather than sending it to the DOE in the hope that some Members of Congress might be able to grasp what Mr. Keeler is talking about. It is astounding that this Government has the arrogance to presume to control the economy while it does not even know elementary economics. The arrogance of the ignorant is greatly to be feared, for if unchecked it will destroy not only our economy, but that of the whole world.

The article follows:

COMMONSENSE ABOUT THE GAS SHORTAGE

(By Davis E. Keeler)

As you sit in the gas line you have plenty of time to read about the latest government reports on the oil problem. I believe we already know enough, without reading government reports or industry press releases, to understand why we are having an oil shortage. We don't have to look into the black hearts of oil company executives. The important facts have never been in dispute. You already know them.

They involve the simple economic fundamentals of supply, demand and price.

SUPPLY

The petroleum industry has been subject to numerous government policies which have discouraged oil production. To name just a few:

"Old oil," i.e., oil from producing fields, has been controlled at a very low price. This is intended to encourage companies to find "new oil" for which they can charge more, but it also discourages development and production from "old" fields.

The oil depletion allowance, a tax break to encourage oil production, has been greatly reduced. People considered it a "loophole."

Environmental concern has restricted oil development. A few of the better known examples of projects delayed, restricted or abandoned include off shore oil development, the Alaska pipeline, and various terminal and refinery facilities. It may have been environmentally wise to restrict this development, but we must be willing to pay the price. Waiting in line for gas is part of that price.

The government's delay in deciding to require the catalytic converter caused industry to delay refinery construction as they didn't know what kind of fuel they would have to produce. The converter design finally approved requires unleaded gasoline, which requires about 10 percent more crude oil to make.

The Department of Energy has required oil companies to divert petroleum to produce fuel oil for the northeast. This fuel oil is being stockpiled in case they have another winter as bad as last year. This was a political decision which, like the environmental and safety decisions, entails both visible and hidden costs. Interestingly enough, waiting in line is considered a hidden cost.

Department of Energy allocations have been inadequate, especially in the Bay area. But then government allocations are always too much or too little. There is an old story that if the government made shoes there would be only two sizes—too large and too small. In socialist countries where governments do make shoes it is indeed an old story.

Despite reports of outrageous profits, oil company returns on capital have been slightly less than for manufacturing industry at large. This explains why the President and congressmen have talked about requiring oil companies to reinvest their profits in the oil industry. Firms don't usually try to get out of a business where they are making outrageous profits. Last year the total profits of all the major oil companies were less than the budget of the Department of Energy.

The hostile political climate which oil companies face in the United States makes investment in oil production less desirable Political risk is a cost of business. Every time a politician denounces the oil industry he raises the cost of bringing us oil. You are paying some of that cost right now.

DEMAND

There are a great many factors which have caused demand to increase, not all of them obvious. Some of these include:

Environmental and safety devices required by state and federal governments have increased gas consumption. Since they are required by law, we have no choice but to buy them. These may be very desirable, but they have to be paid for.

Restrictions on nuclear power have caused utilities to consume more oil.

Environmental restrictions on coal-fired generators and strip mining have prevented substitution of coal for oil in power generating.

The federal government itself has been buying oil to stockpile by pumping it into Louisiana salt domes. They presently have about 87 million barrels in the ground. At current rates of consumption this would cover our present storage for about six months. Because the government was not expecting the shortage to occur this soon, they have no facilities for getting the oil back out of the ground.

There are also a number of other government policies which have increased the demand for petroleum. While these are indirect, their long term effects are clear:

Zoning and land use controls have inhibited apartment buildings and intensive land use, particularly in California. Because mass transit depends on concentrations of population, we have been forced to rely on the private car for personal transportation.

The interstate highway system has made long distance auto travel, including regular long term commuting to work, a desirable alternative.

Because the government has kept gasoline prices down (see below) we have been encouraged to adopt lifestyles which consume a great deal more energy than we would if it were more expensive.

PRICE

The central fact about the gasoline market is that prices are controlled by the federal government. The price which the producer charges the refiner and the refiner's price to the dealer are calculated by formulas of astounding complexity such that integrated oil companies probably do not really know if they are obeying the law or not. The dealer's price to the consumer is based on a markup of so-many cents a gallon over the refiner's price. The markup formula of the dealer's sale price is simpler but, being a fixed amount, it means that his profit margin declines as his wholesale price increases. This is one of the reasons why dealers are unhappy despite rising prices.

The existence of price controls provides the context to understand why we have gas lines.

While the supply and demand factors we have mentioned have shaped the market of gasoline, all of them together would not have created the shortage and gas lines we have today. (And neither would OPEC, the troubles in Iran, etc. . . .) This is because shortages are not caused by decreased supplies or increased demand. Shortages are not the result of physical scarcity. Shortages are a price phenomenon.

Shortages cannot be caused by evil merchants or crafty Arabs. Shortages are caused only by price controls. When supplies are reduced prices will normally go up, attracting more supplies into the market and causing some consumers to buy less, so that the price will settle to a point that there is enough for everyone who wishes to buy.

There is a "shortage" of everything below the market price. There is an "oversupply" of everything above the market price. There is a shortage of gas at below the free market price. There always has been and always will be.

Some years ago, the economist Frank Knight remarked, "If educated people can't or won't see that fixing a price below the market level inevitably creates a 'shortage' it is hard to believe in the usefulness of telling them anything whatever in this field of discourse."

All of this political meddling could have been absorbed by the market without our present distress, had the government allowed supply and demand to be adjusted by the natural workings of the price mechanism. But, unfortunately, the government's refusal to let the price mechanism serve its conservation function of reducing consumption has encouraged wasteful fuel use. The market has not failed, it has not been allowed to function.

So, as you sit in the gas line, remember: You are suffering through a shortage, not because you have been bad and used too much gas, not because the Arabs are greedy, not because of some elaborate fraud perpetrated by the oil companies, but simply because of government price controls.

But how do we know the oil companies aren't engineering all this? How do we know they aren't holding back?

But why should they hold back? They can't get higher prices by holding back, because their prices are controlled by the government. If they want higher prices they can send their lobbyists around to have a three-martini lunch with the right bureaucrats and settle matters quietly and discreetly. This is much easier and much safer politically than risking the wrath of all the motorists in America by fomenting a gasoline shortage.

If supply and demand controlled prices, then that might sound plausible, but prices are controlled by Washington. The charge doesn't make sense economically or politically.

As an aside, holding back goods to drive up prices doesn't really work in a free market anyway. The Rockefellers and others tried it a long time ago and failed. As prices rise, new suppliers enter the market to cash in and prices are driven back down. Free markets work because people are greedy, not because they are public spirited.

By controlling prices the government has kept us in the dark about the oil situation. We can see newspaper reports or TV stories about millions of barrels but this doesn't mean anything to those of us who aren't familiar with the oil business. But the price at the pumps tells us in a single figure what we need to know about the thousands of factors bearing on the world-wide oil industry. When those prices are controlled we don't get that information and are in the dark about whether oil is plentiful or scarce and have to rely on government or industry claims about what's going on. Price control is like censorship: it keeps us from knowing what's happening in our economy.

What would the price be if we got the government out of the gasoline business? It could be higher or lower; when you look at the extent of its involvement (and the ones I mentioned above are just some of them) there's really no way to tell. At this time the Shortstop stations in California are selling (thanks to a loophole in DOE regulations) gas at $1.09 and have few takers, so that might be an upper limit for the time being.

But whatever the price the important thing would be that it was the result of our own free decisions to buy or not buy, drive or bike, save or spend—our actions and the millions of others like us, each knowing our own particular needs and values. It's freedom that's important, and I resent being forced to sit in a gas line while politicians pretend to solve a problem they created themselves.●

CALLING ON U.N. TO AID "BOAT PEOPLE"

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. LAGOMARSINO. Mr. Speaker, the horrifying extortion and expulsion of Vietnamese are unparalleled in recent history, with the exception of the infamous concentration camps of Nazi Germany.

The following William Randolph Hearst editorial emphasizes strong need for a positive U.N. response to the tragic victims of the totalitarian Vietnamese Government. I am encouraged by the President's decision to expand the quotas for incoming refugees, and certainly hope that this Congress will act to support the refugees. We have a special relationship with our Vietnamese friends who are fleeing their own country, and should not hesitate to do what we can.

The editorial follows:

CALLING ON U.N. TO AID "BOAT PEOPLE"

(By William Randolph Hearst, Jr.)

NEW YORK.—What is happening to the refugees from communist terror and tyranny in Southeast Asia is the most appalling crime against humanity since Hitler's persecution of the Jews in Nazi Germany.

Thousands of starving men, women and children are afloat in small, unseaworthy boats in the South China Sea and the Gulf of Siam. They have fled or been forced out of Vietnam, whose calloused leaders in Hanoi care not for the value of human life, do not know the meaning of human dignity, and do not acknowledge or accept the doctrine of human rights.

Many have drowned, many have died of starvation and disease. Many more are doomed to die unless action is taken quickly to save them.

At least 500 of these Vietnamese "boat people" who attempted to land in Malaysia last week were forced at gunpoint back to sea—and probable death for many of them. Deputy Prime Minister Mahathir Mohammad warned that "if they try sinking the boats, they won't be rescued." Although threats to shoot those who came ashore were later repudiated by the Malaysian government, this indicates the mood of a country where 74,000 of these poor souls have taken refuge.

The tragedy is neither momentary nor minimal. Faced with deportation from their homes to virtual slave camps in rural areas, they have been fleeing the country at the rate of 60,000 a month. That's about 700,000 a year, a figure most of us shudder to imagine.

Reports have reached the State Department that the number of deaths from drowning or lack of food or medicine may be as high as 50 percent. Although officials are not ready to confirm or deny that figure, they have no doubt the tragic total is in the realm of tens of thousands.

It's as miserable for those on land as those at sea. About 40,000 Cambodian families who fled the Vietnamese communist conquerors of Cambodia were forced by authorities in Thailand to return to their homeland. Another 40,000 may be sent back, but they won't find much of a homeland left. Because many were soldiers of the Khmer Rouge army that fought Vietnamese invaders, they face almost certain death.

Kingsbury Smith, national editor for *The Hearst Newspapers,* tells me the State Department estimates there are 350,000 refugees in temporary camps in Thailand, Malaysia and Indonesia. These are Vietnamese, Cambodians and Laotians who have either escaped or been forcibly expelled, often at gunpoint, from their homelands.

The brutality seems to have no bounds. The Vietnamese communist regime in Hanoi is trying to get rid of more than a million ethnic Chinese whose ancestors have lived in Vietnam for generations.

Many of them are shopkeepers and small business people, such as those clustered along the streets and in the countryside of Cholon, outside of what was once the free city of Saigon but is now a political extension of Hanoi called Ho Chi Minh City. They represent free enterprise, the capitalistic system that Vietnam's new rulers have crushed.

Some can get their freedom if they will submit to extortion. Many are being forced to pay bribes equivalent to $3,000 a head if they want to be allowed to escape.

A question I would like to raise is: What is the United Nations doing about these victims of communist barbarism?

Where are the resolutions condemning Vietnam for violating the human rights of its own people? Where are the Security Council demands for sanctions, or does the U.N. operate under a double standard and impose such punishment only on more democratic nations like Rhodesia?

It's high time the United States and other Western powers in the United Nations moved more swiftly to rescue the homeless victims of Vietnamese communist cruelty. There are many missions of mercy in which United Nations leadership should be engaged, but I would like to suggest just a few of the more urgent ones:

Call on all members of the United Nations to provide permanent settlement places for a reasonable number of Indochinese refugees. The bigger countries, and those with sparsely populated areas, could take the largest numbers.

Organize a United Nations mercy fleet to patrol the open seas of Southeast Asia. The ships could rescue those forlorn "boat people" and take them to temporary havens pending resettlement.

Appeal to the conscience of evey country that belongs to the United Nations, and ask them all to contribute to a fund to finance the rescue and resettlement efforts. Then none could plead poverty as an excuse.

These moves would be just for starters, and their goals could not be achieved overnight. But just bringing them in the forum of the United Nations could remind the world of the dimensions of this disaster, a disaster that could be labeled one of the greatest of the 20th century.

While pointing to what has not been done and should be done, I do not wish to overlook some encouraging progress that is being made. For instance:

Britain's Prime Minister Margaret Thatcher, to her great credit, has issued a call for an international conference on the refugee problem.

Washington leaders have decided to join Great Britain, perhaps in asking the U.N. Security Council to pressure Vietnam to stop treating its ethnic Chinese as if they were unwanted aliens.

Kurt Waldheim, secretary general of the United Nations, a humanitarian highly sympathetic to the refugees, is actively seeking advice from many governments to see what further help can be forthcoming. He is in favor of the international conference mentioned above.

A proposal is making the rounds in Washington urging an increase in the number of refugees accepted in the United States from 7,000 to 14,000 a month. I might add that the 230,000 refugees in this country have proved themselves to be highly intelligent, industrious people. About 90 percent of these Vietnamese have found jobs, and few are on welfare.

President Carter will have an opportunity at the Asian summit conference in Tokyo next week to talk about the plight of the "boat people" with countries closest to it.

Secretary of State Cyrus Vance will go from that conference to a meeting of the Association of South East Asian Nations and has the refugee question on his agenda.

These events provide the Carter administration with some real opportunities for dramatic international leadership in applying the president's human rights doctrine to help save the victims of Hanoi's Vietnam. If this opportunity is not grasped, and soon, not only by the United States but by human and humane leaders in all nations, the pain and death of those 700,000 refugees a year will continue, and this unprecedented tidal wave of human misery will flow criminally on.

Let us see who really stands for humanitarianism.●

THE MYTHOLOGY OF ENERGY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. PAUL. Mr. Speaker, I would like to call the attention of my colleagues to an article that appeared in the July 1979 issue of the Freeman magazine. Written by Yale Brozen, "The Mythology of Energy" is a concise and accurate analysis of our present energy crisis and its causes. Dr. Brozen, who is professor of business economics at the University of Chicago, dissects seven myths that are being used in an attempt "to sell Americans on ceding more of their freedom to the central government." These myths, he writes, are "blatant falsehoods" and "almost as crude and just as untruthful as (the propaganda) used by the Allies in World War I."

The article follows:

THE MYTHOLOGY OF ENERGY

(By Yale Brozen)

The war against the automobile and against private enterprise continues. This time, it appears in the guise of a quest for a reduced international payments imbalance and freedom from coercion by the Organization of Petroleum Exporting Countries. Propaganda almost as crude and just as untruthful as that used by the Allies in World War I is the major instrument in the current MEOW (Moral Equivalent of War) campaign for expansion of taxation and government power.

The campaign uses several myths in its attempt to sell Americans on ceding more of their freedom to the central government. Here is a list of the more blatant falsehoods accepted and propagated by the opinion manufacturing establishment.

1. The world will run out of oil in the 1980s.

2. The severe international payments imbalance is caused by the high usage and high price of imported oil.

3. An oil-rooted adverse payments balance is causing the dollar to depreciate, causing import prices in dollars to rise and, as a consequence, causing inflation.

4. We are vulnerable to an oil embargo by the Mid-East countries.

5. The gasoline shortages and long lines at filling stations in late 1973-early 1974 were caused by the oil embargo in effect at that time.

6. We must reduce our vulnerability to an embargo by accumulating a one-billion-barrel stockpile of oil and by cutting energy usage.

7. The government must plough billions into government-directed energy research to save us from ourselves and from foreign powers.

One myth propagated up to the beginning of this year is no longer on the list because it has become so obviously false. It was argued that the shortage of natural gas could not be cured by price incentives and that price ceilings should be retained since the only effect of lifting the ceilings would be a "rip-off" of consumers. Nevertheless, price ceilings were raised by Congressional action (without a windfall profits tax on gas producers). The administration is now embarrassed by a surplus of natural gas. It is urging industry to use *more* natural gas

Another discarded myth is that the coal and coal transportation industries would need special governmental assistance to meet our energy needs. This, too, has been rebutted by experience since coal price ceilings expired in 1974 (with no windfall profits tax on the coal industry). A coal surplus developed following the expiration of price ceilings. The coal industry is now crying for ploughing more tax revenues into research on liquification and gasification of coal.

MYTH NUMBER ONE

Let us take the myths still prevalent and examine each. Myth number one is that the world will run out of oil in the 1980s. Actually, it is unlikely that we will run out of oil by the 2080s. There is, in the free world today, a 36-year supply of proven reserves already staked out and producible at today's prices.

The number of years' supply of proven reserves is at the highest level in the history of the statistic. Traditionally, proven reserves have ranged from fifteen to thirty years at contemporaneous rates of oil use. Moreover, the statistic is only indirectly related to the actual amount of oil existing underground in the world, and even the direction of the relationship is unclear, because exhaustion of prospects produces a rise in price, and hence makes previously worthless reserves worth "proving."

How much more oil remains to be discovered that is producible at today's prices is unknown. Geologists' estimates range from a low of a twenty-year additional supply to a high of fifty years.[1]

Taking the lowest estimate, today's real prices need not change for the coming half century to induce a supply of petroleum sufficient to meet all demands. At prices 50 percent higher than today, producible reserves in sight more than double. It would become worthwhile to use the enormous shale oil deposits in Colorado, Utah, and Wyoming. Of the 1.87 trillion barrels of oil in shale, 600 billion are recoverable at the higher price. That is enough to supply us for another 100 years.

There are also staggering reserves available in the Canadian Athabasca tar sands and the Missouri, Kansas and Oklahoma tar sands which would become economically workable at the higher price.

In addition, secondary and tertiary recovery of the oil left behind in oil pools already worked could more than double known and proved reserves. Generally only one-third of the oil in a pool is recovered. The other two-thirds is left in the ground because it is too costly to be worth recovering at today's prices. A rise in price would make a portion of the left-behind oil recoverable. At a higher price, we could produce as much oil in the future from the already known and abandoned fields as the total amount produced in the world's history to date.

MYTHS NUMBER TWO AND THREE

President Carter has urged the passage of a stand-by gasoline rationing program and Congress has passed mandatory automobile mileage performance standards on the ground that we must slow imports of oil to cure our adverse balance of payments and stop the decline of the dollar. If auto energy use standards do anything to the balance of payments, it will worsen it, not improve it.

If oil imports cause an adverse balance of payments or if the great increase in crude oil prices in 1974 were a cause of an adverse balance of payments, then Germany and Japan should be in much deeper trouble than we. They import all of their crude oil while we import less than half. They import all of their natural gas while we import only a small fraction. Yet their balance of payments is positive. While the dollar declined, the mark and the yen appreciated. The cause of the payments imbalance and the decline of the dollar is the string of unprecedented peacetime federal deficits since 1973.

The net results of the mandatory downsizing of the auto fleet to reduce oil imports will be more rather than less imports. An enormous capital outlay is required to do the downsizing job and to retool to produce the new models. Estimates of the cost, in addition to the usual model change costs, exceed $30 billion. That capital could save more energy if it were left available to invest in dry process kilns for producing phosphates and cement and for other energy conserving uses. The free market would do a far more effective job of allocating capital among alternative energy saving uses, including an appropriate rate of downsizing automobiles, than the government can or will do.

MYTHS NUMBERS FOUR AND FIVE

Why did we have those long lines at gasoline stations in 1974? Was it because of the Arab embargo?

The reason for those long lines was because the Federal Energy Office allocated gasoline and gave orders to refiners as to what products they could produce. All during the period of the embargo, our stocks of gasoline, crude oil, and other petroleum products in storage kept increasing.[2] Crude oil was still being imported. Instead of coming from the Mid-East, it came from Canada, Indonesia, Venezuela, and Nigeria. Some came indirectly from Libya and other Mid-East countries via Curacao and the Bahamas.

The embargo made only a small difference in the volume of imports. The oil companies did a massive and heroic job redirecting world trade. Routing of oil was changed in some cases and sources in other cases. But the Federal Energy Office screwed up the works. It underallocated gasoline to metropolitan areas, such as Chicago, New York, and Washington, and it overallocated to rural areas. City residents wasted gasoline by driving far into rural areas to fill their tanks.

Are we subject to possible blackmail by embargo? The answer is a clear no! During the Arab embargo, we imported from other sources and indirectly from the Mid-East countries that were embargoing us. Libya knew its oil was coming to us, but as long as it was labeled as going elsewhere when it left Libyan ports, Libya was glad to get the revenues.

There are more alternative sources available today than there were in 1974. Mexico is now suppying us with growing amounts. Venezuela has 20 percent of its capacity shut down and available. Nigeria is a bigger producer now than it was in 1974. Dome Petroleum is starting full scale development and transportation out of the Canadian Arctic. China is now exporting oil.

MYTH NUMBER SIX

We are now developing storage facilities and accumulating a one-billion barrel stockpile of oil, at a cost of $25,000,000,000, purportedly to make ourselves less vulnerable to any future embargo. The Arabs must be laughing themselves sick all the way to the bank as we turn over $15,000,000,000 to them for oil we are going to stick back in the ground (in old hollowed out salt domes).

Is it really necessary to accumulate a stockpile to reduce our vulnerability to an embargo? The answer is no! Many countries are willing to supply us if the Arabs cut us off, including some Arab countries if we cover up the fact that they are supplying us. (From the events of early 1978, we might judge the supply of Arab oil to be more secure than the supply of UMW coal. Perhaps we should question the administration's proposals to make ourselves even more dependent on coal than we are.)

There are less expensive ways of providing a ready reserve than building a stockpile. We could drill wells in our naval reserves, such as Elk Hills, and develop them to the point where they are ready to produce. The wells could be capped but ready to produce in case of need. There is no need to pump the oil above ground, develop underground storage, and stick it back into the ground. Let the oil remain in natural storage at no cost. Have the wells ready to go when the need arises. The cost would be far less.

MYTH NUMBER SEVEN

Finally, we come to the myth that the government must plough billions of dollars into energy research if the new technology is to be developed to provide the energy we need when oil runs out in the 1980s. First, let's recognize that a shortage is a business opportunity. If anything in demand is likely

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Footnotes at end of article.

to run short, its price will rise. Anyone developing a substitute or an additional supply will find plenty of eager customers.

With the increase in the price of home heating fuels, suppliers began offering automatic damper controls which cut the use of fuel by 20 percent. When fuels were cheap, it was not economic to install automatic damper controls; they could not pay for themselves. The capital it would have taken to produce them was more productive in producing gas than in saving gas. Production of the controls would have been a waste of metal, plastic, and workers' time. These factors of production were conserved by the more efficient expenditure of capital on gas discovery and production.

As it became increasingly costly to produce gas, capital began to flow into damper controls where it could save more gas than it could produce. The investment now pays for itself.

The rise in the price of energy is inducing the production of energy saving equipment and of less energy intensive motors, engines, generators, cement kilns, furnaces, boilers, refrigerators, freezers, air conditioners, and water heaters. It is also attracting investment into private Research and Development (R&D) to develop alternative sources of energy, to develop techniques for secondary and tertiary recovery of oil from spent fields, and to improve methods of extracting oil from shale and tar sands. In 1975, oil companies invested $51 million in coal R&D, $38 million in developing methods for converting coal into synthetic fuels, $30 million in oil shale R&D, $9 million in tar sands R&D, $7 million in geothermal R&D, and $2 million in solar R&D.

Currently, private expenditures on energy R&D are near the $2 billion level. This may seem a pale effort compared to the $4 billion that the federal government is laying out on nuclear and solar research. But examination of past private and governmental research efforts suggests that we will get 100 times the return per private dollar in R&D that we get from the government dollar.[3] The federal government has laid out $4,200,000,000 on developing a liquid metal, fast breeder reactor.[4] It achieved so little that it is giving up the effort.

The private market does a superior job in allocating resources to their most productive uses, including choosing among alternative R&D programs, than the government does.[5] If the government wouldn't try to do so much, we would get more accomplished, and energy would be more plentiful than it is now.

FOOTNOTES

[1] "Oil and Gas Resources—Welcome to Uncertainty," *Resources* (Washington: Resources for the Future, March 1976); House of Representatives Committee on Interstate and Foreign Commerce, *Basic Energy Data*, 94th Congress, 1st sess., 1975; Peter Odell, "Are the Oilmen Crying Wolf Too Soon?" *The Guardian*, July 16, 1978, p. 9.

[2] Richard Mancke, *Performance of the Federal Energy Office* (Washington: American Enterprise Institute, 1975). Crude oil and petroleum product stocks rose by 85 million barrels during the embargo relative to preceding year stocks, p. 5.

[3] "Much of energy research and development activity, such as the aggressive coal gasification programs, falls in the category . . . [of] policies that have little social value and great social cost." Edward J. Mitchell, *U.S. Energy Policy: A Primer* (Washington: American Enterprise Institute, 1974), p. 72. Also see Price L. Petersen, *A Critique of Two Assessments of the Synfuels Commercialization Program* (Washington: American Petroleum Institute, August 8, 1977), p. 72.

[4] Brian G. Chow, *The Liquid Metal Fast Breeder Reactor: An Economic Analysis* (Washington: American Enterprise Institute, 1975), p. 13.

[5] John E. Tilton, *U.S. Energy R&D Policy: The Role of Economics* (Baltimore: Johns Hopkins University Press, 1974), p. 29.●

UNREQUITED COURTSHIP

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. LAGOMARSINO. Mr. Speaker, the following Joseph Kraft column appeared in the June 28 edition of the Washington Post. It discusses the failure of U.S. strategy to conduct effective relations with Third World nations.

Specifically, Mr. Kraft criticizes the Carter administration for its obsession for accommodating Third World nations. The results of this policy, evidenced in Asia, Africa, and Latin America, have been to reduce substantially U.S. influence and prestige and to encourage greater animosity toward the United States.

The lesson to be learned from this emerging pattern is not necessarily to support repressive totalitarian governments, but to end attempts at wooing radical elements in Third World nations.

The article follows:

UNREQUITED COURTSHIP

(By Joseph Kraft)

Nicaragua provides a revealing test for the foreign policy of the Carter administration. For the distinctive mark of that policy is a reversal of traditional ties to woo the left-wing regimes of the underdeveloped countries in the Third World.

But the record—now in Nicaragua and earlier in other countries—shows that the effort is self-defeating. The more the United States moves to accommodate the radical forces of the Third World, the more radical those forces become.

The point man for the Third World policy of the Carter administration has been the American ambassador to the United Nations, Andrew Young. In formal speeches and off-the-cuff remarks, Young has embraced all of the world's underdogs.

Occasionally President Carter has felt obliged to reprimand Young. But only by a slap on the wrist. And not because of any fear that Young will queer the administration with black voters. On the contrary, Young stands aces-high with the administration because President Carter, Vice President Walter Mondale, Secretary of State Cyrus Vance and even the president's adviser on national security affairs, Zbigniew Brzezinski, agree with him.

Policy has been framed accordingly in Asia, Africa and Latin America. The administration started in Asia by offering the hand of reconciliation and friendship to a former enemy, Vietnam. Negotiations for resumption of diplomatic relations collapsed only when Hanoi refused to drop its claims for war reparations.

Since then the Vietnamese regime has become increasingly strident in its behavior. It has invaded Cambodia, roughed up China, firmed ties with Russia, and deliberately thrust upon the outside world a ghastly refugee problem. But Washington, all along, has been looking the other way.

In Africa, the Carter administration from its first days identified itself with the guerrilla forces, and black states, pushing for majority rule in Rhodesia. But the guerrillas refused to compromise with the Rhodesian whites, and the African states backed them all the way.

Their being adamant left a void for the white leader, Ian Smith. He worked out a deal, backed by an electoral majority, with a black leader, Bishop Abel Muzorewa, for a new state, Zimbabwe Rhodesia.

Now Bishop Muzorewa has become prime minister of Zimbabwe Rhodesia and the administration is under congressional pressure to lift sanctions against that country. But the guerrillas and the black states oppose any such measures in the most vehement way. Indeed, the most moderate of the African states, Nigeria, has threatened to cut off oil supplies to the United States.

In Latin America, the Carter administration sought to befriend the Cuba of Fidel Castro. Diplomatic missions have long since been exchanged, and the president has resisted congressional pressure to hit back at Castro as a riposte to the actions of Cuban troops in Africa.

When trouble erupted in Nicaragua months ago, the administration broke a long traditon of friendship. The regime of President Anastasio Somoza was criticized for human-rights violations. In addition, the administration sided overtly with an armed challenge to Somoza by guerrilla forces, the Sandinistas—friendly to Castro.

Last week, Washington formalized its position before the Organization of American States. Secretary Vance declared the civil war in Nicaragua would continue until Somoza gave way to an interim government built around the Sandinistas. To ensure the transition, Vance asked the OAS to send a token force.

But the Latin American states have steadily refused to sponsor an interim force, or even mediation efforts. The majority grouped itself around a Cuban argument that such action would amount to imperialist intervention. As an editorial in the official Cuban newspaper put it: "Yankee intervention in Nicaragua would signify a Vietnam in the heart of the Western hemisphere."

What all this says is that the Third World radicals are not opposed to the United States for trivial reasons. Nice words about democracy, or even a switch in the line of support, cannot change their positions. Deep-seated political—and especially cultural—reasons tilt those countries toward an anti-American stance. Their leaders like to be seen standing up to the power of the military and even more to the message of the American media. So if the United States adjusts its position in hope of compromise, the radicals will also move—precisely to avoid compromise.

That is no reason for the United States to support reactionary regimes and outmoded positions. But it is a reason not to pay out assets in the expectation that courtship of the Third World radicals will yield big dividends.●

SHATTER THE SILENCE, ELENA LEIKIKH

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. VENTO. Mr. Speaker, today I am joining in the "Shatter the Silence Vigil 1979." I wish to relate to my colleagues the painful separation of a mother and father from the daughter and to bring their attention and to the attention of the world of the cavalier disregard of the Soviet Union toward its commitment to the Helsinki agreement covering the reunification of families.

Elena Churakova is a 14-year-old Russian girl who is separated from her loving parents, Marina and Alexander Leikikh. When Elena was 5 years old, Marina married her current husband, Alexander. Alexander has been a loving husband to Marina and a considerate father to Elena. Since the marriage, Albert Lozenko, Elena's paternal father, has expressed no interest in Elena.

When the Leikikh family decided to emigrate, it became necessary for Alexander to legally adopt Elena. Albert Lozenko did not object to this proposal and gave official notary permission for Elena to be adopted by Leikikh. This act was legalized by the council of representatives for the Zheleznodorozhny region of Kiev for 13IX in No. 1707, and a new birth certificate was issued which declared Alexander Leikikh to be Elena's father. At that time she was given Marina's maiden name—Churakova.

On October 12, 1976, the Leikikh family applied for a visa at the Kiev Department of Visas. On November 23, 1976, Albert Lozenko was called to the chief of the department of visas, Sifarof, who suggested that he write to the prosecutor's office of the Zheleznodorozhny region objecting to the departure of Elena to another country. Lozenko refused to do this, declaring that he had stopped being her legal father and that it was the mother who had the right to take care of her daughter.

The first time that the case for canceling the legality of the adoption was brought to trial it was rejected and considered baseless. The prosecutor's council then canceled the adoption of Elena. The canceling document of the trustee's council was dated March 28, 1977, and the Leikikhs did not learn about it until April 20, 1977. The family had never been called before the council nor had the council interviewed Elena to determine her wishes.

The Leikikhs tried to gain permission for them to leave with Elena for 7 months but without success. They contacted officials to change the decision and begged that their family be allowed to remain united. But all their appeals were for naught. Finally, because they no longer had jobs and had given up their flat, the Leikikhs emigrated. However, they have continued to seek reunification with their daughter and have been in contact with the Soviet authorities.

Albert Lozenko has remarried and has a new family. He and his new wife do not want Elena and have refused to take her in. Elena is currently living with Marina's mother, Lidia Merichikova. It has been over 2 years since she has seen her parents and she misses them very much.

Mr. Speaker, the title "Shatter the Silence" is particularly apropos for the Leikikh case. Not wishing to anger Soviet officials and thus potentially jeopardizing the speedy reunification of the Leikikh family, I sought to work quietly through the proper channels within the Soviet bureaucracy. Since this matter was first brought to my attention in November 1977, I have written to President Brezhnev, Ambassador Dobrynin, and other Soviet officials, urging them to intervene in securing the prompt emigration of Elena. I have also repeatedly phoned the Soviet Consul to learn of the status of this case. To each of these efforts, the Soviet Union has responded with silence. Soviet officials have responded to all humanitarian efforts to reunite a daughter with her loving parents with an arrogant disregard for this just cause. I am speaking out today because it is apparent that the Soviet Union will not act unless public opinion forces them to act. It is my hope that by bringing the case of the painful separation of the Leikikh to light, the Soviet Union will move to uphold the Helsinki agreement and will reunite Elena with her parents.

At this time, I would like to draw my colleagues' attention to some letters from Elena; her words most eloquently shatter the silence:

> Hello Mummy, Daddy and Sanik: I already wrote you several letters about resolving my problem as quickly as possible. I don't understand, Mummy, why I am not being returned to you for so long?
>
> How long must one wait? It seems to me that it should be very simple for me to return to my mamma. Particularly since no one asked me whether I want to stay with this father who did not know me all this time. I will never go to live with him; nobody will force me to do it.
>
> I live with great-grandmother, who is already 80 years old. What if suddenly somethings happens to her? Who will I then stay with?
>
> Mummy, ask all kind people to help get me out of here. Of course, I am studying, I must study, but I suffer a lot being torn away from you.
>
> I cry all the time. Why is nobody sending for me?
>
> I love you all so much.
>
> I kiss you very, very hard and particularly Sanik.
>
> Write more often.
>
> Meanwhile I am all in tears.
>
> YOUR LENA.

> Xerox copy of envelope enclosing preceding letter is addressed to M. Leikikh, 1471 St. Paul Ave. 1, St. Paul, Minn. 55116, USA, from Elena Churakov, ul.Furmanova 40, kv. 2, [illegible], Kiev 25510, U.S.S.R.
>
> March 20, 1978.
>
> How are you my loved ones: How is your health? How is my dear little brother doing? Dearest Mummy, I have already written several letters to you, asking you to get me, but apparently you didn't get these letters. Yes, I miss you all very much and cry all the time. I want very much to go to you and must live with you.
>
> Why do I have to live without you?
>
> I don't even want to study properly. I am unhappy and am nervous. I want to and we must be together. I very much want to come to you. Why is it taking so long to resolve this problem? Why don't they call me in and ask me? After all, don't I have the right to live with my mother?
>
> I hadn't been to my father's and never will go. You know what sort of a father he is to me. He didn't pay any attention to me all these years. How is my dear little brother? How is he behaving? How is he managing with the English language? How is Daddy feeling? And you dear Mummy? Thanks for the package. I liked everything very much. Thanks for your concern for me. Mummy, do something about me quickly.
>
> I kiss you very, very hard.
>
> P.S. I haven't heard from you for a whole month. I am waiting for your reply.
>
> P.S. I myself sent my letters from the post-office.
>
> Goot-bay [Good by].●

USE AMERICAN AGRICULTURE TO BARTER FOR OPEC OIL

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. DICKINSON. Mr. Speaker, once again, the United States and the other industrialized nations of the world are being victimized by the Organization of Petroleum Exporting Countries. This time with the highest oil price rise since the Arab embargo of 1973.

Needless to say, I have been deeply concerned over the lack of a viable solution to this worsening problem.

I believe there is an alternative approach which should be given serious consideration. That is the use of barter in acquiring our foreign crude oil requirements.

The United States is in a unique situation. Depending on the one hand, on a sizable percentage of its petroleum requirements coming from high-priced imports; while on the other hand, being favorably endowed with a sizable surplus of agriculture products that are in short supply in other parts of the world.

The exchange of these two commodities on an equitable basis could be accomplished through barter agreements.

In principle, my proposal would call on the American grain exporters to negotiate the sale of petroleum to American refineries at a predetermined price. The grain exporters would negotiate a barter agreement to exchange grain for oil. The net result would be that the American grain exporters would receive U.S. dollars from U.S. refiners. The U.S. refiners would receive oil from American grain dealers, and U.S. dollars would not leave the country. Quite possibly, the cost per barrel of oil would be lower than the cost per barrel the United States must pay at present.

For too long we have dispersed our largess to all corners of the Earth without considering the impact of these actions on the American economy.

Let me set out some of the things my proposal will do and some of the things it will not do.

It will enable American grain exports to be handled through normal commercial channels.

It will enable our refiners to purchase oil from our grain exporters.

Because our refiners will pay our grain exporters dollars for the oil, the grain exporters will receive payment in U.S. currency.

Because these dollars will not leave the United States, there will be a salutory impact on our balance of payments.

Because prices for the grain and petroleum will be prevailing prices, this transaction will not force prices for these commodities to rise—thus relieving the pressure of higher costs to American consumers for products utilizing grain as well as heating oil, gasoline, and other energy uses.

It will not adversely affect other industrial nations because these oil producing countries will have ample excess production to meet their needs.

It will not require a new government bureaucracy because the Commerce Department is presently equipped to review these contracts.

It will not discriminate against independent refiners because the grain exporters can negotiate contracts for the oil with any American refiners.

It will not discriminate against any petroleum exporting country because it can sell its excess petroleum above the amount it exchanges for grain.

It will not limit the amount of grain a country can buy because they are permitted to buy additional grain for hard currency if their requirements exceed their surplus petroleum.

In summary, my proposal will provide a realistic approach to the disposition of our excess agricultural products and, at the same time, partially alleviate the shortfall in domestic petroleum production until such a time as a long-range program is developed for energy self-sufficiency in our country.●

WHAT CAUSES INFLATION?

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. CONABLE. Mr. Speaker, our distinguished colleague, JOHN ANDERSON, whose work here has been so respected over the years and whose articulacy is legend, has recently spoken out on the issue of inflation. As we have all benefited from his remarks in the past, there is much to be derived from his comments on this central issue facing the country. I submit his remarks herewith:

WHAT CAUSES INFLATION?

(By JOHN B. ANDERSON)

An audience of your acuity and sophistication should know that asking a Member of Congress, "Where does inflation come from?" Is an embarrassing question. Like a father who is asked by his ten-year old son, "Where do babies come from?", a Congressman knows the answer but is reluctant to describe his role in the whole affair.

But like the dutiful father, I will endeavor to answer your question fairly and completely. And, unlike the Director of the Council on Wage and Price Stability, Barry Bosworth, I will not blame inflation on the "average American"—an explanation that is the political equivalent of blaming the stork.

So I will start my answer with the basics; what you might call "The Birds and the Bees" of economics. I accept what is regarded as the classic definition of inflation: Too much money chasing too few goods.

The soundness of that general proposition should be self-evident. If we double the money supply today, I think it's fair to say that we could expect prices to double soon thereafter.

The classic illustration of this phenomenon is, of course, the hyperinflation that so afflicted the Weimar Republic in the 1920's. As the deutschmarks rolled off the printing press, the price of even modest provisions like a loaf of bread soared to the modern equivalent of a million dollars.

The same principle, albeit on a more limited scale, is still applicable today. As always, the excessive creation of money still breeds inflation. Once again: too much money chasing too few goods.

There are, of course, two parts to that economic axiom. Inflation is not merely the product of too many dollars, it is also the result of too few goods. The latter principle is perhaps best illustrated by the way a crop failure is reflected in food prices or an oil shortage in gasoline prices.

So there are two sides to the inflation coin: excessive money and insufficient goods and services.

So much for the birds and bees of economics. Let's take a look at today's inflation.

Since 1967 consumer prices have risen 111 percent. Wholesale prices have climbed 112 percent.

And during the past six months, the inflation outlook has clouded still further. Consumer prices over the past six months have been rising at an annual rate of 11.4 percent and wholesale prices have advanced at a rate of 11.7 percent.

So you ask, "Where did all this inflation come from?" If you followed "the birds and the bees" portion of my talk, it should not surprise you that the growth of the money supply has paced the rate of inflation. Nor should it surprise you that the present acceleration in inflation was preceded by accelerated growth in the money supply.

Since 1967, the money supply—as measured by currency, savings and demand deposits—has grown by a breathtaking 145 percent. Moreover, a year ago, the money supply was growing at a very worrisome clip of 12 percent a year.

This discussion of the money supply, however, is not meant to in anyway absolve the Congress of its responsibility for inflation. Quite to the contrary. The engine of this explosion in the money supply has been the federal deficit—a deficit that now persists in good years as well as bad years, a deficit that reached a record post-war high of $66 billion in Fiscal Year 1976, a deficit that remains at an estimated $33 billion in this what promises to be the last year of the present economic recovery.

As Congress spends beyond its means . . . as the credit demands of the Federal government swamp the credit demands of the private sector, the Federal reserve faces a difficult choice. It can either permit Federal borrowing to crowd out private borrowing, or it can increase the money supply by purchasing Federal debt with crisp, new Federal Reserve notes.

For the most part, the Federal Reserve has opted over the year for a middle course . . . a course which steers between a credit crunch on the one hand and a money supply explosion on the other other . . . a course which nevertheless has fueled the price spiral.

But that is only half the story. While deficit spending has been steadily eroding our nation's currency, another more serious development has been eroding our nation's productive capacity. What inflation has done for the dollar, taxation and regulation have done to American investment and economic performance.

Last year, labor productivity—meaning output per manhour—increased by only 0.4 percent. In the first quarter of this year, productivity fell at annual rate of 4.6 percent. Contrast that performance with the average 3 percent rate of growth in productivity that prevailed during the 1950s and the 1960s, and you begin to grasp the dimensions of our problem.

But, it is not just taxation and regulation that plagues American business. Inflation has also taken its toll. Inflation breeds uncertainty and erodes business confidence.

Inflation distorts the application of our tax laws. Purely nominal interest is taxed. Purely nominal capital gains are taxed. Phantom corporate profits are taxed. And inflation ratchets taxpayer incomes into higher tax brackets.

Inflation encourages consumption and debt and penalizes savings and investment. It erodes the very foundation of our productive capacity. It retards economic growth.

Inflation has become our own worst enemy. It is imperative that we begin to move now against Public Enemy No. 1.

We must start by recognizing that the "average American" is not responsible for inflation, government is responsible; and it is to government, not the average American, to whom we must look to for solutions.

But we need solutions that address the causes of inflation, not solutions that address only the symptoms. We do not need real wage insurance. We do not need another professorial lecture from Dr. Alfred Kahn, and we certainly do not need a Barry Bosworth to chide the American people for their selfishness.

What do we need to do? We need to gradually slow down the growth in the monetary aggregates. In doing so, Congress and the Federal Reserve must act with slow but deliberate speed. We must resist the temptation to slam on the monetary and fiscal brakes. Such action would only prolong and deepen the forthcoming recession . . . producing a recession that would not stop the price spiral, but rather would encourage Congress to pursue a more expansionary fiscal policy that would generate still larger deficits and still more inflation.

What we need is a long-term commitment to monetary and fiscal discipline—a discipline that rejects the Carter Administration's penchant for economic brinksmanship; a discipline that sets a firm course aimed at gradually reducing inflationary pressures.

But we cannot afford to fight inflation through monetary and fiscal means alone, for that would be too costly a struggle. We also have to work on the supply side of the inflation equation, and that means boosting our economic efficiency . . . creating more goods and services.

I can think of no better place to start than by weeding out the Federal regulatory thicket . . . getting rid of costly and anti-competitive regulation. We need to enact a regulatory sunset bill that will force Congress to exercise its oversight powers. I am the sponsor once again this year of the Regulatory Reform Act, a bill sponsored by Sen. Percy and Majority Leader Robert Byrd over in the Senate. The Regulatory Reform Act would establish an 8-year timetable for Presidential submission of and Congressional action on four comprehensive regulatory reform plans in each of the next four Congresses. If Congress fails to act, the sun would set on the agency in question. I think this is the only way that we will ever be able to control the runaway regulatory process.

But we also need to address the tax code and its bias against work, savings and investment.

We can help to remove the bias against work by "indexing" the tax rates so that inflation will no longer ratchet taxpayer incomes into higher tax brackets—a process that this year alone is likely to cost taxpayers an estimated $10–15 billion more in taxes.

We can help to remove the bias against savings, a bias which is particularly felt by lower and middle-income taxpayers who cannot afford to shelter their investment income or who cannot afford to purchase large denomination municipal or corporate bonds. We can remove that bias in part by exempting from the taxpayer's gross income the first $500 in interest earned in a depository institution.

And we can help to remove the bias against capital investment by rewriting the tax depreciation allowances, possibly along the lines being suggested by Congressmen Conable and Jones—namely a 5-year writeoff for equipment and a 10-year writeoff for structures.

There are, of course, other ways of boosting our economic output and thus fighting inflation. No stone should be left unturned in this endeavor. We should study, for instance, our declining R. & D. effort to determine how government policies can help to reverse that decline. It is estimated that 60–70 percent of productivity increases are attributable to technology and R. & D.

But our most important objective is to realize that government is responsible for inflation. . . . That the average American is not the perpetrator of inflation, but rather its victim. The average American is no more greedy or selfish today than he or she was 10 or 20 years ago. What has changed is government policy, and what must be changed to correct inflation is government policy.

To effect that change in government policy we are going to need bold, decisive leadership, leadership that understands the economic facts of life. And it is to that end that I have dedicated my campaign for this nation's highest office.●

EULOGY TO SENATOR LEVERETT SALTONSTALL

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. CONTE. Mr. Speaker, following the death of our dear friend and former colleague Leverett Saltonstall several weeks ago, tributes poured from the hearts of people of all walks of life. A particularly fine eulogy was delivered on the floor of the Massachusetts Senate by the Honorable John F. Parker, Republican floor leader in that august body. I would like to have Senator Parker's remarks entered into the Record at this point in the proceedings and commend them to all of Senator Saltonstall's friends and admirers in this Congress, of whom there are a great many.

Eulogy to Senator Leverett Saltonstall by Senate Minority Leader John F. Parker

The people of Massachusetts were saddened this week at the passing of one of the Commonwealth's distinguished public servants—the Honorable Leverett Saltonstall.

It is fitting, Mr. President, that some remarks be made today on this Senate floor in eulogy to Senator Saltonstall who served so honorably as a member of the Legislature, Speaker of the House of Representatives and Governor of Massachusetts and elevation to the United States Senate.

Leverett Saltonstall was elected to the House of Representatives in 1923. In 1929, he was elected Speaker of the House and held this position for 8 years—longer than any other man in modern times. In 1939, he was elected governor and served six years before leaving for the United States Senate in 1945.

Leverett Saltonstall was a Yankee Brahmin and was possessed of high character and personal integrity. He could meet any political foe on whatever grounds his adversary dictated. His campaigns for various offices were models of what campaigns ought to be—high level, clear-cut and no promises he did not intend to fulfill.

The people had great confidence in Leverett Saltonstall. They understood what he said and what he meant and the cross-over to vote for him was tremendous. His political trade-mark was "horse-sense," and it saw him through many powerful campaigns.

In this building Leverett Saltonstall served for many years—13 as a Legislator, eight of which were served as Speaker and six years as Governor.

I speak today, Mr. President, of his service as Governor—a record probably unmatched by any other chief executive.

In his inaugural address in 1939, he said, "It is the duty of the government to provide for the man at the foot of the hill Let us be mindful of the rights of the people."

When Leverett Saltonstall took over the reins of State Government in 1939, there was only a $15,000 surplus in the treasury. When he left six years later, the State surplus was 10 million dollars and he had reduced the State debt by 46 million dollars to less than $6 million.

Pardons and paroles were being sold right in the State House. Many of the state's most vicious criminals were being released through the Governor's Council. Saltonstall put a stop to the practice and brought some sense of righteousness to the granting of pardons.

The State Racing Commission was honeycombed with scandal. Salty reorganized the commission and put it on a sound basis.

Thinking far ahead of his time, Saltonstall proposed legislation for Civil Rights. He successfully sponsored a measure to fine any person $100 who discriminated against any person in employment—a first in New England.

Governor Saltonstall saw the growing problem of the aged and actively pushed legislation providing the second best benefits for the aged of all the states in America. Under his wise leadership, elderly people received more than any other administration had given them.

He developed the program of Blue Shield for Massachusetts citizens.

He foresaw the need for Logan Airport and worked for its improvement.

Salty reorganized the Tax Department; 215 cities and towns were able to reduce their tax rates in a single year because of the businesslike methods instituted by a hardworking Governor Saltonstall.

He reorganized the Milk Control Board. He stabilized milk prices and through his interest, agricultural income almost doubled from 73 million dollars to some 140 million dollars. He was honored by the Massachusetts Grange for his efforts in behalf of farming.

He appointed a labor man as Commissioner of Labor. He was endorsed by the CIO for re-election. He retrained 200,000 workers and brought under the scope of Workmen's Compensation many sufferers from infectious diseases. He advocated pay increases for thousands of state employes. There was so much confidence in Saltonstall that 225 new industrial plants located here under his administration.

Leverett Saltonstall reduced all problems to simplicity. He trusted the Legislature and it in turn trusted him. It would have been difficult for the Legislature to maneuver against him—for he had served there himself over long and difficult years.

It was during Saltonstall's magnificent career on Beacon Hill that the phrase, "His word is his bond," came into popular favor. This open, honest, sincere and pleasant man had no guile, no deceit or crassness in his manner. Everyone knew where he stood. Respect for the Governor's office was at a high point during Saltonstall's tenure as Chief Executive. He was a straight-from-the-shoulder politician. This coupled with old Yankee judgment and integrity brought comfort to the people that no better man could lead them as Governor.

Following his service as Legislator, Speaker and Governor, Leverett Saltonstall was a United States Senator from Massachusetts for 22 years until his retirement in 1966.

His work is done now. Leverett Saltonstall has left for his Valhalla. His leaving has saddened us all for he had become an institution in Massachusetts—kind, generous and thoughtful and who long ago in the tradition of his family going back hundreds of years had dedicated himself to public service.

Leverett Saltonstall was a just and humane man. He served no special interest and sought no special end. His interest was the welfare of all the people, especially the humble, the poor and those in need.

I would like to close this expression of respect to an old and valued friend with his own prayer which closed out Governor Saltonstall's first inaugural address on January 5, 1939.

Said Governor Saltonstall:

"I utter this fervent prayer to the Creator of the Universe before whom we all stand:

Guide us so that we may act justly; preserve for us that priceless heritage of liberty; make us see clearly that boundary which separates liberty and authority. Give to us an unconquerable will to administer the affairs of our Commonwealth in such a manner as to be worthy of her loftiest traditions."

Leverett Saltonstall not only was worthy of the loftiest traditions of the Commonwealth, but walked humbly in the sight of God and will always remain in our thoughts as a man whose career in public life was exemplary and dedicated to the betterment of mankind.●

AIR POLLUTION IS GETTING WORSE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. BROWN of California. Mr. Speaker, I regret the fact that the statement I am going to make is true. In spite of the great efforts made in this country to improve our Nation's air quality, it is not getting better. There are many reasons for this, including delayed deadlines for implementing air pollution controls in both mobile and stationary sources; poor enforcement of existing programs; increased sources of pollution; and mistakes about effectiveness of some of the technical fixes of the past.

The air pollution problems I am describing are not questions of visibility, although this too is getting worse in some areas, but rather levels of pollution which are hazardous to human health. Incredibly, while this disappointing state of affairs is coming to public recognition, responsible people are recommending the irresponsible act of relaxing air quality standards, supposedly to save a small amount of energy. While some energy savings may be possible through certain changes, these savings are minor compared to the range of energy saving options before us.

Mr. Speaker, the American people deserve a health environment. We cannot afford an unhealthy environment. Public disillusion with Government is high in the land, largely because we fail to do what we say we will do. There are few areas where this is more true than with air pollution laws.

At this time, I would like to insert a recent article on this subject for the Record:

[From the Los Angeles Times, July 7, 1979]

SOUTHLAND NOW REPORTED LOSING LENGTHY SMOG WAR

(By Sandra Blakeslee)

After years of heralding cleaner air in Southern California, the South Coast Air Quality Management District reversed itself Friday and said that the region seemed to be "losing the war on air pollution."

Meeting in West Covina, the smog agency's 10-member board concluded that despite a multibillion-dollar effort by government, industry and the public, "There has been no net progress in oxidant control in the past six years."

The board said that the problem appeared to be a failure to control automobile pollution, for which it blamed the federal government, and it urged President Carter to empanel a blue-ribbon commission to conduct "an urgent and comprehensive review of the air quality policies related to mobile sources."

The appeal to the President came after a month in which five second-stage smog episodes occurred. In addition, three second-stage alerts were called, requiring car pooling by thousands of commuters and a cutback in pollution by numerous businesses.

A spot check after the alerts indicated that many drivers circumvented the car-pooling regulations by avoiding company parking lots and parking on side streets. In addition, state officials reported that half of all cars that were being inspected were failing air-pollution tests, raising questions about the effectiveness of catalytic converters.

"Things were supposed to be getting better and better," said board member Tom Heinsheimer. "But to look at the trends, I'd say anyone who thinks we'll meet the 1982 federal standards for cleaning up the air is shockingly optimistic."

"We've done well in some pollutants," he said. "The 15-year trend for carbon monoxide was continually better until it leveled off the past two or three years. We're doing well with sulfur dioxide pollutants."

But photochemical oxidants, or ozone, are another matter, Heinsheimer said. "Not long ago, we thought the days of second stage smog alerts were behind us. Now this summer we find a .43 parts per million read of ozone in Pasadena. We found a .53 parts per million reading for ozone in El Toro." (The reading was instantaneous and not an hourly average.)

"This says all sanguine predictions that clean air would come if we waited for new cars to replace old ones aren't working," he said.

The board's alarm Friday stemmed from an annual "air quality trends" staff report, which was issued at its monthly meeting.

Adjusting for changes in annual weather patterns, the report found there was a sharp decrease in high ozone readings from 1970 to 1972, a slight overall decline from 1972 to 1977 but a "significant increase in high ozone episodes from 1977 to 1978."

The reasons for the 1978 increase are not known with certainty, the report said, "but may have to do with a combination of record gasoline consumption and the high breakdown rate of catalytic control devices on motor vehicles."

To reduce ozone levels, the staff report said, "the performance of automotive emission control systems will have to be greatly improved." Following suggestions by agency officials, the report recommended annual inspections of automotive smog devices.

However, there is a disagreement between the local smog agency, which is primarily responsible for stationary sources of pollution, and the State Air Resources Board in Sacramento, which is in charge of mobile sources.

"Our staff strongly feels the weather was primarily responsible for last summer's high smog levels," says Bell Sessa, a spokesman for the state board. "We do not think it is a breakdown of catalytic converters. But we would agree there is strong need for an annual inspection and maintenance program."●

INTERNATIONAL LAW AND THE WEST BANK

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. GREEN. Mr. Speaker, on July 3 the New York Times printed an excellent letter from Yale law professor and former Under Secretary of State for Political Affairs Eugene V. Rostow. In his statement, which is a response to an earlier letter from Ambassador Hazem Nuseibeh, Professor Rostow cogently sets forth the primary principles of international law relevant to the continuing debate over the status of the West Bank.

Mr. Rostow stresses the sensitivity of the situation when he urges the United States to take action to check Soviet activity in the area. As he correctly points out, resolution of the Palestine problem will not result from our wringing more and more concessions from Israel. After all, it is Syria, Jordan, Saudi Arabia, and the PLO which refuse to make peace with Israel. The urgency of the problem makes Mr. Rostow's letter important reading and I recommend it to my colleagues:

ALL-IMPORTANT PALESTINE MANDATE IN THE WEST BANK DEBATE

To the Editor:

Ambassador Hazen Nuseibeh's letter of June 1 ("The West Bank Is Not Up for Grabs"), claiming the imprimatur of international law, contends that "sovereignty" in the West Bank resides in the people "who have had prolonged and uninterrupted possession" of the territory "from time immemorial."

The letter does not mention the League of Nations Mandate for Palestine. Yet the mandate provides the only possible modern legal definition of the word "Palestine," and is the basis of Security Council Resolutions 242 and 338, on which the Camp David agreements rest. Instead, the Ambassador relies on Jordan's attempt to annex the West Bank in 1950.

International lawyers agree that the future of the West Bank and the Gaza Strip should be resolved in ways which fulfill the purposes of the mandate. Surely the peoples who live in the West Bank have rights, whether they are descended from those who lived there in ancient times or from more recent immigrants. But those rights must be reconciled with the rights and obligations arising from the mandate. Both the Permanent Court of International Justice and its successor, the International Court of Justice, have treated League mandates as "sacred trusts," which bind the world community. This view of the mandate system is the major premise of the Security Council's policy for Namibia, which has been upheld by the International Court of Justice.

Resolutions 242 and 338 apply the principle of the Namibia decisions to the future of the West Bank and the Gaza Strip. The Palestine Mandate establishes a trust not only for the inhabitants of the area but also for the Jews of the world who wished to go there to live. While a (much-contested) British decision in 1922 denied Jewish rights of settlement in the Transjordanian province of Palestine, Jewish rights of settlement under the mandate in the West Bank and the Gaza Strip were untouched, and are untouched still.

The State Department does not contest the survival of the Palestine Mandate as a trust governing the ultimate future of the West Bank and the Gaza Strip. It could hardly do so, in view of the clarity of international law on the subject and its policy toward Namibia, Resolutions 242 and 338 and the Camp David agreements. It does claim, however, that Israeli settlements in the West Bank are "illegal" as violations of the Geneva Convention of 1949, which governs the Protection of Civilian Persons in time of war or in cases of "partial or total occupation of the territory" of a party to the convention.

Shortly after the 1967 war, Israel took the position that its administration of the West Bank and the Gaza Strip would respect the principles of the Geneva Convention but that its provisions were not binding, because the area was not part of the territory of any signatory state. In this position, the Israelis are clearly right.

It is easy to understand why Israel insists on dramatizing its legal position. Even Egypt denies Israeli claim to to the West Bank and the Gaza Strip and insists that they are "Arab lands." The other Arab states, and the P.L.O., still cling to the myths of the Arab League's position in 1948—that the existence of Israel is itself an aggression which the Arab states have a right to destroy in the name of self-defense. At the moment, there is no one with whom Israel can negotiate over the future of the area, since Jordan refuses to make peace.

No agreements to implement the Security Council Resolutions and the Camp David accords are possible unless the United States acts soon and vigorously to prevent the Soviet Union from bringing the whole Middle East under its control. The Palestine problem cannot be solved by pressing Israel to make more and more concessions. At this point, Syria, Jordan, Saudi Arabia and the P.L.O. refuse to make peace with Israel. They are more and more inclined to believe that the United States is losing its contest of power with the Soviet Union and that, as Ambassador Nuseibeh's letter makes clear, the destruction of Israel and the formation of a single Arab State for the entire territory of the mandate have therefore become possible.

Illusions of this order are the stuff from which wars are made.

EUGENE V. ROSTOW,
Professor of Law, Yale Law School.

NEW HAVEN, *June 21, 1979.*●

SYNTHETIC FUELS: THE COMING DISASTER

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. PAUL. Mr. Speaker, 2 weeks ago this body rashly passed a measure that it will soon regret ever having heard of, the Defense Production Act with amendments mandating a Government-subsidized synthetic fuels industry. The Government has already proven itself incompetent to perform seemingly simple tasks such as delivering the mail on time and establishing a strategic petroleum reserve; what it will do with creating a whole new industry boggles the imagination.

I call the attention of my colleagues

to an item that appeared in the July 2 issue of Chemical Engineering, for it is just a harbinger of our energy future. Any sensible person would have second thoughts about what this House has done, and it is to be hoped that the Senate is wise enough to kill this program once and for all.

The item follows:

"Gross mismanagement" of the H-Coal liquefaction pilot-plant project, at Catlettsburg, Ky., by both the government and industry has caused "many millions of dollars" in federal funds to be wasted. So says a 67-page report compiled by the U.S. Dept. of Energy's (DOE) Office of the Inspector General. The project is a joint effort of DOE and private industry, led by Ashland Oil Inc. (Ashland, Ky.).

Among the allegations made in the report are:

H-Coal industrial participants do not have an incentive to control costs, because of their relatively small financial commitment. Ashland and its industrial partners are underwriting about 16 percent of the project's base cost, but none of the overrun.

Radiographic testing, acceptance and recordkeeping with respect to welds in high-pressure piping were deficient. As a result, the safety of the H-Coal pilot-plant piping system is unknown. The project's piping was subsequently reexamined, with about 17 percent of the welds found to be faulty.

DOE has not provided headquarters support or qualified staff necessary for the effective management of the H-Coal project.

The report has met with criticism from both Ashland and DOE, which claim that any problems that might have existed have been corrected—and most of these before the inspector general's review. Thomas S. Williamson, Jr., DOE's deputy inspector general, acknowledges that changes have been made, but says that the agency needs to tighten controls even further.●

HOUSE BUDGET COMMITTEE EARLY WARNING REPORT, WEEK OF JULY 9, 1979

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. SIMON. Mr. Speaker, in order to inform the House of the relationship of appropriations and other spending bills to amounts targeted in the first budget resolution for fiscal year 1980, the Budget Committee places in the Monday RECORD materials on the spending bills anticipated for floor action during the upcoming week. This week's package includes summaries of the Treasury-Postal Service appropriations bill; District of Columbia appropriations bill; disability insurance amendments of 1979; State-Justice appropriations bill, and the Trade Agreements Act of 1979.

H.R. 4393—Treasury, Postal Service and General Government Appropriations Bill, 1980 (H. Rept. 96-248)

Committee: Appropriations.

Subcommittee: Treasury, Postal Service, General Government.

Chairman: Mr. Steed (Oklahoma)

Ranking Minority Member: Mr. Miller (Ohio)

Scheduled: Thursday, July 12, 1979.

I. DESCRIPTION OF BILL

The bill provides $8,819 million in budget authority and $8,424 million in outlays to fund the Treasury Department, the U.S. Postal Service, the Executive Office of the President and ten other independent agencies.

II. COMPARISON WITH 1ST BUDGET RESOLUTION SPENDING TARGET

This Appropriations bill combined with spendouts from prior appropriations is above the Subcommittee target by $124 million in budget authority and by $112 million in outlays.

Explanation of Problem. The bill is very close to the Budget Resolution assumptions. It is over its target only because the Appropriations Committee provided a target that is more than $100 million below the Resolution assumptions. The Appropriations Committee did not specify where the reductions should occur.

III. SUMMARY TABLE

	Budget Authority	Outlays
1. Amount in bill	8,819	8,424
2. Prior action	-----	326
3. Action to date	8,819	8,750
4. Target	9,151	9,079
5. Over	-----	-----
6. Under	332	329
7. Action to date	8,819	8,750
8. Amount assumed but not yet reported	456	441
9. Possible total	9,275	9,191
10. Target	9,151	9,079
11. Over	124	112
12. Under	-----	-----

Note.—Figures in millions.

a. Explanation of Difference From Target (line 11. above). The bill totals are above the Subcommittee target by $124 million in budget authority and by $112 million in outlays. The bill is consistent with the Resolution but the Appropriations Committee set a target more than $100 million below those assumptions.

b. Amounts Assumed in Budget Resolution but not yet Considered (line 8. above). The bill does not include $177 billion in budget authority and $162 million in outlays assumed in the Budget Resolution to fund the Strategic Materials Stockpile. Legislation is pending which would significantly alter the current concept of stockpile operations; therefore the appropriation was deferred without prejudice. The bill also excludes $279 million in budget authority and outlays for payments to the Civil Service Retirement and Disability Fund. That amount is estimated by CBO to be required as a later supplemental, and was assumed in the Budget Resolution.

IV. BUDGETARY FLOOR AMENDMENTS

None known at this time.

V. COMPARISON WITH PRESIDENT

The bill provides budget authority of $8,819 million, $186 million below amounts requested in the President's budget. The major difference occurs in amounts provided for stockpile operations and other Federal property resources activities in GSA (–$179 million). Smaller reductions would occur for the Internal Revenue Service (–$7 million) and the Executive Office of the President (–$2 million).

Principal Analyst: Charles W. Wiecking, telephone 58797.

H.R. 3236—Disability Insurance Amendments of 1979 (H. Rept. 96-100)

Committee: Ways and Means.

Subcommittee: Social Security.

Chairman: Mr. Pickle (Texas).

Ranking Minority Member: Mr. Archer (Texas).

Scheduled: Friday, July 13, 1979.

I. DESCRIPTION OF BILL

This bill amends the Social Security Act to provide better work incentives and improved accountability in the Disability Insurance (DI) program. Fiscal year 1980 benefit savings are estimated by CBO to be $80 million in outlays but administrative costs and the impact on other programs in the first year of implementation will be $104 million. Total annual savings in fiscal year 1984 on a unified budget basis will be $1.1 billion.

II. COMPARISON WITH FIRST BUDGET RESOLUTION SPENDING TARGET

The Resolution assumed legislative savings of $62 million in the Disability Insurance programs, as recommended by the Committee on Ways and Means in the March 15 report. Primarily because of reestimates by the Social Services Administration of the administrative costs associated with the bill, the first year savings to the Disability Insurance Trust Fund will be $17 million.

III. SUMMARY TABLE

Impact on Disability Insurance Trust Fund (Outlays in millions of dollars):

1. Amount in bill	–17
2. Action to date	----
3. Amount assumed but not yet reported	----
4. Possible total	–17
5. Target (legislative savings)	–62
6. Over	+45
7. Under	----

a. Explanation of Difference From Target (line 6. above). The bill exceeds the target primarily because of a reestimate by the Social Security Administration of the administrative costs associated with the bill.

b. Amounts assumed in Budget Resolution but not yet Considered. No additional legislation pertaining to Social Security is assumed in the Resolution.

IV. BUDGETARY FLOOR AMENDMENTS

Mr. Simon may offer an amendment to delay the implementation of section 13 of the bill by one year. That section would reimburse state vocational rehabilitation agencies for having rehabilitated a disabled recipient only if that recipient has successfully returned to work. This provision would become effective in fiscal year 1981 under the reported bill.

V. COMPARISON WITH PRESIDENT

The President proposed to save $34 million through changes to the Disability Insurance program and $508 million through changes to the Old Age and Survivors Insurance reprogram.

Principal Analyst: James Rotherham, telephone 55792.

H.R. 4537—The Trade Agreement Act of 1979

Committee: Ways and Means.

Chairman: Mr. Ullman (Oregon).

Ranking Minority Member: Mr. Conable (N.Y.).

Scheduled: Tuesday, July 10, 1979.

I. DESCRIPTION OF BILL

This bill approves the agreements reached in multilateral trade negotiations. These negotiations were authorized by the Trade Act of 1974, which gave the President authority to agree to certain tariff reductions without further Congressional action.

II. COMPARISON WITH FIRST BUDGET RESOLUTION ASSUMPTIONS

This bill was not assumed in the First Budget Resolution for fiscal year 1980. It reduces revenues by $83 million.

III. EFFECT ON REVENUES, FISCAL YEAR 1980

Note—Figures in millions.

1. Current law revenue estimate	$509,000
2. Amount passed by the House this year	+2,600
3. Amount reported but not yet passed	+72
4. Amount in H.R. 4537	−83
5. Possible total	511,589
6. Target	509,000
7. Over	2,589
8. Under	--------

IV. BUDGETARY FLOOR AMENDMENTS

Special legislative procedures under the trade act disallow any amendments on the floor.

V. COMPARISON WITH PRESIDENT

This proposal was not in the President's budget for fiscal year 1980.

Principal Analyst: Harry Boissevain, telephone 57213.

H.R. 4392—STATE, JUSTICE, COMMERCE, JUDICIARY APPROPRIATIONS, FISCAL YEAR 1980 (H. REPT. 96–247)

Committee: Appropriations.

Subcommittee: State-Justice-Commerce.

Chairman: Mr. Slack (West Virginia).

Ranking Minority Member: Mr. O'Brien (Illinois).

Scheduled: Wednesday, July 11 and Thursday, July 12, 1979.

I. DESCRIPTION OF BILL

This bill funds the Departments of State, Justice, Commerce, and related independent agencies; it also funds the Judiciary. It provides $7,647 million in budget authority and $6,022 million in outlays.

II. COMPARISON WITH FIRST BUDGET RESOLUTION SPENDING TARGET

This appropriations bill, combined with spendouts from prior appropriations and amounts assigned to the Subcommittee and not yet considered, is below the subcommittee targets by $153 million in budget authority and $256 million in outlays.

Explanation of Problem. No major budget problem with the bill as reported.

III. SUMMARY TABLE

	Budget authority	Outlays
1. Amount in bill	$7,647	$6,022
2. Prior action	----	3,945
3. Action to date	7,647	9,967
4. Target	9,906	10,560
5. Over	----	----
6. Under	2,259	593
7. Action to date	7,647	9,967
8. Amount assumed but not yet reported	2,106	337
9. Possible total	9,753	10,304
10. Target	9,906	10,560
11. Over	----	----
12. Under	153	256

NOTE.—Figures in millions.

a. Explanation of Difference From Target (line 12 above). The reported bill makes reductions in a large number of appropriation accounts, most relatively small in dollar amount. The estimate of outlays from prior-year appropriations has been revised, primarily reflecting slower spending in regular EDA programs than had been assumed in the First Budget Resolution.

b. Amounts Assumed in Budget Resolution but not yet Considered (line 8 above). Amounts assumed in the Budget Resolution but not yet considered total $2,106 million in budget authority and $337 million in outlays. These amounts include funds for a number of programs which are not yet authorized for FY 1980, including (1) Federal Trade Commission, $69 million; (2) EDA regular programs, $609 million; (3) National Development Bank replacement, $500 million; (4) Regional Action Planning Commissions, $74 million; and (5) Law Enforcement Assistance Administration, $440 million. SBA disaster-loan supplementals of $413 million are also assumed in the budget resolution.

IV. BUDGETARY FLOOR AMENDMENTS

No major amendment known at this time.

V. COMPARISON WITH PRESIDENT

This bill provides budget authority of $7,647 million, $321 million below the total requested in the President's budget for comparable items. Major reductions include contributions to international organizations ($41 million), NOAA operations, research and facilities ($30 million), and ship construction ($69 million).

Principal Analyst: Charles W. Wiecking, telephone: 225–8797.

H.R. 4580—DISTRICT OF COLUMBIA APPROPRIATIONS BILL, 1980 (H. REPT. 96–294)

Committee: Appropriations.

Subcommittee: District of Columbia.

Chairman: Mr. Wilson (Texas).

Ranking Minority Member: Mr. Pursell (Michigan).

Scheduled: Wednesday, July 11, 1979.

I. DESCRIPTION OF BILL

The bill provides $328 million in budget authority and $290 million in outlays to fund the Federal payment and other payments and loans to the District of Columbia. The bill also appropriates D.C. funds available from local revenues totaling $1,483 million.

II. COMPARISON WITH 1ST BUDGET RESOLUTION SPENDING TARGET

This appropriation bill combined with spendouts from prior appropriations is below the Subcommittee targets by $159 million in budget authority and $149 million in outlays.

Explanation of Problem. No major problem with the bill as reported.

III. SUMMARY TABLE

	Budget authority	Outlays
1. Amount in bill	$328	$290
2. Action to date	---	32
3. Assumed but not yet considered	---	---
5. Possible total	328	322
6. Target	487	471
7. Over	---	---
8. Under	159	149

NOTE.—Figures in millions.

a. Explanation of Difference From Target (line 8. above). The bill totals are below the Subcommittee targets by $159 million in budget authority and $149 million in outlays. The Subcommittee target assumed a higher Federal payment to the District than the amount contained in this bill.

b. Amounts Assumed in Budget Resolution But Not Yet Considered (line 3. above). None.

V. COMPARISON WITH PRESIDENT

The President's budget request was for $487 million in budget authority for federal payments to D.C., $159 million above the amount provided in the bill.

Principal Analyst: Adele Jackson, telephone 58797.

FLOOR LEGISLATION CONTAINING BUDGET ACT PROBLEMS—WEEK OF JULY 9, 1979

The following outlines those bills scheduled under suspension during the week which have Budget Act problems that the respective committees have agreed to cure as well as those bills scheduled for consideration for which letters have been sent to the Rules Committee supporting waivers of the Budget Act. Four bills will be considered under rules waiving some provision of the Budget Act.

1. H.R. 2814, a bill to authorize the Secretary of the Army to convert certain slope failures and erosion problems along the banks of the Coosa River, considered under suspension for Monday.

Section 1 of the bill would indirectly authorize the enactment of new budget authority in the form of various erosion control activities. Since this section would be effective upon enactment, and since the bill was not reported on or before May 15, 1978, the bill would be subject to a point of order under section 402(a) of the Budget Act.

However, the Committee on Public Works and Transportation has agreed to offer a version of the bill making section 1 effective October 1, 1979, thereby curing the existing Budget Act violation.

2. H.R. 2043, a bill to amend the Water Bank Act, scheduled under suspension for Monday.

Section 5 of the bill would indirectly authorize the enactment of new budget authority by increasing the maximum amount of payments made pursuant to the Water Bank Act allowed in any calendar year from $10 million to $30 million. Since this section would be effective upon enactment, and since the bill was not reported on or before May 15, 1978, the bill would be subject to a point of order under section 402(a) of the Budget Act.

However, the Committee on Merchant Marine and Fisheries has agreed to offer a version of the bill making section 5 effective October 1, 1979, thereby curing the existing Budget Act violation.

3. H.R. 3821, the Intelligence and Intelligence-Related Activities Authorizations, Fiscal Year 1980, scheduled for debate Monday and vote Tuesday.

Section 401 of the bill would authorize the enactment of additional new budget authority for fiscal year 1979. Since the bill was not reported by May 15, 1978, it would be subject to a point of order under section 402(a) of the Budget Act.

A poll of the members of the Budget Committee showed that a majority supported a waiver of section 402(a) based primarily on the fact that this supplemental authorization satisfies the emergency standards embodied in section 402 of the Budget Act since the additional funding for fiscal year 1979 would be necessary to reactivate a key intelligence facility in Turkey in light of recent losses of intelligence collection capability in the Middle East. In addition, the Committee noted that H.R. 3821 is an authorization bill only and does not provide actual spending. Accordingly, the Budget Committee support of this waiver did not indicate that there will necessarily be room to accommodate appropriations pursuant to this authorization under the fiscal year 1979 budget ceilings.

4. H.R. 2444, the Department of Education Organization Act, scheduled for consideration Tuesday and Wednesday.

Various provisions of the bill would appear to provide new contract authority. Since these sections fail to limit the availability of such authority, the bill would be subject to points of order under section 401(a) of the Budget Act.

In addition, certain provisions of the bill would provide new entitlements. Since these could become effective before October 1, 1979, the bill would be subject to points of order under section 401(b)(1) of the Budget Act.

Further, various provisions of the bill would authorize appropriations. Since these would become effective upon enactment, and since the bill was not reported on or before May 15, 1978, the bill would be subject to points of order under section 402(a) of the Budget Act.

However, since the Committee on Government Operations agreed to offer floor amendments making all contract authority provided in the bill subject to the appropriations process, and providing that the bill shall not become effective before October 1, 1979, thereby curing the existing Budget Act violations, technical waivers of sections 401(a), 401(b)(1) and 402(a) were supported.

Also, technical waivers of sections 401(b)(1) and 402(a) were supported with respect to consideration by the House of S. 210, a Senate-passed companion bill, for the purpose of striking everything after the enacting clause and inserting in lieu thereof, as an amendment, the text of H.R. 2444.

5. H.R. 4057, the Food Stamp Act Amendments of 1979, scheduled for consideration Wednesday.

Section 1 of the bill would authorize the enactment of additional new budget authority for Fiscal Year 1979. Since the bill was not reported on or before May 15, 1978, it would be subject to a point of order under section 402(a) of the Budget Act.

A poll of members of the Budget Committee showed that a majority supported a waiver of section 402(a) based primarily upon the fact that if the existing authority were not expanded and the current authorization cap maintained, the Department of Agriculture would have to terminate benefits this September to 97 percent of the entire caseload nationwide, including 99 percent of the elderly now participating in the program. In addition, in support of its action the Committee cited the fact that the House has voted, in considering the First Budget Resolution for Fiscal Year 1980, to provide funding for a supplemental food stamp program appropriation in Fiscal Year 1979. It should also be noted that H.R. 4057 is an authorization bill only and does not provide any actual spending. Accordingly, the Budget Committee support of this waiver did not indicate that there will necessarily be room to accommodate appropriations pursuant to this authorization under the Fiscal Year 1979 budget ceilings.

6. H.R. 3633, the Nurses Training Amendments of 1979, scheduled for consideration Friday.

Sections 303–307 and 314 of the bill would indirectly authorize the enactment of new budget authority to support various activities under the Public Health Service Act. Since these sections would become effective upon enactment, and since the bill was not reported on or before May 15, 1978, the bill would be subject to points of order under section 402(a) of the Budget Act.

In addition, since section 313 of the bill would provide new entitlement authority in the form of severance pay for certain officers of the Reserve Corps of the Service, and since this provision could become effective before October 1, 1979, the bill would also be subject to a point of order under section 401(b)(1) of the Budget Act.

However, since the Committee on Interstate and Foreign Commerce agreed to offer a floor amendment making the provisions at issue effective for Fiscal Year 1980, thereby curing the existing Budget Act violations, technical waivers of sections 402(a) and 401(b)(1) of the Budget Act were supported.

Also, technical waivers of sections 401(a) and 402(a) were supported with respect to consideration by the House of S. 230, a Senate-passed companion bill, for the purpose of striking everything after the enacting clause and inserting in lieu thereof, as an amendment, the text of H.R. 3633.

Wendell Belew, Chief Counsel's Office, phone: 225–7233.●

ALICE WIDENER VIEWS ON THE DOLLAR AND GOLD

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. PAUL. Mr. Speaker, we hear a lot of talk about the "underground" or "subterranean" economy.

Columnist Alice Widener calls it the "other" economy—this economy created by high taxes and entangling regulations and increasing inflation.

Recently she wrote an interesting article about it, and I would like to call it to my colleagues' attention.

The article follows:

PAPER DOLLAR BUYS LESS—GOLD BUYS MORE

(By Alice Widener)

NEW YORK CITY.—A worldwide economic revolution is taking place in advanced nations. It is creating the "other" economy, one outside governmental and banking control. Its growth is stupendous, currently estimated to be between $200 and $400 billion annually in our country.

There are two visible American symptoms of the "other" economy: 1) Proposition 13 in California, and 2) the increasing number of very large American corporations buying back their own stock to "go private." A company gone private no longer is harassed by SEC bureaucrats and troublemaking minority stockholders instigated by anticapitalist radicals such as Ralph Nader; it is responsible to its private owners and Internal Revenue.

On a worldwide basis, the "other" economy is conducted by millions of intelligent, ambitious, energetic, skilled and competent people refusing to have a huge part of their earnings confiscated by government for support of the welfare state. These millions of workers and managers are willing to support vitally necessary government activities (military and police forces, fire fighters, epidemic control, etc.) but are unwilling to pay labor union dues, social security, workmen's compensation, medical and unemployment insurance, pension fund contributions, etc.

FRENCHMEN

The current issue for the top French news magazine Le Point reports there are six million Frenchmen between the ages of 25 and 50 wanting to go private. They want to own and run their own private free enterprises.

Millions of intelligent people in advanced countries are now unwilling to become stultified cubbyhole bureaucrats, employes of nationalized industries or laborers in VAT-taxed big manufacturing industries strangled by labor union dictatorship. The VAT is a national sales tax imposed from initiation to finished product on everything the consumer needs and wants.

Sen. Russell Long of Louisiana is urging our country to adopt a VAT (value added tax) as an alleged means of fighting inflation. He ought to go to Belgium, France and other VAT-stricken places to see for himself how VAT raises prices, creates inflation and an army of lawbreakers in the same way as Prohibition in our country did and the easily avoided 8 per cent New York City sales tax does now.

LESS REVENUE

Everywhere VAT is in effect, it produces far less revenue than anticipated. Prime Minister Maggie Thatcher of Great Britain, whose Conservative government has made some wise moves toward restoring free enterprise there, will find out she is making a big mistake in sponsoring a new 15 per cent VAT.

In Italy today, the steel, electronic, leather and clothing industries are mainly conducted in the "other" economy and are so profitable, productive and internationally competitive that Italy is enjoying a new economic miracle. "There is an enormous difference between the official reports on the French and Italian economies and their actual prosperous situation," says a top foreign currency and trade expert in New York City. "Our firm has been puzzling over this for the last 18 months. We have come to realize there are now two economies in industrialized nations: The official one and the 'other' one."

Alexander Lamfalussy, economic adviser to the Bank for International Settlements in Basel, Switzerland, told Le Soir in Brussels, capital of the Common Market, that traditional banking and the international monetary system have been "atomized" by governments' debasing of their national currencies and consequent inflation.

LOST PEACE

"We won the war but lost the peace," said Winston Churchill a couple of years after 1945. Today, the United States government won its war against gold as a mandatory restraint on its paper money printing press but lost the great American economy. Today the paper dollar buys less and less while gold coins buy more and more.

Gold coins—untraceable real money (in contrast to gold ingots which are mostly traceable and cumbersome) are the real measure of the "other" economy, the anti-welfare state economy in which millions of people are demanding cash for their work instead of paychecks punctured full of holes by government withholding and taxation. In 1980, U.S. gold medallions and Canadian $50 face value gold coins at free market price will become additional measures of the "other" economy in the North American continent.

The "other" economy in which millions of intelligent people of all classes "go private" is not a movement of dishonest lawbreakers; it is a social and economic revolution marking the death of Marxism and the socialist welfare state. Before that death occurs, there probably will be great social and political convulsions. But the death is certain and will rescue mankind from enslavement by the State.●

RECOGNITION OF MR. LOYD WATKINS

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. BEVILL. Mr. Speaker, I want to take this opportunity to publicly recognize Mr. Loyd Watkins, who resides in Cherokee County, a part of Alabama's Fourth Congressional District which I am privileged to represent in this House.

Mr. Watkins' heroic acts have prevented a store burglary and have resulted in the saving of two lives.

On December 2, 1977, he played a major role in preventing a burglary at a convenience store in Blanche, Ala. His actions resulted in the thwarting of the burglary attempt and obviously saved the store owner thousands of dollars in merchandise.

In early 1978, Mr. Watkins' quick action saved the life of a person involved in an automobile accident. Mr. Watkins was successful in removing the accident victim from underneath a car, thereby saving his life.

In the summer of 1978, Mr. Watkins prevented a potential drowning when he rescued a friend from deep water and carried him to a hospital for treatment.

Mr. Watkins' dramatic actions have rightfully won him the respect and gratitude of his community.

These heroic deeds are a credit to his character and are most certainly worthy of public recognition.

I want to join in recognizing and saluting Loyd Watkins for his magnanimous efforts under extreme circumstances.●

PLIGHT OF CLEVELAND IS WARNING TO US ALL

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. EDGAR. Mr. Speaker, as chairman of the Northeast-Midwest Congressional Coalition, I have spent a great deal of time looking at Federal programs and how they affect the 18 States in the Northeast-Midwest region.

There are many distressed urban and distressed rural areas in this region, areas which are losing jobs and tax bases with which to support ever-increasing social service demands. I believe that much improvement is needed in several domestic assistance programs in order to eliminate inequities that are having a negative impact on our region. For instance, the 18 States in our region comprise 47 percent of the Nation's population but receive only 9 percent of each year's military construction budget; on the average. We receive about the same percentage of each year's water resources budget.

Despite the fact that much remains to be done on the Federal level, we must never lose sight of the fact that local factors play a key role in determining the economic health of any local area. The Federal Government cannot solve all of the problems that are leading to the economic decline of some parts of the country.

Recently, Thacher Longstreth, executive vice president of the greater Philadelphia Chamber of Commerce, sent me the following article on the decision of the Diamond Shamrock Corp., to leave Cleveland and establish its headquarters in Dallas, Tex. The president of the firm said,

We need to be closer to where the action is going to be in the future.

This episode raises a warning to all of us in our region; we must create our own "action," our own sense of excitement about the cities in which we live, if our great urban centers are going to compete for jobs in the national marketplace.

At present, it appears as if Cleveland has not succeeded in maintaining the confidence of its business community, and its public image has made recruitment on the part of its businesses difficult.

I share this article not to poke fun at Cleveland; theirs is a serious crisis, and I hope the city leadership can turn things around. I urge my colleagues to read this article to gain understanding about the processes involved in industrial and commercial location, and to take note for their own communities.

The article follows:

[From the Wall Street Journal, May 30, 1979]

DIAMOND SHAMROCK LEAVING CLEVELAND FOR THE SOUTHWEST—FIRM SAYS ANTIBUSINESS MOOD CONTRIBUTED TO ITS DECISION TO MOVE OFFICES TO DALLAS

CLEVELAND, OHIO.—Diamond Shamrock Corp. said it will begin moving its corporate headquarters to Dallas from Cleveland in August to be near its expanding operations in the Southwest.

"We need to be closer to where the action is going to be in the future," William H. Bricker, president and chief executive officer, said at a news conference.

But the relocation decision wasn't based purely on logistics. "The political, economic and educational climate in Cleveland, and particularly the antibusiness attitude on the part of our city administration, was also something we couldn't ignore," Mr. Bricker said. "In recent months, several potential key employes decided against joining us," primarily because of Cleveland's negative image.

Mr. Bricker said 30 to 40 top corporate officers and staff professions will move to Dallas initially, and by next summer, they will be joined by an additional 100 people from the headquarters staff.

After those moves, Diamond Shamrock will have about 1,000 employes in downtown Cleveland and 800 in nearby Lake County, but the company indicated that some of those workers also will be leaving Ohio. "Studies are under way which may lead to industrial chemicals and plastics unit and other staff and service groups moving to the Southwest in the next two to three years," Mr. Bricker stated. Within a few years, there probably will be very few employes left in downtown Cleveland, he said.

The international and diversified technology unit is scheduled to move from Cleveland next year to a new building at Diamond Shamrock's research center in Concorn Township in Lake County.

Last year, Diamond Shamrock said it planned to move top corporate offices to Concord Township, 30 miles east of Cleveland. But Mr. Bricker said Concord didn't turn out to be any more receptive to business than downtown Cleveland. "It's kind of nice once in a while not to be looked upon as a two-headed monster," he said.

Two years ago Diamond Shamrock studied the possibility of moving its headquarters but decided to stay in the Cleveland area. "It was a bad decision to stay," Mr. Bricker conceded. "During that period, we have continued to have to oversubsidize employes to get them to come" to Cleveland.

The chief executive said that the company's growth during the past decade makes the Dallas move very logical. The company has five major plants and operating facilities in Texas, plus extensive oil and gas and lignite leaseholds in Louisiana, Texas, Mississippi, Wyoming, other Western states and the Gulf of Mexico.

The company move comes as a blow to Cleveland, which already is suffering from a battered image. The city is in default on $14 million of notes held by local banks; its schools are barely making ends meet; and there's strong enmity between the mayor and both the city council and the business community.

One observer in the business community speculated that Diamond Shamrock's announcement may have ripple effects. He said some businesses have stayed in Cleveland just to avoid being the first one to move in the midst of the city's financial and political troubles.●

RHODESIA—THE ASCENT TO MAJORITY RULE

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. MATTOX. Mr. Speaker, the recent elections in Rhodesia signify a breakthrough in that country's oppressive history. For the first time, the majority black population was given the chance to cast their ballots in the hopes of developing a more representative government. The elections constitute a great step forward, both in actuality and symbolically. At the same time, a majority of my colleagues and I felt the need to proceed with care on lifting the economic sanctions against Rhodesia.

While all of us are aware of the good and bad points surrounding the elections, I would like to make some comments that I hope will service both opponents and proponents of maintaining sanctions against Rhodesia. I believe we all want to see Rhodesia operate as a full-fledged democracy, and I am giving the following thoughts with that in mind.

Elections, in and of themselves, do not make a democracy. At one level, they are a structural component enabling citizens and political parties to participate in the formation of a government. But, the electoral process in a democracy is something much more. The conduct of its elections must demonstrate that freedom and equality exist to product a government which has the consent of a majority of its citizens. Moreover, it must be the intent of such elections to operate that way. Without these two essential ingredients, the electoral process becomes a mere mask, overtly seeming to move in the direction of majority rule, but in reality, extending the minority's blanket of power.

With this description in mind, the elections in Rhodesia fall somewhere between the skeleton and flesh of democratic rule. Competition among the governing and opposing parties was severely restrained. That alone is a major factor distinguishing the skeletal from the working definition of a democracy. But, for a country that is just beginning its ascent to majority rule from oppressive minority control, we cannot deny that progress has been made. There is a necessity to be just as critical about the good points as the bad. It is in this context where the actions of our Government become important to insure continuation of progress in Rhodesia.

Rhodesia has its own history and characteristics; a peaceful and consensual government can only emanate with those factors in mind. The most effective way for us to help Rhodesia is to recall the making of our democratic government. Full political participation was not an overnight occurrence. We have come a long way, and now Rhodesia must carve its own path in achieving majority rule. If we follow and transmit that principle to Rhodesians, they, in turn, will look to us in a more trustworthy and straightforward manner.

Finally, I feel it is important to realize the wider implications that are present in light of the elections in Rhodesia. The success of other Third World countries developing their respective governments in a more representative fashion depends, in part, on the progress made within Rhodesia. Successful democratic rule in Rhodesia is important not only for Rhodesians, but for all people in southern Africa. Therefore, we must proceed with the hope that effective majority rule in Rhodesia will act as a catalyst for other Third World countries in the promotion and advancement of democratic rule.

THE THEORY AND BEHAVIOR OF FEDERAL ADVISORY GROUPS

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. ALEXANDER. Mr. Speaker, recently I met with the Presidentially appointed National Advisory Committee on Oceans and Atmosphere (NACOA). This Federal advisory group, established by legislative statute, advises both the President and the Congress concerning national ocean policy, coastal zone management, and marine and atmospheric science and service programs.

To assist these outside experts and their full-time permanent staff, the Secretary of Commerce is charged with providing the necessary administrative support—in terms of payroll, office space, supplies and personnel assistance. These administrative responsibilities have been delegated to the National Oceanic and Atmospheric Administration (NOAA).

As NACOA's principal constituent, the Congress has criticized NACOA concerning the composition of its staff and the capabilities of its members to deal with a broad range of ocean activities; the timeliness and relevency of its topics; and the useability of its products. The Congress reconstituted this advisory group in 1976 with the hope that NACOA would recognize that we expect it to function as an autonomous group, to confront conflict and controversy, and to advance the public interest before agency self-interest.

NACOA, now in its eighth year, is striving to renew its internal vigor and its external utility and indeed these attributes have been subjected to sharp criticism. This condition with which NACOA is struggling is largely symptomatic of Federal advisory groups. While, on the one hand, we seek sources of outside objective advise, on the other hand, we confound the situation by structuring the advisory mechanism in a way which inevitably allows it to be co-opted by the very Federal agencies it is expected to evaluate and assess. This is especially true when the day-to-day functioning of the advisory group and its staff is dependent on the administrative largesse of a particular Federal agency.

The question is whether these relationships of mutual dependence between advisory groups and the Federal agencies are consistent with the Congress expectations of unconstrained advice. I believe it is important that we understand the relationships which can develop between advisory groups and Federal agencies and how these relationships may influence the information communicated to the Congress.

With that in mind, I would like to share with my colleagues a monograph which was prepared by an associate of mine, Stewart B. Nelson.

The article follows:

The Theory and Behavior of Federal Advisory Groups

(By Stewart B. Nelson)

INTRODUCTION

It was Machiavelli who long ago enunciated the principle "A wise Prince, then, seeks advise continually, but when it suits him and not when it suits somebody else".[1] Yet the Apostle, James, asked "Who is a wise man and endued with knowledge among you? Let him shew out of a good conversation his works with meekness of wisdom." (James 4:13)

Be that wise Prince the President, cabinet-level Secretary or departmental head, the use of advisory groups has burgeoned. And the wisdom imparted? More often than not, it is wielded in the spirit of the political moment, meekly if appropriate, forcefully if necessary.

WHY AN ADVISORY GROUP

Officially, Federal advisory groups are defined as "Any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or subgroup thereof, that is formed by a department or agency of the government in the interest of obtaining advice or recommendations, or for any other purpose and that is not composed wholly of officers or employees of the Government".[2] In essence, then, federal advisory groups—regardless of the bureaucratic level at which they render their services—are formed primarily to make available to federal officials the views of people from outside the federal government.

These "outside" advisors provide the Federal official with support, legitimacy, visibility and status. In general, advisory groups can perform any or all of the following four major functions:[3]

Advise with respect to agency policy making. The advisory groups are forces for innovative and creative change in the agencies. Through a process of "organized brainstorming" they are supposed to infuse the bureaucracy with new ideas, approaches, and concepts.

Careful and objective appraisal and criticism of agency performance. In theory, the advisory group becomes sufficiently independent of agencies to allow them to report with detachment and yet be close enough to enable their reports to be comprehensive.

Generating support. Administrators will tend to view advisory groups as devices for generating support for their agencies and as shields from external critics, especially the Congress. This does not imply cynicism on the part of bureaucrats as much as it reflects the realities of the competitive struggle for administrative survival.[4]

Reflecting the dominant values of the prevailing elites. Rather than generating new ideas or helpful critiques for the agency, advisory groups may be more likely to reflect the dominant values of the prevailing elites in each policy sphere. They are expected to "legitimate" the already established preference of the federal policy makers and their special professional publics. Hence, advisory activities will tend to reinforce current policies in that on the one hand they will lead to the expansion of programs that benefit incumbent elites and on the other hand they will assist in the dismantling of programs that might compete with or inhibit the top leadership of their clientele.

Besides "advising", there are yet more subtle reasons for creating an advisory group. Consider the senior, politically-appointed administrator—there he sits, overworked and making the best of a bad situation, while all around him his "princes" and "serfs" are doing and undoing the work of his administration without him having a clue. By creating an advisory group, the official acquires access into the functioning and productivity of his agency. This perceived insight, provided by "outside experts", must be tempered by the realization that any advisory group which is totally dependent upon a single executive for its own survival may be highly reluctant to tell him any unpleasant truths.[5]

Additionally, an advisory group may be established as a surrogate for action since it produces a kind of structural grandeur. It implies that somebody has taken charge of a problem and perhaps things will work out. This is the way of governments; advisory committees have their own laws of inertia and there exists no satisfactory mechanism for insuring their productivity or their accountability.[6]

THE INTERNAL FUNCTIONINGS OF AN ADVISORY GROUP

Regardless of the rationale underlying the creation of an advisory group, there are predictable and common characteristics which, with few exceptions, all advisory groups share. Consider the following:

Members are usually selected from among the well-known and well-established. Although objectivity is often cited, it may be unreasonable to expect any administrator to purposefully recruit outspoken critics and political opponents as advisors. Conversely, an administrator may deliberately involve outspoken critics in the hope that by their being part of the system they can at least be "neutralized."

Members of advisory groups tend to be dominated by professional and attentive elites.[7] Whereas a broadly representative grouping is frequently espoused, it is not vigorously sought for such a group requires a substantial and continual educational effort on the part of agency officials.

Members are frequently supported administratively by the very agency whose programs and management they are appraising. Serviced with travel arrangements, expense reimbursements, office space and clerical aid, the advisory group member develops a per-

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sonal involvement and identity with the agency.

Advisory groups usually meet on a periodic basis. Consequently, the day-to-day conduct of affairs and the maintenance of paperwork flow falls to an executive director/secretary and staff. These staff people, more often than not, are secunded from the agency with whom the advisory group is involved. This arrangement creates a symbiotic relationship with the agency. In those cases where the advisory group is authorized to hire staff members directly, their staff personnel are generally housed within the subject agency and dependent upon the agency's administrative and logistic support. This dependency of advisory group and staff on the Federal agency lends itself to co-opting the "outside" advisors.

The advisory committee's success, dependent on a number of variables, rests largely on the rank and skill of the chairman and his working strategies.

Attendance at advisory group meetings can fall off when it becomes clear—to either agency observers or individual members—that nothing very important or threatening is going to result.

An advisory group, apart from its formal charter or mandate, will quickly ascertain the agency's expectations as to its role and services. At this point the advisors will usually respond by assuming varying roles. One set of character poses is struck on the continuum between information processors and action proposers, another on that between detachment and involvement.[8] Whereas the advisory group, through the process of chairman and member rotation, may realign themselves along the aforementioned continuum, the permanent executive director/secretary and staff may remain fixed in their perspective and attitude. This disharmony between advisory group and staff can prove extremely damaging to effective internal workings of the group and their agency relationships. This type of role conflict is equivalent to that described by Kast and Rosenzweig wherein the requirements of the role violate the needs, values or capabilities of the focal person.[9]

THE CHEMISTRY BETWEEN ADVISORY GROUP AND BUREAUCRACY

Advisory groups can be used for many purposes, but chief among them is the public administrator's ability to reach out and tap the wisdom and experience of distinguished public leaders whose time and brainpower the Government could not afford if it were just another claimant in the marketplace.[10]

We may indeed by tempted to ask why individuals would want to serve on advisory groups.

We may, on the one hand, ascribe their willingness to serve as an opportunity to discard parochial roles and discuss matters from the perspective of statesmen. On the other hand, we may recognize that serving on an advisory group may be a satisfying, ego-building experience. Certainly the visibility resulting from such exposure adds to the participant's civic and professional stature and, presumably, also adds to his sense of self-importance. Additionally, it offers some degree of participatory involvement in the Federal policy making process. In this latter sense, self-interest may well be the motivating factor. The advisory group represents a device wherein social and political agents can gather together to exchange views on questions of common interest.[11] By taking part in the definition of problems, in helping to choose the rules of the game, and in aiding in the laying down of common ends, the advisory group member has defined the framework from which reasonably predictable decisions will result to influence the course of his particular interests or activities.[12]

Apart from the advice received, does the Federal official (bureaucrat) garner any additional benefits through his association with an advisory group? Certainly. Consider, for example, that the officials may use the advisory group process as a means of enhancing their own reputations and careers. The advisory group process allows the Federal officials to come into fairly frequent contact with notables that they would not be likely to encounter otherwise. These contacts increase the officials' own visibility and status. For the upwardly mobile and younger career officials this exposure may be an invaluable asset, recognizing that many of these advisors are "in and outers" from government service. There are even advantages for those Federal officials whose ambitions no longer extend beyond their present positions. For them, the advisory group process provides satisfying interaction with the elite that their bureaucratic environment would not normally offer. The relationship between officials and advisers is thus mutually beneficial.[13]

However, what of the advice, itself? Does the end product of the advisory group's efforts reflect fresh ideas and creative thought? The answer is a debatable one. Irving Janis, for example, contends that committees have a seemingly irrepressible tendency toward what he calls "group think". According to Janis, there is a strain toward premature and erroneous consensus because the members tend, whatever the diversity of their original views, to come together and reach agreement.[14]

This tendency to achieve consensus may be attributed to the advisory group's having to function as an organizational unit. Herbert Simon conjectures that the organization's objective is, indirectly a personal objective of all the participants.[15] It is the means whereby their organizational activity is bound together to achieve a satisfaction of their own diverse personal motives.[16]

The human being never has more than a slight insight into the regularities and laws that would permit him to induce future consequences from a knowledge of present circumstances.[17] It is the awareness of this harsh indictment that will find advisers, when confronted with problems of importance, moving towards greater risk-avoidance. There are recent findings which show this shift toward risk-avoidance is a consistent phenomena if decision-makers are initially less cautious.[18]

Although the advice proffered by advisory groups may be a homogenized offering, the Federal official will still usually accept it in a willing spirit. In addition to an awareness of the fact that a act of acceptance further diffuses accountability, the Federal official must also be conscious of the powerful individual interests which may be repersented on an advisory group. For, even though doing good has long been a vital part of the public-administration ethic, the Federal official has a public dependence upon the powerful individuals within the establishment for the success of his agency.[19]

IS THERE AN ALTERNATIVE TO THE OUTSIDE EXPERT

With the advent of the Carter Administration, we continue to see considerable activity being devoted to the reduction of agency advisory groups.

Successes will no doubt be realized to the applause of the Congress. Yet, it is the Congress itself which, in recent years, has inflated the list of advisory groups. Numerous legislatively enacted programs have specifically required the establishment of advisory groups. It is not a Congressional desire to be the recipient of ever more reports, but, rather, a desire to insure that new programs will be suitably represented and championed within the responsible Federal agencies.

For as Frederick Mosher recognized, the most important and yet conventional means for giving administrative power is to assign a client interest its own administrative organization.[20] Congress, therefore, has chosen to institutionalize the advisory group process as a means of fashioning an administrative unit to represent client or program interests.

With all the various underlying motivations for etablishing advisory groups, are there alternatives to the outside expert?

In all probability, the answer is no. Quite possibly we could eliminate the Congressional mandating of advisory groups by having their staffs eventually expand to more effectively and frequently use the process of Congressional oversight hearings.

Perhaps we could even boldly move to abolish all agency-originated advisory groups. Now, however, we must decide whether or not the bureaucracy itself is capable of generating within itself creativity and innovation. Equally important, if whether the agency is capable of performing self-assessments. Of course, we must also be aware that terminating a formally established group may be perceived as a deemphasis of the area with which the group was concerned.

Suppose we attempt to employ "internal consultants," an approach which appears *Machiavelli, The Chief Works and Others,* to be gaining popularity within industry.[21] This alternate to the outside expert has its own set of pitfalls. The internal consultant may become stale, operating as they do in one particular agency. They may become less objective and have more of a credibility problem than outsiders. They also may be less inclined to attempt changes because of a greater sensitivity to agency preferences and internal politics.

Regardless, there are major trends continuing to develop which are important determinants in the present and future conduct of public service. Among them is the growing demand by the citizenry for increased public participation in the government decision-making process.[22]

This alone is sufficient to guarantee the continuation of the advisory group process within the Federal government.

FOOTNOTES

[1] Niccolo Machiavelli, "The Prince" in trans. Allan Gilbert (Durham, NC: Duke University Press, 1965), p. 92.

[2] Executive Order 11007, "Prescribing Regulations for the Formulation and Use of Advisory Committees," Executive Office of the President, 26 Feb. 1962.

[3] See Statement by Dr. Thomas Cronin, Research Associate, Brookings Institute, U.S. Congress, House Special Studies Subcommittee, Committee on Government Operations. House Report No. 43–861, *Presidential Advisory Committees,* Ninety-First Congress, Second Session, 1970, pp. 186–187.

[4] Seidman contends that what Government basically wants from advisory committees is not expert advice . . . but support. Harold Seidman, *Politics, Positions & Power: The Dynamics of Federal Organization* (New York: Oxford University Press, 1976).

[5] Irving L. Janis, *Victims of Groupthink* (Boston: Houghton Mifflin Co., 1972).

[6] Statement by William D. Carey, Senior Consultant, Arthur D. Little, Inc., U.S. Congress, House Special Studies Subcommittee, Committee on Government Operations, House Report No. 43–861, *Presidential Advisory Committees,* Ninety-First Congress, Second Session, 1970, pp. 186–187 (hereafter referred to as *Presidential Advisory Committees*).

[7] See statement by Dr. Thomas Cronin, *Presidential Advisory Committees.*

[8] Betram M. Gross, *Organizations and Their Managing* (Free Press: New York, 1968).

[9] Fremont E. Kast and James E. Rosenzweig, *Organization and Management: A Sys-*

tems Approach (New York: McGraw-Hill Book Co., 1974) pp. 292–293.

[10] Statement by Bradley H. Patterson, Jr., Executive Director, National Advisory Council on Economic Opportunity, *Presidential Advisory Committees*, p. 92.

[11] Leon DION, "The Politics of Consultation", *Government and Opposition*, Vol. 8, Summer 1973, pp. 332–353.

[12] Perhaps the vain search for "objectivity" should be discarded and replaced with an honest avowal of the interests being served. The sanctimonious assertion of an undefinable "public interest" can give way to a definable fairness doctrine which sets forth the conditions of the advisory reports, the financial resources, and the agency and program controls. See Harold Orlans, "Neutrality and Advocacy in Policy Research", *Policy Sciences*, Vol. 6, June 1975, pp. 107–119.

[13] Statement of Dr. Thomas Cronin, Research Associate, Brookings Institute, *Presidential Advisory Committees.*

[14] Irving L. Janis, *Victims of Groupthink* (Boston: Houghton Mifflin Co., 1972

[15] Herbert A. Simon, *Administrative Behavior* (New York: The Free Press, 1976)

[16] Ibid

[17] Ibid

[18] B. Wilpert, P. Burger, J. Doktor and R. Doktor, "The Risky Shift in Policy Decision Making: A Comparative Analysis", *Policy Sciences*, Vol. 7, Sept. 1976, pp 365–370

[19] Frederick C. Mosher, ed., *American Public Administration: Past, Present, Future* (University, AL: Univ. of Alabama Press, 1975)

[20] Ibid

[21] "The Benefits of Doing Your Own Consulting", *Business Week*, 16 May 1977, pp 62–66

[22] Richard L. Chapman and Frederick N. Cleaveland, "The Changing Character of the Public Service and the Administrator in the 1980's," *Public Administration Review*, Vol. 33, July–Aug. 1973, pp. 358–366.●

HANDGUN VIOLENCE CLAIMS 630 LIVES IN MAY

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. DRINAN. Mr. Speaker, the tragic abuse of handguns in the United States demands a strong, immediate response from the Congress. The latest monthly bulletin released by Handgun Control, Inc., lists 630 media-reported, handgun-related deaths during May, and a staggering total of 3,105 handgun fatalities since January 1, 1979.

These compelling statistics represent the multitude of individual tragedies resulting from handgun misuse every day. In May, for instance, a 4-year-old child was shot to death by his 9-year-old cousin who thought the gun was a water pistol.

A number of handgun control bills have been introduced in the 96th Congress, with more bills expected to be introduced shortly. I urge my colleagues to seriously study these urgently needed proposals. The Handgun Control, Inc., list follows:

ROLL OF HANDGUN DEAD

ALABAMA (20)

Cornell Bruce, Birmingham; Forrest Flambo, East Gadsden; David Gilland, Jasper; Mary Lee Green, Dadeville; David Kelso, Decatur; Willie Key, Briarfield; Willie Moody, Decatur; Grady Parker, Birmingham; Roland Ray, Saks; Mike Rinks, Florence; Rick Small, Mobile; Anthony Thornton, Prichard; Fredrick Solomon, Southside; Prudice Tuggle, Centreville; John Wallace, Prichard; Henry Wilhoite, Montgomery; Otis Williams, Prichard; Glen Wilson, Tuscaloosa; Unidentified female, Birmingham; Unidentified female, Hueytown.

ALASKA (3)

William Berry, Fairbanks; Jan Tedesco, Fairbanks; and Charlie Walton, Fairbanks.

ARIZONA (8)

Olivia Armendariz, Guadalupe; Elmo Bates, Tucson; Francis Beveridge, Yuma; Cheyenne Freeman, Tucson; Williard Harney, Prescott; Clinton McJunkin, Cave Creek; Marian McJunkin, Cave Creek; Brian Thomas, Tucson.

ARKANSAS (14)

Larry Black, Blytheville; Dale Brown, Conway; Eunice Brown, Conway; Jean Bussey, El Dordo; Tony Caldwell, Stuttgart; Robert Firth, Texarkana; Bobby Lynn Larkin, Little Rock; Layne McCormick, Keota; Ronald McPherson, Grady; James Montgomery Jr., Wrightsville; Fred Morris, Nashville; Sherine Morrison, Bentonville; Melvin Stark, Bentonville; Charlotte Tyler, Little Rock.

CALIFORNIA (102)

Stephen Acosta, Oxnard; Chester Aiby, Orangevale; Joe Aguirre, Los Angeles; Fred Armijo, Torrance; Manuel Avalos, Stockton; Richard Barnett Jr., Marina Del Rey; Tony Bishop, Los Angeles; Joseph Canete, Stockton; Elizabeth Cannon, Roseville; Juan Cantu, Bakersfield; Ignatius Castello, Cupertino; Frank Chagolla, Riverside; Peter Chagolla, Riverside.

Tommy Chagolla, Riverside; Charles Clifford, Kelseyville; Joanne Cotsen, Beverly Hills; Dana Davidson, Hollywood; Thomas Davis, San Diego; Chris Doering, Beverly Hills; Carlos Dy, Chula Vista; Niles Endsley, South Lake Tahoe; Glenn Fitts, Bakersfield; Archie Flath, La Miranda; Audrey Flath, La Miranda; Dennis Frakes, Manhattan Beach; Doris Freeman, Manteca; Tony Galvan, Pico Rivera; Holly Ganir, Angwin; Roberto Gomez, Santa Ana.

Scott Gordon, Fresno; Sherlyn Grant, Compton; John Gray, San Jose; Modesto Guerrero, Stockton; Allen Harris, San Rafael; Harley Harty, Bakersfield; Mayreh Harty, Bakersfield; Richard Hecht, Santa Monica; Polly Hockstaff, Salinas; Robert Hollister, Yreka; Rosiland Hollister, Yreka; Robert Hughes, Edgemont; Colin Jacobs, San Diego; Suzanne Jacobs, San Diego.

Darl Jay Jr., Watsonville; Ronald Johnston, Sun Valley; Steve Johnson, San Diego; Wallace Johnson, San Francisco; Jean Jones Jr., Pittsburg; Vanessa Jones, San Mateo; Lawrence Krebs, Canby; Ethel Laidler, Hollywood; John Landon, Long Beach; Ramon Licon, Sanger; Gary Lilly, Marina Del Rey; Alberto Maris, Compton.

Matt Marquez, Baldwin Park; Letitia Marshall, North Highlands; Jewell McKenzie, Gualala; Wilbur McKenzie, Gualala; James McWilliams, San Bernardino; Teddy Nicholson, Montrose; Mr. Nolen, Bakersfield; Mivhael Overland, Santa Monica; William Pabst, Santa Barbara; Gregory Panlibuton, San Francisco; Michael Peek, Orosi; James Perkins, San Diego; Timothy Pierce, Livermore; Joseph Provenzano, Portola Valley; Harold Poole, Livermore; Leondia Quinagon, Chula Vista.

John Redmayne-Titley, Fallbrook; Michael Rhodes, Compton; Jose Rodriquez, Sacramento; Blondena Sargent, Livermore; Richard Sargent, Livermore; Willie Siepert, Inglewood; Matthew Simunovick, Orcutt; Ruby Stubblefield, Stockton; Mike Staubbs, Inglewood; Boonard Tangsombatvisit, Oakland; Monrovia; Richard Vargas, Riverside; Robert Jenny Torrez, Bakersfield; Dennis Treiner, Monrovia; Richard Vargas, Riverside; Robert Villalobos, Los Angeles; Douglas West, Santa Maria.

Jack Williams, Los Angeles; Francisco Zaragoza, Compton; Unidentified female, Los Angeles, 5/6/79; unidentified female, Los Angeles, 5/9/79; unidentified male, Arlanza; unidentified male, Arvin; unidentified male, Fresno; unidentified male, Industry; unidentified male, Long Beach; unidentified male, Mendocino County; unidentified male, Pasadena; unidentified male, San Diego; unidentified male, San Fernando; unidentified male, Santa Rosa.

COLORADO (16)

James Barclay, Lakewood; Philip Buckman, Denver; Aubrey Carr, Thornton; Allen Cox, Fort Morgan; Benjamin Goldstein, Denver; Barbara Gonser, Craig; Barnette Hamrick, Denver; Joyce Lewis, Denver; Donna Maestas, Denver; John Monath, Lakewood; Merwyn Nadeau, Denver; Larry Swanson, Denver; David Valdez, Pueblo; Terry Wall, Thornton; Evelyn Wilkinson, Boulder; unidentified male, Boulder.

CONNECTICUT (1)

Ruth Yarborough, Stamford.

DELAWARE (2)

Clara Lambertson, Dover and Gilbert Lambertson, Dover.

DISTRICT OF COLUMBIA (8)

Virginia Bolt, Ocia Chamberlain, Terry Gray, Azalee Surles, Chester Thomas, Benorais Webster, unidentified male.

FLORIDA (24)

Gerardo Araque, Miami; Rene Blanc, Miami; Francisco Bruno, Miami; Teodoro Caceres, Miami; David Cain, Wimauma; Michael Cartier, Miami; William Cook, Miami; Hans Fischer, Palm Beach; James J. Garofola, Fort Lauderdale; Frank Guzman, Dania; Jesus Hernandez, Miami; Boysie Jones Jr., Bartow.

Joseph Kawszewich, Titusville; John Lewis, Boca Raton; Margaret McCormick, Lake Wales; Shelby McQueen, Miami; Carlos Muniz, Miami; Jorge Ocampo, Key Biscayne; Oscar Panagos, Miami; Albert Perez, Miami; Lucy Sexton, Vero Beach; Vincente Vidal, Key Biscayne; Deborah Von Spreckelsen, Wimauma; William Zenni, Miami.

GEORGIA (17)

Jon Emerson, Tifton; James Forbus, Franklin; Linda Galreath, Mableton; C. R. Jordan, Aiken; Alex Kiehl, Atlanta; Theodore Mann, Macon; Rufus Mathis, Atlanta; William Moon, Dekalb County; Gary Mullins, Calhoun; Ernest Rahn, Savannah; Rev. Gordon Roole, Atlanta; Donald Rosser, Grantville; Thomas Rowry, Union Point; Jolene Simon, Atlanta; Mary Smuck, Perry; Garrit Vanleeuwen, Mableton; Angela Wilson, Atlanta.

HAWAII (1)

Amos Blythers, Honolulu.

IDAHO (2)

Karen Beattie, Post Falls and unidentified male, Twin Falls.

ILLINOIS (19)

Roy Arias, Chicago; John Borsellino, Will County; William Campbell, Granite City; Lawrence Corwin, Chicago; Richard Cota, Arlington Hts.; Adrian Covarrubias, Chicago; Anthony Filpi, Chicago; Carl Gaimari, Barrington Hills; Daniel Hayes, O'Fallon; Donald Irvin, Chicago; Shirley Keeve, Chicago; Maurice Jackson, Chicago; Claudette Kelly, Chicago; Joseph Palumbo, Chicago Hts.; Ameco Perez, Chicago; Victor Segeral, Chicago; William Tignec, Chicago; Luz Valazquez, Chicago; Michael Williams, Chicago.

INDIANA (9)

Jacqueline Cain, Martinsville; Charles Caldwell, Hammond; Catheryn Dunphy, Edwardsburg; John Dunphy, Edwardsburg;

Ernest Green, Merrillville; Peter Kebel, Indianapolis; Richard Myles, Gary; Joseph Palumbo, Calumet City; Unidentified female, Bluffton.

IOWA (4)

Michael Flynn, Keota; Donald Green, Des Moines; John Steffens, Des Moines; Mark Waters, Atlantic.

KANSAS (8)

James Henderson, Kansas City; Ronald Johnson, Wichita; Darrell Johnston, Atchison; Edwain Lagerman Jr., Salina; Joe Linder, Atchison; Byron Tate, Dwight; Henry Tickle, Dearing.

KENTUCKY (10)

John Carter, Lexington; Harold Cornett, Beattylville; Harold Cummins, Lexington; William Greenlee, Hopkinsville; Buford Hackney, Mouthcard; Burton Jones, Hazark; Willie Olive, Louisville; Merton Smith, Orange Grove; Billy Wilson, Brownsville; Douglas Wilson, Louisville.

LOUISIANA (30)

Percy Anderson, New Orleans; Joy Arnold, Bayou Sorrel; Houston Carter, Jr., Baton Rouge; Mary Lee Carter, Baton Rouge; Willie Castille, Jr., Opelousas; Myrtle Champagne, Houma; Donald Dixon, Shreveport; Johnny Fitzmorris, Sun; Willie East, Springville; Mary Flemings, Baton Rouge; Geraldine Ford, New Orleans; Nonie Freeman, Shreveport; Kevin Galatas, New Orleans; Roy Hawkins, Baton Rouge; Richard Heidel, New Orleans.

Ronnie Jackson, Mounds; James Marx, Bogalusa; Rudolph Millison, New Orleans; C. A. Mitchell, Shreveport; George Morris, New Orleans; Felix Naquin, Houma; Monica Parkman, New Orleans; Kattie Raley, Baton Rouge; Jose Santiago, New Orleans; Alan Scarabin, New Orleans; Bernell Simmons, Varnado; Onitha Simmons, Varnado; Mary Jane Tate, New Orleans; Raymond Triche, Houma; Herbert Walton, New Orleans.

MARYLAND (13)

Ronnie Boone, Baltimore; Phyllis Coulbourne, Salisbury; Peggy Fowler, Oxon Hill; Edward Herr, Aberdeen; Leonard Hyatt, Baltimore; Lula Johnson, Silver Spring; Larry Jones, Baltimore; Ronald Jones, Baltimore; James Lambert, Oxon Hill; John Loetell, Essex; Reginald McFadden, Baltimore; Raymond Roberts, Baltimore; Ralph Wilkins, Baltimore.

MASSACHUSETTS (4)

Alfred Cimmoni, East Boston; Daniel Connolly, Boston; Gregory McDavid, Dorchester; Frederic Vinal, Lowell.

MICHIGAN (7)

Richard Clark, Milan; Catherine Dunphy, Edwardsburg; John Dunphy, Edwardsburg; Eddie Jefferson, Detroit; Robert Leslie, Detroit; Lovander Powell, Detroit; Danny Turowski, Detroit.

MINNESOTA (6)

Christopher Borzick, St. Paul; Mike Cassman, Minneapolis; Alan Cloud, Red Lake; Keith Davis, Duluth; James Mohr, Nisswa: Barbara Smith, Shakopee.

MISSISSIPPI (8)

Willie Blue, Clarksdale; Charles Ford, Aberdeen; Marjorie McCutchon, Waveland; Bobby Roberts, Potts Camp, Merton Smith, Lyman, John Sullivan, Louisville; John Tallie, Columbus; and Unidentified Male, Biloxi.

MISSOURI (10)

Cassandra Allen, St. Louis; Ulanda Allen, St. Louis; Larry Bernard, Dekalb County; Linville Deckard, Springfield; Ernest Gammons, Portageville; Joe Hunter; Cardwell; James Mack, St. Louis; Larry Milon, Centreville Township; John Reams, Kansas City; and James Steward, Jr., Blue Springs.

MONTANA (2)

Richard Carleton, Columbus, and John Ferriell, Butte.

NEBRASKA (1)

R. B. Hyland, Hemingford.

NEVADA (7)

Gayle Bangan, Las Vegas; Tony Bangan, Las Vegas; Edward Pavon, Reno; Patsy Watson, Las Vegas; Debra Weimerskircz, Las Vegas; John Weimerskircz, Las Vegas; and Rance Blevens, Las Vegas.

NEW HAMPSHIRE (4)

Joseph Furando, Kensington; Jane Linsley, Littleton; Peter Linsley, Littleton; and Rev. Joseph Sands, Littleton.

NEW JERSEY (9)

Neil Conklin, Newark; Marion Gibson, Jr., Newark; Janet Hackett, Egg Harbor; Jerry Johnson, Woodbury, Anthony Jones, Millville; Anna Rodziewicz, South River; Jeffrey Shaffer, Atlantic City, Juan Vasquez, Passaic; and Unidentified Female, Atlantic City.

NEW MEXICO (5)

Florence Luna, Albuquerque; Michael Mahoney, Cannon AFB; Wilfred Salazar, Espanola; Olivia Trujillo, Albuquerque; and Jerry Trujillo, Albuquerque.

NEW YORK (14)

Anton Eden, Greenwich Village, Charles Frankel, Bedford Hills; Helen Frankel, Bedford Hills; Diane Johnson, New York City; Edward Kimball, Ballston Lake; Joseph Manri, Brooklyn; Nettie McCormack, Bedford Hills; Robert McMahon, Brooklyn; Andrew Medosa, Brooklyn; Ronald Neal, Brooklyn; Oscar Rompolla, Brooklyn; Robert Soldo, Queens; Christopher Sperry, Bedford Hills; Mary Ellen Williams, Cheektowaga.

NORTH CAROLINA (14)

Anthony Dillard, Eden; Charles Frye, Raleigh; Phillip Frye, Raleigh; Suzanne Frye, Raleigh; Roy Huskey, Gilkey; Willie Jackson, Charlotte; Tony Kennedy, Charlotte; Alicia Long, Burlington; Ralph Long, Burlington; Owen Messersmith, Gilkey; Harold Michaels, Newton; Carl Newman, Fayetteville; Robert Peterson, Gilkey.

OHIO (22)

Melvin Allen, Cleveland; Wayne Brock, Cincinnati; Fern Callahan, Cleveland; James Carrico, Hilliard; Douglas Cochran, Zanesville; John Dennis, Columbus; Brett Ferguson, Columbus; Charles Flores, Cleveland; Gary Gates, Dayton; Bradly Hasson, Whitehall; Melvin Henz, Cincinnati; Brenda Maule, Hilliard; Earl Mungo, Columbus; Kevin Pack, Cleveland; Michael Patterson, Cleveland; Charles Ruse, Athens; Eugene Williams, Cleveland; unidentified male, Cleveland, 5/28/79; unidentified male, Cleveland, 5/29/79; unidentified male, Columbus.

OKLAHOMA (14)

Terry Amous, Oklahoma City; Auttie Brown, Boynton; Ramona Butler, Hollis; Rita Dunning, Oklahoma City; Robert Fleming, Midwest City; Mark Gregg, Moore; Calla Johnson, Frederick; Herschell Lewis, Clinton; Joe Lott, Hobart; Robert Moore, Shawnee; Lee Morrow, Edmond; Matthew Thompson, Wilburton; Brenda Wood, Ardmore; Larry Wood, Ardmore.

OREGON (4)

Faye Babbit, Prineville; Kim McVey, Gearhart; Leroy Story, Ashland; Mark Wallin, Milwaulie.

PENNSYLVANIA (13)

Joanne Carter, Pittsburgh; Robin Dosch, Lancaster; Willie Hammiel, Philadelphia; Gary Hedesh, Frackville; Jae Kuk Hwang, Philadelphia; Robert Jenks, Moon Township; Albert Lawery, North Versailles; Lonnie Maynard, Philadelphia; Alfredo Morales, Philadelphia; Howard Pinkston, Philadelphia; Diane Rice, Philadelphia; Paul Winbush, Homewood; Unidentified Male, Philadelphia.

SOUTH CAROLINA (4)

Walter Davis, Clinton; Marvin Hill, Spartanburg; Clyde Jordan, Aiken; John Walker Jr., Greenville.

TENNESSEE (30)

Albert Adams, Johnson City; Helen Bible, Morristown; Dennis Bradford, Memphis; Robert Bronson, Manchester; Timothy Crass, Oak Ridge; William Farr, Memphis, James Ferguson, Memphis; Effin Floyd, Memphis; Arlene Gregory, Nashville; James Hinton, Nashville; Bessie Holman, Livingston; Gene Holman, Livingston; David Hudgel, Memphis; Jonathan Irons, Memphis; Eugene Lackland, Jr., Memphis.

James McFerrin, Nashville; Julius Moultrie, Chattanooga; Lee Pergues, Memphis; George Porter Jr., Memphis; Leslie Porter, Memphis; Jack Roberson, Memphis; Teresa Spencer, Memphis; Jimmie Ward, Memphis; Leon Watson, Memphis; Benjamin Wilson, Nashville; Raymond Wise, Memphis; Raymond Wise Jr., Memphis; Velma Wise, Memphis; James Woodson, Columbia; Unidentified Male, Memphis.

TEXAS (104)

Gongorio Albarado, Houston; Esequiel Alcantar, Weslaco; Clara Allen, Denison; John Anderson, Houston; Donna Baker, San Antonio; Edwin Barge, Dallas; Jerry Beard, Houston; Steve Bessett, Houston; Viaa Blaylock Jr., Dallas; Jerry Blythe, Fort Worth; Catarino Botello, San Antonio.

Gerald Brown, Houston; Roberto Cadena, Odessa; Armanda Calderion, El Paso; Joe Cavazos, Austin; Sue Churchill, College Station; Richard Coby, Pleasant Grove; Mrs. Coby, Pleasant Grove; Alex Comeaux, Orange; Randall Cottengame, Balch Springs; Javier Cuellar, Pharr; Mona Daniel, Lubbock; Riley Davis, Mesquite; Tony Diaz, Jr., San Antonio; Sterling Dotson, Houston; Michelle Ducre, Houston.

Lee Ann Erwin, Austin; Fred Fowler, Beaumont; Jeanne French, Garland; Raul Garcia, San Antonio; Edward Garza, Houston; Herron Goodwin, Houston; Thomas Guajardo San Antonio; Felix Guerrero, Randall County; Margaret Hall, Denison; Justin Hammond, Flour Bluff; John Hampton, Baytown; Leonard Harris, Grand Saline; Robert Hernandez, Abilene; William Hill, Victoria; Homer Hooks, Baytown.

Ervin Hughes, Houston; James Jackson, Houston; Linda Janiszewski, Houston; Arthur Jiminez, Houston; Alene Johnson, Dallas; Carl Johnson, Fort Worth; Berdell Jones, Dallas; Ollie Jones, Muleshoe; Edward Keith, Mason; Fred Linker, Dallas; Christopher Lollar, Irving; Jose Martinez, Corpus Christi; Louis Martinez, Odessa; Mrs. Martinez, Odessa; Robert Martinez, Lubbock.

Lonnie Mead, Perryton; Ben Messina, Port Arthur; Eddie Miles, Jr., Houston; Arthur Miller, Houston; David Moore, Jr., Texarkana; Salvador Ortiz, Houston; Steven Lacy Parrish, Lubbock; Maria Pesina, Corpus Christi; Michael Powell, Garland; Alex Quiroga, San Antonio; F. L. Rivers, Richmond; Curtis Roach, Houston; Abraham Rodriguez, Houston; McKinley Rogers, Fort Worth; John Rouse, Angleton.

Doris Rowland, Tenaha; Hermelinda Ruiz, El Paso; Juan Ruiz, El Paso; Walter Sandoz, Houston; Eduardo Sepulveda, El Paso; Orville Shanks, Houston; Phillip Smith, Dallas; Sheri Smith, Belton; Henry Solonen, San Antonio; Ray Stalbird, McQueeny; Gary Sterling, Lubbock; Gary Stone, Beaumont; Barbara Stovall, La Porte; Scott Stovall, La Porte; Lanore Straubing, Dallas; Bruno Tarango, Hutchinson County.

Kenneth Taylor, Oak Cliff; Ida Thomas, Houston; Angel Valente, Juarez; Maria Vargas, Dallas; Vicente Vasquez, Lamesa; Vicente Vasquez, Jr., Lamesa; Jerry Walters, Beaumont; Dorothy Warden, Dallas; Tera Welch, Houston; E. J. Williams, Houston; Ernest Winifree, Liberty; Cecil Yeoman, Dallas; Helen Yepez, League City; unidentified male, Dallas; unidentified male, Houston; 5/14/79; unidentified male, Houston, 5/24/79; unidentified female, League City.

VIRGINIA (22)

Robert Brooks, Charles City; Rebecca Caldwell, Christiansburg; Mrs. Carroll, Charlottesville; Tommy Early, Vinton; Margaret Goehring, Falls Church; Phillip Hall, Fairfax; Linwood Heiskell, Chesterfield; Peter Jacobs, Ashland; Oliver Jones, Norfold; David Little, Hampton; John Lundmark, Fairfax.

Michael McBride, Cranberry; Ritter McGlothin, Drill; Claude Meadows, Ringgold; Percy Moore, Portsmouth; Bertha Perkins, Martinsville; Hobert Perkins, Martinsville; Carroll Rowles, Nathalie; Joseph Smith, Portsmouth; Oren Tucker, Hampton; Burley Warren, Portsmouth; Loretta Whitley, Norfolk.

WASHINGTON (5)

Arble Coble, Port Townsend; Larry Hendricks, Roy; Charles Lyle, Quilcene; Kenneth Ward, Seattle, unidentified male, Roy.

WEST VIRGINIA (1)

David Hopper, Charleston.

WISCONSIN (6)

Thelma Brown, Milwaukee; Ernestine Lopp, Milwaukee; Anthony McKinnie, Milwaukee; Georgia Mroz, Pewaukee Town; William Shibley, Clinton; unidentified male, Milwaukee.

WYOMING (4)

Edward Behan, Jr., Ethete; Jeffrey Green, Evanston; Wenda Lafleur, Otto; Guillermo Yearra, Rock Springs.

ADDITIONAL VICTIMS

Janet Verne, Columbus, Ohio; Timothy Gillespie, Lawrence, Kan.; and Willie Bowman, Durham, N.C.

A JOB THAT NEEDS DOING

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. VANDER JAGT. Mr. Speaker, on April 12, 1976, 11-year-old John Stewart Elliott Dieckman died. The cause of death—Reyes syndrome—a mysterious, little-researched, killer disease that has brought death to thousands of children. The disease, its effects on children's bodies, its cause, and its treatment have gone without attention far too long. But that is all about to change.

John and Doris Dieckman, the parents of John Stewart Elliott Dieckman, Reyes syndrome victim, have been engaged in a valiant, noble effort—an effort founded on the love and lasting memory of their son and dedicated to bringing attention, enhancing understanding, and advancing Reyes syndrome research and treatment.

Their perseverance has already produced the National Reyes Syndrome Foundation, serving as a national clearinghouse for the distribution of information on the disease and as a counseling center to those parents grieved by the loss of a child to Reyes syndrome.

Mr. Speaker, the Dieckmans, in cooperation with other parents of Reyes syndrome victims, are now working toward another goal—the financing of a multicenter, collaborative study which may answer the many questions surrounding the disease. We in Congress have the opportunity to take positive action by supporting a grant application soon to be prepared and submitted to the National Institutes of Health. The grant application will seek to focus Government attention on causes and treatment of Reyes syndrome.

For the benefit and information of my colleagues in the House. I would like to submit the following article which appeared in the Detroit News, May 20, 1979, written by Bill McCulloch, another dedicated to the fight against Reyes syndrome.

The article follows:

Dedicated to the Memory of "A Husky"
John S. E. Dieckman, Apr. 12, 1976

THE SYNDROME OF DEATH

(By Bill McCulloch)

BENZONIA, MICH.—Eleven-year-old John Stewart Elliott Dieckman, youngest child of John and Doris Dieckman of Benzonia, Michigan, began showing the early symptoms of Reye's syndrome on Nov. 23, 1975—the Sunday before Thanksgiving. By Tuesday morning, the diagnosis was definite. And 17 days later the illness had run its course. John Stewart Elliott Dieckman was dead.

Reye's syndrome . . . the name belongs to a swift, virulent degeneration of vital body organs, primarily the liver and brain. The syndrome was first described in medical literature about 50 years ago, but to this day it remains a mystery: no known cause, no preventative, no certain cure.

How many victims are there? One federal official believes there may be 1,000 cases of Reye's syndrome a year nationwide. An independent researcher thinks there is a submerged "iceberg" of undiagnosed Reye's that may total several thousand cases a year. And some physicians now suspect that Reye's occurs at least as frequently as did infantile paralysis (poliomyelitis) during the early 1930s.

But nobody knows for sure.

Many Reye's victims recover and go on to lead normal lives. But the syndrome can kill, and in some of the non-fatal cases it can inflict permanent brain damage. Although Reye's victims, almost without exception, are children, relatively few parents know what the syndrome is, and fewer still would recognize the early symptoms.

That's how it used to be with John and Doris Dieckman. Up until November, 1975, they'd never heard of Reye's. "Oh, it's possible we might have heard the name on a news report or something like that," John Dieckman says now. "But the name never registered. Believe me, we knew absolutely nothing—and I mean nothing, zero, zilch—about Reye's syndrome."

But that is no longer the case. John Dieckman is now a walking encyclopedia of facts and figures about Reye's. He is also president of the Michigan-based National Reye's Syndrome Foundation, an organization he helped to establish in early 1976. He makes speeches about Reye's, he mails out scades of information about Reye's. He also makes frequent trips to Washington, where he has earned a reputation as a persistent and unabashed arm-twister.

His message: "There are too many federal dollars going to a small number of established investigators working on established medical projects. There isn't enough consideration being given to new investigators. The time has come to gamble a little, to venture into the unknown."

In other words, the time has come to start pushing a little grant money in the direction of Reye's syndrome. That's what Dieckman keeps telling his growing number of Washington contacts.

Most of the people who deal regularly with Dieckman agree that he has been remarkably successful in creating a national lobby (or at least the appearance of a national lobby) for accelerated research into the cause and prevention of Reye's syndrome.

Dieckman, typically, insists that his three-year battle against Reye's would have come a cropper long ago had it not been for the help of two equally dedicated individuals: James Crawford, an FBI agent now living in Hingham, Mass., and Louis Pettine, a clothes designer who lives in Fall River, Mass. Still, it is probably Dieckman's bulldog tenacity that has kept the battle going.

"I'm really not a crusader," says the 50-year-old Dieckman. "Never have been. I got into the Reye's syndrome thing because it was a job that needed doing. What the heck, if everyone just sat around waiting for other people to do things, nothing would ever get done. And that was the situation with Reye's syndrome—nothing was happening. There was void, a vacuum. So I got involved."

But clearly there is more to Dieckman's story than a strong sense of civic obligation. The fact is that Dieckman's energetic battle against Reye's began as a kind of self-prescribed grief therapy following the death of his son, John.

Through its early stages, young John's case progressed like a medical textbook description of Reye's. During the week before Thanksgiving, 1975, the boy had missed several days of school because of a sore throat. But by the weekend it appeared that he was on the mend. Saturday morning, for example, he felt well enough to play basketball at Benzie County Central High School just down the road from the Dieckman home. Saturday afternoon he was tired, but nobody in the family gave it much thought; it was assumed that John would return to school Monday morning. Early Sunday, however, the boy suddenly started vomiting.

"To the best of my recollection," says Dieckman, "it was not the persistent vomiting, the relentless vomiting that is usually associated with Reye's. But it was bad, so we called our family doctor and he prescribed something that was supposed to control the vomiting."

By Monday morning John's vomiting had subsided. But that afternoon the youngster fell into a disoriented stupor punctuated by spasms of strange behavior. "There was no way to communicate with him, no way to get through to him," his father recalls.

"He would become violent, then quite . . . violent, then quiet again. The violent spells never lasted more than a few seconds. He would double up his fist and slam it just as hard as he possibly could against anything that happened to be close at hand. Then he would be quiet for, oh, maybe a couple of minutes. By this time, of course, Doris and I were with John almost constantly."

At about 8 p.m. Monday, after two more phone contacts with their family physician, the Dieckmans drove John to Munson Medical Center in Traverse City, 35 miles northeast of their home. The boy was admitted. Twelve hours later the diagnosis was definite: Reye's syndrome. That was the first time the Dieckmans can recall ever hearing of Reye's.

An air ambulance flew John south to Ann Arbor, where he was admitted to the Reye's syndrome unit at Mott Children's Hospital. His condition continued to nosedive. That evening he sank into a coma and was transferred into Intensive Care. There he was rigged with tubes and wires and hooked up to various life-support and monitoring machines, including a respirator.

After that it was largely a matter of watching and waiting. While the respirator assisted John's breathing, other machines kept close tabs on essential body chemistry and innercranial pressure. Drugs were used to combat life-threatening changes.

Up to this point, the Dieckman case had

followed the pattern that is generally regarded as classic with Reye's syndrome. There had been a minor illness (a sore throat, but in most cases it's the flu) with apparent recovery suddenly interrupted by brutal vomiting. Then came the delirium marked by periods of combative behavior. And finally, coma.

Treatment in the Dieckman case also followed accepted wisdom, which is to say it focused exclusively on symptoms. Because the underlying how's and why's of the syndrome remain a mystery, treatment generally concentrates on preventing the symptoms from killing the patient. In some cases—up to four cases out of 10 according to national data—symptoms cannot be controlled regardless of treatment. The coma deepens, the patient dies. In other cases, the syndrome reaches a certain point, reverses, and the patient survives. Among survivors, 80 to 90 percent recover completely, others experience slight declines in IQ, still others suffer hopeless retardation.

Most doctors agree that the chances for full recovery are greatly improved if treatment begins early. But there are no guarantees—sometimes the treatment seems to work, and sometimes it doesn't. Consider, for example, the case of Michael Pettine.

The 4-year-old son of Louis and Susan Pettine, Michael was admitted to Boston Floating Hospital for Infants and Children on Nov. 18, 1975. A week earlier Michael had been sick with the flu. On the morning of Nov. 17, as he was getting ready for school, he started vomiting. The violent retching continued despite medication, throughout that day and into the next, after which the boy became listless and unresponsive, his stupor interrupted by periods of wild kicking and thrashing.

Lou Pettine was on a business trip when his boy was admitted to the hospital. He flew to Boston just in time to learn that the case had been diagnosed as Reye's syndrome. The name meant nothing to him. "What did I care?' he says. "My son was in one of the finest hospitals in the country . . . They perform miracles in that place. So they were going to straighten out the problem and someday we'd all be able to talk about the time Michael got so sick."

It wasn't until the next day that the Pettines thought to ask anyone about their son's recovery chances. A young resident told them he'd seen 16 children with Reye's syndrome—14 of them had died. Realizing for the first time what they were up against, the Pettines broke down and wept.

For all practical purposes, the end came on Michael's third day in the hospital, a Thursday. "We'd been away from the Intensive Care Unit for awhile," Pettine recalls, "and when we returned, there wasn't any activity going on around Michael as there had been for so many hours before. The tubes and wires were still there, but Michael's hair had been combed. And the sheet had been pulled up to his face and folded neatly back. Except for the sound of the life-support machines, it was quiet.'

A neurosurgeon told the Pettines that Michael's last encephalogram had been a "flat line." There was no brain activity whatsoever. And no hope. Under Massachusetts law, though, two consecutive days of flatline readings were required for a proclamation of death. The next day, a second encephalogram fulfilled the criteria spelled out by law. At 12:25 p.m. Friday, Nov. 21, Michael was pronounced dead. And at 11 o'clock the next morning, Louise and Susan Pettine buried their oldest son.

Just 24 hours later, 775 miles away, young John Dieckman began to manifest the symptoms that eventually brought him to the Intensive Care Unit at Mott Children's Hospital in Ann Arbor.

Treatment in the Dieckman case was nearly identical to the treatment that had been given to Michael Pettine. That is, both boys were given life support and medication as opposed to complete exchange transfusions or peritoneal dialysis, a couple of the more radical treatment protocols that have been tried against Reye's.

In the Dieckman case supportive care was enough to bring the patient through the deadliest stage of the Reye's syndrome crisis. "At 2 o'clock in the morning on the day after Thanksgiving, Doris and I received a call at the motel where we were staying in Ann Arbor," Dieckman says. "We were told that we could come over to the hospital and talk to our son, that he had regained consciousness. Well, naturally we went right over to see him. And minute by minute, hour by hour, you could see him pulling out of it. He became lucid, concerned about what was going on . . . but he couldn't remember any of the things that had happened."

The worst was over. Or so it seemed. On the Saturday morning following the crisis, all the wires, tubes and life-support equipment were removed. On Sunday the boy was transferred into the Pediatric Ward. Except for a brief respiratory flare-up on Monday, nothing further developed. The recovery was rapid, almost miraculous.

It was during the most nerve-racking phase of their son's medical crisis that the Dieckmans first got to know Judith and James Crawford, an Ann Arbor couple whose 7-year-old Jimmy was also a Reye's syndrome patient. "Jimmy was in the hospital, in a coma, at the same time John was," says Dieckman. "We used to chat with the Crawfords from time to time, especially after John started to come out of it. The Crawford boy was still in a coma, and I think we were feeling a little guilty: 'Our son's OK but their son isn't.' That sort of thing. So Doris and I probably went out of our way to talk to the Crawfords."

The Dieckmans and the Crawfords saw each other for what they believed would be the last time on the evening of Dec. 10, a Wednesday. John and Doris Dieckman were stepping onto an elevator, leaving the hospital with their son who had just been released. James and Judith Crawford were just stepping off the same elevator on their way to Intensive Care. Jimmy was still in a coma.

The Dieckmans spent the night in Ann Arbor, then drove the 235 miles back to Benzie County the next day, an unhurried drive interrupted by stops for burgers and fries at several McDonald's along the way. Home for the first time in 17 days, John spent much of that evening playing with his two older sisters, Diana and Debra. At about 11 o'clock, the boy went up to bed in his parents' bedroom.

And two hours later, he died.

"It was exactly three minutes before 1 a.m. when John got up out of his bed," says Dieckman. "He took four steps . . . said, 'Dad, I can't breathe' . . . and that was the end. Boom—just like that. We called the resuscitator crew to the house. Our doctor rushed over, too. But there was nothing anybody could do. It was that quick."

The official cause of death was listed as acute pulmonary edema. Unofficially, but no less certainly, the cause of death was Reye's syndrome. From a clinical standpoint, the case was noteworthy only because death came so explosively in the wake of what had seemed to be a complete recovery. "It was a highly unusual case," observes Dieckman, "almost unheard of, really. The doctors have never been able to explain what happened. They're still puzzled by John's death."

A report on the Dieckman case was passed through channels by officials at Mott Hospital. Eventually the report should have been incorporated into the annual morbidity and mortality statistics compiled by the U.S. Public Health Service's Center for Disease Control (CDC) in Atlanta. But for some reason that never happened. CDC records indicate there were no Reye's cases, much less any fatal cases, in Michigan in 1975.

In truth, there were more than 40 cases, John Stewart Elliott Dieckman's among them.

For the first five months of 1976, CDC records again show no Reye's syndrome cases for Michigan. But there were actually 17 confirmed cases and at least one death, that of seven-year-old Jimmy Crawford, who finally succumbed in January without ever regaining consciousness.

More recently, a pediatric neurologist at the University of Chicago reported that many cases of Reye's in infants may be going undetected because the syndrome often seems to strike with disguised symptoms in children under one year old.

Even among older children, Dieckman claims, the syndrome is often diagnosed as something else. A Grand Rapids woman recently wrote to Dieckman, describing a mysterious ailment her three-year-old son contracted last year just as he was recovering from chicken pox. The doctor, she wrote, had assured her it was "just the flu." "There's no way I can prove it," says Dieckman, "but I'm convinced this child had Reye's. And I'm equally convinced that there are many, many cases just like this every year."

Given these apparent discrepancies in reporting and diagnosis, Dieckman believes it would be folly for anyone to look at the available statistics on Reye's and assume that the syndrome is a relatively inconsequential problem. Forget the statistics, Dieckman insists; Reye's syndrome is not the "rare children's disease" it is often made out to be.

As for medical research on Reye's, there isn't much of it going on, although the situation may be a little better today than it was three years ago. "After our boy died in January, 1976," recalls James Crawford, "my wife and I traveled to the Boston area. And while we were there, I started asking a lot of questions about Reye's. We had some memorial funds, and we wanted to give the money to a hospital research center that was conducting basic-science work on Reye's. But we were amazed to find out that nothing was going on. I mean, this was Boston . . . supposedly one of the top medical research centers in the world. And absolutely nothing was happening."

While they were in Boston that winter, the Crawfords did have an opportunity to meet Dr. Jerome Haller at Boston Floating Hospital. Haller was considered something of an authority on Reye's. His assessment of the research picture was discouraging. But he told the Crawfords that if they were determined to do something, they should consider getting in touch with an equally determined young parent down in the Fall River area—Louis Pettine.

"It was either the first or second weekend in February when the Crawfords contacted us," says Pettine. "We drove up to Braintree that evening and had dinner with them. I think we spent the better part of six hours in that restaurant, talking, sharing our experiences, comparing our backgrounds. At that point the Crawfords were the only other Reye's syndrome parents we'd ever met."

At the conclusion of that first meeting the two families decided to keep in touch with each other. Lou and Jim agreed to begin working on ways to stimulate public awareness of Reye's. And Jim said he knew of one other Reye's syndrome parent who might be persuaded to join the effort. That was John Dieckman.

So it was that Dieckman, Crawford and Pettine, the three founding trustees of the National Reye's Syndrome Foundation, happened to get together. Doris Dieckman, Judith Crawford and Susan Pettine also were involved in the formation of the foundation, and all three still serve as trustees.

Chartered in Michigan in April, 1976, the National Reye's Syndrome Foundation has since become a nationwide organization with more than 1,000 members, many of them parents who've lost children to Reye's. The foundation has four regional chapters, six volunteer medical advisors (Boston's Dr. Haller among them), and its list of honorary trustees includes Gov. William Milliken.

The foundation is operating this year on less than $30,000. It has no employes, retains no consultants, pays no rent or utilities. All officers and trustees are unsalaried. And the foundation's mailing address is Dieckman's home near the rural village of Benzonia, 8293 Homestead Rd., Benzonia, Mich. 49616. As national charitable foundations go, it's a shoestring operation.

Dieckman has been president of the foundation since last 1976, when he and Crawford, now a vice president and treasurer, traded titles. As president, Dieckman spends up to 20 hours a week on foundation business—traveling, speaking, lobbying, writing letters, culling the latest medical literature. And he also finds the energy to serve on a local school board and keep up with his regular job as an assistant manager in a frozen foods plant owned by Pet, Inc.

Whenever time permits, Dieckman and Crawford (who moved from Ann Arbor to the Boston area) fly to Washington, where they team up like a couple of high-pressure pitchmen, delivering the hard sell for Reye's syndrome research grants. "John and Jim are two of the most persistent individuals we have ever dealt with," says a health scientist-administrator in one of the National Institutes of Health. "And they have been pretty successful—successful to the extent that they have alerted people here at NIH to the problem of Reye's syndrome."

Dieckman and Crawford also see to it that influential members of Congress are alerted to the problem of Reye's. After an Indiana senator was quoted as saying that effective lobbying had helped corral millions of federal dollars for heart disease and cancer research, Dieckman barged into the senator's office one afternoon and told a surprised staff member that Reye's syndrome had a lobby and wanted a piece of the action, too.

The reaction to Dieckman's lobbying style has been generally positive. But while a number of federal officials say they sympathize with the aims of the National Reye's Syndrome Foundation, the number of federal dollars going to Reye's research remains small. "In the final analysis," says one official, "people in the scientific community must come forward with logical approaches to the (Reye's) problem. And those people cannot be expected to drop everything right now to follow the lead of a John Dieckman or a Jim Crawford."

But Dieckman remains undaunted. Over the past three years, he says, the foundation has made remarkable progress toward two of its original goals: educating parents about Reye's syndrome, and pursuading government health planners, researchers and lawmakers that Reye's is a significant national health problem. What's more, he adds, work on the most ambitious goal of all is only now getting under way.

The foundation, Dieckman explains, is trying to raise $25,000 (over and above its tenuous operating budget) to underwrite a series of information-pooling meetings involving medical investigators and public health officials from 10 states, the District of Columbia and one Canadian province. These people will be brought to Chicago for a number of two-day sessions this summer and fall, Dieckman says.

Information generated at these sessions, he hopes, will serve as the basis for a 2,000-page research grant application to the National Institutes of Health—a request for $5 million to $10 million to finance a multi-center collaborative study lasting three to five years. This is the type of study, Dieckman believes, that may finally unlock the mysteries surrounding Reye's syndrome.

There are, of course, no guarantees. Nor are there any guarantees that the proposed grant application will even be funded. But Dieckman undoubtedly will do whatever he can to see that it is. "You've got to generate political pressure," he says. "That's what it's all about . . . that's the way to get things done."●

THE WIC PROGRAM IS EFFECTIVE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. MOAKLEY. Mr. Speaker, it is not too often that one hears of a Federal program that is proved to be cost-effective. I should like to tell you and my colleagues about one such program that has been found to be cost-effective by Harvard University researchers: The aid to women, infants, and children, or WIC program.

WIC is a prenatal food supplemental program aimed at directly lowering infant mortality rates by reducing the incidence of underweight infants at birth. This program, initiated in 1975, has become a significant positive factor in lowering the national infant mortality rate. Indirectly, this program has raised public consciousness about prenatal child care. In fact, the WIC nutrition program is precisely the sort of preventative health care project we should all strongly support: the benefits of better health and long-term cost savings far outweigh its initial costs of implementation.

But you need not take my word for it. I have included remarks from several respected research studies on the merits of the WIC program, and I urge you to consider their conclusions carefully:

Harvard researchers James E. Austin and Eileen Kennedy analyzed the cost-effectiveness of prenatal supplements in four WIC programs in Massachusetts and concluded: "The savings in hospitalization costs far exceed the costs of the (WIC) supplementation. The preventive approach is clearly preferred over the curative treatment both on the basis of efficiency and humaneness."

The researchers first compared the incidence of low birthweight in infants born to 627 WIC mothers with those born to another 217 women eligible but not participating in the program. They found they could predict a rate of just 3.5 percent for WIC infants, compared with 14.6 percent for the non-WIC group.

The total cost of WIC vouchers and administration—and hospitalization for the 3.5 percent of low birthweight babies—in the WIC group was $230,134. The projected hospitalization cost for low birthweight babies at a 14.6 percent rate would be $715,914—resulting in a cost-effectiveness ratio of about three to one, they concluded.

"Even allowing for some imprecision in the data, it appears that the magnitude of these cost-effectiveness ratios is sufficient to conclude that WIC prenatal supplementation is highly desirable," the researchers wrote USDA early this month. "The spiraling costs of hospitalization will only enhance the program's future cost-effectiveness. It is an obvious, economical and humane way of reducing health care costs and promoting well-being.

"Finally, the fact that infants with higher birthweights also tend to be less susceptible to nutritional problems during the critical first few years of growth, the program is likely to produce additional subsequent benefits in well-being and lower health costs."

The second study was conducted earlier this year by Yale epidemiologists and the Waterbury, Connecticut health department. A citywide analysis found that the infant mortality rate among WIC participants during 1975, 1976 and 1977 was 8.4 compared with a 22.7 rate for non-WIC infants. In 1977 alone, the rate for WIC participants was just 4.6 compared with 19.1 for non-participants.

"As you know, infant mortality is a measuring staff for determining whether health delivery is good in a group or nation or whether it is not. There is a possibility that adequate food as given by the WIC program is the key to raise up our national infant mortality to the top," Waterbury health chief Gert Wallach wrote last summer to Senator George McGovern (D-S.D.).

An in-depth study by the HEW Department's Center for Disease Control reached similar conclusions (see CNI Vol. VIII:35).

President Carter took note of the studies when he signed the child nutrition bill (P.L. 95–627), which contains major increases for WIC, this month: "It has reduced anemia, and the number of underweight infants at birth, and has dramatically reduced infant mortality rates. The WIC program is fully consistent with my commitment to preventive health measures and may actually reduce hospital expenditures and Medicaid costs." (CNI Weekly Report, November 30, 1978)

This article only confirms my high opinion of the WIC program and I urge you to join me in supporting and expanding it as soon as possible.●

SOVIET REFUSENIKS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. DRINAN. Mr. Speaker, I know that our colleagues will want to read the very moving article in the June 28 issue of the Christian Science Monitor by Dr. Richard Wilson, professor of nuclear and high energy physics at Harvard University.

This article about Soviet refuseniks contains the observations of Professor Wilson, who has just returned from his fifth visit to the Soviet Union. The article is the result of Professor Wilson's meeting with Soviet citizens trying to leave the U.S.S.R. and with several prominent Soviet scientists.

The article follows.

REFUSENIKS: DESOLATE . . . AND WAITING, WAITING

(By Andrée Desirée Wilson and
Richard Wilson)

Since about 1970 it has been possible for Soviet citizens of Jewish descent to apply to emigrate to Israel; some 50,000 will probably be leaving this year. But those who want to emigrate, scientists and engineers in particular, often find themselves in a very difficult position. The process goes something like this:

1. For some reason—anti-Semitism or the

failure of personal plans—a scientist wishes to leave the Soviet Union.

2. The scientist fills out the forms to apply for emigration. As a result of this action he is seen as disloyal in the eyes of the authorities, and in the eyes of many fellow Russians, and he is assumed to contaminate those associated with him.

3. The scientist may be fired from his position and his wife and children may receive similar treatment. Anticipating this, some scientists leave their positions voluntarily so as not to embarrass their friends and former colleagues; some even move to a different city. One told us, "I may go, but my friends must stay." We know of only one scientist who was able to keep his position.

4. The scientist and his family are soon living on savings, supplemented in a few cases by earnings from private tutoring in English. This continues until permission comes to leave.

5. In some cases the director of an institute does not want scientists to leave, because it gives the institute a bad name. The director may state, without justification, that the scientist is engaged in secret work, so that permission to leave becomes unlikely.

6. If permission to leave is refused, the suspicions of disloyalty remain, and it is impossible for the individual to regain the former job. In practice, the only solution is to reapply (reapplication is permitted every six months) until eventually permission is granted (in one case noted below, after seven years) or the scientist is prosecuted and jailed for parasitism (being without a job).

As a result of the isolation from former colleagues and friends, these unfortunate people, called "refuseniks," are hungry for human contact and welcome joyously (and ravenously) any American who calls. For the visitor there is no danger, because phone calls and private visits are legal; for the refuseniks such contact can be dangerous and subject the refusenik to interrogation.

While we were on a visit to the Soviet Union as guests of the Soviet Academy of Sciences in May, we met several refuseniks in Leningrad and Moscow. Some had been waiting to leave for seven years (14 applications; others were about to leave. Most were nervous and said they had nothing to lose. Their stories were tragic.

One professor in low-temperature plasma physics was head of a small laboratory in Leningrad. Three scientists in his laboratory had applied to leave and left. The authorities thought this a large number and implied disloyalty in the laboratory, so they closed it.

The scientist had a distinguished father, a Leningrad physician who was Jewish. Being half Jewish was enough to prevent his getting another job (already hard because of his age—he was in his 50s). He had no option but to apply to leave or to retire to his dacha (country home), or take a more lowly job. He was permitted to become a stoker and trained in that job.

Now he has left. He took with him a Polish Catholic wife. He left behind a daughter and grandchildren, a car almost new (cost, 8,000 rubles), and his dacha. He could take out only 100 rubles, his personal effects, and furniture.

We asked several of the refuseniks how they were regarded by their neighbors. In each case, the refuseniks said they deliberately kept a formal distance. It is dangerous to trust strangers in the Soviet Union, and no one wants to get friends in trouble. In the Soviet Union, neighbors tend to be working in the same university or institute, especially if the apartments are new, so there is often some understanding. In some cases we were told there is even envy; only Jewish people may apply to emigrate, yet many others would like to do so. As a result, ironically, there are young gentile Russian men looking for Jewish girls to marry so that they may leave.

The detailed stories of the individual families are heart-rending, and while we were there we felt impelled to help each individual all we could. But perhaps the most tragic phenomenon at the moment is the effect the whole emigration movement has had on Russian life.

In the big cities of Leningrad and Moscow many Russians of Jewish descent were well integrated even before the revolution. They intermarried and, as in Europe and the United States, many were found in the professions. In fact, a large number of Bolsheviks were Jewish.

The main anti-Semitism at that time was in the Ukraine, where the pogroms occurred in the 19th century. Anti-Semitism increased under Stalin, particularly after the Molotov-Ribbentrop pact of 1939. Although it was practiced in high places, it was officially discouraged. Some efforts were made under Khrushchev to stop anti-Semitism. Since 1970, however, it has increased markedly. To some extent this increase has been accelerated by the ability of Jews to emigrate—a privilege that is not vouchsafed to the rest of the Russian people.

Some years ago, when the emigration began, some Soviet citizens changed their jobs immediately before emigration. Then they applied for emigration from the new position so as not to embarrass their old colleagues. As a result, Jews cannot now change their jobs, because they are immediately suspected of wanting to emigrate. We were told also that Moscow University now admits no Jews in science and engineering courses since, it is argued, if they were to leave, their education would be a waste of money.

These problems of anti-Semitism have led many scientists to emigrate who had no thought of emigrating before 1970. We noted that scientists (who in the Soviet Union are almost all atheists, whatever their religious origin) now are going to synagogues. In Leningrad some are beginning to learn Hebrew—a language that was almost extinct among Soviet Jews. This gives them a sense of community and may be useful for the future if they move to Israel.

All of this is the tragic Catch-22 in which Jewish people have been trapped for centuries. Society tends to regard them as separate, so they develop a separate life and aims that separate them further from the rest of society.

At present, the pressure on the Soviet Union for free emigration comes from the US as a condition of trade agreements. This puts a major responsibility on Americans. In each individual case humanity dictates that anyone who wishes to emigrate should be helped to do so. But unless Americans press for freee emigration for everybody, regardless of religion or race, this only intensifies anti-Semitism in the Soviet Union and elsewhere.

We heard—from refuseniks—many encouraging stories of Russians who refuse to bow to the anti-Semitic trend. An institute director in the Ukraine was told by his resident KGB (secret police) man that four of his seven department heads were Jews, and asked if he shouldn't do something about it. The director replied that if he was ordered to do something about it he would, but the order would have to be in writing. Nothing was done. The same suggestion was repeated by the local Communist Party and then by the Ukraine party—with the same reply. When the suggestion was made by the party Central Committee, the director traveled to Moscow and said that his institute had always met the state's plan; that the three gentile department heads did not always do so. He repeated that if ordered to do so, in writing, he would fire the Jewish department heads but then he could not be responsible for meeting the plan. That was the end of the pressure.

Some of the refusenik scientists collect together in private apartments in weekly seminars: Dr. Viktor Brailovsky on Sundays at noon in Moscow, and Dr. Taratuta in Leningrad on Monday evenings. The seminars have been addressed by a number of distinguished visitors, including Nobel laureates. The contact keeps these scientists alive and reminds the authorities that the scientists are not forgotten.

We were very moved by a party we attended to celebrate the departure (for the US) of a refusenik who had been sustained in his seven years of waiting by others, not all scientists, in a similar position. The others were still waiting for permission to leave.

As we have described it, we see no easy solution to the problems. For a physicist to find a new job late in his career is not easy; to do this in a new country, often with a new language, is hard.

There is a very real danger that these refuseniks—numbering perhaps 200 in Leningrad alone—will be forgotten. Only few of them are scientists with contacts abroad who can continually remind the authorities, by attendance at seminars or otherwise, of their existence.

There is a report circulating among the refuseniks that all persons without official jobs will be moved out of Leningrad and Moscow before the Olympic Games next year. They may never return. Until the trade agreement and SALT II are signed and ratified, we have some ability to exercise pressure. Many refuseniks told us that they see such American leverage as their only hope.●

THE CARIBBEAN—A RED SEA IN CENTRAL AMERICA

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. HANSEN. Mr. Speaker, an article in the Chicago Tribune of July 1, 1979, by John Maclean entitled "'Cubans All Over, U.S. Nowhere' in Caribbean" is part of a series contending that our Government has known for a considerable time that Cuba and Panama have been working in tandem to turn the Caribbean into a Communist lake.

I include for the Record this article and the text of an allegedly secret memo dated May 2, 1979, cited heavily in the Tribune series, the authenticity of which the U.S. State Department has at different times both affirmed and denied.

This memo has circulated widely in press and general circles since first revealed and clearly affirms that Cuba and Panama were in constant collaboration, since September of 1978, to subvert and communize the rest of Central America with current major efforts being focused on the upper tier nations of Nicaragua, El Salvador, Honduras, and Guatemala.

Evidence is mounting daily from congressional committee hearings and U.S. court action that Panama has also been running guns, both legally and illegally, during that same period of time from the United States to the Marxist Sandanista revolutionaries in addition to the Cuban weapons. Outright invasion is occurring in violation of the charters of both the United Nations and the Organization of American States, and even the terms of the new Panama Canal treaties.

Unfortunately, the victims of this aggression continue to be assaulted by both the Marxist revolutionaries and the human rights strategists of the U.S. State Department while American security continues to erode alarmingly.

The article and memo follow:

"'CUBANS ALL OVER, U.S. NOWHERE' IN CARIBBEAN"

WASHINGTON.—Government leaders from the Caribbean have told American officials that "Cubans are all over the place in the Caribbean," even dating secretaries at a foreign ministers conference in Jamaica to get information and promote Cuban interests.

By contrast, the officials complained that the "United States was nowhere to be found." One asked that the U.S. do more to prevent leftist coups in the area, including organizing a regional coast guard. The U.S. might send more of its warships into the Caribbean, this official said.

These items were relayed to the White House by Robert Pastor, National Security Council expert on Latin America, in a secret memorandum obtained by The Tribune. Pastor, in a report dated June 18, said Henry Forde, foreign minister of Barbados, told him he was "extremely concerned about the expansion of Cuban influence in the Caribbean."

Relaying his talks with Forde, Pastor wrote:

"At a recent foreign ministers' conference in Jamaica, he said that the Cubans took out a large number of rooms in the hotel where all the foreign ministers were staying and even went so far as trying to date the secretaries as a way to get information. They sought interviews with all the foreign ministers."

What worries Forde and other Caribbean leaders is a return by Castro to a policy of exporting revolution there, and a lack of U.S. response. After nearly a decade of directing his attention elsewhere, Castro has once again begun providing arms and advice to leftist guerrillas in Caribbean countries.

Forde told Pastor that Prime Minister Eric Williams of Trinidad and Tobago, and Premier Lee Moore of St. Kitts and Nevis, were concerned, too.

Williams was said to be cutting off aid to Guyana because it had become involved with the leftist movement in Grenada. Williams and Moore were said to be interested in a coast guard "to be a regional strike force to prevent a repetition of the Grenada coup."

According to an assessment by the CIA, Castro has his own domino theory. He believes the eventual fall of the Somoza regime in Nicaragua will have a "ripple effect" throughout Central America and the Caribbean, bringing a wave of the leftist governments. Unlike his solo efforts at fomenting revolution in the 1960s, this time Castro intends to work with other Latin governments, using them as intermediaries to deliver arms and making sure Cuban assistance does not differ in kind and quantity from that of other countries.

Castro does not want to risk a confrontation with the U.S., the CIA said. Therefore, the intelligence agency considers it unlikely he will send troops to aid a revolutionary movement.

Castro has concentrated on Nicaragua, using Panamanian air force planes and Costa Rican landing fields to funnel arms to leftist Sandinista guerrillas, hundreds of whom were trained in Cuba. Details of the Nicaragua operation were disclosed last week when The Tribune obtained a secret memorandum prepared by the CIA and distributed to government agencies.

The memo described how Cubans loaded mortars, 50-caliber machine guns, and rifles aboard Panamanian government planes and ferried them to the guerrillas. State Department sources confirmed that the operation continues, adding that Cuba is but one supplier of the Sandinistas. One source said the Government of Panama has provided even larger quantities of arms than Cuba.

Castro has been busy in other Latin nations as well. His activities have reached into Jamaica, Guatemala, El Salvador, and nations of the West Indies, including Grenada.

Many Congressmen, especially those concerned with the security of the Panama Canal once it is turned over to Panama, have criticized the Carter administration for withholding from the public details of the Cuban and Panamanian involvement in Nicaragua.

"This administration views Cuba as a potential friend or neutral influence," said Rep. Robert Bauman [R., Md.], a critic of the Panama Canal treaties. "We have done nothing but cover up what Panama has been doing. Why haven't we pressured the Panamanians to stop the Cubans from sending arms through them?"

One high CIA official, who asked not to be identified, said Castro's aid to Nicaraguan leftists exceeds the items cited in the memo, which was dated May 2. This official said, however, that exposing Cuban activities complicates U.S. policy in the region.

The U.S. has two main aims right now: to turn over the canal to Panama and to stop Communists from taking over in Nicaragua. In recent days, with Congressional approval of enabling legislation for the Panama Canal treaties virtually assured, the Carter administration for the first time has publicly mentioned Cuban aid to the Sandinista guerrillas, apparently as a way of raising the spectre of a Communist coup in Nicaragua.

The CIA in May summarized Castro's intentions this way:

"The Castro regime apparently concluded by at least last fall that prospects for revolutionary upheaval in Central America over the next decade or so had markedly improved largely because of the weakened position of Nicaragua's Somoza and the ripple effect his removal would have on other countries in Central America.

"As a result, Cuba has intensified its attempt to unify insurgent groups not only in Nicaragua—where Cuba has concentrated its efforts—but in Guatemala and El Salvador as well."

In Guatemala, Cuba has maintained close links with the Guerrilla Army of the Poor which is known by its Spanish initials EGP. The CIA said Cuba has limited its support to Guatemalan leftists, insisting that they must first stop fighting among themselves.

"According to a reliable Guatemalan source, on Jan. 12 a Cuban official met in Guatemala with leaders of the EGP, the Rebel Armed Forces [FAR], and the dissident wing of the Guatemalan Communist Party [PGT]," the memo said. "The Cuban official counseled them to coordinate plans of actions, to integrate training of their members, and to make a greater effort to infiltrate labor movements."

The Cubans have stepped up training of EGP guerrillas in Cuba, a practice they have maintained for "some years."

The Cubans have worked to encourage the orthodox faction of the Guatemalan Community Party [PGT] to lend its support to local insurgent groups, the memo continued.

"The Cubans clearly feel no urgency in promoting revolutionary activity in Guatemala," the memo concluded. "Rather, their efforts seem designed to prepare local insurgent groups for the long haul."

In El Salvador, American intelligence had less specific information, but reported that "the Castro regime's interest has doubtless quickened as it has observed the spiraling violence and growing political polarization there."

One "untested" source told American intelligence officials that about 50 members of the military army of the Popular Liberation Forces [FPL] were receiving four months of training in Cuba. The source said that these guerrillas, 30 of whom have returned to El Salvador, were slated to lead a force of 2,000 newly trained Salvadorians.

"Cuba's willingness to lend support has presumably increased because of the demonstrated willingness of the various guerrilla groups to cooperate in at least an informal alliance," the memo said.

Elsewhere in the region, the NSC's Pastor was told that in the Caribbean, Cuba used small amounts of money "through friendly professors in the University of the West Indies and other institutions to help their groups on each island."

Cuba first concentrated on Jamaica when it began to re-enter the Caribbean theater. It maintains technical assistance to the Manley government.

Cuba has denied reports that 10 Cubans participated in the leftist coup in Grenada.

MEMORANDUM

MAY 2, 1979.

Subject: Cuban Support for Central American Guerrilla Groups.

KEY JUDGMENTS

The Castro regime apparently concluded by at least last fall that prospects for revolutionary upheaval in Central America over the next decade or so had markedly improved largely because of the weakened position of Nicaragua's Samoza and the ripple effect his removal would have on other countries in Central America. As a result Cuba has intensified its attempts to unify insurgent groups not only in Nicaragua—where Cuba has concentrated its efforts—but in Guatemala and El Salvador as well.

While tailoring the extent of its support to the realities of the situation in each country, Cuba has stepped up its on-island training of guerrillas from each of these countries and—in the case of Nicaragua—has on at least two and probably three occasions supplied arms—for the first time in many years—to the Sandinista National Liberation Front (FSLN). Cuba has also made a concerted effort to persuade leftist movements and parties in the region to increase their assistance to the FSLN and has used these groups to funnel aid to the Sandinistas.

Havana's approach to events in Central America, however, reflects a far more sophisticated and selective revolutionary doctrine than that which guided Cuba's actions during the 1960s. Cuba clearly believes it has a stake in preserving its improving image with many governments in the hemisphere and wants to avoid provoking a U.S. counter-response. As a result, Cuba has used third country intermediaries to deliver its assistance to the Sandinistas and has taken care that its aid not differ in kind from the material support supplied to the FSLN by several other governments in the region.

While optimistic that trends in Central America favor the left, Havana has counseled patience and has urged its friends to prepare for a protracted struggle, even in Nicaragua. Cuban support, therefore, can be expected to continue to be geared toward helping the Sandinistas and other regional guerrilla groups develop the military and political infrastructure necessary to win a war of attrition, and the widespread grass roots support necessary to consolidate the victory.

Given the low-key approach Cuba has employer in Central America. Havana is likely to do its best to avoid being placed in a situation where it might be called upon to intervene directly with its own military units and thus risk a military confrontation with the U.S.

NICARAGUA

The Cuban Government has long felt a deep enmity toward the Somoza regime in Nicaragua and has looked forward to its ouster not only because of the implications that such an event would have for Nicaragua but for the sake of revolutionary change throughout the region. As Somoza's position appeared to grow shakier last year, Havana intensified its effort to strengthen his opponents by urging unity among the various Sandinista National Liberation Front (FSLN) factions. By early fall Cuba was sufficiently satisfied that this had been accomplished to increase significantly its support to the Sandinistas.

ARMS SUPPLIES

Since late September our information indicates that Cuba has on at least two and probably three occasions supplied arms to the FSLN. On each occasion Havana has limited its own direct involvement by relying on the Panamanian government to transport the arms. Reporting from several sources indicates that in late September Cuba shipped eight crates of arms—including 50-caliber machine guns designed to serve as an anti-aircraft weapon—to Panama via a Panamanian air force plane for later transshipment to FSLN forces in Costa Rica.

In early November Cuba made its second delivery of arms destined for the FSLN. According to a reliable source, during the week of 5-11 November three Panamanian air force planes returned to Panama from Cuba carrying crates that contained AK-47 rifles, 50-caliber machine guns, and hand-held mortars. By the end of the month the Panamanians had flown these arms to Liberia, Costa Rica where they were given to the FSLN.

Circumstantial evidence indicates that the Cubans were involved in the recent reactivation of the Panamian-Costa Rican resupply route to the FSLN. Members of the FSLN "General Staff" reportedly stated at a meeting on 13 April that their inventory included an undisclosed number of antitank rockets of Soviet and French manufacture that Cuba had provided via Panama. Although the "General Staff" members did not specify when Cuba had supplied the arms, other information indicates that Panama delivered arms to FSLN forces in Costa Rica about the time of the meeting. Also among the arms Panama delivered in mid-April were mortar rounds that are apparently of Chinese origin; other sources have reported that this type of armament had previously been provided by Cuba, probably via Panama.

ON-ISLAND TRAINING

Training in Cuba of FSLN guerrillas—which has continued at low levels for years—has apparently been on the upswing, especially since January. Early that month a Panamanian emissary reached an agreement with Fidel Castro to send to Cuba FSLN exiles who formerly would have been granted safe-haven in Panama. On 10 March a subordinate of Noriega's said that Panama is serving as a bridge to transport FSLN personnel to Cuba where they undergo training before returning to Nicaragua.

Evidence on the total number of FSLN guerrillas who have received training in Cuba is spotty. Members of the FSLN "General Staff" reportedly said on 13 April that Cuba has trained 300 of the FSLN combatants currently in the field. In early April an official of the FSLN Terciario faction reportedly said that half of his faction's regular combatants have received training in Cuba.

ENCOURAGING SUPPORT FOR THE FSLN FROM NEIGHBORING COUNTRIES

A major element in Cuba's approach to the Nicaraguan situation has been its effort to encourage leftist groups in neighboring Central American countries to aid the FSLN. Havana especially wants regional Communist parties to support the Sandinistas. Toward that end the Cubans in early February promoted a meeting in San Jose, Costa Rica that was attended by the Communist parties from the Central American countries as well as from Mexico and Panama. Cuban delegates used the occasion to urge their counterparts to bolster their assistance to the FSLN by creating safehavens in their countries, providing facilities for military training, and supplying arms and other equipment. Plans were also discussed for a follow-up meeting later this spring probably in Havana that would prepare a strategy for assisting revolutionary activity throughout Central America.

In part because of Cuba's urging, Central American leftist groups have for some time been developing support mechanisms responsive to Sandinista needs. For example, late last summer at Havana's direction the Honduran Communist Party established a support apparat that has been responsible for finding sites in Honduras to train FSLN guerrillas. The apparat has relied on sporadic Cuban financial aid to purchase arms, radios, and other equipment for the FSLN, and Honduran Communists have assisted the Sandinistas in border crossings. Since last fall, however—despite frequent prodding by Honduran Communist Party leaders—the Cubans have dragged their feet in providing promised financial aid for the apparat.

Cuba reportedly also funnels assistance to the FSLN through two groups in Costa Rica. A member of the Central Committee of the Costa Rican Communist party—the Popular Vanguard Party—said in early March that Cuba had begun to channel limited financial assistance to the FSLN through his party. The Cubans may also be helping to fund a "Committee of Solidarity with the Sandinista Front" headed by self-professed FSLN member Ernesto Cardenal, a Nicaraguan priest who resides in Costa Rica.

PROMOTING FSLN UNITY

Fidel Castro's recent discussions with FSLN leaders may lead to more active Cuban support to the FSLN. In early March, leaders of the three major FSLN factions traveled to Cuba to meet with Castro. The Cuban leader is said to have spent nearly 48 hours over a four-day period helping to hammer out a basis for cooperation. As a result of the meeting a unified FSLN directorate was established containing three members from each faction. In return, Castro reportedly promised that Cuba would increase its assistance in the form of money, arms, and ammunition. Havana has repeatedly urged leaders of the disparate Sandinista factions to cooperate in a unified effort against Somoza; their failure to do so has been a major deterrent to increased Cuban assistance and will likely continue to be so should the current unity effort falter.

OUTLOOK

The Cuban leadership shares the belief of the Popular Prolonged War and the Proletarian Tendency factions that the Sandinistas are likely to achieve power only after a protracted struggle. When Fidel Castro met in Havana in September with Tomas Borge—leader of the Popular Prolonged War faction—and Eden Pastora—a leading Terciario faction military commander—he reportedly counseled them to refrain from a frontal attack against the National Guard. Instead, he urged them to concentrate on hit-and-run actions and other guerrilla activities.

Castro took a similar position in early December when he reportedly urged two Terciario leaders to abandon plans for a large scale military offensive because he did not believe that the FSLN had the necessary logistical and organizational capability to sustain conventional operations against the Guard. Moreover, in mid-January two diplomats assigned to the Cuban embassy in Panama stated that Cuba no longer believed that the FSLN would be able to topple Somoza before his term expires in 1981.

Cuban support, therefore is likely to continue to be intended to help the Sandinistas develop the military and political infrastructure necessary to triumph in a war of attrition. The Cubans probably expect that—as was the case with the Batista army—popular sentiment will gradually turn against the National Guard and eventually render it ineffective. To make the FSLN a more potent guerrilla force, Havana can be expected to continue to emphasize the development of safe havens, training sites, and logistics bases in neighboring countries. Cuba is also likely to continue to provide arms and on-island training to FSLN members.

The Cubans have urged the Sandinistas to combine their efforts to intensify the guerrilla struggle with a highly pragmatic political approach designed to broaden the FSLN's base of popular support for a movement to oust Somoza. For example, during Castro's meeting with FSLN leaders in March, he reportedly urged them to play down the Marxist nature of their programs at this point and to offer to join with non-Marxists in forging a broad coalition. FSLN leaders have taken steps to comply with his request.

Given the low-key approach Cuba has pursued regarding the Nicaraguan situation, it is likely that Havana will do its best to avoid being placed in a situation where it might be called upon to intervene directly with Cuban military units. One possible scenario in which Havana might be confronted with such a choice is if the Sandinistas captured a portion of Nicaraguan territory and then—as a "provisional government"—requested Cuba to send troops. The sending of military personnel to Nicaragua by Honduras, El Salvador, or Guatemala would also raise the possibility of Cuban military intervention. In neither of these situations, however, do we believe that Havana would be likely to commit its troops for fear that this action would provoke a US counterresponse.

GUATEMALA

The focus of Cuban attention in Central America has been on Nicaragua, but Cuban contacts with Guatemalan leftists have also increased in recent months. The main thrust of Cuban policy at this point—as it has been for several years—is to encourage the various insurgent groups to join together in a common effort to undermine the government. Havana continues to insist that greater unity be achieved before Cuba undertakes any major increase in its support. Nonetheless, Cuba seems to be laying the groundwork for increasing its assistance to these groups.

Havana's closest links are to the Guerrilla Army of the Poor (EGP), and the Cubans used it as a hub to broaden their ties with other insurgent groups. According to a reliable Guatemalan source, on 12 January a Cuban official met in Guatemala with leaders of the EGP, the Rebel Armed Forces (FAR), and the dissident wing of the Guatemalan Communist Party (PGT) to urge these three action-oriented groups to unify. The Cuban official counseled them to coordinate plans of actions, to integrate training of their respective members, and to make a greater effort to infiltrate labor movements. Stressing the importance of a united front, he implied that if the three groups improved their level of cooperation then Cuba would provide greater financial and material assistance.

According to the same Guatemalan source, in late January a follow-up meeting was held in which two Cuban advisers offered to provide training in Cuba for PGT dissidents and FAR members. For some years the Cubans have trained EGP guerrillas in Cuba, and—impressed with that group's initial success in recruiting members of Guatemala Indian population—Havana began early this year to train some of these recruits. The Cubans may also plan to train members of a new guerrilla group, which is located in western Guatemala and led by Rodrigo Asturias, a former FAR member. Asturias reportedly has visited Cuba on several occasions and his group was invited to attend Cuba's revolutionary celebrations in January.

There is some evidence to suggest that the Cubans may be willing to take a more direct role in counseling Guatemalan insurgents. According to a reliable source, in late February representatives of the EGP offered the services of three Cuban "experts" to work in Guatemala with the FAR and PGT dissidents to "coordinate" the assassinations of several government security officials. The source said that some Guatemalan insurgent leaders opposed this plan, and we have no evidence to confirm that the Cubans have attempted to follow through on the reported offer.

The Cubans—to the best of our knowledge—have not been involved in Central America in assisting local groups to carry out political asassinations at least in the recent past. Nonetheless, the Castro regime contends that in some circumstances the use of counterterrorism is a legitimate weapon in the effort to promote the cause of revolution, and it may well believe that the current situation in Guatemala justifies such an approach.

The Cubans have also worked hard to encourage the orthodox faction of the Guatemalan Communist Party (PGT) to lend its support to local insurgent groups. In early January Ricardo Rosales, the Secretary-General of the PGT, visited Cuba where he met with Vice President for Foreign Affairs Carlcs Rafael Rodriguez—who speaks for a group within the Cuban leadership that tends to take a softer line on the primacy of guerrilla warfare. Rodriguez blamed divisions among the PGT, the EGP, and the FAR for weakening the Guatemalan revolutionary effort and asked Rosales to coordinate his party's activities with those of the insurgents. Stating that he agreed with the PGT's promotion of the peaceful route to power by organizing the workers and students and by participating in elections, Rodriquez also emphasized the need for Guatemalan leftists to employ all forms of activity to achieve a successful revolution.

The Cubans clearly feel no urgency in promoting revolutionary activity in Guatemala; rather, their efforts seem designed to prepare local insurgent groups for the long haul. At the meeting in Guatemala City in late January the Cubans reportedly urged the EGP, FAR, and PGT dissidents to have patience and not expect immediate progress in the struggle against the government. The nature of Cuban training of Guatemalan guerrillas also reflects a lack of urgency. For example, according to an EGP document captured in January 1978, members of guerrilla teams who are trained in Cuba live and work together for as long as a year before reentering Guatemala. to ensure that they will be able to cooperate effectively once they are in the field.

EL SALVADOR

While Havana has in the past given less attention to El Salvador than to Nicaragua or Guatemala, Cuban activities with Salvadoran insurgents have recently been on the upswing. The Castro regime's interest in El Salvador has doubtless quickened as it has observed the spiraling violence and growing political polarization there, and Cuba's willingness to lend support has presumably increased because of the demonstrated willingness of the various guerrilla groups to cooperate in at least an informal alliance.

In February an untested Salvadoran source reported that about 50 members of the military army of the Popular Liberation Forces (FPL)—the group with which Cuba has maintained the closest ties—were in Cuba receiving four months of military and ideological training. The source said that upon returning to El Salvador these guerrillas were slated to serve as leaders for a force of 2,000 newly trained Salvadorans representing the "Popular Militia" of the FPL-dominated Popular Revolutionary Bloc. By late March, half of the FPL guerrillas sent to Cuba had returned home and were working with units of the "Popular Militia."

Cuba has also had links with at least one of the two smaller Salvadoran terrorist groups, the Armed Forces of the National Resistance (FARN). Eduardo Sancho Castaneda—reportedly the FARN's leading strategist—has apparently been his organization's chief conduit to the Cubans. He has maintained regular contact with Cuban officials in Costa Rica and Mexico and has occasionally traveled to Cuba.

For some time the Cubans have also been pushing for greater cooperation between the El Salvadoran Communist Party and the various insurgent groups. For example, in October 1977 Raul Garcia Pelaez—at that time the member of the Secretariat of the Cuban Communist Party in charge of relations with foreign Communist Parties—reportedly said that Cuba was trying to promote the unification of the El Salvador Communist Party and the Popular Liberation Forces and to induce the Communists to adopt a policy of open insurrection against the government. Personal antipathy between the leaders of the FPL and the local Communist Party, as well as disagreements regarding the means and timing of staging a revolution in El Salvador have continued to prevent any meaningful cooperation between these two groups, however.●

RECESSION, OIL AND TAX POLICY

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. BRADEMAS. Mr. Speaker, one of the most respected economists in the United States is Walter W. Heller, regents' professor of economics at the University of Minnesota and former Chairman of the Council of Economic Advisers under Presidents Kennedy and Johnson.

I insert at this point in the RECORD the text of a most thoughtful article by Dr. Heller, "Recession, Oil and Tax Policy," which was published in the Wall Street Journal of June 27, 1979:

RECESSION, OIL AND TAX POLICY

(By Walter W. Heller)

OPEC has done it again. The U.S. recession is under way.

The U.S. economy that was programmed for slowdown via restrictive monetary and fiscal policy has been tippd into early recession by the new $20 billion "oil tax" that OPEC is levying on American consumers. Zooming prices of food and housing, coupled with a miserable productivity performance, have also taken their toll on consumer buying power. But even before this week's meeting in Geneva, OPEC put on the clincher: a 35 percent price jump since December or seven times the boost that was forecast when the economic strategy for a soft landing was put in place last fall.

Just as in 1973–74, the oil price explosion is the biggest external shock. The arithmetic is simple:

Adding our huge oil imports to those segments of our domestic production that already move with the world price means that OPEC dictates the price of nearly two-thirds of our annual consumption of just over 6 billion barrels of crude oil.

A price hike of $5 a barrel siphons $20 billion out of consumers' pockets even if there is simply a dollar-for-dollar passthrough of crude oil costs.

It is not hard to come up with much larger numbers: if OPEC prices rise another $5 (to roughly $23 a barrel) at the same time that U.S. price decontrol is gaining momentum, the gross "oil drag" would be about $42 billion by the end of 1980 (as compared with the end of 1978).

NET DRAG OF $30 BILLION

Since only about 30 percent of these vast proceeds would return to the U.S. income stream in the form of OPEC payments for U.S. exports or added dividends and investments, the net drag on consumers would still be about $30 billion.

As every motorist knows, prices at the gas pump have been rising with a vengeance, far faster than the price of underlying crude. Gasoline prices have led the way to a hair-raising 65 percent annual rate of increase in fuel prices from February to May (and 48 percent from November to May).

So instead of weighing in as the peak of the 1975–79 expansion, the quarter ending this week is ushering in the 1979 recession:

Soggy retail sales in April and May (4 percent below 1978's fourth quarter rate in real terms) reflect consumers who are suffering from inflation, growing debt, the oil drag, and gas pains.

Dropping housing starts tell us that disintermediation and sky-high costs of credit, land, and construction are getting to the residential sector at last—by the fourth quarter, it will be running almost $25 billion below the year-earlier rates.

Government purchases, responding to the tax-and-budget-cutting forces abroad in the land, are rising only mildly.

Inventories, especially big cars, have been backing up and are en route to liquidation later in 1979.

The boomlet in commercial and industrial construction—while highly visible and welcome—is proving to be no match for the downdrafts in other economic sectors. And new orders for non-defense capital goods have been falling.

That's the bad news. The good news is that the 1979 recession, while generated by much the same forces as the 1973–74 recession—soaring food and energy prices, and tightening monetary-fiscal policy—will be far less severe and prolonged:

The 1978–79 food price jump and oil drag are roughly half as big as in 1973–74.

Policymakers are not about to dismiss the current downturn as merely "an energy spasm," a "phantom recession," or a "sideways waffling," to quote the standard officialese of 1974.

The 1979 economy has had no speculative binge in inventories, no big overhang of housing, no painful liquidity squeeze to atone for as in 1974–75.

Continued strong family formation and hedging against inflation should keep the housing downturn within far more moderate bounds than the sickening drop from 2.4 million to 900,000 housing starts the last time around.

Large commitments for commercial and industrial construction and new utility plants can also be a significant sustaining factor.

But even if the recession is neither deep nor long-lived, policy is plunged into a painful dilemma by an economy that is weaker and an inflation that is stronger than anticipated. Should we stay on an unyielding course of tight money and budgetary stringency to press the fight against inflation, bolster the dollar and respond to the country's budget-balancing mood, or should policy yield a little—or more than a little—by easing credit, lowering interest rates and enacting moderate tax cuts to blunt the impact of the OPEC oil tax?

In answering that vexing question, policymakers are operating under significant constraints that were not present in 1974. Take monetary policy. True, Chairman Miller projects an activist role for Federal Reserve policy in this recession. In a recent interview, he stated that "we should leave fiscal policy on automatic pilot and let any mid-course correction be led by monetary policy." He emphasizes the ability of the Fed to move quickly and to reverse itself as the economy recovers from recession.

But that seems to leave out the "X factor"—the external and exchange-rate factor—in monetary policy. The dollar is a lot more vulnerable than five years ago. And last November 1, Messrs. Carter and Miller made an unprecedented pledge to manage domestic economic policies so as to stabilize the dollar.

In recent weeks, there has been a drop of 2½ percent in the trade-weighted value of the dollar in international exchange markets. That weakening is largely laid at the door of shrinking differentials in interest rates as foreign central banks tighten credit in response to rising oil prices. And U.S. inflation is hardly reassuring to dollar holders. Under the November 1 pledge, how much freedom does the Fed have to ease money and lower interest rates if this situation continues?

Or take the constraints on fiscal policy. Responding to relentless inflation and the country's turn toward fiscal conservatism, the White House and Congress have foresworn tax cuts in 1979–80 and pledged a balanced budget by fiscal 1981. Earlier this month, Budget Director McIntyre projected a $28 billion deficit for 1980 and expressed hopes for a small budget surplus in 1981.

It is sobering to recall what recession did to President Ford's hopes for balancing the budget by fiscal 1976. It shattered those hopes with a $66 billion deficit (in a $1.6 trillion economy). That is equivalent to a staggering $103 billion deficit in terms of 1980 GNP (projected at $2.5 trillion). Even with a mild recession and no tax cuts, the deficit could easily soar to $40 billion or more next year.

But does a no-tax-cut stance make economic sense in the face of some $55 billion of added tax or tax-like levies during 1979–80:

An OPEC net "oil tax" of nearly $30 billion.

An "inflation tax" of about $16 billion as inflation pumps money income into higher income tax brackets.

Payroll tax increases of $10 billion (followed by a whopping $15 billion jump in 1981).

This is not to suggest that our 1979 recession will—or should—trigger a massive program of stimulus, even in an election year. As already suggested, both the economic configuration—the persistence of high inflation coupled with U.S. commitments to stabilize a vulnerable dollar—and the more conservative political configuration point to moderation in policies for renewed expansion. The U.S. economic locomotive will not go roaring out of the station.

A CHANGE IN POLITICS

That seems to contradict history, the political-economic cycle, and the cliche that election years breed expansion—and inflation. Do I really believe that water will run uphill? I can only respond that, leaving personal preferences aside, one must acknowledge that the political topography has changed. Political advantage now seems to lie as much or more in a successful assault on inflation as in all-out war on unemployment.

But moderation must not be carried to the point of imprudence. A formula for monetary-fiscal restriction that was designed for a soft landing is no longer appropriate for an economy undergoing a hard landing. More explicitly, the policy formula that made sense prior to OPEC's price hikes hardly makes the same sense after an unexpected $15 billion to $20 billion a year—and perhaps double that by the end of next year—is being drained out of the marketplace.

If it turns out that substantially easier money is ruled out by the need to defend the dollar, a relentless pursuit of a balanced-budget goal for 1981 will surely be self-defeating. Unless the impact of some $55 billion of added tax and tax-like levies in 1978–79 is cushioned by fiscal or monetary action, fiscal policy will be too restrictive, the recession will deepen, and deeper deficits will be the order of the day.

As the White House and Congress contemplate tax cuts in the face of a base or core inflation rate that is nearing 9 percent—half again as high as the rate in our last recovery from recession—high priority should be given to measures that reduce consumer prices and business costs while increasing take-home pay and business incentives. One thinks of payroll tax cuts, tax reductions conditioned on wage moderation (TIP), buy-outs of state sales taxes, and more liberal depreciation. Old ideas? Perhaps. But a new and more compelling environment.

It is too late to adjust energy policy to defeat the oil cartel and beat back its huge price increases. But it is not too late to consider midcourse corrections in our fiscal-monetary game plan to minimize damage to the U.S. economy.●

SEARCH FOR AN ENERGY PLAN—PARTS 1 AND 2

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. MOAKLEY. Mr. Speaker, the problems of energy dominate our everyday life. To come to grips with these problems, Congress will have to ask hard questions and make difficult energy-related decisions. It is clear the decisions we make now will set the stage for our future supply.

What should we do to limit OPEC imports, conserve our domestic resources, and how best to develop alternative energy sources, will all be facing this Congress. We will have to address the future roles of nuclear energy and coal as well.

Last week, the Boston Globe ran a series of eight editorials in which they examined our Nation's search for an energy policy and today I would like to share with my colleagues the first two parts of this useful energy outlook. Over the next few days, I will insert the other segments of the Globe series for the benefit of my colleagues.

[From the Boston Sunday Globe, July 1, 1979]

SEARCH FOR AN ENERGY POLICY: 1—A PLAN FOR ACTION

It is time to come to our senses. The gasoline lines, the frantic search for an open station, the confusion, the tension, the disruption: These are more than realities; they are also symptoms of a problem that transcends the present and transcends oil.

As private individuals, we have been deceived by government and industry into believing the promise of infinite plenty. With no one to tell us otherwise, we have continued to guzzle every energy product we could set our hands on.

In public life, there has been a failure of the elemental purposes of government—communication, leadership and action.

In corporate life, the normal course of business has operated to the detriment of the national interest.

It's not just the Ayatollah's fault; it's not just James Schlesinger's fault; it's not just Congress' fault; it's not just the oil companies' fault.

In the real, multiple-choice world of energy, the answer is: All of the above.

To make matters worse, we are at odds with ourselves even over the nature of the present mess. The popular verdict clearly favors the notion of contrived conspiracy over that of genuine shortage.

Unfortunately, evidence exists that feeds the suspicion. Until it is confronted, people cannot be expected to look beyond the gas lines to the larger, far more serious problem.

It is a fact that for most of this year American refineries have been running at about 85 percent of capacity, including periods when crude oil supplies were above 1978 levels.

In other words, there was crude oil around that wasn't getting refined.

It is also a fact that there is panic in places like Boston but no worry yet in places like Albuquerque. The fact that some areas suffer while others prosper makes absurd on its face the idea that there is a national crisis in gasoline supplies. For this we can thank the federal government's indefensible allocation system, which operates on the inequitable principle that the more gasoline you used last year, the more you deserve now.

Let the oil companies reply that they were merely responding prudently, as business should, to a highly volatile situation by being conservative in their crude oil refining. Let the government reply that it was only carrying out regulatory law.

The fact remains that the normal course of corporate and government business transformed a problem—the temporary loss of all Iran's oil exports and the permanent loss of more than one-third—into a crisis.

Beyond decrying these outrages, we as a nation need to face some facts.

Here is a number from the oil industry that not even its most severe critics challenge. In late June, this country had 331 million barrels of crude oil on hand, which is 5 million less than the figure a year ago. But demand is up, not down.

Here is another number, similarly unchallenged: In the same period, stocks of gasoline amounted to about 227 million barrels, 3 million less than the figure for a year ago. But the demand is, up not down.

And here is a final, accepted statistic: In late June, stocks of the fuel category that includes home heating oil totaled about 135 million barrels, which is barely half the nation's needs for the heating season that begins in just a few months. Again, demand is expected to be up, not down.

There is a word for such a phenomenon—shortage. That is what we have, a shortage. Given present policy and consumption trends, it will continue. What is more, it will get progressively worse, with no end in sight.

At this point, some Americans, not all of them poor, will exchange their place in the gasoline line for one in the unemployment line.

Unless we change our present course, we will try, with decreasing success, to put off the inevitable by sending our oil companies begging to the Organization of Petroleum Exporting Countries, which already has a stranglehold on nearly half of our oil supply. The companies will try to import even more. at prices that would make the neighborhood loan shark blanch.

It is impossible to believe that this is what the American people want.

But it also happens to be our national energy policy. It is not a policy by design; it is a policy by default.

By default, it is national policy to increase energy consumption.

By default, it is the national policy to buy more imports from OPEC.

By default, it is national policy that we pay higher and higher prices and receive nothing extra in return.

By default, it is national policy that gasoline be rationed by having people sit in line more and more at stations that are open less and less.

By default, it is national policy to burn exorbitantly priced OPEC oil to generate electricity.

By default, it is national policy to assume we can produce our way out of our energy problem by doubling production of coal, in the face of persuasive evidence that we neither can nor should.

By default, it is national policy to assume we can produce our way out of our energy problem by doubling production of nuclear power, in the face of substantial doubts that we either can or should.

Our energy policy by default has lasted for most of the 1970s for one main reason: The nation is stalemated where energy is concerned.

Competing regions, ideologies and interests have combined to create a situation not only where none of us wins, but, more important, where everyone loses.

What is so maddening about all this is that it is so unnecessary.

Supply is just a touch below current demand, perhaps 5 or 10 percent in the case of gasoline, and much less than that for crude oil. That is scarcely a drastic imbalance. There are adjustments we can make right now that would not only be infinitely less painful than those forced by our policy of default, but would also make the country more secure.

The country need not despair. The fact is the United States has energy options, a great many of them. The task is not to remain caught in an endless squabble about which "one" energy source to pick, but rather to select the proper mix, and to differentiate clearly between short-, medium- and long-term considerations.

We must begin with the facts. The people do not believe the government; they do not believe the oil industry. Only the government can change this, by having the oil and gas industries report to it instead of their trade associations, and by skeptically auditing these reports.

The facts must be used to enunciate clear and precise goals for consumption and conservation, and also to give the people a comprehensible running score on the nation's progress.

We must have new leadership, not just at the discredited Energy Department, but also from our parochial, paralyzed Congress and our ineffective President.

For the short term there are really only two choices: import more oil from OPEC or conserve.

Along the former road is national disaster. The Treasury Department concluded in March in a report to Presdient Jimmy Carter that the level of imports (then at prices at a third less than they are now) is a threat to our security.

It is the other road, conservation, that we should choose. Conservation is our most attractive, least expensive choice, not just for this year and next year, but for at least the next 10 years.

The nation requires a rigid ceiling on OPEC imports now, enforced if necessary by quotas, which the President already possesses the authority to impose. It also requires a firm timetable for the reduction of current import levels, now about eight million barrels daily.

What happened at the economic summit in Tokyo last week is too timid. This country needs more than "restraint" and "targets."

With conservation lies the beginning of freedom from OPEC's monopoly, a stronger dollar and better relations with allies who with reason see us as a threatening glutton.

What Congress should do is enact a rationing plan and what President Carter should do is put it into effect.

We would suggest three other steps for the United States to take for the short term:

Let domestic crude oil price controls gradually end by late 1981. The more we conserve the less we will have to pay, and higher prices will make more competitive such synthetic alternative sources as shale oil and production of gas from coal that we control, not OPEC.

Enact a much higher tax on the increased profits the oil industry will earn as a result of the lifting of crude oil price controls than either the President has proposed or the House is about to consider. Any windfall profits tax will not affect incentives to find new oil. That is already decontrolled, and profits the oil companies reap from new finds, unless they result solely from OPEC price increases, are not "windfall" profits. A steep windfall profits tax will, on the other hand, assure that the public gains control of the unanticipated profits resulting from decontrol or OPEC price increases and can channel that money specifically for further energy development and for subsidies to offset the impact of skyrocketing energy prices on the poor.

Use some of the revenues to put in place a much more generous rebate program for the needy than the Administration's proposed annual payment of roughly $100 per family.

For the next decade or so, we would make four points:

Because of the public confidence-shattering events at Three Mile Island in March, we do not believe that any new nuclear plants should be permitted to go into operation until these doubts have been removed.

We must get much more energy from new sources like shale oil and the sun, much more quickly than current policies envision.

Our planning must no longer assume that any increased supplies from conventional energy sources—oil, natural gas, coal and nuclear power—can do more than compensate for declines in production from existing oil and gas fields.

Conservation must become even more extensive. The major requirements are a rigid insistence that gasoline mileage improve, at least to the extent envisioned by current law, and a massive government investment in generous incentives to convert existing dwellings and businesses into more efficient structures. A higher profits tax would help finance these subsidies.

For the long haul, we would suggest these steps:

A large increase, also using funds from a high windfall profits tax, in subsidies, grants and loans to speed the commercial development of synthetics, including shale oil as well as gas liquids produced from coal.

A similarly large increase in government aid to speed development of renewable sources, primarily solar, but also including wood and hydro-electric power.

Our collective problem with energy is excessive timidity. Weary from years of political battle, distrustful and cranky, we have lowered our sights.

As long as this is so, we will be left with our national energy policy by default. The question before us is whether we respond to our troubles by focusing on the rest of the summer or the rest of the century.

[From the Boston Globe, July 2, 1979]

SEARCH FOR AN ENERGY POLICY: 2—CUT IMPORTS, RATION NOW

No one has to tell Americans there is a national energy crisis. We are sitting right in the middle of it in gasoline lines that have distressingly become a hallmark of our age.

Americans are angry. They're angry at the oil companies. They're angry at OPEC. They're angry at the President. And they're angry at Congress. Above all, they're angry that our leaders, those in and out of government who have been talking about the problem for at least five years, have done so little to prevent the current crisis. They think there must be a better way. And there is.

We've come to the time when genuine self-sacrifice is required. We've got to reduce the amount of gasoline and oil we burn.

We've got to set firm targets for just how much we should cut back.

And we've got to set firm rules for getting there.

Perhaps the scariest feature of the current crisis is the realization that we have so little control over our supply of oil. Last week the representatives of 10 OPEC nations met in Geneva to announce that the new price of crude oil would be raised to an average of about $20 a barrel—and there wasn't a thing we could do about it even though this latest increase will cost the average household in America $116 a year.

Furthermore, the United States—and the rest of the world, for that matter—have been treated to a series of shocks in this decade as OPEC countries, particularly its Arab members, have threatened to or actually cut back oil exports for political reasons. Just last Friday Libyan Premier Khadafy threatened to cut off all exports, including about 700,000 barrels a day to the United States. There is nothing to suggest that such threats will not be repeated in the future.

The Carter administration should move to reduce our dependence on those unreliable OPEC suppliers by limiting imports from OPEC countries to the current level of 8 million barrels a day right now and setting a timetable for reducing it to 6 million barrels a day by the end of 1980.

To make these changes as painless as possible and to ease public concern about the current gasoline shortages, the President and Congress must enact and quickly put into operation a gasoline rationing system.

An import curb would demonstrate unmistakably to the rest of the world that we intend to live more nearly within our energy means.

Moreover, limiting imports would help give more meaning to the decontrol of oil prices. It would encourage additional domestic production of oil and especially the development of new oil production from unconventional sources like shale and coal.

And a limit on imports might, just might, finally force the OPEC countries into bidding against each other for access to our market. Such competition might lead to at least a small reversal in the general upward trend in oil prices.

Why rationing?

The perplexing feature of the current chaos is that there is not a horrendous shortage of gasoline. The reported inventories now amount to about 227 million barrels compared with 231 million barrels a year ago—a trivial drop and one not large enough alone to explain the problem.

But the problem is compounded by the fact that there are already priority claimants for some of the available gasoline—fire departments, ambulances, and so on. These prior claimants cut the amount that can be shipped to filling stations to 95, 90 or even lower percentages of the amount they got last year.

Station operators are evidently reluctant to sell all their gasoline and just go home. So they restrict hours, or close. Americans are genuinely frightened about whether they will be able to get any gasoline at all and are quite understandably concerned .that whatever sacrifice they as individuals may choose to make voluntarily will just provide gasoline for use by their more wasteful neighbors.

Rationing is the fairest way to distirbute the limited amount of gasoline that will be available for the entire country. Rationing would help oil company refineries switch more of their capacity to the production of home heating oil for next winter—still in low supply. It would also allow production of more diesel fuel for use by farmers, truckers and other critical participants in our economy.

Rationing would help consumers make more rational choices about how they use gasoline, encouraging them to switch to public transportation where it is available and to car pools or other kinds of shared auto use where it is not. It would discourage at least some frivolous auto use while in no way prohibiting car use for vacations or other recreational trips.

Car buyers would be encouraged to choose models offering maximum mileage.

Rationing would act even-handedly between rich and poor in getting first crack at the supply of gasoline. Coupons should be salable in the open market for several reasons, one of them that poorer people could elect to sell them for cash rather than using them for travel.

Last, rationing would help set very firm targets and let everyone know just how well we are meeting those targets. It would give the entire country a sense of purpose and certainty that is entirely lacking in the current chaotic situation.

Gradual reduction of the amount of gasoline and oil we use need not have more than a temporarily negative impact on our economy. Over the long haul, it should, in fact, have exactly the opposite effect as new and existing businesses grow to meet increased need for alternate energy sources and energy saving devices.

America is notorious around the world as a wasteful energy user and it undercuts our capacity to lead on energy matters. President Carter's position at the economic summit in Tokyo last week sounded a little hollow when his administration rejected a European proposal on a ceiling on OPEC imports on grounds that it would allow Europe's economy to grow faster than the U.S. economy. Had we better controlled our consumption in the past, Carter might have had sounder grounds on which to base his complaint. Gas rationing would have helped provide that sounder ground.

The cost of the oil we buy from OPEC is also a major consideration Now that OPEC has raised the price to an average of $20 a barrel, we will have to pay about $60 billion a year for the 3 billion barrels of oil we import. Those imports play havoc with our balance of trade. Last year we spent $45 billion to buy foreign oil, more than matching our 1978 trade deficit of $28 billion.

We do not need to eliminate all imports, nor could we for a number of years even if we elected to make that choice. But the mere fact of cutting back on them will make the dollar a stronger currency, which will benefit all countries as well as the United States. A stronger dollar will tend to reduce OPEC demands for price increases. It will contribute to the fight against inflation. It will also help reduce interest rates.

The prospective import limit of 6 million barrels a day should be restricted to the OPEC countries alone. It should not apply to imports from Canada or Mexico, even though those countries apply OPEC prices to their products, just as American oil companies do to newly found oil here.

And it should not apply to imports from other non-OPEC countries like China, which might conceivably become a significant source of oil for us in the future.

With a bit of luck, imports from these countries may enable us to increase the allotment of gasoline through a rationing system. With a bit more luck, their example might contribute to the breaking of the price monopoly exercised by OPEC by luring Venezuela, say, out of the cartel.

For the time being, reduced imports of oil will require conservation of gasoline and other forms of petroleum. In the case of gasoline, simple acts like increasing the number of people in commuter cars from the present 1.4 to 2 would save about 400,000 barrels a day. Americans should give carpooling a real chance.

Wherever public transportation already exists, its expanded use must be encouraged in every possible way. It makes no sense to ask people to reduce their use of cars but provide no alternatives. It may not be practical to build new subways in cities where they do not already operate but it makes great energy sense to fill subway cars that are operating half-empty now. And it makes sense to expand express bus service on congested highways, in wrong-way lanes where practical, to lure drivers from their cars.

Congress and President Carter have been altogether too dilatory in attacking our energy problems, Congress by its outrageous refusal to establish even a standby rationing system, the President by his failure to provide vigorous and forward-looking leadership in an area where the public is crying out for guidance.

It is unconscionably late, but not too late, to resolve their differences. The President and the Congress must move with dispatch first to set a firm timetable for reducing American imports from OPEC to a maximum of 6 million barrels a day.

To alleviate widespread public concern over gasoline supplies and to provide an equitable system for distributing reduced supplies of gasoline, the President and Congress must put a rationing system into operation.

Failure to act now would be a violation of public trust.

Our Choices:

1. Limit OPEC imports;
2. Ration gasoline;
3. Subsidize conservation;
4. Tax windfall profits;
5. Limit expansion of nuclear;
6. Go slow on coal;
7. Expedite synthetic fuels; and
8. Develop biomass and solar.●

ARE WE STANDING STILL?—U.S. STRATEGIC NUCLEAR FORCES IN THE 1970'S AND EARLY 1980'S

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 9, 1979

● Mr. ASPIN. Mr. Speaker—

"It is clearly the case that we have not been seriously competitive with the Russians in the realm of strategic forces for 15 years."—ROBERT F. ELLSWORTH, former Ambassador to NATO.[1]

"While the U.S. has developed only one ICBM system since 1965, the USSR has developed seven."—Open Letter to President Carter, signed by 170 retired generals and admirals.[2]

". . . the Soviets have turned out a succession of new systems, each one better than its predecessors. For its part, the U.S. followed a policy of unilateral restraint by virtually freezing its strategic arsenal."—New York Daily News editorial.[3]

"The United States . . . will by the end of the early 1980's have deployed no additional ICBM throw-weight since 1972."—Committee on the Present Danger.[4]

"The trend charts clearly depict our cutback in strategic weapons during the past fifteen years as the result of our policy of unilateral restraint—or phased unilateral disarmament."—Coalition for Peace Through Strength.[5]

The commonplace kernel of conventional wisdom making its rounds in many defense circles and much of the attentive mass media, is that the United States has been standing still, even unilaterally disarming, in strategic forces for the past decade, while the Soviet Union has doggedly driven on ahead.

At first glance, it may seem that there is some truth to this claim. Since 1969, the Soviets have produced the SS–16, SS–17, SS–18, and SS–19 ICBM's, the latter three MIRV'ed with 4, 8, or 10, and 6 warheads, respectively. The SS–16 is probably not deployed. The United States has deployed only the Minuteman III with three MIRV warheads, and has otherwise stuck with the Minuteman II/Titan II ICBM force. The Soviets have deployed Delta II- and Delta-III-class nuclear missile submarines with the SS–N–8 and the MIRV'ed SSXN–8 SLBM's. The United States has put to sea, in this period of time, the MIRV'ed Poseidon missile, and by the early 1990's, will suffer a substantial attrition in the SLBM force, due to block obsolescence of Poseidon submarines, only partially relieved by the introduction of Trident subs.

Furthermore, it is estimated by the CIA that, over the past decade, the Soviets have spent about twice as much as the United States on offensive strategic nuclear forces, not including money spent on research and development.[6]

Observing these trends, many people express great skepticism, if not outright opposition, to the SALT II treaty, concluding that the arms control agreement is being offered as the only thing that we have at hand to stave off, though just moderately, the growing Soviet arms buildup in the face of a decade of American restraint; that it is, therefore, a very poor substitute for a renewed emphasis on getting back into the strategic arms race.

Many of these same observers feel that these trends point to a need for a new American ICBM, namely, the MX missile. If the Russians have built so many new ones lately, and if we have not built any, it is time that we started doing so again.

But what do these trends really add up to? Have we really been standing still? And can this question be sufficiently answered by examining such static indicators as the number of missiles, new missiles, or missile throw-weight? Is the cost of a weapon system necessarily proportional to its effectiveness? Is the rejection of certain weapons, say the B–1

Footnotes at end of article.

bomber, to be seen as an act of unilateral restraint or strategic foresight? What sorts of qualitative improvements has the United States made in its strategic force, and how do these stack up in terms of improving force-effectiveness to the various improvements made by the Soviets?

MISSILES AND WARHEADS

Many of the "trend charts" designed to illustrate U.S. strategic restraint depict the number of strategic delivery vehicles—missile launchers and heavy bombers—held by each side over a period of time. Indeed a "nose count" of this sort at first glance conveys a depressing tale. Since 1969 the Soviet nuclear arsenal has grown from 1,514 delivery vehicles to 2,504—an increase of nearly 1,000. Meanwhile, the United States has reduced the number of its strategic missiles and bombers from 2,270 to 2,058—a drop of more than 200.[7]

However, looking at warheads and bombs—that is, the number of strategic nuclear weapons, as opposed to the platforms that merely launch or drop them—the United States has enlarged its strategic arsenal from 3,950 in 1969 to 9,200 today, while the Soviets have grown from 1,659 to about 5,100.[8] In other words, the Soviets have increased their weapons count by about 3,590; the Americans have increased theirs by 5,250. The growth in the U.S. arsenal over the past decade is larger than the total size of the Soviet strategic force today. The United States may have stood still in the number of delivery vehicles over the past decade, but it has overwhelmingly outpaced the Soviets in the number of newly deployed warheads. And as Henry Kissinger once noted, it is bombs and warheads, not delivery vehicles, that kill people and destroy military and industrial targets.

ICBM'S AND GUIDANCE SYSTEMS

Two factors determine the effectiveness of a nuclear force: First, the number of warheads—that is, how many targets can the force cover—second, the lethality of those warheads—that is, with what probability can the weapons destroy particular targets.

It is true that the United States has not developed a single new ICBM since the Minuteman III of 1970; and true, that missile is a modification of the Minuteman II, deployed in 1966, which is, in turn, an upgrade of the Minuteman I, first fielded in 1962 and now no longer in operation.[9]

There are more ways to improve a force, however, than merely by building new missiles.

For example, the Minuteman III is basically the same as the Minuteman II, except for its top stage; but in terms of effectiveness it is hardly different from a new missile. The old 1.2 megaton single warhead of the II was replaced on the 550 Minuteman III's, by a postboost vehicle containing three independently targetable (MIRV) warheads, each with greater accuracy than the single warhead of the Minuteman II.

Since then, the inertial guidance on the Minuteman III has been modified to provide still greater accuracy. This is significant since the probability of destroying hardened—blast-resistant—point targets is a function of explosive yield and missile accuracy, and accuracy is about four times as important as yield in this determination.[10]

Recently, all the Minuteman III's have been retrofitted with the NS-20 inertial guidance system, replacing the original NS-17. This change has sharpened the average accuracy—CEP, for circular-error-probable—of each warhead from 1,200 to 600 feet, which nearly tripled each warhead's chance of destroying very hardened Soviet ICBM silos—from 19- to 55-percent probability.[11]

During this time the Soviets have added three entirely new ICBM systems to their arsenal. Specifically, the Soviets, beginning in 1974 and continuing through the present day, replaced some of their SS-9's with SS-18's and, starting in 1975, substituted some SS-11's with SS-17's and SS-19's. But in terms of added capability per warhead as table 1 shows, the results have been about the same.

TABLE 1.—SINGLE-SHOT KILL-PROBABILITIES AGAINST ENEMY ICBM SILOS,[1] PER WARHEAD

	Current systems
United States:	
Minuteman III	0.19
Minuteman III w/NA-20	.55
U.S.S.R.:	
SS-9	.28
SS-18, Mod 2	.43
SS-18, Mod 4	.59
SS-11	.07
SS-17	.34
SS-19, Mod 1	.37
SS-19, Mod 1—Var	.59

[1] United States silos are generally estimated as resistant to blast at up to 2,000 psi, Soviet silos at up to 2,500 psi.

Note: Calculations mathematically derived from current intelligence information. Missile reliability has not been factored into this or any other table, due to great uncertainties. Since this is not a targeting or "exchange-calculation" study, its omission matters little. It is believed, however, that United States missiles are more reliable than Soviet ICBM's. Thus, if reliability were systematically considered, the lethality of United States warheads would appear even greater than those of the Soviets.

Total cost of the NS-20 guidance improvement program: $150 million [12]—several orders of magnitude cheaper than building a new missile, although the improvement in force-effectiveness is comparable.

The near future will bring still greater lethality to the Minuteman III force. Over the next 2 years, the Mk-12 warheads on 300 of the Minuteman III's will be replaced by the Mk-12A. While adding a mere 35 pounds to the 2,000-pound throw-weight on the Minuteman III, the Mk-12A will nearly double the explosive yield of each warhead, from 170 to 335 kilo-tons.[13] This very small conversion will improve kill-probability against hardened targets still further—from 55 to 70 percent.[14]

Finally, by the early- to mid-1980's, the NS-20 will probably be improved, through further testing and refinement, to reach its theoretical degree of accuracy—about 490 feet CEP.[15] Thus, those ICBM's with Mk-12A warheads will have an 83 percent chance of destroying the hardest of Soviet missile silos in a single shot. Those Minuteman III's with the older Mk-12 warheads will achieve 70 percent single-shot kill-probabilities.[16]

During this time it is certain that the Soviets will be improving the accuracy of their guidance systems for the SS-18 Mod 4 and the SS-19 Mod 1 Variant. Yet the improvement in force-effectiveness, warhead for warhead, will remain about the same for the upgraded U.S. Minuteman III and the neww Soviet ICBM's, as the table below reveals:

TABLE 2.—SINGLE-SHOT KILL-PROBABILITIES AGAINST ENEMY ICBM SILOS, PER WARHEAD

	Mid-1980's systems
United States:	
Minuteman III/NS-20	0.70
Minuteman III/Mk-12A/NS-20	.83
U.S.S.R.:	
SS-18, Mod 4	.82
SS-19, Mod 1—Var	.82

Note: Same assumptions as table 1.

Thus, the power of U.S. warheads has remained apace with the U.S.S.R.'s, even without the building of additional missiles. The new Soviet missiles, to be sure, have more warheads than the ones they replaced, meaning they can hit more targets. However, the cost of these new missiles, through 1985, amounts to $24.9 billion, or $5.9 million per additional hard target they can destroy. The cost of the new U.S. guidance system and warheads amounts to a mere $1.15 billion, or $1.2 million per extra hard target per shot—a cost-effectiveness ratio, between the United States and U.S.S.R., of 4.9:1. That is, our ICBM force improvements have been nearly five times more cost-effective than Soviet improvements.[17]

At the same time that the NS-20 was installed on Minuteman III, the United States initiated a silo upgrade program that reduced the vulnerability of the entire Minuteman ICBM force. The program was completed this year. An extra 10 inches of borated concrete was applied to the silo lids. The missiles were removed from their shock-absorbing springs and mounted on pendulumlike suspensions. Bins were installed to catch rubble when the silo cover is rolled back for missile launch. Titanium shrouds were placed on top of the missile cones, to resist the forces of electromagnetic pulse (EMP) from high air-burst nuclear explosions, which could otherwise severely damage the missile's guidance and communications systems.[18]

The silo upgrade strengthened the blast resistance of Minuteman silos from 300 to 2,000 pounds-per-square-inch (psi) of transient atmospheric overpressure.[19] The Titan II missiles, however, remain at 300 psi, and there are no plans to upgrade them. By the mid-1980's, these silos will once again be vulnerable, as Soviet missile accuracy improves. We have nearly reached the limits of silo hardness; in any event, additional upgrading would be highly expensive and, ultimately, not very useful.[20]

Still, implementing the silo upgrade program—total cost: $1.4 billion [21]—delayed Minuteman vulnerability for at least 6 years, and thereby mitigated the counterforce capabilities of the Soviet ICBM force.

TABLE 3.—*Current Soviet SS-18 (MOD 4) single-shot kill-probability, per warhead, against U.S. Minuteman III silo*

Without Silo Upgrade (300 psi)	0.93
With Silo Upgrade (2000 psi)	.59

Same assumptions as Table 1.

Another aspect of the silo upgrade program—included in the $1.4 billion cost—was the command data buffer system, which allows command authorities to

Footnotes at end of article.

rapidly retarget ICBM's—a single missile in less than 25 minutes, the entire Minuteman force in about 10 hours.[22] The advantages of this fast digital computer system are impossible to quantify, but can be illustrated. In the past, if an ICBM targeted against a particularly high-value installation in the U.S.S.R. were itself destroyed in a Soviet first strike or if it failed in launch or midflight phase, then that target would be left untouched, or other missiles would have to be redundantly aimed at that target. Now, with the command data buffer, other missiles can be rapidly reaimed to strike those targets left free.

What all this means is that even though the United States has built no new ICBM's since 1970, and has not designed a totally new ICBM since 1962, we have hardly been standing still over the past decade. We have more than doubled the number of warheads, nearly tripled the ICBM's force effectiveness against the hardest of Soviet targets, and reduced the counterforce capability of the most sophisticated Soviet ICBM's by more than 35 percent. Over the next 2 years, the counterforce capability of a significant portion of Minuteman missiles will be upgraded another 20 percent, and in the 2 years hence, by 15 percent more.

Compared to the Soviets, who have spent tens of billions of dollars on new missiles, we have continued to overwhelm them in deployment of new warheads; we have matched them in hard-target-kill capability with just a billion dollars' worth of new guidance systems and warheads; we have degraded Soviet missile power by upgrading our missile silos at low cost. In sum, first looks at merely the number of old and new ICBM systems are deceptive. We have hardly been standing still.

BOMBERS AND CRUISE MISSILES

President Carter's decision on June 30, 1977, to cancel the B-1 bomber is notorious among those who believe the United States is declining in strategic strength. Maj. Gen. (ret.) John K. Singlaub bemoans:

> The U.S. has been engaged in unilateral restraint, witness the cancelling of the B-1 bomber. . . .[23]

Henry Kissinger cited the cancellation, in his two-part Economist interview early this year, as a significant example of how the Carter administration has abetted the rapid ascension of Soviet military might and as a decision that could help propel us "into a period of maximum peril." [24] Others complain that we canceled the B-1 and got nothing from the Russians in return.

All these judgments are based on strange and erroneous assumptions. Looking back at the statements made at the time it is clear that President Carter based his decision to cancel the B-1 on essentially one criterion: The air-launched cruise missile (ALCM) was more cost-effective than penetrating bombers. It had nothing to do with arms control or disarmament—indeed, some arms controllers wish he would have approved the B-1 instead of ALCM. It was a simple cost-benefit decision, not a bargaining ploy with the Russians.

As President Carter said at the news conference dealing with his B-1 announcement,

> I think if I had looked upon the B-1 as simply a bargaining chip for the Soviets, then my decision would have been to go ahead with the weapon.

His simple reason for killing the program:

> . . . the B-1, a very expensive weapons system, basically conceived in the absence of the cruise missile factor, is not necessary.[25]

Carter's decision looks even better now than it did 2 years ago. The Soviets have recently been developing a new surface-to-air missile, the SA-X-10, and an air-intercept missile with look-down/shoot-down radar, the AA-X-9, for the Mig-25 Foxbat fighter aircraft. It has been reported that both could be ready for deployment in the early 1980's.[26]

As Dr. William Perry, the Pentagon's chief scientist, recently testified before the Senate Armed Services Committee:

> The B-1 depended for its penetration on high speed and low altitude operation. In my judgment, the air defense system that is being developed now in the Soviet Union, which includes look-down shoot-down interceptors, would render that operation very hazardous.[27]

ALCM's, on the other hand, could penetrate to their targets with far greater assurance. In tests that the Soviets have conducted with look-down shoot-down prototype radar systems, they used a target drone the size of an American T-33 aircraft—which has a radar cross section of about 10 square meters. The interceptor acquired and tracked the target when the drone was flying at an altitude of 70,000 feet.[28]

By contrast, the ALCM has a radar cross section of less than 0.05 square meter—one two-hundredth that of the Soviet drone and about one one-thousandth that of a strategic bomber—and it can fly at less than 100 feet off the ground, making it much more difficult to distinguish from clutter on the ground.[29]

In short, penetrating bombers are becoming increasingly vulnerable over Soviet airspace. The B-1 would not have improved the situation much, given recent developments in Soviet air defense radar technology.

ALCM remedies this problem. Indeed, it nearly completely nullifies the enormous air-defense program on which the Soviets have spent 12 to 15 percent of their defense budget each year since 1970.[30] It not only wipes out the Russians' enormous investment in air defense, but also forces them to spend another $30 to $50 billion over the next decade if they want to have a chance of shooting ALCM down.[31] If the Soviets make such an investment, ALCM may become somewhat vulnerable by the late 1980's;[32] but at that point, the insertion of very cheap "matchbox"-sized electronic countermeasures—(ECM)—the emission of only a few watts of power would elude or spook Soviet radar—will revive the cruise missile as an extremely tough target to track and shoot down.[33]

This is another illustration of the proposition that an expensive defense program does not necessarily produce greater defense capability than a cheap one.

At the same time, ALCM improves the bomber fleet's ability to destroy very hardened targets. Utilizing a terrain-contour-matching (TERCOM) guidance system, the missile can lay down nearly 200 kilotons of explosive power within, theoretically, 100 feet of its target—although operational degradations may reduce this to 300 feet.[34] With this sort of accuracy, ALCM destroys virtually anything it is aimed at.

In other words, the decision to go with cruise missiles, rather than more penetrating bombers, was hardly an act of "unilateral disarmament."

There are some arguments that a mixed bomber force, consisting of penetrators and ALCM carriers, is the optimal approach, all the better to "confuse" Soviet air defenses with several varieties of incoming targets.[35] This is a curious argument. Why send in some easy targets and some difficult targets, when you can send in just the difficult ones? Several analyses indicate that a pure ALCM force—along with some short-range attack missiles, or SRAM's—provides more weapons that penetrate and destroy their targets than does either a mixed or a pure penetrating force.

Still, a mixed force is what the Air Force wants, and under these circumstances, many believe that the B-1 is absolutely necessary because the B-52's, of 1950's design, are too old. Or, as John Taylor, editor of Jane's All the World's Aircraft, rhetorically asks:

> Who drives a 20-year-old automobile as his work vehicle? [36]

Well, if cars were maintained and modified with the same care and at the same expense as U.S. Strategic Air Command bombers, they could indeed be quite serviceable.

The Air Force has spent more than $2 billion on major modifications of the B-52 over the past 20 years—in structural design, improved defensive electronics systems, better avionics, and newer weapons. It is hardly the same weapons system that it was two decades ago. According to Gen. Richard H. Ellis, commander in chief of the Strategic Air Command, and Gen. Alton B. Slay, commander of the Air Force Systems Command, the B-52's will be structurally sound through the late 1990's; the only trend affecting the capability of the penetrating bombers to execute their missions is the pace of Soviet air defense.[37]

Furthermore, two developments in U.S. strategic programs insure that, even without cruise missiles, bombers will have a better chance of penetrating Soviet defenses, and that those that do penetrate will have a better chance of destroying their targets.

The first of these developments was the short-range attack missile, or SRAM, program, which began operation in 1972. Currently, 1,250 are loaded onto some of the B-52G's and H's and all of the FB-111 bombers. With a range of up to 150 miles, explosive yield of 170 kilotons, much smaller and about five times faster than cruise missiles, SRAM's are designed to knock out Soviet surface-to-air missile (SAM) batteries quickly so that the bomber can follow and penetrate relatively unthreatened—at least by missiles on the ground.[38] With proper tactics and timing, SRAM's can markedly improve the chances of a bomber's surviving.

The second of these development is the avionics modernization program, currently in development, scheduled for initial deployment in 1982 and fitted onto all B-52G's and H's by 1986. The program will improve navigational accuracy by more than 40 percent, double the overall system reliability from 0.4 to 0.8, and improve the bomber's defense electronics and jamming techniques for thwarting and confusing Soviet air defenses.[39]

In other words, without producing a new bomber at all, the performance of the B-52's against even hard targets—simply by virtue of the advanced avionics, ignoring the effects of SRAM's—improves as follows:

TABLE 4.—*B-52 single-shot kill-probability against Soviet silo (2500 psi)*

Without avionics upgrade	.61
With avionics upgrade	.97

Derived mathematically from current intelligence estimates. Calculations ignore the attrition rate of penetrating bombers, which, even with improved defense electronics, would reduce these figures dramatically. Air-launched cruise missiles have about the same kill-probability as a bomber with enhanced avionics, but have a much higher chance of surviving against Soviet air defenses.

In short, the B-52's are getting better, due to advanced electronics and, especially, the development of long-range, air-launched cruise missiles. The decision to kill the B-1 was not an act of unilateral restraint, meant to evoke Russian reciprocation, but rather a sagacious response to a developing Soviet air-defense threat and a simple, sensible recognition of new technological options for the United States.

THE SUBMARINES: DWINDLING SLBM'S?

The best case of alleged U.S. "unilateral restraint" can be made using the SLBM force. The problem here is one of block obsolescence. The last of the final 10 Polaris submarines will be retired in 1982. Poseidon submarines will start turning 25 years old—the normal retirement age for nuclear subs—in the late 1980's, and will all reach the quarter-century mark by 1992. At that point, given the planned production rate of Trident submarines, there will be only 384 submarine-launched ballistic missiles, down 41 percent from the 656 of today.[40]

At first glance, this appears to constitute a grave attrition of our forces. But what counts is not just the number of missiles, but—more importantly—what they can do.

It is useful here to explore what happens to SLBM capability over the next dozen years.

Beginning next year and continuing through 1982—in other words, at about the same time as the Polaris boats are phased out—Trident I missiles will be retrofitted onto 12 of the 31 Poseidon submarines.[41] Trident I has eight 100-kiloton warheads, as compared with Poseidon's 40-kiloton warheads, giving each missile about 50 percent greater equivalent megatonnage. Trident I also is more reliable, can be rapidly retargeted, and can achieve slightly better accuracy at 4,000-nautical-mile range, compared with the 2,600-nautical-mile range of Poseidon, thereby relieving us of the necessity to operate nuclear-missile subs from the naval base in Rota, Spain, and substantially reducing any possibility that some hypothetical Soviet breakthrough in antisubmarine warfare technology could endanger them. The added range expands the area of ocean from which our subs can operate by a factor of 20.[42]

The Trident I increases the probability that an SLBM can destroy a somewhat reinforced industrial structure from 88 to 98 percent.[43] Thus, although the number of warheads on Poseidon boats will be reduced by 384 with the introduction of Trident I missiles—from 4,960 to 4,576—the actual capabilities—the number of reinforced industrial targets that the SLBM's can destroy—will be reduced only slightly.

TABLE 5

	SLBM's	War-heads/ SLBM	Kill-probability agn. reinforced industr. targets	Targets destroyed
Current:				
Poseidon	496	10	0.88	4,365
Polaris	160	1	.94	150
Total				4,515
1982:				
Poseidon	304	10	.88	2,676
Trident I	192	8	.98	1,505
Total				4,181

Assumptions: Poseidon=10×40 KT warheads; cep-0.3 nautical miles (nm). Polaris Polaris=3×200 KT warheads, not independently targetable, so counted as 1×600 KT; cep-0.5 nm. Trident I=8×100 KT warheads; cep-0.25 nm.

Sources: Congressional Budget Office, Retaliatory Issues for the U.S. Strategic Nuclear Force, June 1978, pp. 6–7; Justin Galen, "Taking the FY 80 Force Plan at Face Value," Armed Forces Journal International, June 1979, p. 36; calculated on D.C. Kephart, Damage Probability Computer for Point Targets with P and Q Vulnerability Numbers.(Santa Monica: RAND Corp., February 1974), and Kephart, "VNTK adjustment monograph for Q-type targets.")

This slight reduction and the disappearance of the Polaris boats do not seem to bother Defense Department officials. Something that the above table obscures is that, if Pentagon planners want SLBM's to destroy much harder targets, the Trident I will be vastly superior to the Poseidon or Polaris missiles, due to its larger yield and greater accuracy. As Harold Brown notes in his fiscal year 1980 posture statement:

> The capability of the Trident I missile will help to offset the reduction in SLBM launchers . . . by increasing the effectiveness of the remaining submarines.[44]

The big danger that many foresee will not arise until the late 1980's and early 1990's, when the entire Poseidon force is phased out. The nadir point is reached in 1992, when the entire SLBM force will consist of only 384 Trident missiles.[45]

By that time, according to current production schedules, we would have 16 Trident subs, each with 24 launch tubes. The last four, those deployed in 1990–92, will be loaded with Trident II missiles.[46] Unlike Trident I, the Trident II will carry 14 warheads, each 150 kilotons, with sufficient accuracy to destroy the most hardened of targets, including ICBM silos.[47]

Nuclear strategists, like military men generally, plan on the assumption of a worst possible—or worst probable—threat. This threat, in strategic nuclear force planning, is a surprise attack by the Soviets, catching our forces on normal alert, with no time to generate more out to sea and into the air. It is useful, therefore, to compare near future and longer term future forces on the basis of how many survive on a normal alert, and what those surviving forces can do.

TABLE 6.—U.S. SLBM FORCE-EFFECTIVENESS, NORMAL ALERT

	SLBM's	Percent on station	War-heads/ SLBM	Kill-probability against reinforced industrial targets	Targets destroyed
1982:					
Poseidon	304	0.55	10	0.88	1,471
Trident I	192	.55	8	.98	827
Total					2,298
1992:					
Trident I	288	.66	8	.98	1,486
Trident II	96	.66	14	.999	890
Total					2,376

Assumptions are same as table 5, except that Trident II=14×150 KT warheads; cep-0.05 nm.

Sources: Same as table 6, plus "New Propellant Evaluated for Trident 2d Stage," Aviation Week and Space Technology, Oct. 13, 1975, p. 16; Advanced Inertial Reference Sphere-type inertial guidance system assumed for Trident II.

As the table shows, the smaller force of 384 Trident SLBM's in 1992 destroys more targets than the 496 mix of Poseidons and Trident I's of 1982, if the Soviets catch our forces on normal alert. This is due, in part, to the higher yield and accuracy of the mixed force of the early 1990's and, in part, to the higher percentage of Trident subs, as compared with Poseidons, that can remain on station at any one time—66 versus 55 percent.[48]

This assessment, furthermore, underestimates the capabilities of the 1992 force, because planners may want to strike, with SLBM's, targets much harder than those postulated here. For example, suppose that the SLBM's are required to destroy industrial targets of much harder reinforcement—say, 100-psi blast-resistant. The Trident I/Trident II force is still more capable, even with far fewer warheads, than the Poseidon/Trident I mix in carrying out such a strategy.

TABLE 7.—SLBM FORCE-EFFECTIVENESS, NORMAL ALER

	SLBM's	Percent on-station	War-heads/ SLBM	Kill-probability agn. 100 p.s.i. industr. targets	Targets destroyed
1982:					
Poseidon	304	0.55	10	0.60	1,003
Trident I	192	.55	8	.71	600
Total					1,603
1992:					
Trident I	288	.66	8	.71	1,080
Trident II	96	.66	14	.999	886
Total					1,966

Assumptions same as table 6.

If missile silos were among the targets, only the 1992 force would produce significant results.

In short, the period of "decline" in the SLBM force most feared—the late 1980's and early 1990's—turns out, in fact, to be a period of resurgence in its overall force-effectiveness against hardened targets.

CONCLUSION

There has been no attempt here to assess whether all the strategic programs and "improvements" discussed in this paper are necessary. Issues of deterrence, strategy and force-effectiveness must, obviously, be linked to requirements concerning the targets that must be destroyed, how much destruction is "enough," and what levels of confidence in their destruction are sufficient.

For example, if it were judged that destroying urban centers or most industrial facilities or most nonsilo military targets was "enough," there would be no need for many of the new developments the United States has undertaken in ICBM, bomber or submarine technology. Accuracy is not particularly important for these sorts of missions; nor are explosive yields much larger than those on presently deployed systems. If reinforced industrial facilities were to be the sole targets of our strategy, the NS-20 guidance system, the Mk-12A warhead, and some of the offensive avionics improvements on the B-52 bombers would be superfluous; the accuracy of the NS-17, the yield of the Mk-12, and the present accuracy of B-52 navigation systems would be adequate in most cases.

It is quite clear, however, that the Defense Department emphasizes, increasingly these days—or at least with increasing openness—that destroying hard targets, particularly those of military value, is a crucial requirement in strategic planning.[49] There is much that is dubious about such a targeting strategy;[50] but for the purpose of this analysis, the assumptions of DOD planners have been adopted. The point of this essay is that, in terms of the requirements of these strategic assumptions—the destruction of hard targets—the United States has been "advancing" in a rather dramatic way over the past decade; that we have been doing so just as much as the Soviets have, and far more cheaply; that, contrary to the claims of many doomsayers in the business of defense analysis, we have hardly been engaging in "unilateral restraint" or "unilateral disarmament." We have hardly been standing still.

FOOTNOTES

[1] Bridget Gail, ". . . 'Beyond Cavil, for the Russians Will Surely Cavil': An Interview with Ambassador Robert F. Ellsworth," *Armed Forces Journal International*, June 1979, p. 54.

[2] *New York Times*, January 21, 1979, p. E5 (advertisement).

[3] "Weighing SALT," *New York Daily News*, June 20, 1979.

[4] Committee on the Present Danger, *Is America Becoming Number 2: Current Trends in the US-Soviet Military Balance*, October 5, 1978, p. 12.

[5] Coalition for Peace Through Strength, *An Analysis of SALT II* (Wash., D.C.: American Security Council, 1979), p. 12.

[6] CIA, *A Dollar Cost Comparison of Soviet and US Defense Activities, 1968–78*, January 1979, pp. 5–7. If Soviet peripheral-nuclear and strategic defensive costs are included, they have outspent us, in dollars, by 2½ times in the past decade.

[7] *The Military Balance, 1978–1979* (London: International Institute for Strategic Studies, 1978), pp. 82–83; *SALT II Agreement* (Memorandum of Understanding . . . Regarding the Establishment of a Data Base on the Numbers of Strategic Offensive Arms), June 18, 1979, official State Dept. document, p. 49.

[8] Harold Brown, DoD, *Annual Report, Fiscal Year 1980*, p. 71; and derived from *SALT II Agreement*, p. 49.

[9] Deployment dates from *The Military Balance, 1974–1975* (London: International Institute for Strategic Studies, 1974), p. 73.

[10] A nominal expression for hard-target kill-capability, or missile "Lethality," has been mathematically defined as $Y^{2/3}/CEP^2$ where Y=yield of weapon in megatons; and CEP=distance, in nautical miles, within which a warhead is expected to land from its target 50% of the time. The gist of this formula is that doubling accuracy gives the same increment in lethality as multiplying yield by eight times. See Kosta Tsipis, *Offensive Missiles* (Stockholm International Peace Research Institute, 1974), p. 16.

[11] "New Lease of Life for Minuteman," *Flight International*, September 9, 1978; Justin Galen, "The Party Line: Taking the FY80 Force Plans at Face Value," *Armed Forces Journal International*, June 1979, p. 36; House Armed Services Committee, Authorization Hearings, FY 1979, Pt. 3, Bk. 1, p. 307. Damage probabilities calculated on D.C. Kephart, *Damage Probability Computer for Point Targets with P and Q Vulnerability Numbers* (Santa Monica: RAND Corp., February 1974), and Dr. Kephart's "VNTK adjustment monograph for P-type targets," provided by author.

[12] Cost information supplied by DoD, June 1979.

[13] "New Lease of Life for Minuteman"; House Armed Services Committee, Authorization Hearings, FY 1979, Pt. 3, Bk. 1, p. 307; Senate Armed Services Committee, Authorization Hearings, FY 1979, Pt. 9, p. 6541. This casts some doubt on the argument advanced primarily by Paul Nitze, that throw-weight is the crucial indicator of strategic force-effectiveness.

[14] See last reference in Note 11.

[15] Clarence Robinson, "MX Basing Delay Threatens SALT Ratification," *Aviation Week & Space Technology*, November 20, 1978, p. 22.

[16] See last reference in Note 11.

[17] When the U.S. installed the NS-20, and when it will soon add the Mk-12A warhead, the effectiveness of each warhead vastly increases, but the number of warheads remains the same. When, on the other hand, the Soviets converted their older ICBM's to new ones, not only did the warhead lethality rise considerably, so did the number of warheads. Assuming SALT II constraints and assuming that they build their warhead count up to the maximum number allowed by the Treaty, the Soviets would have 5,752 ICBM warheads, as compared with the 820 on those missiles that the SS-17/-18/-19s replace, and they could destroy 4,333 targets of 2000-psi hardness, as compared with the 122 that the SS-9s and -11s could knock out.

Two points should be made, however. First, there are only about 1,000 very hard (2,000 psi) targets in the United States. Even if the Soviets aim two of their warheads at each one of these targets, in order to improve the chances of destruction, their new missile build-up is larger than it need be for this mission. In other words, it is misleading to say they can now destroy 35 times as many hard targets as compared with the days of the SS-9 and SS-11, because there are not that many hard targets in the U.S. (If we go ahead and build a multiple-protective-structure basing scheme for the MX missile, however, we will make these Soviet warheads—superfluous for counterforce purposes—useful again.)

Second, the U.S. has been far more *cost-effective* in its weapons immprovements. For each additional target that we are able to hit by the mid-1980s, we are paying a fairly small sum of money: $1.2 million; for each extra target they can destroy, the Soviets are paying $5.9 million, 5 times as much.

[Dollar amounts in millions]

	ICBM's	Warheads	Silo-kills/ warhead	Silos killed	Silos killed (Bx)—(A)	Cost of (B)	Cost per extra silo killed	Cost ratio-U.S.S.R.: United States
(A) MMIII	550	1,650	0.19	314				
(B) MMIII (1985):								
Impr. NS-20	250	750	.70	525				
Impr.+Mk-12A	300	900	.83	747				
Total				1,272	958	$1,150	$1.2	
(A) SS-9	308	308	.28	86				
SS-11	512	512	.07	36				
Total				122				
(B) SS-18, Mod-4 (1985)	308	3,080	.82	2,526				
SS-19, Mod-1 Var (1985)	312	1,872	.82	1,535				
SS-17	200	800	.34	272				
Total				4,333	4,211	24,870	5.9	4.9:1

Assumptions: Only SS-9's and 11's to be converted to SS-17/18/19 were counted for commensurability; all SS-18's are by 1985 converted into Mod 4's with higher accuracy and 10 warheads, and that all SS-19's are Mod 1—Variants with higher accuracy; SALT II in effect; U.S. silos are 2,000 p.s.i., Soviet silos 2,500 p.s.i.

Sources: Silo-kill probability mathematically derived from latest intelligence estimates of yield and accuracy. Cost of NS-20 ($150 million) obtained from DOD, June 1979. Cost of SS-17/-18/-19 ($3.75, $10.26, and $7.86 billion, respectively, through 1982, plus an additional $1 billion each year from then to 1985), supplied by CIA Military Economic Analysis Center, June 1979. Cost of Mk-12A calculated as follows: DOD costs for RV are $504 million (obtained from DOD); cost of R.D.T. & E. for warhead is $136 million (supplied by DOE, 6/79); total costs in MX program of construction design and DOE warhead are $1.4 billion (GAO, Indecision and Uncertainty Exist in the Development of an Advanced ICBM Weapon System, Feb. 8, 1979, p. 45 (unclassified page)). Cost of construction design is $600 million (DOD, 6/79). Therefore, cost of warhead is the difference—$800 million. This is for 2,000 warheads of MX plan. Cost of 900 warheads for Minuteman III must, therefore, be $360 million. Thus, total cost of Mk-12A is $1 billion. If the Soviets used only 1,219 of these warheads against 2,000 p.s.i. targets, and used the rest against the 1,000 p.s.i. targets of an MPS system, they would kill 5,261 targets, or 5,139 more than they could prior to the MIRV deployment, for $4.8 million per target, still a 4:1 cost-effectiveness ratio favoring the United States.

[18] "New Lease of Life for Minuteman"; Senate Armed Services Committee, *op. cit.*, Pt. 9, p. 6541; House Armed Services Committee, *op cit.*, Pt. 3, Bk. 1, pp. 307, 853–56.

[19] "New Lease of life for Minuteman"; "MX Deployment Urged for Parity," *Aviation Week & Space Technology*, December 5, 1977, p. 13.

[20] The limits of silo hardening are believed to be 3000 psi. The difference between 2000 and 3000 psi, in terms of vulnerability to highly accurate nuclear warheads, is minimal. See Kosta Tsipis, *Nuclear Explosion Effects on Missile Silos* (Cambridge, Mass.: MIT Center for International Studies, February 1979), p. 67.

[21] Cost information supplied by DoD, June 1979.

[22] Donald Rumsfeld, DoD, *Annual Report, FY 1978*, p. 124. Retargeting times will probably be made still faster in the future.

[23] Maj. Gen. John K. Singlaub, "Peace Through Strength," *The Retired Officer*, July 1979, p. 21.

[24] "Kissinger's Critique," *The Economist*, February 3, 1979, pp. 20–21.

[25] President Jimmy Carter, News Conference of June 30, 1977 (transcript).

[26] Clarence Robinson, "Soviets Developing 2 Bombers, Extending Range of Backfire," *Aviation Week & Space Technology*, February 19, 1979, p. 15.

[27] Senate Armed Services Committee, Authorization Hearings, FY 1980, Pt. 1, p. 364.

[28] Coleman Rogers, "B–52 Role Facing Change: Cruise Missile Test Results," *Military Electronics/Countermeasures*, February 1979, p. 106; Robinson, "Soviets Developing 2 Bombers, Extending Range of Backfire," p. 15.

[29] Senate Armed Services Committee, *op. cit.*, Pt. 1, p. 306; "Perry Confirms Soviet Look-Down Tests," *Aviation Week & Space Technology*, January 1, 1979, p. 17; Kosta Tsipis, "Cruise Missiles," *Scientific American*, February 1977.

[30] Senate Armed Services Committee, *op. cit.*, Pt. 1, p. 398.

[31] According to Dr. Perry of the Pentagon, this would involve buying 50–100 AWACS-type aircraft, several thousand F–14/15 type look-down shoot-down interceptors, and 500–1000 SA–10 surface-to-air missiles over the next 10 years. Philip Klass, "Pentagon Analyzes Test of Tomahawk," *Aviation Week & Space Technology*, November 20, 1978, p. 24.

[32] "Perry Confirms Soviet Look-down Tests," p. 17.

[33] Senate Armed Services Committee, Authorization Hearings, FY 1979, Pt. 2, pp. 1003–04; Rogers, "B–52 Role Facing Change," p. 107.

[34] Tsipis, "Cruise Missiles." By the mid-1980s, at least 120 B–52Gs will be loaded not only with its regular pack of four gravity bombs and eight SRAMs, but also 12 ALCMs each, for a total of 1440 additional weapons. Eventually, the bombs and SRAMs will be replaced totally by ALCMs in the B–52Gs, while the B–52Hs will still serve as penetrators. (Gen. Richard Ellis, quoted in Edgar Ulsamer, "Toward a New World Strategy," *Air Force*, January 1979, pp. 62–63; and information supplied by Air Force, June 1979.)

[35] See, e.g., William Perry, DoD, *The FY 1980 Department of Defense Program for Research, Development and Acquisition*, pp. V1–11.

[36] House Armed Services Committee, Authorization Hearings, FY 1979, Pt. 7, p. 100. The age factor in strategic weapons performance has been highly overrated. General Slay has testified of the Titan II missile, first deployed in 1961: ". . . we have gotten *better* in reliability on the Titan force over the years . . . we have not suffered due to the age of those systems as yet." (Emphasis added.) See House Armed Services Committee, *op. cit.*, Pt. 3, Bk. 1, p. 198.

[37] Bonner Day, "Making the B–52 Even Better," *Air Force*, February 1979, p. 36; Senate Armed Services Committee, Authorization Hearings, FY 1980, Pt. 1, p. 359.

[38] Robert T. Pretty, ed., *Jane's Weapon Systems 1976* (NY: Franklin Watts, 1976), pp. 147–48; Alton H. Quanbeck & Archie L. Wood, *Modernizing the Strategic Bomber Force* (Wash., D.C.: Brookings, 1976), p. 30.

[39] Senate Armed Services Committee, Authorization Hearings, FY 1979, Pt. 9, pp. 6820–22; House Armed Services Committee, *op. cit.*, Pt. 3, Bk. 1, p. 275; Benjamin M. Elson, "Bomb/Nav Changes Key to B–52 Update," *Aviation Week & Space Technology*, August 14, 1978, pp. 60–65; Robert M. Kochis, "New Missions, New Updates for B–52," *Electronic Warfare/Defense Electronics*, April 1979, pp. 45–49.

[40] Senate Armed Services Committee, Authorization Hearings, FY 1980, Pt. 1, pp. 324, 329–30.

[41] Senate Armed Services Committee, Authorization Hearings, FY 1979, Pt. 2, p. 1029.

[42] Congressional Budget Office, *Retaliatory Issues for the U.S. Strategic Nuclear Force*, June 1978, pp. 6–7: Clarence Robinson, "New Propellant Evaluated for Trident Second Stage," *Aviation Week & Space Technology*, October 13, 1975; Senate Armed Services Committee, *op. cit.*, Pt. 2, p. 1030; Justin Galen, "The Party Line," p. 36; Senate Armed Services Committee, Authorization Hearings, FY 1980, Pt. 1, p. 6682. Equivalent megatonnage measures the area damaged by the blast of nuclear weapons, and is defined as the yield raised to the two-thirds power for weapons under one megaton, and the square-root of yield for those over one megaton.

[43] See last reference in Note 11.

[44] Harold Brown, DoD, *Annual Report, Fiscal Year 1980*, p. 121.

[45] Senate Armed Services Committee, *op. cit.*, pp. 329–30.

[46] *Ibid.*, information supplied by Navy liaison, June 1979.

[47] Robinson, "New Propellant Evaluated for Trident Second Stage," p. 16; Harold Brown, DoD, *Annual Report, Fiscal Year 1979*, p. 114: Senate Armed Services Committee, Authorization Hearings, FY 1979, Pt. 9, p. 6706; and Pt. 2, p. 1037.

[48] Senate Armed Services Committee, Authorization Hearings, FY 1980, Pt. 1, p. 327.

[49] See especially Harold Brown, DoD, *Annual Report, Fiscal Year 1980*, pp. 74–81.

[50] For example, does such a force posture mean we are going for a first strike, or merely to destroy the residual ICBMs and hardened command structure after a Soviet first strike? If the latter, won't we be hitting a lot of empty holes and wouldn't the Soviets likely launch their remaining weapons on warning, once they detected highly accurate American warheads coming over the horizon, thereby doing even greater damage to U.S. territory? These sorts of questions are posed all too infrequently.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 10, 1979, may be found in the Daily Digest of today's Record.

Meetings Scheduled

JULY 11

9:00 a.m.

*Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings on title 7, proposing oil and gas leasing programs, of S. 1308, to provide for the development of domestic energy supplies.
1114 Dirksen Building

Judiciary
Antitrust, Monopoly and Business Rights Subcommittee
Business meeting, to mark up S. 1246, to prohibit the growth of a monopoly power forming among major petroleum companies, and to encourage oil companies to invest profits back into oil exploration, research, and development.
S–206, Capitol

9:30 a.m.

*Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on the certification and inspection procedures of the DC–10 and other types of aircraft.
235 Russell Building

Labor and Human Resources
To hold hearings on the workplace, employment and training and their perspectives thereon for the coming decade, with a focus on the Federal role in public sector employment and training policies and programs.
4232 Dirksen Building

*Veterans' Affairs
To hold oversight hearings on the efforts made by the Veterans' Administration to provide information on benefits due incarcerated veterans.
5302 Dirksen Building

Select on Ethics
To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.
5110 Dirksen Building

10:00 a.m.

Appropriations
Treasury, Postal Service and General Government Subcommittee
To hold oversight hearings on the Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury.
1223 Dirksen Building

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold oversight hearings to examine the programs of the rural electrification administration.
3110 Dirksen Building

Finance
To continue hearings on proposed legislation to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Foreign Relations
To continue hearings on the proposed SALT II Treaty.
318 Russell Building

Governmental Affairs
To hold hearings on S. 377 and 891, bills to provide for the reorganization of the Federal Government's international trade functions.
3302 Dirksen Building

Joint Economic
To resume hearings to review economic conditions and to discuss the future outlook for the economy emphasizing productivity.
6226 Dirksen Building

2:00 p.m.
Appropriations
To mark up H.R. 4388, making appropriations for fiscal year 1980 for energy and water resources development projects; H.R. 4387, making appropriations for fiscal year 1980 for the Department of Agriculture; and H.R. 4389, making appropriations for the Departments of Labor and Health, Education, and Welfare.
S-128, Capitol

JULY 12

8:00 a.m.
Budget
To resume hearings in preparation for reporting the second concurrent resolution on the Congressional budget for fiscal year 1980.
6202 Dirksen Building

9:00 a.m.
Select on Intelligence
To hold closed hearings on issues relative to the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
S-407, Capitol

9:30 a.m.
*Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on the certification and inspection procedures of the DC-10 and other types of aircraft.
235 Russell Building

Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on title 9, proposing mandatory transfers of electric power to reduce oil consumption, of S. 1308, to provide for the development of domestic energy supplies.
1114 Dirksen Building

Governmental Affairs
Civil Service and General Services Subcommittee
To hold oversight hearings on the Civil Service retirement system.
357 Russell Building

Labor and Human Resources
To continue hearings on the workplace, employment and training and their perspectives for the coming decade, and will focus on the Federal role in public sector employment and training policies and programs.
4232 Dirksen Building

Veterans' Affairs
Business meeting, to mark up printed Amendment No. 223, to provide for a rate increase to reflect the actual increase in the Consumer Price Index for April, to S. 689, to provide for an increase in the rates of service-connected disability compensation for veterans and dependency and indemnity compensation for their surviving spouses and children.
412 Russell Building

Select on Ethics
To continue hearings in conjunction with the investigation of Senator Talmadge's alleged abuse of certain financial reporting rules of the Senate.
1202 Dirksen Building

10:00 a.m.
Environment and Public Works
To hold hearings on proposed legislation to provide additional office space for the Judicial Branch of the Government.
4200 Dirksen Building

Finance
To continue hearings on proposed legislation to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Foreign Relations
To continue hearings on the proposed SALT II Treaty.
318 Russell Building

Governmental Affairs
To resume hearings on S. 2, to provide for a review of Government programs every 10 years.
3302 Dirksen Building

Joint Economic
Energy Subcommittee
To hold hearings on the competitive bidding for Government incentives to reduce oil imports.
5110 Dirksen Building

10:30 a.m.
Appropriations
Treasury, Postal Service and General Government Subcommittee
To continue oversight hearings on the Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury.
1223 Dirksen Building

2:00 p.m.
Appropriations
To continue mark up of H.R. 4388, making appropriations for fiscal year 1980 for energy and water resources development projects; H.R. 4387, making appropriations for fiscal year 1980 for the Department of Agriculture; and H.R. 4389, making appropriations for the Departments of Labor and Health, Education, and Welfare.
S-128, Capitol

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

2:30 p.m.
Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings on S. 339, to revise provisions relating to foreign trade treatment of nations allowing free emigration.
5302 Dirksen Building

JULY 13

8:00 a.m.
Budget
To continue hearings in preparation for reporting the second concurrent resolution on the Congressional budget for fiscal year 1980.
6202 Dirksen Building

*Energy and Natural Resources
To resume hearings on title 2, proposed Priority Energy Act, of S. 1308, to provide for the development of domestic energy supplies.
1202 Dirksen Building

9:00 a.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

9:30 a.m.
Joint Economic
To resume hearings to review economic conditions and to discuss the future outlook for the economy emphasizing productivity.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings to review the authority of the Department of Labor to issue regulations to prohibit Federal contracts from paying membership dues for employees in private clubs or organizations that practice discrimination. (Exec. Order 11246)
5302 Dirksen Building

Conferees
On H.R. 3173, authorizing funds for fiscal year 1980-81 for international security assistance programs.
S-116, Capitol

Environment and Public Works
To hold hearings on certain proposed building prospectuses.
4200 Dirksen Building

Rules and Administration
To hold hearings on proposed amendments to the Federal Election Campaign Act of 1971, and to consider other legislative and administrative business.
301 Russell Building

2:30 p.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings to review the authority of the Department of Labor to issue regulations to prohibit Federal contracts from paying membership dues for employees in private clubs or organizations that practice discrimination. (Exec. Order 11246).
5302 Dirksen Building

JULY 16

10:00 a.m.
Agriculture, Nutrition, and Forestry
Environment, Soil Conservation, and Forestry Subcommittee
To hold oversight hearings on the impact of proposed geothermal steam recovery for energy on the planning and management of the National Forest system.
322 Russell Building

Banking, Housing, and Urban Affairs
To hold oversight hearings on foreign acquisition of U.S. banks.
5302 Dirksen Building

Energy and Natural Resources
To hold hearings on S. 730, to provide for the establishment of the Energy Corporation of the Northeast designed to bring together the States, Federal Government and private industry in a creative effort to deal with the energy problems of this area.
3110 Dirksen Building

Foreign Relations
To resume hearings on the proposed SALT II Treaty.
318 Russell Building

2:00 p.m.
*Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on Title 3, to encourage the demonstration of near-term energy technologies, of S. 1308, to provide for the development of domestic energy supplies.
3110 Dirksen Building

JULY 17

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1390 and Title 2, of S. 1400, measures to upgrade commercial motor vehicle safety standards and to promote the Federal and State enforcement of those standards.
235 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold joint hearings with the House Subcommittee on Science, Research and Technology of the Committee on Science and Technology, to examine U.S. policies and initiatives of the U.S. Conference on Science and Technology for Development.
5110 Dirksen Building

Select on Small Business
To hold hearings to review the nature and scope of the recently promulgated Federal Trade Commission's "franchise disclosure" rule and its impact on small business.
424 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting, on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings on S. 344, to assist States in their responsibility for highway beautification, and to review outdoor advertising regulation programs.
4200 Dirksen Building

Foreign Relations
To continue hearings on the proposed SALT II Treaty.
318 Russell Building

Governmental Affairs
To resume hearings on S. 377 and 891, bills to provide for the reorganization of the Federal Government's international trade functions.
3302 Dirksen Building

2:00 p.m.
*Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on title 3, to encourage the demonstration of near-term energy technologies, of S. 1308, to provide for the development of domestic energy supplies.
3110 Dirksen Building

Foreign Relations
To continue hearings, in closed session, on the proposed SALT II Treaty.
S-407, Capitol

JULY 18

9:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings in conjunction with the investigation of alleged fraud and mismanagement practices in the General Services Administration.
1318 Dirksen Building

9:30 a.m.
Banking, Housing and Urban Affairs
Financial Institutions Subcommittee
To resume hearings on S. 1347, to provide for the improvement of consumer services and to strengthen the ability of financial institutions to adjust to changing economic conditions.
5302 Dirksen Building

Commerce, Science, and Transportation
To continue hearings on S. 1390 and Title 2, of S. 1400, measures to upgrade commercial motor vehicle safety standards and to promote the Federal and State enforcement of those standards.
235 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 535, to provide for an effective and safe transport of nuclear waste and radioactive nuclear reactor fuel.
5110 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To resume joint hearings with the Subcommittee on Resources Protection on S. 1325, to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To continue hearings on S. 344, to assist States in their responsibility for highway beautification, and to review outdoor advertising regulation programs.
1114 Dirksen Building

Foreign Relations
To continue hearings on the proposed SALT II Treaty.
318 Russell Building

10:30 a.m.
Governmental Affairs
To continue hearings on S. 377 and 891, bills to provide for the reorganization of the Federal Government's international trade functions.
3302 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume hearings on title 8, to promote the use of gasohol in the United States, of S. 1308, to provide for the development of domestic energy supplies.
3110 Dirksen Building

JULY 19

9:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings in conjunction with the investigation of alleged fraud and mismanagement practices in the General Services Administration.
1318 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on S. 535, to provide for an effective and safe transport of nuclear waste and radioactive nuclear reactor fuel.
5110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on S. 1096, to provide for a limited increase in second-class postal rates over a 3-year period.
6202 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee
To hold oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of George H. P. Bursley, of Maryland, to be a Member of the National Transportation Safety Board.
235 Russell Building

Energy and Natural Resources
Parks, Recreation and Renewable Resources Subcommittee
To hold hearings on S. 1104, to provide for the establishment of the Channel Islands National Park.
3110 Dirksen Building

Environment and PublicWorks
Environmental Pollution Subcommittee
To continue joint hearings with the Subcommittee on Resource Protection on S. 1325, to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Foreign Relations
To continue hearings on the proposed SALT II Treaty.
318 Russell Building

Rules and Administration
To resume joint hearings with the House Administration Committee on S. 1436 and H.R.4572, measures to provide for improved administration of public printing services and distribution of public documents.
301 Russell Building

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on title 8, to promote the use of gasohol in the United States, of S. 1308, to provide for the development of domestic energy supplies.
5110 Dirksen Building

Foreign Relations
To continue hearings on the proposed SALT II Treaty.
318 Russell Building

JULY 20

9:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings in conjunction with the investigation of alleged fraud and mismanagement practices in the General Services Administration.
1318 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on S. 535, to provide for an effective and safe transport of nuclear waste and radioactive nuclear reactor fuel.
5110 Dirksen Building

Finance
Tourism and Sugar Subcommittee
To hold hearings on S. 589, 749, and 940, bills to provide for the applicability of tax rules affecting foreign conventions.
2221 Dirksen Building

10:00 a.m.
Banking, Housing and Urban Affairs
To resume oversight hearings on foreign acquisition of U.S. banks.
5302 Dirksen Building

Environment and Public Works
To hold hearings on proposals for the John F. Kennedy Center for the Performing Arts to issue free tickets and to provide payment on outstanding bonds.
4200 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, and the National Endowment for the Humanities; and S. 1429, authorizing funds through fiscal year 1982 for Museum Services.
Room to be announced

JULY 23

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 1215, to establish a uniform Federal policy for the management and utilization of inventions developed under Federal contracts.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the conduct of monetary policy.
5302 Dirksen Building

JULY 24

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on the

conduct of monetary policy.
5302 Dirksen Building

Energy and Natural Resources
Business meeting, on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold hearings on S. 1241, authorizing funds through fiscal year 1981 for water resources projects, and on the proposed cost-sharing feature of the Administration's plan for reshaping water policy.
4200 Dirksen Building

Governmental Affairs
To hold oversight hearings on the activities of the Department of Energy.
3302 Disksen Building

Rules and Administration
To resume joint hearings with the House Administration Committee on S. 1436 and H.R. 4572, measures to provide for improved administration of public printing services and distribution of public documents.
2157 Rayburn Building

Joint Economic
To hold hearings on the impact of rising railroad coal shipping rates on the national energy goal of increased coal utilization.
6226 Dirksen Building

JULY 25

9:00 a.m.
Special on Aging
Business meeting on pending committee business.
S-126, Capitol

9:30 a.m.
Veterans' Affairs
To resume hearings on S. 870, to amend and extend education programs administered by the Veterans' Administration for veterans and dependents, and S. 881, to provide for the protection of certain officers and employees of the Veterans' Administration assigned to perform investigative or law enforcement functions.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 524, 581, and 730, bills to provide financial assistance for the development and conservation of energy programs, and Section 9 of S. 750, to require the use of fuel sources which are renewable in the distillation process of alcohol for motor fuel, and other related proposed legislation.
5302 Dirksen Building

Energy and Natural Resources
Business meeting, on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To continue hearings on S. 1241, authorizing funds through fiscal year 1981 for water resources projects, and on the proposed cost-sharing feature of the Administration's plan for reshaping water policy.
4200 Dirksen Building

Governmental Affairs
To continue oversight hearings on the activities of the Department of Energy.
3302 Dirksen Building

JULY 26

8:00 a.m.
Budget
To resume hearings in preparation for reporting the second concurrent resolution on the Congressional budget for fiscal year 1980.
6202 Dirksen Building

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94–142).
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 524, 581, and 730, bills to provide financial assistance for the development and conservation of energy programs, and Section 9 of S. 750, to require the use of fuel sources which are renewable in the distillation process of alcohol for motor fuel, and other related proposed legislation.
5302 Dirksen Building

Rules and Administration
To resume joint hearings with the House Administration Committee on S. 1436 and H.R. 4572, measures to provide for improved administration of public printing services and distribution of public documents.
345 Cannon Building

Joint Economic
To resume hearings on the Consumer Price Index figures, and on inflationary trends.
6226 Dirksen Building

JULY 27

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 1215, to establish a uniform Federal policy for the management and utilization of inventions developed under Federal contracts.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 524, 581, and 730, bills to provide financial assistance for the development and conservation of energy programs, and Section 9 of S. 750, to require the use of fuel sources which are renewable in the distillation process of alcohol for motor fuel, and other related proposed legislation.
5302 Dirksen Building

JULY 30

9:15 a.m.
Governmental Affairs
To hold hearings on S. 930, to restrict free Federal employee parking.
3302 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

JULY 31

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on S. 663, to establish an Earth Data and Information Service which would supply data on the Earth's resources and environment.
6226 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94–142).
4232 Dirksen Building

AUGUST 1

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

AUGUST 2

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 1300, proposed International Air Transportation Competition Act.
235 Russell Building

SEPTEMBER 12

9:00 a.m.
Veterans' Affairs
To hold hearings on S. 759, to provide for the right of the United States to recover the costs of hospital nursing home or outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts.
457 Russell Building

SEPTEMBER 25

11:00 a.m.
Veterans' Affairs
To resume hearings on fiscal year 1980 legislative recommendations for veterans' programs.
5110 Dirksen Building

CANCELLATIONS

JULY 11

8:00 a.m.
Budget
To continue hearings in preparation for reporting the second concurrent resolution on the Congressional budget for fiscal year 1980.
6202 Dirksen Building

10:00 a.m.
Environment and Public Works
Water Resources Subcommittee
To continue hearings on S. 1241, authorizing funds through fiscal year 1981 for water resources projects, and on the proposed cost-sharing feature of the Administration's plan for reshaping water policy.
4200 Dirksen Building

JULY 12

9:30 a.m.
Judiciary
Antitrust, Monopoly and Business Rights Subcommittee
To resume hearings on S. 334, to prohibit the acquisition and control of agricultural land by certain investors, corporations, and foreign governments or foreign corporations.
5110 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To resume oversight hearings on the implementation of the Outer Continental Shelf leasing program.
3110 Dirksen Building

JULY 20

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on Title 8, to promote the use of gasohol in the United States, of S. 1308, to provide for the development of domestic energy supplies.
3110 Dirksen Building

JULY 24

9:30 a.m.
Labor and Human Resources
To resume hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.
4232 Dirksen Building

SENATE—*Tuesday, July 10, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Reverend Paul J. Henry, O.S.F.S., coordinator, office of chaplain services, U.S. Catholic Conference, Washington, D.C., offered the following prayer:

Our Father, the God of Abraham, Isaac, and Jacob, hear our prayer today. We know that throughout all ages You have selected certain men and women to guide and govern Your people.

Bless this, the Senate of our United States. Make its Members fully attentive to the fact that all authority comes from You. Touch their hearts with Your grace and give them the gifts needed to accomplish Your will for Your people. Especially, give to all here the gift of wisdom to wisely and prudently enact laws for Your people; the gift of justice so that all States from the largest to the smallest may feel the equality and fairness which is theirs; but above all, give to all here the gifts of Your love and peace so that what they do for all Your people might be inspired by that loving care which You show to that same people at all times. We ask all this through Jesus Your Son and our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, D.C., July 10, 1979.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.
>
> WARREN G. MAGNUSON,
> *President pro tempore.*

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time. Therefore, by unanimous consent, I will yield it to the minority leader if he needs it, and, if he does not need it, I will yield it to the first order, which is under the control of Mr. KENNEDY.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no need for the time on this side. I appreciate the offer of the distinguished majority leader. It is my intention to yield back my time as soon as that is in order. I appreciate the offer, but I have no desire for the extra time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

VITIATION OF ORDER FOR RECOGNITION OF SENATOR KENNEDY

Mr. ROBERT C. BYRD. Mr. President, I am advised that Mr. KENNEDY does not wish to use his order, so I ask that that order be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to exceed 15 minutes, and that Senators may be permitted to speak up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

"MENTAL HARM" AS AN ACT OF GENOCIDE

Mr. PROXMIRE. Mr. President, questions have often been raised concerning the section of the Genocide Convention that includes as an act of genocide the causing of "serious mental harm." Critics fear that the wording of this section is so vague that it invites minority groups in this country who have been the victims of prejudice to charge the United States with genocide.

Mr. President, this fear must now be laid to rest. It is quite clear that the United States intends to interpret this section narrowly.

First of all, the mental harm suffered by members of a group must involve permanent damage before a charge of genocide will be deemed valid. The Foreign Relations Committee has proposed a formal understanding to the treaty which reads:

> That the U.S. Government understands and construes the words "mental harm" appearing in Article II(b) of the convention to mean permanent impairment of mental faculties.

This understanding will also be a part of the treaty's proposed implementing legislation.

Second, the "intent to destroy" the members of a national, ethnic, racial, or religious group must be present before mental harm could constitute genocide.

It is certain, Mr. President, that the harsh treatment encountered by many groups within this country is worthy of the attention of lawmakers.

However, it is equally certain that this treatment does not fall within the bounds of the treaty's definition of genocide, for there is no intent to destroy the group as such.

Former Supreme Court Justice and U.N. Ambassador Arthur Goldberg writes:

> "Mental harm" . . . would not support propaganda charges of harassment by minority groups, as charged by some critics, because mental harm becomes an element of genocide only when done with an intent to destroy a group.

Mr. President, it is clear from the treaty's wording and from the report of the Foreign Relations Committee that the term "mental harm" will not promote improper charges of genocide. With this in mind, I ask my colleagues to join me in supporting the ratification of the Genocide Convention.

Mr. President, I thank my good friend, the majority leader, and I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the unfinished business, Senate Joint Resolution 28, which the clerk will state.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 28) proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States.

The Senate resumed the consideration of the joint resolution.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum and that the time may be equally charged against both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GOLDWATER. Is there allotted time or is this just——

Mr. BAKER. Will the Senator yield to me for a brief moment?

Mr. GOLDWATER. Yes.

Mr. BAKER. Mr. President, the pending question now before the Senate is Senate Joint Resolution 28. There is controlled time, which is under the control of the distinguished Senator from Indiana (Mr. BAYH) and the Senator from South Carolina. But there is ample time, I believe, and if the Senator from Utah, who is acting on behalf of the opposition, would yield time, I am sure there would be no objection.

Mr. HATCH. I am delighted to yield such time as the Senator needs.

Mr. GOLDWATER. I thank the Chair and I thank the minority leader, because I have something I would like to discuss.

I wish that the majority leader were here, but I am sure he will read it and provide the answers.

ACTIONS OF SENATE PARLIAMENTARIAN IN TREATY TERMINATION LAWSUIT

Mr. GOLDWATER. Mr. President, I rise to address a matter of some importance to the Senate involving what may be the unprecedented effort by our Parliamentarian to inject himself into a lawsuit concerning the powers of the Senate, either at his own volition or at the invitation of the executive branch.

As everyone of my colleagues knows by now, I, together with seven other Senators and one former Senator, have filed a lawsuit in the U.S. District Court here in the District of Columbia asking for a ruling on the constitutional power of the Senate to be a partner with the President in the field of treaty termination. On June 6, Judge Oliver Gasch said that while the court agreed treaty termination is a shared power to be exercised jointly by the two political branches, our case had been filed prematurely pending some expression by the Senate as a body relative to its possession of a shared power in this field.

Within hours after the judge's opinion became public, the Senate voted overwhelmingly for the Byrd amendment as a substitute for the proposed text of Senate Resolution 15, which had been reported by the Foreign Relations Committee. Accordingly, I filed a motion with the court asking the judge to consider whether this vote would satisfy him that the voice of the Senate had been spoken in a fashion suitable for judicial review of the constitutional question. The executive branch asked for a delay in responding to my latest motion until yesterday, July 9, and it was not until late yesterday afternoon that a copy of the reply submitted to the court for the President was delivered to my office.

Mr. President, in reading through the papers submitted for President Carter, I was surprised to see attached to it a four-page statement by the Senate Parliamentarian, Mr. Murray Zweben. Now, I do not think there is anything in his statement that would persuade the judge to rule against my motion, but his action raises some very interesting questions which I believe deserve answers.

First, in my 23 years in the Senate, I cannot recall one single instance in which the Senate Parliamentarian has poked his nose into a lawsuit, without at least some direction from the Senate as a body. In fact, I would doubt if there is ever a precedent for our Parliamentarian to provide a sworn statement to a court for inclusion with legal papers filed on behalf of the executive branch.

Now, there are some questions I would like to ask about this situation. Who exactly was it that gave approval to the Parliamentarian to, in effect, serve as an expert witness on behalf of the executive branch in this case?

Did any officer of the Senate or committee authorize his giving a sworn statement to the executive branch?

Did the Parliamentarian consult with any officers of the Senate, such as the majority leader and the minority leader, before making his statement?

Why did the Parliamentarian make any statement at all? Was he subpenaed by the President's lawyers? Was he invited by the executive branch to make a statement? Or, did he voluntarily, and at his own initiative, offer to address himself to the court in this manner?

Did the Parliamentarian consult with the Ethics Committee to determine whether any possible conflict of interest, or even the appearance thereof, may exist in having an officer of the Senate participate with the executive branch in a legal case involving the prerogatives of this body?

Finally, I would ask whether there is any precedent for our Parliamentarian to submit what amounts to an advisory opinion or ruling to the executive branch?

Mr. President, there are some differences I have with the interpretation given to Senate action concerning Senate Resolution 15, particularly where the Parliamentarian states that—

> The Senate chose to proceed to the consideration of another measure . . .

The Senate did not vote to proceed to the consideration of the direct election constitutional amendment, nor did it move to that subject by reason of a unanimous-consent request made at the time.

Rather, the majority leader used authority previously given him to take up direct election, regardless of what other subject was then the pending business. So I believe it is misleading and erroneous to say that the Senate "chose" to set aside the Byrd resolution, when it was the decision of the majority leader to do so without asking what the will of the Senate was.

But that is not the point of my remarks. My lawyers can take up before the judge any questions we have about the substance of the Parliamentarian's statement.

The question I am raising today is whether it is appropriate for the Senate Parliamentarian to in effect serve as an adviser to the President of the United States, which is what he is doing in this case? If his statements were expressed through rulings announced by the Presiding Officer in this body, after having appropriate questions put to the Chair, that is one thing. But by making a sworn statement outside of this Chamber for official use in a court proceeding, and by serving as an expert witness for the executive branch, the Parliamentarian may be setting a dangerous precedent for the future no matter how insignificant or harmless his statements may be in this case.

The matter is one which I believe deserves the Senate's attention, and I hope it will be considered by the leadership on both sides of the aisle and that my questions will receive an answer.

Mr. President, I ask unanimous consent that the declaration of Murray Zweben before the U.S. District Court for the District of Columbia, in civil action No. 78-2412, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia, Civil Action No. 78-2412]

SENATOR BARRY GOLDWATER, ET AL., PLAINTIFFS, V. JAMES EARL CARTER, ET AL., DEFENDANTS

DECLARATION OF MURRAY ZWEBEN

1. I am the Parliamentarian of the Senate, having held that position since January 1975. In that capacity I advise the Senate on matters of parliamentary procedure under its rule and precedents. I make this affidavit to explain the status of the Senate's consideration of Senate Resolution 15 concerning mutual defense treaties.

2. Final action has not been taken by the Senate on S. Res. 15. The resolution has not been agreed to and is no longer the pending business of the Senate. It has been returned to the Senate calendar. The Senate may or may not return to its consideration in the future. This conclusion results from the following chronology.

3. On January 18, 1979, Senator Harry F. Byrd, Jr., submitted a resolution (S. Res 15) concerning mutual defense treaties which read as follows:

"*Resolved*, that it is the sense of the Senate that approval of the United States Senate is required to terminate any Mutual Defense Treaty between the United States and another nation." 125 Cong. Rec. 475.

On March 7, 1979, Senator Harry F. Byrd proposed an amendment in similar language to the then pending Taiwan Enablying Act, S. 245. 125 Cong. Rec. 4114. On March 8, 1979, Senator Byrd agreed to withdraw his amendment pursuant to a unanimous consent agreement that the Committee on Foreign Relations would consider and report his resolution. 125 Cong. Rec. 4306–4314.

4. On May 1, 1979, the Committee reported S. Res. 15 with an amendment to strike all after the resolving clause and insert substitute language recommended by the Committee on the basis of its hearings. 125 Cong. Rec. 9189.

5. On June 6, 1979, the Senate proceeded to consider S. Res. 15 as reported from the Committee. Senator Harry F. Byrd, Jr., by unanimous consent, proposed an unprinted amendment numbered 228 to amend the Committee substitute by inserting in lieu of the Committee language the following:

"That it is the sense of the Senate that approval of the United States Senate is required to terminate any mutual defense treaty between the United States and another nation." 125 Cong. Rec. 13673.

(As used in this affidavit, "S. Res. 15" refers to the resolution submitted by Senator Harry F. Byrd on January 18 and "the Byrd Amendment" refers to the amendment proposed by him on June 6. Though the language of the two is the same, their procedural status is different.)

6. The Byrd amendment was in order because of a unanimous consent agreement at the time S. Res. 15 was referred to Committee that the Senator would have the opportunity for the first up-or-down vote on his proposal. 125 Cong. Rec. 4313. The Senate agreed by a vote of 59 to 35 to substitute the Byrd Amendment for the Committee substitute. 125 Cong. Rec. 13696. The Senate then continued with the consideration of S. Res. 15.

7. During the course of the debate, a parliamentary inquiry was raised as to whether the Byrd Amendment, the Committee substitute, or S. Res. 15 could be further amended. The Presiding Officer advised that the Byrd Amendment was not amendable and that amendments would have to be directed to the language of the original resolution, S. Res. 15. 125 Cong. Rec. 13704, June 6, 1979.

8. In the course of the debate which followed the Presiding Officer's response, Senator Church offered two amendments to S. Res. 15. An unprinted amendment numbered 229 was proposed (125 Cong. Rec. 13706) and subsequently withdrawn (125 Cong. Rec. 13714). An unprinted amendment numbered 230 (subsequently printed amendment number 221) was proposed. It reads:

On page 1 line 4 after the word "nation," insert the following:

"The provisions of this Resolution shall not apply with respect to any treaty the notice of termination of which was transmitted prior to the date of adoption of this Resolution." 125 Cong. Rec. S7061.

The Presiding Officer held this amendment to be in order as an amendment to the original text of the resolution (S. Res. 15) 125 Cong. Rec. 13719. Shortly thereafter the Senate recessed without disposing of either Amendment No. 221 or S. Res. 15.

9. On June 18, 1979, Senator Goldwater offered unprinted amendment numbered 234 as a substitute amendment for Senator Church's amendment numbered 221. 125 Cong. Rec. 15209–15210. It reads:

On page 1, line 4, after "nation" insert:

"(1) The provisions of this resolution shall not be construed to approve or disapprove of the proposed termination of the Mutual Defense Treaty with the Republic of China, such proposed termination not having been submitted to the Senate or the Congress for approval prior to the date of adoption of this resolution.

"(2) Nor shall anything in this resolution reduce or prejudice any of the Constitutional powers of the Senate."

10. On June 21, 1979, the Senate once again considered S. Res. 15 and the proposed amendments numbered 221 and 234 to it. When the Senate chose to proceed to the consideration of another measure, it had the effect of returning S. Res. 15 to the Senate calendar without completing action on it.

11. The substitution of the Byrd Amendment language for the Committee substitute is not the final action of the Senate. Its effect was to replace the Committee substitute with Senator Harry F. Byrd's language in the amendment then under consideration by the Senate. Before such final action, the Senate will need to deal with Amendments numbered 221 and 234 as well as with other possible perfecting amendments which could significantly change the content of the resolution, and with the Byrd Amendment substituting language for the Committee substitute. It is also possible that the Senate will not take final action on S. Res. 15; or, if it is acted upon, it could be defeated, or tabled, or postponed indefinitely, any of which would kill the resolution.

12. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

MURRAY ZWEBEN.

Executed on June 29, 1979.

Mr. BAKER. Mr. President, will the Senator from Utah yield to me briefly?

Mr. HATCH. I am delighted to yield.

Mr. BAKER. Mr. President, this is a matter of absolute first impression to me. I had no prior notice of any type of the matters about which the distinguished Senator from Arizona has spoken. No one consulted me.

I am frank to say that I do not know exactly what the rules provide, but it is my impression that a Member of the Senate, or even more particularly an officer of the Senate, could not testify nor be made to respond to subpena to testify without leave of the Senate, adopted by resolution.

In any event, I was not consulted on this matter, and that was one of the questions put by the distinguished Senator from Arizona, I have no knowledge of it. But I assure him that I will now look into it. I will inquire into it directly and promptly and personally.

I will consult and confer with the Parliamentarian, and I will discuss it at the appropriate time with the majority leader as well.

I can assure Senator GOLDWATER that the matter will receive very careful and very prompt attention and that he will have further information from me at the earliest possible moment.

Mr. GOLDWATER. Mr. President, if the Senator from Utah will yield so that I may reply to my leader, I appreciate those remarks, because this concerns me very gravely.

This whole matter that I am involved in concerns me. It does not wrap itself around Taiwan and the people I love over there. It wraps itself around whether or not the President of my country can violate the Constitution of the United States.

To see a person employed by this body use the powers of the Senate and the powers of his office to give a sworn statement to the judge who is going to decide this case—and I first saw this about a half-hour ago, which is why I jotted down what I had to say and came over here and said it—I think it is appalling.

If we are going to sit around this body and see the rules abused and the precedents of the Senate abused and the history of this body abused, it is time we did something about it.

I do not give a damn whether I win that suit or not, but I give a care about the Senate, because I hope it is around when my grandchildren are old enough to love their country. I am getting sick and tired of what has been going on in this body.

Mr. BAKER. Mr. President, I do not know of anybody in this body who has a greater reverence and respect for this institution than the Senator from Arizona. I not only understand what he says but I also understand the intensity of his emotions and his feelings about it. I respect what he said and what he feels about that.

I assure him that I will leave no stone unturned to find out how this came about and to make sure that the position of the Senate is validly presented. He has made a valid point in a courageous way, and I congratulate the Senator from Arizona for his usual forceful presentation of an important matter to this body.

We will get to the bottom of it.

Mr. HATCH. Mr. President, I associate myself with the remarks of my friend and colleague from Arizona, for whom I have great esteem, respect, and personal reverence.

I am grateful that he has brought these matters to the attention of the Senate today.

Mr. ROBERT C. BYRD [subsequently said]: Mr. President, in response to the questions raised today by the senior Senator from Arizona (Mr. GOLDWATER) regarding an affidavit filed in the case, *Senator Barry Goldwater, et al.*, v. *James Earl Carter, et al.*, Civil Action No. 78–2412 in the U.S. District Court for the District of Columbia by Mr. Murray Zweben, the Parliamentarian of the Senate, I think the following provides the answers.

Subsequent to the Senate vote to agree to the amendment of the Senator from Virginia (Mr. HARRY F. BYRD) as a substitute for the committee substitute for Senate Resolution 15, it was contended that this was final action by the Senate on the issue. The State Department Legal Office contacted Mr. Zweben to discuss this. They asked him if he would execute his explanation as an affidavit to be filed with their response brief. He said he would if the Senate leadership approved. I did approve and went over the affidavit with him prior to his filing it. This had been done by Dr. Floyd M. Riddick when he served as Parliamentarian in court cases without the approval of the whole Senate, both in cases where subpenas were issued and where they were not.

Furthermore, there is nothing in the Senate rules or precedents that governs this situation. Rule XXX of the Standing Rules of the Senate only comes into play if a subpena duces tecum is involved directing a Member, officer, or employee of the Senate to produce Senate papers which can only be withdrawn by order of the Senate, usually accomplished by a simple resolution. No Senate papers were involved in the instant matter.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT

The Senate continued with the consideration of Senate Joint Resolution 28.

Mr. HATCH. Mr. President, I have cleared this with the distinguished Senator from Indiana.

I ask unanimous consent that the remarks of the Senator from Arizona, the Senator from Tennessee, and myself not be charged against either side in this debate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, yesterday and throughout this debate I have enjoyed listening to the distinguished Senator from Indiana. There is no doubt in my mind that he is the authority on his amendment to the Constitution of the United States.

There also is no doubt in my mind that, as the chairman of the Subcommittee on the Constitution, he does an excellent job in trying to be fair and equitable to his fellow Senators and to those who come before his esteemed subcommittee.

I was particularly impressed by his willingness yesterday to resolve the difficulties with the distinguished Senator from Virginia.

I am very grateful and respectful of my friend from Indiana for making that concession, because I believe that it resolved a substantial impasse here that may have misled some people into believing that this matter was being filibustered when in fact this was not the case.

In fact, I have sought an up or down vote on this matter because I think that otherwise we will see it year after year, unless it is passed or defeated today on an up or down vote.

The amendment, on its merits, does not deserve to become an amendment to the Constitution of the United States.

Yesterday, the distinguished Senator from Indiana mentioned a number of special interest groups which were in support of his position. There are of course an equal number of groups in this country who are totally and vehemently opposed to his position, including the American Farm Bureau, the National Association of Manufacturers, the American Jewish Congress, the NAACP, PUSH, the Urban League, the American Conservative Union, and a host of others.

CONSTITUTIONAL BACKGROUND OF ELECTORAL COLLEGE

The discussion of changes in the electoral college should not be conducted in a constitutional vacuum. It is at least incumbent upon Members of the U.S. Senate, who have sworn to uphold and defend the Constitution of the United States, to reach an understanding of the way in which the Founding Fathers designed it before we vote to alter it in a fundamental manner by eliminating the institution of the electoral college. To be sure, we may have different notions of how our entire democracy should work than did the Founding Fathers, but we should know how they believed democracy should operate before we modify their handiwork.

The electoral system embodied in the Constitution, we should realize, was emphatically not based upon the notion of direct democracy, or the simplistic principle of one man, one vote. It was a very much more subtle than that. At the Federal level it was a three-tiered system with built-in checks and balances.

To be sure, the principle of direct and equal representation was embodied in the House of Representatives, with the very slight modification that every State should be guaranteed at least one Member of the House of Representatives. The number of Representatives allowed a State was to be directly determined by its population, and under a single-member constituency system each Representative represented a relatively limited number of constituents—although for some time certain States elected their Representatives at large. In any case, at the present, as a result of the Supreme Court decision on equality of representation, the House is elected quite precisely on the basis of universal and equal suffrage. In addition, the terms of House Members were deliberately made very short, so that they might be as responsive as possible to the demands of the electorate. Also, the fact that the entire House is up for election each 2 years makes it the Chamber which is theoretically the most sensitive to changes in political viewpoint throughout the Nation, although in fact in modern times the value of a House incumbency is high and the stability of its membership greater than it was in, say, the 19th century. Be that as it may, the fact is that the House of Representatives under the Constitution embodied the principle of one man, one vote, and representation kept very close to the people through frequent elections.

The Senate, on the other hand, as part of the original compromise between the States, was established to represent the States as political entities, and not individual voters. For this reason each State was given the same representation, regardless of its population: for the basis of representation was the State, and not the population. For this reason, too, through the 19th century Senators were elected as originally provided for in the Constitution: by the legislatures of the several States as the duly elected representatives of the people of those States. In the early part of the 20th century, however, the Constitution was amended to provide for the election of Senators directly by the people. Now, as a result, Senators represent the people of individual States, and not the States themselves as embodied in their State legislatures.

The Senate was also originally designed to be less responsive to changes in the electorate. Senators were given much longer terms than Representatives, and their terms were staggered so that only one-third of the Senate's membership would be up for election in any particular election year.

If the House of Representatives was designed to embody the principle of direct democracy, and the Senate the principle of representation of States, then the Presidency was intended by the Founding Fathers to be removed as far from the realm of politics as possible. For that purpose they established the ingenious and still little understood institution of the electoral college. The electoral college was deliberately designed to cushion the election of the President, through the intermediary structures of the State, from direct democracy.

The Constitution provides that:

> Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the Congress.

It is further stipulated that the electors should not be holders of political office. The original idea, then, was that the States should "appoint"—and not necessarily even elect—individuals not directly involved in politics who were known for their political sagacity and wisdom. These electors would meet in their individual States to consider who might best be qualified to become President of the United States. There could be no problem of the "faithless elector" here, for the elector was supposed to exercise his independent judgment in voting for President. Moreover, the Constitution makes relatively elaborate provision for the election of a President by the House of Representatives in the case that no individual received a majority of the electoral votes for President, an eventuality which the Founding Fathers evidently regarded as fairly likely. After meeting in the electoral college, the electors would disperse to their homes, having fulfilled the one function for which they were brought together.

From this exposition it should be clear that the election of the President was originally supposed to occur at two removes from the electorate: the electorate would choose the legislature of the State, which in turn would choose electors for the State, who in turn would choose the President. This system was very far from the notion of direct election embodied in the proposed amendment on the abolition of the electoral college.

It may well be that the electoral college was from the start an impossibly idealistic institution. Certainly it began to break down as soon as political parties and declared candidates for the Presidency appeared, for electors then began to be pledged to certain individuals and did not exercise their independent judgement on the matter.

The electoral college as it now exists at least retains the element of voting for the Presidency on a statewide basis. To that extent it maintains for the States an element of importance in our now much-weakened federal system. The proposed amendment would sweep away any vestige of the role of the States in the election of the President.

The proposed amendment for the direct election of the President, it will be seen, is simply a logical extension of the philosophy which holds that all the representatives of the people in a democracy should be elected directly and on the basis of equal suffrage. The individual citizen is the only entity which is entitled to representation in the structure of government, according to this view.

Now it may be that we do wish to recast our political institutions along these lines, and the amendment process established by the Constitution makes it possible for us to do so if we wish. But let us be clear that in accepting such a principle, we are altering drastically the system of representation as established by the Founding Fathers. We need not, of course, be bound by what they would have wanted, but let us be clear that we are undoing in very substantial measure what they undertook to do when they framed the Constitution.

When the Supreme Court handed down its decision on one-man-one-vote with regard to the apportionment of congressional districts, it said it did this on the ground that inequality of representation is unconstitutional. I submit that inequality of representation from the viewpoint of one-man-one-vote democracy may be unfair, it may be unjust, it may be any number of things, but it is not unconstitutional—for the Constitution itself provides explicitly for such inequality of representation in establishing the Senate of the United States. And, I submit, if we accept the direct election of the President, the sole remaining example of a glaring disparity of representation in the federal system will be the U.S. Senate itself.

For, as we all know, in the Senate inhabitants of Alaska, or Vermont, or North Dakota enjoy a substantial preponderance of representation over the voters of New York or California. Although it may seem unlikely now, it could be—given the constant stream of amendments to the Constitution which has emanated from the Congress over the last 20 years—that voices will be heard proclaiming that the Senate itself is unconstitutional because one citizen's vote is not equal to another's in Senate elections in various States.

Now we could extend the principle of one-man-one-vote democracy to provide for the direct election of Senators and the President by the relatively simple procedure of amending the Constitution. But the amendment article of the Constitution in effect provides that the Constitution cannot be amended to alter the basis on which the Senate is chosen: the Constitution provides that "no State, without its consent, shall be deprived of its equal suffrage in the Senate." This means that the principle of one-man-one-vote democracy could not be extended to the Senate unless every single State agreed to a scheme for a reapportionment of Senate seats. That, as we can imagine, is very unlikely to happen in the foreseeable future.

That provision is found in Article V of the Constitution. It is the last proviso of Article V and it was raised during the District of Columbia voter representation debate, albeit on a different point and in a different manner, but the fact of the matter is that this call for one-man-one-vote democracy could not apply to the Senate. So anybody who says the pure majoritarianism is the only moral way to go just does not understand the Constitution.

The central issue in this debate, then, has to do with the nature of our representative democracy. The principle of one-man-one-vote, democracy, is very simple, very attractive to many people, and quite destructive of our established traditions. The principle of representation espoused by the Founding Fathers was much subtler and indirect; it meshed quite marvelously the various levels of our federal system. If we accept the amendment for the direct election of the President, we shall weaken still further the role of the individual States in our system, and we will provide at least justification for a move to call the function of the U.S. Senate itself into question and bring on what would be nothing less than a true constitutional crisis. Perhaps this is an alarmist view. But I believe the Founding Fathers constructed our system well, and we tamper with it needlessly at our own peril. The electoral college system has worked well in the course of our history. Let us not abandon it out of a few of possible but highly unlikely electoral disasters at the Presidential level, none of which has become disastrous. Even as it has been modified by the force of circumstance through the years, the electoral college has given clearer results in most instances than the popular vote. Senators and Congressmen and even Presidents have been elected with under 50 percent of the popular vote and been able to function perfectly well, but none has been elected with less than 50 percent of the electoral college vote.

When our Founding Fathers set up a Constitution they made a very simple proposition: that was that "we do not want the Constitution of the United States to be readily amendable." So in the history of our Republic—and I might add our Federal Republic, not "one-man, one-vote" democracy—we have had some 6,000 proposed amendments to the Constitution of the United States, and only 33 have come out by the only means thus far utilized by Congress, that is, by a two-thirds vote of both the Senate and the House. Only 33 out of 6,000. And of the 33 only 26 have been ratified. Of the remaining seven only two are left. They happen to be the equal rights amendment, which was given a 3½ year reprieve last year, after 7 years of attempts to ratify, at a point where they had only obtained 35 States' ratification with 5 rescinding, and the D.C. voter representation amendment which came out of this great body last August.

To make a long story short, these Founding Fathers did not want the Constitution to be readily amendable, and that is precisely what we are talking about here today.

This is another one of those ill-conceived and, I think, ill-thought-out amendments which create more problems than they would ever solve, which literally should be rejected on the floor of the Senate today. That is with all due respect for the genius, the virtuosity, and the abilities of my dear friend from Indiana—and he does have my respect and my fondness and appreciation for many of the things that he tries to do as chairman of the Subcommittee on the Constitution.

ABA, AFL-CIO

I might also add that many of the groups which are presently supporting the amendment of my distinguished colleague from Indiana have not themselves endorsed a general "one-man, one-vote" notion of democracy with respect to their own organizations.

It is my understanding that both the American Bar Association and the AFL-CIO, for example, accord influence in the selection of their officers in part on the basis of various interests within the organization. For instance, the United Rubber Workers, with approximately 156,000 members, do not have precisely 1.56 times as much influence as the 100,000 members of the Brotherhood of Railway Clerks.

With respect to the American Bar Association, of which I am a long-time member, I have never had the opportunity to vote directly for the president of the association.

In addition, I have never had the opportunity to express my opinion on the ABA's endorsement of the direct election proposal.

I am not sure that the American Bar Association, for which I have great respect, has ever seen fit to adopt direct popular election for much of anything.

JUSTICE DEPARTMENT ON HOUSTON ELECTION DISTRICTS

I noticed in the newspaper the other day that the Justice Department had ordered the city of Houston to postpone all city-wide elections until a new system could be instituted. The Department apparently took this action under the Voting Rights Act of 1964.

According to Drew Days of the Civil Rights Division of the Department of Justice, the Department of Justice was prepared to withdraw its objections if Houston were to eliminate its system of "at-large" elections and substitute at least some elections from single member districts. The "at-large" elections, it was felt, effectively denied full and fair representation to the city's black and Hispanic minority groups.

What do direct election proponents think of this action by the Justice Department? Do they agree that the city of Houston is violating the civil rights laws by electing its members "at-large" rather than from single member districts?

How can my colleagues argue that Houston is depriving minority groups of their rightful influence while at the same time arguing that Senate Joint Resolution 28 would not also do that? How can the present administration support direct election while pursuing the Houston case?

Direct election, it seems to me, would effect the same reduction in minority influence on a national scale that the Justice Department argues Houston is creating on a local scale. I think that the proponents of this particular amendment ought to see the inconsistency in these positions.

I ask unanimous consent for the article to be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 12, 1979]

HOUSTON HELD TO VIOLATE CIVIL RIGHTS IN ANNEXATIONS; ELECTIONS ARE IN DOUBT

(By Bruce Cory)

HOUSTON, JUNE 11.—The U.S. Justice Department today ruled that the majority of Houston's annexations during the last two years violate federal civil rights law by diminishing the strength of minority voting.

The department ordered the city not to hold any elections in which those in largely white-populated annexed areas could vote until its system of electing all city officials at-large is changed.

The decision could force postponement of regular city elections Nov. 6 in the nation's fifth largest city.

The city also will be unable to hold a $400 million bond election or a proposed tax limitation referendum without Justice Department approval.

The department's civil rights division ruled that Houston's 1977 and 1978 annexations of 14 tracts adding about 140,000 persons effectively reduced Houston's black population from 26 percent to 24.8 percent, and its Mexican-American population from 14 percent to 13.5 percent.

"Based on relevant court decisions, and in view of the relevant characteristics of the city of Houston, we find such reductions to be legally significant," Assistant Attorney General Drew Days III said.

The city has a population of about 1.7 million, including 680,000 minority members.

In a letter telephoned to the city legal department today, Days said the Justice Department would consider withdrawing its objections to the annexations if the city changed its voting system to include the election of "some" members of the city council from single-member districts, not at large in the city.

The city council cannot make such changes alone; it would have to go to the city's voters for approval.

In a telephone press conference from the U.S. Conference of Mayors meeting in Pittsburgh, Houston Mayor Jim McConn said the city would attempt to compromise on city council composition with the Justice Department.

McConn said he and City Attorney Robert Collie might go to Washington next week to seek a clarification of the department's ruling.

He said he opposes appealing the ruling, but said a decision on such an appeal would not be made until after he meets with the city council Thursday.

All eight city council members are elected citywide, although five represent specific districts and must reside in those districts.

The Justice Department found that, although three of every eight Houstonians are either black or Mexican-American, only one black and no Mexican-Americans have ever served on the city council in its current form.

A suit by a coalition of liberal and minority groups challenging Houston's at-large city council system is before the 5th U.S. Circuit Court of Appeals.

Under the civil rights laws, Houston and other southern cities are required to submit annexations and other changes in voting boundaries to the Justice Department for approval.

Mr. HATCH. Mr. President, I believe that the overwhelming weight of argument supports the position that we should not amend the Constitution of the United States when it is working well, functioning properly, and operating as it should.

We should not tamper with the Constitution merely because it seems like a good idea to do so. I think the arguments against this proposed constitutional amendment are so overwhelming that I expect my fellow Senators to resoundingly reject it, although I will be extremely happy if we can just obtain 34 votes at 5 o'clock today.

The vote later this afternoon, an up-or-down vote on the direct election proposal, will be the first Senate vote ever on direct election. It will be an extremely instructive one. I look forward to it.

Mr. President, I suggest the absence of a quorum, and ask that the time be charged equally to both sides.

The PRESIDING OFFICER (Mr. HEFLIN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that the distinguished Senator from New Hampshire (Mr. HUMPHREY) be permitted to speak for as much as 15 minutes, with the time charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum until the Senator from New Hampshire returns.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, and that the Senator from New Hampshire be allotted 10 minutes, charged to our side, as the Senator from Indiana has requested.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I do not think it is an unusual practice to follow that the proponents of the amendment yield to proponents and the opponents yield to opponents. That is sort of the rules of the game, I thought.

Mr. THURMOND. The Senator from New Hampshire is not going to speak on this subject, so I thought it would be all right.

Mr. BAYH. Oh, I see.

Mr. THURMOND. But we have no objection to that.

Mr. BAYH. I understand.

The PRESIDING OFFICER. The Senator from New Hampshire.

(The remarks by Mr. HUMPHREY at this point are printed later in today's RECORD.)

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I yield time to the Senator from Kentucky. How much time does he desire?

Mr. FORD. Mr. President, if I could have 5 minutes, that would be sufficient.

Mr. BAYH. I yield 5 minutes. I should say on my own time that the Senator from Kentucky has been a known ally and supporter of the direct election, and the Senator from Indiana is grateful for his consistent support and his perceptive logic for doing so.

Mr. FORD. I thank the Senator from Indiana. He is more than kind.

Mr. President, I have long been a supporter of the proposed amendment to the Constitution providing for the direct, popular election of the President and Vice President. I believe the reform of the electoral college system is long overdue.

Throughout this country there is a growing sentiment that the electoral college has outlived its usefulness. Recent polls indicate that over 80 percent of the population support an electoral system which would insure that the President and Vice President be elected by a majority rather than a plurality of the voters. Furthermore, the level of support for direct popular election is equally dispersed throughout all regions of this country.

The framers of the Constitution could not have envisioned the development of today's electoral system—a system which has surely outgrown the electoral college. The constituency to which the Founding Fathers were addressing themselves was very much different from today's electorate.

The increasing dissatisfaction with the electoral college system is due, in part, to the realization that the system possesses some major defects. The historical development of the present system demonstrates the fundamental flaws in the electoral college. Three times in our history, a candidate who lost in the national popular vote assumed the Presidency.

The principal flaw in the electoral college is the unit rule of winner-take-all provision. The unit rule provision awards all of a State's electoral votes to the candidate who wins a popular vote plurality. This provision has had two consequences. First, it has forced the Presidential candidates to concentrate their efforts on the 11 most populous States. It is necessary for the Presidential candidate to devote particular attention to these States because the entire electoral vote of a State is cast for the popular vote winner of that State, however small the candidate's popular margin may be.

Second, the awards of victory in these States increases the possibility of the losing candidate in the popular vote being the winner.

Let me make one other observation, Mr. President. In the 1976 Presidential election, a shift of less than 8,000 votes in two States would have made Gerald Ford the winner with 270 electoral votes to 268 for Carter—despite the fact that Ford would still have trailed Carter by nearly 2 million popular votes. Carter would not have been elected President even though he would have still had a majority of the popular vote. The minuscule shifts in the popular vote of Hawaii and Ohio could have frustrated the popular will of the people.

Mr. President, under the present system, some voters are more important than others because of the State in which they reside. Direct election of the President will mean that all votes would be counted equally regardless of State boundaries. This amendment guarantees that each voter, no matter where geographically located, will have an equal say in who will be elected.

This amendment would eliminate the possibility that an individual who fails to receive a plurality of the popular vote still could be elected President or Vice President.

Moreover, it will assure that the final say as to who will be President will rest with the people and not with a faithless elector. This points to another flaw in the present system—the problem of defection by a faithless elector. By abolishing the electoral college, we will no longer be permitting the electors to disregard the will of the people.

In my opinion, the direct popular nationwide election would eliminate many of the principal defects of the present system. Furthermore, it would demonstrate a sincere commitment to the removal of the current barriers to full citizen participation in the election of our nation's highest public officials. It will improve and make more democratic the system by which we select the President and Vice President.

Mr. President, I would have to concur with the conclusion reached by the American Bar Association's commission on electoral college reform:

> While there may be no perfect method of electing a president, we believe that direct, nationwide popular vote is the best of all possible methods.

The proposed amendment has been the subject of extensive debate and many hours of congressional hearings. The direct election issue was debated in Senate Judiciary Committee hearings as far back as 1966. The Judiciary Committee has amply reviewed the various proposals to reform the present system of electing the president. The committee has also discussed the rationale used to justify a change in the electoral system. In addition, the Subcommittee on the Constitution recently held 4 additional days of hearings. Yet, the Senate has not to this day been allowed a vote on this important measure, which vote, I understand, will be at 5 p.m. today. As a strong supporter of an amendment providing for the direct, popular election of the President and Vice President, I hope that the Senate will reject the various other proposals to reform—rather than abolish—the electoral college and, instead support the direct election method. I am pleased to have been along with my distinguished colleague (Mr. BAYH), a cosponsor of Senate Joint Resolution 1, an amendment identical to Senate Joint Resolution 28.

Mr. President, I ask unanimous consent that I be added as a cosponsor of Senate Joint Resolution 28, and I again urge immediate Senate passage of this important measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I see the Senator from Indiana is here now and I yield to the distinguished Senator from Indiana.

Mr. BAYH. Mr. President, I shall be glad to yield time to the Senator from Michigan. How much time does the Senator wish?

Mr. LEVIN. Five to 10 minutes.

Mr. BAYH. I yield to the Senator from Michigan.

Mr. LEVIN. I thank my colleague from Indiana (Mr. BAYH).

Mr. President, we have read and listened to the pros and cons of direct election in the past weeks, here, on the Senate floor and at various times in the past decade or so as a legislative body.

During that time we have heard all the arguments. Some urge that small States will be hurt by direct election because they will lose the alleged advantage of the electoral college formula, which gives small States the same number of electors as they have Senators and Representatives. Others argue that small States will be benefited by direct election because a voter in New York for instance, will no longer be able to influence more electoral votes for the President than a voter in Alaska.

Some argue that large industrial States will be hurt by direct election because of the alleged influence voting blocs in urban centers have on a State's entire electoral vote. Others argue that those same States will be benefited because, under direct election, the votes of the urban centers will not be subject to the unit rule and cannot, therefore, be totally negated.

Some argue that minorities will be hurt by direct election because they will lose their alleged power to swing an entire State by their electoral vote. Others argue that minorities will be benefited by direct election because large numbers of minorities, who have been effectively disenfranchised by the unit rule, will be guaranteed to have all their votes counted.

Some argue that the two-party system will be hurt by direct election because the 40 percent plurality necessary for a victory will induce the creation of splinter or third parties. Other argue that direct election will protect the two-party system from the undue influence of a third party in the event the electoral college is deadlocked, the threat of which we experienced in 1968.

Some argue that direct election will increase the risk of voting fraud. Others argue that direct election will reduce voting fraud because the degree of such fraud under direct election would have to be so great in order to be of any consequence.

In this lengthy and detailed debate, each little piece of our body politic has been carefully examined and scrutinized under a microscope—with disputed results. If we step back from a microanalysis, however, and look at the whole, the issues become clearer. There are two critical ones.

First, what would happen to our national body politic if a minority President were elected? The majesty of the electoral process in this country is no more evident than in the way we accept the results of an election. No matter how bitterly fought it is, after the votes are counted, we join together as a people and announce our support for the winning candidate. We have such faith in the system that we accept its verdict, no matter how much we may disagree with it.

What the electoral college contains is the potential for eliminating that acceptance of results. If people see their candidate win the popular vote, then denied office because of the electoral vote system, they would not as freely give their consent to be governed by a minority President in modern day America. A minority President will have a diminished ability to govern, so vital in these times. A minority President simply would not have the mandate that an election normally gives a leader.

The potential for a minority President is too great and the consequences for such a President and our Government too ominous to allow us to continue to play electoral roulette with a system that was conceived in a different time and which no longer relates to the reality of the current role we play as a Nation in the world.

The social and political fabric of modern America can be torn apart by the election of a minority President.

Opponents argue that earlier 19th century examples should vitiate these fears since the electoral process survived these occasions. Yet the state of our country today is far different from the 1800's. The great growth in the power of the President, mass communication, the rise of the global community, have all changed the complexion of our society to such an extent that were we to have a minority President, our political vitality would suffer and credibility in Government be further sapped.

Opponents also argue that we need not fix a system before it has broken down. We should not accept that approach to insuring the health of our political system any more than we should ignore the needs for preventive medicine to insure the health of our families. Why must the American people have to wait for the time when a minority President is elected before this dangerous system is changed? We need not wait for a catastrophe before we take steps to prevent it from happening.

The second fundamental question is whether the American body politic will be healthier if every vote in the Presidential election counts the same. Even if we could resolve the conflictiing answers and arguments in this debate, the issue cannot be—what narrow or sectional interest would gain or lose by a change to direct election. The issue must be whether America will gain if our votes at last count the same.

This country desperately needs a sense of unity. We have a great centrifugal diversity in America—differences in background, geography, racial, and ethnic origins and religious beliefs. The Presidency alone embodies the common hopes and common purpose of all Americans. The Presidency supplies some of the glue which holds us together.

We therefore approach this issue, not as representatives of small States or large, and not giving special consideration to particular sections of our country, or to Democrats or Republicans, to rich or poor, minorities or majorities. We approach this issue—the election of our only truly national officer, the President—as Americans. In a similar context, over 200 years ago, Patrick Henry in an effort to bring a sense of national unity and national purpose to the first Continental Congress said what is fitting to be remembered here today.

> I hope future ages will quote our proceedings with applause. . . . All distinctions are thrown down. The distinctions between Virginians, Pennsylvanians, New Yorkers, and New Englanders, are no more. I am not a Virginian, but an American.

I want to commend Senator BAYH and the others who have worked so faithfully on this particular resolution and amendment, Mr. President. They are to be commended for their perseverence and their patience.

I hope our vote today reflects and rewards that perseverence.

I thank the Chair.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield such time as may be required to the able and distinguished Senator from South Dakota (Mr. PRESSLER).

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I rise in opposition to Senate Joint Resolution 28, the Direct Election of the President Resolution.

I have come to this conclusion very reluctantly, and I want to say that I have high regard for the Senator from Indiana and his efforts.

I have seen varying reports as to what effect direct elections would have on the power of small States. Coming from the State of South Dakota, these reports concern me.

At the Constitutional Convention, one of the geniuses was the protection of minorities and the protection of small States, and yet a resolution for majority will.

I note in a CONGRESSIONAL RECORD study entitled "Direct Election, Who Gains, Who Loses?" that my State of South Dakota with four electoral votes has 0.74 percent of the national total, and a percentage of the national total under a direct election would be 0.37. In other words, the power of South Dakota in Presidential elections would be approximately cut in half, or indeed, with the continuing increase in population in other States, the power of South Dakota in Presidential elections would be only about one-third to one-half what it is today.

Also, Mr. President, I have been increasingly impressed with the number of minority groups in the United States having expressed reservations and opposition to this, ranging from black groups to Indian groups to agricultural groups to senior citizen groups.

I have also been impressed by the number of thoughtful editorials by writers of different political philosophy: Al Hunt in the Wall Street Journal in an article entitled "Don't Fix The Electoral College" of Thursday, July 5, 1979; James Kilpatrick in an article entitled "Direct Election Is A Bad Idea" in the Washington Star of Saturday, July 7, 1979; and the New York Times in an editorial entitled "Vote For The Federal President."

I certainly do not base my vote in this body on editorials or, indeed, solely on the interests of South Dakota. But, nevertheless, I do represent South Dakota here.

At the Constitutional Convention, the debate was very heavily between the large States and the small States, and the Union was pulled together only because there were compromises and protections for the small States.

There is no doubt but that direct election of the President is an idea that sounds good upon first hearing. But in making a change that is so comprehensive, we must be assured that the present system has inherent flaws that warrant change. We must also be convinced that the new proposal will remove the flaws in the present system without adding greater harms. Proponents of the change have not convinced me of this.

The editor of the New York Times said in yesterday's edition:

> For reasons that Senators should value, these United States have found it useful and in no sense undemocratic to retain some imbalance and geographical color in their Federal system. Simplicity is not the synonym of democracy. Voter parity is not the only source of stability.

It seems to me also that direct election of the President in reality, could be full of pitfalls.

Prof. Judith Best has pointed out repeatedly that, under the direct election system, a candidate could become President with only regional support. As she said, any President so elected, "* * * would have great difficulty governing."

Because individual States would lose their identity, we could easily see a breakdown of State boundaries. As Theodore White states:

> Once you erase the State lines in a presidential election as this proposal suggests, you erase the traditional communities of America. The rules of the game change. The new bosses will be the media professionals, or the men who pay the media professionals. They will draw sinuous winding curves showing the demography of the United States as a geological map shows the contours of its height, depth, and terrain. They will be able to ignore the States of the union as election constituents. What candidate, whose experts draw a demographic map of the USA, will pay attention to the vote in Gary or Hammond, Indiana . . .? What candidate will any longer consider Roxbury, North Dorchester, or Cambridge-Somerville as a seriously important factor in his campaign . . .? Massachusetts will no longer exist except as an administrative unit.

The winner-take-all aspect of the electoral college encourages the continuation of our two-party system. Because this would not be encompassed under direct election, our two-party system could be jeopardized. Minor parties would be encouraged to run. Under the present system, this winner-take-all aspect discourages minor parties and encourages the continuance of our two party system.

Because minor parties would be encouraged to run, it would be difficult for any candidate to receive the 40-percent vote that Senate Joint Resolution 28 requires. If a candidate comes within 1 or 2 percentage points of this 40 percent, we could easily see a nationwide recount. We all know how long recounts take. If, after a recount, a candidate still did not receive 40 percent of the votes, there would be a runoff election. All of this could prove to be very costly and time consuming.

Granted, there are minor flaws in the present system, such as the faithless elector, but we do not need such a comprehensive change to remedy these minor flaws. We especially do not need a change that has such a possibility for abuse and harm.

As I stated previously, the runoff proposal in Senate Joint Resolution 28 could provide problems. If one candidate did not get at least 40 percent of the vote, it would be a situation that would be very chaotic.

If we had a requirement for a runoff election and if the 40-percent vote were not achieved, then we would have a runoff, presumably, much as some of the European countries do. But if the runoff were equally close and if a recount were demanded, we would be in a situation that would take literally months to resolve.

I recognize that there are potential shortcomings in the present electoral college system. But in any system we have, we could create scenarios in which there would be very difficult and very painful results. Some have said that we could have a deadlocked electoral college or that members of the electoral college could be faithless to those for whom they were supposed to vote.

All of these things are possibilities, but the system has worked quite well in the history of our Republic.

If Senate Joint Resolution 28 were passed, the most devastating blow would fall on the small States in Presidential elections. Indeed, in the studies of direct election, who gains and who loses—and I stand here as a U.S. Senator for all of the United States but nevertheless I represent South Dakota, a small State—the statistics show that our power in Presidential elections would be cut from a third to 50 percent of what it presently is.

Finally, I have been impressed by the number of thoughtful Americans who have studied this matter and who have made comments, and I have quoted some of them.

I quote author Theodore White:

> In the place of traditional election day maps illustrating which candidates carried which States, direct election will give us election day maps illustrating which candidates carried which media markets.

Also, Time Magazine has said:

> In a direct vote, small States and less populated regions of the country would no longer be guaranteed a role—however minor—in determining who would live in the White House.

Those are some very strong and compelling arguments.

For these reasons, I oppose Senate Joint Resolution 28. I ask that my colleagues who are undecided at this point consider these arguments in making their final determination.

Mr. President, I ask unanimous consent to have printed in the RECORD the articles to which I have referred, together with a table in connection with direct elections.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 9, 1979]

A Vote for the Federal President

A strong alliance of reformers is again pushing the idea that we elect our Presidents by direct popular vote, without the filter of an Electoral College. Counting every vote equally sounds so simple and attractive that normally cautious politicians find it difficult to resist. A Constitutional amendment to abolish the College reaches the Senate this week with an outside chance of obtaining the necessary 67 votes.

One would think that the reformers' zeal for "one person, one vote" might as logically lead them to abolish the Senate. If any of our Federal institutions offends arithmetical justice it is the one that grants the same two votes to 22 million Californians and 650,000 Nevadans. For reasons that Senators should value, these United States have found it useful and in no sense undemocratic to retain some imbalance and geographical color in their Federal system. Simplicity is not the synonym of democracy. Voter parity is not the only source of stability. A Presidential election that is federal is not therefore unsound.

Every youngster understands our rules for electing a President. The winner of the popular vote in every State receives its total "electoral vote." Each state's electoral vote equals the size of its delegation in Congress; as in the Senate, this arithmetic favors smaller states. But in a close election, there is compensation for voters in more populous states. As urban minorities have recognized, winning a large state by a slight margin yields a richer prize than winning a small state by a landslide.

The unplanned effects of this system have been mostly good. It turns the contest for President into 52 races (including the District of Columbia and Puerto Rico). It makes it impossible for candidates to write off the less populous regions or overcrowded city slums; both count for slightly more than their numerical weight. Moreover, the system blunts single-issue fury. Citizens who oppose gun control or abortion cannot simply unite nationally to elect, or defeat, a President; they must join, state by state, with other voters moved by other passions.

This necessity for compromise, in turn, holds most voters inside our two federal parties, and the parties are thus held near the middle of the political road. To elect a President, even arrogant majorities must be solicitous of minorities; even alienated minorities must work with majorities. The system encourages moderation in radical times and protects against parochial passions. It discourages minor parties yet rewards their protest with major-party attentiveness. It is widely understood and accepted. It is a bond with history, a source of stability.

So why abandon it?

Because to many a "direct" and "popular" election sounds more democratic. They also want to avoid the largely theoretical risk that electoral votes might elect a candidate who lost the popular vote. That could happen—but it hasn't happened since 1888.

To guard against that small risk, Senator Birch Bayh and 38 cosponsors of his amendment would abandon all the advantages of federal voting and run dangerous new risks. Knowing that a direct election would encourage third and fourth and fifth parties to run their own candidates, they would let a vote of 40 percent determine the winner. Sensing that minor candidates might skim off enough votes to leave no one with even 40 percent, they would then run a *second* election between the two top contenders, who had maybe 37 and 32 percent of the original vote. Just imagine their sordid barter for the support of the first-round losers.

The clamor for abolition of the Electoral College was born in the fear of George Wallace in 1968. Some thought the strident Alabaman might parlay a mere 10 percent of the popular vote into enough electoral votes to deny Richard Nixon or Hubert Humphrey a majority. And because electoral votes are cast by real people in the Electoral College, he might have traded their ballots for a heavy price. Mr. Nixon, especially, might have paid well to avert a deadlock that threw the choice to a Democratic House of Representatives.

It didn't happen. And the chances are that Mr. Wallace would have won still more votes in the first round of a "direct" election—and thus enormous influence in the runoff. But that is only one of the flaws of the proposed reform. The danger of tawdry trading in the Electoral College is easily averted without any radical change. The desirable amendment would abolish the flesh-and-blood electors yet retain the counting of electoral votes. Why change what works?

[From the Wall Street Journal, July 5, 1979]

Don't 'Fix' the Electoral College

(By Albert R. Hunt Jr.)

("If it ain't broke, don't fix it."—Bert Lance)

WASHINGTON.—When the Senate soon considers a constitutional amendment to abolish the Electoral College and elect Presidents by direct popular vote, many civic-minded citizens and organizations will be cheering for the change.

Supporters include national political figures ranging from Republican Sen. Robert Dole to President Carter, "good government" groups—the League of Women Voters, Common Cause and the American Bar Association—and powerful interests from the AFL-CIO to the U.S. Chamber of Commerce.

They argue the Electoral College is an anachronism and the only virtuous alternative is direct election. "In our system of politics," suggests the noted political author Theodore H. White, "anything that can be described as virtuous automatically enlists the support of all high-minded people, most of the media and all those pressure groups that respond to the call of virtue as Pavlov's dog to his bell."

Supporters claim direct election would affirm the principle of "one man, one vote." Equally basic is their negative view that the Electoral College system is a political time bomb waiting to explode. An earnest League of Women Voters lobbyist, contending a candidate defeated in the popular vote might well carry enough states to command a majority in the Electoral College, explains: "We face a constitutional crisis here."

If so, it is amazingly elusive; the nation has escaped that danger in the past 22 presidential elections. Moreover, the current electoral system has distinct advantages: It provides many states with a stronger political identity and offers a time-tested mechanism for resolving a lack of clear national consensus in the popular vote.

To be sure, the Electoral College system has flaws. Most obvious is the so-called "faithless elector"—the rebel who on rare occasion casts a vote at odds with the popular-vote results in the state he's representing. Thus in 1976, although Gerald Ford carried Washington in the general election, one of that state's electors voted for Ronald Reagan in the Electoral College.

THE SYSTEM AIN'T BROKE

But, overall, to borrow Bert Lance's phrase, the system ain't broke.

Moreover, the fixes envisaged under the proposed constitutional amendment are likely to aggravate, not alleviate, any existing deficiencies. Direct elections would depoliticize presidential contests, enhance the role of media merchants trying to manipulate public opinion and possibly produce a proliferation of parties and candidates.

The drive for a direct-election amendment—which must win approval of two-thirds of both the Senate and House and then three-fourths of the states—invariably follows a close presidential election, such as 1976. Accordingly, Sen. Birch Bayh (D., Ind.), the long-time champion of this amendment, now is pressing his big point: "Under the Electoral College, one American's vote is not equal to another's, simply on the basis of where he happens to live. Only with direct elections would all votes be equal."

Sen. Bayh has little regard for the "system ain't broke" argument. He contends that's "sort of like saying to the farmer whose barn is not on fire, don't take out fire insurance.'"

The Indiana Democrat insists the nation needs insurance for the presidential election system. He notes that not just the 1976 contest but two others among the past five elections involved "near misses." In 1976, if no more than 9,246 Jimmy Carter votes in Ohio and Hawaii had gone instead to President Ford, the Republican would have won even though receiving some 1.7 million popular votes less than Mr. Carter. In 1968, with third-party candidate George Wallace in the race, a shift of only 70,000 votes in a few states would have deadlocked the Electoral College and thrown the decision into the House of Representatives. The 1960 Kennedy-Nixon race was another squeaker.

Sen. Bayh recognizes the danger that his amendment might lead to a proliferation of presidential candidates. To keep anyone from winning the White House with only, say, 33% of the popular vote, his amendment would create a runoff between the top two finishers if no candidate receives at least 40% of the total.

There's a recurring argument, too, over whether the political power of small states would suffer if the Electoral College with its state-by-state representation were done away with. But that argument misses a more fundamental point: the damaging effect that direct election would have on the political process in all states, big and small.

Mr. White, an opponent of direct election, believes the damage would be significant: "It is good when a voter in Indiana goes to the polls that he thinks of himself as a Hoosier trying to move his state; that a proud Texan thinks of himself as a shaker in the Lone Star State; that a man from Boston thinks of himself as a Baystater, the state of mavericks. We are a nation of communities—ethnic communities, religious communities, rural communities, urban communities and yes, above all, historic communities. Americans do not want to be homogenized. Each election night, every four years, we fit the jigsaw of America together all over again."

That may be an overly romanticized picture, but it's true politicians and volunteers down to the precinct level do organize and work together to carry a state for their presidential candidate.

Mr. White is not alone in foreseeing that this process would be weakened by the simple, sanitized direct-election system. Political scientist Aaron Wildavsky, for instance, argues: "By removing the main incentives our political parties have to coalesce—the necessity of creating a coalition across diverse states to make a majority—abolition of the Electoral College would drive the last nail in the coffin of our party system."

MEDIA IMAGERY

Into the breach would step the image-makers. Why spend money on campaign organization rather than on national television time? "The contest would not be between those who could recruit and organize," says elections expert Curtis Gans, "but rather who could most effectively and skillfully manipulate media imagery."

The runoff proposal leads to other problems. With the Bayh amendment's formula, the national race "would resemble the Boston Marathon, with presidential candidates representing every special-interest group in the country," contends Sen. Orrin Hatch (R., Utah). "Each will seek to push the major parties . . . below the 40% threshold and position themselves to negotiate during the pre-runoff period."

It's instructive to envision the effects of direct election in a close contest, such as the 1960 Kennedy-Nixon race. John Kennedy won that election by only 110,000 popular votes, but he captured the electoral vote by a more decisive 302 to 219. To change that outcome, Mr. Nixon would have had to alter results not only in Illinois, where the fabled Cook County Democratic machine produced suspect results, but in at least one other state as well.

With direct election, the 1960 outcome would have been decided by less than one-half of 1% of the total vote, creating a powerful demand for a nationwide recount. It would have taken months to determine the winner and it's doubtful that even the recount would have ended the suspicions or charges of chicanery.

So it's perfectly plausible that a direct-election system might become more of a political time bomb than the present indirect system. Sooner or later, a 1960-style squeaker might come along again.

Still, certain changes in the present arrangement are needed. The discretion of individual electors should be eliminated to avoid the "faithless elector" problem. The states should consider dividing their solid blocs of electoral votes in proportion to the votes each candidate receives, instead of continuing the current winner-take-all system. There may be some merit in the suggestion by Sen. Russell Long (D., La.) to retain the Electoral College but award bonus electoral votes to the popular-vote winner, though that raises some of the same problems of the direct-election approach.

But certainly the politicians should tread carefully before dismantling a system that not only ain't broke but seems to be functioning rather well.

[From the Washington Star, July 7, 1979]

DIRECT ELECTION IS A BAD IDEA

(By James J. Kilpatrick)

The pending order of business in the Senate this month is Birch Bayh's proposal to provide for the direct national election of future presidents.

This was a bad idea when the gentleman from Indiana first trotted it forth in 1963. It remains a bad idea today.

Under Bayh's resolution, Article II of the Constitution would be drastically rewritten. Bayh would abolish the Electoral College altogether.

In its place he would provide for a national popular election in which presidential and vice presidential tickets would compete. If no ticket received as much as 40 percent of the vote, a runoff would be held between the top two tickets. Thirty days later the winner would be officially proclaimed.

The existing system of presidential elections admittedly is flawed. We vote state by state for surrogate electors, but these electors can violate their trust with impunity. If no candidate wins a majority of the electoral vote, the election goes to the House of Representatives, where each state casts a single vote.

Many observers object to the scheme of "winner take all," by which a state's entire electoral vote goes to the top vote-getter.

Acknowledging these imperfections, skeptics rightfully may inquire if Bayh's popular election plan is any better. In my own view, the senator proposes a cure far worse than the mild disease.

The Bayh amendment, if it ever were ratified, would wipe out the last vestiges of a substantive two-party system. Granted, not much remains of the two-party system now, but the form is there and we have built our legislative and executive structures around it.

So long as candidates compete for electoral votes in each separate state, it remains formidably difficult for a third-party ticket to make a significant showing. Only four times in this century have minor party candidates figured noticeably in the records—Roosevelt in 1912, LaFollette in 1924, Thurmond in 1948 and Wallace in 1968. In no instance were their electoral votes sufficient to affect the outcome.

Under direct popular election, all this would change. Bayh's amendment purports to leave it to each individual state to decide which names would appear on its ballot, but the senator cannot truly mean this.

A national election, at the very least, must be national; every voter must have an opportunity to choose among identical slates of tickets. Election laws would have to be precisely uniform throughout the country.

Once the Bayh plan went into operation, we could expect to see a multiplicity of parties in the European fashion—a black party, a women's liberation party, a resurgent socialist party, a pro-abortion and an anti-abortion party, an anti-busing party, an anti-gun control party, and so on.

None of these splinter groups realistically could hope to win a national election outright. Collectively, they quite plausibly could prevent either major party ticket from winning 40 per cent of the vote. In a runoff, the minor parties would barter their support to the most promising bidder.

Perhaps the American people want to plunge headlong into political disorder, but I doubt it. My guess is that many of the high-minded outfits that are supporting the Bayh amendment have not thought the thing through. The concept of popular election has a fine, simplistic appeal.

The trouble is that our constitutional system is not simple. It is marvelously complex. It rests fundamentally upon the concept of federalism, the grand design by which political power is distributed among the states respectively. This is the true genius of the American Constitution.

Bayh would wreck the grand design. He would obliterate one of the base compromises of our federal system, and in the process he would disturb the beautiful balance of the Constitution as a whole.

It seems to me unlikely that two-thirds of the Senate—or the House—will support any such radical surgery, and still less likely that 38 states could be persuaded to ratify the amendment. But Bayh has his baby on the floor, and if his troops can break a filibuster, we will soon get to the yeas and nays.

DIRECT ELECTION: WHO GAINS? WHO LOSES?

[The following chart compares each State's voting strength in the 1976 Presidential election under the electoral college system and direct popular vote. A plus (+) is indicated next to each State that had a higher share of the national total using its total popular vote, while a minus (—) is indicated next to States which had a lower share]

	Electoral vote	Percentage of national total	1976 popular vote	Percentage of national total
East:				
Connecticut	+8	1.49	1,381,526	1.69
Delaware	−3	.56	235,834	.29
District of Columbia	−3	.56	168,830	.21
Maine	−4	.74	483,216	.59
Maryland	−10	1.86	1,439,897	1.77
Massachusetts	+14	2.60	2,547,558	3.12
New Hampshire	−4	.74	339,618	.42
New Jersey	+17	3.16	3,014,472	3.70
New York	+41	7.62	6,534,170	8.01
Pennsylvania	+27	5.02	4,620,787	5.67
Rhode Island	−4	.74	411,170	.50
Vermont	−3	.56	187,765	.23
West Virginia	−6	1.12	750,964	.92
South:				
Alabama	−9	1.67	1,182,850	1.45
Arkansas	−6	1.12	767,535	.94
Florida	+17	3.16	3,150,631	3.86
Georgia	−12	2.23	1,467,458	1.80
Kentucky	−9	1.67	1,167,142	1.43
Louisiana	−10	1.86	1,278,439	1.57
Mississippi	−7	1.30	769,361	.94
North Carolina	−13	2.42	1,678,914	2.06
Oklahoma	−8	1.49	1,092,251	1.34
South Carolina	−8	1.49	802,583	.98
Tennessee	−10	1.86	1,476,345	1.81
Texas	+26	4.83	4,071,884	4.99
Virginia	−12	2.23	1,697,094	2.08
Midwest:				
Illinois	+26	4.83	4,718,914	5.79
Indiana	+13	2.42	2,220,362	2.72
Iowa	+8	1.49	1,279,306	1.57
Midwest—Continued				
Kansas	−7	1.30	957,845	1.17
Michigan	+21	3.90	3,653,749	4.48
Minnessota	+10	1.86	1,949,931	2.39
Missouri	+12	2.23	1,953,600	2.40
Nebraska	−5	.93	607,668	.75
North Dakota	−3	.56	297,188	.36
Ohio	+25	4.65	4,111,873	5.04
South Dakota	−4	.74	300,678	.37
Wisconsin	+11	2.04	2,104,175	2.58
West:				
Alaska	−3	.56	123,574	.15
Arizona	−6	1.12	742,719	.91
California	+45	8.36	7,867,117	9.65
Colorado	+7	1.30	1,081,554	1.33
Hawaii	−4	.74	291,301	.36
Idaho	−4	.74	344,071	.42
Montana	−4	.74	328,734	.40
Nevada	−3	.56	201,876	.25
New Mexico	−4	.74	418,409	.51
Oregon	+6	1.12	1,029,876	1.26
Utah	−4	.74	541,198	.66
Washington	+9	1.67	1,555,534	1.91
Wyoming	−3	.56	156,343	.19
Regional totals:				
East	+144	26.77	22,115,807	27.12
South	−147	27.33	20,602,487	25.26
Midwest	+145	26.95	24,155,289	29.62
West	−102	18.95	14,682,306	18.00
Total	538		81,555,889	

Mr. THURMOND. Mr. President, I commend the able and distinguished Senator from South Dakota for the splendid remarks he has just made.

The Senator from South Dakota is a new Member of this body, and he has made a very fine impression here. His speech on this subject today is indicative of his knowledge of the Constitution and of the electoral system in this country.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I suggest the absence of a quorum, with the understanding that the time will be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I yield to the distinguished and able Senator from New Jersey such time as he may require.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, the vote to be taken today in the Senate over the proposed constitutional amendment for direct election of the President is perhaps the most important one Members of the Senate will cast this year. I say that with full recognition of the upcoming debate on the SALT Treaty, the windfall profits tax on energy, and other important issues we will be facing.

The constitutional processes by which we elect the members of our Government affect the basic structure of our country. The decision at the beginning of the century to elect Senators by popular vote has had profound changes that go far beyond that simple and important advance in the democratic character of this body. Even nonconstitutional changes, such as the Voting Rights Acts and campaign financing reforms, profoundly alter the political organization of our country, change patterns of political power and influence, and ultimately bear on the Nation's ability to meet the recurring needs of the modern world. Any Senator must, therefore, approach a decision on a constitutional amendment of such fundamental importance with caution, seriousness, and with an appreciation of the limitations of human wisdom and foresight.

In a very real way, the responsibility placed on me and on every other Senator is the same as that placed on the members of the Constitutional Convention 200 years ago. In John Marshall's words, we must remember that it is a constitution we are expounding.

Mr. President, I want to take a few moments of the time of the Senate to explain the considerations that have led me to oppose this amendment.

I have listened carefully and read the arguments on both sides of the direct election debate. I find the arguments of my good friend from Indiana, Senator BAYH, highly impressive. "One person, one vote" is more than a slogan. It expresses the highest ideals of the American democracy. It is a worthy and necessary goal, for the very basis of our constitutional system is founded on the will of the people.

I am also impressed by the other major argument advanced in favor of direct election—the threat to the political stability of the Nation should a President be chosen through the electoral college who does not have the majority, or at least a significant plurality, of the popular vote. In the 19th century, there was considerable national dismay when the popular winner was not elected. Yet the fabric of the country was not destroyed and the dichotomy between the electoral college result and popular vote result was accepted.

The strength of our political system is amazing. We have survived a decade of crisis in Presidential successions. I have little question that the country would ultimately accept, albeit with some hesitation and misgivings, an electoral college result which differed from the popular vote tally. But I do think that such an event would be a time of trial and uncertainty.

As weighty as are these considerations in favor of a change, I am more persuaded by the arguments opposing direct election. I am concerned that this proposal may weaken the strength of the two-party structure, and so perhaps encourage the kind of divided mandate that the amendment is designed to counter. Because of the tradition that State winners take all the electoral vote, political groups within each State are induced to build alliances. This process encourages the two-party system, which itself is a stabilizing institution. I do not say that the two-party system could not survive direct election, but with such a change an important support for the system would disappear.

I worry as well about the effect of direct election on the federal system. I think it is unquestioned that the unit system, although not constitutionally required, does put a premium on campaigning on a State basis. It not only focuses the election campaign process, but it helps preserve the importance of the States as social and political entities. I am not persuaded by arguments that the federal system or the States are outmoded features of early America. States are part of the glue that binds this vast Nation together. The Federal structure insures diversity and freedom while still building national unity. It was an inspired concept when it was enshrined in the 1787 Constitution and it serves us well to this day.

This point is particularly important to me as a Senator from New Jersey. My State already suffers from being in the shadows of New York City and Philadelphia. The immense influence of these two centers has weakened the sense of State identity in New Jerseyans. Under direct election, New Jersey as a political fact would be further weakened. Candidates would campaign for the New York metropolitan area vote. They would do that campaigning from Times Square, and New Jersey votes would be no different than Long Island votes, or Westchester votes. The same would happen in Philadelphia. Forgotten would be all the New Jersey voters who are not reached by this campaigning—the south-central and western residents. And forgotten as well would be the New Jersey interests in the north and south which are decidedly not the same as New York City or Philadelphia interests.

I am afraid that under direct election, New Jersey would disappear from the thoughts of candidates and become in their minds, in their campaigns, and later as Presidents, just a part of New York or Philadelphia. New Jersey has more than enough trouble getting attention paid to its needs and problems under the electoral system. Under direct election, it would be forgotten.

Finally, I am also mindful of the impact of direct election on particular groups whose political strength is enhanced by the electoral system. While it is awkward to defend disproportionate voting strength in abstract, pure, democratic theory, as a practical matter it is vitally important to consider how direct election affects patterns of political strength. For minorities, especially, the ability to leverage votes into electoral strength is an important advantage. The history of changes in civil rights in recent decades shows that voting strength and economic power have been the tools of gaining equality. I am persuaded that the responsiveness of the South to civil rights changes—and the remarkable progress we have seen in such a short historical time—is due in large measure to the effective development and use of the franchise. Civil rights gains in the North, and in New Jersey, also have depended on political strength and the willingness to use it in Presidential elections.

The leverage that the electoral college gives to racial, religious, and ethnic minorities, is not a distortion of democracy, but a vital part of it. Democracy is more than majority rule. It is also respect, consideration, and attention to the rights and needs of the minority. We must preserve the electoral college system precisely because it is an integral part of our democratic system.

Finally, I have decided to vote against this amendment because I do not believe anyone can confidently predict what consequences it would have to our national structure. I think we alter our constitutional system at our peril. At no time, whether at the beginning, nor at any time since, has any group of individuals accurately predicted the consequences of the structural changes they made to our Constitution. Even the wise men who framed our Constitution in 1787 turned out to be poor prophets, indeed, in many important respects. They saw the electoral college as a group of savants that would stand between the common voter and a wise choice of leader. It did not work that way at all, and it did not work that way from the start. Those same wise men never contemplated the rise of party, and yet before the term of our first President was over, party had become a major factor in our constitutional scheme.

We are considering a change with implications far broader than any other structural change we have ever made in the Constitution. I believe no one can know or predict with any degree of certainty how direct election will alter our Nation and its political structure. I think it is just as likely that the change will induce more instability and doubt, and perhaps disorganization, as it is that it will correct an admitted potential defect.

I am persuaded that this imperfect constitutional structure has served us well for 200 years. It may be that the hand of Providence has guarded us against the disaster inherent in its fragile plan. But I would not tempt fate and support a change unless I were persuaded that the change was more than merely desirable. I must be persuaded that it is also necessary and imperative. I am not so persuaded. Therefore, I believe we should continue as we have in the past, with fingers crossed if need be. I would rather continue with the threat of a constitutional crisis, and trust in the judgment, patience, and good sense of the people of the country to see us through.

It is for these reasons, Mr. President, that I oppose the amendment advanced by my good and dear friend from Indiana.

Mr. THURMOND. Mr. President, I wish to commend the able and distinguished Senator from New Jersey. I know about pressures that have been on him concerning this question. He has given this matter consideration and has concluded that it would be unwise to change the Constitution in order to have the direct election of the President. He has made a very fine statement here, and he is to be highly complimented.

Mr. President, I yield myself such time as may be required.

Mr. President, Mr. Martin Diamond, who was professor of government and the holder of the Thomas and Dorothy Leavey chair on the Foundations of American Freedom at Georgetown University and an adjunct scholar of the American Enterprise Institute, testified on July 22, 1977, at a hearing of the Subcommittee on the Constitution of the Committee on the Judiciary of the U.S. Senate regarding an amendment proposed by the distinguished Senator from Indiana which we are now considering in this body.

This amendment would eliminate the electoral college and would provide for direct election of the President.

Only minutes after testifying Professor Diamond collapsed and died. Professor Diamond was a very outstanding witness on that occasion, and his testimony is so knowledgeable and so important that I wish to make the following quotations part of the RECORD. I wish to quote the following excerpts from his testimony. These are his words:

> I believe there has been a tendency on the part of the scholars, and perhaps even of politicians, to regard the Electoral College as the product of an old and archaic and outmoded and bygone era.
>
> That prejudice has worked to the disadvantage of the Electoral College. I believe that, far from being an old and outmoded instrument, it is, on the contrary, the very model (I hesitate to use the word *paradigm*) of a first-rate constitutional mechanism—namely, one which is old and to which the people are habituated. That habituation is a major source of legitimacy and an invaluable ingredient to free government. It is a model constitutional provision which is old and dynomically adaptive, which in every election has proven itself demographically responsive to changing conditions.
>
> As you know better than I, every presidential election is a new ball game. The Electoral College has adapted itself and historically evolved in response to the growth and the changing political, social, and economic characteristics of the country. That much can be said on the problem of its archaism.
>
> Let me proceed to the second point I wish to make. It is the most important objection made to the Electoral College, and it must be dealt with firmly: It is the idea that the Electoral College holds an undemocratic potential; that it is possible a candidate would be elected under the Electoral College system because he has more electoral votes, but fewer popular votes, than one of his opponents has. This is what Senator Kefauver called the "loaded pistol to our heads"—the possibility that a candidate will win the presidency because of having won the Electoral College but not the popular vote. That is the objection that must be dealt with if the Electoral College is properly to be defendable.
>
> Let me point out that the discrepancy between winning the popular vote and winning seats, or winning elections exists in every districted system of election. Let me start further afield. This discrepancy exists in the United Kingdom, which many American scholars and politicians admire for its parliamentary system. Under the British districted system, the Prime Minister is chosen and the Government is formed by the party that has won the majority of seats. In the history of the British parliamentary system, a party with a minority of the popular vote has frequently formed the Government. It is the inevitable consequence of there being a dis-

crepancy between winning seats in a districted system or electoral votes in an electoral system, and winning raw popular votes. It happened as recently as 1974, when the present Labour government won only a minority of the popular votes but won a majority of the seats.

To avoid the discrepancy between popular votes and electoral votes, or seat votes, or district votes, every vestige of districting, or any other electoral device, must be eliminated. That is the cost of the system now being proposed in place of the Electoral College.

I believe that the preservation of the districted basis of election—wards in cities, counties in states, and states in the American federal system—is invaluable to a free democracy such as ours. It permits responsiveness to minorities, for just one example. By and large, it is preserved in most of the Western democratic countries.

Now let me switch to a second aspect of this problem of the discrepancy between the popular vote and the electoral vote. The amendment you propose, sir, is called direct election of the President. Perhaps you will permit me to say that this is a misnomer. If I am right in my criticism, it is—with the best of intentions and with the best of rhetorical effect—a misnomer.

The President is now elected directly, in my judgment. There is now in the election of the President, under the Electoral College system, one person/one vote—in every state. The candidate with the most votes wins—in every state. The present system is federally democratic.

The only effect of the proposed amendment will be to increase not the democracy of the election, or the directness of the election, but the pure nationalness of the election. The sole practical effect of the amendment will be to diminish the federalness of the election, to eliminate the states from their share in the political process. We now have, in Indiana and Illinois and every state of the Union, one person/one vote and winner take all: the pure direct democratic principle of winning prevails in each state. The election of the American President cannot be made more directly democratic. It is being proposed to be made more directly national.

When the issue is put in terms of national versus federal elections, I believe the Electoral College may be defended with a comfortable conscience—not only a good, but also a comfortable, conscience. It is a means of preserving federal democracy, or a federal element, in the electoral process.

After a thoroughgoing dispute, and a process of give-and-take and compromise at the federal convention, the makers of the Constitution agreed to include the states in the process of selecting the President of the United States. In my judgment, that has proven invaluable in this centralizing age. When all forces tend to homogenization and centralization, we have a saving remnant of decentralization in the federal aspect of the election of the American President.

Regarding that federal aspect, let me end with this comment. I have heard proponents of the so-called direct election of the President make the point that the President, of all officials, should be chosen in a straight, national vote by all the people. He is, after all, our chief national executive officer.

I would answer in the language of the Constitution of the The Federalist. He is not simply our chief national executive officer. The President of the United States is also our chief federal officer. That is what has been forgotten by some of the proponents of the so-called direct election of the President.

The President is a federal and national officer. As with the Senate of the United States, there are both federal and national characteristics in the mode of his selection. As with the House of Representatives, there are both federal and national characteristics in the mode of his choice and operation. The Constitution created a compound state and national system. It built a role for the states into the choice of national lawmakers and of the national executive.

The sole constitutional effect of the proposed amendment is to defederalize and nationalize the election of the President. I regard that, in an age when our decentralized federal system has proved so manifestly of value to us, as a dangerous change and an unwarranted one.

Mr. President, the more I study this question, the more I am convinced that it would be detrimental not only to the smaller States of the Nation, as the study by the Library of Congress shows, but also to the larger States, because we will be transferring from a federal system of elections to a national system of elections. A federal system embodies the National Government and the respective State governments of the Nation.

Some time ago, I had the pleasure of reading an article in the Illinois Quarterly, written by Harry A. Bailey, Jr. Professor Bailey is a black man and he testified before the Constitutional Subcommittee of the Senate. He was an outstanding witness, and his testimony impressed everyone present.

He has prepared a pamphlet, and I would like to quote the following excerpts from this pamphlet, dated December 1973, volume 36, No. 2.

For years—

There has been a continuous expansion of the American national government in domains and endeavors long considered the prerogative and responsibility of state and local governments. This development has particularly alarmed people concerned with the future of federalism.

It is alleged that—

The electoral college method of electing the President is "archaic, undemocratic, complex, indirect, and dangerous. Most of the proposals boil down to three major plans: district, proportional, and direct election. These may be divided into two groups; There are those who favor retaining the present federal structure and those who favor altering the present federal structure. Retention of the federal structure assumes essentially no change in state control over the presidential electoral process. Alteration of the federal structure assumes considerable loss of state control over the presidential electoral process to the national government. Each of these will be discussed in turn.

PROPOSALS THAT WOULD RETAIN THE FEDERAL ARRANGEMENT

The district plan. This plan would retain the present federal system, although some of its less attractive features would be enhanced. District plans have varied widely in their details but the one given most consideration would divide a state's electoral vote by congressional district, on a district-by-district winner-take-all basis, retain individual electors, and keep the two electoral votes per state (based on the two federal senators). The plurality winner in the statewide vote would receive both of these votes. In the event no candidate won a majority of the nationwide electoral vote, the plan provides for a joint session of Congress to decide the matter in lieu of the present arrangement of selection by the House of Representatives.

The worst aspect of this plan, according to John Banzhaf, is that by reducing the unit rule to the level of congressional districts and retaining the two electoral votes for each state, the relative voting power of the citizens of the small states would be greatly increased, while the relative voting power of the citizens of larger states would be greatly reduced. Further, the district plan would drastically decentralize and localize presidential elections. The President's constituency would be about the same as that of the Congress.

The district plan would strengthen the congressional parties at the expense of the presidential ones. In this respect, James MacGregor Burns has argued that there are four parties in the American political system: that two presidential parties—one Democrat, the other Republican—which address themselves to the nation as a whole, and the two congressional parties—one Democrat, the other Republican—which are concerned primarily with local issues.

Strengthening the congressional parties at the expense of the presidential ones would be unfortunate for two reasons: 1) the congressional parties—individual Congressmen in control of their districts—are by definition, aloof from national trends; 2) the districts, themselves based on House districts, are unrepresentative of the nation. To the extent that this occurs, the "national" nature of the presidency would be lost.[7] However, the district plan would maintain the present federal arrangement because of its retention of two electoral votes for each state beyond those allocated on a population basis.

The Proportional plan. This plan would divide each state's electoral vote, including the two votes corresponding to a state's federal senators, in proportion to the popular vote in that state. It would eliminate the unit rule or winner-take-all aspect entirely.

The proportional plan, unlike the district plan, eliminates the human elector or electoral discretion in favor of the automatic casting of electoral votes. Like the district plan, however, the proportional plan also provides for a joint session of Congress contingency procedure, except that in this case a candidate may receive just under 40 percent of the electoral vote before the contingency procedure becomes operative. In the district plan, anything less than a majority of the electoral vote puts the contingency feature into operation.

Under the proportional plan, as under the district plan, the relative voting power of small state citizenry would be inflated due to the continued existence of an electoral vote for each of a state's two federal senators. Moreover, minus any unit rule (some of which the district plan retains), there would be no means to counteract the weight gained by each small state as a result of the "constant-two" electoral votes. That is to say, small states have two electoral votes for their federal senators just as do large states. However, this small state advantage vis-à-vis large states is offset to some extent by the existence of the unit rule, i.e., large states gain by the presence of the unit role or winner-take-all arrangement. Barring the unit role would result in a transformation of "the present electoral college system with its countervailing biases into a single, systematic bias" favoring small states.

The important matter to note, for purposes of this paper, is that the federal arrangement would be maintained under the proportional plan. This is true because the plan retains the constant-two electoral votes for each state, large and small alike.

The proposals which would alter the federal arrangement include the direct election plan, which we are considering here.

The direct election plan is the one proposal that would seriously alter the American federal system. The direct election plan would not reform the electoral college as would the district and proportional plans; it would abolish it.

There have been in fact not one but two principal proposals for direct election of the president. The first would set up a single election (one without a run-off provision) with the winner being the candidate obtaining a mere plurality of the popular vote. This arrangement would, of course, enable a candidate securing the approval of, theoretically, a minute portion of the electorate to become president of the entire country. The advantage of this arrangement is its simplicity and decisiveness. As Sayre and Parris have said, " 'spoilers' would no longer be able to delay an election decision." However, the possibility of the presidency resting on only a fraction of the popular vote would do away with any semblance of representativeness; this plan would not seem to be an acceptable one in any case.

The second proposal for direct election of the president makes two distinct elections possible, and that is what is proposed here, in the amendment proposed by the distinguished Senator from Indiana. The candidate receiving 40 percent or more of the popular vote in the first election would become president. If, however, no candidate gets more than 40 percent of the vote, there would be a run-off (second) election between the two who ranked the highest. This plan is also noted for its simplicity, as well as for its capacity to abolish discrimination in "voting power" throughout the country.

Despite its simplicity, the direct election plan presents severe challenges to the current role of the states in the American federal system. Herbert Wechsler has said, "the continuous existence of the states as governmental entities and their strategic role in the selection of the . . . President are so immutable a feature of the system that their importance tends to be ignored." The same observer has written, "And with the President . . . the crucial instrument of the selection . . . through electors—is the states . . . states are the strategic yardsticks for the measurement of interest and opinion, the special centers of political activity, the separate geographical determinants of national as well as local politics."

Daniel Elazar, a distinguished scholar of American federalism, makes clear the special nature of each American state. He wrote, "Every state . . . is a *civil society*, a relatively complex social system organized and defined politically which (1) pursues a particular conception of justice that it makes its own; (2) encompasses a wide variety of social and economic interests; (3) is charged with considerable responsibility for satisfying the technological, economic, and social needs of its people; and (4) is capable of authoritatively mobilizing the resources necessary to do so in a manner sufficient to ensure its own maintenance.

"Every state as a civil society possess its own *political system* to handle its internal government and authoritatively manage the pursuit of common political ends. This political system, which includes the formal agencies of government and the structure of internal interests and electoral groups that influence the formulation and execution of public policy within the boundaries of the state, is one of a number of 'systems' (i.e., the social system, the educational system) that together make up a civil society."

Precisely because each American state is a civil society, each becomes infused with the purposes and needs of its various ethnic, religious, racial, and economic groups and thus develops a separate identity. An important practical effect, then, of the electoral college is its capacity to insulate the political system of one state from that of any other state. Beyond this very practical consideration, the electoral college has tremendous symbolic value in that it confirms the federal structure which guarantees small and large state equality in the Senate.

Meyer Kestnbaum, an eminent student of intergovernmental relations, has written: "The proper division of labor and authority between the nation and the states is the key to maintaining the federal nature of our systems of government." The direct election plan would alter this division since federal controls over elections to include the setting of identical age, literacy, and registration requirements throughout the country, as well as the federal administration of elections would be necessary.

This is because each voter would have an immediate interest in the fairness and accuracy of election machinery in every other state, a concern not now evidenced. Because state borders would be irrelevant in aggregating the vote for president, there would be no remaining separation between the states and the national government in this one instance.

By obfuscating the distinctions and powers of the states as separate entities from their citizens, the principle of federalism (i.e., reduction of government into two distinct levels—national and state—with separate powers, functions, and responsibilities for each) would be weakened. This one move in the direction of a clear, undivided 'national will' would result in additional power accruing to the national government at the expense of the states. 'National will,' in this case, refers to that conglomeration of interests which elects the president. In actuality, there is only a limited national will. What really exist are 'state wills,' each of which is measured and given strength individually. In the election of the president, an individual's opinion has force only in the state in which he resides. Thus there are mainly 'state wills' which from time to time come into agreement to form what we call the national will. The electoral college is the device which makes this process possible and workable.

Adoption of the direct election plan would threaten the continued existence of the present nominating process. The logical consequence would be a nationwide presidential primary operating along the same lines as the direct election. If none of a party's candidates received a plurality of at least 40 percent, a run-off would be held between the top two candidates. Thus if both direct election for the President and a nation-wide primary were adopted, the likelihood would be four national elections in a three-month period, since few candidates could be expected to get 40 percent of the vote where several candidates vie for the nomination of their party and several parties compete for the presidency. There is no gainsaying the wear and tear on the American voting public and the likely consequences, one of which would likely be increased voter apathy. More corrosive of federalism, a national primary would have the effect of reducing the importance of the states as civil societies in the election of the President.

Constitutional stability could be affected by abolition of the electoral college. The direct election plan could make possible a worse situation than what has usually happened in the history of presidential elections. Under the extant system, most winners of the presidency have garnered a good deal more than 40 percent of the popular vote and thus have enjoyed considerable legitimacy as president because the popular plurality has almost always converted to a majority in the electoral college. Since 1824 when the popular vote was first recorded on a nationwide basis, only four presidents have secured less than 45 percent of the popular vote. They were John Quincy Adams in 1824 with 31.9 percent, Abraham Lincoln in 1860 with 39.8 percent, Woodrow Wilson in 1912 with 41.9 percent and Richard Nixon in 1968 with 43.4 percent. Twenty-nine of the 38 elections since 1824 have sent to the presidency men who secured more than 48 percent of the popular vote. The remaining five presidents who captured more than 45 percent of the vote but less than 48 percent were Zachary Taylor in 1848 (47.3 percent), James Buchanan in 1856 (45.6 percent), Rutherford Hayes in 1876 (47.9 percent), Benjamin Harrison in 1888 (47.8 percent), and Grover Cleveland in 1892 (46.0 percent).

The two-party system would be affected considerably by the abolition of the electoral college. Presently minor parties can win votes in the electoral college only by carrying an entire state. Since few minor parties can succeed at this, they soon wither and fade away. However, the run-off provision of the direct election plan would likely give rise to minor parties competing seriously for the presidency. Indeed, a minor party could conceivably earn enough votes to win an election where two major parties divide the vote. Failing this, a minor party, in forcing a run-off, could conceivably help elect a candidate who is in fact the voters' second choice. Dorothy Buckton James concludes that the electoral college inhibits development of a multi-party system.

The "umbrella function"—the bridging of a wide variety of interests in American life —performed by each of the two major parties would be endangered by the direct-election plan. Just as the two-party system requires the various interests to bargain and form coalitions *prior* to elections as opposed to multi-party systems which foster bargaining and coalitions *after* elections, so it is that national conventions foster bargaining and compromise *prior* to elections as opposed to runoff elections which extend bargaining and compromise to a more critical juncture in the electoral process. The bargaining of politicians at a national convention seems eminently preferable to asking voters to reorder their choice for president at a run-off election. The very circumstance of the necessity to balance group and sectional interests in selecting a potential chief executive of a multi-group society engenders this preference.

Finally, the direct election plan would alter the relationship of state and local politicians to national politicians. States are the level at which American political parties are constituted. The real power is at this level with national parties emerging at four-year intervals to meet very defined tasks. Elimination of the role of the states in the presidential selection process would transfer much of the power of state and local politicians to national politicians. Here, again, the balance between national and state power would be considerably altered, and federalism jeopardized.

CONCLUSION

Many observers see the electoral college process of electing an American president as a remnant of an age when mass democracy was a possibility to be feared. These same observers argue the logic for such fears no longer holds and, what is more, the electoral college poses a greater threat than direct election because of its possibility for deadlock. So too, many see the present hybrid system (party primaries, state conventions, as well as the national conventions) for nominating a president as too gruelling for the candidates, and too chaotic for many of the citizenry to understand or respect. But as the eminent scholar of American federalism, Morton Grodzins, has said, "Decentralization by mild chaos is more desirable than centralization by order." This is a persuasive argument for the view that the present role

> of the states, in presidential election and nominating processes, be taken as a datum of American federalism which should not easily be tampered with. Herbert Wechsler puts it concisely: "the President must be . . . the main repository of the 'national spirit' in the central government. But both the mode of his selection and the future of his party require that he also be responsive to local values that have large support within the states."
>
> Perhaps a new constitutional scheme for the selection of the President and Vice-President is in order, but whatever reform is adopted must clearly recognize that the politics of the American federal system is at least complex and that real damage to American federal principles could result if parties and candidates, by virtue of the electoral process, become unconcerned with state interests.

Mr. President, I think it is clear, and will be to the people of this country, that they do not favor a system that takes the power of elections away from the States and transfers it to a national system in Washington. That is what the direct election system does.

Right now, the States conduct their own elections and we get the consensus in each of the 50 States of the Nation. We do not just get a popular vote by all the people in the Nation.

Some people say, "Well, if you elect the Governor of a State by a popular vote, why can't you elect a President that way?"

Well, this is no argument at all. The States are sovereign entities and they elect their State officers by popular vote, but when we elect a President who is going to serve all the people of the Nation and all the States of the Nation. We have embodied in the Constitution the federalism that has proved so worthy down through the ages.

If there is going to be change, I would prefer the district system or the proportional plan. That way, we would take elections back to the grassroots and to the people. We would not destroy federalism. But if we adopt a direct election system, we transfer all of the powers of elections to the Federal Government.

It is easily understandable that the people of a State, as I have stated previously, would want their State to have as much power as possible. If we adopt this direct system, then we would have States vying with each other to let 17- or 16-year-olds vote so they would have more votes.

It would come to a point where we would have to have a uniform system. Otherwise, there would be chance-taking and there would be competition for a State to get as many votes as it could in order to exert more influence in a national election. That would be bad.

Mr. President, again I say in closing that we do not want to change the Constitution in such a way that we destroy federalism. We want to keep the system in a way that preserves for the States the control of the elections, and in that way we preserve a very important principle that was embodied in the Constitution of the United States.

I hope the Senate will think most carefully over this matter, because the vote today is one of the most important votes that will ever be cast by a Senator in the United States.

It is a question of whether we want to retain federalism that has served us so well down through the years, or whether we want to adopt a centralized, all-powerful system to give the National Government all of the power over elections and ignore those principles embodied in the Constitution by James Madison and the others who were at the Constitutional Convention.

It is my sincere hope that this amendment by the distinguished Senator from Indiana will be defeated and that we will not go to a national system of elections in this country.

The **PRESIDING OFFICER**. Who yields time?

Mr. **BAYH**. Mr. President, I am glad to yield to the distinguished Senator from Minnesota.

The **PRESIDING OFFICER**. The Senator from Minnesota.

Mr. **BAYH**. I believe the Senator said he wanted 10 minutes.

Mr. **DURENBERGER**. Ten minutes.

The **PRESIDING OFFICER**. The Senator from Minnesota is recognized for not to exceed 10 minutes.

Mr. **DURENBERGER**. Mr. President, it hardly seems necessary to restate the potential for constitutional crisis that lies in the electoral college system. Each time the Nation approaches a Presidential election, the possibilities are exhaustively discussed, in both private conversations and the analysis of political experts. Yet despite widespread recognition of its flaws, the electrol college and its potential for constitutional crisis has stubbornly remained in the law.

Unquestionably, the system's most serious flaw lies in its inability to insure that the candidate supported by the majority of American voters will win the election. It was, after all, only 90 years ago that Grover Cleveland won a plurality of the popular vote only to lose the Presidency to William Henry Harrison. The obstacles to Presidential leadership have magnified since 1888, and it is doubtful that a President "elected" under such circumstances could lead the Nation today. With confidence in the responsiveness of Government at an alltime low, we cannot indulge in the luxury of perpetuating the electoral system until a similar circumstance recurs.

Nor can we ignore the possibility that a close election might be decided by a "faithless elector." Present law does not require that electors follow the voter preference in their State. And the risk in this system is more than hypothetical, as illustrated by the fact that in six of the past eight national elections, electors have deviated from voter expectations. Present law does not only perpetuate this possibility, it raises the more serious possibility that a close three-way race could be decided by two candidates agreeing to "pool" their electors against the express will of the public. The prospect of such an electoral swap was seriously discussed during George Wallace's 1968 campaign, and any system which can permit a few men to override the will of the people is in serious need of overhaul.

Of equal concern are the so-called contingency election procedures, which place the election in the House of Representatives if no candidate receives a majority of the electoral vote. Under the constitutionally mandated one-vote-per-delegation system, it is highly possible that a partisan house majority would overlook the voters' choice and select the candidate of their own party, be he a second- or third-place finisher. Moreover, we should bear in mind that the House of Representatives cannot legally meet until January 3—barely 2 weeks before the scheduled inauguration. Even should the House reach a quick accord, the new President would be left with scarcely 2 weeks in which to assemble his administration. But there is no guarantee that the House could act with dispatch, given the requirement that it choose among the top three contenders. It is highly conceivable that none of the three would amass a majority—or that a third-place finisher might ultimately become President. However time consuming the runoff election procedures under the proposed amendment might be, they offer a far better chance that the result will reflect the public will than the convoluted system they replace.

The fact that these eventualities have not occurred is a poor argument against change. The system permits them to occur, and each would precipitate a serious constitutional crisis. It makes far more sense to remedy the problem before the crisis occurs than in its aftermath.

The truth is, however, that the most damaging effect of the electoral system has already occurred, in every State and in every Presidential election. For with its "winner take all" requirement, the electoral college effectively disenfranchises every man and woman supporting the candidate who fails to carry their State. Under that system, votes for the losing candidate have no significance whatsoever in the overall outcome of the election. And for this reason, candidates who either pull far ahead or fall far behind in a State have the incentive to "write it off"—simply ignore it—in planning their campaign appearances. In contrast, the proposed amendment would grant every vote the same degree of significance in determining the final outcome. Candidates would be forced to consider their margins in every State, and the tendency to ignore a "safe" or "lost" State would be sharply diminished. By restoring the significance of every vote, Senate Joint Resolution 28 increases the incentive to vote, which in itself is a significant argument for passage.

The arguments raised against the amendment simply do not outweigh the positive results it achieves. While the proposed system might provide a marginal incentive toward recounts, this is hardly a significant concern. Recounts would not be carried on at a national level, but on a precinct-by-precinct basis as they are today. There is no reason to doubt the ability of States and localities to manage a recount, and nothing to suggest that a candidate would frivolously incur the expense of requesting one. And even if this were not the case, the potential danger in selecting a President rejected by a majority of the voters far outweighs the potential inconvenience in administering a recount.

Nor is the suggestion that direct election will allow single-issue parties to distort the electoral process persuasive. That argument rests on some negative assumptions about the intelligence and integrity of American voters, and I simply cannot accept those assumptions. The great majority of voters recognize that Government deals with a multiplicity of problems, and will not be swayed by any single issue no matter how significant. There is no reason to believe that single issue voting will be more prevalent under the direct election system than it has been under the electoral college, and nothing in this argument outweighs the benefits flowing from improvement of the electoral process.

Mr. President, it is no secret that because of its high voter turnout, Minnesota would gain more influence under a direct election system than any other State. But I want to stress that my reasons for supporting this amendment come not from what it would do for Minnesota, but rather from what it would do for the Nation. In its present form, our Presidential election system is truly a crisis waiting to occur. There is no good argument against exercising the foresight to remedy that system, and this afternoon's vote is a unique opportunity for every Member of the Senate to alter the course of history in a positive manner.

Had the Founding Fathers adopted a direct election system, it is inconceivable that anyone would be rising after 200 years to propose replacing that system with the electoral college. My predecessor, Hubert Humphrey, put it well when he told the Judiciary Committee just 2 years ago:

> The fundamental principle on which our democracy is founded is that the people governed shall have a controlling voice in their government. This means that they shall elect their public servants by popular vote. We in the United States can no longer abide by a system that is not governed by this principle, by at least what we call majority rule.

We can no longer abide by that system, and each of us has the opportunity to alter it by his action this afternoon. I will vote to do so.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, I yield myself 60 seconds, which is entirely inadequate, to express the deep appreciation that the Senator from Indiana has for his colleague from Minnesota.

I find his reasoning extremely persuasive. His argument effectively dealt with some of the strawmen that have been set up by the opponents.

One can easily imagine all sorts of horror stories. One can imagine walking down the front steps of the Capitol and having one of the pillars fall on him while he is on the way over to the office building. But that kind of thing does not happen very often.

The improbability of some of the terrible consequences described by the opponents was effectively brought across in the very fine speech of the Senator from Minnesota. I think the chances of these things happening are just about as great as the possibility I mentioned of the pillars falling.

The chance of a regional president, of endless recounts, of rampant fraud, and all the other horror stories we have heard as excuses not to give the people the right to vote for their President directly—those things can all happen under the present system. They do not happen very often, fortunately, but they can occur.

Again I thank the distinguished Senator from Minnesota for voicing his support and for making his eloquent presentation here today.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I ask unanimous consent that Miss Liz Nichols, of the staff of Senator MATHIAS, have the privilege of the floor during the consideration of and vote on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

If no one yields time, time will be charged equally against both sides.

Mr. BAYH. Mr. President, I suggest the absence of a quorum, with the time to be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, it has come to the attention of the Senator from Indiana that the 7-year time limit for submission and ratification by the State legislatures is in the preamble.

Frankly, the Senator from Indiana does not look forward to another extension confrontation such as the one we had with the equal rights amendment. Some have suggested that the danger of such an extension controversy would be alleviated if the 7-year time limit were put in the body of the amendment.

UP AMENDMENT NO. 312

I ask unanimous consent that an additional section, section 5, be placed following section 4 of Senate Joint Resolution 28, thus taking the preamble language relative to a 7-year time limitation for ratification and putting it in the body of the amendment. This will insure that if we should get the necessary two-thirds required for passage today, ORRIN HATCH, STROM THURMOND, and BIRCH BAYH are not going to be sitting here in 7 years arguing the issue of time limitations as we have in the past.

The amendment is as follows:

On page 2, line 3, beginning with "States," strike all down through "Congress:" on line 6, and insert in lieu thereof the following: "States:"

On page 4, after line 5, insert the following new section:

"SEC. 6. This article shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress."

On page 4, line 6, strike "6" and insert "7".

On page 4, line 8, strike "7" and insert "8".

Mr. BAYH. So that there will be no question, let me say that we are talking about a purely procedural matter here. We are not talking about the substantive question that existed with regard to the ERA extension last year.

The Senator from Indiana can offer this amendment in good conscience, and I hope that my colleagues will go along, because I think it basically accomplishes something we are trying to do. If we are going to pass a direct election amendment, let us make sure that we pass the most fair and equitable one possible.

Mr. THURMOND. Mr. President, I have no objection to that amendment, if the Senator wishes to offer it.

Mr. HATCH. Mr. President, reserving the right to object—and I shall not object—I compliment the distinguished Senator from Indiana for clarifying this matter in this way.

It is one of the amendments we had filed against this bill, and it certainly would correct that still ambiguous determination, whether or not the 7 years is to be within the amendment or whether being in the preamble is sufficient.

So I have no objection and am pleased to have it in the amendment itself.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is in order.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HATCH. It is my understanding we have 52 minutes remaining. I will put most of my remarks in the RECORD as quickly as possible. I wish to do that, but I wish to not have that time start to run until the Senator's time comes down to that extent. If we can do so, we will have about an equal amount remaining for the last few minutes. Why do not I put these matters in and ask the indulgence of my friend from Indiana to try and make it so we will have some time here at the end of this debate today. We still have 3 hours to go.

Mr. BAYH. I think it is a fair request that Senators be permitted to have some time to speak at the close of this debate. I hope that my colleagues will understand that.

Mr. HATCH. We do.

Mr. BAYH. We have some Senators waiting in the wings to speak.

Mr. HATCH. We are prepared to have them all come over to speak.

Mr. BAYH. The other side has had most of the speaking opportunities here thus far.

Mr. HATCH. That is correct.

Mr. BAYH. I do not know how exactly I want to deal with that.

Mr. HATCH. I think we can work that out.

Mr. BAYH. I see the Senator from Massachusetts is here.

Mr. HATCH. Right.

Mr. BAYH. Would my distinguished colleague from Utah object to disposing of the question at hand? Mr. President, I move that the subject of the unanimous consent——

The PRESIDING OFFICER. Will the Senator send the amendment to the desk?

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. The unanimous-consent request has made such that an amendment by the Senator from Indiana is permissible. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. I thank my two distinguished colleagues of the opposition for their courtesy.

I see that my distinguished colleague from Massachusetts is here to speak.

Mr. HATCH. Mr. President, will the Senator yield so I may put these matters in the RECORD and then I will be happy and delighted to yield to my friend from Massachusetts.

Mr. BAYH. I am happy to yield.

HOUSE OF REPRESENTATIVES AS A MAJORITARIAN BODY

Mr. HATCH. Mr. President, we have argued extensively that the one-man, one-vote issue does not apply, nor should it, in the election of the President, the Senate, and in the selection of Supreme Court Justices. Nor does it apply with respect to the functions of these branches: The President is allowed to veto legislation endorsed by a majority of the direct representatives of the people; the Constitution cannot be amended by a simple majority nor is law made or treaties ratified on the basis of majority rule; and the Supreme Court can overturn decisions that might have been reached by an overwhelming consensus of the people and their respective representatives. We have ably demonstrated that the Constitution contemplates a number of nonmajoritarian institutions.

Almost completely overlooked in the argument, however, is the fact that the one-man, one-vote principle does not even apply strictly to the House of Representatives. Edward S. Corwin and J. W. Peltason, two of the leading authorities on the U.S. Constitution, make this point in the eighth edition of their excellent text, "Understanding the Constitution." We read concerning article I, section 2, clause 3 which stipulates that the number of representatives shall not exceed 1 for every 30,000:

> This restriction of the size of the House of Representatives is now meaningless. After the 1970 concensus, our resident population (excluding the District of Columbia) was 203 million. The constitutional limit would allow for 6,766 Members (203 million divided by thirty thousand). Obviously, a Chamber this size would be of little value; Congress, by law, has limited the number of representatives to 435, approximately 1 Representative for every 467,000 persons.
>
> After the 1970 census, three states, Wyoming, Vermont, and Alaska, had fewer than 467,000 inhabitants; each, however, was given its constitutional minimum. (Nevada with 489,000, Delaware with 548,000, and North Dakota with 618,000 also only have one representative. Even though their population is above the national average, it is not sufficient to win for them an additional seat). Because of this requirement, even the House of Representatives cannot provide that every person in the United States has equally weighted voting power with every other person; one person in the least populous states has slightly more voting power than a person in more populous states.

THE CASE AGAINST DIRECT ELECTION

Mr. President, the cry for direct election of the President has been urged upon the public by those who suggest that a change is necessary to avert a "crisis." The proponents of direct election stress that the electoral system is an archaic system that should no longer be tolerated. Behind the alarming rhetoric, there is little substance that would indicate that the electoral college has not performed strikingly well the function of peacefully electing a President of the United States since the beginning of the country.

To begin with, the electoral system has for 200 years operated to select a President; there has never been a major crisis in the past, but rather a smooth transfer of executive power. Americans may fail to appreciate just how successful the transfer of executive power has been unless they look abroad to other nations, the majority of whom have not yet succeeded in devising systems that transfer power without periodic violence. With such a successful past history, those who wish to completely do away with the electoral vote system bear a heavy burden to show that there is a telling need to do so.

Supporters of direct election, such as Senator BAYH, assert that the constitutional crisis which could theoretically occur under the electoral college is a "runner-up President."

The election of 1824, 1876, and 1888 are often cited as examples of the electoral college "misfiring" and electing runner-up Presidents. The question that comes to mind is why was there no constitutional crisis if a runner-up President was actually elected? The answer is that the runner-up President produced no constitutional crisis.

Furthermore, the election of 1824 does not illustrate the misfire of the electoral system. In this election, John Quincy Adams defeated Andrew Jackson despite receiving fewer popular votes. However, this occurred largely because several of Adams' strongest supporting States, such as the large State of New York, cast no popular vote at all for the Presidency. In 1824, the legislatures of six States were responsible for determining electors, rather than using a popular vote. No valid conclusion concerning who won the popular vote can be reached when about half the States did not cast a popular vote.

The next election is that of 1876, in which Rutherford Hayes received fewer popular votes than Samuel Tilden, yet became President. This election is widely recognized as the most corrupt Presidential election in our country's history, when Tilden suffered a one-vote electoral loss at the hands of a partisan Electoral Fraud Commission. As one respected historian concluded, "We will never know who received more popular votes." In summing up the election, Prof. Judith Best of the State University of New York has stated:

> In our centennial year, the electoral process was so debased and dishonored by fraud and intimidation that only an eccentric majoritarian would single out the technical runner-up presidency of Hayes as a matter for criticism and concern.

In the election of 1888, which is frequently cited by critics of the electoral system, Grover Cleveland was defeated by Benjamin Harrison despite receiving seven-tenths of 1 percent more of the popular vote. In a new study done by the Library of Congress, it indicates that the slim majority received by Cleveland resulted from intimidation and fraud, both in the Tammany Hall precincts of New York City, and against black/Republican voters in the South. The study, done by Joseph Gorman, an analyst in American Government, concludes that:

> The evidence seems overwhelming that not only was the electoral college "misfire" of 1888 created by intimidation and fraud against black/Republican voters in the South, but that the majority of the Nation realized this was the case.

As for creating a constitutional "crisis" which the supporters of direct election proclaim would be the result of a runner-up President, the same study by Joseph Gorman states:

> Thus, to contemporary America, the election of 1888 demonstrated the need to retain the electoral college rather than illustrating how it could be used to thwart the will of the people.

In fact, the study indicates that had the fraud against the black voters in the South not occurred, Harrison would have won the popular vote.

In summing up the three elections used by Senator BAYH and his supporters, it is doubtful whether a runner-up President ever occurred under 200 years of the electoral college except in cases of fraud or when half the States cast no popular vote. Yet, even if one wished to concede for the sake of argument that the electoral college produced a runner-up President in the past, the examples of 1824, 1876, and 1888 only serve to illustrate that a constitutional crisis does not occur in the case of a runner-up President.

But what about the elector who votes contrary to the pledged loyalties of the State? Opponents of the electoral college often raise the issue of the so-called faithless elector as additional evidence of the irreparable defects in the present electoral college system.

Historically, the problem of the faithless elector has been minuscule, with less than a dozen of the 18,000 electors elected ever casting their votes contrary to the pledged loyalties of their States; never has the possible outcome of the election been altered in any way by this voting switchover. Yet, the possibility and significance of an elector voting independently of pledged loyalties is increased with the possibility of a close election. Although the critcal influence of a faithless elector on the election outcome is not a high probability, it is a possibility and therefore it may be well to have the necessary machinery prepared if that possibility should materialize.

Does this unlikely possibility justify the abolishment of the present system or could a remedy be found with less far-reaching repercussions? Prof. Charles L. Black, Jr., in a recent article in the Louisiana Law Review argues one possible solution to the problem. He reasons that "the problem of the faithless elector is a problem, primarily, not of constitutional law, but of contract law." He supports this observation by explaining that the elector has made an express or implied-in-fact promise to vote for a specific candidate with the voters and should therefore be dealt with according to contract law, which is the area of law customarily used to deal with broken promises. A constitutional amendment should not be necessary to bind the elector to vote the way his constituency did.

The problem then, according to Professor Black, is primarily the question of procedure for enforcement of the contract. He suggests that since the Houses of Congress are already responsible for judging the validity and effect of certificates from the electors, recourse to a court is unnecessary and that—

> Congress should, when needful, have those simple powers of a court of equity which would suffice in this situation—the power to reform an instrument to conform to legal obligation, and . . . the general equitable power to treat that as done which ought to be done.

As a final precaution he suggests that it would be wise to codify it all so it would occur automatically. The remedy to the problem, then, is the application of simple contract law and remedies instead of a constitutional amendment.

For those who cannot accept that the problem of the faithless elector can be cured without a constitutional amendment as suggested by Professor Black, a less radical amendment than direct election would be highly preferable. This amendment could be one which simply binds the elector to cast a vote which directly reflects the votes recorded in that State according to proportion or the "winner-take-all" philosophy. Although this solution may still require an amendment to the Constitution, its impact would not be noticeable in the present system except upon the remote occasion when an elector might try to vote differently from the popular vote in his region, and then it would efficiently, and automatically solve the problem without any additional far-reaching, unforeseen effects that the more radical amendment of direct election would cause.

When evaluating the proposal for direct election, it is important not only to recognize that the fears paraded by direct election proponents are extremely unlikely to occur, but also that it is crucial to carefully analyze the other results upon the political process that the imposition of direct election will cause. As the late President John F. Kennedy eloquently remarked in defense of the electoral process:

> It is not only the unit vote for the presidency we are talking about, but a whole solar system of power. If it is proposed to change the balance of power of one of the elements of the system, it is necessary to consider the others.

In changing something as fundamental as the electoral system which has functioned smoothly in the past, the late Prof. Alexander Bickel of the Yale Law School cautioned, "the sudden abandonment of institutions is an act that reverberates in ways no one can predict and many come to regret."

Recognizing that any reasoned debate must also consider the dark side of any new proposal for change, it is interesting to note that the proposal for direct election, Senate Joint Resolution 28 could produce a runner-up President. Under the proposal no one will be declared a winner unless the threshold of 40 percent of the popular vote is obtained by at least one candidate. If no candidate receives more than 40 percent of the popular vote, then the two candidates receiving the highest counts will have a runoff. In the runoff the past votes cast are no longer valid. Thus, it is possible that the leading candidate in the first election who received 39 percent of the vote will be running against the candidate who received the next largest bloc of votes of 25 percent. However, if the runner-up candidate who originally received 25 percent of the votes now gets more votes than the candidate who originally received 39 percent, then the original runner-up candidate becomes President.

The proponents of direct election have not offered an adequate study of the possibility of electing a runner-up President under the electoral college. The possibility appears remote when it is observed that it has not happened in the past except in fraudulent elections or an election in which almost half of the States cast no popular vote. This proposal, Senate Joint Resolution 28, creates the possibility of electing a sectionalist President. This could occur under direct election with a candidate winning big in one section of the country, or even one State in the country, but who lost by small margins everywhere else. In fact, this specific proposal, Senate Joint Resolution 28, would permit the election of a candidate who won nowhere, but received a 40 percent plurality overall, but was opposed by 60 percent of the voters. Certainly these results would also present the danger of a constitutional crisis that would adversely affect the ability of such a winner to govern.

THE IMPACT OF DIRECT ELECTION ON MINORITIES

Columnist George Will has observed:

> The permanent problems of this nation are race and regionalism: the electoral system serves, I believe, to ameliorate both problems.

The minorities would be harmed under direct election because they would no longer be assured of attention to their demands because the "swing vote" they currently exercise in closely contested electoral States would be eliminated. When aggregating the vote on the national level, their vote does not determine whether a candidate wins or loses the entire electoral vote of a State, but is simply averaged into the national pool. It is, therefore, much easier for a candidate to avoid paying attention to minority demands under direct election because the result is not the entire loss of a closely contested State's vote, where 50,000 minority votes mean taking "all or none" of the electoral votes in a State: All that is lost under direct election is a few minority votes, not the vote of the entire State. The Black Forum, the NAACP, the SCLC, the Urban Coalition, PUSH, and other black groups, stated that direct election would result "in serious setbacks for minorities."

Eddie Williams of the Joint Political Center explains that:

> The concentration and influence of black voters in major electoral states accord the black vote a measure of respect which could easily be lost under direct election . . . less attention will be devoted to the concerns of those groups of citizens who are on the low end of the socioeconomic ladder, and particularly those who have relatively low rates of political participation.

Cardiss Collins, the distinguished Congresswoman who spoke for the Congressional Black Caucus, replied to Senator **Bayh** that the general consensus of black leaders is:

> Black Americans must remain extremely vigilant against measures which may either intentionally or inadvertently have the effect of reducing our power at the polls * * * the general consensus among black leaders is that direct election of the President would most likely have the effect of reducing the significance of the black vote.

The Brookings Institution study in 1970 also pointed out that direct election would work against blacks in still another way. It would magnify the political weakness blacks already suffer in terms of their relatively low registration and turnout rates, especially in the South:

> Groups lower in socioeconomic status, who are less likely to vote than are the more affluent, would stand to lose under the direct-vote plan. This is because voting would be the basis for representation in the nationwide tally: under the existing system, population is the basis of the size of a state's representation in electoral votes.

Black Americans are not the only minority that will lose influence under direct election. As the Washington Star stated:

> Jews, Catholics, blacks, farmers, and other minorities will suffer. The electoral college system gives minorities a chance to seize center stage in the battle for electoral votes of key states.

The American Jewish Congress, testifying before the Senate, agreed:

> By tending to inhibit the nomination of candidates likely to be objectionable to sizable minority groups, the electoral system assures attention to the needs and desires of groups whose interests might be given much less consideration under a system of direct election.

The Black Leadership Forum also pointed out that the setback would also be for other minorities as well as blacks:

> By virtue of their residential and voting patterns, racial and ethnic minorities derive some political advantage under the electoral college system * * * the late Alexander M. Bickel of Yale Law School was a major proponent of this view. The 1970 Brookings Institution study on "the Electoral College and the American Political System" also makes this point. The American Jewish Congress, the NAACP, the National Urban

> League, and the Joint Center for Political Studies among others, share this view * * * since ethnic groups living in urban and suburban areas would be of less strategic importance, their pressures on policy formation would be less effective. These groups prominently include Negroes, Jews, Irish, Puerto Ricans, and Italians, among others.

The American Farm Bureau Federation explained that direct election would harm the agricultural minority vote as well as other minorities.

> The abolition of the electoral college will destroy much of the effectiveness of minorities in presidential politics . . . the adoption of a national plebiscite (direct election) as the method of electing our president will swallow up agriculture in presidential politics.

Prof. Jean Kirkpatrick, of Georgetown University, states that the tendency to ignore minorities would actually occur under direct election:

> The smaller the electoral unit, the more important are all the people and groups which compose it. The Polish vote is more important in Milwaukee than in Wisconsin and more important in Wisconsin than in the Nation. Black, Jewish, and Latin votes in New York are much more important now than they would be if the State's votes were aggregated with those of a nationwide electorate . . . under direct election, a rational campaign strategy would scratch them off, write them off, forget about them . . . the electoral college forces politicians to take account of all minorities—urban, rural, ethnic, religious.

Another matter that greatly concerns those opposed to direct election is that it will greatly magnify the role of the national media in Presidential election campaign. Greater emphasis on the political commercial at the expense of grassroots organizations is likely to be the result. Curtis Gans, testifying on behalf of the Americans for Democratic Action in 1977, explained:

> For two decades, or ever since the advent of television as a central factor in American lives, the practice of politics has increasingly been dominated by the political commercial, image making and mass media manipulation. Only the need to maximize the vote in key States has forced national campaign managers to expend resources for organization in the several States. However, should this Nation move to a system of direct popular vote for president, what few remaining incentives to political organizations would be lost. Electoral contests would be between Pat Caddell and Robert Teeter, between Deardourff and Bailey and Rafshoon. The contest would not be among those who could recruit and organize the largest number of participants in the process but rather who could most effectively and skillfully manipulate media imagery.

Senator Bayh and many other supporters of direct election have relied heavily upon the testimony of Mr. Bailey, a media firm manager, who attempts to downplay the increased role of the national media and the harm to grassroots organizations under direct election.

Theodore White sharply disagrees with Mr. Bailey. Theodore White is a nationally prominent author of several books concerning Presidential elections. In addition, he has been reporting Presidential campaigns every 4 years since 1956. He has reported the elections from the field, from Presidential candidates' headquarters, and from the rim of the great national networks on election night.

After listening carefully to the testimony of Mr. Bailey before a Senate committee, Theodore White explained that professional interest would cause media men such as Mr. Bailey to support direct election because they would be direct beneficiaries. In addition, Mr. White explained that grassroots organizations would be harmed:

> Mr. Rafshoon, Mr. Deardorff, Mr. Bailey's firm, a great many of these gentlemen are friends of mine. I deal with them. I do business with them. But that is their business. They are media manipulators. That is what they should be. But the chances for manipulation in this thing are so large. There will be a transfer of power from established politicians and the old fashioned bosses, as they were called, to the professional campaign managers of the kind that you mentioned.
>
> It is to their interest to have a national pool of votes. In effect, you dissolve the 50 States of the Union and you run the Union now by all the States becoming obsolete except for administrative purposes and you run the Union by the media, the 10, 12, or 20 major media managements of the country. It is to their professional interest, I believe.

Later in his testimony, Mr. White explained in greater depth the increased role the media would play under direct election and how grassroots organizations would suffer:

> I would hate to see the identities of Iowa and West Virginia, of Maryland and Ohio wiped out as the television commentators stir them around in the pool of direct national voting on election night.
>
> Which leads me to the last point, a sordid one, but just as real. This new proposal wipes out the function of the old American politician—and turns that function over to people less worthy. I happen to like American politicians because I like the way they try to operate this country. It is done, as all of you know, by making deals. Labor wants a share of decision, and business wants its share too. The Hispanics now want a piece of the action; so do the blacks; so do the Jews; so do the Catholics; so do every one of our heritage groups. The old people want to be heard, so do students and youth. I have never found myself upset reporting the honest deals that go on in Presidential politics. Every four years, as earnest men in both parties, try to put together a winning candidacy, they seek to put together a coalition of diverse Americans, a coalition to which they can give a common and binding political goal.
>
> These coalitions used to be put together by bosses. Bosses gave us Abraham Lincoln as well as Warren Harding. They gave us Franklin Roosevelt and Adlai Stevenson. John F. Kennedy and Dwight D. Eisenhower conscripted or recruited bosses. But the power of the bosses rested on their power to deliver their states, their communities.
>
> What this new plebiscite proposal implies appalls me. In the nine years since I last testified here, the power of television, its grip on politics and the imagination has multiplied frighteningly. A minute of prime time that used to cost $50,000 nationwide will, this coming fall, in the presidential campaign probably run to $200,000. Such enormous sums of money as are required must be managed by professionals, managers expert in the reach, the impact, the audience of every kind of media exposure. Every headquarters in a presidential campaign has its maps of the fifty states, and their electoral votes. But in the back offices of the media manipulators are those maps which show what they call "the major media markets."
>
> Once you erase the state lines in a presidential election as this proposal suggests, you erase the traditional communities of America. The rules of the game change. The new bosses will be the media professionals, or the men who pay the media professionals. They will draw sinuous winding curves showing the demography of the United States as a geological map shows the contours of its height, depth, and terrain. They will be able to ignore the states of the union as election constituents. What candidate, whose experts draw a demographic map of the U.S.A., will pay attention to the vote in Gary or Hammond, Indiana, Senator Bayh? What candidate will any longer consider Roxbury, North Dorchester, or Cambridge-Somerville as a seriously important factor in his Campaign, Senator Kennedy? Massachusetts will no longer exist except as an administrative unit.
>
> This plebiscite proposal will withdraw from us a large and throbbing memory of our history—all those lovely maps of election which tell school children as well as grown-ups how the country has swung, section by section, from mood to mood. Instead we will have this boiling pot of 70 or 75 million votes, stirred by mix-masters, manipulators and television, understandable only by statistics and social scientists.

Ronald Wilner, testifying on behalf of the political consulting firm, the Robert Goodman Agency, commented on the role the media would play under direct election:

> Advertisers buy on a cost-per-thousand basis ratio. . . . A dollar spent anywhere will reach virtually the same number of potential voters. However, there is a way to beat the prevailing cost-per-thousand ratios and this is by taking advantage of the efficiencies offered in network advertising. I would suspect that we would see our presidential candidates using a lot more of it—network advertising—than in the past. Lacking the need for a state-by-state strategy, they would be prime candidates as network advertisers.

Such an economic incentive would sharply increase the likelihood that national media would be more frequently and intensively used, increasing their influence over the Presidential process.

Another grave objection to the proposed direct election of the President and Vice President, Senate Joint Resolution 28, is that it would lead to the demise of the two-party system by creating a proliferation of third parties. The late Prof. Alexander Bickel of Yale Law School explained the value of the two-party system and how the electoral college supports it:

> The fruit of the two-party system is a politics of coalition and accommodation, stability of the regime, and governments that are centrist and moderate. . . . The electoral college is a safeguard of the two-party structure.

Professor Bickel also explains that the electoral college prevents third parties from spreading beyond their regional base:

> The electoral college makes it impossible for a third-party candidate to have any sort of impact unless he has a strong regional base. Without such a regional base, his popular vote will not register in the electoral college. Hence, all he can hope to do is spoil the election for one of the other major candidates, but on election day and after he counts for nothing. . . . Chiefly for this reason, it has not failed to produce a general election winner since 1824.

Prof. Judith Best of the State University of New York notes that since the creation of the unit rule by almost all the States, which was accepted by all but two States by 1932, the electoral college has never failed to produce a winner. In addition, she states:

> The electoral college is biased in favor of the two-party system, against third parties, and against ideological candidates and parties. . . . In the current climate, when the two-party system is somewhat indisposed with the number of independents rising, it is not time to kick away one of the two-party system's institutional props.

The example of George Wallace illustrates just how effectively the electoral college and the unit rule protect our two-party structure from splinter parties. In 1968, George Wallace had amassed 21 percent of the popular votes 4 weeks prior to the election. At election time George Wallace won approximately 14 percent of the popular but only 8 percent of the electoral vote. George Will explains why Wallace was not able to accomplish his purpose of forcing a deadlock and gaining concessions from the major two-party candidates:

> It was the electoral college that revealed the fundamental truth which was that George Wallace (in 1968) was a regional candidate. It guaranteed that he would be confined in the decisive voting—the electoral votes—to the South. Therefore, it made clear in late October to those elsewhere who might have been tempted to vote for him that he was, in essence, a frivolous vote. That caused the withering away of his support in the final days.

The cause of the proliferation of parties under Senate Joint Resolution 28 is the 40 percent runoff provision. As George Will explained, "Under direct election, third parties would try to force a second vote so that they could sell their support."

As Richard Goodwin, a former adviser to Presidents Johnson and Kennedy said:

> You can be very powerful if you have the capacity to make others win or lose . . . even though you can never win yourself.

All that the third parties have to do is prevent the major candidates from achieving 40 percent of the popular vote, and they are in an extremely strong position to wring concessions from the two front runners in the runoff.

Considerable scholarly weight predicts that the 40 percent runoff provision of direct election would result in a proliferation of parties, thus seriously wounding the two-party system.

Theodore White noted that "direct election results in less compromise. It opens up the possibility of ideological parties or racist parties." Professor Bickel has explained how direct election provides for doctrinaire candidates at the party nominating stage:

> Under a system of popular election, every consideration . . . that would bring forth issue-oriented candidates for the nomination at any time would with equal and greater force propel them into the general election.

Richard Goodwin has also warned about the destabliizing effect of direct election:

> Groups united by general conviction or common interest could well see advantage in forming a new party. Even if they only organized in a few states, such groups could use a new party to maximize their power. They could bargain with the major party or party candidates for endorsement. They might offer to withdraw in the middle of a campaign in return for concession.

Wade Martin, speaking on behalf of the National Association of Secretaries of State, remarked that direct election would "precipitate many new parties."

Prof. Ernest Brown of Harvard noted the likelihood that the popular vote method would cause doctrinaire third parties to multiply. In addition, he added:

> And the idea that we could do anything that would encourage the spirit of dogmatism and doctrinaire groups in this country rather than the spriit of accommodation is just inconceivable to me.

Prof. Charles Black added his voice to this viewpoint by predicting that the disappearance or weakening of the two-party system is "an extremely likely consequence of such reform," which he would deplore.

The 40-percent runoff rule in Senate Joint Resolution 28 would be the primary cause of the multiplicity of third parties. Proponents of direct election argue along with the American Bar Association that only once in history has there been a President with less than 40 percent of the popular vote, Abraham Lincoln. It is clear that all this argument supports is that the electoral college has been very successful in past history in creating popular mandates for Presidents. Prof. Judith Best has pointed out that when you abolish the electoral college then you cannot assume that direct election will produce candidates with over 40 percent of the popular vote as the electoral college did. As she says, "when you change the rules, you change the game."

Actually, the 40 percent runoff rule in Senate Joint Resolution 28 would remove the barriers to third parties that the electoral college provides, and create new incentives for running. To begin with, popular vote percentages of third parties are higher than electoral percentages. For example, Wallace's popular vote total was almost double his electoral vote percentage. The reason is simply that sectional candidates are strengthened by the 40-percent runoff arrangement; the third parties keep their sectional strength and in addition they pick up the extra votes across the country. Under the electoral system they only retain votes when they have enough to take an entire State.

Traditionally, the restraint on third parties under the electoral system has been "don't waste your vote," which caused support to fade as election day neared. This is because third parties desert their candidates to vote for the lesser of the two evils.

Prof. Martin Diamond of Georgetown explained how the runoff provision and other incentives under direct election would encourage third parties, and cause people to give greater support to third parties. He states:

> The threat that dissident wings might bolt from one of the two major parties would instantly become more credible and thereby more disruptive within them; sooner or later the habit of bolting would probably take hold. Would there not also be an inducement to militant wings of ethnic, racial, and religious groups to abandon the major party framework and go it alone? And, as the recent proliferation of primary candidacies suggests, would-be "charismatics" might frequently take their case to the general electoral, given the inducements of the proposed new machinery . . .
>
> There would, of course, still be a single office finally to be won or lost, but not in the first election. That is the key. If runoffs become the rule, as is likely, the first election would become in effect a kind of two-member district. There would be two winners in it; we would have created a valuable new electoral prize—a second place finish in the preliminary election. This would be a boon to the strong minor candidacies; needing now only to seem a "viable" alternative for second place, they could more easily make a plausible case to potential supporters. But, more important, there would be something to win for nearly everyone in the first, or preliminary, election.
>
> Minor party votes now shrink away as the election nears and practically disappear on election day. As is well known, this is because minor-party supporters desert their preferred candidates to vote for the "lesser evil" of the major candidates. But the proposed reform would remove the reason to do so. On the contrary, as in multiparty parliamentary systems, the voter could vote with his heart because that would in fact also be plenty of time to vote for the lesser evil in the eventual runoff election. The trial heat would be the time to help the preferred minor party show its strength. Even a modest showing would enable the minor party to participate in the frenetic bargaining inevitably incident to runoff elections. And even a modest showing would establish a claim to the newly available public financing that would simultaneously be an inducement to run and a means to strengthen one's candidacy.
>
> Let us examine an illustration of the difference under the two electoral systems. At present, opinion polls teach minor-party supporters to desert come election day; the voter sees that his party has no chance of winning and acts accordingly. Under the proposed system, the polls would give exactly the opposite signal: hold fast. The voter would see his party or candidate making a showing and would see that a runoff was guaranteed: He would have no reason to desert his party. The first election would thus, cease to have the deterrent effect on minor parties; the prospect of the runoff would change everything.

The proponents of direct election argue that the 40-percent rule will not be likely to encourage or allow third parties to accumulate 20 or more percent of the popular vote to prevent any candidate from getting 40 percent. Their case is not convincing. In the past, despite the disadvantage and discouragement of the unit rule and the "wasted vote" argument, third-party candidates still amassed significant popular vote percentages, although they failed to amass significant electoral vote percentages. A look at history should give one pause.

Millard Fillmore won 21 percent of the popular vote but won only 2 percent of the electoral vote. William H. Taft won 23 percent of the popular vote, but he won only 1.5 percent of the electoral vote. The list could be extended, but suffice it to say that the accumulation 20 or more percent of the popular vote by one or more third parties is not a fantasy, particularly when new incentives for entering the race are created. It is much simpler for third parties to amass 20 percent of the popular vote than 20 percent of the electoral vote. Our two-party system would be drastically altered. Prof. Charles Black states that there would be:

> The radical reorganization of party structures and politics, the pretty certain disappearance of the two-party system, seems to me an extremely likely consequence of direct election . . . I would deplore the rising of little parties—why not 10 or 20 as in France—each with a special mission, a special issue.

The New Republic sums it up:

> The 40 percent runoff provision will encourage a proliferation not only of parties and factions, but of charismatic personalities as well. The first election will become a trial heat with something for everyone. It would include the left and right of the GOP, the Socialists and Libertarians, perhaps a party of blacks, browns, and Indians, a women's party, the anti-welfare, and anti-abortionists, an aggregation of social issue and ethnic purity voters, maybe a fundamentalist Christian candidacy or party, and perhaps a John Gardner or Ralph Nader above-politics candidate to appeal to independents.

Not only would the runoff provision provide a multiplicity of parties, but it would also cause expensive new campaigns after the general election, cut into valuable time when a President-elect would normally be making vital choices about his cabinet to be, and create a longer period of instability that would impair the United States in the eyes of foreign countries.

Senate Joint Resolution 28, which proposes the direct election of the President and Vice President, should be rejected as a dangerous amendment that will only harm the Nation.

THE FAITHLESS ELECTOR

Mr. President, the subject before this body today is not an unfamiliar one to these Senate Chambers. This subject has prompted one commentator to note that—

> The road to reform in the method of choosing the President and Vice President of the United States is littered with the wrecks of previous attempts.

In this decade alone, over 1,000 pages of the CONGRESSIONAL RECORD contain the accounts of past conflicts on this constitutional battleground. In the scant time I have been a Senator, the Subcommittee on the Constitution has produced three volumes of testimony from numerous hearings.

But, as I have previously alluded, this subject is not new. Since 1823, when Senator Thomas Hart Benton first sought its reformation, there have been more than 500 amendments introduced into Congress to alter or abolish the electoral college.

This knowledge has given me much pause for reflection as to why this provision in our Constitution has engendered such a fierce and prolonged struggle. In fact, the comment made by Alexander Hamilton in No. 68 of the Federalist still seems to make eminently good sense and to voice the proper concern for this subject:

> The mode of appointment of the Chief Magistrate of the United States is almost the only part of the system, of any consequence, which has escaped without severe censure.

It is therefore puzzling to me, as I am sure it would be to Alexander Hamilton, to find the electoral college the recipient of such prolonged and incessant "severe censure."

However, I have come to fully appreciate that there are many who have varying viewpoints concerning the electoral college system. There are good thinkers on both sides. They can and have argued both points on both sides.

Such has been the case since 1823. It is with profound gratitude then, that I realize this body has emulated the advice given by George Washington in his famous farewell address:

> In all changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of government as of other human institutions; that experience is the surest standard by which to test the real tendency of the existing constitution of a country: that ease of change, upon the credit of mere hypothesis and opinion, exposes to perpetual change.

I believe his advice should be reaffirmed by our action on this subject. The U.S. Senate has always acted deliberately and never precipitously. As Hamlet said: "It is better to bear the ills we have, then fly to others we know not of."

I believe the advice of both Washington and Shakespeare is especially pertinent when we are dealing with amending the Constitution.

In the words of my esteemed colleague from Indiana and participated in this same exchange 9 years ago:

> The burden in this debate will be on those of us who support direct popular election. Congress should approve constitutional amendments only when there has been exhaustive study and the need for constitutional change has been clearly demonstrated.

Indeed, the burden of proof is always borne by the proponents of change where a constitutional amendment is concerned. The gravity of the subject requires persuasive evidence. I admonish my colleagues who are undecided on this matter to remember the weight of this burden and whose shoulders on which it rests.

Abolition was first proposed in 1832 and has been on someone's agenda ever since. A direct election plan was first introduced in Congress in 1826. Both sides have armed themselves with ever more sophisticated analysis and statistics designed either to demonstrate the electoral college's potential to produce a constitutional crisis or its immense adaptability and legitimizing effects.

Surely one of the most curious aspects of this debate is how the advocates of direct election have seized the initiative by indicting the electoral college. Their indictment is not for what it has done, nor for any current default. Thus it is something of a puzzle to me that the electoral college comes under so severe an attack. It has produced for us nearly 200 years of tranquil democratic elections. It has produced for us, in comparison with every other democratic political system, 190 years of effective political campaigning, unambiguous outcomes, and tranquility, legitimately accepted outcomes. Having worked so well for so long, I find it puzzling that it should be the object of so strenuous an attack. One hundred and ninety years of experience is on the side of the proponents of the electoral college. Supposition, guesswork, and unevidentiary speculation is the stock in trade of the proponents of change.

Admittedly, some problems exist under our present electoral system. However, if every electoral procedure with negative elements was ipso facto rejected, it would be impossible to have elections at all. The present situation reminds me of an old West Virginia saying: "If it ain't broke, don't fix it." Indeed, it is the fixing process entailed in this amendment which I find so objectionable.

When you start tampering with the election procedure, there are some very vital questions raised. I believe the answers to such questions are dependent on whether we want to preserve what the Founding Fathers thought. Their thinking and subsequent actions seem to be an argument against direct election. I believe this is evident from a close inspection of the origin and development of the electoral college. Hopefully, a brief summary will be instructive to my colleagues.

The origin of the electoral college, of course, is the origin of the election of the President of the United States. On September 4, 1787, Delegate James Wilson of Pennsylvania said of the debates at the Constitutional Convention regarding a method for electing a President:

> This subject has greatly divided this House, and will also divide people out of doors. It is in truth the most difficult of all on which we have had to decide.

During the entire summer preceding Wilson's remark, the delegates to the Constitutional Convention offered various plans for electing a President. The matter was taken up on 17 occasions and produced 31 separate votes.

The question proved vexatious because the method of presidential election was, in the Framers' eyes, inextricably intertwined with the nature of the Presidential office itself and with the whole "bundle of compromises" that produced the Federal system, a bicameral legislature, and the separation of powers. It is true that many delegates thought that direct election of the President by the people would be the best method. Delegates of this persuasion included James Madison, Elbridge Gerry, and the aforementioned James Wilson, among others.

Over the course of the entire summer of 1787, nine different plans were put forth, debated, voted on and defeated, including proposals on direct election and an electoral college. During the closing days of the Convention, in September 1787, the electoral college plan was finally adopted. The device of independent electors was hit upon for this reason, which does not support the thesis that the intention was fundamentally undemocratic: The electors were not devised as a substitute for the popular will, but rather as a substitute for the State legislatures. The electoral college was the product of the give-and-take and the compromises between the large and the small States. As they did regarding the House of Representatives and the Senate, those who sought to retain much of the Articles of Confederation fought hard to have the President selected by the State legislatures or by some means that retained the primacy of the States as States. It was to fend off this confederalizing threat that the leading framers, Madison, James Wilson, and Gouverneur Morris, hit upon the electoral college device. As a matter of fact, their own first choice was for a straight national popular vote. But when the "States righters" vehemently rejected it, Wilson, Madison, and Morris settled on the device of popularly elected electors.

The Constitution was adopted only by having this compromise. It was necessary in order to get the Constitution adopted. The largest States would not take one-State, one-vote, and the smaller States refused to be controlled by the large popular majority in the larger States. So, ultimately, this compromise was worked out. No one was actually in favor of it. But it had to be made. Lo and behold, it has operated for 200 years. It was accepted on the faith of the representation that this does increase the power of the smaller States. That was a pledge, and it is still a pledge. The idea that we can brush it aside today is neither appropriate nor in good faith.

In practice, the electors, the framers believed, would be among the most knowledgeable and capable men in the country. The electors were to be chosen in the manner prescribed by the various State legislatures. The electors were to then meet in their respective States and vote by ballot for President and Vice President. Certified copies of the various results were sent to Congress to be counted before joint session.

This method of Presidential election, set forth in the original article II, barely survived the two terms of President Washington. The American Enterprise Institute points out:

> Concerning Washington it may be said that his popularity was such that almost any mode of election would likely have put him in office. However, upon his departure in 1796, the electoral college—(and this is an important distinction) which, like the Presidency itself, seems to have been designed with the example of Washington in mind—demonstrated flaws which rendered it inoperable when someone like Washington was no longer on the scene.

This so-called inoperability came about during the subsequent term of John Quincy Adams. Those opposed to Adams' policies rallied behind Thomas Jefferson to develop what is now recognized as the first national political party: the Jeffersonian Republicans. They soon seized upon the strategic salient of securing the appointment of electors pledged to a preferred candidate. Adams and Hamilton and the Federalist Party did not lag behind in exploiting this strategy.

The rise and growth of political parties in effect circumvented the framers' original design within a decade of its creation. From a very early point, electors were no longer regarded as being authorized to deliberate about the choice of President. From a very early point, they came to be considered as mere automatic registers of popular will.

Beginning in 1796, more aggressively in 1800, and in effect universally thereafter, electors were coalesced into partisan slates—but within the States. The creation of such slates became the principal organizing function of would-be national parties.

Admittedly, the framers did not contemplate the development of political parties, pledged electors, or nominating conventions. Rather, they envisioned an electoral system under which the most knowledgeable and capable persons in each State would be chosen as electors. The electors would examine the merits of the various candidates for President and exercise sound and independent judgment in casting their votes.

But the emergence of political parties put an end to these beliefs. In short order, the electors became mere agents without discretion. They were nominated by their parties as part of a slate of electors with instructions to vote automatically for their party nominees for President and Vice President.

The electoral vote system as we know it today more or less fully evolved by the 1830's. No major institutional change has occurred in more than 140 years. Indeed, today's system is far closer to the system of the 1830's than the system of the 1830's was to the original plan of the framers. The essential features of the system as it emerged in the 1830's remain the essential features of the system of 1979.

However, despite the fundamental alteration in the original scheme occasioned by the rise of political parties, the structure of such parties was decisively determined by the formal constitutional provisions of article II, and in particular by the requirement that electors be chosen by and within the several States.

It is critical to our determination of this issue to recognize this fact. Notwithstanding the greatly reduced, if not decimated, role which the office of elector encompassed following these developments, the two-party system was required to develop within the constraints of article II. Although the ground rules, as perceived by the framers had been altered, it was still the same ball game as set out by the Constitution.

I believe this point bears repeating. The new system, though radically different in substance from the old, developed through the constitutional form in which the older system had been embodied. There would still be electors; the electors would still be appointed or elected within the several State; the electors would still cast two ballots; and a majority of votes so cast would still be necessary for election—but everything else would be radically different.

Perhaps no other feature of the Constitution has had a greater capacity for dynamic historical adaptiveness. The electors became nullities; Presidential elections became dramatic national contests; the Federal elements in the process became strengthened by the general-ticket practice; modern mass political parties developed; campaigning moved from rather rigid sectionalism to the complexities of a modern technological society—and all this occurred tranquilly and legitimately within the original constitutional framework of article II.

While it now operates in historically transformed ways, in ways not as the framers intended, it nonetheless still operates largely to the ends that they intended. What more could one ask of a constitutional provision?

Mr. President, although having concluded this defense of the electoral college, I am unable to conclude my remarks at this time. This is because of the persistence of a bogus issue which the proponents of direct election continue to cast up as substantive.

Twenty years of legal and forensic combat have taught me that relatively few disagreements are total disagreements. Most disagreements, in my experience, are matters of degree. Ordinarily there is something to be said for an opponent's position. One can find some merit, however faint, in the question at hand. This particular question before the Senate this afternoon provides an exception.

I am speaking of the infamous Samuel Miles, Preston Parks, W. F. Turner, Henry D. Irwin, Lloyd W. Bailey, Roger McBride, and two other constitutional footnotes whom the sponsors of this amendment would have us believe have brought this Nation to the brink of constitutional chaos. In 1796, 1820, 1948, 1956, 1960, 1968, 1972, and 1976 this country has teetered on the edge of destruction.

It is indeed a grateful nation that can count only 8 of 17,592 electors who have betrayed their trust and earned the ignominous title of "faithless elector." To those who cannot cast such aspersions lightly, a less opprobrius term is "defector-elector."

To respond at length to the issues raised by the faithless elector would give undeserved legitimacy to its weight as a viable argument in the present debate.

However, the substantive charge against the present system is that the office of elector is potentially dangerous because in a close election a few renegade electors could frustrate the will of the majority. Although no election has been stolen by faithless electors, a few electors have disregarded the expressed will of the voters in their States, effectively misappropriating their votes. The electors normally cast their votes for the winners in their States, and are considered morally bound to do so. Electors have functioned for all practical purposes as the mandated agents of popular choice.

Lucius Wilmerding, in his book "The Electoral College," states that—

> There has never been a single occasion, and I doubt if there ever will be one, when the eccentricities of the electors have changed the result of an election.

In no case have we ever been threatened by faithless electors stealing an election. Indeed, many of these faithless electors would not have been faithless, according to their own accounts, if there had been any chance of subverting the election. They did it for publicity. And never has a faithless ballot been cast with the intention of influencing the outcome of an election. They have all been cast for symbolic purposes only, and ironically enough, usually as a symbolic response to majority opinion in the aberrant elector's home constituency. In short, it is about as likely that "faithless electors" will usurp an election as it is that the English crown will reassume the regal power of Henry VIII.

Admittedly, the faithlessness of even a single elector thwarts the will and expectations of the voters in his State. And as long as the Nation continues the present electoral-college system, it accepts the risk that in a close electoral election errant electors could hold the balance of power and that the result of the contest could turn on their vote. However, while admitting this fact to be true, it must also be admitted that such a risk is extremely remote.

It has been this dissatisfaction with human electors that has been the force behind numerous reform plans. The most common is the so-called automatic plan, wherein the office of elector would be abolished, but the electoral-count system would be retained. Each State's electoral votes would be automatically awarded to the candidate with a plurality in that State. The automatic plan concept is one of the oldest reforms extant; it was first proposed by Senator Thomas Hart Benton in 1823.

As far as the faithless elector is concerned, I personally would have no objection to eliminating the office of elector, although I have some question as to whether it is worthwhile to engage in a constitutional reform for such a trifling matter.

Prof. Judith Best has said that—

> Even if one believes that it is undesirable to continue the office of elector, the problem of faithless electors is miniscule, and the meager and technical benefits of eliminating the office do not justify the effort to pass a constitutional amendment.

It is her conclusion that, "a constitutional amendment would be a last resort to remedy a serious and substantive problem. We should not change the Constitution lightly or without having tried extraconstitutional approaches."

One such extraconstitutional approach may be typified by a theory of Prof. Charles L. Black. Professor Black characterizes the faithless elector as a contracts law problem. The State and the elector are treated as having entered into an express or an implied-in-fact promise, with the Presidential candidate as a third-party beneficiary of that contract. Such a third-party beneficiary has a right of enforcement of the contract if the elector attempts to breach the contract's terms; that is, not casting his vote for the candidate. Such a theory is feasible and no constitutional amendment is necessary.

Wallace Sayre and Judith Parris, in their important book, "Voting for President," have another remedy for the defector-elector problem, one that would place more responsibility on the political parties.

> Voters in States where this happens are not always or even usually hapless victims. The election of maverick electors may be, at least in part, a fault of the system under which they were chosen by their party as members of a ticket—presumably without sufficient dissemination or understanding of their individual views. And remedy would thus appear to be a logical and easily met responsibility of State and local party leaders. State party leaders themselves can minimize an already insignificant problem by carefully selecting nominees, requiring loyalty resolutions at party conventions, pledging each nominee, and using the sanctions of national patronage and campaign funds.

Let us pledge the electors, bind them or abolish them, if that need be. With that I have no quarrel. But do not let us longer hear the cant about the faithless elector as a reason to abolish the college and the electoral count.

A longstanding constitutional arrangement secures, by its very age, that habitual popular acceptance, which is an indispensable ingredient in constitutional legitimacy. By this reasoning, we should preserve the electoral college simply on the grounds of its nearly two-centuries long history of tranquil popular acceptance.

This body spent a great deal of time during the fall of 1970 debating these very issues. In the words of columnist James Kilpatrick:

> The past decade has provided not a single additional reason for leaping to ratification of this radical scheme. On the contrary, the elections of 1968, 1972, and 1976 have confirmed the continuing usefulness and vitality of a system exactly as antiquated, as outmoded, as archaic, as the beloved and venerated document in which it remains embedded.

Serious people consider probabilities, not possibilities. Possibilities and conjecture are all the proponents of this measure have offered for rejecting the known for the unknown, abandoning the tried for the untried. They have assumed; they have hypothesized; they have supposed; they have predicted.

In looking at this conflict between probabilities and possibilities, the words of Lord Salisbury should be instructive:

> A violent, isolated artificial improvement in the institutions of a community, undertaken without regard to the condition of the other portions of the machinery in concert with which it is to work, is a danger so great that no improvement at all is almost to be preferred.

My good friend from Indiana is not going to achieve something the founders were too wise to attempt—a Constitution under which no unpleasant outcome is even theoretically possible.

Mr. President, I ask unanimous consent that the subcommittee minority views of ORRIN G. HATCH, STROM THURMOND, and ALAN K. SIMPSON, pursuant to Senate Joint Resolution 28, the New Republic article, and other articles be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

SUBCOMMITTEE MINORITY VIEWS OF ORRIN G. HATCH, STROM THURMOND, AND ALAN K. SIMPSON: SENATE JOINT RESOLUTION 28

I. INTRODUCTION

There is no more important domestic legislative measure that this Congress will consider than S.J. Res. 28. This resolution proposes to amend the Constitution of the United States for the purpose of abolishing the electoral vote system by which this nation has traditionally elected its President and Vice President. In its place, the amendment would substitute a system of direct election for these offices.

We are in agreement with Professor Charles Black of the Yale Law School who says of this amendment: "If it passes, it will be the most deeply radical amendment which has ever entered the Constitution of the United States." Theodore White, perhaps the most experienced and perceptive observer of American presidential campaigns, has described S.J. Res. 28 as a "revolutionary" and "dangerous" proposal.

Because of the radical nature of the proposed amendment, we believe that the proponents of direct election bear a very heavy burden of proof, heavier even than that normally present for a Constitutional amendment. Proponents must show:

(1) The present electoral vote system is seriously flawed and needs to be changed; and

(2) The proposed system of direct election, S.J. Res. 28, would be a significant improvement.

If proponents fail to prove either of these propositions, then the case for direct election fails. We believe that proponents have failed on both points.

We do not believe that proponents have presented sufficient evidence that a change is needed. The major argument in support of the present system is that it works. For nearly two hundred years, the electoral system has operated to select a president in a single election and then smoothly transfer executive power. The only major argument that has been presented for radically changing the present system is that it permits election of a runnerup President, one who has received fewer popular votes than one of his opponents. It is claimed that such an occurrence would create a major crisis, that such a president would lack legitimacy, and that such a President would find it difficult to effectively govern. We disagree. We know of no evidence to sustain such a view. No major crisis occurred in 1888 when Benjamin Harrison was elected with a smaller share of the popular vote than Grover Cleveland, nor in 1974 when Gerald Ford became President without having received any popular votes.

Nor do we believe that direct election would represent any improvement over the present system. Direct election would create more problems than it would solve. More specifically, we believe that S.J. Res. 28 would:

Seriously undermine one of the few remaining vital areas of American federalism by eliminating the role of the states in the electoral process;

Threaten the continued existence of a moderate, two party system by encouraging the proliferation of small, frequently extremist, splinter parties;

Polarize public opinion and endanger electoral minorities through a restructuring of the nature of political compromise;

Erode the popular "legitimacy" of Presidents, who, under a system of direct election, may have significant support in but a single region of the country;

Create new incentives for electoral fraud and corruption;

Sharply reduce the orderliness of the presidential transition period through interminable electoral recounts and runoff elections;

Involve the federal government far more deeply into areas of voter eligibility and election administration, currently within the purview of the states; and

Sharply increase the influence of the national media, and professional "image-makers" in Presidential elections.

Of perhaps equal concern are the unknown and unanticipated consequences that inevitably attend "reforms" of the magnitude of S.J. Res. 28. What will be its impact upon the Presidential nominating process? How will it affect relationships between elected federal officials and their state party organizations? Will state party organizations retain their same character? What sort of role will the media play in the new presidential election system? What sorts of coalitions will develop among voters? How will the relationship between the executive and legislative branches be affected?

Above all, it should be borne in mind that we cannot reconstruct the Presidential election process in a vacuum. As John F. Kennedy remarked in defense of the electoral process:

"It is not only the unit vote for the Presidency we are talking about, but a whole solar system of power. If it is proposed to change the balance of power of one of the elements of the system, it is necessary to consider the others."

In a system in which the concept of "checks and balances" plays such an integral role, change in any one of our political institutions represents change in each of them.

II. BURDEN OF PROOF

It is our opnion that the Republic has survived nicely for two centuries under the electoral system. In general, we have elected to the offices of President and Vice President persons who have served those offices well. The Nation has developed and prospered under the leadership of these persons. There have been no major constitutional crises concerning the election of President and Vice President. There have been no crises in legitimacy. There have, in general, been smooth transitions between office-holders and between political parties.

In short, the electoral system has worked reasonably well to select the executive authority. It is not a perfect system—such systems being difficult to achieve in this worldly realm—but it is a more than workable system that has proven its effectiveness in the course of nearly fifty hard-fought Presidential campaigns.

Because the present system has worked well and continues to work well and because of the radical nature of the proposed change, it seems to us that proponents of S.J. Res. 28 bear a very heavy burden of proof. They must show beyond a reasonable doubt that (1) the present system is seriously flawed and should be changed, and (2) the proposed direct election system would be a significant improvement. The burden of proof is not on defenders of the present system. It is upon those who would reject a system that has worked, in favor of one that might or might not work.

As observed by Richard Goodwin, former advisor to Presidents Kennedy and Johnson, in speaking of direct election of the President:

"We will exchange a mechanism which is clumsy but has worked well for an ideal construction of political theory whose consequences can't be foreseen . . . It is not enough to demonstrate that direct election will probably be an improvement. It must be shown beyond all reasonable doubt that the adverse consequences which are predicted by many will not occur."

The late Professor Alexander Bickel of the Yale Law School warned, "The sudden abandonment of institutions is an act that reverberates in ways no one can predict and many come to regret."

It is curious that far greater scrutiny seems to have been given the present system, the defects of which are known and certain, than to the system of direct election, the defects of which remain unknown or speculative. We believe that a proportioned debate on S.J. Res. 28 must accord as great attention to weighing the merits and demerits of direct election as to those of the present system. After listening to four days of testimony this year, and reviewing the debate from previous years, it is our judgment that proponents of S.J. Res. 28 have not met the burden of demonstrating theirs to be a superior system to the present one.

III. DESCRIPTION OF THE PRESENT ELECTORAL VOTE SYSTEM

Before discussing in detail the need for changing the present system and the defects of the direct election proposal, we think it is important that we furnish our colleagues a description of just what the present system consists of.

Despite substantial controversy at the constitutional convention with respect to the method of selection of the president, Alexander Hamilton was later able to say:

"The mode of appointment of the Chief Magistrate of the United States is almost the only part of the system, of any consequence, which has escaped without severe censure or which has received the slightest mark of approbation from its opponents.

The electoral vote system was the product of extensive compromises between the large states and the small states, and between those who advocated an extended, national republic and those who advocated simple reforms of the articles of confederation. It was a rare compromise that ended up satisfying all parties.

Article II, section 1 of the Constitution specifies that each state is entitled to representation in the electoral vote system to the extent of its combined representation in the House of Representatives and the Senate. As a result, each state (including the District of Columbia through the 23rd amendment) is provided at least three electoral votes, California and New York, currently the most populous states, have 45 and 41 electoral votes respectively.

The same section further specifies that each State is to apportion its electors "in such manner as the legislature thereof may direct." While there was substantial variance in State apportionment procedures in the formative years of the Nation, by 1832 every State but one had adopted the method that predominates today. States award their allotment of electoral votes, on a winner-take-all basis, to the popular vote winner within the State.

Nothing in the Constitution, however, forbids States from awarding their electoral votes on a proportionate or other basis. In 1969, for example, the State of Maine unilaterally repealed its unit-vote rule, deciding instead to apportion electors on the basis of popular vote majorities with congressional districts.

The formal mechanisms of the electoral vote process are outlined in the 12th amendment to the Constitution. On election day every four years, voters cast their ballots for a slate of individual "electors" placed there by each political party and pledged to cast their electoral votes for that party's Presidential and Vice Presidential candidates. The chosen slate of electors within each State is convened in their respective State capitals in mid-December at which point they cast their votes in the manner in which they are pledged. Certified tallies are then forwarded from each of the States to Congress with the formal results being announced in early January before a joint session.

The apparent cumbersomeness of this process is undoubtedly responsible for generating much of the opposition to the present system. It is more apparent, however, than real. The electoral vote system has proven remarkably flexible, evolving and being refined over a period of nearly two centuries. As observed by the late Professor Martin Diamond of Georgetown University:

"Perhaps no feature of the Constitution has had a greater capacity for historical adaptiveness. The electors became nullities; Presidential elections became dramatic national contests; the Federal elements in the process became strengthened by the general-ticket practice; modern mass political parties developed; campaigning moved from rather rigid sectionalism to the complexities of a modern technological society—and all this occurred tranquilly and legitimately within the original constitutional framework."

Proponents of the present system, thus, are not defending a relic of the 18th century, but rather a system that has evolved, in the words of columnist George Will, "shaping and shaped by all of the instruments of politics, especially the two party system."

The office of the elector, the cause for so much of the confusion concerning the electoral vote system, has evolved into little more than an automation, faithfully reflecting the popular will. Of the nearly 18,000 electors that have been selected in the history of the Republic, no more than a dozen have ever cast their votes in contravention of their pledged loyalties. None of these has come anywhere near to actually affecting an election. The only present function of the electoral college procedure, in the words of Professor Robert G. Dixon, is to "perform the essentially simple administrative duty of translating popular votes into electoral votes."

In the event that no candidate receives a majority of the electoral votes cast throughout the country, a situation that has not arisen since the election of 1824, the House of Representatives is authorized to select a President from among the three individuals with the greatest number of electoral votes. Each State is entitled to a single vote in this process. The Senate is charged with the responsibility for selecting a Vice President from among the two individuals with the most electoral votes for that office. The 12th amendment, establishing these contingency procedures, was ratified in 1803 in order to correct language in article II, section 1 which had been rendered outdated by the rapid rise in the new nation of "factions" or political parties.

That so distinguished an assemblage as the founders found it necessary, in the light of unanticipated developments, to alter the basic electoral mechanism after only a few years should be instructive with respect to the difficulties inherent in establishing workable electoral systems.

Albert Einstein, whose centennial we are celebrating this year once remarked, that, "Everything should be as simple as possible, but not more so." The electoral system is not the simplest of all systems, it is complex to the extent that it seeks to achieve complex goals—responsiveness to majorities with protection for minority rights, equal political rights for all while preserving individual freedom and liberty, balance between centralized authority in the national government and dispersed authority in the State governments. Because these goals are sometimes in tension, and because they are diverse, it is necessary not to have the simplest conceivable form of government.

IV. DEFENSE OF THE ELECTORAL VOTE SYSTEM—LEGITIMACY OF A RUNNER-UP PRESIDENT

The major argument made against the electoral vote system on behalf of a system of direct election consists of assertions about risks and crises associated with election of a runner-up President. The electoral system is termed a "loaded pistol," for example, because a candidate can theoretically win election with little more than 25 percent of the total vote by eking out marginal victories in the eleven largest states and failing to receive a single vote in any other state.

The likelihood of this occurrence is about the same as that of a candidate, under a system of direct election, receiving a unanimous vote in the state of Alaska, losing the other 49 states by narrow margins, and emerging as President of the United States.

In fact, only once in the history of the country has a clear popular vote winner emerged as the loser in the electoral vote process (see appendix). Even in that election, in which the popular vote winner received seven-tenths of 1 percent more vote than his opponent, the Electoral College denied him victory for exactly the right reasons: his support was heavily concentrated in a single section of the country.

No "constitutional crisis" was precipitated by this election (1888). In the description of Professor Diamond:

> "The funny thing about this loaded pistol is that the last time it went off, no one got hurt; no one even hollered."

Until recent years, with proponents of direct election having become fond of raising the spectre of "crisis", it was generally considered that the Constitution by itself was capable of lending "legitimacy" to a President elected under its processes. One might prefer that the other candidate had won, or even wish to alter the Constitution so that he would have won, but there would be no "constitutional crisis." Professor Diamond alludes to the "constitutional crisis" argument in these terms:

> "What serious difference does it make to any fundamental democratic value if, in such elections, 50 percent minus one of the voters might—very infrequently—win the Presidency from 50 percent plus one of the voters? There really is something strange in escalating this popgun possibility into a loaded pistol. For one thing, the statistical margin of error in the vote count (let alone other kinds of errors and chance circumstances) is larger than any anticipated discrepancy . . . only a severe case of doctrinaire myopia makes us see a crisis in the mathematical niceties of elections where no fundamental democratic issues are involved."

Proponents of direct election are also fond of playing around with election figures and estimating how much of a shift in one or another of the states would have resulted in the election of a popular vote runner-up. Professor Judith Best responds to this quadrennial parlor game by noting that,—

> "Numbers are easier to manipulate and control than voters; it is fun to create a parade of horribles in a conjectural world over which we have complete control."

The shortcoming of the "shift of XYZ votes" argument is simply that elections do not occur in a vacuum. An event or occurrence or statement made by a candidate sufficient to induce such a shift is likely also to induce a shift in an opposite direction with some other group of voters, either within the same state or in another state.

It should also be remembered that a more genuine threat of severe crisis would be present under a system of direct election. See the discussion below on the dangers of a "sectionalist" president.

V. DEFECTS OF THE PROPOSED DIRECT ELECTION SYSTEM

A. Damage to Federalism

Direct election of the President strikes hard at some of the most enduring principles of our system of government. It takes one of the strands of the American political fabric—political equality—and seeks to reweave a new cloth with this single strand.

Political equality and "democracy" and majority rule represent some of the most basic concepts that underlie our political system. But they are not alone. Our system is not as simple as those who speak only of majority rule and "one-man, one-vote" would have us believe. The founding fathers did not bequeath us with a simple system of government, a system conforming to a single, unwavering principle.

Rather, they provided us a remarkably durable system that contemplates a variety of basic principles—checks and balances, separation of powers, federalism, concurrent majorities, limitation of powers, and protection of minority rights. Each of these principles must be considered when this body legislates and, even more importantly, when it attempts to propose new amendments to the Constitution. None can invariably be considered to the exclusion of the others.

S.J. Res. 28 attaches overriding priority to the single value of political equality. In the process, other important values are necessarily subordinated. Perhaps the most important of these is the principle of federalism.

Direct election offers nothing new in applying the Democratic principle to presidential elections. As noted earlier, presidential elections have been conducted on a popular basis since the 1830's. The candidate with the most popular votes in a given state wins that state's electoral votes. There is direct, popular election already in place, but at the state rather than the national level.

What direct election offers is not to make our presidential elections any more Democratic in nature, but to make them more national, more centralized. As professor Martin Diamond frames the issue:

> "Should our Presidential Elections remain in part federally democratic, or should we make them completely nationally democratic?"

It is not democracy per se that is at question, but federalism.

Under the electoral vote system, there are fifty-one democratic elections, one in each of the states and the District of Columbia. As a result, the states are the focus of the electoral process. Campaign strategies are formulated around the states; political parties are structured along state lines; and individual voters tend to perceive of themselves as members of discrete state electorates. In the words of professor Herbert Wechsler of the Columbia Law School.

> "The states are the strategic yardsticks for the measurment of interest and opinion, the special center of political activity, the separate geographical determinants of national as well as local politics . . . the president must be the main repository of the national spirit in the central government; but both the mode of his selection and the future of his party require that he also be responsive to local values that have large support within the states."

It is only through achieving an understanding of the integral role of the states in the national election process that one can appreciate the flaws of the "disenfranchisement" argument that suggests that those in the electoral minority within a state are somehow deprived of their vote under the electoral system. Such voters, in fact, are no more deprived of their vote than are those who have voted for a losing House or Senate candidate. There are no partial victories in our single-member political system.

Direct election, by diminishing the role of the States within the Union, and more particularly within the electoral process, would effect substantial changes in political institutions that have developed coincident with the present system. As States decline as the locus of political activity in Presidential campaigns, that void is likely to be filled by some other means. Professor Harry Bailey of Temple University's Center for the Study of Federalism, suggests that special interest groups are likely to serve this function. While there can be little dispute that numerous such groups already carry great influence in Presidential campaigns, the raw influence of numbers that these groups would exert in a pure national plebiscite is presently tempered by the fact that they must work within the confines and constraints of individual States.

Unless an interest group is powerful enough within an individual State, it must engage in the give-and-take of compromise and negotiation during the course of a Presidential election campaign. There is an incentive to work out, within the borders of a State, compromises that are applicable not only to Presidential campaigns, but to State and local campaigns as well. Under a system of direct national election, these same special interests may be provided with incentives not to engage in compromises at this level. It would be in their very numbers across the country that they should be most capable of maximizing their influence. Compromises foregone in the context of national elections would undoubtedly render more diffcult the achievement of compromises in the context of State and local election campaigns.

The impact upon State and local party organizations would be substantial. State and local parties would bear no necessary relation to national Presidential coalitions. The ability of State and local party leaders and elected officials to moderate disputes would be sharply curbed. As predicted by Dr. Bailey, "What direct election would accomplish would be to transfer much of the power of State and local politicians to national politicians. . . . The balance between national and State power would be considerably altered."

The nature of State and local party organizations would undoubtedly be revamped.

In addition, the attention accorded by the executive branch to the concerns of the States, frequently communicated through the local party organizations, might well be diminished. Quite possibly, also, the relationship between the executive and legislative branches of the national government might be subtly altered—not simply because they would no longer possess an essentially common electoral base, but because it is difficult to estimate how much of a Senator's or Congressman's influence with the executive derives from his State's role in the electoral college. We believe that many of our colleagues would be likely to find it disturbingly high.

The Federalist principle forms one of the most fundamental foundations of our Republic. The "great compromise" achieved between the larger and the smaller States at the constitutional convention bore most immediately upon the legislative branch of the national government. In one House of Congress, the House of Representatives, representation was to be based purely upon population. In the other House, the Senate, the States were forever to be represented equally. The States may have been unequal with respect to numbers of citizens, or in any number of other ways, but with respect to their inherent "Stateness," and sovereignty, they were all deemed equal.

The Federalist principle was also incorporated in the executive branch by the drafters of the Constitution. The "Great Compromise" was accurately reflected by the electoral vote allocation accorded each State by article II. The States as States were to have the same degrees of influence in the selection of the President as in the selection of Congress. Rather than being the lone truly "national" office, as it has frequently been referred to, it is probably more accurate to describe the Presidency as the lone office in which a single individual fully embodies the Federal principle. It is the lone truly "Federal" office.

Theodore White remarks that—

> "Our system of electing Presidents enhances the sense of the importance of being a Texan or South Carolinian or New Yorker * * * it gives them a sense of being in a community * * * This lovely sense of identity which holds this Union together can be erased by this direct election proposal."

Under a system of direct election, the States would be rendered nullities in the Presidential election process. The variety and diversity brought to bear upon the Presidential election of the States of the Union would be effectively undermined.

Professor Judith Best of the State University of New York has testified:

"If federalism is an anachronism, if cross-sectional concurrent majorities are no longer necessary to maintain liberty, if we are immune to the political disease of faction, then we should consider abandoning the Federal principle for the National Legislature as well as for the Executive. To do the one without the other and, in particular, to make the President the only recipient of an all-national mandate in the Nation's history would fundamentally change our system of government."

To reiterate, it is not "one-man, one-vote" that is at stake in the debate over S.J. Res. 28. It is not whether the President of the United States is going to be popularly elected. Rather, the root question is how popular votes are going to be aggregated: At the national or at the State level? It is our belief that the States should continue to matter in our system of government. The effect of eliminating their participation in the selection of the President and Vice President will be to work a profound impact upon the American system.

B. MISPLACED APPEAL TO "ONE-MAN, ONE-VOTE"

A former president of the American Bar Association has argued in opposition to the electoral vote system, "There is no valid reason why the concept of one person, one vote should not be applied to the highest officers in our land." One might fairly ask, by the same token, whether or not there is any "valid reason" why the States should be represented unequally in the Senate, despite unequal populations. Is there any "valid reason" why the President should be able to veto legislation endorsed by a majority of the direct representatives of the people? Is there any "valid reason" why the Constitution of the United States cannot be amended by a simple "one person, one vote" majority? And what is the "valid reason" for enabling that most highly undemocratic of institutions—the Supreme Court—to overturn decisions that might have been reached by an overwhelming consensus of the people and their representatives?

In short, the Constitution contemplates a number of nonmajoritarian institutions. The Bill of Rights itself is a check on the majority doing what it wants. As Professor Walter Berns has noted, "constitutionalism is a qualification of majoritarianism."

In Jefferson's first inaugural address, he observed of the new Republic that—

"The will of the majority is in all cases to prevail, but that will, to be rightful, must be reasonable."

This is, perhaps, the central theme of our constitutional experience. The institutions created by that document, including the electoral vote system, are not designed to thwart democracy or self-rule; they are designed only to ensure that such rule does not violate the rights of minorities.

The electoral vote system forces candidates for the Presidency to be concerned with something more than the pure size or magnitude of their majorities; it requires them to give at least nodding consideration to the nature or the character of their majorities. Electoral victories can be achieved under the present system only by broadly based and widely dispersed majorities—cross-sectional majorities so to speak. Prevailing candidates must have majority appeal, but their appeal must be relatively uniform throughout the country.

S.J. Res. 28 would further "vulgarize and trivialize" the idea of democracy in America, in the phrase of Irving Kristol and Paul Weaver:

"Far from being a complex idea, implying a complex mode of government, the idea of democracy has been debased into a simple-minded arithmetical majoritarianism."

Direct election would transform the constitutional ideal from the pursuit of concurrent, or "reasonable" majorities into the pursuit of adding machine majorities. In place of a system that forces serious Presidential candidates to consider the concerns of citizens in many regions of the country, and to construct majority coalitions from elements within many regions, direct election would bequeath upon us, every four years, campaign strategies with all the depth and dimension of an abacus.

It is difficult for us to see how other constitutional institutions can be indefinitely maintained which violate the simplistic sloganeering of "one-man, one-vote," in the face of the establishment of direct election. If the premise is accepted that nothing is more exalted than pure plebiscitarian head-counts, what philosophical defenses do we have to any number of other radical reforms that purport to promote this ideal? Why, for example, should it be possible (and abstract possibilities have always played a key role in the anti-electoral vote campaign) for a political party to win a strong majority of the congressional vote cast throughout the Nation and still remain the minority party? In 1942, for example, Republican congressional candidates captured nearly 52 percent of the national two-party vote. Democrats controlled the subsequent congress by a 13-representative margin.

In every congressional election but one, since 1932, the Republicans have captured a lesser proportion of total House seats than they have achieved in the national popular vote.

Any districted or segmented electoral system, whether it be the House of Representatives, State legislatures, ward-elected city councils, or the Electoral College, necessarily allows occasional discrepancies between the popular vote and the electoral vote. There is a hypothetical chance that even the most perfectly apportioned legislative body can be controlled by 26% of the electorate. Can any of these institutions survive, and maintain popular legitimacy and respect, if the simplistic "democratic" notion of S.J. Res. 28 is accepted?

It is not simply direct election that is at stake in the present debate; rather, it is a conception of American diplomacy that we believe is sharply at odds with what our Nation has traditionally stood for. It is a conception which ignores the qualities and characteristics of constitutional majorities, concerning itself with nothing more than nose-counting; it is indifferent to anything but pure, raw numbers. It is a conception of democracy forcefully and repeatedly rejected by the Founding Fathers.

C. DAMAGE TO THE TWO-PARTY SYSTEM

The moderate two-party system that exists in this country is not an accident of history. It is a direct function of our Nation's political institutions, including the electoral vote system. In the absence of the electoral vote system, there is a strong likelihood that party politics in this country would more closely resemble the multiple party states on the European continent. The French electoral system, for example, closely resembles the direct election that would be established by the present resolution. There would likely be a proliferation of smaller and frequently more extreme political parties, with governments perpetually dependent upon the support of at least some of these parties for their position. Professor Bickel predicts:

"The monopoly of power enjoyed by the two major parties would not likely survive the demise of the Electoral College."

The present electoral system serves as a disincentive to serious participation by third parties. Their ideas may be considered seriously, and ultimately integrated into the platforms of the two major parties, but such parties themselves are unlikely to become dominant electoral forces. There is no possibility that they will gain electoral votes, or provide much obstacle to the major parties, unless they are capable of winning on a statewide level. There is no possibility that they will deny an Electoral College majority to a winning candidate unless they can demonstrate enough strength within several States to carry those States.

The impact of the electoral vote system upon third parties was illustrated well by the election of 1968, an election ironically that proponents of direct election point to as justification for their proposal. Reference is often made to the professed intention of Governor George Wallace, the American Independent Party candidate, to create an electoral vote deadlock in order to permit himself to serve as kingmaker of sorts in the electoral college. To that end, he obtained affidavits from his electors which pledged them to vote for himself or for the individual of his choice, pledges of rather dubious legality. Certainly, it is argued, this is not how the President of the United States should be elected.

In fact, that is exactly how the President of the United States was not elected. George Wallace, who at one point early in the campaign garnered nearly as much support as the Democratic nominee in opinion polls, and who garnered in excess of 20 percent of the vote in late-campaign opinion polls, eventually won only 13 percent of the popular vote. This translated into approximately 8 percent of the electoral vote. The Wallace candidacy came nowhere close to achieving its goal of electoral deadlock.

Because it was recognized that, outside the Deep South, Wallace was unlikely to carry pluralities in any States, the "wasted vote" syndrome was clearly in evidence. Rather than casting their votes for an individual who had no chance to gather electoral votes in their States, large numbers of Wallace sympathizers swallowed hard and cast their vote for one of the two major party contenders. In this manner, the electoral system minimizes, rather than exaggerates, third party influence in presidential campaigns.

Under a system of direct election, specifically that proposed by S.J. Res. 28, splinter parties are provided with incentives, rather than disincentives, to participate in presidential elections. S.J. Res. 28 specifies that, in the event of no candidate receiving 40 percent of the popular vote, a runoff is to take place among the two top vote-getting candidates. The existence of the 40 percent threshold—indeed the existence of any precise threshold figure short of 50 percent—ensures a proliferation of small parties.

Rather than having to engage in the hopeless task of attracting large numbers of votes to defeat a major party candidate, and thereby exerting influence, small splinter parties will be competing only to deny the major parties the threshold vote percentage. Splinter parties will not be competing against the larger parties, but against the 40 percent threshold. It will not be necessary that there be a dominant third party or fourth party capable by itself in denying the threshold level to the major parties, but simply that minor parties, taken in the aggregate, be able to keep both parties beneath this figure. The general election will be transformed into a national primary.

The traditional case against voting for third parties—the wasted vote argument—will no longer exist. Each vote for a third or fourth or tenth party, however insignificant these parties, will count toward denying to a major party the achievement of the threshold percentage.

Proponents of direct election like to point out that only in the election of 1860—Abraham Lincoln's first presidential victory—would a runoff have been necessitated under the 40 percent rule. Thus, we are assured, the contingency procedure is something likely to occur only under highly unusual circumstances.

This argument is not untypical of many that have been expressed by proponents of direct election. They seek to change the rules of the presidential election game in one significant respect while assuming that everything else about the game is likely to remain the same. This is not likely to be the case. Splinter parties have never posed major problems in presidential elections because their participation has been strongly discouraged by the ground rules; change the ground rules and we will experience splinter parties emerging from all corners. Splinter labor parties, splinter right-to-life parties, splinter racist parties, and splinter one-issue parties of every conceivable hue. As suggested by Michael Uhlmann, the author of a forthcoming book on the electoral college, the question facing these parties will no longer be "why run?", but "why not run?".

What will be their incentive beyond the opportunity to make life difficult for the major parties? These parties, in the event of a runoff election, will be positioned nicely to negotiate for their support prior to the runoff election. George Will suggests that, "they would try to force a second vote so they could sell their support." Minority, often extremist minority, parties will be able to exert an influence under the direct election system that is wholly denied them under the electoral vote system. Coalition building that currently takes place prior to the general election, and within the confines of the two parties, will be shifted to the hectic, pre-runoff period and take place within the context of inter-party coalitions. It will be a time, in Madison's words, of "extraneous management and intrigue." There will be no incentives for pre-general election compromises and moderation; such action may indeed limit the flexibility of the parties in the post-general election period.

In addition, traditional notions of party responsibility will be sharply altered. The consensus effect of the national convention process will be lost as losing candidates will have new encouragement to pursue post-convention campaigns.

A word is in order about the precise impact of the "winner-take-all" or unit-rule system, upon the complexion of our two party system. While the unit-rule has been much maligned—and indeed there is disagreement among us on the merits of preserving this system—it should be recognized that it has made a significant contribution in the moderating influence that it has had upon the American political system. Parties are under a strong inducement to extend their appeal as broadly as possible within a state since anything less than outright victory will result in zero electoral votes. Except in unusual circumstances, both parties have to appeal to large numbers of voters and special interests who are not inextricably identified with either of the two major parties. As they seek to broaden their bases, each of them appealing to essentially the same core of non-aligned voters, the parties become more and more like each other.

While this may make for presidential elections with less spectator appeal, and less capable of effecting cataclysmic change, than they might otherwise be, this *does* ensure a certain stability in the system. When candidates are perceived as falling outside this consensus, landslide majorities for the opposition are usually guaranteed.

Thus, whatever the drawbacks of the unit-rule, it should be understood that this system does have the generally desirable effect of encouraging parties to become broad, inclusive, accommodating, temperate institutions, rather than exclusive and rigidly ideological ones.

D. SMALL STATE VS. LARGE STATE ISSUE

None of us was elected to office in order to promote the relative decline in influence of our States in Presidential elections. At the same time, each of us recognize that, with respect to amending the organic law of our country, there are limits to parochialism. These limits have had to be borne in mind as we considered the question: which States will benefit through direct election and which will not?

It is our view that, in at least one sense, none of the States will benefit from the establishment of direct election. As we have already noted, direct election would totally eliminate the role of States as States in the electoral process. Once direct election has been implemented, it will make no difference whether or not Vermont or Florida or Illinois has become more "powerful." That, in our opinion, is a concern that is relevant only to the extent that the States matter at all in the electoral process. By removing the States as intermediaries in the electoral process *each* of the States becomes less of an influence with the executive branch of the National Government.

On another level, we note the existence of two Library of Congress studies dealing with the large State-small State controversy. The first appears to show a small State advantage resulting from the impact of the 'constant-two' electoral votes given to each State regardless of the population. As a result, the smaller States have slightly disproportionate representatives in the electoral college as, indeed, they do in the legislative branch of our National government. This has been the traditional view of the electoral college, a conclusion easily attested to by a break down of votes cast by small-State and large-State senators and Congressmen during previous roll-calls on this matter.

TABLE A.—EFFECT OF THE ADOPTION OF DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT ON THE RELATIVE INFLUENCE OF THE SEVERAL STATES IN ELECTING THE PRESIDENT AND VICE PRESIDENT IN 1976

[Congressional Reference Service, Library of Congress]

State	Percentage of 1976 electoral college	Percentage of nation-wide popular vote	Percentage gain loss under direct popular election
Alabama	1.6729	1.4504	−13.31
Alaska	.5576	.1515	−72.83
Arizona	1.1152	.9107	−18.35
Arkansas	1.1152	.9411	−15.61
California	8.3643	9.6463	+15.33
Colorado	1.3011	1.3262	+1.93
Connecticut	1.4870	1.6940	+13.92
Delaware	.5576	.2892	−48.13
District of Columbia	.5576	.2070	−62.88
Florida	3.1599	3.8632	+22.26
Georgia	2.2305	1.7993	−19.33
Hawaii	.7435	.3572	−51.96
Idaho	.7435	.4219	−43.25
Illinois	4.8327	5.7861	+19.73
Indiana	2.4164	2.7225	+12.67
Iowa	1.4870	1.5686	+5.49
Kansas	1,3011	1.1745	−9.73
Kentucky	1.6729	1.4311	−14.45
Louisiana	1.8587	1.5676	−15.66
Maine	.7435	.5926	−20.31
Maryland	1,8587	1.7655	−5.01
Massachusetts	2.6022	3.1237	+20.04
Michigan	3.9033	4.4801	+14.78
Minnesota	1.8587	2.3909	+28.63
Mississippi	1.3011	.9434	−27.49
Missouri	2.2305	2.3954	+7.39
Montana	.7435	.4031	−45.78
Nebraska	.9294	.7451	−19.83
Nevada	.5576	.2475	−55.61
New Hampshire	.7435	.4164	−43.99
New Jersey	3.1599	3.6962	+16.97
New Mexico	.7435	.5130	−31.00
New York	7.6208	8.0119	+5.13
North Carolina	2.4164	2.0586	−14.81
North Dakota	.5576	.3644	−34.65
Ohio	4.6468	5.0418	+8.50
Oklahoma	1.4870	1.3393	−9.93
Oregon	1.1152	1.2628	+13.24
Pennsylvania	5.0186	5.6658	+12.90
Rhode Island	.7435	.5042	−32.19
South Carolina	1.4870	.9841	−33.82
South Dakota	.7435	.3687	−50.41
Tennessee	1.8587	1.8102	−2.61
Texas	4.8327	4.9928	+3.31
Utah	.7435	.6636	−10.75
Vermont	.5576	.2302	−58.72
Virginia	2.2305	2.0809	−6.71
Washington	1.6729	1.9073	+14.01
West Virginia	1.1152	.9208	−17.43
Wisconisin	2.0446	2.5800	+26.19
Wyoming	.5576	.1917	−65.62

In the tables above, the 2d column, "Percentage of 1976 electoral college," presents the percentage of the total number of 538 elector votes cast by each State and the District of Columbia. The 3d column, "Percentage of nationwide popular vote," presents the percentage of the total nationwide popular vote of 81,555,889 cast in each State and the District of Columbia. The 4th column, "Percentage gain/loss under direct popular selection," presents the gain/loss, in percentages, of the respective States' and the District of Columbia's share of influence in electing the President and Vice President had direct popular election replaced the present electoral college system for the 1976 election. [Source: Richard M. Scammon and Alice V. McGillvary, Comps. "America Votes 12" (Washington, Congressional Quarterly, 1977) 15.]

The second study, referred to in the majority report, relies heavily upon complex, computer modelling and suggests that the large States are advantaged under the electoral system. This advantage purportedly results from the fact that the individual voter within the large State is capable of influencing more total electoral votes than is the individual voter within the small State.

We note, in particular, that this latter study relies heavily upon an analysis of Professor John J. Banzhaf, III, who has since stated in correspondence to the subcommittee that his research should not have been cited by the library as supporting the proposition that the electoral system is biased in favor of large States. In his view, the library study is "incorrect, incomplete, and misleading."

The "electoral college-large State advantage" argument is a generally misleading one, in our opinion. What the studies state precisely is not that the State of New York or the State of Michigan is advantaged by the electoral college, but that the individual voter within that State, at some given moment in time, has more potential influence than his counterpart in the smaller State.

Whatever the theoretical truth of that assertion, the voters of a small State collectively, i.e., when considered as a group, have a larger share of electoral votes than their share of popular votes cast. Thus, under the present system, the majority of voters in a small State choose a candidate for the entire State. The majority choice is accepted as the collective choice for that State and this collective choice is given greater weight than is represented by the small State's share of popular vote.

Finally, whatever is demonstrated by the conflicting array of sophisticated computer studies, a critical consideration in the small State-large State argument is how Presidential candidates themselves view the importance of the States. As observed by one of our colleagues, who has been through the experience, Senator Goldwater:

"What these mathematical studies miss is the human factor. They do not take account of the human psychology which governs real-life politics . . . I am afraid that direct election would destroy the special extra weight now given in elections for protection of smaller States. For even if a candidate fails to visit a given State, he may well take a particular position on this or that issue calculated to attract voters in that State."

Former Presidential adviser, Richard Goodwin, has testified to the same effect. He has noted that—

Most Presidential campaigns are concentrated on no more than twenty percent of the vote, the swing vote, on the asumption that the rest are pretty well committed. Today, nearly every State has a swing vote which, even though very small, might win the State's electoral vote. Thus, nearly every State is worth some attention.

E. INFLUENCE UPON MINORITY INTERESTS

It is not only the smaller States, however, that stand to lose influence through the implementation of direct election. Not surprisingly, in view of the weight that the electoral vote system accords the principle of concurrent majorities, or "reasonable" majorities, cohesive minority groups within the larger States also stand to lose substantial electoral influence.

According to Vernon Jordan, chairman of the Black Leadership Forum, direct election would result in "serious setbacks for minorities." In their study for the Brookings Institute on direct election, Wallace Sayre and Judith Parris observed that direct election would cause metropolitan areas to "lose their most important point of leverage in the total political system." The ability of these areas, heavily populated by minority groups, to hold the balance of power in larger, competitive two-party States would be lost. Instead, they would simply be tossed into the national electoral pool indistinguishable from other voters.

Jordan, testifying on behalf of the Urban League, the NAACP, the National Urban Coalition, PUSH, and the Southern Christian Leadership Conference, warns too that direct election would—

"Inevitably mean the formation of black political parties, voting along racial lines and increasingly separated from the major parties who would themselves be weakened and dependent upon coalitions with splinter groups. This would not only weaken the political system, but would be a polarizing factor destructive of racial harmony."

The Ameircan Jewish Congress has testified also in recognition of the contribution of the electoral vote system to minority rights and aspirations:

"By tending to inhibit the nomination of candidates likely to be objectionable to sizable minority groups, the electoral system assures attention to the needs and desires of groups whose interests might be given much less consideration under a system of direct popular election."

This point was echoed by the American Farm Bureau Federation with respect to the minority interests of rural America.

F. RISK AND LEGITIMACY OF A SECTIONALIST PRESIDENT

There are several risks of a crisis of legitimacy under a system of direct election: (1) a candidate can become President with only regional support. It is quite conceivable that a candidate could concentrate nearly full-time efforts on maximizing vote totals in heavily populated, but relatively circumscribed geographical areas. Other areas could be almost totally ignored. Direct election does not require that a candidate carry on a genuinely "national" campaign as does the electoral college; it is concerned only with the magnitude of vote majorities, not with their distribution.

The committee report presents a table which purports to show that a sectionalist president is unlikely. However, there are several flaws in that table. First, the assumption that 70 percent is the maximum likely margin of victory is not reasonable. The figure was apparently chosen because there have been few cases of greater than 70 percent margins under the current system. What is more relevant, of course, is the likely figure achievable under a direct election system with the kind of sectionalist campaign that is far more likely to occur under that system. Nevertheless, in order to make the example below more conservative, the 70 percent figure is used.

The second flaw in the table is that it assumes that the candidate receiving 70 percent in the listed states would receive no votes at all in other states. This assumption is clearly unrealistic and will not be applied in the example below.

In order to make clear that a sectionalist candidate might indeed be elected, Table B is presented. The table presents the hypothetical votes cast for a candidate focusing his campaign on the northeast plus Indiana, Michigan, and Ohio. The effect of adding Illinois is also considered. The candidate is assumed to have received 70 percent of the total votes cast in such states during the 1976 presidential election. The candidate is also assumed to have received 30 percent of the votes cast in other States.

The results for such a candidate are 44.7 percent of the popular vote (47.0 percent of Illinois is included).

This percentage of votes is above the 40 percent threshold required for victory under S.J. Res. 28. Further, it is likely to be a winning margin under a direct election system in light of the additional candidates and parties that would be encouraged (see above discussion of the damage to the two-party system under direct election).

TABLE B.—ARITHMETIC OF A SECTIONALIST PRESIDENT

Delaware	235, 834		
District of Columbia	168, 830		
Indiana	2, 220, 362		
Maine	483, 216		
Maryland	1, 439, 897		
Massachusetts	2, 547, 558		
Michigan	3, 653, 749		
New Hampshire	339, 618		
New Jersey	3, 014, 472		
New York	6, 534, 170		
Ohio	4, 111, 873		
Pennsylvania	4, 620, 787		
Rhode Island	411, 170		
Vermont	187, 765	Illinois	4, 718, 914
Subtotal	29, 969, 301	Add Illinois	34, 688, 215
70 percent of subtotal	20, 978, 511		24, 281, 751
Total votes cast	81, 555, 889		----------
Total votes cast in other States	51, 586, 588		46, 867, 674
30 percent of total in other States	15, 475, 976		14, 060, 302
70 percent vote plus 30 percent vote	36, 454, 487		38, 342, 053
Percentage of total votes cast	44.7		47.0

Note: The left column of figures first sets forth the total votes cast in the 1976 Presidential election in the listed States. The hypothetical sectionalist candidate is assumed to receive 70 percent of these votes. He is also assumed to receive 30 percent of the total votes cast in the unlisted States. The votes in listed and unlisted States is then totalled and a percentage figure calculated. The right column repeats this procedure on the assumption that Illinois is part of the sectionalist voting region. Raw data is taken from America Votes 12, compiled and edited by Richard M. Scammon and Alice V. McGillivary.

(2) A candidate can become President without a majority, indeed even without a plurality, in a single state. This is basically the converse of the first possibility. A candidate whose support is insufficient to gain him a majority or plurality in a single state may emerge victorious in a three-way competition if his votes are distributed evenly throughout the country. Thus, a candidate could be elected President of the United States without having captured a single one of those states.

(3) The candidate prevailing in the runoff election might have placed a distant second in the general election. Such a candidate would hardly be likely to have an overwhelming public mandate. Professor Brown of the Harvard Law School observes of such a candidate that—

"The majority that supports him in the runoff is at best a reluctant majority, and he remains substantially in pledge to those who swung support to him in the runoff, since it has been demonstrated that he could not have won without them."

The New Republic asks: "Will the results of the first election ever be forgotten, or will those results actually define the new president's ability to govern?"

One of the strengths of the present system is that it gives us but a single election. Not since 1824 has it been necessary to invoke the contingency provisions of the 12th amendment. The unit-rule provisions of the electoral system has the effect, further, of magnifying the popular vote margin into a larger electoral vote margin, thus discouraging prolonged challenges and dispute even in the case of close elections.

(4) Finally, in light of the democratic preoccupation of direct election advocates, it is worth stressing that such a system of presidential election will routinely give us presidents who are opposed by a majority of the electorate. These advocates may lament the fact that the 49.8 percent presidency comes along every century or so under the electoral vote system, but they are giving us a system which, through its encouragement of splinter parties, is likely to make 50 percent presidencies a historical curiosity. If "one-man, one-vote" is the overriding, all-compelling American principle, how can advocates of direct election tolerate a system that expressly contemplates and would encourage 40 percent presidents? We feel it is important to note that, under the electoral system, the nation has generally been governed by Presidents who have achieved much better than a 40 percent plurality. Only three have been elected in the history of the country with less than 45 percent of the popular vote.

Whatever the threshold level established by a direct election amendment, it is virtually certain that presidential campaigns will be fought in the context of candidates narrowly succeeding or narrowly failing to achieve that margin. With a 40 percent threshold, it is likely that we will have a 50 percent presidency only in rare landslide election years, as observed by Vernon Jordan:

"The paradox is that democracy and democratic practice is better served under the indirect electoral college system than under the misleadingly democratic direct election system."

Efforts to compare the relative "crises in legitimacy" of Presidents elected under different electoral systems are, of course, speculative. We do, however, have the benefit of experience with the electoral college to suggest that a 'runner-up' presidency would be as readily accepted and 'legitimated' as, for example, the presidency of a Gerald Ford, who was elected not at all to either the presidency or vice presidency. In the same way that the 25th amendment, then less than a decade old, lent respectability to the Ford administration, article II of the Constitution would seem sufficient to do the same for a 'runner-up' presidency.

According to Professor Judith Best, author of a study on direct election:

"If a truly sectional President were to be elected under this system, the country would be ripe for civil discord, if a President, let us say because of an overwhelming victory in the populous eastern megalopolis, won a majority or plurality of the popular votes although receiving insignificant support in the other sections of the country, he would be considered "their" President, not "our" President by the rest of the country. He would have great difficulty governing."

Presidential acceptance, or "legitimacy" depends upon more than simple arithmetical preponderance; it also rests upon tradition, the stability of the regime, the naturalness of transition, the integrity of the person, the base and breadth of his support, and public perception of the 'fairness' of the system.

While the "crisis" attached to the electoral vote system involves what is in substance a mere technical violation of bastardized Democratic theory, the "crisis" of direct election (a far more real possibility in our opinion) is the pitting of region against region. The electoral college is an impediment to sectionalism; it is a bulwark against Presidents and Presidential campaigns that are relatively unconcerned about large sections of the country. Professor Best notes, in comparing the relative gravity of "crises" fostered by 49.8 percent Presidents and by sectionalist Presidents, that the former is a "pin prick," the latter a "bleeding artery":

"A truly sectional President * * * would be a substantive violation of the spirit and intent of the constitutional system as a whole."

G. RISK OF FRAUD, RECOUNTS, AND RUNOFFS

It is our opinion that direct election would be an invitation to fraud, would encourage interminable vote challenges and recounts, and create chaos in what is currently an orderly and rational transition period between administrations.

Much of this stems from the fact that direct election, in effect, substitutes for fifty separate state elections, a single national election. As a result, the benefits of "compartmentalization" derived from the electoral system are lost. As noted by Professor Ernest Brown of the Harvard Law School:

"The present system insulates the States. When the vote is counted by the states, those lines insulate the area of contest and keep it local, and they insulate the significance of the contest."

With respect to fraud and vote corruption, for example, there is presently incentive for such activity only in those states obviously, in which it can make a difference. Unless there is a relatively close contest within a state, there is no inducement for fraud. As a result, fraud in presidential elections under the present system has been a relatively unusual occurrence and, when it has transpired, it has only rarely been capable of influencing an election nationally.

Under a system of direct election, new incentives would exist for vote fraud in every precinct in every state across the country. Each vote wrongfully obtained would have potentially national significance regardless of the closeness of the campaign in any single state. In the event of a close national election, there may well be tremendous pressure for vote manipulation and maneuvering, particularly in the western-most states. The change of a very few votes per precinct, across large numbers of precincts, would pose great difficulty of detection.

The electoral vote system does not foster any more or less honesty among vote counters than does direct election; it is simply that vote chicanery is discouraged by limiting the scope of its significance. As Theodore White has put it, under the present system, "the crooks are each sealed in their own state containers."

By the same token direct election would sharply undermine the certainty of electoral counts. Contested elections, which may well pose constitutional crises in their own right, will become routine in close elections such as those of 1960, 1968, and 1976. There will be an incentive placed upon forcing such challenges and recounts because the shift of even a handful of votes in a number of precincts across the Nation may have a substantial impact upon close national election. Under the present system, there are inducements for challenges and recounts only where an election in an individual State is close.

It is not unlikely that in razor-thin elections there will have to be recounts of each of the nearly 200,000 polling places across the country. In even the most honestly and conscientiously managed polling places, it is unusual that recounts do not result in minor vote adjustments. No narrowly losing Presidential candidate could afford to forfeit the opportunity to cumulate those votes through a recount.

The impact of fraud and vote recounts is not limited, under a system of direct election, to whether or not Candidate Smith or Candidate Jones becomes President. It may also play a critical role in determining whether or not Candidate Smith is forced into a runoff, and, if so, whether or not he will be opposed by Candidate Jones or Candidate Thomas. Not only might the leading candidates' votes have to be recounted and re-analyzed, but the total vote, including disqualified, damaged, write-in ballots et cetera, will have to be assessed in order to determine whether or not 40 percent of the total vote equals 20 million votes or 20 million plus one. Consider the nightmarish situation in which the country is placed, during what has otherwise been a smooth interregnum period, if Candidate Smith is initially given 40.1 percent of the vote, Candidate Jones 30 percent, and Candidate Thomas 29.9 percent. The existence of a runoff and the identity of the runoff participants would be uncertain for, at minimum, a three- or four-week recount period. Political data analyst Lance Tarrance considers it "computationally impossible" to certify such an election outcome for up to a several month period. He notes that the electoral vote system currently serves the largely overlooked function of "cleaning out much of the error debris in our election tabulation system by concentrating on State outcomes, rather than a national outcome."

How much time would the candidates have to campaign following the general election and the recount if a runoff were forced? What if the runoff were also decided by a narrow margin? The country could be well into January without an inkling of who its next president would be. Whoever the new president, his opportunity to reflect over his victory and prepare for his new administration would be virtually nil. No doubt, the scare of doing extended battle would also deny him any significant "honeymoon" period.

During a juncture in which wounds are now allowed to heal, and during which the president is transformed from a narrowly partisan figure into the spokesman for a single people, direct election would give us the paralysis of recounts and the bitterness of electoral conflict. Backroom coalitions and bargaining that, under the present system, would have ben long forgotten would now just be beginning.

H. NEED FOR A FEDERAL ELECTION CODE

At a time when there is so much disillusionment with concentrating power in the Federal Government, S.J. Res. 28 would nationalize one of the most important functions currently performed by the States—the administration of elections. A uniform, national election code imposing uniform election procedures upon each of the fifty States is a virtual certainty if direct election is instituted.

While distinct electoral practices can be tolerated within each State since presidential elections are now conducted on a State-by-State basis, this cannot obviously be permitted once a single national election has been established. So long as the ballot procedures, or residency requirements, in Kentucky or Arizona do not affect elections in Missouri or New Hampshire, they can be tolerated. Under a system of direct election, however, which occurs in each precinct in each State affects every other precinct in every other State. If, for example, a precinct in West Texas counts both checkmarks and "X"'s on its written ballots, while a precinct in Connecticut counts only checkmarks, is not the electoral influence of the west Texas precinct increased at the expense of the Connecticut precinct?

Professor Richard Smolka, professor of government at American University and the author of numerous works on elections, has testified eloquently with respect to those areas in which the Federal Government will have to preempt the States under direct election. Among the issues that Congress will have to deal with:

Times, places, and methods of voter registration;

State residency laws (S.J. Res. 28 authorizes Congress to "establish uniform residency qualification");

Absentee ballot requirements and procedures;

Methods by which candidates and political parties can qualify for the ballot;

Who has the right to use party names? May a candidate run on the liberal or conservative party tickets in New York, or the DFL or IR tickets in Minnesota, and have their votes aggregated with differently named parties in other States?;

Can Presidential ballots be combined with State or local ballots? Will voting be by party row or party column? Can a party level be used? Will ballot position be fixed?;

What will voting hours be? What types of voting machines will be permitted? How large an area may a precinct comprise? What sorts of election officials must oversee each precinct?;

Who will count ballots? Who will rule on disputed ballots? What appeals procedures will be established? What showing will be necessary for a recount? How will ballots be maintained pending recounts?

These questions form the tip of the iceberg. Under a system of direct election, the most minute and insignificant aspects of election, qualifications and procedures will be transformed into grand matters for congressional and Federal judicial determination. One of the few remaining areas in which federalism still flourishes will be eliminated. Decision-making that is currently handled in a responsible, orderly manner by thousands of election officials throughout the country will be rigidly centralized in Washington, D.C. A grandiose new bureaucratic structure will undoubtedly be necessary to administer these responsibilities.

A national election code would be particularly dangerous to the extent that it reflected the biases of the party then in the majority in the national government.

I. ADDITIONAL POWER TO NATIONAL MEDIA

One matter that concerns us greatly about the direct election proposal is that it will enhance the role of the national media in Presidential election campaigns. Increasingly, in recent years, political reforms designed to open up the system have had the net effect of increasing the influence of the communications media, and those who are skillful in utilizing it.

Curtis Gans, testifying on behalf of the Americans for Democratic Action in 1977, explained,

"For two decades, or ever since the advent of television as a central factor in American lives, the practice of politics has increasingly been dominated by the political commercial, image making and mass media manipulation. Only the need to maximize the vote in key states has forced national campaign managers to expend resources for organization in the several states. However, should this nation move to a system of direct popular vote for President, what few remaining incentives to political organizations would be lost. Electoral contests would be between Pat Caddell and Robert Teeter, between Deardourff and Bailey and Rafshoon. The contest would not be among those who could recruit and organize the largest number of participants in the process but rather who could most effectively and skillfully manipulate media imagery."

In the absence of political and geographical boundaries, campaigns could be conducted on a centralized basis. The institution best equipped to promote such a campaign would be the national mass media.

In the place of traditional election day maps illustrating which candidate carried which State, Theodore White predicts that direct election will introduce us to election day maps illustrating which candidate carried which media markets.

Ronald Wilner, testifying on behalf of political consulting firm, Robert Goodman Agency, commented:

"Advertisers buy on a cost-per-thousand basis ratio . . . A dollar spent anywhere will reach virtually the same number of potential voters. However, there is a way to beat the prevailing cost-per-thousand ratios and that is by taking advantage of the efficiencies offered in network advertising. I would suspect that we would see our Presidential candidates using a lot more of it—network advertising—than in the past. Lacking the need for a state-by-state strategy, they would be prime candidates as network advertisers."

Such an economic incentive would sharply increase the likelihood that national media would be more frequently and intensively used, increasing their influence over the Presidential election process.

In the place of traditional election day maps illustrating which candidate carried which State, Theodore White predicts that direct election will introduce us to election day maps illustrating which candidate carried which media markets.

VI. PROPOSALS FOR ELECTION REFORM

None of us believe the present electoral system to be perfect. Nor are we necessarily in agreement that the present system is even the best of all electoral worlds. What unites us is simply the belief that the present system is far superior to direct election of the President and Vice President.

Among the alternatives that have been proposed to the present system are (1) the proportional plan which maintains the electoral vote structure but requires states to apportion their electoral votes to each candidate in the proportion of his popular votes within that state. As we observed earlier, his option is currently available to the states, although at their discretion; (2) the district plan, which maintains the electoral vote structure but requires states to apportion their electoral votes on the basis of popular vote margins within each state's congressional districts. This, too, is an option currently available to the states at their discretion; (3) the 20th Century Fund "bonus plan," which maintains the present electoral vote system, yet awards an automatic 100-electoral vote bonus to the candidate winning the national popular vote; and (4) limited modification of the present electoral system, for example, abolition of the office of elector.

While we have differing individual points of view on the merits of these proposals, we are in agreement that each would represent a far less radical departure from the present system than would direct election. Senator Thurmond, for example, has long been an advocate of the "proportional plan." Each of these proposals is premised upon the same fundamental values as the present system and would preserve those values in the context of Presidential campaigns. Each would be complementary, not destructive, of the basic political institutions that have served our country so well for so long.

None of us, too, would seek to defend the office of the "elector." While we believe that the so-called "faithless elector" argument is largely a red herring, in view of the fact of its minuscule frequency of occurrence, we concede that the system would be a better one if that temptation were conclusively foreclosed. Whether or not this problem can be cured extra-constitutionally, as suggested for example by Professor Charles Black who believes that resort to simple contract theory should suffice to bind electors, or whether an amendment is necessary, is something with respect to which we have an open mind.

It is our concern that this relatively trivial and insignificant shortcoming in the present system not be used as justification for imposing changes of a truly radical dimension upon the country.

VII. CONCLUSION

We would be remiss if we did not mention that we are also concerned about several technical difficulties with S.J. Res. 28, including its failure to specify a time limit for ratification, and the possibility of its abolition of the electoral college between the time of a general election and the time of the formal electoral college processes.

We are concerned also, in light of the need for uniformity of State election procedures under a system of direct election, that nothing in S.J. Res. 28 precludes the States from relaxing suffrage qualifications, for example, lowering their voting age to 16, and thereby achieving an advantage with respect to the other States. In order not to lose relative influence, it will be necessary for each State to follow the lead of that State most liberal in its voting requirements.

In addition, it is noteworthy that, upon the submission of this amendment to the States, the States will be faced simultaneously with three separate constitutional amendments for the first time since the Bill of Rights was considered in 1789–91. A fourth amendment may well be offered the States as a result of their own initiaitve in petitioning for a constitutional convention. We find it ironic, to say the least, that the commttee is insistent upon submitting the present amendment to the States despite an almost total absence of public demand for this measure, while doing its obstructive best with respect to an amendment that is being demanded by the public. We have heard absolutely no public hue and cry for the immediate proposal. Public opinion polls, relied upon by the committee, which purport to show public support for S. J. Res. 28 suffer from the usual weaknesses that arise from attempting to distill complex constitutional debate into a single Harris or Gallup Poll query.

For the reasons that we have stated in these views, we are strongly opposed to the pending resolution. We respectfully urge our colleagues to examine it with a maximum of care and caution. In proposing an amendment to the constitution that would totally alter the processes of what Theodore White refers to as the "central rite" of our democracy, we believe that S. J. Res. 28 forebodes changes of the greatest dimension in our system of government. Each of us must consider whether or not such changes are truly needed.

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[From the New Republic, May 7, 1977]

A BAD IDEA WHOSE TIME HAS COME

"The electoral college method of electing a president of the United States is archaic, undemocratic, complex, ambiguous, indirect and dangerous." That is the very considered opinion of the American Bar Association, which has lined up with Birch Bayh and 44 of his colleagues in the Senate, with the AFL–CIO, the Chamber of Commerce, Common Cause, the American Federation of Teachers, the Farm Bureau, the UAW and the League of Women Voters, all determined to eradicate the electoral college. It also appears to be the opinion of President Carter, who nearly became the first man since 1888 to win the popular vote for president and lose the electoral vote. A shift of only 9200 votes in only two states, Hawaii and Ohio, and Gerald Ford would still be President. It is an impressive array of political clout, and with all that common resolve, you have to conclude that direct election of the president probably is an idea whose time has come.

The principal objections to the electoral college center on the practice now followed by most states of awarding all their electoral votes to the candidate with a popular vote plurality. One routine result of this practice is that narrow national popular vote pluralities are translated into substantial electoral vote majorities. John F. Kennedy won 49.5 percent of the popular vote in 1960 and 56.5 percent of the electoral vote. Richard Nixon saw his 43.6 percent of the 1968 popular vote inflated to 56 percent in the electoral college. Sometimes a walloping popular vote majority accumulated in one region—such as Jimmy Carter piled up in the South last year—may be dissipated when an opponent accumulates narrow victories in more states and thus greater electoral college strength. It is the extreme of this tendency that most nettles the abolitionists: the possibility of an electoral college victory—and thus the Oval Office—going to a popular vote loser, as nearly happened in 1916, 1948, 1960, 1968 and 1976. This possibility, they proclaim, represents a loaded gun, and the law of averages indicates that a misfire is inevitable.

With that worrisome prospect in the wings, the case for abolition may boil down to "Why not?" In an age when direct democracy is practicable, the electoral college represents an unnecessary artifact interposed between the voters and the president they elect. It is the appendix of the body politic, a vestigial organ serving no useful purpose with great potential for mischief.

But the issue of the electoral college is more complicated than that. Abolition was first proposed in 1824 and has been on someone's agenda ever since. Both sides have armed themselves with ever more sophisticated analyses and statistics either designed to demonstrate the electoral college's potential to produce a constitutional crisis or its immense adaptability and legitimizing effects.

Today's opponents of the electoral college tend to base their case primarily on the potential for a constitutional crisis—of one sort or another. They point to 1968: what if George Wallace had thrown the election into the House of Representatives? It is possible to rejoin that this country has weathered worse in the past decade. That would not have made Wallace a kingmaker. The nation and the Congress would have had to suffer him for a few days more, then the members would have followed the constitutional prescription and elected either Nixon or Humphrey, and how might they have chosen worse?

Or what if those hypothetical 9,200 votes actually had switched in Hawaii and Ohio last year, awarding the presidency to Mr. Ford? Americans simply and wisely would have chalked off Jimmy Carter's 1.7 million popular vote edge for what it was, a margin swollen by more than that number from his native South. Four years hence, they would have either reelected Mr. Ford or set things right.

It is even possible to conclude from the carefully gathered statistics of one of the chief abolitionists that the dread possibility has already occurred, that we have already had the ill-fated misfire and nobody noticed. Neal Pierce, in his studious 1968 book, *The People's President*, notes that John Kennedy's narrow popular vote plurality of 110,000 in 1960 rests on the questionable logic of counting votes cast against him and for a slate of unpledged Democratic electors in Alabama as part of his national total. Strip Kennedy of those votes and Nixon comes out the actual winner of the popular vote for president in 1960. Nixon never complained about the mathematics, perhaps because either way Kennedy's electoral college majority was unaffected. Had he more characteristically insisted on setting the historical record straight, would he have plunged America into a constitutional crisis? Martin Diamond calls the loaded gun contingency a "popgun possibility."

The constitutional amendment proposed by Birch Bayh and his colleagues calls for election of the president and vice president by nationwide popular vote, with a runoff if no candidate gets a 40 percent plurality. In short, the abolitionists simply would apply pure majoritarianism at the presidential level. It is not clear what effects such a change would have on the presidency or on the presidential mandate. Direct popular election would entail shifts in electoral strategy that might affect both. If it is fair to press for change on grounds of what might happen but never has, it is essential to estimate what might happen should we change.

Opponents of direct election contend that it would cause a proliferation of parties, or factions, or independent candidacies. Their logic is persuasive. The electoral college has the same effect in perpetuating two parties at the presidential level that single-member districts have in elections for the U.S. House and parliaments abroad. The winner-take-all custom in the electoral college encourages all but regional splinter parties to make an early accommodation, and discourages voters from casting their votes for a candidate who obviously cannot win. George Wallace dropped from a Gallup Poll high of 23 percent to 13 percent on election day of 1968; the falloff came almost entirely in the North, where he had no hope of capturing electoral votes.

Those who argue for a direct election with a runoff point out that with one exception (Lincoln in 1860), the winner always has gotten 40 percent. But in the past, the electoral college has been there to deter multiple candidacies. As Alexander Bickel put it, "To draw conclusions about future political behavior under a radically changed electoral system from the evidence of behavior under the system about to be dismantled is to take a long leap in the dark."

In this television age, the 40 percent runoff provision will encourage a proliferation not only of parties and factions, but of charismatic personalities as well. The runoff will make the first election for president like the two-primary system of the deep South in the heyday of its no-party politics—a trial heat with something for everyone. It would include the left and the right of the GOP, of course, the Socialists and Libertarians, perhaps a party of blacks, browns and Indians, a women's party, the anti-welfare and anti-abortionists, an aggregation of social issue and ethnic purity voters, maybe a fundamentalist Christian candidacy or party, and perhaps a John Gardner or Ralph Nader above-politics candidate to appeal to the independents. We would provide a reasonable shot at the highest office in the land to every charismatic or quasi-movement figure in America, not only Norman Thomas, Eugene McCarthy and George Wallace, but Father Coughlin, Anita Bryant and Billy Graham.

And what would prevent the ideologists from becoming hard-edged? What mechanism would assure the moderating and compromising now accomplished by national party nominating conventions? The system advanced by the abolitionists is not one to encourage accommodation, but rather one designed in its every particular to fuel uncompromising causism.

Would the factionalism take root? Would there be any more staying power than third and fourth parties have demonstrated in the past? Indeed there would. With no electoral college mechanism to eradicate the votes of minor parties; independents and splinter groups who have suffered for want of money in the past will be able to find start-up funds on the strength of the change. And let us not forget, campaign finance laws now on the books require that public monies be turned over to all factions that attain a reasonable first beachhead.

The abolitionists also wish to purify the presidential mandate by removing the intermediary body. Neal Pierce says, "The President is the only American official who represents the American people entire. . . . We are one people in the White House, or should be." The rhetoric sounds Caesarist in an era when we are more usually concerned with diminishing the imperial trappings of the presidency.

But aside from that, the direct popular vote proposal is dangerous not only in the runoff, but also in the stand-off. The electoral college, as we have seen, tends to magnify majorities, to inflate narrow popular victories into wider electoral margins, and many believe this has a salutory effect, that it adds to the legitimacy of the result and enhances the ability of a president to govern. When 70 million voters divide with a plurality of only 100,000 votes, as they did between Kennedy and Nixon in 1960, the result approaches perfect dissensus. Reasonable men must count the outcome a stand-off. What is needed in these circumstances is precisely what Kennedy had, a standby device previously agreed upon to permit one of the two men to govern: an electoral college. What will remain of a president's mandate to govern, however popularly purified, if such a result occurs in a runoff election? Will the results of the first election ever be forgotten, or will those results actually define the new president's capacity to govern?

We know well enough by now that it is impossible to tinker with one part of the electoral mechanism without creating a ripple effect among the rest. If the electoral college is abandoned, the next step surely would be a national primary or some variation thereon. As Austin Ranney has noted, all the first principles argued against the electoral college apply with equal force against national nominating conventions: they are an imposition between the electorate and the outcome; they are mechanisms for aggregating minorities and, as such, often bend results; and it has happened in both parties that the man with fewer popular votes ultimately wins the nomination.

Follow the ripples in the water just a bit further. Most proposals for a national primary include the same provision for a 40 percent runoff as the Bayh amendment for direct popular vote. Thus it is quite conceivable, and even probable, that we could have the equivalent of six national elections every four years—two national primaries and a general election, each with a runoff!

The enormous impact that television has had on presidential politics, the recent spread of primary elections, and last year's public financing experiment all reflect a trend toward nationalizing presidential politics. Proposals for direct election of the president and national primaries will prejudice our politics in the same direction: both diminish the role of the states and devalue the nominations of the major parties. Nor are these the only propositions for further reform. President Carter, Vice President Mondale and most of Birch Bayh's coalition also wish to adopt a system of universal voter registration, abolish the Hatch Act and use public funds to finance congressional races.

Political reform is an episodic phenomenon in the United States. The progressive era was the last time there were so many serious possibilities of change on the horizon at the same time. The reforms of that period included women's suffrage, the direct election of senators, the direct primary and referendum and recall. The progressive impulse was to give stronger and more certain direction of public affairs to a popular majority. Yet at least two of its instruments (referendum and recall) and in some instances a third (the direct primary) were turned into tools for minority pressure.

The current reform impulse seems to be in the direction of a purer one-man-one-vote majoritarianism, set in motion by the reapportionment decisions of the Supreme Court. We have removed barriers to registration and voting and eliminated other features that seemed to dilute the influence of individual citizens in the political process. Elimination of the electoral college is a threshold change to a future of strict majoritarianism. If only one could know what that future holds.

The American political system may be at a point of serious mutation. As we evaluate the proposition that Senator Bayh places before us, we would do well to heed the caution of Professor Bickel: "There are great virtues in a conservative attitude towards structural features of government. The sudden abandonment of intitutions is an act that reverbertates in ways no one can predict and many come to regret. There may be a time when societies can digest radical structural change, when they are young and pliant, relatively small, containable, and readily understandable; when men can see the scenery shift without losing their sense of direction. We are not such a society."

[From the National Review, Apr. 7, 1970]

Let's Keep the Electoral College

(By Ronald C. Moe)

Every few years, politicians and pundits pound out an old tune on the tom-toms: Abolish the Electoral College. And the beat is especially strong this year, for a man named George Wallace badly scared the leaders of both major parties. In 1968, for some time before the votes actually came in, a third party candidate seemed capable of throwing a Presidential election into the House. And it is the memory of this threat that account for much of the fervor for electoral reform today.

This concern is certainly understandable. But it is misdirected. For, as I will attempt to show, three electoral institutions strengthen rather than weaken our two-party sytem, a system which, people as disimilar as Hubert Humphrey and Barry Goldwater agree, accounts for the stability of American republican democracy. These three electoral institutions are: the state laws regulating parties; the single-member-district concept for Congress; and the Electoral College.

This two-party system has attracted international attention for decades. Why should America, the most heterogeneous of lands, enjoy the stability and moderation generally associated with a two-party system? Scholars, foreign and domestic, are not entirely persuasive in their attempts to answer this question. Some have argued that a single "cause" has led to the establishment and maintenance of only two parties; others assume that several factors working together have accounted for our dualistic politics. In general, the explanations fall into three groups: dualistic theories; consensus theories; and institutional theories. I prefer the third.

The dualists trace the origins of our present party system back to the conflicts involving our Founding Fathers. The path is tortuous. Initially, the battle was between the Federalists and Anti-Federalists over the Constitution. Later the lines shifted. The conflict became sectional, first between the financial interests in the East and the agrarian interests of the West, then between the North and the South over slavery. Today, dualists believe, the battle is largely between urban and non-urban interests.

A variation of this historical theme is offered by social scientists who see our dualist politics as the offspring of our national character. Americans somehow like to think in dualistic either/or terms. They purposely shun shades of difference in favor of clear-cut contests between two groups. This tendency toward ideological dualisms encourages the maintenance of a two-party system. Americans, they contend, take many different positions on a single issue and establish interest groups to promote each view.

The second category of theories revolves around notions of social consensus. Many scholars attempt to explain our party system in terms of widely held social and political norms. Despite our heterogeneous cultural heritage and society, Americans, numerous studies have informed us, share a consensus over the fundamentals that divide many other societies. Virtually all Americans accept the prevailing social, economic and political institutions; they accept the Constitution and its governmental apparatus, the regulated free-enterprise economy and the social class pattern. This consensus is lacking in many other countries where the legitimacy of basic institutions is often questioned. In such countries, multiple-party systems thrive.

Finally, we come to the various institutional theories. Such theories argue that America's heterogeneous society would spawn many parties, not few, without artificial checks. In other words, our two-party system is not a natural outgrowth of American character or history, nor is it a product of some ephemeral consensus. It is the result of our electoral system and our constitutional institutions. The corollary to this argument is that if we were substantially to alter our electoral system we would substantially alter our political party system. They are inseparable.

While the academic fashion is to attribute approximately equal credit to each of these three categories of explanation, I find that no such equal credit is warranted by the evidence. No doubt there are some supporting factors to be found in the arguments of the dualist and the consensus schools, but these are not determinative. I favor the third theory, for the best available evidence supports the idea that political party systems are electoral artifacts, easily altered by changing the rules of the game, notwithstanding cultural factors which might tend to militate against change.

ENCOURAGING NATIONAL PARTIES

Our national parties have been aptly described as loose alliances of state parties. E. E. Schattschneider notes: "Decentralization of power is by all odds the most important single characteristic of the American major party; more than anything else this trait distinguishes it from all others. Indeed, once this truth is understood, nearly everything else about American parties is greatly illuminated. . . ." The Massachusetts and Alabama Democratic parties, for example, bear little family resemblance. The state party systems are, for the most part, products of the various state electoral laws.

In the nineteenth century, states tended to view parties as private groups and made few laws to supervise their activities. Coincident with the progressive movement and its interest in direct primaries, state legislatures began to pass laws regulating parties and elections.

The situation became acute in many states during the 1912 campaign when secessionist Republicans formed the Bull Moose Party and attempted to wrest control of local party apparatuses. In most states it was relatively easy to get on the ballot, thus, Theodore Roosevelt was able to run a strong race against the regular party. The state parties became alarmed and passed a great deal of electoral legislation, the most important having to do with definitions of what constituted a legitimate party.

California provides an excellent example of how state laws encourage the two-party system and discourage the formation of splinter parties. If a group wants to run a candidate for President, it must first constitute itself a party. This means that it must have an enrolled membership of 1 per cent of the total registered voters by January 1 of the year it seeks to hold a primary and run a Presidential candidate. Thus, a new party cannot be established after the political conventions. This also means that the group has to work hard, well in advance, in order to run a candidate in November.

While the regulations appear rigorous, they are fair and surmountable as attested to by the success of the Peace and Freedom Party and the American Independent Party in 1968. The rules discourage secessionist movements and millionaires trying to buy their way on to the ballot.

The second electoral institution is the single-member district concept as it is applied to congressional elections. The single-member district concept refers to the method by which many countries elect members to their legislatures. It might be more accurately described as the first-past-the-post system. If a nation decides to have territorial units represented in its legislature it must devise a method for apportioning these districts and this, in turn, affects the nominating process of the parties.

In a majority of instances where the single-member district concept prevails, plurality elections are followed. That is, the candidate who receives more votes than any other candidate wins the single seat at stake, even if his vote falls short of a majority.

It is well known that this system produces inaccurate results. A party may receive, for instance, a majority of seats without having received a majority vote from the electorate. Theoretically, at least, the Democrats could receive only 435 more votes than the Republicans nationwide, a minute fraction of 1 per cent, and enjoy complete control over the House, 435–0, if the votes were distributed perfectly among the districts. Realistically, of course, the problem is one of distortion. In 1968, for example, the Republicans, nationally, received 48.9 per cent of the votes cast for all representatives, yet received only 44 per cent of the seats in the House. In fact, since 1932, the Republicans have been under represented in every Congress except the Eightieth (1947–49).

The theory underlying the single-member district concept is best understood when compared with the opposite theory—proportional representation. Under pure proportional representation all votes in the country are tabulated together and the parties are awarded seats according to the percentage of votes received nationally. If the country had 25 or so parties, as was the situation in the French Fourth Republic (pre-de Gaulle), each party would submit a list of candidates in order of preference and then an agency of the national government would distribute the seats among them according to their relative strength. In a six-hundred member assembly, for example, if an extreme party received only 3 per cent of the votes spread over all the districts, it would still be assured of eighteen seats in the assembly. A party receiving only 3 per cent of the votes nationally in a country operating under the single-member district concept with plurality elections would, in all likelihood, have won no seats in the legislature.

IMPOSSIBILITY OF PARITY

The point is obvious—proportional representation, or the application of the one-man, one-vote principle to general legislature elections, increases the probability of legislatures composed of many small parties with coalition government required to rule. The weakness of the French Fourth Republic was attributed, in the main, to the plethora of parties and their inability to establish a stable government.

De Gaulle, upon ascension to power, eliminated proportional representation and instituted a single-member district system without, however, including a plurality election clause. Even with run-off elections required (a gimmick to weaken the Communists), most of the minor parties were driven from the scene and the elections came to resemble rather closely their American and British counterparts.

The fact is that it is simply impossible to have an absolute parity of voting power—that is, every man's vote counting equal in the *final* distribution of seats in the legislature—if a nation wants its legislature to represent territorial units. It is equally impossible to have absolute parity of voting power except under a system of national proportional representation and such a system virtually assures a multiparty political system.

The goals of voting parity and the maintenance of a two-party system are, for all practical purposes, incompatible.

The final institutional pillar of our two-party system is the Electoral College. The concept underlying the Electoral College is similar to that of the single-member district system except that it applies to the Presidency. In effect, just as a congressman cannot be split in half because the opposition party received only a few votes short of the necessary plurality, a state is similarly viewed as indivisible. The unit rule means that all of the state's electoral votes will be cast for the one candidate, and his party, who garnered the greatest number of votes. (The unit rule for voting in the Electoral College is a tradition, not a constitutional requirement. Recently, the legislature of Maine voted to eliminate the unit rule and replace it with a modified congressional district elector plan.)

IMPORTANCE OF UNITY

Occasionally, critics will claim that the unit rule serves to disenfranchise the minority. This is false. First, they had an opportunity to vote and win. They did not win, but it does not follow that they were disenfranchized. To lose is not to be disenfranchized.

The race for President is not just another election race. This contest sets the tone for the whole political system. The fact that a party and its Presidential candidate must win more votes than any other candidate in a given state in order to receive any electoral votes means that a high premium is placed on remaining a unified party.

If a party permits its ranks to be split, it loses not just the amount of votes that the dissenters can subtract from the total, but any chance at all for the votes cast by the electors of the state.

Consequently, the stakes are high. Traditionally, the parties have been moderate and pluralistic for they found they lost when they indulged in exclusive ideologies. Both major parties were required to be inclusive in character. "True believers" and congenital reformers, eager to emulate European parties, are constantly annoyed at the non-doctrinaire approach to politics followed by the two parties.

Not only are the two parties required to be moderate and non-doctrinaire, they also are required to be national in orientation and organization. If a party confined its appeal to one section of the country, it might be able to build a majority in the popular vote and still lose in the Electoral College. Parties early found that it really did no good to build up a substantial lead in New York, say, if it meant that Minnesota and smaller Western states were ignored. They count too.

A Presidential candidate needs only one more vote than any other party to win New York, then the battle has to be shifted to other states. Building a massive plurality in one state, at the expense of attention to other problems and other areas of the country, is not smart politics. The big states, while crucial, do not hold the entire key to the election. Mr. Nixon proved this rather conclusively in 1968.[1]

The debate on reform of the Electoral College has been quite one-sided so far—that is, only the critics have been heard. This is, in part, understandable since virtually everyone today considers himself a critic of one type or another. The Electoral College, so the argument goes, is an anachronism and ought to be abolished before it causes chaos. This is one thing Gore Vidal and Richard Nixon can agree upon. If ever there was consensus on an issue, this is it.

But the first step toward wisdom in matters of electoral structure is to recognize that no electoral system will ever be able to eliminate in advance all chance of confusion and crisis. When we talk about elections, we really talk about one of the oldest problems known to man, succession to power. One of the traditional attractions of a republic as a polity has been its anwser to the question of succession. Somehow elections seem a less expensive way to transfer power from one group to another than a clash of arms or interminable palace intrigues.

Recognizing the immensity of the problem, possibly our goal ought to be to devise a system in which the odds against crisis are minimized and the odds of a majority Executive maximized. This was the goal of the Founding Fathers—not the creation of a perfect system with all risks eliminated. They were never utopian.

AN ALTERNATIVE

The unfortunate aspect to our inordinate affection for the present is that it makes it more difficult to raise meaningful questions about our political institutions. The relevant question with regard to the Electoral College, for example, is whether or not the Electoral College performs a useful function toward maintaining the two-party system today, not what were the original purposes of the institution or what might have happened in a particular election a century ago if no candidate had received a majority. These kind of questions are of interest to historians, but are, essentially, irrelevant to the contemporary problem of succession to power.

Those who criticize the Electoral College cannot be charged with failure to offer an alternative. In fact, there are many alternative plans being circulated which run from pure proportional representation, to electoral voting according to congressional district, to simple, direct election.

The proposal enjoying the most support at present is the elimination of the Electoral College altogether and the substitution of simple direct election. Modifications have been added, however, in recent months. A provision generally accepted: If no candidate received 50 percent of the popular vote in the general election, a second, run-off election would be held between the two candidates who had received the most votes. This proposal has subsequently been further modified so that if no candidate receives 40 per cent of the vote, a run-off election will be held. These modifications are designed to placate those who see the problem of a minority President and multiple parties becoming critical. The above described proposal, herein greatly simplified, is essentially that which both Senator Birch Bayh, Chairman of the Senate Constitutional Amendments Subcommittee, and the American Bar Association have vigorously campaigned for.

FAULTY REASONING

Their political goal, in philosophical terms, is to "have every vote count equally in the final counting process." Is there a price that must be paid in order to achieve this deceptively appealing end? The sponsors answer in the negative. I suggest, to the contrary, that there's a very high price indeed. We had best be aware of it in advance.

The direct election plan is ironic in that it proposes to institutionalize a weakness which it alleges the Electoral College possesses, but which, in reality, the Electoral College has not exhibited since the election of 1824. That flaw, according to political folklore, was that a third candidate, Henry Clay, was able to jockey for personal advantage in determining to whom he would shift his support. The great contemporary fear is that no Presidential candidate will get a majority of the electoral votes and hence the election will go to the House with the third-party candidate holding the critical balance of power. This fear was spelled out in great detail in the newspapers during the 1968 election as they conjured up horror stories about what would happen if the vote were thrown into the House.

Let us look briefly, then, at the cause of this fear: Mr. Wallace and his American Independent Party. It should be noted, at the outset, that it is impossible to ignore any candidate who receives 10, 15, or 20 per cent of the popular vote. He has a right to be heard. The question is: Under what conditions can the influence of a third party be kept minimal while still permitting all votes somehow to count? The fear was that under the current Electoral College system Mr. Wallace would play a maximum role in terms of his voting strength rather than a minimal role.

The reasoning of those who believed this argument was faulty. The Electoral College, far from exaggerating the strength of third parties, minimizes their strength. Also, the Electoral College virtually assures, if we use history as a guide, a majority vote, in terms of electoral votes, to a major party candidate, thus eliminating the uncertainty which follows any run-off election whether popular or in the House.

Under the present system with its unit rule the probability of a majority President, that is, one cloaked with the legitimacy of over 50 per cent of the popular as well as electoral vote, is very high. If ever the system were to fail us, it should have been in 1968. The two major parties were evenly split with a strong third party, having a national base, challenging their hegemony. Why was the Wallace effort so unsuccessful?

It was unsuccessful because, and not in spite, of the Electoral College's unit rule. The functioning of the unit rule exhibits many subtle manifestations. It is not merely a mechanical process applied by the commentators on election night. It also influences how people will vote in the first place. Under direct election Mr. Wallace's vote would no doubt have been substantially greater, for then his votes would have been cumulated nationally. Many people realized that to vote for Wallace, as their first choice, was, in most states, wasting a vote since he would not gain a plurality in the state. Hence, they voted for one of the two major candidates. The unit rule, therefore, has an anticipatory impact on the voting decision of the individual citizen.

The Electoral College assures, in virtually every case, that a majority President is elected in the first instance thus permitting the President to begin his job without the question of his legitimacy being raised. Is not the strength of our political system explained principally in terms of the stability of our succession process? The Electoral College permits us to settle the problem of Presidential selection quickly and bestow legitimacy on the man who captured enough states to win a majority of electoral votes.

The Electoral College is "undemocratic" only if we are willing to brand all forms of indirect selection of officials or distortions of the one-man, one-vote principle by definition as "undemocratic." Our Founding Fathers offered no such definition. They contended that they had established a "popular government," with "republic" and "democracy," as understood in the terms of the participants, being equally valid species of this genus. A republic, or rule by indirect participation, is a valid form of popular government. The Electoral College, while not democratic in the narrow sense, is surely within the intellectual framework of popular government and its sub-type, the republic. The Electoral College, with its traditional unit rule, is a subtle, yet effective method of keeping the politics of the Presidency, and hence, to a large degree, of our parties, within manageable proportions.

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[1] Some liberal groups have recently decided that the Electoral College with its unit rule ought to be maintained. Their reasoning is that it benefits the large industrial states wherein certain minority groups can exert maximum influence. Statistically, of course, this is a questionable argument. Because of the present system which provides for a base of three votes per state, every state with a population below the median gain political influence in relation to those states above the median in population. Using the 1960 census and the two most extreme states. Alaska and New York, each elector from Alaska represented 75,389 citizens while each elector from New York represented 390,286 citizens. The unit rule does not change the impact of these statistics. The real significance of the "malapportionment" of electors is that it forces the parties to think and operate in national terms. The greater the spread in appeal of the party, the greater the chance of victory. The election of 1968 is a classic example of how distribution of votes may count for more than sheer numbers. While Nixon and Humphrey were close in the popular vote, Nixon's appeal was more national than Humphrey's so he was able to win one elector per 105,594 votes while Humphrey, whose appeal was largely in a few industrial states, required 163,696 votes to win one elector. Wallace was hampered even more by the limitations imposed by his sectional strength and needed 215,185 votes to receive one electoral vote.

The Electoral College, then, provides certain statistical imperatives which steer Presidential politics toward a two-party pattern and moderate national leaders.

All of this is to suggest that our two-party system is no accident; it is *not* peculiarly a product of American "culture" or of some other socoiological phenomenon. It is an institutional artifact which we have the option of preserving or destroying. And one of the surest ways to bring on destruction is to abolish the Electoral College.

PILLARS OF STABILITY

The indirect selection process of the Electoral College insures that splinter or third parties will have great difficulty in gaining sufficient strength to be decisive in the final outcome. Under any of the proposals, whether for direct election, proportional representation of electors or the host of variations on these two themes, the third party (in 1968, the American Independence Party) would have been permitted to exercise maximum leverage.

Under direct election, Mr. Wallace's strength would no doubt have reached that which the polls indicated he enjoyed prior to election day. If this assumption is correct—even with the 40 per cent requirement—a runoff election would have had to have been held with Wallace and his party providing the crucial swing factor.

In other words, the reformers want to rid us of a system which discourages splinter parties and which minimizes the odds of non-majority Presidents. They want to substitute instead a system whereby splinter parties and candidates will have maximum influence. We will change from a situation in which crisis is possible but unlikely, to a situation in which it might be chronic.

Few words cause more intellectual confusion than the word "reform." When someone says he wants to reform" some institution, he has generally begun his intellectual deliberations with a conclusion and worked backward. Almost by definition the status quo is judged "bad" and it then becomes necessary to rewrite the rules governing that institution in order to provide advantages to a particular group promoting a particular set of policies. Change, a more neutral word than reform, is almost always justified in terms of the general welfare when, in fact, changes in rules and institutions invariably aid one group at the expense of another. Change, then, is not inherently good. There are good changes and bad changes. The criteria for good and bad is measured according to the general theory of politics one accepts.

Throughout this essay a theory of popular government has underlain my substantive arguments. The theory is that democracy, as generally defined today, functions best when there are two major parties, as opposed to a multiparty system. These parties ought to be relatively non-doctrinaire and original in their organization and approach. They ought to conceive of themselves as the "ins" and the "outs," with both parties being committed to the fundamental values of the regime. Two-party politics suggests that both parties ought to contain a portion of most of the groups in the society and that neither ought to become exclusive or ideological. While such a politics may lack the momentary excitement of the righteous cause victorious, it is a politics which permits all groups to share in power and hence provides the environment necessary for the society to face real problems and make measured social progress.

The Electoral College, with its traditional unit rule, is a critical factor in the maintenance of our two-party politics. While it is conceivable that our politics would remain largely non-ideological and within the two major parties without the Electoral College, it is unlikely. The Electoral College does serve an important function today. One can, of course, be opposed to the two party model of politics or one can desire to have ideologically oriented parties, as the New Left does. If this is the political theory you support, then the elimination of the Electoral College should be high on your list of priorities. What the facts do not support, however, is the argument that the demise of the Electoral College will actually strengthen the two major parties and curtail the potential dangers of third parties.

Our two-party system is capable of being maintained only if the three pillars described previously are maintained in good order. To destroy any one of them would be to endanger the entire structure. At the very least, we owe it to those who are to follow us not to scuttle our electoral system, which has served us so well for nearly two centuries, without first attempting to understand the system. We must not permit ourselves to fall into the trap of substituting emotion and slogans for reasoned analysis.

[From the New Republic, May 10, 1969]

THE POPULAR ELECTION OF FUTURE PRESIDENTS: WAIT A MINUTE

(By Alexander M. Bickel)

The House Judiciary Committee last week approved a proposal for a constitutional amendment abolishing the electoral college and substituting direct popular election of Presidents. While he had said initially that popular election was not his first preference, Mr. Nixon later told a press conference that if the Senate and House adopted the proposal, he would support it. And now the President is quoted as promising that he will, given Congressional approval of the amendment, "throw the full weight of his office behind the drive for ratification." The amendment would be effective one year after the 21st day of January following ratification by three-quarters (38) of the state legislatures. Thus, the chances that a President will be elected by direct popular vote in 1976, though probably not in 1972, look better than they ever have. But perhaps Congress and the country may still be induced to pause for a second thought.

One objection to the electoral college as it now operates is that it can put in office a minority President—not merely, like any other system being discussed, a plurality President, but a candidate who had fewer votes than his chief opponent. That is indeed theoretically possible, and it has happened once in normal circumstances, though not in this century. But it is at all likely to happen only when the election is a toss-up, as in 1888, when 100,000 votes divided Cleveland from Benjamin Harrison. In such circumstances, it is pretty doctrinaire to think of either man as the popular winner. If there were no other considerations in play, it might be as well not to run even this risk. But other considerations are in play, and they are very substantially more important.

Proponents of the popular election claim that the electoral college is malapportioned in favor of the small states. And so it is, formally, because the electoral college assigns each state as many electoral votes as the state has Congressmen and Senators and each state has, of course, two Senators regardless of its population; and it gets one Congressman even if the state is a good bit smaller than any single Congressional district in, say, New York. If each state's electoral vote were divided—precisely or approximately—in proportion to the popular vote cast for each Presidential candidate, the malapportionment would be quite real, and might have considerable effect. (Mr. Nixon has said that proportional division of the electoral vote is what he would like to see done.) But as things now stand, we do not have a proportional system. The electoral votes of each state are cast by the unit rule—winner takes all. This is not constitutionally required, but it has been the uniformly followed practice for well over a century.

Owing to the operation of the unit rule, the malapportionment in the electoral college in favor of the small states is for the most part only apparent, not in practice real. The candidate who carries New York or Illinois by a 50,000 or even 5,000 plurality or majority gets a greater number of electoral votes than he can obtain by carrying several smaller states by larger popular majorities. For this reason, the system is malapportioned in favor of the big industrial states, in which party competition is vigorous, and which generally swing by relatively small percentages of the popular vote. Not only that; the system is in effect malapportioned in favor of cohesive interest, ethnic or racial groups within those big states, which often go very nearly en bloc for a candidate, and can swing the state's entire electoral vote.

Mr. John F. Banzhaff, III has expressed all this mathematically. Defining voting power as "the ability to affect decisions through the process of voting," he has concluded that voters in New York and California have over two and one-half times as much voting power (*i.e.*, as much chance to affect the national result in a Presidential election) as voters in smaller states. Pennsylvania, Ohio, Michigan, Illinois, even Massachusetts are also substantially advantaged. This fact governs the strategy of modern Presidential campaigns and the decision of the nominating conventions, and has in our day resulted in the orientation of the Presidency, as a rule, toward an urban constituency. That orientation of the Presidency, countervailing a tendency in Congress toward more conservative, rural and small-town attitudes, would be less secure under a system of popular election. With popular elections, a hard campaign aimed at New York or California could get a candidate some few hundred thousand votes that he might not otherwise have obtained. So would a campaign designed to appeal to the Southern or the Mountain states, let us say. There is more paydirt now in large industrial states. If Presidents were elected by popular vote, there might be more to gain elsewhere.

On balance, therefore, the smaller states, especially those that are relatively homogeneous and nearly one-party, should prefer popular election over the present system. But that does not mean that some small-state Senators and Representatives may not also perceive possible advantages in the present system. There is first of all a symbolic value in play for the small states, since the electoral college, on its face, confirms the federal structure, and the equality, as in the Senate, of all states, large and small. Secondly, circumstances are conceivable in which tiny shifts of popular votes in a group of small states, combined with equally minor shifts in at least one big state, could swing the election, regardless of the total national popular vote. In 1960, small shifts of popular votes, totalling no more than some 11,000, in New Mexico, Hawaii and Nevada, as well as in Illinois and Missouri, could have put Nixon in office.

The possibility of such a decisive role falling to a group of small states is highly remote. Actually, it is small margins of the popular vote in the big states that have often been decisive, and in any event, this much greater likelihood exerts its powerful influence on the nominating process, and on the nature of Presidential campaigns. But some small-state Senators and Representatives may take comfort in the other possibility, however remote; they may think it worthwhile to retain the present system because circumstances are conceivable in which the apparent and generally ineffective malapportionment in favor of the small states may actually work out that way. This is a remote expectation, but it is not an irrational one, and those who entertain it are entitled to it. The fact that they may entertain it does not alter the realities that should control the judgment of Representatives from large states. It simply happens that the electoral college can satisfy, at once, the symbolic aspirations and remote hopes of the small states, and the present, practical needs of the large ones. Not many human institutions work out quite as artistically as that.

Whatever its other effects and consequences might be, a system of popular election would seriously endanger the two-party system, and hence the stability of our politics. The electoral college makes it impossible for a third-party candidacy to have any sort of an impact, to entertain any hopes of deadlocking the election and thus putting itself in a good bargaining position, unless it has a strong regional base. And even George Wallace, who did take five Southern states in '68 couldn't do it. For a third-party candidate can get up to 20 percent or more of the popular vote, and yet no or very few electoral votes. And so third-party candidacies that have a general national appeal are effectively deterred. Popular election, on the other hand, would invite them; and it would do so without deterring the regional candidacies that are now possible. In order not to put plurality Presidents with weak mandates in office, the popular election amendment now before us provides for a run-off in the event that no candidate achieves 40 percent of the popular vote. One strong minor party candidate, or several weaker ones together, would stand an excellent chance of keeping anyone from getting 40 percent, and thus of putting themselves in a worthwhile bargaining position in the period between the first election and the run-off.

Candidates like Eugene McCarthy or Nelson Rockefeller gave little thought in 1968 to making an independent race after they lost the nomination, because a popular vote of even as much as 25 percent could well have left them with no electoral votes at all. But under a system of popular election, every consideration that brought forth issue-oriented candidates for the nomination would with equal or even greater force propel them into the general election. There is a strong possibility, if not probability, that under a system of popular election the run-off would be typical; the major party nomination would count for much less than it now does; there would be little inducement to unity in each party following the conventions; coalitions would be formed not at conventions but during the period between the general election and the run-off; and the dominant positions of the two major parties would not long be sustained. This sort of unstructured, volatile multi-party politics may look more open. So it would be—infinitely more open to demagogues, to quick-cure medicine men, and to fascists of left and right. Where a multi-party system has been tried, it has been found costly in just this way, and it has scarcely yielded the ultimate in participatory democracy or good government.

Another benefit of the present system, as Professor Ernest J. Brown of the Harvard Law School has pointed out, is that it "isolates and insulates charges of voting irregularities." Most frequently, a shift in popular votes, even if it should change the result in a state, will not affect the national outcome. Claims of voting irregularity are consequently not often pursued. But if everything depended on the total popular vote, we would very likely face in each close election, as Professor Brown has said, "reexamination of every ballot box and voting machine in the country, not to mention also the records of registration and qualification of voters." We could not possibly continue to let the states run the elections as they now do. Centralized federal control of qualifications for voting very probably, and centralized federal control of the counting process certainly, would be essential. There is no call, perhaps, to be unduly alarmed at this prospect. We are not quite a South American republic yet. But there is no use blinking the fact, either, that central control of vote counting opens up opportunities for national manipulation. Nobody is likely to seize these opportunities in the near future, but surely it is better that they not be available.

To approve of the present electoral college system as in essence more equitable and safer than any substitute that has been proposed is not to say that it is perfect. It needs prompt improvement in at least two respects. There is no good reason why an elector should be free—as in theory the electors are now free—to vote his own personal preference and thus break the unit rule. To make sure that this cannot happen, the electors should be abolished as such, and the electoral vote of each state should be cast automatically for the popular winner.

Another fault of the present system—although it has actually manifested itself only once since passage of the 12th amendment in 1804—is that in the event that no one has a clear majority of the electoral votes, a President is chosen by the House of Representatives. But members of the House on such an occasion do not vote individually, in the usual fashion. Rather each state's delegation polls itself, and a majority of each delegation then casts its state's vote, one vote per state, whether New York or Alaska. This method has nothing to commend it. Election by a majority of the individual votes of members of the House would be infinitely preferable, as would election by a joint session of Congress, each Senator and Representative casting one equal vote. Representative Bingham of New York has proposed a run-off *within* the electoral college system, and that is also a possible cure. Otherwise, however, the electoral college needs no fundamental change. And as John F. Kennedy said in 1956, quoting Falkland, "When it is not necessary to change, it is necessary not to change."

[From the Baltimore Sun, Apr. 28, 1977]

Keep the Electoral College

(By Austin Ranney)

"If it is not necessary to change, it is necessary not to change."

So said John F. Kennedy, who led the fight in 1956 against proposals to abolish the Electoral College. Kennedy's principle may be too strict to control all public decisions, but it seems as prudent now as in 1956 for judging constitutional amendments to change our political process.

I shall apply it here to Senator Birch Bayh's proposed amendment to elect the President by direct popular votes, counted without regard to state lines with a run-off election if no candidate receives 40 per cent or more of the votes.

President Carter, in a March 22 message to Congress, endorsed in principle the Bayh amendment and the proposition of abolishing the Electoral College, without endorsing any of its specifics. Rather than proposing a specific direct election amendment, he would allow the Congress to proceed with its work on the Bayh amendment without the interruption of a new proposal.

By the Kennedy principle, the amendment should be adopted only if there is a clear and present danger of evils the amendment will prevent without bringing even greater dangers. What is the danger here? The amendment's supporter base their case largely on what Senator Bayh calls "electoral roulette"—the risk under the present system that the candidate who wins a plurality of popular votes will win fewer electoral votes than his opponent.

The possibility is indisputable. The "unit rule" procedure awards all of a state's electoral votes to the candidate who wins a plurality, however small, of its popular votes. Consequently it is no trick to conjure up arithmetic nightmares in which a candidate gets the most popular votes but loses to an opponent with more electoral votes.

The Kennedy principle, however, requires a clear and present danger, not an arithmetic possibility. Does such a danger exist? Senator Bayh thinks so. "Only by sheer luck," he said in 1976, "have we survived another round of electoral roulette without the popular will being thwarted."

The senator's notion of "sheer luck" would not, I think, serve him well at a roulette wheel. The fact is that only twice in our history—1676 and 1888—has the candidate with the most popular votes lost in the Electoral College. So in 38 elections since 1828 (the first in which most electors were chosen by popular votes) the system has failed to produce the popular winner only twice, and the most recent failure happened 88 years ago. Most human contrivances that work 95 percent of the time are not considered in urgent need of repair.

That is not enough for the amendment's supporters. They say it could happen any time. In 1976, some offer for an example, if 5,559 votes had switched in Ohio and 3,066 in Hawaii, Carter's 297–240 margin in the Electoral College would have become a 269–268 Ford victory, even though Carter would still have had over 15 million more popular votes.

Quite true. But it is equally true that if comparable numbers of voters had switched in Iowa, Maine, Oregon, and South Dakota, Carter's Electoral College total would have swelled from 297 to 319. As long as we are switching votes around hypothetically, why not switch them that way too? After all, a change in issue position or a reallocation of campaign time that switches votes one way in some states is likely to switch them the other way in other states.

Senator Bayh has never explained why the rules of "electoral roulette" as he plays it require all hypothetical switchers to move from the Electoral College's winner to its loser. But if we turn from games to the real world, we can see reasons why the Electoral College has in fact unfailingly elected the popular winner for nearly a century now—even in such eyelash-close elections as those of 1916, 1960, and 1968.

The first fact to note is that the 12 largest states have a combined total 285 electoral votes, well more than a majority. Hence by how these states vote. And quite remarkably, they vote as the nation does.

For instance, in their combined total of presidential elections since 1952, those states have voted for the winner 67 times. Even more remarkable is how closely their divisions of the popular vote match the nation's: In those seven elections the national winning candidate's per cent of the popular vote in these states has deviated from his per cent in the nation by an average of less than one-half of one per cent.

So the Electoral College's 38-year perfect record for electing the popular winner is not "sheer luck." It is the direct result of the nationalization of American politics, which means that as goes the nation so will go most of the states that dominate the Electoral College.

Can we be absolutely certain they always will? Of course not. But than, can we be absolutely certain—or even as certain—that the Bayh amendment would not bring worse evils? Theodore White, for example, predicts it would result in massive vote frauds. A 1970 Brookings Institution study concludes it would gravely weaken the two-party system. Other commentators believe it would deprive the ethnic and racial minorities in big cities of the special voice the Electoral College now gives them. How likely is the amendment to produce these evils? We can only guess.

In short, today as in 1970 and 1956 we are being asked to embrace the unknown risks of new evils in preference to the known risks—at a probability of 5 chances in 100—of the system we have. Is this the kind of clear and urgent need for change that warrants a constitutional amendment? The fairest conclusion. I think, is the old Scottish verdict: Not proven.

[From the Congressional Record, Apr. 9, 1979]

DIRECT PRESIDENTIAL ELECTIONS—THE CASES PRO AND CON

(By Warren Weaver, Jr.)

WASHINGTON.—In the 1976 Presidential election, a shift of fewer than 10,000 votes in Ohio and Hawaii would have given Gerald R. Ford 270 electoral votes to Jimmy Carter's 268, keeping the Republican in the White House despite a popular majority of nearly 1.7 million votes for the Democrat. A shift of fewer than 15,000 votes in Ohio and Delaware would have left each contender with 269 electoral votes, and the decision would have passed to the House of Representatives, with each state entitled to one vote. If all House members had voted their party, Carter would have overwhelmed Ford, 36 to 11, with three states—New Hampshire, New Mexico and Virginia—unable to vote because their delegations were evenly divided.

Neither of these disquieting scenarios took place. But under rules for the Presidential election embodied in the United States Constitution and untouched since 1804, either very easily could have. Such possibilities are lending impetus to the latest effort to amend the Constitution, under consideration in the Senate Judiciary Committee last week.

As he has before, Senator Birch Bayh, Democrat of Indiana, is leading the campaign for an amendment to abolish the Electoral College, elect the Presidential candidate who receives the highest popular vote and hold a runoff between the two top candidates if no one receives 40 percent of the vote. Leading the opposition are three conservative Republican Senators—Strom Thurmond of South Carolina, Orrin G. Hatch of Utah and Jesse A. Helms of North Carolina.

Efforts to revive the direct election plan tend to be cyclical, gaining renewed strength after a national election so close that the popular vote winner almost failed to become the electoral vote winner, or one in which potential abuse of the existing system caused widespread apprehension. In 1968, George C. Wallace openly threatened to use any third-party electors he won to ensure that the House, operating under the constitutional provision for no electoral vote majority, would choose the major party candidate he favored whatever the popular vote might be. Less than a year later, the House approved a direct election amendment 338 to 70. It died in the Senate, where 68 votes are required before an amendment goes out for ratification by three-quarters of the state legislatures, when supporters were unable to break a filibuster by Southern and small-state lawmakers.

There are several compromises that would retain electoral votes; eliminating electors, who sometimes vote against their mandate, and automatically casting a state's electoral vote for the candidate who carried it; allocating electoral votes by Congressional district rather than state; and dividing a state's electoral votes proportionally among candidates according to their popular vote.

But none of these is likely to figure in this years' debate, which seems to be narrowed to an all-or-nothing matter. More openly than before, minority groups are actively supporting the electoral college on the ground that any change would deprive them of present political leverage. Others argue that direct election would subordinate the electoral process to the pressures of the press and weaken the two-party system, as some say the proliferation of Presidential primaries in the last two decades has already done.

Mr. Hatch and Mr. Bayh were interviewed separately on the subject last week; excerpts from the discussions follow. The first question asked of each was what changes he thought are needed in the Constitution to give each voter a full and fair share in the choice of the President.

SENATOR HATCH

A. Under our dual Federalism system we have an approach thought out during the great compromise between the large states and the small states. The founding fathers were afraid of the tyrannical majority, and so instead of having one-man, one-vote in the vote for the President, they adopted the reasonable majority rule by emphasizing the power of the states. I would not change the Constitution.

Q. What about the "faithless elector" problem?

A. Of the 20,000 electors since the beginning of this Republic, only 10 have been faithless. The faithless elector is a red herring raised to try and create some argument in favor of direct election. Now, I would have no problem at all in doing away with the possibility.

Q. By statue or by amendment?

A. The states can do it, under the Constitution. But I would have no objection to an amendment.

Q. You're not troubled by the prospect of electing a minority President?

A. We have only had one minority President elected, in 1888, Benjamin Harrison. But even in that election, in which Grover Cleveland capturd seven-tenths of 1 percent more of the popular vote, substantial vote corruption occurred in the Tammany Hall precincts of New York, one of the Cleveland strongholds. Cleveland's main problem was that his support was relatively sectionalized. Harrison went all over and as a consequence won because of the Electoral College. And that's precisely what our founding fathers wanted to happen. They did not want to have any region of the United States control the whole country.

Q. But if you vote for the losing candidate within your state, your vote is cancelled out. Does that bother you?

A. Not at all. Direct election takes one of the diverse principles that underlies the constitutional system—political equality—and transforms it into the sole operating principle. It ignores basic values and principles of Federalism—separation of powers, checks and balances, geographical balance.

The Constitution contemplates many non-majoritarian institutions. Number one is the Senate of the United States. The Presidential veto is a non-majoritarian institution. So is judicial review. In other words, the Constitution was not drafted by nose-counting Democrats like some of those who are propounding the direct election of the President.

Q. You think there'd be an increase in the number of candidates?

A. It'd look like the Boston Marathon. In the end you're going to have every special interest group in the country—from big labor to the Right-to-Lifers to the Birch Society to the Communist Party—trying to split off and force a run-off. The run-off is going to be the real election and there's going to be all kinds of corruption and jockeying for position.

Q. Do you sympathize with the black and Jewish organizations who feel a change would dilute their political power?

A. I certainly do. They're saying this because they've realized that it's easier for minorities to be heard on a state level under the Electoral College system than it is for them to just be lost in a sea of a majoritarian election process.

Q. You don't feel that the advantage minority groups now have is unfair?

A. Oh no. The founding fathers provided the Electoral College precisely for that reason. They didn't want minorities to be walked on by a radical majoritarian approach. While an ideological devotion to one-man, one-vote may create a "simpler" system of government—and I question that—it was in its very variety and complexity that the founding fathers envisioned their new government best protecting the rights and security of its citizens.

Q. That is consistent with the large-state/small-state situation. Small states are minorities.

A. No question about it.

Q. But you're not disturbed by the fact that under the Electoral College system, let's say 10,000 voters in Salt Lake City have greater influence than 10,000 voters in New Haven or New York?

A. I would hate to see it any other way. In the place of a system that has worked, direct election would substitute a system with respect to which experts are in some substantial disagreement. Would the small states or large states benefit? What special interest would benefit? What would happen to the two-party system? What about political party conventions? What about party organizations?

Instead of competing for electoral victory, small parties would now be competing in conjunction with other small parties to deny the 40 percent threshhold to a majority candidate. A recount would throw the office of the Presidency into a turmoil, and under a single national direct election each one of the 180,000 precincts would have to be recounted in the event of a close race—and I think that would be a matter of course after a few years. It isn't a simple question. The burden of proof hasn't been met.

SENATOR BAYH

A. There's only one way, and that's to have a direct election of the President. That is the criterion we've established for every other election in America. Everybody's vote counts the same, and the winner is the one who gets the most votes.

Q. Is election of a President with a minority of the vote the most serious flaw in the present system?

A. The first time it happened, when we had Hamilton vs. Burr [in 1800], we ended up with the 12th Amendment [providing a mechanism to choose a winner when there is no electoral vote majority through one-state, one-vote in the House of Representatives]. All the people who think the founding fathers had infinite wisdom ignore the fact that one of the first changes to be made in the Constitution was this very feature of how you elect the President.

Suppose we had had a dead tie [in 1976]? It doesn't take much imagination. All you have to look at is Humphrey's testimony and Dole's testimony in which they very candidly admitted that in a situation like that they'd go out shopping for electors to see if you could buy one.

Q. Was the black and Jewish groups' claim—that they're going to have diluted power if the Electoral College is abolished because they now enjoy a balance position—as openly and bluntly stated in the past?

A. The American Jewish Congress has had a consistent position on this. In fact, look at what John Kennedy said. He opposed direct election and admitted there was this bias. But he said that he would buy that because there were a lot of states where black voters weren't registered. Since then, of course, that has been remedied.

Q. Do these groups have an immutable right to the same kind of advantage?

A. Well I think it's questionable whether they have had an advantage. Secondly, I don't think they have any right to it.

Q. It's argued that the situation is parallel to that of the small states versus the large states.

A. It's specious. If the Jewish argument makes sense, why is it that New York went Democratic and New Jersey, right across the river, went Republican? For the black voters, how does somebody who's a black leader in Chicago protect a system in which every black vote on the West Side was cast for Jerry Ford in the last election—every black vote in Gary, every Chicago vote in Southern California, was cast for Jerry Ford, despite the fact that probably 85–90 percent voted for Jimmy Carter. I don't see how you can say that black voters have an advantage.

Q. Does Federalism, greater state identity, trouble you?

A. Well, anybody who's read the Constitution's guards knows that the Federal system was put together by our founding fathers in the legislative branch of our country. The United States Senate really represents equal representation in each state.

Q. But on a popular-vote Presidential campaign, would smaller states be ignored?

A. With more emphasis being placed on television, with the unit rule and most of the people living in the large elective vote states, that's most of the campaigning under the Electoral College system. Direct popular vote wouldn't change the fact that you're going to go where most of the people are. You would prabably spend more time in the large population centers of the small states and less time in the small population centers of the large states. Now you ignore places not because you wouldn't like to appeal to 200,000 voters but because you're only talking about three electors, four electors. Whereas you go in a smaller size city—Olney, Illinois—knowing that you're talking about 28 electors.

Q. Would direct election encourage many more splinter party Presidential candidates and produce run-offs?

A. I don't think so. If you were talking about a 50.1 or 50.01 percent, then a small party could make a difference. The biggest split we've had was [in 1912] when Teddy Roosevelt and the Bull Moosers come in second, the Republicans, third and you had Eugene Debs with a million votes. Still, Wilson got almost 42 percent of the popular vote.

The party system is not based on Presidential politics. It's based on the foundation of how the political system works and the understanding of most politicians that if somebody goes out there and runs independent, then we're going to lose and the other side is going to win. The people who suggest the Electoral College is the saviour of the two-party system apparently have forgotten a guy by the name of George Wallace, or another fellow named Gene McCarthy. Gene McCarthy, with less than 1 percent of the popular vote was almost determining the President of the United States—not because he wanted to win but because he wanted to try to keep somebody else from winning and almost did. If he'd gotten on the ballot in New York, he'd of done it sure as the world.

[From the Washington Star, July 10, 1979]

"No" to the Bayh Amendment

We note the disarming admission of some prominent advocates of the proposed constitutional amendment to scrap the electoral college for a popular-vote system that it is among the most "radical" changes "ever proposed to the Constitution."

That it is; and we trust the fact will not be lost on the Senate when it votes this week—first, on a cloture motion to shut off debate, and later, if the cloture motion succeeds, on the issue itself.

It is a sound proposition in constitutionality, as in sport and war, that you can't beat something with nothing. The electoral college is a big something in our system—the linchpin of the federal system and the pillar of a stable two-party system. One needn't ignore its flaws—e.g., the occasional "faithless elector" who defies popular instruction, or the minuscule risk of a president who ran second in the popular vote—to believe that the popular vote amendment is the closest thing to nullity responsible tinkerers with the Constitution could devise.

Even if the mechanics of the popular vote plan worked as advertised—even if in hair's-breadth elections it delivered a clear choice—what kind of choice would it be? A choice, surely, in which the states were denied their mediating role. A choice in which most of the campaigning had been done, not by traditional techniques that put candidates in personal touch with the electorate, but from remote network television studios under the direction of "media experts."

The nature of the presidency created by a popular-vote system is, to be sure, unpredictable. But it would be a very different presidency from the one that has served us well for nearly 200 years—dangerously immune to and out of touch with the complex interests and identities of states and regions, insufficiently disciplined by the particular interests of traditional voting blocs (labor, business, minorities, urban ethnics, Southerners) with vital points of view to assert and protect. And such a presidency would be the greatest imaginable boon to single-issue politics and fringe candidacies.

If, as many of us suspect, the decline of presidential authority and the volatility of public confidence in presidential leadership are closely related to the decline of a strong two-party system, a plebiscitory presidency would aggravate those weaknesses. The electoral college, by its nature, requires Americans every four years to subordinate private piques and single-issue obsessions and join in broad political coalitions under major party banners. In that respect, it is the glue of the party system. In a popular vote system that glue would dissolve, with incalculable effects on the fragile mechanisms of unity that bind this diverse nation together.

These might well be the foreseeable results of the popular-vote presidency, even if it worked as advertised. But will it even work as advertised? Under Senator Bayh's amendment a candidate would need at least 40 per cent of the popular vote to be elected; if no candidate won such a plurality, a runoff election would follow.

Is it not likely that a multitude of candidates, undisciplined by broad party coalitions, would face the voters? That no candidate, with the vote so diffused, would win the needed plurality? That the actual choice of a president would then be left to a runoff election and thus to a squalid system of horse-trading, haggling, bargaining and power-brokering among the top candidates?

And with what probable result? A strong chief executive, responsible to the public? Or a caretaker president, heavily mortgaged by political debts not of his choosing, whose administration had been shaped by a multitude of deals and promises, open and secret, and more resembling an Italian or French prime minister of the feebler sort than a traditional American president? There is that danger.

We are confident, then, that when the senators reflect this week on the wisdom of swapping a successful election system that has worked without major hitches for decades for a system shadowed by dozens of disturbing uncertainties, they will say a decisive "no" to the Bayh plan. And say it so decisively, perhaps, that the nation can get on with its political business—including, by the way, the search for sensible perfecting changes in the electoral college system—without fearing in every new Congress that the tested wisdom of the Constitution might be supplanted by flighty innovation.

Possible Consequences of Direct Election of the President

(By Richard G. Smolka)

The U.S. Senate is now considering Senate Joint Resolution 1, a proposed constitutional amendment to elect the president of the United States by a direct popular vote.

If a direct election amendment is passed and ratified, Congress must implement it by appropriate legislation. It is most unlikely that any direct election of the president could be conducted by a continuation of existing laws and practices in the various states, plus the current election laws of Puerto Rico, the Virgin Islands, Guam, and the trust territories if these are extended the franchise.

Congressional legislation to implement a direct election amendment must address at least five fundamental questions relating to political parties, candidates, ballots, and voters.

1. How do political parties and candidates obtain a ballot position?

2. What uniform type of ballot arrangement—office block, party column, straight-ticket option, party position on the ballot—will prevail?

3. What will be the uniform qualifications for voting in a national election?

4. What rules governing voting—hours, places, method of voting—will apply?

5. What will be the standards and procedures for vote tallying and recounts?

Some of these questions may be answered by Congress now, if it chooses to do so. A direct election amendment, however, would require this type of legislation and would give Congress a unique opportunity to structure a national election code to achieve specific political and/or social purposes.

This article presents a general overview of current state election law practices and, based upon the research findings of political scientists, speculates about the impact of some possible federal election laws which could be enacted to implement the direct election of the president.

ACCESS TO BALLOT

One of the most immediate and important questions which Congress will be required to address is the manner by which candidates and political parties are listed on the ballot. Who is entitled to be listed? Who determines the nominee of a political party and how is that nomination decided? Can independent candidates without any party affiliation qualify for the ballot? May a candidate who has been denied the nomination of his party obtain a ballot listing as a new party or as an independent candidate? Events which occurred during the 1976 presidential campaign illustrate the complexities of ballot access laws and the administrative consequences of last-minute court decisions interpreting these laws. Thirteen presidential candidates qualified for the ballot in six or more states, but no state ballot contained all 13 names. Twelve candidates qualified for ballot position in New Jersey and Washington, but in five states (Arkansas, Georgia, Maryland, West Virgina, and Wyoming) only the two major party candidates were on the ballot.

President Gerald R. Ford and Democratic nominee Jimmy Carter were on the ballot in all states. The 12 minor party and independent candidates and the number of states in which their names were listed on the ballot are shown in Table 1.

TABLE 1.—*Number of States in which candidates qualified for ballot position*

Candiate and party:	*Number of States listed on ballot**
Jimmy Carter (Democrat)	51
Gerald R. Ford (Republican)	51
Roger MacBride (Libertarian)	31
Eugene McCarthy (Independent)	29
Peter Camejo (Socialistic Workers)	28
Lyndon LaRouche (U.S. Labor)	24
Lester Maddox (American Independent)	20
Gus Hall (Communist)	20
Thomas Anderson (American)	18
Julius Levin (Socialist Labor)	10
Benjamine Bubar (Prohibition)	9
Frank Zeidler (Socialist)	7
Margaret Wright (People's)	6
Ernest Miller (Independent)	1

*States includes the District of Columbia.

Not all candidates were listed under the same party label in every state. In New York, President Ford was on the Conservative Party line as well as on the Republican line, and Jimmy Carter was on the Lberal party line as well as on the Democratic line. Mr. Carter was also listed twice in Vermont, as a Democrat and as the nominee of the Independent Vermonters.

Unusual party listings included Libertarian Party nominee Roger MacBride as Civil Libertarian Economic Freedom in Wisconsin, Free Libertarian in New York, and Alabama Libertarian in that state; Lyndon LaRouche as International Development Bank and Julius Levin as Industrial Government Party in Minnesota; Margaret Wright as Peace and Freedom in California, Human Rights in Michigan, and Bicentennial Reality in Washington; Eugene McCarthy as McCarthy '76 Principle in Minnesota, McCarthy '76 in New Hampshire, Pennsylvania, and Vermont, as Non-Partisan in Delaware, and No Party in Iowa; and Thomas Anderson as American Constitution in Washington.

In some states, if a political party did not qualify for the ballot, its candidates were listed as independent. For example, Gus Hall (Communist), Peter Camejo (Socialist Workers), and Roger MacBride (Libertarian) were all identified as Independent on California ballots.

There were disputes over the use of the American Independent or American Party label. In Michigan, where two factions disputed the nomination, each conducted a nominating convention and attempted through administrative procedures and court action to obtain a ballot position. Michigan recognized only one American Independent Party and would not rule on which faction held the "official party convention." Michigan offered to list any candidate both factions could agree upon and this position was upheld by the courts. Although the party could not agree on its nominee for president and, therefore, had no candidate listed for that position, any candidate nominated by either faction would have been listed as the official party candidate if there was no duplicate nomination for the position.

Although the courts ordered the names of some candidates off the ballots, there were instances when the decision came so close to the date of the election that it was administratively impossible to remove the names from the absentee ballots and even from some ballots at the polling places. For example, the New York Court of Appeals, that state's highest court, ruled on October 27 that McCarthy's name should not be on the ballot, but the very next day the chief judge granted a one day stay of the order pending appeal to the U.S. Supreme Court.[1] Only after the U.S. Supreme Court refused to consider the case on October 29, the Friday before the election, were local officials free to remove McCarthy's name from the ballots. By this time, however, almost all absentee ballots had been sent out and most had been returned. In addition, most voting machines had already been sent to the polling places and McCarthy's name was never removed from some machines. Although votes for McCarthy were not counted, many of those who voted for him did not know and probably still do not know this and, of course, they did not have another chance to vote for a candidate for whom their vote would have counted.

The federal court decisions from state to state and even within a state were not necessarily consistent. On September 14, 1976, U.S. Supreme Court Justice Lewis F. Powell declined to overturn a lower court ruling which denied McCarthy a position on the Texas ballot because he had not demonstrated prior community support in time for verification and that to allow him on the ballot would "disrupt the entire election process in this state." After Justice Powell's first decision, McCarthy went to the Fifth U.S. Circuit Court of Appeals and was turned down. His subsequent appeal to Justice Powell was then successful and on September 27, two weeks after his first decision, Powell ordered Texas Secretary of State Mark White to place McCarthy on the ballot.[2]

The methods by which each minor party or candidate qualified for the ballot in each state are shown in Table 2. States in which the candidates conducted active write-in-campaigns are also listed in Table 2.

The potential impact of third-party or independent candidates was made clear in 1976 even though the number of votes pulled from the major parties was far fewer than it was in 1968 when George Wallace was on the ballot in all 50 states. In Oregon, Ford won by only 1,559 votes while McCarthy drew 40,296. In Ohio, which Carter carried by 11,116 votes, McCarthy drew 58,258 votes. On the other hand, McCarthy was not on the ballot in Hawaii where Carter won by a slim margin of 7,372 votes or in New York where Carter's margin was 278,767 out of more than 6.6 million votes cast. Most observers believe that in those states where McCarthy's name was on the ballot, Carter suffered.

Footnotes at end of article.

The question of ballot access by minor parties is directly related to the constitutional right of association. How much support will be needed to demonstrate a national candidacy? What type of support? If petitions, how many and what will be the procedure by which they will be verified and tabulated?

If ballot access is made "too easy," the number of candidates and/or parties may well tax the capacity of existing voting equipment and may result in a total paper ballot presidential election. If, however, ballot access is made "too restrictive," the courts, cognizant that the same Congress which prescribed the requirements has a substantial interest in maintaining the status of the two major parties, may well strike down the law.[3]

It appears unlikely, based on 1976 federal court decisions, that laws which effectively exclude from the ballot serious, if not widely supported, candidates would be upheld.

There is also a major distinction between an independent presidential candidate, such as Eugene McCarthy, and the nominee of a political party, as were all the other candidates whose names appeared on the ballot in 1976. In state law, parties may qualify for ballot position by the number of votes received in past elections or by the number of registered voters. These types of criteria do not apply to independent candidates; yet, the direct election of the president may be viewed as a move toward a contest between candidates rather than the current legal presumption of a contest between parties.

BALLOT ARRANGEMENT

After the question of candidate access to the ballot has been determined, the next major question pertains to the arrangement of the ballot. Basically, there are two types of ballot formats in use today, the party column and the office-block ballot. In 29 states, the voter also has an option to cast a straight ticket by a single mark on the ballot or a single pull on a lever. Although the straight-party lever or option is associated almost exclusively with party column ballots, the introduction of punch-card ballots has created situations in which the candidates are listed by office but a straight-ticket option is made available to the voter. This was the situation in Illinois.

A national election code must address the straight-ticket option. Recent federal and state campaign regulations assume that there are advantages to several candidates by combining presidential, congressional, and state candidates on a single slate for advertising purposes and asking the voter to exercise the straight-ticket option. Must a national election law require the separation of the presidential, congressional, and state contests on the ballot because these may be governed by different laws and procedures?

Other possibilities include prohibition of a straight ticket by a national election code or separation of the presidential ticket from the balance of the other races by state legislation. Either way, there are serious consequences for presidential, congressional, and state elections.

The impact of ballot arrangements has been studied by political scientists. Jerrold G. Rusk's study of races between 1876 and 1908 found that ticket-splitting increases with the absence of party voting devices and that office-block ballots are more likely to produce split tickets than ballots with party columns or rows.[4] Angus Campbell and Warren Miller found a 15 percentage point difference in split-ticket voting between states with party circles or levers and those with no straight-ticket option.[5] Milton C. Cummings obtained similar results from his study of presidential elections and congressional districts from 1932 to 1964.[6]

TABLE 2.—BALLOT LISTINGS OF MINOR-PARTY AND INDEPENDENT CANDIDATES FOR PRESIDENT

[The following table shows States in which minor party and independent candidates for President are listed on the ballot (indicated by ×), how they gained access to the ballot (1—based on pas results, 2—petitions, 3—legal action, 4—other methods), and States in which those candidates have active write-in campaigns (indicated by W). The figures in the last column represent the minimum number of petition signatures required this year by minor-party or independent candidates to gain access to the ballot.]

	Anderson (American)	Maddox (American Independent)	Hall (Communist)	McBride (Libertarian)	Wright (People's)	Bubar (Prohibition)	Zeidler (Socialist)	Levin (Socialist Labor)	Camejo (Socialist Workers)	LaRouche (U.S. Labor)	McCarthy (Independent)	Other	Number of signatures required
Alabama		×(1)	×(2)	×(2)		×(1)							5,000
Alaska				×(2)									2,957
Arizona				×(3)					×(2)		×(2)		(1)
Arkansas	W										W		38,219
California	W	×(4)	×(2)	×(2)	×(4)			W	×(2)		W		99,284
Colorado			×(2)	×(2)		×(2)		W	×(2)	×(2)	×(2)		5,000
Connecticut		×(1)	W	W						×(2)	W		14,093
Delaware	×(1)					×(1)		×(2)		×(2)	×(3)		2,609
District of Columbia			×(2)	×(2)					×(2)	×(2)			2,362
Florida	×(2)			W			W	W			×(3)		36,213
Georgia	W	W							W		W		108,394
Hawaii				×(4)									3,500
Idaho		×(3)		(×2)						×(2)			1,500
Illinois			×(2)	×(2)				×(2)	×(2)	×(2)	×(2)		25,000
Indiana	×(2)								×(2)	×(2)			8,409
Iowa	×(4)		×(2)	×(2)			×(2)	×(2)	×(2)	×(2)	×(2)		1,000
Kansas	×(1)	×(3)		×(3)		×(1)					×(2)		2,500
Kentucky	×(2)	×(2)	×(2)	×(2)					×(2)	×(2)	×(2)		1,000
Louisiana		×(2)	×(2)	×(2)					×(2)		×(3)		1,000
Maine						×(2)					×(2)		10,918
Maryland													51,155
Massachusetts	×(1)			W	W	W		W	×(2)	×(3)	×(3)		37,096
Michigan	W	W	W	×(2)	×(1)	W		×(2)	×(2)	×(2)	×(3)		17,674
Minnesota	×(2)		×(2)	×(2)	×(2)		×(2)	×(2)	×(2)	×(2)	×(2)		2,000
Mississippi	×(4)	×(2)		×(2)					×(2)		×(2)		1,000
Missouri											×(3)		18,000
Montana	×(1)												15,938
Nebraska		×(3)		×(3)							×(3)		2,000
Nevada		×(1)		×(2)								×*	8,500
New Hampshire				×(2)				×(2)	×(2)	×(2)	×(2)		1,000
New Jersey		×(2)	×(2)	×(2)	×(2)	×(2)	×(2)	×(2)	×(2)	×(2)	×(2)		800
New Mexico				×(4)		×(4)	×(4)		×(4)				N/A
New York			×(2)	×(2)					×(2)	×(2)			20,000
North Carolina	×(2)			×(2)						×(2)	W		(2)
North Dakota	×(2)	×(2)	×(2)	×(2)		×(2)	×(2)		×(2)	×(2)	×(2)		(3)
Ohio		×(2)	×(2)	×(2)		W		W	×(2)	×(2)	×(2)		(4)
Oklahoma											×(3)		40,243
Oregon											×(4)		(5)
Pennsylvania		×(2)	×(2)						×(2)	×(2)	×(2)		30,584
Rhode Island			×(2)	×(2)				×(2)	×(2)				1,000
South Carolina	×(1)	×(1)											10,000
South Dakota		×(2)	×(2)						×(2)				(6)
Tennessee	×(2)	×(3)	×(2)	×(3)		×(2)				×(2)	×(3)	×**	25
Texas	×(2)								×(2)		×(3)		16,650
Utah	×(1)	×(1)	×(3)	×(2)					×(3)		×(3)		500
Vermont									×(2)	×(2)	×(3)	×***	1,411
Virginia	×(2)			×(2)					×(2)	×(2)			9,007
Washington	×(4)	×(4)	×(4)	×(4)	×(4)		×(4)	×(4)	×(4)	×(4)	×(4)		100
West Virginia													7,620
Wisconsin		×(2)	×(2)	×(2)	×(2)		×(2)	×(2)	×(2)	×(2)	×(2)		3,000-5,007
Wyoming													6,344

Other Ballot listings:
*"None of These Candidates."
**Ernest Miller (independent—petitions).
***Jimmy Carter (Independent Vermonters—caucus).
Petition Requirement:
[1] Minor party, 11,044; independent, 5,522.
[2] Minor party, 10,000; Independent, over 100,000.
[3] Minor party, 15,000; Independent, 300.
[4] Convention, 1,000; minor party, 37,660.
[5] Convention, 1,000; minor party, 37,660.
[6] Minor party, 27,823; independent, 2,782.

Donald G. Zauderer intensively studied the consequences after Ohio shifted in 1950 from a party-column, straight-ticket-option voting to an office-block ballot. Zauderer found that the effect was precisely that which was intended by the dominant Republican party of the day—a sharp decline in straight tickets and a marked roll-off in voting for offices further down the ballot. He also found that this roll-off affected lower educated groups, black and white, disproportionately, thereby hurting Democratic candidates for less prominent offices. Zeunderer also found that office-block voting was beneficial to candidates with greater name identification.[7]

If Zaunderer's findings applied to national elections, the Republicans might gain from mandated office-block ballots and, conversely, Democrats may gain an advantage from mandated straight-party-ticket options.

EXERCISE OF THE FRANCHISE

A basic election question is "Who can vote?" In most of the United States, registration prior to election day is a prerequisite for voting, and in most states registration closes 30 days prior to an election. Federal law makes exemptions for federal elections for certain classes of persons, including military, citizens residing overseas, and persons who change their residence immediately prior to an election. Six states permit registration on election day.

In all probability Congress will not wait for the direct amendment to be ratified before enacting some type of national voter registration legislation. Proposals to create a national voter registration agency and to establish a mail registration system have been before Congress since 1971. President Carter favors a system which does not require prior voter registration for voting in federal elections. If this approach is adopted, any resident of a precinct who can satisfy polling place officials of his identity, qualifications, and residence, will be permitted to vote.

ABSENTEE VOTING

Who can vote depends not only on suffrage and registration requirements but also on absentee ballot laws. About 4 percent of the votes cast in presidential elections are on absentee ballots. Absentee registration requirements, eligibility for requesting an absentee ballot, and procedures for casting an absentee ballot vary widely among the states. Moreover, procedures for tabulating absentee ballots vary and in some cases may inadvertently violate the secrecy of the ballot.[8]

The simplest laws accept requests for absentee ballots at face value. The most complex may require precise reasons for absentee voting, notarization of the ballot application request, the returned voted ballot or, in the case of illness, a medical certificate or statement. The time periods in which ballots may be requested differ substantially. Deadlines for receipt of the ballot may be set prior to election day, at various hours on election day, or merely postmarked no later than election day and delivered to the election officials within two weeks after election day.

HOURS OF VOTING

At present, election day hours vary not only among states but also within states. Factors affecting variations include the size of the community and the type of voting equipment. Some states permit local option within prescribed limitations. In general, the variations in voting hours have been ac-

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Footnotes at end of article.

cepted where they exist, but court tests of such practices are rare. During the last three Congresses, legislation has been introduced to standardize hours of voting on election day. Although there is little evidence of the political effects of the variations, congressional or judicial concern for greater uniformity if not absolute equality in election day practices remains a distinct possibility.

National reporting of election returns would also be affected by a simultaneous close of the polls. Will the networks then draw a national sample of precincts and predict a national result within minutes of a simultaneous close of the polls? Will presidential election returns continue to be reported by state if state returns have no special meaning? Perhaps it is more likely that a national election code would mandate equal hours of voting rather than simultaneous voting.

What if election day is declared a national holiday? Although several states now proclaim election day a state holiday, the holiday appears to be honored primarily by government workers, schools, and banks. Retail and commercial establishments frequently ignore state-declared holidays and some retailers have even turned more widely honored national holidays such as the Fourth of July and George Washington's birthday into "gigantic sale" days. If election day is not declared a national holiday, will those states that celebrate an election day holiday give their residents an election advantage that may be considered unconstitutional?

Apart from these consequences, what of the political consequences? Will more or fewer voters come to the polls? Which voters are most likely to be affected? In general, supporters of an election day holiday have argued that turnout will be greater.

All of the above potential complications of the election procedures, together with the probability that Congress will amend such laws with regularity, may well induce the states to move state elections to odd-numbered years. States already have been avoiding presidential election years—only 14 governors were elected in November 1976 and two states (New Jersey and Virginia) will elect a governor in 1977.

A change of date in state elections will affect turnout both in congressional and state elections. By far the greater number of voters vote at presidential elections. If a state election is conducted in a year other than a federal election year, barring any radical change in voting behavior, the turnout will be lower. Further, if there is no state election in even-numbered, nonpresidential election years, turnout in those congressional election years is likely to drop very sharply. If past experience is any guide, the dropoff will occur primarily among the less-educated, less-motivated segments of the population. There is little doubt that the costs of campaigning, at least to turn the vote out, will escalate in all nonpresidential election years.

VOTE COUNTS AND RECOUNTS

Voting Equipment

The manner in which votes are counted depends upon the method by which votes are cast. Each state now has its own standard for testing vote-counting equipment and for establishing the integrity of its procedures. About 60 percent of the voters now cast their ballots on mechanical lever machines, about 20 percent vote on punch-card ballots and, with few exceptions, the remainder vote on paper ballots.

The mechanical lever voting machine prevents the voter from casting an overvote through a locking mechanism. Provisions for setting up lever machines, verifying their mechanical condition, and tallying the results vary from jurisdiction to jurisdiction. Because there is no individual ballot, only summaries from each machine may be checked. Oregon prohibits this system because there is no individual ballot audit trail.

Punch-card voting, which is rapidly gaining acceptance, remains prohibited in 17 states because the names of the candidates are not printed on the ballot itself; because the punch-card ballots can be folded, multilated, or otherwise damaged and thereby prevented from being counted by various readers; or because of other reasons which indicate a lack of confidence in the system. For example, jurisdictions which use punch-card ballots are required to establish "duplicating boards," consisting of persons who must "duplicate" all ballots which cannot be read by machine. This process increases the need for ballot security.

Even paper ballots, technically the simplest method, produce major problems of interpretation when the voter marks the ballot in ways other than those prescribed by law. In some states, ballots not marked in accordance with the law are voided. This is done to prevent identification of individual ballots by counters or watchers. The trend in recent years, when greater honesty is assumed, has been to count ballots if the "intent of the voter" can be determined. In an attempt to obtain impartial rulings on the intent of the voter during the John Durkin-Louis Wyman New Hampshire contest in 1975, the U.S. Senate Rules Committee built ballot holders to enable the senators to see the marks without seeing the names of the candidates.

It would seem logical that a national election law would provide at least the basic ground rules about which paper ballot marks should or should not count rather than permitting identical marks to be counted in one state and thrown out in another. Similarly, the basic standards for ballot security, whether computers, lever voting machines, or paper ballots are used, would probably be included in national legislation.

The impact of such changes, as with some of the other procedures identified above, will depend in large measure on the differences between what is adopted nationally and the existing practice in effect in any given state.

Recounts

The last point is the recount of the votes cast in a direct presidential election. Will a recount be a right of candidates? Who will be able to ask for a recount and under what conditions? How will a national recount be conducted? Will it be possible to conduct a partial recount in selected states or counties or precincts?

The recount situation in presidential elections is confusing now. According to a study by the Congressional Research Service, only 16 states had laws on the books in 1976 which provided for recounts of votes cast for presidential electors. There is further confusion in the states about the proper state function in conducting recounts of congressional elections. Despite the Supreme Court decision in *Roudebush* v. *Hartke*,[9] which treats recounts as part of the original vote count under state jurisdiction, several states, such as Michigan, have not provided for recounts of congressional elections because they assume that the appropriate house of Congress will exercise jurisdiction over such matters.

If a popular direct election is close, perhaps a margin of two-tenths of one percent of all votes cast, will it be possible or desirable to have a recount? What if there appears to be a major error in the vote tally in a particular community? Can a recount be focused on only a single city or state? If so, does the apparent winner of the first count have the right to ask to have other jurisdictions recounted if his victory is reversed? Who will supervise the recount and under what rules will it take place? Neither the senate nor the house of representatives is bound by state law in conducting recounts of congressional elections. In the 1961 *Roush* v. *Chambers* contest, the house of representatives counted ballots cast by voters which could not be counted under Indiana law.

If procedures have been established in advance, at the very least contestants will know which rules prevail. Otherwise, we will be back to 1876 and perhaps another presidential election commission.

A CONCLUDING NOTE

While this article has concerned itself with the significant administrative questions which must be answered by either the states or the federal legislature, it has not attempted to deal with the significant theoretical questions which are inherent in the issues raised. Nevertheless, as with all exercises in policy analysis, the theoretical and administrative relationships cannot be separated. For example, the question of candidates' access to the ballot, a technical question in many respects, nevertheless requires a specific definition of political party, a definition on which state laws, court decisions, and political scientists do not agree. In addition, the relationship between the formal electoral processes and social units arises when a determination must be made about whether an election is a contest among individual candidates or among political parties.

Because there are widely divergent theories currently held in the states, one consequence of which is illustrated by the number of presidential candidates on the ballot and how they get there, the theory which is ultimately accepted by Congress will have a major impact on all elections in the states.

These congressional decisions, whatever their merits, will cause substantial change in state election codes and practices. For this reason, and because Congress may amend its own provisions at any time, states may decide, as a matter of policy, to separate state elections from federal elections. Such a decision would directly affect voter turnout in state elections and in congressional elections held in nonpresidential election years. More certain is the possibility that Congress will regulate presidential primary elections, prescribing dates, methods of voting, and thereby directly affecting the national convention and presidential nominating process of the major political parties.

FOOTNOTES

[1] *Contessa* v. *McCarthy*, 40 N.Y. 2d 629, decided Oct. 27, 1976.

[2] *McCarthy* v. *Briscoe*, U.S. District Court for the Western District of Texas, No. A-76-CA-158.

[3] The potential conflict of interest of a legislature in election laws was noted in *Kramer* v. *Union Free School District*, 395 U.S. 621 (1969).

[4] Jerrold G. Rusk, "The Effects of the Australian Ballot Reform on Split Ticket Voting." *American Political Science Review*, vol. 64 (1970), pp. 1220–39.

[5] Angus Campbell and Warren Miller, "The Motivational Basis of Straight and Split Ticket Voting." *American Political Science Review*, vol. 51 (1957), pp. 293–312.

[6] Milton C. Cummings, Jr., *Congressmen and the Electorate* (New York, N.Y.: Free Press, 1966), pp. 174–79.

[7] Donald G. Zauderer, "Ballot Reform in Ohio: An Assessment of Consequences" (paper delivered at the 1972 Annual Meeting of the American Political Science Association, September 5, 1972).

[8] Indiana University, Poplars Research and Conference Center, "Analysis of Laws and Procedures Governing Absentee Registration and Absentee Voting in the United States," Report No. 1U-GAO-53-175-50-75-1 (prepared for the Office of Federal Elections, U.S. General Accounting Office, June 1975).

[9] *Roudebush* v. *Hartke*, 405 U.S. 15 (1972).

THE PLEBISCITARY PRESIDENCY: DIRECT ELECTION AS CLASS LEGISLATION

(By Aaron Wildavsky)

(The Senate Judiciary Committee has, for the last 13 years, considered proposals to replace the electoral college with a system of direct election of the President. These would replace a present system of counting votes for President state-by-state on a winner-take-all basis, with a system that would award the Presidency to the winner of the largest number of popular votes nationwide. The matter is controversial, more so than it deserves to be, given the clear and demonstrable danger to our political system such a proposal threatens. Beyond the simplistic appeal of arguments by proponents that the votes for President, cast nationally, should be counted nationally, there lurk a variety of dangers which should, from time to time, be recalled lest we forget the disposition of the Founding Fathers that the parts of the federal system—like the method of electing Presidents and the governmental structure of the nation—should relate to each other.)

Abolition of the electoral college would create the appearance of direct mass election and the reality of indirect elite manipulation. The proposal to replace the electoral college system with direct election is class legislation. It is fated to advantage elites, make voting choices for citizens more complex, threaten—indeed, more likely kill—our two-party system, force a proliferation of elections and of candidates for the Presidency, and a similar proliferation of parties, many of which will be extreme or oriented to single causes.

The real questions posed by proposals for "electoral college reform" are not, therefore, about direct election of the President, which we already have but about a mass society, without intermediaries like parties, which we do not want. The mediation of the major political parties presently structures choice through national conventions and competitive two-party elections. These would be replaced under so-called electoral college reform by crowds of candidates making their appeals to people solely through the media.

The consequences of so profound a change in so basic a political structure as the electoral college cannot be limited merely to the presidential election process. I argue, *inter alia*, that it would change the Presidency itself, alter parties and party politics, and not incidentally since we *are* discussing elites, create jobs for certain classes of people in America. Direct election would change the way the votes for President are counted. That much is obvious. It would have other consequences which, perhaps because they are less obvious, are less well-known.

WINNERS AND LOSERS

No one, for example, will openly argue that substituting four national elections—a national primary, a run-off primary, a general election, and, at least as often as not, a run-off general election—for a single one will make work for media managers and campaign cohorts instead of simplifying choice for citizens. Yet that would be the result.

No one says that multiplying the number of political parties and candidates by removing the remaining rationale for a two-party system in presidential politics will confuse voters instead of enlightening them. Yet this would surely be a consequence of direct election.

No one asks citizens whether they want "one man—one vote" even if it means removing the restraints of federal structure on Presidents. Yet those restraints would fall if the electoral college system were abandoned.

Why, then, is there such substantial support for a plebiscitary presidency?

Polls suggest people favor direct election. Usually, the formula is to ask, "do you favor majority rule?" Put that way, of course the answer is yes. Would people also favor a unitary rather than a federal government? Would they prefer multiple parties and numerous elections? The answers you get depend on the questions you ask.

The disadvantage of the electoral college rule is that on rare occasions it is possible for a candidate to be elected President while receiving less than a plurality of popular votes. So what? Every mode of election contains weaknesses as well as strengths. If every electoral procedure with negative elements was *ipso facto* rejected, it would be impossible to have elections at all. The real question, as always, is "compared to what?" that is, how do existing arrangements compare to alternatives, especially to the current proposal to count votes on a straight national basis rather than summing them up, as the electoral college does state-by-state on a winner-take-all basis? After all, there would be little interest in electoral methods if they did not distribute power differentially to various interests in society. Who wins and loses under these alternative arrangements is of prime importance.

Who stands to gain from a plebiscitary presidency? People with time do, people with dispensable occupations and communications skills who wish enhanced access to political power without having to cater day-by-day to a diffuse public. In short, upper middle and upper class professionals stand to gain. That is why, in recent years, these elites have launched attacks on the existing intermediary organizations that stand between the citizen and the state—labor, business, and parties. All have been subject to sanction and their political participation limited. A plebiscitary presidency, in which only national media rather than state parties stand between the mass and the polity, fits in with this scheme. So does distaste for mass culture, including vulgar displays at national conventions, messy forms of organization like federalism, and apparent inconsistency such as the overlap and duplication of a political system that has two of everything—executives, legislatures, courts, Houses of Congress, even parties.

Self-interest lies just beneath the surface of such elite groups for which style is supreme. On what can groups of this kind agree? They can agree on procedures, apart from outcomes; that money should no longer taint politics (the public will pay for their campaigns); that meetings will be open (to those who can afford to come); and so on. Substantive issues would divide them; procedural issues can unify them by submerging class hostilities.

Who stands to lose from direct election? People who lack education, high income or prestigious occupational status or who wish to limit their participation: in short, people who need intermediaries stand to lose. Political participation by the poor or working or middle class citizens requires intermediary organizations like trade unions or political parties. Left alone, without the customary anchor of party, faced with a bewildering array of candidates, many of them unknown or appearing for the first time, citizens will have little on which to base their choice. Once having chosen, they might have even less of a basis on which to hold incumbents responsible when in the absence of strong party identifications, a quite different array of forces and choices is likely to appear every four years.

Under "direct election" life would be made simpler for upper middle and upper class elites who want to express their preferences, it is true, but their simpler life would come at the expense of mystifying most Americans. Those who use politics and government to earn their livings would be advantaged compared to others who just need government in order to live their lives. The mediation of the major political parties would be foreclosed. Federal elections, mediated through the states would be replaced by *national* plebiscites mediated, if at all, only through the media, which makes less sense than it sounds.

THE TWO-PARTY SYSTEM AND "DIRECT ELECTION"

These new election elites would be able to compete: a) sporadically, every four years; b) independently, without working with others; and c) expressively, catering to a narrowly conceived clientele. The stress, in such elite national politics, would be on internal consistency of views to enable candidates and their supporters to express themselves purely, rather than on coalition-building and the compromise that attends it.

By contrast, major political parties require: a) continuity, so the same party is held responsible over time; b) community, so that disparate interests are brought together under the same banner; and c) connectivity, so that the emphasis is on winning by discovering what people want and by interpreting to them what they ought to want.

Today, we barely have a party system. The vast majority of state legislatures and governorships are Democratic. The dominance of the Democratic Party is so great in both Houses of Congress that in the near term it is difficult to imagine a single election changing that result. As things stand presently, the United States has, at best, a modified one-party system. Nonetheless, the major parties still provide the arena in which the presidential contest is decided and the contest for the Presidency, at least, remains reasonably competitive. Under the electoral college's ground rules, the competition is *federal* in nature and the winner is the one who wins not the most votes simply, as under direct election, but the most votes in the most states. Thus, the candidates and parties are forced to make broader, less extreme appeals, and politics as a result, is both more moderate and more stable than it might be otherwise.

Abolition of the electoral college system, by removing the requirement that pluralities be achieved in sufficient states to create national majorities, would negate the main function of a major party—to nominate a candidate who can coalesce sectional into national priorities. By removing the main incentive our political parties have to coalesce—the necessity of creating a coalition across diverse states to make a majority—abolition of the electoral college would drive the last nail in the coffin of our party system.

Another immediate effect of non-federal elections for Presidents would be to increase vastly the number of elections, parties, and candidates confronting voters. This multiplicity is not problematic but inevitable. The only uncertainty is exactly how many there will be at a given time. Thus, there is the rather remote possiblity (which has not yet occurred in this century) that under the electoral college procedure a candidate, without a plurality, might win a two-party race. This must be weighed against the vastly increased probability, under direct election, that there will be many more candidates, parties, and elections without, however, knowing in advance precisely how many there will be. The adoption of direct election would mean trading away a small and calculable uncertainty for a large and incalculable one.

Under either system, elections themselves are easy to understand. Under the proposal, there must be a run-off, that is, a second election unless at least one candidate (and the vice-presidential candidate on the ticket) receives at least 40 percent of the vote. Evidently, if past rules prevailed, at least one and probably two such candidates (one presidential and one vice-presidential) would exceed 40 percent, deciding the election then and there. But that is just the point: Past rules will not prevail. Additional parties and candidates would be tempted to come in, both to publicize their cause, and to better their prospects.

EXTREMISM AS A DEFENSE FOR MODERATION

Tiny parties and cause candidates, enticed in addition by the prospects of public financing for their campaigns, would enter so as to use this unparalled opportunity for publicity. Minor party, and celebrity candidates would enter, either hoping they might be the lucky ones, or trying indirectly to influence the outcome. Let us suppose that parties of the radical right and left, together with cause candidates, will get, all together, 10 percent of the vote. This would leave 90 percent to be divided by the candidates of today's two major parties. What is worse, these two candidates would probably face competition from several others for the center vote. This would make it far less likely that any candidate would get even 40 percent of the vote, much less as much as 45 percent, half of the non-extreme 90 percent. But surely the losers in the major party nominating processes would be tempted to enter either as spoilers or on the chance lightning might strike, diluting the "winner's" plurality even more. If they were to divide evenly, it would be clear to everyone that the winner was, in effect, a minority President who received less than half the total.

Under these or similar circumstances, bargaining with party extremes would become more difficult because the wings, left or right, could run their own slates convinced that their votes would not be wasted. (They would be right.) It would also become more necessary because, in the absence of such bargains carefully, if not gingerly, struck, the "wings" could reduce the mainstream candidate's total below the necessary 40 percent. Plebiscitary elections, therefore, will either lead to more extreme major parties or more numerous minority parties or (as luck would have it), both. Any way one looks at it, the chances of having a 200 percent increase in elections (two instead of one) are much greater.

The only real chance of retaining a single presidential election—by evolving a dominant major party—is entirely undesirable. As the minority party (or, likely, *parties*) become less and less representative, they would reduce to their hard cores, thus making more and more extreme appeals. The *real election*, as V. O. Key showed in his classic work on southern politics,[1] would be driven down to the primary of the major party where personal appeal provides a poor substitute for party principle.

THE WITHERING AWAY OF THE STATES?

A plebiscitary election, of course, is bound to lead to a plebiscitary primary. Once the states have been eliminated from national elections it would be anomalous to include them at the nominating stage. A convention of the state parties to select a presidential nominee would give way, predictably, to a nation of individuals choosing among candidates who lacked party labels to help the voters differentiate.

The likelihood of a run-off in the primary would be even greater than in the general elections. It is quite probable that many candidates—perhaps as many as ten of them—might obtain enough signatures on nominating petitions to get on the ballot. Imagine a crowd of challengers hustling all over the United States, campaigning in a national primary. It would take, of course, enormous amounts of money. Although government financing might be available, this would have to depend upon demonstrated ability to raise money previously in order to discourage frivolous candidates. The pre-primary campaign, therefore, would assume enormous importance and would be exceedingly expensive. It would also help if each of our hypothetical, but predictable ten candidates were already well-known. It is not hard to forecast that nobody would win a clear majority in such a primary with a large number of contenders. Since all contenders would be wearing the same party label, it is hard to see how voters could differentiate among candidates except by already knowing one or two of their names in favorable or unfavorable contexts, by liking or not liking their looks, by identifying or not identifying with their ethnic or racial characteristics, or by some other means of differentiation having nothing whatsoever to do with ability or inclination to do the job, or even with their policy positions. Since patents on policy positions are not available, it is reasonable to suppose that more than one candidate would adopt roughly the same set of positions. The intellectual content of the campaign thereafter would consist of quibbling about who proposed what first and, more relevantly, who could deliver better.[2]

Suppose, then, that the primary vote were divided among several candidates and that, as is the case for gubernatorial elections in some southern states, ten or twelve aspirants divided the votes. One possibility is that the party nominee would be the man with the highest number of votes. Nineteen percent of the total vote would be impressive under such circumstances, but nonetheless, a much less democratic choice than we have now. Another possibility would be for the two highest candidates to contest a fifty-state run-off after the first primary and before the general election in a campaign that would begin to remind observers who can remember that far back of a marathon jitterbug contest. The party might end up with a good candidate, of course, if there were anything left of him to give to his party. By following this procedure, the United States might have to restrict its presidential candidates to wealthy athletes.

THE TWO-PARTY SYSTEM AND NATIONAL PRIMARIES

Such national primaries would also weaken the party system. If state experience with primaries is any guide, a prolonged period of victory for one party would result in a movement of interested voters into the primary of the dominant party where their votes would count for more. As voters deserted the losing party, it would be largely the diehards who were left. They would nominate candidates who pleased them but who could not win the election because they were unappealing to a majority in the nation. Eventually, the losing party would atrophy, seriously weakening the two-party system and prospects of competition among the parties. The winning party would soon show signs of internal weakness as a consequence of the lack of competition necessary to keep it unified. Since the long-run weakness of the Republican Party in our system may come close to providing these conditions already, I believe that the institution of a national primary would in this respect be especially dangerous.

Every four years, then, the nation would face the likelihood of at least two elections, national in scope (the regular election and the run-off primaries), and the increased probability of more than one regular election. One predictable consequence is confusion. Another is exhaustion. A third is delegitimization as elections succeed each other without notably *clarifying issues* (candidates too far apart have little to say to one another and are more likely to challenge those like them who seek the same votes), or *illuminating candidates* (whom the electorate sees only on television and who need no certification by party leaders), or *changing policies* (since winning the Presidency would be disconnected from other elements of political life, such as Congress, whose cooperation is essential).

Not only would the Presidency be disconnected from the rest of political life, but so would presidential voters. Without the effective mediation of parties, they would have to face alone a confusing array of candidates who conduct themselves as just described.

The nearly inevitable consequence would be a mass society, with its atomized individuals who could interact only vicariously through the media. In such a society, politics would come to resemble launching a play. Each time a new list of backers would be assembled. Sometimes they might collapse in the try-outs, other times they might make it to opening night. The lucky ones might collect and the rest recuperate for the next production. In the theatre this endless cycle—birth, death, regeneration—is appropriate because no one risks anything except his own money or a boring evening. A travelling roadshow, however, complete with financial angels and aspiring ingenues, and an audience full of passive observers (which is what the voters would become), while it does allow a limited avenue of expression, is not exactly a desirable model for presidential elections.

THE PERILOUS PRESIDENCY

Abolition of the federal electoral base of the Presidency must be considered in its relationship to the rest of the political system. Separation of powers, and checks and balances, (unless these are also to be abolished), enmesh Presidents in relationships with others—state and local officials, Congressmen, interest groups—almost all of whom have a federal base. What is to be gained by requiring Presidents to cooperate with forces from whose electoral connections they have simultaneously been severed?

A plebiscitary presidency would be removed from the federal structure of relationships that inform all of the other federal offices. As it is, one hears quite a lot about differences between the President and Congress. Adoption of direct election would create a new situation altogether, in which the constituency of the Presidency would be wholly different from that of the Congress. This would be inevitable, because for now, congressional and presidential party politics hold more in common than apart; most importantly they share a necessity for coalitions. Direct election would unburden the Presidency of that necessity, at the same time weakening both its prospects for some friendly support from the Congress when needed and the Congress' ability to exercise restraint should the President become overbearing. The latter, at least, would still be possible, understand, but only through confrontation of the President by Congress, rather than by political cooperation.

A plebiscitary presidency is a perilous presidency. Do we want Presidents appealing over the heads of Congress, Governors, and anyone else out there, not as an extraordinary matter, but as part of the usual method of operation? Has our experience taught us to love Presidents so well we wish to set them up outside the political structure we depend upon to restrain them? Do we hate them so much we wish to separate them from sources of party support in the states and in Congress, which they will need in hard times?

What should be done? The defects of the electoral college are its anachronistic appearance, its complexity, and the possibility it can produce a minority candidate. Obviously, a simple and more modern method would be

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[1] V. O. Key, Jr., Southern Politics, Alfred A. Knopf, Inc., New York (1949).

[2] This and the next two paragraphs are taken from Aaron Wildavsky and Nelson W. Polsby, Presidential Elections, 4th Edition, Charles Scribner's Sons, New York (1976).

> desirable. Equally obviously, direct election, as it is called, is worse. One change would be desirable: requiring electors to vote for the candidate to whom they are pledged. This would eliminate skullduggery even as a threat. The disappearance of this remote eventuality would enable us to ask whether we want federal elections or unitary elections. Debate could focus on the consequences of different voting rules for power, politics, and people. Instead of having to defend the electoral college, one would be defending federalism. And, instead of opposing the electoral college, one would have to oppose the federal principle in presidential elections. Then the question of who benefits from a plebiscitary presidency might receive the attention it deserves.

Mr. HATCH. Mr. President, I yield the floor.

Mr. BAYH. Mr. President, I yield to the Senator from Massachusetts as much time as he may feel is required.

The PRESIDING OFFICER (Mr. BRADLEY). The Senator from Massachusetts is recognized.

Mr. KENNEDY. I thank the Senator from Indiana.

Mr. President, the late Robert Maynard Hutchins, distinguished president of the University of Chicago, once said that:

> Democracy is the only form of government that is founded on human dignity; not the dignity of some people, of rich people, of educated people, of white people, but of all people.

This is the ideal which pervades our history—it derives from our Declaration of Independence, with its ringing proclamation:

> We hold these truths to be self evident, that all men are created equal; that they are endowed by their creator with certain unalienable rights.

The 200-year course of American history has been occupied with the long and often difficult task of assuring an equal voice in government to each and every one of our citizens.

The United States, I am proud to say, is approaching that ideal. We are not yet there, but it is my hope that soon the day will come when every adult American, regardless of wealth, race, or place of residence will be able to vote and to have that vote counted equally and fairly. Forward strides toward political equality in the past two decades have brought Lincoln's government "Of the People" closer to reality. And yet we have failed to move toward that goal in the way we elect our President. The electoral college system clearly violates the principle of voter equality. Only the provisions of Senate Joint Resolution 28 can insure that the democratic tenet of one-man, one-vote is extended to the election of our President and Vice President. It is time to adopt the proposed amendment as another major step forward in the constitutional evolution of the right to vote.

Tracing the historical development of the right to vote in America illustrates how far we have come from the time when the electoral college was adopted by the Founding Fathers as a mechanism to permit the privileged few who were allowed to vote to select the President for all the rest of us.

At the inception of the Republic, the number of people who participated in elections was surprisingly small. In the Presidential contest of 1824, the first for which comprehensive national totals are available, a mere 9 percent of the adult population voted. The reason for this was twofold. First, the concept of public participation was, at best, underdeveloped; and secondly, the number of citizens allowed to cast their ballots was severely restricted by suffrage laws which required prospective voters to hold some type of property.

Gradually, property qualifications for voting eroded, due in large part to the emergence of political parties, which sought to broaden the voting rolls to extend their own political base of support. Unfortunately, this progressive expansion of the franchise did not include blacks. They were regarded as second-class citizens and were not allowed the privilege of the ballot box up to the time of the Civil War.

As a remedy, Congress passed the three great Civil War amendments abolishing slavery, guaranteeing due process of law and the equal protection of the laws, and prohibiting the denial of the right to vote because of race.

Tragically, however, the force of custom and a series of unfortunate judicial decisions deprived millions of black Americans of the full benefit of the franchise. It was another hundred years before the passage of the Voting Rights Act of 1965 would insure that suffrage for black citizens did indeed become a reality.

Another major area of progress was the 17th amendment, providing direct popular election of Senators. The election of Senators by State legislatures had been controversial almost from the beginning of the Nation. By the mid-19th century, it became increasingly clear that the difficulties arising from this indirect method of election should be remedied. The move for direct popular election of Senators was a natural plank in the reform movements associated with populism and progressivism at the end of the 19th century and the beginning of the present century. Presidents Roosevelt, Taft, and Wilson all supported the direct vote movement. By the early years of this century, more than half the States had urged direct popular election of Senators, and a serious drive had begun in the States to call a constitutional convention to adopt a constitutional amendment to achieve the goal. Finally, Congress yielded and submitted the direct election amendment to the States. It was ratified and became part of the Constitution in 1913, and it stands as an obvious precedent for the action we should take today.

The drive for women's suffrage was neither as difficult nor as long in coming as the black man's battle for the ballot box, but it represents another important milestone in the expansion of the franchise. The battle began in 1872, when Mrs. Virginia Minor applied to be registered as a voter in the State of Missouri, but was refused because she was not male. She sued the registrar, but to no avail. The Supreme Court decided that the "Constitution of the United States does not confer the right of suffrage upon any one," and thus the State laws which permitted only men to vote could not be declared unconstitutional. It was not until the second decade of the 20th century, the beginning of the modern-day demand for an expanded franchise, that the 19th amendment was ratified. Taking effect in 1920, it eliminated discrimination on the basis of sex with respect to the right to vote.

The 1960's witnessed several landmark judicial decisions with regard to voting rights. In 1964, the Supreme Court acted in Wesberry against Sanders to outlaw inequalities in the appointment of congressional districts. Relying on article I, section 2, of the Constitution, the Court held that:

> As nearly as is practical, one man's vote in a congressional election is to be worth as much as another's.

Following this pronouncement, Chief Justice Earl Warren handed down the far-reaching Reynolds against Sims decision. There the Court applied the "one person, one vote" doctrine to the States, and held that State legislatures must be fairly apportioned. As Chief Justice Warren stated:

> A citizen, a qualified voter, is no more nor no less so because he lives in the city or on the farm. This is the clear and strong command of our Constitution's equal protection clause. This is an essential part of the concept of a government of laws and not men. This is at the heart of Lincoln's vision of "Government of the people, by the people, (and) for the people." The equal protection clause demands no less than substantially equal State legislative representation for all citizens, of all places as well as of all races.

In the past century, therefore, the Nation has taken major strides to expand the right to vote and to prevent discrimination in the exercise of this basic right of our democratic society. The time has come to take a similar step for Presidential elections. The institution of direct popular election will eliminate the inequalities which exist under the present system and which would continue under any modification of it; it will remove the possibility of the faithless elector, it will eliminate the practice of allowing the House to choose the President if no candidate receives a majority of electoral college; and above all, it will insure that the person who is elected President of the Nation is the people's choice—the choice of a majority of the citizens who cast their votes on election day.

The obscure role of the electoral college can be seen in the fact that few voters have any grasp of its meaning. In the most recent Gallup poll on the issue, 51 percent of our citizens did not have the slightest idea how the the President is actually elected. Small wonder, when the ballot laws of most States require the listing of the names of candidates only, not the electors. As Justice Robert M. Jackson once observed, the electoral college "has suffered atrophy almost indistinguishable from rigor mortis."

The distinguished jurist stated:

> The demise of the whole electoral system would not impress me as a disaster. At best it is a mystifying and distorting factor which may resolve a popular defeat into an

> election victory. At its worst it is open to local corruption and manipulation, once so flagrant as to threaten the stability of the country. To abolish it and substitute direct election of the President, so that every vote wherever cast would have equal weight in calculating the result, would seem to me a gain for simplicity and integrity of our governmental process.

Direct election of the President by the people was rejected by the Constitutional Convention because of doubts by the Founding Fathers that the citizens of the new Nation would be able to choose a President wisely. The electoral college was a product of its time—America in 1787.

It was designed for a different era, for a different society, with a different concept of public participation in the political process. With our current levels of education, political sophistication, mass transportation and communication, few would maintain that the average voter is too poorly informed to choose wisely between candidates for the Presidency. As President Lincoln declared in his first inaugural address:

> This country, with its institutions, belongs to the people who inhabit it . . . why should there not be a patient confidence in the ultimate justice of the people? Is there any better or equal hope in the world?

Mr. President, the adoption of Senate Joint Resolution 28 would insure that each and every voter of this Nation would have an equal chance to affect the outcome of a Presidential election. It would mean that every vote must be sought and counted and won. No voter could be ignored or taken for granted, as is now the case in the great game of chance known as the electoral college.

As our respected colleague and my good friend, Senator Hubert Humphrey, remarked in 1953:

> This is the final step in the constitutional evolution which began with the declaration that all men are created equal and continued with the assertion that no man or woman may be denied the right to vote for arbitrary reasons. Now we must make the suffrage an equal suffrage, and repudiate arbitrary and discriminatory geographical bases for denying or reducing the importance of the votes of some of our citizens.

The necessity for a change in the mode of electing our Presidents is compelling. Americans throughout history have refused to be governed without their consent. The concept of representative government through universal suffrage is a glorious ideal, and the step we can take today is long overdue in our efforts to reach the goal we share.

Mr. President, I strongly urge my colleagues to vote in favor of this important resolution.

Finally, Mr. President, I would mention just a few of the other actions taken by the Senate in recent times over the period of the last 15 years. I can recall the steps taken here in the Senate to abolish the poll tax. That issue came up in 1964.

I had the opportunity of offering an amendment to repeal the poll tax and, at that time, that amendment failed by just a few votes. But we were able to develop on the Civil Rights Act of 1964 an opportunity to expedite the challenge of the constitutionality of the poll tax. And we were able to see the poll tax struck down as an unconstitutional interference with the individual right to vote.

I can also recall our work here in the Senate to extend the right to vote to the 18-year-olds of this country. For many years, the House of Representatives had actually approved a constitutional amendment, but the Senate was reluctant to move.

States like Georgia and Kentucky had moved ahead in permitting the 18-year old vote. But still the Congress had been unwilling to permit young people who, at that time, were being drafted and were serving in Southeast Asia and fighting and dying, to be able to express their views at the ballot box in this country.

But, nonetheless, we were able to make that change by statute. Our action was eventually upheld, and we were able to extend the right to vote to the 18-year-olds of this country.

I can recall the action taken by this body to provide the right of franchise to the 700,000 citizens who live in the District of Columbia and who, until relatively recently, were denied the opportunity to express their choice in voting just in Presidential elections.

Now, in the last 2 years, we have agreed to provide voting representation in the House and the Senate. That amendment is now involved in the constitutional process with respect to State approval.

So the action we are considering here today is a natural continuum of what I think has been an extremely important and significant historical trend toward guaranteeing to the citizens of this Nation the reality that their vote, each and every vote, will be counted, and will be counted fairly and equitably in electing the Chief Executive.

My friend from Indiana, I think, has made the case for this amendment time and again in our Judiciary Committee, in the committee hearings, and here on the floor of the Senate. I would certainly hope that our colleagues will follow that record to its logical conclusion.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. BAYH. Mr. President, I would just like to say to my distinguished colleague and friend the chairman of our Judiciary Committee how grateful I am for his thoughtful comments, and to emphasize the fact that whatever role I have been able to play as a member of the Judiciary Committee and subcommittee chairman with responsibility for constitutional matters has been aided tremendously by his support and his leadership, now, as chairman of the committee.

I would like to ask the Senator from Massachusetts, if he would, to deal with the procedural question. As is the case with every new suggestion that is made, I think quite rightly some of our colleagues are concerned about how this new procedure might work. There has been some concern expressed by certain Members, very well-intentioned, about procedural problems such as fraud and recounts. I would just like the Senator from Massachusetts to share his memory, because I think he was more personally involved in the 1960 campaign. I call to the attention of the Senator that some of these procedural questions—that are real questions to be asked—are the same questions that should be directed to the electoral college system. Will the Senator from Massachusetts refresh my memory: Was there not a recount involved in the 1960 election?

Mr. KENNEDY. There was no total recount called for, actually by Vice President Nixon in the 1960 election. In different States there were different actions taken in terms of recounts.

The Senator is familiar with the closeness of the total outcome of that election. But the Senator from Indiana, as one who has followed the matter, knows there is another issue which is somewhat related to the point that the Senator is making. Through efforts to initiate an open registration program, to try to reduce the major voting barriers to a mobile society, we know that there are a number of obstacles which are created in different communities. They exist in my own State of Massachusetts, because the courthouse is open only a certain number of hours, usually during the time when most people are working. In a number of instances the registration place is quite inaccessible to some of our citizens.

There has been, as a result of hearings in the Rules Committee, evidence that this country has been relatively free from individual incidents of voting fraud. There have been instances of voting fraud in the United States, but generally those have been the result of wholesale manipulation, not of individual votes.

Mr. BAYH. Yes. If the Senator from Massachusetts will yield, the Senator from Indiana should have been more specific with his question.

As I recall, in at least one of the recounts, in Hawaii in 1960 and not only was there a recount, but the result changed; and as I recall from reading newspapers, as late as December the recount was still taking place, and it was only in December when the Republicans in Illinois finally decided not to ask for a recount in that State.

So as to the suggestion that the present system is a fail-safe system so far as avoiding recounts is concerned, it is the contention of the Senator from Indiana that if we get into a situation where we have to have a recount, this can be done by each State at the same time, and the whole country can be recounted as quickly as one State is now under the electoral college system.

Mr. KENNEDY. I think the Senator's point is valid. The difference in Hawaii was extremely small. In Alaska it was also extremely close, and in other States.

But the point that the Senator has made is one I would completely subscribe to.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. KENNEDY. Charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, if I may, one of our problems here is, if the distinguished Senator from Indiana could have his people speak now, that we only have about 40 minutes remaining.

Mr. KENNEDY. I withdraw the request for a quorum call.

The PRESIDING OFFICER. The suggestion is withdrawn.

MAGISTRATE ACT OF 1979

Mr. KENNEDY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 237.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 237) entitled "An Act to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of United States magistrates, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Magistrate Act of 1979".

Sec. 2. Section 636 of title 28, United States Code, is amended—

(1) by redesignating subsections (c) through (f) thereof as subsections (d) through (g), respectively; and

(2) by inserting immediately after subsection (b) thereof the following new subsection:

"(c) Notwithstanding any provision of law to the contrary—

"(1) Upon the consent of the parties, a full-time United States magistrate may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the district court or courts he serves. When there is more than one judge of a district court, the designation shall be by the concurrence of a majority of all the judges of such district court, and when there is no such concurrence, then by the chief judge.

"(2) If a magistrate is designated to exercise civil jurisdiction under paragraph (1) of this subsection, the clerk of court shall notify the parties of their right to consent. The decision of the parties shall be communicated to the clerk of court. No district judge shall be informed of the parties' response to this notice, nor shall he attempt to persuade or induce any party to consent to reference of any civil matter to a magistrate.

"(3) Upon entry of judgment in any case referred under paragraph (1) of this subsection, an aggrieved party may appeal on the record to the district court in the same manner as on an appeal from a judgment of the district court to a court of appeals. Wherever possible the local rules of the district court and the rules promulgated by the conference shall endeavor to make such appeal expeditious and inexpensive. The district court may affirm, reverse, modify, or remand the magistrate's judgment.

"(4) Cases in the district courts under paragraph (3) of this subsection may be reviewed by the appropriate United States court of appeals by writ of certiorari granted upon the petition of any party to any civil case, before or after rendition of judgment or decree. Nothing in this paragraph shall be construed to be a limitation on any party's right to seek review by the Supreme Court of the United States pursuant to section 1254 of this title.

"(5) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, at the time of reference to a magistrate by the clerk of court under paragraph (2) of this subsection, the parties may further consent to appeal directly to the appropriate United States Court of Appeals in the same manner as an appeal from any other judgment of a district court. In this circumstance the consent of the parties allows a magistrate designated to exercise civil jurisdiction under paragraph (1) of this subsection to direct the entry of judgment of the district court in accordance with the Federal Rules of Civil Procedure. Nothing in this paragraph shall be construed as a limitation on any party's right to seek review by the Supreme Court of the United States pursuant to section 1254 of this title.

"(6) Any proceeding conducted by a United States magistrate under this subsection shall be taken down by a court reporter appointed pursuant to section 753 of this title, if a district judge in such a proceeding would have been provided a court reporter under section 753, unless the parties with the approval of the judge or magistrate agree specifically to the contrary. Reporters referred to in the preceding sentence may be transferred for temporary service in any district court of the judicial circuit for reporting proceedings under this subsection, or for other reporting duties in such district court.".

Sec. 3. (a) Section 631(a) of title 28, United States Code, is amended by adding immediately after the first sentence thereof the following: "All magistrates shall be appointed pursuant to standards and procedures established by law.".

(b) The first sentence of section 631(b) of title 28, United States Code, is amended (1) by inserting "reappointed to" immediately after "appointed or"; and (2) by striking out the colon after "unless" and inserting in lieu thereof "he has been a member of a bar of the highest court of a State, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands of the United States for at least five years: Provided also:".

(c) Paragraph (1) of section 631(b) of title 28, United States Code, is amended by striking after the word "requirements" the words "of the first sentence of this paragraph" and inserting in lieu thereof the words "of this subsection".

(d) Section 631(b)(2) of title 28, United States Code, is amended to read as follows:

"(2) He is selected pursuant to the recommendation of a Magistrate Selection Panel (hereinafter referred to as the 'Panel') established in each district by the district court:

"(A) The Panel shall be selected by the judges of the district court when a magistrate position is created or at a reasonable time before the term of such a position expires or an existing position becomes vacant. The Panel shall be composed of no fewer than five members, and its size shall be determined by the chief judge of the district court. A majority of the Panel shall be members of the bar, and at least one of the remaining members shall be a nonlawyer. Each member of the Panel shall be a resident of the district for which the appointment is to be made. In selecting members of the Panel, the judges of the district court shall insure that a cross section of the legal profession and the community is represented. The Chairman of the Panel shall be chosen by a majority vote of its members.

"(B) The Panel shall (i) give public notice in a manner designed to inform the widest possible segment of the legal profession of the vacancy throughout the district, inviting suggestions as to potential nominees; (ii) conduct inquiries to identify potential nominees; (iii) conduct inquiries to identify those persons among the potential nomineee who are well qualified to serve as magistrates; and (iv) report to the district court within ninety days after the Panel's creation the results of its activities and recommend at least three, and not more than five, persons whom the Panel considers best qualified to fill the vacancies, using the criteria established by this chapter and any such criteria as the conference may from time to time promulgate: *Provided, however,* a Panel may recommend, with the concurrence of the district judges, one individual who is a sitting magistrate up for reappointment. All decisions of the Panel shall be by majority vote of the members.

"(C) The district court shall select from the list provided by the Panel. However, a district court may, by majority vote, reject the first list submitted by the Panel. If such list is rejected, however, the Panel shall submit a second list in accordance with this section from which the district court shall then select its magistrate.

"(D) No person shall be considered by a Panel as a potential nominee while serving as a Panel member or during a period of one year after termination of such service.

"(E) All information made available to the members of the Panel in the performance of their duties and all recommendations made to the district court shall be kept confidential.

"(F) Congress (i) takes notice of the fact that women and minorities are underrepresented in the Federal judiciary relative to the population at large; and (ii) recommends that the Penel, in recommending persons to the district court, shall give due consideration to qualified women, blacks, Hispanics, and other minority individuals.

A district court which cannot meet the procedural requirements of this paragraph, for good cause shown, may appoint a part-time magistrate pursuant to its own publicized procedure, after having filed with the conference the reasons for not being able to comply with the requirements of this paragraph."

(e) The amendments made by this section shall take effect on the date of enactment.

Sec. 4. Section 633(c) of title 28, United States Code, is amended by striking the final sentence.

Sec. 5. (a) Section 633 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) Reports by the Director.—The Director shall, within two years immediately following the date of enactment of the Magistrate Act of 1979, conduct a study and report to the Congress with respect to (1) the professional qualifications of individuals appointed under section 631 of this chapter to serve as magistrates, (2) the number of matters in which the parties consented to the exercise of jurisdiction by a magistrate pursuant to section 636(c) of this chapter, and (3) the number of appeals taken pursuant to paragraphs (3), (4), and (5) of such section 636(c), and the disposition of each such appeal. Thereafter, the Director shall conduct a study and report to each Congress with respect to the matters set forth in this subsection.".

(b) The heading for section 633 of title 288, United States Code, is amended by inserting "; Reports by the Director" immediately after "magistrates".

(c) The item relating to section 633 in the table of sections of chapter 43 of title 28, United States Code, is amended by inserting "; Reports by the Director" immediately after "magistrates".

Sec. 6. Section 1915(b) of title 28, United States Code, is amended to read as follows:

"(b) Upon the filing of an affidavit in accordance with subsection (a) of this section, the court may direct payment by the United States of the expenses of (1) printing the record on appeal in any civil or criminal case, if such printing is required by the appellate court; (2) preparing a transcript of proceedings before a United States magistrate in any civil or criminal case, if such transcript is required by the district court, in the case of proceedings conducted under section 636(b) of this title or under section 3401(b) of title 18, United States Code; and (3) printing the record on appeal if such printing is required by the appellate court, in the case of proceedings conducted pursuant to section 636(c) of this title. Such expenses shall be paid when authorized by the Director of the Administrative Office of the United States Courts.".

SEC. 7. Section 3401 of title 18, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) When specially designated to exercise such jurisdiction by the district court or courts he serves, any United States magistrate shall have jurisdiction to try persons accused of, and sentence persons convicted of, misdemeanors committed within that judicial district.";

(2) in subsection (b)—

(A) by striking out "minor offense" and inserting in lieu thereof "misdemeanor";

(B) by striking out "such judge" and inserting in lieu thereof "a district judge or magistrate";

(C) by striking out "both"; and

(D) by striking out "and any right to trial by jury that he may have";

(3) by adding at the beginning of subsection (d) the following: "A magistrate may impose sentence and exercise all powers under chapter 402 of this title: *Provided, however*, That no such sentence shall include a commitment for a period in excess of one year for conviction of a misdemeanor or six months in other cases."; and

(4) by amending subsection (f) to read as follows:

"(f) For good cause shown the attorney for the Government may petition the district court to have proceedings in any misdemeanor case conducted before a district judge rather than a United States magistrate. Such petition should note the novelty, importance, or complexity of the case, or other pertinent factors, and be filed in accordance with regulations promulgated by the Attorney General. Nothing in this subsection shall be deemed to limit the discretion of the court to have any misdemeanor case tried by a district judge rather than a magistrate.".

SEC. 8. (a) The heading for section 3401 of title 18, United States Code, is amended by striking the words "Minor offenses" and inserting in lieu thereof "Misdemeanors".

(b) The item relating to section 3401 in the table of sections of chapter 219 of title 18, United States Code, is amended by striking the words "Minor offenses" and inserting in lieu thereof "Misdemeanors".

SEC. 9. No additional funds are authorized to be appropriated to implement the provisions of this Act for expenditure prior to October 1, 1980.

SEC. 10. Such sums as may be necessary to carry out the purposes of this Act are hereby authorized to be appropriated for expenditure on or after October 1, 1980.

Mr. KENNEDY. Mr. President, I move that the Senate disagree to the amendment of the House, that the Senate agree to the conference requested by the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. KENNEDY, Mr. DECONCINI, Mr. HEFLIN, Mr. THURMOND, and Mr. DOLE as conferees on the part of the Senate.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT

The Senate continued with the consideration of the joint resolution (S.J. Res. 28).

The PRESIDING OFFICER (Mr. MOYNIHAN). Who yields time?

Mr. BAYH. Mr. President, John Roche once described the electoral college as "merely a jerry-rigged improvisation which has subsequently been endowed with a high theoretical content. The future was left to cope with the problem of what to do with this Rube Goldberg mechanism." Despite its eccentricities, the electoral college is not a lovable old mechanism to be kept and treasured. Mr. President, the electoral college is not harmless. If, as its defenders like to say, it has worked, it has worked often times in strange ways. It carries with it always the risk that it may not work at all. As the Presidential election of 1980 approaches, I would hope that the Congress would take heed to the ominous rumblings we have had from this cumbersome counting machine in the past, and begin the amendment process that would provide the country with political protection from a breakdown which could occur any time in the future. To finally replace the electoral college with direct election is simply to give us insurance before it is needed.

The electoral college has given problems since it was first created. Speaking in Federalist 67 of the manner of electing a President which had been chosen by the 1787 Convention, Alexander Hamilton said:

> There is hardly any part of the system which could have been attended with greater difficulty in the arrangements of it than this. . .

The manner of electing the President was debated extensively during the summer of 1787. Debate centered mainly between those who believed in a direct popular vote and those who wanted election by the National Legislature. However, John Feerick, chairman of the American Bar Association Committee on Election Reform, reports from the historical records, that on July 25 the following proposals were all debated but none adopted:

> Among the proposals made, but not adopted were that he be chosen by: Congress and, when running for re-election, by electors appointed by the state legislatures; the chief executives of the states, with the advice of their councils, or, if not councils, with the advice of electors chosen by their legislatures, with the votes of all states equal; the people; and the people of each state choosing its best citizen and Congress, or electors chosen by it, selecting the President from those citizens.

A committee of 11 finally was appointed to break the deadlock over how votes for President would be apportioned in the National Legislature. The committee discarded the legislative election method, and in the final days of the Convention recommended a system of intermediate electors. Their recommendation was accepted.

Clearly, the electoral college system was neither the most obvious, the most popular, nor the most inspired of the Founding Fathers' great works in framing the Constitution. What is more, the Founders did not envision political parties, the unit rule, or popular election of electors. These aspects of the present system of electing a President evolved quickly and changed the system dramatically, but not by design of the delegates to the 1787 Convention.

James Madison wrote some 36 years later:

> The difficulty of finding an unexceptionable process for appointing the Executive Organ of a Government such as that of the U.S., was deeply felt by the Convention; and as the final arrangement took place in the latter stages of the session, it was not exempt from a degree of the hurrying influence produced by fatigue and impatience in all such bodies, tho' the degree was much less than usually prevails in them.

For its time, however, the electoral college made some sense. The Founding Fathers were dealing with a much different society and the electoral college was a device for that society. The land mass of the country was huge; communication was primitive; and education was limited at best. Lack of information about possible Presidential candidates was in fact a very real consideration. Direct election would have been a difficult proposition, a reality which James Madison, one of its strong proponents, acknowledged reluctantly. Added to this were the problems involving suffrage. Out of a total population of 4 million, almost 700,000 were slaves, almost 90 percent of the South. It was not possible to count the slaves along the lines of a three-fifths compromise type of solution in a direct popular vote system. This would have led to northern-dominated elections and would have been wholly unacceptable unless the slaves were permitted to vote which was equally unacceptable.

James Madison spoke to this problem on July 19, 1787:

> There was one difficulty however of a serious nature attending an immediate choice by the people. The right of suffrage was much more diffusive in the Northern than the Southern States; and the latter could have no influence in the election on the score of the Negroes. The substitution of electors obviated this difficulty.

From the beginning the electoral college did not work as intended. By 1809, the first crisis occurred when Burr and Jefferson tied in the electoral vote for President. Thus, the election was put to the House of Representatives. After 36 ballots and 6 days, Jefferson finally won, but it was clear that an amendment was needed. In 1804 the 12th amendment was ratified, solving only the immediate problem of the 1800 election, but leaving the already outmoded electoral college in place.

In the beginning of course, popular votes were not counted. As the Founding Fathers intended, the State legislature chose the electors. Whether or not the system produced the winning candidate with the greatest popular mandate was totally irrelevant. As the new nation matured politically, however, it quickly became the rule that the people demanded the right to select the electors, and the possible consequences of the strange electoral college counting device which can distort the popular will first became a question.

How much of a question is it? What will be the reaction of Americans in the late 20th century if the Presidential election produces a "divided verdit"—a President with fewer votes—is an issue which we can and should rebate in the coming days, drawing on our own assessments of the political disaffection and disillusionment with which such a result would be greeted. The chances of a misfire occurring, however, are not speculative. They can and have been mathematically computed. Two studies are available to us today, and I think the Senators, as sober and reasonable men, should take good notice of them, much as they would weigh the odds of possible misfortune in buying an insurance policy. The odds are these:

If the winning candidate carries only 51 percent of the major party vote, there is a 50 percent chance that he becomes President with fewer votes than his opponent. Has this happened? It certainly has—in 1824, 1876 and 1888. Moreover, in 15 percent of the 39 elections we have had in which the popular vote has been recorded, there has been a 50 to 50 chance of a misfire. Three of the last five elections are among those near misses. Should we not as sober and reasonable men consider taking out an insurance policy on behalf of the Nation. That is, if, of course, we could find an insurance company which would consider issuing a policy with odds like these?

As I said previously, the system has backfired three times. In the elections of 1824, 1876 and 1888 the candidate who received the most votes did not win. That is 3 elections out of the 39 which have recorded popular votes, or a failure rate of 8 percent. Each of these elections has shown some peculiar flaw of the electoral college system.

The election of 1824 ended up in the House of Representatives. It taught us a lesson to be carried to this day. What happened then was remembered 144 years later and hovered behind the fears about George Wallace's third party candidacy in 1968. Despite a popular vote plurality of 40,000 votes out of almost 400,000 votes cast, Andrew Jackson did not receive sufficient electoral votes to win. During the period between the election and House action, the Nation was subjected to the spectacle of the asking and the suspected granting of every manner of favor as Jackson and Adams vied for the votes of House Members. Charges of a corrupt deal followed Adams through his Presidency and as a result of his anger over the election, Andrew Jackson formed our modern Democratic Party.

With direct election, no such deal-making or charges of deal-making ever would be possible. In the unlikely event that the leading candidate does not receive 40 percent of the popular vote, an event which has occurred only once in our history, the people themselves will get to choose the candidate they prefer in a run-off election.

The election of 1876 was the result of a system steeped in corruption before the election, a nation not yet recovered from the bitterness and division of a Civil War and a system that permitted fraud in a handful of States to decide an election. Even President Rutherford Hayes, in his diary, admits that Samuel Tilden, in fact, won the Presidency.

In 1876 the Republican Party bought the electoral votes in three States in the South, South Carolina, Louisiana and Florida. The price they paid was to sell out the newly enfranchised black citizens by promising to remove Federal troops. In this way the stage was set for the long period in which political participation by blacks in the South was a rarity, a situation finally addressed by Congress in the Voting Rights Act of 1965.

Fraud is an ever present possibility in the electoral college system, even if it rarely has become a proven reality. Tilden and Hayes forces struggled over two slates of electors—representing electoral votes. With the electoral college, relatively few irregular votes can reap a healthy reward in the form of a bloc of electoral votes, because of the unit rule or "winner take all" rule. Under the present system, fraudulent popular votes are much more likely to have a great impact by swinging enough blocs of electoral votes to reverse the election. A like number of fraudulent popular votes under direct election would likely have little effect on the national vote totals.

We may cite New York in 1976 as a modern example. Cries of voting irregularities arose on election night. At stake were 41 electoral votes—more than enough to elect Ford over Carter in the electoral college. Carter's popular margin was 290,000. The calls for recount were eventually dropped, but if fraud had been present in New York, Carter's plurality of 290,000 would have been enough to determine the outcome of the entire national election. Under direct election, Carter's entire national margin of 1.7 million votes would have had to have been irregular to affect the outcome.

Fraud was also involved in the election of 1888, but there is no question that Grover Cleveland won the popular vote by a 23,000 plurality and lost the electoral vote 219 to 182, simply because the electoral system allowed it to happen. There were thousands of disfranchised black voters in the South because of the electoral college sellout in 1876. There was also very likely fraud in Indiana and New York. Had Cleveland not been so willing to return to public life; had he, like Jackson, gone home and created a great storm of controversy, we have no way of knowing how the people would have reacted.

What happened in 1888 represents the greatest danger presented to us by the electoral college. Of course, no one can foretell with accuracy what would be the reaction in the United States in the second half of the 20th century if the duly elected President were not the popular vote winner. But we should be thinking about it. There have been three near misses in the last five elections. When we consider our present day increased suffrage, wide-spread education, ever-present communications systems, and perhaps most importantly, popular dissatisfaction with and distrust in the political process, it is reasonable to predict that there would be a political crises. Surely there is nothing speculative in the view that the mandate of the President to lead would be severely, perhaps irreparably, weakened.

Mr. President, I would like to emphasize once again that the danger that the electoral college will produce a President who is not the choice of the voters is not remote—it is not a speculative danger. On several occasions in this century, a shift of less than 1 percent of the popular vote would have produced an electoral majority for the candidate who received fewer popular votes because that relative handful of votes would have "swung" blocs of electoral votes. To reflect on recent years, in 1960, 1968 and 1976, the dangers have been all too close.

To this day we cannot be absolutely certain whether John Kennedy in fact won the popular vote or not in 1960. In the States of Alabama and Mississippi, States of unpledged Democratic electors were run and some of them won a position as Presidential elector. Many did not vote for President Kennedy when the electoral college met, yet the popular votes for these electors was included in the Kennedy tally by the television networks and the newspapers.

Most frightening in this election was an attempt by a Republic elector from Oklahoma to combine with other conservative electors, to disregard the popular vote and vote a Byrd-Goldwater ticket out of the electoral college.

Henry Irwin sent the following telegram in 1960 to his fellow electors:

> I am an Oklahoma Republican elector. The Republican electors cannot deny election to Kennedy. Sufficient conservative Democratic electors available to deny labor Socialist nominee. Would you consider Byrd President, Goldwater Vice President, or wire any acceptable substitute. All replies strict confidence.

In 1968 George Wallace entered the election and built a strategy based on the notion that he could deadlock the electoral college and broker the Presidency there:

> *Question*. If none of the three candidates get a majority, is the election going to be decided in the Electoral College or in the House of Representatives?
>
> WALLACE. I think it would be settled in the Electoral College.
>
> *Question*. Two of the candidates get together or their electors get together and determine who is to be President?
>
> WALLACE. That is right.

Wallace managed to get his name on the ballot in all 50 States and came within 54,000 votes of accomplishing his aim. We can only speculate how the American people at the height of the controversy over the Vietnam war would have reacted to the kind of deals that might well have taken place between election day and the meeting of the electors.

In 1976 a change of less than 9,500 votes in Ohio and Hawaii would have made Ford the President while Carter had an almost 1.7 million vote plurality. Such a misfiring of the system in our present climate could have grave consequences for our system and for the person charged with carrying out the duties of the Presidency.

In a runaway election—like that of 1972—any system will produce an electoral victory for the popular vote winner. But in elections as close as that of 1960, I repeat, the present system offered only a 50 to 50 chance that the electoral result would agree with the popular vote. For an election as close as 1968, where some 500,000 popular votes separated the candidates, there was one chance in three that the electoral vote winner would not be the popular vote winner as well. Even in the 1976 election, where Mr. Carter's plurality was 1.7 million, the chance of misfiring was one out of four. According to the evidence, the danger of an electoral backfire is clear and present.

It is easy for us to forget, when a near miss is past, that we should prepare for the future. Not enough of us remember the flood of magazine and newspaper articles speculating on disaster when the possibility of an electoral college backfire was imminent in 1968. In the days just prior to the 1976 election, the cry began again, only to subside when all turned out to be safe. I would hope that we would not allow ourselves to wait until the electoral college actually does backfire again before we rouse ourselves to act. Insurance cannot be bought after the house has burned down.

Mr. President, the history of the electoral college is not significant simply because it has carried the threat of misfiring. Its very nature is contrary to the political ideals which we as a Nation have come to realize over the years. In a very basic way, the electoral college is inimical to our political life. Unlike any other election in the United States from county commissioner to U.S. Senator, in a Presidential election all votes do not count the same. Under the electoral college, one America's vote is not equal to another's, simply on the basis of where he happens to live. Only with the direct election system would all votes be equal. The electoral college's strange alchemy of apportioning electoral votes plus its "winner-take-all" rule produces the anomalous result that, for example, a citizen from Iowa's vote is actually worth less than his neighbor's in Illinois, but more than his neighbor's in Nebraska. This effect is contrary to our experience in all other elections and the principles behind our form of Government. I am sometimes told that with direct election, I am trying to make a major change in our political system. Far from it. With direct election, I think, we would simply be bringing our method of Presidential choice in line with all the rest of our voting process.

We worry a great deal nowadays about the "empty voting booth" in America. We speculate on why so few of us choose to take advantage of our right to vote. Mr. President, in my opinion, the inequities inherent in the electoral college are also inimical to voter participation. The electoral college system provides a disincentive to voter turnout, and this is reflected in the way Presidential campaigns are conducted. It makes no difference to a Presidential candidate how many people show up on election day in any State so long as he receives a plurality of one, for that one extra vote determines the outcome of the State's bloc of electoral votes. The votes constituting the plurality over the winner's vote of one are actually worthless. Conversely, all the votes for the loser are not simply lost; they are in effect recast for the winner along with the State's bloc of electoral votes.

These inequities are of great practical consequence to the way campaigns are run and thus on the degree of encouragement by candidates for voter participation. With the electoral college, some States are inherently more influential than others, helping a candidate to decide where he will spend his time and effort. Therefore, he will, in all likelihood, ignore much of the Plains and Mountain States and the South.

Look at the actual campaign trips, the actual expenditures of Presidential candidates. If he reasonably expects to either win or lose a State, however, he will probably write it off as well. Thus, few Democratic candidates go to Massachusetts or Rhode Island, or Republicans to Wyoming. The electoral college gives neither the candidate nor the national party any motivation to either work to turn out the vote in those States, or widen the margin of victory if he expects to win, or narrow it if he expects to lose.

There is no advantage in building significant margins of victory. As an example of what I mean, in 1976 Mr. Ford picked up 45 electoral votes in California with a 127,000 plurality; Mr. Carter earned 45 electoral votes in 5 Southern States with a 1,044,000 plurality. The difference in popular votes made no difference in the electoral votes. In effect, all those extra voters were disfranchised. They counted not at all.

Winning under direct election, however, depends precisely on a party's ability to get out the vote and to build sizable pluralities in every community simply because every vote counts and therefore no State nor population can easily be ignored.

Mr. President, there is little doubt that American citizens are ready to abolish the electoral college and establish direct election in its place. For over 10 years, polls have shown that support of direct election is over 75 percent, and that support comes from every region of the country, every political ideology, both parties and independents, all races and religions, all professions and economic strata, consistently across the board. The amendment is endorsed by an array of national organizations including the American Bar Association, the U.S. Chamber of Commerce, AFL–CIO, UAW, League of Women Voters, Common Cause, National Federation of Independent Business, the ACLU, National Small Business Association, the ADA, the American Federation of Teachers, and the National Farmers Union. In the 95th Congress it was cosponsored by 45 Senators, including 28 Senators from small States. It has broad support in the House where it passed by an 83 percent vote in 1969.

Back in the 1960's Senator BURDICK and Senator Griffin conducted polls of State legislators, to find out their thinking on direct election. They showed approval rates of 58.8 percent and 64 percent. But I am often told the State legislatures today, in 1979, would never ratify a direct election amendment. There are two other amendments out there before them, and they are sick of being sent amendments by Congress. I thought we should know. So I directed that a new study be made. Fourteen small States were chosen—because we thought that resistance was likely to be strongest in small States. We chose States that represented the different regions of the country. Mr. President, the response to the question. Would you vote to ratify a direct election amendment, was 61 percent yes; 25 percent undecided; and 14 percent no.

Majorities in each State voted yes. The answer was clear: State legislators are able to be selective and individual in their consideration of another amendment. More importantly, they share the belief of the rest of their countrymen that direct election is a proper and rightful addition to the Constitution.

Sometimes the question is asked, why change the electoral college after all these years? The answer is clear. George Mason, one of our Founding Fathers, was correct—the electoral college is a deception to the American people—"thrown out to make them believe they were to choose." Our history since 1787 has been a long journey to increase participation in the election process, and the changes have never been made easily or quickly. It was 83 years before the 15th amendment proclaimed that the right of citizens to vote should not be abridged on account of race. It was 133 years before women were entitled to vote. Reapportionment was constitutionally required after 177 years; the Voting Rights Act took 1 year more.

While it is important not to overstate the impact of direct election on the country, it is also important to recognize it for what it is: A way of counting the votes for President which insures that every vote and voter is of importance to the outcome of the election.

The fundamental case for direct election has been put simply for the Congress in our latest hearings in the statement of a man who in his own lifetime as a civil rights leader and the director of the implementation of the old struggle to increase citizen participation in the election process. John Lewis is now with ACTION, heading VISTA. His perception of direct election wipes out all the calculations of advantage and disadvantage which so often attend the electoral college as well as the unfounded fears of change to improve the system, and returns to the precept that everyone's vote should count and should count the same.

John Lewis told the Committee on the Judiciary:

That every person's vote should count the same is one of the fundamental principles which is bedrock in this country. Having won the long and difficult and dangerous struggle to win the right to vote, we cannot now accept the proposition that any one person's vote can count more than another. . . .

Mr. Chairman, I respectfully submit that the direct popular election of the President and Vice President is an idea whose time has not only come, but is long overdue.

Mr. President, I am sure that my 36 colleagues who have chosen to cosponsor the direct election amendment in the beginning of this 96th Congress agree with Mr. Lewis and join me in urging that in 1979 the time has come to replace the strange mode of Presidential election which was left to us in the last harried hours of the constitutional convention. It is time, Mr. President, that we in Congress take the action that a great majority of our constituents long have supported and for which many of our colleagues have labored, and pass the direct election amendment. As Mr. Lewis has said, it is long overdue.

In addition to my prepared remarks, Mr. President, I would like to elaborate on several points that I feel need emphasis.

To those who say, "If it ain't broke, don't fix it," I should like to ask them what they feel the necessary criteria for a system of electing a President are. I have always maintained that the Presidential election should meet the same three-point test that is applied to all other elections in this country. First of all, the winner should be the one who gets the most votes; second, each of those votes should count the same and be counted for the candidate for whom they were cast; and, third, the people who do the actual electing should be the ones who cast the votes.

I use those criteria for President because they are the same criteria used for electing Senators, Congressmen, Governors, State legislators, county sheriffs, all officials; every election, except, let me hasten to add, the President and the Vice President. So instead of establishing new criteria, radical criteria, as some editorials have said, the Senator from Indiana and those who support the direct popular vote are establishing the same criteria for President and Vice President as have been applied to all other offices.

At least by the definition of the Senator from Indiana, the crack or the breakdown in the system has resulted when on these three occasions we have elected a President who had fewer votes than the person he was running against. Of more concern to the Senator from Indiana than what happened back in 1888 is what nearly happened in three of the last five times. It makes about as much sense to say, "If the electoral college ain't broke don't fix it" as it does to say to the neighbor of an adjoining farm, "You are foolish for buying fire insurance for your barn because it is not on fire."

Three times in the last five elections we have had elections that were so close that with a change of a handful of votes we would have elected a President who had fewer popular votes than his opponent.

I will not go into great detail to describe all of these. I think we all recall the fact that Jimmy Carter, although almost a 2 million vote winner, came within less than 11,000 votes of being an electoral college loser.

We are all familiar with the narrow margin of victory in 1960.

Although there was a great deal of concern expressed in 1968 about the Wallace phenomenon at the time, apparently a lot of people who were concerned then have been mighty forgetful in the meantime. We came within a handful of votes of letting George Wallace with 46 electoral votes prevent the election from taking place at all as far as the population was concerned and thrust it into the House of Representatives or choose a President by bargaining off his 39 independent electors to the highest bidder.

The facts of 1968 are there to be read and hopefully remembered; if there had been a relatively small change in the popular vote total of three States, neither Vice President Humphrey nor Vice President Nixon would have won the electoral college majority necessary.

That is enough concern to me, Mr. President, to say, "OK, if it is not totally broken, if the barn is not on fire, if our institutions are not blazing, then let us take a little insurance policy out to try to keep somebody from striking sparks near the tinderbox."

We asked some mathematicians to conduct some analytical studies. "Run it through your analysis chart." We do this with insurance policies to determine what the actuarial probability of life is, what the actuarial possibility of an accident is. This is not a foreign custom.

We asked these mathematicians and those actuarial experts to estimate what the possibilities of malfunctioning might be given the recent history.

They reported back to us that in 1960 in a similar election, or tomorrow, there would be a 47 percent chance that the President who won would be the one without the most votes. In 1976, there would be a 23 percent probability, and on and on.

At this time, Mr. President, I ask unanimous consent to have printed at this point in the Record a letter from Dr. Samuel Merrill, III, and his colleagues in computer science, which points out that as reasonable men we ought to consider the odds of the system malfunctioning once again as it has in the past.

There being no objection, the letter was ordered to be printed in the Record, as follows:

WILKES COLLEGE,
Wilkes-Barre, Pa., June 22, 1979.

Sen. BIRCH BAYH,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR BAYH: In response to your inquiry, let me summarize my findings concerning the likelihood of a divided verdict in a Presidential election, i.e., an election in which one candidate wins in the Electoral College while the other wins the popular vote. As you know, any decision concerning retention of the Electoral College system must take account of quantitative estimates of the many subtle effects of this method of choosing the President. Detailed documentation of these conclusions are published in "Empirical Estimates for the Likelihood of a Divided Verdict in a Presidential Election," which appeared in the journal Public Choice, Vol. 33 (1978), pp. 127–133.

My analysis, based on the state by state voting records for the period 1900–1976 indicates that in a race as close as the Carter-Ford contest, the likelihood of a divided verdict is about 23 percent. If the election is as close as the Kennedy-Nixon race, this likelihood is about 47 percent. Based on a more recent portion of the data, namely the period 1952–76, the corresponding likelihoods are 46 percent and 11 percent.

Thus, whereas the likelihood of a divided verdict has decreased somewhat as more states have come to reflect national trends, it is still very substantial and for very close election remains near 50 percent, Furthermore, the relationship between this likelihood and voting patterns is so subtle that we have no assurance that this likelihood will not increase in the future.

In a 3-way election with Electoral strength distributed in the proportions of the election of 1968, the probability that the popular vote winner fail to win the Electoral College is 63 percent (if based on 1900–76 data) and 56 percent (if based on data for only 1952–76).

For the national bonus plan, now under consideration by a subcommittee of the House Judiciary Committee, a similar analysis indicates that the likelihood of a divided verdict in races as close as the two described above would be about 3 percent (Carter-Ford) and about 11 percent (Kennedy-Nixon), respectively. Although the national bonus would, of course, reduce the likelihood of a divided verdict, it would by no means prevent it.

I am also enclosing a copy of a letter which I sent to each member of the House Judiciary Committee's Subcommittee on Monopolies and Commercial Law, which is currenly considering the national bonus plan. A similar letter was sent to the members of the Task Force on the Reform of the Presidential Election Process sponsored by the Twentieth Century Fund.

I hope that this material can be of use to you in the coming debate.

Sincerely,

SAMUEL MERRILL III,
Associate Professor of,
Mathmatics/Computer Science.

Mr. BAYH. Second, Mr. President, I would like to emphasize that one of the real problems we have today is disenchantment—disenchanment of our people with their institutions and their political leaders.

I must say I have sat here in amazement and have listened to some of the most eloquent opponents of direct election suggest that if we pass a direct popular vote system the people of the country are going to be disenchanted.

They have also said if we have a direct popular election, there is not going to be a very high vote turnout.

They have also said if we have direct popular election of the President there is going to be a lessening of confidence and a weakening of the political structure.

They have also said that if we have direct popular vote the emphasis in campaigns is going to be on television, that the media producers are going to be the major instruments of the campaign.

The amazement, Mr. President, in listening to these very eloquent and reasonable spokesmen is that those very fears they express as a result of the direct popular vote are happening now. They are happening at a time when we are governed by an electoral college system.

Mr. President, I would not be so devious as to suggest that all of these things are the result of the electoral college system, but it seems to me totally unreasonable to suggest that the direct popular vote is going to lead to worse conclusions and worse results than we have had under the electoral college system, as far as these factors are concerned.

(Mr. MOYNIHAN assumed the chair.)

Mr. BAYH. Mr. President, I do not believe there is any magic for restoring confidence and believability. But I must say that I am sure that this disillusionment will increase if we elect a President who is the electoral college winner and the popular vote loser.

We have heard the statistics on the fact that a majority of the people in this country do not understand the electoral college even exists, that they think they are working and voting for a President. How can it do anything but increase disillusionment if, on election night, they see a Carter sitting there with a 2 million vote plurality and a Ford going back to the White House an electoral college winner? Or can you say the same thing about a Nixon or a Humphrey. The fact of the matter is that it would increase disillusionment if we permit that kind of result.

Also, Mr. President, I point out that there have been concerns expressed by my colleagues about the possibility of certain malfunctions of a direct popular vote system. Mr. President, I cannot honestly say that any system that is run by human beings will be perfect. It will be imperfect. Depending upon the time and the circumstances, any election system can malfunction.

It is possible to have fraud under a direct popular vote system. Does anyone deny that we have had fraud under the electoral college system? If so, they are not very good students of history.

In the judgment of the Senator from Indiana, there are two ways to lessen the impact of fraud or the possibility of fraud. One is to provide for a more careful policing of the election mechanism, and the second is to lessen the fruits of fraud. Under the electoral college system, the fruits of fraud are very high. A handful of fraudulent votes in the second most populous State, that of our distinguished present Presiding Officer, can produce 41 electoral votes.

I am not suggesting, let me hasten to add, that there is any possibility of fraud in New York any greater than any place else, but a handful of fraudulent votes in California can produce an even larger number of electoral votes. So the incentive to participate in just a little fraud in those large electoral vote States is much greater because the fruits to be gained by the electoral votes procured from the fraudulent votes are a much higher percent of the total of the electoral college votes than the fraudulent votes are as a percentage of the total popular vote.

In a popular vote system, if you have a fraudulent vote, it will count as one. Theoretically, in an electoral college system, one fraudulent vote could count for 43 electors or 45 electors, or 28 electors, or 23 electors. So, I suggest that, although the direct popular vote does not provide a fail-safe mechanism to root out the evil that might still lurk in the hearts of our citizens to procure a fraudulent victory at the ballot box, a direct popular vote limits the impact of each fraudulent vote to one fraudulent vote.

Second, I believe the direct popular vote will provide an incentive to have a more careful policing mechanism at each precinct, because each vote that was cast would be counted. Under the present system, if a precinct committeeman, county organization, or State organization perceives that they are going to lose the State, there is no incentive, really, carefully to calculate or police each vote, because there is no incentive to cut down the size of the loss. By the same token, if the same organizational people conclude that they are going to win by a landslide, there is no incentive to increase the size of the landslide because, under a direct popular vote, each vote counts. The incentive would be to be careful and police each vote that was cast.

By the same token, in my judgment, there would be an invigoration of the party system at the precinct level in order to get out more votes, to register more voters, and to see that they are tallied properly because, under a direct popular vote system, each vote would count as part of the total, whether you lose a State or whether you carry it. Thus, it seems to me, Mr. President, that, although I cannot guarantee that direct popular vote is a panacea for the ills of our political institutions or our party structure, I do perceive very strongly that it will give a clear signal to the party structure at the grassroots level, and they will do a better job if the sixth ward, precinct 5A, is going to be counted in the national total. That is the way you create an incentive to build a stronger party; not by saying, "Well, Mr. President or Mr. Campaign Manager, it's alright if you do not come into our State; you are going to win here anyhow and we do not need the extra votes that you might convince to support you." Or, "Mr. President, with all respect, we would love to have you here, but we understand you do not have a prayer of carrying our State, even if you cut your loss in half; we are just not going to make a 100-percent effort here because you do not have a chance of carrying the State."

So, if I might, I suggest we look to the weakness that exists in our party structure under our present system. Wisdom would conclude, or at least strongly suggest, that direct popular election will give an additional incentive for the strengthening of grassroots party organizations.

Mr. President, we know there are weaknesses in the present system. We know the electoral college can misfire. We know that independent electors have ignored the wishes of their constituency and voted for whomever they wish. We know that in the electoral college votes are weighted. It all depends on where you live. If you are a candidate and you carry all 10 big electoral vote States plus the District of Columbia, you are elected President of the United States no matter how many popular votes you get nationwide. So in point of fact there is a real big-State advantage, with little incentive to campaign in the small States.

On the other hand, if, as is usually the case, the heavy emphasis on the large electoral-vote States results in an even division of those States, then those two extra electors, those two senatorial electors which are added to the number of electors entitled to a State because of population, begin to give an advantage to the small States.

So, Mr. President, it seems to me that the question is, Why should either large or small States have an advantage under any given system? Why do we not say that wherever you live, whatever the election, you have one vote and it is counted once, and it is counted for the candidate for whom it is cast.

My colleagues have heard me explain the concern I have for the disfranchisement effect of the electoral college resulting in an erosion of confidence when every black voter in the city of Gary, Ind., or every black voter in Detroit or Chicago or Los Angeles, or every Chicano voter—the minorities my opponents like to say they are protecting under the electoral college system—all those people who voted for candidate Carter in the last election—and a predominance of them did—had their votes counted under the electoral college system for candidate Ford, because he happened to carry those States in question. So it was with the Republican voters in Illinois and the Republican voters of the State of our distinguished present Presiding Officer, New York.

They had their votes counted for President Carter. So it is sort of a balancing act. It is a big gambling wheel. It is sort of an American roulette. Every 4 years we whirl the wheel, go in and vote, but we are never quite sure how it will be counted. We know who we cast it for, but who it is counted for depends on how the majority of the State votes.

Mr. President, I suggest that we as Senators have only to look at the experiences within our own States to know how the direct popular vote system works. Rather than destroying the two-party system in my State, and I assume in most States, we have strong two-party systems that flourish within a direct popular vote system for Senator, Governor, and the others I have mentioned.

We try our best to turn out every vote we can in a Senate race because we know that each vote counts.

It is true that there are some parts of our States where we go more frequently than others. It is the old story of picking cherries where the cherries are.

I suppose my good friend and colleague from New York does not spend quite as much time campaigning upstate and over in the western regions of the beautiful State of New York where there are not quite as many votes as he does in the more populous cities, probably more time in Buffalo than Jamestown.

But we know in our States, if we totally ignore areas, the other side can pile up a big margin as a result of it, because Senator X does not care enough to go there, that those big margins can offset what we tried to do in the more populated areas.

I do not think any of us as Senators would suggest we have an electoral college system in our State where we would carry the counties under an electoral vote system. We would not like that at all. Yet, that is what we have for our President.

I am suggesting we ought to use the same criteria for President we do for Senator, that the chances of his going to less populated areas are not as great as the chances of going to populated areas. But this decision will be based on the number of voters there and the chances of persuading them, not on the number of electoral votes that may be won.

Our evidence, as compiled in hearing after hearing, shows conclusively right now large population centers in small electoral vote States are often ignored, whereas small population centers in a large electoral State are treated with favor.

Let us see that the people of this country are treated equally and equitably and that the political process gives us a winner by the generally accepted definition of the political game in the United States of America.

It is in line with these democratic principles, that civil rights advocate John Lewis, who is one who led the charge to see that millions of previously disfranchised black voters are now on the voting rolls. In fact, he devoted most of his life to the effort of extending the right and opportunity to vote to minority citizens.

As John Lewis said:

> Having come the long and difficult and dangerous struggle to win the right to vote, we cannot now accept the proposition that any one person's vote can count more than another.

I guess that is what I am saying, Mr. President. Let us all see that our votes count the same. Let us try and see that the President at least starts his office with full credentials, the most significant of which is the knowledge both in his mind and in the people's mind that he is the choice of most of those he now must govern from that awesome post in the Oval Office.

UP AMENDMENT NO. 312

Mr. BAYH. Mr. President, I call up the amendment which was previously discussed with Senators THURMOND and HATCH which would take the 7-year limitation out of the preamble and put the 7-year limitation for ratification in the body of the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 312.

The amendment is as follows:

> On page 2, line 3, beginning with "States,", strike all down through "Congress:" On line 6, and insert in lieu thereof the following: "States:"
>
> On page 4, after line 5, insert the following new section:
>
> "SEC. 6. This article shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress."
>
> On page 4, line 6, strike "6" and insert "7".
>
> On page 4, line 8, strike "7" and insert "8".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 312) was agreed to.

Mr. BAYH. Mr. President, I appreciate that and the courtesy of my colleagues.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, will the Senator yield me some time?

Mr. THURMOND. I yield the distinguished Senator from North Carolina such time as he may require.

Mr. HELMS. I thank the distinguished Senator.

Mr. President, I shall vote against Senate Joint Resolution 28 because I want to preserve a system of stable representation that has provided the American people with nearly 200 years of unparalleled participatory democracy.

Advocates of the abolition of the electoral college have repeatedly relied upon the assumption that the theory of one-man-one-vote necessarily provides a more democratic and therefore better President. But this is precisely the question on which much of the debate on Senate Joint Resolution 28 has been assumed and not answered: "would the direct election of a President provide the American people with a better president?"

I believe the answer to that question is "No." One-man-one-vote equality is not a synonym for democracy. If that were true there would be no more undemocratic institution than the U.S. Senate.

The proposal to abolish the electoral college cannot be separated from the fundamental nature of our Federal system and the idea of democracy the framers of the Constitution sought to attain.

Mr. President, throughout this debate I have thought of years gone by, and I remember the many eloquent speeches made on this floor by my former distinguished colleague from North Carolina (Mr. Ervin).

As he said many times, the American people should be aware that proposals to do away with the electoral college are not new. Since 1824, when Senator Thomas Hart Benton led the first efforts for its abolition, more than 500 constitutional amendments have been introduced in Congress to alter or eliminate it. While it is often denounced as an anachronism, the dangers which would follow its elimination have caused such distinguished constitutional scholars as Alexander Bickel, Philip Kurland, Charles Black, the late Martin Diamond, and Walter Berns to strongly oppose its abolition.

Mr. President, it is often forgotten that the Constitution is a contract between the States and that just as any contract or agreement is negotiated to provide certain compromises, concessions, and safeguards, the Constitution as well provides for such a resolution of often competing interests. Obviously one aspect of this resolution is the compromise between large States and small States as is reflected in the apportionment of Representatives and Senators in the Congress. And it is equally clear from history, that this compromise was a fundamental condition to a number of States agreeing to enter the Union and ratify the Constitution.

But the issue of the electoral college is much more profound than the resolution of potential conflicts between highly populated industrial States and sparsely populated rural States. The late Prof. Martin Diamond explained:

> The issue regarding the Electoral College is not democratic reform versus the retention of an undemocratic system but rather a matter of which kind of democratic reasoning is to prevail in presidential elections—the traditional American idea that channels and constrains democracy or a rival idea that wishes democracy to be its entirely untrammeled and undifferentiated national self.

Professor Diamond continued:

> Americans have always believed that there is more to democracy itself than merely maximizing national majoritarianism; our idea of democracy includes responsiveness to local majorities as well. America is a nation of minorities and all of us belong to one or more religious, racial, ethnic or regional minorities. For example, national minorities which happen to be regional majorities are protected because of the system of districted representation through the House of Representatives. Similarly, the approach of statewide representation in the Senate and through the Electoral College provides a practical, workable response to the dynamics of local democracy. Otherwise such local and regional interests may be completely neglected.

Mr. President, the authors of the Constitution understood, as did Edmund Burke, that the constitution of a nation is not a problem of arithmetic. Those men who sought a stable, constitutional framework for government in the United States perceived the people, Mr. Walter Lippmann suggests:

> As having many dimensions in space, in time, in weight, in quality . . . The American founders sought to represent this many-sided people and they thought of the people's will as an equilibrium of its many elements . . . And so in their practical arrangements they sought to make the government as nearly representative as possible of the many facets of the popular will, of the people acting as citizens of local communities, acting as citizens of regions (and) of states.

The central question in considering the electoral college is what method best reflects the national character and the national consensus. Are we willing to arrive at such a consensus at the price of failing to protect certain minorities? Are we willing to advance the interests of certain minorities in such a way as to frustrate a representatve majority? I believe that the abolition of the electoral college and its replacement with a system of direct national election inherently carries with it the prospect of both these grave dangers.

Mr. President, I am not much of a politician, but it seems to me that American politics is a politics of coalition. These coalitions exist under the present system of electing a President and they will exist if a direct election method is adopted. As the late Prof. Alexander Bickel has observed:

> The only question is when and how coalitions are formed and compromises take place.

Under the present system coalitions are formed at the conventions of the two major political parties and the State primaries and conventions which precede them. This approach to the resolution of often competing interests is essentially an open and accessible one.

However, under a Presidential election system which provides for a runoff if no candidate receives 40 percent of the vote those factors which foster unity and coalition in the major parties before the general election will be replaced by a tendency toward fragmentation. Various special interest and single issue groups which now realize a necessity to reach agreement with the major party candidates by the time of the national convention or shortly thereafter will suddenly find their bargaining position increased if they are able to deprive either major party candidate of a 40-percent-plus-one margin and force a runoff election. Special interest groups will be encouraged to form political parties to maximize this political leverage.

Mr. President, in such a multiparty system, the formation of winning coalitions will be placed in the hands of a small group of candidates and their campaign managers during the time between the general and runoff election. Can there be much doubt that the process of compromise and coalition will be less open and with less popular access to the process under this procedure?

Professor Bickel responded to that in this way:

> Governments will be weaker; less stable and less capable than our governments are now of taking clear and coherent actions. Where multiparty systems have been tried, they have been found costly in just these ways, and they have scarcely yielded the ultimate in participatory democracy and good government. Nor have they lasted.

Of course, the one country which elects its President substantially the way the United States would elect a President if the direct election method was adopted is France. This Senator thinks it would be very instructive to consider what has happened in French elections under this procedure. I believe that there were seven serious candidates for President during the 1974 election. Would this country benefit if we duplicated the quid pro quo bargaining that characterize French politics just prior to their runoff election? With the increasing proliferation of single-issue constituents, can we doubt the real possibility within the next few years of the emergence of 5 to 10 splinter parties in the United States? Indeed, rather than guarantee a President who is elected by the majority, this direct election proposal may guarantee a minority President or, at the very least, advance the interests of single-interest minorities at the expense of the interests of the majority.

Professor Bickel has suggested that the runoff provision would substantially affect the stability of the American political system:

> The runoff would be, not an occasional occurrence, but the typical event. The major party nomination would count for much less than it does now, would count, in truth, for about as much as the State democratic committee designation of candidates for Governor and Senators in New York counts this year, and might even eventually begin to count against a candidate. There would be little inducement to unity in each party at or following the conventions. Coalitions would be formed not at conventions, but during the period between the general election and the runoff. All in all, the dominant position of the two major parties would not be suitable.

The electoral college prevents the fragmentation of the American political process by substantially denying splinter parties the ability to compete for electoral votes. Historically, only those third parties with an effective regional appeal have been able to carry any State electoral votes. The election of 1948, as a matter of fact, provides an excellent example of how the electoral college deals with splinter party movements. In that year both STROM THURMOND and Henry Wallace received approximately the same number of popular votes. However, Mr. THURMOND's Southern Party obtained 39 electoral votes while Wallace's Progressive Party received none and soon thereafter dissolved.

The knowledge that, almost without exception, third party efforts will be shut out of the electoral college has done much in modern times to curtail the development and spread of splinter parties in American politics. Now, it may be true that on a theoretical level, the electoral college does not necessarily prevent the spread of third parties, but the psychology of the electoral college suggests to the average voter that if the total vote in the electoral college will be zero, a new party is probably a futile undertaking and a vote for that party's candidate is probably wasted.

The President of the United States is the President of all the people of this country and, as such, should be responsive to more than just a narrow constituency or set of concerns. The electoral college reinforces this important aspect of the Presidency by distributing at least a minimum number of electoral votes across the country. However, under the direct election method, it is not the distribution of votes, but merely its size which matters.

The electoral college forces candidates for the Presidency to meet and respond to voters in areas whose importance to the Nation is much more than simply a matter of numbers. For example, in the United States today only 3 percent of the population grow enough food to feed the remaining 97 percent and additional millions around the world. It is the design of the electoral college to reflect in some measure the importance of the rural, agricultural States. Similarly, the votes of various minority groups within the heavily industrialized States can be decisive in the disposition of all of those States' electoral votes. Here too, the importance of such groups and their concerns often exceed their simple numbers. By thus requiring candidates to adopt a broadly based platform, the electoral college arrives at a national consensus while protecting important minority interests.

Mr. President, we have heard over and over again of the potential danger that a candidate might lose the popular vote in a close election and yet win the election on the basis of the electoral vote. However, there has been very little consideration of the real danger that with the abolishment of the electoral college a candidate might win with overwhelming majorities in two or three large States and then lose by narrow margins in the remaining 47 or 48. The Nation would then have a popularly elected President who had won majorities in only two or three States. Would such an outcome be more democratic than the election of a candidate who loses the popular vote by 50,000 or 100,000 votes, but wins in the electoral college?

Commented Bickel:

> It is sheer illusion, a willful suspension of disbelief to pretend that there is no deadlock when a popular election produces a winner with under 50 percent of the total vote, and with a plurality of perhaps 25,000 or 50,000 or 100,000 out of upward of 70 million. That is deadlock, as much deadlock as when there is no absolute majority in the electoral college. . .
>
> All methods of resolving deadlock, all methods of making a choice when there is no clear popular choice, are arbitrary and all that is needed is settlement in advance upon one sensible and well understood method. That is all that is needed, and that is all that is possible.

Mr. President, the electoral college system also acts to contain the extent of recounts much the same as the many watertight compartments of a ship act to contain flooding. Presently, recounts are compartmentalized by State and only a very close election in a State would tempt a candidate to ask for a recount and only if the electoral college vote were very close. However, under the Senate Joint Resolution 28 approach recounts would suddenly become nationalized and candidates who lost votes in a particular area would be tempted to gain votes in another. Even in States where a candidate lost by a wide margin, recount votes could still add to his nationwide total.

The real potential for danger regarding recounts can be seen by reviewing the close results in three of the last five Presidential elections: Kennedy and Nixon in 1960; Nixon and Humphrey in 1968; and Carter and Ford in 1976. Are we seriously considering subjecting the Nation to the protracted instability that a nationwide recount would have upon our political process? Can there be much doubt that a victory margin of 200,000 votes, such as Kennedy's in 1960 out of 70 million votes would not raise the strong possibility of a recount? And the specter of a recount arises not only to determine the President-elect, but also to determine which two out of three or more candidates has the first and second highest vote totals thereby determining who would be included in the runoff election. The distinct possibility arises of not just one nationwide recount, but two before a President is finally selected.

Mr. President, Will Rogers was fond of saying that the problem with Congress is that it is always trying to fix something which is not broken. No better assessment could be made of the efforts of some to abolish the electoral college. It is argued that we must do away with the electoral system, because it is claimed that on three occasions it has thwarted the public will in electing a President.

However, a look at history indicates that the precedents prove nothing of the sort. In 1824, John Quincy Adams was elected by the House of Representatives as one of four candidates, none of whom enjoyed a majority of the popular votes. Although Andrew Jackson obtained a plurality of 37,000 popular votes, 6 States with 71 electoral votes at that time chose their electors by a vote of the legislature, not the people. In 1876, although the statistics state a popular majority for Tilden over Hayes, supporters for both candidates engaged in widespread vote fraud and thus undermined the validity of any claim as to the popular choice in that election.

This leaves the election of 1888 as the one historic example of the so-called "loaded electoral gun" pointed at the head of the Nation. But as Professor Diamond observed:

> Now the funny thing about this loaded pistol is that the last time it went off, in 1888, no one got hurt; no one even hollered. As far as I can tell, there was hardly a ripple of constitutional discontent, not a trace of dangerous delegitimation, and nothing remotely resembling the crisis predicted by present-day critics of the electoral college.

Here, too, vote fraud blurred the actual popular vote outcome.

It is also claimed that the electoral college must be abolished, because the individual electors are not bound to vote for the winner of the popular vote in their States. While numerous theoretical scenarios may be possible, the historical fact remains that less than 5 percent of the electors have voted for candidates other than those mandated by their States and that in no election has such an elector affected the final outcome of the election.

Mr. President, any electoral process has certain benefits and certain costs or disadvantages. Such is the case with the electoral college, but the historical record indicates that it has served the country well and enhanced the stability of our political system. Any existing or potential drawbacks to its operation are slight, when compared with the substantial difficulties inherent with Senate Joint Resolution 28.

Mr. President, I ask unanimous consent that a July 9 editorial of the New York Times, entitled "A Vote for the Federal President" be printed in the Record at this point.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the New York Times, July 9, 1979]

A Vote for the Federal President

A strong alliance of reformers is again pushing the idea that we elect our Presidents by direct popular vote, without the filter of an Electoral College. Counting every vote equally sounds so simple and attractive that normally cautious politicians find it difficult to resist. A Constitutional amendment to abolish the College reaches the Senate this week with an outside chance of obtaining the necessary 67 votes.

One would think that the reformers' zeal for "one person, one vote" might as logically lead them to abolish the Senate. If any of our Federal institutions offends arithmetical justice it is the one that grants the same two votes to 22 million Californians and 650,000 Nevadans. For reasons that Senators should value, these United States have found it useful and in no sense undemocratic to retain some imbalance and geographical color in their Federal system. Simplicity is not the synonym of democracy. Voter parity is not the only source of stability. A Presidential election that is federal is not therefore unsound.

Every youngster understands our rules for electing a President. The winner of the popular vote in every state receives its total "electoral vote." Each state's electoral vote equals the size of its delegation in Congress; as in the Senate, this arithmetic favors smaller states. But in a close election, there is compensation for voters in more populous states. As urban minorities have recognized, winning a large state by a slight margin yields a richer prize than winning a small state by a landslide.

The unplanned effects of this system have been mostly good. It turns the contest for President into 52 races (including the District of Columbia and Puerto Rico). It makes it impossible for candidates to write off the less populous regions or overcrowded city slums; both count for slightly more than their numerical weight. Moreover, the system blunts single-issue fury. Citizens who oppose gun control or abortion cannot simply unite nationally to elect, or defeat, a President; they must join, state by state, with other voters moved by other passions.

This necessity for compromise, in turn, holds most voters inside our two federal parties, and the parties are thus held near the middle of the political road. To elect a President, even arrogant majorities must be solicitous of minorities; even alienated minorities must work with majorities. The system encourages moderation in radical times and protects against parochial passions. It discourages minor parties yet rewards their protest with major-party attentiveness. It is widely understood and accepted. It is a bond with history, a source of stability.

So why abandon it?

Because to many a "direct" and "popular" election sounds more democratic. They also want to avoid the largely theoretical risk that electoral votes might elect a candidate who lost the popular vote. That could happen—but it hasn't happened since 1888.

To guard against that small risk, Senator Birch Bayh and 38 cosponsors of his amendment would abandon all the advantages of federal voting and run dangerous new risks. Knowing that a direct election would encourage third and fourth and fifth parties to run their own candidates, they would let a vote of 40 percent determine the winner. Sensing that minor candidates might skim off enough votes to leave no one with even 40 percent, they would then run a *second* election between the two top contenders, who had maybe 37 and 32 percent of the original vote. Just imagine their sordid barter for the support of the first-round losers.

The clamor for abolition of the Electoral College was born in the fear of George Wallace in 1968. Some thought the strident Alabaman might parlay a mere 10 percent of the popular vote into enough electoral votes to deny Richard Nixon or Hubert Humphrey a majority. And because electoral votes are cast by real people in the Electoral College, he might have traded their ballots for a heavy price. Mr. Nixon, especially, might have paid well to avert a deadlock that threw the choice to a Democratic House of Representatives.

It didn't happen. And the chances are that Mr. Wallace would have won still more votes in the first round of a "direct" election—and thus enormous influence in the runoff. But that is only one of the flaws of the proposed reform. The danger of tawdry trading in the Electoral College is easily averted without any radical change. The desirable amendment would abolish the flesh-and-blood electors yet retain the counting of electoral votes. Why change what works?

Mr. THURMOND. Mr. President, I commend the able Senator from North Carolina for his remarks. The Senator from North Carolina has proved by his remarks that he is a scholar of the Constitution, that he is well versed in federalism, and that he realizes the importance of maintaining federalism in our constitutional structure of elections.

Mr. HELMS. I thank the Senator.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from North Carolina (Mr. Morgan).

The PRESIDING OFFICER (Mr. Pryor). The Senator from North Carolina is recognized.

NO NEED TO CHANGE

Mr. MORGAN. Mr. President, legislation now being debated in this Senate would do away with the electoral college system of choosing our President and Vice President and substitute direct popular elections.

I have opposed this legislation because for one thing I do not believe in tampering with the Constitution very much and I believe the electoral college has served this Nation well and it was the method the Founding Fathers intended we should use in national elections.

Someone has said, "When it is not necessary to change, it is necessary not to change." I think that applies in the case of the electoral college, as does the less elegant expression, "If it ain't broke, don't fix it."

We have majority rule in this country and the electoral college is but an extension of that. A majority of a State's voters favor a candidate for the Presidency, and consequently he gets the votes of that State's electors. They are but an extension of the will of the voters of their State.

To supplant the present system with direct popular vote would be a further erosion of States' rights.

When this matter was being argued in the Senate more than 20 years ago, John F. Kennedy, then a Senator from Massachusetts, said:

> If we are going to change that system (the Electoral College), it seems to me it would strike a blow at State's rights in major proportions. It would probably end States' rights and make this country one great unit.

To anyone who has studied the federalism championed by Thomas Jefferson, the thought of eroding the relationship of the States with the Federal Government to this degree is not a welcome one.

Under the present system, the candidates for President must compete for the votes in the various States. In North Carolina, he would have to be concerned with the problems of the small farmer. Out West, he would have to have a program to help the water situation. In New England, he would have to address the cost of gas and oil.

But in direct popular elections, the candidates might be able to ignore the troubles of the smaller States and go after the votes in the popular urban centers. It has long been a rule of politics that you "hunt where the birds are."

Finally, the change would certainly increase the independence of the President from the States and the people. And I do not think we want this.

We have a two party system and it works well within the present framework. Changing our method of selecting our Presidents would certainly give rise to splinter parties that would, in some cases, represent fanatics.

There is nothing undemocratic about the electoral college system.

The framers of the Constitution created the system, and it has served the country well.

And I still do not believe in tampering with the Constitution unless there is a clear need.

Mr. THURMOND. Mr. President, I thank the able Senator from North Caroline. He spoke several days ago on this subject and delivered a masterful address. He is to be commended for the stand he has taken and for the splendid manner in which he has presented it to the Senate.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, time runs equally against both sides.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the New York Times, a newspaper which ordinarily, I suppose it is fair to say, would be in sympathy with our colleague from Indiana, printed this morning an excellent editorial on the question before the Senate today, entitled "A Vote For The Federal President." I shall read it into the RECORD:

> A strong alliance of reformers is again pushing the idea that we elect our Presidents by direct popular vote, without the filter of an Electoral College. Counting every vote equally sounds so simple and attractive that normally cautious politicians find it difficult to resist. A Constitutional amendment to abolish the College reaches the Senate this week with an outside chance of obtaining the necessary 67 votes.
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> One would think that the reformers' zeal for "one person, one vote" might as logically lead them to abolish the Senate. If any of our Federal institutions offends arithmetical justice it is the one that grants the same two votes to 22 million Californians and 650,000 Nevadans. For reasons that Senators should value, these United States have found it useful and in no sense undemocratic to retain some imbalance and geographical color in their Federal system. Simplicity is not the synonym of democracy. Voter parity is not the only source of stability. A Presidential election that is federal is not therefore unsound.
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> The unplanned effects of this system have been mostly good. It turns the contest for President into 52 races (including the District of Columbia and Puerto Rico). It makes it impossible for candidates to write off the less populous regions or overcrowded city slums; both count for slightly more than their numerical weight. Moreover, the system blunts single-issue fury. Citizens who oppose gun control or abortion cannot simply unite nationally to elect, or defeat, a President; they must join, state by state, with other voters moved by other passions.
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> This necessity for compromise, in turn, holds most voters inside our two federal parties, and the parties are thus held near the middle of the political road. To elect a President, even arrogant majorities must be solicitous of minorities; even alienated minorities must work with majorities. The system encourages moderation in radical times and protects against parochial passions. It discourages minor parties yet rewards their protest with major-party attentiveness. It is widely understood and accepted. It is a bond with history, a source of stability.
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> The clamor for abolition of the Electoral College was born in the fear of George Wallace in 1968. Some thought the strident Alabaman might parlay a mere 10 percent of the popular vote into enough electoral votes to deny Richard Nixon or Hubert Humphrey a majority. And because electoral votes are cast by real people in the Electoral College, he might have traded their ballots for a heavy price. Mr. Nixon, especially, might have paid well to avert a deadlock that threw the choice to a Democratic House of Representatives.
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Mr. President, I support my colleagues who oppose abolition of the electoral college. It is a system that has worked well, one that has protected our country, our Nation, our Republic from becoming the victim of splinter party politics, which has been the ruination of many of our friends in Europe.

If we choose to amend the Constitution to allow for direct election of the President, it is conceivable for a candidate to come along who, for example, would propose to wipe out the debt of New York City, of Cleveland, of Los Angeles—if that city has one, and I hope it does not—and that person could well be on the road to winning a majority of the popular votes, simply by appealing to regional and highly sectional interests.

I acknowledge that hearings to reform the electoral college and our mode of electing our President, have been going on for a number of years. And this is as it should be. For the enactment of an amendment to our Constitution is no trivial matter.

I admit the task before the Senate is an enormous one. The difficult process of amending the Constitution requires a high degree of consensus—both in the Congress and the several States.

I am impressed by the fact that in recent years, Presidential elections have been decided by increasingly narrow margins, and that the possibility exists of course that ultimately it could result in the election of a President who has received a minority of the popular vote.

But there has also been a great deal of what I would call mere speculation about what might happen. It has happened three times in our history, and I fail to see that it has resulted in any dire consequences. From the casual reading which I have done on the subject, I get the distinct impression that no matter what formula we arrive at, there is always the possibility at least, that we could elect a Presidential candidate who has received less than a majority of the votes.

Mr. President, what I find disturbing about this proposal is that it would shift the emphasis away from the individual States and toward a so-called national election. That is, instead of having a Presidential candidate having to make his appeal to the distinct and unique interests that underlie our States with their various and competitive economic, social, and political interests, we would have a candidate forging a broad appeal that would transcend these particular interests.

I am not at all certain that this would be a salutary development.

I mean, could this not result, for example, in a weakening of the political parties of the respective States? I wonder if this question has been thoroughly thought through by the proponents of this legislation?

Then you have the problem of a large number of candidates, all contending for the runoff positions. Would this not lead to fragmentation and fractionalized multiparty systems of the kind that you have on the European continent?

I wonder if it might not leave our great political parties in a state of impotence and give rise to the multiparties with their fragmented voting and coalitions that frequently result in turnstile government in some nations.

As I indicated earlier, Mr. President, the genius, if I may, of our system is that candidates must take into consideration when campaigning, the very diverse and broad interests of our 50 States.

He must—if he is to succeed—put together a broad coalition of voters, without regard to one particular class or one interest. We are fortunate in our country in that we do have these competing interests.

In my own State of New Hampshire, we enjoy diverse economic and social interests. We have the great maritime industry, textiles, shoe manufacturing, wood products, and an emerging high technology complex.

Then there are our great mining industries in Appalachia and the Western States: Our prolific farm complex, the heavy industries of the northeast and our great chemical and energy areas—making up this great economic mosaic that is the United States.

It compels a candidate to go not only to the big cities, but to the towns and the villages that the people may determine themselves how his election might affect their interests.

But, Mr. President, I trust I can be pardoned if I construe this measure as one which would invite candidates to appeal to the broad masses—where the candidate could get the broadest television coverage, the largest crowds, because mere numbers are what counts.

Would the candidate perforce seek to make a broad national appeal of a decidedly populist nature, seeking to concentrate on the big cities because that is where the votes are?

I must say, Mr. President, that I am somewhat skeptical about the matter.

What I am deeply concerned about, is that this measure is no mere change in election procedure, but that it goes to the very heart of the Federal nature of our Government, and for this reason this body must proceed with the utmost caution and deliberation.

I believe that elimination of the electoral college would result in a further disruption of our Federal system.

Supporters of this measure have repeatedly pointed out the dangers inherent in the election of a candidate getting less than a majority of the popular vote.

But what is equally disturbing is the prospect of a candidate carrying one or two of the big States by, for example, a 2 million vote margin, and losing the remaining 48 States by a narrow margin. This contingency is just as likely to happen as the horror stories adduced by the supporters of this measure.

Mr. Chairman, the electoral college was the result of a compromise in the Constitutional Convention, and I believe it has served us well over the years.

I think it ought not to be abolished in the absence of overwhelming reasons to the contrary.

I am willing to concede that the nature of the electors themselves might be abolished, but not the principle itself. That is the elimination of the electors, but keeping the electoral college system with its allocation of votes among the various States.

This would take care of the "faithless elector."

But what I do fear, Mr. President, is a further blurring of the distinctions between our various States.

As it is, the basic nature of our dual system of Government has already been seriously eroded until many respects the States are mere subdivisions of the Federal Government.

There is hardly a Member in this body who is not being assailed—daily—by representatives of his State government—importuning him for help in receiving grants, or other forms of largesse. Who is not daily reminded of the problems being created for the States by the regulatory overkill of our Federal agencies, and the relief being sought therefor.

Why, in effect, our gargantuan spending programs have turned State and local officials into virtual beggars, as they wend their way toward Washington to beg for their "rightful" share of the bounty which Uncle Sam is dispensing.

If they are not appealing for their share—then they are seeking relief from the excesses and burdens of Federal regulatory bureaucrats.

Mr. President, I recall a quote from one of the New Deal court cases of the 1930's—I am not a lawyer, but those in this body who are will appreciate the observation: "it is hardly lack of due process for the government to regulate that which it subsidizes." And we are regulating today with a vengeance.

Do we, therefore, want to apply the coup de grace—as it were—by formally adopting direct election and wiping out those boundaries of those States which play a distinct and critical role in our system of government?

We only have but to look at the trend of recent national elections.

They are full blown Hollywood production jobs—national television, national issues designed to appeal to the big-city States—where the votes are.

What we would be doing is substituting for a carefully designed system of checks and balances which, in my opinion, our Founding Fathers handed us with due regard for the consequences of this system—we would be substituting raw naked appeals in exchange for votes.

Mr. President, we have an election system that has stood the test of time.

It is the system for which changes have been proposed on a number of occasions going back as far as Andrew Jackson, who proposed that electors be elected by congressional districts plus two from the State at large.

All the proposed plans for change have been brought out and have had their day before the Congress. But Congress has never seen fit to substitute any of those proposals, and they have been numerous.

The competing interests of the several States demanded a Federal system for the election of the Federal leader. The separate interests and ideas of the several States, and of their citizens, exist today identically as those separate interests and ideas existed at the formation of the federal system.

So, Mr. President, abolishing the electoral college would be a further disruption of our federal system.

Under the Constitution the relationship between States and Federal Government has been fine tuned. The electoral college is one of the great compromises between the large States and the small States that make our Constitution a great fundamental and basic law that has endured through changing times and through tremendous stresses and strains.

Proponents hold up the specter of a candidate getting the most popular vote, but losing in the electoral college.

Now that is not nearly as frightening to me as the prospect of a candidate carrying one or two of the big States by, let us say an average of 40,000 votes per State, and you have a winning candidate for President who was elected by receiving the majority in only two States, theoretically, it could happen.

I think that is bad. I think under this proposal you could easily have successful candidates with purely regional interests and backgrounds.

Mr. President, the proponents of direct election are fond of bringing up the specter of the possible stealing of an election by a conspiracy of "faithless electors" who do not follow the outcome of the election in their respective States, who are free under the law to vote as they please.

However, I believe it is unnecessary to destroy the electoral college as an institution to correct this perceived evil which has, in fact, never really been close to being visited upon us.

The remedy is simple.

Amend the Constitution to pledge the electors, make them automatic. It is time, however, to stop dragging this tired old herring around as an alleged reason to abandon the electoral system provided in the Constitution.

The real concern here is that, in fact, the case made for direct election is superficial.

It does not sustain the burden of proof which is on the supporters of the proposal.

The questions of critics of the plan are usually dismissed with a simple unamplified denial that the questions are valid, being mere doubts, and groundless.

However, I think there are a number of very fundamental problems that need to be faced, the answers to which are difficult, inconclusive, and speculative. These questions about the direct election amount to whether or not we wish to venture that distance into the realm of political reorganization that such a step will impel.

This is a philosophical question asking, in effect, what kind of a U.S. political system do we wish to carry forward?

Do we want, for example, to say that a simple head counting is all there ought to be in electing a President? Is the American system nothing more than mere majoritarianism?

Are there values in the Federal system created under the Constitution which are reflected in the electoral college that ought to be retained?

It is well accepted and generally clear that the big States have the greatest effect in presidential elections, having the most votes.

It is also suggested that this fact tends to balance off the small States' advantage in Congress. A part of our system of checks and balances as noted by competent political observers.

In the view of many, federalism remains high in this American "hierarchy" of values. To maintain it, the country must continue to vote as "States," in the election of the President, not as millions of individuals in a national plebiscite.

Mr. President, I respectfully urge my colleagues to stand by the Constitution. Do not lessen its magnificent virtues.

It has served us well for over 200 years, and our Founding Fathers had good reason to adopt the provisions respecting elections which they did.

Do not apply one more nail to the coffin of State sovereignty, already battered from almost daily incursions of the national government.

Let us have the courage to state that despite its imperfections, our electoral system is still the envy of the world.

I hope that my colleagues will consider this issue carefully. The proposed amendment has been described by many eminent scholars as the most radical change ever proposed to the Constitution, and I think we should weigh it in that light.

I add my endorsement to the old advice: "If it ain't broke, don't fix it."

Mr. THURMOND. Mr. President, I wish to commend the able Senator from New Hampshire. Although he is not a lawyer he has shown a rare knowledge of the Constitution and especially the election process and the importance of maintaining federalism.

Mr. President, I now yield 5 minutes to the able Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I thank the Senator from South Carolina.

Mr. President, I rise to recapitulate the remarks I made earlier in this debate, as we now approach its conclusion. I offer the thought once again that what is at issue in the measure before us is whether or not we are going to continue the principle of majority government that is so carefully and intricately written into the Constitution and into the subsequent practices sanctified by time and the experience of the American politic.

In my first remarks on the measure, I tried to describe in some detail the idea of concurrent majorities which was central to the whole thinking of the Constitutional Convention and to the unparalleled success of the Constitution that emerged from it.

The American Constitution does not provide for one majority anywhere to govern. It requires a succession and balance of majorities, a majority in the electoral college for the President, a majority in each of the Houses for legislation, and a majority on the Supreme Court to review legislation. In the singular capacity of Congress to make the laws, there is a balance between the majority of the States implicit in a majority of this Chamber, and a majority of the people explicit in the majority of the House. In the Office of the President it was both conceived and has come into practice, that the Presidency is sought and achieved by persons seeking to assemble a regional majority, and an electoral majority within those regional majorities. That has been the experience.

This is precisely what my new friend, the distinguished Senator from New Hampshire, has said. It is the unique quality of this constitutional arrangement, the electoral college, that it can simultaneously be said to provide an advantage to small States and an advantage to larger States.

It has prevented at any moment in our history a regional Presidency, and yet it has given regions the great say in our politics as they necessarily have. The alternative before us would destroy that majority principle.

It is the irony of the amendment we are considering that right in the text it provides that 40 percent of the votes provides for the election of the President. Mr. President, should this happen, you will not again in your life see a majority President. Indeed, I doubt you will see one with as large a minority as 40. It is the inevitable and widely remarked condition of modern politics that candidates seek supporters around single, vibrant, stirring issues that produce the least amount of dissidence in their supporters.

Thus they gain leverage in the political system through a following which partakes in degrees of intensity to that of zealotry itself. If this measure is passed, we shall find our national politics fragmented by single party candidates, some desiring the defeat of another candidate, which is always easy to do by taking away certain critical vote blocks. Some will be drawn by an intense issue, and others will be mere venturers in politics seeing a field of 9 suggest a field of 10: Who knows? You might get 14 or 17 percent of the vote and that might bring you in second. You will be there in a runoff, and by the flip of a coin, become President.

You will not again see a person elected to the Presidency who obtains 50 percent of the popular vote the first time out. That is sufficient, Mr. President, if I may have an extra minute, to persuade me that a tested, a proven and revered system of government, surely will not be discarded in so casual a manner as we are doing.

I thank the Chair and I thank my friend from South Carolina.

Mr. THURMOND. Mr. President, I wish to commend the able Senator from New York for his splendid remarks.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I have no time.

Mr. BAYH. Will the Senator permit one question?

Mr. THURMOND. On account of the shortage of time I suggest the able Senator from Indiana yield himself time.

Mr. BAYH. Mr. President, I yield myself 1 minute because I do not want to interrupt the Senator from Oklahoma who has been very patient and is one of our stronger supporters.

But I listened patiently for some compelling reason to support the logic of the Senator from New York, whom I greatly respect which he knows, where he says history will never again see a President that had 51 percent of the vote. Is that any reason for us not to try to see that every President has more votes than the person he is running against?

Mr. MOYNIHAN. No, it is not, per se, a reason, if I may respond. But it is a reason for avoiding a system which would have as one of its more probable outcomes the choice of a President who, in the first poll on the first Tuesday after the first Monday, received in the neighborhood of 35 percent of the vote. The chairman is right on his point. He is deeply learned and concerned in this matter and he addresses himself and brings to our attention a true problem in American government that has never been altogether satisfactorily resolved.

It has been the occasion of an amendment. It has brought about informal institutions such as political parties, now formal ones, to make it work.

My argument is simply that the arrangement we have has worked better and can reasonably be predicted to work better. No one can forecast with any accuracy the alternate one. I mean no denigration of the politics of the continent of Europe, but plebiscite candidates and issues have been its failing, and the runoff has characteristically contributed to the increasingly unfocused and poorly defined policy outcomes in those elections.

I am not so much a patriot as to think our own arrangement is either perfect or not capable of improvement, but I cannot think that the present instance provides such a prospect.

Mr. BAYH. I appreciate the response of the Senator from New York and I will yield what time the Senator from Oklahoma needs, but I hope he will permit me to just interject one observation as a result of our colloquy with the Senator from New York to the effect that all of those plebiscites that he cites as with disaster-provoking consequences are the result of popular vote primaries where a majority is required—50.01 percent. That is why the architects of the direct popular vote chose a lesser number, because the very fact that you have to get a majority is an incentive for parties to proliferate in order to get into the runoff.

But I yield to the Senator from Oklahoma who has been one of our stalwart supporters and has had a better chance, I think, to study this whole business as a member of the American Bar Association panel that started the very comprehensive study a number of years ago, and I am anxious to hear the persuasive argument by my distinguished friend and colleague from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BELLMON. Mr. President, I thank the distinguished floor leader of the resolution.

The PRESIDING OFFICER. Will the Senator please suspend until there is order not only in the Chamber but in the galleries. Let us have order in the Senate.

The Senator may proceed.

Mr. BELLMON. Mr. President, it has been a pleasure to be associated with the distinguished Senator from Indiana over many years as he has fought the battle of bringing this matter to the floor, and I commend him for the perseverance and the excellent leadership he has given over many, many years.

Mr. President, there can be no doubt that the offices of President and Vice President of the United States are the most important elective political positions in the world today. The manner of selecting these officials profoundly affects the power these individuals have after election to unite, to lead, and possibly to defend our country. Therefore, it is absolutely imperative that our system of selecting these officials be designed to reflect the will of the majority of our citizens. It must discourage diversionary exercises, eliminate manipulation, and assure every voter an opportunity to fully participate.

The present system, in my opinion, does none of these things.

I see he has left the floor, but I wanted to say to my friend from New Hampshire that the interest in changing the electoral college began in 1968; that he is a few years behind the time because it was not the threat of George Wallace and his throwing the electoral process into the House of Representatives that caused my interest at least in this question but rather following the 1960 elections I became intensely interested in the electoral system because during that campaign when I served as Republican State chairman for Oklahoma I was appalled when one of our electors, who had been chosen by Republican voters on the expectation that he would vote for Mr. Nixon, actually cast his vote for Senator Harry Byrd of Virginia.

I greatly admired and respected Harry Byrd, but this was an obvious breach of confidence, and it startled those who had worked actively in the campaign, and made us realize that the electoral system was an open invitation to political infidelity. In addition, the present system, or lack of system, with each State using a different means of choosing electors, selecting convention delegates, holding primaries, and reporting election results is confusing, complex, and uncertain.

Mr. President, in 1966, during my final year as Governor of Oklahoma, I was privileged to serve as a member of the American Bar Association Commission which was created to study electoral college reform. The ABA provided the commission with the services of an excellent staff which carefully researched all facts concerning operation of the electoral college and which, in addition, provided commission members with a valuable background in the processes used in choosing the chief executive of many countries.

When the consideration of the electoral college began—and I am a little embarrassed to admit this—I was convinced, as are many residents of smaller States, that the present system is a considerable advantage to less populous States such as Oklahoma, and that it was to the advantage of the small States for the electoral college concept be preserved.

I think if any Member of the Senate has that concept he would be greatly enlightened by the fact that the Members of the Senate from New York are now actively supporting the retention of the electoral college system.

Selfishly, I felt that the system needed to be strengthened and safeguards developed to assure electoral voting in accordance with the majority will of voters in the individual States, but I felt that the electoral college system should be retained.

Mr. President, as the deliberations of the American Bar Association Commission proceeded and as more facts became known, I came to the realization that the present electoral system does not give an advantage to the voters from the less populous States. Rather it works to the disadvantage of small State voters who are largely ignored in the general election for President.

It is true that the smaller States which are allowed an elector for each U.S. Senator and for each Congressman do, on the surface, appear to be favored; but in fact, the system gives the advantage to the voters in the populous States. The reason is simple as I think our friends from New York understand: A small State voter is, in effect, the means whereby a Presidential candidate may receive a half-dozen or so electoral votes. On the other hand, a voter in a large State is the means to 20 or 30 or 40 or more electoral votes. Therefore, Presidential candidates structure their campaigns to appeal to the States with large blocs of electors. This gives special and disproportionate importance to the special interest groups which may determine the electoral outcome in those few large States.

Here, Mr. President, let me say parenthetically that during 1967 and part of 1968 I served as the national campaign director for Richard Nixon, and I know very well as we structured that campaign we did not worry about Alaska, about Wyoming or about Nevada or about New Mexico or about Oklahoma or Kansas. We worried about New York, California, Pennsylvania, Texas, Michigan, Illinois, all of the populous States, where there were these big blocks of electors that we could appeal to, provided we chose our issues properly and provided we presented the candidates in an attractive way.

The result, Mr. President, is that the executive branch of our National Government has grown and is continuing to become increasingly oriented toward populous States, to the disadvantage of the smaller, less populous areas. An examination of past campaign platforms and campaign schedules of the major party candidates will bear out this position. Therefore, it is obvious that any political party or any candidate for President or Vice President will spend his efforts primarily in the populous States. The parties draft their platforms with the view in mind of attracting the voters of the populous States and generally relegate the needs of the smaller States to secondary positions.

This whole situation would change if we go for a direct election and, therefore, make the voters of one State equally important with the voters of any other State.

Mr. President, I am persuaded that direct popular vote will greatly strengthen grassroots political organization in this country. At present, a candidate receives a State's entire electoral vote whether the popular vote margin is 1 vote or 1 million. If we had election by direct popular vote, every precinct leader would campaign with the realization that each extra vote registered and cast would count in a meaningful way in the national total. In this way, the direct system of election would increase the incentive to vote and improve political activity.

This amendment would also strengthen—and I take this position knowing there are others who feel otherwise, but I believe this amendment would strengthen—our two-party system not only by causing the leaders of those parties to know every vote would count but also by discouraging rather than encouraging the formation of splinter parties.

At the present time, a splinter party leader may feel that by drawing off a sufficient number of votes in any one of a few States it may make it impossible for the candidate of either of the major parties to receive a majority and, therefore, the election will go into the House of Representatives, because the splinter party candidates can always hope they will have a considerable advantage in the way the House finally votes in a choice of the President.

But direct popular election would effectively eliminate the possibility of forcing the presidential election into the House of Representatives. The certainty that the President would be chosen in the election would provide incentive to coalesce around the two major parties. In addition, this amendment proposes a 40 percent plurality requirement as a further safeguard against a proliferation of the parties.

This requirement would encourage potential splinter groups to continue to operate within the framework of the two-party system, since no major party could reasonably hope to win 40 percent of the total popular vote. There is small likelihood that the total vote of all splinter parties would be large enough to force a runoff election.

Even if they did force a runoff election they would only have the same amount of power in the election as their actual vote entitled them to have.

Perhaps the greatest hazard of the electoral college, Mr. President, as this college now operates—and it is not a college, it is a facade, it is a group of people who theoretically at least meet to perform only a perfunctory purpose—but as it now operates it encourages the proliferation of single-issue parties which may disagree with the major parties on one subject. The hope of these groups is, that by denying either major party a majority of electoral votes, it will be able to force the choice of the President into the House of Representatives. In such a case, these groups hope to exercise a disproportionate amount of influence upon the Presidential choice ultimately made by the House of Representatives.

Also, it is almost certain that if the selection of the President is made by the House, partisanship will dominate. Under these conditions, it is conceivable that a candidate would lose the election by millions of votes and yet be put into office by raw partisanship on the House side. There is a real question in my mind whether a President could effectively govern the country under such conditions.

Finally, Mr. President, I am most impressed by the testimony of Douglas J. Bailey, president of Bailey, Deardourff & Associates, Inc. of Washington, D.C., before the Judiciary Subcommittee on the Constitution. In 1976, Mr. Bailey and John Deardourff supervised the planning, creation, production, and placement of all general election advertising for President Ford. Mr. Bailey speaks from the vantage point of a political professional who is quite familiar with the influence of the electoral college. Part of his testimony is as follows:

> In my opinion, there are at least six separate reasons to support a direct election amendment:
>
> First, by ending the electoral college, we would also end the only function the electoral college can serve which is to impose a constitutional crisis upon the country.
>
> My second reason for supporting a direct election amendment is familiar and unnecessary to dwell on; the electoral college effectively disenfranchises millions of American voters.
>
> My third reason for favoring abolition of the electoral college is that it is an incentive to the expedient selection of otherwise unqualified Vice Presidential candidates.
>
> My remaining three reasons—and these are the ones that I think may be the reason my testimony may be of some help—are a product of the personal experience that we had in President Ford's general election campaign.
>
> Those reasons are these:
>
> One, direct election of the President in my opinion, would mean increased voting—now deterred by the electoral college system.
>
> Two, direct election, in my opinion, would mean a strengthening of the two-party system and the local apparatus of both political parties.
>
> And three, it would mean, in my opinion, a reduction . . . of the dominance of and the reliance on impersonal media communications and would significantly enhance participatory democracy.

Mr. President, Mr. Bailey's testimony is sound. He goes on with his testimony to point out that priorities for spending in a Presidential campaign will be changed under a direct election system. Spending priorities will be changed to include media and organizational efforts to swell local pluralities and cut losses through persuasion and voter turnout. There is no incentive under the electoral college system to increase voter turnout in those States where the candidate is perceived to be losing or winning heavily. A direct election would change this and, therefore, increase voting by the American people. Mr. Bailey also points out that more spending will be required for local organizational efforts such as canvassing, door-to-door, phone banks, voter turnout systems, transportation to the polls, election day baby sitting, and so forth. This coupled with the current spending limits, will mean less campaign funds for media persuasion. As Mr. Bailey concludes, direct election not only would mean that every vote and every voter counted, but it would help involve the people in the campaign process.

Mr. President, I support direct popular election of the President and Vice President of the United States and I urge my colleagues to approve House Joint Resolution 28. Experience in the United States with direct election of Governors, U.S. Senators, and Members of Congress has proven the workability and desirability of direct elections. The electoral college serves no useful purpose. Let us abolish this artificial barrier between voters and the highest offices in the land.

The PRESIDING OFFICER. Who yields time?

Mr. BELLMON. I suggest the absence of a quorum.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold that? I think the Senator from Wyoming seeks recognition.

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, it is a pleasure for me to join in the tenor of the remarks of the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from New York (Mr. MOYNIHAN).

On June 26 I discussed at some length my views on the direct election controversy. Nevertheless, I want to make an additional short statement on a particular issue in this debate.

Our distinguished colleague from Indiana (Mr. BAYH) has several times during this debate stated that Senators, Representatives, Governors, State legislators, mayors, city councilmen, and other public officials of that type are elected by direct popular vote. He asks, "Why, then, do we not use that same method for electing the President?"

I believe this question really distills the entire debate.

The clear answer, of course, to Senator BAYH's question is that Senators, Representatives, Governors, State legislators, mayors, and city councilmen all represent constituencies that are from a single region of the country. This great Nation is, however, made up of many regions.

It was precisely in order to form one unified Nation out of many relatively sovereign States in many regions that the Founding Fathers set up our system as they did: a system that, above all, reflects balance—balance between the different branches of the Federal Government, balance between the Federal and State governments, and, most importantly to this debate, balance between different regions of the Nation.

The electoral vote system encourages national unity in two ways. First, it reduces the threat of a sectionalist President, who had received extraordinary support in one region or even one State, but had been vigorously opposed everywhere else. Under the electoral vote system, extra-wide margins in a few States cannot compensate for losses in other States with a greater total number of electoral votes. The electoral vote system is, therefore, biased in favor of candidates who receive geographically broad support.

The second way in which the electoral system encourages national unity is by giving slightly disproportionate influence to less populous States. The people of the less populous States feared they could be overwhelmed by a national Government controlled by large States, that their integrity as separate communities with their own laws, customs, economies, and priorities would be lost. Therefore, the small States were each given extra influence in both the legislative and executive branches of the Federal Government to which they were surrendering a very real degree of sovereignty. They were seeking balance.

In a small State, the group composed of the State's voting majority controls a total number of electoral votes that is disproportionate to that State's population. It is this group in each State which controls the State's government and which must be satisfied, in the interest of national unity. National unity: A very large aspect of this debate. The extra influence for small States was provided out of this concern for national unity.

Mr. President, our distinguished colleague from Indiana (Mr. BAYH), disregards, I think, the issue of national unity when he asks why we should elect our Presidents differently from our Governors, mayors, Senators, councilmen, and others.

Mr. President, we are a nation of many regions—and also a nation of many nations. This is one of the fundamental strengths and beauties of our Nation, but it is also the source of continuing tension and challenge. If we are not most careful to respect the differences between States and provide a reasonable influence over the central government for the majority view in each State, we risk doing great damage to the unity of our Nation.

Mr. President, I ask unanimous consent that a short colloquy between myself and Dr. Judith Best, presented at the time of hearings on this issue, be printed in the RECORD at the conclusion of my remarks. Dr. Best is the author of one of the most authoritative books on the electoral vote system.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMPSON. I will close with a short quotation from my colloquy with Dr. Best. I asked Dr. Best to compare the possible crisis if a runnerup President were elected under the present system with the possible crisis if a sectionalist President were elected under direct election. She replied:

> There is really no comparison between the two situations, the "runner-up" Presidency is a mere technical violation of a simplistic democratic theory. * * *
>
> A truly sectional President would provoke a severe crisis. Such a Presidency would not

be a mere technical violation, it would be a substantive violation, a violation of the spirit and intent of the Constitutional system as a whole * * *. Sectional crises are in no way comparable to "technical" violations. One might as well try to compare a pinprick to a bleeding artery.

I trust that we may defeat this proposed constitutional amendment. Our country does not require it. Two hundred years of history give us no reason for it. Nothing has been presented to me in my first months in this remarkable place—nothing in the spirit of an effective argument as to the present worth or need of this dramatic adventure into the electoral unknown, when we have currently a very workable system.

I thank the Senator from South Carolina for yielding.

Exhibit 1

Responses to Senator Simpson's Questions by Dr. Judith A. Best

Question 1. Would you give me your speculations about what specifically would happen under modern conditions, if, through the electoral system, a candidate were elected President who had received fewer popular votes than one of his opponents?

Answer 1. I do not consider it likely that a candidate who had received fewer popular votes than one of his opponents would be elected President, unless his opponent waged a sectional campaign. Our current system magnifies the popular vote plurality winner's margin of victory in the Electoral College, unless the candidates' popular appeal is intensely concentrated in a few states. Geographic concentration of votes becomes unproductive at a certain point, and the parties and the candidates are well aware of this fact. Therefore, in my considered judgment, if a candidate were to be elected although a "runner-up" in the popular vote his electoral base would be broader than that of the popular vote winner, and this broad crosssectional base would counter-balance the charge of being a "runner-up". The cross-sectional base is a very strong argument for legitimacy because it is a constitutional requirement for constitutional amendments and it is the base required for the United States Congress. This is especially evident in the case of the Senate.

In the unlikely event that a runner-up were selected by the electoral system, a period of debate and discussion on the legitimacy of the President-Elect's mandate would follow, even as there was a debate and discussion regarding the legitimacy of Gerald Ford's mandate. Such a debate could have the salutary result of educating the people in the principles of the regime, leading to a rediscovery of the American idea of democracy. A few people might be seriously disaffected, but I believe their numbers would be small. After a relatively short period of some national soul searching, the country would turn its attention to issues of public policy, to the proposals of the new administration, to the wisdom of its proposed solutions to national policy and to the qualifications of its newly designated and appointed officials. Popular acceptance of such a President would turn on the President's own leadership capacity, his ability to sustain the broad base of his support, his ability to persuade the people of the prudence of his judgments. It is this capacity, after all, which is the sine qua non of all Presidential success and not the size of the President's popular vote margin. The lessons on history are clear on this point. The consent of the governed which is essential for ligitimacy must not only be broadly based, but also must be continuously reearned and renewed. The size of his popular vote margin on election day, the highest ever achieved by a President, did not save Richard Nixon from the threat of impeachment. The size of his popular vote margin the second highest in history, did not save Lyndon Johnson from the disaffection of the people while engaging in the most unpopular war in the nation's history. Legitimacy is derived from the consent of the governed, but the consent of the governed cannot be equated with the choice of an arithmetical majority or plurality of that part of the people who record the preference they hold on *one* day in November every *four* years.

Question 2. What would happen if a President were elected under a direct election system because of a large popular vote victory in one section or even one state of the country even though he lost in closer elections everywhere else? Or if he were elected, as allowed in S.J. Res. 28, by a 40 percent plurality, winning no states and opposed by 60 percent of the voters?

Answer 2. If a truly sectional President were to be elected, the country would be ripe for civil discord or perhaps even civil war. If a President, let us say because of an overwhelming victory in the populous Eastern megalopolis, won a majority or plurality of the popular votes although receiving insignificant support in the other sections of the country, he would be considered "their" president, not our President by the rest of the country. He would have great difficulty governing. The fact of his majority or plurality over victory would do little to assuage the taint of sectionalism. Talk of secession would again be heard in the country and would be taken seriously by many.

Sectionalism and regionalism are the latent diseases of a continental heterogeneous democracy. Such diseases will prove fatal if not controlled, and abolishing the electoral college system is to abolish a most effective control on sectionalism. The more sectional the victory, the more questionable the legitimacy of the incumbent. The merest appearance of sectionalism in the 1976 election, when President Carter won only one state in the West, Hawaii, caused comment and consternation.

If a President were elected by a 40 percent plurality as provided for under the direct election plan, and if, further, his base was not sectional, which is what I assume would be most likely if he won no states, a different type of problem would have arisen, the problem of multifactionalism. The direct election plan is an open invitation to multifactionalism, party splits and the development of ideological candidacies. The more candidates that enter the race the greater the likelihood of a runoff, and in a runoff the greater the bargaining power of the factional leaders. The incentive to creat coalitions prior to the general election would be greatly decreased, compromise would be postponed, the flames of ideology would be fanned, and a dangerous polarization developed. The 40 percent President would be faced with a very volatile situation and would immediately have to begin to create a broad coalition in the most unpromising of conditions, conditions in which ideological passions had been released to the extreme. The unifying effect of the two party system would have broken down at least temporarily, and if the situation were not quickly corrected, the two party system would be in danger of dissolving into a multi-party system. We would be in a period of pronounced political instability. To be a successful President in these circumstances would call for the moral authority of a Washington and the statesmanship of a Lincoln. It would be more appropriate to offer the President-Elect condolences than congratulations.

Question 3. How would you compare the likelihood of a "runnerup" President—and the severity of the related crisis, if any—with the likelihood of a "sectionalist" President and the severity of the related crisis?

Answer 3. There is really no comparison between the two situations. The "runnerup" Presidency is a mere technical violation of a simplistic democratic theory. It occurs very rarely (only once in our 150 years of experience under the current system which evolved in 1832), and in circumstances when the margin between the leading candidates is extremely small, smaller than the statistical margin for error in the vote count. It is comparable to the technical violation of democratic theory found in the elections of our fifteen plurality Presidents for pure democratic theory would require that the President be selected by a majority and not a mere plurality of the people. It is also comparable to the technical violation in the selection of Presidents, such as Gerald Ford, under the provisions of the Twenty-Fifth Amendment, as pure democratic theory would require a popular election and not a congressional election of the President.

A truly sectional President would provoke a severe crisis. Such a Presidency would not be a mere technical violation, it would be a substantive violation, a violation of the spirit and intent of the constitutional system as a whole. It could trigger a "Fort Sumter" syndrome. While I have no doubt that the crisis that arose after the election of 1860 could not have been avoided for long because the problem of the nature of the union, unresolved by the Founders, had to be resolved (the nation could not continue half slave and half free) nonetheless, the fact remains that Lincoln was a sectional candidate. He was not even on the ballot in ten states, and it was the news of his election that was the proximate cause of the "Fort Sumter" syndrome. A civil war is the most serious crisis a nation can face. It is a crisis that pits father against son and brother against brother. Sectional crises are in no way comparable to "technical" violations. One might as well try to compare a pin prick to a bleeding artery.

Question 4. The legitimacy of a "runnerup" President would be strongly affected by what national political and opinion leaders had told the people about "legitimacy." This fact suggests to me that the rhetoric of direct election supporters about the risk of crisis is in a sense a self-fulfilling prophecy. Do you agree?

Answer 4. I do agree that there is an element of self-fulfilling prophecy in the rhetoric of direct election supporters. In addition, there is also the problem of demagogues waiting in the wings, ready to seize such an issue and fan the flames of irrationality. However, in the absence of serious and substantive public policy problems, I do not believe that a political crisis would be produced by the technical fact of a runner-up President. The common sense of the people is to be relied upon, and is attested to by their acceptance of the Presidency of Gerald Ford. It would, of course, be incumbent upon national political and opinion leaders to educate the people to the actual broad-cross sectional requirements of our constitutional system. Even though the leading supporters of direct election have a mistaken concept of the requirements of legitimacy in our system, they are responsible and honorable men, and I have no doubt that they too would act to restrain the less responsible elements of the polity.

Question 5. What do you regard as the one or two strongest arguments of direct election supporters? How would you refute them?

Answer 5. While there are several arguments used by the direct election supporters, the one that provokes the greatest response is the argument that a runner-up President is a severe anamoly in our system because numbers of votes are the only test for legitimacy. I think that this argument is completely rebutted by the following facts:

1. The Electoral College system is a paradigm of the American idea of democracy;

2. None of the major institutions and

procedures of our system are based on the simplistic and inappropriate theory of the simple arithmetical majority;

3. All of our fundamental institutions are based on the principle of the concurrent majority, which adds a distribution requirement to the majority vote requirement;

4. If we change the Presidency to conform with the principle of the simple arithmetical majority, our method of constitutional amendments, and the United States Senate (to mention just two of our fundamental institutions) should be changed, and in my opinion, eventually would be changed to conform to the same principle;

5. The direct election plan would be a fundamental change in our system of government.

There is one other argument of the direct election supporters that evokes a great response, and that is the "deadlock" argument that a third party candidate such as George Wallace could deadlock the Electoral College and then make "corrupt" bargains in exchange for his support in the college. There are two strong refutations for this argument. First, the system magnifies the plurality winner's margin of victory in the college thereby preventing a deadlock. We have never had a deadlock in the college under the current system; we have not even come close. Because of this magnification, the system has a strong bias against all third party candidates and reduces their potential to do damage, as it did with George Wallace when it reduced his 13.5 percent of the popular vote to a mere 8 percent of the electoral vote. Second, the provisions of the direct election 40 percent runoff rule would incite multi-candidate races, party splits and single issue ideological candidacies thereby greatly increasing the political power of George Wallace type candidates. The potential for corrupt bargains and wheeling and dealing increases in a runoff election system.

Mr. THURMOND. Mr. President, I commend the able Senator from Wyoming. He is one of the new Members of this body who has made an indelible impression since he has been here. His knowledge of the electoral system of this country is to be admired; I think it is very fine.

Mr. SIMPSON. I thank the able Senator from South Carolina.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I suggest the absence of a quorum, to be charged equally against both sides.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BAYH. Mr. President, I yield to the distinguished Senator from Maryland as much time as he feels compelled to utilize to express to the world the issue he is about to discuss, whatever it may be.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, I thank my distinguished friend and colleague from Indiana, not only for the time he has yielded me but for the kind of confidence he has expressed in the manner in which he has yielded to me, and I will not betray his confidence. I will be very brief.

Mr. BAYH. The Senator from Maryland never has and never will.

Mr. MATHIAS. Mr. President. I would like to urge my colleagues to vote in favor of Senate Joint Resolution 28, the proposed constitutional amendment to abolish the electoral college and provide for the direct popular election of the President and Vice President of the United States.

In the course of the lengthy debate and hearings on this amendment, the argument most often used by opponents has reminded me of Bert Lance's quotation from Mark Twain, "If it ain't broke, don't fix it." In the case of our fundamental law, on which the entire framework for our Government rests, I question whether this is truly sound advice. Must we wait for a crisis in order to act? I think not.

Rather, we should look for the simplest, most democratic, and consistent method for choosing the leaders of our land. We must face the reality that the electoral college system is antiquated and unnecessary. In the political climate of the 18th century, the founders were anxious that the best informed citizens be responsible for the selection of the President and Vice President. Indeed, methods of communication were limited and illiteracy was widespread.

As political and social conditions have changed, however, so have our laws. Thus, we have seen many reforms in the electoral process over the past two centuries, including the direct election of Senators and the enfranchisement of blacks, women, and 18-year-olds.

Viewed in light of these democratizing electoral reforms, the electoral college stands out as an anachronism. Above all, the electoral college is inconsistent with the fundamental principle of equal treatment under the law for all Americans. Its flaws are widely recognized by legal scholars, Members of Congress, and many others. These include:

The uncertainty of whether the candidate who garners the most popular votes will ultimately prevail,

The State-by-State winner-take-all system,

The contingency election feature which, under certain circumstances, places with the House of Representatives the final decision in choosing the President instead of with the electorate at large, and

The faithless elector.

Concern over the deviation from democratic tenets is grounded in historical fact. Three times in our history, in 1824, 1876, and 1888, the winner of the popular election did not become President. Furthermore, a shift of less than 1 percent of the total popular vote cast could have produced a minority President 17 times.

Direct election is the most effective method to remedy these faults. As the late Senator Hubert Humphrey noted, only direct election insures that "the votes of the American people wherever cast (are) counted directly and equally in determining who shall be President of the United States." Only by direct election can the fundamental principle of equal treatment under the law for all Americans be incorporated into our Presidential selection process.

Fears have been expressed about electoral reform and its potential adverse effects on various blocs of voters as well as on the system as a whole. I do not find these dire forebodings persuasive.

One of the major indictments levelled at direct election is that it would weaken our system of federalism. It is contended that this proposal would have the effect of erasing State boundaries and shifting the overall strategy of a Presidential candidate from a State-by-State to a national one. I find this argument unconvincing. As former Senator Mike Mansfield stated in 1961 in reference to the electoral college:

> The Federal system is not strengthened through an antiquated device which has not worked as it was intended to work when it was included in the Constitution and which, if anything, has become a divisive force in the Federal system by pitting groups of States against groups of States.

Another important question many of my constituents have raised is how direct election would affect racial or ethnic minority influence. The widespread belief of minority groups that the electoral college benefits them stems from the contention that they are concentrated in States with the largest blocs of electoral votes. After extensive hearings on the subject, the Senate Judiciary Committee concluded that this is not true in many cases. Blacks, for example, are slightly underrepresented in the nine most populous States. Over 53 percent of the black community lives in the South, yet these voters are effectively disenfranchised through the unit rule if the white majority of their States votes for a different candidate.

Finally, I would like to clarify the effect of a runoff provision in this resolution. With direct election, a winning candidate would have to receive at least 40 percent of the national vote. This provision would discourage single-issue splinter parties and ultimately strengthen the two-party system. A runoff between the two top contenders would be required only when no candidate received 40 percent of the popular vote. In fact, only one President was ever elected with less than 40 percent of the popular vote. That was President Lincoln who, in 1860, received 39.76 percent of the vote. Moreover, in the unlikely event that no candidate receives the requisite 40 percent of the vote, a runoff is certainly a more democratic procedure than selection by the House of Representatives, as is now provided for with the electoral college system.

Over the past 13 years, the electoral college mechanism has been thoroughly scrutinized by the Congress. The time has come to act on our findings. Our history shows a record of an increasingly participatory democracy. I think it is essential to continue to move in that direction through the passage of Senate Joint Resolution 28, which provides for the direct, popular election of the President and Vice President of the United States.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I yield to the distinguished Senator from Idaho.

How much time does the Senator desire?

Mr. CHURCH. Six or seven minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

THE PEOPLE SHOULD ELECT THE PRESIDENT

Mr. CHURCH. Mr. President, as the senior Senator of a sparsely populated State, I have examined the pending constitutional amendment over the years from the perspective of its political impact on Idaho. I have concluded that all of our people throughout the Nation must be given the same treatment in casting votes for the President, who represents us all, and that no political advantage for small States would be lost under such a system.

Under the present system, it is possible for one candidate to win the popular vote, only to find he has lost the electoral vote. If that should ever happen especially in present times, it would be the worst of worlds: The candidate who won the electoral vote would be called upon to govern without a mandate in a nation wracked by division, in an atmosphere of suspicion and hostility that could threaten the very survival of the Government itself.

Coming from a small State, I am well aware of the argument of those who maintain that popular election of the President would deprive the less populous States of the relative mathematical advantage they presently possess in the electoral college. In the real world, it simply does not work that way, and I can testify to that from my own experience as a Presidential candidate in 1976.

The present electoral college system for the general election actually gives the preponderant advantage to the big States. The importance of carrying them, if only by a handful of votes, in order to secure their entire electoral vote, is mandatory. Consequently, the big States have come to dominate our electoral process, unduly influencing our party platforms, and exercise an inordinate power over the election of the President.

On the other hand, if the President were elected by direct popular vote, such States as New York, California, Pennsylvania, and Illinois would not loom so large in the national political picture. A Presidential candidate could lose them all by several hundred thousand votes and easily make up the difference in the Intermountain West. Carrying the big States would be no longer be so essential, thus giving the smaller States a better break in the politics of the Nation.

But the issue before us transcends States' rights; it reaches the cardinal principle of popular sovereignty itself. In poll after poll, the American electorate overwhelmingly supports direct election of the President. The reason for the strong public sentiment favoring electoral reform stems from the uncertainties engendered by the closeness of recent Presidential elections, in which the people have witnessed the near possibility of a candidate winning the Presidency by capturing a majority of the electoral votes, while his principal opponent garners the largest number of popular votes.

Abolishing the electoral college would give every voter the same treatment, personalizing Presidential politics in harmony with the historic trend toward broadening the role of the people in their Government. It would do away with perhaps the most confounding specter of a third-party candidate being able to throw the election of the President into the House of Representatives, with all the mischief such an event could provoke with "deals" whereby the minority candidate, among candidates with indirectly determined vote totals, would throw his support to the highest bidder.

In the final analysis, the electoral college system has been, and remains, a loaded weapon: Every time we conduct a Presidential election, we spin the chamber, cross our fingers, pull the trigger, and wait for the explosion that could someday come. The question before the Senate is whether we will continue this foolhardy game of Russian roulette with the electoral college, or abandon it in favor of a sensible plan for direct, popular election of the President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I rise in support of the direct popular election proposal for President of the United States. I do not do this reluctantly or as a change of viewpoint. I have held to this process of equity in the use of the American ballot for many, many years.

I remember when Senator Spessard Holland from Florida was attempting to have a larger number of participants in the process of the American ballot by doing away with the poll tax which was essentially a deterrent in the South.

Mr. President, it was my privilege but a greater responsibility, in 1942, as a Member of the House, to offer the constitutional amendment for 18-, 19-, and 20-year-old voting. It was a long, long time in coming to fruition.

I reintroduced the legislation 11 times, and as the record will indicate it was not until 1971 that the Senate and the House of Representatives by the necessary two-thirds of the Members of both bodies present and voting brought this to the States for final disposition.

In connection with the 18-, 19-, and 20-year-old voting, we saw for the first time a constitutional amendment ratified in a matter of weeks. There had never been a constitutional amendment so quickly ratified by the States as the 26th amendment which is the last one upon our books. For the record, I state that in 90 days, time the necessary three-fourths of the States had ratified the action of Congress.

How different it was when I first presented the legislation in 1942. I felt then that the equity was there, that it should come to fruition. I remember the hearings so very well in the House of Representatives. If I were to count everyone, as I did, there was absolutely no interest in the subject matter. There were only 11 individuals in the room, including the chairman of the Judiciary Committee, the only Member besides myself.

So it was not only a matter of patience but also a continuing fight, and over and over again, as I have indicated, the matter was presented.

When I returned to Capitol Hill, after leaving here in 1947, I renewed the effort for 18-, 19-, and 20-year-old voting in our country. As I have indicated, finally it came to fruition in 1971 and for the first time in a Presidential election young people in that age bracket could go to the polls.

I am saddened, of course, to a degree that the participation of our youth in the use of the American ballot is not what it should be. In fact, it is not good. The ballot is not a piece of paper. The ballot is a franchise, a franchise of freedom, but even beyond freedom, responsibility as well.

There was a recent election in Fairfax County, across the river in Virginia. The matter then was $1 million for the improvement of schools in that county. A large portion of the population of Fairfax County is comprised of men and women who are university and college graduates, or at least a great majority of them have good educational backgrounds. These are men and women who work for salaries and wages that are higher percentagewise than most of the country. I would have thought that these parents would have taken the intense interest which I think they should have taken in connection with being at the polls in what was in a sense just a country election but for a very important reason.

I read in the Washington Post the day after the election that the voting had gone in favor of the $1 million bond issue by a small majority, but the shocking part of the story was that only 15 out of every 100 eligible voters were at the polls on election day.

I do not take the floor at this time in connection with the subject matter to berate the American public, but I do say and have a warning in these words that we are becoming a nation where it is the majority over not the minority calling the shots, but it is the majority of a minority over the minority calling the shots.

The Senator from Indiana has led so many successful efforts in this Chamber in connection with giving people the right and responsibility to vote. Certainly, he knows what I am talking about. In this country lumping all of our election processes together we are voting about 41 percent of the eligible registered electorate. So that means that the majority is not winning over the minority. It is the majority of the minority that is winning.

I think this is a dangerous situation. I think it is one that needs the attention not only of Democrats or Republicans, but of every man and woman who is a citizen of this country.

I am not one to preach, I hope, in the Senate or anywhere else. That lady in the harbor east of New York with the raised arm is the symbol of freedom and liberty, and that is good.

Perhaps the time is here and long past when a lady should also be on the west coast out in the Pacific. In that hand there should be held "Duty and Responsibility," because liberty and freedom fail if duty and responsibility do not follow.

I hope if the vote is favorable here, I say to our Presiding Officer, that we will have a greater percentage of the American people at the polls. There may be—and I hope there can be—the feeling that if John Smith or Mary Jones go to the polls that their votes are to be counted directly in reference to the selection of the President of the United States; and that there is not another echelon or layer, as I would call it, between the final results within the State of West Virginia or any other State in reference to their conviction or viewpoint or preference expressed as they vote for the President of the United States.

Mr. President, I do not know what the result will be here this afternoon at 5 o'clock when we vote, but I think that, by and large, we will commit a grievous error if the Senate, in its judgment, fails to approve the direct vote for President of the United States.

I ofttimes have been counted in the minority, counted also often in the majority. But here this afternoon there perhaps is not the interest, intense interest, deep concern in this subject that there should be. But we are a people who believe that it is direct participation with the ballot, to use a trite expression, that should determine the future of our country.

On Easter morning I was in Prague, Czechoslovakia. I am not going to give the reasons for 80 percent of the churches being closed or boarded up, Catholic and Protestant. I am only saying that the Czechoslovakia I earlier knew was a country in which the people were participating with their ballots.

I am not attempting to draw the lines except to say that it is a proven fact that 30,000 Soviet troops are constantly marching—across, and back across, Czechoslovakia.

We say it cannot happen here, it cannot happen there. But if we do not use this American ballot—and I think the best way to use it for the Presidency is by a direct vote which is counted as another vote is counted—that we do a disservice to the Founding Fathers, even though they did not think of our democracy under our republican form of government exactly as we have expressed it.

Mr. President, I know of your leadership, and this is not a pleasantry in this matter, and I hope, I trust, that the Senate will approve the direct ballot, the individual voter preference, for the Chief Executive of our Republic.

Mr. BAYH. Mr. President, I would like to express my deep appreciation to the Senator from West Virginia who has been a stalwart supporter of all those efforts to try to extend the franchise and to try to make our elective process equitable, and his help means so much.

The Senator from Kansas wanted 3 minutes, and I yield 3 minutes to the Senator from Kansas.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, today we have an opportunity to discuss and to vote on a resolution proposing the direct election of the President and Vice President.

For many years I have supported the idea that the electoral vote system should be abolished and replaced with direct election. As a Member of the House of Representatives, I advocated this change, and as a Member of the Senate, I have testified before the Judiciary Committee several times. We need to realize that while once the electoral college was a young country's answer to selecting the President and Vice President, it is no longer the most appropriate system for the United States. Extensive campaigning, widespread media coverage, and a better educated electorate have nullified the need for the electoral college. I believe that the American electorate is capable of choosing its leaders directly. I hope that the Congress will take the proper action to set in motion this change.

HISTORY

Mr. President, a system of direct election is the most democratic system. If you review our history, I think you will see that our Founding Fathers were attempting to choose a democratic selection process also, although the definition and concept of democracy has changed considerably since that time. When the United States was being formed, monarchy was still an accepted form of government. In devising the electoral college system, our predecessors no doubt felt that they were taking a bold, step toward as much democracy as a new country could absorb. While much of the population was not allowed to vote—women, nonproperty owners, and slaves—the fact that a portion of the citizens selected their leaders was revolutionary. It was a democracy for its time. Today, however, we must realize that we deal with different circumstances and different considerations.

Today's voter is better educated. In the late 1700's, public education was neither common nor widespread. When printed material was available, many could not read it. There was no television, no radio, no telephones or airplanes to make possible an easy, fast exchange of news items. In short, most persons did not have access to the candidates, and had a system of direct election been approved, the voters most likely would have been voting without knowing either candidates or issues. Today's voter has the opportunity to make an informed, intelligent selection. Issues and candidate positions are well known.

Our forefathers shaped their political system to their needs, but also recognized that what seemed the best solution then, might not always be the best system in the future. So they provided for a means to amend the Constitution. Because of their foresight, we are able to debate constitutional amendments and question whether or not a practice needs to be changed. Over the years, many such changes have taken place, and I propose that now is the time to modify the method by which we select our President and Vice President.

1976 ELECTION

I believe it is basic to our system of democracy that the candidate who receives the largest number of popular votes should win the election. The electoral vote system does not hold this guarantee. In the 1976 election, a shift of fewer than 12,000 votes in Ohio and Delaware would have resulted in a tie in the electoral college. The same shift of 12,000 votes in Ohio and Hawaii would have given victory to the Republican ticket. In spite of Carter's 1.7 million vote plurality, Ford would have won the electoral college vote. Had this happened, the Republicans in effect would have profiteered from weaknesses in the electoral college. In past years it could have been the other party which benefited.

THE STRAIGHTFORWARD CASE FOR REFORM

The beauty of direct popular election really lies in its simplicity and straightforwardness. It just makes good commonsense. Complicated philosophical justifications for retaining the electoral college and maintaining its inherent potential to subvert the popular will do not make sense in practice. Direct election is easily understood, easily administered, promises the least delay and the minimum opportunity for outside factors to distort the will or voting citizens. The practical and predictable benefits of direct popular election can be sunmmarized as follows:

First. It would guarantee that the candidate with the most votes would be elected.

Second. It would count the vote of each citizen equally regardless of where he lived and how his neighbors voted.

Third. It would eliminate possible faithless electors who are free to disregard the will of the voter.

Fourth. It would reduce the premium on fraud in pivotal electoral vote States.

Fifth. It would strengthen the two-party system, even in present one-party States where there now is little incentive for the minority party to increase its turnout.

Sixth. It would remove the possibility of electors bargaining away their electoral votes in an electoral college stalemate, and it would remove the possibility of a partisan, contingency election of the President and Vice President by Congress.

Seventh. It would increase the confidence of the American people in their electoral system.

EFFECT ON TWO-PARTY SYSTEM

I know that some concern has been expressed that the direct election procedure would somehow weaken the two-party political system in this country by encouraging the formation of splinter parties with only narrow ideological appeal. Let me emphasize my unshakeable conviction that the two-party system as it has developed in America is one of the major influences for stability, order and rationality in our political processes. The "consensus politics" practiced by both major U.S. political parties is responsive to both majority and minority interests and certainly remains one of the most powerful influences against development of third parties. And, because Senate Joint Resolution 1 contains a contingency for a runoff election between only the two strongest national tickets in the event that neither captures a 40-percent plurality of the popular vote, it would be extremely unlikely that the revised system would encourage third-party candidacies.

Direct election would provide both major parties with even greater opportunities for their consensus-building efforts. It would make a likely voter in a Republican State like Kansas just as attractive to the Democrats as one of their dyed-in-the-wool stalwarts in Massachusetts. And it would give the Republicans the same incentive for going after a likely voter in the District of Columbia as one in Arizona.

The "unit rule" feature of the current electoral system facilitates the growth of ideologically oriented regional third parties—such as that of George Wallace in 1968—designed to deny either of the majority party candidates an electoral majority. In 1968, in States like Louisiana, Georgia, and Arkansas where Governor Wallace got approximately half the popular vote, he received all the electoral votes. That type of distortion would no longer be possible under the direct election system.

EFFECT ON STATES WITH SMALLER POPULATIONS

Direct election of the President could be expected to strengthen the political importance of smaller States by making the ballots of each of their voters just as valuable and deserving of pursuit by a candidate as any of the most populous States. The most populous States and their metropolitan centers would stand to lose the great strategic importance they have under the electoral college procedure, for elimination of the "unit rule" feature would eliminate the prize the major States can offer of a large bloc of votes available to the highest bidder.

It has even been suggested by some political analysts that the balance of power in Presidential elections would be tipped away from the more progressive metropolitan residents toward the conservatives, who tend to predominate in small towns and rural areas.

PROLIFERATION OF CANDIDATES?

Mr. President, some opponents to direct election have speculated that the 40-percent plurality requirement would encourage a proliferation of candidates due to the possibility of a run-off election. When considered seriously, I think such a fear can be dismissed as idle speculation. To begin with, a run-off election would be difficult to achieve since that candidate must keep the popular vote winner from receiving less than 40 percent of the total vote. Furthermore, if a run-off was needed, it would be between the two strongest candidates, not between all the hopefuls. Should a third party receive more votes than one of the two major parties, simple justice would include that candidate in the runoff.

Experience has shown that the electoral college system encourages regional third-party candidates. These candidates know that should they receive sufficient electoral support in a few States by gaining a slim margin in the popular vote, then in the electoral college they might have enough support to prevent either major party from receiving a majority, and thereby throw the election to the Congress. Or, just as disagreeable is the possibility that the third-party candidate would use his clout to bargin his electoral votes in such a way as to affect the outcome in the electoral college. To my way of thinking, the electoral vote system presents a greater threat to the proliferation of candidates and to weakening the two-party system than does popular election.

Some persons hold out the electoral college as the last vestige of our Federalist system. I disagree. From personal experience, I can tell you that the electoral vote system encourages Presidential and Vice Presidential candidates to concentrate their campaign efforts on a few closely contested States. In the process, many small or traditional one-party States are overlooked. During the 1976 Presidential campaign, no matter how much we wished to visit all parts of the country, in some instances it was simply impractical. Three thousand votes in California, Texas, Pennsylvania, or Ohio become much more important than 3,000 votes in Wyoming, Arkansas, Alaska, or even Kansas. Practically speaking the electoral college system, because it operates under the unit rule, forces candidates to concentrate on those large States which appear within their grasp.

It would be foolish of me to try and convince you that under a system of direct election Presidential candidates would cover the country evenly, for they would not. Commonsense tells you that candidates would still concentrate on large metropolitan areas, for the candidate is attracted to the voter. But, communities of like sizes would be equally attractive regardless of whether they fell in western Texas or Arizona. No longer could the candidates count on swing votes, pivotal States or sure States, for each single vote would be important, regardless of where it was geographically cast.

I will admit that I did not begin as a proponent of direct election, but in time the issue became more clear. For example, the American Bar Association reports that in 1976, both Utah and Hawaii had the same number of electoral votes. Yet, almost twice as many people voted in Utah as in Hawaii. Similarly, that same year Georgia cast almost 50 percent more electoral votes than Minnesota, regardless of the fact that about half a million more persons voted in Minnesota than in Georgia. Because each State receives a predetermined number of electoral votes regardless of voter turnout, a low turnout will allow a small number of persons to determine an equal number of electoral votes in a State of similar size but with high voter turnout.

Also, the electoral college system does not reflect population changes that take place between census counts. A sudden influx of persons to the Southwest, for instance will place those States at a disadvantage when it comes to selecting the President and Vice President.

Mr. President, while there may be no perfect system for selecting the President and Vice President, I firmly believe that selection by direct election is the most fair, the most democratic, and the best selection process for us to use. It assures that the person with the largest number of votes will win and that each person's vote will be of equal influence. Certainly, it is the most democratic method. For these reasons, I would urge my colleagues to listen closely to the debate on this issue, and to vote in support of replacing the electoral vote system with direct popular election.

I think it is fair to say, in summary, as someone who has been wrestling with the problem for a number of years, that I have supported various efforts, whether it be the district plan, the proportional plan, and years ago I think the distinguished Senator from Missouri (Mr. EAGLETON) and I had another plan, but finally I have decided that the proposal in Senate Joint Resolution 28 is probably the best, and I have advocated this change as a Member of the Senate.

I have testified before the Judiciary Committee several times. I think we need to realize that while once the electoral college was a young country's answer to selecting the President and Vice President, it is no longer the most appropriate system for the United States.

With all the extensive campaigning and widespread media coverage, and a better-educated electorate, we have nullified the need for the electoral college. I believe the American electorate is capable of choosing its leaders directly, and I hope Congress will take the proper action to set this change into motion.

As one who was directly involved in the 1976 election, which was a very close election, a change of 10,000 or 11,000 votes in a couple of States would have made President Ford the elected President, and Senator BOB DOLE the Vice President, even though we would have lost the popular vote by over 1½ million votes.

I think I could have learned to accommodate that. I mean, I think I could have recovered from that problem. [Laughter.]

But it just seems to me that in the final analysis, whether it is in an election for the President or the Vice President or a Member of Congress or anyone else, that the person receiving the most votes ought to be the winner.

I have tried to analyze all the argu-

ments for and against that it protects the small States, the faceless elector, and everything else that might be involved. When I look back on the 1976 example and the very things the distinguished Senator from Indiana has been telling us year after year might happen, it came very close to happening in 1976. Candidate Carter had a 1.7 million vote plurality. But, as I have indicated, with a shift of fewer than 12,000 votes in Ohio and Delaware it would have been an electoral college victory for Mr. Ford. Can I have 1 additional minute?

Mr. BAYH. One more minute.

The PRESIDING OFFICER (Mr. RANDOLPH). One additional minute to the Senator from Kansas.

Mr. DOLE. In that case the Republicans would have profited from weaknesses in the electoral college. But I have often wondered, even as I have suggested it would have been something I probably could have learned to live with, how we could have explained to the American people in January 1977 at the inaugural ceremony of President Ford why he was there instead of Candidate Carter, because Candidate Carter received about 1.7 million more votes.

It does not make a great deal of sense. It just seems to the Senator from Kansas—and I have read all the regional arguments, all the State arguments, and all the other arguments—that there are a number of straightforward reasons why we ought to reform the system, and they were all set forth in my statement, and it would seem to me it is going to guarantee one thing, and that is the candidate who gets the most votes is going to be elected, and that is important in our system.

It seems to me it is really a boon to small States because the candidate is going to go to the small States. A Republican is going to come to the District of Columbia to campaign because every vote is going to be important.

I thank my distinguished colleague from Indiana for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, how much time is left for each side?

The PRESIDING OFFICER. The Senator from South Carolina has 12 minutes. The Senator from Indiana has 8 minutes. If neither side has a speaker, the time will run against the two sides equally.

Mr. THURMOND. Mr. President, I just wish to express appreciation to all who have participated in this debate. I think it concerns one of the most important questions to ever face this country, because it concerns the very fundamentals of our Constitution.

The question here is whether we are going to retain federalism as established by the Founding Fathers, or whether we are going to forgo it for a national election where the candidate receiving the largest number of votes becomes President of the United States.

There has been some question raised here that if you vote for Governor by direct vote, why should you not vote for the President that way?

It is altogether a different question. In the sovereign States, the candidate receiving the highest number of votes is elected. That is natural. But when it comes to electing a President, who is going to serve all the States and all the people, then there should be a concurrence throughout the Nation; it should not be a regional matter.

If we just had the direct election, then some sections with heavy populations would become very important, and other sections of the country would be neglected. That was the reason the system was set up like it is: To provide that in each State there will be an election for President. It will be by direct vote, as it is—by direct vote in each State. But we do not have a direct vote for the whole Nation, because we have a federated system, and we do not think we should change from a federated system to a national system.

Today we are thinking more about decentralizing. We are thinking about reversing the flow of power from the States to the Federal Government. This proposed system of election would bring more power to those in Washington. It would bring more power to those who control the election system of this country, which is one of the most important functions that could be imposed upon any agency of the government.

We feel that we should decentralize rather than centralize. If there is to be a change in the election system, the district system would preserve federalism, and the proportional system would preserve federalism, and they might be an improvement. I would not object to those. But to go to a direct vote does destroy federalism. It changes the whole system of government, and in my opinion, that would be very dangerous.

Mr. President, If we go to a direct vote, there will be many splinter parties. Blacks may organize a party, and we might have a prolife party, an antinuclear party, a prolabor party, a fundamentalist Christian party, a gun control party, a Socialist party, an antibusing party—you can visualize all different kinds of parties. That would probably prevent any candidate from getting 40 percent of the votes; then we would have a runoff, and we would have all kinds of trading of votes and corruption. I do not think we want that for this country.

I yield to the distinguished Senator from Illinois (Mr. PERCY). How much time does the Senator want?

Mr. PERCY. As much as the Senator can give me.

Mr. THURMOND. How much time do we have?

The PRESIDING OFFICER. The Senator from South Carolina has 8 minutes remaining.

Mr. THURMOND. I yield the Senator 3 minutes.

Mr. PERCY. Mr. President, I worked closely with my distinguished colleague from Indiana (Senator BAYH) on ERA but I find myself in a different position today. Because of my personal affection for him and what he has always stood for, I regret that we disagree on this amendment.

But the roots of my knowledge of constitutional issues really go back to an early tutor. While I was deciding to leave business to go into politics, I worked with a great friend and political scientist at the University of Chicago, Dr. Robert Goldwin, who is now a fellow at the American Enterprise Institute and is Director of a 10-year program to conduct conferences on the Federal Constitution and the Bill of Rights. I would have liked Dr. Goldwin's counsel on this matter, but it was not possible because he is out of the country. But I do feel confident that he would have approached this subject very cautiously and conservatively, however, as all of us should when it comes to changing a constitution that has stood us in such good stead for as long a period of time.

Nor I do not like to see our national agenda, during this period of crisis in energy, the economy and in other areas, crowded with too many things that are not germane to those immediate concerns. We must focus on what is ultimately important. I do not think that the American agenda needs to have direct election of the President added to it now, in all the States, with all the debate that would be carried on and all the emotion it would arouse, when we have so many other problems that need our urgent attention.

This Congress is distinguishing itself for not doing too much, but focusing instead on the most important issues of our day.

I am also concerned about a constitutional amendment providing for direct elections, in light of so much conservatism among minority groups, whose interests we wish to protect, and when so many of them have concluded that this amendment would have an unfavorable effect on them.

I would like to incorporate in the RECORD certain quotations from several distinguished opponents of the amendment. First, Dr. Alexander Bickel, a long-time friend of Dr. Goldwin's and mine, who said:

> The electoral college makes it impossible for a third-party candidate to have any sort of impact unless he has a strong regional base. Without such a regional base, his popular vote will not register in the electoral college. Hence, all he can hope to do is spoil the election for one or the other major candidates, but on election day and after he counts for nothing . . . Chiefly for this reason, it has not failed to produce a general election winner since 1824.

Dr. Bickel expresses concern about the possibility of third parties, and I share that concern. The two-party system has served us well, and I would be hesitant to venture now into a new format in our electoral process, that could aid and abet the establishment of a three-or-more-party system in the United States.

I have met personally with leaders of the American Jewish Congress, particularly those from my own State, and I would like to quote what their position is on this issue:

> By tending to inhibit the nomination of candidates likely to be objectionable to sizable minority groups, the electoral system assures attention to the needs and desires of groups whose interests might be given much less consideration under a system of direct election.

I quote also my own colleague from Illinois, CARDISS COLLINS, of the Congressional Black Caucus, as to the position that she has taken, because she has articulated and expressed certain important concerns shared by many floor leaders. She says:

> Black Americans must remain extremely vigilant against measures which may either intentionally or inadvertently have the effect of reducing our power at the polls. The general consensus among Black leaders is that direct election of the President would most likely have the effect of reducing the significance of the Black vote.

Vernon Jordan, of the Urban League adds:

> Direct election would inevitably mean the formation of black political parties, voting along racial lines and increasingly separated from the major parties who would themselves be weakened and dependent upon coalitions with splinter groups. This would not only weaken the political system, but would be a polarizating factor destructive of racial harmony.

The American Farm Bureau Federations, the largest farm organization in Illinois, says:

> The abolition of the electoral college will destroy much of the effectiveness of minorities in Presidential politics . . . the adoption of a national plebiscite as the method of electing our President will swallow up agriculture in Presidential politics.

Prof. Jean Kirkpatrick, of Georgetown University speaks on behalf of ethnic groups and mentions the Polish voters of Milwaukee. But the second largest Polish city in the world is Chicago:

> The smaller the electoral unit, the more important are all the people and groups which compose it. The Polish vote is more important in Milwaukee than in Wisconsin and more important in Wisconsin than in the Nation. . . . Under direct election, a national campaign strategy would scratch them off, write them off, forget about them . . . the electoral college forces politicians to take account of all minorities—urban, rural, ethnic, religious.

As the Washington Star editorializes:

> Jews, Catholics, Blacks, farmers, and other minorities will suffer. The electoral college system gives minorities a chance to seize center stage in the battle for electoral votes of key states.

Finally, George Will, as quoted in the Washington Post:

> The permanent problems of this Nation are race and regionalism; the electoral system serves, I believe, to ameliorate both problems.

I see no compelling reason for us to amend the Constitution to provide for direct election of the President.

Several Senators addressed the Chair.

Mr. BAYH. Mr. President, I yield 3 minutes to the distinguished minority leader.

Mr. BAKER. I thank the Chair, and I thank my friend from Indiana for his courtesy. It is my pleasure to rise once again to urge my colleagues to vote in favor of Senate Joint Resolution 28, which calls for the direct election of the President and Vice President of the United States. I am particularly pleased to be making this appeal not on a vote for cloture, but a vote for adoption of this long-awaited and much-needed constitutional amendment. I want to commend my colleagues for their tireless efforts in arriving at a compromise that will insure a final vote on this vital measure within this Chamber. This is an occasion I have awaited for more than a decade, and I will with greatest pleasure cast my vote in favor of this consitutional amendment.

Let me pay my respects as well to the Senator from South Carolina for his willingness to agree to the unanimous-consent request to vitiate the vote on cloture and to proceed directly to the disposition of this matter on its merits. The Senator from South Carolina and the Senator from Indiana have shown the very best cooperative spirit among Members of this body in trying to arrive at a fair and final judgment on this important matter.

It seems to me that there is no conscionable basis upon which one can say that in the selection of the highest elected officer in the United States, the people of one State should have any advantage over the people of another State. If equality of representation is not stated to be the fundamental purpose of democratic government, then there is something about the nature of federalism which I believe we should examine a little further. Because federalism, in the view of the Senator, does not represent discrimination by favoring one group over another.

Federalism as a generic term does not imply an advantage by one group over another. Federalism means a group of 50 States united for their mutual self-interest and for the creation and functioning of a central government. That is federalism as I know it, and it is that form of government that I rise in support of today.

It is this federalism that is protected, nourished, and perpetuated by the daily functions of the U.S. Senate. It does not require that voters of New York City have a greater voice in selecting the President than the voters of Omaha, Nebr. Unfortunately, this is precisely what happens today, according to many opponents of this amendment.

Mr. President, I come from a southern State. I come from a relatively small State. Scholars and observers have argued that Tennessee has an advantage in the electoral college system, and also that my State has a disadvantage under the electoral college system. My reply to both of these arguments is identical. If there exists a clear advantage, or an equally clear disadvantage to a single citizen in any State, then that is proof positive that the electoral college system should be abolished. Tennessee should not have one with more or one with less influence than any other region, section, or State of this country in electing its President and Vice President.

If we do not start with the basic premise of equality in the selection of a President, in the selection of the House of Representatives, and in the selection of the Senate—then we end up with a premise that does not, in my view, constitute a part of federalism.

The opponents of this amendment have said that the concept of "one man-one vote" does not apply in this instance. But I say to them that that is the central and fundamental question to be decided by their votes today.

The opponents say that a change in the electoral college system would disrupt the plans of our Founding Fathers. I say that this change is essential to complete the dream of our Founding Fathers.

The opponents say that this amendment will shift the advantage held by certain regions in determining national candidates and politics today. I say that if there presently exists an imbalance between a voter in one State and a voter in another, then this is an inequity, and the time for the Congress to correct this inequity has come.

Mr. President, I urge all of my colleagues to join me today in removing the imbalance that presently exists in the election of our Nation's highest officers. I urge my colleagues to expand the concept of "one man-one vote" by supporting this amendment today.

Mr. THURMOND. Mr. President, I yield 2 minutes to the distinguished Senator from Arkansas (Mr. BUMPERS).

Mr. BUMPERS. Mr. President, I will just offer a few remarks.

I would first like to say that my distinguished colleague from my State has done a magnificent job during the course of the debate championing the side opposite of that for which I will vote. Both sides have made very eloquent arguments on this resolution. Both sides have argued that if their side prevails it will eliminate splinter candidates. Both sides have argued that rural States will be hurt if that particular system is adopted. And certainly, both sides have argued that their cause is the one that will maintain and sustain the two-party system.

Mr. President, as I say, this is an issue on which good, commonsense people will have honest differences. I happen to belong to that school who believes that the Founding Fathers did not do this summarily or cursorily, but they did it after considerable debate, understanding that small rural States such as mine, Arkansas, do indeed need some additional clout in the election of the Presidential candidates.

Mr. President, I might say that one of the biggest arguments that has been made is we have had so many close calls and at least on one occasion a President has actually been elected with less than a majority vote. But there will be close calls under any system. I do not see that this particular system, the electoral college, is in any great need of repair. Because of my abhorrence of changing the Constitution of the United States in any way without a demonstrated need, without a demonstrated example of abuse and injustice, I simply cannot support Senate Joint Resolution 28.

Mr. President, we are voting today on a proposition to change one of the basic institutions of our Federal Government, the electoral college. Many critics of the electoral college system have insisted over the past several years that the electoral college is in bad shape because there have been so many "close calls" where the popular vote winner in Presidential elections might have lost the election and that we need to change the system. One thing that the critics do not emphasize, however, is that these instances are just that, close calls, and that any system, no matter how excellent, will not be able to prevent all error or "close calls." Even under the direct election system, if there was an allegation of fraud or a demand for a recount in the runoff, problems and "close calls" could occur.

This issue has engendered much debate and both sides of the issue have many respected supporters. One of the problems with trying to assess the situation if the electoral college is abolished is that it is not clear how it will affect the party system. Whether it will result in many "third parties," whether urban States will profit at the expense of rural States and so forth. Both sides argue that abolition of the college or its retention will result in a regional candidate. Both sides argue that either abolition of the electoral college or keeping the electoral college will hurt small States, such as Arkansas. Both sides try to use the two-party system to prove that their type of election of the President will strengthen the two-party system. Both sides agree that abolishing the electoral college will have an effect on the two-party system and that it will encourage the already growing resort to the national media in Presidential campaigns.

One of the institutions of our system which the Founding Fathers did not plan for and in fact, wished to prevent was the evolution of a party system. Our federal system today is intertwined with our party system, so closely intertwined that it is difficult to determine what effect changing the methods of one will have on the other. The party system forces Presidential candidates to obtain support at the local level and to consider local needs. Because a candidate must win at least a good portion or all of a State's support, a proliferation of third parties or of numerous independent candidates is discouraged. In my own State of Arkansas the secretary of state last year received numerous applications from people wishing to file as candidates for President. These candidates did not qualify, but they are an indication of the trend among the American people right now toward identification with single issue groups. Many of these groups under the direct election system would appear on the ballot for President and although they might know they could not win, they might force other candidates into a runoff. This would obviously result in an inordinate power being granted to such groups, if they could trade their support for a promise from one of the two top candidates. While such things are not inherently bad, the proliferation of the problem could become terribly erosive of our two-party system and add to the trend of identification of Americans with single-issue groups.

One of the major arguments in favor of the direct election is that all voters in the United States should be able to cast votes of equal weight for the President of the United States. Proponents argue that under direct election this would be the case. However, the resolution which we are voting on today still leaves to the States the right to set all aspects of voter eligibility as long as they are the same as that of voters for the most numerous branch of the State legislature. States will also have the right to decide how candidates will be included on the ballot. Such differences from State to State will still mean that a voter in one State will not have a vote of the same weight as a vote in another State.

Because of the uncertainty of how the direct election of the President will affect our two-party system, how it will affect the rights of small rural States, and my normal resistance to changing a system that I consider to be in reasonably good repair, I cannot support Senate Joint Resolution 28.

Mr. THURMOND. Mr. President, I yield 2 minutes to the distinguished Senator from Nevada.

Mr. CANNON. First, I commend the distinguished Senator from Arkansas. He is absolutely right. I think a most compelling case has not been made to change the Constitution of the United States.

Mr. President, as you know, this body will soon vote on one of the most important issues that will come before us this year. The hour is late and much has been said already in this regard. I want to take but a couple of minutes to once again urge my colleagues to seriously consider the ramifications this proposed amendment would have on our form of government.

Ours is a federal system and one which came about as a result of an elaborate series of compromises at the Constitutional Convention. It is a system which is working well.

The proponents of direct election have been in my opinion, too prone to indulge in mathematical speculation which ignores political and historical realities. The case against federalism simply has not been made.

I remind my colleagues that no electoral system is neutral. Every system favors certain groups and interests. The question today is not whether the electoral college has biases, but rather whether the biases are more compatible with and supportive of our basic system of government than direct election. I believe it is.

I strongly urge that we defeat the direct election proposal, and I hope that we do. However, I would like to close my remarks by saying that the battle has been well fought on both sides. I do wish to compliment the efforts of the opposition, lead by Senator BAYH and also express my appreciation for the efforts of Senators THURMOND, HATCH, and SIMPSON.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I understand we have 1 minute remaining.

The PRESIDING OFFICER. A minute-and-a-half.

Mr. THURMOND. I yield 1 minute to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we are nearing the completion of one of the most important constitutional debates of our time. Senate Joint Resolution 28 proposes more than the sort of housekeeping amendment that has characterized recent efforts in constitutional revision. It proposes to alter some of the most basic and enduring foundations of our system of government.

I agree with Prof. Charles Black that direct election of the President would be the most radical amendment to the Constitution of the United States ever proposed. I would hope that all of our colleagues would consider that.

The burden of proof has not been met, as the distinguished Senator CANNON of Nevada has said. I compliment him for his leadership in opposition to Senate Joint Resolution 28 and Senator BAYH for his leadership on the proponents' side. I also wish to compliment Senator THURMOND and Senator SIMPSON for their effective leadership in opposition to Senate Joint Resolution 28.

Senate Joint Resolution 28 proposes a democratic caricature. It would introduce the notion into our structure of government that nothing is more important than "one-man, one-vote". Rather than the representation of a subtle and complex array of influences, it would transform our Constitution into a document with all the depth and richness of an abacus, an adding machine. In the process, some of the most permanent principles and guideposts of our system of government would be relegated into insignificance and irrelevance.

Federalism, checks and balances, separation of powers, the protection of minority rights, limited government, geographical balance, and concurrent majorities are all important themes of our Constitution that would be subordinated to the altar of "one-man, one-vote" as a result of direct election. The consensus and compromise and moderation that are promoted by the electoral vote system would be replaced by the divisiveness and extremism of the direct election notion.

While the present electoral system insures the achievement by sucessful Presidential candidates of "cross-sectional" majorities, or majorities which are reflective of the electorate as a whole, direct election insures nothing more than pure numerical majorities. The electoral system is concerned not simply with the mechanical distribution of majorities but also with the character of those majorities.

Threatening as direct election is, of and by itself, I am equally concerned by its long-term implications. Once the premises of direct election have been accepted, and adopted into the Constitution, how can other constitutional devices be justified. The executive veto is a non-"one-man, one-vote" institution. So is judicial review, the constitutional amendment process, and the Bill of Rights itself. The Bill of Rights dictates expressly that there are limits and bounds to pure majoritarianism.

The composition of the legislative branch, as most of us well realize, is nonmajoritarian, particularly this body. How can Congress withstand the "one-man, one-vote" juggernaut if the concept is permanently incorporated in the method by which we select the President? Is the legislative branch any less important in our system of government? Does it deal with any less important issues? The implications of the direct election precedent for the legislative branch are overwhelming.

Mr. President, I call upon my colleagues to weigh the pending resolution as carefully as they have ever considered any proposal. I would like to close my statement with the profound observation of the late Professor Alexander Bickel of the Yale Law School:

> The sudden abandonment of institutions is an act that reverberates in ways no one can predict and many come to regret.

The **PRESIDING OFFICER**. The Senator from South Carolina is recognized.

Mr. **THURMOND**. Mr. President, as we come to the close of this important constitutional debate, I want to take this opportunity to thank those who participated on both sides of this issue.

Although the Senate has considered several constitutional amendments in the recent past, it will be rare that something more significant and having such a far-reaching effect on our system of government will be debated on this floor.

Realizing these far-reaching, and what we considered radical effects, Senators HATCH, CANNON, SIMPSON, and I formed a bipartisan group to coordinate opposition to this amendment. I want to thank them for their important efforts which contributed tremendously to the full consideration of Senate Joint Resolution 28. In addition to those who felt the need to offer their thoughts in opposition to this proposal, both during the hearings and during floor consideration, I commend you for your contribution to preserve our Federal system of government. Once again, this group is totally bipartisan, made up of such names as Senators GOLDWATER, MCCLURE, STENNIS, MORGAN, WARNER, WALLOP, MOYNIHAN, PERCY, and BUMPERS.

I also wish to thank my other colleagues who, although not speaking on this resolution, have studied the material on both sides and reached a conclusion which is the right one for them. Of course, I hope the decision is to oppose Senate Joint Resolution 28, but even if it is not, I commend them for doing their duties as Senators.

Mr. President, I commend those who have voiced their support for Senate Joint Resolution 28, not because I agree with their position, because I do not, but because of their admirable efforts for what they believe is right for the Constitution. In particular, I commend my colleague on the Judiciary Committee, Senator BIRCH BAYH, for the way he has conducted an interesting debate on a proposal that he has been advocating for 10 years.

Staff has worked very hard on this issue and I would like to thank them for their labors. Jim Lockemy, who coordinated staff efforts, of my staff; Steve Markman of Senator HATCH's staff, Frankie Sue Del Pappa of Senator CANNON's office, Charles Wood of Senator SIMPSON's office, and Dennis Shedd of my staff all put in long hours of assistance on this proposal. Mr. President, regardless of which side prevails here today, we have had a good debate.

I think the issue is well drawn. I think the Senate understands the question. It is whether we are going to retain federalism or not. It boils down to that.

With that, Mr. President, I hope the Senate will see fit to strike down this amendment and retain federalism as it was placed in the Constitution by our forefathers.

Mr. **BAYH**. Mr. President, I yield 20 seconds to the Senator from Ohio.

Mr. **GLENN**. Mr. President, the American people deserve to elect their top leaders—the President and Vice President of the United States—in a fair and equitable manner that ensures that the will of the majority prevails in filling these most important offices.

Today, despite more than a decade of debate and consideration, and even as the date nears for filling the 49th term of the Presidency, the needed assurance that the person elected to be our leader will represent the majority will of the people does not exist.

It does not exist because of the continuing existence of the electoral college, an arcane institution which did make sense to the 18th century framers of the Constitution, but is out of step with America at this point in our history. Our tradition is one of ever-expanding enfranchisement, of vast expansion in the education of the citizenry, and of a veritable explosion in the amount of information made available to voters before they exercise the most precious right of citizenship.

Americans no longer need a college of middlemen between the ballot box and the actual selection of their two primary leaders. Americans do deserve to have their votes count equally, no matter where they happen to live, in the election of their national leaders.

Americans should no longer face the threat of having a President elected—duly elected, mind you—contrary to the majority will of the people participating in the election. It is a very real threat, borne out by the history of our Presidency. It has happened three times. It could happen again, and I can see no advantage in a Presidential election again being thrown into the House of Representatives.

I am aware of the argument that because in 1824, 1876, and 1888, the winner-take-all electoral system resulted in Presidents being chosen who did not receive the most popular votes and because the Nation weathered those events without a grave constitutional crisis or rioting in the streets, we can do so again. But why take that chance?

Because of the developments I mentioned earlier, of ever-expanding suffrage for example, and because of the wealth of information made available to the public almost instantaneously, the circumstances have changed greatly in the past century. We have virtually universal suffrage now, of males and females of all races, creeds, and circumstances, of people 18 years of age and older. We have an informed electorate. To thwart its will now, in the 20th century, could indeed give rise to a grave situation in this country.

In poll after poll, surveys have shown that the people agree, and that they support the abolition of the electoral college and direct election of the President and Vice President of the United States.

Mr. President, the people understand what happens under the present system. That, perhaps, is one reason why Americans appear so relatively apathetic about their elections, turning out in numbers that should prove disgraceful to a nation with our traditions. Direct election, by insuring that each voter's ballot will count the same as all others, should significantly increase the interest of the public in the election of our President and Vice President.

Voters in small States which tend to be bypassed by candidates now because of their small weight in the electoral college, as well as voters in States which are ignored because they are perceived as being solidly in one camp or another, and are thus written off or taken for granted, will find themselves courted as never before, I believe, should direct election become a reality. Perhaps, then, more than the 54.4 percent of voting-age Americans who cast ballots in 1976 would turn out on election day.

When every voter's ballot counts equally, our political parties will have more incentive to seek the support of all kinds of people in all regions of the country. It will be good for the parties; good for our Government. Most of all, however, it will be a guarantee of fairness, both to the candidates and to the citizens.

I would like to quote from an Ohio colleague of mine, Congressman LOUIS STOKES. Congressman STOKES served on the House Judiciary Committee during the term in which that committee gave long and thorough consideration to this matter and voted out a similar proposal that was adopted by the House of Representatives.

Earlier this year, he appeared as a witness before the Senate Judiciary Subcommittee on the Constitution and after enumerating the weaknesses of the electoral college that we all know well, said there is a "final defect" in the present system which might be the most serious of all.

"The electoral college was based on a premise which has long since outlived its validity," he said, "That is, that the task of selecting our country's Chief Executive is too important a matter to be left to 'commoners.' "

Congressman STOKES added that, "In no other facet of our democratic voting system does this anachronism remain. We now recognize, at least legally, that the very foundation of our democracy is equal voting rights for all Americans. Exclusive voting by the 'landed gentry' is long since gone. Women are now afforded full and equal voting rights. And continued efforts are being made to insure those same rights to the nonwhite minority groups of this Nation. Thus, the very existence of this idea in the Constitution is out-of-step with the trend of our history. For that reason alone, it should be removed."

Mr. President, as a cosponsor of Senate Joint Resolution 1, an identical proposal, I urge my colleagues to remove the threat of electoral mischief which will exist so long as there is opportunity for the will of the majority to be thwarted in our system. Let us not muddy this issue with unrelated concerns, but decide it on the merits and send it to the States for ratification. It is the next logical step in the ever-expanding tradition of wider democracy in America.

Mr. BAYH. Mr. President, I yield 20 seconds to the Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to begin by quoting a distinguished American.

> First, we have reached that point in our continuing Constitutional evolution in which Americans should express their unity as a people, beyond state divisions, by selecting by equal vote throughout the land the President of the United States; and second, we have reached, as the people, that point of political enlightenment and maturity at which Americans are competent to fill the Presidential office by direct vote, without the faceless intermediaries of the Electoral College. My experience with my fellow Americans, not only in Montana but throughout the nation, leads me to subscribe to both propositions.

Mr. President, those observations were made by former Senate Majority Leader Mike Mansfield in January of 1961. They ring as true today as they did then, for Montanans and for all Americans. Those of my colleagues who served with him know that Senator Mansfield brought a no nonsense commonsense approach to public policy. It was that approach that led him to introduce the constitutional amendment to provide for the direct election of the President and Vice President the same week he was first elected the Senate majority leader.

It is that same commonsense approach that motivated the Montana Legislature in 1963 to petition the Congress for a constitutional amendment providing for the direct election of the President and Vice President.

As I talk to Montanans in 1979, the majority of them support the direct election of the President and Vice President because in their minds it is the commonsense approach to our national elections. In the final analysis they believe that regardless of all other arguments one can make, it just makes sense for a person to vote directly for the candidate that he or she wants. There just should not be a complicated apparatus to interpret the real will of the American people.

The commonsense approach dictates that we not tolerate a system that has produced American Presidents in 1824, 1876, and 1888, who were not the popularly elected choice of the American people. In 1976 a shift of less than 9,300 votes in Ohio and Hawaii would have changed the outcome of the election despite President Carter's popular vote margin of nearly 1.7 million votes.

With the American people's confidence in their Government at a very low level, it would be disastrous for our country to experience a national election that producted a nonpopularly elected President.

Furthermore, I believe that the current system destroys voter confidence in our Government by effectively disenfranchising nearly half of all voters. Under our current system, whatever candidate wins the popular vote in a State receives all of that State's electoral votes. Therefore, those Montanans that voted for Carter in 1976 did not have their vote reflected in the electoral college. In 1964 none of the Montanans who voted for my colleague BARRY GOLDWATER had their vote reflected in the electoral college. That lack of representation to my mind does not increase voter confidence and voter interest.

Under the current system, States with few electoral votes, such as Montana, are virtually ignored in Presidential campaigns. Elimination of the electoral college would mean that candidates would be willing to visit communities in the less populas States. Under the current system a candidate is more likely to visit a town of 50,000 in a State that has 30 electoral votes than he will be to visit a town of 50,000 in a State with four electoral votes.

Presidential campaigns would be encouraged to increase voter turnout in areas that they now ignore and thereby increase voting among Americans. Currently there is no incentive in Presidential campaigns to increase turnouts in States that are either "sure winners" or "sure losers." But under a direct election system there would be opportunities to increase pluralities and to minimize losses in all States. Local parties would be counted on to "get-out-the-vote" and therefore party organization and the two party system would be strengthened.

Furthermore, States like Montana that traditionally have among the highest voter turnout in the Nation would be benefited by direct elections. Montana would not be discriminated against as they were in the last election by having its vote treated the same way as those States whose turnout was very low.

Finally, I think it should be pointed out that the President and Vice President are the only elected officials in the Government directly responsible to all the people and yet they are the only officials not popularly elected. U.S. Senators are the elected officials in our Government responsible for protecting the interests of States.

Congressmen represent the interests of their congressional districts. Presidents and Vice Presidents should be responsible for representing the interests of the entire country, and therefore, they should be elected by all the people of the country voting directly for them.

Senate Joint Resolution 28, calling for the direct election of the President and Vice President has broad-based support. It is endorsed by the chamber of commerce, the American Bar Association, the League of Women Voters, the AFL–CIO, and Common Cause. These groups all support the concept of direct elections as a vehicle for increasing voter participation and restoring America's confidence in its election system.

I am convinced that when all is said and done Americans want a simple, straightforward system that is not complicated by frills. Americans no longer want to hide behind devices or electors who will not allow them to express their will directly. On this basis, Senate Joint Resolution 28 and the direct election of our President and Vice President makes commonsense.

Mr. BAYH. Mr. President, I yield 20 seconds to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I pay tribute to Senator BAYH for the leadership he has given to this amendment. I vigorously support this amendment.

Mr. President, as we consider Senate Joint Resolution 28, which proposes an amendment to the Constitution providing for the direct popular election of the President and Vice President, I am struck by how closely this debate has come to resemble one held in this Chamber more than 68 years ago.

Virtually the same arguments advanced by the opponents of the direct election of the President today, were emphasized by those who, in May of 1911, led the fight against the direct election of U.S. Senators.

The two issues are not without differences, yet I believe a brief examination of the debate over the 17th amendment to the Constitution can provide us with a valuable perspective on today's question.

As all Senators are aware, before the ratification of the 17th amendment in 1913, U.S. Senators were chosen by State legislators and not by the American people. While not identical, this process of choice is analogous to our present electoral college system.

Mr. President, Senator Rockwood Hoar of Massachusetts, speaking in 1911 against the direct election of Senators made the following statement:

> Such a method of election would essentially change the character of the Senate as conceived by the Convention that framed the Constitution and the people who adopted it.

I submit that the essential character of the Senate remains unchanged and that few, if any, of my colleagues in this body today would prefer the character of a Senate chosen by State legislators.

Senator Hoar continues:

> It will create new temptations for fraud and other illegal practices.

Mr. President, it is abundantly clear that the potential for fraud is greatly diminished in a direct election. As a matter of fact, recounts in recent State elections have shown an infinitesimal net shift of five one-hundredths of 1 percent of the total vote. So, again Senator Hoar's fears were unfounded.

Echoing the sentiments of the good Senator from Massachusetts, Senator DePew of New York said the following:

> In this proposition we are called to disregard the overwhelming lessons of the past and enter upon an untried experiment, to adopt a thory which opens the door to innumerable possibilities of danger to the

sovereignity of the states and wise conservatism in the administration of government.

Mr. President, the direct election of U.S. Senators has not destroyed the sovereignty of the States. It has not meant increased fraud, and the other "innumerable possibilities of danger" of which Senator DePew spoke, have never surfaced.

Similarly, we should regard these arguments today with the benefit of our experience and perspective. Our decision ought to turn on the demonstrable inequities of the electoral system rather than on unwarranted and speculative forebodings about direct popular election.

Let us lay aside arguments of advantage. If the less populous States are mathematically more advantaged (and I do not believe they are), why preserve that? If urban voters presently are more influential, why should they be?

The fundamental principle on which any democracy is founded is that people governed shall have a controlling voice in their government. It is also inherent in any democracy that all citizens shall have an equal voice in choosing their public servants.

History has shown us that the country is strongest when the will of the people is heard. We have removed restrictions on suffrage six times by constitutional amendments 14, 15, 17, 19, 24, and 26. These amendments recognized the contradictions in our democratic system and removed them.

The question before us is thus less complicated, less ominous than either Senator Hoar or today's opponents would have us believe. The electorial college system is defective in guaranteeing the democratic equality of all voters, and that fault must be eliminated.

Mr. BAYH. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Indiana has 1½ minutes remaining.

Mr. BAYH. I yield a half minute to my distinguished colleague from Arkansas.

Mr. PRYOR. Mr. President, Senate Joint Resolution 28 stands for one principle, in my opinion. That principle is that every voter in this country will be treated equally if Senate Joint Resolution 28 becomes a part of our Constitution. Hopefully, our colleagues will vote in favor of this amendment.

I would like to salute the Senator from Indiana and also the Senators who led the opposition to this amendment for the splendid job each side has done. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. BAYH. Every poll I have seen tells us that the people of this country do not trust their political leaders, that they have lost faith in their political institutions, that they have less faith in their Senators than in their garbage collectors.

The amendment before us will give us a chance, as Members of the Senate, to tell the people of this country that, at least, we trust them. We trust them to be able to vote for their President and know that each of their votes is going to count the same, that their votes are going to be counted for the candidate for whom they are cast and that, in the final analysis, the man who has the impossible job of governing this country and serving as the most important leader of the free world, as President of the United States, is at least the choice of most of the people he is called upon to govern.

• Mr. LAXALT. Mr. President, I am firmly opposed to Senate Joint Resolution 28, which would replace the electoral college with direct election of the President. To do away with the electoral college would be to destroy a very essential part of our federal system—a system that has allowed its people to enjoy a greater degree of freedom and liberty than any other form of government in the history of man. Do we want to change and possibly destroy this system? I think not. I realize that this is an emotional issue, but we must get beneath the emotion to the realities, something the proponents of Senate Joint Resolution 28 have failed to do.

Senator BAYH is mistaken when he diminished the importance of this proposed amendment. I concur wholeheartedly with Yale Prof. Charles L. Black, Jr.'s statement "if direct election passes, it will be the most deeply radical amendment which has ever entered the Constitution of the United States." In fact, as Dr. Judith Best has stated, if such amendment passes, our country will then operate under its 3d Constitution: The first being the Articles of Federation, the second being our present system.

INTRODUCTION

I will not go into detail on the particularities of what might happen or what could happen under the electoral college; my esteemed colleagues have adequately presented those issues. Nor will I spend much time arguing that these contingencies cannot and will not happen. The opponents of Senate Joint Resolution 28 have capably presented those arguments. Suffice it to say that the adoption of a system of direct election of the President would entail the trading away of a small and calculable uncertainty—that being a "runner-up" President—for a large and incalculable one.

No one can doubt that this system has worked well for almost 200 years. Therefore, to focus on abstract mathematical possibilities and attack the present system would, as Senator GOLDWATER once observed, "(fail to) take account of the human psychology which governs real-life politics." Surely we do not want change merely for change's sake. Therefore, the proponents of Senate Joint Resolution 28 come forth with an extremely heavy burden of proof which they, in my considered opinion, have failed to meet.

One of the main concerns of the proponents of this amendment is the possibility of a "runner-up" President. What they fail to bring to light is that under direct election it is possible that a person could become President with as little as 40 percent of the popular vote. This would mean that 60 percent of the populace would have voted against a candidate and yet he still would be President.

It appears to me that this would be a far graver danger than the remote possibility of a "runner-up" President. This is especially so if the hypothetical 40 percent President were to receive his votes from a specific section of the country, and would do far more to divide and destroy the country than any conceivable result from our present system.

However, the best argument against direct election of the President is the very nature of our Federal system itself. A thorough understanding of the concepts of federalism dispells any misgivings with the electoral college and destroys any arguments in favor of direct election.

THE FEDERAL SYSTEM

Mr. President, before we consider changing our Federal Constitution with so radical an amendment it would be wise to examine our history and look at the reasoning the drafters utilized in enacting a Constitution that established a federal system of government. If the reasoning is no longer compelling, then let us change the Constitution, but I am sure you realize that this is not the case. People who cherish freedom and liberty realize that in order to maintain them, power must be diffused and decentralized. A Federal Republic does this, majoritarian democracy does not and cannot. In defending our Federal system it is appropriate at this point to quote James Madison:

> The error . . . seems to owe its rise and prevalence chiefly to the confounding of a republic with a democracy. . . . A democracy will be confined to a small spot. A Republic may be extended over a large region.

The drafters of the Constitution were painfully aware of the dangers of both a monarchy and of a national "democracy" both of which result in powerful centralized governments. In "a pure democracy," wrote Madison.

> There is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been in as short in their lives as they have been violence in their deaths.

The drafters realizing the dangers of majoritarian democracy did not fashion the Constitution on such a principle. They knew that a majoritarian democracy would, by its very nature, diffuse and destroy the freedom and liberty that they had paid for so dearly.

Our Constitution was an "accommodation" between the fiercely independent States: The Colonies found they had trouble existing as sovereign nations yet at the same time they realized that to form a strong central government would be to shackle themselves in the same chains they had recently shrugged off. Because of this, our Constitution is unique.

The drafters had devised a method to protect the individual's liberty and freedom from both a dominant central government and the tyranny of the majority while at the same time including some of the desirable aspects of a democracy; to wit, citizen participation in the Government process. A democracy by its very nature results in a strong centralized government; the will of the majority deciding how the entire Nation is to be governed. There were many democracies before us, but ours was the first Federal Republic.

The federal system thus established was hostile to monopolization of power, by any group, in any form. This aspect of our form of government, rather than anything distinctive in the nature of Americans, is what makes our Federal Republic socially democratic. Socially democratic in the sense that differing, divergent groups and ideologies not only survive, but flourish. However, our system is at the same time politically undemocratic in the sense that the will of the majority is not able to suppress the voice and ideals of minority interests.

It is a basic tenancy of our system of government that democracy functions best when it is localized—(a federal republic if you will—and worst when centralized. What should be better appreciated, especially by the Washington establishment, is the fact that the further we get from the local community, the more gaudy and the less democratic our politics become. This accommodation, our Constitution, of which the electoral college is an integral part, was a hope to avoid majority tyranny, and fear of a majority faction so that we might possibly have both liberty and equality. As so aptly put by Dr. Judith Best—

> We are not, have never and were not intended to be a simple majoritarian democracy, the regime whose dedication to equality is so single-minded that it will readily sacrifice liberty to achieve its goal.

Any person present here, or anywhere else, who contends that we are, or should be, a simple majoritarian democracy is either ignorant of our past history or for selfish political designs is willing to forfeit the most noble experiment in self-government known to man.

FEDERALISM TODAY

Federalism has served us well up to today and will do so in the future. In fact a reversal of the trend of the past four decades of centralization and monopolization of power in the national government would go far to preserving individual freedom and liberties. Therefore, what we need today is a move toward giving power back to the States: Power that was usurped by the national government. We most certainly do not need an amendment to the Constitution that would further centralize power in Washington.

Diversification of power safeguards liberty and freedom, pitting power against power. The electoral college aspect of our federal form of government guarantees that each State will have a certain voice in the selection of a national leader, regardless of whether that State has a population of 600,000, as Nevada, or 600 million. This necessarily causes decentralization.

Each State, still retains an essential role in the selection of the Chief Executive. The political peculiarities and needs of each State must be encompassed in each candidate platform if he is to be assured of that State's electoral votes. Because of the importance of each State in the electoral process, a Presidential candidate must appeal to this cross-section of interests. The electoral college fosters this. On the other hand, direct election would allow a Presidential candidate to focus on specific factions, both geographically and politically. History has shown us that sectional candidacies breed civil strife and civil war. Factionalism unleashed is the fatal disease of democracy.

The proponents of Senate Joint Resolution 28 attack the electoral college as being "undemocratic" and ignoring the principle of "one-man, one-vote." The answer to this is simple. As stated above, this country is not an absolute majoritarian democracy, rather it is a democratic republic, a federation of States each separately exercising a republican form of government.

It should be clear to those present, as it was to the Founding Fathers, that democratic disorders would destroy the freedom that Americans prize, if the often ill-informed will of the majority were given free reign, without any of the checks and balances of our Constitution. The present system because of these checks and balances forces moderation and compromise.

By the adoption of arrangements strongly negative toward the power of Government, the Republic has, so far, permitted and encouraged its citizens to act affirmatively in their own interests. This has been our strength of our success. The unlimited, unrestrained, unqualified exercise of power by one, or the few, and yes even by the many is, according to the American principle of democracy, the very essence of tyranny.

Our whole system of Government incorporates the Federal principle. The Constitution itself, our amendment process of which we are now considering, and this august body each imposes a Federal-geographic limitation on the exercise of governmental power.

Our system is not attuned to "one-man, one-vote." As has been pointed out, this form of majoritarian democracy was disregarded by the Framers, who realized its destructive capabilities. Ours is far too large and too diverse a country, both ethnically and politically, to operate on the majoritarian democracy principle.

The supporters of direct election of the President speak in such lofty terms of true democracy and the over-used phrase "one man-one vote" failing to mention that the basic tenant of our form of government, the Constitution, established the entire National Government only one facet of which is based on a majoritarian democracy principle; that being the House of Representatives.

Nine men comprise the most powerful and most respected Court in the world, five of whom decide and interpret the laws of the land. Yet not a single one of the nine is elected on the basis of one man-one vote. Should we change that esteemed institution as well because it is undemocratic.

More close to home, this body, comprising one-half of the legislative branch of the National Government, is not based on one man-one vote. I seriously doubt if anyone here would so advocate. Yet, it is this Senate which represents par excellence the Federal basis of American Government. And the tradition that a Senator should not hesitate to place the welfare of his State, as he sees it, above that of the Nation as seen by the President, is still very much alive. And so it should be.

THE POTENTIAL DESTRUCTION OF FEDERALISM

Mr. President, I feel that this amendment would go far toward destroying our federal system as we know it today. In the opinion of Senator BAYH, the Senate is all the federal type of government we need. To do away with the electoral college in my considered opinion, would merely set the stage for yet another proponent of one man-one vote to put forth another amendment 20, 40, 100 years from now proposing to make the Senate "more democratic". Senate Joint Resolution 28 can be considered the Trojan Horse with Senator BAYH claiming that no Greek will ever enter Troy. Absurd? Possibly. Yet 40 years ago this very amendment was considered too absurd to become a reality by most constitutional scholars.

As has been illustrated, the beauty of our federal system lies in its decentralization. We would be mistaken to centralize yet another facet of our Government. By now we should realize that once centralization takes place it becomes too large and unwieldly to be responsive to the needs of the people. We should be reminded that it is not a President of the American people that is being chosen, rather it is a President of the United States.

Individuals may change but human nature does not as the drafters clearly understood in the late 18th century. In this aspect, our present situation is no different now than then. In fact, with the increase of technology, now more than ever, a federal form of government is essential in order to protect our personal liberties and freedoms from an encroaching central government.

Mr. President, it should be obvious that to amend the Constitution to provide for direct election of the President, would go far in destroying our Federal system and our constitutional system as we now know it. This is why I say that if Senate Joint Resolution 28 is enacted, the country would in fact be operating under our 3rd Constitution.

WHY CHANGE

Although the phrase, "if it ain't broke don't fix it" has been much criticized by proponents of Senate Joint Resolution 28, its applicability to the electoral college is justified. It is absurd to ponder the question of mathematic possibilities in the abstract. We must focus on the issue at hand: Do we want to transform our federal republic into a majoritarian democracy, with all of the problems related thereto?

Also, all of what I have put forth does not bring into account the logistical problems that would arise if the national government were to be in control of the elections throughout the States; it is not disputed that if enacted Senate Joint Resolution 28 would require national control of all elections. I won't expand on these problems as my colleagues have done so already. However, I feel the present system should be left intact and the election of the President left up to the States and electoral college as designed by the Founding Fathers.

Mr. President, strict majority rule is not a key to providing better, more solid Presidents. Johnson and Nixon, both with the two highest majority of the popular votes in history, left office in other than favorable conditions. We should begin to perceive that the majority principle is not a panacea. Dictators frequently started with a majority of their people behind them. Strict adherence to majoritarian theory is by no means a guarantee of good government.

No system of government, nor its component parts is perfect. Some are, however, very much better than others. And governments of complex societies, such as the United States, are made up of many component parts which fit together in an extremely intricate manner. This I hope to have illustrated by my discussion above.

The process of electing the President of the United States is no exception. It may not be perfect, but it is the best system yet to be devised. We can only speculate on how another system might work, whether it would work at all, or what its consequences might be. Therefore, I ask; why change?

APPLICABILITY TO NEVADA

As I have continually reiterated, the electoral college is an integral part of the Federal system. More important to Nevada and other "small" States is the oft argued position that this system is one of the defenses we "small" States have in our system, giving each State, for its own sake, a certain voice in the Federal scheme of things. I will not belabor that point today since it has been adequately presented here before.

I will say, however, as one who comes from and represents a "small" State that I believe in that argument, and strongly feel it is one of the reasons for retaining the electoral college. In fact, it is because of this reason that I am firmly committed to the Federal system as defined by the drafters and the Constitution itself.

Similarly, Nevada's impact, as that of other small States, on Presidential elections is proportionately larger under the present system than it would be under direct election. In a recent study the Library of Congress found that under direct election Nevada would lose 55 percent of the impact it now has on Presidential elections. That impact has served Nevada well, and it has served the greater interest of the country well. I see no reason to change it.

I strongly urge my colleagues, both from large States and small, to reject Senate Joint Resolution 28, and preserve what semblance we have left of our Federal form of government.●

● Mr. TALMADGE. Mr. President, today I rise in opposition to Senate Joint Resolution 28, the proposal to abolish the electoral college system. There continues to this day a period of great controversy concerning the effectiveness and fairness of the present system of electing our President. Certain shortcomings in the electoral college system frustrate the intentions of the framers of the Constitution.

However, I feel that the current resolution proposing direct election of the President is an unnecessary and unwise attempt to eliminate a system which has provided stable government in this country for nearly 200 years.

The framers of the Constitution proposed the electoral college as a safeguard for federalism. The electoral college was designed to preserve the integrity of the States as determined by the Connecticut Compromise of 1787. The creation of a bicameral legislature based on a House of Representatives elected according to the population of the States, along with the Senate, elected to represent the States without regard to population serves as the basis for our republican form of government. Those who favor a direct popular election of the President therefore necessarily act to disregard a basic concept on which our Nation was founded.

As I am well aware, the concept of direct popular election of the President has tremendous popular appeal. The push for such a change has been well publicized and is easily understood. But, the adoption of such a system would have drastic effects. Implications are most dramatic as they relate to our federal system of government.

We are all aware of the importance of the preservation of a balance of power between the Federal Government and the States. Surely, the Senate cannot allow the total elimination of a system designed with such a balance in mind. The Federal system protect the less populated States from being engulfed by the more populous States. The system recognizes that each State must have at least three electoral votes.

This protects the interest of the small States. After all, the Presidency is a national office and must represent the States as well as the populous. Our "National" Government represents "an indestructable union of indestructable States," to quote Supreme Court Justice Chase.

What we have before us is a proposition to totally abolish the electoral college system and to rush in with a plan for altering the Constitution and electing the President, the practical effects of which we know little—and what we are able to ascertain, I find disturbing indeed.

Direct popular vote would deprive the States of their constitutionally recognized delegation of power in the electoral process and would additionally serve to create an imbalance between the large and small States which would threaten to engulf the small. Our highly successful two party system would be endangered, direct popular election would open the way for a carnival of ideological or regional splinter parties representing diverse interest groups. It cannot be denied that the strong two party system that has evolved in the United States has in large part been responsible for the success of our American system in providing majority rule while, at the same time, protecting minority rights.

This would be lost with a multiplicity of political parties in place of the two broadly based parties which recognize and protect the legitimate interest of all substantial economic, social, regional. religious, and racial groups.

One of the outstanding characteristics of the American political party system is that it is organized from the grassroots up—that is, from the States on up to the national party. Direct popular vote for the President would destroy the integrity of the States as integral parts of the federal system and participating agents in the electoral process.

The direct vote would deprive our smaller and less populous States of having an electoral vote divided according to the size of their Congressional Delegation. A State would, therefore, have no more weight in the Presidential election, and consequently in the conduct of national affairs, than the size of its popular vote.

Small and medium-size States would be virtually negated and ignored in the Presidential campaign. Candidates would naturally concentrate their efforts in the most populous States.

It can probably be safely predicted that if a direct vote for the President is instituted some States will never see a Presidential candidate on the campaign trail again. Moreover, the entire nature of Presidential campaigning would be drastically changed.

The nine largest States could elect a President, with almost total disregard for the other 41 States. On the other hand, the voting strength of 35 States, including Georgia, would be adversely affected by the direct popular vote. These States would lose much of their voting strength in the election of the President.

Another objection to the direct popular vote is that it no doubt would inevitably bring pressure for more uniform national laws governing election administration and procedures. In my judgment, the Federal Government should not intrude further on the rights of the individual States in this area. Rigid uniformity would necessarily become a part of direct popular election.

If the President were to be elected by a nationwide popular vote, State boundaries and jurisdictions would become meaningless as States conform their election laws to a uniform Federal standard.

The possibility of election fraud would increase and direct popular election would encourage vote challenges and recounts, making the transition period between administrations less orderly.

I recognize the legitimate need for some type of electoral college reform. I do not, however, believe total abolition of the electoral college system is the answer.

It is my opinion that the desire to revamp the present system lies not in the structure of the electoral college itself, but in its effect on the individual citizen's vote. The present system can be amended in a manner which will not ignore the need to safeguard our current Federal system of government.

If we want to give each voter the individual, meaningful voice in elections to which he is entitled and honor the "one man one vote" concept, we can do so. If, at the same time we want to preserve and strengthen our traditional Federal system of Government, and maintain the integrity of the States and the ideal of unionism, we can do so.

We can adhere to both of these principles not by abolishing our current system, but by modifying the electoral college and alloting electoral votes on a proportionate basis. This concept, which I believe is the only viable proposal for electoral college reform, would give each candidate a percentage of a State's electoral vote equal to the percentage of the popular vote the candidate receives in that State. There is nothing new about this idea. It is, in fact, the only approach that has ever received the required two-thirds vote in the Senate. In 1950, the Senate passed a proportional electoral vote proposal, 64 to 27, but the measure died in the House. What this represents is the election reform which most closely provides for the mutual considerations of preserving the integrity of the States and the interests of minorities as well as insuring the maximum individual input into the Presidential election process.

I am confident that the problems associated with the electoral college system do not require its total elimination. Therefore, I urge my colleagues to vote in opposition to Senate Joint Resolution 28 and if we are to revise the present system we should do so only through the proportional plan which will maintain the framework of federalism so skillfully crafted by our Founding Fathers almost 200 years ago.●

● Mr. CHILES. Mr. President, I intend to vote no on Senate Joint Resolution 28, proposing an amendment to the U.S. Constitution for direct popular election of the President and Vice President of the United States. After weighing all the arguments pro and con I am not convinced that there is an overwhelming need for such an amendment to the Constitution. Amending the Constitution of the United States is an extraordinary action which is warranted only in those instances when there is a preponderence of evidence that a change is necessary to meet the goals of a democratic government and society. Such compelling evidence is wanting in the case of this amendment.

The direct election amendment certainly has a simple appeal when presented as a step toward a more democratic elective system. It is also evident to any student of American history that the electoral college is not a perfect system. On first consideration it is difficult to argue against this amendment which aims to equalize the importance of each citizen's vote for the Presidency.

The tremendous value we place on our Constitution stems from the fact that it has worked and worked well. In the world's history this claim cannot be made for too many constitutions. Over the last 200 years a political process has evolved under that Constitution which has enabled this Nation to enjoy stable Government and a consistent orderly transfer of power. The fact that our political process for choosing the President is a workable system is no insignificant virtue for this Nation. I for one have great trepidation about casting aside a successful if imperfect system for one that could well serve to restructure the entire electoral process, threaten the two party system, and raise problems of a magnitude well beyond those resulting from the electoral college.

Any fair reading of the debate regarding a system of direct election makes apparent that there are telling arguments on both sides of this issue and many serious unanswered questions concerning the potential effects of such an amendment. In the face of this uncertainty I must come down on the side of caution. The Constitution deserves the greatest degree of caution and prudence when Congress considers its amendment.

I do not feel, however, that the Congress should simply ignore the deficiencies of the electoral college. There are other approaches such as a proportional plan which may serve to remedy these defects without incurring a radical reworking of the Presidential electoral process. I fully support the Congress addressing these less sweeping electoral reforms.●

● Mr. NELSON. Mr. President, I rise in support of Senate Joint Resolution 28. After a careful consideration of the arguments on both sides of this question, I have concluded that the national interest would be served by the abolition of the electoral college and the institution of a system of direct popular election of the President.

Since 1966, attempts to abolish or alter the electoral college have repeatedly been made in Congress. Tens of thousands of pages of written documentation have been presented to the relevant committees. Every possible argument for and against abolition of the electoral college has been placed in the Record. And yet a basic uncertainty about what abolition of the college would mean to the American constitutional system persists, which may partially explain why, so far, all attempts to abolish or alter the college have failed.

The central argument which supports Senate Joint Resolution 28 is that each individual vote for President ought to be worth as much as any other vote. The present system effectively disenfranchises all those persons who vote for the candidate who fails to carry a given State, and this is felt to be unfair and undemocratic. Under the present system, it is possible that a Presidential candidate who lost in the popular vote could win in the electoral college. A shift of 9,000 votes in Ohio and Hawaii would have yielded precisely this result in 1976. Proponents argue that the moment such an election occurred, there would be an enormous outcry against the system which permitted such an anomalous result and that the system would eventually be changed. Why not, it is argued, avoid such a possibility by guaranteeing now that henceforward the person receiving the most votes will become President? If the present system is presumed to work only for so long as it produces the same result as would be yielded by direct election, why take the chance of a result which would be deemed a basic denial of democracy by a popular vote majority?

There are profound structural dangers inherent in the structure of the electoral college. Today, all the States and the District of Columbia choose their Presidential electors by direct popular vote. The laws of every State but Maine require that the party Presidential ticket which wins a statewide popular vote plurality be awarded all of the State's electoral votes. Four States require the electors to swear an oath to support their party nominees. Sixteen States have laws requiring electors to vote for the candidates of their party.

However, whether a State or even Congress could require an elector to actually vote for the nominees of his party despite his prior oath or a statute mandating such a vote is constitutionally dubious, given the freedom to vote for whichever Presidential candidate an elector may choose to support which is arguably granted by article II, section 1 of the U.S. Constitution. See *Ray* v. *Blair*, 343 U.S. 214, 230 (1951).

The problem of the "faithless elector" is more than a theoretical one. In 1968, an elector pledged to Nixon voted for Wallace. In 1972, a Nixon elector voted for the Libertarian Party candidate, John Hospers. In 1976, Ronald Reagan received a vote from a Ford elector. In 1977, Senator Robert Dole testified to the Senate Judiciary Committee that on election night, 1976, when it appeared that Ford might carry Ohio and that the election might be decided by a handful of electoral votes, the Republicans began "shopping" for potentially faithless Democratic electors.

The structure of the college poses one additional, potentially crucial problem. Article II, section 2 of the Constitution, as amended by the 12th amendment, requires that the President and Vice President be chosen by a majority of the electors. If no candidate obtains a majority, then the President shall be chosen by the House of Representatives, with each State having one vote. Since the electors can probably vote for whomever they choose and since the electoral ballots are not cast for over a month after the popular vote, it would be quite possible for deals to be made before the electoral college balloting to enable one candidate to achieve a majority.

In 1968, George Wallace would have attempted precisely this kind of bartering of his pledged electoral votes if he had gotten enough electoral votes to potentially throw the election into the House.

The shattering political crisis which might ensue if the Presidency were obtained by enticing faithless electors or by a deal with a third party candidate need not be described at length.

Opponents once again argue that those evils are merely conjectural, and are outweighed by the present benefits afforded us by the college.

Opponents of direct election believe that to remove the States from the process of electing a President would mark one more step away from the concept of the United States as a federal republic composed of States and one more step toward a centralized and tyrannical central government. This perhaps explains why the staunchest opponents of direct election tend to be traditional States' rights conservatives like our distinguished colleague, the late Senator Allen.

Proponents counter with the—to me—convincing arguments that the values of federalism would be amply protected by the continuing existence of State governments, State and local taxation, State courts, and congressional representation organized by States. Further, it is argued that the framers of the Constitution did not intend the college to be a bulwark of federalism, but rather it was a last-minute compromise provision not thought of as vital to the constitutional structure.

Opponents assume that the two-party structure ought to be preserved and argue that what determines the nature of the current two-party system is the present manner of electing Presidents. This reasoning is premised on the argument that Presidential elections are won by carrying States, which necessitates building broadly based coalitions at the State level. The system now has a built-in bias toward inclusionary, moderate politics well suited to the continuing existence of two broadly based national parties open to a wide spectrum of viewpoints.

Also, since the Presidency can only be won by carrying many different States, each with distinctive regional biases and interests, only ideologically moderate parties capable of assembling broad coalitions on the basis of compromise can hope to win.

Direct election, it is argued, would conduce toward ideologically-based third parties, seeking votes across State lines. Opponents also believe that the 40 percent minimum requirement for election would not be high enough to sustain present day two-party competition. While it is obvious from that requirement and from the provision for a runoff election if no one should attain 40 percent in the first round, that a reasonably broad coalition would have to be assembled to achieve victory, opponents maintain that the new system would impel substantial modifications in the two-party system.

Proponents reply that since most American voters in all States are ideologically moderate, any candidate wishing to win the Presidency must also be perceived as moderate. Further, the present system offers two incentives to ideological or regional third parties that direct election would not. First, at present, small ideological third parties can take away crucial votes from candidates in important States. In 1976, in four States, the votes received by Eugene McCarthy were greater than the margin by which Ford defeated Carter. Had McCarthy been able to get onto the ballot in New York, he might well have been able to deny its 45 electoral votes to Carter. Second, regional third parties, like George Wallace's 1968 vehicle, the American Independent Party, can have considerable impact by concentrating their strength in one region of the country where they are actually in a position to carry States and win electoral votes.

In addition, proponents of direct election plausibly maintain that since under direct election every vote would count, genuine two-party competition would be spurred in every State in the Union.

My own assessment is that conservative fears of an ideologized breakdown of American politics caused by direct election are not founded in reality due to the moderate nature of American voters in general and that the present system offers at least as much incentive to third parties as would direct election.

Opponents of direct election make much of the alleged advantages given by the present system to citizens of small States. Because each State, regardless of size, is guaranteed at least three electoral votes, it is believed that this constitutional provision acts as a safeguard to insure that the notorious big city "machines" will not dominate the election outcome.

If electoral votes were awarded proportionately, this argument would have some logic. But they are not. A 10,000 vote margin in Wyoming yields 3 electoral votes. The same margin in New York yields 45 votes. The great irony of this whole debate is that small State conservatives have fought to uphold a system which actually gives advantages to citizens of larger industrial States.

On the other hand, some liberals and liberal organizations, among them the late Alexander Bickel, the ADA, and the editors of the New Republic, have argued that the present system ought to be retained because it favors liberal and minority interests.

However, I do not believe that such considerations ought to be a consideration in making a constitutional decision.

I doubt that direct election would alter greatly either the contours of American politics or the essential nature of American federalism for the well-springs of both lie in sources other than the electoral college. The nature of American politics is determined ultimately by the middle-of-the-road attitudes and beliefs of the American people, and federalism, as noted above, rests on Federal governmental and court structures, not the electoral college.

Direct election would have the advantages of making the presidential selection transparently fair and equitable and would also eliminate the problems of potential faithless electors and popular vote/electoral vote conflict.

My own conclusion is that the systemic dangers inherent in the retention of the present system ought to outweigh any more narrowly-political considerations and that Senate Joint Resolution 28 ought to be supported.●

THE RISKS OF DIRECT ELECTION

● Mr. MUSKIE. Mr. President, I will oppose Senate Joint Resolution 28, the resolution proposing a constitutional amendment to provide for direct election of the President.

I will do so because I believe it is inappropriate to send any new constitutional proposals to the States while two amendments are under active consideration.

And I will do so because I believe direct election, far from being the "democratic reform" its sponsors intend, would have serious destabilizing and undemocratic effects.

We all have the responsibility, I believe, to move with extreme care when confronted with a proposal to change the basic document of our Government. In this case, the proposed amendment to our Constitution addresses the manner in which we choose the President of the United States. It has implications for the future of our federal system and for the shape and nature of our political parties and political activities. If we proceed with this amendment, we risk creating uncertainty in the institutions central to our democratic government and inviting more problems than we will resolve.

The climate for amending our Constitution is not healthy. I expressed my concerns in this regard in a letter to Senator BAYH earlier this year. They bear repeating here.

We live in a troubled political time. Over the past decade we have witnessed a dramatic decline in any popular consensus as to the appropriate role of government in our society. We have seen substantial, well-financed attempts by various narrow interest groups to amend the Constitution to accommodate their particular concerns. These two phenomena are related, of course, and together they pose a political challenge to the document on which our Government is based.

Given the disparate, highly emotional and fluid nature of public opinion toward the role and functions of government, we run a grave risk in sending a third proposed amendment to the State legislatures for confirmation. Legislatures have been debating the ratification of the equal rights amendment for 7 years, with resolution unlikely this year. Congressional action extending the deadline for consideration of that amendment, and attempts by some State legislatures to rescind their ratification, have raised questions about the amendatory process which may ultimately confront the Congress or the courts.

The amendment granting representation in Congress to the District of Columbia was only recently sent to the States for ratification. Debate on the District of Columbia amendment appears, unfortunately, to be influenced by the climate of distrust and disunity. In some cases, its consideration is being linked to proposals to call a constitutional convention.

Other amendments have been proposed to the Congress or the public relating to school busing, school prayer and abortion, among others. While these proposals reflect deeply held beliefs, together they propose substantial changes in the life of our country.

If we send yet another proposal to the States, we will in effect endorse, or at least encourage, those who would take the route of constitutional amendment on any one of a number of narrow issues. And we will risk undermining the deliberation and seriousness which I believe should accompany any proposal to amend the Constitution.

For 200 years, the Constitution has proved to be a uniquely resilient and adaptable blueprint for governance. Has our society become so complex, and our Constitution so inadequate, that we must propose so many changes in such a short time? I think not. Yet we run the risk here of giving that impression to a country already disillusioned about the shape and performance of government.

What is proposed in Senate Joint Resolution 28 is not a simple reform of the process of electing a President, but a fundamental rejection of a major element in the federalist compromise struck when the Constitution was agreed to by the 13 original States.

It is easy perhaps in these days of big Government to forget that the checks and balances were not only applied to the three branches of Government. They were also applied to the individual States.

The Senate itself is designed to be a check on the power of States with large population. The electoral college carries that philosophy through to the process of choosing a President.

It is a system which preserves the rights of each by forcing all to compromise, to move toward the firm ground of an issue, upon which all can stand.

And just as compromise is the essense of legislating in the Senate, so compromise is the essence of Presidential politics.

Each of us can cite examples of the folly of conducting a Presidential campaign based on ideological purity or positions not rooted in the common ground of American thought.

The electoral college, by demanding not simply a majority of votes, but a majority of majorities, is thus a stabilizing influence in Presidential campaigns and in American politics.

A fundamental maxim of scientists concerned with the development of biological and social systems is that "the whole is greater than the sum of its parts." Translated simply to the issue before us, that axiom tells us that the election of a President, by virtue of the fact that we are a complex, organic society, will always involve more than just a simple tally of individual votes.

If we discard the electoral college system, it will not mean that every voter in the country will be given equal consideration in a Presidential campaign. The opposite is more likely.

Political campaigns will be structured around media markets and regional areas without any legitimate political role under our Constitution.

It is inevitable in the world of practical politics that Presidential candidates will "go where the ducks are" and concentrate their campaigns in those areas with greatest population at the expense of the areas and interests of those States and regions with less population.

If the point is simply to maximize the popular vote, candidates will spend their time where that vote can be found, which means the biggest urban centers, without regard to the State or region where they are found. In fact, a candidate would not look at New York, New Jersey, Maryland, Connecticut, Rhode Island, Massachusetts, and Pennsylvania as seven States. He would look at the New York City megalopolis stretching across the seven States and address it and its concerns at the expense of those concerns which are unique to each of the seven States.

Direct election would eradicate the State boundaries which characterize the federal system. This reduction of the State identity in the election of the President is inconsistent with the original constitutional theory which preserves small-State integrity. A natural extension of this theory would be to establish senatorial districts on the basis of population, irrespective of State boundaries, or even to adopt a unicameral.

Further, if the point is to maximize the popular vote, it is inevitable that political party organizations will bow to increased mass media advertising, a trend already in evidence today.

Political parties are particularly effective as a communications medium, reaching voters through local meetings, neighborhood conversations and door-to-door voter canvasses. They reach people in areas otherwise difficult to reach. Direct election would make it less important to reach them than to concentrate advertising dollars and promotional efforts elsewhere.

The fact that a Presidential election might be won in the popular vote, but lost in the electoral college, underscores the importance of the existing system for small States and sparsely populated regions. Of the eight post-World War II elections, four have been settled by a difference of less than 5 percent of the popular vote and three have been settled by a difference of less than 2.5 percent of the vote, including two which were decided by less than 1 percent. Yet none of these elections was decided by a close electoral college vote, which means that the candidates in these elections apparently took pains to gather their votes in as many States as they could.

Further, interest groups who define their political support for a candidate in terms of his stand on "their" issue alone will lose much of the incentive they have now to compromise. Any large minority in our country is now made up of smaller minorities in each State. Indeed, virtually every national majority includes many State-by-State minorities. The present system encourages each minority to broaden its interests, seek allies with other interests, and use political parties to advance their case. The result is stability, consensus and a process by which political goals are tempered and matured.

An inadvertent genius of the State system is the creation of a nation able to deal with national problems at a national level while preserving a sense of individual identification with a local unit of government, the State, which is supposed to address issues of fundamentally local concern. One need not venture far from Washington to encounter real cases of the difficulties which national solutions create when applied to what are essentially local problems.

The legitimate rich diversity of our people, customs, and laws is inextricably tied up in public consciousness with State identity. We speak of going to Florida for the winter or Montana or Colorado for the mountains, or New Mexico or Arizona for retirement. We think of Texas in a special way, as well as Maine. Other States have very special identities which both derive from their people, terrain, and culture, and reinforce those very values and identities by the existence of the State itself.

All of this diversity and local integrity will be eroded by a system for picking the Chief Executive of the country—the only national official for whom the people of all States vote—on a basis which pretends the States do not exist.

Mr. President, I have in the past supported the concept of direct election. I was wrong.

The Constitution is not perfect. But I am far from confident that our present vision of how it should be perfected is clearer than our Founding Fathers. I do not see the system of electors creating problems for our country. I do see problems ahead if we choose to abandon the current system. There is no reason to change, and less reason to change to direct election.

I will vote against Senate Joint Resolution 28.

Mr. President, I want to share with my colleagues an excellent editorial in the New York Times of Monday July 9, and ask that it be printed in the Record at this point.

The editorial follows:

A VOTE FOR THE FEDERAL PRESIDENT

A strong alliance of reformers is again pushing the idea that we elect our Presidents by direct popular vote, without the filter of an Electoral College. Counting every vote equally sounds so simple and attractive that normally cautious politicians find it difficult to resist. A Constitutional amendment to abolish the College reaches the Senate this week with an outside chance of obtaining the necessary 67 votes.

One would think that the reformers' zeal for "one person, one vote" might as logically lead them to abolish the Senate. If any of our Federal institutions offends arithmetical justice it is the one that grants the same two votes to 22 million Californians and 650,000 Nevadans. For reasons that Senators should value, these United States have found it useful and in no sense undemocratic to retain some imbalance and geographical color in their Federal system. Simplicity is not the synonym of democracy. Voter parity is not the only source of stability. A Presidential election that is federal is not therefore unsound.

Every youngster understands our rules for electing a President. The winner of the popular vote in every state receives its total "electoral vote." Each state's electoral vote equals the size of its delegation in Congress; as in the Senate, this arithmetic favors smaller states. But in a close election, there is compensation for voters in more populous states. As urban minorities have recognized, winning a large state by a slight margin yields a richer prize than winning a small state by a landslide.

The unplanned effects of this system have been mostly good. It turns the contest for President into 52 races (including the District of Columbia and Puerto Rico). It makes it impossible for candidates to write off the less populous regions or overcrowded city slums; both count for slightly more than their numerical weight. Moreover, the system blunts single-issue fury. Citizens who oppose gun control or abortion cannot simply unite nationally to elect, or defeat, a President; they must join, state by state, with other voters moved by other passions.

This necessity for compromise, in turn, holds most voters inside our two federal parties, and the parties are thus held near the middle of the political road. To elect a President, even arrogant majorities must be solicitous of minorities; even alienated minorities must work with majorities. The system encourages moderation in radical times and protects against parochial passions. It discourages minor parties yet rewards their protest with major-party attentiveness. It is widely understood and accepted. It is a bond with history, a source of stability.

So why abandon it?

Because to many a "direct" and "popular" election sounds more democratic. They also want to avoid the largely theoretical risk that electoral votes might elect a candidate who lost the popular vote. That could happen—but it hasn't happened since 1888.

To guard against that small risk, Senator Birch Bayh and 38 cosponsors of his amendment would abandon all the advantages of federal voting and run dangerous new risks. Knowing that a direct election would encourage third and fourth and fifth parties to run their own candidates, they would let a vote of 40 percent determine the winner. Sensing that minor candidates might skim off enough votes to leave no one with even 40 percent, they would then run a second election between the two top contenders, who had maybe 37 and 32 percent of the original vote. Just imagine their sordid barter for the support of the first-round losers.

The clamor for abolition of the Electoral College was born in the fear of George Wallace in 1968. Some thought the strident Alabaman might parlay a mere 10 percent of the popular vote into enough electoral votes to deny Richard Nixon or Hubert Humphrey a majority. And because electoral votes are cast by real people in the Electoral College, he might have traded their ballots for a heavy price. Mr. Nixon, especially, might have paid well to avert a deadlock that threw the choice to a Democratic House of Representatives.

It didn't happen. And the chances are that Mr. Wallace would have won still more votes in the first round of a "direct" election—and thus enormous influence in the runoff. But that is only one of the flaws of the proposed reform. The danger of tawdry trading in the Electoral College is easily averted without any radical change. The desirable amendment would abolish the flesh-and-blood electors yet retain the counting of electoral votes. Why change what works?●

The **PRESIDING OFFICER**. All time has expired.

The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The **PRESIDING OFFICER**. The joint resolution having been read the third time, the question is, Shall it pass?

Mr. **HATCH**. I ask for the yeas and nays.

The **PRESIDING OFFICER**. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER**. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **STEVENS**. I announce that the Senator from Oregon (Mr. PACKWOOD) is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "yea."

The **PRESIDING OFFICER** (Mr. BAUCUS). Have all Senators voted?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 161 Leg.]

YEAS—51

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Boren
Burdick
Byrd, Robert C.
Chafee
Church
Cranston
Culver
Danforth
DeConcini
Dole
Durenberger
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatfield
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Nelson
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sasser
Stafford
Stevenson
Stewart
Tsongas
Williams
Zorinsky

NAYS—48

Biden
Boschwitz
Bradley
Bumpers
Byrd, Harry F., Jr.
Cannon
Chiles
Cochran
Cohen
Domenici
Durkin
Eagleton
Goldwater
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Long
Lugar
McClure
Melcher
Morgan
Moynihan
Muskie
Nunn
Percy
Pressler
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stone
Talmadge
Thurmond
Tower
Wallop
Warner
Weicker
Young

NOT VOTING—1

Packwood

The **PRESIDING OFFICER**. On this vote there are 51 yeas and 48 nays. Two-thirds of the Senators present and voting not having voted in the affirmative, the joint resolution is not passed.

Mr. **THURMOND**. Mr. President, I move to reconsider the vote by which the joint resolution was rejected.

Mr. **HATCH**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEATH OF ARTHUR FIEDLER—"MR. POPS"

Mr. **KENNEDY**. Mr. President, the death of Arthur Fiedler today at the age of 84 has deprived Massachusetts and the Nation of one of its best loved and most talented citizens.

In his long and brilliant career, Arthur Fiedler did more than any other American in this century to bring music out of the narrow confines of the concert halls and to make it available to the broad spectrum of the American people. He believed that it was not necessary to wear a tuxedo or formal gown to enjoy the great works of classical music. As he once eloquently explained:

> I believe people should have an opportunity to enjoy fine music without always having to dip into their pockets. They enjoy fine books at libraries and paintings at art centers—so why not music.

From their immensely popular beginning in 1929, exactly 50 years ago this summer, his summertime concerts, held outdoors on the Charles River and offered free to all who wanted to come, grew to be a symbol of the American spirit—the most democratic symphony concerts anywhere, he said.

Those concerts and the Boston Pops Orchestra itself will live as a perpetual monument to Arthur Fiedler's dedication to music, his zest for life, and his boundless energy.

My wife Joan and I, and all the other members of the Kennedy family have enjoyed countless hours of Arthur Fiedler's music. We share the sorrow of millions of Americans at his passing.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Current Biography Yearbook for 1977 that paints a very warm and human portrait of Arthur Fiedler, and also an article by Mr. Fiedler himself, written over 30 years ago in the Atlantic Monthly, describing his philosophy and revealing a little of the magic of his music and his magnificent common touch.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Current Biography Yearbook 1977]

ARTHUR FIEDLER

A colorful personal style of gusto and polish and a flair for playing contemporary popular music with symphonic subtlety and volume have helped to make Arthur Fiedler, more familiarly known as "Mr. Pops," one of the most prominent personalities on the American music scene for almost half a century. Now an octogenarian, he is the country's longest-reigning permanent symphony orchestra conductor, having assumed directorship of the Boston Pops in 1930. Since that time Fiedler has developed an exceptionally wide-ranging repertoire of classical, semiclassical, and popular music and has aroused such spirited enthusiasm for his programs of light music in a convivial "Continental Cafe" atmosphere as to make the Boston Pops the archetype for many undertakings by orchestras throughout the United States. The energetic conductor rounds out his schedule of ten weeks of Boston-based concerts each spring and some 200 yearly guest appearances at home and abroad with recordings and radio and television presentations.

Arthur Fiedler was born in the Back Bay

section of Boston on December 17, 1894, the only son among the four children of Austrian-born Jewish parents, Emanuel and Johanna (Bernfeld) Fiedler. Because his ancestors included generations of musicians, primarily violinists, his family has acquired the surname Fiedler, derived from the German for "fiddler." His mother was an excellent amateur pianist; his father, a Gold Medal graduate of the Vienna Conservatory, had moved to the United States in 1885, played in the first violin section of the Boston Symphony Orchestra, and was an original member, as second violinist, of the famed Kneisel Quartet, a string ensemble founded in 1885. The Fiedlers named their son after a family friend, Arthur Nikisch, who conducted the Boston Symphony Orchestra from 1889 to 1893.

At this father's insistence Arthur took violin lessons in childhood, during the years that he attended the Prince School and Martin Grammar School. He had just completed his third year at the prestigious Boston Latin High School, in 1910, when his father, having retired from the Boston Symphony, returned to Vienna with his family. Within a year the Fiedlers had resettled in Berlin, where Arthur Fiedler accepted an apprenticeship in a publishing firm. Soon disenchanted with business, he took up his father's suggestion that he become a professional musician, at first reluctantly, as he recalled his early training in piano and violin. "It was just a chore, something I had to do, like brushing my teeth," he told Stephen Rubin in an interview for the New York *Times* (April 2, 1972).

In the fall of 1911 Fiedler was one of thirteen students—out of fifty-four applicants—accepted into Berlin's exclusive Royal Academy of Music. There he studied violin under Willy Hess, former Boston Symphony Orchestra concertmaster; chamber music under Ernst von Dohnanyi, the Hungarian pianist and composer, and conducting under Aro Kleffel, the conductor of the Cologne Opera House. At seventeen he made his debut as a conductor, leading an orchestra in a program of selections from Mozart and Mendelssohn. Appearances in his father's Berlin String Quartet, sporadic jobs in theatre orchestras and cafés, and teaching rounded out his musical experience.

When the outbreak of World War I brought the risk that, regardless of his citizenship, Fiedler as the son of a native Austrian might be drafted into the Austrian armed forces, he left Europe for the United States, arriving in Massachusetts in the summer of 1915. During the early fall he worked for a short time as a violinist in a Springfield hotel before accepting an invitation from the conductor Karl Muck to play second violin in the Boston Symphony Orchestra. He made his first Symphony Hall appearance on October 15, 1915. When Fiedler tried to enlist in the army after the United States entered World War I, he was rejected for being short-statured and underweight. Drafted in the spring of 1918, he served only about two weeks before he was discharged for flat feet. On his return to the Boston Symphony, he was assigned to the viola and afterward was switched from time to time to other instruments—piano, organ, violin, celesta, and percussion—so that he earned a reputation as the orchestra's "floating kidney." He once remarked to Edith Efron, who interviewed him for *TV Guide* (July 24, 1971), "I did everything except sweep the floors."

Even though Fiedler proved to be a superb instrumentalist, he continued to feel, as he had felt when he studied at the Berlin academy, that he would find his greatest satisfaction and excitement in conducting. In the mid-1920's he assumed the directorship of two respected Boston musical groups, the Cecilia Society Chorus and the MacDowell Club Orchestra. From the ranks of the Boston Symphony he drew twenty-two musicians to form in 1924 the Boston Sinfonietta, a chamber orchestra that from its opening concert in Plymouth, Massachusetts on October 30, 1925 through its many years of touring New England and the Eastern seaboard was acclaimed for its daring and virtuosity in performing seldom-heard compositions.

The unexpected resignation of conductor Agide Jacchia gave Arthur Fiedler the opportunity he wanted in early July 1926 to conduct a performance of the Boston Pops Orchestra. A music reviewer for the Boston *Herald* (July 5, 1926) was impressed by the "uproarious reception" accorded Fiedler, a "salvo of applause that lasted fully five minutes." But despite rumors of his forthcoming appointment as Pops leader, Fiedler was bypassed for an "international figure," the Italian conductor and composed Alfredo Casella.

Turning elsewhere, Fiedler began directing Boston University's student orchestra and supervising chamber music classes there. In 1927 he started a campaign to finance free open-air concerts that he promoted as programs of "symphonic music and popular tunes played by symphony musicians." He later explained in an interview for Newsweek (July 12, 1948), "I believed people should have an opportunity to enjoy fine music without always having to dip into their pockets. They enjoy fine books at libraries and paintings at art centers—so why not music?" Disregarding the skepticism of some government officials—and of the local police captain, who predicted, "This'll be nothing but a battlefield between the bums of the North and South Ends"—Fiedler assembled a forty-six-member orchestra from among his fellow Boston Symphony players and oversaw the construction of a crude $2,500 wooden shell along the Charles River Esplanade in the heart or Boston. Five thousand persons attended the opening concert on July 4, 1929, when strong winds made the musicians' scores fly about "like sea gulls," as the conductor recalled in an article he wrote for the Atlantic Monthly (September 1943). The five-week season through August 7 scored a success with audiences totaling some 208,000 persons.

Since 1929 the Esplanade Concerts have been an annual event, although the season was later shortened so that orchestra members would be free for the Berkshire Music Festival at Tanglewood. The programs originally consisted mostly of operatic overtures, marches, light classic, and excerpts from Broadway musicals, but over the years Fiedler gradually increased the proportion of serious music, occasionally including complete symphonies. In 1938 he established morning Esplanade Concerts for children that feature young soloist. The granite and teakwood Edward Hatch Memorial Shell was constructed in 1940 to serve as a permanent sounding board for the summer concerts.

One of the first Americans to challenge the "European conductor syndrome," Arthur Fiedler became in January 1930 the leader of the Boston Pops. Alfredo Casella's steady diet of Italian operatic overtures had failed to maintain public enthusiasm for the May–June seaon of "lighter music" that the Boston Symphony Orhcestra's founder, Major Henry Lee Higginson, had instituted in 1885 to assure his musicians—except for a few principal players—additional income. Music critics enjoyed Fiedler's first performance as permanent Pops conductor, on May 7, 1930, and by the close of the season he had become the toast of Boston.

For more than four decades the "Pops Potentate" has demonstrated his expertise in matching the repertory of the Boston Symphony Orchestra in its more festive aspect to Symphony Hall's informal spring setting, where the audience sits at tables for five and waitresses serve snacks, wine, beer, and purplish lemonade dubbed "Pop Punch." Discussing his efforts to achieve an imaginative combination of classical, semiclassical, and popular music, Fiedler wrote in the Atlantic Monthly (September 1943), "I often feel like a chef planning a meal. There should be hors d'oeuvres, a light course, a substantial entrée, and so on through the musical menu. Variety is the spice we want."

An astute showman who carefully notes selections that please his listeners, Fiedler varies the list of several hundred works the orchestra plays each season by introducing recent hits and new pieces by American composers, in whom he is always interested. Along with the music of Wagner, Chopin, and other classical composers he has presented surprises like Howard Cable's "Jingles All the Way" suite based on radio commercials, a symphonic arrangement of the Beatle's hit "I Want to Hold Your Hand" (complete with handclapping and "yeah, yeah, yeah" from the string section), and Joseph Raposa's songs from the children's television program *Sesame Street*. Fiedler made the Pops the first large orchestra in the country to perform rock 'n roll on a concert program. The music critic and composer Virgil Thompson once observed that the repertory of the Boston Pops "is the bridge between simple song and the high art realms of music. . . . [The musicians] just play *everything*, and play it beautifully, and everybody loves them."

Although, as Helen Herman pointed out in *Good Housekeeping* (March 1954), Arthur Fiedler is "as indigenous to Boston as the cod [and] the Cabots," he is much more than a local institution, having conducted many leading symphony orchestras in the United States and Canada since the 1930's. In the summer of 1951 he conducted several Pops concerts with the San Francisco Symphony in that city's Civic Auditorium with such success that he has returned there annually ever since. Determined to carry the Pops sound across America, he organized in 1952 a separate Boston Pops Tour Orchestra because his regular Pops-Esplanade players were committed to the Boston Symphony Orchestra season. During its first ten-week cross-country tour in early 1953 the newly created orchestra gave sixty-five concerts in sixty-one cities, a rugged pace that its leader emulated in later years.

Since 1957 the Pops maestro has appeared as guest conductor in Argentina, Israel, Japan, South Africa, and New Zealand. In the spring of 1971 the regular Boston Pops Orchestra performed abroad for the first time, touring the continent of Europe to somewhat mixed receptions. But in London, as Roy Hemming reported in *Retirement Living* (April 1976), "the audience rose to its feet to cheer a performance of a medley from the rock musical *Hair*." A year later the Pops embarked on its first tour of the United States, making its New York debut at Carnegie Hall on April 6, 1972.

Many thousands of listeners have heard Fiedler and the Boston Pops on radio and television, especially on the series of concerts, *Evening at Pops*, presented by National Educational Television for the past six years. He also appeared in a musical sequence of Louis de Rochemont's Cinemiracle film *Windjammer* (National Theatres, 1958), in which the Boston Pops performed Grieg's Piano Concerto in A Minor with a merchant marine cadet as soloist.

The conductor's vast discography has greatly increased the public's familiarity with the "Fiedler style." From July 1935, when he and the Pops began recording for what was then the RCA Victor Company to the early 1970's, when they switched to Deutsche Grammophon, their record sales totaled nearly 50,000,000 discs. The Pops' version of "Jalousie"—a hitherto unknown tango by the Danish composer Jacob Gade—became the first record by a symphony orchestra to surpass a million in sales.

Arthur Fiedler explained his great approval among younger listeners in his interview with Stephen Rubin: "You become a sort of Pied Piper of Hamelin. Kids follow your name. They think, if Fiedler's doing it, it may be good." For some of the Pops album covers he poses in appropriate eye-catching attire, as Santa Claus, Yankee Doodle Dandy, or some other recognizable figure. Among his best-selling recordings are *Tchaikovsky: The Nutcraker, Offenbach: Gaité Parisienne, Greatest Hits of the '70's*, and *Greatest Hits of the 20's*.

Despite his undisputed box-office success and worldwide abundance of fans, some critics, as well as several fellow conductors, regard Fiedler as a very able technician rather than a first-class interpreter of serious music; others even consider him a charlatan, a vulgar popularizer. Dubbing such musical purists "culture-vultures," Fiedler has retorted, as Edith Efron quoted him in *TV Guide*, "There's a great deal of snobbism in music, . . . as if you can only love Shakespeare and Proust, but not O. Henry, and even *Playboy!* Well, I have trained myself to understand all *kinds* of music. *I'm* not like a horse with blinders on!" On the other hand, the conductor told Rubin, "I am cursed that wherever I'm engaged they want a program like the Pops. It's rare that they want a real symphony program. And perhaps they're right. But every clown wants to play Hamlet."

America's highest civilian medal, the Medal of Freedom, presented to him by President Gerald R. Ford in January 1977, tops a long list of awards that Fiedler has collected. Special tribute was paid him in 1953 during his twenty-fifth anniversary year as Esplanade conductor when Massachusetts Governor Christian A. Herter named a footbridge over Boston's Storrow Drive in his honor. To commemorate his 1954 silver jubilee as "Mr. Pops," San Francisco made him an honorary citizen and France awarded him the Legion of Honor. A proclamation from the Boston Symphony Orchestra trustees hailed his fifieth anniversary year with that orchestra in 1965. The fanfare marking the musician's seventy-fifth birthday on December 17, 1969—proclaimed Arthur Fiedler Day in Massachusetts—included speches, the striking of a commemorative silver medal, and gifts ranging from a Dalmatian puppy from his orchestra to a full-sized late-1930's-vintage fire engine from his family. The Boston City Hall ceremony commemorating his eightieth birthday in 1974 featured a 500-pound cake. From the magazine *Stereo Review* he received a special award in 1977 for outstanding musicianship. He holds almost a score of honorary doctorates.

On January 8, 1942 Arthur Fiedler gave up what he once called "a very charming bachelorhood" to marry Ellen M. Bottomley, a debutante from a prominent Boston family who was twenty years younger than he and whom he had first met when she was six. The Fiedlers have two daughters, Johanna and Deborah, and a son, Peter, who became the third-generation Fiedler to play at Symphony Hall, leading his rock-band "Rubber Dog Revue" there in 1971. The Fiedlers' rambling house in the Boston suburb of Brookline includes rooms for the conductor separated by a thick soundproof door.

Chosen in the late 1930's as the first "Man of Distinction" in the Lord Calvert whiskey advertisement, Fiedler is a strikingly personable conductor who stands five feet eight inches tall and has dark eyes, white hair, and a military mustache. Stephen Rubin thought he resembled an "aging Ivy Leaguer" in his "Very Fifties Brooks Brothers" conservative clothes, and Helen Herrmann saw in him the "charm of a Parisian, the drive of a New Yorker, and the accent of Harvard Yard." After Gail Joyce Miller interviewed him for the *Christian Science Monitor* (July 6, 1973), she wrote, "There was a mellow kindness and an indomitable twinkle in his presence."

Arthur Fiedler's desire for excitement has various outlets aside from conducting—a love for auto racing, boxing matches, and especially "sparking" or fire-chasing, an avid interest since boyhood. He collects fire-fighting implements and hats and has been named an honorary fireman in over 350 cities. Other hobbies include collecting antiques, ship models, old woodwind instruments, and musical scores. One of the delights of traveling for him is sampling the finest cuisines all over the world.

[From the Atlantic Monthly, September 1943]

MUSIC AL FRESCO

(By Arthur Fiedler)

[NOTE.—Conductor of the Boston Pops Orchestra, as well as originator and conductor of the Esplanade Concerts, ARTHUR FIEDLER has the distinction of being the only conductor that everybody calls by his first name. A native of Boston, he attended the Boston Latin School and the Royal Academy of Music in Berlin.]

One summer day after the Esplanade Concerts had started, I was driving in Boston in an open car with Mrs. Fiedler. We had to stop at an intersection while a large and smelly garbage truck rolled by. A workman perched on top of the truck stared down at us. Then his stained face broke into a smile and he waved. "Hi, Arthur! How are you?"

Like uncounted thousands, he had been to our free concerts on the Charles River Embankment, and he was my friend. Mrs. Fiedler was a little startled, but now she has grown accustomed to having me recognized by all manner of men in all sorts of places. And I am glad to have it so, for the Esplanade Concerts are completely democratic—perhaps the most democratic symphony concerts anywhere. The concerts have always been free. We have permitted no ropes, walls, or gates. The listener can sit on the grass or he can rent a folding chair for a dime, but he has to place it himself.

On concert evenings the little sailboats draw in quietly toward the shore as the sunset tints the river and the sky. The people fall silent, the traffic noises seem to recede, and the music soars free on the evening air. As the light dims, the ducks and gulls circle lower, the evening star comes out, and the moon rises beyond the buildings. There is music in a beautiful setting.

In 1929, when I started these concerts, my friends were politely skeptical about the audience. "Free symphony concerts? People won't come to anything but band concerts out of doors."

The officials of the Metropolitan District Commission were more outspoken. A vivid memory is the day I went out with the chairman of the Commission and his captain of police to look over the site I had chosen. It was several acres of tree-bordered lawn between Embankment Road and the Charles River, in the heart of old Boston.

The captain who went with us—the late Albert Chapman—said gruffly, "I think your idea is half-crazy. This'll be nothing but a battlefield between the bums from the North and South Ends. We'll have to use the wood. I haven't enough men to handle it."

But in time he even came to boast that *his* crowds were different—the best-behaved and the most honest. "There's never been a pocket picked here," he would say. "When ladies get dreamy over the music and leave their purses, the finders turn 'em in to my men. Umbrellas get turned in, too. Imagine that!" And the crowds *are* different—because good music brings out the best in people.

"When are you going to play 'Turkey in the Straw'?" Captain Chapman was always asking. And I made sure his favorite piece turned up often.

In making up programs, I often feel like a chef planning a meal. There should be hors d'oeuvres, a light course, a substantial entree, and so on through the musical menu. Variety is the spice we want: after a bombastic piece, we play some little thing. I am always looking for contrasts. In the beginning I started with light and semi-classical programs. Then I began slipping in an occasional movement from a symphony—and I found that people liked it, even though they had never heard symphonies before. One year I played an entire Beethoven series, another year Brahms.

We can tell when a piece takes hold of the audience by the quiet and the attention they give just as much as by their applause. The applause escapes in the open, but the hush is like that in a cathedral. Even dogs and babies in perambulators stay quiet during the music—though the dogs will bark excitedly when the clapping starts.

For the very first Esplanade Concert of all—July 4, 1929—the wind was decidedly against us. It literally pitched our music into the river. The piece, I recall, was the "Merry Wives of Windsor," and its merry pages flew about like sea gulls. Though the audience scattered to retrieve the music, and some musicians had to rely on their memories, we continued to play without interruption.

One rainy night when the wind drove rain into the concert shell so that the violins were endangered, the wind players promptly moved down and formed a barrier in front of the strings. They played with their backs to the rain—and the audience. And even though the grouping was unconventional and they took a wetting, the concert went on.

On another occasion at concert time the rain was coming down hard, yet about five hundred listeners stood hopefully in the forepart of the grassy "platter." I sent someone out to thank the audience for its interest—and to say that I thought it best to cancel the concert. After the announcement someone in the dripping ranks called out. "We'll stay if you'll play." The rest took it up as a chant. Who could resist? We went on with the concert and before long the rain stopped.

I vividly remember the "invasion" nights, when we have visits from flying ants, midges, and mosquitoes. Possibly the music attracts them—or the bright lights. In my gasping moments I have swallowed many an insect. Players of wind instruments have found themselves munching mosquitoes as they press their lips to their mouthpieces. And when we turn the pages of our music, we find assorted pressed specimens as mementos of previous concerts on the riverbank.

Our first shell was a wooden structure that cost $2,500. We stored our instruments in a skating house. Our second shell was acoustically sound and beautiful under night lighting, but was ugly by day and inconvenient for the orchestra. It used to store up heat through the day and shed it at night: with the lights on, the stage was an inferno. But the audience enjoyed nature's air conditioning—cool breezes from the river. Today we have the $300,000 Hatch Memorial Shell of permanent construction: granite lined with teakwood. It still seems a little unreal to me.

The acoustical properties of the first shells were good but occasionally freakish. Wind and humidity cause some peculair effects. Sometimes we played a resounding chord, only to have it reflected back loudly to us in the next measure. Then there was the time when one of my flute players was announcing an encore—the introduction to the third act of Lohengrin. The text was in German. He started reading it, got stuck, and said in what he intended to be a sotto voce aside, "Oh hell! I don't know what it is." It came out *magno voce*. The audience laughed.

All our shells have pulled sounds in as well as sent them out. At certain points on the stage we can catch conversations from distant places in the audience. One night we heard a clear voice commenting. "I can't see why those musicians play for him. I understand he doesn't even pay them."

Certain people manage to sit in the same spots night after night. I recall the eccentric elderly lady who, when we played the "Beautiful Blue Danube," got up and waltzed before the front row. The next night, in gratitude, she put a chocolate bar on every musician's chair. It was a hot night, and the chocolate melted. The cleaners had a good many pairs of flannel trousers the following day.

In the early years, so many youngsters used to steal up close to the shell and listen so attentively that in 1938 I planned a morning series especially for them. Each season since then we have run a weekly concert for children—the largest anywhere. We have had as many as ten thousand on those Wednesday mornings.

Because many of the children are too young to read a program, we have an announcer say a few words about each composition. But we want to avoid having the children consider this a school. After all, it is their vacation and we want them to enjoy it. I select lively, pictorial pieces, a Mozart minuet, a "Nutcracker Suite." Children prefer things like variations on "Pop Goes the Weasel," waltzes, and marches.

I used to do my own announcing for the children's concerts, but evidently I spoke too fast or not distinctly enough. One day when the children were crowded right up to the low foot of the second shell, I announced: "Now we'll play 'Up the Street'." Perhaps they thought it was a new game, or perhaps they thought I said "Up the Stairs." Anyhow they took it as an invitation. They promptly stood up and marched up the stairs and simply swarmed all over the stage—around my legs, in and out among the players. There were hundreds of them, and they got very much in our hair.

It is a delightful sight to see the children arrive. Over here come little slant-eyed dolls from Chinatown, over there a little black cloud of pickaninnies. Some groups of very young children come down the paths with hands linked or even tied together, so that they won't get lost.

In the first few years lost children were more frequent than they are now. We used to have the trumpeter play a fanfare and we would announce that so-and-so was lost. Then he always turned up.

Over the years I have come to know many of these children and have watched them grow up. I like to think that the Esplanade Concerts have been a valuable and entirely pleasant part of their education. Where else can children go to hear good symphony music outdoors and free? I wish there had been such concerts when I was young.

WHOSE CHILD IS THIS, ANYWAY?

Mr. HUMPHREY. Mr. President, most Americans these days are greatly disturbed at what seems to be the increasing usurpation of legislative and executive powers by the judiciary. Many American parents are greatly alarmed by the usurpation by the judiciary of what are generally known as parental rights and responsibilities.

I should like to read into the RECORD an editorial which appeared in this morning's Washington Post by Joseph Sobran which addresses this issue, entitled "Whose Child Is This, Anyway?"

There being no objection, the editorial was ordered to be printed in the RECORD as follows:

WHOSE CHILD IS THIS, ANYWAY?

(By Joseph Sobran)

Why is it that every time somebody asserts a new right, all of us wind up less free than we were before?

The Supreme Court has now ruled unconstitutional a Massachusetts law requiring minors to get parental approval before obtaining an abortion. Though divided, the majority seems to think a girl should be able to get the necessary permission from a judge who deems her "mature." And if the judge deems her immature, he himself should be the one to decide whether the abortion is in her best interest.

Leave aside the ethics of abortion. Leave aside the question how these minutiae are quarried from the Constitution. Let us simply consider what the court's ruling implies about the rights of parents, the relations of parents and children, and the scope of state power.

In the first place, the court holds that the girl who wants an abortion owes no obedience to her own father and mother. In the second place, it holds that she does owe obedience to the court, which has the discretionary power of deciding whether she may or may not make the abortion decision for herself.

To put it another way: The court assumes the right to act in loco parentis—while denying parents themselves that right.

The girl herself has no new freedom. She has, it is true, a right to defy her parents, but not to defy the court. She has merely exchanged submission to her father and mother for submission to some judge who barely knows her.

Justice Byron White, the lone dissenter, asked how on earth the Constitution can be construed to deprive parents of the right to decide whether their minor child shall have surgery. It is a question that should give pause even to those who regard abortion as a valid freedom.

So-called children's rights mean, in practice, increased state power over parents. In Sweden, it is now illegal to spank your own children. Whether this makes children freer in any real sense is very doubtful. What is certain is that the state has a new jurisdiction over the home and the family. In effect, Swedish parents are being whittled down into minor-grade civil servants. That is the shape of things to come in the totally bureaucratized society our social reformers aspire to.

Every right requires some agency to enforce it. The perennial political problem is how to establish a power to protect our real rights, while ensuring that such power won't itself be used to violate our rights.

A peculiarly modern problem is this: that many of the so-called "rights" we enjoy—or are about to have inflicted on us—are not protections against power, but claims against the freedom of our fellow citizens for the discretionary use of their own property.

They do more. They create a power in the state to set explicit standards for what was formerly private behavior. Every citizen becomes answerable to some public authority, usually a federal bureaucrat, for an ever-broader range of personal decisions.

The last stronghold of private freedom is the family. A few weeks ago, the court recognized this when it held that parents have the right to commit their children to mental hospitals. In so ruling, it acknowledged that this is a decision better made by parents than by public officials. It would be unfair, therefore, to characterize the court simply as an enemy of the family as an institution.

Nevertheless, the court is afflicted by the general confusion about the public and private spheres. In limiting the range of private discretion—even in the name of "rights"—it limits our freeedom. This is nowhere more obvious than in its increasing tendency to treat the family as nothing but the lowest administrative level of the state.

By conferring on children so-called "rights," the state actually alters the structure of the family. Some think this is a fine thing: Reform should know no bounds. But we have come a long way from the days when it was assumed that there were some things no man could put asunder. And what has been the result of all our tampering with the traditional family? Soaring rates of divorce and abortion, a tripling of the number of children who grow up with a single parent. If there is any evidence of a corresponding increase in human happiness, I have yet to hear of it.

Mr. HUMPHREY. Mr. President, I have read that article into the RECORD, because of my own concern, and the very great concern of my constituents, about the growing activism of our court systems, not only the Supreme Court, but the inferior courts as well, growing concern about the activism, and the great concern about the tendency of this administration to nominate to the bench persons who describe themselves as child advocates and radical civil libertarians. As a matter of fact, Mr. President, in a recent issue of Newsweek magazine, I believe it was, or one of the major news magazines, it was reported that in addition to the usual screening by the American Bar Association, the White House is now subjecting its judicial nominations to a screening by a panel made up of members of Common Cause, of the American Civil Liberties Union, and various minority and women's rights organizations.

It is quite clear, Mr. President, that the administration is attempting to fill most of the seats newly created, some 150, approximately, with judicial activists, precisely what we do not need in this day and age given the recent usurpation by the courts of executive and legislative powers, and the invasion by the courts in matters that are properly the jurisdiction of the family.

I hope that what I have said will be taken to heart by my colleagues, because we are probably going to be deciding on nominations of this very kind within the next few weeks.

INSTANT CURES FOR INFLATION

Mr. HELMS. Mr. President, in Barron's Weekly on May 7, 1979, there was a splendid editorial by James Grant entitled "The 7-Percent Solution."

Mr. Grant offers some cogent observations concerning the rhetoric presently being used concerning the problem of inflation.

His particular target is the specious argument of universal restraint; that is, if everyone would just hold down prices and wages individually, inflation would go away. This is based on the false assumption that wages and prices go up, because of individual greed. In fact, of course, inflation is caused by no one individually, but by Government itself. Inflation is, by definition, an inordinate increase in the money supply. Period. It is caused not when wage or price levels rise.

Inflation causes those higher price levels. So-called restraint programs such as the present voluntary guides—which in fact are not voluntary—only serve to distort the economy and cause greater price level increases later on.

Mr. President, I ask unanimous consent that the editorial be printed in the Record at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The 7-Percent Solution: There Is No Magic Potion to Cure Inflation

(By James Grant)

General Motors, which knows a thing or two about making cars and trucks, lately has begun to manufacture essays for magazines. This is an odd bit of diversification, for the essay is a hand-made product which has never been satisfactorily mass-produced. It is true that the literary market is unregulated and that labor is abundant, if sometimes surly and raffish, but the trade is hard and grudging with money. In any case, General Motors recently published its views on the Administration's voluntary wage and price guidelines. The burden of the eassay, which evidently was drafted by press agents, revised by clergymen and polished by lawyers in the single hope of avoiding offense to any member of either side of the First Family, is that the company will play ball. ("Because the President wishes it so. . . .") The piece is headed "How to Slow the Rate of Inflation" and is crowned by the slogan "A voluntary program will work if everyone volunteers."

But it won't. Hardly anyone who bothered to get out of bed in the morning between 1971 and 1974 can doubt that mandatory controls did more harm than good. Yet voluntary controls, insofar as they hold down prices artificially, must in tme cause the same shortages and dislocations as the mandatory kind. If everyone volunteers, the effect is the same as if the scheme were compulsory, and guidelines overnight become indistinguishable from controls. Thus only an ineffective voluntary regime can hope to succeed—succeed in not making matters worse—whereas "effective" guidelines, because they so closely resemble mandatory controls, must necessarily work the same mischief.

Everyone, as we say, won't volunteer. The United Rubber Workers Union, which is locked in contract talks with Uniroyal, went to court last Friday to seek a restraining order against the Council on Wage and Price Stability. The union charged the Council with meddling and said that it would have made a deal already except for threats of reprisals from the White House. The Council, for its part, denied it had intervened but added significantly that if the final contract does exceed the allowable standards, "we will do everything we can to protect the public interest." The union's contract motion was denied. Meanwhile, George Meany, patriarch of the AFL–CIO, has called for an end to the guidelines and a return to full-fledged coercion, so that everyone can suffer together. The U.S. Industrial Council, which represents a free-market constituency of 5,000 corporations, has asked that it be included out.

But big business, by and large, has beaten a path to Washington. In February, some 300 of the nation's largest 500 firms hadn't endorsed the Council guidelines; by contrast, today all but 53 have agreed to comply. In general, the guidelines ask that firms hold their price increases to half a percentage point below the average annual increase in 1976–77, at the pain of public rebuke or the loss of government contracts. If "uncontrollable" costs make that impossible, a company may seek the alternative profits test, which restrains margins this year to the best two of the past three fiscal years. In the case of Girard Co., for example, parent of Girard Trust Bank in Philadelphia, the rules have obliged it to limit its future dividend hikes because it is bumping up against the Council's allowable margins for financial institutions. Sears Roebuck, which has been losing sales for eight months, basked in national publicity while bowing to a 5% cut in its catalogue prices. As for wages, the Council asks that they be held to a rise of 7% annually, which, if inflation rips along for the rest of the year at the same rate as in the first three months, implies a loss of real income of 6% in 1979.

That fact alone would explain the lack of union volunteers and the ominous growth of labor unrest. With each month through March, the number of strikes this year has increased, from 301 in January to 326 in February to 447 in March—in all, 1,074 as against 751 in the same span in 1978. Like the AFL–CIO, which has filed suit against the Council on the ground that the guidelines are not at all voluntary but are extra-legal and compulsory, the United Auto Workers Union rejects out of hand the 7% solution. So do growing numbers of white collar workers who are changing jobs to get the raise that their former company volunteered not to give them.

Plainly, then, if the Council is toothless, its gums are like a vise. A case in point is aluminum, which is an interestng study because it is an industry ostensibly rigged from Pittsburgh. If so, the argument runs, why not do the job from Washington, in the public interest? Thus, the Council has prevailed on Alcoa to trim a four-cent rise in the price of primary ingot by a penny, to 58½ cents a pound. Overseas, meanwhile, the white metal was heading toward 70 cents. Result: a heavy outflow of aluminum scrap to foreign markets, where the return is highest. Funds which might have otherwise gone to expand domestic smelting capacity, now running full-bore, are not available. Naturally, the trouble is more complicated than that: price controls on energy, as well as environmental opposition, have also played hob. But eventually, comments one close observer, "shortages will emerge, breaking the guidelines and driving domestic prices . . . above the levels which [would probably have prevailed in the Council's absence.]"

Guidelines, in fact, exacerbate nearly all the evils that inspired them in the first place. "The great mass of those who put their trust in the traditional order," wrote Thomas Mann of the German inflation of 1919–23, "the innocent and the unworldly, all those who do productive and useful work but don't know how to manipulate money . . . all these are doomed to suffer." Inflation makes cynics; guidelines, in failing, as they must fail, make them more bitter. Inflation stirs jealousies; guidelines, in pillorying an occasional scapegoat, stir them harder. Inflation distorts prices; gudelines, in trying to suppress that distortion, make a bad thing worse. This is the fundamental economic objection to any kind of controls—that prices, which have a lot to say, are throttled as bearers of bad news. "It might be helpful," commented Walter Wriston, chairman of Citicorp, last week, "to remember that prices and wages represent an essential form of economic speech and that money is just another form of information." In a changing economy, prices must change, and some must pierce a federally sanctioned average. But for the Council to make an exception to the rule is to risk the wrath of those not similarly favored.

Not to make the exception is to guarantee a shortage, which in turn will set off a chain of other dislocations. The Council's only hope is a timely recession and the dignity of a quiet retreat. Failing that dispensation, pressure will build for the government to "do something." Time and again the Administration has shunned mandatory controls; yet as recently as Sept. 19, 1977, it shunned guidelines, too—"It is our judgment," Stuart Eizenstat, assistant to the President for domestic affairs, said in a letter to Sen. John Tower (R., Texas), "that a program under which the Federal government promulgates formal numerical guidelines such as those of the early 1960s would not be a desirable or effective remedy for inflation."

Off and on now for 4,000 years, so a new historical survey relates (*Forty Centuries of Wage and Price Controls,* by Robert L. Schuettinger and Eamonn F. Butler, Heritage Foundation, Washington, D.C.), inflation-ridden governments have been rounding up the usual suspects. They have hanged and jailed them for keeping a black market, but the punishments have served no purpose except to gratify the rulers who meted them out. The book is morbid reading, because the same pageant is futiley played out, generation after generation. Now comes the Council, another chapter in the history of an unborn historian, who will amuse himself a hundred years from now to think that economic medicine men reigned in a nation that could create an IBM and split it 4-for-1. If inflation is a lie, then controls are the cover-up. The deceit is that the nation cannot pay its bills but prints the money to finance them. In this ancient process the Council is powerless. For a whole, some prices will not be raised, or will rise more slowly than they otherwise would, but monetary forces will out. It is the simple truth that the Federal Reserve Board has been making too much money and that Congress for years has been voting unconscionable deficits, and that this is the cause of inflation.

Last week, on the eve of the Conservative victory in control-bound Britain, the *Financial Times* printed a light-hearted letter from an Oxford don named Dr. P. J. Cuff. The letter suggested that government ministers should be made to put their assets into bonds, which they would hold throughout their term in office. In a time of runaway interest rates and soaring prices, of course, the bonds would suffer appalling market erosion, which would come out of the ministerial hide. We laughted before we saw in this jest the inspired reform it is. Inflation, to anyone in Washington with a fat income and a house in the District or one of its neighboring boom towns, is like the beat of the rain on a well-shingled roof. What better prod for a reduction in spending than for the guilty parties to see their life's savings go up in smoke? What surer road to the elusive balanced budget?

FEDERAL TRADE COMMISSION ACT AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3978.

The PRESIDING OFFICER laid before the Senate H.R. 3978, an act to amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such act.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice by its title, and the Senate will proceed to its consideration.

Mr. FORD. Mr. President, H.R. 3978 amends the Federal Trade Commission Act to exempt savings and loan associations from the jurisdiction of the Federal Trade Commission. In doing so, it provides savings and loan associations with the same exemption which banks have had under the act for the 65 years since the inception of the FTC in 1914. When the Federal Home Loan Bank Board was created, Congress did not amend the act to exempt S. & L.'s as they did for banks. Congress later exempted air carriers and common carriers from the act after the formation of the CAB and the FCC in the 1930's. With this action today, we would simply be providing parity with respect to savings and loan associations.

This bill is noncontroversial in nature. It is strongly supported by the Federal Home Loan Bank Board which regulates savings and loan associations and is not opposed by the Federal Trade Commission. It was passed unanimously by both the House Subcommittee on Consumer Protection and Finance and the full House Commerce Committee. It passed without opposition in the House just a short time ago.

Last year, the provision which comprises H.R. 3978 was contained in section 3 of H.R. 3816, the FTC Improvements Act of 1977, and a variation of this provision was contained in S. 1288, the Senate version of the bill. The conference report to H.R. 3816 containing the provision in H.R. 3978 passed the Senate twice unanimously, although it was defeated last year as a result of some disagreement within the House of Representatives over an issue which was not related to the section 3 exemption for savings and loan associations. With its recent action, the House has simply ratified positions taken last year by both bodies on this noncontroversial measure. Indeed, the FTC has not had an active interest in savings and loan associations. The sole area of activity has involved director interlocks.

However, that particular avenue of FTC interest has been foreclosed by the action of the 95th Congress which passed the Financial Institutions Regulatory and Interest Rate Control Act of 1978. Title II of that law regulated director interlocks between financial institutions. It gave the bank and savings and loan regulators exclusive jurisdiction over director interlocks between financial institutions and apparently settled—although the single case brought by the Commission is still pending—the question of FTC jurisdiction over financial institutions.

The provisions of the bill are straightforward. Savings associations would like commercial, mutual, and cooperative banks be exempted from section 5 and section 6 of the Federal Trade Commission Act. In addition, under section 18 of the FTC Act, the 1974 authority provided to the Federal Reserve Board to review FTC rules to determine their applicability to banks is extended to the Federal Home Loan Bank Board. The FHLBB will write trade regulation rules which are "substantially similar" to those promulgated by FTC for nonfinancial entities within 60 days of such action. In doing so, the Federal Home Loan Bank Board could hold a parallel rulemaking proceeding pursuant to the Administrative Procedures Act on proposed FTC trade rules to determine their applicability to practices which may be unfair or deceptive with respect to the savings and loan industry.

The upshot of this provision is that it will eliminate unnecessary duplicative and burdensome rulemaking now shared by both the FTC and the Federal Home Loan Bank Board. In this connection, it should be more efficient and less costly, while preserving the important supervisory considerations which are not present. Thus, the Senate can reduce unnecessary regulation over the Nation's savings and loan associations. Mr. President, I again urge that this matter be taken up and favorably voted upon.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I am now attempting to schedule something for tomorrow.

The military construction bill is ready for action, and the managers on this side of the aisle are prepared to go forward with that bill. It is a bill that has to be disposed of at some point, and it has backed up behind it these three housing bills. So I suggest that this might be a good time to proceed with that bill.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. Mr. President, as the ranking minority member of the Armed Services Committee, I must say to the Senator from West Virginia that I am not prepared to act on that bill tomorrow.

I have suggested already to the minority leader that I will be perfectly amenable to taking up that bill on Monday and spending as much time as necessary with it.

I think the Senator from West Virginia knows that I have always been cooperative with him and have tried to secure expeditious action on matters before this body, and I am not being deliberately dilatory. However, I do not feel at this point prepared, because I know what the major item is going to be on that bill. Therefore, I would prefer not to act on that bill until Monday.

Mr. ROBERT C. BYRD. Mr. President, I would like to accommodate the distinguished Senator from Texas (Mr. TOWER). He has been very cooperative in the past. My problem is that the Senate has very little that is ready to work on. We have to go with something.

How about nuclear regulation?

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, as we met earlier today, the majority leader and I, to try to see if we could put together a schedule of activities for the Senate this week, next week, and the week after, nuclear regulation was one we considered.

As I told the majority leader earlier, we have problems with that, I understand, not only on this side but also possibly on the Democratic side.

I would like to consult with the distinguished junior Senator from Wyoming (Mr. SIMPSON), and I will be glad to advise the majority leader in a moment whether or not we can proceed with NRC. Personally, I have no objection to that.

I notice that there are some Members who have made notations on my calendar with whom I will have to check first.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HATFIELD. As the distinguished majority leader knows, we have had a nomination pending for many weeks now which was reported 9 to 0 by the Rules Committee—namely, Mr. Ritchie for the Federal Elections Commission.

The longer we go, the more difficult it will be for all the Presidential hopefuls and for everyone else running in 1980 to be able to get their machinery put together, because this Commission is shorthanded.

I simply indicate that, realizing there are a number of holds on this nomination, the sooner we can get to it, the sooner we face up to it, the better it is going to be for that Commission and its responsibilities, and as well, I believe, for the entire Senate.

So I ask the majority leader, if he is searching for items on the agenda, why not bring up the Federal Election Commission nomination?

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. My day has been this way all along. [Laughter.]

I do not see any prospect that things are improving.

I appreciate the suggestion by the distinguished senior Senator from Oregon. He was not aware of the fact that today, during policy luncheon, we had a rather extended and energetic conversation on this subject.

Mr. HATFIELD. The Senator knows where I was.

Mr. BAKER. I do know that the Senator from Oregon was in the Ethics Committee—and I am now in danger of having the Senator blame me once more for placing him on that committee, and I accept that responsibility.

Mr. HATFIELD. That is right.

Mr. BAKER. Mr. President, I say to my good friend from Oregon that there are 23 holds on that nomination on this side of the aisle; and notwithstanding that the distinguished Congressman from Arizona and I included this name on our list, obviously it has not met with overwhelming approval on this side of the aisle.

I requested, as a result of our policy luncheon today, that the majority leader withhold presenting that nomination until we could examine two or three other aspects of this matter in a day or two.

The majority leader, earlier today, put me on notice that notwithstanding the holds that were noted on the calendar, he intended to move to consideration of the nomination at an early time. I indicated to the majority leader that, notwithstanding that I had included the Ritchie name among several names submitted to the White House, I would not agree by unanimous consent to go into executive session for that purpose.

Mr. President, I do not know what might work out finally, but I do know that I am trying to honor requests made to me during policy luncheon today, to convey to the majority leader our hope that he will not proceed to the Ritchie nomination in the immediate future.

I hope we can work out something else for tomorrow instead of the Ritchie nomination, and we will see how it goes from there. It is on the calendar; it is the only item on the Executive Calendar.

I do not know that I have helped matters any by this dissertation, but at least I hope to have produced the results of having everybody understand my predicament.

Mr. HATFIELD. I want to express my appreciation for the frankness with which the minority leader has responded.

I only want to say this: I think that there are some very deep-seated principles here. One is an attempt to put a litmus paper test as to who is a good Republican and who is not a good Republican.

The facts of the case were carefully handled. We accommodated the Senator from New Hampshire on three different occasions beyond the whole time from in which the committee normally operates.

And I think that the longer we go the more this is going to create difficulty to be resolved on this side of the aisle.

Second, I wish to say to the minority leader that we have invited the gentleman to offer himself, in effect, for a public responsibility. He has severed his connections with his livelihood, his law firm, and that has been going on now for quite some time. In good faith he let his name be presented. In good faith he testified. He supplied all the answers by the committee and the Senator from New Hampshire. I think that we have some moral obligation to a gentleman who has family responsibilities rather than to tangle him along in his state of indecision while we try to churn up some more questions or some more ammunition to use against him.

I know what the play is. I have been around here long enough to understand exactly what the strategy is.

I say that the whole case will fall on the very merits of the qualifications of the man versus the charges and the innuendos and all the other issues that have been raised and have no foundation.

I am ready to start tonight and go through the night and go through August. I want to put the Senate on notice that I will not be a party to this kind of a procedure that is merely a strategy to bring the name down. I mean this from the very depths of my heart. There is a principle of morality here. There is a principle of ethics. There is a principle that is involved that involves the integrity of the Senate.

I respect anyone who wants to raise questions, and we have procedures built in the Senate for that through committee hearings. These questions were not raised in that way. The answers were provided page by page, delay by delay. And it is wrong for this Senate now to continue, when a man has been without a source of livelihood for weeks, and we say to him, "Yes, we are going to consider you, we are going to have you confirmed or not confirmed," but we delay and delay. And this man is without income.

I think we have a responsibility to tell this man: "No, we do not have the courage to stand up and decide it on its merits. We are going to use delaying tactics until somehow we hope the President will bring the name down."

That is why I want to make sure the Senator understands why the delay is here. And it is not my nomination. It is not my recommendation. I am merely trying to fulfill my responsibilities as a ranking minority member of the Rules Committee.

I have a responsibility to do my task on that committee, and we have done it. We have done it carefully, and we have tried to accommodate the Senator from New Hampshire.

Mr. BAKER. Mr. President, if the majority leader still has the floor, will he yield to me 1 additional minute?

Mr. ROBERT C. BYRD. Yes, I say to the distinguished minority leader.

FEDERAL TRADE COMMISSION ACT AMENDMENT

The Senate continued with the consideration of H.R. 3978.

Mr. ROBERT C. BYRD. Mr. President, let me inquire of the Chair if the Senate has completed action on the House bill?

The PRESIDING OFFICER. The Senate has not completed action on the House bill.

Mr. ROBERT C. BYRD. We should do that first since it is up now.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to a third reading and was read the third time.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question in connection with this legislation?

Mr. FORD. I yield for the question.

Mr. METZENBAUM. I looked over H.R. 3978, and I note that all of the provisions seem to make savings and loans, conform with the language relative and adaptable to banks, but beginning on page 3 there is a paragraph that is a brandnew paragraph in the legislation and since I do not understand the import of that language I would appreciate being informed by the sponsor as to really what is intended by that language.

Mr. FORD. Where on page 3?

Mr. METZENBAUM. Line 21.

Mr. FORD. Although, the language may appear to be a new provision, it simply provides parallel authority for the Federal Home Loan Bank Board which is precisely the same authority the Federal Reserve Board now possesses for the banking institutions it regulates.

Mr. METZENBAUM. It does not seem to read that way. It talks about the fact that "compliance with regulations prescribed under this section shall be enforced,' and then it goes on to explain by whom they will be enforced. Then it goes on to talk about "* * * with respect to savings and loan institutions which are members of a Federal Home Loan Bank, by a division of consumer affairs to be established by the Federal Home Loan Bank Board pursuant to the Federal Home Loan Bank Act."

I do not rise to indicate my opposition to the proposal of my good friend, the Senator from Kentucky, but I frankly wonder if this bill does more than was originally discussed in its presentation.

Mr. FORD. It says that the Federal Home Loan Bank Board shall establish a separate division of consumer affairs and that it write substantially similar trade regulations and rules for savings and loan associations 60 days after they become effective at the Federal Trade Commission. Under the law, the Federal Reserve Board has already been required to establish a division of consumer affairs to write substantially similar trade regulation rules and the Federal Home Loan Bank Board will be required to do the same thing under the bill.

Mr. METZENBAUM. Where does that come from? I know the Senator is reading from a paper in his hand, but I do not find anything near that language in the legislation itself.

Mr. FORD. Mr. President, I suggest the absence of a quorum unless the majority leader has some time he wishes to use, so I can give him the answer. It is going to take me a while to look it up and give it to him, I think, to satisfy him.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor for that purpose.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I think we are ready to move for passage of the legislation.

The PRESIDING OFFICER. The question is, Shall the bill pass?

(Putting the question).

The bill (H.R. 3978) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from North Dakota.

A TRADE ASSOCIATION FOR FARM PROGRESS

Mr. BURDICK. Mr. President, 1979 is the 70th anniversary of the founding of the Agricultural Publishers Association (APA). The bylaws of this association best describe its purpose and functions, as follows:

> . . . to develop the usefulness of farm publications, to promote a spirit of cooperation among them, to coordinate their efforts and to perform for them such common services as otherwise would be duplicated by their individual efforts, to use various means to promote a public understanding of the field they service, and to cooperate with other associations and/or individuals or firms in such research and promotional efforts as are to the common good of the membership.

Today, the APA is comprised of 28 national, State, and regional farm magazines with an average circulation per issue of 4,465,000 copies. These magazines are still fully dedicated to serving their readers in the science of agriculture to achieve on a continuing basis the betterment of agriculture in America. Many of them are over 100 years old. The record output of American agriculture reflects their widespread success.

The agricultural magazine has been described as a vital artery from the laboratory to the land. Government agencies have found farm magazines to be reliable and effective conduits of scientific information. In a recent survey, approximately 21 percent of agricultural articles appearing in farm magazines were provided by the State Cooperative Extension Service.

Given the world demands for food that American agriculture will face in the coming years, the vital role agricultural magazines play in disseminating information can only increase. In light of this ever-growing role, rising postal rates are indeed a threat. A 500-percent increase in postal rates since 1970 make it most difficult to bring this service to readers in remote areas of our Nation as subscription prices are forced higher and higher.

Yet there is no substitute for the science agricultural magazines bring to our farms. This tool of agricultural production has demonstrated its efficacy over the past century in America. In survey after survey conducted by colleges of agriculture, farmers have rated the agricultural magazine in first place as a source of information on the business of farming. It is in the public interest to preserve this tool of production, and recognition and support by our Federal Government will go a long way toward this end.

The agriculture magazines have served this Nation well and deserve a hearty congratulations on their 70th birthday. The future poses greater challenges to this segment of the publishing industry, and America should greatly encourage and support the agricultural magazines to meet these challenges.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EMERGENCY BUILDING TEMPERATURE RESTRICTIONS—MESSAGE FROM THE PRESIDENT—PM 85

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

Pursuant to the authority vested in me by the Energy Policy and Conservation Act, I have found and proclaimed (copy of the Proclamation is enclosed) that a severe energy supply interruption currently exists with respect to the supply of imported crude oil and petroleum products and have implemented the authority vested in me to impose emergency building temperature restrictions as set forth in Standby Energy Conservation Contingency Plan No. 2.

The Plan will become effective as of July 16, 1979. A copy of the final Department of Energy regulations which more fully explain the manner for the exercise of the Plan is enclosed.

JIMMY CARTER.

THE WHITE HOUSE, *July 10, 1979.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following acts and joint resolution:

June 27, 1979:

S. 429. An act to authorize supplemental appropriations for fiscal year 1979 for procurement of aircraft, missiles, and naval vessels and for research, development, test, and evaluation for the Armed Forces, and for other purposes.

June 30, 1979:

S. 1317. An act to extend the existing antitrust exemption for oil companies that participate in the agreement on an international energy program.

July 7, 1979:

S. 984. An act to provide the Secretary of Agriculture with authority to reduce marketing penalties for peanuts.

July 10, 1979:

S.J. Res. 14. Joint resolution to amend the Public Health Service Act and related health laws to correct printing and other technical errors.

MESSAGE FROM THE HOUSE

At 11:03 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 927. An act to authorize the Smithsonian Institution to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3919. An act to impose a windfall profit tax on domestic crude oil;

H.R. 4389. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes;

H.R. 4394. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes; and

H.R. 4439. An act relating to sanctions against Zimbabwe-Rhodesia.

ENROLLED BILL SIGNED

At 1:05 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bill:

S. 927. An act to authorize the Smithsonian Institution to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington.

The enrolled bill was subsequently signed by the President pro tempore (Mr. MAGNUSON).

At 3:35 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House disagrees to the amendment of the Senate to H.R. 1786, an act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FUQUA, Mr. HARKIN, Mr. FLIPPO, Mr. WATKINS, Mrs. BOUQUARD, Mr. NELSON, Mr. WYDLER, Mr. WINN, and Mr. GOLDWATER were appointed managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 2676, an act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. FUQUA, Mr. AMBRO, Mr. BROWN of California, Mr. BLANCHARD, Mr. Walker, and Mr. RITTER were appointed managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2043. An act to amend the Water Bank Act for the purposes of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes;

H.R. 2814. An act to authorize the Secretary of the Army to correct certain slope failures and erosion problems along the banks of the Coosa River; and

H.R. 3978. An act to amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such Act.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 10. A concurrent resolution to express the sense of Congress that a United Nations special investigatory commission should be established to secure a full accounting of Americans listed as missing in Southeast Asia.

At 6:27 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1825. An act to protect archaeological resources on public lands and Indian lands, and for other purposes;

H.R. 3292. An act to assist the States in developing fish and wildlife conservation plans, and for other purposes; and

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes.

HOUSE BILLS AND CONCURRENT RESOLUTION REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 2043. An act to amend the Water Bank Act for the purposes of authorizing the Secretary of Agriculture to adjust payment rates with respect to initial conservation agreements and to designate certain areas as wetlands, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 2814. An act to authorize the Secretary of the Army to correct certain slope failures and erosion problems along the banks of the Coosa River; to the Committee on Environment and Public Works.

H.R. 3292. An act to assist the States in developing fish and wildlife conservation plans, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3919. An act to impose a windfall profit tax on domestic crude oil; to the Committee on Finance.

H.R. 4249. An act to amend title 23 of the United States Code, the Surface Transportation Assistance Act of 1978, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4389. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes; to the Committee on Appropriations.

H.R. 4394. An Act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1980, and for other purposes; to the Committee on Appropriations.

H.R. 4439. An act relating to sanctions against Zimbabwe-Rhodesia; to the Committee on Foreign Relations.

The following concurrent resolution was read by its title and referred as indicated:

H. Con. Res. 10. A concurrent resolution to express the sense of Congress that a United Nations special investigatory commission should be established to secure a full accounting of Americans listed as missing in Southeast Asia; to the Committee on Foreign Relations.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 1825. An act to protect archaeological resources on public lands and Indian lands, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 10, 1979, he presented to the President of the United States the following enrolled bill:

S. 927. An act to authorize the Smithsonian Institution to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–1741. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend Section 5924(4)(B) of title 5, United States Code; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1742. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, on transfers of funds appropriated to the Department of Defense; to the Committee on Appropriations.

EC–1743. A communication from the Administrator, Veterans Administration, reporting, pursuant to law, on a violation of Section 3679 of the Revised Statutes, as amended; to the Committee on Appropriations.

EC–1744. A communication from the Administrator, Veterans Administration, reporting, pursuant to law, on a violation of Section 3679 of the Revised Statutes, as amended; to the Committee on Appropriations.

EC–1745. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a report of the January–June 1978 listings of Department of Defense contracts negotiated under authority of Section 2304(a)16, Title 10, U.S. Code; to the Committee on Armed Services.

EC–1746. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to establish volunteers in military department museums' programs, and for other purposes; to the Committee on Armed Services.

EC–1747. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer to Egypt for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1748. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "NATO's New Defense Program: Issues for Consideration," July 9, 1979; to the Committee on Armed Services.

EC–1749. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1750. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Saudi Arabia for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–1751. A communication from the First Vice President and Vice Chairman, Export-Import Bank of the United States, reporting, pursuant to law, concerning the Angra dos Reis Nuclear Power Plant, Brazil's first nuclear power plant, located on the coast between Rio de Janeiro and Sao Paulo; to the Committee on Banking, Housing, and Urban Affairs.

EC–1752. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the operations of the Exchange Stabilization Fund (ESF) for fiscal year 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC–1753. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The United States Refining Policy in a Changing World Oil Environment," June 29, 1979; to the Committee on Energy and Natural Resources.

EC–1754. A communication from the Chairman, Advisory Council on Historic Preservation, transmitting, pursuant to law, a report on "The Contribution of Historic Preservation to Urban Revitalization," January 1979; to the Committee on Energy and Natural Resources.

EC–1755. A communication from the Chairman, Advisory Council on Historic Preservation, transmitting, pursuant to law, a report from the Task Force on Archeology Policy; to the Committee on Energy and Natural Resources.

EC–1756. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on factors affecting the withdrawal of U.S. ground combat forces from the Republic of Korea; to the Committee on Foreign Relations.

EC–1757. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation, as well as a list of the persons involved; to the Committee on the Judiciary.

EC–1758. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Job Corps Should Strengthen Eligibility Requirements and Fully Disclose Performance," July 9, 1979; to the Committee on Labor and Human Resources.

EC–1759. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for October-November 1978; to the Select Committee on Small Business.

EC–1760. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report of Department of Defense Procurement from Small and Other Business Firms for October 1978; to the Select Committee on Small Business.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–331. A resolution adopted by the Council of the District of Columbia; to the Committee on Governmental Affairs:

"A RESOLUTION IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

"Resolved, by the Council of the District of Columbia, That this resolution may be cited as the "Transfer of Jurisdiction of Part of U.S. Reservation 520 for Highway Purposes Resolution of 1979".

"SEC. 2. The Council hereby accepts the transfer of jurisdiction over the areas shown in the records of the District of Columbia as part of U.S. Reservation 520, east of Bladensburg Road, N.E., from the National Park Service to the District of Columbia for highway purposes as shown on a plat (S.O. 74–253) on file in the Office of the Surveyor.

"SEC. 3. The Secretary to the Council of the District of Columbia shall transmit a copy of this resolution, upon its adoption, to the Mayor, the Surveyor of the District of Columbia, the Speaker of the U.S. House of

Representatives, the President Pro Tempore of the Senate and the Regional Director, National Capital Park, National Park Service.

"SEC. 4. This resolution shall take effect immediately upon its adoption by the Council of the District of Columbia."

POM-332. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on the Judiciary:

"THE COMMONWEALTH OF MASSACHUSETTS

"Whereas, legislation recodifying the Federal Criminal Code if agreed to by the United States Congress and signed into law by the President, will have far-reaching effects upon the rights of all Americans; and

"Whereas, such legislation is intended to revise the United States Criminal Code to maintain and preserve the principles of the Constitution; and

"Whereas, previous efforts, such as S. 1437, to recodify the Federal Criminal Code failed to maintain and preserve the constitutional rights of all Americans; and

"Whereas, S. 1437, which if enacted, would further the creation of a Nazi-like police state in America, and is thus inimical to the principles and freedoms upon which our country was founded, will again be brought under consideration by the present Congress; now, therefore be it

"Resolved, that the Massachusetts Senate respectfully requests the President of the United States and the Congress to disapprove the bill S. 1437 or a similar version thereof, and to conduct full and complete hearings regarding the revision of the Federal Criminal Code; and be it further

"Resolved, that the Massachusetts Senate respectfully urges the President and the Congress to enact a Federal Criminal Recodification Act which maintains and preserves the principles of the Constitution; and be it further

"Resolved, that copies of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, the Presiding Officer of each branch of the Congress, the presiding heads of each branch of the Judiciary Committee, and to the Members of the Congress from this Commonwealth."

POM-333. A resolution adopted by the Legislature of the State of New York; to the Committee on Environment and Public Works:

"LEGISLATIVE RESOLUTION No. 613

"Whereas, Tourism is this State's second largest industry, directly generating over four billion dollars for the State's economy and providing approximately four hundred thousand jobs; and

"Whereas, The Senate Task Force on Critical Problems, in its 1976 report, "Vital Signs; Sustaining the Health of Tourism," estimated that at least $1.2 billion in State tourist-oriented commerce is dependent upon highway advertising signs; and

"Whereas, The Federal Highway Administration has previously threatened to penalize New York State by withholding ten percent of the State's highway moneys for failure to enforce the Federal Highway Beautification Act and amendments thereto; and

"Whereas, In passing the 1976 amendments to the Federal Highway Beautification Act, the Congress recognized that the removal of nonconforming signs in certain areas could cause a substantial economic hardship in those areas; and

"Whereas, Section 131(o) Title 23, United States Code, allows the U.S. Secretary of Transportation to exempt from removal certain nonconforming tourist-oriented directional signs the removal of which will cause a substantial economic hardship within defined areas; and

"Whereas, The New York State Department of Transportation has begun studies to determine which nonconforming signs would qualify for an exemption under Section 131 (o) Title 23, United States Code; and

"Whereas, Nonconforming signs which would qualify for an exemption under Section 131(o) Title 23, United States Code, but which are removed before completion of the study cannot be reerected under the current Federal Highway Beautification Act regulations, thereby causing irreparable damage to New York State's tourist industry; and

"Whereas, A report by the Comptroller General of the United States indicates that "In the light of the problems and limited progress by most States in removing nonconforming signs, it appears that the objectives of the Highway Beautification Act will not be accomplished in the near future"; and

"Whereas, The Federal Highway Administration, in recognition of the program's demonstrated ineffectiveness, has failed to request additional funding for this program in the 1980 United States Budget; and

"Whereas, The Federal Highway Administration, in recognition of the chaos, confusion and opposition caused in the several states by the rigid requirements of the Highway Beautification Act, has scheduled public hearings to determine how and if the program can be successfully continued; and

"Whereas, Legislation has been introduced in Congress to amend Section 131, Title 23, United States Code, by removing the penalty provisions of the Highway Beautification Act and allowing enforcement of the removal provisions to be voluntary on the part of the states; now, therefore, be it

"*Resolved*, That this Legislative Body memorializes the State Department of Transporation to stop immediately the removal of nonconforming tourist-oriented directional signs as being destructive to the tourist industry in New York State; and be it further

"*Resolved*, That this Legislative Body respectfully memorializes the Governor of the State of New York to take whatever steps may be desirable or necessary to convince President Carter that the actions of the Federal executive bureaucracy have had the effect of further depressing the economy of New York State; and be it further

"*Resolved*, That this Legislative Body memorializes the Federal Highway Administration of the United States Department of Transporation to cease the harassment of New York State businesses by requiring the removal of signs, and to suspend any further enforcement of the Highway Beautification Act until a determination is made as to how and if the program can be successfully continued; and be it further

"*Resolved*, That this Legislative Body respectfully memorializes the members of the New York State Congressional delegation to take all steps that may be desirable or necessary to prevent the continued activities of the Federal Highway Administration, and to actively support suitable legislation which would remove Federal authority to interfere with State and local government control of advertising under their police powers; and be it further

"*Resolved*, That copies of this resolution, suitably engrossed, be transmitted to the Governor, the Commissioner of the State Department of Transporation, the President and Vice President of the United States, the Secretary of Transporation, the President Pro Tempore and the Secretary of the Senate, the Speaker and Clerk of the House of Representatives and to each Member of the Congress of the United States from the State of New York."

POM-334. A joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION No. 37

"Whereas, In 1945 the McCarren-Ferguson Act was enacted into law and codified in the United States Code, Title 15, Sections 1011 through 1015; and

"Whereas, In such act it was stated that 'congress declares that the continued regulation and taxation by the several states of the business of insurance is in the public interest'; and

"Whereas, In the course of such regulation, the several states have encouraged and required continued improvements in insurance coverages and the provision of insurance at reasonable rates; and

"Whereas, The several states have continually reviewed, experimented with, and altered various approaches to regulation in an effort to assure the public of the availability of insurance at the lowest practicable cost; and

"Whereas, The business of insurance has developed a competitive structure; and

"Whereas, The public has benefited from the competitive structure of the insurance industry including at the retail level a wide variety of organizations, often small businesses, intensely competing, and from regulation of the industry by the several states; and

"Whereas, Federal regulation has repeatedly been shown not to be a panacea; and

Whereas, It is becoming increasingly clear that the establishment of federal regulation increases the cost of government, often increases the cost of products and services to the consumer, and often without providing offsetting benefits to the public; and

"Whereas, Federal regulation often adds confusion and delay; and

"Whereas, There has been no showing that the several states cannot continue to regulate the insurance industry; and

"Whereas, There has been no showing that federal regulation of the insurance industry by limiting state regulation and permitting the application of the federal anti-trust laws will have a salutory effect upon the industry or otherwise benefit the public; and

"Whereas, It is often necessary, subject to state regulations, to pool the resources of several insurance companies in order to provide for coordinated actions to provide effective insurance coverage of certain risks; and to provide the public with reasonable prices, efficiency in which the services are rendered at reasonable cost, and innovation in which new products and services are made available; and

"Whereas, Officials of the federal government have publicly, although unofficially, recommended amending the McCarren-Ferguson Act so as to limit state regulation of the business of insurance; now, therefore,

"Be it resolved by the Senate of the Ninety-First General Assembly of the State of Tennessee, the House of Representatives concurring, That the General Assembly of the State of Tennessee respectfully memorialize the Congress of the United States to reject any legislation amending the McCarren-Ferguson Act, 15 U.S.C. sections 1011 through 1015, 59 Stat. 33 (1945).

"Be it further resolved, That copies of this resolution be forwarded to the secretary of the United States Senate, the clerk of the United States House of Representatives, and to each member of Congress from the State of Tennessee."

POM-335. A joint resolution adopted by the Legislature of the State of Illinois; to the Committee on Governmental Affairs:

"SENATE JOINT RESOLUTION No. 33

"Whereas, the federal government of the United States, by actions of both the Legislative branch and the Executive branch, requires the states to implement new programs and provide increased levels of service under existing programs; and

"Whereas, In order to implement new programs and provide increased levels of service as required by the federal government, the states must incur significant costs which must be paid for out of state revenues, existing or to be raised by the imposition of additional taxes; and

"Whereas, There exists, throughout the United States, a growing resentment of the heavy burden of taxation and an active rejection of existing and proposed levels and methods of revenue raising; and

"Whereas, The public outcry against taxation makes it increasingly difficult for the states to raise the revenues necessary to finance the programs and services which the states are required to provide by the federal government; and

"Whereas, It is a matter of simple equity that a level of government which establishes programs or services in the public interest should provide the means for financing those programs and services; therefore, be it

"Resolved, by the Senate of the Eighty-First General Assembly of the State of Illinois, the House of Representatives concurring herein, that the General Assembly of the State of Illinois respectfully memorializes the President and the Congress of the United States to undertake such actions as may be necessary to ensure that the federal government reimburses each state for all costs incurred with respect to implementing new programs or providing increased levels of service under existing programs pursuant to any law enacted by the United States Congress after January 1, 1980, or any executive order or regulation issued by the President of the United States after January 1, 1980; and be it further

"Resolved, That the Secretary of State transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from Illinois in the Congress of the United States."

POM-336. A resolution adopted by the Cheektowaga Town Board, Cheektowaga, New York, regarding Federal payment of AWT (Advanced Wastewater Treatment) and increased State O&M Aid; to the Committee on Environment and Public Works.

POM-337. A resolution adopted at the 1979 Annual Meeting of the Western Goverors' Conference, Elkhorn at Sun Valley, Idaho, relating to Title V Funding; to the Committee on Governmental Affairs.

POM-338. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to RARE II; to the Committee on Energy and Natural Resources.

POM-339. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Cost Sharing Legislation (H.R. 4127); to the Committee on Environment and Public Works.

POM-340. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Snow Survey Programs in the Western United States; to the Committee on Agriculture, Nutrition, and Forestry.

POM-341. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to a Convention on the Conservation and Migratory Species of Wild Animals; to the Committee on Foreign Relations.

POM-342. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Alaska Lands; to the Committee on Energy and Natural Resources.

POM-343. A policy statement adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Assistance to Small Business; to the Select Committee on Small Business.

POM-344. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, in support of U.S. Congress actions on mental health programs for Native American Pacific Islanders Populations; to the Committee on Energy and Natural Resources.

POM-345. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, to aid in the potential economic development of Canton Island in the Central Pacific for the benefit of the people of the Kiribati Republic (Gilbert Islands), State of Hawaii and Territory of American Samoa; to the Committee on Energy and Natural Resources.

POM-346. A policy statement adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Pacific Basin Economic and Social Development; to the Committee on Governmental Affairs.

POM-347. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Mortgage Bonds; to the Committee on Finance.

POR-348. A policy statement adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Biomass-Derived Alcohol Fuel; to the Committee on Energy and Natural Resources.

POM-349. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to the Petroleum Fuels Crisis; to the Committee on Energy and Natural Resources.

POM-350. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Petroleum Allocation Adjustments Based Upon Population Increases; to the Committee on Energy and Natural Resources.

POM-351. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Mandatory Allocation Program for Middle Distillates; to the Committee on Energy and Natural Resources.

POM-352. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Utilizing Renewable Resources in the Production of Liquid Fuels; to the Committee on Energy and Natural Resources.

POM-353. A policy statement adopted at the 1979 Annual Meeting of the Western Governor's Conference, Elkhorn at Sun Valley, Idaho, relating to Wind Loan Guaranty Program; to the Committee on Energy and Natural Resources.

POM-354. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Geothermal Resources Assessment and Definition; to the Committee on Energy and Natural Resources.

POM-355. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Nuclear Wastes; to the Committee on Energy and Natural Resources.

POM-356. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Amtrak Rail Passenger Service in the West; to the Committee on Commerce, Science, and Transportation.

POM-357. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Funding for Off-System Roads; to the Committee on Commerce, Science, and Transportation.

POM-358. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to the Preservation and Improvement of Rangeland Resources; to the Committee on Energy and Natural Resources.

POM-359. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Federal Funding for States and Regional DOE Offices; to the Committee on Energy and Natural Resources.

POM-360. A policy statement adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Passive Solar Design; to the Committee on Energy and Natural Resources.

POM-361. A policy statement adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Appropriate Energy Technology; to the Committee on Energy and Natural Resources.

POM-362. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Oil Shale; to the Committee on Energy and Natural Resources.

POM-363. A resolution adopted at the 1979 Annual Meeting of the Western Governors' Conference, Elkhorn at Sun Valley, Idaho, relating to Uniform Weight and Length Laws; to the Committee on Environment and Public Works.

POM-364. A petition from a private citizen, relating to Nicaragua; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on the Judiciary, with an amendment:

S. 300. A bill to restore fair and effective enforcement of the antitrust laws (together with minority and additional views) (Rept. No. 96-239).

By Mr. HEFLIN, from the Committee on the Judiciary, without amendment:

S J. Res. 77. A joint resolution congratulating the men and women of the Apollo program upon the tenth anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance" (Rept. No. 96-240).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources:

John T. Rhett, of Virginia, to be Federal Inspector General for the Alaska Natural Gas Transportation System.

(The above nomination from the Committee on Energy and Natural Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. JACKSON. Mr. President, today the Committee on Energy and Natural Resources ordered reported favorably the nomination of John T. Rhett, of Virginia, to be Federal Inspector for the Alaska Natural Gas Transportation System.

I ask unanimous consent that his biography be printed in the RECORD.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL INFORMATION ON JOHN T. RHETT

John T. Rhett joined the Environmental Protection Agency in March 1973 as the Deputy Assistant Administrator for Water Program Operations following his retirement as a Colonel in the U.S. Army Corps of Engineers. He is responsible for administering EPA's major operating programs in the water pollution contol field: specifically, the multi-billion dollar grant program for Construction of Municipal Wastewater Treatment Facilities; the National Operator Training and Maintenance Program for Municipal Wastewater Treatment Facilities; the Federal National Response Program (in conjunction with the U.S. Coast Guard) for Oil and Hazardous Materials Spills into Waters of the United States; the National Ocean Dumping and Discharge Programs; and the Environmental Emergencies.

A commissioned officer with the Corps of Engineers since 1945, Colonel Rhett served at posts both here and abroad. His assignments included two years with SHAPE; Chief of the Engineering Division of the U.S. Army Construction Agency in Vietnam; District Engineer of the Louisville Engineering District; and Resident Member, Board of Engineers for Rivers and Harbors.

Receiving his B.S. degree from the U.S. Military Academy, Colonel Rhett also has a Masters degree in Engineering from the University of California and a Masters in International Relations from George Washington University. He is a member of Chi Epsilon Honorary Engineering Fraternity; (Fellow) American Society of Civil Engineers; (Diplomate) American Academy of Environmental Engineers; (Member) Society of American Military Engineers; (Member) Water Pollution Control Federation; and a Registered Professional Engineer in both Florida and the District of Columbia. He has received EPA's highest award, the Gold Medal for Exceptional Service (1976), as well as Outstanding Performance awards—1978 and 1979.

Born in 1925, Colonel Rhett and his wife Helen reside in Arlington, Virginia.

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

Thomas Patrick Bergin, of Indiana, to be a Member of the National Council on the Arts.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on the Judiciary:

Maurice Rosenberg, of New York, to be an Assistant Attorney General.

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on the Judiciary:

Thomas M. Reavley, of Texas, to be U.S. Circuit Judge for the Fifth Circuit.

Henry A. Politz, of Louisiana, to be U.S. Circuit Judge for the Fifth Circuit.

Carolyn D. Randall, of Texas, to be U.S. Circuit Judge for the Fifth Circuit.

Joseph W. Hatchett, of Florida, to be U.S. Circuit Judge for the Fifth Circuit.

Albert J. Henderson, of Georgia, to be U.S. Circuit Judge for the Fifth Circuit.

R. Lanier Anderson III, of Georgia, to be U.S. Circuit Judge for the Fifth Circuit.

Reynaldo G. Garza, of Texas, to be U.S. Circuit Judge for the Fifth Circuit.

Francis D. Murnaghan, Jr., of Maryland, to be U.S. Circuit Judge for the Fourth Circuit.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE ENERGY AND NATURAL RESOURCES COMMITTEE, FROM APR. 14, TO JUNE 21, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David C. Russell: Switzerland	Swiss franc	1,201.90	700.00		757.00			1,201.90	1,457.00
Thomas L. Laughlin: Switzerland	Swiss franc	1,030.20	600.00		757.00			1,030.20	1,357.00
Jon M. DeVore: Germany	Deutsche mark	1,848.88	968.00		1,284.00			1,848.88	2,252.00
Total			2,268.00		2,798.00				5,066.00

HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources.

June 28, 1979.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, U.S. DELEGATION TO PARIS AIR SHOW, SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FROM JUNE 7 TO JUNE 16, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Assuras, Janene: France	French franc	3,132	720.00					3,132	720.00
Barclay, Charles M.: France	French franc	3,132	720.00					3,132	720.00
Cannon, Howard W.: France	French franc	1,822	418.85					1,822	418.85
Krebs, Frank X.: France	French franc	3,132	720.00					3,132	720.00
McAuliffe, Mary E.: France	French franc	3,132	720.00					3,132	720.00
Ris, William K., Jr.: France	French franc	3,132	720.00					3,132	720.00
Sarvis, Aubrey L.: France	French franc	3,132	720.00					3,132	720.00
Semos, William: France	French franc	3,132	720.00					3,132	720.00
Sobsey, Chester B.: France	French franc	3,132	720.00					3,132	720.00
Stewart, John G.: France	French franc	3,132	720.00					3,132	720.00
Total			6,898.85						6,898.85

HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation.

June 29, 1979.

Note: Transportation from Washington, D.C., to Paris, France, and return, furnished by Department of Defense.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, COMMITTEE ON FOREIGN RELATIONS, FROM APRIL 1, TO JUNE 30, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Joseph R. Biden, Jr.:									
Federal Republic of Germany	Mark	320.88	168.00	62.80	32.88			383.68	200.88
United States	Dollar				1,227.00				1,227.00
Senator Claiborne Pell:									
Norway	Kroner	1,301.35	252.00	450	87.05			1,750.88	339.05
Sweden	Kroner	1,116.90	252.00					1,116.90	252.00
Switzerland	Franc	60.879	35.00					60.879	35.00
United States	Dollar				575.00				575.00
Senator Jacob K. Javits: Sudan	Pound	103.295	207.00					103.295	207.00
William B. Bader:									
United Kingdom	Pound	174.16	364.00	37.32	78.00			121.48	442.00
United States	Dollar				752.00				752.00
Geryld B. Christianson:									
Czechoslovakia	Crown	1,431	136.00		366.00			1,431	502.00
Austria	Schillings	1,338	96.00					1,338	96.00
Switzerland	Franc	517	300.00					517	300.00
Netherlands	Guilders	329	160.00					329	160.00
Norway	Kroner	1,301.35	252.00	450	87.05			1,751.35	339.05
Sweden	Kroner	746.9	168.00					746.9	168.00
Switzerland	Franc	520.2	300.00					520.2	300.00
United States	Dollar				575.00				575.00
Alfred Friendly, Jr.:									
United Kingdom	Pound	131.4	265.00					131.4	265.00
Federal Republic of Germany	Mark	481	252.00	62.80	32.88			523.8	284.88
Belgium	Franc	6,600	214.00					6,600	214.00
France	Franc	1,980	450.00					1,980	450.00
United States	Dollar				837.00				837.00
Clifford P. Hackett: France	Franc	1,109.4	258.00					1,109.40	258.00
Edward E. Kaufman:									
Federal Republic of Germany	Mark	320.88	168.00	62.80	32.88			383.68	200.88
United States	Dollar				1,227.00				1,227.00
Albert A. Lakeland, Jr.:									
Sudan	Pound	75.05	150.40					75.05	150.40
Morocco	Dirham	300	75.00					300.00	75.00
John B. Ritch:									
Norway	Kroner	1,084.44	210.00	555.13	107.55	113.28	22.00	1,752.85	339.05
United Kingdom	Pound	131.40	265.00					131.40	265.00
Federal Republic of Germany	Mark	420	220.00	104.80	54.88	19	10.00	543.80	284.88
France	Franc	1,672	380.00	264	60.00	44	10.00	1,980	450.00
Belgium	Franc	6,013.8	195.00	462.6	5.00	123.60	4.00	6,600	214.00
United States					673.00				673.00
Patrick A. Shea:									
Sudan	Pound	103.295	207.00					103.295	207.00
Morocco	Dirham	300	75.00					300	75.00
Garry V. Wenske:									
People's Republic of China	Yuan	475.89	300.00					475.89	300.00
Hong Kong	Hong Kong dollar	382.50	75.00					382.50	75.00
Total			6,449.40		6,819.67		46.00		13,315.07

June 28, 1979.

FRANK CHURCH,
Chairman Committee on Foreign Relations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER:

S. 1470. A bill to limit oil imports; to the Committee on Energy and Natural Resources.

S. 1471. A bill to redesignate the Department of Commerce as the Department of Commerce and International Trade, to consolidate in such department various functions of the Government with respect to international trade, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DECONCINI:

S. 1472. A bill to amend title 28 of the United States Code to provide for special venue provisions in cases relating to the environment; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself, Mr. WILLIAMS, Mr. RIEGLE, Mr. CRANSTON, Mr. PELL, Mr. JAVITS, Mr. RANDOLPH, Mr. DECONCINI, Mr. LEVIN, Mr. KENNEDY, Mr. HART, and Mr. DURKIN):

S. 1473. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirements benefits for retired employees; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S. 1474. A bill to establish a national merchant marine policy, to create a Cabinet level coordinating Council to implement such policy, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BENTSEN:

S. 1475. A bill to amend the Internal Revenue Code of 1954 to provide tax incentives to encourage the creation and growth of new and innovative firms; to the Committee on Finance.

By Mr. CRANSTON:

S. 1476. A bill to prohibit certain territorial restrictions in professional sports, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself and Mr. DECONCINI):

S. 1477. A bill to provide for improvements in the structure and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. DURKIN (for himself, Mr. LEAHY, and Mr. STAFFORD):

S. 1478. A bill entitled the "Home Heating Oil Supply Protection Act of 1979"; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER:

S. 1470. A bill to limit oil imports; to the Committee on Energy and Natural Resources.

MANDATORY OIL IMPORT CONTROL ACT OF 1979

Mr. DURENBERGER. Mr. President, I rise today, to introduce the Mandatory Oil Import Control Act of 1979. The events of the past 24 hours have further convinced me of the urgent need for such a drastic measure. Less than 2 weeks ago, the President agreed with the leaders of six other nations that we must limit our imports. And yet, yesterday, from his mount at Camp David the President anounced he had received personal assurances from Saudi Arabia that they will increase its crude oil production "for a significant and specific period of time." I am deeply concerned that this indicates the President will grasp at this straw as a quick fix to our energy shortages. That we will be misled into believing our problems can be solved by importing more. This is precisely what we cannot and must not do.

The measures contained in this legislation are necessary to insure our national economy and the economies of our closest allies from ruinous energy inflation, and to put American energy policy in the hands of American policymakers once again.

The bill I am introducing takes the form of an import quota which will be used to restrict the amount of crude oil and petroleum products that can be brought into the United States each year. Import quotas are usually introduced to protect an American industry from low-priced foreign competition and to guarantee an artificially high domestic price. This bill is intended to have the reverse effect.

Unlike other commodities subject to quota, the world supply of crude oil is not sufficient to meet demand at current prices. And the world price of petroleum creates windfalls rather than bankruptcy for domestic producers. These circumstances occur because pricing and production decisions are made by a cartel of OPEC ministers and not within an international commodity market. So long as demand for crude oil continues to grow and the OPEC nations have the power to restrict supply, the world price of crude oil will continue to escalate at rates that spell disaster for the nations of the West.

These facts were recognized by the leaders who recently met at a seven-nation summit conference in Tokyo, Japan. They agreed that restricting demand for petroleum was the best weapon to fight the high cost of OPEC oil. I commend the President for seeing the wisdom of this policy and for promising American participation in this effort.

Although the President has the power to fulfill his commitment under existing law, I will work for passage of the Mandatory Oil Import Control Act, because I believe that Congress should take this opportunity to shape the energy policy of the United States. Import restrictions will require the allocation by license of the available crude oil and petroleum products to refineries, petrochemical plants and utilities. Through legislative design of the licensing process, the Congress can guarantee equitable distribution of the limited imports and restore competitive practices in the domestic market.

Although a limitation on oil imports is an important and necessary step to a more certain energy future, we should not be misled into believing that it is a cure-all for our energy problems. It is more inoculation against future crisis than remedy for our current ills. As the result of an oil embargo, we went through a period in 1974 which was similar in most respects to the current crisis. There were gas lines. There was a shutdown by the independent trucking industry. We suffered a permanent loss of $60 billion in GNP growth. A worldwide recession followed the dramatic and disastrous OPEC price increase.

However, we climbed out of that crisis. We did it not by conserving enough energy to balance supply and demand. We did it not by increasing domestic petroleum production. We did not create huge new supplies of synthetic fuels. We did not switch to abundant alternative energy resources. We did not become a solar society relying on new and renewable energy resources. Had we done any of these things, had we even taken a few steps in those directions, we would not have the energy crisis of 1979.

We got out of the crisis of 1974 by doubling our imports of OPEC oil. In 1973 we imported an average of 2,993,000 barrels of OPEC oil per day. In 1978 we imported 5,619,000 barrels of oil per day. We achieved this remarkable result despite an avowed policy to become independent from foreign oil and despite all the legislation and regulation directed toward that end.

Mr. President, I have described the Oil Import Control Act as a form of inoculation. It is designed to prevent us from becoming even more dependent on foreign oil and thus even more susceptible to economic ruination in the future. But I have also stated that it is not a remedy for our current ills.

In fact, unless we take the tough actions necessary to curb demand, it may represent the institutionalization of gas lines. Unless we act to increase the domestic supply of petroleum and alternative fuels and to restore competitive practices to the oil industry, it may cause the price of domestic crude to exceed the world price. The Mandatory Oil Import Control Act cannot stand alone in an energy crisis. It must be combined with measures that would achieve significant conservation, encourage new supplies, develop alternative resources, protect those who are economically disadvantaged, and insulate the American petroleum market from the market price of foreign crude. Seen in this light, the bill I introduce today is a modest part of an extensive and necessary program to cure our energy ills.

The Mandatory Oil Import Control Act of 1979 was not drafted as the final form of an oil import quota. Rather it was designed as a simple and clean bill to be used as a starting point in the discussion and debate on import restrictions.

However, if we keep in mind that two key objectives of this bill are to insure equity and introduce competitive practices in the marketplace, then it is clear that our deliberations should include a number of other points.

For example, one of the questions we will have to deal with is whether the program should be administered by the Department of Energy or whether a new agency, a nonprofit public corporation, should be created to control imports.

I would like to suggest several additional factors which I believe should be considered in the drafting of the final bill. First, although I am proposing that the aggregate amounts of crude oil and refined products be limited to those imported in 1978, I do not necessarily believe that the full amount should be allocated or that the allocations should go only to those importers of record in 1978. Additionally, we should review the advisability of omitting from the ceiling any crude oil and petroleum products imported for use in the Strategic Petroleum Reserve.

Second, we should be certain that licenses and allocations go only to direct users, not resellers; and that the licensees could not sell or exchange their allocations or licenses with others unless approved by the Federal Government and only for certain unusual and necessary cases. At the same time, we must recognize and preclude situations where licensees can cut off supplies to historical users.

Third, we should avoid a number of other pitfalls which have plagued other quota and allocation programs. These include: we should not allow the creation of carryovers, or borrowing, or "banking" practices; we need to allow for new entries and hardship cases, but the rules for exceptions should be specific enough so that all sectors of American society and economy know the program will be constant and they can plan accordingly.

In this legislation the import level is tied to the daily average imports for 1978. According to the Monthly Energy Review of May 1979, a publication of the Department of Energy, crude oil and petroleum product imports averaged 8,038,000 barrels per day in 1978. This level is somewhat below the 8.5 MMB/d agreed to by President Carter at the recent summit, but would begin us upon a path toward reducing our dependence on foreign oil.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD and recommend the Mandatory Oil Impact Control Act of 1979 to the consideration of my colleagues.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mandatory Oil Import Control Act of 1979".

PURPOSE

SEC. 2. It is the purpose of this Act to—

(1) safeguard national security,

(2) reduce dependence on imported fuels,

(3) strengthen the United States dollar,

(4) encourage energy conservation,

(5) encourage domestic development of energy supplies, and

(6) accelerate the development and use of alternative energy sources such as synthetic fuels, oil shale, biomass, geothermal, wind, solar, tidal, and ocean currents.

DEFINITIONS

SEC. 3. For purposes of this Act the term—

(1) "United States" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands or any other territory or possession of the United States;

(2) "crude oil" includes natural gas condensates, but excludes methane;

(3) "petroleum products" includes all products refined or manufactured from crude oil and residual oil, with the exception of petrochemicals and manufactured products containing petrochemicals;

(4) "qualified buyer" means a citizen of the United States, or a corporation, or any department, agency, or other instrumentality of the United States or any State;

(5) "person" includes any individual, corporation, governmental agency, department, or instrumentality, or other entity;

(6) "Secretary" means the Secretary of Energy; and

(7) "license" means a permit to purchase crude oil or petroleum products issued by the Secretary under section 7.

LIMITATIONS ON IMPORTATION

SEC. 4. (a) On and after the effective date of this Act, no person shall import into the United States any crude oil or petroleum products unless—

(1) such crude oil or petroleum products have been purchased under a license issued by the Secretary, and a copy of such license accompanying the bill of sale verifying such purchase is submitted to the customs officer at the point or port of entry, or

(2) such petroleum product is manufactured from crude oil purchased under a license issued by the Secretary and an affidavit

attesting to such manufacture, together with a copy of the bill of sale verifying the original purchase of crude oil, is submitted to the customs officer at the point or port of entry.

(b) Any person who imports crude oil or petroleum products into the United States except in accordance with this Act shall be punished by a fine not exceeding $1,000,000 or by imprisonment not exceeding one year, or both.

ALLOCATION

SEC. 5. (a) The Secretary shall promulgate regulations for the fair and equitable allocation by sale of all crude oil and petroleum products imported into the United States under licenses issued under this Act taking into account—

(1) the need to maximize efficiency of the distribution system;

(2) the necessity to encourage competitive practices;

(3) changes in the refining and production system that would require changes in distribution; and

(4) the need to adjust regional and State imbalances.

(b) The provisions of title V of the Department of Energy Organization Act shall apply to any rule or regulation, or any order having the applicability and effect of a rule as defined in section 551(4) of title 5, United States Code, issued pursuant to this Act.

LICENSES

SEC. 7. (a) Licenses issued by the Secretary under this Act shall not permit the importation of crude oil or petroleum products in any year in excess of the aggregate number of barrels by category of crude oil and petroleum products which were imported into the United States during the calendar year 1978.

(b) Each license shall specify by category the amount of crude oil and petroleum products a licensee may import during a given calendar year.

(c) No license shall be issued to a person other than a person who—

(1) is an end user of; or

(2) shall directly refine crude oil or market petroleum products.

(d) No license may be transferred by a licensee without the written approval of the Secretary. The Secretary shall not approve the transfer of a license except for unusual or essential purposes.

INCREASES OF LICENSED IMPORT AMOUNTS

SEC. 8. In cases of national emergency, as determined by the President, the Secretary shall issue permits for the importation of crude oil and petroleum products to the extent necessary to insure access by the Armed Forces of the United States to needed supplies of crude oil and petroleum products.

REDUCTIONS OF LICENSED IMPORT AMOUNTS

SEC. 9. The President may reduce the amounts of crude oil and petroleum products which may be imported into the United States below the 1978 level under licenses issued pursuant to this Act if such reduction is made to conform with the provisions of a treaty or international agreement which has been ratified by the Senate or approved by the Congress.

TERMINATION

SEC. 10. The provisions of this Act shall terminate December 31, 1985.

By Mr. DURENBERGER:

S. 1471. A bill to redesignate the Department of Commerce as the Department of Commerce and International Trade, to consolidate in such Department various functions of the Government with respect to international trade, and for other purposes; to the Committee on Governmental Affairs.

DEPARTMENT OF COMMERCE AND INTERNATIONAL TRADE ORGANIZATION ACT

Mr. DURENBERGER. Mr. President, today I am introducing a bill to redesignate the Department of Commerce as the Department of Commerce and International Trade, and to consolidate various international trade functions in this Department. This bill is identical to the one introduced in the House by Congressmen FRENZEL of Minnesota and JONES of Oklahoma. As the Governmental Affairs Committee begins hearings this week on reorganization of trade activities, I believe we should examine the Jones-Frenzel alternative along with others offered by Senators RIBICOFF and ROTH, and Senator BYRD.

This bill is designed to achieve the same goals as S. 377 introduced by Senators ROTH and RIBICOFF, and S. 891 introduced by Senator BYRD, that is, to consolidate essential trade functions and enhance our competitive position in world markets. The bill would use a different approach, however. Instead of establishing a new Cabinet level Department, this bill would expand the functions of the Commerce Department and rename it the Department of Commerce and International Trade. It would not alter the Office of Special Trade Representative because of the belief that this office has functioned quite well in the White House.

Essentially, the bill would consolidate in one department jurisdiction over four trade functions:

First, industry affairs related to international trade;

Second, export promotion and financing activities;

Third, formulation and implementation of U.S. policy with respect to unfair international trade practices; and

Fourth, trade reporting and monitoring.

The new Department would also coordinate the activities of the Export-Import Bank and OPIC. It would not be responsible for trade and export promotion programs of the Agriculture Department, the adjustment assistance programs currently being administered by the Labor Department, the economic policymaking functions of the State and Treasury Departments, or the quasi-judicial functions in import relief and unfair trade practices handled now by the International Trade Commission.

As we begin this important discussion of how to reorganize our trade activities to strengthen our world position, I urge a careful look at the Jones-Frenzel alternative.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Department of Commerce and International Trade Organization Act".

DEFINITION

SEC. 2. As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress finds that—

(1) the output of approximately one-third of the crop acreage of the United States is exported and about one out of every nine manufacturing jobs depends, directly or indirectly, on exports;

(2) it is in the national interest to maintain and promote the export of United States goods and services and thereby contribute to the health of our domestic economy;

(3) it is in the national interest to assure continued access to foreign markets by United States producers of goods and services; and

(4) the capability of existing Federal Government departments and agencies to deal with issues of international trade is fragmented and dispersed, resulting in inadequate and uncoordinated attention being given to these important issues.

PURPOSE; FUNCTIONS

SEC. 102. (a) The purpose of this Act is to establish in the executive branch of the Federal Government a coherent organizational structure to promote the international economic interests of the United States through the consolidation of separate existing agencies which share jurisdiction over—

(1) industry affairs relating to international trade;

(2) export promotion and financing activities;

(3) the formulation and implemenation of United States policy with respect to unfair international trade practices; and

(4) trade reporting and monitoring.

(b) The functions vested in the Department of Commerce under this Act are—

(1) to formulate and implement policy on international trade matters which will promote the export of United States agricultural commodities, industrial and service products, and raw materials in order to strengthen the international trade position of the United States and ensure that American business and labor are protected from unfair international trade practices;

(2) to direct a comprehensive program of collecting and analyzing information on domestic and foreign business, labor, and commercial trends;

(3) to seek and provide new trade and commercial opportunities for United States businesses abroad;

(4) to assist small businesses in developing export markets;

(5) to direct long-range planning on international trade matters;

(6) to facilitate and aid in financing exports of goods and services in cooperation with other appropriate Government agencies;

(7) to consult with other departments and agencies where appropriate to assure the effective administration of programs which have international trade impact;

(9) to administer export controls, including controls on export of strategic goods and technology;

(10) to gather and disseminate information on imports, including their effects on domestic production, employment, and consumption, in order to help ensure appropriate and prompt responses to changing import trends;

(11) to act to ensure adequate supplies at competitive prices of critical materials necessary for national security and the continued functioning of the Nation's economy; and

(12) to conduct such studies and investi-

gations as may be requested by the President or Congress.

(c) The functions vested in the Special Trade Representative under this Act are—

(1) to direct United States participation in multilateral and bilateral trade negotiations;

(2) to direct and coordinate with other appropriate departments and agencies the enforcement of United States law and policy on trade matters;

(3) to negotiate and implement commercial and trade agreements with foreign nations, including commodity agreements; and

(4) to oversee the conduct of international energy negotiations.

TITLE II—REORGANIZATION OF INTERNATIONAL TRADE FUNCTIONS

REDESIGNATION

SEC. 201. The Department of Commerce is hereby redesignated the Department of Commerce and International Trade (hereinafter in this Act referred to as the "Department"), and the Secretary of Commerce or any other official of the Department of Commerce is hereby redesignated the Secretary or official, as appropriate, of Commerce and International Trade.

PRINCIPAL OFFICERS

SEC. 202. There shall be in the Department an Under Secretary for Domestic Commerce and an Under Secretary for International Trade, each of whom shall be appointed by the President, by and with the advice and consent of the Senate. Either Under Secretary, as designated by the Secretary, shall act for and exercise the functions of the Secretary during any period of absence or disability of the Secretary or in the event of a vacancy in the Office of the Secretary. The Secretary shall prescribe the sucession to the functions of the Secretary in the event of absence or disability of or vacancy in the office of each such Under Secretary.

DUTIES OF THE SECRETARY

SEC. 203. (a) The Secretary of Commerce and International Trade (hereinafter in this Act referred to as the "Secretary") in carrying out the purposes of this Act shall promote and undertake the development, collection, and dissemination, of technical, statistical, economic, and other information relative to domestic and international trade and investment; consult and cooperate with other executive agencies in gathering information regarding the status of international trade and investment in which the United States or other countries may be participants; and consult and cooperate with State and local governments and other interested parties, including, when appropriate, holding informal public hearings.

(b) Order and actions of the Secretary in the exercise of the functions transferred under this Act, and orders and actions of any entity the responsibilities of which are transferred to the authority of the Secretary and vested in the Secretary pursuant to the functions specifically assigned to any such entity by this Act or any other Act of Congress, shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency or other authority exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, actions upon the record, or administrative review that apply to any functions transferred by this Act shall apply to the exercise of such functions by the Secretary.

(c) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as that vested in the department, agency, or authority exercising such functions immediately preceding their transfer, and their actions in exercising such functions shall have the same force and effect as when exercised by such department, agency, or authority.

(d) In carrying out the functions transferred under this Act, the Secretary shall consult, exchange information, and carry on joint planning, research, and other activities with the Secretary of the Treasury, the Secretary of State, the Secretary of Agriculture, and the heads of such other executive agencies as the Secretary deems appropriate.

(e) The Secretary shall jointly study, with the Secretary of State, the Secretary of the Treasury, the Secretary of Agriculture, and the heads of such other executive agencies as the Secretary deems appropriate, how Federal policies and programs can ensure that international trade and investment systems most effectively serve both national and international economic needs. The Secretary shall include in the annual report required by section 307 of this Act an account of the studies and activities conducted under this subsection, including any legislative recommendations which the Secretary determines desirable.

TRANSFER OF FUNCTIONS AND AGENCIES TO THE DEPARTMENT

SEC. 204. (a) There are transferred to and vested in the Secretary—

(1) such functions of the Secretary of State, the Department of State and officers and components of such Department as relate to—

(A) commercial affairs and business activities, including export promotion, but not including the reporting of economic conditions in foreign countries; and

(B) international investment policy;

(2)(A) All functions of the Secretary of the Treasury, the Department of Treasury, and any officer or component thereof which are carried out through the Assistant Secretary of the Treasury for International Affairs, except those functions of such Assistant Secretary which relate to monetary policy, international exchange, international investment, Saudi Arabian affairs, and United States membership in bilateral and multilateral monetary institutions;

(B) all functions of the Secretary of the Treasury relating to dumping and countervailing duties;

(C) all functions of the Secretary of the Treasury administered through the office known as the Office of Foreign Assets Control;

(3) all functions of the Special Representative for Trade Negotiations, the Office of the Special Representative for Trade Negotiations, and all officers and components thereof with respect to relief from unfair trade practices under chapter 1 of title II of the Trade Act of 1974 or under the Trade Agreements Act of 1979;

(4) the functions of the International Trade Commission (A) with respect to uniform statistical data under section 484(e) of the Tariff Act of 1930 and section 608 of the Trade Act of 1974; (B) with respect to tariff schedules and summaries under sections 332 and 484(e) of the Tariff Act of 1930 and section 201 of the Tariff Classification Act of 1962; (C) with respect to investigatory functions under sections 337 and 341 of the Trade Act of 1974; and (D) conducted through the office known as the Office of Industries:

(5) the functions of the Secretary of Labor with respect to determinations of worker eligibility for assistance under chapter 2 of title II of the Trade Act of 1974; and

(6) the functions of the Secretary of the Interior conducted through the office known as the Division of Interindustry and Economic Analysis.

(b)(1) The Export-Import Bank is transferred to and established in the Department as an agency and instrumentality of the United States under the general supervision and direction of the Secretary, as provided in section 2 of the Export-Import Bank Act of 1945 as amended by section 310(j) of this Act.

(2) The Overseas Private Investment Corporation is transferred to and established in the Department as an agency and instrumentality of the United States under the general supervision and direction of the Secretary, as provided in section 233 of the Foreign Assistance Act of 1961 as amended by section 310(h) of this Act.

(3) The International Trade Commission is transferred to and established in the Department as an independent entity. In the performance of their functions (other than the functions which are transferred to the Secretary by subsection (a)(4) of this section), the members, employees, and other personnel of the Commission shall not be responsible to the supervision or direction of any officer, employee, or agent of any other part of the Department.

(4) In each annual authorization and appropriation request under this Act, the Secretary shall identify the portion thereof intended for the support of the Export-Import Bank, the Overseas Private Investment Corporation, and the International Trade Commission and include a statement by the board of directors or commission, as appropriate, of each such entity (A) showing the amount requested by such entity in its budgetary presentation to the Secretary and the Office of Management and Budget, and (B) an assessment of the budgetary needs of such entity.

TRANSFER OF FUNCTIONS TO THE SPECIAL TRADE REPRESENTATIVE

SEC. 205. There are transferred to and vested in the Special Representative for Trade Negotiations the functions of the State Department with respect to the negotiation and implementation of commercial agreements and trade agreements with foreign nations, including commodity agreements.

TITLE III—MISCELLANEOUS PROVISIONS

ADMINISTRATIVE PROVISIONS

SEC. 301. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys and investigators, as may be necessary to carry out the functions transferred by this Act to the Secretary and the Department, except that the number of individuals which may be so appointed shall not exceed the number of individuals which were performing such functions on the day preceding the effective date of this Act, unless otherwise provided by a provision of law enacted after the date of enactment of this Act. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of such title.

(c)(1)(A) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)) if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Secretary is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under paragraph (1) (A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

(d) In the exercise of the functions transferred under this Act, the Secretray shall have the same authority as the officer, agency, or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such officer, agency, or office, or part thereof.

(e) Except as otherwise provided in this Act, the Secretary may delegate any of the functions under this Act to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

(f) The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions transferred to the Secretary or the Department by this Act.

(g) (1) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements or other similar transactions with Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out the functions transferred to the Secretary or the Department by this Act.

(2) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under subsection (h).

(h) The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department in the performance of the functions transferred by this Act. Gifts bequests, and devises of money and proceeds from sales of other property received as gifts, bequests or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

REORGANIZATION

SEC. 302. The Secretary is authorized to allocate or reallocate the functions transferred to the Secretary or the Department by this Act among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this section does not extend to the abolition of organizational entities established by this Act or the reallocation of functions among the officers of the Department as specifically designated by this Act.

TRANSFER OF PERSONNEL

SEC. 303. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions and agencies transferred to the Secretary or the Department by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions specified by statute or reorganization plan to carry out functions and agencies transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 304.

(c) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(d) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 304. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from that agency, commission, or other body, or component thereof, such agency, commission, or other body, or component shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

INCIDENTAL DISPOSITIONS

SEC. 305. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions and agencies which relate to or are utilized by an officer, agency, commission or other body, or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions and agencies transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

SEC. 306. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) (1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, the functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearing, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

ANNUAL REPORT

Sec. 307. The Secretary shall, within thirty calendar days after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year.

REFERENCE

Sec. 308. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or the Department.

TRANSITION

Sec. 309. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions and agencies under this Act.

TECHNICAL AND CONFORMING AMENDMENTS

Sec. 310. (a) Section 19(d)(1) of title 3, United States Code, is amended by striking out "Secretary of Commerce" and inserting in lieu thereof "Secretary of Commerce and International Trade".

(b) Section 101 of title 5, United States Code, is amended by inserting "and International Trade" immediately after "Commerce".

(c) Section 5312(8) of such title is amended by inserting "and International Trade" immediately after "Commerce".

(d) Section 5313 of such title is amended by adding at the end thereof the following:

"(25) Under Secretaries, Department of Commerce and International Trade (2).".

(e) Section 5314(4) of such title is repealed.

(f)(1) Section 5315(12) of such title is amended by striking out "Commerce (8)" and inserting in lieu thereof "Commerce and International Trade (10)".

(2) Section 5315(39) of such title is amended by inserting "and International Trade" immediately after "Commerce".

(g) Section 5316(145) of such title is amended by inserting "and International Trade" immediately after "Commerce".

(h) Section 102(10) of the Department of Energy Organization Act is amended by inserting "Commerce and International Trade," before "State,".

(i)(1) The first paragraph of section 231 of the Foreign Assistance Act of 1961 is amended—

(A) by inserting "and to promote the international trade position of the United States" after "development assistance objectives of the United States"; and

(B) by striking out all after "agency of the United States".

(2) Section 233(b) of such Act is amended by striking out "Administrator of the Agency for International Development" and inserting in lieu thereof "Secretary of Commerce and International Trade".

(j) Section 341(c) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "There shall be a Board of Directors consisting of the Secretary of Commerce and International Trade, who shall serve as Chairman, the President and First Vice President of the Export-Import Bank, and three additional persons appointed by the President, by and with the advice and consent of the Senate."; and

(2) by striking out "five" in the second sentence of such section and inserting in lieu thereof "six".

AUTHORIZATION OF APPROPRIATIONS

Sec. 311. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department.

SEPARABILITY

Sec. 312. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

EFFECTIVE DATE

Sec. 313. (a) The transfer of functions and agencies pursuant to sections 204 and 205 of this Act shall take affect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for this Act may be nominated and appointed as provided in this Act, and

(2) the Secretary may promulgate regulations pursuant to section 301(f) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

Sec. 314. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provision of law, the President may designate an officer in the executive branch to act in such office for ninety days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

By Mr. DeCONCINI:

S. 1472. A bill to amend title 28 of the United States Code to provide for special venue provisions in cases relating to the environment; to the Committee on the Judiciary.

● Mr. DeCONCINI. Mr. President, I am introducing today a bill to insure that environmental cases are brought in the court of the district where the environmental impact or injury occurs. This bill amends title 28 of the United States Code by adding two new special venue provisions.

One is directed to civil actions in the district courts, and the other to the review of agency actions in the courts of appeals. Both venue provisions require that the court in the area affected hear the case.

The role of the court in environmental cases is to protect the public interest and to balance social and economic factors along with environmental considerations. No court is better equipped to achieve a fair result in this task than the court which is familiar with the local setting, resources, and concerns.

Furthermore, the district or circuit court embracing the area affected is usually the most convenient forum for parties, witnesses, and others who will be affected by the action. In short, the local district court is the logical court to hear the issue.

The bill, thus, is intended to decentralize judicial decisionmaking and review of environmental matters. In a sense, it reflects the principles of federalism upon which our Founding Fathers built our Government. It simply allows a local Federal court the opportunity to speak to the issues affecting its district.

In doing so, it also allows difficult issues to mature through consideration by various Federal courts rather than to be decided by one centralized court such as the U.S. Court of Appeals for the District of Columbia. It thereby recognizes the wisdom of providing the Supreme Court with the opportunity to evaluate different resolutions of the same issue before a final national decision is made.

By making a general legislative statement in favor of local venue in environmental cases, I also hope to rationalize what is now a confusing element in environmental litigation. There are a multitude of statutes throughout the United States Code which regulate environmental quality. Many of these statutes already contain specific venue provisions. And, in fact, it is not uncommon for a substantive statute to have two or three venue provisions, depending on the type of suit that is brought.

In some statutes there is a specific venue provision for citizen enforcement suits, a different venue provision for government enforcement actions, and still another provision for actions reviewing agency orders.

The bill I introduce today will not radically alter existing practice. Many environmental statutes already provide for review by the "local" district court. The 1978 annual report of the administrative office of the U.S. Courts indicates that of the 519 environmental cases commenced in the district courts during the 12-month period which ended June 30, 1978, only 37 were brought in the District of Columbia.

Similarly, of the 155 cases filed in the U.S. Court of Appeals for review of orders of the environmental protection agency during the same 12-month period, 33 were in the District of Columbia.

Nevertheless, many of these venue provisions are duplicative, overlapping and confusing. They have been drawn without a clear-cut pattern, and they have generated tremendous threshold litigation on the question of appropriate venue. As Prof. David Currie noted in his article which analyzed judicial review of Federal pollution laws:

> "Sorting out who may take which cases to what courts and when they may do so under these provisions has already yielded a bumper crop of litigation." Currie, judicial review under federal pollution laws, 62 Iowa Law Review 1221, 1225 (1977).

My legislation attempts to reconcile these various venue provisions and to make a clear statement of congressional intent that environmental cases be heard in the district or circuit courts embracing the area affected. This bill does not represent the final solution, but it is a starting point. Thus, I look forward to holding a day of hearings in July on this bill and on S. 739 which my distinguished colleague from Nevada, Senator LAXALT, has introduced.

These two bills will begin what I hope will be a thorough exploration of the issue. I hope they will also force a case-by-case analysis of existing venue provisions and a reevaluation of the general practice of inserting venue provisions in substantive statutes—a practice which I believe undermines the effectiveness of title 28 of the United States Code which was intended to govern venue. And, of course, Mr. President, ultimately I hope that we will arrive at a solution which will serve public policy, promote efficient judicial administration and protect the interests of all the parties affected by these cases.

Mr. President, in order to facilitate review of this bill, I have compiled a survey of some of the environmental statutes and their venue provisions. I ask unanimous consent that it be inserted in the RECORD, together with the text of the bill.

There being no objection, the bill and survey were ordered to be printed in the RERORD, as follows:

S. 1472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) (1) chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1409. Environmental litigation

"A civil action arising under the National Environmental Policy Act, under any Act of Congress pertaining to land management, wildlife protection, energy conservation, or air, water, hazardous or solid waste, pesticide, radiation, toxic substances, or noise pollution, or under any other Act of Congress relating to environmental quality, in which the issue raised or the impact or injury alleged is less than nationwide in scope, may be brought only in a judicial district in which such issue arises or in which a substantial portion of the alleged impact or injury occurs.".

(2) The table of sections for chapter 87 is amended by adding at the end thereof the following:

"1409. Environmental litigation.".

(b) (1) Chapter 83 of that title is amended by adding at the end thereof the following new section:

"§ 1295. Appeal from agency actions relating to the environment

"Appeals from reviewable agency actions, decisions, or orders, arising under the National Environmental Policy Act, under any Act of Congress pertaining to land management, wildlife protection, energy conservation, on air, water, hazardous or solid waste, pesticide, radiation, toxic substances, or noise pollution, or under any other Act of Congress relating to environmental quality, in which the issue raised or the impact or injury alleged is less than nationwide in scope, shall be taken to the court of appeals for the judicial circuit in which such issue arises or in which a substantial portion of the alleged impact or injury occurs.".

(2) The table of sections for chapter 83 is amended by adding at the end thereof the following new item:

"1295. Appeals from agency actions relating the environment.".

SEC. 2. The amendments made by this Act supersede any provision of law of the United States, or any decision, rule or regulation made pursuant to any such law, which is inconsistent with, or contrary to, such amendments to the extent such provision, decision, rule, or regulation differs from the requirements set forth in such amendments.

SELECTED STATUTES AFFECTING ENVIRONMENTAL QUALITY

I. Administrative Office of the United States Courts definition of environmental law: cases filed under the National Environment Policy Act "and any other environmental allegations pertaining to AIR, WATER, SOLID WASTE, PESTICIDES, RADIATION AND NOISE POLLUTION."

Clean Air Act, 42 U.S.C. §§ 7401–7642.

Federal Water Pollution Control Act, 33 U.S.C. §§ 1251–1376.

NEPA of 1969, 42 U.S.C. §§ 4321–4361.

Noise Control Act of 1972, 42 U.S.C. §§ 4901–4918.

Solid Waste Disposal Act, 42 U.S.C. §§ 6901–6987.

Coastal Zone Management Act of 1972, 16 U.S.C. §§ 1451–1464.

Radiation Control for Health and Safety Act, 42 U.S.C. §§ 263b–63n.

Federal Environmental Pesticide Control Act, 7 U.S.C. § 136.

II. Other statutes and areas that might be considered for "environmental" regulation.

A. Energy:

Energy Conservation and Production Act, 42 U.S.C. §§ 6801–6892.

Energy Conservation in Existing Buildings Act 42 U.S.C. §§ 6851–6392.

Energy Conservation Standards for New Buildings Act, 42 U.S.C. §§ 6831–6840.

Energy Policy and Conservation Act, 42 U.S.C. §§ 6201–6422.

Energy Supply and Environmental Coordination Act, 15 U.S.C. §§ 791–798.

Federal Coal Leasing Amendment Act of 1975, 30 U.S.C. §§ 201–209.

Federal Energy Administration Act of 1974, 15 U.S.C. §§ 761–790h.

Federal Non-Nuclear Energy Research and Development Act of 1974, 42 U.S.C. §§ 5901–5915.

Oil Pollution Act of 1961, 33 U.S.C. §§ 1001–1010.

Federal Power Act of 1970, 16 U.S.C. § 791a.

Atomic Energy Act of 1970, 42 U.S.C. § 2011.

B. Wildlife legislation:

Anadromous Fish Conservation Act, 16 U.S.C. §§ 757a–757f.

Bald and Golden Eagle Protection Act, 16 U.S.C. §§ 668–668d.

Endangered Species Act, 16 U.S.C. §§ 1531–1543.

Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 121–136y.

Fish and Wildlife Coordination Act of March 10, 1934, 16 U.S.C. §§ 661–666c.

Fur Seal Act of 1936, 16 U.S.C. §§ 1151–1186.

Marine Mammal Protection Act of 1972, 16 U.S.C. §§ 1361–1407.

Marine Protection, Research & Sanctuaries Act of 1972, 33 U.S.C. §§ 1401–1444.

Migratory Bird Treaty Act, 16 U.S.C. §§ 703–711.

National Wildlife Refuge System Administration Act of 1966, 16 U.S.C. §§ 668dd–668ee.

Wild and Free-roaming Horses and Burros Act, 16 U.S.C. §§ 1331–1340.

C. Transportation:

Department of Transportation Act of 1970, 49 U.S.C. § 1655.

Federal Aviation Act of 1970, 49 U.S.C. § 1301.

Airport & Airway Development Act of 1970, 49 U.S.C. § 1701.

Federal Highways Act of 1970, 23 U.S.C. § 101.

Urban Mass Transportation Act of 1964, 49 U.S.C. §§ 1602, 1610.

(See also Selected Federal Statutes on Environmental Impact of Transportation Programs, E.L.R. 41601.)

D. Land, water and air management and use:

National Parks Act, 16 U.S.C. § 1.

Forest and Rangeland Renewable Resources Planning Act of 1974, 16 U.S.C. §§ 1600–1614.

Historical Sites Buildings and Antiquities Act, 16 U.S.C. § § 461–4691.

Land and Water Conservation Fund Act of 1965, 16 U.S.C. §§ 4601–4—4601–11.

Mineral Leasing Act of 1920, 30 U.S.C. § 185.

Mining Law of 1872, 30 U.S.C. § 22.

National Forest Organic Legislation, 16 U.S.C. §§ 471–475.

National Park System Mining Regulation Act, 16 U.S.C. § § 1901–1912.

National Historic Preservation Act, 16 U.S.C. § 470–470t.

Organic Act of the National Park Service, 16 U.S.C. § 1.

Outer Continental Shelf Lands Act, 43 U.S.C. §§ 1331–1343.

Pickett Act (withdrawal of public lands) of 1910, 43 U.S.C. §§ 141, 142.

Ports and Waterways Safety Act of 1972, 33 U.S.C. §§ 1221–1227.

Resources Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901–6987.

Submerged Lands Act, 43 U.S.C. §§ 1301–1343.

Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. §§ 1201–1328.

Taylor Grazing Act of 1934, 43 U.S.C. §§ 315, 315a, 315e, 315f.

Wilderness Act of 1964, 16 U.S.C. §§ 1131–1136.

Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1701–1782.

Water Resources Planning Act of 1970, 42 U.S.C. § 1962.

Safe Drinking Water Act, 42 U.S.C. §§ 330f–300j–9.

Wild and Scenic Rivers Act, 16 U.S.C. § § 1271–1287.

Air Quality Act of 1970, 42 U.S.C. § 1857.

E. Others:

Federal Highway Act, 23 U.S.C. §§ 109, 128, 138.

Toxic Substance Control Act, 15 U.S.C. §§ 2601–2629.

Federal Common Law: U.S. Constitution, Art. IV § 3(2).

Aircraft Noise Abatement Act of 1970, 49 U.S.C. § 1431.

SPECIAL VENUE PROVISIONS IN SELECTED STATUTES AFFECTING ENVIRONMENTAL QUALITY

1. Clean Air Act, 42 U.S.C. §§ 7401–7642; calls for setting of air quality standards and emission standards by an Administrator. § 7604(c) (1) permits a citizen's suit against a stationary source violating either emission standards or an order of the E.P.A. or a state, to be brought only in the judicial district in which such source is located. § 7607(b) (1) provides for appellate court review of prior rulings only in the local circuit court if issues are "locally or regionally applicable" or in the U.S. Court of Appeals for the District of Columbia if issues are "nationwide (in) scope."

2. Traffic and motor vehicle safety stand-

ards Act, 15 U.S.C. §§ 1381–1431; calls for setting Federal motor vehicle safety standards. § 1415(a)(1) provides that civil actions for violations of these standards may be brought only in the district court for the District of Columbia or the district court of the state of incorporation.

3. Endangered Species Act of 1973, 16 U.S.C. §§ 1531–1543; calls for regulatory steps to conserve various species of fish, wildlife and plants facing extinction. § 1540 (a)(3)(A) states that citizens' suits arising under this statute "may be brought" in the judicial district in which the violation occurs.

4. Bald and Golden Eagle Protection Act, 16 U.S.C. §§ 668–668d; regulates commercial trafficking in these types of eagles by permit. § 668(b) provides that the Attorney General may sue to collect civil penalties assessed for permit violations in any district in which the violator is found, resides or transacts business.

5. Deepwater Port Act of 1974, 33 U.S.C. §§ 1501–1524; requires the Secretary of Transportation to perform certain duties to protect the environmental and navigational safety of deepwater ports through licensing and environmental impact statements and other means. § 1515(a)(2) provides that citizens' civil actions under this statute "shall be brought" in the district court of the District of Columbia or the district court of the "appropriate adjacent, coastal state." § 1516 provides that a litigant "may . . . seek" review in the circuit court of appeals within which the nearest adjacent coastal state is located.

6. Federal Energy Administration Act of 1974, 15 U.S.C. §§ 761–790h; commands the regulation of energy resources to conserve scarce energy resources excepting petroleum products regulated under the Emergency Petroleum Allocation Act. § 766(i)(2)(A) permits judicial review of administrative actions "of general and national applicability" only in the District of Columbia's Court of Appeals. Actions of "less than national applicability" may be reviewed only in the "appropriate" circuit court. The appropriate circuit court is defined as that containing the area or the greater part of the area within which the rule, regulation or order is to have effect.

7. Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 121–136y; regulates interstate commerce in poisons designed to kill insects, fungi and rodents such as specified labelling requirements and shipping requirements. Under § 135b(d), persons adversely affected by orders under this statute "may obtain" review in the circuit court where they reside, have their principal place of business or the District of Columbia circuit court. § 135g(a) states that poisons transported interstate in violation of these regulations "shall be liable" to suit in any district where it is found and seized for confiscation.

8. Environmental Pesticide Control Act, 7 U.S.C. §§ 136–136y; requires registration of pesticides with an Administrator. § 136n(b) permits appellate review of administrative actions under this title in the appellant' district of residence or where he has a place of business.

9. Marine Mammal Protection Act of 1972, 16 U.S.C. §§ 1361–1407; regulates the taking and import of marine mammals through permits. § 1374(d)(6) provides that an applicant for a permit may obtain judicial review in the district court where he resides or has a principal place of business, or in the district court for the District of Columbia. § 1376(b) provides for suits against vessels violating these regulations in the district court having jurisdiction over the vessel (for vessels under U.S. jurisdiction).

10. Mineral Leasing Act of 1920, 30 U.S.C. § 185; establishes a duty of care in the operation of oil and gas pipelines commensurate with obligations as a common carrier. § 185 (r)(5) permits the Attorney General to prosecute violators before the I.C.C., F.P.C., etc., or the district court in the district where the pipeline or any part of it is located.

11. Toxic Substances Control Act, 15 U.S.C. §§ 2601–2629; regulates the manufacture and processing of new chemical substances or the new use of a known chemical substance through registration and notification requirements and various provisions for enforcement, assessment of penalties and the promulgation of rules under this title by an Administrator. § 2604(f) authorizes the Administrator to take action protecting the public from imminent risk before the notification period has run. Under § 2604(f)(3) (A)(ii) he may apply to enjoin activities which pose such imminent risk in the district court for the District of Columbia or the district court for any district where the manufacturer or processor of such a substance is found, resides or transacts business. § 2606 dealing with imminent hazards authorizes the Administrator to commence civil actions in the appropriate district court to seize imminently hazardous material or seek relief against persons trafficking in such materials. Under § 2606(c), *Venue and Consolidation*, the appropriate court is defined as the district court in the district where the defendant is found, resides or transacts business. § 2615 authorizes the Administrator under this title to assess civil penalties against violators. § 2615(a)(3) allows a grievant assessed a fine under this provision the right to judicial review of such a penalty in the U.S. Court of Appeals for the District of Columbia or any other circuit in which the appellant resides or transacts business. § 2616 enables district courts with jurisdiction over civil actions arising under this statute to specifically enforce their orders and seize property found to be in violation of the provisions of this title. § 2616(a)(2) provides that civil suits arising under this statute "may be brought" in the district court for the district in which any act, omission or transaction constituting a violation occurred or where the defendant is found or transacts business. § 2618(a) allows for judicial review of any rule promulgated under this statute in the U.S. Court of Appeals for the District of Columbia or a circuit where the appellant resides or has his principal place of business.

12. Intervention of the High Seas Act, 33 U.S.C. §§ 1471–1487; provides for navigational incidents producing damage or threatening damage to the U.S. coastline or marine resources. § 1479(b) provides that actions against the U.S. "may be brought" in the U.S. Court of Claims or in any district court of the U.S. in addition to the courts listed at 28 U.S.C. § 460.

13. Outer Continental Shelf Lands Act, 43 U.S.C. §§ 1331–1343; provides for cases and controversies arising from operations on the outer Continental shelf, exploring, developing, removing or transporting by pipeline, resources of the subsoil and seabed. § 1333 (b) provides that proceedings under this title "may be instituted" in the defendant's district of residence or the district where he may be found or the district court of the adjacent state nearest the place where the cause of action arose.

14. Sustained Yield Forest Management Act, 16 U.S.C. § 583; authorizes the Secretary of Agriculture and the Secretary of the Interior to contract with private landowners for the purpose of stabilizing the forestry industry. § 583e confers the right to sue for breach of contract "in the proper district court of the United States" upon the Attorney General.

15. Mineral Lands and Mining Act, 30 U.S.C. § 1201; regulates surface mining operations to protect the invironment and the interests of other surface landowners and to insure an adequate coal supply. § 1270(c)(1) establishes venue in actions regarding violations of this chapter providing such cases "may be brought only in the judicial district in which the surface coal mining operation complained of is located."

16. Safe Drinking Water Act, 42 U.S.C. §§300f–300j–9; authorized establishment and enforcement of national drinking water standards. § 300g–3(b) grants the Administrator under this title the right to sue for enforcement of these standards "in the appropriate United States District Court."

17. Federal Water Pollution Control Act, 33 U.S.C. §§ 1251–1376; sets standards and limitations on discharges into navigable waters to protect the environment of those waters. § 1319(b) authorizes the Administrator under this title to commence civil actions against violators of these standards and limitations, stating "(these actions) may be brought in the district court of the district where the defendant is located, resides or is doing business." § 1369(b) provides for judicial review of certain federal standards and limitations regulating the discharges of pollutants of federal action in passing upon state permit programs, and of federal issuance or denial of permits, upon the filing of an application by "any interested person" in the "Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts any business" within ninety days after the challenged action is taken.

18. Federal Aviation Act of 1970, 49 U.S.C. 1301; establishes the C.A.B. and other extensive regulatory provisions controlling the planning and development of air, space and navigational facilities. Some of the sections under which environmental litigation might be brought include: section 1348 providing airspace and control facilities; sections 1349–1350 giving the Board power over the location of airports, navigational facilities and missile and rocket sites; and section 1351 creating the meteorological service. Section 1473 entitled "Venue and Prosecution of Offenses; Procedures in respect of Civil and Air Piracy Penalties" requires that trial for any offense under this chapter resulting in the assessment of either type of penalty "shall be in the district in which such offense is committed" or if outside the jurisdiction of a state or district of the U.S. other venue provisions are given. Section 1486(b) dealing with any order of the Board of the Administrator provides that they are subject to review in the court of appeals where the petitioner has his residence or principal place of business or the U.S. Court of Appeals for the District of Columbia.

19. Solid Waste Disposal Act of 1970, 42 U.S.C. 6901; provides for the treatment, management and other regulation of solid waste materials for conservation and health purposes. Section 6972 authorizing citizens' suits under this legislation requires that they "shall be brought in the district court for the district in which the alleged violation occurred." Suits against the Administrator under this title "may be brought in the district court for the district in which the alleged violation occurred or in the district court for the District of Columbia." Section 6976 allows for judicial review of final regulations promulgated under this chapter only in the U.S. Court of Appeals for the District of Columbia.●

By Mr. METZENBAUM (for himself, Mr. WILLIAMS, Mr. RIEGLE, Mr. CRANSTON, Mr. PELL, Mr. JAVITS, Mr. RANDOLPH, Mr. DECONCINI, Mr. LEVIN, Mr. KENNEDY, Mr. HART, and Mr. DURKIN):

S. 1473. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirements benefits for retired employees; to the Committee on Labor and Human Resources.

● Mr. METZENBAUM. Mr. President, Senators WILLIAMS, RANDOLPH, PELL, KENNEDY, CRANSTON, RIEGLE, JAVITS, DECONCINI, LEVIN, DURKIN, and HART join me today in introducing the Retired Employee Benefits Act of 1979. This legislation is designed to restore to retired workers in this country their right to have their interests represented in the collective-bargaining process.

The high rates of inflation that we have experienced in recent years has taken its toll on all Americans. But for those who are retired on fixed incomes, inflation has meant tragedy. It has meant a constant, losing struggle against price increases that threaten to place necessities like food, housing, medical care, and utilities beyond the reach of millions of our people. In fact, fewer than 2 percent of those who now receive pension benefits are eligible for cost-of-living adjustments.

Recent hearings before the House Subcommittee on Labor-Management Relations turned up examples of individuals forced to live on $87 a month after providing years of service to their companies. These examples are not isolated. They are all too common. And they represent an injustice that must be reversed.

A recent Washington Post article provided additional insight into the conditions of retired employees living on fixed company pensions. In the article is an extremely gripping example of one retired employee. The employee retired and received $72.84 a month after working for 40 years at Westinghouse Air Brake Division of American Standard. This employee retired in 1963. His company pension now pays $101.01 per month—while the cost of living has gone up 130 percent over the same period. I believe this article accurately portrays the horror faced by many older Americans. The horror, as described in the article is of being "eaten alive by inflation."

Until 1971, retiree benefits were a common topic at the bargaining table. But in that year, the Supreme Court held in Allied Chemical and Alkali Workers against Pittsburgh Plate Glass that retirees cannot be considered as employees or as members of a bargaining unit as defined by the National Labor Relations Act. As a result, benefits for retired workers cannot be considered a mandatory subject of collective bargaining.

This decision placed a severe and unfair burden upon the very people whose personal sacrifices built the union movement and whose financial contributions formed the basis for today's powerful pension funds. And it has condemned thousands who contributed in good faith toward pensions during their working years to poverty during retirement.

Mr. President, this legislation does not require any increase in retiree benefits. It says merely if labor brings up the subject, management must discuss those benefits. And it says that retirees may in the future have reason to hope that their legitimate interest will be represented at the bargaining table.

Mr. President, I ask unanimous consent that the text of this bill along with the Washington Post article be printed in the RECORD.

There being no objection, the bill and article were ordered to be printed in the RECORD, as follows:

S. 1473

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 8(d) of the National Labor Relations Act is amended—

(1) by inserting after "other terms and conditions of employment" the following: ", including retirement benefits for retired employees", and

(2) by inserting after "all the terms and conditions" in paragraph (4) of the proviso the following: "(including terms and conditions relating to retirement benefits for retired employees)".

[From the Washington Post]

BEING "EATEN ALIVE" BY INFLATION, PRIVATE PENSIONERS COMPLAIN

(By Spencer Rich)

When Howard Kaufman retired in 1968 after 35 years at Packaging Corp. of America in Rittman, Ohio, he got a $74.83 monthly pension in addition to his Social Security.

Since then, the cost of living has more than doubled. Kaufman's Social Security benefits, which have an automatic cost-of-living escalator, have gone up repeatedly.

But his company pension "has never gone up a nickel in the past 11 years. It's still $74.83. You can see where a man is dropping behind just a little bit all the time," Kaufman said in an interview.

Tony Trink, who worked at the Westinghouse Air Brake Division of American Standard for 40 years, has also found the value of his private pension eroded by inflation, with few company increases to keep pace.

When he retired in 1963 his company pension was $72.84 a month. Today it's $101.01—while the cost of living has gone up 130 percent over the same period.

The experience of Kaufman and Trink is shared by millions of retired workers who receive private pensions to supplement their Social Security.

Government and private studies show that only a handful of private pension systems have automatic cost-of-living increases and most of these have a ceiling of 3 percent a year.

Millions of retirees get no increases at all or must depend on occasional one-shot boosts volunteered by the company or negotiated by a union.

"People on fixed incomes are being eaten alive by inflation," said a pension expert on Capitol Hill.

"People are damned worried," said Mike Romig, a pension spokesman for the Chamber of Commerce.

The cruel bite of inflation was described recently by Alicia Munnell, vice president and economist of the Federal Reserve Bank of Boston.

"With an inflation rate of 6 percent," said Munnell, "a private pension benefit of $2,100, the average in 1975 is reduced to a real value of $1,171 in 10 years." Since 1973, the inflation rate has been well over 6 percent—today it's nearly 13 percent.

Many pension experts say this failure to keep benefits up in the face of today's high inflation rates threatens the very existence of the entire private pension system in the United States.

The basic purpose of a private pension plan is to "provide a retirement income that will enable the pensioner to maintain a certain relative standard of living," said Social Securitys former chief actuary, Robert J. Myers, now a professor and consultant.

If pensions lose their value through inflation and no steps are taken to provide cost-of-living adjustments, there will inevitably be pressure to increase Social Security benefits to compensate, Myers said in a book on pensions.

Private pensions will then shrivel in importance and "they will be faced with extinction in the long run."

Munnell said, "In a highly inflationary environment, total Social Security payments would probably expand beyond current projections and private pensions would become relatively unimportant."

Only half the active labor force works in jobs covered by private pensions, and only 8.6 million retirees in the entire country are actually receiving private pensions (at the less-than-princely average of about $217 a month).

On top of that, study after study shows that increases to meet the cost of living are few and far-between:

A 1975 survey by Bankers Trust Co. of 271 pension plans run by big, affluent firms showed that a worker retiring in 1970 in one sample group of these firms would have received only 11 percent overall in pension boosts from 1970 to '75, while the cost of living was rising three times as fast. Eight plans had automatic cost-of-living features, but every one had a 3 percent annual ceiling. A recent update based on 103 firms shows that about four-fifths did give some increases to retirees from 1970 to 79, but "virtually none" gave enough to maintain the purchasing power of the original pension.

A survey by Gayle B. Thompson, of the Social Security Administration, showed that the real value of a sample group of retirees' private pensions declined 14 percent between 1970 and '74 because they didn't get cost-of-living increases sufficient to match soaring prices. In another sample, less than one-fifth of the private pensions went up enough in 1972-'74 to match inflation, 27 percent went up some but not at a pace with inflation, while "the largest group of pensioners received the same benefit in both years."

A Labor Department study by Mathtech of Princeton shows that, in one sample, about one-third of private pensions kept pace with inflation in 1970–'72, but less than a fifth kept pace in 1972–'74, when inflation was much higher.

A large group of surveys cited by Myers confirms that very few pensioners get increases that keep pace with the cost of living. Many plans do volunteer one-shot or sporadic boosts, but these seldom match current inflation rates.

If inflation is decimating the value of private pensions, why don't the firms simply provide for automatic cost-of-living adjustments (this is called "indexing") the way the government does with Social Security and civil service pensions?

There are lots of answers, but the main one is money. It costs big bucks to "index" private pensions.

"It's a very expensive proposition," said the Chamber's Roming. "It's an expensive game to play catchup ball on inflation. You try to keep feeding that little lion that keeps roaring."

Donald Grubbs, a leading actuary formerly with the Internal Revenue Service and now with the George Buck consulting firm, estimated that to keep pace with a 4 percent cost-of-living increase, the typical company in the long run would have to increase its private pension outlays by 33 percent.

If inflation were running at 8 percent,

Grubbs said in an interview, the cost of a typical plan would go up at least 77 percent.

Myers estimated that, at inflation of 5 percent, fully indexing a pension plan would add 30 to 40 percent to its costs.

Another respected actuary, Everett Allen of Towers, Perrin, Forster and Crosby, said that while added costs from cost-of-living features can vary according to the type of plan, level of benefits, composition of the workforce, etc., "one rule of thumb is that pension costs will increase by about 10 percent for each 1 percent annual increase in pensioner benefits."

Vetter Price's George Pantos, a spokesman for the ERISA Industry Committee, which consists of about 100 of the largest private company plans in the country, said the members are extremly apprehensive of automatic cost-of-living formulas because "companies don't want to be locked into any formula. They don't know what their profits and business conditions are going to be in the future."

They don't want to be tied into commitments which are open-ended and uncertain, because nobdy knows just what the future rate of inflation will be, Pantos said.

"You often hear the remark: Benefit dollars are not infinite; they're finite," Pantos said.

He quoted an official of one large plan: "Any attempt to legislate an escalator, even a modest one, would bankrupt many plans."

Despite the clear problem, there isn't very wide support for a possible federal law mandating cost-of-living increases for private pensioners.

Grubbs indicated he would favor some form of mandated private pension increase, once pensions cover everybody. But he said the fact that only half the labor force is pension-covered is a problem with greater priority.

Myers said he favors providing automatic boosts but not necessarily up to the full inflation rate, but stopped short of endorsing a federal requirement now.

Mike Gordon, a pension expert, said he favors the concept but would want more information on costs and impact. Putting extra money into cost-of-living increases for those who have high pensions might distort the overall income picture for the aged, he said.

Karen Ferguson of the Pension Rights Center, saying costs are a serious problem, suggested that some "cap" on the income might be considered.

Betty Duskin of the National Council of Senior Citizens said, "Unitil we're ready to mandate pension plan coverage, how can we mandate cost-of-living increases?"

Jim Hacking of the American Association of Retired Persons also shied from endorsing a federal mandate at this time: "It's sort of like the rock and the hard place. If you mandate even within limits of 5 or 6 percent a year, the costs are just tremendous and you're going to get employers dropping plans."

Fear that costs would induce firms to junk their plans, or discourage other firms from starting them, was cited by many as a reason to go slow on requiring cost-of-living features.

Myers, Grubbs and others pointed out that it would be possible to write cost-of-living proposals that would limit gross unexpected costs and make outlays predictable.

For example: you could write a system covering only the first 3 to 4 percent of inflation. Or ignoring the first 3 percent of inflation each year but providing boosts for perhaps the next 5 percent, with a ceiling at 8 percent. Or giving the pensioner half the inflation rate. Or cover only retirees with lower pensions.

That is all in the future. Meanwhile, most pensioners will have to wait and watch their purchasing power dribble away.

One possibility is that the government would sell to pension funds a new form of security called "index bonds" whose redemption value (and perhaps interest as well) would rise with inflation. This would allow pension fund assets to keep pace with inflation and provide the money to boost benefits. But this proposal presents broader economic problems and whether it will ever be adopted isn't clear.

Kaufman, from his trailer home in Dalton, Ohio, said that at 76 he really doesn't think it is fair to ask him to wait too long for a solution to the pension-indexing problem.

After all, he said, the firm he worked for is the sister company of a big contractor that makes ships for the government—and gets compensated when it has big cost overruns.

"I've got a cost overrun on my living expenses, but on my side of the fence it's a different story," he declared ruefully.●

● Mr. RIEGLE. Mr. President, in this time of rampant inflation outstripping pensions negotiated years ago, I am pleased to join with the Senator from Ohio (Mr. METZENBAUM) in introducing a bill to make retirees' benefits a mandatory subject of collective bargaining under the National Labor Relations Act. As the buying power of pensions shrinks, labor organizations should be able to protect the rights of their retirees through the bargaining process.

For the 2 million retired workers now receiving collectively bargained pensions, this change will not provide any quick solutions to their financial problems. All of us will continue to suffer from inflation, and those on fixed or nearly fixed incomes will suffer most. But at least these retirees can turn to their union with the knowledge that their interests may be represented at the bargaining table.

I think it is important to recognize that this bill, if successfully implemented through collective-bargaining sessions across the country, may provide an alternative to expanded Federal regulation. The Federal Government, through the Employee Retirement Income Security Act of 1974, has accepted responsibility for assuring that eligible retirees will receive the benefits they had anticipated; under this bill, employers and labor organizations together can continue to assure that the benefits are realistic in view of current inflation levels.

This bill does not call for a major change on the collective-bargaining process. In many industries—including autos, steel, aluminum, and canning—benefits for retired workers are already a subject of voluntary bargaining. And, since labor organizations can maintain support of current workers only by keeping faith with those who have already retired, unions are well able to represent the interests of former employees.

The support which this proposal has gathered to date is impressive. Since the Supreme Court's 1971 determination in Allied Chemical Workers against Pittsburgh Plate Glass Co., numerous senior citizens' and labor organizations have endorsed legislation clarifying congressional intent that retirees' benefits are mandatory subjects of bargaining. Because of today's inflation, it has become urgent that Congress act now to correct this interpretation.●

By Mr. INOUYE:

S. 1474. A bill to establish a national merchant marine policy, to create a Cabinet-level coordinating Council to implement such policy, and for other purposes; to the Committee on Governmental Affairs.

NATIONAL MERCHANT MARINE POLICY ACT

● Mr. INOUYE. Mr. President, on Monday of this week I introduced seven maritime bills addressed to both regulatory and promotional problems afflicting our national shipping policy.

While all of these problems—and others—need to be remedied I believe there is another, more basic one, which is not addressed by any of these bills; namely, all of the agencies having policy and program responsibilities affecting our maritime program are not acting together. In other words, often an agency fails to take into account the objectives of our maritime policy, or follows a course of action which contradicts or thwarts those objectives.

For example:

The State Department and the Justice Department recently joined the Soviets in the court of appeals to oppose FMC efforts to enforce our shipping laws.

Buses financed by Department of Transportation funds move on Russian ships despite our cargo-preference laws requiring that at least 50 percent of Government-financed cargo move on U.S. ships.

The Department of Justice enforces our antitrust laws against American carriers. while foreign flags in effect get a green light for many of the same activities.

A substantial portion of U.S. originated international mail moves on foreign flags.

Most of these cases, where agencies either ignore the objectives of our maritime policy, or pursue a contradictory course do not, I believe, arise because the different agencies have statutory mandates which conflict with the mandates of our shipping laws.

Rather, it is the way in which these agencies understand and interpret their mandates that causes the conflict with the shipping laws and their objectives.

In any event, I believe it is a working hypothesis worth testing in the hearing process. Because if it proves to be the case, the objectives of whatever substantive maritime measures we enact will be frustrated.

To remedy these problems of contradiction and lack of coordination, and to assure that our merchant marine interests get a "fair shake" in the councils of our Government I am today introducing legislation to create a Cabinet-level National Merchant Marine Policy Council.

The Policy Council would be charged with monitoring Federal agencies' compliance with national merchant marine policy and coordination of that policy's interpretation with other national interests. The Council's activities would include coordination responsibilities and consideration of policies, programs, or issues which relate to merchant marine matters and which involve two or more Federal agencies. Specific Policy Council functions would include: Continuous refinement of merchant marine-related Federal policies; coordination of merchant marine activities and policies with related activities and policies in various Federal agencies; concentration of Federal efforts for maximum benefit to the public; resolution of program and policy conflicts that involve two or more Federal agencies; and reporting to the Congress on Council activities.

The Merchant Marine Policy Council would consist of those departments and agencies which have responsibilities affecting maritime matters, and four members from the private sector of the maritime industry.

The chairman of the Policy Council would be the President's Special Trade Negotiator, and the Council members would be Cabinet members or their immediate subordinates.

Mr. President, the Cabinet-level Policy Council I am recommending would not involve relocation of the authority or jurisdiction of any agency of Government. Nor, would it create a new bureaucracy. The Council would be supported by a small staff of about 15, and a budget of about $500,000 a year.

This concept, I might add, is not new to the Senate. In May, after 5 years of intensive study, the Senate unanimously passed S. 1097, the National Tourism Policy Act. Title II of the act creates a Cabinet-level Tourism Policy Council which is the model for the legislation I am introducing today.●

By Mr. BENTSEN:

S. 1475. A bill to amend the Internal Revenue Code of 1954 to provide tax incentives to encourage the creation and growth of new and innovative firms; to the Committee on Finance.

VENTURE CAPITAL TAX REFORM ACT

● Mr. BENTSEN. Mr. President, I am today introducing the Venture Capital Tax Reform Act to encourage the creation of new and innovative firms that are indispensable to a healthy, competitive economy.

Economic growth in our Nation depends upon the availability of a sufficient supply of capital for the risktakers and entrepreneurs who have the initiative to start new businesses and to develop imaginative new ideas. That capital is often referred to as venture capital.

During the last Congress I was involved in two successful efforts to help increase the availability of venture capital in our economy. First, the capital gains tax was reduced as part of the 1978 Revenue Act. Second, the so-called "prudent man" rule of ERISA was clarified to insure that this rule does not unintentionally prevent private pension investments in smaller firms. However, further efforts are needed in the 96th Congress.

Many products, unheard of a few years ago, which now benefit our daily lives, were developed by small innovative businesses. Minicomputers, semiconductors, handheld calculators, and sophisticated lifesaving medical devices are but a few examples. The companies that created these products provided new jobs for our growing work force, provided competition to established firms, and increased exports to help with our balance of trade.

The Venture Capital Tax Reform Act will promote the creation of innovative businesses. This proposal has four major provisions:

First, favorable tax treatment would be provided to a new category of stock which would be referred to as "venture capital stock." The favorable treatment would take the form of tax deferral on certain gains and liberalized deductions on certain losses. These incentives will encourage the flow of capital to risky new enterprises.

Second, stock option incentives would be made available for venture capital stock to attract competent management.

Third, the net operating loss carryforward of existing law would be increased to 10 years for new firms.

Fourth, the existing limitation on investment interest deductions in our tax law would be repealed in order to encourage entrepreneurs to enter new fields to create new jobs and provide greater competition in our economy.

Mr. President, it is essential that the needs of venture capital be specifically addressed during consideration of tax reduction and tax reform legislation in the 96th Congress. I have introduced my proposals to provide a starting point for discussion of these issues during the Ways and Means Committee and Finance Committee tax hearings. There is no question that the formulation of fair and effective tax incentives to encourage venture capital is a difficult task. However, with the input of the Treasury Department and outside experts, I am confident that provisions along the lines that I have suggested can be incorporated in tax legislation during this Congress.

Mr. President, I would now like to describe these proposals in greater detail.

First, tax incentives would be provided to encourage individuals to invest in venture capital investments which are often very risky but provide a great deal of promise for our economy. These incentives are needed to increase the availability of external investment capital for innovative firms which will become the "new IBM" or the "new Xerox."

Under my proposal, a taxpayer who invests in qualified venture capital stock would be eligible to deduct as much as $100,000 of losses from such investment against ordinary income. This compares to the present limitation of only $3,000 on the capital losses that can be offset against ordinary income and the $50,000 limitation on deductible losses for so-called section 1244 stock.

In addition, under my proposal, gain from the sale of qualified venture capital stock would qualify as a nontaxable exchange provided the gain was reinvested within 2 years of sale in other qualified venture capital stock.

Under existing law, the owner of a successful new business who sells out to a major corporation and takes stock in the big business has to pay no taxes until the stock is sold. On the other hand, if he sells his business to his children or to his employees or to another small business, he is taxed on any gains he realizes. In other words, our tax laws encourage venture capitalists to sell their firm to a large corporation.

My proposal would remedy this inequity by allowing a venture capitalist to sell a business without an immediate tax liability if the proceeds of the sale are reinvested in a new venture.

Venture capital stock is narrowly defined to limit the amount of revenue loss to the Treasury. Under my bill, venture capital stock would be defined to include stock issued by newly formed, domestic, unaffiliated corporations engaged in manufacturing, research, or extraction. The favorable treatment would be limited to the first $5 million of stock issued by that firm. Furthermore, favorable tax treatment would apply only if the stockholder held such stock for at least 10 years.

Second, this bill would provide favorable stock option treatment for employees of new ventures. Today it is difficult for an entrepreneur with a new idea to attract good management because new firms cannot afford the high salaries paid by larger companies. In addition, risky ventures cannot offer the long-term job security provided by established companies.

My bill would repeal the changes enacted in the 1976 Tax Reform Act with respect to stock options for qualified "venture capital stock."

Prior to the 1976 Tax Reform Act, no income was recognized on the grant to a corporate employee, or on his exercise of, a qualified option to receive employer stock. The stock acquired by the exercise of the option was a capital asset in the hands of the employee and the income realized from the eventual sale of the stock was generally treated as long-term capital gain or loss.

By contrast, the value of a nonqualified stock option constituted ordinary income to the employee if the option itself had a readily ascertainable fair market value at the time it was granted to the employee. If the option did not have a readily ascertainable value it would not constitute ordinary income at the time it was granted; when the option was exercised, however, the spread between the option price and the value of the stock at that time constituted ordinary income to the employee.

Thus, qualified options had this advantage: An executive was not required to pay any ordinary income tax on the value of the option as such when the company granted it to him, or on any bargain element which may have existed if and when he decided to exercise the option and purchase stock in the company. The bargain element is the excess of the fair market value of a share of stock over its purchase price. The employee was only required to pay tax when he sold the shares purchased under the option.

Further, if he held the shares for at least 3 years—as required for the option to remain qualified—he was entitled to pay tax at capital gains rates on the full amount of his gain over the price which he originally paid.

Although an employee did not have to pay tax under the qualified stock option rules at the time he exercised the option and received stock worth more than he paid for it, the bargain element was treated as an item of tax preference in the minimum tax.

Under the 1976 Tax Reform Act, if an employee receives an option which has a readily ascertainable fair market value at the time it is granted, this value—less the price paid for the option, of any—constitutes ordinary income to the employee at that time.

On the other hand, if the option does not have a readily ascertainable fair market value at the time it is granted, the value of the option does not constitute income to the employee at that time, but it would be taxable to the employee only when the option is exercised. The ordinary income recognized at that time is the spread between the option price and the value of the stock—unless the stock is nontransferable and subject to a substantial risk of forfeiture.

Current law unduly penalizes key employees of smaller companies who often must sell optioned stock at the time of option exercise in order to pay the required tax, yet are unable to sell the stock obtained from exercising the option due to the limited or illiquid market for the stock. My bill would reinstate the favorable pre-1976 stock option treatment for new risky ventures to enable these firms to attract and motivate key employees. Innovative companies require appropriate incentives to attract capable management away from the high salaries and long-term security provided by mature companies.

Third, this bill would increase the net operating loss carryforward for new businesses. For the first 10 years of operation of a new business the period over which net operating losses may be carried forward and deducted aganist profits would be increased from the present limit of 7 to 10 years. New enterprises are generally more dependent on internally generated capital for growth and the current limit on the net operating loss carryover can have an adverse effect on growth. Since new businesses are frequently unprofitable for their first few years, operating losses incurred in these early stages often cannot be recovered in the carryforward period now permitted. Thus, although well established companies can usually utilize the net operating loss deductions, newer enterprises often cannot. My proposal would help eliminate this tax inequity.

Fourth, the existing limitation—generally $10,000 plus net investment income—on investment interest deductions would be repealed. Repeal of this very counterproductive limitation would encourage entrepreneurs to enter new fields—with borrowed funds—to bootstrap their way up. This change will facilitate the ability of entrepreneurs to raise capital to start a new business which can provide many new jobs and provide competition to the established firms. Investment interest expenses are real out-of-pocket expenses and should be deductible, particularly since this would encourage competition in our economy.

The present limitation discriminates in favor of persons with established wealth compared to new entrepreneurs. For example, a person who receives interest income of $100,000 per year from a trust is entitled to an investment interest deduction of $110,000. In comparison, a young entrepreneur with no interest income is limited to only $10,000 of investment interest deduction. Furthermore, our tax laws impose no limitations with respect to loans for the purchase of private airplanes or yachts but impose limitations on investment loans even though the establishment of a new business creates many new jobs for our economy.

Mr. President, I would like to provide some examples which illustrate the importance of venture capital to our entire economy.

Venture capital was essential in the creation of transistors. It is the transistor which made possible the large central computer industry and the military instrumentation industry. The development of the minicomputer industry depended on the availability of venture capital. The minicomputer industry not only provides substantial jobs and tax revenues but has also been a major factor in improving the productivity of industry. Everyone is familiar with pocket calculators. Pocket calculators are solely the product of American technology and venture capital.

A venture capital enterprise funded by risk investments developed the know-how for miniaturized semiconductors called MOS's. With this know-how and technology an entire new industry was created. The total initial risk capital investment was relatively small, especially when compared to recent total industry sales.

Indeed, venture capital has had an important impact on any number of high-growth industries—semiconductors, minicomputers, all kinds of other computer-related products, hand-held calculators, automatic editing typewriters, CATV, hifis, new medical instruments and a wide variety of others.

Even frozen orange juice was developed through venture capital. A great many jobs have been brought back to the United States from Japan through the development of the small chips that are used in handheld calculators, and this type of advance is now being applied to electronic watches. These were developments by small companies that were not subject to the restrictions of a large company environment and could attract the bright young scientist, production manager, and marketing people to move the product into the marketplace. And it is also the result of venture capitalists who were willing to risk their capital to build new companies to better serve the public.

We cannot maintain a healthy, competitive and growing economy unless there is enough capital available for the risktakers and entrepreneurs who want to develop their ideas into businesses.

In addition, we must avoid encouraging investors to sell new ventures to large firms.

The Federal Trade Commission's 1975 report on mergers and acquisitions states:

> As in the previous years, acquired firms that fell into the smallest asset size class accounted for the highest proportion of recorded acquisitions. Acquisitions of firms in the under $1 million and unknown asset size class represented 935, or 76.1 percent of the total number of recorded completed and pending acquisitions. For many of the acquired companies in this category, asset figures were unavailable—most likely because the acquired company was quite small. The $1 to $9.9 million asset size class had the second highest proportion of acquired companies (11.5 percent).

Limitations on the ability of private investors in successful small businesses to sell their shares to other investors have resulted in large companies being able to take over successful small companies at a discounted price because the businesses and their individual owners have little alternative in meeting their financing and liquidity needs. This is a force increasing concentration and diminishing competition in the American economy today.

Very often mergers are a legitimate means of developing liquidity. Frequently, a growing business needs the capital and management expertise of a larger partner for continued growth. On the other hand, many mergers in the past years have resulted from an environment that offered the small businessman no alternative methods of acquiring capital and liquidity.

Mr. President, the Venture Capital Tax Reform Act will provide a more favorable economic climate for the creation and growth of innovative firms. It will help remove artificial incentives for new firms to sell out to giant corporations.

The key building blocks for the emerging innovative company are capital and management. Without adequate incentives for both, the ongoing formation of these vitally important businesses will simply not happen.●

By Mr. CRANSTON:

S. 1476. A bill to prohibit certain territorial restrictions in professional sports, and for other purposes; to the Committee on the Judiciary.

TERRITORIAL RESTRICTIONS IN PROFESSIONAL SPORTS

● Mr. CRANSTON. Mr. President, I am introducing legislation today to call further attention to an issue addressed in S. 1303 introduced by me, as a companion measure to H.R. 2129, on June 7.

My principal purpose in introducing S. 1303 was to limit the ability of a professional team owner to veto any other league member from locating in the same metropolitan market area.

S. 1303, the Sports Antitrust Reform Act, contains an additional provision directed at the antitrust exemption enjoyed by organized baseball. This is a difficult problem, and frankly I do not want to see the prohibition against unfair territorial restrictions bogged down in Congress historic inability to resolve the baseball problem.

I have a strong interest in assuring that the city of Los Angeles have a fair city-owned Los Angeles Memorial Coliseum to replace the Rams professional football team which will move next year to Anaheim in Orange County. As matters now stand, the Rams' owners can prevent any other professional football team from locating in the coliseum. In a market as large as Los Angeles, it is unreasonable to deny any other team an opportunity to play in the coliseum.

The departure of the Rams from the coliseum will have an adverse impact on efforts to upgrade the downtown area of Los Angeles. The move hurts the earnings of hundreds of families who live in the coliseum area and who depend upon jobs incident to events held there. Just a single game provides work for 1,000 persons, virtually all of whom live in the central city.

The coliseum also will be the central arena for the 1984 Olympic games. Rental income earned by the coliseum is expected to help pay for refurbishing the stadium. Loss of this income due to the move of the Rams may endanger the Olympics.

For these reasons, I feel strongly that the territorial restrictions limitation in the Sports Antitrust Reform Act ought not to be caught in the decades-long struggle to end organized baseball's antitrust exemption. To this end I am introducing legislation incorporating these provisions.

The prohibition against unreasonable territorial restraints in professional sports is of urgent concern not only to the city of Los Angeles but to all urban areas hosting professional sports teams. Enactment of this provision would eliminate an unfair advantage which professional sports team owners have held over municipalities when negotiating terms for stadium rentals.

I urge my colleagues to join with me in supporting this legislation.●

By Mr. KENNEDY (for himself and Mr. DECONCINI):

S. 1477. A bill to provide for improvements in the structure and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary.

FEDERAL COURTS IMPROVEMENT ACT OF 1979

● Mr. KENNEDY. Mr. President, today I join with the distinguished Senator from Arizona, Senator DECONCINI, in introducing the latest version of the Federal Courts Improvement Act of 1979. The bill introduced today constitutes the amended version of two bills—S. 677 and S. 678, introduced on March 15, 1979. Under the very capable, dedicated leadership of Senator DECONCINI, 5 days of hearings have been held on these two bills. Various witnesses representing the judicial branch of Government, the practicing legal profession and the academic community testified concerning the strengths and weaknesses of S. 677 and S. 678. The bill introduced today is the direct result of testimony elicited at these hearings.

This bill has been developed in close conjunction with the Department of Justice and Congressman ROBERT KASTENMEIER. As I noted in introducing the original legislation, these reforms "would make long overdue changes in the structure and administration of our Federal judicial system. The legislation is the culmination of many decades of debate over the nature and structure of the Federal courts. For too long all three branches of Government have been unable or unwilling to confront the structural and procedural defects which obstruct and inhibit the effective and efficient administration of justice; the Federal Courts Improvement Act is designed to deal with some of the myriad problems which have plagued the Federal judicial system—this bill should be viewed as an important step in the direction of broadening access to the Federal courts while improving the quality of our Federal court system."

The legislation introduced today deals primarily with the structure, governance, and administration of our Federal court system. Highlights of the bill include:

First. The creation of an appellate court with exclusive jurisdiction over all Federal civil tax appeals;

Second. The creation of the court of appeals for the Federal circuit with exclusive jurisdiction over all patent and trademark appeals;

Third. Limitations on the tenure of a chief judge of a Federal district court or court of appeals;

Fourth. A clarifying provision mandating that a majority of the members of a three-judge circuit panel be judges of the circuit on which the panel sits;

Fifth. Changes in the membership and structure of circuit judicial councils;

Sixth. Implementation of a new Federal judicial retirement and resignation formula;

Seventh. A provision permitting temporary assignment of a Federal judge to accept appointment as Administrative Assistant to the Chief Justice as well as Director of the Administrative Office of the U.S. Courts or Director of the Federal Judicial Center;

Eighth. A provision allowing immediate appeals of interlocutory orders in cases of "extraordinary importance";

Ninth. A provision facilitating the transfer of any case inadvertently commenced in the wrong Federal court to the proper court without loss of a litigant's rights; and

Tenth. A provision modernizing rules for the judicial award of equitable interest on claims and judgments.

Mr. President, this new version combining the best features of S. 677 and S. 678 follows literally months of deliberation by the Subcommittee on Improvements in Judicial Machinery. It benefits from broad bipartisan support and will go a long way in improving the structure and administration of our Federal judicial system.●

● Mr. DECONCINI. Mr. President, together with the distinguished chairman of the Judiciary Committee, Senator KENNEDY, I am introducing the Federal Courts Improvement Act of 1979. This bill reflects the consensus reached by the members of the Subcommittee on Improvements in Judicial Machinery after extensive hearings and informal consultations with all interested parties.

Originally, there were two versions of this legislation, S. 677 and S. 678. The bill we introduce today is an amalgam of these two approaches together with new ideas that were generated by the hearings. Our purpose in introducing a new bill is to make it clear that what we now have is an evolutionary step in our goal of improving the Federal courts. A new bill also eliminates much of the technical complexity associated with the vast number of changes and revisions we have been led to make.

On March 15, Senator KENNEDY and I cosponsored S. 678, the Federal Courts Improvement Act of 1979, and Senator KENNEDY introduced separately by request S. 677, the Judicial Improvement Act of 1979. The two bills were referred to the Senate Subcommittee on Improvements in Judicial Machinery, and 7 days of hearings were held during May and June, at which time we heard from a broad spectrum of witnesses. Witnesses included such distinguished persons as Judge Henry Friendly of the U.S. Court of Appeals for the Second Circuit; Bernard Wolfman, professor of law at Harvard Law School; A. Leo Levin, Director of the Federal Judicial Center, and Stuart E. Seigel, Chief Counsel for the Internal Revenue Service. We have solicited opinions from bar associations such as the tax section of the New York State Bar Association, the Patent Law Association of Chicago, and the U.S. Trademark Association. We have solicited comments from many others.

On the basis of hearings and discussions with expert witnesses in the areas of tax law, patent law, and court improvements, Senator KENNEDY and I have prepared the bill we are introducing today, a bill which I believe has the strong support of most interested parties and will be a boon to the American court system.

Highlights of this bill are more specifically detailed in Senator KENNEDY'S statement. However, the legislation has three major thrusts: First, it creates a new national court of tax appeals; second, it abolishes the present Court of Claims and Court of Customs and Patent Appeals and creates in its place a court with nearly identical jurisdiction, known as the Court of Appeals for the Federal Circuit; and third, it makes a series of amendments that affect the other courts of appeal, especially concerning the makeup of their judicial councils, the makeup and size of their panels, and provisions affecting the requirements for the resignation of an article III judge. In addition, there are several other provisions that should aid in the administration of justice.

I am deeply indebted to Senators SIMPSON, DOLE, KENNEDY, and ROBERT C. BYRD for their assistance in creating this bill, and I share the chairman's desire to bring the bill through the committee at the earliest opportunity and then to bring it before the full Senate. In addition, I appreciate all the help rendered to the subcommittee by the Department of Justice and the Administrative Office of the U.S. Courts.●

By Mr. DURKIN (for himself, Mr. LEAHY, and Mr. STAFFORD):

S. 1478. A bill entitled the Home Heating Oil Supply Protection Act of 1979;

to the Committee on Energy and Natural Resources.

HOME HEATING OIL SUPPLY PROTECTION ACT OF 1979

Mr. DURKIN. Mr. President, the State of New Hampshire and New England as a whole face a very serious problem. The last figures we had show the home heating oil supplies were 15 million barrels behind what was in reserve at this time last year. On June 30, Shell Oil Co. informed a number of its suppliers that they were going to pull out of the Northeast market. One Shell distributor in particular supplies oil to 45,000 residences.

Mr. President, the potential shortage of home heating oil supplies in New Hampshire and other parts of the country this coming winter portends a disaster. Lives will be disrupted, people will suffer, business will plummet, if people are not able to obtain enough fuel to heat their homes and businesses. I have been telling the President this regularly for months, and I will continue to deliver that message until we have sufficient home heating oil stocks for the winter.

But a new problem has arisen that poses just as much of a threat to the people of my State and the residents of all other States who depend on home heating oil. One of the major multinational oil companies, Shell, has announced that it will no longer supply home heating oil to one of the major distributors in my State. This distributor, C. H. Sprague & Son Co., of Portsmouth, N.H., supplies some 45,000 residential homes in the Granite State. A cutoff of supplies by Shell will create substantial problems for C. H. Sprague and ultimately the consumers who are dependent on the home heating oil they have so faithfully supplied. I ask unanimous consent that a letter from Mr. Henry Powers, president of C. H. Sprague to me explaining the cutoff, be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DURKIN. Because of the problem of supply cutoff by multinational oil companies of home heating oil to distributors, and because of the danger this poses to the health and welfare of the people of my State and other States which use home heating oil, I am today introducing on behalf of myself, Mr. LEAHY, and Mr. STAFFORD the Home Heating Oil Supply Protection Act of 1979, which will prohibit the cutoff by refiners of supplies to dealers of home heating oil unless the Governors in the affected States certify that alternative supplies are available for the dealers. Under by bill, a refiner will not be allowed to terminate a marketing arrangement with fuel oil dealers unless adequate alternative supplies are guaranteed for the dealers and consumers.

My bill also provides that the Secretary of Energy may order a marketing arrangement to be continued for at least 90 days following a petition to do so by home heating oil dealers unless he finds good cause not to do so. This guarantees that home heating oil dealers will not be faced with sudden decisions, but will have some breathing period to find new suppliers.

Three years ago, the former administration decided to decontrol the price of home heating oil. As a result, prices skyrocketed, and, contrary to predictions by the advocates of decontrol, supplies dropped. But also as a result of that decision, the multinational oil companies lost their legal responsibility to continue supplying dealers. The worst results of that decision are now beginning to emerge as the greedy multinationals, without respect to the basic needs of the citizens of New Hampshire, are cutting off or are threatening to cutoff supplies so that they can increase their exorbitant profits even more. This is unconscionable.

The Home Heating Oil Supply Protection Act of 1979 will prevent the ever more powerful oil companies from being able, at the nod of a corporate executive, to ruin the lives of citizens. This bill requires that big oil has to sell its product to those who need it. These corporations have a responsibility, which they refuse to accept, to make decisions based on fundamental human needs and based on a reasonable level of profit, and not on the latter without any regard to the former. The only result of that policy will be more obscene profits for the oil companies and a cold, dark winter for the people of New Hampshire.

This legislation is needed now, before more big oil companies decide to pull out of the markets in New Hampshire and New England to satisfy their greed. If the President and the Congress do not act to stop them, the home heating oil shortage will become more than a threat. It will become a catastrophe.

I ask unanimous consent that the legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Home Heating Oil Supply Protection Act of 1979."

DECLARATION OF POLICY

SEC. 2. Competition, nondiscriminatory practices, and equal access to supplies for all retailers and distributors are essential to the fair and efficient functioning of a free market economy. Middle distillates (including Number 2 home heating oil) and other refined petroleum products should be produced, distributed, and marketed in the manner most beneficial to the consumer. It is the policy of the Congress to assist consumers and marketers of refined petroleum products to achieve these goals.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "petroleum products marketing relationship" means any contractual or supply arrangement or commitment—

(i) between a refiner and a distributor,

(ii) between a refiner and a retailer,

(iii) between a distributor and another distributor,

(iv) between a distributor and a retailer, under which a refiner or distributor (as the case may be) supplies a retailer with refined petroleum products, or by which a refiner supplies a distributor with refined petroleum products, if a petroleum products marketing relationship, as defined in this paragraph, was in effect between such retailer and such distributor (or such refiner), or between such distributor and such refiner in the corresponding month of the preceding year;

(2) "branded independent marketer" means a person who is engaged in the marketing or distributing or refined petroleum products, as that term is defined in section 1 of the Emergency Petroleum Allocation Act of 1972 (15 U.S.C. 752);

(3) "nonbranded independent marketer" means a person who is engaged in the marketing or distributing of refined petroleum products, as that term is defined in section 2 of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 752);

(4) "distributor" or "distributorship" means a person who is engaged in commerce in any State in the marketing of petroleum products to wholesale or retail outlets (whether or not that person owns, leases or in any way controls such outlets) under a petroleum products marketing relationship for the sale, consignment, or distribution of refined petroleum products to his own accounts or to accounts of his suppliers;

(5) "refiner" means any person who is engaged in the refining of crude oil to produce refined petroleum products and includes any affiliate of such person;

(6) "retailer" or "retail establishment" means a person who or a place at which one purchases the refined petroleum products for sale to the general public for ultimate consumption;

(7) "refined petroleum product" means gasoline, kerosene, distillates (including Number 2 heating fuel oil), refined lubricating oils, or diesel fuel;

(8) "supply means the amount of refined petroleum product as distributed, consigned or sold by the refiner, distributor, or retailer (as the case may be) in the corresponding month of the preceding year;

(9) "relevant geographic market area" includes a State, a State's nonmetropolitan areas, or a standard metropolitan statistical area as periodically established by the Office of Management and Budget;

(10) "termination" includes cancellation;

(11) "fail to renew" or "nonrenewal" means, with respect to any marketing relationship, a failure to reinstate, continue, renegotiate or extend the marketing relationship;

(12) "commerce" means any trade, traffic, transportation, or exchange (A) between any State and any place outside of such State, or (B) which affects any trade, traffic, transportation, or exchange described in subparagraph (A) of the paragraph;

(13) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

MARKETING RELATIONSHIP; TERMINATION AND NONRENEWAL

SEC. 4. (a) Except as provided in subsection (b) no refiner or distributor (as the case may be) engaged in the sale, consignment or distribution of refined petroleum products in commerce may—

(1) terminate any marketing relationship (entered into or renewed on or after the date of enactment of this Act) prior to the conclusion of the term, or the expiration date, in the marketing relationship; or

(2) fail to renew any marketing relationship (without regard to the date on which the relevant marketing relationship was entered into or renewed); or

(3) withdraw from or otherwise reduce the allocated supply of refined petroleum products in the relevant geographic market area.

(b) Any refiner or distributor (as the case may be) may terminate any marketing relationship (entered into on or after the date of enactment of this Act) or may fail to renew any marketing relationship, if—

(A) the notification requirements of section 5 are met; and

(B) such termination, failure to renew, withdrawal, or other reduction in allocated supply is based upon good cause; and

(C) the Governor of each State which contains a portion of the relevant geographic marketing area certifies that alternative refiners or distributors (as the case may be) are available and have arranged to provide adequate supplies, and to enter new marketing relationships.

NOTIFICATION OF TERMINATION OR NONRENEWAL

SEC. 5. (a) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a petroleum products marketing relationship, or establish nonuniform allocations within the State or otherwise reduce the deliverable supply of the marketing relationship below the established allocation fractions unless he provides notification of such termination, nonrenewal nonuniform allocations or withdrawal to the respective parties and in the manner described in sections (b) and (c).

(b) (1) In the case of nonrenewal or termination of the marketing agreement, or establishment of nonuniform allocations, the retailer or distributor (as the case may be) shall—

(A) furnish notification to the distributor or retailer (as the case may be) not less than one hundred and eighty days prior to the date on which such termination on nonrenewal or nonuniform allocation takes effect; and

(B) promptly provide a copy of such notification, together with a plan describing the schedule and conditions under which the marketing agreement will be nonrenewed or terminated, to the Governor of each State which contains a portion of the relevant geographic marketing area.

(2) In the case of a withdrawal from the relevant geographic marketing area or further reduction in the established allocation fraction within a State, the refiner or distributor (as the case may be) shall—

(A) furnish notification to the distributor or retailer (as the case may be) not less than eighteen months prior to the date on which the withdrawal or reduction takes effect and

(B) promptly provide a copy of such notification, together with a plan describing the schedule and conditions under which the refiner or distributor (as the case may be) will withdraw from the relevant geographic marketing area or otherwise reduce the allocation of refined petroleum product supply within the marketing area or to a particular distributor or retailer (as the case may be), to the Governor of each State which contains a portion of the relevant geographic marketing area.

(C) Notification under this section—

(1) shall be in writing

(2) shall be posted by certified mail or personally delivered to the distributor or retailer (as the case may be); and

(3) shall contain—

(A) a statement of intent to terminate or not renew the marketing agreement, or to withdraw from or otherwise reduce the allocated supply in the marketing area, together with the reasons therefor; or

(B) the date on which such termination or nonrenewal, or withdrawal or reduction in allocated supply takes effect.

(D) Not later than thirty days after the date of enactment of this Act, the Secretary of Energy shall prepare and publish in the Federal Register a simple and concise summary of the provisions of this title, including a statement of the respective responsibilities of, and the remedies and relief available to, any refiner, distributor, or retailer under this Act.

ENFORCEMENT AND CIVIL REMEDY

SEC. 6. (a) If a refiner or distributor (as the case may be) engages in conduct prohibited by Section 4 of this Act, the retailer or distributor (as the case may be) may petition the Secretary of Energy to order a minimum 90 day continuance of existing marketing relationship. The Secretary of Energy is required to make a determination on this petition within 24 hours of its submission. Unless the Secretary finds good cause, he is required to order the 90 day or longer continuance.

ENFORCEMENT AND CIVIL REMEDY

(b) If a refiner or distributor (as the case may be) engages in conduct prohibited by section 4 of this Act, the retailer or distributor (as the case may be) may maintain a civil action against such refiner or distributor.

(c) A civil action under this section may be brought, without regard to the amount in controversy, in the district court of the United States for any judicial district in which the person against whom such action is maintained resides, is found, or is doing business. No such action shall be maintained unless it is commenced within three years of the commencement of conduct prohibited by section 4 of this Act.

(d) The court shall grant such relief as is necessary or appropriate to remedy the effect of conduct that it finds to exist if such conduct is prohibited under section 4 of this Act. Such relief may include, but is not limited to, declaratory judgments, mandatory or prohibitive injunctive relief, interim equitable relief, and actual and exemplary damages in an amount equal to three times the actual damages suffered as a result of such action. The court may also enjoin the refiner or distributor (as the case may be) from marketing the equivalent amount of refined petroleum product in controversy within that relevant geographic marketing area or other marketing area. The court may, unless such action is frivolous, direct the costs, including reasonable attorney and expert witness fees, be paid by the defendant.

RELATIONSHIP TO OTHER LAWS

SEC. 7. (a) Nothing in this Act shall be deemed to convey to any individual, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions under the antitrust laws.

(b) As used in this section, the term "antitrust law" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) No provisions of this Act shall be construed as limiting or in any way affecting any remedy or penalty that may result from any legal action or proceeding arising from any acts or practices that occurred—

(1) prior to the date of enactment of this Act;

(2) outside the scope and purpose, or not in compliance with, the terms of this Act; or

(3) subsequent to the repeal of this Act.

SEPARABILITY

SEC. 8. If any provision of this Act or the application of such a provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such a provision to any other person or circumstance, shall not be affected thereby.

EXHIBIT 1

C. H. SPRAGUE & SON CO.,
Portsmouth, N.H., July 2, 1979.

Hon. JOHN A. DURKIN,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR DURKIN: C. H. Sprague & Son Company (Sprague Energy), has been a major supplier of No. 2 Home Heating Oil to resellers and distributors in the State of New Hampshire for the past 22 years. Our historic supplier for a substantial amount of this supply since the early 1960's has been Shell Oil Company.

The volume of No. 2 Home Heating Oil that we have supplied to the marketplace over the last ten years has averaged 70 million gallons per annum, of which 44 million gallons has been supplied to us by Shell, and for the last five years, approximately 26 million gallons have been supplied from our wholly-owned refinery in Newington, New Hampshire. Nearly 90 percent of our total supply has been consumed in New Hampshire. This means that some 45,000 residential homes in your State have depended on Sprague for their heating requirements.

As you may be aware, Shell Oil Company announced on June 30, 1977, that they were leaving the No. 2 Heating Oil market in the Northeast portion of the United States in order to utilize their No. 2 oil as petrochemical feedstock in the Gulf Coast. The basic reason why Shell has continued to supply up to this date has been due to the Department of Energy's Allocation Program, which forced them to maintain historic supplier/customer relationships. That program no longer exists and Shell has notified us that beginning immediately, they will no longer supply No. 2 Home Heating Oil to Sprague Energy.

We have for some time been attempting to locate a substitute supplier but with no success. Our only real alternative to obtaining supplies would be to purchase quantities in the spot market where the price levels are currently twice the price of what our normal contract price would be. If we are forced into this situation in order to supply our customers, we would have to charge a price substantially in excess of the current price for deliveries of home heating oil, or alternately suggest to our customers that they attempt to obtain supplies from other terminal operators. Due to the shortage of No. 2 Home Heating Oil, we do not think our current customers would be succesful in obtaining a new supply source, and, therefore, the health and safety of your constituents are in serious jeopardy at this time.

We have recently heard from Washington that the Department of Energy has no current intention of re-establishing mandatory allocations. Therefore, we request assistance in bringing this particular problem to the attention of your Congressional associates and, if necessary, the White House, in order to assist us in obtaining our required supplies at reasonable price levels to supply our historic customers.

Sprague Energy personnel will be happy to meet with you at your earliest convenience in order to help resolve this difficult and potentially hazardous problem.

Very truly yours,
HENRY M. POWERS,
President.

ADDITIONAL COSPONSORS

S. 104

At the request of Mr. SCHMITT, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 104, the Regulatory Reduction and Congressional Control Act.

S. 300

At the request of Mr. KENNEDY, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 300, the Antitrust Enforcement Act of 1979.

S. 596

At the request of Mr. DANFORTH, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 596, the Congressional Anti-Gerrymandering Act of 1979.

S. 643

At the request of Mr. KENNEDY, the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 643, a bill to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

S. 949

At the request of Mr. BURDICK, the Senator from Idaho (Mr. MCCLURE) and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of S. 949, a bill to amend the National Environmental Policy Act to provide a 180-day statute of limitations on judicial challenge of the adequacy of an environmental impact statement.

S. 1215

At the request of Mr. SCHMITT, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1215, the Science and Technology Research and Development Utilization Policy Act.

S. 1346

At the request of Mr. STONE, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 1346, a bill to amend the Food Stamp Act of 1977 to eliminate certain restrictions on excess shelter expense deductions with respect to households that contain a member who is 60 years of age or over or who receives benefits under title XVI of the Social Security Act and to allow a deduction for certain medical expenses in the computation of the income for these families.

S. 1377

At the request of Mr. DOMENICI, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of S. 1377, the Synthetic Fuels Production Act of 1979.

S. 1384

At the request of Mr. HATFIELD, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1384, a bill to amend the Internal Revenue Code of 1954 to allow a credit against the contribution of certain crops by farmers to certain tax-exempt organizations.

S. 1411

At the request of Mr. CHILES, the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 1411, a bill to improve the economy and efficiency of the Government and the private sector by improving Federal information management.

S. 1465

At the request of Mr. TALMADGE, the Senator from South Carolina (Mr. THURMOND) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1465, a bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes.

SENATE JOINT RESOLUTION 28

At the request of Senator BAYH, the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from North Dakota (Mr. BURDICK), the Senators from Rhode Island (Mr. PELL and Mr. CHAFEE), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. DANFORTH), the Senator from Arizona (Mr. DECONCINI), the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Kentucky (Mr. FORD), the Senator from Utah (Mr. GARN), the Senator from Alaska (Mr. GRAVEL), the Senators from Oregon (Mr. PACKWOOD and Mr. HATFIELD), the Senator from Hawaii (Mr. INOUYE), the Senators from Washington (Mr. JACKSON and Mr. MAGNUSON), the Senator from New York (Mr. JAVITS), the Senators from Massachusetts (Mr. KENNEDY and Mr. TSONGAS), the Senator from Wisconsin (Mr. PROXMIRE), the Senators from Vermont (Mr. LEAHY and Mr. STAFFORD), the Senator from Maryland (Mr. MATHIAS), the Senator from Arkansas (Mr. PRYOR), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senators from Michigan (Mr. RIEGLE and Mr. LEVIN), the Senator from Illinois (Mr. STEVENSON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Louisiana (Mr. JOHNSTON), were added as cosponsors of Senate Joint Resolution 28, to provide for the direct popular election of the President and Vice President.

SENATE RESOLUTION 135

At the request of Mr. JAVITS, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of Senate Resolution 135, concerning William James Taskanikas and the Congressional Medal of Honor.

SENATE RESOLUTION 184

At the request of Mr. HELMS, the Senator from Idaho (Mr. CHURCH), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Oregon (Mr. HATFIELD), and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of Senate Resolution 184, expressing the sense of the Senate with respect to the matter of Josef Mengele.

AMENDMENT NO. 212

At the request of Mr. SCHMITT, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of Amendment No. 212 intended to be proposed to S. 1020, the Federal Trade Commission authorization bill.

AMENDMENTS SUBMITTED FOR PRINTING

AMTRAK IMPROVEMENT ACT OF 1979—S. 712

AMENDMENTS NOS. 301 THROUGH 307

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted seven amendments intended to be proposed by him to S. 712, a bill to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes.

FEDERAL TRADE COMMISSION AUTHORIZATIONS—S. 1020

AMENDMENTS NOS. 308 THROUGH 311

(Ordered to be printed and to lie on the table.)

Mr. JEPSEN submitted four amendments intended to be proposed by him to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

● Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, of which I am chairman, will hold oversight hearings on hazardous waste management on July 19, 1979, at 9:30 a.m. in room 357, Russell Senate Office Building and on July 23, 1979, at 9:30 a.m. in room 6226, Dirksen Senate Office Building.●

SUBCOMMITTEE ON ANTITRUST, MONOPOLY AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Subcommittee on Antitrust, Monopoly and Business Rights has scheduled hearings on the Family Farm Antitrust Act of 1979 to be chaired by Senator BIRCH BAYH on July 17, 1979, at 11 a.m. in room 2228 of the Dirksen Senate Office Building.

Any persons wishing to submit statements for the hearing record should send them to Mike Egan, suite 102-B, Russell Senate Office Building, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BAYH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate today beginning at 2:30 p.m. to hold a hearing on H.R. 3919, the Crude Oil Windfall Profits Tax Act of 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAYH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAYH. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today beginning at 2 p.m. to hold a markup session on the extension of Public Works and Economic Development Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RHODESIA

● Mr. HEINZ. Mr. President, the July 8 edition of the Washington Star featured a very thoughtful article on the Rhodesia problem by Bayard Rustin, an article which bears close reading by Senators and others concerned with this troubled part of the world. The article, which is adapted from one which originally appeared in Commentary, is entitled "America's War vs. Democracy in Zimbabwe" and is written by one of this country's long time leaders in the field of civil rights who has followed closely for an extended period the independence movements in Africa.

While it is clear that most Americans share the same goal for Zimbabwe Rhodesia—a peaceful transition to majority rule—the Senate debate over the past months has made clear that there remains a great deal of disagreement over how to achieve that objective. It has been my view for some time that the administration's policy has had the effect, regardless of its intent, of "tilting" in favor of the guerrillas operating outside Rhodesia's borders; and that the result of this policy has been to prevent the Muzorewa government from having the chance it deserves to achieve such a peaceful transition to true majority rule, a transition which has begun, but which is by no means finished.

In his article, Mr. Rustin makes some penetrating comments about the election which brought Muzorewa to power, about his policies and plans for Zimbabwe Rhodesia, and about the practical effects of the Carter administration's policy.

I submit the article to be printed in the RECORD. Senators on both sides of this issue would be well served by a close reading of the article, and I commend it to their attention.

The article follows:

AMERICA'S WAR VS. DEMOCRACY IN ZIMBABWE

(By Bayard Rustin)

No election held in any country at any time within memory has been more widely or vociferously scorned by international opinion than the election conducted last April in Rhodesia, now Zimbabwe Rhodesia. In scores of other countries, non-democratic governments periodically stage elections whose predetermined results are never challenged or questioned, even by the world's democracies.

In contrast to the silent acquiescence in what passes for elections in the world's tyrannies, the outcry against the Rhodesian election has been deafening. The United Nations Security Council immediately passed a resolution condemning it and calling upon all countries not to lift economic sanctions against Zimbabwe Rhodesia. And the New York Times, urging no change in the Carter administration's Rhodesian policy, announced that it would be a "moral and diplomatic disaster" for the United States to recognize the legitimacy of the election or of the government resulting from it. The Time's wish since has been granted.

Few critics have even pretended to have an open mind on the subject. United Nations Ambassador Andrew Young, who had earlier described as "neofascist" both the interracial transitional government in Rhodesia and anyone who supported it, announced that the election was "rigged" and called for "new elections without pressures."

Contrary to such opinions, however, the people of Zimbabwe did vote in an election that was freer than most held in the developing world—freer, certainly, than elections held anywhere in Africa with the exception of Gambia, Botswana, and possibly several other small countries. Moreover, not only did they not vote with "a gun to their heads," many voted with genuine, unmistakable enthusiasm. The contrast between how the election was viewed by most Zimbabweans and how it was described by critics outside the country is nothing less than extraordinary.

To be sure, the election was held under extraordinary circumstances. The Patriotic Front had vowed to use violence to disrupt the voting—Joshua Nkomo, the leader of one wing of the Front, had predicted a "bloodbath" at the polls, and so martial law was in force throughout most of the country. The security forces at the polls protected voters. Their presence may also have had a coercive effect, but we saw no evidence that they compelled people either to vote or to vote for a particular candidate.

This is not to say that the government took a passive role in the election. Everyone 18 and older was allowed to vote, and the government encouraged participation through publicity. But these actions were not inappropriate in a situation where most people were voting for the first time in their lives; and their overall effect was to increase majority control over the results.

At the same time, the government sharply curtailed the nonviolent expression of opposition to the election, though such expression was allowed in some places. White employers encouraged people to vote, as did the local militias (the security forces organized by the black political parties).

No one can say with certainty what influence these different pressures had on the voters. But clearly a very large proportion of the population felt free to participate or not participate in the election. The turnout was well over 50 per cent and most likely nearer the official figure of 64.5 per cent.

While the election did not meet the rigorous standards that one would apply to elections in Western democracies, it was remarkably free and fair, especially considering that a civil war was in progress and that most of the population had never before participated in an election. But the opponents of the election—not just the Patriotic Front, the frontline states (Zambia, Mozambique, Botswana, Tanzania, and Angola), the Communist world, and the United Nations, but also political leaders and publicists in Western democracies, including the United States—have not shown the least interest in the question of how democratic the voting process was. As the New York Times put it, "The real issue is not how the election was conducted, but what it was about."

In this connection, two major objections have been raised, the first having to do with the new constitution. It is charged that this constitution was never submitted to the black voters for approval; that it reserves, for a period of ten years, 28 of the 100 parliamentary seats for the 4 per cent white minority; and that it preserves white domination over the army, police, judiciary, and civil service.

The second objection is that the internal settlement, under which the constitution was adopted and the election was held, did not include the Patriotic Front, and so would not end the civil war but lead to its escalation, with the likely involvement of Cuban troops.

Summing up these objections, the Times has charged that the internal settlement is "little more than a device for keeping real power in the hands of Rhodesia's small white minority" and is, therefore, "rightly suspect in black African eyes" and "a recipe for civil war."

Here again, the views of outside opponents of the election and the views of the people inside the country diverge in a most extraordinary way. The Zimbabweans participated in the election with enthusiasm precisely because they felt it marked the beginning of real majority rule and would also bring an end to the war. Virtually all the people I spoke with gave these reasons to explain why they were voting.

The "internal leaders" who negotiated the settlement with Ian Smith felt that the agreement reached on March 3, 1978 established, in the words of Bishop Muzorewa, "the machinery for dismantling the structures and practices of colonialism and racism and of minority rule." They went into the negotiations with the objectives of destroying the legal foundations for institutionalized racial discrimination and winning the transfer of power from the minority to the majority in an election based on the principle of one person/one vote.

The first objective was achieved on Oct. 10, 1978 with the abolition of all statutory discrimination, including the Land and Tenure Act which reserved lands for white ownership. The second objective was achieved with the election in April.

The argument that the constitution was never submitted to the black voters for their approval is weak. Throughout the talks, black negotiators reported back to the executive bodies of their respective parties to get their approval for any agreements that were made. At one point in the negotiations, when Bishop Muzorewa walked out in a dispute over the number of white seats in the new parliament, a special meeting of the Provincial Council of the United African National Council was called which was attended by 800 delegates from all over the country. These delegates represented local constituents who were kept informed about the progress of the talks. In the view of the black parties, a referendum on the constitution would simply have delayed independence and exposed their party workers to increased guerrilla violence. And it would have been redundant, they felt, since participation in the election was itself a vote in favor of the constitution and the internal settlement—a point implicitly recognized by those who opposed the election because of "what it was about."

The black negotiators compromised on the issue of the 28 white seats; they were, after all, *negotiating*, and they did not feel that they had sacrificed their fundamental position. In the first place, such an arrangement was in the tradition of Britain's African decolonization policy of "multiracialism." (In Zambia, for example, the special allotment of parliamentary seats to the non-African minority was not discontinued until 1968, four years after independence.)

Then, too, all the plans that have been introduced for a negotiated transition to majority rule have made a special provision for white representation in parliament. Even the now obsolete Anglo-American plan, which is vigorously defended by Andrew Young, reserves 20 of the 100 seats for the white minority. During Nkomo's bilateral talks with Smith in 1976, he proposed an election with three different voting rolls which would have assured the whites a substantial minority of legislative seats. He did so, as he said, "to meet fears expressed by the Rhodesian Front" (Smith's party) and "in a spirit of compromise." In the talks leading to the internal settlement, Smith wanted 34 seats for the whites. Muzorewa wanted the number limited to 20 but reluctantly compromised at 28 after his black negotiating partners, Sithole and Chirau, accepted that figure.

The blacks agreed to this arrangement for a ten-year period; they also agreed to clauses in the constitution which protect the institutional interests of whites for an equal period, in order to reassure the white minority that its political and economic position would be stabilized under an African-dominated government. The alternative to this kind of settlement would have meant the inevitable flight of whites from the country and the collapse of the economy, as happened recently in Angola and Mozambique.

Muzorewa has made the point that if independence is not to be a "hollow shell," Zimbabwe must not repeat the mistakes of other African countries which drove out indigenous skilled whites, and then in desperation rehired, at three times the cost, "economic mercenaries who were inevitably failures in their own countries and who came to Africa for what they could milk out of their hosts."

The internal settlement, then, was designed to provide a period of stable transition during which blacks could acquire the experience and skills they were denied under white rule. Muzorewa has promised training programs for Africans to achieve "both . . . the necessary efficiency and the necessary orientation to black majority rule." He is not impatient, since black control over the institutions now dominated by whites in inevitable in a country 96 per cent black. Already the army is 85 per cent black and the police force is 75 per cent black, and the cabinet minister responsible for each force is also black. Moreover, all white officials are now answerable to a black head of state and to a parliament and cabinet which have over a two-thirds black majority.

While Muzorewa and the other internal black leaders have expressed a practical interest in retaining the skills and energies of the whites for Zimbabwe, expediency has not been their only consideration. Whites who have been four generations in Zimbabwe, Muzorewa has said, and who have no other home, must not be "driven out to nowhere." In an open letter to American blacks, Muzrewa has emphasized that Zimbabweans had never "fought the white man's skin. We fought his evil system. We fought his racism." Some people, he said, feel that we should "be ruthless with the white race. But I wish to warn against the reversal of discrimination . . . it makes us hypocrites to turn into black racists ourselves. It makes us oppressors and not liberators."

Ordinarily one might expect such sentiments to be applauded by Western liberals. But in fact, as Bishop Muzorewa said recently, while Zimbabweans" are prepared to forget the past and work together with our white brethren . . . some people in Britain, America, Africa, and other parts of the world appear unwilling to allow us to do so." Little attempt has been made even to understand the practical and moral aspects of the bishop's position, which is viewed as a rationalization for continued white control of Zimbabwe Rhodesia. As a result, we have the paradoxical situation that a settlement which has been accepted by most people inside Zimbabwe Rhodesia as the best and only realistic course for their country is opposed by foreign advocates of "majority rule"!

What alternative do they urge on us? A role for the Patriotic Front, the paper alliance of the organizations of Joshua Nkomo and Robert Mugabe (which have adopted as uncompromising an attitude toward each other as toward the internal settlement). Nkomo, given his narrow base, could only rule through force. And his close ties to Russia and Cuba make it inevitable that both countries would have a decisive influence in any government he headed. Mugabe, even more than Nkomo, favors totalitarianism out of idealogical conviction. He has made no secret of his belief that "the multiparty system is a luxury," and he has announced that if the blacks of Zimbabwe do not like his ideology, "then we will have to reeducate them."

Both have said they would only consider holding elections *after* power had been transferred to the Patriotic Front. This, if anything, is a sure recipe for civil war, since an election policed by the two guerrilla forces of the Patriotic Front would quickly degenerate into a war between them.

It is especially interesting that the excommunication of Zimbabwe has been decreed in the name of racial self-determination, but in total disregard of the views of that country's black majority; and that the Patriotic Front is favored by outsiders in the name of majority rule, but in total disregard of that group's anti-democratic outlook. Thus, we have the unedifying spectacle of the United Nations denying a platform to an "illegitimate" black African leader (as it did to Muzorewa), who is then greeted upon his return home by a cheering throng of over 150,000 blacks; and of the New York Times, ordinarily a proponent of political democracy, asserting that for the U.S. to "pressure" the Patriotic Front to come to terms with the newly elected black government "would be a betrayal of American support for majority rule."

One can account for such anomalies only if it is understood that the issue in not whether or not there shall be rule by the black majority, but what form such rule shall take. And here the alternatives are as clear as they were at an earlier time between white minority and black majority rule. For if the presidents of Zambia, Mozambique, Tanzania, and Angola have their way, majority rule will take a form more or less similar to what exists in their own countries; which is to say that it will be a dictatorship by a small black elite over a destitute black population. It is, of course, precisely this kind of "majority rule" that Muzorewa has said would be a betrayal, for it would have "the mere trappings of independence—a brand new flag, sleek and shiny limousines, black faces in parliament, the OAU, and the United Nations—while those in power are not accountable to the governed for their actions.

In fact, it has been Muzorewa's rejection of "worn-out ideologies," of "political philosophies which could make people secondary to the state—which would regard people as expendable" which constitutes his indictment of the post-colonial experience in much of Africa, and which accounts for the antagonism to him and to Zimbabwe Rhodesia among those who cling to such ideologies and who rule uneasily over the increasingly disillusioned and discontented black masses. And it is, not least, the need to conceal the betrayal of independence and the self-infliction of poverty and political oppression which explains why the struggle for "majority rule" is proclaimed with such strenuous devotion.

Into the essentially internal African debate have stepped the Soviet Union and its Cuban and East German proxies, seeking to exploit African conflicts and frustrations to advance Moscow's geopolitical ambitions. And into it also has wandered the United States, newly sensitive, as it would like to think, to the aspirations of black Africa and determined, as Secretary of State Vance has put it, not to "mirror Soviet and Cuban activities." The foremost U.S. objective has been to preserve American "credibility" in black Africa.

With respect to Zimbabwe Rhodesia, the price for maintaining American credibility among the frontline presidents and with Nigeria has been that we support—or at the very least, do nothing to oppose—the Patriotic Front. As a result, we have found ourselves, until now, tacitly aligned with groups armed by Moscow, hostile to America, antagonistic to democracy, and unpopular within Zimbabwe Rhodesia itself. And we have opposed the internal parties which look to us for support, share our professed belief in an open multiracial society, and have genuine popularity within the country.

That fact is that this has not been the only practical course open to us. The psychology of appeasement is now so deeply rooted among most American officials and political commentators that they have, almost as a matter of course, underestimated our own strengths and the strengths of our friends, as well as the weaknesses of the Soviet position. U.S. officials tremble at the thought of a Nigerian oil embargo, forgetting the fact that Nigeria needs American capital and technology at least as much as America needs Nigerian oil. Most importantly, within Zimbabwe Rhodesia itself, there is now less sympathy for the guerrillas than ever before. If this government takes steps, as it has promised, to improve the social and economic position of the black population, the rate at which guerrillas will defect could increase dramatically. Moreover, Zambia and Mozambique, which have suffered badly from the fighting and are heavily dependent on the much stronger economies of Zimbabwe Rhodesia nad South Africa, are already under pressure internally to end their support of the Patriotic Front and to accommodate to the new reality.

The point is that it should not be our policy to create opportunities for the Russians and to encourage the guerrillas to continue fighting, which is what U.S. repudiation of the Muzorewa government has done.

Beyond this is the larger question of whether we will do anything to help the new black government to survive and continue to evolve in a democratic direction; or whether, by our inaction and failure of nerve, we will embolden its enemies and thus destroy any hope for democracy in the country. If we take the latter course, we will have done nothing to increase the credibility of the United States either in Africa or elsewhere. On the contrary we will have raised a signal to all the world that this country no longer has the capacity to defend or even understand its interests, or to help those who, unlike ourselves, continue to believe in freedom. ●

TRIBUTE TO ARTHUR FIEDLER

● Mr. DOLE. Mr. President, America has lost one of her most beloved national figures, a man who epitomized Boston, whose entire life was spent in the rarified circles of the serious music world, yet who reached out beyond those confines to touch the lives of millions.

To many who knew him only as a televised image, Arthur Fiedler was still a friend, a grandfatherly image who somehow softened the harsh genius they had come to associate with great music. He never settled for anything less than the best, he managed to raise us to his level.

He brought dead notes to life, and he

will live in our memories as long as music itself. We will admire his personal qualities, his persistence, and brilliance into his eighties, and call him back whenever we ponder the necessity for life's finer things in making our days more tolerable.

Arthur Fiedler entertained us. He also moved us, by making great music more accessible and good music more distinguished. He was both serious artist and exuberant showman. He was fun, the professor who managed to teach a course without resorting to boredom or self-importance.

He will be missed. But we have the record of his life preserved, on thousands of phonograph records and millions of feet of television tape. And we have his example from which to draw inspiration.

He bridged the worlds of classical music and popular entertainment, and we followed him across the bridge to a richer, more fulfilled life. I extend my deepest sympathy to Mrs. Fiedler and the maestro's children. Their grief must be mingled with pride, pride that all Americans share in having produced—and appreciated—so unique and towering an artist.●

STONE REVIEWS CALL FOR U.S. PURCHASE OF MEXICAN NATURAL GAS SUPPLIES

Mr. STONE. Mr. President, as President Carter continues his work at Camp David on the development of a national energy policy, I believe it is important for Members of Congress to assist the President by suggesting possible approaches and policies which will lead the country out of the energy crisis we presently face. In this spirit I want to share with the President and with the Congress a specific initiative which I believe would greatly help America overcome our energy problems.

Yesterday I wrote the President a letter expressing my hope that his administration would pursue with new determination the successful completion of negotiation with Mexico for the purchase of natural gas and new amounts of petroleum. I have urged the Carter administration on previous occasions to encourage Pemex, the Mexican National Oil Co., and the consortium of six American companies which almost reached agreement in principle with Pemex 3 years ago, to resume their negotiations. New natural gas supplies from our neighbor Mexico can be an important contribution to a secure, adequate overall supply of energy to meet our country's energy needs. I again call on the administration to encourage these negotiations and ask that the text of my letter to President Carter of yesterday and the text of a previous letter to Secretary of Energy Schlesinger on the same subject be printed in the Record.

The letters follow:

Washington, D.C.,
July 9, 1979.

The President,
The White House,
Washington, D.C.

Dear Mr. President: I was most encouraged by press reports of Vice-President Mondale's speech before the National Governor's Conference to the effect that the Administration will pursue negotiations with Mexico for natural gas supplies for America. I have urged this course upon the Administration for several years and believe it can be an important part in an effective national energy program. I want to encourage this project in every way and am willing to assist in any way I can.

Warm personal regards.

Most cordially,
Richard "Dick" Stone.

Washington, D.C.,
February 28, 1979.

Hon. James R. Schlesinger,
Secretary of Energy,
Department of Energy,
Washington, D.C.

Dear Mr. Secretary: Because the turmoil in Iran has caused serious energy supply problems and in view of the Administrations forthcoming energy conservation proposals, I am writing to call your attention to several basic suggestions, including special concerns relating to Florida.

It now appears that the reduction in Iranian imports may require the adoption of some stringent energy conservation measures. While I agree that energy conservation is a necessary part of an effective national response to the immediate situation confronting the United States, it is imperative that the sacrifices required be shared equitably among different segments of the population and among different regions of our country. Given present economic uncertainties, energy conservation measures must also be implemented in a way which does not threaten a recession.

In this connection I am specifically concerned about the Administration's proposed "weekend gasoline sales restrictions" plan which would prohibit retail gasoline stations from selling gasoline during certain weekend hours. This proposal would severely damage the tourist industry, adversely affecting thousands of businesses and hundreds of thousands of citizens. Its impact on Florida will be particularly severe as tourism constitutes over 20 percent of the State's economy. Weekend closings would have a devastating impact on long-distance travel upon which Florida's tourist industry depends.

Such a result would clearly mean that one business segment, tourism, and one part of the country, namely Florida, would be disproportionately affected by this conservation measure. Therefore, I would specifically urge the Administration to reconsider weekend closings as part of an energy conservation program. It is my understanding that the State of Florida is presently developing alternative plans to weekend closings that would be equally effective. I trust that the Administration would give Florida's proposals and other state alternative proposals full and careful consideration.

My second suggestion is that the immediate crisis requires the adoption and implementation of policies which will bring forth greater domestic plus added, more reliable foreign energy production. the events in Iran having again shown the danger of continuing American dependence on imported energy from unreliable imports. Since coming to the Senate I have actively supported several major legislative efforts, including incentives for greater domestic production of oil and natural gas, to reduce American dependence on unreliable sources. Now as never before, the Administration should utilize presently existing authority to provide incentives for maximum domestic energy production and the Congress and Administration should look toward new, effective production incentives.

The United States has a special opportunity to alleviate the immediate supply shortage by approving a purchase agreement for Mexican natural gas. As you know from our previous conversations, I have long advocated that the consortium of six American natural gas companies be allowed by our government to complete these negotiations. In my opinion our government should rely as much as possible on these companies—which have specialized experience and knowledge in negotiating and marketing Mexico's natural gas—to conclude an agreement. I would hope that our government's role would be limited primarily to the consideration of the price range for such purchases. I understand that, if such an agreement were reached soon, as much as 500,000 mcfs per day of natural gas could immediately be brought into the United States market—an equivalent of 50,000 barrels of oil per day. This means that the Mexican natural gas purchase, if completed, would assist the United States with its short-term supply problem in addition to developing important long-term opportunities for U.S./Mexican energy cooperation.

Obtaining an early agreement on purchase of natural gas from Mexico and encouraging immediate greater domestic energy production should be principle elements in our government's plan to meet the present situation. Such additional supplies may even make unnecessary the adoption of stringent, economically disruptive restraint plans. I respectfully urge your Department to review these suggestions and I am anxious to be of assistance in any way possible in this connection.

Most cordially,
Richard "Dick" Stone.●

UNITED STATES-UNITED KINGDOM TAX TREATY

● Mr. HAYAKAWA. Mr. President, as I indicated last June 1978, I favored the United States-United Kingdom Tax Treaty with article 9(4) included, because I am opposed to the application of combined reporting to multinational corporations. When applied in a multicorporate setting, the doctrine of combined reporting requires that a corporation with a business location in the State include in its apportionable tax base not only the entire income of such corporations within the State, but also the income of such of its worldwide affiliates as are found by the State to participate with the corporation in a single business unit. This broad approach to corporate taxation by a State of the income of corporations that have no real contact or connection with the State can result in more than 100 percent of a company's income being subjected to State taxation or can result in a company paying tax or an allocable portion of the entire income of another corporation, even though there is not complete unity of ownership between the two corporations. I also feel that such taxation doctrine impinges on the foreign relations of the United States.

During our deliberations concerning this treaty last summer, much was said about legislatively involving both Houses of Congress. Now that we have removed article 9(4) from the treaty we have an opportunity as provided by section 303 of Senator Mathias' Interstate Taxation Act, S. 983, to address the situation legislatively and I am glad that we did so yesterday with due deliberation.●

THE SUSAN B. ANTHONY DOLLAR COIN

● Mr. KENNEDY. Mr. President, on July 2, our Nation honored Susan B. Anthony with the issuance of the new Anthony dollar coin. In so doing, we not only honor the great spirit of this remarkable woman—who, I am proud to say, was a native of Massachusetts—but also give recognition to her lifelong struggle on behalf of the rights of women.

In calling for including women in the Constitution's guarantees, Susan B. Anthony said:

> We ask justice, we ask equality, we ask that all the civil and political rights that belong to the citizens of the United States be guaranteed to us and our daughters forever.

The right to vote for women was secured with the ratification of the 19th amendment; yet full equality for women under the law remains an unfinished part of America's agenda for justice. The need for ratification of the Equal Rights Amendment is clear. Only a constitutional amendment will provide the permanent guarantee of legal equality for the women of our Nation. The ERA is more than a maxim; more than rhetoric. ERA gives vitality to the principles of social justice, economic rights, and political equality. We cannot afford to waste the enormous talents of the women of our society, whether they be in the labor force or in the home; in the private sector or in the public sector.

But the Equal Rights Amendment is not just an issue of women's rights. Every citizen of our Nation will benefit from this renewed pledge to protect our basic rights and liberties and responsibilities, and our dignity as individuals.

Susan B. Anthony provided the impetus for the constitutional amendment guaranteeing women the right to vote. The new Anthony dollar will serve to remind us that full equality for women under the law will be achieved only with the ratification of the Equal Rights Amendment.●

SYNTHETIC FUELS FROM COAL

● Mr. DOMENICI. Mr. President, earlier this month, the Congressional Research Service of the Library of Congress issued an important report, "Synthetic Fuels From Coal: Status and Outlook of Coal Gasification and Liquefaction." This report, coordinated by Dr. Paul F. Rothberg, analyst in physical sciences, of the Science Policy Research Division, is a comprehensive evaluation of the potential energy that Americans can expect from coal in the form of liquids and in the form of gases. The report is especially timely in light of my bill, S. 1377, the Synthetic Fuels Production Act of 1979, which emphasizes commercial production of hydrocarbon fuels from such sources as coal, oil shale, tar sands, biobass, methanol from a variety of sources, and similar resources now in abundance in the country.

The report concludes on a note that truly cuts through the highly-technical discussions surrounding the feasibility of synthetic fuels with this paragraph:

> The technology for initial synfuels production is available. Several improved processes may be technologically ready for the marketplace before 1985. Many of the environmental problems of commercialization can be controlled, but much remains to be learned. The costs of constructing and operating many synfuels plants would indeed be large; but, the costs of not having the synfuels option could be larger.

We can argue until the cows come home about the exact per barrel price of oil that will allow synfuels to become competitive, but two factors make that kind of argument silly: first, all such estimates based upon theoretical analyses, not in-the-field work; and, second, such cost analyses fail to include the extraordinary risk that the Nation now runs because of our inordinate dependency on foreign energy sources. Indeed, "the costs of not having the synfuels option could be larger" than anyone now imagines.

The report by CRS calls for a "national synthetic fuels policy" that would devise a plan to promote commercialization of processes before 1986, to accelerate demonstration plant work, to aid in reducing economic problems facing potential investors in syn-plants, to expedite obtaining permits and clearances, to encourage private enterprise, and to reduce adverse social and environmental impact of synfuels commercialization. My bill, S. 1377, would do much for the commercialization process of synfuels. I believe that we could learn from the plants envisioned under my measure—we could learn what the real environmental risks are, what the economic pitfalls are, and what, if any, adverse social impact such plants might have. We cannot, Mr. President, hold progress towards commercialization of syntheic fuels hostage to theoretical dangers. What we should do is build plants, examine the empirical data we get from them, and devise the appropriate environmental and regulatory standards from such data. In short, I think we should get the synthetic fuels show on the road and not await a fuels policy that might take a commission years to develop, although I support such an overall policy.

I should note that this report contends that the principle reasons for the pursuit of a synfuels option are "the positive effects synfuels production would have on the national security and balance of trade considerations." In light of the recent explosion at the very large Iranian refinery, and the extremely volatile situation in several nations that sell us crude oil, these national security considerations take on overwhelming importance. I am glad the report acknowledges the Nation's dangerous dependence and the relationship of that dependence to our security.

To those who wonder if the state of the synthetic fuels art is sufficiently advanced to consider the massive effort I advocate, this report should be reassuring. The report notes that the coal gas processes for commercialization already exist. It points out that during the past 15 years, industry-Government research has produced several highly efficient forms of coal gas and coal liquids processes. Other nations, such as Scotland, Germany, South Africa, and Canada, have already demonstrated that synthetic fuels are feasible.

On the environmental front—an important consideration—the report explains that synfuels can be dirty, but that the product they give us is so low in pollutants—such as sulfur and n-oxides—that the tradeoff leads to lower overall pollution than present coal-fired plants found all over America. The report demonstrates that synfuel plants cause less environmentally destructive pollutants than oil refineries or coal-burning plants; water requirements for a synfuels plant is considerably less than the water required for thermal electric power generation by about one-third; new technologies in the field are much less wasteful of water for synfuels plants; and, using best available control technology, would offer Federal and State agencies a chance to see what really needs to be done with synfuels plants to make them most environmentally acceptable.

We can now say, as many of us have been saying for months now, that the biggest barrier to synthetic fuels commercialization is economic: An economic situation caused in large part by the delays attributable to regulatory agencies and Federal leasing and construction policies. The report by CRS concludes that Federal financing involvement is critical. Again, we see strong support for the kind of overall approach that S. 1377 would take. Even a moderate Federal involvement, CRS' report concludes, could produce enough synfuels by the year 2000 to reduce our petroleum import bill by $11 billion in 1978 dollars.

The report also acknowledges that problems still exist with the synthetic fuels commercialization effort. We are talking about plants larger than any plants of their kind in this Nation. Questions about the right technologies still exist. Scientists working in laboratories in the country may discover state-of-the-art breakthroughs that will have to be incorporated into commercial plants. But, these kinds of events occur every year in already-existing endeavors—we see new transistors, new stereo equipment, new drill bits, new chemical processes. American ingenuity has never been thwarted merely because its inventions might make obsolete existing processes. Indeed, the very existence of a process fires the imagination of inventors and entrepreneurs to find a better process. I believe this kind of continual improvement and inventive competition will bring about better, and cheaper, synthetic fuels processes. In the meantime, I find the preponderance of evidence, as summarized by this CRS report and by other information, supports a massive Federal effort in bringing synthetic fuels on board in a commercial manner, as soon as possible. The longer we wait, the more risk we take.●

OPERATION CALIFORNIA—PRIVATE INITIATIVE

● Mr. HAYAKAWA. Mr. President, I would like to take this time to praise the initiative of two of my constituents in California. Richard Walden of Los Angeles, and Llewellyn Werner of Sacramento have organized an emergency airlift to aid the Vietnamese refugees in Malaysia. The airlift, called Operation California. is being conducted with the assistance of the American National Red Cross and its counterpart, the Malaysian Red Cresent Society. It is being done without any State or Federal Government backing.

The plight of the Indochinese refugees is a terrible one, and one which has captured international sympathy. Understandably, the outcry from my constituents regarding this situation has been a loud one. I have received many phone calls, telegrams and letters demanding to know what the Government intends to do to help these people. I tell them in response about the resolution the Senate passed asking the United Nations to convene an emergency session; about the President's decision to admit more refugees into the United States; about the amendment to the supplemental appropriations bill which made additional money immediately available to finance assistance to the Indochinese refugees. But I want to ask them: What is your church or synagogue doing to help? How about your Rotary Club, your garden circle, the PTA? What about your children and their Girl Scout and Boy Scout clubs? Your teenagers and their school and social organizations? College fraternities and sororities? The YMCA? The Kiwanis, the Masons, the Knights of Columbus?

It is indeed heartening to see private citizens responding to this crisis. The situation of homeless refugees who are starving and drowning at sea, and crammed into refugee camps without adequate supplies when they do find land, is a humanitarian problem as much as it is a political one. The United States participated in the Tokyo Summit which worked on the Indochina refugee problem, and has agreed to take part in the international conference the United Nations will convene in Geneva on July 20, but meanwhile, desperate individuals are floating on boats in the South China Seas. I commend Mr. Walden and Mr. Werner for their immediate efforts to help the Indochinese refugees. They prove beyond argument that when an individual wants to help another, no matter how far away the need may be, they can do so, without waiting for bureaucracies, presidents, nations, or "someone else" to act first.

I submit for the Record the following article describing their activities from the Washington Post:

Aid for Refugees: Two Californians Organize Airlift to Help "Boat People"

(By Jeffrey Kaye)

Los Angeles, July 8—Two Californians, moved by the plight of the Indochinese "boat people," are organizing an emergency airlift of six to eight tons of supplies to Vietnamese refugees in Malaysia.

The provisions—mostly dehydrated food, drugs and tarpaulins—are to be transported on a Boeing 707 scheduled to leave this week for Kuala Lumpur, where it will pick up refugees destined for resettlement in the United States.

The organizers are Richard M. Walden of Los Angeles and Llewellyn Werner of Sacramento.

Both strongly emphasize that their effort is "strictly a private person enterprise," undertaken without state or federal government backing.

The airlift, dubbed Operation California, is being planned with the cooperation of the American National Red Cross and its counterpart, the Malaysian Red Crescent Society.

Werner said the provisions are to be distributed by the MRCS to transit and beach camps in Malaysia currently holding an estimated 75,000 Vietnamese.

Werner and Walden, who hope to accompany the shipment, said that theirs is the first cargo of emergency supplies to be sent to the refugees in Malaysia from the United States.

The two have during the past two weeks quietly solicited donations from California corporations and individuals. In addition, the Vietnamese community in Southern California—estimated at 70,000—has been asked for supplies.

Airlines have donated drinking glasses, eating utensils and high-protein nuts. Pharmaceutical companies have supplied drugs to protect against cholera, malaria and dehydration. Others firms have contributed water containers, rice bowls and dehydrated vegetables. Plastic tarps will be provided as protection during the approaching summer monsoon season.

Walden said the expenses, expected to total between $10,000 and $12,000, will cover travel, fuel, moving and storage.

The plane transporting the goods is being chartered by the Geneva-based Intergovernmental Committee for European Migration, which has been flying out refugees from Kuala Lumpur to Travis Air Force base in northern California.

Walden and Werner said they believe if their effort is successful, it will demonstrate that private individuals can aid the refugees.

"Unfortunately, there is a noticeable resistance by government and the professionals in the refugee arena to private individuals striking out in an attempt to help," Werner said. ●

IEB STATEMENT ON NUCLEAR ENERGY

● Mr. KENNEDY. Mr. President, it is a pleasure for me to place in the Congressional Record today a statement on nuclear energy adopted by the International Executive Board of the UAW on June 20, 1979. The International Executive Board, after studying the issue, concluded that:

> It is time for a complete reassessment of the role of nuclear power. While that is being done, no new plants should be started and extreme caution should apply to all operation and construction activities.

I have recently introduced S. 1178, the Nuclear Reassessment Act of 1979, which halts the issuance of new construction permits for nuclear powerplants pending a reassessment of their safety. I am happy that the International Executive Board of the UAW has decided to support a similar position.

I ask that the statement be printed in the Record.

The statement follows:

IEB Statement on Nuclear Energy—June 20, 1979

It is time for a complete reassessment of the role of nuclear power. While that is being done, no new plants should be started and extreme caution should apply to all operation and construction activities.

The UAW supports the new plant moratorium actions of the Nuclear Regulatory Commission (NRC) and the Congress; we also welcome examination of nuclear power issues by the Three Mile Island Commission, Congressional Committees, and others. However, there is little reason to believe that those actions will resolve the debate about nuclear power.

The accident at Three Mile Island, and recent reports of problems at other plants, are obvious causes of concern, but they are not the only ones. The problem of nuclear waste disposal has been under study for many years—especially since most of that waste comes from military operations—but the projected date for demonstrating a solution constantly slips further into the future. The cost and reliability advantages claimed for nuclear power have consistently fallen short of projections.

There surely will continue to be valid concerns about the possibility of a disastrous accident, and about the ability to contain wastes during the hundreds and thousands of years that they will be dangerously radioactive. It is equally certain there will be assurances that those problems can be solved. Until now, the nation has assumed that those problems would be solved someday, and has moved forward with the use of nuclear power.

It is time to change that approach.

We should not become further dependent upon nuclear power unless its viability—that is, its safety and its economy—is more clearly established. The advocates of nuclear power must prove that they are right, rather than expecting others to go along in the hopes that everything will work out somehow.

We do not expect proof that nothing can go wrong ever, but we do insist that the nuclear power advocates should have to answer satisfactorily every reasonable question. Furthermore, we recognize that there are various forms of nuclear technology, and that conclusions with respect to any particular technology do not automatically determine the viability of others. As in any area, new developments and discoveries may mean that previous decisions have to be changed.

Thus some mechanism must be established to evaluate the conflicting evidence and claims that can be expected. It must not be single-purpose, or short-term, but instead must be able to consider a broad range of issues and to reconsider matters when there are new developments. To satisfy these requirements, and because nuclear power has such important implications for people's physical and mental well-being, and for the economic and social structure, we suggest that a permanent high-level Commission be established. It should include members of the Administration and the Congress, as well as a balanced group of people not in government. Its role should be to consider those issues—such as safety, waste disposal, and economics—which are generally applicable to nuclear power, rather than matters that apply only to a specific plant.

Until that Commission can conclude—without reasonable doubt—that all of the general issues and concerns about nuclear power are answered, no further nuclear plant construction permits should be issued by the NRC.

The NRC would rely upon the conclusions of the new Commission, but should also seek out and evaluate any additional concerns that apply at any specific plant. If there is any reasonable doubt about such matters at a specific plant, the NRC should prevent, halt, or otherwise restrict construction and operation. In view of recent developments, any errors by the NRC should be in the direction of too much, rather than too little, caution.

At the moment, doubts outweigh the confidence about nuclear power's viability. Nevertheless, the potential for its successful use still exists. Therefore, the UAW supports continuing aggressive research into all nuclear energy technologies, as well as other energy sources and technologies. We also call for equally aggressive research regarding possible undiscovered problems with technologies already in use.

The government must insure that sufficient effort is mounted to solve the problems of nuclear power. Because that effort may not succeed, however, the government must also develop contingency plans that allow the nation to do without that technology.

Nuclear power may be an important energy source for the future, but those who claim that must prove their case.●

THE NEW PATRIOTISM

● Mr. PRESSLER. Mr. President, as the historic congressional engagement over SALT draws closer, a question which has nagged at me since my arrival in Congress becomes more troublesome and demanding of attention.

Why are there no "historic" or "great" debates in the current Congress over health care, the unflagging inflation which has sullied the confidence of the public in our Government, the impact of economic concentration and monopoly on the consumer and small businessperson, the implications for a society which is aging out of proportion to its taxpaying wage earners?

The index of the CONGRESSIONAL RECORD expands each year with references to speeches, debates, and extensions of remarks concerning foreign policy. The references to our domestic difficulties are conspicuous by their absence of notation.

Congress has come to see its historic moments, its opportunities for excellence, the personal achievement and recognition of its Members, and old-fashioned high drama, in its debates over our economic, political, and military relationships with other states.

It is not only a question of how much time Congress is dedicating to the foreign enterprise; it is also a question of emphasis. Congress as an institution is preoccupied with foreign affairs out of proportion to our ability to influence these events or the significance of these events to the principal distractions of Americans.

The problems of this Nation are serious and worsening. The Nation is suffering from the failure of Congress to regard domestic problems with the same urgency or look upon them as providing the same opportunities for leadership and the demonstration of statesmanship which are believed to be afforded by the foreign policy debates.

The American public feels that the quality of American life is declining while the costs of maintaining an inferior lifestyle is increasing. Publc expectations, forged by a history of affluence, have not acquiesced to the discovery of scarcity in fossil fuels or inflation rates which give families less real income while pushing them into higher tax brackets.

The public's expectations of our public and private institutions, including the Congress, may be exceeding the capability of those institutions, as presently constituted, to respond in a way which instills confidence in the present or optimism for the future.

Why has the Congress failed to rivet its attention on our domestic problems? The public has not misled the Congress as to its priorities. When George Gallup audited American public opinion in October of 1978, 86 percent named the economy and energy as principal concerns against 5 percent who selected international problems. In spite of the tremendous attention paid by the media to the imminent SALT debate, the Februray 1979, Gallup audit certified that 76 percent of the American public still ranked the cost of living and energy against a preoccupation with international problems, 18 percent. The proportion selecting international problems in February was the highest recorded since the end of the Vietnam war.

The focus of congressional debate was not always on foreign affairs. The American experiment was underwritten by successive Congresses which gave extraordinary attention to the vast, internal enterprise of nation-building, assimilatons, and the maintenance of conditions conducive to social and economic mobility. As late as the mid-20th century the great enthusiasms of Congress were spent in debate and formulation of domestic policies. Congress experienced its high moments, saw its opportunities for excellence, and opportunities for the self-advancement of its Members in the inspirational domestic debate. The speeches of Congress, the party platforms, did not make perfunctory references to domestic problems but addressed them with a vigor and sincerity with which the Congress now tackles foreign policy.

The explanation for current congressional behavior lies in that institution's changed understanding of the national interest.

American politics revolves around the national interest and how best to serve it. However, the national interest cannot be measured with a ruler. It means different things to different people. It means the cost of gasoline which subverts the lifestyles of lower- and middle-income working men and women. It means the father with the retarded child desperately seeking adequate residential care of his daughter. It means the black youth who still cannot get a job. It means the senior citizen whose social security check is swallowed by the high cost of prescription drugs. It means the American family who will sit down to dinner wondering if they can afford to eat this week what they were eating last week.

But Congress has been acting on the premise that the national interest requires that foreign policy take precedence over the hopes and aspirations of Americans struggling to make ends meet. It has reached the point in Congress where it is institutionally more attractive to command an understanding of the intricacies of the cruise missile than it is to exhibit an appreciation of the effect of unemployment on the mental health of the American public. If you stay on Capitol Hill for any reasonable amount of time, you hear it, you sense it, you observe it.

Until America's entry into World War II the true measure of a politician's patriotism was his devotion to building what Lyndon Johnson was later to describe as a "great society." The political rhetoric of this patriotism was unabashedly concerned with the quality of American life. The first priority of Congress was preservation of those features unique to American society—the opportunity for employment at a decent wage, upward economic and social mobility, confidence in our institutions of self-government.

What is needed in Congress today is a new patriotism: an intellectual and social idea which restores the domestic focus to congressional debate. Congress needs to be invigorated with an awareness that its attention span for domestic problems has been deficient. It needs to recognize that what is worth fighting for and preserving in America is only minimally threatened from abroad.

The young farmer who begins to think he may not make as much as his father or that his parents lived in an America with better opportunities is more dangerous than a foreign army.

What is needed in Congress is a reassessment of its priorities. Congress needs to become a forum for a series of analytical debates on the domestic challenges to American institutions. The public needs to see Congress working on their problems with the same vigor it devotes to our foreign enterprise. The true measure of the Congress and its Members should be the level of attention paid to the management of domestic problems, problems which require the emphasis and enthusiasm of that institution, and which, if left unattended, pose the greatest danger to the survival of our institutions.

As the curtain goes up on the SALT debate, Congress must not be detoured by the high drama of the moment, from pulling up its socks, rolling up its sleeves, and wading waist deep into a series of historic debates and Camp Davids on the principal distractions of American life.

The public expects it. The national interest requires it. A mature patriotism demands nothing less.●

WILL THE CIVEX PROCESS WORK?

● Mr. KENNEDY. Mr. President, over the past year, a process known as the CIVEX, which is designed to reduce the proliferation dangers of nuclear power, has been widely disseminated and discussed. I would like to have printed in the RECORD today a summary of a paper prepared by Dr. Bernard J. Snyder, the Assistant Director for Policy Review of the Office of Policy and Evaluation of the U.S. Nuclear Regulatory Commission. His study concerns the nonproliferation characteristics of radioactive fuel. The paper represents his own conclusions. His central conclusion is that the CIVEX fuel cycle will not render the plutonium breeder fuel cycle proliferation proof or increase its proliferation resistance to any significant degree.

The summary follows:

SUMMARY

A systematic examination of the proliferation resistance of radioactive forms of potentially weapons-usable materials contained in both spent fuel and CIVEX fuel has been made. Results have been presented in terms of REM/Hour, which are meaningful from a health hazard perspective to assure materials are inherently self-protecting.

The study basically covered an investigation of whether—(1) spent fuel from LWR's, and (2) fresh LMFBR fuel fabricated from recycled fissile materials with some of the fission products retained (the EPRI/UKAEA proposed "CIVEX" fuel cycle)—can be self-protecting against diversion due to the inherent radiation. Some consideration was also given to the influence of radiation on the ease or difficulty of separating plutonium from either spent fuel or CIVEX fuel. In addition, an evaluation of some of the advantages claimed for the CIVEX proposal is provided.

CONCLUSIONS

The following general conclusions were drawn from the study.

Both LWR and LMFBR spent fuels retain adequate radioactivity to be considered proliferation resistant for perhaps as long as 50 years (assuming high burnup) unless the diverter (whether national or subnational) can perform complex operations. This tends to counter the claim that spent fuel in storage represents in the near-term a "plutonium mine", i.e., an easily source of plutonium.

CIVEX–LMFBR fuel rapidly loses its self-protecting character within 1.25 to 3 years after initiation of the cycle with discharge of spent fuel from the reactor.

Since the fuel reprocessing, fabrication and reinsertion time is estimated to take at least 1 year, the CIVEX concept does not appear to provide adequate operational flexibility to be inherently proliferation resistant.

The present supply of LWR spent fuel will not be amenable to protection by use of the CIVEX recycling scheme.

Compared to "clean" fuel, CIVEX fuel suffers from the same shortcomings as any "spiked" fresh fuel, including:

The radioactive containment can be removed with proven and well-known technology;

A significant potential health hazard is introduced for both industry workers and the public;

Fabrication, inspection, shipping and charging to a reactor will be more complex and expensive.●

TRIBUTE TO KAY FOLGER

● Mr. WILLIAMS. Mr. President, for nearly as many years as I have been a Senator, Kay Folger has been one of the most effective and highly valued assistants in the State Department Office of Congressional Relations. But, after 18 years on Capitol Hill, Kay is leaving to begin her well-deserved retirement. I would, therefore, like to take this opportunity to join my colleagues in expressing sincere admiration for a job very well done.

Kay joined the staff of the Congressional Relations Office in October 1961. With diplomatic aplomb, good humor, and careful preparation, Kay handled Congressional Relations for the Middle East for 14 years. About 16 months ago, she assumed primary responsibility for the Bureau of Cultural Affairs, confirmation of Presidential Nominees, Office of Protocol, Bureau of Public Affairs, Office of Press Relations, and Office of the Special Assistant to the Secretary for Narcotics Matters.

Over the years, Kay has earned a reputation for political adroitness and effectiveness. Her career is remarkable because she belongs to that vanguard of women who achieved early recognition in professions long dominated by men. She has been scrupulously nonpartisan, despite her previous long history of tireless efforts on behalf of the Democratic Party. It was no easy accomplishment, but Kay has always enjoyed the bipartisan support of all who dealt with her on the Hill. I wish Kay the very best. I know she will be sorely missed.●

AMERICA'S ENERGY FUTURE

● Mr. PERCY. Mr. President, I bring to the attention of my colleagues a recent speech given by Mr. Harvey Kapnick, the very able chairman of Arthur Andersen & Co., at the recent financial and accounting conference of the American Petroleum Institute.

In his address, Mr. Kapnick vividly demonstrates why we must attempt to develop a comprehensive national energy plan in order to effectively deal with the energy dilemma that our Nation presently faces.

So that my colleagues might have the benefit of reviewing this address, I ask that Harvey Kapnick's speech, "America's Energy Future: A Time for Decision", be printed in the RECORD.

The speech follows:

AMERICA'S ENERGY FUTURE: A TIME FOR DECISION

(A speech by Harvey Kapnick)

Energy problems in the United States have been, and will continue to be, critical unless we as a nation develop a coordinated national energy policy. Since 1973 three American presidents have stressed our need for a coordinated national energy policy and, longer term for energy independence. Still we have no energy policy worthy of the name.

As our problems continue to intensify, the political rhetoric accelerates. We are told that the American oil industry has schemed to stage "the biggest ripoff in history" and that the industry has excessive profits. We are told how best to allocate current short supplies by government decree.

Meanwhile, the public protests the high price of gasoline, which to many typifies the entire energy issue. None of this helps solve the problem of making more energy available or of developing the needed national energy policy. In fact, not only have we failed over the last six years to develop a coordinated national energy policy that would lead us toward a solution to our immediate and long-term problems, but in many ways we have lost ground. Since 1973 we have increased our dependence on foreign oil by nearly 50 percent, and we have brought the construction of urgently needed nuclear power facilities to a virtual standstill.

Politicians and the media have led Americans to believe that oil and energy are virtually synonymous. This is wrong on two counts. First, we should have been accentuating the positive—that ours is a strong nation with vast energy resources, fully capable of solving its energy problems. Second, we should have been centering the public dialog not only on oil but on energy in the broadest sense—coal, natural gas, nuclear energy, hydrogen, oil shale, solar power and other energy sources.

However, during the last 20 years we have had no energy policy of any depth or substance. Worse, those most closely involved in energy matters have stood silently by while various self-interest groups espousing narrow, and often reactionary, views have gained the overwhelming attention of the public.

Lacking a national energy policy, U.S. has doubled oil consumption since 1955 with foreign oil accounting for 80 percent of growth.

This lack of a well-defined energy policy has contributed in large measure to our growing dependence on foreign oil. In 1955, Americans consumed somewhat less than 9 million barrels of oil per day, and domestic production supplied 86 percent of that need. By 1978, however, consumption had grown to nearly 19 million barrels daily, and domestic production was able to meet only about half of the demand. Thus, about 80 percent of our increased consumption during that 23-year period came from imported oil. Such statistics alone should have alarmed our national leaders and led them to adopt a coordinated energy policy, but they wasted that time pretending—and leading the American public to believe—that no crisis existed.

Today nothing is more critical to our society than the availability of an adequate energy supply—but that does not necessarily mean adequate oil. Even though oil and natural gas account for the major portion of the world's energy consumption, there are other options, as we all know. However, to move from imported oil as our major source of energy to alternate sources requires a highly coordinated national program backed by the understanding and support of the American public. Since such a program must make difficult tradeoffs that involve energy, the economy and the environment, we must make every effort to gain the support and understanding of various self-interest groups such as the environmentalists and nuclear critics.

Government regulation is source of energy problem, preventing normal operation of free market system and restricting development of alternate energy sources.

Before suggesting a possible direction for a national energy program, let me touch on what I consider to be the basic cause of our current problems. It seems clear that our problem began with government regulation, has been compounded by government regulation and exists today chiefly because of government regulation. The bottom line for our energy problems is that regulation of the energy industry has prevented our free market economy from functioning as it should have over the past 25 years and has thus restricted the development of economical alternate energy sources.

Our firm recently conducted a study on the cost of government regulation in cooperation with The Business Roundtable. In terms of excessive government regulations, we were able to quantify the impact on our society of the direct incremental costs of certain government regulations. Several leading companies in the energy industry participated in this study based on a well-reasoned methodology to pinpoint direct incremental costs of complying with regulations. This study has received increasing support from both critics of government regulation and senior government regulators. In terms of the energy industry, however, the more significant costs to our society are the secondary costs which accrue because regulations impede the normal functioning of the free market system.

Let me cite an example of this. Americans have enjoyed artificially low energy prices because of government regulation for so long that any type of increase is painful. With the average price of gasoline creeping toward $1 a gallon, the public is responding angrily, but American gasoline is still underpriced when compared to pump prices of $2.50 to $3.00 a gallon in certain other countries. In fact, in most countries energy prices represent a larger portion of spendable income than they do in the United States.

Our maintenance of artificially low oil prices through regulatory intervention has been a major contributor to our present dependence on foreign oil. As long as domestic oil prices were held down, sound economics did not justify the development of alternate domestic energy sources. On the other hand, if we had allowed oil and gas to find their replacement cost price levels, it seems reasonable to presume that we would now have more efficient automobiles, the technology to reduce our consumption of other types of petroleum products and more adequate supplies from alternate sources.

Also, we almost certainly would have progressed much further in developing our coal and nuclear-generating capacity. But because of government intervention, it now takes as long as 10 years to build a coal-fired electric generating facility in this country and up to 14 years to build a nuclear facility. European nuclear plants, however, can be built to meet exacting safety standards in half that time. Such delays, which are painfully disruptive to the national economy, are by no means limited to nuclear plants. Despite the urgent need to expand the nation's power capacity, virtually every proposed for a new energy facility draws fire from environmentalists and others who seek to kill or, at the very least, stall construction of such new facilities.

Comprehensive national energy program operating in free market system is needed. OPEC is not to blame. We have had six-year breather but no action. Oil industry financial results trail all-industry average.

Instead of continual delay, what is needed is a comprehensive national energy program that allows the free market system to operate efficiently, that provides an effective, quick process for decision-making and that creates incentives for the development of alternate energy sources to correct the abuses and remedy the neglect of the past.

But we Americans tend to blame others for our economic and energy problems—the European bankers who control the flow of some of the world's hardest currencies, the Arab leaders who control the flow of Middle Eastern oil, and the American oil companies that have run short of oil. The bankers aren't the villains—the strength of the mark and the Swiss franc can be attributed more to the mismanagement of our economy and energy problems than to the inherent power of the German and Swiss currencies. OPEC is not the villain—the OPEC nations have given us six years to develop alternate energy sources—six years we have squandered in aimless and disjointed pursuit of energy independence.

Nor are the oil companies the villains. U.S. oil companies operate within our private enterprise society and must allocate their economic resources to discharge their responsibilities to literally thousands of individual shareholders. They must also live within the parameters of government regulation. So, if oppressive regulation penalizes the companies for making the investments they should make, then they must look to other types of investments to protect their shareholders.

Certainly, no one would contend that government should dictate the use of shareholder funds. If that happened, such funds would soon evaporate, leaving government as the only source of additional financial support. This would, in effect, illegally nationalize such industries and confiscate private individuals' assets. Many countries that have legally nationalized their industries have learned the hard way that government cannot operate such companies as efficiently as private entrepreneurs can in a free market society.

Political rhetoric and government regulators would lead the public to believe that the oil industry makes excessive profits. According to the Chase Manhattan Bank analysis, 27 oil companies earned $15 billion in 1978. That compares with an $11 billion budget of the Department of Energy. While oil industry profits were increasing by 29 percent between 1973 and 1978, U.S. industry profits in total were increasing by 76 percent. In the same period, return on equity for the oil industry declined from 14.7 percent to 13.2 percent, while the all-industry average return on equity was rising from 12.8 percent in 1973 to 15.1 percent in 1978. Thus, the oil industry cannot legitimately be accused of making excessive profits. Further, if we were to adjust for inflation, we would find that reported oil company profits are significantly overstated.

It would appear that certain political leaders are now going beyond the bounds of propriety in accusing the oil companies of profiteering. To public accountants and financial executives, this is perhaps the most disturbing aspect of the current debate on energy policy. Without question, the limitations of our approaches to financial reporting have contributed to the public's misunderstanding of the industry. Because of the importance of financial reporting in shaping the public's perception of the industry and, therefore, the political framework within which energy policy is to be designed, all of us must direct renewed and enlightened efforts to improved financial reporting for the petroleum industry. Nevertheless, the improper use of financial data to prove a biased point of view does not contribute to solving our immediate problem.

Finger-pointing and blame-placing at this stage are clearly counterproductive. A prerequisite for an effective national energy program is to recognize that we are all to blame to one degree or another—the government for failing to recognize the long-term nature of the supply problem and launching a program of positive action; the oil industry (although I recognize that there have been certain notable exceptions) for taking a defensive posture and not making a real issue of government intervention and political tunnel-vision; the public for ignoring the problem; and our politicians for not developing a dialog with their constituencies on the real issues involved. In many ways, we have all taken the easy way out!

So much for the nature of the problem and how we worked ourselves into the present predicament. What of the future? Is the situation likely to change? The answer is "no" if we continue our present course—but the answer could be "yes" if we replace our sense of public outrage at rising oil and gas prices with a sense of public commitment to take positive action to solve the energy problem.

The critical issue is that we rely excessively on imported oil as our primary energy source. This is a matter of serious concern, since our present sources of supply of imported oil are by no means secure. The Iranian revolution underscored that fact, triggering the current emergency. But the situation in Iran may be only a portent of things to come in the volatile and miltarily vulnerable Middle East and Africa. Any near-term political crisis in the Middle East could create even more dramatic problems. This situation is not within our power to control, and thus we must face reality that we are at the mercy of those countries which supply us our required oil needs.

In any economic confrontation, our growing dependence on foreign oil can have an impact on our nation equal in importance to the defense-related concerns of SALT II. Just as we seek to remain independent of foreign military domination, so must we seek to remain independent of any foreign economic domination caused by our dependence on imported oil. To achieve such a goal requires that our nation act now to adopt a coordinated national economic policy and, because of the pervasive impact energy has on our economy, a comprehensive national energy policy.

Growing dependence on vulnerable foreign oil is critical concern. Time-phased action program could meet short- and long-term needs. In developing a national energy policy, we need to recognize that our big failure to date has been in our process of decision-making, not necessarily our dedication to the need for action. And yet we can't continue to paper over the potential economic problems that can be caused by our failure to have a national energy policy or stop the bleeding with bandaids. A massive national effort is required. At stake is our economic ability to survive as a nation, and it's time the public and the politicians recognized a sense of urgency regarding the future availability of energy.

It is obvious that our political process has failed to develop an effective, consensus-based response to the nation's increasingly critical energy problem. Therefore, perhaps now is the time to consider a new approach.

Phase one of national energy program should focus on conservation to help avert potential "Energy Bankruptcy".

If we take a detached, unemotional view of the situation, it becomes apparent that our problem of future energy availability is a traditional business problem—one of threatened bankruptcy. In the case of potential "energy bankruptcy," as in the case of a business facing potential financial bankruptcy, we must begin by taking action to avoid such a catastrophe in the short term while we devise a long-term solution.

Businesses generally do not go broke because they lack assets but because they have inadequate cash flow. A number of now-defunct companies have gone bankrupt while rich in assets but lacking the necessary cash flow to survive. Thus handicapped, they could not convert assets into cash quickly enough to avoid economic disaster. Given the unstable nature of foreign oil supplies, it is not beyond the realm of possibility that the flow of our major energy source—imported oil—could become suddenly and catastrophically inadequate, thereby courting the equivalent of "energy bankruptcy."

Actually, our nation is rich in economic resources and energy assets but, because of events outside our control, we are experiencing a squeeze on the natural flow of imported oil to meet our energy requirements. We have proven oil and natural gas reserves of some 35 billion barrels in addition to vast reserves of coal, which is by far the world's most common fossil fuel. In addition, the oil-producing potential of western U.S. oil shale is 10 times greater than the proven reserves beneath the sands of Saudi Arabia. But, having the assets is one thing; converting them quickly into usable form, as many bankrupt businesses have learned to their sorrow, is quite another.

If we are to approach the threat of "energy bankruptcy" as a traditional business problem, we should develop a three-phase program for solving the problem. In phase one we should begin by marshaling available resources to meet immediate needs to contain the problem at the present level. Phase two should be to develop an intermediate-term solution, using present and quick conversion-type energy assets, to relieve the current supply pressures. Phase three should be expansion of domestic energy sources and development of the long-term solutions necessary to preclude future problems for the 21st century.

Phase one calls for a comprehensive, coordinated, incentive-based conservation program. One way to encourage conservation is by allowing the price of gasoline and heating oil—our immediate problem—to seek its replacement cost level. To achieve this would require accelerating the decontrol of domestic oil and gas prices. Imbalances caused in other areas of our society would have to be dealt with separately.

American industry, including utilities, consumes oil at a rate of about 5 million barrels a day and natural gas at a daily rate of about 6 million barrels of oil equivalent. Since industry and utilities can switch to other fuels more readily than can homes or vehicles, it would seem appropriate to provide massive incentives to encourage industry to convert to another form of energy as quickly as possible. This is doable, since already significant efforts have produced meaningful savings in industry as the costs of energy have escalated. This process should be accelerated.

Conservation alone is not enough. At best, it is a stopgap until we can implement longer-range approaches to balance and consolidate our energy supplies. We cannot conserve our way to a balanced energy program, so we need a simultaneous effort to expand domestic energy production over an intermediate period such as the next three to five years.

Phase two: Rapid expansion of existing domestic energy sources. Industry has much room for further investment. Real windfall would accrue to government.

In terms of phase two of the program, the experts tell us we can realistically rely on only five primary energy sources over the balance of this century—oil, gas, coal, hydropower and nuclear energy. The domestic oil industry also has much room for further exploration. Here again price decontrol becomes a factor, since current restrictions and talk of windfall profits taxes will limit the funds available for such purposes.

If the decontrol program is to provide for a high rate of tax on excess oil and gas proceeds, that tax rate should be limited to proceeds not reinvested in exploration, development, research for new energy supplies or construction of much-needed facilities. Such a plowback provision would encourage petroleum companies to invest their excess proceeds in needed long-range projects. Only this kind of balanced approach will truly serve the nation's best interests. We should stop talking about a windfall tax, as such, since it misleads the public and detracts from solving the real problems. The real windfall, if there is any, from decontrol of oil prices accrues to government, since government would receive about 60% of all additional revenues through sources such as taxes, royalties and lease payments.

Several major companies already have indicated their intention to invest whatever proceeds they get from decontrol in further exploration, research and construction of refinery, pipeline or other energy facilities. This is consistent with past practices where, as a Chase Manhattan Bank analysis shows, 27 oil companies spent $126 billion on the exploration and development of domestic oil and gas in the years 1973 through 1977—$59 billion more than their total net income during that period.

Coal is the logical candidate to meet immediate needs. Although coal accounts for 90 percent of the nation's conventional energy reserves, it supplies less than 20 percent of our energy needs That clearly is an imbalance, caused to a considerable degree by environmental restrictions. Greater use of readily available coal could help relieve the demand for imported oil.

Coal gasification and liquefaction are other possibilities for the future. Coal gas certainly is nothing new; it was used extensively as a fuel source for 150 years until electricity and natural gas replaced it. Both Germany and South Africa have been active in converting coal to oil and gas, and the technology presently exists for large-scale production. The only question has been economics. But how much economic risk should our nation take where the tradeoff is economics vs. adequate supply? Tax incentives and other approaches already suggested can minimize the economic considerations in developing a viable program for these potential sources, but to date private sector efforts, such as the North Dakota project, have been stymied by government regulators.

As another step in mobilizing our efforts for an intermediate program, the nation simply cannot afford to turn its back on nuclear power. That remains our best option in terms of fuel availability and cost. Something on the order of 50 nuclear generating plants have been canceled over the last several months because of regulatory and legal delays, thus severely crippling efforts to meet expanding energy requirements. Given the known energy needs of the future, we must turn again to nuclear power if we are to avoid brownouts, establish a better national energy balance and reduce our reliance on foreign oil.

The U.S. Atomic Industrial Forum reports that the nation's nuclear power plants generated 276 billion kilowatt-hours of electricity in 1978. This translates to a saving of nearly 470 million barrels of oil to produce equivalent energy by conventional means. Thus, if nuclear capacity were doubled, our reliance on imported oil could drop by 15 percent.

I understand, and share, the legitimate concerns of those who worry about the safety of nuclear power plants. Surely we can do even more in terms of nuclear research and upgrading of safety standards to minimize the possibility of accidents, but such steps should not be used as excuses to further stretch out the schedule between design and startup of needed generating facilities. The Three Mile Island incident should reinforce our confidence that very critical conditions can be controlled, much more so than even air transportation with its recent accident.

A key consideration for any national energy program is that there must be some pragmatic compromises with national environmental goals. We must find ways to achieve short-term energy self-sufficiency without sacrificing the long-term interest in clear skies, clean streams and unspoiled wilderness.

Action needed now to meet 21st century energy demand. Phase three would focus on development of alternate energy sources. Nation has great energy assets but must convert them into usable form.

The national energy program, further, must stimulate action in the 1980s to meet the energy needs of the 21st century. This would be phase three. The alternatives for major additions to the nation's energy supply must resolve the critical issues with regard to the fast-breeder reactor, nuclear fusion, solar power, hydrogen, tar sands and geothermal energy. Such alternatives should be fully explored, but it would be premature at this point to suggest that any of these can provide economical relief to our immediate energy demand.

Oil shale conversion also draws on known technology, but again, the stumbling block has been economics and environmental concerns. If the price of crude continues to rise, however, more attention may soon be focused on shale, which some experts estimate will become economically feasible when the price of conventional oil rises to $18-$26 a barrel. Spot prices already exceed that level. Also scientists seem to agree that solar power should be commercially useful and ready to contribute significantly to the nation's energy pool in the 21st century. Much developmental work already is occurring in this area and, as a matter of public policy, should be accelerated at an early point.

Another alternate energy source that cries for further development is the fast-breeder reactor, which is designed to produce more nuclear fuel than it consumes. After endless months of delay, the General Accounting Office recently recommended completing the Clinch River Breeder Project in Tennessee. After analyzing all the issues with great care, the GAO concluded that the "weight of evidence" favors continuing congressional funding of this high-potential project. Hydrogen could also be an excellent source for the 21st century.

Rather than look at our problems negatively, we should look positively at the fact that we have great energy assets. In fact, we undoubtedly have more potential energy assets than any other nation. Thus our challenge is to convert them to usable resources.

Serious though our energy problem is, it need not be a cause for embarrassment or long-term concern for Americans if we act promptly to develop a coordinated national energy policy. I spend a great deal of time abroad each year in my capacity s chief executive of our firm. This exposure to foreign views of the United States has convinced me that many of our international economic and political problems would ease significantly if we could come forward promptly with a meaningful national energy program.

Ours is a great nation that has shown repeatedly that it can rise to a challenge. In our lifetime, the United States has mobilized its industrial resources to serve as the "arsenal of democracy" for Europe in time of war . . . it has mobilized its manpower to win the major war of this generation . . . it has mobilized its scientific resources to tame the atom . . . and it has mobilized its financial and technological resources to put men on the moon. Now we must mobilize our best efforts to solve the energy problem.

I have already indicated my belief that the process by which we develop a national energy policy is the critical issue. The energy industry cannot act alone, the President's program has been unacceptable, Congress has refused to act, and we do not have time to wait for another national election for the people to speak as they have in Proposition 13 on tax issues and large government spending. Thus, we must face the fact that the present approach for resolving a national issue has not provided an answer. The reason for such impasse is less important than recognizing the fact that such impasse exists.

Nation must mobilize resources of manpower, technology, and dollars to resolve crisis. Congressional action patterned after Trade Act of 1974 is one approach to breaking political impasse.

Therefore, we must mobilize the nation to deal with the energy crisis just as we have done in past national emergencies. We face not simply the "moral equivalent of war," as President Carter said more than two years ago, but now the reality that potential economic warfare could occur centering around energy. Our response should be appropriately bold and urgent, as in the Manhattan Project during World War II and in the moon landings during the 1960s. Then we mobilized our full economic, scientific and technical resources to ensure that we met our national goals. The great defect of democracy, as we all know, is delay and endless compromise that elevate parochial special interests above the urgent national interest. Sometimes even Congress recognizes this defect and arranges to avoid it by changing the normal legislative process.

For example, several years ago Congress recognized that it would have difficulty in resolving the many complex and conflicting issues involved in international trade, so it enacted the Trade Act of 1974 authorizing the President to negotiate a draft trade agreement and to present it for informal consideration during a limited period of review. Congress also agreed in advance to vote the entire package up or down without any amendments.

I believe a similar process is needed to break the energy policy impasse. Therefore, I propose that Congress enact the National Energy Mobilization Act of 1979 authorizing the President to draft a comprehensive national energy program and to present it for informal review during a 90-day period, and commit itself in advance to vote on the entire program without amendment at that time. If Congress failed to act within 60 days, the program would automatically take effect.

Of course, not everyone will accept such a bold approach, and surely not everyone will applaud a really tough, truly effective comprehensive national energy program, but the issue is not popularity. The issue ultimately is our national security and survival of the free nations we lead. The penalty for further drift and delay is potential "energy bankruptcy." Reaching agreement on the process by which our energy problems can be resolved and then working within that process to develop a national energy program represent our best hope for quickly regaining control over our national destiny and that of the free world.●

SOLUTION TO ENERGY CRISIS REQUIRES STRAIGHT ANSWERS

● Mr. PRESSLER. Mr. President, I recently received a letter on the energy situation from a constituent and good friend, Leland N. Schoenhard of Chamberlain, S. Dak.

His letter did a good job of enunciating the problem and provides a specific course of action. I commend it to the attention of my colleagues.

Mr. Schoenhard has sent the letter to a number of people in Congress and in the executive branch. Because what he says makes such good sense, I request that it be printed in the Record.

The letter follows:

Lee's Motor Inn,
Chamberlain, S. Dak., June 27, 1979.

Gentlemen: I am writing to give you my views of the current energy crisis, and what should be done about it.

One of the major problems seems to be the inability of the Government and the Oil Companies to convince the people that there really is a shortage of oil. Little wonder in view of the many inconsistent and conflicting statements and reports that have been given out by people who are supposed to be responsible and know better.

In its issue of May 15, 1978, Time Magazine reported that a severe "oil glut (was) building west of the Rockies." Paradoxically, while the surplus reportedly was causing some California oil men to close or "shut in" some wells, the West Coast was continuing to import 400,000 bbl. a day from Indonesia! Time suggested that this "bizarre" situation should be adjusted to assist East Coat States which are heavy importers.

Now, a year later, we find the California area to be suffering severe energy shortages. When asked the cause of the shortages about ten days ago, Mr. O'Leary of the Department of Energy suggested that the shortage was probably due to the Iranian Oil situation! This is an incredible statement in view of the Time article, plus the governmental warnings of only a few months ago that the Iranian oil loss would be felt primarily in the New England states.

It is little wonder that the people have no confidence at all in their leadership, and they do not believe that there is a real shortage. The Department of Energy has done little but employ people and spend money for no apparent purpose.

The question is, what should be done about the situation? Number one, of course, is to gain the confidence and the support of the people by giving them straight, intelligent, reliable answers.

Next, in my opinion, we have to utilize every available source for the production of energy, something we have completely failed to do. Existing hydro-electric plants should be enlarged, and more built where possible. We must get to work on development of our extensive oil shale deposits which hold more oil than all of the Arab countries. We have to research and develop natural sources such as wind, solar, nuclear, and tidal power, plus, we must study the attributes of Gasahol. We will have to do this eventually against the day when fossil fuels will be exhausted, and we might as well get on with it now. Naturally, this will require reasonable control by environmentalists.

By converting coal to liquid fuel, we could triple the use of coal and still have at least 200 years of known reserves. During World War II, Germany depended 60 percent on liquid fuel made out of coal. We could produce easily 5 million barrels a day out of coal and still have 200 years supply. With the extra use of coal and river dam power across the country, we could be self-supporting in five years. We must remember that the peace treaty with Israel and Egypt has caused bitterness in the Arab world and they are getting back at us with continued oil increases, fully expecting to strangle industrialized countries. Atomic power is another avenue that must be considered. As yet, no lives have been lost and even though there has been much controversy heard, we could still get a lot of power with no crude oil. This may be cheaper in the long run than a risk of atomic war over oil, which would be devastating.

According to an article in the Wall Street Journal on June 15, 1979:

"In Iran, a White House official says, the Ayatollah Khomeini is 'really interested in only one thing—the establishment of an ideal Islamic state.' Clearly, he has little respect for Washington. He recently denounced the U.S. as a 'defeated and wounded snake' and proclaimed: 'We don't need America. It is they who need us. They want our oil.'"

This supports my theory that if we fail to act, we will see oil prices at least 50 percent higher in the next two years.

I also believe that a war over energy is inevitable in the next five to ten years, if we don't do something now and I question whether we can get our boys to fight another war if our congressmen fail to realize our position and continue their incessant bickering. By using our resources, we can be a self-supporting country and tell the Arabs to keep their oil. Our nation's wealth is too great to let it go to waste in these great times of need.

All of this cannot be done without adequate incentive to private enterprise. The Government has already demonstrated its inability to handle this situation, and so it should be left to private enterprise to solve the problem. This will require the lifting of punitive Governmental taxes and controls, but with adequate safeguards to assure that any excess profits will be actually utilized for research and development of existing and alternative energy sources. There is no reason why this type of control cannot be exercised if Congress can forget the special interest groups and areas long enough to develop proper legislation.

In addition to today's problems, we have to remember that there are serious international problems coming in the future. Reports have it that Russia will begin to suffer a severe shortage by 1986. Even before that happens we can expect them to be more than active in attempting to manipulate the OPEC countries to their benefit, and it is entirely possible that some of the present troubles are Russian inspired. It is my belief that when the real energy crunch comes world-wide, which it will shortly, there is the very real prospect of a major war over the energy rich areas of the world. We would be far better off to recognize this possibility by getting our house in order so that we can deal from a position of strength rather than of weakness, and hopefully prevent such a tragedy from happening.

I am sure that you may have heard some or all of the above suggestions previously. Nonetheless, I feel that I should add my voice so that you will know that we in the middle of the country are deeply disturbed by all of this, and are doing our best to study solutions.

Therefore, I urge all of our Representatives and Senators who have overlooked Energy since 1973, while they have been involved in the Watergate and Hayes cases, the FBI/CIA activities, and Tungson Park cases, among others, to get busy and take steps to rectify this situation. If everyone got involved in the betterment of our country, some of the above mentioned corruptions might not have occurred.

One thing that should not be overlooked is the ability of the American people to weld together in a common front once they are given proper, convincing information. We have licked tougher battles, and we will lick this one if we can get the leadership to pull us together.

Your attention is appreciated.

Sincerely yours,
Leland N. Schoenhard.●

OPPOSITION TO SENATE RESOLUTION 140

● Mr. KENNEDY. Mr. President, I rise in opposition to Senate Resolution 140, which expresses disapproval of the administration's reorganization plan for U.S. development assistance programs. Although I have several reservations about the reorganization plan, I feel that it is an important first step in providing greater effectiveness in our overseas development programs—at minimal extra expense, and with no additional bureaucracy.

Development experts have increasingly come to recognize that economic development is a multifaceted process. A successful nutrition program may well be undermined by the absence of health facilities. AID's bilateral economic assistance may be unnecessarily offset by a Commerce Department decision on trade policy. For development assistance to be successful, all aspects of development assistance must be addressed.

I believe by uniting our development efforts under the International Development Cooperation Agency as the administration proposes, some of the current problems of bureaucratic duplication and working at cross-purposes might be eliminated. Through the establishment of a single IDCA Director, the representation of development efforts in the Congress, before the President, and among the relevant agencies will be focused and coordinated by one office.

Furthermore, I welcome the increasingly high profile that this proposal will give to our developmental programs by uniting it under a central director, and I strongly support the increased developmental, as opposed to the political orientation that it will give to our assistance programs.

Again, while I support the administration's proposal, I do so only by regarding the reorganization as a first step. For I believe the administration's plan is inadequate regarding two of the most important issue areas of development assistance: Our food programs under the Department of Agriculture, and of our monetary policies with our bilateral assistance programs.

Mr. President, I look forward to working with the administration in the future to increase the role of IDCA in these areas.●

TIME FOR LEADERSHIP ON INFLATION

● Mr. MUSKIE. Mr. President, Robert Samuelson recently discussed in the National Journal the fundamental questions this country faces in attempting to slow inflation.

Mr. Samuelson's view parallels my own. His article carries a message I have tried to deliver myself to audiences around the country. It is unpleasant news. But I believe inflation will not come under control until each citizen gets the message, and understands it. The message is simple: Our standard of living goes up only as our productivity increases. If each citizen applies himself only to catching up to inflation, there will be no end to inflation.

Whether it is a businessman using higher prices to preserve his profit margin, or a wage earner who pickets for pay higher than productivity increases dictate, each contributes to inflation. And each, if he restrained his own actions, could contribute to ending inflation.

Each of us, as elected representatives, has an obligation to do our part in the inflation fight by bringing this message to the people we represent. If we fail to conquer inflation, it will be in large part a failure of leadership. If each of us can contribute to a better understanding of the problem and its real solutions, then a victory over inflation is possible, and it will be in part our victory.

Mr. President, to share Mr. Samuelson's analysis with my colleagues, I ask that the reprint of his article published in the June 26, 1979, edition of the Washington Post be printed in the RECORD.

The article follows:

[From the Washington Post, June 26, 1979]

WHO'S TO BE HONEST ON ECONOMIC WOES?

(By Robert J. Samuelson)

The Carter administration's anti-inflation guidelines are collapsing, and unless President Carter is willing to commit his body and soul to curbing inflation—something he has shown no willingness to do—they probably aren't worth picking up.

The settlement between the rubber workers and B. F. Goodrich Co. seems to have put the last nail in the coffin. Even at an assumed inflation rate of 6 percent (used in estimating the effect of a cost-of-living clause), the contract reportedly provides a 27 percent cost increase over three years. At a 9 percent inflation rate, the increase would probably total 35 to 36 percent; there's no way this can be squeezed inside the 7 percent wage guideline.

Nor can the government do much about it. The power to withdraw federal procurement—a power upheld last week in a Court of Appeals decision—is more a feather than a stick. Consider rubber. The government buys about $20 million to $25 million of tires annually, but few—if any—of the purchases exceed the $5 million contract minimum subject to the program.

The price side of the program is also beginning to disintegrate. Initially, the administration had hoped that companies would reduce their average price increases half a percentage point below the 1976–77 average. But companies experiencing "uncontrollable" cost increases could apply a "profit margin" standard. Price increases could exceed the guideline as long as profit margins—profits as a percentage of selling price—didn't increase over those in a "base" period. Though the rule has been toughened, more and more companies (including, recently, the U.S. Steel Corp.) are choosing this option.

Inflation, of course, is the immediate cause of the anti-inflation program's eclipse. For the first four months of the year, consumer prices have increased at an annual rate exceeding 13 per cent. Oil prices have jumped spectacularly. Food prices—heavily influenced by reduced beef supplies—have risen sharply. Likewise, an unexpectedly strong economy early this year increased many raw material prices.

So both unions and companies passed these costs along in higher prices and wages that, of course, simply perpetuate the inflationary spiral. With cost-of-living adjustment clauses and legislated changes in government programs (Social Security, food stamps), the process has become semi-automatic.

All this simply highlights the deeper cause of failure. Americans are living a collective fantasy. There is still no widespread understanding that higher living standards ultimately stem only from higher productivity. The fact is that today's productivity gains (less than 1 per cent last year) are tiny, while a number of factors will take more and more output away from the average worker—whether a secretary, auto worker or executive.

These are worth repeating if only because everyone wants to forget them. High energy imports, for example, mean that more of our output must ultimately go to oil countries as exports. Government regulations—to lower pollution, improve product reliability or reduce worker hazards—all raise costs, but not output. There are also pressures for higher tax rates (especially (Social Security taxes) to support the growing over-65 population and higher "real" defense spending.

Not all these pressures reduce the nation's "living standard." Environmental controls clearly improve them, as does better care for the elderly. But they all tend to reduce workers' purchasing power, which is what people watch. Unless productivity goes up, wage increases must come down or inflation simply intensifies.

Economic policy today ought to put people more in touch with these realities and attempt to improve the realities. This requires an intellectual grasp of the problem and the political ability to translate it into practice. In short, leadership. Carter hasn't provided it.

His failure, of course, is understandable. The process by which investment and innovation lead to higher productivity and rising living standards is an invisible, imprecise one for which no politician can easily claim credit. Who knows when today's "incentive" will yield results? Meanwhile, everyone hopes to stay ahead of inflation, and no political leader wants to deliver the bad news that such self-advancement isn't automatic.

Government is caught in contradiction. People correctly believe that their individual behavior has no national impact and blame any collective problem—a recession, energy shortage or inflation—on the obvious agency of collective action, government. But government is not omnipotent. It can succeed at mastering these problems only by influencing collective individual actions.

The government needs to create a sense of collective responsibility. The guidelines attempt to do this. But, human nature being what it is, the guidelines won't work unless backed by threat—recession. The government must declare that it won't print the money to support extravagant wage settlements. Otherwise, people have no real reason to adhere to the standard.

That doesn't mean wage increases should be uniform. Short of wage and price controls, which don't endure except during periods of national emergency, a democratic government cannot police every wage agreement in the country. At best, guidelines can only create a sense of proportion.

Around a general wage standard, larger increases may be justified by higher productivity increases; lower increases ought to result from lower productivity or fierce competition. Labor unions and companies that have the market power to ignore such pressures ought, at least, to be seen as causing both more inflation and lower growth. Only then is anyone likely to ask fundamental questions of why such market power should continue.

The choices cannot forever be wished away: High inflation is now pushing the country into slowdown and recession. Ultimately, someone is going to have to be honest with the public. Carter has not been, but, to be fair, there is not a politician of national stature—not Edward Kennedy, not John Connally, not Ronald Reagan—who is, either.●

ORDER OF BUSINESS

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, a very serious situation is developing in New Hampshire and the Northeast.

The PRESIDING OFFICER. The Chair informs the Senator that there is no business pending before the Senate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator may speak for not to exceed 5 minutes notwithstanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. I thank the Senator.

(The remarks of Mr. DURKIN at this point in connection with the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

Mr. DURKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOREN). Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there are three housing bills on the calendar, Calendar Order No. 155, S. 903. Mr. STEWART is here and is ready to manage that bill. I would propose that the Senate come in tomorrow at, say, 11 o'clock. We will have one special order, probably have some morning business, and then by noon be ready to proceed with that bill.

I understand it will only take 20 or 30 minutes on that bill. There should not be much difficulty with it.

There is another housing bill, Calendar Order No. 169, which could follow that bill, and that piece of legislation should not require too long.

On the third housing bill, which Mr. WILLIAMS will manage, the major housing bill, Calendar Order No. 176, we could be ready, probably, by 1 o'clock or a little after on that bill.

So that I would propose those three measures for the business for tomorrow.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, the distinguished Senator from Utah (Mr. GARN) is the ranking member of the jurisdictional committee. He is not here. He is on his way to another place to engage in an important debate with another Member of the Senate on the SALT treaty.

I would hope we could forgo scheduling those three items until we convene in the morning.

Originally, as the majority leader knows, these items had notations from our side with the request that they be held until after the disposition of the military construction bill. The distinguished Senator from Texas has released us from that responsibility, and we are prepared to proceed, except I cannot reach the Senator from Utah to try to clear it with him.

I would represent to the majority leader that I will try later this evening to reach Senator GARN and urge him to be present and prepared, because I know the problem the majority leader has in trying to find suitable business for the Senate tomorrow.

But I hope the majority leader could leave the record in this shape, with everyone on notice it is the intention in the morning to do this, and then give me an opportunity to discuss the matter with our ranking member.

Mr. ROBERT C. BYRD. I will do that, and I hope the distinguished minority leader will be able to work this out with Mr. GARN.

The Senate just simply cannot afford to be stalled. The managers on my side of the aisle are ready to go with the housing bills, they are ready to go with the military construction. The distinguished Senator from Texas does not want to go with the military construction until Monday. It is all right with me to wait until Monday, but I have a responsibility to try to keep the Senate busy until then and, in an effort to try to cooperate with the Senator from Texas, I am trying to get the housing bills up.

As I say, the people on my side who manage the bills are ready, they are willing, and they are able.

The holds on the nomination, the one nomination on the calendar, Mr. Frank Reiche, of New Jersey, all the holds are on the other side of the aisle, between 20 and 30 holds, and that cannot be held up forever.

So I say to the distinguished minority leader that I appreciate his cooperation, but come tomorrow we are just going to have to go with our business.

Mr. BAKER. I thank the majority leader.

If he will yield further, I am especially grateful that he would agree to my request that we leave the matter in this state until in the morning, and I will make every effort to try to schedule these items and to work with him to provide suitable business for the Senate for the balance of this week.

Mr. TOWER. If the Senator will yield, am I to understand that the only bills on the calendar are those on which Republicans have holds?

The Senator has gone through a litany of bills and——

Mr. ROBERT C. BYRD. Mr. President, I do not yield for that.

I will say to the distinguished Senator, I know about as much as anybody knows about the calendar.

Mr. TOWER. I was just asking for information.

Mr. ROBERT C. BYRD. I was just saying, there are bills on the calendar we cannot go with because of budget waivers, there are bills we cannot go with which are waiting on House bills, there are bills we cannot go with because of the fact the administration is sending up new data, and if the Senator wants me to go down the entire litany, I can explain one by one what the problem is.

I will enumerate the bills we can go on. The housing bills, the nuclear regulatory bill, the military construction bill, and the nomination. Come next week, some of these bills will be open. There will be appropriations bills ready, but as of now, I have outlined those available.

Mr. TOWER. I am not trying to needle the Senator from West Virginia.

Mr. ROBERT C. BYRD. I can stand a little needling.

Mr. TOWER. I think the Senator from West Virginia knows the Senator from Texas never needled him about anything.

Mr. ROBERT C. BYRD. Of course not. He is not doing that now.

I am simply answering the Senator's question.

Mr. BAKER. I thought it was better before. I wonder if we can discontinue at this point.

Mr. TOWER. If the Senator will yield, I am sorry I opened my big fat mouth.

Mr. ROBERT C. BYRD. All right.

I will accede to the distinguished minority leader's request.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal be approved to date.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECESS TO 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECESS FROM WEDNESDAY, JULY 11, 1979, TO 10 A.M. ON THURSDAY, JULY 12, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in recess until the hour of 10 o'clock on Thursday morning.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECESS FROM THURSDAY, JULY 12, 1979, TO 10 A.M. ON FRIDAY, JULY 13, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Thursday, it stand in recess until the hour of 10 o'clock on Friday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM FRIDAY, JULY 13, 1979, TO 9 A.M. ON SATURDAY, JULY 14, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday, it stand in recess until 9 o'clock on Saturday morning.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. I would if I could.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONVENING OF THE SENATE AT 10 A.M. ON MONDAY, JULY 16, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the

Senate meets on Monday, it meet following a recess, and that it convene at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BENTSEN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, Mr. BENTSEN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I wish to state for the benefit of the managers of the bills on my side of the aisle, I would like for them to be ready and be available to proceed with Calendar Order No. 155, S. 903; Calendar Order No. 169, S. 1064; Calendar Order No. 176, S. 1149; Calendar Order No. 195, S. 1020; Calendar Order No. 226, S. 1319, the military construction authorization bill.

I would hope our managers will be ready to go with those measures because the Senate has a responsibility to get on with the business of the people and tomorrow morning I hope that these items will be cleared.

I hope also that the Senate will be able to proceed not only tomorrow, but also Thursday and Friday and Saturday.

RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until 11 o'clock tomorrow morning.

The motion was agreed to; and at 6:29 p.m. the Senate recessed until tomorrow, Wednesday, July 11, 1979, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, July 10, 1979*

The House met at 12 o'clock noon.

Rev. William R. Downing, Ph. D., D.D., pastor, Lakewood Baptist Church, Sunnyvale, Calif., offered the following prayer:

Almighty God, our creator, lawgiver, moral governor and sustainer; of whom, through whom and to whom are all things, we thank Thee for Thy great mercies to us as a people.

We now beseech Thee for Thy guidance. Grant wisdom and mercy to this, our representative assembly, as it meets this day. Guide this House, O Lord, as it represents our people and conducts the business of our country.

Continue to be merciful is our prayer, which we ask in the name of Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate failed to agree to Senate Resolution 140, entitled "Resolution Disapproving Reorganization Plan Numbered 2.".

REV. WILLIAM R. DOWNING

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, I would like to take a brief moment and say, "Thank you, and welcome," to our guest chaplain today, the Reverend William Downing.

Reverend Downing comes from California, and being a Floridian I take special note in welcoming him here today and the fine job he did with the invocation, because Reverend Downing is my brother-in-law. He and his family are here visiting with us. We really appreciate him being with us.

COMMUNICATION FROM SECRETARY OF DEPARTMENT OF ENERGY

The SPEAKER laid before the House the following communication from the Secretary of the Department of Energy, which was read and referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

DEPARTMENT OF ENERGY,
Washington, D.C., July 9, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: At the request of the President, there is herewith submitted to the House of Representatives all the data called for in House Resolution 291, which passed the House on June 15, 1979. In addition to the material transmitted under cover of this letter, each Member of the House of Representatives receives the Monthly Energy Review, the Monthly Petroleum Statistics Report and the Quarterly Report to Congress, all routinely prepared and provided by the Department of Energy.

Sincerely,
JAMES R. SCHLESINGER,
Secretary.

APPOINTMENT OF CONFEREES ON H.R. 1786, NASA AUTHORIZATION, 1980

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1786) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. FUQUA, HARKIN, FLIPPO, and WATKINS, Mrs. BOUQUARD, and Messrs. NELSON, WYDLER, WINN, and GOLDWATER.

APPOINTMENT OF CONFEREES ON H.R. 2676, ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION AUTHORIZATION ACT OF 1980

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2676) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. FUQUA, AMBRO, BROWN of California, BLANCHARD, WALKER, and RITTER.

CONFERENCE REPORT ON H.R. 2729, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT FOR FISCAL YEAR 1980

Mr. FUQUA submitted the following conference report and statement on the bill (H.R. 2729) to authorize appropriations for activities of the National Science Foundation, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 96–321)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2729) to authorize appropriations for activities of the National Science Foundation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1980".

SEC. 2. (a) There is hereby authorized to be appropriated to the National Science Foundation for the fiscal year 1980 for the following categories:

(1) Mathematical and Physical Sciences and Engineering, $293,400,000.

(2) Astronomical, Atmospheric, Earth, and Ocean Sciences, $241,500,000.

(3) United States Antarctic Program, $55,000,000.

(4) Biological, Behavioral, and Social Sciences, $170,000,000.

(5) Science Education Programs, $86,200,000.

(6) Applied Science and Research Applications, $68,700,000.

(7) Scientific, Technological, and International Affairs, $27,300,000.

(8) Program Development and Management, $59,600,000.

(b) Of the total amount authorized under subsection (a)(5)—

(1) $750,000 is authorized for a program of education in appropriate technology;

(2) $2,050,000 is authorized for the program Ethics and Values in Science and Technology; and

(3) $2,250,000 is authorized for the program Minorities, Women and the Handicapped in Science.

(c) Of the total amount authorized under subsection (a)(6)—

(1) $21,800,000 is authorized for the program of Earthquake Hazards Mitigation;

(2) $2,600,000 is authorized for the program of Science and Technology to Aid the Handicapped;

(3) $2,000,000 is authorized for a program in appropriate technology; and

(4) not less than 12.5 per centum shall be expended to small business concerns.

(d) Of the total amount authorized under subsection (a)(7), $1,500,000 is authorized for the State Science, Engineering, and Technology program.

(e) Of the amount authorized under subsections (a)(1), (a)(2), and (a)(4) for equipment and instrumentation, not less than 4 per centum shall be available for grants to two and four year colleges for equipment and instrumentation costing $25,000 or less.

SEC. 3. Appropriations made under the authority provided in sections 2 and 5 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SEC. 4. From appropriations made under the authority provided in this Act, not more than $3,500 may be used for official consultation, representation, or other extraordinary expenses upon the determination of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

SEC. 5. In addition to the sums authorized by section 2, not more than $6,000,000 is authorized to be appropriated for the fiscal year 1980 for expenses of the National Science Foundation incurred outside the United States, to be paid for in foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 6. Funds may be transferred among the categories listed in section 2(a), but neither the total funds transferred from any category nor the total funds transferred to any category may exceed 10 per centum of the amount authorized for that category in section 2(a) unless—

(1) thirty calendar days on each of which at least one House of Congress is in session have passed after the Director of the National Science Foundation or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the Committee on Science and Technology of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of the thirty days both the Committee on Science and Technology of the House and the Committee on Labor and Human Resources of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

SEC. 7. In partial fulfillment of the established statutory requirement that the National Science Foundation evaluate the status of and current and projected need for scientific resources (section 3(a) (5) and (6) of Public Law 81–507, as amended) the National Science Foundation shall develop indices, correlates, or other suitable measures or indicators of the status of scientific instrumentation in the United States and of the current and projected need for scientific and technological instrumentation.

SEC. 8. The National Science Foundation shall conduct a Flood Hazard Mitigation Study and shall report to the Congress with specific program recommendations by the end of the fiscal year 1980.

SEC. 9. Notwithstanding any other provision of this or any other Act, the Director of the National Science Foundation shall keep the Committee on Labor and Human Resources of the Senate and the Committee on Science and Technology of the House of Representatives fully and currently informed with respect to all of the activities of the National Science Foundation.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

Don Fuqua,
George E. Brown, Jr.,
James H. Scheuer,
Tom Harkin,
John W. Wydler,
Harold C. Hollenbeck,
Managers on the Part of the House.

Edward M. Kennedy,
Harrison A. Williams, Jr.,
Claiborne Pell,
Gaylord Nelson,
Alan Cranston,
Richard S. Schweiker,
Jacob K. Javits,
Orrin G. Hatch,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2729) to authorize appropriations for activities of the National Science Foundation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The amendment of the Senate struck out all after the enacting clause in the House bill and substituted new language. The committee of conference agreed to accept the Senate amendment with certain amendments and stipulations proposed by the conferees.

The National Science Foundation requested authorization in the amount of $1,000,000,000 for Fiscal Year 1980, plus $6,000,000 in excess foreign currencies. The House authorized $993,340,000 and $6,000,000 in excess foreign currencies. The respective Senate figures were $1,003,500,000 and $6,000,000. The committee of conference recommended $1,001,700,000 plus $6,000,000 in excess foreign currencies. This total amount of $1,007,700,000 is $8,360,000 more than authorized by the House and $1,800,000 less than authorized by the Senate for Fiscal Year 1980.

1. For Mathematical and Physical Sciences and Engineering the budget request of the National Science Foundation was $295,650,000. The House authorized $293,370,000 and the Senate authorized $295,650,000. The conferees agreed on $293,400,000.

2. For Astronomical, Atmospheric, Earth, and Ocean Sciences the budget request of the National Science Foundation was $243,350,000. The House authorized $241,470,000 and the Senate authorized $243,350,000. The conferees agreed on $241,500,000.

3. For the United States Antarctic Program the House, the Senate, and the conferees approved the budget request of the National Science Foundation of $55,000,000.

4. For Biological, Behavioral, and Social Sciences the budget request of the National Science Foundation was $173,500,000. The House authorized $158,000,000 and the Senate authorized $175,500,000. The conferees agreed on $170,000,000. The conferees, in considering the large difference in the House and Senate authorizations for this category were convinced that need for improved understanding in the biological, behavioral, and social sciences is particularly pressing—especially in the brain and cognitive sciences—and consequently the agreed amount is somewhat closer to the authorization of the Senate than that of the House.

Under the three categories of Mathematical and Physical Sciences and Engineering; Astronomical, Atmospheric, Earth and Ocean Sciences; and Biological, Behavioral, and Social Sciences, the budget request of the National Science Foundation anticipated that slightly over $80 million would be used for research instrumentation and equipment. The Senate bill stipulated that not less than 10 percent of that amount be available for grants to two and four year colleges for equipment and instrumentation costing $25,000 or less. The House bill had no comparable provision. The conferees agreed that the Senate provision should be retained, with a reduction of the amount from 10 percent to 4 percent. The conferees expect that this provision will result in about $3 million being obligated by NSF to two and four year colleges for equipment and instrumentation costing $25,000 or less in fiscal year 1980. In fiscal year 1979 the Foundation's obligations in a program it has established for such grants are expected to be $1 million. Since this is a new program in fiscal year 1979 and is unproved, the conferees agreed that the Foundation should establish a means to monitor the use of program funds to be sure that research is, in fact, being accomplished with equipment and instrumentation provided through the program.

5. For Science Education Programs the budget request of the National Science Foundation was $84,700,000. The House and Senate both authorized $86,200,000, and the conferees agreed on that amount.

Of the total amount authorized for Science Education Programs and Applied Science and Research Applications, the House bill stipulated that $4,500,000 should be authorized for a program of research and education in appropriate technology; the House report clarified that $1,500,000 of this should be used in Science Education Programs. There was no Foundation request for an appropriate technology program, and the Senate bill had no comparable provision. The conferees agreed that of the $86,200,000 authorized for Science Education Programs,

$750,000 should be authorized for a program of education in appropriate technology.

Of the $86,200,000 authorized for Science Education Programs, the Senate bill stipulated that $2,300,000 should be available for the program "Ethics and Values in Science and Technology", but there was no comparable provision in the House bill. The Foundation's request for that program was $1,300,000. The conferees agreed that $2,050,000 should be authorized for the program.

Of the $86,200,000 authorized for Science Education Programs, the Senate bill stipulated that $2,500,000 should be available for the program "Minorities, Women and the Handicapped in Science", but there was no comparable provision in the House bill. The Foundation's request for that program was $2,000,000. The conferees agreed that $2,250,000 should be authorized for the program. Although an increase in the Minorities, Women and the Handicapped in Science program has been provided, the conferees note that the program is still very modest, and other targeted approaches to the problems this program addresses may be desirable.

6. For Applied Science and Research Applications the budget request of the National Science Foundation was $62,400,000. The House authorized $70,900,000 and the Senate authorized $62,400,000. The conferees agreed on $68,700,000.

Of the amount authorized for Applied Science and Research Applications, the House bill stipulated that $22,800,000 would be authorized for the program of Earthquake Hazards Mitigation, but the Senate bill had no comparable provision. The Foundation's request for that program was $18,300,000. The conferees agreed that $21,800,000 should be authorized for the program.

Of the amount authorized for Applied Science and Research Applications, the House bill stipulated that $2,800,000 would be authorized for the program of Science and Technology to Aid the Handicapped, but the Senate bill had no comparable provision. The Foundation's request for that program was $1,800,000. The conferees agreed that $2,600,000 should be authorized for that program.

Of the total amount authorized for Science Education Programs and Applied Science and Research Applications, the House bill stipulated that $4,500,000 should be authorized for a program of research and education in appropriate technology; the House report clarified that $3,000,000 of this should be used in Applied Science and Research Applications. There was no Foundation request for an appropriate technology program, and the Senate bill had no comparable provision. The conferees agreed that of the $68,700,000 authorized for Applied Science and Research Applications, $2,000,000 should be authorized for a program in appropriate technology.

Of the amount authorized for Applied Science and Research Applications, the Senate bill stipulated that not less than 12.5 percent should be expended to small business concerns. The House bill had no comparable provision. The conferees agreed to adopt the Senate provision.

7. For Scientific, Technological, and International Affairs the budget request of the National Science Foundation was $25,800,000. The House authorized $28,800,000 and the Senate authorized $25,800,000. The conferees agreed on $27,300,000.

Of the amount authorized for Scientific, Technological and International Affairs, the House bill stipulated that $3,000,000 should be authorized for the State Science, Engineering, and Technology program. There was no Foundation request for this program, and the Senate bill had no comparable provision. The conferees agreed that of the $27,300,000 authorized for Scientific, Technological, and International Affairs, $1,500,000 should be authorized for the State Science, Engineering, and Technology program.

8. For Program Development and Management the House, the Senate, and the conferees approved the budget request of the National Science Foundation of $59,600,000.

Section 3—Obligation Limitation.

Section 3 is identical in purpose to section 3 of the House bill and section 4 of the Senate bill.

Section 4—Consultation and Extraordinary Expense Limitation.

The authorization request of the National Science Foundation asked for authority to use $2,500 for consultation and extraordinary expenses at the discretion of the Director. The House authorized $5,000 and the Senate authorized $2,500. The conferees agreed on $3,500.

Section 5—Special Foreign Currency Authorization.

For expenses incurred outside the United States to be paid for in foreign currencies determined to be in excess to the normal requirements of the United States, the House, the Senate, and the conferees approved the budget request of the National Science Foundation of $6,000,000.

Section 6—Transfer Limitation.

Section 6 is identical in purpose to section 6 of the House bill and section 7 of the Senate bill. Language specifying periods of time in this section has been clarified from both the House bill and the Senate bill.

Section 7—Instrumentation Studies.

The House bill contained a provision requiring the National Science Foundation to develop measures of the status of and needs for scientific instrumentation in the United States. The Senate bill included no comparable provision. The conferees agreed to adopt the House provision.

Section 8—Flood Hazard Mitigation Study.

The House bill contained a provision requiring the National Science Foundation to conduct a flood hazard mitigation study and report to the Congress by the time of the fiscal year 1981 budget submission to Congress. The Senate bill included no comparable provision. The conferees agreed to adopt the House provision with an extension of the time allowed to the end of fiscal year 1980 to permit more careful and thorough consideration.

The conferees wish to emhpasize that this study should not duplicate any activities of other Federal agencies. In performing the study there should be full participation of other agencies which are concerned with flood hazards, including the Federal Emergency Management Agency, the Corps of Engineers, the National Oceanic and Atmospheric Administration, and the Water Resources Council. The report of the study shall include recommendations for Federal policies, for action by Federal agencies, and for action by other sectors of society. A broadly constituted external advisory group shall be assembled to assist in the study.

Section 9—Information Requirement.

The Senate bill included a provision requiring the Foundation to keep its Congressional oversight committees fully and currently informed with respect to all of the activities of the Foundation. The House bill contained no comparable provision. The conferees agreed to adopt the Senate provision.

PROGRAM INSTRUCTIONS

Resource Centers for Science and Engineering

The budget request of the National Science Foundation included a request for $2,800,000 for Resource Centers for Science and Engineering as one of its Science Education programs. The purpose of the Resource Centers is to promote increased participation in science and engineering by minorities and persons from low-income families through the establishment of multi-activity centers at universities with substantial minority enrollment. One Resource Center has already been established with funds provided in fiscal year 1978. A second Center is expected to be started with fiscal year 1979 funds, and the Foundation's request is intended to be sufficient to start a third center in fiscal year 1980.

In the House report on the bill the Committee on Science and Technology indicated that it remained unconvinced of the soundness of the Centers concept. The Committee recommended that the funds requested for the Resource Centers be used for other minority programs and that an evaluation of the existing Centers be undertaken before the establishment of any more Centers. In the Senate report on the bill, the Committee on Labor and Human Resources endorsed the Resource Centers program, indicating that it views the Resource Centers concept as an important adjunct to NSF's efforts to provide increased opportunities for minorities and students from low income families to gain access to science careers.

The conferees agreed that the Foundation's request for the Resource Centers should be approved for fiscal year 1980, but that beyond 1980 no further Resource Centers should be established until an evaluation of the three Centers has been undertaken by the Foundation and has indicated how well the Centers concept is working and whether the establishment of more centers would be desirable.

Science Faculty Professional Development

The budget request of the National Science Foundation included a request for $2,100,000 for Science Faculty Professional Development as one of its Science Education programs. In fiscal year 1979, with the same amount of money, the program is enabling 84 undergraduate faculty members to pursue research or study in universities or industrial laboratories for three to twelve months, as well as allowing shorter stays in industry for a number of undergraduate faculty members. In fiscal year 1980 the Foundation indicated it intends to redirect the program to two components: institutes and conferences, and industrial research participation. In the redirected form about 500 undergraduate faculty members would participate for one to three months.

In the House report on the bill the Committee on Science and Technology required that the Science Faculty Professional Development program should not be so restructured and that the funding made available for year-long awards to individuals should not be less than that expended for the same purpose in FY 1979. In the Senate report on the bill the Committee on Labor and Human Resources suggested that the Foundation consider awarding no less than one-half of the funds for the program for one-year study and research opportunities and the remainder for shorter more focused activities. The Senate Committee further directed the Foundation to report the results of its assessment of the two approaches.

The conferees agreed to direct the Foundation as follows:

Of the $2.1 million allocated for the Science Faculty Professional Development Program, no more than 20% shall be used to establish a pilot program of Institutes and Conferences as proposed by the NSF. The remainder of the funds shall be used to provide 3–12 month leaves at academic institutions or industries for college level faculty members. Awards for the 3–12 month leaves should be made on the basis of the merit of the application, with no predetermination to use a fixed amount for applicants wishing to be placed in academic institutions or a fixed amount for applicants wishing to be placed in industries.

Over the next year the NSF should undertake a comprehensive study of the two programs including extensive consultation with those faculty members who have participated or potentially might participate in the program. The results of this study should be presented to Congress with the fiscal year 1981 funding request for each program.

Don Fuqua,
George E. Brown, Jr.,
James H. Scheuer,
Tom Harkin,
John W. Wydler,
Harold C. Hollenbeck,
Managers on the Part of the House.

Edward M. Kennedy,
Harrison A. Williams, Jr.,
Claiborne Pell,
Gaylord Nelson,
Alan Cranston,
Richard S. Schweiker,
Jacob K. Javits,
Orrin G. Hatch,
Managers on the Part of the Senate.

RESIGNATION AS MEMBER AND APPOINTMENT AS MEMBER OF SELECT COMMITTEE ON COMMITTEES

The SPEAKER laid before the House the following resignation as a member of the Select Committee on Committees:

House of Representatives,
Washington, D.C., July 9, 1979.

Hon. Thomas P. O'Neill, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: In view of the action by the Republican Committee on Committees in electing me to serve on the Committee on House Administration, fairness to my freshman colleagues demands that I resign, effective today, from the Select Committee on Committees.

With all best wishes,
Cordially,
Tom Loeffler.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. Pursuant to the provisions of section 3(a), House Resolution 118, 96th Congress, the Chair appoints the gentleman from New York, Mr. Solomon, as a member to the Select Committee on Committees to fill the existing vacancy thereon.

DEBORAH SAMPSON, 1760–1827

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, in July 1976 women were first admitted to military academies in the United States. In 1782 a young Massachusetts woman enlisted in the Continental Army. The army was only for men, so Deborah Sampson dressed like a man and said her name was Robert Shurtleff.

On the battlefield Deborah Sampson heard the cries of men in pain. She watched them being shot. She saw men die. Deborah Sampson courageously distinguished herself as a soldier, with particular compassion for her comrades.

Honorably discharged from the Continental Army in 1783, Deborah married and after raising three children, embarked on a lecture tour sharing her wartime experiences. Deborah Sampson spoke out against war. She asked:

Why should man rage against his fellow man, to butcher or to be butchered?

At the time of Deborah's discharge, General Patterson of the Continental Army remarked:

The Revolution is full of miracles, and this young lady is one of them.

PRIME MINISTER OF AUSTRIA'S WARM WELCOME OF YASSER ARAFAT NOT CONDUCIVE TO PEACE AND STABILITY IN MIDDLE EAST

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, last weekend I had the privilege of being in Jerusalem for the purpose of delivering an address at a conference on "Turning Points in International Politics" at the Hebrew University. While in the State of Israel, I noted that, last Saturday, the Chancellor of Austria, Bruno Kreisky, extended a warm and official reception in Vienna to Yasser Arafat, the leader of the PLO.

That the leader of the Government of Austria should have received a terrorist like Arafat almost as if he were a head of state is an action, Mr. Speaker, greatly to be deplored by all those who are concerned to see the development of peace and stability in the Middle East, and I take this opportunity to raise my voice in criticism of the action of Chancellor Kreisky.

Mr. Speaker, I include at this point in the Record the text of an editorial on this subject dated July 10, 1979 from the International Herald Tribune entitled, "The Issue Is Terrorism":

[From the International Herald Tribune, July 10, 1979]

The Issue Is Terrorism

The official reception of Yasser Arafat, the avowedly terrorist leader of el-Fatah, by Bruno Kreisky, the Austria chancellor, is disturbing for reasons unrelated to the justice of the Palestinian cause. Kreisky has given aid, comfort and even a physical embrace, to a man whose declared purpose is to destroy an existing state and whose demonstrated methods include the murder of civilians. It is surely Kreisky's privilege to express, as he has in the past, his support for the Palestinian cause, in the form of an independent state or otherwise. But by accepting Arafat as a state visitor, he has given his support to international terrorism.

Arafat's visit to Vienna narrowly missed coinciding with a conference on terrorism held in Jerusalem last week. It was sponsored by the Jonathan Institute, which honors the memory of Jonathan Netanyahu, the young Israeli commander who died during the successful Israeli raid on Entebbe Airport three years ago. Netanyahu was killed defending innocent people against the kind of terrorism Arafat represents. Kreisky is contributing to the conditions in which such terrorism can flourish. Surely the Austrian chancellor recognizes that the liberal democracies of the world have a collective responsibility to combat terrorism. He must realize, as Sen. Henry Jackson, D-Wash., told the conference, that "When one free nation is under attack, the rest must understand that democracy itself is under attack, and behave accordingly."

Paul Johnson, former editor of The New Statesman and a conference participant, argued persuasively that terrorism is "an open and declared war against civilization itself." He demonstrates terrorism's "moral justification of murder," its "rejection of politics as the normal means by which communities resolve conflicts," its active role in the spread of totalitarianism, its endangering of the institutions of freedom by exploiting them and what he calls "the deadliest sin of terrorism: It saps the will of a civilized society to defend itself." Terrorists, Johnson says, with all the force of rigorous argument and moral conviction, "are not misguided politicians . . . they are criminals."

There will, unfortunately, be many more "new pegs" for the discussion of specific cases of terrorism. It is a virulent disease that in recent years has infected the Middle East, Italy, Northern Ireland, Spain, West Germany, France and Japan, among other places. Its practitioners have been given sanctuary and training in countries ranging from Libya to North Korea. Although some terrorist organization such as the Italian Red Brigades tend to operate at home, the true field of operation for the modern terrorist is the world. Time and again it has been shown that the various groups cooperate in killing. Aid to el-Fatah is tantamount to aiding other facets of international terrorism. Would Chancellor Kreisky have received Andreas Baader or Ulrike Meinhof? Is he prepared to declare his approval of Arafat's methods? Is there any reason not to accept Israeli Foreign Minister Moshe Dayan's official protest that Kreisky's reception of Arafat was "a demonstrative act against the state of Israel and the Jewish people?"

As a footnote, it was an especially sad spectacle to see Willy Brandt, the former West German chancellor and mayor of West Berlin, joining in the welcome of Arafat. During a recent visit to Berlin as part of a city program to invite Holocaust victims to return to the places of their youth, a Berlin-born survivor named Frederick Lachmann crystallized a relevant feeling: "I don't believe in collective guilt," he said, "but I do believe in continuing responsibility."

FINALLY—A DEPARTMENT OF EDUCATION

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, today I rise to make one final plea to my colleagues in the House on behalf of H.R. 2444, a bill to create a separate Department of Education at Federal level.

This important legislation will receive final consideration by the House in the next few days. We are on the verge of historic action to give education in America the status it so rightly deserves—but now we must take that one last, courageous step.

Mr. Speaker, we are all well aware of the great controversy which has surrounded this legislation. We are also aware of the many amendments, both accepted and proposed, which threaten to weaken or obscure the focus of the bill.

It is clear that we no longer have the luxury of being purists—the opponents of a Department of Education have made certain of that with the endless stream of divisive amendments. I share the distaste of my colleagues in viewing many of these amendments, but I urge them to remain firm in their support for the basic principles and goals of the legislation.

We still have great hopes for an acceptable version of the Department of Education bill. There is good reason to believe that many of the objectionable amendments added here in the House will be removed in conference with the Senate, and that we will be left with legislation which closely parallels our original hopes.

Mr. Speaker, we have come too far with this legislation to give up the fight in these last days. We only need to take that one final step to pass the bill.

□ 1210

GAS CRISIS WILL NOT END WITH MR. O'LEARY'S RESIGNATION

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, Mr. O'Leary has announced his resignation and some of our Members will have a tendency to claim that all of our troubles in the shortage of gasoline and oil products in this country will leave with Mr. O'Leary in September. Nothing could be further from the truth. Graduate students attempting to impress their professors will argue whether Mr. O'Leary and Mr. Schlesinger have administered wisely or negligently and I leave the decision up to the halls of academia. No matter what these would-be historians conclude, the fact of the matter is that Mr. O'Leary and Mr. Schlesinger have been asked to perform an impossible task. Congress created a law which has guarantees that there will be a shortage. It has done this by stating that there is a maximum price for oil which is below what the market will pay for the product. Whatever the motives for this action, history teaches that it will guarantee a shortage and it is certainly true in this instance. The most responsible thing we can do is to immediately eliminate all price controls on oil, natural gas, and gasoline and also abolish the allocation system, whereby human beings in the Department of Energy have been attempting to replace the forces of the marketplace which represent thousands upon thousands of interactions between people on a daily basis, each of whom is acting in his own interest. A wise and learned economist has observed that if we in the Congress have the courage to immediately eliminate all controls on petroleum products in this country, that the gasoline lines still being experienced by American citizens will disappear like the snow of winter. Let us have the courage to act. The only thing we have to lose is our gas lines.

REPUBLICAN POLICY COMMITTEE SUPPORTS TRADE AGREEMENTS ACT OF 1979

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, the Republican Policy Committee, today voted its unanimous support for H.R. 4537, the Trade Agreements Act of 1979. This legislation will implement the product of 5½ years of multilateral trade negotiations initiated by the Republican administration in 1973 among the world's major non-Communist economic powers, an agreement that was approved by 99 nations in Geneva last April 12.

The Republican policy committee agrees with administration and other trade experts that the new multilateral trade agreement embodied in H.R. 4537 portends important economic benefits to the United States, and we urge its passage.

Its advantages are many, including a reduction in industrial tariffs, a policing of the growing numbers of nontariff barriers, new rules for the imposition of custom and other duties, a speeding up of import licensing, a package of arrangements on agricultural products and the establishment of a framework for reform of the General Agreement on Tariffs and Trade, or GATT, which was signed 32 years ago by only 23 countries.

I am gratified that the policy committee has voted its approval of this legislation, and I urge all my colleagues to cast a similar vote.

EIZENSTAT SHOULD GO

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, the Washington Post's printing of the Eizenstat memo provides an astonishing view of the decisionmaking process in the Carter White House. It lays bare the crass cynicism of the President's closest domestic adviser and provides a rare glimpse of the priorities and values of the current administration.

In his memo, Mr. Eizenstat tells his boss of many discouraging events taking place in the country. He notes that these events are "occurring at a particularly inopportune time" in light of what must be considered his litany of major problems facing the Nation. The litany, itself, is revealing:

> Inflation is higher than ever. A recession is clearly facing us. OPEC is raising prices once again. The polls are lower than they have ever been.

Mr. Speaker, is it possible that the chief domestic affairs adviser to the President of America really rates a low showing in public opinion polls for his boss, as a national catastrophe of the magnitude of inflation, recession and increased petroleum prices?

If so, I can only repeat what I said yesterday—Eizenstat should go.

REPLACEMENT COST

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLLINS of Texas. Mr. Speaker, Why do we have a crisis in our American energy policy? One reason is because the Democratic Party which has a 2-to-1 majority in the House and has made all the energy laws but does not understand replacement cost.

Let us discuss replacement cost.

As I flew back to Washington from Texas, I visited with an old friend who told me he was retiring and moving out to east Texas. I asked about what his home costs were. He said his old home cost $13,000 and he sold it for $69,000. But his new home cost him $74,000.

You see, his profit was not three times his cost. It was actually not quite enough to provide a replacement home.

When American oil companies are taxed 60 percent of increased prices and OPEC oil is taxed 0 percent by Congress, you wonder how American companies can compete with a 60-percent tax and OPEC a 0-percent tax. What has happened is that in 1972 the United States imported $3 billion in oil and in 1979 the United States will import $60 billion in oil. We can anticipate $72 billion imports of OPEC oil in 1980.

What will this disaster Democratic energy policy do to you? Your gasoline will soon be $1.25 per gallon and you will have 13-percent inflation.

The Democrats have controlled Congress for the past 25 years. The Democrats with their 2-to-1 margin of control passed the 60-percent tax on American oil companies and had a 0-percent tax on OPEC. The hogwash, mumbo-jumbo, confused energy policy of the Democrats is giving you 13-percent inflation.

AMERICAN FOREIGN POLICY TOWARD ZIMBABWE-RHODESIA SHOULD BE COMPLETELY REAPPRAISED

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, I would like to take this opportunity to make some additional comments on the foreign policy currently being conducted by the United States against the recently elected, majority government in Zimbabwe-Rhodesia.

At the outset, let me briefly touch upon some of the highlights in the evolving process of political development occurring in Zimbabwe:

First. Contrary to the opinions of some short-sighted nay-sayers here in the United States, a significant number of the people in Zimbabwe-Rhodesia enthusiastically voted in an election that was clearly freer than most held in Africa.

Second. Eighteen-year-olds and women were given the right to vote, and no restrictive property or educational requirements were imposed. Minorities and Susan B. Anthony had to win long political battles in this country to gain the right to vote, while the leaders of Zimbabwe-Rhodesia immediately recognized the importance of this fundamental political liberty.

Third. The much-maligned new Constitution establishes—in the words of Bishop Muzorewa—"the machinery for dismantling the structure and practices of colonialism and racism and minority rule." The clauses in the Constitution which protect the property and institutional interests of the minority insure the continuation of that nation's economy and the presence of a vitally needed group possessing financial, administrative, and technical skills. Both of these objectives are completely consistent with the standards underlying our own Constitution. Both are in the best interests of majority and minority.

Additionally, the Constitution of Zimbabwe-Rhodesia is much more advantageous to the majority in that country than the political frameworks governing other emerging countries in Africa at their outset. Let us look at it in the context of some other African nations.

Tanzania: Over 99 percent of the population was originally given only one-third of the seats in the Representative Assembly.

Zambia: 50 percent of the seats were reserved for 2 percent of the population comprised of Europeans and Asians.

The SPEAKER. The time of the gentleman from Delaware (Mr. EVANS) has expired.

The Chair recognizes the gentleman from Illinois (Mr. DERWINSKI) for 1 minute.

Mr. DERWINSKI. Mr. Speaker, I am especially impressed by the eloquence of the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, the undeniable progress made in this country calls for a complete reappraisal of our foreign policy toward the entire state of affairs in this part of Africa. The Soviet Union, and its East German and Cuban proxies, are exploiting African conflicts to advance Moscow's geopolitical goals. The point of our policy should not be to create additional opportunities for them and to encourage the guerrillas to continue fighting. That in effect has been the result of our policy to date.

I hope when the President meets with Bishop Muzorewa, he will reassess that policy and give him and his country the support they have earned.

Mr. DERWINSKI. Perhaps the bishop will also give the President his blessing.

RECEPTION FOR PRIME MINISTER ABEL MUZOREWA

(Mr. BAUMAN asked and was given permission to address the House for 1 minute.)

Mr. BAUMAN. Mr. Speaker, I would like to extend an invitation to all Members of the House and to you, Mr. Speaker, to meet this afternoon at 2:30 in room 2200 of the Rayburn Building with the Prime Minister of Zimbabwe-Rhodesia, Bishop Abel Muzorewa. He will be here with other officials of his government.

The Heritage Foundation and the American Conservative Union are jointly sponsoring this reception. As I say, it is for Members only and it will give Members a chance hopefully to meet this gentleman, who is unique among those who head states in Africa, popularly elected by a black and white electorate under a constitution that permits free and fair elections. I know recently when one of the heads of the Communist terrorist groups, Mr. Nkomo, came to the United States, he was fawned over, given thousands of dollars and welcomed by the State Department treatment. We can do no less than welcome someone who is far more worthy and legitimate as the head of a new government we should be supporting.

That is at 2:30 this afternoon in room 2200 of the Rayburn Building.

POSTAL SUPERVISORS' ARBITRATION

The SPEAKER. Pursuant to the provisions of clause 3, rule XXVII, the unfinished business is the question of suspending the rules and passing the bill, H.R. 827, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and pass the bill, H.R. 827, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 306, nays 94, not voting 34, as follows:

[Roll No. 307]

YEAS—306

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashley
Aspin
Atkinson
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Carr
Cavanaugh
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Dickinson
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Ertel
Evans, Ind.
Fary
Fascell
Fazio
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Gore
Gramm
Grassley
Gray
Guarini
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hollenbeck
Holtzman
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Leland
Lent
Levitas
Lloyd
Long, La.
Lowry
Lujan
Luken
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Neal
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Royer
Russo
Sabo
Santini
Satterfield
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Spence
St Germain
Stack
Staggers
Stangeland
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Symms
Synar
Tauke
Taylor
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Wampler
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki

NAYS—94

Andrews, N.C.
Ashbrook
Badham
Barnard
Bauman
Beard, Tenn.
Bennett
Bethune
Broomfield
Burgener
Carney
Carter
Chappell
Cheney
Coleman
Collins, Tex.
Corcoran
Crane, Philip
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fish
Gibbons
Glickman
Gradison
Green
Grisham
Gudger
Guyer
Hance
Hinson
Holland
Holt
Hopkins
Horton
Ichord
Jeffords
Jeffries
Jones, N.C.
Kelly
Kramer
Latta
Leath, Tex.
Lewis
Livingston
Loeffler
Long, Md.
Lungren
McClory
Madigan
Marriott
Martin
Miller, Ohio
Montgomery
Moore
Murtha
Natcher
Nelson
O'Brien
Pashayan
Paul
Quayle
Rhodes
Ritter
Robinson
Rudd
Runnels
Sawyer
Schulze
Sebelius
Shumway
Shuster
Solomon
Stanton
Stockman
Stump
Thomas
Trible
Vander Jagt
Walker
Watkins
Whittaker
Whitten
Wilson, Bob
Winn

NOT VOTING—34

Ambro
Anderson, Ill.
AuCoin
Bolling
Bonker
Broyhill
Burton, John
Campbell
Conyers
Crane, Daniel
Dixon
Dougherty
Emery
Evans, Ga.
Ferraro
Flood
Forsythe
Giaimo
Goodling
Hansen
Heftel
Lehman
Lott
Lundine
McCloskey
McDonald
Michel
Rahall
Roth
Skelton
Spellman
Treen
Wright
Zeferetti

□ 1240

The Clerk announced the following pairs:

Ms. Ferraro with Mr. Anderson of Illinois.
Mr. Zeferetti with Mr. Broyhill.
Mrs. Spellman with Mr. Campbell.
Mr. John L. Burton with Mr. Forsythe.
Mr. Evans of Georgia with Mr. Treen.
Mr. Giaimo with Mr. McDonald.
Mr. AuCoin with Mr. McCloskey.
Mr. Ambro with Mr. Roth.
Mr. Conyers with Mr. Goodling.
Mr. Dixon with Mr. Lott.
Mr. Lundine with Mr. Dougherty.
Mr. Wright with Mr. Daniel B. Crane.
Mr. Rahall with Mr. Hansen.
Mr. Flood with Mr. Emery.
Mr. Heftel with Mr. Bonker.
Mr. Lehman with Mr. Skelton.

Mrs. SNOWE, Messrs. WHITEHURST, ROBERT W. DANIEL, JR., and DAN DANIEL, Mrs. SMITH of Nebraska, and Messrs. HALL of Texas, MOORHEAD of California, and BAFALIS changed their votes from "nay" to "yea."

Messrs. HORTON, McCLORY, and ANDREWS of North Carolina changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERMISSION TO PRINT H.R. 4700 IN TODAY'S RECORD

Mr. MITCHELL of Maryland. Mr. Speaker, yesterday, July 9, I introduced legislation in this House, H.R. 4700, to direct the President to submit to the Congress a report on nationalizing the oil industry. I ask unanimous consent that the bill, H.R. 4700, be printed in today's RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. MITCHELL of Maryland. I commend the text of H.R. 4700 to my colleagues for careful study and review.

The bill is as follows:

H.R. 4700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall submit to the House of Representatives and the Senate not later than six months after the date of the enactment of this Act a report on the feasibility of nationalizing the oil industry.

SEC. 2. The report required to be submitted pursuant to the first section of this Act shall include information on—

(1) the costs and benefits of nationalizing the oil industry;

(2) the affect of nationalizing the oil industry on allocations of oil, on inflation, and on productivity;

(3) the ability to give priority in providing oil to particular groups of consumers by nationalizing the oil industry;

(4) the impact of nationalizing the oil industry on the distribution of oil to different income classes, races, geographical areas, and industries and the distribution of oil to males and females; and

(5) the efficiency and economy of scale in the transportation, refinement, and allocation of oil from the nationalization of oil.

SEC. 3. (a) There is established a commission to be known as the Commission on the Nationalization of the Oil Industry (hereafter referred to as the "Commission").

(b) The Commission shall prepare and submit to the President the report required to be submitted pursuant to the first section.

(c) (1) The Commission shall be composed of twenty-five members as follows:

(A) ten individuals appointed by the President, one of whom shall be designated by the President as the Chairman of the Commission;

(B) six individuals appointed by the President from among names of individuals submitted to the President by the Vice-President;

(C) six individuals appointed by the President from among names of individuals submitted to the President by the Speaker of the House of Representatives; and

(D) three individuals appointed by the President from among names of individuals submitted to the President by the Chief Justice of the Supreme Court.

(2) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) seventeen members of the Commission shall constitute a quorum.

(4) Members of the Commission shall each be paid $150 for each day (including travel time) during which they are engaged in the actual performance of duties for the Commission and shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) (1) The Chairman of the Commission may appoint and fix the pay of such personnel as the Chairman considers appropriate.

(2) The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisons of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(4) Upon the request of the Chairman, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(e) (1) the Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(2) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish information to the Commission.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(6) (A) The Commission may issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) If a person issued a subpena under subparagraph (A) refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(C) The subpenas of the Commission shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(D) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(E) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to a subpena, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture by reason of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(F) The Commission shall cease to exist on the date agreed upon by the Vice President and the Speaker of the House of Representatives.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out this Act.

PERMISSION FOR SUBCOMMITTEE ON ENERGY RESEARCH AND PRODUCTION OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT DURING HOUSE SESSION TODAY

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Energy Research and Production of the Committee on Science and Technology be allowed to meet this afternoon while the House is in session.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

TRADE AMENDMENT ACT OF 1979

Mr. ULLMAN. Mr. Speaker, pursuant to Section 151(f) of Public Law 93–618, the Trade Act of 1974, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4537) to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be equally divided and controlled between the gentleman from New York (Mr. CONABLE) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Reserving the right to object, Mr. Speaker, I could not hear everything that was being said by the distinguished chairman of the committee. Am I correct that the gentleman has requested unanimous consent to divide the 20 hours time for debate between himself as chairman of the committee and myself as ranking minority member?

Mr. ULLMAN. The gentleman is correct. If the gentleman would yield, and the pending unanimous consent request would equally divide the time for debate.

Mr. CONABLE. Further reserving the right to object, Mr. Speaker, I would like to request the chairman of the committee to explain the procedures for considering this bill under section 151 of the Trade Act of 1974.

Mr. ULLMAN. Mr. Speaker, would the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oregon.

Mr. ULLMAN. I thank the gentleman for yielding.

Mr. Speaker, section 151 of the Trade Act of 1974 sets forth certain procedures for the consideration of bills implementing trade agreements on nontariff barriers. H.R. 4537 is an implementing revenue bill as described in section 151(b)(2) and all of the requirements of subsections (b), (c), and (e) have been met in terms of the introduction of H.R. 4537 and the consideration and the reporting of the implementing revenue bill by the Committee on Ways and Means.

Under subsection (f) of section 151, the requirements for floor consideration in the House of bills implementing trade agreements on nontariff barriers, and in the case of H.R. 4537, an implementing revenue bill, are set forth as follows:

> (f) Floor consideration in the House:
>
> (1) A motion in the House of Representatives to proceed to the consideration of an implementing bill or approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.
>
> (2) Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an implementing bill or approval resolution or to move to reconsider the vote by which an implementing bill or approval resolution is agreed to or disagreed to.
>
> (3) Motions to postpone, made in the House of Representatives with respect to the consideration of an implementing bill or approval resolution, and motions to proceed to the consideration of other business, shall be decided without debate.
>
> (4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an implementing bill or approval resolution shall be decided without debate.
>
> (5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of an implementing bill or approval resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

Mr. CONABLE. Mr. Speaker, further reserving the right to object, and I do not intend to object, I would like to state that while this bill was reported from the Committee on Ways and Means without objection on the part of the minority, it was the intention of the original Trade Reform Act to provide adequate debate for those opposed to the bill as well as those in favor of the bill.

☐ 1250

Therefore, if this unanimous consent request is agreed to, it would be my expectation to recognize liberally for such time as they may need people in opposition to this measure, since I feel it is important that all points of view be expressed in respect to this landmark piece of legislation.

May I ask, Mr. Speaker, under my reservation, further, if it is the intention of the chairman if this unanimous-consent request is acceded to, for planning purposes that we then reduce the amount of time by unanimous consent for consideration of this bill? It seems to me quite unnecessary, although when we passed the Trade Reform Act of 1974 we might not have realized it would be unnecessary in view of the controversial nature of many of these trade issues, for us to spend a full 20 hours in deliberation on this matter.

I know it is not part of the gentleman's unanimous-consent request to reduce the time for debate. I would like to ask if it is the gentleman's intention to have a further unanimous-consent request in that respect.

Mr. ULLMAN. Mr. Speaker, would the gentleman yield?

Mr. CONABLE. Yes, I yield.

Mr. ULLMAN. It is certainly going to be the intention of the chairman of the committee to yield as much time as opponents of the measure might want. I believe I would rather proceed under the general rule of 20 hours and allow people to speak, then as soon then as it appears everyone is pretty well heard I would hope we could move to restrict the debate.

Mr. CONABLE. In other words, not to limit the 20 hours in advance but attempt to cut it down later if it appears we are simply getting into repetitious discussion?

Mr. ULLMAN. That would be the hope of the chairman.

Mr. CONABLE. I thank the gentleman.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Oregon (Mr. ULLMAN)?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object.

The SPEAKER. The gentleman from Ohio reserves the right to object.

Mr. ASHBROOK. Mr. Speaker, I take this reservation for the purpose of propounding a parliamentary inquiry to the Chair.

The rule, section 151, before consideration says:

> Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 20 hours which shall be divided equally between those favoring and those opposing the bill or resolution.

The foregoing is a direct quote.

My query to the Chair as a part of my reservation is, if the unanimous-consent request of the chairman is granted can the chairman then move to terminate debate at any time during the course of debate before the 20 hours have expired?

The SPEAKER. Reading the statute a motion further to limit the debate shall not be debatable, and that would be made in the House, either now or later, and not in the Committee of the Whole.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, if the gentleman from Ohio were to be recognized as opposing the bill, does the gentleman have the absolute right to the 10 hours regardless of the time that would be taken on the other side?

The SPEAKER. Unless all general debate were further limited by the House a member of the Committee on Ways and Means who is opposed to the bill could seek to control the 10 hours of time. The gentleman would be entitled to the 10 hours unless a request came from a member of the Committee on Ways and Means who would be in opposition.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, did I understand I would be or would not be?

The SPEAKER. He would be. Unless there was a request from a member of the Committee on Ways and Means who would be opposed to the bill.

Mr. ASHBROOK. I thank the Speaker.

I ask this for a very specific purpose. Further reserving the right to object, it is my understanding then that the gentleman from Oregon could not foreclose debate as long as whoever controls the opposition time still has part of the 10 hours remaining. Is that correct, under the statute providing for consideration of this trade bill? Not under the unanimous-consent request but under the rule. The provision of the statute, excuse me.

The SPEAKER. Not unless the committee rose and the House limited all debate.

A motion to limit general debate would not be entertained in the Committee of the Whole and the Chair cannot foresee something of that nature happening.

Mr. ASHBROOK. I thank the Speaker for that ruling.

One further reservation. I would propound an inquiry to my colleague from Oregon.

In response to the request of the gentleman from New York regarding the general nature of the debate it was not left very definite with these Members. The gentleman indicated he would proceed and would not move to close debate until it appeared that debate had run its course.

Did I understand my colleague correctly?

Mr. ULLMAN. If my friend from Ohio would yield, let me say it would be my intention to allow all Members, either for or against the resolution, to completely conclude their debate before we would attempt to foreclose.

Mr. ASHBROOK. Did the gentleman from Oregon indicate that he would not move to close debate?

Mr. ULLMAN. If the gentleman would yield, that would be the intent. That would be my intent, to proceed fully with the debate, recognizing Members in opposition as well as those in support until we run out of people who want to speak on the measure.

Mr. CONABLE. Will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. CONABLE. I would like to ask my friend, the chairman, in the event of an objection, if 10 hours were reserved by someone in opposition to this measure, if I would have the indulgence of the chairman in that event to share his time to some degree.

Mr. ULLMAN. If the gentleman would yield, yes. I would be happy to yield.

However, I would not want to preclude the possibility at sometime, upon agreement with the ranking minority member, that we might decide to move to restrict the debate if it appears there is no longer any reason for time.

Mr. CONABLE. Further reserving the right to object, I would just like to say the intention of the Trade Reform Act of 1974 was to provide the fullest possible debate and any effort to cut off debate ought to be exercised with great restraint.

Mr. ULLMAN. Would the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Oregon.

Mr. ULLMAN. I would be very happy to proceed on the basis that we hear everyone and when there is no one else to speak the gentleman will yield back his time and at that time I would yield back my time.

Mr. ASHBROOK. Further reserving the right to object, Mr. Speaker, and I do not take this as a trivial colloquy because we are at that point, as we often are in a debate in a parliamentary body, where we go one way or the other, where it is either going to go according to statute, section 151, or we are going to put ourselves in a position where we might have debate limited at some future time in the course of consideration of this bill. With the assurance the chairman just gave and believing reason will prevail, I would withdraw my reservation of objection.

Mr. CONABLE. Mr. Speaker, I again withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

□ 1300

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4537, with Mr. RICHMOND in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Pursuant to section 151(d) of Public Law 93-618, no amendments are in order and the bill shall not be read for amendment.

Pursuant to section 151(f) of Public Law 93-618 and the order of the House agreed to earlier today, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 10 hours, and the gentleman from New York (Mr. CONABLE) will be recognized for 10 hours.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, H.R. 4537, the Trade Agreements Act of 1979, implements into domestic law the results of the multilateral trade negotiations which were completed in Geneva in April of this year, and makes some other changes which are appropriate and necessary to strengthen our ability to compete in world trade.

Mr. RHODES. Mr. Chairman, would the gentleman from Oregon yield?

Mr. ULLMAN. I would be happy to yield to the distinguished minority leader.

Mr. RHODES. Mr. Chairman, I thank the gentleman for yielding and I am sorry to break into the gentleman's presentation, but I would like to express my very strong support for this bill. The people who negotiated on the part of the United States, I think, have done generally a very good job.

The distinguished Ambassador, Robert Strauss, told me that he felt that he deserved at least a B-minus or even a B-plus for the work he did on this particular matter.

It is a difficult subject. It is a difficult thing to put together and get agreement. On balance, I think it is a good piece of work and deserves to be adopted.

I would call the attention of the chairman of the Committee on Ways and Means to the fact that the Republican Policy Committee has also issued a statement approving the content of H.R. 4537.

Mr. ULLMAN. Mr. Chairman, I thank my friend, the distinguished minority leader.

Indeed, Ambassador Strauss has done a superb job. He has an excellent staff.

The gentleman from Ohio (Mr. VANIK), chairman of the Trade Subcommittee and the members of that subcommittee and the staff have also done a very superb job.

The bill has an unusually large degree of support. It passed the Committee on Ways and Means unanimously. It has been endorsed by many of the leading national business, labor, farm, and consumer groups.

I want to confirm what the gentleman from Arizona said. This has been a bipartisan effort.

I want to commend my colleague, the gentleman from New York (Mr. CONABLE) and the other minority members of the committee for their diligence in pursuing this matter and seeing it through to what I think is a very, very desirable end product.

To a remarkable extent, this bill was anticipated and shaped by the Trade Act of 1974. That bill, which passed the House in December of 1973, was a pioneering piece of legislation. The Committee on Ways and Means broadened the scope of the bill to include nontariff barriers to trade as a major concern of our negotiators. It was the feeling of the committee that these nontariff barriers were a major impediment to American exporters and any negotiations that did not give those barriers equal weight with tariff reductions would not serve America's interests.

Another new approach in the 1973 bill was the creation of a system of congressional and private sector advisors to monitor the progress of the negotiations and to provide input to our negotiations.

That system has been extremely successful and it is one of the reasons that the bill on the floor today has such overwhelming support.

Finally, the Committee on Ways and Means originated the expedited approval process for trade agreements. This process provided for a 90-day "fast-track" consideration of trade agreements during which the bill could not be amended. Combined with the system of congressional advisors and the other safeguards which were part of the 1973 bill, this meant that our negotiators had the authority they needed to enter into negotiations, while at the same time protecting congressional prerogatives.

The Trade Act of 1974 also specified objectives for our negotiations. The overall objective was "to obtain more open and equitable market access and the harmonization, reduction, or elimination of devices which distort trade or commerce." Other objectives were also listed. Agricultural trade barriers were to be considered at the same time as those affecting the industrial sector. There was to be "sectoral reciprocity." That is, each manufacturing and agricultural sector should gain opportunities to export equivalent to the opportunities given to importers in that sector.

The bill also anticipated the conclusion of bilateral agreements that would promote employment in the United States, the promotion of growth in the developing countries, an improved international safeguards procedure, and assured access to supplies of articles important to the economy of the United States.

Finally, the President was to seek revisions in the General Agreement on Tariffs and Trade that would help achieve a more open, nondiscriminatory, and fair world trade system.

By and large, I am pleased to report, these objectives have been achieved. Although these were the first trade negotiations in history to have as a major goal the reduction of nontariff barriers to trade, all but one of the nontariff barrier negotiations were successfully concluded.

Thus, the bill before you includes:

First, agreements limiting nontariff barrier to trade, including export subsidies, Government purchasing requirements, import quotas and licensing procedures, product standards and customs valuation methods; and these are all new and innovative in the history of trade agreements.

Second, agreements governing international trade in steel, beef, civil aircraft, and dairy products.

Third, agreements to modernize GATT rules, that is the General Agreement on Tariff and Trade that we have been operating under all these years to revise their rules with respect to antidumping, dispute settlement, and the rights and obligations of developing countries.

Finally, a requirement that the President submit to Congress a proposal to restructure the international trade functions of the executive branch.

In addition, the administration negotiated tariff reductions averaging 33 percent that are to be phased in over an 8-year period.

Since the nontariff agreements apply to agricultural and primary product as well as manufactured products, and because of the significant gains to agriculture from many of the tariff reductions, farmers will have much to gain from these agreements. I will be discussing these gains in detail at a later time in the debate.

The MTN agreements and the implementing bill that is before you today have been thoroughly analyzed by the members and the staff members of the Committee on Ways and Means and other interested committees of the House and Senate.

I want to say that there are a number of other committees in the Congress that have been participants in this procedure and I want to thank and congratulate all of the chairmen of those various committees and the members for their cooperation in this effort.

The drafting of the bill was a joint effort between the administration and the legislative counsels of the Senate and the House.

The MTN agreements and the draft bill were also thoroughly analyzed by the close to 1,000 members of the 45 private sector advisory groups who represented business, labor, and farm interests in these negotiations. The advisory groups were kept thoroughly informed of the negotiations in Geneva, were given access to confidential documents, and were consulted throughout the negotiations.

More importantly, the administration did not just consult the private sector advisers, the administration listened to them and acted upon their advice and suggestions. Whenever possible, their problems and suggestions were acted upon through negotiations with our allies or through special consideration in the implementing bill. The private sector advisory system has been a crucial ingredient in the success of the MTN negotations, and the bill before you will continue that system.

If passed, the bill before you will set the tone for international economic relations for many years to come. The agreements get to the heart of problems that have plagued international trade for many years.

□ 1310

History will judge this bill as a great step forward in bringing nations together into a system of fair and free trade.

Finally, Mr. Chairman, the gentleman from Ohio (Mr. VANIK) and the other members of the Subcommittee on Trade did a tremendous job in monitoring the negotiations and in the drafting of the bill and the long, tedious process of putting together this monumental package. They made sure that the concerns of Congress and the private sector were met in all stages of this long process. The subcommittee members and the staff deserve all the credit we can give to them for their hard work and for their solid accomplishment.

Mr. Chairman, I yield back the balance of my time, and for the balance of the debate I am going to yield the balance of my time to the distinguished chairman of the Subcommittee on Trade, the gentleman from Ohio (Mr. VANIK).

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, there is not much fascination in a finally achieved consensus. There is very little drama in this moment, which has been a long time coming to the floor of the House.

I note the great interest of the press in what is probably one of the most momentous pieces of legislation to go through this Congress, not because it involves such a dramatic change but because our failure to pass it would be an economic disaster not just for this country but for the free world.

Needless to say, Mr. Chairman, I rise to speak in support of H.R. 4537, the Trade Agreements Act of 1979.

For over 5½ years, through three administrations—two Republican and one Democrat—through a significant and lengthy worldwide recession, this country, together with the world's major industrial countries, has tenaciously labored to forge a set of rules governing the conduct of international trade.

At the outset, the object of the exercise was widely understood to be ambitious. The road to successful completion was known to be fraught with considerable difficulties. But at stake was the ability of this country to continue to receive fair and equitable treatment for its goods involved in international trade and our ability to secure effective redress for unfair international trading practices that victimized our trading community. Also at stake was the very momentum of over 30 years of gradual, but consistent trade liberalization and, consequentially, trade expansion and growth of the wealth in all nations.

Under the initiative of a Republican administration, the United States exercised its historical role as the leading proponent of a fair and open international trading system by calling for this ambitious undertaking to reform and improve the rules governing international trade. Thus the Tokyo round of the GATT negotiations, which this legislation implements, was embarked upon, and now, under the leadership of a Democratic administration, this country, has against tremendous odds, led the trading nations of the world into a series of agreements which markedly improve the rules under which they conduct trade among themselves.

There are a host of people to whom credit for the success of this endeavor is owed. President Nixon, Ford, and Carter provided the much needed leadership from the top, in the first instance, to perceive the need for such an endeavor, and then, to sustain the initiative, in difficult times, to reach a successful conclusion.

Also much is owed to those who provided the leadership on the front lines: Fred Dent, Clayton Yeutter, Bill Pierce, Bill Walker, Al McDonald, Alan Wolff and, of course, our adroit friend, Bob Strauss. Moreover, special recognition is due to a small but highly competent staff of professionals who researched, brainstormed, and negotiated on a day-to-day basis with a high degree of skill and dedication.

What this legislation before us today will do is, first of all, approve the various agreements coming out of the Tokyo round, and, second, make the changes in U.S. law to conform our law to the commitments we made under those agreements. There are many advantages we have gained in the Tokyo round which compel our endorsement.

First and foremost, we have won international recognition that the use of export subsidies in international trade is unacceptable and the use of domestic subsidies can be disruptive to trade and is thereby likewise unacceptable.

Second, we have won international acceptance of mechanisms for timely and definitive resolution of disputes over international trading practices.

Third, we have achieved the adoption of longstanding U.S. practices of open competition and open procedures in the awarding of Government contracts, open and uniform procedures in customs valuation, and open and uniform procedures in the use of product standards.

Fourth, we have formed rules on import licensing which will benefit American exports, and we have fully opened international trade in aircraft so that it knows no national border.

Finally, a special word on what we have achieved in securing the interests of our agricultural community. Since the Kennedy round of negotiations in the sixties, much concern has prevailed over the erosion of our ability to win new markets and sustain old markets for our agricultural products. Much of that concern centered upon the antiliberal trade impact of the European Community's common agricultural policy. Such a policy sought the reduction, if not elimination, of American agricultural exports to Europe and operated to undermine the ability of American agricultural products to compete in third country markets. In addition, concern was expressed regarding the ability of our agricultural community to trade in the Japanese market.

The Tokyo round agreement on trade in agricultural products have won significant advances for U.S. products. With respect to specific products, export opportunities have increased as follows:

United States fruit and vegetable exports to Europe, Japan, and some LDC's;

United States wine exports to Canada and Japan;

United States nut exports to Europe, Japan, and some LDC's; and

United States grain and meat exports to Europe, Japan, Canada, and some LDC's.

Moreover, certain structural changes have been achieved in the international regulation of agricultural trade. The Tokyo round agreement will make an important beginning in, first, establishing a general framework providing a set of guidelines and consultation arrangements for cooperation on agricultural trade issues;

Second, establishing a limitation on the use of subsidies in agricultural trade;

Third, establishing an arrangement on dairy products and meat, furthering international cooperation in the trade in these commodities; and

Fourth, establishing limits on the use of product standards as barriers to international trade in agricultural products.

In addition to these valuable achievements in restricting the use of nontariff measures as barriers to international trade, the Tokyo agreements have achieved significant tariff reductions in industrial products averaging about 30 percent to the United States and 33 percent for other industrial nations. These reductions will be phased in over the next 8 years so as to avoid any serious disruption to the various industries affected.

With regard to specific changes in U.S. law, the bill before us today makes only a few changes of significance. First, it introduces a relatively low threshold injury test to our countervailing duty law. This change is required in exchange for substantial concessions from the European community on a number of items of longstanding interest to us.

As well, this legislation will reduce, by an important amount, the time it takes the various agencies involved to render decisions on complaints brought by our citizens on unfair practices by foreign governments and companies.

Let me say in that respect, Mr. Chairman, that many American businessmen have been frustrated in the past by complaints disappearing into the bureaucratic maw never to be heard of again. We have had a practice of trying to cut back the time so that there would be some assurance that Americans victimized by unfair trade practices would get quick administrative attention to their complaints concerning such practices. The gathering of information sometimes takes some time, but the speedup provided by this legislation will, I think, be extremely beneficial to American industry.

Other changes in U.S. law introduced by this measure are largely technical changes conforming U.S. law to the agreements reached.

In customs valuation and government procurement, the Tokyo agreements largely adopt U.S. law, so very little needed to be altered in our law.

□ 1320

The most important exception, of course, is the deletion of the American selling price provision in our customs law. But in its place, our rate schedules have been revised to assure approximately the same level of tariff margins as existed before. In other words, ASP was converted into its economic equivalent, and the tariff reductions were applied starting at that level rather than at the level before ASP had been foregone.

All in all, this legislation and the agreements it approves deserve the support of each and every one of us here today. There is no real opposition to these measures, certainly not among the members of the committee or the major economic interests. The legislation and the agreements were reached with close cooperation with private specialists from the various interests involved, and there has been a regular avalanche of institutional support from agricultural and trade association interest groups affected by trade.

I urge all of us here today to continue U.S. leadership in world trade and to further American economic interests by approving this bill.

Mr. VANIK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on January 5, of this year, the President advised the Congress of his intention to enter into a multilateral trade agreement, and since that time the affected committees of the Congress have been involved in what has already been described as a consultation process in which the committees of the Congress participated, not only in the final draft, but in all of the implementing language that involves these very important trade agreements. Citizens groups, industry, and labor participated. These were not agreements that were entered into solely by the executive branch of the Government on its own initiative. It was worked out by the Congress as a consultative partner with all of these various groups involved.

The negotiation process was a public procedure. There are no surprises in this legislation. The lesson that we learn from the trade legislation before us is that complex, difficult international issues can be resolved with the Congress of the United States as a partner rather than an antagonist.

The multilateral negotiation which we consider today culminates a long effort to update the processes for free and orderly commerce between the nations. It is an important step forward and certainly not the final negotiation. I am sure that future rounds of negotiation will be necessary. Our work is not likely to prove to be perfect. But the agreements will provide tremendous advantages to all of the signatories. And I want to point out that 25 nations are on the line on this agreement. One hundred nations participated in the negotiation. I know, and I think we must realize, that there will be some hardship in some selective areas. It is not a perfect piece of work. But it is designed to expedite the flow of trade and commerce between the nations of the world. Trade is the currency of peace and constitutes one of the vital hallmarks of an advanced civilization. It is in our common interest, ours and the people of the world, that the finest achievements of mankind should be shared in a commercial interchange between our Nation and between our people. This commerce and this interchange should operate under the rule of law. That is what this agreement is all about.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the distinguished gentleman from Wisconsin, the chairman of the Committee on Foreign Affairs.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Chairman, I rise to speak in favor of H.R. 4537, which implements the trade agreements negotiated under the Trade Act of 1974.

I would first like to commend the Committee on Ways and Means—particularly the chairman of the full committee, Mr. ULLMAN, and the chairman of the Trade Subcommittee, Mr. VANIK, as well as the ranking minority member Mr. BARBER CONABLE—for the thorough, expeditious, and cooperative manner in which they have handled this legislation. Chairman VANIK invited members of other committees with jurisdiction and interest in the multilateral trade negotiations to the hearings and markups and he and his committee members have been receptive to our suggestions and concerns. We were able to agree to a working arrangement whereby the implementing legislation was formally referred only to the Committee on Ways and Means, so it could be processed expeditiously, without prejudice to the other committee's jurisdictions. In the case of the Foreign Affairs jurisdiction, the correspondence establishing this arrangement is found on page 32 in the report of the Ways and Means Committee on this bill.

H.R. 4537 is clearly in the U.S. economic interest. It further opens the international trading system to competition so that production of various items will increasingly be concentrated in those areas where such items can be most efficiently produced. At the same time, the agreements recognize that certain countries, including the United States, have specific import-sensitive industries that must be provided with some protection to avoid massive disruption to employment.

The most important aspect of the MTN agreements is not the tariff cuts but the reduction in nontariff barriers. The agreements include codes on countervailing and antidumping levies, customs valuation, Government procurement practices, product standards, and other standards and practices that serve as barriers to trade.

While I am not in full accord with every aspect of this legislation—there are areas where we did not achieve all we sought and areas in which we gave too much—on balance, the MTN package is a plus for the U.S. economy and should help us fight both inflation and our serious balance-of-payments deficit.

In closing, I commend Ambassador Robert Strauss for the masterful job he has done in bringing the trade negotiations to a fruitful conclusion and in putting together a package that is acceptable to the Congress. Undoubtedly he will bring equal diligence and ingenuity to his new task of finding a resolution to the Middle East conflict. We wish him equal success.

Mr. VANIK. Mr. Chairman, I want to say, in response to the remarks of the distinguished chairman of the Committee on Foreign Affairs, that we certainly appreciated the cooperation and the involvement of the Committee on Foreign Affairs. The chairman attended and participated, and the distinguished chairman of the Subcommittee on International Economic Policy and Trade, the gentleman from New York (Mr. Bingham), was present throughout a good part of the markup and hearings and discussion that were involved in connection with this area of jurisdiction that was clearly within the jurisdiction of the gentleman's committee.

Mr. ZABLOCKI. Mr. Chairman, if the gentleman will yield further, in my commendation of the gentleman from Ohio (Mr. Vanik), the chairman of the Subcommittee on Trade, I speak on behalf of all of the members of the Committee on Foreign Affairs and, specifically and particularly, the gentleman from New York (Mr. Bingham).

Mr. VANIK. Mr. Chairman, I think the way we were able to work with this matter of multiple jurisdiction proves that this is an effective way to handle the legislation before the Congress. I think it has been infinitely better than having a new kind of a committee come in, composed of all of the committees, to handle this very difficult and complex legislation. I want to thank the gentleman from Wisconsin again for the cooperation of his committee. What the gentleman has said about Ambassador Strauss and his excellent staff is on the record. Without the tremendous involvement, without the curing of problems and the resolution of issues that were raised by Members of Congress during our consideration of this legislation we would not be in this position today. The work of Ambassador Strauss and his staff is an exemplary manifestation of public service for peace.

Mr. ZABLOCKI. I agree with the gentleman.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the chairman of the Subcommittee on Trade yielding. I know that the subcommittee worked long and hard on this extremely complicated bill. I do know that the chairman himself spent a lot of time with Members trying to make sure that all ramifications of this act were fully understood.

I continue to get input from Members of the House or others who feel they may be adversely affected by this legislation. These individuals feel that the net effect of the legislation—whether they perceive it rightly or wrongly—is guaranteed to provide heavy losses of American jobs and production to imports of both developed and developing countries while, in turn, the United States gets very little in the way of elimination of trade barriers by foreign countries which have, in many instances, successfully frozen out American products for years, as the gentleman knows.

How do we answer that? Can the chairman tell us?

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Mr. VANIK. Well, I would say that if I did not believe that the United States of America was going to be a tremendous beneficiary of this trade bill, I could hardly be here advocating it. I think that in the sum total——

Mr. ROUSSELOT. Because I too believe in the concepts of free trade.

I think this whole issue of the success that other countries have had in devising all kinds of ways to keep our products out, is an important question of equity—how have we overcome that inequity?

Mr. VANIK. I think if the gentleman looks at the Trade Act very, very carefully, and the gentleman has, as a member of the Ways and Means Committee, he will find we have built a number of things into this implementing legislation. We have strengthened the law relating to antidumping. We have strengthened the law out of this code. One of the most vital things we get out of this bill is the subsidies code, adopted by the rest of the world. This was an American concept, which was lifted in and is now a part of the multilateral trade agreement.

So, in effect, the American concepts about how we deal with insuring the integrity of our domestic enterprise and how we protect ourselves from the dumping activities of nations that may be violating trade rules, we have strengthened the international legislative format. We have now made international the rules that we thought ought to apply in this country.

Mr. ROUSSELOT. Can the gentleman describe for the Members how he thinks this strengthens our ability to stop the dumping actions of other countries?

Mr. VANIK. We have put in language into this bill which reduces the decision period. We are going to get accelerated decisions that are going to require very, very quick action.

Mr. ROUSSELOT. When the gentleman says "us," does he mean the Treasury?

Mr. VANIK. No. I mean the administration, the laws now, in the framework of the law. We have strengthened the antidumping laws.

We have in this process, for example, had the involvement of the steel industry.

Mr. ROUSSELOT. Let us be specific about the steel industry. How have we strengthened the antidumping provisions as they relate to steel?

Mr. VANIK. The provisions apply to the entire spectrum of the matter in commerce.

Mr. ROUSSELOT. I know, but let us take steel.

Mr. VANIK. The steel industry itself is satisfied and has stated—and I think a little bit later on in this afternoon's colloquy, we will hear the gentleman from Pennsylvania (Mr. Gaydos), of the steel caucus, specifically outline the manner and way in which the steel industry feels that its situation, its bargaining position among the nations of the world, is going to be strengthened.

We, for the first time under this provision of the law, have also established some international monitoring of the development of steel production. This is very, very important.

Mr. ROUSSELOT. Who will do that international monitoring?

Mr. VANIK. That is going to be done under the aegis of the OECD.

Mr. ROUSSELOT. The OECD organization.

Mr. VANIK. The OECD. The effort is to advise emerging countries of this world that when they plan to build new steel plants and put them on stream that they are put on notice that what the limitations are of consumption and what the needs are, so that when they move into areas of expansion and expanded development, that they are put on notice they do this at their peril. I think that is one of the very vital, essential advantages that we have developed for our steel industry. My hope is that our steel industry is going to go——

Mr. ROUSSELOT. Can the gentleman describe how that works or give us an example of how that monitoring process will work?

Mr. VANIK. It is not a compulsory system that says, "You cannot do it." But what it amounts to is that the signatory countries to the trade agreement put the rest of the world on notice, principally the stronger underdeveloped countries that are emerging in these industrial enterprises, that their expectation in this market is going to be limited and that there will be a group reaction through the GATT to efforts to penetrate unfairly into the markets of other countries.

Mr. ROUSSELOT. The gentleman mentioned the gentleman from Pennsylvania, the chairman of the steel caucus. Is he going to speak later on on this issue or comment briefly?

Mr. VANIK. It is my hope he will take the floor immediately when I am granted more time, and allowing someone from the minority to have time. I expect to recognize the gentleman from Pennsylvania (Mr. Gaydos) and the gentleman from Pennsylvania (Mr. Lederer), who want to talk specifically about the steel problem.

Mr. ROUSSELOT. If the gentleman will yield further, the gentleman from Pennsylvania is satisfied that there is a mechanism to prevent dumping of steel products in this country under this bill?

Mr. GAYDOS. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. If I may respond to the gentleman, I cannot speak in a specific response. I can give him the general response.

The official status of the steel caucus in executive committee, the position of the steel industry, which participated over the last 2½ to 3 years in this matter with the new identification of terms.

The more stringent interpretation and as pointed out by the good chairman of the Subcommittee on Trade, with a better approach to understanding generally of antidumping and shortening of the term, all these specifics cumulatively do result in a better overall situation as far as steel and the health of steel in this country for years to come.

I can tell that to my colleague unqualifiedly.

Mr. ROUSSELOT. Both management and labor in the steel industry have joined in support of the provisions that prevent dumping? Do I understand that both groups having studied this language in this bill, are satisfied that there are better provisions relating to the ability of our Government to prevent unwarranted dumping?

Mr. GAYDOS. Yes; that has been the situation over the last year to 6 months, and specifically the executive committee of the steel caucus had a hearing this morning at which in attendance were representatives of the union and the former Mr. Sheehan, who is a legislative representative of the United Steel Workers of America.

We also had Mr. Shuman for the AISI. Representatives in general appeared. They both, in concert, stated publicly before the hearing and in numerous written communications they are in support of the bill in its present form, and they have participated in the negotiations; and they have a good concept that the bill itself—and this is uniform feeling among both groups, and that is very strange at times—that they both have the concept that the bill, if there is a bill, on the administration to enforce the bill, the bill should do good and great things for the trade picture generally throughout the Nation. I can say that.

Mr. ROUSSELOT. But much of the ability to get results then depends on administrative action? Is that correct?

Mr. GAYDOS. That is always the case. In this particular case, this bill in its present form, if enforced properly, should do what it pretends to do. That is to give us a fair and even break in the world trade picture, as I see it. If it is not enforced, it will go the way many other previous bills have gone. That is, it will become ineffective, impotent, and actually destructive of the overall economic benefits that were devised in the first instance to protect against.

That is true, I would have to say, in any legislative matter in any rule or regulation in this administration. I think it is no different.

Mr. ROUSSELOT. I guess, Mr. Chairman, that is the reason I have raised some of these questions. We have done this in the past, that is, delegated over to the executive branch to administer many of these controls, always in the name of goodness.

I just wanted to be assured by the chairman and others that even though I have studied the bill, I did not have the advantage of being in the subcommittee which met very continuously over a long period of time.

The gentleman from Ohio, the chairman, has been very actively interested in this for some time, and I am appreciative of the comments of our colleague from Pennsylvania, the chairman of the steel caucus (Mr. GAYDOS). I know that he has worked diligently to make sure that fairness does come into being and especially as it relates to antidumping provisions.

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I always wonder how successful it will be when we rely so much on executive actions because, of course, we all know it does not always work.

Mr. VANIK. I would like to respond to the gentleman on that very point. Perhaps in a unique way, unlike many of the other committees that are dealing with issues, we have on the trade staff a very competent staff, perhaps one of the best on the Hill, and our staff has very, very important missions. We are trying to get to problems before they get out of control. We have an early warning system now on imports.

Mr. ROUSSELOT. If the gentleman will yield further, does the gentleman mean early warning system for us, for the House?

Mr. VANIK. For the committee, which is a part of this House, a system designed to call to our attention tremendous movements of goods from foreign countries into the United States of a specific type. We are doing a monitoring service which I hope the Congress will support and help us continue because I think this monitoring service can make the wheels of the executive branch move a little bit more rapidly.

We have to know whether they are moving or whether they are not. This is one of the functions of the staff, to constantly keep monitoring the level of imports, the effect upon our domestic enterprises, to look to the health of our domestic economy.

In the steel industry, for example, we have had a cutback of imports from Japan. We have had surges from Europe which we are dealing with. The trigger price mechanism is not a perfect piece of legislative or administrative handling, but it is producing some results. We have a problem with specialty steels. We are now considering whether or not to request the administration to extend the trigger price mechanism to specialties.

What we want to do is provide for a system that will carefully monitor the trade that affects the United States, and to alert the Congress about problems that may be arising before they get out of hand. I certainly believe that the bill establishes a mechanism and provides us with the tools. If we are given the support we need from the Congress to carry on this monitoring function, which my colleague, Mr. VANDER JAGT and I have worked out, I think the Congress will be put on notice very, very quickly and in a timely manner so if we have to do something legislatively we can come back and do it.

Mr. ROUSSELOT. Do we have under this legislation some check on the executive branch if we feel they are not moving properly or utilizing these tools?

Mr. VANIK. We always have the option of legislative initiative. If the process does not work through regulation and through the law as we have written it, with the implementing legislation, we always have the opportunity to provide legislative mandates. I have always told our trading partners they should not take lightly the attitudes in the U.S. Congress. I have told them if they would abuse our markets, if they make a raid on our industries and our jobs, they can expect very, very prompt action. I want to tell my distinguished colleague from California I think our trading partners have been listening to the Congress. They are, more than ever before in the field of trade, carefully tuned in and they want to be sure that they do not create a situation in which the Congress might react very intensely and directly against any trading partners.

Mr. ROUSSELOT. I appreciate those reassurances.

Let me tell my colleague quickly, and I appreciate the time the gentleman has yielded, why I have some concern. I remember all of these great discussions about how absolutely better things were going to be when we created the Department of Energy. We turned over to them all kinds of authorities and power to do all kinds of wonderful things all in the name of goodness, of course, and it has not quite turned out that way. I just feel in this very important area of trade, which is very important to my home State of California. I have generally supported the concepts of lowering tariffs; I believe in it because I think it is the whole issue of reciprocity for which I am concerned. Is the gentleman convinced that the countries at the other end are generally going to be reciprocal in removing the unwarranted obstacles that they have placed in the past?

Mr. VANIK. We have safeguards if they do not. In other words, there are steps we can take to protect ourselves if they fail to measure up.

Mr. ROUSSELOT. When the gentleman says "we," does he mean the executive branch of the Government?

Mr. VANIK. Under the Trade Act, but the Congress can always move in and exercise discretion if the administration has not taken the necessary action.

Mr. ROUSSELOT. We do have authority to come back?

Mr. VANIK. We have a right to amend the law.

Mr. ROUSSELOT. Are there any 90-day provisions or anything like that?

Mr. VANIK. There is nothing like that.

Mr. ROUSSELOT. We would have to take legislative action specifically?

Mr. VANIK. That is correct.

Mr. ROUSSELOT. The reason I became concerned about that is I do not need to tell the gentleman, but I have had to come before his subcommittee many times when various producers of items in this country saw great inequities that occurred in the past as relates to direct trade. We open up our U.S. doors, lower our tariffs in given specifics and then suddenly our exporters find great difficulty as they, say, go to Japan, or to the Far East, or to Europe or Africa. They find great problems in penetration of those same markets unless they have major subsidiaries actually built in those countries.

Mr. VANIK. It is my hope that in the trade policies and actions of this Congress one of the things we do is take these decisions really substantially away from the silk hat crowd in the diplomatic department and make the decisions on the basis of businessmen and workers and their organizations. I think that is one of the big transitions.

Mr. ROUSSELOT. We have taken it away from the silk hats?

Mr. VANIK. We do that very substantially.

Mr. ROUSSELOT. That is certainly a new turn of events.

Mr. VANIK. I think it is a desirable thing.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank my colleague for yielding.

One statement he made attracted my interest, his reference to the subsidies code. In reading the report and reading information, and reading the Trade Agreements Act, it is my understanding under the subsidies code that for foreign nations border taxes or value added taxes are not even considered and, therefore, not forbidden by the treaty. Is that correct?

Mr. VANIK. Yes; in their systems that is something not forbidden. We did not change that.

Of course, we have other taxes, we have State sales taxes and other taxes that are not considered either.

Mr. ASHBROOK. If the gentleman will yield further, it is my further understanding what they refer to as a special tax, which many times can be, in effect, a subsidy, is not considered. What seems to me to be inconsistent is after saying this the United States under this agreement, as I understand it, cannot adopt similar taxes.

Would that be correct?

Mr. VANIK. We could.

Mr. ASHBROOK. We could adopt a value added tax?

Mr. VANIK. Yes. Some of my colleagues on the Ways and Means Committee want to do that, and they will have to do it over me.

Mr. ASHBROOK. Is it the chairman's statement that we would not be forbidden by the treaty from doing that?

Mr. VANIK. That is right.

Mr. ASHBROOK. I appericate that. I was concerned about that.

Mr. VANIK. I would hope the gentleman is not thinking about supporting that.

Mr. LEDERER. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to my colleage from Pennsylvania.

Mr. LEDERER. Mr. Chairman, I would like to congratulate the chairman of the subcommittee for the performance of a tedius job on such a complex issue. I know many times during hearings on markup that I was on the other side of the chairman. The chairman is a very dedicated man and this was a nonpartisan trade bill. I think it can only be a success thanks to the work of the members of the committee.

Mr. Chairman, an important but little noticed part of the Multilateral Trade Negotiations package is the Standards Code, a nontariff barrier agreement which is aimed at reducing technical barriers to trade. The code creates a mechanism for settling disputes and establishes guidelines for future standards.

An example of a nontariff trade barrier can be found in the provisions of the Toxic Substances Control Act and the Federal Insecticide, Fungicide, and Rodenticide Act which require the disclosure and sharing of test data. These provisions are in contravention of the obligations of the United States under the Standards Code because they place an onerous and unnecessary burden on trade. They compel the innovative producer to disclose valuable property without safeguards to protect its legitimate ownership interest in the data, thereby allowing competitors to use the data for registration of their products in unfair competition with the innovator's registered products. The provisions are also inconsistent with the chemical certification and registration programs of our major trading partners, which have historically treated such data as proprietary information.

Our trading partners have already objected to these provisions as nontariff barriers during discussions with various U.S. Government repersentatives and at Environmental Protection Agency hearings on the Toxic Substances Control Act's implementing regulations. If these nontariff barriers are not removed, there is the possibility of foreign governments demanding trade concessions from the United States or retaliating against American exports.

I represent the city of Philadelphia, along with its great port. Any threat of trade retaliation causes me grave concern because of the negative impact it would have on jobs and business. In order to prevent such problems from arising, I sponsored an amendment in the Trade Subcommittee, on which I serve, giving the Special Trade Representative "responsibility for coordinating U.S. discussions and negotiations with foreign countries for the purpose of establishing mutual arrangements with respect to standards-related activities."

The amendment goes on to say that "the Special Representative shall inform and consult with any Federal agency having expertise in the matters under discussion and negotiation" (section 411 (b)). The legislative history refers to the problems involved with the required disclosure of proprietary data, and directs the STR to begin multilateral negotiations to protect the property value of such data submitted under each nation's environmental laws and regulations. With regard to administrative action, the STR is required to "solicit technical and policy advice from the (industry) committees that represent the private sector interests concerned." My amendment was approved unanimously by the subcommittee and was supported fully by the Special Trade Representative.

Mr. Chairman, I am pleased that my amendment is now a part of the implementing legislation. I hope that it will remove the possibility of trade retaliation against the United States and will encourage fair trade among the nations of the world.

Mr. VANIK. I thank the distinguished gentleman from Pennsylvania.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding. I too would congratulate the committee and the subcommittee. I think this is a splendid step forward and I am particularly impressed with what the gentleman said about the monitoring that this committee is doing to see where trade is going and how it is developing. I am as concerned with our export trade, which I think is not sufficiently vigorous, as I am with imports. I wondered if the committee could turn its attention to a couple of things that I have noted One, the Department of Commerce still keeps there long lists of exports for which licenses are required when those same objects are being made freely all over the world, in Communist and non-Communist countries alike, from Sweden to Denmark to France or Germany, or Switzerland. Those machines can be bought, and yet they are still on those long lists inhibiting free export of those things. That is No. 1.

Mr. VANIK. That export control limitation is not within the jurisdiction of the Ways and Means Committee.

Mrs. FENWICK. If the gentleman will continue to yield, it is not, but it is something that I wish the committee would begin to worry about because somebody has to have some vigorous interest in export trade.

The second thing I have noticed is small businesses have difficulty in organizing for the export trade.

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They cannot get together and form trading companies as they can in foreign countries. Of course, it would be for the Judiciary Committee because I think it would require some lightening of the antitrust laws in regard to those small businesses, but if we could get from the gentleman's committee, even if they are not within his jurisdiction, suggestions that would augment the ability of the companies to compete equally in the export field, I think it would be a great service to the Nation.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from New York.

Mr. CONABLE. There is a provision in the bill, inserted at the request of Mr. MOORE of Louisiana, for a study of these export disincentives, all of which combine to make our own government a substantial obstacle to the export trade.

Mrs. FENWICK. Yes.

Mr. CONABLE. And make it increasingly difficult for small business to find its way through the maze of harassments to export trade. However, that is not necessarily a part of the jurisdiction of our committee.

Mrs. FENWICK. No.

Mr. CONABLE. The fact that our Government has been unwise in this respect, and what it has allowed to get on the statute books—and not entirely an administration attitude, although that has been bad too—does not mean we should restrain our effort to contribute to a reduction of the obstacles to trade in the world as a whole. That is the purpose of this MTN.

Mr. VANIK. That is right. We are dedicated to the idea that we have got to stretch out and get American goods out in the markets of the world. This Nation of ours really invented trade in the modern sense, and in the years that followed World War II we were the outstanding and brilliant trader. The American goods were all over the world, and we have suffered the loss of our tremendous markets.

One of the things we must also do is update American technology. I think if there is anything that really concerns me seriously, it is the failure of American ingenuity to keep pace with the rest of the world. I would hope that we might provide later on in this session a tax incentive for research and development so that our producers can become competitive and viable.

Mrs. FENWICK. Not only for companies to buy increasingly productive machinery, but also for companies to produce that machinery.

Mr. VANIK. Correct.

Mrs. FENWICK. I was struck the other day when one of our colleagues said that we have not got up-to-date textile machinery and we have not got up-to-date steel machinery. We ought to be not only promoting the purchase by operating companies of that kind of machinery, but we ought to be giving tax incentives to those who make that machinery.

Finally, I do so applaud the gentleman's even steven attitude. If it is going to take 10 months to buy an American car in a foreign place, it is going to take 10 months to sell that foreign car here. We really ought to begin.

Mr. VANIK. I thank the gentleman from New Jersey.

Mr. CONABLE. Mr. Chairman, will the gentleman yield further?

Mr. VANIK. I yield to the gentleman from New York.

Mr. CONABLE. I think it is important for the Members to understand that the American market is the greatest market in the world. American leadership in this MTN is absolutely essential. Without our participation, nothing would happen because our market is so remarkable. But as we look ahead we can see that the markets in the Third World and in the other developed countries are developing faster than ours are, and to cut ourselves out of expected participation in that growth, living on our fat here, would be eventually to reduce us to a second-class nation.

It is a dynamic world and we should participate in the dynamics. We should participate in it with increasing effort, and that involves our relationship between the Government and business and our relationship with respect to the export trade. It also involves our taking a strong position vis-a-vis our market, making it available in an evenhanded way to the producers of other parts of the world. It will benefit our consumers; it will benefit our economy, and it will provide the kind of reciprocity which, in the long run, I am convinced Americans have the competitiveness to benefit from given the state of our technology and the tremendous pool of capital we have to work with, and the free system which generally favors competition.

Mr. VANIK. I thank the distinguished gentleman from New York.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I wanted to ask a few questions, coming as I do from a district which depends heavily on exports, particularly of agricultural commodities. I have always felt very strongly in favor of the principle of free trade. But in looking over this legislation, as most of us who do not serve on the committees of jurisdiction, I tended to focus on the bill just before the debate. A number of questions have been raised in my mind.

Let me ask the gentleman first, is it correct that while we are acting on this legislation which might well become U. S. law, that no other country has actually approved the MTN treaty, that the others have not taken action?

Mr. VANIK. They have initialed the agreements, and they are in about the same process as we are. There is so much concern about the American legislative process, which is unique. The other signatories have absolute power to sign, whereas the President of the United States cannot do it.

It has to go through a statutory procedure we have under the Trade Act of 1974, so they have indicated that they are going to finalize their action when the U.S. Congress does. There will be no changes.

Mr. BAUMAN. But we are proceeding before they are?

Mr. VANIK. Proceeding in a formal way, because our law practically requires it. Only in the United States is the legislative body given the final say-so on this trade agreement. That is why this is unique.

The Common Market can act through its ministers, and they are prepared to do that. They have indicated that they would, so there is no doubt in my mind that there will be total ratification.

Mr. BAUMAN. Because of the peculiar statutory procedure under which this legislation is being considered today, and which I understand will continue in the future, is it too much to say that, in fact, for the next 8 years the President of the United States is given virtual total power over the tariff laws, whereas the Congress only retains the right to vote up or down on the statute or any subsequent changes?

Mr. VANIK. This is no different than the power he had under the Trade Act of 1974. It is simply an extension of that power within the limitations we have prescribed.

Mr. BAUMAN. But we are not permitted as a legislative body to zero in on any part of that negotiation and offer amendments.

Mr. VANIK. I do not think Members of Congress would want to be sitting here and voting on every schedule that is involved. That would be a burden on the Congress. I think that insofar as our goals are achieved, and that any actions of the Executive take place within the framework of this agreement and the implementing legislation, I think there is every safeguard we need under the law. I do not think there is anything else we ought to have.

We uniquely have more power than any other legislative body in the world with respect to trade negotiations because of the Trade Act of 1974 and I might add the Constitution. That is unchanged. The agreement is a normal extension of what we did in 1974.

Mr. BAUMAN. I would say to the gentleman that it does give me some pause about these excessive Presidential powers and our inability to address specific questions. So far as our power to act on individual tariff changes, we do that constantly when the gentleman's committee brings out tariff adjustment bills on many commodities under unanimous-consent consideration. I do agree the problems of rewriting tariff legislation would be very grave. Let me ask one other question. I know others may wish to get into this debate. Having looked over title 4 dealing with the standards to be applied that might, one way or another, inhibit international trade, it appears that the bill proposes that virtually all U.S. standards—Federal, State, local, maybe even private standards that may be applied—could be subject to Federal review and ultimately to tests by international agencies.

My concern is that this would be very costly for industrial, agricultural, or other exporters or importers and, in fact, agencies to defend if this charge is made against them. Is not this title in fact a rather extensive grant of power to impose trade standards we have yet to adopt?

Mr. VANIK. Well, this title is primarily designed for our benefit, because we have been having the most serious problem in meeting standards. As a matter of fact, I cannot think of the specific case, but there was a specific standard that was applied to maritime equipment. The Japanese had imposed an absolutely incredible standard. The purpose here is to get uniformity of standards adopted throughout the country so that one country cannot shelter its specific industries from foreign commerce simply on the basis of an arbitrary standard.

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This section was largely an American achievement in order to open up markets for American goods, and it was primarily requested by American industry that was very, very anxious to establish a comity of standards. I do not think any American product or standard is going to be adversely affected because we lead the world in quality standards. What it does is give us the tool against arbitrary standards. I think America is foremost, and most people recognize it, in this area of quality control. What the code does really is give us a tool to impose the high standards of our code on the rest of the trading world.

Mr. BAUMAN. So the gentleman's feeling is that title IV would act to our advantage?

Mr. VANIK. We are going to be strengthened. I want to assure the gentleman that I feel that by this section we are going to be considerably strengthened. It is a section that was very, very anxiously sought by our own American industry.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding. That is generally true also for the procurements section which some people might react to because it affects buy-American provisions.

Mr. BAUMAN. That was my next question.

Mr. CONABLE. But in fact as it has been worked out, it opens up much more potential foreign business than it does American business since we have not had anywhere near the protective devices on procurement that many of the nationalized foreign industries and closely held foreign bidding practices have had; and in respect to the types of equipment that are sold in international trade: large generators, transmission equipment for electricity, and things of that sort, our companies constantly have been cut out of a much greater volume of potential trade than foreign countries have been cut out of our business where we were using buy-American agreements. There is a 2 to 1 margin of benefit.

Mr. VANIK. Before this colloquy is over, I would like to be able to search the record, and I think I can find a situation where a very vital maritime industry in what I believe is the gentleman's area on the Eastern Shore is vitally affected by this, having run into a problem of a very arbitrary standards code that was imposed by one of the countries they were attempting to sell their merchandise to. I am not sure I can do it, but I hope I can produce that before the colloquy ends.

Mr. BAUMAN. In reference to the comments of the gentleman from New York (Mr. CONABLE), am I correct that the President does have the power under this legislation to waive almost all U.S. laws and regulations dealing with buy-American clauses, including the Department of Defense procurement regulations?

Mr. VANIK. Oh, no.

Mr. BAUMAN. That is not a correct estimate?

Mr. VANIK. No.

Mr. BAUMAN. I am concerned about title III, section 301, and its impact on buy-American clauses. That is the reading I got from that section. I think the gentleman is incorrect.

Mr. VANIK. No, we do not change any of the procurement rules.

Mr. BAUMAN. I am talking about waiving the U.S. buy-American clauses now part of our law.

Mr. VANIK. The U.S. buy-American clauses. I do not concur in that analysis.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. VANIK. I want to thank the gentleman very much.

Mr. Chairman, at this time I yield so much time as he may desire to the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from New York.

● Mr. HORTON. Mr. Chairman, the Trade Agreements Act of 1979 now before us is a monumental piece of legislation that I anticipate will help international trade and our own economy. All of those concerned with the act and the Multinational Trade Negotiations (MTN) from Ambassador Strauss to the distinguished members of the Ways and Means Committee led by Chairman ULLMAN and ranking minority member BARBER CONABLE should be congratulated for this prodigious work.

While I intend to support the Trade Agreements Act, I would like to draw the Members' attention to title III of the bill regarding Government procurement. Under this section, starting in 1981, the President will be able to waive the Buy American Act that now gives domestic companies certain advantages over foreign companies on Government procurement. While this waiver will only amount to 15 percent of Government procurement, that still amounts to approximately $12.5 billion, which is a lot of money.

What I fear is that some particular sector of the American economy will be particularly hurt by this action. And, what really bothers me at this particular time is that I do not really know which sector that will be. I am very pleased to see that the bill requires an "Impact of the Economy" statement that will be sent to both the Ways and Means Committee and my own Government Operations Committee. Before final implementation, I intend to take a very close look at this report.

I would like to point out another potential problem. According to estimates, while $12.5 billion of our Government procurement will be more open to foreign biddings, the United States will have the potential to gain up to $20 billion, which is not a bad trade-off. The MTN will require that for the first time, foreign governments put their procurement codes in writing. This could be an important first step, but the real step might be behavioral. According to hearings our committee held last Congress on the Buy American Act, the problem is that other countries simply "practice" buy national acts, and have for years. While codes are important, until this "practice" can be changed, that $20 billion should be listed as "potential."

Mr. Chairman, I hope that I am wrong about these two potential problems. I hope that no sector of the American economy is unduly dislocated and I hope that other countries do write unrestricted procurement codes and then follow them. But, it will be incumbent upon us in Congress, and especially those of us on the appropriate committees that these Government procurement changes be carefully monitored.●

Mr. WRIGHT. Mr. Chairman, we have before us today a major bill affecting one of the frequently most controversial areas with which this Congress deals: imports and foreign trade. Over the years foreign trade bills have come to the Congress in an aura of great controversy.

Yet this bill today was reported unanimously by the House Subcommittee on Trade. It was sent to the floor by a 35-to-0 vote in the Committee on Ways and Means. That certainly was a bipartisan vote on a bipartisan bill, in the introduction of which I was pleased and honored to join the minority leader, the gentleman from Arizona (Mr. RHODES).

The bill is not simple. It is complex. It breaks new ground in the rules of international trade. It will directly affect millions of American workers, and eventually it will have impact on every single consumer in the United States. We believe that total impact will be beneficial.

This bill is supported by the cattlemen, the wheat growers, the National Farmers Organization. It is supported by the garment workers, the textile workers, the autoworkers, and the steelworkers. It is supported by the Chamber of Commerce, the Business Round Table, and the National Association of Manufacturers. When a bill comes with that sort of backing, surely someone is trying to tell us something.

What I believe we are being told is that this trade agreement is good for the United States and good for the world. I believe that Bob Strauss negotiated a very fine treaty and one in the interest of the United States. I believe that the Trade Subcommittee and the Committee on Ways and Means have done a remarkable job, a fine bipartisan, balanced job, of monitoring the negotiations and studying the issues and working with the administration to insure that, when this bill came to the floor, it would represent fairness and as much gain for America as it possibly could.

We live in a great trading nation. It began as a trading colony. It grew mighty as its clippers roamed the seas. We fought wars to maintain the right to trade. Now the battles are fought by teams of negotiators in places like Geneva. Those earlier wars were not allout struggles with a total victor and a demolished loser. Nor are these trade negotiations designed for total victory or for the demolition of any party. They are designed to achieve limited goals which benefit all 100 nations involved in the trade talks, and this result has been achieved.

The United States is one of the victors under this treaty. This agreement cuts overall tariffs by about 33 percent over 8 years, and that is a boon to consumers everywhere. It recognizes formally for the first time that unfair subsidies are damaging to international trade. It gives us power to strike back if a foreign nation harms our industry by making public grants to exporters or providing special tax benefits that place our commercial interests at an unfair disadvantage.

The agreement protects our farm products from being displaced in foreign markets by governmentally subsidized exports of other nations. It allows our American companies to bid, where previously they were disallowed, on foreign government contracts worth an estimated $20 billion.

The bill discourages the use of artificial products standards, which sometimes have been used as a subterfuge to keep American goods out of foreign markets. It provides for free trade in civil aircraft, an industry in which we are leading the world. So this agreement in these many ways gives the United States increased freedom to compete. What more should we want? What more really do we need?

I defy those who say that we have lost our edge, that we are a postindustrial nation. I defy those who say that our workers and American businesses are afraid of competition. The United States is the greatest industrial nation in the world. This trade agreement will allow us to become greater still. The battle for new markets, to create more jobs, sell more goods abroad, tests our ability against the other great nations of the world in peaceful competition. So I urge all of us to support the passage of the Trade Agreements Act of 1979

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Mr. PICKLE. Will the gentleman yield?

Mr. WRIGHT. I am honored to yield to my distinguished friend from Texas.

Mr. PICKLE. Mr. Chairman, legislating trade agreements on an international basis is a very difficult task. Each of us, representing 435 districts, want our goal or products to be exported—at a higher price—and a limited amount of imports—at a low price. If we were to try to legislate each item on the floor, we could never achieve any agreement. This bill has properly been the result of our negotiators meeting with the other world powers. Overall, it is a good bill. It helps most American business.

Our Special Trade Representative, Hon. Bob Strauss, gave us good, effective leadership. He is a natural leader, recognized on both a national and international basis. We are all grateful to him and his able staff for this leadership.

Mr. WRIGHT. I thank the gentleman for his comment. I thoroughly agree with his conclusion.

Mr. CONABLE. Mr. Chairman, I yield 6 minutes to the gentleman from Michigan (Mr. VANDER JAGT), the ranking minority member of our subcommittee.

Mr. VANDER JAGT. Mr. Chairman, I rise in support of H.R. 4537. In a day of great divisiveness and extreme controversy, it is a distinct pleasure to be able to pay tribute to the administration, and particularly to Special Trade Representative Bob Strauss, for one job that was extremely well done.

As a member of the minority, it is a further pleasure to be able to pay tribute to the distinguished chairman of the Trade Subcommittee, the gentleman from Ohio, for the great leadership that he has provided.

The fact that a bill so significant and farreaching comes to the floor with virtually no controversy is, I think, a tribute to the chairman's patience, his concern, his ability, and his leadership. In addition, it is a tribute to the meticulous attention that every member of the subcommittee gave to the subject matter and to the great work of a great staff, majority as well as minority.

Bob Strauss, in describing the treaty to which 99 sovereign nations gave signature on April 12 of this year, said that the work was probably about a B-plus. One of the reasons for that relatively low grade, I think, is the fact that not one of the 99 nations was totally satisfied with the result, and not a single segment of any industry was probably totally satisfied with the result. Everybody thought they deserved a little more than they got.

On the other hand, if you measure this agreement in terms of difficulties that had to be overcome, the controversies that had to be resolved, I think a far more appropriate grade would be closer to A-plus than to B-plus.

Very roughly speaking, the agreement does reduce industrial tariffs by one-third phased in over 8 years. But because those tariff levels are only between 8 and 10 percent now in most of the cases, that is not really the significance of the MTN agreement. For the first time the nations of the world have agreed on some rules of the road in terms of reducing nontariff barriers such as government procurement policies and government subsidies for domestic production. This has been the area in which we have faced the greatest stumbling block as a nation in terms of expanding our share of the world market.

I do not think that anyone is arguing that this implementing legislation, together with the agreement, is a magic wand that is automatically going to give the United States a bigger slice of the world international trade pie. It really depends on how well we utilize the mechanisms and the tools that this implementing legislation provide to us.

I do not believe we can say that it is going to be of great help automatically, standing by itself, if we pass this legislation. But we can say it will be of enormous harm not only to ourselves but to the whole world economy if we do not pass this legislation.

I, therefore, urge my colleagues to pass this legislation overwhelmingly, because of the promise and the opportunity that it provides our Nation in the years ahead and because it will aid to avert the calamity that would ensue if we failed to pass this legislation.

I think this bill is a good example of the kind of work product that can be done when, as is too seldom the case, the majority and minority lay aside their differences and work together, cooperatively, for what is best for American agriculture, industry, labor, and business.

I urge the adoption of the bill.

Mr. VANIK. Will the gentleman yield?

Mr. VANDER JAGT. I would be happy to yield to the distinguished chairman.

Mr. VANIK. I would like to take this opportunity, Mr. Chairman, to express my gratitude for the very fine leadership and support which my distinguished colleague has provided on this matter. It is truly a bipartisan production.

Mr. VANDER JAGT. I thank the chairman.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. VANDER JAGT. I would be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding. I know the gentleman has worked long and hard on this particular bill, along with many members of the committee. I know that our predecessor, Bill Steiger, also put a good amount of time and effort into this.

In California we are very much interested in agriculture. Can the gentleman tell us what will be the impact of this legislation on agriculture?

Mr. VANDER JAGT. You will notice from the previous speakers, from the long list of those who have endorsed the legislation, those who are perhaps most enthusiastic, evangelistic, if you please, in terms of adopting this legislation, are the various agricultural interest groups.

Mr. VANIK. Mr. Chairman, would the gentleman yield?

Mr. VANDER JAGT. I would be happy to yield to the distinguished chairman.

Mr. VANIK. I would like to tell the gentleman from California that the next speaker on the agenda is the gentleman from the State of Washington (Mr. FOLEY), the chairman of the Committee on Agriculture. I believe the gentleman will have a message on this point that would be very important.

Mr. ROUSSELOT. Mr. Chairman, I will be sure to pay attention to the remarks of the gentleman from the State of Washington but I always like to hear the eloquence of my colleague from Michigan because I know that he sat in on the hearings and the whole process. I do not want to cut him off.

In other words, the gentleman's statement is that the obvious support from the agricultural areas of the country is clear enough indication that this truly does open up a freer market for the agricultural products produced in this country?

Mr. VANDER JAGT. The gentleman from California has stated it extremely well. Perhaps the biggest area in which markets have been opened up to American enterprise is in the area of agriculture.

Mr. ROUSSELOT. I appreciate my colleague's comments.

Mr. GRASSLEY. Mr. Chairman, would the gentleman yield to me?

Mr. VANDER JAGT. I yield to the gentleman from Iowa.

Mr. GRASSLEY. I thank the gentleman from Michigan for yielding.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. CONABLE. Mr. Chairman, I yield

2 additional minutes to the gentleman from Michigan.

Mr. VANDER JAGT. I now yield to the gentleman from Iowa.

Mr. GRASSLEY. I thank the gentleman for yielding, Mr. Chairman.

Mr. Chairman, the gentleman from California raised a point that I wanted to make. Very obviously this bill is very satisfactory to the agricultural interests in the United States. Not only is it just for the health of an American agriculture that free trade is very essential, but that is beneficial as we have agricultural products which are our biggest and best commodity to sell overseas for a favorable balance of trade. It is beneficial for the entire country.

I want to thank the members of the committee for working so diligently for free trade, particularly as it relates to the health of agriculture.

Mr. Chairman, I think it would be a good idea for me to begin my remarks by discussing why we are here debating H.R. 4537. The bill, as you know, implements the trade agreements negotiated in Geneva pursuant to the Trade Act of 1974. The current multilateral trade negotiations (MTN) package includes provisions which, among other things, reduce tariffs by an average of 31 percent, eliminate or otherwise limit certain nontariff barriers to trade, and reform several aspects of the general agreement on tariffs and trade (GATT) system.

All of the above is common knowledge and has been previously discussed at some length. It goes without saying that these new trade agreements are intended to benefit the economy of the United States. Whether or not this will happen—and to what degree—remains to be seen. But I would like to take the analysis one step further and explore why these reforms are needed, why we are doing so poorly in international trade that it is necessary and advantageous, to the people of the United States, for the rules to be changed.

In recent years we have seen the value of goods imported into the United States far outstrip the value of commodities and materials exported. The balance of trade has shifted from a surplus of $9 billion in 1975 to a 1978-deficit of $34.2 billion. To be sure, most of this deficit is directly attributable to the quadrupling of petroleum prices by OPEC. But there are other reasons and they all impede or retard growth in productivity. There are all too many unnecessary obstacles to the production of goods and the providing of services in a cheap and efficient manner.

Excessive Government rules and regulations would have to be placed at the top of any list of impediments to production. Forms and paperwork, often referred to as redtape, are the tangible evidence of Government regulation. Every employee-hour devoted to completing Government-mandated applications, permits, and reports is an hour that is not available for producing those goods which are, after all, the reason for building factories. A steel mill is supposed to make steel. That is, perhaps, merely stating the obvious; but this basic truth is all too often obscured by those who believe such concerns should devote their time and energy to cleaning up the environment and social engineering.

This brings me to a second item, namely, the billions of dollars spent every year for nonproductive capital expenditures. These expenses are incurred by commerce and industry in order to comply with never-ending and constantly upgraded Federal standards. Going back to my notion that a steel mill is suppose to make steel—I would observe that the $50 million spent to control air emissions is money that will not be available for constructing or rehabilitating a blast furnace or rolling mill.

Another factor, and this relates to why the physical plant of America is old and antiquated as opposed to that of foreign countries, is that the Federal tax code has encouraged American industry to locate or expand operations overseas. We ought to be encouraging manufacturers to locate here, at home, in the United States. It seems to me that this would not be such a hard thing to do.

No discussion of this matter would be complete without touching on, at least in passing, the decline of the work ethic in America. Too many of our citizens have learned that hard work and labor are not necessarily rewarded—that sloth and idleness more often than not are rewarded. There is not enough incentive to secure gainful, constructive employment. And once a person has a job, he or she has no reason to do a good job. This malaise of the spirit is an intangible commodity but its impact on productivity and, eventually, on the American economy is just as great as those mentioned earlier.

My purpose for speaking on this important matter—and it is important—has been to give some background so that we can see exactly why we are here today. I know firsthand what destructive foreign competition can do to American industry—I have had plants in my district close as the direct result of subsidized foreign competition. I suggest that improved trade laws and basic reforms in the way we produce goods should go hand in hand.

Mr. VANDER JAGT. I thank the gentleman for his contribution.

Mr. Chairman, I alluded earlier to the tremendously adroit work carried on by Bob Strauss and the entire staff. There truly were miracles achieved in many areas, but perhaps the area of biggest miraculous achievement was in the field of agriculture. Had anyone told us a year and a half, a year and three-quarters ago, we would have been able to obtain some of the concessions we did, in fact, achieve in the agricultural area, we would have said he was dreaming, but that dream has now become a reality and it does present an enormous opportunity for American agriculture.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield again?

Mr. VANDER JAGT. I yield to the gentleman from Iowa.

Mr. GRASSLEY. In fact, it was only around Christmas time or shortly thereafter there were some threats that the entire negotiations might break up as a result of this agreement over agriculture, so I think we need to thank the administration for going to bat in regard to seeing that agriculture got a fair shake.

Mr. VANDER JAGT. We need certainly to thank the administration for culminating so successfully the negotiations that were begun in 1974.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONABLE. I yield 2 additional minutes to the gentleman from Michigan.

Mr. VANDER JAGT. I yield to the gentleman from Ohio (Mr. MILLER).

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Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding.

We, as everyone is aware, are sending many dollars to the OPEC nations for the crude oil that we are receiving from them. Was that taken into consideration in the trade agreements, so that the OPEC nations barriers would be a little lower on our products and commodities that we manufacture and produce to send the OPEC nations in order to recoup some of the dollars that we send them for crude?

Mr. VANDER JAGT. Certainly the point that the gentleman brings out, the tremendous balance of payments deficit that this Nation is running largely because of the enormous outflow of dollars for petroleum to the OPEC countries, was very much on our mind. An underlying concern of every member of the subcommittee was what we can do to enhance our opportunity to export and to reduce the deficit that we have in terms of balance of payments.

Mr. MILLER of Ohio. Mr. Chairman, if the gentleman would yield further, would the gentleman say that we do have an advantage now, under H.R. 4537 that we might be able to export those commodities that we manufacture?

Mr. VANDER JAGT. I would have to say to the gentleman in all candor and frankness that I do not believe that this bill really addresses, nor is it intended to, the enormous outflow of dollars to the OPEC countries for the oil which we must import. It does help us, hopefully, in this situation in that it gives us greater opportunities to export, thereby reducing our balance of payments deficit. It is not rifle-shotted in, however, at the problem the gentleman raises, which is a serious one.

However, the bill does provide an exclusion from eligibility of OPEC countries to receive GSP privileges. An exception is made for any OPEC country which has entered into a bilateral trade agreement with the United States and which has not participated in any boycott against the United States. The countries to which this exception applies are Venezuela, Ecuador, Indonesia, and Nigeria, although no agreements have yet been concluded.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. VANDER JAGT. I would be glad to yield to the distinguished ranking member.

Mr. CONABLE. Mr. Chairman, I think it is true that the OPEC nations participated very modestly in the negotiations that brought about this MTN. They are, for the most part, engaged in very specialized strategies of oil. The negotiations were significant primarily as between the industrial nations of the world, those engaged in major manufacturing and agricultural export and they were the ones who were so involved.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Vander Jagt) has again expired.

Mr. CONABLE. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. Vander Jagt).

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. VANDER JAGT. I would be happy to yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, there was one other point that I would like to clear up, and that is we heard about the fact that we are not able to export some of our electrical generating equipment, complete units, as such; but many of those are purchased by money from the multinational banks, the World Bank and the like. Was that taken into consideration as to who would make the purchase and how would the mechanics work, so that we could sell our large electrical generating units, as an example to some third nation where the World Bank would be paying for it?

Mr. VANDER JAGT. The committee spent a great deal of time, hours and hours, on the very type of problem that the gentleman raises in terms of selling things like huge electrical generating plants to a third nation. We did not zero in on it in the direction that the gentleman brings up in terms of multinational and banking financing, because there is a threshold problem before you ever get to the question of who is going to do the financing; that is, that many of the nations of the world because of Government procurement policies, we were precluded from even offering a bid and this legislation begins to address that problem.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman.

Mr. VANIK. Mr. Chairman, I yield such time as he might desire to the chairman of the Committee on Agriculture, the gentleman from Washington (Mr. Foley).

Mr. FOLEY. Mr. Chairman, it has been, I know, the practice of every speaker who takes the well to begin by expressing admiration, appreciation, and commendation, not only to the distinguished Special Trade Representative, Ambassador Robert Strauss and his staff, who have performed so magnificently in these negotiations, but also to add not just what I would call conventional words of praise, but well-deserved words of praise to the leadership of the Committee on Ways and Means on both sides of the aisle.

These include in particular, the distinguished chairman of the committee, the gentleman from Oregon, Mr. Al Ullman, and the chairman of the Trade Committee, the gentleman from Ohio, Mr. Charles Vanik, and the ranking minority member, the gentleman from New York (Mr. Conable), and the gentleman from Michigan (Mr. Vander Jagt) of the Trade Subcommittee. I wish to commend as well the other members of this committee and their staff. I think it bears repeating again they have done an extraordinary piece of work in bringing this implementing legislation to the floor of the House. The unanimity with which the committee has acted is an example of bipartisanship at its best when it deals with the esssential interests of the United States.

I take this opportunity, as chairman of the House Committee on Agriculture, to speak enthusiastically in support of this legislation and to call upon my colleagues in both parties who are concerned, as I know all of us are, with the future of American agriculture to support the adoption of the implementing legislation.

Mr. Chairman, American agriculture is the envy of the rest of the world when it comes to our productivity and our efficiency. This trade legislation has made it possible to continue to expand that productivity and efficiency, which has been of benefit not only to our farming community and ranching community, but to American consumers as well. The economies of scale that American agriculture now enjoys would not have been possible were it not for the tremendous export segment of our agricultural markets.

It is a well-known statistic that this is the most impressive area of performance in terms of export earnings. The estimated earnings this year will be about $32 billion in total agricultural exports. After one discounts the $16 billion or so of agricultural imports, we have an impressive net earnings from agriculture.

Today, the reality is that almost one in every three American acres is being farmed for the export business. About 1.2 million full-time American jobs are benefited by that tremendous export activity, to say nothing of the hundreds and hundreds of millions of people around the world today that look to American farm exports as a source of food and fiber and the other hundreds of millions who have depended and continue to depend upon us for providing essential food assistance.

I want to take just a moment, because of the generosity of the chairman of the subcommittee for yielding me time, to compliment the committee again on the way in which the legislation was handled. In the consideration of the Committee on Ways and Means of this trade legislation, a number of other committees that had some claim of joint referral were asked to waive that claim in the interests of expeditious handling of the legislation. This was requested by the subcommittee chairman and the full committee chairman of the Committee on Ways and Means, with the understanding that joint referral waiver would in no way deprive these committees of their jurisdictional prerogatives over the subject matter of the legislation. H.R. 4537 is being considered under special legislative procedures established under section 151 of the Trade Act of 1974 which limits the time for consideration of the legislation by the appropriate committees of Congress. The gentleman from Virginia (Mr. Wampler), the ranking Republican member of the Committee on Agriculture and I, addressed correspondence to the gentleman from Ohio (Mr. Vanik), which I would like to read here in part:

> In view of the considerations pointed out in your letter and our desire to cooperate in the prompt consideration by the House of this legislation we are willing to waive any requirement for referral of this legislation to the Committee on Agriculture for parts of the bill that affect agriculture and the jurisdiction of this committee. This is being done with the understanding that it in no way affects adversely the jurisdictional interest of the Committee on Agriculture in a number of provisions included in the legislation and that any questions that may arise in the future concerning this legislation would be referred to this committee—

That is, the Agricultural Committee—

> in accordance with the rules of the House, notwithstanding our agreement to waive the requirement for referral at this time.

I wonder if I could ask the distinguished chairman of the subcommittee if this, indeed, reflects our understanding.

Mr. VANIK. It certainly does reflect our understanding and in the report of the committee on this legislation we specifically set forth our understanding that the intrusion in jurisdiction applies only with respect to this bill. For all other purposes we want to respect the jurisdiction of the very able and very responsible Committee on Agriculture.

I would also like to say, Mr. Chairman, that as one who has had a very deep involvement in this legislative process, it has been extremely helpful to have the support of the gentleman from Washington, and I want to tell the distinguished chairman that members of the gentleman's committee were very attentive and diligent in sitting with our committee on markup on the implementing legislation. The gentleman from Wisconsin (Mr. Baldus) and the gentleman from Mississippi (Mr. Bowen) sat with us almost every day looking out for the interests of agriculture and the jurisdiction of the agriculture committee.

We certainly appreciate the very valuable input that was provided by these gentlemen, and also by the agriculture committee staff, which for all practical purposes worked out the language in the report relating to agriculture.

I want to thank the gentleman and his committee for its part in this legislation.

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Mr. FOLEY. Mr. Chairman, I have just commented on the importance of this agreement, in terms of continuing to stimulate our vital export trade in agriculture. I will not belabor it. But I think it is important for all of our colleagues to know that something over a million—probably 1,200,000—jobs in the United States can be related to agricultural exports.

We export today about half of our wheat crop, 54 percent of our soybeans, and 73 percent of our rice crop. About 40 percent of our cotton crop, 35 percent of our tobacco crop, and 30 percent of our corn are also exported. Approximately 1 acre in every 3 is today being farmed for export.

Not only has this been a boon to American farmers and ranchers, but it has enabled us to achieve economies in production so as to lower the cost of food to American consumers, who enjoy today, proportionate to their income, the lowest food costs in the world. Exports have also reduced the cost to the taxpayers of maintaining support programs and other income programs for agriculture that would otherwise be necessary. In contributing to this tremendously important export trade this trade legislation is in the national interest in the fullest sense of the word.

I might say, in view of the comments of the gentleman from California who was in the Chamber a few minutes ago, that such important national agricultural organizations as the American Farm Bureau Federation, the National Grange, and the National Council of Farm Cooperatives and many others have endorsed this legislation with the view that it represents a great step forward for agriculture as well as being in the national interest. The Agricultural Policy Advisory Committee which has been active throughout the negotiations in advising Ambassador Strauss has also given the legislation its support.

While agriculture has made many gains in the trade negotiations, much of it is in the form of tariff reductions which do not depend directly upon this implementing legislation. According to the Department of Agriculture, the United States has received offers of concessions of over $3.8 billion in trade affecting agricultural commodities. Of this total about $2.4 billion represents concessions expected to lead to an increase in U.S. trade, and about $1.4 billion represents concessions designed to maintain U.S. trade.

The reductions in tariffs cover such export commodity growth items as high quality beef, pork, turkey, soybeans, fresh and canned fruit, fruit juices, almonds, tobacco, and a wide range of other items.

Tariff concessions received from the developed countries account for 79 percent of the total while concessions from the developing countries account for about 21 percent of the total. Japan accounts for about one-third of the overall trade offers to the United States; the European community, 18 percent; and Canada, 13 percent. Mexico, the Philippines, Korea, and India together account for almost all the trade value of offers which the United States has received from developing countries.

We offered trade concessions on products covering about $1.7 billion in agricultural import commodities in 1976. Approximately a quarter of these offers were made to developed countries covering such items as fresh or frozen beef, lamb meat and wool, live cattle, and certain grain products. Most of the rest of the United States offers of concessions went to the developing countries on such items as vegetable oils, inedible molasses, fruits and vegetables, and preserved beef.

The MTN also affects agriculture in other important respects. A number of bilateral cheese agreements have been negotiated establishing a new annual quota of up to 111,000 metric tons for the types of cheeses which may be imported into the United States and which had previously been either under the so-called quota or "price break system."

Certain countries would be allowed to increase their exports of cheese to the United States by about 15 percent over the 1978 levels. At the same time, the most important of these cheeses not previously subject to import quotas would be made subject to a quota for the first time. This would result in about 85 percent of the cheese imports being covered by the quota system, compared with about 50 percent previously.

H.R. 4537 implements these bilateral cheese agreements and in addition provides a fast track system by which additional fees or quotas may be imposed on any subsidy-produced cheese imported at a price below the U.S. wholesale prices for similar domestic cheese. This will apply to all subsidized quota cheese regardless of whether the exporting nation has signed the bilateral agreement with the United States.

The MTN would revitalize the GATT by providing new rules for controlling nontariff barriers. Among those of great interest to agriculture are the provisions relating to subsidies and dumping. The subsidies code which is incorporated in these negotiations would maintain the right of countries to defend themselves from injurious subsidized import competition in their domestic markets as well as to introduce new disciplines controlling the use of export subsidies in third country markets.

It also imposes new conditions on countervailing duty actions. H.R. 4537 implements these by adding an injury test to the countervailing duty law for dutiable goods. It also recognizes the uniqueness of agricultural products and the agricultural sector by including special provisions relating to the determination of whether material injury exists in cases involving agricultural products.

In either countervailing or antidumping cases the International Trade Commission must examine whether there is any increased burden on Government income or price support programs or the threat thereof. This would occur if subsidies were to cause or threaten to cause domestic crops to go under a price support loan program or, in the case of a target price or deficiency payment program, if the subsidy would cause or threaten to cause the price to go below the target price so as to require deficiency payments to producers by the Government. Where the price is depressed but remains above the support price, the code injury test would also be available. The ITC shall not find that there has been no injury simply because the market price is above the support price.

I am very concerned about the impact export subsidies may have upon U.S. markets for U.S.-produced agricultural commodities. Only effective and timely action by the Government can limit unfair subsidized competition. I feel very strongly that the administration must take effective action in the future to enforce the remedies which are provided against subsidies and dumping in H.R. 4537, both in the provisions of title I which relate to countervailing and antidumping duties and in the provisions of title VII that relate to subsidies on imported cheese. I expect that adequate resources will be devoted to enforcing the relevant provisions of H.R. 4537 to this end.

Agriculture is also affected by the provisions of this law as it relates to technical barriers to trade. The standards code would discourage the manipulation of standards so as to exclude U.S. products from foreign markets and reduce U.S. export opportunities. The manipulation of standards for this purpose has sometimes been a problem in the past, and it is an extremely important area of these negotiations in this legislation. At the same time the provisions of the MTN agreement and the implementing legislation do not in any way preclude standards that are necessary for the protection of human health or safety, animal or plant life or health, and the environment, as well as the consumer. These are protective elements that are necessary.

H.R. 4537 also includes authority for U.S. participation in an International Dairy Agreement to provide for an exchange of information and consultations to identify remedies for serious market imbalances, as well as floor prices for world trade in cheese, butter, and nonfat dry milk, and also a bovine meat arrangement providing for information sharing, market monitoring, and regular consultations.

The floor prices of the International Dairy Agreement are not expected to affect U.S. dairy price support programs since they are so much lower than U.S. levels.

The key to prosperity for American agriculture will depend on the good will of our trading partners in carrying out their responsibilities agreed to in the MTN and upon the vigilance of the administration in prompt and effective enforcement of the remedies that are set forth in H.R. 4537.

There has been some discussion during the course of the legislation about bringing together in some later legislation a more coherent governmental rule for handling the responsibilities on foreign trade that are now scattered through many different agencies and departments of the Federal Government, and the report addresses this problem. While I agree that there is a need to do this, I would like to caution against moving those portions of the responsibility of the Department of Agriculture in foreign trade to some other sector or department of the Government.

The agriculture export program has, as I have said, been one of the bright lights in our total economic and trade area, and I would think it would be extremely unwise for the United States to transfer the trade functions now provided by the U.S. Department of Agriculture and its foreign agricultural service to a new agency.

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The USDA has done an outstanding job representing American agriculture and has worked effectively with other agencies and with the Congress to achieve the high goals that have been set for agricultural trade that have been achieved year after year. Exports are exceeding $30 billion this year, as I said. The Foreign Agricultural Service has done much to promote U.S. exports. In the Trade Act of 1978, last year, we included special provisions for the establishment of agricultural trade offices abroad, operating in conjunction with the United States Department of Agriculture, in order to assure that the great private agricultural sector of this country will have full opportunities to develop markets and expand the trade which has been so helpful to the entire Nation.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, I want to commend the gentleman from Washington (Mr. FOLEY), the chairman of the Committee on Agriculture. The gentleman's committee has joint jurisdiction over this legislation. We appreciate the cooperation that the gentleman and his committee has extended our committee in preparing this legislation and in the long process of negotiating the treaty. Indeed, this bill does contain some very significant gains for agriculture, for beef, for instance. The gentleman is very concerned about beef exports. We are opening up some markets. We are providing relief that was not available before for nontariff barriers thrown up against us in furthering our trade.

I want to commend the gentleman for looking so favorably on agricultural exports. I think our record of agricultural exports demonstrates that we have by far the most efficient agricultural system and the greatest productivity in agriculture of any nation in the world. That is the way it should be. It ought to be expanded.

I commend the gentleman, and I will just close by saying that this is landmark legislation. It will not solve all of the problems, but we have gone a long way toward furthering trade of agriculture throughout the world.

Mr. FOLEY. Mr. Chairman, I agree with the gentleman, and I thank the gentleman for his remarks.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, I want to commend the gentleman from Washington (Mr. FOLEY) for the great work he has done on this piece of legislation, and I wish to associate myself with his remarks. While this piece of legislation or the trade agreements are not a panacea for agriculture in this country, certainly it is a great step forward.

Mr. Chairman, I rise in support of H.R. 4537, a bill to implement the multilateral trade agreements. Special Trade Representative Strauss has done a commendable job in opening the marketing doors of the world wider for the freer flow of world trade.

That there are long-term benefits to all nations in a freer system of trade cannot be denied. It recognizes the economic realities of comparative advantage and thus improves the standard of living for people in all participating nations. Indeed, the post-World War II economic boom in the developed world can be largely attributed to the tremendous growth in world trade. World output has tripled and the volume of world trade has more than quadrupled since 1950.

The importance of world trade is firmly recognized in Iowa and my congressional district. Both have an agricultureal-based economy. A high level of exports is essential to agriculture. Farm product exports will return more than $30 billion to the United States in the fiscal year ending September 30, 1979. Income to farmers from this trade represents about one-fourth of cash receipts from marketing. Almost 1 harvested acre in 3 produces for export.

In the last fiscal year, 54 percent of the U.S. soybeans, 55 percent of the wheat, 73 percent of the rice crop were shipped abroad. About 40 percent of U.S. cotton and almonds were exported along with 35 percent of the tobacco and about 30 percent of the corn. Among livestock commodities over half the cattle hides, 41 percent of the tallow, and 16 percent of the edible offal production were exported.

Improved agricultural trade benefits both U.S. consumers and producers. Exports encourage greater efficiencies in production through economies of scale and thereby reduce the real cost of food in the long term. Agricultural exports also contribute to the balance of payments thus adding strength to a sagging U.S. economy and reducing the cost of Government support programs for agriculture. And finally, agricultural exports stimulate off-farm employment and increase nonfarm income. About 1.2 million full-time civilian jobs are related to U.S. agricultural exports.

In spite of the generally recognized benefits of trade, there is presently a disturbing world trend toward protectionism. Governments are being pressed to erect new trade barriers to imports with an intensity that has not been observed since the 1930's. Recessions and declining economic activity have intensified the sentiment in favor of protectionism.

The trade agreement we consider here today is an effort to diffuse some of these pressures. It is possible that if the Tokyo Round Pact were not approved, world nations might be pushed into a vicious circle of more trade controls, weakened business confidence, higher unemployment, and then still more restrictions on imports. Should this happen, there is a distinct possibility that a severe worldwide business slump could be precipitated. If the pact were to do nothing more than to hold the line against protectionist pressures, it would serve a very worthwhile purpose. However, there are several additional benefits to this trade package.

First. Previous trade rounds dealt mainly with tariff reductions. This round, the Tokyo round, is the first to focus on nontariff measures that distort international trade. These protectionist measures, which include such governmental practices as import licensing, export subsidies, Government purchasing requirements, and product standard setting procedures, contribute to international tension which the Tokyo round seeks to diffuse by establishing new ground rules for the world trading system.

Second. This agreement represents the first significant progress made since 1947 in efforts to bring agricultural trade within the existing system of international trade rules. There is a new subsidy code that will establish better procedures for controlling the use of export subsidies in agricultural trade. Agricultural exports should benefit from the new standards code. Concessions were made by foreign countries on approximately one-fourth of those U.S. agricultural exports presently restricted by trade barriers. Concessions were received on about $4 billion worth of U.S. agricultural exports and are expected to increase U.S. agricultural exports by $500 million annually. Concessions were made by the United States on $2.5 billion worth of agricultural imports, which are expected to increase annually by about $175 million. Iowa alone is estimated to gain $26 million in additional export sales of livestock products, grains, and soybeans.

Third. An international agricultural consultative council under the framework of GATT will be established. The Council will provide for regular policy level discussions that can lead to cooperative efforts to improve international agricultural trade policy. This is a significant step toward bringing agriculture fully within the international trade system.

Fourth. The cumbersome export licensing system, which has held up the export of U.S. products will be streamlined and made uniform. A significant increase in U.S. exports should result. This change should particularly increase the export of commercial aircraft and spare parts which have contributed more net exports to the U.S. trade ledger than any other manufacturing industry.

This trade package is not without fault, however. Many tariff and nontariff barriers will continue to exist. Despite concessions made to U.S. beef and soybean imports, Japan will still enjoy a huge trade surplus with the United States. The Common Market variable levies now imposed on 40 percent of U.S. agricultural exports have been left largely intact, despite the promise to keep soybeans free from common market levies.

And finally, the new cheese import quotas could adversely affect the dairy industry in the United States. New dairy product quotas would allow up to 15,000 metric tons per year of additional cheese imports into the United States, if the quotas are completely filled. Actual cheese imports in 1977 and 1978 were 83 percent and 87 percent of the established quotas, so there is no assurance imports would rise to the new higher allowable level. However, the potential cost of the new quota to the dairy industry could amount to $66 million per year. This represents 0.5 percent of the farm value of milk production in 1978. Alternatively, the increased quotas represent the milk production from 27,000 average cows or 0.25 percent of the 1978 dairy herd. This maximum impact would be about 6 percent of the average annual dairy herd reduction of the past several years. In addition, the alteration of the countervailing import duty to apply only to "material injury" may adversely affect the U.S. dairy industry which is forced to compete with highly subsidized dairy imports.

Despite these problems, the H.R. 4537 on balance deserves our support. It rolls back a protectionist tide that could be severely damaging to the world economy. And it signifies the first step toward a freer and fairer flow of agricultural trade. We should thus endose this bill and prepare to continue our work toward an even better system of world trade.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to commend the gentleman from Washington (Mr. FOLEY) for his work on this legislation and for his interest and for his statement he just made.

Mr. Chairman, I rise in support of H.R. 4537, the Trade Agreements Act of 1979.

As ranking Republican on the Subcommittee on International Economic Policy and Trade of the Committee on Foreign Affairs, and as chairman of the Republican Task Force on Foreign Policy, I have carefully followed this legislation.

The multilateral trade agreement represents a significant accomplishment in dealing with nontariff barriers to trade. At a time when high U.S. trade deficits are having a serious effect on our economy, this legislation takes on even greater importance. Trade deficits weaken the U.S. dollar which results in more expensive imports to Americans and in making our inflation worse.

In my own district in California, exports will increase for our agricultural products, thanks to the trade agreement, for such commodities as citrus fruit, avocados, almonds and asparagus, as well as California wines. In recent years, California has traditionally suffered from international trade deficits, to such an extent that California's trade deficit represents one-fifth of the national deficit.

Among the major commodity groups exported from California, agricultural products make up more than 16 percent of the total. So any improvement in agricultural exports has a direct effect not only on my district and the State of California, but also on the national trade balance.

The efforts of the U.S. Special Trade Representative, and particularly the personal ones of Ambassador Bob Strauss, deserve special commendation for the complex agreements that were achieved for a broad range of trade issues, and especially for those related to agriculture.

I frankly believe the balance-of-trade battle will be won or lost depending on the volume of American agriculture exports. I urge passage of the Trade Agreements Act of 1979 in order to strengthen the future of U.S. trade.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Chairman, as a representative of the second port in the Nation and the first agricultural products port in the Nation, I would like to commend the gentleman and the members of his committee and staff, and also to commend the gentleman from Ohio, the gentleman from Michigan, the gentleman from Oregon, the gentleman from New York, and all of the members of the subcommittee and the full committee for this magnificent piece of legislation that has the enthusiastic support of the trading, the shipping, the business, the financial, and the cultural communities of the Second Congressional District of Louisiana. Along with it goes our gratitude to all of you for a job well done, and to Ambassador Strauss and the administration for the negotiations, of which we are the recipients.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding.

Mr. Chairman, I, too, rise to commend the gentleman for his statement and the important role he has played in the development of this important legislation. I would like to associate myself with his remarks.

Mr. Chairman, I rise in support of the Trade Agreements Act. Whereas these provisions now being considered will prove highly beneficial to our economy in the next several years by bolstering the access of U.S. manufactured industrial products, it should particularly be noted that the Tokyo round of agreements are also extended to cover agricultural goods.

The increased market access and international rules for agricultural trade are long overdue. For years agricultural commodities have played second string to the industrial world, and I commend the work of my colleagues on the Agriculture Committee for working diligently and successfully with the administration in attaining concessions which will open new markets for agricultural exports. It has been estimated that after the phase-in of all these concessions, new agricultural exports will result in an additional $300 million annually for the United States.

Should H.R. 4537 be passed by Congress increased access opportunities will significantly effect exports of meat, tobacco, fruit, vegetables, wine, rice, soybeans, nuts, and poultry. Not only will the agreements covering agricultural products bring more stability to these important export markets, but also will at the same time preserve these goods in domestic markets.

The importance of exports on our economy cannot be overestimated, and agricultural goods play an indispensible role in the gross national product. Approximately 25 percent of this country's acres being farmed are producing crops for international markets.

In fiscal year 1977 my State alone exported in excess of $1 billion worth of farm products. Of this sum $563 million were in feed grain and $368 million in soybeans. Indiana's agricultural exports account for 40 percent of the farm cash receipts.

Overall, not only will the industrial world benefit considerably from this trade package, but the agrarian community in the United States will receive a tremendous shot in the arm. I urge my colleagues to join me in supporting H.R. 4537.

Mr. FOLEY. Mr. Chairman, there has been some concern expressed about the impact of this legislation and the agreements on certain sections of agriculture. I believe that many of those concerns have been alleviated in the final negotiation activities and in the implementing legislation. In any case, I have no hesitation in viewing this as an extraordinary and positive piece of legislation for American agriculture, for world trade, for the advancement of income and improvement of income for not only our citizens but for citizens throughout the developed and developing world.

If we should—and I believe it clearly is what we will not do—reject this legislation, or if these negotiations have not been positively concluded, there is another side to this debate that we would be dealing with here, and that is the negative side. If country after country walk away from trade liberalization and regressed toward protectionism and restrictions on trade, this would inevitably lead to worldwide depression. I am proud today to be able to cast a vote for this legislation. I am proud of the administration and the negotiators, Ambassador Strauss and the committees which have made it possible to bring it to the floor. I think that those Members—and I predict an overwhelming number—who cast their vote affirmatively for this legislation will be proud of this vote in the years to come. I think H.R. 4537 can be one of the great achievements of this Congress.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, the American farmer, who is already one of the greatest contributors in our Nation's export performance, makes major gains from the Tokyo round.

In 1978, U.S. agricultural exports were close to the $30 billion mark, while agricultural imports were approximately $15 billion, so that the agriculture sector had a trade surplus of $15 billion. Thus, without the contributions of American farmers, our trade deficit would have been $47 billion rather than $32 billion.

These figures indicate that in a world of oscillating currencies, soaring energy costs, and changing technologies, the

American farmer remains the most efficient and productive in the world. We have a major competitive advantage in agriculture.

Similarly, the above figures show how important trade is to American agriculture. More than half of several of our major crops is exported. For example, in 1977, 44 percent of the volume of our wheat crop, 60 percent of the soybean crop, and 56 percent of the rice crop were exported. In general, the harvest from approximately one out of every three acres is sold for export.

I believe that the MTN will help the American farmer by opening up new markets, by providing dispute settlement forums which will reduce the unfair, subsidized competition our farmers face in seeking to export, and by establishing international consultative bodies which will help encourage more open, free trade in agricultural goods in the years to come.

I would like to comment on one major area where American agriculture made significant gains—and where more trade liberalization needs to be provided.

BEEF

In the area of high quality beef—choice and prime cuts from feed-lot beef—the United States has a clear superiority. We produce the finest beef in the world at bargain prices. Yet throughout the world, there are trade barriers which block the sale of this unique American product. A major effort was made in the Tokyo round MTN to provide more opportunities for our cattlemen to export choice and prime beef.

This effort was successful. As a result of the negotiations, the European Community has agreed to provide access to their market for 10,000 metric tons of high quality U.S. beef—an offer worth $60 million in new exports yearly.

Austria, Switzerland, and Portugal have also agreed to provide quotas specially designed for U.S. exports of high quality beef. While small, these quotas mean additional millions of dollars in exports annually, and give our cattlemen a chance to further enlarge those markets as demand grows.

Following the so-called Strauss-Ushiba agreement of January 1978, the Japanese quota was increased to 16,800 metric tons from 6,800 metric tons. As part of the MTN, the Japanese are further increasing the quota to 30,800 metric tons by 1983. That is a potential increase in exports of $120 million.

In view of the enormous trade imbalance with Japan, America's clear competitive advantage in this commodity, and the extraordinarily high price for beef in Japan, I hope that this 1983 quota level can quickly be achieved and that the Japanese Government, to benefit its consumers, will provide for additional enlargements of the quota.

In summary, the MTN will result in $195 million in new or expanded trade for the domestic beef industry. Despite these gains, the potential for additional sales of high quality American beef abroad is so great, that many in the domestic livestock industry have expressed disappointment that more was not obtained for their sector. It is, indeed, disappointing that additional gains were not achieved, despite the hard efforts of the U.S. negotiators. Nevertheless, major gains have been made which should result in additional, stable income for U.S. producers. These gains are also vitally important as a "foot in the door" in foreign markets; the gains in the Tokyo round offer enormous potentials for the future.

American agriculture is the most efficient in the world, but it is denied export market throughout the world, because of foreign barriers to imports and foreign subsidies which cause importing nations to direct their purchases to the low-priced, subsidized product rather than to the American product.

The nontariff measure agreements in the MTN now give American farmers a much better opportunity to contest effectively these foreign practices. The process of bringing complaints against foreign subsidies and import barriers will take time and diligent efforts—but the potential for trade gains is enormous, if unfair trade practices can be eliminated.

The Department of Agriculture and the Nation's various farm groups must be prepared to use the tools provided by this trade legislation. In the months and years to come, the Congress will be holding oversight hearings to insure that the opportunities provided by these agreements are indeed utilized.

In particular, we remain very concerned about the trade-distorting aspects of the EC's common agricultural policy, and fear that the eventual expansion of the EC to include Greece, Spain, and Portugal, will create new and more serious problems for American agriculture. The committee expects the executive branch to use the tools provided by the MTN to challenge the international operations of the CAP, whenever these undermine the principles of fair and open competition in world trade.

The fact that the internal operations of the CAP have not been significantly altered by the MTN does not mean that the United States has endorsed or accepted the trade-distorting features of the CAP.

While the United States is not "attacking" the CAP, we do challenge its use of export subsidies when they disrupt American export sales, particularly in third markets. The new agreement relating to subsidies and the dispute settlement process provide us with a way to deal with this most serious trade-distorting aspect of the CAP. Further, as the committee report indicates, we urge the administration to determine fully the implications for American agriculture of the expansion of the EC and its CAP to new members and to take appropriate corrective actions.

I would also like to report briefly on the results of the MTN for the American forestry and lumber industries. One of America's largest markets for logs and lumber has been Japan. Japan buys about 80 percent of the logs exported from the United States and approximately 30 percent of our softwood lumber exports, principally from the Pacific Northwest. Of course, we would like to make more value added or finished lumber sales to the Japanese, thus helping our balance of trade and providing additional employment stability to the forestry industry of the Pacific Northwest.

Unfortunately, over the years, we have faced a number of barriers in selling forestry products to the Japanese. A report prepared for the Congressional Research Service on the MTN and is impact on agriculture discusses a number of the trade problems we have with Japan in the forestry products sector:

> The U.S. has had a long-standing dispute with Japan over acceptance of our lumber and plywood grading standards. U.S. lumber does not meet Japanese grading standards, nor is it suitable without further milling for the traditional Japanese method of construction. Japan also presently insists on inspecting lumber used in 2x4 construction instead of accepting U.S. inspection labels. The inspection in Japan does not take place at the point of entry, but rather, at the point of construction. This costly procedure is an added deterrent to U.S. lumber exports.
>
> The Japanese have discouraged U.S. plywood exports because they feel that the performance standards for structural plywood are not suitable to their needs. The Japanese use plywood with less surface defects than U.S. standards allow. In addition, U.S. plywood does not pass the Japanese glue bond test. (The U.S. uses less glue than the Japanese in plywood because U.S. wood is stronger.)
>
> There is also a problem with white speck (a fungus) in both lumber and plywood. The Japanese are hesitant to agree to using lumber or plywood with white speck.

As part of the MTN and our bilateral trade talks with the Japanese, some progress has been made in resolving these largely "standards" problems. Again, quoting from the report prepared for the Library, it can be seen that some progress has been made, but that additional negotiations and actions are necessary. I hope that in the months ahead, the remaining issues can be satisfactorily resolved.

> The U.S. asked the Japanese to accept U.S. grading standards for lumber and to recognize U.S. inspection labels. Japan agreed; but in translating the text of the standards it made changes in the standards on wane (lumber and bark), knots, and white speck. After a series of negotiations in June 1978, Japan agreed to changes in the translation; this satisfied U.S. objections, with the exception of the white speck standard. Japan has agreed to maintain the standards, as revised, without any changes; thus, there is still a problem with white speck. Japan has promised to study the question, but it has made no positive commitments.
>
> No final agreement has been reached on acceptance of U.S. inspection labels nor on changes in the Japanese system of lumber used in 2x4 construction. However, negotiations are expected to continue until a resolution of the differences is reached.
>
> No concessions were made on plywood standards other than an agreement between the U.S. and Japan to actively pursue the development of mutually acceptable performance standards by 1980. Japan is willing to amend the Japanese Agricultural Standards, except for those dealing with white speck, after a technical examination of the plywood standard problems. The Japanese noted that if regulations under their Build-

ing Standard Law must be amended, the entire process may take a longer time.

In short, progress is being made, the "rigor" of import inspections has been considerably eased, and the potential for increased exports in the years ahead is greatly improved.

Mr. ALEXANDER. Mr. Chairman, the Trade Agreements Act of 1979 which approves and implements the trade agreements negotiated by the United States in the Tokyo round of the multilateral trade negotiations.

Americans can no longer afford to export the wealth of this Nation by the amounts registered in the plummeting trade deficits. Last year the U.S. imported about $28.5 billion more than it exported. The 1978 trade deficit may be dwarfed in the shadow of the 1979 trade deficit caused from the recent OPEC price rise which will increase the price to the United States of imported oil from $41 billion in 1978 to about $63 million in 1979. The OPEC price rise of more than $20 billion could produce as much as $50 billion in trade deficit. And, this is especially true if Americans do not export more to offset the goods the United States buys.

We cannot continue to pay billions of dollars for oil and expect to maintain a favorable trade balance with our current hodgepodge national export policy. H.R. 4537, will establish new international rules to assure that trade will be conducted more equitably and fairly between nations.

Mr. Chairman, the legislation we are considering today is intended as a progressive step toward improving the quality of life for all peoples through the expansion and liberalization of world trade. The trade agreements involved are meant to help dismantle obstacles to export trade and to improve the framework within which that trade is carried on. It is meant to help improve and strengthen trade relations in the community of nations.

The MTN agreements represent the efforts of more than 4 years of intensive negotiations involving 98 countries. The MTN was concluded and signed by the Special Trade Representative on April 12 of this year.

The Special Trade Representative Robert Strauss is to be congratulated on a job well done; a job he should be very proud of.

For the first time, agreements have been reached which deal with a broad range of so-called nontariff obstacles to trade, that is, such national Government policies and practices as export subsidies, Government purchasing requirements, import quotas and licensing procedures, product standard setting, and customs valuation methods. Further agreements have been concluded governing international trade in civil aircraft, steel and beef and modernizing general agreement on tariffs and trade (GATT) rules with respect to antidumping, dispute settlement and rights and obligations of developing countries.

In addition to the nontariff measure codes, tariff reductions averaging about 33 percent on an aggregate basis of total trade between participatory nations were also approved. These duty reductions will be phased in over a period of 8 to 10 years.

The agreements, both tariff and nontariff, apply to agricultural and industrial manufactured goods.

WHAT WILL THE MTN MEAN TO THE UNITED STATES

The successful conclusion of the Tokyo round of the multilateral trade negotiations (MTN) will modernize the international trade system. This in turn will benefit the United States not only economically but also politically. Passage of the Trade Agreements Act of 1979 will increase U.S. exports, bolster the access of U.S. exporters to foreign markets, help bring the U.S. trade deficit into a more favorable position, and ultimately strengthen the dollar. The agreements will create at least 30,000 new jobs for Americans while protecting the jobs of those workers in import sensitive industries.

The nontariff measure codes will substantially benefit the United States. The extensive and often excessive use of subsidies by our trading partners has increased U.S. imports and damaged U.S. exports; the MTN places limits on this practice for the first time.

Finally, the MTN protects the U.S. overseas agriculture markets. Agriculture in recent years has been the one bright spot in the U.S. balance of payments.

Yesterday, the House Export Task Force delivered to all Members of Congress an export America game. This game was developed in order to show the frustration and futility of trying to export in a hostile climate created by Government disincentives and foreign barriers. Members who have taken the opportunity to play the game can easily visualize the problems and confrontations the typical exporter faces.

The MTN agreements are an important first step in alleviating some of these problems. However, the U.S. Congress should not simply pass the MTN and expect our trade deficit to vanish. We must also adopt and implement a comprehensive export policy which will allow us to take advantage of the benefits derived from the MTN. Without such a comprehensive policy our advantages under the MTN will be meaningless.

The multilateral trade negotiations which have led to today's debate were anticipated by the signing of the Tokyo declaration in September 1973. It is ironic that the host nation in which the Tokyo declaration was signed is currently a partner in a foreign trade deal that has introduced a major new element of uncertainty into our efforts to export U.S. rice.

Further irony is provided by the fact that this trade deal, in which Japan, South Korea, and the United States are players, has all the earmarkings of "dumping," an unsavory international trade practice that the legislation before us is, in part, meant to restrain.

It appears clear to me that in this story all the characters must share the blame. The tale begins in late April 1979 when South Korea made public its intention by buying 500,000 metric tons of U.S. rice. The rice was intended to build South Korean reserve supplies. South Korea has a healthy balance of trade position with the United States. It has been a commercial buyer of U.S. rice in recent years.

The South Koreans agreed to buy 90,000 metric tons of U.S. rice. Within days of the registration of the last 55,000 tons with the U.S. Department of Agriculture, the South Koreans notified the exporter involved that the sale was canceled. The notification followed by 1 day the appearance of a news story datelined Seoul in which the South Koreans were quoted as saying they were considering turning to Japan to make the purchase because they thought they would get a better deal there than in the United States.

The South Koreans had agreed to purchase 35,000 metric tons of U.S. rice at $256 a ton and another 55,000 metric tons, later canceled, at $274 a ton. The Japanese Government subsidizes its rice farmers at the equivalent of $1,400 per metric ton.

Rice Millers Association, which represents rice millers advised the U.S. Embassy in Japan, the U.S. Department of Agriculture, and the Special Representative for Trade Negotiations that it would oppose any sale of Japanese rice to South Korea at prices the American rice industry could not meet. The reason: Based on Japanese rice subsidy policies such a sale would constitute "dumping" rice in the world market.

Aware that the Commodity Credit Corporation is holding 250,000 metric tons of short and medium grain rice produced by U.S. farmers and which could be sold in the world market and that at least 55,000 metric tons of the kind of rice South Korea had indicated it wants was available in the U.S. commercial market, I and a number of our colleagues urged our Government to make clear to the Japanese that we would oppose the sale.

As days passed reports that South Korea and Japan were continuing their negotiations filtered through, as did reports that our Government had made informal representations to Japan that the United States was unhappy with the developments related to the sale.

Informally, I was advised that the soft position that was taken by our Government resulted in part from information collected from private rice industry sources which maintained that sufficient U.S. rice was not available to fill South Korea's needs. The Rice Millers Association has been named as one of those sources, an unexplained position switch.

According to a letter, dated June 21 from Ambassador Robert S. Strauss, our Special Representative for Trade Negotiations, when the United States did finally make a formal protest to Japan a compromise developed.

South Korea wanted 350,000 tons of Japanese rice on concessional terms. Japan agreed to sell 250,000 tons on commercial terms. And, apparently in deference to the U.S. position, agreed to make all deliveries by September 1, a month after U.S. rice harvesting begins. A delivery date reports now indicate that Japan probably cannot meet.

Everybody ought to be happy because the United States will have a crack at the remaining 250,000 metric tons South Korea is looking for. Not quite. There are a number of clouds hanging over the happiness.

Counting the 250,000 metric tons of U.S. short- and medium-grain rice held by CCC and the 55,000 privately-owned tons which the South Koreans agreed to buy then backed out, there is more than enough U.S. rice available to supply what Japan agreed to sell to South Korea.

The "commercial sale" Japan agreed to make to South Korea is reported to be going for a price at least $1,100 lower than the subsidy Japan pays its farmers to grow the rice.

South Korea's need was for reserve supplies, not for immediate consumption, according to South Korean officials.

American farmers are expected to harvest a very large rice crop beginning next month. At least 66 percent of that harvest must enter the world market if it is to be sold at all.

Japan reportedly has a rice surplus build up of 5 million metric tons, the equivalent of about the total of one U.S. rice harvest.

Now that Japan has demonstrated that it will sell this surplus of subsidized rice and will do so at prices lower than those that U.S. rice growers cannot meet, the export sales prospects for U.S. rice are significantly damaged. The world rice market will be destabilized by the existence of that Japanese surplus and the possibility that Japan might again enter the world market as a seller in an effort to rid itself of the burden of the surplus. And, U.S. rice producers and taxpayers will pay for the political expediency of two nations which have not only been portrayed as close U.S. allies but which are multibillion-dollar trade surplus beneficiaries of our U.S. import policies.

Are the trade agreements we are dealing with today fated to be honored more in the breach of than in the compliance with their terms?

Will our executive branch officials continue to move in so halfhearted a fashion that the rest of the world learns to completely discount our positions on export trade deals that defy international agreements and damage our national interests?

Will private industry representatives again take positions in the future that result in short-, medium-, and long-term damage to the national interest and to the producers whose product they are charged with promoting and selling?

Frankly, Mr. Chairman, the record of this South Korea-United States-Japan rice triangle is a depressing one. The damage is done. I can only hope and work to see that in the future our Government representatives show more care, dedication, and tenacity in protecting the export trade interests of our Nation at large and of our farmers specifically, than they have in this case.

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BROOKS), the distinguished chairman of the Committee on Government Operations.

Mr. BROOKS. Mr. Chairman, I want to commend the gentleman from Ohio (Mr. VANIK) and the chairman and members of the Ways and Means Committee for the spirit of cooperation they have shown in developing this legislation. The trade agreement and the implementing legislation do involve matters that are within the jurisdiction of the Committee on Government Operations. This has been recognized by the gentleman from Ohio, and the Committee on Government Operations has had an opportunity to participate in the negotiations dealing with those particular sections of the bill. On behalf of the committee, I want to express my appreciation for that opportunity.

Now, Mr. Chairman, I would just like to touch briefly on those sections of the bill that are within the jurisdiction of our committee. One of them will be found in title X. Section 11 of that title deals with the reorganization of the trade functions of the U.S. Government. As originally drafted, the language of that section would appear to have restricted the reorganization authority Congress has given to the President. That language has been clarified in the bill before you, and the President clearly has the authority to proceed under the powers delegated to him by the Reorganization Act Amendments of 1977, or under his general executive powers to propose legislation to restructure the international trade functions of the executive branch.

The section also calls on the appropriate committees of the House and Senate—and the Government Operations Committee is the appropriate committee in this body—to give prompt consideration to any reorganization proposal submitted by the President. The bill states that such a proposal should be submitted by July 10—today—which struck me as unrealistic at the time the bill was being considered. The President has had a few other things on his mind lately and has let it be known he will not submit a proposal today. A plan is being worked on, however, and I am sure it will be submitted as soon as it has been given due consideration. We do not always meet the deadlines we set for ourselves, and I do not think any fault should be found with the President for not meeting the July 10 deadline. When the proposal does come up, I assure you it will be given prompt consideration by the Committee on Government Operations.

The other matter involving our committee's jurisdiction is Government procurement. This is dealt with extensively in title III of the bill, which implements an agreement by the participating nations to open selected areas of their Government procurement to foreign competition.

The most significant part of the agreement, in my view, is the authority it grants to the President, under certain circumstances, to waive the Buy American Act as part of a general agreement between the parties to remove discriminatory procurement practices. The Buy American Act, which favors procurement from domestic sources, has had strong support in Congress, and our committee has a number of bills before it right now that would expand its coverage and strengthen its protections. So a proposal to allow the President to waive the act without any further action by Congress causes me some concern.

However, I am satisfied that, within the terms of the multinational trade agreements, the proposed Government procurement provisions can be of great benefit to American manufacturers and suppliers.

The United States is opening about $12.5 billion worth of its procurement to nondiscriminatory foreign bidding, while our negotiating partners will be opening approximately $20.7 billion worth of their procurement of American competition.

These new export opportunities for American firms will be for products in which we are already highly competitive, such as computers and business machines, and pharmaceuticals. It should also be noted that, although most of our Government procurement is already open to foreign suppliers—subject to the Buy American Act and some special set-asides—our trading partners, for the most part, completely exclude U.S. and other foreign goods except when they are not available domestically, so there is a great opportunity there for American business and industry.

One final matter that is of concern to our committee is a provision in section 304 authorizing the President to grant additional waivers of the procurement laws in the course of future negotiations to expand the Government procurement laws in the course of future negotiations to expand the Government procurement agreement. The same procedures used to reach the present agreement would be followed, which means Congress would only have a consulting role and the President could actually grant the waivers on his own authority.

I want to make it clear that, as chairman of the Committee on Government Operations, I expect our committee to be kept fully informed of any negotiations toward further waivers of the Buy American Act—or any other procurement law—and to be given every opportunity to discuss them before they are granted.

With that, Mr. Chairman, I want to again commend all those who have worked to bring this legislation before us. It has been a monumental effort by many, many people. I think a special word of commendation is in order for Bob Strauss, who, as the President's Special Trade Representative, did so much to put the final agreement together. I think the job he has done here is going to lead to a new era in international trade, and I commend him and the President for their determined effort. The bill should have the overwhelming support of the House.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I just want to express my gratitude to the distinguished chairman of the Committee on Government Operations, the gentleman from Texas (Mr. BROOKS). I want to point out that the bill does involve the gentleman's committee's jurisdiction, but it is clearly understood between us that it is only for the purposes of this legislation. We have no intention of making an intrusion into the very important jurisdiction of the gentleman's committee. Without the gentleman's cooperation in this matter this legislation would have been delayed a long time, and I want to thank him and his committee for their contributions and full willingness to let us operate in this legislative manner.

Mr. BROOKS. I thank the gentleman for his remarks.

Mr. CONABLE. Mr. Chairman, I yield 10 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, H.R. 4537, the Trade Agreements Act of 1979, approves and implements the trade agreements negotiated between the United States and its trading partners in the Tokyo round of multilateral trade negotiations.

H.R. 4537 was overwhelmingly endorsed by the Ways and Means Committee and its Trade Subcommittee. It comes to the House under the special provisions of section 151 of the Trade Act of 1974 which require a yes or no vote without any amendment.

The process that put H.R. 4537 before this House is as important as the agreements which have been negotiated. Negotiations have proceeded under three Presidents, mainly at Geneva, but summitry of various sorts has been required in nearly every major capital in the world.

President Carter deserves credit for helping push these negotiations through to completed agreements. He deserves special credit for naming Bob Strauss as Special Trade Representative, and for backing Ambassador Strauss when he needed it.

Ambassador Strauss has been the key figure in the MTN drama. He moved negotiations off of the stalemate position he inherited. He prodded our trading partners where they did not want to be prodded. He listened, and responded to myriads of trade interests in the United States and abroad. He made countless trips to Congress to keep us informed and to present the finished product.

Without Bob Strauss, there would be no treaty. Because of Bob Strauss, we have a fine treaty, better than I expected and better than he expected. No, it is not perfect. It does not meet all our criteria for free and fair trading around the globe. But it does represent an enormous improvement over the current rules of the game which many people perceive to be unfair to the United States.

Basically, the treaty is not a tariff agreement. It does lower U.S. tariffs by an average of 31 percent in stages over an 8-year period. The Kennedy round produced a dramatic tariff-cutting treaty. The Tokyo round produced an important nontariff agreement.

And that is just what the United States wanted. For it has been nontariff barriers that have unfairly denied international markets to American producers. Therefore, we had to try to introduce some law and order into the international trading rules of the GATT.

To me, the most important features of the agreement are the Procurement Code, the Standards Code, the Subsidy and Countervailing Duty Code, and the Customs Valuation Code. The procurement code will open about $20 billion of foreign government purchases to U.S. bidders. Previously, bids from U.S. sources have not been accepted. The Standards Code will be helpful in removing discriminatory manipulations of product standards, such as the testing barriers American producers have encountered in Japan. The Subsidy Code will help identify foreign subsidies and changes in title I of this bill will assume speedier resolution of countervailing duty and antidumpting cases.

Another code, that of safeguards, was also to have been a part of the agreement. Potentially, it is the feature of greatest value to the United States. Under this implementing legislation, the President is empowered to proceed with non-tariff agreements, such as the safeguards code, if he can.

H.R. 4537 comes with several caveats. The first is the Bob Strauss admonition, "You can't get something for nothing." We did make concessions on American selling price, on the injury test on countervailing duties, on dairy products, especially cheese, and on the wine gallon matter, to name only a few.

In general, I believe, as does the administration, and the Ways and Means Committee, that we came out well. But, we did give up some things to achieve what we gained. That is why a strengthened Trade Adjustment Assistance Act should follow this bill as soon as possible.

The second caveat is that these improvements, and indeed all the GATT regulations, will not police themselves. They will require continuous monitoring by both Federal agencies and the private sector. Nobody will look after us but ourselves. We will have to stand up for our interests at the GATT. Another fine feature of this bill extends the private sector advisory system to assure close, continuing cooperation and communication between our public trade agencies and our private interested parties.

But the last caveat is the most important. Our trade balance deficit will not go away just because we negotiated a good treaty. Two more vital ingredients are necessary. They are an aggressive export marketing program in our private sector, and real Government support for U.S. exports across the board, including tax incentives.

Unless these vital ingredients are present, we will still suffer trade deficits in spite of our good treaty negotiating.

Mr. Chairman, H.R. 4537 is an unusual opportunity for this House. Its approval here will be the first step in putting our international trade business in order. I urge this body to vote in its favor.

At the request of the distinguished chairman of the Trade Subcommittee (Mr. VANIK) I submit the following discussion on title II.

Mr. Chairman, title II of the bill provides for revision of the U.S. law on customs valuation—that is, the method of appraising the value of imported merchandise for duty purposes—to conform with the international agreement on this subject.

This is a highly technical and complex area of customs law. The greater the complications and disparities among trading nations, the more cumbersome and unpredictable the flow of commerce becomes. For example, the current U.S. valuation system has nine different methods of determining customs value.

We have one provision in the law which sets out four standards for appraising imports, and another provision, called the alternative value basis, which sets out five more standards. To make matters worse, some of these standards use the same terms, but they are defined differently in each provision.

The customs valuation systems of our trading partners are no better. Some countries set up their own "national" prices for valuation purposes, and appraise imports according to those arbitrary figures, without any regard to the invoice price. Many other countries tack on additions to the invoice price, called uplifts which often are arbitrarily imposed. Usually the decision can not even be reviewed or appealed to any higher authority.

It is against this background that a new set of international rules for customs valuation has been developed in the MTN. The valuation agreement establishes a system which is intended to be fair and simple, conforms to commercial reality, and allows traders to predict, with a reasonable degree of accuracy, the duty that will be assessed on their products.

The new U.S. law, which is set out in title II, establishes the five methods of valuation—one primary method and four secondary methods—which are embodied in the agreement. The primary method is called transaction value, which is the price actually paid or payable for the merchandise, with additions for certain specified changes that are incurred, but not included in the price. Essentially, this method reflects the price which the buyer and seller agreed to in the open marketplace.

Specific conditions are then set forth which determine whether the transaction value of the imported goods is to be accepted as the customs value. It is the estimate of the administration that this first method of transaction value would cover about 90 percent of the importations into the United States and would thus be the fundamental basis for most of our tariff assessments.

The United States acceptance of the valuation agreement requires the repeal of the American selling price (ASP) system of customs valuation, which is primarily used to appraise for duty purposes imports of benzenoid chemicals and certain rubber-soled footwear. The rates of duty converting the ASP valuation into tariff equivalents are set out in title II. These rates of duty represent the determination by the administration of the protection equivalent to that which was provided under ASP and the old rates of duty. It is preferable, in my judgment, to spell out our protectionism in tariff duties, rather than establish unrealistic valuations like the ASP.

Finally, Mr. Chairman, title II provides guidelines for certain key concepts used in customs law. For example, the new law provides a definition of "assists," which are basically product aids such as tools, molds, or engineering designs and specifies which assists will be dutiable. In the past, this concept had never been defined in U.S. law and created a confused collection of administrative rulings.

Another element addressed in title II is the "related-party transaction," where the invoice price frequently does not reflect the true market value of the merchandise. The new criteria place a special responsibility on the Customs Service to monitor such transactions, both for the purpose of protecting the revenue and the accurate reporting of the actual value of import trade.

Mr. Chairman, title II will greatly simplify our customs valuation law. At the same time, the international agreement will serve to eliminate the protective features of our trading partners' valuation systems, increase the opportunities for U.S. exporters to appeal customs valuation decisions, place increased obligations on foreign customs administrations, and our own, in regard to the transparency of their process, and will give the United States full rights in the international dispute settlement mechanism, to complain of violations by other signatories and seek relief.

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Mr. CONABLE. Mr. Chairman, may I ask how much time I have remaining?

The CHAIRMAN. The gentleman yielded back 4 minutes, and the gentleman from New York (Mr. CONABLE) has 9 hours and 33 minutes.

Mr. CONABLE. Mr. Chairman, I yield 12 minutes to the gentleman from Pennsylvania (Mr. SCHULZE).

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. SCHULZE. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Chairman, I rise in support of H.R. 4537, legislation to implement the new international trade agreements resulting from the Tokyo round of multilateral trade negotiations. I want to join with my colleagues in congratulating those responsible for concluding this extraordinary agreement—the most complex and comprehensive in the history of international trade. I refer particularly, of course, to Ambassador Strauss and those in the Office of the Special Trade Representative, the Commerce Department, and the International Trade Commission who supported his efforts. I also commend our colleagues, led by my friend and colleague from Ohio (Mr. VANIK), on the Ways and Means Committee, who did such a diligent and thorough job of overseeing the negotiations and contributing to the formulation of this legislation.

It is important to recognize, Mr. Chairman, that the agreements which this legislation implements are not a solution to our international trade problems, but only a beginning in an effort by the United States to once again become an effective and competitive international trading nation.

To become a more effective trading nation, we need to make certain internal improvements, such as increasing the efficiency of our production and maintaining our lead in developing new technologies through extensive investment in research and development. But we also have to have an international environment for trade that is as fair as it is free. We cannot hope to compete in the absence of rules assuring that other nations are subject to the same standards that we are following, or in a situation where other nations are able to circumvent the rules.

That is what the new international agreements the House is being asked to implement attempt to do—to expand and improve the rules of international trade, and better assure that all nations comply with those rules.

In general, clearer rules of international trade within the framework of the General Agreement on Tariffs and Trade (GATT) should be to our advantage as a trading nation. Should this implementing legislation be defeated and the new agreements, therefore, not implemented, we would be left with the current international trading system. That system is extremely weak, and has contributed to the large and increasing trade deficit the United States has incurred in recent years. So, Mr. Chairman, however imperfect the new agreements might be—and, of course, we did not achieve everything we might have wanted in these agreements—I believe that these agreements represent a step toward fair international trade, and I intend to support their implementation.

Several things have concerned me about these agreements. First, I have been concerned about the apparel industry which is a major source of employment in this country and is particularly important in New York City. After careful examination of the agreements, I conclude that these agreements will not damage the apparel industry in this country, and may even help it some. The agreements leave tariffs on textile and apparel imports at 18.3 percent of value—rather high compared to the average of 5.8 percent of value for all other imports. The tariff cuts that are agreed to will be phased in more slowly than reductions for most other import items. The Government procurements aspects of the agreement exempt apparel and textiles. So all Department of Defense and most other Federal Government purchases of textiles and apparel will continue to be made exclusively from U.S. producers. The 25-percent cuts achieved in European tariffs on textiles and apparel and the new customs valuation agreement, which will end the so-called value uplift practices of countries like Italy, should help expand U.S. exports of textiles and apparel. Although foreign subsidies have only begun to be a problem for U.S. apparel manufacturers, the new subsidies and countervailing duty agreement should protect the apparel industry from serious future harm from such subsidies.

Unfortunately, Mr. Chairman, these agreements do not completely assure continued employment and vitality in the U.S. apparel industry. The agreements, for example, do not address the so-called rules-of-origin practices of the European countries which give certain preferences to textile and apparel trade among the European countries and thereby discriminate against textile and apparel products originating in the United States. Similarly, they do nothing about section 807 of our own tariff schedule which encourages U.S.-fabricated apparel components to be shipped abroad for sewing and assembly into finished garments, depriving many Americans in the garment industry of work. In 1978, an estimated $250 million in apparel parts—nearly half of our total apparel exports—were sent abroad to be finished and then shipped back to the United States under reduced section 807 tariffs. Since this problem has not been resolved in these agreements, Congress should act on legislation I have cosponsored to narrow or close off this trade loophole.

Finally, with respect to textiles and apparel, Mr. Chairman, it is disappointing that the People's Republic of China has not yet entered into a bilateral agreement with us providing for the orderly marketing of their textile and apparel products so as to avoid disruption of the U.S. textile and apparel sector. Such an agreement is being pursued with the PRC and was to have been concluded prior to final congressional approval of this package of international trade agreements. Unfortunately, the Chinese have proved somewhat more difficult than expected, and such an agreement has not been achieved. I certainly believe that it is a critical next step in our trade relations with China and in our overall efforts to achieve fairness in the international trading system. Expansion and full implementation of orderly marketing agreements such as the multifiber agreement are an essential part of that system. We should not proceed any further toward normalizing our economic relations with the PRC until we have reached a clear and reasonable understanding with them concerning trade in textiles and apparel.

I have also been concerned, Mr. Chairman, about the effects of these international trade agreements on the less developed countries of the world. It is disappointing that only a handful of developing nations have so far endorsed them, although the United States entered into bilateral trade agreements with 19 developing nations.

The large and still growing gap between the developed and oil-rich OPEC countries on the one hand, and the energy-poor developing countries of the world on the other, represents an humanitarian and security problem of enormous proportions. Foreign assistance programs alone can never bridge that gap. The amounts required are too immense, and are politically unpopular in many of the developed countries, including the United States. Increased trade and investment are essential if we are to achieve an equitable and stabilizing balance in the distribution of the world's wealth.

My own reading of the trade agreements implemented by H.R. 4537 is that they do not do enough for the less developed countries. The agreements achieve an average decline in tariffs worldwide of about one-third, phased in over an 8- to 10-year period. But these reductions apply mostly to goods traded among the industrially advanced countries. Goods exported mostly by the developing countries, such as raw or semiprocessed materials and leather goods, will benefit from average tariff reductions of only about one-quarter. Furthermore, some exports and imports of particular interest to the developing nations were not even dealt with in the negotiations. The safeguards agreement, which is intended to restrict and regulate the use of import controls, could also become a basis for new restrictions aimed at developing countries—particularly against labor-intensive products with respect to which developing countries often have a competitive advantage. New prohibitions on the use of export subsidies that adversely affect the trade or production of other countries is a hard pill for developing nations to swallow. In general, developing countries use more export subsidies and import restrictions to protect and stimulate infant industries. Although the agreements allow some preferential treatment for developing countries and longer transition periods for them to abandon restrictive practices, the effect of their acceding to the agreements would be to abandon some existing privileges and protections.

Despite these shortcomings in the agreements from the point of view of the developing countries, I strongly believe those countries should promptly endorse the agreements. I say so for two reasons. First, there are many immediate benefits for them in the agreements. The average 25-percent tariff reduction applicable to their exports, for example, while perhaps inadequate, is far from insignificant. It is roughly comparable to the tariff benefits the developing countries achieved in the previous round of multilateral trade talks—the Kennedy round completed in 1963—which helped at least some of the developing countries significantly expand their exports and improve their economic development. Second, the developing countries should sign these agreements because there is more to be gained from participation than nonparticipation. The agreements do not actually eliminate restrictive and protectionist trade practices. They simply provide new trading rules—and means for enforcing those rules—which can result in reduced protectionism and trade restriction. If the rules are followed, and not misused to reduce or limit developing country access to markets, then the developing countries will benefit. To see that the rules are followed, the developing countries must participate in the new trade system. It will do them little good—and much harm—to be outside it.

Which brings me, Mr. Chairman, to a final concern about these agreements. Compliance. In my view, this implementing legislation places perhaps too much emphasis on reorganizing the Federal Government in the international trade area, and too little emphasis on providing an effective mechanism through which the United States can stimulate international compliance with these agreements.

H.R. 4537 requires the President promptly to submit to the Congress a broad plan for reorganizing the international trade functions of the Federal Government. But reorganization solves nothing if it is not properly directed. It may even make Government less effective by squandering bureaucratic time and energy on jurisdictional battles rather than getting on with the task at hand. In this case the task at hand is to assure compliance with these agreements. Without compliance—and a mechanism for assuring compliance—the potential benefits of these agreements for U.S. trade simply will not be realized. There is little in them that guarantees anything.

In my judgment, the ability of the United States to enforce international trade agreements has long been hampered by lack of sufficient compliance staff and the general tendency of the executive branch to take broad political considerations into account. As a result, we have rarely called a spade a spade when it came to violations of international trade standards and accepted practices. This suggests to me that the most effective compliance mechanism we could create might be a special commission that is somewhat independent of the executive branch—similar to the special Commission created by the Congress several years ago to monitor compliance with the Helsinki Agreement. I hope that such a mechanism will be actively considered by the Congress in assessing and taking action on the President's international trade reorganization recommendations.

Mr. SCHULZE. Mr. Chairman, for the second time in this decade, we are being given an opportunity to vote on legislation significantly affecting our trade laws and, in turn, the economy of our Nation. The Trade Agreements Act of 1979 is the product of many long hours of consideration by the Trade Subcommittee and represents, I feel, a first step in the direction of providing adequate measures to deal with unfair trade practices.

At the beginning of the 96th Congress I introduced legislation designed to simplify, expedite, and make reliable the procedures under which domestic industries may obtain relief from unfair trade practices. This legislation received the bipartisan support of 57 Members of this body who became cosponsors, and I am pleased that certain similar provisions were incorporated within the Trade Agreements Act.

These provisions include shorter time limits for antidumping and countervailing duty investigations, concurrent referral to the ITC at the time of Treasury's preliminary determination and an 18-month deadline on the customs service for assessment of dumping duties. While these are significant procedural changes there are two other components of this bill which I feel merit special attention.

The first of these is the definition of "material injury." For many years, the United States has resisted pressure from the European Community to adopt a "material injury" requirement for countervailing duty cases. Despite strong industry opposition, our MTN negotiators have now made a major concession to our foreign trading partners by accepting an injury requirement within the subsidies code.

Let us look at an example. In my district is located the national headquarters for Avtex Fibers, Inc., which is a leading manufacturer of rayon staple fiber. For the last several years, Avtex Fibers has had to fight an ongoing battle to protect their industry from unfair trade practices, including subsidized and dumped foreign rayon staple fiber.

Under current law, Avtex needs only to establish that its foreign competition was having its products subsidized by the home market country. Once the Treasury Department has established the existence of foreign subsidization it could provide relief to Avtex by imposing countervailing duties on the imported products.

This process was therefore much shorter and less difficult than an antidumping investigation, for the domestic petitioner need not prove he had been injured as the result of subsidization. Now, however, with the passage of this legislation, Avtex would have to go that additional step and be required to spend the additional time, effort, and money to prove it had been injured. The addition of an injury requirement for countervailing duty cases is indeed a significant concession to our foreign trading partners.

While Congress did not have any input into the actual negotiations surrounding our acceptance of an injury requirement, I feel the definition of "material injury" is the apex of this trade agreement.

As Chairman VANIK will attest, few other issues received the amount of attention or debate during our executive sessions as the definition of this term. While there was some objection to defining "material injury" as, and I quote, "harm which is not inconsequential, immaterial, or unimportant." There was unanimous agreement that the definition of "material injury" would be essentially the same as currently used by the ITC in antidumping cases. We have made it clear, and should do so again today, to all parties, that this bill does not intend to establish a higher standard of injury than now exists. It merely reaffirms the ITC's present interpretation of injury and its finding in the 1967 cast iron soil pipe from Poland case.

From that standpoint, I believe we are making it more precise and more understandable than if we leave tne courts free to determine what those words, material injury, in and of themselves mean.

The clear message to the ITC is that this legislation will expand their responsibility by requiring an injury finding in countervailing duty cases. It will not, however, change their interpretation of injury.

The second provision worthy of discussion is the issue of net subsidy or offsets. Under current law, the amount of antidumping duties may be reduced by crediting the foreign producer for certain costs incurred in the construction of a plant or production of a product. These reductions are called offsets.

While considering this legislation, both the Committees of Ways and Means and Senate Finance agreed to language which would allow a deduction from gross subsidy in determining net subsidy for any application fee, deposit, or other direct payment paid, or direct verifiable cost, assumed to qualify for the subsidy. The key phrase is that no offsets would be allowed for anything that was not entirely verifiable; ttha is, regional aid programs and indirect taxes.

While the Treasury Department agreed to this language, they have modified the bill in this way: reading from page 89 of the bill, you will note that under the definition of net subsidy, section (c) reads as follows:

> Export taxes, duties, or other charges levied on the export or merchandise to the United States specifically intended to offset the subsidy received.

The important words added to our language is the phrase "duties, or other charges levied."

I have been assured that this modification will not open the floodgates to allow Treasury to offset, even one dime, for regional aid programs or indirect taxes. Nevertheless, I would like to state why I am categorically opposed to such offsets and why offsets are such a fundamental issue.

The subsidy code is very clear on this point. It says in effect that both export and domestic subsidies are to be discouraged. The real question is: Do we want to allow regional subsidies such as the building of a Michelin tire plant in Canada? What we have said is that we do not want the Treasury Department to offset a multimillion dollar Government subsidy because the Michelin Tire Co. received a Canadian Government subsidy which paid half of the $200 million total to build the plant.

I say to you that economic development decisions have, as their principal support, what would otherwise be nonviable economic activity. They give subsidies to put industries in places where industry would not normally go, remote locations which lack sufficient skilled labor or raw materials required for production.

We will continue to permit offsets for any direct payments that have to be made to get the subsidy. If you have to pay an application fee, or deposit, or another direct payment that is verifiable and identifiable to get that subsidy, we permit that.

What we do not permit is cost-sharing, in effect, and I am hopeful that the Treasury Department fully understands the intent of this legislation. That is, there will be no offsets for regional aid programs of any kind.

If you allow that kind of offset, the result will be that the Treasury Department will not be able to countervail against a foreign producer who operates a subsidized factory designed to export their products to our economy. These subsidized exports are discouraged by this agreement and, if allowed to exist will cost our constituents their jobs, and will further exacerbate our already astronomical trade deficit.

Any trade legislation must be dedicated to the principle that free trade must mean fair trade. That free competition must also mean fair competition, it is not fair trade if Americans play by the rules and our foreign competitors do not.

While I believe and support the Trade Agreements Act as a step in that direction, we must be careful not to lose sight of our goals. Five years ago we passed another significant trade bill which offered great hope to American producers seeking relief from unfair trade practices. Unfortunately, those hopes were dashed by misinterpretation of our intentions and a complete failure to enforce our trade statutes.

We can ill afford to allow the good intentions of this legislation to be lost in the bureaucratic maze. I encourage all Members of Congress to watch very closely the implementation of this legislation by the administering authorities. We must raise our voices in objection should our desires be ignored.

For the sake of our economy and the future of our Nation we can do no less.

Mr. Chairman, I ask unanimous consent that I be allowed to submit for the Record a summary prepared by the ITC highlighting its antidumping decisions since 1975.

Mr. Chairman, as you recall, we decided during our committee deliberations that this material was appropriate for the Record and would be offered at the time of our floor debate.

This material is important because each of our colleagues needs to realize that there will be no substantive change in the definition of injury or its interpretation by the ITC as a result of this implementing legislation.

Thank you, Mr. Chairman.

[From the U.S. International Trade Commission, Washington, D.C.]

[AA1921–150]

January 12, 1976.

BIRCH THREE-PLY DOOR SKINS FROM JAPAN

DETERMINATION OF INJURY

On October 10, 1975, the United States International Trade Commission received advice from the Department of the Treasury that birch three-ply door skins from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on October 22, 1975, the Commission instituted investigation No. AA1921–150 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being establish, by reason of the importation of such birch three-ply door skins into the United States.

Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the Federal Register (40 F.R. 50575). The hearing was held on November 13, 1975.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

The United States International Trade Commission has determined by a vote of 4 to 2 (Commissioners Parker and Ablondi dissenting) that an industry in the United States is being injured[1] by reason of the importation of birch three-ply door skins from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921–151]

BUTADIENE ACRYLONITRILE RUBBER FROM JAPAN

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On December 29, 1975, the United States International Trade Commission received advice from the Department of the Treasury that butadiene acrylonitrile rubber from Japan is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 5, 1976, the Commission instituted investigation No. AA1921–151 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing was published in the Federal Register of January 19, 1976 (41 F.R. 2694).

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

The United States International Trade Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of butadiene acrylonitrile rubber from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

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[1] Commissioners Moore and Bedell have also determined that an industry is likely to be injured.

By order of the Commission.

[AA1921-134A and 135A]

PRIMARY LEAD METAL FROM AUSTRALIA AND CANADA

DETERMINATION OF NO LIKELIHOOD OF INJURY

On January 5, 1976, the United States International Trade Commission received a letter from the Department of the Treasury with respect to primary lead metal from Australia and Canada which was published in the Federal Register of January 8, 1976 (41 F.R. 1502). The Commission on January 22, 1976, instituted investigation No. AA1921-134A and 135A to determine whether, if the findings of dumping on such primary lead metal from Australia and Canada[2] were revoked, an industry in the United States would likely be injured by reason of the importation into the United States of such primary lead metal at less than fair value as specified in the aforementioned letter from the Department of the Treasury.

Notice of the institution of the investigation and of the public hearing was published in the Federal Register (41 F.R. 4076). The hearing was held on February 24-26, 1976.

In arriving at its determination the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission from questionnaires, personal interviews, and other sources.

The United States International Trade Commission has unanimously determined that, if the findings of dumping on primary lead metal were revoked, an industry in the United States would not likely be injured by reason of the importation of primary lead metal from Australia and Canada into the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended, as specified in the aforementioned letter received January 5, 1976, from the Department of the Treasury.

[AA1921-152]

May 27, 1976.

WATER CIRCULATING PUMPS FROM THE UNITED KINGDOM

DETERMINATION OF INJURY

On February 27, 1976, the United States International Trade Commission received advice from the Department of the Treasury that water circulating pumps, wet motor type, suitable for use in residential and commercial hydronic heating systems from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on March 8, 1976, the Commission instituted investigation No. AA1921-152 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such water circulating pumps into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the Federal Register on March 15, 1976 (41 F.R. 10965). The hearing was held on April 20, 1976.

In arriving at its determination, the Commission gave due consideration to written submission from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaries, personal interviews, and other sources.

On the basis of the investigation, the Commission has determined by a vote of 4 to 2 (Commissioners Minchew and Ablondi dissenting) that an industry in the United States is being injured[3] by reason of the importation of water circulating pumps, wet motor type, suitable for use in residential and commercial hydronic heating systems from the United Kingdom that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-153]

CLEAR POLYMETHYL METHACRYLATE OF PELLET, POWDER, FLAKE, GRANULAR OR SIMILAR FORMS

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On March 19, 1976, the United States International Trade Commission received advice from the Department of the Treasury that clear polymethyl methacrylate of pellet, powder, flake, granular or similar forms from Japan is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on March 30, 1976, the Commission instituted investigation No. AA1921-153 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing was published in the Federal Register of April 5, 1976 (41 F.R. 14435). The hearing was held on May 11, 1976.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission[4] has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of clear polymethyl methacrylate of pellet, powder, flake, granular or similar forms from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-155]

HOLLOW OR CORED CERAMIC BRICK AND TILE

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On April 30, 1976, the United States International Trade Commission received advice from the Department of the Treasury that hollow or cored ceramic brick and tile, not including refractory or heat insulating articles, from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). The term "hollow or cored ceramic brick and tile" was defined to mean "unglazed hollow brick, including bond beam units. Such brick ranges from approximately 25 to 40 percent void." Accordingly, on May 7, 1976, the Commission instituted investigation No. AA1921-155 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Subsequently, on June 21, 1976, the Department of the Treasury amended its determination so that the term "hollow or cored ceramic brick and tile" means "unglazed hollow ceramic brick, including bond beam units. Such brick is of greater than 25 percent void." The Commission, therefore, on July 1, 1976, amended the scope of its investigation to make it correspond with the advice received.

Notice of the institution of the investigation and of the public hearing and amendments to the original notice were published in the Federal Register (41 F.R. 19383, May 12, 1976; 41 F.R. 20454, May 18, 1976; 41 F.R. 21224, May 24, 1976, and 41 F.R. 27877, July 7, 1976). The hearing was held on June 15 and 16, 1976.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of hollow or cored ceramic brick and tile, not including refractory or heat insulating articles, as defined by the Department of the Treasury, from Canada that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-154]

July 26, 1976.

ACRYLIC SHEET FROM JAPAN

DETERMINATION OF INJURY

On April 26, 1976, the United States International Trade Commission received advice from the Department of the Treasury that acrylic sheet from Japan, other than than produced and sold by Mitsubishi Rayon Company, Ltd., is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on May 4, 1976, the Commission instituted investigation No. AA1921-154 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the Federal Register on May 10, 1976 (41 F.R. 19163). Notice of amendment of the notice of investigation and hearing was published in the Federal Register on May 18, 1976 (41 F.R. 20454).

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

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[2] On January 10, 1974, the Commission determined by a 2 to 2 vote in investigations Nos. AA1921-134 and 135 that an industry in the United States is likely to be injured by reason of the importation of primary lead metal from Australia and Canada that is being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. The findings of dumping were published in the *Federal Register* on April 17, 1974 (39 F.R. 13783).

[3] Commissioner Moore has also determined that an industry is likely to be injured

[4] Commissioner Moore did not participate in the decision.

On the basis of the investigation, the Commission has determined, by a vote of 3 to 3,[5] that an industry in the United States is being injured by reason of the importation of acrylic sheet from Japan that is being, or is likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-156, 157, and 158]

Alpine Ski Bindings From Austria, Switzerland, and West Germany

DETERMINATIONS OF NO INJURY OR LIKELIHOOD THEREOF

On May 28, 1976, the United States International Trade Commission received advice from the Department of the Treasury that Alpine ski bindings and parts thereof from Austria, Switzerland, and West Germany are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). On June 8, 1976, the Commission instituted investigations Nos. AA1921-156, 157, and 158, respectively, under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigations and of the public hearing was published in the Federal Register on June 16, 1976 (41 F.R. 24460).

In arriving at its determinations, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the Commission's investigations, Commissioners Leonard, Minchew, and Ablondi have determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of Alpine ski bindings and parts thereof from Austria, Switzerland, and West Germany, respectively, that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On the basis of the Commission's investigations, Commissioners Moore, Bedell, and Parker have determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of Alpine ski bindings and parts thereof from Austria, Switzerland, and West Germany, individually or collectively, that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-159]

Tantalum Electrolytic Fixed Capacitors From Japan

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On July 22, 1976, the United States International Trade Commission received advice from the Department of the Treasury that tantalum electrolytic fixed capacitors from Japan, other than those produced and sold by Matsushita Electric Industrial Co., Ltd., are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). On August 3, 1976, the Commission instituted investigation No. AA1921-159 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing was published in the Federal Register on August 9, 1976 (41 F.R. 33337).

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has determined by a vote of 5 to 1 (Commissioner Parker dissenting) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of tantalum electrolytic fixed capacitors from Japan, other than those produced and sold by Matsushita Electric Industrial Co., Ltd., that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-160]

Knitting Machines for Ladies' Seamless Hosiery From Italy

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF OR PREVENTION OF ESTABLISHMENT

On August 25, 1976, the United States International Trade Commission received advice from the Department of the Treasury that knitting machines for ladies' seamless hosiery from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). On September 2, 1976, the Commission instituted investigation No. AA1921-160 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing was published in the Federal Register on September 13, 1976 (41 F.R. 38827).

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of knitting machines for ladies' seamless hosiery from Italy that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-161]

Portland Hydraulic Cement From Mexico

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On September 1, 1976, the United States International Trade Commission received advice from the Department of the Treasury that portland hydraulic cement, other than white non-staining cement, from Mexico, except that produced and sold by Cementos de Chihauhua and Cementos Mexicanos, is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). On September 10, 1976, the Commission instituted investigation No. AA1921-161 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing was published in the Federal Register on September 16, 1976 (41 F.R. 39845).

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of the aforementioned portland hydraulic cement from Mexico that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-162]

December 20, 1976.

Melamine in Crystal Form From Japan

DETERMINATIONS

On September 20, 1976, the United States International Trade Commission received advice from the Department of the Treasury that melamine in crystal form from Japan, is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on October 6, 1976, the Commission instituted investigation No. AA1921-162 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the Federal Register on October 14, 1976 (41 F.R. 45062). On November 9, 1976, a hearing was held in accordance with the notice at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, Vice Chairman Parker and Commissioners Moore and Bedell determined that an industry in the United States is being injured and is likely to be injured by reason of the importation of melamine in crystal form from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Chairman Minchew and Commissioners Leonard and Ablondi, on the other hand, determined that an industry in the United States is not being injured and is not likely to be injured by reason of the importation of melamine in crystal form from Japan that is being, or is likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[6]

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[5] Commissioners Bedell and Parker found in the affirmative, and Commissioner Moore found in the affirmative by determining that an industry in the United States is being or is likely to be injured; Chairman Leonard, Vice Chairman Minchew, and Commissioner Ablondi found in the negative. Pursuant to section 201(a) of the Antidumping Act, 1921, as amended, the Commission is deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative.

[AA1921-163]

CLEAR SHEET GLASS FROM ROMANIA

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On January 12, 1977, the United States International Trade Commission received advice from the Department of the Treasury that clear sheet glass from Romania is being, or is likely to be, sold at less than fair value, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 24, 1977, the Commission instituted investigation No. AA1921-163 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the Federal Register on February 1, 1977 (42 F.R. 6013). On March 8, 1977, a hearing was held in accordance with the notice, and all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission[7] has determined by a vote of 3 to 2 (Commissioners Moore and Ablondi dissenting) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of clear sheet glass from Romania that is being, or is likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-164]

ROUND HEAD STEEL DRUM PLUGS FROM JAPAN

DETERMINATION OF NO INJURY OF LIKELIHOOD THEREOF

On March 14, 1977, the United States International Trade Commission received advice from the Department of the Treasury that round head steel drum plugs from Japan are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on March 23, 1977, the Commission instituted investigation No. AA1921-164 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established by reason of the importation of such round head steel drum plugs into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was duly given by posting copies thereof in the Office of the Secretary, United States International Trade Commission, Washington, D.C., and at the Commission's New York Office, and by publishing the notice in the Federal Register of March 30, 1977 (42 F.R. 16875). On May 3, 1977, a hearing was held in accordance with the notice, and all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of round head steel drum plugs from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-165]

METAL-WALLED ABOVE-GROUND SWIMMING POOLS FROM JAPAN

DETERMINATION OF LIKELIHOOD OF INJURY

On March 29, 1977, the United States International Trade Commission received advice from the Department of the Treasury that metal-walled above-ground swimming pools from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on April 5, 1977, the Commission instituted investigation No. AA1921-165 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was duly given by posting copies thereof in the Office of the Secretary, United States International Trade Commission, Washington, D.C., and at the Commission's New York Office, and by publishing the notice in the Federal Register of April 11, 1977 (42 F.R. 18906). On May 12, 1977, a hearing was held in accordance with the notice, and all persons requesting the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission (Chairman Minchew and Commissioner Ablondi dissenting) has determined that an industry in the United States is likely to be injured by reason of the importation of metal-walled above-ground swimming pools from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-166]

July 7, 1977.

PARTS FOR SELF-PROPELLED BITUMINOUS PAVING EQUIPMENT FROM CANADA

DETERMINATION

On April 7, 1977, the United States International Trade Commission received advice from the Department of the Treasury that parts for self-propelled bituminous paving equipment from Canada, are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on April 19, 1977, the Commission instituted investigation No. AA1921-166 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notices of the institution of the investigation and of the public hearing held in connection therewith were published in the Federal Register on April 25, 1977, and April 29, 1977 (42 F.R. 21118 and 42 F.R. 21860). On May 4, 1977, a hearing was held in Chicago, Illinois, at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, Commissioners George M. Moore and Catherine Bedell determined that an industry in the United States is being injured, or is likely to be injured, by reason of the importation of parts for self-propelled bituminous paving equipment from Canada that the Secretary of the Treasury has determined are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Chairman Daniel Minchew and Commissioner Italo H. Ablondi, on the other hand, determined that an industry in the United States is not being injured, is not likely to be injured, and is not prevented from being established by reason of the importation of parts for self-propelled bituminous paving equipment from Canada that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[8]

In view of the fact that the Commissioners of the Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative, the Commission is deemed to have made an affirmative determination by operation of law. (19 USC 160(a)).

August 31, 1977.

USITC ANNOUNCES DECISION ON PRESSURE-SENSITIVE PLASTIC TAPE FROM ITALY

The United States International Trade Commission today reported to the Secretary of the Treasury its findings regarding injury with respect to pressure-sensitive plastic tape from Italy.

By a three to two vote, the Commission affirmed a complaint that the domestic industry is being injured by imports of the product made in Italy. Voting to sustain the complaint were Commission Vice Chairman Joseph O. Parker and Commissioners George M. Moore and Italo H. Ablondi. Commission

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[6] Vice Chairman Parker and Commissioners Moore and Bedell found in the affirmative, and Chairman Minchew and Commissioners Leonard and Ablondi found in the negative (see attached statements of reasons). Pursuant to section 201(a) of the Antidumping Act, 1921, as amended, the Commission is deemed to have made an affirmative determination if the Commissioners of the Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative.

[7] Commissioner Leonard did not participate in the decision.

[8] Vice Chairman Joseph O. Parker did not participate in the decision.

Chairman Daniel Minchew and Commissioner Catherine Bedell formed the minority opinion with their negative finding.

The Commission investigations were begun June 3, 1977, for Italian imports of the product, and June 27, 1977, for similar product imports from West Germany. The Commission's decision with respect to imports from West Germany will be issued no later than September 14, 1977.

The complaints which led to the Commission investigations were filed by Minnesota Mining and Manufacturing Company (3M Company) of St. Paul, Minnesota. The 3M Company is the largest U.S. producer of pressure-sensitive plastic tape.

U.S. imports of pressure-sensitive tape in 1976 were 71.3 million square yards valued at $13.4 million. Most of this production originated in Italy, West Germany, and Taiwan.

U.S. production totaled 43.9 million square yards in 1976, and most of this production was from facilities located in northeastern states.

The product's major use is as corrugated box sealing tape. Other uses are in the manufacture of printed labels, for tabbing, for color coding, and for label protection.

The Commission's report, "Pressure-Sensitive Plastic Tape from Italy" (USITC Publication 830), contains the views of the Commissioners (No. AA1921-167). Copies may be obtained from the Office of the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

[AA1921-167]

PRESSURE SENSITIVE PLASTIC TAPE FROM ITALY

DETERMINATION OF INJURY OR LIKELIHOOD THEREOF

On May 31, 1977, the United States International Trade Commission received advice from the Department of the Treasury that pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 3, 1977, the Commission instituted investigation No. AA1921-167 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith were published in the Federal Register on June 9, 1977, and July 20, 1977 (42 F.R. 29568 and 42 F.R. 37258). On July 26, 1977, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearings as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has determined (Chairman Daniel Minchew and Commissioner Catherine Bedell dissenting) that an industry in the United States is being or is likely to be injured[9] by reason of the importation of pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-168]

PRESSURE SENSITIVE PLASTIC TAPE FROM WEST GERMANY

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On June 14, 1977, the United States International Trade Commission received advice from the Department of the Treasury that pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from West Germany is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 27, 1977, the Commission instituted investigation No. AA1921-168 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notices of the institution of the investigation and of the public hearing held in connection therewith were published in the Federal Register on July 5, 1977, and July 20, 1977 (42 F.R. 34385 and 42 F.R. 37258). On August 9, 1977, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearings as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from West Germany that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-169, 170, 171, and 172]

ANIMAL GLUE AND INEDIBLE GELATIN FROM YUGOSLAVIA, SWEDEN, THE NETHERLANDS AND WEST GERMANY

DETERMINATIONS

On July 29, 1977, the United States International Trade Commission received advice from the Department of the Treasury that animal glue and inedible gelatin from Yugoslavia, Sweden, the Netherlands, and West Germany (except that produced and sold by Electro Chemische Fabrik Kempen G.m.b.H. of West Germany) are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on August 8, 1977, the Commission instituted investigations Nos. AA1921-169, 170, 171, and 172 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigations and of the public hearing held in connection therewith were published in the Federal Register on August 15, 1977 and August 24, 1977 (42 F.R. 41190 and 42 F.R. 42718). On September 15, 1977, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury[10] and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of information developed during the course of its investigations, the Commission determined by divided votes[11] that an industry in the United States is being or is likely to be injured by reason of the importation of animal glue and inedible gelatin from Yugoslavia, Sweden, the Netherlands, and West Germany, except animal glue or inedible gelatin produced in West Germany by Electro Chemische Fabrik Kempen G.m.b.H., that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-173]

CERTAIN RAILWAY TRACK MAINTENANCE EQUIPMENT FROM AUSTRIA

DETERMINATION OF INJURY

On August 11, 1977, the United States International Trade Commission received advice from the Department of the Treasury that railway track maintenance equipment from Austria is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 106(a)). Accordingly, on August 19, 1977, the Commission instituted investigation No. AA1921-173 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register on August 25, 1977 (42 F.R. 42930). On August 6 and 7, 1977, a hearing was held in Washington, D.C., at which all interested parties were provided an opportunity to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

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[9] Vice Chairman Joseph O. Parker and Commissioner George M. Moore determined in the affirmative with respect to present injury; Commissioner Italo H. Ablondi determined in the affirmative with respect to likelihood of injury.

[10] In making their determinations Vice Chairman Parker and Commissioners Moore, Bedell and Ablondi did not consider the information submitted by the Department of the Treasury dated October 21, 1977, with respect to imports of animal glue and inedible gelatin from the Netherlands.

[11] Commissioners George M. Moore and Catherine Bedell determined in the affirmative with respect to imports from all 4 countries collectively; Vice Chairman Joseph O. Parker made an affirmative determination in each of the 4 investigations; Commissioner Italo H. Ablondi made affirmative determinations in the investigations with respect to Sweden and the Netherlands, and negative determinations in the investigations with respect to Yugoslavia and West Germany; and Chairman Daniel Minchew made a separate negative determination in each of the 4 investigations. Commissioner William R. Alberger did not participate in the determinations.

On the basis of its investigation, the Commission has determined (Chairman Daniel Minchew and Commissioner Italo H. Ablondi dissenting and Commissioner Bill Alberger not participating) that an industry in the United States is being injured [12] by reason of the importation of certain railway track maintenance equipment, specifically, tampers and ballast regulators from Austria which are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921–174 and 175]

SACCHARIN FROM JAPAN AND THE REPUBLIC OF KOREA

DETERMINATIONS OF NO INJURY OR LIKELIHOOD THEREOF

On September 9, 1977, the United States International Trade Commission received advice from the Department of the Treasury that saccharin from Japan and the Republic of Korea (except that produced by Aisan Chemical Co., Ltd. of Japan) is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on September 23, 1977, the Commission instituted investigations Nos. AA1921–174 and 175 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigations and of the public hearing held in connection therewith was published in the Federal Register on September 28, 1977 (42 F.R. 49849). On October 26, 1977, a hearing was held in Washington, D.C., at which all interested parties were provided an opportunity to appear by counsel or in person.

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of information developed during the course of its investigations, the Commission has unanimously determined that an industry in the United States is not being injured and is not likely to be injured, and is not prevented from being established, by reason of the importation of saccharin from Japan or from the Republic of Korea [13] that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921–177]

March 28, 1978.

ICE HOCKEY STICKS FROM FINLAND

DETERMINATION

On December 28, 1977, the United States International Trade Commission received advice from the Department of the Treasury that ice hockey sticks from Finland are being, or are like to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 5, 1978, the Commission instituted investigation No. AA1921–177 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notices of the institution of the investigation and of the public hearing held in connection therewith were published in the Federal Register on January 11, 1978 (43 F.R. 1655). On February 23, 1978, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of information obtained in investigation No. AA1921–177, Chairman Daniel Minchew, Vice Chairman Joseph O. Parker, and Commissioners George M. Moore, Catherine Bedell, Italo H. Ablondi, and Bill Alberger determined unanimously that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of ice hockey sticks from Finland that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921–176]

IMPRESSION FABRIC OF MANMADE FIBER FROM JAPAN

DETERMINATION OF LIKELIHOOD OF INJURY

On December 28, 1977, the United States International Trade Commission received advice from the Department of the Treasury that impression fabric of manmade fiber from Japan, with the exception of that merchandise produced by Asahi Chemical Industry Co., Ltd., and Shirasaki Tape Co., Ltd., is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 5, 1978, the Commission instituted investigation No. AA1921–176 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the Federal Register on January 11, 1978 (43 F.R. 1655). On February 15, 1978, a hearing was held in New York City, at which all interested parties were provided an opportunity to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commissions' staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission determines (Chairman Minchew and Commissioner Alberger dissenting and Vice Chairman Parker not participating) that an industry in the United States is likely to be injured by reason of the importation of impression fabric of manmade fiber from Japan, with the exception of that merchandise produced by Asahi Chemical Industry Co., Ltd., and Shirasaki Tape Co., Ltd., which is being or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

[AA1921–178]

POLYVINYL CHLORIDE SHEET AND FILM FROM THE REPUBLIC OF CHINA

DETERMINATION OF INJURY OR LIKELIHOOD THEREOF

On January 12, 1978, the United States International Trade Commission received advice from the Department of the Treasury that polyvinyl chloride sheet and film from the Republic of China, with the exception of polyvinyl chloride sheet and film produced by China Gulf Plastics Corp. and Ocean Plastics Co., Ltd., are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 19, 1978, the Commission instituted investigation No. AA1921–States is being or is likely to be injured, or 178 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register on January 24, 1978 (43 F.R. 3319). On March 2, 1978, a public hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear by counsel or in person.

On the basis of its investigation, the Commission has determined (Commissioner Ablondi dissenting) that an industry in the United States is being or is likely to be injured [14] by reason of the importation of polyvinyl chloride sheet and film from the Republic of China that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearings as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921–179]

April 18, 1978.

CARBON STEEL PLATE FROM JAPAN

DETERMINATION

On January 18, 1978, the United States International Trade Commission received advice from the Department of the Treasury that carbon steel plate from Japan is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 23, 1978, the Commission instituted investigation No. AA1921–179 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notices of the institution of the investigation and of the time and place of the public hearings were published in the *Federal Register* of January 31, 1978, (43 F.R. 4125) and February 14, 1978, (43 F.R. 6342), respectively. The public hearings in connection with this investigation were held in Seattle, Wash. on March 7, 1978, and in Washington, D.C. on March 16 and 17, 1978, at which all interested persons were provided an opportunity to appear by counsel or in person.

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[12] Commissioner George M. Moore determined that an industry in the United States is being or is likely to be injured.

[13] Commissioners Moore and Bedell determine in the negative with respect to both Japan and the Republic of Korea whether less-than-fair-value imports from those countries are considered separately or collectively.

[14] Chairman Minchew and Vice Chairman Parker determined that an industry in the United States is likely to be injured; Commissioner Alberger determined that an industry in the United States is being injured; Commissioners Moore and Bedell determined that an industry in the United States is being, or is likely to be, injured.

On the basis of the information obtained in its investigation No. AA1921–179, the Commission determines unanimously[15] that an industry in the United States is being injured by reason of the importation of carbon steel plate from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921–180]

July 20, 1978.

WELDED STAINLESS STEEL PIPE AND TUBE FROM JAPAN

DETERMINATION OF NO INJURY

On April 20, 1978, the United States International Trade Commission received advice from the Department of the Treasury that welded stainless steel pipe and tube from Japan, with the exception of that merchandise produced by Toa Seiki Co., Ltd., and Yamato Industries Co., Ltd., are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on May 1, 1978, the Commission instituted investigation No. AA1921–180 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register on May 5, 1978 (43 F.R. 19469). On June 8, 1978, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear by counsel or in person.

On the basis of its investigation, the Commission determines (Commissioner Ablondi dissenting) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of welded stainless steel pipe and tube from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921–182]

August 25, 1978.

STEEL WIRE STRAND FOR PRESTRESSED CONCRETE FROM INDIA

DETERMINATION OF NO INJURY

On May 25, 1978, the United States International Trade Commission received advice from the Department of the Treasury that steel wire strand for prestressed concrete from India is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 2, 1978, the Commission instituted investigation No. AA1921–182 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register of June 8, 1978 (43 F.R. 24915). On July 19, 1978, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear in person or by counsel.

On the basis of its investigation, the Commission has unanimously determined (Commissioner Minchew not participating) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of steel wire strand for prestressed concrete from India that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921–183]

September 13, 1978.

SORBATES FROM JAPAN

DETERMINATION OF NO INJURY

On the basis of its investigation, the Commission has unanimously determined (Commissioners Ablondi and Minchew not participating) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of sorbates from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On June 13, 1978, the United States International Trade Commission received advice from the Department of the Treasury (Treasury) that sorbates from Japan are being, or are likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Treasury excluded from its LTFV determination sorbates produced by Chisso Corp. and Daicel, Ltd. on the basis of no margins and discontinued the investigation with respect to Ueno Fine Chemical Industries, Ltd. on the basis of minimal margins in relation to total sales. On June 16, 1978, the Commission instituted investigation No. AA1921–183 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register of June 23, 1978 (43 F.R. 27252). On August 1, 1978, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921–186]

RAYON STAPLE FIBER FROM BELGIUM

DETERMINATION OF INJURY OR LIKELIHOOD OF INJURY

On May 2, 1978, the United States International Trade Commission received advice from the Department of the Treasury (43 F.R. 18619 (May 1, 1978)) that rayon staple fiber from Belgium is being, or is likely to be sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on May 15, 1978, the Commission instituted investigation No. AA1921–181 under section 201(a) of the act to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the Federal Register of May 19, 1978 (43 F.R. 21740). On June 20, 1978, a hearing was held in Washington, D.C., at which time all interested persons were provided the opportunity to appear by counsel or in person.

On July 21, 1978, the Commission was advised by Treasury that it had reconsidered the basis for its fair-value comparisons of rayon staple fiber from Belgium (43 F.R. 32915 (July 28, 1978)). As a result of its reconsideration, Treasury modified its determination of May 2, 1978, such that the weighted average LTFV margin increased from 6.7 percent to 57.6 percent. Having received new and substantially different advice from Treasury, the Commission took the following actions:

1. Terminated investigation No. AA1921–181 without any determination because of the intervening advice of the Treasury;

2. Instituted the instant investigation (No. AA1921–186) to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of rayon staple fiber from Belgium into the United States; and

3. Determined that these did not appear to be good and sufficient reasons for holding a public hearing in investigation No. AA1921–186 because the written statements and transcript of the hearing from the prior investigation remained relevant to the Commission's determination in the new investigation. Nevertheless, in accordance with 19 C.F.R. 208.4, the Commission allowed any interested persons to submit a request for a public hearing in investigation No. AA1921–186. No such requests were received and a new public hearing was not held.

Notice of the termination of investigation No. AA1921–181 and the institution of investigation No. AA1921–186 was published in the Federal Register of August 8, 1978 (43 F.R. 35122).

On the basis of its investigation the Commission determines (Vice Chairman Alberger and Commissioner Ablondi dissenting and Commissioner Minchew not participating) that an industry in the United States is being or is likely to be injured by reason of the importation of rayon staple fiber from Belgium, which is being or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

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[15] Vice Chairman Joseph O. Parker and Commissioner Italo H. Ablondi not participating.

2. Instituted the instant investigation (No. AA1921-186) to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of rayon staple fiber from Belgium into the United States; and

3. Determined that there did not appear to be good and sufficient reasons for holding a public hearing in investigation No. AA1921-186 because the written statements and transcript of the hearing from the prior investigation remained relevant to the Commission's determination in the new investigation. Nevertheless, in accordance with 19 C.F.R. 208.4, the Commission allowed any interested persons to submit a request for a public hearing in investigation No. AA1921-186. No such requests were received and a new public hearing was not held.

Notice of the termination of investigation No. AA1921-181 and the institution of investigation No. AA1921-186 was published in the Federal Register of August 8, 1978 (43 F.R. 35122).

On the basis of its investigation the Commission determines (Vice Chairman Alberger and Commissioner Ablondi dissenting and Commissioner Minchew not participating) that an industry in the United States is being or is likely to be injured by reason of the importation of rayon staple fiber from Belgium, which is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

USITC REPORTS NO INJURY TO U.S. INDUSTRY BY LTFV IMPORTS OF PORTLAND HYDRAULIC CEMENT FROM CANADA

The United States International Trade Commission today reported to the Secretary of the Treasury its determination, by a 3-to-1 vote, that there is no injury or likelihood of injury or prevention of establishment of an industry in the United States by reason of sales of portland hydraulic cement from Canada at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended.

Vice Chairman Bill Alberger and Commissioners Catherine Bedell and Italo H. Ablondi concurred in the determination. Commissioner George M. Moore dissented. Chairman Joseph O. Parker and Commissioner Daniel Minchew did not participate.

The Commission's investigation began on June 29, 1978, after receipt of a determination of LTFV sales of the product by the Treasury Department. A public hearing in connection with the investigation was held on July 26, 1978, in Washington, D.C.

Portland hydraulic cement is a mixture of limestone, clay, silica, and other raw materials. When mixed with water and mineral aggregate, it chemically reacts to form concrete which is consumed almost wholly in highway and building construction. The product is manufactured from materials which are widely distributed throughout the United States.

Cement plants have been built in virtually every domestic market area. The product is manufactured in 40 States and Puerto Rico in 163 plants owned by 57 companies. In 1977, these plants produced 78 million short tons and utilized 75 percent of their annual grinding capacity. The principal producing States are Texas, Pennsylvania, California, and Michigan. The portland hydraulic cement market is regional and intensely competitive. A cement shortage exists in many areas of the United States.

During 1975-77, annual domestic consumption of the product increased steadily from 69 million tons in 1975 to 78 million tons in 1977. U.S. annual shipments of the product increased continuously during 1975-77, from 66 million tons, valued at $2.0 billion in 1975 to 76 million tons, valued at $2.84 billion in 1977. In addition to Canada, which accounted for more than 55 percent of U.S. imports in 1977, other principal sources included the Bahamas, Norway, Spain, Mexico, and Sweden.

Total U.S. imports of the product decreased from 2.5 million tons valued at $49 million in 1975 to 2.4 million tons, valued at $63 million in 1977.

The four Canadian firms covered in Treasury's investigation accounted for more than 84 percent of all U.S. imports of portland hydraulic cement from Canada all of which was imported into the Northeast. Treasury found the weighted average margins to range from 0.3 percent to 369 percent, while the weighted average margin for all sales at margin (from all four companies) was 50.1 percent.

The domestic companies producing the same merchandise reported increased levels of shipments in the total U.S. market and the Canadian border market, while shipments declined in the northeast market after 1975 from 3,708 short tons to 3,280 short tons in 1977. Employment in the domestic industry, labor productivity, and average earnings of production and related workers all increased during 1975-77. Domestic cement production selling into the Northeast market have operated at a loss for three years.

U.S. capacity utilization has increased annually in the total domestic, northeast, and Canadian border markets. In the northeast market, capacity utilization from 1975 to 1977 had the greatest increase, larger than that for the entire U.S. industry. Canada has been the dominant supplier of U.S. imports during 1975-77. Imports from Canada were about 1.1 million tons in 1975 and 1976 and increased to 1.3 million tons in 1977.

The Commission's report, "Portland Hydraulic Cement From Canada" (USITC Publication 918), contains the views of the Commissioners and information developed during the investigation (No. AA1921-184). Copies may be obtained by calling (202) 523-5178 or from the office of the Secretary, 701 E Street NW., Washington, D.C. 20436.

[AA1921-184]

PORTLAND HYDRAULIC CEMENT FROM CANADA

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On June 23, 1978, the United States International Trade Commission received advice from the Department of the Treasury that portland hydraulic cement from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 29, 1978, the Commission instituted investigation No. AA1921-184 under section 201(a) of said act to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For purposes of Treasury's determination, the term "portland hydraulic cement" refers to portland hydraulic cement, other than white non-staining.

Notices of the institution of the investigation and of the public hearing held in connection therewith were published in the Federal Register on July 6, 1978, (43 F.R. 29192). On July 26-28, 1978, a hearing was held in Washington, D.C. at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of information developed in investigation No. AA1921-184, the Commission has determined (Commissioner George M. Moore dissenting and Chairman Joseph O. Parker and Commissioner Daniel Minchew not participating) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established by reason of the importation of portland hydraulic cement from Canada that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Commissioner George M. Moore determined that an industry in the United States is being injured by reason of the importation of portland hydraulic cement into the United States from Canada that is being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-185]

NYLON YARN FROM FRANCE

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On July 18, 1978, the United States International Trade Commission received advice from the Department of the Treasury that nylon yarn from France is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on July 26, 1978, the Commission instituted investigation No. AA1921-185 under section 201(a) of said act to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For purposes of Treasury's determination, the term "nylon yarn" refers to nylon yarn and grouped nylon filaments, not textured, provided for in items 309.3030, 309.-3130, 310.0149, and 310.0249 of the Tariff Schedules of the United States Annotated (TSUSA).

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register of August 1, 1978 (43 F.R. 33833). The public hearing was held in Washington, D.C., on August 29, 1978, and all persons requesting the opportunity to appear were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

DETERMINATION

On the basis of information developed in investigation No. AA1921-185, the Commission unanimously determined[16] that an industry in the United States is not being, and is not likely to be injured, and is not prevented from being established by reason of the importation of nylon yarn from France that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

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[16] Chairman Parker, Vice Chairman Alberger, and Commissioners Moore and Bedell. Commissioner Stern had not yet assumed her duties as a Commissioner at the time that the determination was made.

[AA1921-188]

November 16, 1978.

STEEL WIRE STRAND FOR PRESTRESSED CONCRETE FROM JAPAN

DETERMINATION OF INJURY

On the basis of its investigation, the United States International Trade Commission (Commission) has unanimously determined (Commissioner Stern not participating)[17] that an industry in the United States is being injured by reason of the importation of steel wire strand for prestressed concrete from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On August 22, 1978, the United States International Trade Commission received advice from the Department of the Treasury that steel wire strand for prestressed concrete from Japan, with the exception of that produced by Kawatetsu Wire Products Co., Ltd., is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on August 29, 1978, the Commission instituted investigation No. AA1921-188 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the *Federal Register* of September 5, 1978 (43 F.R. 39454). On October 3, 1978, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921-187]

November 3, 1978.

MOTORCYCLES FROM JAPAN

DETERMINATION OF NO INJURY

On the basis of its investigation, the United States International Trade Commission (Commission) has unanimously determined (Commissioner Stern not participating)[18] that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of motorcycles from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On August 3, 1978, the Commission received advice from the Department of the Treasury (Treasury) that motorcycles from Japan are being, or are likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Treasury excluded from its LTFV determination motorcycles produced by Suzuki Motor Co., Ltd. On August 11, 1978, the Commission instituted investigation no. AA1921-187 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. On October 18, 1978, the Commission was advised by Treasury that its determination of sales at LTFV was being amended to discontinue the investigation with respect to motorcycles produced and sold by Yamaha Motor Co., Ltd., and to report certain changes in the margins by which sales by Honda Motor Co., Ltd., and Kawasaki Heavy Industries, Ltd. are at less than fair value. Suzuki Motor Co., Ltd. remained excluded from the investigation.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the *Federal Register* of August 17, 1978 (43 F.R. 36519). On September 28 and 29, 1978, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921-190 and 191]

DETERMINATIONS OF INJURY OR LIKELIHOOD OF INJURY

On November 13, 1978, the United States International Trade Commission received advice from the Department of the Treasury (43 F.R. 53530, November 16, 1978) that rayon staple fiber from France and from Finland is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on November 28, 1978, the Commission instituted investigations Nos. AA1921-190 and AA1921-191 under section 201(a) of the act to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the Federal Register of December 4, 1978 (43 F.R. 56735). On January 4 and 5, 1979, a hearing was held in Washington, D.C., at which time all interested persons were provided the opportunity to appear by counsel or in person.

On the basis of its investigation the Commission determines (Vice Chairman Alberger dissenting) that an industry in the United States is being injured[19] by reason of the importation of rayon staple fiber[20] from France, which is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

On the basis of its investigation the Commission determines (Vice Chairman Alberger and Commissioner Stern dissenting) that an industry in the United States is being injured[21] by reason of the importation of rayon staple fiber[22] from Finland, which is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921-189]

CERTAIN STEEL WIRE NAILS FROM CANADA

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On November 1, 1978, the United States International Trade Commission received advice from the Department of the Treasury that certain steel wire nails from Canada, except those produced by Tree Island Steel Co., Ltd., and Steel Co. of Canada, Ltd., are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act 1921, as amended (19 U.S.C. 160(a)). Accordingly, on November 15, 1978, the Commission instituted investigation No. AA1921-189 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For the purpose of Treasury's determination, the term "certain steel wire nails" means steel wire brads, nails, spikes, staples, and tacks of one-piece construction which are 1 inch or more in length and 0.065 inch or more in diameter, as provided for in item 646.26 of the Tariff Schedules of the United States (TSUS).

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register of November 21, 1978 (43 F.R. 54304). The public hearing was held in Washington, D.C., on December 14, 1978, and all persons requesting the opportunity to appear were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing and obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

DETERMINATION

On the basis of information developed in investigation No. AA1921-189, the Commission unanimously determined (Chairman Parker not participating) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of certain steel wire nails from Canada that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-193]

BICYCLE TIRES AND TUBES FROM THE REPUBLIC OF KOREA

DETERMINATION OF INJURY

On the basis of its investigaton, the United States International Trade Commission unanimously determines that an industry in the United States is being or is likely to be injured[23] by reason of the importation of bicycle tires and tubes from the Republic of Korea that are being, or are likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

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[17] Commissioner Stern did not participate in the decision because she did not assume her duties as a Commissioner until the preliminary investigation of the economic factors and legal issues in the case had been completed.

[18] Commissioner Stern assumed her duties as a Commissioner on October 16, 1978, and was not a Commissioner at the time of the public hearing or during most of the investigative period.

[19] Commissioner Moore determined that an industry in the United States is being or is likely to be injured by reason of the importation of rayon staple fiber from France and from Finland, which is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

[20] Commissioner Stern's determination was limited to the importation of "commodity type" rayon staple fiber.

[21] Commissioner Moore determined that an industry in the United States is being or is likely to be injured by reason of the importation of rayon staple fiber from France and from Finland, which is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

[22] Commissioner Stern's determination was limited to the importation of "commodity type" rayon staple fiber.

[23] Chairman Parker and Commissioners Moore, Bedell, and Stern determine that an industry is being or is likely to be injured; Vice Chairman Alberger determines that an industry is being injured.

On December 26, 1978, the United States International Trade Commission received advice from the Department of the Treasury that bicycle tires and tubes from the Republic of Korea, are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 9, 1979, the Commission instituted investigation No. AA1921–193 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register of January 15, 1979 (44 F.R. 3101). On February 8, 1979, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921–192]

Silicon Metal From Canada

DETERMINATION OF NO INJURY

On December 5, 1978, the United States International Trade Commission received advice from the Department of the Treasury that silicon metal from Canada is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on December 15, 1978, the Commission instituted investigation No. AA1921–192 under section 201 (a) of the act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register on December 21, 1978 (43 F.R. 59555). On January 23, 1979, a hearing was held in Washington, D.C., at which time all interested persons were provided the opportunity to appear by counsel or in person.

On the basis of its investigation, the Commission determines (Chairman Parker dissenting) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of silicon metal from Canada that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921–194, AA1921–195, and AA1921–196]

Perchloroethylene From Belgium, France, and Italy

DETERMINATIONS OF INJURY

On the basis of information obtained in investigations Nos. AA1921–194, AA1921–195, and AA1921–196, the Commission determines (Vice Chairman Alberger and Commissioner Stern dissenting) that an industry in the United States is being injured by reason of the importation of perchloroethylene from Belgium, France, and Italy that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On January 30, 1979, the United States International Trade Commission received advice from the Department of the Treasury that perchloroethylene from Belgium, France, and Italy is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on February 8, 1979, the Commission instituted investigations Nos. AA1921–194 (perchloroethylene from Belgium), AA1921–195 (perchloroethylene from France), and AA1921–196 (perchloroethylene from Italy) under section 201 (a) of said act, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

In connection with the investigations, a public hearing was held in Washington, D.C., on March 13, 1979. Notice of the institution of the investigations and the public hearing was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the Federal Register of February 20, 1979 (44 F.R. 10442).

The Treasury Department instituted its investigations after receiving a complaint filed on June 16, 1978, from counsel acting on behalf of PPG Industries, Inc., Pittsburgh, Pa.; Stauffer Chemical Co., Westport, Conn.; Diamond Shamrock Corp., Cleveland, Ohio; Vulcan Materials Co., Birmingham, Ala.; and Dow Chemical U.S.A., Midland, Mich. Treasury's notices of withholding of appraisement and its determinations of sales at LTFV were published in the Federal Register of February 2, 1979 (44 F.R. 6821–6824).

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921–198, AA1921–199, and AA1921–200]

Sugar From Belgium, France, and West Germany

DETERMINATIONS OF INJURY

On the basis of information developed during the course of investigations Nos. AA1921–198, AA1921–199, and AA1921–200, the Commission unanimously determines that an industry in the United States is being injured by reason of the importation of sugar from Belgium, France, and West Germany, provided for in items 155.20 and 155.30 of the Tariff Schedules of the United States, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On February 16, 1979, the United States International Trade Commission received advice from the Department of the Treasury that sugar from Belgium, France, and West Germany is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on March 1, 1979, the Commission instituted investigations Nos. AA1921–198 (sugar from Belgium), AA1921–199 (sugar from France), and AA1921–200 (sugar from West Germany) under section 201(a) of said act, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

In connection with the investigations, a public hearing was held in Miami, Florida, on April 10, 1979. Notice of the institution of the investigations and the public hearing was given by posting copies of the notice at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and at the Commission's office in New York City, and by publishing the notice in the Federal Register of March 8, 1979 (44 F.R. 12777). Notice of the time and place of the public hearing was made in the same manner and was published in the Federal Register of March 21, 1979 (44 F.R. 17235).

The Treasury Department instituted its investigation after receiving a complaint filed on July 10, 1978, by counsel for the Florida Sugar Marketing and Terminal Association, Inc. Treasury's notices of withholding of appraisement and its determinations of sales at LTFV were published in the Federal Register of February 12, 1979 (44 F.R. 8049).

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews and other sources.

[AA1921–201]

Determination of Injury or Likelihood of Injury

On the basis of its investigation the Commission determines (Vice Chairman Alberger and Commissioner Stern dissenting) that an industry in the United States is being, or is likely to be, injured by reason of the importation of rayon staple fiber[24] from Italy, which is being, or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

On February 22, 1979, the United States International Trade Commission received advice from the Department of the Treasury that rayon staple fiber from Italy is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on March 7, 1979, the Commission instituted investigation No. AA1921–201 under section 201(a) of the act to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the Federal Register of March 12, 1979 (44 F.R. 13590). On April 5, 1979, a hearing was held in Washington, D.C., at which time all interested persons were provided the opportunity to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921–197]

Carbon Steel Plate From Taiwan

DETERMINATION

On the basis of the information obtained in the investigation, the Commission determines (Vice Chairman Alberger and Commissioner Stern dissenting, Chairman Parker not participating) that an industry in the

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[24] Commissioner Stern's determination was limited to the importation of "commodity type" rayon staple fiber.

United States is being or is likely to be injured by reason of the importation of carbon steel plate from Taiwan, which the Department of the Treasury has determined is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 (a)).[25]

BACKGROUND

On February 12, 1979, the United States International Trade Commission received advice from the Department of the Treasury that carbon steel plate from Taiwan is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act. Accordingly, on February 26, 1979, the Commission instituted investigation No. AA1921-197 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the Federal Register of March 2, 1979 (44 F.R. 11854). The public hearing was held in Washington, D.C., on April 3, 1979, and all persons who requested the opportunity were permitted to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested persons and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[AA1921-152]

May 27, 1976.

WATER CIRCULATING PUMPS FROM THE UNITED KINGDOM

DETERMINATION OF INJURY

On February 27, 1976, the United States International Trade Commission received advice from the Department of the Treasury that water circulating pumps, wet motor type, suitable for use in residential and commercial hydronic heating systems from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on March 8, 1976, the Commission instituted investigation No. AA1921-152 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such water circulating pumps into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the Federal Register on March 15, 1976 (41 F.R. 10965). The hearing was held on April 20, 1976.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has determined by a vote of 4 to 2 (Commissioners Minchew and Ablondi dissenting (that an industry in the United States is being injured[25a] by reason of the importation of water circulating pumps, wet motor type, suitable for use in residential and commercial hydronic heating systems from the United Kingdom that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-153]

CLEAR POLYMETHYL METHACRYLATE OF PELLET, POWDER, FLAKE, GRANULAR OR SIMILAR FORMS

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On March 19, 1976, the United States International Trade Commission received advice from the Department of the Treasury that clear polymethyl methacrylate of pellet, powder, flake, granular or similar forms from Japan is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on March 30, 1976, the Commission instituted investigation No. AA1921-153 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing was published in the Federal Register of April 5, 1976 (41 F.R. 14435). The hearing was held on May 11, 1976.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission[26] has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of clear polymethyl methacrylate of pellet, powder, flake, granular or similar forms from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-154]

July 26, 1976.

ACRYLIC SHEET FROM JAPAN

DETERMINATION OF INJURY

On April 26, 1976, the United States International Trade Commission received advice from the Department of the Treasury that acrylic sheet from Japan, other than that produced and sold by Mitsubishi Rayon Company, Ltd., is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on May 4, 1976, the Commission instituted investigation No. AA1921-154 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the Federal Register on May 10, 1976, (41 F.R. 19163). Notice of amendment of the notice of investigation and hearing was published in the Federal Register on May 18, 1976 (41 F.R. 20454).

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has determined, by a vote of 3 to 3,[27] that an industry in the United States is being injured by reason of the importation of acrylic sheet from Japan that is being, or is likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-155]

HOLLOW OR CORED CERAMIC BRICK AND TILE

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On April 30, 1976, the United States International Trade Commission received advice from the Department of the Treasury that hollow or cored ceramic brick and tile, not including refractory or heat insulating articles, from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). The term "hollow or cored ceramic brick and tile" was defined to mean "unglazed hollow brick, including bond beam units. Such brick ranges from approximately 25 to 40 percent void." Accordingly, on May 7, 1976, the Commission instituted investigation No. AA1921-155 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Subsequently, on June 21, 1976, the Department of the Treasury amended its determination so that the term "hollow or cored ceramic brick and tile" means "unglazed hollow ceramic brick, including bond beam units. Such brick is of greater than 25 percent void." The Commission, therefore, on July 1, 1976, amended the scope of its investigation to make it correspond with the advice received.

Notice of the institution of the investigation and of the public hearing and amendments to the original notice were published in the Federal Register (41 F.R. 19383, May 12, 1976; 41 F.R. 20454, May 18, 1976; 41 F.R. 21224, May 24, 1976, and 41 F.R. 27877, July 7, 1976). The hearing was held on June 15 and 16, 1976.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

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[25] The Commissioners voting were evenly divided in their votes, with Commissioners George M. Moore and Catherine Bedell voting in the affirmative and Vice Chairman Bill Alberger and Commissioner Paula Stern voting in the negative. Sec. 201(a) of the Antidumping Act provides that the Commission shall be deemed to have made an affirmative determination if the Commissioners voting are evenly divided as to whether its determination should be in the affirmative or in the negative. Therefore, the Commission, being evenly divided, is considered to have made an affirmative determination.

[25a] Commissioner Moore has also determined that an industry is likely to be injured.

[26] Commissioner Moore did not participate in the decision.

[27] Commissioners Bedell and Parker found in the affirmative, and Commissioner Moore found in the affirmative by determining that an industry in the United States is being or is likely to be injured; Chairman Leonard, Vice Chairman Minchew, and Commissioner Ablondi found in the negative. Pursuant to section 201(a) of the Antidumping Act, 1921, as amended, the Commission is deemed to have made an affirmative determination if the Commissioners of the said Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative.

On the basis of its investigation, the Commission has unanimously determined that an industry in the United is not being and is not likely to be injured and is not prevented from being established, by reason of the importation of hollow or cored ceramic brick and tile, not including refractory or heat insulating articles, as defined by the Department of the Treasury, from Canada that are being, or likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921–156, 157, and 158]

Alpine Ski Bindings From Austria, Switzerland, and West Germany

DETERMINATIONS OF NO INJURY OR LIKELIHOOD THEREOF

On May 28, 1976, the United States International Trade Commission received advice from the Department of the Treasury that Alpine ski bindings and parts thereof from Austria, Switzerland, and West Germany are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). On June 8, 1976, the Commission instituted investigations Nos. AA1921–156, 157, and 158, respectively, under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigations and of the public hearing was published in the Federal Register on June 16, 1976 (41 F.R. 24460).

In arriving at its determinations, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the Commission's investigations, Commissioners Leonard, Minchew, and Ablondi have determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of Alpine ski bindings and parts thereof from Austria, Switzerland, and West Germany, respectively, that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

On the basis of the Commission's investigations, Commissioners Moore, Bedell, and Parker have determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of Alpine ski bindings and parts thereof from Austria, Switzerland, and West Germany, individually or collectively, that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921–159]

Tantalum Electrolytic Fixed Capacitors From Japan

DETERMINATION OF NO INJURY OF LIKELIHOOD THEREOF

On July 22, 1976, the United States International Trade Commission received advice from the Department of the Treasury that tantalum electrolytic fixed capacitors from Japan, other than those produced and sold by Matsushita Electric Industrial Co., Ltd., are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). On August 3, 1976, the Commission instituted investigation No. AA1921–159 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing was published in the Federal Register on August 9, 1976 (41 F.R. 33337).

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has determined by a vote of 5 to 1 (Commissioner Parker dissenting) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of tantalum electrolytic fixed capacitors from Japan, other than those produced and sold by Matsushita Electric Industrial Co., Ltd., that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921–160]

Knitting Machines for Ladies' Seamless Hosiery from Italy

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF OR PREVENTION OF ESTABLISHMENT

On August 25, 1976, the United States International Trade Commission received advice from the Department of the Treasury that knitting machines for ladies' seamless hosiery from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). On September 2, 1976, the Commission instituted investigation No. AA1921-160 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing was published in the Federal Register on September 13, 1976 (41 F.R. 38827).

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of knitting machines for ladies' seamless hosiery from Italy that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921–161]

Portland Hydraulic Cement From Mexico

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On September 1, 1976, the United States International Trade Commission received advice from the Department of the Treasury that portland hydraulic cement, other than white non-staining cement, from Mexico, except that produced and sold by Cementos de Chihauhua and Cementos Mexicanos, is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). On September 10, 1976, the Commission instituted investigation No. AA1921–161 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing was published in the Federal Register on September 16, 1976 (41 F.R. 39845).

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of the aforementioned portland hydraulic cement from Mexico that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

USITC Finds Injury in Melamine Crystals Dumping Case

The United States International Trade Commission has determined that a domestic industry is being injured and is likely to be injured by less-than-fair-value imports of melamine in crystal form from Japan. As a result of the determination, special dumping duties will be imposed by the Treasury Department. Sales at less than fair value are generally considered to be sales of items for export to the United States at prices less than of the articles in their home market.

Vice Chairman Joseph O. Parker and Commissioners George M. Moore and Catherine Bedell found that a U.S. industry is being injured and is likely to be injured by the "less than fair value" imports. Chairman Daniel Minchew and Commissioners Will E. Leonard and Italo H. Ablondi found that a U.S. industry is not being injured and is not likely to be injured by the "less than fair value" imports. Under section 201 of the Antidumping Act, a tie vote is considered to be a determination of injury.

On September 20, 1976, the USITC received advice from the Treasury Department that melamine in crystal form from Japan is being, or is likely to be sold at less than fair value. The Treasury investigation was limited to melamine crystals manufactured by Nissan Chemical Industries, Ltd., Tokyo, Japan, since virtually all imports of the subject melamine from Japan were produced by this manufacturer. Subsequently, the Commission instituted the investigation that resulted in today's determination.

Melamine is a fine white crystalline powder produced from urea and ammonia, both products of natural gas. It is used to manufacture amino resins which in turn have a wide variety of end uses, such as counter tops, paints, dinnerware, and adhesives.

There are three firms in the United States involved in the production of melamine. These firms supply melamine to more than 60 manufacturers of amino resins. The melamine industry directly employs about 230 workers. Major production centers are located in Louisiana and Ohio.

U.S. production of melamine in 1975 was about 85.9 million pounds. Imports during this period amounted to 6.3 million pounds, valued at about $1.8 million. The majority of imports of melamine come from Japan.

Copies of the Commission's report, "Melamine in Crystal Form from Japan" (USITC Publication 796), containing the views of the Commissioners and information developed during the course of investigation No. AA1921–162, may be obtained from the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

[AA1921-162]

December 20, 1976.

MELAMINE IN CRYSTAL FORM FROM JAPAN

DETERMINATION

On September 20, 1976, the United States International Trade Commission received advice from the Department of the Treasury that melamine in crystal form from Japan, is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on October 6, 1976, the Commission instituted investigation No. AA1921-162 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the Federal Register on October 14, 1976 (41 F.R. 45062). On November 9, 1976, a hearing was held in accordance with the notice at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, Vice Chairman Parker and Commissioners Moore and Bedell determined that an industry in the United States is being injured and is likely to be injured by reason of the importation of melamine in crystal form from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Chairman Minchew and Commissioners Leonard and Ablondi, on the other hand, determined that an industry in the United States is not being injured and is not likely to be injured by reason of the importation of melamine in crystal form from Japan that is being, or is likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[26a]

USITC FINDS NO INJURY IN SHEET GLASS DUMPING CASE

The United States International Trade Commission reported to the Secretary of the Treasury today that no domestic industry is being or is likely to be injured by imports of clear sheet glass from Romania found by Treasury to be sold at less than fair value. As a result of the determination, no special dumping duties will be imposed by the Treasury Department. Sales at less than fair value are generally considered to be sales of an item for export to the United States at a price less than that of the articles in its home market.

Chairman Daniel Minchew, Vice Chairman Joseph O. Parker, and Commissioner Catherine Bedell found that a U.S. industry is not being injured and is not likely to be injured by the imports of clear sheet glass from Romania sold at less than fair value. Commissioners George M. Moore and Italo H. Ablondi found that a U.S. industry is bein injured by these imports. Commissioner Will E. Leonard did not participate in the decision.

On January 12, 1977, the USITC received advice from the Treasury Department that clear sheet glass from Romania is being, or is likely to be, sold at less than fair value. The Commission subsequently instituted the investigation that resulted in today's determination.

Two types of flat glass were considered by the Commission in the investigation. Sheet glass is a transparent flat glass with a smooth, fire-polished surface made by machine drawing as opposed to float glass, a similar glass which is produced by floating a layer of molten glass on molten tin.

In 1977 three firms in the United States produce sheet glass at four establishments. Float glass is produced by 7 domestic firms in about 25 production facilities.

Domestic sheet glass and float glass are sold, priced, and distributed on a nationwide basis. The selection of one type of flat glass over another is based upon both quality and price. Sheet glass is used primarily to glaze windows and doors. Float glass has captured the market for automobile glass and displaced sheet glass in many other applications.

Copies of the Commission's report, "Clear Sheet Glass from Romania" (USITC Publication 811), containing the views of the commissioners and information developed during the course of investigation No. AA1921-163, may be obtained from the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

[AA1921-163]

CLEAR SHEET GLASS FROM ROMANIA

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On January 12, 1977, the United States International Trade Commission received advice from the Department of the Treasury that clear sheet glass from Romania is being, or is likely to be, sold at less than fair value, within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 24, 1977, the Commission instituted investigation No. AA1921-163 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was published in the *Federal Register* on February 1, 1977 (42 F.R. 6013). On March 8, 1977, a hearing was held in accordance with the notice, and all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission[27] has determined by a vote of 3 to 2 (Commissioners Moore and Ablondi dissenting) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of clear sheet glass from Romania that is being, or is likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921-164]

ROUND HEAD STEEL DRUM PLUGS FROM JAPAN

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On March 14, 1977, the United States International Trade Commission received advice from the Department of the Treasury that round head steel drum plugs from Japan are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on March 23, 1977, the Commission instituted investigation No. AA1921-164 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established by reason of the importation of such round head steel drum plugs into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was duly given by posting copies thereof in the Office of the Secretary, United States International Trade Commission, Washington, D.C., and at the Commission's New York Office, and by publishing the notice in the Federal Register of March 30, 1977 (42 F.R. 16875). On May 3, 1977, a hearing was held in accordance with the notice, and all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has unanimously determined that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of round head steel drum plugs from Japan that are being, or are likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

METAL-WALLED ABOVE-GROUND SWIMMING POOLS FROM JAPAN

DETERMINATION OF LIKELIHOOD OF INJURY

On March 29, 1977, the United States International Trade Commission received advice from the Department of the Treasury that metal-walled above-ground swimming pools from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on April 5, 1977, the Commission instituted investigation No. AA1921-165 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of a public hearing to be held in connection therewith was duly given by posting copies thereof in the Office of the Secretary, United States International Trade Commission, Washington, D.C., and at the Commission's New York Office, and by publishing the notice in the *Federal Register* of April 11, 1977 (42 F.R. 18906). On May 12, 1977, a hearing was held in accordance with the notice, and all persons requesting the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

[26a] Vice Chairman Parker and Commissioners Moore and Bedell found in the affirmative, and Chairman Minchew and Commissioners Leonard and Ablondi found in the negative (see attached statements of reasons). Pursuant to section 201(a) of the Antidumping Act, 1921, as amended, the Commission is deemed to have made an affirmative determination if the Commissioners of the Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative.

[27] Commissioner Leonard did not participate in the decision.

One the basis of the investigation, the Commission (Chairman Minchew and Commissioner Ablondi dissenting) has determined that an industry in the United Statese is likely to be injured by reason of the importation of metal-walled above-ground swimming pools from Japan that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

[AA1921–166]

July 7, 1977.

Parts for Self-Propelled Bituminous Paving Equipment From Canada

DETERMINATION

On April 7, 1977, the United States International Trade Commission received advice from the Department of the Treasury that parts for self-propelled bituminous paving equipment from Canada, are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on April 19, 1977, the Commission instituted investigation No. AA1921–166 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notices of the institution of the investigation and of the public hearing held in connection therewith were published in the Federal Register on April 25, 1977, and April 29, 1977 (42 F.R. 21118 and 42 F.R. 21860). On May 4, 1977, a hearing was held in Chicago, Illinois, at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, Commissioners George M. Moore and Catherine Bedell determined that an industry in the United States is being injured, or is likely to be injured, by reason of the importation of parts for self-propelled bituminous paving equipment from Canada that the Secretary of the Treasury has determined are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Chairman Daniel Minchew and Commissioner Italo H. Ablondi, on the other hand, determined that an industry in the United States is not being injured, is not likely to be injured, and is not prevented from being established by reason of the importation of parts for self-propelled bituminous paving equipment from Canada that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[28]

In view of the fact that the Commissioners of the Commission voting are evenly divided as to whether its determination should be in the affirmative or in the negative, the Commission is deemed to have made an affirmative determination by operation of law. (19 U.S.C. 160(a)).

USITC Announces Decision on Pressure-Sensitive Plastic Tape from Italy

August 31, 1977.

The United States International Trade Commission today reported to the Secretary of the Treasury its findings regarding injury with respect to pressure-sensitive plastic tape from Italy.

By a three to two vote, the Commission affirmed a complaint that the domestic industry is being injured by imports of the product made in Italy. Voting to sustain the complaint were Commission Vice Chairman Joseph O. Parker and Commissioners George M. Moore and Italo H. Ablondi. Commission Chairman Daniel Minchew and Commissioner Catherine Bedell formed the minority opinion with their negative finding.

The Commission investigations were begun June 3, 1977, for Italian imports of the product, and June 27, 1977, for similar product imports from West Germany. The Commission's decision with respect to imports from West Germany will be issued no later than September 14, 1977.

The complaints which led to the Commission investigations were filed by Minnesota Mining and Manufacturing Company (3M Company) of St. Paul, Minnesota. The 3M Company is the largest U.S. producer of pressure-sensitive plastic tape.

U.S. imports of pressure-sensitive tape in 1976 were 71.3 million square yards valued at $13.4 million. Most of this production originated in Italy, West Germany, and Taiwan.

U.S. production totaled 43.9 million square yards in 1976, and most of this production was from facilities located in northeastern states.

The product's major use is as corrugated box sealing tape. Other uses are in the manufacture of printed labels for tabbing, for color coding, and for label protection.

The Commission's report, *Pressure-Sensitive Plastic Tape from Italy* (USITC Publication 830), contains the views of the Commissioners (No. AA1921–167). Copies may be obtained from the Office of the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

[AA1921–167]

Pressure Sensitive Plastic Tape From Italy

DETERMINATION OF INJURY OR LIKELIHOOD THEREOF

On May 31, 1977, the United States International Trade Commission received advice from the Department of the Treasury that pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 3, 1977, the Commission instituted investigation No. AA1921–167 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith were published in the Federal Register on June 9, 1977, and July 20, 1977 (42 F.R. 29568 and 42 F.R. 37258). On July 26, 1977, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearings as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has determined (Chairman Daniel Minchew and Commissioner Catherine Bedell dissenting) that an industry in the United States is being or is likely to be injured[29] by reason of the importation of pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

USITC Announces Decision of Pressure-Sensitive Plastic Tape From Italy

August 31, 1977.

The United States International Trade Commission today reported to the Secretary of the Treasury its findings regarding injury with respect to pressure-sensitive plastic tape from Italy.

By a three to two vote, the Commission affirmed a complaint that the domestic industry is being injured by imports of the product made in Italy. Voting to sustain the complaint were Commission Vice Chairman Joseph O. Parker and Commissioners George M. Moore and Italo H. Ablondi. Commission Chairman Daniel Minchew and Commissioner Catherine Bedell formed the minority opinion with their negative finding.

The Commission investigations were begun June 3, 1977, for Italian imports of the product, and June 27 1977, for similar product imports from West Germany. The Commission's decision with respect to imports from West Germany will be issued no later than September 14, 1977.

The complaints which led to the Commission investigations were filed by Minnesota Mining and Manufacturing Company (3M Company) of St. Paul, Minnesota. The 3M Company is the largest U.S. producer of pressure-sensitive plastic tape.

U.S. imports of pressure-sensitive tape in 1976 were 71.3 million square yards valued at $13.4 million. Most of this production originated in Italy, West Germany, and Taiwan.

U.S. production totaled 43.9 million square yards in 1976, and most of this production was from facilities located in northeastern states.

The product's major use is as corrugated box sealing tape. Other uses are in the manufacture of printed labels, for tabbing, for color coding and for label protection.

The Commission's report, *Pressure-Sensitive Plastic Tape from Italy* (USITC Publication 830), contains the views of the Commissioners (No. AA1921–167). Copies may be obtained from the Office of the Secretary, United States International Trade Commission, 701 E Street, N.W. Washington, D.C. 20436.

[AA1921–167]

Pressure Sensitive Plastic Tape From Italy

DETERMINATION OF INJURY OR LIKELIHOOD THEREOF

On May 31, 1977, the United States International Trade Commission received advice from the Department of the Treasury that pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on June 3, 1977, the Commission instituted investigation No. AA1921–167 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith were published in the *Federal Register* on June 9, 1977, and July 20, 1977 (42 F.R. 29568 and 42 F.R. 37258).

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[28] Vice Chairman Joseph O. Parker did not participate in the decision.

[29] Vice Chairman Joseph O. Parker and Commissioner George M. Moore determined in the affirmative with respect to present injury; Commissioner Italo H. Ablondi determined in the affirmative with respect to likelihood of injury.

On July 26, 1977, a hearing was held in Washington, D.C., at which all persons who requested the opportunity were permitted to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearings as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission has determined (Chairman Daniel Minchew and Commissioner Catherine Bedell dissenting) that an industry in the United States is being or is likely to be injured [30] by reason of the importation of pressure sensitive plastic tape of more than 1⅜ inches in width and not exceeding 4 mils in thickness from Italy that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

USITC Finds U.S. Industry Injured by Railway Track Maintenance Equipment From Austria Sold at Less Than Fair Value

November 11, 1979.

The United States International Trade Commission today reported to the Secretary of the Treasury its determination, by a 3 to 2 vote, that a domestic industry is being injured by the importation of railway track maintenance equipment from Austria. The Commission specifically determined that tampers and ballast regulators, which are being, or are likely to be, sold at less than fair value in the U.S., are injuring the domestic industry producing such products.

Commissioners Joseph O. Parker, George M. Moore and Catherine Bedell formed the majority opinion with respect to the imports from Austria. Chairman Daniel Minchew and Commissioner Italo H. Ablondi were the minority. Commissioner Bill Alberger did not participate in the determination.

The Commission investigation was instituted on August 19, 1977, under section 201 of the Antidumpting Act of 1921, as amended. Complaints which led to the Commission investigation were filed by counsel representing two U.S. producers: Kershaw Manufacturing Co., Montgomery, Ala., and Tamper, Inc., Columbia, S.C. There are 11 producers of railway track maintenance equipment in the United States, all located east of the Mississippi River. Of these, 7 produce ballast regulators and/or tampers, the items Treasury specifically found to have been sold at less than fair value.

In 1976, U.S. production of railway track maintenance equipment and parts amounted to over $95 million. Imports of this equipment into the United States were supplied almost exclusively by one firm—Plasser and Theurer, GmbH, of Linz, Austria—through its U.S. subsidiary, Plasser American Corporation, Chesapeake, Va.

The Commission's report, *Certain Railway Track Maintenance Equipment from Austria* (USITC Publication 844), contains the views of the Commissioners and information obtained in the investigation (No. AA1921–173). Copies may be obtained from the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

[AA1921–173]

Certain Railway Track Maintenance Equipment From Austria

DETERMINATION OF INJURY

On August 11, 1977, the United States International Trade Commission received advice from the Department of the Treasury that railway track maintenance equipment from Austria is being, or is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 106(a)). Accordingly, on August 19, 1977, the Commission instituted investigation No. AA1921–173 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing held in connection therewith was published in the *Federal Register* on August 25, 1977 (42 F.R. 42930). On August 6 and 7, 1977, a hearing was held in Washington, D.C., at which all interested parties were provided an opportunity to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information obtained by the Commission's staff from questionnaire, personal interviews, and other sources.

On the basis of its investigation, the Commission has determined (Chairman Daniel Minchew and Commissioner Italo H. Ablondi dissenting and Commissioner Bill Alberger not participating) than an industry in the United States is being injured [31] by reason of the importation of certain railway track maintenance equipment, specifically, tampers and ballast regulators from Austria which are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921 as amended.

[AA1921–174 and 175]

Saccharin From Japan and the Republic of Korea

DETERMINATION OF NO INJURY OR LIKELIHOOD THEREOF

On September 9, 1977, the United States International Trade Commission received advice from the Department of the Treasury that saccharin from Japan and the Republic of Korea (except that produced by Aisan Chemical Co., Ltd. of Japan) is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on September 23, 1977, the Commission instituted investigations Nos. AA1921–174 and 175 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigations and of the public hearing held in connection therewith was published in the *Federal Register* on September 28, 1977 (42 F.R. 49849). On October 26, 1977, a hearing was held in Washington, D.C., at which all interested parties were provided an opportunity to appear by counsel or in person.

In arriving at its determinations, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of information developed during the course of its investigation, the Commission has unanimously determined that an industry in the United States is not being injured and is not likely to be injured, and is not prevented from being established, by reason of the importation of saccharin from Japan or from the Republic of Korea [32] that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

USITC Finds U.S. Industry Likely To Be Injured by Impression Fabric of Manmade Fiber From Japan Sold at Less Than Fair Value

March 28, 1978.

The United States International Trade Commission today reported to the Secretary of the Treasury its determination, by a 3-to-2 vote, that a domestic industry is likely to be injured by the importation of impression fabric of manmade fiber from Japan. In December, 1977, the Department of the Treasury determined that impression fabric of manmade fiber from Japan was being sold in the United States at less than fair value. Treasury specifically excluded merchandise produced by Asahi Chemical Industry Co., Ltd., and Shirasaki Tape Co., Ltd., from its finding.

Commissioners George M. Moore, Catherine Bedell, and Italo H. Ablondi found likelihood of injury. Chairman Daniel Minchew and Commissioner Alberger found no injury or likelihood of injury with respect to the less than fair value imports. Vice Chairman Joseph O. Parker did not participate in the determination.

The Commission investigation began January 5, 1978, under section 201 of the Antidumping Act, 1921, as amended. Complaints which led to the Commission investigation were filed by Bomont Industries of Totowa, N.J., Standard Products Corp. of New Rochelle, N.Y., and Schwarzenbach Huber of Juniata-Altoona, Pa., firms which slit impression fabric.

Impression fabrics are used as inking ribbons on typewriters, calculators, computers, and similar machines. The "impression" is that made on paper by a key striking the ribbon. There are 4 slitters and 6 weavers of impression fabric in the United States, and more than 60 firms involved in other processing stages.

Apparent U.S. consumption of slit impression fabric of manmade fiber fell in 1975, and then rose in 1976 and 1977. Overall, the domestic slitting industry suffered a decline in shipments, employment, profits, and capacity utilization from 1974 through 1976, and then recovered somewhat in 1977. Net selling prices for impression fabric, both slit and slit, have remained relatively constant since the last half of 1974.

Total U.S. imports of impression fabric from Japan in square yards amounted to 5.2 million in 1974, 6.2 million in 1975, 6.5 million in 1976, and 6.2 million in 1977.

The Commission's report, *Impression Fabric of Manmade Fiber From Japan* (USITC Publication 872), contains the views of the Commissioners and information developed in the investigation (No. AA1921–176). Copies may be obtained by calling (202) 523–5178 or from the Office of the Secretary, 701 E Street NW., Washington, D.C. 20436.

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[30] Vice Chairman Joseph O. Parker and Commissioner George M. Moore determined in the affirmative with respect to present injury; Commissioner Italo H. Ablondi determined in the affirmative with respect to likelihood of injury.

[31] Commissioner George M. Moore determined that an industry in the United States is being or is likely to be injured.

[32] Commissioners Moore and Bedell determine in the negative with respect to both Japan and the Republic of Korea whether less-than-fair-value imports from those countries are considered separately or collectively.

[AA1921-176]

IMPRESSION FABRIC OF MANMADE FIBER FROM JAPAN

DETERMINATION OF LIKELIHOOD OF INJURY

On December 28, 1977, the United States International Trade Commission received advice from the Department of the Treasury that impression fabric of manmade fiber from Japan, with the exception of that merchandise produced by Asahi Chemical Industry Co., Ltd., and Shirasaki Tape Co., Ltd., is being, or is likely to be, sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). Accordingly, on January 5, 1978, the Commission instituted investigation No. AA1921-176 under section 201(a) of said act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the Federal Register on January 11, 1978 (43 F.R. 1655). On February 15, 1978, a hearing was held in New York City, at which all interested parties were provided an opportunity to appear by counsel or in person.

In arriving at its determination, the Commission gave due consideration to all written submissions from interested parties and information adduced at the hearing as well as information provided by the Department of the Treasury and data obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of its investigation, the Commission determines (Chairman Minchew and Commissioner Alberger dissenting and Vice Chairman Parker not participating) that an industry in the United States is likely to be injured by reason of the importation of impression fabric of manmade fiber from Japan, with the exception of that merchandise produced by Asahi Chemical Industry Co., Ltd., and Shirasaki Tape Co., Ltd., which is being or is likely to be, sold at LTFV within the meaning of the Antidumping Act, 1921, as amended.

□ 1500

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GAYDOS. Mr. Chairman, at the outset I wish to sincerely thank the subcommittee chairman (Mr. VANIK) from Ohio for his sensitivity to the Steel Caucus' needs and for his almost unparalleled cooperation in this matter throughout the past 2 years during which this legislation has been developed.

I also wish at this time, formally for the record, to acknowledge the excellent cooperation given by Special Trade Ambassador Strauss and Assistant Ambassador Wolff who have made appearances before the Steel Caucus on no less than three occasions. They have manifested at different times and in various ways the complete cooperation of the administration by appearing before the executive committee and presenting testimony and facts when they were desired.

Also at this time, as chairman of the Steel Caucus, I wish to acknowledge the excellent cooperation of members of our steel community, the AISI and the labor unions and particularly Jack Sheehan, legislative director of the United Steelworkers of America, with whom we have worked so closely and who has been so instrumental in helping us to analyze the problems of the steel industry and formulate our positions. In fact, this morning before the executive committee Mr. Schubert of Bethlehem Steel, representing AISI, and his supporting personnel, appeared and testified on behalf of this legislation. Also at this same meeting, Mr. Sheehan joined us and testified affirmatively for this pending legislation.

Mr. Chairman, as chairman of the Congressional Steel Caucus, I rise in support of H.R. 4537, the required legislation to implement the multilateral trade pact. However, I must qualify my support by cautioning my colleagues not to consider this trade pact and its necessary changes in our present domestic laws as any complete solution to all our international trade problems.

The Congressional Steel Caucus fully recognizes that the multilateral trade pact is the result of 5 years of difficult negotiations. Considering the divergent economic interests and systems represented by the 99 participating nations, the fact that a comprehensive agreement was reached at all, is in itself, an achievement. Furthermore, the caucus understands that all international negotiations contain an inherent bargaining process of reciprocal give-and-take. No single participating nation (including the United States) could honestly be expected to achieve all its negotiating objectives. Against this perception of the realities of the negotiating process, I have concluded that this agreement is worth supporting, but our expectations must be governed by the realities of the present economic situation, both national and international, affecting our domestic steel industry.

During the last 25 years, there has been a significant shift in the relative share of production among the world's leading industrial nations. By 1976, both Japan and the European Economic Community (EEC) were equal to or larger than the United States in total steel output. International steel trade has played an important role in this shift. Both Japan and Europe have used steel exports to increase their rate of growth. The steel exports which have stimulated growth in Japan and Europe are, by and large, the same imports that have constrained growth here. Japan and the EEC have accounted for three-fourths of all steel imports into the United States. Additionally, the Third World countries have rapidly penetrated the U.S. market. In 1978, steel imports from Third World countries increased by 91 percent over 1977. Thus, the U.S. economy has become increasingly dependent on foreign steel suppliers and has become the only large industrial nation which lacks the capacity to produce 100 percent of its domestic requirements. Due to this penetration by imports hundreds of thousands of steelworkers' jobs have been lost over the last several years.

How could these nations achieve such a position of penetration? For example. Japan's government planners, banks and steel companies developed a three-part strategy for building a large and internationally competitive steel industry. First, the industry has been encouraged to rapidly increase its production volume. Second, the steel industry has been provided with enormous capital inputs. Third, the Government and business leaders have cooperated closely to protect the industry's financial position. Although each European nation is different, roughly the same elements of the Japanese strategy can be found in the EEC. Excess capacity in Europe, as in Japan, creates great pressure to expand exports.

In the United States, the opportunities and incentives for Japanese and European steel producers have not been available to American steel companies. Therefore, U.S. producers have not embarked on export programs comparable to those of Japan and the EEC. But lower production costs by themselves have never been sufficient to account for the success of foreign producers in the U.S. markets. Instead, artificial exchange rates, tax rebates, and below-cost prices have provided foreign producers with a margin of advantage that they would not be able to derive from production and cost advantages alone. Additionally, the United States has clearly been lax in the administration and enforcement of its unfair trade practices.

In 1977, the Congressional Steel Caucus was established in response to the growing concern over excessive steel imports and their impact on the domestic steel industry. The purpose of the caucus is to identify the nature and causes of the problems affecting the American steel industry, promote the well-being of the industry and perserve the jobs of its workers.

For 1979, the domestic steel industry may soon begin to experience a serious recession developing in the economy. Although the steel plants are presently operating at roughly 90 percent of capacity, and although business has been good during the first 6 months of 1979, a slowdown is expected. Many business analysts are arguing that a recession is beginning to develop. The slowdown in domestic demand for steel is evidenced by the recently reported decline in durable goods orders. In general, orders for autos, trucks, and appliances are down. The energy crisis of 1979 may have a significant effect on steel demand if auto sales continue to drop. Steel officials believe that this softening of demand for steel may produce a slowdown that will become apparent in the fourth quarter of 1979. If the nationwide recession develops, as predicted, it will ripple through all sectors of the economy, especially the basic industries.

During the second half of 1979, a threat to our domestic steel industry from rising cheaper steel imports appears likely. Presently, steel imports are down from last year's record levels by 30 percent. However, it should be noted that in May 1979, steel imports shot up by 54 percent from April's levels. Industry experts expect imports to decline in June but rise in July. Additionally, foreign steelmakers may receive a competitive edge in pricing from two developments. First, the tariff cuts negotiated in the multilateral trade pact will lower U.S. tariffs on imported steel. As a result of these cuts, it has been reported that the office of the Special Trade Representative has estimated that European steelmakers will be able to sell their steel at 1.6 percent less than current prices and that the Japanese steelmakers will be able to sell their steel at 1.5 percent less than the present prices. Both the Japanese and European steelmakers, as I have previously mentioned, have been able to consistently sell below the prices offered by American steelmakers. It should be noted that the Special Trade Representative under the Trade Reform Act of 1974 had authority to negotiate these cuts without congressional approval. Second, the Treasury Department has announced that the trigger prices, applicable to the antidumping law, will be reduced during the third quarter of 1979 by 1.4 percent. Thus, the domestic steel industry now enters the second half of 1979 with a slowdown in demand, the threat of a serious recession, the likelihood of rising imports, and price competition from cheaper foreign steel.

The general situation for orderly international trade is not encouraging. The threat of a worldwide recession, the energy crisis, and the persistent problems of developing countries lead me to guarded expectations with regard to the multilateral trade pact or any international agreement designed to order trade relations among some 99 divergent nations. If a worldwide recession develops, many nations, including the developing countries, with excess steel-producing capacity, will need to find foreign markets when demand in their home market subsides. The U.S. market may become the prime target for this foreign steel. The energy crisis will intensify this situation.

Nations, particularly developing countries, that rely heavily on imported oil may be required, as a result of higher prices on oil imports, to reduce their trade deficit in other areas. These nations that rely heavily on imported oil may decide to export their excess products at cheaper prices and at an accelerating rate or set up nontariff barriers to trade with regard to other imports. When the trade pact was signed, a full understanding of the energy crisis of 1979 was not immediately apparent. Finally, historical problems of developing nations still remain with us. To persuade developing nations to abide by a comprehensive agreement that orders trade relations among all nations, both developed and developing, remains a challenge.

Considering the general state of our domestic steel industry and the general world economic situation, I have guarded expectations for the trade pact and its implementing legislation. In 1967, at the end of the Kennedy round of trade talks, which reduced tariffs, it was expected that international trade would become more orderly. However, since 1967, hundreds of diverse nontariff barriers to fair international trade have been developed. The United States has several statutes aimed at offsetting the advantages from unfair trade practices, but the administration and enforcement of these statutes has been unsatisfactory. As we vote on this trade bill, we must agree on a common international trade policy. It should be the declared purpose of this legislation to foster open and fair international trade based on a principle of mutual reciprocity. Considering this purpose, I urge the administration to make a firm commitment to monitor the trade pact, to seek compliance with its terms from the other signatories, and to effectively administer and enforce our domestic trade laws as amended by this present legislation.

With respect to the specific bill before us this legislation improves the U.S. antidumping and countervailing duty statutes. Although the caucus would have preferred that no material injury test be inserted into our countervailing duty statute, it recognizes that the acceptance of this additional test was the result of the bargaining process at the trade talks. However, the definition of "material injury" is reasonable, satisfactory, and generally consistent with the interpretation given to this term by the International Trade Commission under our Antidumping Act. Furthermore, the expansive definition of subsidy or "bounty or grant" within the meaning of our 1897 statute is badly needed to facilitate the identification of domestic subsidies. This illustrative list of subsidies contained in this definition provides a good working basis for identifying domestic subsidies, and I wish to emphasize that the language in the definition of "includes but is not limited to," should enable one to establish the existence of a new form of subsidy justifying the levying of a countervailing duty. The record should clearly show that we do not regard this definition to contain an all-inclusive list of domestic subsidies. This bill, also, provides an acceptable formula for imposing a countervailing duty and definition of net subsidy. For the record, I wish to state we recognize that the new changes in the countervailing duty law will apply only to products from nations that are signatories of that code or that have assumed equivalent obligations. Under both the antidumping and countervailing duty laws, the sections on provisional measures, bonding requirements, and the notice of dismissal of petitions appear to be general improvements in these laws. The time limits for various determinations under both statutes are acceptable. After reviewing the Antidumping Act as amended by this legislation, the caucus continues to urge the administration to retain the trigger price mechanism. At this time, it would be unwise and premature to lift TPM before the effects of the multilateral trade pact can be fairly evaluated. Finally, this legislation should improve and expedite the procedures for commencing and conducting an investigation, and applying the remedy of an antidumping or countervailing duty.

The provisions of this legislation concerning judicial review impove existing law. Additional appeal opportunities are authorized with regard to certain interlocutory and final antidumping and countervailing duty determinations. The reviewable determinations and standards for review are clearly articulated for the Custom Court for application in interlocutory and final determinations. The expansion of Custom Court determinations concerning "appraised value, classification and rate of duty of imported goods" is meritorious.

After considering the custom's valuation title, I will accept it as legitimate concession resulting from the bargaining process. It is my hope that by establishing one primary method and four secondary methods of valuation, the process will become somewhat less complex, and that the goal of implementing a fair, uniform, and simplified valuation system with the other signatories to the customs valuation code will be achieved.

The legislation provides an acceptable section concerning "products standards." The United States has always had open and rational procedures for setting product standards. The purpose of these standards was to promote domestic health and safety, security, environment, or consumer interests, rather than to create unnecessary obstacles to foreign commerce. In endorsing this section, I request that the administration carefully monitor how the other signatories to the technical barriers to trade code comply with its terms and to assess, after due course in time, whether the signatories have eliminated arbitrary and discriminatory manipulations of products standards, testing, and certification. Technical standards should not function as artificial nontariff barriers to international commerce.

The Government procurement section is of great concern to the Steel Caucus. The agreement appears to be reasonable in that signatories listed their Government entities subject to the commitment of an open and fair procurement system. This legislation before us waives the applications of portions of our Government procurement law concerning roughly 15 percent of U.S. Government purchases. The administration must monitor the signatories' compliance with the procurement code and the governing principle for such oversight should be the principle of mutual reciprocity.

What concerns the caucus most about procurement is the situation between the United States and Japan. Since March 1979, the United States and Japan have been seriously negotiating a trade arrangement whereby Japan would agree to open up its government procurement market to the United States. Our Government wanted the Japanese to open up $7.5 billion worth of business while the Japanese offer was $5 billion. The Japanese returned with period counteroffers. Finally, Ambassador Strauss and his Japanese counterpart, Nobuhiko Ushiba, initialed an agreement up $6.9 billion in the Japanese procurement market.

The details are scheduled to be worked out beginning in July 1979, with December of 1980 as the target date for completion. It is my hope that the administration will persist to complete this agreement and expand it to include access to the Nippon Telephone & Telegraph's communications' purchases. Additional efforts should be undertaken to reduce Japan's enormous trade surplus with the United States. If the administration is serious about improving our international trade position, then trade relations with our ally, Japan, should be the cornerstone of a policy based on openness, fairness, and mutual reciprocity.

The operation of the enforcement provisions in the legislation will be scrutinized with great care by the Steel Caucus. This section, in concept, provides a good legal mechanism for enforcing U.S. rights under the overall trade pact. How the enforcement provisions actually work remains to be seen.

Finally, the safeguard code of the multilateral trade pact has not been completed. It is the position of the Steel Caucus that our domestic safeguard legislation should not be weakened in any manner. There should be no change in the causality test under this statute. Furthermore, it is our firm belief that the imposition of quotas is a legitimate remedy and that it has worked in the specialty steel case.

Beyond the framework of the multilateral trade pact, the Congressional Steel Caucus recognizes the need for the development of long-range solutions to steel problems. Accordingly, the caucus is encouraged by the administration's recent efforts in establishing a government-to-government OECD steel committee to discuss and analyze world steel problems.

In sum, as chairman of the Congressional Steel Caucus, I support H.R. 4357, but with guarded expectations. At this point in time, the international economic situation, as it affects our domestic steel industry is not encouraging. In concept, this legislation should improve our international trade position by curbing the advantages occurring from unfair trade practices and eliminating nontariff barriers to trade. However, the effectiveness of this legislation requires a firm commitment from the administration to administer and enforce our trade laws fairly. Mutual reciprocity and fairness must begin to govern our international trade policies. I am confident that my colleagues in the Congress and the Steel Caucus will closely monitor the administration and enforcement of these laws.

☐ 1530

I yield to the vice chairman of the Steel Caucus and my close colleague from Alabama.

Mr. BUCHANAN. I thank my colleague for yielding. I wish to associate myself with the gentleman's remarks. I believe the gentleman has ably spoken the position of those of us who are members of the Steel Caucus and who have the concerns of the Steel Caucus.

This is not a perfect piece of legislation or a perfect agreement, but I do believe it is a commendable step forward and I would join my chairman of the caucus and other members in expressing appreciation to the chairman of the subcommittee and the subcommittee for the work, thought and leadership that have gone into the implementing legislation and to Ambassador Strauss for providing for once for this country a truly tough negotiator.

As my colleague knows, ever since World War II there has been a certain situation of imbalance in our trade relations and trade arrangements. It may have been appropriate enough right after World War II when this country was powerful, wealthy, and relatively untouched and Europe was war torn and ravaged as was Japan, for us to enter into trade arrangements and trade relations that were not reciprocal. We had all the chips and just as we were very generous in the creation of the Marshall plan and the foreign assistance programs in helping Europe and Japan to rebuild their industry and their economy, even so in our trade arrangements we had all the chips and we deliberately sought to pass the chips around so that others could play the game.

We fell into a habit, not of free trade, but of trade that was not reciprocal, of trade that was not fair trade, of trade where the equities of the United States were not considered and we were more than generous with the people on the other side.

To work our way out of that situation has proven difficult. We have had two basic problems in my judgment. One is lack of firm negotiators who would stand for the establishment of reciprocity and truly fair trade. Now this did happen with Ambassador Strauss and company. Heretofore we had had ambassadors who took Teddy Roosevelt's dictum to speak softly and carry a big stick and turned it into speak softly and carry a wet noodle, in their representation of the United States.

We did have firm negotiations. We had a committee that sought to look out for making the most of what this agreement would bear for our own people, our own industry and those who work for American industry.

The second problem the chairman has expressed is in the area of enforcement. Whatever arrangements were there, our Government has been far from energetic and enthusiastic in enforcing antidumping legislation and making the most of whatever trade arrangements we had for the sake of American industry and American workers.

I would join in urging that while this legislation is good and is a positive forward step, while the trade agreements are a strong step in the right direction, that without vigilance, without firm enforcement, without energetic action on the part of the subcommittee and all of those who are friends of American industry and American workers who want to see the establishment a true reciprocity, of honest fairness between us and our very wealthy and able trading partners at this point in history, without such enforcement, without such vigilance we cannot realize the gains which this legislation and this agreement could give us.

I, therefore, would urge, with the chairman of the Steel Caucus, the administration's attention to the areas of concern he has expressed. I would urge the subcommittee to continue its fine work in oversight and again commend the chairman and the members for a job well done.

I rise, Mr. Chairman, in support of the legislation.

Mr. GAYDOS. I thank my colleague for his fine remarks.

I wish to further comment and to establish as a matter of record that the gentleman from Birmingham, Ala., and a fellow officer in the Steel Caucus has spent hours and hours with the caucus interviewing witnesses, doing the research work, and utilizing his staff in these efforts. I am eternally grateful for his help. I know that the steel industry, labor, and business in general throughout the country will be just as grateful to this gentleman. I wish to commend him and I expect a continued hard effort on his part to solve future problems through the Steel Caucus.

Mr. BAILEY. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. GAYDOS. I yield to the gentleman from Pennsylvania.

Mr. BAILEY. I would like to direct a question to the chairman of the subcommittee.

I plan to vote for and support this legislation. I am not totally satisfied with some of the enforcement provisions and I realize and would recommend to the Congress that we keep a cautious eye on what occurs in that area. I think it is going to take a great deal of administration, forthright administrative work to stay on top of this.

One question in particular I would like to clear up and place on the record. It is my understanding that the import quota limitations that we have instituted for the last 3 years to protect specialty steel are not affected by MTN. These quotas run out in about 8 months and indications are we do have some foreign producers that might attempt to flood our markets and take advantage of the lack of protection that we have enjoyed in this vital national defense area.

I am wondering if the chairman could speak to that.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Ohio.

Mr. VANIK. The MTN does not affect the right of the U.S. Government to reimpose its quotas provided, of course, we meet the injury test provided by our own law. In other words, we are not affected. The MTN does not affect our right to do that if it becomes necessary.

I want to tell the gentleman with respect to specialty steel, I was disappointed with the President's action, the short time for which he extended the provisions and I did write to the Treasury Department urging them to have ready on a standby basis a system of trigger-price mechanisms for specialty steels if it should become necessary so if we have a problem in the specialties we can very quickly move in to address ourselves to that problem.

Mr. BAILEY. I thank the chairman.

One last comment to the gentleman from Pennsylvania (Mr. GAYDOS): I just hope we can keep our eye especially on this enforcement area. Certain foreign nations, France in particular, have indicated—and I think it is important to put this on the record—their intention not to conform—it is their intention—at least I think that has been their interpretation, not to conform to the intentions of the safeguard provisions and to continue subsidizing their industry. I hope we can keep our eye on this thing and make sure that when the bloom falls from the rose, we have not ushered in a new era of fair dealing. I am quite concerned with it.

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Mr. VANIK. Mr. Chairman, if the gentleman will yield further, I would say in response to that, if under the amended countervailing duty law government subsidies, including financial aid, is continued by the French Government or any other government, the industry, the specialty steel industry, could seek to have countervailing duties imposed on such imports from France or from any other country that might engage in that practice. That is one of the protections we have built into this implementing legislation to just address itself to that problem.

Mr. BAILEY. I just hope stronger remedies are not necessary.

I thank the gentleman very much.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I would be happy to yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would simply like to say this, that I believe that by providing better rules for the conduct of trade, the MTN, and this implementing legislation can open up major, new export markets for American industries which have not traditionally thought of exporting.

As an example of the possibilities being created by the MTN, I would like to quote several paragraphs from an Office of Technology Assessment report, prepared at my request, on the issue of high technology steels and exports as a result of the MTN. This paper—which is part of a major study being conducted by OTA on the issue of steel technology and trade—indicates some of the exciting possibilities which may open up for American industries, if the executive branch follows through and uses the tools being provided by the MTN.

Some excerpts from the OTA study are as follows:

> The argument of selective increases in steel exports is based on two important premises.
>
> First, the U.S. steel industry manufactures exportable products in certain technologically advanced areas experiencing growing domestic and international demand. A significant number of relatively small but profitable companies along with several major producers manufacture high-quality alloy/specialty steels. In addition, several major integrated producers have exceptionally fine secondary processing facilities capable of producing special coated steels and new types of dual phase alloy sheets of superior quality.
>
> Second, a selective U.S. steel export advantage is contingent upon effective design and implementation of the new trade agreement. If foreign steel export subsidies, dumping practices and import barriers are phased out or offset through countervailing duties and other sanctions, these technology-intensive domestic steels could indeed compete favorably at home and abroad on the basis of cost, quality and performance.
>
> Since the U.S. appears to be competitive in price and quality for certain high-technology steel products in the international market, it may well be possible to use the MTN to encourage stepped-up exports of these products. In fact, at least one U.S. company already has been enjoying a growing and profitable export market in high-technology products during the past two years.
>
> Products in which the U.S. could enjoy particular advantages include "technology-intensive" items such as coated, painted, or special finished sheet steels; low-alloy content steels; and specialty alloys such as high-carbon, electrical, high-temperature, stainless, and tool steels.

Mr. GAYDOS. In closing, Mr. Chairman, I would like to make this observation for the record. The gentleman from Pennsylvania (Mr. Bailey) and the gentleman from Pennsylvania (Mr. Murtha), have done a yeoman job in our caucus. They participated from the very beginning. We have always received an immediate response without reservations when we asked them to perform certain duties in the caucus. On behalf of the caucus, I wish to extend my sincere thanks to them for their cooperation and I am looking forward to continued cooperation.

Mr. VANIK. Mr. Chairman, will the gentleman yield further?

Mr. GAYDOS. Yes, I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to point out that in the handling of this legislation, we had to deal with strong and vitally important groups in the Congress, in the Steel Caucus, in the Textile Caucus, which is headed by our good friend and colleague, the gentleman from South Carolina (Mr. Holland).

I want to say that something very important has happened in the congressional process. Because of the work of these caucuses, we have intensely examined perhaps in a way that we never did before the very special problems of important industries and workers in this country. I think it is a very desirable and useful thing. I would hope that we would have time somehow in addition to our legislative duties, that we had time to devote more attention and deal intensely with American industrial problems industry by industry, so that we can learn how we could expedite not only trade, but the development and the enlargement and the improvement in the technology of these industries in the United States.

The Steel Caucus in its efforts were tremendously instrumental in bringing about the adoption of the trigger price mechanism.

There are a lot of fallout benefits from this tremendous program. We are starting to see a reinvestment in the steel industry, not enough to satisfy my expectations and I think there are probably ways in which we could have gotten more and we will deal with that later; but I think that we are building out of this a stronger domestic industry which when it is fully modernized and fully up to date in its technologies ought to be able to compete with the best in the world. American technology and the dedication of the American worker are ingredients that I think are unmatched anywhere in the world, if we can put them together in a working plan.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I will in 1 minute.

At this time I would like to comment that the Steel Caucus again remains forever grateful to the gentleman from Ohio (Mr. Vanik), because when we asked to be heard before the committee on no less than two occasions, we were granted that privilege. During those hearings we did insert into the Record official testimony. The courtesy extended to us was well received and was most important, we believe, in making the Steel Caucus position known on a very complicated subject matter.

I presume in the future, as the chairman expressed during a recent hearing we had, that the Chair will expect future participation from the caucus on many, many problems that are inherent in the subject matter we are considering today. I am talking about the value-added taxes. I am talking about the safeguard code that is not concluded. The caucus is grateful to the chairman's sensitivity to our problems.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to my colleague, the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I am puzzled and it is heartening and good to hear about the plans of the steel industry; but I think all of us who read the newspapers have been puzzled by two little items.

Item No. 1: How could it be that when we want to build a bridge across the Mississippi, a bid for structural steel from Japan of $42 million is one-third less than any other company in the United States, coming through the canal in pieces.

People say, "Oh, well, the wages."

A labor friend of mine said, "It is not wages. It is not wages at all."

They have scrapped a steel mill in Japan that made 276 tons per man per year and our production generally speaking, he told me, was 250.

The good mill in Japan makes 876 tons per man per year. They slide the sheets down the mountain and right into the boat. It is an incredible engineering feat, as well as production. That is how they got it; but even apart from that, in my own State, the Passaic River Sewer Commission needed two giant screws 60 feet long and 12 feet high. Where did they get them? In Pittsburgh? No. In Switzerland. In Switzerland, no coal, no iron, down the line in barges, across the Atlantic, that is where they are made.

What is happening, I ask the gentleman from Pennsylvania (Mr. Gaydos)? What is the answer?

Mr. GAYDOS. I can give the gentlewoman maybe my basic position on the matter, based upon the information made available to the Steel Caucus in my exposé of the facts over the last 2½ years and my intense personal interest, because my whole district is made up of steel.

Mrs. FENWICK. Yes.

Mr. GAYDOS. And I wish they had bought that steel from us in Pittsburgh.

Mrs. FENWICK. Well, what is the answer?

Mr. GAYDOS. As I understand industry's position, they say that on any occasion they can compete at any time, any place, under any circumstances, if the trade laws are fair. That is the reason we are making an attempt to pass this legislation with its fundamental changes. If this law, after enactment, is enforced, there should be no difficulty in competing by the U.S. steel industry in that particular situation.

Mrs. FENWICK. But, Mr. Chairman, if those production figures are accurate, how on Earth can an industry that makes 250 tons per man per year compete with one that makes 850? How is that? How can they?

Mr. GAYDOS. Well, our industry generally has put on record the fact that our workers and our industry is as productive and efficient as the Japanese.

Mrs. FENWICK. Or the Swiss?

Mr. GAYDOS. And they can compete if we give them a fair trade law. That has been their position and that is what we are attempting to do in this legislation. I hope it works.

Mrs. FENWICK. But those production figures are not accurate, is that right?

Mr. GAYDOS. No; the production figures probably were accurate; but again I have to go back to the position taken at numerous hearings, that the American steel industry can compete with any foreign producer today under all circumstances. They can compete if they have a trade law that is adequately and fairly enforced. That has been said time and time again and that is what we are trying to do with this legislation.

If this legislation was passed and properly enforced, my expectation is that we would achieve fair competition under all those circumstances.

Mrs. FENWICK. But, Mr. Chairman, what trade law could equal the difference in production? What trade law could equalize such differences in the figures of production per man per year? How would we divide that?

Mr. GAYDOS. I question the production figures, again based upon testimony, technical testimony made available to us. The productivity of the Japanese worker is not that different from the American worker. In fact, we take pride that the American worker is still the greatest producer in the world. I am talking about highly industrialized nations. I am talking about the emerging nations, that the American worker, steelworker, still can produce and outproduce any other worker in the world. This is industry's position and perhaps that of labor.

□ 1550

Mrs. FENWICK. Not if we are given inadequate machines, antiquated and worn out and unmodern machines. No worker can compensate for production deficiencies if that is the root of the problem.

Mr. GAYDOS. There may be some element of truth in the statistics and position to which the gentlewoman is referring. We have to go back again to the statements coming from the experts; that is, management itself, and so on. Bethlehem Steel, United States Steel, and other representatives from the industry have repeatedly stated in many, many hearings before the caucus that if they are given fair trade laws and if they are adequately enforced, they can compete with foreign steel producers. They are not asking for any special subsidy. They argue that if we give them a fair trade law they can compete. That is our understanding of their position.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I would agree with what the gentleman has said, but I would also point out that our own industries—it is true of steel, but it is not only steel—have been confronted with foreign competition that is virtually subsidized by government. For example, I can cite the Japanese steel industry and our European competitors. They are in a very different situation.

The relationship between government and industry in this country has been almost totally an adversary relationship. We do not have the tax breaks written in our laws that they have, and we certainly do not have the subsidization or partial or total ownership by government, and we do not have the guarantee of employment to workers in the steel industry that they have in Japan regardless of the economic picture of the steel industry.

Those are clear advantages, and yet, as the gentleman has said, our industry is not asking for this kind of relief. They would perhaps like some tax relief and writeoff relief for modernization of facilities, as well as pollution controls. But they have mainly sought fair trade arrangements and the enforcement of trade arrangements, because that is what they believe would be the solution to many of their problems.

Mr. GAYDOS. Mr. Chairman, I am certain, if I may make a final comment, that if the American industry, as we have grown to know it and as represented primarily and basically by AISI, felt they needed any one of those elements in their complete makeup, in their productivity, in their formation of capital, or in raw materials, et cetera, they would have come before us and stated so.

They emphatically, without qualification, stated they did not need some of those things. They said we should give them a fair trade law. That is what they have fought for, and they hope this is the answer.

Mr. Chairman, I want to finally conclude by thanking the President, who has been subjected to much criticism from many sources. I want to publicly go on record to thank him and the administration and all those involved—in the trade pact and this legislation—for the time that they have all given to the steel caucus. We went down to the White House on no less than three occasions when the President had the patience, with a very busy schedule, to hear us out. We did not get everything we asked for, but at least the President made himself and his staff available.

For that I again extend the thanks of the steel caucus. We hope that that spirit of cooperation with the President and the administration continues.

Mr. Chairman, since I have no further requests to yield, I yield back the balance of my time if I have any remaining.

● Mr. GIBBONS. Mr. Chairman, title IV of the bill deals with product standards and certification systems. A country's product standards, ranging from permissible auto exhaust emission levels to wine-labeling requirements, can be, and often are, manipulated to discriminate against imports. The purpose of this agreement is to discourage those "hidden" trade barriers and, at the same time, allow each country to reasonably protect the interests of its citizens. The agreement encourages the use of open procedures in the adoption of standards, such as those widely used already by the United States under the Administrative Procedure Act.

This brings up an important point—title IV will not amend, repeal, or replace any existing laws of the United States, or of any State or municipality. One provision of this bill expresses the "sense of Congress" that no State agency or private person should engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States. Put another way, existing U.S. law will allow the United States to fulfill its international obligations under the agreement; no new enforcement authority has been created under this title.

Moreover, strict procedures are set up in the bill to handle representations alleging a violation of the obligations by the United States. Only parties to this agreement, or foreign countries which are nonparties, but extend treatment to the United States on the same basis as parties to the agreement, may make such a representation. Such representations must provide a reasonable indication that the standards-related activity is having a "significant trade effect." Finally, the appropriate international forum must find that the particular standards-related activity conflicts with U.S. obligations under the agreement. Only when all of these preconditions are met must the interagency trade organization review the international finding, and even then the obligation is simply to "recommend appropriate action."

On the other hand, the standards agreement will contribute to the reduction and elimination of those trade obstacles which have excluded U.S. products from foreign markets, and have reduced U.S. export opportunities. A principal U.S. objective of the agreement is to require that national and regional certification systems, such as within the EC which indicate whether products conform to standards, grant access to foreign or nonmember suppliers on the same basis as domestic or member supplier. Denial of such access is potentially a major problem for U.S. exporters. This objective has been accomplished by a direct obligation.

The agreement and title IV of the bill, also encourage the use, where appropriate, of existing international standards when new or revised domestic standards are drafted. Whenever the use of an existing international standard is not appropriate, or when no international standard exists, open procedures must be followed during the formulation of standards and certification systems. Title IV of the bill lists some of the reasons for which the basing of a standard on an international standard may not be appropriate. This includes: National security, the prevention of deceptive practices, and the protection of human health or safety, animal or plant life or health, or the environment. Title IV therefore recognizes the constitutional rights which reside with State and local governments, as part of their police powers, to engage in standards-related activities that are necessary to protect the interests and welfare of its citizens.

Finally, by encouraging the use of open public procedures in the adoption of standards, other nations' procedures will become more like existing U.S. practices such as publishing proposed measures and affording an opportunity to make comments.

Title IV of the bill will allow the United States to implement its obligations under the agreement. With the agreement coming into force, internationally, U.S. export opportunities should be enhanced by the disciplines imposed on trade distorting product standards activities abroad.

Title IX of the bill strengthens the authority under section 301 of the Trade Act of 1974 for the United States to enforce its rights under trade agreements and to act against foreign unjustifiable or unreasonable trade practices or policies which burden, restrict, or discriminate against U.S. export trade in goods and services. Under existing law, the President must take all appropriate and feasible steps within his power to obtain the elimination of such practices or policies and may withdraw trade concessions and raise tariffs or impose other import restrictions in retaliation. However, the main complaint from the private sector has been that there are no time limits on the interagency procedures coordinated by the special representative for trade negotiations for investigating petitions and for recommendations to and decisions by the President on possible action.

Title IX of H.R. 4537 revises section 301 of the Trade Act of 1974 in two main respects. First, the coverage of the President's authority is specifically expanded to include enforcement of U.S. rights under the agreements on nontariff measures negotiated in the MTN. Title IX constitutes the domestic counterpart to the international dispute settlement procedures provided under each of these agreements and the authority under domestic law to take unilateral action if a dispute involving U.S. trade is not resolved satisfactorily. Second, time limits are imposed on each step of the procedure for handling complaints alleged in petitions filed by domestic interests, the petitioner to be kept informed of all developments in the case, public hearings to be held, and all decisions and the reasons for them to be published. The special representative must decide whether to investigate a complaint within 45 days after a petition is filed, if so, initiate international consultations with the foreign country concerned on the same day; recommend to the President what action, if any, to take within 7 to 12 months after initiating an investigation (the time limit varying to correspond with the minimum time limit for resolution under the international dispute settlement procedure); and the President must make a decision within 21 days of receiving the recommendation. Pending cases will be treated as if the investigation is already initiated under the new law and will become subject to the same time limits.

Title IX will also establish an information system whereby any person may receive, upon written request, information on foreign trade practices and policies; on U.S. rights and remedies available under trade agreements and U.S. laws; and on domestic and international proceedings, to aid a potential petitioner in establishing a case and directing him to the proper recourse.

One of the major objectives of the United States in the multilateral trade negotiations was to establish a more effective mechanism in the GATT generally and in each of the MTN agreements for timely settlement of international trade disputes to insure that governments live up to the obligations and rules they have undertaken for conducting world trade. The success of this achievement will largely depend, however, on strong and constant followthrough by the United States in monitoring foreign compliance and vigorous enforcement of U.S. rights under the GATT agreements, and the readiness of the administration to exercise the authority provided by title IX if a timely mutually satisfactory resolution is not reached.

Mr. CONABLE. Mr. Chairman, I yield 10 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Chairman, I rise in support of this bill, which will implement and make possible the new international trade agreement, but I do so for perhaps a different reason than what we have heard today in the course of this excellent debate.

I, too, believe in free trade. I believe in free trade providing it is fair trade. In addition, I believe that perhaps we will gain something by virtue of this trade agreement.

But I also think that we are going to lose something. There will be some industries and some businesses that will lose by virtue of the increased foreign competition that this bill will make possible. But even with that, at worst we will probably hold our own, and optimistically, we may even gain.

But I think there is a far better reason for supporting this bill than whether or not we gain or lose dollars in trade. Most analysts today agree there is a growing trend in this country and in the world at large toward protectionism. This bill and this trade agreement reduces that protectionism both here in the United States and in all the countries that are signatories to the agreement.

In the United States I feel that free enterprise is becoming increasingly jeopardized due to protectionism, shortsighted Government policies, overreacting to consumer demands, and antifree enterprise philosophies. It seems that all too frequently we do things here in Congress or in the administration that are injurious to the free enterprise system, and as a result the businesses that are hurt run to us and ask for some kind of help, assistance, protection, loan guarantee, or something to help them stay in business. The result of this spiral of injuring the free enterprise system and then trying to do something to keep it going short of making it whole again has made us noncompetitive in world markets.

So I say the real reason for supporting this bill is to look beyond the dollars and the immediate gains we may get in foreign trade. Let us look beyond that and look at what the future is going to bring by virtue of our being a signatory to this international trade agreement.

To me, the future is going to mean that the real result, the real future impact is the necessary return in this country to free enterprise, due to increased foreign competition that the agreement makes possible and our inability to react toward it by greater protectionist policies.

In other words, when somebody gets hurt in the future by virtue of unfortunate or unwise governmental policy that is injurious to free enterprise, Congress is not going to be able to react with Government help or protection to offset it. This trade agreement is going to prevent that. In short, we are going to have to become competitive. The Government of the United States is going to have to improve our commercial competitive positions or we are going to lose more foreign markets, we are going to continue to lose jobs, and our balance of trade will continue to worsen. We must halt the implementation of antifree enterprise Government policy and begin to reverse those of the past.

Some examples of things that I think we are going to have to address in the next year to return ourselves to a more competitive position are: First, we are going to have to have strict enforcement of the laws that are still on the books after this agreement to protect American industries. I know that many people do not feel—me included—that we have not had that in the past.

Second, we are going to have to be far more responsive to and far more concerned about American businessmen who are trying to export goods overseas. The U.S. Government is going to have to become more commercially minded and more aggressive in encouraging this type of business instead of being very passive as it has in the past.

Third, the Congress is going to have to reduce the redtape and Government regulations that are strangling the free enterprise system in this country today.

Fourth and last, we have got to embark on a very very far reaching program of encouraging capital formation which should include ending double taxation of dividends, lowering tax rates, and exempt a portion of interest income from income tax liability. More importantly, a new depreciation schedule should be adopted, getting away from the present idea of useful life and moving to the concept of a standard 5 years for buildings, 3 years for equipment, and 1 year for Government-mandated expenditures.

These are the things we will have to do, Mr. Chairman, to return to free enterprise and make our businesses and industries competitive in foreign markets. Otherwise this agreement will make it easier for foreigners to compete with us and easier for them to take away markets and cause us to lose jobs. A strong free enterprise system is our best protection in domestic and foreign commerce.

Therefore, it is wise to support this bill and this international trade agreement, but we must not in so doing lose sight of the fact that this necessitates a change in our future Government relations with free enterprise to become supportive instead of an adversary relationship with free enterprise.

Mr. Chairman, I would like to call the committee's attention to a very important section of this bill before us, section 1110(b), that I was privileged to author and which calls for the President by July 15, 1980, to submit to the Congress—and I quote—"a study of the factors bearing on the competitive posture of U.S. producers and the policies and programs required to strengthen the relative competitive position of the United States in world markets."

I would also like to point out the language in the committee report, in explaining this section, on page 197, and I quote:

> Such factors should include, but not be limited to, tax practices and policies, problems of capital formation, research and development trends, barriers to innovation, environmental, health, and safety regulations or requirements, etc.

Mr. Chairman, I am hopeful that this provision in the bill requiring the administration to address these problems and this explanation in the committee report showing what the Committee on Ways and Means clearly intends will bring about the proper focus by the legislative and executive branches of Government as to what is going to have to be done, starting next year, to see to it that the United States does not lose markets but instead becomes very competitive and gains and regains markets.

So, Mr. Chairman, it is good to pass this bill. It is a step in the right direction toward free and fair trade. But in so doing, the House of Representatives must recognize that there must be a return to free enterprise for us to prosper or I feel we shall suffer by the passage of this multilateral trade agreement.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I will certainly yield to the ranking minority member.

Mr. CONABLE. Mr. Chairman, I would like to associate myself with the thrust of the gentleman's remarks.

I think it is particularly important to make the point that many of our colleagues who are allegedly free enterprise types and in favor of the free enterprise system nevertheless find it entirely appropriate for the Government to intrude in ways that ultimately can be only destructive in the processes of competition which are worldwide.

☐ 1600

If we believe in competition, it ought to be our lodestar in international affairs, as in other things. I happen to think the American economy is capable of competing anywhere in the world, given a fair matrix in which to exercise its trade. That is the purpose of this bill. I think this bill is a step in the right direction. I am very pleased that the gentleman is supporting it so strongly and so rationally.

Mr. MOORE. I thank the gentleman from New York for his comments, and I agree fully. I am firmly convinced that the economic system of the United States is the finest the world has even seen, the free enterprise system. It is still very vibrant and very dynamic. But the Government is going to have to turn toward assisting it instead of resisting it for us to maintain and gain these new foreign markets. 1980 is going to be a year that we must work to make possible a return to the free enterprise system which will see to it that we have an emphasis in this country on technological advancement, a balancing of our presently very poor trade picture, a greater quality and quantity of consumer goods at a lower price for our consumers, a halt in the decline of American industry, a halt in the loss of American jobs overseas, and a halt in the loss of markets, both domestic and foreign.

In short, we will have to change to prosper under this bill and under this new international trade agreement, and I welcome these changes which will be made necessary by this agreement to return us to the free enterprise system.

Mr. CONABLE. Mr. Chairman, I yield 7 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I rise with somewhat mixed feelings about the bill that is before us today.

The bill clearly has a number of good aspects. My State is one which exports a great deal. It is fifth in the country in per capita exports. Many of the industries that operate in my State, including the electronics industry and the machine tool industry, are very much in favor of the bill.

However, I must raise a red flag for those people who have a large dairy industry within their districts, as I do. As the chairman of the Committee on Agriculture has noted, the bill treats agriculture in general very favorably.

The dairy industry is the one area which receives less favorable treatment than in the past and in which the agreement could lead to some disastrous situations.

Right now the dairy industry is balanced fairly well, with the CCC product purchases maintaining a relatively even level. Compared to last year, the situation is much better, and the taxpayer burden is decreasing. So with this in mind, we are now changing rather significantly the amount of cheese, for instance, that can be imported into this country.

Current law allows some 57,000 tons of cheese imports per year. In 1977, the last normal year of world trade between the United States and other nations, we imported 79,000 tons of cheese. The new quotas provide for the importation of 111,000 tons of cheese. The 1977 imports exceeded the quotas due to the use of evasion tactics developed to circumvent the U.S. quota system. We fear that the new quota will be merely a new plateau, a new base, from which other more innovative evasion techniques will arise and significantly increase the level of cheese imports.

Studies have shown that raising the import quotas on cheese will hurt the dairy industry. 1977 imports totaled 1,968 million pounds of milk equivalent—fat basis. The proposed import expansion would add approximately 694 million pounds of milk equivalent to that. USDA research indicates that, for the expansion alone, there will be a $355 million negative impact on farm income.

The additional imports will displace domestic milk production that would have gone into cheese. This displacement, in the short run, will be accommodated by additional CCC purchases. To accommodate the full extent of the increased imports may add $80 million to CCC costs. This is a cost that must be absorbed by the American taxpayer.

In the longer term, the accommodation must be made on the farm through shrinkage of milk production. The equivalent of 694 million pounds of milk represents the output of some 61,700 average dairy cows at 1980 production levels. This would be the same as putting more than 1,200 dairy farmers with 50-cow herds out of business. Another study has estimated that the average dairy farmer could lose $1,500 annually.

There is another very substantial change with respect to the dairy industry which may raise additional problems. The current law requires that whenever any nation pays a subsidy so as to provide export of any commodity to the United States, the Secretary of the Treasury is to collect a countervailing duty equal to that subsidy. The new system, negotiated in Geneva, allows for the use of subsidies. It provides a system for keeping check on those subsidies, but the protections provided by that system are imperfect.

Under the MTN agreement, in order to obtain a countervailing duty the industry will have to show proof of injury. For the dairy industry, the presence of the dairy price support program complicates the proof-of-injury demonstration; furthermore, the process of assessing proof of injury is necessarily a subjective one.

I would like to point out, however, that the committee has significantly improved the administration's proposal in this regard. The committee included a "fast-track" provision that will expedite determinations under the countervailing duties section.

In sum, this bill raises substantial risks for the dairy industry. I would only have to point out the ineffectiveness of the past system and how, notwithstanding the theory and law on countervailing duties, imports could be introduced into this country in 1973–74 to an extent that destroyed the dairy industry.

There are further dangers posed by the fact that the farm bill provisions affecting the dairy industry have expired. The farm bill insured 80 percent of parity for only 2 years. Unless this body takes action to extend the 80-percent level, the farmer will not have the protection of that floor, and it will revert to 75 percent. This will increase the projected damage to the dairy industry. I am hopeful that this situation will be rectified in the near future, when the House will consider a bill to extend the 80-percent floor. If this bill passes, we will have some additional protections for our dairy industry. In that case, the people who will be injured by the importation of excess quantities will not be the dairy farmer—although it will hurt him—as much as it will the taxpayer.

Finally, I hope that the committee will keep a close watch on the implementation of the MTN agreement with respect to the dairy industry, because that is the one area which stands to lose considerably under this legislation. I also hope that the administration takes sufficient action to protect an industry which is vital to this country.

Mr. VANIK. Mr. Chairman, I yield myself such time as I may require to respond.

Mr. Chairman, I regret the opposition and concern of the gentleman and hope that he might reconsider.

I believe that the dairy industry will benefit from this agreement in the years to come. We have done more to protect the dairy industry against injury from subsidized imports than we have done for any other industry. Most industries would give their right arms to have the protection we have afforded the American dairymen. Under this bill, in section 702, we have provided for "fast track" action against subsidized imports which are breaking the American wholesale market. These fast track investigations will only take 2 months at the most, compared to at least 7 months for countervailing duty investigations for other industries. In addition, the dairy industry will be the only industry in America which will not have to prove injury in order to obtain countervailing duty-type actions against imports.

In 1978, the total amount of cheese imported under the combined quota and pricebreak systems was about 97,000 metric tons. The new quota level is 111,000 metric tons. Thus there is an increase in the total amount of controlled cheese coming into the country of about 14,000 metric tons. That is about 31 million pounds. In other words, we are talking about a possible maximum increase in imported cheese—and it is very questionable if that full increase will actually occur—of one-seventh of 1 pound per American per year.

Cheese consumption has been increasing dramatically as peoples' tastes change, and with the high cost of meat, cheese will remain a very attractive alternative. Thus, the level of imports as a percent of domestic production is estimated to remain stable at a very low rate of between 6 and 7 percent. Most manufacturing sectors would be delighted with an import penetration level held that steady and low.

It is true that in the first couple of years of this new cheese program, the price received for dairymen for milk will decline—the decline is estimated at 5.4 cents per hundredweight at the maximum—and this compares to a 1978 average farm price of all manufacturing milk of $9.68 per hundredweight.

I would like to include in the Record at this point an analysis of the cheese agreement by Prof. James P. Houck, professor of agricultural economics at the University of Minnesota, which points out that the decline in dairy herds cannot be attributed to international trade and that, and I quote:

> The negative impact of the proposed quota increases under the MTN agreement is almost negligible in any realistic perspective.

In view of the benefits provided by the MTN agreement for the entire Nation and for the world economy, I hope that the gentleman will reconsider.

A Brief Analysis of the MTN Agreement on Dairy Import Quotas

(By James P. Houck [1])

The proposed MTN agreement on dairy imports enlarges the quotas on foreign cheese, eliminates the current "price break" system, and brings all "price break" cheeses under the new quota. If the new quota system had been put into effect last year, approximately 15 thousand metric tons of additional cheese could have been imported into the United States on an annual basis.[2]

Since the implementation of the new quota system is proposed for 1980, this 15 thousand ton figure is likely to be an upper estimate. This is because cheese imports, especially "price break" imports, have been increasing recently and probably will continue to do so. Moreover, the increased quota levels may not necessarily be filled with increased imports. In fact, in 1977 and 1978, actual cheese imports were below quota levels (83 percent in 1977 and 87 percent in 1978).

However, for the purpose of this discussion, assume that all of the potential 15 thousand metric tons enters in a single year. This is the equivalent of 275 million additional pounds of milk on the domestic market. To be generous with this estimate, allow it to be 300 million additional pounds of milk equivalent. This is approximately one quarter of one percent (0.25 percent) of the total annual U.S. milk production. It also represents slightly less than one percent (0.9 percent) of total U.S. cheese production on an annual basis.

Taking the same price response estimates used recently by a spokesman for dairly interests, this potential increase in imports could depress milk prices by 5.4 cents per cwt at the farm level.[3] This particular downward movement in prices would occur only if nothing else changed and if cheese prices were sufficiently above support levels so that a downward adjustment of this magnitude actually could occur. Cheddar cheese prices in the market would need to be one or two cents per pound above supports for this to happen. If not, government cheese purchases would prevent the price from falling. Based on the 1978 average farm price of all manufacturing milk, $9.68/cwt, this downward price pressure of 5.4 cents due to increased imports is equal to a little over half of one percent (0.56 percent) of the 1978 price. Compare this to average increases in farm milk prices of about 8.1 percent per year since 1970.

Taking the 1978 level of milk output as a basis, the cost of this trade concession to U.S. dairy farmers is $66 million (5.4/cwt times 1219 million cwt). This represents about one half of one percent (0.5 percent) of the farm value of milk production in 1978.

Some observers like to think of imports and changes in imports in terms of the dairy farms and dairy herds that they represent. Recall that the proposed quota increase would add 300 million pounds of milk equivalent to U.S. markets. At 1978 production levels, this is equivalent to 27 thousand average milk cows. This may seem like a lot of cows, but it is only about one quarter of one percent of the U.S. dairy herd in 1978. Furthermore, each year since 1955, the U.S. dairy herd has dropped in size by an average of 440 thousand cows per year. So in perspective, the maximum impact of the quota increase is on the order of 6 percent of the annual dairy herd shrinkage that has been underway for many years. This phenomenon has had almost nothing to do with imports or trade policy.

Look at this from another viewpoint. The 27 thousand cows replaced by new imports also could be taken to represent about one thousand average-sized dairy herds (farms) in the United States. Between 1955 and 1978, about 16 thousand of these 27-cow herds went out of production each year. Moreover, the rate at which all milk-cow farms disappeared between 1965 and 1974 was 70 thousand farms per year (see attached table). This may be a deplorable situation to dairy interests, but it has very little to do with imports.

No one could argue that increased import quotas bestow direct economic benefits on U.S. dairy farmers. But, on the other hand, the negative impact of the proposed quota increases under the MTN agreement is almost negligible in any realistic perspective.

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Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

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[1] Professor, Department of Agricultural Economics, University of Minnesota.

[2] The new quota level is 124 thousand metric tons. Cheese imports totaled 109 thousand tons in 1978. The difference is 15 thousand metric tons. This is the equivalent of about 275 million pounds of milk. All data in this paper are drawn from official USDA publications and sources, including the *Dairy Situation*, ESCS, USDA (various issues) and *Agricultural Statistics*, USDA, 1978.

[3] Graf, Truman F. "Statements on International Trade Negotiations and the U.S. Dairy Industry," March 5, 1979. The author used analysis reported in *The Impact of Dairy Imports on the U.S. Dairy Industry*. Agricultural Economic Report No. 278, ERS, USDA, January 1975.

Mr. VANIK. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I certainly appreciate the remarks that the gentleman has made and understand what has been done by the committee. In that regard I commend the committee for, I think, making hopefully a workable agreement out of what at least initially was something which scared the dairy industry very much.

Of course, we have some disagreement on how you compute figures as to what levels were and all that.

I would also like to point out another problem, which I believe some action has been taken on, and that is an area of casein, imports of casein, which is now being utilized to a large extent in replacing some dairy production at a cost to the taxpayer.

Mr. VANIK. As the gentleman knows, our committee has asked the ITC to do a study on the casein problem. We realize that is something to which we have to address our attention. We have already requested that study.

Mr. JEFFORDS. I want to express my appreciation for that. A study is one thing; acting is something else.

Mr. VANIK. If a study warrants action, I want to assure the gentleman we are certainly going to try to provide the action.

Mr. JEFFORDS. I would hope so, because that has probably done more, at least our view on the Dairy and Poultry Subcommittee, to raise a threat from the point of view of subsidies than anything else, because, as the gentleman well knows, what happens is that we have nonfat dry milk, which is converted to casein at a very low dumping price, brought into this country. We have a dumping price. It is then sold here as a dairy product or substitute for dairy product which we have been fighting with the Federal law, the FDA, and others.

This is used and called dairy products once it gets here, which is displacing thousands of pounds of U.S.-produced nonfat dry milk, which is coming out of the taxpayers' pocketbook.

I just want to express my deep concern to the gentleman at the increasing amount of imports which are coming through that loophole. I do appreciate the gentleman's concern. I appreciate the study, and I am hopeful, when that study comes in, including additional hearings that our committee has, that maybe some affirmative action can be taken to end this very serious loophole.

Mr. VANIK. I thank the gentleman.

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. VANIK. Mr. Chairman, H.R. 4537, the Trade Agreement Act of 1979, was reported to the House without a dissenting vote in the Committee on Ways and Means and its Subcommittee on Trade. Given the controversial nature of past trade agreements legislation this is a remarkable accomplishment. That this legislation has progressed this far, dealing as it does with complex, contentious issues between nations, is due to four basic factors: Understanding of the constitutional process, leadership in taking concerted action to conclude the negotiations successfully, willingness to consult with the Congress and the private sector, and cooperation between the executive branch and the Congress and between the two Houses and among the committees of House and Senate.

The Tokyo declaration which set in motion the Tokyo round of multilateral trade negotiations recognized that further trade negotiations to liberalize and expand world commerce would be meaningless unless nations were willing to dismantle, reduce or avoid nontariff barriers to or distortions of international trade.

For the United States, trade agreements on nontariff barriers posed constitutional problems since agreements negotiated by the President requiring changes in domestic law involve the constitutional power of the Congress to regulate foreign and domestic commerce. The Trade Act of 1974 dealt with this problem by specifically authorizing the President to negotiate and enter into trade agreements in those areas of nontariff barriers which burden U.S. commerce, and to bring the agreements back to the Congress under special procedures for their consideration; their statutory approval and domestic implementation.

The basic understanding of the constitutional process as it relates to international trade agreements and their relation to domestic law was set forth in the provisions of title I of the Trade Act of 1974. These provisions recognized the constitutional right of the President to negotiate and enter into trade agreements with foreign governments and preserved to the Congress its constitutional right to determine whether and how such agreements are to be implemented in domestic law. The balance between the negotiating role of the President and the final approval role of the Congress has been adhered to by the executive branch and the Congress throughout the MTN and the preparation of the legislation before the House today.

Thus, in sections 1 through 3 of the bill, approval of the agreements are provided for and acceptance of the agreements by the President on behalf of the United States is conditioned upon our major trading partners also accepting the obligations under the agreements. Moreover, the agreements are not self-executing and their provisions do not have independent effect under domestic law, but have effect only insofar as they are implemented by the separate titles of the bill. Thus, sections 1 to 3 provide for the approval of the agreements negotiated and submitted to the Congress under section 102 of the Trade Act of 1974. I submit to you that the understanding and recognition of the constitutional process as carried out under title I of the Trade Act of 1974 has been a crucial factor in the success of U.S. participation in the negotiations, the successful conclusion of the MTN, and in the soundness and completeness of the bill before the House today.

The second factor involved in the opportunity the House has today in moving forward to a firmer foundation for U.S. trade policy by approving H.R. 4537 is the leadership displayed by President Carter and Ambassador Robert S. Strauss. That leadership of taking concerted action to convince our trading partners to bring the negotiations to a successful conclusion is to be highly commended. Many said that world economic conditions simply would not permit either the United States or our trading partners to commit themselves to both liberalize trade practices and adhere to new disciplines on trade restrictive and trade distorting measures. The results are not all that the Tokyo declaration anticipated, but they are far more significant and contain far more potential benefits for the United States than many ever believed possible. The results of the negotiations, as transmitted to the Congress by the President on June 19 include:

An agreement on export and other subsidies which distort trade and injure competitors and the use of countervailing measures against such subsidies;

An agreement on injurious antidumping practices and measures to prevent such practices;

An agreement to forestall or prevent the use of discriminatory product standards, testing and certification systems;

An agreement to require uniform, open procedures to procurement by certain Government agencies;

An agreement to establish a uniform, fair and greatly simplified method for the valuation of imports for the purpose of assessing duties;

An agreement to simplify and remove restrictive trade elements of import licensing procedures;

An agreement to remove tariff and nontariff restrictions on trade in civil aircraft; and

An agreement on texts concerning the conduct of world trade.

These agreements will bring discipline over the use of trade barriers which restrict trade unnecessarily or distort trade unfairly. They also will provide important new international dispute settlement procedures which will enable all countries to better recognize their obligation and more effectively to insist on their rights. Thus, trade debilitating confrontations can be avoided through international consultation and mediation of differences.

In addition two multilateral agreements provide new consultative arrangements to deal with traditional problems of trade in the areas of dairy products and meats. A series of bilateral agreements in specific problem areas of tariffs, classification, duty or excise tax assessment, and other matters of particular bilateral concern were also concluded in the negotiations and submitted for approval.

Obviously these negotiations had many facets and the agreements deal with complex issues. The results do not lend themselves to quantitative analysis. I believe, however, that one conclusion is clear. The agreements reached and which will be approved by H.R. 4537, represent a balanced result. The United States will be required to remove some obstacles to imports, provisions which had been in law for many years. For example, the American selling price system of assessing duties on benzenoid chemicals and certain rubber-soled footwear and the wine-gallon method of assessing duties and excise taxes on imports of distilled spirits will be repealed. However, in each case the likely domestic economic impact of the repeal of such provisions was weighed carefully and adjustments made to minimize disadvantageous effects, while maximizing economic gains from increased market access abroad for American industrial and agricultural exports.

More important, the whole multilateral system for reducing or eliminating barriers and other trade distortions such as subsidies has been strengthened—public procedures for considering petitions and complaints; dispute settlement mechanisms will place in the hands of American trading interests the tools to moderate or prevent discrimination in market access abroad or obtain action against unfair trading practices with the full support of the U.S. Government. The many complaints by U.S. producers addressed to the Congress during the consideration of the Trade Act of 1974 have for the most part been dealt with in these agreements. That this is the case is demonstrated by the widespread support this bill enjoys and even more important the lack of serious opposition to the results of the MTN and its implementation as provided in H.R. 4537.

Other members of the committee will address specific aspects of the agreements and the related provision of the bill. However, I want to reiterate that it was the inspired leadership of Bob Strauss who convinced our trading partners and our own Government that the very difficult economic circumstances must be set aside and that concerted actions must be taken to bring the MTN to a successful conclusion. Ambassador Strauss, his talented staff and officials and staff in other agencies deserve our highest commendation. The skill of their negotiating and the long and hard efforts extended to develop first the political will internationally and then to apply the knowledge and understanding of issues and positions which went into the final balancing of these complex agreements deserve our highest praise.

The agreements are in the U.S. interest and can prove of great potential to bolster the trade position of the United States in world markets if we have the wisdom and strength to take advantage of the opportunities they present.

The third factor contributing to the MTN results and their embodiment in domestic legislation in terms of H.R. 4537 has been the willingness of the Special Representative for Trade Negotiations and his office to consult with the Congress and with the private sector on the course of the negotiations and on the implementing legislation. Consultation with the Congress, of course, was required by the Trade Act of 1974. Section 161 established a congressional advisory process. But it is important to add that it was made to work. That congressional advisory process is described on page 26 of the report on H.R. 4537. I believe our own committee members and staff deserve credit for helping to make that process work, by monitoring the negotiations, by raising questions and flagging issues for the Special Trade Representative during the course of the negotiations. But such consultations would only have been successful if both the executive branch and the congressional committees worked at it.

Also as required by section 135 of the Trade Act, the Special Representative for Trade Negotiations consulted with the private sector during the course of the negotiations. Many hours of time were devoted to reviewing the status of the negotiations and in developing negotiating positions and implementing ideas into position papers. For once, the private sector, manufacturing, agriculture, labor, retailer, and consumer interest all had an input into the development of United States negotiating strategy and positions. The advice of these private sector groups was not always accepted, but the information and insight the exchanges made possible better prepared our trade negotiators than at any time in the past. The private sector advisory system worked well, and their unanimous recommendation was to continue the system in simplified form as provided for in section 1103 of this bill.

Finally, as also required by the Trade Act of 1974, the Special Representative for Trade Negotiations consulted with the Congress on the trade agreements the President decided to enter into and on the legislation before us today.

These consultations which began after the President's notification on January 4 started in earnest in early March of this year. The Subcommittee on Trade reviewed each trade agreement in detail and discussed the elements of legislation necessary and appropriate to implement the agreements. The committee's decisions on legislative recommendations were publicly announced as the consultations progressed.

I believe these consultations in the development of H.R. 4537 are unique in the annals of legislative activity. I do not hesitate to recommend such close consultation and coordination of effort for the development of legislation in other areas of broad, national concern. In addition, during the consultations and before the actual drafting of the legislation the Subcommittee on Trade held public hearings to be better informed of the public concerns with the agreements and to receive proposals from the private sector on the best approach for implementing the agreements.

The fourth factor contributing to the overall legislative result in implementing the MTN is cooperation. Our own Committee on Ways and Means cooperated by taking time from other important legislative matters pending before the committee. Individual members of the Subcommittee on Trade approached each decision from an attitude of cooperation in developing the best legislation possible. The chairman and ranking Members and other Members with a jurisdictional or subject matter interest in the trade agreements cooperated fully by devoting their time to our executive sessions in developing the bill. The ultimate in cooperation was their willingness to work with us in writing the report and to waive, for the consideration of this bill only, joint referral of H.R. 4537. I want to express my gratitude for this tremendous cooperation and for the great contribution the other committees have made to this bill.

In addition, there was cooperation between the House and Senate. Our Subcommittee on Trade met with the members of the Senate Committee on Finance and in detailed review, worked out and agreed upon recommendations on the implementing legislation in a spirit of comity and cooperation. The actual drafting of the bill took place under the guidance of the House and Senate Legislative Counsels, with committee staff and the administration participating.

I believe this bill is a measure of the worth of our common task. The sound results which have been achieved are a tribute to the ability of this Congress to legislate in a spirit of cooperation and I must add bipartisanship, because that too has been a constant theme in all of our work.

I believe that H.R. 4537 is one of the most important bills this House will consider in the 96th Congress; in the long run it may be as important as the SALT II Treaty, because it adds to and can greatly strengthen the foundation for peaceful and mutual beneficial expansion of world trade.

Internationally, the enactment of H.R. 4537 can make possible a significant reduction in barriers to trade and provide needed international disciplines over the use of measures which unfairly restrict or distort trade.

For our domestic economy, its enactment will significantly increase access to markets abroad, if we will take the necessary steps in government and private industry to seize the opportunities the agreements and this legislation present.

In terms of our domestic trade law, the bill greatly improves administrative procedures to prevent injury from unfair subsidized or dumped imports; it places an injury test in the countervailing duty law and thereby puts an end to a longstanding controversy with our trading partners, at the same time making use of that law against subsidized imports more certain and effective.

The bill and the report fully recognize that our own Government trade policy functions must be restructured and trade policy coordination must be improved. From that point of view H.R. 4537 is just a beginning if the United States is to develop a dynamic trade policy that will meet the economic and trade needs of the United States in the 1980's. H.R. 4537 provides some of the necessary tools for a new and more fair trading system. It will help encourage an international climate that will permit a competitive

U.S. economy to grow and prosper. It will provide a trading system in which the United States, in concert with its trading partners can foster peace and understanding that fair and flourishing international trade can bring. I urge all Members to support H.R. 4537.

Mr. Chairman, the committee report on H.R. 4537 is a complete report regarding H.R. 4537. As a part of the legislative history, I am sure that the Committee on Ways and Means and the other committees of jurisdiction will closely monitor the administration of H.R. 4537 to see that the congressional intent as expressed in the report is carefully followed.

I would, however, call attention to two statements in the report which are highly important to the successful operation of the provisions of the bill.

The first has to do with the congressional advisors and the whole consultative process in the administration of the trade agreements program. As observed in the committee report, page 28:

> The committee believes that the consultative process with the administration has fulfilled the oversight requirements of the Trade Act and has been instrumental in establishing the Congress, along with the private sector, as a permanent partner with the executive branch in the operations of the U.S. trade agreements program.
>
> The committee anticipates and has provided in several sections of the bill that this partnership shall continue. In particular, it is expected that the STR will continue to provide congressional advisors and staff with periodic briefings and documentary information regarding the implementation of the MTN agreements and future negotiations under the President's trade agreement authority.

In short, Mr. Chairman, we feel the Congress must continue to be kept informed by briefings and by the receipt of the same type of documentary information as has been provided in the past regarding the implementation of the MTN agreement and future negotiations under the President's trade agreement authority.

Second, we have addressed the need for reorganization; but on page 25 of the report we point out that in the interim period—

> It is absolutely essential that the Office of the Special Representative for Trade Negotiations be effectively led and provided with adequate resources to begin the highly important implementing process. To permit a hiatus in that office and in the three top positions could well compromise much of the potential gains of the negotiations.

We feel strongly that the President must act to appoint a qualified, experienced, and widely respected official to take up the duties of the Special Representative for Trade Negotiations, pending the announced departure of Mr. Strauss. To delay such an appointment as well as other top positions would be to risk much of the success gained in the negotiations.

Mr. Chairman, I yield such time as he might consume to my distinguished colleague from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Chairman, the bill we are considering today is a landmark in the history of U.S. foreign trade policy. The Trade Agreements Act of 1979 is the final product of the Multilateral Trade Negotiations. The bill comes to the floor this month after years of negotiation by the Special Trade Representative and after months of consultation with the Trade Subcommittee of the Ways and Means Committee and various other committees of both the House and the Senate.

As you know, this legislation cannot be amended; we must vote either yes or no. This is a source of some controversy and irritation, but I think it is necessary for the passage of a consistent law uneroded by amendments. We do not have much time to wade through this complex legislation; Congress has only a few weeks to make its decision. In light of this and as a member of both the Ways and Means Committee and its Trade Subcommittee, I would like to offer a short commentary on some of the more important provisions of the agreements. And I would like to urge my colleagues to vote for this legislation.

The Trade Agreements Act of 1979 continues the gradual rate of tariff reductions begun in the Kennedy round. Under the agreement, signatory countries have pledged to reduce tariffs by an average of 30 percent over the next 8 years. This will bring an improvement to the international trade system, but tariff reduction by itself does not go far enough, for high tariffs have not been the only obstacles to trade. As tariffs have been lowered over the past decade, enterprising countries have found other ways to limit trade artificially and protect domestic industry. These nontariff barriers to trade are much more difficult to identify and remedy.

The Trade Agreements Act of 1979 attempts for the first time to define and limit non-tariff barriers to trade. In several key provisions of the agreement, the United States will benefit. For example, the Trade Agreements Act expands the definition of an export subsidy, and places a flat prohibition on export subsidies for nonprimary products and for primary mineral products. The foreign export subsidy has been one of the principle problems for the competitiveness of U.S. industry. Many foreign governments have extensive export subsidy programs—loan guarantees, export credits, provision of goods and services at preferential rates to favored industries—any of which can reduce the prices of export products to such an extent that U.S. industry cannot compete either in foreign markets or even the U.S. domestic market.

For the first time, the Trade Agreements Act gives international recognition to the fact that export subsidies are an interference with free trade. An annex to the Trade Agreements Act provides a sample list of subsidy practices that will be prohibited under the agreement; any signatory country indulging in these subsidy practices will leave itself open to trade retaliation through countervailing duties. This will protect U.S. industry from certain unfair foreign pricing practices, yet it will not be a barrier to free and fair trade.

The Trade Agreements Act also benefits the United States through changes in Government procurement practices. In the past, Government procurement practices in many countries have been severely restrictive. The United States, for example, imposes rigid Buy American Act provisions on much of its $79 billion worth of annual Federal purchases. Many foreign governments do not invite bids on their government purchases or publicize them in any way. Under the new agreements, the United States will now waive Buy American Act provisions for certain designated purchases amounting to about $6 to $12 billion annually. Our trading partners, on the other hand, will open a total of about $20 billion in procurement contracts to U.S. industry for bidding. As guidelines for procurement, the agreements set the following three restrictions:

First. A 30-day notice period on all bids above $190,000.

Second. A prohibition of discrimination against foreign bidders.

Third. A requirement that all losing bidders be given written notice explaining the decision.

These restrictions on procurement procedures are mandatory under the Trade Agreements Act; failure to comply with the provisions of the act will invite the withholding of trade concessions and privileges by other countries.

The Trade Agreements Act also prohibits the use of specific product standards as trade barriers. In the past, it has been possible to exclude foreign products from a domestic market by imposing more onerous standards and definitions for foreign-produced products than for comparable or even identical domestic products. The new standards code makes it clear that such standards are technical barriers to trade, and provides that foreign imports shall be considered no less favorably than domestic products. Should a country flout the standards code, that country can be subject to retaliatory action by withdrawal of the benefits contained in the code.

The signatory countries to the Trade Agreements Act entered into these negotiations voluntarily, and the resulting agreements depend heavily on voluntary compliance. Yet these agreements have teeth to them; each code contains provisions for international or unilateral retaliatory action in the event of noncompliance or outright violation of the agreements. This retaliatory action, though, is to be conducted on a more formalized and open scale than ever before, with precise remedies being directed to specific abrogations of the codes.

These trade agreements have been negotiated carefully over a 6-year period with much give and take among the countries involved. Various provisions have also been worked out in ways acceptable to U.S. industries, like the textile and steel industries, which might be harmed economically by a reduction in trade barriers. Under the agreements, no industry, no country, will get all it might want but, taken as a whole the agreements mark a significant progress toward a sounder, more productive, and more peaceful world economy.

I do not predict that the Trade Agreements Act of 1979 will solve all our trade problems or eliminate our trade deficit or bring back the value of the dollar. But I think it is a major step in those directions and ought to be approved. Few countries have anything to gain by wholesale restriction of imports, yet we risk moving in the direction of restriction and protectionism if we reject this legislation. I urge my colleagues to look at this agreement in the spirit in which it is offered—an agreement among trading partners to allow trade to flourish as freely and efficiently as possible, to the benefit of consumers and countries alike.

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, throughout these 2½ years that I have served in the Congress, I have monitored closely the Multilateral Trade Negotiations as a member of the Subcommittee on Trade of the Ways and Means Committee. Because I represent an area and come from a State where agriculture is extremely important to the economy, I have been especially interested in the agricultural concessions obtained by our negotiators in Geneva.

I am pleased by the agricultural concessions obtained for the United States. Specifically, I believe that these agreements will help the American farmer by opening up new markets. Trade liberalization is generally beneficial to America's farmers who lead the world in production of agricultural commodities and whose produce is competitive worldwide.

Beef production of the highest quality is a specialty of American agriculture. Throughout the world there are trade barriers which frustrate the sale by your farmers and mine of this outstanding American product. Successful efforts have been made by our negotiators to provide exporting opportunities for our cattle producers.

The European Community has agreed to provide access to their market for 10,000 metric tons of high quality U.S. beef. I am told that this agreement amounts to $60 million annually in new American beef exports. Additionally, the United States and the European Community have agreed to consult in 1983 on the expansion of the beef trade.

New markets have been opened in Austria, Switzerland, and Portugal. While comparatively small, these markets may grow and even today they mean millions of dollars in exporting opportunities to American farmers.

I am encouraged that the Japanese have agreed to increase their quota of American beef from the current 16,800 to 30,800 metric tons by 1983. This increase provides an additional $120 million in beef exports by 1983. This level will be reviewed by the United States and Japan in 1983. We have made progress but we must require the Japanese to do better in opening its markets to a wider variety of American products.

It is estimated that these trade agreements will provide $195 million in new and expanded trade for American beef producers. I believe that it is a good beginning, though only a beginning, in what must be a persistent and successful effort to open world markets to the American farmer.

Other areas of American agriculture will be aided by the trade agreements. Poultry producers will find new and expanded markets. Poultry farming is one of my district's most important industries. Tobacco, canned fruits and mixes, rice, prunes, and table grapes will find new and expanded foreign markets.

Concessions are not volunteered by our trade competitors in tough negotiations. These agricultural concessions to the United States resulted from some concessions on our part. The special trade representative has reported that elimination of the wine-gallon method of assessment on imported bottled and distilled spirits was crucial to the negotiations. Ambassador MacDonald has previously testified before our subcommittee that the elimination of this valuation system was "the top priority of the European Community request in agriculture and it made possible their valuable concessions to us * * *."

Title VIII of the bill before us repeals the wine-gallon method of determining the excise tax of $10.50 per gallon and assessing duties on imported bottled and distilled spirits. Elimination of the wine-gallon method means that imported bottled spirits will be subject to the proof-gallon method of tax and duty assessment. Proof-gallon is based on alcoholic content rather than volume of liquid, removing the differential which Europeans believe discriminates against foreign spirits usually imported at below 100 proof. The Europeans' effort was for parity between the tax and duty treatment of domestically produced spirits and spirits imported in bulk and determined at or above 100 proof.

Elimination of the wine-gallon method of imposing taxes and duties on below 100 proof spirits does primarily benefit foreign producers and importers of bottled spirits. Therefore, title VIII includes an extension of the time period for payment of the distilled spirits tax for domestic bottlers by an additional one-half month phased in 5 days per year over a 3-year period. It appears there is a significant period—15 to 60 days—between the time the distilled spirits tax is paid on spirits bottled in the United States and when this tax is recouped by the bottler from the purchaser. For the importer, the delay in passing through the tax on foreign bottled spirits is significantly less—zero to 15 days. The additional deferral period for domestic distillers will provide a measure of relief and remove any disadvantage. I would suggest that Congress favor deferral in the unique circumstances of this case but not allow it to be treated as a precedent for deferring the payment of other excise taxes.

Title VIII also repeals the rectification taxes imposed in addition to excise taxes on domestically bottled spirits which are rectified. Rectified means they are blended or otherwise changed from their original state. Since domestic and imported distilled spirits will now be taxed on an equal basis, title VIII provides for the establishment of an "all-in-bond" system where all operations of a distilled spirits plant are conducted under bond prior to the determination of the tax. The present system is outmoded, dating back to the Civil War. These provisions are generally effective on January 1, 1980.

On the tariff treatment of imported distilled spirits, title VIII replaces as of January 1, 1980, present rates of duty with higher rates equivalent to the protection afforded by the wine-gallon method of both the excise taxes and the duties. The President may reduce these converted rates to the present rates but assessed on a proof-gallon basis on imports or particular distilled spirits if he determines that the United States has received adequate reciprocal concessions of benefit to U.S. exporters from the major foreign countries supplying the particular spirits.

I have favored the wine-gallon concession as a reasonable means of obtaining other benefits for our domestic industries and primarily for domestic agriculture. The committee has moved to provide an excise tax deferral for the domestic distilling industry which has complained about the concession. I believed personally that the deferral was unnecessary but point to it now to demonstrate the even-handedness of this concession and the benefits obtained for the United States.

Mr. Chairman, I want to particularly commend Ambassador Strauss for his leadership with these negotiations. For the first time in recent years, we have begun to approach trade problems in a realistic manner, and it is my opinion that Ambassador Strauss deserves much of the credit for this.

I urge support for this trade bill.

□ 1620

Mr. VANDER JAGT. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Chairman, I rise in support of H.R. 4537, and in doing so I must rely to a great extent on the recommendations of the International Trade Commission, the Special Trade Representative, and the House Committee on Ways and Means. H.R. 4537 is a complicated piece of legislation. It embodies the United States legislative implementation of the Multinational Trade Negotiation agreements which have been entered into between the United States and its trading partners.

The Ways and Means Committee has requested the International Trade Commission to provide an analysis of the overall impact of the MTN agreements on both the industrial and agricultural sectors. That analysis report was submitted to the Trade Subcommittee of the Ways and Means Committee in mid-June of this year. The ITC concluded that U.S. agriculture should benefit, at least modestly, if the tariff concessions and MTN agreements are implemented by the United States and its trading partners. Exports are expected to increase by $500 million, with imports rising about $100 million, as a result of the MTN. The ITC estimates that domestic consumers probably will not benefit from the MTN, owing to the relatively small increases in exports and imports over an extended period of time.

The key provisions of the agreement, as noted by the Ways and Means Committee, are generally as follows:

1. Flat prohibition of export subsidies on non-primary products as well as primary mineral products.

2. A description of export subsidies which abolishes the existing requirement that an export subsidy must result in export prices lower than prices for domestic sales, and includes an updated illustrative list of subsidy practices.

3. With respect to domestic subsidies, for the first time in an international agreement, explicit recognition that while they are often used to promote important objectives of national policy, they can also have harmful trade effects; relief (including countermeasures) is permissible where such subsidies (a) injure domestic producers; and (b) nullify or impair benefits of GATT concessions (including tariff bindings); or (c) cause serious prejudice to the interests of other signatories.

4. Recognition that where domestic subsidies are granted on noncommercial terms, trade distortions are especially likely to arise; commitment by signatories to "take into account" conditions of world trade and production (e.g., prices, capacity, etc.) in fashioning their subsidy practices.

5. Improved discipline on use of export subsidies for agriculture. Prohibition on such subsidies when used in a manner which (a) displaces the exports of others or (b) involves material price undercutting in a particular market.

6. Provision for special and differential treatment under which developing countries could not use export subsidies where such subsidies adversely affect the trade or production interests of other countries; provision for negotiated phase-outs of export subsidies by developing countries.

7. Tight dispute settlement process.

8. Greater transparency regarding subsidy practices (including provision for notification to the GATT of practices of other countries).

9. For countervailing duty actions, an injury and causation test designed to afford relief where subsidized imports (whether an expert or domestic subsidy is involved) impact on U.S. producers either through volume or through effect on prices.

10. Greater transparency in the administration of countervailing duty laws/regulations.

Whether or not the agreement will operate as contemplated by the House Ways and Means Committee must await the inevitable testing of the MTN agreements which will certainly be forthcoming once they are in place and operational. The provisions on standards, subsidies, antidumping, tariffs, and other countervailing measures, will play a large part in whether the MTN agreements will work to the benefit or to the detriment of American agriculture. On balance, I think one must conclude that the United States must formulate some modus operandi for the avoidance of trade wars, cartels, and other trade barriers which ultimately can only harm, I believe, the U.S. economy.

A large part of the agricultural measures affected by this bill as it implements certain bilateral agreements is that relating to cheese, other dairy products, and meat. The Ways and Means Committee concludes that the new system of cheese agreements will benefit the American dairy industry. Meanwhile, concern has been expressed by some segments of the dairy industry that by various changes in the manufacturing process, cheeses could be moved from quota categories to nonquota categories, thus burdening the American market with these increased imports. The Ways and Means Committee feels confident that the Customs Service will guard against any such infractions. I think that not only the executive branch but the Congress itself must be vigilant to insure that the provisions of the MTN agreements as they relate to dairy products are strictly adhered to. The Ways and Means Committee also expects the MTN agreements to offer a greater potential for over $100 million in meat exports by 1983.

The flexibility of the American cattlemen in the wide range of agricultural production they may engage in, and the fact that many cattlemen raise their own feed, lead me to believe that the United States can compete advantageously with most countries in the world as it relates to meat exports of nearly all kinds.

In conclusion, may I say that it is my sincere hope that this bill, in implementing the MTN agreements, will have the beneficial effects promised for it by its strong supporters. As I said before, it is a very complex piece of legislation but one which will have a strong economic impact on almost all sectors of American agriculture. I will vote for the bill and I will take whatever steps may subsequently be necessary to see that it works as was intended in opening up trade with foreign countries.

Mr. VANDER JAGT. Mr. Chairman, I yield 3 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. I thank my distinguished colleague for yielding.

I would like to say I respect the work product of the Ways and Means Committee, its able chairman, the gentleman from Oregon (Mr. ULLMAN) and distinguished ranking minority member, the gentleman from New York (Mr. CONABLE) and especially the work of the Trade Subcommittee chaired by Mr. VANIK, and my honorable friend from Michigan (Mr. VANDER JAGT). I also commend the subcommittee for the willingness to come to Fall River, Mass., to learn first-hand what the impact of a textile settlement would be on the New England apparel industry. I respect their work product because it is quite obvious to every Member of this House that we are dealing with a piece of legislation that is attempting to reconcile conflicting interests and competing views. Even in my own congressional district there are competing interests which have been dealt with in this particular bill.

In Massachusetts today, nearly 50 percent of the manufacturing jobs are in international trade impacted fields—such as apparel, jewelry, leather products and shoes, electronics and high technology. About 20 percent are in export related and 31 percent are in import related areas. The breadth and diversity of impact is clear.

The promise of increased profitability, increased access to foreign markets for high technology firms offers new hope and new opportunity to the high technology areas of Massachusetts, for which I am grateful. However, in terms of the apparel industry, which has been beset by a virtual flood of imports for many years, I believe that the committee came to grips with even more difficult problems. I realize that the Special Trade Representative, Mr. Robert Strauss, and his advisory committee, composed of union leaders and leading apparel manufacturers and the textile industry itself, worked out what they felt was the best compromise available.

The administration's textile agreement embodies a number of positive elements. The global import survey will monitor the overall impact of imports of certain goods; there will be limits on surges of imports from Hong Kong, Korea, and Taiwan, which have in the past severely disrupted our industries. And there will be a continuing reliance on bilateral agreements, with tight quotas on goods from major exporting countries. I have received supportive statements from both the labor unions and the management of the apparel firms in my district, and they have assured me that this agreement will minimize their losses.

I have to say quite frankly as one Member of the House, Mr. Chairman, that I still maintain some personal skepticism, and I will question the implementation of the bill. I think the committee did everything in its power to work out an honorable compromise. The question now is whether or not this compromise can be monitored and implemented to prevent the outflow of jobs that we have experienced which has caused very grave employment dislocations for many of my constituents in Massachusetts.

There must be a far more vigilant scrutiny of cases of dumping and foreign government subsidies—with far more frequent and prompt application of countervailing duties where there are violations. There must be increased accuracy in our flagging system, whereby imports in excess of quotas are speedily identified and halted. The working people of my district both in labor unions and in management now rely on the good faith of the administration; and I intend to hold the administration to its pledge for the complete and effective enforcement of these provisions.

The high technology firms present a different set of issues. These firms already enjoy the promise of increased profitability from improved access to other countries. It is estimated that the Government procurement code, which will prevent discrimination against U.S. products bidding for foreign government contracts, will open up better than $20 billion for U.S. producers in previously closed markets. The product standards code, which will prevent foreign manipulation of products' technical standards to discriminate against U.S. goods, will yield approximately $10 billion. And according to the best available estimates, the customs valuations code will yield approximately $1.2 billion. But again, I stress that positive codes are not in themselves sufficient—we must strive for the vigorous enforcement of each of these codes.

A principal area of focus must continue to be the case of Japan, specifically as it relates to the Government procurement policy. Last year, the $11.5 billion Japanese surplus accounted for nearly half the American trade deficit. At the same time, they have refused to open up their government bidding processes to American firms. Certainly it does not make sense for us to welcome their exports while they prohibit much of our imports. The need is for a speedy, positive resolution of the Government procurement code with Japan, and a careful, stringent, militant enforcement of the codes which prevent foreign subsidies and dumping—and countervailing duties must be wholeheartedly enforced.

In summary, it is my hope this document does represent an improvement in our foreign trade policies, that it will produce an improvement in employment opportunities for my constituents, that it will augment the profitability of the Massachusetts and U.S. economies and will provide a fair working relationship with our international partners.

Mr. VANIK. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER. Yes, I am happy to yield.

Mr. VANIK. I want to certainly say as an observer of those who watch trade problems around the country that the distinguished Representative from Massachusetts has done a remarkable job. The gentlewoman has alerted the entire Congress to the impact in the apparel industry and has certainly called the attention of the entire Congress and our committee to the problem. I want to tell her I think we have in place an early warning system that will alert us in time to deal with impacts from imports in a proper manner. I just hope at the appropriate time the gentlewoman might support whatever we might need to insure we have the staff capacity to monitor the trade problems of this country.

I certainly want to thank the gentlewoman for her cooperation.

Mrs. HECKLER. I would like to respond to our distinguished subcommittee chairman and say I feel he has been extremely sensitive to the problems of the apparel industry. I think he has shown good faith in working out a product that represents the needs of the workers and the management of that industry as well as the overall needs of the economy. I want to assure the distinguished gentleman that I will be supportive of the legislative initiatives to accomplish our goals despite the proposition 13 atmosphere in which we are operating. I think if we are going to be concerned about monitoring this trade agreement, and since it does represent a consensus of labor and management and of the textile industry across the country, I want the gentleman to know I not only will lend my vote, but my active support too, because I do believe the committee has done its utmost to reconcile the needs of the country, and that he particularly has shown his sensitivity to the problems of the apparel industry which have beset New England and my particular congressional district, for which the people I represent are very, very grateful.

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Massachusetts (Mr. SHANNON).

Mr. SHANNON. Mr. Chairman, title I of H.R. 4537 sets forth the rules and procedures under which countervailing and antidumping duties are to be imposed. Before describing the provisions of this title, I would like to say a few words about the need for effective administration of these laws. The committee feels very strongly that the antidumping and countervailing laws have been inadequately enforced in the past. This is due, in part, to the lack of resources devoted to this important area of the law. This is not intended as a reflection on the caliber of the individuals in the Treasury Department who have worked very hard to enforce the law. Rather, I wish to emphasize the need for additional personnel, particularly for individuals with specialized skills such as engineers and auditors, to deal with the very complex issues which can be expected to arise under these laws. This bill improves the domestic procedures under which these laws are enforced. Ultimately, however, enforcement will depend on the vigorous administration of the law. I, therefore, cannot emphasize enough the need for allocation of additional resources in this area.

The primary substantive change made by this title, and the one of greatest importance, is the requirement of a showing of material injury, threat of material injury, or that the establishment of such an industry is being materially retarded prior to the imposition of countervailing duties on imports of dutiable merchandise. The material injury test is applicable on a conditional MFN basis.

The definition of "material injury" and its relation to the present standard has been a topic of great interest not only to the Members, but also to the public. The bill defines material injury as "harm which is not inconsequential, immaterial, or unimportant," and provides a list of factors which are to be considered in determining whether a domestic industry is being materially injured or threatened with material injury, or the establishment of such an industry is being materially retarded. The injury test contained in the Antidumping Act directs the International Trade Commission (ITC) to determine whether an industry is being or is likely to be injured or is prevented from being established. The act does not define injury. In the committee's view, the ITC's decisions since January 3, 1975, have, in general, been consistent with the material injury test of this bill and the agreement on subsidies and countervailing measures. Thus, it is intended that the ITC will basically continue to apply that standard.

The bill makes no change in the requisite causal link between material injury and dumped or subsidized imports; that is, material injury must be "by reason of" such imports. Thus, the petitioner must meet the burden of showing that there is material injury to the domestic industry caused by such imports. While the ITC will consider evidence presented to it that purports to show that any such injury is caused by factors unrelated to such imports, the bill does not require the petitioner to prove the negative, that is, that injury is not caused by other factors. Nor will the ITC be required to weigh injury caused by dumped or subsidized imports against injury caused by other factors.

The antidumping and countervailing duty laws are intended to be preventive as well as remedial. This is most important. Thus, with regard to the standard of "Threat of material injury," the law is to be interpreted in a manner which will prevent actual material injury from occurring. Therefore, relief should not be delayed if evidence exists upon which to base a conclusion that the threat of material injury is sufficiently real.

It is intended that the ITC consider certain trends when determining threat of material injury. For example, the rate of increase of subsidized or dumped exports to the U.S. market, capacity in the exporting country to generate exports, the likelihood that such exports will be directed to the U.S. market, and the nature of the subsidy in question, will be important factors in determining if threat of injury exists. The ITC will place emphasis on the rate of market penetration especially if penetration is achieved by prices below U.S. prices, but which are not maintained in the home market. In some cases the ITC will examine this rate of penetration over short periods, perhaps over quarters.

The bill also contains a special provision relating to the determination of whether material injury exists in cases involving agricultural products. Because of the system of Government loan, purchase, and deficiency payment programs available to the agricultural sector, it is possible for unfairly competitive imports of agricultural commodities to have trade distorting effects which, but for the Government programs, would materially injure domestic industry. Therefore, in determining material injury with respect to agricultural commodities, the ITC will consider whether there is a burden on a Government income or price support program.

The amendments made by title I to the procedures pursuant to which antidumping and countervailing duties are imposed are intended to expedite proceedings, to provide the affected domestic industry with a greater role in the proceedings, and to insure equitable treatment of all parties to the proceedings. The maximum time periods within which the administering agencies must make the determinations required under the law have been significantly shortened. To further expedite relief, the bill permits the administering authority to suspend an investigation upon acceptance of an agreement to cease the exportation of dumped or subsidized goods or to eliminate the injurious effect of such imports. The bill introduces procedural safeguards to this process to protect the rights of all parties and to insure that the provision is not abused. For example, domestic industry will have the right to a review by the ITC of an agreement upon which a suspension of investigation is based if such agreement eliminates only the injurious effect of the dumped or subsidized imports.

The committee has been very dissatisfied with the track record of the Treasury Department in the assessment of antidumping and countervailing duties. The average 3- to 3½-year delay in assessment is unacceptable. This bill remedies this situation by imposing strict time limits on assessment. In addition, the bill insures that domestic industry will have a continuing role in antidumping and countervailing proceedings. For example, the domestic industry will be entitled to present its views prior to assessment of antidumping and countervailing duties.

Mr. Chairman, the provisions of title I will significantly improve present law and procedures.

Mr. VANIK. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Louisiana (Mrs. Boggs).

Mrs. BOGGS. Mr. Chairman, I rise in support of this landmark trade legislation, now before the House for approval. I have a very deep interest in the passage of this important proposal.

As many Members of this House will recall, my husband, Hale, as a member of the Ways and Means Committee and as chairman of the Foreign Economic Policy Subcommittee of the Joint Economic Committee, was very instrumental in passage of the 1962 Trade Act and in the progress that resulted from the Kennedy round of the general agreement on trade and tariffs.

As I said earlier in an exchange with the gentleman from Washington, I also have the privilege of representing the thriving Port of New Orleans, the Nation's second port. Along with commodities moving through Baton Rouge, the No. 4, port, Lake Charles, the No. 22 port, the total value of Louisiana's foreign commerce each year is approximately $30 billion. This represents almost 15 percent of the dollar value of the Nation's waterborne trade. Almost one out of every 5 tons of foreign waterborne trade in the United States moves through the ports of Louisiana.

In trying to appreciate the importance of foreign trade to our national economy we should remember that the tonnage moving through the ports of Louisiana alone is estimated to create some 215,000 jobs and to have a $9 billion impact on the Nation's economy.

The United States has always been a strong trading nation. Unfortunately, in recent years we have witnessed the development of sizable trade deficits. A 1975 trade surplus of $9 billion has turned into a deficit of over $31 billion. This $40 billion swing in the flow of our international trade should be of concern to all of us. It has contributed to the international weakness of the dollar, undermined foreign confidence in the American commitment to an open world trading system and intensified inflationary pressures worldwide.

No one thinks that if the multilateral trade negotiation agreements are adopted that the current problems in world trade will simply disappear. We must recognize that this country must gear itself up to deal with the continuing crisis in world trade stemming from high oil prices, slow growth in the industrialized nations and greater competition from a few of the less-developed countries in certain sectors. Global trade will continue to expand. Operating in an interdependent world, multinational corporations will continue to move capital, technology, and skills rapidly from one country to another. Taken together, these factors pose a formidable challenge to the adaptability of domestic economies.

An outward looking trade policy is not a luxury for the United States. It is pure economic necessity. Even more than our trade is at stake. For, if we let ourselves slide into the unpredictable business of protectionism—international investment, monetary affairs, and international development will suffer. We would be fostering a kind of nationalism which would shake our alliances and undermine our efforts to build international cooperation across the entire range of pressing world issues.

We must demonstrate our resolve to move toward a fairer and more open trading system. This legislation allows us to do so. This legislation will improve the ability of American industry to compete in foreign markets. In addition, the overall domestic economy will benefit from the easing of international restrictions. This in turn will benefit the American people and industry.

In closing, I would like to commend the President, Ambassador Bob Strauss, and the entire American negotiating team for the truly outstanding job they all did in developing this landmark agreement.

Mr. Chairman, I urge approval of this bill.

☐ 1630

Mr. VANIK. Mr. Chairman, I yield such time as he might desire to the gentleman from South Carolina (Mr. Holland), chairman of the Textile Caucus. I want to say that Mr. Holland was one of the vigorous opponents of the legislation to extend the waiver of countervailing duties last year. He alerted this Congress about the problems of the textile industry. As a result of his tremendous leadership, this problem was resolved.

But, I have even better news than that. The result of Mr. Holland's efforts have revitalized the textile industry in the United States. There is growth. I hope he discusses this in his statement. I think that the recovery of the textile industry in America is one of the very tangible results of this trade negotiation, because we were able to look intensely at the problem of the textile industry. Under the leadership of Ken Holland and the Textile Caucus, every Member of this Congress was certainly alerted to the critical problems which confronted this industry, which I hope have been substantially resolved in the implementing legislation.

Mr. Chairman, I yield to the gentleman from South Carolina (Mr. Holland).

Mr. HOLLAND. Mr. Chairman, much ground has been covered in getting us to the point we find ourselves today. Those of us who have such a keen interest in textiles and apparel products and in maintaining a healthy and viable domestic industry can point with a great deal of satisfaction to the legislation under consideration with the knowledge that we played a major role in the development of the process that brings us to this point.

The central ingredient in the resolution of the textile and apparel import problem is the President's textile program announced at the White House by the President March 22. Those of us who were there remember the personal commitment made by the President to implement this program. Specifically, it provides for tighter controls on textile and apparel imports from low wage countries. Under this program, the Government has already negotiated tighter controls for 1979 with Hong Kong, Korea, and Taiwan, and has taken unilateral control action on key apparel categories being imported from China. It is my understanding that improved control for subsequent years 1980, 1981, 1982 will soon be negotiated with the three major low wage suppliers in the Far East and that the United States intends to negotiate an overall bilateral quota agreement with China at the earliest opportunity. This action is a necessary prelude to the implementation of an overall trade agreement with China, including most-favored-nation treatment, and the administration has assured us on this point.

The multilateral trade negotiations have now been concluded and this bill implements those agreements on nontariff issues. From the standpoint of textiles and apparel, the legislation is consistent with and implements in part the President's textile trade program as it relates to these nontariff barriers.

One of the most significant provisions states that if the GATT multifiber arrangement or a similar instrument lapses while the textile and apparel tariff cuts are being phased in, the tariff reductions already made at that point will be cancelled. Under the provisions covering procurement practices, the Government would continue to make defense purchases of textiles and apparel from U.S.

manufacturers. Overall, the bill with proper implementation should remove many trade barriers and should help improve U.S. exports.

So far as tariff reductions are concerned, while they are regrettable, they are not as disastrous as first feared. The tariff reductions on textiles and apparel will not begin to be phased in until January 1, 1982. This delayed staging coupled with the implementation of the President's textile program which should remove many nontariff barriers hopefully will reduce the amount of severe market disruptions within the domestic textile and apparel industry.

Mr. Chairman, I was not going to make a speech about this bill because, to be candid with the members of this committee seated here, it does not seem to be a very exciting topic. However, I recall the night in July of last year when our late beloved colleague, Bill Steiger, and the gentlewoman from Massachusetts who just spoke, Mrs. HECKLER, and I sat in a room over in Fall River, Mass., listening to some people who had been displaced by what we in the textile caucus at that time defined as unfair foreign competition.

This matter had not, of course, had the approval of the textile caucus. We felt that 2½ million American workers were being jeopardized by the efforts of this administration, and the previous administration, and the administration previous to that. That is how long these negotiations have been going on, culminating in the legislation which we consider today.

This act itself is a complicated document, which will provide work for lawyers and accountants for years to come, and that is good.

I believe the Ambassador on trade, Mr. Strauss, would agree with me that he had a bit more trouble negotiating with the Steel Caucus and the Textile Caucus and some of the other elements of the Congress—why, it got so bad back there one time, and I note the gentleman from Michigan is here, that they even called us "protectionists." Remember those days? They said we were protectionists, and I stood in this well 1 day and pled guilty to that because we were talking about the jobs of Americans and the inability, because of foreign government intervention into trade avenues, the inability of the American worker to put his and her product on the market shelves around this world.

This package we talk about today does not solve that problem in its entirety. However, I am advised by extremely interested people in the textile industry, the apparel industry, the steel industry, in agriculture, all across the spectrum of our economy, that at last we have a set of good rules that are understandable not only by the American Congress and by the American administration, but by American business, by the American worker, and more importantly, by our trading partners abroad.

We are being requested to pass judgment as a legislative body on this prior to any other legislative body on the face of the Earth, and to adopt the dangers and the risks of leadership in that area. However, when we go back to that Fall River hearing and we see that all the unions, all the trade associations, all the leaders of industry, have now come to support this package, then we have to realize that great work has been done by the chairman of this subcommittee, Mr. VANIK, under whom I am privileged to serve; by the staff, the minority, by all the members of the committee; Mr. VANDER JAGT and his predecessor, William Steiger, who did so much to make this agreement come to this floor today, in his lifetime. One begins to understand that we are not talking about a dry document subject to political ridicule, which it is going to receive, I understand, on this House floor; not subject to partisanship; but translating it to simple human terms, it gives us an opportunity to give assurance that American jobs will no longer be jeopardized. It gives us a set of rules that all parties can understand. All American industry has ever sought, all the textile industry, I know, and all the apparel industry and the unions involved here ever sought, is an opportunity to go abroad and compete. This package does so much to remove those non-tariff barriers we have faced. I have had it in my district, but this is a national issue. I have had companies go abroad, to France, to South Korea, make large sales only to have those sales negated by the governments of those countries.

This package again does not solve all those problems, but it is a fair and a comprehensive effort, and a beginning toward solving those problems.

Mr. Chairman, speaking on behalf of the Textile Caucus, and one who has been highly critical of this package and all it offers in the way of pitfalls and dangers, I must tell this committee that it offers far more in the way of opportunity, and I urge the Members of this House to do as the Ways and Means Committee did, to endorse unanimously this package so that we may put it into operation; that at last American enterprise and jobs operate within an understandable framework of rules.

Mr. VANIK. Mr. Chairman, I yield such time as he may desire to my distinguished colleague, the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Chairman, there has been a great deal of well-deserved praise today for the efforts that went into the making of this bill—the most sweeping overhaul in the history of our trade laws. I want to join all those who have thanked my Trade Subcommittee chairman, CHARLES VANIK, and Ambassadors Strauss, McDonald, and Wolff, for their patience and thoroughness in bringing these negotiations to such a successful conclusion.

Some of my colleagues have mentioned that Ambassador Strauss may have given up too much in exchange for these agreements. These Members cannot be talking about the same Bob Strauss that I know. Bob Strauss never gives up more than he gets in exchange.

What our negotiators received for their concessions was access. Our industries now have a chance to compete on a worldwide basis for markets. Ultimately, what will result is a decrease in unemployment and a corresponding increase in the gross national product.

I believe it is important to follow all developments carefully to assure that MTN does not, in fact, adversely affect U.S. industry—especially strategic U.S. industries. I have in mind the example of the specialty steel industry. This industry produces a wide variety of critical materials such as stainless steel and titanium tubing that is essential in electric powerplants, petrochemical plants, and in the liquification of natural gas. These are only a few applications that daily affect the American way of life.

Effective limitations on imports of specialty steel prevailed during the period from June 14, 1976, through June 13, 1979. Recently, at the recommendation of Ambassador Strauss, President Carter continued these quotas until February 1980, but provided for an increase in the quotas every 2 months. The probable effect of this decision will be that foreign imports of stainless and other specialty steels will quite likely take over 20 percent of the American market by next February. At that point, foreign competitors would be able to expand beyond the capture of one-fifth of the market since the quotas are scheduled to disappear entirely.

The House should recognize, as it agrees to this legislation, that there is a possibility that it may result in a one-way street—a street adverse to certain segments of American industry. I, therefore, believe that from 9 to 12 months after this legislation is enacted, inquiries should be made to determine whether, in fact, foreign signatories are trading freely, eliminating administrative and other barriers to our goods, abandoning direct and indirect subsidies, and other unfair practices.

I yield back the balance of my time.

□ 1640

Mr. VANIK. Mr. Chairman, I yield such time as he might desire to my distinguished colleague on the Subcommittee on Trade, the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. I thank the Chairman for yielding. Let me at the outset pay my tribute and congratulations to the chairman of the committee, the gentleman from Ohio (Mr. VANIK), to the gentleman from Michigan (Mr. VANDER JAGT), and others on the Trade Subcommittee and the Committee on Ways and Means for the manner in which this implementing legislation was brought to the floor.

May I also say at the outset that this multilateral trade agreement itself is due to the great leadership and driving force of Ambassador Bob Strauss and the key people in the Special Trade Representative's Office, Ambassador Alan Wolff and Ambassador Al McDonald. We all owe these people a great debt of gratitude.

Mr. Chairman, it has become increasingly apparent in recent years that the major impediments to world trade—and particularly U.S. export opportunities—are the so-called nontariff barriers. In recognition of this fact, the principal objective of the United States and our trading partners in the multilateral trade negotiations was to eliminate or at least significantly reduce the impact of the more important of these barriers.

There is one MTN agreement which I want to address in particular, because I believe that it has the greatest potential for opening sales opportunities abroad for U.S. business of any of the agreements negotiated in the MTN. The agreement I speak of is the agreement on Government procurement, which is implemented by title III of the bill.

Mr. Chairman, the United States in the past has been sorely disadvantaged in foreign government procurement markets. This is because our trading partners, unlike the United States which gives preferences for domestic suppliers that are clearly set out by law, achieve their discrimination by highly invisible administrative practices and procedures. The very fact, for example, that specifications for goods to be purchased are not available or in the worst case prospective purchases are not advertised, results in an effective embargo against goods of foreign origin.

The Government procurement agreement will discourage discrimination at all stages of the procurement process. Specific rules are prescribed on the drafting of specifications for products to be purchased, advertising of prospective purchases, time allocated for the submission of bids, qualifications of suppliers, opening and evaluation of bids, award of contracts, and on hearing and reviewing protests. In short, our trading partners have agreed to apply the open procurement procedures already in effect in the United States. Finally, the ageement contains effective dispute settlement procedures, whereby the United States will be able to complain about and secure reviews and international adjudication of foreign violations of the agreement.

As I noted, the potential for U.S. business abroad is great. An evaluation based on current data shows that this country will be opening up its Federal procurement to only $12 billion of foreign sourcing—which is only 15 percent of our total Government procurement—in return for a new market potential abroad of more than $20 to $25 billion for large and small U.S. suppliers. An assessment indicates major new opportunities for sales in such important areas as computers, business machines, scientific and controlling instruments, telecommunications, and medical supplies and equipment.

In negotiating advantages for U.S. products abroad, U.S. negotiators were also successful in assuring that sensitive import areas would not be affected. For example, U.S. preferences will continue to be applied to purchases under $190,000, all national security or defense purchases, and certain Defense Department purchases including textiles, clothing, shoes, food, stainless steel flatware, specialty metals, and hand tools. Also, all purchases under small or minority business set-aside programs will continue to be accorded Buy American-type preferences.

Although the overall procurement agreement will on balance be beneficial to U.S. producers, European and Japanese markets in particular have not yet been opened for U.S. heavy electrical, telecommunications, and transportation equipment. Accordingly, the implementing bill sets out a sectoral negotiating objective. The President is directed to seek, with respect to appropriate product sectors, competitive opportunities for U.S. exports to the developed countries of the world equivalent to the competitive opportunities afforded by the United States, taking into account all barriers to international trade affecting the sector. If such markets cannot be opened, the President is required to propose actions to the Congress he considers appropriate to establish reciprocity. Clearly, in this regard, the Congress and the administration have put our trading partners on notice that reciprocity in Government procurement is expected.

Mr. Chairman, the agreement on Government procurement is fully consistent with our need to expand exports by assuring U.S. producers the opportunity to share on a competitive basis in the Government procurement markets abroad.

This MTN agreement and the implementing legislation deserves our support. As one of our previous colleagues said, it is a good bill and it should be passed with a strong, healthy margin of support by the House. It is a first step. It does provide tremendous new opportunities for U.S. business to open up markets abroad. In order to take the second step after we pass this legislation, I want to commend to my colleagues the need to look at the reorganization of our trade functions and to support legislation that the gentleman from Minnesota, Mr. FRENZEL, and I have introduced recently, to consolidate our trade functions into one Cabinet-level department. If we do that after passing this bill, and if we give some incentives to modernize and improve the productive capacity of our U.S. business, there is no question but that the future of the economy of the United States is a bright one, indeed.

Mr. Chairman, I yield back the remainder of my time.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, this body has before it today the product of many years of arduous negotiations which will set the direction for U.S. trade with the free market economies of the world. The agreements reached during the rounds of multilateral trade talks are not only important to our economy, but to the economic stability of the industrialized world.

International commerce has grown to represent 7 percent of our gross national product, twice what it was a decade ago. U.S. exports provide jobs to 12.5 percent of our workforce. A third of U.S. business profit is derived from international activities. A quarter of our cropland produces farm goods for overseas consumption.

The Trade Agreements Act has important implications for my home State of California. Nine percent of California's private sector employment, 800,000 jobs, depends on international trade. While I have had a special interest in this trade package opening foreign markets for our citrus exports, a key industry in my congressional district, I am hopeful the continuing efforts of the Office of the Special Trade Representative will bring about this result. At the same time, I would encourage the administration to act expeditiously on the pending section 301 suit under the 1974 Trade Act, which would remove the discriminatory barriers imposed by the European Economic Community on citrus exports.

In examining H.R. 4537, I see no choice but for this House to vote its approval. Sure, not every economic interest in this country got everything that it wanted. But with effective administration of this trade agreement, I believe we can continue to foster a constructive trade policy—one which will bring significant benefits to American business and help reduce our problem of unprecedented trade deficits.

Before concluding, I would only wish to acknowledge the exemplary job done by Ambassador Bob Strauss. Without his stellar performance as our trade negotiator, I don't think the measure on which we are about to vote would be as favorable in implementing the MTN to the benefit of U.S. business, labor, and agriculture.

□ 1650

Mr. VANIK. Mr. Chairman, I yield such time as he may consume to our distinguished colleague on the Committee on Ways and Means, the gentleman from Tennessee (Mr. FORD).

Mr. FORD of Tennessee. Mr. Chairman, I thank the gentleman very much for yielding to me.

I would like to commend the chairman of the subcommittee and my colleagues on both sides of the aisle who serve on the Subcommittee on Trade of the Committee on Ways and Means for the good bill that is before this House today.

I certainly rise in full support and would like to associate myself with the remarks that have been made on both sides of the aisle today with regard to the Trade Agreements Act of 1979.

This bill, and the multilateral trade negotiations treaty which it implements, will go a long way toward facilitating free trade, and fair trade, among the major trading nations.

Ambassadors Strauss and Wolf have worked hard in negotiating a treaty which will curtail the use of nontariff trade barriers and set out new codes of conduct for world trade.

I believe that America will benefit in several ways. First, the nontariff trade barriers provisions should define and control the use of subsidies where they affect trade, both in manufactured goods and agriculture. Product standards will not be used to discriminate against our exports. A market potential of more than $20 billion will be opened up for American producers among foreign governments who have systematically excluded us from their purchases. Import licensing processes, which are frequent barriers in other countries, will be made more clear and uniform, and customs valuation will be simplified, and the possibility for manipulation will be removed. Special agreements on key sectors of the economy such as steel and civilian aircraft will be provided for under the treaty.

Mr. Chairman, our Nation has faced a tremendous trade deficit in recent years; this situation has been further aggravated by increases in oil prices by the OPEC nations. Thus, it is more important than ever to encourage exports of American goods. These agreements can help us along the way by making the rules of the world trade game fairer and easier to understand. It should increase U.S. exports of both manufactured goods and agricultural products. I truly believe that the Trade Agreements Act of 1979 is one of this most significant pieces of legislation facing this Congress. Its potential for increasing our exports and decreasing our trade deficit strongly affect inflation in the world and jobs here at home. I strongly support this bill and urge my colleagues to do so

Mr. CONABLE. I now recognize the gentleman from Ohio for 10 minutes.

Mr. ASHBROOK. Mr. Chairman, I have been around here long enough to know if you have so much peace and harmony on a masterpiece like this bill, it does not do much good to say anything that might be critical.

On the other hand, the above caveat is negated by my experience over the years, that if this House is that certain one should best take a second look.

I walked in on the floor on a couple of occasions where there was a near unanimous vote. For example, the Tonkin resolution, and other legislative enactments over the years, and it is amazing how many times we want to backtrack from a previously stated euphoric position.

I would like to ask my friend and colleague from Ohio, the chairman of the subcommittee, if he would answer a few questions.

First of all, I would like to turn to page 214, so I will not be talking about something you just have to pull out of the air.

Section 403 says:

> (a) In general it is the sense of the Congress that no State agency and no private person should engage in any standards-related activity that creates unnecessary obstacles to the foreign commerce of the United States.

I am wondering how you could draft a broader statement, something that is more capricious, something that would be harder to interpret. What in the world do we mean by saying, "no person should engage in any standards-related activity that creates unnecessary obstacles?"

Mr. VANIK. I think the gentleman would agree it is within the capacity of a State legislature to generate some kind of an obstacle. The gentleman has that experience. I know I had that experience in a State legislature. It is conceivable that even though it has no authority under the interstate commerce clause that an effort might be made. The section is only a sense of Congress section. It is an expression of the Congress.

I could think of many things that could be done. For example, there is always a State legislature which may pass laws relating to the containers. I can think of all kinds of ways in which to provide some protective area around their production.

Mr. ASHBROOK. If my colleague would let me ask a question at that point, that seems to be a recurring problem we have in our country. No one knows any more when they violate a law. There was a time you could pretty well get advice and they would say you are either violating a law or you are not. If we have done anything in the last 10 years in my experience it is to create a climate of law in this country where the average person does not know whether he is meeting some undefined standard, whether he is running afoul, tripping some wire that is going to get him into trouble.

Mr. VANIK. The intention of the expression in the bill is to provide a uniformity of standards and try to have standards for commerce to establish at a Federal level.

Mr. ASHBROOK. Would my colleague tell me where those standards, then, are set up so that I, a State agency director or a private person, could know whether I am engaging in standards-related activities that create unnecessary obstacles or not?

Mr. VANIK. We have a number of agencies writing standards. Standards written by our own Bureau of Standards.

Mr. ASHBROOK. They do not write standards for this particular bill, do they?

Mr. VANIK. Well, they would write standards relating to products that are produced for general consumption in the United States.

The purpose of this language is to prevent a proliferation of standards that might be emerging from any one of the 50 States. It is simply a statement of policy that standards should be uniform. I cannot say this legislation, the MTN, this bill, the legislation before us, does not either add to or detract from the specific problem to which the gentleman addresses himself.

□ 1700

There is still the problem of finding out what the standards are and I think every industry in this country is pretty well acquainted and has experts in its area of productivity that can guide it with respect to standards of compliance.

Mr. ASHBROOK. It does not just say productivity.

Well, let us not dwell unduly on that. I have a couple other questions. I know we want to move on to other Members expressing their opinion on other legislation today.

I happen to think that is one small time bomb or mine field that is being planted that maybe in a year or so we will look back and wonder where that trip wire came. I think right there is a place.

If my colleague will jump to page 226, section 424, it says:

> (a) IN GENERAL.—If an appropriate international forum finds that a standards-related activity being engaged in within the United States conflicts with the obligations of the United States under the Agreement, the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)) shall review the finding and the matters related thereto with a view to recommending appropriate action.

Now, that is about as interesting a trip wire as I have ever seen. You have a situation where an unspecified international agency can take a look at an unspecified activity within the United States that conflicts with an unspecified standard and take unspecified appropriate action.

Now, what do we have in the way of grabbing hold of something of substance to know that this cannot cause meddling, cannot cause all sorts of problems.

Mr. VANIK. Let me say this. What we are trying to do in this bill is expedite the flow of trade and commerce.

Mr. ASHBROOK. Will that expedite the flow?

Mr. VANIK. This authority is the GATT authority to which we are signatories and every other country that signs the multilateral trade agreement is consenting to have the GATT authority review the problem; but our own interagency Government committee has got the final say on what to do about it.

Mr. ASHBROOK. Is the gentleman certain of that? That is what bothers me.

Mr. VANIK. That is precisely what we intended. It is precisely what we mean by the statute.

Mr. ASHBROOK. I wonder if the Interstate Commerce clause, the intrastate commerce activities, as treated constitutionally over the years have much meaning when you read it in the light of these various provisions. I am going to cite several of them. I probably could go through 8 or 10, but that seems to me to be about as general and capricious a statement as there is: If an appropriate international agency finds standards-related activity that conflicts with the obligations of this country, if an outside agency finds our activities conflict, they can take appropriate action.

Mr. VANIK. Well, they can complain about it and then our own interagency establishment can decide what to do about it; so it is still within the province of this country to decide how they are going to react to the complaint.

What we have here is a formalized complaint procedure and that is all it is. There is no way for it to enforce its finding. It is up to the United States.

Mr. ASHBROOK. It is an authority the gentleman does not think they will ever use, is that what the gentleman is saying?

Mr. VANIK. Oh, I do not know. I cannot guarantee that it will not be used.

As a matter of fact, this whole section was written principally because our own industrial people, our people in America wanted this kind of safeguard. They wanted this kind of protection. It was American exporters who were running principally into the problem of standards abroad; so this whole section was written for their benefit and interest.

Mr. ASHBROOK. Really?

Mr. VANIK. That is right. That is precisely the reason.

Mr. ASHBROOK. I hear that all the time. Who are these exporters who came in and wrote this?

Mr. VANIK. That is the legislative history. I am sure if we wanted to extend the time here, I could find the authority.

Mr. ASHBROOK. I guess we should ask why we let them write it in the first place.

Mr. VANIK. We wrote it.

Mr. ASHBROOK. Oh, we did?

Mr. VANIK. We wrote it.

Mr. ASHBROOK. I thought the gentleman said they did.

Mr. VANIK. It is our writing. We are responsible for it and our intention is that it should operate to expedite the flow of goods from this country abroad. Our efforts were generated primarily by segments of American industry that were having problems with the arbitrary imposition of standards by other foreign countries.

Mr. ASHBROOK. I thank my colleague for this response.

Could I ask a question, and I think I am probably not going to dwell too much on this legislation, because my perception of it would be totally different than what I have heard up to now.

Could my colleague, who has always been honest and who has been hard working in this field, give me an answer to this question:

Can the gentleman visualize any United States standard, anything that relates to health, safety, industrial, or agricultural, that in some way is not affected by this bill that could be altered, waived or otherwise shaped by GATT or someone outside?

Mr. VANIK. I do not believe that there is anything in this bill that would decrease or diminish or detract from any U.S. standard.

Mr. ASHBROOK. Or any other U.S. statute?

Mr. VANIK. Nothing that I can see in this legislation.

Mr. ASHBROOK. Well, in the first place, we know, I would remind my friend, that that is not so.

Specifically in section 301, the President can waive what we know to be the "Buy America" law.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Ashbrook) has expired.

Mr. CONABLE. Mr. Chairman, I yield 3 additional minutes to the gentleman from Ohio (Mr. Ashbrook).

Mr. VANIK. That does not apply to DOD at all.

Mr. ASHBROOK. Well, I did not say DOD.

Is the gentleman saying that the President cannot waive the Buy America Act?

Mr. VANIK. He cannot waive it. It does not apply at all to DOD. The President has no power by this bill to do that.

Mr. ASHBROOK. Let me rephrase my question. Under H.R. 4537, is there any authority for the President in any way to waive the Buy America Act? It is my understanding there is.

Mr. BAUMAN. Mr. Chairman, would the gentleman yield to me at that point?

Mr. ASHBROOK. Yes; I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, earlier today I asked the gentleman from Ohio (Mr. Vanik) this very question, and the gentleman told me there was no authority in this act that would allow the President to waive the Buy America Act.

Now, subsequent to that, I have talked with the staff and I have been told that section 301 of title III in fact permits the President to negotiate agreements with other countries, and as reciprocity with those countries he could waive all the Buy America Acts, including Defense Department procedures and procurement regulations.

Mr. ASHBROOK. That is my understanding, but I could be wrong.

Mr. BAUMAN. Let me say this: We ought to understand that.

Mr. VANIK. Mr. Chairman, the gentleman from Maryland states it correctly, within the entities that are covered by this bill.

Mr. BAUMAN. This act provides him with new power that he never had before.

Mr. VANIK. There is nothing beyond this bill, only those entities that are covered in this bill.

Mr. ASHBROOK. What do we miss in this 385-page bill?

Mr. VANIK. The President has the right under present law to waive the Buy America Act at any time under any emergency.

Mr. ASHBROOK. Well, I thank my colleague for these responses.

I think it is fair to say that a few of us believe there are many questions left unresolved. There are many unspecified standards that are being erected. There are many problems that the Federal Government, State agencies, and private citizens will find all of a sudden facing them after enactment of this legislation.

I myself look upon it as dropping a lot of time bombs, a lot of trip wires, setting up a lot of minefields. That is not to deprecate the work of the committee—just to write a 385-page bill is most difficult—but personally I intend to vote against this bill. I think we have gone far beyond anything necessary and have not protected our own interests adequately.

Mr. VANIK. Mr. Chairman, I yield such time as he may desire to my distinguished colleague, the gentleman from Wisconsin (Mr. Baldus).

Mr. BALDUS. Mr. Chairman, I want to take this opportunity to commend the subcommittee chairman on the work and the cooperation that the gentleman extended to the Committee on Agriculture and I note the concern especially of the committee members. The members of the Committee on Agriculture are very concerned about the cheese imports.

Also, I thank the chairman and the committee for the help they gave in writing implementing language that is helpful.

Mr. Chairman, although I would like to be able to support the Trade Agreements Act of 1979, I regret that I will have to reluctantly vote against it.

I believe in a free and open international trade and I support efforts such as this to tear down trade barriers and eliminate the unwarranted subsidization by governments of products for export. Generally speaking, this act is a positive step in the right direction.

But as chairman of the Dairy and Poultry Subcommittee, I cannot support this legislation because of its provisions dealing with cheese imports. There are two elements of the cheese agreements which I must oppose. I could not support them and say that I was representing the wishes of my district.

The first element is the size of the new cheese import quotas, an increase of some 15,000 metric tons. Once again the dairy farmer is being asked to make sacrifices for the good of other industries. The result of this increase will mean the demise of more American dairy farms.

I believe that our negotiators did their best to keep our concessions on the amount of cheese imports to a minimum. And I believe that they were more successful than many thought they would be. But while I might congratulate their efforts, I cannot vote to ratify their accomplishments. The burden is still too great for our dairy industry and the trend of increasing dairy imports must be broken.

My second reason for opposing the agreements stems from the official acceptance by the United States of foreign cheese export subsidies. Our Nation has continuously opposed the concept of subsidizing for export and, at least in law, has required that countervailing duties be levied in the amount of any subsidy. Now we are being asked to accept the right of foreign nations to subsidize their products and to not take action against those subsidies unless we can "prove" that the subsidy has damaged our dairy industry.

Mr. Chairman, these subsidies should be eliminated so that all products can compete on a more realistic basis. Again, the Special Trade Representatives have been very accommodating in accepting my recommendations on ways to speed up the determination of injury by tying it to price undercutting. But I cannot accept the premise that the United States should accept such subsidization.

I would like to thank the Special Trade Representative and the House Ways and Means Committee for the efforts which have been made to accommodate my concerns.

As a member of the ad hoc committee advising the Ways and Means Committee on the development of this legislation, I have been involved for some time. Working with Senator Nelson, who sits on the Senate Finance Committee, I was able to help develop some protections for our domestic industry. We were able to define "injury" as meaning the sale of subsidized imports at prices which undercut domestic prices. We were able to set up a fast-track procedure for determining injury which will only take some 60 days. We were able to add language limiting the President's authority to make emergency declarations raising quota levels even higher than this act does.

The Ways and Means Committee accepted my recommendation that the International Trade Commission undertake an investigation into the impact of casein imports on our domestic industry and that study is underway. Casein is a product which is imported as a chemical but used in foods as a replacement for domestic dairy products. Casein imports are currently not subject to quotas.

In summary, while I appreciate the accommodations that have been made, and while I would like to support this bill, I am afraid that I must oppose it.

Mr. VANIK. Mr. Chairman, I yield such time as he might desire to the distinguished gentleman from California (Mr. Fazio).

Mr. FAZIO. Mr. Chairman, I appreciate the gentleman yielding me this time.

Mr. Chairman, I would like to add my name to those who have earlier today given accolades to your subcommittee on a bipartisan basis for the fine work they have done, as well as to Mr. Strauss, Mr. Wolff and Mr. MacDonald, who have been doing yeoman duty so long in these negotiations which have worked out so well for so many elements of our economy, particularly elements native to California and particularly in specific terms the California agricultural community.

I would also like to indicate my pleasure at the job that the gentleman from Washington (Mr. Foley) has done on behalf of agriculture in general, and certainly keeping in mind the specialty crops that are so plentiful in my district.

□ 1710

California has done very well. We have done well in aerospace, in aircraft development, in textiles and apparel, in electronics, and in computers, but particularly in the tree fruit and nut crops and vegetable crops that are so prevalent in my district in northern California. This bill has created new markets for almonds, walnuts, dried prunes, and canned fruits of all kinds and for tomatoes and other vegetable juices.

This measure provides a great opportunity for the agricultural industry in our area to expand in the overseas markets and play a major role in our efforts to bring our balance of accounts into some new more favorable balance in the international economic structure.

I would, however, like at this point to sound a note that must be somewhat negative, and that is that another commodity crop in any district is suffering at the present time from dumping. The Japanese ricegrowers, who have a price support which is seven times the price of American rice, have recently sold on the international market to South Korea many metric tons of rice, to the extent that the markets that have traditionally been held by the people in my district in northern California and the rice industry in this country are severely threatened.

I would like to indicate to the House that we believe this is an act that must not go unanswered. We are very hopeful that the Office of Special Trade Negotiations and the USDA will take some immediate steps to indicate to the Japanese Government that we consider this an illegal act, not only under the terms of this bill, but under existing law, so that the activities that they have engaged in during the last several months which have resulted in the cancellation of a sale of some 55,000 metric tons of rice and which may involve a precedent-setting effort to intrude into a traditional market of ours will not continue.

We have a harvest which will be coming to fruition at the end of this year, and we are very hopeful that those markets which have traditionally been ours will once again be available to us when our rice is harvested in October.

Mr. Chairman, I have asked unanimous consent to revise and extend my remarks so that I can provide more detail and background on this particular problem of the consequences of this act by Japan, and I will also submit for the Record a study by the California Office of International Trade which will in greater detail provide the background and the benefits to California that this bill will clearly bring about.

Mr. Chairman, the material is as follows:

Recent Sale of Japanese Rice to Korea: Consequences for the American Rice Farmer

In late April 1979, the Korean Ministry of Agriculture and Fisheries announced that it had decided to import about 504,000 metric tons of rice from the United States in order to cover an unexpected deficit that had arisen between supply and demand. The stated purpose of the import was to maintain a desired level of rice reserves for reason of national security. The level of government-owned stocks in Korea had begun declining due to lower-than-expected government purchases of rice from farmers and higher-than-expected consumer demand. Lower farm purchases reflected a disappointing 1978 rice crop due partly to drought and flood damage, but mainly to damage from blight. For several years, Korean officials had encouraged farmers to increase acreage planted to new higher-yielding varieties in order to increase rice production, but these varieties were now proving to be vulnerable to blight, virus, and insect damage. Higher demand for rice reflected a continuing shift in consumer preference from barley to rice as a result of improvement in standards of living in Korea.

After purchasing 90,000 metric tons of California rice, Korea broke off negotiations for additional quantities from the United States in early May 1979, and initiated negotiations with Japan. The explanation given by Korea for the shift to Japan was that Japanese rice was available at lower prices. Shortly thereafter, Korea cancelled 55,000 of the 90,000 metric tons it had purchased from the United States although it ultimately accepted an additional 8,000 metric tons.

Japan is currently burdened with excessive stocks of rice amounting to a staggering 5 million tons or about the equivalent of one year's production in the United States. The large surplus is a product of Japanese domestic farm policy. Japan purchases rice from its farmers at about $1,400 per metric ton, about seven times more than the support price for American rice and highest support price in the world by a wide margin. (Korea is second highest with a support price half that of Japan.)

The high price structure in Japan discourages rice consumption as it overstimulates production. Attempts to reduce rice stocks by curtailing or diverting acreage have not been successful. Japan, therefore, has turned to the rice export market to help relieve it of its burdensome inventory problem, but it can only export rice by absorbing (i.e. subsidizing) the enormous difference between its domestic rice price and the world rice price. By such exports, Japan in effect causes rice farmers in the United States and in other exporting nations rather than its own rice farmers to bear the consequences of its domestic overproduction problem. Moreover, the exports do nothing to correct the cause of the problem and may even help to perpetuate it.

When Korea began negotiating with Japan in early May 1979, the Rice Millers' Association (RMA) in the United States telexed the U.S. Embassy in Tokyo strongly protesting any Japanese rice sale to Korea on the grounds that it would displace potential commercial sales of American rice. Reportedly, the U.S. Department of Agriculture (USDA) and the Office of the Special Representative for Trade Negotiations both expressed concern to the Government of Japan regarding the prospective sale of Japanese rice to Korea. These objections ultimately came to naught. The Japanese reported in early June 1979 that it had decided to sell 250,000 metric tons of rice to Korea on commercial terms. (Korea had requested 350,000 metric tons on concessional terms.) It was contended that the sale did not displace American rice because suitable rice was not available from the United States at the time. It was also contended that the sales price was at world market levels (i.e., at the U.S. price) and, therefore, did not constitute dumping by Japan. Both contentions were apparently accepted by USDA. Both contentions were erroneous.

The contention that suitable American rice was not available at the time inexplicably disregarded the obvious availability of the cancelled 55,000 metric tons of California rice. It also ignored the fact that the Commodity Credit Corporation (CCC) itself owned about 250,000 metric tons of medium and short grain rough rice that could have been sold to Korea had it not been for the Japanese sale. Finally, it conflicted with earlier statements by Korea that the rice imports were needed for reserve and not for immediate consumption. If Korea did not have an immediate need, it could defer delivery to the time American rice was available. The fact is that, had it not been for the Japanese rice, the United States could easily have supplied the entire Korean requirement.

In addition to old crop rice stocks held by farmers and the CCC, a large new rice crop would be available from the South as early as August and from California in October. Nevertheless, any opportunity the United States had to supply the entire Korean requirement was lost when USDA accepted the contention that rice was needed by Korea immediately and was not available in the United States at the time. USDA is said to have received confirmation of the nonavailability of American rice from private sources, principally the RMA. The reason why the RMA reversed its earlier strong stand against the sale of Japanese rice to Korea is not known. The cooperatives in California who were still holding rice on behalf of their farmer-members were not contacted to determine whether they had rice available for the Korean requirement. [The only concession the U.S. Government is reported to have obtained from Japan was an agreement that it would complete delivery of its rice to Korea by September 1, 1979 when U.S. supplies of rice were next expected to be available.]

The other erroneous contention was that the sale by Japan was near the price at which U.S. rice had been sold to Korea. In point of fact, the Japanese price was substantially below the price at which U.S. rice had been sold. The Japanese sale was reported to be made at about $267.00 per metric ton FOB stowed in bags. This compared with a price of $274.50 per metric ton bulk, at end of elevator spout, for the cancelled sale of 55,000 tons of California rice. After adjusting for differences in ocean freight, quality, and other terms of sale, the Japanese price is equivalent to a price at least $40.000 per metric ton, or about 15 percent, lower than that for American rice. In its sale to Korea, Japan was able to set the price wherever it saw fit and it was set at a level and in a manner against which the U.S. industry had no competitive recourse. Any or all explanations to the contrary, there is no escaping the fact that the Japanese rice was dumped. The sales price was a fraction of the Japanese domestic price and well below the level at which U.S. rice was or could be offered. This low price was the sole motivation for the shift by Korea from American to Japanese rice. The sale of such heavily-subsidized rice by Japan did more than cause displacement of a potential market for U.S. rice, its availability led directly to cancellation of the Korean purchase of 55,000 tons of California rice. The fact of the sale by Japan to Korea and the possibility of further sales of rice by Japan has now added an element of substantial uncertainty to the world market and has undermined the outlook for farm prices of rice in the United States for the foreseeable future.

Korea to date has purchased 43,000 metric tons of American rice and 250,000 metric tons of Japanese rice for a total of 293,000 metric tons. Korea thus has an additional 211,000 metric tons to purchase to reach its 504,000 metric ton import objective, but has not yet indicated when it intends to buy the balance of its requirements. Japan reportedly has agreed not to supply any more rice to Korea this year. It is not clear whether Japan would consider itself free to participate in the balance of the Korean import requirement if Korea does not reenter the market until 1980.

Sometime after USDA had concurred in the Japanese sale of 250,000 metric tons of rice to Korea, representatives of USDA reportedly contacted Korean officials to encourage them to repurchase the 55,000 metric tons of California rice that had been cancelled. As it was now apparent that this rice was available and had been displaced by the Japanese sale to Korea, it was suggested that repurchase of this rice from the United States would counter, or at least soften, the argument that the displacement had resulted from the dumping of rice by the Government of Japan. Korea was said to have agreed to repurchase the 55,000 metric tons, but as of this date has not done so.

The delay in additional purchases by Korea may have been caused by a prospective delay in the delivery of rice by Japan. It was recently reported that Japan may not be able to complete delivery of the 250,000 metric tons of rice it had sold to Korea by September 1, 1979. Any shipments after that date would presumably violate the agreement Japan is said to have made with the United States regarding a shipment deadline and would threaten displacement of potential U.S. rice sales from its new crop. Under the circumstances and in order to mitigate the material injury already caused U.S. rice farmers by the Japanese sale, the appropriate course of action would call for cancellation of any quantity of rice that Japan is unable to deliver to Korea by September 1, 1979 and its replacement from U.S. sources.

With the exception of 1978, Korea has imported rice from the United States in every year since 1967. Traditionally, Korea has purchased substantial quantities of American rice from both California and the South (particularly Arkansas and Louisiana). In 1974, Korea purchased about 420,000 metric tons from the United States on commercial terms. Of this total, 233,000 metric tons were from the South and the balance was from California. Although Southern medium grain rice follows California rice in order of preference to Korea, Southern rice has always been perfectly acceptable to Korea and an important supplement to its available supplies. Thus, the Japanese sale has displaced potential sales of rice from and injured farmers in all major producing areas in the United States.

The rice transaction between Japan and Korea should also be evaluated in the context of the most recent data on the Korean trade balance and on the credit arrangements the United States has traditionally extended to Korea. In 1978, Korea enjoyed a trade surplus with the United States amounting to about $1 billion, while it suffered a deficit in its trading account with Japan totalling about $3.5 billion. (Also, Korea has reported that its gold and foreign exchange reserves on January 1, 1979 were at a record $4.9 billion and rising. Nevertheless, the U.S. has remained a generous source of intermediate and long term credit to Korea. In June 1979, the U.S. concluded an agreement under PL480 providing Korea with $40 million in long term credits for wheat, feed grains and cotton. In addition, the U.S. has made a total of $395 million available to Korea during fiscal 1979 for wheat, feed grains, tallow, and cotton under the Commodity Credit Corporation Export Credit Sales Program.)

OFFICE OF THE SPECIAL
TRADE REPRESENTATIVE,
Washington, D.C.

CALIFORNIA—BENEFITS OF THE MTN

California, as a large state with broad based agricultural and industrial interests, has very significant export interests and important concerns on the import side. California produces more manufactured goods for export than any other state, accounting for 10 percent of total U.S. exports of manufactures.

In 1976, manufacturing was the largest source of employment in California, employing over 1.6 million people. One of every four workers was engaged in manufacturing. Table 1 shows the largest industries in terms of employment. Aircraft, missiles and space vehicles were the largest industries, employing over 170,000 people among them, or 10 percent of the total.

Agricultural production in 1977 was valued at $9.4 billion with the major products being fruits, nuts, vegetables, cattle and cotton.

CALIFORNIA EXPORT INDUSTRIES

California's exports of manufactures totaled over $8 billion in 1976, an increase of 187 percent over the 1972 level (more than three times the increase in production over the same period). About 124,000 jobs depended directly on exports of manufactured goods—one of every 12 manufacturing jobs in the state. An additional 68,000 jobs were involved in supplying goods and services in support of exports.

Table 2 identifies the principal manufactured exports, of which aircraft and parts is the largest accounting for one-fifth of the total. Other significant export industries, representing more than $500 million each in exports, include electronic components and office and computing machines.

Agricultural exports of $1.8 billion in 1977 made California the third largest exporting state. Fruits, cotton and nuts are the leading export products representing over 50 percent of the total.

SPECIFIC INDUSTRY RESULTS

The results of the MTN with respect to specific industries in California are summarized below. A general description of the various nontariff codes referred to in this paper is provided in Attachment 1.

AEROSPACE

California will be a major beneficiary of the Aircraft Agreement, which will eliminate tariffs on civil aircraft in major foreign markets and will subject foreign governments purchasing and subsidy practices in this sector to new disciplines. The world aircraft market should experience rapid growth in the coming years and the aircraft agreement, along with the subsidies code, should ensure that U.S. producers will have a fair chance to compete. Major production centers are located in the Los Angeles-Long Beach area.

TEXTILES AND APPAREL

Recognizing the vital nature of the textile and apparel industry, the Administration has established a multi-faceted program to insure its health and growth. This program includes global import evaluation on a continuing basis, control of import surges through bilateral agreements, efforts to negotiate import restraint levels with new suppliers, and improvement of Customs monitoring and enforcement. U.S. textile tariff reductions, where made, were small and carefully chosen so as not to have an adverse impact on the industry. A "snapback" clause will restore U.S. tariffs to their pre-MTN levels if the international multifiber agreement does not continue to be in effect or a suitable substitute arrangement is not put into place. At the same time, important tariff reductions will be made by our trading partners in mill products in which the U.S. enjoys a traditional surplus trade balance. The textile and apparel sector should benefit from the subsidies code's new disciplines on foreign subsidies as well as the improved domestic antidumping and countervailing duty procedures.

ELECTRONICS

The U.S. obtained important tariff concessions from Japan, our principal competitor in electronics, which in key areas will provide roughly equivalent tariffs in the U.S. and Japan (including equal tariffs on highly critical semiconductors). In the communications equipment field the U.S. achieved a balanced outcome by withholding any significant concessions on tariffs or government procurement conditional upon other governments doing likewise. The standards codes will be a big plus for the electronics sector by providing equitable access to foreign certification systems. Work on the standards code was begun as a result of problems encountered by U.S. electronics firms exporting to Europe. The subsidies code is also of great potential interest to this industry because of the current trend of foreign governments to foster high technology industries.

COMPUTERS AND OFFICE EQUIPMENT

As a result of the MTN, Japan will reduce its tariffs on computers and related equipment to roughly the same level as U.S. tariffs, thus providing equivalent access between the two markets. Large tariff reductions were also obtained in other major developed country export markets. The customs valuation code is of particular importance to this industry because foreign valuation practices have been a significant problem for U.S. exporters. The government procurement code also should provide substantial benefits since foreign governments are large purchasers of computer products. The computer industry probably has more to gain from the government procurement code than any other U.S. industry.

INSTRUMENTS

Tariff cuts on measuring and controlling devices were substantial—from Canada (54 percent), Japan (41 percent), and the EC (30 percent). Canada has offered to reduce duties on medical instruments by 47 percent, Japan has offered a 42 percent cut and the EC has offered 35 percent. The instrument industries should benefit substantially from the standards code because standards are particularly important in this sector as a potential trade barrier. The procurement code will open new markets for this industry because foreign governments are major purchasers of instruments.

MOTOR VEHICLES

The tariff negotiations will provide some benefit and very little loss to the motor vehicles and body industry in California. Japan and some other developed countries like Switzerland and Norway have made significant cuts in their automotive tariffs which should aid the expansion of U.S. exports of trucks, busses, and cars. Japan reduced auto tariffs 61 percent to an average rate of less than 3 percent. On the other hand, U.S. tariff cuts on trucks and autos were minimal—less than 20 percent on the average so that U.S. and Japan average tariff rates will be nearly equal. In the area of nontariff measures, benefits will be more substantial. The standards code provides an especially important mechanism for dealing with standards that have been a significant and growing barrier to international trade in motor vehicles, while the code's prohibition of discrimination against imported products in certification and testing should prove particularly helpful to vehicle exporters. The customs valuation and government procurement codes should help reduce the valuation problems in exporting and improve the opportunities for producers to bid on government procurement contracts overseas.

FABRICATED STRUCTURAL METAL PRODUCTS

Structural metal producers should benefit from the subsidies code and improved domestic procedures to deal with foreign unfair trade practices. Significant tariff cuts by the EC, Canada and Japan should help exporters. Canada—the major market for U.S. exports—cut tariffs on imports 33 percent. The EC and Japan reduced tariffs on U.S. structural metal products 28 percent and 26 percent respectively, to average 4.9–5.0 percent on U.S. products. Exclusion of key U.S. construction agencies from the government procurement code should minimize any loss of U.S. Government business.

CONSTRUCTION AND RELATED MACHINERY

This large export industry stands to gain substantially from improved access to both developed country and developing country markets. Significant tariff reductions by the EC and Japan and liberalization of Canada's machinery program and "made in Canada" provisions are of considerable value. Canada reduced tariffs on nearly $800 million of U.S. exports of construction machinery. The EC cut tariffs 35 percent on nearly $500 million of imports from the U.S. Japan made a similar tariff reduction on nearly $100 million of imports from the U.S. Improved access to major LDC markets as a result of tariff reductions also is important. The valuation, standards, procurement, and licensing codes will all benefit U.S. exporters of this type of equipment.

INDUSTRIAL MACHINERY

This industry should be a major beneficiary of our success in liberalizing the Canadian tariff practices which have permitted them to vary the duty applied to U.S. exports depending on whether a particular machine is produced in Canada. This liberalization should substantially reduce the duties paid by U.S. exporters in a major export market. Significant tariff reductions were achieved also in other major developed countries. The standards and government procurement codes should be of substantial benefit to this industry.

ELECTRICAL INDUSTRIAL APPARATUS

Tariff cuts for electrical industrial apparatus were substantial by Canada, Japan and the EC. This industry also should benefit substantially from the standards code because standards are particularly important in this sector as a potential trade barrier.

FRUITS, TREENUTS AND VEGETABLES

The items of greatest interest to California agriculture in the MTN generally fall within the fruit and vegetable area. The United States placed a particularly high priority on increased market access for a wide range of California products in this sector.

Substantial increases in Japanese citrus quotas, reductions in citrus duties by a number of countries, and additional duty reductions for a variety of fruits, nuts and vegetables should play a major role in expanding California exports of specialty products. The total value of concessions in the fruit and vegetable sector cover $420 million in 1976 trade and are expected to result in an estimated $63 million in increased U.S. exports.

Citrus: Several countries granted concessions on citrus and citrus products, among them are major concessions from Japan as follows:

For fresh oranges, it is estimated the additional increase in exports over 1976 levels will be approximately 67,000 metric tons (MT) by 1983. The value of this trade is estimated at $26 million. Further expansion of Japanese orange imports is anticipated after 1983.

The Japanese duty on fresh lemons will be cut from 10 percent to 5 percent ad valorem. The value of this concession is estimated to be approximately $2.6 million. The duty on lemon juice will be reduced from 20 percent to 10 percent ad valorem.

Japan will also bind the duties on a number of citrus products at present rates, which insures against duty increases beyond those levels. This is significant for the long term because Japan is expected to reduce or eliminate a number of quotas in the future.

Other fruits and vegetables: Tariff and non-tariff measure concessions from various countries should improve access for U.S. exports in a broad range of other fruit and vegetable products including grapes, almonds, raisins, dried prunes, walnuts, canned peaches and fruit cocktail, apples, pears, cherries, avocadoes, sweet corn, lettuce, olives, and tomato and vegetable juice. Among them:

The reduction in the Japanese canned peach duty from 25 percent to 15 percent is expected to increase trade by about $300,000.

The reduction of the European Community (EC) duty on prunes from 16 percent to 12 percent is expected to increase trade by about $400,000.

The increase in the New Zealand quota for apples and pears of three thousand tons is expected to yield increased trade of $800,000.

The reduction by Japan in the duty on fresh grapes from 20 percent to 13 percent seasonally is expected to increase imports by about $950.000.

A reduction in the almond duty in Japan from 9 percent to 4 percent is expected to yield an additional $2 million worth of exports. Another important concession received in almonds is the removal of a non-tariff barrier (NTB) by India. This action is expected to increase India's almond imports by about $2 million, doubling current U.S. exports to that country.

Japanese duty reductions in wine and the conversion from a specific to an ad valorem rate of duty should improve the competitive position for U.S. wine exports to that market.

In addition, the U.S. and Canada reached a separate agreement under Article XXVIII of GATT whereby the size of proposed Canadian duty increases on $115 million in U.S. horticultural exports was minimized and offset by duty reductions on $108 million in Canadian fruit and vegetable imports from the U.S. The net result is an estimated reduction in Canadian duty collections by over $3 million on U.S. exports.

COTTON

U.S. cotton generally enjoys favorable duty treatment in world markets as a result of concessions negotiated in previous trade rounds. However, in the MTN the U.S. was able to negotiate additional security of access in some key markets. The offers received by the U.S. on cotton would affect $138 million in U.S. exports (1976).

Taiwan, a non-MTN participant, agreed to bind its free duty on imported cotton. The Philippines offered to bind its duty at 20 percent and Chile at 35 percent. Current duties in each country are 10 percent. Australia agreed to a binding of 2 cents per kilogram, the current rate. The bindings mean that there can be no future increases exceeding the bound rate.

No changes were made in the U.S. support system under Section 22 of the Agricultural Adjustment Act of 1938.

RICE

The EC has offered to reduce the present levy on rice by the equivalent of $70 per metric ton, which will result in the equalization of U.S. long-grain and European round-grain rice prices. This concession is expected to increase U.S. rice exports by over $7 million annually.

TABLE 1.—*Principal manufacturing industries in California*

Industry	1976 employment (in thousands)	Major plants (over 1,000 emp.)
Aerospace	174	26
Textiles & apparel	104	2
Printing & publishing	96	4
Communication equipment	82	18
Electronic components & accessories	71	13
Office & computing machinery	60	10
Miscellaneous plastics products	41	1
Preserved fruit & vegetables	40	1
Motor vehicles & equipment	38	5
Fabricated structural metal products	33	--
Measuring & controlling devices	31	6
Household furniture	29	--
Misc. machinery, except electrical	28	--
Petroleum refining	25	3
Shipbuilding & repairing	24	5
Misc. foods & kindred products	22	2
Subtotal	898	96
Total all mfg	1,654	153

Source: County Business Patterns, 1976.

LIVESTOCK AND MEATS

Livestock concessions received are expected to increase U.S. agricultural exports by over $250 million. The major concessions, totaling $200 million, are in increased quotas for high quality beef in Japan and Switzerland and new quotas in the European Community and Austria.

Significant tariff reductions on variety meats were obtained from the EC and Japan. Japanese reductions include duty cuts for seven categories; the value of these is estimated at $3.1 million. The EC reduced duties on 12 variety meat categories; the value of these reductions is estimated at $6.7 million.

Japan agreed to reduce their duty on pork imports to five percent during periods in which there is no variable levy imposed on pork imports.

Canada reduced their pork duty from ½ cent per pound to zero. The value of this concession will be about $22 million.

TABLE 2.—*Principal manufacturing exports from California*

Industry	1976 exports (in millions)	1976 exports as percent of total shipment	1976 export employment (in thousands)
Aircraft	$1,672	18	25.2
Electronic components & accessories	787	27	16.8
Office & computing machines	584	20	10.2
Communication equipment	385	11	8.7
Construction & related machinery	363	36	5.7
Special industry & misc. machinery	350	19	4.5
Petroleum & coal products	335	3	.7
Measuring, controlling devices	308	32	8.3
Elec. & industrial apparatus, radios & TV equipment	261	29	5.0
Transportation equipment, n.e.c	$215	36	2.5
Preserved fruits & vegetables	204	5	2.6
Fats & oils	175	1	22.6
Motor vehicles & equip	152	3	1.1
Soaps, cleaners, toilet goods	149	2	2.0
General industrial machinery	148	15	2.6
Grain mill products	142	10	.3
Subtotal	6,230	--	118.8
Total all mfg	8,063	8	123.7

Source: State Export Series.

MTN BENEFITS OF NONTARIFF CODES NEGOTIATED IN THE TOKYO ROUND

Over the long term, the most valuable benefits of the MTN will result from implementation of the codes, especially the Government Procurement Code, the Subsidies Code, the Standards Code, the Customs Valuation Code, and the Licensing Code.

(A) The Government Procurement Code should expand opportunities for U.S. producers to compete for sales to foreign governments by discouraging discrimination against U.S. suppliers in government purchasing. This should prove especially beneficial to exporters of computers, instruments, transportation equipment and machinery who, for the most part, have been unable to compete on an equal basis with domestic bidders for many foreign government contracts in the past. It is estimated that this Code will open more than $20 billion in foreign government purchases to U.S. bidders.

(B) The Subsidies Code adds new discipline to the use of subsidies in international trade. It includes a total ban on the use of export subsidies for industrial products, and for the first time, international recognition that domestic subsidies can be countervailed against when they cause injury. Improved and accelerated domestic procedures will allow complainants more effective relief against unfair trade practices.

(C) The Standards Code will provide a valuable mechanism for the expansion of overseas sales of high technology goods. The Code is intended to discourage discriminatory manipulations of product standards, product testing and product certification systems and will encourage the use of open procedures in the adoption of standards. Such industries as electronics, machinery, transportation equipment, and instruments have found product standards a significant and growing barrier to international trade.

(D) The Customs Valuation Code will probably do more to ease the day-to-day nuisances and irritations found by exporters as any other Tokyo Round achievement. The Code establishes international uniformity in customs valuation practices and decreases the uncertainty of exporting, through rules which are fair, simple, predictable, transparent and neutral. It also eliminates protective features of current foreign customs valuation systems, including arbitrariness in valuation methods, uplifts and fictitious values. The Code is business-oriented, using the transaction value of imported goods as the basis for valuation.

(E) The Licensing Code will promote nondiscriminatory administration and simplified procedures in foreign countries maintaining licensing requirements.

(F) The Aircraft Code will eliminate duties in the world's major aircraft markets and place limits on foreign governmental interventions in this sector.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I want to point out that in 1978 we exported 68 percent of our milled rice. Exports account for 87 percent of the income of our rice farmers. We sell $1 billion a year in farm goods to Korea. It is essential that we protect our rice export markets.

Mr. Chairman, I believe—and I want to assure the gentleman of this—that the new subsidies quotas in article 10 will help prevent foreign subsidized sales from taking away our market share. This is a protection we have never had before which is provided by this legislation.

Mr. FAZIO. Mr. Chairman, I appreciate the comments of the subcommittee chairman. I think this is one of the many attributes this bill has, particularly for California agriculture. I very much urge the support of the Members for this very important legislation, and I thank the gentleman for yielding time to me.

Mr. VANIK. Mr. Chairman, I yield such time as he may desire to the gentleman from Pennsylvania (Mr. ATKINSON).

Mr. ATKINSON. Mr. Chairman, I thank the chairman of the subcommittee for yielding this time to me.

Mr. Chairman, while the conclusion of multilateral trade negotiations is a significant step, I think we should in no sense be left with the impression that all the loose ends have been tied. This is simply not the case.

We have been hearing more expressions to that effect here on the floor in the last few minutes.

I note, for example, that efforts to reach agreement on an international safeguard procedure have failed, even though section 107 of the Trade Act of 1974 makes the negotiation of a safeguard code "a principal U.S. negotiation objective," and even though section 121 of the Trade Act calls upon the President to make agreements which "include, but are not limited to:

> (2) the revision of article XIX of the GATT into a truly international safeguard procedure which takes into account all forms of import restraints countries use in response to injurious competition or threat of such competition.

By "safeguard procedure" is meant "internationally agreed upon rules and procedures, which permit the use of temporary measures to ease adjustment to changes occurring in competitive conditions in the domestic markets of parties to an agreement." While neither section 107 nor section 121 mandate such a safeguard procedure immediately, it is significant that we have not completed such an agreement along with the MTN we are discussing here today.

My concern for the well-being of the specialty steel industry is one of the main reasons I bring these matters to my colleagues' attention. In the absence of an agreed upon safeguard procedure, there is no requirement that other signatories besides the United States phase out, modify, terminate, or in any way reduce their limitations on the import of specialty steels.

But, Mr. Chairman, as my colleagues know, the United States, by Presidential proclamation of June 12, announced the termination of existing American quotas of specialty steel imports as of February 13, 1980.

In summary, the United States has voluntarily, unilaterally abandoned its quotas without at the same time requiring that other countries abandon their quotas.

One unfortunate practical result can be that exporting countries which still are denied access to some export markets will be tempted to add their exports to the open American market.

I am informed that codes were agreed to on standards, government procurement, customs valuation, and subsidies and countervailing duties. Since the governments with which the United States negotiated were willing to go so far, it is all the more distressing that they refused to accept a safeguards code.

The absence of that code certainly facilitates the giving of no more than lipservice to the obligations toward liberalization of trade which the participants in the MTN seem to embrace. The United States sets a fine example in its attitude toward the liberalization of trade, but in fact the cause of liberalization is not advanced when the United States alone makes the sacrifices. For that reason, it appears premature to seek congressional approval of MTN before conclusion of a safeguard agreement.

With all due respect and, I trust, a full understanding of the need to encourage the flow of trade among countries, we are urging that the Presidential proclamation of June 12, regarding specialty steel quotas, be put in abeyance, both as to the terminal date and as to the periodic increases in the quota, until other countries reach agreement with the United States on safeguard procedures and also agree to remove all quota limitations from all countries regarding trade in specialty steels. The two agreements would promote reciprocity in the interest of equality, and honor the spirit of sections 107 and 121 of the Trade Act of 1974.

Mr. Chairman, my only question would be this: Since we do not have the safeguard agreement, may I ask, when might we expect one?

Mr. VANIK. Mr. Chairman, if the gentleman will yield, I certainly hope we will get a satisfactory safeguard quota that can be agreed upon. In our report we urge that that be done. I hope we may have it this fall.

Mr. ATKINSON. Mr. Chairman, I thank the gentleman very much.

Mr. VANIK. Mr. Chairman, at this time I yield such time as he may desire to our distinguished colleague, the gentleman from California (Mr. COELHO).

Mr. COELHO. Mr. Chairman, first of all, I would like to compliment the chairman of the subcommittee, as well as the members of his committee, along with the chairman of the Committee on Agriculture, for the work they have done on this bill.

This has a substantial impact on my district, and we are looking very positively toward its results.

I would like to ask a couple of questions, Mr. Chairman, with regard to the California wine industry which we feel has had an adverse impact as a result of the bill.

Mr. Chairman, if, as a result of his review of foreign tariff and nontariff barriers affecting U.S. exports of alcoholic beverages and particularly wine, the President determines that a foreign country has not implemented concessions to the United States affecting alcoholic beverages negotiated in the MTN, is the President authorized to withdraw, suspend, or modify the application of U.S. concessions on alcoholic beverages and particularly wine?

Mr. VANIK. Mr. Chairman, if the gentleman will yield, the answer is, yes.

Under section 854 of the bill the President would be authorized to take that action to withdraw, suspend or modify substantially equivalent trade agreement benefits to such a foreign country. The same situation pertains to domestic malt beverages which like wine sustain a very substantial trade deficit because of both tariff and nontariff trade barriers to U.S. exports.

Mr. COELHO. Mr. Chairman, I thank the gentleman for his response.

Mr. Chairman, at this time would the gentleman please clarify for the House the intent of a highly technical section of the trade bill relating to the tax treatment of distilled spirits.

I am referring to title VIII, subtitle A, section 805 (all-in-bond method of determining excise tax on distilled spirits).

Unless it is clarified, the language of section 805 could unwittingly and unintentionally cause severe economic loss to our domestic wine industry.

Mr. Chairman, the wine industry has traditionally sold large quantities of wine to rectifiers who blend the wine with other alcoholic beverages to create "rectified" products such as cordials, liquers, and flavored brandies. The rectifier is then taxed on the individual component parts of the product rather than on the finished product itself. He pays a considerably lower tax on wine than on distilled spirits because of the lower alcoholic content of wine.

However, section 805 would also eliminate an eager market for domestic wine by requiring a tax based solely on the proof of the finished product after bottling, namely, the distilled spirits tax of $10.50 per proof gallon.

Was it the intent of this section of the trade bill, Mr. Chairman, to undermine the wine industry by drying up a traditional market for its bulk goods which many wineries have come to depend upon?

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Mr. VANIK. My answer to that is, no, the result was never anticipated by our committee. We have just become aware of this unintended impact on the wine industry. And, in light of this factor, I would like for our committee to study the matter, with a goal toward finding some way to provide a means for addressing ourselves to the problem in subsequent legislation.

I am very happy the gentleman called the attention of the committee to this very, very important point.

Mr. CONABLE. Mr. Chairman, will the gentleman yield on that point?

Mr. COELHO. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I think it is important to point out that our wine industry will be substantially benefited by this bill through concessions made by Canada and Japan. Up until this time it has been very difficult to crack the European wine convention, but following enactment of this bill there will be opportunities for promotion of American wine in at least two other foreign countries.

Mr. COELHO. I thank the gentleman for his comments.

I would have to say that, in regard to the Canadian situation, we are talking about a particular type of sweet wine, which is not of tremendous impact to us in the domestic area, and, on the Japanese situation, it is a concession, but it is not a major concession, and the wine industry does not have any significant concession in these negotiations. That is a part of what we are talking about. I appreciate the remarks very much, and I thank the gentleman for his clarification.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SCHULZE), for the purpose of an inquiry.

Mr. SCHULZE. Mr. Chairman, I have asked for this time for the purpose of engaging in a colloquy with the distinguished chairman of the Subcommittee on Trade.

Mr. Chairman, on page 95 of the bill, section 771(12) of the Tariff Act of 1930 provides, for purposes of subtitle A, which concerns countervailing duties, that merchandise shall be treated as the product of the country in which it was manufactured or produced without regard to whether it is imported directly from that country and without regard to whether it is imported in the same condition as when exported, or in a changed condition by reason of remanufacture or otherwise.

Under this legislation, countervailing duties may be imposed when it is determined that a country subject to the MTN agreement is providing a subsidy for exports. However, antidumping duties may be imposed whenever it is determined that foreign merchandise is being sold in the United States at less than fair value, provided there is also injury or threat of injury to U.S. industry.

I am concerned about the following situation. It is my understanding that many foreign companies or enterprises organized and based in one foreign country have adopted the practice of manufacturing part or all of a product in another foreign country, where costs of production may be cheaper, and then importing that product into the United States. I do not believe that a foreign enterprise which receives the benefits of a subsidy or dumping in its home market should escape the application of the U.S. trade laws merely because all or part of the manufacturing process occurs in another foreign country and the product is exported to the United States from that second foreign country.

Is my understanding correct, that it is the legislative intention that the ITC or other administering authority will take account of these factors in administering the trade laws?

Mr. VANIK. If the gentleman will yield, Mr. Chairman, the gentleman from Pennsylvania (Mr. SCHULZE) is correct. A foreign enterprise or multinational company which receives a subsidy from its home government, in its home market, will be subject to countervailing duties, even though, technically, the export to the United States is from a country which does not provide a subsidy to the enterprise.

Mr. SCHULZE. I thank the gentleman.

Mr. VANIK. And the same would be true of dumping.

Mr. LUNDINE. Mr. Chairman, the recent culmination of the multilateral trade agreement after 4 years of difficult negotiating between trading nations of the world was a major step forward to an international system of trade which is open and fair. For the first time in our history this agreement attempts to address nontariff barriers to open trade which have evolved over the years.

The legislation we are considering here today, if approved, would provide for implementation of a code of conduct for international trade by which all signators should abide. If the system works as it should, the United States and other countries in the long run should derive substantial economic benefit and strengthen the international economic order.

I intend to support H.R. 4537. When I look beyond the specific provisions of this bill, however, I am troubled by what I see on the international trade scene and some of the problems this bill does not address. While I am deeply concerned over the fact that the United States has not been getting its fair share of the international trading pie, almost more troubling to me than this is that we have brought a good deal of this on ourselves through ineffective and weak administration of the trade laws already on the books.

Implementation of our trade policy needs to be fair, but tough. Our trading partners need to know that we will absolutely not tolerate dumping of their goods on our ports without swift and severe counteraction being taken by our Government. Our trading partners need to know that we will not tolerate the construction of new barriers to entering their markets which have the same protectionist effect as those we are trying to break down by enacting the legislation before us today.

Effective administration of the codes of conduct for trade which we are considering will be the crucial factor that determines whether or not we can benefit under this new trading arrangement. Allocation of Federal administrative trade responsibilities in the executive branch must be reviewed and consolidated so that we can monitor our trade situation and enforce our trade laws with greater dispatch and effectiveness.

Legislation has been introduced in the Congress to create a Department of Trade and the President is scheduled to make a recommendation to the Congress on possible reorganization and consolidation of trade functions in the near future. Such a reorganization effort must be given a high priority in the Congress.

Beyond this, however, I am concerned about the failure to include as part of the MTN an improved safeguards code to help provide import relief to affected domestic industries. Import relief programs are vital to the continued health and well-being of our domestic industries.

International efforts to negotiate common agreement on this aspect should continue until a consensus is reached. In the interim, we must improve our efforts to implement a meaningful safeguards program for our domestic industries.

There is no question but that there are domestic industries which in an open and fair international trading system will find it increasingly difficult to compete. The protection we can provide these types of industries will be limited. On the other hand, there are domestic industries which given a fair shake can compete internationally but have been substantially injured by unfair trading practices by some of our so-called trading partners or other unusual temporary conditions.

I am sure we all have examples of industries in our congressional districts which can compete internationally but have been the victim of unfair practices. In many cases, these industries are making serious and successful efforts to recover from this injury.

In my district, for example, specialty steel, color television, and ball bearing industries have all been impacted severely by trade, but yet have been making extraordinary efforts to improve their operations and to become wholly competitive once again.

But this is a difficult task when dumping duties remain uncollected and our Federal Government is unresponsive to the needs of these industries. These industries deserve our support and assistance. The recent decision by President Carter to phase out quotas on specialty steel products over the next 8 months is particularly disappointing in this regard.

Although as I noted earlier, I intend to support the legislation before us today and urge my colleagues to do the same, I am disturbed by our woefully inadequate record in the enforcement of our trade laws. The Congress must work to continue to improve our trade system and to be an advocate for more aggressive implementation of our trade policies.

The threat of retreat to protectionism is still very real—progress toward an open and just international trading system will not end with passage of this bill today. Rather, it can only begin a process which desperately needs a great deal more attention by this legislative body.

Mr. GUARINI. Mr. Chairman, since coming to the Congress at the beginning of this session and being selected to serve on the Ways and Means Committee, I have had many stimulating and interesting issues to consider. However, I strongly believe that my activities involving the consideration of the Multilateral Trade Negotiations were the most challenging and significant I have participated in.

Since my other colleagues on the committee have clearly set forth the broad benefits and impact this treaty will bring to our Nation, I would like to limit my remarks to two aspects of particuar concern to me: The impact on New Jersey and the new provisions dealing with judicial review of determinations flowing out of the various procedures provided under this legislation.

I have naturally been concerned about New Jersey's export situation. I have found that New Jersey's export of manufactures totaled $2.7 billion in 1976, representing a doubling in value since 1972. Our exports have been growing 2½ times faster than domestic production with an estimated 34,900 jobs in New Jersey directly related to producing manufactured exports as of 1976.

About 30,600 additional jobs were required to produce materials and parts assembled and exported from other States. Consequently, about 1 out of every 11 manufacturing jobs in my State develops from exports.

Chemicals are the State's largest export and these exports accounted for 10 percent of total chemical output, or an estimated 8,200 jobs in 1976. I am particularly pleased to note that America's major trading partner in chemicals is Europe, which has agreed to cut its tariffs by 34 percent on chemical items. Japan will reduce its tariffs 43 percent and Canada 36 percent under the treaty.

In addition, the United States converted the majority of its chemical tariffs from specific and compound rates to ad valorem equivalence, thereby protecting current levels of tariff protection from future erosion due to inflation caused by rapidly rising costs of oil and gas.

Another area of great interest to New Jersey is its pharmaceutical exports trade. The European Economic Community has been a principal market for these products. Under the treaty, the Community cut tariffs on U.S. drugs an average of 38 percent, amounting to an approximate average savings of $14 million per year in duties paid by U.S. drug exporters.

The nonelectrical machine industry is also expected to benefit from reduced tariffs and improved access to foreign markets under the treaty. This is the result of changes in its tariff practices by Canada and reduced tariffs in Europe and Japan.

In particular, the United States obtained important tariff concessions from Japan, our principal competitor in electronics. Under the treaty, Japan will reduce its tariffs on computers and related equipment nearly two-thirds, putting that country's tariffs on roughly the same level as U.S. tariffs.

I have given very careful consideration to other areas such as motor vehicle, measuring and controlling devices, surgical and medical instruments, construction-related machinery, paper, textiles and apparel, fabricated structural metal products, bearings, glass and glassware, and agriculture. In energy category that I was able to obtain information on, I was impressed with the fairness that these industries received under the treaty and the benefits that would flow from it.

My conclusion is that New Jersey industry—management and labor—stands to benefit by the provisions of the multilateral trade treaty.

Mr. Chairman, I would also like to make a few brief remarks highlighting specific features of title X, a necessary and appropriate corollary to other titles of H.R. 4537 which implement the trade agreements and improve domestic procedures under U.S. trade laws.

Title X provides for judicial review of certain determinations made pursuant to title I, relating to antidumping and countervailing duties, title II, relating to Customs valuation, and title III, relating to Government procurement.

With regard to review of determinations made pursuant to the antidumping and countervailing duty law, title X will constitute a significant improvement over present practice. First, by describing precisely which determinations, both final and interlocutory, are reviewable in the Customs Court, the bill clarifies the confused state of present law.

Present statutory authority specifically provides only for review of final negative determinations by the Secretary of the Treasury with regard to the existence of a bounty or grant or sales at less than fair value. While recent court decisions indicate that review of other determinations may be available, this bill eliminates any uncertainty in this regard.

Second, it streamlines, and provides greater uniformity in, review procedures. For example, under present law certain types of determinations are reviewable in the Customs Court within 30 days.

In other cases, court review is available only after completion of an administrative review, the period for which varies between actions brought by importers and those brought by domestic parties. The bill eliminates the requirement of an administrative review of all determinations and establishes a uniform procedure whereby an interested party may seek review in the Customs Court within 30 days of the determination.

Third, the bill provides the court with flexibility to fashion a more effective remedy by permitting the court to enjoin the liquidation of some or all entries of merchandise covered by a determination. The presumption of correctness attaching to the administrative determination is continued under the bill, modified to permit the court's decision to reach entries made subsequent to that determination, but prior to the court's adverse decision, in appropriate circumstances. This limited injunctive power will remedy the disparity in the present law between the relief offered to importers and domestic manufacturers.

Title X expands the scope of domestic parties who can seek judicial review of determinations by the Customs Service concerning the appraised value, classification, or rate of duty of imported merchandise to include labor unions and trade associations. It also introduces greater procedural safeguards in requiring a statement of reasons to accompany a denial by the Secretary of the Treasury of an importer's protest of such a determination.

Finally, title X specifically provides for judicial review in the Customs Court of Customs Service decisions regarding the certification of the "country of origin" of products covered by the agreement on Government procurement.

Mr. Chairman, in my view title X will have the effect of expediting judicial review, enhancing the procedural safeguards connected with review, providing certainty in the law as to what determinations are appealable and by whom, and, in some cases, increasing the effectiveness of the remedy provided.

In closing, Mr. Chairman, I would like to state that my careful consideration of H.R. 4537 convinces me that the Multilateral Trade Treaty and the accompanying implementation legislation are sound and practical steps forward in dealing with numerous troublesome areas in our international trade. H.R. 4537 will permit domestic industry and agriculture, both exporters and importers, to perform in a more economic and efficient manner. In light of these favorable benefits, I urge my colleagues to support passage of H.R. 4537 as being in our best national interests.

Thank you, Mr. Chairman.

● Mr. GREEN. Mr. Chairman, as we debate the Trade Agreements Act of 1979, we must keep in mind that the economy of the United States will benefit from a world economy that is not hindered by cumbersome trade barriers. H.R. 4537 will facilitate this goal, and I urge that my colleagues support it.

I would like to refer my colleagues' attention at this time to a letter I received from the New York State Council of Retail Merchants that outlines the benefits of removing barriers to world trade.

THE NEW YORK STATE
COUNCIL OF RETAIL MERCHANTS INC.,
Albany, N.Y., June 4, 1979.
Hon. WILLIAM S. GREEN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GREEN: I am writing to you on a matter of common concern, the effect of American trade policy on inflation and on the price of consumer goods in New York. As retailers, our members know that the health of their industry depends on their ability to provide a wide range of goods at reasonable prices. It also depends on a healthy economy—a high level of employment at good wages. These two concerns have prompted me to give you our views on the future of U.S. international trade policy.

To continue to play a constructive role in both the economy of this state and of the nation, it is essential that we be able to import goods without restriction. Restrictive trade policies which limit the availability of imports lead to higher prices and reduce the purchasing power of New York's citizens.

Moreover, the imposition of nontariff barriers of imports resulting from pressures applied by specific industries leads to reciprocal action by our trading partners. Such action seriously impacts export trade which is vital to this state's economy.

The export market for New York State manufactured goods almost doubled between 1972 and 1976. Our export of manufactures in 1976 was $5.32 billion. We ranked first nationally in exports of instruments, second in exports of electric and electronic equipment and fourth in non-electric machinery. U.S. Department of Commerce estimates list 135,900 manufacturing jobs in New York as dependent upon exports in 1976. This figure equals about 1 of every 11 manufacturing jobs in the state. Our share of U.S. agricultural exports in FY 1977 was $109 million, 2.5 times the FY 1972 level. In 1976, our ports ranked first in the value of goods shipped overseas with the various seaports and John F. Kennedy International Airport shipping $11.8 billion of products.

A recent study completed by William R. Cline, senior fellow of the Brookings Institution, clearly states the impact imports have in holding down consumer prices nationwide. As the study concludes:

1. Imported products are an average 10.8 percent cheaper than domestic products.

2. American consumers receive direct savings of more than $2 billion annually from the availability of imported consumer goods (not including automobiles and food).

3. Based on spending patterns of low-income consumers, imported goods purchased may be as much as 13.1 percent cheaper than domestic goods. As this study emphasizes, "imports are playing a vital role in fighting inflation."

While protectionist pressures on the Congress will most certainly increase in the coming months, we would urge you to consider the positive benefits of liberal trade policies to the citizens of New York. The removal of nontariff barriers worldwide will help curb inflation, stimulate employment and reduce our trade deficit.

We intend to communicate our concern to each member of the New York delegation, however, I am most interested in your views on this matter. With thanks for your time and consideration and looking forward to your response, I am,

Sincerely,

PETER ZIMMERMAN,
Director of Government Affairs.●

● Mr. AKAKA. Mr. Chairman, I rise in support of the Trade Agreements Act of 1979.

The legislative proposal before us today is the result of a long and complex series of negotiations aimed at lessening restrictions on world trade. I want to commend Chairmen VANIK and FOLEY for their insights and leadership in the formulation of this bill and Special Representative Strauss and his negotiations team for their hard work. I urge my colleagues to vote for passage of the Trade Agreements Act because I believe that this package is an important step toward creating a freer climate for world trade.

The importance of the agreement achieved in Geneva cannot be overstated. The many nations that are a party to this agreement have essentially agreed to end many objectionable and unfair trade practices. Export subsidies, nontariff barriers, and a variety of other practices that promote protectionism and reduce competition will be outlawed or severely curtailed.

While the precise impact of this agreement is difficult to assess, we know that trade barriers have cost us millions of dollars annually in lost trade or inflated prices. Once Congress acts, the very important task of monitoring the enforcement of the code will remain. I hope that both Congress and the administration will keep careful watch to see that the rules are closely followed. At the same time I hope we will begin a new round of negotiations aimed at further reducing costly trade restrictions.

In the area of tariff reductions, it is estimated that concessions made on fruits and vegetables will result in an estimated $63 million in increased U.S. exports. While these concessions were being negotiated, a proposal surfaced that would have resulted in serious harm to Hawaii's pineapple production by reducing U.S. tariffs on pineapple juice. The Office of the Special Representative for Trade was very responsive to Hawaii's concerns once they were made aware of the full impact of the duty reductions they proposed. Because of the vital role that pineapple plays in the economy of Hawaii, it was necessary to voice our concerns in the strongest possible terms. This was only because pineapple is, and has traditionally been, of special importance to the Hawaiian economy.

I wish to thank Mr. Strauss for responding to the concerns of Hawaiian pineapple growers. Pineapple has now been given the chance to thrive and become a viable State industry.●

● **Mr. DANNEMEYER.** Mr. Chairman, I rise to speak in support of the Trade Agreements Act of 1979. I do this because the United States must of necessity take a leadership role in trade as well as other areas. As part of our continuing role of leadership in the world we must encourage closer ties with our trading neighbors and act to reduce barriers to commerce that only serve to stand in the way of improved relations over a broad spectrum of affairs.

A weaker country might not be afforded the opportunity to further open its doors to foreign trade, but I do not believe that the United States must pursue a policy of weakness and fear. I firmly believe in the inherent strength and resilience of our economic system to grasp these new opportunities and challenges offered by this bill and make them work to the benefit of the entire Nation. I support this piece of legislation because I believe in the United States of America.

There are strong arguments from the domestic economy in support of increased foreign trade. We need not look far into our past to see the unfortunate results of increased tariffs and trade restrictions. The Hawley-Smoot Tariff Act of 1930 brought us the highest overall tariff structure this Nation has ever seen.

With it came reduced employment, a significantly lowered level of productivity in the domestic economy, a lowered level of economic growth in the domestic economy and serious retaliatory measures on the part of our former trading friends. Some historians have suggested that it was the cause of the Great Depression.

I firmly believe that our recent problems with balance of trade deficits may be improved with the passage of this legislation. As we have seen, retaliation by trading partners wipes out the benefits of increased tariffs and other restrictions, so it stands to reason that elimination of these artificial barriers to trade will enable us to stand on our own merits in the arena of world trade.

If you believe as I do that our industrial strength is second to none, then you share my confidence in our ability to compete in a fair climate of world trade that the Tokyo round of negotiations has brought closer to realization. This ability to compete in an open market can only act to improve our deficit position in balance of trade.

The multilateral trade negotiations can mean significant improvements in our domestic markets as well. Lowered prices for the domestic consumer will follow increases in imports and exports. Increased exports will not only permit our domestic producers to realize greater economies of scale as they reach into previously inaccessible foreign markets but will encourage them to be more cost efficient.

These economies of scale will mean lowered production costs and in turn lower prices here at home. In addition to this advantage to consumers, the lowering of duties and tariffs will mean lower price tags on imported goods and greater access to goods that are produced more cheaply overseas.

These advantages to our domestic economy are strongly complemented by significant foreign policy arguments for increased trade. As I said earlier, the thrust of the multilateral trade negotiations is to bring the world community closer together. The results of this can only be to encourage a higher level of cooperation and understanding. These features reflect the shrinking world that has resulted from phenomenal improvements in electronic communications and increased frequency of world travel by the average citizen.

I also believe that trade and cooperation among the peoples of different countries and cultures makes world peace a more readily accessible goal. It is easy to see that it is far more difficult to quarrel and fight with a close trading partner with whom you share common economic interests.

Indeed, the very existence of the Tokyo round indicates an encouraging willingness to resolve differences, by discussion rather than war. Further increases in trade and understanding among the nations of the world can only act to reduce fear and uncertainty regarding our neighbors and foster a feeling of community rather than hatred.

I think that few here in this chamber will argue with me that the standard of living here in the United States is second to none in the annals of recorded history. At no time have a people known so much prosperity and freedom. It stands to reason, then, that as the peoples of the world come to recognize this through the increased familiarity with our nation resulting from trade they will share in many of our goals for personal freedom and human rights. This potential spin off of the Multilateral Trade Negotiations could easily be recognized as our most important export.

Please do not misunderstand my emphasis on our own strengths and the desire to share our ideals and way of life with our friends and neighbors. I readily recognize that the passage of this bill will, likewise, be of tremendous benefit to the United States.

For example, lets look at my home State of California. California produces more manufactured goods for export than any other State in the Union. We exported $8 billion in manufactured goods in 1976 and the figure grows yearly. We produce and export a rich variety of agricultural products that help to feed the world as well as the remaining 49 States. Some of our more exotic produce, oranges, avacados, and strawberries, have come to be recognized as delicacies the world over; with this agreement more people all over the world will have a greater opportunity to come to the same conclusion.

Likewise, the lowering of tariffs and barriers to trade will have significant positive effects in a number of other areas of our economy. The following list includes but a few of these:

The Aircraft Agreement eliminates tariffs on civil aircraft in major foreign markets and applies more rigid standards to foreign government purchasing and subsidy practices.

Equal tariffs on electronic components with Japan will guarantee greater access to Japanese markets for our producers of these important products. This is especially significant in the case of semi-conducters used widely in the computer industry.

Japanese concessions of fresh oranges could result in an increase of 67,000 metric tons in their imports of our oranges by 1983. This potential trade expansion has an estimated value of $26 million.

Having reviewed the broad spectrum of important benefits that will stem from the implementation of the Multilateral Trade Negotiations, I urge the adoption of H.R. 4537.●

● **Mr. AuCOIN.** Mr. Chairman, tomorrow, the House will cast its vote on the Trade Agreements Act of 1979. I rise in support of the act and urge this body to carefully review what is at stake in this legislation.

The agreements negotiated in the Tokyo Round are a watershed in American economic development and world trade. They represent a vast increase in market potential of critical importance to American agriculture, business and industry. In tariff and nontariff concessions on agricultural goods alone, potentially $30 billion in new markets will be opened up for American farmers, not to mention $4 billion for new foreign government procurement contracts for other business enterprises.

Some would rightly observe that there is more at stake, however, than new markets, that American jobs are on the line. Indeed, this is true, because export-related jobs figure prominently in the American labor profile.

Coming from Oregon, a noted timber-producing State, I am especially concerned that this bill not adversely affect this industry or its workers. I am encouraged to note that in the forest products industry, more than 134,600 jobs nationally depend directly or indirectly on exports for their existence.

But I hasten to point out that only 6,100 of these jobs are in Oregon. Indeed, a good portion are also found in the East and Midwest: 5,700 in Pennsylvania, 3,400 in New Jersey, 3,600 in Massachusetts, 4,000 in Ohio, 3,900 in Illinois, and 5,200 in New York. All dependent on exports and increased trade. All dependent on the benefits of the Trade Agreements Act.

And looking beyond just this one industry, I am also encouraged to note that we can expect more than 30,000 new jobs nationwide as a result of our favorable action.

But in reviewing what is at stake in this legislation, we must recognize that behind the benefits of jobs and new markets is a new system—a new order—of international trade, and a new spirit of competition on which American business, industry and agriculture will capitalize if given the opportunity.

At a time of growing concern about international tension, when extraordinary efforts are being made on behalf of improved international relations, it is important to recognize how this new order of international trade supplements these efforts. It provides a structure for healthy economic competition and, in so doing, plays to America's strength in the world arena. It is far better for the United States to compete on the field of technology and business know-how where we excel all other nations.

Frequently we hear that few Americans are opposed to "free" trade as long as it is "fair" trade. The Trade Agreements Act of 1979 for the first time gives us the mechanism to have both as part of this new system of international trade:

An improved system for initiating and investigating complaints of unfair foreign government subsidies for exports.

A material injury test under which countervailing duties could be imposed to offset foreign subsidies.

New procedures and rules on adopting product standards.

New opportunities for judicial review under domestic complaint procedures.

These mechanisms, coupled with the Trade Adjustment Assistance Act recently approved by the House, will help to minimize any adverse effects that might accrue from changes in tariffs and export procedures.

I recognize there are those who look at concerns other than jobs and markets, those who say, for example, that we should not be liberalizing our trade policy at a time when our balance-of-payments is so seriously in the red and our dollar so weak. I would say that this is the very reason why we need the Trade Agreements Act.

In 1978, we bought $30 billion more in goods from other countries than we sold. And between 1957 and 1977, our share of worldwide exports dropped from 21 percent to less than 12 percent. By denying to American exporters the opportunity to exploit new markets, we only exacerbate an already intolerable problem and prompt the continued decline of our share in world trade.

This legislation will not correct the imbalance or strengthen the dollar overnight. Nor will it alone eliminate the reason for the tremendous outflow of American dollars: heavy purchases of foreign oil.

But it will give us the opportunity to improve our trade figures, right the imbalance and strengthen the dollar. It is projected that we can anticipate a $700 million annual improvement in the U.S. trade balance by 1988 as a result of reciprocal tariff reductions in the trade agreements.

I am mindful that those who argue concern for our balance of payments counter such projections by saying there is no guarantee that this legislation will allow more U.S. goods into foreign markets. This is true; there is no such "insurance policy" built into this legislation. But American business, industry, and agriculture did not come to dominate the world's economy by having their markets delivered on a silver platter.

Rather, they became great by responding to the competitive challenge of the business world and, I am confident they can continue to do so if given the chance.

A moment ago, I mentioned that American exporters can capitalize on the new order in international trade and the new spirit of competition signaled by this legislation if given the opportunity. I would remind my colleagues now that opportunity is the guts of this legislation. The responsibility of the Congress is to approve this legislation and free American business know-how to work in the international marketplace.

Make no mistake: The course charted by these agreements will not be all smooth sailing. But it will be far smoother and far more preferable than the alternative—chaos and unscrupulous cut-throat competition and trade disputes that could blossom into political strife.

I urge your support for this legislation.●

● Mr. ANDERSON of California. Mr. Chairman, we are voting tomorrow on legislation that will have a great effect, a favorable effect, on our balance-of-trade deficit; our inflation rate; and on the strength of our dollar. And it has been estimated that the bill we have before us, the Trade Agreements Act of 1979, will create 30,000 new jobs for American workers.

When nations sit down together for any type of negotiations, it must be expected that all parties will need to make certain compromises and tradeoffs on their pathway to final agreement. We can be sure that such was the case with these multilateral trade talks. But the outcome of these talks, which the House will hopefully approve today, will work to our benefit.

Certainly, there are changes that each of us might wish to make in these agreements. We cannot, however, vote to amend the bill that is before us, but only to approve or disapprove the total package. And even if we could revise it here on the House floor, there would have to be tradeoffs made before other nations signatory to the agreements would approve of our revisions.

But the truth of the matter is, that our American negotiating team has done a creditable job on behalf of U.S. workers, and our economy. We have gained more than we have given up. This was possible because, over the past few years, other nations have been more active in putting up barriers against free trade than has the United States. And so they have had to concede more in this international move toward free trade. Many of the barriers they have constructed, particularly the nontariff barriers, will now begin to be dismantled.

And the consensus is, the United States will benefit greatly. In the past few months, I have written and heard from many of the leading businesses, and labor groups, and chambers of commerce, in southern California. The overwhelming majority of these organizations support the agreements. Their studies have indicated to them that more American goods will be sold abroad when the agreements take effect. That means more jobs for the American work force, an improved balance-of-trade picture, and a strengthened dollar.

The south bay region of California which I represent should be particularly well effected by these agreements. So much of our local economy is dependent on healthy unfettered international trade. Our two great ports in the San Pedro Harbor, the Port of Los Angeles and the Port of Long Beach, will have more tonnage moving in both directions, into and out of the country, as a result of the agreements. And our many businesses who have located in the area because it is such a gateway to the world, will see new markets open up to them. The aircraft, electronics, and computer industries that are so important to us will find their markets abroad much improved.

And, of course, the American consumer, and that is all of us, will benefit from these agreements. Foreign goods coming into the country will be sold at a lower price on the American marketplace, the result of decreased import duties.

So, Mr. Chairman, I will vote in favor of the Trade Agreements Act of 1979, and I sincerely hope that the majority of our colleagues will do the same.●

● Mr. LLOYD. Mr. Chairman, I rise in support of the bill H.R. 4537, the Trade Agreements Act of 1979 and wish to commend the Committee on Ways and Means for their expeditious handling of this very important and far-reaching legislation, long overdue legislation which I believe will serve the best interests of this country in the international marketplace.

The Trade Agreements Act will greatly reduce or eliminate former trade barriers which were restrictions not only to our own industries but to other industrial countries eager to compete their own national products throughout the world. While there is still a long way to go in providing a system of free trade in which the benefits of pure competition may be realized for the good of every country, I believe this bill may be the cornerstone no which to build such a system. We cannot continue to follow a policy of market restriction without being restricted ourselves, and by so doing, create imbalances and false markets which stifle creative enterprise and benefit no one.

Particularly, I support the provisions of title VI of the bill which implements the agreement on trade in civil aircraft. The United States has long held a decisive edge in sales of civil aircraft throughout the world. But, if you believe we can maintain that edge forever in the face of country-by-country restrictions, let me assure my colleagues, it is a mistaken belief. One has only to visit and participate in the Paris Air Show as I did last month to see the tremendous strides other nations have made in development of civil aircraft. They are good aircraft, and they are getting better.

I need only remind the Members of this House of the A-300 Airbus' entry into commercial aviation. It is truly a fine passenger aircraft and a prime example of the quality workmanship and technological advances of another nation which recognizes the utility of air travel and its impact on the economy. I submit that aircraft from foreign competitors are good, but I am also convinced that they are not as good as ours. I do not believe our own aircraft industry will suffer from a free market for trade in civil aircraft.

And, in my opinion, I do not believe the industry thinks that either. Rather, they will welcome the challenge and thrive in the competitive atmosphere so long as the "red tape" and bureaucratic stumbling blocks currently in existence are removed. I expect competition to provide fresh impetus and stimulation to our rapidly dwindling share of the market. As a result, I foresee further U.S. aircraft industry advances in equipment technology, economies of scale in engine development and propulsion, but most of all, I welcome the revitalization of freedom of enterprise.

The civil aircraft industry, including inventors, contractors, subcontractors, tin benders, dye casters, you name it, cannot fail to benefit. As they benefit, so benefit the people of this Nation in the long run. While negotiations may not have provided other U.S. industries and agriculture the same degree of freedom in the bill as was agreed to in civil aviation, nonetheless, I believe great inroads have been made, and the Nation's businesses will be in a much better trading position than they have experienced in many, many years. I for one will vote for passage of this bill, and I urge my colleagues to lend their support as well.●

● Mr. GEPHARDT. Mr. Chairman, the trade bill contains a provision which would grant all domestic bottled distilled spirits a 15-day extension in the excise tax payment due date after the passage of 3 years, the payment date being delayed 5 days in each of the next 3 years.

It appears that wine and beer which have always been treated similarly to distilled spirits in the timing of the collection of the excise tax were excluded from this excise tax delay provision only because other provisions of the trade bill apply with particularity to distilled spirits but not to wine or to beer. It was, therefore, thought to be inappropriate to include this excise tax delay in the trade bill for alcohol beverages other than domestic bottled distilled spirits.

It was, however, acknowledged that similar treatment should be accorded the wine and malt beverage industry even though it might be inappropriate to have those provisions included in the trade bill. With this understanding the Treasury Department should, in issuing implementing regulations to accomodate the delay in excise tax for domestic bottled distilled spirits, incorporate a similar provision to delay the excise tax payment due date for malt beverages and for wine so that all three products will continue to be accorded similar consideration and equal treatment in the payment of excise taxes.●

● Mr. HOLLENBECK. Mr. Chairman, I rise in support of H.R. 4537, the Trade Agreements Act of 1979.

During the 3 years that I have served in Congress, literally thousands of New Jersey residents have lost their jobs due to the flood of imports that have forced manufacturers out of the American market and because of foreign protectionist policies that have severely limited the exportation of domestic goods. In addition, during this time our country has found itself facing an unprecedented trade deficit—over $30 billion in 1978—which has contributed to reducing the value of the dollar on the international market.

However, Congress now has the opportunity to approve and implement the agreements reached at the Tokyo round of the multilateral trade negotiations (MTN)—by far the most ambitious set of trade negotiations ever attempted. The results of these negotiations are far-reaching for they are designed to provide the basis for an annual $1.3 trillion flow of goods in international commerce while, at the same time, establishing uniform rules and procedures that would protect U.S. industries from unfair foreign practices and increasing their opportunities for judicial review in antidumping and countervailing duty cases.

Obviously, the results of the MTN will not immediately or drastically alleviate the situation that I outlined earlier. I wish that I could assure those heavily impacted industries in my district that the MTN is a cure to all their import problems. That just is not so. According to administration estimates, many jobs will be lost. But additional jobs will be gained in other areas. I am pleased to say that certain troubled industries such as textiles and steel have been assured future trade safeguards against disruptive imports.

The MTN is not a perfect legislative package. However, it does recognize that nontariff barriers are serious impediments to fair trade. It will provide U.S. manufacturers with the opportunity to compete on a nondiscriminatory basis for lucrative foreign government procurements contracts. It will afford a stronger competitive position for American products through its international ruling that limits governments from subsidizing their industries. And, it provides a greater certainty for domestic exporters by establishing uniform and less arbitary customs valuation system.

Mr. Chairman, passage of H.R. 4537 could provide substantial benefits for a multitude of U.S. interests. The administration claims that the new trade pact could open up over $20 billion for U.S. producers in previously closed markets. It could increase U.S. exports by an estimated $1.34 billion to $2.34 billion annually. Currently, 1 out of every 8 jobs in the United States is estimated to be directly dependent on exports, with $1 out of every $3 of U.S. business profit coming from international activities. Simply put—increased exports create jobs and produce profits. It has been projected that a net gain of over 50,000 American jobs could be expected from the benefits of the MTN.

To repeat, Mr. Chairman, the MTN is not a cure to all current trade ills. However, I do believe that it provides a net positive gain for the overall economic interests of the United States. I urge adoption of H.R. 4537.●

Mr. CONABLE. Mr. Chairman, I have no additional requests for time, but I yield myself 2 minutes.

Mr. Chairman, this measure has been a long time in gestation. The ranking Republican Member of the Subcommittee on Trade of the Committee on Ways and Means, until the beginning of this year, was our late great friend, Bill Steiger, from Wisconsin. Bill was tremendously interested in this legislation, had an encyclopedic knowledge of the details of the trade picture, traveled to other countries in a questing way and not in a recreational way, and learned firsthand more than probably any other Member of this body about the intricacies of American trade. His interest, his energy, and his understanding imparted a momentum to this bill that I think would make him proud to be here today and see the consensus that has finally emerged behind a constructive piece of legislation. I think in many ways successful conclusion of this bill in this body will be a memorial to Bill Steiger. I would urge all my colleagues to support the measure. If they oppose it, I am sure they will do it on the substance and not because of any comments I have made about Bill Steiger's relationship to the legislation, since he was greatly admired for his vigor and understanding, even by those who disagreed with him.

Mr. VANIK. Mr. Chairman, I yield myself such time as I may consume.

I certainly want to concur in what my distinguished colleague, the gentleman from New York (Mr. CONABLE), said about our distinguished former colleague, Mr. Steiger.

Mr. Chairman, my colleagues on the committee have discussed various provisions of the bill. I will now add a few remarks on title V, VI, X, and XI, which I will put in the RECORD at this time.

Mr. Chairman, title V of H.R. 4537 provides for the implementation of certain tariff concessions negotiated in the MTN on particular articles which require special authority not already provided the President under the Trade Act of 1974. In some cases, the concessions involved reductions or increases in tariffs which exceeded the authority to reduce or increase tariffs under section 101 of 1974 or exceed the limitations under section 109 of phasing in tariff reductions by no more than 3 percent ad valorem per year. In other cases, such as watches and dinnerware items, implementation of concessions requires amendments of the headnotes, nomenclature, or classification under the U.S. tariff schedules.

Title V also contains a so-called textile "snapback" to be included in the tariff schedules. If the multifiber agreement, which regulates international trade in cotton, wool, and manmade fiber textile products, or a suitable substitute is no longer in effect for the United States, then the rates of duty on such articles would revert to rates existing on January 1, 1975, if the total reduction in the duty negotiated in the MTN on the particular article has not yet gone into effect, until such time as the arrangement or a suitable substitute does go back into effect.

The committee report expresses the concern that the adoption of an "end use" test granted by the United States in the MTN for duty-free entry of parts for agricultural and horticultural machinery, equipment, and implements be administered by the Customs Service in a manner which precludes evasion by importers of dutiable treatment.

The committee also expressed its belief that the United States should exercise its right to suspend implementation or to withdraw tariff concessions if foreign countries do not implement or postpone the staging of their tariff concessions as agreed in the MTN, in order to maintain the balance of reciprocal tariff concessions by all major countries.

Mr. Chairman, I believe it is a particularly important element of the MTN agreements with respect to U.S. exports in the agreement on trade in civil aircraft, which is implemented by title VI of the bill.

This agreement, which resulted from an initiative of the American aircraft industry, provides a comprehensive basis for free trade in civil aircraft and an international framework governing this trade. Nontariff, as well as tariff issues, are linked in a single package addressing problems peculiar to the civil aerospace industry.

This agreements' special focus and broad scope differentiate it from the other codes negotiated in the Tokyo round of multilateral trade negotiations. It is indeed a product sector agreement, as envisaged by the Congress in section 104 of the Trade Act of 1974 which directed that negotiations, to the extent feasible, be conducted on a sector basis, in order best to achieve equal competitive opportunities for U.S. exports.

Mr. Chairman, the civil aircraft agreement eliminates tariffs and establishes important reductions in nontariff barriers which have been effective restrictions against U.S. aircraft trade, including Government-directed procurement and offset arrangements, subsidies, quota restrictions and standards requirements—with respect to the major trading countries, Japan, Canada, the European Communities, and Sweden.

The agreement will establish an open market for trade in a broad range of civil aircraft products, including airplanes, engines, subassemblies, fabricated components, and ground flight simulators. The United States, of course, maintains world leadership in the production and sales of these products.

Coupled with the reduction of nontariff barriers, the elimination of duties is a particularly important achievement in light of the firm intentions of the European Communities, Japan, and Canada to build strong national aerospace industries of their own.

Japan, for example, has announced an industrial development program designed to attain self-sufficiency in aircraft production within the next decade. The binding against increase of tariffs at zero in the GATT, therefore, was a critical objective in order to discourage the use of protective tariffs in the future.

As we know, industrial development programs in the other major countries often depend on significant national government participation. This usually means heavy subsidization of development and production. Accordingly, U.S. negotiators were successful in obtaining an explicit reference in the aircraft agreement to the Agreement on Subsidies and Countervailing Measures, which restricts the use of subsidies.

The aircraft agreement even goes a step farther to provide that civil aircraft prices should be based on a reasonable expectation of recoupment of all costs of production and marketing.

Mr. Chairman, at a time in our history when export expansion is so critical to our country, the new aircraft agreement stands out as a major achievement designed to preserve and expand our markets abroad. I commend this trade agreement to my colleagues as of the utmost importance to the U.S. aerospace industry.

Mr. Chairman, I would also like to make a few brief remarks highlighting specific features of title X, a necessary and appropriate corollary to other titles of H.R. 4537 which implement the trade agreements and improve domestic procedures under U.S. trade laws.

Title X provides for judicial review of certain determinations made pursuant to title I, relating to antidumping and countervailing duties, title II, relating to customs valuation, and title III, relating to Government procurement.

With regard to review of determinations made pursuant to the antidumping and countervailing duty law, title X will constitute a significant improvement over present practice. First, by describing precisely which determinations, both final and interlocutory, are reviewable in the Customs Court, the bill clarifies the confused state of present law.

Present statutory authority specifically provides only for review of final negative determinations by the Secretary of the Treasury with regard to the existence of a bounty or grant or sales at less than fair value. While recent court decisions indicate that review of other determinations may be available, this bill eliminates any uncertainty in this regard.

Second, it streamlines, and provides greater uniformity in, review procedures. For example, under present law certain types of determinations are reviewable in the Customs Court within 30 days. In other cases, court review is available only after completion of an administrative review, the period for which varies between actions brought by importers and those brought by domestic parties.

The bill eliminates the requirement of an administrative review of all determinations and establishes a uniform procedure whereby an interested party may seek review in the Customs Court within 30 days of the determination.

Third, the bill provides the court with flexibility to fashion a more effective remedy by permitting the court to enjoin the liquidation of some or all entries of merchandise covered by a determination. The presumption of correctness attaching to the administrative determination is continued under the bill, modified to permit the court's decision to reach entries made subsequent to that determination, but prior to the court's adverse decision, in appropriate circumstances. This limited injunctive power will remedy the disparity in the present law between the relief offered to importers and domestic manufacturers.

Title X expands the scope of domestic parties who can seek judicial review of determinations by the Customs Service concerning the appraised value, classification, or rate of duty of imported merchandise to include labor unions and trade associations.

It also introduces greater procedural safeguards in requiring a statement of reasons to accompany a denial by the Secretary of the Treasury of an importer's protest of such a determination.

Finally, title X specifically provides for judicial review in the Customs Court of Customs Service decisions regarding the certification of the "country of origin" of products covered by the Agreement on Government Procurement.

Mr. Chairman, in my view title X will have the effect of expediting judicial review, enhancing the procedural safeguards connected with review, providing certainty in the law as to what determinations are appealable and by whom, and, in some cases, increasing the effectiveness of the remedy provided.

Title XI of H.R. 4537 contains various miscellaneous provisions appropriate to carry out the results of the multilateral trade negotiations. Title XI:

Extends the President's authority under section 102 of the Trade Act of 1974 to enter into trade agreements on nontariff barriers for an additional 8 years, until January 3, 1988, in order to harmonize, reduce, or eliminate nontariff measures not negotiated in the MTN or to amend the MTN agreements, but does not grant authority for the President to reduce tariffs further;

Explicitly authorizes the President to auction import licenses to administer quantitative restrictions imposed under certain laws, except on oil, dairy products, and meat;

Extends and broadens the mandate of the private advisory committee mechanism established under section 135 of the Trade Act to represent agriculture, industry, labor, and service interests on trade matters;

Requires a study and report by the President within 2 years on the desirability of entering into trade agreements with North American countries;

Clarifies the jurisdictional relationship between the U.S. International Trade Commission and the Department of the Treasury and establishes a civil penalty as an alternative to an exclusion of articles from entry into the United States as a remedy for violation of a cease-and-desist order in cases involving unfair foreign trade practices under section 337 of the Tariff Act of 1930;

Requires U.S. monthly import and balance-of-trade statistics including cost-insurance-freight to be released 48 hours before trade figures calculated on other bases;

Requires the President to submit a proposal to the Congress by July 10 to restructure the foreign trade policy-making and regulatory functions of the executive branch, which should include a monitoring and enforcement structure to insure protection of U.S. rights under trade agreements and result in an upgrading of commercial programs and attachés overseas, the appropriate committees of both Houses to make best efforts to take final committee action to reorganize and restructure the international trade functions of the Government by November 10, 1979;

Directs the President to submit to the Congress by July 15, 1980, a review of all export trade functions of the executive branch, including disincentives to exports resulting from programs or regulations of the U.S. Government, plus an evaluation of the U.S. competitive position in world markets;

Amends the Generalized System of Preferences under title V of the Trade Act to enable OPEC member countries which enter into bilateral product-specific trade agreements with the United States and do not interrupt or terminate the delivery of oil supplies to the United States to become GSP beneficiaries, to permit regional economic associations of developing countries to benefit from duty-free import treatment under GSP, and to remove GSP limitations on small import items; at the same time the committee expects the President to exercise his existing authority in 1980 to bring about more effective graduation from GSP of the more advanced developing countries and greater distribution of GSP benefits to the least developed countries, and for developing countries to assume greater obligations under the rules of the world trading system as their economics develop; and

Provides for inclusion in the President's budget request of funds to be paid upon appropriation to U.S. insular possessions if reductions in their excise tax revenues result from certain U.S. concessions granted in the MTN.

Mr. Chairman, I yield back the balance of my time.

Mr. CONABLE. Mr. Chairman, I yield back the balance of my time.

(For text of H.R. 4537, see reported bill of July 3, 1979.)

Mr. VANIK. Mr. Chairman, there being no further requests for time, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. RICHMOND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4537) to approve and implement the trade agreements negotiated under the Trade Act of 1974, and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill. The question was taken; and the Speaker announced that the ayes appeared to have it

Mr. VANIK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 5, rule I, and the leadership's prior announcement of the program, further proceedings on this question will be postponed. The question will be put de novo tomorrow, July 11, 1979.

The point of order of no quorum is considered withdrawn.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

June 21 1979:

H.R. 3577. An act to amend section 8 of the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such act for fiscal year 1980, and for other purposes; and

H.R. 3879. An act to authorize additional appropriations for the Temporary Commission on Financial Oversight of the District of Columbia, and for other purposes.

INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES AUTHORIZATION ACT, 1980

Mr. BURLISON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3821) to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri (Mr. BURLISON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3821, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, July 9, 1979, all time for general debate had expired.

Pursuant to the rule, the Clerk will now read the bill by title.

The Clerk read as follows:

H.R. 3821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence and Intelligence-Related Activities Authorization Act, Fiscal Year 1980".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1980 for the conduct of the intelligence and intelligence-related activities of the following departments, agencies, and other elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

(b) The amounts authorized to be appropriated under this Act, and the authorized personnel ceilings as of September 30, 1980, for the conduct of the intelligence and intelligence-related activities of the agencies listed in subsection (a) are those listed in the classified Schedule of Authorizations prepared by the Permanent Select Committee on Intelligence of the House of Representatives to accompany this Act. The Schedule shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

(c) Nothing contained in this Act shall be deemed to constitute authority for the conduct of any activity which is prohibited by the Constitution or laws of the United States.

☐ 1730

Mr. BURLISON (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

> Committee amendment: On page 3, after line 19, insert:
>
> (d) Of the amounts authorized under subsection (a)(9), there is hereby authorized to be appropriated for fiscal year 1980, for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States: $13,400,000.

Mr. RUDD. Mr. Chairman, I rise in support of the amount recommended by the Permanent Select Committee on Intelligence amendment for the publicly disclosed authorization of $13.4 million for the antiterrorism activities of the Federal Bureau of Investigation.

I was most disturbed to read in the Attorney General's budget justifications included in his testimony before the Appropriations Committee that his request included a reduction of 85 positions and $1.8 million below the 1979 amount for antiterrorism activities.

In response to questions by our esteemed colleague from Massachusetts, JOE EARLY, FBI Director William Webster acknowledged that his fiscal year 1980 request for antiterrorism positions and appropriations were "rock bottom figures."

Judge Webster further acknowledged that any significant challenge to the FBI program in terms of terrorist activity during fiscal year 1980 would create difficulties for FBI effectiveness in this area, and would force them to come back to request more funds.

Mr. Chairman, I do not believe that this is the situation that Congress wants to create.

We are all familiar with the old adage that an ounce of prevention is worth a pound of cure.

Terrorist activity is on the rise in Central America and throughout our hemisphere.

We can be sure that the FBI will need all the antiterrorist resources that Congress can provide to counter this challenge—especially in connection with the Winter Olympic Games which will bring many foreign as well as U.S. athletes and dignitaries to Lake Placid, N.Y., next February.

First, it is important that would-be terrorists know that the FBI is adequately equipped to investigate such potential murderous activity, and to apprehend terrorists before they commit violent criminal acts.

This is essential if we hope to deter terrorism, which is on the rise all over the world as a well guided expression of international revolutionary communism.

Second, Congress must clearly express its will to the Department of Justice and the Federal Bureau of Investigation that they give top priority to this antiterrorist program, and that our Government commit every possible resource to preventing and countering terrorism in every form.

One essential feature of fighting terrorism is a visible, adequately funded antiterrorist program.

Another less obvious feature is a highly tuned intelligence operation that allows the Federal Bureau of Investigation to protect our own citizens and foreign dignitaries from acts of terrorism before they happen.

A recent example of this essential need—and the failure to stop a terrorist act—was the recent assassination in San Antonio of Federal District Court Judge John Wood, whose death should have been prevented.

I hope that my colleagues will vote "yes" for this reasonable amount for antiterrorist activities recommended unanimously by our esteemed colleagues of the Permanent Select Committee on Intelligence.

We must be positive on this issue of supporting a strong antiterrorist program, not penny-wise and pound-foolish by failing to authorize adequate funds that might be needed.

Mr. ASHBROOK. Mr. Chairman, I rise to support the committee amendment to restore $1,800,000 to the FBI fiscal year 1980 authorization for counterterrorism. This would maintain the funding at the fiscal year 1979 level. The funds would be used for personnel in headquarters management, field agents, as well as for equipment, facilities and other support needed for the counterterrorism program.

The FBI divides the program into two phases—preventive and reactive. The reactive phase includes SWAT teams and criminal investigation after the terrorist incident takes place. I feel that the preventive phase is even more important. It is prevention of terrorism that can save lives and property. The key to prevention is information—intelligence. The informants and undercover special agents are the main source of intelligence in counterterrorism as they are in foreign counterintelligence and in coping with organized crime.

Director Webster in testimony before the House Appropriations Committee revealed that there has been a substantial drop in the number of FBI informants generally, but, he said:

> It is in the terrorism area we have experienced a real loss. (P. 943)

Discussing the terrorist groups, Judge Webster said:

> The diminishing supply of informant information in these organizations undoubtedly adds to the difficulty or reduces the likelihood of early solutions. That is one of the reasons for trying to develop undercover special agents capability in these areas. (P. 954)

The most successful use of FBI special agents in an undercover capacity was in California where two FBI agents spent 4 years in the Weather Underground's support group, the Prairie Fire Organizing Committee (PFOC). It became apparent that the support group was involved in the violent acts of the terrorist organization.

On November 19, 1977, five leaders of the PFOC were arrested by the FBI while planning a series of bombings and murders on behalf of the Weather Underground. These arrests were based on the undercover work of FBI special agents Gianotti and Reagan.

On December 19, 1978, four of the five defendants pleaded guilty to plotting to bomb the office of California State Senator John V. Briggs. They pleaded guilty in the hope of getting short sentences. This tactic succeeded as they will all be out in less than a year. However, one of the four is also facing charges in Seattle for a bombing in the 1960's. The remaining defendant has not yet been brought to trial.

According to the four who pleaded guilty, "PFOC is currently analyzing the material turned over by the FBI to understand how the FBI moved against us and the errors we made." The next time these terrorists and their coworkers make plans for violence they will have learned valuable lessons from this case. The job of the FBI will be harder.

Next winter, the United States will host the Olympics in upstate New York. There have been disturbing reports of cooperation between international terrorist groups such as the PLO and domestic terrorist groups such as the Weather Underground and the Puerto Rican FALN.

In an interview with Parade magazine published May 20, 1979, Maj. Gen. Aharon Yariv, former head of Operations for Israeli Intelligence said:

> In a democracy like the United States, in such a vast country with such open borders, I do not know how you can function without intelligence. You need agents to infiltrate groups, you need capability for surveillance of suspects, you need to listen to their conversations, their plotting.

As the Israelis know, you cannot listen to the plotting of terrorists without a good informant and undercover program. That is the only way to prevent terrorism.

By reporting the FBI counterterrorism funds, Congress will be sending a message to the administration, to the FBI agents in the field and most important, to the terrorists, that we want terrorism prevented.

Mr. YOUNG of Florida. Mr. Chairman, I rise to support the committee amendment to restore $1,800,000 to the FBI counterterrorism budget. Both Congressman ASHBROOK and I have spoken to many FBI field agents. Their perception is that Congress does not want them to prevent terrorism and violence. That it is Congress that has handcuffed the Bureau. We have pointed out that the restrictions on the FBI have come from the Attorney General's guidelines, not from Congress. But, that even with the restrictions the FBI has done valuable work to prevent terrorism. The arrests in California are evidence of this.

On the other hand, terrorist groups have succeeded recently in freeing convicted terrorists from custody in both New York and California. Other terrorists have been released by the courts or after serving jail terms. Most of the Weather Underground and FALN fugitives are still at large.

This is not the time to cut the FBI budget for counterterrorism. I agree that other FBI programs, such as counterespionage and organized crime have greater priorities. But, we should not overlook the threat to life and property posed by the terrorists. The FALN, most of whose members are still at large, is a Puerto Rican Marxist-Leninist organization with close ties to the Cuban Communist Government and other terrorist groups such as the Weather Underground and the PLO. The FALN is responsible for five murders in New York City and numerous bombings in New York, Chicago, Newark, and Washington, D.C.

Most of the Weather Underground members are still at large. According to theory they bombed the Capitol of the United States, the State Department, and scores of other targets.

The Senate Judiciary Committee bill added $500,000 to the FBI counterterrorism authorization. The Senate has passed that bill. That will only restore nine spaces in headquarters management. They are vital to the program. But, it is the agents in the field that gather the intelligence needed to prevent terrorism. The House Intelligence Committee bill will restore both the headquarters and field personnel. I urge support for the committee amendment.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. MAZZOLI

Mr. MAZZOLI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. MAZZOLI: Page 3, after line 24, insert the following new section:
>
> SEC. 102. On November 1, 1979, the President shall publicly disclose the total amount appropriated for fiscal year 1980 for the National Foreign Intelligence Program.

Mr. MAZZOLI. Mr. Chairman, this amendment will require the President, on November 1 of this year to make public the total amount appropriated for our (NFIP) for fiscal year 1980.

That is all that this amendment does. No other budget item will have to be revealed.

Further, not even the appropriations for the next fiscal year, 1981, will be revealed unless—after reviewing the effects of this year's disclosure—the House and Senate vote again next year to disclose the fiscal year 1980 appropriation.

There are three arguments which support my amendment to disclose the NFIP appropriations total for fiscal year 1980.

First, the intelligence agencies, like all arms of Government, must be accountable to the Congress and to the public. Lack of accountability in the past led to serious abuses by the agencies.

Budget disclosure is not the be-all and end-all of accountability nor will disclosure alone prevent future abuses.

But disclosing the total budget figure to the public will be a concrete demonstration that Congress is serious about its responsibility to develop a cost-effective national intelligence effort.

Second, the adoption of my amendment will help create a presumption of openness in carrying out our congressional oversight functions of the intelligence agencies.

A presumption of openness is, I believe, essential to the credibility of our efforts to oversee the Nation's intelligence effort and it serves as our best protection against slipping into the abuses of the past.

Further, this presumption of openness is at the heart of our free and open society, and this presumption is the cornerstone of all effective congressional oversight efforts.

Let me note here, that in this respect, the leadership of our intelligence committee has been more than diligent in its oversight functioning.

Our distinguished chairman, the gentleman from Massachusetts (Mr. BOLAND), and the distinguished chairman of our Budget Subcommittee, the gentleman from Missouri (Mr. BURLISON), have led the committee through a complete and painstaking discharge of its oversight responsibility. It is only to build upon this excellent foundation that I offer this amendment.

Third, our system of Government is based on the consent of the governed. In this regard, intelligence activities are unique. Their detail, funding levels, and form are almost never known outside of the intelligence community.

However, a public consensus on basic principles is as important to a nation's intelligence program as it is for any national security or national defense program.

A public showing of the resolve and the willingness to commit billions of dollars to a national intelligence effort would be a sign to friends and foes alike that the American people will not tolerate weakness in its intelligence effort.

But what of the arguments against disclosure of the NFIP appropriation for 1980?

The House Permanent Select Committee on Intelligence voted to oppose such a disclosure. The committee, on page 2 of its report, states:

> By itself, (disclosure of) a single intelligence budget total would probably not harm intelligence activities or capabilities.

Certainly, Mr. Chairman, this is not a strong indictment of budget disclosure.

The committee then cites questions which arise about the mechanics of budget disclosure.

For example, which exact budget figure should be chosen for disclosure? And, how can that total be described and discussed without divulging information which might damage national security?

As to the first question, there is a consensus among commentators—led by Admiral Turner in testimony before the House committee on January 24, 1978—that the only number with certainty enough to be disclosed is the appropriations figure for the national foreign intelligence program.

As we all know, budget requests and authorization levels do not always reflect the funds actually made available to an agency for its programs.

The second question raised by the committee report is resolved—to my satisfaction, at least—by referring to the way the bill before us today and all accompanying reports deal with the FBI's counterterrorism budget.

In all these materials—and in all the hearings conducted by three committees of the House—total funding levels for this program were revealed without jeopardizing its effectiveness.

The committee concludes its discussion of making public the NFIP funding total by saying:

> The committee recognizes that the best argument in favor of budget disclosure is public accountability.

But, then the committee stands against disclosure by arguing that its own classified oversight efforts are the best way to achieve this "public accountability." It cites that, under the House rules, much of the committee's work—including a classified report on the bill—is available to all Members for examination.

With all respect to my distinguished committee colleagues, I must disagree with their conclusion.

To my mind, a better way to make the intelligence agencies publicly accountable is to give the public at least enough information to gage the broad outlines of our oversight effort. With this information, the public will then be able to prod Congress to do the thorough job of intelligence oversight to which the public is entitled.

There is another thoughtful argument against disclosure—not raised by the committee today. It is said that disclosure of even a total NFIP budget figure is unwise, because it will lead to further disclosures which could damage the Nation's intelligence effort.

In rebuttal, I cite the following language from the 1976 "Final Report" of the Church committee:

> The committee agrees that there will be pressure for more detailed revelations, but the committee views such pressure as a sign of a healthy democracy. If a decision is made not to disclose further information, disclosure can be resisted as successfully in the future as disclosure has been resisted in the past.

Much of our debate over budget items consists of a comparison of aggregates. Are we spending more on defense or on social programs? Are we spending more on land-based missiles or on submarine-launched missiles? Are we getting our money's worth from a given level of expenditure? Where is the balance or what are our priorities?

Especially in this era of tight budgets these questions are asked. An aggregate appropriations figure will allow the public and the Congress to answer these questions about our national foreign intelligence program.

I also want to emphasize that this issue has been thoroughly considered by the Congress and the executive and the preponderance of opinion has come down on the side of disclosures.

This issue was the focus of hearings held by our House Select Committee on

Intelligence on January 24 and 25, 1978. It was also addressed by the Senate Committee To Study Intelligence Activities (the Church committee), the House Select Committee on Intelligence (the Pike committee), the Commission on CIA Activities within the United States (the Rockefeller Commission), and the Senate Select Committee on Intelligence.

With the exception of the House Intelligence Committee, each of these groups has recommended that the total NFIP budget figure be disclosed.

At our committee's 1978 hearings, Director of Central Intelligence Adm. Stansfield Turner said:

> Since my testimony last April before the Senate Select Committee on Intelligence on the subject of releasing the intelligence community's aggregate budget figure, I have reexamined the question and discussed the situation with the members of the National Foreign Intelligence Board. I am prepared today to essentially reiterate my Senate testimony in not objecting to the release of a single, inclusive budget figure . . .

In a letter to me dated April 20, 1979, Admiral Turner reaffirmed this position.

In my judgment, disclosure of the aggregate intelligence budget is little different than disclosure of the aggregate defense budget in terms of risks to the national security. It will not harm the intelligence community or diminish America's national security, and it would help to maintain, in Admiral Turner's words, our "free and open society."

In closing, I would like to turn again to the FBI's counterterrorism budget. The total authorized for that program is $13.4 million.

A discussion of the need for that money, the administration's request, and the committee's response to the administration's request covers almost two pages in the report.

Further, I have here, and would like to insert in the RECORD at the end of my remarks, 11 pages of unclassified documentation supporting this authorization. This documentation includes an eight-page memorandum from the Director of the Federal Bureau of Investigation, William Webster, which, among other things:

First. Documents the numbers of terrorist incidents dealt with and expected;

Second. Documents the number of investigations conducted;

Third. Identifies specific terrorist groups seen as threats;

Fourth. Identifies public events which are seen as likely terrorist targets;

Fifth. Identifies specific foreign embassies which may be terrorist targets; and

Sixth. Details FBI programs, to deal with these threats.

Has the FBI Director damaged our national security by revealing this data? Has he undermined his own counterterrorism program? I think not.

Would the House damage our national security by voting today to reveal the fiscal year 1980 NFIP appropriations total, a vote which would reveal far less detail about this program than already revealed about the FBI's counterterrorism effort? I think not.

Mr. Chairman, I hope that my amendment will be adopted.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

I would like to ask him one question. The gentleman knows the amount; does he not?

Mr. MAZZOLI. I do.

Mr. HYDE. Does the gentleman believe it to be excessive?

Mr. MAZZOLI. In my personal judgment I do not believe it to be excessive.

Mr. HYDE. I would tell the gentleman I have implicit trust in his judgment, and if it is not excessive for him, it is not excessive for me; and I thank the gentleman.

Mr. MAZZOLI. I thank the gentleman from Illinois for his implicit trust. I have tried never to let him down. I will put it that way.

□ 1740

Mr. BURLISON. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to my chairman.

Mr. BURLISON. Mr. Chairman, I want to congratulate the gentleman from Kentucky for the diligent work he has performed and the great service he has performed through the debate that has been encouraged by his amendment. The gentleman is a very conscientious member of our committee. He has made a great contribution to this bill and he is to be commended for the debate he has encouraged.

I would ask the gentleman one question. As the gentleman knows, his amendment provides for disclosure.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

(At the request of Mr. BURLISON and by unanimous consent, Mr. MAZZOLI was allowed to proceed for 4 additional minutes.)

Mr. BURLISON. Mr. Chairman, will the gentleman yield further?

Mr. MAZZOLI. I yield to the gentleman.

Mr. BURLISON. The gentleman's amendment provides for disclosure of the national foreign intelligence program part of the budget which is just a portion of the amount of money involved in this bill. There is also the intelligence-related activities of the Department of Defense. I think the gentleman knows that I am opposed to disclosure. But if we were to disclose a bottom line figure it would be more meaningful to the American public if it included all of the intelligence and intelligence-related activities.

Mr. MAZZOLI. I would, of course, support that type of a figure disclosure. I think the national foreign intelligence program budget is a beginning. I think the NFIP, coupled with the intelligence-related activities of the Defense Department, would certainly be the proper step for the committee and the House to take. I am satisfied if we could begin the process here then I think it would establish certainly a landmark move on the part of the Congress toward public accountability; but at the same time I recognize the process here is one that is slow and deliberate. Therefore, I have offered this amendment strictly to the national foreign intelligence part of the budget and the authorization.

Mr. BURLISON. If my friend will yield further, the gentleman's amendment provides for disclosure of the appropriations figure. We have an authorization bill here. Does the gentleman not agree his amendment is really not relevant nor germane to the bill that the committee has before it at this time?

Mr. MAZZOLI. In preparing for today's effort I had thought someone might bring up the point about the amendment not being germane. I have done some research on the House rules and reached the opposite conclusion. In researching this I came to the conclusion, to my satisfaction, this was germane and was not subject to a point of order.

I will say, as the gentleman knows from our discussion in the full committee, if the committee had voted up my amendment we would not be revealing the authorization figure today. As the gentleman remembers the process which I would have suggested, in keeping with the committee rules, first the committee would vote to make public, we would send that result to the President, he would have 5 days to object. I am led to believe from the statement of the Director of Central Intelligence that he would not have objected and that he then, in a sense, would have given tacit permission to reveal this total figure. This process having failed, I now request the House and the other body go further, by record vote, before the full figure of the appropriation would be revealed. So I have tried to be careful and circumspect in this. It seems to me my research shows this to have been a germane amendment. Were it to be voted up today, and would the committee have supported me earlier, we would have had several steps prior to this.

Mr. BURLISON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, proponents of disclosure argue that disclosure of the intelligence budget totals adds to the accountability of the agencies' performing intelligence, that it enhances public debate on an important matter. This is one of the issues that the gentleman from Kentucky has just addressed.

Let us explore this proposition with an example. The other day I noticed that the concurrent resolution on the budget provides for about $7.5 billion for the category of energy. I would ask my colleagues if, armed with that knowledge, we are ready to debate energy? Should the number be higher or lower? Maybe there is more than we need to know or maybe we need to know more to adequately debate the issue. For example, is all of the money spent through the Department of Energy? Who else spends the money? How much is for energy research? How much pays the salaries of Government workers in that function? How much is spent for solar power, for nuclear power, for synthetic fuels? The list could go on and on and on and each of us would have our own individual list of questions that the one figure of $7.5 billion would engender.

What if we had that intelligence total that the gentleman from Kentucky wants to give us. There is no meaning, no accountability, no useful debate following from such an empty revelation. Clearly then the act of disclosure of the intelligence budget would only be symbolic.

I believe disclosure would not be a positive symbol but rather a negative one. Rather than a tribute to Government in the sunshine, to accountability, to opening up of debate, it will appear a sham. I submit, Mr. Chairman, that it would be harmful. It will lead to revelations of more and more detail about our intelligence programs and budget. This will damage intelligence and our security. I believe most Americans understand these points and do not want disclosure. They understand that intelligence is inherently secret; that disclosure represents a lack of confidence in the intelligence agencies and in the ability and the resolve of Congress to provide oversight of these activities.

Mr. Chairman, disclosure would be a step in the erosion of our intelligence apparatus, and I urge against it. If there is to be disclosure, as I raised in the colloquy with the gentleman from Kentucky, it ought to be the total figure in this bill to be meaningful and to be useful to the American public. That is, it should include both the intelligence related activities of the Department of Defense as well as the national foreign intelligence program.

☐ 1750

This would give a much more accurate and comprehensive figure for the bottom-line intelligence expenditure. I am tempted to offer such an amendment myself, but I will refrain from doing so.

Mr. Chairman, I want to ask further of the gentleman from Kentucky why he wants to disclose appropriations in contrast to outlays. Now, if the purpose of this is to open up Government and tell the American people what is going on in the intelligence community, the outlay figure, the expenditure figure, would be more meaningful than appropriations. The appropriations bill is for 1-year money, 2-year money, and 3-year money—all in the same bill. Now, what does that tell the American people, to tell them that there is an appropriations figure of so much? They do not know how much is to be spent this year, next year, or the third year. They do not know how much is brought forward from past years.

So, I would say that, in addition to the irrelevance of the submission of an appropriations figure, that if the purpose of the amendment is to inform the American people, it would be much more meaningful if they had the outlay figure in contrast to the appropriation.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. BURLISON. I would be delighted to yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding. The gentleman more or less asked a rhetorical question. I would say that everything the gentleman says I would endorse. I would endorse the revealing of a total figure which included the intelligence-related activities.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(At the request of Mr. MAZZOLI and by unanimous consent, Mr. BURLISON was allowed to proceed for 2 additional minutes.)

Mr. MAZZOLI. If the gentleman would yield further, let me say again, as I have earlier said, we try to make a start; we try to make an effort; we try to make a beginning with the idea of having a total figure which is made public and disclosed. I think that is where we start, start with a figure which people understand, appropriations. Outlays are not exactly as well known to the average person as appropriations.

Whether it is 1, 2, or 3 years, it still means money is being appropriated from the Treasury, the taxpayers' money, for the purpose of the intelligence effort. That is why the gentleman from Kentucky presents that point.

Mr. BURLISON. Mr. Chairman, let me make just one final point. Rule XLVIII of the House provides for the establishment of the permanent Select Committee on Intelligence and provides for specific procedures for the public release of classified information which the committee has received. The gentleman from Kentucky worked diligently to achieve disclosure through rule XLVIII. He did not fail on any procedural basis but by recorded vote of his fellow committee members. If now, by separate action on the floor, he wishes to propose an action involving a budget figure not under the jurisdiction of the Intelligence Committee, then I believe it would have been better to raise the issue when the specific figure which he would release is under debate. While it is probably a germane amendment in a strict sense, I believe it is inappropriate at this time.

Mr. ROBINSON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Kentucky (Mr. MAZZOLI).

As the gentleman points out, article 1, section 9, clause 7 of the Constitution generally requires a regular, public accounting of all Federal expenditures. However, the framers did not see fit to indicate what specificity they felt would be necessary in such an accounting.

While the Supreme Court has never been presented with a case requiring them to rule on the precise meaning of article 1, section 9, clause 7, in 1974 in the case of United States against Richardson, the Court stated:

> While the available evidence is neither qualitatively nor quantitatively conclusive, historical analysis of the genesis of clause 7 suggests that it was intended to permit some degree of secrecy of Government operations.

The Court went further to state that—

> Not controlling, but surely not unimportant, are nearly two centuries of acceptance of a reading of clause 7 as vesting in Congress plenary power to spell out the details of precisely when and with what specificity executive agencies must report the expenditure of appropriated funds and to exempt certain secret activities from comprehensive public reporting.

This reading of clause 7 is certainly in keeping with other provisions in the Constitution such as article I, section 5, clause 3, which provides that parts of the congressional journals that require secrecy need not be published.

On a more practical level, while a figure for the intelligence budget for any given year might not—by itself—jeopardize our national security, such a figure for 1 year, when compared with figures for earlier years, could indicate a significant increase or decrease in our intelligence efforts.

For instance, if the figures showed that our intelligence budget for 1 year has increased 25 percent over the previous year, it would alert our foreign adversaries to be on the lookout for a new intelligence program—even before the program had actually been deployed.

As former CIA Director William Colby testified before the Intelligence Committee in the other body:

> The development of the U-2 aircraft as an effective collection device would not have been possible if the CIA budget would have been a matter of public knowledge.

Mr. Chairman, I commend the gentleman from Kentucky for what he is attempting to do—that is, to achieve maximum openness in Government. However, in this area I feel that a proper balancing of interests requires that a decision be made in this instance in favor of secrecy.

Mr. Chairman, I oppose the gentleman's amendment.

Mr. ROBINSON. Mr. Chairman, I do not have to tell the Members present that this matter of bottom-line disclosure was considered very carefully in committee, not only this year but last year as well. The three points put forward by the gentleman from Kentucky, which he always does so graciously, were thoughtfully considered and given every consideration; and yet, on final vote, there were only two votes in the committee for his point of view.

Now, the gentleman from Missouri (Mr. BURLISON), the chairman of our subcommittee, has taken one point of view in looking at this matter with the Members. I would like to look at it from a little different point of view. As stated in our committee report which is before the Members, the committee again came to the conclusion that disclosure would not be in the public interest, as it did last year. It is my personal feeling that after a year's experience in dealing with these highly classified and secret matters, that the committee attitude on the subject is stronger than it was last year.

In these sentences from the committee report, I believe justification for the committee conclusion can be found. I quote:

> This public disclosure might well mean more to this country's adversaries than to any of its citizens. Further, this information could then be used to frustrate United States intelligence missions.

I certainly subscribe to the principle of public accountability in budgetary matters, but I am firmly of the view, as the committee states in its report, and I quote again:

> The public does not wish congressional oversight to frustrate legitimate intelligence activities, but rather to guarantee their proper course.

What has not been stressed by the gentleman from Kentucky is that the administration, including the Secretary of Defense and the Director of Central Intelligence, have steadfastly refused themselves to make public these intelligence totals. While it is correct that the administration would likely not oppose disclosure of a total budget figure by the Congress, they quickly point out that the Congress—we, the Members of Congress—would have to be willing to assume the responsibility, and in my view, the blame, for any further erosion in our intelligence capability brought about by the release.

Now, Admiral Turner, the Director of CIA, appeared before us in terms of supporting his budget, and he made plain in more instances than one his feelings on this subject, although expressing a willingness to accept the action of Congress should it decide to move in the direction of divulging a bottom line. But, when Admiral Turner told the committee that he would not object to the disclosure of a single intelligence budget figure, he emphasized that it would be, in his words, "a major break with tradition," and stated further, and I quote Admiral Turner: "It is not one without risk."

Later, Mr. Chairman, I had the opportunity to direct some questions to Admiral Turner with respect to budgetary disclosure. I asked him the question, "Admiral Turner, is it not true that neither this Nation nor any other country in the world has ever embarked on a path such as we contemplate at this time in terms of releasing this type of information regarding the intelligence structure?"

Admiral Turner replied, "To the best of my knowledge, that is true, sir. It has not been done before."

I asked him about the risk factor which he mentioned earlier in his prepared statement.

"What is at stake," he responded, "is the danger that releasing one figure will lead to the unpeeling of the onion, so to speak."

The CHAIRMAN. The time of the gentleman from Virginia has expired.

(At the request of Mr. EDWARDS of Alabama and by unanimous consent, Mr. ROBINSON was allowed to proceed for 5 additional minutes.)

Mr. ROBINSON. It was made clear to the committee that the Department of Defense likewise was not enthusiastic about revealing budgetary information in the intelligence area. Adm. Daniel J. Murphy, Deputy Under Secretary of Defense for Policy, made it plain that the view there—meaning the Department of Defense—was that it was up to Congress to make the decision, and if Congress decided that a bottom line figure was of proper interest to the American people, as he put it, "We then would be willing to go along with it."

A weak endorsement, would you not say?

He went on: "We are certainly not volunteering. We are not volunteering on the basis of a crying public demand for this knowledge."

Elsewhere in his testimony before the committee, Admiral Murphy said this: "While we are relatively certain there is little to be lost through disclosure of the aggregate budget figure, we would prefer not to take the chance at all.

"We would prefer not to take the chance * * *."

□ 1800

We would prefer not to take the chance. There is not much enthusiasm there again. He went on to say:

"There seems to be no way of stopping once you get on that path, of breaking down the aggregate number. We have looked at it. It is not just a notion, it is something we have looked at very carefully in the intelligence community."

The gentleman from Kentucky (Mr. MAZZOLI) has cited in support of his amendment this comment from the Senate Select Committee To Study Government Operations With Respect to Intelligence Activities, and I refer to the Church committee:

"If a decision is made not to disclose further information, disclosure can be resisted as successfully in the future as disclosure has been resisted in the past."

I submit, Mr. Chairman, that it is more reasonable to expect the opposite. If past experience with the disclosure of uninterpreted totals, as explained by the gentleman from Missouri, of figurative bottom lines serves, then we can expect that bits and pieces of clarification will become available in due time. Adversary interests will be able to fit together these fragments into significant views of costs and characteristics of various elements of our national intelligence operations.

I mentioned earlier the certain prospect of added erosion of the intelligence process, and I ask the Members now in conclusion, erosion to what end? At the expense of a further significant morale drop within our intelligence community, already at a low ebb, as we realize, to the delight of our adversaries, the Soviets in particular, as they continue to expand their own supersecret intelligence gathering worldwide and feast on these additional facts that they would get for free? And to the distress of our few friends in the international community as they try to understand why we insist on weakening further our already diminished worldwide image of strength? And, finally, to the dismay of our constituents, and to the further decline in the credibility of Congress as they wonder why we insist on baring secrets they do not really want to know?

Mr. MURPHY of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from Illinois.

Mr. MURPHY of Illinois. I thank the gentleman for yielding. I applaud the gentleman's remarks, and I would like to take the gentleman back to the remarks before our committee of Mr. Colby, the former Director of the CIA, which the gentleman from Virginia brought up earlier that in disclosing the intelligence bottom-line figure, then in any subsequent years when the appropriation jumps because of elements in the budget for some new technology and we start explaining it away, our adversaries, the Soviets, would know what areas we are concentrating on in our efforts to discover the Soviets' activity, and also to protect our intelligence activities. In other words, we would be telegraphing to the Soviets, to our adversaries, the very field in which we are concentrating; is that not true?

Mr. ROBINSON. Indeed, it is true. I agree with the gentleman completely, and I thank him very much for his contribution in this instance, as well as his contribution in the committee as a whole.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. I thank the gentleman for yielding.

After my experience on the temporary Select Committee on Intelligence, I had in the past voted for the Mazzoli-type amendments, and last year I objected to the committee report because of what I thought was total inadequacy.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. JOHNSON of Colorado, and by unanimous consent, Mr. ROBINSON was allowed to proceed for 2 additional minutes.)

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield further?

Mr. ROBINSON. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. And I have supported the disclosure elements primarily because I felt that in the past the average Member of Congress had no way of knowing what our intelligence community was doing. However, I think that has been corrected completely, and I want to commend all of the members of the committee, the chairman, the gentleman who is in the well, and the other members who participated in drafting the report, because the report is there and it is available for every Member of Congress to read and examine. It goes into great detail. I do not know that it is necessary to disclose to the public at large as long as their Representatives have the opportunity to see and analyze and to question. In the past that has not been true. We have had a very small elite number of Congressmen who had access to the information about the intelligence community's activities, and we got ourselves into a lot of trouble as a result of that. That is no longer the case. This committee is open to any Members of Congress, and I do not see any reason why we need to disclose what we are presently doing.

Once again I would like to commend the gentleman and also the members of the committee for the superb job I feel they are doing in writing their report and in overseeing the community.

Mr. ROBINSON. I thank the gentleman for his contribution.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from Virginia.

Mr. WHITEHURST. I thank the gentleman for yielding. I think the gentleman from Colorado (Mr. JOHNSON) touched the heart of the matter. Any Member of this body can go and examine the budget in detail. I think that is all that is necessary. I want to commend the gentleman from Virginia, my good colleague (Mr. ROBINSON) for the statement he has made, particularly with a view to the impact of this on our allies overseas. If we go down this route—we have already plenty of trouble right now as a result of the Freedom of Information Act—I think we would just give more grief to ourselves if we pass the amendment offered by the gentleman from Kentucky (Mr. MAZZOLI).

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Kentucky (Mr. MAZZOLI).

What my colleague is asking us to do today is to have this Congress bear the burden of the release of information that is more useful to our enemies than helpful to the American public. He is asking us to release the figure for the national foreign intelligence program that include the cost of operation of the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, and the other important components of that program.

The figure he suggests; that is, the total aggregate, would be of little value to an American interested in Government operation, but it would be of significant value to those who are constantly working to learn our secrets, the enemy. The responsible citizen is interested in how well our intelligence efforts are working, how competent they are in responding to the needs of the President, the Congress, and the public. He is not interested in the details of what it costs. That responsibility has been vested in every Member of this body.

BURDEN IS ON CONGRESS

The Director of Central Intelligence and the Secretary of Defense are not in favor of releasing the total budget figure. Their position is that it must be released at the discretion and risk of Congress. However, if released by Congress they will do all in their power to protect further encroachments on the intelligence budget data. Both are somewhat skeptical that this can be done.

RISKS INVOLVED

What is at stake is that one figure will lead to another. Many feel that if we release the one figure it will be pried open—"an unpeeling of the onion" so to speak. Our former distinguished colleague, George Mahon, told us last year he was personally opposed to making the budget totals for intelligence and intelligence-related activities public. He believes the publication of these budget totals would significantly harm our collection capabilities. He said:

> By itself the mere total would be somewhat meaningless and perhaps even misleading and would be a misleading number. This should readily become apparent and would inevitably lead to pressures to reveal subtotals and amounts approved for the individual program. Revelation of detailed information would be damaging to the intelligence efforts and such detailed information would be invaluable to the KGB and other intelligence services. With this information they would be able to better counter certain of our collection systems. This would be particularly true of our highly sophisticated, and I might add, highly expensive technical collection systems. In my opinion, the release of the intelligence budget totals without supporting details will raise more questions than it will answer.

RELEASE BY OTHER NATIONS

In response to a question as to whether this Nation or any nation in the world has ever embarked on such a path, contemplated in terms of releasing this type of information, the DCI Admiral Turner replied, "To the best of my knowledge it has not been done before."

Also, on this subject our friend, George Mahon said:

> A further reason why I tend to oppose publishing the intelligence and intelligence-related budget is that, to the best of my knowledge, no other country, including the major democracies publish such information. There must be a good reason for that. I see no reason for the United States to step out in front and unilaterally take the initiative.

It is my personal belief, however, that if we did release and make public the budget figure for intelligence it would send one more signal to our sister intelligence services that there is a further breakdown in our secrecy and would adversely impact even more on their cooperative relationships with us.

Mr. Chairman, there are many other reasons not to take this step—this question has long been debated and in recent years both the Senate and the House have voted to retain the secrecy of that figure. The reasons are no less valid today and I would hope that the issue be left alone and that we move on to the important areas in which public confidence in our intelligence activities can be built.

I ask my colleagues' support on this issue.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. EDWARDS of Alabama, and by unanimous consent, Mr. ROBINSON was allowed to proceed for 1 additional minute.

Mr. EDWARDS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from Alabama.

Mr. EDWARDS of Alabama. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has made as good a statement as I have ever heard in opposition to the peeling of the onion, if you will, to the opening of the door to divulging what in fact is being spent on intelligence in this country. Once that door is open, I feel that there is no way to close it. To me it is a door that is better left closed. I would like very much to be able to say to everyone in this room exactly what we are spending, what we are spending it on, why we are spending it. Mr. Chairman, if that were all that we would do, I would say let us do it, but there is no boundary out there to the ocean's edge. The minute we divulge a figure like this, it is known worldwide. The average American soon forgets the figure as he goes on to other things, but those who are greatly concerned about what we do, that is the Soviet Union and others, will be paying close attention to everything that is divulged. They have the ability over a period of time to put information together to draw conclusions which are reasonably close. I, therefore, think we must maintain this secrecy.

Mr. Chairman, a few years ago everybody agrees, I think, that we did not operate our intelligence activities in a way that brought the greatest credit to this country. Those days are gone. The intelligence budget is closely scrutinized both on the authorizing level and the appropriations level, and I think that we should continue to operate in that fashion.

Again I commend the gentleman for an excellent statement.

Mr. ROBINSON. Mr. Chairman, this amendment, in conclusion, proposes a risk, in Admiral Turner's own words, which we should not take, and I urge my colleagues to defeat it.

Mr. Chairman, I yield back the remainder of my time.

Mr. MURPHY of Illinois. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, article 1, section 9, clause 7 of the Constitution states:

> No money shall be drawn from the Treasury but in Consequence of Appropriations made by Law; and a regular statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Just exactly what sort of "statement and Account" of public expenditures has been provided has varied from time to time.

Congress has traditionally kept some diplomatic and military expenditures secret from the very earliest days of the Republic.

Since the creation of organized national intelligence agencies, it has closely guarded intelligence expenditures.

The Central Intelligence Agency Act of 1949 provides, for instance, for the transfer of funds from other agencies of Government to the CIA.

In all of these cases, it has been the judgment of the Congress that determined what would be disclosed.

The Supreme Court ruled in 1974 that an individual does not have standing to challenge such determinations, so, for all practical purposes, it will continue to be the Congress which must decide what disclosure of intelligence expenditures is appropriate.

In the words of one distinguished witness before the committee, the language of the Constitution's statement and accounts clause is not self-executing.

It has been the considered judgment of Congress for over 200 years that some few areas of Government spending should remain secret.

This is consistent with so-called journal secrecy clause, article I, section 5, clause 3, which reads:

> Each House shall keep a Journal of its Proceedings and from time to time publish the same, executing such parts as may in their Judgment require Secrecy.

What is inherent in this clause as well as in the statement and accounts clause is that Congress must account in some fashion for all Government expenditures.

What the amendment before us today proposes is that that account be immediate and explicit.

I believe that to be unwise and perhaps dangerous.

What is clear is that it is not constitutionally mandated.

Congress should continue to exercise strong, active oversight over intelligence activities.

It should continue the very effective practice of annual authorizations.

It should not reverse 200 years of prudent judgment, however, and disclose information that can—and I believe will—be used against our national interest.

I urge the defeat of the amendment.

Mr. Chairman, I want to commend the gentleman from Kentucky (Mr. MAZZOLI) whose amendment this is. He is a valued member of this committee, but I do oppose him in his amendment here today.

Mr. ROSE. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from North Carolina.

□ 1810

Mr. ROSE. Mr. Chairman, I thank the gentleman for yielding, I appreciate the outburst of support for this position.

I want to urge my colleagues to join with us in voting down this amendment. The gentleman from Virginia (Mr. ROBINSON) has painted, as many have said, a very correct picture of the problem. As the gentleman from Illinois (Mr. MURPHY) said.

As the chairman of the Subcommittee on Evaluation of Performance within the House Permanent Select Committee on Intelligence, I am concerned that there are a great many analysts working for our enemies around the world to whom this bottom-line figure would be a significant piece of a complicated jigsaw puzzle.

I have asked analysts within the intelligence community if this would not be the case and they have said it would be. This figure when combined with the budgets of the Army, the Air Force, the Navy and the various other branches of service, as the gentleman from Illinois (Mr. MURPHY) said from whom funds might be transferred, when all that puzzle is put together, we would enable our adversaries to pinpoint the areas in which we are specifically spending money for intelligence purposes.

I do not want to get that process started. What appears to be an innocent step toward honestly revealing a bottom-line figure in my opinion, gentlemen, would lead to a very mischievous situation for our enemy.

The gentleman from Illinois (Mr. HYDE) summed it up as well as anybody when he asked the gentleman from Kentucky did he know what the figure was. He said he did. "Do you think it is too much or too little?"

I join the gentleman from Illinois (Mr. HYDE) in saying I am satisfied with the figure. I think my colleagues on this committee are satisfied with the figure.

Any of you who want to know that figure can know it and I am certain that what this committee has done in putting this budget together is correct.

Please join us in voting no on this amendment.

I thank the gentleman for yielding.

Mr. MURPHY of Illinois. I yield back the balance of my time.

Mr. PEASE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of Congressman MAZZOLI's amendment. It is a thoughtful amendment that recognizes the importance of striking a meaningful balance between the taxpayers' right to know how much of their tax dollars are being spent on intelligence-gathering activities and the need to safeguard the effectiveness of the U.S. intelligence community.

This Congress has spent a great deal of energy in seeking ways to identify and eliminate wasteful Government spending. All year long we have grappled with the difficult task of establishing spending priorities in an era of budget austerity. Some of the most difficult votes we have had to cast relate to where we ought to cut funds, where we ought to hold the line, and where we might consider increased Government spending. If we are really to make these judgments fairly, then the Congress ought to be able to compare budget outlays in all aspects of government activity, including intelligence-gathering activity.

The congressional budgeting process would be improved with the public disclosure of an aggregate appropriations figure for intelligence-gathering activities in fiscal year 1980. This would compel all of us in this House to openly discuss the consequences of spending more money on intelligence activity than on revenue sharing for example. In this way, the American people would also be in better position to know whether they agreed with the spending priorities established by their elected representatives.

A host of informed and responsible individuals and Government bodies have gone on record stating that disclosure of an aggregate appropriations figure would not jeopardize our national security nor would it compromise our vital intelligence-gathering activities. This list includes CIA Director Stansfield Turner, the Church committee, the Pike committee, the Rockefeller Commission, and the Senate Select Committee on Intelligence.

Acting on this prudent counsel, the House should proceed to make this information public. In so doing, we would be improving the ability of the Congress to determine whether our country is getting its money's worth in intelligence outlays and we would enhance the accountability of the intelligence community to the American people from which it derives its funds.

A lot has been said about the fact that the total figure alone might not be instructive. I think it would be instructive for us to be able to compare the total figure with that for other functions of government. Also, to be able to compare the figure for intelligence, the total figure, from one year to another, to know whether the Intelligence Committee has proposed doubling or cutting in half or maintaining or whatever, that figure.

The disclosure of those total figures might cause the public to ask us as individual Members of Congress why it has been doubled or cut in half or whatever and that in turn might cause us as Members of Congress to review the documents of the Intelligence Committee available to us and to discuss those documents with our colleagues on the Intelligence Committee.

I think that would contribute to a better appropriations process for our intelligence-gathering community. For that reason, I again urge your support for the amendment of the gentleman from Kentucky.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what an ironic or poetic juxtaposition we find ourselves in today. Here it is barely a week, less than a week since we were all across this country in our respective districts celebrating with our constituents the founding of this Republic. I am sure that we all had great things to say about that revolution and the Declaration of Independence and the Constitution that followed; the Constitution under which we still operate.

And here we are today, suggesting that in some ways the powers of a committee of this House are being usurped because it is suggested by the gentleman from Kentucky that we disclose to the American people the bottom-line, aggregate figure of the amount that is being proposed to be spent for the national foreign intelligence programs of this country.

The Constitution of the United States, article 1, section 9, clause 7, says in part that "a regular statement and accounting of the receipts and expenditures of all public money shall be published from time to time."

The Constitution to my knowledge does not mention any special exemption for intelligence activities.

Mr. BURLISON. Mr. Chairman, will the gentleman yield?

Mr. WEISS. Mr. Chairman, I will be pleased to yield when I conclude my statement.

Mr. Chairman, in the early days of this Republic one of our Founding Fathers and national heroes, Ben Franklin, said, in a statement that has come down in time, that he who would trade a little liberty for a little security will soon end up having neither liberty nor security.

I think that the gentleman from Kentucky makes a very profound effort to allow the American people, not just taxpayers but citizens of the United States of America by whose vote we are in this Chamber and whom we are supposed to be representing, to know what it is we are spending in aggregate for national foreign intelligence purposes. There is nothing undermining of our security about that. Indeed, you have heard stated over and over again that every other committee of this House, of the Senate, indeed the Director of Central Intelligence, himself, has said that there would be no breach of security and, that, in their judgment, the American people ought to have that figure disclosed.

□ 1820

It seems to me that if we really meant what we were celebrating last week, then we ought to think very deeply about the amendment that the gentleman has offered. I think that we ought to give a ringing affirmation to the Constitution under which we live and vote to support the gentleman's amendment. The very future of our free and open and democratic society may be influenced by that vote.

Mr. BURLISON. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I would be pleased to yield to the gentleman from Missouri.

Mr. BURLISON. Mr. Chairman, the gentleman raised a constitutional issue by referring to section 9, clause 7 of article I; but I would ask the gentleman if the gentleman would not agree that in conjunction with the reading of that section, we should include section 5, clause 3, which says:

> Each House shall keep a journal of its proceedings and from time to time publish the same, excepting such parts as may in their judgment require secrecy.

I would say to the gentleman that the very first Congress that was in session under the Constitution used that provision to refuse to disclose a figure in an appropriations bill.

Mr. WEISS. Mr. Chairman, I appreciate the gentleman's comment.

I must say, we have been at this profound discussion on the meaning of this country and its Constitution for about 35 minutes. I know that Members have important things to do and important places to go; but I think that perhaps, perhaps the Constitution warrants another 3 or 4 or 5 minutes of discussion or debate.

Mr. Chairman, I would be pleased to yield to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding.

I want to commend the gentleman on his statement. I think the gentleman makes a very important point in connecting the July 4 holiday and the statements that many Members in this Chamber made with the debate on the issue tonight.

I do think that this is an important step. I do think it would be in the national interest.

The CHAIRMAN. The time of the gentleman from New York (Mr. WEISS) has expired.

(At the request of Mr. MAZZOLI, and by unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield further?

Mr. WEISS. Of course, I yield.

Mr. MAZZOLI. Mr. Chairman, I just wanted simply to say, as the gentleman so aptly and correctly points out, there is no danger, nobody who is a student of the subject has ever suggested that the revelation of the total bottom line figure would do any mischief to our national defense effort.

I think as the gentleman would recognize, the New York Times, the Washington Post, routinely run figures which are almost on the money as to how much is being spent for various defense efforts and intelligence efforts.

I just think that this Chamber is entitled to know and I think we ought to give that information to the people.

Mr. WEISS. Mr. Chairman, I thank the gentleman. I want to conclude by commending the gentleman from Kentucky for the tremendous service that the gentleman has performed, not just for this body, but for the people of this country.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Kentucky that calls for the public release of the budget totals for intelligence activities. I do so because I believe the publication of these totals would harm our intelligence activities and do little to satisfy anybody's realistic desire for public exposure. Further, I believe the Members of Congress and the man in the street understand the importance of the need for secrecy in intelligence matters.

However, a reasonable argument, it seems to me, for continuing to protect these budget figures—as this body has done after extensive debate on this floor both in 1975 and 1976—is that all of the Members now have complete and total access to the information on intelligence budgets, programs, and activities. And, this information is not limited to totals or aggregate figures, every detail by agency, by program, and by line item is available to the Members subject only to respecting the confidentiality of that information.

In effect, there has been a change. The time when only a few Members of this body were privy to that kind of information is long past, and I think it is very important that we have now improved that situation.

Summing up, I respectfully ask my colleagues to reject this amendment on the basis that: First, public disclosure of budget figures would be harmful to our Nation and helpful to our opponents; second, the Congress and the public are sensitive to a need for secrecy in intelligence matters; and third, the information pertaining to oversight of this Nations' intelligence agencies, their operations, activities, and costs, although not available to the public, is available to each and every Member of this body by way of a special trust to protect that information from our enemies.

Mr. Chairman, I urge the defeat of this amendment seeking disclosure of intelligence expenditures and reaffirm the position taken by the House in previous years.

Mr. ZABLOCKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Kentucky. Although I do not question the gentleman's intentions, nonetheless it is an ill-advised proposal. Some proponents say that the Director of Central Intelligence "agrees" with budget disclosure. He does not agree with it; he has simply "agreed not to object." Specifically, in his prepared statement to the committee on January 24, 1978, Admiral Turner discussed conflict of freedom of information with the need to maintain secrecy about intelligence matters. He summed up this conflict by stating:

> Some compromise then, is necessary between the risks of giving an enemy an unnecessary advantage over us, and of maintaining the basic openness of our society. Accordingly, the administration does not object to your releasing to the public a single overall budget figure of the U.S. Intelligence Community.

Mr. Chairman, the budget figure is classified by the administration itself which has always been free to declassify it. It has not done so because it does not believe it prudent. Certainly the administration will not object if Congress feels that it should do so—however, the executive branch would find such action on the part of Congress irresponsible and troublesome.

Everyone agrees that only a single total figure should be considered for release because any greater detail would clearly be harmful.

In January 1978, George Mahon, then chairman of the Appropriations Committee stated:

> In such a dangerous world I do not believe that the United States should take the major risk, and I think it is a risk, of making its intelligence budget public. The potential advantage of such a step is too small and the risks are too great in my opinion.

Mr. Chairman, many proponents of disclosure cite the requirement of the Constitution for Congress to account for public money as a major justification for disclosure. In response to a question from the President, Attorney General Bell wrote on May 23, 1977:

> It is our opinion that the Constitution does not require public disclosure of the aggregate authorization or appropriation figure, nor does it require publication of an account of the expenditures of the intelligence agencies individually or as a whole. However, Congress at its discretion can decide as a matter of policy to make public any of these figures.

This judgment is fundamentally based on the fact that:

> . . . the precedents establish that Congress has the latitude to permit or require a secret accounting in the manner it judges to be appropriate to protect the national security.

I urge the committee to defeat the amendment offered by the gentleman from Kentucky.

Mr. BOLAND. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I beg the indulgence of this committee for just a few minutes. I want to commend the gentleman from Kentucky. The gentleman's actions are motivated by the highest ideals. The gentleman serves with great distinction on this committee, both on the legislative subcommittee and also on the oversight subcommittee.

I am pleased to listen to the arguments of the distinguished Members, the gentleman from New York (Mr. WEISS), the gentleman from Ohio (Mr. PEASE) in support of the position taken by the gentleman from Kentucky.

Just let me tell you what this amendment would do. This amendment is tied to the national foreign intelligence program. That program includes what is commonly understood as espionage, covert action, intelligence collection gathered by photographic intelligence, by signals intelligence or by human intelligence. Such activities are referred to often as national intelligence, because they are primarily directed by the President of the United States, by the National Security Council and by the Joint Chiefs of Staff.

This particular activity is managed by the Director of Central Intelligence.

The amendment offered by the gentleman from Kentucky would publicly disclose the total amount appropriated for fiscal year 1980 for the national foreign intelligence program.

Mr. Chairman, the issues presented by the amendment of the gentleman from Kentucky are very fundamental ones, we all agree. The gentleman suggests that our system of government operates under a strong presumption that public accountability depends upon open access to Government information, and the gentleman is right; but the gentleman gives too little weight, I submit, to that part of the Constitution which reads, and was read by the gentleman who chairs the subcommittee on program and budget authorization:

> Each House shall keep a Journal of its Proceedings and from time to time publish the same, excepting such parts as may in their Judgment require secrecy.

That clause was used by the First Congress and every Congress since then to keep secret certain expenditures. Ever since this country has had a genuine intelligence program, Congress has declined to make public details of intelligence expenditures.

In June of 1974, the Senate had a vote on this very question on an amendment offered by the Senator from Wisconsin, Senator PROXMIRE, to disclose the NFIP bottom line figure. It was defeated 55 to 33.

In 1975, in September, 1975, this House considered a similar amendment offered by the gentleman from Connecticut (Mr. GIAIMO), offered to the defense appropriation bill. It was defeated 267 to 147. In my deliberations, I came across the words of the late Hubert Humphrey. In 1974, speaking in opposition to an amendment just such as we considered today and on the point to which all of us have referred, he said this:

> Just as surely as we are in this body today debating whether or not we ought to have a release of the figure, next year it will be whether it is too big or too little and then it will be what is in it. When we start to say what is in it, we are going to have to expose exactly what we have been doing in order to gain information.

And he points to this as an example:

> . . . Years ago as to where the Soviet Union was building its nuclear subs and the kind of nuclear subs they were.

He said:

> I saw that material in 1965—how far they were along and what their scientific progress was. I do not think it would serve the public interest for all that information to have been laid out. It would have destroyed our intelligence gathering completely.
>
> It is because I feel this strongly that I make this statement, although it runs counter to much of my so-called ideological philosophy. One advantage I have had, and I am not going to be a partisan around the Senate when it comes to national security, is to sit on the other end of the line. I am here to tell the Senate that if we start to tinker with the intelligence services of this country, we do it at our peril.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. BOLAND) has expired.

(By unanimous consent, Mr. BOLAND was allowed to proceed for 2 additional minutes.)

Mr. BOLAND. Mr. Chairman, I believe they fit the time and the occasion very well.

Mr. Chairman, Senator Humphrey had been Vice President and knew well of what he spoke. He spoke as the Vice President who sat in with the National Security Council on all of the very intricate and very sensitive intelligence matters in which this Nation was involved.

So, Mr. Chairman, because of his leadership, that amendment went down to defeat in the Senate back in 1974.

Mr. Chairman, I think this House, this committee, ought to follow the leadership of its Committee on Intelligence and overwhelmingly defeat the amendment offered by the gentleman from Kentucky.

As the gentleman from Colorado (Mr. JOHNSON) has so well pointed out, the Senate Select Committee, the Permanent Select Committee on Intelligence, both were put in place to correct the abuses that occurred back in the climate of 1974 and 1975. We have sought to correct those abuses. All of the figures, all of the information, all of the sensitive material that our Government has engaged in in intelligence matters is available to every single Member of this House and every single Member of the Senate.

☐ 1830

I think, Mr. Chairman, that supplies the desires, the wishes, and the hopes of the American people, and in my judgment the American people are satisfied with the judgment of those committees.

Mr. Chairman, the overwhelming majority of the Permanent Select Committee on Intelligence affirms—after a conscientious review of all the arguments on disclosure—that the consensus which has served to protect the Nation's intelligence services in the past, ought to be carried on.

They have looked for, and they have not detected a public demand for this information.

They believe that the authorization of intelligence programs, through the vehicle of this annual process, goes a long way toward providing that kind of control, the kind of oversight that was lacking when the Proxmire and Giaimo amendments were considered.

So, my message to the House today is—that intelligence oversight is as thorough and detailed as it has ever been. It is vigorous and it is regular. But it is only public to the degree that it does not damage intelligence capabilities.

Thus the public profile of the committee has been low.

That is not a state of affairs to be denigrated, however.

It is one to which all Members should hold the committee to.

But it is not one which Members should reject by starting down a road from which there is no retreat.

I am unwilling to believe that Members want to take a step which will endanger intelligence capabilities.

I feel strongly that this amendment starts us in that direction. I therefore urge its rejection.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Mazzoli amendment, and I want to commend the gentleman from Kentucky (Mr. MAZZOLI) for offering it.

Mr. Chairman, I would like to voice my support for the amendment to H.R. 3821 offered today by the gentleman from Kentucky (Mr. MAZZOLI). H.R. 3821 authorizes appropriations for the intelligence and intelligence-related activities of the U.S. Government, and it is my firm belief that we should require the President to disclose the total amount of the national foreign intelligence program appropriations for the fiscal year 1980.

As I stated during consideration of disclosure of the appropriations figure for fiscal year 1979, I find it somewhat of an anomaly, to say the least, that Members are asked to consider an appropriations bill in which the major item is classified and therefore constitutes no more than a blank on which we are asked to vote. When this came up last year, I expressed my hope that the House Select Committee on Intelligence might somehow in the future find a way to allow the rest of the Members to enter into the deliberations and give us the opportunity to fully debate and review the merits of this legislation. However, the committee this year rejected such an amendment and we are once again confronted with a blank on which to vote. It is my hope that this year we should be given more information and therefore that I will not once again feel compelled to vote blank, or present, on our intelligence-gathering appropriations figure, as I did in 1978.

The opponents of Mr. MAZZOLI's amendment believe that disclosure of the total NFIP for fiscal year 1980 would pay nothing more than symbolic tribute to our tradition of open Government and would, once disclosed, arouse and invite further queries into more specific revelations of the budgets for particular intelligence-related activities. As the opponents note, the committee's report on H.R. 3821 states that "intelligence systems can be countered or frustrated rapidly simply on the basis of knowledge of their existence." Disclosure, on this theory, would benefit our country's adversaries more than its own citizens.

In view of the existence of this bill and the lengthy debate on it, it is hard for me ot imagine other nations may not be aware that U.S. Government intelligence operations do exist, with or without the disclosure of a total appropriations figure. Even should such a disclosure stimulate public inquisition into specific activities, I concur with the Senate select committee to study Government operations with respect to intelligence activities—the Church committee—that disclosure of the budgets for these specific activities can be resisted successfully in the future. Surely the American people deserve to know the total amount of their tax money being spent on intelligence activities. The alleged risk is speculative, and fully within the control of Congress. The benefit is clear, and indeed, mandated by the Constitution.

The Church committee, the Commission on CIA activities within the United States and the Senate Select Committee on Intelligence all recommended last year that the total budget figure be disclosed. The administration, through Director Stansfield Turner of the CIA, voced no opposition to a proposition similar to that amendment offered today. That being the case, how can we ignore our constitutional directive in article I, section 9 that "a regular statement and account of the receipts and expenditures of all public money shall be published from time to time?" With all of these voices calling for public disclosure and no definite disadvantages in doing so, I would urge the House to favorably consider this amendment. Approval would surely serve as a step toward bringing about greater agency accountability, which would in turn raise public confidence in our congressional ability to oversee governmental activities. This is surely more than "symbolic tribute" to our tradition of open Government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. MAZZOLI).

The question was taken; and on a division (demanded by Mr. MAZZOLI) there were—ayes 14; noes 76.

RECORDED VOTE

Mr. WEISS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 79, noes 321, answered "present" 1, not voting 33, as follows:

[Roll No. 308]

AYES—79

Anderson, Calif.
Aspin
Barnes
Bedell
Beilenson
Bingham
Bonior
Bonker
Brodhead
Burton, John
Burton, Phillip
Carr
Clay
Collins, Ill.
Daschle
Dellums
Dixon
Dodd
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Fenwick
Ford, Tenn.
Garcia
Gephardt
Gray
Green
Hall, Ohio
Harkin
Harris
Holtzman
Kastenmeier
Kildee
Kostmayer
Lederer
Leland
Long, Md.
Lundine
McHugh
Maguire
Markey
Marlenee
Matsui
Mazzoli
Mikva
Mitchell, Md.
Moffett
Murphy, Pa.
Nolan
Oberstar
Obey
Paul
Pease
Pursell
Rangel
Ratchford
Reuss
Richmond
Rosenthal
Scheuer
Schroeder
Seiberling
Shannon
Simon
Solarz
Stark
Stokes
Studds
Thompson
Vanik
Walgren
Waxman
Weaver
Weiss
Williams, Mont.
Wolpe
Yates

NOES—321

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Fountain
Fowler
Frost
Fuqua
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gore
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDade
McEwen
McKay
Madigan
Marks
Marriott
Martin
Mattox
Mavroules
Mica
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Quayle
Quillen
Rahall
Railsback
Regula
Rhodes
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Steed
Stenholm
Stewart
Stockman
Stratton
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Van Deerlin
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—33

Anderson, Ill.
AuCoin
Bolling
Conyers
Diggs
Emery
Flood
Forsythe
Frenzel
Giaimo
Goodling
Hansen
Hawkins
Huckaby
Lehman
McCloskey
McDonald
McKinney
Mathis
Michel
Miller, Calif.
Mollohan
Price
Roberts
Santini
Sharp
Skelton
Spellman
Stanton
Treen
Ullman
Wilson, Bob
Wright

□ 1840

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BURLISON. Mr. Chairman, if there are no further amendments to title I, I ask unanimous consent that titles II, III, IV and V be considered as read.

printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Titles II, III, IV and V are as follows:

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. (a) There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1980 the sum of $11,500,000.

(b)(1) The Intelligence Community Staff is authorized 245 full-time personnel as of September 30, 1980. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(2) During fiscal year 1980, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(3) During fiscal year 1980, any officer or employee of the United States or member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(c) During fiscal year 1980, personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) relating to personnel of the Central Intelligence Agency as if they are personnel of the Central Intelligence Agency.

SEC. 202. Effective October 1, 1979, section 201 of the Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979 (Public Law 95–370; 92 Stat. 626) is amended—

(1) by striking out the third sentence of subsection (b); and

(2) by striking out subsection (c).

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1980 the sum of $51,600,000.

TITLE IV—SUPPLEMENTAL AUTHORIZATION, FISCAL YEAR 1979

SEC. 401. In addition to the funds authorized to be appropriated under title I of the Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979 (Public Law 95–370; 92 Stat. 626), funds are hereby authorized to be appropriated for fiscal year 1979 for the conduct of intelligence and intelligence-related activities of the United States Government in the amounts listed in the classified Schedule of Authorizations described in section 101(b).

TITLE V—TECHNICAL PROVISION

SEC. 501. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

The CHAIRMAN. Are there other amendments to any title of the bill? If not, under the rule, the Committee rises.

□ 1850

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MOAKLEY) having assumed the Chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3821) to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency retirement and disability system, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes, pursuant to House Resolution 309, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. BURLISON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 975) to authorize appropriations for fiscal year 1980 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency retirement and disability system, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 975

Be it enacted by the Senate and House of Representatives of the United State of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1980".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101 (a) Funds are hereby authorized to be appropriated for fiscal year 1980 for the conduct of the following intelligence activities of the United States Government, as defined in S. Res 400, Ninety-fourth Congress, second session:

(1) activities of the Central Intelligence Agency;

(2) activities of the Defense Intelligence Agency;

(3) intelligence activities of the National Security Agency;

(4) intelligence activities of the military services;

(5) intelligence activities of the Department of State;

(6) intelligence activities of the Department of Treasury;

(7) intelligence activities of the Department of Energy;

(8) intelligence activities of the Federal Bureau of Investigation; and

(9) intelligence activities of the Drug Enforcement Administration.

(b) A classified report shall be prepared by the Select Committee on Intelligence of the Senate with respect to the authorization of funds for fiscal year 1980 for intelligence activities of the United States Government, including specific amounts for each of the activities specified in subsection (a). Copies of such report shall be made available to the House Permanent Select Committee on Intelligence, to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives, and to the appropriate entities of the intelligence community for which funds are authorized by this Act in accordance with the Senate.

(c) Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activities which are not otherwise authorized by the Constitution or laws of the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

SEC. 201. (a) There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1980 the sum of $12,627,000 to provide staff support and assistance to the Director of Central Intelligence to fulfill his responsibility for management and direction of the intelligence community.

(b) For fiscal year beginning October 1, 1979, the Intelligence Community Staff is authorized as an end strength ceiling of two hundred and forty-five full-time employees. Such personnel may be permanent employees of the Intelligence Community Staff or employees on detail from other elements of the United States Government. Any employee who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that an employee may be detailed on a nonreimbursable basis for a period of less than one year for performance of temporary functions as required by the Director of Central Intelligence.

(c) Except as provided in subsection (b) and until otherwise provided by law, the activities of the Intelligence Community Staff shall be governed by the Director of Central Intelligence in accordance with the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j).

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for the fiscal year beginning October 1, 1979, the sum of $51,600,000.

TITLE IV—TECHNICAL PROVISION

SEC. 401. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases authorized by law.

TITLE V—EDUCATIONAL BENEFITS OF CENTRAL INTELLIGENCE AGENCY AND NATIONAL SECURITY AGENCY EMPLOYEES SERVING OVERSEAS

SEC. 501. The first sentence of paragraph 5924(4)(B) of title 5, United States Code, is amended by striking out "of the United States Information Agency," and inserting in lieu thereof the following: ", the International Communications Agency, the Central Intelligence Agency, or the National Security Agency,".

MOTION OFFERED BY MR. BURLISON

Mr. BURLISON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BURLISON moves to strike all after the enacting clause of the Senate bill, S. 975, and to insert in lieu thereof the provisions of the bill, H.R. 3821, as passed, as follows:

That this Act may be cited as the "Intelligence and Intelligence-Related Activities Authorization Act, Fiscal Year 1980".

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1980 for the conduct of the intelligence and intelligence-related activities of the following departments, agencies, and other elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(b) The amounts authorized to be appropriated under this Act, and the authorized personnel ceilings as of September 30, 1980, for the conduct of the intelligence and intelligence-related activities of the agencies listed in subsection (a) are those listed in the classified Schedule of Authorizations prepared by the Permanent Select Committee on Intelligence of the House of Representatives to accompany this Act. The Schedule shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

(c) Nothing contained in this Act shall be deemed to constitute authority for the conduct of any activity which is prohibited by the Constitution or laws of the United States.

(d) Of the amounts authorized under subsection (a)(9), there is hereby authorized to be appropriated for fiscal year 1980, for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States: $13,400,000.

TITLE II—INTELLIGENCE COMMUNITY STAFF

Sec. 201. (a) There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1980 the sum of $11,500,000.

(b)(1) The Intelligence Community Staff is authorized 245 full-time personnel as of September 30, 1980. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(2) During fiscal year 1980, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(3) During fiscal year 1980, any officer or employee of the United States or member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(c) During fiscal year 1980, personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a–403j) relating to personnel of the Central Intelligence Agency as if they are personnel of the Central Intelligence Agency.

Sec. 202. Effective October 1, 1979, section 201 of the Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979 (Public Law 95–370; 92 Stat. 626) is amended—

(1) by striking out the third sentence of subsection (b); and

(2) by striking out subsection (c).

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1980 the sum of $51,600,000.

TITLE IV—SUPPLEMENTAL AUTHORIZATION, FISCAL YEAR 1979

Sec. 401. In addition to the funds authorized to be appropriated under title I of the Intelligence and Intelligence-Related Activities Authorization Act for Fiscal Year 1979 (Public Law 95–370; 92 Stat. 626), funds are hereby authorized to be appropriated for fiscal year 1979 for the conduct of intelligence and intelligence-related activities of the United States Government in the amounts listed in the classified Schedule of Authorizations described in section 101(b).

TITLE V—TECHNICAL PROVISION

Sec. 501. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

Amend the title so as to read: "An Act to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the United States Government, and for other purposes.".

Mr. ROUSSELOT. Mr. Speaker, will the gentleman explain what his motion does?

Mr. BURLISON. Mr. Speaker, the motion is self-explanatory. I sent it to the Clerk's desk, and I ask that the Clerk reread the motion.

(The Clerk reread the motion.)

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. Burlison).

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to authorize appropriations for fiscal year 1980 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1979 for the intelligence and intelligence-related activities of the United States Government, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3821) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 975

Mr. BURLISON. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 975, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri? The Chair hears none and, without objection, appoints the following conferees: Messrs. Boland, Burlison, Zablocki, Mineta, Robinson, and Whitehurst, and, for the consideration of differences with the Senate on Intelligence-Related Activities, the Chair, without objection, appoints the following additional conferees: Messrs. Price, Ichord, and Bob Wilson.

There was no objection.

GENERAL LEAVE

Mr. BURLISON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

GENERAL LEAVE

Mr. VANIK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 4537, Trade Agreements Act of 1979, which was under consideration this afternoon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

UNITED STATES SPACE OBSERVANCE

Mr. HANLEY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 353) congratulating the men and women of the Apollo program upon the 10th anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance."

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, will the gentleman explain why this is being brought to the floor in this manner?

Mr. HANLEY. Mr. Speaker, if the gentleman will yield, time is of the essence in that, since today is July 10 and July 16 is just around the corner, we would hope very much that we could dispose of this resolution this evening.

Mr. ROUSSELOT. What happened to the normal process?

Mr. HANLEY. The normal process?

Mr. ROUSSELOT. Yes.

Mr. HANLEY. Well, I thought the gentleman wanted to be sure that this week became fact, and for that reason I thought that we should bring it up tonight. I further thought that the gentleman would agree.

Mr. ROUSSELOT. I certainly do.

Mr. HANLEY. I thank my colleague.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

Mr. BREAUX. Mr. Speaker, reserving the right to object, I would like to ask the gentleman, is the timing of the National Space Week to coincide with the visit that Skylab is supposed to pay us?

Mr. HANLEY. Mr. Speaker, if the gentleman will yield, there is a distinct possibility. There is an air of uncertainty associated with what might happen in the course of the next couple of days. So we thought that we should put this into concrete, if you will, and take the next few days as they may come.

Mr. BREAUX. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 353

Whereas the decision by this Nation to land men on the Moon and return them safely to Earth was a bold decision unlike any other; and

Whereas the success of the Apollo program, America's manned missions to the Moon, represented an unparalleled triumph of this country's scientific and technological genius; and

Whereas the vitality of the partnership between American industry, Government, and universities was demonstrated by the Apollo missions and their pioneering predecessors, Mercury and Gemini; and

Whereas the steadfast courage of the Apollo astronauts recalls the heroic spirit of earlier Americans and serves as models for skill and bravery in the future; and

Whereas the openness and peaceful nature of Apollo underscores the freedoms and desire for peace so characteristic of American society; and

Whereas the vision of planet Earth, floating in a sea of vast darkness as photographed by the men aboard the Apollo spacecraft, has altered forever our view of ourselves and of our fragile world; and

Whereas the National Aeronautics and Space Administration and other organizations throughout the world involved in space exploration have cooperated in the cause of peaceful exploration of space for the benefit of all mankind; and

Whereas in the week of July 16 through 24, 1969, the people of the world were brought closer together by the first manned exploration of the Moon: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress upon the tenth anniversary of the first manned landing on the Moon congratulates the men and women who made Apollo possible; and be it further

Resolved, That the President is authorized and requested to issue a proclamation designating the period of July 16 through 24, 1979, as "United States Space Observance", and calling upon the people of the United States to observe such period with appropriate ceremonies and activities.

Mr. HANLEY. Mr. Speaker, I move the previous question on the joint resolution.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MAKING CERTAIN TECHNICAL AND CLERICAL AMENDMENTS TO TITLE 5, UNITED STATES CODE

Mr. HANLEY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the bill (H.R. 4616) to make certain technical and clerical amendments to title 5, United States Code, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman please explain what these amendments are?

Mr. HANLEY. Mr. Speaker, if the gentleman will yield, they simply make technical changes to title 5 of the United States Code and correct a number of printing errors that have occurred during the last couple of years.

Mr. ROUSSELOT. The last how many years?

Mr. HANLEY. The last several years.

Mr. ROUSSELOT. Printing errors to title 5. How many of them are there?

Mr. HANLEY. About 18.

Mr. ROUSSELOT. Eighteen mistakes that this House has made?

Mr. HANLEY. Possibly a close count might say 19, somewhere between 18 and 19.

Mr. ROUSSELOT. Have we made that many mistakes in the last 2 years?

Mr. HANLEY. We have not, but it is due to human error in the Government Printing Office.

Mr. ROUSSELOT. I see. It is the Printing Office that is at fault.

Mr. HANLEY. We are usually not at fault, I think the gentleman will agree.

Mr. ROUSSELOT. Can the gentleman assure us that there are no major changes in title 5, that it is only printing errors?

Mr. HANLEY. The gentleman has my absolute assurance there are no changes at all to title 5. They are simply technical corrections.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill as follows:

H.R. 4616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REFERENCES TO TITLE 5, UNITED STATES CODE

SECTION 1. Whenever in this Act, any reference, amendment, or repeal is expressed in terms of a reference or amendment to, or repeal of, a section or other provision, it shall be considered to be made to a section or other provision of title 5, United States Code.

TECHNICAL AND CLERICAL AMENDMENTS

SEC. 2. (a)(1) The table of parts is amended by striking out "The United States Civil Service Commission" and inserting in lieu thereof "Civil Service Functions and Responsibilities".

(2) Sections 305(b), 4111(b), 4112(a), 5514(b), and 5903 are each amended by striking out "Director of the Bureau of the Budget" wherever it appears and inserting in lieu thereof "President".

(3) Section 1308(a)(3) is amended by striking out "Office" and inserting in lieu thereof "Merit Systems Protection Board".

(4) Section 2101(3) is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(5) Section 2105(a)(1)(F) is amended—

(A) by striking out "the adjutants" and inserting in lieu thereof "an adjutant"; and

(B) by striking out ", United States Code".

(6) Section 2105(c)(1) is amended to read as follows:

"(1) laws (other than subchapter IV of chapter 53 and sections 5550 and 7204 of this title) administered by the Office of Personnel Management; or".

(7) Section 2106 is amending by striking out "from the District of Columbia" and inserting in lieu thereof "to the House of Representatives".

(8) Section 2108(3) is amended by inserting after "claimed" in subparagraph (G) (iii) a semicolon and the following: "but does not include applicants for, or members of, the Senior Executive Service".

(9)(A) Section 2108(5) is amended by striking out "; but does not include applicants for, or members of, the Senior Executive Service".

(B) The amendment made by subparagraph (A) shall take effect October 1, 1980.

(10) Chapter 31 is amended by inserting after the chapter analysis for such chapter the following:

"SUBCHAPTER I—EMPLOYMENT AUTHORITIES".

(11) Section 3102(a)(2) is amended by striking out "Commissioner" and inserting in lieu thereof "Mayor".

(12) Section 3132(a)(1)(B) is amended by inserting "and," after "the National Security Agency,".

(13) The chapter analysis for chapter 33 is amended by striking out the item relating to section 3315a.

(14) Sections 3305(a), 3315(a), 3317(a), 3326(b)(1), 5550a(a), 5596(c), and 7327(b) are each amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(15) Sections 3305(b), 3315(b), 3317(b), 4102(b), 5347(e), 5550a(b), 6305, and 7327(b) are each amended by striking out "Commission" each place it appears and inserting in lieu thereof "Office".

(16) Section 3302(2) is amended to read as follows:

"(2) necessary exceptions from the provisions of sections 2951, 3304(a), 3321, 7202, 7203, 7321, and 7322 of this title.".

(17) Section 3324(a)(4)(A) is amended by striking out "'National Security Council', or 'Office of Emergency Planning'" and inserting in lieu thereof "or 'National Security Council'".

(18) Subsections (a) and (b) of section 3503 are each amended by striking out "each preference eligible employed" and inserting in lieu thereof "each competing employee".

(19) Sections 4102(a)(1)(C) and 4109(a)(2)(A) and (B) are each amended by striking out "Environmental Science Services Administration" each place it appears and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(20) Chapter 43 is amended by inserting after the chapter analysis for such chapter the following new heading:

"SUBCHAPTER I—GENERAL PROVISIONS".

(21) Section 4701(b) is amended—

(A) by striking out "subchapter" and inserting in lieu thereof "chapter"; and

(B) by striking out "5 U.S.C. 5108 note" and inserting in lieu thereof "28 U.S.C. 509 note".

(22) Section 5102(23) is amended by striking out "Patent Office" and inserting in lieu thereof "Patent and Trademark Office".

(23) Section 5108(c) is amended—

(A) by inserting "and" at the end of paragraph (3); and

(B) by redesignating paragraph (17) as paragraph (4).

(24) Section 5311(b)(1) is amended by striking out "Director" and inserting in lieu thereof "Director of the Office of Personnel Management".

(25)(A) Sections 5312, 5313, 5314, 5315, and 5316 are each amended by striking out the paragraph designations of the positions listed therein.

(B) The amendments made by subparagraph (A) shall take effect January 1, 1980.

(26)(A) The catchline for section 5333 is amended by striking out "wage-board employees" and inserting in lieu thereof "prevailing rate employees".

(B) The item relating to section 5333 in the analysis for chapter 53 is amended by striking out "wage-board employees" and inserting in lieu thereof "prevailing rate employees".

(27) Section 5334(a) is amended by striking out "section 106(a)" and "section 3186 (2)" and inserting in lieu thereof "section 106(2)" and "section 3186(a)(2)", respectively.

(28) Section 5335(a)(3)(B) is amended by striking out "a administrative law judge" and inserting in lieu thereof "an administrative law judge".

(29) Section 5504(a)(B) is amended by striking out "this section" and inserting in lieu thereof "this title".

(30) Section 5516 is amended by striking out "Commissioner" each place it appears and inserting in lieu thereof "Mayor".

(31) Section 5521(3)(B) is amended by striking out "Commissioner" and inserting in lieu thereof "Mayor".

(32) Section 5545(c)(2) is amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

(33) The sentence following paragraph (2) of section 5562(a) is amended by striking out "the date of enactment of this sentence" and inserting in lieu thereof "December 14, 1973,".

(34) Section 5581(1) is amended by inserting "and" at the end of clause (iv).

(35) Section 5584(b)(4) is amended by striking out "the date on which this clause (4) is enacted into law," and inserting in lieu thereof "July 25, 1974,".

(36) Section 5702(c) is amended by striking out "(A)" and "(B)" and inserting in lieu thereof "(1)" and "(2)", respectively.

(37) Section 5943 is amended—

(A) in subsection (a), by striking out "and on recommendation of the Director of the Bureau of the Budget"; and

(B) in subsection (d), by striking out "Director of the Bureau of the Budget" and inserting in lieu thereof "President".

(38) Section 6104 is amended—

(A) by striking out "Commissioner" each place it appears and inserting in lieu thereof "Mayor"; and

(B) by striking out "District of Columbia Council" and inserting in lieu thereof "Council of the District of Columbia".

(39) Section 6304(e) is amended by striking out "salary rate" and inserting in lieu thereof "rate of basic pay".

(40) Section 6323 is amended by redesignating the first subsection (c) as subsection (b).

(41) Section 6325 is amended to read as follows:

"§ 6325. Absence resulting from hostile action abroad

"Leave may not be charged to the account of the account of an employee for absence, not to exceed one year, due to an injury—

"(1) incurred while serving abroad and resulting from war, insurgency, mob violence, or similar hostile action; and

"(2) not due to vicious habits, intemperance, or willful misconduct on the part of the employee.".

(42) The heading for subchapter III of chapter 71 is amended to read as follows:

"SUBCHAPTER III—GRIEVANCES, APPEALS, AND REVIEW".

(43) Chapter 72 is amended by inserting before section 7201 the following:

"SUBCHAPTER I—ANTIDISCRIMINATION IN EMPLOYMENT".

(44) Section 7325 is amended by striking out "Civil Service Commission" and "Commission" and inserting in lieu thereof "Merit Systems Protection Board" and "Board", respectively.

(45) Section 7701 is amended—

(A) in subsection (e)(1), by striking out "administration" and inserting in lieu thereof "administrative";

(B) in subsection (g)(1), by striking out ", as the case may be," and inserting in lieu thereof "(as the case may be)"; and

(C) in subsection (h), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

(46) Section 7702 is amended—

(A) in subsection (a)(1)(A), by striking out "effected" and inserting in lieu thereof "affected";

(B) in subsection (a)(1)(B)(i), by striking out "(42 U.S.C. 2000e–16c)" and inserting in lieu thereof "(42 U.S.C. 2000e–16)";

(C) in subsection (e)(1)(C), by striking out "of this title" and inserting in lieu thereof "of this section"; and

(D) in subsection (e)(1), by striking out "(29 U.S.C. 216(d))" and inserting in lieu thereof "(29 U.S.C. 216(b))".

(47) Section 8331 is amended—

(A) in paragraph (2), by striking out "and a Delegate to Congress,"; and

(B) in paragraph (19)(C), by striking out "and".

(48) Section 8332 is amended—

(A) in subsection (b)(6), by striking out ", United States Code"; and

(B) in the last sentence of subsection (b), by striking out ", United States Code, on or after the effective date of the National Guard Technicians Act of 1968" and inserting in lieu thereof "after December 31, 1968".

(49) Subsection (o) of section 8339 is redesignated as subsection (n).

(50) Section 8347(h) is amended by striking out "Commissioner" and inserting in lieu thereof "Mayor".

(51) Section 8701(a) is amended by striking out clauses (7) through (9) and inserting in lieu thereof the following:

"(7) an individual employed by a county committee established under section 590h (b) of title 16; and

"(8) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);".

(52) Section 8901(1) is amended by striking out clauses (F) through (H) and inserting in lieu thereof the following:

"(F) an individual employed by Gallaudet College; and

"(G) an individual employed by a county committee established under section 590h(b) of title 16;".

(53) Section 8906(b)(1) is amended to read as follows:

"(b)(1) Except as provided by paragraphs (2) and (3) of this subsection, the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter is adjusted to an amount equal to 60 percent of the average subscription charge determined under subsection (a) of this section. For an employee, the adjustment begins on the first day of the employee's first pay period of each year. For an annuitant, the adjustment begins on the first day of the first period of each year for which an annuity payment is made.".

(b) Except as otherwise expressly provided in subsection (a), the amendments made by subsection (a) shall take effect July 12, 1979, or the date of the enactment of this Act, whichever is earlier.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Trade Adjustment Assistance Act and to include extraneous material relating to that debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERSONAL EXPLANATION

Mr. RAHALL. Mr. Speaker, on rollcall No. 307, a motion to suspend the rules and pass the bill concerning the U.S. Postal Service dispute resolution procedures, I was necessarily detained in the Subcommittee on Mines and Mining. Had I been here I would have voted in the affirmative.

EMERGENCY BUILDING TEMPERATURE RESTRICTIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 96–162)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, wtihout objection, referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

To the Congress of the United States:

Pursuant to the authority vested in me by the Energy Policy and Conservation Act, I have found and proclaimed (copy of the Proclamation is enclosed) that a severe energy supply interruption currently exists with respect to the supply of imported crude oil and petroleum products and have implemented the authority vested in me to impose emergency building temperature restrictions as set forth in Standby Energy Conservation Contingency Plan No. 2.

The Plan will become effective as of July 16, 1979. A copy of the final Department of Energy regulations which more fully explain the manner for the exercise of the Plan is enclosed.

JIMMY CARTER.

THE WHITE HOUSE, *July 10, 1979.*

INDEPENDENCE DAY OBSERVANCE AT FORT PICKETT

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, last week—like most Members—I was in my home district. Also, like most Members, it was my privilege to attend Independence Day observances. In my case, the event was held on the fifth, since it did indeed rain on our ceremony.

The observance I attended on last Thursday was held at Fort Pickett, just outside Blackstone, Va., and while it may have been a "day late" it was by no means a "dollar short." It was one of the finest events of its kind I have ever seen.

Although this was Fort Pickett's first, you would have thought it was something they did once a week, from the apparent ease and professionalism with which it was executed.

The evening began with a demonstration of medical evacuation techniques followed by a spectacular display of skydiving by the XVIII Airborne Corps Special Forces School, Military Free-Fall Division. This preceded a 45-minute concert by the family of television's Roy Clark.

Perhaps the most spectacular portion of the program was the "Tatto of Flags" which told the story of the evolution of the American flag and the development of the Union.

The evening concluded with a 30-minute display of fireworks in the best Fourth of July tradition.

It was obvious to those who were there, Mr. Speaker, that a lot of thought and hard work went into this program, and a lot deserve recognition of their efforts: Lt. Col. Clement Nadeau, project officer for the celebration, who was assisted by Maj. Charles Winters; Capt. Stanley Farmer, protocol officer, and his able assistant, Millie Inge, who did what protocol officers traditionally do; Col. Steven Zellem, whose 800th MP Group out of Hempstead, N.Y., provided overall security and traffic management. The list would not be complete without mentioning Lillian P. Nelson, who has been on the Fort Pickett staff more than 20 years and whose efforts are apparent in virtually every aspect of post operation.

Of course, I have not named all the people who worked on this program, but the product spoke for them. It was—in a word I do not often use—excellent.

And, of course, I have not named the man who deserves primary credit. Had the evening not gone so well, he would have had to shoulder the blame, he therefore deserves the praise—Col. Maynard A. Austin.

Since Colonel Austin came to Fort Pickett over a year ago, there have been some impressive developments, but before I tell you about them, I want to tell you about the mission of that base.

Every year, between 30,000 and 35,000 men and women take their annual 2-week training period between May and August. When you add in the National Guard and Reserve component trainees, the number more than doubles, to 85,000.

The base was officially opened on July 4, 1943, and the 46,000 acres include tank and artillery training ranges described as the best east of the Mississippi.

Fort Pickett has been a good neighbor to the remainder of Nottoway County, as evidenced by the fact that in this county of 14,000 nearly half—6,500 turned out for the celebration.

And this is no surprise. It goes without saying that Fort Pickett provides jobs, and this is important to people in the area.

Equally important, Fort Pickett is maintained in such a way that the people are right proud to have it there. The grounds are well kept, the buildings in good repair, and the place bespeaks a staff that is proud of its surroundings.

This is not an accident. Sam Upson, the facility engineer, pursues a policy of preventive maintenance and programed housekeeping, so that there are no areas which slip by unattended.

Soon they will have completed renovation of a cold storage facility on the base which, in the eyes of one who admittedly is neither engineer nor architect, is an excellent renovation. It is being done with temporarily hired local people during the summer months, and will be completed at a cost about half what the Corps of Engineers estimated it would be. Next on the list of projects is renovation of the BOQ's, by the same method.

If every military installation enjoyed the same sense of community as is evident at Fort Pickett, this Nation would have no difficulty whatsoever attracting volunteers to serve. And if every town near a military installation were as hospitable, no service man or woman would ever want to leave.

Colonel Austin and all his staff—military and civilian—and the town of Blackstone and Nottoway County all have reason to be proud and grateful and honored.

FOOD SECURITY FUND ACT OF 1979

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, today I am introducing, along with my colleagues Mr. WAMPLER and Mr. FINDLEY, the Food Security Fund Act of 1979.

This bill was designed to insure that this country can meet its humanitarian obligations as efficiently and effectively as possible. It clearly is superior to grain reserve legislation pending in the House Agriculture Committee and the Foreign Affairs Committee.

Even before I attended the World Food Conference in Rome in 1974, I supported measures designed to help the world's hungry people.

If we are ever to solve the problem of world hunger, we must first understand its causes. A principal cause is ignorance; not just ignorance in the biological sciences, but in economics and human motivation. Governments in many underdeveloped nations throughout the world discourage saving and private property ownership. Many of these same governments keep food prices artificially low, discouraging investment in agricultural production. Some people believe that the United States is obligated to offset the poor policies of other nations' governments by holding a grain reserve to help them offset the food shortages their policies create.

I would respond with two observations. First, you will not encourage governments in developing nations to develop their agricultural resources if you assure them of a dependable supply of cheap or free grain.

Like our farmers, farmers overseas need returns on investments to encourage them to produce to meet their country's needs. Even when we help other nations develop agricultural resources, we also are building markets for our farmers.

The other observation I would like to make is that since 1972, we have heard repeated appeals for action to stabilize grain prices. We have heard that farmers cannot live with the "boom and bust" cycles that accompany supply fluctuations in a market where there is what economists call "inelastic demand."

To show good faith in negotiations for an international wheat agreement that would have stabilized wheat prices, the administration proposed an international wheat reserve. No other country involved in the negotiations deemed it necessary to show good faith. In fact, the negotiating countries agreed to establish a 30-million-ton reserve, but only in principle. They were deadlocked over how to allocate reserve holdings. They were deadlocked, because they knew that the United States would hold all of the reserves and pay the bill for doing it as long as no agreement was reached.

We want to fulfill our humanitarian obligations, but it is irresponsible, especially in times of burgeoning Federal deficits, to spend more than is necessary. For example, the Government will have to borrow the money to buy the grain for the reserve. We will pay interest for the money we borrow. We also will pay storage, handling and administrative expenses approaching $62 million a year for a 3-million-ton reserve.

My bill is an alternative to this costly and ill-advised plan. Instead of establishing a cumbersome and expensive reserve mechanism, we authorize the Government to spend up to $500 million to meet humanitarian obligations. We will not pay interest on the money we do not borrow, and we will not be paying expensive storage, handling, and administrative expenses.

When grain is needed, the Government will buy it and ship it where it is needed. And, the Government will buy it in the market and pay the going price. This will strengthen grain prices and encourage future production. I believe that a basic tenet of a just food aid program is that the cost be shared equally by all of this Nation's citizens. Unless reserve and food aid programs can be constructed in such a way as to not place a burden on this Nation's farmers, I will have difficulty supporting these programs.

By now, you probably have gathered that hunger issues are exceedingly complex. The simple answer may be the wrong answer, but that does not mean that we should not try to help our fellow men. Certainly one of the more effective ways to help each other is to stimulate agricultural development overseas. This, in turn, can help our farmers. As nations improve living standards, their people seek improved diets. In a number of nations, including the Soviet Union, dietary improvements led to policies promoting increased consumption of protein, mostly meat. In order to meet this demand for protein, the Soviets have increased their purchases of U.S. feed grains.

Along this same line, the livestock industry now has an excellent grain reserve. When grain prices are low, grain is channeled into the livestock sector where it is converted to easily absorbable forms of protein for human consumption. When grain supplies constrict, the market price for grain rises, making it less economical to feed grain to cattle. Grain is thus bid away from the livestock sector into the human sector. The increase in grain farmer income encourages increased grain production to replenish the world grain supply and the Government is not burdened with the headaches and costs of storing surplus grain.

Persons concerned about the high cost of grain during periods when the supply is constricted should contribute to the fund through their churches, their charitable organizations, or through the Government. In this way, grain could be made available to hungry people and the farmer would not assume the full burden of assuring supplies by maintaining reserves that holddown grain prices.

In closing, I would like to stress what I consider the most important element in understanding world hunger. The United States cannot dictate the domestic policies of other nations. We can and should try to influence those policies in constructive ways, but we should not blame ourselves when the people of other nations choose economic policies which lead toward the destruction of their domestic food production capabilities. Our policies must encourage agricultural development and production through positive incentives, with the burdens of meeting our humanitarian objectives spread equally among the citizens of this Nation.

VIETCONG BOAT PEOPLE GIVEN PRIORITY EMPLOYMENT OVER VIETNAM VETERANS

(Mr. SAWYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAWYER. Mr. Speaker, we not too long ago read that we have raised the quota for boat people to 14,000 per month. Also, I read last night in the Washington Star that now some 47 percent of the boat people are comprised of Vietnamese, as opposed to the earlier ethnic Chinese, and now a large percent of those are Vietcong who have been disowned in effect by North Vietnam.

Now bear in mind when we let these people in, we give them priority under the minority employment set asides under equal opportunity employment. It is kind of an anomalous position to put ourselves in, to be giving Vietcong advancement and promotion and contract priorities over our own Vietnam veterans.

Thank you, Mr. Speaker.

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SUPPLEMENTAL MEDICAL INSURANCE

(Mr. WALGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WALGREN. Mr. Speaker, an investigation by the Select Committee on Aging has found that companies selling "medigap" health insurance to the elderly have engaged in widespread deception and personal abuses to defraud the elderly. In an effort to protect our elderly citizens against these practices, I have joined my colleagues Mr. Pepper and Mr. Scheuer in sponsoring legislation (H.R. 2602) to establish voluntary certification for companies which sell this supplementary insurance.

Few have any way of realizing what medicare does and does not cover. No one can fully understand in advance what their situation might be because medicare covers no custodial nursing home care. Private policies may evade the issue, often limiting coverage to skilled nursing home care. Most of us simply ask, "Are we covered for nursing home care?" and are not aware of the difference between skilled care and custodial care.

Until we have truly complete health insurance coverage, the purchase of additional health insurance coverage will remain a complicated problem for the elderly. To avoid these pitfalls, the following shoppers guide, developed by the National Senior Citizens Law Center, is very helpful. Mr. Speaker, I ask that this guide be printed in the Record and recommend it to my colleagues:

Is Medicare Enough?—A Shoppers' Guide to Supplemental Medical Insurance

The number of persons purchasing health insurance to supplement Medicare has risen dramatically in the past few years. This has occurred because of rapidly increasing medical costs, which make current Medicare reimbursement tables obsolete, and because of basic flaws in the Medicare statutes which prevent most people from receiving adequate coverage. At present, the best way to fill in the gaps in Medicare's coverage is Medicaid, the state's medical assistance program.

For those who are not eligible for Medicaid, shopping for supplemental coverage through a private insurance company can be confusing and difficult. The following questions can serve as a check list when you compare insurance policies or talk with an insurance agent.

1. Does the policy pay the $160 deductible that you must meet before Medicare starts paying for the first 60 days of your hospital stay? (It is not usually a good idea to buy insurance that pays small deductibles like these, since you then bear the relatively high costs of administration.)

Yes — No —.

2. Does the policy help pay for other costs not covered by Medicare?

a. Private nurses

b. Long term custodial care in nursing home? A

c. Prescription drugs outside the hospital

d. Eyeglasses, hearing aids, dentures, etc.

e. Routine dental care

f. Regular checkups with your doctor

g. Others

Yes — No —.

3. Does the policy pay the $40 per day that Medicare does not cover if your hospital stay lasts from 61 to 90 days? B

Yes — No —.

4. Does the policy pay the $80 per day that Medicare does not cover if you have to stay in the hospital for more than 90 days and must use some of your "lifetime reserve" days? B

Yes — No —.

5. Does the policy help you with the rare instance in which you have been in the hospital 150 days, and can no longer receive any Medicare for your stay? B

Yes — No —.

6. Does the policy help you if you need more than the 190 days in a lifetime for which Medicare will cover psychiatric care?

Yes — No —.

7. Does the policy pay the $18 a day that Medicare does not cover if you stay in a skilled nursing facility for more than 20 days?

(Remember, statistics show the average nursing home stay to be only 20 days. In addition, Medicare denies coverage in almost all cases of longer stays as not "medically necessary." For these reasons, it is not usually helpful to buy insurance to pay the $18 per day skilled nursing facility copayment.)

Yes — No —.

8. Does the policy help you out if you have been in a skilled nursing facility for 100 days, and can no longer receive any Medicare for your stay?

(Long term custodial care can be the most costly expenditure in connection with a serious injury. However, Medicare doesn't cover it at all; it just covers stays in a skilled nursing facility. Very few private insurance policies cover custodial care either; in fact, they tend to be very vague on the entire subject of nursing home care.

Yes — No —.

9. Does the policy pay the $60 annual deductible for which you are responsible under Medicare Part B?

Yes — No —.

10. Does the policy pay the 20 percent of reasonable charges (medical and surgical bills, outpatient services, etc.) not covered by Medicare Part B?

Yes — No —.

11. Does the policy help you out if you need more than the $250 yearly maximum for psychiatric charges allowed under Medicare?

Yes — No —.

12. Does the policy cover charges or portions of charges that Medicare may not consider to be "reasonable and necessary"?

Yes — No —.

A Remember, you usually should not buy insurance to pay small deductibles.

B Statistics show the average hospital stay to be only five or six days. Medicare pays full or partial costs for stays of two months and so is usually sufficient hospital coverage.

A FEW MORE HINTS

Although they may use different terms, most policies end up excluding the same types of coverage as does Medicare. Be careful! "Medically necessary", "customary charge" and other terms in an insurance policy may mean that you are not purchasing coverage for the actual charges you incur or services you are provided.

If your income is too high for you to be automatically eligible for Medicaid, you still may be eligible if you pay a monthly liability, or share, of the cost. You pay the liability only during those months in which you require medical care. This can be more economical than a standard insurance premium, which you must pay each month even if you do not have expenses for that month.

Don't think that just because an insurance plan is famous, it is the best. Some of the lesser known policies offer better coverage than those that sound the most familiar.

Compare the amount of money you have paid or will pay in premiums with the maximum benefits you can receive. You may find that while you have paid several hundred dollars in premiums, the policy will only pay $100 toward that foot surgery you need.

Finally, look for a policy that effectively supplements Medicare Part B. This is the area in which you need the most assistance. Don't be taken in by policies which offer up to $50,000 or more in hospital protection. Remember, in most cases you would have to be hospitalized for "medically necessary" services for over 6 months in order to benefit from these fantastic offers, and such lengthly hospitalizations are quite rare.

CONGRESSMAN STRATTON URGES A MANHATTAN PROJECT FOR SYNTHETIC FUEL PRODUCTION, TO GIVE US INDEPENDENCE FROM THE OPEC OIL CARTEL

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, during the Fourth of July congressional recess I had the privilege of traveling to three European countries as part of a small congressional delegation headed by the majority leader, Mr. WRIGHT, of Texas. Our purpose was to survey the status of coal conversion technologies in Europe, so as to be able to expedite the implementation of the $3 billion synthetic fuel program which the House adopted 2 weeks ago by an overwhelming margin.

In the course of that trip we met with energy officials in the Federal Republic of Germany and Great Britain, and in each country we visited experimental facilities which are already turning coal, not only into oil but even into gasoline and kerosene.

When our group returned last Saturday to Washington the papers were full of reports that President Carter had secluded himself at Camp David and had invited there to meet with him a large number of distinguished citizens to advise him how best to deal with the current energy crisis.

Mr. Speaker, I was not fortunate enough to be included in that select group of invitees. But on the basis of what those of us in the Wright delegation saw and learned in Europe, I would make so bold as to suggest to this Congress and to the President of the United States, what I believe to be the best possible course of action; namely, the creation of a new Manhattan project to build synthetic fuel plants, turning coal into oil, on an all-out crash basis as the surest and most effective way of freeing the United States from the devastating and unpredictable hand of the OPEC oil cartel.

There is no time to lose in getting this program, which the House authorized just a couple of weeks ago, into operation on an allout basis. This is the real and only certain answer to the problems that President Carter is presently wrestling with at Camp David.

The experts who got us in this fix tell us we cannot possibly get any results from efforts to manufacture synthetic fuel from coal until 1985—and so what good is it going to do in relieving our gas lines today, they ask. Well, I believe if we really put our minds to it, we really recognize that the OPEC nations have already declared economic war against us, then the only sane, sensible thing is for us to fight back with all our might, and start fighting now.

On the basis of what our group saw in Europe, I am convinced we can get results from oil created synthetically from coal, not by 1985 but by 1981 if we go at it on a genuine crash basis.

When Franklin Roosevelt called for 50,000 planes a year in 1942 everybody thought he was crazy. But we pitched in on a common effort to keep America free and independent, and by the end of 1942 we had more than 50,000 planes in the air.

We can do the same thing with synthetic oil. The technology is already there—in England, in Germany, and in South Africa. They are already producing oil, gasoline, even kerosene, from coal. But the British are in no great rush to produce this stuff—since they already have plenty of North Sea oil so they are still refining their techniques—the Germans the same way.

But here in the United States we have an emergency. We do not need pilot plants. We need production plants and we ought to get started on building them on a three-shift basis. If we are willing to commit $20 or $40 or $100 billion to this project, then I believe we can put an end to our gas shortages by 1981, create chaos among the OPEC cartel price gougers, and by 1985 we can begin to breathe freely once again, spending our money for energy produced here at home, not sending those precious dollars abroad at the rate of $60 or $70 billion a year.

If President Carter comes down from his mountain top this week with this kind of suggestion, as I hope he will, we ought to give it our warmest support. Let us show the American people we can get real action out of this Congress in an emergency, just as we did with the Manhattan project, just as we did in putting a man on the moon. Once we in Government show we are truly committed, I believe the American people will pitch in and make whatever sacrifices are needed to reach that common goal.

All they need to know is where we are headed and why. That is the beauty of this program, which utilizes one of our greatest natural resources, coal, the one we have in abundance, far beyond any other country, in or out of OPEC.

Specifically, Mr. Speaker, our group met with Dr. Valker Hauff, the Minister of Research and Technology of the Federal Republic of Germany, and visited an experimental plant in Weseling, Germany, for producing synthetic oil from lignite (brown coal). The German plant was located alongside one constructed in 1937, which had served to produce synthetic aviation fuel that kept Hitler's Luftwaffe in operation throughout World War II, and was still being used on an experimental basis.

In England we met with Mr. Joseph Gibson, executive director of Britain's National Coal Board, and then made an onsite inspection of two separate pilot plants operated by the British Coal Research Establishment located in Cheltenham, in the west of England. Both produced synthetic oil and gasoline from coal but using two different processes, one, supercritical gas extraction, and the other, liquid solvent extraction.

Actually, both Germany and England plan the construction of pilot production plants for synthetic fuel by 1981, with limited commercial production coming between 1985 and 1990—a far more leisurely schedule than we here in America can tolerate. But the English authorities conceded that the coal into oil technology is definitely in hand, and in fact is in actual use in South Africa, where prior oil shipments from Iran have now been totally cut off. So there is no reason why, to meet our more urgent requirements, we could not proceed to build much larger production plants right away, utilizing the same technology. It might prove somewhat more costly than proceeding at a more leisurely pace, and we might slip a bit in terms of incorporating new improvements because of our haste. But these are always the risks of doing something, rather than just thinking about doing something; and we demonstrated in World War II our ability to adapt new technology effectively to production, even on a crash basis.

Also required in such a program, it is clear, will be much greater production of coal, as well as greater utilization of open-faced mining of coal. Both the Germans and the British have had considerably more experience in these open-face mining techniques, as well as in the steps needed to restore mined areas back to their natural contours. In both cases we can readily acquire these skills from both countries.

So, Mr. Speaker, I believe we in the House have already launched the most promising solution to our energy crisis. It is up to us now, to the Senate, to the President, and to the American people to see that this bold initiative is followed through with the same zeal and dedication that this country has applied in other equally serious crises in the past.

□ 1900

GENERAL LEAVE

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

NO HEARINGS ON ROLLBACK FOR DEADLINE FOR STATE IMPLEMENTATION PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. WATKINS) is recognized for 60 minutes.

Mr. WATKINS. Mr. Speaker, I rise tonight with an extreme sense of frustration and foreboding. My frustration stems from the fact that my bill, H.R. 1150, was introduced January 18 and referred to the Subcommittee on Health and Environment, yet no hearings have been scheduled on the bill.

My foreboding stems from the fact that as of July 1, any State which has not received approval from the Environmental Protection Agency for its State implementation plan, as provided for in the Clean Air Act Amendments of 1977, faces severe Federal sanctions. Mr. Speaker, that deadline passed a week ago, but not one State has received final approval for its SIP.

Now, I have offered a simple legislative remedy, H.R. 1150, which would merely roll back the deadline for SIP approval to July 1, 1980. That is all. It does not tamper with the provision of the Clean Air Act amendments. But I cannot get a hearing for my bill.

Perhaps my colleague from California who chairs the Health and Environment Subcommittee is not aware of what is at stake here. Certainly, EPA has done its best to obscure the fact that the economic future of our States hangs in the balance, if the July deadline is not extended.

The 1977 amendments provide for three types of sanctions to be imposed if a State's SIP is not approved by July 1. First, the EPA Administrator, at his descretion, can cut off Federal funding of sewage treatment facilities. Second, if a State has not made a "good faith effort"—whatever that means—to submit an approvable SIP, most Federal highway funds can be cut off. Finally, and most importantly, the law states that no construction permits shall be issued for projects in nonattainment areas if an SIP has not been approved for that area by July 1.

Think about what the impact would be on your congressional district if every major construction project had to be deferred, if Federal highway funds were cutoff, if sewage treatment facilities grants were stopped.

Most of us are quite worried about an economic recession this fall. Think of how an economic slowdown could be turned into a disaster if construction projects were halted. I call my colleagues' attention to this week's U.S. News & World Report, which states in part:

> Corporate executives are deep in projects that call for the spending of billions of dollars on new plants, equipment and long-overdue improvements. Their plans come at a time when consumers are cutting back on purchases and President Carter acknowledges that a recession is "much more likely" as a result of the latest oil-price increases by the Organization of Petroleum Exporting Countries. . . . Nevertheless, companies are mapping such optimistic programs that many economists believe the outlays can help keep a recession relatively short and mild.

In other words, the construction starts planned for this fall and winter could be our only hope for preventing a full-scale recession. But now we are faced with the possibility of a ban on construction permits for virtually every market in the Nation.

Now, many folks at EPA say I am overreacting. They say that they are going to avoid invoking sanctions at all costs—and that is good. They plan to go ahead and approve construction permits submitted before July 1—but the law does not say anything about gearing the approval to when the application is submitted. They plan to grant conditional approval to construction permits, but the law does not provide for conditional permits. And they plan to conditionally approve SIP's—but the law does not make any provision for that either.

Here is what concerns me. EPA has bent the law so far, that it may break. What is to prevent some local environmental group from filing a lawsuit and getting an injunction to force EPA to invoke the sanctions? I do not need to remind my colleagues that EPA does not have the best track record in Federal court. Even EPA Administrator Douglas Costle himself admitted, in testimony before a Senate subcommittee earlier this year, and I quote: "Every rule we issue is litigated." I submit to Mr. Costle, that the Agency's rules in carrying out the enforcement provisions of the Clean Air Act amendments will not be an exception. I am positive that somewhere, some time, a suit will be filed, and anyone who believes otherwise has his head in the sand.

Let me ask at this point, who loses if an injunction is obtained forcing the sanctions? Certainly not EPA. It is the States who would lose in that case. It is the municipalities and industries in your congressional district that stand to lose.

Who is EPA to play so fast and loose with the economic future of our country? EPA, with all its assurances that there is no problem, that it can ignore the law, is simply whistling past the graveyard.

So, it is imperative that we take whatever action necessary to prevent sanctions from being imposed—whether they are imposed by EPA or by a Federal court. And that is exactly what H.R. 1150 does. The sanctions are tied to the July 1, 1979, deadline. Extend the deadline and you are guaranteed that the sanctions will not be invoked.

But we cannot pass this bill until it comes out of committee. This afternoon my office contacted the Health and Environment Subcommittee and learned that there are no plans to hold hearings on the bill. Therefore, Mr. Speaker, we are forced to take extraordinary measures. I am notifying the House that I will be circulating a discharge petition to bypass the Health and Environment Subcommittee stranglehold. Furthermore, I will begin working with the cosponsors and my colleagues in the Senate who have sponsored similar legislation to hold unofficial, ad hoc hearings on this legislation. The problems must be addressed. We cannot afford to continue to ignore them.

☐ 1910

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, I commend the distinguished gentleman from Oklahoma (Mr. WATKINS) for his initiative in this matter, and I am most pleased to be a cosponsor of this proposed legislation, H.R. 1150, to extend for 1 year the time by which States must submit their implementation plans for pollution reduction under the Clean Air Act of 1970.

I understand that only 20 States have so far submitted complete implementation plans, and that none of the plans has been approved by the Environmental Protection Agency. But under the laws, the EPA has the legal authority, as of July 1, to force the withholding of Federal grants for highways, sewerages, and local pollution control agencies, as well as to ban the construction of new industrial facilities in those States without EPA-approved plans.

This situation is possible even though a main cause for delays in the submission and approval of these State plans is the EPA itself. Because the Agency has constantly revised its regulations on acceptable pollutant levels—most recently the ozone standard on January 26, 1979—the States have understandably been forced repeatedly to revise the ways they propose to comply. In addition, the bureaucrats at the EPA take at least 4 months to process and judge these revised plans after they are submitted.

The consequence of this bureaucratic tangle is that State agencies and vital construction projects now live under a new sword of Damocles, one that may fall at the will of any EPA bureaucrat or environmental pressure group.

This is in spite of the fact that, according to the EPA's own statements, 82 percent of the Nation's major industrial facilities were in compliance or on an approved compliance schedule with EPA pollution standards as of 1976. It is in spite of the fact that American industry plans to spend about $11 billion this year alone on pollution control.

Yet it appears that even these herculean efforts on the part of American business cannot satisfy the environmental extremists. Already desperately needed oil pipelines, refineries, and nuclear reactors have been blocked by the no-growth advocates. Now, with the worsened energy situation a fact and an economic recession a distinct possibility, our States and local communities cannot afford further costly delays in job-intensive construction projects.

Economic commonsense and simple

fairness support the 1-year extension contained in H.R. 1150. The intent of the Clean Air Act was to purify the air, not to assault private industry or penalize States that are making good faith efforts to clean up the environment.

For once, let us take positive action before this bureaucratic confrontation causes an unnecessary crisis.

Mr. WATKINS. Mr. Speaker, I thank my friend from Arizona.

Mr. GUDGER. Mr. Speaker, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from North Carolina.

Mr. GUDGER. Mr. Speaker, I associate myself with the remarks of the gentleman from Oklahoma. I support his concern about hearings on House Resolution 1150. While only six States and the District of Columbia had submitted revised implementation plans by the deadline last January 1, the Environmental Protection Agency (EPA) was still trying to come to a final decision on its photochemical oxidant standard. By June, some 20 States had submitted revised plans, including my own State of North Carolina. I agree with my colleague from Oklahoma, who has termed EPA's indecision on a standard as placing on the States the impossible burden of "shooting at a moving target,"—with some States revising their plans according to the old standard and others according to the new. All of us who have ever done any hunting know the increased challenge of trying to hit a moving target. Delaying for 1 year the date required for adoption and submission of State implementation plans would give this moving target time to become stationary. It would also provide the States with realistic plans, and—most of all—it would avert any cutoff of Federal funds for sewage construction, industrial expansion, and highway programs at a time when such cutoffs could be economically devastating. Clearly the States need more time. Obviously, EPA does.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Speaker, I want to commend my distinguished colleague from Oklahoma for his leadership in trying to alleviate the confusion that now exists because the deadline for EPA approval of the State implementation plans passed without the full approval of the SIP for a single State. I urge bipartisan support for H.R. 1150 in order to allow more time for the EPA and the States to work together to meet, as best they can, the requirements of the Clean Air Act.

As you know, industrial operations contribute a share of the air pollution load of the Nation. While I feel that most industries have conscientiously tried to plan and invest in their facilities to bring them into compliance with the State plans, the circumstances they face from the uncertainties of the EPA requirements has made such planning very difficult. Let me briefly illustrate this point with a review of the "New Source Performance Standard" problem.

In order to attain good quality air in nonattainment regions, the States in their SIP revisions are required to demand that existing facilities employ reasonably available control technology on existing sources. On new, modified or reconstructed sources the SIP revisions require use, at a minimum, of best available control technology such as is defined in the new source performance standards, of which there are not too many, or to use what is known as lowest achievable emission rate which the Clean Air Act of 1977 defines as being that rate of emissions which reflects "the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source unless the owner or operator of the proposed source demonstrates that such limitations are not achievable or the most stringent emission limitation which is achieved in practice by such class or category of source whichever is more stringent."

As I see it, the controls that must be contained in an SIP revision now are classified as "reasonably available control technology," best available control technology, or lowest achievable emission rate, none of which have been adequately defined or have been defined for sufficiently broad number of emission source categories to give the States the guidance and direction they need to do a first-class job of developing emission control regulations for inclusion in their SIP revisions.

A case in point here pertains to the so-called marine vapor control requirement, which would apply to marine barges and ships which load or unload cargoes of crude oil or finished petroleum or petrochemical products. The EPA has been trying unsuccessfully to get States to adopt such regulations in their SIP's ever since 1973. But control technology has not yet developed to a point where it has been demonstrated to be commercially practicable. There is some indication that in connection with some permanent applications, companies have been forced into agreeing to employ such controls. If they are so employed, they automatically become lowest achievable emission rate and hence set the stage for similar controls to be employed throughout the Nation.

Clearly more time is needed, not only by the EPA but by the States and by industry to do a better job of their SIP revisions. Part of this better job involves cost effective controls that will not disrupt the social fabric or the economy of either a local geographical region, such as an air quality control region or a State, or a portion of the Nation, or the entire Nation.

Mr. Speaker, I urge my fellow Members to support H.R. 1150 in order to allow more time for EPA to get its house in order on new source performance standards and other critical requirements of the Clean Air Act.

Mr. WATKINS. I thank the gentleman from Louisiana for his remarks.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I want to commend the gentleman from Oklahoma for bringing this matter to the floor, and for his leadership on this very important issue.

Mr. Speaker, the Clean Air Act Amendments of 1977 required each State to submit to the Environmental Protection Agency, a revised State implementation plan by June 30, 1979, or face the distinct possibility of seeing the disappearance of Federal funds for highway programs, sewage construction, and a virtual halt to industrial expansion.

Congress, although well intentioned, once again imposed by legislative fiat, an impossible-to-meet deadline, made even more impossible by ever-changing EPA regulations.

Summing up the difficulties faced by the States in meeting the deadline, is the comment made this afternoon by Mr. Frank Beal, director of the Illinois Institute of Natural Resources:

> This follows a federal pattern, but Congress must take some of the blame for debating the issue and then imposing requirements that are unrealistic with regard to the deadline in the law, followed by regulations issued by agencies which never meet their own deadlines.

The States were given until January 1, 1979 to submit their plan; EPA had until June 30, 1979 to approve the plan. As of January 1, only six States and the District of Columbia were able to comply. Part of the problem, to quote the distinguished gentleman from Oklahoma (Mr. WATKINS) was that they were "shooting at a moving target." The rules of the game have been changed constantly by EPA. A company spends millions of dollars complying with an EPA regulation, and along comes EPA with a new set of rules; the company must spend more millions and the consumer ultimately pays the price.

Illinois has tried to meet the deadline; they have submitted a draft State implementation plan, but technically, are in violation of the law. Many other States are faced with the same difficulty, with preliminary plans submitted to regional EPA offices, awaiting either State or regional approval, submission of environmental impact statements, hearings, and so forth, prior to forwarding of the SIP on to Washington.

In the meantime, because of the deadline which has now passed, no new construction permits for industry can be granted by those States which do not have approved SIP's. Only those permits issued before June 30 are valid. Since it takes about 3 months for permits to be processed, we will not notice the effect for a while. Three months from now, inflation should be roaring along at an increasing rate, with the distinct possibility of a recession. Business will be slowing down, laying people off, and creating higher unemployment, when instead it should be expanding. Just imagine what a halt to industrial construction in all but six States can mean!

We have the opportunity to act now, instead of react later. The gentleman from Oklahoma has worked diligently to line up cosponsors of his legislation to extend the deadline for 1 full year—an amendment to give the States sufficient time to complete the development of their plans. If EPA does not change its rules again, 1 year should be all that is necessary in order for States to comply with the Clean Air Act.

As a cosponsor of H.R. 1150, I strongly urge the chairman of the Subcommittee on Health and the Environment to immediately schedule hearings so that we may have serious consideration of a measure that now has 125 cosponsors.

If we do not act now, we will join OPEC in further assaulting our economy. I hope the commonsense of Mr. WATKIN'S amendment will prevail, and I commend the gentleman from Oklahoma for his foresight and dedication to solving the problem.

Mr. FLIPPO. Mr. Speaker, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Alabama.

Mr. FLIPPO. Mr. Speaker, our national commitment to clean up our environment will be tested many times in the future. We will be called on to make decisions which balance the pressures of a strong national economy and scarce energy resources with the objectives of a clean environment for us and the generations of the future. These decisions will be crucial because they will determine the quality of life for us and our children.

Legislation which has been passed clearly shows the intention and commitment of Congress to clean up the environment including the air. It is these laws which set up the machinery to implement the rules and regulations which will assist us in reaching the goal of a clean environment.

It is our responsibility to make sure these laws are working, that the regulatory machinery is operating properly and efficiently to move this Nation toward the goals set out in the law. When the regulatory machinery is not functioning smoothly it is our duty to make appropriate changes in the law to make it responsive to changing needs. It is necessary at this time for us to take a close look at the plans for cleaning up air pollution.

The way the Environmental Protection Agency (EPA) is proceeding at this time threatens a period of confusion and confrontation. The problems which may ensue would be detrimental to achieving the objective of clean air through the implementing of State plans as well as damaging the economy and creating problems for industry and State governments throughout the Nation.

The deadline for the approval of revised State implementation plans (SIP's) under the mandates of Clean Air Act Amendments of 1977 was July 1. However, not one State plan had received approval by that date. In fact many States have not yet filed a plan or have not yet filed all the required portions. The consequences for every State the EPA determines not to be in compliance are serious indeed. The States without approved plans face a ban on construction permits, a cutoff of most Federal highway funds and a cutoff of wastewater treatment facility grants.

The stakes are high, but the House has not taken a look at the root causes of this massive noncompliance. There is evidence that the States were frustrated at every turn in their efforts to comply with a deadline of January 1, 1979 to submit their plans; in fact, only 7 of the 51 required plans were submitted by that date. Not only were the States frustrated by a lack of reliable technical assistance from the EPA that should have been available, but also the States found that many standards were changed some occurring even after the January 1 deadline. The States are caught up in an impossible bureaucratic nightmare in which the rules are being made up as the process continues. Delays and guesswork seem to be the rule rather than the orderly series of steps needed to reduce air pollution to acceptable levels by 1982.

The new rules of the game by EPA look at "substantial" compliance and a "flexible" approach to sanctions. This patchwork approach is an admirable stopgap measure by the agency to buy more time. However it is simple to see that "conditional approvals" are different from approval of the State implementation plans.

EPA is to be commended for their flexibility in making case-by-case determinations of State plans and giving conditional approvals to those States who require additional time to remedy their deficiencies. However, the circumstances make it clear that the House of Representatives should take a look at the timetable and assure that the process will not be disrupted by unrealistic and unenforceable deadlines.

The House should examine both the good faith efforts of the States and the EPA to see that the timetable is achieved in the most expeditious manner. If we do not act the threat remains that we could enter a period of litigation which would frustrate industry, harass the States, and endanger provisions of the Clean Air Act. There are those who seem to welcome such an eventuality for their own narrow gains, but I would like to point out that lawsuits and disruptions of this nature would adversely affect not only the economy of our country but our ability to achieve the clean-up of the air as well.

We must examine H.R. 1150 in order to assure that the best decision of the Congress is made on the enforcement of the law and the setting of proper deadlines to be met by the States. We cannot afford to permit a limbo period during which time States face a loss of funds and other sanctions which resulted from a deadline which was ill conceived or improperly imposed.

The problems faced currently by the States were explained eloquently in the case of my own State of Alabama by James W. Cooper, director of the Division of Air Pollution Control of the Alabama Air Pollution Control Commission. He endorsed H.R. 1150 in a letter which stated:

> It is my opinion that a legislative extension of the deadline for revising SIPs is appropriate. The most likely result of EPA's failure to approve plans by July 1, 1979 would be a prohibition of construction of new sources for the several months required to take final action. Such an occurrence is not unlikely, since EPA's development of the Prevention of Significant Deterioration Regulations resulted in a period from March 1, 1978 to June 19, 1978 where no source could legally commence construction. That previous moratorium on construction would have been easier to avoid than the impending one.
>
> It is a virtual certainty that under the existing deadlines few states will have approved plans by July 1, 1979. The existing Act provides EPA six months to review and act on SIP revisions. Experience has shown that this is none too generous. Attached is a Federal Register entry of October 23, 1978, which supports this contention.
>
> This Federal Register entry identifies EPA's intention to approve revisions to Alabama's SIP regarding coke ovens. The notice indicates that the revised regulations were submitted to EPA on July 14, 1978. Over three months were required after the date of submittal for EPA to propose approval of these regulations. Final action has not yet been taken. These regulations are the most significant part of the strategy necessary to attain the standard. This revision dealt with only one type of source. The additional revisions under development deal with a multitude of source types.
>
> Few states have, as yet, submitted complete revisions to the SIP necessary to avoid the sanctions. The primary reason for this delay has been EPA's belated development of regulations which provide the basis for revising the SIPs. The most outstanding example is the revision to the ozone standard on January 26, 1979.
>
> It is my opinion that in addition to extending the deadlines for SIP revisions, that EPA should be required to act on SIP submittals within a reasonable time. A statutory requirement that EPA take final action within 120 days of formal submittal of the SIP would be consistent with the time frame they presently identify as being necessary to process SIPs. Such a provision would require expeditious action by EPA while providing states with a way of preventing sanctions from being imposed through failure of EPA to act on the SIP.

The example we see here in the case of Alabama makes a strong case for a careful review by the House of these deadlines. There are many others which could be cited but my point is that we cannot afford to allow the disruption of the commerce of our Nation or of the attainment of clean air standards in a reasonable way in accordance with carefully considered legislation. H.R. 1150 provides us the opportunity to fine tune existing law and avoid bureaucratic wrangling and considerable confusion in States across the Nation.

☐ 1920

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman from Oklahoma for yielding. I want to commend him for getting this special order and join him in hoping that his bill is moved expeditiously. I will certainly join him in the effort to see, if we have to go the discharge-petition route, that it is successful. The gentleman being from Oklahoma is very well aware that in my district our chances for economic growth and prosperity in the future have been somewhat hindered by EPA. I share his concern and commend him for what he is doing today.

Mr. WATKINS. I thank my colleague, the gentleman from Oklahoma.

Mr. HANCE. Mr. Speaker, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Texas.

Mr. HANCE. I thank the gentleman for yielding. First of all, I would like to congratulate the gentleman for an outstanding job in fighting a big problem that faces all of the Environmental Protection Agency.

Mr. Speaker, as you know, many States have run headon into a brick wall because of a tight time schedule imposed by the Clean Air Act Amendment of 1977. States were to have had their implementing plans for the act approved as of June 30 and the majority have not done so. However, we cannot point the finger of blame at the States for their missing the deadline, which may mean a cutoff of construction on many needed projects. A big part of the blame must go to the Environmental Protection Agency.

First of all, the Clean Air Act Amendments of 1977 is another perfect example of the noose of bureaucracy which is threatening to tighten and choke off the business atmosphere in America. If we do not act on this bungled mess we will see a complete stop to important construction projects across the country by this fall. The States have to be given a reasonable deadline which they can meet. In addition, the EPA must meet its own deadlines and not expect the States to be shooting at constantly moving targets the EPA throws up at them. The background of this case is outrageous and is something I will not bore the Members with at this time. But we must act on this without delay to free the States so that they can move ahead with these construction plans without further delay. The delays already brought about by this incredible problem have cost taxpayers millions of dollars. Let us open the country back up to the free enterprise system without excessive Government control or regulation to provide our people with the best products at the least possible cost.

Mr. WATKINS. I thank the gentleman from Texas.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague's yielding. I also appreciate his taking the time today to call to the attention of the House this deadline. It is now past. It is an unreasonable deadline primarily caused by the Environmental Protection Agency but also by Congress. I think it is correct that the gentleman has asked the House to prevail upon the Committee on Interstate and Foreign Commerce to at least have hearings to follow through on this unwarranted deadline. I know that I find it difficult to believe that at least one of my colleagues from California, the chairman of the subcommittee, will not have hearings. I compliment my colleague, the gentleman from Oklahoma, for bringing to the attention of the whole House the necessity of moving on H.R. 1150.

Mr. WATKINS. I thank the gentleman from California.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this effort by our colleague, the gentleman from Oklahoma.

Mr. Speaker, the Clean Air Act Amendments of 1977 require each State to submit a revised State implementation plan (SIP) to the Environmental Protection Agency by January 1, 1979. Only six States met that deadline. EPA had until June 30, 1979, to approve the revised SIP's. Only 20 States have submitted complete SIP's to the EPA. None have been approved.

With these deadlines now behind us, our States are facing the very real possibility of extreme sanctions being imposed by EPA, such as the withholding of Federal funds for highways and waste treatment facilities. The economic consequences are frightening.

To further complicate the deadline issue, EPA did not firmly establish the photochemical oxidant standard to be attained until after the date for submission of the plans by the States had expired. In trying to devise a workable implementation plan for pollution control of industry, some States were using the original 0.08 standard while others were using the more recently proposed 0.10 standard. It was only after the deadline had expired—on January 26, 1979 that EPA promulgated their new standard—0.12.

Clearly, more time is needed by the States to develop workable and more thorough SIP's and by the EPA to more carefully evaluate and approve or disapprove the plans. H.R. 1150 as a technical amendment to the Clean Air Act would provide us with the time needed.

The legislation introduced by my colleague from Oklahoma, WES WATKINS, would extend by 1 year the January 1, 1979, deadline for submission of State implementation plans to EPA and the June 30, 1979, deadline for approval of the plans by that Agency. Prompt consideration and enactment of H.R. 1150 is essential to the economic future of our States. It would provide time for adequate testing of recovery equipment, for example, and would insure that capital investments for installation of such equipment would not be in vain.

Our States are facing very severe problems unless we face up to this issue here and now. I join with over 100 of my colleagues who also cosponsored H.R. 1150 in urging in the strongest terms the earliest possible consideration of H.R. 1150 by the committee and prompt enactment by this body.

Mr. WATKINS. I thank the gentleman from Georgia.

Mr. SHELBY. Mr. Speaker, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Alabama.

Mr. SHELBY. I thank the gentleman for yielding.

Mr. Speaker, I want to join with the gentleman from Oklahoma (Mr. WATKINS). I think he is doing something that he should be commended for.

Mr. Speaker, the Clean Air Act Amendments of 1977 set maximum levels for six pollutants and required that States submit to EPA their revised plans for obtaining those "national ambient air quality standards" in those areas of the State that were "notattainment" areas. Every State but North Dakota has at least one nonattainment area. These plans are the State implementation plans, or SIP's, and were due to be submitted to EPA by January 1, 1979. Plans were to be approved by EPA by July 1, 1979, with sanctions for those States without an approved SIP by that deadline. Sanctions were, first, a freeze on the approval of construction permit applications by potential polluters and second, EPA discretion to withhold grants for highway construction and sewage treatment.

As of July 1, no State had an approved SIP, although 36 had submitted complete or partial SIP's. EPA has been saying until recently that it will have approved most SIP's by July 1, but none were. It is now saying most States will have SIP's approved by late fall. Few States met the January 1 deadline for submitting SIP's. The main reason was not recalcitrance on the part of the States, but rather changing EPA standards. Example: In January 1978, EPA proposed a new standard for ozone. The new standard was finally issued on January 18, 1979—18 days after States were to submit SIP's that included plans for attaining the ozone standard—and it was different from the one already in effect and different from the one proposed.

EPA is being most lenient in its plans to enforce the sanctions, actually bending the law for those States not in compliance who are showing a "good faith effort" to have an approvable plan submitted. It is feared that environmental groups will challenge EPA's leniency. EPA is being lenient because it does not want to force confrontations that would cause Congress to revamp the whole Clean Air Act.

As it stands now, we can expect to start seeing the results of the industrial expansion freeze around October or November, for that is about the lead time before actual construction would begin for which permits would be sought after July 1. This should coincide with our drift into recession and could deepen and lengthen that phenomenon. Also, badly needed refining capacity expansion could be delayed due to the construction permit freeze. Alabama approved three permits for expansion of refining facilities in Mobile County between January 1 and June 30. If those permit applications had not been received before July 1, that expansion would have been delayed indefinitely. How many States might be facing similar situations?

EPA action and inaction has aggravated the current problem with SIP's as well as industry's attempts to comply with the provisions of the Clean Air Act. The former is a transitory problem. The latter is far more all-encompassing and critical to the productivity and stability of the industrial sector and thus our whole economy.

Examples of EPA-invoked complications:

First. Alabama submitted to EPA in November, 1978, a draft of its proposed SIP. A formal hearing was held to receive comments, and comments were received from those present, including EPA officials. All comments were addressed and incorporated into the final version of the SIP of February. The Alabama Air Pollution Control Commission formally voted on the plan and submitted it to EPA in April, fully confident that it would be accepted, since all of EPA's comments had been addressed.

In mid-June, Alabama received notice that an entirely different group of people at EPA had decided to review the plan and had come up with an entirely new set of comments, any of which could have been made during the earlier comment period. Alabama has now been notified that more comments will be received in mid-July—on the same plan that EPA has had before it since November and has already commented on twice. When will it end? When will Alabama have an approved plan? EPA says most State SIP's will be approved by late fall. Alabama's plan is not that complex compared to the attainment problems in many other States, but if EPA takes the same approach with other SIP's that it has with Alabama's, there is no way that most will be approved by late fall, and EPA's estimate can only be seen as a postponement, an attempt to divert the increasing anger and frustration of the State agencies responsible for making these plans and of affected industries that are hesitant to plan for expansion until they know for sure what the final standards and plan for their State will be. EPA's credibility at estimating is surely nil at this point, and it is doubtful—to me—that even half the plans in the Nation will be approved by late November.

Second. Section 123 of the Clean Air Act mandated EPA to promulgate regulations defining good engineering practice (GEP) stack height by February 8, 1978. Such a definition was finally proposed by EPA on January 12, 1979. All decisions requiring modeling will be constrained by the definition of GEP that EPA finally promulgates. Failure of EPA to act within the time frame mandated by law will now require a reassessment of each new source permit issued and a reevaluation of the adequacy of the January 1 SIP revision subsequent to the final promulgation of these regulations. EPA encouraged States to include stack heights in their SIP's based on criteria which are subject to change, in plans that are due now.

Third. Alabama submitted revised regulations to EPA regarding particulate emissions of coke ovens on July 14, 1978. Although the regional director of EPA had looked over these proposed regulations and had written a letter to Alabama indicating that such regulation, if submitted, would be approved, not until October 23, 1978—over 3 months after submission—did EPA propose approval of the regulations in the Federal Register and final approval of the regulations was not granted until March 1979. This was a simple set of regulations affecting one source, yet it took EPA 8 months to issue final approval for this plan that it had indicated an intention to approve at the outset.

In a related development, the United States Steel Corp. and Republic Steel filed suit against EPA concerning the particulate standard for Jefferson County, and on May 3, 1979, the Fifth Circuit Court of Appeals found that EPA had not followed the proper procedure in designating Jefferson County as a nonattainment area for particulate.

Fourth. The change in the ozone standard mentioned above is another example. The earlier standard had provided the basis for many SIP revisions, and this change necessitated additional analysis and plan revisions resulting in further 11th hour delays.

With the unpredictability of this whole process, it is surprising that industry in this Nation has planned and executed expansion at all. What incentive is there for an industry to invest millions in an upgrading or expansion of facilities when a large part of that investment is in pollution control and abatement equipment which changing EPA regulations may subsequently render unnecessary? Our current regulatory stranglehold on industry is crippling industry's ability to compete in the marketplace with foreign goods. Increased dependence on imports in this country has resulted in part from domestic price increases and lowered productivity that are the consequence of compliance with EPA regulations.

There is a point of diminishing return in our pursuit of environmental purity, and it seems we have reached it when we freeze industrial expansion due to the vagaries of the regulatory agency. To allow these deadlines to remain could cause severe disruption to business expansion plans that are critical to the continued economic vitality of our Nation.

This bill is not related to the stringency of environmental requirements, but it should provide time for the fluctuating EPA criteria for approval of SIP's to stabilize. Only then can States rationally develop plans.

Congressman WATKINS' efforts for a hearing on his bill should be supported as the proper means for facts to be brought to the attention of the Congress and remedial legislation considered as warranted. A hearing on this bill would give an opportunity to update the status and impact of this situation.

Mr. WATKINS. I appreciate the gentleman from Alabama, who serves on the subcommittee with distinction, for making those remarks. I do not think we are asking too much just to have these particular hearings.

● Mr. GRASSLEY. Mr. Speaker, I would like to commend the gentleman from Oklahoma for introducing this greatly needed legislation extending the deadline for EPA approval of State implementation plans (SIP's) required under the 1977 amendments to the Clean Air Act. I dislike in principle this sort of rescue operation. Congress should not pass legislation which cannot be implemented on time if laws are to have binding effect. Either Congress miscalculated the time needed by EPA to have the regulations in place or EPA did not respond diligently in promulgating these regulations. In any event, I regret the need for this sort of duplicative legislative effort. I would prefer to do it right the first time.

Delaying the SIP deadline by 1 year will protect rural communities and EPA. States could not meet the Clean Air Act Amendment's deadline for submission of State implementation plans because EPA's regulations were not issued until March. Thirty-five States have now submitted SIP's, most of them received by EPA in the last 6 weeks.

Unless an approved SIP is in place, EPA may deny permits for construction of major sources of pollution, sewer systems and highways after July 1, 1979. In a June 26, 1979 release, EPA stated that all construction permits will be processed. Although EPA will process these permits, they will not be issued until a SIP is approved. An extension of the July 1 deadline will prevent any delay in the issuance of these permits and avoid any capricious action by any individual in EPA.

Also, this extension will protect localities and EPA from lawsuits by environmental groups. Environmentalists could sue to stop construction of projects whose permits were issued after July 1 if EPA issued a permit without a SIP in place. Litigation of this nature could jeopardize all local construction and the implementation of the 1977 amendments to the Clean Air Act for years.

Mr. Speaker, I request my colleagues support of this measure. H.R. 1150 will benefit local industry, small communities, large urban centers and EPA. I commend this bill to my colleagues for passage.●

● Mr. WAXMAN. Mr. Speaker, I share the concern of the gentleman from Oklahoma (Mr. WATKINS), and others participating in this special order, about the potential sanctions that may be imposed because of the failure of States to develop implementation plans under the Clean Air Act. The potential for application of Federal funding sanctions and construction prohibitions as a result of the failure of States to meet deadlines in the Clean Air Act must be quickly and thoroughly examined, particularly to see how EPA is handling the compliance with the July 1, 1979, deadline, which has just passed.

As I indicated to the gentleman from Oklahoma in an exchange of letters in

May of this year, I intend to hold oversight hearings this month to review the State implementation plan process. During those oversight hearings, the subcommittee will thoroughly examine the manner in which States have attempted to comply with the statutory requirements and to evaluate how well the Environmental Protection Agency has fulfilled the mandate given it by Congress.

The States and EPA appear to be moving ahead to finalize this important phase of our national air pollution program. The Environmental Protection Agency claims that the majority of the States have submitted plans to EPA for cleaning up air pollution by 1982 or 1987. During oversight hearings at the end of July, we will thoroughly examine these claims. I expect that we will receive testimony from a number of concerned parties, including EPA, representatives from State governments, affected industries, and environmental groups.

These hearings will be designed to provide the subcommittee and the Congress with a thorough and factual basis on which to determine whether any additional legislation, such as that authored by the gentleman from Oklahoma, will be necessary this year. If the facts indicate that dire economic consequences will result from implementation of the act, then the subcommittee will certainly want to deal with the matter in a responsible fashion.●

● Mr. WINN. Mr. Speaker, as a cosponsor of H.R. 1150, I am urging the support of this legislation which amends the Clean Air Act Amendments of 1977, extending for 1 year the July 1, 1979, State implementation plan (SIP) deadline for air quality.

The current act requires a ban on new construction permits if a State's SIP has not been approved by July 1, 1979. A cutoff of Federal highway funds will occur if a State cannot show that it is making a "good faith" effort to submit its SIP. A cutoff of wastewater treatment facility funding would be invoked at the discretion of the EPA.

The most severe of these foregoing sanctions applies to business expansion and construction. Failing approval of an SIP for any State prior to the July 1 deadline, the EPA in late June announced a sanction modification. New construction permits may be issued after July 1, pending SIP approval, but EPA forbids the commencement of construction before the SIP is approved. Presumably, however, the EPA will overlook the sanctions if a State is making a "good faith" effort to submit its SIP.

For the State of Kansas, which submitted portions of its SIP after July 1, this deadline as well as the revised sanctions represent a potential problem. The filing of a lawsuit, challenging EPA's issuance of new construction permits before an SIP is approved, could halt construction projects pending a judicial determination. Similarly, the failure of EPA to clarify what is meant by a "good faith" effort may also be subject to judicial challenge, jeopardizing highway funds, air pollution, and wastewater treatments facilities grants.

With the passage of the July 1 deadline, Kansas has not had any official statement from EPA as to whether the State's economic development will or will not be restricted by the imposition of such sanctions. On the contrary, the EPA has made conflicting statements which appeared separately in two Topeka newspapers on the same day.

In the Topeka State Journal of June 27, the article states:

> Kansas industry is in no danger of losing federal permission to build or remodel facilities, nor is the state facing imminent revocation of federal highway or sewage treatment plant funds, according to a spokesman in the Kansas City Environmental Protection Agency office.

Further, the article indicates an assurance from the regional office that sanctions will not be imposed.

On June 27 in the Topeka Daily Capital, based on statements from a Washington EPA spokesperson, the article commences:

> Ten states, including Kansas, are expected to miss a July 1 government deadline for submitting plans to control air pollution and thus risk punitive federal action.

EPA's conflicting positions, the unworkable July 1 deadline set by Congress, and the possibility of economic disruption and funding cutoffs are sufficient grounds for an extension of the July 1 deadline for 1 year. This extension would permit the States and the EPA adequate time to comply with the new deadline and avoid economic chaos threatened by EPA's sanctions and by legalistic delays.●

● Mr. KINDNESS. Mr. Speaker, from time to time, some of us have been critical of Cabinet departments and regulatory agencies which, in issuing regulations or taking other actions, appear to have bent or disregarded the laws they are supposed to implement and enforce.

Some of us from time to time have also been critical of judges who, in making rulings, appear to have misinterpreted the law or, in effect, made new law, seemingly usurping the constitutional role of the Congress.

Perhaps some of us were relieved to learn of the substance of EPA Deputy Administrator Barbara Blum's press conference on June 26, in which she stated that the Environmental Protection Agency was not going to strictly impose sanctions against States which did not have approved State implementation plans under the Clean Air Act by July 1, 1979.

However, those of us who have been critical of cabinet departments and regulatory agencies, should take no comfort from the announcement that the EPA will not impose sanctions such as denial of construction permits, and sewer construction or highway funds, if a State is making a good faith effort to develop an acceptable State implementation plan under the requirements of the Clean Air Act Amendments of 1977.

Similarly, we should neither be surprised nor chagrined if judges in our State and Federal district courts prohibit issuance of construction permits or otherwise rule that the Environmental Protection Agency has acted in an ultra vires manner.

Many Members of this body have cosponsored legislation to provide for a congressional veto of actions by cabinet departments and regulatory agencies which go beyond the intent of the Congress. Admittedly, we in the Congress may be partly at fault because we provide administrators too much discretion in carrying out their duties.

But, this is not the case with the Clean Air Act. Under the 1977 amendments, the Administrator is required to deny construction permits in nonattainment areas for which there is not an approved State implementation plan. And, I am not aware of any escape clause on which the EPA Administrator could rely in court to justify the granting of "conditional" permits in nonattainment areas.

This is a situation which cries out for oversight hearings by the committee with principal jurisdiction. Our colleague, Wes Watkins, has provided us with a good legislative vehicle from which to start. Some members of industry have complained that pushing back the deadline for approval of State implementation plans without pushing back the date for compliance will put industry in an even tighter squeeze. But, hearings would give us an opportunity to evaluate exactly what should be done so that we will be able to continue reasonable efforts to provide clean air while at the same time not disrupting the economically beneficial expansion of industry which is even more vital given the predictions of a possible economic recession.

I urge my colleague, Henry Waxman, chairman of the Health and Environment Subcommittee, to schedule hearings as soon as possible.●

● Mr. FOUNTAIN. Mr. Speaker, the Congress as a lawmaking institution must always be prepared to respond affirmatively to changing circumstances. When we write the Nation's laws, we must often, by necessity, include mandatory deadlines for certain actions. Sometimes, deadlines—for good and valid reasons—cannot be met. In such cases, the Congress should be ready to provide reasonable extensions if they would be beneficial to the greatest number of our people.

The matter under discussion today primarily involves legislation to extend by 1 year the deadlines for submission and approval of State implementation plans as mandated by the Clean Air Act Amendments of 1977. As a cosponsor of the bill H.R. 1150, I want to commend the gentleman from Oklahoma (Mr. Watkins) for his efforts and his leadership in this important area.

As of July 1, practically the entire country is in a state of legal limbo as the result of an unmet Clean Air Act deadline. No State implementation plans had been approved by the Environmental Protection Agency on July 1. Only about 20 States had submitted complete SIP's to the agency by that date. Complex regulations and technical standards certainly share a major portion of the blame.

It is to be hoped that many partial plans will be completed over the next several weeks and that States which have not yet submitted plans will do so.

It is also to be hoped that EPA will expedite approval of complete SIP's awaiting approval, including the one submitted by my own State of North Carolina.

The Clean Air Act amendments provide for sanctions to be imposed against States which failed to have approved SIP's in place by July 1. These sanctions include bans on construction permits for any new major sources of emissions in nonattainment areas, and cutoffs of most Federal highway funds and wastewater treatment facility grants. My understanding is that EPA has indicated a willingness to approach the problem as flexibly as possible within the law by issuing conditional SIP approvals past July 1, by approving construction permits so long as construction does not begin until after a State's plan is in place, and by avoiding the invocation of sanctions against any State which is making a good-faith effort to submit a completed plan.

However, given the state of the law and the statutory requirements of the Clean Air Act, EPA may well have to begin imposing sanctions this fall. Also looming on the horizon is the firm possibility that injunctions will be sought in various Federal courts around the country, forcing cutoffs of wastewater facilities grants, highway funds, and construction permits. State governments and our constituents would be on the short end of the stick.

Mr. Speaker, in enacting the Clean Air Act Amendments of 1977, the Congress wisely gave the States the responsibility for meeting air quality standards, allowing each State to devise a plan which takes its own special circumstances into account. Much is potentially at stake—growth and development of business and industry, creation of new jobs, land use decisions, construction activity, and other economic-related matters.

The problem we are facing affects practically every State and congressional district in the country. This is a situation which ignores regional boundaries. It is one which demands an affirmative congressional response. The proposed 1-year extension of the SIP approval deadline is a reasonable one, and I hope my colleagues will support this effort.●

● Mr. TAUKE. Mr. Speaker, Iowa State and local air quality officials spent nearly a year developing a plan to bring the State into compliance with the Clean Air Act requirements. The plan which emerged was reasonable and balanced. It struck the crucial balance between economic growth and clean air which is essential to the future of our State and our country.

However, it came to my attention that the Environmental Protection Agency (EPA) was not prepared to approve the plan in time to beat the June 30, 1979, deadline set by the Clean Air Act. In addition, it was determined that the EPA was prepared to reject portions of the plan.

My concern about the fate of Iowa's State implementation plan (SIP) was heightened by the threat of the imposition of sanctions on economic growth because of the failure to meet the June 30, 1979, deadline set for the approval of the SIP. No further permits to construct new sources of pollutants in nonattainment areas can be approved after the deadline. Iowa thus faced at least a several-month halt to economic growth in nonattainment areas. The 6 months required to consider and approve the plan, coupled with the probability of its eventual rejection, caused great concern.

Therefore, I requested the EPA to give expeditious and positive consideration to the Iowa SIP. EPA Deputy Administrator Barbara Blum recently promised that there would not be a disruption of economic growth due to clean air sanctions. I urge the EPA to honor that pledge.

I am pleased to report that EPA officials have informed me of their intention to take a reasonable approach to Iowa's SIP. Conditional approval will be granted to the contested portions of the plan, and the remainder of the plan will receive unconditional approval. That means that sanctions on economic growth will come to a halt, and Iowa and Federal air quality officials will be given time to work out a compromise on contested portions of the plan.

The EPA termed Iowa's fugitive dust subtraction rule unacceptable. The subtraction rule, recently adopted by the Iowa Air Quality Commission, would allow secondary particulate nonattainment areas to substract fugitive dust from the particulate measurement for that area. As a result, Iowa would no longer have any secondary nonattainment areas. Thus, no SIP for these areas was formulated by Iowa air quality officials.

The EPA disputes Iowa's subtraction rule because officials in the State believe that industrial development, as opposed to the fugitive dust blowing in from farm and gravel roads, is the cause of the particulate problem in the secondary nonattainment areas.

The 1-year delay of this portion of the SIP will give air quality officials additional time to monitor fugitive dust sources in Iowa. It can then be better determined just where the fugitive dust originates in Iowa. Appropriate control technologies can then be devised.

The vehicle emission reduction dispute centers on the use of a model to estimate ozone reductions resulting from new car emission standards. The EPA objects to the rollback model being employed by Iowa air quality officials to prove compliance with ozone standards. However, the model acceptable to the EPA has not been made available to Iowa officials. A request for such a model was made to the EPA 2 years ago. The request was denied due to the high cost of the model. Iowa air quality officials have been forced to use the only available model—the rollback model. And that model shows that compliance will result from the reduction in vehicle emission achieved through new car standards. Certainly Iowa should not be penalized because of a model that EPA demands but is unable to provide.

Fortunately, the EPA has indicated that it will make an acceptable ozone reduction model available to Iowa Air Quality officials during the 1-year delay period. An agreed-upon model is an essential first step toward devising a reasonable ozone control plan for Cedar Rapids.

I commend the EPA for taking this action regarding Iowa's SIP. It shows good sense. The same good sense that forms the basis of H.R. 1150, introduced by my distinguished colleague from Oklahoma. That bill would delay the deadline for approval of SIP's for 1 year—exactly the extension given Iowa by EPA officials in Kansas City.

No States have yet received approval of an SIP. Indeed, in the EPA Kansas City region, Iowa is the only State to have submitted an SIP to date. Thus, restrictions on construction in nonattainment areas are being enforced throughout the Nation. With talk of impending recession, we cannot afford to have a Government-enforced slowdown in economic growth.

In addition, many of the air pollution control strategies devised by the EPA remain untested. States are unwilling to make a huge financial investment in air pollution control devices that are untried. A 1-year delay will give the EPA time to refine the state of the Air Pollution Control Act. Only then can we expect compliance by the affected States.

Therefore, I strongly urge my colleagues to join me in support of H.R. 1150. Passage of this legislation is essential to the development of reasonable clean air plans and the continuance of economic growth in the Nation.●

● Mr. HILLIS. Mr. Speaker, I wish to compliment Congressman WATKINS for securing this time to discuss H.R. 1150 which would delay the July 1, 1979, deadline for States to have their SIP's approved by the EPA until July 1, 1980. The timing of this special order is significant since it occurs at the same time President Carter has secluded himself at Camp David to discuss our energy and economic problems. This is an interesting coincidence since H.R. 1150 would help both our economic and energy situations.

As a cosponsor of H.R. 1150, I know the importance of this issue to many of our businesses. Although I am an advocate of the Clean Air Act, I feel that its complete and stringent implementation as now written may cause severe economic hardships and disruptions.

Due to the provisions of the Clean Air Act, private enterprise is experiencing massive capital outlays which critically diminish our industries' ability to replace and modernize existing, often energy inefficient, facilities. Industry is currently expending a considerable percentage of its capital budget for pollution abatement projects and that percentage may escalate to greater proportions in the next several years unless some sort of change occurs. It should also be remembered that there is absolutely no pecuniary gain on any environmental control expenditures.

We live in an exceptionally complex world. The American society has perhaps the most intricate economic system ever developed. It does not easily lend itself to regulation. It is therefore difficult to develop a State implementation plan as required by the Clean Air Act which will not cause severe economic disruptions if enforced. The fact that no State has submitted an SIP which has been approved by EPA is evidence of the complexity of this issue.

The EPA realizes, I believe, the difficulties facing States in getting their SIP's approved. Although the law is quite clear on this point, the EPA has decided not to invoke any sanctions against States that did not meet the July 1 deadline. The EPA is being realistic in not enforcing the deadline as established by law. However, that decision should not be EPA's. Congress, not Federal agencies, is charged with the responsibility to make law. We should recognize that responsibility and change the law if it proves unworkable as is the case in point.

We run the risk of forcing States and the EPA to hurry in developing and approving SIP's if the deadline is not extended. In such a hurried atmosphere, it will be impossible to adequately consider the many different factors involved in developing an SIP. I fear that the final product could be at best inequitable, and at worst unworkable. Should this prove to be the case, we will create a milieu of confusion, ambiguity, and uncertainty in the business world in which no new investments to modernize and increase productivity will be forthcoming.

The economic situation is already such that productivity is faltering. There are predictions of a recession and escalating inflation coming from the administration. To couple our present economic ills with unworkable SIP's will only further worsen a bad situation. The Congress must take the lead in this matter and postpone the SIP deadline or else Government and industry will once again be fighting with one another while the public suffers.●

● Mr. DANNEMEYER. Mr. Speaker, I rise in support of the bill by the gentlemen from Oklahoma. I would like to clarify the decision before us today and thereby explain the position I feel that we all must take on this issue. No person in this Chamber is opposed to clean air, regardless of his support of or opposition to the legislation at hand. We all recognize the acute need for clean air, particularly in the metropolitan areas where the problem is most acute. The point upon which we differ, and the basis for our decision on this bill, must be the degree of cost that we are willing to impose upon the consumers for the privilege of breathing clean air.

This question may be phrased in many ways. I have heard it asked when policymakers inquire "What constitutes clean air, is removal of 90 percent of the pollutants sufficient, or must we achieve 98 percent clean air?" The difference between these two levels of cleanliness is substantial in terms of cost differentials.

I represent a district from southern California, a State that has made great strides in cleaning up its air through the imposition of some of the toughest emissions standards in the Nation. If any of you have purchased a new car recently you noticed that there were two sets of emissions standards, those for the other 49 States, and a tougher set for California. In view of the fact that many experts in the field view the automobile as the single most troublesome source of pollutants to the atmosphere, this stringent emissions standard must be viewed as a significant step toward cleaning up our air. This fact notwithstanding, the State of California faces substantial penalties and a halt to new construction later this year if this legislation is not passed. The human costs in terms of unemployment and hardships will be tremendous.

We must ask ourselves what we will receive for this potentially severe unemployment problem in the construction industry. We will see some improvement in clean air 1 year earlier than that we would if this legislation is adopted. I submit to you that this is too steep a price to pay for so little benefit. The intent of this legislation is not to impede progress toward cleaner air; it is to adopt a realistic timetable for the attainment of the goal of clean air that we all endorse. I strongly urge your support of H.R. 1150.●

● Mr. ICHORD. Mr. Speaker, as a cosponsor of H.R. 1150, a bill to delay the Clean Air Act due date and sanctions deadline for State implementation plans (SIPs) by 1 year, I am pleased to participate in this special order called by my colleague from Oklahoma, WES WATKINS.

The Missouri Department of Natural Resources, which is our State agency responsible for Missouri's SIP, supports enactment of H.R. 1150. In the case of Missouri, we would have found it vastly more helpful to have had these extensions months ago. Such extensions would have lessened the inordinate burdens the present deadlines placed on my State and made demands far more reasonable and rational on State time, resources and manpower. As James P. Odendahl, director of the Missouri Department of Natural Resources, stated in a letter to me of February 26, 1979:

> The State of Missouri has been attempting to comply with the requirements of the Clean Air Act Amendments of 1977 since its passage. We have been unduly hampered in these efforts because of an extreme manpower shortage. The Air Pollution Control Program has just recently become fully staffed. Most of the employees are new to the area of air pollution control and are making an honest effort to draft an approvable SIP.
>
> By receiving a one year extension on the deadline to submit the SIP, the staff could develop a more thorough SIP which would benefit both air quality and industrial concerns.

Nevertheless, to the credit of the staff of the Missouri DNR and to their herculean effort and the dedicated burning of lots of midnight oil, the State of Missouri was able to submit on July 2, a nearly complete State implementation plan to the Environmental Protection Agency. We hope it will be approved and State officials have worked closely with EPA to insure approval.

Additionally, after much controversy and debate, the Missouri General Assembly passed the required enabling legislation in the final hours of the session on June 15, giving the State the legal authority to bring Missouri's air pollution standards into conformance with Federal law. This legislation is currently pending signature by Missouri's Governor.

Unlike Missouri, a number of States to date have not yet submitted their SIP's and a number more have submitted only partial SIP's. Even for those States that have submitted SIP's, none have yet been approved. The Clean Air Act of 1970, as amended in 1977, provided that the States must have their SIP's approved by EPA by July 1, 1979, or face bans on new construction and cuts in Federal highway, sewage, and air pollution management grants (except those involving safety or achieving less pollution) in the areas which are out of compliance with national air quality standards for five basic pollutants, sulfur dioxide, carbon monoxide, photochemical oxidants (smog), nitrogen dioxide, and total suspended particulates (dust).

EPA, I understand, has determined that all States and territories, requiring SIP's (which are all except for North Dakota, the Virgin Islands, Hawaii, American Samoa, and the Northern Mariana Islands) are making good faith efforts to get them in and will not lower the sanctions boom precipitously. I was pleased by this unusual display of flexibility on the part of EPA and hope that no sanctions are imposed prior to Congress having an opportunity to discuss the impact of the Clean Air Act standards on the States or at minimum to have hearings on H.R. 1150.

Many Members of this body seem reluctant or are opposed outright to hearings or discussion of the Clean Air Act. Apparently there is the feeling that such discussion might lead to change and there seems to be a body of sentiment that whatever Congress wrought in the Clean Air Act, let no man put asunder. I fully appreciate the need for environmental standards for our air, but as with all things, such standards cannot stand inviolable isolation apart from the many other pressing problems facing this Nation. Since 1977, when the issue of the Clean Air Act of 1970 was last addressed by this body in depth, our national economic and energy situation has vastly changed. We are today facing an energy crisis of critical proportions and could be headed for a recession. Whether these conditions merit changes in the Clean Air Act mandates established by Congress has not been determined. But surely these conditions warrant a serious review of that act by Congress and a full determination of the impact of the Clean Air Act mandates on our economic and energy problems. Possibly compromise or tradeoffs will be required. Only a full study of the issue will decide that, and I believe hearings on the Clean Air Act to be critical at this juncture.

H.R. 1150 would provide the time for such a review while removing the specter of sanctions, lawsuits, and halted construction from the States. H.R. 1150 would also provide EPA with time to "carefully evaluate and approve or disapprove" the SIP's and to work with those States which have been unable to finalize their plans. H.R. 1150 would also recognize that many States have been hampered in their attempts to draw up SIP's by the lack of reliable technical assistance from EPA and EPA's fluctuating position and delays in setting clean air standards, such as occurred in raising the national ambient air quality standards for photochemical oxidants from 0.08 parts per million (ppm) to 0.12 ppm after the deadline of January 1, 1979, for the SIP's.

The State of Missouri currently has five nonattainment areas plus a sixth, the city of Mexico, which is being reviewed for adjustment from a nonattainment area to an unclassifiable area. The five nonattainment areas in Missouri are: First, the city of St. Joseph for particulates; second, Kansas City for ozone, particulate matter, and possibly later for carbon monoxide; third, St. Louis for particulate matter (about 5 to 10 percent over the national standard), ozone (in areas 0.2 to 0.23 ppm) and carbon monoxide and a small "hot spot" section of St. Louis, undergoing review for possible reclassification based on recent air quality data showing attainment, for sulfur dioxide and particulates; fourth, the city of Columbia for secondary standards of particulate matter, which being in the secondary standard does not have an attainment deadline; fifth, and the city of New Madrid which is in the same nonattainment status as Columbia.

Like other States, Missouri did not receive EPA's regulations for SIP's until months after enactment of the Clean Air Act Amendments of 1977 and were further hampered in their efforts to abide by the unrealistic SIP deadlines by a severe manpower shortage. Unlike some States with large air quality control staffs, Missouri had just a handful of individuals who had to virtually drop all other aspects of their jobs to work on the SIP's for our nonattainment areas. Under such conditons and time constraints, compounded by EPA's delays and changes in evolving standards, it is virtually impossible for any State to do quality work. Instead what is forced, under threat of sanctions, are partial, deficient, or in some cases no workable plans. Result: Noble intentions by the Federal Government again become mired by realities which should have been recognized and accommodated at the outset.

Indeed, Missouri has requested an extension until July 1, 1980, to submit the SIP for the city of Columbia for the sole and logical reason that it needs more time to study and evolve a solid SIP for this area.

Another case in point, of particular interest and concern to me and to my State, is the case of the lead standard, which falls under total suspended particulates. Missouri currently produces about 85 percent of the lead ore mined in the United States. If new sources of lead are not found or if lead mining were reduced in Missouri the United States would have to import vast supplies of this critical material.

The effect of the Clean Air Act standards on lead mining in Missouri is not yet known. While State officials were rushing to complete the voluminous work required for SIP's on other pollutant sources, EPA announced a lead standard in late 1978. The Clean Air Act did not specify lead operations as a pollutant but a court judgment forced the EPA action. There simply was not sufficient time or manpower for Missouri to work on a lead standard plan in the midst of their other SIP work, particularly since the pollutant standard was the first one ever drafted for lead and will involve substantial work in a totally new area. Missouri, however, will be contracting in the near future to develop a lead implementation plan for the State. While there is no way to determine the impact of such a plan on Missouri's three smelters or nine lead mining operations, initial indications point to the potential for substantial costs by the lead industry in Missouri to meet the standards. This, in turn, may affect our domestic lead supplies if the industry determines certain operations to no longer be cost-effective. Hence, another example of bad timing, rushed work and business uncertainty in the lead industry as this new standard works its way into the annals of EPA and the American pocketbook.

The deadline extension for SIP submittals in H.R. 1150, whether enacted or not, will become reality. The States simply cannot complete the task assigned to them within the time allotted, even with the best efforts, the best intentions or the reality of severe sanctions. Further, EPA has demonstrated that it cannot complete the task assigned to it, either in formulating standards or approving SIP's, within the time allotted. By not enacting H.R. 1150 we simply leave the door open for court suits on sanctions and hastily drafted, less than quality SIP's. H.R. 1150 does nothing more and nothing less than changes two dates in the Clean Air Act. It makes no substantive changes in the Clean Air Act, but simply clears what is now, since the deadlines have passed, a hazy legal area and gives the States sufficient time to fully complete their SIP's that they should have had from the outset.

This bill is simple and logical and the focus of a lot of misunderstanding. It is amazing how commonsense can become so confused. But then again that is a large part of the problem throughout Government.

In closing, Mr. Speaker, I want to share with my colleagues a view of the potential impact of the Clean Air Act and SIP's on one city, Saint Louis. The following report is excerpted from a lengthy technical study by the Rice Center of Rice University of the socioeconomic impact of selected air pollution controls in the Saint Louis region. This study, published in March 1979, was commissioned by the Saint Louis Regional Commerce and Growth Association and bears serious review:

IMPACTS OF AIR POLLUTION CONTROLS IN ST. LOUIS, MARCH 1979

The Clean Air Act Amendments of 1977, which modify portions of the Clean Air Act of 1970, set compliance requirements for achieving air quality standards for all areas of the U.S. All areas currently not meeting those standards must develop State Implementation Plans. These SIP's must identify the measures whereby an area will achieve air quality standards by 1982.

The St. Louis region does not attain the air quality standards for photochemical oxidants (ozone); and portions of the region have not achieved air quality for sulfur dioxide, particulate matter, and carbon monoxide.

It is not likely that the St. Louis region will attain the ozone standard of .12 parts per million by 1982, and stringent controls may be imposed to ensure attainment by 1987—the latest possible date allowed by law. Interested in the possible effects of air quality controls, the St. Louis Regional Commerce and Growth Association (RCGA) commissioned the Rice Center to assess the social and economic effects these controls would have upon the St. Louis region. The findings of the Rice Center are presented in this outline.

These findings may be summarized as follows: Pollution controls in the St. Louis region would be costly and could adversely affect employment and population growth, and development. Pollution control technology, with its high cost, would burden present industries, and "offset" requirements would limit industrial expansion.

Households would be affected directly by certain air quality measures, and indirectly as costs of controlling industrial pollution may be passed on to consumers in the form of higher prices for manufactured products and utilities.

INDICATORS MEASURE IMPACTS AGAINST A BASELINE

The analysis uses the concept of "trees of impact", which trace the effects of controls through the economy as measured by socioeconomic indicators.

What Effects Were Analyzed?
Regional Economic Output ($).
Regional Employment And Population.
Income To Households.
Household Expenditures.
Personal Mobility.
Emission Of Hydrocarbons.
Cost Of Controls To Business.

Simulation models were used to forecast the social and economic structure of the St. Louis economy with, and without, air quality controls. The differences between the forecasts measure the effects of the controls.

BASELINE FORECASTS

The baseline forecasts of employment and population present a healthy picture of the St. Louis region. After a slow growth period during the early and middle 1970's, St. Louis is bouncing back. Between 1970 and 1975, employment in the region increased only 1 percent (.2 percent per year). Between 1975 and 1977 employment increased by 4.4 percent (2.2 percent per year) a tenfold increase in the growth rate. The population of the region is expanding as a result of these new jobs. The forecasts to the year 1995, predict the number of jobs in the region will increase by 37 percent from 1975. The number of residents will increase 25 percent and total output will increase from $57.5 billion (in 1975) to $93.7 billion (in 1995) a 63.5 percent increase.

In the baseline forecasts, the residents of the region benefit from growth with incomes increasing from $19,066 in 1975 to $25,391 in 1995, in constant dollars.

TWO CONTROL CASES TESTED

There are a wide variety of measures and strategies for control of hydrocarbon and other air pollutants. For stationary sources, hypdrocarbon controls might take all of the following forms. A company may be required to install pollution reducing equipment. A company may be required to obtain emission "offsets" before constructing a new plan. These offsets might be obtained by a company securing a reduction in emissions at its existing plants, or at those of another local company, equal to the predicted emissions at the new plant. A company might be prohibited from increasing emissions of sulfur dioxide (SO_2) and hydrocarbons.

For mobile sources, controls may be installed to reduce vehicle miles of travel, by gasoline rationing, gasoline price increases, parking limitations, imposition of parking price surcharges, and introduction of incentives for mass transit use. Other forms of controls might reduce vehicle emissions, such as a program to inspect and maintain motor vehicles (IM) or to require installing devices on motor vehicles.

In this research two separate cases of air pollution controls were analyzed.

What Controls Were Analyzed?

Case 1:

SIP Of Missouri.

SIP Of Illinois.

Inspection Maintenance.

Case 2:

New Source Technology (90%).

Emission Offsets.

Vapor Recovery On Ship and Barge Loading.

Stage I Gasoline Marketing Controls.

Restriction Of Growth Of SO_2 Emissions.

Mass Transit Incentives.

Inspection/Maintenance.

In Case 2, New Source Technology (NST), which also applies to existing sources, is similar to EPA's Reasonably Available Control Technology (RACT) and Best Available Control Technology (BACT) and requires a 90 percent reduction in emissions.

The costs of these pollution control strategies were determined through a survey of industries in the St. Louis region. The emission reductions and costs presented in the research are based on those results, with adjustments to account for industries not reporting.

CONTROLS WILL BE COSTLY

The assumed controls in Case 1 and Case 2 involve requirements for installing pollution reducing devices by industry, and for the inspection and maintenance of the region's motor vehicles. (Case 2 also involves limits on growth). The financial costs associated with these requirements must be borne by the region's industry and residents. Additional costs associated with SO_2 or particulate controls are not included in this analysis.

What do the Controls Cost?

To Industry:

Case 1 SIP's, capital $250.0 million, annual operating $18.4 million.

Case 2 NST, $545.0 million, $29.6 million.

Ship & barge, $9.7 million, $0.9 million.

State I marketing, $10.2 million, $0.3 million, $564.9 million, $30.8 million.

To households:

Inspection and maintenance, annual total $551.9 million, per household $58/year.

These direct financial costs of pollution control will have adverse effects on those who must bear them. Industries must use their capital for pollution control instead of investing in equipment which would increase production. Residents must modify their budgets to pay for the inspection and maintenance of their vehicles. While these costs have adverse effects on those who pay directly, for the region as a while these expenditures generate income and jobs. Industries must buy labor and materials and install the required pollution control devices. Additional mechanics will be required to handle the IM program. Therefore there will be a net positive effect of these direct expenditures to the region as a whole. The growth controls in Case 2, discussed later, will have a negative effect on the region's economy. These effects are discussed in the following section.

ECONOMIC EFFECTS VARY

The economic effects of the two selected sets of controls vary substantially between Case 1 and Case 2. In Case 1, the controls require expenditures by industry and households, in aggregate, these expenditures produce a slight increase in regional economic output and employment. In Case 2, the growth controls (emission offsets for hydrocarbon and prohibition of growth of SO_2 sources) produce a negative effect on regional economic output and jobs.

In Case 1, the industrial expenditures and IM program produce $170 million in increased output by 1985, resulting in 6,310 additional jobs. By 1995, when industrial expenditures have tapered off, the IM program continues to produce $150 million of additional output and 4,540 additional jobs.

In Case 2, these direct expenditures continue to produce increased output and employment. However, the industrial growth controls override those benefits and produce significant adverse effects on the St. Louis regional economy by restricting construction of new industrial facilities which produce hydrocarbon or SO_2 emissions. By 1985 these growth controls result in a net loss of $1.8 billion in output and 22,210 jobs, as measured against the baseline forecast. By 1995, the output reduction totals $4.4 billion and 46,010 jobs are lost.

These Case 2 growth controls reduces the 1975–1995 employment growth of the St. Louis region from +36.7 percent to +31.7 percent. The region will continue to grow, but at a reduced rate.

What is the likelihood of the imposition of the growth controls included in this analysis? This emission offset policy, as it is likely to be enacted, will strictly limit industrial expansion. As offsets are currently understood, their future enforcement will be as follows: 1) After Reasonably Available Control Technology (RACT) is installed in all existing industrial plants, emissions will be reduced by 85 to 90 percent, which is about as much as can be achieved; 2) All new industrial facilities must control emissions to the Lowest Achievable Emission Rate (LAER), the best ever demonstrated; 3) In addition to LAER, a new facility must demonstrate emission reductions within the region that exceed the amount of their new emissions.

Since all existing regional industry is already controlled to the reasonable maximum it will be extremely difficult to tradeoff emissions without a shutdown of an existing facility. The result would be: no emissions to trade and no net industrial expansion. This is the assumption made for Case 2.

EMPLOYMENT AND POPULATION ARE AFFECTED

Air pollution control programs will directly affect regional employment, and so, change population. The employment and population consequences of Case 1 and Case 2 are presented below:

	Employment	Population
1975 baseline	934,060	2,420,330
1985 baseline	1,145,880	2,684,010
Case 1	1,152,190	2,698,810
Case 2	1,123,670	2,632,020
Base-Case 1	+6,310	+14,800
Base-Case 2	—22,210	—51,990
1995 baseline	1,277,050	3,026,590
Case 1	1,281,590	3,037,400
Case 2	1,231,040	2,917,640
Base-Case 1	+4,540	+10,810
Base-Case 2	—46,010	—108,950

INCOME TO HOUSEHOLDS DECLINES

In the baseline forecasts, household income increases from $14.6 billion in 1975 to $25.6 billion in 1995—a 75 percent increase. Since the number of households in the region increases 31 percent by 1995, the resultant average income per household increases from $19,066 in 1975 to $25,301 in 1995—a 33 percent increase.

With the Case 1 and Case 2 controls, shifts in household income are presented below:

Household income

	Total (billion)	Per Household
1975 baseline	$14.6	$19,066
1995 baseline	25.6	25,391
Case 1	25.7	25,346
Case 2	24.6	25,203
Base-Case 1	+0.1	—45
Base-Case 2	—1.0	—188

MOBILITY IMPROVES SLIGHTLY

Another social indicator evaluated in this analysis was mobility—the measure of the relative freedom of movement enjoyed by area residents. While some air pollution controls may have the consequence of limiting the use of motor vehicles and thereby reducing mobility, the controls included in this analysis were not restrictive.

In St. Louis, as in any growing region, increased congestion and longer trips will increase the time spent by the average family in auto travel. This effect is included in the baseline. As illustrated below, the controls do not affect mobility significantly.

Mobility: Daily travel per household

	Trips	Minutes	Miles
1975 baseline	5.8	54.6	38.7
1995 baseline	6.1	101.9	47.6
Case 1	6.1	102.2	47.5
Case 2	6.1	94.6	47.1
Base-Case 1	0	+0.3	−0.1
Base-Case 2	0	−7.3	−0.5

HOUSEHOLD EXPENDITURES SHIFT

With the reduced income and increased costs of the two pollution control cases, the average household in the St. Louis region will have to shift their budget somewhat. As the cost of certain items of household expenditures go up, the family must spend less on other items.

By 1995, the I/M program will cost the average family an additional $62 each year. This additional expenditure results in the family spending $13 less on food, $13 less on clothing and personal care, $22 less on housing and household operations, and $14 less on miscellaneous expenditures.

EMISSIONS ARE REDUCED

The controls evaluated in Case 1 and Case 2 aim to improve air quality in the St. Louis region. Air quality should improve if emissions of problem pollutants are reduced. This study limits the analysis to emissions of hydrocarbons alone.

The baseline, Case 1 and Case 2 emissions are shown below for mobile (vehicles) and stationary (industrial) sources of pollution.

Emissions of hydrocarbons

(Tons per day)

	Mobile	Stationary	Total	Reduction from 1977
1977 baseline	298	387	685	------
1985 baseline	146	388	534	−22%
Case 1	130	211	341	−50%
Case 2	125	113	238	−65%
1995 baseline	117	391	508	−26%
Case 1	85	211	296	−57%
Case 2	81	113	194	−72%

What improvement will there be in the levels of ozone in St. Louis? The East-West Gateway Coordinating Council has estimated a required emission reduction of 49 percent to attain a .10 ppm ozone standard. Since the standard is now .12 ppm the required reduction is less. Case 1 data could be interpreted to mean that appropriate ozone reduction might be achieved before 1985.

QUALIFICATION

Certain items beyond the scope of this research could affect the results. First, there were no attempts to quantify the health and aesthetic benefits which might be associated with the emissions reductions, and resultant improvemet in air quality. Therefore no cost-benefit conclusions are to be implied from this research. Second, there was no quantification of effects of expenditures for emission controls on consumer prices and inflation. If an industry incurs additional costs of production, a portion of those costs will be passed on to the consumer of its products. The research did not specifically determine the magnitude of price increases, but it is likely that there would be some increase. Third, the research did not address this question: If industries cannot locate in St. Louis, where can they locate? Certainly if the assumptions contained herein are accurate, industrial growth in areas not attaining air quality standards would be precluded. In addition, areas which currently meet the standards will have their growth limited due to EPA's Prevention of Significant Deterioration (PSD) review. New industry may move out of the U.S.

CONCLUSIONS

Air pollution control programs in the St. Louis region would be costly and could adversely affect employment and population growth and economic development. Who will finally pay these costs? Are the benefits derived worth the costs?

It could be inferred from this research that the proposed SIP's of Missouri and Illinois produce improvement in air quality at lower social and economic cost than the additional improvements brought about by the more stringent controls of Case 2.

A major conclusion of this research is that, while the expenditures on pollution control equipment and IM will affect specific businesses and all households in the region, the limitation on industrial growth will cause adverse regional economic effects. Growth control and emissions offsets do not reduce emissions, but merely prevent increases in emissions. These controls cost the region some of its social and economic growth without repaying the region in significantly cleaner air.

Finally, the controls investigated in this research will likely not have a drastic effect on the people of the St. Louis area. Growth will continue, but at a reduced rate, and households will have a slightly reduced income with slightly higher expenditures. The final determination of the cost-benefit ratio of the current and future air pollution control programs should be performed after additional study by regulatory agencies, particularly of the direct health benefits.●

● **Mr. HORTON.** Mr. Speaker, as a cosponsor of H.R. 1150, I rise to join my fellow cosponsors to urge that hearings be scheduled on this important bill. Unless the Congress takes affirmative action within the very near future, construction across the Nation could suffer a serious slowdown.

Under a little known provision of the Clean Air Act of 1977, the 50 States of the Union are required to submit State implementation plans (SIP) to the Environmental Protection Agency detailing how they will comply with Federal air pollution standards. Although 21 States have completed their SIP's and submitted them to EPA, they are still awaiting final approval. In other words, as of July 1, not one State had an approved SIP, and therefore, not one State was in technical compliance with the law.

Under the Clean Air Act Amendments of 1977, the following penalties may be used against States not in compliance with the law: First, a ban on construction permits for any new major emitting sources in a nonattainment area; second, a substantial reduction or cutoff of most Federal highway funds; and third, a cutoff of waste water treatment facility grants. While the implications of one or all of these actions is great for most States, it would be particularly severe for the State of New York and the Northeast region of the country. With unemployment rates above the national average, and with the possibility of a recession looming ominously on the horizon, failure to extend the July 1 deadline for 1 year could seriously damage employment in New York State.

Although I am aware that the Environmental Protection Agency is attempting to avoid using the sanctions specified in the Clean Air Act, it is clear that only an extension of the deadline can prevent States from violating the law. Through the passage of H.R. 1150, the States and the Environmental Protection Agency will have the time they need to devise and approve and implement SIP's. I, therefore, join my colleagues in urging immediate hearings on our bill, and the urgent need for the extension.●

● **Mr. STUMP.** Mr. Speaker, I rise today in support of the discharge petition being offered by my good friend, the gentleman from Oklahoma, Mr. WATKINS. This petition, as my distinguished colleagues know, seeks to bring before us a bill of which I feel proud to have been a cosponsor, H.R. 1150. This legislation is sorely needed to insure that the Members of this body have an opportunity to express their will on the subject of the deadlines in the Clean Air Act pertaining to the date by which the Environmental Protection Agency must approve the revised State implementation plans for each of our States.

Mr. Speaker, I need not remind my colleagues of the great uncertainty and tremendous concern expressed by many of our constituents over the possible ramifications surrounding the fact that many States have only recently submitted to EPA their revised plans. Indeed, my own great State of Arizona submitted its revised plan quite early in the game and yet has no assurance that a complete ban on the construction of new major industrial facilities, so needed for the continuing economic growth of our State, might not come to a complete halt. Additionally, many of my constituents have expressed to me concern about the possible cessation of Federal funds to our fine State for the purposes of highway and sewage construction which the Clean Air Act also says might possibly be endangered, as our State plan was not approved by the July 1, 1979, deadline.

The mining industry is one of the key elements in the economy of the great State of Arizona, and it would be tragic, indeed, for us to have to tell that industry that even if it finds a new deposit of key raw minerals, that it would not be permitted to go forth and mine these minerals for the good of the country, because of the stringent deadlines included in the 1977 Clean Air Act amendments.

Mr. Speaker, Arizona is a thriving and evergrowing State. Its young citizens need a continual development of new jobs in order to make a living in these times of inflation. My concern is that due to an important, yet single-minded goal, these new jobs in the immediate future might not possibly be there when our young citizens seek them. Nothing could be more tragic. For I firmly believe that a key element of having a safe and healthy environment is also the availability of jobs in order for Arizona citizens to feed their families.

I remind my colleagues that the word "ecology" stems from the Greek word "Eco" which is also the genesis for the word "economics." And a person's livelihood is as importantly a part of his environment as the air he or she breathes.

Mr. Speaker, I proudly support the discharge petition being offered today by the gentleman from Oklahoma and strongly urge my colleagues to join with me in signing it. The energy situation we are now facing demands a reasonable and balanced approach to all society's current problems, and I think that an additional year in order for us to prepare adequate plans to meet just one of those goals—to obtain clean air—is not too much to ask, given everything else that we face today.●

● **Mr. ATKINSON.** Mr. Speaker, I rise in support of H.R. 1150, legislation to amend the Clean Air Act to postpone for 1 year the application of certain restrictions to areas which have failed to attain national ambient air quality standards and to delay for 1 year the date required for adoption and submission of State implementation plans applicable to these areas. This is the kind of legislation, providing reasonable administrative flexibility in our laws, that we sorely need.

Support of H.R. 1150 in no way indicates opposition to improvement in our air quality. Rather, such support signifies support of rational, logical steps toward achievement of better air. Without the time to devise sound implementation plans, States will make errors that will result in more delays and errors in the future.

While I strongly support H.R. 1150, I want to caution my colleagues that this legislation does not solve all the problems facing States and private enterprises trying to comply with the Clean Air Act. If we do push back the dates specified in H.R. 1150, we must be prepared to reconsider other deadlines specified by statute so that other entities in the compliance chain are not penalized by giving States an additional year to submit SIP's.

Mr. Speaker, we all want cleaner air, but we want to achieve that goal without destroying our economic and social environment. H.R. 1150 is sound legislation that keeps both these objectives in mind.●

● Mr. MONTGOMERY. Mr Speaker, I am pleased to have this opportunity to support Mr. WATKIN's efforts to extend the deadline for submission of the State Implementation Plans required by the Clean Air Amendments of 1977.

As you know, this past July 1 was the date by which each state was to have submitted and approved their plans for implementation of environmental controls. That deadline has passed with many States having yet to complete their plan. Furthermore, of those plans that have been submitted, none have been stamped with EPA approval. As the approval process alone takes at least 3 to 6 months, we will all clearly be in violation of the Clean Air Act for sometime.

The 1977 Clear Air Amendments set stringent sanctions to be used against those States failing to comply with the July 1, 1979 deadline. Those sanctions include withholding of Federal grant money for highways, sewerage and air pollution control agencies as well as the banning of new industrial construction. Although EPA assures us that they will not impose the bans, under the current authority we will all be walking a tightrope until the SIPs are completed and approved.

Litigation is a real possibility. There are no assurances that local groups or individuals might not seize the opportunity to take this non-compliance to court. An adverse court ruling forcing the bans on construction could wreak havoc on our already unstable economy.

A 1-year extension of the deadline makes good sense to me. H.R. 1150 would give those States who were unable to complete their plans due to uncontrolable factors to do so without sanction. Likewise, it will give the Environmental Protection Agency a reasonable amount of time to pursue the long approval process without placing our State and national economies in jeopardy.

I would urge my colleagues to join me in supporting H.R. 1150 to correct this problem.●

● Mr. MATHIS. Mr. Speaker, I rise in support of H.R. 1150. There are a number of reasons this legislation is important and necessary.

First, each State should be given reasonable time to draft a thorough State implementation plan as required by the Clean Air Act Amendments of 1977. Although honest efforts are being made, most States are unable to comply with the EPA deadline because of an unnecessarily tight time schedule and recent revisions made by the EPA in their air quality standards. Also, air pollution control programs in some States have only recently been formed and have a number of employees who have little background in air pollution control. An extension of time is a necessity in such areas.

In addition to the States' problems with meeting EPA's deadline, the EPA itself needs this additional time to effectively evaluate each proposed plan. The situation that currently exists shows States rushing to submit their plans and the EPA rushing to approve or disapprove of them. This makes for an extremely inefficient system on both ends.

A final point of concern to me is allowing business and industry the opportunity to show the public what the effects of the Clean Air Act could be. I am speaking directly of the economic hardship brought on by overprotective air standards. These limitations have already forced many companies to relocate in foreign countries or cancel their expansion plans in the United States.

It is for these reasons that I urge you to support Mr. WATKINS' proposed legislation. To force action on air control into an unreasonable time period and to resist needed modifications may very well have an irreversible effect on our economy.●

● Mr. HAGEDORN. Mr. Speaker, the inaction of the House of Representatives toward consideration of H.R. 1150 could possibly mean a great deal of difficulty for many of our States. The July 1 deadline for Clean Air Act sanctions arrived with no State air quality implementation plans (SIPs) approved by the Environmental Protection Agency. About 35 States have submitted all or part of their SIPs to EPA, but none of them were approved by the Congressional mandated deadline. Therefore, it is up to the Congress to take some definite action to extend this deadline. This is the goal of H.R. 1150.

The Clean Air Act imposes penalties on States that do not have an approved SIP by July 1, but EPA's general policy on levying sanctions gives States a 2 to 3 month grace period. If appropriate action has not been taken by that time, the agency has made it clear that the sanctions will take effect if any State has not complied with the requirements by fall. The problem that our States would be faced with is that under the Clean Air Act no construction of major new sources of air pollution would be allowed in any State without an approved SIP after July 1, 1979. Additional sanctions that could be imposed are a cut-off of most Federal highway funds and a cut-off of wastewater treatment facility grants.

EPA is to be commended for its pledge to go as far as it can to avoid these sanctions, but there is always the possibility of a lawsuit by an interested party that could result in EPA being ordered by a Federal court to follow the letter of the law. Local economic chaos would result if certain States had wastewater facilities grants, highway funds and construction permits cut off.

The State of Minnesota is one of the States which has submitted a partial SIP to EPA for approval. The House delegation has been contacted by the Minnesota Pollution Control Agency (MPCA) and the vast majority of my delegation colleagues have expressed approval of the State Agency's position with regard to H.R. 1150.

Terry Hoffman, executive director of the MPCA, stated that she regretted needing to ask for such an extension, but believed that the act's clean air goals would be better served if States take enough time to adequately resolve remaining problems and issues. Minnesota found it nearly impossible to submit adequate revisions to the SIP and obtain EPA approval by July 1 because:

First. The MPCA has a relatively small staff to develop plan revisions for a relatively large number of nonattainment areas.

Second. There have been significant delays in obtaining necessary technical information from EPA and major pollution sources.

Third. The Minneapolis-St. Paul area may be closer than any other area in the Nation to the new ozone standard, making decisions about appropriate controls very difficult.

Fourth. There have been delays in obtaining policy guidance from the Environmental Protection Agency.

Fifth. Minnesota's hearing requirements are very strict and more time consuming than the Federal requirements envisioned in the scope of the Clean Air Act.

There are several benefits for the noncompliance States which would result from extending SIP deadlines by 1 year, including the following:

First. Additional air quality monitoring data would be available for use in analysis. In some cases, 1978 data is much more reliable than 1975 data, and therefore, a more acceptable 3-year trend analysis would be possible if an extension is granted.

Second. Innovative control strategies could be analyzed if more time were available.

Third. A more comprehensive socioeconomic impact analysis could be completed as required by section 172(b)(9) of the Clean Air Act.

Fourth. A more reasonable approach to ozone control in light of the new standard could be developed.

Fifth. Many potential problems with proposed plan revisions could be resolved before revisions are submitted for EPA approval, thus facilitating their review and easing MPCA adoption.

The chairman of the MPCA Board, Joseph Grinnell, also contacted the State delegation about the extension of this deadline. The board does not favor extension of other deadlines contained in the act and also regretted the need to ask for this extension.

The staff had made good faith efforts to meet the deadline, but were unable to do so due to the technical and administrative delays outlined in the letter from Executive Director Hoffman.

Fortunately, EPA had taken the position that every State can avoid the sanctions if they proceed rapidly to submit a "best efforts" plan. The discretion of EPA has been very helpful and is appreciated, but the danger of the lawsuit by parties not so understanding of the situation still leaves most States in a very precarious position.

There are several good reasons why this extension legislation needs to be acted upon immediately. The bill has been referred to the Health and Environment Subcommittee, but still no hearing date has been set. The purpose of our efforts today is to focus attention on this problem so that necessary congressional action will be taken. The economic future of our States may depend on this legislative action now before unanticipated judicial action thwarts the Agency's discretionary waiving of sanctions.

Because the State of Minnesota takes pride in its relationship with the Federal Government and in its compliance with Federal requirements, the MPCA Board and staff have worked hard to insure that the best possible SIP be implemented in the State. On July 7, the attached mid-year evaluation was received from the Regional Administrator in the EPA office in Chicago.

State of Minnesota Mid-Year Evaluation

(By the Chicago Regional Office, Environmental Protection Agency of the State's Air Pollution Control Program)

1. NONATTAINMENT SIP REVISION PROGRESS

A. Ozone/Carbon Monoxide SIP Revisions.—Minnesota has submitted drafts of various portions of the ozone and carbon monoxide SIP. Generally Minnesota's submittals have been of high quality in all aspects of ozone and carbon monoxide attainment and maintenance. However, Minnesota is significantly behind schedule in developing and submitting the SIP to the USEPA. Public hearings have recently been scheduled for the VOC-RACT regulations and the Transportation Control Plans. Minnesota should submit a definitive schedule now that this significant milestone has been met. The State should ensure a timely consideration of public comments in order that the SIP can be submitted as soon as possible after completion of the hearing process.

VOC-RACT Regulations.—Minnesota has made progress in developing VOC-RACT regulations. As noted, significant delays in holding public hearings on these regulations are delaying State approval. Some issues contained in the VOC-RACT regulations still need to be resolved. The State's efforts on the ozone and carbon monoxide modeling and inventory portions have been acceptable.

Transportation Control Plans.—MPCA has achieved significant progress in developing not only an acceptable transportation SIP, but also an improved transportation-air quality planning process among the four metropolitan planning organizations in the State. Interagency Coordination and opportunities for public and local official input have been excellent. Minnesota has made steady progress in the development of an I/M program and in obtaining legislative consideration.

B. Total Suspended Particulates/Sulfur Dioxide SIP Revisions.—Minnesota has submitted drafts of the TSP regulations and the draft control strategy for the Rochester SO_2 nonattainment area. The State has not submitted any portion of the Twin Cities SO_2 SIP.

Even though the State is significantly behind in its SIP revision schedule, the TSP regulations which have been submitted have been of high quality. A few problem areas still exist which need to be resolved. Minnesota has shown a willingness to consider USEPA's comments and recommendations and has been cooperative in working out differences.

Delays in holding of public hearings has been a significant problem. Public hearings on these regulations have been scheduled. The State should ensure a timely consideration of public comments in order that the SIP can be submitted as soon as possible after completion of the hearing process.

There is one specific area which has impeded Minnesota's efforts to submit a SIP. Minnesota is understaffed in the TSP control technology area.

II. DELEGATION OF AUTHORITY FOR PREVENTION OF SIGNIFICANT DETERIORATION (PSD), NEW SOURCE PERFORMANCE STANDARDS (NSPS) AND NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (NESHAPS)

The State has been responsive in seeking all delegations that USEPA has made available. The MPCA has all NESHAPS, PSD, and 24 of 28 NSPS source categories.

III. AIR ENFORCEMENT

The State has an active and aggressive enforcement effort combined with a very efficient system of information transfer between the State and Region through the recent CDS link-up. There is a need for increased inspectors by the State. That is, the State relies upon EPA district office inspections.

Minnesota has exceeded its commitments in the major source enforcement effort both against order violators and SIP violators, but has not performed at the projected level for source inspections.

IV. AIR MONITORING

The State has made progress on the implementation of SAMWG recommendations. Progress on the network design and detailed site descriptions have been made. Additionally, the State is purchasing reference or equivalent equipment. However, USEPA has not received a final NAMS site location list. The State should submit the final NAMS site location list as soon as possible.

Most documentation for the quality assurance manual is completed. The quarterly air quality data submittals are timely and accurate.

Daily reporting of air quality should be improved since PSI will be adopted provided the air quality standards are integrated as PSI breakpoints.

V. NEW SOURCE REVIEW PROGRAM

In general, the MPCA has an adequate New Source Review program (NSR) with the exception that the public is not invited to comment on all permit applications. The Agency has argued that the expense has been too large to meet the advertisement requirements for comment notices. Since it has been determined that a legal notice will meet the requirements of "prominent advertisement," thus, significantly reducing the cost of comment notices, the State should invite comments on all permit applications. There are other less significant problems related to some NSR practices which are being solved at the staff level.●

● Mr. BROYHILL. Mr. Speaker, the Clean Air Act Amendments of 1977 (Public Law 95–95) set certain deadlines for State submission and Environmental Protection Agency approval of plans outlining actions to correct violations of the atmospheric air quality standards mandated by the act.

The States were required to submit their plans, known as State implementation plans (SIP's), by January 1, 1979. The EPA was required to approve these plans by July 1, 1979.

The timeclock has run out. It is now July 10. Twenty-one States have submitted completed plans. Another 17 have submitted partial plans, and 11 have submitted no plan at all. The EPA has not approved the plan of one State.

In sum, the requirements of the law have not been met.

This situation stems not from the fact that the States are ignoring the law. Most States, including my home State of North Carolina, have worked diligently to comply with the requirements of the law. However, the time frame imposed by the law was simply unworkable, and the States have not been provided with timely information on which they could base their plans. EPA's action to change the ozone standard 2 weeks after the January 1 deadline is a case in point.

The law allows the EPA to impose severe economic sanctions against States which do not have approved SIP's in place by July 1. These sanctions include a cutoff of most Federal highways funds, of wastewater treatment facility grants, and most importantly, a ban on construction permits in nonattainment areas.

While the EPA has announced it will not impose those sanctions on States trying in good faith to comply with the law, nevertheless the law still stands on the books.

In order to prevent the economic disruption inherent in the sanctions being invoked and in order to allow the States to carefully devise their plans and the EPA to review them in a similar manner, it is imperative that the Congress act on H.R. 1150 as quickly as possible.●

● Mr. LENT. Mr. Speaker, as a cosponsor of H.R. 1150, extending for 1 year the July 1, 1979, deadline for States to submit State implementation plans for compliance with 1977 Clean Air Act amendments, I commend the original sponsor of this legislation, Wes Watkins of the Third District of Oklahoma, for scheduling a special order on this issue today. I welcome this opportunity to help draw the Nation's attention to the potentially severe implications of congressional failure to address reality and approve legislation rolling back the deadline date for plan submission.

Now that the July 1, 1979, deadline has, in fact, passed, and only 20 States have submitted complete SIP's for EPA approval, we need to respond to reality and make the statutory changes necessary to prevent widespread economic upheaval which could result from imposition of the sanctions required by law.

Under the 1977 Clean Air Act, EPA is required to impose sanctions which, if fully carried out, would block industrial development and stop certain grants to noncomplying States. Those sanctions include the withholding of Federal funds for sewage construction and highway programs, and a "freeze" on industrial expansion through a prohibition of new source growth.

The economic impact of the sanctions would be serious in the best of times. With economists in near unanimous agreement about a coming recession, the threat of sanctions is potentially even more devastating to our economy.

It should be understand that EPA itself has contributed to the State's difficulties in developing compliance plans. EPA failed to meet its own timetable for setting a photochemical oxidant standard. The proposed standards spelled out on December 19, 1978, was revised on January 18, 1979—18 days after the States were to have shown EPA how they would attain it.

I do not think the States should be made to bear the brunt of Environmental Protection Agency inadequacies. The EPA has failed to meet its own deadlines in setting the photochemical oxidant standards to which the States must adhere, thus delaying the State's preparation of their implementation plans.

I voted for the 1977 Clean Air Act Amendments which set the deadline, but I did not anticipate the bureaucratic problems which have developed. I support the Watkins bills for a 1-year postponement of the deadline before which sanctions must be imposed because it provides the necessary safeguard for States which, through no fault of their own, could not meet the June 30, 1979 cutoff date.

I urge Chairman WAXMAN of the Health and Environment Subcommittee to schedule hearings on this legislation at the earliest possible date. Despite EPA's verbal assurances that it will not exercise the sanctions required by law, without amending the law as proposed by H.R. 1150, there is absolutely no assurance that EPA will be free of the threat of lawsuits to force compliance with the letter, as well as the spirit of the law.

Passage of legislation extending the deadline date will eliminate the threat of lawsuit—and the costly, time-consuming process such suits require. Passage of H.R. 1150 will clearly demonstrate congressional awareness of the realities States must address in attempting to meet the congressionally mandated ambient air quality standards. The threat of sanctions is designed as an economic impetus for States to move ahead with a plan for meeting our clean air standards.

When the sanctions would likely be applied as a consequence of EPA's bureaucratic bundling and in the face of an economic recession, we must make certain they are not imposed. The law must be amended to eliminate the threat of economic disruption in more than half of the States of this great Nation.●

● Mr. BUCHANAN. Mr. Speaker, as a cosponsor and firm supporter of H.R. 1150, I am pleased that our colleague from Oklahoma, WES WATKINS, has reserved time under a special order for discussion of this bill today.

The Clean Air Act Amendments of 1977 mandates that all States and territories, with the exception of South Dakota, Hawaii, American Samoa, the Northern Mariana Islands, and the Virgin Islands, must submit plans to comply with national air quality standards. These plans are called State implementation plans (SIP's). The act states that all SIP's must be submitted by January 1, 1979. The date for final approval of the plans by EPA is July 1, 1979. H.R. 1150, the bill under discussion today, amends the Clean Air Act Amendments of 1977 by extending the July 1, 1979 deadline for EPA approval of the State implementation plans to July 1, 1980.

The failure of a State to have approval of its SIP by the July 1, 1979 deadline can result in a number of sanctions being imposed by EPA. Under the Clean Air Act Amendments of 1977, EPA is prevented from issuing any new source permits for industrial construction in States which have not met the approval deadline. This sanction is mandatory, rather than discretionary. In addition, EPA has discretionary authority to withhold section 105 Clean Air Grants and to seek to have Department of Transportation highway construction grants withheld from States in noncompliance. Finally, section 316 of the Clean Air Act Amendments provides EPA the authority to "withhold, condition, or restrict" sewage construction grants in any area where an SIP has not been approved or where the SIP does not account for the direct or indirect emissions from a sewer project.

Extension of the time limit for EPA approval of SIP's is necessary for a number of reasons. The development of an SIP is a complicated and difficult process. A typical SIP is hundreds of pages long. State Implementation Plans must address national standards for a wide range of pollutants including particulates, ozone (smog), carbon monoxide and others.

The Environmental Protection Agency has delayed and, in some cases, revised standards for air emissions. The most outstanding example of this is EPA's revision of the ozone standard. On January 26 of this year, almost a month after the congressionally mandated deadline for State submission of SIP's, EPA announced that the ozone emission standard had been revised upward by approximately 50 percent. Thus all the strategies and calculations developed by the States pursuant to the original ozone standard are now obsolete.

As of today, only one State has received approval of its SIP. I am informed by EPA that 36 States and the District of Columbia have submitted SIP's, although a large portion of these are incomplete. Twelve States, Puerto Rico, and Guam have not even submitted any implementation plan to the Agency. Therefore, only Wyoming is in compliance with this portion of the Clean Air Act Amendments of 1977. All other States and territories, with the exception of those noted above which are not required to submit plans, are now in violation of the law.

It has been argued that the Environmental Protection Agency intends to be lenient with States which they believe to be making good faith efforts to comply with the law. The sanctions on new source permits, however, are mandatory, rather than discretionary. Further, the deadlines for submission and approval of the SIP's are mandated within the legislation, rather than the regulations as promulgated by EPA. In my estimation, it is incumbent upon the Congress to relax these deadlines which have proven to be unrealistic, rather than abrogating this responsibility to the bureaucracy.

Given these facts, I believe that an extension of July 1, 1979 to July 1, 1980, is appropriate and necessary. I urge that the Subcommittee on Health and the Environment of the House Committee on Interstate and Foreign Commerce schedule hearings on this matter very soon so that the House can rapidly pass H.R. 1150.●

● Mr. WAXMAN. Mr. Speaker, I share the concern of the gentleman from Oklahoma, Mr. WATKINS, and others participating in this special order, about the potential sanctions that may be imposed because of the failure of States to develop implementation plans under the Clean Air Act. The potential for application of Federal funding sanctions and construction prohibitions as a result of the failure of States to meet deadlines in the Clean Air Act must be quickly and thoroughly examined, particularly to see how EPA is handling the compliance with the July 1, 1979, deadline, which has just passed.

As I indicated to the gentleman from Oklahoma in an exchange of letters in May of this year, I intend to hold oversight hearings this month to review the State implementation plan process. During those oversight hearings, the subcommittee will thoroughly examine the manner in which States have attempted to comply with the statutory requirements and to evaluate how well the Environmental Protection Agency has fulfilled the mandate given it by Congress.

The States and EPA appear to be moving ahead to finalize this important phase of our national air pollution program. The Environmental Protection Agency claims that the majority of the States have submitted plans to EPA for cleaning up air pollution by 1982 or 1987.

During oversight hearings at the end of July, we will thoroughly examine these claims. I expect that we will receive testimony from a number of concerned parties, including EPA, representatives from State governments, affected industries, and environmental groups.

These hearings will be designed to provide the subcommittee and the Congress with a thorough and factual basis on which to determine whether any additional legislation, such as that authored by the gentleman from Oklahoma, will be necessary this year. If the facts indicate that dire economic consequences will result from implementation of the act, then the subcommittee will certainly want to deal with the matter in a responsible fashion.●

Mr. WATKINS. Mr. Speaker, I would like to conclude that I have in the last few moments received word from the chairman of the subcommittee indicating that he would probably have hearings to look into the States' actions, but those are not the hearings that we are asking for. We are asking for hearings concerning H.R. 1150 that would extend the deadline of the Clean Air Act amendments so we can have until January 1 for our States to get their SIP's approved and not to allow any type of sanctions or injunctions to be activated against our States and our communities and our municipalities.

Mr. Speaker, I think that the chairman of that particular subcommittee in just holding oversight hearings to see if States have done this or done that is missing the point. The point is that if we do not by law enact H.R. 1150 to delay the implementation of the Clean Air Act amendments now for only 6 months more, then we are probably going to have injunctions and lawsuits placed against our States by some environmental groups, and they will shut down all of the construction in this country, and these sanctions will go against our sewer permits and also against Federal highway moneys. So I would urge my colleagues in the House to urge the subcommittee chairman to have hearings on H.R. 1150, and let us pass that bill and protect our States and our communities so that we will not drive our country into a disastrous recession.

CONCURRENT RESOLUTION WELCOMING DIRECT ELECTIONS TO THE EUROPEAN PARLIAMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. PEASE) is recognized for 60 minutes.

GENERAL LEAVE

Mr. PEASE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. PEASE. Mr. Speaker, as chairman of the U.S. congressional delegation which met most recently in Paris during the Easter recess with a delegation of the European Parliament, it is my honor and privilege today to introduce a concurrent resolution "welcoming the first directly elected Parliament of the European Community into the family of freely elected representative bodies."

This resolution is cosponsored by the distinguished chairman of the full Committee on Foreign Affairs (Mr. ZABLOCKI) and by all members of our delegation to the 15th conference with the European Parliament. It is also cosponsored by the gentleman from New York (Mr. ROSENTHAL), a past chairman of the House delegation and a leading organizer of this semiannual exchange since its inception in 1972.

Mr. Speaker, the resolution specifically recognizes an event of monumental importance in the history of European unity and in the development of multinational, democratic institutions. It is an event which merits our attention, our warmest congratulations and our continuing support.

From June 7 until June 10, over 110 million voters went to the polls in the nine member-countries of the European Communities to elect 410 members of the European Parliament. These elections are part of the gradual process toward European integration which began with the signing of the Treaty of Rome in 1957.

The results indicate that the full European political spectrum will be represented in the new parliament. Despite some losses—especially in the United Kingdom, the Socialists retain the largest number of seats (111), followed by the Christian Democrats (105), the European Conservatives (63), the Communist and allied groups (44), Liberal-democrats (42), European Progressive Democrats (21), and unaffiliated (24).

Among the prominent political figures elected to the Parliament are such leaders as Willy Brandt and Kai-Uwe von Hassel of West Germany; Jean Lecanuet, Maurice Faure, Jacques Chirac and George Marchais of France; Mariano Rumor, Emilio Colombo and Enrico Berlinguer of Italy; Sir Henry Plumb and Barbara Castle of the United Kingdom, and Leo Tindemans of Belgium.

While press coverage of these elections has emphasized the relatively low voter turnout in comparison with national elections, it should be noted that this was a totally new and precedent-breaking experiment in European politics. Moreover, the overall percentage of voter participation—60 percent—was larger than that normally recorded in Presidential elections in the United States. Only in two countries, Denmark and the United Kingdom, was the vote turnout less than 58 percent. By contrast, in Luxembourg, Belgium, and Italy, the turnout was 86 percent and in Germany, France, and Ireland: 66 percent, 61 percent, and 63 percent, respectively.

The European Parliament is one of four institutions of the European Communities. The other institutions are: the Commission, the Council of Ministers, and the Court of Justice. Aside from serving as the forum of the European Communities in which policy issues affecting those institutions are discussed, Parliament presently has certain limited powers, including general supervision over the Commission, which it can dismiss by a vote of censure, and increasing control over the E.C. budget. Clearly, in European terms, it is an institution of growing importance. Under its new electoral mandate, Members are expected to speak with enhanced authority on issues affecting the E.C. member nations.

Mr. Speaker, this resolution recognizes "the election of the European Parliament to be an event of great historical significance to the evolution of European unification and integration and to the growth of representative democracy." It also pledges the support of Congress for continued close relations with parliamentarians from the European Communities and, to this end, "affirms its readiness to continue the semiannual discussions with the Parliament on issues of common concern and to explore mutually beneficial measures for their improvement."

An identical resolution is being introduced in the Senate, and it is my hope that after the resolution is considered by the Foreign Affairs Committee it may be passed by unanimous consent—in time for the ceremonial opening session of the first directly-elected European Parliament on July 18.

In a moment, I will yield the floor to the distinguished gentleman from Florida (Mr. GIBBONS), who has served since the inception of our parliamentary exchange with the European Parliament and in recent years, as cochairman of the U.S. delegation. Before yielding, I would like to announce to my colleagues that the gentleman has been designated by the Speaker to act as his personal representative, as well as the representative of the House as a whole, at the formal opening session in Strassbourg.

Let me also point but that the gentleman's experience and assistance to me—together with that of our other distinguished cochairman, the gentleman from Kansas (Mr. WINN)—has been of inestimable value to me in carrying out my first assignment as chairman of the delegation. I also want to thank, and will presently recognize other participants who have contributed so much to our past discussions.

At this point, Mr. Speaker, I will insert, without objection, the full text of this concurrent resolution into the RECORD and then yield to the gentleman from Florida (Mr. GIBBONS).

The resolution follows:

H. CON. RES. 159

Whereas since World War II the United States has consistently supported European integration as a fundamental basis for peace, stability, and prosperity;

Whereas the basic aims for the European Community are to foster the well being of its citizens through economic growth and stability among its member states, and to lay the foundations for closer union among the peoples of Europe;

Whereas, in the common interest, the United States has maintained close ties with the Community, dating from the creation of the European Coal and Steel Community;

Whereas these ties have been further strengthened by the continuing exchanges, initiated in 1972, between members of the United States Congress and representatives of the European Parliament, the members of which have heretofore been appointed from the legislatures of the member states of the comunity;

Whereas the United States and the Community share common respect for democracy, the promotion of human rights under the rule of law, and the observance of democratic practices;

Whereas the election of representatives to the European Parliament by universal suffrage is a concrete manifestation of the Community's commitment to democratic ideals;

Whereas a Parliament elected by universal suffrage will enable the citizens of the Community to participate more fully, through their elected representatives, in strengthening their common futures; and

Whereas June 7-10, 1979, marked the first time that the citizens of the Community have chosen by direct universal suffrage their representatives to the European Parliament: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress welcomes the first directly elected Parliament of the European Community into the family of freely elected representative bodies.

SEC. 2. The Congress recognizes the election of the Parliament to be an event of great historical significance to the evolution of European unification and integration and to the growth of representative democracy.

SEC. 3. The Congress congratulates the newly elected Parliamentarians and expresses the conviction that, as they assume their responsibilities, they will pursue policies aimed at strengthening the Community and ties between it and the United States.

SEC. 4. The Congress pledges its support for continued close relations with Parliamentarians from the European Community and, to this end, affirms its readiness to continue the semi-annual discussions with the European Parliament on issues of common concern and to explore mutually beneficial measures for their improvement.

SEC. 5. The Congress requests that the President forward a copy of this resolution to the President of the European Parliament, the President of the Community's Council of Foreign Ministers, and the President of the European Commission.

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Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. PEASE. I will be happy to yield to my distinguished colleague from New York and a fellow member of our delegation last spring.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman from Ohio (Mr. Pease) for introducing this resolution welcoming the direct election of the European Parliament, and for arranging this special order. I am pleased to cosponsor the resolution.

The House of Representatives is known as "the People's House." No one has ever sat in the House as the result of an appointment or an indirect election; rather, every Representative is—and always has been—directly elected by, and responsible to, his constituents.

Mr. Speaker, we welcome the European Parliament into the community of freely and directly elected representative bodies.

The decision to elect the European Parliament directly is a significant change and an important opportunity for direct involvement of the citizens of Europe in planning their destiny.

This is not to say that the prior 20 years of work and decisions of the Parliament—including the many meetings with delegations of the House in which I have been pleased to privileged to participate—have been lacking in any regard.

In fact, I have recently returned from valuable consultations with the European Parliamentarians on the urgency of renewed and unified efforts to help solve the international problems of energy, human rights, narcotics abuse and trafficking, and our relations with the developing nations.

Mr. Speaker, permit me to add my personal gratification with the results of the recent elections.

First of all, these elections represent another important step in the strengthening of the European Community, which, I hope will substantially strengthen the overall security of the West.

Second, the electoral results indicate a decrease of support for extremist political parties such as the Communists. There can now be little question that—whatever their preferences as to internal economic policy—Europeans have moved toward the position that it is inappropriate to place the responsibility for European security and human rights issues in the hands of the Communists.

In conclusion, Mr. Speaker, let us welcome and extend our best wishes to the newly elected European Parliament, and let us pledge to continue our close relations with the European Community.

I urge my colleagues to give speedy and favorable consideration to this resolution.

Mr. PEASE. I thank my colleague for his contribution both to this special order this evening and to our meeting with the European Parliament last spring. It was his first meeting with the group overseas as it was mine and the gentleman made a great contribution, particularly in bringing to the attention of our European colleagues the importance of narcotics control and as a result of the gentleman's contribution at that meeting we have agreed to pursue the matter at greater length this fall when the European Parliament members come here

Mr. GILMAN. I thank the gentleman for his kind remarks.

Mr. FITHIAN. Mr. Speaker, will the gentleman yield?

Mr. PEASE. I will be happy to yield to my friend and colleague from Indiana, another distinguished member of our delegation.

Mr. FITHIAN. I thank the gentleman from Ohio for yielding and I congratulate him for the resolution.

The long and torturous process of evolution of government in the history of mankind is one that is hard to measure but this step, the third step in the evolution of Europe, of a united Europe, is one which we in this Congress, I think, should rightly observe and I congratulate the gentleman for offering us a resolution to do that.

Three years ago when we first took up the matter of energy with the European parliamentarians, I would like to report to the House that the general sentiment of the European parliamentarians was that the American thrust, both under President Ford and under President Carter, the American thrust toward a policy of nonproliferation was nothing more than a front for the American nuclear industry.

It took us several sessions there and here in Washington in which to have a thorough and complete discussion of this issue. Finally, I am happy to report, at the previous meeting that has been cited by my colleague, a set of recommendations were adopted by the parliamentarians and the Members of the American Congress.

Mr. Speaker, at this point I would ask unanimous consent to insert those recommendations, the first ever to be agreed to between the European Parliament and the U.S. Congress Representatives. I would ask unanimous consent to insert those in the Record at this point, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The material referred to is as follows:

Energy Recommendations

U.S. CONGRESS—E.C. PARLIAMENTARY EXCHANGE

Considering the profound difficulties which the continuing energy crisis poses for social and economic development in the United States and the European Community,

Recalling the fruitful discussions which recently took place between the United States Congress and European Parliament delegations in Washington, D.C.

Recognizing the broad agreement reached at that meeting on energy matters,

Noting however that certain differences of opinion remain particularly regarding the effects of the U.S. Non-Proliferation Act on aspects of nuclear research and development being undertaken in the Community partly under the auspices of EURATOM.

The U.S. Congress and the European Parliament delegations make the following recommendations:

1. They recognize in view of the likely shortage of oil by the 1990's, that the first step in an effective energy policy must be the adoption of measures to avoid wastages of energy, as was agreed at the Bonn Summit of July 1978;
2. They consider that alternative forms of energy must be developed to replace the use of oil and natural gas as far as possible;
3. They note that nuclear energy can be a major alternative especially for base-load electricity generation provided that the problems of the disposal of radio-active waste can be successfully met and that the risks of proliferation of nuclear weapons are minimized by the full and effective implementation of the Non-Proliferation Treaty;
4. They recognize the serious differences of opinion which exist regarding the effectiveness of available solutions to these problems;
5. They support the need for further improvement of national and international nuclear safeguard technologies and methods and encourage the timely correction of those safeguard implementation problems that have already been identified by the IAEA;
6. They note the need for consultation in devising an effective common international response to safeguard violations and nuclear diversions;
7. They recognize the close cooperation between the United States and the members of the European Community in INFCE, whose goal it is to make the nuclear fuel cycle more inherently resistant to diversion and misuse;
8. They consider that the close cooperation between the United States and the European Community is necessary to overcome these difficulties;
9. They note that there could be significant long-term potential in solar and other alternative sources of energy which are effectively inexhaustible and free of pollution in order to reduce further the consumption of hydro-carbons and the need for an over-hasty development of nuclear power, but that much research and development effort is needed;
10. They call in particular for collaboration between public research bodies in the United States and the European Community;
11. They welcome the initiative of the United States Secretary of Energy in addressing the European Parliament delegation in Washington and recommend that the responsible Commissioner and President-in-Office of the Council of Ministers of the European Community be asked to reciprocate this initiative.

Mr. FITHIAN. Finally, Mr. Speaker, this era of cooperation in the whole field of energy and in the field of exchange between the United States and the European parliamentarians I think moves us further away from the differences that divide us, closer to the day when we have a full understanding of one another. This is not only on the matters of energy but on the matters that face us all over the world.

I am happy and proud to have been able to participate in the European parliamentary exchange. I commend the gentleman from Ohio (Mr. Pease).

I would point out to the Members of

the House, in reading these recommendations, this caveat, that these recommendations are not binding on the member governments but they do represent the full range of the European energy thinking and in my judgment there is hope that the softening of the hard-line attitudes by the delegates may signal future policy changes by their respective governments and give rise to further progress toward a policy of mutual consideration and cooperation in the field of energy and particularly in the field of nuclear energy.

A full discussion was had here a year ago upon the introduction of the bill of the gentleman from New York (Mr. Bingham), the Nonproliferation Act, and in the two succeeding sessions I believe it is safe to report, Mr. Speaker, that it was a much fuller understanding of the sentiment of the American Congress.

I congratulate my colleague for taking out the special order.

Mr. PEASE. I thank my colleague, the gentleman from Indiana (Mr. Fithian), for his contribution, also.

I think my colleagues ought to know that our friend and colleague, the gentleman from Indiana (Mr. Fithian) provided outstanding leadership regarding this set of energy recommendations. He worked for over a year with Ron Brown, a member of the British Parliament in developing these recommendations.

Mr. Speaker, Members of this House I believe know that the European Parliament is one out of four institutions of the European Community. The others being the Commission itself, the Council of Ministers and the Court of Justice.

Aside from serving as a form of the European Community in which policy issues affecting those institutions are discussed, the European Parliament presently has certain limited powers including general supervision over the commission which it can dismiss by a vote of censure and increasing control over the European Community's budget.

Clearly, in European terms, it is an institution of growing importance.

Mr. Speaker, this resolution recognizes the election of the European Parliament to be an event of great historical significance to the evolution of European unification and integration and to the growth of representative democracy. It also pledges the support of Congress for continued close relations with parliamentarians from the European Community.

I should interject at this point that many Members of this body who are not here tonight have contributed over the years to this exchange.

The resolution affirms its readiness, that is of the Congress, to continue the semiannual discussions with the Parliament on issues of common concern and to explore mutually beneficial measures for their improvement.

Mr. Speaker, an identical resolution is being introduced in the Senate and it is my hope that after this resolution introduced today is considered by our Committee on Foreign Affairs that we might get it adopted by unanimous consent here on the floor in time for the opening ceremonial session of the first directly elected European Parliament in Strasbourg on July 18.

I would like to announce in that connection that our distinguished colleague, the gentleman from Florida (Mr. Gibbons), will serve as the official representative of the Speaker, a Representative of the House itself at the formal opening session in Strasbourg.

I would be remiss if I did not recognize the very valuable help I have had from the gentleman from Florida (Mr. Gibbons) and also the gentleman from Kansas (Mr. Winn) who served as cochairman with me in this delegation.

● Mr. ROSENTHAL. Mr. Speaker, when the European Parliament, elected for the first time by direct ballot of its constituents in nine countries, assembles next week, a major goal of the Treaty of Rome of 1957 will be achieved. The treaty, which is Europe's Constitution, established direct elections as the means to bring a political foundation to a united Europe. The process has taken longer than anticipated but, considering the span of European history, 22 years is actually only an instant.

The momentous nature of European unification seems composed of a number of rather mundane steps. When Jean Monnet and Robert Schuman devised a plan in 1950 to pool European coal and steel resources to inhibit warmaking capabilities, the economic consequences were not imagined. Yet economic integration proceed step by step over the years until the Treaty of Rome both represented and foretold vast undertakings to construct a new system of European government.

The European Parliament is today the least developed of the institutions of the European Community. This explains, partially, the high expectations for the directly elected body. Those of us who have been fortunate enough to know the Parliament in the present form and who have worked with its members, share these expectations for growth and, especially, for political vitality.

An interesting account of the past relations of the Parliament and the Congress appeared recently in the magazine European Community, published by the delegation of the European Community in Washington. Entitled "Learning From the U.S. Congress: Are There Any Lessons for the New European Parliament?" the article examines the exchange which has existed since 1972 between the two bodies and analyzes the lessons of the Congress development which might also apply to the Parliament.

The article follows:

Learning from the U.S. Congress: Are There Any Lessons for the New European Parliament?

(By Clifford P. Hackett)*

The Congress of the United States will mark its 190th anniversary early in 1979. Soon afterwards, on the June 7–10 weekend, the European Parliament, only a little over 20 years of age, will start a new phase with its first direct elections. Given the differences of age, traditions, and constitutional systems, we might ask if there is anything the Parliament can learn from its older sister-institution.

Behind the question is the assumption that the two legislatures know each other. One basis for this assumption is the seven-year-old parliamentary exchange that began with a visit to Luxembourg in January 1972 by eight members of the House of Representatives. In May a return visit was made to Washington by 12 members of the European Parliament. Ever since, two meetings have been held each year, alternating between various EC cities and Washington.

Over 70 different members of Congress and over 60 different members of the European Parliament have participated in this exchange. Each year 30–40 members of the two institutions attend the two sessions, approximately half of them veterans and the other half new participants. A useful blend of experience and freshness of perspective results.

Advance papers have been prepared by the participants themselves since the 1973 sessions. In addition to current economic and political issues, these papers cover institutional aspects of the Congress and of the Community. It is fair to state that this program has been one of the most serious and best prepared of all parliamentary exchanges. So there is some solid common experience uniting the Parliament and the Congress.

What, then, can the new, directly elected European Parliament learn from the Congress? And are there any lessons the Congress might take from the much shorter history of the European Parliament? Answers to these questions tend to group around the expectations that both Europeans and Americans have for the two institutions. Concerning the more vital question of what the Parliament might learn as it starts a new phase of its existence, opinions tend to divide along these lines:

Those who see the European Parliament continuing along its present general direction and who find, therefore, little worth in the congressional precedents for the new Parliament;

Or those who have greater expectations for the Parliament (and, presumably, for the Community) and who tend to look more eagerly to the congressional patterns of growth and of vigorous activity as models for the first truly European Parliamentarians.

We can call these the "minimalist" and the "maximalist" positions on the growth potential of the new Parliament. Many European politicians fall in this minimalist group because they minimize the political potential of the European Community. They favor a loose structure among the Nine. Many in this group favor a Europe of the Twelve, including Greece, Spain, and Portugal, since this enlargement would make a tighter federal structure even more difficult to attain than at present. Direct elections, these critics say, are not all that important. Too much emphasis on direct elections, or on the European Parliament at all, tends to misdirect attention from the national parliaments. In the view of these observers, larger staffs, public hearings, and a more vigorous Parliament would be against the national interests of the nine governments.

Maximalists include those who foresee and prefer some genuine institutional development for the Parliament. Differences exist, and will perhaps sharpen, when these observers discuss the direction and rate that growth should take. But this group tends to view the Congress as a useful measure against which to judge expectations for the Parliament. Already, they say, some of the Nine's national parliaments seem to be following the example of the Congress, such as larger staffs in Bonn and more office space in London.

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*Assistant for foreign relations to Senator Paul S. Sarbanes (D-Maryland), formerly of the House Foreign Affairs Committee helping start the EC-US parliamentary exchange.

The maximalists recognize, they say, the enormous differences in history, tradition, and constitutional systems separating Congress from *any* European parliament. But the need to break down executive secrecy and arrogance exists in Europe also, they insist, and Congress has shown the way. The difficulties the present Parliament has, for example, in getting information from the "Eurocrats" in the Commission's headquarters show that a stronger and more determined parliamentary approach is needed. Only by using more and better resources, including staff resources, can the new Parliament hope to deal with Brussels.

Some of the maximalists certainly display an enthusiasm for a new kind of European Parliament which is much like the earlier eagerness to build a new Europe on the ashes of World War II. Others have no such vision but are convinced that the present Parliament has come to its natural conclusion. A new institution with full-time members, decent office space and equipment, and a better organized staff is needed from the start. They say, if we can learn from Washington, Tokyo, or Dublin, let's do it!

Whether the minimalists or maximalists actually prevail will probably depend on their respective representation in the new Parliament. Or, at the least, if there are largely minimalists installed next summer, there will be another five years of what the Parliament has been in its past. If the maximalists predominate, one can expect more interest in how the Congress functions.

To American observers, the European Parliament is a fascinating mixture of the familiar and the unknown. Some of the Parliament's practices obviously derive from European parliamentary traditions. Others are peculiar to the unique nature of the body the Treaty of Rome established as the "Assembly," now called the European Parliament. A striking characteristic, from the U.S. viewpoint, of the European Parliament is its limited powers. The fact that these powers will not increase with direct elections tempers the genuine excitement many American friends of Europe feel at the approach of direct elections. For example, the power of legislative initiative will remain divided between the Commission—representing Community-wide interests—and the Council of Ministers—representing the national governments. The Parliament's only role in creating Community legislation comes with an opportunity to amend Commission proposals, but only in nonbinding ways.

Legislative control of the executive branch, a power that the Congress must often fight to maintain, is limited in Community matters to the abstract right of Parliament to remove the Commission by censure motion. This has never been done and would be out of keeping with the present character of the Parliament. Without true legislative powers and without real control of the executive, the Parliament exists today, at least from a congressional viewpoint, as largely an institution still awaiting its destiny.

A second, and somewhat inconsistent, impression is that the Parliament's role has increased over its 20-year history. Since 1975, for example, when the Community budget became fully self-financed, the Parliament has exercised some budgetary control. This fact is only partially modified by the existence of many fixed obligations in the budget over which Parliament has no control. (The Congress frets often at the same restrictions on its budgetary powers.)

Another important change in the Parliament's procedures came in 1973 with "Question Time." This device, familiar to British members, allows the Parliament to question officials of the Commission directly on either a written or oral basis. While Question Time has enlivened the plenary sessions, as the U.S. delegation saw for itself during the 1977 visit to Luxembourg, the Parliament, like the Congress, finds that most of the real work is conducted in the committees.

The Parliament's Budget Committee, one of its 12 permanent committees, exercises real authority. The other committees will probably gain influence as direct elections move their work into the mainstream of public attention. How rapidly this growth will occur is unknown. One problem is the lack of public access to the work of Parliament and its committees. The American practice of public hearings is still unknown, although the joint E.C.-U.S. parliamentary group did hold public hearings in Munich in 1974 on multinational corporations. The interest of the European members in this session suggested that public hearings in the new Parliament might be possible.

If next June's election will not directly affect the Parliament's powers, the balloting will symbolize an important change for the Community. For the first time, about 180 million eligible voters will have a direct choice in who represents their views in the Community. Until now the Parliament's members have been chosen by the Nine's national parliaments.

Supranationalism is a somewhat old-fashioned charge against the Community. Perhaps it will be revived as direct elections approach, because this will be the first time voters choose Community spokesmen without the choice being made through national political structures. Twenty-five years ago supranational aspirations were common in Europe and, in fact, propelled the original Six into the Community. Today, with Community growth moving more slowly and more cautiously than anticipated a quarter-century ago, expectations for dramatic steps toward political unity are absent. Possibly the coming elections will stimulate discussions again about political integration, but a more skeptical Europe today remains unconvinced about such unity, either as a goal or as a means to better cooperation on specific Community issues.

What is clear is that the Parliament will have to change its ways with direct elections. First of all, although the directly elected members *may* still be members of their national parliaments as at present, both the political parties and the system of work will make these "duel mandates" much more difficult in the future. One reason why the Nine's national governments agreed to direct elections was the increasing difficulty of getting work done with a part-time European Parliament. Too much time was being spent by its members just traveling from the nine capitals to and from Strasbourg and Luxembourg for plenary sessions and Brussels for committee and political group meetings.

The European Parliament has been meeting for most of the past decade only one week each month in plenary session. The growing complexity of its work, however, has created pressures for more sessions. Yet the more time the European Parliament demands, the less time its members have for the national legislature. And it is in the home parliaments that careers are made and elections won or lost. After June the successful candidates for the European Parliament can anticipate a mandate devoted entirely to Community business.

No one knows what effect direct elections will have on the kind of parliamentarian who competes to sit in the European Parliament or whether the 1979 patterns will prevail in the future. But it is certain that the American participants in the present parliamentary exchange will see many new faces in the fall of 1979, when the European delegation comes to Washington. Some will be familiar European faces who are members of the Parliament for the first time: Willy Brandt of Germany and Francois Mitterrand of France have indicated their candidacies. Others will be genuinely new—those elected to the Parliament who have never before held national political office. Of the familiar faces, some will certainly be present members of the Parliament choosing to continue their careers with the Community.

Many of the details of the new Parliament remain to be established, including the pay and allowances of its members. But in looking for models, it is natural that some European legislators are looking to Washington. No national parliament in Europe has the large staff or the generous allowances of a member of Congress. The Europeans are, first of all, parliamentarians, which means they are accustomed to a system where the party is somewhat more important and individual members somewhat less visible than in Washington, where "personal" politics is well-developed. By European standards, the American political parties are hardly entitled to the name. The American parties lack the discipline in both legislative and electoral matters that Europeans expect. So there is less need, Europeans judge, for their members to maintain the large staffs that allow their American counterparts to operate in the highly personal style.

The service function, too, that members of Congress carry out is largely unknown in Europe and therefore not demanded of the European Parliamentarians by their constituents. Whether the service functions grow because of the availability of staff to perform them, or vice versa, is not agreed upon in Washington. But it would not surprise American legislators to see some interest by new members of the European Parliament in expanding their staff service functions to give the new Parliament an immediacy (and a political value) to the huge constituencies the new members will represent. When over a half million German or British citizens have a single member in Parliament, that member will have to devise new ways of meeting and communicating with so many constituents. A staff appropriate to this challenge will be one option the new Parliament will study.

Balancing this tendency, however, is the fact that most members of the new Parliament come from countries with proportional representation. This system, with its tradition of shared party responsibility, will be part of the new Parliament since many new members will not alone represent an electoral district, but instead be one of several representatives. This tends to reduce the responsibility of individual members to intercede with the bureaucracy in correcting unjust or inefficient acts of government.

Finally, most European legislators do not expect to perform the individual legislative functions of members of Congress. The political parties, the parliamentary party fraction, or parliament's own nonpartisan staffs perform many of these research, investigative, and analytical functions. Of course, some of these functions are simply not performed in a parliamentary system by the parliament. Rather, they are ministerial responsibilities that may or may not be shared or even communicated to the parliament. Whether the directly elected Parliament continues in this European tradition or strikes out in new directions is also one of the more exciting aspects of the June vote.

In Washington the legislative staffs have grown rapidly with the rising demands of constituents and with the increasing complexity of legislation. The more visible role of Congress in national political life increases the number of constituents who visit or write to their congressmen or senators. Each letter and each visit demands staff time and service. In 1965, for example, a member of the U.S. House of Representatives could hire nine staff members. This staff was located either in Washington or in district offices and included secretarial and part-time services. Today, the same member of Congress can hire 18 staff members. U.S. Senate staffs are based on the population of the state the Senator represents. In size they are at least as generous as the House, and the Senate staffs have grown as rapidly as their House counterparts over the past decade. Also expanding are the staffs of the House and Senate committees. Today there are over 10,000 staff employees on Capitol Hill caring for the needs of 535 members of Congress.

This impressive total includes the legislative services of the Library of Congress, the General Accounting Office's congressional services, and the service and professional employees of the House and Senate. With larger staffs has come the need for more office space. The House and Senate have each built large, new office buildings since World War II; both have acquired annexes now filled to overflowing; and both are either constructing or planning more office space. These lessons of expansion should be on the minds of the members of the new European Parliament.●

● Mr. WINN. Mr. Speaker, I rise in support of the resolution.

For several years now I have been a member of the U.S. delegation which meets biannually with Members of the European Parliament. Since 1978 I have been fortunate to serve as a cochairman of our delegation along with my distinguished colleagues, Mr. Pease, of Ohio, and Mr. Gibbons, of Florida. In our meetings, held alternately in Washington and in Europe, we have enjoyed frank, lively, and informative discussions on issues of mutual concern. Indeed, I have been very impressed by the knowledge and intelligence which the Europeans bring to our talks. These are Parliamentarians who relish a heated debate as much as they enjoy a sincere attempt to reconcile United States-European differences. I have yet to attend a dull session.

We jointly set an agenda for the meetings which involves a mix of issues in trade, agriculture, and foreign policy in addition to other areas. Nuclear nonproliferation, for example, has provided a focus for debate for 2 years. I believe that the understanding we have gained in our talks of the various perspectives on this critical issue has been extremely important. This understanding has influenced both European and American as each has considered policies in his own legislature.

Our next session, to be held in Washington, will be a special one. I look forward to it with a great deal of enthusiasm. This will be the first meeting of the U.S. and European delegations in which the European delegates will be directly elected to the European Parliament by the people of Europe. Previously, the Europeans served as members of their national legislative bodies and were appointed, in addition, to serve in the European Parliament. But from June 7 to June 10, 1979, the first direct elections to the European Parliament occurred. Sixty-five percent of the eligible European electorate in the 9-member countries voted to send 410 representatives to the Parliament. The new Parliament will thus be much larger than the old one with its 198 seats.

Most European observers do not expect the limited powers of the European Parliament to increase appreciably. It will remain subordinate to the European Council and the European Commission, the other two principal governing bodies of the European Community. But I venture that the European Parliament is going to be an exciting place to be in the coming years. It will percolate with the ideas of its many outstanding members, some of which already carry great political weight in Europe such as Willy Brandt of Germany and Simone Weil of France. These individuals will bring their expertise and authority to strengthen the Parliament. In addition, having a direct electoral mandate provides any representative with legitimacy and authority. Therefore, I expect that we will see the European Parliament play a growing political role in the European arena.

In our upcoming session this October in Washington, then, we will be welcoming the new Members of the European Parliament. We Americans will be, in many cases, the "veterans" of the exchange, providing the continuity that will help carry the sessions forward. I, therefore, hope that many of our former U.S. participants in these meetings will mark the occasion on their calendars and participate in some of the discussions. But I also think that many of my colleagues in the House who have not yet had the opportunity to participate will join us. Few problems today stop at national borders. Our concerns at home are very relevant to these meetings and the debates in these meetings broaden our outlook in the United States and very much relate to domestic considerations. Also, in the future, as other European nations such as Greece become members of the European Community and their Parliamentarians join their voices to the others in this institution, the Community and our joint United States-European meetings will become ever more vital and important.●

● Mr. ZABLOCKI. Mr. Speaker, I want to commend the gentleman from Ohio (Mr. Pease) for his initiative in introducing this resolution and record the fact that I fully and wholeheartedly support it.

As the gentleman has noted, this is a bipartisan effort by the Congress to "Welcome the first directly elected parliament of the European Community into the family of freely elected representative bodies"; to congratulate the newly elected parliamentarians; and to pledge our continuing support for the exchange between that body and our own Members, which has been in existence since 1972.

In this connection, Mr. Speaker, I would like to recognize the efforts of members, both from the Committee on Foreign Affairs and from other committees, who have contributed so much to these semiannual discussions.

As many are aware, this exchange was originally organized on an informal basis by the gentleman from New York (Mr. Rosenthal) and former Congressman Donald Fraser, of Minnesota.

In 1978, the chairmanship was assumed by our late colleague, Leo Ryan, of California, who rendered distinguished service prior to his tragic death in November of that year. Following this unforeseen and unhappy event, I agreed to serve as transitional chairman of the U.S. delegation during the meeting which was held last January in Washington. While I welcomed the assignment, I realized that it was one which required constant attention and vigorous leadership, which is exactly what my successor, the gentleman from Ohio, has given it. According to all reports I have received of the last meeting of the two delegations in Paris, which preceded the direct elections by only a few weeks, he carried out his responsibilities very ably and conscientiously, and again, I want to commend him for his contribution.

Finally, I want to say that it is entirely appropriate that the gentleman from Florida (Mr. Gibbons) will represent this body as the Speaker's personal representative at the ceremonial opening session of the new Parliament in Strassbourg later this month. The gentleman has served as a delegate to these meetings since their inception (in 1972) and in recent years, as cochairman, together with the distinguished gentleman from Kansas (Mr. Winn) of our own Committee on Foreign Affairs.

The gentleman from Florida brings to the all-important substantive discussions on trade between the United States and the European Community, the perspective of a ranking member of the Ways and Means Committee, and is well versed in all aspects of the Parliament's activities. I am delighted that he has agreed to represent us, and the American interest, in Strassbourg and I know he will do so with great distinction.

Mr. Speaker, I hope that we can act on this resolution expeditiously and bring it before the House in the near future for its immediate consideration.●

Mr. PEASE. Mr. Speaker, I thank my colleagues for their kind attention and I yield back the balance of my time.

☐ 1940

WHAT THE PRESIDENT SHOULD HAVE SAID TO THE AMERICAN PEOPLE ABOUT ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. Rhodes) is recognized for 60 minutes.

GENERAL LEAVE

Mr. RHODES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RHODES. Mr. Speaker, I do not often take the time of the House in a situation like this, but I think that this is an important matter which needs to be brought to the attention of the House.

Last Friday as I was sitting in my home in suburban Maryland, I began thinking about what the President of the United States should have said to the American people on the subject of energy, had he said anything, and I recorded those thoughts.

I am particularly glad that I did, because even though it has been said that the meetings at Camp David are bipartisan, I have not noticed it, because not one Member of the Republican side of the House of Representatives has been invited to Camp David.

Therefore, I am especially glad that I put together these remarks, so the President will at least be aware of what I think he should have said. With the indulgence of the Chair, I will read it:

My Fellow Americans, in October of 1973, the lifestyle of the western world as we have lived it for several decades came under severe economic attack when the OPEC nations tripled the price of crude oil. Recently another forty percent boost exacerbated the challenge facing economies heavily dependent on petroleum.

It is understandable that OPEC nations seek to derive maximum return from what for many is a single, finite resource. When the oil is gone, those nations must depend on the successful investment of the proceeds from the sale of that oil in order to produce sufficient income to sustain their economies. Nevertheless, we cannot allow pursuit of their goal to effect the ruin of our free enterprise system. We must instead set a course of action which will preserve the way of life of ourselves and the free world.

The most recent crude oil price hike does effectively set a course that could lead to bankruptcy for the economies of the western nations and Japan. It is possible to make a case that this could have been done knowingly and deliberately, perhaps at the suggestion of nations whose stated goals and ideologies are the downfall of the economic and political systems we espouse. However, I prefer to believe that it was done heedlessly and recklessly, but with only self-interest as a motive.

Whatever the OPEC motivation, it has brought our Nation to the state that now really is the moral equivalent of war. We must take heroic steps to meet this emergency if America is to survive as a great world nation, dedicated to the principles of a democratic republic.

All oil-importing nations must now make painful decisions. They should have been in the United States many months ago. We have basically three ways to proceed: (1) a cutback in the use of energy; (2) increased production of conventional fuels; and (3) development of alternative energy sources.

First, let me say that the petroleum shortage is indeed real. Many Americans are convinced that blame lies with a conspiracy by the oil firms against the best interests of the Nation. I do not believe oil companies can be held accountable for the shortage. I submit that their expertise, accumulated over the past 120 years of petroleum development, is one of our great national assets, which, if used wisely, can promote our development of energy self-reliance by maximizing our own resources.

It was felt by many that higher unit rates for petroleum products would produce a dramatic cut in use. Since 1973, prices have risen spectacularly, but demand also continues to edge upward. Some conservation has been effected by lower speed limits, added insulation of homes, and industrial efficiencies. Yet, even in Europe, where gasoline prices are more than double those in the United States, petroleum consumption has not been rolled back by higher prices. Conservation, then, will have a contributory but limited impact on meeting our energy needs.

Our priority now must be to increase domestic production of oil and natural gas. The first step should be immediate decontrol of both. Republicans have long advocated this course of action, and I have asked the Congress to approve my decontrol program. We must cease following the glittering illusion that managed prices, casting blame on the firms that supply our energy, nationalization, or punitive legislation against industry are the roads to energy plenty. We can, by removing price controls, greatly increase production of oil and gas.

If the Congress believes that a windfall profits tax is necessary for a limited period of time, I would agree to such a tax, provided that a credit is established for any firm that increases its investment in the production of more energy from any source. It should be borne in mind that regardless of further Congressional tax levies, any profits gained by oil firms from decontrol will be taxed at the present 46 percent corporate rate.

A cooperative federal-private effort can unlock our vast shale oil resources, which contain more barrels than OPEC has produced. We have billions of additional barrels in tar sands and untapped heavy crude deposits. Our task is to use our technological abilities, to utilize our own vast resources to benefit our economy and those of our allies, and to lessen dependency on the volatile political and economic attitudes of OPEC governments.

But over the long run we must rely on our achieving a vast energy output from sources other than oil, some natural and some synthetic. Our most immediate opportunity lies in more fully developing the potential of our immense coal deposits, as a fuel and as the base for synthetic gasoline and gas.

Technology exists for gasification and liquefaction of coal. Our government must clear the way so this huge fuel source can be developed. A new look at legislative restrictions must be taken, and the private sector must be encouraged to invest the money we will need to harvest the great energy potential of our billions of tons of coal.

Solar energy must be brought from its infancy to widespread use by innovation in our approach, by research, and by the encouragement of investment to harness this great but now intermittent source of energy.

We must face the reality of our nuclear potential. It is apparent that for at least the next twenty years, this country and the Western world must lean heavily on power produced from the fission of uranium and plutonium atoms to keep our economies going and growing.

It is imperative that we solve the serious problem of safe nuclear waste disposal. One of the most effective ways is to burn it up by use of emerging technologies in reactors. I refer to the latest fast breeder reactors, and I call upon the Congress to join my Administration in partnership to realize the immense energy potential of what we now regard as dangerous waste materials. We should move ahead, build the breeder, and produce power from it during the 1980s.

In addition, research should be accelerated to tap the great promise of nuclear fusion, particularly the development of a hybrid fusion-fission reactor which offers enormous near-term energy potential for us and the world.

If we are to face reality in energy, we must review the pace and scale of our efforts to repair and restore the environment. Erasing 200 years of pollution from the Industrial Revolution cannot be done overnight. We shall continue to make progress toward cleaner air and water at a rate commensurate with our need to produce energy and to provide jobs.

We must achieve a balance between our desires for haste in the cleaning up of the outdoors and the need to nourish and expand our economic environment, the bedrock of our way of life.

To achieve real and immediate progress toward solving our energy dilemma, I am asking that the Congress join me in naming a blue-ribbon commission with powers similar to those given the Manhattan Project during World War II. The Manhattan Project's prodigious accomplishments were due to the power of its directors to slash red tape, muster resources, and move swiftly toward its goal.

I am informed by leaders of the energy industry that one of the greatest barriers to the development of new energy technology is excessive regulation, emanating from the many laws enacted with the worthy aim of environmental protection but in a helter-skelter manner.

I will ask the Congress to entrust the commission with authority to waive or postpone application of these rules, regulations, and laws when the commission believes such action is necessary to achieve production from significant sources of energy. The commission will be enjoined to consult with, and consider the views of, the governors of the states involved or with administrative bodies empowered to act on behalf of the states.

I am asking that the Congress join me in a new direction. It is now obvious that our goal must be more, not less, energy—produced domestically. To achieve our objective, we must think anew and act anew. We must release the potential of our unsurpassed technological resources and the native ingenuity that characterizes the American spirit.

I call upon my own Democratic Party, the Majority Party in the Congress, to join me in this program, realizing that for some Members such cooperation will require a change of direction of almost 180 degrees from the policies they have followed in the past. I have every confidence that we will receive support from the Republican Party. Its leaders in the House and Senate, Representative John Rhodes and Senator Howard Baker, already have called for a Manhattan-type project to cut red tape and secure our energy independence. Congressman Rhodes has also called for an energy summit, which I intend to convene, with the participation of members of both parties.

I am also confident that Repubicans will support efforts to cut away the underbrush of tangled regulation, for that has been their Party policy for many years. I am certain they will continue to support the breeder reactor, greater use of coal, and the expansion of solar power. As I have mentioned, since 1973 they have called for decontrol of oil prices as a spur to production, and they will be in accord with our action there. They have called for appointment of an energy czar, responsible for direction and coordination of this crucial stepped-up program to unshackle our energy industry and assure abundance for our future needs. As soon as the Congress provides the authorizing legislation, I intend to appoint such a coordinator immediately.

We are nearing the end of the decade of the 1970s, a time of turbulent world change and the development of serious energy concerns. We need not enter the decade of the 1980s with fear and trepidation. We have the resources and the inventiveness to work our way out of energy scarcity and move into a new era of independence, economic vigor, and expanding opportunity for all our people.

In the past, provocative actions such as those taken by the OPEC nations would probably have triggered violent retaliatory military responses by the major world powers. We are thankful that those days are behind us. We threaten no one. But we must state forthrightly that we do not intend to be economically crippled, or dominated by the tyranny of supply imposed by any nation or alliance of nations.

As time and tide waiteth for no man—or nation, the time for action is at hand. We must get moving toward a solution of our energy supply needs, and the federal government has the responsibility to help shape a pragmatic national energy policy, with corresponding legislation to put it to work. Therefore, I am asking that the Congress forego its traditional August recess, stay on the job, and take whatever steps are necessary to get our drive for energy independence on its way.

The time for debate, for blame, for regret, is past. It is now time to act firmly and move decisively, to use to the fullest our resources and skills to assure our Nation of abundant energy in the future.

We have the capability. We now must summon the will and the effort to make the necessary sacrifices and take the needed action to overcome this threat to our American way of life. I trust that, with the help of God, we will.

☐ 1950

Mr. Speaker, that is what I would have hoped the President of the United States would have said to the American people on July 5.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to my friend, the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I thank my friend, the gentleman from Arizona (Mr. RHODES), for yielding.

I regret that he has had to dip into the realm of imagination to come up with a forceful and substantive Presidential speech here in a special order. It seems that it is difficult to achieve anything of this sort anywhere else in Washington, but I think I can say, "You have made a real contribution, Mr. Minority Leader, in coming out and saying what you think ought to be done and saying it in a way that I think few of us can quarrel with."

I would like also to compliment the gentleman on calling for an end to partisanship. I have been impressed by the gentleman's comments about the work of the week before the recess when we passed the windfall profits tax. We have had altogether too much of the kind of generation of legislation that finds committee chairmen forced, for reasons apparently of political accountability, to deal only with a majority of the majority party in their committees and to bring forth a piece of legislation that, when it arrives on the floor, is not appropriate to the center of gravity politically or ideologically of the House itself.

The effect is that we find ourselves rewriting critical legislation like windfall profits tax legislation on the floor of the House. That is a very bad way to legislate.

Mr. Speaker, admittedly the Republicans are a minority, and as a minority they are less relevant to the total solution than the majority unless they have the imagination to come up with better ideas than the majority and the majority adopts them.

However, the Republicans are part of the House. We have been a fiercely cohesive and hard-working part of the House. When our votes are added to those of our discerning Democratic brethren on the floor, the result frequently is to find disagreement with the work of committees which have prepared legislation that is acceptable solely to the majority of the majority party, which is a minority of the House. It is time we started working together.

I think the ideas in the gentleman's speech indicate a willingness to participate and a willingness to lead, if the majority party is not capable of leading or of bringing forth the substance that will solve some of these problems.

I hope the gentleman's words will be heard, and I hope we can become participants in a fuller sense. There is nothing wrong with correctives that take place here on the floor of the House, except for the fact that it is better to write legislation in committee in a cooperative way, taking full account of the political realities of this interesting institution in which we serve, but giving to each Member a full opportunity for participation, rather than excluding him from the moment of decision on account of his political label.

I note also the call the minority leader has made for termination or for cancellation of the August recess. This Congress has accomplished very little so far. It is time for us to deal with the critical issue of energy, which I am sure all my colleagues found when they were home was on the minds and tongues of all our constituents.

For us to go off on a business-as-usual basis or pleasure-as-usual basis, with the full month of August off at this critical time in the life of the American Republic, I think, would be a bad step to take. I hope that suggestion also will be taken seriously by the President.

Mr. RHODES. Mr. Speaker, I thank the gentleman from New York (Mr. CONABLE) for his contribution. I have found the gentleman from New York to be one of the most careful and yet innovative legislators with whom I have served since I have been in this body, and I do appreciate his remarks.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, I thank my distinguished and very able colleague from the sovereign State of Arizona, the minority leader in this Congress, for his very responsible statement which displays great leadership, I might add, with regard to the problem with which our great Nation is confronted today.

As the gentleman pointed out, not too many years in the distant past, when our fatherland was a fledgling Nation, the acts referred to by the gentleman in the Middle East would have been considered piracy, but today, with the maturity that the gentleman indicated we now have, that has changed.

I would like to join my colleague in his statement by saying that we do have all the necessary resources available in our country to meet our energy needs, and to end those long gas lines that have been referred to so frequently in the press.

I would like to say, in echoing the remarks of my distinguished colleague, that we could take the following actions to implement what the gentleman has outlined: to declare a moratorium on the expensive EPA restrictions which were referred to earlier in a previous special order of the House today; to convert our coal reserves to petroleum products and to gas; to develop every hydroelectric site available in our Nation; to make alcohol out of renewable resources to extend our present gasoline supply; to encourage exploration of offshore oil in Alaska where the potential is admittedly tremendous; to extract oil from shale and tar sands; to remove the price ceilings to which my colleague referred, which have prevented adequate exploration of new oil in our country; and to continue to develop geothermal and solar energy sources wherever possible.

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I think we should also refer to some of our friendly nations, our neighbors, Canada and Mexico, to explore the resources available there in a gentlemanly nation-to-nation manner.

I thank my colleague for yielding.

Mr. RHODES. I thank my colleague, the gentleman from Arizona (Mr. RUDD), who is one of the most knowledgeable Members of the House concerning our relationships with Mexico.

I am glad the gentleman mentioned the fact that this administration has shown absolutely no talent for negotiating with Mexico and getting any agreement with them concerning exploration of the tremendous resources of that nation for the benefit of that nation and for the rest of the northern Hemisphere.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the tleman for yielding and, first, Mr. Speaker, I want to congratulate the minority leader for what was a very effective and, I think, telling presentation with reference to his strong feelings about what needs to be done in the area of energy development—telling, because it is not being said by the people who do have the responsibility for shaping that policy.

I, too, was disturbed over this past weekend and the subsequent days, disturbed particularly by one symbolic event which I think bespeaks perhaps the policy bankruptcy of the current administration. That was the firing of a long-time public servant with whom it has been my sometimes pleasure and sometimes frustration to work in the energy area, as a ranking member of the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce.

John F. O'Leary was born June 23, 1926, and received an A.B. degree in economics from George Washington University in 1950.

Mr. O'Leary has served in the Federal Government since 1952.

During the Eisenhower administration, he began his career as an economist in the office of the Assistant Secretary for Natural Resources of the Department of Interior.

From 1962 to 1967, Mr. O'Leary served as the Deputy Assistant Secretary for Mineral Resources in the Department of Interior.

From 1967 to 1968, Mr. O'Leary served as Chief of the Bureau of Natural Gas, the Federal Power Commission.

From 1968 until 1970 he was Director of the Bureau of Mines.

From 1972 until 1974, Mr. O'Leary was Director of Licensing for the Atomic Energy Commission.

From November, 1975, until January, 1977, Mr. O'Leary was the Administrator of the New Mexico Energy Resources Board.

Prior to joining the Department of Energy, Mr. O'Leary headed the Federal Energy Administration from January, 1977, until October, 1977.

Mr. O'Leary announced his resignation this week from the position he has held since October, 1977, as Deputy Secretary for the Department of Energy, the number two position in that Department.

I am bothered about this not because I have always agreed with John O'Leary in his service or in the positions he has taken as a servant of the administrations in which he has served for 25 years in the Federal Government, but because it seems that they may have been looking in the administration for a scapegoat; and Mr. O'Leary, who has been reasonably overworked over the last few weeks because of the problems that he has had trying to help administer legislation effectively passed by a Democratic Congress over the last several years, is just simply exhausted and ready to lay down that burden.

I just think it is too bad to have this administration leave the impression that they can get rid of a dedicated public servant and that things will be better because of that. It essentially maligns the character and the effective service. I think, of that individual.

From the pundits of print and electronic media this past weekend we are hearing that the frustration may be so great as to cause the downfall of another U.S. President—putting the energy debate on the same scale with Vietnam and Watergate. It seems clear that President Carter's domestic summit talks at Camp David are addressing the political problems implicit for him in the difficulties the United States and the world face with regard to energy and the economy.

Energy and the economy are inextricably intertwined—and more so for the United States than our trading partners and competitors in the rest of the world because of our past policies. First consider the 30 percent drop in sales of U.S. auto manufacturers during the second quarter. Automobile manufacturing is a basic U.S. industry affecting steel, glass, rubber, fabric, plastic and parts manufacturing throughout our Nation. But auto manufacturers are not alone. Sales by the Nation's department and softwear stores are off. So are tourist and recreation businesses. The American people are making lifestyle adjustments because of gasoline shortages and higher prices not because they want to, but because they have to, and they are mad as hell about it. The President recognizes they may turn to political vengeance. But they are more angry about the shortage than they are about the price. Based on my own experience, I could have predicted that reaction. Four years ago, when my part of the Nation ran out of natural gas because of unrealistic Federal price controls on interstate natural gas, the reaction was also anger. Escalating prices angered people, but shortages of supply left them frustrated and truly mad. When factories and schools closed, they decided that supply was more important than price. The same process recurred during the coal strike electricity shortage in the winter of 1978. It appears to be occurring again in the gasoline/diesel shortage. If there is a heating oil shortage this winter it will surely exacerbate the anger and the reaction.

The reregulated Federal nationwide natural gas prices under the Natural Gas Pricing Act between now and 1987 will determine the economies of burner tip fuel decisions by industrial users. The price of gas—often found in association with oil—and the environmental constraints on the use of coal do make a difference. The U.S. gas price has inhibited our ability to get the Mexicans to commit their natural gas to us. The Mexicans would not sell us gas at much less than the comparable Btu price of oil—OPEC oil—and President Carter would not get many votes in Texas, Louisiana, and Oklahoma, if he allows the Mexicans a higher price than U.S. producers get. Natural gas pricing law will have to change to recognize economic facts of life.

The OPEC nations give us no reason to believe that oil prices will stop increasing or that production will go up. That means economic troubles for the United States because of our past policies which held U.S. prices down artificially through Federal price controls on domestic crude oil production. The results are a drop in production in the lower 48 States from 9.2 million barrels per day in 1973 to 7.2 million barrels per day in 1978—a 23 percent decline. But of even greater impact was our failure to conserve, which saw our importation of crude oil go from 2.2 million barrels a day in 1973 to 6.6 million barrels a day in 1978. That means we actually subsidized the cost of oil from abroad. President Carter's decision to decontrol oil prices is designed to change that by raising U.S. domestic prices to world market prices by September 30, 1981, unless he or the Congress stops the process.

The problem for us is that the United States now faces a sharper economic adjustment than Japan, Germany, or the other industrial nations because they went immediately to world oil prices in 1973 at the time of the embargo and took their economic beating then. Since then they have gone to their smaller cars, converted to coal and conserved to accommodate higher prices—$2.75 gasoline in France for instance—while we have not. The result is that most other industrial nations have reduced oil consumption in the past 6 years while the United States is consuming considerably more. This made us even more vulnerable to the Iranian crisis which cut off 5 percent of our oil supply and 10 percent of the supply used by the free world. And it makes us more vulnerable yet if, in the future, we lose Saudi oil or any of the 40 percent of the U.S. refinery supply of crude which comes from Moslem nations.

It is common knowledge that our reserves of coal, oil and gas are finite. Someday they will run out. But the Federal Government seems intent on bringing that day closer—by locking away our most promising lands from energy development and even exploration.

I now want to turn to another problem which has plagued energy development in the United States—that is, land use policies that have been pursued by the Federal Government.

The Federal Government owns approximately one-third of all the land in this country, most of it in the West and Alaska. To visualize how vast these holdings are, imagine a line drawn from Bismark, N. Dak., to Port Arthur, Tex. Everything east of this line is equivalent to the lands held by the Government.

But what has the Government done with its land to help solve our energy dependence on the foreign cartel? Not much. Fifty-percent of all the known energy reserves in this country are estimated to be on Federal land, but this land contributes only 10 percent to our domestic production. The most promising regions for new discoveries and mid-term development are almost exclusively within the Federal domain.

For example, the Overthrust Belt—a geological formation extending from Canada to Arizona along the Rocky Mountains is generally regarded as the single most promising area for oil and gas reserves outside of Alaska. Now that much of Alaska's potential has been foreclosed by the President and by the Congress, the overthrust may be our best available region.

But close to 50-percent of the Overthrust Belt is already closed to energy and mineral development. If all the proposed withdrawals now being prepared are approved—and they may well be—9.6 million acres, or roughly 80 percent, of this region will be off-limits to energy development. No one can accurately say how much oil and gas will be left in the ground because much of the region will also be closed to exploration.

Preliminary studies by the petroleum industry have estimated that the Overthrust Belt's many fields may contain as much as 8 billion barrels of oil and 50 trillion cubic feet of natural gas. That's almost 3 to 4 times as much oil as we imported last year and enough gas to heat 10 million homes for 25 years.

In terms of synthetic fuels, the Overthrust Belt and other Federal lands are even more valuable. According to an

April 1979, study by the Congress Office of Technology Assessment, 72 percent of this Nation's oil shale is on federally controlled land. The House of Representatives recently passed a bill, by a vote of 368 to 25, to encourage the development of synthetic fuels and synthetic chemical feedstocks. I supported that bill, and the rumors out of Camp David are that the President may soon come out for synthetic fuels development on an even grander scale.

But if we are ever to develop a synthetic fuels industry capable of supporting itself, the Federal Government can best help by removing the institutional barriers which have prevented a great deal of land from energy development in this country.

No one is saying that we should exploit these lands with abandon, only that their energy potential be balanced with their environmental values. That same judgment must also be made in coal and nuclear areas. Congress has always been afflicted by the error of compartmental thinking: energy, environmental, economic—each separately.

What we ought to recognize is that our environment is not exclusively physical, it is also economical and social. Congress did recognize the need for a balanced approach when the Wilderness Act of 1964 was passed, providing for the Federal protection of valuable lands. This act expressly allowed mineral development under regulated conditions and provided for complete rehabilitation after exploration and development. But this procedure has been ignored at the bureaucratic level.

Since 1964, only a few leases have been written for mineral development. Not a single seismic or drilling permit has ever been granted on wilderness lands. Therefore, we can only roughly estimate the oil, gas, coal, uranium and other energy resources being locked up. And, at last count, wilderness and wilderness study lands comprised some 330 million acres with ripe energy potential.

There is a startling example of how our Federal land use regulations cripple the attempt to extract energy in the northernmost portion of the Overthrust Belt. In Montana, some 20 percent of the Overthrust Belt is closed by existing and endorsed wilderness areas. The largest lock-up in Montana is just 5 miles south of producing Canadian gas fields which have proven reserves of 2.4 trillion cubic feet of natural gas. The U.S. Geological Survey is concerned that natural gas below Federal lands in Montana is being recovered by Canadians because our Government refuses to permit drilling in the area.

So what we are experiencing in these times of energy shortfalls and huge oil imports, is a Washington-initiated land rush in reverse. Can we afford to have the Federal Government lock up these lands cavalierly without so much as examining their potential? As Americans idle their cars in gasoline lines, the Federal Government sits on our greatest reserves of oil, gas, and synthetic fuels. Left in the ground these reserves cannot benefit anyone but the OPEC nations. We should therefore revise our Federal land use policy at the earliest possible time.

To move out of our energy crisis we need decisive Presidential leadership. This we have not gotten. On Thursday of last week, President Carter had planned to deliver a major address to the Nation on energy policy. The White House had billed it as his most important speech since the infamous "moral equivalent of war" (or MEOW) speech 2 years ago.

I was looking forward to it, as I was scheduled to appear on ABC's "Good Morning America" show the following day to offer my views on Carter's address.

But late Wednesday night, the President, while vacationing at his Camp David retreat, canceled the speech. Was he dissatisfied with "speechwriters" or the "policymakers?" There was no explanation.

As a single occurrence, the cancellation of a speech is hardly worth mentioning. But this is part of a pattern. Several others of the President's speeches on energy have been postponed at the last minute while his advisors scramble to please him. Unfortunately, these mishaps are indicative of the Carter administration's lack of substance as well as its speechwriters' lack of style.

Without a decisive energy policy we are left to react, instead of act. We remain at the mercy of foreign energy producers, an ineffective, destructive price control and allocation system for gasoline, and a schizophrenic bureaucracy torn between environmental overprotection and a desperate need for energy.

That situation is the moral equivalent of fingerpainting.

Mr. RHODES. Mr. Speaker, I thank the gentleman from Ohio (Mr. BROWN), who is my own personal candidate for Mr. Energy. The gentleman has worked harder in this field and I think is more knowledgeable in it than any Member of the House on either side, with due respect and due regard to the gentleman from Michigan, who just a moment ago was occupying the chair.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my minority leader for yielding.

Mr. Speaker, we are all grateful to the gentleman for issuing this call to action. There is no doubt that there has been a lack of positive and constructive action from the administration.

Mr. Minority Leader, you have appealed to a bipartisan approach. You have listed, as has already been suggested, ideas that have been present for some time. You have talked about them. Many Members on our side of the aisle, and on the other side, have mentioned such things as reducing overregulation which is clearly a problem, and better use of coal, which has been talked about by the administration, but with no decisive action.

As a matter of fact, we have seen conflicting rules and regulations that make it impossible to implement programs calling for greater use of coal.

But I liked your emphasis, Mr. Minority Leader, on the need to increase production and to move ahead so that we can be more energy independent, and do not have to rely on foreign sources of supply.

You are to be congratulated for issuing this call. Many of us have wanted to see more action on the part of the administration, but the fumbling of policy continues. Even the President's change in position on whether or not to go on television, as my colleague, the gentleman from Ohio, has just said, adds to the Nation's belief that this administration does not quite know how to cope with this problem.

You, as our minority leader, have issued a very clear call, and have definitely specified actions that could be taken jointly by the Congress and the President. I think this is long overdue, and we are just sorry you are not the Speaker of the House of Representatives so that maybe there would be a little more attention paid downtown.

Mr. RHODES. I thank the gentleman from California for his comments and I assure the gentleman that this House would be a much better body if we had 435 Members as diligent and as intelligent as the gentleman from California (Mr. ROUSSELOT).

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I want to take this opportunity to congratulate the distinguished minority leader on his initiative in calling this special order. It contrasts most favorably with the President's cancellation of his scheduled speech on the energy situation.

If there is anything the country needs at this point, it is a new sense of direction with regard to energy policy—a better understanding of the realities and a willingness to come to grips with them. There is no lack of energy resources in this country, or even in the world; what is lacking is sufficient incentive to turn those resources into reality. On top of that, the disincentives to production have inevitably led to a system of allocation that, experience has proven, has made the situation worse instead of better. Most of our experience with wage price controls from 1971 to 1973 has convinced us that excess Federal regulation of the economy does not work; so too should our experience with energy price controls and allocation regulations convince us that excess Federal regulation of energy does not work either.

Writing in Newsweek magazine just over a month ago, Nobel laureate Dr. Melton Friedman pinpointed the problem when he said, "Do you want a shortage? Have the Government legislate a maximum price that is below the price that would otherwise prevail. That is why there is an energy crisis and a gasoline shortage."

In its excellent series on the energy crisis, that began last Sunday, the Washintgon Post points out several other aspects of the current system of price controls that make the situation even worse. As the Post notes, current DOE regulations allowed refiners, wholesalers and retailers to "bank" the difference between the market price and DOE's allowable price for gasoline during times of plentiful supply such as were in evidence the last several years. Now that supplies are tight, refiners, wholesalers and retailers, are cashing in their "banks" thus raising prices faster than they would have risen otherwise. This helps explain why gasoline prices, which the Government expected to increase only 5 cents by the end of the summer, have already increased 20 cents a gallon in the Washington area since January.

Above and beyond that, as the Post points out, the current DOE allocation system, which accompanies its price control system, has had much to do with the fact that a 5-percent reduction of oil supply has resulted in a much greater reduction in gasoline availability in certain areas. Not only has it been impossible for the pace of regulation to keep up with changes in growth patterns, the construction of new gas stations and travel patterns, but other aspects of the regulations have added to the confusion and the shortages. As John O'Leary, who has just resigned as Deputy Secretary of DOE, confessed to the Washington Post, DOE "may be trying too hard to fine tune the system" and that "we aren't in the oil business. We are Government bureaucrats."

While it might be inferred from the above that I might not be sorry to see Mr. O'Leary retire, that is not entirely true for, at least, Mr. O'Leary recognized that the difficulty was not so much in the fine tuning but in the system itself.

In fact, just last week in testimony before several House subcommittees dealing with the energy problem, I asked him if he agreed with Dr. Friedman's assessment that, if we eliminated "all controls in the prices of crude oil and other petroleum products the gasoline lines would melt faster than the snows of winter," and he answered, "I think that this is absolutely right. The reason that we have lines, the reason that we have this sort of difficulty is because we have decided as a matter of national policy, that it is better to temper the people of the working place than to ration them."

Mr. O'Leary, it seems, is not alone in that assessment. Having watched their boss sink to the lowest point ever in the polls that rate job performance, it now seems, according to this morning's Washington Star at least, that the President's energy task force is about to recommend the end of both the price control and allocation systems. Likewise, Newsweek magazine, for only the third time in its history, has come out advocating a specific change in U.S. policy, and the first step they advocate is as follows: Decontrol of domestic oil, natural gas and gasoline prices, on which the Carter administration has finally embarked, is absolutely necessary. It is time to get on with decontrol as soon as possible.

Mr. Speaker, two points need to be made at this juncture. The first is that the Carter administration's decontrol of crude oil is a phased decontrol, which would not run its course until October 1981. Likewise, natural gas controls will not expire until 1985, and in either case, we cannot afford to wait that long. What we need is action now to stimulate production and encourage the development of both existing and alternative fuel sources. H.R. 4693, which I introduced Friday, June 30, 1979, and which would end controls on oil, gas and natural gas within 30 days of enactment, would accomplish this goal. It is not the total answer to our energy problems, for that will only come when we have given the private sector the incentive to develop alternatives but, as Newsweek points out in its July 16 issue, "even if decontrol merely helps stabilize declining U.S. production, it will be well worth it."

Right now, and for the past 6 months, domestic production of oil has been declining. Immediate decontrol, according to recent estimates, would add 500,000 barrels per day to production and would encourage the saving of another 300,000 barrels a day in consumption. The combination of the two will give us the time we need to move forward in other areas.

But, if we are to avoid repeating the mistakes that have brought us to this juncture in the first place, we need to insure that the actions we do take in other areas put the primary emphasis on the private sector and keep Federal involvement to a minimum. For that reason, tax incentives to stimulate a given alternative fuel source, such as geothermal or shale oil, are preferable to loan guarantees, price supports, or Federal construction and ownership. If history has proven anything; it has proven that the free market, when left to its own devices, works whereas Government involvement inevitably leads to regulation and control which does not work, or work as well.

As I said at the outset, there is no lack of alternatives any more than there is a lack of energy resources. The problem is, and we have to face up to it, they are not, nor will they be, as cheap as they used to be. Failing to face up to that fact, as Congress has repeatedly failed to do, will only make things worse. Likewise, blaming OPEC is no answer. The answer lies in unleashing the energies of the free market system, and the first essential step in that direction is the decontrol of oil, gas, and natural gas.

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Mr. RHODES. I want to commend the gentleman from California for having introduced the bill which he did with regard to decontrol of oil and gas. It is a bill which should receive the consideration of the House and be passed immediately.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. I thank the gentleman from Arizona for yielding.

It could not have come at a better time, this special order which the gentleman arranged tonight in order to discuss energy.

On this matter of our finding a decision to come up with a practical program, I tell the gentleman I agree 100 percent.

This idea of our meeting during August, this Republic suggestion of going ahead and moving forward on energy, is absolutely essential. We need to bring that up.

On one thing I beg to differ with our distinguished leader. That is, the gentleman said we should have a broadminded, broad bipartisan approach. The trouble with this country is we have had too much of this Democratic advice.

The problem we have with energy is the fact for 25 years we have listened to the Democrats. They have controlled this Congress two-to-one for 25 years. They have brought this economic, this energy disaster, on this country.

Every bill that we have in Congress, every one of these mumbo-jumbo, confused economic solutions have come from the Democrats. What I would ask of our leader is, we have a meeting of the Republicans, the Republican leadership that really understands the economics that are involved, such men as the gentleman from Ohio (Mr. BROWN), who probably is the best-informed man on energy in the House; and people like the gentleman from Michigan (Mr. STOCKMAN).

Then think of the Ways and Means Committee, where we have men like the gentleman from Louisiana (Mr. MOORE), the gentleman from Texas (Mr. ARCHER), the gentleman from New York (Mr. CONABLE), and the gentleman from New York (Mr. WYDLER). I can think of so many great people who really understand the issue.

Mr. RHODES. Do not forget the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. I appreciate that.

I want to tell the gentleman again and again, I wish everybody would understand that if we listen to these Democrats much longer, we are going to ruin this country.

I would like to just quote the facts on what has happened to us, because in all these statements they keep issuing they overlook the facts.

We were importing, 6 years ago, $3 billion in oil. Last year, we imported $42 billion in oil. This year we will import $60 billion in oil. Next year we will import $72 billion in oil. We are pushing this country to the point of financial bankruptcy. We are selling the country out to the OPEC.

If we would buy American oil and gas, we could produce it. The one thing about it, we have talked about all the alternatives, but we must face up to the fact, and everyone in every committee has said that during the next 10 years we must depend on oil and gas. We could do that out of coal production if they would pay the same price locally as they paid for imports.

In other words, as the distinguished gentleman from California (Mr. DANNEMEYER) said, if we would go to the open market. Only one commodity in the United States is under price control, and that is oil and gas.

Always the Republicans came out on the right side. The gentleman from New York (Mr. CONABLE) gave the only real, logical solution I have seen in this House in the past 6 months when he suggested as part of the recommittal motion that we have a complete plowback provision, that they ask the oil companies to put back all of the profits they make into producing more energy for America. That was the way to do it, to let the companies that know energy go back and produce more energy.

This is the healthiest, most constructive meeting we have had this evening. I hope we are able to carry it forward during the entire month of August.

Mr. RHODES. I thank the gentleman from Texas for his contribution and also for the great expertise he brings to this subject.

On our side of the aisle, we are very, very pleased to have him working with us.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding.

I too, want to commend the gentleman for his contribution on this most serious problem.

During the Fourth of July recess, I had an opportunity to talk with many of my constituents. They perceive the problem to be mostly a lack of leadership. The problem my constituents say to me is one of vacillation and confusion on this subject.

The American people will respond if they have something to which to respond. But first the President recommended a tax reallocation plan, the linchpin of which was his crude oil equalization tax. Then he recommended a conservation measure as the answer.

Now, I, too, am for conservation. It is commendable, and the cheapest energy of all is the energy we save. But that is not the answer either. That cannot solve the problem.

Then came rationing. That is only an allocation of the shortage.

Now, the President says we should keep our thermostats at 78 degrees in the summer and 65 degrees in the winter. That is supposed to solve the problem. That cannot save much energy. Besides that, it would be counterproductive to business.

I agree with the gentleman that in the short run we need to increase our domestic production of oil and gas, and that calls for decontrol with a true plowback provision. I think in the long run we need to invest in coal liquefaction and stripper wells, and shale oil development needs to be encouraged by plowback. But for next winter we need fuel oil.

We have refinery capacity in the State of Ohio, and I have called this to the attention of the administration many times. I have talked to the Secretary of Energy himself on this. We ought to be able to swap OPEC oil for Alaska crude, or we ought to be able somehow to get that oil across the continent into the refineries in Ohio, because, as I say, we do have that capacity.

What we really need, as the minority leader has suggested, is a Manhattan-type project to liquefy coal. We have half the coal reserves in the whole world. We can develop, I am also convinced, a cost-effective alcohol engine for use in our cars. The cars in the Indianapolis 500 run on alcohol, and ethyl alcohol can be developed from sorghum, corn, or even biomass, and it can be developed from garbage. That would solve two of our problems.

I want to compliment the gentleman from Arizona (Mr. RHODES) for his leadership on this problem and thank him for the opportunity to participate in this special order.

Mr. RHODES. I also want to thank the gentleman from Ohio for his statements and his participation, and for introducing the bill which recognized one of the facts which we have lost sight of in this country—that every refinery we have is not just like every other refinery.

The gentleman located refineries in Ohio which have excess capacity and cannot get the crude. One way to get it would have been to do just as he says, to exchange Alaskan oil for Saudi oil.

I congratulate the gentleman.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. LUNGREN. I would like to join with my colleagues in congratulating the minority leader for having this special order.

One of the things I would point out is the rather negative attitude we have heard on this issue from the White House. For many, many years, the United States has been looked up to around the world.

It is sort of embodied in the concept of Yankee ingenuity. It is sometimes used as a pejorative term, but actually, if it is pejorative at all, it is because of envy—that we were so successful in being very optimistic and positive about solving our problems.

For too long a period of time, I think, in the White House and also in our leadership in Congress, as dominated by the majority party, we have become a Nation of naysayers. We talk about doom and gloom. We talk about the inevitability of an age of limits, and as the president of the NAACP said a couple of years ago, an age of limits is easy to talk about if one happens to be a 27-year old member of the White House staff making $47,000 per year; but if you happen to be a kid in the ghetto who is trying to join this economy, you cannot have food and an age of limits. You must have an economy that is growing each year. That is the way we have to do it. We have to make a positive step, as the gentleman has suggested, on the supply side.

Now if we had faced the energy crisis 100 or 150 years ago the way we have faced it the last 10 years, we would still be using whale oil, only it all would be rationed.

It is the idea of the Government getting in the way, not only of industry but of individuals, and trying to take the shackles off those people and those industries, and freeing the ingenuity of the American people to enable them to produce what we know they can produce.

I think the gentleman has suggested some very, very positive steps. One thing I do not think that has been mentioned very much, in terms of the ability of the American people to respond to our energy needs, is the tremendous amount of heavy crude we have in this country which presently is incapable of being refined under present techniques, in an economical sense.

There are some suggestions that if we had the economic incentive, as much as 100 million barrels of heavy crude in this country could be converted to use and get us away from our reliance on OPEC countries.

Yet, because of the misguided policies we have followed for so long in trying to promise the American people that they can have something for nothing, when we know it will not happen, we have really avoided that, and have pushed industry to where they cannot accept the challenge themselves.

I thank the gentleman for presenting this. I think the gentleman can see from the support he is getting from the various Members who are present, that it is time for us to move forward; and we certainly applaud the gentleman for giving us a direction here, and we invite Members from the other side of the aisle and the White House to join us.

If the President does not think it is important enough to invite us or members of our party to join him, why not let us invite him to join us in a common effort to try and meet this challenge?

I thank the minority leader.

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Mr. RHODES. I agree with the gentleman from California, and I thank him for his contribution. We do hereby invite the White House or anybody from the other side to join us in what we think is a positive program to do what we have always known we must do, and that is to increase the supply of energy.

The gentleman from California has pointed out very ably that this country was not built on decreasing our sights or decreasing our supplies. We get bigger and we get better and that is the American way.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I welcome the opportunity to join the distinguished minority leader from Arizona (Mr. RHODES) in this special order on what should have been forthcoming from the administration, in particular, the President, on the energy crisis.

The 1979 energy shortage is critical because it has had such a severe impact on our way of life and it is frustrating because we lack the kind of substantive information we need to make the important decisions.

Two months ago, I cosponsored a measure introduced by our distinguished minority leader calling upon the President to provide Congress and the public with the facts we need to formulate an effective energy program. That measure passed a few weeks ago and I am informed that this information has just been submitted to the Congress today.

During the last week in June I conferred with the New York City regional office of the Department of Energy where I was informed that:

Nationally, gas consumption is down this year 9.6 percent, compared to 1978.

Imports of foreign oil are up 11.7 percent over last year.

But despite this conservation and increased surplus of crude, the major oil refineries are operating at only 85 percent of their potential.

The major oil companies are delivering products to their distributors in New York State at rates fluctuating between 69 and 95 percent of their 1978 deliveries.

Along with the delegation of Congressmen from New York State, I recently met with Vice President MONDALE and with top officials of the Department of Energy. Unfortunately, that meeting was not productive; our questions went unanswered, we were not provided with sufficient information to guide us in our efforts and we found that our administration's energy officials lacked current data, and relied on inaccurate data.

Our New York State delegation took that unsuccessful meeting one step further. We demanded a meeting with the President upon his return from the Economic Summit Conference in Japan, and we are still awaiting an answer on this request. There is bipartisan agreement in the New York delegation that the Carter administration lacks an appreciation of the magnitude of the energy problem in New York, and that the administration officials have demonstrated a vacuum of leadership and lack of preparedness and responsiveness.

As far as legislative remedies for the situation, I can report that two measures which I have been urging for several years have been adopted.

The first measure provides a $3 billion synthetic fuel program to help our Nation develop alternate sources of energy such as gasahol and crude from shale. And following that synfuels bill, the House passed another bill which I have been urging for many years—slapping an excess profits tax on any windfall profits emanating from this and any future energy crises.

The importance of the synfuels bill is that our Nation is ready to produce alternate sources of energy. Up until now, price has been the main obstacle in the rapid development of synthetic fuels. Prior to 1973, when consumers paid only 30 cents per gallon, there was little room for debate over such an expensive undertaking. But now, gasoline is approaching the $1 per gallon mark, and we must find alternatives to our dependence on foreign oil. Synfuels, as they are called, will be an important part of the answer.

As far as gasoline supplies at the pump—the long lines—the delays—the impatience, I first set out to find out exactly where the problem of allocations was. I distributed one questionnaire to each service station in the 26th Congressional District—each station in Rockland, Orange, and southern Ulster Counties. The results are starting to come in—we have found an allocation system which does not work—which is fair to some—but not fair to too many others.

Based on the results of personal consultation with many of the proprietors throughout the region, I have called upon the Department of Energy to do the following:

First. To increase the State set-aside allocation, since it is obvious that New York State is not receiving its fair share. I have been told that this has now been accomplished.

Second. To shift gas supplies from areas not experiencing any shortage to our region. This has also been undertaken by the DOE.

Third. Eliminate the growth provision in the regulations which gives more gas to areas which had an increase to motorists over the winter months, thus giving an unfair bias to "Sun Belt" States like Florida with heavy winter tourism.

Fourth. Modify the priority system, giving first crack at the gas to those whose livelihoods are dependent upon it.

Fifth. Increase the number of deliveries by the major oil companies to the service stations, including weekend deliveries.

Many service stations throughout my 26th District have contacted my office, seeking more gasoline. We have been able, in many cases, to help provide those stations with part of the State's set-aside allocation.

Beyond this, there are a number of bills and initiatives which the Congress should consider this year which I have cosponsored and will support:

Electrical Vehicle Act of 1979. To advance alternative transportation systems. The measure would encourage the production and sale of electrical vehicles by allowing them to be included in the computation of the corporate average fuel economy standards, which are defined by statute and which mandate fuel economy standards for automobiles produced in, or imported into, the United States.

Forest Fuel Utilization Act of 1979. Recognizes wood as our most promising biomass fuel. It instructs the Secretary of Energy to establish a plan to increase the flow of research and technical information on wood energy and would order the Small Business Administration to establish a plan to increase the level of managerial assistance from SBA to woodlot owners, and wood fuel distributors.

Wind Energy Systems Research Development and Demonstration Act of 1979. To bring costs of wind energy down to a level at which it can compete with conventional energy sources, and by establishing a $1 billion, 7-year research and development program with the stated goal of making wind energy cost-competitive.

Some of the other important initiatives that we must undertake are appropriate steps to:

First. Increase domestic production of oil and nautral gas,

Second. Provide for the rapid development of synthetic fuels,

Third. To utilize our vast coal reserves,

Fourth. To process our shale oil reserves,

Fifth. To push forward a massive solar energy and geothermal program.

Our minority leader has spelled out the kind of program, the kind of commitment and action that is so sorely needed to resolve our Nation's energy problems.

Mr. Speaker, it is imperative that the Congress receives any and all information regarding the present energy crisis if we are to avoid future shortages and inconveniences that are entirely unnecessary. The time has come for this body to make current and in depth assessments of our crude oil supplies, refining capacities, and allocation networks. Any further delays or misjudgments could result in the creation of a rapidly spiralling recession, and a scenario much more severe in nature than anything this country has ever experienced since the Great Depression.

I urge my colleagues to support any and all future measures which will help us catalog a responsible and effective record in dealing with the energy crisis and its obvious mismanagement by the administration.

I, too, want to commend the gentleman for his efforts in attempting to satisfy the credibility gap that has existed for so long in obtaining independent information, information that apparently our Chief Executive has had available to him, information that has been so difficult for this House to obtain.

I certainly was pleased to have been able to join with our distinguished minority leader in his preferential motion to try to obtain that information, and I would like to ask our minority leader whether he now has been able to secure the information that we struggled to obtain for the past month.

Mr. RHODES. I was informed that the information which was requested by the Resolution of Inquiry has been submitted, and referred to the appropriate committee. Presumably within a very short period of time it will be made available to all of the Members. I have not yet been able to examine it. I do not know whether it really answers the questions, or whether it is a superficial treatment. I hope it is not the latter.

Mr. GILMAN. And I hope, too, for the sake of the entire Congress and the Nation that it is the kind of information that we can utilize, that we can distribute to the American public so that the credibility question is no longer with us.

I think it is incredible that this lack of information has pervaded for such a long period of time and when our distinguished minority leader sought it out over a month ago, there was one delay after another in providing us with that information.

I want to commend the gentleman for spelling out some very important, positive steps for enhancing domestic oil production. Instead of penalizing the companies, we should be constructively urging, and providing, incentives for them to bring up this secondary and tertiary oil that has been needed.

Yes; provide a windfall profits tax, and yes; provide a plowback provision so that we protect the public from any unnecessary profits. But at the same time try to encourage production that has been so sorely needed here at home rather than having to depend on importing from other sources which are placing us over a barrelhead with relation to our foreign policy in so many sad instances.

I want to commend the gentleman, too, for urging the rapid development of a synthetic fuels system. I recall just a few years ago when Members on this side of the aisle, with the leadership of our former Vice President, Nelson Rockefeller, attempted to develop a synthetic oil loan program of over $100 billion. We could not even get the rule approved. I believe that was in 1976, just a few years ago.

Now we are pleased to have seen that measure go flying through the House just a few days ago. Hopefully, this program can be implemented at an early stage and with the help of the Members on this side of the aisle, maybe we can prod the administration into the rapid development of synthetic fuels. Synthetic fuels that sustained Germany in World War II certainly can help us out in the instant dilemma.

I would also like to commend the gentleman for urging the utilization of our shale and coal resources, for encouraging expansion of our solar energy, for trying to resolve the waste problem in nuclear energy that has prevented us from further development of that important source of energy.

This is the kind of progress, the kind of commitment, the kind of action that should have been spelled out at the White House. I am proud of our minority leader for taking the leadership role he has taken this evening, and I hope we can continue to provide that kind of leadership for the American public.

Mr. RHODES. I thank the gentleman from New York for his contribution.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. DORAN. Mr. Speaker as I sat here tonight I realized there is still a great deal of naivete in me as a second termer because I actually thought this was the type of speech that the President would be delivering to the Nation.

I had already called in a town hall meeting a week ago for support for the President on this energy crisis because the situation was so appallingly bad.

I know in our Bicentennial year the gentleman made so many appearances to help strengthen his own party, that the gentleman probably does not recall, vividly at least, a meeting in a restaurant in Torrance, Calif. There the gentleman mentioned, in addition to graciously suggesting that I come to this body, the importance of supporting your life-long friend, Gerald Ford, as the President of the United States, because of his tested leadership as a President, and that although you would hope otherwise, if circumstances should propel Governor Carter into the White House, you felt his one term as the Governor of Georgia did not bode well for the economy, and you mentioned particularly energy.

The gentleman will recall we discussed when someone asks for a top secret briefing from the CIA, any one of the heads of our military service or the chairman of the Joint Chiefs of Staff, the Navy officers who came over and gave a classified secret briefing to one of my energy committees, when the critical strategic implications of our dependence on Middle Eastern oil is carefully laid out to any Member, the results are absolutely horrific and hair raising.

I will be sending the gentleman's speech to the 47 news outlets in the Los Angeles Basin area, and I know now that this is a beginning for our party, as the American people have turned to us for leadership, reenforcing what the gentleman has been saying for years and years and years, that the Nation simply must turn to the free enterprise system and to enhancing what the distinguished gentleman from California, Mr. DAN LUNGREN, described as Yankee ingenuity to solve the problem.

As the gentleman put it, we should be on a war-time basis now to solve this, and again I am very proud to associate myself with the gentleman's excellent remarks and I hope President Carter will avail himself of reading them in their entirety in tomorrow morning's newspapers.

Thank you.

Mr. RHODES. I thank the gentleman from California for his contribution.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding and I, too, would like to commend the gentleman. Here we are facing recession and runaway inflation, and an energy crisis, and do we have an administration with a discernible plan for getting the country going again? No.

Instead we have a government in exile. The greatest country in history, and our leadership in default is cooped up somewhere up in the mountains with political cronies. And I hope that the people out there do realize that there is a force in this country, a force that is interested in formulating a plan of hope instead of a plan for despair, a plan that is based on production and Yankee ingenuity as has been mentioned here.

I would like to associate myself with the gentleman's remarks. I think this is refreshing and helpful and I hope the people understand that this force is present and in place and willing to pick up the mantle of leadership and bring this country back into the position that it rightfully deserves.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Georgia.

Mr. GINGRICH. I want to compliment the gentleman from Arizona, our distinguished minority leader, not only for giving the speech that the President should have given, but for having helped in the last years, and in particular during the 7 months I have been privileged to serve with him, in forming a bipartisan coalition that, on key events, whether it is on the budget or on the substitute on the windfall profits tax or on any number of issues, has won some important victories despite the fact that we are in a distinct minority on our side of the aisle. By banding together with Democrats, or hopefully in the future by banding together in a bipartisan way for energy production, I think the minority leader has shown it is possible to get something done in this Congress despite the problems the leaderhip on the other side has had.

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I would simply like to observe that while I am willing to serve as a patriot interested in solving this problem through August, that were the Speaker and majority leader to decide that they could not run this Congress, or were they to decide to yield to the coalition of conservative Democrats and responsible Republicans, I have no doubt that the distinguished gentleman from Arizona could in fact, get a rational program through between now and August were he to control the calendar; were he to be able to decide what the rule would be when it came to the floor.

Mr. Speaker, I want to commend the gentleman for offering us a real vision of hope to contrast with the kind of confusion that we have seen on the other side of the aisle.

Mr. RHODES. I thank the gentleman. He should know that the last Congress that adjourned before the first of August was a Republican Congress.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I too would like to commend very strongly the distinguished minority leader for his most interesting and innovative speech. It is a fitting commentary that the individual standing before us to make this speech is not our President, and that it has not come from the White House, when it is so obvious that Presidential leadership is crucial to the solutions we seek in energy.

We have become a society of adversaries, and heretofore the differences that we encouraged in this country led to creativity. It led to something bigger and better and more inclusive. What is happening today—and this Congress is a focal point of such adversary relationships—is that the differences grow larger. Instead of openly discussing our differences, sharing information, and then coming to common ground or consensus, putting our differences behind us and moving forward, the rhetoric is hotter and heavier than ever.

There is no doubt that this country has the resources within its own borders for energy independence, but about 15 years ago the U.S. Government got involved in a very big way in the energy industry, and has continued its growth.

To what avail? Since 1973, we have increased our coal production by 2 percent after the OPEC nations had us by the jugular. This is the Nation that has the largest amount of coal reserves in the world.

What is wrong? It is not that this Nation looks after clean air and clean water and clean streams et cetera, it is that these initiatives have been used to turn off the very economic essence of this country.

It has become an issue between those who believe that the United States has gone far enough economically and should withdraw in the face of pressures from the rest of the world to cut our share, and those who believe that creative leadership in the U.S. economy can move forward in balanced growth which does provide for a clean environment.

I would like to make one other comment on nuclear power. I say to this House of Representatives and to the American people, the technology exists for dealing with spent fuels. You can call them nuclear wastes; you can call them spent fuels, but right now to classify the fuels that are used in fission reactors as waste is a travesty on the English language. Through the technology of reprocessing these so-called wastes, or spent fuels, we can gain the oil equivalent of billions of barrels. The breeder reactor is another technology which can make further use of so-called wastes or spent fuels. Both of these technologies serve to reduce the "real" wastes produced.

There is in this Congress a move afoot to absolutely shut off nuclear power from the American people, and I will just point out to my colleagues and the people of this country that there are only three elements in the electric power grid that serve us, that keep our lights on, our appliances working, and our jobs secure. One is oil; one is coal; one is nuclear. The oil option is imported oil at strangulation prices. We cannot afford it. In addition, our very sovereignty is at stake.

Coal—our environmental restrictions are keeping it in the ground. Nuclear—the elimination of oil as a viable alternative leaves us with coal and nuclear for the near term. So let us have reasonable environmental standards for digging and burning coal, and let us get on with the provision of safe nuclear power. The alternative of doing nothing implies truly disastrous risks. Conservation has great potential, but conservation can also be capital intensive. Our production and transportation facilities were devised and constructed at a time of cheap energy, and in order to set that balance right with the current cost of energy we need to invest in highly efficient factories, productive technologies, and transportation systems.

So the answers for the American people are not increased rhetoric and baiting the free enterprise system which has brought us the standard of living we enjoy today. It is the same free enterprise system, and not expanded, unproductive bureaucracies, that will both produce and conserve our way out of the energy mess. Our distinguished minority leader has provided us with a road map. Let us get moving.

I thank the gentleman.

Mr. RHODES. I thank the gentleman from Pennsylvania, and I will point out to the Members that the gentleman from Pennsylvania's scientific background is probably unequaled by any Member of this House. When he says what he has said, it should be heeded. He knows what he is talking about.

Mr. PETRI. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Speaker, I want to commend the distinguished minority leader for his statement this evening, and I also would like to report to the House that I did return, as many of my colleagues did, from 11 days back in my district; and that the people there are confused.

They are willing to make sacrifices, but they are looking for strong, responsible leadership from the President and from this body. I think we as a body should be willing to make sacrifices as well. We must provide that leadership, even at the sacrifice of what some people look forward to, which is a pleasant vacation in August, because until we provide leadership our country is going to gradually dissipate its strength.

Mr. RHODES. I thank the gentleman from Wisconsin.

Mr. CAMPBELL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Speaker, I commend the gentleman from Arizona for taking this special order at this time, which is most appropriate. I wish to associate myself with his remarks.

I do not want to dwell on the errors of yesterday or the mistakes that have been made in the past, because we cannot undo those. But, by taking this special order and calling to the attention of the American people a plan for tomorrow, the gentleman from Arizona has sent a message that should be received at Camp David, that should be received by the American public as a welcome sign of leadership, of leadership to change the direction of this Nation as far as energy goes for the future.

I hope that those who are in the power now will heed this message.

Mr. RHODES. I thank the gentleman from South Carolina.

Mr. PRITCHARD. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Speaker, I just want to associate myself with the remarks of the gentleman from Arizona. They were right on target.

● Mr. LENT. Mr. Speaker, I would like to commend my good friend, the gentleman from Arizona (Mr. RHODES) for making available this opportunity to remind the American people of the real source of the severe energy problems we face today.

As the recently published memorandum from Presidential Adviser Stuart Eizenstat made so clear, the Carter administration is making a desperate search for a plausible scapegoat on which to lay the blame for our long gasoline lines and the shortfall in home heating oil and other fuel oils. Mr. Eizenstat would like to make the OPEC nations the scapegoat.

But, Mr. Speaker, the evidence is inescapable that the major portion of the blame must rest with the Carter Presidency itself, as President Carter and his advisers know all too well. Let me cite some specifics.

The past 2½ years of the Carter Presidency have seen blunders, errors of judgment and a still-growing incompetency which have destroyed all attempts at building a rational, workable energy policy for our Nation.

Stubbornly, through those 2½ years, the Carter administration has done all it could to discourage development of alternate sources of energy. Only now, long after its obstinacy has deprived us of a golden opportunity to reduce our great dependence on imported oil, has the Carter administration even begun to think of major programs for synthetic fuels. We have been urging such a commitment on the administration for years.

Mr. Speaker, we who have long supported a program of strong Federal encouragement for alternate sources of energy have continually urged that the administration move faster in this area. Over the administration's obvious lack of interest and concern, we did succeed in putting into law the basis for a broad and comprehensive expansion of solar energy programs. But even with these laws approved by the 95th Congress, the administration has moved listlessly to implement them.

We, who have for years supported a workable program to reduce our dependence on foreign oil have long sought to convince the Carter administration that steps should be taken to encourage more domestic production of oil and natural gas. But the Carter administration took exactly the opposite course in proposing confiscatory taxes and continued price controls which have had the effect of discouraging domestic production, as evidenced in the statistics of petroleum production in the last 2½ years. Only now has President Carter, belatedly, come to realize this might be wrong. According to reports he is now considering the immediate lifting of the price controls which have helped create today's problems. If this had been done 2½ years ago, we would all be much better off today.

And, finally, the Carter administration created its own disaster with the Carter-inspired Department of Energy. This bureaucratic monstrosity of 20,000 Federal employees spends more than $10 billion of the taxpayers' dollars each year. Yet it has produced only confusing double-talk and contradictory predictions; entangling and counterproductive regulations; unfair allocations of gasoline; and a stubborn refusal to look at the realities of the energy problems and workable solutions.

In the past 6 months, Mr. Speaker, I have had the unpleasant task as ranking minority member of the Oversight and Investigations Subcommittee of the

House Committee on Interstate and Foreign Commerce, of hearing witness after witness from the top officialdom of the Department of Energy confess to failure, error, and misguided judgment in administering the confusing regulations affecting our oil and gas supplies.

Because of this admitted maladministration, Mr. Speaker—not because of OPEC—we have been condemned to sit for hours in long gas lines in some parts of our country, including my own Long Island; while other parts of our Nation enjoyed a surplus of gasoline with no inconvenience whatsoever. Because of this maladministration, Mr. Speaker, our Northern States face the prospect of a serious shortage of heating oil this winter.

President Carter should have overhauled the Department of Energy long, long ago so that it would perform properly the functions for which it was created.

Mr. Speaker, I urge the President to look long and thoughtfully at his own deplorable record of dealing with the Nation's energy problems. It is clear to any unprejudiced observer that decisive, corrective action is needed. And we who have supported clear, definitive actions have been urging these necessary steps for many months.

I trust, Mr. Speaker that our comments here today reinforcing our call for realistic action to deal with the energy situation will help persuade the President to come down from the mountain with the effective program that we in the Congress can endorse.

Our Nation will be the better for it.●

● Mr. COUGHLIN. Mr. Speaker, I offer what I hope are a few commonsense thoughts and suggestions on Mr. Carter's "Big Muddy" in which he has led us from a situation involving a moderate shortage of crude oil into a full-blown crisis of gasoline availability.

I do not pretend to be an expert, but I do contend that I possess an understanding of human and business behavior that far more accurately assesses our energy problems than the contrivance of Government and bureaucratic regulations.

Decontrol: If you are going to have decontrol, then bite the proverbial bullet and do it without phasing out controls, say, over a 3-year period. It is obvious, or should be obvious, that oil companies with the major capital will wait out the phase-in period until they can then obtain the highest prices.

Windfall profits: Do not try to have your populism and eat it, too. Either you want more domestic oil production or you want tax revenues to enrich the Government coffers. You cannot have both. Windfall profits need a plowback provision that will result in more domestic exploration and drilling. It is not difficult; enact taxes that drop—to a certain limit—the more oil companies commit moneys to domestic exploration and drilling. Tax revenues obtained from more oil production would be worth far more at the retail end than dulling the incentive to explore and drill at the producer level.

Oil imports: Do not bewail the high cost of foreign oil when you encourage domestic companies to purchase crude, even at exorbitant spot market prices, from the oil-producing countries by holding domestic prices below the going market. Especially not, when you allow the companies to pass these costs through to the consumers.

And do not turn off the foreign oil imports until you have your own energy house in order or you will risk a recession that will cripple the economy and hurt individuals and families far more than the rising price of imported crude.

Coal: If you really are committed to expanding the use of our most abundant fossil fuel resources, then you will make sure that there is a program that encourages use and experimentation such as gasification instead of permitting disparate Government agencies to throttle such use through a series of regulations.

Gasohol: Encourage the production of gasohol and other alcoholic-type fuels, not just with tax incentives, but by providing loans and capital investment for strategically located plants throughout the country. Their high costs are not so high now, and a 10-percent use of gasohol and similar types of fuel would make a significant dent in our oil imports.

Automobile: Both incentives and disincentives should be used to propel the domestic auto industry to increased production of better fuel-saving vehicles. Not only will this save fuel, but it may well save one or two of our domestic auto companies from going out of business. This means saving jobs and preventing severe economic losses.

Mass transit: Use every legitimate means, including wielding a club on recalcitrant Government agencies, to promote mass transit. Do not permit one department, for instance to cut Amtrak funds, while another is trying to coax people into using mass transportation.

These are a few ideas which I submit should be included in any comprehensive national energy policy.

While these do not cover all the possibilities, I want the President to know that those of us in the minority party do have plans and programs, and do not glory in what seems to be a constant carping at him. On the other hand, I am more than a little tired of Mr. Carter's caterwauling about the deficiencies of the Congress which is controlled by his party.

Give the minority members a chance, Mr. President. You might be pleasantly surprised.

And last, but far from least, stop criticizing the American people for wasteful ways. Our Government and our private sector—through the decades—have promoted an automotive society. From where our homes are built to where our shipping malls and factories are located, the automobile has been a conscious instrument of national policy.

For the record, the American people are adapting to the gasoline crisis far better than the Government and its bureaucrats. Consumption is being cut. Conservation is taking place.

And, oh yes, Mr. President—about rationing. The people know that would not produce an iota of extra gasoline or home heating fuel. Too many of them remember World War II when, with far fewer cars and no rubber to produce tires, a black market of monumental proportions developed along with the omnipresent bureaucratic redtape and decisions.

A standby rationing plan is needed—in an extreme emergency.

For now, let us do something positive about starting to develop a comprehensive national energy policy that emphasizes production so that the initiative and mobility which helped make our Nation a world leader are not constrained by both a lack of leadership and a lack of fuel.●

Mr. RHODES. Mr. Speaker, I hope that the President and the majority party will not regard the remarks that we have made tonight, both mine and those of my colleagues, as a challenge, but as an offer to help. This is an issue which is bigger than politics. It is an issue which goes to the very heart of the economy of this country and the Western World.

We do have ideas; we do have expertise; we do have capabilities. We hope that they will be used by the majority and by the President in the furtherance of this great desire which we all have, which is the preservation, protection, and enhancement of the American way of life.

FIRST NATIONAL LAND USE CONFERENCE BEGINS JULY 11, 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. WAMPLER) is recognized for 5 minutes.

● Mr. WAMPLER. Mr. Speaker, tomorrow marks the beginning of the 3-day National Land Use Conference which will be held at the Capital Hilton in Washington. This conference, hosted by the National Association of Property Owners, is the first of its kind, and will offer the opportunity to hear a number of Representatives, Senators, and various economic groups present their views on this timely issue. I would also like to note that this conference will represent a bipartisan effort to thoroughly discuss current problems and solutions relating to national land use. After an opening reception on July 11, the program on the morning of Thursday, July 12, will include short presentations by representatives of various economic groups. The afternoon forum on that date will consist of four panels—Economics of Land Use Control, Constitutional Issues in Land Use Control, Energy and Land Use Control, and Denial of Resources Through Land Use Control. On Friday morning, July 13, additional addresses by noted legislators are scheduled.

The First National Land Use Conference offers an unique opportunity for the private property owners, representatives of Government, academia, agriculture, industry, and the public in general to participate in and actively discuss workable solutions to the national problems surrounding our land use policies.

The conference certainly addresses an issue of national importance. I hope my House colleagues and their staffs may find time to attend the NAPO National Land Use Conference.●

PROPOSAL FOR NO RECESS FOR CONGRESS UNTIL ENERGY CRISIS ENDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. COURTER) is recognized for 5 minutes.

● Mr. COURTER. Mr. Speaker, I propose that this Congress does not recess again until we are satisfied, and the American people are assured, that we have done everything in our power to bring the energy crisis to an end, and that we have taken the necessary steps to insure our energy independence. I do not believe that the American people will endure further delays on our part, nor will they tolerate a continuing insensitivity to their suffering. I am introducing a resolution stating that it is the sense of the House that there will be no further recesses during this session of Congress.

Our July Fourth recess generated a great deal of bitterness, frustration, and anger among the American people. And it was a righteous anger. While they sweltered in 5-hour gas lines during the last 2 weeks of June and the first wek of July, their President was drinking tea in Japan and their Congress was in recess.

The people feel that they were abandoned by their leaders in a time of crisis. They question the need for the President and the Secretary of Energy to absent themselves from the country when it was obvious that the allocation system was failing and the economy teeters on the brink of disaster. They question the need for a congressional recess when there is a huge backlog of legislation on our calendars.

It was little comfort to the people in the gas lines that we passed legislation to provide synthetic fuels in 1984. There are over 600 bills dealing in some manner with energy pending before this Congress, and more, I am sure will be introduced.

We have a deep responsibility to make every effort to bring this crisis to an end. I believe as do my constituents, that we are obligated to stay here and do the job that we were sent here to do.

I would like to submit a copy of my resolution for the RECORD:

H. RES. 348

Whereas, the United States of America is in the midst of an energy crisis;

Whereas, the current shortage of gasoline and the impending shortage of heating oil threaten to disrupt our economy and our society;

Whereas, the American people have the right to demand and expect that their Representatives in the House of Representatives exert every effort and explore every alternative in resolving the energy crisis;

Whereas, Representatives in the House of Representatives will not have the time to meet the expectations of the American people with respect to the energy crisis unless all recesses for the House of Representatives for the first session of the 96th Congress are cancelled: Now, therefore be it

Resolved, That it is the sense of the House of Representatives that there should be no recess for the House of Representatives during the remainder of the first session of the 96th Congress.

□ 2040

THE JERUSALEM CONFERENCE ON INTERNATIONAL TERRORISM IDENTIFIES THE SOVIET UNION AS THE PRIMARY SPONSOR OF TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP), is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, the employment of terrorism as a means of gaining political or other ends is an ancient weapon of the desperate. What is new however, is the internationalization of terrorism as a weapon of international diplomacy. Rather than being used as an instrument of those who have exhausted legitimate means of protest within a particular society, international terrorism has become a means of covert state-to-state conflict particularly so as practiced by the Soviet Union and their PLO clients.

Although all democratic nations are threatened by terrorist activity, two nations, perhaps as a result of their close bond of culture, politics, and national self-interest, have become the major victims of international terrorism: The United States and Israel. It is fitting then, that Israel was the venue of the first truly international conference to address the scourge of international terrorism.

I was privileged to be a participant in the conference, as well as a coauthor of the final communique which emerged from this conference, the Jerusalem Conference on International Terrorism. The Jerusalem Conference was sponsored by the Jonathan Institute named in honor of Lt. Col. Jonathan Netanyahu, the New York-born Israeli commander of the heroic rescue of Israeli hostages at Entebbe.

The Israeli reaction to the taking of hostages by PLO oriented terrorists more than any other single event, galvanized international opinion out of its complacency in support of the taking of firm measures to deal with the menace of terrorism and the necessary diplomatic and economic sanctions to counter Soviet support.

Unlike many international problems, coping with international terrorism is not a subject which can be restricted to a group of technical specialists; the solution is properly in the domain of a broad mixture of many spheres of national and international life. As a result, the Jerusalem Conference invited participants from many sectors of public life including the academy, government, journalism, military service, and others.

The list of participants included many eminent commentators on public affairs, elected officials, and specialists on the control of international terrorism. Senator JACKSON, contributed a major address, as did Soviet dissident writer, Vladimir Bukovsky. Distinguished international commentators such as Brian Crozier, Midge Decter, Paul Johnson, Robert Moss, Norman Podhoretz, Ben Wattenberg, and George Will. Political leaders such as Hugh Fraser and Lord Chalfont, of the United Kingdom and Eric Blumenfeld, member of the German Bundestag, and former senior officals of the U.S. intelligence community such as Ray Cline and George Bush contributed as well. Bayard Rustin, civil rights leader, made an important contribution with his worldwide understanding of terrorism.

The results of the conference have been expressed in its statement of principles. The conference reached two crucial conclusions necessary if the international community of democratic nations is to come to grips with international terrorism. First, the conference concluded that the Soviet Union is the driving force behind the "terrorist international." The Soviet Union arms, trains, supplies intelligence and logistics services, and diplomatically supports international terrorism. Much of the Soviet support is covert, but the extent of Soviet participation and culpability is now thoroughly documented.

Second, the conference took a careful look at the most prominet international terrorist organization, the PLO. The PLO is often mistaken for a traditional nationalist movement seeking to regain territories lost in the 1967 conflict. In fact, the PLO seeks to replace one population with another—little more than a polite euphemism for genocide.

The PLO was formed 2 years before the 1967 conflict took place—reinforcing the view that the PLO's aims are not limited to the redressing of a recent nationalist grievance—their aim is the destruction of the State of Israel, an objective congruent with Soviet policy in the region. A threat of the magnitude posed by international terrorism under the covert sponsorship of the Soviet Union calls for coordinated action by the threatened democracies of the world. This is precisely what the conferees concluded must be done.

During the course of my visit to Israel, I had an opportunity to discuss mutual United States-Israeli security problems as well. To this end, I met with Prime Minister Begin as well as Defense Minister Weitzman as well as other officials in the Israeli Defense and Foreign Ministry. The content of these discussions was most reassuring, because the conversations reflected the determination of the leaders of the State of Israel to maintain the territorial integrity of the State of Israel against any threat ranging from the terrorist's grenade, to the massed armored formations of a Soviet-sponsored Arab army.

The continued assistance of the United States in this regard is both vital and appreciated in Israel. This assistance is not provided not out of just our international empathy for Israel's position, but also out of an understanding of America's and the free world's long-term interests in the survival of the West and of an ally which is the only democratic society in the region.

The assistance of Israel in participating with the United States in efforts to end the menace of international terrorism has been measurably advanced by the Jerusalem Conference. The text of the statement of principles as well as the text of my remarks are included at the end of this statement.

I salute the Jonathan Institute particularly Professor Netanyahu and Ben Netanyahu for organizing such a vast undertaking. I repeat my pledge to work with Ben Wattenberg and others to hold the conference in the United States in the next year to continue the cause of resisting terrorism in all forms.

STATEMENT OF PRINCIPLES OF THE JERUSALEM CONFERENCE ON INTERNATIOAL TERRORISM

The Jerusalem Conference on International Terrorism affirms its belief that terrorism is a serious and growing threat to all peoples living under the rule of law; that it is no longer a national problem, but a global one; that it cannot be contained, let alone eliminated, except by concerted international action; and that the case for such action is overwhelming and urgent.

The conference is profoundly disturbed by the accumulating volume of evidence that terrorists now have access to ample funds, modern weapons, regular training programs, ever-available sanctuaries and other support services provided by sovereign states belonging to the Soviet and Arab blocs.

The conference believes the evidence is now sufficient to justify use of the phrase "Terrorist International" to describe the many and growing links between separate terrorist organizations, their use of communal services and their systematic exchange of information and techniques.

While there is still debate over the extent to which the Soviet Government, either directly or through its allies and satellites, exercises central control over certain terrorist organizations, the conference affirms that Soviet Union finance, weapons, training, protective services, and diplomatic assistance now constitute an important element in the scale and success of terrorism. It notes that, whatever the ideological or nationalist aspirations of individual terrorist groups, they have a common interest, which they share with the Soviet bloc, in destroying the fabric of democratic, lawful societies all over the world.

The conference believes that the response of the democracies to the threat posed by international terrorism has been uncertain and inadequate.

The civilized world is learning—but it is learning too slowly. We believe the time has come for the leading democratic nations to convene a conference of all states which respect the principles of democracy and the rule of law, with a view to concerted measures against the terrorist forces and their backers. We suggest such action should include the following:

First. A unanimous condemnation of terrorism without qualification or reserve.

Second. Adoption of an international convention against terrorism, for which the U.S. Draft Convention of 1972 would serve as a definition of terrorism as an international working model, and which would cover the crime, the denial of polical status for criminals so defined, common procedures for extradition, common penalties, and the exchange of evidence.

Third. A complementary agreement to take concerted measures, including diplomatic, economic and other sanctions, against states which aid terrorists by supplying them with money and arms, according them facilities for training and propaganda, and granting them refuge.

Fourth. An undertaking to adopt legislation for the effective enforcement of the Hague, Tokyo and Montreal Conventions dealing with air piracy and related crimes.

Fifth. Agreement to take all necessary proper and legal measures to exchange information on terrorists activities.

Sixth. An energetic and continuing effort to alert public opinion to the dangers of terrorism and the need for effective measures to combat it.

The Jerusalem Conference on International Terrorism believes that the above measures represent the minimum necessary to defend the democratic and lawful states from the threat which faces them, and it calls on governments and peoples throughout the civilized world to unite behind this program.

I am doubly honored and challenged to address the Jonathan Institute's Conference on International Terrorism on this, the Fourth of July.

Yesterday and today mark the third anniversary of the raid on Entebbe and the rescue of innocent civilians from the hands of terrorists. At the same time we memorialize and honor the heroism of "Yoni" Netanyahu, who commanded the rescue and lost his life in doing so. For every lover of freedom in the world Yoni and Entebbe symbolize the will to resist terrorist compulsion.

This occasion is doubly significant for me, because today also marks the 203d anniversary of my country's independence. There will be a great show of outward celebration at home today. But in quieter moments, Americans will observe the day with the same sober reflection which we give to Yoni and Entebbe.

No American today will grab his Uzi when the firecrackers explode, nor will the rockets bursting overhead be aimed by terrorists. We in America enjoy a safety secured by the sacrifices of our ancestors, like Yoni, they often paid for freedom with a price as high as life itself. Why did they do it? Why do the sons and daughters of Israel risk the same sacrifice today? Because they know, that while the price of freedom is high—it is never so high as the loss of freedom itself.

The state of Israel is to the world today what the United States may have seemed 170 or 180 years ago: A city on the hill, a place where it was important to protect, defend and display the light of freedom, even if you never made it personally to the citadel. Our anniversary at home will flicker and dim unless we who enjoy the rewards of independence and freedom can also help our friends and allies in Israel pay its price.

This year marks the 31st year of the rebirth of Israel. The rallying cry of that state was "never again." Never again would the Jewish people be left without a homeland. There is, however, another anniversary. This year marks the 41st anniversary of Munich, when Hitler cried to the western world, "All I want is the Sudentenland," and the western world said "Yes."

This year, the cry is, "Just give us the West Bank." Next year, terrorists will then say, "Just give us Israel." Our rallying cry must also be "Never again."

I am encouraged to participate in a conference not only with figures directly involved in the eradication of terrorism from the international community, but also with my colleagues in Congress who have been in the forefront of formulating American policy initiatives that contribute to the fight against international terrorism.

I know this conference can stimulate our best efforts to take concrete steps to stop international terrorism before it consumes the democratic societies that are its natural enemies and I would hope that next year it can be held again in the United States.

Terrorism is not new. It has been used for centuries by the disaffected to impress not only the victims of terrorist acts, but those who witness them. Modern communication merely makes it possible for millions to witness these assaults, instead of only a few less than a generation ago. What is new about terrorism is its transnational character—the internationalizing of what Brian Crozier has called, "motivated violence for political ends."

The internationalization of terrorism has many immediate causes. Vast improvements in transportation allow terrorists to move swiftly and anonymously from nation to nation without fear of detection. The diffusion of modern military technology has simplified the process of inflicting destruction of an unprecedented scale and modern communication eases the international coordination of terrorist activities and the dissemination of its "message." Other matters are also important to the growth of transnational terrorism, but are incidental to explaining why terrorism has become a major threat to the security of every non-Communist nation of the world.

Many views in the western world, particularly those of the U.S. State Department, of international terrorism, have tended to be myopic, identifying only the most immediate motives for a local terrorist incident and overlooking deeper causes which usually originate outside the national jurisdiction in which the incident occurs. A more thorough examination of international terrorism can help us identify the common elements which have made it the menace it has become.

I would like to discuss these common elements before commenting on details of the U.S. response to international terrorism.

As has been discussed, international terrorists, contrary to their image, are not usually the warped, demented individuals so often portrayed in the news media. They are dedicated, ideological, and highly motivated. They are almost uniformly to the far left politically, unlike strictly local terrorists who reflect every shade of ideology and opinion.

International terrorists are well-financed, able to move throughout the world with changing identities and forged documents, and they have safe places to hide from pursuers in many nations.

International terrorists are well trained in organization, frequently proficient in the use of small arms and explosives, competent with modern communication equipment, and particularly well informed about the vulnerabilities of their local adversaries.

Unlike their local terrorist counterparts, international terrorists are few and rarely represent any serious indigenous mass movement, though they may exploit local opportunities.

I am pleased to see an emerging consensus as to the ultimate source of international terrorist support in an overwhelming number of cases—the Soviet Union.

I am convinced it is crucial to our discussions and to the successful multilateral effort to combat terrorism that we recognize—at the outset—the central role that the largely unseen hand of the Soviet Union has played and continues to play in both the direct and indirect use of terrorism in this and other regions of the world.

The United States, and allied nations in western Europe have been engaged in a decade-long effort to improve relations with the Soviet Union. The diplomatic shorthand for the pursuit of better relations between western nations and the Soviet Union—"Détente"—has become accepted in the vocabulary of the west. For example, eagerly anticipating good faith on the part of the Soviet Union, the United States has embarked on an agreement, if the Senate consents, to limit strategic arms or at least ostensibly limit strategic arms. Should that anticipation be in error as some of us believe it to be, our long-term security will be jeopardized.

We have signed a variety of agreements with the Soviet Union in the name of diminishing tensions and reducing the possibility of violent conflict between the two nations. Lofty declarations of principle have been drafted with the Soviet leadership relating to noninterference between nations, in the expectation that it would diminish international Soviet adventurism that could place American security at risk.

But an examination of the Soviet role in promoting international terrorism casts grave doubt on the assumptions about Soviet policy upon which American—and western—policy toward the Soviet Union is based, particularly those policies which relate to SALT, Helsinki and détente itself.

The Soviet Union, in fact, has a central role in training, equipping, transporting, and protecting the most important international terrorists and terrorist organizations in the world. Although the initiative for individual terrorist acts rests with the terrorists themselves rather than the Soviet leadership the Soviet effort has been supported and sustained for political ends.

The Soviet Union promotes international terrorism because it stands to gain from terrorist success. The Brazilian theorist of international terrorism, Carlos Marighela, has described the purpose of terrorism as to "make life unbearable" for ordinary people, to create a "climate of collapse" in the target regime. This favors the ends of both the terrorists and their Soviet mentors.

The Soviet interest lies with disruption, disorientation, and chaos as in Iran, for example—as often as it lies in outright takeover—as in the cases of Afghanistan, Angola, and Ethiopia. Thus, we face the prospect of continuing to seek formalized improvements in relations with the Soviet Union on both a bilateral and a multilateral basis, while the Soviets continue to support a covert terrorist effort aimed ultimately at western democracies.

This dangerous predicament of the west has been elaborated upon by Prof. Richard Pipes; Robert Moss, editor; Brian Crozier, director; Dr. Ray Cline; Senator HENRY JACKSON; and others. The international department of the central committee of the Communist Party of the Soviet Union has established two training schools for foreign terrorists.

The first, the Lenin Institute, trains the hard-core Marxist-Leninist cadres, while the second, the Patrice Lumumba University in Moscow for Communist-oriented students, trains terrorists primarily from the developing world. Several hundred foreign nationals are trained each year at several sites within the Soviet Union. Additional training takes place in North Korea and Cuba. In addition, terrorist training is done in Libya, in Palestinian Liberation Organization camps in Lebanon, in East Germany, in Czechoslovakia, and in other East European nations.

Many of the terrorists active in West Germany and Italy were trained with KGB assistance at PLO training camps in Lebanon. Terrorists in Northern Ireland have been assisted by Omnipol, an element of the Czech Intelligence Service controlled by the KGB.

The Cuban Intelligence Service, the DGI has been under the command of a Soviet KGB major general since 1968. Cuba is now becoming the major Soviet link with the international terrorist movement. The Cuban DGI, which has the major role in support of international terrorist activities on behalf of the Soviet Government, has sent its representatives to virtually every area of the developing world.

Representatives of the Cuban training establishment have been sent to PLO camps in Lebanon to assist terrorists of Popular Front for the liberation of Palestine. In late April of this year, an agreement was made by the Popular Front for the liberation of Palestine to have several hundred terrorists trained in Cuba, following a meeting between Habash and Cuban officials.

PLO terrorists are also being trained under KGB supervision in Hungary and Bulgaria. A vast arsenal intended for use by terrorists is being built up by the Soviet Union in Libya. Equipment sufficient for five Soviet motorized rifle divisions has been stockpiled in Libya ready to support large-scale guerrilla operations. It can be transshipped to Zambia and Mozambique as well as used to support the more modest requirements of small terrorist organizations in West Europe, Africa, and the Western Hemisphere.

Indeed, Qaddafi sponsored a conference in Behghazi earlier this year which included a large number of Latin American terrorist organizations with PLO elements. Among the results of the conference is an effort to support the Sandinista terrorists in Nicaragua, via Cuba and Panama, and pressure on Brazil to permit the opening of a PLO office in Brazil—moves likely to be precursors of the spread of transnational terrorism to the Western Hemisphere.

Nowhere is the hand of the Soviet Union directly in sight. The nations involved, Libya, Cuba and East European states, are the only nations directly involved. The Soviet Union, the ultimate source of the weapons, the logistic support, the intelligence collection, transportation of terrorists, and related matters, is not routinely identified, either by Western governments or by the press, nor incredibly—the U.S. State Department. In 16 pages of testimony before the U.S. Congress, there was not one word of mention of the Soviet role.

The Soviet Union's extensive involvement in international terrorism is a fact few Western governments will acknowledge in public. It is also a fact that no Western government can afford to ignore. Until Western governments face the difficult problem posed by covert Soviet support for international terrorism, many well-intentioned international efforts to control terrorism will be doomed to failure.

Soviet policy has never been more duplicit than on the subject of international terrorism. Soviet propaganda attacks PLO terrorist incidents, while the Soviet Union provides the weapons, intelligence, and training to the PLO and splinter organizations.

Soviet propaganda attacks West European terrorists, but provides a safe haven for fleeing terrorists in East Berlin and Czechoslovakia. Soviet propaganda attacks terrorist hijackers in the West, but assists in the construction of a training facility in Cuba for aircraft hijacking.

The American response to terrorism from the perspective of organization and strategy has, on the whole, been useful, even though it fails to address the fact of Soviet participation in the support of international terrorist activities. Within the logic imposed by responding to the symptoms of terrorist violence, the strategy has succeeded in reducing the attractiveness of directing terrorist incidents against the U.S. Government.

In the 3,000 terrorist incidents which have taken place since 1970, at least 25 percent of the 5,000 wounded and 2,000 killed have been American nationals. More than 30 U.S. Government agencies have a role in dealing with the terrorist threat, and, organizationally, their efforts have been coordinated in a manner which effectively supports the U.S. policy of offering no concessions to terrorists. While this posture has undoubtedly led to some loss of life, it has saved far more than it lost. The wisdom of this posture is reinforced by the experience of every other nation which has adopted this posture.

There has been an unfortunate divergence between the practices of public and private American institutions in responding to terrorist assaults. Too frequently, U.S. corporations operating abroad capitulate to terrorist extortion. Naturally, it is done to save the life of a kidnapping victim or to protect property from destruction by terrorists. But it comes as no surprise then to learn that U.S. corporations abroad have become prime targets for terrorism. As a consequence, tens of millions of dollars extorted from corporations have gone into the coffers of terrorist organizations, financing still further attacks on U.S. commercial interests abroad.

The United States is not alone in this problem. This points to a conspicuous shortcoming in the response of most western governments to terrorism, including the United States. Most of the attention in coping with the terrorist threat has gone into protecting governments from intimidation by terrorists—a necessary first step in meeting the threat.

However, it is not sufficient simply to protect governments from terrorist threats if private citizens and property are to become easy victims of extortion, kidnapping, sabotage and other acts of violence by terrorist organizations. There is little to be gained if governments manage to free themselves of terrorist intimidation only to preside over a wasteland in which no private citizen or business firm is safe from terrorist attack.

A second dimension of the U.S. policy response to international terrorism has been to improve the management of 30 government agencies to assure that crisis management will be effectively carried out during a terrorist incident. Fortunately, the adequacy of this machinery has not been put to a severe test, but preliminary indications suggest that it should serve the needs of senior government officials in mobilizing government resources to deal with a terrorist-induced emergency.

As the threat posed by international terrorism has become better understood by the U.S. Government, more specialized organizations have been formed within Government agencies to permit the most effective response. Much more will depend upon the ability of Government officials to improvise successfully in the circumstances.

Entebbe will never be repeated in precisely the same manner, and governments which prepare to cope only with types of terrorist incidents which have occurred in the past may find they are incapable of meeting wholly unexpected incidents unless they can institutionalize the capability to develop a response "on the spot."

A third, and hopeful, dimension of the American response to terrorism is the attempt to develop international controls over terrorism. The most notable success to date has been with the problem of aerial hijacking. Yet, hijacking is only a small part of the terrorist menace. Even if this problem were solved by international agreement, it would not address the most dangerous types of terrorist incidents we are likely to see in the coming decade as a result of the profligate Soviet policy of distributing shoulder-launched anti-aircraft missiles, sophisticated mines, and advanced high explosives.

The international effort is not likely to yield the results we hope for unless some means are identified to induce the Soviet Union to cease its support for international terrorism. It will otherwise be possible for the Soviet Union to sign every international convention dealing with the suppression of terrorism and yet continue to aid and abet the international terrorist movement through its program of aiding Communist-oriented elements on a worldwide basis.

A bill recently introduced into the Congress would require the U.S. Government to terminate military and economic assistance to any nation which the President determines has demonstrated a pattern of support for acts of international terrorism. Although this legislation might affect the behavior of some nations, some of the worst offenders in supporting international terrorism—Cuba, Libya, North Korea, and the PLO—do not receive any U.S. assistance, hence such legislation would have little effect in diminishing terrorist activity. But the Soviet Union receives food, technology, credit, and is even now requesting most favored nation status for trade.

What is required is a determined effort by the nations most affected by terrorism—the United States, West Germany, Britain, France, Israel, and others, to take more direct and where desirable, joint action against the Soviet conduits for terrorism. Israel has shown the way in attacking terrorist organizations at their centers of operation. This reflects a great determination at the highest levels of government, combined with a well-organized and responsible intelligence establishment, to deal effectively with terrorist organizations.

Similar coordination is also called for from a diplomatic perspective. Greater efforts must be made to deny known represenatives of terrorist organizations the undisturbed freedom to travel in Western nations. I regret that the U.S. allowed the entry of known representatives of the PLO into the United States, and I am persuaded that it would be in the interests of all nations affected by terrorism to make a vigorous effort to deny access to known terrorists or representatives of such organizations.

In addition, it would be useful if nations threatened by terrorism would refrain from diplomatic initiatives that lend international status and prestige to terrorist organizations. By affording organizations like the PLO and other terrorist organizations which claim de facto "government" status, the slightest gesture of recognition merely serves to establish the legitimacy of terrorism as a means of gaining political ends.

International terrorism must be understood in the form it has taken, namely a transnational weapon, primarily sponsored by the Soviet Union to achieve its political ends. Some years hence, the Soviet Union may be displaced by another nation as the principal sponsor of terrorist organizations. The basic issue remains: international terrorism must be made an illegitimate means of conflict and this can only be accomplished if the intended victims are prepared to take the steps necessary to deny international terrorists the objectives they seek.

Finally, we must scrutinize the concept of détente itself. The adoption of widespread terrorism as a means of covert warfare by the Soviet Union and its allies such as Cuba, Libya, and subnational terrorist groups reveals the failure of détente as a theory of relations between East and West. Détente has become little more than a means of disabling the West from dealing with less-than-total threats of its survival, especially wars of national liberation and international terrorism.

The United States and the nations of Western Europe have been induced to make détente with the Soviet Union a central element of their foreign policy, expecting that it would reduce the threat to their security. In fact, détente has caused a decline in Western security—a decline which has contributed to Soviet power in the world today. There is, in fact, no adequate substitute for a brand of diplomacy which places security first, for this is the lynchpin of an effective foreign policy. International terrorism has, perhaps more than any other problem, exposed the fatal flaws of détente.

This conference reflects the emerging consensus among policymakers that international terrorism is a problem which can be overcome. As the problem of international terrorism is resolved by the nations which are targets of terrorist violence, we must also attend to the diplomatic dimension that has made us so vulnerable to terrorism for so many years.●

COOPERATIVE RESEARCH AND DEVELOPMENT IN SYNTHETIC FUELS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 10 minutes.

● Mr. GRASSLEY. Mr. Speaker, the OPEC cartel demonstrates the effectiveness of international cooperation on the part of the oil exporting countries. By working together to establish prices and govern supplies, a handful of relatively weak and underdeveloped states exercise a tremendous advantage over the most populous and technologically advanced countries of the free world. This is an inverted and potentially dangerous situation, yet it will persist until we have mastered the science of producing synthetic fuels on a scale and at a cost that will relieve us from dependence on imported oil.

If OPEC teamwork has gotten us and others into this situation, teamwork among the free world industrial powers can get us out of it. To such an end, I have introduced a bill to establish an international research and development consortium for producing synthetic fuels on a commercially economic scale.

The bill envisages one or more R. & D. centers, internationally manned and funded by the technologically advanced nations of the free world. Primary emphasis will be on coal liquification. The objective will be to demonstrate a commercially feasible production module by the end of 1985, based on substantial improvements over the current state of the art. The United States and other participating countries will share equally in the benefits of such technological progress.

A cooperative consortium which brings together the best available scientific talent of the technologically advanced countries will have a sobering effect on the OPEC nations. It will put them on notice that their capricious pricing and supply policies are backfiring to the detriment of their own economic and developmental prospects. In a more direct sense, however, the technologies we seek can solve our own fuel problems, enhance American and free world security, and elevate the prospect that such technology, combined with our tremendous coal resources, can restore the United States to the role of a major energy exporting country.

In conjunction with other Members of the House, I shall soon circulate a "Dear Colleague" letter which outlines the key features of the bill. I think it is a timely and important legislative proposal. I hope for its earliest consideration and invite your cosponsorship.

In addition, I hope my colleagues will offer suggestions and revisions to this bill as they study it.

I ask unanimous consent to have the text of the bill included in the Record at this point:

H.R. 4715

A bill to advance international cooperation in the research, development, demonstration, and commercial deployment of synthetic fuels, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Synthetic Fuels Cooperation Act of 1979".

DECLARATION OF POLICY AND PURPOSE

Sec. 2. (a) In view of the international energy situation and our need to provide for the national defense and national security, access to liquid fuels by the United States and its allies must be guaranteed. This requires the expansion of productive capacity and supply for liquid fuels beyond the levels needed to meet the civilian demand, in order to reduce the time required for full mobilization in the event of an attack on the United States or one of its allies, or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic petroleum supplies and which could adversely affect the national defense preparedness of the United States, NATO, Japan, and other nations of the free world. In order to insure the national defense preparedness of the United States, it is also necessary and appropriate to achieve greater independence in domestic energy supplies and simultaneously to help allies to lessen their dependence on imported petroleum. The production of liquid fuels other than petroleum-derived products is an essential element of this lessened dependence. It is in the best interest of the United States to provide a mechanism that will enable it and other technologically advanced nations of the free world to cooperate in research, development, and demonstration activities leading to the more efficient and economical production of synthetic liquid fuels, and to share the benefits of such technology with one another. Through a combined effort and the shared benefits derived therefrom, we are most likely to increase supply and to increase world stability as well at the earliest possible date.

(b) It is therefore declared to be the policy of the United States and the purpose of this Act—

(1) to establish at the earliest possible date a program of international cooperation in the research, development, demonstration, and commercial deployment of synthetic fuels with the active participation of those NATO countries and other nations of the free world who are willing to share the costs of such an undertaking;

(2) to emphasize in that program solutions to the materials, systems engineering, and technology development problems most likely to affect efficient operation of synthetic fuels plants over a useful life of thirty years or more;

(3) to push for the international demonstration of several synthetic fuel technologies at commercial module scale or larger by December 31, 1985;

(4) to make available to the international program in synthetic fuels the substantial expertise that the United States and other participating governments have developed in the course of their research in synthetic fuels; and

(5) to enter into such treaties and cooperative agreements as are necessary to implement this policy.

DEFINITIONS

Sec. 3. As used in this Act—

(1) the term "synthetic fuel" means fuel produced by the conversion of renewable and nonrenewable resources to liquid products from coal, shale, lignite, peat, tar sands, and other minerals, but does not include fuel produced or products made from crude oil or natural gas; and

(2) the term "foreign countries" includes all foreign countries where suitable technical, economic, social, and environmental conditions exist to facilitate the realistic and effective demonstration of the use of synthetic fuels energy technologies, other than Albania, Bulgaria, Cambodia, any part of China which is dominated or controlled by International Communism, Cuba, Czechoslovakia, Estonia, Hungary, any part of Korea which is dominated or controlled by International Communism, Latvia, Lithuania, Outer Mongolia, Poland (including any area under its provisional administration), Rumania, Soviet Zone of Germany and the Soviet Sector of Berlin, Tibet, Uganda, the Union of Soviet Socialist Republics and the Kurile Islands, Southern Sakhalin, and areas in East Prussia which are under the provisional administration of the Union of Soviet Socialist Republics, and the Socialist Republic of Viet Nam.

INTERNATIONAL CONSORTIUM FOR RESEARCH AND DEVELOPMENT IN SYNTHETIC FUELS

Sec. 4. (a) (1) The President of the United States is authorized and requested to invite the governments of foreign countries to join in the establishment of an international program for the conduct of research and development in synthetic fuels, and to attend an international meeting to be held for that purpose.

(2) The Secretary of Energy on behalf of the President shall take such actions as may be necessary to provide for the holding of such meeting and shall enter into such negotiations and make such arrangements as may be appropriate to assure its success.

(b) It shall be the specific objective of the meeting held as provided in subsection (a) to create an ad hoc intergovernmental commission, appropriately representing the participating countries, which shall have the function and duty of establishing an international program for research and development in synthetic fuels in accordance with section 5 and of providing for the creation of an appropriate permanent international organization to govern, administer, and operate such program. Until such time as that organization has been established and assumed its responsibilities, the ad hoc commission shall furnish such administrative services and support, arrange for such financial and technical assistance, and provide such liaison with the governments of the participating countries as may be necessary to carry out such program. After the governing organization has been established and is capable of functioning without further assistance, the ad hoc commission shall be dissolved.

(c) The Secretary of Energy, in consultation with the Secretary of State and the Secretary of Defense, shall serve as the executive agent of the United States for the fulfillment of the responsibilities of the United States under the program including its responsibilities for funding, procurement, and administrative and logistical support.

RESEARCH AND DEVELOPMENT PROGRAM

Sec. 5. (a) The international program of research and development in synthetic fuels to be established as provided in this Act shall be carried out through one or more research and development centers which shall to the maximum extent possible be established, administered, and operated in the manner provided in subsection (b).

(b) It shall be the objective of the President and the Secretary of Energy, in carrying out their functions and duties under this Act, to ensure that the program is established, administered, and operated in the following manner:

(1) The research and development center or centers shall be located at a site or sites which shall be designated by the ad hoc intergovernmental commission and which shall be selected, on the basis of data and recommendations submitted by the participating countries, with a view of taking full advantage of any adequate existing facilities or minimizing the costs involved in construction or in converting existing facilities.

(2) The center or centers shall be selected or designed to emphasize coal liquification as a means of producing synthetic fuels, but may, without sacrificing this primary purpose, conduct research in other synthetic fuel areas.

(3) Each participating country shall share substantially and equitabily in the start up and operating costs and any other costs which may be incurred under the program, and shall contribute facilities, equipment, and scientific personnel in such amounts and at such levels as may be deemed equitable by the participating countries.

(4) Any participating country which

develops energy production techniques or procedures based on research or development carried out under the program shall make such techniques and procedures available to all other participating countries on reasonable terms and conditions.

(5) The members of the governing body of the international organization having permanent responsibility for the administration and operation of the program shall consist of scientific personnel who shall be drawn, to the maximum extent feasible, from the private sector.

(6) The ad hoc intergovernmental commission and the permanent governing body shall prepare and maintain guidelines for the operation of the program which shall be specific as to research and development objectives, with primary emphasis on coal-based synthetic liquid fuels.

RESPONSIBILITY OF THE SECRETARY OF ENERGY

SEC. 6. It shall be the duty and responsibility of the Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate Federal agencies, to—

(1) prepare semi-annual updated estimates of the synthetic fuel needs and priorities of the United States;

(2) make preliminary assessments of the capabilities of other countries for participation in the program and activities under this Act;

(3) coordinate the United States effort in the establishment and conduct of the programs under this Act;

(4) advise the President and the Congress generally with respect to international activities involving research and development in synthetic fuels; and

(5) carry out such additional responsibilities as are appropriate and necessary to the expeditious and cooperative pursuit of the objectives of the program.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated for the fiscal year 1980 such sums, not exceeding $50,000,000, as may be necessary to pay the costs of establishing the program under this Act and to contribute the initial share of the United States to the start-up costs of such program, and for each subsequent fiscal year such sums as may hereafter be provided for in annual authorization Acts.●

FIRST ANNIVERSARY OF THE UNJUST TRIAL OF ANATOLY SHCHARANSKY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 60 minutes.

Mr. **DRINAN**. Mr. Speaker, 1 year ago today the Soviet authorities brought Anatoly Shcharansky to trial on charges of treason and slander against the Soviet State. Four days later Shcharansky was convicted and sentenced to 13 years in prison and labor camps. On July 9, 1978, one New York Times reporter concluded that—

> No political trial in the last decade has contained the array of issues and emotions that this proceeding . . . holds for people inside and outside the Soviet Union. No case against a human rights advocate has been seen as such a vivid indicator of the direction in which Soviet policy, both domestic and foreign, is headed.

Anatoly Shcharansky, the 31-year-old activist, was the dynamic leader of the Jewish movement to monitor Soviet compliance with the Helsinki Accords signed in 1975 by the Soviet Union, the United States and many other nations. His purpose was simply to guarantee the rights of Jews to emigrate from the Soviet Union. It is one of the tragic anomalies of our time that he remains a victim of the abuses he sought so hard to correct.

As a leading critic of the Soviet Union's restrictive emigration practices, Shcharansky frequently met with visitors from the West who were interested in Soviet efforts to allow Jews and other groups to leave the country. His command of the English language, his commitment to the substance of the Helsinki Accords, and his dynamic personal manner made him a particularly effective spokesman for human rights. It was on one such trip that I met Anatoly. He served as my guide and translator.

The charges brought against Shcharansky stem from the accusation that, in his dealings with people from the West, he made contact with agents of the Central Intelligence Agency. In an unprecedented action, President Carter categorically denied that this charge was legitimate. When the trial had ended, Shcharansky was found guilty and shipped off to prison to serve 10 years in prison and 3 years in a labor camp.

The trial itself was a gross miscarriage of international standards of justice, as well as the Soviet's own code of criminal proceedings. The verdict followed a closed trial in which Shcharansky alone was accused. No foreign observers, journalists, or diplomats were permitted to attend the trial.

Anatoly's wife, Avital, did not attend the trial because she was forced to leave the Soviet Union, without her husband, just days before the trial began. Even Shcharansky's mother, Ida Milgrom, was denied entry into the courtroom on the grounds that she would be called as a witness. Shcharansky's brother Leonid did attend all but the "secret" sessions of the trial.

It is largely through his eye-witness account that we have learned anything at all about the proceedings. No official transcript of the trial, or of the verdict has ever reached the hands of Shcharansky, his family, or his lawyers. Until a copy of the judgment is transmitted to Shcharansky, the appeal process cannot proceed, as required by Soviet law.

The denial of Shcharansky's repeated applications to emigrate and be reunited with his wife constitute an arbitrary and unjustified violation of Shcharansky's right to freedom of movement and emigration. The right to emigrate is now a fundamental tenant of international and Soviet law.

This right is enshrined in article 13 of the Universal Declaration of Human Rights, article 12 of the 1966 International Covenant on Civil and Political Rights, article 5(d) of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, article 2 of the 1963 Protocol No. 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, article 22 of the 1969 American Convention on Human Rights, and the Final Act of the Helsinki Accords.

The denial of Shcharansky's visa for being "in possession of secrets" was clearly arbitrary, unfounded in law, and unsupported in fact. The absence of any justification by Soviet authorities for this accusation only serves to confirm the falaciousness of the accusation itself. In short, the charges against Shcharansky, the trial itself, and the harsh sentence he received indicate the extent to which the Soviets have violated their own standards of conduct, and those of the international community.

One year ago, leaders throughout the West expressed their outrage at the verdict Shcharansky received. The details of the case received front page coverage in newspapers across the country. This body expressed its will on July 11, 1978, by passing a resolution stating that this matter was—

> . . . of deep concern to the American people; that these deplorable events inevitably affect the climate of our relations and impose obstacles to the building of confidence and cooperation between the United States and the Soviets; that the Congress urges the U.S.S.R. Supreme Soviet and its leadership to seek a humanitarian resolution to these cases and to work toward improving the climate in United States-Soviet relations.

The Soviet's harassment of Anatoly Shcharansky did not stop when the verdict was handed down last July. In the course of the last 12 months, Shcharansky has been transferred to one of the most notorious Soviet prisons—Chistopol Prison—away from Moscow where he could better remain the focus of public attention. Bureaucratic roadblocks prevented the Soviets from allowing Shcharansky's mother to visit him in prison last winter. And while the visit has been rescheduled for August 2, there is no guarantee that the visit will not be delayed again. Shcharansky's health has deteriorated seriously in the last several months. He requires immediate medical attention according to relable reports that people in this country have received. This situation is serious and demands prompt attention.

With the release of certain Soviet dissidents in May, the hope emerged that a turning point had finally been reached, that the pressures on the Soviets to get concessions from the United States outweighed whatever sordid benefit the Soviets may gain by holding on to Shcharansky and others. Sensing that more dissidents would be released, cautious optimism spread through Washington and other Western capitals. But the Vienna summit has come and gone and still Shcharansky remains incarcerated.

Shcharansky's prolonged imprisonment is a callous affront to the expressed will of the international community. I hope that the Soviet authorities will see fit to release Anatoly Shcharansky—allowing him to rejoin his wife in Israel—long before July 1980.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DRINAN. I will be very happy to yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

I want to take this opportunity to commend the gentleman from Massachusetts for arranging for this special order commemorating the unfortunate first anniversary of the conviction of Anatoly Shcharansky. I, too, want to commend the gentleman for his diligent continual efforts in attempting to obtain the freedom of Mr. Shcharansky and for other dissidents.

Mr. Speaker, I welcome taking this opportunity to join the distinguished gentleman from Massachusetts (Mr. DRINAN) in this special order on the first anniversary of the unjust and inhumane trial of Anatoly Shcharansky.

Anatoly Shcharansky, a 31-year-old computer engineer, was projected into his present dilemma not as a result of some illegal act but as a result of two events: An article in Izvestiia accusing him of being an agent for the CIA, and the carefully plotted show trial, which not only made a mockery of the Helsinki accords, but delivered a brutal affront to the character of Mr. Shcharansky and other similarly persecuted dissidents.

The trumped up charges of "high treason" have resulted in a severe 13-year sentence at hard labor for Mr. Shcharansky whose only crime has been to insist that he be united with his family and that the principles set forth in the Helsinki Accords be fully adhered to by the Soviet Government, particularly in regard to those seeking to emigrate. His trial began on July 10 and ended 4 days later. The trial itself was a travesty; conducted arbitrarily and in a hostile atmosphere. Despite worldwide outrage and petitions by the Congress, by many governments, and by the private sector, all appeals have fallen on deaf ears. The Soviets did not take any steps to insure that the alleged dissidents receive a fair trial, if in fact a trial was warranted, nor have they taken any steps to provide adequate health care for Anatoly Shcharansky who is reportedly in need of medical attention.

Shcharansky's health problems have long been known, and the refusal by the Soviets to acknowledge and remedy this abhorent situation can only be interpreted as a rebuke to the human rights policies generally accepted around the world.

I have long been concerned with the case of Mr. Shcharansky. I believe he is being singled out for exceptionally harsh treatment, because of his determination, his demonstrated courage, and his leadership of Soviet dissidents. The fact that he has been falsely accused of being an agent for the CIA places on all of us a particular responsibility to continue pressuring for his release.

Human rights has become a cornerstone of the U.S. foreign policy. In view of the strategic arms negotiations with the Soviet Union, one can only speculate on the degree of trust we should afford a government that ruthlessly exploits and readily suppresses not only its own citizens but those of its satellite nations as well.

The worldwide struggle of free people against the machinery of repression continues to be a hard protracted battle. Today marks the first anniversary of Anatoly Shcharansky's trial. His continued incarceration despite all of the collective efforts to release him amply illustrates the Soviet Union's abysmal record on human rights and their failure to abide by the Helinski Accords on Security and Cooperation in Europe.

I urge my colleagues to take this opportunity to rekindle the flame of hope for a better future for Anatoly Shcharansky and for all other ostracized dissidents and their relatives around the world. May this endeavor never fall short of success.

Mr. DRINAN. I thank the gentleman for his remarks. I, too, want to say to the gentleman that we all stand in admiration of his persistence and patience in this very, very admirable cause.

● Mr. BLANCHARD. Mr. Speaker, we once again sadly note that the bitter plight of Anatoly Shcharansky continues. Although his name has not recently been in the headlines, he has been confined to the Soviet Union's Chistopol Prison since he was sentenced to 13 years at hard labor in July of 1978.

People throughout the world have called upon the Soviets to release Shcharansky and allow him to emigrate. Yet, nearly 1 year has now gone by and nothing has changed for Mr. Shcharansky. He, and in turn his family, continue to suffer.

Many would say that a great deal outside the Chistopol Prison has changed in the last 12 months. More Soviet citizens are now being allowed to emigrate from the Soviet Union, and a number of other well-known dissidents have been allowed to leave. The United States and the Soviet Union have agreed to the provisions for a SALT II agreement, although it has yet to be ratified by the Senate. There has generally been a warming of relations between the two great superpowers since the time of the Shcharansky trial when relations had dipped to a low level.

Yet, for Anatoly Shcharansky these changes mean very little. Certainly, as one of the leaders of the dissident movement he must be encouraged about the greater number of people being allowed to leave the Soviet Union. Indeed, through his bravery, his fortitude, and his sacrifice he has been a great help to those who are now being allowed to leave.

But what about Shcharansky himself? He should not be forced to continue to languish in a Soviet prison. The latest reports indicate that his health is seriously deteriorating. He is reportedly weak, undernourished, and in need of medical attention.

We must redouble our efforts on his behalf. During this time when U.S. officials are in the midst of evaluating the course and extent of United States-Soviet cooperation, we must remember the plight of great freedom fighters such as Anatoly Shcharansky. I call on all of my colleagues to join in urging the Soviet Union to truly demonstrate their willingness to cooperate by allowing Shcharansky to leave the Soviet Union.●

● Mr. ADDABBO. Mr. Speaker, today's commemoration of the 1-year anniversary of the trial of Anatoly Shcharansky is undoubtedly a sore example of Soviet defiance in the face of Western concern for human rights. The illegal incarceration and deception-ridden trial of this man is an absolute mockery of the ideals on which the democratic nations of the world stand. Anatoly Shcharansky suffers as an "example" to Jews in the Soviet Union anxious to leave and emigrate to Israel. When a situation as wrong as that stands without recourse we are assured of worse to come as a result of our helplessness.

Shcharansky's conviction on charges of treason and slander against the Soviet state was based on the poorest evidence available. In his particular situation, even the legal rights of the Soviet citizen in accordance with Soviet legislation were disregarded. He was held incommunicado. In place of a family appointed legal counsel, he was appointed counsel by the courts—a woman whose name does not appear on the rostrum of working Soviet lawyers and whose association with the chairman of the Presidium Municipal College of Barristers presented a conspicuous conflict of interests. Lawyers approached by Shcharansky's mother and wife suspiciously refused to take the case. The humiliation afforded his aged mother in her attempt to be of some assistance to him went far beyond all reason.

The draining experiences of Anatoly Shcharansky can hardly go unprotested. The man's health today, reportedly, deteriorates progressively from lack of medical attention. The notorious inhumanity of Soviet prisons are well a part of his 13-year sentence at hard labor—13 years he will certainly not survive.

We cannot turn our backs on this and other such cases. Our doing so would simply render useless our attempts at securing world harmony. For this reason I join in the vehement protest which takes place here today as we again speak out in behalf of Anatoly Shcharansky and, in turn, of the ill-treatment of all prisoners of conscience.●

● Mr. HARRIS. Mr. Speaker, 1 year ago, on July 10, 1978, the trial of Anatoly Shcharansky began in Moscow. Four days later, Shcharansky was convicted on trumped-up charges of treason and slander against the Soviet State. For his "crimes" he was sentenced to 13 years at hard labor in the notorious Chistopol Prison.

Anatoly's trial made a mockery of the Soviet judicial system. The charges brought against him—that he had made contact with an agent of the U.S. Government—have been categorically denied by the President of the United States in an unprecedented move last year.

Now the health of Anatoly Shcharansky is deteriorating. Recent reliable reports indicate that he is weak and undernourished and that he requires immediate medical attention.

As a member of the International Committee for the Release of Anatoly Shcharansky, I want to be able to call an end to these press conferences, special orders, vigils, and speeches. I will not, however, until Anatoly is freed and allowed to join his beloved wife in Israel. Until this deplorable situation ends, I will speak out at every possible opportunity.

Moscow has to know that it cannot continue to disregard the signed commitments at Helsinki. The Members of this Congress and people of good will around the world will continue to be outraged until the most basic principles of individual rights and human dignity are recognized by the Soviet Union.●

● Mr. WEISS. Mr. Speaker, I want to commend our distinguished colleague, the gentleman from Massachusetts (Mr. DRINAN) for requesting this special time on the House floor to discuss the continued and unjust incarceration of Anatoly Shcharansky in the Soviet Union.

Today is the first anniversary of the trial of Anatoly Shcharansky on charges, trumped-up by the Soviet authorities, of treason and slander against the Soviet State. The trial which Shcharansky weathered a year ago was held in a manner that clearly reflected the oppression and injustice that is so pervasive in the Soviet Union. The Soviet system of repression stands condemned in the court of world opinion with each passing day that Shcharansky remains in prison.

According to recent reports from his family Anatoly is suffering from a fever and rapid weight loss. In spite of his weakened condition, according to his family, he is yet to receive any medical attention. Certainly on humanitarian grounds alone the Soviets must be compelled to release this 31-year-old leader of the Soviet dissident movement.

Anatoly Shcharansky is a brave and principled individual. He is also a symbol to all who have attempted to oppose the repressive policies that now pervade daily life in the U.S.S.R. He is a key force behind the refusenik initiative. As a founder of the Group to Monitor the Helsinki Accord in the U.S.S.R., Shcharansky's commitment to the cause of human rights and an open society is courageous and inspirational.

The travesty of justice in Shcharansky's case is apparent from a look at the record and at the proceedings of his trial. The charge that he is a CIA agent was categorically and publicly denied by the President himself last year. Shcharansky's mother, Ida Milgrom, has described the kangaroo court atmosphere in which her son was convicted on false charges. Ms. Milgrom states in her account of the proceedings:

> The judge declared that the court, in its administrative session, had already decided in advance to conduct the judicial investigation of the charge of espionage in a closed court. By doing this, the court forbade all reference in open sessions of the court to the testimony of the witnesses, conclusions of the experts and documents connected in any way to the accusation of espionage.

Avital Shcharansky, Anatoly's wife, has yet to be issued a copy of the verdict from the July 1978, trial and is thus unable to appeal the 13-year sentence handed down.

In the fact of this undisguised oppression, we must continue to keep the world's eyes focused on the confinement of Anatoly Shcharansky and the hypocrisy evident in his trial. As many human rights organizations have poignantly stated, we must shatter the silence, and keep the vigil on behalf of Shcharansky so that all the world will not forget that this courageous man is the victim of tyranny that continues to plague Soviet society.

So, it is fitting today that we speak out for human rights and civil liberties in the Soviet Union. We can remind the world that Anatoly Shcharansky and many other dissidents are living testament to humanity's quest for freedom and justice. Our efforts do have an impact. As a result of worldwide protest, for example, Ida Milgrom finally received a letter from her son.

I strongly hope that before the next anniversary of the Shcharansky trial that we will be celebrating the liberation of this man of conscience—and that the Soviet Union will at last demonstrate to the world that it is ready to respect individual rights and human dignity.●

● Mr. BRODHEAD. Mr. Speaker, 1 year ago today was the beginning of the 4-day trial of Anatoly Shcharansky. His crime was the desire to emigrate from the Soviet Union to Israel; his punishment was 13 years imprisonment for alleged "anti-Soviet activities." Mr. Shcharansky was silenced by those who refuse to acknowledge an individual's right to speak out in opposition to oppression and in favor of freedom. Anatoly Shcharansky is the Soviet scapegoat, sentenced to 3 years of prison and 10 years of hard labor for vocalizing the thoughts of millions of other Russians, Jewish, and non-Jewish alike.

One year has passed since President Carter stated that Anatoly Shcharansky was and is still unaffiliated with the CIA. Yet, for 1 year Shcharansky has been wasting away behind bars. This tormented spokesman of democracy only seeks to live with his wife Avitel in Israel. Mrs. Shcharansky has in the past requested our support and assistance. Her continued campaign for her husband's release acts as the reminder of our responsibility to come to the assistance of all those whose human rights have been violated.

As Americans, we recognize that freedom of speech is an essential human right. I wish to add my voice today in protest to the Soviet Union for its persecution of those who exercise this basic right.

One year after the sentencing of Anatoly Shcharansky, we commemorate his valiant struggle. Hopefully, another year will not pass before we hear his voice again, repeating his last public statement, "Next year in Jerusalem." May these words of hope become a reality for Anatoly and Avital Shcharansky.●

● Mr. BARNES. Mr. Speaker, I join my distinguished colleague, the gentleman from Massachusetts (Mr. DRINAN) in his special order on behalf of Anatoly Shcharansky today—the first anniversary of the infamous Shcharansky trial in Moscow.

As we appeal to the Presidents of both the United States and the Soviet Union to intervene on behalf of Mr. Shcharansky, as we peacefully protest and demonstrate in the hopes that the decency of the Soviet Government will manifest itself and that Mr. Shcharansky will be released from his horrendous fate of 13 years of hard labor for crimes he did not commit, as we speak out publicly and write letters and telegrams to arouse human sentiment around the world, we are met only with stony silence on the part of the Soviets.

Yet the health of Mr. Shcharansky, once a strong and vital young man, is deteriorating rapidly while his wife, Avital, waits patiently to be reunited with him in Jerusalem, Israel.

Twelve years, indeed, a single year, a month, a week, is too long to pass before this valiant man can be returned to his family and his people.

We urge the Soviet Government to show compassion and let go of Mr. Shcharansky so that he may be permitted to live out his life in freedom and among his loved ones.●

● Mr. EDWARDS of California. Mr. Speaker, I would like to commend my good colleague, BOB DRINAN, for arranging for this special order so that we might express our continued support for efforts to obtain the release from prison of Anatoly Shcharansky.

Today marks the first anniversary of the beginning of Anatoly Shcharansky's infamous trial in Moscow. The result of this court proceeding was that Shcharansky was charged with treason and slander against the Soviet State.

Sixteen months before this indictment was handed down, however, Shcharansky was arrested for his courageous and vocal participation in the Soviet Jews continuing struggle against domestic oppression and for requesting the right to emigrate to Israel.

It is very disheartening to me that on the first anniversary of his trial, this great humanitarian still remains in jail. The Soviet Union has had a long history of mistreating its Jewish population. In the name of all the Soviet dissidents and in the interest of human rights, I strongly urge the release of Anatoly Shcharansky.●

● Mr. BINGHAM. Mr. Speaker, today marks the first anniversary of the trial of Anatoly Shcharansky, sentenced to 13 years in Soviet prisons for his activities in the Soviet emigration movement. Despite the uproar in the United States and throughout the world at the arrest, trial, and sentencing of Shcharanksy, the 31-year-old Soviet Jew is still imprisoned and working at hard labor.

The Shcharansky family wishes to appeal the sentence but is unable to do so, because they have not yet been given an official copy of the judgment against Shcharansky. They must have a copy of the judgment if they are to begin the process of appeal. Failure to release the judgment to the family denies Shcharansky due process of Soviet law.

Today I introduced a "sense of the House" resolution calling on the Soviet authorities to provide the Shcharansky family a copy of the judgment against him and also to release Shcharansky and all "prisoners of conscience." I circulated this resolution to members of the New York, New Jersey, and Connecticut delegations, members who work with the Greater New York Conference on Soviet Jewry. On Friday I will add the names of additional sponsors from around the Nation. I urge my colleagues to join me in this effort to secure justice in the Shcharansky case. I also salute the gentleman from Massachusetts for his leadership in this matter. The text of the resolution follows:

H. Res. 347

To express the concern of the House of Representatives over the continued incarceration of Anatoly Shcharansky and other Prisoners of Conscience in the Soviet Union

Whereas July 14th marks the first anniversary of the sentencing of Soviet Prisoner of Conscience Anatoly Shcharansky to thirteen years imprisonment on charges of treason and espionage, and

Whereas Soviet authorities have not yet seen fit to release Shcharansky despite the strong protests of the United States and people throughout the world, and

Whereas a year after his trial Shcharansky is being denied due process of law since a copy of the judgement against him has not been made available to his family, and

Whereas the withholding of the judgment makes an appeal of the thirteen year sentence impossible: Now, therefore, be it

Resolved, that—

(1) the Soviet authorities should release a copy of the judgement against Anatoly Shcharansky to the family of Shcharansky, and

(2) the Soviet authorities, for humanitarian reasons and to demonstrate their commitment to improved East-West relations should free Anatoly Shcharansky and all Prisoners of Conscience and permit their immediate emigration to the State of Israel.●

● Mr. SOLARZ. Mr. Speaker, I would like to join with my colleagues in yet another effort to urge the release of Anatoly Shcharansky. Just a few short months ago, on the anniversary of his imprisonment, word was received that this courageous young man was suffering rapidly deteriorating health. Now, on the anniversary of his trial, Anatoly Shcharansky remains incarcerated in Christopol Prison.

The Soviet Union has recently indicated a willingness to allow many "refuseniks" and their families to emigrate. The charges against Mr. Shcharansky of making contact "with an agent of the U.S. Government" were soundly denied at all levels of the American Government, including personal assurances from President Carter that the charges were not based on actual fact. And still, Anatoly Shcharansky is expected to serve a 13-year sentence. Fellow prisoners have sent word, at great personal risk, that Shcharansky is suffering greatly from headaches, loss of vision, high fever, and other symptoms that may be signs of more serious problems. It seems to me that these conditions alone should be cause for his speedy release, if the Soviet Government is to live up to the agreements of the Helsinki accords.

This case is, unfortunately, only one of many and numerous efforts have been made on behalf of Anatoly Shcharansky. But we must not let this situation be forgotten, by our colleagues or by concerned citizens all over the world. I sincerely hope that this new plea is successful and that Soviet officials will allow Anatoly Shcharansky to be released from prison and reunited with his wife in Israel. Next year will hopefully mark a happier anniversary for the family of Anatoly Shcharansky.●

● Mr. BOLAND. Mr. Speaker, it has been 1 year since the trial of Anatoly Shcharansky in Moscow. For his criticism of the Soviet Government and his work as a monitor of the 1975 Helsinki Accords, Shcharansky was sentenced to 13 years at hard labor in the tough Chistopol Prison. Shcharansky has become the individual who symbolizes the lack of human rights in the Soviet Union. We now have word that his health is deteriorating and that his incarceration could kill him.

A month ago, I joined with 65 of my House and Senate colleagues in signing a telegram to Presidents Brezhnev and Carter. This telegram was sent to the two leaders as they finished the negotiation of the SALT II Treaty in Vienna. The text of the telegram urged the negotiation of the necessary arrangements for the release of Anatoly Shcharansky for humanitarian reasons. I join with my colleagues under this special order in repeating that request. If this Russian dissident were to die in prison, it would be a great moral outrage. His punishment does not fit his alleged crimes.

Anatoly Shcharansky is a brave Russian who only wishes to make his contribution to the world. His unjust suffering must end. He must be freed and reunited with his wife. I urge the Soviet authorities to free this man and pray for the day when he can return to his life's work.●

● Mr. MOAKLEY. Mr. Speaker, I rise today to join my colleagues in speaking out for Anatoly Shcharansky.

I have spoken out for this great man before in letters, telegrams, petitions, vigils, and speeches before this body. Previously, I asked for his freedom. Now, I ask only for his health.

On humanitarian grounds alone, Shcharansky deserves proper food, shelter, rest, and medical attention. Yet in Chistopol Prison, he receives none of these and his health is rapidly failing him. For legal and moral reasons, we cannot stand by and watch this man's great spirit be extinguished through neglect and cruelty.

I urge the Soviet Union to stop its senseless persecution of Shcharansky, to give him the medical care he needs, and to pardon him from the punishment of hard labor.●

● Mr. RICHMOND. Mr. Speaker, I rise to join with my colleagues once again in speaking out on behalf of Anatoly Shcharansky, a leader in the movement for freedom and justice for Soviet Jews.

Time after time we have spoken out, to focus national and world attention on the Soviet Union's continuing persecution and harassment of Soviet Jews and its pattern of brutality repressing human rights, as symbolized by the imprisonment, trial and "conviction" of this courageous young man.

Anatoly Shcharansky has endured imprisonment since March 1978. One year ago—on July 10, 1978—he was tried on a set of phony charges of "treason" and "slander against the Soviet State." The result of that mockery of justice was a sentence of 13 years at hard labor.

Now, we learn that Anatoly is weak and undernourished, in need of immediate medical attention, and in a seriously deteriorating state of health. He must be released, to receive the medical treatment he needs, to be with his family, to seek a home in a country of his choice and to know the joys of freedom.

Once again, we speak out, to remind the Soviet Union that the oppression of Soviet Jews—as exemplified by the continuing imprisonment of Anatoly Shcharansky—only strengthens the cause of human rights and our commitment to that cause. We honor the faith and courage of Anatoly Shcharansky and all Soviet Jews, whose uncompromising quest for freedom continues, despite threats, harassment, and unconscionable brutality.●

● Mr. LEHMAN. Mr. Speaker, I appreciate the opportunity to speak on behalf of Anatoly Shcharansky on the first anniversary of his trial for treason and slander against the Soviet state.

For daring to wish to emigrate from Russia to Israel, for helping others to exercise their rights, and for being an eloquent spokesman and monitor of the Helsinki agreements, Anatoly Shcharansky is now languishing, isolated and ill, in prison. This brilliant young computer scientist stands as a symbol of resistance to his many brothers and sisters who want only to live in Israel.

But for Anatoly Shcharansky, persecution does not stop at the prison door. Under Soviet law, prisoners have a right to periodic family visitations and medical care. It is deplorable that these rights are not also enjoyed by Shcharansky. Recently, a Red Cross package containing medicines direly needed for Anatoly was returned to his mother. Despite the pleas of the medical profession in this country, and other concerned citizens and Members of Congress, Anatoly is still being denied medical attention. The death sentence which was averted now seems imminent through inhumane treatment and denial of even a chance to survive the prison sentence.

Last evening, on television, Rev. Giorgi Vinz, the Baptist minister recently released in the exchange of five prisoners of conscience for two Soviet spies, movingly spoke of his 10 years in a Siberian prison—the meager diet, his intense alienation and suffering caused by Soviet policies which persecute citizens professing religious convictions. I am reminded of the words of Pastor Martin Niemoller, a prominent Protestant minister of Germany who chronicled the encroachment of antireligious fervor during World War II:

> When Hitler attacked the Jews, I was not a Jew and therefore I was not concerned. And when Hitler attacked the Catholics, I was not a Catholic and therefore I was not concerned. And when Hitler attacked the unions and the industrialists, I was not a member of the unions and I was not concerned. Then Hitler attacked me and the Protestant Church and there was nobody left to be concerned.

It is important that we too remember those words, remain concerned, and continue to speak out for the freedom of Anatoly Shcharansky and others who share his plight.

In a letter following Anatoly's trial, his wife Avital wrote to me expressing the need to persevere for his release:

> We have managed to achieve a few of our objectives in the first stage of this unprecedented campaign. Firstly, the death sentence originally intended for Anatoly was averted; secondly, the Soviet authorities' plans for the complete annihilation of the Human Rights Movement and the Jewish Emigration Movement, were thwarted. . . .
>
> The world will never be the same again. What happened during the trial of Anatoly Shcharansky raised the matter of human rights from a dry legal theory to a practical living issue concerning the whole world. It is now evident that the destiny of one human individual when resulting in international concern and commitment to action, can actively change something in this world.
>
> As we now enter into our next stage of this campaign, the facts stated above can be considered of vital importance in achieving our ultimate goal, the freedom of Anatoly Shcharansky, and ensuring the actualization of human rights as stated in the Helsinki Agreement."

Our efforts to secure the right of emigration for all those daring to face new lives as free men and women must be continued. For Anatoly Shcharansky, ill, undernourished, separated from those he loves, let us rededicate our efforts so that his dream to live as a free man can be realized.●

● Mr. GREEN. Mr. Speaker, 1 year ago today, headlines told the world of the court trial of Anatoly Shcharansky. Four days from now will mark the anniversary of the conclusion of the proceedings of that kangaroo court. Mr. Shcharansky, no longer the focus of headlines, is quietly serving his harsh sentence of 13 years imprisonment and hard labor.

Mr. Shcharansky's case is a classic of example of oppression for the sake of suppression. The Soviet Government has attempted to crush the spirit and health of this courageous individual as a means of quieting the religiously oppressed people in the Soviet Union. Mr. Shcharansky's health is deteriorating in the face of harsh prison treatment, and Soviet officials are further assaulting his strong will by denying his mother permission to visit him in prison—Soviet law allows prisoners semiannual visits from relatives.

We cannot be silent on this matter. I am proud to be a Member of this body that has spoken so forcefully on this matter in the past, but we must do more. We must continue to speak, to protest, and to work in behalf of this man who represents so much in terms of courage and spiritual integrity. I can assure my colleagues, the American people, the Soviet Government, and even Anatoly Shcharansky, who will not hear our protests today, that Anatoly Shcharansky will never be forgotten, and that millions of Americans will not remain silent while he remains in prison.●

● Mr. DODD. Mr. Speaker, last year at this time, a kangaroo court was convened in Moscow. A man who had dedicated himself to guaranteeing the rights of his fellow refuseniks, was unjustly tried and incarcerated in one of the worst prisons in Russia. The man was Anatoly Shcharansky. His sentence was 13 years in the Cristopol prison, and his only crime was believing that the basic principles of freedom should be accorded to all men and women and not just a privileged few.

Today, Anatoly Shcharansky is reported to be failing in health even though his spirit and that of his wife, Avital, remains indomitable. Despite repeated efforts by Congress, Federal agencies, and private citizens, Shcharansky has yet to be granted a visa to rejoin his wife. Although the recent release of five Russian dissidents brought hope to many of us that Anatoly Shcharansky might soon be permitted to emigrate, the Soviets have given no indication that they are willing to relent in his case.

It is imperative that we redouble our efforts on behalf of Anatoly Shcharansky so that he will be given the medical attention he so desperately needs. All of us in Government have made a commitment to human rights, but now the life of Anatoly Shcharansky depends on our continued dedication to his cause. Once again, we must demonstrate to the Russians that we will not allow the courage of men like Anatoly Shcharansky to be dismissed or forgotten.●

● Mr. LENT. Mr. Speaker, on this somber occasion, I commend my colleague, Representative DRINAN, for calling this special order to observe the first anniversary of an event which will go down in history as one of the cruelest miscarriages of justice in the 20th century. I refer to the "trial" of Anatoly Shcharansky, which began on July 10, 1978, and whose trumped-up proceedings resulted in a 13-year sentence for Shcharansky on July 14, 1978. This is an unbelievably cruel treatment for a man whose only "crime" was wanting to emigrate to Israel and monitoring the Soviet Union's compliance with one of its own treaty obligations, the Helsinki accords.

Abhorred by all free peoples blessed with traditions of healthy jurisprudence, the trial of Anatoly Shcharansky was a sham from start to finish. It graphically portrayed the evil which results when the administration of justice is held hostage to the political ends of totalitarian regimes. Although there was not one secret document in the materials of the court, the proceedings were conducted in closed session. And, how could there be any secret material when Shcharansky had deliberately chosen to take a "nonclassified" position with the Moscow Research Institute for Oil and Gas—a totally open institution? And, how could Shcharansky publicly refute any of his accusers during the open periods of the trial when mention of the contents of closed sessions was prohibited? The Soviet Union's cavalier trespass against all civilized principles of jurisprudence makes my blood boil in outrage. This case is recognized worldwide as a prime example of blatant injustice and repugnant violations of basic human rights.

As an evil tree can bear little else than evil fruit, so the trial of Shcharansky resulted in the harsh, merciless 13-year sentence to a labor camp. Picking up where the Soviet judicial system left off, the Soviet penal system then took over. Shcharansky was moved from Lefortovo, the KGB investigative prison, to notorious Vladimir Prison, which once held the prisoners of the czar. Since czarist times, only the squalor, inhumaneness, and overcrowding have changed, all for the worse. Later, in a move designed apparently to "clean out" Vladimir's political prisoner population possibly in preparation for the Olympic games, Shchransky was moved to Chistopol Prison, 500 miles from Moscow, which is even worse than Vladimir. Soviet camps such as this one do not even meet the standards laid down by the United Nations for the minimum amount of food needed to survive, and indeed, disturbing reports have reached the West that Shcharansky's health has declined alarmingly.

Mr. Speaker, our efforts in this House do count; witness the case of Hillel Butman, my "adopted" prisoner of conscience in the U.S.S.R. I wrote the Soviets about Hillel every week without reply for the last 4 years, but he was recently released and permitted to emigrate. Let us persevere in our efforts on behalf of Anatoly Shcharansky strong in the hope that he too will be released and reunited with his wife, Avital, in Israel.●

● Mr. WAXMAN. Mr. Speaker, 1 year ago, the infamous trial of Anatoly Shcharansky began in Moscow. His conviction—a foregone conclusion from the moment of his arrest—led to the imposition of a 13-year sentence at hard labor. His crime was not "treason" or "hooliganism" or "anti-Soviet activities" or any of the host of offenses alleged against him. Shcharansky's "crime" was his ceaseless work to secure Soviet compliance with the Helsinki Final Act.

No Soviet trial since the notorious "doctor's plot" against Stalin has caused such an uproar, or revealed more clearly the intention of the Soviet leadership to utterly stifle all dissent. Although the Government surely hoped that making an example of Shcharansky would serve as a lesson to others, the reverse has occurred. Fewer have been intimidated. Thousands are approaching the authorities with requests to emigrate.

That this has occurred despite the relentless Soviet determination to imprison or expel leaders of the dissident and refusenik movements, and in spite of the renewed campaign of anti-Semitism in all facets of Soviet life, is tribute to the strength of Shcharansky's appeal.

Let the Soviet Government know: We shall never forget Anatoly Shcharansky, and we shall never cease our efforts until he is freed.

Following is the account of the last day of Shcharansky's trial, as reported by the New York Times:

[From the New York Times, July 15, 1978]

SHCHARANSKY GIVEN 13 YEARS IN PRISON AND LABOR CAMPS

(By David K. Shipler)

MOSCOW, July 14—Against a storm of protest from the West, a Soviet court today sentenced Anatoly Shcharansky, a leader of the Jewish emigration movement, to 13 years in prison and labor camps for treason, espionage and "anti-Soviet agitation."

Mr. Shcharansky, one of the most prominent dissidents in the last decade, was accused of having given secrets to the Central Intelligence Agency, a charge he denied as "absurd." He was convicted on that charge despite President Carter's personal assurances to Soviet leaders that the 30-year-old computer specialist had no links whatever with American intelligence.

[The United States will seek the release of Mr. Shcharansky or the reduction of his sentence, reporters covering President Carter's trip to West Germany, were told in Bonn.]

The trial was closed, except to the defendant's brother, Leonid, and for five days the narrow street outside the three-story stone courthouse became a gathering place for Mr. Shcharanky's supporters, friends and family. They stood for hours through sun and rain, under the hostile glares of agents of K.G.B., the Soviet internal security agency, waiting for scraps of news from inside.

MOTHER SOUGHT ENTRY EVERY MORNING

There, on the street each morning, Mr. Shcharansky's 70-year-old mother, Ida Milgrom, who fought vigorously in his defense during the 16 months he had been imprisoned before trial, approached a police barrier stretching across the alley leading to the courthouse. Each morning she was denied access. She argued, then pleaded. Plainclothesmen replied with thin smiles.

Today, from 10 A.M. to 4 P.M., she stood in the street with about 150 dissidents, a score of correspondents and some 75 uniformed and plainclothes policemen. In a trembling voice, she read an open letter to President Carter.

"All the difficult days of the trial," she said, "I have been standing in front of the iron barriers, in front of a thick wall of K.G.B. men and militiamen, hoping to see my child, at least from far away. All these days I have heard your sincere, authoritative voice in defense of innocent men. Would you accept, Mr. President, our deep, heartfelt gratitude."

Andrei D. Sakharov, the Nobel Peace Prize winner and leading human-rights advocate, declared, "What is happening now is pure sadism, a mockery of a mother's feelings."

As the afternoon wore on, Mrs. Milgrom walked to the barricades again to ask that she be allowed in during sentencing, just to catch a glimpse, perhaps her last, of her son. She waited for an answer.

Suddenly and without warning, a khaki-colored prison van evidently carrying Mr. Shcharansky wheeled out of the courthouse drive and away. She covered her face and screamed. The crowd shouted his nickname: "Tolya! Tolya!"

Mr. Sakharov turned on the policemen. "You're not people, you're fascists," he said, and Mrs. Milgrom, gray and broken, wept and staggered away as arms reached out to hold and comfort her.

THE BEARER OF BAD TIDINGS

Moments later, Leonid Shcharansky walked out through the barricades into the waiting crowd. "Thirteen years," he said as loudly as he could. The first three years will be in a regular prison, considered the most difficult form of incarceration, with the remaining 10 in a strict-regime labor camp. Mr. Shcharansky was also to be deprived of all property and to pay court costs totaling about $225.

Leonid Shcharansky was shaking and could hardly speak. His wife, Iraida, pushed through the crowd and grabbed his arm to steady him. He read from his copious and verbatim notes of his brother's final words, a 10-minute statement to the Jewish people.

"I hope that the absurd accusation against me and the entire Jewish emigration movement will not hinder the liberation of my people." Mr. Shcharansky was quoted by his brother as having said. "My dear ones and friends know how I wanted to exchange activity in the emigration movement for a life with my wife, Avital, in Israel.

"For more than 2,000 years, the Jewish people, my people, have been dispersed," he continued. "But wherever they are, wherever Jews are found, every year they have repeated, 'Next year in Jerusalem.' Now, when I am further than ever from my people, from Avital, facing many arduous years of imprisonment, I say, turning to my people, my Avital: Next year in Jerusalem."

"Now I turn to you, the court, who were required to confirm a predetermined sentence: to you I have nothing to say."

It was raining. The crowd, drenched and silent, began to sing, softly at first, then louder until the strains of the Israeli national anthem, "Hatikvah," filled the little Moscow street. Then it was over. Slowly, people drifted home.

The case had clearly been designed to crush the small, vocal groups of Jews who have sought exit visas to Israel by suggesting that when they invoke American pressure on Soviet policy, when they give statements to Western reporters, they betray their country and face the death penalty.

In his statement, Mr. Shcharansky's brother said, he reported that in March and April investigators had threatened him with execution, or at the least, 15 years in prison, unless he cooperated and helped destroy the emigration movement. With cooperation, he said, "they promised me early freedom and a quick reunion with my wife."

He contended in his summation yesterday that not even during the secret session of the court, which lasted a day and a half, was a single example presented of classified information that he conveyed to the West.

One witness, for example, a neighbor of the defendant, was asked repeatedly to confirm that a former Moscow correspondent for The Los Angeles Times, Robert C. Toth, branded by the court as an intelligence agent, had visited Mr. Shcharansky frequently and had received secret documents from him. The neighbor confirmed the visits, Mr. Shcharansky's brother related, but said that she had no idea about any secrets. Asked if Mr. Shcharansky hadn't arranged secret meetings with Mr. Toth by telephone, she replied, "We have no telephone in the apartment."

Mr. Shcharansky was charged under two articles of the Soviet criminal code, No. 64, treason, and No. 70, anti-Soviet agitation. He received 13 years for treason and seven years for anti-Soviet agitation, but will serve the sentences concurrently.

In the trial, these two accusations were mixed together to make public criticism of Government policy appear traitorous. Mr. Shcharansky was accused, for example, of meeting with United States senators visiting Moscow to urge their support of legislation making reduced American barriers to trade with the Soviet Union dependent on freer Jewish emigration.

He was accused further of giving an interview to British television, of sending letters of appeal to foreign leaders, of making public statements deploring the situation of Jews in the Soviet Union and discussing other human-rights issues.

OTHER TRIALS, OTHER SENTENCES

Mr. Shcharansky was a member of the committee set up by dissidents to publicize Soviet violations of rights pledges under the Helsinki agreement. Two other members, Aleksandr Ginzburg and Viktoras Petkus, were sentenced yesterday to 8 and 10 years respectively, with Mr. Petkus receiving an additional five years of internal exile, which usually means forced residence in a remote part of Siberia.

In an espionage trial that some here regarded as genuine, Anatoly Filatov, who was accused of having worked for an unnamed foreign intelligence agency, was sentenced to death today. The press agency, Tass, said that he had been furnished with miniature cameras, a miniature radio that looked like a cigarette lighter and other spy equipment.

NEXT YEAR IN JERUSALEM

Moscow, July 14.—Following is a transcript of Anatoly B. Shcharansky's closing words from notes taken by his brother, Leonid:

In March and April, during interrogation, the chief investigators warned me that in the position I have taken during investigation, and held to here in court, I would be threatened with execution by firing squad, or at least 15 years. If I would agree to cooperate with the investigation for the purpose of destroying the Jewish emigration movement, they promised me early freedom and a quick reunion with my wife.

Five years ago, I submitted my application for exit to Israel. Now I'm further than ever from my dream. It would seem to be cause for regret. But it is absolutely otherwise. I am happy. I am happy that I lived honestly, in peace with my conscience. I never compromised my soul, even under the threat of death.

I am happy that I helped people. I am proud that I knew and worked with such honest, brave and courageous people as Sakharov, Orlov, Ginzburg, who are carrying on the traditions of the Russian intelligentsia. I am fortunate to have been witness to the process of the liberation of Jews of the U.S.S.R.

I hope that the absurd accusation against me and the entire Jewish emigration movement will not hinder the liberation of my people. My near ones and friends know how I wanted to exchange activity in the emigration movement for a life with my wife, Avital, in Israel.

For more than 2,000 years the Jewish people, my people, have been dispersed. But wherever they are, wherever Jews are found, every year they have repeated, "Next year in Jerusalem." Now, when I am further than ever from my people, from Avital, facing many arduous years of imprisonment, I say, turning to my people, my Avital: Next year in Jerusalem.

Now I turn to you, the court, who were required to confirm a predetermined sentence: to you I have nothing to say.●

BLACK HEALTH PROVIDERS TASK FORCE ON HIGH BLOOD PRESSURE EDUCATION AND CONTROL RECOMMENDATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 60 minutes.

● Mr. STOKES. Mr. Speaker, on June 25 and 26, the Black Health Providers Task Force on High Blood Pressure Education and Control presented recommendations for a 20-year plan to control high blood pressure in the black community. During the 2-day conference sponsored by the National Heart, Lung, and Blood Institute and the White House, organizations from the voluntary, private, and Government sectors were invited to review the recommendations. This was a part of the task force consensus building process whereby it hopes by involving a broad spectrum of the public a more effective implementation program will result. The next step is to get the recommendations from the private and Government sectors on how they can best help implement the 20-year plan. Once these recommendations have been received, the task force plans to submit them to the executive and legislative branches of the Federal Government, and to the private sector, including foundations, and insurance companies, for financial and programmatic support. This approach by the task force is unique and offers a model that may be used for other major health problems in our country.

Mr. Speaker, in inserting the recommendations developed by the task force to control high blood pressure, it is my sincere hope that my colleagues will review them and support this worthwhile endeavor.

Community Education and Coordination

1. The Task Force recommends that the National Heart, Lung, and Blood Institute of the National Institute of Health provide all necessary support to achieve the selection of four sites to serve as demonstration projects to implement the recommendations of the Task Force in the detection, treatment and control of high blood pressure in the Black community.

2. The Task Force recommends that a collaborative effort be sought with the local outlets of selected facilitator organizations as community coordination centers in high blood pressure education and control demonstration projects.

3. The Task Force recommends that a joint planning council be established on both a national and local level to oversee the implementation of its recommendations.

4. The Task Force recommends that those facilitator organizations who agree to serve as coordination centers in the implementation of Task Force recommendations be allocated adequate monies to develop and perform the programmatic initiatives necessary to the successful completion of this effort.

5. The Task Force recommends that a thorough evaluation of the effect of public awareness and education approaches as they specifically relate to the Black population; and based upon the outcome of this study, The Task Force recommends the National Heart, Lung, and Blood Institute implement a targeted awareness and education campaign in selected localities.

6. The Task Force recommends that the establishment of undergraduates and/or graduate programs for the training of communications specialsts with a concentration in health education.

Biomedical Research and Epidemiological Issues

1. The Task Force recommends that controlled studies be done that further elucidate the relationship in an infant between increased cardiac output and high blood pressure.

2. The Task Force recommends that controlled experiments should be done to elucidate the relationship between potassium loading and the retardation of development of systemic high blood pressure as a preventive measure during infancy and the developing years.

3. The Task Force recommends that studies should continue that address the problem of sodium loading in infancy and subsequent development of systemic high blood pressure.

4. The Task Force recommends that a controlled experiment to be done to elucidate the apparent difference in finding of the Bogalusa study versus national data collected on a random basis in the health and nutrition examination survey.

5. The Task Force recommends that the appropriate studies be conducted to describe reasons for the statistically significant blood pressure distribution differences between Blacks and Whites after the age of adolescence.

6. The Task Force recommends that further study be devoted to comparative differences between the physiology of the salt retaining kidney and the salt excreting kidney.

7. The Task Force recommends that further studies be done to elucidate the differences between these kidneys caused by outside forces such as the control of blood volume, extracellular volume, rates of excretion, renal hormones including renin renal medullar lipids, kallikrein and hormones unrecognized to date.

8. The Task Force recommends that methodology be developed to separate the impact of sodium manipulation from other factors such as body weight, potassium intake.

9. The Task Force recommends that a methodology be developed to accurately measure sodium intake metabolism and excretion. This should be done in a mode that will promote experimental accuracy with methodologies pointing toward the clinical usefulness of these measurements techniques.

10. The Task Force recommends that studies to elucidate clearly the relationship between sodium and potassium and vascular resistence.

11. The Task Force recommends that studies should be designed to spot the basic underlying mechanism for salt intake. Studies that are to be designed should take into account ratio differences as these may be important in the types of products that are developed to address the salt appetite problem.

12. The Task Force recommends that control studies need to be devised to determine the exact nature of the blood pressure lowering effect of potassium in human beings.

13. The Task Force recommends that studies need to be done that will speak to the prevention of the development of high blood pressure.

14. The Task Force recommends that the data on the general intake of potassium with respect to the age/race/sex and socioeconomic status should be done as general background to access potential impact of the above studies.

Health Care Delivery Systems

1. The Task Force recommends that appropriate research be conducted to eliminate the obstacles presented when race- and class-related communication problems occur between Blacks and the providers who treat them.

2. The Task Force recommends that research be conducted to determine how to increase provider consensus regarding professional roles and interactions in high blood pressure control.

3. The Task Force recommends that research be conducted to determine how to overcome the lack of consistency and interest among some providers in high blood pressure management.

4. The Task Force recommends that the National Institutes of Health (NIH) and the National Heart, Lung, and Blood Institute (NHLBI) expand and accelerate their efforts to disseminate research findings to Black-utilized practice settings, professional organizations, and publications.

5. The Task Force recommends that pilot data bank projects are required to test the feasibility of storing, retrieving, and communicating vital data on hypertensives for the use of providers in areas where providers are isolated geographically, and where high blood pressure control activities are fragmented.

6. The Task Force recommends that consensus building be initiated among providers for the purpose of agreement upon provider continuing education programs, the cognitive, attitudinal and behavioral objectives of such programs, and the numbers and categories of professionals who could be included in such programs.

7. The Task Force recommends that nontraditional settings for the detection of high blood pressure among hard-to-reach Blacks be utilized.

8. The Task Force recommends that every patient be guaranteed continuity of care from diagnosis through therapy and maintenance, and that medical record-keeping be maintained in a manner supportive of care continuity.

9. The Task Force recommends that Health Systems Agencies give high blood pressure detection, treatment and control the highest possible priority in their health service plans and annual implementation plans.

10. The Task Force recommends that additional research and field testing be conducted in settings utilized by Blacks to determine if dosettes can be produced and marketed at prices within reach of poor Blacks.

Nutritional Issues

1. The Task Force concurs in the statement on the role of dietary management approved by the National High Blood Pressure Education Program Coordinating Committee, published in March 1979. The special recommendations contained in the statement, which were prepared for physicians and other providers, are as follows:

Weight reduction should be routinely considered in the treatment of overweight borderline hypertensives, both for its potential in lowering blood pressure and for its general health benefits.

Practitioners should encourage weight reduction for the obese hypertensive patient, and if blood pressure is reduced to and maintained at normal levels, it should be used as definitive therapy.

For overweight patients who experience significant side effects from drugs, weight reduction should be considered as adjunctive therapy to help reduce drug dosages.

Persons with a family history of hypertension should avoid excessive weight gain and reduce if overweight.

Prevention or control of obesity in the young should be regarded as having positive health benefits and as a possible preventive step for hypertension.

Practitioners should recommend a gradual weight loss over time. Drastic weight loss and fad dieting should be discouraged. Practitioners recommending weight reduction should seek to identify a regimen that incorporates realistic goals for each overweight hypertensive. Practitioners should ensure that adequate dietary information is provided.

Research into the mechanisms relating body weight and hypertension should be pursued.

Efforts should be continued and expanded to improve patient education in nutrition, to improve dietary counseling for weight reduction, and to improve motivational techniques for adherence to diet therapy.

2. The Task Force recommends that further research be conducted to determine the value of diet modification in the treatment of high blood pressure.

3. The Task Force recommends that further research be conducted to determine if a modest level of sodium restriction (i.e., a level which might be generally acceptable) could produce a significant reduction in blood pressure among Blacks.

4. The Task Force recommends that further research be conducted to identify successful strategies for achieving long-term dietary change with emphasis upon:

a. Black cultural differences and practices in terms of food habits, eating patterns, and health and food beliefs

b. Socioeconomic and education factors

c. Age, sex, and geographic factors

d. Current lifestyle trends

5. The Task Force recommends that research be conducted to determine the value of altering the sodium intake of family members of hypertensives as a primary prevention strategy.

6. The Task Force recommends that a "Cookbook" be compiled by Black nutrition-

ists and physicians for the use of Black hypertensives and their families which would take into account Black food preferences whenever possible.

7. The Task Force recommends that the medical and continuing education curricula for physicians and other providers place more emphasis upon nutrition, diet, and the counseling of patients with respect to the nutritional aspects of high blood pressure prevention, treatment and control, and particularly upon the nutritional history of Black patients.

8. The Task Force recommends that nutritionists and dieticians who will serve in Black communities should have an internship or intensive orientation in a provider facility serving Black hypertensives.

9. The Task Force recommends that the nutritional programs and practices of institutions feeding large concentrations of Blacks, such as penal, mental, geriatric, educational and military facilities, be evaluated for their compatibility with high blood pressure control recommendations endorsed by the BHPTF.

A caveat: The goal of weight reduction in hypertension therapy is to lower blood pressure to normal or near normal levels. If reduced caloric intake does not achieve this goal, or if the patient does not lose weight, adequate drug therapy should be used.

RECOMMENDATIONS FOR SODIUM INTAKE

Moderate sodium restriction should be routinely considered as a possible element in the treatment of all hypertensives.

Practitioners should encourage sodium restriction, and if blood pressure is reduced to and maintained at normal levels, it should be used as definitive therapy.

For patients who experience significant side effects from drugs, sodium restriction should be considered as adjunctive therapy to help reduce drug dosages or increase drug efficacy.

Persons with a family history of hypertension should be encouraged to restrict sodium intake.

Practitioners recommending sodium restriction should indicate specific diets appropriate to each patient's condition and lifestyle and should ensure that the diet is explained satisfactorily.

Labeling of sodium content in foods should be encouraged and the development of labeling regulations should be supported.

Research on the role of sodium in the etiology and treatment of hypertension should be pursued.

Efforts should be continued and expanded to improve patient education in dietary sodium intake and to improve motivational techniques for long-term adherence to diet therapy.

A caveat: The goal of sodium restriction in hypertension therapy is to lower blood pressure to normal or near normal levels. If sodium restriction does not achieve this goal, adequate drug therapy should be used.

Health Education Issues

1. The Task Force recommends that health education for Blacks must recognize Black diversity.

2. The Task Force recommends that greater recognition and utilization be made of professionals trained as health educators who are not clinicians.

3. The Task Force recommends that every provider having interaction with the public or with patients use every available resource to promote prevention and screening.

4. The Task Force recommends that Black clinicians, behavioral scientists, health educators and communicators be identified and organized for the purpose of developing strategies calculated to induce Black consumers to use high blood pressure detection, treatment and control resources.

5. The Task Force recommends that each community with a significant Black population should develop community resource centers for coordingating consumer health education and health services delivery components.

6. The Task Force recommends that careers as health educators should be promoted among young Blacks in high school and college.

7. The Task Force recommends that health education for the health provider and the public be a primary emphasis in the four demonstration sites selected for the implementation of Task Force recommendations.

Behavioral Studies Related to Hypertension

1. The Task Force recommends that studies that address social stress factors related to high blood pressure such as crime, family tension, poverty, unemployment and underemployment be undertaken.

2. The Task Force recommends that studies which examine the effect of environmental stresses such as living in substandard housing in high density areas, noise and general crowded conditions be undertaken.

3. The Task Force recommends that studies to examine psychological frustration of Blacks as related to poor economic conditions, loss of locus of control, loss of hope and dissatisfaction with the social system be undertaken.

4. The Task Force recommends that studies to identify occupational factors which contribute to the accumulated build-up of stress including the impact of job insecurity, limited job opportunities, job dissatisfaction and job discrimination, unemployment and underemployment be undertaken.

5. The Task Force recommends that studies to examine alcoholism and drugs in relation to high blood pressure be undertaken.

6. The Task Force recommends that studies to trace the family history of hypertension with emphasis on identification of similarities or difference in psychosocial dynamics which impact the family be undertaken.

7. The Task Force recommends that studies be conducted which examine the prevalence of hypertension in mental institutions, the effect of chemotherapy on blood pressure and the types of drugs which are most effective for chronic psychotic patients.

8. The Task Force recommends that studies examing the epidemiological data on hypertensive Blacks in urban and rural areas of the U.S. in the north, south, east, and west be conducted.

9. The Task Force recommends that studies be conducted on stress management techniques of hypertension among Blacks with attention to the effects of relaxation, yoga, and biofeedback methods.

10. The Task Force recommends that studies of coping mechanisms (behaviors) of Black hypertensive patients and/or family of the patient.

11. The Task Force recommends that research be conducted in community-based research centers and where there are no such centers some be established in high density Black areas where Black churches, social, and other community organizations can be utilized to assist in monitoring research in the Black community.

Manpower

1. The Task Force recommends that initiatives be undertaken to insure a more representative involvement/employment of Blacks in the health care industry of the U.S. by the year 2000. The following numbers and ratios would represent meaningful progress for physicians, nurses, optometrists, pharmacists, dentists, and podiatrists.

Physicians—ratio of 300 per 100,000 Black population; 14.4% per 100,000 total population or 36,000 total physicians; total medical school enrollment at 20% by academic year 1982–1983.

Dentists—ratio of 89.7 per 100,000 Black population; 4.3% per 100,000 total population; or total 10,759 dentists: total dental school enrollment should be increased to 20% by academic year 1982–1983.

Optometrists—ratio of 10.8 per 100,000 Black population; 0.59% per 100,000 total population or 1,295 total optometrists; total enrollment in schools of optometry should increase by 25% by academic year 1983–1984.

Podiatry—ratio of 9.3 per 100,000 Black population; 0.5% per 100,000 total population or 1,127 total podiatrists; total enrollment in schools of podiatry should increase by 20% by academic year of 1982–1983.

Pharmacists—ratio of 111 per 100,000 Black population; 5.3% per 100,000 total population of 13,321 total pharmacists. Total enrollment in schools of pharmacy should be increased to 20% by academic year 1981–1982.

Registered Nurses—ratio of 1256.7 per 100,000 Black population; 6.8 per 100,000 total population. Total enrollment in schools of nursing should be increased to 20% by academic year 1981–1982.

2. The Task Force recommends that an institutional support program be authorized to provide financial assistance to health professions educational institutions that maintain a minimum Black total enrollment of 12% Black Health professions students.

3. The Task Force recommends that financial incentive programs be developed for the health professional schools of traditionally Black institutions to increase the supply of Black health manpower. These programs should be long range propositions of 10 years or more and adequately funded to avoid financial distress and insure stability on the part of the institution.

4. The Task Force recommends that the designated health manpower shortage areas be expanded to include more Black urban inner-city communities that now suffer a marginal identity.

5. The Task Force recommends that the recipients of NHSC Scholarships and other service conditional awards be exempt from taxation on the scholarship portion of their income.

6. The Task Force recommends that the Health Education Student Loan Program be adjusted to ease the burden of repayment by the student, specifically with regard to the length of time for repayment to include a deferred payment plan.

7. The Task Force recommends that the funds available for Health Professions Students Scholarships be dramatically increased in order to increase the number of Black recipients.

8. The Task Force recommends that the Black Health Providers Task Force for High Blood Pressure Control be charged with responsibility for defining the health manpower requirements for the detection, treatment, and followup of high blood pressure control in the Black community.

9. The Task Force recommends that the Black Health Providers Task Force for High Blood Pressure Control be charged with the responsibility of identifying health manpower alternatives for the detection, treatment, and/or follow-up of high blood pressure in the Black community.

10. The Task Force recommends that the programs which forgive nursing and medical student loans through service in health manpower shortage areas be extended indefinitely and be expanded to include other professions—podiatry, optometry, pharmacy, and dentistry.

11. The Task Force recommends that more monies be earmarked for Black colleges and universities for the development of research

training programs specifically as it relates to high blood pressure research.

12. The Task Force recommends that registered nurses be included among the other health professions assessed in the designation and assignment of health manpower shortage areas.

13. The Task Force recommends that smaller geographic units be utilized in the designation of health manpower shortage areas in order to address the unrecognized and acute manpower shortages in the inner-city.

Pediatric High Blood Pressure

1. The Task Force recommends that all Federally funded or supported health care facilities and providers offering maternal and child health services be required to have effective pediatric high blood pressure detection programs which are comprehensive and which emphasize prevention.

2. The Task Force recommends that the Model High Blood Pressure Control Process developed by the BHPTF be reviewed by an appropriate panel of Black clinicians convened at the national level to determine whether a pediatric version of the process should be developed.

3. The Task Force recommends that the labeling of children as hypertensive by providers should be avoided so that an overall health program, rather than drug therapy alone, may be implemented.

4. The Task Force recommends that health providers include the families of hypertensive children as partners in the overall health program of their children.

Financial Issues

1. The Task Force recommends that persons in the financial "gray area" should be covered for hypertension therapy under a suitable public program such as title XVII (Medicare) of the Social Security or other suitable legislation.

2. The Task Force recommends that the Medicaid programs should undertake an intensive 5-year effort to detect and bring into effective control hypertensives who are Medicaid recipients. This effort should include drug coverage for antihypertensive medications.

3. The Task Force recommends that private third party payors should be encouraged to include antihypertensive medications and treatments in their most widely utilized benefits packages.

4. The Task Force recommends that the Medicare program should be expanded to include drug coverage for antihypertensive medications.

5. The Task Force recommends that the appropriate Federal agencies should make arrangements to assure that persons participating in high blood pressure clinical trials have adequate financial means to continue antihypertensive regimens at the conclusion of such trials.

Physician Assistants and Nurse Practitioners

1. The Task Force recommends that physician assistants and nurse practitioners not be permitted to prescribe medication for high blood pressure control without a physician's approval and where states permit the prescription of drugs by NPs and PAs, the regulations be made consistent with this recommendation.

2. The Task Force recommends that inequity, where it exists, of reimbursement to nurse practitioners and physician assistants must be corrected and appropriate reimbursement mechanisms be determined for their service in high blood pressure control.

3. The Task Force recommends that special funding be made available to nurse practitioners and physician assistant programs for recruitment and retention of Blacks.

4. The Task Force recommends that manpower requirements for nurse practitioners and physicians assistants, as it relates to high blood pressure control in the Black community be defined by the Black Health Provider Task Force member organizations, specifically as it relates to such factors as education, geographic distribution, economics, and risk factors.

5. The Task Force recommends that minimum certification and licensure requirements for nurse practitioners and physicians regarding the provision of high blood pressure control services to the Black community be defined by the Black Health Providers Task Force constituent organizations.

6. The Task Force recommends that high blood pressure patients in the Black community being serviced by nurse practitioners and physician assistants be required to be seen by a physician at least once a year.

Legislative Issues

Approximately 16 million Americans earn incomes less than the poverty level and have no form of health insurance (75% Black and 25% White). Two hundred thousand of these people have severe high blood pressure with diastolic readings of 115 or higher. These individuals are prime candidates for heart disease, stroke or kidney failure. Their very high pressures subject them to the serious risk of severe disease.

Unfortunately, all too often these patients cannot afford the treatment for their elevated blood pressure. Doctor visits, laboratory tests, and medicine costs are such that they cannot optimally utilize the existing system for delivery of health care to indigent populations. In many cases, catastrophic illnesses totally disable the patients making a large portion of them eligible for disability care and supplemental federal and state income. (Nursing home care ranges from $8,500 to $15,000 per year, chronic dialysis care ranges from $8,500 to $30,000 per year, coronary artery by-pass surgery costs between $8,500 to $15,000.)

Patients in low socioeconomic status have a higher prevalence of extreme levels of blood pressure which are 3–5 times that of other groups. These are the Americans who are disproportionately utilizing nursing homes for post stroke care, receiving dialysis for end stage kidney disease, or finding it difficult to work because of disabling heart disease. These are the working Americans who cannot afford preventive care.

It is recommended that a High Pressure Formulary be established. This formulary would provide free antihypertensive medication for the 200,000 indigent severe hypertensive patients who are not eligible for Medicaid or Medicare. There are many health departments, private doctors or community clinics that could provide the treatment at a low rate if the patient could obtain the appropriate drugs. This program represents a targeted, limited cost, high yield effort to efficiently eliminate a major barrier to severe high blood pressure treatment and thus reduce catstrophic morbidity and mortality.

A group of experts on high blood pressure would constitute a policy board. They would establish a medical policy and follow the established guidelines of the National Heart, Lung, and Blood Institute's National High Blood Pressure Education Program recommendations. A panel of consumers would assist in developing the implementation of the program. The administration of the program would be linked to the established Medicaid system for drug dispensing. This would eliminate the need for new governmental systems. The ultimate impact would be expected to result in decreased Federal spending for rehabilitative care including dialysis, nursing home care, coronary artery by-pass surgery and disability payments.●

USING U.S. WHEAT AGAINST OPEC: NOT AS FARFETCHED AS YOU THINK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 10 minutes.

● Mr. WEAVER. Mr. Speaker, can there be any doubt left that the United States is fully capable of becoming the OPEC of grain? I would like to draw the attention of my colleagues to a major article which appeared in the Sunday "Outlook" section of the Washington Post July 8. Titled "Using U.S. Wheat Against OPEC: Not as Farfetched as You Think," the article makes a convincing case that we could indeed raise the price of American grain in order to help offset the exorbitant prices we are now paying for foreign oil.

The author of the article, Dan Morgan, is the agriculture and commodities expert for the Post. His justly acclaimed book on the history and structure of the world grain trade, "Merchants of Grain," was recently published by Viking Press.

Mr. Morgan's article leaves very little doubt that grain is the United States' greatest potential trade resource. The continuation of the present USDA non-policy of allowing this resource to be 90 percent controlled by five giant international conglomerates is foolhardy and clearly unacceptable to American farmers and the American people.

That is why I have introduced legislation to establish a National Grain Board empowered to barter, negotiate, or approve all export sales of American grain. Such a board is a necessary first step to instituting a coordinated grain policy in cooperation with the Canadian Wheat Board and the Australian Grain Board.

A National Grain Board will provide a better return for American farmers.

It will give us the ability to effectively monitor the purchases of American grain made by foreign governments, and prevent further reenactments of the great grain robberies of 1972 and 1975.

It will not require the creation of any new bureaucracy, as the grain board would be the existing Commodity Credit Corporation.

A properly managed grain board would have a significant impact on our balance of trades problem.

And it would not cost the American taxpayer a penny.

The article follows:

Using U.S. Wheat Against OPEC: Not as Farfetched as You Think

(By Dan Morgan)

American farmers are sticking a defiant message on the bumpers of their pickup trucks these days: "Cheaper Crude or No More Food."

The farmers believe the United States could force the Organization of Petroleum Exporting Countries to brake its price increases by denying U.S. grain to the oil cartel. Members of the militant American Agricultural Movement would settle for merely raising wheat prices in step with the oil price increases ordained by the cartel.

"A bushel for a barrel" sounds lighthearted, and government officials tend to dismiss the crusades as misguided rural xenophobes. It wouldn't work, the administration argues. Besides, isn't it faintly immoral to tinker with the world's food supply in such a hard-hearted manner?

But the bumper stickers are not all that farfetched. If one examines the world grain market today, its future and its potential for America, there are extraordinary similarities with the world oil market. If U.S. policymakers have the will to play international "hard ball" with the grain-importing countries, particularly the oil nations of OPEC, the squeeze might produce dividends for us. At least the idea deserves more serious consideration than Washington has given it.

U.S. ECONOMIC LEVERAGE

This would require an important political decision—one Americans generally have abhorred except in emergencies. The government would have to create a national grain-trading board, one empowered to set a national price on our wheat and prepared to make other countries pay our price or do without. Is this time of soaring oil prices, of rampant inflation and threatened recession, a national emergency? Does it justify a counter-cartel? The militant farmers think so.

The potential for U.S. leverage on world grain prices is supported by the statistics in a recent study by the respected International Wheat Council in London. Its surprising conclusion is that OPEC's wheat importers are growing faster than those of any other groups of nations. They reached almost 10 million tons in 1970. This is 14 percent of the entire world wheat trade.

Many nations, including several OPEC countries, grow and export wheat. But only a handful export on a scale of 10 million tons. The clear implication is that, with regard to OPEC's wheat needs, the two criteria for U.S. economic leverage exist:

Doing without grain imports, though possible, would be economically disruptive and possibly politically destabilizing.

Only the United States and Canada can guarantee a continuing supply of wheat of that magnitude. The United States, moreover, is in the peculiar position this summer of being the only country that can fill new wheat orders. It already supplies OPEC with more than half of its 10 million tons a year.

The dependency of OPEC countries is dramatically evident in the case of Iran, the oil exporter whose temporary shutdown caused so many problems. During Iran's revolutionary spring, the oil stopped going out—but U.S. grain kept going in there.

Agriculture Department officials say Iran purchased more than a million tons of white (Pacific Northwest) wheat in the year ended June 30, and already has booked orders for 115,000 tons this year. (This is about in line with previous years.) Iran also bought more than 300,000 tons of U.S. rice last year. Its total grain imports have been running close to 3 million tons—an amount that gives Iran a margin of protection against food inflation.

This dependency on U.S. food was vigorously promoted by the grain trade and by the U.S. Agriculture Department's "market development" teams in the 1960s. They used the Food for Peace program and other incentives to convert Iran to the American diet of grain-fed meat and poultry. Iran became a U.S. agricultural client state, and even after the revolution its need for foreign grain is a reality that its new rulers must take into account.

Given the fact that U.S. food is feeding Iranians, the ayatollah's rantings against the United States seem particularly ungracious. A counter-squeeze using U.S. food might show us what the ayatollah is really made of.

Contrary to the popular image, OPEC is not a collection of desert nations with only a handful of people to feed, OPEC's 13 members include the world's fifth most populous country (Indonesia), the largest in Africa (Nigeria), and a populous tropical nation whose climate is not well suited to growing wheat (Venezuela).

Wheat, eaten as bread or couscous, is a staple in Algeria, Libya, Iran, Iraq and Saudi Arabia. But only three OPEC countries—Algeria, Iran and Iraq—grow wheat on a large scale, and none is self-sufficient except when their crops are unusually bountiful.

Indonesia and Nigeria are rice-eating nations, but both rely heavily on imports—not only of rice but also of wheat—to supplement the food available in the commercial marketing systems on which their huge urban populations depend.

Population in OPEC is rising at 2.8 percent a year, about the average for all developing countries, and the populations of several countries have been swollen by immigration of foreign workers who need to be fed. Kuwait's population, for example, is growing 6 percent a year.

Oil revenues have given OPEC countries the means to import more food. This in turn has led to a rapid rise in per capita wheat consumption, from 40 kilograms at the start of the decade to 55 kilograms now.

But perhaps the major factor behind OPEC's rising consumption is that imported grain has been a bargain—particularly since it is being purchased with dollars that have been sharply devalued by inflation.

Artificially cheap oil in the postwar era made "petroleum junkies" out of the industrial countries. They postponed adopting energy conservation policies and thereby created the conditions for their present reliance on OPEC.

Now the OPEC nations are following a similar pattern in terms of our grain trade. Foreign nations have gone on a food-buying binge; demand for imports is still increasing, and, OPEC is no exception. There are a variety of reasons for this phenomenon—population growth, prosperity, the increasing popularity of bread and poultry in countries that once ate rice and potatoes.

It is an irreversible trend. Virtually all experts acknowledge that through food self-sufficiency was a realizable goal for many nations in the 1920s and 1930s, it no longer is today. Dependence on U.S. food is permanent. That is why nations such as Saudi Arabia have built new flour mills. Wheat for those mills, like oil for East Coast oil refineries, will have to come from abroad.

Since 1970, wheat prices have tripled, but oil prices have increased nearly ninefold. In 1970, a bushel of wheat was selling for $1.45 at the Gulf of Mexico, compared with about $1.70 for a barrel of Saudi Arabian crude oil. This spring—before the latest OPEC price increases—wheat was just over $4 a bushel, while oil was at $14.50 a barrel.

It is true, of course, that wheat, unlike oil, is a renewable resource, grown year after year. But it takes oil to produce food, so there is a direct connection.

More than most other businessmen, American farmers are sensitive to the intimate economic relationship between oil and grain. Farmers use a prodigious amount of energy in growing and marketing their crops. It takes natural gas to operate irrigation pumps, dry grain and produce the anhydrous ammonia for fertilizer. It also takes oil to produce diesel fuel for tractors and combines and to make the herbicides and pesticides sprayed onto crops. So it is not surprising that the slogan "a bushel of grain for a barrel of oil" emanates from rural America.

The same countries that have been raising oil prices have been getting a bargain—an American subsidy, some might call it—on the grain produced, processed and transported with that oil. In effect, the United States exports energy back to OPEC in the form of wheat, corn, rice and vegetable oil. So the "cheaper cruders" argue that it is equitable for OPEC to offer its food suppliers, including the United States, a lower price on oil, or a higher price for the grain.

Up to now, Carter administration officials have maintained that if we tied grain prices to oil prices, customers abroad would buy less, would produce more food of their own or would turn to other grain suppliers. But these arguments are debatable.

PATTERNS IN OIL AND GRAIN

The world is not running out of food. But the record of the past five years shows that increasing food production abroad is far more difficult to achieve than expected.

World grain and oil production are comparable in that the period of "easy" advances in grain output, brought about by hybrid seeds, irrigation and use of new farmland, is over. Just as in oil, future increases in food production will be harder to achieve and more costly—in part because the energy ingredient has become so costly. Opening new breadbaskets, like making new oil finds, is turning out to be tough.

The Soviet Union has poured vast sums of money into new wheat lands since the late 1950s, but this year it is still importing 15 million tons of grain from the United States alone.

Brazil has failed to emerge as the agricultural Garden of Eden some believed it would become. It imported 4 million tons of U.S. wheat last year. The soil of its tropical forests is not well suited to growing food grains. As its oil and food import bill rises, moreover, pressures remain strong to devote available farmlands to export crops such as coffee.

Agriculture has not had a good decade in the OPEC countries either. Food production hasn't kept pace with population growth, and a grandoise scheme of Arab rulers to create a breadbasket in the Sudan—a scheme that underscores the Arabs' sense of vulnerability on the food issue—has yet to produce results.

For these countries, food conservation is no more palatable an alternative than oil conservation is in the West. It is one thing to slaughter poultry and livestock to conserve feedgrains, as Iran has been doing. But it is another thing to reduce consumption of foodgrains for humans.

World wheat consumption, like that of OPEC, is on a steadily rising plane—350 million tons in 1975; 379 million tons in 1976; 395 million tons in 1977; 416 million tons in 1978, and an estimated 431 million tons this year.

World wheat imports have stayed strikingly constant in this period, varying only a few million tons on either side of 70 million tons. And the last three years have seen excellent crops worldwide, a pattern that is not holding this year.

Dozens of countries grow wheat. But only five—the United States, Canada, Australia, France and Argentina—cover the bulk of the world's wheat trade. Two of them, Canada and the United States, provided two-thirds of it, and today these two countries are holding most of the surplus wheat stocks.

In the next few months, only the United States will be able to fill new orders for wheat. Crops in Australia and Argentina already are committed to customers. France's wheat crop has suffered from a severe winter, and Canadian shipments have been snarled by transportation problems and a West Coast dock strike. That is exactly why grain prices are now rising so rapidly here. It is a seller's market.

DO WE WANT TO TAKE THE WHEEL?

All of these facts put the United States in the driver's seat—if it wants to take the wheel. The transition period would involve the same kind of political trauma and dislocations that occurred among OPEC nations as they struggled in the early 1970s to take control of their own asset, petroluem. Those difficulties and the uncertainty of political anger around the world—not the question of feasibility—may be the real reasons why U.S. officials are so cool to the slogans.

The structure of the world grain trade today resembles the way world oil looked in the 1960s—before the cartel gained its maturity. That was a time when oil prices were low, when oil exporting countries were disunited, and when a handful of huge multination companies organized the marketing and allocation of the surpluses. This is a rough approximation of the situation prevailing today in the global grain markets.

One clear indication that wheat prices are too "low" is that Japan, the European Common Market, the Philippines and other countries all levy stiff import taxes on U.S. wheat to protect their own farmers. Food authorities in Japan currently purchase wheat at this country's gateway ports of $4.50 a bushel and resell it to Japanese millers for twice that. The Japanese millers are not buying less wheat.

But the handful of countries that produce major wheat surpluses have shown little inclination to unite in a cartel to capture more wheat revenues for the producers. In fact, the United States and Canada have waged price-cutting wars over the past 15 years whenever unsold surpluses have accumulated.

The two countries also have taken different approaches to grain production in the last two years—ones that mirror different approaches of several OPEC nations to oil production.

The United States, like Libya, has attempted to limit output in order to increase prices; farmers have received incentives to idle their wheat lands. Canada, on the other hand, has applied the Saudi policy of continuing to go all out; Canada's wheat planners have refused to order a cutback.

Officials of leading wheat exporting countries (except France) met in Winnipeg recently but took no steps toward forming a cartel or fixing a price floor. Fortunately for grain farmers, prices are now rising rapidly.

The idea of a cartel fixing grain prices for the world horrifies those who are concerned about poorer nations. Yet it could be argued that a stiff increase in grain prices is just what those countries need to force their rulers to devote adequate resources to agriculture, farmers and land reform. By controlling exports, the government would also be in a position to soften the impact of what is happening now—a sharp run-up in grain prices due to strong foreign demand.

THE ROLE OF THE MULTINATIONALS

There is, however, one large "but." Before OPEC could work its will on its industrial customers, the OPEC governments had to supplant the multinational companies that controlled the oil upstream in the Persian Gulf.

Canadian wheat is marketed through a quasi-governmental agency, the Wheat Board. But multinationals still control the system in the United States—the source of half of all grain and soybeans moving into world markets. The government is involved in agriculture through farm programs, but not in the marketing system.

Dominating the system in the United States are a handful of companies that resemble the oil giants in their control of communications systems, marketing channels, river barges, grain hopper cars, storage depots, processing plants and financial facilities.

It is a highly complex system. U.S. grain regions are a mosaic of thousands of farms producing many different crops, from wheat to birdseed, each with specialized markets at home and abroad. For the government to take charge of the pricing and marketing of the grain would disrupt the system and do damage, the multinationals say.

Just as oil multinationals fought the takeover of Persian Gulf oil fields, grain companies now are strongly resisting creation of a U.S. grain board—a proposal contained in legislation submitted this year by Democratic Rep. Jim Weaver of Oregon and supported by 53 co-sponsors.

Weaver's plan calls for a board, under the Commodity Credit Corporation, to sell, barter or approve the sale of grain abroad. The grain companies would continue to make deals with their customers and to drum up business—but only at a price approved in Washington. Inherent in this is the government's ability to fix the price of all grain to foreign buyers.

The idea is not unprecedented. The government controlled the grain trade in both world wars. It required licensing of grain sales to communist countries until 1971, and it embargoed soybean exports in 1973.

Nationalization of the grain trade would be a drastic step. But then, say the farmers who carry the banner for "cheaper crude," this is no time for the faint-hearted.●

INTERNATIONAL RESPONSE TO REFUGEES INCREASING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Wolff) is recognized for 15 minutes.

● Mr. WOLFF. Mr. Speaker, the Government of Japan recently announced an important new initiative in the growing worldwide response to the crisis of the Indochinese refugees. Following the visit of President Carter, and during follow-up conferences with Secretary of State Vance, Japan announced that it would contribute more than 50 percent of the cost of the newly-enlarged United Nations High Commission for Refugees budget allocation for Indochinese refugees, a sum exceeding $50 million of the UNHCR's $105 million annual budget.

This timely humanitarian step by Japan is extremely important for it meets head on needs of the refugees, and comes when the U.N.'s budget is reaching the breaking point.

Finally, Japan's decision will go a long way toward demonstrating to the Southeast Asian Nations of Thailand, Malaysia, Indonesia, Singapore, and the Philippines, as well as to Hong Kong and Australia, that the refugee burden will be shared in the future.

Before continuing this report on recent refugee initiatives, I would like to present for the Record a July 9 New York Times piece discussing the importance of the decision by the Government of Japan to aid the UNHCR budget, and placing that decision within the perspective of United States-Japanese relations:

New Tokyo Initiative: Aid for Refugees Bolsters U.S. Ties

(By Henry Scott Stokes)

Tokyo, July 8.—The Japanese Government, in a move that has implications for relations between the United States and its chief ally in East Asia, has made important decisions in a critical policy area: the problem of Indochinese refugees.

Foreign Minister Sunao Sonoda announced at a meeting attended by Secretary of State Cyrus R. Vance in Indonesia last week that Japan would quintuple its aid to Indochinese refugees this year by accepting 50 percent of the cost of this year's newly enlarged $105 million refugee program of the United Nations High Commissioner for Refugees.

The Japanese rarely rush decisions made by their careful bureaucracy, especially in budgetary matters. Yet the decision on refugee aid was made in a matter of weeks. The speed of the move shows that Prime Minister Masayoshi Ohira put his weight behind the measure, which American officials welcome as an indication that the United States-Japanese "partnership" is "deepening and broading."

The circumstances under which the Japanese decided to increase their aid to the United Nations program from $11.5 million were exceptional. Ten days ago Mr. Ohira was host to the first summit meeting of industrial democracies to be held in Japan or anywhere in Asia.

JAPANESE FEARFUL OF CRITICISM

The Japanese were acutely conscious of the historical character of the meeting, though their guests may have been less aware of the precedent. Tokyo was also concerned that it might become a target of increasingly severe criticism on the sensitive issue of refugees.

Since the Vietnam War the United States has accepted about 215,000 refugees from Indochina, while Japan has had only one family of three Vietnamese refugees here as permanent residents. Other nations, especially France, have accepted tens of thousands of French-speaking refugees. The Japanese wanted to improve their record quickly in the only way that they felt would work—by increasing aid.

Mr. Ohira appears to have impressed American officials by his determination to act on refugees for reasons other than sheer embarrassment at Japan's record. The Americans said after the summit meeting here that President Carter was impressed by the "sincere" way in which the Japanese leader tackled the issue.

Mr. Ohira, who has been Prime Minister since December, personally took charge of discussions of refugee questions at the summit meeting. He presented each of the visiting leaders with a draft copy of the Japanese declaration on refugees, which was announced at the end of the first day of the two-day economic conference, before the meeting had reached its conclusions on the main topic of oil imports.

AN UNUSUAL INITIATIVE

American officials said they were not used to having the Japanese take initiatives in this way. President Carter apparently put only light pressure on Japan to take action. And yet Mr. Ohira responded far more rapidly than previous Japanese leaders had when they were confronted, for instance, with blunt American demands that they liberalize trade.

"Why is it that the Japanese never speak at international meetings and avoid making proposals?' Western diplomats have frequently asked. For years the Japanese have avoided the limelight, partly for reasons that lie deeply ingrained in social tradition.

But their diffidence appears to have been fading recently. The Japanese Government has now chosen to take on the largest national share by far of the United Nations budget for 1979 for Indochinese refugees. Japan will in addition pay half of the $13 million cost of a new refugee processing center to be built on the Indonesian island of Galang, south of Singapore.

These moves are helpful to American-Japanese relations. They mark complementing efforts by the two nations to tackle the Indochinese refugee problem. President Carter announced at the Tokyo meeting an American plan to double the intake of refugees to 14,000 a month.

FEW WANT TO STAY IN JAPAN

Japanese officials say that the reason Tokyo will not accept more refugees, beyond a legal ceiling now set at 500, is that few of the refugees want to stay here. Having a chance to look round, they choose to move on to the United States or Europe, partly because Japanese society is closely knit and resists outsiders, the language is difficult to learn and the Government has virtually no program to integrate Indochinese. There is no Vietnamese community in Japan, as there are in the United States and France.

The failure of the Government to provide for refugees has drawn bitter press criticism. "The ministries concerned compete to shove responsibility onto one another and make no concerted effort to provide language schools and job-training programs," Asahi Shimbun, a leading newspaper, has commented. But the Carter Administration has chosen not to put pressure on Japan on this issue, preferring to have the Japanese provide financial aid.

"What they do for refugees here is their affair," a visiting State Department official said.

Japan has meanwhile hinted that it may halt economic aid to Vietnam worth $65 million a year. Former Prime Minister Takeo Fukuda said at a recent meeting in Bangkok, Thailand, that Japan should suspend aid if asked to do so by members of the Association of Southeast Asian Nations. The association includes Malaysia and Thailand, which have borne the brunt of the refugee crisis.

The Japanese moves on aid to refugees provide new signs that Japan is beginning to flex its economic muscles after years of hesitation. America's Asian ally is abandoning its low posture in foreign affairs in a way that helps the United States.

In addition to the announcement by Japan, other important initiatives have also been announced in recent days. Last week, representatives from Roman Catholic, Protestant and Jewish agencies met in New York City to coordinate relief efforts to Indochina.

During their meeting, the representatives discussed a point raised by myself and others in the House, that the world's decision to act now can avoid what otherwise will degenerate into another 1939—another holocaust while the world bickered over politics allowing thousands, and then millions, to die.

In addition, nine voluntary resettlement agencies are even now working with the Department of State to coordinate the key part of the long-range task now facing us—to resettle Indochina refugees in third countries, and thus to relieve the burden on the nations of temporary first asylum.

I present for the RECORD a July 6 Washington Post article discussing this coordinated appeal, and the vital work being performed by the secular and religious voluntary agencies of the United States:

SPONSORS NEEDED TO HELP HOMELESS ASIANS: RELIEF AGENCIES REQUEST SPEEDY AID FOR REFUGEES

NEW YORK.—Religious groups that have helped to resettle nearly 75 percent of the 210,000 Southeast Asian refugees already admitted to the United States have declared their willingness to step up their efforts to assist the tens of thousands more who are still homeless.

Leaders of Roman Catholic, Protestant and Jewish agencies held a joint press conference here to urge both the United States and the United Nations to expedite the process by which refugees may be processed and brought to this country.

The American religious leaders appealed for public support to assure that there will be a continuing pool of sponsors for the incoming flood of new refugees. They also urged other countries to join in the humanitarian effort to resettle the refugees.

Participating in the press conference were the Rev. Paul McCleary, executive director of Church World Service, relief arm of the National Council of Churches; Dr. George F. Harkins, general secretary, Lutheran Council in the U.S.A.; the Rev. T. Grady Mangham Jr., director of World Relief Refugee Services of the National Association of Evangelicals; Rabbi Marc H. Tanenbaum, national interreligious affairs director of the American Jewish Committee; and Cardinal Terence Cooke, Roman Catholic archbishop of New York.

Mother Teresa of Calcutta, who was in the U.S. to establish new convents of her Missionary Sisters of Charity, made an unannounced apearance at the press conference and pledged the support of her order.

"I am willing to give some of our sisters," Mother Teresa said: "Let us go into the sea and pick up the people . . ." who have fled their homeland by flimsy boats. She called on people of all faiths around the world to unite to solve the emergency.

The major Catholic and Protestant relief agencies that have handled the bulk of resettlement say that the church response has been magnificent. "They are asking us, 'Where are the refugees? Why don't you send them to us?' " one agency spokesman said.

Rabbi Tanenbaum said the central role being played by the U.S. religious community in refugee resettlement is a "great demonstration of religious faith in action." He described the current situation as the "greatest humanitarian crisis since the Nazi Holocaust."

McCleary said resettlement agencies will ask the government for extra funds, mainly for transportation, to bring in thousands of refugees now in temporary camps who are already cleared for admission to the U.S. He said current delays are due mainly to lack of transportation funds.

Cardinal Cooke said U.S. religious leaders are "seeking the cooperation of other religious bodies around the world, and we have some assurance of their support."

Nine voluntary resettlement agencies currently are cooperating with the U.S. State Department under the umbrella of the American Council of Voluntary Agencies. Included are the U.S. Catholic Conference's Migration and Refugee Service; Lutheran Immigration and Refugee Service, International Rescue Committee, Church World Service, Hebrew Immigrant Aid Society, and the Evangelical Relief Agency. Catholics have resettled about 45 percent of all refugees admitted to the U.S.

In a joint statement, the religious leaders urged the following actions:

1. Doubling the U.S. quota for refugees admitted to long-term residence from 7,000 to 14,000 on an ongoing basis and to promote increased admissions of Indochinese refugees by other countries.

2. Establishment of transit camps or other temporary safe havens for those now drifting in the South China Sea.

3. Expediting movement, by United States military transport if necessary, of thousands of refugees already cleared by United States immigration authorities and waiting to join their sponsors in this country.

That the Indochinese refugee crisis is an on-going tragedy, despite the growing efforts which I have mentioned today, must always be kept in mind. Even as we meet here today, innocent men, women and children are drowning off the coast of Vietnam and throughout the waters of Southeast Asia, others are dying of disease or starvation in Cambodia, just across the border from Thailand and freedom, and others are dying of gunshot wounds in their flight from Laos.

To help meet this on-going humanitarian need, particularly along the Thai-Cambodian border seven Members joined on June 29 in urging the administration to begin an emergency airlift of food and medical supplies—into Cambodia, if necessary, to aid the thousands of refugees clustered in a hostile area without hope of assistance. I was pleased to join in signing this letter with my friend and colleague from New York (Ms. HOLTZMAN) whose Subcommittee on Immigration, Naturalization and Refugees has done so much to aid the cause of the Indochinese refugees, as well as with Mr. MICA, Mr. GUYER and Mr. GILMAN, and our colleagues from the other body, Mr. BOSCHWITZ and Mr. DOLE.

The letter says:

JUNE 29, 1979.

DEAR MR. PRESIDENT: Your initiative in acting to double the number of admissions of Indochinese refugees into this country is to be commended as a humanitarian gesture. We are writing you today to request that you take immediate action on another humanitarian concern which requires concerted attention if a terrible tragedy is to be averted.

Today, we interviewed two Cambodian refugees who have literally been rescued from the valley of death. These two young men, one a former school teacher, the other a student, bring word of their remaining family and friends in an isolated valley across the Thai border, surrounded by land mines, jungle and hostile forces, and kept from reentering Thailand by armed troops. These two men described conditions of unspeakable suffering, human being starving to death, dying of wounds and disease within walking distance of freedom. Yet there has been no succor for these people. The meager supplies given some of the refugees by Thai authorities are soon used up, and then there is nothing save what can be scratched from soil made treacherous by mines.

Mr. President, these people huddle on the borders of freedom represent but the vanguard of countless thousands of Cambodian refugees who face death through starvation and disease if there is not prompt action on their behalf. The question now is one of simple humanity. These people will die without help, and the refugee pressure on Thailand will become utterly beyond the capacity of Thai authorities to deal with in any fashion.

Accordingly, we formally request that you order immediate humanitarian assistance in the form of an airlift of food and emergency medical supplies to these Cambodian refu-

> gees. This assistance, in the name of common humanity, must be rendered through whatever authorities are in a position to facilitate delivery to the people, and in cooperation with the Royal Thai Government.
>
> There are well-established voluntary agencies with the expertise needed to immediately draw up recommendations on the nature and amounts of food and medical supplies needed. We stand ready to help with whatever support is required from the Congress.
>
> For the moment, however, it is clear that you have the authority to take emergency action to meet a disaster of ever-growing proportions, particularly along the Thai-Cambodian border. We urge you to immediately give orders for the beginning of an airlift, with particular emphasis on the areas where Cambodians forcibly repatriated to their homeland are now suffering, but who are being sustained on the hope that the United States will not ignore their cry for help, a cry to us today through the two young men they sent as a last, desperate gesture.

As a final matter today, I would like to briefly discuss the results of a meeting between a congressional delegation and Mr. Kurt Waldheim, Secretary General of the United Nations. We met 2 weeks ago at U.N. headquarters to discuss the meaning and impact of the Congress' 336 to 0 vote for House Resolution 321, calling on the U.N. to convene an emergency General Assembly or any other session forum on refugees, and to see what the Secretary General had in mind for the upcoming Geneva Conference on Refugees, scheduled for July 20–21.

There will be a congressional mission to Geneva to participate with the U.S. delegation, and the House will be kept informed of developments in this regard.

Mr. MICA, Mr. FISH, Mr. GILMAN, and I emerged from our New York City meeting heartened by the Secretary General's obvious commitment to do what is possible, and convinced that the U.N. clearly plans to make the Geneva Conference a success in two key areas—getting the world community to open up more refugee resettlement slots, and to contribute more money to defray the mounting costs of refugees.

That is why Japan's decision to fund 50 percent of UNHCR is so vital, as is the decision by the Carter administration to double the U.S. monthly refugee admission levels from 7,000 to 14,000 by October.

I would be less than candid if I did not report that our delegation to the U.N. also made it clear to Mr. Waldheim that the Congress, the American people, and, we suspect, the world community, see the refugee situation as both a great opportunity, and a stern test, of the U.N.'s capabilities to respond to a humanitarian crisis. The Secretary General made it clear that he accepts this challenge in the positive sense, and that he will use his moral leadership.

Later in the same day, June 25, our delegation met informally with the ambassadors from the ASEAN nations—Malaysia, Singapore, Thailand, the Philippines, and Indonesia—to discuss the refugee situation, and to report on our conversations with the Secretary General. The ASEAN ambassadors made it clear that their nations feel they must have action from the world community, that this action must come quickly, and that the Geneva Conference perhaps represents the last chance for the world community to respond in time to mitigate this on-going tragedy.●

PRIORITY PRIMARY ROUTE NEEDS ACROSS THE COUNTRY

The SPEAKER pro tempore (Mr. DRINAN). Under a previous order of the House, the gentleman from Georgia (Mr. BRINKLEY) is recognized for 10 minutes.

Mr. BRINKLEY. Mr. Speaker, the Technical and Clarifying Amendments to Transportation Laws, H.R. 4249, was considered under suspension of the rules yesterday, and I want to express my appreciation to the committee for its attention to the priority primary route needs across the country. Of particular importance in Georgia is Priority Primary Route Z from Columbus to Brunswick referred to in the report. This and other projects in the discretionary category are referred to as worthwhile and appearing to be logically eligible for programing during the period 1979–82.

The committee report synopsis states:

> For priority primary routes, the STAA set aside $125 million for each of the fiscal years 1979–1982, out of the primary authorization, which is not apportioned. These sums are available for obligation on the date of apportionment of funds for the fiscal year, in the same manner and to the same extent as the funds apportioned on such date, except the $125 million is available for obligation at the Secretary's discretion only for projects of unusually high cost or which require long periods of time for their construction. If any part of the $125 million is not obligated by the last day of the fiscal year for which authorized, the secretary is required to immediately apportion it in the same manner as funds apportioned for the next succeeding fiscal year for such routes and is available for obligation for the same period as such apportionment.

The Georgia delegation members affected wholeheartedly subscribe to this effort, and it is very important that a beginning be made from the Columbus end.

I–185, a connector to I–85, will later this year finally give Columbus transportation ease on a northerly corridor, but southerly it is something else for Georgia's second largest city. Here more than any other place in Georgia there needs to be greater transportation access, not only for Columbus but for the world's largest infantry center, Fort Benning.

The Georgia delegation has met with Subcommittee Chairman HOWARD, our staffs have worked with subcommittee staff, and we wish to thank them for their recognition of the urgent regional needs in the area we represent. The assurance of language being included in the report for special emphasis on Priority Primary Route Z from Columbus was predicated in part with the subcommittee's earlier work on the proposed Kansas City, Mo., to Brunswick, Ga., multimodal concept. Some engineering studies have been authorized and funded in conjunction with the affected States.

I would also like to express my appreciation to the Department of Transportation and to Secretary Brock Adam for the good job which they are doing. As you know, Mr. Speaker, the Secretary served for many years in the Congress with genuine distinction. We are grateful for his grasp of national needs and for his understanding the importance of a beginning—especially on projects with urgency attached to them by the State involved. We take much pride in the fact, also, that the Secretary is a native Atlantan, and we stand ready to provide facts and figures in the necessary work ahead of us.

A NEW APPROACH TO IMPROVING THE AUTOMOBILE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 10 minutes.

● Mr. BROWN of California. Mr. Speaker, as you know, I have for all of my years in Congress, and long before, been a critic of our transportation system, and the automobile in particular. The headline concerns about the automobile have changed over the years, but generally the problems of the past have not disappeared; they have simply been superseded in the news by more serious problems. Today, most people believe fuel economy is the major problem with the automobile. Others believe the type of fuel we use is the problem. Still others believe foreign imports are our most serious threat. Unforgotten, and at times the most serious public concern, is automotive air pollution. Auto safety, of course, is a constant concern for all.

The most amazing thing about the relationship between Government and the automobile industry is that it is totally uncoordinated and generally unplanned. Today, I am introducing legislation to correct this inefficient and illogical situation. The automobile industry has been, and still is, its own worse enemy. Some would say that they are getting what they deserve for being an uninnovative, recalcitrant industry. As one of the most persistent critics of the automobile industry, I sometimes find myself feeling this way. Fortunately, or unfortunately, depending on your point of view, the automobile industry is too large, and its economic impact is too important for Government to ignore it, or allow it to falter and fall.

One out of six jobs is estimated to depend on the automobile industry. Nearly one-half of our oil is consumed by the automobile, which is nearly equivalent to the amount of oil we import. Our entire adverse balance of trade can be accounted for by the import of oil to run our energy inefficient automobiles, and the import of energy efficient automobiles which are easier to buy overseas.

In 1973 I introduced legislation to authorize and direct the National Aeronautics and Space Administration to research, develop, and demonstrate, within 5 years, a new, energy-efficient, clean and safe automobile which could be mass produced. It took me 5 years to see this program become law, and in the interim the bill changed the lead agency role from NASA to the now nonexistent Energy Research and Development Administration, and finally to the Department of Energy. On June 28 I cosponsored legislation by Representative TOM HARKIN, chairman of the Subcommittee on Science and Technology, which would put the programs of the Department of Energy and the Department of Transportation back into NASA, as my original legislation in 1973 proposed. I did so not because I have changed my mind about the need for, or the form of the Automotive Propulsion Research and Development Act of 1978 (Public Law 95-238), but because this proposed legislation recognizes the fact that NASA is already doing most of DOE's work, and offers an opportunity to consolidate and reemphasize this major Federal program, which DOE has unfortunately placed on the backburner.

The legislation which I am introducing today, the Automotive Innovation and Productivity Act of 1979, is consistent with both the legislation already in existence relating to the automobile, and supplemental to the legislation recently introduced by Representative HARKIN. My legislative proposal parallels my testimony of March 23, 1979, to the Senate Commerce, Science, and Transportation Committee on Government/industry roles in future automotive development. The main philosophical tenet behind this bill is that the confrontational, single-purpose agency approach the Government has developed in dealing with the automobile industry cannot continue if we are to see major innovations incorporated in our automobiles, and major improvements in productivity in the automobile industry. I have called in the past for the United States to move toward the Japanese "consensus building" approach between Government and industry, and believe this legislation will help us do this in a uniquely American way.

The Automotive Innovation and Productivity Act of 1979 contains three titles, each of which is interrelated, but separable from the other.

Title I creates a Government corporation, called the National Automotive Research Corporation, which will be managed and administered by a Presidential appointed 15-member National Automotive Innovation and Productivity Board. Five members of the Board shall be from the automotive industry; five members from academic and public sectors; and five members from the executive branch. The Board shall select a Director, who shall administer a National Center for Automotive Research, and other grant and contract programs with the approval of the Board. The National Center for Automotive Research shall be located at an existing Federal engineering facility, if practicable, and shall be the principal place for the work of the National Automotive Research Corporation. The programs by the Center shall range from basic research to innovations in industrial processes that could lead to greater productivity. Title I finally authorizes appropriations of $100 million per year for the next 3 years.

Title II creates, in the Executive Office of the President, the position of Special Assistant for automotive affairs. The act authorizes the President to designate an existing staff person to also serve as the Special Assistant, except this new role shall be subject to Senate confirmation, and the Special Assistant shall be accountable to the Congress, as well as the President, on reviewing and coordinating all aspects of Federal governmental activity relating to the automotive industry.

Title III is related to title I, the National Automotive Research Corporation. It establishes a new tax, for the next 5 years, of $10 per car for each automobile produced and sold. This tax will be dedicated to the work of the National Automotive Research Center, and amount to a 50-50 cost sharing by industry in this joint Government-industry research and development venture. With nearly 10 million cars sold per year, a $10 per car tax would raise $100 million. The authorization of $100 million in title I is the Federal share of this cost-sharing arrangement.

Mr. Speaker, I hope this explanation makes it clear that this proposed legislation is compatible with existing Federal programs, and is meant to provide better "connecting tissue" for the various important programs which relate to the automobile industry. I also hope the automobile industry will recognize the need for this type of legislation, which provides a means for coordination and cooperation while maintaining the Government's responsibility. to protect the broader public interest. It is probably unnecessary to point this out, but I would also like to add that there is nothing in this legislation, with the exception of the new tax, that the President could not do today. Nothing would make me happier than to see the President take steps to carry out the purposes of this legislation under his own authority. However, I have been here long enough, and worked with this subject long enough to know that congressional action is almost certain to be necessary.

Mr. Speaker, I urge my colleagues to think carefully about the type of arrangements we will need to improve our industrial processes and products to meet, among other things, our national goals of a better trade balance, energy conservation, a clean environment, physical safety, and personal mobility.

I believe the legislation I am introducing today is a constructive contribution in this direction. I would welcome any comments or criticisms of this approach.●

H.R. 4572—THE PUBLIC PRINTING REORGANIZATION ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

● Mr. THOMPSON. Mr. Speaker, on June 21 Mr. HAWKINS and I introduced H.R. 4572, the Public Printing Reorganization Act of 1979, with the bipartisan support of 21 Members of the Committee on House Administration. Senator PELL, Chairman of the Senate Rules and Administration, introduced the identical bill in the other Chamber (S. 1436).

Mr. Speaker, the creation of this bill involved many thousands of man-hours, and the contributions of many organizations and individuals. Notwithstanding those contributions, and the best efforts of the Office of Legislative Counsel, some changes in the bill appear warranted. I have, therefore, prepared three amendments to the bill—generally technical in nature—which will respond to comments we have received since introduction of the bill. I plan to introduce them during committee markup, and will support their adoption.

The amendments are as follows:

On page 2 after line 3, insert the following new paragraphs:

"(1) the term 'distribution' means any public documents sales program not specifically established by law and any distribution of public documents required for the depository library program under this title;

"(2) the term 'Government entity' means, with respect to—

"(A) the executive branch of the Government of the United States, a department, agency, office, independent establishment or other authority;

"(B) the judicial branch of the Government of the United States, a court of the United States, the Judicial Conference of the United States, the Federal Judicial Center, and the Administrative Office of the United States Courts; and

"(C) the legislative branch of the Government of the United States, the House of Representatives, the Senate, the General Accounting Office, the Library of Congress, the Cost Accounting Standards Board, the Congressional Budget Office, the Architect of the Capitol, and the Office of Technology Assessment.

And redesignate the following paragraphs accordingly.

On page 6, strike out lines 16 through 22 and insert in lieu thereof the following new subsection:

"(d) (1) Of the voting members other than the Chairman, one and only one shall be chosen from each of the following sources: (A) the printing and reproduction industries, (B) organized labor, (C) the library community, and (D) the information industries, and two shall be chosen from other sources.

"(2) The Chairman shall be chosen from any source.

On page 24, after line 14, insert the following new section:

"§ 708. Information to be specified in free public documents

"Any public document made available without direct charge to the recipient shall specify—

"(1) the name of issuing Government entity;

"(2) the appropriation Act providing funds for the printing and distribution of such document; and

"(3) the cost of producing such document.●

FITHIAN BIOMASS AMENDMENT TO H.R. 3000

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. FITHIAN) is recognized for 5 minutes.

● Mr. FITHIAN. Mr. Speaker, I am inserting, for the benefit of my colleagues the following background information concerning my amendment to the DOE authorization bill, H.R. 3000:

STATEMENT OF PURPOSE

Of all DOE's renewable energy programs, biomass development has been the most trouble-ridden by administrative and fiscal problems. Yet, biomass' potential to meet U.S. and world energy needs puts it in a class by itself. According to the Domestic Policy Review of Solar Energy, wood and other forms of biomass currently contribute between 1.8 and 2.4 quads (900,000 and 1.2 million bbl. of oil/day equivalent) of the nation's 78 quad energy budget. By 2000, biomass is projected to contribute more energy than any other renewable source: 3.1 quads (1.55 million bbl/day oil equivalent) in the $25/bbl Base Case, 4.4 quads (2.2 million bbl/day oil equivalent) in the $32/bbl Base Case, 5.5 quads (2.75 million bbl/day oil equivalent) in the Intermediate Base Case, and 7 quads (3.5 million bbl/day oil equivalent) in the High Case.

Biomass' promise remains unfulfilled partly because biomass programs (particularly those centered on near-term applications) are underfunded and partly because program management has been inadequate. Some of the impediments to biomass development could, however, be eliminated and all could be alleviated. Making this resource live up to its awesome potential requires allocating additional funds and bringing together a DOE staff with the skills and determination needed to redress neglect of a major energy source.

ASSUMPTIONS ABOUT BIOMASS DEVELOPMENT

(1) Biomass is a major ongoing supply option with short-term dividends, not a minor resource of little immediate use.

(2) A federal investment in research and development of biomass is perhaps the best energy investment we can make. No other energy technology offers the promise of such a prompt and bountiful return on our research and development dollar.

(3) Most of biomass' near-term (up to five years) potential rests in the use of agricultural residues, forestry wastes, and wood for direct combustion.

(4) Liquid synthetic fuels (including alcohol) obtained using familiar processes can economically substitute for gasoline.

[Summary: The Fithian amendment seeks to roughly double the size of Federal expenditures for biomass research, development, and demonstration. A total of $75.6 million would be added to DOE biomass programs as illustrated in the following chart]

DOE BIOMASS PROGRAM

[In thousands of dollars; fiscal years]

	1979 estimated budget authority	1980 DOE budget request	H.R. 3000 as reported	Fithian amendment
Solar applications	140, 559	126, 360	138, 360	183, 560
Biomass	43, 630	57, 838	57, 838	88, 238
Total, DOE biomass programs	184, 189	184, 198	196, 198	271, 798

PROGRAM ELEMENTS

Power Systems, $16.3 million.

The objective of this program is to develop, demonstrate, and commercialize near-term bioconversion applications using agricultural and forest residues. Intermediate- and small-scale gasification and direct combustion systems will be developed. Specifically, it is proposed that $3.1 million support the design and implementation of safety and performance standards for residential wood heating systems (expected to be used in 15 million residences by 1985), to support the development of advanced high-efficiency stoves, and to support the implementation of the (proposed) tax credit. $10.2 million will fund the development and demonstration of low-btu gasification units in industrial and agricultural applications.

This program was originally proposed as a part of DOE's Fossil Fuels Utilization Division. Program documents indicate that 4 quads could be produced annually by 1985, if the program were implemented. However, DOE, oblivious to the program's potential decided to cut it in FY 1980.

(Amend CS Solar Applications budget; add $12.4 million to Systems Development, $3.9 million to Demonstrations.)

Gasohol Technology Development, $7 million.

DOE's FY'80 budget request projects a slight relative increase in funding for fermentation development above FY'79 levels. However, this increase does not adequately support the technology, considering its significant potential. The $7 million increase should support further R&D for such near- to mid-term concepts as acid hydrolysis, enzymatic hydrolysis, as well as on-farm fermentation, an application which has been ignored by DOE historically.

(Amend ETS Biomass budget; $2 million to Technology Support, $5 million to Conversion Technology.)

Commercialization, $8.4 million.

DOE has recently chosen wood combustion (and gasification) as being ready for commercialization and has designated a 'resource manager' to oversee the Agency's wood commercialization program. However, almost no funds or staff have been allocated to this program. Moreover, DOE has taken a narrow view in choosing only wood combustion as a commercializable biomass technology. For these reasons, $8.4 million is earmarked for comprehensive commercialization activity supporting a host of near term bioenergy applications including fermentation, gasification or forest and agriculture residues, and direct combustion in utility and industrial applications. The program will be complementary to the technology development effort in the Power Systems Program discussed above. DOE will give special attention to integrating commercialization initiatives with the Department of Agriculture and the Forest Service; at least $4 million should be passed-through to USIA for joint programs.

(Amend CS Solar Applications budget; $8.4 million to Market Development & Training.)

Integrated Farm Systems, $3.5 million.

An area which has received very limited support from DOE or USDA is the development and implementation of on-farm energy production systems. The $3.5 million designated to this program is to fund design studies and development projects which integrate food, feed, and fuel production. Particular attention will be given to comparing integrated farms with conventional farms as to net energy conserved, net profit, and soil and water conservation effectiveness. DOE will coordinate all activities with those in USDA Science & Education Administration.

(Amend CS Solar Applications budget; $3.5 million to Systems Development.)

Anaerobic Digestion, $2.3 million.

DOE has historically promoted the development of large scale anaerobic digestion units having limited application. $2.3 million is designated to support development work on on-farm digestors which can provide .3 quads in the near-term, and which can have significant regional economic and environmental impacts. This program element will be administered in coordination with the Integrated Farm Systems program, and with the Department of Agriculture. At least $2.0 million will be passed-through to (USDA) Agency for Rural Development.

(Amend ETS Biomass budget; $2.3 million to Technology Support.)

Advanced Pyrolysis R&D, $4.0 million.

An area sorely lacking in federal research has been advanced rapid pyrolysis of biomass. The Advanced Pyrolysis R&D program would support applied research into fast through-put pyrolysis systems having high reaction rates and potentially high efficiencies. Research in this area has the promise of providing biomass conversion technologies capable of producing ethylene which can be converted to ethanol, acetylene, and other petrochemical feedstocks which will displace fossile fuels. This program will be administered in coordination with the DOE Office of Energy Research; at least $2 million will be re-programmed to the Office of Energy Research.

(Amend ETS Biomass budget; $4 million to Conversion Technology.)

Basic Biomass Research, $4.1 million.

Another area which has been overlooked by DOE has been in the area of basic and applied thermochemistry research. $4.1 million is earmarked to support projects investigating the gas phase kinetics and catalysis of biomass. The results of this research could add greatly to the scientific understanding of bioconversion and result program will be administered in coordination with the DOE Office of Energy Research and the National Science Foundation; at least $3 million will be passed through or re-programmed to the Office of Energy Research and the National Science Foundation.

(Amends ETS Biomass budget; $4.1 million to Research and Exploratory Development.)

Forest Resources Utilization Research and Demonstration, $17 million. The federal government, particularly DOE, has been preoccupied with developing biomass 'energy plantations' which have speculative (if any) potential in the near term. As a consequence, little emphasis has been placed on using forestry wastes and logging residue resources, despite the fact that there is over 9 quads of this waste material than can be readily converted to energy today with commercial technology.

The Forest Resource Utilization Research and Demonstration program is to dovetail the Commercialization program mentioned above by focussing on developing and implementing a forest waste and residue supply infrastructure. The object of the program is to establish (energy) markets for residues resulting from conventional forest harvest and stand treatment operations. Low-cost harvesting equipment will be developed and demonstrated capable of removing non-merchantable and merchantable biomass from a variety of forest regions. Particular attention will be given to integrating forest and energy programs and policies, and bringing the potential wood suppliers together with potential wood fuel users in the private sector. At least $9 million will be passed-through to USDA Forest Service.

(Amend CS Solar Applications budget; $7 million to Systems Development, $10 million to Demonstrations.)

Agricultural Resource Utilization Research and Demonstration, $13 million. DOE and USDA have done relatively little research, much less implement, any agriculture resource utilization programs. This program will develop and demonstrate a diverse range of feedstock cultivation and harvesting systems which can be used in the near term. Its focus is to develop supply systems capable of delivering feedstock to an energy user(s) in an economically and environmentally acceptable fashion. Integrated harvesting systems will also be developed. Particular emphasis will be given to integrating agriculture and energy programs and policies. At least $4 million will be passed through to USDA.

(Amend ETS Biomass budget; $13 million to Technology Support.)

SYNOPSIS OF POTENTIAL BIOENERGY IMPACTS

By 1985, 6.6 to 9.7 quads can be produced from biomass annually. This is equivalent to displacing almost 5 million barrels of oil per day, or over 12 percent of present energy use.

Up to 4.7 billion gallons of gasoline can be directly displaced with synthetic biomass fuels (ethanol). At this level, almost 50 billion gallons of gasohol would be produced, or about 50 percent of present gasoline consumption.

MAXIMUM POTENTIAL WOOD FUEL/FEEDSTOCK RESOURCE

	Quads per year		
	1978[1]	1990	2000
Near term:			
Unused mill residues	0.6	0.3	
Logging residues	1.7	2.0	
Noncommercial timber reservoir	1.5	1.5	
Annual mortality	1.5	1.6	
Surplus growth	3.1	1.9	
Surplus noncommercial forests	.9	.9	
Total potential	9.3	8.2	
Long term (2000 and after):			
From near-term resources			5.4
Silvicultural energy farms[2]			4.5
Total potential			9.9
Environmental thinnings and intensive forest management could add up to 8 quads per year to above resources	(8.0)		

[1] Estimates by Mitre.

[2] Assumes energy farms fully established by 2000.

MAXIMUM POTENTIAL AGRICULTURE FUEL/FEEDSTOCK RESOURCE

Near term	1985 maximum potential energy
Field crop residues (quads per year[1])	1.0-1.6
Confined animal manures (quads per year[2])	0.4
Agriculture processing wastes and MSW (billion gallons ethanol equivalent[3])	(0.660)
Crops (billion gallons ethanol equivalent[3])	(4.04)
Total (quads)	[4] 1.8-2.4

[1] Alich, Inman, "An Evaluation of the Use of AG Residues as an Energy Feedstock," SRI, July 1976.

[2] Electric Power Research Institute, "Biofuels: A Survey," EPRI ER-746-SR, June 1978.

[3] Statement of Alvin L. Alm, Assistant Secretary for Policy and Evaluation before the U.S. House of Representatives, Committee on Agriculture, May 1979.

[4] 28.8 billion gallons ethanol equivalent.

NEAR-TERM MARKET PENETRATION

Technology	Sector	Fuel resource	Maximum potential energy impact by 1985[1] [2] (quads per year)
Direct combustion to steam	Industry	Wood residues	1.7 -2.0
Congeneration	Industry/utility	do	.3 -1.1
Direct combustion to electricty	Utility	do	.01- .2
Gasification	Industry	do	2.2 -3.0
Direct combustion to space heat	Residential	do	.5 -1.0
Anaerobic digestion	On-farm	Animal manure	.3 - .4
Gasification	do	Agricultural residues	1.3 -1.6
Fermentation	Industry/on-farm	Crops	[3] 3.0 -4.7
Total			6.6 -9.7

[1] Mitre, Technical Inputs to Phase II Commercialization Readiness Assessment, U.S. DOE draft, March 1979.

[2] Broadened Program Plan, U.S. DOE, Residue and Waste Fuels, February 1978.

[3] Billion gallons per year (ethanol equivalent). ●

IMMIGRATION SERVICE CIRCUMVENTS PROCUREMENT REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, I want to call to the attention of my colleagues an internal audit report prepared by the Department of Justice's internal audit staff, dated June 20, 1979, entitled "Survey Report on the Immigration and Naturalization Service Model Office Project."

The report is one of the most straightforward indictments of defective agency planning I have seen in some years.

Finding fault with the Immigration Service seems in fashion in some quarters these days. Frankly, the Congress and the Department of Justice must share the guilt for years of neglect of the Immigration and Naturalization Service which have resulted in the agency's current problems, including the up to 2 years' processing time it takes to consider even routine applications.

Nonetheless, the Justice internal audit, if correct, points to serious irregularities in the recent INS go-ahead for the automation of four of its district offices. In brief, the report notes that:

In taking action to install minicomputers in the four offices, INS bypassed required approvals from the Department of Justice and General Services Administration, and circumvented Federal procurement regulations.

The aggregate annual rental for the four minicomputers is about $130,000. Federal procurement regulations in effect in fiscal year 1978 required GSA approval prior to leasing automated data processing equipment with an annual rental over $50,000. This limit was reduced to $18,000 for fiscal year 1979. To avoid GSA and the regulation, INS split the leasing arrangements into four separate actions, then attempted to push these through the procurement process before the end of fiscal year 1978. (Some necessary documents, however, were not signed until after the start of the new fiscal year, in October 1978.)

The report continues:

> The requested Department of Justice approval was not obtained; however, INS went ahead on September 29, 1978, and issued four separate purchase orders to lease the minicomputers * * * OMF (Justice's Office of Management and Finance) questioned this entire procurement action and INS was subsequently required to submit a request for an "after-the-fact" delegation of procurement authority.

The auditors go on to conclude that the Immigration Service's expansion of its present experimental minicomputer system in Houston, Tex., to the four additional offices "was not justified and appears to have been done primarily to ameliorate criticism of INS operations." Procurement of computer systems requires formal evaluation and justification, which INS did not provide. According to the report,

> There is no evidence to support the expectation that benefits will accrue (from the installation of the four systems), or if they do, whether the benefits will justify the costs.

Despite these irregularities, INS has installed minicomputers in its Boston, Los Angeles, Newark, N.J., and Washington, D.C., offices. These have been in operation little more than 2 months. (The Houston system has been operational since early 1978.) I understand, however, that the General Services Administration has still not formally approved this procurement.

In the CONGRESSIONAL RECORD of June 26, 1979, I brought to the Members' attention some of the defects in the Immigration Service's current planning for an even more ambitious automation project it calls the Integrated Case Control System (ICCS). The ICCS project is based on the Houston prototype system, which according to the Justice internal audit has yet to be properly evaluated.

Now that INS has managed to install minicomputers in a total of five of its district offices, however, it would seem reasonable to wait before going ahead with the ICCS proposal to automate all 49 INS offices, and to test these five existing systems first. The total cost to the taxpayer for the operation of these five systems over the next 5 years is estimated to be $2 million. The cost of the ICCS automation effort over its expected 5-year life is estimated at roughly $25 million.

Now is a good time to follow the tenets of Federal procurement regulations and do the required evaluations first.●

A COMPREHENSIVE REPORT ON THE RECENT RHODESIAN ELECTIONS

(Mr. SYMMS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. SYMMS. Mr. Speaker, when this Congress regrettably failed to send an official observer team to monitor the recent Rhodesian elections, a number of private organizations elected to send observers. All of the American observer groups were uniform in their conclusion that these elections were, in fact, free and fair. One Washington-based foundation, the Institute of American Relations, has produced what is perhaps the most comprehensive observer report of all those in attendance at this historic election. That four-member group included, from the House side, Dr. Belden Bell who also happens to serve as deputy director of the Republican Study Committee of which I am a member.

Mr. Speaker, this excellent report is worthy of close review by all of my colleagues. This report would clearly indicate that the conditions of Case-Javits have been met and that the President should act immediately to remove sanctions or, in the absence of such affirmative action by the President, the Congress should move accordingly to permit the same economic freedom to the new Zimbabwe-Rhodesia as we now accord to many nations whose elections bear far less credibility.

Elections in Zimbabwe-Rhodesia

(A Summary and Introduction)

On April 16, elections began in Zimbabwe-Rhodesia to determine the views of the people as to the future leadership of the nation.

Because of the importance in determining whether these elections were, in fact, fair and free, international observers and literally hundreds of reporters converged upon Zimbabwe-Rhodesia to monitor the election process.

The Institute of American Relations offered to finance the trip of a bipartisan group of observers with ties to the Congress to examine the elections from the technical point of view. Because of the shortness of notice of the invitation, not all those of us who were invited were ultimately able to accept. However, three of the four members of our delegation had actually run for Congress at one point or other in their careers, some in districts where poll watchers had more than a pro forma function; and we were therefore very alert for any indications of fraud, coercion, intimidation of or by campaign workers, or other election irregularities. Moreover, two members of our delegation had had extensive professional experience in African affairs. One member had written his Ph.D. dissertation on the politics and conflicts of pre-independence Kenya, a study which had involved a six-month field trip to Kenya in 1964.

It was hoped that this combination of political and African experience would enable the delegation to view the elections from a technical point of view within an African context, as to the relative degree of fairness and freeness.

During the course of the five-day election, members of our delegation rose every morning at dawn to begin a full day of visits to various parts of Zimbabwe-Rhodesia in order to observe the polling process. We were provided military aircraft and trucks for transportation.

During these visits to polling stations, we interviewed hundreds of voters, officials, campaign workers, and ordinary citizens. Frequently, these people spoke English, but interpreters were used when dealing with tribesmen who spoke only Shona or Matabele languages. Most frequently, we were accompanied by reporters from the international and local press.

In contrast to the British delegation of observers, which felt it should reserve its judgment for political superiors in England, we in the American delegation openly discussed our evolving judgments and questions with members of the local and international media on a daily basis. We were anixous to pool our own information and insights with those gathered independently by the press, and we felt it important that the press see openly how our own judgments were evolving. In point of fact, as the days of the election progressed, a very large degree of consensus developed among most of the international observers and the great bulk of the press representatives as to the nature of the election process. We differed individually on some details, but generally not on the major issues.

In the evening after a full day of visiting polling stations, all the observers and press representatives gathered at a central location to hear the military and political officials responsible for conducting and securing the election discuss the day's developments. In full view of cameras, we then posed the questions that had arisen in the course of the day. Every irregularity or problem discovered by each individual and every rumor was thus aired before everyone else.

In addition to visiting polling stations on tours arranged by Zimbabwe-Rhodesian officials, members of our delegation also made independent and totally unannounced visits to other polling stations. At times, we also requested helicopter pilots to transport us to other locations on the spur of the moment. Except for one or two instances where there were unusual security problems, our requests were invariably granted.

We also met, both individually and in larger gatherings, the most senior members of the present Rhodesian Government, and the leading black politicians contesting the elections. This included private conversations with the Prime Minister, the Foreign Minister, the Director of Intelligence, the top military officers, and the man who ultimately won the election, Bishop Muzorewa.

Members of our delegation also met privately with representatives of the guerrilla forces of both Mr. Nkomo and Mr. Mugabe. One of the members of our delegation flew to Maputo, Mozambique to discuss the situation with members of Mr. Mugabe's Central Committee.

Finally, we met privately with members of parliament from Britain, Germany, France, Belgium and Australia as well as diplomatic representatives from South Africa, to gain from them their views as to the overall political and diplomatic implications of the election.

Out of these visits and conversations, it was possible in a short period of time to obtain a fairly clear picture of the election process itself, and of the economic, political, military and diplomatic context in which the election was held.

Principal Conclusions by the Delegation on the Election

1. Fair and free election.—The election process itself was fair and free to a remarkable extent. The military forces of Zimbabwe-Rhodesia provided security, but did not intimidate the voters. However, a few scattered instances of overly zealous and partisan black auxiliaries, though not observed by us, were reported by a member of the press in an outlying tribal trust area.

2. Secret ballot.—The balloting itself was conducted in secrecy by individual voters who were prevented from voting more than once by means of an ultra violet screening device.

3. Guerrilla intimidations.—The Mugabe and Nkomo forces made a major effort to disrupt the elections by physical intimidation and by attempting to discredit the election in the eyes of the black Rhodesians. Mr. Mugabe's efforts among his own Shona tribe were largely unsuccessful—although a number of voters were shot or blown up by mines which his forces had placed in the roads. However, Mr. Nkomo's Matabele tribesmen, which constitute about a 15 percent minority in the largely Shona Zimbabwe-Rhodesian population, voted in significantly lower numbers.

4. Armed struggle.—Both Mr. Mugabe and Mr. Nkomo's representatives had indicated that they intend to attempt to overthrow the results of the election and secure a dominant position in the power structure of Zimbabwe by means of force if necessary.

5. Possible strategy.—We were repeatedly informed that it was important that the prestige and power of Bishop Muzorewa and his new government be assisted in every way possible to keep the favorable momentum going. If the West provides support for the new Zimbabwe-Rhodesian government, observers in the area hope that this may encourage Mugabe and Nkomo to compromise with Muzorewa. Right now, it seems clear that Nkomo and Mugabe each believes that he will ultimately be able to gain total power by force, and each therefore disdains compromise. It seems to those observers important to disabuse the external leaders of the notion that they can gain total power by slaughtering and intimidating more helpless people with the armed help of the Soviets who have their own ulterior and non-idealistic motives for involvement.

6. Prospects for compromise.—The prospects for Mr. Mugabe compromising with Bishop Muzorewa appear to some area experts somewhat higher than for Mr. Nkomo, both for tribal and personal reasons. Mr. Nkomo was for many years the leader of the move to free Zimbabwe from white rule, and he is reported to be uncomfortable playing second fiddle to anyone else.

Mr. Mugabe, on the other hand, comes from the majority Shona tribe and may therefore believe that he has at least a minimum chance to realize his ambitions through the democratic process under certain circumstances.

7. Potential for anarchy.—Many observers with long experience in southern Africa felt that it was important that the officer corps in Rhodesia, though largely still white, be kept substantially intact during the next few years—though under a black Defense Minister. Democracy can only function where essential security can be provided. If the Zimbabwe-Rhodesian army disintegrates, which military experts feel would be inevitable if the present officer corps were suddenly disbanded or demoralized then the stage would merely be set for yet another military confrontation and bloody civil war between the Shona forces of Mr. Mugabe and the Matabele forces of Mr. Nkomo, one armed and supported by China, the other by the Soviet Union. With these rival armed forces maneuvering throughout the country, anarchy might well prevail as in post-independence Congo, with the essential white experts, farmers and technicians which hold the modern sector of the economy together fleeing en masse.

8. South African intentions.—South African diplomats stated that their country is determined to prevent communist or mili-

tant front line rule from becoming established in Zimbabwe, and is very likely to engage its full military and economic power to prevent Mr. Mugabe or Mr. Nkomo from coming to power by means of force and East bloc arms. The potential military power in the context of this region has impressed many experts.

9. Model for future.—Moderate South African leaders have stated that if the multiracial experiment in Zimbabwe-Rhodesia succeeds, their own hand will almost certainly be strengthened sufficiently to enable them to move their own country toward more liberal and just racial policies. However, if the Zimbabwe-Rhodesian experiment in multi-racial gradualism fails and the nation lapses into violence, tribalism and economic and political chaos, then the hard liners in South Africa will be correspondingly strengthened, and racial progress may be set back for years.

Although it is true that already successful multi-racial societies in Africa have emerged, such as that of Kenya, these were established before the arrival of the Soviet Union and Cubans on any large scale, and during the period when the United States was a powerful moderating force in much of Africa.

Zimbabwe seems likely to be an important test case to see whether the challenge of Soviet armed dissidents can be met and a truly free economy and a democratic multiracial society established under the conditions presently prevailing in the southern part of the African continent.

10. Majority stake in gradualism—Although there is a substantial and growing black middle class in Zimbabwe-Rhodesia, at present, white Rhodesians, with their skills and capital, provide the indispensable backbone of the modern sector of the economy. If these can be provided with security and an incentive to remain, national prosperity will gradually rise. More and more opportunity for blacks will be present, and standards of living for all Zimbabwe-Rhodesia's citizens will be steadily enhanced. Alternatively, if Mr. Mugabe's policies of nationalization, socialization and one party rule are realized, then the whites as well as the black entrepreneurial class seem likely to leave the nation, together with their capital and skills. Similar patterns in other African nations suggest that while such policies might be beneficial to the small group of new people who would take over the Government, this would be a great misfortune for the bulk of the nation's citizens who have an important, if often unarticulated, stake in stability and gradual progress.

We heard Bishop Muzorewa stress this theme in a number of speeches. It would seem in the interests of both Zimbabwe and our own ideals to help him realize his vision.

QUESTIONS ABOUT THE ELECTION IN ZIMBABWE EXAMINED BY OUR DELEGATION

1. The impact of martial law on the elections.—As is well known, two significant, and mutually antagonistic, guerrilla forces in Zimbabwe-Rhodesia had vowed to prevent the people from voting with threats of violent death. Without the presence of large numbers of security forces to guarantee the safety of the voters, Mr. Mugabe's forces in the north and east, and Mr. Nkomo's forces in the south and west, would undoubtedly have prevented the election from taking place. But the really operative question involving martial law was whether the army's role and presence had had a chilling or coercive impact on the voters or the campaigning.

Except for one or two reports brought to the attention of election officials by a member of the press, in which a handful of overly partisan black auxiliaries from remote tribal trust territories were said to have attempted to persuade tribesmen to vote for candidates favored by these individual auxiliaries, the observers neither saw nor, except for one or two unconfirmed reports, heard of any attempt by the military forces to intimidate the voters or to interfere with the campaigning of the candidates.

Quite to the contrary, outside virtually every major polling station, the press and observers noted the presence of dozens of rival campaign workers vigorously exhorting the passing voters to support their candidates.

The observers also interviewed scores of voters to determine whether the army had forced tribesmen to vote. We found not a single instance where this had taken place. In fact, as the election proceeded into its third day, it became obvious that the Matabele people, a minority tribe located in the south and west of Zimbabwe, were boycotting the election in significant numbers. There were a number of reasons for this which are discussed elsewhere in this paper. However, the important fact is that the army made no attempt to force them to come to the polls, and they stayed home. However, the Shona, Malawi, and Zambian tribesmen living side by side with the Matabele in these regions did turn out to vote in large numbers.

We concluded, based on our observations, that the presence of the military and martial law did not compromise the elections in any way. They merely served to guarantee that voters could campaign for the candidate of their choice, make their way to the polls, vote, return to their homes and survive.

2. Impact of threats by guerrilla forces to kill anyone who voted.—A few days before the election, Mr. Mugabe made radio broadcasts threatening the lives of those who voted. To counteract this and other threats, the Army of Zimbabwe mobilized its full strength and dispersed around polling stations throughout the country. On the first day of the polling, in areas where Mr. Mugabe's forces were strong, there was a certain amount of apprehension among voters standing in a few of the lines in front of polls. This apprehension was particularly noticeable among tribesmen who worked and lived on farms distant from the villages regularly protected by the armed forces or militia. Interviews with these people established that they had decided to vote because they desperately hoped that the new government elected by the majority of the people would be able to end the fighting and restore peace. But they were very apprehensive about being mortared while standing in the lines (and there were in fact freshly dug slit trenches to provide shelter from any mortar attack at a few of the most remote and exposed polling stations).

At a few of these remote locations, farm workers were also apprehensive about retaliation after the elections were over. However, this apparent unease was visible only in a very small percentage of polling stations, and even this vanished after the first day or two of polling. Far more characteristic was the festival-like atmosphere at most polling stations, with dozens of chanting, singing, dancing groups of campaign workers waving placards with the pictures and slogans of their favored candidates.

The Mugabe and Nkomo forces made some direct attempts to intimidate the voters. In one instance, Mr. Mugabe's people lined up 90 villagers the night before the election, warned them not to vote, and then opened fire on them with Russian submachine guns, killing three and wounding five of them. (Interestingly, however, two of those wounded in this attack reportedly limped to the polls a day later and voted with the rest of the villagers). In a few scattered areas, Mugabe's people planted mines in the road which exploded killing a number of blacks. In one remote area, they burned down hundreds of huts.

Among the Shona tribesmen and their relatives which comprise 80 percent of the people of Zimbabwe, the tactics of terror and intimidation were completely unsuccessful, even though Mr. Mugabe himself is a member of this tribe.

On the other hand, Mr. Nkomo's Matabele tribesmen were more responsive to threats and exortations. A significant percentage of this minority tribe did not vote. This was partly because they took Mr. Nkomo's threats seriously, and partly because the Matabele people, which formerly ruled the far more numerous Shona, resent the very idea that they should now be under the dominion of the Shona. Under majority rule, this, of course, is inevitable—unless Mr. Nkomo is ultimately able to impose a military solution with the help of his Soviet and Cuban advisors and their arms. The prospect of this reversal of roles on the part of the Matabele and the Shona—while popular with the more numerous Shona—is understandably not appealing to Zimbabwe's former master tribe, the Matabele.

In some cases, educated Matabele government workers participated in the polling process, as did all other government workers in Zimbabwe, black and white. But they did so with extreme reluctance, and they feared retaliation among their families by Mr. Nkomo's forces.

3. Were workers on white-owned farms and factories forced to vote?—From the first day, the international observers of the election were particularly concerned about the prospect that white employers would force black workers to come to the polls with the threat of loss of jobs. Extensive efforts were made to interview black voters to determine whether or not this had actually happened. Although it is possible that this may have happened in scattered instances, to our best knowledge, neither the international observers nor the hundreds of reporters present uncovered a single case of this happening. Moreover, since there were no records kept of individuals who did or did not vote, there would be no way for any enforcement of such a policy. Instead of voting, a worker could have simply gone fishing and no one would been the wiser.

What does seem to have been an operating factor was this: black workers are used to taking orders from their employers. And undoubtedly, it was evident that the employers were intending to vote themselves and that they verbally encouraged their employees also to vote, though not for any particular candidate, providing transportation if requested, in some instances.

So on one hand, the workers on white-owned farms and factories were being encouraged by their employers to vote, and at the same time, the workers were ordered by the guerrilla forces not to vote on pain of death. It is hard to judge how the individual black weighed these factors in his own mind, but it would appear that they decided to take a risk for peace and black majority rule and nearly 64 percent of the estimated eligible voters turned out to cast their votes.

4. Potential ballot box stuffing.—In an area as large and disrupted as present-day Zimbabwe, where people are voting for the first time, there is always the potential of some ballot box stuffing. However, to guard against this taking place, individual ballots were numbered, and the boxes themselves kept sealed and under guard at all times. While no one can guarantee that some irregularity did not take place at one of the hundreds of polling stations, there was not a single rumor or report of any irregularity of this kind. Moreover, to have had any significant result on the election, fairly large scale organized

fraud would have had to have taken place. The small prospect that this could have been accomplished undetected—given the presence of hundreds of international reporters and observers, and thousands of partisans of individual candidates all over the country serving as official and unofficial poll watchers—make it seem exceedingly unlikely that this sort of thing took place. Also given the stakes in Zimbabwe of this election being perceived as fair and free by the international community, it would appear most improbable that the election authorities would have run the massive risk which tampering with the process would have entailed.

5. How did the lack of voter registration impact the process?—The lack of voter registration was important for a number of reasons.

First, it made certain that the number of eligible voters would only be estimated based on census data that was more than ten years old. While this means that probably the overall estimate of total numbers of potential voters was fairly close, individual areas and regions probably had significantly inflated or deflated estimates of potential voters. In the war that has raged throughout the country for the past several years, significant migrations of population have taken place, as people fled to more secure areas. Also, there are significant numbers of migrant workers who travel from tribal areas to harvest the sugar crops or participate in other seasonal economic activities.

We would have preferred to see a careful voter registration process, and had there been a lower voter turnout, the lack of absolutely accurate data on the total number of potential voters might have inclined some of us to question whether a majority of the people had actually cast their ballots for the new government.

However, the fact that 63.9 percent of the estimated voters turned out for the election on a country-wide basis provided for us a sufficiently comfortable margin to give us confidence that a majority of Zimbabwe's citizen voters had, in fact, expressed their preferences at the polls.

Also given the constant migration process, the fact that undoubtedly some voters preferred to cast their vote away from areas where they were well known to avoid recognition at the polls by guerrilla observers, the fact that registering for the vote would have put some tribesmen in the uncomfortable position of being on official lists of those who cooperated with the voting, thus discouraging them from participating at all, made us understand why the decision had been made not to organize a pre-election voter registration.

In fact, the government went to great lengths to ensure that voters could hide the fact that they had voted, should they so desire, when they returned to exposed tribal homes after polling. The only mark made to ensure that people could not vote twice was a chemical dip for fingers that was visible for at least one week under special ultra violet light.

Finally, it should be noted that the Anglo-American voting plan for Zimbabwe also called for no pre-registration of voters, a common omission in third world elections.

6. Did Mr. Mugabe and Mr. Nkomo, the guerrilla leaders, have an opportunity to participate?—The government made efforts to encourage the guerrilla leaders and their followers to participate in the polling process, including special radio broadcasts.

However, it was probably quite clear to Mr. Mugabe and Mr. Nkomo that they would almost certainly lose, probably humiliatingly, any free and fair election.

As noted earlier, Mr. Nkomo's tribal base consists of a small tribe, the Matabele which is feared and distrusted by the majority peoples, the Shona, who have vivid folk memories of the rapacity and tyranny with which this off-shoot of the Zulu tribe had formerly exercised its rule in the days before Europeans arrived to supplant them.

Mr. Nkomo's only hope of winning power in Zimbabwe, given this tribal situation, consists of a military victory of his Matabele forces, armed and advised by the Soviets and Cubans.

Thus, it is fair to assume that Mr. Nkomo will never submit to majority rule as long as he can hope to achieve a military victory—prospects for which are discussed elsewhere in this paper.

Mr. Mugabe, on the other hand, has a tribal connection with the majority Shona peoples, and is by all accounts a charismatic and articulate politician. However, his propensity for ruthless violence, and his deeply held Marxist political and economic views have made him deeply distrusted by large numbers of Zimbabwe-Rhodesians, black and white.

An indication how Mr. Mugabe might have fared at the polls is indicated by the results of the actual election. In overwhelming numbers the people of Zimbabwe voted for a peaceful Methodist bishop whom they trusted over a probably more intelligent and articulate former guerrilla leader, Mr. Sithole, whom they did not trust. Mr. Mugabe no doubt wanted to avoid the humiliation at the polls suffered by his former colleague, Mr. Sithole, and thus, boycotted the election. He apparently has placed his hopes on violence and Chinese arms as the most promising ticket to power.

After the election, a member of our group flew to Mozambique to meet with Mr. Mugabe's central committee members. Mr. Mugabe's people clearly indicated that they had rejected the idea of participating in these elections, though stating they might have under United Nations auspices. They declared that they would continue fighting for fifty years if necessary to "liberate" the people of Zimbabwe, regardless of the carnage and destruction that may be required.

7. Would the results have been different had the election been supervised by United Nations personnel?—Virtually none of the observers or press representatives watching the election in Zimbabwe thought that the actual election process as we saw it unfold would have been any different had several hundred United Nations officials been present. This election was free of any significant fraud. The majority of Zimbabwe's citizens wanted a Methodist bishop named Muzorewa as their new prime minister and they freely elected him.

On the other hand, the external leaders, Mr. Mugabe and Mr. Nkomo, who command important personal armies, would clearly prefer that the present security forces of Zimbabwe be disbanded and replaced by a United Nations security force to supervise the transfer of power. These guerrilla forces undoubtedly believe that with the disbanding of the regular security forces, the United Nations military presence would be far less effective in resisting pressures by the guerrilla forces both during and after any election. And once the highly professional security forces now in existence are disbanded, there would be almost no possibility of reconstituting them to their present state of effectiveness. Thus, the stage would be set for the other two armed elements, Mr. Mugabe and Mr. Nkomo's forces, to contest for power among themselves without hindrance from a powerful third force.

Another less important consideration regarding any new election is the enormous expense associated with the process of organizing, securing and conducting an election in a country involved in guerrilla warfare.

In this case, much of the able-bodied white male population was mobilized for police and army duties together with thousands of black auxiliaries to provide essential security to voters threatened with death.

The direct cost of the election and mobilization, and the indirect loss to the GNP represented by the diversion of much of the trained population to military and security duties was reported to run into many millions of dollars.

8. The constitutional questions.—The fact that 28 seats out of 100 were reserved for white Zimbabwe-Rhodesians and that the present members of the civil service and officer corps are guaranteed against summary removal from their positions for between five and ten years was clearly the most troubling aspect of the election to most observers and press visitors.

However, even the Anglo-American plan has called for 20 seats to be reserved for whites, with some room for upward negotiation of that number had the Rhodesians supported the plan. So this was not the main question. The main question was whether Zimbabwe would really be under majority rule if the civil service and the officer corps were still largely white for another five years or so as is now in prospect under the present constitutional provisions.

If considerations of pure merit and competence were the determinant, there is no doubt that most, though not all, of the present incumbents of civil service and military would keep their jobs. Both observers and press were struck by the high quality of officers and civil servants whom they met, with only a few exceptions. In their professionalism and informality, the officers reminded many observers and press personnel of the quality found in the Israeli army. The civil servants, particularly those working out in the rural tribal trust areas, seemed to be both intelligent and dedicated to the welfare of the people.

All this must be honestly stated even at the risk of appearing to be unduly biased toward the present officials and officers. From a pragmatic point of view alone, it would appear that for many of these people to remain in office for a few more years to train the coming generation of black Zimbabwe officers and civil servants would be useful.

The important thing to bear in mind about the future is that with the black majority in the new Parliament, the power of the purse, the black ministers in charge of most government departments and ministries, the certainty of constitutional revision over the next five or ten years, and other similar pressures which events have already set in motion ensures that black Zimbabwe-Rhodesians will have a constantly expanding role in the political and economic life of the nation. But it will be a gradual, smooth transition.

On the other hand, if many of the remaining white officers were summarily removed from their jobs to make way for less trained black Rhodesians, it is probable that the small but highly effective Zimbabwe-Rhodesian army—which is already 80 percent black and has more than 100 black officers—would rapidly lose ground against the forces of the two rival guerrilla armies.

The deteriorating security situation would then set the stage for an exodus of trained white personnel in all areas of the economy and government. The two rival forces of the guerrillas, one largely Shona and armed by China, the other largely Matabele and armed by Russia would later fight among themselves for supremacy in a long, bloody, ruthless civil war.

We question whether running such major risks would be in the interest of the majority of Zimbabwe's citizens.

Finally, though we recognize that the constitution as it now stands temporarily retains power for white Zimbabwe-Rhodesians disproportionate to their numbers, the constitution nevertheless has set in motion an inexorable process toward an ever increasing black role in Zimbabwe.

When asked about the shortcomings of the constitution, Bishop Muzorewa made a number of interesting observations. He noted that the constitution was a compromise. That neither blacks nor whites were completely satisfied with the final result and that there would be subsequent pressures to amend the constitution, as time went on. But for now, this was the best constitution that could be obtained, and that the 64 percent of Zimbabwe's citizens who voted under its terms was an indication that the majority of the country's people implicitly understood the necessity for, and validity of, this compromise.

It might also be noted that even the American constitution was originally a hard fought compromise between urban and rural interest, between capital and labor, between big states and small states. It took more than 150 years before women were permitted to vote, before American blacks were truly afforded equality of status with whites, before senators were elected by the people. Even today, smaller states are disproportionately represented in the Senate and there is no direct election of the President.

When examining the constitutional shortcomings of the Zimbabwe constitution, we might think about the compromises made in our own constitution to ensure majority acceptance and economic and political stability even at the cost of injuring certain purely democratic theories. Rather than trying to impose American ideas of what a constitution for Zimbabwe should be, perhaps the people of Zimbabwe should be given some years to work out these matters on their own by democratic means and gradualist measures.

9. Was any vote buying in evidence or practical?—There was not a single instance of vote buying even rumored. And even if money had been offered to a voter, there was no way the one who was bribing could have verified that his money had produced a sympathetic vote. The process of balloting was secret.

10. Was it possible for someone to vote more than once?—As each voter filed into the polls, his hand was inserted into a box containing an ultra violet light. If nothing appeared on his hand, he then filed past and dipped his hand into a solution containing a fluid which showed up under ultra violet light. This solution stuck to the hand of a voter for over a week, and made it impossible for him to come into the polls at another location and pass the ultra violet light test. Our delegation of observers tested the fluid on our hands and tried every polling place subsequently visited to determine whether we could avoid detection. We were invariably detected. There was only one flaw in the system. If a voter immediately upon leaving the polls shook hands with a friend while the solution was still wet on his hand, it would occasionally rub off onto the hand of the friend and show up when the friend tried to vote himself. However, it left a distinct pattern on the hand different from that which came from dipping, and the few instances of confusion caused by this were quickly clarified. No amount of washing or scrubbing would remove the mark left by the solution. We concluded that it was, therefore, not possible to vote more than once.

11. Did the majority of the people in Zimbabwe, many of whom are illiterate, understand what they were voting for?—The answer to that question is both yes and no. In terms of having a sophisticated grasp of all the issues, and a clear idea of what the future prospects were, one would have to say that the great bulk of voters were only generally informed.

On the other hand, dozens of interviews established that there was a widespread belief that the elections leading to a black prime minister offered some hope that the war could be brought to a gradual end. And the individual candidates had literally thousands of volunteer workers bringing the candidates' views and message to the people in all parts of the country.

Moreover, it was clear to observers that Bishop Muzorewa had by far the most effective and enthusiastic volunteer workers in the black community. And those of us who were familiar with elections in the United States were not surprised to see him ultimately triumph over Mr. Sithole and Mr. Chirau, whose organizations were distinctly inferior in quality and quantity to that of the Bishop. It should be emphasized that the workers for all candidates were volunteers. Though undoubtedly they existed at some level, we did not encounter a single paid campaign worker for a single candidate.

12. Why in some districts did as many as 110 percent of the estimated voters turn out? Did this mean local fraud or, possibly, a deliberate attempt by the government to underestimate the available vote so as to make the final result more impressive?—In a number of districts, this phenomenon appeared—something that was initially very disturbing to some of us. However, by carefully examining the districts where this had taken place, it turned out that it had been caused by the presence of migrant workers in places, by the influx of people to the protected villages in other areas and by movement from rural to urban areas over the past ten years since the census in still other regions. There was also reportedly a significant number of individuals who voted away from their home areas in order to avoid being noticed by any local guerrilla representatives. However, we were unable to verify this latter aspect from our interviews or independent observation.

13. Did the international observers and press really see what was going on?—The international observers and press, who were being flown around the country on military helicopters and trucked to the polls by military vehicles wanted to determine whether they were really being shown representative polling stations, or whether they were merely being shown model areas—political Potemkin villages—to impress, but which were unrepresentative of the election process as a whole.

Many of us, having visited Vietnam during the conflict, were very alert to the potential dangers of this sort of situation. As a consequence not only did we visit more than 60 polling stations on our regularly scheduled tours, but we also made unexpected detours—requesting the helicopter pilots to go to one location instead of another while en route. We also made independent visits to other polling stations without our escorts on an individual basis. But the patterns were invariably the same wherever we went.

14. Who really represents the people of Zimbabwe?—We wanted to know if Muzorewa, Sithole, and Chirau were really popular black leaders or whether they were merely stooges for the whites, political Uncle Toms, with no real following among the blacks; and if Nkomo and Mugabe were the real popular leaders of the people of Zimbabwe.

We observed a tremendous amount of enthusiasm, particularly for Muzorewa, wherever he appeared at the polls and there were monster rallies for him during the campaign. The press reported the same thing. All of his workers were volunteers, as were those of the other candidates. And the election results were in direct proportion to the degree of enthusiasm and volunteer support which were perceived by the international observers and the press. As noted before, Mr. Nkomo does have considerable support among the Matabele people, a minority tribe, and he would undoubtably win an election among this tribe. But the Shona peoples, constituting 80 percent of the nation, obviously prefer someone of their own ethnic grouping, and not Mr. Nkomo, as the leader of the nation. We would also assume that if Mr. Mugabe thought that he could have come to power by participating in an election, then he would have done so. We assume that he concluded that the Bishop would have drubbed him as badly as he did Mr. Sithole, also a former Shona terrorist of charismatic nature who chose to try to gain power through elections.

At the risk of over-simplification, our observer group concluded that it was partly a question of ballots versus bullets. It appears that Mugabe and Nkomo think that they have a better chance of coming to power by means of strategem and the gun rather than through the polls. We also believe it is very probable that the enthusiasm shown by the Mugabe guerrilla forces for disbanding or weakening the regular Zimbabwe army and the supervision of a new election by the United Nations personnel and forces was largely a tactical maneuver. If by any means the regular army can be dissolved or seriously weakened, subsequently moving any United Nations force aside will be a comparatively simple task, and the forces of the guerrillas will then be in a position to impose their own rule and ideology on Zimbabwe-Rhodesia.

15. Why did Mr. Sithole claim that the election was rigged after the ballots were counted and he had lost?—Although it is obviously impossible to read the mind of another individual, the following facts may have a bearing on this situation.

Members of our delegation spoke privately with Mr. Sithole during the course of the election week. We asked him a number of questions in these conversations, including if he thought the process of election was fair and free. Both to us, and to members of the press who posed similar questions, Mr. Sithole responded overwhelmingly in the affirmative.

Mr. Sithole is an extremely able man—considered by many the most intelligent and articulate of the candidates running. He has an ample ego, and very large ambitions. His campaign appeared well financed. Under these circumstances, Mr. Sithole suffered a crushing loss in the election—winning only 12 seats. His chief rival, Bishop Muzorewa, won more than fifty seats. Another contender, Chief Chirau, who has also raised some questions about the elections, didn't win a single seat.

Mr. Sithole and Mr. Chirau suffered serious loss of face, as well as personal disappointment at the results. For them to claim that the elections were unfair would be one way to minimize the embarrassment and possibly create international pressures for new elections, when they might be able to build better organizations and increase their overall vote. Threatening to raise an international fuss over the elections would also be an important bargaining device with those who actually won the elections to help secure important seats in the cabinet to be formed.

We noticed in our own conversations with Bishop Muzorewa that he didn't express full confidence in Mr. Sithole, a former guerrilla fighter with a dubious reputation among many Zimbabwe-Rhodesians. One could imagine that the Bishop might dispense with Mr. Sithole altogether, or fob him off with a minor cabinet post—if he could. His own majority status in the Parliament now gives him the power to do exactly that. And we would guess that Mr. Sithole may have decided to put a little heat on the Bishop.

It is significant that neither Mr. Sithole nor Mr. Chirau has been able to document assertions about major election irregularities in the week since the polling has passed.

BROADER POLICY QUESTIONS

1. What is the extent of Soviet, Cuban and Chinese involvement in the guerrilla conflict over Zimbabwe, and what are the Soviet objectives in this part of Africa?—The delegation saw large quantities of Soviet and Chinese arms captured on various battlefields, though diplomatic sources stated that Soviet and Cuban combat personnel do not appear to be directly involved on any significant scale.

However, the big stakes in Africa today are not, of course, in Zimbabwe-Rhodesia alone, but in South Africa and the rest of the continent.

Some observers feel that it is possible that Soviet support for militant guerrillas in Zimbabwe-Rhodesia may be a part of a larger African campaign.

It may be that among other things, the Soviets hope to disrupt the South African economy by helping to embroil it in external and internal conflict and thus create additional strains on the Western economy as a whole.

In addition, if by its aloof and disapproving posture, the American and British Governments indicate that the new government in Zimbabwe-Rhodesia is illegitimate, the Soviets may consider this to be the equivalent of a diplomatic hunting license to move against Zimbabwe-Rhodesia's new government.

Alternatively, if the United States and Britain recognize the new government and broaden their contacts with its personnel, the Soviets may think twice about stepping up their involvement at a time when they are apparently anxious to create a favorable climate in the United States to ensure passage of the SALT Treaty, secure removal of certain trade sanctions, and avoid other forms of geopolitical pressures which the West is capable of organizing in areas where the Soviet Union herself is vulnerable.

However, large scale Soviet and Cuban involvement from the territories of Zambia and Mozambique would require the cooperation of the governments of both countries. In the past, these governments were not anxious to provoke increased retaliation by the armies of Zimbabwe-Rhodesia which could lead to serious economic disruption and destruction.

Any stepping up of such cooperation might invite large scale and long lasting military operations against the guerrillas in these countries.

There is no doubt but that dropping sanctions by the United States toward the new government of Zimbabwe would produce some verbal protests. But it is not clear that serious, long lasting action beyond these protests would emerge from Africa unless by its own internal divisions and hesitation the Administration gave signs that it could be influenced by such actions. It should be noted that even front line Zambia now maintains extensive trade with Rhodesia and can hardly protest too convincingly if others follow suit.

2. Can the military and political situation in Zimbabwe be stabilized short of capitulating to the guerrilla forces?—Zimbabwe-Rhodesias military personnel appeared confident that there was every prospect of containing the guerrillas, though acknowledging that there would be no immediate end to the fighting. They cited a number of reasons for their confidence.

A. Unlike jungle terrain, which provides impenetrable cover for hidden guerrillas, Rhodesia is largely an open countryside. In the outlaying regions, a man's tracks in the dusty soil can be followed for days after he passes. Thus, it is somewhat more difficult for guerrillas to operate in this terrain unless they have the complete support of the local people.

B. Mr. Nkomo's Matabele guerrillas are handicapped by the fact that they are hated and feared by Mr. Mugabe's Shona forces. According to local observers, any attempt by either Nkomo's or Mugabe's group to penetrate the tribal areas of the other immediately results in their being reported. When the two forces meet in areas where their relative spheres of influence overlap, they have been known to open fire on each other. All attempts which have been made by the Soviets and others to bring about a uniting of the two guerrilla forces appear to have failed almost at once because of these conflicting tribal and personal rivalries and tensions. Future attempts at a reconciliation seem probable, but prospects for success appear dim to most area experts with whom we discussed the matter.

C. Rhodesian officers and political leaders also expressed the belief that with the enormous mandate received by Bishop Muzorewa, and the prospect of a greatly increased black role in the new government, that there will be increasing cooperation by the ordinary black Rhodesians to bring a gradual end to the fighting.

Certainly, it was the impression of our observers in discussions with individual Zimbabwe-Rhodesians that the people, black and white, rural and urban, are deeply tired of the strain, disruption, and carnage of the war. While there may be a certain amount of romanticism associated with leftist guerrillas in the minds of many in the West, there appeared to us to be no such feeling in the villages of Zimbabwe-Rhodesia preyed upon by terrorists in the night to extort food, to kidnap the young and unwilling cannon fodder, and to butcher the tribal elders.

But however tired the people of the nation may be of the war and its costs, a number of practical difficulties appear to stand in the way of a comprehensive political compromise solution, beginning with the fact that the patriotic front is itself divided into two major, mutually antagonistic, factions.

Even if Mr. Mugabe personally were brought into a coalition, local experts believe that elements of Mugabe's own armed forces would continue to fight on with the help of externally provided arms. Some American diplomats in the area have already noted serious personal and tribal tensions within Mugabe's own organization and army. And, of course, even if Mr. Mugabe were to compromise, his rival in Zambia, Mr. Nkomo, would almost certainly continue fighting with the help of Soviet arms and money.

Bishop Muzorewa has, however, managed to pull together a coalition of Zimbabwe moderates and a number of the warring factions by means of compromise. It appears that he has a chance to succeed in stabilizing Zimbabwe over time. And we have the option to increase or decrease his chances of success by dropping or retaining sanctions, and extending or witholding recognition.

If Bishop Muzorewa appears to be a long-term winner, the chances of significant numbers of others later accepting his offer of amnesty and joining his government seem improved. But if the others are encouraged to think that he is possibly only a passing phenomenon, vulnerable to attack, they will undoubtedly take heart.

The next chapter in the Zimbabwe-Rhodesian story is not going to be a neat or clean one. The process of mopping up the guerrillas is inevitably going to be messy and continue for some years.

Should the United States, and the West in general, turn a cold shoulder on Bishop Muzorewa and the new government of Zimbabwe, it is obvious that Muzorewa will be forced into the full embrace of the South Africans in order to survive attacks from Soviet and Chinese armed insurgents. And survive he may, but at the cost of permanently weakening his reputation in much of the rest of Africa, and even to some extent in his own country.

It would seem in the interest of the United States to offer the Bishop an alternative short of total dependence on South Africa. By helping to discredit him, by refusing to associate with him or his government, and by continuing largely ineffective sanctions, it is difficult to imagine what proportional tangible benefits are gained.

In the new government of Zimbabwe-Rhodesia, obviously, serious people prefer a coalition consisting of all factions. But this appears to most of the experts with whom we met to be an utterly impractical objective at this time.

Although undoubtedly past American diplomatic pressures in southern Africa have speeded up the inevitable progress toward racial justice, some diplomats with whom we may have pushed this matter in the region about as far and as fast as it can be moved at present.

In societies with deeply held feelings—however unattractive they may be to others outside—political leaders can only move so far ahead of public opinion without being replaced in office by harder line individuals more in tune with the views of the country's real power structure.

Some have argued that we have already gone far toward accomplishing many of our objectives in southern Africa, helping set in motion events that have now taken on a dynamic of their own. The pace may be slower than we would ideally prefer. But this was also true in the United States where many years elapsed between the landmark Brown vs. Board of Education decision and broader implementation. The process is still not complete.

Good diplomacy sometimes requires a certain amount of patience and time to achieve longer range objectives.

Finally, some regional experts with whom we spoke felt that the West should begin to give more attention to other problems in this part of the world that threaten the lives and security of ordinary African citizens.

In particular, the cynical Soviet practice of arming dissident tribal leaders and factions to wreak subsequent havoc among African societies and economies is something that surely deserves more active consideration by the American Government.●

A. M. "TINKER" ST. CLAIR RETIRES

(Mr. RAHALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. RAHALL. Mr. Speaker, I rise today to pay tribute and to thank a man who has truly served in the best interest of the residents of McDowell County, W. Va., for the past 31 years.

Last Friday, July 6, Arthur Malan "Tinker" St. Clair retired as the county clerk of McDowell County. "Tinker" and his lovely wife of 39 years, Elnora, will now live with one of their two daughters in Virginia.

The 1935 graduate of Gary High School began his career in 1937 as a county schoolbus driver to help his father make ends meet during the depression. In 1948, he was appointed deputy sheriff.

After serving for 10 years, under three sheriffs, "Tinker" served as an investigator for the prosecuting attorney and 9 years later was elected justice of peace for Brown's Creek District.

In 1965, he was appointed and then elected county clerk of McDowell. He subsequently overwhelmed opponents in the elections of 1968 and 1974.

Mr. Speaker, I cannot say enough about "Tinker" St. Clair. As the Representative in Congress from the Fourth District of West Virginia, he is a close friend and adviser. I pray that all of us can carry out our duty to the public in the same manner he did.

The State of West Virginia will miss him. McDowell County will miss him. I will miss him.

We all wish "Tinker" and Elnora a very happy life, with their daughters Patty and Linda, and I am sure their grandchildren Kimberly, Eddie, and Mack will add to that pleasure.

I am also very happy that "Tinker's" chief office deputy, Mrs. Hilda Taylor, has been appointed to fill out his term. Mrs. Taylor has also been a tireless public servant and will certainly carry on where "Tinker" St. Clair left off.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Lehman (at the request of Mr. Wright), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Rhodes, for 1 hour, today.

(The following Members (at the request of Mr. Daniel B. Crane) to revise and extend their remarks and include extraneous material:)

Mr. Wampler, for 5 minutes, today.
Mr. Courter, for 5 minutes, today.
Mr. Kemp, for 10 minutes, today.
Mr. Grassley, for 10 minutes, today.

(The following Members (at the request of Mr. Swift) to revise and extend their remarks and include extraneous material:)

Mr. Drinan, for 60 minutes, today.
Mr. Stokes, for 60 minutes, today.
Mr. Weaver, for 10 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Wolff, for 15 minutes, today.
Mr. Alexander, for 5 minutes, today.
Mr. Brinkley, for 10 minutes, today.
Mr. Brown of California, for 10 minutes, today.
Mr. Thompson, for 5 minutes, today.
Mr. Fithian, for 5 minutes, today.
Mr. Preyer, for 5 minutes, today.
Mr. Flood, for 60 minutes, on July 18, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Symms, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,833.50.

Mr. Guarini, to revise and extend his remarks on multilateral trade treaty at the conclusion of debate on the bill.

Mr. Alexander, to follow remarks of Mr. Foley on H.R. 4537 in the Committee of the Whole today.

Mr. Gibbons, to revise and extend his remarks following remarks of the gentleman from Pennsylvania (Mr. Gaydos) on H.R. 4537.

Mr. Rudd, to insert remarks in support of committee amendment prior to its adoption.

Mr. Young of Florida, to extend his remarks prior to passage of the committee amendment.

Mr. Ashbrook, to revise and extend his remarks prior to the vote on the committee amendment.

(The following Members (at the request of Mr. Daniel B. Crane) and to include extraneous matter:)

Mr. Erlenborn.
Mr. Royer.
Mr. Shuster in two instances.
Mr. Rinaldo.
Mr. Conable.
Mr. Collins of Texas in two instances.
Mr. Paul.
Mr. Dannemeyer in two instances.
Mr. Derwinski in three instances.
Mr. Carter.
Mr. Courter.
Mr. Gingrich.
Mr. Hillis.
Mr. Philip M. Crane.
Mr. Hammerschmidt.
Mr. Sawyer.
Mr. Green.
Mr. Quayle.
Mr. Solomon.
Mr. Harsha.
Mr. Conte.

(The following Members (at the request of Mr. Swift) and to include extraneous material:)

Mr. Matsui.
Mr. McHugh.
Mr. Fisher in two instances.
Mr. Rosenthal.
Mrs. Schroeder.
Mr. Lehman.
Mr. Downey.
Mr. Hamilton.
Mr. Skelton.
Mr. Obey in five instances.
Mr. Hawkins.
Mr. Young of Missouri.
Mr. Stark in two instances.
Mr. Jones of Oklahoma.
Mr. Mathis.
Mr. Peyser.
Mr. McDonald in five instances.
Mr. Gaydos in five instances.
Mr. Blanchard in two instances.
Mr. Long of Maryland.
Mr. Boland.
Mr. Atkinson.
Mr. Moakley.
Mr. Fisher.
Mr. Weaver.
Mr. Bingham.
Mr. Fountain in two instances.
Mr. AuCoin.
Mr. Brown of California.
Mr. Rostenkowski in two instances.
Mr. Oberstar.
Ms. Oakar.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 927. An act to authorize the Smithsonian Institution to plan for the development of the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street, Southwest, in the city of Washington.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on July 9, 1979, present to the President, for his approval, a bill of the House of the following title:

H.R. 4556. To amend section 1521 of the Public Health Service Act to authorize the Secretary of Health, Education, and Welfare to extend conditional designations of State health planning and development agencies.

ADJOURNMENT

Mr. BRINKLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 11, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1981. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of July 1, 1979, pursuant to section 1014(e) of Public Law 93–344 (H. Doc. No. 96–160); to the Committee on Appropriations and ordered to be printed.

1982. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting an interim final regulation governing the award of discretionary grants to build the statistical capabilities of State educational agencies, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

1983. A letter from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on the programing and obligation of funds authorized for relief and rehabilitation assistance to the victims of the March 4, 1977 earthquake in Romania, pursuant to section 495D(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1984. A letter from the Secretary of Energy transmitting the data on energy supplies, shortages, demand and allocation requested from the President by House Resolution 291, adopted June 15, 1979 (H. Doc. No. 96–161); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

1985. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

1986. A letter from the accountant for the American Symphony Orchestra League, Inc., transmitting the audit report of the League for the year ended March 31, 1979, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

1987. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to authorize payment from the Civil Service Retirement and Disability Fund for the expenses of retirement appeals; to the Committee on Post Office and Civil Service.

1988. A letter from the Secretary of Transportation, transmitting a report on carpool use of the Dulles Airport Access Road, pursuant to section 165 of Public Law 95-599; to the Committee on Public Works and Transportation.

1989. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38 of the United States Code to permit disclosure of names and addresses and other information maintained by the Veterans' Administration to a consumer reporting agency for certain debt collection purposes; to the Committee on Veterans' Affairs.

1990. A letter from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to establish volunteers in military department museums' programs, and for other purposts; jointly, to the Committees on Armed Services and Post Office and Civil Service.

1991. A letter from the Acting Comptroller General of the United States, transmitting a report on problems in Job Corps' recruiting process and in its preparation and reporting of job placement information (HRD-79-60, July 9, 1979); jointly, to the Committees on Government Operations and Education and Labor.

1992. A letter from the Comptroller General of the United States, transmitting a report on factors affecting the withdrawal of U.S. ground forces from the Republic of Korea (ID-79-18, June 1, 1979); jointly, to the Committees on Government Operations, Foreign Affairs, and Armed Services.

1993. A letter from the Chairman, National Transportation Safety Board, transmitting the 1978 annual report of the Board, pursuant to section 305 of Public Law 93-633; jointly, to the Committees on Public Works and Transportation, Interstate and Foreign Commerce, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FUQUA: Committee of Conference. Conference report on H.R. 2729 (Rept. No. 96-321). Ordered to be printed.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. Report on allocation of budget totals to subcommittees (Rept. No. 96-322). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 2538. A bill to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes; with amendment (Rept. No. 96-323). Referred to the Committee of the Whole House on the State of the Union.

By MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 2994. A bill to amend the Ports and Waterways Safety Act of 1972 to provide for the award of matching grants to municipalities and public agencies in the United States to enable those authorities to protect deep-draft commercial ports and land areas adjacent to those ports from fires, explosions, or other incidents causing damage in those ports, and for other purposes; with amendment (Rept. No. 96-324, Pt. I). Ordered to be printed.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 3094. A bill to authorize the Secretary of Commerce to sell five obsolete vessels to the Inter-Ocean Management Company, a California corporation, and for other purposes; with amendment (Rept. No. 96-325). Referred to the Committee of the Whole House.

Mr. SMITH of Iowa: Committee on Small Business. Report on allocation of budget totals to subcommittees for fiscal year 1980. (Rept. No. 96-326). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A BILL INITIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X, the following action was taken by the Speaker:

[*Omitted from the Record of June 29, 1979*]

Referral of the bill (H.R. 2626) to establish voluntary limits on the annual increases in total hospital expenses, and to provide for mandatory limits on the annual increases in hospital inpatient revenues to the extent that the voluntary limits are not effective, to the Committees on Interstate and Foreign Commerce and Ways and Means extended for an additional period ending not later than September 10, 1979.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 4707. A bill to establish a national science and technology program for increasing innovation and productivity in the automotive industry in order to meet vital national needs, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce, Science and Technology, Government Operations, and Ways and Means.

By Mr. COELHO:

H.R. 4708. A bill to amend the Public Health Service Act to provide financial assistance to medical facilities for treatment of certain aliens; to the Committee on Interstate and Foreign Commerce.

H.R. 4709. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Ways and Means.

By Mr. COELHO (for himself and Mr. PASHAYAN):

H.R. 4710. A bill to provide that orders issued by the Secretary of Agriculture under the Agricultural Adjustment Act respecting development projects designed to assist, improve, or promote the marketing, distribution, and consumption or production of olives may provide for any form of marketing promotion, including paid advertising, and for crediting certain direct expenditures of handlers for such promotion; to the Committee on Agriculture.

By Mr. PHILIP M. CRANE:

H.R. 4711. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $5,000 of interest on savings for an individual taxpayer; to the Committee on Ways and Means.

By Mr. DRINAN (for himself, Mr. HALL of Texas, Mr. SYNAR, Mr. SHELBY, Mr. KINDNESS, Mr. SAWYER, and Mr. LUNGREN):

H.R. 4712. A bill to delay conditionally the effective date of certain rules of procedure and evidence proposed by the U.S. Supreme Court and for other purposes; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 4713. A bill to provide for the establishment of a task force on consumer and physician incentives toward hospital cost containment; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. GINN:

H.R. 4714. A bill to establish a program to develop marine artificial reefs in waters of U.S. jurisdiction; to the Committee on Merchant Marine and Fisheries.

By Mr. GRASSLEY:

H.R. 4715. A bill to advance international cooperation in the research, development, demonstration, and commercial deployment of synthetic fuels, and for other purposes; jointly, to the Committees on Foreign Affairs, Science and Technology, and Interstate and Foreign Commerce.

By Mr. HANLEY:

H.R. 4716. A bill to amend the Internal Revenue Code of 1954 to allow the Internal Revenue Service to waive certain penalties; to the Committee on Ways and Means.

By Mr. HARRIS (for himself, Mr. HANLEY, Mrs. SCHROEDER, Mrs. SPELLMAN, Mr. CLAY, Mr. GILMAN, and Mr. GARCIA):

H.R. 4717. A bill to amend title 5, United States Code, to provide for adjustments to Federal personnel ceilings based upon the extent that Federal functions are contracted out, to provide that performance in administering personnel ceilings and contracting-out requirements are taken into account in evaluating the performance of Federal executives and managers, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HUCKABY:

H.R. 4718. A bill to authorize and direct the Secretary of Agriculture to conduct a pilot program of loans providing for periodic disbursements to owners of nonindustrial private forest lands; to the Committee on Agriculture.

H.R. 4719. A bill to amend the act of May 23, 1908 (35 Stat. 260; 16 U.S.C 500) and the act of March 1, 1911 (36 Stat 963; 16 U.S.C. 500) relating to the distribution to the States of funds received from national forests, to permit States to make such funds available to certain law enforcement districts; jointly, to the Committees on Agriculture and Interior and Insular Affairs

By Mr. MURTHA:

H.R. 4720. A bill to amend the Disaster Relief Act of 1974 to provide for contributions to remedy damage done to railroads by disasters to the same extent contributions are presently available for damage to publicly owned airport facilities and streets and highways; to the Committee on Public Works and Transportation.

H.R. 4721. A bill to amend title 38, United States Code, to provide for the payment of service pensions to veterans of World War I and the surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

By Mr. PEYSER:

H.R. 4722. A bill to make permanent the exemption of gasohol from the Federal motor fuels excise taxes, and for other purposes; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 4723. A bill to provide a 3-year residency requirement for aliens receiving supplemental security income benefits, and to require every alien admitted for permanent residence to have a sponsor who will contract to support him for 3 years, or to have other means of support; jointly, to the Committees on Ways and Means and the Judiciary.

By Mr. RITTER:

H.R. 4724. A bill to amend and revise provisions of the Internal Revenue Code of 1954 relating to nonprofit organizations, and for other purposes; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI:

H.R. 4725. A bill to amend the Internal Revenue Code of 1954 with respect to the manner in which the tax on transportation by air is required to be shown on airline tickets; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI (for himself and Mr. Conable):

H.R. 4726. A bill to amend the Internal Revenue Code of 1954 to provide for excise tax refunds in the case of certain uses of tread rubber, and for other purposes; to the Committee on Ways and Means.

By Mr. SEBELIUS (for himself, Mr. Wampler, and Mr. Findley):

H.R. 4727. A bill to authorize the Secretary of Agriculture to purchase and distribute food as needed to assist other nations to meet urgent humanitarian and other food needs, and for other purposes; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. UDALL:

H.R. 4728. A bill to amend sections 502(d), 503(a), and 504(a) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87), and to provide a 7-month extension for the submission and approval of State programs or the implementation of a Federal program; to the Committee on Interior and Insular Affairs.

H.R. 4729. A bill to promote the continued growth and survival of small business; jointly, to the Committees on Small Business, the Judiciary, Ways and Means, and Government Operations.

By Mr. WEAVER:

H.R. 4730. A bill to prohibit the Coast Guard from converting loran stations off the Pacific coast to the navigational aid system commonly known as Loran-C until January 1, 1981, or until loran stations off the Atlantic coast convert to such system, whichever occurs later; to the Committee on Merchant Marine and Fisheries.

By Mr. WHITE:

H.R. 4731. A bill to amend the Clean Air Act with respect to the prevention and control of air pollution in border areas of the United States and countries contiguous to the United States, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Foreign Affairs.

By Mr. HANLEY:

H.R. 4732. A bill to fix the annual rates of pay for the Architect of the Capitol and the Assistant Architect of the Capitol; to the Committee on Post Office and Civil Service.

By Mr. MOTTL:

H.R. 4733. A bill to prohibit major petroleum producers, refiners, and marketers from acquiring, owning, or controlling any business (or interest therein) which is outside of the petroleum industry; jointly, to the Committees on Interstate and Foreign Commerce and the Judiciary.

By Mr. BLANCHARD (for himself, Mr. Yates, Mr. Lehman, Mr. Solarz, and Mr. Green):

H.J. Res. 375. Joint resolution designating April 13 through April 19 of 1980 as "Days of Remembrance of Victims of the Holocaust"; to the Committee on Post Office and Civil Service.

By Mr. ADDABBO:

H. Con. Res. 158. Concurrent resolution relative to issuing a commemorative stamp in honor of Philip Mazzei, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PEASE (for himself, Mr. Zablocki, Mr. Gibbons, Mr. Winn, Mr. Rosenthal, Mr. Fithian, Mr. Gray, Mr. Stanton, Mr. Gilman, Mr. Frenzel, and Mr. Madigan):

H. Con. Res. 159. Concurrent resolution welcoming the first directly elected Parliament of the European community into the family of freely elected representative bodies; to the Committee on Foreign Affairs.

By Mr. BINGHAM (for himself, Mr. Addabbo, Mr. Ambro, Mr. Biaggi, Mr. Carney, Mrs. Chisholm, Mr. Cotter, Mr. Dodd, Mr. Downey, Mrs. Fenwick, Mr. Fish, Ms. Ferraro, Mr. Florio, Mr. Forsythe, Mr. Gilman, Mr. Green, Mr. Hollenbeck, Ms. Holtzman, Mr. Howard, Mr. Lent, Mr. Maguire, Mr. McKinney, Mr. Moffett, Mr. Ottinger, Mr. Peyser, Mr. Richmond, Mr. Rinaldo, Mr. Roe, Mr. Rosenthal, Mr. Scheuer, Mr. Solarz, Mr. Thompson, Mr. Weiss, Mr. Wolff, Mr. Wydler, and Mr. Zeferetti):

H. Res. 347. Resolution to express the concern of the House of Representatives over the continued incarceration of Anatoly Shcharansky and other Prisoners of Conscience in the Soviet Union; to the Committee on Foreign Affairs.

By Mr. COURTER:

H. Res. 348. Resolution to express the sense of the House of Representatives that there should be no recess for the House of Representatives during the remainder of the first session of the 96th Congress; to the Committee on Rules.

By Mr. ZABLOCKI:

H. Res. 349. Resolution providing for the printing as a House document of the staff report to the Committee on Foreign Affairs entitled "The Assassination of Representative Leo J. Ryan and the Jonestown, Guyana Tragedy"; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

251. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to the Natural Gas Policy Act; to the Committee on Interstate and Foreign Commerce.

252. Also, Memorial of the Legislature of the State of Louisiana, relative to State use of fuels indigenous to their region; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 4734. A bill for the relief of Michael Joseph Keighran; to the Committee on the Judiciary.

By Mr. LEACH of Iowa:

H.R. 4735. A bill for the relief of Artemio C. Santiago, doctor of medicine, and his wife, Josefina Santiago; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 255: Mr. Stark.

H.R. 262: Mr. Gilman, Mr. Whitehurst, Mr. Beard of Rhode Island, Mr. Addabbo, Mr. Pepper, Mr. Leach of Louisiana, Mr. Dougherty, Mr. Montgomery, Mr. Jacobs, and Mr. Wolpe.

H.R. 654: Mr. Frenzel.

H.R. 739: Mr. Mottl, Mr. Mitchell of New York, Mr. Mollohan, Mr. Evans of Georgia, Mr. Dornan, and Mr. Gudger.

H.R. 1006: Mr. Weaver.

H.R. 1516: Mr. Railsback.

H.R. 1598: Mr. Derwinski, Mr. Bowen, and Mr. Cheney.

H.R. 2085: Mr. Stokes.

H.R. 2129: Mr. Barnes, and Mr. Price.

H.R. 2196: Mr. Anderson of Illinois, Mr. Blanchard, Mr. Fazio, Mr. Kemp, Mr. Nowak, Mr. Rostenkowski, and Mr. Tauke.

H.R. 2557: Mrs. Fenwick.

H.R. 2558: Mrs. Fenwick.

H.R. 3227: Mr. Neal.

H.R. 3532: Mr. Richmond, Mr. Hawkins, and Mr. Waxman.

H.R. 3535: Mr. Albosta, Mr. Coelho, Mr. Huckaby, Mr. Downey, Mr. Solomon, Mr. Kildee, Mr. Fazio, Mr. Skelton, Mr. Andrews of North Dakota, Mr. Wolpe, Mr. Hamilton, Mr. Mitchell of New York, Mr. Traxler, Mr. Evans of Indiana, Mr. Davis of Michigan, Mr. Bedell, Mr. Harsha, Mr. Hillis, Mr. Bonior of Michigan, Mr. Hansen, Mr. Murtha, Mr. Johnson of California, Mr. Pursell, Mr. O'Brien, Mr. Holland, Mr. Fithian, Mr. Bethune, and Mr. Shumway.

H.R. 3685: Mr. Dougherty, Mr. Frenzel, Mr. Gudger, Mr. Lederer, Mr. Coelho, Mr. Goodling, and Mr. Carr.

H.R. 3697: Mr. Mattox.

H.R. 3720: Mr. Murtha.

H.R. 4158: Mr. Ottinger.

H.R. 4211: Mr. Stokes, Mr. Richmond, Mr. Daschle, and Mr. Simon.

H.R. 4223: Mr. Dixon, Mr. Weaver, Mr. Dornan, and Mr. Waxman.

H.R. 4237: Mr. Harsha, and Mr. Patterson.

H.R. 4325: Mr. Addabbo, Mr. Ambro, Mr. Bedell, Mrs. Byron, Mr. Ertel, Mr. Fithian, Mr. Gudger, Mr. Howard, Mr. Lederer, Mr. Long of Maryland, Mr. Mitchell of New York, Mr. Murphy of Pennsylvania, Mr. Vento, and Mr. Weaver.

H.R. 4338: Mr. Dornan and Mr. Grassley.

H.R. 4378: Mr. Johnson of California, Mr. Howard, and Mr. Pepper.

H.R. 4504: Mr. Derwinski, Mr. Grisham, Mr. Whitehurst, Mr. Solomon, Mr. Mottl, Mr. Stokes, Mr. LaFalce, Mr. Fazio, Mr. Downey, Mr. Dougherty, Mr. Gudger, Mr. Madigan, Mr. McHugh, Mr. Bonior of Michigan, Mr. Lungren, Mr. Lee, and Mr. Coughlin.

H.R. 4574: Mr. Barnes, Mr. Danielson, Mr. Donnelly, Mr. LaFalce, Mrs. Schroeder, and Mr. Vento.

H.J. Res. 69: Mr. Gradison, Mr. Collins of Texas, Mr. Hutto, Mr. Evans of Indiana, Mr. Jenkins, Mr. Preyer, Mr. Won Pat, Mr. Patten, Mrs. Bouquard, Mr. Howard, Mr. Boner of Tennessee, Mr. Murtha, Mr. Stark, Mr. McCloskey, Mr. Waxman, Mr. Bailey, and Mr. Gaydos.

H.J. Res. 145: Mr. Donnelly, Mr. Whittaker, Mr. Marriott, Mr. Burgener, Mr. Winn, Mr. Stokes, and Mrs. Heckler.

H.J. Res. 220: Mr. Montgomery, Mr. Lee, Mr. Jeffords, Mr. Grassley, Mr. McHugh, Mr. Cleveland, Mr. Volkmer, Mr. Weiss, Mrs. Chisholm, Mr. Madigan, Mr. Daschle, Mr. Stokes, Mr. Yatron, Mr. Clinger, Mr. Kildee, Mr. Buchanan, Ms. Ferraro, Mr. Simon, and Mr. Thompson.

H.J. Res. 362: Mr. Fisher, Mr. Garcia, Mr. Frenzel, Mr. Flood, Mr. Dixon, Mr. Bedell, Mr. Weiss, Mr. Alexander, Mr. Boner of Tennessee, Mrs. Chisholm, Mr. Maguire, Mr. Mitchell of Maryland, Mr. Cotter, Mr. Pepper, Mr. Annunzio, and Mr. Pickle.

H. Con. Res. 129: Mr. Grisham.

H. Con. Res. 147: Mr. Howard, Mr. Blanchard, Mr. Dougherty, Mr. Lederer, Mr. Murphy of Pennsylvania, Mr. Biaggi, Mr. Lee, and Mr. Bonker.

H. Con. Res. 155: Mr. Weiss, Mr. Lederer, Mr. Murphy of New York, Mr. Barnes, Mr. Lagomarsino, Mr. Fish, Mr. Donnelly, Mr. AuCoin, Mr. Bingham, Mr. Blanchard, Mr. Lehman, Mr. Bonior of Michigan, Mr. McHugh, Mr. Beilenson, Mr. Stack, Mr. Benjamin, Mr. Sensenbrenner, and Mr. Bedell.

H. Res. 338: Mr. Derwinski, Mr. Lujan, Mr. Long of Maryland, Mr. Livingston, and Mr. Nichols.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3000

By Mr. FITHIAN:

—Page 14, line 24, strike out "$61,500,000" and insert in lieu thereof "$84,400,000".

Page 14, line 25, strike out "$52,000,000" and insert in lieu thereof "$65,900,000".

Page 15, line 8, strike out "$54,500,000" and insert in lieu thereof "$84,900,000".

Page 89, line 4, strike out "$19,000,000" and insert in lieu thereof "$27,400,000".

—Page 16, line 2, strike out "$186,150,000" and insert in lieu thereof "$181,150,000".

Page 16, line 5, insert "and" after the semicolon.

Beginning on page 16, strike out line 8 and all that follows through page 19, line 25.

H.R. 3509

By Mr. McCLORY:

—Page 2, after line 26, insert:

Sec. 4. (a) Section 1401(1)(B) of the Public Health Service Act is amended by striking out ", in the judgment of the Administrator, may have any adverse effect on" and inserting in lieu thereof "pose an unreasonable risk to".

(b) Section 1412(a)(2) of such Act is amended by striking out "the Administrator determines".

(c) Section 1412(b)(1)(A)(ii) of such Act is amended by striking out "may have an adverse effect on" and inserting in lieu thereof "pose an unreasonable risk to".

(d) Section 1412(b)(1)(B) of such Act is amended—

(1) in the first sentence, by striking out "in his judgment";

(2) in the first sentence, by striking out "may have any adverse effect on" and inserting in lieu thereof "poses an unreasonable risk to";

(3) in the second sentence, by striking out "in the Administrator's judgment";

(4) in the second sentence, by striking out "known" and all that follows through the period and inserting in lieu thereof "unreasonable risk to the health of persons occurs"; and

(5) in the third sentence, by striking out "may have any adverse effect on" and inserting in lieu thereof "poses an unreasonable risk to".

(e) Section 1415(a)(1)(A) of such Act is amended by striking out "the Administrator finds".

(f) The amendments made by this section shall apply only to primary drinking water regulations (whether interim or revised) under title XIV of the Public Health Service Act which are promulgated or amended after June 1, 1979.

(g)(1) the Administrator of the Environmental Protection Agency shall conduct a comprehensive epidemiological study of the occurrence of barium-related health effects in areas served by public water systems subject to title XIV of the Public Health Service Act in which barium from natural (other than man-made) sources occurs in concentrations greater than the maximum contaminant level specified under the national interim primary drinking water regulations promulgated under section 1412 of such Act. Such study shall include an analysis of the causal relationship, if any, between various barium and barium ion concentrations in the drinking water consumed in such areas and the occurrence of barium-related health effects among the consumers of such drinking water. For purposes of conducting such study, the Administrator may enter into contracts or other arrangements with appropriate persons or organizations in accordance with applicable law.

(2) A report containing the results of the study conducted under paragraph (1) of this subsection shall be submitted to the Congress as promptly as practicable.

(3) Until the date on which the report is submitted under paragraph (2), no national interim primary drinking water regulation promulgated under section 1412 of the Public Health Service Act with respect to barium or barium ions shall apply to any drinking water system which serves an area described in paragraph (1).

—Page 2, after line 26, insert:

Sec. 4. Part B of title IV of the Public Health Service Act is amended by adding the following new section at the end thereof:

"POSTPONEMENT OF BARIUM REQUIREMENTS

"Sec. 1417. In the case of a public water system which regularly serves less than 15,000 individuals, no requirement respecting a maximum contaminant level or treatment technique shall apply before January 1, 1983 under this part in the case of barium, or barium ions, from natural (other than man-made) sources.".

H.R. 3996

By Mr. CAMPBELL:

—Page 73, line 15, immediately after "routes." insert the following new sentence: "The Corporation shall make its calculations under this subsection on the basis of the most recent available statistics for a 90-day period.".

By Mr. DODD:

—Page 102, after line 8, insert the following new section:

RAIL CROSSINGS

Sec. 403. Section 701 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851) is amended by redesignating subsection (c) as subsection (d) and by adding after subsection (b) the following new subsection:

"(c) Rail Crossings.—(1) For purposes of preserving the historic environment and promoting tourism in certain areas of the Northeast Corridor, the following rail-highway crossings shall, notwithstanding any other provision of law, be exempted from the demonstration project for the elimination of rail-highway crossings conducted by the Secretary under section 3 22(a) of title 23, United States Code:

"(A) the School Street crossing in Groton, Connecticut;

"(B) the Broadway Extension crossing in Stonington, Connecticut.

"(2) The Department of Transportation, in conjunction with the State of Connecticut, pursuant to the provisions of section 130 of title 23 United States Code or the Highway Safety Act of 1973 as amended, shall institute such measures as are available to provide the highest level of protection at the at-grade crossings described in paragraph (1) of this subsection other than grade separation."

H.R. 4392

By Mr. BIAGGI:

—Page 8, immediately after line 7, insert the following new section:

Sec. 104. Funds appropriated by this title may not be used to approve any export, any sale, or any transfer by any others means, of any defense articles of United States origin to Great Britain for use in Northern Ireland or to or for any police or other law enforcement authorities of Northern Ireland.

By Mr. FISH:

—On page 11, line 13, strike "$299,326,000" and insert in lieu thereof: "$313,176,000".

H.R. 4393

By Mr. GLICKMAN:

—On page 9, line 3, delete "$1,697,558,000." and insert in lieu thereof "$1,672,810,000: *Provided*, That no funds appropriated herein shall be available for implementing special bulk third-class rates for 'qualified political committees' authorized by Public Law 95–593.".

EXTENSIONS OF REMARKS

TRIBUTE TO PATRICK HAMILL, Q.P.M., CHIEF CONSTABLE OF THE STRATHCLYDE REGION POLICE, SCOTLAND

HON. BILL ROYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. ROYER. Mr. Speaker, I want to add my voice to those honoring Patrick Hamill, Q.P.M., chief constable of the Strathclyde Region Police in Scotland, United Kingdom, on the occasion of the International Police Tattoo being held in Glasgow, Scotland, this August. The Tattoo, which is given in the aid of charity, features police units from Denmark, Sweden, Scotland, England, Germany, Belgium, Spain, Canada, and the United States. This pageant is held only once every 3 years, and I am pleased to report that the only agency from the United States selected to appear is the San Mateo County Sheriff's Office from my 11th Congressional District in California.

The task of preparing for and conducting an international gathering of the magnitude of the International Police Tattoo is, to say the least, awe-inspiring, and it is to the great credit of Chief Constable Hamill that this year's pageant will surely be an occasion that will set the standard for all future events of a similar nature. I join with the sheriff of the county of San Mateo, Calif., John R. McDonald, Jr., and the members of the delegation attending the International Tattoo: Capt. Roger Goad, Lt. William Pedrini, Sgt. Donald Coslett, Sgt. David Barross, Sgt. David Lynch, Sgt. Phillip McIntyre, Deputy Leonard Gordon, Deputy Robert Reed, Deputy Craig Finlayson, Deputy Jack Davidson and Deputy James Meyer in expressing our collective appreciation to Chief Constable Hamill for his fine efforts, and our humble gratitude for being permitted the honor of participating in this year's pageant.●

PROVIDING SAFEGUARDS FOR CONSUMERS AND DAIRY FARMERS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. OBEY. Mr. Speaker, as the House begins consideration of the Trade Agreement Act of 1979, I want to alert Members to two bills I introduced yesterday to establish protections for American consumers and dairy farmers.

One of the bills would require foreign dairy producers to meet health and sanitation standards as stringent as those imposed on U.S. farmers and manufacturers. The other would require all products containing imported dairy ingredients to be clearly labeled as such.

If we are establishing new trade relationships, they should be as open and fair as possible. At the very least, we should assure consumers that imported products are wholesome and protect domestic producers against an unfair competitive advantage now enjoyed by foreign producers.

The Uniform Consumer Dairy Sanitation Act, a bill similar to one I cosponsored with the late Representative William Steiger in the last Congress, would set up an inspection program for foreign dairy products marketed in this country much like the existing meat inspection system carried out by the U.S. Department of Agriculture (USDA). Each exporting nation would have to take steps to assure that its milk processing plants and farms meet the same general quality grading and health inspection standards required of U.S. producers. USDA would monitor the systems to insure compliance with U.S. standards.

It is especially important to beef up our inspection efforts in this area, since only about 10 to 15 percent of foreign imports are actually examined now through random sample inspections by the Food and Drug Administration. This type of Russian roulette approach to public health fails to provide consumers with adequate protection against contaminated dairy products shipped to the United States. In recent years, more than 5 percent of those dairy imports that have been checked ended up rejected because they were unwholesome and unfit for human consumption. If random samples have yielded such results, it is reasonable to assume that some unsafe imported dairy products are getting into the U.S. marketplace and into the hands of American consumers and their families.

In addition, it is only fair that foreign producers meet the same strict sanitation codes American producers must abide by. The current inequality puts domestic dairy farmers and manufacturers at a competitive disadvantage because of the higher costs associated with the tough U.S. health and quality standards. The burden of these costs should be shared by their competitors from abroad as well.

The other measure I have introduced, the Imported Dairy Products Labeling Act, is a companion bill to the dairy sanitation legislation. It would enable consumers to know where dairy products they purchase have originated. Any dairy product containing imported ingredients in whole or in part would have to be clearly labeled to indicate that fact. Making imported dairy products readily identifiable is simply a way to honor the consumers' right to know what it is they are buying and where it comes from. Consumers should be able to choose whether or not they wish to purchase a product made here or abroad. This bill would give them the tool they need to make that choice.

Regardless of the outcome on the trade package, we should provide safeguards for consumers and dairy farmers against any possible threats imported products may present. I believe the bills I have proposed would go a long way toward relieving some of those problems. I hope that other Members will agree and I invite them to join me in sponsoring these measures.●

OWASSO, OKLA., BAND WINS INTERNATIONAL COMPETITION

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. JONES of Oklahoma. Mr. Speaker, as Americans all across our country have joined together this past week to celebrate the 203d anniversary of our independence as a nation, I too would like to pause and share with you one spectacular example of the unique spirit that I feel is a common bond among us all. It illustrates a special spirit of red, white, and blue, and I feel fortunate to have been able to witness its development.

Earlier this year, I visited with Mr. Harlon Lamkin, director of 164 Owasso, Oklahoma High School Band students who call themselves "The Pride of Owasso," and for good reason. They had just been invited by the Lord Mayor of Dublin to participate in the Second Annual International Festival of Music, to be held in Dublin, Ireland.

But before they could accept the invitation, they had to raise an estimated $150,000 for the expenses of the trip. Many people said it could not be done; it was simply too much money. That is where the true spirit of America came through. When all avenues of public or private assistance were explored and depleted, the teenagers, fellow students, and the whole community rallied together as never before. They mowed lawns, washed cars, and baked enough cakes to raise the necessary funds.

The Owasso Band recently returned from Dublin, Ireland, where they won first place in the international competition against more than 70 other outstanding bands from around the world. They have brought honor not only to their community and Oklahoma, but to the United States as well. They have shown what goal setting, determination, and hard work can accomplish. These characteristics have been the hallmark of our great Nation, and these young people have shown us that instead of subsiding as some might think, these qualities of American life are actually flourishing with a renewed sense of excitement and challenge.

I extend to Mr. Lamkin and the band members my heartiest congratulations, not for striving to receive the first place award, but for striving to achieve a level of performance that merits a first place award. That, I believe, is the true reason behind America's success. The pride of Owasso, like the pride of America, has captured that special red, white, and blue spirit.●

NEW DEPARTMENTS ARE QUICK TO LEARN OLD TRICKS

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. ERLENBORN. Mr. Speaker, during the debates regarding the establishment of a separate department of education, we have been assured over and over by the proponents that there will be a net savings of money to the American taxpayer.

There are those of us who are a little skeptical about such claims, despite limitations on the number of new personnel which can be added to the department and other devices designed to allay our fears.

I recently had occasion to look, in some depth, at the 1980 budget request for the other DOE, the Department of Energy, which is currently our newest department.

A cursory reading of that request indicates that the total request actually dropped some $2.4 billion from fiscal 1979. "Good job, DOE," we might say. We might—but we should not.

The major reason for the drop in the DOE request is: That portion of the budget for providing strategic petroleum reserves went from $3 billion in fiscal year 1979 to only $8 million in fiscal year 1980.

Despite massive fuel shortages, and constantly rising demands from the Congress and the public that more resources be put into energy research, the Department of Energy actually requested $115 million less for energy technology, basic sciences, and conservation than in fiscal year 1979.

The DOE budget request was not all cuts, however. There were two significant places (other than defense activities) in which the DOE requested more money than last year: First, regulation and information; and second, policy and management.

Mr. Speaker, it is as those of us who have been opposing a department of education have been saying it is: A new department—any new department—will want to grow and grow.

While the Department of Energy was cutting its budget request by $115 million for research and development, it was adding $97 million for regulations and administrators.

This is our newest department, but they learned the old tricks very quickly. Decrease the overall request, if you must, but continue to increase administrative and regulatory functions.

There is no doubt that we will be seeing this same phenomenon in a few years if we vote to establish a department of education.

This is but one more reason to vote against the bill. ●

FORESTRY LOAN ACT OF 1979

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. HUCKABY. Mr. Speaker, I am reintroducing today the Forestry Loan Act of 1979. This bill represents the final work product developed with the assistance and support of the forestry and financial communities to provide an effective financial incentive to help private, nonindustrial landowners manage their land for timber production. I felt it necessary to revise the original legislation based on further study and recommendations. I believe this bill which embodies these improvements will create a viable and worthwhile program to encourage the practice of forestry. I plan to offer the measure in committee as a substitute to H.R. 3049, which I introduced earlier this year.

Creation of the opportunity to draw together land ownership, working capital, and management required for long-term improvement in quality timber production on private forest lands is not only a worthy objective but one which will be needed to meet future timber demands. Recent surveys indicate timber production on private, nonindustrial lands, which accounts for 59 percent of all commercial forest land, must rise from 7.5 billion cubic feet in 1975 to 16 billion cubic feet in 2020. The data for the South shows that perhaps only about 12 percent of the nonindustrial acreage harvested each year is being reforested because of a conscious decision by the landowner.

This works out to a loss of 1 million acres every year. Much of this land is in possession of people lacking the other two necessary ingredients of working capital and management skills. Even where all three essentials are combined, there is the additional problem of the lengthy period in timber crop production before any real net cash flow is generated. The Forestry Loan Act will help resolve the problem of lack of cash flow during the term of forestry investments, by establishing a federally guaranteed or insured loan program which will provide periodic payments to small woodland owners.

Basically, the bill allows nonindustrial landowners to periodically borrow money against future proceeds from timber sales. The loan can be used for whatever purpose the landowner desires and will be repaid, with interest, when the timber is harvested. The amount of the loan will be dependent upon the level of forest management practiced by the landowner plus the inherent productivity of his land.

I believe such a program will have several beneficial effects. First, the ability for a landowner to achieve yearly returns from timber investments should help encourage landowners to reforest cutover timberlands. Second, timber productivity will be further enhanced by adherence to the forest management plan required for participation in the program. Finally, landowners will have an additional source of revenue. This will be of great help to landowners on fixed incomes who could use additional income from their property just to make ends meet. As such, I believe the program will help maintain family farms and timber ownerships. Since the money constitutes a loan which will be paid back, there will be no net cost to the taxpayer.

The concept of annual or periodic disbursements is attractive and advantageous to both the Federal Government and the private landowner. The Federal agency that administers the Rural Development Insurance Fund for financing these type of loans would be involved in an oversight capacity rather than making direct individual loans themselves. As such, the loan program would not place a heavy administrative burden on the Department of Agriculture, nor would it require additional personnel to manage the loans. Consequently, this periodic payment loan proposal would adequately respond to the President's request for cutting Government costs. With regard to the landowner, the periodic disbursements would allow him to pay taxes, management, and protection costs. As I mentioned earlier, the remaining loan proceeds may be used in any manner he wishes.

The provisions of the bill are generally compatible with loan programs now administered by the Department of Agriculture. The program would rely heavily on private lending sources by providing a Federal guarantee for private loans, or establishing a system whereby funds would be funneled through the appropriate agency to private lending institutions for making periodic loan disbursements. When the borrower repays the loan at the time of timber harvest, the private lender would repay USDA the money that institution borrowed, plus interest. The amount of the periodic payments would be based on the productive capacity of the land, more than likely ranging from $10 to $30 per acre. Forest management plans would be prepared, approved, and kept current by professional foresters prior to and during the landowner's participation in the program.

There would be limitations on the length of the loan period and the periodic loan amount.

I realize that the mood of the country is not favorable toward new and costly Federal programs. I fully support efforts to cut Government spending and balance the Federal budget. My bill is compatible with a fiscally conservative philosophy since it establishes a 5-year pilot project to be funded from the already existing Rural Development Insurance Fund. In addition, there is no longer any provision in the revised legislation which would allow the Secretary to subsidize either the loan repayments of the individual landowners or the interest rates of the loans themselves. The appropriations needed to administer the program on an experimental basis would indeed be modest.

I perceive this project as a model for a much larger scale program to eventually be placed in the private sector. The timber industry and private investment firms have indicated their interest in participating in such a business arrangement.

In conclusion, Mr. Speaker, let me emphasize the fact that the President has called for concerted efforts to encourage forest regeneration in his statement on environmental policy. I think that developing a system for providing periodic cash flow to private, nonindustrial landowners may be a significant forest management incentive. This is not a Federal giveaway program, but rather a loan program, with the Federal Government ultimately recapturing its investment, plus some interest income. The administrative framework to handle such a program already exists and USDA has vast experience in the administration of similar loan programs. Perhaps most important, the program will generate forestry jobs in rural areas, thereby adding to the tax base; and sales of timber will also generate significant tax revenue. In short, this additional tax revenue and investment recapture will offset any administrative costs involved.

I sincerely feel that the program would be effective and achievable, and would add to the array of incentives for reforestation. I urge your consideration and support for the passage of this bill.

The text of the Forestry Loan Act of 1979 follows:

H.R. 4718

A bill to authorize and direct the Secretary of Agriculture to conduct a pilot program of loans providing for periodic disbursements to owners of non-industrial private forest lands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Forestry Loan Act of 1979".

FINDINGS AND POLICY

SEC. 2. The Congress hereby finds and declares that—

(1) adequate supplies of timber and other forest resources are essential to the Nation's well-being;

(2) the Nation's publicly owned forests can not alone supply needed timber and wood products;

(3) the Nation's capacity to produce timber and wood products is significantly dependent on non-industrial private forest lands;

(4) substantial investment is often needed to increase the productivity of forest lands;

(5) long timber rotation periods and the lack of regular periodic returns from forestry investments may discourage owners of non-industrial private forest lands from managing their timberlands at levels of high productivity;

(6) the availability and cost of capital can be a significant determining factor in a forest landowner's decision as to whether or not to undertake a forest management program;

(7) owners of non-industrial private forest land frequently are unable to obtain credit at rates and terms sufficiently reasonable to enable them to undertake a forest management program; and,

(8) therefore, it is in the national interest for the Secretary of Agriculture to conduct a pilot program to determine whether loans providing periodic disbursements to owners of non-industrial private forest land would result in increased productivity of such land.

(9) It is the intent of Congress that, provided the program is feasible, it should ultimately be placed within the private sector.

ESTABLISHMENT OF PROGRAM

SEC. 3. (a) In order to encourage owners of non-industrial private forest land to implement and maintain forest management programs, and thereby increase the production of crops of industrial woods, the Secretary of Agriculture is authorized and directed to conduct a pilot program of financial assistance to such owners. The program shall include but may not be limited to: (1) the insuring and guaranteeing of loans which will provide periodic loan disbursements to eligible landowners, (2) consolidating for resale in private capital markets the loan obligations of individual landowners, and (3) loaning funds to legally organized lending institutions for the purposes of making guaranteed loans under this Act.

(b) This pilot program shall operate for five consecutive calendar years, beginning with the first full calendar year occurring after the date of enactment of this Act. No new loans shall be insured or guaranteed after the fifth fiscal year of operation of the pilot program.

(c) The Secretary is authorized to defer the repayment of principal and interest under such conditions as the Secretary shall deem appropriate.

ELIGIBLE BORROWERS

SEC. 4. Any private individual who, or any group, Indian tribe, or other native group, association, partnership corporation, or other legal entity which owns forest land capable of producing crops of industrial wood shall be eligible to receive loans under this Act: *Provided* That the applicant must certify in writing, and the Secretary must determine, that he is unable to obtain sufficient credit elsewhere at rates and terms comparable to those provided in this Act.

TERMS AND CONDITIONS

SEC. 5. (a) The Secretary shall insure or guarantee no portion of any loan under this Act to any one landowner in which the disbursement exceeds $50,000 annually.

(b) The total period of time permitted for a loan insured or guaranteed under this Act shall not exceed forty years.

(c) The Secretary may guarantee to any Federal or State chartered bank, savings and loan association cooperative lending agency, Federal land bank or other legally organized lending institution, 90 per centum of that portion of the overall loan obligation which exceeds the market value of the assets securing the loan in the event of default by the landowner.

(d) Loans provided under this Act shall be made upon the personal liability of the borrower and shall be secured by either (1) the land, or (2) the timber grown thereon, or (3) land and timber, and such other security as the lender may require. If such loans to landowners are secured by the timber alone, additional security may include insurance on the timber crop against natural hazards, if such insurance is available and performance bond insurance on the outstanding loan obligation.

(e) Loans guaranteed under this Act shall bear interest at rates to be agreed upon by the lender and landowner but not in excess of such rate as may be determined by the Secretary. Loans insured under this Act shall bear interest at such rate or rates as are determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus not to exceed 1 per centum, as determined by the Secretary.

(f) The landowner shall prepare, keep current, and adhere to an individual forest management plan which shall be developed in cooperation with and be approved by the State forester or equivalent State official and which shall describe the activities needed to maintain or increase the productivity of the landowner's forest land. The management plan shall also include estimates of the volume of timber to be harvested during the term of the loan and the value thereof. The estimated value shall serve as the basis for determining the principal amount of the loan. The landowner may use the loan proceeds in any manner he deems appropriate, as long as the provisions of the management plan and loan agreement are observed. The Secretary shall encourage landowners and State foresters or equivalent State officials to use private consulting foresters, agencies, organizations, and firms to the extent possible for the preparation of individual forest management plans.

(g) The amount of the periodic loan disbursement shall be based upon the future expected market value of the timber securing the loan, but in no case shall the total principal and interest obligation exceed 80 per centum of the future expected market value of the timber as estimated in the management plan.

(h) Individual loan agreements and forest management plans may be periodically reviewed by the lender, landowner and the preparer of the forest management plan. Following such review, the loan period, principal amount, interest rate and amount and interval of the periodic disbursement may be adjusted as agreed by both landowner and lender.

(i) At the discretion of the lender, loans guaranteed under this Act may, upon the application of the landowner, be transferred to, and assumed by, a new landowner who agrees to the terms and conditions of the loan, assumes any outstanding liability and obligations thereunder and who otherwise qualifies under the provisions of this Act. Further, individual loans guaranteed under this Act, in which the timber alone secures the loan, may be, upon the approval of the landowner, sold to private organizations, which will assume the lenders' obligations and which will have a lien against the timber securing the loan.

(j) The borrower shall be entitled to prepay without penalty all or any part of the outstanding loan obligation insured or guaranteed pursuant to the provisions of this Act. Income from the sale of timber covered by the loan agreement shall be applied to the outstanding loan obligation. However, the periodic loan disbursements may continue over the full term of the loan, even if payments applied to the loan obligation are made during the loan period.

(k) Except for guaranteed loans, the landowner shall agree that if at any time it shall appear to the Secretary that the landowner may be able to obtain a loan from any Federal or State chartered bank, savings and loan association, cooperative lending agency, Federal landbank, or other legally organized lending institution at rates and terms comparable to those provided for in this Act, for loans for similar purposes and periods of time, the landowner will, upon request by the Secretary, apply for and accept such loans in sufficient amount to repay the Secretary or the insured lender, or both, and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

PROGRAM DEVELOPMENT AND EVALUATION COMMITTEE

SEC. 6. To advise in the development of the program, and to aid in preparing recommendations regarding the continuance and expansion of the program, the Secretary shall appoint a committee of not less than five persons, including, but not limited to, representatives from public agencies, private lending institutions, private forestry concerns and individual landowners. The Secretary shall also consult with the committee in the preparation of such reports as required in Section 8 of this Act. Individuals who serve on the committee and who are not employed by the Federal Government, shall be paid such compensation for their services as the Secretary shall determine but such compensation shall not exceed the daily equivalent of the rate prescribed for grade GS–18 in section 5332 of title 5 of the United States Code per day when actually employed, and actual necessary traveling and subsistence expenses or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5 of the United States Code for persons in Government service employed intermittently, when advising in the development of the pilot program away from their homes or regular places of business.

RULES AND REGULATIONS

SEC. 7. The Secretary shall, within one hundred and twenty days after the date of the enactment of this Act, and in accordance with section 553 of title 5, United States Code, promulgate such final rules and regulations as the Secretary deems appropriate to implement the provisions of this Act. The Secretary may, in accordance with such section, promulgate rules and regulations modifying the rules and regulations promulgated under the preceding sentence.

REPORTS

SEC. 8. The Secretary shall report annually to the Congress on the progress of the pilot program authorized by this Act. The first such report shall be submitted upon completion of the first calendar year of operation of the program authorized by this Act. The final report shall be submitted prior to completion of the fifth calendar year of operation and shall include the Secretary's recommendation on whether additional loans shall be insured or guaranteed.

APPROPRIATION AUTHORIZATION

SEC. 9. (a) This program shall be funded using funds drawn from the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act and subject to the provisions governing such fund. The Secretary is authorized to use such funds for (1) making insured loans to eligible borrowers under this Act, (2) guaranteeing individual loans under this Act in the event of defaults by eligible landowners, and (3) loaning funds to legally organized lending institutions for the purpose of making guaranteed loans under this Act.

(b) There is hereby authorized to be appropriated such sums as may be necessary for the purposes of administrative expenses, including reimbursement of State foresters or equivalent State officials, and reimbursement to the Rural Development Insurance Fund for funds withdrawn for the operation of the program. Such sums to remain available until expended.●

DEMOCRATS IN DISARRAY

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. CONABLE. Mr. Speaker, I attach for my colleagues a very interesting editorial in today's Wall Street Journal which I hope will be widely read. Since Republicans are alleged therein to be strangely tonguetied and since I do not wish to quarrel with the editorial I have nothing further to say about it. I hope that will not be considered strange.

The article follows:

DEMOCRATS IN DISARRAY

President Carter's canceled energy speech and his long-running Camp David domestic summit suggest a leader wracked by indecision. But the problem goes deeper. Not only is Mr. Carter's presidency in trouble, but so is the guiding ethic of the party he heads. While an angry public waits, Mr. Carter is calling in his fellow Democrats, one by one, trying to salvage something useful out of the party's intellectual disorder.

The odds are unfortunately great that he will fail. The fundamental paradox of Jimmy Carter is that after seizing control of his party from the liberal traditionalists he did not turn it from its traditional course, despite the clear evidence that Americans—and indeed much of the free world—have lost faith in government-managed social and economic reconstruction. He first conquered the party's left and then, in a spirit of magnanimity and coalition, brought it into his own government. The result has been a numbering confusion, with the President praising deregulation one day and applying new forms of government economic intervention the next, promising to reduce government's burden on the public one day and proposing massive and punitive taxes the next.

In trying to co-opt the left wing of his own party, the President has made himself more vulnerable to it. It will be waiting, with Ted Kennedy at its head, to pick up the pieces after the very policies it most adores have destroyed Mr. Carter.

In all this, Mr. Carter has been badly served by his closest advisers, the so-called Georgia mafia. The now-famous Eizenstat memorandum, leaked to the press last week by someone who could not have been a friend to Mr. Eizenstat, lays bare the shallowness of this advice. The man who has probably been Mr. Carter's most influential aide writes, with an ardor bordering on panic, that the President must try to deflect public anger over gasoline shortages by turning that anger against OPEC.

Not only is this dishonest, since Federal policies and not OPEC are to blame for the gasoline lines, it is dangerous. The President has already used demogoguery against the oil companies, with the sad result that he has locked himself into a political stance that bars him from the one thing that will solve the energy problem: immediate decontrol of energy. Now his chief adviser wants him to turn the demogoguery against the Arabs—who are in fact shipping the U.S. more oil than a year ago—destroying the foreign policy bridges Mr. Carter has labored so hard to preserve.

Nowhere in this memo is there any evidence that Mr. Eizenstat understands, or cares to understand, the problem of energy, the perverse outcomes of entitlements, allocations, fuel use legislation and dozens of other interventionist policies. His entire approach is to seek ways to flummox the public into blaming someone else.

The President's advisers have become so absorbed in imagery that they have even fallen into quarrels among themselves over the subject. Jody Powell called the "Eizenstat" memo "a little silly," an understatement in both degree and description. The quarrel again, is not about substance but whether the President should have come home from Tokyo and made an immediate speech to sound "forceful."

The delay was wise, in fact, since the things the President most likely would have said probably would have sounded fatuous at that point. But it is doubtful that the delay, and all those consultations, will offer an improvement.

They have simply provided time for the President to get a lot more bad advice, including some from people who no doubt wish him ill. If fuel allocation has been bad, wait until we get rationing. He will have been urged strongly by his Vice President, judging from Mr. Mondale's speech over the weekend, to concoct a massive synthetic energy boondoggle. Such a program, if it could be pushed through Congress, would allow American taxpayers to contribute to another enormous vote-buying scheme, all in the name of protecting their pocketbooks against high-priced energy.

While Mr. Carter and his party are going through these throes of failure and dismay, the Republican Party is strangely tonguetied. It seems to be having leadership troubles of its own. The voters are no doubt wondering who, if anyone, will ever show enough political statesmanship to lead the country out of its unnecessary confusions.●

SCHOOL LUNCH REIMBURSEMENT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. LEHMAN. Mr. Speaker, I wish to include in the RECORD the following letter I received from Dr. J. L. Jones, the superintendent of Dade County public schools. The letter expresses the opposition of the Dade County schools to proposed cuts in school lunch reimbursement under section IV of the National School Lunch Act.

The letter follows:

JUNE 27, 1979.

Hon. WILLIAM LEHMAN,
House of Representatives, Rayburn Building, Washington, D.C.

DEAR MR. LEHMAN: On April 11, 1979, The Dade County School Board took action that we would like to have entered into the Congressional Record by you.

The action taken by The School Board of Dade County was that of opposing the cut in school lunch reimbursement, proposed by the administration, of five (5) cents, Section IV. (4) National School Lunch Act Reimbursement for paid lunches.

The National School Lunch Program has long been a nutritional program for all students with a provision of variable rates of reimbursement based on a family's need for a lunch at school. These variable rates of reimbursement make it possible for the majority of students to afford a lunch at school. Since food service program costs are dependent upon volume to keep them at a minimum, the participation by a majority of students also makes possible meeting the nutritional needs of those students whose families are eligible for a free or reduced price meal.

The Honorable Carl Perkins has requested that all school boards take action similar to Dade County, so it would not seem inappropriate to make this request of you.

Please enter as part of the Congressional Record, the following:

On April 11, 1979 in official action, The School Board of Dade County, Florida, voiced unanimous opposition to the proposal by the administration in reducing the reimbursement of paid lunches and to a decrease in the eligibility standards for a reduced price lunch.

Sincerely yours,

J. L. JONES,
Superintendent of Schools.●

THE BOAT PEOPLE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. DERWINSKI. Mr. Speaker, Mr. Earl Potter, one of my more distinguished constituents and author of a widely read column in the Messenger Press Publications which serve suburban Cook County, Ill., comments on the plight of the boat people' in an especially strong and inspiring article of June 28. As this is a major foreign policy problem facing the free world. I wish to insert Mr. Potter's article into the RECORD at this point:

BOAT PEOPLE

(By Earl Potter)

The pathetic plight of the "Boat People", those poor refugees from red tyranny, should lay heavily on the conscience of all Americans who were suckered into supporting the ruthless communist Viet Minh, Viet Cong, Pathet Lao and Khmer Rouge terrorists in their take-over of Indochina. Remember how the lefties sang "give peace a chance"? As though it was the U.S. that started the merciless campaign to transform this entire planet into a tightly-run prison where every person in the world who was not a member of "the Party" would conform to the dictates of the commie bosses or else!

As anyone who will take the trouble to read up on Marx, Lenin and Stalin will find out, their great dream was in fact a nightmare to all who cherish liberty. On the promise that they would bring a worker's paradise to all the people of the world, they launched a wave of terrorism in 1904 that continues unabated to this day! Almost every nation that has fallen victim to this malignant force has soon learned what naked terror is.

Yet we in America have closed our eyes to the true nature of the great Lenin conspiracy and have failed to recognize what it will eventually do to us. Truly, our once-great nation has become a ship of fools, a ship of state that is sailing straight toward the rocks, full steam ahead, while most of those on board, including the captain, argue with each other, concentrate on trivia, and even help those who would wreck the ship to steer it on to the rocks.

Steadily, relentlessly, the power of communism has grown since the defeat of Hitler, yet our will to survive has ebbed as the determination of the heirs of Lenin to destroy us has grown. After fighting a bloody and costly war to save Europe from one ruthless dictator, we did nothing to prevent half of it from being taken over by an even more merciless master.

Even then, our libs were demonstrably insane in their foreign policy. When the sinister force dedicated to wiping us out took one nation after the other, the "liberals" told us not to worry, that the Marxists were only agrarian reformers whose only goal was to "help the little man".

Even when Kim II Sung, the red dictator of North Korea, launched an all-out attack on South Korea, our libs told us that we must not try to conquer him. Instead, they decided to assist South Korea to defend itself but not to fight the reds on the same terms we had the Nazis; i.e., to go for victory and the destruction of the murderous tyrant! As a result, although we did save South Korea, we did not destroy the evil beast of Pyongyang.

When the North Vietnamese decided to take over South Viet Nam by means of a phony civil war, once again our libs decided that these naughty boys should be gently chastized—again, they could not believe that the reds were really bad, just a bit misguided, so there was to be no drive for unconditional surrender, only a "just peace" which would not punish the aggressors.

As those of you who read this column at that time may remember, I was for an all-out war to win—forget all this nonsense about "privileged sanctuaries" and recognize the true nature of the conflict, for it was simply another battle in the great campaign planned by Lenin. But still we didn't wake up! Instead, we let the fifth column in this country convince us that the war was wrong, that the Viet Cong were simply native South Vietnamese who wanted to end the corruption and injustice in Viet Nam.

When Nixon initiated his infamous "peace talks" with the North Vietnamese and the Viet Cong, I denounced them in this column as rank insanity, and a complete betrayal of the people of South Viet Nam. I predicted that we would sell out the Republic of South Viet Nam and sell its people into communist tyranny. I predicted that the harsh regime of the North Vietnamese would make life intolerable for those who once knew freedom and now time has shown how right that prediction was. We did betray South Viet Nam, North Viet Nam did take it over, and now we are learning just how intolerable this Marxist paradise really is!

The only escape from this Marxist Hell is by sea, since it is surrounded by communist countries that are just as bad, on all land boundaries. The refugees are so unhappy with the new red order that they are literally choosing death to slavery, for many of the craft they have used to try to make their escape were unseaworthy, inadequately provisioned and vastly overcrowded with the result that a large percentage of them have drowned in attempting to find freedom. There are so many of them that Malaysia, Singapore and Indonesia are swamped by those who do not make it to safety, and now Malaysia threatens to drive them into the sea.

I submit that we have a moral obligation to these poor souls whose only mistake was to trust us in their love for freedom. Having betrayed them, thanks to the vast red fifth column in this country, the least we can do is offer them a new home in this country. They may be of different ethnic stock than most Americans, but having experienced the ultimate liberalism, it is certain that they will make beter citizens of this Republic than the lunatic "liberals" whose chief aim has been to drag it down to exactly the same kind of society that the Viet Namese refugee ran away from! ●

GAS SHORTAGE MADE IN WASHINGTON

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. PAUL. Mr. Speaker, who is to blame for the tragic gasoline shortage in the 22d District of Texas and other areas of our country? Is it OPEC? The big oil companies? "Gas-guzzling" motorists?

West Germany has no shortage, yet it imports all its oil from OPEC countries. We import 47.5 percent. Canada has big oil companies, but it has no shortage. Japanese drivers have increased their use of gasoline more than we have, but Japan has no shortage.

Alone of all the countries in the free world, the United States has a gasoline shortage. Also alone, the United States has a complicated structure of Government energy regulations.

These regulations, written and administered by the Department of Energy (DOE), are the cause of our problems.

Every closed gasoline station, every empty gas pump, every long gas line should be labeled: Made in Washington.

Working with some Federal officials, and the Governor's office in Austin, I have been able to get emergency gas allocations for hard-hit areas in our district. But this is only a temporary and partial help.

The long-term solution is getting the Government energy bureaucrats off the backs of consumers and producers.

THE FEDERAL GOVERNMENT MAKES THE OIL SHORTAGE WORSE

Between December and March, the revolution in Iran led to about a 4-percent cut in world petroleum production. By throwing innumerable monkey wrenches in the machinery of the market, the Department of Energy has translated this into a massive shortage in the 22d District.

Normally, there are more than 4 billion barrels of oil—more than Saudi Arabia produces in a year—in transit in world petroleum markets: in storage, in pipelines, in tankers, in refineries. This huge system would normally adjust to the Iranian situation, over time.

A GOVERNMENT RULE CUTS DOWN OUR OIL IMPORTS

Because U.S. companies had more than an average stake in Iranian production, however, that 4 percent translated into a larger shortfall for U.S. producers.

Under normal market conditions, American companies would have made up the shortfall through purchases in the higher-priced European "spot" market.

The companies wanted to do this, but could not because of the O'Leary rule. Deputy Energy Secretary John O'Leary had ordered oil companies not to buy "spot" oil at more than $5 above the OPEC price. Japanese and European companies, willing to pay more, got the oil.

Iran, plus American exposure there, plus the O'Leary rule—quietly countermanded in May—meant about an 8-percent decline in American gasoline and diesel fuel.

But this should not have produced the horrifying situation in the 22d District. As a matter of course, shortages like this are handled quickly and efficiently by the free market.

THE FREE MARKET CAN HANDLE SHORTAGES

When we had a 25-percent coffee shortfall, due to Brazilian frosts, there were no lines at supermarket counters, no coffee shortages in some cities with abundance in others. The free interactions of producers, sellers, and consumers quickly handled the shortage, and brought equilibrium to the market.

But unlike the coffee market, the oil market is governed by hundreds of pages of hard-to-understand, constantly shifting DOE regulations.

GOVERNMENT ALLOCATIONS CAUSE SHORTAGES

In gasoline, the consumer and his needs and wants play no part in allocations. Only the bureaucrats' decisions count.

If a refinery in Pasadena sold a wholesaler in Freeport 1 million gallons of gasoline during a certain July in the past, then Government regulations tell him he must do the same this July. If there is a shortage, then all wholesalers must get the same percentage reduction.

This is fine with the people who sell gasoline, but it is a lousy deal for the people who must buy it.

The "base period" is always out of date. Until January, DOE was using 1972 figures. Now they are more recent, but they cannot ever be right, because conditions are constantly changing. The market adjusts quickly and effortlessly for these changes. Bureaucracies cannot.

Another problem for refineries is "high priority" users. Farmers and the Department of Defense get 100 percent of what they determine to be their current needs. Public services get special treatment as well.

Certainly we do not want farmers, the Army, or the police to run out of fuel. But the system is impossible to enforce. The wholesaler simply certifies that he has so many high-priority customers. The vast increase in sales of storage tanks indicates that a lot of fuel is being hoarded. High priority users thus took an additional 9 percent off the top in June, leaving even less for the average motorist.

Gasoline allocations also do not take into account the way drivers change their habits. We're staying close to home, thereby increasing the shortages in some cities, and leaving many vacation areas with excess amounts of fuel. But the rigid system of producer-wholesaler-retailer allocations allows no changes for changing conditions. Shortages are magnified in some areas.

The DOE also unilaterally decided there should be more heating oil, and less gasoline, produced this summer and fall. But their figures are only guesses. We may end up with too much heating oil. We know we have a gas shortage now.

All this nonsense could be ended in a few days. If Energy Secretary James

Schlesinger would issue the regulation I have challenged him to promulgate: that all petroleum be allocated by the market.

A FREE MARKET IN GASOLINE MEANS NO LINES

Here's what this would mean in gasoline:

The average motorist would be placed on an equal level with high-priority users. No one would get privileged treatment, whereby some have increased usage while the average person waits in 3 and 4 hour lines. Those who wanted gas would get it.

Allocation by price would immediately abolish the waiting lines. Prices would rise, but they are rising anyway, despite the DOE price regulations, which don't affect OPEC. We would all rather spend 5 minutes getting a tank of $1.10 gas, than waiting hours for 85 cent gas, and maybe not get it at all. I pick the $1.10 figure, but no one knows what the market price would be. It might be higher; it might be lower. And the higher price would encourage production.

Traders and brokers would shift gasoline supplies from the areas with surpluses to those that need it, like the 22d District. There would be no feast and famine side by side, as is now the case. Today we have unconscionable lines in Texas while in New Mexico, many stations are open 24-hours-a-day, 7-days-a-week.

EARNINGS ARE NOT THE PROBLEM

Some people complain that high earnings are the cause of rising prices. But actually Government price controls—in place on domestic production since 1971—have cut down on real—noninflated—earnings, and earnings are necessary for more production and exploration.

This year, the DOE budget is $12.6 billion of your hard-earned tax money. The top 20 U.S. oil companies earned $13.1 billion in 1978. But they invested over $22.9 billion in 1978 looking for energy and bringing to market what they found. The $9.8 billion difference was made up by borrowing.

The average oil company earnings on a gallon of gas is 2½ percent. The gas station owner gets about 1½ percent. Government takes over 26 percent.

While we are paying domestic producers $5.50 a barrel, we are paying the Arabs over $20. Is it any wonder that small and medium businessmen have not been willing—or had the funds—to drastically step up U.S. exploration and production? Or that imports have skyrocketed? And it has meant much less for the majors as well. U.S. production is down about 18 percent over the past 5 years.

Assume that Government decided to make more housing available to the poor, and so ordered that no one could sell his house for more than a 1971 price. How many houses would be sold? Would you sell yours?

Instead of helping the poor, such price regulations would hurt everyone.

Nobody wants to pay higher prices, but it is good to remember that in 1957, an average worker's hourly wage bought about 6½ gallons of gas. Today, it purchases over 9.

INFLATION ZOOMS GAS PRICES TOO

Government inflation of our dollar has caused gas prices to rise as well.

Switzerland, which imports all its oil, is entirely at the mercy of OPEC. The price of a gallon of regular gas has risen 74 percent since 1973.

But in the United States, even with onerous price controls on domestic production, the price has zoomed 121 percent. The difference is inflation.

Switzerland, with a currency partially backed by gold, has not been able to inflate as much as we have.

And our own pre-1965 silver coins—real money—buy twice the gas today as they did in 1964.

OTHER GOVERNMENT ACTIONS HURT ENERGY SUPPLIES

Environmental restrictions from the EPA cost oil companies over $3 billion a year. Unleaded gas uses much more crude oil than regular. OSHA and other Federal regulations add to the cost of doing business along with the Federal sales tax of almost 50 percent that we call a corporate income tax—a Federal sales tax that is passed right along to the customer. Increasing that sales tax, with a "windfall profits" tax, only raises costs at the pump and decreases funds for new energy production. Just to maintain domestic petroleum production at present levels—and levels must be increased, not maintained—will require $20 to $30 billion in additional investment before 1985. These massive funds must come from profits.

FREEDOM BRINGS ENERGY ABUNDANCE

The answer to our gasoline problems, and to all our economic troubles, is freedom.

Government is incapable of intelligent allocation—it can only distribute shortages.

Gasoline rationing—more cumbersome Federal controls—will only make conditions worse, and add billions to the tax burden.

We need to deregulate, decontrol, and detax energy consumers and producers. This will put consumers—not government, oil companies, or Arabs—in charge of energy.

Only this will give us the petroleum we need, only this will fill up the empty gas pumps, only this will end the shortages.

Two-thirds of all the oil ever discovered in our country remains in the ground, thanks to Government price controls. Just one-half of that petroleum equals all the oil our Nation has used in its history. There is no geological shortage of oil, as some politicians claim, only a politically created shortage.

In the free market, gasoline price wars are the norm, not long lines. Government controls equal austerity. A voluntary market means plenty. That is why I have introduced legislation to establish a voluntary market in energy, so our country can have the supplies it must have, if we are to maintain economic growth, and remain a free and prosperous society.

My bill, H.R. 4639, the Energy Abundance Act of 1979, will give us those supplies, and lower costs for every American in running his car and cooling and heating his home. ●

TRIBUTE TO KATHERINE M. ROOT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. CONTE. Mr. Speaker, the town of Easthampton, Mass., in my congressional district will soon pay one of its most distinguished residents a singular honor. Miss Katherine M. Root will be recognized for her long continuing interest in town activities by having a park named after her. The site, the former Schoolhouse Park, was the one Miss Root had a major hand in turning from a community eyesore to a pleasant picnic area. Miss Root will be honored by civic, business and veterans groups when the park is dedicated on July 22.

The Springfield, Mass., Republican recently published a very fine article on this recognition and about Miss Root. I would like to bring Miss Root's remarkable story to the attention of my colleagues as a particularly unique example of civic pride and concern for good government.

In her lifetime, Katherine Root has done more than her share to change things for the better in her own sphere of influence. I have had the pleasure of being a friend of hers for a great many years. I could say that I wish there were more citizens like her, but I know that her friends and neighbors in Easthampton consider her one of a kind. I join them in saluting her and recognizing her achievements.

At this time, I include the article on Miss Katherine M. Root in the RECORD. I commend it to my colleagues:

KATHERINE ROOT HELPED TAME PARKS, POLITICS

(By Marcia Blomberg)

EASTHAMPTON.—Katherine M. Root, 80, has been busy helping to beautify this town since she was three.

That was when the Board of Selectmen asked her father to take a deteriorating one-room schoolhouse on Northampton Street off their hands for $1 and tear it down for the boards.

Her father took Katherine, 3, and her even younger brother to the site and as he ripped the boards off, they hammered the nails out.

That was in 1902. Two weeks ago, Miss Root received a standing ovation at the annual town meeting when members voted unanimously to rename Schoolhouse Park the Katherine M. Root Wayside Park.

The honor came not so much for her activity as a youngster but for her activities in 1939, when she noticed that the park had become an overgrown dump and her enormous civic pride was offended.

She gave the park a glance on her way into town one day, and that night went before the Board of Selectmen, telling them she thought the park "was an awful entrance to such a beautiful town."

The selectmen turned around and asked Miss Root if she could do something about it. So, in her usual style, she did.

She asked for volunteers at the local grange, and got some men out there on a Saturday who carted away "eight truckloads of rubbish, and I mean rubbish" including a stove and refrigerator.

The brush was tamed, flowers planted, fireplaces and picnic tables built and the park at Northampton Street and Florence Park was beautified.

The story of the park is but a brief episode, however, in Miss Root's busy life.

Politics, social organizations, town and county boards and a number of firsts highlight the scrapbook of her activities.

Miss Root was the first and only female selectman in the town's history, serving three years in the 1950s, including two years as chairman.

She remembers that her election threw town officials into a bit of a tizzy over what to call her—referring to a woman as selectman didn't sound quite accurate.

In those more simple days, a legal ruling from the town attorney was enough to satisfy.

"He said I ran for and was elected to the office of 'selectman,' so I should be called a selectman," she recalled recently.

Because of Miss Root, the town was among the first in the state to vaccinate all schoolchildren against polio in 1955.

As chairman of the Board of Health that year, she went to Boston to pick up the Salk vaccine as soon as it was released to the towns, she said.

Her family says "Katherine does not have the word 'no' in her vocabulary." It must be true—she's served on several town boards. And it probably all started when she was seven and her father started taking her by horse and buggy to annual town meetings and discussed issues with her on the way home.

And Miss Root has always taken her responsibilities seriously.

In 1955, according to a 14-page list of activities compiled by her family, Miss Root was the only member of the Board of Selectmen to perambulate all the boundaries of the town. According to state law, the selectmen must perambulate all the town boundaries every ten years. As the result of her efforts, Miss Root discovered that a town boundary marker was missing.

She's done everything from keeping chicken barbecues going despite sudden thunderstorms to taking food to firefighters during bad fires.

Miss Root stayed at Town Hall a full week helping people during the great flood of 1955, and during her 18 years on the Housing Authority, she helped bring two housing complexes for the elderly to town.

The list goes on and on—18 awards and citations from various groups and national, state and civic organizations.

Miss Root goes on and on. She delivered The Morning Union to rural homes in Easthampton and Southampton for 25 years, until 1977, and says she missed only 11 days—10 because the roads were impassable with snow, and one because her car broke down.

Now, she volunteers five days a week to serve lunches to shut-ins through the Highland Valley Elder Services program. And, as she points out, many of the people she serves are younger than herself.

Because she suffers from arthritis in one knee, Miss Root uses a ski pole cut down to size and rubber-tipped to assist her in walking.

She says keeping busy is partly doctor's orders to keep the knee free of pain.

The other part is, doubtless, because, as she says, she "likes people, working with people and doing for people."

Miss Root remembers the days when a trolly ran from Mount Tom Junction here to Northampton and on to Hatfield, and "it cost a nickel then, and if you wanted to turn right around and come back all you had to do was ask for a transfer. Many folks just went for a ride on the trolly on a nice afternoon—there's nothing prettier than the sunset shining on the red rocks of the ridge," she said.

She also remembers getting up at 4:45 a.m. every morning—"my favorite part of the day"—to deliver The Morning Union with such punctuality that many of her customers claim to have been able to set their watches by her.

She remembers one morning in particular with poetic clarity.

'I was down at Smith's Ferry, it was July and I was facing toward the Connecticut River and Mount Holyoke. The river was covered with little tongues of fog.

'Just as I was looking toward it, the sun came up over the ridge—a big, red ball.

'As the red rays of the sun hit the fog, for a moment you could swear the river was on fire,' she recalled.

Probably the biggest civic activist to hit this town, Miss Root says she will never retire "voluntarily."●

CIVIL DEFENSE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. SKELTON. Mr. Speaker, when the House considers H.R. 4040, the Department of Defense Authorization Act for fiscal year 1980, I intend to offer an amendment to title VII of the bill, which deals with civil defense. The amendments would direct the President to develop and execute a truly multipurpose civil defense program which could be used in the event of nuclear war, natural disaster, or nuclear accident similar to that which occurred at Three Mile Island.

Our present civil defense program is inadequate, Mr. Speaker, in part because it has not been given proper direction and clearly defined goals. My amendment would cure this deficiency by specifying elements which are to be included in a civil defense program, spelling out the goals for that program, and establishing multiyear authorizations. Recently, the House Appropriations Committee cited as its reason for refusing to approve an increase in funding of civil defense activities the fact that neither the Congress nor the administration has yet demonstrated adequate support for a restructured civil defense policy. A vote for my amendment would demonstrate this support.

Mr. Speaker, the need for an enhanced civil defense program has never been more apparent. The recent accident at the Three Mile Island nuclear power plant clearly demonstrated the vulnerability of people who live near such plants. Indeed, it has been pointed out on the floor of the House that we have 16 States with operating nuclear power plants, but no evacuation plans. Another 12 States have either plants near their border or under construction, but no evacuation plans. The effectiveness of the plans in those States which do have them has been questioned.

With the beginning of the tropical storm season, there have been news reports concerning the lack of preparedness in certain of our Nation's coastal areas. These areas have experienced large population growth in recent years, and many of these people live in mobile homes or other vacation-type housing. Yet this growth in population has not been accompanied by an increase in warning systems, evacuation plans, or other civil defense measures.

The signing of the SALT II Treaty has focused attention on vulnerability of our citizens who live in areas containing elements of our strategic forces. We have simply failed to provide even a minimal civil defense for the people in these high-risk areas, and the Nation as a whole.

Mr. Speaker, it is of critical national importance that we establish a civil defense program that can help us prepare for these potential disasters, whether nuclear war, natural disaster, or nuclear accident. We cannot have such a program until we spell out what its goals and elements are to be, and provide multiyear authorizations to allow for long-range planning. My amendment would accomplish these purposes, and I hope my colleagues will support it when it is offered. The complete text of the amendment follows:

AMENDMENT TO H.R. 4040 OFFERED BY MR. SKELTON

TITLE VII—CIVIL DEFENSE

On page 16, strike all of lines 5 through 9, and insert in lieu thereof the following:

"SEC. 701. The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 through 2297), is amended—

"(1) by adding after title IV the following new title:

"TITLE V—ENHANCED PROGRAM FOR THE 1980's

"FINDINGS AND DETERMINATIONS

"SEC. 501. (a) The Congress finds that—

"(1) a program providing for relocating the population of the larger United States cities, and other risk areas during a period of strategic warning resulting from an international crisis can be effective and cost less than alternative programs;

"(2) the present civil defense program is inadequate;

"(3) a new civil defense program can be developed immediately which, with only a modest increase in resource allocation, can enhance the civil defense capability of the United States.

"(b) The Congress determines that a new civil defense program should be implemented—

"(1) to enhance the survivability of the American people and its leadership in the event of nuclear war and thereby to improve the basis for eventual recovery and to reduce the vulnerability to a major attack;

"(2) to enhance deterrence and stability, to contribute to perceptions of the overall strategic balance and crisis stability, and to reduce the possibility that the United States could be coerced by an enemy in times of increased tension;

"(3) to not suggest any change in the United States policy of relying on strategic nuclear forces as the preponderant factor in maintaining deterrence; and

"(4) to include planning for population relocation during times of international crisis which are adaptable to deal with natural disasters and other peacetime emergencies.

"PROGRAM ELEMENTS

"SEC. 502. To carry out section 501, the President shall develop and implement a civil defense program which includes—

"(1) a survey of the shelter inherent in existing facilities;

"(2) nuclear civil protection planning for both in-place protection and population relocation, during times of international crises;

"(3) planning for the development of additional crisis shelter, of capabilities for shelter management, of the marking and stocking of shelters, and of ventilation kits for shelters;

"(4) the development of emergency evacuation plans in areas where nuclear powerplants are located;

"(5) the improvement of warning systems;

"(6) the improvement of systems and capabilities for the direction and control of emergency operations by civil governments at all levels, including development of a distributed survivable network of emergency operating centers;

"(7) the improvement of radiological defense capabilities;

"(8) the improvement of emergency public information and training programs and capabilities;

"(9) research and development; and

"(10) the development of such other systems and capabilities as are necessary to realize the maximum lifesaving potential of the civil defense program.

"ADMINISTRATIVE PROVISIONS

"SEC. 503. The powers contained in titles II and IV of this Act shall be used in developing and implementing section 502."; and

(2) by adding at the end of the table of contents the following:

"TITLE V—ENHANCED PROGRAM FOR THE 1980's

"Sec. 501. Findings and determinations.
"Sec. 502. Program elements.
"Sec. 503. Administrative provisions.".

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 702. There are authorized to be appropriated for the purpose of carrying out the provisions of the Federal Civil Defense Act of 1950, in 1979 dollars, the sums of $145,900,000 for the fiscal year ending September 30, 1980, $180,000,000 for the fiscal year ending September 30, 1981, $243,000,000 for the fiscal year ending September 30, 1982, $283,000,000 for the fiscal year ending September 30, 1983, and $283,000,000 for the fiscal year ending September 30, 1983, and $293,000,000 for the fiscal year ending September 30, 1983, and $293,000,000 for the fiscal year ending September 30, 1984. The sums specified in this section shall be adjusted by the inflation factor used by the Office of Management and Budget in preparing budget estimates submitted to the Congress, so that the actual sum authorized for each fiscal year shall reflect then current dollars."

And, on page 16, line 12, strike "Sec. 702." and insert in lieu thereof "Sec. 703.".●

WHY CONGRESS SPENDS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. COLLINS of Texas. Mr. Speaker, folks at home ask why Congress spends so much money.

There is an old proverb—

> Be honest with yourself and you will be false to no man.

Congress in passing laws, believes what it wants to believe. Congress looks for the easy answer and the popular solution for the voters.

Let's look at food stamps. This supplement was started with the desirable purpose of helping the elderly, the sick, and the very poor.

So Congress wanted to streamline food stamp distribution and passed a law by a vote of 283 to 107 to eliminate a cash requirement for stamps.

The increase in stamps reported is a jump of 19 percent more Government stamps now that cash participation is eliminated.

Let's read the July 5 UPI story in the New York Times on how food stamps jumped 19 percent as reported by UPI.

> The U.S. Agriculture Department says 18.9 million Americans received food stamps in April, an increase of 19 percent since a cash requirement for stamps was eliminated.
>
> As of Jan. 1, recipients no longer had to put up cash in exchange for stamps. A family that once paid $60 for $100 worth of food stamps now receives $40 worth at no charge.
>
> Before the change went into effect, 15.9 million Americans received food stamps during December. The change was intended to provide benefits for the poorest Americans. Elderly and rural poor appear to be the major beneficiaries, officials said.
>
> The increase in recipients was greater than officials had predicted several months ago.●

THE ENERGY CRISIS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. ROSENTHAL. Mr. Speaker, there is no doubt what the most important issue is in the minds of our constituents. It is clearly energy. Will they have enough gasoline to run their cars this summer? Enough oil to heat their homes this winter? Will utility bills continue taking such a growing chunk out of their incomes? Is our standard of living threatened?

People want to know what causes the problem and what their elected representatives are dong about it. Do we have the courage, the "energy" to deal with crisis or was it manufactured by OPEC the problem? Is there really an energy policy, oil industry greed, Government ineptitude, and consumer demand?

I would like to take this opportunity to address myself to what I see are some of the questions involved and what I have been doing about this critical issue.

There are several essential factors contributing to our present energy situation:

The first has to do with our Nation's overdependence for oil on the OPEC cartel. Its ability and willingness to raise crude oil prices at will is the single greatest cause of our inflationary spiral and the world's economic difficulties.

The second factor has to do with the U.S.-owned multinational oil companies with their unquenchable thirst for profit and their ability to manipulate supplies and prices in the energy marketplace.

The third factor involves the unwillingness or inability of the U.S. Department of Energy to regulate the oil companies, provide the American people with accurate information about the oil crisis and devise an effective and fair U.S. energy policy.

The House Subcommittee on Commerce, Consumer and Monetary Affairs, which I chair, has been conducting an investigation and has held extensive hearings to clarify the energy situation and get the Federal Trade Commission—an independent agency responsible for protecting consumers and enforcing the antitrust laws—to conduct its own investigation of the gasoline situation. As a result of my subcommittee's investigation and hearings, the following facts have been established:

First. Crude oil imports into the United States have risen 10 percent over last year notwithstanding the interruption of Iranian oil. Dring the last 6 months of 1978 and the first 4 months of 1979 the United States imported 83.8 million more barrels of crude than during the comparable period in 1977 and 1978.

Second. Crude oil reserve stocks in the United States are near historic highs and climbing. The United States now has over 334 million barrels of crude in stock excluding the amounts in our strategic petroleum reserve (which would add another 100 million barrels).

Third. Notwithstanding the increase in imports and the near historic highs of crude oil stocks, capacity utilization at U.S. oil refineries is running at approximately 84 percent. This is 7 percent below normal capacity utilization.

Fourth. There is some evidence that U.S.-operated refineries in the Caribbean are diverting their gasoline and home heating oil products from normal U.S. markets to European markets where prices and profits are higher.

Fifth. While gasoline stocks are approximately 5 percent less than this time last year, a potentially more serious problem is that middle distillant stocks (home heating oil and diesel) are down 15 percent. At this time, it looks very much as though the United States will enter its home heating oil season with the lowest amount of middle distillants in reserve than ever before in our history.

Sixth. Skyrocketing gasoline and home heating oil prices are not fully justified by increases in the costs of imported crude oil. According to the U.S. Customs Bureau, the per gallon price of imported crude has risen only 3 cents between January 1, 1978, and May 1, 1979. Nevertheless, during this same 17-month period, the retail price of gasoline has risen on the average of 17 cents per gallon.

In addition to my investigative work as subcommittee chairman, I am a principal sponsor of two major pieces of legislation which would go a long way toward reducing our reliance on OPEC crude and, thereby, lowering the price of oil.

One bill would abolish the foreign oil tax credits that are now available to U.S.-owned multinational oil companies. This improper oil tax credit (which allows U.S.-owned, multinational oil companies to receive a dollar-for-dollar reduction in their U.S. taxes of amounts paid to OPEC governments for the extraction of their oil) discourages domestic exploration and places our small independent oil companies at a competitive disadvantage.

My second bill, H.R. 3604, would create a national nonprofit oil-purchasing corporation as the sole importing agent of foreign crude and petroleum products. The United States is one of the only oil importing countries in the world that still allows private companies to bid on and import foreign oil. Because our oil companies are allowed to pass through to the consumer any additional costs they pay in the price of foreign crude, they have no incentive to keep prices down. The national oil corporation I have proposed would be consumer-oriented and accountable for the prices they pay to foreign oil producing countries. I am convinced that the establishment of such a quasi-governmental entity would reduce significantly the costs of foreign oil and assist in breaking up the illegal OPEC cartel.

I oppose the lifting of price controls on domestically produced crude oil. The administration's proposal for removing such controls was promoted as a means for increasing domestic production. Since controls were lifted in the spring of this year, however, U.S. crude oil production has decreased. I strongly disagree with those who argue that the price of domestic crude should be the same as the price set by the OPEC cartel even though that price bears no relationship to the cost of producing the crude.

Even if it is not possible to reverse the President's decision to decontrol prices, I voted for and strongly support the stiffest possible excess profits tax on the oil companies.●

FINANCIAL MANAGEMENT AT THE UNITED NATIONS

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. McHUGH. Mr. Speaker, the Washington Post recently ran a series of articles by Ronald Kessler regarding financial management practices at the United Nations. Those articles were generally critical of a number of practices and have thus generated a good deal of controversy.

Although the Foreign Affairs Committee recently held hearings at which many of the charges were called into question, the fact remains that most of us have not had an opportunity to review the points that were raised in any detail.

Recently, our former colleague, Charles Whalen, authored a response to the major charges contained in those articles. As I am sure that many of my colleagues are aware, Chuck Whalen twice served as a delegate to the U.N. General Assembly. At the present time, he is the president of New Directions, a public interest group that has taken a special interest in foreign affairs.

Because of the brevity and timeliness of this article, and the fact that the State Department appropriations bill for fiscal year 1980 is scheduled for floor action this week, I am including a copy of the article in the RECORD at this point for the benefit of those of my colleagues who may not have seen it:

FISCAL PRUDENCE AT THE U.N.

(By Charles W. Whalen, Jr.)

Fiscal prudence dictates that management of public funds be subjected to careful scrutiny. International institutions that administer U.S.-contributed dollars certainly should not be exempt from such analysis. The Washington Post, therefore, is to be commended for its decision to examine the financial practices of the United Nations.

Regrettably, the conclusions that emerge from the two articles on this subject, [A1, June 17 and 18] reflect an innocence of any acquaintance with accounting procedures and a misunderstanding of how the United Nations system operates.

First, Post reporter Ronald Kessler contends that the $1.4 billion maintained in United Nations bank accounts around the world is "excessive." This figure only has meaning when it is applied against the liability side of the ledger, for out of this sum must come payment for current obligations and future commitments. The family, for example, with $10,000 in its checking account on July 1 may find itself in debt on Sept. 1 when college tuition bills come due.

Since most U.N. agencies do not have borrowing authority, meeting two- to four-year commitments out of unpredictable annual contributions requires the accumulation of substantial reserves to meet predictable payments as they come due. Too, many development organizations, such as AID, are required to maintain one dollar in the bank for every dollar of future expenditure commitments. But on December 31, 1977, UNICEF's cash balance of $131 million was less than one half its 1977 contractual commitments. Using AID's standards, UNICEF's deposits should have been $304 million.

The "commitment" discussion is further complicated when the subject of "pipelines" is introduced. In congressional jargon, this refers to undisbursed commitments. Funds are appropriated and then earmarked, but they are not instantly disbursed, since contracts have to be let, equipment purchased and personnel hired. To the untrained observer, these unliquidated obligations distort the "net worth" of the agency in question.

Second, the series asserts that the U.N. does not earn the highest possible return on its checking accounts. One should not compare 1977 interest rates with current rates, which are substantially higher. Further, it was only recently that federal statutes allowed any interest payment on demand deposits. And, of course, the United Nations and its 40 agencies have more than a thousand accounts scattered throughout the world. Many countries retain their contributions, until callable by the United Nations, in their national treasuries or in domestic financial institutions at rates that, as sovereign nations, they arbitrarily establish.

Third, The Post avers that United Nations financial procedures do not conform to accepted business principles. The United Nations simply cannot be equated with private enterprise. It may not borrow funds against shortfalls or in anticipation of revenues. Decisions of the "board of directors," comprised of representatives of 151 independent nations, often are politically motivated. Contributions of inconvertible currencies can be spent only in the donor's country. Uncollected assessments cannot be written off as "bad debts."

The timing of The Post's articles also is unfortunate. They come in the midst of the appropriation process for United States contributions to the various United Nations agencies when it is not easy to have orderly consideration of these questions.

On June 27 two House foreign affair subcommittees held joint hearings to consider The Post's allegations. Virtually every one of Mr. Kessler's charges was refuted or explained in its full context, convincing those present that his criticisms were unfair. Unfortunately, one could not discern this from The Post's June 28 account of the session.●

THE DINNER PARTY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mrs. SCHROEDER. Mr. Speaker, today, in coordination with the Minute Women series, I would like to insert into the RECORD an article from the June 11 Village Voice on Judy Chicago's "The Dinner Party." "The Dinner Party" is a visual celebration of the history of womankind:

ON THE TABLE: JOYOUS CELEBRATION

(By Diana Ketcham)

If provincial cities get the museums they deserve, San Francisco has one slightly better than it ought to. For its regular clientele of matrons and tourists, the San Francisco Museum of Modern Art serves up traveling classics like the Fauvism exhibit of 1976. For Bay Area residents who want to distinguish themselves from tourists, it shows such modern giants as Rauschenberg and Jasper Johns. Until March, these were the biggest shows the museum had ever had. Now Johns, Rauschenberg, and the all-time drawing Fauves are about to be surpassed by a show that's neither classic nor modern, a show that's didactic and feminist, created by a woman with the slenderest of national reputations and known on the West Coast more for her politics than for her art. It sounds like a story of the '60s, but it's not.

Thirty-nine-year-old Judy Chicago is perhaps the only one who wasn't flabbergasted when 5000 people turned up for the opening weekend of The Dinner Party. Chicago says she wouldn't have worked for five years and enlisted 400 helpers if she hadn't believed she could draw a crowd. Henry Hopkins of the S.F. MOMA, the only museum director to encourage her, smiles wryly as he recounts how The Dinner Party is bringing in over a thousand people a day, while Johns and Rauschenberg drew four and five hundred. Before the opening only Seattle and Rochester wanted the show, but now there are daily calls from places like Houston and the Corcoran Gallery in Washington. Judy Chicago: A Dinner Party, the book published by Doubleday to coincide with the opening, sold 20,000 copies in the first two weeks. Hopkins says, "When my board asks me to justify the show financially, it won't be difficult for me."

The object of all this attention is a monumental setting for a gathering of great women. On a triangular table 42 feet on each side are 39 place settings. Every plate is hand-painted with an abstract portrait of a woman, and each linen runner is embroidered with a scene from her life done in the needlework style of her period. With the overhead light reflecting off porcelain, linen, and silk, the piece emits an atmosphere of religious solemnity. One expects the gods, or in this case goddesses, to descend and dine.

This awesome undertaking began in 1971, when Chicago, a Santa Monica painter known for her luminous "female" images on Plexiglas, saw a handpainted china plate in a shop in Oregon. She began visiting exhibitions of china painting and learned that thousands of women across the country are part of a network of modern-day china painters with their own publications, courses, and competitions. At that time Chicago, who was painting by spraying on canvas, was dissatisfied with her medium. "I wanted to use a brush again," she recalls, "and thought of learning china painting to use for a new work, a series of painted plates that related to the series of paintings I had been doing entitled *Great Ladies.*

From her plate portraits, Chicago moved on to create a complete setting for a dinner. "Historically, the dinner party has been one of the few approved ways for women to express their creative abilities," she says. "It was also the solution to my personal search for a historic context for my art. Since most of the world is illiterate about women's history it seemed appropriate to relate our history through art, particularly through techniques traditionally associated with women—china painting and needle work."

An undertaking so ambitious and flagrantly political is difficult to place, at least within any category of mainstream art of the last decade. Art-world people who like it explain that it's an attack on minimalism, since it has content, or that it is an example of the new eclecticism, since it uses traditional crafts. Others say it falls in the tradition of 19th-century public art—frequently didactic murals and statuary—and descends directly from Mary Cassatt's mural for the Women's Building at the Chicago exposition of 1893. But many enthusiasts are hard-pressed to define The Dinner Party. They ask: Is it art? Is it politics? Is it fine art or crafts? Is it the work of a single artist or a collective, accumulative work like the medieval cathedrals? Is it erotic? Is it pornographic? Does it celebrate women? Does it denigrate women? Is it a Judy Chicago ego trip? Few of them are asking, Is it a success?

The Dinner Party became a collaborative project, or a cooperative one, to use the term Chicago prefers, for the unromantic reason that she chose to work in a medium she knew nothing about. Chicago admits that she doesn't embroider and can barely sew, and that after spending one day trying to learn how to throw a pot, she gave up ceramics for good. Of the people who worked on the project, only two, a ceramicist and a teacher of ecclesiastical embroidery, were professional craftspeople, and 40 were highly skilled in their crafts. The rest were trained on the job.

So The Dinner Party studio was a workshop where people came to create an art work and learned a craft in the process. Chicago is fond of pointing out historical antecedents in Renaissance workshops, the atelier system, and convents where nuns worked together on ecclesiastical artifacts not unlike The Dinner Party linens. "The myth of the artist working in isolation is a creation of modern times," she says. "I would like to break the power of that myth by showing what artists can do in another setting." Some feminists raise the spectre of volunteerism. They ask if her unpaid helpers, especially the more than 100 women who worked six months to a year, were not exploited and discouraged from professionalism. Their question raises another: Could The Dinner Party, which is still $20,000 in the red, have been done at all if workers had been paid?

What everyone does agree about is Judy Chicago's stunning achievement in creating an audience that is remarkable not only because of its size, but because it is an entirely new audience for art. At the entrance of the museum the students, tourists, and upper-middle-class museum members pass by in their usual proportions; yet they are outnumbered by middle-aged women in pants suits who have taken the bus into San Francisco from the suburbs, or have driven from inland California towns like Modesto and Fresno, or have traveled with their husbands from Detroit or Tulsa. They learned about The Dinner Party from women's organizations in their home towns, from the network of people who worked on the piece, from community college classes, from reading Newsweek. Most of the local women I talked to said they had never visited the museum before. The tourists said they were not in the habit of visiting museums. But they came to see The Dinner Party and they loved it.

Chicago set out to build herself an audience. "It has been a very conscious effort of mine for the last 10 years," she says. "I believe in the idea of an expanded audience for art, not just for me, but for all artists. Besides, I had to. It was a matter of survival. If I had depended on the art world, I would have starved to death."

Her audience is what is forcing the art world to take Judy Chicago seriously. Before The Dinner Party, Chicago had a reputation among California feminists as a teacher and lecturer and as a founder of Womanhouse, in Los Angeles. Her autobiography, Through the Flower, was a basic text in women's studies classes across the country. But within the art world she was known by many as a pushy woman who had cleverly publicized her struggle for acceptance by the art establishment, but who by no means had been accepted. One young curator told me, "Before The Dinner Party it would have been easy enough to dismiss Chicago's work as mediocre, decorative, and obsessively female, but now these issues don't seem important." A San Francisco critic says, "What all artists must do, and particulrly those out here on the West Coast, is to create a structure within which their art can gain attention. Judy has done that brilliantly. No artist can afford to overlook the lesson of The Dinner Party." When Robert Irwin, who was having a one-man show across the bay in Berkeley, dropped in on Chicago's opening, no one missed the significance of the gesture. A leader of the male established L.A. art scene was giving his nod of approval.

Ironically, the enthusiasm of artists and critics may be disconcerting to those feminists who have been backing Chicago from the start. At a seminar the weekend of the opening, some panelists were touting the piece as a step toward establishing a separate women's art movement. "What has the art world given to feminist art?" critic Lucy Lippard asked. "Nothing. Women must have their own art structure with its own audience, its own critics, its own rewards." Now that The Dinner Party has made it big, feminist separatists may find themselves left high and dry.

Other feminists accuse Chicago of "using" women's history as packaging for art. They call it promotion. They call it the selling of Judy Chicago. But the fact is that what she has done works. Chicago laid the foundation for her audience by lecturing and sending members of her corporation, Through the Flower, on fund-raising and research trips across the country. Yet it was the work itself that had to convince these potential converts. The Dinner Party manages to appeal to both Chicago's new audience and her old feminist supporters by balancing new and challenging elements with those that reassure because they are familiar.

The key to The Dinner Party's broad appeal is its use of traditional crafts. Chicago was shrewd enough to realize that for many American women, the most accessible arts are domestic ones like needlework. If a woman doesn't do needlework herself, she has a mother or grandmother who did. California is the scene of a fiber-arts movement, including a stitchery revival. But The Dinner Party is mining a cultural vein that goes deeper than fashions in crafts, or even a phenomenon as widespread as the interest in quilts. Many of the women in the new audience respond to The Dinner Party because they feel competent to understand at least some of the techniques it uses. (Besides, needlework can lend itself to the merely quantitative appreciation often given to labor-intensive crafts. "So many hours, so many tiny stitches.")

The Dinner Party also has the familiarity of a religious work. Entering the exhibition hall, darkened except for the light reflected off linen and glazes, is like walking into a church. The crowd is hushed, its attitude reverent. The table, draped in embroidered linens, in an altar. The place settings are shrines to individual saints, the whole table a pantheon.

The religious feeling called up by The Dinner Party appeals to the spiritualist movement that has become such a strong strain in California feminism. Women devoted to reviving ancient female deities and popularizing female religious symbols rightly believe that Chicago is contributing to their effort. The first six of the 39 plates represent ancient goddesses, and of the rest a large proportion are of religious figures: Judith from the Bible, the abbess Hildegard of Bingen, Saint Brigit. Chicago's intention of honoring these women is a form of canonization. She refrains, however, from aligning herself explicitly with the feminist spiritualists. "I'm not a goddess worshipper," she says. "I included so many goddesses because I wanted to remind people of a time when female power, which is what the goddesses represent, was revered rather than suppressed. I am not interested in documenting the existence of ancient matriarchies or giving women today something to worship."

In any case, the feminist spiritualists are only a fraction of the audience that responds to The Dinner Party as a religious work. As with its craftsmanship, the religious quality appeals to currents in traditional middle-American culture. It was the older women at the show who told me, "I felt I was in church." "It was like visiting cathedrals in France." "She made these women into something holy." For many of these women the most familiar aesthetic reactions are the ones they experience in the act of worship: awe, wonderment, humility in the presence of the past. The Dinner Party is accessible to them because it evokes precisely these responses.

The familiarity of so many aspects of The Dinner Party neutralizes what could disturb the same audience, namely, the sexual connotations of the images on the plates. Artwise and feminist viewers take these images for the convention they have become; there are the usual mutters of approval about demystifying female sexuality, about women knowing their own bodies. The new audience, however, says things like, "Is that what I think it is?" When asked about their reaction later, they told me, "Oh, yes, I thought it was a vagina, but it didn't bother me." The refrain is "it didn't bother me." What they seem to be saying is that it should have bothered them or would have bothered them, but by some miracle that they don't understand, it did not. The miracle is Chicago's balance of media and styles. At the moment a viewer glimpses a vulva on a plate, she can shift her eyes to a patch of needlework and think: "Just like grandma used to do."

Whether genital imagery is appropriate for portraits of great women of history is the question most often asked. Chicago sidesteps this issue when she insists that the image does not have to be taken as genital but as a butterfly, a flower, and so on. Her most useful answer is that it does not have to be taken as literal. She calls it "form transformed beyond its physiological inspiration" and adds, "When a male artist makes a sculpture with a great thrusting member we don't see a phallus, we see thrust." She wants to do the same with female imagery. As far as The Dinner Party audience is concerned, she has.

This achievement is itself surprising. "I'm amazed the museum hasn't had 50 letters objecting to the piece as pornographic," says one critic. Chicago has used women's history and women's crafts to soften the impact of images people objected to when they were all alone on her canvases. She put vulvas on plates and served them up to a staid museum audience. They didn't even know what they were eating.

Although The Dinner Party works as art packaging, the response to it raises some disturbing issues. The women in the new audience are moved by the piece because it "is so big" and "took so many years to make." They admire Chicago because she "organized all those people" and "finished something." This kind of appreciation is a reminder of how low women's expectations of each other are. It is the old story of Dr. Johnson praising a woman who could preach as he would a dog who could walk on his hind legs, not because it was done well but because it was done at all.

Also, in trying to rehabilitate women's traditional crafts, Chicago runs up against the contradiction implicit in all efforts to give social minorities pride in their past. It is difficult to insist that women artists have a glorious tradition at the same time you insist that women artists have been oppressed. How do you celebrate crafts like china painting and needlework if you want to acknowledge that these crafts have not given women's talents full scope? On the one hand, Chicago is delighted that American women have kept the china-painting tradition alive; on the other, she is horrified that women have "wasted their talents putting roses on plates." Chicago the feminist wants to give the china painters their historic due. Chicago the artist is offended by the aesthetic of what they have done.

The same tension exists at the heart of the dinner party idea. By making a table setting into a monumental art object, is Chicago saying, "This is the culmination of what women have done with their creativity, let us be proud of that"? Or is she saying, "This is all that the male culture has allowed women to do with their creativity: To hell with you, male culture"? There is an edge of exaggeration to the piece that suggests the latter. Its scale is not just grand, it is grandiose. The plates are slightly too large, the colors slightly too bright. Men feel the irony of the piece. It makes them think Chicago is making fun of something and they're afraid they may be it. By using a women's tradition as her form, is Chicago trying to have it both ways on this issue? If people find the dinner party motif appropriately celebratory, she can take credit for it. If they say it is a cliche, or demeaning to women, or symbolic of their oppression, she can blame it on the men.

Another question is what The Dinner Party says about the future of feminist art. Craftspeople in California are talking about the boost the piece will give the stitchery revival, but Chicago says she's not trying to encourage women artists to take up needlework. She makes a rigid distinction between fine arts and crafts, and places her own career on the fine arts side of the fence. One young artist told me, "It's wonderful for women who are not artists to learn to reevaluate their grandmother's embroidery, but where is the lesson for us?" Her reaction clarifies who The Dinner Party is for. Despite the originality of its concept, the piece is not a step forward for the women's movement but a backward glance. It sums up the basic feminist lesson that the first step in coming to consciousness is for women to know what other women have done. It is a simple lesson. But then, when has public art ever taught anything else? Besides, the popularity of The Dinner Party shows that there are thousands of women in America eager to learn it.●

PERSONAL STATEMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. DOWNEY. Mr. Speaker, in my capacity as a Congressional Adviser to the SALT talks, I had the privilege of attending the Vienna summit meeting between the leaders of the United States and the Soviet Union. Consequently, I was absent for several rollcall votes on June 14, 15, and 18. Had I been present, I would have voted as follows:

Rollcall No. 240, to resolve into the Committee of the Whole for the consideration of the Energy and Water Development Appropriations Act of 1980, "yea";

Rollcall No. 241, to require unsuccessful intervenors in the regulatory proceedings of the FERC to refund moneys allocated to assist their participation, "no";

Rollcall No. 242, to provide $550,000 for public participation in FERC regulatory proceedings, "aye";

Rollcall No. 243, approval of the journal, "yea";

Rollcall No. 244, to table a resolution of inquiry on the energy shortage, "nay";

Rollcall No. 245, resolution of inquiry on the energy shortage, "yea";

Rollcall No. 246, to resolve into the Committee of the Whole to consider the Energy and Water Development Appropriations Act of 1980, "yea";

Rollcall No. 247, to delete $6 million from water development appropriations for the O'Neill Unit of the Sloan Basin project in northern Nebraska, "aye";

Rollcall No. 248, to delete $6 million from water development appropriations for the desalinization plant planned for the Colorado River Basin project, "aye";

Rollcall No. 249, resolution expressing the sense of the House that the President should take action to deal with the refugee crisis in Southeast Asia, "yea";

Rollcall No. 250, to increase energy and water development appropriations by $5 million to fund the placement of unit inspectors at all nuclear powerplants now in operation in the final stages of construction, "aye";

Rollcall No. 251, to allow new employees in the nuclear licensing area also to work on plant safety matters, "aye";

Rollcall No. 252, to prohibit nuclear powerplant construction in States which do not have emergency evacuation plans, "aye"; and

Rollcall No. 253, final passage of the Energy and Water Development Appropriations Act of 1980, "yea".

Mr. Speaker, on June 26, I also was unavoidably absent for part of the legislative day and missed our last four rollcall votes. Had I been present, I would have voted as follows:

Rollcall No. 280, technical amendments to the synthetic fuels act, as well as a clarification that the act does not grant authority to the President to institute a gas rationing plan, "no";

Rollcall No. 282, to prohibit DOE and TVA from using funds appropriated for other energy programs for the implementation of the synthetic fuels act, "aye";

Rollcall No. 283, to prohibit the eight largest oil companies from purchasing synthetic fuels contracts, "aye"; and

Rollcall No. 284, final passage of the synthetic fuels act, "yea." ●

SENATE—*Wednesday, July 11, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Almighty God, Creator, Redeemer, and Judge of all that is, we thank Thee for this Earth which Thou hast given man for his home. We thank Thee for man's curiosity, imagination, and creativity which prompt exploration in the vast reaches of space by moving laboratories and spaceships. May we who make our home on this sphere rededicate ourselves to Thy service. And grant us the wisdom and grace to marshal the spiritual and intellectual energies of this universe and of the universes beyond to heal the wounds of men and to bind the nations together in the ways of permanent peace and universal justice. May Thy grace abide in the hearts of all who bear the awesome responsibility of this Government that this Nation may be a beacon of freedom and justice to all men.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 11, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. JAMES EXON, a Senator from the State of Nebraska, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. EXON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THERMOSTAT CONTROLS

Mr. ROBERT C. BYRD. Mr. President, yesterday President Carter signed an Executive order implementing thermostat controls for commercial buildings. Under the order, which will be in effect until April 1980, the temperatures in nonresidential buildings will not be allowed to rise above 65° in winter or drop below 78° in summer. While private homes and apartments are exempted, just about every other type of building where people work, dine, play, study, or shop will be affected. All of this is expected to save the Nation between 200,000 and 400,000 barrels of oil per day—about 10 percent of the amount normally used for heating and cooling.

I have taken the appropriate steps to assure that the Architect of the Capitol will act promptly in this regard to bring the Senate into compliance. So it is going to be a warm summer for all of us. Senators and staff alike will soon learn, or remember, what Washington was like before the use of air-conditioning, at least to some degree, I should think. For those who yearn for the good old days this will give them a chance to see what those hot and sultry days were like.

While these regulations may make some of us uncomfortable, we must bear in mind the purpose of this action. Saving energy is in our own best interest and brings us that much closer to assuring our national security and bringing about our independence from OPEC. Each of us will be required, in the weeks and months ahead, to sacrifice and make some changes in the way we live. Hopefully, this will be done with as little dislocation as possible. But conserving fuel must be the first priority. A little personal discomfort is a small price to pay.

I yield to the distinguished Senator from Wisconsin. How much time does he need?

Mr. PROXMIRE. Three minutes.

Mr. ROBERT C. BYRD. I yield 3 minutes to the Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

LEGISLATIVE VETO OF FTC REGULATIONS

Mr. PROXMIRE. Mr. President, later today I understand the distinguished Senator from New Mexico, Senator SCHMITT, will introduce an amendment to the FTC regulations. I oppose that amendment. I wish to state now why I oppose it.

Mr. President, I am opposed to the amendment by Senator SCHMITT which would provide for a legislative veto of regulations issued by the Federal Trade Commission. I understand the purpose behind this amendment and I agree with it. We have too much government regulation and Congress needs to take a more active part in curbing excessive regulation.

However, giving Congress sweeping authority to veto all regulations issued by a single agency is the wrong approach. I opposed a similar amendment offered by the Senator from New Mexico last year concerning HUD regulations and I likewise oppose this amendment today. The Senate rejected the Schmitt amendment last year and I hope it will do the same this year.

If this amendment is adopted, it will turn the Congress into an administrative agency and involve us in reviewing hundreds of detailed regulations. We would be constantly called upon to second guess the FTC even though we would have substantially less time and staff resources to analyze each proposed regulation.

Inevitably, those who are affected by a proposed FTC regulation would run for relief to the Congress every time they disagreed with an action by the agency. Even if we never used the veto authority, we would have to spend hundreds or even thousands of man-hours reviewing the numerous appeals that would descend upon us. Moreover, if we establish the precedent with the FTC, it will only be a matter of time before a similar veto authority is extended to all regulatory agencies.

Thus, unless we want to turn the Congress into a super court of appeals for reviewing regulatory actions, this amendment should be defeated.

If Congress wants to keep a tighter rein on the regulatory agencies, and I agree that it should, the more appropriate method is to make greater use of our existing oversight powers. We need to hold more oversight hearings on how the regulatory agencies are carrying out our mandate. We need to make better use of our advice and consent powers to be sure to get regulators who will carry out the law and our intent. And, where specific abuses occur, we need to consider appropriate legislative remedies designed to redress the specific abuse. This approach will permit each committee to determine its own oversight agenda.

Under the approach suggested by this amendment, it is not Congress but outside lobbyists who will determine our oversight agenda. Virtually every regulation that has any adverse effect whatsoever on any economic group will inevitably be appealed to Congress. We would then have even less control over our workload than we have today. We would waste much of our valuable time reviewing every last detail of every regulation when we should be looking at the overall policies being followed by any agency. Instead of strengthening congressional oversight, this amendment would weaken it. For these reasons, I urge the Senate to reject this amendment.

NO POSSIBLE EXCUSE FOR THE SENATE'S LACK OF ACTION ON THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Senate has a wide range of responsibilities and considers a great deal of legislation in connection with these responsibilities. Usually the Senate makes a considerable effort to insure that issues of national importance are not slighted.

However, with respect to the Genocide Convention, the Senate has been noticeably remiss.

The Genocide Convention recognizes genocide as an international crime and defines this most of heinous crimes very precisely so that its intent cannot be misconstrued.

Why has this treaty not been ratified? Is it possible that Members of the Senate have not had an opportunity to evaluate the treaty?

While I would like to believe that that is the case, it is totally inconceivable. The treaty has been before the Senate for 30 years. Since then four separate hearings have been held. These were held in 1950, 1970, 1971, and 1977. As is clearly indicated by the respective committee reports, the implications of the treaty were carefully studied. Thirty years is certainly ample time in which to decide on this or any other issue.

Is the Senate's inaction due to opposition from concerned national, State, and local organizations?

This too would be a reasonable excuse. However, in addition to many organizations, the treaty has the support of many religious groups, as well as the support of the American Civil Liberties Union and the American Bar Association. Such support is overwhelming. Opposition is negligible.

Does the Senate's inaction stem from a general mistrust of the treaty on an international scale?

This is clearly not the case. The treaty has been ratified by 83 countries, many of these acting years ago. The United States remains the only major country that has not ratified the Genocide Convention.

As I have illustrated today and repeatedly in the past, there is no excuse for the Senate's lack of action. In fact, it is absolutely puzzling that a treaty of such basic importance and such wide support has not been ratified long ago by the Senate.

Action is long overdue, and I urge my colleagues to each make a renewed effort in doing what is necessary to insure that the Genocide Convention is ratified.

Mr. President, I thank my good friend, the majority leader, and I yield back my time.

VITIATION OF ORDER FOR RECOGNITION OF SENATOR BENTSEN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. Bentsen be vitiated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am prepared to yield back the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. BAKER. Mr. President, I have no need for my time and I have no requests for time to be yielded under the standing order. In the absence of such request, I am prepared to yield it back, and, unless the majority leader requires it, I do yield it back.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. I thank the Senator.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

THE SENATE BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the time has come where we are going to have to find something to do today. The Senate is not going out today. We are going to have to have some business.

As I see it, the following measures are candidates:

The military construction authorization. I have been trying to accommodate Mr. Tower on that measure. But I must say that I do not think that there is going to be any action in the Armed Services Committee that would interfere with his situation in that he would have to be there while the military construction authorization is on the floor.

I had hoped that we could take up the three housing bills that are on the calendar. As to Calendar Order No. 155, S. 903, Mr. Stewart is ready to proceed with that one.

I had hoped to proceed with Calendar Order No. 169, S. 1064. Mr. Morgan will be ready to proceed with that one just as soon as the Ethics Committee has completed its work for the day.

Mr. Williams will be ready to proceed with Calendar Order No. 176, S. 1149, which is the major one of the three housing bills.

I had hoped to proceed to the consideration of those today so as to give the Senate some work while we could hopefully get to the military construction bill later.

Now, I am prepared on this side to proceed to any of those measures. Our managers are available.

I also have discussed with Mr. Ford, the Federal Trade Commission authorization bill, Calendar Order No. 195. He is ready to proceed with that.

We have the nomination of a member of the Federal Election Commission which we can take up.

These are the measures that I see as possibilities for today.

Let me say that the distinguished minority leader has been very cooperative. He has tried to be helpful and he is not in a position to be an entirely free agent in this situation.

I respect his problems, and there is not one word I can say by way of complaining with respect to the minority leader. He has problems on his own side with the nomination, he has problems with the housing bills as of this moment, and I can understand that; and he has problems, and of course Mr. Tower is here to speak for himself, with respect to the military construction bill.

But the Senate has to get on its way. I indicated before the July recess to my colleagues—and we have a copy of the letter to my friend, the minority leader—that once July came on the calendar then the Senate would have to be in session on Fridays, and undoubtedly, on Saturdays if it is going to complete its work.

We have appropriation bills which will be ready for action next week; there will be Panama Canal implementing legislation coming along; there will be the SALT Treaty later in the session; there will be energy legislation coming out of Senator Jackson's committee probably very soon so that could be acted on, hopefully, during the month of July.

Our problem though is an immediate one. What do we do today? What do we do tomorrow, Thursday? What do we do Friday? And what do we do Saturday?

So I ask these questions rhetorically of the minority leader not for the purpose of putting the onus on him, because the onus is not on him. I have no reason, as I say, to complain about him. He has met with me. We met time and time and time again yesterday and today, and he has done everything he can do. But somebody is going to have to help us both so we can get on with the work of the Senate. People are going to hold us all responsible. It is not simply the majority party which has the responsibility of moving the legislative process ahead.

I have had extremely good cooperation of the minority leader and the assistant minority leader. But my problem is, and the minority leader's problem is, what are we going to do today.

So I ask the question. Does anyone have the answer? I have named the candidates.

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

Mr. BAKER. I was afraid the Chair might.

Mr. ROBERT C. BYRD. Mr. President, I have not yielded the floor, may I say.

Mr. BAKER. Mr. President, I ask the majority leader to yield to me.

Mr. ROBERT C. BYRD. I yield to the minority leader.

Mr. BAKER. Mr. President, I readily accept the responsibility of the joint leadership to provide a schedule, and I hope a convenient schedule, for the Members of the Senate, and I wish to express my appreciation to the majority leader for his efforts all through this year to consult with and confer even more than ordinarily with the minority in trying to schedule the business of the Senate.

In response to that we on this side, working through our ranking Republican Members, have met regularly to make the affirmative effort to clear calender items to present to the majority leader for his consideration as business to be transacted by the Senate.

It is different from the way things once were, and I am grateful for that opportunity. I think it has worked very well.

If the majority leader is right we have sort of pumped the well dry as of this moment, and I hasten to say without blame for Members of either side; but I rather expect that most of our problems come from the fact that the appropriation bills are not coming on as fast as we had hoped they would. July really is the month when we are going to have to address the 13 regular appropriation bills, plus the final disposition of the supplemental. But that is one of the problems. They are not here now, and we cannot deal with them.

The items mentioned by the majority leader we have discussed at length. In addition to that, we have discussed other items that are on the calendar and that I believe he has trouble with in respect to the wishes of Members on his side.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I do.

Mr. ROBERT C. BYRD. Not with respect to trouble with Members on my side, but we do have jurisdictional disputes; we have measures that need budget waivers; we have measures that are awaiting action until after the House votes, for example, the Harry Byrd selective service measure; we have measures on which the committees are working on amendments; we have measures on which Members on both sides are trying to resolve problems, such as the measure on which Mr. Hart and Mr. Simpson are trying to work out a problem between them, Calendar No. 188.

I have no problems on my side. I very seldom do have a problem on my side. My Senators are ready to go. That is all I have to say, and I will not further interrupt the distinguished minority leader's statement.

Mr. BAKER. Mr. President, if the distinguished majority leader will yield to me, I am not assigning blame to him or to Members on his side. But in this give-and-take process there are 10 items, 10 calendar items, that we had cleared and offered to the majority leader which, for one reason or another, are not available. So I wanted to make the record clear we are not trying to obstruct the business of the Senate.

EXPLANATION OF STATUS OF VARIOUS ITEMS ON THE CALENDAR

Mr. ROBERT C. BYRD. Yes, why does not the Senator name those items, and we will make answer.

Mr. BAKER. Calendar Order 151, the Trade Commission Act, S. 1132.

Mr. ROBERT C. BYRD. Senator Long wants to wait until the House acts. He feels if the Senate waits until the House acts it will expedite the final action by the Senate, and I think Senator Long is correct in that.

Mr. BAKER. But, Mr. President, if we really do have to schedule something, I would urge that we consider that item as one of the matters we might schedule notwithstanding that it might be preferable to wait. We could take it up.

Mr. ROBERT C. BYRD. There is good justification though. If the Senate proceeds to act on that before the House acts on it then it is very well possible that the Senate will have to act twice. It is just that simple.

Mr. BAKER. Then we have a Calendar Order 163, S. 1145, the Public Works and Economic Development Act.

Mr. ROBERT C. BYRD. Calendar Order 163, the committee is working on amendments to that measure and hopes to resolve the problem within the committee before it brings it to the floor, and in that way save the Senate's time.

Mr. BAKER. I understand, and if the majority leader would yield further, this bill is on the calendar and really amounts to a vehicle or a shell, and that ultimately I expect the Public Works Committee will supply us with amendments or proposals that may be attached to this measure or that we may substitute in its entirety, but his is an item that can be dealt with in part.

Mr. ROBERT C. BYRD. That is correct.

Mr. BAKER. I would agree with the majority leader that the better part of discretion would be to save that until the Public Works Committee has performed its other functions. But this is a matter we took through our ranking Members and cleared for action, and we are prepared to do although it is not one of those of such high priority, say, as of the Trade Commission bill.

Calendar No. 194, Amtrak, S. 712 is on my list.

Mr. ROBERT C. BYRD. Yes. In that connection the administration is going to send up an amendment hopefully to that measure in light of the problems that have arisen in connection with the industry, and we hope to wait and see what the amendment is so that the Senate does not act prematurely or in haste.

Mr. BAKER. I thank the majority leader.

By the way, on Calendar No. 194 I see the distinguished Senator from Connecticut on the floor. He has been deeply involved in that matter, and I am advised by him that as far as we are concerned we are ready to proceed on that item today.

Mr. ROBERT C. BYRD. I understand that.

Mr. WEICKER. Just by way of passing, and I ask the majority leader if he will yield, the distinguished minority leader will remember I tried to have this body postpone the administration's plan for Amtrak specifically because energy circumstances had changed the transportation picture in this country, and we were denied a vote and denied the opportunity to go ahead and do that.

Now the administration wants to come through with a plan, agreeing that 1977 data bases are not quite the best foundation to have for decisions to be made in 1979. So I think it only fair to point out it is not because this body was not ready to act at all but rather because the administration wanted to stick to its guns when, indeed, the guns were clearly outdated.

Mr. BAKER. Mr. President, beyond that, as I have already indicated, we have Calendar No. 196, the Motor Vehicle Safety Act, which is S. 1159.

Mr. ROBERT C. BYRD. The Department of Transportation is supplying new information in connection with that measure based on its most recent report, and it is felt the Senate ought to await the new data.

Mr. BAKER. Mr. President, if the majority leader will yield to me, I fully understand that and, as our colleagues will understand, every one of those items the majority leader and I have discussed.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. And I am aware of them and I am aware of his concern for having the calendar in shape to present to the Senate. So it is no surprise to either of us that I put these questions or that he gives me these answers. But it is important to put these things in the Record, I think, to point out that neither the Republicans nor the Democrats in the Senate are obstructing these two items but rather we are waiting for the administration proposals.

Mr. ROBERT C. BYRD. That is right.

Mr. BAKER. In this case, certainly, the delay is, at least in my view, chargeable to someone else other than our side, or I would think the majority side either.

Calendar No. 240, the draft bill, S. 109; I recall that we made a representation to the Members of the Senate that we would present a freestanding draft registration bill in lieu of its consideration as a part of another measure.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I wonder if we could state for the Record or lay into the Record the status of that situation.

Mr. ROBERT C. BYRD. Yes; the understanding was at that time the Senate would wait until the House voted on the draft. The House has not yet done so, and for that reason we have not proceeded.

Mr. BAKER. Calendar 241, the bankruptcy bill, H.R. 2807.

Mr. ROBERT C. BYRD. That can be acted on by unanimous consent, if the minority will clear it.

Mr. BAKER. I believe we are free to do that, Mr. President.

Mr. ROBERT C. BYRD. All right; we will do that by unanimous consent.

Mr. BAKER. We finally caught a fish.

Mr. President, I am told that we will require a small amount of time; the distinguished Senator from Kansas (Mr. Dole) has some remarks he wishes to make, and I am not sure whether he wishes to make them in person. I will have to consult with him on the time. But that one is free.

Mr. ROBERT C. BYRD. Yes; that one we can do later today, I think, by unanimous consent, with a short speech by Mr. Dole.

Mr. BAKER. Calendar No. 242, the DOE authorization bill.

Mr. ROBERT C. BYRD. That needs a budget waiver. It is before the committee.

Mr. BAKER. May I inquire when that would be ready for action?

Mr. ROBERT C. BYRD. They have a statutory full 10 days.

Mr. BAKER. That would be ready, then——

Mr. ROBERT C. BYRD. I believe a week from tomorrow.

Mr. BAKER. The home health bill, Calendar 245, Senate Resolution 169.

Mr. ROBERT C. BYRD. We can do that by unanimous consent when the minority leader is ready.

Mr. BAKER. We are ready. That can be done today sometime.

Mr. ROBERT C. BYRD. That can be done within 2 minutes.

Mr. BAKER. Calendar 246, land reclamation, S. 14.

Mr. ROBERT C. BYRD. That can be done at any time, but the chairman on the measure is presently conducting hearings on SALT, and Senator Nelson, who has an amendment, is at Camp David on the mountaintop this morning. That can, at some point, come along. That is not one of the must pieces of legislation, by the way; it is important, but it is not must legislation.

Mr. BAKER. May I inquire if the majority leader can take care of this matter later today?

Mr. ROBERT C. BYRD. Well, not necessarily later today, but let us work out a time agreement when Senator Nelson comes back. Perhaps we can do that sometime later this week.

Mr. BAKER. We are prepared to proceed on that one.

Mr. President, if the majority leader will yield to me further on this point——

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. My reason for calling these matters to the majority leader's attention is not to suggest new material or new developments, and certainly not to take him by surprise, because over and over and repeatedly we have shopped each other's lists for eligible items for the consideration of the Senate, but rather to lay into the RECORD the fact that there has been a substantial effort on our side to clear items for consideration; and, for reasons which the majority leader has explained, they are not available. But I wished to make the point that we have, I think, been diligent on this side in trying to make these matters eligible for Senate consideration. There are 10 items that are.

Mr. ROBERT C. BYRD. The minority leader has certainly been diligent. I have no complaint on that point, and I am glad he has raised these questions, because it gives me the opportunity to state for the RECORD and in public view exactly what the problems are with those, and, by the process of elimination, to come back to my original thesis, we have four measures that are good candidates for today, and I compliment the distinguished leader not only on raising the questions, but I again want to thank him for what he has tried to do.

Mr. BAKER. Mr. President, will the majority leader yield further?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. On the housing bills—and there are three of them, Calendar Orders Nos. 155, 169, and 176—I am prepared now to offer to the majority leader a unanimous-consent arrangement to consider those matters on tomorrow.

The majority leader will recall, I am sure, that the original arrangement or request noted on our calendar was that these items follow on after military construction. It was only late last evening that I was able to notify the ranking minority member of the jurisdictional committee, Senator GARN, of the possibility of a rearrangement of that sequence and an earlier scheduling of the housing bills.

He was then engaged in a 2-hour special television event, and could not be reached by phone. I did reach him this morning, and he indicated that it would not be possible to prepare to manage those bills today, but that he would be perfectly willing to do so tomorrow.

It seems to me that that is a reasonable request by the Senator from Utah, and I am in a position now to offer that to the majority leader for the pending business on tomorrow, provided that the sequence runs as he suggests—and I am speaking now from memory, but I believe this is correct—that we first consider Calendar Order No. 155, S. 903; the second would be Calendar No. 169, S. 1064; and then third and last in sequence, that we would consider Calendar Order 176, S. 1149, beginning at the majority leader's convenience on tomorrow.

Mr. ROBERT C. BYRD. Yes; that is the sequence in which we had determined they would be brought up. The Senator from Alabama (Mr. STEWART) is going to manage the first of those. May I ask if it is agreeable with him to proceed with them tomorrow?

Mr. STEWART. The first is S. 903?

Mr. ROBERT C. BYRD. Yes.

Mr. STEWART. Mr. President, we have one problem with regard to two amendments regarding the next bill, S. 1064, one to be offered by Senator GARN, the other to be offered by the manager of the bill, Senator MORGAN, who is taking a position different from the position the committee took.

Mr. ROBERT C. BYRD. I thank the Senator. But he will be available tomorrow?

Mr. STEWART. Yes.

Mr. BAKER. May I inquire if there is any disposition to establish a time limitation? I am not prepared at this moment to offer one, but I would be glad to try to procure one.

Mr. ROBERT C. BYRD. I would be delighted if the minority leader would do whatever he could to try to procure a time limitation agreement on any or all of these things.

I can well understand Senator GARN's predicament. I viewed the television debate last night, and I must say our two colleagues, Mr. CULVER and Mr. GARN, demonstrated that they were very knowledgeable and well prepared in each case, though they were of opposite viewpoints on the treaty, and I know both of them must have spent hours and days in preparation for that event.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. They were both diligent in form and presented themselves skillfully and their points of view with great effectiveness; and I really think they reflected great credit on the Senate as well as themselves in the conduct of that debate. I would like the record to show I congratulate both of them for a job well done.

Mr. ROBERT C. BYRD. Mr. President, in the event we can take those three measures up tomorrow, that still leaves us needing something for today.

Let me address myself to the Senator from Texas (Mr. TOWER), whom I am trying to accommodate on this whole matter, because we were prepared to go with the military construction bill. We have the manager of that measure (Mr. HART) standing by, waiting.

Mr. TOWER. "Laying in wait" is perhaps a more apt expression.

Mr. ROBERT C. BYRD. "Laying in wait" or "lying in wait"?

Mr. TOWER. Well, "lying in wait." I can assure the Senator, in any event, he will be well prepared.

Mr. ROBERT C. BYRD. How about proceeding with that bill today, with the understanding that tomorrow we go to the housing measures and then come back to it? That will accommodate the Senator and allow the Senate to proceed on a measure that we are going to have to dispose of at some point or other. It has controversial matter in it. If the Senator from Texas desires, we can reach that controversial matter today, then go to the housing bill, and come back to it and attempt to dispose of it later. I have no way of assuring the Senator at this point, but maybe that can be done. But to begin the measure today, set it aside tomorrow, and do the housing measures. This would accommodate the Senator and at the same time accommodate the Senate.

Mr. TOWER. I know of no amendments, actually, to the military construction bill, and I am prepared to enter into an agreement that there be a time limitation, provided that there are no amendments offered to the bill. As a matter of fact, we can go to third reading in 30 seconds, if the Senator would like.

Mr. ROBERT C. BYRD. Yes; I bet we could. I expect we could do this bill by unanimous consent.

Mr. TOWER. The Senator is prepared to make an accommodation on military construction for the purpose of disposing of it.

Mr. ROBERT C. BYRD. I have not the slightest doubt that we could get a unanimous consent for its disposition insofar as the Senator from Texas is concerned and dispose of the bill in 3 seconds, if we could agree to no amendments. But the Senator very well knows that there is a very controversial aspect concerning this legislation. We do not resolve the matter by putting it off.

If the Senator could do as I propose, it would certainly accommodate me as the leader and the minority leader in our efforts to try to keep the Senate moving, and then tomorrow we can go to the housing legislation.

Mr. TOWER. The Senator from Texas is always prepared to accommodate the Senator from West Virginia, and I think the distinguished majority leader is aware that in many instances I have extended mvself to accommodate the majoritv leader.

Mr. ROBERT C. BYRD. The Senator has.

Mr. TOWER. I have canceled travel plans.

Mr. ROBERT C. BYRD. The Senator has.

Mr. TOWER. I have neglected some other responsibilities.

Mr. ROBERT C. BYRD. The Senator has.

Mr. TOWER. And I have filled the breach very often on short notice.

Mr. ROBERT C. BYRD. The Senator has.

Mr. TOWER. For the very reason, as the Senator mentioned, that there is a controversial matter here, not controversial so far as a majority of the Armed Services Committee was concerned, because the matter in question was dealt with by an 11-to-5 vote on the Armed Services Committee, for that reason the Senator from Texas is not yet prepared because he did not expect this matter to be brought up this quicklv. As a matter of fact, as the minority leader will attest, less than 24 hours ago I suggested to him that I would like to see this move along and would like to bring it up on Monday of next week, having no idea that it would be popped up this week with the suggestion that it come up for immediate consideration because the other 37 items on the calendar could not be taken up today.

Mr. BAKER. Will the Senator yield for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Might I say that, indeed, the distinguished Senator from Texas brought this up in a ranging members' committee meeting yesterday in my office, a regular weekly meeting we utilize for examining the calendar for eligible measures, among other things. He did, in fact, indicate the desire, not just the willingness but a desire, to see this matter up and disposed of sometime this month. He suggested this Monday.

I am not adding much to the debate except to say that the Senator from Texas has expressed a willingness to proceed at an early date, but I understand fully why he is concerned about doing it today.

Mr. TOWER. Prior to the Fourth of July recess this did not seem to be on the list of items which was likely to be taken up this week. It was not until yesterday that the prospect of its earlier consideration became apparent. I am fully prepared to go to this bill, if given adequate notice.

Mr. BAKER. Will the majority leader yield one more moment to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I have not discussed this with the Senator from Texas nor with the majority leader, but I wonder if there is some possibility that we could schedule this matter for, say, Friday of this week.

Mr. ROBERT C. BYRD. While the Senator from Texas is thinking about that——

Mr. TOWER. How about tomorrow? I would be willing to do it tomorrow, Thursday.

Mr. ROBERT C. BYRD. Is this agreeable to the distinguished Senator from Colorado, who likewise saw this pop up on yesterday? He is in the same position as the distinguished Senator from Texas.

Mr. TOWER. Not quite.

Mr. ROBERT C. BYRD. Well, at least insofar as any advance notice that the leadership might have to go to this at some point he is in the same position. Will the Senator be prepared on tomorrow?

Mr. HART. As long as we are talking about who is in the relatively worse adverse position, I think I am in the same relatively worse adverse position as the Senator from Texas. I am prepared to go forward now.

Mr. TOWER. If the Senator from Colorado were in a worse adverse position as the Senator from Texas, he would not be prepared to go to the bill right now. I may be naive, but I am not stupid.

Mr. ROBERT C. BYRD. May I say that I hold the Senator from Texas in the highest regard.

Mr. TOWER. I was hoping the majority leader would say that.

Mr. ROBERT C. BYRD. I will say it twice.

May I say to the distinguished Senator if he wants the matter put over until next Monday, it does not make any difference to me, for Monday or Tuesday, but we have to have something to do on these days. That is why we are having our problem. I want to accommodate the Senator from Texas.

Let me suggest, then, that we proceed with the military construction bill on tomorrow; that today, if it is agreeable with the distinguished Senator from Kentucky, and all others, we proceed with the FTC authorization bill. The Senator is here and ready, willing, and able.

Mr. FORD. If the leader will allow me, if he thinks everybody else is in trouble, wait until they get through with me and FTC. I am willing to start today. There are some amendments to be offered. I am willing to start the debate. I would like to have a time agreement on amendments so that we can move on. I understand there are six or so amendments which can be considered now. We have no amendments on our bill as it came out of the committee, and we reduced the money that the FTC requested and gave them less than a 7 percent increase in funds. We thought we were limiting the ability of FTC by giving them no money for any new program. Now we see almost a Christmas tree of amendments. But I will say to the leader I am perfectly willing to start today and do the best I can. I hope that the minority leader could help us in trying to reach an agreement as relates to time on each of the amendments.

Mr. BAKER. Will the majority leader yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I can do that. I can take a little time and try to assemble those who made notations on my calendar in respect of this bill and see if we can work it out. I am willing, at the same time, at the request of the Senator from Kentucky, to inquire about a unanimous-consent agreement to limit the time on amendments and on the bill itself.

I may say that there is a wide range of notations on this calendar and a great number of them. I simply cannot agree at this time, by unanimous consent, to proceed to the consideration of this bill.

I would hope the majority leader would not press that point because, with the great number of Members on this side of the aisle who have expressed their keen interest in this bill, I think it would be most disadvantageous to our future efforts to try to work the calendar out if that point is pressed now. I think we can do the FTC bill if we schedule it at an early date and give everybody a little notice. But I simply cannot agree to a unanimous-consent request today.

Mr. FORD. Will the Senator yield?

Mr. ROBERT C. BYRD. I will yield, but first I will call to the attention of my colleagues that this item has been on the calendar since May 15, giving everyone a chance to prepare. I yield.

Mr. FORD. I would say to the minority leader, remembering his eloquence as related to the expansion of the TVA board, he gave me a right good trumping that day, as it relates to votes. The theme of the minority leader's debate at that time was that this had never been to the committee, that we had never had a hearing on it, that we did not know how much it would cost. Well, almost every amendment on that side has never been before the committee, we have never had a hearing on them, we do not know how much they will cost, or what they will do. And now we cannot get the bill brought up because of amendments and holds, because they have never been before the committee for hearing. Whichever way accommodates an individual I understand is the argument. But I want the minority leader to know that that is the argument this Senator will use as it relates to the amendments which will be brought up.

Mr. BAKER. If the Senator will yield, I have no earthly desire to try to limit the scope of the debate of the Senator from Kentucky. Even if I could, I cannot. But I will point out I do not have the foggiest notion what these amendments are. I am not on the committee. I have never been apprised of the amendments and I have not talked to the Members involved. I did know a great deal about the TVA matter.

Mr. FORD. Will the Senator yield at that point?

Mr. ROBERT C. BYRD. I yield.

Mr. FORD. Does the Senator think it appropriate then to have some time to read what transpired at the hearing and what these amendments would do, and, therefore, understand that a committee hearing would be very important to the Senator as an individual who is not on the committee, who does not understand what is going on, and to have a little time to be briefed by his staff?

Mr. BAKER. If the majority leader will yield further, I will say that my responsibility here, absent membership on the committee, is to protect the wishes of the Republican Members of the Senate. That is what I am going to do to the extent I can under the rules and with the cooperation of the Senate and especially the majority leader. But in that respect, this is one of the items on which there has been a very serious expression of feelings, especially on my side. I would hope that the majority leader will not press for action on that bill today. In exchange for that, we will be glad to check with 15 or 16 people who have expressed a special interest in this matter, if we can find the time to do it.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the Senate proceed to the consideration of the military construction bill.

Mr. BAKER. Reserving the right to object, Mr. President, the Senator from Texas is on the floor and I will yield to him.

Mr. TOWER. The Senator from Texas has no objection. I will defer to my friend from Colorado.

Mr. HART. And what time did the leader want to bring up the bill tomorrow?

Mr. ROBERT C. BYRD. After the two leaders are recognized. The Senate is coming in tomorrow at what time?

The ACTING PRESIDENT pro tempore. Ten a.m.

Mr. ROBERT C. BYRD. The Senate comes in at 10 and the two leaders have a little time, which I would be glad to yield back if the minority leader will.

ORDER FOR RECOGNITION OF SENATOR WEICKER ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. WEICKER be recognized on tomorrow for 15 minutes after the two leaders have been recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BUMPERS. The unanimous-consent request is still before the Senate?

Mr. ROBERT C. BYRD. Yes; I renew that.

Mr. TOWER. Reserving the right to object, and I do not intend to object, I must clear this with Senator THURMOND, the ranking member of the subcommittee. I do not think he will have any objection. Can the Senator withhold that for a moment?

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request temporarily.

Mr. BAKER. Will the Senator yield for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I might say to the Senator from Texas, as he prepares to check the matter, that I also have a notation from the Senator from New York, who is not on the committee. He has expressed an interest in this matter. I hope he will be conferred with also.

Mr. TOWER. I will proceed to check this out.

ORDER FOR RECOGNITION OF SENATOR EAGLETON ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following Mr. WEICKER tomorrow, Mr. EAGLETON be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 tomorrow. If there are any other orders, we will keep pushing the time back earlier.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE SENATE BUSINESS

Mr. ROBERT C. BYRD. While we are awaiting the report back on the military construction bill, Mr. President, let us explore further the prospects for today. I have mentioned the FTC bill, hoping that we could get started on that today and we could set it aside tomorrow while disposing of other matters. For the moment, I do not press that.

That leaves the nomination. Mr. HUMPHREY is here. Why could we not proceed with that nomination? We will have to go with it sooner or later. I will yield to the Senator in a moment for a response.

Sooner or later we have to go with it. I realize the problems are all on his side of the aisle, which somewhat amazes me, that the minority is in such disarray over a Republican nominee. The majority is ready to proceed with the consideration of the nomination. I pose the question to the distinguished Senator if he would be willing to go with that today.

Mr. HUMPHREY. If the majority leader will yield, Mr. President, I can understand the majority leader's wishes. He is known for the expedition with which he moves legislation and with which he moves business. I certainly commend him for that. But the majority leader is also known for his fairness. I would appeal to that fairness.

As the majority leader knows, this nomination is to fill a seat which, by statute, must be filled with a Republican. A gentleman has been nominated but a majority of us on this side of the aisle disapprove of the nomination and oppose it. We do not wish it brought up.

This is a peculiar matter in that the seat is a Republican seat; therefore, it is not odd that the opposition to the nomination would be restricted to this side.

I entreat the majority leader and appeal to his sense of fairness not to force the issue at this time, to let us settle this among ourselves.

Surely, this is not a matter setting a precedent. This sort of thing occurs from time to time. A majority of us, some 23 out of 41, do not wish this nomination brought up. We wish to have the opportunity to settle it amongst ourselves. I hope the majority leader will accede to that wish.

Mr. BAKER. Mr. President, will the majority leader yield for a moment? I am sorry to interrupt before the majority leader can answer.

Mr. ROBERT C. BYRD. Yes; I yield.

Mr. BAKER. I thought it best to announce while the Senator is here——

Mr. TOWER. Mr. President, if the majority leader will renew his request, I think it can be dealt with. I have touched base with Senator THURMOND and Senator JAVITS.

ORDER FOR CONSIDERATION OF MILITARY CONSTRUCTION AUTHORIZATION BILL TOMORROW

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Texas.

Mr. President, I ask unanimous consent that, following the orders for recognition of Senators on tomorrow, the Senate proceed with the consideration of the military construction authorization bill.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF CERTAIN MEASURES ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I shall propound a unanimous consent report for a measure to follow the disposition of the military construction authorization bill. I have not presented this request to the distinguished minority leader. I do not think he is taken by surprise because we have discussed the housing bills and we are ready to go with those today, except for the fact that I do see the necessity of acceding to the very necessary request of Mr. GARN in light of the time he had to spend in preparing for that debate last evening. I ask unanimous consent that, upon the disposition of the military construction bill, the Senate proceed with the consideration, in this order, of Calendar Order No. 155, S. 903, which is the first of the three housing measures; that, upon the disposition of that measure, the Senate proceed to the consideration of Calendar Order No. 169, which is the second of the housing measures; and that upon the disposition of that measure, the Senate proceed to the consideration of Calendar No. 176, which is the third of the housing measures.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not, if I understood the request of the majority leader, it is for these three bills in this sequence after the military construction bill is disposed of?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I have no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE TODAY

Mr. ROBERT C. BYRD. We are now left with the consideration of how to proceed today. May I say to my distinguished friend, Mr. HUMPHREY, he disarmed me with his eloquent plea. I must say with all gentleness, however, that at some point, we are going to have to have a sort of shootout on this nomination, I guess.

Mr. HUMPHREY. Will the majority leader yield very briefly?

Mr. ROBERT C. BYRD. Yes, shortly.

I certainly am in favor of resolving, wherever we can, these matters without having high noon on the floor and bloodshed on this beautiful carpet; I am certainly in favor of delaying. But may I say to my friend that no Senator can expect to place a hold, no group of Senators can expect to place holds on any measure or a nomination and expect the majority leader not to bring that measure up. I say that for my own Members on this side of the aisle, as well.

I am not in a position to be bound by Senators' holds, not to call up a nomination or matter indefinitely. I say that with all kindness and respect. I hope the Senator will take that into consideration as he attempts to resolve this matter on his side.

Mr. FORD. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. FORD. I say to the good Senator from New Hampshire that I serve on the Rules Committee.

Mr. ROBERT C. BYRD. So do I.

Mr. FORD. I went through the procedure of the first nominee for his side, which was not acceptable to his leadership. Then the list was set—that individual went through the rigors of interrogation by the committee and the press and others. His name was withdrawn, or he withdrew his name, in order to accept the proposal by the Senator's leadership.

Then that list came up and this gentleman was selected from that list by the Senator's leadership. Then we went through the procedure of interrogating this nominee. We delayed, based on letters from the Senator from New Hampshire and the answers. This individual has severed his relationship for income. I think the Senator from New Hampshire places his ranking minority member on that committee in a very vulnerable position, and I think he has bent over backward, if I may use that term, to try to accommodate his side.

Now we find that, after we go through all that and after we go through all that delay, somewhere or sometime, somehow, we have to come down and either go up or down on a nominee.

Now, I think the request of the Republican leadership has been granted. I would be very hopeful that the Senator from New Hampshire and the others would very quickly get together so the Federal Elections Commission, which is just as important to his side of the aisle as it is on this side of the aisle, and it is his nominee, might have that individual on the Commission.

So I want to encourage the Senator from New Hampshire to work very quickly as to this individual, who was cleared unanimously by the Rules Committee. I believe, I do not recall any negative votes, I remember the eloquence of the distinguished Senator from Oregon, who was the ranking member of the committee yesterday. I would be very hopeful that he would agree with what I think is the position of both the majority leader and the minority leader in relation to this nominee.

Mr. BAKER. Will the Senator yield for a moment?

Mr. ROBERT C. BYRD. I did promise to yield to the Senator from New Hampshire, and then I will yield to the Senator.

Mr. HUMPHREY. Mr. President, let me say in reply, with all respect, that I am very grateful for the cooperation of the Rules Committee in delaying the vote on the nomination so I can put some questions before the nominee. I am very grateful to the chairman and ranking minority member of the committee.

It is unfortunate the nominee has chosen to sever, on his own responsibility, his connection with his employer. Certainly, that ought not enter into the discussion on the nomination. Otherwise, future nominees will be quitting their jobs and claiming their people are starving to force us to act expeditiously. To reply to the majority leader, I hope that the solution to this problem will not be for the Democrats to shove down the throats of the Republicans a nominee, who is a nominee of those Republicans——

Mr. ROBERT C. BYRD. If the Senator will yield——

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, notwithstanding the fact no measure is before the Senate, that I may proceed for an additional 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator, I do not know whether I will be for the nominee or against him when I hear the debate.

Democrats are not trying to ram the nominee down the throats of the Republicans. All I am interested in is giving the nominee a fair chance, a fair hearing in court, in this court right here, give him a chance and let the Senator make his case against the nominee. He may pick up several votes on my side of the aisle. But at least let us not strangle the guy, hang him, guillotine him, and give him a chance to be heard in this forum. I say, give the poor fellow a chance.

If the distinguished Senator has a case, and a strong one, those on this side of the aisle will certainly be listening and be willing to reach a judgment based on the facts as they are presented. But let us not hold up the nomination forever, is all I am saying.

Mr. HUMPHREY. We, too, would like to have an opportunity to settle it among ourselves. It is, after all, a Republican, with a Republican.

Surely, the majority leader does not want a Republican who a majority of the Republicans themselves regard as unacceptable, to be confirmed by a sufficient number of Members on the other side.

Mr. ROBERT C. BYRD. Well, I am not making a case for or against the nominee. I am stating to my friend that holds cannot be recognized and honored forever.

Mr. HUMPHREY. Yes.

Mr. ROBERT C. BYRD. That includes holds on my side of the aisle. My colleagues know that very well. We want to be as considerate as we can of the Senator, and will be. But I must say in all frankness to him that I have people on his side of the aisle pressing me to get on with this nomination and I have a responsibility at some point to call it up, and, as of here and now, this is a candidate.

There is not a thing in the world that can keep this Senate from going to that nomination under the rules.

Now, the Senator might filibuster it when it is up. But there is no power on Earth that can keep the Senate from going to this immediately on a motion, and it is not debatable.

So I would hope the Senator would be prepared at any time that it becomes absolutely necessary for me to make that motion. I hope he will be prepared.

I do not want to force it at the moment. I simply want some business for today. That is all I am shopping for. I am saying that this is a possible candidate.

Mr. BAKER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes. I promised to yield to the Senator.

Mr. BAKER. I do not mean to be facetious in the middle of a serious conversation, but my business for today requires me to leave.

I have to go to Tennessee to celebrate my grandmother's 100th birthday today, and the distinguished assistant minority leader is here and on the floor. Ordinarily I would not do this to him. But I will leave him here to figure out what we are going to do today and I will go wish my grandmother a happy birthday.

Mr. ROBERT C. BYRD. Mr. President, I want to say to the distinguished minority leader that I hope he will convey my good wishes to his wonderful grandmother on this outstanding day.

I received a communication from her a year or so ago on the occasion of her birthday, and hope he will convey to her the good wishes of the junior Senator from West Virginia.

The psalmist says:

> The days of our years *are* threescore years and ten; and if by reason of strength *they* be fourscore years, yet *is* their strength labour and sorrow; for it is soon cut off, and we fly away.

This lady has lived beyond the psalmist's prediction, beyond the 70 years, beyond the fourscore years, and certainly she can take great pride in the fact that she has lived in a century that has seen mankind progress more than all of the centuries heretofore combined, prior to that century.

She can also take immense pride in the fact that her grandson has reached the high position that he has in public office, to serve the people of Tennessee as one of their Senators. He serves them well, in a very distinguished and honorable way.

He is minority leader of the Senate, has the respect of all Senators on both sides of the aisle.

I know she treasures in her heart the thought of HOWARD BAKER as being one who has for his family, and for his friends, and for his constituents, distinguished himself in a great way.

So I convey my best wishes to the grandmother of this fine Senator.

Mr. BAKER. Mr. President, I thank the majority leader. I am truly grateful, and I know she will be as well.

ORDER FOR RECOGNITION OF SENATOR STEVENS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after Mr. EAGLETON has been recognized, Mr. STEVENS be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate recesses today, it stand in recess until 9:15 tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE TODAY

Mr. ROBERT C. BYRD. Now, Mr. President, we are back to the business we started with: What are we going to do today?

I have my friend from Alaska, Mr. STEVENS, to spar with.

The PRESIDING OFFICER (Mr. INOUYE). The Senator from Alaska.

Mr. STEVENS. If the Chair is looking to me for suggestions, this Senator does not have any right now. I am ready to participate if there is anything we can do.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant leigslative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, at the present time I am exploring the possibility of proceeding to the consideration of Calendar Order No. 196, and I am hopeful that that can be done shortly.

May I say to the distinguished Senator from New Hampshire (Mr. HUMPHREY) that I am still trying to avoid going to the nomination today, but I think he should be prepared any day to be in position to debate his case. I do not want him to be under any misunderstandings. Having said that, I am willing to let the matter rest for the moment.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HUMPHREY. I thank the Senator for the information and for the notice that I should keep my seat warm, I suppose.

Mr. ROBERT C. BYRD. The Senator may keep his seat warm or cold. It does not make any difference to me. But he is alerted to the fact that at some point the Senate will proceed to the consideration of this nomination. I am going to try to avoid it wherever I can to give him some time, but I cannot promise to do it ad infinitum, and I just want the Senator to be ready at any time as I am sure he will be.

I thank the Senator.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT AND MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this matter has been cleared with the other side of the aisle and it is a must bill, and the distinguished Senator from Kentucky is here and ready to manage it—that the Senate proceed to the consideration of Calendar No. 196.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The second assistant legislative clerk read as follows:

> A bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes.

The Senate proceeded to consider the bill.

Mr. FORD. Mr. President, I understand Senator GARN is on his way, and he has an amendment. I know of one other amendment that will be offered. Outside of that I know of no other debate as it relates to this piece of legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, S. 1159 provides authorizations for the National Traffic and Motor Vehicle Safety Act and the Motor Vehicle Information and Cost Savings Act for fiscal years 1980, 1981, and 1982. This legislation is extremely important. In the last 2 years, for the first time in more than a decade, the rate of death and injuries on our highways has been increasing. In 1978, an estimated 50,143 people died in automobile-related accidents. This represents an average of over 130 people killed every 24 hours, the equivalent of a major airline accident every day. Automobile accidents continue to be the No. 1 cause of death for Americans under 25 years of age. Automobile accidents are one of the major causes of epilepsy and paraplegia. The economic loss to our society through automobile accidents is more than $40 billion annually. In light of these staggering statistics, the authorization levels contained in this legislation are clearly reasonable.

The committee has authorized $60 million for fiscal year 1980, $70 million for fiscal year 1981, and $70 million for fiscal year 1982 for the National Traffic and Motor Vehicle Safety Act. The fiscal year 1980 authorization level continues the same authorization level that has been in effect since fiscal year 1976.

The fiscal years 1981 and 1982 authorizations take into account the increased costs of these programs and allows for modest program growth.

These authorizations are in conformance with the authorizations voted for the National Traffic and Motor Vehicle Safety Act by the Senate in the 95th Congress, which however the House failed to act upon. This legislation also provides authorizations for the Motor Vehicle Information and Cost Savings Act in the bumper area, the automobile consumer information area, and increases funding for DOT's enforcement of odometer regulations each year.

The legislation also would make tire registration voluntary. The committee received testimony that such a voluntary approach would lead to significantly increased tire registration and save tire dealers as much as $30 million a year while lessening the tire dealers paperwork burden. The Automobile Association of America and the American Farm Bureau have both provided strong letters to the committee in support of this proposal.

Mr. President, I believe this legislation provides extremely important protection to the public and deserves the strong endorsement of the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. FORD. I yield to the Senator from West Virginia.

UP AMENDMENT NO. 313

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

> The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 313:
>
> On page 2, after line 24, insert the following.
>
> BUMPER STANDARDS
>
> SEC. 2. Section 102 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1912) is amended by adding at the end thereof the following new subsection:
>
> "(f)(1) Notwithstanding any other provision of this Act, and except as provided in paragraph (2) of this subsection or by further Act of Congress, any impact test velocity specified in the bumper standard established in Part 581 of Title 49, Code of Federal Regulations, as in effect on the effective date of this subsection, shall be 2.5 miles per hour.
>
> "(2) The Secretary shall not have any authority to establish any impact test velocity exceeding 2.5 miles per hour before September 1, 1984. The provisions of this section shall be effective on the date of enactment of this subsection.".
>
> Renumber succeeding sections accordingly.

Mr. ROBERT C. BYRD. Mr. President, I think it is obvious to any American who has been waiting in the ever-growing gaslines throughout the country that the National Highway Traffic Safety Administration's bumper report, which bases its cost estimates on 73 cents per gallon of gasoline, is as out of date as the one-horse shay. I think it is fair to say that it would be more reasonable in carrying out this analysis to assume substantially higher gasoline prices. One dollar per gallon of gasoline, it would seem to me, would be a more appropriate projection of likely real world conditions in the near future.

At the same time, NHTSA's bumper analysis appears to be seriously flawed in regard to estimates of the secondary weight added to automobile systems with each additional pound of added bumper weight required by the heavier 5-mile-per-hour bumper. All of the major auto companies now have stated that for each added pound of bumper weight there is also at least 1 additional pound of secondary weight that is necessary to be added to a car to keep its braking, powertrain, acceleration, and other performance characteristics unimpaired. Therefore, if we were to estimate $1 per gallon gasoline and make the appropriate change in estimates in regard to secondary weight, then the 2.5-mile-per-hour bumper would be substantially more cost effective than the 5-mile-per-hour bumper. In fact, with these more reasonable assumptions the American motoring public would save $600,000,000 in each model year's fleet utilizing 2.5-mile-per-hour bumpers.

I think it is time for the Congress to see to it that consumers receive the protection they need and the hundreds of millions of dollars of savings they deserve from utilizing the more cost effective 2.5-mile-per-hour bumper.

I have discussed this amendment with the distinguished manager of the bill. I do not want the Senate to act on the amendment momentarily, until I have alerted another Senator to the fact that the amendment is pending. Therefore, for the moment, I yield the floor.

Mr. FORD. Mr. President, I support the amendment submitted by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD). In the committee, as we discussed the consideration of the damage of a bumper standard, there was only one Senator who had any question related to this standard. That Senator informs me that he no longer has that objection, and he fully supports this change.

Mr. President, our knowledge, I think, is adequate to show that the safety of the automobile will not be affected by this amendment. Second, the requirement of a 5-mile-per-hour bumper would also require added weight to the automobile, and by extending or increasing the weight of the automobile, then you increase the use of gasoline; and when you increase the use of gasoline, then you are damaging the ability of this country to meet the energy crisis that we are presently facing.

It is my understanding, from the information that has been given to me, that we will save millions of barrels of oil annually as relates to just this one standard. If we are not impairing the safety of the automobile, if we are not creating any problems related to that area, but we are saving the consumers money as related to the cost of the automobile, and if we are saving energy, it seems to me, Mr. President, that we should support this amendment by the distinguished Senator from West Virginia.

Mr. President, I understand the majority leader is waiting for an answer to a call. Unless something develops from that call, I am in a position to accept his amendment.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my amendment be temporarily laid aside for the time being, and that the Senator from Utah (Mr. GARN) be permitted to proceed with an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. I thank the majority leader.

AMENDMENT NO. 220

(Purpose: To limit the regulatory burden the Secretary of Transportation can impose upon the States in connection with the enforcement of the 55 mile per hour speed limit)

Mr. GARN. Mr. President, I call up my amendment No. 220, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an amendment numbered 220: On page 4, after line 20, insert the following: FIFTY-FIVE-MILE-PER-HOUR SPEED LIMIT. SEC. 5—

Mr. GARN. I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, after line 20, insert the following:

FIFTY-FIVE-MILE-PER-HOUR SPEED LIMIT

SEC. 5. Section 205(e) of Public Law 95–599 is amended by striking the words "all vehicles or".

Mr. GARN. Mr. President, this is a very simple amendment. In 1974, Congress passed the Federal Aid Highway Act Amendments, imposing a 55-mile-per-hour speed limit. One provision of the law, Public Law 93–643, specified that in order to qualify for Federal highway projects, each State had to certify, annually, that the 55-mile-per-hour speed limit was being compiled with. The method for determining whether or not the speed limit was being complied with was provided for in Public Law 95–599. The language of that law authorizes the Secretary of Transportation to require monitoring of "the speeds of all vehicles or a representative sample of all vehicles."

My amendment would simply delete the three words "all vehicles or" from Public Law 95–599. The Secretary would retain his authority to require statistically valid sampling, and the States, should they choose to do so, would be free to monitor all traffic. But they could not be required to do so.

That is all my amendment does, and I move its adoption.

Mr. FORD. Mr. President, I have no objection to the Senator's amendment. It does not make it mandatory on the States, and therefore, since it is not mandatory on the States and they have the option, I will not object to it; I believe it merely clarifies the intent of the law. I am willing to accept the distinguished Senator's amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. FORD. I do not know of any other amendments. We are accommodating one of the other Senators on the amendment of the Senator from West Virginia.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from West Virginia.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 2 minutes on other matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY CODE AMENDMENTS RELATING TO NONDISCHARGEABILITY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 241, H.R. 2807. This has been cleared with the minority and the distinguished assistant Republican leader is present.

Mr. STEVENS. Mr. President, the Senator is correct.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 2807) to amend the Bankruptcy Act to provide for the nondischargeability of certain student loan debts guaranteed or insured by the United States.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 2, line 14, strike "this Act" and insert "section 1";

On page 2, beginning with line 18, insert the following:

SEC. 3. Section 523(a)(8) of title 11, United States Code, as enacted by section 101 of Public Law 95-598, is amended—

(1) by striking out "to a governmental unit, or a nonprofit institution of higher education, for an educational loan" and inserting instead "for an educational loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or a nonprofit institution of higher education"; and

(2) in subparagraph (A), by inserting "(exclusive of any applicable suspension of the repayment period)" after "before five years".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the amendments are agreed to en bloc.

● Mr. DECONCINI. Mr. President, the passage of H.R. 2807 will correct an error found in Public Law 95-598, the Bankruptcy Reform Act, that inadvertantly created a "gap" in provisions of existing law concerning nondischargeability of student loans in a bankruptcy case. Public Law 95-598 repealed provisions in the Higher Education Act making student loans nondischargeable. It was the intent to merely shift the location of the nondischargeability provision from the Higher Education Act to the Bankruptcy Code, 11 U.S.C. However, the effective date of the repeal was November 6, 1978, but the effective date of reinitiating the provision in title 11 is not until October 1, 1979. Therefore, a "gap" was created between November 6, 1978, and October 1, 1979, when it can be argued that there is no nondischargeability provision in the law although it clearly was not the intent of Congress to have created such a gap.

Section 3 of the bill revises slightly the type of student loan that is nondischargeable but basically states that student loans originating from the same basic source—Federal Treasury—will be treated uniformly.

The bill is supported by HEW, and they feel passage of this bill will lend stability and credibility to the student loan program. It will assure the future generations of students will also have an educational loan available to them in their pursuit of a higher education.●

The PRESIDING OFFICER. The question is on the engrossment of the committee amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2807), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPORT ON HOME HEALTH AND OTHER IN-HOME SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 245.

The PRESIDING OFFICER. The resolution will be stated by title.

The second assistant legislative clerk read as follows:

A resolution (S. Res. 169) relating to the report by the Secretary of Health, Education, and Welfare with respect to home health and other in-home services.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

SECTION 18 HOME HEALTH REPORT

● Mr. COHEN. Mr. President, I commend the Senate for its prompt consideration of a resolution I introduced expressing the sense of the Senate that the report by the Secretary of Health, Education, and Welfare with respect to home health and other in-home services ignores the legislative mandate that authorized it and as such is unacceptable to the Congress.

In the fall of 1977, the Senate passed legislation entitled the "Medicare-Medicaid Anti-Fraud and Abuse Amendments." Section 18 of the legislation authorized a comprehensive report on home health and other in-home services to be prepared by the Department of Health, Education, and Welfare, and to be delivered to the Congress within 1 year of enactment. This legislation, Public Law 95-142, was signed by the President October 25, 1977. After exceeding the deadline for submitting the report by nearly 6 months and expending $62,000, the Department transmitted a document to the Congress the substance of which did not satisfy congressionally mandated requirements, particularly with regard to the requirement for legislative recommendations.

Many reports are transmitted on a pro forma and perfunctory basis, but considering the importance attached to this report—as a guide to future congressional action—this kind of lackadaisical approach is unacceptable. The low priority attached to this report by HEW was apparent at a hearing held by the Special Committee on Aging, of which I am a member, earlier this year. Persons not even responsible for the preparation of the report were sent to present the Department's position. The committee had no choice but to recess the hearing. Later, the committee reconvened that hearing with Hale Champion, Under Secretary of the Department, as the witness. Even Mr. Champion, who personally supervised the editing of the report admitted under questioning that the report failed to expand the knowledge of the Congress or the administration on the subject of in-home services. At that time, I suggested that the Department voluntarily withdraw is report, revise it in a timely fashion, and present the Congress with a document worthy of our attention. The Department insisted on its original supposition that it could not provide us with legislative recommendations, because of budgetary constraints. Cost is of course important in assessing our national priorities. Yet Congress has the constitutional prerogative to set those priorities. Clearly the Department was not interested in compromise but in continuing a circumvention of the law.

As the author of legislation which led to this report, I have a deep interest in seeing that the intent of the Congress is carried out. This concern is shared equally by the other members of the Special Committee on Aging, and members of the Senate Finance Committee, through which the section 18 report was transmitted. This resolution refuses to accept the HEW document as satisfying either the spirit or the letter of the law. The resolution further indicates that the Senate has no intention of releasing HEW from its obligation under the law for legislative recommendations. I have been told that the Department could provide us with options needed for fashioning a home health policy by September. Congressmen PEPPER and WAXMAN have introduced a similar resolution in the House which has cleared the House Interstate and Foreign Commerce Subcommittee on Health.

Mr. Chairman, this resolution makes the clearest possible statement to the Department that the Senate will not allow this opportunity to chart a home health policy for the Nation to run aground on the rocks of bureaucratic intransigence.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 169

Whereas section 18 of the Medicare-Medicaid Anti-Fraud and Abuse Amendment (Public Law 95-142) directed the Secretary of Health, Education, and Welfare to report to the Congress within one year of enactment with respect to all aspects of the delivery of home health and other in-home services authorized to be provided under titles XVIII, XIX, and XX of the Social Security Act;

Whereas the Secretary failed to submit such report in a timely fashion;

Whereas the Secretary failed to include in such report recommendations for legislation with respect to home health and other in-home services, including the reasons for such recommendations, an analysis of the impact of implementing such recommendations on the cost of such services and the demand for such services, and the methods of financing any recommended increased provision of such services under such titles, as required by such section; and

Whereas the Senate has expressed its will with regard to the need for expanded opportunities for receipt of home health and other in-home services, including the passage of medicare amendments to H.R. 5285 in the Ninety-fifth Congress: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the report of the Secretary of Health, Education, and Welfare entitled "Report on Home Health Services Under Titles XVIII, XIX, and XX" is not responsive to the re-

quirements of section 18 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Public Law 95–142); and

(2) such report be returned to the Secretary with the direction that it be revised to comply with the requirements of such section, including the requirement that recommendations for legislation be submitted, and that such report be returned to the appropriate committees of the Congress not later than September 1, 1979.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT AND MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT AUTHORIZATIONS

The Senate continued with the consideration of S. 1159.

Mr. ROBERT C. BYRD. Mr. President, what is the business now before the Senate?

The PRESIDING OFFICER. The pending business is S. 1159, and the amendment pending is the amendment by the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, at 1:17 p.m. the Senate recessed until 2 p.m., whereupon the Senate was called to order by the Presiding Officer (Mr. DURKIN).

ORDER FOR VOTE ON ROBERT C. BYRD AMENDMENT AT 5 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I shall shortly yield to the distinguished Senator from Arizona. I ask unanimous consent that the vote occur on my amendment today at 5 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, as far as I am concerned, that could be a voice vote. I have been in touch with other Senators who support the amendment and who oppose the amendment. They are willing to have a voice vote.

I yield the floor now.

ACTIONS OF SENATE PARLIAMENTARIAN IN TREATY TERMINATION LAWSUIT

Mr. GOLDWATER. Mr. President, under the Pastore rule, I believe germaneness applies until 3:25 p.m.

The PRESIDING OFFICER. The Senator is correct.

Mr. GOLDWATER. I therefore ask unanimous consent that I may proceed on a nongermane subject for 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(Mr. STEWART assumed the chair.)

Mr. GOLDWATER. Mr. President, yesterday, I discussed a matter of some interest to all Senators, and that is the right of the Senate Preliamentarian to appear in court litigation or to give a sworn statement knowingly intended for use by one of the parties in a lawsuit.

The matter arose out of the action of the present Parliamentarian on June 29, when he provided attorneys for the executive branch with a sworn statement to be filed with the Federal court in the lawsuit I have brought seeking a judicial declaration of the Senate's power in the field of treaty termination. In my remarks of yesterday morning, I asked several questions about the propriety of his action, such as whether there were any precedents for it, whether he had obtained or sought the prior approval of any higher authority in the Senate to give his statement to the court, and what procedure should be followed in situations of this kind.

Mr. President, as a result of inquiries which other Senators and I made yesterday, the following conclusions may be stated:

First. The Parliamentarian was not speaking in his official capacity as an officer of, or for the Senate. His statement represented only his personal interpretations of actions in the Senate.

Second. His statements were not official rulings binding on the Senate. Of course, the Parliamentarian of the Senate never makes a direct ruling on parliamentary inquiries. These rulings are announced by the Presiding Officer of the Senate and are subject to possible review and challenge by the Senate as a collective body.

Third. The Parliamentarian did not personally volunteer his assistance to the executive branch, but was specifically asked by representatives of the State Department to make a statement which attorneys for President Carter and Secretary of State Vance could file with the district court. I have not determined as yet whether any representative of the executive branch influenced the text of the Parliamentarian's statement by suggesting a particular format, order of paragraphs, or the use of any specific words or phrases, or by discussing with the Parliamentarian the possible inclusion of certain points and the omission of others. I do know his statement is colored by personal interpretations in some instances, which could have an erroneous meaning or emphasis, depending on how they are read.

Fourth. There is no known precedent for the Parliamentarian, without the prior consent of at least both the majority and minority leaders, to give a sworn statement intended for use in a formal court proceeding on behalf of the Senate, or any officer of the Senate, or anyone else. Particularly is there no known precedent for the Parliamentarian of the Senate to give a sworn statement for use by the executive branch in a lawsuit directly involving the respective powers of the executive and legislative departments.

Now, I have noted that my friend, the distinguished majority leader, responded to my inquiries and I must say, I find no fault with his logic. The majority leader indicates that he personally approved the statement and he further asserts that this had been done by Dr. Riddick when he served as our Parliamentarian for many years.

However, to the best of my knowledge, Dr. Riddick never once submitted a sworn statement for use in any court case without prior consultation with both—and I repeat the word "both"—the majority and minority leaders. And Dr. Riddick never, at any time, furnished any officer or department of the executive branch with a sworn statement in a court case. He only gave statements for use in behalf of officers or committees of the Senate, not for use by a totally separate branch of the Government.

Mr. President, in concluding, I must say that I fear the rights of the Senate are being eroded by this precedent. The State Department has interfered with the independence of the Senate by approaching the Senate Parliamentarian as they did in this case. The separation of powers has been breached.

At the very least, a due respect for the separation of powers would have required the State Department to consult with both the majority and minority leaders of the Senate before asking the Parliamentarian to provide services to the executive branch. By failing to discuss the matter in advance with both leaders, the State Department, in my opinion, has shown a disrespect for the prerogatives of the elected leaders of the Senate and, through them, the Senate as an institution.

Mr. President, I want to clarify one statement in the majority leader's remarks which he made yesterday in response to my questions. He indicates that the State Department contacted the Parliamentarian, because it was being contended that the Senate vote of June 6 was final action by the Senate on the treaty termination issue. The Parliamentarian's statement is supposedly in response to this claim.

However, I point out, Mr. President, that nowhere in any of the papers that have been filed on my behalf with the court is asserted that our overwhelming vote of 59 to 35 for the Byrd amendment was "a final action." I do contend that it is a clear expression of the voice of the Senate, particularly since it was a rejection of the different policy reported by the Foreign Relations Committee. But nowhere in the papers that had been filed with the court on my behalf do the words "final action," or "final vote" appear. In fact, my court papers specifically mention that fact that the Church amendment to Senate Resolution 15 was pending in the Senate, which openly shows that action on the resolution was not yet completed.

Therefore, I reject any connotation that I have attempted to mislead the court. If this charge was made by the State Department as their ground for persuading the Parliamentarian to execute his sworn statement, I here and now denounce their representation as a lie and wish that the Parliamentarian or the majority leader had discussed the matter with me before accepting the falsehoods mouthed by the State Department.

Mr. President, I ask, how much longer is it that the Senate is going to be dictated to by the State Department? We are an independent branch of the Government. We do not take our orders from, or fall in line at the direction of, the State Department.

Yet, Mr. President, on almost every occasion when a matter that concerns foreign policy or the State Department is being argued on this floor, there are representatives of the State Department to be found in almost every nook and cranny of this building, telling people on this floor what to say or what not to say. There has been too much interference, in my opinion, with the independence of the Senate by the bureaucrats in Foggy Bottom. Mr. President, as one Senator, I think it should come to a stop.

I thank my friend, the majority leader, for yielding to me. I yield back the floor.

Mr. ROBERT C. BYRD. Mr. President, I find no fault with what the distinguished Senator from Arizona has said. The Parliamentarian, obviously, cannot speak for himself and cannot defend himself in this forum. I think I should say that the Parliamentarian was certainly not influenced, I am sure, by the State Department as to the verbiage that the Parliamentarian prepared.

The Parliamentarian showed me that language and I approved it, so if I had seen anything in that language with which I had disagreed, I would have said so. Certainly, I can say categorically that the State Department never discussed it with me. The State Department did not influence me in my approval of the language.

I must say that I think I have confidence enough in the integrity of the Parliamentarian to believe that the State Department would not influence him.

If any mistake was made, it was mine. I do not want to say that the Parliamentarian erred in not going to the minority leader. Perhaps he did not think of it. But, certainly, that error, if it was committed, was committed by me in not suggesting to the Parliamentarian that he go to the minority leader. I think I should have done that.

But the Senator from Arizona knows that, as things happen around here, there is such a mad rush of life, minute to minute and hour to hour, that things are done and the proper course sometimes does not occur to us.

It did not occur to me the Parliamentarian ought to clear the matter with the minority leader. The Parliamentarian asked me to look at the text of what he had prepared. I looked it over. I said, "I see no fault with that," and, as far as I was concerned, I forgot about it.

But I do agree that in the future if the Parliamentarian is requested to prepare something along this line, perhaps the request ought to come through the majority leader and it ought to be cleared with the minority leader.

The Parliamentarian should not be put in that kind of difficult position, and, as far as I am concerned, in the future that is the way it will be done.

In the future, I am sure the Parliamentarian will approach the majority leader about the matter and if it is a matter such as this, I will, myself, approach the minority leader, and suggest that the Parliamentarian do so.

But I would hope the Parliamentarian would not be criticized in this instance for what I think was done by him in an honest and straightforward way. I think he felt he was doing his duty, and he was calling the shots as he, as Parliamentarian, honestly saw them. I would simply want to hold up his hand in that regard.

I can understand the Senator from Arizona having taken umbrage. But if there is any fault, let me take that blame in this instance, because I think I could very well have said to Mr. Zweben, "See Mr. GOLDWATER," but it did not occur to me. If it had, I would have done so.

Mr. GOLDWATER. Will the Senator yield?

Mr. ROBERT C. BYRD. But I just do not want the Parliamentarian to be blamed for this. I am sure he had no motive in doing otherwise.

Mr. GOLDWATER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. GOLDWATER. Well, Mr. President, I certainly would not want the majority leader to take any blame in this matter, and I will not make any more point of it. I have finished what I have had to say on it, although I am really surprised that a man of the Parliamentarian's long, long experience in this body, serving under the great tutelage of Dr. Riddick, would not have known enough to have come to the leadership, or at least come to me.

He knows I am in court, and if he felt beholden unto himself, whether he was asked by the State Department or not, to interpret the action of the Senate for the judge, I think he should have had the decency to come to me and say, "Senator, I know this involves your case, but this is my feeling as a personal American."

I do not know how I might have felt, but it was a great shock to me to find out that the Parliamentarian of this body had taken it unto himself to interpret the action of the Senate in a way that, in my humble opinion, can only benefit the State Department, which has remained so utterly adamant about any court deciding whether the President of the United States has the right under the Constitution to abrogate a mutual defense treaty.

That is all I am concerned with. I will now forget the whole thing. But if it comes up again, I will raise a little hell.

Mr. ROBERT C. BYRD. Well, the distinguished Senator from Arizona knows how to do that, may I say. He is also very generous and gracious in his willingness to drop the matter we have been discussing.

Let me say one further thing. I do not want the record to be left with the impression that the Parliamentarian was not decent in his approach. Here again he is subject to human error, just as I was.

The Parliamentarian showed me the language. It was not a lack of human decency that kept me from saying to the Parliamentarian, "Well, show this to Mr. GOLDWATER." It just did not occur to me.

I think that would have been the logical thing for me to have done, to say, "Show it to Mr. GOLDWATER, let him know you have been asked to do this and what you are submitting."

So I should have done that. But it certainly was not through lack of decency that I did not. It was just a simple inadvertency.

I would like to think the Parliamentarian would be subject to the same human frailty. I hope that the distinguished Senator from Arizona will not carry anything in his heart against the Parliamentarian, and I do not believe the Senator from Arizona will because he is a fair and just man and I know he realizes how things happen.

But I must say, with all sincerity, that it should have been I. I should have said to the Parliamentarian, "Show this to Mr. GOLDWATER." I did not do it, not through any motive, not through any concern, because I stood behind the language that the Parliamentarian prepared, would be very glad to stand on this floor and anywhere else and support that language.

But it was thoughtless on my part. I beg the Senator's pardon, because I certainly had no intention of having the Parliamentarian slip something by him.

I would not want the Parliamentarian, who cannot stand up here and defend himself, to be left in that position of having been accused of being indecent or unthoughtful or acting out of some motive. I do not believe he is that kind of man.

I thank the distinguished Senator frrom Arizona. He is gracious and fair, as in all cases, and I am glad he is willing to let the matter drop. In the future, we will have learned a lesson by experience.

I thank the Senator.

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT AND MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT AUTHORIZATIONS

The Senate continued with the consideration of S. 1159.

Mr. ROBERT C. BYRD. Mr. President, may I inquire of the distinguished manager of the bill as to whether or not he knows of any other amendments that Senators might wish to offer to the pending bill?

Mr. FORD. I say to the majority leader, I have checked and there were only two amendments. One has been presented by the Senator from Utah, one by the distinguished majority leader, and I know of no other amendments that are proposed to this legislation.

Mr. ROBERT C. BYRD. Mr. GARN is here representing the other side of the aisle on the bill. If there is no objection, I would like to propose a unanimous-consent request that the Senate return to this measure at 10 minutes before 5 p.m. today, that no amendments be in order, other than the pending amendment, and that upon the disposition of the pending amendment, the bill go to third reading without further motion or debate, and immediately, and that the Senate then proceed, without further debate or motion or any intervening action, to final passage of the measure, and then that will dispose of it.

Mr. STEVENS. Mr. President, reserving the right to object, I apologize to the majority leader for coming on the floor late.

It is my understanding that the majority leader's amendment would then be voted on?

Mr. ROBERT C. BYRD. It will be voted on at 5 o'clock, the order has already been entered to that effect.

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. And the indications are that it is to be a voice vote. There are some Senators who want to make statements.

Mr. STEVENS. Will this bill continue to be the pending measure until that time?

Mr. ROBERT C. BYRD. No. There is no other action to be taken on it. I thought we could set it aside until 10 minutes of 5. If the distinguished acting Republican leader has no objection, we could set it aside and possibly go to something else. There is nothing else to be done on this measure.

Mr. STEVENS. Mr. President, if the Senator will yield further, following the vote on the amendment of the Senator from West Virginia, is it my understanding there will then be a vote on final passage?

Mr. ROBERT C. BYRD. A vote on final passage.

Mr. STEVENS. Is that a rollcall vote?

Mr. FORD. Not necessarily.

Mr. STEVENS. None is ordered yet?

Mr. ROBERT C. BYRD. No, and I had no indications that anyone wants a rollcall.

Mr. STEVENS. Does the tenor of this agreement require a rollcall vote?

Mr. ROBERT C. BYRD. No, the tenor of the agreement does not require it, nor does it preclude it.

Mr. GARN. Mr. President, reserving the right to object, and I shall not object, I ask this question of the majority leader: Would it not be possible to finish it all now? Is there a need to delay until 5?

Mr. ROBERT C. BYRD. There is a need, because some Senators are in committee at this time and they want to say something for the record before the vote.

Mr. FORD. Or file statements.

Mr. ROBERT C. BYRD. This is proposed in order to accommodate them.

Mr. STEVENS. I do not object. I think it is probably the best way to handle the matter I am familiar with the negotiations that are going on, of trying to run a committee and negotiate at the same time. It is going to take some time to work it out. That sounds like a good resolution of the problem.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME FOR CONSIDERATION TOMORROW OF MILITARY CONSTRUCTION AUTHORIZATION BILL

Mr. ROBERT C. BYRD. Mr. President, in lieu of the order which was entered earlier, which would provide, in the normal course of things, for the military construction authorization bill to be reached tomorrow prior to 10:30, in response to a request by Mr. THURMOND of the Armed Services Committee, I ask unanimous consent that the Senate, at 10:30 tomorrow morning, proceed to the consideration of the military construction authorization bill.

Mr. STEVENS. There is no objection to that, Mr. President.

Mr. ROBERT C. BYRD. He wanted a slight delay because he has to testify before a committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. WEICKER TRANSFERRED FROM TOMORROW TO FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. WEICKER on tomorrow be vitiated and that such order be transferred to Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, the Appropriations Committee is attempting to report two appropriations bills this afternoon, so that the Senate can begin to work on them at the earliest possible moment.

Therefore, in order to give that committee and its members an opportunity to attend to those matters, I ask unanimous consent that the Senate stand in recess until 4:45 p.m. today.

There being no objection, at 2:26 p.m. the Senate recessed until 4:45 p.m.; whereupon the Senate was called to order by the Presiding Officer (Mr. BAUCUS).

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT AND MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT AUTHORIZATION

The Senate continued with the consideration of S. 1159.

UP AMENDMENT NO. 313

Mr. BAYH. Mr. President, I urge the Senate not to support the Bumper amendment to the National Traffic Safety Administration authorization bill. The amendment would make a misleadingly simple change in the new-car bumper standard to mandate only 2.5-mph protection levels in place of the 5-mph levels of the existing standard.

The issue is not simple at all, and it threatens to add several hundred million dollars annually to the price of car ownership.

The only way to measure the difference in the performance levels is through a very complex cost benefit analysis which must measure such complicated matters as the imputed value of damage which goes unrepaired, the relationship of bumper weight to the corresponding support structure that is added to a vehicle, and the likely selection of bumper designs among the myriad available. We could not understand such engineering and design issues in an afternoon here on the floor, and I strongly recommend that we not act as though we could.

The Department of Transportation has produced a very complete, detailed report on which performance level is more beneficial to consumers. The Department even now is preparing its response to a few additional questions that have been raised. No auto manufacturer, for example, has objected to the final decision, and no consumer group has suggested that the consumer is hurt by the stronger level of performance.

Indeed, the insurance industry which pays the damage bill strongly endorses the Department's rule. The Department used very conservative judgments throughout the study, so that the study could be relied upon with confidence. The Senate asked for this study, and we should abide by its reasoned conclusions.

The basic point is that we cannot hope to become properly informed on this issue before we are asked to judge it. We should therefore restrain ourselves from ill-considered action.

As just one example of how easily we could be misled on the issue, let me dispel any belief that a lower standard might save fuel through lighter bumpers. Such a claim may sound appealing, but it is in fact baseless, because vehicles will weigh about the same whatever the bumper standard might be. The simple reason is the existence of the fuel economy standards we enacted in 1975.

Every manufacturer must deliver vehicles of a certain fuel economy, and they are striving to do just that. If we lowered the bumper standard and thereby allowed lighter bumpers, that would simply permit the manufacturers to reach their target weight and fuel economy that much easier. If we hand them a weight reduction for free on a silver platter, they could just pass up some other weight reduction that they would have made. The car would get the same fuel economy, the owner would put just as much gas into it, and the owner would also face a higher bill for the cost of low-speed damage that the 2.5-mile-per-hour system did not prevent.

I recommend that the Senate pass the National Highway Traffic Safety Administration authorization without the amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter in connection with matter addressed to me, from Joan Claybrook, Administrator of the National Highway Traffic Safety Administration.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF TRANSPORTATION,
Washington, D.C. June 1, 1979.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: Title I of the Motor Vehicle Information and Cost Saving Act (15 U.S.C. 1901 et seq.) directs the Secretary of Transportation to promulgate automobile bumper performance standards designed to minimize the costs to consumers of low-speed crashes. Last year, the Senate Appropriations Committee directed the Department to analyze its existing 6 mph protection standard (49 CFR Part 581) in relation to alternative performance levels to assure that consumer savings are maximized. The Agency completed a preliminary analysis in February 1979 and its final assessment today.

Enclosed are the Executive Summary and supporting material which form the basis for the final assessment of the bumper standard. The results of the analysis and the explanation of differences from the February 26 preliminary analysis are discussed in the Executive Summary.

A considerable body of new data and information has become available since the preliminary analysis was prepared and submitted to Congress on February 26, 1979. In response to the Advance Notice of Proposed Rulemaking also issued on February 26, interested parties submitted extensive comments on the preliminary NHSTA study, the Houdaille Study, and the cost and weight studies conducted by John Z. DeLorean Associates. Extensive technical data were obtained in response to questionnaires sent to the automobile industry, bumper suppliers, and insurance companies. The crash test program conducted by NHTSA at Dynamic Science, Inc., also generated a substantial amount of data which was useful in evaluating the effectiveness of improved bumper systems. In all, over 165 documents have been submitted to the rulemaking docket, and all were carefully reviewed in the process of revising the analysis of bumper effectiveness.

The final assessment leaves little question about the advantages of the existing 5.0 mph standard over a 2.5 mph standard. The 5.0 mph standard's lifetime net benefits are projected to exceed the net benefits of a 2.5 mph standard by $39 when weighted by bumper type.

While a 7.5 mph standard may result in even greater net benefits (about $7 per vehicle lifetime above the 5.0 mph standard), the basis for the 7.5 mph estimates is far more uncertain than the basis for the 2.5 and 5.0 mph estimates. Moreover, 96 percent of the net benefit attributable to a 7.5 mph standard can be achieved with a 5.0 mph standard.

We are convinced that the current standard fulfills the goals of the Motor Vehicle Information and Cost Savings Act and should not be changed. We will be happy to answer any questions you may have on the study and its results.

Sincerely,

JOAN CLAYBROOK.

Mr. MAGNUSON. Mr. President, I support the National Highway Traffic Safety Administration authorization bill as reported by the Committee on Commerce, Science, and Transportation on which I sit, and I most strongly oppose the amendment concerning bumpers that is being attached to it on the floor here today. The amendment intrudes into the extremely complex technical issue of what level of bumper performance will give the consumer the most benefit in terms of avoiding crash damage from fender-benders..

I believe this is the stort of technical matter that is better resolved by the National Highway Traffic Safety Administration than by the Senate today on the floor. It is inappropriate to interfere with highly specialized issues of regulation in this way, substituting our views for the systematic deliberations of the NHTSA. Accepting this amendment will set the worst type of precedent for those that would take one bite of the apple during agency deliberations, but rely on another chance to upset unfavorable decisions in the Congress. The Commerce Committee, on which I sit, fully considered the idea of attaching such an amendment to the authorization, and decided not to after extensive hearings. By doing this, we will run the risk of opening the floodgates to more special interest amendments on any issue considered by the Congress, and there are thousands of them.

The amendment would substitute a 2.5-mph performance level for a 5-mph standard that was established back in 1976. While it reads as a simple change, extremely complex engineering and economic analysis is actually involved in judging which level would provide the consumer with better protection. The National Highway Traffic Safety Administration just completed a full analysis June 1, which concluded that consumers would save about $440 million more annually with the existing 5-mph standard.

We set out to help consumers in 1972 when we directed the Secretary to establish the bumper standard. The Secretary has faithfully carried out that mandate, and has shown willingness to reconsider whatever issues are raised, again and again. It is noteworthy and even compelling that not a single consumer group has agreed with the desirability of a change in the standard, and it is the consumer's interest that needs to be protected here.

Therefore, I urge that the National Highway Traffic Safety Administration authorization be passed as it was reported by the Commerce Committee, without the bumper amendment that is being proposed.

Mr. FORD. Mr. President, I reluctantly take exception to the distinguished Senator from the State of Washington when he says that this amendment has been considered fully in the committee and rejected.

I happen to be on that committee, also, and I happened to be in the committee hearing with 14 votes, prepared to vote on this amendment; and one Senator, using his proper procedure, prevented the amendment from being attached at that time.

The Senator said that this is a technical matter. Technical matter it is. But we have been waiting 8 years for the National Highway Traffic Safety Administration to do something, and 8 years is long enough. Congress funded the study to analyze the bumper standards and gave the agency a deadline of last December. We did not get it in December. We did not get the final study until May of this year.

Finally, we began to get the information from NHTSA; and of 316 points, 72 were found to be wrong. You cannot figure the cost factor at 73 cents a gallon of gasoline as the NHTSA study does when it is already over 95 cents and headed for $1. It just does not make sense that you could factor it in.

Also I quote Mr. Nader, on April 23, 1979, discussing the bumper issue noted:

> According to all parties involved, it is a cost, not a safety, issue.

If it is going to cost the American public millions and millions of barrels of oil per year, if it is going to cost the consumer as much as $100 extra per car, and a safety factor is not involved, I cannot understand the opposition to this amendment.

I do not want to take any time away from anyone who would like to make some comment on this matter. But it makes sense to me that if you do not alter the safety of the automobile, if you save the consumer money, if you save the consumption of imported oil, and you save millions of barrels of oil, at $23.50, that is a pretty good saving. Not only do we save the consumer, but also we save sending our money overseas.

The proposal as sent over by the Agency was wrong on the weight. They were wrong on the costs. And I think it makes the report, which is supposed to be technical, highly suspect.

There will be some indication that we wanted to go to aluminum. Again, about four times as much energy is used to produce the aluminum, and there is likely to be a shortage in the future. So if it costs much more to produce the energy to produce aluminum and we have a likelihood of an aluminum shortage it does not make sense that we go this different route.

So, Mr. President, I hope that Senators will allow us to put this amendment on. It is in the best interests of this country.

Mr. President, I ask unanimous consent that Ed Hall, Aubrey Sarvis, Dan Jaffe, Amy Bondurant, Cindy Douglass, and Martha Maloney be accorded the privilege of the floor during the discussion and vote on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. FORD. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I wish to thank the distinguished Senator from Kentucky, who is managing the bill, for support of the amendment. He has made a fine case in support of the amendment.

As I understand him, this amendment would certainly not impair the safety of the automobile. Am I correct in that?

Mr. FORD. The Senator is correct.

Mr. ROBERT C. BYRD. Am I also correct in stating that the 2½-mile-per-hour bumper standard would result in a savings of energy and specifically gasoline to a tune of something like 65 million barrels?

Mr. FORD. The Senator is correct.

Mr. ROBERT C. BYRD. Am I also correct in stating that NHTSA based its recommendations on 73 cents per gallon for gasoline?

Mr. FORD. The Senator is correct.

Mr. ROBERT C. BYRD. Am I also not correct and would not the Senator take judicial notice of the fact that the cost of gasoline is far above 73 cents per gallon at this time, as it was in May of this year, and that a recommendation based on a cost per gallon of at least $1 would certainly be more in keeping with reality?

Mr. FORD. The Senator is correct.

And there is another flaw, if I might second-guess the Senator, that the mistake was made on the weight of the bumper versus the additional weight for the car and that was a mistake. So that 1 pound of additional weight to the bumper creates a need to add up to 1.6 pounds additional weight to the car, which increases the cost to the consumer in addition to the increased costs of the bumper.

Mr. ROBERT C. BYRD. I certainly thank the distinguished Senator for answering the questions.

I think he has made an excellent case for the amendment, and I will rest my case with that.

Mr. EXON. Mr. President, I rise in support of the amendment. It has been so ably described by my colleague from Kentucky and by the majority leader. This was discussed at some length in the conference committee, and it seems to me we would be shortsighted indeed if we did not move forward with this relatively minor matter to help out this Nation with regard to energy.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. DURKIN. Mr. President, I rise in objection to the amendment now before us for reasons both procedural and substantive. I believe it represents a sorry state of affairs when Members of Congress, under the thinly disguised veil of protecting the public interest, attempt to interfere in the rulemaking process so as to mandate a change in the present 5-mile-per-hour bumper standards when the facts blatantly argue to the contrary.

Mr. President, it is disturbing to me as a former insurance commissioner to see this amendment which flies in the face of the evidence as presented in testimony by representatives of the insurance industry, consumer groups, and the automobile industry, and by the Senate's failure to follow through with the procedural motions of the Senate committee consistent with the recommendations of the responsible agency, NHTSA.

Both commonsense and experience dictate that the 5-mile-per-hour standard be maintained. This has been reiterated to me by numerous consumer groups and insurance agencies time and again. The 5-mile-per-hour standard was implemented in the first place on the basis of findings compiled in lengthy congressional hearings that the majority of all damage occurs at speeds under 10 miles per hour. The Ford Motor Co. estimated 80 percent of all vehicle damage occurs in the 5-mile-per-hour range. Subsequent to the institution of bumper standards, a major insurance company's report confirmed that their agency witnessed an 86-percent decline in claims filed under the category of 5 miles an hour or less.

I understand that Allstate has decided to offer a discount on collision and comprehensive coverages for GM's new X-body cars in part, because these cars are equipped with 5-mile-per-hour bumpers. If this amendment is accepted, I assume these rates will necessarily be increased.

The weight of the evidence establishes that a rollback to a 2.5-mile-per-hour standard would be detrimental to the general welfare contrary to what the proponents of this legislation contend. It would increase costs to consumers on two counts, both through increased insurance premiums and escalating repair costs.●

Mr. ROBERT C. BYRD. Mr. President, I am ready for the vote.

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on agreeing to the amendment offered by the Senator from West Virginia (putting the question).

The amendment (UP No. 313) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time. The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

(Putting the question.)

The bill (S. 1159), as amended, was passed as follows:

S. 1159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended by (1) striking out "and" immediately after "1977,", and (2) inserting immediately after "1978" the following: ", $60,000,000 for the fiscal year ending September 30, 1980, $70,000,000 for the fiscal year ending September 30, 1981, and $70,000,000 for the fiscal year ending September 30, 1982".

(b) Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended by adding the following at the end thereof: "There are authorized to be appropriated to carry out this title $400,000 for fiscal year 1980, $450,000 for fiscal year 1981, and $450,000 for fiscal year 1982.".

(c) Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended by (1) striking out "and" immediately after "1977;", and (2) inserting "; $2,400,000 for the fiscal year ending September 30, 1980; $3,000,000 for the fiscal year ending September 30, 1981; and $3,000,000 for the fiscal year ending September 30, 1982" immediately after "1978".

(d) Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended by (1) striking out "and" immediately after "1977;" and (2) inserting "; $500,000 for the fiscal year ending September 30, 1980; $500,000 for the fiscal year ending September 30, 1981; and $500,000 for the fiscal year ending September 30, 1982" immediately after "1978".

BUMPER STANDARDS

SEC. 2. Section 102 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1912) is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of this Act, and except as provided in paragraph (2) of this subsection or by further Act of Congress, any impact test velocity specified in the bumper standard established in part 581 of title 49, Code of Federal Regulations, as in effect on the effective date of this subsection, shall be 2.5 miles per hour.

"(2) The Secretary shall not have any authority to establish any impact test velocity exceeding 2.5 miles per hour before September 1, 1984. The provisions of this section shall be effective on the date of enactment of this subsection.".

ANNUAL REPORT ON BUMPER STANDARDS

SEC. 3. (a) Section 112 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1922) is amended to read as follows:

"REPORTS

"SEC. 112. As a separate part of the comprehensive report submitted under section 120 (a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1408(a)), the Secretary shall submit to the President for transmittal to the Congress an annual report on the progress made during the reporting period on carrying out the purposes of this title. Such report shall include a statement of the cost savings that have resulted from the administration of this title, and such recommendations for further legislative or other action as the Secretary determines may be appropriate.".

(b) Section 120(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1408(a)) is amended by adding at the end thereof the following: "In addition, such comprehensive report shall include, as a separate part, the annual report required under section 112 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1922).".

ODOMETER EXEMPTIONS

SEC. 4. Section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988) is amended by adding the following at the end thereof:

"(d) In prescribing rules under this section, the Secretary may exempt those classes of motor vehicles for which the Secretary finds that odometer readings have no meaningful relation to value or performance. In making such an exemption, the Secretary shall publish, along with the rule containing the exemption, the findings of fact which support the exemption and a detailed analysis of the reasons for such exemption.".

TIRE REGISTRATION

SEC. 5. Section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1418(b)) is amended by inserting the following new sentence immediately before the last sentence of such section: "The Secretary shall not establish any rule which requires a dealer or distributor to complete or compile such records or information, but the Secretary shall require any such dealer or distributor to furnish the first purchaser of a tire with a form (containing the tire identification number of such tire) which such purchaser may complete and return directly to the manufacturer of the tire which he has purchased.".

FIFTY-FIVE-MILE-PER-HOUR SPEED LIMIT

SEC. 6. Section 205(e) of Public Law 95–599 is amended by striking the words "all vehicles or".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I thank Senators for their support, Senators on both sides of the aisle.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there may now be a period for the transaction of routine morning business of not to exceed 30 minutes, and that Senators may speak therein up to 5 minutes each.

Mr. STEVENS. Will the majority leader yield to me before we go into this? Will he give us an indication of what is the intention of the leadership for the balance of the day?

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Yes. It is the intention to recess the Senate shortly in view of the fact that there is no other measure that can be taken up. The measures that were mentioned this morning that could be passed by unanimous consent have been disposed of. The measure which we have just now disposed of by voice vote was a must measure, and so the Senate has made progress in that regard.

There is nothing else available to call up today.

On tomorrow at 10:30 the Senate will proceed to the consideration of the military construction authorization bill. There will be understandably some controversy in connection with that bill, and rollcall votes at some point.

Following the disposition of that measure—I do not know how long it would take—the Senate will proceed with the consideration of three housing bills on the calendar. The sequence has already been ordered and placed in the RECORD, and so what I think I should say, in summation, is that the Senate will be in session tomorrow, will be in session Friday, it will be in session Saturday, and rollcall votes are expected, but no rollcall votes today.

Mr. STEVENS. No rollcall votes.

I thank the Senator. Following the routine morning business the majority leader intends to just adjourn automatically?

Mr. ROBERT C. BYRD. Yes, I will be here to recess the Senate, but there will be no more votes.

Mr. STEVENS. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, was my request agreed to anent morning business?

The PRESIDING OFFICER. It was not.

Without objection, it is so ordered.

PROFITS ON OIL ARE NOT EXCESSIVE

Mr. WALLOP. Mr. President, over recent weeks the disruptions caused by energy shortages have created a growing sense of alarm and apprehension among Americans. In addition to the general frustration caused by gasoline shortages, we have incurred real economic losses from interstate trucks and oil pumping stations immobilized by lack of diesel fuel.

Amidst this emotionally charged atmosphere, the Senate Finance Committee is beginning the consideration on the President's proposed excise tax on decontrolled oil. It is regretable that the outset of the debate on a decontrol profits tax has been clouded in rhetoric and confusion over the level of energy industry profits. An invitation to demagoguery was made by the President when he chose to call his excise tax on decontrolled oil a "windfall profits" tax. The presumption is that energy companies have already been reaping huge disproportionate profits, and that more unjustified profits are on the way.

I am pleased that some of the Nation's newspapers are investigating this serious charge, and that they are reporting the facts regarding energy industry profits levels. Their findings are that oil company profits have been fully in line with the profit levels of manufacturing companies, and well below the levels enjoyed by the steel, automotive, or aerospace industries.

One such article was written by Prof. Murray Wiedenbaum, and appeared recently in the Los Angeles Times. Professor Wiedenbaum points to the modest profit levels of oil companies, as contrasted to the massive investments of capital the industry will need to develop our energy resources. Another insightful review of oil industy profits appeared in the June 3 issue of the New York Times.

Both of these articles lend facts and objectivity to a subject that has been clouded by rhetoric and false accusations. I urge those who are interested in the energy tax debate and future of our domestic oil industy to read these articles.

I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

PROFITS ON OIL ARE NOT EXCESSIVE, FINANCIAL ANALYSTS' STUDIES FIND

(By Anthony J. Parisi)

Senator Henry M. Jackson, the Washington Democrat, once labeled them "obscene," President Carter has called them "excessive" and, according to opinion polls, many people believe they are plainly outrageous. But, despite the widely held opinion that the big oil companies' profits are much too great, the findings of financial specialists, including those at several leading banks, almost uniformly indicate otherwise, according to interviews with many analysts.

By the routine measures of how profitable an industry or company is, the oil industry's earnings are no better than average, these financial specialists said. Oil profits are considered respectable but not unusual. But, more narrowly, the analysts also point out, if one puts aside the oil companies' refinery operations, tankers and retail outlets and looks only at the business of finding and extracting oil, exceptional profits are in fact quite common.

BEARING ON DECONTROL

These observations have direct bearing on the decontrol of crude oil prices, which began last Friday, and on the debate under way in Congress over the President's proposed "windfall" profits tax.

Decontrol, a 28-month phasing out of ceilings on crude oil prices, is meant to infuse the oil industry with more money to help finance the search for new domestic oil reserves. It will allow the producers to sell their present reserves of oil at higher prices and thereby increase their profits.

But critics in Congress and elsewhere contend that decontrol is mainly a windfall for the companies. As they see it, the industry is already exploiting the current shortage, and they cite recent and dramatic advances in oil profits to make their point. In response, the President has repeatedly urged Congress to enact a surtax on the expanded profits to capture for the public coffers some of the gains that decontrol will provide.

In interviews, financial analysts did not wholly agree with Mr. Carter, his critics or the industry. The specialists generally found oil profits not excessive, yet ample enough to bear an excess profits, or windfall, tax. And in apparently increasing numbers, they questioned whether it was a sound idea to pump billions in profits into further oil exploration.

Oil profits are poorly understood, the analysts said, in good part because the public does not seem to distinguish profits from profitability. Profitability, a broader measure, is simply the relationship between the profits that a company or industry clears and the investment required to generate them. And on that score, the oil industry has generally trailed slightly behind most other industries, analysts say.

"In no way do the oil industry's profits result from excessive, abnormal or unfair rates of return," insisted Jeffrey A. Nichols, president and chief economist for the Argus Research Corporation, a consulting company that does financial and economic research for a variety of clients. "Over the long term, the industry has been underperforming and, except for the period around 1973–74, it continues to underperform."

Although the analysts interviewed, none of whom works for an oil company, conceded that overall oil profits did rocket to record levels five years ago and have soared again this year, they maintained that the industry has had its share of setbacks as well.

12.5 PERCENT AVERAGE RETURN

According to a study soon to be released by the Bankers Trust Company, over the last five years the return on equity of the 25 top domestic oil companies averaged 12.5 percent. By contrast, it said, the return for all manufacturing companies has averaged 13.3 percent since 1974. (It is also true, however, that the oil companies did achieve an exceptional 17.5 percent return in 1974, when the explosion in world oil prices began.)

Financial analysts generally consider return on equity, or net worth, the best measure of profitability. (A company's equity is simply its assets minus its liabilities.) The return on equity, which is the profit expressed as a percentage of the equity, is considered the purest gauge of how much is being earned by the money tied up in the business. In simple terms, it is the equivalent of the interest rate paid on a consumer's savings account.

Comparing profit figures alone is largely meaningless, the analysts say, because earnings provide only part of the picture. Missing, they assert, is the size of the investment required to bring in those profits. A $100 million company that earns $10 million a year is obviously doing better than a $1 billion enterprise that clears the same sum.

BIG RISES IN QUARTER

The outcry over oil profits was fueled anew this spring when the major companies reported startling increases in first-quarter earnings. Exxon's earnings were 37 percent higher than they were in last year's first quarter; Gulf's leaped 61 percent, and both Mobil and Texaco reported increases of 81 percent. By comparison, the quarter brought Exxon's return on investment to 15.4 percent a year; Gulf's, to 11.7 percent; Mobil's, 15.4 percent, and Texaco's, only 10.5 percent.

There are other ways to measure performance than return on investment, but few of the common financial ratios, if any, cast overall oil profits in a harsher light. One common ratio is profit margin, or a company's profits divided by its sales.

Citibank found in a recent study, for example, that the oil industry's profit margin was 4.8 percent last year, up from 4.7 percent in 1977. By contrast, the manufacturing sector as a whole averaged 5.2 percent, up from 5 percent.

Profit margins vary widely from industry to industry, however. In the high-volume supermarket business, for instance, which requires relatively little expensive investment, a margin of less than 2 percent is quite respectable, even though it would be considered abysmal in most other businesses.

EFFECT OF DECONTROL

At issue now, however, is not simply what the profits in the oil business have been, but also what decontrol will do to them in the years ahead, particularly in exploration and production.

The financial analysts are by no means unanimous on that score. Some contend that the industry's earnings are already more than adequate to attract capital and, further, that higher profits could lead to wasteful uses of scarce investment funds.

Even so, they questioned whether a "windfall" profits tax was the best way to deal with the issues raised by decontrol. Even without a new profits tax, they say, decontrol will expand not only the industry's earnings but also the income taxes, severance taxes and royalties that Federal and state governments collect from the companies.

Still others question whether the decontrol program will really increase production as much as the President has indicated.

Most within this group recommended that price ceilings be raised on "old" oil, which includes most of the production from wells discovered before 1973, at least enough to offset the inflation of the last five years. But they questioned whether controls should be removed on "upper tier" oil: the crude oil discovered since that time.

IMPETUS FOR SEARCHING

Their argument: If price ceilings are removed from the price of oil still to be discovered, that alone would prompt the industry to search out new reserves at a stepped-up pace. To force-feed this effort by completely decontrolling the price of existing oil supplies as well would set off a wasteful scramble. The oil industry generally contends that it badly needs the additional caiptal to finance further exploration, but, as this line of argument runs, that would amount to economic overkill.

"Excess" Oil Profit Claims Examined

(By Murray L. Weidenbaum)

With all the hullabaloo about "excess" oil company profits, it is an eye-opener to look at the facts.

To put it bluntly, the excesses don't show up in the earnings of the oil companies but in the statements of misinformed politicians.

Let us look at the record. The books have been closed on 1978, and corporate annual reports are now available for the year.

One fact is clear: Some of the oil companies are very large. In absolute amounts, therefore, their profits also loom large. The fair question, of course, is, "How do their profits stack up with those of other large companies?" The answer, surprisingly, is not too well.

For example, when we rank industrial corporations by their 1978 sales volume, we find that Exxon is number two, right behind General Motors.

But when we rank the same companies by their profits, GM remains No. 1 and Exxon falls to third place. Tho same pattern holds for the other large oil companies. Mobil is No. 4 in sales and No. 6 in profits. Texaco is No. 5 in sales and 10 in profits. Standard Oil of California ranks sixth in sales and seventh in profits. Gulf Oil shows up in ninth place in sales and thirteenth in profits.

More sophisticated measures of profitability also need to be used. Yet, the results are quite similar.

Let us examine the 1978 data on oil company profits in relation to the investment made by the stockholders (technically, we are measuring the return on shareholders' equity or net worth). Here is how the 10 largest industrial corporations rank, with the oil companies shown in capital letters so they stand out.

Company:	*Return on net worth*
1—IBM	23.1
2—General Motors	20.0
3—General Electric	18.7
4—Ford	16.4
5—EXXON	13.7
6—STANDARD OF CALIFORNIA	13.4
7—MOBIL	12.6
8—GULF	10.2
9—TEXACO	9.0
10—Chrysler (loss)	------

The data for 1978 clearly show that all of the top oil companies have a lower rate of profitability than do other corporations of comparable size, with the exception of Chrysler.

These comparisons are confirmed by the more detailed analyses made by Fortune magazine of the 500 largest industrial corporations. In 1978, the 500 companies reported an average return on stockholders' equity of 14.3 percent. Petroleum-refining companies averaged significantly less, 13.4 percent.

Many other industries reported higher profitability. On the top of the list was broadcasting and motion-picture production and distribution, with an average ratio of profits to stockholders' investment of 21.6 percent. Publishing and printing reported 15.8 percent, as did tobacco companies. Even the traditionally low-margin food industry averaged 13.7 percent, slightly above the oil industry.

How would the rise in oil industry profits resulting from decontrol alter this situation? Not very substantially. The great bulk of the increase in earnings would be taxed away. On the average, 46 cents of each dollar of added profits would be paid out in the form of federal income taxes. An additional 11 cents would go in the form of state taxes, and 6 cents in higher royalty payments.

And on the basis of traditional dividend policies, we can expect about 8 cents to go to raise dividends to shareholders (on which further taxes would be paid). Thus, only 29 cents of each dollar of higher profits would, on the average, be retained by the oil companies. Moreover, we should keep in mind that in recent years the industry's capital investments have far exceeded its net profits. It has relied on supplementation from depreciation allowances to generate the cash flow to cover dividends to shareholders.

The point being made here isn't that the profits of other companies are high but that those of oil companies are visibly low.

In fact, when we take proper account of the erosion of real profits by inflation, it is clear that American industry as a whole has experienced a substantial profit squeeze in recent years. When the American Council for Capital Formation recently made adjustments for inflation, their data showed that the retained earnings of American corporations in 1977 were only $28.7 billion. This figure is even lower than the comparable number for 1966 ($29.4 billion), despite the growth in the economy that has occurred since then.

Another useful way of looking at corporate profits is to relate them to the size of the economy as a whole. In the 1950s, for example, profits of all American corporations before taxes averaged 11.5 percent of the gross national product. In the 1960s, they were down to a 9.8 percent. During the 1970s to date, corporate profits have equaled only 8.6 percent of the GNP, a significant erosion of the corporate share of the national economy. But the issues at stake are far more than a matter of numerical quantities.

The long-term significance of the current debate over oil company profits (and business profits generally) shouldn't be ignored.

It will take a tremendous pool of new capital to finance the needed growth of domestic energy sources in the years ahead—estimates range upwards of $25 billion for the next three to four years alone.

If the private-enterprise system can retain a significant share of the profits that it earns, it should have the ability to meet that major financial challenge. But if misguided government policies tax away a disproportionately large share of these funds, the private sector may not be equal to the task.

Under such circumstances, the results would be predictable: great outcries for the federal government to step in and take away the responsibility from the private sector for exploring and developing the critically needed energy supplies.

Where would the government get the money for such an ambitious undertaking? Either from new taxes or, more likely, from another round of inflationary deficit financing. Moreover, the idea of setting up another government enterprise isn't exactly a comforting thought. As we are now witnessing, the ability of the government to "save" the railroad industry seems to be only equal to its ability to run the post office efficiently.

Thus, the proponents of a new tax on the "excess" profits of oil companies aren't only proceeding on poor information; far more importantly, they are neglecting to inform the public about the true nature of the road down which they are trying to lead the American economy.

HAWAII'S CHARLES HAZAMA BECOMES MAYOR OF ROCHESTER, MINN.

Mr. MATSUNAGA. Mr. President, it is with considerable pride that I rise to inform my colleagues that an outstanding former citizen of the great State of Hawaii was recently elected mayor of Rochester, Minn., home of the Mayo Clinic.

Maui-born Charles Hazama was elected on May 15, 1979, receiving 6,428 of the 11,555 votes cast in the election, and was sworn into office on June 4. He had earlier served as executive director of Rochester's Young Men's Christian Association (YMCA). His wife, Almira, is a former resident of my own home island of Kauai.

The third generation American of Japanese ancestry told reporters that his ethnic ancestry had nothing to do with his election.

"People in the Midwest have always judged me on my individual merits," he was quoted as saying. "Individual character is that most important force in our community."

Mr. President, the election of Charles Hazama as mayor of Rochester, Minn., stands out as another example of the greatness of our country. His is just another case, adding to the undeniable evidence that in America the road to success is open to any who will dare to pursue his dreams.

With the thought that readers of the Record will find the Charles Hazama story not only interesting, but inspiring, as well. I request unanimous consent to insert in the Congressional Record at this point the text of an article about Mayor Hazama from the Hokubei Mainichi of California:

There being no objection, the article was ordered to be printed in the Record, as follows:

Hawaii-Born Sansei Elected Mayor of Rochester, Minn.

Los Angeles.—A Maui, Hawaii-born Sansei has been elected mayor of Rochester, in southeastern part of the state of Minnesota with a population of 60,000, according to the Rafu Shimpo newspaper last week.

Charles Hazama, 46-year old executive director of the 9000-member Rochester YMCA, was swept into office May 15 after receiving 6,428 of the 11,555 votes cast in the mayoral election. In his first try for elective office, Hazama defeated veteran city alderman Dick Postier. Alex Smetku, Rochester's mayor for the past 17 years, did not seek re-election.

Mayor Hazama was sworn into office June 4.

A recipient of the bronze YMCA Heroism Award and the Congregational Church Layperson of the Year and Sertoma Club Men of the Year honors, Hazama has served as president of the Rochester Area Church Council, Mayo Parents Boosters Club. He has chaired the Community Service Coordinating Council and the United Way Kickoff Committee and was on the steering committee for the Youth Employment Project.

Reached for comment on his victory, Hazama told the Rafu that his election win was extremely satisfying. Asked about the local voters' reaction to his ethnic background, the new Rochester mayor explained, "People in the Midwest have always judged me on my individual merits. And that's the ultimate. Individual character is the most important force in our communiy."

He added that he knows of only one other Japanese American family in the Rochester area, which is located about 90 miles south of the Twin Cities of St. Paul.

Hazama described Rochester as the "most outstanding community in the United States." It is the home of the world famous Mayo Clinic and its population includes the nearly 2,000 physicians assigned to the massive medical research center. It is also the home of a major IBM plant.

The Japanese American was urged to seek the mayor's office by a coalition of church, YMCA and school groups in February. Hazama took two weeks to reach his decision to run against longtime city father Postier, who has always received the strong backing of organized labor.

Mayor Hazama said his support came predominently from the professional community. Major issues during the campaign were flood control—Rochester suffered $55 million in damages to floods last year; downtown redevelopment—Hazama advocated rerouting the vehicular traffic; and open government.

Born in Puunene, Maui, Hazama is a graduate of Puunene and Baldwin High Schools. After attending Maunaolu College for one year, he went to Iowa, enrolling at Grinell College. Following three years of military service in Japan, Virginia and Missouri, he completed his education at the Univ. of No. Iowa.

Hazama taught junior high school in Iowa before moving to Rochester the local YMCA in 1975.

Married to the former Almira Oyakawa of Kauai, Hazama and his wife have two children, Chuck, Jr., a college sophomore, and, Ann, a senior at Mayo High School.

The son of Nisei Charles and Mildred Hazama of Kahului, Maui, Mayor Hazama is related to Hawaii state Rep. Gerald Machida.

—*Dwight Chuman*

DEATH OF BILL STEWART, ABC NEWS

Mr. FORD. Mr. President, the recent death of ABC television correspondent Bill Stewart is a double tragedy for the State of Kentucky. Mr. Stewart's death occurred because of a despicable, cowardly and totally senseless shooting by a member of the Nicaraguan National Guard. The loss of this excellent reporter and the shock of his death are felt throughout the Nation.

But to bring this closer to home, Mr. President, I would point out that Mr. Stewart's wife, Myrna, is a native of my State and that he was buried this past weekend at Ashland, Ky. On behalf of the people of Kentucky, I extend my most heartfelt sympathy to Mrs. Stewart and to the Stewart family.

Since last fall emissaries of the United States and other countries have tried to mediate a solution to the conflict that now envelops Nicaragua, yet all suggestions have gone unheeded. In the name of reason, I heartily applaud Secretary Vance's call for the resignation of President Anastasio Somoza, whose troops are responsible not only for Mr. Stewart's cold-blooded murder but also for callous indifference to the act once it was committed. I am pleased that the members of the Organization of American States have joined in urging General Somoza to step aside in favor of an interim governing authority that would bring peace to the war-torn nation and lead the way toward a political solution acceptable to the people of Nicaragua.

SENATOR BOSCHWITZ AND "THE RITUALS OF THE SENATE"

Mr. STEVENS. Mr. President, I was out of town recently when an article recently was published in the Washington Star concerning my good friend Rudy Boschwitz. However, I did not want to let the opportunity pass to submit for the Record this article, written by the notable author James J. Kilpatrick.

Although Senator Boschwitz has served in the Senate only a few months, he has already proven himself a skillful and effective legislator. I compliment him on his success in saving American taxpayers $5 million.

It is a pleasure for me to work with him, and we in this Nation are looking forward to many more worthwhile endeavors from the junior Senator from Minnesota in the years to come.

I ask unanimous consent that the article from the Washington Star be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Understanding the Rituals of the Senate

Rudy Boschwitz saved the taxpayers five million bucks the other day, and might have saved them a little more, but after five months in the Senate the gentleman from Minnesota has learned a thing or two; and thereby hangs this tale.

The pending business in the Senate on this particular day was S. 670, the Rural Development Policy and Coordination Act of 1979. The bill is the particular baby of Sen. Patrick J. Leahy of Vermont, who explained it in this fashion.

"In essence, what would result from this legislation is that the Secretary of Agriculture would control a process involving the executive branch, states, and local governments in the formulation of flexible rural development policies that encompass differing local needs and conditions while also addressing problems common to all areas and reflecting national objectives."

All clear? Senator Leahy, recklessly piling nouns upon nouns to make them serve as adjectives, also advised his colleagues that grants of $20 million under section 111 of his bill would promote the "rural development policy management process." His program would collect "rural needs data." He also had a floor amendment to provide for model demonstration rural information and assistance centers in no fewer than five rural states.

Very well. The Leahy bill has its good and useful points. At present, various federal requirements call for five different and overlapping annual reports on rural income, housing, federal assistance and so forth. The Leahy bill would replace these with a single massive report every five years, supplemented by progress reports every two years.

For all practical purposes, the Leahy bill was unopposed. But Boschwitz had some objections and reservations, and if you want to know how the United States Senate works, you couldn't find a better small textbook than this brief debate provided.

First a word about Boschwitz: He is 47, tall and lean and limber, a little lantern-jawed, as rangy as Jimmy Stewart playing Mr. Smith Goes to Washington. He was elected last November to succeed Wendell Anderson; he styles himself as an independent Republican, and he is a very attractive fellow.

In the matter at hand, Boschwitz had concluded that $20 million was too much for the grant program. He wanted to keep the authorization at its present level of $10 million, mainly because the number of grants actually awarded is declining. He also objected to the model demonstration information and assistance centers as a sheer waste of money on "another layer of bureaucracy."

Boschwitz therefore understook to negotiate with Leahy. On the Section 111 grants, Boschwitz wanted $10 million, Leahy wanted $20 million; they agreed on $15 million. Boschwitz offered an amendment to that effect. Said Leahy: "By the force of sheer eloquence and perseverance Senator Boschwitz has worn me down. He has appealed to my own lopsided sense of fiscal responsibility, and because of that, I would join him in this amendment."

So the five million bucks was saved. On the matter of the information centers, Boschwitz did not fare so well. This is how he explains the situation:

"The centers would cost at least $2 million a year for starters. They would provide jobs for a number of bureaucrats and paper shufflers who, naturally, would proclaim their model demonstration a success. Next year we'd hear demands from five states to 50 states.

"If I had forced a roll-call vote on the issue, I think the majority of the Senate might have agreed to knock out the centers. But there were only three or four of us on the floor. A roll-call would have dragged 95 others away from whatever they were doing. They'd come to the Senate and ask what the roll-call was all about. And they'd be told that Boschwitz had insisted cn a roll-call over a little old, lousy $2 million. Well, I'm still learning the ropes. I registered my objections in the Record, and that was that."

The 20 minutes ended with a little speech by Majority Leader Robert C. Byrd: "I want to commend a new member, Rudy Boschwitz, for his skillful and effective leadership in helping to manage the bill, and for his fine cooperation on this measure today." That's the Senate for you. It's a great institution.

CHEAPER CRUDE OR NO MORE FOOD

Mr. EXON. Mr. President, in the Washington Post of Sunday July 8 there was an excellent article, the headline of which is "Using U.S. Wheat Against OPEC: Not as Farfetched as you Think."

I wish to quote from one paragraph:

> This would require an important political decision—one Americans generally have abhorred except in emergencies. The government would have to create a national grain-trading board, one empowered to set a national price on our wheat and prepared to make other countries pay one price or do without. Is this time of soaring oil prices, of rampant inflation and threatened recession, a national emergency? Does it justify a counter-cartel? The militant farmers think so.

I think so, too.

Mr. President, I ask unanimous consent that the entire article, which I mentioned, by Mr. Dan Morgan, from the Washington Post, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

USING U.S. WHEAT AGAINST OPEC: NOT AS FARFETCHED AS YOU THINK

(By Dan Morgan)

American farmers are sticking a defiant message on the bumpers of their pickup trucks these days: "Cheaper Crude or No More Food."

The farmers believe the United States could force the Organization of Petroleum Exporting Countries to brake its price increases by denying U.S. grain to the oil cartel. Members of the militant American Agricultural Movement would settle for merely raising wheat prices in step with the oil price increases ordained by the cartel.

"A bushel for a barrel" sounds lighthearted, and government officials tend to dismiss the crusaders as misguided rural xenophobes. It wouldn't work, the administration argues. Besides, isn't it faintly immoral to tinker with the world's food supply in such a hard-hearted manner?

But the bumper stickers are not all that farfetched. If one examines the world grain market today, its future and its potential for America, there are extraordinary similarities with the world oil market. If U.S. policymakers have the will to play international "hard ball" with the grain-importing countries, particularly the oil nations of OPEC, the squeeze might produce dividends for us. At least the idea deserves more serious consideration than Washington has given it.

U.S. ECONOMIC LEVERAGE

This would require an important political decision—one Americans generally have abhorred except in emergencies. The government would have to create a national grain-trading board, one empowered to set a national price on our wheat and prepared to make other countries pay our price or do without. Is this time of soaring oil prices, of rampant inflation and threatened recession, a national emergency? Does it justify a counter-cartel? The militant farmers think so.

The potential for U.S. leverage on world grain prices is supported by the statistics in a recent study by the respected International Wheat Council in London. Its surprising conclusion is that OPEC's wheat imports are growing faster than those of any other groups of nations. They reached almost 10 million tons in 1970. This is 14 percent of the entire world wheat trade.

Many nations, including several OPEC countries, grow and export wheat. But only a handful export on a scale of 10 million tons. The clear implication is that, with regard to OPEC's wheat needs, the two criteria for U.S. economic leverage exist:

Doing without grain imports, though possible, would be economically disruptive and possibly politically destabilizing.

Only the United States and Canada can guarantee a continuing supply of wheat of that magnitude. The United States, moreover, is in the peculiar position this summer of being the only country that can fill new wheat orders. It already supplies OPEC with more than half of its 10 million tons a year.

The dependency of OPEC countries is dramatically evident in the case of Iran, the oil exporter whose temporary shutdown caused so many problems. During Iran's revolutionary spring, the oil stopped going out—but U.S. grain kept going in there.

Agriculture Department officials say Iran purchased more than a million tons of white (Pacific Northwest) wheat in the year ended June 30, and already has booked orders for 115,000 tons this year. (This is about in line with previous years.) Iran also bought more than 300,000 tons of U.S. rice last year. Its total grain imports have been running close to 3 million tons—an amount that gives Iran a margin of protection against food inflation.

This dependency on U.S. food was vigorously promoted by the grain trade and by the U.S. Agriculture Department's "market development" teams in the 1960s. They used the Food for Peace programs and other incentives to convert Iran to the American diet of grain-fed meat and poultry. Iran became a U.S. agricultural client state, and even after the revolution its need for foreign grain is a reality that its new rulers must take into account.

Given the fact that U.S. food is feeding Iranians, the ayatolah's rantings against the United States seem particularly ungracious. A counter-squeeze using U.S. food might show us what the ayatolah is really made of.

Contrary to the popular image, OPEC is not a collection of desert nations with only a handful of people to feed. OPEC's 13 members include the world's fifth most populous country (Indonesia), the largest in Africa (Nigeria), and a populous tropical nation whose climate is not well suited to growing wheat (Venezuela).

Wheat, eaten as bread or couscous, is a staple in Algeria, Libya, Iran, Iraq and Saudi Arabia. But only three OPEC countries—Algeria, Iran and Iraq—grow wheat on a large scale, and none is self-sufficient except when their crops are unusually bountiful.

Indonesia and Nigeria are rice-eating nations, but both rely heavily on imports—not only of rice but also of wheat—to supplement the food available in the commercial marketing systems on which their huge urban populations depend.

Population in OPEC is rising at 2.8 percent a year, about the average for all developing countries, and the populations of several countries have been swollen by immigration of foreign workers who need to be fed. Kuwait's population, for example, is growing 6 percent a year.

Oil revenues have given OPEC countries the means to import more food. This in turn has led to a rapid rise in per capita wheat consumption, from 40 kilograms at the start of the decade to 55 kilograms now.

But perhaps the major factor behind OPEC's rising consumption is that imported grain has been a bargain—particularly since it is being purchased with dollars that have been sharply devalued by inflation.

Artificially cheap oil in the postwar era made "petroleum junkies" out of the industrial countries. They postponed adopting energy conservation policies and thereby created the condition for their present reliance on OPEC.

Now the OPEC nations are following a similar pattern in terms of our grain trade. Foreign nations have gone on a food-buying binge; demand for imports is still increasing, and OPEC is no exception. There are a variety of reasons for this phenomenon—population growth, prosperity, the increasing popularity of bread and poultry in countries that once ate rice and potatoes.

It is an irreversible trend. Virtually all experts acknowledge that though food self-sufficiency was a realizable goal for many nations in the 1920s and 1930s, it no longer is today. Dependence on U.S. food is permanent. That is why nations such as Saudi

Arabia have built new flour mills. Wheat for those mills, like oil for East Coast oil refineries, will have to come from abroad.

Since 1970, wheat prices have tripled, but oil prices have increased nearly ninefold. In 1970, a bushel of wheat was selling for $1.45 at the Gulf of Mexico, compared with about $1.70 for a barrel of Saudi Arabian crude oil. This spring—before the latest OPEC price increases—wheat was just over $4 a bushel, while oil was at $14.50 a barrel.

It is true, of course, that wheat, unlike oil, is a renewable resource, grown year after year. But it takes oil to produce food, so there is a direct connection.

More than most other businessmen, American farmers are sensitive to the intimate economic relationship between oil and grain. Farmers use a prodigious amount of energy in growing and marketing their crops. It takes natural gas to operate irrigation pumps, dry grain and produce the anhydrous ammonia for fertilizer. It also takes oil to produce diesel fuel for tractors and combines and to make the herbicides and pesticides sprayed onto crops. So it is not surprising that the slogan "a bushel of grain for a barrel of oil" emanates from rural America.

The same countries that have been raising oil prices have been getting a bargain—an American subsidy, some might call it—on the grain produced, processed and transported with that oil. In effect, the United States exports energy back to OPEC in the form of wheat, corn, rice and vegetable oil. So the "cheaper cruders" argue that it is equitable for OPEC to offer its food suppliers, including the United States, a lower price on oil, or a higher price for the grain.

Up to now, Carter administration officials have maintained that if we tied grain prices to oil prices, customers abroad would buy less, would produce more food of their own or would turn to other grain suppliers. But these arguments are debatable.

PATTERNS IN OIL AND GRAIN

The world is not running out of food. But the record of the past five years shows that increasing food production abroad is far more difficult to achieve than expected.

World grain and oil production are comparable in that the period of "easy" advances in grain output, brought about by hybrid seeds, irrigation and use of new farmland, is over. Just as in oil, future increases in food production will be harder to achieve and more costly—in part because the energy ingredient has become so costly. Opening new breadbaskets, like making new oil finds, is turning out to be tough.

The Soviet Union has poured vast sums of money into new wheat lands since the late 1950s, but this year it is still importing 15 million tons of grain from the United States alone.

Brazil has failed to emerge as the agricultural Garden of Eden some believed it would become. It imported 4 million tons of U.S. wheat last year. The soil of its tropical forests is not well suited to growing food grains. As its oil and food import bill rises, moreover, pressures remain strong to devote available farmlands to export crops such as coffee.

Agriculture has not had a good decade in the OPEC countries either. Food production hasn't kept pace with population growth, and a grandiose scheme of Arab rulers to create a breadbasket in the Sudan—a scheme that underscores the Arabs' sense of vulnerability on the food issue—has yet to produce results.

For these countries, food conservation is no more palatable an alternative than oil conservation is in the West. It is one thing to slaughter poultry and livestock to conserve feedgrains, as Iran has been doing. But it is another thing to reduce consumption of foodgrains for humans.

World wheat consumption, like that of OPEC, is on a steadily rising plane—350 million tons in 1975; 379 million tons in 1976; 395 million tons in 1977; 416 million tons in 1978, and an estimated 431 million tons this year.

World wheat imports have stayed strikingly constant in this period, varying only a few million tons on either side of 70 million tons. And the last three years have seen excellent crops worldwide, a pattern that is not holding this year.

Dozens of countries grow wheat. But only five—the United States, Canada, Australia, France and Argentina—cover the bulk of the world's wheat trade. Two of them, Canada and the United States, provided two-thirds of it, and today these two countries are holding most of the surplus wheat stocks.

In the next few months, only the United States will be able to fill new orders for wheat. Crops in Australia and Argentina already are committed to customers. France's wheat crop has suffered from a severe winter, and Canadian shipments have been snarled by transportation problems and a West Coast dock strike. That is exactly why grain prices are now rising so rapidly here. It is a seller's market.

DO WE WANT TO TAKE THE WHEEL?

All of these facts put the United States in the driver's seat—if it wants to take the wheel. The transition period would involve the same kind of political trauma and dislocations that occurred among OPEC nations as they struggled in the early 1970s to take control of their own asset, petroleum. Those difficulties and the uncertainty of political anger around the world—not the question of feasibility—may be the real reasons why U.S. officials are so cool to the slogans.

The structure of the world grain trade today resembles the way world oil looked in the 1960s—before the cartel gained its maturity. That was a time when oil prices were low, when oil exporting countries were disunited, and when a handful of huge multinational companies organized the marketing and allocation of the surpluses. This is a rough approximation of the situation prevailing today in the global grain markets.

One clear indication that wheat prices are too "low" is that Japan, the European Common Market, the Philippines and other countries all levy stiff import taxes on U.S. wheat to protect their own farmers. Food authorities in Japan currently purchase wheat at this country's gateway ports for $4.50 a bushel and resell it to Japanese millers for twice that. The Japanese millers are not buying less wheat.

But the handful of countries that produce major wheat surpluses have shown little inclination to unite in a cartel to capture more wheat revenues for the producers. In fact, the United States and Canada have waged price-cutting wars over the past 15 years whenever unsold surpluses have accumulated.

The two countries also have taken different approaches to grain production in the last two years—ones that mirror different approaches of several OPEC nations to oil production.

The United States, like Libya, has attempted to limit output in order to increase prices; farmers have received incentives to idle their wheat lands. Canada, on the other hand, has applied the Saudi policy of continuing to go all out; Canada's wheat planners have refused to order a cutback.

Officials of leading wheat exporting countries (except France) met in Winnipeg recently but took no steps toward forming a cartel or fixing a price floor. Fortunately for grain farmers, prices are now rising rapidly.

The idea of a cartel fixing grain prices for the world horrifies those who are concerned about poorer nations. Yet it could be argued that a stiff increase in grain prices is just what those countries need to force their rulers to devote adequate resources to agriculture, farmers and land reform. By controlling exports, the government would also be in a position to soften the impact of what is hapepning now—a sharp run-up in grain prices due to strong foreign demand.

THE ROLE OF THE MULTINATIONALS

There is, however, one large "but." Before OPEC could work its will on its industrial customers, the OPEC governments had to supplant the multinational companies that controlled the oil upstream in the Persian Gulf.

Canadian wheat is marketed through a quasi-governmental agency, the Wheat Board. But multinationals still control the system in the United States—the source of half of all grain and soybeans moving into world markets. The government is involved in agriculture through farm programs, but not in the marketing system.

Dominating the system in the United States are a handful of companies that resemble the oil giants in their control of communications systems, marketing channels, river barges, grain hopper cars, storage depots, processing plants and financial facilities.

It is a highly complex system. U.S. grain regions are a mosaic of thousands of farms producing many different crops, from wheat to birdseed, each with specialized markets at home and abroad. For the government to take charge of the pricing and marketing of the grain would disrupt the system and do damage, the multinationals say.

Just as oil multinationals fought the takeover of Persian Gulf oil fields, grain companies now are strongly resisting creation of a U.S. grain board—a proposal contained in legislation submitted this year by Democratic Rep. Jim Weaver of Oregon and supported by 53 co-sponsors.

Weaver's plan calls for a board, under the Commodity Credit Corporation, to sell, barter or approve the sale of grain abroad. The grain companies would continue to make deals with their customers and drum up business—but only at a price approved in Washington. Inherent in this is the government's ability to fix the price of all grain to foreing buyers.

The idea is not unprecedented. The government controlled the grain trade in both world wars. It required licensing of grain sales to communist countries until 1971, and it embargoed soybean exports in 1973.

Nationalization of the grain trade would be a drastic step. But then, say the farmers who carry the banner for "cheaper crude," this is no time for the faint-hearted.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NASA AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 1786.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 1786) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. CANNON, Mr. STEVENSON, Mr. FORD, Mr. GOLDWATER, and Mr. SCHMITT conferees on the part of the Senate.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-365. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Foreign Relations:

"HOUSE JOINT RESOLUTION No. 1036

"Whereas, The President of the United States and his administration have developed a treaty for strategic arms limitation with the Union of Soviet Socialist Republics, known as the SALT II Treaty, and the Senate of the United States will be considering the merits and implications of this treaty; and

"Whereas, The SALT II Treaty consists of decisions of far-reaching import for American defense policy and foreign relations, both raising the hopes of and causing anxieties among the people of the state of Colorado; and

"Whereas, American military leaders who enjoy great credibility among Colorado citizens have warned that the SALT II Treaty has been negotiated from a position of weakness due to the loss of our nation's previous military superiority; and

"Whereas, The doctrine of "Peace through Strength" has served the United States well in the cause of human rights and freedom; and

"Whereas, There has been little public discussion or debate on any defense issue of this magnitude for many years; and

"Whereas, The members of the Colorado General Assembly recognize the grave significance of the decisions surrounding the SALT II Treaty for the next generation of our citizens; now, therefore,

"Be It Resolved by the House of Representatives of the Fifty-second General Assembly of the State of Colorado, the Senate concurring herein:

"(1) That the Senate of the Congress of the United States is hereby urged to seek full disclosure and debate on all aspects of the proposed SALT II Treaty and its effect on American defense capabilities and options, including careful evaluation of all weapons systems and their cost-effectiveness.

"(2) That the American people be given, to the fullest possible extent, the facts and potential implications of the SALT II Treaty in order that the adoption or rejection of that treaty will be a national decision supported by an informed and concerned people.

"(3) That the American people be given an accurate, objective, and detailed analysis of the relative military strength of the United States and other nations.

"Be It Further Resolved, That copies of this resolution be transmitted to the President and the Vice President of the United States, the President Pro Tempore of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and each member of the Congress of the United States from the State of Colorado."

POM-366. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Finance:

"HOUSE JOINT RESOLUTION No. 1042

"Whereas, the federal estate tax and gift tax are inequitable, incongruous, and undesirable forms of taxation because such taxes constitute tax upon tax and because the payment of such taxes frequently requires the sale of the very assets sought to be transferred at death or through gift; and

"Whereas, the State of Colorado is in the process of abolishing the state gift tax and the state death tax (except for a gap tax based upon the amount of the credit available for state death taxes against the federal estate tax); now, therefore,

"Be It Resolved by the House of Representatives of the Fifty-second General Assembly of the State of Colorado, the Senate concurring herein.

"That we, the members of this General Assembly, do hereby request the Congress of the United States to abolish the federal estate and gift taxes by repealing Subtitle B of the "Internal Revenue Code of 1954", as amended.

"Be It Further Resolved, That copies of this Resolution be transmitted to the President of the United States, the Commissioner of the Internal Revenue Service, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to each member of the Congress of the United States from the State of Colorado."

POM-367. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Finance:

"HOUSE JOINT RESOLUTION No. 1031

"Whereas, The General Revenue Sharing Program was enacted into law by the United States Congress in 1972 with the objective of enabling the several states and their local governments to share directly in the federal revenue base; and

"Whereas, The General Revenue Sharing Program is the only federal grant-in-aid program which allows state and local officials flexibility in determining for themselves the most effective and efficient purposes for which these federal funds shall be used, which is a substantially more efficient system in view of the extensive variations not only between states but also between various regions within states; and

"Whereas, The President of the United States is proposing to eliminate state governments from participation in the General Revenue Sharing Program, under which the State of Colorado is expected to receive twenty-five million two hundred thousand dollars in the current year; and

"Whereas, The remaining federal funds which will be received by the State of Colorado in the absence of general revenue sharing funds will continue to be categorical in nature; now, therefore,

"Be It Resolved by the House of Representatives of the Fifty-second General Assembly of the State of Colorado, the Senate concurring herein:

"That the General Assembly of the State of Colorado endorse the concept of unencumbered federal grant-in-aid programs, in lieu of assistance for narrowly defined federal categorical programs, thereby enabling each state government itself to put these funds to the uses it determines are necesary for the shaping of its own policies.

"Be It Further Resolved, That the General Assembly objects to and discourages the existence of any federal grants-in-aid to states which do not allow for state governments' approval and supervision of the uses of such federal grant funds.

"Be It Further Resolved, That copies of this Resolution be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to each member of Congress from Colorado.'

POM-368. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Labor and Human Resources:

"HOUSE JOINT RESOLUTION No. 1008

"Whereas, More than three thousand persons in Colorado die each year from various forms of cancer; and

"Whereas, Death from cancer is the second leading cause of death among Americans; and

"Whereas, A controversy now rages over the safety and efficacy of laetrile and its associated treatment, pitting one group of scientists, medical doctors, and concerned individuals against another; and

"Whereas, Scientific evidence does not presently exist to everyone's satisfaction to settle this controversy to the satisfaction of many persons suffering from cancer; and

"Whereas, Testing of laetrile and its associated treatment on cancer patients will be necessary to conclusively determine the safety and efficacy of laetrile and its associated treatment for human use; and

"Whereas, Such testing has not yet begun now, therefore,

"Be It Resolved by the House of Representatives of the Fifty-second General Assembly of the State of Colorado, the Senate concurring herein:

"That the United States Food and Drug Administration, the National Cancer Institute, and other recognized research institutions are urged to do everything possible to proceed with the scientific testing of laetrile and its associated treatment on humans.

"Be It Further Resolved, That copies of this Resolution be sent to the United States Secretary of Health, Education and Welfare, the Commissioner of the United States Food and Drug Administration, the Surgeon General, and the Director of the National Cancer Institute, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, and to each member of the Congress of the United States from Colorado."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment, and with a preamble:

S. Res. 196. A resolution to designate October 13, 1979, as "National Jogging Day" (Rept. No. 96-241).

INTRODUCTIONS OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 1479. A bill to make a technical amendment to Public Law 94-204 as amended by Public Law 94-456; to the Committee on Energy and Natural Resources.

By Mr. CULVER (for himself, Mr. Muskie, Mr. Stafford, Mr. Chafee, Mr. Randolph, and Mr. Moynihan):

S. 1480. A bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites; to the Committee on Environment and Public Works.

By Mr. WEICKER (for himself, Mr. Baucus, Mr. Hatch, and Mr. Hayakawa):

S. 1481. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for investment in small business participating debentures, and to provide additional tax incentives for the issuance of such debentures; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. Bayh, Mr. Huddleston, and Mr. Kennedy):

S. 1482. A bill to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS (for himself and Mr. Gravel):

S. 1479. A bill to make a technical amendment to Public Law 94-204 as amended by Public Law 94-456; to the Committee on Energy and Natural Resources.

● Mr. STEVENS. Mr. President, Cook Inlet Region, Inc. (CIRI) an Alaska regional Native corporation has recently brought to my attention some serious technical problems which exist in the matter of the fulfillment of a portion of the corporation's land entitlement as mandated by Public Law 94-204 and amended by Public Law 95-178.

These acts directed the Secretary of the Interior, in conjunction with the Administrator of the General Services Administration, to locate and nominate for Cook Inlet Regional Corp. at least a 138,240 acres or "acre equivalence" of Federal surplus or excess property in exchange for Federal lands, CIRI would otherwise receive out of this region. Public Law 95-178 dictated that this must be done by July 15 of this year at the latest.

A recent report by the BLM offices in Alaska indicates that only about 5 percent of this entitlement has been conveyed or has been placed in the pool of properties available for CIRI's selections. Other additional properties have been identified by the CIRI and BLM for possible inclusion in the pool, but even if all these properties were made available for selection in the short time remaining before the July 15 deadline, it is estimated that approximately 100,000 acres or its equivalent, will still remain to be fulfilled.

This delay is due in large part to the difficult time that the Department of the Interior has had in locating appropriate property to place in the pool. It also appears that the processing of lands to be placed in the pool has been a lengthy and time consuming manner.

If no remedial legislation is passed before the expiration of the deadline Federal properties in Alaska could be disposed of under the provisions of the existing statues, thus depriving CIRI of a valuable right. Accordingly it could occur that several suitable properties would not be available for the fulfillment of the Secretary's obligation to CIRI. Although Cook Inlet may have a strong legal remedy they are desiring to work with the Congress and with the Department of the Interior to see if a technical amendment could be passed in the immediate future that would solve the problem faced by the corporation in an expeditious and cost effective matter. The following amendment would settle this problem and give the Department of the Interior time to fulfill its job without damaging the legal rights of CIRI. The State of Alaska has been informed of this technical amendment and it has no objection to it. The same applies for the Alaska Federation of Natives and the Department of the Interior which is evidenced by the enclosed letter from Secretary Andrus.

I would appreciate your support in passing this technical amendment in the most expeditious manner possible. Although the July 15 date may not be a possible goal it is possible for Congress to enact a technical amendment before any prior rightsvest which would conflict with those of Cook Inlet Regional Corporation.

I ask unanimous consent that the text of the bill, as well as the letter from Secretary Andrus, be printed in the Record at this point.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 1479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Subsection (b) of section 12 of the Act of January 2, 1976 (Public Law 94-204) as amended by the Act of October 4, 1976, Public Law 94-456), is hereby amended to add at the end thereof the following new paragraph:

Any provision of law to the contrary notwithstanding, if the Region, the Secretary, and/or the Adimnistrator of General Services do not complete the nomination of lands referred to in subparagraphs (5) and (6) of this subsection by the dates set in subparagraphs I(C) (1)(b) and I(C) (2)(a) of the document referred to in this subsection, then, and in that event, these dates shall hereby automatically be extended by operation of this subsection for twelve months beyond the period set in section 3(a) of Public Law 95-178.

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C.

Hon. Ted Stevens,
United States Senate,
Washington, D.C.

Dear Ted: Your letter of May 16, 1979, addresses some technical problems in the fulfillment of the land settlement for Cook Inlet Region, Incorporated, (CIRI).

A status report in compliance with Section 12 of Public Law 94-204, as amended by Section 3(a) of Public Law 95-178, has been sent to Congress. This report, which is enclosed, provides you with complete information regarding conveyances under Section I.C. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area.

The reasons for the difficulty the Bureau of Land Management is experiencing in identifying appropriate property to fill the "in region" property pool are outlined in the above-mentioned report.

I agree that remedial legislation is necessary for CIRI to receive its lands in accordance with the original intent of Public Law 94-204. We would be happy to work with CIRI and the Committee on Energy and Natural Resources on legislation to amend Section 3(a) of Public Law 95-178 to extend the automatic extension clause. Please have your staff contact Beau McClure, Chief, Alaska Programs Staff, Bureau of Land Management (343-6511).

Sincerely,

Cece Andrus,
Secretary.●

By Mr. CULVER (for himself, Mr. Muskie, Mr. Stafford, Mr. Chafee, Mr. Randolph, and Mr. Moynihan):

S. 1480. A bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites; to the Committee on Environment and Public Works.

ENVIRONMENTAL EMERGENCY RESPONSE ACT

● Mr. CULVER. Mr. President, today I am introducing the Environmental Emergency Response Act. This legislation provides critically needed resources to cope with one of the most pressing environmental problems confronting our society: The releases and spills of toxic and hazardous chemicals into soils, rivers, and groundwaters.

By now we all know of numerous examples of the damage caused by the release of toxic chemicals in the environment. Chemicals spilled during transportation, leaking from old dump sites, or released in other ways have produced serious human injuries and property damages and have presented even greater threats of potential damage.

A series of legislative initiatives has been introduced to deal with this pressing problem. It began in the last Congress, when the Senate Environment and Public Works Committee developed legislation dealing with the spill of oil and hazardous substances into America's waters. That legislation was subsequently approved by the Senate, but no final congressional action was taken.

Among the most comprehensive legislative proposals to address the hazardous waste issue is the administration's bill, S. 1342, which Senator Muskie and I introduced by request on June 14, 1979.

This bill establishes a fund for the removal and cleanup of spills and releases of oil, hazardous wastes, and other toxic substances. The fund, which has a proposed cap of $1.65 billion, would be financed from fees on crude oil, petrochemical, and inorganic feedstocks, and Federal appropriations. No third-party personal injuries would be compensated, and economic compensation would be limited to commercial property losses or damages resulting from spills of such hazardous substances into water.

The Subcommittees on Environmental Pollution and Resource Protection have held several hearings here in Washington, D.C., and around the country on the damages posed by hazardous wastes. At a hearing the two subcommittees held on March 28, 1979, citizens who lived near the Love Canal in Niagara Falls, N.Y., testified about high incidences of birth defects, miscarriages, skin, liver, and kidney ailments, epilepsy, and depression and other emotional disturbances which were partially caused or exacerbated by exposure to toxic wastes in that community. Some 230 homes have already been condemned by the State of New York, and hundreds of other citizens of the Love Canal area want the State to buy their virtually worthless homes. One glaring omission from the administration's bill is the absence of any provision to provide payments from the fund to compensate people for injuries suffered from exposure to hazardous substances.

In addition, the Subcommittee on Resource Protection, which I chair, held a hearing last month in Charles City, Iowa, where a dumpsite full of hazardous wastes sits atop the Cedar Valley aquifer, the major source of water for more than 300,000 Iowans, and lies only a few hundred feet from the Cedar River.

The LaBounty dumpsite in Charles City is currently leaching chemicals at a very slow rate. It does not at present pose any apparent imminent—and I stress "apparent" and "imminent"—threat to public health. But the effect of a major leak into the Cedar River or the Cedar Valley aquifer could be an economic and health disaster of unparalleled proportions for the State of Iowa. Environmental Protection Agency (EPA) officials have acknowledged at our hearings that the administration proposal would provide almost no relief to citizens living in downstream communities should they develop illnesses from contaminated drinking water.

EPA, the State of Iowa, the city of Charles City, and Salsbury Laboratories, Inc., which is operator of the dumpsite, are working together under a Federal grant to contain leaching at the LaBounty site. But it is just one of an estimated 2,000 that EPA officials believe may be potentially hazardous to public health; and clearly some unified approach must be taken to resolving the problems associated with these dumps. If it succeeds, the demonstration project at Charles City, which I requested, may point the way toward relatively inexpensive solutions elsewhere.

As a result of these hearings, I have concluded that the administration's bill, while an important first step, is not sufficient to deal with the whole range of problems associated with hazardous waste dump sites. The legislation I am introducing today will address the major shortcomings of our current procedures for coping with hazardous waste emergencies. This bill is the product of a bipartisan effort of two subcommittees of the Environment and Public Works Committee. I want to emphasize the importance of the contribution made by Members of both sides of the aisle on this subject. The ranking minority members of the two subcommittees, Senators Stafford and Chafee, have had an important role in helping Senator Muskie and me develop this legislation. Senator Moynihan contributed by chairing a hearing at Niagara Falls to look at the most extensive problem that has developed so far—the incident at Love Canal.

The Environmental Emergency Response Act covers all releases of hazardous chemicals into the environment, not merely spills or discharges from abandoned waste disposal sites. Coverage would, for example, extend to incidences such as the discharge of Kepone into the James River in Virginia, which resulted in the closing of that body of water to commercial fishing indefinitely. It, however, does not cover oil spills. This subject is being addressed by other legislation. The problems posed by hazardous chemicals alone are widespread and complex and require extensive attention in their own right.

The legislation puts the initial responsibility for clean-up and damages resulting from a spill or release on the owner or generator of the hazardous substance. This provision assures that those actually responsible for the incident will undertake the effort to contain the spread of the chemicals and minimize potential damage. This also serves as an incentive for the sound treatment and handling of hazardous substances in order to prevent accidents in the first place.

A major problem, however, is that the original owners or parties responsible for leaking from old or abandoned dump sites often cannot be identified or lack the financial resources to take prompt and effective action to contain an accident. Where no owner can be held responsible, a fund will be established to pay the costs involved. Revenue for this hazardous waste response fund is to be collected from the importers, manufacturers, and generators of hazardous substances up to a maximum of $500 million. The fee would be implemented in such a way as to spread the cost broadly throughout the economy and avoid creating incentives for illegal dumping, thereby not placing an unfair burden upon segments of the hazardous substances industry.

The fund will be used for emergency responses to contain or clean up a chemical release when the original owner or operator cannot be found or persuaded to act. There would be no financial limit on the emergency action taken by the Government, which could include evacuating or relocating residents, providing alternative water supplies if drinking water was contaminated, and physically removing wastes to another location if necessary. Money for 100 percent of the cost of these emergency actions would be provided under this legislation. Once these initial actions are taken, however, both the Federal Government and the State would contribute to the cost of any long-term or permanent remedial action that would still be necessary. Responsible parties would have to reimburse the fund.

One of the main differences between the Environmental Emergency Response Act and the administration's proposal is the degree of compensation for economic or personal injury. Under this new legislation, owners of inactive or abandoned waste sites, dumpers or spillers are liable for the loss of personal property and natural resources and out-of-pocket medical expenses of those affected. When those responsible cannot be identified, compensation can be recovered by the fund. The administration's proposal does not provide for third-party compensation of any of these losses, except economic losses of fishermen resulting from chemical spills. Social justice and fairness dictate that innocent individuals who have suffered from the harmful effects of hazardous substances should be able to recover at least part of the costs of their injuries, including the expense of treatment and diagnosis of medical problems resulting from exposure to these chemicals. The bill also creates a test for determining the causal link between the release of chemical substances and medical injury.

Finally, the fee collection mechanism and the hazardous waste fund would be subject to a sunset provision after 7 years.

Mr. President, the two subcommittees will hold hearings on this legislation later this month. It provides no magical "quick fix" to the chemical waste problem, which reflects years of inattention and neglect. The Emergency Environmental Response Act, however, is a most important tool that will help turn this multibillion-dollar health and environmental crisis around.

A solution to the problems posed by chemical releases in the environment will require a concerted response on the part of the public and private sectors. This is an area where appropriate and timely governmental action to protect the welfare of our citizens and natural environment is clearly in the public interest.

Mr. President, I ask unanimous consent that this legislation, along with accompanying explanatory materials, be printed in the Record.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 1480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Environmental Emergency Response Act".

DEFINITIONS

Sec. 2. For the purposes of this Act—

(1) the terms "discharge", "vessel", "public vessel", "United States", "owner or operator", "remove" or "removal," "contiguous zone," "onshore facility", and "offshore facility", shall have the meaning provided in section 311(a) of the Clean Water Act;

(2) the terms "State", "person", "navigable waters", and "territorial seas" shall have the meaning provided in section 502 of the Clean Water Act;

(3) the terms "disposal", "hazardous waste", and "hazardous waste generation" shall have the meaning provided in section 1004 of the Solid Waste Disposal Act and the terms "generator" and "transporter" shall have the meaning apparent under subtitle C of the Solid Waste Disposal Act;

(4) the term "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(5) the term "claim" means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from a discharge of a hazardous substance;

(6) the term "claimant" means any person who presents a claim for compensation under this Act;

(7) the term "containment" means those actions consistent with eventual permanent remedy, taken in the event of a discharge or release or significant threat of discharge or release of a hazardous substance from a hazardous substance disposal site not in compliance with a permit under subtitle C of the Solid Waste Disposal Act to prevent or minimize the discharge or release of hazardous substances so that they will not migrate to cause substantial danger to present or future public health or safety, or to the environment. The term includes, but is not limited to, such onsite actions as storage, confinement, perimeter protection using dikes, trenches or ditches, clay cover, neutralization, cleanup of released hazardous substances, recycling or reuse, diversion, destruction, segregation of reactive wastes, the replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, and any monitoring reasonably required to assure that such actions protect the public health and the environment. The term does not include offsite transport of hazardous substances, or the storage, treatment, destruction, or secure disposition offsite of such hazardous substances, unless the President determines that such actions are (A) the most cost effective means of containment for such a hazardous substance disposal site over the expected period of containment, or (B) will result in less environmental impact than onsite containment at such site;

(8) the term "damages" means damages for economic loss or personal injury or the loss of natural resources as specified in section 4(a)(2) of this Act;

(9) the term "emergency response" means actions which the President in his discretion determines must be immediately taken in the event of a discharge or release or the significant threat of a discharge or release of a hazardous substance to prevent, minimize, or mitigate damages or substantial danger to the public health or the environment associated with the discharge or release of hazardous substances. The term includes, but is not limited to, (A) security fencing or other measures; provision of alternative water supplies; temporary evacuation and housing of threatened individuals not otherwise provided; and any emergency assistance which may be provided under the Disaster Relief Act of 1974; (B) the transportation, storage, destruction, or treatment and secure disposition offsite of hazardous substances where the President determines that, due to the seriousness of the danger which may be created by the physical, chemical, or biological properties of the substances and the potential for human exposure, or the unavailability of onsite methods for preventing or minimizing the danger, such offsite actions are essential to protect the public health or safety or the environment; and (C) planning, legal, fiscal, economic investigations, engineering or architectural, to determine the feasibility of containment; monitoring and surveys to identify the extent of the discharge or release or threat of discharge or release, the hazardous substances involved, and the danger to public health, safety, or the environment; and studies, investigations, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions to provide for emergency response and containment or to recover the costs of such emergency response and containment;

(10) the term "Fund" means the Hazardous Substance Response Fund established under section 5 of this Act;

(11) the term "groundwater" means water in a saturated zone or stratum beneath the surface of land or water, and any other water used as a source of public drinking water;

(12) the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this Act or section 311(p) of the Clean Water Act;

(13) the term "hazardous substance" means (A) any hazardous substance designated under section 311(b) of the Clean Water Act, (B) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act, (C) any toxic pollutant listed under section 307(a) of the Clean Water Act, (D) any hazardous air pollutant listed under section 112 of the Clean Air Act, (E) any imminently hazardous chemical substance or mixture as that term is defined in section 7 of the Toxic Substances Control Act, (F) any substance or mixture which may be designated under section 3(a)(1) of this Act, and (G) any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring;

(14) the term "natural resources" includes land, fish, wildlife, biota, air, water, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(15) in the case of any abandoned onshore or offshore facility or hazardous substance disposal site, the term "owner or operator" shall include the person who owned or operated such facility or site immediately prior to such abandonment or at the time of any discharge, release, or disposal of a hazardous substance;

(16) the term "release" means (A) any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, or dumping, or (B) any other release into the environment which presents or may present a substantial danger to the public health or the environment; and

(17) the term "removal costs" or "costs of removal" means (A) costs incurred under section 311 (c), (d), (e), (b)(6) (C) or (D), or (f)(4) of the Clean Water Act in connection with a hazardous substance, (B) costs incurred under section 504(b) of the Clean Water Act, and (C) other costs of measures taken to prevent, minimize or mitigate damages or substantial danger to the public health or the environment associated with the discharge, release, or disposal or threatened discharge, release, or disposal of a hazardous substance or to clean up or remove a hazardous substance from the environment.

PROHIBITED RELEASE, NOTICE, PENALTY, RESPONSE

SEC. 3. (a)(1) The President shall promulgate and revise as may be appropriate, regulations designating as hazardous substances, in addition to those referred to in section 2(13) of this Act, such elements and compounds which, when discharged or released in any quantity into the environment, may present substantial danger to the public health or the environment, and in such regulations may determine those quantities of any hazardous substance the discharge or release of which may be harmful to the public health or the environment.

(2) The discharge of any hazardous substance in violation of section 311(b)(3) of the Clean Water Act or the release or disposal of any hazardous substance, including any release into or upon groundwater, air, land, the navigable waters, or the waters of the contiguous zone, or which may affect natural resources belonging to, appertaining to or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), is prohibited.

(3)(A) Any person (including, for purposes of this subparagraph, any agency or department of the United States Government) in charge of a vessel or any public vessel owned by the United States or a State or political subdivision thereof or an onshore facility or an offshore facility shall, as soon as such person has knowledge of any discharge, release, or disposal of a hazardous substance from such vessel or facility in violation of paragraph (2) of this section, immediately notify the appropriate agency of the United States Government of such discharge, release, or disposal.

(B) Any person—

(i) in charge of a vessel from which a hazardous substance (other than as defined in section 2(13)(G) of this Act) is discharged or released in violation of this subsection into or upon the navigable waters of the United States, adjoining shorelines, or unto or upon the waters of the contiguous zone, or

(ii) in charge of a vessel from which a hazardous substance (other than as defined in section 2(13)(G) of this Act) is discharged or released in violation of this subsection which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), and who is otherwise subject to the jurisdiction of the United States at the time of the discharge or release, or

(iii) in charge of an onshore facility or an offshore facility from or at which a hazardous substance (other than as defined in section 2(13)(G) of this Act) is discharged, released, or disposed of in violation of this subsection,

who fails to notify immediately the appropriate agency of the United States Government as soon as such person has knowledge of such release shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both.

(4)(A) Within one hundred and eighty days after the enactment of this Act, any person who may be subject to liability for a hazardous substance disposal site not in compliance with a permit or accorded interim status under subtitle C of the Solid Waste Disposal Act shall notify the Administrator of the Environmental Protection Agency of the existence of such site, specifying the amount and type of any hazardous substances to be found there, and any known, suspected, or likely discharges or releases of such substances from such site. The Administrator may prescribe the manner and form of the notice and the information to be included. Any such person who knowingly fails to notify the Administrator of the existence of any such site shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. In addition, any such person who fails to provide the notice required by this subsection shall not be entitled to any limitation of liability under this or any other law or to any defenses to liability set out in section 4 of this Act.

(B) After the enactment of this Act, it shall be unlawful for any person required to provide the notification of a hazardous substance disposal site set out in subparagraph (A) of this paragraph knowingly to destroy, mutilate, erase, dispose of, conceal, or otherwise render unavailable or unreadable any records relating to the site or any hazardous substances contained or deposited therein. Any person who violates this subparagraph shall, upon conviction, be fined not more than $20,000, or imprisoned for not more than one year, or both.

(b) The Administrator of the Environmental Protection Agency is authorized to establish and enforce, in accordance with section 3008 of the Solid Waste Disposal Act and sections 308 and 309 of the Clean Water Act, such control or removal requirements as the Administrator deems appropriate to protect the public health and the environment for any hazardous substance disposal site not in compliance with a permit or accorded interim status under subtitle C of the Solid Waste Disposal Act.

(c) (1) Whenever any hazardous substance is discharged, released, or disposed of, or there is (A) a substantial threat of such a discharge or release into the environment, or (B) a release into the environment of any pollutant or contaminant which may present an imminent or substantial danger to the public health or welfare, the President is authorized to act to remove or arrange for the removal of, or provide for the containment of, such hazardous substance, pollutant, or contaminant at any time (including the removal from any contaminated natural resource), or take any emergency response measure which in the judgment of the President is necessary to protect the public health or the environment, unless the President determines such removal will be done properly by the owner or operator of the vessel or onshore facility or offshore facility or hazardous substance disposal site from which the discharge or release occurs, or other responsible party.

(2) Within one hundred and eighty days after the enactment of this Act, the President shall revise and republish the National Contingency Plan for the removal of oil and hazardous substances, originally prepared and published pursuant to section 311 of the Clean Water act to reflect and effectuate the responsibilities and powers created by this Act in addition to those matters specified in section 311(c) (2) of the Clean Water Act. Such revision shall include a new section of the Plan to be known as the National Hazardous Substance Disposal Site Response Plan, which shall include at a minimum—

(A) methods for discovering and investigating such sites;

(B) methods for evaluating, including analyses of relative cost, and containing any discharges or releases or threats of discharges or releases from such sites which pose substantial danger to the public health or the environment;

(C) methods and criteria for determining the appropriate extent of emergency response, containment, and other measures authorized by this Act;

(D) appropriate roles and responsibilities for the Federal, State, and local governments and for interstate and nongovernmental entities in effectuating the Plan;

(E) provision for identification, procurement, maintenance, and storage of response equipment and supplies; and

(F) a method for and assignment of responsibility for reporting the existence of such sites which may be located on federally owned or controlled properties and any releases of hazardous substances from such sites. Following publication of the revised National Contingency Plan, the removal of hazardous substances and actions to minimize damage from hazardous substance discharges or releases shall, to the greatest extent possible, be in accordance with the provisons of the plan. The President may, from time to time, revise and republish the National Contingency Plan.

(d) Notwithstanding any other provision of law, upon receipt of evidence that the handling, storage, treatment, transportation, or disposal of any hazardous substance may present a danger to public health or the environment, the Administrator of the Environmental Protection Agency or the State (or their authorized agents as the case may be), may require any person contributing to such danger to take such actions as may be necessary to ascertain the nature and extent of such danger, or may bring suit in the appropriate district court of the United States to require any such person to take such actions.

LIABILITY FOR DAMAGES AND REMOVAL COSTS

Sec. 4. (a) Except where the person liable under this subsection can prove that a discharge, release, or disposal was caused solely by (i) an act of God or (ii) an act of war, and notwithstanding any other provision or rule of law, the owner or operator of a vessel or an onshore or offshore facility from which a hazardous substance is discharged, released, or disposed of in violation of section 3(a) of this Act, including any release excluded from the definition of "discharge" under section 311(a) (2) of the Clean Water Act, and any other person who caused or contributed or is causing or contributing to such discharge, release, or disposal, including but not limited to prior owners, lessees, and generators, transporters, or disposers of such hazardous substances, shall be jointly, severally, and strictly liable for—

(1) (A) all costs of removal, containment, or emergency response incurred by the United States Government or a State and

(B) any other costs or expenses incurred by any person to remove a hazardous substance as the terms "remove" or "removal" are defined in section 311(a) (8) of the Clean Water Act; and

(2) all damages for economic loss or loss due to personal injury or loss of natural resources resulting from such a discharge, release, or disposal, including—

(A) any injury to, destruction of, or loss of any real or personal property, including relocation costs;

(B) any loss of use of real or personal property;

(C) any injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss;

(D) any loss of use of any natural resources, without regard to the ownership or management of such resources;

(E) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources, without regard to the ownership of such property or resources;

(F) all out-of-pocket medical expenses, including rehabilitation costs, due to personal injury; and

(G) any direct or indirect loss of tax, royalty, rental, or net profits share revenue by the Federal Government or any State or political subdivision thereof, for a period of not to exceed one year.

(b) In the case of an injury to, destruction of, or loss of natural resources under subsection (a) (2) (C) of this section, liability shall be to the United States Government and to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State. The President, or the authorized representative of any State, shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums recovered shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government or the State government, but the measure of such damages shall not be limited by the sums which can be used to restore or replace such resources.

(c) Notwithstanding the ordinary requirements for proof of cause in fact or proximate cause of damage, injury, or loss, a person liable under this section for any discharge, release, or disposal of any hazardous substance shall be liable for all medical expenses under subsection (a) (2) (F) of this section if a reasonable person could conclude that such medical expenses and the injury or disease which caused them are reasonably related to such discharge, release or disposal, including, but not limited to, the consideration of statistical correlation and the increase of incidence of such injury or disease in the exposed population above that which is otherwise statistically probable. The inability of a claimant to demonstrate (1) the particular identity of the substance which caused the injury or disease, (2) the particular source of such substance, (3) the pathway of such substance en route to the injured party, or (4) an explanation of the etiology of the substance in the injured party, shall not bar recovery.

(d) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government shall be subject to, and comply with, this Act in the same manner and to the same extent as any nongovernmental entity, including liability for removal costs under section 4 of this Act.

(e) The owner or operator of a vessel shall be liable in accordance with this section and section 311 of the Federal Water Pollution Control Act and as provided under section 8 of this Act notwithstanding any provision of the Act of March 3, 1851 (46 U.S.C. 183ff).

(f) Any generator or transporter of any hazardous substance who knew or had reason to know that a discharge, release, or disposal of such hazardous substance could reasonably be anticipated to result from the transfer of such substance to the owner or operator of the facility which was the source of a discharge, release, or disposal subject to liability under this section shall be deemed to be a person who caused or contributed to such discharge, release, or disposal.

(g) If the owner or operator of a hazardous substance disposal site, who owned or operated the property at the time it was utilized for the disposal of any hazardous substances, and who utilized the site at that time for the disposal of any hazardous substances produced, transported, or disposed of by such owner or operator, fail to properly provide emergency response or containment upon request of the President, such owner or operator shall be liable to the United States for punitive damages in an amount three times the amount of any removal costs expended by the Fund under this Act. Any moneys received by the United States pursuant to this subsection shall be deposited in the Fund.

RESPONSE FUND ESTABLISHMENT

Sec. 5. (a) There is hereby established in the Treasury of the United States a Hazardous Substance Response Fund, not to exceed $500,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b) (2) and (3) of this section being paid into such Fund. The Fund shall be administered by the President and the Secretary of the Treasury, as specified in this section. The Fund may sue and be sued in its own name.

(b) The Fund shall be constituted from—

(1) all fees collected pursuant to subsection (c);

(2) all moneys recovered on behalf of the Fund under section 6;

(3) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act.

(c)(1) Beginning ninety days after the enactment of this Act, the Secretary of the Treasury shall collect from each manufacturer, importer, or generator of a hazardous substance, as appropriate, a fee on each unit of hazardous substance produced, manufactured, or imported into the United States and each unit of hazardous waste generated. The unit for application of such fees shall be the quantity determined under section 311(b)(4) of the Clean Water Act, or the minimum quantity required to be reported under section 3002, 3003, 3004, or 3005 of the Solid Waste Disposal Act, or such other unit as the President determines to be appropriate for the measurement of such fee. Any such fees shall be established, or modified pursuant to paragraph (2) of this subsection, at levels adequate to assure, to the extent reasonably possible, that (A) the percentage of the total fees collected from each of the various categories of hazardous substance and modes of discharge or release is equitable, based upon the claims and payments experience of the Fund and projections thereof; (B) complexity in application and collection of such fees is minimized; (C) the costs imposed by such fees are spread as broadly as possible through the economy; and (D) incentives to proper handling and disincentives to improper or illegal handling or disposal of hazardous substances are maximized.

(2) The Secretary of the Treasury, after consulting with appropriate Federal agencies, may promulgate rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to assure that the Fund is maintained at a level adequate to meet potential obligations and not more than $500,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification.

(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (d)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General shall, at the request of the Secretary of the Treasury bring an action in the name of the Fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

(d)(1) The President shall determine the level of funding required for immediate access in order to meet potential obligations of the Fund.

(2) The Secretary of the Treasury may invest any excess in the Fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) If at any time the moneys available in the fund are insufficient to meet the obligations of the Fund, the President shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the President from moneys in the Fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any note or other obligations issued hereunder and, for that purpose, is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States. The authority of the President to issue notes or other obligations under this subsection shall be subject to such amounts as are provided in appropriation Acts.

(f) The Administrator of the Environmental Protection Agency, the Commandant of the Coast Guard, and the Comptroller General shall undertake a study of possible incentives to safer operation of vessels and facilities to reduce the potential of discharges or releases of hazardous substances, and generally of measures to prevent or avoid the occurrence of such discharges or releases. Such study shall address (1) the feasibility of a variable fee for replenishment of the Fund under subsection (c) of this section which takes into account the likelihood of a discharge or release and the operational experience of individuals or classes, and (2) whether current practices in the insurance and banking industries provide any incentives or disincentives to reducing the potential for discharges or releases of hazardous substances. Such study shall be conducted in consultation with other appropriate Federal and State agencies, the affected industries, and other interested parties. A first report of such study, together with legislative recommendations, if any, shall be submitted to the Congress not later than one year after enactment of this Act and as appropriate thereafter.

USE OF RESPONSE FUND

SEC. 6. (a)(1) The President shall use the money in the Fund for the following purposes:

(A) payment of any claim for costs of removal or damages where the source of the discharge or release of a hazardous substance, or a person liable for such costs of removal or damages, is not known or cannot be identified;

(B) payment of any claim for costs of removal or damages in any case where the claim has not been satisfied in accordance with subsection (b) of this section;

(C) all removal costs or expenses, costs of containment or emergency response, or other costs of carrying out the national contingency plan established under section 311(c) of the Clean Water Act or as amended under section 3 of this Act, including removal costs incurred by any person and approved under such national contingency plan;

(D) subject to such amounts as are provided in appropriation Acts, the costs of providing equipment and similar overhead, related to the purposes of this Act and section 311 of the Clean Water Act, and of establishing and maintaining damage assessment capability, for any Federal agency involved in strike forces, emergency task forces, or other response teams under such national contingency plan;

(E) the costs of assessing both short-term and long-term injury to, destruction of, or loss of any natural resources resulting from a discharge or release of a hazardous substance;

(F) the costs of Federal or State efforts in the restoration, rehabilitation, or replacement or acquiring the equivalent of any natural resources injured, destroyed, or lost as a result of any discharge or release of a hazardous substance;

(G) reimbursement to any State for the payment of any claims for costs or removal or damages payable under this Act which such State has paid with funds under the control of such State pursuant to the national contingency plan or to a delegation under subsection (b) of this section;

(H) subject to such amounts as are provided in appropriation Acts, the costs of a program to identify, investigate, and take enforcement and abatement action against hazardous substance disposal sites;

(I) subject to such amounts as are provided in appropriation Acts, not to exceed $10,000,000 per fiscal year, the costs of research related to the purposes of this Act and section 311 of the Federal Water Pollution Control Act, to be performed by Federal agencies including the Environmental Protection Agency, the Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration. Such research shall include, but not be limited to (i) development and refinement of protocols to determine the type or extent of short and long term injury or loss of natural resources, (ii) development and refinement of the best available procedures to identify the value of injured or lost resources, (iii) laboratory or field research on the effects of hazardous substances on living and nonliving resources that will provide additional scientific basis for damage assessments, and (iv) research on minimizing the damage caused by spill control, dispersal and removal operations. Responsibility under the preceding sentence shall be assigned in accordance with the assessment responsibilities established under subsection (e)(2) of this section and officials responsible for such assessment shall be consulted before proposal of any research plan or appropriation request under the preceding sentence;

(J) subject to such amounts as are provided in appropriation Acts, the costs of research to develop mobile or portable onsite technology for response at hazardous substance disposal sites, technology for onsite treatment, or containment of release into groundwater, or other technology for the containment, treatment, or secure disposition of hazardous substances;

(K) subject to such amounts as are provided in appropriation Acts, the administrative and personnel costs of administering the Fund and this Act.

(2) (A) The President shall not use any money in the Fund for any removal costs associated with a discharge or release of a hazardous substance from a hazardous waste disposal site not in compliance with a permit under subtitle C of the Solid Waste Disposal Act, other than the costs of emergency response, unless the State in which the site is located first provides adequate assurance that (i) such State will use such money to provide for or otherwise assure any and all future maintenance of containment measures for the expected life of the containment, (ii) such State will assure the availability of a hazardous waste disposal facility acceptable to the Administrator for any necessary offsite storage, destruction, treatment, or secure disposition of the hazardous substances, (iii) such State will bear — per centum of such costs of removal; and (iv) the Fund will recover at least 50 per centum or such greater amount as the President shall determine appropriate, of any sums expended on containment at a hazardous substance disposal site owned at the time of any disposal by a State or a political subdivision of a State.

(B) The President shall identify—

(i) national priorities for response based on methods and criteria for determining such response priorities, including the role of the States in determining State priorities for response, and in assisting the President in the determination of national priorities for response, taking into account, to the extent possible, the significance of the threat to public health, safety, and the environment; the population at risk; the hazard potential of the hazardous substances at such sites; the potential for contamination of drinking water supplies; the potential for direct human contact; the potential for destruction of sensitive ecosystems; State preparedness to assume State costs and responsibilities; and other appropriate factors; and

(ii) a system, including the use of contracts, whereby the State or States affected by a discharge or release of hazardous substances from a hazardous waste disposal site may act where necessary to provide emergency response and containment and may be reimbursed for the reasonable costs incurred for such response and containment from the Fund.

(b) (1) The President is authorized to promulgate regulations designating one or more Federal officials who may obligate money in the Fund in accordance with subsection (a) of this section or portions thereof. The President is also authorized to delegate authority to obligate money in the Fund or to settle claims to officials of a State with an adequate program operating under a cooperative agreement with the Federal Government.

(2) The President is authorized to delegate the administration of his duties and authorities under this Act to the heads of those Federal departments, agencies, and instrumentalities which the President determines appropriate.

(3) (A) The President shall promulgate, and may from time to time amend, regulations for the presentation, filing, processing, settlement, and adjudication of claims for costs of removal or damages resulting from the discharge or release of a hazardous substance under this Act.

(B) Whenever the President receives information from any person alleging they have incurred costs of removal or damages resulting from the discharge or release of a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under section 4 of this Act, he shall notify the owner, operator, and guarantor of such vessel or onshore or offshore facility of such allegation. Such owner or operator or guarantor may, within five days after receiving such notification or presentation of any claim by a claimant, deny such allegations, or deny liability for damages for any of the reasons set forth in subsection (a) of section 4 of this Act.

(C) The owner and operator of any vessel or onshore or offshore facility from which a hazardous substance has been discharged or released shall provide notice to all potential injured parties.

(D) All claims shall be presented in the first instance to the owner, operator, or guarantor of the vessel, or onshore or offshore facility from which a hazardous substance has been discharged or released, and to any other person liable under section 4. In any case where the claim has not been satisfied in accordance with this paragraph, the claimant may elect to commence an action in court against such owner, operator, or guarantor or other person or to present the claim for payment from the Fund under this section.

(E) No claim may be presented nor may an action be commenced for damages under this Act unless that claim is presented or action commenced within six years from the date of the discovery of the loss.

(c) (1) Payment of any claim by the Fund under this section shall be subject to the United States Government acquiring by subrogation all rights of the claimant to recover the costs of removal or damages from the person responsible or liable for such discharge or release.

(2) Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for damages or costs of removal resulting from a discharge or release of a hazardous substance shall be subrogated to all rights, claims, and causes of action for such damages and costs of removal such claimant has under this Act or any other law.

(3) Upon request of the President, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the fund to any claimant pursuant to this Act, and, without regard to only limitation of liability, all costs incurred by the Fund by reason of the claim, including interest, administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any owner, operator, or guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the damages or costs of removal for which the compensation was paid.

(d) The Fund shall not be available to pay any claim for costs of removal or damages to the extent the discharge or release or the damages had been caused by the gross negligence or willful misconduct of that particular claimant.

(e) (1) (A) The President, acting through the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Environmental Protection Agency, and the Director of the Fish and Wildlife Service, not later than two years after the enactment of this Act, shall promulgate regulations for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a discharge or release of a hazardous substance, for the purpose of section 4(a) (2) (C) and (D) of this Act, section 6(a) (1) (F) of this Act, and section 311(f) (4) and (5) of the Clean Water Act.

(B) Such regulations shall specify (i) standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of discharge or release or units of affected area, and (ii) alternative protocols for conducting assessments in individual cases to determine the type and extent of short and long term injury, destruction, or loss. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss and shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover.

(C) Such regulations shall be reviewed and revised as appropriate every two years.

(2) In accordance with such regulations, damages for injury to, destruction of, or loss of natural resources resulting from a discharge or release of a hazardous substance, for the purposes of section 4(a) (2) (C) and (D) and section 6(a) (1) (F) of this Act and section 311(f) (4) and (5) of the Clean Water Act, shall be assessed by (A) the Director of the Fish and Wildlife Service for living natural resources and their supporting ecosystems over which such Service has management or conservation authority, (B) the Administrator of the National Oceanic and Atmospheric Administration for other natural resources in the marine environment beyond the baseline of the territorial sea, and (C) the Administrator of the Environmental Protection Agency for all other natural resources. Such officials shall act for the President as trustee under section 4(b) of this Act and section 311(f) (5) of the Clean Water Act.

(3) Any determination or assessment of damages for injury to, destruction of, or loss of natural resources for the purposes of section 4(a) (2) (C) and (D) and section 6(a) (1) (F) of this Act and section 311(f) (4) and (5) of the Clean Water Act shall have the force and effect of a rebuttable presumption on behalf of any claimant (including a trustee under section 4(b) of this Act or a Federal agency) in any judicial or adjudicatory administrative proceeding under this Act or section 311 of the Federal Water Pollution Control Act.

(f) The Comptroller General shall provide an audit review team to audit all payments, obligations, reimbursements, or other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The Comptroller General shall submit to the Congress an interim report one year after the establishment of the Fund and a final report two years after the establishment of the Fund. The Comptroller General shall thereafter provide such auditing of the Fund as is appropriate. Each Federal agency shall cooperate with the Comptroller General in carrying out this subsection.

FINANCIAL RESPONSIBILITY

SEC. 7. (a) (1) The owner or operator of any vessel over three hundred gross tons (except a non-self-propelled barge that does not carry hazardous substances as cargo) using any port or place in the United States or the navigable waters or any offshore facility shall establish and maintain in accordance with section 311(p) of the Federal Water Pollution Control Act evidence of financial responsibility of $300 per gross ton (or for a vessel carrying hazardous substances as cargo, $5,000,000, whichever is greater). The provisions of paragraphs (3), (4), (5), and (6) of such section 311(p) shall apply to any vessel, or the owner or operator thereof, subject to this section. This subsection shall take effect one hundred and eighty days after the enactment of this Act.

(2) Any vessel subject to the requirement of this subsection which is found in the navigable waters without the necessary evidence of financial responsibility shall be subject to seizure by the United States of any hazardous substances carried as cargo.

(b) (1) The owner or operator of any onshore or offshore facility shall establish and maintain evidence of financial responsibility consistent with the degree and duration of treatment, storage, or disposal of hazardous substances. Such evidence of financial responsibility shall be established according to regulations prescribed by the President and comparable to that required under section 311(p) of the Federal Water Pollution Control Act. This subsection shall take effect one hundred and eighty days after enactment of this Act.

(2) The owner or operator of any facility subject to this subsection who fails to comply with this subsection or the regulations prescribed thereunder shall be subject to a fine of not more than $10,000 per day of violation.

STATE LAWS AND PROGRAMS

SEC. 8. Nothing in this Act shall be construed or interpreted as preempting any State from imposing any additional liability or requirements with respect to the discharge of hazardous substances within such State.

LITIGATION AND CONFORMING AMENDMENTS

SEC. 9. (a) Review of any regulation promulgated under this Act may be had upon application by any interested person only in the Circuit Court of Appeals of the United States for the District of Columbia. Any such application shall be made within ninety days from the date of promulgation of such regulations. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages.

(b) Except as provided in subsection (a) of this section, the United States district courts shall have exclusive original jurisdiction over all controversies arising under this Act, without regard to the citizenship of the parties or the amount in controversy. Venue shall lie in any district in which the discharge or release or damages occurred, or in which the defendant resides, may be found, or does business.

(c) No provision of this Act shall be deemed or held to moot any litigation concerning any discharge, release, or disposal of any hazardous substance, or any damages associated therewith, commenced prior to enactment of this Act.

(d) Section 311 of the Clean Water Act is amended as follows:

(1) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under section 5 of the Environmental Emergency Response Act, as appropriate,".

(2) Subsection (f) is amended, in the last sentence of paragraph (1), by inserting a comma after the word "vessel" and by adding immediately thereafter "or against any guarantor of an owner's or operator's liability under the Environmental Emergency Response Act,".

(3) Subsection (g) is amended, by inserting in the last sentence, after the word "party" the words "or against any guarantor of an owner's or operator's liability under the Environmental Emergency Response Act".

(4) One-half of any sums appropriated prior to the enactment of this Act under subsection (k) of such section 311 and all sums appropriated under section 504(b) of the Clean Water Act shall be transferred to the Fund established under section 5 of this Act.

EXPIRATION

SEC. 10. The authority to establish and collect fees pursuant to section 5 of this act and the authority to obligate funds pursuant to section 6 of this Act shall expire October 1, 1986.

FACTSHEET ON ENVIRONMENTAL EMERGENCY RESPONSE ACT

1. Title: "Environmental Emergency Response Act".

2. Coverage: Coverage is confined to releases (broadly defined) of hazardous substances designated under Section 311(b) of the Clean Water Act; any hazardous waste with the characteristics identified in the Solid Waste Disposal Act; any toxic pollutant listed under Section 307(a) of the Clean Water Act; any hazardous air pollutant listed under Section 112 of the Clean Air Act; hazardous chemicals or mixtures defined in Section 7 of the Toxic Substances Control Act; others as the President may designate; and other substances that cause health problems.

Such releases can derive from spills, inactive or abandoned hazardous waste disposal sites, or other releases which present or may present a substantial danger to the public health or the environment.

3. Reporting requirements: The discharge of any hazardous substance in violation of Section 311(b) of the Clean Water Act and the release or disposal of any hazardous substance must be reported to the appropriate agency of the United States Government.

Six months after enactment of this Act, those subject to liability for hazardous substance disposal sites, not in compliance with the provisions of subtitle C of the Solid Waste Disposal Act, must notify the Administrator of the Environmental Protection Agency of such sites.

Failure to notify of such sites will result, upon conviction, in a fine of not more than $10,000, or imprisonment up to one year, or both.

4. Liability: Owners and operators of vessels and facilities which discharge, release or dispose of hazardous substances in violation of this Act will be held jointly, severally, and strictly liable for:

All costs of removal, containment or emergency response;

All damages for economic loss or loss due to personal injury;

Loss of personal property or use of personal property;

Loss or destruction of natural resources;

Loss of income or profits due to loss of personal property or natural resources;

Out-of-pocket medical expenses;

Loss of tax, royalty or rental profits by political subdivision.

Exception to such liability will exist only where a liable person can prove a discharge was caused by an act of God or war.

5. Government emergency response: The National Contingency Plan, which presently contains procedures for the removal, clean-up and mitigation of spills due to oil and hazardous waste, will be revised to reflect the requirements of this Act. In addition, a "National Hazardous Substance Disposal Response Plan" will be added. The addition will reflect the need for plans for the cleanup, containment, and mitigation to natural resources resulting from hazardous waste disposal sites.

To the greatest extent possible, the government response plan will follow those recommendations which are published in the revised National Contingency Plan.

6. The fund: A $500 million fund, known as the Hazardous Substance Response Fund, is established to pay costs, if no party can be held liable;

Fees would be placed on the generators of hazardous substances;

The Administrator would establish a fee system: Which minimizes the complexity of application and collection; which is equitable; which spreads the cost broadly across the economy; and which discourages illegal dumping.

7. Damages and claims: Where no party can be held liable, the fund will cover:

Containment or emergency response;

Removal costs;

Costs of Federal or State efforts at restoration;

Out-of-pocket medical costs;

Cost assessment of short-term and long-term injury; and

Research-related costs not to exceed $10 million per year.

8. Preemption and State role: No State would be preempted from imposing additional liability or stricter hazardous substance laws. The Federal government would take action to provide assistance at any site. However, in order for Federal participation relating to the containment, permanent remedy, or operation and maintenance of any given site, State governments would have to provide a percentage of the costs.

9. Other provisions: A test is created for establishing the causal link between injuries and the actual release of substances.

The fee collection and fund mechanism would be subject to a sunset provision after seven years.

No Federal appropriations contributed to fund.

Vessels in navigable waters and owners or operators of onshore or offshore facilities would have to have evidence of financial responsibility according to regulations prescribed by the President.

A study undertaken by the Environmental Protection Agency, Coast Guard, and General Accounting Office would provide information on the incentives for safer operation of vessels and facilities.

FACT SHEET ON ENVIRONMENTAL EMERGENCY RESPONSE ACT

I. The response fund:

Size of fund not to exceed $500 million at any time.

No federal appropriation. However, federal borrowing power is provided to start up fund and maintain cash flow when needed.

Fees are collected from importers, manufacturers and generators of hazardous substances.

Fees float at levels adequate to keep fund solvent.

Differences from Administration bill, S. 1341:

Size of S. 1341 fund not to exceed $250 million the first year, $375 million the second year, and $500 million during each of the following two years.

S. 1341 provides appropriations ($50 million the first year, $75 million the second year, and $100 million during each of the following two years), but no borrowing power.

Administration bill puts fees on producers of oil and feedstock chemicals (basic inorganic chemicals, like chlorine, which are used in the manufacture of finished chemical products). The EERA puts fees on generators and manufacturers of chemical products, not oil or feedstock products.

II. Coverage:

The EERA covers all releases of hazardous substances into the environment, including spills and leaching from abandoned or inactive dumpsites.

Hazardous substances are defined to include lists under the Clean Air, Clean Water, Toxic Substances and Solid Waste Disposal acts. The bill also contains a power to add new substances.

The Response Fund pays for emergency response, as well as the following losses:

Destruction or loss of use of real or personal property;

Loss of natural resources or their use;

Out of pocket medical expenses of affected parties;

Losses of federal or state income, such as taxes, fees, etc.

The Response Fund shares containment and disposal costs with state governments, with percentage of federal and state shares left for later decision.

No limit on expenditure for specific sites; no time limitation on period for containment.

Differences from S. 1341:

S. 1341 includes coverage of oil spills; the EERA does not.

The EERA contains a broader definition of hazardous substances than S. 1341.

S. 1341 contains no funds for coverage of third-party losses listed above, except economic losses of fishermen from spills.

S. 1341 limits emergency response for an individual site to $300,000.

III. Liability of owner/dumper/spiller:

Responsible parties are liable under federal law for all costs of removal, containment or emergency response, as well as third-party losses listed above under "coverage."

Costs of removal, containment, emergency response and third-party losses may be paid initially by the Response Fund and then collected from the responsible parties, if necessary.

Differences from S. 1341:

Administration bill holds responsible parties liable for a more limited list of costs and losses, and establishes liability limits for various situations.

IV. Financial responsibility: Operator of a facility must be financially responsible for liabilities, by insurance or bonding.

Differences from S. 1341: No similar provision in Administration bill.

V. Sunset provisions: Fund must be reauthorized by Congress after seven years.

Differences from S. 1341: Administration fund must be reauthorized by Congress after four years.

● Mr. MUSKIE. Mr. President, today, a number of members of the Senate Environment and Public Works Committee are jointly introducing legislation designed to help solve problems created by the spread of hazardous chemicals throughout our environment.

This is another step in the process that has involved this committee since 1970. Legislation first directed the administration to examine the problems of spills of hazardous substances. Then a regulatory program was added to the Federal Water Pollution Control Act in 1972. Last year, Senators Stafford, Chafee, and I introduced S. 2900, which expanded liability for hazardous substances spills into the water and created a fund to help deal with cleanup expenses and damages.

This year the Resource Protection and Environmental Pollution Subcommittees began to jointly develop this issue through hearings on the release of hazardous substances into the environment. These hearings began in March, and will continue through the summer.

This month we started our discussions on the legislative solutions to the problems posed by abandoned and inactive waste sites, as well as other sources, that spread toxic chemicals into the environment. Two days of legislative hearings were held in Washington, and a field hearing was held in Iowa. We have begun to examine the legislative alternatives, with particular focus on S. 1341, the administration's bill.

When we began, we had to answer two deceptively simple questions:

First, what shall we do to help cap the growth of chemical contamination of our environment?

Second, what cleanup and compensation should we provide?

Our present laws are not enough.

We must correct deficiencies in liability established under present statutes.

We must correct those omissions in the law having to do with past hazardous waste disposal methods.

We must enlarge the Government's authority to respond to environmental emergencies generally.

The bipartisan effort that has dominated the development of this legislation will be important to any successful legislative solutions. I am pleased to see a number of my colleagues cosponsoring this legislation. The ranking Republicans on both subcommittees and the subcommittee chairmen have worked together to develop this bill we are introducing today.

The bill will break some new ground. Because it does, some of the provisions will need further refinement. Those who disagree with specific items bear a responsibility to suggest improvements, and not just simply easy deletions.

There are hearings and markups still to be held on this legislation. The bill we introduce here will obviously go through further modification, and we invite comments from all those who are interested in this important subject.●

● Mr. STAFFORD. Mr. President, the bill which we are introducing is not so much a solution as a suggestion. We expect many of its provisions to be subjected to considerable and sometimes heated debate. Ultimately some of them—perhaps many—will be changed during subcommittee, committee, and Senate review. That is exactly what we intend.

Thus far, several bills have been introduced which attempt to deal with the problem of cleaning up releases of toxic or hazardous materials and compensating their victims. Some proposals deal only with one hazardous substance, oil. Others deal with a multiplicity of substances, but only one pathway, waste. This bill deals with virtually every substance and virtually every pathway.

Similarly, some bills attempt to solve this problem by creating a "superfund" or even an "ultrafund" to clean up releases and compensate victims. Other proposals rely primarily on the imposition of liability. Again, our bill embraces both of these approaches, not just one.

This bill contains novel and sometimes provocative solutions to what I believe is one of the most intractable, difficult, and intellectually demanding issues facing the country. People refer to the cleanup and compensation of victims from toxic pollution as an environmental issue. It is that, but also much more. It is a health issue, because these substances may threaten the health of large segments of our population. Cities and even entire States have been contaminated by chemicals suspected to cause cancer and mutations.

It is also an issue of justice, because we are dealing with human lives that are devastated by the impacts of these chemicals; children born with permanent defects, adults stricken with crippling diseases, entire communities with their supplies of drinking water contaminated beyond use. Some of these injuries are caused by the worst kind of callous and criminal conduct, but the wrongdoers are often beyond the reach of the law.

What this bill will test is our capacity to provide assistance and means of legal redress to an environment and a public injured by toxic pollutants. It is based on certain tentative conclusions, which include the following:

Human health and the environment have been and continue to be threatened and damaged by releases of toxic and hazardous substances.

At least some, and perhaps most, of the victims of these releases—whether they are innocent third parties or municipal corporations—are not compensated.

The persons responsible for such releases are often beyond the reach of the current judicial system, either because the law itself is inadequate or because the wrongdoer has calculated how to avoid it.

Regardless of precautions, disasters will continue to occur, partially because it is impossible to legislate ignorance and carelessness out of existence. Our knowledge of what is harmful and what is not seems virtually certain to trail our ability to produce new chemicals. And even when the toxic nature of a substance is known, it can be—and has been—released through human error.

Because our knowledge and procedures tend to lag behind other technology, we will discover problems only after they materialize. In other words, a tragically large proportion of our efforts will be consumed in correcting mistakes rather than preventing them.

Thus far, emergency assistance, especially to victims, has been unavailable. What little that has been brought to bear has been directed towards cleaning up the releases of toxic pollutants, rather than helping the victims themselves.

Finally, efforts to clean up releases of toxic pollutants—whether they are spills into waters, slow leaching from dumps, or broadscale applications—have been largely uncoordinated and spontaneous.

The bill which we are introducing attempts to provide possible solutions to these problems. It imposes strict liability on those who release toxic and hazardous substances and alters the judicial standards of proof to ease the burden of victims in recovering for their damages. It creates a federally operated trust fund to pay when the person responsible cannot or will not. And, it involves State governments in the Federal response, both financially and technically. I will not attempt to highlight any specific provisions of the bill, because I am confident that those groups interested in its provisions will help define the issues as they see them.

On July 18 and 19 the Subcommittees on Environmental Pollution and Resource Protection will hold 2 more days of hearings on legislation before them, including this bill. I hope that during those hearings the many parties who are interested in this legislation will make their views known. With their help and participation we can craft a responsible solution to this problem.●

By Mr. WEICKER (for himself, Mr. Baucus, Mr. Hatch, and Mr. Hayakawa):

S. 1481. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for investment in small business participating debentures, and to provide additional tax incentives for the issuance of such debentures; to the Committee on Finance.

SMALL BUSINESS PARTICIPATION DEBENTURE LEGISLATION

● Mr. WEICKER. Mr. President, I am pleased to join with Senators Baucus, Hatch, and Hayakawa in introducing this legislation which provides for the creation of a small business participating debenture. (SBPD) and for tax incentives for investments in these SBPD's. This bill promises to be of assistance to small- and medium-sized businesses which are, at present, unable to obtain the capital they need for growth.

Legislation enacted by the 95th Congress will benefit small firms in their quest to raise funds. All businesses, both large and small, will be helped by the reduction of the maximum tax on capital gains from 49 to 28 percent. The new graduated corporate income tax rates, which eliminate the sudden jump in tax brackets at the $50,000 income level, will increase the incentive to finance a corporation's capital needs through internal operations.

Also, the changes in the tax laws which increased the dollar limitations on investments in certain small business stock that could be treated as ordinary losses, and which otherwise simplified and liberalized the rules relating to such stock, should encourage additional equity investments in small businesses. Additionally, by increasing the limit under which regulation A offerings may be made, Congress has enabled smaller, publicly-held corporations to raise a greater amount of equity capital by taking advantage of the reduced costs associated with these offerings.

However, much more must be done to help small businesses obtain the funds they need to finance growth. The actions of the 95th Congress were a step in the right direction, but by no means did they solve the problem.

Mr. President, the capital formation problem threatens the viability of the historical concept of a free market system, in which small corporations can compete with giants and have a fair chance of survival. Smaller businesses must be able to obtain the growth capital they need to compete in the market place. At present, they are unable to do so.

Mr. President, to help to solve the critical problem of providing equity capital for America's small businesses, I introduced the Small Business Investment Incentive Act earlier this year. This legislation, which has been cosponsored by Senators Moynihan, Chafee, Hatch, Nelson, Pressler, Young, and Baucus, would allow an investor to claim a 10 percent credit against tax for the first $7,500 invested in qualifying stock issues during a taxable year. This credit would be limited to investments where neither the offering itself, nor the equity capital of the issuing corporation immediately prior to the offering, exceed $25 million.

This size limitation on the issuing corporation will insure that the benefits of the legislation will go to the businesses which are most seriously affected by the capital formation problem. I am also giving serious attention to a series of recommendations, made by the National Association of Securities Dealers in testimony before the Small Business Committee, for improving the opportunities available for equity financing by small business.

However, the vast majority of America's small businesses are not publicly held. As William D. Barth, director of Industry Competence-Small Business for Arthur Andersen & Co. observed at a Small Business Committee hearing last year:

> Look for the moment at the typical small businessman. What kind of an individual is he? He is an independent creature who abhors regulations at all levels of government. He is not necessarily one that's looking for outside equity investors. He wants to be free to make his own decisions. He does not want to bare his financial records to the whole world. I am thinking of the real small businessman who is out there fighting in a highly competitive field to make his mark in the economy.

Mr. Barth went on to discuss the reasons why an infusion of new equity into a small business is not necessarily the answer to the company's capital needs:

> For years many have taken for granted the infusion of new equity in a small business as the logical answer to its capital needs. But this is not the form of help which small business seeks. The many studies and hearings which have recently centered around proposals for relaxation of security regulations as they pertain to small companies are, in the view of many, sheer academic exercises. They fail to recognize some very basic premises—
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> 1. The small business entrepreneur does not look with favor upon selling equity interests. He is an independent creature who despises regulations of all levels of government. He wishes to maintain confidentiality of his financial position and operating results. He does not wish to have others tell him how to operate his business, even though he may need some outside counsel. He views outside shareholders as a threat to his freedom of action.
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> 2. An equity interest in a small company is often difficult to liquidate at a fair price. Stories describing the problems of minority shareholders in small companies are legion. With no dividends, no voice in management and no established market for exchange, the value of a minority equity interest may be only one rung higher than worthless. On the other hand, the outside shareholder of a small, publicly held company may find the market for his shares so thin that its volatility hinders prudent monitoring as well as current evaluation of its worth.
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> 3. In what does a shareholder of a small business share? Though they may have officially "gone public," many such small companies are managed in exactly the same manner as when they were privately held. Thus, policy decisions are predicated on the same criteria as before, which often is influenced by the tax or financial postures of the principal shareholders. The investor in many small enterprises should recognize that he holds an interest in a de facto closely held company.

The legislation which we are introducing today recognizes the fact that equity capital may not be the solution for a company's capital needs. This bill, which is based on a proposal made by Arthur Andersen & Co. in testimony before the Small Business Committee last year, provides for the creation of a small business participating debenture (SBPD).

The SBPD would be a hybrid security. It is defined in the legislation as a written debt instrument, issued by a qualifying small business, which: First, is a general obligation of the company; second, bears a stated rate of interest not less than a standard imputed interest rate specified by the Secretary of the Treasury (currently 6 percent); third, has a fixed maturity date; fourth, grants no voting or conversion rights in the company; and fifth, provides for the payment of a share of the company's total earnings to the investor. The specific terms of the SBPD, such as the interest rate, maturity date and share of earnings, would be determined by the market for the security.

The stated interest received on the SBPD would be taxable to the investor as ordinary income. However, amounts paid as a distribution of a share of the company's earnings would be taxable to the investor at the preferential long-term capital gains rate. Since the SBPD would be treated as section 1244 stock, an individual investor would generally treat losses on SBPD's as ordinary losses.

The preferential tax treatment afforded to an investor in the SBPD would be lost if it is disposed of prematurely. The issuing company would treat both amounts paid as stated interest and as a share of earnings pursuant to the SBPD as interest.

Mr. President, the SBPD would have the status of a debt security with a stated rate of interest, but would also provide an inducement for the investor by returning to him a share of the company's earnings during the period the SBPD is outstanding. Because the SBPD would provide for a specific redemption date, the issuing company would effectively be paying a premium for the use of the capital, but only for the period of use.

The SBPD would thus differ from stock warrants and rights which, as a result of the shares issued pursuant to their terms, effectively participate in earnings long after the company has experienced its critical need for funds and repaid them.

Pursuant to this legislation, a SBPD could only be issued by a domestic trade or business, whether or not incorporated, which has a net equity of less than $25 million. The size limitation imposed on the issuing business is based on the findings made by the 1977 SBA Task Force on Venture and Equity Capital.

Because the legislation is designed to provide capital for businesses without access to the equity capital markets, only companies which do not have securities outstanding which are subject to SEC regulation would be eligible to issue SBPD's. Additionally, no company may have issued and outstanding, at one time, SBPD's with a face value in excess of $1 million. These size and dollar amount limitations are generally applied by treating the members of a controlled group as one taxpayer.

As a further incentive for investment in a SBPD, the taxpayer would be given a credit against tax for an amount equal to the lesser of first 5 percent of the proceeds of the SBPD; or second the product of one-half of 1 percent of the SBPD proceeds multiplied by the number of years before the maturity date of the security. The Secretary of the Treasury would promulgate regulations concerning whether the SBPD proceeds would be calculated net or gross of commissions for purposes of determining the credit to be allowed the taxpayers.

The credit allowed to a taxpayer for investments in SBPD's would be limited to $5,000, or $10,000 in the case of a joint return, in a taxable year. Provision is made for a carryover of any excess credit for a period of up to 7 years.

No credit would be allowed where the taxpayer is a "related party" to the company issuing the SBPD. The taxpayer would be deemed to be a "related party" if he has more than a 10 percent interest in the business. Additionally, restrictions are placed on reciprocal arrangements.

No credit is given for that amount of SBPD's acquired by a taxpayer equal to the amount of SBPD's issued by the taxpayer to the small business in which he is acquiring a SBPD.

The credit would be recaptured if the SBPD is disposed of in any way before being held more than 1 year. If the SBPD is disposed of before the maturity date but after 1 year, the taxpayer's tax in the year of disposition would be increased by an amount proportionate to the length of time remaining to the maturity date.

Thus, if a taxpayer takes a $5,000 credit in year I for a SBPD with a 10 year (120 months) maturity date and disposes of it 6 years (72 months) later in year VII, his income tax would be increased by an amount equal to 40 percent (as 48 months of the 120 month maturity period remain) of the $5,000 credit, for a $2,000 tax increase in year VII.

As previously indicated, the tax credit allowed for an investment in, and the preferential tax treatment afforded to, a SBPD would be lost in the event of its disposition prior to its maturity date. A disposition would be deemed to have occurred if the SBPD is redeemed by the issuing company or if the taxpayer becomes a "related party" to the issuer.

Likewise, the SBPD will be treated as having been disposed of if it is converted into another stock or security. Thus, if the issuing company were to merge with another company, the credit and preferential treatment would be lost.

If within 2 years after the SBPD is issued, the issuer issues securities which are subject to SEC regulation, the taxpayer would be treated as having disposed of the SBPD. This treatment reflects the fact that the legislation is intended to benefit companies which do not have access to equity capital markets. Likewise, if the issuing company ceases to be primarily an operating company, a disposition would be deemed to have occurred.

Based on the experience that his firm has had with its small business clients, Mr. Barth of Arthur Andersen & Co. testified that he felt that the SBPD "would appeal to the owners seeking capital because the mechanism would be self-administered, thus avoiding the necessity for approvals, examinations, permits and other forms of redtape which inevitably breed another level of bureaucracy." I agree with Mr. Barth. SBPD's have the potential to greatly alleviate the financing problems experienced by our Nation's small businesses.

Mr. President, the typical entrepreneur has no desire to surrender an equity interest, and hence control, in his business. Concomitantly, the prudent investor seldom has an interest in acquiring a minority position in a closely held company. Although there are venture capital firms which will provide equity capital to small businesses, they will do so only in exchange for a very substantial, permanent participation in the equity of the firm.

Thus for the vast majority of small businesses, which are closely held, there is simply no capital available to finance their growth. These are the companies that this legislation will help. I might add that in addition to this legislation, I am also studying the feasibility of having SBA guarantee bonds issued by these closely-held companies to enable them to compete on an equal footing with larger corporations in the debt markets. Without steps such as these, small businesses will remain unable to obtain the funds they so critically need to finance growth.

I urge my colleagues to closely study this bill. Because it embodies a novel concept, there may be "kinks" in the legislation which must be worked out. Accordingly, I look forward to receiving the constructive comments of my colleagues, small business persons, and others. However, it is my firm belief that the concepts underlying this legislation are viable and that enactment of these concepts will be of great assistance in solving the capital formation problem confronting our Nation's small businesses.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Allowance of Credit for Investment in Small Business Participating Debenture.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"Sec. 44D. Investment in Small Business Participating Debenture.

"(a) General Rule.—In the case of a taxpayer who is a United States person there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to the lesser of—

"(1) the product of—

"(A) one-half of 1 percent of the proceeds of any small business participating debenture which is acquired by the taxpayer during the taxable year for money from the small business issuing such debentures, multiplied by

"(B) the number of years ending after the date of acquisition and before the maturity date of the debenture, or

"(2) 5 percent of the proceeds of any such debenture.

"(b) Limitations.—

"(1) Maximum dollar amount.—The credit allowed by subsection (a) for any taxable year shall not exceed $5,000 ($10,000 in the case of a joint return).

"(2) Credit not allowed for debentures issued by a related party.—No credit is allowable under subsection (a) with respect to a small business participating debenture issued by a small business in which the taxpayer has an interest. For purposes of this subsection, a taxpayer shall be considered as having an interest in the issuer of a small business participating debenture if—

"(A) in the case of a small business participating debenture issued by a corporation, the taxpayer is considered, under section 318, to own—

"(i) 10 percent or more in value of the stock, or

"(ii) stock which represents 10 percent or more of the voting rights

in the corporation or in a corporation which is a member of the same controlled group of corporations (within the meaning of section 1563(a)), or

"(B) in the case of a small business participating debenture issued by a small business not organized as a corporation, the taxpayer owns, or is considered to own (under regulations prescribed by the Secretary similar to the regulations prescribed under section 318), more than 10 percent of the profits or capital in the business.

"(3) Debentures issued by persons holding taxpayer's debentures.—If—

"(A) a taxpayer acquires a small business participating debenture from a small business, and

"(B) such small business or a person with an interest in such small business acquired, before the acquisition described in subparagraph (A), any such debenture from the taxpayer or any small business which the taxpayer has an interest in,

no credit is allowable under subsection (a) with respect to that amount of the proceeds of the debenture acquired by the taxpayer which is equal to the amount of the proceeds of any such debenture acquired from the taxpayer or the small business in which the taxpayer has an interest.

"(4) Application with other credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section other than the credits allowable by sections 31, 39, and 43.

"(5) Certain taxes not considered taxes imposed by this chapter.—For purposes of this section, any tax imposed for the taxable year by section 55 (relating to alternative minimum tax for taxpayers other than corporations), section 56 (relating to minimum tax for tax preferences), section 72 (m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump sum distributions), section 408 (f) (relating to additional tax on income from certain retirement accounts), section 409(c) (relating to additional tax on retirement bonds), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on central capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(b)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(c) Carryover of Unused Credit.—

"(1) Allowance of credit.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by subsection (b) (1) or (4) for such taxable year (hereinafter in this subsection referred to as the 'unused credit year'), such excess shall be a small business participating debenture credit carryover to each of the 7 taxable years following the unused credit year, and shall be added to the amount allowable as a credit by this section for such years. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 7 taxable years to which such credit may be carried, and then to each of the other 6 taxable years to the extent that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(2) Limitation.—The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by subsection (b) (1) or (4) for such taxable year exceeds the sum of—

"(A) the credit allowable under this section for such taxable year, and

"(B) the amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(d) Premature Disposition of Small Business Participating Debenture.—

"(1) Disposition before filing return for taxable year of acquisition.—No credit is allowable under subsection (a) with respect to a small business participating debenture acquired during the taxable year which is not held by the taxpayer on the date established by law for filing a return of tax for that taxable year, if, as of that date, the taxpayer has disposed of the debenture after holding it for less than 12 months and 1 day.

"(2) Other premature dispositions.—

"(A) In general.—If during any taxable year a small business participating debenture is disposed of, or under paragraphs (3) or (4) is treated as having been disposed of, by the taxpayer before the maturity date of the debenture, then the tax under this chapter for the taxable year shall be increased by an amount which bears the same ratio to the amount of the credit allowed to the taxpayer for any preceding taxable year with respect to the acquisition of such debenture as the number of months between the date of disposition and the date of maturity of the debenture bears to the number of months between the date of acquisition and the date of maturity of the debenture.

"(B) Carryover adjusted.—In the case of any disposition described in paragraph (A), any carryover under subsection (c) shall be adjusted by reason of such disposition.

"(3) Becoming a related party treated as disposition.—For purposes of this subsection, a taxpayer shall be treated as having disposed of a small business participating debenture whenever the taxpayer becomes a related party (within the meaning of subsection (b) (2)) to the issuer.

"(4) Certain actions by issuer treated as disposition by taxpayer.—If the issuer of the small business participating debenture—

"(A) issues, during the 2-year period beginning on the date of issuance of such debenture, securities which are subject to regulation by the Securities and Exchange Commission,

"(B) ceases, during any taxable year of the issuer beginning before the date of maturity of the debenture, to derive more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stock and securities (determined under rules similar to the rules provided in section 1244 (c) (1) (C) and (c) (2) (A) and (B)), or

"(C) is, during any taxable year of the issuer beginning before the date of maturity of the debenture, a party to a reorganization described in subparagraphs (A) through (D) of section 368(a) (1)

then, for purposes of this subsection, the taxpayer shall be treated as having disposed of the small business participating debenture on the last day of the taxable year of the taxpayer (i) during which such securities are issued or (ii) in which the taxable year of the issuer described in subparagraph (B) or (C) ends. For purposes of subparagraph (C), the Secretary may, to the extent necessary, prescribe regulations (which are based on principles similar to the principles which apply under section 368(a) (1)) which shall apply in the case of a reorganization (or similar transaction) involving a trade or business which is not organized as a corporation.

"(e) Definitions and Special Rules.—For purposes of this section—

"(1) In general.—The term 'small business participating debenture' means a written debt instrument issued by a qualified small business which—

"(A) is a general obligation of the qualified small business,

"(B) bears a stated rate of interest not less than the rate prescribed by the Secretary under section 483(c) (1) (B),

"(C) has a fixed maturity,

"(D) grants no voting or conversion rights in the qualified small business to the purchaser, and

"(E) provides for the payment of a share of the total earnings of the issuer.

"(2) Qualified small business.—

"(A) In general.—The term "qualified small business' means any domestic trade or business (whether or not incorporated)—

"(i) the equity capital of which does not exceed $25,000,000 immediately before the small business participating debenture is issued,

"(ii) with respect to which, at the time the small business participating debenture is issued, the face value of all outstanding small business participating debentures issued (including such debenture) does not exceed $1,000,000, and

"(iii) which has no securities outstanding which are subject to regulation by the Securities and Exchange Commission at the time of issuance of the small business participating debenture.

"(B) Controlled groups.—For purposes of determining under subparagraph (A) the equity capital and outstanding small business participating debentures of—

"(i) a member of the same controlled group of corporations (within the meaning of section 1563 (a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563 (a) (1)), and

"(ii) a member of a group of trades or businesses (whether or not incorporated) which are under common control, as determined under regulations prescribed by the Secretary which are based on principles similar to the principles which apply under clause (i),

the equity capital and outstanding debentures of all members of such group shall be taken into account.

"(C) Equity capital.—For purposes of this paragraph—

"(i) Corporation.—In the case of a corporation, the term 'equity capital' means the aggregate amount of money and other property (taken into account in an amount, equal to the adjusted basis to the corporation of such property for determining gain, reduced by any liabilities to which the property was subject or which were assumed by the corporation at such time) received by the corporation for stock, as a contribution to capital, and as paid in surplus, other than amounts received as the proceeds of small business participating debentures issued by the corporation.

"(ii) Non-corporate business.—In the case of a trade or business which is not organized as a corporation, equity capital shall be determined under regulations prescribed by the Secretary which are based on principles similar to the principles which apply under clause (i).

"(3) Subchapter S corporations.—In the case of an electing small business corporation (as defined in section 1371)—

"(3) Subchapter S Corporations.—In the case of an electing small business corporation (as defined in section 1371)—

"(A) the amount of the credit allowable under subsection (a) for the taxable year shall be apportioned among the persons who are shareholders of such corporation on the last day of the taxable year, and

"(B) the dollar limitation contained in subsection (b) (1) shall apply with respect to such corporation and with respect to each shareholder.".

(b) Clerical Amendment.—The table of sections for such subpart is amended by inserting immediately before the item relating to section 45 the following new item:

"Sec. 44D. Investment in Small Business Participating Debenture.".

(c) Conforming Amendments.—

(1) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(2) Paragraph (3) of section 55(c) of such Code (relating to credits against alternative minimum tax for taxpayers other than corporations) is amended by redesignating subparagraph (D) as (E) and inserting after subparagraph (C) the following new subparagraph:

"(D) Small business participating debenture credit.—For purposes of determining under section 44D(c) the amount of any small business participating debenture credit carryover to any other taxable year, the amount of the limitation under section 44D (c) (2) for the current taxable year shall be deemed to be—

"(i) the amount of the credit allowable under section 4D for the current taxable year without regard to this subparagraph, reduced by

"(ii) the amount equal to the lesser of (I) the amount of the credit allowable under section 44D for the current taxable year without regard to this subparagraph, or (II) the net tax imposed by this section for the current taxable year reduced by the sum of the amounts of reduction described in clause (ii) of subparagraphs (A), (B), and (C).".

(d) Treatment of Original Issue Discount Interest.—Section 1232 of such Code (relating to bonds and other evidences of indebtedness) is amended by adding at the end thereof the following new subsection:

"(h) Small Business Participating Debentures.—Any small business participating debenture (as defined in section 44D(e)) issued by a trade or business other than a corporation shall be treated, for purposes of this section, as if it were issued by a corporation.".

Sec. 2. Treatment of Income, Gains, Losses, Et Cetera, on Small Business Participating Debentures

(a) Capital Gains Treatment of Earnings.—Part IV of subchapter P of chapter 1 of the Internal Revenue Code of 1954 (relating to special rules for determining capital gain and loss) is amended by adding at the end thereof the following new section:

"Sec. 1256. Earning Distributions Under Small Business Participating Debentures.

"(a) In General.—For purposes of this subtitle, and except as provided in subsection (b), amounts actually paid during the taxable year to a taxpayer in respect of a small business participating debenture (as defined in section 44D(e)) which constitutes the distribution of a share of the earnings of the issuer, shall be treated as long-term capital gain.

"(b) Subsection (a) Not to Apply.—

"(1) Credit disallowed.—

"(A) In general.—If no credit is allowable under section 44D(b)(2) with respect to any debenture, subsection (a) shall not apply to any distribution in connection with the debenture for any taxable year.

"(B) Partial disallowance of credit.—If any amount of the credit is not allowable under section 44D(b)(3), subsection (a) shall not apply to that portion of the amount constituting a distribution of a share of earnings in any taxable year which bears the same ratio to the total amount constituting a distribution of a share of earnings as the amount of the proceeds of the debenture with respect to which the credit is not so allowable bears to the total proceeds of the debenture.

"(2) Premature Disposition.—If the taxpayer is treated as having disposed of the small business participating debenture under section 44D((d)(3) or (4), subsection (a) shall not apply to any such distribution in connection with such debenture for the taxable year of the disposition and any subsequent taxable year.

"(3) Section 301 to apply.—

"(A) In general.—Any amount to which subsection (a) does not apply by reason of paragraph (1) or (2) shall be treated by the taxpayer and the issuer in the same manner as a distribution of property to which section 301 applies.

"(B) Non-corporate business.—In the case of a trade or business which is not organized as a corporation, such amounts shall be treated in a manner determined under regulations prescribed by the Secretary which are based on principles similar to the principles which apply under subparagraph (A).

"(c) Special Rules For Payments.—For purposes of this section and section 163(e)—

"(1) Time for payment.—Payments under subsection (a) shall be deemed to have been made on the last day of a taxable year if the payment is on account of such taxable year and is made not later than the time prescribed by law for the filing of the return for such taxable year (including extensions thereof).

"(2) Order payments.—Any payment in respect of a small business participating debenture shall be treated first as a payment of interest until all interest required to be paid under the debenture for such taxable year and preceding taxable years is paid and then as a payment of earnings.".

(b) Clerical Amendment.—The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 1256. Earnings Distributions Under Small Business Participating Debentures.".

(c) Losses on Small Business Participating Debentures Treated as Ordinary Loss.—Section 1244 of such Code (relating to losses on small business stock) is amended by adding at the end of subsection (d) the following new paragraph:

"(5) Small business participating debentures treated same as section 1244 stock.—

"(A) In general.—For purposes of this section, any loss on a small business participating debenture issued to an individual shall be treated as if it were a loss on section 1244 stock issued to that individual.

"(B) Subparagraph (A) not to apply.—

"(i) Credit disallowed.—

"(I) In general.—If no credit is allowable under section 44D(b)(2) with respect to any debenture, subparagraph (A) shall not apply to any loss in connection with the debenture for any taxable year.

"(II) Partial disallowance of credit.—If any amount of the credit is not allowable under section 44D(d)(3), subsection (a) shall not apply to that portion of the loss in any taxable year which bears the same ratio to the total loss as the amount of the proceeds of the debenture with respect to which the credit is not so allowable bears to the total proceeds of the debenture.

"(ii) Premature disposition.—If the taxpayer is treated as having disposed of the small business participating debenture under section 44D (d) (3) or (4), subparagraph (A) shall not apply to any such loss occurring during the taxable year of such disposition or any subsequent taxable year.".

(d) Interest Deductible as Interest Expense.—Section 163 of such Code (relating to interest) is amended by redesignating subsection (e) as (f) and by inserting after subsection (d) the following new subsection:

"(e) Interest and Other Amounts Paid on Small Business Participating Debenture.—

"(1) In general.—For purposes of this section other than subsection (d)), amounts paid as interest, and amounts paid as a share of earnings, on a small business participating debenture (as defined in section 44D (e)) shall be treated as interest.

"(2) Paragraph (1) not to apply.—

"(A) Credit disallowed.—

"(i) In general.—If no credit is allowable under section 44D (b) (2) with respect to any debenture, subsection (a) shall not apply to any amount paid as a share of earnings in connection with the debenture for any taxable year.

"(ii) Partial disallowance of credit.—If any amount of the credit is not allowable under section 44D (b) (3), subsection (a) shall not apply to that portion of the amount paid as a share of earnings in any taxable year which bears the same ratio to the total amount paid as a share of earnings as the amount of the proceeds of the debenture with respect to which the credit is not so allowable bears to the total proceeds of the debenture.

"(B) Premature disposition.—If the taxpayer is treated as having disposed of the small business participating debenture under section 44D (d) (3) or (4), paragraph (1) shall not apply to any amount paid as a share of earnings during the taxable year of such disposition or any subsequent taxable year.".

Sec. 3. Effective Date.

(a) In General.—Except as provided in subsection (b), the amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1979, and to small business participating debentures acquired after the date of enactment of this Act. For purposes of the preceding sentence, small business participating debentures acquired after the date of the enactment of this Act and before January 1, 1980, shall be treated (except for purposes of section 44D (d) of the Internal Revenue Code of 1954) as acquired on the first day of the first taxpable year of the taxpayer beginning after December 31, 1979.

(b) Proceeds Used To Repay Loans.—The amendments made by this Act shall not apply to any small business participating debenture issued before or during calendar year 1980 if the proceeds of such debenture are used to repay any loan of the issuing small business other than a loan—

(1) with a stated rate of interest in excess of the prevailing rate of interest for businesses in the area in which such small business is located, and

(2) secured by the inventory or accounts receivable of such small business.●

● Mr. HAYAKAWA. Mr. President, I am pleased to be an initial cosponsor of legislation creating a small business participating debenture (SBPD) and tax incentives for investment in them introduced today by my distinguished colleague, Lowell P. Weicker, Jr., with whom I serve on the Senate Select Committee on Small Business.

Economists have projected a serious capital shortage in recent years. As a result, growing small businesses face the likely prospect of having to sell out, merge with a larger company, or continue to operate in an undercapitalized state. This legislation would provide a means by which small- and medium-size businesses can obtain needed additional capital.

The SBPD would have the status of a debt security with a stated rate of interest, but would also provide an inducement for the investor by returning to him a share of the company's earnings during the period the SBPD is outstanding.

Because of the very nature of a small business, and the inherent independence of most small business people, public financing through stock issuance is not the answer for many of them.

The small businessman has neither the time nor money to spend in "going public" when the need for additional capital arises, so equity capital is not for him. SBPD's offer a mutually profitable way for small business to acquire additional capital without going through the complicated procedures called for in offering equity stock to the public and for investors to receive attractive tax benefits from their purchase.

As you may know, the Senate Small Business Committee held five hearings in the last session of Congress and one hearing this year on the important subject of the capital formation problems of small businesses. I wish to take this opportunity to commend the members of the committee for the time and effort they have devoted to these hearings, and to remind my colleagues of the development of several important bills which came out of these hearings.

Mr. President, the acquisition of capital formation ranks among the largest problems facing small business, and I believe that this bill will provide good incentive to individual investors, and needed capital to small businesses that are unable to obtain the capital required for growth.●

By Mr. BIDEN (for himself, Mr. Bayh, Mr. Huddleston, and Mr. Kennedy):

S. 1482. A bill to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information; to the Committee on the Judiciary.

CLASSIFIED INFORMATION PROCEDURES ACT OF 1979

● Mr. BIDEN. Mr. President, today I am introducing, along with Senators BAYH, HUDDLESTON, and KENNEDY, the Classified Information Procedures Act of 1979. This act is intended primarily to provide uniform procedures for Federal courts to handle classified information in criminal trials.

This legislation will go a long way toward solving the dilemma described by the Intelligence Committee in its report on National Security and the Administration of Justice issued last fall. Simply stated, the Government refrains from prosecuting certain lawbreakers, because sensitive information might be revealed in the course of a trial. Defendants may use that threat to force dismissal of prosecution. As I studied the matter, I quite frankly became fed up as I saw criminals—ranging from intelligence officials to foreign spies—play this game and corrupt justice.

Since we released the Intelligence Committee study last November, Congressman MURPHY, chairman of the Legislation Subcommittee of the House Intelligence Committee; Phil Heymann, head of the Justice Department Criminal Division; representatives of the ACLU; and I in my dual capacity as chairman of the Rights of Americans Subcommittee of the Intelligence Committee and of the Criminal Justice Subcommittee of the Judiciary Committee have been attempting to develop a consensus bill.

After 6 months of meetings we are close enough to agreement that we felt it appropriate and necessary to open the process to the public and our colleagues. Under the procedures we have worked out, the defendant will no longer be able to threaten the Government with disclosure of classified information that will later prove inadmissible. With both the prosecution and the defense present, the judge is to review in a closed proceeding the question of whether certain material could be used in a trial before the evidence is introduced rather than afterwards. If the classified information is determined to be admissible, as an alternative to permitting disclosure, the judge may take sanctions short of dismissal against the Government, such as dropping counts of an indictment and finding issues in the defendant's favor. The Government could then decide whether to proceed with the prosecution knowing beforehand whether and what information would be released.

The bill contains a section requiring the Attorney General to issue guidelines specifying the factors to be considered by the Department of Justice in deciding whether to prosecute a violation of Federal law where there is a possibility that classified information will be revealed. By issuing these guidelines and requiring written findings before a case can be dropped, a clearly stated policy will be put forward that should indicate that the Government intends to punish illegal activity even where there are national security considerations.

There were differences in our discussions. For example, the Department of Justice argues that it should be permitted to edit materials containing classified information given the defendants pursuant to the Jencks Act, which entitles defendants to prior statements of witnesses in the possession of the Government. The ACLU argues that such a Jencks Act amendment would invade defendants' due process rights under the Constitution and thus should not be adopted. I tend to share the ACLU's concern, but I have left the provisions in the bill for the purpose of prompting discussion in hearings.

In all, however, I think that we would agree that a basic consensus has emerged out of our long, vigorous, but good-natured dialog. The prospects for prompt congressional enactment of a graymail bill are good. Enactment of this bill will be one small, but important step toward insuring that the intelligence agencies are subject to the rule of law and strengthening enforcement of laws designed to protect both our national security and our civil liberties.

I suggest that the bill be referred in the first instance to the Judiciary Committee with a 30-day sequential referral to the Select Committee on Intelligence.

Mr. President, I ask unanimous consent that the bill and section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 1482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Classified Information Procedures Act."

DEFINITIONS

SECTION 1. (a) "Classified information," as used in this Act, means any information or material that has been determined by the United States Government pursuant to an executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in 42 U.S.C. § 2014(y).

(b) "National security," as used in this Act, means the national defense and foreign relations of the United States.

PRETRIAL CONFERENCE

SEC. 2. At any time after the filing of the indictment or information, any party may move for a pretrial conference to consider matters relating to classified information that may arise in connection with the prosecution. Following such motion, or on its own motion, the court shall promptly hold a pretrial conference to establish the timing of requests for discovery, the provision of notice required by section 5 of this Act, and the initiation of the procedure established by section 6 of this Act. In addition, at the pretrial conference the court may consider any other matters which relate to classified information or which may promote a fair and expeditious trial.

PROTECTIVE ORDERS

SEC. 3. Upon request of the government, the court shall issue a protective order to guard against the compromise of any classified material disclosed to the defendant.

DISCLOSURE OF CLASSIFIED INFORMATION TO DEFENDANTS

SEC. 4. The court may authorize the government to delete specified items of classified information from documents to be made available to the defendant, to substitute a summary of the information for such classified documents, or to substitute a statement admitting relevant facts that the classified information would tend to prove. The government's motion requesting such authorization and materials submitted in support thereof shall, upon request of the government, be considered by the court in camera and not disclosed to the defendant.

NOTICE OF DEFENDANT'S INTENTION TO DISCLOSE CLASSIFIED INFORMATION

SEC. 5. (a) *Notice by defendant.* If a defendant reasonably expects to disclose or to cause the disclosure of classified information in any manner in connection with any trial or pretrial proceeding involving the criminal prosecution of such defendant, the defendant shall, within the time specified by the court or where no time is specified within 30 days prior to trial, notify the attorney for the government and the court in writing. Whenever a defendant learns of additional classified information he reasonably expects to disclose at any such proceeding, he shall notify the attorney for the government and the court in writing as soon as possible thereafter. Such notice shall include a brief description of the classified information. No defendant shall disclose any information known or believed to be classified in connection with a trial or pretrial proceeding until notice has been given under this subsection and until the government has been afforded a reasonable opportunity to seek a determination pursuant to the procedure set forth in section 6 of this Act.

(b) *Failure to comply.* If the defendant fails to comply with the requirements of subsection (a) the court may preclude disclosure of any classified information not made the subject of notification and may prohibit the examination by the defendant of any witness with respect to any such information.

PROCEDURE FOR CASES INVOLVING CLASSIFIED INFORMATION

SEC. 6. (a) *Motion for hearing.* After the United States receives notification pursuant to section 5 or otherwise learns of any classified information that the defendant may disclose or cause to be disclosed at a trial or pretrial proceeding, the government may, within the time specified by the court, move for a hearing concerning any such information. In connection with its motion, the government may submit the classified information along with an explanation of the basis for the classification to the court for its examination in camera and shall provide the court with an affidavit of the Attorney General, the Deputy Attorney General, or a designated Assistant Attorney General certifying that the information is classified. The hearing, or specified portion thereof, shall be held in camera whenever the government certifies that a public proceeding may result in the compromise of classified information.

(b) *Hearing.*

(1) Prior to the hearing, the government shall provide the defendant with notice of the information that will be at issue. This notice shall identify the specific classified information that will be at issue whenever that information has previously been made available to the defendant in connection with the pretrial proceedings. The government may describe the information by generic category rather than identifying the specific information of concern to the government when the government has not previously made the information available to the defendant in connection with the pretrial proceedings.

(2) Where the government moves for a hearing prior to trial, the government shall upon request of the defendant provide the defendant with a bill of particulars as to the portions of the indictment or information which the defendant identifies as related

to the classified information at issue in the hearing. The bill of particulars shall be provided prior to the hearing.

(3) Following a hearing, the court shall determine whether and the manner in which the information at issue may be used in a trial or pretrial proceeding. As to each item of classified information, the court shall set forth in writing the basis for its determination. Where the government's motion under subsection (a) is filed prior to the trial or pretrial proceeding, the court shall rule prior to the commencement of the relevant proceeding.

(4) (A) If the court determines that the information may not be disclosed or elicited at a pretrial or trial proceeding the record of the hearing shall be sealed and preserved by the government in the event of an appeal. The defendant may seek reconsideration of the court's determination prior to or during trial.

(B) In lieu of authorizing disclosure of the specific classified information, the court shall, if it finds that the defendant's right to a fair trial will not be prejudiced, order—

(i) substitution of a statement admitting relevant facts that the specific classified information would tend to prove, or

(ii) substitution of a summary or portion of a specific classified information.

(C) If the court determines that these alternatives to full disclosure may not be used and the government provides the court with an affidavit of the Attorney General, Deputy Attorney General, or designated Assistant Attorney General objecting to disclosure of the information, the court shall issue any order which is required in the interest of justice. Such an order may include, but need not be limited to an order—

(i) striking or precluding all or part of the testimony of a witness; or

(ii) declaring a mistrial; or

(iii) finding against the government on any issue as to which the evidence relates; or

(iv) dismissing the action, with or without prejudice; or

(v) dismissing specified counts of the indictment against the defendant.

Any such order shall permit the government to avoid the sanction for nondisclosure by agreeing to permit the defendant to disclose the information at the pertinent trial or pretrial proceeding. The government may exercise its right to take an interlocutory appeal prior to determining whether to permit disclosure of any classified information.

(c) *Reciprocity.* Whenever the court determines pursuant to subsection (b) that classified information may be disclosed in connection with a trial or pretrial proceeding, the court shall, unless the interests of fairness do not so require, order the government to provide the defendant with the information it expects to use to rebut the classified information. The court may place the government under a continuing duty to disclose such rebuttal information. If the government fails to comply with its obligation under this subsection, the court may exclude any evidence not made the subject of a required disclosure and may prohibit the examination by the government of any witness with respect to such information.

INTERLOCUTORY APPEAL

Sec. 7. (a) An interlocutory appeal by the United States taken before or after the defendant has been placed in jeopardy shall lie to a court of appeals from a decision or order of a district court in a criminal case requiring the disclosure of classified information, imposing sanctions for nondisclosure of classified information, or refusing a protective order sought by the United States to prevent the disclosure of classified information, if the Attorney General, Deputy Attorney General, or designated Assistant Attorney General certifies to the district court that the appeal is not taken for purposes of delay.

(b) An appeal taken pursuant to this section either before or during trial shall be expedited by the court of appeals. Prior to trial, an appeal shall be taken within 10 days after the decision or order appealed from and the trial shall not commence until the appeal is resolved. If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved and the court of appeals (i) shall hear argument on such appeal within 4 days of the adjournment of the trial, (ii) may dispense with written briefs other than the supporting materials previously submitted to the trial court, (iii) shall render its decision within 4 days of argument on appeal, and (iv) may dispense with the issuance of a written opinion in rendering its decision. Such appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a judgment of conviction, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

INTRODUCTION OF CLASSIFIED INFORMATION

Sec. 8. (a) *Classification status.* Writings, recordings and photographs containing classified information may be admitted into evidence without change in their classification status.

(b) *Precautions by court.* The court, in order to prevent unnecessary disclosure of classified information involved in any criminal proceeding, may order admission into evidence of only part of a writing, recording or photograph or may order admission into evidence of the whole writing, recording or photograph with excision of some or all of the classified information contained therein.

(c) *Taking of testimony.* During the examination of a witness in any criminal proceeding, the government may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible. Following such an objection, the court shall take such suitable action to determine whether the response is admissible as will safeguard against the compromise of any classified information. Such action may include requiring the government to provide the court with a proffer of the witness' response to the question or line of inquiry and requiring the defendant to provide the court with a proffer of the nature of the information he seeks to elicit.

SECURITY PROCEDURES TO SAFEGUARD AGAINST COMPROMISE OF CLASSIFIED INFORMATION DISCLOSED TO THE COURT

Sec. 9. (a) Within 120 days following the date of enactment of this Act, the Chief Justice of the United States, in consultation with the Attorney General, the Director of Central Intelligence, and the Secretary of Defense, shall prescribe security procedures for protection against the compromise of classified information submitted to the Federal district courts, the courts of appeals, and the Supreme Court.

(b) Until such time as procedures are promulgated pursuant to subsection (a), the Federal courts shall in each case involving classified information adopt procedures to protect against the compromise of such information.

JENCKS ACT EXCEPTION FOR CLASSIFIED INFORMATION

Sec 10. (a) Chapter 223 of title 18, United States Code, is amended by adding after subsection 3500(c) the following new subsection:

"(d) If the United States claims that any statement otherwise producible under this section contains classified information, the United States may deliver such statement for the inspection of the court in camera and provide the court with an affidavit from the Attorney General, Deputy Attorney General, or designated Assistant Attorney General identifying the portions of the statement that are classified. If the court finds that any such portion of the statement is consistent with the witness' testimony, the court may substitute a summary for the classified portion or excise the portion from the statement. With such material replaced by a substitution or excised, the court shall then direct delivery of such statement to the defendant for his use. If, pursuant to such procedure, any portion of such statement is withheld from the defendant and the defendant objects to such withholding, and the trial is continued to any adjudication of the guilt of the defendant, the entire text of such statement as well as the affidavit submitted by the United States shall be preserved by the United States and, in the event the defendant appeals, shall be made available to the court of appeals for its examination for the purpose of determining the correctness of the ruling of the trial judge. Whenever any statement is delivered to a defendant pursuant to this section, the court in its discretion, upon application of said defendant, may recess proceedings in the trial for such time as it may determine to be reasonably required for the examination of such statement by said defendant and his preparation for its use in the trial."

(b) Chapter 223 of title 18, United States Code, is amended as follows:

(1) Present subsections 3500(d) and 3500(e) shall be redesignated subsections 3500(e) and 3500(f), respectively.

(2) In new subsection 3500(e), following the word "under" replace "subsection (b) or (c)" with "subsection (b) (c), or (d)."

(3) In new subsection 3500(f), following the words "used in" replace "subsection (b), (c), and (d)" with "subsection (b), (c), (d), and (e)."

IDENTIFICATION OF INFORMATION RELATED TO THE NATIONAL DEFENSE

Sec. 11. In any prosecution in which the government must establish that material relates to the national defense or constitutes classified information, the government shall notify the defendant, within the time specified by the court, of the portions of the material that it reasonably expects to rely upon to establish the national defense or classified information element of the offense.

ATTORNEY GENERAL GUIDELINES

Sec. 12. (a) Within 180 days of enactment of this law, the Attorney General shall issue guidelines specifying the factors to be used by the Department of Justice in rendering a decision whether to prosecute a violation of Federal law in which, in the judgment of the Attorney General, there is a possibility that classified information will be revealed. Such guidelines shall be transmitted to the appropriate committees of Congress.

(b) When the Department of Justice decides not to prosecute a violation of Federal law pursuant to subsection (a), an appropriate official of the Department of Justice shall prepare written findings detailing the reasons for the decision not to prosecute. The findings shall include—

(1) The intelligence information which the Department of Justice officials believe might be disclosed,

(2) The purpose for which the information might be disclosed,

(3) The probability that the information would be disclosed, and

(4) The possible consequences such disclosure would have on the national security.

(c) Consistent with applicable authorities and duties, including those conferred by the Constitution upon the executive and legis-

lative branches, the Attorney General shall make available to the Permanent Select Committee on Intelligence of the United States House of Representatives and the Select Committee on Intelligence of the United States Senate all findings under subsection (b) not later than 30 days after the decision not to prosecute is made.

SECTION-BY-SECTION ANALYSIS

Section 1: Definitions.

The terms "classified information" and "national security" are defined:

Section 2: Pretrial Conference:

A procedure for a pretrial conference to work out many of the difficulties inherent in dealing with classified information and litigation is set forth.

Section 3: Protective Orders:

The court is given authority to issue protective orders over any classified information disclosed to the defendant or his attorney. The punishment for disclosing such information would presumably be contempt of court.

Section 4: Disclosure of Classified Information to Defendants:

In responding to the defendant's discovery request, the government is permitted to delete certain items of classified information, to substitute a summary of the information, or to substitute a statement admitting the facts the classified information would tend to prove. Although courts have this power under Rule 16 of the Federal Rules of Criminal Procedure now, some judges have been reluctant to use it. In fact what often happens now is that the government is permitted to withhold information entirely.

Section 5: Notice of Defendant's Intention to Disclose Classified Information:

(a) When a defendant expects to disclose or cause the disclosure of classified information in a trial, he is to warn the government and the court before trial or as soon as he discusses the possibility during trial. The defendant is not permitted to disclose any classified information until he is given notice.

(b) If the defendant fails to give notice, the court can take certain sanctions against him including forbidding disclosure of the information contained in the classified material.

Section 6: Procedure for Cases Involving Classified Information:

(a) When the government learns through notice under section 5 or otherwise of any classified information that may be disclosed in a trial, it may move for a hearing concerning the information. This hearing on the use of this classified information in trial is to be held in camera when the government certifies that a public proceeding may result in a compromise of the classified information.

(b)(1) Prior to the hearing the government must provide the defendant with a description of the information that will be discussed at the hearing if he does not know already.

(2) Where the government moves for the hearing before trial, the government upon request of the defendant is to provide the defendant with a bill of particulars relating to the issues to be discussed in the hearing. This is to give the defendant a fair warning of what is to be discussed.

(3) After the hearing the court determines whether and the manner in which the information at issue may be used in a trial.

(4)(A) If the court determines that the classified information may not be disclosed, the record of the hearing is to be preserved in the case of appeal.

(B) In lieu of authorizing disclosure of the specific information, the court may, if it is fair to the defendant, (1) order substitution of the statement admitting relevant facts or (2) the substitution of a summary of the classified information.

(C) If the court determines that neither a summary nor a statement may be used and the government continues to object to disclosure of the information, the court is to take sanctions against the government which may include dismissing the action, dismissing specific counts of the indictment, or striking the testimony of a witness. Once the government discovers what the sanction will be, it can instead chose to disclose the information.

(c) Ordinarily when the court determines that the classified information may be disclosed, the court will order the government to provide the defendant with the information it expects to use to rebut the classified information. Thus, when the defense shows its hand in a pre-trial proceeding, the government attains no advantage.

Section 7: Interlocutory Appeal:

Only the government may ask for an interlocutory appeal against the judgment of the court that information may be disclosed, because the government would have no adequate remedy once the classified information was in fact disclosed. Prior to trial such an appeal is to be taken 10 days after the order is issued; during trial, the court is to adjourn while the appellate court hears arguments on an expedited schedule.

Section 8: Introduction of Classified Information:

(a) Writings, recordings and photographs may be admitted into evidence without change in their classification status.

(b) A portion of a classified document or other material may be introduced into evidence.

(c) The government may object to any line of questioning which would require the witness to disclose classified information not previously found to be admissible. This might happen when a defense counsel inadvertently strays into an area involving classified information. In such a case the government must indicate its fears of disclosure and the defense must indicate what kind of evidence it is attempting to elicit. It is possible after these steps have been taken that an in camera proceeding will be required to resolve questions of admissibility of the classified information.

Section 9: Security Procedures to Safeguard Against Compromise of Classified Information Disclosed to the Court:

The Chief Justice of the United States, in consultation with the Attorney General, the Director of Central Intelligence, and the Secretary of Defense, is to prescribe security procedures for dealing with classified information in trials.

Section 10: Jencks Act Exception for Classified Information:

Under the Jencks Act (18 U.S.C. § 3500) the government is required to give the defense any statements of government witnesses relating to the testimony. This section allows the court to excise or substitute material for classified material in these statements.

Section 11: Identification of Information Related to the National Defense:

In espionage and other crimes the government must prove that the transmitted information related to the national defense or constituted classified information. The government will often introduce large quantities of information to prove these facts. Under this section the government is to notify the defendant of the specific portions of the material that it intends to rely upon to establish the national defense or classified information element of the defense.

Section 12: Attorney General Guidelines:

Within 180 days of the enactment to the law, the Attorney General is to issue guidelines specifying the factors to be used by the Department of Justice in rendering a decision whether to prosecute a violation of federal law where there is a possibility that classified information will be revealed. When the Department of Justice decides not to prosecute a violation of federal law for national security reasons, the Department of Justice shall prepare a written finding on the reasons for the decision not to prosecute. These findings will be made available to the Intelligence Committees of both Houses.●

● Mr. BAYH. Mr. President, I am pleased to cosponsor the Classified Information Procedures Act introduced by my colleague on the Intelligence and Judiciary Committees, the distinguished Senator from Delaware (Mr. BIDEN). He has devoted exceptional efforts to dealing with this problem, both as chairman of the Intelligence Subcommittee on Secrecy and Disclosure and as chairman of the Judiciary Subcommittee on Criminal Justice. Through his leadership, along with that of Attorney General Bell and others, this bill can go a long way toward resolving a vexing dilemma in the administration of justice.

The Classified Information Procedures Act addresses an issue that was described in the report of the Intelligence Committee on "National Security Secrets and the Administration of Justice" last year. Frequently it has been impossible to prosecute in espionage and other criminal cases, because the defendant threatens a "fishing expedition" to expose vital national secrets that are not relevant to his or her defense. This bill would establish procedures to reduce this so-called "graymail" possibility.

The Select Committee on Intelligence has been deeply concerned about this problem. Criminal prosecution is an essential weapon in the battle against foreign espionage in the United States. But the Government's ability to prosecute spies is hampered by the uncertain legal procedures that exist today. To prosecute a spy who stole national secrets, the Government runs the risk of more damaging disclosures if the defendant tries to expose sensitive information that is not needed to defend against the charge. The danger is greatest when the country's vital foreign intelligence and counterintelligence sources and methods are jeopardized.

The Intelligence Committee is also concerned about the Government's inability to prosecute criminal "leaks" of sensitive intelligence sources and methods, because of the "graymail" threat. The statutes now on the books have not been enforced effectively for that reason; and any new criminal laws that might be passed to deal with intelligence leaks would also be virtually unenforceable. Last year I cosponsored a bill to make it a crime if an employee or former employee of an intelligence agency discloses information that jeopardizes the safety of an intelligence agent. But a bill like that would have no teeth, as long as the "graymail" problem remains as serious as it is today.

Still another problem is the inability to hold public officials accountable in a criminal trial for abuses of power and violations of constitutional rights. For instance, last year the Foreign Intelligence Surveillance Act was passed to protect the rights of Americans against warrantless wiretapping in this country. We made it a crime to violate that act. But violations of those guarantees of personal privacy might not be prosecuted if officials who order illegal wiretapping can threaten disclosure of vital secrets. The same problem would exist with enforcement of similar criminal laws to protect individual rights in intelligence charter legislation.

We should not have to sacrifice effective espionage or leak prosecutions and criminal accountability for abuses of power, in exchange for protecting national security secrets. The bill introduced today will help minimize the need to make these tough choices, even if it does not eliminate it completely.

There has been careful scrutiny of this bill to insure that it does not infringe the constitutional rights of criminal defendants. That review should continue as the measure is considered by Congress. The Judiciary and Intelligence Committees should make sure it strikes the delicate balance between law enforcement and national security interests and the guarantees of the Bill of Rights.●,

ADDITIONAL COSPONSORS

S. 388

At the request of Mr. JOHNSTON, the Senator from Maine (Mr. COHEN) was added as a cosponsor of S. 388, a bill to permit citizens of the Northern Mariana Islands to enlist in the Armed Forces.

S. 1308

At the request of Mr. JACKSON, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes.

S. 1425

At the request of Mr. RANDOLPH, the Senator from New York (Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) were added as a cosponsors to S. 1425, a bill to amend title 39 of the United States Code to reduce postal rates for small newspapers and magazines, and for other purposes.

SENATE RESOLUTION 135

At the request of Mr. JAVITS, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of Senate Resolution 135, concerning William James Tsakanikas and the Congressional Medal of Honor.

AMENDMENT NO. 231

At the request of Mr. DOMENICI, the Senator from Florida (Mr. CHILES), the Senator from Colorado (Mr. HART), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of amendment No. 231 intended to be proposed to S. 1149, the Housing and Community Development Amendments of 1979.

AMENDMENT NO. 232

At the request of Mr. DOMENICI, the Senator from Colorado (Mr. HART) and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of amendment No. 232 intended to be proposed to S. 1149, the Housing and Community Development Amendments of 1979.

SENATE RESOLUTION 196—SUBMISSION OF A RESOLUTION DESIGNATING "NATIONAL JOGGING DAY"

Mr. THURMOND (for himself, Mr. BAUCUS, Mr. BAYH, Mr. DECONCINI, Mr. HEFLIN, Mr. COCHRAN, Mr. DOLE, Mr. HATCH, Mr. CRANSTON, Mr. MORGAN, Mr. STEVENS, Mr. LUGAR, and Mr. DANFORTH) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 196

Whereas the public awareness of the need for maintaining physical fitness is becoming increasingly evident;

Whereas jogging is an excellent, convenient and inexpensive form of exercise that provides opportunities for a graduated program of physical fitness for most individuals regardless of age, sex or level of fitness;

Whereas numerous medical authorities believe that a regular, sensible jogging program improves the function of the cardiovascular system, reduces coronary risk factors, and serves as an advisable supplement to a weight-reducing or weight-control program;

Whereas a positive correlation exists between the development of a fit body and the ability to experience an enriched and more satisfying life;

Whereas an estimated 25 million persons all across America jog or run as a recreational activity which is beneficial and enjoyable: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation declaring October 13, 1979, as "National Jogging Day," and calling upon the people of the United States and interested groups to celebrate such day by participating in fitness-related sports, seminars and other events throughout the United States and to incorporate regular exercise into their everyday life.

AMENDMENTS SUBMITTED FOR PRINTING

ENERGY SUPPLY ACT—S. 1308

AMENDMENT NO. 312

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. JACKSON submitted an amendment intended to be proposed by him to S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes.

NATIONAL ENERGY MOBILIZATION BOARD

● Mr. JACKSON. Mr. President, I am submitting today an amendment to title II of S. 1308, the Energy Supply Act, which I introduced on June 11, 1979. The amendment would create a National Energy Mobilization Board to carry out the purposes of title II. This title is designed to break the regulatory logjam holding back energy development by creating a "fast track" for expediting Federal decisions on energy projects which are in the national interest.

Developments in the past few weeks have highlighted the need for this amendment to strengthen title II. The continuing lines at the gas pump this summer and the impending shortage of heating oil this winter dramatize the importance of developing domestic alternatives to OPEC oil. Comments from experts in the energy field as well as from the general public have also emphasized the need for forceful measures to speed up the peace of our domestic energy development.

The National Energy Mobilization Board created by this amendment would oversee the operation of title II. The Board would be run by a Cabinet-level chairman, appointed by the President, by and with the advice and consent of the Senate. The chairman would be responsible for designating priority energy projects which are in the national interest, establishing expedited schedules for regulatory decisions on these projects, and for assuring that these schedules are observed. The chairman would also be authorized to designate a Federal inspector for any priority energy project to monitor the progress of the project and enforce compliance with all applicable Federal rules and regulations.

Mr. President, in order to provide more information about this amendment to Senators and the general public, I ask unanimous consent that the text of the amendment and a summary of its major provisions be printed in the RECORD.

There being no objection, the amendment and summary were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 312

Title II of S. 1308 is amended as follows:

1. The phrase "the Board" shall be substituted in Title II each place where the phrase "the Secretary" or the phrase "the Secretary of Energy" appears.

2. Section 203(h) defining the term "Secretary" shall be deleted and section 203(i) shall be renumbered "section 203(h)".

3. The following language shall be inserted immediately following line 16 on page 17:

"ESTABLISHMENT OF THE ENERGY MOBILIZATION BOARD

"SEC. 226. (a) There is hereby established a special executive agency to be known as the National Energy Mobilization Board (hereinafter referred to as the 'Board').

"(b) The Board shall consist of a Chairman, who shall hold office at the pleasure of the President, appointed by the President, by and with the advice and consent of the Senate, and five members. The Board shall be administered under the supervision and direction of the Chairman, and the Chairman shall have final and exclusive decisionmaking authority on all matters within the jurisdiction of the Board.

"(c) The Chairman shall be a person who, as a result of his training, experience, and attainments in academia, industry, commerce, and/or government is exceptionally well qualified to perform the duties of his office.

"(d) The Chairman shall receive compensation at the rate prescribed for offices and positions at level I of the Executive Schedule (5 U.S.C. 5312).

"(e) The Chairman shall not—

"(1) engage in any other employment or hold any other position in the executive branch during the period of his appointment;

"(2) have any financial interest or relationship, direct or indirect, in any energy facility or energy project;

"(3) after his service on the Board has ended, represent anyone other than the

United States in connection with a matter in which the Board is a party or has an interest and in which he participated personally and substantially for the Board; or

"(4) receive any emoluments, salary, or supplementation of his Government salary, from a private source as compensation for his services to the Board.

"(f) The Members of the Board shall advise the Chairman in carrying out his duties under this title. The members shall consist of the Secretaries of the Departments of Energy, Labor, the Interior and Transportation and the Administrator of the Environmental Protection Agency.

"(g) There shall be a General Counsel to the Board who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for offices and positions at level III of the Executive Schedule (5 U.S.C. 5314).

"MEETINGS AND ORGANIZATIONS OF THE BOARD

"SEC. 227. (a) The Board is authorized to sit and act at such places and times as it may determine, and to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Board may make such rules respecting its organization and procedures as it deems necessary. Subpenas may be issued over the signature of the Chairman and may be served by such person or persons as he may designate.

"(b) The Chairman may appoint an executive director who shall exercise such powers and duties as may be delegated to him by the Board. The executive director shall receive compensation at the rate provided for level III of the Executive Schedule (5 U.S.C. 5314).

"FEDERAL INSPECTORS

"SEC. 228. (a) For any priority energy project, the Chairman may appoint an officer of the United States to serve as Federal Inspector of such project, except that no such individual or officer may have a financial interest in the project and no individual may serve as the Federal Inspector for more than one priority energy project at any one time.

"(b) The Federal Inspector for any priority energy project shall possess all functions relating to the enforcement of all Federal statutes and regulations and relating to the enforcement of the terms, conditions and stipulations of all grants, certificates, permits and other approvals issued by Federal agencies governing pre-construction, construction, and the first five years of operation of the priority energy project.

"(c) For each priority energy project for which a Federal Inspector has been appointed, each Federal agency having statutory responsibilities over any aspect of the project shall appoint an Authorized Officer to represent that agency on all matters pertaining to pre-construction, construction, and the first five years of operation of the project.

"(d) The Federal inspector shall delegate to each Authorized Officer the authority to enforce the terms, conditions, and stipulations of each grant, permit, or other authorization issued by the Federal agency which appointed the Authorized Officer. In the exercise of these enforcement functions, the Authorized Officers shall be subject to the supervision and direction of the Federal Inspector.

"(e) In implementing the enforcement authorities transferred under subsection (b), the Federal Inspector and Authorized Officers shall carry out the enforcement policies established by the Federal agencies which nominally administer these authorities.

"(f) In addition to any other activities necessary to carry out his responsibilities under this section, the Federal Inspector shall—

"(1) monitor compliance with applicable laws and the terms and conditions of any applicable certificate, permit, or other Federal approval;

"(2) monitor actions taken by the applicant to assure timely completion of construction schedules and the achievement of quality construction, cost control, safety, and environmental protection objectives;

"(3) keep the Board informed of any significant departures by the priority energy project from compliance with the term of any Federal law, regulation, or certificate, permit, or other Federal approval;

"(4) keep the Board informed of any significant departures by any Federal agency from compliance with the Project Decision Schedule; and

"(5) keep the Board informed of any significant departures by any State or local agency from compliance with the voluntary decision schedule issued pursuant to section 216.

"(g) Effective upon the last day of the fifth year of operation of any priority energy project supervised by a Federal Inspector, the functions transferred by subsection (b) shall be transferred to the agency or agencies which have responsibility at that time for performing the same functions for projects which are not priority energy projects.

"PRIORITY IN CONTRACTS AND ORDERS

"SEC. 229. (a) The Board is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which it deems necessary or appropriate to expedite completion of a priority energy project shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person it finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as it shall deem necessary or appropriate to expedite completion of a priority energy project. The powers granted in this section shall not be used to control the general distribution of any material in the civilian market.

"(b) The authority granted in this section may not be used to require priority performance of contracts or orders, or to control the distribution of any supplies of materials and equipment in the marketplace, unless the Board finds that the priority energy project could not be completed in a timely fashion without exercising this authority.

"(c) During any period when the authority conferred by this section is being exercised, the Board shall take such action as the President deems appropriate to assure that such authority is being exercised in a maner which assures the coordinated administration of such authority with any priorities or allocations established under subsections (a) and (b) of Title 50, Appendix, Section 2071, United States Code, which are in effect during the same period.

"POWER AND AUTHORITY OF THE BOARD

"SEC. 230. (a) The Board shall have the authority, subject to the provisions of this title and, within the limits of available appropriations, to do all things necessary to carry out the purposes of this title including the authority to—

"(1) make full use of competent personnel and organizations outside the Board, public or private, and form advisory committees, special ad hoc interagency task forces, and make other personnel arrangements in accord with Federal law, as the Board determines to be appropriate;

"(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Board with any agency or instrumentality of the United States, with any State, territory, or possession, or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, with or without reimbursement, with or without performance or other bonds, and with or without regard to section 5 of title 41, United States Code;

"(3) make advance progress and other payments which relate to the functions of the Board without regard to the provisions of section 529 of title 31, United States Code;

"(4) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Board and provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation;

"(5) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, real and personal property of all kinds necessary for or resulting from the exercise of authority granted by this title; and

"(6) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Board.

"(b) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit of the execution of such contracts or arrangements in such detail and in such manner as shall be prescribed by the Board, and such books and records (and related documents and papers) shall be available to the Board and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of such audit and examination.

"(c) The Board is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this Act. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly to the Board expeditiously upon its request.

"(d) On request of the Board, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Board in carrying out its functions under this section.

"(e) The Chairman shall, in accordance with such policies as the Board shall prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, and obtain services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"REPORTS OF THE BOARD

"SEC. 231. In addition to the specific duties assigned to the Board by this title, the Board is authorized and directed to review, monitor, and report semi-annually, or more often as necessary, to the Congress on—

"(a) the current status of all activities and programs being conducted by the Board; and

"(b) any significant delays in the completion of a priority energy project and the causes thereof.

"ABOLITION OF THE BOARD

"SEC. 232. On the last day of the first five years of operation of the last priority energy project to commence operation, the National Energy Mobilization Board shall be abolished. So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the operation of the Board shall be transferred to the Treasury or to such agencies of the Federal government in such fashion as the Director of the Office of Management and Budget shall determine.

"DEFINITIONS

"SEC. 233. For the purposes of this title, the term—

"(a) 'Board' means the Energy Mobilization Board created under section 226 of this title.

"(b) 'Chairman' means the Chairman of the Board.

"(c) 'enforcement' means monitoring and any other compliance or oversight activities reasonably related to the process of enforcing Federal laws, rules, regulations, or other approvals.

"(d) 'Member' means a member of the Board other than the Chairman."

4. On page 17, line 12, insert "ten" in place of "seven".

SUMMARY OF MAJOR PROVISIONS

Section 226 would create a new executive agency called the National Energy Mobilization Board. The Board would carry out all the responsibilities presently assigned to the Secretary of Energy under Title II of S. 1308. These responsibilities include designating priority energy projects, establishing Project Decision Schedules which specify deadlines and procedures for Federal agencies with approval authority over the priority project, and coordinating Federal actions with activities at the State and local levels.

The Board would be composed of a Chairman, appointed by the President with the advice and consent of the Senate, and five members. The members, who would include the Secretaries of Energy, Interior, Labor, and Transportation and the Administrator of the Environmental Protection Agency, would advise the Chairman, but all final decision-making authority would be held exclusively by the Chairman of the Board. The Board would be advised by a General Counsel, appointed by the President by and with the advice and consent of the Senate.

Section 227 would authorize the Board to issue subpenas and give the Chairman authority to appoint an executive director.

Section 228 authorizes the Chairman to appoint a Federal Inspector for any priority energy project. The inspector would possess all functions relating to the enforcement of all Federal statutes and regulations governing the pre-construction, construction and first five years of operation of the priority energy project. He would also be required to keep the Board informed of any significant departures by any Federal agency from compliance with the Project Decision Schedule. Each Federal agency with approval authority over the priority energy project would be required to appoint an Authorized Officer to assist the Inspector in carrying out his duties.

Section 229 would give the Board special authority similar to that given to the President under the Defense Production Act (50 U.S.C. App. Sec. 2071) to require performance under contracts and to allocate materials and facilities in such a manner as to expedite completion of any priority energy project. The Board would be empowered to exercise this authority only after making a finding that the priority project could not be completed in a timely fashion without use of this special authority.

Section 230 gives the Board certain essential "housekeeping" authorities, including the authority to enter into contracts, make arrangements for personnel, acquire real and personal property, and secure information from other Federal agencies.

Under Section 231, the Board is required to report to Congress on its activities and on any significant delays in the completion of any priority energy project.●

FEDERAL TRADE COMMISSION AUTHORIZATIONS—S. 1020

AMENDMENTS NOS. 313 AND 314

(Ordered to be printed and to lie on the table.)

Mr. SIMPSON submitted two amendments intended to be proposed by him to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979—S. 1149

AMENDMENT NO. 315

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to S. 1149, a bill to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation and related programs, and for other purposes.

DAVIS-BACON

Mr. GARN. Mr. President, today, I am submitting an amendment to S. 1149, the Housing and Community Development Amendments of 1979. My amendment will facilitate the efforts of neighborhood-based nonprofit self-help rehabilitation groups to provide employment, training, and better housing for the poor of the inner city.

The kinds of programs sponsored by these groups take unemployed people and involve them in the rehabilitation of their own and their neighbors' homes. For example, 235 units of housing have been reclaimed in New York City and 160 formerly unemployed and "unemployable" persons have received training in housing rehabilitation skills such as blueprint reading, drafting, accounting, construction management, housing finance, and cooperative management. Most of these people now own their own housing and hold down full-time jobs in the private sector—off the public welfare roll.

But the "greatest accomplishment," according to one self-help rehab organization, has been to help to create the opportunity for many "to get their first chance to really be something. People on the streets now know there is an alternative to dope, alcohol, unemployment, crime, despair, and death. Take over a building, get a job, put up a windmill, start a business."

Unfortunately, these programs are being impeded by the application of certain work rules issued under the requirements of the Davis-Bacon Act. These work rules require ratios of journeymen to apprentices of 5 to 1 on the average for any federally assisted projects with eight or more housing units. There have been instances where the required ratio has been as high as 12 to 1; that is 12 journeymen for each apprentice on the program.

As self-help operations, these programs rely heavily upon local, unskilled labor. The essence of the programs is people fixing up their own neighborhoods. The journeyman-to-apprentice ratios make this almost impossible, because they require bringing in five professionals for each unskilled community person working on the project. The nonprofit neighborhood groups cannot afford this and these requirements greatly dilute the job-training character of the projects. Thus, neighborhood groups are essentially prevented from rehabilitating older buildings with eight or more units.

The Davis-Bacon Act was never really intended to apply to these very special self-help projects which have developed only in the past few years. My amendment would establish a very narrow exemption so that journeyman-to-apprentice requirements would not apply to housing rehabilitation carried out by neighborhood-based nonprofit organizations with HUD assistance. The amendment leaves the Davis-Bacon Act itself unchanged.

This is not the first time the Congress has exempted programs from requirements of the Davis-Bacon Act. Similar legislation was enacted as early as 1949 and again in 1966 and 1974 providing exemptions for certain housing programs involving less than eight housing units.

I urge my colleagues to support neighborhood self-help by voting for this very narrow exemption from the Davis-Bacon work rules. Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 315

On page 31, between lines 2 and 3, insert the following:

SEC. 322. Notwithstanding any other provision of law, no requirements relating to the ratio of journeymen to apprentices shall apply to any housing rehabilitation activities which are carried out, directly or by contract, by a neighborhood-based nonprofit organization, and which are financed, in whole or in part, by a mortgage or loan which is insured or made or by a grant or other assistance which is provided under any program administered by the Secretary of Housing and Urban Development.

NOTICE OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold 2 days of hearings on July 23 and 24, 1979 for its semiannual review of the conduct of monetary policy by the Federal Reserve. These will be the second such hearings held pursuant to the requirements of the Full Employment and Balanced Growth Act of 1978. The Federal Reserve will be submitting to the Congress a written report on its monetary policy plans and objectives for the remainder of 1979, and for calendar year 1980. The Federal Reserve's report will also indicate the relationship between those goals and objectives and the economic goals of the President and the Congress.

On February 23 the committee will have four witnesses: Prof. Benjamin Friedman, department of economics, Harvard University, Cambridge, Mass.; Mr. Henry Kaufman, general partner and member of the chief executive committee, Soloman Brothers, New York, N.Y.; Prof. Lawrence Klein, department of economics, University of Pennsylvania, Philadelphia, Pa.; and Prof. Allan Meltzer, Graduate School of Industrial Administration, Carnegie-Mellon, Pittsburgh, Pa. G. William Miller, Chairman of the Board of Governors of the Federal Reserve System, will be the sole witness before the committee on February 24.

The hearings will be held each day at 10 a.m. in room 5302 of the Dirksen Senate Office Building. Anyone desiring additional information about the hearings should contact Steven M. Roberts of the committee staff at 224–7391.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, on July 16, 1979, the Committee on Energy and Natural Resources will commence hearings on S. 730, the Regional Energy Development Act of 1979 (ENCONO). The purpose of this bill is to create a regional energy corporation to provide technical and financial assistance to projects designed to increase the supply of energy and to promote the more efficient use of energy within the Northeast.

Invited witnesses are: Hon. Brendan T. Byrne, Governor of New Jersey; Hon. Hugh L. Carey, Governor of New York; Hon. Dick Thornburgh, Governor of Pennsylvania; Mr. Felix G. Rohatyn, Lazard Freres and Co., New York, N.Y.; Prof. Walter W. Rostow, LBJ Library, Austin, Tex.

The hearing is scheduled to begin at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Questions concerning this hearing should be directed to Richard D. Grundy of the committee staff at 224–9894.●

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. CULVER. Mr. President, as chairman of the Subcommittee on Administrative Practice and Procedure, I announce that our subcommittee will continue its series of hearings on proposed regulatory reform legislation (S. 104, S. 262, S. 299, S. 755, and S. 1291). The hearings will be held on July 18, 1979 at 9 a.m., 2228 Dirksen Senate Office Building, July 20 at 9 a.m., 424 Russell Senate Office Building and on July 25 and 26 at 9:30 a.m., 424 Russell.

The subject of the July 18 hearing will be the legislative veto. Scheduled to testify are the Honorable HARRISON "JACK" SCHMITT, the Honorable Griffin Bell and others.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY RESOURCES AND MATERIALS PRODUCTION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Resources and Materials Production Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on S. 1308, the Energy Supply Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the International Trade Subcommittee of the Committee on Finance be authorized to meet during the session of the Senate today, beginning at 2:30 p.m., to hold a hearing on the Trade Agreement Act of 1979.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 12, to consider several judgeship nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ZIMBABWE-RHODESIA

● Mr. GARN. Mr. President, I would like to take only a brief moment to draw the attention of my colleagues to an eloquent statement by Mr. Bayard Rustin concerning U.S. policy toward Zimbabwe-Rhodesia. Mr. Rustin's words ring true at every turn. It is almost incomprehensible that President Carter could mistake the wisdom of Mr. Rustin's analysis or reject the sagacity of his counsel.

I sincerely hope that Bishop Abel Muzorewa, the newly elected Prime Minister of Zimbabwe-Rhodesia, can convince President Carter and Secretary of State Vance of the justice in lifting U.S. economic sanctions. To date, our policy has been dangerously misguided. As Mr. Rustin correctly notes:

> We (the U.S.) have found ourselves, until now, tacitly aligned with groups armed by Moscow, hostile to America, antagonistic to democracy, and unpopular within Zimbabwe-Rhodesia itself. And we have opposed the internal parties which look to us for support, share our professed belief in an open multiracial society, and have genuine popularity within the country.

Mr. President, the United States must alter its present course. We must end our hostility to the government of Prime Minister Muzorewa, and we must drop economic sanctions against Zimbabwe-Rhodesia. If we continue to flounder along our present path, we will only accomplish what Mr. Rustin so ardently wishes to avoid:

> We will have raised a signal to all the world that this country no longer has the capacity to defend or even understand its interests, or to help those who, unlike ourselves, continue to believe in freedom.

Mr. President, I ask that Mr. Rustin's article, "The Psychology of Appeasement," be printed in the RECORD.

The article follows:

THE PSYCHOLOGY OF APPEASEMENT

(By Bayard Rustin)

"While Muzorewa and the other internal black leaders have expressed a practical interest in retaining the skills and energies of the whites for Zimbabwe, expediency had not been their only consideration. Whites who have been four generations in Zimbabwe, Muzorewa has said, and who have no other home, must not be 'driven out to nowhere.' In an open letter to American blacks, Muzorewa has emphasized that Zimbabweans had never 'fought the white man's skin. We fought his evil system. We fought his racism.' Some people, he said, feel that we should 'be ruthless with the white race. But I wish to warn against the reversal of discrimination . . . it makes us hypocrites to turn into black racists ourselves. It makes us oppressors and not liberators.'

"Ordinarily one might expect such sentiments to be applauded by Western liberals. But in fact, as Bishop Muzorewa said recently, while Zimbabweans 'are prepared to forget the past and work together with our white brethren . . . some people in Britain, America, Africa, and other parts of the world appear unwilling to allow us to do so.' Little attempt has been made even to understand the practical and moral aspects on the bishop's position, which is viewed as a rationalization for continued white control of Zimbabwe Rhodesia. As a result, we have the paradoxical situation that a settlement which has been accepted by most people inside Zimbabwe Rhodesia as the best and only realistic course for their country is opposed by foreign advocates of 'majority rule'!

"What alternative do they urge on us? A role for the Patriotic Front, the paper alliance of the organizations of Joshua Nkomo and Robert Mugabe (which have adopted as uncompromising an attitude toward each other as toward the internal settlement). Nkomo, given his narrow base, could only rule through force. And his close ties to Russia and Cuba make it inevitable that both countries would have a decisive influence in any government he headed. Mugabe, even more than Nkomo, favors totalitarianism out of ideological conviction. He has made no secret of his belief that 'the multiparty system is a luxury,' and he has announced that if the blacks of Zimbabwe do not like his ideology, 'then we will have to reeducate them.'

"Both have said they would only consider holding elections after power had been transferred to the Patriotic Front. This, if anything, is a sure recipe for civil war, since an election policed by the two guerrilla forces of the Patriotic Front would quickly degenerate into a war between them.

"Into the essentially internal African debate have stepped the Soviet Union and its Cuban and East German proxies, seeking to exploit African conflicts and frustrations to advance Moscow's geopolitical ambitions. And into it also has wandered the United States, newly sensitive, as it would like to think, to the aspirations of black Africa and determined, as Secretary of State Vance has put it, not to 'mirror Soviet and Cuban activities.' The foremost U.S. objective has been to preserve American 'credibility' in black Africa.

"With respect to Zimbabwe Rhodesia, the price for maintaining American credibility among the frontline presidents and with Nigeria has been that we support—or at the very least, do nothing to oppose—the Patriotic Front. As a result, we have found ourselves, until now, tacitly aligned with groups armed by Moscow, hostile to America, antagonistic to democracy, and unpopular within Zimbabwe Rhodesia itself. And we have opposed the internal parties which look to us for support, share our professed belief in an open multiracial society, and have genuine popularity within the country.

"That fact is that this has not been the only practical course open to us. The psychology of appeasement is now so deeply rooted among most American officials and political commentators that they have, almost as a matter of course, underestimated our own strengths and the strengths of our friends, as well as the weaknesses of the Soviet position. U.S. officials tremble at the thought of a Nigerian oil embargo, forgetting the fact that Nigeria needs American capital and technology at least as much as America needs Nigerian oil. Most importantly, within Zimbabwe Rhodesia itself, there is now less sympathy for the guerrillas than ever before. If this government takes steps, as it has promised, to improve the social and economic position of the black population, the rate at which guerrillas will defect could increase dramatically. Moreover, Zambia and Mozambique, which have suffered badly from the fighting and are heavily dependent on the much stronger economies of Zimbabwe Rhodesia and South Africa, are already under pressure internally to end their support of the Patriotic Front and to accommodate to the new reality.

"The point is that it should not be our policy to create opportunities for the Russians and to encourage the guerrillas to continue fighting, which is what U.S. repudiation of the Muzorewa government has done.

"Beyond this is the larger question of whether we will do anything to help the new black government to survive and continue to evolve in a democratic direction; or whether, by our inaction and failure of nerve, we will embolden its enemies and thus destroy any hope for democracy in the country. If we take the latter course, we will have done nothing to increase the credibility of the United States either in Africa or elsewhere. On the contrary we will have raised a signal to all the world that this country no longer has the capacity to defend or even understand its interests, or to help those who, unlike ourselves, continue to believe in freedom.●

RESOLUTION OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, the Secretary of the Interior has requested approval to execute a supplemental contract with the Midvale Irrigation District for work on the Riverton Unit, Pick-Sloan Missouri basin program, Wyo. The contract will permit the United States to reimburse the Midvale District up to $400,000 for work under the act of June 13, 1956, which authorizes contracts for drainage and minor construction work on Federal reclamation projects. Midvale is the operating entity for the Riverton Unit. The work to be performed includes drain construction, lining of laterals, and certain investigative work preliminary to the issuance of specifications for construction contracts. The proposed contract will continue work previously commenced by the district. Repayment of the total amount advanced to the district under the proposed contract is fully covered by a 1971 repayment contract with the district.

The act of June 13, 1956 requires that such contracts, exceeding $200,000, shall not be executed until 60 days after they have been submitted to the Congress. They may be executed sooner if approved earlier by the appropriate congressional committees. Because an executed contract is required to continue the work of the Midvale District envisioned by current budget requests, the Secretary has asked for early approval of this contract.

At a business meeting on July 10, 1979 the Senate Committee on Energy and Natural Resources passed a resolution approving the execution of the contract in question.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

The text follows:

RESOLUTION OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Resolved, that pursuant to the Act of June 13, 1956 (70 Stat. 274, 43 U.S.C. 505) the Senate Committee on Energy and Natural Resources hereby approves the execution of supplement No. 3 to Contract No. 14–06–600–444A between the United States and the Midvale Irrigation District for work on the Riverton Unit, Pick-Sloan Missouri Basin Program, Wyoming submitted to the Senate by the Secretary of the Interior on May 21, 1979.●

COMMENCEMENT ADDRESS BY REV. THEODORE M. HESBURGH

● Mr. GARN. Mr. President, a recent commencement address by Rev. Theodore M. Hesburgh, C.S.U., president of the University of Notre Dame, discusses what I believe is one of the most important and valuable aspects of our lives today. Volunteerism, the donation of time, service, and substance to helping others, is an important part of American life, and a part often overlooked as Americans search for personal fulfillment. Father Hesburgh reminds us in this address that volunteerism is an essential part of our lives, and indeed the way of personal satisfaction for each of us.

I commend Father Hesburgh for this excellent address presented at the University of Utah Commencement in Salt Lake City, Utah, on Saturday, June 9, 1979, and ask that it be printed in the RECORD.

The address follows:

UNIVERSITY OF UTAH 110TH COMMENCEMENT ADDRESS

(By Rev. Theodore M. Hesburgh)

SERVICE TO OTHERS

This is a day and an occasion on which all of you graduates tend to think long thoughts: a chapter of your life ending and a new one beginning; something seriously accomplished, something yet to be done; a time for planning, for dreaming and for hope. It is also for some of you a time of uncertainty or ambiguity, a time of nostalgia, of leaving dear friends and dear places, and also for some a time of fear. I suppose that each one of you graduates has thought in your more quiet moments, what is to become of me and what will be the value of my life?

I cannot help you with the first question, because I am not a prophet and I do not know—only God does—what will become of each one of you in the years ahead. But I can say something about the second question, what will be the value of your life, wherever you go and whatever becomes of you.

Before doing this, let me try to put all of your lives in perspective. First, you have an abundance of reasons to be grateful. You might have been born in Neanderthal times when human life was brief and brutal. You might have been born in the dark ages when there was little culture and less hope. For most of mankind's history, and for most of the men and women who have ever lived on earth, life has just meant a daily sun rise to sun set effort just to sustain physical existence, not to enrich it, or much less to enjoy it. Most of the men and women who have ever lived have survived for a while, but have not really lived humanly at all, in the sense that all of you will live humanly from here on.

For some reason that you and I cannot explain, we were born in the most advanced and the most civilized age that mankind has yet known. Moreover, we find ourselves living in the most developed and most affluent nation on earth.

So far, so good, but the blessings of all this prosperity are not completely unmixed. We in America have our special temptations today. We enjoy an enormous freedom to do something with our lives, but we are, because of our times, pulled in many different powerful directions: to seek security even though it may mean a very bland existence; to seek physical pleasure at all costs even though this means a superficial and a selfish life; to seek money and material gain alone, even though we have been taught that spiritual achievement is of a much higher and a much more fulfilling nature. We may also seek power for its own sake, a very heady adventure, but chancy one unless we have a fairly clear idea and a fairly good intention about the use of power. None of these goals: security, pleasure, wealth, or power are bad or evil in themselves. They vitiate our lives only if they become ends in themselves, without being linked to those higher goals that lift each one of these lesser goals to a nobler purpose. Seek any one of these for themselves alone, be it power or pleasure or security or wealth, and they will empty your life of value, whatever power you wield, whatever wealth or pleasure you enjoy. History books are full of leaders who have wielded power for its own sake and left millions of ruined lives in the wake of their life. Hitler is a classic example of this in our century.

The greatest freedom you enjoy today is the freedom to choose your own goals for your lives, goals that will enrich both you and your times whatever wealth, or power, or pleasure you will enjoy in all the years yet to come. I would like to suggest to each one of you today, one goal that has served our country, our world, and our fellow human beings quite well. For want of a better term, I will just call it "service to others."

Years ago, the French philosopher de Tocqueville found this virtue of service to others one of the most redeeming features of American life. He remarked that when Americans discovered a problem, they just got together and did something about it. In the years since he wrote, volunteerism has given us all of the great religious and secular endeavors that enrich the life of this country, hospitals and universities, myriads of professional societies for lawyers, doctors, teachers, youth activities of every kind, scouts, 4–H, Y.M.C.A., C.Y.O. clubs, service organizations, associations for good works on every level of local and national life.

Now in that other great grey world of socialism, everything is done by the state, nothing is private or voluntary and this is what really differentiates us from the socialist states. Here we do the most important things for ourselves. In fact, if all private volunteer activities were to cease today, it would affect our lives far more intimately than if the federal government—the greatest public power—suddenly ceased to exist. It would be interesting to contrast the good done by the billions given to voluntary non-profit good works with the results of the much greater amount given through federal taxation.

Who can measure the good will and the generosity that inspire and sustain all these beneficial voluntary activities? All we can say for certain is that unless millions of Americans pitched in and made them work, there would be none of them, no churches, no political parties, no vast agriculture, no

Red Cross or United Fund, no newspapers, radio, or television, no opera, ballet, or orchestras, no museums or galleries, not even many zoos.

Volunteerism, the great American virtue of giving something of one's self to help others, has certainly served America well and it has given a very special character to our national as well as our local life. It has been suggested that your generation will not sustain all of these good works, since this is called the "me" generation, with its own best seller, which is titled "Looking Out for Number One."

I don't believe that. Better than one third of our student body at Notre Dame spends untold hours each week in myriad tasks of volunteerism helping the old and young, the retarded, the sick, and the unfortunate of every kind, and I'm sure a great deal of that goes on here too. If I had my way, service to others less fortunate would be an expected and integral and required part of every American's higher education, not just in service to Americans, but to the world as well. I think it is part of the dues we should pay for our great good fortune as the most highly endowed nation on earth. It may even be, for all the generations to come, the only real way of keeping America great and of redeeming our often dismal times.

Allow me now to suggest to you graduates three qualities intimately associated with the volunteer spirit, qualities that I would hope you might make a part of your lives in the days to come, to assure your lives and yourselves of great value and high quality.

First, compassion. This really means the human quality of sensitivity, to suffer with those who suffer, to be moved, to reach out, to understand, to want to help, to serve. We find the opposite of compassion in the story of the Good Samaritan.

The priest and the levite, both supposedly religious persons, saw the poor fellow who had been set upon by robbers on the road to Jericho, and they saw him beaten and left helpless and stripped beside the road. The priest and the levite looked at him and passed on. They didn't want to get involved—like so many moderns who pass by accidents on the highway or look the other way when someone is in trouble in one of our great cities. The Good Samaritan, however, looked and was moved by compassion. He bound up the poor fellow's wounds as best he could, brought him to the nearest inn, and he paid for his care, Jesus told that story when He was asked one day, "Who is my neighbor?"

In a shrinking and highly interdependent world, everyone is our neighbor: especially the billion unfortunates of the Fourth World who are hungry every day, who are illiterate, who never see a doctor from birth to death, who live in cardboard shacks or mud and wattle huts, and have to live each year on less money than most of us will spend this weekend. Like ourselves, all of these billion unfortunates are human beings, as are our own American unfortunates who live in our affluent country's all too numerous pockets of poverty. Unlike us, all of these unfortunates, like the man beaten and robbed on that dusty road to Jericho, have little hope, unless somehow we look upon them and are moved to compassion.

However, compassion alone will not do it, unless joined to another quality, a second quality, that I recommend to you today for all the days of your life, namely commitment. We are told by the so-called wise ones of our generation that it is neither cool nor clever to commit oneself to anything. Maybe that explains why we have so many divorces in America today compared to marriages. It takes real commitment to love, to be able to say and to mean: "for better or for worse, for richer and poorer, in sickness or in health, until death do us part," or as some of you will say, forever. Commitment is very much akin to love and the measure of love for anyone who has really loved, is to love without measure forever. Calculation never made a hero and it also never made a real lover.

Albert Schweitzer, a true hero of our times, when there are few heroes, was a promising theologian, a concert organist, and a medical doctor as well. He loved those less fortunate and most needy enough to leave Europe, his native land, and his triple career there to serve those without any medical care at a town called Lambarene in what was then French Equatorial Africa. I do not know what fame he might have achieved if he had remained in Europe, but by going to Lambarene he inspired all the world for what he did in that remote village on the shore of a turgid African river.

One of our students, named Dr. Tom Dooley, was inspired by Schweitzer to give up a promising career here at home to give his life and his medical skill to literally hundreds of thousands of unfortunates who otherwise would have been without medical care in Southeast Asia. I happened to have been with Tom Dooley on his thirty-fourth birthday when he lay dying in Sloan-Kettering Memorial Cancer Hospital in New York City. He died the next day, but he left a legacy. He left a dozen hospitals which he established by his own earnings all throughout the underdeveloped world. He did not live a long life, but I think his very short life had a quality all its own. And he had a quality because he was not just compassionate when he saw suffering but he committed himself like Schweitzer to do something about it.

We cannot all make the commitments of a Schweitzer or a Dooley. But without some measure of compassion and commitment, we are likely to live for ourselves alone and I must tell you that is a poor and valueless life indeed.

The third and final quality I would recommend to you today is consecration. This is obviously and admittedly a religious word and a religious reality in our lives. I make no apology for it because I personally find the other two qualities of compassion and commitment very difficult to achieve in one's life, unless buttressed by religious motivation. Transcending, unaided by divine grace, the overwhelming urge to personal selfishness and self-centeredness in one's life is something I cannot honestly recommend that you try. I think the Lord was telling us this when He said we have to lose our lives to find them and we lose our lives in service to others and find ourselves most enriched by that which we give away. As the Lord said, "It is better to give than to receive."

Once more, I think a story or a picture is worth more than a thousand words. One of our students was spending his summer on the altiplano of Peru working on a social project there some years ago. One morning, as he walked along the shore of Lake Titicaca to the clinic where he worked, he passed an Indian hut and a little girl of four or five came running down the path in curiosity to see the stranger. He knelt down to talk to her, face to face, and found that she did not even speak Spanish, the language of Peru, but only Quichua, the Indian language of the high Peruvian plateaus since the time of the Conquistadores and before. As he looked at her and considered her situation in life, his faith was deeply shaken. It is cold at 14,000 feet early in the morning. He had a warm jacket on, she, only a thin cotton dress. He had eaten a decent warm breakfast, she would be lucky to get a cold crust of bread as the day wore on. He was a university student and graduate as you are, she would not only be illiterate in the language of her country, but in her own language as well. He had high hopes for the future, she could only face a short, difficult, painful and hopeless life.

How can there be a God, he thought, with such injustice, such inequity, in this world? Then he remembered the stirring words of the Gospel, the ultimate judgment as the Lord proposed it on all of our lives. "I was hungry and you gave Me to eat, I was thirsty and you gave Me to drink, I was naked and you clothed Me, I was in prison and you visited Me, I was a stranger and you took Me in. Whensoever you did this to one of these, the least of My brethren, you did it to Me." And suddenly this student began to realize that God works in this world through us, through each one of us human beings working with others. And he realized that we serve God best by serving others in need, in whom we find the Master.

The young man completed his education, fulfilling the compassion and commitment of that moment in early morning on the lake side, and is consecrating his professional efforts today in a distant and very poor land for the betterment of his neighbors there. I like to think he is loving and serving God, too, by everything that he does for others less fortunate. And I know that while everything that he does has great temporal value in redeeming and making life more supportable in his times and in fulfilling him personally as a human being, I also know that more importantly what he does is of eternal value. He is loving God by serving others. And the word consecration, that quality of our lives of lifting up that which we do humanly to make it of eternal value, the word consecration says all that.

Let me conclude by saying, you do not have to go afar as these three persons did to serve others. All around us, if we open our eyes, are those in need. They need teachers as well as doctors, lawyers as well as social workers. They need business people who see beyond profit. Mostly they need compassionate, committed, consecrated neighbors and friends. Whereever you go, whatever you do, you will always find people in need of something you can give, if you will, if you are prepared to give of yourself to others.

Is all of this too idealistic to be true? Let me say to each of you, in conclusion, the truest advice I know. One day, on a trip back to Europe, Dr. Albert Schweitzer was asked to address a graduating class like yours here today. His words were few, because his life was his best message. He simply said: "I do not know where all of you are going and I certainly do not know what you will do with your lives, but let me tell you simply this: unless you set aside some portion of your lives to help and serve others less fortunate than yourselves, then your lives will not really be happy."

My best wish and my prayer at Mass which was for all of you today is simply this: May you all find, in all your various ways and wonderful days of your lives in the days ahead, the marvelous secret of living happy lives by serving others. May God bless and keep you always.●

CHRISTOPHER DOW MARSHALL

● Mr. KENNEDY. Mr. President, early this morning, Christoper Dow Marshall, the son of our Secretary of Labor, passed away. He was 16. In his youth, he had already distinguished himself. He was an excellent student at Woodson High School, and was a sports enthusiast, especially in track. But Christopher distinguished himself as well during his long illness, when his great gallantry was a beacon to others who were ill. He took it upon himself to visit and cheer other patients.

John Milton wrote of another youth words which we think of here:

> For Lycidas is dead, dead ere his prime

> young Lycidas, and hath not left his peer:
> Who would not sing for Lycidas? He knew
> himself to sing, and build the lofty rhyme.

Our sympathy goes to Secretary Marshall, his wife Pat, and Christopher's sisters and brother, Jill, Susan, Sarah, and John.●

COMMENTS ON SALT II ALTERNATIVES

● Mr. GARN. Mr. President, I take the floor today to reply to the unjustified criticism by Senator JOHN CULVER of Senator HOWARD BAKER's position of opposition to SALT II. Senator CULVER argues that we do not have to worry about the giant Soviet SS–18 ICBM's because the hundreds of smaller Soviet ICBM's also represent a threat to the U.S. ICBM force. This is not the first time, nor will it be the last, that one great defect in SALT II will be raised to justify the acceptance of another great defect.

It is certainly true that the Soviet SS–19 and potentially the SS–17 ICBM represents an effective threat to the survivability of our ICBM force. The SS–17 and especially the SS–19, are heavy missiles under the definition of the term promulgated by the United States at the time of the signing of SALT I. The SS–19 is some 50 or 60 percent larger than the Soviet SS–11 missile it replaces, and carries five times the payload or throw weight and six times as many warheads which can be delivered with far greater accuracy. The SS–19 has 60 to 75 percent of the capabilities of acknowledged Soviet missiles. What Senator CULVER ignores is that the deployment of something like the SS–19 was supposed to be prohibited by SALT I. Instead, we allowed the Soviets to deploy this missile with barely a peep of protest and legitimized it in SALT II. Indeed we even agreed to allow every Soviet missile to be upgraded to the launch weight and throw weight of the SS–19. The agreement also allows the SS–19 follow-on ICBM to carry 10 warheads and future SLBM's to carry 14.

The 308 Soviet heavy ICBM's are clearly the greatest threat to our security.

In my alternative SALT treaty proposal, I have recognized the threat from the Soviet "medium" sized missiles of the SS–17 and SS–19 class and proposed a substantial reduction in the numbers allowed. I believe that if we are to make any progress in arms control, both classes of missiles will have to be reduced. I find it quite remarkable that the U.S. MX, which is directly equivalent to the SS–19, is often presented in the U.S. debate as some sort of superweapon and threat to strategic stability while the near term (1981) Soviet MIRVed ICBM force allowed under SALT II will have six times the destructive potential of the entire proposed 1989 MX force. This is a completely unacceptable condition, and if we cannot prevent this threat from developing through the SALT process, it is essentially negative in its impact on our security. In any event, we must take the first step in limiting the growth of the Soviet ICBM force and limitations on the Soviet heavy missile force is clearly the first step in this direction.

Much is currently being made of the Soviet potential to put up to 40 warheads on the SS–18 heavy ICBM. Technically, this is possible. It would, however, convert the SS–18 from the most effective missile in the world to one of the least flexible and effective.

There is no technical reason why 40 warheads could not be put on a SS–18. The only limit on the number of warheads that can be dispensed is the flight time of the missile. Some numbers of warheads are harder to design a PBW (MIRV Bus) for than others but this is an engineering problem. There is clearly a point of diminishing returns in the number of RV's that is desirable. A figure of 40 is almost three times too high.

The larger the number of RV's to be deployed, the higher the weight of the bus has to be. There is a requirement for both additional stations for warheads and additional fuel to maneuver the bus prior to each release. This means a smaller portion of the throw weight is available for the nuclear payload. This alone tends to reduce the effectiveness of the system. A very large number of warheads dictates a large MIRV footprint and this further reduces the weight available for weapons.

Smaller nuclear weapons tend to have lower yield-to-weight ratios. For example, in 1974, James Schlesinger indicated that 1,400 MIRVed SS–17, 18, and 19 ICBM's could carry 7,000 to 8,000 one megaton bombs, or 15,000 Mark 12 type warheads or 33,000 Poseidon weight MIRV's. The yield of the Mark 12 is reported to be 170 kilotons and the Poseidon 40 kilotons. Hence, less than a five-fold increase in warheads would have resulted in a 25-fold reduction in yield of the warheads. Mr. Schlesinger's 33,000 Poseidon force averaged 23 warheads for each Soviet ICBM and probably about 40 warheads for the SS–18.

The yield of nuclear weapons is dependent on weight, technology, and according to Aviation Week, the amount of oralloy that is included in them. Information in Aviation Week suggests that there is about a 100-percent yield increase in a Mark 12 sized weapon when a large amount of oralloy is included compared to a small amount of oralloy is employed. Hence comparisons between the effectiveness of nuclear weapons must be based upon the assumption the same type of technology is used in both. The assumed yield for Soviet warhead options for this comparison will be 40 kilotons for a small warhead, 250 kilotons for a medium-size warhead and a 1 megaton for a large MIRV warhead. The SS–18 is assumed to carry 40 weapons of 40 kilotons, 20 weapons of 250 kilotons, and 10 weapons of 1 megaton.*

The megatonnage of the three warheads options are:

Forty 40 kt equals 1.6 megatons;
Twenty 250 kt equals 5 megatons; and
Ten 1 megaton equals 10 megatons.

Hence if the Soviets went to the 40 warhead option, the amount of the United States they could contaminate by ground burst of nuclear weapons and generation of heavy fallout would be reduced to 16 percent of the 10 warhead option. Even with the 20 warhead option, it would decline 50 percent.

In terms of equivalent megatons (a measure of the area blast effectiveness against urban industrial targets), the relative destructive potential of the forces would be:

Forty 40 kt equals 4.67 megaton equivalents;
Twenty 250 kt equals 7.93 megaton equivalents; and
Ten 1 megaton equals 10 megaton equivalents.

Hence going to a 40 warhead option for the SS–18 would reduce its soft target kill capability by over 50 percent.

Another important comparison between the effectiveness of these forces would be their kill probability against a Minuteman silo assuming a fratricide limit of 2 weapons per target. Aviation Week reports that the SS–18 and SS–19 have achieved CEP's of almost 0.1 nmi. The committee on the present danger reports it is 0.15 nmi. There are press reports that the next generation of Soviet ICBM's will have CEP's of 0.1 nmis. The kill probabilities of the respective warheads with 0.15 nmi CEP with a two RV attack would be:

40 kt equals 19 percent;
250 kt equals 50 percent; and
1 megaton equals 88 percent.

With a 0.1 CEP these figures would be:

40 kt equals 40 percent;
250 kt equals 80 percent; and
1 megaton equals 95 percent.

It is very clear that for the period of SALT II it is to the advantage of the Soviet Union to keep the yields on their strategic nuclear weapons at the 1 megaton level or as close to this as is possible.

If we were to assume that the 6th generation Soviet SS–18 would have a CEP of even 0.075 nmis and the United States were to deploy Mr. Carter's 1,000 PSI trench multiple aim point system, the 40 warheads option would still only generate a 76-percent kill probability assuming a two RV attack which would require not only the entire SS–18 force but 250 SS–19's equipped with 20 warheads each.

Against Mr. Carter's basing system, with such a high accuracy, a 100 kt warhead would be a good option. But if the same amount of money were spent on vertical silos with perhaps three times the hardness, it takes two 250 kt warheads to get a 90 percent kill probability. Against a 9,000 aim point system, the entire projected 820 MIRVed force would only have two-thirds of the number of weapons required. Indeed, if the Soviets converted all their existing ICBM silos to such a warhead configuration, they would still not have sufficient warheads to launch such an attack.

Hence two facts stand out: First, the warhead fractionalization limits do not help us—they merely deny the Soviet Union the option of deploying a less effective missile force; and second, in the very long run the combination of the SALT II limits on MIRVed missiles and number of RV's per booster (if verifiable, which they apparently are not at this time) combined with an amendment to the treaty to legitimize the verticle multiple protective structure system would increase somewhat the survivability of the U.S. ICBM force in the 1990's. (The increase in survivability would not be in any way comparable to the effectiveness of a MPS system if it were defined with any type of ABM using a mobile, not targetable radar.)

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*The SS–18 is apparently capable of carrying 14 of the 1 megaton warheads. This would change the numbers but not the results since it would mean even larger numbers of smaller weapons could be carried or the yield of all three types could be upgraded.

U.S. WARHEAD OPTIONS

If the United States desired an ineffective MX, a 40 warhead option would probably be possible. The MX clearly could be designed to carry about 22 Poseidon warheads. A very light weight RV carrying the Poseidon's fission trigger would be a possibility. It is possible that we could also configure a very tiny thermonuclear weapon or advanced design for a 40 warhead package if nuclear testing were to continue. For purposes of comparison of the effectiveness of conventional MX warhead options (335 kt and 500 kt) and phyothetical 5 kt fission and a potential advanced technology 25 kt thermonuclear weapon are in megatonnage:

5 kt equals .2 Mt;
25 kt equals 1 Mt.;
335 kt equals 3.35 Mt.; and
500 kt equals 5 Mt.

In megaton equivalents it would be:

5 kt equals 1.16;
25 kt equals 3.41;
335 kt equals 4.82; and
500 kt equals 6.29.

With a 40 kt yield the Poseidon sized warheads even with a MX accuracy, would only have a 50 percent kill probability against Soviet silos with a two on one attack. With a 500 kiloton option, a single RV on target would have an 82-percent kill probability.

It is clear that dramatically increased fractionation within the SALT limited MX payload have a negative effect on U.S. counterforce capability. Increased fractionation due to increased payload is a different matter. If the United States could build a heavy missile, for example, we might mount 10 one megaton MIRV's (which would have a kill probability of 94 percent against a Soviet silo) or if the extra payload was used to mount enough 500 kt warheads for a two on one attack, we could achieve kill probabilities of 97 percent. For example, even a modest increase in MX payload should allow the deployment of a 14 warhead package for a 500 kt weapon. This would give the 200 MX missiles now being considered for deployment 2,800 instead of 2,000 weapons.

THE WARHEAD YIELD ISSUE

The Carter administration is clearly trying to negate the Soviet throw weight advantage in the popular debate by, according to press reports, approving a 500 kt warhead for the MX and leaving reports that the intelligence community now assesses the yields of the SS-18 MIRV at 600 kt. This comparison is highly misleading because it obviously is not comparing similar designs. The use of similar designs by the Soviets should result in well over twice the yield possible in the MX warhead—the 1 to 2 megatons Mr. Schlesinger alluded to in 1974. Moreover, there are reports in the press, confirmed by Senator GLENN, that the Soviets can deploy up to 14 such warheads on their SS-18. MX is still roughly half as capable as the SS-18 or its follow-on missile.

The larger warheads available to the Soviet Union are of great strategic value. This means they require fewer warheads to cover soft area targets and they have higher kill probabilities against hard targets. Indeed, the hardness of any concrete structure is lower against a megaton range warhead than it is against a 40 kiloton warhead because the plus of overpressure is longer.

Another unexpected side effect from SALT is that, to the extent that it really reduces the growth in the number of Soviet warheads it will probably result in an increase in the average yield.

The Soviets are apparently maintaining their production of fissionable materials at high levels while we are producing no orralloy and very little plutonium. This trend, over a decade of SALT, should result in a significant further increase in Soviet warhead yields.

THE WARHEAD TARGETING PROBLEM

A principle reason why a 40 warhead package makes no sense for the SS-18 is that the MIRV footprint of any missile is limited and when one gets much above perhaps 10 weapons (except for targeting missile silo fields) one finds that it is impossible to find enough targets within the footprint. The more warheads that are put on any missile, the smaller the footprint tends to become. The result tends to be the destructive one or a few targets with a large number of weapons rather than its destruction with a single weapon or a few weapons.

THE COST OF 40 WARHEAD OPTION

Nuclear weapons apparently cost from several hundred thousand to well over half a million. Since available data is several years old, it may be higher today due to inflation. While the Soviets do not measure costs in the same terms as we do, commitment to a 40 warhead option for the SS-18 would deny them other important strategic and tactical weapons options. It would not only tie up production facilities, but would be far more costly in terms of fissionable material. Each one of those 40 warheads per missile would have to have a fission trigger which requires a significant amount of fissionable material.

The SS-18 is far superior to the MX with any reasonable warhead option. It can carry at least 14 warheads twice as large as that of the 10 warheads of the MX. These weapons have a yield potential of at least twice that of the MX weapons. But even if the SS-18 carried a weapon of 600 kilotons, as leaked by the Carter administration, the SS-18 would be far superior. Fourteen 600-kt weapons carry about 10-megaton equivalents while 500-kiloton weapons carry 610-megaton equivalents.

The Soviets clearly plan 820 MIRVed ICBM's of equal or greater capability than the MX and several hundred non-MIRVed ICBM's of MX payload. By option for the 500-kt weapon for MX without reinitiatıng the production of weapons grade oralloy the Carter administration will assure U.S. strategic and theater nuclear superiority by tying up U.S. resources in a small number of MX warheads. The larger Soviet warheads apparently gives them the option of deploying many more weapons with the same amount of fissionable materials.●

SALT II AND THE STRATEGIC BALANCE

● Mr. TOWER. Mr. President, last evening the distinguished junior Senator from New Hampshire delivered the keynote address at a conference held at the Madison Hotel on "SALT II and the Strategic Balance." The conference, sponsored by the Institute for Foreign Policy Analysis, brought together distinguished representatives from Government and academic circles to discuss SALT II. The conference represented the culmination of a 2-year effort by the institute to bring Government and nongovernmental experts together to examine and evaluate arms control efforts made by the United States and the Soviet Union over the last 10 years. Senator HUMPHREY'S speech entitled "SALT II, Assured Survivability, and the Common Defense" outlines succinctly the major problem areas confronting the United States as it is about to enter its second decade of arms control negotiations with the Soviet Union. Senator HUMPHREY not only examined the SALT II agreement, per se, he also placed the treaty in the context of the international, political and military environment confronting the United States. In this respect, Mr. President, Senator HUMPHREY'S speech is a valuable guide to approaching SALT II and for this reason I ask that it be printed in the RECORD.

The speech follows:

SALT II, ASSURED SURVIVABILITY, AND COMMON DEFENSE

(By GORDON J. HUMPHREY)

Nearly ten years ago the United States and the Soviet Union entered into negotiations for a strategic arms limitations treaty. Since that time, there have been many changes in the global strategic environment and in our nation's standing as a world power. We have passed through a decade of trauma and self-doubt in the aftermath of the Viet Nam War. We have become dependent to an extent without parallel in our history upon overseas sources of energy at a time when our ability to influence events far from our shores has diminished. The world of the late 1970s is far more hostile for the United States than at any time since the darkest days of World War II. In the past decade we have witnessed a massive armaments effort by our principal adversary, the Soviet Union, that exceeds by far that of the United States. In spite of the efforts of successive Administrations to promote an improved relationship with Moscow, the Soviet Union has exploited to its advantage the numerous crises that have erupted in remote corners of the globe—in Southeast Asia, in the Persian Gulf and Middle East. We have seen the establishment of Soviet-supported client states in Viet Nam and in Afghanistan, as well as the massive Soviet effort to extend Moscow's influence in Africa.

This is the backdrop against which the United States has negotiated arms control agreements with the Soviet Union since 1969. In 1972 we signed a treaty that drastically limited, and effectively prohibited, the deployment by the United States of an antiballistic missile system—the ABM Treaty. As the same time we concluded the Interim Agreement on Offensive Strategic Systems, whose effect was to concede to the Soviet Union quantitative superiority in ICBM launchers and submarine-launched ballistic missile systems, in return for the then existing qualitative edge enjoyed by the United States in such areas as warhead accuracy. The signing of SALT I was accompanied by euphoric expectations that we were entering a new era of detente in our relationship with the Soviet Union. The signing of the SALT II Treaty in Vienna has produced less buoyant hopes. But we are told by supporters of this Treaty, as we were by the advocates of SALT I, that it will result in a more stable strategic nuclear relationship between the superpowers. We are urged to believe that, without SALT I or SALT II, the world would be a far more dangerous place in which to live. We have been told that SALT II will be followed by SALT III, IV and V, during which time the deficiencies of SALT I and II, numerous as they are, will somehow be remedied.

No one can say with certainty what the world of the 1970s would have been like without the SALT I Agreements, or without the SALT II Treaty. It is not given to us to rerun the history of any era, but we do know what the world has been like with SALT. In 1972 the United States acclaimed the SALT I Accords as part of a detente relationship with the Soviet Union. SALT was supposed to usher in, and to symbolize a new relationship with the Soviet Union. Yet no one here this evening could assert that our relationship with the Soviet Union in the summer of 1979 is better than it was in the summer of 1972. The Soviet Union has extended its influence into regions vitally important to the survival of the United States and its allies. This is the meaning of the growing Soviet encirclement of the world's leading oil-producing region—the Persian Gulf. The extension of Soviet Political influence that has taken place in the last decade represents the cutting edge of Soviet foreign policy backed by rapidly increasing military power of the Soviet Union itself, and the massive military aid extended to revolutionary, anti-Western forces in what has aptly been termed the "arc of crisis." This crisis area extends from Southeast Asia to the Persian Gulf to the Horn of Africa to Southern Africa.

This is the strategic environment within which we have negotiated and signed the SALT II Treaty—a Treaty that does little or nothing to constrain the growing Soviet capability to exploit the deeply rooted crises of our times. SALT I was grossly deficient in limiting the strategic-military capabilities of the Soviet Union. Shortly after the signing of the SALT I Accords, the Soviet Union began the deployment of several new-generation ICBMs. In the 1970s the Soviet Union deployed its SS–18 heavy missiles, together with several other new-generation ICBMs. These systems gave to the Soviet Union a capability that, it is feared by many in the United States, will pose a direct threat to the survivability of the fixed-, land-based portion of our strategic force, the Minuteman. SALT I did not provide a framework within which the United States could prevent the Soviet Union from deploying this large system. Similarly, SALT II merely codifies the deployment by the Soviet Union of up to 308 SS–18s, each of which is permitted to carry as many as ten warheads. Because of the accuracy that this strategic force can be expected to acquire during the time of the early 1980s—during the SALT II Treaty—the United States will confront a threat to its strategic survival for which there is no counterpart in Amercan history except perhaps the Japanese attack on December 7, 1941 upon Pearl Harbor.

The principal problem with the SALT II Treaty is that it legitimizes the possession by the Soviet Union of strategic capabilities far in excess of those needed for nuclear deterrence. In the ratification debate, and in the public discussion of the SALT II Treaty, we must ask ourselves why the Soviet Union deems it necessary to possess such a strategic nuclear force. Why should the Soviet Union be permitted, in an agreement that masquerades as "arms control," to deploy 308 "heavy" systems, for which there are no corresponding strategic capabilities available to the United States in the 1980s, or even permitted to the United States in the SALT Treaty.

SALT II poses a great danger to the security of the United States because it does not address this fundamentally important issue. I am not here this evening in order to assert that the Soviet Union necessarily will or will not actually make use of the strategic nuclear forces that are codified in this Treaty. We cannot understand fully Soviet intentions but we do know that the Soviet Union, in its military writings, places high emphasis upon preemption, surprise and strategic superiority, and the ability to destroy the war-making potential of its adversaries and to insure that in a nuclear exchange the Soviet Union would survive. These statements are backed by an on-going civil defense program and by an effort to protect vital military installations and war-survival capabilities. No such comparable effort exists in the United States. The formidable military capabilities being amassed by the Soviet Union may never be actually used in combat. The mere possession of them will strengthen Moscow's hand in international diplomacy in the years ahead. The military power legitimized by the SALT II Treaty will cast its lengthening shadow over the international landscape—in the many crisis areas of our troubled planet.

The United States enters the 1980s with its fixed-, land-based strategic force vulnerable as never before to Soviet attack. This Minuteman vulnerability problem is rooted deeply in the SALT process of the last decade and specifically in the ABM Treaty. Had the United States deployed a ballistic missile defense around all or a major portion of its fixed ICBM force with the continuing improvement of technologies available to us in the early 1970s, we would not today be confronted with the threat to the survivability of our Minuteman force. Instead, the United States agreed to forego the deployment of a ballistic missile defense technologically superior to anything then available to the Soviet Union. It is no wonder that the Soviet Union actively sought an ABM Treaty with the United States, just as it is no wonder that the Soviet Union today urges upon the U.S. Senate the ratification of the SALT II Treaty. I am tempted here to repeat the meaning that others have sometimes ascribed to the term SALT (Stop the American Lead in Technology).

Instead of seeking to deal in SALT II with the threat posed by these Soviet heavy ICBMs, and other strategic forces available to Moscow, we have engaged as a nation in extended controversy about the building of a new-generation missile—the MX—and about its mode of deployment. I believe that we need to build and deploy as rapidly as possible a new-generation ICBM. The Minuteman itself is an aging strategic system. Well within the next decade portions of the Minuteman force should be replaced by a new system such as the MX with an appropriate deployment mode to assure the survivability. We face this problem not only because the ABM Treaty prevented us from protecting our fixed-, land-based force but also because we have failed, both in SALT I and SALT II, to limit the deployment of Soviet ICBMs capable of destroying all or most of our fixed-, land-based strategic force. We should have insisted that the Soviet Union reduce, by at least one-half, the number of SS–18s that it can deploy under the terms of the present Treaty. Such a reduction would have improved significantly the survivability of the United States strategic fixed-, land-based strategic force. In considering the deployment mode for MX, the United States should give renewed emphasis to a system that might reduce its vulnerability to attack by the Soviet Union even if this means that the ABM Treaty should be amended. Otherwise we will find ourselves cast into an increasing unstable strategic-nuclear environment in the early 1980s *within* the present Treaty. In this strategic environment, the United States will inevitably be reduced to what is termed "launch-on-warning," that is, a nuclear response carried out with perhaps no more than fifteen minutes warning time in advance of a Soviet attack upon the United States. An American President, and the American people, should never be put into such a perilous position. Yet we may be able to avoid this prospect only by assuring the survivability of as much of the triad of U.S. strategic forces as possible. This is the key to American security in our relationship with the Soviet Union, just as it is indispensable to strategic stability in the global environment of the 1980s. It is not the "mutual assured destruction" doctrine, instead, it is a doctrine based on the assured survivability of American strategic forces. This is the indispensable foundation for an effective American security doctrine in the 1980s.

The SALT II Treaty must be judged in light of its verifiability and its effects upon the extended security commitments of the United States in the period ahead. In each of these crucially important areas, both of which impinge directly upon our national security, the SALT II Treaty will be scrutinized by the United States Senate during the ratification debate. Let me say just a few words about each of these issue areas.

The verification of SALT II presents a set of problems that are complex indeed. The United States will have far greater difficulty in verifying Soviet compliance with SALT II than it had with SALT I. The present Treaty deals with weapons or components of weapons that did not exist at the time of SALT I. For example, we can verify the position of most, and perhaps all, ICBM launchers that are located in fixed positions in the Soviet Union. But we do not know with certainty how many warheads a particular ICBM is carrying or if it is capable of deploying the MIRV. The SS–18, as I suggested earlier, is permitted in the SALT II Treaty to carry as many as 10 warheads. Yet our Intelligence Community has acknowledged that the SS–18 could carry as many as 30 or 40 warheads. We have lost important monitoring facilities as a result of the tragic events that have occurred in Iran since late last year and the future of our monitoring stations in Turkey is uncertain. It is unlikely that, during the lifetime of the Treaty, we can compensate adequately for the closing down of the Iranian facility that enabled us to monitor Soviet ICBM tests. In addition, the Soviet Union has developed a reload capability for its ICBM launchers. We cannot verify adequately the existence of missiles that could be loaded into a silo from which one missile had already been fired. We have no comparable capability in our fixed, land-based strategic force. The SS–20, a medium range ballistic missile which the Soviet Union is producing at a rate of more than two per month, has two stages. It is not included in the SALT II Treaty. The SS–20 poses a growing threat to America's allies in Europe, and to Japan, as well as China.

This system could be transformed into an ICBM capable of striking the United States by adding a third stage or by removing a warhead ballast. The Backfire bomber, although also left out of the SALT II Treaty, can strike targets in the United States. There is no way of verifying what the Soviet Union will or will not do with the Backfire bomber in a crisis situation with the United States. This we cannot know until and unless the Soviet Union actually decides to use the bomber against us. Although the Backfire is left out of the SALT II Treaty, every U.S. B–52—and B–51, if we produced any—would have to be included. This inequity is compounded by the fact that the United States has no effective air defense against the Backfire. In contrast, the Soviet Union is devoting a major effort to air defense. We are told that the SALT II Treaty will produce actual reductions in Soviet strategic systems. This is an exercise in self-deception. The Soviet Union will be able to phase out certain older, obsolete aircraft—the Bears and Bisons—counted in the SALT aggregate strategic systems, and replace them with uncounted Backfires.

With all of these verification problems, we have recently witnessed an effort by Soviet Foreign Minister Gromyko to convince us to trust the Soviet Union to observe the Treaty during a rare press conference in Moscow on June 25, 1979. I need not remind this audience that this was the same Gromyko who met with President Kennedy in the oval office of the White House in October 1962 and denied that the Soviet Union was then in the process of installing missiles in Cuba capable of striking targets in the United States. In SALT II vertification, adequate technical means are indispensable to the security of the United States for one simple reason. Both in its military statements and in its strategic forces the Soviet Union gives every evidence of striving for strategic superiority. We cannot permit the Soviet Union to make use of verification deficiencies in the SALT II Treaty to press its quest for strategic superiority.

The Administration is making a major effort to convince the American public that the SALT II Treaty has the active support of our European allies. In fact, the Administration would like us to believe that there is nearly universal support in Europe and among other allies for the Treaty. However, the views of our allies on the SALT II Treaty cover a wide spectrum. There is concern that the range limitations placed upon the cruise missile in the protocol attached to the Treaty will effectively prohibit the deployment of the cruise missiles in Western Europe as part of NATO forces there. There is apprehension about the possible effects of the Treaty on the ability of the United States to transfer new-generation technologies for national nuclear forces, especially that of Britain. Beneath the official endorsements that the Administration has been able to extract from our European allies, there exist fears about the Treaty. These are likely to grow if the Treaty codifies a strategic-military relationship in which the Soviet Union is perceived to be superior to the United States. This problem can be stated very simply: as the survivability of the fixed-, land-based portion of the U.S. strategic nuclear force becomes vulnerable to a Soviet attack, the link that has existed since the founding of NATO between our strategic forces and the deterrence of conflict in Europe will be broken. If this takes place, the Soviet Union will have achieved one of its most cherished objectives—the dismantling of the Atlantic Alliance.

With or without the SALT II Treaty, the United States must act quickly and decisively to alter the dangerous course upon which we are embarked. Ratification of the SALT II Treaty would in no way diminish the problems facing us. With the SALT II Treaty, the United States will not be better able to bear the burdens of an adequate defense in the 1980s than we would be without it. The Treaty, if ratified, will make it difficult for us to appropriate funding for weapons systems whose future will be uncertain because that will be the object of negotiations in a SALT III. This pattern of thought in our official strategic affairs community can be anticipated if the past decade is a guide to the future. Increasingly, we have tailored our weapons procurement to accord with our arms control positions. This is the unfortunate legacy of our arms control experience of the 1970s. We have allowed arms control to become an objective in itself. Never again must we allow arms control negotiations to define national security needs as we have done in the last decade. Instead we must consider the strategic and general purpose force needs of the United States in light of our formidable security problems. Only then can we design an effective approach to arms control—an approach which enhances strategic stability and, for this reason, provides for the national security and common defense of the United States and those other nations whose destinies and interests are intertwined with our own.●

TEENAGE UNEMPLOYMENT

● Mr. HAYAKAWA. Mr. President, since I was elected to the Senate, I have been most interested in the problem of teenage unemployment. I have in the past made legislative efforts to allow young people to work for less than the prevailing minimum wage. Unfortunately, my efforts have been unsuccessful. Despite this lack of success, I remain committed to trying to help our young people join the work force. For this reason, I have joined with my colleague, Senator STEVENSON, to introduce S. 1107, legislation to permit employers to hire workers under the age of 20 years at a youth differential wage of 85 percent of the adult minimum wage. This legislation would allow employers to pay teenage workers the subminimum wage, which would rise in accordance with the adult minimum wage levels. As stated in the bill, the youth minimum wage levels would be $2.47 for this year, $2.64 for 1980, and $2.85 for 1981.

The bill also protects teenage workers from suffering a decrease in their current wages. Teenage workers who now work at the minimum wage are allowed to remain working at that level, as long as they work for the same employer.

If a young worker leaves his present job and starts working somewhere else, he is allowed to be hired by his new employer for less than the minimum wage.

Currently, full-time students may be hired at 85 percent of the minimum wage. This legislation would place teenage workers in the same special category as these students, by allowing them to work for a subminimum wage.

Finally, the Department of Labor is accorded the responsibility of monitoring the job situation, making sure that no older workers are displaced by younger, cheaper labor.

I have always believed in having a youth differential in the minimum wage. Part of the solution for the tremendous number of unemployed young people would be to lower the minimum wage to help develop the creation of more entry level jobs. An increase in the minimum wage is not like an increase in welfare payments. Wages should be paid on the basis of the value a worker's contributions to a product or service needed by consumers.

Therefore, Government-directed increases in wages make it hard, if not impossible, for businesses to hire young, inexperienced, or less skilled workers. As a result, these workers become discouraged and cannot find jobs. This is one big reason why participation in the labor force and unemployment rates remain less than satisfactory even during good economic times, and why expensive public service jobs are proposed by the same legislators who cause the problems by increasing the minimum wage.

I do not need to tell any of my colleagues how important it is for each of us to feel independent and self-reliant. This is especially important for the young person who is just beginning to emerge from the protective shell of the home and parents. Even if the jobs they are able to get are not the best, or not the biggest moneymakers, the real reason behind the job is to prove one's maturity.

After all, not all young people look for jobs to support themselves or their families. For many of these young people the money is supplementary, and intended only as pocket money that allows them to take part in peer activities. This money allows him or her to go out with friends, buy lunch in the cafeteria, or buy records for parties.

Raising the minimum wage every few years does nothing to help the young person in need of a job. How many employers want to or can afford to hire a teenager with little or no work experience? Not too many employers can afford to hire a teenager and train him at the same wages he pays to an older, experienced worker who already knows his job.

Higher costs discourage employers from unskilled youth for entry-level jobs where practical, on-the-job training would enable them to improve their skills and qualify them for better paying assignments. When minimum wages are too high, companies cannot afford to assume the added costs of this on-the-job training.

Rather than pay skilled worker wages for unskilled tasks, the management of a company will generally use its scarce investment dollars to automate the operations which could be handled by the unskilled and then hire the skilled workers necessary to operate the specialized equipment. Unfortunately, the specialized equipment generally adds to energy use, but a firm must take these steps if it is to survive.

Business and industry would prefer to decrease unemployment through the action of a free market private sector rather than through Federal makework programs. But if Congress continues to increase the minimum wage without taking into consideration its effects on our young people, the unemployment problem will continue to grow.

Employers want to grow and absorb the young who are entering the work force. Operating a business enterprise is difficult today, and we in Congress should not strangle it further by excluding such a big population from our work force and from contributing to our economic status.

I would like to bring up a concern of mine that I have discussed many times. I have been a teacher all my life, and one of my biggest concerns has been how do you develop boys and girls into men and women? How do young people mature, change into adults from children?

Young men and women are ready to live, carry out adult responsibilities and do their share of whatever has to be done in their worlds. Yet through these high minimum wage levels we deny these young people their right to participate in socially accepted forms of real life activity. Instead, with the free time they have that could be filled with earning money, they spend their idle hours making up things to do. All too often this activity leads them to illegal activities.

By being denied the opportunity to work at lower wages, young people are kept from acquiring the skills, experience, and discipline that make for good employee value. So you see, because of the minimum wage, employers do not hire young inexperienced workers, and because the young people do not work, they have virtually no chance to develop the skills necessary to get a job.

The minimum wage then not only makes it hard for a teenager to get a job today, it makes it hard for him to find a job in the future. During these teenage years, a young person should be getting his first taste of the real working world, deciding what he does or does not want to do with his life, and experiencing the exhilarating feeling of earning that first dollar.

Young people are fairly bursting with energy—and the need to prove their manhood and womanhood. Teenagers of any color—especially those who have few academic aspirations—are an ignored and oppressed class. They have got to have a chance to work and prove themselves. There have to be entry-level jobs for them. As is so often the case, the Government interferes needlessly and tries to protect us. But what are we protecting these young people from? If anything, we hold them back by forbidding them from participating in something that they will eventually have to face. We must allow them to sample the working life so they will be better prepared to fend for themselves in the future. Young people mature much earlier today, and we cannot protect them from what they want to face, what they will have to face, sometime in their lives.

To repeat a phrase that I have often used in discussing this subject, what we do in our society with minimum wage laws is to destroy the bottom rung of the ladder. It is fine to have the ladder of success, but if the bottom rung is out of reach of so many people, then what good is it? Our economic system is productive and wealthy for those of us who get past this bottom rung, but we continue to put this level out of reach for most people.

We have developed this enormous welfare system to take care of people who cannot latch on to the bottom rung, then we worry about the costs involved. So we announce a brand new welfare reform effort—this makes no sense.

We need to allow for flexibility in the labor market. We have to restore some bottom rungs to this ladder of success so that the young person who wants to work, who is ambitious, who wants to establish himself, will have a place to begin. It takes work to make men and women out of young boys and girls. What matters is not the amount of money they earn, but the self-respect, the sense of responsibility, the pride in one's self, that result from being entrusted with a real job.

I hope my colleagues will join with Senator STEVENSON and me in supporting this legislation to provide for a youth differential in the minimum wage. In these times of inflation and a sagging economy, we should all be working together to solve our problems. Let's open the door for these young people to join us in the working force. They can make a great contribution to our economy, to our productivity, and most important, to themselves.●

Mr. ROBERT C. BYRD. Mr. President, if the Chair would just indulge me a moment I think the Senate will soon recess.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 86-42, appoints the Senator from Nebraska (Mr. ZORINSKY), Chairman, and the Senator from Alaska (Mr. STEVENS), Vice Chairman, of the Canada-United States Interparliamentary Group, to be held August 9–17, 1979, in Canada/Alaska.

RECOGNITION OF LEADERSHIP TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I believe the distinguished minority leader earlier had agreed to reduce the time of the leadership on tomorrow. If the distinguished minority whip is willing, I ask unanimous consent that the time of the two leaders be reduced to 2½ minutes each tomorrow morning.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF ORDER FOR RECOGNITION OF SENATOR STEVENS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for recognition of Mr. STEVENS on tomorrow be vitiated, and that it be transferred to Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. How many orders does that leave for tomorrow morning?

The PRESIDING OFFICER. That leaves one order, for Senator EAGLETON.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 5:12 p.m. the Senate recessed until tomorrow, Thursday, July 12, 1979, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, July 11, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D. offered the following prayer:

Eternal Lord, we praise Your name for the opportunity we have to be of service to others. Grant that we will have the sense of commitment to do those things that are right and good, and give us always the courage to act in those ways that bring justice and righteousness to Your people.

If our spirit weakens, give us Your strength; if we seek the easier wrong instead of the harder right, chasten and correct us; if we seek to do Your will for the good of the people, encourage us and give us your blessing.

In the name of the Lord, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3978. An act to amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such act.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 237) entitled "An act to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of United States magistrates, and for other purposes," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. DECONCINI, Mr. HEFLIN, Mr. THURMOND, and Mr. DOLE to be the conferees on the part of the Senate.

TRIBUTE TO PHILLIS WHEATLEY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the index of Samuel Eliot Morison's famed "History of the American People" lists over 1,100 men, and only 42 women. Throughout our history women have struggled for recognition in their chosen vocations. In our society that struggle has been even more tremendous for black women.

Standing tall among our forgotten foremothers is Phillis Wheatley, America's first black poet. Still a child, she was kidnaped in Africa but rescued from the slave trader in Boston when a merchant took her into his own family.

In 1766, at the age of 13, Phillis Wheatley published her first poem. She continued to write and was invited to England where she was honored as an accomplished poet. Phillis Wheatley returned to America, and sent one of her poems to George Washington just as the first battles of the Revolution were being fought. Washington invited her to visit him.

And one day in 1776 Gen. George Washington sat down and read a beautiful poem with America's distinguished first black poet, Phillis Wheatley.

CAMP DAVID SUMMIT

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, President Carter is now in his second week on the mountaintop and the Nation waits to learn whether anything inspiring—or even useful will result.

This self-imposed isolation adds emphasis to the conviction that we are drifting as a Nation—aimlessly and without leadership that understands the problems facing us, much less capable of resolving them.

Moses remained on the mountaintop 40 days and came down with some guidelines that were concise and very much to the point.

Perhaps if the President and his advisers remain as long, something equally significant will result. However, having reviewed the guest list at Camp David, I am not all that optimistic.

FEDERAL GOVERNMENT RESPONSIBLE FOR OIL SHORTAGE

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, with the Washington Post's publication of the Eizenstat memo suggesting shifting the blame for all our Nation's ills onto the OPEC nations, we can watch with interest as the "new party line" is echoed from every hill and dale. The search for a scapegoat which began with blaming the oil companies, proceeded through blaming the Congress and toyed with blaming greedy American consumers seems to have come to an end. After all, the OPEC nations have no significant constituency in our Nation.

The cynicism of the scapegoat approach to politics apparently caused the administration to jump aboard this "new party line." As if he were a puppet, Vice President MONDALE's string was pulled when he told the Governors at Louisville—

> The OPEC price spiral has bequeathed us long gas lines, strikes and an economy immeasurably more difficult to manage.

Now, I am no defender of OPEC but I am deeply concerned over another attempt to shift the blame from where it actually lies. The blame for this mess lies with the Federal Government. Effective, meaningful solutions will not be had until that blame is accepted and our policies changed. To blame even an "unscrupulous cartel" is to avoid coming face to face with the facts so that solutions can be developed.

DEREGULATION OF DOMESTIC OIL COMPANIES

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, President Carter is holding a meeting on energy over at his retreat in Maryland. He has called in for his advisers the leading Democrat politicians in the country. We could expect, as a result of this, we will probably have some most unfortunate conclusions. One has already been reported. They said the President plans to reverse himself on deregulation of oil.

Price control has caused the oil shortage in this country. We call on the President of the United States, instead of calling in a bunch of Democrat politicians, to call on the leading economists in this country who can point out to him very clearly that deregulation is the only way we are going to solve our oil shortage. We are paying $5.50 for a barrel of U.S. oil and we are paying $20 a barrel for Arab oil.

As a result of it, we imported $3 billion of Arab OPEC oil 6 years ago, we imported $42 billion OPEC oil last year, $60 billion this year and we now expect $72 billion of OPEC oil will be imported next year.

Are the Democrat politicians going to give away all of the cash resources of the United States in payment for this OPEC oil? Let us have some leading economists advise the President, so he will understand that the only sensible and final solution is deregulation of oil and gas.

PERMISSION FOR SUBCOMMITTEE ON CRIME OF COMMITTEE ON THE JUDICIARY TO HOLD HEARINGS TODAY WHILE HOUSE IS IN SESSION

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Crime of the Committee on the Judiciary be allowed to hold hearings today on H.R. 4051, the speedy trial bill, during the deliberations of the Committee of the Whole House on the State of the Union.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1010

GASOLINE SHORTAGE AND INFLATION CRISIS

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, I have just returned from my district and the message from my people is clear.

The lack of leadership in dealing with the gasoline shortage and inflation is causing a crisis back home. The people are willing to sacrifice if sacrifice is needed. But they are looking to their elected public officials to make similar sacrifices. We can and must lead the way.

I am calling on my colleagues to provide that strong leadership and demonstrate to all Americans that we are willing to do the work that is necessary by giving up our August recess to attend to the job at hand.

The collective hours lost sitting in gas lines are sapping our productive energies. Inflation is cutting deeply into the lives of Americans. We should stay in Washington next month and work on solutions to the grave national problems of energy and inflation.

Canceling the August recess might create an inconvenience for some of us. But it is no greater hardship than the one faced by our constituents in dealing with diminished gasoline supplies and spiraling prices for goods and services.

We should stay in Washington until we have acted on resolving some of the serious problems facing our people.

TIME FOR A ONE-TERM PRESIDENCY

(Mr. QUAYLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUAYLE. Mr. Speaker, yesterday's Wall Street Journal carried an article on the Presidency which drove home the point that changes in the world, in the Nation, and in official Washington, place increasing pressures on the modern Chief Executives.

It is time for our country's Presidents to be free of political considerations in confronting the complex and difficult domestic and international problems. Today I have introduced a separate bill providing for a constitutional amendment calling for one 6-year term for the President.

The responsibilities of the Presidency have become so overwhelming, burdensome, and complex in the past two decades that we are literally wearing out those who hold the office.

Since 1960, America has witnessed the assassination of John F. Kennedy, Lyndon Johnson abdicated, Richard Nixon resigned, and Gerald Ford was defeated. Today Jimmy Carter appears increasingly weak. In effect, we have had one-term Presidents for nearly 20 years.

With a one-term limitation, President Carter today could face up to the massive problems of energy, recession, inflation, and national security free to make decisions that are right for the country rather than those that would enhance his reelection. They are not always the same decisions.

The 6-year single term would lessen the influence of special interests on the White House and enable the President to serve not as the political leader of a party but as a leader of all the people.

REPUBLICAN POLICY COMMITTEE IN STRONG OPPOSITION TO H.R. 2444

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, the Republican Policy Committee has gone on record in strong opposition to the passage of H.R. 2444, which would create a Cabinet level Department of Education. This legislation not only is bad educational policy, but also bad Government management policy. It would establish the 13th Cabinet Department with a budget of $14.5 billion and 24,300 employees, 14 executive level positions, 61 supergrade positions and an additional 15 supergrade positions for a 3-year transitional period. Passage of this bill will establish a new department larger than the current departments of Commerce, HUD, Interior, Justice, and State.

Passage of this politically endorsed, costly Presidential payoff is nothing more than a raw political expedience, catering and caving in to the powerful education lobbies in Washington. Doing so would be an injustice to a whole generation of Americans. The American people want less Federal Government, not more. H.R. 2444 should be soundly rejected.

TRIBUTE TO ARTHUR FIEDLER

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous material.)

Mrs. HECKLER. Mr. Speaker, I regret to inform my colleagues in the House that the great maestro of the Boston Pops, Arthur Fiedler, passed away yesterday. Arthur Fiedler made the Boston Pops a gift to America and to the world.

Elegant, white-jacketed, in command, yet always in the service of music and of the multitudes who loved it, Arthur made music an instrument of joy. His taste and repertoire encompassed Beethoven and the Beetles; Mozart and Manilow. No man of music in this century matched Arthur Fiedler's verve, vitality, or versatility.

Like so many others, I will miss his wit and his friendship; but I feel, beyond that, that America has lost a national treasure. Although Arthur will not literally and personally ever mount that bedecked-with-gladioli symphony hall podium again, for millions of us he will always stand and be there. The Pops—Boston and Fiedler's Pops—will never be quite the same.

At some time in the future, Mr. Speaker, it is my intention to ask my colleagues to join with me in a special order honoring America's Music Man: Arthur Fiedler.

Mr. BOLAND. Mr. Speaker, will the distinguished gentlewoman yield?

Mrs. HECKLER. I would be happy to yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I want to compliment the gentlewoman from Massachusetts on her tribute to Arthur Fiedler.

Few individuals in the history of music have been as widely respected as the man known in Boston as simply, the Maestro. For over 50 years, he thrilled audiences in this country and throughout the world as the conductor of the Boston Pops Orchestra. His special gift was a recognition that people in all walks of life would respond to and appreciate great works of music. His life was dedicated to making those works more accessible to the public. The Pops Orchestra and the free concerts which are so much a part of summer in Boston, are fitting memorials to that dedication.

Mr. Fiedler's death is a loss for the entire world, but it is a special loss for the citizens of Boston and the people of Massachusetts. I join with the other members of the Massachusetts delegation in extending our condolences to Mrs. Fiedler and the members of the Fiedler family.

Mrs. HECKLER. Mr. Speaker, I thank the gentleman for his comments.

• Mr. DRINAN. Mr. Speaker, millions of people around the world are saddened today by the news of the death of Boston Pops Conductor Arthur Fiedler.

In his 50 years as conductor of the Pops, Arthur Fiedler became as much a tradition in the Boston area as Old North Church or Faneuil Hall. Since 1929, his free concerts in the Esplanade along the Charles River have given immeasurable joy to millions. To the generations of Americans fortunate enough to have attended these concerts, the name Arthur Fiedler will forever evoke pleasant memories of warm summer evenings under the stars and filled with the sounds of his unique repertoire of classical, semiclassical, and popular music.

Arthur Fiedler was loved not only for his tremendous musical talent, but also for his dedication to sharing that talent democratically with those who might not otherwise have been exposed to the music of an orchestra such as the Pops. This son of Austrian immigrant parents took classical music out of the realm of elitism and brought it to the people, to the young, and to those unable to afford such concerts.

Even in his eighties, Arthur Fiedler maintained a work schedule that would have exhausted a much younger man. His vigor, his seemingly inexhaustable strength, and his continued productivity serve as an inspiration to us all, and particularly to the millions of older Americans who want to lead useful lives long beyond arbitrary retirement ages.

I am proud of the fact that Arthur Fiedler was a resident of the town of Brookline, Mass., which is located within my congressional district. I feel a genuine debt to Mr. Fiedler for the many hours of enjoyment his music has given to me over the years. I send my prayers and my deepest sympathies to Mrs. Fiedler, and the other members of the family.•

GENERAL LEAVE

Mrs. HECKLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in tribute to the late Arthur Fiedler.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

FULL SIGNIFICANCE OF THE MULTILATERAL TRADE NEGOTIATIONS

(Mr. DOWNEY asked and was given this point in the RECORD and to include extraneous matter.)

Mr. DOWNEY. Mr. Speaker, I believe that it is extremely important for the House and the American public to understand and appreciate the full significance of the multilateral trade negotiations. The agreement reached in these negotiations after 5½ years will set the parameters for international trade and commerce into the next century. These agreements are the result of the biggest, most comprehensive trade negotiations in the history of the world.

The difficulties that have had to be overcome in balancing the national interest of nearly 100 individual nations around the world, of widely varying degrees of economic development and political viewpoint, are staggering to the United States who have played a role in the MTN deserve our congratulations and recognition for a difficult and exacting job well done.

The MTN agreements contain the potential for a rationalization of international trade, which should create an atmosphere that will greatly facilitate the growth of America's exporting strength. The implementation of these agreements, and a strong and committed followthrough by the Government and by American business and industry to take full advantage of these new export possibilities, can reduce the vestiges of economic isolation and inward vision which has kept many American firms out of the export market in the past and contributed to our balance of payments deficit.

The alternative is a continuence of many artificial distortions in international trade, caused by a multiplicity of nontariff barriers to trade which have been employed by nearly all the nations involved in the MTN to a greater or lesser degree.

It is also important to stress that for the new system of international trade to function as it should, the codes which have been negotiated so painstakingly over the past 5½ years must be strictly adhered to and enforced. The apparatus exists in the agreements for surveillance and dispute settlement, and tough countermeasures must be taken against any unfair competition in U.S. markets. The United States is prepared to play by the rules and our trading partners in the new system must be made to do the same.

Of course, not all businesses or workers in the United States will benefit from the advantages of the MTN. No one makes that claim. However, the balance clearly favors the agreement. Job creation will result from the agreement at a time when recession and an accompanying rise in unemployment is widely predicted for the United States.

Nontariff barriers such as CENEL, the European certification system which inspects and certifies only electronic components from European factories, will no longer bar American electronics from competition. Dozens of other, similarly delusive artificial barriers to trade have been ruled out by the MTN, and the result can only be positive for American exporters who have been restricted by these devices in the past.

Through the MTN agreements the United States has won a significantly expanded entree into previously closed or restricted foreign markets for a huge range of American products, from beef to computers. However, the benefits of the MTN will favor aggressive, export oriented businesses, with the energy and know-how to enter competition in foreign markets.

In order to insure that full advantage is gained from the potential benefits of the MTN agreements, the Congress and the administration must make every effort to encourage exports and take steps to facilitate and encourage firms not previously in the export market, particularly small businesses and growing industries, to become exporters. Both the incentives and the know-how must be made available to new and potential exporters if the United States is to maximize our gains from the MTN and take full advantage of this truly remarkable international trade agreement.

Mr. Speaker, I also would like to take this opportunity to provide for the record a report prepared by my staff, in conjunction with the Office of the Special Trade Representative, about the benefits of the MTN agreements to Long Island:

How Nassau and Suffolk Counties Benefit From the Multilateral Trade Negotiations

OVERVIEW

While Nassau and Suffolk Counties basically are service economies, they do have a considerable stake in the export of manufactures. In 1976, manufacturing employment in the two counties totaled 151,000—60 percent in Nassau, 40 percent in Suffolk. In that same year, manufactured exports totaled $431 million. Both of these figures should increase substantially once the MTN agreements are implemented.

The largest number of manufacturing employees on Long Island are in aircraft and parts production. The bulk of these employees work in Nassau. Employment also is substantial in communications equipment (Nassau and Suffolk), apparel (Nassau and Suffolk), fabricated structural metal products (Nassau and Suffolk), electronic components (mostly Nassau) and soaps, cleaners and toiletries (mostly Suffolk). The following table shows the employment detail for each county:

PRINCIPAL MANUFACTURING INDUSTRIES IN NASSAU AND SUFFOLK COUNTIES, N.Y.

Industry	1976 employment (thousands)			Major plants (over 1,000 workers)		
	Suffolk	Nassau	Both	Suffolk	Nassau	Both
Aircraft and parts	7	[1] 21	[1] 28	1	1	2
Communication equipment	10	7	17	2	1	3
Apparel	5	4	9	0	0	0
Electronic components	2	4	6	0	0	0
Fabricated structural metals	2	2	4	0	0	0
Soaps and cleaners	3	1	4	0	0	0
Measuring and controlling instruments	1	3	4	0	1	1
Miscellaneous plastics	2	2	4	0	0	0
Knitting mills	2	1	3	0	0	0
Metalworking machinery	1	1	2	0	0	0
General industrial machinery	1	1	2	0	0	0
Office and computing machinery	1	1	2	0	0	0
Electronic lighting and wiring equipment	1	1	2	0	0	0
Medical instruments	1	1	2	0	0	0
Total, above	39	50	89	3	3	6
Total, all manufacturing	61	90	151	4	5	9

[1] Estimated.

Source: County Business Patterns, Department of Commerce.

Nearly 9,000 jobs on Long Island were directly dependent on exports. Another 5,500 jobs were indirectly dependent on exports, assuming the statewide ratio of directly to indirectly dependent jobs applies to Nassau-Suffolk. In all, slightly less than 1 of every 10 manufacturing jobs Long Island depend on exports.

Electronic equipment and instruments are Long Island's principal exports. The following table provides a break out of Long Island's manufacturing exports:

MANUFACTURING EXPORTS FROM NASSAU AND SUFFOLK COUNTIES, N.Y.

	1976 export (millions)	1976 exports percent manufacturing shipments	Export employment (thousands)
Total	$431	6.6	8
Communications equipment	56	8.8	1
Electronic components	51	24.0	2
Chemicals and allied	49	9.4	(1)
Other electric, electric equipment	44	9.6	1
Measuring, controlling devices	43	28.7	--------
Nonelectric machinery	36	9.1	1
Converted paper products	6	3.3	(1)
Fabricated structural metal products	5	2.3	(2)
Electric lighting, wiring equipment	5	3.4	(1)

[1] Less than 500.
[2] Not available.

Source: State Export Series, Department of Commerce.

SPECIFIC INDUSTRY RESULTS

The results of the MTN with respect to these specific Long Island industries are summarized below.

AIRCRAFT AND PARTS

Long Island will be a major beneficiary of the MTN aircraft agreement which will eliminate tariffs on aircraft in major foreign markets. The agreement also will subject foreign government purchasing and subsidy practices in this industrial sector to new disciplines. The world aircraft market should experience rapid growth in the coming years and the aircraft agreement, along with the subsidies code, should ensure that U.S. producers will have a fair chance to compete.

ELECTRONICS

The U.S. obtained important tariff concessions from Japan, our principal competitor in electronics, which in key areas will provide roughly equivalent tariffs in the U.S. and Japan (including equal tariffs on highly critical semi-conductors). In the communications equipment field, the U.S. achieved a balanced outcome by withholding any significant concessions on tariffs or government procurement conditional upon other governments doing likewise. The standards codes will be a plus for the electronics sector by providing equitable access to foreign certification systems. Work on the standards code was begun as a result of problems encountered by U.S. electronics firms exporting to Europe. The subsidies code also is of great potential interest to this industry because of the current trend of foreign governments to foster high technology industries.

SOAPS, CLEANERS, TOILETRIES

The U.S. achieved a balance in soap, cleaners, and toiletries. The European Economic Community (EC), the U.S.'s major trading partner, resulted in rough equivalency in depths of cut. In other major markets, Japan will have a lower average tariff and Canada a higher one at the end of the staging process. Japan reduced tariffs 43 percent. In addition, the U.S. converted the vast majority of its chemicals tariffs from specific and compound rates to ad valorem equivalents, thereby protecting current levels of tariff protection from future erosion due to inflation caused by rapidly rising costs of oil and gas. At the same time, the U.S. minimized tariff reductions on key petrochemicals identified by the industry as particularly vulnerable to future problems stemming from increased U.S. production costs and emerging competitive pressures from non-market economies and less developed countries. The industry should also benefit substantially from the subsidies codes and improvements in domestic countervailing and anti-dumping duty procedures which can provide faster more effective relief from harmful unfair foreign trade practices.

MEASURING AND CONTROLLING DEVICES

Tariff cuts on measuring and controlling devices were substantial—from Canada (54 percent), Japan (41 percent), and the EC (30 percent). These industries should benefit substantially from the standards code because standards are particularly important in this sector as a potential trade barrier. The procurement code will open new markets for this industry because foreign governments are major purchasers of instruments.

COMMUNICATION EQUIPMENT

In the critical communications equipment field the U.S. achieved a balanced outcome by withholding any significant concessions on tariffs or government procurement until other governments are willing to do likewise. The standards code will be a plus for this sector and, in fact, work on this code was begun as a result of problems encountered by U.S. electronics firms exporting to Europe. The subsidies code is also of great potential interest to this industry because of foreign government efforts to develop high technology industries.

FABRICATED STRUCTURAL METAL PRODUCTS

Structural metal producers should benefit from the subsidies code and improved domestic procedures to deal with foreign unfair trade practices. Significant tariff cuts by the EC, Canada, and Japan should help exporters. Canada—the major market for U.S. exports—cut tariffs on imports 33 percent. The EC and Japan reduced tariffs on U.S. structural metal products 28 percent and 26 percent respectively, to average 4.9–5.0 percent on U.S. products. Exclusion of key U.S. construction agencies from the government procurement code should minimize any loss of U.S. Government business.

TEXTILES AND APPAREL

Recognizing the vital nature of the textile and apparel industry, a comprehensive program has been established to insure its health and growth. This program includes global import evaluation on a continuing basis, control of import surges through bilateral agreements, efforts to negotiate import restraint levels with new suppliers and improvement of customs monitoring and enforcement. U.S. textile tariff reductions, where made, were small and carefully chosen so as not to have an adverse impact on the industry.

In general, existing U.S. tariffs on textiles and apparel are high and the tariff formula used in the trade negotiations would have called for deeper than average cuts amounting to 58 percent. More important, some apparel categories, such as women's and children's undergarments, were completely excepted from the negotiations. In all, exceptions cover $2.8 billion or 84 percent of the total trade in the sector reflecting import sensitivities. In addition, tariff cuts will not begin until 1982 (instead of 1980) and will be phased in gradually to ease the adjustment process.

A "snapback" clause will restore U.S. tariffs to their pre-MTN levels if the international multifiber agreement does not continue in effect or a suitable substitute arrangement is not put into place.

AGRICULTURE

Information concerning the value and types of Long Island's agricultural exports is not readily available. However, exports of poultry and vegetables, Long Island's major agricultural products, will increase as a result of the MTN. $63 million in increased U.S. exports are expected in the fruits and vegetable sector, potentially including Long Island potatoes. Poultry exports will increase by virtue of such concessions as the EC's reduction of duties on turkey parts (U.S. exports should increase approximately 25 percent over recent levels) and Japan's duty reductions on chicken parts. Live and frozen Long Island ducklings also may be making their way to Japan, Taiwan, and Chile as a result of duty reductions on poultry.

TRADE AGREEMENTS ACT OF 1979

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the unfinished business is the question de novo of the passage of the bill, H.R. 4537.

The Clerk read the title of the bill.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 395, nays 7, not voting 32, as follows:

[Roll No. 309]

YEAS—395

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nedzi
Nelson
Nichols
Nolan
Nowak
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.

Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—7

Ashbrook
Baldus
Kastenmeier
Moffett
Obey
Paul
Stratton

NOT VOTING—32

Alexander
Ambro
Anderson, Ill.
Andrews, N.C.
Ashley
Beilenson
Bolling
Boner
Brown, Ohio
Burton, John
Byron
Conyers
Derrick
Dodd
Emery
Flood
Forsythe
Garcia
Goodling
Guarini
Hansen
Harris
Hefner
Lehman
McCloskey
Mathis
Mitchell, Md.
Neal
O'Brien
Perkins
Spellman
Treen

□ 1030

The Clerk announced the following pairs:

Mr. John L. Burton with Mr. Brown of Ohio.

Mr. Mitchell of Maryland with Mr. Hansen.

Mrs. Spellman with Mr. Treen.

Mr. Derrick with Mr. O'Brien.

Mr. Alexander with Mr. Emery.

Mr. Ambro with Mr. McCloskey.

Mr. Dodd with Mr. Goodling.

Mr. Garcia with Mr. Forsythe.

Mr. Guarini with Mr. Lehman.

Mr. Flood with Mr. Conyers.

Mr. Ashley with Mr. Boner of Tennessee.

Mrs. Byron with Mr. Andrews of North Carolina.

Mr. Harris with Mr. Beilenson.

Mr. Neal with Mr. Hefner.

Mr. Mathis with Mr. Perkins.

Mr. ASHBROOK changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GUARINI. Mr. Speaker, I was unavoidably detained and unable to vote on rollcall No. 309 on the passage of H.R. 4537, the Multinational Trade Agreements Act.

Mr. Speaker, I wish the record to show that I would have voted "aye."

PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries may be permitted to sit today during the 5-minute rule, for hearing purposes only, to continue its hearings dealing with legislative proposals.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3996, AMTRAK REORGANIZATION ACT OF 1979

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96-327) on the resolution (H.R. 350) providing for the consideration of the bill (H.R. 3996) to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUBCOMMITTEES OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the subcommittee of the Committee on Interstate and Foreign Commerce may be permitted to sit tomorrow during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

USING LESS AND IMPORTING MORE DOES NOT ADD UP TO ENERGY SHORTAGE

(Mr. SNYDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SNYDER. Mr. Speaker, 3 or 4 weeks ago, I commended to my colleagues attention, the little weekly publication put out by the Department of Energy called the Weekly Petroleum Status Report.

I mentioned at the time that the weekly report showed that domestic demand for petroleum products was down from 1978 levels, that domestic production was about constant, and that imports were running ahead of the same time period the year before.

I mentioned that using less and importing more did not add up to an energy shortage.

It still does not add up, Mr. Speaker. And demand is still down—imports still up.

The June 29 report from DOE shows that for the 4-week period ending June 22, demand was down 5.2 percent from last year. We are using about a million barrels less every day this year than we did in the corresponding period last year. But imports are up 5 percent over last year. It means we are getting nearly 400,000 barrels a day more than we did in the corresponding period in 1978.

And Mr. Speaker, I do not recall being in a single gas line last year.

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2444) to establish a Department of Education, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2444, with Mr. NEDZI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 19, 1979, title IV had been considered as having been read and open for amendment at any point.

Are there any further amendments to title IV?

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOKS: Page 82, line 11, insert "(a)" immediately after "SEC. 425." and after line 20 insert the following new subsection:

"(b) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this title shall be effective except to the extent provided in advance by appropriation Acts."

□ 1040

Mr. BROOKS. Mr. Chairman, this amendment corrects a conflict between H.R. 2444 and the Congressional Budget Act. Section 401(a) provides that it shall not be in order to consider any bill which provides new contract authority unless that bill also provides that such new contract authority is to be effective for any fiscal year only as provided in advance in appropriation acts.

The addition of this amendment will cure this Budget Act problem.

We have resolved that with the minority, and we have had no objection to it in the committee at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BROOKS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MR. QUAYLE

Mr. QUAYLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUAYLE: Page 80, line 12, strike "450" and insert "800" strike out lines 13 and 14, and insert the following: "increased. Any consultants and experts hired under section 402 shall count as full-time permanent positions for the purposes of this section.".

Mr. QUAYLE. Mr. Chairman, during the rather lengthy debate on the Department of Education, one of the arguments that we have heard in favor of the Department of Education has been that this is in reality a reorganization. All of the education agencies, and with the reorganization have been proffered that there will be a reduction in the number of personnel that are now included in education-related activities.

I do not really have an exact figure on what the new Department that we have now created is going to entail. There is uncertainty as to what is going to be in and what is out. At one time it was around 24,000. With the Bureau of Indian Affairs out, it is below that, but whatever figure, it is going to be in the bill.

There is included overhead employees of 900. We now reduce that to 450.

It is interesting to note that the committee report says on these overhead employees and overhead personnel needed to carry out all of the functions of the new Department of Education, that we only need 100.

So what my amendment does is to strike 450 and to put in 100, which is the amount that is recommended in the committee report. Also, we are going to strike the language in the bill that allows for 50 additional employees that would be allowed each year. If we are serious about getting a cap on the number of personnel, not only in the Department of Education, but the entire Federal Government, we must limit the number of employees. If we need to have more people, we can come back to the Congress and raise that.

Also, this bill does another thing. When we hire our outside consultants, which the bill rather freely provides, these people ought to be counted as full-time employees. The National Journal in a recent article said consultants constitute about 8 million workers, 4 for every 1 person directly on the Federal Government payroll.

We need to get a handle on the number of people who we have working for the Federal Government. We have to have accountability. This amendment is in that direction, and I think that it would be prudent and in commonsense to adopt this rather perfecting amendment that is going to restrict the growth of the new Department of Education, which everybody is for, whether we are for the bill or against the bill.

If we are going to reorganize, we ought to have a reduction or at least a cap on the number of employees.

I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment offered by the distinguished gentleman from Indiana (Mr. QUAYLE). This mandated number of 800 people, first, is pennywise and pound foolish. We mandated a cut of 450, but this kind of amendment would endanger the effective and efficient operation of the department just as they are getting started. It might jeopardize the important functions such as the Office of Inspector General.

I would say that, in addition, this amendment's provisions on consultants, the way it is worded, means that a consultant hired to work for 5 hours a week would count as a full-time employee, and this would inhibit the utilization of consultants, because we would have to count off a full employee if we employed them.

The purpose of having consultants is to have temporary people who are of special expertise which we do not have to put on the payroll forever. So I would hope that we would not support this amendment. I would ask for a "no" vote.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Indiana.

Mr. QUAYLE. I ask my distinguished chairman and friend, why is it that the committee report only suggested an overhead of 100, and the committee did not adopt that language? In the committee report it says 100 overhead personnel would be sufficient. That is what this amendment is going to do.

I was wondering what reason we had to increase it from 100 to 900. I think the full committee reduced it to 450. Was the committee report just erroneous in this area of the overhead?

Mr. BROOKS. Certainly not, but this is overhead. This is just overhead only. This would be departmentwide.

The gentleman would also include in his language the elimination of a possible increase of 50 percent per year as a maximum, which I thought was a pretty reasonable increase. It is not unwarranted, I do not believe, in an agency of this size.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to ask the gentleman who sponsored the amendment to document this figure that he uses, the figure 800. Moreover, he has also indicated that the report contains the figure 100. I am not able to put my finger on that immediately. I wondered what part of the report that is located in.

I would like to have the gentleman respond to that and I would like to indicate my opposition to the amendment and point out that the amendment basically does three things.

One, it changes the number from 450 that we have used in the bill, which is the number of reductions that the Office of Management and Budget states can reasonably be expected as a result of this reorganization.

In testimony before the subcommittee, the Director of OMB pointed out that as a result of moving the Office of Education from HEW, that it would be possible to reduce the number of overhead positions by 450. In other words, by taking the Office of Education out of HEW and creating a new Department, we could eliminate 450 positions. So that figure was adopted by an amendment as the number that the new agency would be reduced by.

Now, in addition, some members of the full committee felt that there ought to be some growth permitted without having to come back to Congress, because this is an unusual prohibition on a new department; that is, that they have to remain at the number that they have now less 450. No other department that I know of has that type of limitation in its charter. But we felt it was important to have it here in the Department of Education. So we put this in purposely to keep the Department from growing. We have reduced it by 450.

Some members of the full committee felt that there ought to be some allowable growth each year, and so they adopted the figure of 50. This amendment would take that flexible item out of this particular section.

□ 1050

In addition, the amendment also provides that consultants and experts who would be hired under section 402, shall count as full-time, permanent positions. I oppose that also because I do not think we ought to put that type of a restriction on this new Department.

Overall this is a very bad amendment. What we have tried to do with the bill is to put a limit on the number of employees this new agency can have. We have reduced the present number by 450 and said the agency can grow by 50 each year without having to come back to the Congress, but after that they must come back to Congress to get specific authorization for any increase. That in and of itself is an innovative prohibition as far as this new Department is concerned.

So I would urge that the amendment be defeated.

Now I would like to yield to the gentleman and let him reply to the figure that he has quoted.

Mr. QUAYLE. I can assure the gentleman that the figure of 100 is in the committee report.

Mr. HORTON. I want to assure the gentleman I do not think it is, just on my reading of the report.

Mr. QUAYLE. If the gentleman will yield further, let me strike a deal with the gentleman. If I can prove to the gentleman it is in the report——

Mr. HORTON. We are not going to strike any deal. I will say to the gentleman that I do not understand the figure of 800. There is no basis for reducing the personnel in the Department by 800. There is an item of 900 overhead personnel listed in the report. The Office of Management and Budget told us in the testimony before the subcommittee that as a result of this reorganization they reasonably expected that we would reduce the number of personnel by 450 That is the number that was adopted by the committee. I think that is a reasonable number.

Mr. HALL of Texas. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I will be glad to yield to the gentleman from Texas.

Mr. HALL of Texas. I notice this amendment is asking that the full-time positions be reduced by 800 as opposed to the 450 set out in the bill. My question is how many full-time positions will be in the Department of Education if this bill passes?

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent Mr. HORTON was allowed to proceed for 3 additional minutes.)

Mr. BROOKS. Mr. Chairman, will the gentleman yield to me?

Mr. HORTON. I will be glad to yield to the chairman.

Mr. BROOKS. To my distinguished friend from Texas I would say the number of people now employed in the educational operation that will be transferred, not new people, people that are in place now, now is 18,253. These are the people that are now working in these areas. They say if we combine them we can cut 450 out and save some $15 million to $19 million.

Mr. HALL. of Texas. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Texas.

Mr. HALL of Texas. Would the gentleman from Texas (Mr. BROOKS) state how many consultants and experts, in addition to the number you have just mentioned, would be employed by the Department in the event the Department of Education is authorized?

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman.

Mr. BROOKS. That would be decided by the agency. We have no figures on that. They do not anticipate hiring a lot of consultants.

Mr. HORTON. If they do, it will be in their budget and they will have to justify it when they come before the Committee on Appropriations for their appropriations.

Mr. BROOKS. If the gentleman will yield, that is correct.

Mr. HORTON. Each year they would have to come back before the Committee on Appropriations and justify the number of consultants they had hired and would have to keep within their budget in that respect.

Mr. HALL of Texas. Mr. Chairman, if the gentleman will yield further, is it anticipated that there will be a request made to hire additional consultants and experts in addition to the full-time positions?

Mr. BROOKS. If the gentleman will continue to yield, not that I know of. They have some consultants in this number already, the gentleman understands, in the existing agency. When they transfer these people they will be transferring the authorities for those consultants. They may not need any more at all, but I do not know.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. HORTON. Yes, I am glad to yield.

Mr. QUAYLE. Mr. Chairman, I have found where it says in that committee report 100 overhead personnel is sufficient. It is at page 17, paragraph 2, sentence 2. I shall read: "The administration estimates 100 positions for overhead and support staff." The bill provides for 450. One hundred should be sufficient.

When we talk about reorganization, every time we talk about it we are talking about a reduction in personnel. The gentleman says we need the 18,000 or however many people are in there, plus 450 overhead.

Mr. HORTON. No. No.

Mr. QUAYLE. If the gentleman will continue to yield, this is overhead, over and above the transition.

Mr. HORTON. What we have said in the report is we will transfer the number of persons that are now in the offices that are being transferred, and then we will reduce that number by 450. That is the estimate that OMB gave us in the subcommittee as the number that would be saved as a result of this reorganization. That is what is being done in this particular part of the bill.

Mr. QUAYLE. If the gentleman will yield further, this is what it says: "100 positions," not 450 positions. That is what my amendment does, it strikes it down from 450 to 100.

Mr. HORTON. That is the estimated number of the increase.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think the amendment offered by the gentleman from Indiana deserves real consideration because it gets at the essence of the basic argument that the proponents of this bill are making. The proponents of this bill keep talking about the fact it is going to result in educational efficiencies, that we are going to get additional efficiency out of this department and, therefore, it can be justified on that basis.

If you take a look at the bill we have before us, the efficiencies that we are talking about really result in a growth rate of 50 people a year without ever coming back to the U.S. Congress. That means in a period of a decade we are going to have 500 additional people in this Department without Congress ever having approved anything. Therefore, if the Department can be run on the 450, as the proponents claim, then there is no reason why we are going to have to increase it at 50 a year unless, unless this Department is going to grow and become bigger, and adopt more and more policies which will be an afront to State and local control of education. That is the only reason why this Department would be growing.

If you assume that, then you assume that the essence of this Department is badly based. Therefore, if we adopt the gentleman's amendment at least what we would do is assure ourselves that this Department would operate efficiently, it would reduce the bureaucracy which is presently there, which the big advertisement in the Washington Post told us yesterday is just horrendous. They showed us the lines drawn on all of these offices and agencies within the present Office of Education. They told us how bad it was. I agree, it is horrible.

But now we have a bill before us that is going to allow that to grow at 50 people a year. I am saying that the gentleman's amendment goes to the heart of the matter and really gives this Congress and this House an opportunity to really install efficiency in the Department by placing a real limitation on the personnel of this Department, and that real limitation will assure us that in the future this Department will not grow and will not become another bureaucratic monster.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman.

Mr. ERLENBORN. I thank the gentleman for yielding. I am glad the gentleman mentioned the ad in the Washington Post yesterday that showed us the flow chart with all of the lines and all of the boxes.

Let me ask the gentleman if this bill is adopted how many boxes and how many lines on that chart will be eliminated?

Mr. WALKER. Not a one, from what I could read. It appeared to me to be simply a flow chart of the present Office of Education which we are adopting lock, stock, and barrel into this Department.

Mr. ERLENBORN. If the gentleman will continue to yield, actually on top of that chart in the paper we will build a new superstructure of assistant secretaries and secretaries and such personnel, and off to the side we will be building another group of boxes and lines showing a flow and so forth of programs that are being brought in to add to the present Office of Education; is that not correct?

Mr. WALKER. I would have to say the gentleman is absolutely right. What we are really doing is taking that flow chart as the base of the educational problem and we are going to add to it. We are going to add additional problems. So it seems to me that no greater case could be made than that flow chart for the rejection of this particular Department.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman.

Mr. ASHBROOK. Mr. Chairman, in the Tuesday Washington Post there is a full page ad from the Ad Hoc Committee for a Cabinet Department of Education that is both false and misleading. This is an unfortunate entry into what has been a very evenhanded and reasoned debate on an important national issue.

The ad shows a portion of an organizational chart and claims that a new Cabinet department will solve the problems outlined from the maze of lines on the chart. This is very misleading. The chart, the full chart, is the organization of programs under the Office of Education. The maze of lines is the existing lines under the existing Office of Education. The DOE bill does not affect this maze of lines. The Office of Education is moved, lock, stock, and barrel, to a new Department. If anything, the new entity will make the monstrosity in the ad worse.

What we need to do is to reform the programs and the approach to Federal education activity. The last thing that is needed is more organizational boxes and more bureaucrats to inhabit them. We need to address real issues and address real questions and facts raised in the floor debate. The ad is a sham and does disservice to the sincere proponents of the bill. It is an embarrassment and shows only how far some are willing to go to dupe the public and the Congress into making a very bad mistake. I urge you to look at the real chart and to vote against H.R. 2444 so we can turn our attention to the real problems in American education.

☐ 1100

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. QUAYLE).

The question was taken; and on a division (demanded by Mr. HORTON) there were—ayes 17; noes 10.

Mr. HORTON. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 310]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McEwen
McHugh
McKinney
Madigan
Maguire
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pepper
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1110

The CHAIRMAN. Three hundred ninety-one Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from New York (Mr. HORTON) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind Members that they have 5 minutes in which to record their votes.

The vote was taken by electronic device, and there were—ayes 263, noes 143, not voting 28, as follows:

[Roll No. 311]

AYES—263

Abdnor
Addabbo
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, Tenn.
Bedell
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boland
Bonker
Breaux
Brinkley
Brodhead
Broomfield
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Donnelly
Dornan
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Ferraro
Findley
Flippo
Florio
Foley
Fountain
Fowler
Frenzel
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Luken
Lungren
McClory
McCormack
McDonald
McEwen
McKinney
Madigan
Maguire
Marlenee
Marriott
Martin
Mattox
Mavroules
Mazzoli
Mica
Michel
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nolan
O'Brien
Panetta
Pashayan
Paul
Petri
Peyser
Pickle
Preyer
Pursell
Quayle
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Roth
Rousselot
Royer
Rudd
Runnels
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stack
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Udall
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Zeferetti

NOES—143

Akaka
Albosta
Alexander
Anderson, Calif.
Aspin
AuCoin
Baldus
Barnes
Beard, R.I.
Beilenson
Benjamin
Bingham
Blanchard
Boggs
Boner
Bonior
Bouquard
Bowen
Brademas
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Carr
Carter
Clay
Coelho
Collins, Ill.
Corcoran
Corman
D'Amours
Danielson
Davis, S.C.
Dellums
Derrick
Dingell
Dixon
Dodd
Dougherty
Downey
Drinan
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fascell
Fazio
Fish
Fisher
Fithian
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Gephardt
Gibbons
Gonzalez
Gore
Gray
Hall, Ohio
Harris
Hawkins
Holland
Hollenbeck
Holtzman
Horton
Howard
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
LaFalce
Lehman
Leland
Long, La.
Long, Md.
Lowry
Lundine
McHugh
Markey
Marks
Matsui
Mikulski
Mineta
Mitchell, Md.
Moakley
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Nedzi
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Reuss
Richmond
Rosenthal
Rostenkowski
Roybal
Russo
Scheuer
Seiberling
Shannon

Simon
Smith, Iowa
Solarz
St Germain
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Ullman
Vento
Walgren
Waxman
Weaver
Weiss
Wirth
Wolff
Wolpe
Wright
Yates
Young, Alaska
Young, Mo.
Zablocki

NOT VOTING—28

Ambro
Anderson, Ill.
Andrews, N.C.
Atkinson
Bolling
Brown, Ohio
Burton, John
Conyers
Diggs
Emery
Flood
Forsythe
Garcia
Gaydos
Goodling
Harsha
Ireland
Lee
McCloskey
McDade
McKay
Mathis
Mikva
Perkins
Santini
Skelton
Spellman
Treen

☐ 1120

The Clerk announced the following pairs:

On this vote:

Mr. Santini for, with Mr. Garcia against.

Mr. Emery for, with Mr. Diggs against.

Mr. Lee for, with Mr. Conyers against.

Mr. Brown of Ohio for, with Mr. Flood against.

Mr. McCloskey for, with Mr. Atkinson against.

Mr. LEVITAS and Mr. BONKER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 84, in line 6, strike out the semicolon and insert in its place: ", provided that such services and supplies shall not include any services or supplies for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term;".

POINT OF ORDER

Mr. BROOKS. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BROOKS. This amendment is in the guise of a limitation on the authorization contained in section 436. It is, in effect, and amendment to repeal a statute not within the jurisdiction of the Committee on Government Operations. It would prevent the payment of salaries, prevent the execution of laws transferred by the bill to the new department. If you extend this concept, Mr. Chairman, it would certainly not be germane to this reorganization. It is expressly devoted to the preservation and reorganization of the educational institutions of this country.

Mr. Chairman, I think to allow this amendment would circumvent the authorities of other committees and would be certainly not germane in any shape, form or fashion to this legislation on reorganization.

The CHAIRMAN. Does the gentleman from Ohio wish to be recognized on the point of order?

Mr. ASHBROOK. I do, Mr. Chairman.

A clear reading of section 428 clearly indicates that the Secretary is authorized to provide services. Subparagraphs 1 through 7 clearly delineate these services. Emergency medical services and supplies, food and subsistence supplies, dining facilities, living and working quarters and facilities.

A reading of section 428 would seem to negate the entire argument of the able gentleman from Texas.

☐ 1130

This section creates authority in a reorganization bill, authority for the Secretary to construct, maintain as necessary the following for employees and their dependents.

My amendment simply offers a limitation on one of these services that is established in section 428, and for that reason I would suggest it is clearly germane.

The CHAIRMAN. The Chair is prepared to rule.

The Chair has examined section 428 and agrees that the section does provide for the furnishing of certain services.

Paragraph 1 does provide for the furnishing of emergency medical services and supplies to departmental employees.

The amendment of the gentleman from Ohio is limited to restricting such services and supplies for certain medical purposes and is germane to that section.

Accordingly, the Chair overrules the point of order.

The gentleman from Ohio is recognized for 5 minutes in support of his amendment.

Mr. ASHBROOK. Mr. Chairman, I thank the Chair for the ruling.

The amendment was carefully drafted to limit it to the provisions of services already set in this reorganization bill. This amendment is in keeping with both the substance and the spirit of the amendments added by this Chamber to HEW and Defense Department bills, both in this Congress and in past Congresses.

It simply adds language that prevents medical funds from being used for abortions except where the life of the mother would be endangered if the fetus were carried to term.

In the name of consistency and out of respect for life I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 85, in line 18, strike out the period and insert in its place: "; except that the Secretary may not permit such use by any institution of higher education which uses mandatory student fees to pay for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term.".

POINT OF ORDER

Mr. HORTON. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state the point of order.

Mr. HORTON. Mr. Chairman, I think this is a little different from the other. The other amendment offered by the gentleman from Ohio had to do with the services that were rendered or to be under the control of the Secretary with regard to employees at remote locations.

In this one, it seems to me that it is different. It seems to me that we are creating a new law. This is not under the jurisdiction of the Committee on Government Operations.

It is inappropriate for our committee to be acting on this. This is a reorganization plan. It seems to me we ought not to be legislating new law with regard to this section of the bill.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard on the point of order?

Mr. ASHBROOK. Yes, I do, Mr. Chairman.

My colleague from New York is correct in one important instance. This is a different section; but a full reading of section 429, particularly lines 13 through 21, clearly indicate the Secretary may require permittees under this section to recondition or maintain to a satisfactory standard at their own expense the real property, facilities, structures, and improvements involved.

This is merely a limitation on the authorization the Secretary has to permit the use by public and private agencies of the facilities.

For the reasons indicated before on the previous point of order, it is also a limitation on a specific authority given to the Secretary and does not impose any new duties.

I suggest that it is germane for that reason.

The CHAIRMAN. The Chair is prepared to rule.

The Chair concurs that section 429 involves or covers the use of facilities.

Pursuant to subparagraph (b) of that section, the Secretary is authorized to permit the use by public and private agencies of certain facilities under this statute, including facilities by its terms which are made available under sections 427 and 428 which could include medical facilities.

The amendment of the gentleman from Ohio seeks to limit that authorization by restricting the use of such facilities for certain medically related purposes.

Accordingly, the Chairman overrules the point of order.

The gentleman from Ohio is recognized for 5 minutes in support of his amendment.

Mr. ASHBROOK. Mr. Chairman, I thank the Chair for the ruling. I do not need the 5 minutes.

I think we all recognize there are certain amendments, as the old saying goes, that speak for themselves. This amendment is another effort to make a limitation in this reorganization bill, which as I pointed out before and will point out again, is more than a reorganization bill. It authorizes many activities that may or may not be reposited in the Office of Education at the present time.

Section 428 authorizes the Secretary to operate facilities at remote locations. All of us know that is a euphemism for overseas dependent schools. In section 429 the bill talks about the use of facilities, public and private agencies, corporations and associations. This is higher education institutes for the most part.

My amendment, as the Chair correctly stated, simply operates as a limitation. It says the Secretary may not permit the use of any institution of higher education which uses mandatory student fees to pay for the performance of abortions except for the usual reasons we have attached in the previous HEW and Defense Department bills.

I urge its adoption.

Mr. Chairman, this amendment is both prolife and prochoice at the same time. It is prolife because, like any antiabortion measure, it helps focus still more attention on the ugly reality which is enacted daily on hospitals and clinics across the country. Like any antiabortion measure, it makes it just a little bit harder for people to evade that reality with convenient slogans and euphemisms.

This amendment is prochoice because it embodies the philosophy which this House has consistently favored for the last 3 years in the Labor-HEW appropriations bill: People should not be forced against their consciences to subsidize abortion on demand. A college which makes its students pay mandatory fees for nonacademic activities as a condition of enrollment, and then uses part of those fees to pay for abortions, is not only trampling on individual consciences, but also deserting the standards of institutional neutrality which are essential to academic freedom.

I wish I could say that this kind of violation is merely an abstract possibility, but unfortunately it is all too real. Students at several campuses of the University of California system have been denied the right to register for their courses because they refuse on moral and religious grounds to pay those mandatory fees. In effect these campuses adopted a policy of discriminating against a certain class of people, of closing its doors to those people on grounds which are completely unrelated to education. They are not content merely to aid and abet abortion through their own health plans, but insist that every student must make himself or herself a party to abortion financing.

This kind of discrimination is simply unacceptable in a society which values freedom of individual conscience. That is why this amendment is prochoice, and badly needed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 312]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1150

The CHAIRMAN. Three hundred and eighty-eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 149, answered "present" 2, not voting 26, as follows:

[Roll No. 313]

AYES—257

Abdnor
Addabbo
Albosta
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clinger
Coelho
Coleman
Collins, Tex.
Conte
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Dougherty
Drinan
Duncan, Tenn
Early
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fish
Fithian
Flippo
Florio
Fountain
Fuqua
Gaydos
Gephardt

Gibbons
Gingrich
Glickman
Goldwater
Gore
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harsha
Heckler
Hightower
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Lott
Luken
Lungren
McClory
McDade
McDonald
McEwen
McKay
Madigan
Markey
Marks
Marlenee
Marriott
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Pashayan
Paul
Petri
Quayle
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roth
Rousselot
Royer
Rudd
Runnels
Russo
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—149

Akaka
Alexander
Anderson, Calif.
Anthony
Ashley
AuCoin
Barnes
Beilenson
Bingham
Blanchard
Brademas
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burton, Phillip
Carr
Clay
Cleveland
Collins, Ill.
Corman
Danielson
Dellums
Derrick
Dicks
Dingell
Dixon
Dodd
Downey
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Ertel
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Giaimo
Gilman
Ginn
Gonzalez
Gray
Green
Guarini
Harris
Hawkins
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Kastenmeier
Kogovsek
Kostmayer
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Lujan
Lundine
McCormack
McHugh
McKinney
Maguire
Martin
Matsui
Mattox
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Nedzi
Nolan
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Rose
Rosenthal
Rostenkowski
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Slack
Snowe
Solarz
Stack
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vanik
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Yates

ANSWERED "PRESENT"—2

Conable
Pritchard

NOT VOTING—26

Ambro
Anderson, Ill.
Bolling
Bonker
Burton, John
Chisholm
Conyers
Davis, S.C.
Diggs
Emery
Flood
Forsythe
Frenzel
Garcia
Goodling
McCloskey
Mathis
Mikva
Murphy, N.Y.
Perkins
Roybal
Santini
Skelton
Spellman
Treen
Wright

Mr. HEFNER and Mr. NOLAN changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1200

The CHAIRMAN. Are there additional amendments to title IV?

If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—TRANSITIONAL SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed in such prior position shall continue to be compensated in such new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

AGENCY TERMINATIONS

SEC. 503. (a) The following offices shall terminate upon the transfer of functions pursuant to this Act:

(1) the Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education);

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education, and Welfare; and

(4) the Office for Dependents' Schools of the Department of Defense.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.

(c)(1) The director of any office continued in the Department the director of which was required, prior to the effective date of this Act, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) of this subsection to any officer or employee of the Department.

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed—

(1) to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this Act; and

(2) to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as the Director may deem necessary to accomplish the purposes of this Act.

(b) The Director shall provide for terminating the affairs of all offices terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

(c) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized and directed, at such time as the Director of the Office of Management and Budget shall provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, and privileges that—

(1) have been issued, made, granted, or allowed to become effective in the performance of functions which are transferred under this Act to the Department or the Secretary; and

(2) are in effect at the time this Act takes effect, shall continue in effect according to their terms until lawfully modified, terminated, superseded, set aside, or revoked.

(b)(1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of porposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions or offices of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions or offices so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until lawfully modified, terminated, superseded, or revoked. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof, in his official capacity, is a party to a suit, and under this Act any function or office of such department, agency, or officer is transferred to the Secretary or any other official, then such suit, insofar as it relates to such function or office shall be continued with the Secretary or other official, as the case may be, substituted.

SEPARABILITY

SEC. 506. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department in which this Act vests such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3 of the United States Code is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following: "The Department of Education.".

(c) The number of executive level positions published pursuant to section 5311(b)(1) of title 5 of the United States Code is hereby increased by 14.

(d) Section 5312 of title 5 of the United States Code is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(e) Section 5314 of title 5 of the United States Code is amended by inserting immediately after paragraph (4) thereof the following:

"(5) Under Secretary of Education.".

(f) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof

"(17) Assistant Secretaries of Health and Human Services (4)."; and

(2) by inserting immediately after paragraph (24) thereof the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(g) Section 5316 of title 5 of the United States Code is amended by striking out paragraph (41) and by inserting in lieu thereof the following:

"(41) Officers, Department of Education (5).".

(h) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(i) The Comprehensive Employment and Training Act is amended—

(1) in section 111, by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.";

(2) in section 127(b), by striking out "and the Secretary of Health, Education, and Welfare" and inserting in lieu thereof ", the Secretary of Education, and the Secretary of Health and Human Services";

(3) in section 311(g), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,";

(4) in section 314, by striking out "Health Education, and Welfare" and inserting in lieu thereof "Education";

(5) in section 438(a)(2), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, Secretary of Health and Human Services,"; and

(6) in section 502(a)—

(A) by striking out "15" and inserting in lieu thereof "16"; and

(B) by striking out "Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof "Education, Secretary of Health and Human Services,".

(j) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after "Secretary" in the first sentence ", the Secretary of Health and Human Services,"; and

(2) by striking out "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof ", the Department of Health and Human Services,".

(k) Section 1411 of the Defense Dependents' Education Act of 1978 is amended—

(1) in subsection (a)(1), by inserting "and the officer of the Department of Education responsible for the office established pursuant to section 209 of the Department of Education Organization Act (hereinafter referred to as the 'principal officer')," after "the 'Assistant Secretary'),";

(2) by striking out "chairman" in such subsection and inserting in lieu thereof "cochairmen";

(3) in subsection (a)(2), by inserting after "Secretary" the following: "and the principal officer";

(4) in subsection (a)(3)—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) the Secretary of Education,"; and

(B) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively; and

(5) in subsection (c)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education,".

(l) Section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall transmit the information required by this subparagraph to the Secretary not later than February 1 of each year.".

(m)(1) Section 352 of the Environmental Education Act of 1978 is amended by striking out "who shall be compensated" and everything that follows through the end of such section and inserting in lieu thereof a period.

(2) Paragraph (1) of section 160(b) of the Vocational Education Act of 1963 is amended by striking out ", and who shall be compensated" and everything that follows through the end of such paragraph and inserting in lieu thereof a period.

(3) Section 512 of the Higher Education Act of 1965 is amended by striking out the second sentence and inserting in lieu thereof the following: "The Teacher Corps shall be headed by a Director and a Deputy Director.".

(4) Positions abolished as a consequence of the amendments made by this subsection shall, for purposes of section 502(a) of this Act, be deemed to be permanent positions transferred pursuant to title V of this Act.

(n)(1) Section 203(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting in lieu thereof "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, the Secretary of Health and Human Services,".

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 510. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

OFFICE OF PERSONNEL MANAGEMENT REPORT

SEC. 511. The Director of Office of Personnel Management shall, as soon as practicable, but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

The CHAIRMAN. Are there any amendments to title V?

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOKS: Page 103, strike out lines 17 through 19 and insert in lieu thereof the following: "Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.".

Mr. BROOKS. Mr. Chairman, this amendment changes from February 1 to January 1 of each year the date on which the Secretary of Health and Human Services is to transmit certain information to the Secretary of Education.

Section 111(c)(2)(B) of the Elementary and Secondary Education Act requires a count of the number of children in certain disadvantaged economic groups. This data is used for the allocation of some $4 billion under title I of ESEA. If this data is not submitted by January 1, the Secretary of Education would have to use stale data in his allocation of these funds. The change in dates in this amendment will permit the timely filing of required reports.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BROOKS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOKS: Page 99, beginning on line 1, strike out subsection (c) through line 3 and redesignate succeeding subsections accordingly.

Mr. BROOKS. Mr. Chairman, this amendment is offered at the request of Congressman HERB HARRIS, chairman of the Human Resources Subcommittee of the Post Office and Civil Service Committee, to make this bill conform to provisions of the Civil Service Reform Act passed by Congress in 1978. The amendment is technical in nature and makes no substantive changes in the legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BROOKS).

The amendment was agreed to.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from New York (Mr. ROSENTHAL) is recognized for 5 minutes.

Mr. ROSENTHAL. Mr. Chairman, a number of Members have been troubled and have engaged in discussions about the effects of some of the amendments that have been added on to the bill as of now, particularly those amendments dealing with quotas, with busing, and with school prayer.

Mr. Chairman, all three of these amendments were to title I of the bill. Title I is called "Findings and Purpose" and as such the items in this section usually state congressional intent and policy. But if an amendment is stated in direct statutory language it can have the full force of law. In order to obtain some clarification, I asked the American Law Division to interpret the legal effect of these amendments. They found that because of the wording of the quota (227–126) and the school prayer amendments (225–122) that they should be considered purposes of the new Department. Yet they do feel that the language of the Ashbrook busing amendment was statutory in nature and they consider that the busing (227–135) amendment would have the full force of law even as an amendment to title I:

As evidenced by its language, and remarks of its sponsor, this amendment is apparently intended to prohibit the Department from requiring State and local educational agencies that receive Federal funds administered by the Department to devise or implement student busing plans as a means of complying with Federal nondiscrimination requirements.

This argument is further supported by the fact that the busing amendment was to section 103 of title I which is statutory section beyond "Findings and Purposes." The quota and prayer amendments were to section 102 which is the "purposes" section.

This bill is the enabling legislation for a Cabinet-level department. As such the purposes and findings in this bill define the future of that Department. Although there is no greater technical legal status to "purposes" in an enabling act, psychologically there is a much greater weight placed on them. Courts frequently will look to the enabling act and its provisions in interpreting all future legislation administered by this Department. And further, it is possible that judicial interpretation would include sections of the "Findings and Purposes" since the status of these amendments as expressions of congressional intent is unclear.

On June 19, the Chair ruled against a Dornan amendment on not authorizing funds for racial quotas. The ruling was based on the fact that this was an organizational bill and that the title that Representative DORNAN tried to amend was not subject to a substantive authorizing amendment. Proponents of the bill assert that this ruling is broad enough to affect the previous amendments and to render them ineffectual.

A ruling of the Chair on a point of order only applies to the specific issue before the Chair and only on the section of the bill that amendment sought to modify. The ruling on the Dornan amendment held that the amendment was inappropriate because it dealt with the authorization of funds and this bill was an organizational bill and thus not subject to such an amendment.

The ruling on the Dornan amendment was correct for the section of the bill it referred to. Yet both the busing and the quotas amendments were challenged on points of order and the Chair overruled the points of order in each case, thus declaring them suitable for the section of the bill they amended—title I—where general policy statements are appropriate. Chairman BROOKS raised the point of order against the busing amendment and Mr. HORTON raised the point of order against the quota amendment. There was no point of order raised against the school prayer amendment.

The ruling of the Chair on the Dornan amendment not only would not apply to other sections of the bill not similarly challenged, but would not affect later interpretation of the law if passed. A parliamentary ruling of one Chamber has no legislative effect on the other Chamber or on a conference committee.

The ultimate effect of the Ashbrook busing amendment (227–135) will be to eliminate title VI of the Civil Rights Act of 1964 as an effective tool of the new Department on the issue of busing. Title VI mandates that HEW cut off all funds to a school district if they are discriminating on the basis of race, color, or national origin. What the Ashbrook amendment would do is to deny to this new Department the remedial power to threaten and cut off Federal funds where discrimination occurs and where there is no ongoing court-ordered busing.

According to the American Law Division:

The Ashbrook Amendment would appear to prohibit the proposed Department of Education, as successor to HEW, from issuing rules or regulations or otherwise requiring school districts, as a condition to receipt of educational funding, to implement student bussing remedies to achieve compliance with Title VI. It would apparently deprive the Department of its principal enforcement mechanism under Title VI, that is, its authority to cut off Federal funds to school districts that fail to adopt such measures.

☐ 1210

The hard, cold facts of life are the three amendments I have talked of, quotas, busing, and school prayer, are in this bill and they have been carried by significant votes. If anyone is naive enough to think those who oppose these amendments, as I did, if anyone is naive enough to think that the conference committee can effectively take this out, they are absolutely deluding themselves.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. ROSENTHAL. I am happy to yield to the gentleman.

Mr. MITCHELL of Maryland. That is the argument that is being sold to this Member, that while we have these heinous amendments in, that somehow or other the conference committee is going to have miraculous powers to clean them up. The gentleman says that Congress will not do this. On what basis does the gentleman make that statement?

Mr. ROSENTHAL. I defer to any one of my more senior and experienced colleagues. But the fact of life is when an amendment carries by a spread of over 100 votes, in the real world there is no effective way of eliminating that amendment. The conference committee maybe cannot report out, cannot reach an agreement and can sit indefinitely until the Congress comes out of existence, but in the real world there is no way that these three amendments, albeit the latest Ashbrook abortion amendment may be eliminated, there is no way these three amendments will be eliminated from the conference report, and the fact of the matter is with those three amendments and that vote, the conferees are mandated to maintaining the position of the House in support of those amendments regardless of their personal feelings.

Mr. MITCHELL of Maryland. If the gentleman will continue to yield, I thank the gentleman. That tilts me a little further in the direction of a "no" vote on final passage.

Mr. ROSENTHAL. I certainly would hope all of our colleagues who have considered supporting this bill, but who oppose these amendments as I do, would understand that the only way to eliminate these amendments from becoming actual law is to vote against this bill.

The CHAIRMAN. Are there additional amendments to title V?

If not, the Clerk will designate title VI.

Title VI reads as follows:

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect one hundred eighty days after the first Secretary takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title, and (2) the Secretary may promulgate regulations pursuant to section 505 (b)(2) of this Act. Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have taken office on the effective date of this Act, and notwithstanding any other provision of law, the President may designate any officer in the executive branch to act in such office until the office is filled. While so acting, any such officer shall receive compensation at the rate provided under this Act for the office in which he or she acts.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOKS: Page 107, beginning on line 1, strike out "on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act," and insert in lieu thereof the following: "on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, except that at any time on or after October 1, 1979,".

Mr. BROOKS. Mr. Chairman, this amendment amends the effective date section of H.R. 2444 to insure that no provision of the act will go into effect before October 1, 1979. It thereby cures two conflicts with the Congressional Budget Act. Section 401(b)(1) of the Budget Act provides that it shall not be in order to consider any bill containing an entitlement provision effective before the first day of the fiscal year which begins in the calendar year in which the bill is reported. Section 402(a) of the Budget Act provides that it should not be in order to consider any bill which authorizes the enactment of new budget authority for a fiscal year unless that bill has been reported by May 15 preceding the beginning of such fiscal year.

This amendment, which has the approval of the Budget Committee, will correct any conflicts with these two provisions of the Budget Act.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BROOKS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BEARD OF TENNESSEE

Mr. BEARD of Tennessee. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEARD of Tennessee: Page 108, after line 2, insert the following new section and conform the table of contents accordingly:

TERMINATION OF THE DEPARTMENT

SEC. 603. (a) The Department shall terminate six years after the effective date of this Act unless prior to that date a law has been enacted which continues the Department.

(b)(1) If the existence of the Department is not continued by the enactment of an Act not later than six months prior to the termination date specified in subsection (a), the President shall submit a plan to the Congress which transfers the functions of the Department to other departments or agencies unless prior to the termination date of the Department its functions have been so transferred by law. The President may not submit a plan under this subsection which provides for or has the effect of creating a new executive department.

(2)(A) The plan submitted by the President to the Congress pursuant to this subsection shall take effect at the end of the first period of 60 calendar days of continuous session of Congress after the date on which such plan is transmitted to the Congress unless, between the date of transmittal of the plan and the end of the sixty-day period, either House passes a resolution stating that the House does not favor the plan.

(B) The provisions of sections 908, 910, 911, and 912 of title 5, United States Code, shall apply to any resolution considered under this paragraph. For the purposes of the preceding sentence—

(i) all references in such sections to "reorganization plan" shall be treated as referring to a plan submitted under section 603(b) of the Department of Education Organization Act of 1979, and

(ii) all references in such sections to "resolution" shall be treated as referring to a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the   does not favor the plan submitted under section 603(b) of the Department of Education Organization Act of 1979 on   , 19   .", the first blank therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled.

(3) If a plan is disapproved in accordance with the provisions of this subsection, within 30 days after the date of disapproval of such plan the President shall submit another plan to the Congress for the transfer of the functions of the Department. Such plan shall take effect at the end of the first period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to the Congress unless the plan is disapproved in accordance with the procedures established in paragraph (2). The President shall continue to submit additional plans for the transfer of the functions of the Department until a plan takes effect.

(4) For the purpose of this subsection--

(1) continuity of session of Congress is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

Mr. BEARD of Tennessee (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. BEARD of Tennessee. Mr. Chairman, the amendment I am introducing today will "sunset" the Department of Education 6 years after its enactment, unless Congress votes to extend its life. If not, then the President would have the responsibility to distribute the programs that were in the Department to other appropriate agencies and departments.

My purpose in proposing this amendment is to give Congress an opportunity to see how this Department works, and to provide the incentive for this new Department to prove itself, without affecting educational programs in any way. If it is successful and truly improves education and the education system, then we can permit its continuation.

A great deal of attention and debate has centered on the growth, size, cost, and efficiency of the Federal Government—and rightly so. That debate stems from the many governmental departments and agencies that continue to receive matter-of-course funding, in spite of the clear evidence that many of them have long since outlived their usefulness. Ten years from now, we may be saying the same thing about other governmental agencies, including the proposed Department of Education. This trend should not be allowed to persist.

Rather, we must insist that all Federal agencies and departments justify their continued existence on the basis of their performance. Why not set a precedent now, as we deliberate the merits of a new and totally separate Department of Education?

I have been a longtime supporter of the sunset approach for reviewing Federal programs. I know I am not alone in hearing from constituents who are furious about having to cope with and pay for yet another Federal program. In fact, there is a feeling that Congress approves almost any program regardless of the small benefit to be gained by taxpayers. Taxpayers are demanding more and more that we in Congress carefully examine new and existing Federal programs. Sunsetting a law provides a timetable for legislative review that insures examination of Federal programs on a regular basis, and also protects a program from termination without proper consideration.

The National Education Association is opposed to my amendment. They are opposed to a concept which is, in effect, an antidote for the proliferation of Federal programs and centralized government. But why? NEA maintains that sunsetting ought to occur by program. I could not agree more—but I also believe that the first step toward sunsetting wasteful and ineffective programs is to now sunset their administrative vehicle, that is, the Department of Education.

It is time we stopped creating new departments, agencies, commissions, boards, bureaus, and programs without regard for the impact of additional bureaucracy. Federal departments, once established, must be held to account for their effectiveness in administration as well as their adherence to congressional intent. I will also be the first to admit that we need to be pushed into devoting sufficient time for oversight. Our energies seem irrevocably drained in searching for answers to new problems and we are often negligent in checking up on those solutions we have already adopted. My amendment would provide this necessary incentive.

Many criticisms and fears have been expressed about the creation of the Department of Education—legitimate, very sincere apprehensions—by people concerned with the effects of this Department on our educational system, the role of State and local governments, and the relationship between State and local governments and the Federal Government. I firmly believe that a comprehensive review at the end of a fixed period of time is the best way to assure the public that we have made the right decision on such a controversial issue.

To those of you who have indicated your opposition to this proposal, let me ask—what is the cause for alarm? No detriment can result from this amendment—in fact, only good can come of it. If evidence dictates the continuation of the Department, it will be continued. If not, if we can find a better way to handle it, if we can save money, if we can promote efficiency, then let us do it.

I urge your support of my amendment.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman.

Mr. WHITEHURST. Mr. Chairman, I want to commend the gentleman for offering what I think is one of the most commonsense amendments that has been offered to this bill. No one can properly object to this. If it is going to do its job, after 6 years it can go on. If it is not, then it ought to be terminated.

So many of the people I have had complain about this who are for this Department simply cannot make their arguments stand up. It seems to me that the gentleman has done the House and the Nation a service by entering this amendment and I congratulate the gentleman.

Mr. BEARD of Tennessee. I thank the gentleman.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. Certainly, I yield to the gentleman.

Mr. DORNAN. Most of us in 1976, our Bicentennial year, campaigned for sunset laws, and many of our victories were attributed to taking a strong position in support of sunset legislation.

Could I ask the distinguished gentleman from Tennessee one question about the length of time allowed in his amendment, that is 6 years? I have noticed with all amendments the gentleman has offered in the 2½ years that I have been here, that his amendments have been as close to perfect as is humanly possible. But I am considering submitting a perfecting amendment here to make your amendment a 5-year sunset provision so that the President who will succeed President Carter in January of 1981 will have an opportunity to set the sun on this Department if it gets out of control. Why did the gentleman not make your sunset law 5 years?

Mr. BEARD of Tennessee. I would certainly entertain such a perfecting amendment. But in looking at it we felt 6 years would give the Department time to make it work. We just felt that 6 years was a fair period of time.

□ 1220

Mr. DORNAN. Well, in the gentleman's typical thorough and generous manner he has thought it through, so I will not submit my perfecting amendment.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from California.

(By unanimous consent Mr. BURGENER was allowed to speak out of order.)

SAFE LANDING OF SKYLAB

Mr. BURGENER. Mr. Chairman, I am sure the Members will be pleased to know that Skylab has landed safely in the Indian Ocean.

Mr. HORTON. I thank the gentleman. It shows NASA as a pretty good agency, and they are doing a good job.

The CHAIRMAN. The gentleman from New York (Mr. HORTON) is recognized for 5 minutes.

Mr. HORTON. Mr. Chairman, I rise in opposition to this amendment. I want to commend the gentleman from Tennessee (Mr. BEARD) for his unfailing efforts with regard to sunset provisions. I do think, as the gentleman from Tennessee said, that he does support the concept of sunset of various programs.

Now, this amendment does not mandate sunset for programs, but it mandates sunset for a Cabinet-level agency. I feel it is very important for us to exercise our oversight function in the Congress, and one of the disciplines that we have in the exercise of our legislative oversight is the concept of sunset. Because of sunset provisions the Congress is forced to look at various programs to determine whether or not they are effective. I think we ought to do more of that.

But, I think it is unreasonably burdensome to put a sunset provision on a new agency, and especially a Cabinet-level agency. I happen to have served as chairman of an agency that did have a sunset provision. When this House authorized the creation of the Paperwork Commission, it was created for a period of 2 years from the date of its first meeting. It met in October 1975, and therefore it had to go out of existence in 1977. I can tell the Members from personal experience that that is a very trying situation. First of all, we have to create a new agency, and that takes time. Then, there came a time about midway through our task—in this instance in 1 year—when we had to start scaling the agency down so that it could go out of existence at the end of 2 years.

It is almost counterproductive to put a sunset provision on an agency because it is going to create a lot more extra work in the agency to meet the mandate of the requirement that it come back before the Congress to justify its existence. The

Congress will have plenty of opportunity to oversee this agency. We have a provision that limits the number of personnel. Among its other responsibilities, the Congress has its normal function of authorizing and then of appropriating funds for the agency.

I think that this is a burdensome and unreasonable restriction on this agency, and I urge its defeat.

Mr. BLANCHARD. Mr. Chairman, I rise to speak in opposition to the amendment.

Mr. Chairman, I do not like to get up and oppose a so-called sunset amendment, being one of those, as is the gentleman from Tennessee, who strongly supports the sunset concept. However, as the author of H.R. 2, which has over 180 cosponsors and is the major sunset bill in the House, I feel compelled in this instance to oppose this amendment.

The major reasons why I oppose the amendment are threefold. I think it is a misuse of the sunset principle. I think it is unrealistic. Third, I think it will hurt the cause of serious, meaningful sunset legislation in the House.

I think, first, it is a misuse of sunset because sunset is the device to force a rational review of spending programs, as the gentleman from New York has just said, not whole departments. It is just as simple as that.

I think it is unrealistic to talk about sunsetting a major department, and we all know that. No one is going to suggest that we ought to have a sunset clause on the Defense Department or the Department of the Treasury, and if Members believe there ought to be an Education Department, then nobody should seriously suggest that we would even consider sunsetting the whole Department. The fact that one might be opposed to this bill is not a good enough reason for this amendment.

Third, I think it misuses the sunset principle, ignoring a requirement for spending program review, which is what we really need to get at. We need to get at the spending programs. Ignoring that and simply sunsetting a department I think hurts the cause, hurts the credibility of the sunset movement, and is a setback in getting meaningful legislation.

I would add that the Rules Committee, and ultimately the House, but the Rules Committee right now has been having extensive hearings on sunset legislation. I think it is highly likely that they are going to do something meaningful in this Congress. I think most people here in the Chamber and those colleagues watching on television in their offices would agree we ought to be doing something on sunset. It ought to be serious; it ought to be rational; it ought to relate to spending programs and be realistic. For all those reasons, I would oppose this amendment and urge those who have cosponsored H.R. 2 or similar legislation to oppose it.

Mr. ERLENBORN. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I observe that we are reaching the sunset of the debate on the creation of the Department of Education. I want to make it clear at the outset that I am a traditional supporter of the concept of sunset, and during the 15 years that I have been in the House I have seen almost every new program that has been enacted by the Congress contain a sunset-type limitation to force us to look at that program to see if it has achieved the results intended—to see if it has been properly run by the executive branch. It has become practically traditional for such sunset provisions to be attached to authorizations for new programs.

But, as the gentleman from Michigan, who just spoke in the well, made the distinction, and the gentleman from New York made the distinction, it has been also traditional to make a distinction between programs and governmental structure. I think it is altogether proper that we force review of programs, and in the Department of Education, should it be created, each one of its programs should be subject to a sunset provision, hopefully in varying periods of time to occur year by year so that we could take a good, hard look at a particular program or set of programs in 1 year, and then another set of programs in another year.

That is why all sunset legislation has been introduced, to get to those authorizations that were enacted prior to the tradition of putting limitations on authorizations.

□ 1220

We have to go back and get the old programs. Some of them have been on the books much too long and may have either never been properly structured or have already served their purpose. But it is not proper, in my opinion, and I join the gentleman from New York in making the distinction, to attach a sunset provision to a structure of Government with the creation of an agency of a Cabinet-level department. Therefore, I hope the amendment will be defeated.

I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, at the outset I must declare my opposition to the proposed Cabinet-level Department of Education. While I am a strong supporter of congressional efforts to enhance the quality of school programs for our children, I remain unpersuaded for a number of reasons that the creation of a new department is the most effective means of helping a second-grader in Wilmington or a high school senior in Seaford to gain a first-rate education.

Education has flourished in this country because it has enjoyed the diversity that has come from independent initiatives made by separate communities, States, and private institutions. In contrast to many of the other nations around the world, most of which have centralized ministries of education, we have not yet chosen to locate primary responsibility for the education of our children at the Federal level of Government. The formation of the proposed Department would violate our traditional reliance on local initiatives and mark the beginning of Federal domination over the basic policy considerations affecting our educational systems. At a time when the influence of the Federal Government is so pervasive, I am doubtful that the American people are truly willing to create a backdoor means of establishing a Federal policy for education.

I am absolutely certain that a new Federal Department of Education would eventually have the power and the inclination to tamper with areas in both public and private education that rightfully belong to parents and the local community. Education and school policies are not now and have never been responsibilities of the National Government of the United States. Many of my constituents in Delaware already feel the Federal Government is exercising too much influence over all aspects of local education programs. The creation of a Cabinet-level department would not simply be a benign effort at reorganization and streamlining. This would be a tremendous shift in emphasis by the Federal Government from supporting the local efforts of schoolboards and State Departments of Education to formulating, administering, and directing a distinctly Federal education policy.

Mr. Speaker, proponents of H.R. 2444 suggest that a new Department would not increase intervention by the Federal Government in local educational affairs. I am not aware of any Cabinet-level Department which does nothing more than pass out Federal funds without any strings attached. By definition, Federal Cabinet-level departments implement national policies on particular matters. This proposed Department will inevitably attempt to implement policy directives which would exceed the principle of the 10th amendment to our Constitution: That only certain powers can and should be assumed by the Federal Government; all other matters are reserved to the several States. Education policy is certainly a local concern which does not deserve excessive encroachment on local school districts that the proposed new Federal Department of Education would bring.

The new Department would, over time, have the effect of shaping the values of future generations of Americans according to the political, social, and economic values held by a group of faceless bureaucrats in Washington. The creation of this Department provides the ripe potential for the centralization and control of ideas. For this reason alone, a Federal policy on education repudiates our traditional recognition of the need for diversity of thought and opinion. The shift in control over education policy from local bodies to the Federal Government would have far-reaching implications and contradict my constituents' strong belief that less intrusion by the Federal Government into educational matters would best serve young Americans long-term interests.

Additionally, I oppose the Department of Education because there is absolutely no guarantee that the promised operational efficiencies from a Cabinet-level department would ever materialize. It is only a shadow of a truly comprehensive agency and leaves out more Federal education activities than it includes. There is no evidence that a separate department would increase intergovernmental coordination. Creating a Department of Education would not untangle the swarm of Federal education offices and projects in the existing Office of Education within HEW. It would simply put a more prestigious label at the top of an organization chart without delivering any real operational benefits.

Three Presidential study commissions have concluded that centralizing Government agencies under the guise of reform is not always beneficial. Indeed, the history of recently created Cabinet-level departments argues against removing the Office of Education from HEW. The Department of Energy for example has contributed to our unacceptable position of dependency on a foreign oil cartel. A more effective management structure within HEW would settle the problems of the Office of Education without creating a new self-perpetuating bureaucracy.

I support the recognition of the need to strengthen the position of education as a national concern among competing social priorities within the Federal Government. However, this necessary objective could still be more effectively and readily accomplished through a comprehensive reorganization within HEW. Anyone who suggests that education programs would receive additional funding due to their allegedly enhanced status in a Cabinet-level department simply misunderstands the nature of the Federal budget process. It is the emphasis placed on education by the President and by Congress which determines program funding levels and not simply Cabinet status. In summary, I cannot believe that the formation of still another Federal bureaucracy will be cost effective over time and improve the quality of education received at the local level by the young people of this country.

Finally, I think one important factor has been ignored in the debate over this proposal: How will this bill affect the intended beneficiaries of Federal education programs? Very few reasons are even suggested by the proponents of this bill to demonstrate that a sixth grader in a Delaware elementary school will receive an improved education as a result of the creation of a Federal Department of Education. In fact, there is nothing in this proposal that provides any promise or even any hope that anyone will learn more, or faster, or more happily, or even at less cost while in school or college. This new Department would further entrench many of the Federal bureaucrats and ineffective programs spawned by the Federal Government which have done little to educate our children. The teachers in my home State are good ones. What we really need to do is reduce the incentive for Federal meddling in the education and increase the opportunities for our teachers to do what they are best at: educating students. The expansion of the Federal education bureaucracy will not in the long run help either the teachers or the children. There is no credible educational rationale for creating a Federal Department of Education. That is the fundamental shortcoming of this proposal and the reason why I intend to vote against the creation of a new Federal Department of Education.

Mr. ERLENBORN. Mr. Chairman, I yield back the remainder of my time.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the entire question of applying the sunset approach to the Federal Government is now under study by the Rules Committee. Under the able direction of the gentleman from Louisiana (Mr. LONG), hearings are being held, experts are being closely questioned, and sometime this year we can expect a lucid and enlightening report that will deal with the question on a broad, Government-wide basis.

That is the way this problem should be approached, not on a piecemeal basis, applying it to only one department, as this amendment proposes. The broad, Government-wide approach is also the one taken in the major sunset bills introduced in both the House and Senate. They provide for systematic review of programs on a regularly scheduled basis. They would not terminate an entire department, as would this amendment.

Furthermore, Mr. Chairman, practically all the programs that are being transferred into the new Department already have to undergo periodic review and renewal by the authorizing committees. They have to be funded each year. Congress has ample opportunities to examine the programs and see how they are working before it decides to continue them.

This is a bill to create a Department of Education. We will have an opportunity later during this Congress to deal with the question of applying the sunset approach to all Federal programs. Let us not try to combine the two questions in this legislation.

I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. BEARD).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BEARD of Tennessee. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. FOUNTAIN. Mr. Chairman, I move to strike the last word.

(By unanimous consent, Mr. FOUNTAIN was allowed to proceed for 5 additional minutes.)

Mr. FOUNTAIN. Mr. Chairman, although I am the ranking majority member of the Committee on Government Operations, I have not yet addressed this bill on the floor because of my interest in completing the debate in compliance with the wishes of my distinguished chairman, the gentleman from Texas (Mr. BROOKS). But I do feel compelled now to express my very strong views in opposition to this legislation.

Let me first say that this legislation was reported out of the Committee on Government Operations by a vote of 20 to 19, which indicates the controversial nature of the subject matter we are discussing.

During my days as a member of the North Carolina State Senate before I came to the Congress, I was an ardent supporter of public education. Education is the basic bedrock upon which our country has grown to greatness. Since I have been in the Congress, I have remained a strong supporter of education and have consistently favored valuable supplementary aid to education. But notwithstanding my long years of support, I am opposed to this ill-advised and unnecessary legislation to establish a department which will grow and grow, cost the taxpayers of this Nation unnecessary billions of dollars, and ultimately become an unmanageable monster bureaucracy. After having observed the growth of Federal executive agencies for over 26 years. I sincerely believe this to be true. I have firmly concluded that there is not one single title, section, paragraph, or line in this bill which would be of comparative use or benefit to the legitimate consumers of education in our country—the students in our various educational institutions.

I have given considerable thought to the proposal for establishing a Department of Education and have carefully examined in particular the testimony of the OMB Director before the Brooks subcommittee. As I understand it, the administration does not claim that a department is necessary for developing a national educational policy. In fact, Mr. McIntyre acknowledged that the Federal role in education is "limited and specific." This is a fundamental point which I think deserves emphasis. The proposed department allegedly is not intended to be an instrument for developing a Federal policy for education, at least not by the current administration.

If educational policymaking is not at issue, then what is the justification for a new department? The administration bases its case on improved management. In Mr. McIntyre's words:

> The question before the Congress is simply this: How do we most effectively manage more than 150 Federal education programs? Do we do this through a separate department, as the administration has proposed, or do we continue with the existing organization?

He then proceeded to present the case for a separate department.

I would have no objection to giving education a separate department with Cabinet status if this step were necessary to produce more effective and economical program management. However, it could easily be done by the President under existing reorganization authority.

Of greater importance, I find it disappointing that the administration has not given attention to another management option—namely, a critical review of our current education programs to determine how many of them are really needed today or how many should be amended, consolidated, or eliminated.

Particularly since Sputnik, we have created a maze of programs, many of them overlapping and duplicative with complicated regulations and administrative relationships. It would be, in my opinion, far more useful to concentrate on weeding out programs that have outlived their usefulness, that duplicate one another, or that simply do not work, than to devote our energies to creating a new organizational structure which might well help to perpetuate many unnecessary programs. I believe we would accomplish far more by giving attention to reducing the number and the complexity of the programs we have spawned before concerning ourselves with organizational matters in the form of a separate department—a Cabinet-level department, bear in mind.

In any event, since the administration has chosen to build its case on management effectiveness, I want to examine briefly some of the benefits it anticipates from the Cabinet department.

Mr. McIntyre testified that the processing of education matters within HEW is unduly slow because of unnecessary duplication and fragmentation in the Department's organizational structure. He stated, for example, that the average time required to issue a routine regulation is nearly a year and a half. A Department of Education, he said, would cut the time in half by eliminating 15 offices from the clearance process.

Surely no efficient department clearance process should take that long for the issuance of a noncontroversial regulation. We can do something about this problem without establishing a new Cabinet-level department.

Similarly, the OMB Director testified that a separate Department of Education could reduce the time it now takes to prepare the education budget and also speed up the process for developing legislative proposals. I do not see this as a significant argument for another Cabinet department, since the budget cycle is an annual one and HEW obviously manages to get its education budget to OMB on time, even if the internal processing does take longer.

□ 1240

As for a slower and more deliberate review of legislative proposals, I would view this as a very strong argument for retaining education in HEW. Since professional bureaucrats, as those of us who have been here for a long time regularly observe, generally excel at promoting the expansion of their programs and their jurisdictions, a more thorough and objective review can only be salutary, especially in an area which even the strongest proponents of a new department concede is basically a State and a local responsibility.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield just briefly?

Mr. FOUNTAIN. I will yield to the gentleman from New York briefly.

Mr. ROSENTHAL. The point we ought to make is that all the deficiencies that McIntyre testified to can be corrected by Executive order.

Mr. FOUNTAIN. The gentleman is quite right.

Mr. ROSENTHAL. Every single one of them.

Mr. FOUNTAIN. The gentleman is quite right.

One important proponent is the National Education Association, which testified before the Brooks subcommittee that "the Federal Government ought to be paying as much as a third of the cost of public education." In view of the history of this legislation, let me say that since this is a political question, it is going to be a political decision for those who vote for this bill. The NEA's goal of a one-third Federal share stands in sharp contrast with the approximately 8 percent the Federal Government presently contributes through all of its programs to public education. What a field day the education interests could have in pressing through their own department for a larger Federal percentage without the present constraint of having to compete with health and welfare advocates for a share of the HEW budget.

If the President has a personal interest in particular education matters, as the OMB Budget Director says, he can surely invite the principal HEW officials concerned to the White House for discussions, or the President can instruct the White House staff to pursue the matter for him. Presidents have rarely, if ever, used Cabinet meetings as a forum for resolving issues that pertain to a single department.

As a further observation, I think we should recognize that the Federal Government, despite its continuing support for education, has not provided solutions for the problems that afflict our schools. The plain truth is that the Federal Government has no special competence for improving the quality of education or student performance. I believe it is appropriate for the Federal Government to support research and other items aimed at obtaining a better understanding of these difficult matters, but we should never delude ourselves into believing that a new department, or even more Federal spending, will solve these problems.

Better coordination and better management of existing education programs are surely desirable objectives. However, I have not seen persuasive evidence that the upgrading of the Office of Education to Cabinet status, with the responsibility for administering only about half of the Government's education programs, would make a significant difference.

Education is not a major function of of the Federal Government. Rather, it is reserved by the Constitution to the States and their local units, and traditionally and historically has been treated that way.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. FOUNTAIN was allowed to proceed for 3 additional minutes.)

Mr. FOUNTAIN. Throughout our history, Mr. Chairman, the role of the Federal Government in education, at most, has been strictly limited to supplemental support of activities perceived to be in the national interest. Along these lines, there is a national consensus in favor of valuable supplementary Federal aid to education. However, there is not now, nor has there ever been, a consensus for heightened Federal involvement in and control over education.

Complete, or at least excessive, Federal control will likely result if this bill is enacted, notwithstanding amendments designed to slow down the process. Predictably, the top bureaucrats of the new department and the interest groups will do their dead level best to see to it that Federal funding of education is increased almost overnight from its present 8 percent share to the NEA's well-publicized goal of 33⅓ percent. Logically, I see no reason to hope that they would rest on their laurels and stop at 33⅓ percent. Why not 40 percent? How about 50 percent? Could 66⅔ percent, 75 percent, or even more, be much further down the road?

With the increases in Federal funding and the accompaning pressures for more and more dollars from Washington, there would undoubtedly come demands that all teachers and all school facilities meet burdensome and restrictive national standards, that all course offerings contain basic essentials determined by the Federal Government, that all students attain a nationwide minimum level of competency set by Washington bureaucrats, that Federal standards for labor-management relations in education be mandated, that State and local governments meet exacting Federal standards for educational expenditures, and that all school districts throughout the country maintain and file mountains of additional data through a federally implemented uniform system of reporting. The staggering possibilities emanating from Federal bureaucratic control of education go on and on.

Mr. Chairman, the educational decisionmaking process would be transferred from our State capitals, our county seats, and our local school districts to the massive educational network spread out in a maze along the Independence Avenue and Maryland Avenue corridors in Southwest Washington. Without a doubt, the empire would multiply further throughout our Nation's Capital as more real estate is gobbled up to make room for a burgeoning educational establishment.

The passage of this legislation would mean bureaucracy unleashed like we have never seen it unleashed before in the history of this democracy.

My friends, you can rest assured that Federal special interests—formally institutionalized in a Department of Education—will eventually call all the shots on the educational front, and that State and local control of education will go out the window completely unless we kill this legislation here and now.

Enactment of this bill will mean that State and local educators will soon be mere administrative agents of the Washington educational bureaucracy.

We have heard the proposition that a separate Department of Education would provide a better management tool for Federal education programs. Yet, while the catalog of Federal education assistance programs for 1978, compiled by the Commissioner of Education, lists 312 separate programs offering educational benefits to the American people, only about half would be transferred into the proposed department. The clamor of organized constituencies has thus far dictated whether certain programs will be included. Decisions have not been based on the merits of individual inclusions or exclusions. I fail to see how better management can be the outgrowth of infighting among various interest groups.

Since 1976, the Department of Health, Education, and Welfare has had an Office of Inspector General, established by legislation introduced by myself and others. Thus far, the Inspector General has not only made several worthwhile contributions to overall efficiency and economy in HEW, but also has played a major role in improving program management in the department. In fact, one of the primary purposes of the 1976 act was to accomplish the same managerial goals which supporters of this bill used in committee and are using now on the floor.

Mr. Chairman, the creation of a separate Department of Education would further politicize education in our country to the severe detriment of the people served by our educational institutions. In order to educate properly, we need to maintain traditional diversity in our approaches, taking into account particular needs. This legislation would destroy that diversity.

Nor is creation of a separate department justified in terms of sound and efficient management. The President has the congressionally delegated power to reorganize HEW. This bill contains no feature whatsoever which would improve coordination in the delivery of services. Rather, the problems now existing in public education would be compounded and magnified by enactment of this legislation.

I urge my colleagues to defeat this unwise proposal. Rejection of this bill would give all of us a chance to work harder to improve education within existing administrative frameworks and Federal-State relationships. The task will be difficult, but we can take an important step by voting down this legislation before us today.

The major responsibility for the development of educational policy should remain decentralized—under the watchful eyes of parents, local school boards, and local administrators. We cannot afford to erode State and local control to any greater extent than we regrettably have already.

Let us lay aside the justifications and vague hopes offered by the lobbyists and special interest groups and think instead of the children of our Nation—the real consumers of education. Will they be best served by an even more massive educational bureaucracy centralized in Washington? The answer is no.

Cabinet departments ought not be created except in times of legitimate or compelling national need, and the burden of proof should be squarely on the proponents' shoulders. The evidence in favor should be clear and convincing, but the proponents of this legislation have not made a concrete case for moving from our very important Federal supplementary aid to education to more Federal responsibility for education.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. BEARD of Tennessee and by unanimous consent Mr. FOUNTAIN was allowed to proceed for 1 additional minute.)

Mr. BEARD of Tennessee. Mr. Chairman, would the gentleman yield to me?

Mr. FOUNTAIN. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Chairman, does it concern the gentleman in the well or does the gentleman have any speculation as to why the NEA would oppose my sunset provision?

I must say that I am very disturbed that we could not even get a record vote on a sunset provision that is supposedly one of the major legislative thrusts of this Congress. That makes me fearful that NEA would oppose something that is so legitimate in our legislative process.

Mr. FOUNTAIN. Of course, different Members may have different reasons for opposing or supporting the amendment that was just offered by the gentleman from Tennessee.

Insofar as NEA is concerned, that organization would oppose it because it does not want to have the slightest opportunity of this institution ever becoming defunct through a sunset provision.

Mr. BEARD of Tennessee. Mr. Chairman, I was planning to vote for the Department of Education until the sunset provision was defeated. I just do not think the people of my district want to chance another Department of Energy.

Mr. FOUNTAIN. Mr. Chairman, I recently came across a statement made by a Member of Congress which sums up in a paragraph one of the most persuasive arguments against this bill. Speaking in opposition to legislation to establish a Department of Education in the Federal bureaucracy, he said—

> I am not of the opinion that an establishment of this sort in this city through the General Government will really promote the cause of education in the country. It will be a benefit to a few persons; but that it will reach the masses of the people of the common schools of the country in any beneficial influence I do not believe.

That member was Senator Thomas A. Hendricks of Indiana. Now for those who know that Senator BAYH and Senator LUGAR represent Indiana, let me point out that Senator Hendricks has not been in Washington for a while. In fact, he made that statement on the Senate floor on February 28, 1867 as the 39th Congress debated a bill to establish at the Federal level a Department of Education. The debates recorded in the Congressional Globe are intriguing from an historical point of view, but are also informative and enlightening for our more immediate purposes as we consider this proposal in the 96th Congress.

When the House debated that legislation 112 years ago, Representative Andrew J. Rogers of New Jersey called it—

> . . . a proposition which is a mere scheme of philanthropy, got up for the purpose of educating the children of the whole country, and the result will be that in a short time this bureau will need more clerks and expenses for stationery . . . And where will it end? It will not stop until we run up a bill of expenses that will materially injure the finances of the Government.

Representative Samuel W. Moulton of Illinois wondered aloud on the floor of the House how the so-called need for the legislation arose—how it was brought to the attention of Congress. He answered his own question—

> In last January or February the leading educational men in this great Republic met here in this city of Washington, and after a long and careful conference, and a full discussion and hearing upon all sides, they came to the conclusion that a department of this kind was absolutely necessary for the benefits of the whole country and the promotion of the educational interests of the country.

Senator Garrett Davis of Kentucky also argued against the bill—

> (The bill) seems to me to be more of a device to create officers and patronage and to make drafts on the Treasury than anything else. Instead of increasing the bureaus in the Departments, I would be willing to discontinue about half a dozen of them. I think there are a great deal too many already . . . This thing of Congress drawing into the vortex of the power of the national Government so many subjects and interests that, according to my judgment, belong peculiarly to the States, and were intended to be left exclusively to State management, and that can be so much more wisely and successfully and beneficially managed by the States than by Congress, is a very mistake policy. That is my humble opinion.

Despite these arguments, which made good sense in 1867 as they do in 1979, Congress passed the bill, and President Andrew Johnson signed it into law on March 2, 1867. The Department of Education, in the words of the act, was established—

> . . . for the purpose of collecting such statistics and facts as shall show the condition and progress of education in the several States and Territories, and of diffusing such information respecting the organization and management of schools and school systems, and methods of teaching, as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country.

Interestingly enough, the 39th Congress authorized not only a Commissioner of Education to manage the new Department but also three clerks to assist the Commissioner. The Commissioner's salary was set at $4,000 a year and the clerks were to be paid salaries of between $1,600 and $2,000 per annum. Incidentally, members of Congress at the time, according to the Globe, received a salary of $3,000 per year—less than the Commissioner earned.

The Commissioner of Education was required under the 1867 act to present an annual report to Congress "embodying the results of his investigations and labors, together with a statement of such facts and recommendations as will, in his judgment, subserve the purpose" of the Department. I might add that the Department was not a Cabinet-level entity, but was labeled a Department so that the Commissioner could select and appoint his own clerks. If it had been called a "bureau", the Commissioner, according to the state of the law at that time, could not have personally chosen his clerks.

Based on the action taken by the 39th Congress, supporters of this legislation before us in the 96th Congress might argue the 1867 act is of precedential value today. However, before that conclusion is hastily reached, let us look further at the history of the original Department of Education.

The 40th Congress repealed the Department of Education and relegated it to the status of an "office" within the Department of the Interior, under the direction of the Interior Secretary, effective June 30, 1869. That action came in the form of an amendment to an appropriations bill, signed by President Johnson on July 20, 1868.

The legislation history of the successful effort to repeal the Department shows that when the House Appropriations Committee reported the bill to the full House, no money was included to fund the Department of Education for the next year. A section of that appropriations bill mandated the automatic repeal of all statutes creating departments and bureaus not funded in the bill itself.

The termination of the Department with approximately 1 year's notice was a conference committee compromise. The House had wanted to discontinue the Department by refusing to appropriate money—the course of inaction urged by the Appropriations Committee. The Senate amended the House bill to continue full funding of the Department.

At the center of the dispute over the future of the Department was the Commissioner of Education, Prof. Henry Barnard of Connecticut, a former State superintendent of public schools in Rhode Island and Connecticut. A careful reading of the floor debates on the repeal of the Department shows that Professor Barnard was a controversial official.

For instance, Representative Elihu B. Washburne of Illinois, a member of the House Appropriations Committee, said—

> We found on examination that this Department, which was established when we were in the mood for establishing almost everything and making appropriations for almost every purpose, had never, in point of fact, been put in operation; that the Commissioner of the Department had, during the ten months or thereabout since his appointment, only spent two months of that time in Washington, and had no office here except one over a restaurant * * * If I had time I would argue the question of the necessity of a department of this kind in this country. I would like to know why we should launch out with these numerous departments.

Nowadays, we call it "congressional oversight." I do not know if the 40th Congress had a formal name for that essential function of the legislature, but the practical effect and the message are the same—repeal unnecessary and duplicative departments, agencies, and programs. Even better, do not authorize them in the first place.

In support of the repeal, Representative Washburne stated the question before the House—

> The question for the House to decide is whether at this time, when our people are crushed to the earth with taxation, when so many in various branches of labor are without employment, we shall foist this Department permanently upon the country at an annual expense of thousands of dollars.

In 1979, we substitute the word "billions" for Representative Washburne's "thousands" and we have fairly characterized the issue.

Representative Theodore M. Pomeroy of New York had perhaps the most succinct summation of the compelling need for repeal of the Department—

> This is a barnacle that has grown on the ship of State, and the quicker we scrape it off the better for the Government and the people.

As we consider this bill, we should bear in mind the statement of Representative John F. Farnsworth of Illinois in support of the 1868 repeal. Representative Farnsworth addressed the issue of where the major responsibility for education in this country properly lies—

> Education must start from the root, from the home, with the primer and the spelling book. Education must be patronized by the States, by the establishment of schools, colleges, and institutions of learning. They must be the custodians of the education of the children of this country and of the children of a more advanced age. . . . A Department of Education located here in Washington cannot be the custodian of education; nor can such a department, it seems to me, be of any sort of advantage to the country.

A thorough examination of the legislative history of the establishment and the repeal of a Department of Education well over a century ago demonstrates that Members of the 39th and 40th Congresses were clearly concerned, as we are in the 96th Congress, about expanding the size of bureaucracy, about spending tax dollars unwisely, about establishing a mechanism which could ultimately lead to complete Federal control of education.

The Federal Government has a limited—repeat, limited—role to play in aid to education in the country. We have some good education programs going. Many could stand a great deal of improvement for the sake of economy and efficiency. However, giving education a Cabinet-level department all of its own is exceedingly dangerous. It will not solve the problems; rather, it will add to the existing problems and undoubtedly create more.

From 1867 to 1979, times have not changed as much as we think—or would like to think. To establish a separate Department of Education in 1979 would be as unwise and ill-advised as it was in 1867. If this legislation is enacted, many of us—perhaps even some of the supporters of this bill—will be back here next year or the year after that arguing, as Representative Pomeroy did 111 years ago, that we ought to scrape this barnacle off the ship of state, for the good of the Government, but more importantly, for the good of the people.

The better course is to defeat this legislation and not let the barnacle creep further onto the body politic. The Federal Government has no business centralizing education in a manner contrary to the constitutional and traditional system which reserves to State and local governments the primary responsibility for the quality education of our children.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROSENTHAL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair may not entertain that point of order because there is no question pending.

Mr. WALKER. Mr. Chairman, I move to strike the requisite numbers of words.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I rise in opposition to this ridiculous monstrosity and urge a no vote.

Mr. Chairman, I will not plead with my colleagues of the House to reject, once and for all, this ridiculous Department of Education. I will leave the pleading to others. Instead, I want to offer a little warning.

In the First Book of Kings, Rehoboam, son of Solomon, tells the people of Israel:

> My father chastised you with whips, but I will torment you with scorpions.

So it will be, I promise, if the House of Representatives assents to the creation of a Department of Education.

Let us be candid. All over Washington, it is commonly expected that the Carter administration will fall next year, perhaps before a Republican challenger. All over Washington—on the Hill, in the bureaucracy, among journalists and activists of all sorts, everywhere but in the White House—people are assessing the real possibility of a conservative victory in 1980.

If not in 1980, then eventually. And when it comes, this is what will happen to a Department of Education.

First, a conservative Secretary of Education will be appointed who will make the NEA wish its pet Department had never been born. In fact, I may apply for the job myself, if SAM HAYAKAWA, Phyllis Schlaflly, and Clint Eastwood do not want it.

I trust, however, that no Member of the House would vote for the Department just to get rid of me.

Second, that future Secretary of Education will use the Department's regulatory, investigatory, and funding powers to transform American schooling—the right way.

Conservatives passionately believe in local control of local schools. But—by Califano—I promise you: If the Congress fashions an instrument for federalizing education, then conservatives will soon seize that tool and use it to pry our schools out of the hands of liberalism.

Let me be specific, so that my liberal colleagues will understand precisely what they will soon be voting on.

If there is a Department of Education, I promise you, a conservative administration will, in a few years, direct its research and discretionary funds to support statewide voucher systems for public and private schools alike.

It will fund mostly basic education programs.

It will fund programs in free enterprise education, perhaps administered by local chambers of commerce.

It will fund the revival of old-fashioned track systems, which allow serious students to learn, for a change.

It will finance the development of high-discipline schools for problem students, administered with corporal punishment instead of social workers.

If there is a Department of Education, its investigatory power will be wielded to expose the classroom fraud of teacher incompetence. And that—I promise—will be the final exam for many members of the NEA.

It will investigate the ripoffs of Federal funds by university departments of education and the sweetheart deals between public school systems and teacher colleges.

If there is a Department of Education, its regulatory authority will be used—I promise you—to deny all Federal funds to any school district that forces teachers to join a union against their will.

The same goes for districts that discriminate against teachers through quota systems in hiring.

The same for districts which refuse to cooperate with welfare authorities in tracking down runaway fathers.

The same for districts which violate parental rights by denying public screening of teaching materials, as in sex education courses.

If there is a Department of Education, Federal funds will one day be denied to schools that violate the separation of church and state by indoctrinating students with the religion of secular humanism. We will have departmental guidelines to purge it from the schools of America.

Likewise, funds will be denied to schools that violate student rights by forbidding voluntary prayer in classrooms.

No Federal funds will go to schools that discriminate against able teachers by requiring meaningless coursework in college departments of education.

And there will be no money for school districts that violate parental rights by forbidding the education of children at home.

A school district will never be eligible for a dime from the Department of Education unless it enforces local laws against strikes by teachers. Uphold the law or lose Federal funds. Just imagine the impact of that DOE regulation.

If anyone doubts these predictions, they should recall the Buckley amendment of 1974—the Family Rights and Privacy Act, which has tied colleges up in knots—and the successful Hatch amendment of last year, which denies Federal funds to schools which engage in psychological testing without written parental approval.

You see, conservatives have learned that, if there is going to be regulation, it will be our regulation.

I hope my liberal friends in the House will ponder that lesson. Conservatives do not want this hideous Department of Education. We want local control of schools. But if the Department is created, against our will and against the wishes of the American people, then, I promise you, it will soon be in our hands, the hands of the American people.

And we will then administer it in such a way as to make the NEA and all of liberalism yearn for the whips of old to escape the sting of our scorpions.

I do not want that to happen. But I cannot stop it alone. That is why I have made these remarks unusually frank: So that, if fetters are forged for American education, there will be no doubt who was responsible for beginning the bondage.

Mr. WALKER. Mr. Chairman, as this debate draws to a close I would like to take a brief opportunity to thank the Chair, to thank the chairman of the Committee on Government Operations, the ranking member and all of our colleagues for their indulgence as we have tried as the opposition to address what we think are some important and even vital issues with regard to this Nation's future. That is really what education is all about. Education is all about the future.

When I first got involved in education as a teacher, as someone who was active in the local education associations, and working in the field of education, I did so because I believed that this was the place where this country addresses what is best about its future. I think that is what we ought to be thinking about as we address this legislation in this body. We should be thinking about the future We do have a variety of problems of the present, today's problems that are right in the Federal programs related to education. Those are problems I would submit to you that can be addressed in a variety of ways.

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There is not just one solution to those problems. There is not just a departmental solution. There are a variety of solutions available to us. If we look at those problems and we decide that in effect we should do something, I submit to you that the Department is not the best route to go, because the Department is an irreversible decision toward the future. When we make an irreversible decision, I think we have a duty to take a look at what we are doing. What does that decision involve?

Well, we are told it is a decision about efficiency. Yet time and again it has been pointed out in this debate that we are really talking about more bureaucracy, more Government power, more regulations, more programs, bigger and bigger Government, and that adds up to in the final analysis less education, because the more time educators are spending doing Federal Government paperwork, the less time they are spending with the children.

We are also promised that this is a debate and a decision about an educational focal point. Well, I submit that when you focal point education in the Federal Government that what we are doing is politicizing education, because that is the end result of having a political focus is a politization of the process. That is the most detrimental thing possible in the field of education.

The relationship between teacher and child will cease to be the prime theme of education in this country. It will be replaced with programmatic and bureaucratic concerns, which in turn will be subject to political manipulation.

Our colleagues in the Senate, Senator HAYAKAWA of California and Senator MOYNIHAN of New York, addressed this in a letter to each of us the other day in which they pointed out:

> Federal education officials will be subject to political and ideological tests. Education budgets and appropriations will be linked to electoral support. These tendencies cannot but extend to state and local levels as well. This is the result that supporters of federal aid to education over the past two decades have told us will not happen. Now it will happen in the guise of giving education increased stature in Washington.

That is a fear. If you do not think that the process of politization of education is a problem, I submit to you: Take a look at what has happened in this debate. In this debate we have addressed practically every imaginable issue in the name of education, and that is what is going to continue to happen with the Department.

Look through your "Dear Colleague" letters and look through the letters that you have gotten, particularly from outside this body, and you will find that the letters, both pro and con, are a compendium of special interests with axes to grind in education. That, I would say to you, is politics at its rawest and most cynical, and that is what we are going to have as a continued aspect of education in this country if we pass the Department.

Education, in my opinion, is this country's best hope for the future. It deserves much better than this Department and the things that will grow from this Department. The way to assure that future—a better future—is to reject this Department.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the zero hour is approaching. That hour means whether or not we are going to establish a separate Department of Education.

I rise to oppose the separate Department of Education because this newly created Department is but a shadow of what a real Department of Education should be. It excludes most of the educational activities that should be consolidated, speaking in terms of management and efficiency.

Secondly, there are a number of amendments that have been attached to this bill which should make many of us in good conscience recognize and realize that we cannot support this Department. Some of us are moving in the direction that perhaps when we go to conference these amendments will be removed. When we look at the vote in terms of the Walker amendment, 277 to 126; the Ashbrook amendment, 227 to 135, we know fully well that this conference that we will convene will probably have instructions from the House.

In good conscience, if one is interested in the equitability and enhancement of educational opportunities for all children in this country, one cannot look for some mechanism to cover up any vote that will be detrimental to the needs of children. The insertions in this legislation include all of the things that through the years many of us have fought for in order to give children equality of educational opportunity.

This Department will also tend to politicize American education more completely and irrevocably than ever before. We will have Federal education officials being subject to all kinds of ideological and political tests. We will be minimizing the roles of local and State education officials; we recognize that the States are responsible for the educational policies of the children in this country.

I think that if we are looking for excuses in order to be able to support this Department, we must be honest in the process and recognize that those who will support this Department, the antibusing, the antiaffirmative, and the antiquota amendments must ask themselves what is the difference in terms of taking a contrary position of not supporting the Mottl amendment against busing and supporting antibusing in this separate Department of Education bill.

We are very contradictory and very inconsistent.

If deep down in our guts we recognize that the espousal of equalitarian principles in education for the children of this country is important, we cannot in good conscience stand here today and vote for a bill that has integrated into it all of these anticivil rights amendments and then vote for the bill under the presumption that when we go to conference perhaps said amendments will be removed in conference.

How dare we make that kind of presumption? Rather, let us stand on our individual consciences and vote on the merits of the legislation and recognize that we cannot support this measure as it is currently written.

I would hope that this measure would go down to a resounding defeat in this House.

I think that the hour has come when we have to stand up and be counted. If you want to vote for the separate Department of Education, even though it includes antiaffirmative action language, antiquota language, go ahead and vote; but do not seek weak excuses for your actions here today. For a number of years many of us have fought to really try and bring about the equitability of educational opportunities and a Department that leaves out the majority of educational activities in this Nation cannot really be a separate Department of Education, a Department that has been put together in terms of strictly a political approach, something that had to be carried out irrespective of what was put into this bill. The fact is that some lobbyists for the separate Department are spreading stories that they are going to make a Hispanic person the head of the Department. They are going to make a black person the head of the Department and all kinds of excuses and devices were used in order to secure the votes necessary for a bill that was not really popular.

Let us not vote for this measure on the backs of the children of this country. I beg of you, if you believe in the consolidation of education, then let us have a separate Department of Education that is going to include all of the educational units that are proliferating in all of the different units of the Federal Government. Then and only then can we say we have consolidated and bring about a real separate Department of Education.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand here suffering from the occupational hazard of being a Member of Congress; that is, I am plagued by extreme frustration in that the alternative that I would like to express myself on, unfortunately is not before us. I wish very much that in a few moments we would be addressing ourselves up or down on the concept of whether or not there ought to be a separate Department of Education. If, indeed, we had that vote occurring in the next 30 minutes, I would like to share with you my thoughts with respect to that.

I have listened with great attention, rapt attention, to the debate that has occurred over a number of hours and a number of days and a number of weeks with respect to this bill.

I find myself in a rather interesting place. I am probably one of the few people enthusiastic about the development of a Department of Education. The overwhelming majority of people who have taken this well from whatever vantage point, on the number of amendments that have been before us, requiring our judgment, have been people who oppose the concept itself.

I would suggest to my colleagues that many of the "mischievous," depending on one's perspective, amendments that are now in this legislation were offered by people who are unalterably and unequivocally committed to opposing this legislation in its initial form.

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The basic concept is something that was appalling to them.

I think that the basic concept of a Department of Education is, indeed, worthy of support. Why? Education is the largest and most significant and important function that this country engages in. It seems to me, as an adult, as a parent, and as a person who believes in the future of the Nation and the future of the world and a commitment to tomorrow for our children, that we as adults have a profound societal obligation to pass on to the next generation our culture, our values, and the necessary knowledge and skills to function in society.

That is, indeed, the essence of the function of education—to pass on to the next generation. Given the significance of this function, the education of our children, what more significant moment do we have than now, this year, a year that has been defined as the International Year of the Child? Should we not make a major commitment to put in a major investment in the most precious resource we have as a Nation—an investment in the education of our young?

Mr. Chairman, why should we have a separate Department of Education beyond the statements I have just made? Some argue, why should we have a Department of Education as a Cabinet-level position?

That is an absurd argument. Education is already in a Cabinet-level position. We have HEW—Health, Education, and Welfare.

The point that is being made is that unfortunately the Secretary of Education, not the individual human being but the office, is so preoccupied with the economics of health, the politics of health, the economics of welfare, and the politics of welfare that there is little time to focus attention upon the significant function of education in our society, passing on culture and values and education and skills and training to our young people.

The Secretary of HEW has too much to do, but the argument that education should not be put in a Cabinet-level position is absurd, because it already is. The point is that the person charged with the responsibility has too many functions.

If the Members do not believe this, I suggest they ask themselves or ask the President—and I have asked people in the White House under three Presidents, Nixon, Ford, and Carter; I have asked all of them this one question—how many times have they been in a Cabinet-level position with the President of the United States where the issue of education, other than the Bakke decision or busing, because of its political ramifications as an issue of educational policy for the children of America, had even been discussed at a Cabinet meeting.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. The interesting response, Mr. Chairman, I will say to the Members of the Committee, is that on each occasion the answer was "never."

Consider the incredible mind-boggling aspects of that. The largest function in society is education and our most important resource is our children. Yet an educational policy has never been discussed at a Cabinet-level meeting with the President of the United States. I find that absolutely incredible. It is absolutely incredible.

How many times have we observed press conferences with the President of the United States where anyone asked the President about an issue of educational policy that did not relate to the Bakke decision or to the busing decision, an issue of profound national policy vis-a-vis education? Never.

How many times has the Secretary of HEW held press conferences and the issue of welfare was raised? Innumerable times.

How many times has the question of health, the Corman bill, AMA legislation, or cost containment been discussed with the Secretary of HEW? There have been numerous occasions.

How many times has the Secretary of HEW, other than on a specific question dealing with the Bakke decision or court-ordered busing—which regrettably is still an emotional issue after 25 years and is still being fought out on the floor of this Congress in 1979 under the clarion call of reality when the principal issue of dignity and freedom of human beings ought to be a matter of concern in this country in 1979, and it is not—dealt with the question of education?

How many times has the Secretary of HEW been asked a question about significant educational policy? I would submit to the Members, virtually never.

The point I am making is that while education is the largest, the most significant, and the most important function in our society, the media and the politicians have not placed that issue significantly before the American people because our children unfortunately in this society are not perceived as our No. 1 priority and education is not perceived as our No. 1 priority.

We engage in the folly of politics dealing with fringe issues that have nothing to do with our responsibility as adults and parents and leaders in this Nation to project and give tomorrow to the children and give them the proper values, the culture, and the skills in order to function.

No Member on this floor can take the well and effectively argue, I assert to the Members, that education has been lifted to a lofty level by the Secretary or by the President of the United States or even by the media that asks questions at an appropriate press conference.

Mr. WYDLER. Mr. Chairman, will the gentleman yield to me?

Mr. DELLUMS. Mr. Chairman, I would ask the gentleman to please let me finish, and then I will be more than happy to yield, because I think we ought to spend a little time discussing this matter.

Mr. WYDLER. I will try to answer the question the gentleman propounded, if he will yield to me.

Mr. DELLUMS. Mr. Chairman, I have already answered my distinguished colleague. I will be more than happy to address him later. Other Members have taken a few moments as spokesmen on this bill. We have debated this bill over a number of hours and on a number of days, and as a representative of a certain number of human beings that we in this Chamber represent, I think I ought to have an opportunity to speak for 5, 10, or 15 minutes. I have not taken the well on this issue before, and I want to try to finish my point; then I will graciously yield to my colleague when I have finished.

Mr. Chairman, the interesting thing about this particular piece of legislation is that the Office of Civil Rights has a stronger enforcement mechanism built into this bill than is presently in HEW. And we must remember the most significant battle that was waged on the floor of this House with respect to this legislation was an attempt to gut the Office of Civil Rights and to gut that enforcement that is, indeed, stronger now in this legislation than it is in fact in HEW at this very moment. That battle was won because we beat that back significantly on the floor of this Congress. That is a major and an important tool.

Mr. Chairman, I will say to my colleagues that the question is: Do we have a straight up-or-down vote on the principal concept of this separate Department of Education? The obvious answer to that is "No." Over the past several days and weeks a number of amendments have been proposed by my colleagues, and there are many of them that I disagree with—some of them I disagree with vehemently and adamantly—because in my humble estimation they are violative of principle and they are violative of the whole notion of civil rights and liberty and freedom and justice that many of my colleagues on the floor espouse when they talk about America vis-a-vis other nations in the world.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. So, Mr. Chairman, we are in a situation now where the basic concept is not before us. A number of amendments that challenge women, that challenge minorties, and that even challenge children are involved in this legislation.

I would suggest and I would state to the Members flat out that no Department of Education should ever come into existence with these abominable amendments attached to the development of a Department of Education designed to enhance the education of the children of this Nation. I would be unalterably opposed to bringing into existence a new agency that flies in the face of dignity and freedom and justice and basic principles.

So the question is: What are our alternatives? For those Members on this floor who came to the initial moment, the alpha of this debate—we are now down to the omega—as being opposed to the basic concept, they now have a number of reasons why they want to continue to oppose this. They have no problem: they only have greater ammunition to justify their position. So be it. They have no alternative.

For those of us who came to the floor of this House committed to the concept itself, getting away from all these abominable amendments, what are our alternatives? One is for us to kill this legislation at this moment.

□ 1310

We have the necessary votes. There are a significant number of Members on the floor who are already opposed to it. We can join hands with them and we can destroy any opportunity to go forward. There are moments when I feel that I wanted to do that. But on sober reflection, I choose another alternative. And that alternative is to say that what we do today is only another step in what we all on this floor know is an incredibly complicated legislative process. It is my hope that the Senate will pass a clean version of this bill, would indeed hold out. If the conference report comes back with these abominable amendments in it, I will fight to the last breath to oppose the creation of this Department of Education. It cannot exist in a free society. Many of us here know that. I think that it is conceivable that we can defeat this legislation any time we want to, because there are only a handful of people here who have the will and the heart and the desire to really want to be strong advocates of this idea. It is not popular. There are many reasons to knock it—bureaucracy, money, whatever. But for those of us who want to see a Department of Education, I am prepared to let it go forward to the next step, to see if some integrity can be gained in this body, in this country, some sanity that would challenge these absurd amendments that go to purpose and not legislation, in many instances, anyway, to put them out; if they come back and they are still in, I and a number of my colleagues are prepared to defeat this legislation.

And, finally, I am not in any way suggesting to my distinguished colleague, the gentleman from New York, that I would pass on the buck to the President. I have never done that in the 8½ years I have been here. But I will say for the record that I think the President would be crazy to sign into law any legislation that would embody many of the amendments that have been placed into this bill by the House of Representatives—and that is a fact, and I think we need to understand it. I do not think there is any way he could sign this legislation. If he vetoed it, there is no way in the world that a two-thirds vote could be mustered in this body to override the President's veto. This bill can be killed by the Senate. It can be killed after the conference report, and if we lose on that, I am sure we can mobilize enough blacks, enough women, enough children, enough Third World people in this country, that the President, without fear or trepidation, would have no problem of vetoing this legislation.

Mr. Chairman, those are my concluding remarks. I summarize by saying that I believe in the concept: I think that it is horrible that we do not have the opportunity to address these issues straight up and down. We have amendments. I think that many of these amendments are horrible. I think we have the opportunity to go forward with the concept to see if it can be preserved. If it cannot, then I think we can definitely kill this legislation.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I thank my distinguished colleague for waiting, and I yield to the gentleman from New York.

Mr. WYDLER. I appreciate the gentleman's yielding, even at this late moment.

I was trying to make the point, after the gentleman made the point that he was personally upset by the fact that the Secretary of Health, Education, and Welfare was not holding press conferences about education and the President was not considering educational issues in the Cabinet meetings very often, and so on.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has expired.

(On request of Mr. WYDLER and by unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. WYDLER. If the gentleman will yield further, the point, of course, which the gentleman fails to touch upon, and which I think is crucial here, the point that the gentleman seems not to come to grips with is the fact that the very reason that these things are not taking place is because the focus in our country on education is not at the Federal level, but the focus on education in our country is at the local level. That is the way the people who wrote the Constitution intended it. That is the way the people in the country want it to be. They want their educational decisions to be made at their school board levels, to be made by them in their communities and neighborhoods, and they do not want these decisions to be taken down and decided by the President at a Cabinet meeting or by Secretary Califano or at a press conference, with some dramatic announcement. They want these decisions to be made in their local units in their neighborhoods. That is the point.

The gentleman says that there is a good reason to change that, and we should have this done at the Federal level. I think he has made the best argument, in my judgment, that he could have made against this Department of Education. If its purpose is in fact to do what he says he wants done—which is to bring all of these things, all of these matters, down here to Washington to be decided by the President at his Cabinet meetings or by Mr. Califano at one of his press conferences—I think that is just what the American people do not want. I do not think that is what the Members of this Congress want either. I think if the gentleman thought about it for a little bit of time and really considered what it might mean to his children, he would not want it either.

So I would recommend to the gentleman that he rethink his argument for this great new Department. It will probably do what he says it will do. It will bring on the press conferences, it will bring on the thinking about how these schools should be run and the decisions that should be made down at the local levels. I think the American people want them made at the local levels, and I think this House will keep it that way.

I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague for his comments.

I will simply say to the gentleman that I agree with the gentleman with respect to the whole local perspective with respect to education, boards of education being involved in making those basic decisions.

I would simply point out to my colleague that we do have Federal legislation, the Elementary and Secondary Education Act, that embraces billions of dollars that the gentleman and I authorize and appropriate on an annual basis. The Federal Government is involved in the education of our children.

We also pass on an annual basis a higher education bill that contains several billions of dollars of Federal money. The Federal Government is involved in education. And while I agree with the gentleman with respect to the local focus, we are spending enough money at the Federal level, it would seem to me, that would warrant some efficient, effective focus for education at the national level.

I am not suggesting to the gentleman at this particular moment that there is need at this moment for a nationalization of education, although I am not closed off to that question. I think that that debate and that conversation ought to go forward. But at least at this moment my answer to the gentleman is that, while I agree with the local level, at the same time we spend billions of dollars at the Federal level we cannot ignore that we ought to spend that money effectively.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, I would like to underscore what the gentleman from California has just said. The gentleman is absolutely right. And the point raised by my colleague, the gentleman from New York, a member of the Committee on Government Operations, has absolutely no pertinency, no relevancy at all in this particular bill. There is not one single word in this bill that creates any more Federal presence in education than currently exists. It is an organizational bill. Indeed, there is language in this legislation which specifically prohibits the Secretary from getting involved in local education matters. There are approximately $15 billion of taxpayer money now being spent by the Federal Government in local education. I think the American public is entitled to better accountability than it now has. If the gentleman thinks that HEW—and the "E" is already at the Cabinet level, education is already in the Federal Cabinet room—but if the gentleman thinks that Califano and HEW are doing a good job, then vote against this bill. I do not.

The CHAIRMAN. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, I associate myself with the gentleman's remarks, and I rise in support of this bill.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if we could attempt to bring this debate and the dialog and the discussion back to its fundamental purposes.

The issue before the House really does not have a lot to do with the dialog in the last 20 minutes. We have a question of administrative responsibility. We have a question of organizational structure. I am the first to admit that it is a very, very dull, dry subject. It is not one that lends itself to moving rhetoric and it is not one that lends itself to the high-flown kinds of considerations we have been talking about in the last 20 minutes.

My opposition to this bill is pure and simple that it is an extraordinarily and I underline the word "extraordinarily"—bad case of administrative management.

I myself am quite surprised that an administration that came into office dedicated to reforming governmental structure and improving its efficiency and quality would have even recommended this kind of an idea.

Let me tell the Members why, because those Members who have not served on our committee, as I have for 16 years, might not have had the opportunity to pay as much attention to the nuts and bolts of the administrative structure as some of us on the committee have.

☐ 1320

Since the Second World War, there have been three commissions appointed to look into the organizational structure of the executive branch, and that is what this is, an organizational structure.

Each of these commissions, the first Hoover Commission in 1949, the Heineman Commission in 1967 and the Ash Council in 1971, were all appointed by Presidents bringing together great minds and experience to bear on the question of administrative organization.

All of these Presidential commissions joined essentially in the four common conclusions enumerated in the report of the Ash Council.

First, Departments should be organized around broad missions and should seek to integrate the professional skills and governmental functions necessary to accomplish those missions.

Second, the number of Departments should be reduced.

Third, Departments should group similarly into programs together to avoid the need for excessive coordination and permit decisionmaking on all issues relevant to their mission.

And fourth, departments should not be perceived primarily in Government for one profession or one clientele group.

The Heineman Commission said, and I quote:

> Efforts should be made to reduce, merge and realign the number of departments substantially in the grip of parochial interests and resist proposals to create additional departments likely to be dominated by narrow, specialized interests or special clientele.

What all three of these commissions recommended was that we merge departments. For example, Labor and Commerce should be merged into one Department of Economic Growth and Productivity. There should be a Department of Human Resources. We merge HUD and other elements to create a Department of Community Development.

We merge Agriculture and Interior into the Department of Natural Resources. Those are the logical things that should be done.

The establishment of a single-issue Department runs counter to every accepted theory of administrative management over the past 50 years.

The Heineman Commission appointed by President Johnson addressed itself to the very problem that we are going to have to vote on in the next few minutes. They said, and I quote:

> We believe that HEW should be maintained as one executive department responsible for a wide range of social service programs. The possibility of coordinating a large number of related social programs under the executive focus of a strong department head is the major reason for resisting proposals to create additional executive departments.

Putting it into its human interest terms, the editorial in this morning's Washington Post summed it up completely. We do not need more departments or more Cabinet-level offices. We need fewer Cabinet-level representatives and a system in which decisions are made at a lower level and options are brought to the President by fewer and fewer people.

The CHAIRMAN. The time of the gentleman from New York (Mr. ROSENTHAL) has expired.

(By unanimous consent, Mr. ROSENTHAL was allowed to proceed for 2 additional minutes.)

Mr. ROSENTHAL. If we are committed, as I know all of us are, to running a smoothly efficient, well-organized Government, I plead with my colleagues, do not create a 14th Department in this country, dominated by a national single-issue constituency and one that runs counter to every accepted theory of administrative management.

If this were to pass, and I do not expect that it shall, it would be a major mistake; and, if it passed, 3 years from today every person in this Chamber would regret it. We would all recognize this would be one of the most serious mistakes this institution could make.

I urge my colleagues to assume the responsibility of their office and reject the proposal for a separate Department of Education.

Mr. BROOKS. Mr. Chairman, I rise in support of the legislation and move to strike the requisite number of words.

Mr. Chairman, we are coming to the end of a long and arduous debate on this bill. Some might say it has been unnecessarily long. No one can say that we have not thoroughly and completely considered the question of establishing a Department of Education. I am sure that every possible argument that could be raised on both sides has been raised. The opponents have taken their best shots at it. They have been firing away for days. I am glad to say that we are still here, that we have come out of it with the basic structure of the Department still intact.

After all of the talk and all of the voting, that is what we have here is structure. We have not added a dollar or changed a comma in any education program. We have not touched education policy. We have created an organization, building it out of a wide array of existing programs. I am convinced that in this new organization the programs will be better managed, better coordinated with other programs, and with the needs of schools and institutions that benefit from them.

We will have a more streamlined operation that will save us money down the line by eliminating the duplication and redtape. We will have done what we always talk about doing: that is, just to make the Federal Government a bit more efficient, a bit more responsive.

Now before we vote, I would like to thank all of my colleagues who participated in this debate. I think it has been good, healthy, and enlightening, sometimes a little tiring. I want to be honest with the Members.

I would also like to thank our chairman who has presided with great patience and skill through these many days and hours. I am sure he shares with me a great sense of relief now that we have come to this moment of decision. So, let us proceed to that decision.

On our final vote of the matter, let us create a Cabinet-level Department of Education, a Department that will enable us to better serve 100 million men, mothers, fathers, parents, children, and teachers; a Department that will enable us to better manage the Federal Government's $14 billion worth of expenditures for education that will be covered by this Department; a Department that will enable us to respond, to respond more readily and more sensitively to educational needs more quickly; a Department that will enable State and local governments to deal with the Federal education establishment more directly and with less redtape, a Department that will save the American taxpayers an estimated $100 million.

I urge my colleagues to support this important legislation. •

Mr. GUYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman and members of the committee, as the chairman said, it is very late. Anything said now is about as important as the conversation before the good night kiss on your first date.

I am sure that not all of us want to take our allotted amount of time. I would like to have heard the gentleman from California even speak longer, but as it figures out, at 15 minutes apiece, it would take 108 hours for all the Members to have equal time.

I think the purpose of education, briefly put, is to help every child in America drink at the fountain of knowledge. Under this bill they will be lucky to gargle.

I have never seen a bill, with so many good people attached to it, that was so bad. As a matter of fact, it is like a patient who is wobbly from vivisection, amendicitis, transfusion, and all that goes with it. The kindest thing we can do is give it chloroform.

I really believe that traditionally and historically education belongs at the local, State, and community level.

Let me remind my colleagues that Washington creates nothing. It never has and never will. It takes the same number of days to deliver a letter from Boston to Philadelphia as it did 200 years ago.

☐ 1330

I am saying to the Members we have to trust the judgment, the wisdom and the morals of the people back home who know best what is better for our youngsters. I can tell my colleagues this, if this bill passes "school is out—and so are the kids." It is the kids that really have a stake in this.

Let me ask this question: Where was the first kindergarten in America, the first junior high school, the first school for visual education, the first coeducational college, the first summer school, the first adult education, the first school for the blind? Every one of them came out of the State of Ohio, at the local level by educators who were inspired to do something for those who came after them.

I can only say that I cannot see us doing something like passing this measure when the mood of the public certainly is that it does not want another bureaucracy. They do not want to see the teachers of America nationalized whereby one blow of a whistle would put teachers on strike and paralyze every classroom in America. I think the time now is to say no, and to do it for the next generation, not the next election.

Mr. LEVITAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as we conclude this debate there are just a few points that I think we need to remind ourselves of. I do not have the ability, nor would I attempt to speak with the fervor and eloquence as my colleagues from New York, California, Pennsylvania; but this is an important measure and it does deserve the full consideration of this House.

As a member of the subcommittee and the full committee which considered this legislation, and as a Member of this body, having sat through I think the entire debate over these last few weeks, I have given much careful consideration to what some of the real issues are and not what some of the phony issues are.

One of the issues that has been called to our attention is the fact if this agency is set up it will be controlled by NEA, the National Education Association. In fact, if we support this legislation we are doing it just because NEA is supporting it and that is presumed to be bad. But nobody then tells us with equal fervor and with equal vigor that the American Federation of Teachers, the AFL–CIO, opposes this legislation. So I guess we have to choose if that is the way we make our decisions, do we support NEA or the AFL–CIO?

I do not think that is the issue. I could not care less whether the NEA or the AFL–CIO favor or oppose this legislation. The question is on the merits of the legislation, does it have worth? I am sure that many of my colleagues on both sides, and especially some here on my left, would not want to advocate the defeat of this legislation just because the AFL–CIO is advocating its defeat. That is not the issue.

The other issue we keep hearing about, my good friend from New York has spoken to it, my good friend from Ohio has just spoken to it, is the fact that somehow this is going to deprive local education of its responsibilities. If this legislation accomplished that purpose, I would be opposed to it. But the local school boards and local school superintendents, not just in my district but across the country, support this legislation because they know it means stronger and better educational opportunity for the boys and girls and the young men and women in America. There is no question about that. Written into this legislation are specific prohibitions against the new Department's having any control over curriculum, personnel, libraries or anything else. Local control is maintained.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I will be happy to yield to the gentleman.

Mr. WYDLER. I would not bring this up, but the gentleman spoke during the time of the gentleman from California. I commented on the gentleman from California's remarks and the gentleman from Georgia was present when he made those remarks to the effect that the new Department of Education would give direction and control from Washington. The gentleman from Georgia says the bill does not allow this. I would say that is a good wish, the gentleman hopes it does not allow that, but I think he realizes as well as the rest of the Members of this House that the practical effect will be what the gentleman from California said, which is it will give new Federal control of education whatever the words of the statute might be. I would only point out to the gentleman what the Supreme Court recently said, that the Congress, even though it said it was against busing for racial purposes, really was for it because the Court said that was the purpose for which we passed a number of bills. So it is likely to be what the Supreme Court says we intended to do here today rather than what the gentleman says we intended to do here today.

What the Court will probably say is we intended to set up a Federal Department of Education to give Federal control to education. That is probably what they are going to say. Regardless of what the gentleman would hope this bill might do, the practical effect of it will be to federalize our educational system. But I hope the gentleman realizes that, regardless of what the words of the statute might be.

Mr. LEVITAS. I thank the gentleman for his contribution. I think the words of the statute are very clear on that point. I am sure by this colloquy the gentleman from New York would not want the Court to believe we are trying to take away local control because this legislation does not do that in the most explicit language possible.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. A third specious argument made against this legislation is it means more government and more bureaucracy. The fact of the matter is it means less government and less bureaucracy.

The President of the United States has sought to reorganize into one agency programs which are scattered all throughout Government today. As I have said earlier, if we think and are happy with the way HEW is spending the $15 billion of taxpayers' money today, then we should vote against this legislation and support Secretary Califano's efforts, support the Office of Education in what they are doing today. I happen to think it is a mess. This legislation will provide accountability. It will actually limit the number of people now in the bureacracy for the first time. For the first time we will have a smaller agency rather than a larger one; we will have a legislative veto over all of the regulations that come out of this bureaucracy; we will be cutting back, not increasing Government.

When it gets all over with, the last word I think is the word that relates to whether or not this Congress, through accepting a reorganization program of the President sent to the Congress, is willing to stand up for the young men, the young women, and the boys and girls of America and place them in the forefront. Let us have a better, more accountable, more efficient, more economic education system run at the local level, and to the extent that the Federal taxpayers have contributed to it, we will get more for the dollars and a better education for our children.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman.

Mr. ROSENTHAL. I think the gentleman made some very interesting arguments. I wonder if the gentleman could address himself to the point that I tried to make, that all three Presidential commissions dealing with reorganizations of Government have recommended against creating a separate Department of Education, recommended reducing the number of departments. How does the gentleman address himself to that problem?

Mr. LEVITAS. As I told my colleague from New York when he made his presentation before our subcommittee, I thought his presentation, including that point, was one of the most interesting because it raised some important issues. But as I listened to the testimony and as I heard what was going on in our Government today with respect to education, I concluded that this is no more a single-purpose agency or Department than the Department of Agriculture or the Department of Labor. There are important functions for spending Federal dollars.

Mr. ROSENTHAL. If the gentleman will continue to yield, both of those Departments should be reduced or eliminated and merged. That is the problem.

One other point the gentleman made. All the cumbersome, burdensome procedures in the present Department can be eliminated in 24 hours by Executive order.

The CHAIRMAN. The time of the gentleman has again expired.

(At the request of Mr. ROSENTHAL and by unanimous consent, Mr. LEVITAS was allowed to proceed for 1 additional minute.)

Mr. ROSENTHAL. If the gentleman will continue to yield, if you want to raise the level of representation of the Office of Education, the President can do it by reorganization plan and create an Under Secretary for Education. All of the things that are presently problems, and I agree they are, can be corrected by Executive order.

The seriousness of creating a Cabinet level department, 14 of them in 200 years, it should not be done unless there is an overwhelming case, a case that cannot be pierced as easily as we have seen here on the floor today. I know we disagree on this and I have great and enormous respect for the gentleman's knowledge and judgment. I just cannot believe we need this new Department.

□ 1340

I just cannot believe that the gentleman has come to the conclusion that he has.

Mr. LEVITAS. I appreciate the gentleman's contribution. I know we disagree on that issue. I respect the position the gentleman has taken, and I respectfully believe that we will end up with less bureaucracy, more efficiency, more economy in Government, and better education.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have spent considerable time studying the merits of H.R. 2444 and after a careful analysis of its long-term implications, I have come to the conclusion that enactment of this bill would be a serious mistake. I know the supporters of this legislation to create a separate Department of Education believe it will lead to an improvement in education in our country, but I do not agree. In my opinion, a separate Department is not the answer to our country's education problems nor will it provide the appropriate forum to address these problems. My reasons for taking this position are simple.

For over 200 years the States have enjoyed the legal right and responsibility for education. From this wholesome tradition has evolved a diverse, pluralistic, and democratic system of education that is the envy of the world. The clout of a National Department of Education would shift this responsibility from local educational authorities to a centralized Federal agency. The concentration of all power and programs within the Federal Government would dominate the States and local school boards. Soon we would be at the point where we would have a Federal policy in education.

It has been said that this bill is not a prescription for a Federal takeover of education or a national policy on education. However, the entire thrust of the legislation leads toward increasing Federal involvement in education. After all, it makes no sense to establish a multibillion dollar Department and not give it the means to influence its area of responsibility. A separate Department of Education, employing more than 24,000 bureaucrats and having a budget of $14.5 billion annually would soon seek to enlarge its role in an effort to justify its existence. And like all bureaucracies, it would fix itself firmly on the landscape by issuing more regulations and expanding paperwork requirements. We are already witnessing this trend in the move toward minimum competency testing in schools. Can a national curriculum be far behind?

The cost of a separated Department of Education would not be free. To cite only one example, the bill before us would create 90 new supergrade and executive positions at an average salary of $50,000 each—or a total of $4.5 million in salaries that should be spent on education programs. Although the OMB claims that 450 positions will be eliminated by this legislation, there is no evidence that this will be done or could not just as easily be accomplished without the enactment of H.R. 2444. A separate Department of Education, pressuring the Congress and the administration for a larger slice of the Federal pie, would make it harder to limit Federal expenditure growth and achieve a balanced budget. Clearly, this legislation is out of step with the expressed views of the American taxpayer for less costly Government.

Supporters of this bill champion it as a vehicle to focus greater Federal attention on education. We wish to point out that as H.R. 2444 is written, 96 percent of education programs now outside HEW would remain outside the Department of Education. Also, it has been freely acknowledged by certain groups in the education profession that a major goal of a separate department is to increase Federal funding for education from its present 8 percent to closer to 33 percent. However, there is no lack of Federal funding for education and whatever shortcomings there may be in education today, we do not believe it can be traced to a paucity of Federal dollars. Federal spending for education has grown from $1.237 billion in 1962 to an estimated $12.7 billion in outlays for HEW's education division in fiscal year 1980. We have no reason to believe that this commitment will not continue under the present organization structure of Federal education programs. Indeed, Federal accomplishments in education have advanced substantially as witnessed by the enactment of such legislation as education for all handicapped children, title IX, sex discrimination in education, increased student financial aid programs, and an expanded title I program.

The case being made for a Cabinet Department of Education is that it would produce more effective and economical program management. Given our experience with the Department of Energy, for instance, we do not believe that there is any rational basis for this assumption. There is no evidence to suggest any special Federal competence in education—indeed, many educators and parents complain that some of our problems stem from too much Federal influence and control. The creation of a new bureaucracy, with the mandate to provide Federal solutions is directly antithetical to congressional efforts to curb the power of the bureaucracy and encourage local initiatives.

Supporters of this bill point to the fact that the education industry constitutes a $120 billion public and private enterprise and is, therefore, deserving of a separate department. This proposal rejects the recommendations of every Presidential Government Reorganization Commission which specifically stated that Presidents should have fewer Cabinet officers reporting to them.

In fiscal 1980, the Office of Education is budgeted to receive an estimated $12.7 billion—evidence that education has a high priority in this country. Despite a dramatic increase of Federal dollars over the last 15 years, the problems of low test scores, illiteracy and increased violence and drug use continue to grow. We have often heard educators and parents complain that Federal money tied to Federal regulations and controls has hampered local education efforts and the impact of parents, teachers and local administrators on policymaking. If there is something wrong with our approach to education—and it is clear that everything is not right—then we should work to improve the services we have, streamline the Office of Education and reduce the paperwork it creates. The issue before us is whether the Federal Government can or should meet education needs. It should be our goal to review, consolidate and coordinate our national efforts and promote local initiatives by increasing the amount of discretion which local school districts have to spend Federal dollars.

To support a Department of Education, one must believe that education is a primary function of the Federal Government, that bigger is better, and that more costly programs will be effective and efficient. In my opinion, supporters of this legislation have failed to make the case that a separate department will benefit our schoolchildren, or that it is the kind of solution demanded by the American taxpayer who complains about Federal dominance in education, high taxes, and inefficient and unresponsive government.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, I would like to state my reasons for opposing the bill.

In rejecting this legislation, we have a wonderful opportunity to reaffirm our commitment to the taxpayers that the Federal Government will perform efficiently and effectively. The overwhelming bipartisan support given the landmark Civil Service Reform Act of 1978 was a positive and proper response to a problem of national concern. H.R. 2444 is a double negative. There is no widespread demand for this legislation. There is no justification for a proposal which will create a new Federal educational empire.

Despite the no-growth claims of its supporters, this bill will result in bureaucratic bloat. In labeling this legislation "a bad idea," a June 5 Washington Post editorial said:

> Of all the claims being made for the proposed Department of Education, the most incredible is that it would not grow.

The editorial went on to point out that the legislation would give the new Federal educational establishment more authority, more prestige and more political clout with Congress and the larger educational community. That is what this legislation is all about. To suggest that this new Department would keep the lid on personnel does not square with reality. Based upon experience, new agencies and new departments have a track record of steady expansion. The new Department of Energy is the latest example of a proliferating bureaucracy.

I could see some merit in this legislation if it reorganized and consolidated all existing education programs into the new Department. Actually, there will be important programs which will remain outside of the new Department.

We took a major step last year in attempting to make the bureaucracy more responsive and responsible to the public. This bill is a step in the opposite direction. It encourages bureaucratic sprawl and ignores the public need for a lean and trim Federal operation.

In addition, I would like to make a few points. First, the debate over this proposal has now revealed it clearly to be a politically motivated ploy. Second, Federal education officials will be subject to political and ideological tests. Third, the current proposal leaves out more Federal education activities than it includes. Last, nothing in this proposal contains any promise that anyone will learn more, or faster, or at less cost, while in school or college.

Mr. Chairman, for all these reasons, I have decided to vote against this bill.

Mr. EVANS of Delaware. Mr. Chairman, at the outset I must declare my opposition to the proposed Cabinet-level Department of Education. While I am a strong supporter of congressional efforts to enhance the quality of school programs for our children, I remain unpersuaded for a number of reasons that the creation of a new Department is the most effective means of helping a second-grader in Wilmington or a high school senior in Seaford to gain a first-rate education.

Education has flourished in this country because it has enjoyed the diversity that has come from independent initiatives made by separate communities, States, and private institutions. In contrast to many of the other nations around the world, most of which have centralized ministries of education, we have not yet chosen to locate primary responsibility for the education of our children at the Federal level of Government. The formation of the proposed Department would violate our traditional reliance on local initiatives and mark the beginning of Federal domination over the basic policy considerations affecting our educational systems. At a time when the influence of the Federal Government is so pervasive, I am doubtful that the American people are truly willing to create a backdoor means of establishing a Federal policy for education.

I am absolutely certain that a new Federal Department of Education would eventually have the power and the inclination to tamper with areas in both public and private education that rightfully belong to parents and the local community. Education and school policies are not now and have never been responsibilities of the National Government of the United States. Many of my constituents in Delaware already feel the Federal Government is exercising too much influence over all aspects of local education programs. The creation of a Cabinet-level department would not simply be a benign effort at reorganization and streamlining. This would be a tremendous shift in emphasis by the Federal Government from supporting the local efforts of school boards and State departments of education to formulating, administering, and directing a distinctly Federal education policy.

Mr. Chairman, proponents of H.R. 2444 suggest that a new Department would not increase intervention by the Federal Government in local educational affairs. I am not aware of any Cabinet-level department which does nothing more than pass out Federal funds without any strings attached. By definition, Federal Cabinet-level departments implement national policies on particular matters. This proposed Department will inevitably attempt to implement policy directives which would exceed the principle of the 10th amendment to our Constitution: That only certain powers can and should be assumed by the Federal Government; all other matters are reserved to the several States. Education policy is certainly a local concern which does not deserve excessive encroachment on local school districts that the proposed new Federal Department of Education would bring.

The new Department would over time have the effect of shaping the values of future generations of Americans according to the political, social, and economic values held by a group of faceless bureaucrats in Washington. The creation of this Department provides the ripe potential for the centralization and control of ideas. For this reason alone, a Federal policy on education repudiates our traditional recognition of the need for diversity of thought and opinion. The shift in control over education policy from local bodies to the Federal Government would have far-reaching implications and contradict my constituents' strong belief that less intrusion by the Federal Government into educational matters would best serve young Americans' long-term interests.

Additionally, I oppose the Department of Education because there is absolutely no guarantee that the promised operational efficiencies from a Cabinet-level department would ever materialize. It is only a shadow of a truly comprehensive agency and leaves out more Federal education activites than it includes. There is no evidence that a separate department would increase intergovernmental coordination. Creating a Department of Education would not untangle the swarm of Federal education offices and projects in the existing Office of Education within HEW. It would simply put a more prestigious label at the top of an organization chart without delivering any real operational benefits.

Three Presidential study commissions have concluded that centralizing Government agencies under the guise of reform is not always beneficial. Indeed, the history of recently created Cabinet-level departments argues against removing the Office of Education from HEW. The Department of Energy for example has contributed to our unacceptable position of dependency on a foreign oil cartel. A more effective management structure within HEW would settle the problems of the Office of Education without creating a new self-perpetuating bureaucracy.

I support the recognition of the need to strengthen the position of education as a national concern among competing social priorities within the Federal Government. However, this necessary objective could still be more effectively and readily accomplished through a comprehensive reorganization within HEW. Anyone who suggests that education programs would receive additional funding due to their allegedly enhanced status in a Cabinet-level department simply misunderstands the nature of the Federal budget process. It is the emphasis placed on education by the President and by Congress which determines program funding levels and not simply cabinet status. In summary, I cannot believe that the formation of still another Federal bureaucracy will be cost effective over time and improve the quality of education received at the local level by the young people of this country.

Finally, I think one important factor has been ignored in the debate over this proposal: How will this bill affect the intended beneficiaries of Federal education programs? Very few reasons are even suggested by the proponents of this bill to demonstrate that a sixth grader in a Delaware elementary school will receive an improved education as a result of the creation of a Federal Department of Education. In fact, there is nothing in this proposal that provides any promise or even any hope that anyone will learn more, or faster, or more happily, or even at less cost while in school or college. This new Department would further entrench many of the Federal bureaucrats and ineffective programs spawned by the Federal Government which have done little to educate our chilren. The teachers in my home State are good ones. What we really need to do is reduce the incentive for Federal meddling in the education and increase the opportunities for our teachers to do what they are best at: educating students. The expansion of the Federal education bureaucracy will not in the long run help either the teachers or the children. There is no credible educational rationale for creating a Federal Department of Education. That is the fundamental shortcoming of this proposal and the reason why I intend to vote against the creation of a new Federal Department of Education.

● Mr. HILLIS. Mr. Chairman, I rise in support of H.R. 2444. My decision to support this measure was not arrived at lightly. For some time now I have weighed the arguments both in favor of and opposed to the creation of a separate Department of Education. As one Member of this House who has campaigned for, and is committed to reducing the Federal bureaucracy, I believe a separate Department of Education will better enable the Congress to properly monitor the Government's education activities.

Certainly, if I felt that a separate Department of Education would decrease local control over education, I would be the first person to oppose it. Local control of our schools has served this country well and must be maintained. However, the proposed bill before us has explicit language in it prohibiting Federal intervention in heretofore local education purviews.

Those who oppose a Department of Education have often argued that it will continuously grow and increase in power and influence, thus threatening local controls. Opponents argue that instead of reorganizing education programs into one Cabinet-level Department, all existing programs should be reviewed, judged, and eliminated if deemed unnecessary.

I submit that a separate Department of Education will actually enable the Congress and the administration to better monitor education programs and activities of the Federal Government so that any inappropriate actions which endanger local controls can be more readily recognized and eliminated. With present education activities spread throughout several different agencies and departments, it is almost impossible to monitor and control them at the present time.

Another often expressed objection to the creation of a Cabinet-level Department of Education is that it will eventually cost more as new programs are added. However, the inherent nature of bureaucracies to grow is more a function of Congress than the individual agency or department. All new and existing programs and expenditures will be subject to congressional oversight, authorizations and appropriations. Instead of opposing efforts to improve our education programs and activities at the Federal level, those who fear excessive Federal controls should consider reforming congressional activities instead. Of course, it is much easier for us to blame the nature of bureaucracies for the growth of the Federal Government than it is to look at our own actions and admit to the inability of Congress to show restraint in considering new programs or spending levels for existing programs.

For those who remain unconvinced that the new Department of Education will not exercise restraint and protect local controls, I suggest a close reading of the bill. Specifically, section 103 states that—

> No law relating to a program administered by the Federal Government shall be construed to give the Secretary of Education or any other Federal officer or agency the authority to control, direct or supervise the curriculum, program content, selection of library resources or books, administration, personnel or accreditation of any public or private educational institution, except to the extent specifically authorized by law.

Further, H.R. 2444 gives Congress the opportunity to veto within 45 days most rules and regulations promulgated by the Department with passage of a concurrent resolution by both Houses. This provision extends congressional control beyond the status quo over education activities.

Another improvement which will enable better congressional oversight is the annual report mandated by section 435 of the bill. Currently, it is almost impossible to determine what exactly the Federal Government is doing in the area of education. An annual report submitted to Congress will allow the appropriate committees to better understand Federal involvement in education.

Clearly the creation of a Department of Education will make Federal education programs more accountable to the Congress. It seems logical to me that if we are to protect local interest and control over education activities, it is imperative that the Congress know what those activities are. To do that in an efficient manner, a Department of Education is indeed warranted. Therefore, I hope that this body will pass H.R. 2444 and begin for the first time meaningful congressional oversight and control over Federal education programs and activities.●

● Mr. NEAL. Mr. Chairman, I support the bill H.R. 2444 because I believe in our young people, and in the need to provide them quality education, and in this Nation's ability to help fill that need.

I believe further, Mr. Chairman, that we are not fully meeting that responsibility at the present time. The Department of Health, Education, and Welfare is not managing well the Federal education programs authorized by Congress, and those of us from North Carolina know that quite well.

The first step toward correcting the problems that exist with education at HEW, in my opinion, is to remove education from HEW. There is, of course, a certain resistance to that idea. Education resides in a well-entrenched bureaucracy. As a matter of fact, it is all but lost in the bureaucratic maze of a single department whose budget is larger than all but two entire governments on Earth—the United States and the U.S.S.R. And although education forms one of the three words in the HEW title, it commands only 8 percent of HEW's budget, and we might reasonably assume that it gets no more than that percentage of its effort and attention.

More than that, Mr. Chairman, it would seem that most of HEW's educational activity is involved in printing and distributing regulations, and in monitoring, if not harassing, local and State school systems about compliance. I submit that its activities are more negative than positive, and I make that suggestion with full recognition of its legal obligations, congressional mandates, and Supreme Court decrees. The Department, in my humble opinion, if so far out of touch with the realities of education—north, south, east, and west—that its ability to do more than hold a heavy hand over every school system in the country has been seriously compromised.

There are those in this body who contend that to remove education programs from HEW and place them in a new Department of Education actually would increase, rather than diminish, Federal control over education. Mr. Chairman, we are in the process of writing the law under which the Department of Education would operate. Now, while it is still untainted by regulatory tampering, I would like to quote from the bill before us:

> Section 103. (a) No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by federal statute. Regulations issued by the Department of Education shall not have the standing of a federal statute for the purposes of this section.
>
> (b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated or otherwise withheld from any educational institution, school or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks or other instructional materials, except where specifically authorized by law.

And so we find, Mr. Chairman, that we have very wisely limited the authority of the Department and have reserved for ourselves the right, through congressional veto, to correct any evil that might be wrought by untimely, unreasonable, or counterproductive regulations.

HEW might be called the mother hen which has laid more eggs than she can incubate. Though she may have laid 40 eggs, and can only hover over a dozen or so, she guards all the eggs jealously. She clucks and cackles and preens and tries to group all the eggs beneath her. And every time someone tries to take any egg away, her answer to her frustration is to lay another egg.

Mr. Chairman, the Committee on Education and Labor has pointed out the terrible problems experienced by local school boards in dealing with the present array of Federal education offices. It now takes an average of 519 days for routine education regulations to clear the 26 offices which have to approve them. Twenty-six offices, Mr. Chairman. We are wearing out some of the best educators in the country, at the State and local level. No wonder they are crying for us to streamline the Federal education processes. This bill does not entirely cure the problem, but it is a start. It eliminates 11 of those 26 steps, and probably would cut in half the time required to clear regulations.

The bill before us would eliminate 800 positions by the end of the Department's first year of operation. Even more telling, I think, is the Congressional Budget Office's estimate that it would save $100 million a year in tax dollars. That figure, Mr. Chairman, does not take into account the savings in money, time, and efforts, and frustration to local and State governments.

Mr. Chairman, the committee and its distinguished chairman, the gentleman from Texas, have worked long and ardously on this bill. I believe the committee has done an exceptional job of keeping the bill clean, and we have resisted, by and large, the temptation to turn its horse into a camel.

The bill is not perfect, because we are not perfect. It does not solve all of education's problems, because all those problems do not reside in Washington. The education of the child begins in the home, and continues throughout the formative and educative years in the community. I believe, however, that this bill removes some of the stumbling blocks that have been put in the pathway of our children; and I believe it more accurately correlates Federal authority with Federal responsibility than does the system which at this time seems woefully inadequate and out of balance.

As a cosponsor of the bill, I intend to vote for it and I urge my colleagues to do likewise.●

● Mr. EDGAR. Mr. Chairman, I voted in favor of H.R. 2444, the bill creating a Cabinet-level Department of Education because I believe that the existence of such a department will help to get important education issues the attention which they deserve at the national level. I have serious reservations about several of the amendments to the bill which were adopted by the House prior to final passage, especially those which are fundamentally anticivil rights in their thrust. Many supporters of the Department of Education have argued that because the Senate version of the bill contains none of these objectionable amendments, it would be advisable to let the conference committee of the two Houses work to remove them.

The corrected version of the legislation could then be enthusiastically supported by all House proponents of the new Department. I have decided to give the conference committee an opportunity to make these changes, and if the revised version of the bill is acceptable I will vote for it. If, however, the objectionable amendments are not removed I shall have no choice but to vote against the bill. As much as I believe in creating a Department of Education, I cannot in good conscience encumber the new agency with responsibilities to roll back hard-fought progress in civil rights and civil liberties. Finally, I urge everyone to read carefully the creative remarks of my colleague, Representative RONALD DELLUMS. I strongly associate myself with his remarks.●

● Mr. ROUSSELOT. Mr. Chairman, I rise in opposition to H.R. 2444, the bill to separate the Office of Education from the Department of Health, Education, and Welfare and elevate it to full Cabinet-level status.

I am opposed to the addition of another agency to the Federal superstructure. Especially one the size of the Department proposed, with a budget of $14.5 billion, incorporating 150 current Federal education programs, and staffed by 24,000 employees supervised by a full complement of top-management supervision—one Secretary, one Under Secretary and six Assistant Secretaries. The proposed Department of Education would be larger than any of the current Departments of Commerce, HUD, Interior, Justice, or State.

There was a time when I might have believed that such a consolidation would reduce the size and cost of the bureaucracy, but precedent has not proven that supposition to be true. An obvious and timely example is the Department of Energy which, in the 2 short years of its existence, has doubled its annual expenditures from $5.2 billion in fiscal year 1977, to an estimated $10.1 billion in fiscal year 1979. The result—a national energy policy that is an ineffective mass of confusion and paperwork.

The Department of Energy is not an isolated example. Public policy economist William Niskasen calculates that creating the Departments of Defense and Health, Education, and Welfare increased the costs of performing these agencies' functions by 34 and 25 percent, respectively, with no demonstrable gains in effectiveness. He expands upon the issue stating that—

> Since the establishment of the Department of Defense, the U.S. has fought one war to a draw against a second-rate military power, lost another war to a third-rate military power, and lost its strategic . . . superiority over the Soviet Union. Since the establishment of HEW, health costs have skyrocketed, educational test scores have progressively declined, and there have been perennial demands for welfare reform. Following the establishment of HUD, our major cities have experienced fiscal collapse and continued decay. Following the establishment of the Department of Transportation, a large part of the railroad system has gone through bankruptcy to nationalization.

In response to those who say that the proposed Department will not grow, I say "baloney." A recent Fortune magazine article entitled "Why Bureaucracy Keeps Growing" effectively points out that the built-in dynamics of self-interest conspire to produce bureaucratic over-growth "far in excess of what the public wants or what reasonable measures of social utility can justify." Growth improves chances for promotion; salaries and perquisites are awarded primarily on the basis of the number of people an individual has under his supervision—"a sure-fire formula for overmanning."

In bureaucracy, growth triggers still more growth, and greater growth triggers greater inefficiency. As an organization increases in size, it has to adopt a hierarchy to control the flow of information up and down the chain of command. The larger the organization, the more levels in that chain of command. As the levels of command increase, so does the opportunity for distortion and loss of information and authority. As a consequence, more time is spent in supervising or being supervised. To quote economist Anthony Downs:

> In any large, multi-level bureau, a very significant portion of all the activity being carried out is completely unrelated to its formal goal or even the goal of the topmost officials.

The Department of Health, Education, and Welfare is certainly a prime example of the "bureaucratic overgrowth" I have just described. However, placing all of the education functions of the Federal Government within a single department will not solve the problem. In my opinion, such action could prove counterproductive. Conflict and competition within an agency can be beneficial. Niskasen states that "In many areas, competition among bureaus has been the primary reason why government did something right rather than something wrong." Consolidation by function does not guarantee efficiency. In so doing, you have, in effect, transformed a competitive industry into a monopoly.

Recently I received a resolution from the Los Angeles County Federation of Republican Women, a group of 14,000, that further supports my position. I would like to share it with you as I urge you to vote "no" on the creation of a separate Department of Education.

NO ON CABINET-LEVEL DEPARTMENT OF EDUCATION

> Whereas, the Federal government's involvement in education has been a multi-million dollar source of fraud and political interference;
>
> Whereas, increased Federal involvement in education has brought a decline rather than an improvement in academic achievement;
>
> Whereas, the proposal for a cabinet-level Department of Education appears to be a political payoff for National Education Association (NEA) support in the 1978 election;
>
> Whereas, a cabinet-level Department of Education would bring undesirable Federal control of education and a national education policy formed by bureaucrats sympathetic to the NEA;
>
> Whereas, the Department of Education would have 16,000 employees with a budget of $14 billion to start; and
>
> Whereas, a cabinet-level Department of Education would undoubtedly increase the cost of education benefitting only bureaucrats, professional educators, consultants and commercial interests; Now, therefore be it
>
> *Resolved*, That the Los Angeles County Federation of Republican Women, meeting April 25, 1979, opposes the establishment of a cabinet-level Department of Education and urges Congressmen and Senators to vote "no" on S210.●

● Mr. WIRTH. Mr. Chairman, I am pleased to speak in support of the Department of Education. I have supported the proposal since it was first set forth. After listening to the arduous and almost endless debate we have had on the bill, I am reminded of the wise saying of a close friend, "Things seldom turn out as badly as we fear or as well as we hope they will."

As a sponsor of the bill, I am skeptical of promises that the passage of this legislation will guarantee better Federal education programs—it will not. I am equally skeptical of predictions of the dire consequences to come from the creation of a Cabinet-level Department of Education—I foresee no dire consequences. Anyone characterizing this proposal as holy or sinister ought to take another look at the bill.

Felix Frankfurter, the late Supreme Court Justice, once said that "Americans have never learned the art of reforming by littles." In this remark, he was echoing Ralph Waldo Emerson, who preached that "We Americans have only one defect—a passion for sudden achievement." Creating a new department will not deliver us from the problems of our schools. The bill carries with it no iron-clad guarantee that Department of Education will even work better than what we have now. As one who intends to vote for the bill, I can only offer you four good reasons for thinking that such a change will make a modest but useful improvement in our present situation.

First, education is too important to be left to people who are constantly preoccupied with other pressing responsibilities—part-time people, in effect. As a White House fellow during the Johnson years, I worked with the Secretary of HEW, and I can tell you that it was very difficult to get the attention of the Secretary and the Under Secretary on important education issues. Later, when I served as Deputy Assistant Secretary for Education in a Republican administration, the same preoccupation prevailed. Knowledgeable people from other administrations will agree. The Secretary and most of his closest aides are harried people, rushing from welfare reform to health care costs, to drug abuse and the problems of social security financing. It stands to reason that we could improve the administration of our education programs if we placed the responsibility in the hands of a full-time highly competent staff dealing solely with important problems of education policy.

Second, education is too important to be left logjammed within a vast bureaucracy in such a way that public accountability is lost. Right now, education is layered by a whole host of unknown Special Assistants to the Secretary. These real policymakers, unlike the titular top officials, are neither particularly visible nor are they accountable to Congress, the education community, or the public. Any of you who have tried, as I have, to get to the source of poor administrative decisions being made in education programs know this to be true.

Third, revitalization of morale and effectiveness of the public service has to be a top priority of this Congress. Launching a new Department of Education at this time is a good way to undertake this priority. Few Americans are very happy with the morale and effectiveness of the Federal service delivering education programs. We must do better, and we will by creating positions of leadership that will resist the kind of instability that we have had in Washington. The fact that we have had 15 Commissioners of Education in the last 18 years gives us an idea of how serious the morale problem has become in Office of Education. Education is too important to allow this instability to persist.

Fourth, education is too important to be denied access to the President and the staff of the Office of Management and Budget because of agency structure. Education now has to wait at the end of the table of HEW. If HEW is well disposed, if HEW is well led, if HEW's responsibilities are properly ordered, education makes out all right. But that is usually not the case, and education suffers for it. We have to recognize that in the American system, for better or for worse, the Presidential level is where people voice their most important concerns. If we want these problems addressed, we need to address them at the top. It stands to reason that administration of Federal education programs will improve if we make these changes.

Finally, and most importantly, let us step back and take a look at what this is all about. Education may well be the Nation's largest enterprise—certainly more Americans are involved in education than any other endeaver. Why? Because we have always placed extraordinary importance in education—from the little red schoolhouse to the comprehensive high school. We have believed in the melting pot of our schools. We have believed in the socialization of our young. We have believed in transmitting our culture and our knowledge to next generations. We have believed in training our young for the complexities of work in a highly technological society.

We have held these commitments in the past, and despite the attacks of many, I trust that we will hold these beliefs in the future. Education is too important to be buried in the depts of an otherpurpose bureaucracy. Education is too important to our country's shared goals, and too important to our future, to be either turned down, neglected, buried, or attacked by opponents of this proposal. Instead, we should be glorying in—and confirming—the great opportunities that can be brought to all Americans through our education system.

I am chagrined that the House has adopted amendments to this bill that are intended to reverse the progress for which we have fought so long in civil rights. I support the bill with trust that most of these objectionable amendments will be removed in conference with the Senate and the others will be nullified by the courts. We have come too far to turn around on civil rights now.

I urge you to consider the reasons I have cited for supporting the modest reform that this bill is. Look not for a sudden, dramatic achievement as a result of the changes prescribed in this measure. Instead, look for slow and steady increments of improvement in the administration of Federal education programs.●

● Mr. NEAL. Mr. Chairman, again today we are debating the Department of Education bill, and as the discussion of amendments has dragged on, I think we need to be reminded of the basic arguments for this bill. We are trying to make it easier for educators and State and local officials to deal with the Federal Government, and by so doing we expect to save tax dollars and costs to school districts and educational institutions.

I think my colleagues will be interested in the following article which was released by the Baptist Press and appeared in a Winston-Salem, N.C., newspaper. This article details some of the problems Baptist educators face in dealing with the various Federal officials who have responsibilities in the area of education.

BAPTISTS MAY HAVE TO FIGHT GOVERNMENT INTERFERENCE WITH ITS COLLEGES

(By Rex Hammock)

GALVESTON, TEX.—Baptists must be willing to fight excessive governmental regulation if their colleges and universities are to survive, an expert in education law said here this week.

John Fant, legal counsel at Baylor University at Waco, told representatives of Southern Baptist state education committees that members of the nation's largest Protestant denomination "should rise up and draw the line" on governmental interference.

The meeting was held in conjunction with a National Conference on Bold Christian Education and Bold Missions sponsored by the Southern Baptist Convention's Education Commission.

"Bold education," Fant said, "can be totally thwarted by legal matters. Universities have been bombarded with governmental agency regulations of laws passed by Congress."

Fant cited several examples of dramatic increases in agency regulations, claiming that the "government has moved into an adversary role."

Fant admitted most of the laws were needed to protect the rights of students, but he chided different agencies of the federal government for imposing conflicting regulations.

"We're now in a 'Catch 22' situation in trying to comply with some of these agencies," he said. "There are too many agencies that deal with education. Sometimes they are in direct conflict with each other as to what they require the college to do."

Fant, a former judge, also claimed the cost of complying with agency demands is becoming prohibitive. "Handicap, environmental impact and occupational safety regulations could exceed $13 billion to the education community," he said. "Soon 50 cents out of every dollar of Federal Student Aid will go to administrative paper work."

Fant did not put all of the blame for the explosion in regulations on Washington. "We as Baptists have let this emerge," he said, explaining, "at least in theory the people are the government."

"Baptists," he said, "must become legally intelligent in fighting government interference and must be willing to give up a low profile."

"Would it be appropriate to say that Baptists and other denominations should join in a 'people's revolt' against these regulations?" he asked, comparing such a "revolt" to California's Proposition 13.

"Baptists must be willing to go into a courtroom and get beat, knowing that next time we could win. We can't always wait to be sure that we are going to win. Our faith is not built on being sure."

Fant admitted that Baptist colleges would never get back to the days when the government has a "hands-off" education stance, but claimed that "we can get back to a position of sanity."

Mr. Chairman, North Carolina's State superintendent of public instruction also is strongly supportive of a separate Department of Education, as are the Winston-Salem/Forsyth County superintendent of schools and director of Federal programs. I think the following letters from our State superintendent and our local director of Federal programs illustrate the importance of this legislation to those who work every day in the field of education and I commend them to my colleagues.

SUPERINTENDENT OF PUBLIC
INSTRUCTION,
Raleigh, June 22, 1979.

Hon. STEVE NEAL,
U.S. House of Representatives,
Washington, D.C.

DEAR STEVE: I want to thank you for your efforts thus far on the Department of Education legislation. I realize H.R. 2444 has been time-consuming with opponents trying to defeat it by proposing numerous amendments.

This letter is just to reconfirm my commitment, as both State Superintendent and President of Council of Chief State School Officers, to the establishment of a cabinet-level Department of Education. As you know, there are more than one hundred national associations endorsing this bill. They include many groups outside the field of education.

I would appreciate your communicating with Speaker O'Neill asking that he bring the bill back to the House floor before the July recess. Thanks for your hard work and support. I look forward to final passage soon.

Sincerely,

A. CRAIG PHILLIPS,
State Superintendent
of Public Instruction.

WINSTON-SALEM/FORSYTH COUNTY SCHOOLS,
Winston-Salem, July 3, 1979.
Hon. STEPHEN L. NEAL,
U.S. House of Representatives,
Cannon Office Building,
Washington, D.C.

DEAR STEVE: I have followed with great interest and concern the House debate of H.R. 2444, the bill to create a Cabinet-level federal department of education. I understand that the bill will come to the House floor July 10 and will probably reach a final vote after five additional hours of debate. According to reliable sources, Congressman John Erlenborn will drop tactics that he has been using to stall the bill.

I have studied both the House and Senate versions of the bill, and I am persuaded that the benefits of this legislation far outweigh its limitations. Clearly, the federal role in education and the budget of the Education Division are sufficiently large to justify a separate department with Cabinet rank. Moreover, the creation of an Education Department would give to education the recognition that it deserves as a fundamental national activity, greatly increasing its visibility and status.

The charges that a Department of Education would result in greater federal controls and a larger bureaucracy have little basis in fact. In reality, the new Department of Education will greatly improve the management of federal education programs through a more systematic structure than the one we have now. Fragmentation in educational leadership will be corrected, accountability of education officials will be increased, red tape will be reduced, and coordination of education programs will be improved. Adequate safeguards to preserve local and state control of education are defined in the legislation.

Although I have not talked with you about H.R. 2444, members of your staff assure me that you strongly support this legislation. Dr. James A. Adams, the local Superintendent of Schools and I have supported the legislation from the outset, and we have sought to convince others of its merits. I am sure that we can count upon your support on July 10. Given the increasing federal role in education, we can ill afford to perpetuate the present structure.

Sincerely,

ROBERT R. SEVERS,
Director of Federal Programs.●

● Mr. DIXON. Mr. Chairman, education is one of the most important issues facing the country, and the 96th Congress. The American people want the quality of education improved, and I believe that the concept of the legislation which we passed today, H.R. 2444, will help to move us in the right direction.

There is a need to provide clarity to the Federal effort to aid education, and to give educational issues greater attention by Federal policymakers.

For the record, I want to state my strong personal opposition to amendments which were previously adopted to H.R. 2444 which run counter to the Federal effort to promote equal educational opportunity. While I voted for the final passage of this bill, I am against the antiaffirmative action, antibusing, anti-civil-rights provisions which were adopted to the bill. Passage of this legislation does not signal the end of the legislative process. There will still be a House-Senate conference on this legislation, and it is my hope that these provisions will be removed. If in fact these provisions are not eliminated from the final bill, I intend to vigorously oppose adoption of the conference report. I appreciate the opportunity to clarify my position on this important piece of legislation.●

● Mr. BETHUNE. Mr. Chairman, in the short time I have been here, I have seen Federal agencies grow by leaps and bounds in size and spending. The Department of Health, Education, and Welfare is no exception and I doubt whether it can justify its continued existence on the basis of performance alone. If a new Department of Education were established, the same bureaucrats who administer HEW programs would more than likely run the new education programs. The Department of Education would be larger than the Department of Energy, Commerce, Interior, Justice, or State. From the start, the American taxpayer would bear the estimated $10 million cost to transfer education programs from HEW into the new Department. Once established, the new Department would employ more than 18,000 people and cost taxpayers over $14.2 billion to operate yearly. This is a shining example of why the people, at least in my district, are growing increasingly alarmed over mounting Federal costs and becoming impatient with legislators who promise, but refuse, to tighten the Federal purse strings. Current estimates indicate that the new Department could add nearly 1,000 pieces of paperwork to every school district annually. In establishing a new department, we become more efficient at producing cumbersome regulations and increasing Federal redtape, not streamlining our educational system.

The supporters of this bill refer to the need for a Federal policy on education. Historically, American education has remained a diverse structure because the States and local communities have been primarily responsible for its function. Proponents of this new agency say that local control is guaranteed in this legislation. If past experience is any indication, bureaucrats will continue to follow their natural inclinations to centralize, and will resist conceding authority. We have no real, reliable guarantee that a new Department of Education would do otherwise.

Proponents of the new Department argue that a Secretary of Education would have direct access to the President and would unify educational functions that are now split among four HEW jurisdictions. And, I have heard arguments that a new department would lead to a better defined administrative structure with easily identified points of responsibility and accountability. A new Department, representing yet another addition to an already overly expanded Cabinet, would not necessarily give higher attention to education. It is the emphasis that the executive branch places on education, and the funds that Congress appropriates, which determine how much focus and emphasis are placed on education nationally.

Contrary to the impression some are promoting, the proposal for a separate, Cabinet-level Department of Education does not have the wholehearted support of the education community. If this proposal were clearly in the best interests of education, as we are led to believe, I seriously doubt I would have received as many letters and messages from teachers and parents expressing intense opposition to this legislation. Because so many of the educational functions of the Federal Government are intertwined with other predominantly noneducational departments and agencies, it would be unwise to separate and move them to a new Department of Education.

The education of our young people is too important, and too complex a function, to allow the Federal Government to pull apart an already established department to create a new bureaucracy. Our constituents will bear the costs, the brunt of a loss in local control in education, and poorly run government if this proposal is accepted. For these reasons, I am voting against H.R. 2444 today, and urge my colleagues to cast a negative vote as well.●

● Mr. BROYHILL. Mr. Chairman, I have listened with great interest to the Education Department debate which has lasted off and on for weeks.

The very fact that we have considered dozens of amendments is a strong indication of the controversy here and the divergent interests the Members have.

After serious consideration, I am casting a "no" vote on this bill.

I cast this vote, not because I failed to recognize the primary role education plays in our society, or indeed the vital support role the Federal Government plays in education. I cast this vote not because I wanted to ignore attempts to foster better government organization, to slice through redtape and bury unneeded bureaucracy, and not because I am unaware of the need to save taxpayers' hard-earned dollars.

I cast this vote because I simply do not believe the bill achieves its stated purpose.

This bill is called the Department of Education Reorganization Act. Despite our attempts to reorganize and consolidate, though, we have seen several amendments offered here to exempt various education-related programs from the bill. Does this constitute an attempt to "reorganize a fragmented structure"?

It seems to me that we have exempted so many programs, that we have left out so many programs, that all we really have done is to lift the education component out of HEW and move it lock, stock and barrel to a new location. There is nothing in this bill to solve the problems of redtape and bureaucratic mismanagement which are inherent in HEW; we are just spending more tax dollars to move these problems to a new location.

I have an overriding concern that this bill affords the Federal Government the opportunity to worm its way further into the affairs of State and local government.

Educators at the State and local level are already doing an excellent job of teaching and running our schools. Education problems are not caused by a lack of Federal intervention. Too much Federal intervention, on the other hand, does cause problems in education as has been witnessed recently with the controversy over the Department of Health, Education, and Welfare withholding funds from the University of North Carolina.

Reading over my mail each morning, I am appalled by the number of complaints I receive from local educators who have been deluged by HEW with "necessary" paperwork for grant applications, or for statistical purposes.

This only goes to delineate how far the long arm of Government has stretched into local education, and I am concerned the Department of Education bill would further the trend.

As Stanford University President Richard Lyman pointed out:

> The 200 year old absence of a department of education is not the result of a simple failure during all that time to notice that virtually every other nation in the world has come to have one. On the contrary, it derives from the notion that we do not want the kinds of education systems that such arrangements seem to produce.

A primary focus of the bill is the savings which would be effected if the tangled maze of programs administered by HEW are unraveled. If I am not mistaken, this could be effected today without congressional action, without the need for another agency.

As my distinguished colleague from Ohio, Mr. ASHBROOK, remarked during debate the other day, "Good management does not need congressional authority." The fundamental question raised by Mr. ASHBROOK remains unresolved with the passage of H.R. 2444:

> If government education specialists can't run the show correctly at HEW, what makes us think we can transfer these same programs to a new location and they will magically make order out of chaos?

Before we jump into the depths of this reorganization project, before the first truck rolls up to the HEW building, before the first stick of furniture is moved out the front door, I believe we should prove beyond a doubt that such a new department is needed. Weighing the pros and the cons, I just cannot conclude that the new department is needed.

If the purpose of this bill is to better facilitate the dissemination of Federal funds for education, I believe we should consider a new approach such as a block grant formula similar to the revenue-sharing concept. This allows States and localities a measure of control over their own educational operations. This would take less personnel to administer and would save tax dollars.

My vote on this bill is not a gage of my commitment to furthering education, for I am firmly committed to the preservation of education as a cornerstone in our society. Rather, this is a measure of my feeling that the proposal only partially and superficially addresses a problem inherent within the Department of Health, Education, and Welfare. It is time Congress look toward the source of the problem rather than attempt a band-aid cure for some of the symptoms.

And that is the fundamental problem with this bill.●

● Mr. EARLY. Mr. Chairman, legislation creating a separate Department of Education is not in the best interests of the Nation's schools. An inherent danger of such legislation might be to straitjacket educational programs throughout the country. The homogenization of educational programs might actually work at cross-purposes with the original intent of this bill. Rather than boost the quality of education, the diversity of American schools may be diminished by national policy decisions affecting local education programs. I cannot support legislation that would unintentionally hurt the Nations' schools.

In a poll that I conducted at about this time last year, 79 percent of those constituents responding to the questionnaire stated their opposition to a separate Department of Education. It seems to me that such an overwhelming response indicates more than the usual antibig Government sentiment now in fashion. It is true that we need less governmental intrusion at the local level. My constituents correctly see an implied threat to their local autonomy and the cultural diversity represented by the Nation's decentralized school program.

It has been proven time and time again, that the creation of a new Department from a number of separate Federal agencies or the elevation of a division within an existing Department to Cabinet level does not necessarily increase the efficiency or delivery capacity of existing programs. The use of efficiency models and economic arguments are misapplied rationales in the area of social policy. Gaging the responsiveness of social and educational programs by economic models alone is an inappropriate means of evaluating the effectiveness of such programs.

A separate Department of Education would do little to improve the effectiveness of existing educational programs. A national Department may actually impede the innovation of local programs as it attempts to establish uniformity throughout the Nation. Access to equal facilities and programs is not dependent upon a separate Department of Education. This is a misunderstanding of the issue. The courts have already effectively ruled that each community must provide an equal education to all of its citizens. The present diversity in the administration of federally funded school programs should not be mistaken for fragmentation and inefficiency. That same diversity allows each community to meet its unique needs without fear of being suffocated by outside disputes raised to national status by a Federal Department of Education.

Mr. Chairman, educational policy should not be so tailor made that the singular demands of a community are ignored for the sake of uniformity.

Notwithstanding the good intentions of certain national organizations supporting this legislation, it is obvious that a separate Department of Education is self-serving in nature. A community's innovative potential would be diminished and possibly dulled by the restraints of a national policy handed to them by a distant bureaucracy. Mediocre school programs may be improved by a national policy, but nationalizing school policy may lead to an unprecedented level of mediocrity in the Nation's schools.●

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. NEDZI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2444) to establish a Department of Education, and for other purposes, pursuant to House Resolution 299, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ERLENBORN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. ERLENBORN moves to recommit the bill, H.R. 2444, to the Committee on Government Operations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 210, nays 206, not voting 18, as follows:

[Roll No. 314]

YEAS—210

Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Aspin
Atkinson
AuCoin
Baldus
Barnard
Beard, R.I.
Bedell
Benjamin
Bevill
Blanchard
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Campbell
Carr
Cavanaugh
Clausen
Clay
Coelho
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Daniel, Dan
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Dixon
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
English
Erdahl
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio

Fish
Fisher
Fithian
Flippo
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Giaimo
Gingrich
Ginn
Gonzalez
Gore
Gramm
Gudger
Hall, Ohio
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Horton
Howard
Huckaby
Hughes
Hutto
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kildee
Kogovsek
Leach, Iowa
Lehman
Leland
Levitas
Lewis
Long, La.
Lott
Lowry
McCormack
McKay
Madigan
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mica
Miller, Calif.
Mineta
Moakley
Moffett
Mollohan
Montgomery
Mottl
Murphy, Ill.
Murphy, Pa.

Murtha
Natcher
Neal
Nolan
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Ratchford
Reuss
Rinaldo
Roberts
Roe
Rose
Rostenkowski
Roybal
Runnels
Russo
Santini
Seiberling
Shannon
Sharp
Shelby
Simon
Smith, Iowa
Spence
St Germain
Stack
Staggers
Stark
Steed
Stokes
Studds
Swift
Synar
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vento
Volkmer
Wampler
Watkins
White
Whitley
Whitten
Williams, Ohio
Wilson, Tex.
Wirth
Wolpe
Wright
Wyatt
Yatron
Young, Alaska
Young, Mo.

NAYS—206

Abdnor
Addabbo
Ambro
Annunzio
Applegate
Archer
Ashbrook
Ashley
Badham
Bafalis
Bailey
Barnes
Bauman
Beard, Tenn.
Beilenson
Bennett
Bereuter
Bethune
Biaggi
Bingham
Boggs
Boland
Breaux
Broomfield

Brown, Ohio
Broyhill
Burgener
Butler
Byron
Carney
Carter
Chappell
Cheney
Chisholm
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Conyers
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine

Dickinson
Dingell
Donnelly
Duncan, Oreg.
Early
Edwards, Ala.
Edwards, Okla.
Erlenborn
Evans, Del.
Fenwick
Ferraro
Findley
Florio
Fountain
Frenzel
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Glickman
Gradison
Grassley
Gray

Green
Grisham
Guarini
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Hightower
Hinson
Holt
Holtzman
Hopkins
Hubbard
Hyde
Ichord
Jacobs
Jeffries
Johnson, Colo.
Kastenmeier
Kelly
Kemp
Kindness
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Livingston
Lloyd
Loeffler
Long, Md.
Lujan
Luken
Lundine
Lungren

McClory
McDade
McDonald
McEwen
McHugh
McKinney
Marlenee
Marriott
Martin
Mazzoli
Michel
Mikulski
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moore
Moorhead, Calif.
Moorhead, Pa.
Myers, Ind.
Myers, Pa.
Nedzi
Nelson
Nichols
Nowak
O'Brien
Obey
Pashayan
Paul
Peyser
Quayle
Railsback
Rangel
Regula
Rhodes
Richmond
Ritter
Robinson
Rosenthal
Roth
Rousselot
Royer
Rudd
Sabo
Satterfield

Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Vander Jagt
Vanik
Walgren
Walker
Waxman
Weiss
Whitehurst
Whittaker
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Winn
Wolff
Wydler
Wylie
Yates
Young, Fla.
Zablocki
Zeferetti

NOT VOTING—18

Anderson, Ill.
Bolling
Burton, John
Collins, Ill.
D'Amours
Emery

Flood
Forsythe
Goldwater
Goodling
McCloskey
Mikva

Murphy, N.Y.
Rodino
Skelton
Spellman
Treen
Weaver

☐ 1350

The clerk announced the following pairs:

On this vote:

Mr. D'Amours for, with Mr. Goldwater against.

Mr. Skelton for, with Mr. Emery against.

Mr. Weaver for, with Mr. Flood against.

Mr. Mikva for, with Mr. Treen against.

Until further notice:

Mrs. Spellman with Mr. Goodling.

Mr. Murphy of New York with Mr. Forsythe.

Mr. John L. Burton with Mr. McCloskey.

Mrs. Collins of Illinois with Mr. Anderson of Illinois.

Mr. HAWKINS changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, pursuant to the provisions of House Resolution 299, I call up the Senate bill (S. 210) to establish a Department of Education, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

☐ 1400

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Brooks moves to strike all after the enacting clause of the bill, S. 210 and to insert in lieu thereof the provisions of H.R. 2444, as passed, as follows:

SHORT TITLE; TABLE OF CONTENTS

Section 1. This Act may be cited as the "Department of Education Organization Act".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—FINDINGS AND PURPOSE

Sec. 101. Findings.
Sec. 102. Purpose.
Sec. 103. Prohibition against Federal control of education.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

Sec. 201. Establishment.
Sec. 202. Principal officers.
Sec. 203. Office for Civil Rights.
Sec. 204. Office of Postsecondary Education.
Sec. 205. Office of Elementary and Secondary Education.
Sec. 206. Office of Special Education and Rehabilitation Services.
Sec. 207. Assistant Secretary for Vocational and Adult Education.
Sec. 208. Office of Educational Research and Improvement.
Sec. 209. Functions relating to education of overseas military dependents.
Sec. 210. Office of Bilingual Education and Minority Languages Affairs.
Sec. 211. General Counsel.
Sec. 212. Inspector General.
Sec. 213. Intergovernmental Advisory Council on Education.
Sec. 214. Interdepartmental Education Coordinating Committee.

TITLE III—TRANSFERS

Sec. 301. Transfers from the Department of Health, Education, and Welfare.
Sec. 302. Transfers from the Department of Labor.
Sec. 303. Transfers from the Department of Defense.
Sec. 304. Transfers from the National Science Foundation.
Sec. 305. Transfers from the Department of Justice.
Sec. 306. Transfers from the Department of Housing and Urban Development.
Sec. 307. Effect of transfers.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—Personnel Provisions

Sec. 401. Officers and employees.
Sec. 402. Experts and consultants.
Sec. 403. Reduction of positions.
Sec. 404. Exclusion of overseas school personnel from limitation on positions.

Part B—General Provisions

Sec. 421. General authority.
Sec. 422. Delegation.
Sec. 423. Reorganization.
Sec. 424. Rules.
Sec. 425. Contracts.
Sec. 426. Regional and field offices.
Sec. 427. Acquisition and maintenance of property.
Sec. 428. Facilities at remote locations.
Sec. 429. Use of facilities.
Sec. 430. Copyrights and patents.
Sec. 431. Gifts and bequests.
Sec. 432. Working capital fund.
Sec. 433. Funds transfer.
Sec. 434. Seal of department.
Sec. 435. Annual report.
Sec. 436. Authorization of appropriations.
Sec. 437. Relationship to General Education Provisions Act.
Sec. 438. Technical advice.
Sec. 439. Transition provision regarding administrative structures.

TITLE V—TRANSITIONAL, SAVINGS AND CONFORMING PROVISIONS

Sec. 501. Transfer and allocations of appropriations and personnel.
Sec. 502. Effect on personnel.
Sec. 503. Agency terminations.
Sec. 504. Incidental transfers.
Sec. 505. Savings provisions.
Sec. 506. Separability.
Sec. 507. Reference.
Sec. 508. Amendments.
Sec. 509. Redesignation.
Sec. 510. Transition.
Sec. 511. Office of Personnel Management report.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Sec. 601. Effective date.
Sec. 602. Interim appointments.

DEFINITIONS

SEC. 2. (a) As used in this Act, unless otherwise provided or indicated by the context, the term "Department" means the Department of Education or any component thereof; the term "Secretary" means the Secretary of Education; and the term "Under Secretary" means the Under Secretary of Education.

(b) As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(c) As used in this Act, unless otherwise provided or indicated by the context, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) As used in this Act, unless otherwise provided or indicated by the context, the words "private" and "private educational" refer to independent, nonpublic, and private institutions of elementary, secondary, higher, and postsecondary education.

(e) As used in this Act, unless otherwise provided or indicated by the context, the terms "office" and "unit" include any office, institute, council, unit, organizational entity, or component thereof.

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality, and that no individual should be denied such education opportunities by rules, regulations, standards, guidelines, and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex;

(3) Parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

(4) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(5) the current structure of the executive branch fails to recognize the importance of education and does not allow sufficient Presidential and public consideration of education issues;

(6) there is a need for improvement in the management of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(7) there is a need for improved coordination of Federal education and related programs; and

(8) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effectively. The major purposes of the Department are:

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American;

(2) to support more effectively States, localities and public and private institutions, students, and parents in carrying out their responsibilities for education;

(3) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and the sharing of information;

(4) to improve the management and efficiency of Federal education activities;

(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;

(6) to encourage the increased involvement of the public, parents, and students in Federal education programs;

(7) to improve the coordination of Federal education programs; and

(8) to permit in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 103. (a) No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by Federal statute. Regulations issued by the Department shall not have the standing of a Federal statute for the purpose of this section.

(b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated, or otherwise withheld from any educational institution, school, or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks, or other instructional materials, except where specifically authorized by law.

(c) No provision of law shall be construed to authorize the Secretary to issue any regulation, rule, interpretation, guideline, or order which requires, as a condition of eligibility to receive Federal assistance, or otherwise, the transportation of students or teachers (or the formulation or adoption of any plan for such transportation) to achieve racial balance in or to carry out a plan for the desegregation of any educational institution, school, or school system.

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

SEC. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant. The Under Secretary shall also be responsible for intergovernmental relations in the Department. The Secretary shall designate the order in which other officials shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

PRINCIPAL OFFICERS

SEC. 202. (a) There shall be in the Department six Assistant Secretaries reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) In addition, there shall be in the Department five officers reporting directly to the Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The officers appointed under this section shall perform, in accordance with applicable law, such of the functions delegated to or vested in the Secretary or in the Department as the Secretary shall from time to time prescribe (in accordance with the provisions of this Act), including, but not limited to, the following functions:

(1) congressional relations functions;

(2) public information functions;

(3) management and budget functions;

(4) planning, evaluation, and policy development functions;

(5) encouraging and monitoring involvement of parents, students, and the public in departmental programs;

(6) providing, through the use of the latest technologies, useful information about education and related opportunities to students, parents, and communities; and

(7) the encouragement and promotion of the study of foreign languages and the study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(d) The Secretary shall assign to one of the principal officers appointed under subsection (a) responsibility for the promotion and coordination of programs of the Department which provide assistance to rural education. Such officer shall work with the Interdepartmental Education Coordinating Committee to coordinate such programs with related activities and programs of other Federal departments and agencies.

(e) Except as otherwise provided by this Act—

(1) when the name of a person to serve as an officer appointed under either subsection (a) or subsection (b) is submitted to the Senate for confirmation, the President shall designate the particular functions that person shall exercise upon taking office; and

(2) notwithstanding the provisions of paragraph (1) of this subsection, the Secretary may from time to time allocate or reallocate functions of the Department among

the subordinates of the Secretary and name and rename the titles of the offices they hold.

OFFICE FOR CIVIL RIGHTS

SEC. 203. (a) There shall be established in the Department an Office for Civil Rights headed by an Assistant Secretary for Civil Rights who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, vested in the Secretary by section 301(a)(3) of this Act.

(c) The Assistant Secretary for Civil Rights shall make annual reports to the Secretary and to the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(d) Notwithstanding any other provision of law, the reports required by or under this section shall be transmitted to the Secretary and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the reports required under subsection (c) of the Secretary sufficiently in advance of their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

(e) In addition to the authority otherwise provided by this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate collection of data necessary to ensure compliance with civil rights laws within his jurisdiction;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of the Office, subject to provisions governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out its compliance and enforcement functions; and

(4) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5 of the United States Code at daily rates not to exceed the equivalent rate payable for grade GS–18 of the General Schedule by section 5332 of such title.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 204. There shall be in the Department an Office of Postsecondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate to the Office and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There shall be in the Department an Office of Elementary and Secondary Education headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate to the Office.

OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES

SEC. 206. There shall be in the Department an Office of Special Education and Rehabilitation Services headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting special education and rehabilitation services as the Secretary shall delegate to the Office and shall serve as principal adviser to the Secretary on matters affecting special education and rehabilitation services.

ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION

SEC. 207. There shall be in the Department an Assistant Secretary for Vocational and Adult Education who shall be one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate to the Assistant Secretary and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary for Vocational and Adult Education, shall also provide a unified approach to rural family education through the coordination of programs within the Department and shall work with the Interdepartmental Education Coordinating Committee to coordinate related activities and programs of other Federal departments and agencies.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 208. There shall be in the Department an Office of Educational Research and Improvement headed by one of the Assistant Secretaries appointed under section 202(a) of this Act. The Assistant Secretary heading such Office shall administer such functions of the Department concerning research, development, demonstration, dissemination, evaluation, and assessment activities as the Secretary shall delegate to the Office.

FUNCTIONS RELATING TO EDUCATION OF OVERSEAS MILITARY DEPENDENTS

SEC. 209. There shall be in the Department an office to administer functions relating to the education of overseas dependents of personnel of the Department of Defense, the director of which shall be one of the officers appointed under section 202 of this Act.

OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS

SEC. 210. There is established in the Department an Office of Bilingual Education and Minority Language Affairs, to be administered by a Director of Bilingual Education and Minority Languages Affairs, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department. The Director and the Secretary shall consult concerning policy decisions affecting bilingual education. The Director shall report directly to the Secretary, and shall perform such additional duties as the Secretary may prescribe.

GENERAL COUNSEL

SEC. 211. There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate.

OFFICE OF INSPECTOR GENERAL

SEC. 212. (a) Section 2(1) of the Inspector General Act of 1978 is amended by adding "the Department of Education," after "the Department of Commerce,".

(b) Sections 11 (1) and (2) of such Act are amended by adding "Education," after the word "Commerce,".

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 213. (a) There is hereby established an advisory committee to be known as the Intergovernmental Advisory Council on Education (hereinafter in this section referred to as the "Council").

(b) The Council shall—

(1) provide a forum for representatives of Federal, State, and local governments and public and private educational entities to discuss educational issues;

(2) make recommendations for the improvement of Federal education programs;

(3) promote better intergovernmental relations; and

(4) submit a report, biennially or as frequently as the Council deems it necessary, to the President and the Secretary reviewing the impact of Federal education activities upon State and local governments and public and private educational institutions, including an assessment of compliance with section 103 of this Act and of any change in the Federal role in education, and assessing both the extent to which Federal objectives are achieved and any adverse consequences of Federal actions.

(c)(1) The Council shall have twenty members, appointed by the President as follows:

(A) six elected State and local officials with general government responsibilities;

(B) five representatives of public and private elementary and secondary education, including board members, administrators, and teachers;

(C) five representatives of public and private post-secondary education, including board members, administrators, and professors; and

(D) four members of the public, including parents of students and students.

In making appointments to the Council, the President shall select individuals who represent a diversity of geographic areas and demographic characteristics.

(2) The Under Secretary shall be an ex officio member of the Council.

(3) Each member shall have a term of four years, except that—

(A) no member serving pursuant to paragraph (1)(A) of this subsection may serve on the Council beyond the period that such member holds an office qualifying such member for appointment under such paragraph; and

(B) the President shall divide the initial appointments to the Council into four groups of five members each for initial terms of one, two, three, and four years.

(4) The President shall from time to time designate one member to chair the Council.

(d) The Council shall nominate and the Secretary shall appoint an executive director for the Council.

(e) The Secretary shall furnish such staff, services, and support as shall be necessary for the operation of the Council.

INTERDEPARTMENTAL EDUCATION COORDINATING COMMITTEE

SEC. 214. (a) There is hereby established an Interdepartmental Education Coordinating Committee (hereinafter referred to in this section as the "Committee").

(b) The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as

are necessary to carry out the purposes of this Act; and

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served.

In addition, the Committee shall review and assess the state of involvement and participation of students and parents in the overall education decisionmaking process and in specific education programs.

(c) The Committee shall be composed of the Secretary, who shall be the Chair, and representatives from those Federal agencies, commissions, and boards that the President may from time to time deem appropriate.

(d) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(f) The Secretary and each agency represented on the Committee under the provisions of subsection (c) of this section shall furnish necessary assistance to the Committee.

TITLE III—TRANSFERS

TRANSFERS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) There are hereby transferred to and vested in the Secretary—

(1) all functions and offices vested in the Assistant Secretary for Education (or in the office of such Assistant Secretary) or in the Education Division of the Department of Health, Education, and Welfare, or in any officer or component thereof;

(2) all functions and offices vested in the Secretary of Health, Education, and Welfare or the Department of Health, Education, and Welfare—

(A) under the General Education Provisions Act;

(B) under the Elementary and Secondary Education Act of 1965;

(C) under the Higher Education Act of 1965;

(D) under the Education Amendments of 1978;

(E) under the Act of August 30, 1890 (7 U.S.C. 321–328);

(F) under the National Defense Education Act of 1958;

(G) under the Education of the Handicapped Act;

(H) under part B of title V of the Economic Opportunity Act of 1964;

(I) under the National Commission on Libraries and Information Science Act;

(J) under the Vocational Education Act of 1963;

(K) relating to Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf;

(L) under the Model Secondary School for the Deaf Act;

(M) relating to the telecommunications demonstration program under subpart A of part IV of title III of the Communications Act of 1934;

(N) under section 203(k) of the Federal Property and Administrative Services Act of 1949; and

(O) under the Alcohol and Drug Abuse Education Act;

(3) all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare delegated to or vested in the Office for Civil Rights of such Department relating to functions transferred by this section;

(4)(A) all functions and offices vested in the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare under the Rehabilitation Act of 1973, except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act; and

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(5) any advisory committee and authority for any advisory committee established by statute in or under the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, giving advice or making recommendations that primarily concern education functions transferred by this section, except that the Secretary may terminate or combine one or more of such advisory committees;

(6) the Institute of Museum Services in the Department of Health, Education, and Welfare and all functions vested in the Institute;

(7) the Advisory Council on Education Statistics and all functions vested in such Council; and

(8) the Federal Education Data Acquisition Council and all functions vested in such Council.

(b) There are hereby transferred to the Inspector General of the Department that portion of the Office of Inspector General of the Department of Health, Education, and Welfare that relates to functions transferred to the Secretary or the Department by this Act.

TRANSFERS FROM THE DEPARTMENT OF LABOR

SEC. 302. (a) Notwithstanding the provision of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time, on or after the effective date of this Act, as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor under section 303(c)(2) of the Comprehensive Employment and Training Act.

(b) The Secretary is authorized to conduct the functions transferred by subsection (a).

(c) Section 303(c)(3) of the Comprehensive Employment and Training Act is redesignated as subsection (d) and amended to read as follows:

"(d) For the purposes of carrying out subsections (b) and (c) of this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 4.625 percent of the amount allocated pursuant to section 202(a).".

TRANSFERS FROM THE DEPARTMENT OF DEFENSE

SEC. 303. (a) Notwithstanding the provisions of section 601 of this Act, there shall be transferred to and vested in the Secretary, at such time and in such manner as the President may designate, but not later than three years after the effective date of this Act, all functions and offices vested in the Secretary of Defense or the Department of Defense by the Defense Dependents' Education Act of 1978.

(b) Notwithstanding the provisions of section 422 of this Act, the Secretary shall delegate to the director of the office created by section 209 of this Act all functions, other than administrative and support functions, vested in the Secretary by subsection (a) of this section.

(c) Not later than one year after the effective date of this Act, the Secretary, after consultation with the Secretary of Defense, shall transmit to the Congress a plan for effecting the transfer of functions under this section and administering those functions. In designing this plan, the Secretary shall also consult with representatives of organizations of parents of students enrolled in overseas dependents' schools and representatives of professional employee organizations and administrators of such schools.

(d) Nothing in this Act shall be construed to give the Secretary authority to operate overseas institutions of higher education.

TRANSFERS FROM THE NATIONAL FOUNDATION

SEC. 304. (a) There are hereby transferred to and vested in the Secretary those programs or parts thereof relating to science education of the National Science Foundation which are directed to (1) pre-college level science education; (2) science education designed specially for minorities or minority groups; (3) educational activities intended to provide science information for specific citizen and public-interest groups; and (4) ethics and values issues.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) The annual report to be submitted by the Secretary pursuant to section 435 shall include a description of arrangements, developed in consultation with the Director of the National Science Foundation, for coordinated planning and operation of the science education programs described in subsection (a), including measures to facilitate the implementation of successful innovations.

(d) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation under the National Science Foundation Act of 1950 to initiate and conduct programs.

TRANSFERS FROM THE DEPARTMENT OF JUSTICE

SEC. 305. There are hereby transferred to and vested in the Secretary all functions vested in the Attorney General, the Department of Justice, or the Administrator of the Law Enforcement Assistance Administration (or any successor agency thereto) with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 306. There are hereby transferred to and vested in the Secretary all functions relating to college housing loans vested in the Secretary of Housing and Urban Development or the Department of Housing and Urban Development by title IV of the Housing Act of 1950.

EFFECT OF TRANSFERS

SEC. 307. The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

OFFICERS AND EMPLOYEES

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5 of the United States Code.

(b)(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in each of the grade levels GS–16, GS–17, and GS–18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(2) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, United States Code, provide for the establishment in the Office created by section 208 of this Act of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this Act and which were assigned and filled on the day before the effective date of this Act.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5 of the United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this Act and, on the day preceding the effective date of this Act, holds a position and duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position leaves such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as he or she occupied on the day preceding the effective date of this Act.

(c) The Secretary may appoint, without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service, up to 112 scientific, technical, or professional employees of the Office created by section 208 of this Act and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS–16 of the General Schedule under section 5332 of title 5 of the United States Code.

(d) Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5 of the United States Code. Such positions shall expire on the latter of three years after the effective date of this Act or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions precribed under section 3134(e) and section 5108 of title 5, United States Code.

(e) Notwithstanding the transfer of functions effected by section 303 (and the consequent transfer of personnel), personnel performing such functions shall be treated, for purpose of access to services and facilities provided by the Department of Defense, as if employed by the Department of Defense.

(f) For purposes of any status of forces agreement between the United States and any other international organization, any reference to "civilian component" shall be deemed to include a reference to overseas personnel of the overseas dependents' education system.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain services as authorized by section 3109 of title 5, Unted States Code, at rates not to exceed the daily rate payable for grade GS–18 of the General Schedule under section 5332 of such title, for persons in Government service employed intermittently.

REDUCTION OF POSITIONS

SEC. 403. Not later than the end of the first fiscal year beginning after the effective date of this Act, the number of full-time permanent positions that perform functions to be transferred to the Department by this Act shall be reduced by 800 and thereafter the number of such positions shall not be increased. Any consultants and experts hired under section 402 shall count as full-time permanent positions for the purposes of this section.

EXCLUSION OF OVERSEAS SCHOOL PERSONNEL FROM LIMITATION ON POSITIONS

SEC. 404. None of the limitations or computations required by section 403 shall be applicable to any individual employed pursuant to section 209 as a teacher, administrator, clerk, or secretary in an overseas school.

PART B—GENERAL PROVISIONS

GENERAL AUTHORITY

SEC. 421. In carrying out any function or conducting any office transferred by this Act, the Secretary, or any officer or employee of the Department, may exercise any authority or part thereof available by law (including appropriation Acts) with respect to such function or office to the official or agency from which such function or office is transferred.

DELEGATION

SEC. 422. Except as expressly provided in this Act, the Secretary may delegate any function or office vested in the Secretary to such officers and employees of the Department as the Secretary may designate and may authorize such successive redelegations of such function or office within the Department as the Secretary may deem to be necessary or appropriate.

REORGANIZATION

SEC. 423. The Secretary is authorized to establish, alter, consolidate, or discontinue such organizational units or components within the Department as the Secretary may deem to be necessary or appropriate. Such authority shall not extend to the abolition of organizational units or components established by this Act, or to the transfer of functions or offices vested by this Act in any organizational unit or component.

RULES

SEC. 424. (a) The Secretary is authorized to prescribe such rules and regulations as the Secretary may deem necessary or appropriate to administer and manage the functions vested in the Secretary or the Department.

(b) The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5, United States Code. Section 431 of the General Education Provisions Act also shall apply to such rules and regulations to the extent applicable immediately prior to the effective date of this Act, and to rules and regulations promulgated with respect to programs transferred under sections 301(a) (1), (2), and (4), 302, 303, 304, 305, and 306 of this Act.

CONTRACTS

SEC. 425. (a) Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out functions vested in the Secretary or the Department.

(b) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this ttile shall be effective except to the extent provided in advance by appropriation Acts.

REGIONAL AND FIELD OFFICES

SEC. 426. The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may deem to be necessary or appropriate to perform functions vested in the Secretary or the Department.

ACQUISITIONS AND MAINTENANCE OF PROPERTY

SEC. 427. (a) The Secretary is authorized to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this Act), laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property, or any interest therein, as the Secretary deems necessary; and to provide by contract or otherwise for eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 428. (a) The Secretary is authorized to provide, construct, or maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies: *Provided*, That such services and supplies shall not include any services or supplies for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary.

USE OF FACILITIES

SEC. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function vested in the Secretary or in the Department.

(b) In carrying out his duties, the Secretary, under such terms, at such rates, and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations, or by individuals of any real property, or any facility, structure, or other improvement thereon, acquired pursuant to sections 427 and 428, under the custody and control of the Secretary for Department purposes except that the Secretary may not permit such use by any institution of higher education which uses mandatory student fees to pay for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term. The Secretary may require permittees under this section to recondition and maintain to a satisfactory standard, at their own expense, the real property, facilities, structures, and improvements involved. This section shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949.

(c) Proceeds from reimbursements under this section may be credited to the appropriations or funds that bear all or part of the cost of such work or services or used to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise lawfully established, including a fund established pursuant to section 432 of this Act, and used under the law governing such fund.

(d) Any interest in real property acquired pursuant to this Act shall be acquired in the name of the United States Government.

COPYRIGHTS AND PATENTS

SEC. 430. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 431. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

WORKING CAPITAL FUND

SEC. 432. (a) The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service.

(b) The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

FUNDS TRANSFER

SEC. 433. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year may be thus increased or decreased by more than 10 per centum.

SEAL OF DEPARTMENT

SEC. 434. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 435. The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during each fiscal year. Such report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward the attainment of those objectives, the more effective and efficient management of the Department, and the coordination of its functions. Such report shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 425 or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

AUTHORIZATION OF APPROPRIATIONS

SEC. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 437. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable on the day preceding the effective date of this Act.

TECHNICAL ADVICE

SEC. 438. (a) The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions administered by the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

TRANSITION PROVISION REGARDING ADMINISTRATIVE STRUCTURES

SEC. 439. The Secretary shall not, during the period within eight months after the effective date of this Act, take any action to withhold, suspend, or terminate funds under any program transferred by this Act by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on the effective date of this Act, shall be subject to the provisions of section 503 of this Act.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Any person who, on the day preceding the effective date of this Act, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to those performed in such prior position shall continue to be compensated in such new position at not less than the rate provided for the previous position, for the duration of the service of such person in the new position.

AGENCY TERMINATIONS

SEC. 503. (a) The following offices shall terminate upon the transfer of functions pursuant to this Act:

(1) the Education Division of the Department of Health, Education, and Welfare (but not the National Institute of Education);

(2) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) the Office of Education and the Office of the Commissioner of Education of the Department of Health, Education, and Welfare; and

(4) the Office for Dependents' Schools of the Department of Defense.

(b) Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this Act shall also terminate.

(c)(1) The Director of any office continued in the Department the director of which was required, prior to the effective date of this Act, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) of this subsection to any officer or employee of the Department.

INCIDENTAL TRANSFERS

SEC. 504. (a) The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed—

(1) to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this Act; and

(2) to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, record, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as the Director may deem necessary to accomplish the purposes of this Act.

(b) The Director shall provide for terminating the affairs of all offices terminated by this Act and for such further measures and dispositions as the Director deems necessary to effectuate the purposes of this Act.

(c) After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized and directed, at such time as the Director of the Office of Management and Budget shall provide, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, and privileges that—

(1) have been issued, made, granted, or allowed to become effective in the performance of functions which are transferred under this Act to the Department or the Secretary; and

(2) are in effect at the time this Act takes effect; shall continue in effect according to their terms until lawfully modified, terminated, superseded, set aside, or revoked.

(b)(1) The provisions of this Act shall not affect any proceedings (including, but not limited to, notices of proposed rulemaking) or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, commission, or component thereof, functions or offices of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions or offices so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until lawfully modified, terminated, superseded, or revoked. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect; and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, function of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof, in his official capacity, is a party to a suit, and under this Act any function or office of such department, agency, or officer is transferred to the Secretary or any other official, then such suit, insofar as it relates to such function or office shall be continued with the Secretary or other official, as the case may be, substituted.

SEPARABILITY

SEC. 506. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any function transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department in which this Act vests such functions.

AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3 of the United States Code is amended—

(1) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(2) by inserting immediately before the period at the end thereof the following: ", Secretary of Education".

(b) Section 101 of title 5 of the United States Code is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services"; and

(2) by adding at the end thereof the following "The Department of Education.".

(c) Section 5312 of title 5 of the United States Code is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5 of the United States Code is amended by inserting immediately after paragraph (4) thereof the following:

"(5) Under Secretary of Education.".

(e) Section 5315 of title 5 of the United States Code is amended—

(1) by striking out paragraph (17) and inserting in lieu thereof

"(17) Assistant Secretaries of Health and Human Services (4)."; and

(2) by inserting immediately after paragraph (24) thereof the following:

"(25) Assistant Secretaries of Education (6).

"(26) General Counsel, Department of Education.

"(27) Inspector General, Department of Education.".

(f) Section 5316 of title 5 of the United States Code is amended by striking out paragraph (41) and by inserting in lieu thereof the following:

"(41) Officers, Department of Education, (5).".

(g) Subchapter II of chapter 53 of title 5 of the United States Code is further amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(h) The Comprehensive Employment and Training Act is amended—

(1) in section 111, by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The Secretary of Labor shall consult with the Secretary of Health and Human Services with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education and the Secretary of Health and Human Services shall solicit the advice and comments of appropriate State agencies with regard to, respectively, education and health and welfare services. Such services shall include basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.";

(2) in section 127(b), by striking out "and the Secretary of Health, Education, and Welfare" and inserting in lieu thereof ", the Secretary of Education, and the Secretary of Health and Human Services";

(3) in section 311(g), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Health and Human Services, Department of Education,";

(4) in section 314, by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education";

(5) in section 438(a)(2), by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, Secretary of Health and Human Services,"; and

(6) in section 502(a)—

(A) by striking out "15" and inserting in lieu thereof "16"; and

(B) by striking out "Health, Education, and Welfare," in paragraph (1) and inserting in lieu thereof "Education, Secretary of Health and Human Services,".

(i) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting after "Secretary" in the first sentence ", the Secretary of Health and Human Services,"; and

(2) by striking out "of Health, Education, and Welfare" in the second sentence and inserting in lieu thereof ", the Department of Health and Human Services,".

(j) Section 1411 of the Defense Dependents' Education Act of 1978 is amended—

(1) in subsection (a)(1), by inserting "and the officer of the Department of Education responsible for the office established pursuant to section 209 of the Department of Education Organization Act (hereinafter referred to as the 'principal officer')," after "the 'Assistant Secretary'),";

(2) by striking out "chairman" in such subsection and inserting in lieu theerof "cochairmen";

(3) in subsection (a)(2), by inserting after "Secretary" the following: "and the principal officer";

(4) in subsection (a)(3)—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) the Secretary of Education,"; and

(B) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively; and

(5) in subsection (c)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraph;

"(2) make recommendations to the Director and to the Secretary of Education on the orderely transfer of the functions under the Dependents' Education Act of 1978 to the Secretary and Department of Education,".

(k) Section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.".

(l)(1) Section 352 of the Environmental Education Act of 1978 is amended by striking out "who shall be compensated" and everything that follows through the end of such section and inserting in lieu thereof a period.

(2) Paragraph (1) of section 160(b) of the Vocational Education Act of 1963 is amended by striking out ", and who shall be compensated" and everything that follows through the end of such paragraph and inserting in lieu thereof a period.

(3) Section 512 of the Higher Education Act of 1965 is amended by striking out the second sentence and inserting in lieu thereof the following: "The Teacher Corps shall be headed by a Director and a Deputy Director.".

(4) Positions abolished as a consequence of the amendments made by this subsection shall, for purposes of section 502(a) of this Act, be deemed to be permanent positions transferred pursuant to title V of this Act.

(m)(1) Section 203(a)(1) of the Rehabilitation Act of 1973 is amended by striking out "Commissioner, the Commissioner" and inserting in lieu thereof "Secretary".

(2) Section 507 of such Act is amended by striking out "Health, Education, and Welfare," and inserting in lieu thereof "Education, the Secretary of Health and Human Services,".

REDESIGNATION

SEC. 509. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 510. With the consent of the appropriate department or agency concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

OFFICE OF PERSONNEL MANAGEMENT REPORT

SEC. 511. The Director of Office of Personnel Management shall, as soon as practicable, but not later than one year after the effective date of this Act, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this Act, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this Act;

(2) a statement of the number of employees entitled to pay savings by reason of the reorganization under this Act;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. The provisions of this Act shall take effect one hundred eighty days after the first Secretry takes office, on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, except that at any time on or after October 1, 1979, (1) any of the officers provided for in title II of this Act may be nominated and appointed, as provided in such title, and (2) the Secretary may promulgate regulations pursuant to section 505 (b)(2) of this Act. Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have taken office on the effective date of this Act, and notwithstanding any other provision of law, the President may designate any officer in the executive branch to act in such office until the office is filled. While so acting, any such officer shall receive compensation at the rate provided under this Act for the office in which he or she acts.

Amend the title so as to read: "An Act to establish a Department of Education, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2444) was laid on the table.

PERSONAL EXPLANATION

Mr. GOLDWATER. Mr. Speaker, on rollcall No. 314, I was unavoidably detained. If I had been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. WEAVER. Mr. Speaker, on the passage of H.R. 2444, rollcall No. 314, I would have voted "aye." I missed the vote because I was walking between two committee meetings and did not hear the bells.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 210

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that, in the engrossment of the House amendment to the Senate bill (S. 210), the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending H.R. 2444.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

TO DISAPPROVE REORGANIZATION PLAN NO. 2 OF 1979

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 231) to disapprove Reorganization Plan No. 2 transmitted by the President on April 10, 1979; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate continue not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New York (Mr. HORTON) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of House Resolution 231, with Mr. KILDEE in the chair.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

The CHAIRMAN. Pursuant to section 912, Public Law 95-17, and under the unanimous-consent agreement, the gentleman from Texas, (Mr. BROOKS) will be recognized for one-half hour and the gentleman from New York (Mr. HORTON) will be recognized for one-half hour.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, House Resolution 231 would disapprove Reorganization Plan No. 2 of 1979. Our committee favors this plan and recommends that the resolution be rejected.

Reorganization Plan No. 2 will create a new International Development Cooperation Agency. Its purpose will be to coordinate the scattered programs providing developing assistance to foreign nations and thereby improve their effectiveness. Although these programs have the same general objective, they often operate at cross purposes one with the other. What is needed is an organization separate from the operating programs which can influence their direction and provide a measure of control over their activities. The new agency fills this need.

The plan transfers the functions of the Agency for International Development to the Director of IDCA, but the AID will continue to carry out its bilateral assistance programs with substantial day-to-day autonomies. The Director of IDCA will also become Chairman of the Board of the Overseas Private Investment Corporation and thus will effectively control the activities of that agency. Significantly, the Director will have an important role in making policy for the multilateral banks by participating in the selection of the U.S. executive directors of those banks and advise them on proposed projects and programs which this Government will support. It is also expected that the proposed Institute of Scientific and Technological Cooperation, if established by the Congress, will become a part of IDCA.

The IDCA Director will be the principal international development adviser to the President. It is estimated that no significant costs will be incurred by this plan and the President has indicated that the IDCA Director will be supported by only a small staff.

The President has submitted several clarifying amendments to the plan and those amendments are before you. It is made clear that the Director of IDCA will report to the Secretary of State only insofar as foreign policy matters are concerned and the amendments add to the Director the function of giving advice to the President on all trade, science and technology, and other matters significantly affecting the developing nations. The Director's authority to establish or discontinue organizational units excepts those units established by statute or reorganization plan and several technical changes are made in the citations to functions transferred. These amendments are in accord with the purposes of the plan.

It is our opinion that this reorganization is appropriate under the Reorganization Act and will improve the processes of Government. I urge the House to support the plan and vote "no" on the resolution.

Mr. HORTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, foreign aid is without a doubt the most important day-to-day foreign policy instrument of the United States. While the SALT Treaty will capture the headlines, and is important, it is, after all, a bilateral arrangement. On the other hand, the Agency for International Development currently has more than 1,300 projects in some 66 different countries, which is approximately half the nations of the world. And, at one time or another, virtually every country in the world has been a recipient of American foreign aid.

We Americans have a proud record in the foreign aid area from the great Hoover food relief programs after World War I to the Marshall plan after World War II, to the current Sahel development program that is now helping some of the poorest nations of Africa. The United States has been by far the largest contributor to foreign aid, in both bilateral and multilateral aid.

But, foreign aid is changing. No longer is it just bilateral aid, or even multilateral aid. The needs of the developing countries now involved trade matters, monetary policy, scientific and technology affairs that go beyond the old concept of foreign aid. And, as the needs change, so must the institutions. I, therefore, support Reorganization Plan No. 2 of 1979 which will create a new International Development Cooperation Agency or IDCA.

This new Agency will not just give foreign aid a larger voice in Government, it will for the first time take all these new factors into consideration. The new Director of IDCA will now have a definite say in multinational aid, trade, monetary, scientific, and technology affairs.

Mr. Chairman, the plan before us is not perfect and I will not pretend that it is. I think that a stronger organization should have been submitted, but this is a good step. I am a little upset about some of the procedures that will be used in actually implementing the plan, but once they are issued, the new IDCA Director will have direct input on trade and monetary affairs. I am a little upset that more economies and efficiencies could not have been found, but I hope that the new Director will eventually weed out overlapping and obsolete programs and personnel.

However, now for the first time, there will be one spokesman for development affairs in the Government. There will be one person who can answer to both the President and the Congress on all aspects of development. There will be one person who has the authority, and the time, to coordinate all the different agencies, programs and personnel involved with development.

For all these reasons, I will support Reorganization Plan No. 2. I, therefore, recommend that we vote against House Resolution 231.

Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Chairman, I rise in opposition to the Reorganization Plan No. 2 that would create the International Development Cooperation Agency or IDCA.

Mr. Chairman, because of the many uncertainties that exist with this reorganization plan, I cannot support the plan at this particular time. I recommend that we vote for the resolution, that is vote against the plan, with an understanding that at a later date, the President should submit a revised and up-to-date plan. Let me explain what I mean.

First, the Members should be aware that the plan before us is considered weak, and there have been charges that this is simply another layer on top of the current Agency for International Development, AID. There is some legitimacy to this charge. It should be kept in mind that the current AID Director is now the chief spokesman for developmental assistance, currently Chairman of the Overseas Private Investment Corporation (OPIC), a member of the National Advisory Council for International Monetary and Financial Policies (NAC), and perhaps most important, as Chairman of the Development Coordination Council (DDC), currently the chief coordinating officer for developmental aid in the Government. The IDCA Director will simply replace the AID Director in these roles. Also, while the new IDCA organization will include OPIC, a new Institute for Scientific and Technological Cooperation (ITSC) and perhaps the Peace Corps, these institutions will be semiautonomous within IDCA, controlled by boards, so the IDCA Director will have little direct authority.

Thus, we are starting out, at best, with a weak organization. But, a second problem has arisen. As weak as IDCA was, it did have at least three, and perhaps four, branches, AID, ISTC, OPIC, and perhaps the Peace Corps. However, there is now a very, very good chance that the new IDCA might consist of only AID, which would mean that we are simply creating another layer on top of existing agency. Why is this?

Let us take the Institute first. The House created the Institute for Scientific and Technological Cooperation last spring, but just before the July recess, the Senate rejected this. Therefore, we really will not know if one-third of the new IDCA is even in existence until after the House-Senate conference which unfortunately will not be till later.

What about OPIC? Later this month, our committee will start hearings on a new Department of Commerce and Trade. Of the three bills now in Congress, one of them transfers OPIC to the new Department, while the other two make the Secretary of the new Department the Chairman of the OPIC Board which is, of course, the position the IDCA Director was supposed to have. There is thus a better than 50-50 chance then that IDCA will have no, or even less, control over OPIC.

What about the Peace Corps? That is not in the plan, but in the House bill. However, it is not in the Senate bill. Therefore, once again, until the House and Senate conference meet, we really do not know whether this major agency will be in or out of IDCA.

The fact of the matter is, we really have no idea at this particular point what will be in this new agency. We would simply be remiss in our duty if at this particular time we authorized a new agency without having the slightest idea what will eventually be in it.

I, therefore, recommend that we support the resolution and reject the plan at this particular time. There really is no hurry for this proposal. The proposal was not supposed to go into effect until July 1, 1980, anyway. In 2 or 3 months we will know the exact status of ISTC, OPIC, and the Peace Corps, so that the President can resubmit this plan in January and still make that July 1, 1980, deadline. I understand that the President has no other plan ready for submission, so rejecting this plan for resubmission in January will not disrupt any schedule.

Mr. Chairman, I would like to state before I relinquish my time that there are other problems with the plan before us. I am a little upset at some of the procedures that will be used to actually implement the plan and it should be pointed out that there are absolutely no economies or efficiencies from the proposal despite the fact that many programs, personnel, and agencies are involved.

But, the important point at this particular time is that we simply do not know what will eventually end up in this Agency, so therefore, should reject it until the uncertainties are cleared up.

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The CHAIRMAN. The time of the gentleman from Minnesota (Mr. STANGELAND) has expired.

Mr. HORTON. Mr. Chairman, I yield 1 additional minute to the gentleman from Minnesota.

Mr. BAUMAN. Mr. Chairman, would the gentleman yield?

Mr. STANGELAND. Yes, certainly.

Mr. BAUMAN. Mr. Chairman, I wanted to ask the gentleman, what is the gentleman's opinion of this plan as it pertains to the overall administration policy of not only increasing foreign aid, but moving it from bilateral aid, over which we have some degree of control and direction, to multilateral aid, either through agencies or lending institutions? How does this plan fit into that scheme, because, quite frankly, I am very much concerned about that trend.

Mr. STANGELAND. Mr. Chairman, I am afraid I have to say to my colleague, the gentleman from Maryland, that I cannot really answer that question. I am not sure that question was ever answered in the hearings of the committee that we had in dealing with this plan; but I would suggest that the gentleman might well want to ask the chairman of the subcommittee and the full committee, or the ranking member of the subcommittee and the full committee, who also sat through those hearings.

Mr. BAUMAN. Well, I would hope someone could respond to that question.

Mr. HORTON. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, in reply to that, I would say it would have very little effect.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I would be glad to yield.

Mr. FASCELL. Mr. Chairman, I agree with the gentleman's analysis. The purpose is primarily to put in one place the development policy of the United States whatever the size of the program to be administered. It has nothing to do with whether development programs will be increased or decreased. That is a congressional function on consideration of the budget, authorization and appropriation bills.

● Mr. ZABLOCKI. Mr. Chairman, I rise in support of Reorganization Plan No. 2 of 1979, which consolidates various foreign assistance activities of the U.S. Government.

I commend the Government Operations Committee and its distinguished chairman, the Honorable JACK BROOKS, for their work on this matter. As Members know, the Committee on Foreign Affairs has been working on this matter for the past 2 years. In his last legislative initiative, Senator Hubert Humphrey introduced a significant legislative proposal to bring into one Government agency all of the various development assistance programs of the U.S. Government.

There was, initially, considerable skepticism about the Humphrey proposal. However, the Foreign Affairs Committee promised to give it serious study, and an ad hoc group was set up to carry out the study.

The ad hoc group held numerous meetings during the early months of 1978. We concluded that, in its essentials, the Humphrey proposal was worthy of support of the committee. We offered a number of amendments incorporating some of the proposals to the 1979 foreign economic assistance legislation which the committee adopted. On the reorganization provisions of the Humphrey proposal, the Foreign Affairs Committee determined that the reforms could be accomplished by the President under his existing reorganization authorities.

The committee and eventually the Congress, therefore, endorsed a directive to the President that he take steps to institute a strengthened system of coordination of all U.S. development assistance policies and programs and report to the Congress as to his decisions in this regard.

The Foreign Affairs Committee envisaged three purposes of the reorganization:

First. To bring coherence and coordination to the various U.S. development assistance programs and activities;

Second. To create a stronger voice for development considerations in foreign economic decisionmaking, such as trade and monetary matters; and

Third. To improve the implementation of U.S. development assistance, particularly by bringing the bilateral and multilateral assistance programs into a closer working relationship.

Clearly, the reorganization plan that is before you does not create the strongest possible development agency. It is not as complete a consolidation as was proposed in the Humphrey bill, nor as was sought by the Committee on Foreign Affairs.

On the other hand, it is clearly an improvement over the existing situation where the various development assistance programs are spread throughout the bureaucracy, with no effective coordination or overview. Thus I believe it to be a significant step in the right direction. Future Congresses can strengthen it and perfect it through amendment and oversight as necessary.

It should be noted the House has already adopted important steps to strengthen the plan. It did so in the International Development Cooperation Act of 1979, which the House passed on April 10. Title V of that act transfers the Peace Corps to the proposed IDCA, dependent, of course, upon the approval of the reorganization plan. The Peace Corps serves a dual function today—it is a people-to-people program, and it is carried out, for the most part, through promoting development at the local level. Bringing the Peace Corps into direct association with the IDCA will facilitate cooperation and coordination between the Peace Corps and the Agency for International Development.

Also of importance are the two amendments to the reorganization plan which were sent up by the White House at the urging of the congressional committees of jurisdiction. One is significant in demonstrating that the IDCA Director relates directly to the President in all matters except for key foreign policy issues which properly remain within the purview of the Secretary of State. The other underlines that the Director of the IDCA will be the principal adviser to the President on all developmental matters.

Of great significance also is the commitment which has been worked out to assure that IDCA has the authority to provide, for U.S. policy concerning the multilateral development banks, the necessary advice relating to economic development in developing countries.

In closing, I would call on the President and the administration officials responsible for the plan to implement it to its fullest potential. This reorganization was developed against the opposition of various interests within the executive branch, and I am disappointed to hear that as the administration moves to establish IDCA there is considerable footdragging—particularly in various power centers attempting to "keep IDCA in hand" by denying it adequate staffing.

I would hope that the President would provide a strong directive that the plan is to be carried out to its maximum potential—providing IDCA with adequate staffing and full authority—and that the various interested departments and agencies would cooperate in making this reorganization a success.

While the plan is not all we had sought or hoped for, the President has taken an important step in bringing coherence to the U.S. development assistance programs and policies and the Foreign Affairs Committee will be exercising its oversight responsibilities with the aim of making sure it is successfully implemented.

I urge the House to approve the reorganization plan and to vote against the resolution of disapproval.●

Mr. HORTON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. Res. 231

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 2 transmitted to the Congress by the President on April 10, 1979.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise and report the resolution back to the House, with the recommendation that the resolution be not agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Kildee, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H. Res. 231) to disapprove Reorganization Plan No. 2 transmitted by the President on April 10, 1979, had directed him to report the resolution back to the House, with the recommendation that the resolution be not agreed to.

The Clerk reported the resolution.

The SPEAKER. Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. STANGELAND. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 156, nays 256, not voting 22, as follows:

[Roll No. 315]

YEAS—156

Abdnor
Ambro
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bethune
Bouquard
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Devine
Dickinson
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Frenzel
Gaydos
Gingrich
Goldwater
Gradison
Grassley
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Heckler
Hillis
Hinson
Holt
Holtzman
Hopkins
Hyde
Ichord
Jeffords
Jeffries
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McDade
McDonald
McEwen
McKinney
Madigan
Marlenee
Marriott
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
O'Brien
Obey
Pashayan
Paul
Pursell
Quillen
Regula
Rhodes
Ritter
Roberts
Robinson
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Schulze
Sebelius
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Weaver
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Winn
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.

NAYS—256

Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Carr
Cavanaugh
Chisholm
Cleveland
Coelho
Conte
Corman
Cotter
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gramm
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKay
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Quayle
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Slack
Smith, Iowa
Snowe
Solarz
St Germain
Stack
Staggers
Stark
Steed
Stewart
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Watkins
Waxman
Weiss
White
Whitley
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wydler
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—22

Anderson, Ill.
Bolling
Burton, John
Burton, Phillip
Clay
Collins, Ill.
Conyers
Emery
Flood
Forsythe
Goodling
Hollenbeck
McClory
McCloskey
Mazzoli
Murphy, Ill.
Murphy, N.Y.
Skelton
Spellman
Stokes
Treen
Wilson, C. H.

□ 1430

The Clerk announced the following pairs:

On this vote:

Mr. Emery for, with Mr. Hollenbeck against.

Until further notice:

Mr. Murphy of New York with Mr. Forsythe.

Mr. Mazzoli with Mr. Goodling.

Mr. Murphy of Illinois with Mr. McClory.

Mr. John L. Burton with Mr. McCloskey.

Mr. Conyers with Mrs. Spellman.

Mr. Shelton with Mr. Stokes.

Mr. Charles H. Wilson of California with Mrs. Collins of Illinois.

Mr. DANNEMEYER and Mr. APPLEGATE changed their vote from "nay" to "yea."

Messrs. RINALDO, TAUKE, PRICE, and RAILSBACK changed their vote from "yea" to "nay."

So the resolution was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the resolution just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3363, DEPARTMENT OF STATE AUTHORIZATION ACT, 1980 AND 1981

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3363) to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. BROOMFIELD moves that the Managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 3363, be instructed to agree to section 410 of the Senate amendment, expressing the sense of Congress on the nonenforcement of sanctions against Zimbabwe Rhodesia.

The SPEAKER. The Chair recognizes the gentleman from Michigan (Mr. BROOMFIELD) for 1 hour.

Mr. BROOMFIELD. Mr. Speaker, the people of Zimbabwe-Rhodesia have spoken. They and their new democratically elected government—headed by Bishop Muzorewa—are now awaiting our supportive answer.

The people of Zimbabwe-Rhodesia—be they black or white—should be commended for the way in which they have carried out the mandated election—an election observed with intensity by the international community. Most international observers, including civil rights representatives from various human rights organizations, believe that there has never been so inclusive and free an election in that region of the world. Moreover, the Rhodesian people have complied with the conditions set forth by this legislative body in relation to the lifting of trade sanctions against the southern African country.

The people of Zimbabwe-Rhodesia have reacted with bitter disappointment to the administration's recent decision to maintain the sanctions, a decision that sets sharply higher standards of perfection for recognition of that government than is true for others. The Rhodesian people now look to the Congress for action, consistent with its earlier legislative initiatives.

In lifting sanctions, the United States would not only directly influence the ability of the new black majority government to better cope with its economic problems, but also provide important support for the democratic process in Africa. By voting overwhelmingly for the approval of the internal settlement, the Rhodesian people have told us that they desire a democratic and a peaceful future and that they disagree with the militant philosophy of the Marxist-oriented patriotic front guerrillas, who tried but failed to frustrate the Rhodesian election process.

With Soviet support, the rival leaders of the Patriotic Front have not only condemned the Rhodesian internal settlement, but the overall democratic process as well. As a Washington Star editorial recently pointed out, rival guerrilla leaders Joshua Nkomo and Robert Mugabe are contemptuous of democracy. They care little for the wishes of most black Rhodesians who are believed to favor the peaceful route to majority rule.

In order to sustain the evolving democratic process, as well as to ease the many economic difficulties confronting a new black majority government in Africa, the Congress must now take the necessary steps to support the people of Zimbabwe-Rhodesia. By lifting the trade sanctions, we can take an important step in conveying our support for the new government as it continues the process of establishing a free and democratic society in Zimbabwe-Rhodesia.

I, therefore, urge my colleagues to support my motion to instruct the House conferees to the conference on the State Department Authorization Act, to accept the language in the Senate bill stating that Zimbabwe-Rhodesia has met the conditions prescribed earlier by the Congress for the lifting of sanctions, and that it is the sense of Congress that the President should lift sanctions.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Speaker, I want to congratulate the gentleman on his statement, as well as on his position. I agree with it totally. I want to also thank the gentleman for identifying the Soviet Union as one of the main supporters of guerrilla forces or terrorist forces which are opposed to the movement toward democracy in Zimbabwe-Rhodesia.

□ 1440

I just returned, I would say to my friend in the well, from the Jersualem Conference on International Terrorism, and there were speakers and legislators from all over the world who participated in this International Conference on International Terrorism.

It is unique, I think, following what the gentleman suggested the Soviets are doing to support the international terrorist movement in southern Africa, that this conference for the very first time, with a distinguished group of international speakers, bipartisan, from all over the world and from a wide variety of political persuasions, identified the Soviet Union as the main supporter and exporters of terrorist activities not only in Africa, but throughout the world.

I appreciated the gentleman's comment, because it is in their interest to deny this step toward democracy in Zimbabwe-Rhodesia.

This is not the final panacea, but it is a long step. It should be encouraged, not discouraged. I think a vote against his position would be encouraging the Soviets rather than discouraging them.

I appreciated his comments and wanted to compliment him on his leadership. One of the most effective participants at the Jerusalem Conference on International Terrorism was the distinguished civil rights leader, Bayard Rustin. A vigorous foe of tyranny wherever it appears in the world, Mr. Rustin has also been a keen observer of recent trends in African affairs as well. Writing in the Washington Star on July 8, 1979, Mr. Rustin said this about the role of the Soviet Union and her captive allies:

> Into the essentially internal African debate have stepped the Soviet Union and its Cuban and East German proxies seeking to advance Moscow's geopolitical ambitions.

The unmistakable hand of the Soviet Union as the primary sponsor of the international terrorist movement has captured control of the leadership of the Patriotic Front. Mr. Rustin states:

> Nkomo (a Patriotic Front leader) given his narrow base, could only rule through force. And his close ties to Russia and Cuba make it inevitable that both countries would have a decisive influence in any government he headed. Mugabe (another Patriotic Front leader) even more than Nkomo, favors totalitarianism out of ideological conviction.

Today's debate on the Rhodesian question has illuminated for the Congress once again the central role of the Soviet Union in many of the world's guerrilla and terrorist movements. To that end, the debate has served a most useful purpose.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

I wish to associate myself enthusiastically with the views of the gentleman in the well.

We have told the world that we believe in the ballot box as the way to self-government. We have told the people of Zimbabwe-Rhodesia, "Have an election, a free election."

So what happens? Sixty-four percent of the people came out to vote, but now we tell them, "No, we are going to change our position on that." We are telling them, in effect, that power comes out of the end of the gun. We are associating ourselves with Mao, not with Thomas Jefferson. We are telling them, "The ballot box really is not the way to go now. You have to broaden the base of your government by bringing in the guerrillas, who shoot down airplanes with innocent people in them."

It just seems to me, Bayard Rustin, one of the great civil rights leaders long before it was fashionable, who went over there and who saw the election, made the remark that it takes a special kind of arrogance for this country and for other countries to tell the people of Zimbabwe-Rhodesia what kind of a government they ought to have.

It seems to me that we are insisting on a Marxist takeover of that important country.

I would remind my colleagues that when this Nation's Constitution was adopted, a very few wealthy landholders were the people who put it together. It was not the workingman in the streets of Philadelphia or in Lexington. They were excluded. Just a few elitists put our Constitution together, but that does not and did not invalidate the magnificence of that document, nor its effectiveness today.

I would point out that in this great body, in this great building, we have 28 percent of the Senators representing 4 percent of the population, when we look at 13 States.

Now, yes, it is imperfect. Yes, the white people of Rhodesia are not being punished. It is apparent that punishment is the aim of some people, not just to push them out, but to punish them for running that country for so long. I do not think that is wise. I do not think that is the position this country ought to advocate.

I know that white flight is not good for the schools of the city of Chicago, and it is not good for Rhodesia either. I know that the moderate leaders in that country, the black leaders, do not want that to happen.

Now I suggest to my colleagues that our country has been a moral leader in the world since this country was founded. I hate to see us yield that because some general who took over Nigeria by a coup does not like Bishop Muzorewa.

I hate to see us genuflect to Third World countries and let them establish our principles of recognition. I think it is a sad and sorry day.

I think Zimbabwe-Rhodesia needs encouragement, and if we lift sanctions, we will say, "We recognize you have made a giant step toward democratic processes."

The white people who have dominated that country have yielded power to a considerable, although not a total extent; it is a significant gesture. We should be encouraging it, not discouraging it.

I support the gentleman in the well.

Mr. BROOMFIELD. I thank the gentleman for his contribution.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman from yielding.

I want to commend him and associate myself with his remarks, and say I certainly appreciate his leadership on this issue. It is a difficult issue for many people, but it would seem to me, on examination of the facts as they actually exist and not as some people would perhaps like them to exist, that the case is very clear that the time has come for us to take some appropriate and definitive action with regard to the state of Zimbabwe-Rhodesia.

As my colleague pointed out a moment ago, some people are bothered by the fact that the white minority has the power it does under the constitution that was in effect approved by the black majority. They neglect to point out that exactly the same kind of conditions were in effect in other nations that gained their independence from Britain, including some of the states surrounding this country of Zimbabwe-Rhodesia and who are so critical of it at this time.

I was privileged to see an interview with Muzorewa right after he was elected. I believe it was before he was installed as Prime Minister, in that interim period. One of the interviewers asked him why he was going along with or why he was satisfied with the provision giving 4 percent of the population 28 percent of the seats in the Parliament. And he looked right at this young girl, who was interviewing him, and said:

> Do you hate whites? We don't. We feel we need them for the development of our country. We want them to stay here. They are Rhodesians. They are not English. They are Rhodesians. They have their lives and their roots here. We want them to stay and make the same kind of contributions they made in the past.

He went on to add:

> We have seen what happens in other countries where they have adopted the policy that you seem to be advocating by your question here, namely, where they have run all of the whites out of the country. In our neighboring country of Mozambique, where they did that, they are starving to death.

I think that the very least we can do is to pass the gentleman's motion, that after all only says it is the sense of Congress. It still leaves the determination of whether to lift sanctions up to the President. He can do what he wants to. We are not binding him to take any action by this motion. I would go further than that, as the gentleman knows, but actually all we are voting on today is to say it is the sense of Congress that we should recognize, in effect, the progress that has been made in Zimbabwe-Rhodesia.

Another point I think that is very significant, and one that should be emphasized, is that if we are really concerned, and I think we all are, about what happens in the country of South Africa, we should all realize that what happens in Zimbabwe-Rhodesia is going to play a big part in what actually finally happens in South Africa.

If the white South Africans see we are not going to recognize or be appreciative of the vital progress that has been made in Rhodesia, I think they are going to be very reluctant to go the same route and try to install more democratic principles and procedures in that country.

I would urge my colleagues to vote for the gentleman's amendment.

Mr. BROOMFIELD. I thank the gentleman.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentlewoman from New Jersey for purposes of debate only.

Mrs. FENWICK. I thank my colleague for yielding.

I am in opposition to this amendment. We have been through this on the floor of the House. I do not think it is relevant or appropriate to take a document that was enlightened in its time, 200 years ago, and try to apply it today, or the system by which it was arrived at.

There is, however, one principle that remains. That, too, was spoken of "with a decent respect for the opinions of mankind." We cannot operate in this country as though we lived in a vacuum.

I think my position as far as the guerrilla fighters are concerned is clear. I spoke in this House 2 months ago as to my opinion of their quality and characteristics. What we must do in order to strengthen the hands of the present government, Bishop Muzorewa, the Prime Minister, is to show that we are watching the kind of progress that will come. With that progress will come the recognition of his neighbors, and peace in the area. Without that recognition there will not be any peace.

We all know, if we are honest, what the election is about. We saw the circulars that were put out by the government from Salisbury, "Vote in this election. Vote for peace."

They did not say "Vote for the constitution." They said "Vote for peace." That is what those poor people were voting for. I do not know how many of my colleagues read a pathetic interview by a young girl caught up in the fighting. They asked her, "Who would you like to see running this country?"

She said, "Anybody who isn't a mad dog."

That is what people are reduced to there now.

They need peace. They will not get it as long as their neighbors continue to be funnels for guerrilla activity and arms for guerrillas. We must move carefully. There is no reason to rush forward. We have not the prime responsibility for Zimbabwe-Rhodesia. England has.

We do not know what steps they are going to take. I think the prudent measures that were taken in the House were wise and I hope this motion is defeated.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding and I want to compliment him for bringing this issue to the floor. I think it is an important issue. I think it is an acknowledgment on the part of the House that we do recognize legitimate elections that have occurred where 64 percent of the people participated. I think it would be a mistake not to support this resolution of instruction and I thank my colleague for yielding.

Mr. BROOMFIELD. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. SOLARZ) for debate only.

Mr. SOLARZ. I thank the gentleman for yielding. I have great respect and affection for my very good friend from Michigan, the distinguished ranking minority member of this committee. But I must say that I think it is most unfortunate that this motion to instruct the conferees to accept a Senate amendment calling upon the President to immediately lift sanctions against Zimbabwe-Rhodesia has been brought before this body at this time.

The gentleman from Michigan indicated at the outset of his remarks that the people of Zimbabwe-Rhodesia had spoken during the course of their elections in April. The precise interpretation which may be placed on the results of that election is somewhat subject to disagreement, but there is absolutely no disagreement possible over the extent to which the House of Representatives spoke out on this issue on June 28, the day before we left for the July recess, because on that date we voted by a margin of 350 to 37 in favor of a bill which had been reported out by a unanimous

33-to-0 vote by the Foreign Affairs Committee calling for the lifting of sanctions by October 15 unless the President determines that it would not be in our national interests to do so.

I realize that consistency, as Emerson once noted, may be the hobgoblin of little minds. But for the life of me I cannot figure out how any Member in this House who voted in favor of the compromise resolution on Rhodesia, which we adopted by a margin of 350 to 37 on June 28, could possibly entertain the notion of voting for this motion to instruct the House conferees to accept a Senate amendment calling for the lifting of sanctions, not by October 15, unless the President determines it is in our national interest to do so, but immediately. The adoption of this motion to instruct the conferees to accept the Senate amendment completely contradicts the resolution which the House voted overwhelmingly for on June 28. When we adopted that resolution it represented a clear and overwhelming consensus on the part of the Members of this body that, whatever one may think of the internal settlement in Zimbabwe-Rhodesia, it would be a fundamental mistake for us to lift sanctions before the OAU, which is now meeting in Liberia, has an opportunity to consider the question in July; before the commonwealth conference undertakes to decide what to do about Zimbabwe-Rhodesia at the Lusaka conference in August; and before the British, who have the primary responsibility under international law for Zimbabwe-Rhodesia, decide what to do when they take the matter up in the fall. I know of nothing which has happened in the course of the last week and one-half since the House voted 350 to 37 not to lift sanctions until October 15 to justify a complete flip-flop by voting for a motion to instruct the House conferees to accept the Senate amendment which was adopted a month and one-half ago calling for sanctions to be lifted immediately.

It may well be that a time will come when we want to lift sanctions. Certainly the legislation adopted by the House describes the elections in Zimbabwe-Rhodesia as a significant step forward. But there was a feeling it would be a serious diplomatic and political mistake for this Congress to lift the sanctions at this time.

I want to conclude without belaboring the issue any further by appealing to all of those Members of the House, some of whom are in the Chamber, others of whom may be watching the debate on television in their offices, that if there is a record vote on this motion to instruct, and I certainly hope it will be overwhelmingly rejected by a voice vote, but if there is a record vote on this, that the Members will vote, in effect, the same way as they voted a week and a half ago on June 28 when 350 of the Members voted in favor of a bill to lift sanctions by October 15, unless the Persident determines it is not in our national interest to do so, by voting against this motion to instruct us to accept the Senate amendment calling for the lifting of sanctions immediately. If ever there was a time when we should act prudently rather than precipitously, this is it. Thank you.

Mr. BROOMFIELD. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. I am going to use less than the 5 minutes.

I would like to point out to my dear friend from New York that in his special zeal he happens to be neglecting the issue before us. The issue before us does not represent a repudiation of the vote taken in the House just before the recess. It represents what one would have to call a very fine, proper, acceptable, diplomatic initiative, because what the gentleman from Michigan proposes is we accept a sense-of-Congress language in the Senate bill that provides it is the sense of Congress that the President, within the time limits of section 409, determine that the Government of Zimbabwe-Rhodesia has complied with the not enforce sanctions.

What we are doing, the gentleman knows, and I know the sense of Congress is a procedure whereby we give proper advice to the President without forcing his hand. That is the real merit, the real genius of the Broomfield position. I have no doubt that it is the sense of Congress. I personally believe it is the sense of the American public that we lift sanctions. The President may view it from a different position. He may be taking advice, I would imagine, from his Ambassador to the U.N. Therefore, his vantage point, his source of information is different.

But the sense of Congress, this nonbinding language is clear that we believe the sanctions should be lifted. Why? If we make any objective comparison of the elections in Rhodesia with the elections or nonexistence of elections in states in the African Continent, then Zimbabwe-Rhodesia looks very good. As a matter of fact, we can compare the elections in Rhodesia with the political realities in Egypt. There is more political freedom in Zimbabwe-Rhodesia than there is in Egypt. How many of us in this House would have anything but the kindest words to say about the great diplomatic leadership of President Sadat, whom we support economically, militarily, and in every other way?

So I would urge my colleagues that the reality of the situation is that Mr. BROOMFIELD has offered us a chance to accept the other body's language. If we do so we expedite the conference. We can then move ahead with proper legislative activities. We can avoid repeated votes on this issue.

I am sure my dear friend from New York would agree with me that 350 votes on final passage of the legislation the other day is not the vote we are counting. It is the earlier vote that was roughly 250 to 150. But given the merits of the Broomfield diplomatic position, and the understanding of the gentleman from New York that a sense-of-Congress language does not really bind the President, I think the logical, fair position for the House to take this afternoon is to support this motion.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

We just sent a distinguished ambassador over to the People's Republic of China, Mr. Woodcock. We just had the Vice Premier visit this city and a lot of our colleagues were falling all over themselves to be greeted by him. We are virtually salivating at the prospect of most-favored-nation treatment for China.

Would the gentleman please tell me, knowing he is a historian and a scholar, when is the last time they had an election in the People's Republic of China?

□ 1500

Mr. DERWINSKI. The gentleman has a habit of asking difficult questions—they have never had any election that remotely resembles the freedom of the election procedures that were available to the people in Zimbabwe-Rhodesia in their election 2 months ago.

Mr. HYDE. I thank the gentleman.

Mr. DERWINSKI. Mr. Speaker, I urge support of the Broomfield motion.

Mr. BROOMFIELD. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. ICHORD) for debate only.

Mr. ICHORD. I thank the distinguished gentleman from Michigan, Mr. Speaker, for yielding. I do want to associate myself with the remarks of the gentleman from Illinois (Mr. DERWINSKI), who states that this is a completely different issue. I would also point out to the gentleman from New York that, for example, when the gentleman from New York had his resolution before the House of Representatives, the gentleman from Illinois (Mr. FINDLEY) strongly supported his position. I would point out to the House and to the gentleman from Michigan that the gentleman from Illinois and I joined in a letter on May 18, 1979, asking that the House bind the conferees.

The reason why this is a completely different issue, as the gentleman from Illinois has pointed out, is that we are only saying in the Senate amendment that it is the sense of the Congress that the President should lift the sanctions.

Mr. Speaker, as the House well knows, I have long been concerned about the hypocrisy of U.N. sanctions against the nation of Zimbabwe-Rhodesia. It was my amendment to H.R. 1746 in 1979 which directed the President to suspend the enforcement of the bill's sanctions upon determination that the action would be in the interest of peaceful negotiations. Again, it was my amendment in 1978 to the Internal Security Assistance Act that was adopted in the House providing for the lifting of sanctions against Rhodesia under certain circumstances, which the Conference Committee generally supported and which is known as the Case-Javits amendment.

I would point out to the gentleman from New York that I believe it is the height of hypocrisy to say that Zimbabwe-Rhodesia has not followed the Case-Javits amendment. I think it is the height of hypocrisy to state that when the Salisbury Executive Council on October 20 conveyed to administration officials its willingness to attend an all parties conference, that they did not do that in good faith just because they made an airstrike in Zambia. I would point out that that strike was in response to Nkomo shooting down an unarmed civilian aircraft.

I think it is the height of hypocrisy to state that they have not lived up to the Case-Javits amendment because they have 28 white members on the council, which admittedly is assured by the constitution. I would point out to the gentleman from New York that the Anglo-American plan that was submitted by the previous administration guaranteed the minority in Rhodesia 20 seats, and there is not that much difference between 28 and 20 seats.

I would ask the gentleman from New York or any Member of this body to point out one state in southern Africa—just one state—which has a multiracial, a multiparty, democratic constitutional government. The gentleman from New York cannot do it. He will point, I know, to the state of Botswana, but the nation of Botswana does not have a multiparty system. No nation in southern Africa measures up to Zimbabwe. So, I submit that we should support the amendment of the gentleman from Michigan.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I would like to applaud the statement made by the gentleman from Missouri and support the motion offered by the gentleman from Michigan. It is important for the membership here today to recognize that the motion made by the gentleman from Michigan is substantially different than the bill which we debated the day before the recess.

What is before us today is a motion to instruct the conferees to agree to language of the Senate that merely expresses the sense of the Congress that the nation of Zimbabwe-Rhodesia has——

The SPEAKER pro tempore (Mr. DANIELSON). The time of the gentleman from Missouri has expired.

Mr. BROOMFIELD. Mr. Speaker, I yield one additional minute to the gentleman from Missouri.

Mr. SENSENBRENNER. The nation of Zimbabwe-Rhodesia has complied with the provisions of the Case-Javits amendment. If the government of Bishop Muzorewa continues to be in the diplomatic and economic deep freeze, the people of Zimbabwe-Rhodesia will have two directions to go. One is to go to the Patriotic Front leaders of Nkomo and Mugabe, who wish to impose their whim on the people of Zimbabwe-Rhodesia not through the ballot box, but through the barrel of a gun.

The other way is to go back to the previous government of Ian Smith, which has now released back to the black majority headed by Bishop Muzorewa a freely elected Prime Minister. Given the choice of these three voices in Zimbabwe-Rhodesia, I believe that the House of Representatives really has no choice whatsoever, and would urge support of the motion.

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. WOLPE) for debate only.

Mr. WOLPE. Mr. Speaker, I want to thank my distinguished colleague from Michigan for yielding this time to me.

Mr. Speaker, the point was correctly made earlier by the gentleman from New York, the distinguished chairman of the Africa Subcommittee, that the same arguments that were made roughly 2 weeks ago during the sanctions debate in this House apply today. Specifically, the argument that we in Congress should not direct the President to lift sanctions at this particular point in time, was based upon the recognition that the situation in Zimbabwe-Rhodesia is very much in flux, and that any recommendation for the United States to be out front in lifting sanctions at this point would be to put ourselves in isolation with respect to the entire world.

That argument is even more valid today than it was 2 weeks ago. Only today has there been announced a new British initiative, seeking to move the Zimbabwe-Rhodesia regime to make some significant further changes, to strengthen the claim of the legitimacy of the Muzorewa government by making needed constitutional reforms. Consequently, if we were at this point to go out in front, as had been proposed 2 weeks ago, and direct the President to lift sanctions now, we would not only be alienating ourselves from the entire African Continent, but now we would also be putting ourselves at odds with our British ally, which is facing a very difficult situation and has a unique and historic responsibility with regards to Zimbabwe-Rhodesia.

So, I would urge my colleagues to be consistent with our decision of 2 weeks ago, to recognize that the essential facts require more than ever that the President retain the discretion to make a judgment about sanctions in response to changing developments in Zimbabwe-Rhodesia. The British Government is now attempting to move Zimbabwe-Rhodesia more rapidly toward genuine majority rule—a goal and an effort which the United States should enthusiastically endorse and support. In my judgment, we should reject the motion of my distinguished colleague from Michigan.

Mr. BROOMFIELD. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, despite the attempt by some in the debate here to portray this as a replay of the issue we voted on shortly before the Fourth of July recess, this is not the same issue at all in the sense that this pending motion merely states the sense of the Congress on this issue. The key vote that occurred before we recessed was on an amendment offered by the gentleman from Michigan (Mr. BROOMFIELD), which I strongly supported, but which failed. That would have in fact lifted sanctions.

The language before us was adopted by the other body several months ago—actually on May 15—by a margin of 75 to 19. It is an expression of the sense of the Congress that finds and declares that sanctions against Rhodesia ought to be lifted. It does not bind the President. It permits him to go on with the initiatives, one of which I hope will include today a meeting with the Prime Minister of Zimbabwe-Rhodesia, Bishop Muzorewa.

□ 1510

I think it was unfortunate that yesterday when the House was offered a chance to meet with the Prime Minister, while 50 or 60 Members—some of them opposed to lifting sanctions—did attend, many more Members did not attend and hear his eloquent and stirring address. Those of us who were there listened carefully as he pointed out that he was the Commander in Chief of the Zimbabwean Armed Forces, that he is the head of government, that it is his people who are suffering—the blacks who need jobs, those who need food, and those who need international trade to sustain the existence of this new experience with democracy in Africa, unparalleled with anything on that continent. For some of us to stand here and weep tears over terrorism and then to do nothing to help these people is unconscionable. Bishop Muzorewa was here last evening, and I had a chance to talk to him at length. He again pleaded with this Congress to offer some sign of hope, and we have an opportunity to do that now.

We are not endorsing a resolution that would in any way prejudice the President's rights. We are simply saying that it is our view that we should help this struggling country in Africa against the Communist terrorist forces seeking to destroy it. That is the issue, and all the sophistry and arguments offered by the Department of State and their allies do not wash away the fact that if we fail to help this country, we must bear the blame for their destruction. It runs contrary to the American experience and all of our history that we should turn our backs on a people who need our help, when in fact they are pleading with us, pleading, as their head of government is with us today in this very city, to give them that help.

I hope we vote for this motion to instruct the conferees.

Mr. BROOMFIELD. Mr. Speaker, I would like to close by reiterating the fact that this is merely a sense-of-Congress resolution. This passed the Senate in May by a vote of 75 to 19. I think this could be viewed as a symbolic gesture of support to encourage the evolving democratic process in Zimbabwe-Rhodesia and I hope we have support.

Mr. Speaker, I move the previous question on the motion.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan (Mr. BROOMFIELD).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 168, nays 248, not voting 18, as follows:

[Roll No. 316]

YEAS—168

Abdnor
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, R.I.
Beard, Tenn.
Bereuter
Bethune
Bevill
Bowen
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Evans, Del.
Findley
Fish
Flippo
Fountain
Gibbons
Gingrich
Goldwater
Gradison
Gramm
Grassley
Green
Grisham
Guyer
Hagedorn
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hillis
Hinson
Holt
Hopkins
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Johnson, Colo.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
Marlenee
Marriott
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Murphy, Pa.
Myers, Ind.
Nelson
Nichols
O'Brien
Pashayan
Paul
Petri
Pritchard
Quayle
Quillen
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Wilson, Bob
Wilson, Tex.
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NAYS—248

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Bedell
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Byron
Carr
Carter
Cavanaugh
Chisholm
Clay
Clinger
Coelho
Conable
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hanley
Harkin
Harris
Hawkins
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Horton
Howard
Hubbard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Levitas
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Mottl
Murphy, Ill.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pursell
Rangel
Rahall
Railsback
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa
Snowe
Solarz
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—18

Anderson, Ill.
Bolling
Burton, John
Collins, Ill.
Dodd
Emery
Flood
Forsythe
Goodling
McCloskey
Martin
Murphy, N.Y.
Skelton
Spellman
Stanton
Treen
Wilson, C. H.
Wright

□ 1530

The Clerk announced the following pairs:

On this vote:

Mr. Martin for, with Mr. Emery against.

Mr. Stanton for, with Mr. Goodling against.

Until further notice:

Mr. Murphy of New York with Mr. McCloskey.

Mrs. Spellman with Mr. Forsythe.

Mr. Skelton with Mr. Treen.

Mr. John L. Burton with Mr. Flood.

Mr. Dodd with Mrs. Collins of Illinois.

Mr. Charles H. Wilson of California with Mr. Wright.

Mr. RINALDO changed his vote from "nay" to "yea."

Mr. GILMAN changed his vote from "yea" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. ZABLOCKI, FASCELL, SOLARZ, PEASE, MICA, BARNES, GRAY, BOWEN, BROOMFIELD, DERWINSKI, BUCHANAN, and PRITCHARD.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4289, SUPPLEMENTAL APPROPRIATIONS, 1979

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 4289) making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2061, JUSTICE SYSTEM IMPROVEMENT ACT OF 1979

Mrs. CHISHOLM, from the Committee on Rules, submitted a privileged Report (Rept. No. 96–328), on the resolution (H. Res. 351) providing for the consideration of the bill (H.R. 2061) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3920, PROVIDING PER DIEM COMPENSATION FOR NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Mrs. CHISHOLM, from the Committee on Rules, submitted a privileged report (Rept. No. 96–329), on the resolution (H. Res. 352) providing for the consideration of the bill (H.R. 3920) to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4473, FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION, 1980

Mrs. CHISHOLM, from the Committee on Rules, submitted a privileged report (Rept. No. 96–330) on the resolution (H. Res. 353) waiving certain points of order against the bill (H.R. 4473) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1980, and for other purposes, which was referred to the House Calendar and ordered to be printed.

FOOD STAMP ACT AMENDMENTS OF 1979

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 333 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 333

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4057) to amend section 18 of the Food Stamp Act of 1977, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Maryland (Mr. BAUMAN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 333 makes in order the consideration of the bill, H.R. 4057, to amend section 18 of the Food Stamp Act of 1977 to provide an additional $620 million in authorization for the food stamp program for fiscal year 1979.

This is an open rule granting 1 hour of general debate with the time equally divided and controlled by the chairman and the ranking minority member of the Committee on Agriculture.

This bill is to be read for amendments under the 5-minute rule. The rule provides for one motion to recommit with or without instructions.

The rule further provides for consideration of an amendment in the nature of a substitute recommended by the Committee on Agriculture as an original bill for the purposes of amendment under the 5-minute rule.

The rule also provides a Budget Act waiver so that the bill might be considered. This waiver is somewhat of a technical nature and refers specifically to section 402(a) of the Budget Act.

Section 402(a) of the Budget Act prohibits consideration of any bill which directly or indirectly authorizes the enactment of new budget authority for a fiscal year unless the bill was reported by May 15, preceding the beginning of the fiscal year. Since section 1 of the bill would authorize the enactment of additional new budget authority for fiscal year 1979, and since the bill was not reported on or before May 15, 1978, it would be subject to a point of order under section 402(a) of the Budget Act. The Budget Committee has no objection to granting a waiver of section 402(a) to permit consideration of this bill.

Mr. Speaker, H.R. 4057 would provide a $620 million supplemental authorization for the food stamp program for fiscal 1979. The bill would also terminate any authority beginning with fiscal year 1980 to carry over unexpended appropriations from one fiscal year to the next and would require the Secretary of Agriculture to file monthly reports—by the 15th of each succeeding month—on program costs.

If the existing authorization is not expanded and the current ceiling on authorization is maintained at its present level, the Department of Agriculture would have to terminate benefits in September to 97 percent of the entire caseload throughout the country, including 99 percent of the elderly now participating in the program. In order to permit this program to continue in its current form through September 30, 1979, it is mandatory that this legislation be enacted immediately.

Mr. Speaker, this is an extremely vital program to millions of poor and near poor Americans who cannot afford an adequate diet. Nearly one-fourth of our people are suffering from poor nutrition and the unavailability of decent food. I am happy to know that the Agriculture Committee is contributing positive efforts to make the food stamp program more efficient through its legislative efforts in this Congress.

I hope and trust that those of us who believe so strongly in Federal efforts to alleviate hunger and poor nutrition in this country will see a new and better day for the food stamp program, and that Congress will support the efforts of this legislation to make this essential program an integral step in identifying and alleviating hunger that plagues millions of elderly citizens and low-income families of this Nation.

Mr. Speaker, H.R. 4057 is a very important part of our national domestic policy and I urge my colleagues to adopt House Resolution 333 so that we might proceed to the consideration of said bill.

□ 1540

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentlelady from New York has done her usual excellent job in describing this rule. I would like to take this time to congratulate the Rules Committee for reporting an open rule with only one Budget Act waiver. This is a rather extraordinary event.

I would also like to take a moment to bring the provisions of H.R. 4057 to the attention of my colleagues. H.R. 4057 would raise the so-called cap or ceiling on Federal spending for food stamps for 1979 by $620 million. With this increase the total spending on food stamps for 1979 could reach $6,778,900,000.

This enormous expenditure of taxpayer funds is especially onerous when viewed in light of several factors. First, this will raise the ceiling for 1979 above the cap now set for 1980 and 1981. Undoubtedly we will see an increase in these caps at a future date.

Second, the food stamp program is widely known as one of the worst managed and most abused programs of the Federal Government. A GAO report issued in 1977 made the following observation:

> The Government is losing over a half a billion dollars annually because of over-issued food stamp benefits caused by errors, misrepresentations, and suspected fraud by recipients, and by errors by local food stamp offices.

Testimony before the committee demonstrated that little has been done to alleviate this problem.

The final factor that must be considered while discussing this increase in the cap for 1979 is the Department of Agriculture's plan for a media campaign to encourage the use of food stamps. The absurdity of this is astonishing. We have a program, full of abuse and mismanagement and therefore short of funds. Do we take steps to correct the management problems? Do we seek to punish those who abuse the program to the detriment of the truly needy? Do we develop incentives to get people off the food stamp program? No. We come to the American people and ask for more money to fund this disaster while at the same time using the media to sell food stamps as if they were so many boxes of soap.

Mr. Speaker, I urge defeat of this rule and failing that defeat of the bill.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. RICHMOND. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4057) to amend section 18 of the Food Stamp Act of 1977.

The SPEAKER pro tempore (Mr. DANIELSON). The question is on the motion offered by the gentleman from New York (Mr. RICHMOND).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4057, with Mr. FOWLER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New York (Mr. RICHMOND) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. WAMPLER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as chairman of the House Agriculture Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, which has jurisdiction over the food stamp program, I wish to present for debate H.R. 4057.

The bill provides an additional $620 million in authorization for the food stamp program for fiscal year 1979 in order to permit the program to continue uninterrupted through September 30. If this increase over the current "cap" of $6,159 billion is not passed immediately, the economic and nutritional impact on the poor will be devastating. Without these additional funds, based on estimates by the U.S. Department of Agriculture and the Congressional Budget Office, the Agriculture Department would be required by law either to terminate benefits in September for 97 percent of all food stamp recipients throughout the Nation, including 99 percent of the elderly participating in the program or reduce the allotments of over 19 million needy citizens to 24 cents a meal in August and 14 cents a meal in September. I am sure that there is no Member in this Chamber who believes that any one could subsist or feed his or her family on 14 cents a meal. Let me tell you just how poor the people who participate in the food stamp program really are.

Over half of all households have incomes of less than $300 a month or $3,600 a year.

Three-fourths of the households have incomes of $400 or less a month—$4,800 a year.

Less than 3 percent have monthly incomes which exceed $750 a month—$9,000 a year—and none of these households have less than four people.

Six-tenths of 1 percent have incomes in excess of $1,000 a month—$12,000 a year—and all are households of seven or more people.

Does this body want to force us to reduce the benefits to working poor people and old people from 33 cents a meal down to 14 cents a meal during the last month of this year?

Many Members during our hearing and markup questioned the discrepancy between the "cap" and the projected expenditures for this fiscal year. Might I remind the Members that the "cap" was placed on the food stamp program in 1977.

At that time, we were unable to predict the terribly devastating increase in food price inflation that would cripple our economy over the past 2 years. In those "good old days" of the summer of 1977, CBO estimated a food price rise of only 12.5 percent from 1976 to 1979. That figure is now expected to reach 26 percent. Likewise, CBO assumed the spread to increase by 16.9 percent by 1980 and 21.8 percent by 1981. Those spreads are now projected at 36.2 percent in 1980 and 46.1 percent in 1981.

Again, the projections of perhaps 3 million individuals who would come on the program over many months proved erroneous. By April 1, the program rolls had surged 25 percent and more than 70 percent of the anticipated new participants had been added to the program. The new participants are poorer than expected. Therefore their food stamp benefits are slightly higher, and they are on the program for more months than anticipated. The new food stamp participants are also more rural in origin. According to USDA, there has been since January a 33-percent increase in participation in rural areas as compared to a 7-percent increase in urban areas.

It would be a true irony for this body to reform the food stamp program to allow the most needy to participate and then not provide sufficient funds to allow for their most minimal diets.

The specter of arbitrary and massive reductions in food stamp benefits would have a devastating impact on millions and millions of Americans. The damage to life and health caused by denying our neediest citizens the economic access to a nutritious diet would be irresponsible and irreparable.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, the gentleman in the well is chairman of the subcommittee out of which this legislation came; is that correct?

Mr. RICHMOND. That is right.

Mr. KELLY. Mr. Chairman, when this House amended the Food Stamp Act of 1964 in 1977, the deduction that was allowed the elderly for medical expenses was taken away in return for a standard deduction; is that correct?

Mr. RICHMOND. That is correct.

Mr. KELLY. My understanding is that the gentleman in the well, the chairman of the subcommittee, has supported an amendment to this legislation in committee that would have restored the full medical deduction to the elderly; is that correct?

Mr. RICHMOND. That is correct.

Mr. KELLY. Mr. Chairman, let me ask, did the gentleman have this concern for the elderly, because the experience since the House changed the act in 1977 has been that the elderly were the most heavily impacted or the elderly who are sick were the most heavily impacted by the change in the law that this House made in 1977?

Mr. RICHMOND. The gentleman is correct.

Mr. KELLY. Mr. Chairman, I thank the gentleman for yielding.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the distinguished chairman of the Committee on Agriculture.

Mr. FOLEY. Mr. Chairman, I think the gentleman would agree that when the House acted recently to provide for those who are over 60 a special additional deduction for shelter costs and further costs of medical and dental expenses over $35, the House provided more assistance, because of the continued possibility of the standard deduction on which this special new elderly deduction is added, than the elderly ever had under the old legislation.

Mr. KELLY. Mr. Chairman, will the gentleman yield further?

Mr. RICHMOND. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, I thank the gentleman for yielding.

But let me point out that people who are not old and sick also live in houses, and those who are not elderly and sick also have day care obligations. The additional allowances that were voted by the House recently included both of those, deductions for both those items; is that not true?

Mr. RICHMOND. The gentleman is correct.

Mr. KELLY. And we are not fully restoring the medical deductions for the elderly who are sick; is that correct? In other words, the change we passed last month had the threshold of $35, where originally in 1977, before we changed it, the threshold for medical expenses was $10.

□ 1550

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Washington, the chairman of the Committee on Agriculture.

Mr. FOLEY. Mr. Chairman, I think the point the gentleman from Florida is confusing is that, prior to 1977, there was no deduction of a standard deduction nature. We now provide a $65 standard deduction. In 1977 and prior to that time it is true that medical deductions were available above $10. But there was some question about the extent to which dental expenses could be claimed prior to 1977. Now we have provided all elderly people with a clear right to deduction of medical and dental expenses above $35, but we have not removed the $65 standard deduction.

So not only are we restoring the equivalent of what elderly people had in medical and dental deductions prior to 1977, we are providing a more generous deduction when combined with the general deduction that existed in 1977, in the previous act. I think that point should be made clear in the record. It is true there is a $25 difference between the deductibility of the 1977 medical and dental expenses and the 1979, but in 1977 there was not a standard deduction of $65. Now there is. And we are giving two deductions to the elderly. We are giving them the standard deduction, and, in addition, we are giving them the special deduction for medical and dental expenditures and shelter deductions.

So it is a combination of being able to have both under the new law. And, in fact, some elderly people were better off with the standard deduction alone. Now they will have, in addition to that, the protection of a special deduction.

Mr. KELLY. Mr. Chairman, will the gentleman yield further?

Mr. RICHMOND. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Chairman, I am just absolutely impressed with the fine statement of figuring and finance that we have just had from the chairman of the full committee, except that, not being such a fine figurer, I am concerned about the fact that there are thousands of elderly people who have been made ineligible for the food stamp program—these are elderly people who are sick—because of the change. I think that if we are going to have a food stamp program that adds 3 to 4 million more people and spends nearly $2 billion more since we changed the law in 1977, I do not know that such fine figuring is necessary when you are dealing with people who are both old and sick; because if you are going to have a welfare program, then I would think that the old who are sick would be pretty close to the top of the list, and the high finance should not prevail.

Mr. FOLEY. Mr. Chairman, if the gentleman will yield further, I would like to correct the record. I said there was a $65 standard deduction. As of July 1, it is $70. So elderly people as well as other recipients, are getting a $70 standard deduction rather than $65. And, of course, there has been an increase in the amount of coverage per meal, and some other improvements in the program.

The question is never whether we can do more. We can always do more. But the question is whether the elderly are being disadvantaged in this legislation over what they experienced in 1977. I do not think they are.

I think it is true that some elderly people have been disadvantaged by the implementation of the new regulations this year over what they could have enjoyed in 1977, until the House took action. Now, that legislation is not yet in effect. I assume, however, the other body is going to support it and we are going to see the kind of special concern and care that the gentleman from Florida and his colleagues, the gentleman from Florida (Mr. STACK) and the gentleman from New York (Mr. PEYSER) and a number of additional Members of Congress have introduced legislation to provide.

I just want the record to show that we are responding to that.

When it comes, again, to the question of whether elderly people are being more sensitively responded to now than they were earlier this year, the answer is yes. And to the question as to whether they are getting benefits equal to the benefits they had in 1977, the answer is "yes." Are they getting the equivalent of more, because of the standard deduction of $70 with this special deduction? The answer is "yes." I could go even further. But the fact of the matter is that we are responding to this need. It was a need that was clear, and the House has acted in a clear and responsive way.

Mr. RICHMOND. Mr. Chairman, I think the gentleman ought to realize that we are here today to discuss an emergency bill which will just allow us to continue the food stamp program in existence. The very existence of this entire program is being discussed this afternoon, not how we can further help anybody; just whether we can maintain what we already have.

The gentleman from Florida knows that if we do not attend to our business of passing this additional $620 million budget over the cap, we are going to have to cut back the elderly, the sick, the infirm, the blind. Everybody in the United States is going to have to be cut back [illegible]0 percent by August, or 90 percent if we hold up until September.

So it seems to me that the gentleman from Florida ought to be just as much interested as anyone else in this House to pass a bill enabling the Department of Agriculture to continue to administer this program for the balance of the year.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I have some questions. Nobody would want to eliminate the sick and the elderly and the blind. But I would like to ask whether or not this bill addresses itself to the report of the Office of the Inspector General, in which he says that the most serious problems are the inadequate verification of recipient eligibility information, especially income, and the report goes on to specific cases of fraud:

> A fully employed recipient reports zero earned income on the initial application . . .

This is the Inspector General's report.

> An applicant is working on more than one job . . .

Does this bill address itself so that social security records and internal revenue tax records can be made available to establish eligibility? Or does this bill ignore these questions?

We cannot afford everything. Some of the things we cannot afford are fraud and waste and mismanagement. We would all want to vote $300 million or $600 million extra if we can be sure that this bill addresses itself to what the Inspector General has drawn attention to.

Mr. RICHMOND. Mr. Chairman, I would answer the gentlewoman from New Jersey by saying that the Inspector General's Office has only recently been created. It is working now as hard as it possibly can in cutting back fraud in the program throughout the United States.

We have to understand that the program has been almost totally revised in the past 3 months to conform to changes we made in 1977.

I can just tell the gentlewoman that everything humanly possible is being done to supervise this program, to tighten it up, and to make sure that the people who really need these food stamps are getting them.

So please be assured that my committee has been working very closely with the U.S. Department of Agriculture in making certain that this program is properly supervised.

Mrs. FENWICK. If the gentleman will yield further, will the gentleman accept an amendment which I propose to offer, which is that social security reports and records and Internal Revenue Service records can be checked in order to prove eligibility?

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, if I could have the attention of the distinguished gentlewoman from New Jersey, the questions raised by the Inspector General have been taken very seriously by the Committee on Agriculture and the Subcommittee on Nutrition which the gentleman from New York heads.

Legislation has been introduced which incorporates all of the recommendations made by the Inspector General in the report the gentlewoman from New Jersey has just referred to.

Mrs. FENWICK. If the gentleman will yield, when are they going to do it?

Mr. FOLEY. We are going to do it just as soon as possible. The problem is that we do have some concurrent jurisdiction over the food stamp program with the Committee on Ways and Means.

Mrs. FENWICK. This was recommended in March. Surely the Committee on Ways and Means could not object when the Inspector General recommends the use of social security numbers on food stamp application forms, to facilitate computer matching of employment data, social security wage data, and income tax data in the verification of eligibility.

I really think that we have to move on this kind of thing if we intend to provide what the poor and the sick need. This is the way we are going to have to do it.

Mr. FOLEY. If the gentleman will yield further, I will say that the report was published not in March, but I believe in June. And on June 5, the first week in June, H.R. 4318 was introduced in the Committee on Agriculture—I introduced it myself—to incorporate the recommendations made by the Inspector General. We have been advised by the Committee on Ways and Means that they expect concurrent referral to their committee of such legislation. I think, with the concurrence of the distinguished subcommittee chairman, that I can say we are going to move very rapidly on these changes. But there is no way that these changes could be made effective for the remainder of this fiscal year. There is no way, if we pass them today, that they could take effect before the end of the fiscal year. They are not in fact germane to this bill.

Mrs. FENWICK. But, Mr. Chairman, if the gentleman will yield further, is it not true that similar recommendations were made by the General Accounting Office in 1977 and that we do not see them in this bill in 1979?

Mr. FOLEY. If the gentlewoman will yield, I do not think that is correct. In 1977, the General Accounting Office did make some criticism of the program. Responses to those criticisms were reflected in the legislation of 1977.

We are constantly trying to improve the management of this program. It is a large program and one that is administered by State and local agencies.

☐ 1600

If it were possible, and if the Congress wished to have Federal workers rather than State agency workers running this program, I suppose we could make changes a little faster. But like so many of our public assistance programs, it is financed by the Federal Government, but administered by the State of Washington, the State of California, Los Angeles County, New York City, and so forth. It is a locally administered program.

When Federal regulations and requirements change, it is necessary to give the States an opportunity to comment and to implement those changes through instructions to their personnel and to reprogram computers that in many cases are responsible for part of the management of this caseload. It is, unfortunately, something that cannot be done overnight.

The fact of the matter is that the changes which we mandated in the law that was passed in September of 1977 took effect this year, 1979.

Mrs. FENWICK. What were they?

Mr. FOLEY. They were changes, among others, that the gentleman from Florida and other Members complained about. For example, we went to a standard deduction to simplify the program administration.

Mrs. FENWICK. That is, in the verification of the programs?

Mr. FOLEY. Well, we provided that discovery of fraud should be encouraged—States were to be given additional resources to look into fraudulent cases. We attempted, at one time, to allow the States to keep most of the money from recovery actions of fraud.

We encouraged the States to improve their error rate; that is, reduce mistakes by giving higher levels of Federal support for administration when States had better records. We did all these things in the 1977 act.

The fact of the matter is that, as we discover problems, which the Inspector General s office establishes and which the gentlewoman from New Jersey and I have both previously voted to support, and his criticisms and comments are reviewed, we are going to try and change this program again to insure that the maximum elimination of fraud is possible.

I think it is outrageous that we have any more fraud than is humanly possible to avoid. This is a program for needy people, not for people to take advantage of and abuse.

But, as the gentlewoman from New Jersey knows, it is never possible in any private or public organization to have 100 percent efficiency in the elimination of abuse. I do not feel comfortable with it. I am angry about it. But if we have to go forward and make more changes in the law to eliminate it, let me ask the gentleman to yield, if he will, for 1 more minute, to raise a question I am sure the gentlewoman from New Jersey will understand.

One of the things that we can do to help eliminate fraud is to use computers to cross check with wage information.

Mrs. FENWICK. Right.

Mr. FOLEY. This involves the use of social security numbers of recipients who are applying for food stamps and to cross check their income references with the Department of Labor and social security information.

There are some Members of Congress, of conservative as well as liberal persuasion, who have some difficulty when they view this, as a breach of the confidentiality of the social security system.

I myself think that there are exceptions, as in some cases of crime or fraud where the limited use of that kind of social security information is justified. But it is not something that the Congress or the Committee on Ways and Means, who has the responsibility for the social security program, is going to lightly or quickly accept.

I hope the gentlewoman will understand that it will probably not be helpful even if it were germane to offer an amendment to do that on the floor today. But the Subcommittee on Social Security of the Committee on Ways and Means has time to look into this. This is one of the things that can be done, one of the things recommended by the Inspector General. It is a far-reaching step, but I think it is one of the steps we ought to take to insure that abuses of this program are discovered and eliminated.

I thank the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Chairman, in deference to the distinguished gentleman from Virgina, the ranking minority member of the Agriculture Committee (Mr. WAMPLER), I yield back the balance of my time.

Mr. WAMPLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise as a longtime supporter of the food stamp program but as a somewhat reluctant supporter of H.R. 4057, reluctant not because I want to support a lower authorization level to cut off needy recipients, but because I feel a lower level is realistic if better program management were effectively addressed by the administration.

The so-called Food Stamp Reform Act of 1977 was widely hailed as—

The answer to both recipient and administrator problems;

The solution for reducing fraud and abuse;

The eliminator of the non-needy; and

The controller for holding program costs close to current levels.

This bill, H.R. 4057, which authorizes a total food stamp spending of over $7 billion for fiscal year 1979, speaks more eloquently than words about the failure of the "reforms" of the Food Stamp Act of 1977.

Everything was supposed to be taken care of back in 1977, but obviously it was not. As best we can tell, current program error rate—due to errors, misrepresentations, and suspected fraud by recipients, and local office errors—represents 12 percent or more of the total program costs.

Though due back in March, the final report on the recoupment project mandated in the 1977 act has not been forthcoming. The overlap of the food stamp program benefits with those of other domestic feeding programs, admittedly a very complex issue, does not appear to have even the passing interest of the Department. The "workfare" projects have been slow to start. In fact, any administrative consideration which might have the impact of effecting some economy, not to mention equity, appears to get only passing attention. In the meantime, program administrators concentrate on expanding the program far beyond a nutritional assistance thrust for needy households to the thrust of solving all our poverty problems in this one program.

At the same time, they divert all discussions of reducing program errors and effecting better administration to the "poor State administration of this program." Some States may not be doing as well as one would like, but the real culprit is the USDA and its failure to provide States with the clout, for example, strong program regulations, with which to adequately administer this program.

I voted for H.R. 4057 in committee because I do not support cutting benefits to eligible program participants in the name of sending a get-your-house-in-order message to Department officials. It is well recognized that the 1977 act was not the answer to all problems. Now, the 1980 authorization bill, H.R. 4318, is widely acclaimed as the answer, the forum for making major program adjustments in response to implementation problems.

That may be the case in the Department's view, but I do not feel that H.R. 4318, as currently drafted, will prove the answer to curbing fraud, controlling costs or anything else in totality. I am concerned that many of its provisions simply are not applicable to the bulk of the States, but I strongly support hearing the Department out for whatever needs they feel are necessary.

I, and my colleagues on this side of the aisle, stand ready to address in detail H.R. 4318. Let us have hearings, markup, and final action prior to October 1, 1979, the beginning of the fiscal year which the bill addresses. Let us hear the Department, the States, and the recipients, in detail. Let us not fail to provide in a timely fashion all the tools necessary for the Department to finally effect some reform, beginning with the fiscal year 1980. Let us not delay action on the fiscal year 1980 authorization bill and have USDA changing its cost estimates for the program each month after the fiscal year begins. Let us not play the game the administrators of this program want to play of always acting in a crisis situation.

If we are able to provide the needed tools, then there should be no need for more excuses. I shall do all I possibly can to back them up. But, I perceive time is of the essence. Let us not delay. Let us address the matter, now, prior to fiscal year 1980. That course and that alone, is the fair one for recipients and taxpayers alike.

□ 1610

Mr. GRASSLEY. Chairman, will the gentleman yield?

Mr. WAMPLER. I am happy to yield to my distinguished colleague and member of the committee from Iowa.

Mr. GRASSLEY. Mr. Chairman, I appreciate the gentleman bringing up the point about the possible 1980 food stamp bill. We had such a discussion when we had the bill up to expand the medical deductions for senior citizens, and I can see no justification for a deadline not coming from the other side of the aisle as to just exactly when we are going to discuss a 1980 bill.

Back in May when we discussed the budget resolution we discussed when the 1980 food stamp bill might come up. Mr. Foley promised the House it would be very shortly, like this summer. These deadlines are just being extended, and extended and extended. I would think a party that controls Congress by a 2 to 1 majority ought to give us an answer so that we will have a deadline that we can count on, so that there will be some plans made and so that the faults of the existing law can be corrected in a manageable way rather than always legislating crisis by crisis.

I appreciate the gentleman from Virginia's contribution to this dialog. It just does not seem to me we are getting any answers.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the distinguished gentleman from New York, chairman of the subcommittee.

Mr. RICHMOND. I thank the distinguished minority colleague of the subcommittee for yielding.

The gentleman from Iowa knows that we have planned to have full and extensive hearings on remedial legislation for the 1980 food stamp bill. We intend as the gentleman knows to have hearings in the gentleman's State. We hope to do everything possible to improve this program; to improve the delivery of food stamps, to simplify the program, to eliminate fraud and to run an efficient a program as possible.

The gentleman knows we cannot put anything into today's bill to improve the operation of the program this fiscal year. This bill today merely allows us to maintain the program for the months of Augsut and September. That is all it does. If we do not pass this bill today the program itself will be cut out of existence for the entire month of September. The gentleman knows that.

As soon as this legislation is passed I want to assure the gentleman from Iowa and the distinguished minority leader of the committee that we will hold hearings to learn as much as we can about the delivery of services in this bill so that we can simplify the bill and reduce as much fraud as possible, and cut out errors and mistakes so that we can make certain that welfare people in every State are trained properly, are sensitive to the needs of poor people, but also are efficient. I agree with the gentleman, we must change the legislation. But before we do that let us have proper hearings throughout the United States.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the distinguished gentleman from Iowa.

Mr. GRASSLEY. In response to the gentleman from New York (Mr. Richmond) I can only say there may be some aspects of the food stamp bill that do deserve some hearings and we ought to have those hearings for oversight if for no other purpose. But there has been a great deal of fault found with the food stamp program, particularly those aspects regarding the error rate and the fraud rate and on which we have ample evidence to legislate. We ought to legislate on that and there is no justification for not legislating when we have evidence that perhaps as much as $630 million is being wasted. Let us get that money into the program where it serves the people that deserve the service.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from New York.

Mr. RICHMOND. I just want to reply to the gentleman from Iowa, I share his belief completely and I pledge to the gentleman that we will work together to improve the program.

Mr. GRASSLEY. Then let us get a bill out that corrects what we know is wrong and take care of that, and let us worry about some of the other aspects we need more information on out later and do it in two separate bills if we have to.

Mr. RICHMOND. Let us keep this program in existence today, and let us continue our work to improve the program.

Mr. GRASSLEY. That is not the point. What we are trying to do is get an answer to when we are going to get a bill out and accomplish something. All we have had is promises, and promises, and promises. Now we want some performance commensurate with those promises.

Mr. RICHMOND. I promise the gentleman he will get the performance.

Mr. Chairman, I reserve the balance of my time.

Mr. Chairman, I yield such time as he may desire to the distinguished gentleman from Hawaii (Mr. Akaka).

Mr. AKAKA. Mr. Chairman, I rise in support of H.R. 4057, the Food Stamp Amendments of 1979. As the Members of this body are well aware, this bill will alleviate a desperate situation in our country. Substantial improvements in the food stamp program were made in 1977, and the effects of these changes may well result in substantial savings in the program. However, we are now faced with the need to increase the ceiling for appropriations for this program due to increasing food costs.

The number of low-income families who become eligible for food stamp benefits depends largely on the economic health of the Nation. The benefits themselves are based on food costs. Thus, the higher the food costs are, the higher the benefits have to be increased. These dual conditions—economic health and food costs—affect program costs. It would be disastrous for poor people to cut food stamp benefits at a time when food costs continue to spiral.

Should this legislation not be enacted, the Department of Agriculture would be forced to do one of three things: First, cut benefits for all households by one-third each month in July, August, and September; second, cut benefits in half for August and September; or third, close the program down for September. It is important for us to remember that this cut will affect the low-income and elderly recipient most severely.

If this bill is not enacted, my State of Hawaii will lose about $1,050,000 a month if the reduction is one-third and $1,575,000 if the reduction is one-half. Officials administering the food stamp program in Hawaii inform me that reforms in 1977 have effectively targeted the program to the poorest, most needy members of our society, those who were formerly unable to afford lump-sum purchases of food stamps. However, unless the current funding level is raised and adequate moneys are provided to at least maintain current benefit levels, they are concerned that these very persons may be unable to participate in the food stamp program.

Mr. Chairman, this is legislation designed to meet a specific need. The extent of food price inflation was not forseeable in 1977, and we need to provide for that problem immediately. This in no way negates the cost savings that may accrue from the 1977 law, nor does it prohibit further changes in the law. It preserves food stamp benefits for those truly in need, and I urge its approval.

Mr. WAMPLER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida (Mr. Kelly).

Mr. KELLY. Mr. Chairman, we are really in a hurry. I think that every Member of this House should jump on his horse and let us get ready to ride.

Now, I do not want a whole lot of questions raised about what direction we are going in. I just want the men on their horses and ready to go. We are getting ready to spend another billion dollars, another billion dollars in this year on a program that is absolutely notorious.

☐ 1620

There is not another social or welfare program that is under the auspices of the U.S. Government that is in more disrepute than the food stamp program. The American public are just simply tired of it. They are tired of it because for every single year this program has been in existence, the General Accounting Office or the Inspector General, during the time that he has been in existence, has on a perennial basis said that this program is fraught with fraud and mismanagement that at the current level is three-quarters of a billion dollars.

Today I am going to offer an amendment to restore to the elderly that are sick—the elderly that are sick—the medical deductions that they lost by the action of the House in 1977, and we are going to have the greatest show of handwringing and mathematics that we have ever seen in our lives about restoring to the elderly that are sick what they lost by the action of this House in 1977.

Now, this same House, this same leadership, has no concern for three-quarters of a billion dollars worth of fraud. This leadership and this House is today getting ready to present us with a food stamp bill that in 1980 will carry forward without any hope of abatement all at the same level of fraud that exists right now, which is at the level I have referred to, three-quarters of a billion dollars. There is not any intention on the part of this leadership to do one thing about this food stamp law that will change the fraudulent practices and the mismanagement between now and when this program goes into 1980, and that just happens to be the name of that tune.

They are not going to do one thing. The story is that we have to get on our horses and ride, and we have to hurry because the poor people are going to start to go hungry, but where are we going. If we are in such a real twit about the poor people that need to be cared for, the American public would not be nearly so tired of all these social and welfare programs. If we were increasing money to the needy that would be all right. For example, is there anyone who wants to jump up and debate about the elderly that are sick? Should we put them on the program? Should we care for them? Anyone? Then why is it that we are going to have a highly technical argument on a point of order about restoring to the elderly that are sick just what we took away from them in 1977?

In one State—in one State alone we had 56,000 people over 60 years of age that were receiving food stamps; 34,000 of that 56,000 either lost all of their eligibility or lost part of their eligibility under the food stamp program. Now, did we do that in the name of economy? Hardly. We have since that time increased the cost of the program. While we were taking the old and sick off, we have increased the program by between 3 and 4 million people. That means nonworking people—3 to 4 million people, and we have increased the cost of the program in excess of $2 billion.

The amendment that I offer is a simple amendment. It is one that the chairman of the full committee voted for; it is one that the chairman of the subcommittee voted for; it is one that the committee itself voted for to the extent of 24 to 7, and I think it will be interesting to see what the explanation is. I think it will have something to do with the proposition that when we start dealing with the elderly that are sick, then we want to economize. With a trillion dollar national debt, a deficit that has no meaning or sense to it at all, that, under these circumstances, we are going to economize when it comes to the sick and the elderly. Those who do not support this amendment that I am going to offer certainly ought to have some very interesting explanations of why they do not want to give back to the elderly and sick what they took away.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. WAMPLER. Mr. Chairman, I yield 2 additional minutes to the gentleman from Florida (Mr. KELLY).

Mr. LOTT. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Chairman, I would like to commend the gentleman from Florida for the job that he has done in this effort. I know that in the Agriculture Committee he offered the amendment that brought this whole issue to the attention of the Agriculture Committee. I have had the senior citizens in my area talk to me about what this reduction in the allowance for medical and dental benefits has meant. It is really hurting them.

The gentleman brought this to the attention of the Agriculture Committee. Then, the issue came to the floor under suspension in H.R. 4303, an inadequate bill. The gentleman came before the Rules Committee and made his point again on this bill.

I think he is really trying to provide some help for the elderly and sick; not just a $1 change in the deduction allowance. We are always helping those in this country who are not needy. The gentleman is trying to address the problem of people in this country that really need help.

I want to commend him, and I want the record to show that the gentleman from Florida (Mr. KELLY) is the gentleman that brought this to the attention of the Agriculture Committee, and he has gotten the little consideration that was passed under suspension.

I hope the amendment that he is going to offer to help these people will be passed.

Mr. KELLY. I thank the gentleman. I just want to say this: When we voted on H.R. 4303 I refused to accept a half a loaf for those that are both elderly and sick. It was because the committee passed the Kelly-de la Garza amendment that we had H.R. 4303 as a part gesture, a half loaf, but it only restored to the elderly part of the medical deductions that they lost. The amendment today will restore all of that.

Mr. LOTT. I thank the gentleman for yielding to me.

Mr. RICHMOND. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California (Mr. PANETTA) a member of the subcommittee.

Mr. PANETTA. Mr. Chairman, the House today focuses on obviously a very difficult and sensitive piece of legislation dealing with the food stamp program. It is not a pleasant responsibility when we face legislation to increase spending on any program, whether it is an emergency or not. This happens to be an emergency. It is not pleasant when we deal with a program that, very frankly, is not being run very efficiently or very effectively.

We had projected costs that were presented to us in this program of $5.7 to $6.1 billion. As a result of the rise in terms of the cost of food, natural disasters, but also as a result of the implementation of the program itself, we have had excessive increases in cost which now runs between $6.8 to $7.1 billion.

The problem is that it is also not pleasant to face the reality that if we do not pass this emergency legislation we are going to see reductions for those who are presently on food stamps, many of whom are elderly, blind, disabled. Something like 88 to 90 percent of those reductions would strike at the elderly.

So, in effect, we are caught between a rock and a hard place on a program that needs to be reformed, needs to be looked at, and at the same time, if we do not pass this increase, we in fact are going to reduce assistance for just those people that need the benefits the most. That is the situation that faces the House. It is legislative blackmail at its worst.

The responsibility is to try to fulfill both the need to reform this program and provide for this urgent legislation. Obviously, we have to look beyond this legislation—I do not see any way around that—thus, we ought to make a commitment today to necessary reforms. As a member of the subcomittee, I have committed myself, to look at three things:

One, what are the areas of savings? Right now we have projected the potential at $360 million in savings that the administration itself has proposed. We can go beyond that. Second, in terms of administrative tightening of the program, we need to deal with fraud and inefficiency in the administration of the program. Third, on the question of the elderly, what will we do, because when we talk about expansion of benefits for the elderly, we are also talking about increasing costs.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. RICHMOND. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. PANETTA. If we decide to provide more benefits for the elderly, we are talking about increased costs, and we have got to consider this in terms of the overall cost of this program generally. Those are important considerations. We have got to look at them carefully in terms of the 1980 authorization. I think we have got to commit ourselves to looking at those problems. In this proposal that is before the House today we have taken some small steps.

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We have eliminated the use of carryovers. We have required that the Department report on a monthly basis, and we have taken the lowest figure that is provided by the CBO estimating where the costs will be on the food stamp program, but this is still emergency legislation. It ought to be considered in that light, and we ought to here make the commitment that we are going to look at this program, we are going to look at reforms, because it may be the fact that the next time emergency legislation like this comes before the House, the Congress may not be willing to simply extend it anymore.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I will be pleased to yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding.

Does not the gentleman in the well, a member of the committee, find it extremely hard to explain how we came to be in the posture of having an emergency so that the poor will starve if we do not act on this bill, and not provide any relief from the fraud?

The CHAIRMAN. The time of the gentleman has expired.

Mr. WAMPLER. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. KELLY. If the gentleman will yield further, is it not pretty difficult for members of the committee and the Members of Congress to explain, when we have known for years that the food stamp program is just a morass, just a cesspool of fraud and mismanagement to the extent of three-quarters of a billion dollars, according to the latest CBO report, and yet here we are saying that if we do not spend another billion dollars on a fraudulent program, the poor will go hungry. Why have we not done this years ago? Nothing is new. There is nothing new about the fraud.

Mr. PANETTA. There is no question that I share in the frustration of the gentleman from Florida. We did pass in 1977 very comprehensive amendments to the food stamp program that we thought would target some of the concerns and problems in the program itself. What we found is that in the implementation of those very steps we have run into additional problems. I share the frustation of the gentleman, but the fact is that at some point we are going to have to deal with this. We are now facing the issue of: Do we pass this kind of emergency legislation, or do we in fact say to those who are now receiving needed benefits that they are going to face reductions at a time of inflation and at a time of difficult economic conditions in general? I do not like the choice, but I think it is the only choice that the House has today.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WAMPLER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. I thank my colleague for these 2 minutes. I must say something in all frankness to this committee. Many of us in this House are beginning to feel exactly the way the American public feels. We feel we are being had. Those are hard words, but that is the way it is. The gentleman who has just spoken in the well (Mr. PANETTA) and the gentleman from Florida (Mr. KELLY) have expressed the same thing. We are being had.

Those recommendations concerning verification and the elimination of fraud came in the report of the GAO after the 1977 bill, but those reforms are not in this bill. What are we going to do year after year? The gentleman from California (Mr. PANETTA) is so right. What do you tell us? You tell us—reminding us of the suffering of those people, "vote this extra $600 million, because if you do not, they are going to suffer." Really it is this House that should suffer. This House should suffer. We are putting burdens on the taxpayers without any regard to the fraud that we know exists in these enormously expensive programs.

You promise reform, but that was promised before. When we know what the evils are, to bring a bill to this House with a request for $600 million above the $6.1 billion is outrageous, when there is no reform in the same bill.

These are strong words but, Mr. Chairman, I assure you the importance of the people is just like our own. They have had it. They do not want to let the poor go without help either, but, as the gentleman from California (Mr. PANETTA) said, what do we do when this is all you present us with? It is an ultimatum: Let them suffer and vote no, or take other people's money with the knowledge that its administration is wrong and fraudulent. There is no effort on the part of the committee for reform.

Mr. RICHMOND. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from New York.

Mr. RICHMOND. I thank the gentlewoman for yielding. The gentlewoman from New Jersey is not a demagog. She is a very sensitive, intelligent woman. Let me just tell the Members what we have tried to do.

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 4057, legislation before the House today which would amend the food stamp program to provide an additional $620 million in authorization for this critical program for fiscal year 1979.

At the outset, I would like to commend the chairman of the House Agriculture Subcommittee, Mr. THOMAS FOLEY, and the members of this committee who were instrumental in bringing this legislation and a companion bill, H.R. 4303, to the House floor. The latter legislation would establish a separate medical and dental deduction for determining the food stamp eligibility and benefits of the elderly, blind, and disabled.

Both of these measures, if adopted, will correct a serious situation regarding the present status of the national food stamp program, and allow the needy citizens currently participating in this nutritional program, to continue their present allotment level throughout the balance of the fiscal year.

I would point out that the Food Stamp Act of 1977 imposed an annual ceiling for the 4 fiscal years of the law's effectiveness.

Due to the setting of such a ceiling, or "cap" as it has become to be known, Congress could not predict the rising price of food, nor the impact that the imposition of this "cap" would have on the recipients of food stamp benefits.

The national total of food stamp recipients amounts to over 19.1 million recipients and if the present legislation is not passed to remove the ceiling, many nationwide cutbacks would be instituted in the remainder of this fiscal year.

In Puerto Rico, the impact and value of the food stamp program has proven to be of great help to our citizens.

As the House committee report on H.R. 4057 notes, the food stamp program has been in existence for 15 years, and has a history stretching back over 40 years.

Even though the period of the program would be short, as far as possible cutbacks would be concerned, they could constitute a disaster for the very needy among our population, whether they reside in Puerto Rico or any State of the Union.

So it is with distinct pleasure that I commend the House Agriculture Committee membership for acting speedily and resolutely in bringing this legislation to the floor of the House for a vote today and support both of these critical pieces of legislation.

The ravages of inflation have wreaked particular hardships on the poor and elderly in our midst. By successfully passing H.R. 4057 today, the House of Representatives can once again indicate their support for continuing, at a reasonable level, this most valuable and helpful antipoverty program.●

● Mr. RUDD. Mr. Chairman, I believe it is important to emphasize, as does the Agriculture Committee report, that the food stamp program is not an entitlement program.

Congress is not obligated to automatically raise the food stamp authorization limit as some have suggested.

Let me draw my colleagues' attention to page 10 of the committee report on H.R. 4057:

> With the advent of the cap, the food stamp program lost much of its status as an entitlement and became, at least in part, a traditional authorization. Where, prior to September, 1977, the obligation to make payment in the form of stamps was regarded as unconnected with the appropriations process, since the appropriation level had to feed the program usage level dependent upon the number of recipients, after the cap, the appropriations process became critical rather than merely perfunctory to the extent that the original cap for any given fiscal year had to be raised.
>
> As a result of the Mathis amendment to the 1977 law, the statutory provisions of the food stamp program fail to satisfy all of the criteria for entitlement "spending authority" set forth in section 401(c) (2) (C) of the Congressional Budget Act. The statute does provide for payments, and the government is obligated to make the payments to all who qualify under the provisions of the law. However, the budget authority for "payments" is provided in advance by appropriation Act. This was made explicit by inclusion of the phrase "subject to the availability of funds appropriated" when read in conjunction with the authorization cap and allotment reduction provisions. Accordingly, the existing law does not provide "spending authority" within section 401(c) (2) (C) of the Congressional Budget Act, and the food stamp program is no longer regarded or treated as an entitlement, although it is an unusual hybrid, since, up to the level of the cap originally imposed for any fiscal year, it retains much of its entitlement character, whereas it is clearly no longer an entitlement once the original cap has been breached, as is the case for fiscal year 1979.

As a member of the Appropriations Committee, I share the apprehensions expressed by our distinguished chairman, Mr. Whitten, who has repeatedly warned of the inherent dangers of shortcutting the appropriations process which result from entitlement programs.

The backdoor method of funding entitlements—without direct congressional appropriation—is destructive of the congressional responsibility instituted by the Constitution.

I believe the House acted wisely in 1977 in returning the food stamp program to the authorization and appropriation process.

The House must weigh the value of the food stamp program just as it evaluates any other program. The House must not blindly approve these repeated requests for larger and larger appropriations under the mistaken assumption that such increases are somehow "required."

The maintenance of the present authorization level, and the defeat of this bill, will force the Department of Agriculture to tighten its regulations now to insure that existing funds will be sufficient to complete the fiscal year.

Additionally, there are a number of important legislative savings that could be realized from responsible reforms of the food stamp program by the House Agriculture Committee. Such reforms would thereby make unnecessary these annual expansions of the food stamp program. These cost ceilings have become almost as temporary as the national debt ceiling which is perennially raised by Congress.

Today the House is asked to approve a $620 million increase in the ceiling for the program. This proposal is a 10-percent increase. If adopted, it would bring the fiscal year 1979 cost level up to $6.8 billion.

Mr. Chairman, I would suggest that these expensive increases will continue unless and until some fundamental reforms are made in the food stamp program.

Some of these needed reforms can be adopted legislatively.

Others could and should be implemented administratively by officials within the Department of Agriculture. Unfortunately, the Department has utterly failed to address the serious administrative problems of the program. There has been minimal effort to correct errors which have resulted in millions of dollars of overpayments.

The USDA apparently prefers to come running to Congress each year requesting yet another ceiling extension to implementing real reforms.

The question which should be asked today is whether the House is serious about curbing the abuses and cutting the costs of this program or whether we will once again simply pay the bill requested by the bureaucrats at the U.S. Department of Agriculture whose "solution" to the problem is spending more tax dollars.

It is time to draw the line and demand action from the Department, and simultaneously to allow the Senate and House Agriculture Committees to thoroughly investigate the situation and examine the causes for the disturbingly rapid growth of the program.

The food stamp program could potentially be an effective vehicle for providing food assistance to those Americans who are truly in need and would be unable to live without it.

However, the widespread abuse of the system continues to cause public dissatisfaction with the lax manner in which tax dollars are spent.

The abuses can be stopped.

However, Congress must not yield to yet another increase in the program in exchange for some nebulous promise that the improvements will be made. For years, these promises have been hollow.

Despite annual assurances that the program is leveling off and that significant improvements are on the way, we find the same situation—the expense of the food stamp program continues skyward with no end in sight.

The fiscal years and requested amounts may change, but Congress is getting the same old song and dance routine from the Department of Agriculture.

I would like to include in the Record at this time a point-by-point summary of possible legislative savings that could result from needed reforms in the food stamp program if the authorizing legislation is modified as it should be:

[In millions of dollars]

	Savings
(1) Basic eligibility revisions, including	[1] $700
(a) Limiting eligibility to those with gross incomes at the poverty line, plus a 15 percent allowance for work-related expenses.	
(b) Establishing purchase requirements at percentage of gross income expended for food by average household of same size and income range, with regional variations, as established by the most recent Consumer Expenditure Survey of the Bureau of Labor Statistics, or 30 percent, whichever is less.	
(c) Use of the Thrifty Diet Plan, with family size, age, and sex of the family members taken into account.	
(2) Restoration of the purchase requirement itself	[2] 520
(3) Assets test: Use the assets initially established for SSI, with a limit on a principal residence and a lot of $25,000; a limit on a motor vehicle of $1,200; limit on property used in a trade or business essential to the self-support of a household of $15,000; and an overall limit on liquid and non-liquid resources (with the above exceptions) of $1,500 for the household, or $2,250 for households of two or more persons with a member or members age 65 or over	522
(4) Fraud control: Mandate a photo-identification card, countersigned warrants, a national application cross-checked, and an earnings clearance system	138
(5) In-kind income: Count any in-kind income which provides food assistance	174
(6) Income exclusions: Eliminate new exclusions (student loans and grants, all of which "cannot reasonably and properly be computed," and housing subsidies)	33
(7) Income tax rebates: Count as income	29
(8) Work registration: Restore the age of a child which exempts an individual from work registration to age 6, not age 12	20
(9) Work registration: Strengthen the work registration requirement by permitting States to establish community work experience programs as a condition of eligibility	14
(10) Strikers: Eliminate the eligibility of strikers	18
(11) College students: Eliminate the eligibility of college students	11
(12) Error rate: Correct current error rate in food stamp program; for FY 1977, such errors have been running at approximately 6 percent (4.3 percent for ineligibles and 7.7 percent for overpayments)	595
Total possible savings	2,779

[1] Figures derived from data supplied by the U.S. Department of Agriculture at time of the last food stamp debate; while estimates were of that time period, and some of the bases have changed, they are still representative of possible savings, individual and total.

[2] At the time the purchase requirement was eliminated, costs were cited running anywhere from $400 million to $2.1 billion. For the purposes of these figures, the estimate at the time by the Congressional Budget Office—$520 million—will be used.●

● Mr. GOLDWATER. Mr. Chairman, I rise in opposition to this bill. H.R. 4057 is a perfect example of a Federal program which has grown far beyond the original intention of Congress. In 1965 only 1 person in 440 received food stamps. Today 1 in 12 receive them, and passage of this bill will bring the cost of the program to $7.1 billion. That is an astronomical growth rate when one considers our initial outlay for the program 14 years ago was a mere $36 million.

I fully recognize the importance of food stamps to the many economically disadvantaged. But things have gone too far. There are too many undeserving recipients, too many cases of fraud and abuse, too many instances of mismanagement in the program. In response to this waste of tax dollars what do we do? We put a cap on the expenditures under the program. But here we are raising the ceiling. What purpose was served by placing a limitation on the funding level in the first place if all we have to do is change it when we see fit?

I am not satisfied with efforts of the U.S. Department of Agriculture to administer this program more effectively. I am also disappointed that the Congress has not written into the law safeguards against misuse of food stamps. This program has become generous enough that it has reached a point where collecting its benefits is encouraged. Where are there incentives for recipients to seek employment and relieve themselves of their dependence on the Federal till?

The huge cost increases, the ballooning of the welfare roll, the high incidence of administrative bungling makes this bill totally unacceptable to me.

Much reform needs to be done in the food stamp program. If the Agriculture Department would spend less time developing "outreach" programs designed to add 10 million names to the eligibility list, and more time on verification of those who are entitled under stringent eligibility requirements, then we would be headed in the right direction toward getting some measure of control over this program. But until such an initiative is demonstrated I am compelled to vote down an expansion of the food stamp program.●

● Mr. PICKLE. Mr. Chairman, I support H.R. 4057, additional authorizations for the food stamp program for the remainder of fiscal year 1979.

As we are all aware, if the existing authorization is not expanded, food stamp benefits will have to be drastically cut in August and September, or even discontinued entirely for a month.

I have always been an advocate of fiscal restraint, and making additional appropriations to any program reflects poorly on our planning and budgeting abilities.

But this appropriation goes beyond financial considerations. It affects the health and basic daily nutritional well-being of many citizens of this Nation, including elderly persons, children, and millions of low-income Americans.

In Texas, the Department of Human Resources has stated that additional funds for food stamp benefits are essential so citizens on marginal incomes will not have to go hungry. I am sure that the situation is equally critical in every other State.

Our only alternative to the passage of this bill is a severe temporary cutback in the fundamental human services provided by the food stamp program.

Such an alternative is unacceptable, and I urge my colleagues to vote in favor of H.R. 4057.●

Mr. WAMPLER. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 4057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 18(a) of the Food Stamp Act of 1977 is amended by striking out "$6,158,900,000" and inserting in lieu thereof "$6,778,900,000"; and the third sentence is amended by striking out everything and inserting in lieu thereof "The Secretary shall, on the 15th day of each month, submit a report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry setting forth his best estimate of the previous month's expenditure, including administrative costs, as well as the cumulative totals for the current fiscal year.".

Mr. RICHMOND. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

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The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to report their presence. The call will be taken by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 317]

Abdnor
Akaka
Albosta
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boner
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Dellums
Derwinski
Devine
Dickinson
Dixon
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Howard
Hubbard
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
McClory
McCormack
McDade
McEwen
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Sabo
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1700

The CHAIRMAN. Three hundred and fifty-four Members have answered to their names; a quorum is present, and the Committee will resume its business.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYMMS: On page 2, line 13, strike the quotation marks and the period and insert: "In each monthly report, the Secretary shall also state whether there is reason to believe that reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section.".

SEC. 2. The second sentence of section 18 (b) is amended by striking out "If" and inserting in lieu thereof "Notwithstanding any other provisions of this Act, if"; and section 18 is further amended by adding at the end thereof new subsections (c) and (d) as follows:

"(c) In prescribing the manner in which allotments will be reduced under subsection (b) of this section, the Secretary shall ensure that such reductions reflect, to the maximum extent practicable, the ratio of household income, determined under sections 5(d) and 5(e) of this Act, to the income standards of eligibility, for households of equal size, determined under section 5(c) of this Act. The Secretary may, in prescribing the manner in which allotments will be reduced, establish (1) special provisions applicable to persons sixty years of age or over and persons who are physically or mentally handicapped or otherwise disabled, and (2) minimum allotments after any reductions are otherwise determined under this section.

"(d) Not later than 60 days after the issuance of a report under subsection (a) of this section in which the Secretary expresses the belief that reductions in the value of allotments to be issued to households certified to participate in the food stamp program will be necessary, the Secretary shall take the requisite action to reduce allotments in accordance with the requirements of this section. Not later than 7 days after the Secretary takes any action to reduce allotments under this section, the Secretary shall furnish the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry a statement setting forth (1) the basis of the Secretary's determination, (2) the manner in which the allotments will be reduced, and (3) the action that has been taken by the Secretary to reduce the allotments."

Mr. SYMMS. Mr. Chairman, as many Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. SYMMS. Mr. Chairman, as many of the Members of the House know—and this has been brought out in the general debate—we have witnessed a rapid expansion in both the numbers of people on food stamps and the cost of the food stamp program, and we have seen the administration of this cost and the burden on the taxpayers to run the food stamp program.

We are now down in these last hours being told that if we do not pass this bill today, what will happen is that these people who are recipients of the program will not have any food in September. One of the reasons this comes about and we find ourselves in this position is because the administration contends it must allocate the stamps on a pro rata basis.

This amendment would alleviate that problem, and I think it is very important that the House accept this amendment now to set the stage so we can set the amendment into the program next year and in the future if we ever expect to be able to come into this House, no matter who is running the program downtown, whether it be the Democrats or the Republicans, and have some flexibility within the administration to allocate the food stamps to those people who need them the most.

What this amendment would do is it would allow the Secretary to accomplish the reductions in the value of allotments, directing greater benefits to the lower income eligibles when such action is required under section 18(b) of the food stamp program, rather than on a pro rata basis.

Mr. Chairman, the reason this is so important is that, the way it looks now, those people who need the stamps the most, in a pro rata reduction to comply with the cap, get cut the most.

My amendment would simply give the Secretary the authority to reduce those people who are the most needy the least and reduce those who are the least needy the most. So they would not be prescribed to a pro rata reduction. This would authorize the Secretary to prescribe special conditions applicable to the elderly and the disabled and minimum allotments when reductions in the value of allotments become necessary.

It would require the Secretary to file monthly reports by the 15th day of each month on the food stamp program's cost for the preceding month, including the Secretary's best estimate of whether reductions of food stamp benefits will be necessary.

Mr. Chairman, this is what has happened. The truth of the matter is that right today, with the situation we are in with respect to our economy, with inflation, and with some predicted unemployment, and so forth, no one knows how many food stamps are going to be asked for in the future of this program. Nobody, neither the CBO, the USDA, nor anybody else, can tell us what we will have to have. All we know is that we are putting people on the program at the rate of 1 million people in December, 1 million people in January, and 1 million people in February, and by the administration's testimony it leveled off in March to 600,000 people per month who were added to this program.

So we do not know where this is going if we do not put some flexibility in the administration to reduce benefits to those people who need them the least. Otherwise this program will go on to the point where we will have a fourth of our people on food stamps.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from New York.

Mr. RICHMOND. Mr. Chairman, I wonder if the gentleman from Idaho understands, first, that this amendment could not become operative in this fiscal year.

Mr. SYMMS. Mr. Chairman, my intention would be that we could start right now. Otherwise we would be delaying this thing and going on and on and on. There is no reason why it could not be made operative now.

Mr. RICHMOND. But it could not become operative for the remainder of this fiscal year, 1979.

Mr. SYMMS. I see no reason why it could not.

Mr. RICHMOND. I think the gentleman would have to agree that it would be administratively impossible for it to become operative in this fiscal year.

Mr. SYMMS. Mr. Chairman, I understand what the gentleman is saying. I think the administration could take a look at who receives the most benefits, and they would have the flexibility to say, "We are not going to reduce them 10 percent, but we will reduce the other people by 20 percent." I think the issue can be addressed.

There will not be a reduction. I agree with the gentleman that when the bill passes, with the cap in it, what we will be doing is shoving the money out and giving the food stamps to everybody who wants them.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the chairman of the committee.

Mr. FOLEY. Mr. Chairman, I think the gentleman from New York (Mr. RICHMOND) is prepared to accept the amendment on this side, but we do not want to fool anybody.

It would be necessary, of course, in the 60 or 90 days before the fiscal year expires, if we really tried to do this, to go in and look at 6 million households. The 1979 fiscal year is almost over, and as a reality, no one knows how many elderly or disabled people are in which households in the country. There are about 6 million households involved.

The CHAIRMAN. The time of the gentleman from Idaho has expired.

(On request of Mr. FOLEY, and by unanimous consent, Mr. SYMMS was allowed to proceed for 3 additional minutes.)

Mr. FOLEY. Mr. Chairman, will the gentleman yield further?

Mr. SYMMS. I yield to the distinguished chairman of the committee.

Mr. FOLEY. Mr. Chairman, 6 million households are involved, and it would take several months to examine them to determine how many elderly and disabled people are there.

So while we do not have any objection to the very thrust of the amendment and are willing to accept it, I do not think it could be assumed that it would be possible by this month and next month, the last months of fiscal year, ending in September, to go in and do all this analysis and make distinctions between the households in that respect. I think the gentleman understands that.

Mr. SYMMS. Mr. Chairman, I think the chairman of the committee makes a very excellent point, and I thank him for his statement. I do wish the Department could be somewhat more flexible in addressing this matter, and I hope they will apply their best minds to the earliest application of this concept. I am delighted to have support for my amendment, and I hope the chairman of the committee is correct in informing me that the gentleman from New York (Mr. RICHMOND) will accept the amendment.

□ 1710

I think that what we would like to do here is to start the ball rolling in that direction, so that a year from now we are not in here with this program asking the Congress to raise the lid another $1 billion or $2 billion or $3 billion or $4 billion more.

So if the gentleman from New York wishes to accept the amendment, we can continue this later.

Mr. RICHMOND. If the gentleman will yield, there is just one other point I would like to clear up with the gentleman, just to make sure the gentleman's amendment has the same understanding in this body as Senator LUGAR's amendment in the Senate.

Reading from the Senate report, I would like to know if the gentleman's amendment would also bring in the fact that:

> The Secretary would, of course, be expected to exercise reasonable judgment in arriving at a belief that benefit reductions would be necessary. In this regard, the Sec-

retary may consider a variety of factors, including seasonal fluctuations in program participation, economic forecasts, cumulative expenditures, and supplemental appropriations, as well as the prospects of legislation to raise the cap. Obviously, reductions in benefits should not necessarily commence after the first monthly report showing that more funds were expended in a particular month than an amount equal to one-twelfth of the funds previously appropriated for the program for that fiscal year.

Does the gentleman from Idaho find this acceptable?

Mr. SYMMS. Mr. Chairman, the gentleman has put this in the RECORD, and I will certainly look at it. Whether or not I will accept it, I am not totally convinced. I think the point that needs to be taken certainly is that we are giving them the flexibility to start in on reduction rates. The gentleman well knows what is happening here, what is going on here, is that we have opened up the door and given the administration all the money that they can possibly need, and then some more from the unexpended funds from last year; so there is not going to be any need to actually reduce the rates of the program on the remaining bill for 1979.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Chairman, I think that the Members know that this is a complicated bill, but we are willing to accept the amendment on this side.

The CHAIRMAN. The time of the gentleman from Idaho (Mr. SYMMS) has expired.

(On request of Mr. COLEMAN and by unanimous consent, Mr. SYMMS was allowed to proceed for 1 additional minute.)

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Missouri.

Mr. COLEMAN. The gentleman is offering an amendment which Senator LUGAR did in the Senate, which I have introduced as a bill in this House. I think it is good that the administration will now know we are going to offer the same amendment in the 1980 food stamp bill when it comes through. I am happy to see that the chairman of the full committee and the chairman of the subcommittee will accept it. It is something that needs to be attached to the food stamp program permanently. We are attaching it to the 1979 bill. We will attach it to the 1980 bill. This will be a signal to the administration in determining how they are going to help the poorest of the poor if the money runs out in the future.

Mr. Chairman, I commend the gentleman for offering his amendment.

Mr. SYMMS. I thank the gentleman for his remarks.

Mr. Chairman, in the Food Stamp Act of 1977, Congress clearly reflected its desire to retain budgetary control over the rapidly expanding food stamp program through the use of an appropriation ceiling for each fiscal year in which the program was authorized. The imposition of these ceilings was perceived desirable for several reasons.

First, the program has several well-known program inflationary factors of long standing. Benefits reflect automatic adjustments keyed to changes in the Consumer Price Index for food and nonfood items in a manner equitable to all. Also, we know that a 1-percent increase in unemployment means an increased caseload of between 500,000 and 750,000 people.

In 1977, these were the known inflationary impact factors. What was unknown was the growth impact of a vast number of 1977 legislative changes. The reality of those changes is now being felt in a dramatic expansion of the caseload—probably something in the neighborhood of 4 to 4.5 million just since the beginning of this year when conversion to the new program began.

The administration proposed the repeal of the appropriation ceilings in effect under the 1977 act. Neither the Senate nor the House Agriculture Committees have favored repeal of the ceiling concept. Rather, they have favored "lifting" the cap to accommodate new program growth, and H.R. 4057 reflects the recommendation of the House Agriculture Committee to lift this cap for fiscal 1979 from $6,159 billion to $6,779 billion, representing a total appropriation increase of $1 billion.

My best reading of the situation is that for fiscal year 1980, the situation will be even worse. No one, not CBO or USDA, really has any idea what the food stamp program will cost in fiscal year 1980. Prior projections of program costs provide ample evidence of that. However, every indication is that participation, though not so dramatic as in the first months of this year, will still increase.

Also, the inflation forecast for food and nonfood items is gloomy. But, even though we have more dismal economic projections now than at the time of the adoption of the 1977 act, I do not favor lifting the appropriations ceiling, thus giving the food stamp program a blank check. As I noted earlier, neither has either of the Agriculture Committees favored that course.

A number of ways of reducing program costs have been proposed in consideration of recommendations earlier this year in the budget process and elsewhere, and I will not go into them in any detail here. Suffice it to say, there are undoubtedly numerous changes which could be effected to save money, and many of them are not originally mine. Most of these proposals deal with administrative economy and in no way would they adversely affect the benefit level of the legitimate recipient.

The administration has some proposals of its own contained in the 1980 authorization bill to focus on program error. I am not sure which of these proposals provides the best approach for cutting expenditures, or if any of the currently proposed ones are the ultimate answer, but I think the issue needs thorough exploration, and I urge the immediate reporting of the 1980 authorization bill containing the best judgment of the Agriculture Committee in this regard.

The Department has contended, and GAO has concurred, that the existing language of section 18(b) of the 1977 act, in combination with some of its other provisions, requires the Secretary of Agriculture to make food stamp allotment reductions on a pro rata basis for all recipients when necessary to keep food stamp costs within the appropriation ceilings established in the act. Pro rata reductions, in this case, mean equal percentage reductions in all recipients' benefits, that is, in the case of a 10 percent pro rata reduction, a household with a $100 benefit would experience a $10 loss and a household with a $20 benefit would experience a $2 loss.

This "pro rata" reduction is unreasonable since it forces equal percentage reductions on the neediest and least needy recipients and produces larger reductions in absolute dollar terms to the more needy. This is a cruel method of reducing benefits and no doubt is unacceptable to most Americans. Many Members of the House, I feel, are opposed to retaining the existing appropriation ceilings because under the current interpretation of the law, the poorest of the poor would be unjustly forced to bear the biggest relative burden.

A more reasonable approach to implementing section 18(b) benefit reductions would be to vary the extent of benefit reductions so that needier households would have benefits reduced less than the higher income households. I am introducing just such an amendment to correct this deficiency in the 1977 Food Stamp Act so that in the event that the Secretary must reduce food stamp benefits in order to keep costs under the appropriation ceilings, the benefit reductions could be varied so that the lower income eligibles will be reduced less than the higher income households.

In fact, regardless of what level of spending for the food stamp program Congress finally agrees upon, my amendment is necessary in order to preclude the Secretary from ever having to undertake very unfair "pro rata" benefit reductions in order to keep costs under an appropriation ceiling.

The amendment further requires the Secretary of Agriculture to make a report to the Congress by the 15th of each month detailing program costs for the previous month and including an estimate of whether reductions in benefits will be necessary; if the Secretary projects the need for benefit reductions, they must be implemented in 60 days; and within seven days of taking such action, USDA must report to Congress on why and how spending was reduced.

By a vote of 17 to 1 on Wednesday, June 20th, the Committee on Agriculture, Nutrition, and Forestry in the other body adopted this amendment as part of their 1979 fiscal year authorization bill. I urge my colleagues to support this amendment.

I believe this is the proper vehicle for the Congress to exercise control over the cost of this program. If the Department gets the message that the program must be operated within certain budgetary constraints, then I think they will cut out the nonsense and administer the program more efficiently and both taxpayers and recipients will benefit.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KELLY

Mr. KELLY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KELLY: On page 2, line 6, insert the following immediately after the semicolon: "the first sentence is further amended by changing the period at the end thereof to a colon and adding the following: '*Provided*, That notwithstanding any other provision of this act such of the sums authorized to be appropriated for fiscal years 1979 and 1980 as shall be appropriated shall be available to provide food stamps to any household, which contains a member who is age sixty or older, pursuant to the provisions of this act except that any member of such household shall be entitled to claim a medical expense deduction to the extent that the monthly amount expended by any such household for medical expenses, exclusive of special diets, exceeds $10 a month.';".

Mr. KELLY. Mr. Chairman, this amendment simply restores to the elderly who are sick the medical deductions that were in the 1964 act until they were removed in 1977.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from New York.

Mr. RICHMOND. Mr. Chairman, in the interest of time, I would like to advise the gentleman that the committee finds his amendment acceptable.

Mr. KELLY. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. KELLY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On Page 2, line 13 insert the following immediately after the quotation mark: "; and the first sentence is further amended by changing the period at the end thereof to a colon and adding the following: '*Provided*, That notwithstanding any other provision of this Act such sums authorized to be appropriated for fiscal years 1979 and 1980 as shall be appropriated, shall not be available to provide food stamps to households for "food of minimal nutritional value" which shall mean any food, class of food, food product or condiment which the Secretary, after consultation not less than once annually with the President of the National Academy of Sciences-National Research Council (Food and Nutrition Board), determines has such negligible or low nutritional value or insignificant enhancement of palatability as to be inappropriate for inclusion in a nutritionally adequate diet, including but not limited to ice cubes, artificial food colorings, powdered and liquid cocktail mixes, chewing gum, carbonated beverages, and cooking wines.'."

Mr. RICHMOND. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from New York reserves a point of order against the amendment.

The gentleman from Pennsylvania (Mr. WALKER) is recognized for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. Mr. Chairman, I would submit that it is too late to submit a point of order against the amendment. The amendment has already been read.

The CHAIRMAN. The Chair will advise the gentleman that the Clerk had read the amendment but the gentleman from Pennsylvania (Mr. WALKER) had not been recognized in support of his amendment.

A point of order is reserved.

Mr. WALKER. Mr. Chairman, would the gentleman from New York (Mr. RICHMOND) like to speak to the point of order?

Mr. FOLEY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FOLEY. Mr. Chairman, is it not true that the amendment must first be read before a point of order can be made against the amendment?

The CHAIRMAN. The gentleman is correct, and the Chair has so ruled.

Mr. WALKER. Mr. Chairman, if the gentleman would like to state his point of order, perhaps we can dispose of the point of order before any debate on the amendment.

POINT OF ORDER

The CHAIRMAN. The gentleman from New York (Mr. RICHMOND) is recognized on his point of order.

Mr. RICHMOND. Mr. Chairman, in my opinion the amendment is not germane to the bill.

Mr. WALKER. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I believe that this amendment is entirely germane to the bill we are considering. What we are doing is authorizing funds for fiscal year 1979 which may be carried over into fiscal year 1980.

The reporting provisions of H.R. 4057, beginning page 2, line 8, apply to "cumulative totals for the current fiscal year," meaning fiscal years 1979, 1980, and 1981 to which it applies.

Thus, the provisions of H.R. 4057 apply to more than one fiscal year.

H.R. 4057 repeals a provision in section 18(a) which applies to a prohibition of carrying forward funds for fiscal years 1979, 1980, and 1981.

This amendment is germane because section 18(a) now contains a provision as to how a certain percentage of each year's appropriations are to be used for section 17 purposes of research, demonstration and evaluations.

This amendment does not affect spending in any way. It does not reduce the amount of food stamps a household will receive. It merely limits what kinds of food a household may purchase with its food stamps.

Mr. RICHMOND. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The point of order is withdrawn.

The gentleman from Pennsylvania (Mr. WALKER) is recognized for 5 minutes in support of his amendment.

Mr. WALKER. Mr. Chairman, this amendment speaks to what I think is the heart of the food stamp program and what we should consider as basic to the food stamp program. That is the whole issue of whether or not this should not be a nutrition program.

□ 1720

Now in my opinion, we ought to get back to the idea that the food stamp program is indeed a nutritional program. It is not just a welfare program. It is a program meant to improve the nutrition of poor people across the country.

To ignore nutrition and food stamps is to ignore a basic need in our society, the need to give poor people an adequate diet.

Just recently Assistant Secretary of Agriculture Carol Tucker Foreman said, and she was saying this about the child nutrition programs: "U.S. taxpayers spend about $3 billion a year on Federal child nutrition programs. They have a right to expect them to work well and to contribute to their child's well being."

She went on to use that phraseology to promote a new nutritional component in the school lunch and breakfast programs.

I submit to my colleagues that here is a program where we are spending $7 billion a year of taxpayers' funds, and we ought to expect the same standards; namely, nutrition and well-being. It makes even more sense here than it does in the school lunch program, because in that program we are spending State and local funds as well. Here we are spending only Federal moneys.

Now, let me point out that this is not a limit on what people can purchase with their own money. We are not denying anybody going into a food store any chance to buy whatever they want with their own money. We are simply saying that the food stamps that we now provide for free are going to be used for nutritional foods.

It has been argued in the past that the problem with this kind of an approach is that you cannot define nutrition. I submit to my colleagues that the Department of Agriculture has now taken that argument away, because they have now come up with a workable definition of what nutrition is with regard to the school lunch program.

If we can define nutrition for that program, we can define nutrition for this program.

I will admit that what we have defined is not strong enough. It is not perfect, but it does serve to provide some assurance that nutrition should be a consideration in that program as well as this program.

So it seems to me what we have to do is ask ourselves what the program is all about. If this program, the food stamp program, has nothing at all to do with nutrition, then let us stop kidding ourselves by pretending that it does and stop saying this is a nutritional program.

However, if it is a nutritional program, let us put nutrition into the food stamps in a positive kind of way, saying that the food purchases meet certain minimum basic nutrition standards. That is what this amendment is all about.

It says that you have to have certain foods. You have to have certain minimum nutritional standards in order to qualify the food for the program.

I would urge the adoption of the amendment.

Mr. GLICKMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let us not kid ourselves. This is not really a nutrition food amendment. This is an antifreedom of choice amendment.

For those people who do not like Carol Foreman going into our public schools and telling them that they can or cannot sell nutritious foods in vending machines, we have to have the same logic on this amendment, because here we have the Federal Government telling people who needs food stamps, making a judgment what is nutritious or not. I think that is an overreaching of Federal authority. I do not think that Carol Foreman's authority belongs in the public schools. I think that is a judgment of the local school district, and in this case, I think it is a judgment of the person who needs the food to survive on to decide what he or she needs in that diet.

What is nutritious for one may not be nutritious for another. It is not the responsibility of this Congress to dictate diets. Certain people's needs are different than other people's needs.

Are General Mills or Post's cereals items nutritious? If Ralph Nader has his way, they are not at all, but I do not want Ralph Nader or any scientist affiliated with Ralph Nader to decide what is nutritious for people in this country.

I think the issue, to a large degree, is freedom of choice and overreaching by the Federal Government in determining what is good for the people or not. I think, simply stated, that is the nut of this amendment.

I urge it be defeated.

I know the gentleman has a good purpose for putting forth this amendment. In fact, we discussed this in the last year. As I recall, I made the point about the definition of terms, and what is nutritious.

We can get a whole panel of scientists together and decide what is nutritious or not, but it always reminds me of—I believe it was one of the cases involving pornography before the Supreme Court—and one of the Justices said, "Well, I cannot define it, but I know it when I see it."

I think that is a little bit of the kind of logic we have on nutritious food. We do not have a really definable item on what is nutritious or not, but irrespective of that, we ought to give new freedom of choice to people of this country to buy those food items they need.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

I would point out to the gentleman, if we really believe freedom of choice is the issue, then we should not have put limits in this program in the first place. We do not allow alcoholic beverages to be purchased, which are a food item of sorts, so we have limited it that way.

I do not think the gentleman would agree alcoholic beverages are nutritious. Therefore, I would say to the gentleman that that is the kind of limitation we are saying here—no junk food, nutritious foods only.

Mr. GLICKMAN. Life is a little bit of a smorgasbord. You always pick out what you look for.

I make the judgment alcoholic beverages should not be bought by anybody, whether on food stamps or not. We are talking about reasonable items here, what to eat or not.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Washington.

Mr. FOLEY. I think the gentleman from Pennsylvania would probably concede that salt is an acceptable food to buy on food stamps. He does not seem to eliminate it here or indicate that sugar perhaps would not be an acceptable food to buy.

Now, technically speaking, what one can do with food stamps if one wants to is one can go into the store, and take $50 worth of food stamps and buy all salt, or buy all sugar, or buy $50 worth of pepper.

Now, reasonable people are not going to do that, but it is technically possible under the act to do so.

Now, if we want to be watching and warding to be sure that every individual just does what the gentleman from Pennsylvania thinks is exactly the right thing to do with nutritious foods, then we ought to limit the amount of money they can spend for seasonings. We ought to tell them how much they can spend of their portion for vegetables and how much they can spend for meat and so forth.

The fact of the matter is, when we had the commodity program in the days before 1964, we found there was one great problem with the program. People were being given free packages, absolutely free packages, that consisted of 5 pounds of flour and 5 pounds of lard, 5 pounds of peanut butter and canned meat, and so forth, and edible beans. We found out that many people who did not have much nutritional skills were dumping the flour and dumping the lard and dumping the beans, and opening up the meat and the tuna fish and the peanut butter and eating them. There was tremendous waste.

So the decision was made to allow people to help themselves get a nutritious diet by buying in the food stores what they wanted to eat and consume.

The CHAIRMAN. The time of the gentleman from Kansas (Mr. GLICKMAN) has expired.

(At the request of Mr. FOLEY and by unanimous consent, Mr. GLICKMAN was allowed to proceed for 5 additional minutes.)

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Washington.

Mr. FOLEY. So we went to the food stamp program in part to let people make a reasonable choice. Now I am not suggesting that the gentleman from Pennsylvania or somebody else could, or that everybody makes perfect choices, or that somebody does not buy perhaps some kind of food that is not as nutritious as some others; but under the present program, for the vast majority of the citizens who participate, food stamps only form a portion of the amount they spend for food.

If we are going to set up 600 different items that are proscribed from being purchased with food stamps in the stores, we are going to back up the checkout lines while the checkers go over each one of these things. It would be easy to get around. One would buy from the list of approved foods with the food stamps, and then turn around and pay cash on the rest of their diet and buy these proscribed foods.

☐ 1730

It would be a classic example of bureaucracy to no purpose.

If the gentleman will yield 1 more minute, will we know whether candy is an acceptable food or not? Let us suppose that the National Science Foundation decides candy is not necessary. Is Baker's Unsweetened Chocolate in the baking size a candy or a bakery ingredient? Are we going to put the Department of Agriculture through 6,000 or 10,000 different food items, are we going to have lists in the supermarkets that never end in order to satisfy somebody's notion that this does some good, when all the food stamp recipient has to do is pay for one kind of classification of food with the food stamps and pay, as they have to now, with cash for the other? Again, this is bureacracy, and I would think my friend from the other side would want to stop that, for heaven's sakes. It is bureaucracy run wild. If we are going to have these lists of proscribed foods, we might as well get into deciding how many fruits and vegetables against meat and prepare a package that we force people to eat because we have decided it is nutritional food.

Mr. GLICKMAN. I might say one thing. I know the gentleman from Florida (Mr. KELLY) has a lot of people in his district who may be or may become eligible for food stamps, and I would say a lot of those people deserve enough dignity in life to be able to go to the grocery store and basically decide what is in their best interests. I know they do not want Uncle Sam telling them that, and I do not think the gentleman does either.

Mr. KELLY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. Yes; I yield to the gentleman from Florida.

Mr. KELLY. I think when we see people throwing flour away and eating peanut butter, that is not evidence that the program did not give them the right food, it is evidence that the program gave food to the wrong people. If people are hungry they are willing to get what the American taxpayers are wiling to pay for. The whole world out there is not made up of welfare recipients. This is going to really jolt some of the Members, but a lot of people out there in the country are taxpayers and they are all bent out of shape about buying ice and cocktail mixes and cold drinks for people who are supposed to be poor, when a lot of people that are paying the bill cannot afford to pay the taxes that this Government imposes on them because of a bunch of dumb programs by giving food to people that do not really want the food and will throw part of it away. If people are hungry, if they are hungry, the history of humanity across the world indicates that they will eat what is edible, and that includes grasshoppers, grass, bark, and I would certainly suggest flour.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. Yes; I yield to the gentleman from Washington.

Mr. FOLEY. I think the gentleman from Florida has answered his own argument. The vast majority of people who are on the food stamp program are low-income people and they are not going to go to the supermarket and buy ice and cocktail mixes. They are going to buy food that is nutritious and useful.

There may be 1 in 100 that will abuse this and buy somthing that is not appropriate. But if we are going to change the whole program for that one, and distort it all around, and back up the lines, and increase the bureaucracy, and add to the regulations, in the final analysis, even on nutritious foods one can buy too much of one kind and not another. Every nutrition study I have ever heard of says that balance is the important thing in nutrition. We cannot be responsible to run the lives of every person, even food stamp recipients, and this amendment does nothing except complicate the lives of everybody, food stamp recipients and taxpayers alike.

Mr. KELLY. Mr. Chairman, I move to strike the last word and I would speak in favor of the amendment.

I know the Members are eager to hear what I have to say and I am going to disappoint them. My remarks will be brief.

I think it is important we do consider this fact, the taxpayers out there are complaining mightily about the food stamp program. I doubt whether there is a Member in this House that has not had his constituents or her constituents, as the case may be, point out horror stories that these constituents have seen of people buying trash food with food stamps, trash foods that the taxpayers themselves cannot afford. If Carol Foreman can develop the thrust to come up with a decision as to what constitutes trash foods in the school program, then certainly we can for the people that are receiving welfare in the form of food stamps because quite clearly the American people do not want to see anyone go hungry. But the American people do not want to encourage people to receive food stamps and to receive welfare when they really should not be entitled to the program. I think if people feel they have to buy the kind of things the gentleman's amendment wants to exclude, then they really are not that needy.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding because the gentleman is absolutely right with regard to what the Assistant Secretary of Agriculture has developed. She has developed here in about 100 pages a total nutritional program to apply in the schools. If what we are hearing with regard to the food stamp program is true, I assume the same arguments are going to come back when we consider the school lunch program. They are going to say kids should not be given a nutritional food either, just like the people in the food store should not buy nutritional food with Government money.

I think the American taxpayers want nutritional foods bought with their tax dollars.

Mr. KELLY. I would like to inquire of the gentleman, do not children who pay for lunches participate in these school lunch programs?

Mr. WALKER. I think that is absolutely right.

Mr. KELLY. So those that are paying for what they get are told by the Government what they can eat, but those that the Government gives to, those that are on welfare, we do not dare tell them because we do not want to impinge on their dignity, is that what the gentleman is saying?

Mr. WALKER. I think the gentleman makes a very, very good point.

Mr. KELLY. I just do not believe that. I thank the gentleman for his contribution.

Mr. SYMMS. Mr. Chairman, would the gentleman yield?

Mr. KELLY. I yield to the gentleman from Idaho.

Mr. SYMMS. I think the one point I wanted to make when the distinguished gentleman from Kansas was on the floor was that there is a big difference between the so-called freedom of choice issue insofar as the junk food machines in the schools and when it is an expenditure for such foods from their own funds. Whether they want to buy so-called junk foods or health foods, if they are spending their own money then, of course, they should be entitled to their freedom of choice. But when the taxpayers, as the gentleman from Florida makes the point so well, are paying for a program designed to help people have a more adequate and nutritious diet, which is the way the food stamp program used to be, but is less so now, then I think the people should be willing to accept what the Government gives them.

Mr. KELLY. I think the gentleman is suggesting we should be at least assured if we are going to pay the bill that the little children that are probably not buying the food are going to get nutritious foods.

Mr. SYMMS. I think that makes sense.

Mr. PEYSER. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I find it difficult to believe that my good friend from Pennsylvania, who is certainly among the brighter and more alert Members of this organization, is serious about this amendment because one of the things that I have been devoting a good deal of time to in this session of Congress is looking at the agencies and trying to find ways of cutting out regulations and cutting Federal programs that do nothing but interfere, do nothing but interfere with the carrying out of sensible laws and laws that we have passed in this Congress. We have seen this in ERISA, in pension reform legislation, the Department of Labor, and the IRS put forth regulations that have turned good legislation into a monstrosity. We have seen operations even in the food stamp program where corrections have had to be made by the Agriculture Department to eliminate regulations.

I just cannot imagine, forgetting a philosophical question I will speak to in a minute, but I just cannot imagine the gentleman seriously would want the Department of Agriculture to set forth a list of foods and commodities that are acceptable and then ask the public, the taxpaying public, whom great concern is being expressed for, who shop in the supermarkets—and I do personally shop in supermarkets, and I watch food prices, and I am there every week—to start talking about going through a checkout arrangement unless the gentleman is going to have a special food stamp recipient checkout line.

□ 1740

Thus, we can sort of segregate these people and put them in sort of a special category. Maybe we could make them wear a special color or an armband or something so that everybody going through would know they are food stamp recipients, because it would take forever in a checkout line to have a person start doing this in the checkout to substantiate and find out whether they were eligible or not. I can just see the arguments and the misunderstandings. I cannot believe that is what the gentleman means to do.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I would say to my good friend from New York that the way the program is being now administered, and the way the Congress is passing additional bills to the administrators of this same program, it is just a matter of time until a fourth of the people of the United States will be on food stamps, and it will be easy for the grocery stores then to do it. We are well on the way. We will all get on it.

Mr. PEYSER. The gentleman is expressing a philosophical point of view that really has nothing to do with what we are talking about, because the gentleman, of all people, I cannot believe would like to see additional regulations and controls of this nature, because he has stood in direct opposition to all that during his career.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding, because really one of the reasons why I come at this is evidently an opposite reason. I see it simplifying the program from this standpoint. I spent some time in supermarkets working behind the checkers, bagging groceries, to take a look at the program.

One frustration the checkers have is that they find that they do not know what is eligible and what is not eligible. They end up having to argue with people as to whether this item or that item is eligible.

Mr. PEYSER. That is just a partial reason.

Mr. WALKER. All we have to do is put a special mark on the eligible foods, and that is what it would come through.

Mr. PEYSER. Is the gentleman suggesting now that the supermarkets and food purveyors would have to mark that food so that it would be a food stamp item?

Mr. WALKER. If the gentleman would yield further, I have already checked that out, and it is a fairly minimal kind of thing. It is a printing thing.

Mr. PEYSER. I would like to say to the gentleman that this is bordering on the ridiculous, but the other philosophical thing I would like to get at is, food stamp people are poor people who need help. Basically, assuming the law is sound, I think it is well to try to help our fellow citizens. These are weaker citizens; they are not second-class citizens. They are weaker citizens, and to treat them in this way and say, "You are so down in the line that you are not smart enough to avoid having to take food stamps, and, therefore, we are going to tell you what to eat. If you get smarter and get off food stamps, you can eat what you will."

I do not think that is the kind of society we want to live in and the kind of society any of us would want.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred three Members are present, a quorum.

The pending business is the demand of the gentleman from Pennsylvania (Mr. WALKER) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 2, line 6, strike out "$6,778,900,000" and insert in lieu thereof "$6,438,900,000".

Mr. ASHBROOK. Mr. Chairman, I am amazed that this bill has come before us at all. To have this Congress reward the gross incompetence of the USDA in its administration of the food stamp program with such a major fiscal liferaft is an embarassment. How can my colleagues go to their constituents and tell them that their taxes must rise and that inflation must increase just so a faulty program can go on its merry way running into deeper debt. I am shocked that such a bill as this comes to the floor without inclusion of substantive reforms.

My amendment limits the increase in the cap to $280 million. I feel this amount of money allows the food stamp program to meet its most pressing commitments without giving it more money to squander.

I know a number of members of the committee argued that unless the full amount requested was provided that the poor, the handicapped, and the elderly would suffer. I ask them, how can a program that wastes a half billion dollars a year because of "overissued foodstamp benefits caused by errors, misrepresentations, and suspected fraud by recipients, and by errors by local food stamp offices" claim that it is really helping the truly needy? Since when is blatant waste considered welfare?

The Congressional Budget Office reports that the errors of the foodstamp program may cost upwards to $700 million a year. This is more than the committee requested increase. I wonder how a program needs 17 times its original funding level just to keep itself afloat for the rest of the year. This is not a monument to serving the poor, it is a massive budgetary "black hole" that is sucking up any funds that come near and letting very little out. If the funds in my amendment are not adequate to meet commitments and to start the foodstamp program on the road back to good management, then I say it is time to scrap the whole program and find an alternate solution to the nutrition problem among the poor.

I would also like to call my colleagues' attention to a poster that has been used in New York subways. It says "My roommate and I use food stamps and they really help." It goes on to state that "people not related to each other can be a household." It seems that those tax supported groups that produced this item feel that foodstamps are a dandy way to make ends meet. Especially people paying tuition, and those who can afford to read expensive fashion magazines. If these are the people that a cut in the increase of the foodstamp cap is going to hurt then I do not think many of my colleagues will have any difficulty in supporting my amendment. I further submit that I think the girl in the ad should tell her roommate that he should go out and get himself a job.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to the gentleman from New York.

Mr. RICHMOND. I thank the gentleman from Ohio. The gentleman understands, of course, that there is no way that this program could be reduced on a pro rata basis during the remaining 2 months of this fiscal year. Therefore, if his amendment were adopted, 88 percent of all the elderly people on the program would be summarily cut out, and 73 percent of the entire case load would be cut out. So, what the gentleman would be doing basically is reducing the entire food stamp program by 73 percent.

I think the gentleman understands that what we are trying now to do is just to keep the program alive until the end of this fiscal year. We have promised full hearings, promised to tighten up the bill to make it more efficient, to make it more sensitive to people who need food stamps, to cut out abuse, but the gentleman understands that his amendment would cause us to cut out of the entire program 88 percent of all elderly people.

Mr. ASHBROOK. Would my colleague explain how, on a $6.8 billion program, a $300 million cut would cut out 88 percent of the elderly people?

Mr. RICHMOND. Because in order to administer the program during the last 2 months, they would have to summarily go into the program and cut out those with the highest incomes. Usually it is the elderly and working people who frequently have higher incomes than some of our lower and newer participants. It would appear, and I quote from the report, that they would have to cut out 88 percent of the elderly people.

Mr. ASHBROOK. I cannot believe they would administer it that way.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Idaho.

Mr. SYMMS. We saved the gentleman from New York from this dilemma 10 minutes ago when we adopted the Symms amendment. They do not have to do it that way now.

Mr. RICHMOND. If the Symms amendment could be adopted during fiscal year 1979——

Mr. SYMMS. We gave them the flexibility.

Mr. RICHMOND. The gentleman from Idaho understands that we cannot do anything about the Symms amendment for the year 1979, I am sure; and I am sure the gentleman from Ohio understands that he does not want to save money by cutting out 88 percent of the elderly people now from food stamps.

Mr. ASHBROOK. I do not believe we can say categorically that has to be done, to cut food stamps. There are any number of steps that can be taken even with this poor administration of the program in these waning months of the year, and they come in here and say they need another $609 million roughly, and that if we have a cut of $300 million they are just going to slice off the older people. It does not make sense. If the program is administered that way, maybe we should put them in a position of showing by their cut that they have to administer it a different way. I just cannot believe that my colleague from New York would support that contention, that 80 percent of the older people in the remaining 2 months would go off out of the $500 million program. We might ask, what kind of program this is if that is the case.

☐ 1750

I certainly ask for the support of this amendment. I think it should be adopted, and I think the Members can easily see that fiscal management chicanery is not going to let anyone in this Chamber believe that old people are going to be turned out in the streets.

I yield back the remainder of my time.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, despite what the gentleman from Ohio (Mr. ASHBROOK) wishes were the case, I am afraid I must disagree with him. I do not take any great pleasure, nor does the gentleman from New York or any member of this committee on either side of the asile, in stating that it is necessary to come in and ask for this additional authorization. Believe me, it is not a pleasant duty in these last 2 months of the fiscal year.

We had estimates that turned out to be incorrect on the number of people who were going to be on the program because of the changes in the law, and we had a food inflation that none of us foresaw 2 years ago. The fact of the matter is that the Department of Agriculture had prepared on the 15th day of July, unless legislation was ready to issue, instructions to all of the States to reduce all food stamp recipients by 29 percent—about 30 percent. If it were not done by August 18, we would simply have to stop all food stamp benefits for everybody—the elderly, for everybody—for the month of September.

The estimated cost in this bill that we could get, as best we could get, is about $620 million. The gentleman just cuts that more than in half, and if we cut that in half, there is no way, believe me, no practical way that we can examine 6 million households in the United States with an army of inspectors in the next 30 days to insure that we are going to separate out, as some Members would do, the elderly and the disabled from the rest of the food stamp community. The only practical administrative way it can be done is to cut pro rata in the last 60 days, and it is not only foolhardly, but deceiving of our constituents, not intentionally but actually deceiving of them, if we suggest to them that this can be done. It is beyond the capacity of this administration—it is beyond the capacity of any administration—to examine the entire 19 million recipients of this country and 6 million households within 30 or 45 days and make decisions that are adequate.

Mr. KELLEY. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. Yes; I yield to the gentleman from Florida.

Mr. KELLY. I thank the gentleman for yielding.

Mr. FOLEY. May I just say before I yield that I thought we understood that in our colloquy with the gentleman from Idaho. I thought it was on the record that we could not make these kinds of distinctions for the remainder of this fiscal year. Now the gentleman from Idaho stands up and suggests we can do it if we want to. He just accepted it in the dialog that he thought it was not feasible to do so, and we accepted that. Now we have an amendment that is based on cutting the bill in half in an amendment to this bill.

Mr. KELLY. Will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. KELLY. I thank the gentleman for yielding. I am not sure that this is a bad time for this Congress to make some gesture to the taxpayers of the United States. We, during a time of almost unparalleled prosperity in the history of this country, have added between 3 million and 4 million people to the welfare rolls and the food stamp program. In addition to that, we have added almost $2 billion of additional welfare. What are we going to do when we get into recession?

Mr. FOLEY. If the gentleman will allow me to regain my time, I have a great deal of difficulty understanding what the gentleman wants to do on occasion. Just a moment ago he insisted that we were not being adequately fair to the elderly when we passed the exceptional deductions for shelter and medical care that the committee reported and his amendment was accepted by the Committee which took it further. Now he wants to put the elderly all at risk that they are going to have part or all of their September benefits eliminated on a kind of theory that this is a good gesture to the taxpayers. Let me just say if this program is at fault, the people who should be made to pay for it are not the elderly and the disabled and the other people who are beneficiaries of this program. If we have made errors, all of us in designing this program or in making judgments about it, those were not intentional errors. But to visit that kind of punishment on innocent people out there, elderly people, disabled people, people who are poor, and deny them totally without preparation, we cannot do.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 5 additional minutes.)

Mr. FOLEY. We do not tell the States this is going to happen. We do not let the private charitable agencies know. We suddenly thrust hundreds of thousands, millions of people, for 1 month onto the charitable and State agencies and welfare departments without any preparation. That is not justice to the taxpayer; that is vicious. These people are not responsible. If this program has not been administered correctly, the responsibility lies here and lies in the administration of the States and lies in the administration of the local governments and the Department of Agriculture. I, for one, think it is very cruel in fact, although I know this is not the intention of the gentleman from Ohio, to make a decision that will force people to bear the brunt of this when they are not prepared.

Mr. ASHBROOK. Will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding. My colleague a little earlier said I think, if I remember right, he had a degree of embarrassment in coming in here late with a 1979 authorization increase. All right, why were we not in earlier? And let us look forward to fiscal year 1980. Are we going to do the same thing—come in here in July of next year? Most of us have been around that track before. If there is embarrassment, let us spread the embarrassment around. What about the Committee on Agriculture being embarrassed coming in this late?

Mr. FOLEY. This matter was given priority in the Committee on Agriculture. But the fact of the matter is that estimates of what we are spending on this program, because of the nature of statistics-gathering, were several months late. The States submit reports to the Federal Government that deal with what has happened in the program 60 or 90 days earlier. It is not possible to know yesterday how much food stamps were spent in New York City. Those reports come in later. We changed the rules in 1977. We tightened up on eligibility. We limited certain beneficiaries, and, in fact, as soon as we did that, we heard howls of complaints. Nobody likes to have these programs cutback. And we actually did it. But we did it in 1977 and it took effect this year. When it took effect, we did not know exactly what to expect until actually we were well into April and May when we had the full estimates of what was going to happen and how much money was going to be needed. But if we had come to the floor and asked for $600 million in April when we did not have any specific information that that would be necessary, the gentleman from Ohio, I am sure, would have been on his feet making an objection that there was no statistical basis for asking for that amount of money. The fact of the matter is when we got the information, we acted as quickly as possible.

Mr. ASHBROOK. If my colleague would continue to yield, there were two points he made. The other point I would like to make is he said that we are talking about pro rata cuts, but from what I have heard from my colleague from New York, they are not going to be pro rata cuts. We have everybody in this Chamber led to believe that they are going to fall all on old people and the infirm—80 percent of the recipients. That does not make sense.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. RICHMOND. I thank the gentleman for yielding.

Statistically the people with higher incomes are the elderly and the working poor, if we had to cut the program.

Mr. ASHBROOK. It is not for old people the gentleman is talking about, then.

Mr. RICHMOND. The elderly poor have relatively higher incomes than other people who are on the food stamp program. If we cut the food stamp program, the first people who would feel the cut would be the elderly. Our statistics in the Department of Agriculture show if we are going to cut back the program, if we were to accept the amendment, we would cut out 88 percent of the elderly people in the month of September. That is a fact.

Mr. FOLEY. If I can just make an additional comment, the gentleman from New York did not say the elderly and the disabled and the working poor were the only people who were going to be cut. The point is everybody is going to have to be cut pro rata. There is not a feasible way to go into these 6 million households and make discriminating choices between people at this stage of the game. Next year we may have a similar problem. We are going to push legislation through the committee, and we are going to bring it to the floor—I am sure the gentleman from New York shares that view—which will make changes in this program, and I hope personally, with some extraordinary provisions to tighten up on fraud. Whether they will be accepted or not is something I will wait and see. But let me just suggest to the Members that as soon as we cutoff some of the eligible who were elderly, there was an immediate outcry. As soon as they were reduced, there was an immediate outcry.

□ 1800

Mr. FOLEY. I will just conclude with this: At this point, I know the gentleman from Ohio and I respect him. But at this point if his amendment is adopted I know of no way that we can avoid pro rata reduction of all food stamp beneficiaries to some degree in the month of September. That means the disabled and the elderly as well as all other recipients, and I do not think this House wants to do that and I hope they will reject the amendment.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. The only other point I would make, and I know that we continually say that we are surprised how the food stamp program grows. I a few weeks ago put in the RECORD a letter from one of my constituents from a small county, Coshocton County, Ohio, only 20,000 people. He had read in his local paper how we were surprised, we, the collective Congress, that the food stamp program had grown. He wrote back a letter and he said, "Why would it not grow?"

He said, "There was a year-long campaign on radio, TV, on billboards," he went on to say somewhat facetiously, "if someone leaned up against a wall in Coshocton, somebody comes up and says, 'Do you need food stamps?' "

When we have a year-long program to recruit people why would it not grow? Why are we surprised at the food stamp recipients?

I showed my colleague earlier the subway poster, "My roommate and I use food stamps and it really helps," it goes on to recruit them, it says you do not even have to be related to each other.

If we are going to go out and literally recruit anyone, a few of us think that maybe if they could have some regulations that would tell her to have her roommate go out and work then that would not be among the 80 percent.

Mr. FOLEY. I do not like that old 2-year-old New York subway sign any more than does the gentleman from Ohio, but it is not the current program in outreach. We had tried to correct that kind of abuse. The gentleman is putting up before the House something that has been off the New York subway cars for at least 2 years.

Mr. ASHBROOK. But if my colleague will yield, there has been a year-long campaign to recruit people, so why are we surprised?

The CHAIRMAN. The time of the gentleman has expired.

Mr. KELLY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I wanted to give some assistance to the chairman of the full committee. It seemed as though there was some difficulty about the point that you cannot provide for the elderly who are sick, and then cut down on the program.

We have a food stamp program in the United States that has grown from $30 million—that is 30 units—to $7 billion—that is 7,000 units—it has grown from 30 to 7,000, and we have recently cut down on the benefits that were given to the elderly until today when they were reinstated.

I think it is time this Congress came to grips with the proposition that you can provide for the sick and the elderly and those who are truly in need and not have a program that saps the vitality out of our economy and encourages people not to work and that is the kind of program the food stamp program is and it is the inability of Members of this Congress to make that very same distinction that has caused this program to explode completely out of control as to the expense of the taxpayer and sapped the vitality of the economy and not really do what it was intended to do.

I will tell you right now if it is a cause for shame that you want to have welfare provide for the elderly who are sick, I am as guilty as sin and I stand here accused because I really think that any kind of a program that we are going to have and spend the taxpayers' money for should provide for the elderly.

This program is crazy. It is a disgrace. It is fraudulent. It is mismanaged. It is too expensive. It is completely out of control and everybody in America knows it.

There is a distinction between the two positions and I commend the gentleman for his amendment because we have to understand we are dealing with a piece of legislation here today for $620 million in addition to what we have already added for 1979, but around the corner and under the table there is another $338 million from 1978 that is going to be carried over.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I think one more point has to be made. We say we cannot do this. What do you mean we cannot do this? You know, this is the same country that just about 10 years ago put a man on the Moon because we had a President who said 4 or 5 years earlier we were going to put a man on the Moon.

Now, Carol Foreman instituted the 1977 Food Stamp Act in an unnormal way, to say the least, when she implemented it in a staggered fashion, so she put more people on the rolls, did nothing to tighten it up. Now they are down there at the end of the fiscal year with short funds, so they come and ask the good chairman of the committee and the gentleman from New York: We got to have money to run the program.

If we had sent her a message saying, "We are not going to say you cannot do it; we give you the flexibility, now, by golly, let us do this in the American way and provide some incentive and take some of these people who are not so well off and let them have the stamps and say to the rest of them to go out and earn a little money for a change, it would work out great."

Mr. KELLY. Did not the gentleman's amendment provide that the Secretary could give the money to the elderly and the sick and the people who needed it and not give it to the nonworking poor?

Mr. SYMMS. There is a dispute on—whether or not—it said that, yes. There is a dispute——

Mr. KELLY. But is that what the gentleman intended?

Mr. SYMMS. That is what I intended.

Mr. KELLY. That is why I voted for it, so maybe we got the thing right. Could that be?

Mr. SYMMS. My point is this. This has been predictable since the 1977 so-called Reform Act passed the Congress. Now the chickens are coming home to roost and they want more money.

I think if the moderate amendment of the gentleman from Ohio would be passed and accepted by this committee that this country will survive, people will not starve to death. Some way down there with all the ability of those people down there at the Department, they will figure out a way to administer the program with a little less money and it will work out fine and next year we can start from a base a little bit lower. But at the rate we are going, Mr. Chairman, we are going to have one out of four Americans eligible for food stamps and now is as good a time as any to tell people that that is not the intention now nor ever was and should never be in the future in the land of the free and the home of the brave, to have a fourth of the people on food stamps. It is absolutely ridiculous.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding and I merely want to reemphasize the point my colleague from Idaho made. We are as in trouble, as the chairman has indicated and as our colleague from New York has indicated. The trouble largely comes from implementation of the program and the expansion of the program, the means by which it was implemented by Mrs. Foreman. Now, you know it is kind of like when you get in a brier bush and you get stucker and you get stucker and you get stucker. By her own implementation she is trying to get us stuck to where we are stucker and stucker. Now is the time to draw the line.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 17, noes 35.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Ninety-two Members are present, an insufficient number. A quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 318]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Devine
Dickinson
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Stenholm
Stewart
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1820

The CHAIRMAN. Three hundred and ninety-eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind the Members that the time limit for this vote is 5 minutes.

The vote was taken by electronic device, and there were—ayes 98, noes 314, not voting 22, as follows:

[Roll No. 319]

AYES—98

Abdnor
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Burgener
Campbell
Cheney
Clausen
Coleman
Collins, Tex.
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Devine
Dickinson
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Ind.
Frenzel
Goldwater
Gramm
Grassley
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Ichord
Jeffries
Johnson, Colo.
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Loeffler
Lott
Lujan
Lungren
McClory
McDonald
Marlenee
Marriott
Martin
Mattox
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Mottl
Myers, Ind.
Pashayan
Paul
Petri
Quayle
Quillen
Rhodes
Ritter
Robinson
Roth
Rudd
Runnels
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Solomon
Spence
Stangeland
Stump
Symms
Taylor
Thomas
Vander Jagt
Walker
Wilson, Bob
Winn
Wylie

NOES—314

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Cleveland
Clinger
Coelho
Conable
Conte
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan

Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Calif.
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier

Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Mathis
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Pritchard
Pursell
Rahall
Railsback

Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Slack
Smith, Iowa
Snowe
Snyder
Solarz
St Germain
Stack
Staggers
Stanton
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—22

Anderson, Ill.
Bolling
Collins, Ill.
Conyers
Edgar
Emery
Flood
Forsythe

Goodling
Hinson
Kemp
McCloskey
Price
Rousselot
Santini
Skelton

Spellman
Steed
Stockman
Treen
Vanik
Wirth

☐ 1830

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WEISS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to express my strong support for H.R. 4057, a bill to raise the ceiling on food stamp expenditures for fiscal 1979 from $6.16 to $6.78 billion.

This legislation will help ensure that Americans in need of food assistance are not penalized for the extraordinarily steep rise in food prices over the past several months.

The $6.16 billion lid was placed on the program through the 1977 Food Stamp Amendments. It is a telling commentary on the rate of inflation in our nation today that this projected cap has proven totally inadequate to cover the costs of the program. While there has been a small unanticipated increase in the number of participants, the more crucial cause for additional expenditures is food price inflation. Some $600 million in added funds is needed merely to keep the program operating at its current level, without any expansion in benefits or eligibility.

The legislation represents an essential attempt to hold the line on hunger for millions of Americans. Further improvements in the food stamp program are especially necessary now as the Nation heads into another recession, and this bill will begin to move us toward a more comprehensive food assistance effort.

Approval of H.R. 4057 will serve as a fitting companion piece to our passage June 22 of H.R. 4303. That bill, adopted under suspension of the rules, permits older people and participants in the supplemental security income program to deduct certain medical expenses and excess shelter costs in computing their eligibility for food stamps.

As a long-time advocate of expanded and improved nutrition services for lower income people, I am pleased and proud to support both these measures.

The CHAIRMAN. Are there further amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BRADEMAS) having assumed the chair, Mr. FOWLER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4057) to amend section 18 of the Food Stamp Act of 1977, pursuant to House Resolution 333, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. ASHBROOK moves to recommit the bill, H.R. 4057, to the Committee on Agriculture.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 335, nays 81, not voting 18, as follows:

[Roll No. 320]

YEAS—335

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger

Coelho
Conable
Conte
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Dellums
Derrick
Dickinson
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Calif.
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm

Grassley
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine

McCloskey
McCormack
McDade
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten

Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Runnels
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Slack
Smith, Nebr.
Snowe
Snyder
Solarz
St Germain
Stack
Staggers
Stangeland
Stanton
Stark

Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—81

Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bevill
Burgener
Cheney
Coleman
Collins, Tex.
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Devine
Edwards, Ala.
Edwards, Okla.
English
Erlenborn
Evans, Ind.
Gingrich
Goldwater

Guyer
Hagedorn
Hall, Tex.
Hansen
Holt
Ichord
Jeffries
Kelly
Kramer
Lagomarsino
Latta
Leath, Tex.
Lewis
Loeffler
Lott
Lungren
McClory
McDonald
Marlenee
Marriott
Michel
Miller, Ohio
Montgomery
Moorhead, Calif.
Myers, Ind.
Nichols
Pashayan

Paul
Petri
Quayle
Quillen
Ritter
Roberts
Robinson
Roth
Rudd
Satterfield
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Solomon
Spence
Stenholm
Stockman
Stump
Symms
Taylor
Thomas
Walker
Wilson, Bob
Winn

NOT VOTING—18

Anderson, Ill.
Bolling
Collins, Ill.
Conyers
Edgar
Emery

Flood
Forsythe
Goodling
Hinson
Kemp
McKay

Price
Rousselot
Skelton
Smith, Iowa
Spellman
Treen

☐ 1850

The Clerk announced the following pairs:

Mrs. Collins of Illinois with Mr. Anderson of Illinois.

Mr. Price with Mr. Emery.

Mr. Skelton with Mr. Rousselot.

Mrs. Spellman with Mr. Hinson.

Mr. Flood with Mr. Goodling.

Mr. McKay with Mr. Forsythe.

Mr. Smith of Iowa with Mr. Kemp.

Mr. Edgar with Mr. Conyers.

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RICHMOND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1980

Mr. CHARLES WILSON of Texas. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4580) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Michigan (Mr. Pursell) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. Charles Wilson).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4580, with Mr. Gore in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Texas (Mr. Charles Wilson) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. Pursell) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. Charles Wilson).

Mr. CHARLES WILSON of Texas. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, this is the first year that I have had the privilege of presenting this bill. It is an honor for me to serve as chairman of the District of Columbia Subcommittee and present to the House of Representatives the District of Columbia appropriation bill for fiscal year 1980.

Before I start I would like to thank the other members of the subcommittee for their hard work and the contributions they have made to this bill—Mr. Natcher has been very helpful and his many years as subcommittee chairman have been invaluable to the subcommittee in its careful consideration of the District's 1980 budget, Mr. Stokes, Mr. McKay, Mr. Chappell, Mr. Pursell, who is the ranking minority member, and Mr. Rudd.

BALANCED BUDGET RECOMMENDED

We submit to the House of Representatives a balanced budget for the District of Columbia and we have a cash carryover of $400,000. In marking up this bill, we took into consideration a cash surplus of $40 million carried over from the previous fiscal year.

Mr. Chairman, I will not attempt to discuss all of the recommendations made by the committee for the various departments and agencies funded in this bill. Our general policy has been to provide the resources necessary to maintain services at the current level and to fund selected program increases.

FEDERAL PAYMENT

We recommend a Federal payment of $191.5 million for fiscal year 1980. This is $125.5 million below the request and $43.5 million less than the 1979 appropriation.

FEDERAL FUNDS

The District of Columbia will have a total of $1.9 billion available for fiscal year 1980 of which 39 percent will be financed from Federal sources. In addition to the Federal payment of $191.5 million, the District will receive $275.9 million in Federal grants as well as $105 million in Federal reimbursements such as medicare and medicaid. We recommend a payment of $10.3 million for water and sewer services provided to Federal facilities, and the sum of $125.7 million in Federal loans is included in the bill to finance the city's construction program. The city participates in the Federal revenue sharing program and expects to receive $30 million from this source in the next fiscal year. This makes a total of $738.4 million in Federal funds that will be available to the District government in fiscal year 1980. And this does not include the unreimbursed services the Federal Government provides in the District. According to the District's report titled "The Federal Payment, Fiscal Year 1980" the net total of $78.6 million in unreimbursed services is provided by the Federal Government.

PER CAPITA EMPLOYMENT

Mr. Chairman, we asked the Congressional Research Service to provide the committee with a comparison of full-time equivalent employment of State and local governments. This comparison, which appears on page 18 of our report, shows that the District government has the highest per capita employment in the country with 708.4 employees per 10,000 population, which is 46 percent higher than the national average of 485.3. In other words, it takes 146 employees in the District to do the job that 100 employees do in other political subdivisions. We are well aware that the District performs all functions that in other localities are shared by State, county, and city governments; however, the figures for each State include all non-Federal, State, county, and city employees and the figures were supplied by the localities themselves.

Mr. Chairman, there are too many employees on the District payroll, and our subcommittee is urging District officials to initiate a program which will result in reducing the number of employees per capita to a level comparable to that of other political subdivisions. A study by the General Accounting Office points out that the District has no work measurement techniques or standards of productivity to determine its work force requirements. And in an organization with 47,000 employees including 8,000 Federal grant positions, it seems that these basic management tools would be helpful to the city in determining how many employees it needs.

Mr. Chairman, the city requested 909 new positions for 1980, and while we recommend approval of 309 positions, this will not add any employees to the District's payroll because the employment ceiling, which limits the number of employees actually on the payroll, has not been increased. Before any of the 309 new positions can be filled, there has to be a vacancy in an existing position. Mr. Chairman, we have given the Mayor and Council Chairman the flexibility to review the city's personnel allocations and look at their priorities. With a population of 674,000, we do not believe 47,000 positions can be justified.

PROLIFERATION OF INDEPENDENT AGENCIES AND OFFICES

Mr. Chairman, the people in the District of Columbia are the most overprotected people around. I have never seen as many independent offices and commissions. The District has a Minority Business Opportunity Commission, an Office of Consumer Protection, an Office of Human Rights, an Office on Aging, an Office on Latino Affairs, a Commission on the Status of Women, and a Rental Accommodations Office.

We do not recommend approval of the 18 new positions requested for 1 new and 2 existing commissions. We hope the District will take a close look at all of these activities and move toward reducing the staffing levels and consolidating many of these separate organizations.

ONE-PERCENT BASE REDUCTION

To encourage District officials to take a closer look at existing programs, we have taken a 1-percent base reduction in most agencies except the public safety agencies and those activities where the District shares the cost with other jurisdictions, such as Metro.

We recommend $500,000 as the Federal share for the Temporary Commission on Financial Oversight for work on the city's financial management system. In addition, $3.2 million in District funds will be available for work on the city's financial management system.

GOVERNMENTAL DIRECTION AND SUPPORT

Mr. Chairman, we recommend a total of $67.4 million for the various agencies, activities, and departments funded under the appropriation heading "Governmental Direction and Support." We recommend the three new positions requested by the Mayor for his office. We also recommend 1 additional position at the professional level for the 13 Council members. This will give each Council member three staff and the Chairman six.

We also recommend a contingency reserve of $7 million for emergency and unforeseen requirements. Use of this reserve is subject to prior approval of the House and Senate Committees on Appropriations.

PUBLIC EDUCATION SYSTEM

A total of $310.6 million is recommended for the operation of the public education system in 1980. This allowance is $1.9 million over the 1979 appropriation.

We recommend $231 million for the public school system. Enrollment in the public schools continues to decline and for the coming school year the enrollment is projected to be 107,700, a decrease of 6,158 below the 1978–79 enrollment.

For the 1968–69 school year, school enrollment was 146,283 and the school system had a total of 204 buildings in operation. For the 1979–80 school year, enrollment is projected at 107,700, a reduction of 26 percent or 38,583 students, yet the school system plans to operate 196 buildings or 8 less than in the 1968–69 school year for 26 percent fewer students. Last year the Superintendent of Public Schools recommended that 20 schools be closed because of declining enrollment and excess classroom space. Nine schools were closed by the Board. The remaining 11 are still under consideration. These are schools that are operating at 20 and 30 percent of their capacity. We urge school officials to review the need for buildings under their jurisdiction and to consolidate schools and return buildings that are excess to their needs to the city government for appropriate disposition.

Based on our recommendations, the per pupil expenditure in the coming school year will be $2,484, one of the highest in the country.

The pupil-teacher ratio will be 26 to 1.

PUBLIC SAFETY AND JUSTICE

For Public Safety and Justice, we recommend a total of $293.2 million, an increase of $12.8 million above 1979 appropriations.

We recommend $153.1 million for the Metropolitan Police Department in fiscal year 1980. This reflects the full budget request with the exception of a reduction of $3.5 million in police pension and relief payments. Our recommendation will support an average uniform strength of 4,120, an increase of 122 positions above the 1979 level.

The District does not deserve the reputation it has as a crime-ridden city. Crime here in Washington, D.C. is not half as bad as it is in many cities. According to the Federal Uniform Crime Report, which compares crime statistics of the 26 largest cities in the Nation, the District of Columbia ranks 18th, behind 17 other cities with higher crime rates, and is well below average in per capita crime offenses. Denver is ranked first with the most offenses per capita. Yet the perception of many has the cities of Washington and Denver reversed, which is simply not true. I just wanted to make that point and hope that eventually a lot more people will realize this.

For the Fire Department, we recommend $53. 6 million for 1980. This allowance is $2.8 million above the 1979 appropriation and includes funds to purchase two ambulance vehicles as well as computer equipment to assist the Department in handling incoming calls.

RECREATION

For the Department of Recreation, we recommend $19.6 million. We recommend funds for staffing and maintenance of the new Wilson Pool as well as the new Lincoln Center for the Mentally Retarded and Physically Handicapped.

HUMAN RESOURCES

Mr. Chairman, a total of $264.7 million is recommended for the various activities and programs operated by the Department of Human Resources. We do not recommend the requested increase of $5,729,900 for public assistance payments. The District has far too many ineligibles on the welfare rolls. GAO found that 12 percent of all welfare recipients in the District were ineligble for public assistance compared to 5.4 percent nationwide; and 26 percent of all District cases were overpaid under various public assistance programs, compared to 12.5 percent nationwide.

Mr. Chairman, we are not denying assistance to those individuals who are eligible and in need of help. What we are doing is telling the city to make the much needed improvements which will result in funds becoming available to help those who are eligible. Almost 96,000 people in the District are on welfare. The bill as recommended includes increases for day care programs, special education services, improvements in services to alcoholics, and programs for the mentally retarded. We recommended $75,000 for counseling, temporary housing and supportive services to assist women who are victims of violence. Staffing and funds are also recommended for the Spay and Neuter Clinic. A total of $352,400 and 18 positions are recommended to regulate and monitor all adult placement facilities that meet the licensing requirements for skilled nursing, intermediate care, and community residential facilities. This includes $203,000 and 10 positions to establish a central referral bureau for these facilities. We recommend the increase of $2.5 million to supplement the incomes of all District residents who participate in the Federal Supplemental Security Income Program, as well as increases to meet the new food stamp regulations. In addition, $90,000 has been added to provide sports and recreation programs for mentally retarded children and adults of the District of Columbia.

TRANSPORTATION AND METRO

For Transportation Services and Assistance, we recommend a total of $91.3 million, an increase of $11.7 million. Funds are included to staff and maintain the relocated motor vehicle operators' permit road test lot. We recommend the full amount of $4.6 million requested for street repairs.

It was brought to our attention that visitors to Capitol Hill and the mall area sometimes find their cars missing when they return from visiting their Member or one of the museums on the mall. This has caused these visitors as well as the Members themselves a lot of grief. We have been advised that the District's Transportation Department is taking steps to alleviate these problems by placing tow warnings and telephone numbers on parking signs. They are also distributing information pamphlets and changng the rush hour restriction.

We recommend $54.6 million for the District's share of operating subsidies for Metrorail and Metrobus operations in the coming fiscal year. This allowance is $13.6 million above the 1979 appropriation and includes $2.8 million for phase IV and Sunday service which are planned for 1980.

ENVIRONMENTAL SERVICES

A total of $77.2 million is recommended for the Department of Environmental Services and the Washington Aqueduct. Increases are recommended for staffing and maintenance of the Blue Plains Advanced Wastewater Treatment Plant. We are also recommending $60,000 to fund a study of the feasibility of providing steam from the burning of solid waste and selling the steam to PEPCO.

LOANS AND INTEREST

A total of $120.5 million is recommended for the repayment of principal and interest on money borrowed from the Federal Treasury to finance the District's construction program.

CAPITAL IMPROVEMENTS

We recommend a total of $132.8 million for the District's 43 capital improvements projects in the coming fiscal year. This allowance is $55.6 million above the 1979 appropriation level and $9.2 million less than the amount requested.

A total of $89.2 million is recommended for public building construction in 1980. For public schools, we recommend the sum of $22.1 million. For the Department of Housing and Community Development, we recommend $4 million for improvements to two public housing projects; Lincoln Heights and Richardson Dwellings. For the public libraries, we recommend $863,500 to make branch libraries accessible to the physically handicapped and to renovate a branch library constructed in 1939. For the Department of Human Resources, we recommend the request of $3 million which includes funds for community residential facilities and group homes for 200 mentally retarded residents of Forest Haven. For D.C. General Hospital, we recommend the total request of $1.3 million for three renovation projects.

The committee recommends the appropriation of $45 million for the Washington Civic Center in the Mt. Vernon Square area between 9th and 11th Streets, NW., and between H Street and New York Avenue. The Center is expected to generate 4,000 new permanent jobs, in addition to the construction jobs, and is considered a key factor in the downtown revitalization of the District.

For the Department of Transportation we recommend $5.5 million for five continuing projects, including $4.6 million for the street resurfacing program. For the Washington Metropolitan Area Transit Authority, we recommend the sum of $3.3 million. For the Department of Environmental Services, we recommend $10.6 million for 11 projects relating to various water, sewer, and solid waste programs. For the Washington Aqueduct, we recommend $24.2 million for three projects.

CONCLUSION

These are the highlights of the bill. The committee report explains our actions in much more detail, and is available to all Members of the House.

Mr. Chairman, this completes my presentation. This is a good bill and I respectfully ask that it be approved.

☐ 1900

Mr. PURSELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I agree with the statements just made by the gentleman from Texas and concur with them wholeheartedly.

I would like to address my remarks to several focal points in the bill.

The reduction in the Federal payment over the fiscal year 1979 level has been accomplished by utilizing part of an estimated cash surplus in the fiscal 1980 financial plan submitted by the District government. Seven million of that surplus will be allocated as a contingency reserve for any unforeseen emergencies which may arise during the course of the year. It is sound economic policy for any city the size of the District to maintain a reserve for any such financial pinch. Of course, its use is subject to prior approval by the House and Senate Subcommittees on District of Columbia Appropriations. This contingency fund allows for financial flexibility.

Overall, the District will be receiving a 4.5-percent increase over the 1979 budget compared with an 11.2-percent increase request. I do not think any Member of this body can effectively argue that the cuts made in the budget request cannot be absorbed by the District government. It must be stressed that a cut in the budget request and the Federal payment does not mean that cuts have been made in existing programs. Again, in passing this bill we will be approving a 4.5-percent increase over the current year, which translates into many substantial additions to programs already in existence and the approval of new programs, such as the District of Columbia's housing initiatives which were met with full committee support.

Accordingly, through attrition and other economy-saving devices the city may accomplish their goals and cut waste and inefficiencies which do exist.

The District government employs 708.4 individuals for each 10,000 D.C. residents. The national average for State and local government employees is 485.3 per 10,000. Certainly, this is impetus enough to provide incentive to the District to reduce their employees to a more comparable level.

Concerns have been raised regarding the level of funding for the Office of Human Resources. Most programs were at least funded at the 1979 level, and many increases were approved, including moneys for paternity and child support enforcement, supplements for the social security supplemental security income program, and vocational rehabilitation special education services, to name a few. The committee has addressed and met the needs of D.C. citizens.

Full police and fire protection is recommended, save a $6 million reduction in pension funds to additionally incite the city to tighten its disability claim administration.

I hope my colleagues will take the time to study the report on this bill. It clearly outlines the intent behind a reasonable budget level for the District's programs, with responsible measures to assure a sound, economic and waste-free District government. The home-rule charter leaves ultimate financial responsibility with Congress, and until that responsibility is removed from this body, I believe it is our best interest to secure a balanced approach to any fiscal policy.

I think you will find that this bill meets the needs of the District and serves the best interests of economic restraint without any crippling cuts. I urge my colleagues to support this legislation.

Mr. Chairman, at this time I would like to congratulate the Chairman of the committee, Mr. Charles Wilson of Texas, Migo Miconi and Nancy Nirider of our staff, and the other members of the committee who spent a great deal of time looking very carefully at the D.C. budget.

I would like to say in conclusion that we have not ascertained a good documentation of the employee level in the District and I think the committee is on sound ground to get this result this year With the leadership of our chairman on the majority side and our subcommittee members on the both sides we will begin to get more insight into the District problems through additional hearings and studies. It is a unique area and we understand the complications of being the Capital of the United States, as well as an urban entity.

Mr. Chairman, at this point I yield 10 minutes to the gentleman from Arizona (Mr. Rudd) a member of the committee.

Mr. RUDD. Mr. Chairman, I would like at this time to compliment our distinguished chairman, the gentleman from Texas (Mr. Charles Wilson) other members of the subcommittee and members of the staff, for the work that has been done on this and the careful attention that has been given. I also would like to say that the prior chairman, the gentleman from Kentucky (Mr. Natcher) was an inspiration during the course of the hearings of this subcommittee, and should be complimented.

Mr. Chairman, I would also like to take this opportunity to correct some myths that have been propounded by some District government officials and lobbying groups that this appropriation and Federal payment constitute cuts to the detriment of the people of the District of Columbia.

Both the D.C. budget and the Federal payment to the District of Columbia have sharply increased over the past 10 years.

Operating expenses for the District of Columbia have increased at an average annual rate of 21 percent each year since 1969.

The District's operating budget was $435.4 million in 1969, and under this bill next year it will be $1.3 billion—more than a three-fold increase in just a decade.

The Federal payment, to compensate the District of Columbia for the untaxable Federal property owing to the Federal presence in the city of Washington, has also increased substantially over the past 10 years.

It has increased at an average annual rate of 11.4 percent every year since 1969.

The Federal payment to the District was $89.3 million in 1969, and in 1980 under this bill will be $191.55 million—more than double the Federal subsidy just 10 years ago.

Certainly we must all agree that this bill is more than generous in approving further increases in the District's budget.

This appropriation represents a $65.3 million increase over current fiscal year 1979 appropriations for the operating expenses of the District government.

It also represents a $55.6 million increase over fiscal year 1979 in capital outlays for construction.

All areas of the budget—human resources, public schools, the police and fire departments, the courts, public transportation, and public employee salaries—have been granted increases over fiscal year 1979, far surpassing the rate of inflation and providing for real growth in the budget.

Personally, I would like to have seen more fiscal discipline imposed through greater spending cuts.

But this is a new mayor and a new city government, and they deserve a year to put the administration of the District of Columbia on a more fiscally responsible footing before Congress is forced to take a greater lead in this area.

Mr. Chairman, a widely held misconception among District of Columbia officials is that this $191.5 million Federal payment does not adequately compensate the District for the foregone taxes as the result of exempted Federal and foreign government real estate and other property in the city.

There is a question in my own mind whether the Federal Government should feel obligated to make any payment to the District for this purpose, since the city is compensated in other ways by the presence of the Federal Government here.

The District has estimated in an official report to Congress that it lost $491.5 million in fiscal year 1978, because of Federal and foreign government property in the District that it could not tax, because of income of Virginia and Maryland residents who commute to work in Washington which it could not tax, and because of military income in the District of Columbia which it could not tax.

The report estimated that the District lost $182.2 million in tax revenue, because of federally owned and diplomatic property in the District which is exempt from real estate taxes.

However, there is another side to that coin which indicates that the District of Columbia government derives about $735 million each year—over and above the annual Federal payment—from the Federal Government and its presence in the city of Washington.

This includes funds from Federal grants, public assistance, civil service retirement costs, medical services, water and sewer construction, reimbursements from the Federal Government, debt service on bonds for Metro construction, operating subsidies for Metro, and Federal revenue sharing.

It also includes income tax revenue from Federal employees living in the District, taxes derived from tourism, food sales taxes directly associated with Federal employment in the city, taxes on privately owned buildings leased by the Federal Government, and so forth.

Moreover, the Federal Government annually provides millions of dollars of unreimbursed services to the District of Columbia.

The District government has itself estimated that the city of Washington annually benefits from unreimbursed Federal services valued at $83.5 million, compared to unreimbursed services provided by the District of Columbia to the Federal Government valued at only $4.9 million a year.

Quite apart from the Federal payment—which is $191.5 million in this bill—the District of Columbia is apparently benefiting to the tune of between $243 to $426 million a year, because of the presence of the Federal Government in the city.

Mr. Chairman, I believe that it is important to note in the discussion over the annual Federal payment to the District of Columbia, and the amount of funds appropriated by Congress for the operation of the District government, that the mayor and his administration are looking at this situation quite differently than many of us in the Congress.

The Mayor and other District officials seem to believe that the District of Columbia government's employment base should be expanded even further than its present size.

Many of us in the Congress are operating on the assumption that the growth of government on the Federal level, as well as in the District of Columbia, must be restrained and possibly cut back in many areas.

Certainly the District of Columbia government needs to restrain and discipline its growth, and to cut back.

This city's government currently employs more government workers per 10,000 population than any other metropolitan government in the Nation.

Ten years ago, in 1969, the District government had 34,467 permanent employees.

The city's population at that time was 756,510—which meant that the District then had 456 government employees for every 10,000 population.

Today, the District's budget is supporting 46,565 permanent employees and about 9,000 additional temporary workers, while the city's population has actually declined sharply to 685,000 residents.

This means that the District of Columbia now has about 680 permanent government employees per 10,000 population—a 49-percent increase in the per capita government work force at a time of declining population in the city.

Counting temporary workers, the District has about 813 government workers per 10,000 population.

Both the General Accounting Office and the District government agree that personnel costs account for 57 percent of the annual D.C. budget.

Those personnel costs will take a larger and larger share of the budget, while funds for services to the people diminish, unless sharp restraints are imposed on the growth of government in the District.

The District of Columbia government work force is overbloated and unnecessarily large.

According to the GAO, the District has no work force management system, and does not really know how many government workers it actually needs.

Hiring is out of control, and apparently highly politically motivated rather than based on real need for additional service to the public.

Mr. Chairman, I again want to commend the esteemed chairman of the District of Columbia Appropriations Subcommittee (Mr. CHARLES WILSON of Texas) for his work to hold the line on spending in the District of Columbia budget.

It is my personal opinion that this budget is still too large, and for that reason I will vote against it.

But I believe that the committee has shown that responsible discipline can be imposed upon unwarranted growth in Government hiring and spending programs, which are the spurious rationale for increased appropriations and larger Federal subsidies.

This is commendable, and I urge my colleagues to resist any efforts to increase the appropriation recommended in this bill in any area.

(Estimates of General Accounting Office)

Dollar Benefits Derived by the District from the Federal Government and Its Presence[1]

Annual[2]	*Dollars*
Services provided by Department of Justice	$8,000,000
Civil Service Retirement	60,500,000
Food Sales Tax	7,161,000
Tax from buildings leased by GSA	7,000,000
Income tax from Federal employees living in the District	73,880,510
Unreimbursed services (calculated by the District)	83,579,327
Reimbursements from Federal Government	12,476,315
Federal payment to operate the District FY 79	255,200,000
Debt service on bonds for construction of Metro	19,000,000
Revenue sharing	34,000,000
Metro operating subsidy	10,700,000
Sales tax—Federal contracts to District firms	93,104
Federal grants	285,865,800
GSA Supply Service ordering meat used by District	20,000
Taxes derived from tourism (provides 45,000 jobs)	40,000,000
Public assistance, Medical services, water and sewer construction, and highway planning, programming and rerearch (FY 80 estimate)	90,000,000
Total annual	987,476,056

[1] Information is based on actual and estimated data which has not been verified. Also, in making some of the estimates, certain assumptions were made, which if changed, could change the figures listed.

[2] Based on 1978 or 1979 data unless noted.

Other: not limited to a particular year

	Dollars
Construction of metro within District's boundaries	$1,260,000,000
Temporary Commission on Financial Oversight of the District:	
a. Received	8,000,000
b. Requesting additional funds to complete the work	11,000,000
Pennsylvania Avenue Development Corporation	180,000,000
Total other	1,459,000,000

Request for funds

Funds to place police, firemen, teachers, and judges retirement systems on actuarially sound basis (FY 78 estimate)	1,700,000,000
D.C. requesting Department of Interior to repair Georgetown's seawall (FY 78 estimate)	9,500,000
D.C. requesting Department of Interior to build new Georgetown park (FY estimate)	2,000,000
Total Requests	2,311,500,000
Grand Total	4,757,976,056

Unknown benefits

3,800 lobbyist groups doing business at the U.S. Capitol (most have offices in the District).

Employment of District residents by Federal contractors, such as GSI food services.

GSA Supply Service: Order, stock and deliver fuel, Self-service stores, Public utilities service, Use of Federal Supply Schedule, Storing, protecting, and disposing of records.

District is asking the Federal Government to complete payments for RFK Stadium bonds (amount included in FY 79 Federal payment) and transfer title for stadium and surrounding area to the District.

Backup data

Name and source explanation:

Services rendered by Department of Justice—Provided by Department of Justice: Includes U.S. Attorney Services, U.S. Marshal Services, and keeping of Federal prisoners. Estimate was between $8–10 million.

Civil Service Retirement Cost—Provided by GAO-FPCD: Estimated cost for calendar year 1978.

Food Sales Tax—Provided by GAO (gross estimate): Sales tax 8 percent, Federal employees working in D.C., 204,720. Assume ¾ eat snack, breakfast, lunch or dinner. Average total daily cost $2.65. Average time in District. 220 days each year.

Tax from Buildings Leased by GSA—Estimate provided by GSA amounted to $7 to $10 million (property tax): 121 leases resulting in payments of $70,428,289.

Income Tax from Federal Employees Living in the District—Estimated by GAO (gross estimate) assume: 1970 census employment data is the same (109,615 Federal employees living in the District). $15,000 average income. $1,200 average deduction. $2,250 deductions for dependents. Tax paid averaged $674 per year.

Unreimbursed Services (calculated by D.C.)—Taken from D.C. publication: The Federal Payment, FY 1980.

Reimbursements from Federal Government—Taken from D.C. publication: The Federal Payment, FY 1980.

Federal Payment to Operate District FY 1979—D.C. appropriation hearings: FY 1980, p. 97.

Revenue Sharing—D.C. appropriation hearings, FY 1980.

Debt Service on bonds for construction of Metro—Provided by Metro FY 79.

Metro Operating Subsidy—Provided by Metro FY 79 subsidy.

Sales Tax, Federal Contracts to District Firms—Contract amount provided by GSA: Based on 88 contracts involving $1,862,072. Assume sales tax paid by firms average 5 percent. (General sales tax 5 percent, parking 12 percent, alcohol 8 percent, carryout and restaurant food 8 percent).

Federal Grants—D.C. appropriation hearings.

GSA Supply Service (meat orders)—Provided by GSA.

Taxes derived from tourism—D.C. appropriation hearings FY 80: p. 862. Convention and visitors business support 45,000 jobs and provide $40 million in revenue.

Public assistance, Medicaid services, water and sewer construction, and highway planning, programming, and research—Estimated by District 1980 Executive budget.

Construction of Metro within District's boundaries—Provided by Metro.

Temporary Commission on Financial Oversight of the District—Provided by the executive director of the Commission.

Pennsylvania Avenue Development Corporation—Provided by the Financial Manager of the Pennsylvania Avenue Development Corporation.

D.C. requesting funds to place police, firemen, teachers and judges retirement system on actuarially sound basis—Senate report 95–869.

D.C. requesting Department of Interior to repair Georgetown seawall—Mayor's 1979 legislative proposal.

D.C. requesting Department of Interior to build Georgetown park—Mayor's 1979 legislative proposal.

Lobby groups doing business in the District—Office of Clerk of the U.S. House of Representatives.

Employment of District residents by Federal contractors (such as GSI food service—No firm data.

GSA Supply Service—Provided by GSA. No data available as basis for estimates.

RFK stadium—Mayor's legislative proposal for 1979.

☐ 1910

The CHAIRMAN. The time of the gentleman has expired.

Mr. PURSELL. I yield 2 additional minutes to the gentleman from Arizona.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. I thank the gentleman for yielding. The gentleman from Texas and the gentleman from Michigan and the gentleman from Arizona each have commented about the hiring policies and the excess number of people who are allegedly working for the District. Have any of the gentleman's staff studies, or any of the information he has, pinpointed where the excessive hiring is? Can he identify the people who are working who cannot be justified working, based upon the averages in other cities?

Mr. RUDD. The general overall employment structure is increased in the manner in which I said and indicated. There have been several switches in the departments within the D.C. government, and I honestly cannot answer that question. But I am wondering if we have an indication of some of the areas that we studied.

☐ 1920

Mr. CHARLES H. WILSON of California. The gentleman is basing this upon national averages and the gentleman has not had the time yet apparently to complete studies which show which departments of the city are overburdened with employees and which are not and so forth.

Mr. RUDD. Mr. Chairman, I will yield to the chairman for comments specifically on this.

Mr. CHARLES WILSON of Texas. I thank the gentleman for yielding.

In answer to the question raised by the gentleman from California, it is our judgment essentially that the city is overburdened as far as administrators are concerned. I would venture to say that there are far more administrative personnel in the District government than there are in Los Angeles. We also feel that some effort should be made to consolidate some of the independent offices and commissions. I do not know about Los Angeles, but the District of Columbia has a myriad of different sorts of protective commissions and independent offices.

The CHAIRMAN. The time of the gentleman has expired.

Mr. PURSELL. Mr. Chairman, I yield an additional 2 minutes to the gentleman from Arizona.

Mr. RUDD. I yield further to the gentleman from Texas (Mr. CHARLES WILSON of Texas).

Mr. CHARLES WILSON of Texas. The committee was critical of the fact that the District has so many commissions and officers. There is a Minority Business Opportunity Commission, an Office of Consumer Protection, an Office of Human Rights, an Office on Aging, an Office on Latino Affairs, a Commission on the Status of Women, and so on. We felt many of these could be consolidated into perhaps the Office of Human Rights. Basically, the excessive number of employees, in our opinion, is in the administrative category.

Mr. CHARLES H. WILSON of California. I have been reading about it in the paper. Of course, as the gentleman knows, I got credit for some of these things at one time and it is a natural confusion that takes place sometimes, but I am interested in the status of the city and I hope that the work of the gentleman will show that either the jobs are justified or that there will be areas where significant changes could be made that would be good for the taxpayers of the country.

Mr. RUDD. Let me retrieve my time for just one moment, Mr. Chairman.

The chairman's great effort, as a result of it, a chart was prepared on all of the major cities of the Nation, major areas in the Nation and comparisons were shown and made.

I think we have started to do something about this. It cannot be done in 1 year, I recognize that, but I think that the direction has been pointed out and I think we will proceed accordingly.

I yield back the balance of my time.

Mr. CHARLES WILSON of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Chairman, I probably will not take the full 3 minutes.

Mr. Chairman, I rise to make a few brief remarks about the District of Columbia fiscal year 1980 appropriations bill.

The District of Columbia budget is an extremely complex and difficult budget to review. The subcommittee, chaired by the distinguished gentleman from Texas, Mr. WILSON, was faced with the hard task of reviewing the budget for a city that is unique as the Nation's Capital. It is a city that must provide the full range of State, county, and city services to its resident population. It is a city that must service the President, Congress and their staffs, the diplomatic community, the foreign and domestic visitors to the city. Unique service requirements are placed on fire, police, and waste collection. In addition, the District is plagued by the serious problems of a large poverty population, high unemployment among youth, and a housing shortage.

As the Nation's Capital, the District of Columbia should be the pride and joy of all American citizens, and I believe it should be so regarded by the Members of this House. I urge you to give the District of Columbia budget as complete and serious consideration as you would matters that pertain to your own districts.

Further, I have circulated copies, Mr. Chairman, to all of my colleagues in the House of 3 amendments which I intend to offer once the bill has been opened up. I have explained in my Dear Colleague letters the rationale for those 3 amendments, and I would hope that my colleagues would support those amendments.

Mr. Chairman, I yield back the balance of my time.

Mr. PURSELL. Mr. Chairman, I yield 6 minutes to the gentleman from Connecticut (Mr. MCKINNEY), the ranking minority member of the authorization committee.

Mr. MCKINNEY. Mr. Chairman, it is with deep regret that I stand before this body and state that I must disagree with my colleagues, the gentleman from Texas (Mr. CHARLES WILSON) and the gentleman from Michigan (Mr. PURSELL), with regard to this bill.

Mr. Chairman, as you know, the problems of fiscal planning in an urban environment are some of the most pressing and complex ever to be faced by a political leader in this age, and the Nation's Capital is no exception. Moreover, the District of Columbia is extremely unique in our country, and its needs and priorities are entirely different from those of other areas.

The statement often made that the District government is bloated with employees in relation to other jurisdictions is misleading. Over the past several years the local government employment base has been declining, and the new city administration is making substantial administrative improvements in a system heretofore marked by waste, abuse, and inefficiency. In addition, profound differences in demographics, socioeconomic structures, and political institutions, among others, between the District and other areas mean that simple per capita statistical comparisons are almost meaningless.

As a result of these differences, the priorities, structure, and level of the city budget differ from that of other areas. To utilize simple per capita statistical comparisons in establishing a norm for this city's budget will inevitably result in arbitrary and counterproductive fiscal policies.

For instance, in relation to other cities the District bears an inordinately heavy burden of nonmunicipal responsibilities, with 60 percent of its operating budget going to finance such operations as motor vehicle registration; welfare; elementary, secondary, and higher educational programs; health systems and hospitals; a court system; and a range of correctional services. Since the District is ineligible for funding normally provided by State governments, it can allocate only 33 percent of its operating budget for municipal services which cities of comparable size are able to fund with 75 percent or more of their operating budgets.

Thus, I believe the concept of cost comparisons with other jurisdictions is simply not valid. Not only has the local government assumed many of the burdens of county and State systems, not to mention the tremendous restrictions imposed as a consequence of the Federal presence, but it must finance virtually all of these county and State functions from a strictly limited central city tax base.

Consider the following conclusions reached by the President's Task Force on the District of Columbia just 2 years ago:

The District does not have a higher unit of government, except at the Federal level, to which certain legitimate costs could be transferred or shared—this in spite of a national trend for county and State jurisdictions to share in the financial burdens of city governments,

In addition to the usual range of city services, the District must provide county, special District, and State services as well.

The District does not have a broad, State-like economic base from which to fund this range of services,

The District lacks the full taxing authority which virtually all other States and cities have,

The District is unable to tax federally-owned or foreign-owned land in the city—not unusual in itself until you remember that 55 percent of the land in this city is tax exempt, and the Federal share is almost 75 percent of that,

The District has the highest daily influx of commuters of any city in the nation, which expands the daytime population of the city by 37 percent, and which, including tourists, requires a range of services unprecedented in any other metropolitan area in the country.

In addition, federally imposed mandates have further restricted the District's fiscal and economic development:

Building height restrictions reduce the potential revenue from real estate taxes. on top of a property tax base which is already 55-percent exempt. The Federal share of this alone is close to $140 million annually.

And 60 percent of its income tax base is exempt—for a loss of well over a quarter of a billion dollars annually.

While Congress has acknowledged its responsibility for these restrictions and attempted a form of compensation historically known as the Federal payment, the level of such payments as a reflection of the true costs incurred by the District have never really approached a level of adequacy in recent times. In fact, this measure for fiscal year 1980 reverts the payment back to a level not seen in over 15 years.

The Federal payment is not only designed to compensate the city for the revenue lost on federally owned, tax-exempt land, but its very concept must include the full cost implications to the District as a unique jurisdiction established by Congress with city, county, and State functions. The Federal payment is not a balancing tool; it is a payment reflecting the responsibility borne by the Federal Government in carrying its fair share of the fiscal burdens in the District of Columbia—burdens which it created for the District.

I might add that even conservative fiscal estimates place this cost at between $300 and $400 million per year—three or four times the amount we are appropriating here today.

Perhaps the most comprehensive assessment of the District government structure was completed by our colleagues of the 93d Congress. The Commission on the Organization of the District of Columbia chaired by Ancher Nelsen reached a series of conclusions regarding congressional action on District appropriations, and while they were referring to action on the Federal payment in particular, I think it is apparent that these criteria should apply to the budget process as a whole. The District's budget should be:

First. Predictable;

Second. Able to encourage District efforts to raise more revenues;

Third. Based on the previous year's authorization level and should operate to avoid wide fluctuations impacting adversely on the District's ability to plan and finance operations; and

Fourth. To the extent possible, a reflection of the extraordinary net cost to the District of the Federal presence.

I would ask my colleagues to consider whether the effects of H.R. 4580 on the District's payroll, services, and fiscal planning meet any of those criteria.

Latest estimates from the District budget office regarding the appropriation bill before us indicate that there will be well over 2,800 payroll positions lost, mostly in areas of minority and consumer services, or other human support agencies. These position cuts may be considered politically expedient, as it were, in an era of popular fiscal conservatism, but they are parochially motivated and tremendously damaging to the financial posture of the Nation's Capital.

Cuts of this nature, made entirely on a subjective basis, do absolutely nothing to guarantee an equitable cost-sharing relationship between Congress and the city. This House is now attempting to take advantage of more than 700,000 taxpaying disenfranchised citizens by shortchanging them on a fiscal relationship which has existed since 1835.

Where is the incentive for the District to obtain the best use of its locally generated revenues when it knows that every time its balance sheet is brought into the black the Federal Government will cut its budget by a concurrent amount? Or more importantly, aside from the Federal payment, what right should the Congress have to a line-item review over a budget in which the citizens most directly involved have no legitimate vote?

The mood of our constituents nationwide is for a return to local control, for a strong reduction in the entanglements and involvement of the Federal Government in our individual lives. This proposal does not reflect such a mandate, and it is unfortunate that what should be a purely local budgetary matter is more the subject of polemics and posturing in a political arena wrestling with great domestic and world issues than part of a rational, objective fiscal planning process for the Nation's Capital by the taxpaying citizens of the District of Columbia and their elected officials.

Finally, Mr. Chairman, I include for the record some interesting facts, figures, and comparisons, which follow, that I believe my colleagues will find most useful in considering this issue.

AGENCY BY AGENCY STAFFING IMPACT OF DISTRICT OF COLUMBIA APPROPRIATIONS SUBCOMMITTEE DIRECTIVE
TO ABSORB $25 MILLION IN PERSONAL SERVICES

[Dollars in thousands]

	Personnel reductions	Payroll reductions
Governmental Direction and Support:		
Council of the District of Columbia	23	$184
District of Columbia Auditor	--	--
Executive Office:		
Office of the Mayor	5	40
Office of the Inspector General	2	32
Office of the Secretariat	12	96
Office of the Corporation Counsel	14	112
Office of the City Administrator	--	--
Office of Planning and Development	8	72
Office of Intergovernmental Relations	--	--
Office of Budget and Resource Development	2	32
Office of Financial Management	45	440
Office of Personnel	28	224
Office of Communications	7	56
Department of Finance and Revenue	98	832
Department of General Services	19	152
Board of Appeals and Review and Board of Equalization and Review	--	--
Board of Elections and Ethics	27	224
Board of Labor Relations	2	16
Advisory Neighborhood Commissions	--	--
Metropolitan Washington Council of Governments	--	--
Temporary Commission on Financial Oversight	--	--
Settlement of Claims and Suits	--	--
Total, Governmental Direction and Support	292	2, 512
Economic Development and Regulation:		
Development:		
Department of Housing and Community Development	39	360
Recorder of Deeds	21	168
Office of the Surveyor	9	88
Washington Area Convention and Visitors Association	--	--
Chamber of Commerce	--	--
Minority Business Opportunity Commission	--	--
Regulation:		
Office of Consumer Protection	5	$40
Rental Accommodations Office	14	128
Department of Licenses, Inspections and Investigations	32	272
Department of Insurance	11	104
Minimum Wage and Industrial Safety Board	--	--
Public Service Commission	5	40
Total, Economic Development and Regulation	136	1, 200
Public Safety and Justice:		
Metropolitan Police Department	329	2, 704
National Guard	--	--
Office of Emergency Preparedness	--	--
Fire Department	99	792
Court of Appeals	40	360
Superior Court	143	1, 144
District of Columbia Court System	5	40
Public Defender Service	--	--
Bail Agency	4	64
Parole Board	2	16
Commission on Judicial Disabilities and Tenure	--	--
Judicial Nomination Commission	--	--
Law Revision Commission	--	--
Department of Corrections	190	1, 520
Office of Criminal Justice Plans and Analysis	--	--
Total, Public Safety and Justice	812	6, 640
Public Education System:		
Public Schools	409	3, 912
University of the District of Columbia	279	2, 392
Public Library	23	216
Commission on the Arts and Humanities	--	--
Educational Institution Licensure Commission	--	--
Total, Public Education System	710	6, 520

AGENCY BY AGENCY STAFFING IMPACT OF DISTRICT OF COLUMBIA APPROPRIATIONS SUBCOMMITTEE DIRECTIVE TO ABSORB $25 MILLION IN PERSONAL SERVICES—Continued

[Dollars in thousands]

	Personnel reductions	Payroll reductions
Human Support Services:		
Disability Compensation	--	--
Unemployment Compensation	--	--
Workmen's Compensation	--	--
Office of Human Rights	32	$256
Office on Aging	--	--
Office on Latino Affairs	--	--
Department of Manpower	--	--
Office of Youth Advocacy	--	--
Commission on the Status of Women	--	--
Department of Recreation	36	312
Department of Human Resources	345	3,584
Commission on Healing Arts Licensure	--	--
District of Columbia General Hospital	118	944
Total, Human Support Services	531	5,096

	Personnel reductions	Payroll reductions
Transportation:		
Department of Transportation	60	$528
Washington Metropolitan Area Transit Commission	--	--
School Transit Subsidy	--	--
Washington Metropolitan Area Transit Authority	--	--
Total, Transportation	60	528
Environmental Services:		
Department of Environmental Services	318	2,608
Washington Aqueduct	--	--
Total, Environmental Services	318	2,608
Grand Total	2,860	25,104

TAX REVENUES FOREGONE DUE TO FEDERAL EXEMPTIONS—FISCAL YEAR 1979

[Dollars in millions]

I. Revenues Lost Because of Federally Mandated Exemptions from District Property Taxes:	
Federal Real Estate	136.9
Other Exemptions (Foreign Government and Special Acts of Congress	8.6
Federal Personal Property (Estimated)	36.7
Subtotal	182.2
II. Revenues Lost Because of Congressional Restraints on D.C. Taxing Authority:	
Non-Resident Individual Income Tax	277.5
Exemptions of Congressional Employees and Presidential Appointees	3.3
Subtotal	280.8
III. Revenues Lost Because of Diplomatic Exemptions:	
Non-Property Tax	10.2
IV. Revenues Lost Because of Federal Restrictions on the Taxation of Military	18.3
Estimated Total Impact of Federal Presence	491.5

Source: Department of Finance and Revenue, July 1978.

This table and accompanying chart provide estimates of tax losses from the exemptions reported above. Because of methodological limitations noted at the start of this chapter, this information presents only the most readily quantifiable effects of exemptions on city tax collections.

The District is currently losing nearly a half billion tax dollars annually as a result of tax exemptions which stem directly from the Federal presence. The $491.5 million loss for 1979 represents an increase of $31.7 million (7 percent) from the estimate for 1978, which was included in last year's report. Over 90 percent of the total tax loss comes from the city's two largest tax categories: property and income taxes.

Property tax losses are estimated at $182 million, the bulk of which is attributable to property owned by the U.S. Government. Income tax losses of nearly $281 million are almost entirely caused by the city's inability to tax nonresident income. To indicate the extent of these tax exemptions, the total tax base has been divided into taxable and tax exempt portions. The chart shows that over half of the District's real estate tax base is exempt from property taxes. It also shows that the city is unable to tax nearly two thirds of the income earned by people working in the District.

The following charts take a closer look at the major exemptions by presenting information on property ownership along with earnings and employment in the District.

TABLE 7.—CITY GOVERNMENT EXPENDITURE COMPARISONS, FISCAL YEAR 1976

[Expressed as a percentage of direct general expenditures [1]]

		Nonmunicipal functions									Municipal functions		
			Typically State, county, and special district functions						Typically regional and special authority				
City governments	All functions (percent)	Total	Elementary and secondary education	Higher education	Welfare	Health and hospitals	Corrections and courts	Sewage	Housing and urban renewal	Total	Police and fire	Other
46 largest cities (New York and District of Columbia excluded)	100	33.1	10.3	1.3	3.7	6.8	2.1	9.3	1.6	64.9	22.3	42.6
17 cities with population 500,000 to 999,999 (District of Columbia excluded)	100	37.0	12.9	.3	7.1	9.4	3.0	2.9	1.4	63.0	23.0	40.0
Selected cities:												
Atlanta	100	12.7	3.4	--------	1.2	<.4	2.4	5.2	.5	87.3	34.8	52.5
Baltimore	100	61.5	31.0	1.8	16.7	7.8	1.9	1.5	.7	38.5	14.1	24.4
Boston	100	49.9	30.3	--------	.5	11.4	3.9	1.0	2.7	50.1	17.6	33.5
Cleveland	100	16.7	--------	--------	.8	3.2	2.8	9.1	.7	83.3	41.2	42.1
Dallas	100	7.4	--------	--------	--------	2.8	1.6	3.0	--------	92.6	37.5	55.1
Jacksonville	100	35.7	.3	--------	2.7	19.6	6.3	4.2	2.6	64.3	23.0	41.3
Milwaukee	100	14.3	<.1	--------	--------	4.0	.6	4.4	4.9	85.7	36.4	49.3
San Francisco	100	50.2	.3	--------	23.4	19.0	4.5	.9	2.2	49.8	14.6	35.2
St. Louis	100	33.9	.2	--------	1.5	25.8	6.2	.1	<.1	66.1	25.3	40.8
District of Columbia	100	63.1	18.3	3.6	21.4	9.2	8.6	1.1	1.6	36.9	10.3	26.0

[1] Capital outlay expenditures have been excluded wherever possible.

Source: "City Government Finances in 1975–76," Bureau of the Census, September 1977, tables 3, 5, and 7.

Exhibit 15 not printed.

Exhibit 15 divides city expenditures into those traditionally provided by municipal governments and those usually delivered or financed by other governmental units. The chart shows that a substantial share of the District budget goes for functions which usually are not city responsibilities. In fact, the ratio between municipal and nonmunicipal expenditures in the District is the exact opposite of the pattern found in 17 other major U.S. cities in the same population range as the District. These other cities only need to spend 37% of their budgets on nonmunicipal functions (i.e., those usually performed by counties, states, etc.), leaving 63% for traditional municipal activities. In the District, however, the budget allocations is completely reversed; 63% of the budget is earmarked for state, county and other nonmunicipal functions, with the balance (37%)

going to services normally delivered and financed by municipalities. Consequently, a relatively small portion of the budget is devoted to typical city services like police and fire protection, sanitation, and road maintenance.

[Exhibit 5]

ELEMENTS TO BE CONSIDERED IN DETERMINING THE FEDERAL PAYMENT

ELEMENTS

Section 501(b), P.L. 93–198.

FOREGONE TAXES

The Mayor, in studying and identifying the costs and benefits to the District brought about by its role as the Nation's Capital, should to the extent feasible, among other elements, consider—

(1) revenues unobtainable because of the relative lack of taxable commercial and industrial property.

(2) revenues unobtainable because of the relative lack of taxable business income.

(3) potential revenues that would be realized if exemptions from District taxes were eliminated.

COST OF SERVICES

(4) net costs, if any, after considering other compensation for tax base deficiencies and direct and indirect taxes paid, of providing services to tax exempt nonprofit organizations and corporate offices doing business only with the Federal Government.

(5) recurring and nonrecurring costs of unreimbursed services to the Federal Government.

STATE SURROGATE

(6) other expenditure requirements placed on the District by the Federal Government which are unique to the District.

(7) benefits of Federal grants-in-aid relative to aid given other States and local governments.

(8) recurring and nonrecurring costs of unreimbursed services rendered the District by the Federal Government and

INTER-CITY REVENUE COMPARISONS

(9) relative tax burden on District residents compared to that of residents in other jurisdictions in the Washington, District of Columbia, metropolitan area and in other cities of comparable size.

☐ 1930

Mr. CHARLES WILSON of Texas. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, the members of the Committee on Appropriations and particularly the Subcommittee on the District of Columbia, have worked hard at making a review of the budget for the city of Washington, D.C.

It is certainly a thankless job. Each of us can find parts of their work with which we may disagree. For example, the amendments to be offered by the committee member from Ohio, Mr. STOKES, will have my support.

The trouble is, Mr. Speaker, that no matter how conscientious Congress tries to be, it is impossible for us to do a satisfactory job of rewriting the annual budget of a city of 700,000 people. More than that, it is inappropriate—the time has come for Congress to limit itself to appropriating the annual Federal payment, and leave the detailed budget writing and organization of the city government bureaus and departments to the locally elected Mayor and Council.

The chairman of the subcommittee, the gentleman from Texas, has suggested that a formula for the Federal payment be drafted, and I agree. A year ago I introduced a bill to that effect, and I shall do so again this Congress. The committee I chair will hold hearings on the question. The purpose of the Federal payment should be to compensate the district for certain losses due to the Federal presence. It is not a Federal grant that rises and falls to whatever level is necessary to balance the local budget.

The President's Task Force on the District of Columbia which operated during last Congress recommended early withdrawal by the President, by the Office of Management and Budget and by Congress from the business of writing a budget for the local government.

As is pointed out on page 11 of the committee report for today's bill, the Federal payment suggested for this year is 19.7 percent of the anticipated local collections for the year. This means that local residents and business pay $4 of local taxes for each dollar of Federal payment. Just as in other States, the largest taxes are the property tax, the sales tax, and the income tax, as shown at the bottom of page 12 of the committee report. It is no wonder that local taxpayers, press, and other media are irritated when Congress overrides locally elected officials on the smallest details of the local budget.

Why should Congress have to decide whether the local board of elections and ethics has 33 employees or 36 employees to run the elections for school board, city council, and mayor? Why should Congress have to decide whether the office of consumer protection is staffed by 14 employees or 17 employees? When local residents and businesses are paying $4 in local taxes for every dollar of the Federal payment, Congress should be willing to leave detailed decisions like these to local officials.

Six or seven years ago, before Congress adopted the Home Rule Act for the District of Columbia, we had to enact all the local ordinances for the city. For example, during the 92d Congress we adopted and the President signed into law, bills to permit seeing eye dogs in restaurants, to authorize flag patches on police uniforms, setting salaries for teachers, to test utility meters for accuracy, and to permit D.C. firefighters to belong to the local police department band. We do not have to do that any more because the Home Rule Act permits the local council to adopt local laws.

Mr. Chairman, I think most Members of Congress would agree that it is time for Congress to let the details of the local budget be worked out by the locally elected officials. Congress can limit itself to appropriating an annual Federal payment or adopt a formula for a Federal payment that reflects the Federal interest in local government services, impact on the local tax base, and other considerations related to the Federal presence. Perhaps this year's D.C. appropriation's bill can be the last one that worries over so many minor details and arguments that should be left to local decision.

Mr. Chairman, with the few remaining moments that I have, I would like to address myself to the argument that Washington, D.C., has more employees than any other city in the United States. I think that that is an effort to compare apples and oranges. Washington, D.C., must function simultaneously as a local city, as a county, and as a State, as well as the backdrop for the Capitol of the United States of America. To the extent that Washington, D.C., is a city totally unique in our existence as a city, a county, and a State, comparing Washington, D.C., to any other city in the United States is an exercise, as politely as I can say it, in total absurdity.

Now, one might say that perhaps we can then compare Washington, D.C., to another State. I would suggest again that that is comparing apples and oranges. Every single State in the United States has urban areas, suburban areas, and rural areas. Washington, D.C., that has to function as a State functions as a totally urban area, with a high concentration of human beings and a high concentration of problems associated with every urban metropolitan center where several thousand human beings are thrust together to survive and to live and to function in 1979; so to the extent that Washington, D.C., is like no other city, you cannot compare it. To the extent that Washington, D.C., is all urban with all of the highly concentrated complex problems of education, poverty, transportation, pollution, and so forth, you cannot compare Washington, D.C., to any other State.

I would conclude by pointing out that this entity should be the pride of the United States. It is in many ways the crossroads of the world. To that extent it should have the finest and the best. To that extent Washington, D.C., as an urban metropolitan center should be the showcase of urban life throughout this Nation.

Mr. CHARLES WILSON of Texas. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

☐ 1820

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. GORE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4580) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1980, and for other purposes, had come to no resolution thereon.

A CHALLENGE TO OPEC

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANLEY. Mr. Speaker, the gas crunch of 1979 has aroused the citizens of this country to demand from us our plans for a new, greatly expanded energy program. I see our immediate future effort as an expansion of the workable features of actions we have taken, as well as a series of initiatives designed to go to the heart of the principal causes of the present predicament.

Dependence on others for America's energy needs is the fundamental problem. Incredible as it may seem, U.S. consumption of foreign oil has increased since the dreary months of the Arab oil embargo of 1973–74. I see three general areas where immediate, constructive action can be taken; with regard to OPEC, with regard to the oil companies, and with regard to our Department of Energy.

I propose the adoption of five legislative and executive steps to confront the international oil cartel with a challenge to its hold on oil supplies and prices.

First. A Government, nonprofit corporation to act as the sole agent for the purchase of petroleum from foreign nations. This agency would negotiate with foreign suppliers to force the element of price competition into the international market;

Second. The creation of a National Grain Board to either barter grain for oil or to develop export price levels to make up for losses in the balance of payments associated with excessive foreign oil prices. To be effective, the Grain Board would have to work in close cooperation with the other foreign countries who, along with America, dominate the international grain market;

Third. I propose earnest diplomatic efforts to develop an energy partnership among Canada, Mexico, and the United States to develop and share the abundant energy resources we three possess.

Fourth. I propose a much more ambitious partnership among the major industrialized, oil-importing nations so that mutually consistent policies to reduce dependence on OPEC and to reduce destructive bidding for spot oil can be developed; and

Fifth. I will shortly be cosponsoring legislation to end those special tax considerations which tend to encourage American oil companies to develop energy supplies abroad at the expense of such investment within the United States.

At the present time, Mr. Speaker, the United States leaves domestic oil production in the hands of the private petroleum industry which is dominated by seven major companies, clearly multinational in nature. I propose that we seriously explore the adoption of a new relationship with this industry, recognizing that we are totally dependent on them for basic necessities of life.

This relationship could be a working partnership which recognizes the needs of America for plentiful energy and the needs of the companies for profits. Or it could be a relationship of Government domination or Government competition in the exploration and development of energy sources.

I am more convinced now that the success or failure of a national energy policy depends on such a new relationship. The United States should invite the domestic oil industry into a partnership to produce alternatives to petroleum based energy. The House recently approved legislation to develop a synthetic fuel industry in America. To make it work effectively, we should set yearly target goals requiring the oil industry to either produce or purchase from domestic sources a fixed percentage of synthetic fuel to be mixed with their regular production. That percentage would be gradually increased over the years, and there would be comparable reductions in the oil we import until we reach the time when our petroleum needs are fully met by a mixture of domestic synthetic and fossil fuels.

In such a program the American people would recognize that a stringent blueprint for energy survival was in place, and they would once more feel that the fate of their jobs, cars, and homes was in their own hands, and not subject to the whims of OPEC.

In order to facilitate such an undertaking, and in order to deal with frequent complaints from the private sector that Government regulation and environmental restrictions interfere with and hinder development, I endorse the suggestion that an Emergency Energy Production Board be created to push both the industry and Government agencies into a full-scale alternative energy development program.

An alternative to sole reliance on the oil industry would be the creation of a Government corporation, possibly modeled on the Tennessee Valley Authority, to explore and develop energy resources on Federal lands. Such an agency could return to the United States the old idea of price competition for oil and gas.

The domestic petroleum industry will soon be free of controls completely, and there should be a natural return to price competition. Charging what the market will endure is a practice of the American free enterprise system, a practice whose worst instincts can only be mitigated by a competitive marketplace. There currently is no competition in gas prices. The old robber baron adage that competition is a sin appears to be alive and well.

Mr. Speaker, a national policy is only as good as the agency charged with the responsibility of carrying it out. A thorough housecleaning at the Department of Energy is essential if public and congressional confidence in the Government's ability to operate an energy program is to be restored. I have said my fair share in recent times about my dissatisfaction with the Energy Department, and I sincerely believe that some new faces there, particularly at the top, will be beneficial.

One of my persistent complaints about the Department of Energy has been its failure to provide solid information on the petroleum situation. I intend to propose legislation soon to remove the energy information function from that department and lodge it in the Department of Defense. Such a move would underscore my belief that energy is as much a national defense interest as the planes and tanks it operates. I would view any effort to provide false or misleading information to that agency as a treasonous act against the national security interests of the United States.

I also feel that strong encouragement and Federal financial support should be provided for a nationwide system of county energy committees. What is being developed by the Onondaga County Citizens Energy Committee, in my home district, could become a blueprint for local efforts at energy conservation education, emergency fuel allocations, winterization of homes, carpools, greater mass transit capacity, and any number of other useful functions. I believe that States and localities should play an important part in whatever standby rationing plan the Congress adopts; and county energy committees, already in place, could greatly facilitate the implementation of a rationing program.

Mr. Speaker, last but certainly not least, it is time to congratulate the millions of Americans whose individual conservation efforts are today reducing the consumption of energy in the United States. For example, per household consumption of home heating oil in New York has declined an average of 15 percent since 1973. That is a substantial achievement that ought to be acknowledged.

Americans should be encouraged to keep up the good work, but they should also be assured that the savings they are achieving are being chalked up against imports, and not domestic production. Developing this kind of assurance is the principal goal of the many steps I have proposed here. In 1978, the United States paid out $39 billion for foreign oil. Let us bend every effort to reduce that amount each year until the day that such a weighty sum is invested in the United States.

ONE DOE IS ENOUGH

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, we have one DOE in operation in this Nation today which has proved itself not competent to solve our energy problems. It has been in existence for a couple of years and no credible substance in the way of accomplishment has been shown thus far, although there has been an incredibly expensive amount of paper shuffling.

Today we take up the arduous task on the floor to attempt to establish another DOE which will be nothing more than another bureaucratic maze and will cause the same sort of confusion that other established bureaucracies including the Department of Energy have shown.

The lead editorial in this morning's Washington Post has to do with the two DOE's and spells out the disaster very clearly. I ask this editorial be inserted in the RECORD at this point:

ONE DOE IS ENOUGH

While struggling with the failures of one DOE (the Department of Energy), the administration is still trying to create another—the proposed Department of Education, which is finally stumbling toward a decisive House vote. Yes, the two DOEs are different. The energy restructuring was meant to merge a swarm of agencies and bolster federal policy-making powers. Although it hasn't worked out neatly, it was not a bad idea. In contrast, the point of the pending DOE is to detach education from health and welfare and elevate it to Cabinet rank—

ostensibly without enlarging the federal budget or role in that field. This is such a wretched idea that House members who truly value education should vote firmly no.

Predictably, the champions of a new DOE are trying to describe it as a bureaucratic slimming-down. Consider the full-page advertisement supporting the plan that appeared in this newspaper yesterday. The ad featured a ludicrously tangled maze, described as "part of a recent HEW organization chart," and clearly implied that an education department is the only way out.

But the chart does not outline the relationship between education and the rest of HEW—the ties that a DOE would unbind. Instead, the chart shows how the swarm of federal education offices and projects relate to the rest of the world—public education agencies, private institutions, interest groups and even students (labeled "individuals"). Of course some of the skeins are snarled. But creating a DOE would not untangle them; it would just put a more prestigious label on the maze.

The claims of economy and efficiency are also off the mark. The administration asserts, for instance, that $15 million to $19 million could be saved at once by pruning some 450 employees from a new DOE—and that tighter administration could save up to $100 million in the longer run. But if those opportunities are so obvious, why is Cabinent status needed to accomplish them? If inertia or resistance in HEW is the obstacle, that should be attacked head-on.

All in all, it's hard to avoid concluding that economy and better management are not really the paramount aims. Instead, the basic point seems to be, strangely enough, to get the federal educational complex out of HEW and give it more status, visibility and autonomy. That would certainly please the National Education Association and the other interest groups that have been lobbying so intensely for this plan. It would probably please some subcommittee chairmen who have close ties to various programs. And it would give Congress more opportunities for mischief of the sort that has already produced some anti-civil-rights amendments to the DOE bill in the House. And that—the likelihood of more political maneuvering and meddling with federal educational policies—is the best reason to vote against this bill.

GRAYMAIL LEGISLATION

(Mr. MURPHY of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY of Illinois. Mr. Speaker, today I am introducing legislation that responds to a rising phenomenon currently threatening both the fair administration of justice and the effective operation of our intelligence services.

The legislation is called the Classified Information Criminal Trial Procedures Act. The phenomenon has come to be called "graymail". "Graymail" occurs when the Government is prevented from initiating a prosecution or is forced to dismiss a pending prosecution because of its fear that the defendant will disclose or cause the disclosure of classified information during trial.

This phenomenon is not limited to espionage prosecutions. "Graymail" can also occur—indeed, it has occurred—in narcotics and murder trials, as well as in cases involving the prosecution of Government officials and businessmen.

In its most venal context "graymail" appears when a defendant threatens to disclose any and all classified information in his possession, whether or not it is related to the issues of the case. "Graymail" may also mean nothing more than that a defendant is exercising his legitimate rights to defend himself through the use of relevant and admissible classified information.

In either instance, however, the result may be the same: A criminal case is terminated prematurely, justice is not done, and public confidence in our prosecutional authorities is lessened.

The bill which I introduce today is intended to insure that classified information which bears no possible relationship to the issues in a criminal trial is not disclosed. It is also intended to insure that classified information that is relevant to the defendant's case will be identified prior to trial, before it is publicly revealed, so that the Government can make a reasoned decision in determining whether or not the benefits of prosecution will outweigh the harm stemming from public disclosure of such information.

The heart of the bill is its requirement that a criminal defendant notify the court and the Government before trial of any intention to disclose or cause the disclosure of classified information during trial. The Government may then obtain, prior to trial and an in camera proceeding, a ruling on the relevance or admissibility of the information and may take an interlocutory appeal from an adverse decision. It is to be emphasized that the bill does not alter the existing standards for determining relevance or admissibility.

In some instances, if it determines that a defendant's rights will not be prejudiced, the court may order that a specific item of classified information be replaced by a summary thereof or a stipulation to the facts such information tends to prove. The bill also requires the Government to provide the defendant with pretrial notice of the evidence and witnesses it intends to use to rebut the information furnished in advance by the defendant.

Title II of the bill is directed at the preindictment stage of the criminal process. It is intended to insure that the executive branch has it own house in order and that the initial decisions on whether to seek an indictment in a case where classified information is likely to arise is made pursuant to established criteria and after all the consequences of a decision either way have been carefully considered.

This bill has been developed only after several months of careful deliberation and active consultation with Members of Congress and their staffs, the Justice Department, and the ACLU. While I believe we are in basic agreement as to its provisions, I view today's bill as the beginning, not the end of the drafting process. As would any legislation relating to the criminal trial process, or dealing with classified information, this bill contains some controversial provisions. These provisions will be exposed to the full light of public scrutiny. The comments of all interested groups and individuals will be actively sought, including those of the defense bar. Several days of hearings will be held by the Intelligence Committee. The Judiciary Committee, to which the bill has been jointly referred, will, I trust, bring its particular expertise to bear on this legislation.

The desirability of full and reasoned deliberation over this legislation should not, however, obscure the fact that a solution to the "graymail" problem is needed quickly. For whatever reason, the number of criminal prosecutions involving the use of classified information is increasing every year, as is the number of such cases dismissed for reasons having nothing to do with a lack of prosecutorial merit. Therefore, it is imperative that the Congress act with some dispatch to provide the Federal courts with a fair, effective, and uniform procedural mechanism for dealing with the use of classified information in criminal trials.

Finally, I would like to thank my colleagues on the Intelligence Committee, from both sides of the aisle, who have cosponsored the bill. While we are not in full agreement on every provision, we all are committed to producing a piece of legislation that will eliminate the "graymail" phenomenon without impinging on the right to a fair trial.

Mr. Speaker, I include a section-by-section analysis of the Classified Information Criminal Trial Procedures Act be inserted in the RECORD at this point:

H.R. 4736—THE CLASSIFIED INFORMATION CRIMINAL TRIAL PROCEDURES ACT

Section 101. This section, which supplements Rule 17.1 of the Federal Rules of Criminal Procedure, authorizes either party to request a pre-trial conference at which the court will establish the timing of discovery of classified information and the timing for compliance with the notice and other provisions of the Act.

Section 102(a). This subsection requires a defendant in a criminal case to give pre-trial notice to the court and the government of any action he will take during trial that will result in the disclosure of classified information.

The government, either after such notice or if it otherwise learns that a defendant's action will disclose classified information, can then seek a pre-trial ruling on the defendant's use of classified information. The ruling will be made pursuant to an in camera proceeding and the judge will base his determinations on the same factors that would be utilized during trial to decide issues of use, relevance, or admissibility.

Section 102(b). This subsection applies during trial to classified information which has not been subject to a pre-trial ruling. The defendant must notify the court and the government before it discloses or causes the disclosure of such information. The government then has 48 hours to request an in camera proceeding at which time the court will rule on the use, relevance, or admissibility of the information—again, according to whatever legal principles would normally apply.

Section 102(c). Subsection (c) also applies during trial to classified information which has not been the subject of a pre-trial ruling. Whenever, for whatever reason, the defendant has not given notice that he intends to disclose or cause the disclosure of such information, or the government learns that the defendant's action will disclose such information, the government can initiate the in camera proceeding.

Section 102(d). Subsection (d) insures that classified information will not be disclosed until its relevance or admissibility has been determined by the court.

Section 102(e). Subsection (e) is intended to pinpoint the classified information that will be the subject of rulings during the in camera proceedings authorized by the previous sections, by requiring the government to give notice prior to such proceedings of the classified information about which it is concerned. If the defendant has not previously been made aware of such information or the government has not acknowledged its classified nature, the government may describe it by generic category rather than reveal or acknowledge specific classified information.

Section 102(f). This subsection is intended to insure that classified information which has not previously been determined to be admissible is not disclosed by the response of a witness until the appropriate ruling has been made. The government may object to a question that will produce such a response and the court is directed to take the procedural steps necessary to determine admissibility before the information contained in the response is disclosed. No change in the standard of admissibility is intended.

Section 103. This section applies after the court, pursuant to an in camera proceeding, has made a ruling of use, relevance, or admissibility favorable to the defendant. Once such a ruling is made, the court can then order that the specific classified information at issue not be disclosed during trial—if the court finds that use of a summary of such information or a statement admitting the relevant facts that information would tend to prove would not prejudice the defendant's right to a fair trial. The government is authorized to argue the sensitivity of the classified information to the court before such determination is made. Such arguments may not be made in connection with the court's rulings under section 102.

Section 104. This section insures that the materials and arguments upon which a decision adverse to the defendant is based pursuant to an in camera proceeding are preserved for appeal.

Section 105. This section takes effect once the court has ruled that classified information in the possession of the defendant is admissible and may not be summarized or be the subject of a stipulation under section 103. In such an event, if the United States still objects to disclosure on national security grounds, the defendant may not disclose the information. The court is then directed to dismiss the indictment. However, if the interests of justice so require, the court may take action short of dismissal, such as: dismissal of specified counts of the indictment, a finding against the government on any issue as to which the excluded information is related, or the striking or precluding of the testimony of a government witness.

Section 106. This section, to be read in conjunction with Section 102, authorizes the court to impose sanctions on the defendant if the advance notice required by section 102 is not given and the court finds that the defendant could reasonably have foreseen in advance the need to disclose or cause the disclosure of the classified information which has not been the subject of advance notice. Upon such a finding, the court may prohibit the defendant from using such information or from asking witnesses any questions about such information.

Section 107 (a), (b), and (c). This section is intended to insure that the government is not given any unfair advantage as a result of requiring the defendant to disclose some elements of his defense in advance.

Subsection (a) requires the government, after the court has ruled that the defendant may disclose or cause the disclosure of classified information, to provide the defendant in advance with the information and witnesses it expects to use to rebut the classified information.

Subsection (b) imposes sanctions on the government for failure to comply with subsection (a). The court may exclude the evidence not provided the defendant and prohibit the examination of any witness concerning such information.

Subsection (c) requires the government, if it requests a pre-trial proceeding pursuant to section 102, to provide the defendant with a bill of particulars as to the portions of the indictment or information identified by the defendant as related to the classified information at issue in the pre-trial proceeding.

Section 108. Section 108 authorizes the government to take an appeal, prior to or during trial, from a ruling of the court authorizing the production, disclosure, or use of classified information, imposing sanctions for nondisclosure of classified information, or denying the issuance of a protective order. The courts of appeal are required to decide the appeal on an expedited basis.

Section 109(a). This subsection is intended to expliciting recognize the authority of the Federal courts to issue protective orders when the government provides the defense with classified information or grants access thereto.

Section 109(b). This subsection is intended to explicitly recognize the authority of the Federal courts in overseeing the discovery process. When classified information is involved, the court may authorize the government to delete specified items, substitute a summary of specified items, or submit a statement admitting relevant facts that the specified information would tend to prove.

Section 110. This section directs the Supreme Court to establish security procedures to protect classified information that is in the custody of the Federal courts. Such procedures must be prescribed within 4 months of enactment and must be submitted to the Congress before taking effect.

Section 111. This section deals with those prosecutions under the espionage or espionage related laws in which the government must prove that the information upon which the prosecution is based is classified or relates to the national defense. Where the government, as in the Ellsberg prosecution, intends to rely on only a part of the information in making its proof, it must so notify the defendant.

Section 112. This section, for the purposes of the certifications or requests to be made under the Act, defines "Attorney General" to include the Deputy Attorney General or a pre-designated Assistant Attorney General.

Section 113. This section defines the term "classified information" which the previous provisions are designed to protect. It is "restricted data" covered by the "Atomic Energy Act" or information clearly marked or represented pursuant to the provisions of a statute or Executive Order as information requiring a specific degree of penetration for reasons of national security.

Section 201. This section directs the Attorney General to promulgate guidelines to be used by the Department of Justice in deciding whether or not to prosecute a case in which there is a possibility that a prosecution will cause the disclosure of classified information.

Section 202(a). Subsection (a) applies when the Department of Justice decides not to prosecute a case because of the possibility of disclosure of classified information. When such a decision is made, the Department of Justice must prepare written findings explaining its decision. The findings must include the information that might be disclosed, the circumstances under which it might be disclosed, and the consequences of disclosure.

Section 202(b). Subsection (b) requires that the findings made under subsection (b) be submitted to the House and Senate Intelligence Committees.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I want to commend the gentleman for introducing this legislation.

Mr. Speaker, the measure which my colleague from Illinois (Mr. Murphy) is introducing today will go a long way toward restoring confidence in our intelligence agencies and in our judicial system.

To hide behind a curtain of secrecy by charging that classified information is vital to the defense or prosecution of an alleged wrongdoer is to abuse judicial process—and to thwart the orderly administration of justice.

Mr. Speaker, "graymail" should not be countenanced as a device to impede the orderly trial of criminal cases in which classified information may be—incidentally—involved.

Mr. Speaker, again, I commend my colleague Morgan Murphy for his leadership—and for his good judgment in his sponsorship of this measure.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I rise in support of this bill and I commend the gentleman from Illinois (Mr. Murphy), my chairman in the Intelligence Committee, for his remarkable work and his stalwart work on behalf of protecting the right people in this whole intelligence effort. I thank the gentleman for his leadership.

EFFORTS SHOULD CONTINUE FOR RELEASE OF ANATOLY SHCHARANSKY

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. Hollenbeck) is recognized for 5 minutes.

● Mr. HOLLENBECK. Mr. Speaker, I welcome this opportunity to once again join with my colleagues and appeal to the Soviet Union for the release of Anatoly Shcharansky. It was 1 year ago today that the trial of Mr. Shcharansky began in Moscow. As we all know, Anatoly received a severely inflated 13-year prison term in what was clearly the result of trumped-up espionage charges. This 13-year sentence was imposed by Soviet authorities despite Presidential intervention attesting to the fact that Mr. Shcharansky was not in any way associated with the Central Intelligence Agency.

Now exactly 1 year later, I am sad to state that the situation has worsened. Mr. Shcharansky not only remains imprisoned, but he has been isolated from his fellow inmates at Chistopol and his health is quickly deteriorating.

To imagine that such an unjust series of events can actually occur in our modern world and in direct violation of agreed human rights principles is indeed a depressing thought. While Mr.

Shcharansky's health problems have long been known, the latest word from one of his fellow inmates indicates that the 31-year-old prisoner's condition is worsening, that he is losing weight rapidly, and that he is not receiving the necessary medical attention.

Last year I cosponsored a science hearing at which Mrs. Avital Shcharansky testified in behalf of her husband. To listen to her impassioned pleas for Anatoly's well being was both a memorable and a stirring experience. Avital has embarked on a personal crusade to bring Anatoly's plight to the attention of others throughout the world. She is truly a woman of extraordinary character driven by her incredibly strong commitment to her imprisoned husband.

Like Mrs. Shcharansky and as civilized people with an inherent respect for basic human rights, we must not relent in our efforts to secure the release and emigration of Mr. Shcharansky. We must continue to persevere as we hope and pray that Anatoly is able to persevere.

I am proud to join my colleagues in condemning the Soviet Union for their shameful injustices in the case of Anatoly Shcharansky. I only hope that civilized people throughout the world will not relax their efforts to achieve Mr. Shcharansky's early release.●

"HILL TOPICS" STAFF SEMINARS SPONSORED BY HOUSE ADMINISTRATION COMMITTEE

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

● Mr. THOMPSON. Mr. Speaker, I would like to take a few moments to bring to the attention of the Members of the House a new series of seminars which will be offered by the Office of Management Services of the Committee on House Administration.

Beginning on Friday, July 13, 1979, this series, called "Hill Topics," will be offered twice monthly to provide Members and House staff the opportunity to learn more about subjects of interest to the congressional community and to enhance personal skills in management and legislative support areas.

On the 13th William Cable, whom most of you know, will discuss "White House/Congressional Relations." This is a subject of vital importance to all of us and no one is better able to discuss the subject than Mr. Cable. The seminar is scheduled to begin at 12:30 p.m. in the Cannon Caucus Room and will last for 1 hour. During that time Mr. Cable will give us additional insight into the organization and internal operations of the Congressional Liaison Office of the White House.

Some other subjects to be discussed, at later dates, will be the General Accounting Office, the Office of Technology Assessment, the Congressional Research Service, the congressional budgetary process, House floor rules and procedures, and other topics of interest to you and your staffs.

Announcements of future Hill Topics and dates of other management development training courses will be sent to your offices in advance of each seminar.

I hope that you and your staff will take advantage of this opportunity to attend sessions that are relevant to your needs.●

THE INDIANA EAST-WEST TOLL ROAD

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. BENJAMIN) is recognized for 5 minutes.

● Mr. BENJAMIN. Mr. Speaker, today I am introducing a bill authorizing the repayment of $1,936,894 by the State of Indiana to the Federal highway trust fund to release the State, the Indiana Toll Road Commission, and the U.S. Government from certain tripartite agreements made in the early 1960's. The bill will allow the toll road commission to continue to collect tolls in order to operate, maintain and make necessary improvements on the Indiana East-West Toll Road.

The Indiana East-West Toll Road was completed in 1956 and was constructed with the proceeds of the sale of $280 million of revenue bonds issued by the Indiana Toll Road Commission. The bonds were issued pursuant to an Indiana statute which authorized the construction of the toll road and the collection of tolls to provide for its operation and maintenance and the repayment of the bonds. The bonds were amortized yearly over a period of not more than 40 years and it is estimated that they will be retired by the mid 1980's, 8 years earlier than expected.

The Indiana statutes permit, but do not require, tolls to be removed upon retirement of the bond issue. In 1961, 1962, and 1963, the commission entered into three agreements with the Secretary of Commerce and the Indiana Highway Commission (tripartite agreements) in connection with the construction of access roads to toll road entrances. Federal funds in the amount of $1,936,894 were granted for these projects. The tripartite agreements, as required by 23 U.S.C. 129, contained a covenant by the commission that the toll road would be free of tolls when the then outstanding bonds were retired and that no additional bonds would be issued. Consequently, when the bonds are retired, the commission will be forced to turn the highway over to the Indiana State Highway Commission.

If the Indiana Toll Road does become a free highway and is turned over to the State highway commission, the State will be forced to incur all costs associated with its operation and maintenance and would have to provide the large capital investment needed to bring the highway up to interstate standards. The highway commission, already overburdened by the mounting maintenance costs of the Interstate System in Indiana, has publicly stated that it is strongly disinclined to assume the additional $8 million to $10 million annual expense for the toll road, a figure which is 12% of its present budget for annual maintenance of all Indiana highways and 6 percent of its total annual budget.

In response to opposition from both the State highway commission and the Indiana State Legislature, the Indiana Congressional delegation requested the 94th Congress to allow the State to repay the $1,936,894 and permit the commission to continue to collect tolls at its discretion. This proposal was contained in H.R. 4163 and S. 1658, neither of which were adopted. I did not support the proposal and asked that language be included in the Surface Transportation Act of 1978, Public Law 95-599, authorizing $50,000 to conduct a study on the future demands of the toll road and recommending ways the facility could be improved to meet those demands. In order to avoid the unnecessary expenditure of public funds, a study prepared by the toll road's consulting firm, Wilber Smith Associates, was utilized.

The Smith study was released on April 30, 1979, and examined future traffic demands, anticipated revenues and expenses, modifications in toll collection methods and future improvements which included the possible construction of new interchanges and upgrading the highway so that it will meet present interstate standards. The study estimated that $258,315,000 is actually needed to widen bridges, expand shoulders, modify slopes, add additional lanes, repair and construct new ramps and to renovate and add new toll facilities. The anticipated revenues from a 30-year bond issue, however, will only allow $151,819,000 in expenditures.

Based on these figures and other related factors, the Smith study recommends that the system now used to collect tolls be modified slightly and prioritizes the needed capitol investments. The study recommends that $60,529,000 be used for the construction of six new interchanges—the exact locations of which are listed in the bill—$46,025,000 to widen bridges and add additional lanes, $13,516,000 to renovate, add, and remove toll facilities, and the balance for engineering and miscellaneous expenses. The bill requires that these six new interchanges be constructed by January 1982. Wilbur Smith and Associates state that the plan they have selected for the future development of the Indiana Toll Road will expand accessibility of the highway, provide a substantial stimulant for economic growth to areas along the highway and bring the total facility close to interstate standards.

In the event the toll road is turned over to the State, the highway will be upgraded gradually, contingent upon the amount of Federal highway funds available to Indiana. Priority would be given to upgrading the highway and the proposed interchanges could not be considered for inclusion into the State highway plan until 1992. The Indiana constitution prohibits the State from issuing bonds so that the cost of any program to make the toll road of greater utility to the area of northern Indiana must be met from the annual highway commission budget. The availability of Federal funds has not been assured, let alone committed, and the trend indicates a contraction of the Federal highway program.

The inclusion of the toll road into the State system would also eliminate at least 250 jobs and dilute the excellent service now provided motorists and travelers who use the Indiana Toll Road. According to the Indiana Toll Road Commission's 1977 annual report, the commission expended approximately $4 million for current roadway maintenance and almost $1.1 million for patrolling the toll road. To further demonstrate the difference in maintenance, the toll road expends about $25,000 a year to maintain a mile of highway compared to Indiana which spends only $10,700 a year to maintain a mile of the interstate highway system in Indiana.

In view of the numerous improvements that will be needed on the Indiana Toll Road and Indiana's inability to assume this financial responsibility, I urge the adoption of this proposal to enable immediate improvements for the benefit of the traveling public and interstate commerce.●

ENERGY REPORT NO. 4: AN EMERGENCY ENERGY PRODUCTION BOARD IS NEEDED TO RESOLVE THE IMPASSE CREATED WHEN EVERY ENERGY PRODUCTION ACTION IS MET WITH AN EQUAL AND OPPOSITE ENVIRONMENTAL PROTECTION REACTION

The SPEAKER. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. ALEXANDER. Mr. Speaker, yesterday I set forth, in a letter to the President, the essential components of a national energy strategy to free the United States from the oppressive forces of the foreign oil producing and exporting countries.

Because of Americans' insatiable oil appetite, the foreign oil suppliers are able to dictate economic and political demands under the threat of cutting off the U.S. supply of oil. The economy is slowly being eroded together with the American standard of living. A typical consumer's energy expenditures—direct and indirect—may take more than 20 percent of the individual's aftertax income by 1985. That is nearly a third higher than the drain in 1978. And if OPEC oil reaches $29 a barrel, the drain will reach 25 percent.

Higher energy costs could also add 250,000 persons to the unemployment rolls by the end of 1979 and another 550,000 in 1980.

With the latest OPEC price hike last month, the 8.5 million barrels per day of U.S. foreign oil purchases will total about $60 billion, an increase of $20 billion over 1978.

As U.S. wealth is drained away to pay for foreign oil, the U.S. trade deficit widens, double-digit inflation increases, productivity and business investments decrease, and the gross national product—the Nation's total output of goods and services—drops.

To turn around the U.S. economy, we must convert the oil-based economy to a mixed energy economy based on coal, nuclear power, synthetic fuels, solar energy, hydroelectric power, increased domestic oil and natural gas production and recovery, unconventional energy sources, and comprehensive conservation and energy efficiency programs.

To achieve this objective will necessitate aggressive management and forceful action because it is widely felt that in recent years every energy production action is met by an equal and opposite environmental protection reaction. I have proposed to the President the establishment of an Emergency Energy Production Board (EEPB) empowered with authority similar to the War Mobilization Board of World War II. The EEPB can be the prime force in securing the energy future and freeing Americans from the foreign oil habit.●

H.R. 1776 HONOR ROLL—CONGRESSIONAL VETO

The SPEAKER. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

● Mr. LEVITAS. Mr. Speaker, it is entirely appropriate just after the House has returned from the July 4 district work period for me to report on the progress of H.R. 1776 providing for congressional or legislative veto of Government regulations. I am pleased to report that support for this important piece of legislation has grown even more in the House, and hearings have commenced. Today, I am submitting the additional names of 50 of our colleagues who have joined the H.R. 1776 honor roll by cosponsoring this bill which restores control over Executive and bureaucratic power by the people through their elected representatives. This brings the number of cosponsors of H.R. 1776 to an overwhelming 200 Members of the House. In addition, the Subcommittee on Rules of the House of the Rules Committee today began hearings on H.R. 1776 with the expectation of reporting a bill early in the next session.

One of the many grievances enumerated against King George in the Declaration of Independence was: "He has erected a Multitude of new Offices, and sent hither Swarms of Officers to harass our People, and eat out their Substance." It is with a bit of irony that we again see the American people struggling so with bureaucratic power. Our forefathers would be shocked at the erosion of the principle for which they fought—government by the consent of the governed. Independence was declared by the American colonists so that the laws which governed them, would be made by the persons elected by and accountable to them.

We have moved far from this principle. Today, the vast number of laws which govern this country are, in fact, regulations issued by unelected bureaucrats who are not accountable to the people of this country. There can be no mistake that these regulations are laws for a person can be fined, imprisoned, or otherwise lose benefits for violating a regulation, just as he could be for violating a law.

H.R. 1776 addresses the principle to which the Declaration of Independence spoke over 200 years ago. It restores to the people their right to govern themselves by giving Congress, their elected representatives, the authority to review and, if necessary, veto in advance any rule or regulation issued by unelected bureaucrats. It provides the accountability which our forefathers declared was essential for a just government.

I am delighted that over 200 of our colleagues have joined the H.R. 1776 honor roll. These Members come from all across the political spectrum. This bill cannot be termed liberal or conservative; it crosses ideological lines. It simply reclaims for ourselves and our citizens the right of rule by the people and not by bureaucracy.

The following is a list of those Members who have joined the H.R. 1776 honor roll. I welcome our other colleagues to add their names to this list for congressional control of and accountability for the laws/regulations:

H.R. 1776 HONOR ROLL

Mr. Abdnor, Mr. Alexander, Mr. Albosta, Mr. Anderson of California, Mr. Andrews of North Dakota.

Mr. Anthony, Mr. Applegate, Mr. Archer, Mr. Atkinson, Mr. AuCoin.

Mr. Badham, Mr. Bafalis, Mr. Barnard, Mr. Bauman, Mr. Benjamin, Mr. Bennett, Mr. Bereuter.

Mr. Bethune, Mr. Bevill, Mr. Blanchard, Mr. Boner of Tennessee, Mr. Bonior of Michigan.

Mrs. Bouquard, Mr. Bowen, Mr. Breaux, Mr. Brinkley, Mr. Brodhead.

Mr. Brown of Ohio, Mr. Broyhill, Mr. Buchanan, Mr. Burgener, Mr. Butler.

Mrs. Byron, Mr. Campbell, Mr. Carr, Mr. Cavanaugh, Mr. Chappell.

Mr. Clausen, Mr. Cleveland, Mr. Coelho, Mr. Coleman, Mrs. Collins of Illinois.

Mr. Corcoran, Mr. Coughlin, Mr. Crane of Illinois, Mr. D'Amours, Mr. Daniel (Dan) of Virginia, Mr. Daniel (Robert) of Virginia.

Mr. Dannemeyer, Mr. Daschle, Mr. Davis of South Carolina, Mr. Derwinski, Mr. Devine.

Mr. Donnelly, Mr. Dornan, Mr. Dougherty, Mr. Duncan of Tennessee, Mr. Duncan of Oregon, Mr. Edwards of Oklahoma.

Mr. Emery, Mr. English, Mr. Erdahl, Mr. Evans of Georgia, Mr. Evans of Indiana, Mr. Evans of Delaware.

Mr. Fazio, Mrs. Fenwick, Mr. Findley, Mr. Fish, Mr. Fithian.

Mr. Fountain, Mr. Fowler, Mr. Frenzel, Mr. Fuqua, Mr. Gaydos.

Mr. Gephardt, Mr. Gilman, Mr. Gingrich, Mr. Ginn, Mr. Glickman.

Mr. Goldwater, Mr. Gradison, Mr. Gramm, Mr. Grassley, Mr. Gudger.

Mr. Guyer, Mr. Hagedorn, Mr. Hall of Texas, Mr. Hamilton, Mr. Hance.

Mr. Hefner, Mr. Heftel, Mr. Hightower, Mr. Hinson, Mr. Holland.

Mr. Hollenbeck, Mrs. Holt, Mr. Hubbard, Mr. Huckaby, Mr. Hughes.

Mr. Hyde, Mr. Ichord, Mr. Ireland, Mr. Jacobs, Mr. Jeffries.

Mr. Jenkins, Mr. Jenrette, Mr. Jones of Tennessee, Mr. Jones of Oklahoma.

Mr. Kemp, Mr. Kildee, Mr. Kindness, Mr. Kramer, Mr. Lagomarsino.

Mr. Leach of Iowa, Mr. Leach of Louisiana, Mr. Lee, Mr. Lent, Mr. Lloyd.

Mr. Long of Maryland, Mr. Lott, Mr. Luken, Mr. Lungren, Mr. Madigan.

Mr. Marriott, Mr. Martin, Mr. Mathis, Mr. Mazzoli, Mr. Mavroules, Mr. McDonald.

Mr. McKay, Mr. McKinney, Ms. Mikulski, Mr. Mineta, Mr. Mollohan, Mr. Montgomery.

Mr. Moore, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Myers of Indiana, Mr. Neal, Mr. Nedzi.

Mr. Nichols, Mr. Nolan, Mr. Nowak, Mr. Panetta, Mr. Pashayan, Mr. Pepper.

Mr. Price, Mr. Pritchard, Mr. Quayle, Mr. Rahall, Mr. Ratchford, Mr. Regula, Mr. Roberts.

Mr. Robinson, Mr. Roe, Mr. Rose, Mr. Roth, Mr. Rousselot, Mr. Rudd, Mr. Runnels.

Mr. Santini, Mr. Schulze, Mr. Sensenbrenner, Mr. Sharp, Mr. Shelby, Mr. Shumway, Mr. Slack, Mrs. Snowe.

Mr. Snyder, Mr. Solomon, Mrs. Spellman, Mr. Spence, Mr. Steed, Mr. Stockman, Mr. Stump.

Mr. Synar, Mr. Symms, Mr. Thomas, Mr. Trible, Mr. Volkmer.

Mr. Walker, Mr. Watkins, Mr. White, Mr. Whitehurst, Mr. Whitley, Mr. Williams of Ohio, Mr. Wilson of California.

Mr. Wilson of Texas, Mr. Winn, Mr. Wolpe, Mr. Won Pat, Mr. Wyatt.

Mr. Yatron, Mr. Young of Alaska, Mr. Young of Missouri, Mr. Zeferetti.●

THE IMBALANCE IN INTERNATIONAL WINE TRADE

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CORMAN) is recognized for 5 minutes.

● Mr. CORMAN. Mr. Speaker, in view of the U.S. trade deficit of over $567 million that wine represents, 2 percent of the total U.S. trade deficit for 1978, I would like to describe for my colleagues the inequities faced by the American wine industry in international wine trade.

The American wine industry is a domestic industry which, unlike many foreign wine industries, receives no governmental aid or subsidy. It competes in the American market with foreign wines from all over the world. Foreign wine moves freely in the U.S. market, subject to no nontariff barriers and the same laws and regulations which apply to American wine and to the payment of very modest import duties. For example, because of trade negotiations prior to the 1974 Trade Act, the duty on table wine is only 37½ cents per gallon, the lowest in the world. Foreign wines are assessed State and Federal excise taxes at the same rate paid by American wines.

American wine, and particularly wine produced in California, has achieved worldwide recognition among wine experts for its high quality and value. Yet the easy accessibility enjoyed by imported wines to the American market is in direct contrast to the export position of the American wine industry. The American winegrower seeking to market his products abroad is faced with a maze of restrictive and prohibitive tariff and nontariff trade barriers. The industry has actively sought but has not been successful in its efforts to eliminate these trade barriers.

According to page 190 of the multilateral trade negotiations: results for U.S. agriculture, a report prepared for the Congressional Research Service at the request of the Subcommittee on International Trade, Committee on Finance, U.S. Senate:

> Thus U.S. wine industry urged the U.S. to seek removal or modification of foreign NTB's which limited or prohibited imports of U.S. wines and also to negotiate some of the higher foreign entry rates downward towards the levels of U.S. import duties. The MTN negotiations have resulted in no measurable effect on U.S. wine trade.

Thus, in 1978 foreign wines with a value of $578,043,000 were imported into the United States, while the value of wine exports amounted to only $10,480,000. U.S. residents drank nearly 94,076,000 gallons of imported wine in 1978, while U.S. winegrowers sold only 2,485,000 gallons of American wine to foreign markets. In fact, of this total, only 609,000 gallons were to world markets other than Canada and the Caribbean.

There has been a more rapid growth in imports than in the American wine market as a whole. The 1978 figures for the value and quantity of imported wine compares with 1977 figures of $386,500,000 and 68,722,000 gallons respectively. The share of the U.S. wine market held by imports in 1978 was 21.8 percent which comparies with 17.2 percent in 1977, 11.2 percent in 1970 and 6.6 percent in 1960.

Table wine has become the major type of wine consumed in the U.S. market over the past two decades, accounting for nearly 70 percent of all U.S. wine sales in 1978, and is expected to increase its already dominant position in the U.S. wine market during the next decade. The share of the U.S. table wine market held by imports in 1978 was 26.1 percent, which comparies with 21.5 percent in 1977, 15.2 percent in 1970 and 10.6 percent in 1960.●

TOWARD AN ENERGY INDEPENDENCE POLICY

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. BRODHEAD) is recognized for 5 minutes.

o Mr. BRODHEAD. Mr. Speaker, a letter from 12 of the leading Jewish organizations in this country to President Carter on the current energy crisis has come to my attention. I believe that this letter contains the most cogent, rational analysis of the energy situation that I have seen. I share the views expressed in this letter, and I support the solutions advocated. In particular I would like to underscore the necessity of "stringent Government regulation of mechanisms for importing oil." Passage of my bill H.R. 3329, the Oil Import Purchase Authority Act, would provide such a mechanism. I urge my colleagues to read this letter and I look forward to working with them to establish the kind of sensible policies set forth in this letter:

JULY 3, 1979.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: This letter comes to you from organizations representing hundreds of thousands of Jews from all walks of life and all political persuasions. It is prompted by our deep concern about energy policy which we believe is the greatest challenge facing America today.

We commend the Administration for its efforts to help make this country less dependent on foreign energy sources. Because we believe this task must have the highest national priority, we have pledged to inform our members about energy policy options, to work with other groups, Jewish and non-Jewish, on grass roots conservation campaigns and to support policies that can reduce our dependence on unstable Persian Gulf oil sources.

The unconscionable OPEC price rise announced on June 28 underscores our belief that U.S. vulnerability to the OPEC cartel is a threat not only to national security, but to the maintenance of an independent U.S. foreign policy, and to world political and economic stability.

Several of our agencies are pioneers in intergroup relations, and are therefore particularly concerned with the exacerbation of group tensions that might result from a shrinking economy. We are convinced that energy decisions will help determine whether the economy can expand or contract.

Your Administration has tried to persuade the American public to conserve available energy resources; it is clear, however, that voluntary efforts are not enough. We hope, therefore, that the Administration and the Congress will enact equitable mandatory measures which will substantially reduce the excessive consumption of energy in our nation.

Although we applaud the steps already taken by your Administration to fund research and development on alternative nonfossil energy sources, we believe that much more remains to be done, and that such research and development, particularly on renewable sources, should have the same priority given to the Manhattan Project and landing a man on the moon. We are therefore encouraged by recent proposals for speedup of demonstration projects for alternative sources and synthetic fuels development.

Obviously, there can be no quick-fix or painless solutions for our domestic energy shortfall. It may well be necessary to trade higher costs or eased environmental standards for the expansion of domestic sources. The use of coal, for example, has been impeded not by supply or lack of technology, but by an unwillingness to make such tradeoffs. Some relaxation of our present environmental rules could permit greater utilization of this abundant resource and still guarantee adequate environmental protection.

Natural gas has come into increasingly abundant supply and is, in fact, underutilized. We therefore urge incentives to step up conversion from oil to natural gas. In addition, we believe that appropriate Federal lands should be released for development of all energy sources at an accelerated rate.

But the heart of U.S. energy policy is our policy concerning domestic and imported oil. If the Administration's proposal for gradual deregulation of domestic oil prices is put into effect, it is essential that any "windfall" tax on company profits that result be accompanied by provisions to ensure that the companies invest their increased profits in development of energy supplies. It is not good enough merely to urge the oil industry to reinvest its profits; there must be strong tax penalties if it does not.

You have often stated that the poor should not bear the special burdens of increasing energy prices. We support your view that the Federal Government must subsidize these costs. But we also believe that the price spiral will accelerate unless we produce more domestic energy, conserve more, and develop more powerful methods for dealing with OPEC in the marketplace.

If there is to be deregulation of domestic oil prices, we believe it should be accompanied by more stringent government regulation of mechanisms for importing oil, and by stronger measures to combat OPEC's price-setting power in international markets. One important step would be to eliminate abuses of foreign tax credits for oil produced abroad by American companies, especially in OPEC countries. (The removal of all foreign tax credits might impede energy development in non-OPEC countries.) We support a quota on imports of foreign oil and the use of a sealed-bid mechanism to allocate the oil within the quota. (We believe, however, that these measures should not apply to the Western Hemisphere, where an Energy Free Trade Zone is desirable.) The U.S. must also diversify its sources of imported oil and make the market more competitive by encouraging exploration and development in regions more stable than the Middle East, particularly in the Western Hemisphere. In this connection, we hope the forthcoming negotiations with Mexico will bring a mutually advantageous agreement on its sale of oil and gas to the U.S.

We also support proposals calling for the U.S. to guarantee to purchase a portion of its oil needs from non-OPEC countries that require financial backing, as well as Western Hemisphere producers. We urge greater U.S. support for World Bank and other international financing of oil exploration in the LDCs and the creation of an energy development facility within the Export-Import Bank of the United States, Federal underwriting of risk insurance for exploration in less stable parts of the world, and U.S. aid for heavy oil exploration and processing outside the U.S., particularly the Western Hemisphere.

Perhaps the single most effective response to OPEC, we believe, would be cooperative efforts by all oil-consuming nations such as those begun at the Tokyo Economic Summit. As Walter Levy stated in Fortune (May 21, 1979), "OPEC has laid the groundwork for a continuing uncontrollable escalation in prices. If the importing countries sit idly by, watching events develop as if hypnotized into inaction, shortages will lead to unrestrained competitive bidding for scarce supplies. There will be no end to the escalation of prices if we do not see the danger and take coordinated international action to cope with it."

We are therefore encouraged by the steps taken at the Tokyo Summit. We hope that the decisions reached there will lead to more comprehensive agreements to curtail world oil demand, to stabilize the market, and to increase international technological cooperation for the development of synthetic and alternative fuels. Certainly, the U.S. can and should, under your leadership, continue to play a major role in encouraging such action.

Respectfully,

American Jewish Committee, President; Richard Maass; American Jewish Congress, President, Howard Squadron; Anti-Defamation League of Bi'nai B'rith, National Director, Nathan Perlmutter; B'nai B'rith, President, Jack J. Spitzer; Hadassah, President, Bernice S. Tannenbaum; Jewish Labor Committee, President, Jacob Sheinkman; Jewish War Veterans of the United States of America, National Commander, Nathan M. Goldberg; National Council of Jewish Women, Inc., President, Shirley I. Leviton; Union of American Hebrew Congregations, President, Rabbi Alexander M. Schindler; United Synagogue of America, President, Simon Schwartz; Women's American ORT, National President, Ruth Eisenberg; and Zionist Organization of America, President, Ivan Novick.●

PROVOCATIVE TALK AT AN INTERFERON WORKSHOP

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, at a hearing on cancer by the House Select Committee on Aging, of which I am chairman, recently it was disclosed that of all the people who die over 55 years of age, half of them will die of cancer. Three hundred and seventy-seven thousand Americans die every year, as did my beloved wife last March, from this terrible monster killer cancer. Many thousands of our people suffer every year from one of the most painful of diseases, shingles. Millions constantly suffer from the common cold and viral infections as well. Others are the victims of rabies, chickenpox, and eye infections. What if there could be developed a substance which would prevent or cure cancer, the common cold, shingles, rabies, chickenpox, or eye infections which would not have bad side effects. That would be the answer to millions of prayers. There is now the possibility of such a substance being available. At our Aging Committee hearing this substance was recognized as the most promising development in the treatment of cancer and viral diseases. The development is still in its infancy but the success it has had so far has given great hope to those who are intimately familiar with it, that it may be one of the greatest blessings mankind has had. It is called Interferon. A very exciting article about Interferon appears in the current issue of Life magazine, beginning at page 55. This article by Mr. Albert Rosenfeld, a consultant to the National Foundation and a prize-winning science writer, tells about the origin and the nature of Interferon, the experience which the medical and research authorities have had with it and the promise it holds. Mr. Rosenfeld tells of his consultation with Dr. Mathilde Krim, research scientist at the Sloan-Kettering Cancer Center, who says of Interferon:

It is our greatest hope against viral ailments.

For the information of Members of Congress and the people of the Nation I incorporate in the RECORD the article to which I referred in Life magazine by Mr. Albert Rosenfeld:

PROVOCATIVE TALK AT AN INTERFERON WORKSHOP

(By Albert Rosenfeld)

"I don't claim that interferon will be the 'magic bullet,' as you call it, for cancer," says Dr. Mathilde Krim. "But can you tell me what other substance has, so early in its experimental life, shown such promising activity against major forms of cancer? And can you name another cancer therapy that has shown so few side effects—all of them reversible?"

She pauses to greet a Danish virologist who has just walked up the carpeted staircase, balancing a drink in one hand and a plate of food in the other as he moves lightly around a regal seal point Siamese. Krim, with her radiant smile and warm European accent, reminds me instantly of Zsa Zsa Gabor. She is an outstanding geneticist and cancer virologist and codirector of the Interferon Laboratories at the Memorial Sloan-Kettering Cancer Center in New York.

As the energetic impresario of the current drive on interferon—or IF, as it is referred to by professionals—she is clearly the appropriate hostess for the party celebrating the opening of a major international interferon workshop at Rockefeller University in New York. Gathered at the Krim home are more than 300 of the world's leading interferon investigators, who have come from 27 countries—a concentration of the scientific talent responsible for the sudden explosion of interest in a substance known since 1957.

Interferon is a hormonlike molecule of protein combined with some carbohydrate. The body's own cells produce it in minute quantities in response to viral attack. But it now takes enormous quantities of human blood to extract a small amount of interferon. Because it is such an intrinsically fascinating—if highly expensive to produce—substance, exerting far-flung effects on nearly all the cell's basic mechanisms, it has drawn the keen interest of virologists, microbiologists, immunologists, geneticists and cell biologists. Because it also promises to become one of the most versatile therapies in all of medical history, it has attracted increasing attention from clinicians, too, ranging from cancer doctors to infectious-disease specialists to transplant surgeons.

The American Cancer Society has just begun a $2 million clinical testing program—the first time in the organization's history that such a sum has been set aside for so highly focused a project. Two million dollars does not buy an impressive amount of interferon. A pound of it (if a whole pound were obtainable) would cost billions of dollars. However, interferon units are measured only in picograms—trillionths of a gram. A recurrent topic at the conference will be how to meet the challenge of producing more, and cheaper, interferon.

Cochairing the conference with Krim is Sloan-Kettering colleague Dr. William E. Stewart II, a tall, trim-bearded, cowboy-booted Texan, who stands nearby in animated conversation with two virologists who came from China to attend the workshop. Krim says that Dr. Stewart's new book, *The Interferon System*, "will be indispensable for everyone in the field."

"Isn't it exciting!" Mary Lasker, of the Albert and Mary Lasker Foundation, greets me. Mrs. Lasker has put the weight of her own prestigious medical organization behind interferon, and her enthusiasm on the subject is contagious. "Even if interferon turns out to be disappointing as a cancer treatment, and I doubt that it will, it is still the greatest hope we've ever had for protection against a whole spectrum of viral ailments."

Behind the wave of excitement about the long-range possibilities of interferon are the known effects IF has already had on a number of diseases. They include several forms of cancer, some of which had been resistant to chemotherapy. Scientists warn that the cases involved are few; that the interferon used has not been pure enough to rule out the possibility that other ingredients had caused the observed effects; that all programs are in their very earliest experimental stages. The belief now is that, at the very least, interferon will serve as a useful supplement to existing therapies for some cancers.

IF has shown promise in controlling nonmalignant growths, such as warts and papillomas, and it may help prevent the rejection of transplanted organs. Though considered mainly an antiviral, interferon may also afford some protection against at least a few kinds of bacterial, protozoal and rickettsial infections, including malaria, as well as autoimmune diseases (rheumatoid arthritis and multiple sclerosis are suspected of being autoimmune in nature).

IF is, as Mrs. Lasker says, our best hope for a broad-spectrum antiviral. Its prospects look good for the long-range treatment of hepatitis-B, the chronic form that can be dangerous to liver function (and may even contribute to the commonest form of liver cancer).

IF may also be at least a supplementary enhancer for rabies vaccines. Some investigators think that interferon will eventually be able to do the whole job. Shingles and chicken pox, both caused by the same herpes virus, should be good candidates for interferon therapy. The same is true of cold sores and other herpes infections, including the one that now causes the third most prevalent form of venereal disease. IF has shown signs of effectiveness against systemic viral infections of newborns and even more promise in upper-respiratory diseases, including influenza and the common cold. There is particular optimism for its use in the topical treatment of sometimes blinding eye infections. And this by no means completes the impressive inventory of interferon possibilities.

The little circle around Mrs. Lasker includes a man who participated in much of the pioneering antiviral research. He is Dr. Thomas C. Merigan, with whom I recently talked about interferon at Stanford, where he heads the Division of Infectious Diseases. In 1972, in collaboration with researchers at the British Medical Council's Common Cold Unit in Salisbury, Merigan conducted tests that strikingly demonstrated interferon's potential as a protection against common cold viruses. But it required $2,000 worth of interferon spray per person to prevent each cold. Until a more inexpensive interferon is available, Merigan and others will concentrate on the more life-threatening viral infections.

"The patient with a malignancy, for example, is doubly vulnerable," says Merigan. "His immune system is already subnormal. It is further suppressed by chemotherapy and radiation. With resistance so low, infections may appear in their most virulent form. They can cause some patients more misery and anguish than tumors do. Many cancer patients die, not of cancer, but of an accompanying infection. One of the worst of these is herpes zoster—shingles.

"Zoster is not only excruciatingly painful but can endanger the cancer victim's life as it spreads over the body's skin surface and to the viscera as well. In a series of three trials involving 90 lymphoma patients, we did observe some interferon side effects—fever, for example, and transient marrow suppression at the high dosages necessary. But our trials did demonstrate that interferon can prevent the spread of zoster in cancer patients. We now have every reason to believe that there may be a very useful role for interferon in the treatment of systemic viral infections. The same considerations hold true for transplant recipients," he adds. "They too have had their immune systems suppressed to prevent rejection—and they are vulnerable to infections which could perhaps be headed off by interferon."

Dr. Jordan Gutterman of Houston's M. D. Anderson Hospital and Tumor Institute, who had originally requested the grant from the American Cancer Society, is asked how his trials are going. "Well, the results have continued to be extremely encouraging," he says, "in breast cancer, lymphoma and multiple myeloma—though I can't give you the precise statistics until the results appear in the New England Journal of Medicine. And in support of what Tom Merigan was just saying, we've noticed that none of the patients on interferon seem to be catching colds or other viral infections."

I spot another interferon pioneer, Dr. Hans Strander of Stockholm's Karolinska Hospital, whom I had recently visited in Sweden. Strander was the first cancer clinician to use interferon on a series of cancer patients. At the time, he was criticized for it—and his optimistic findings were disbelieved. But he now appears well on his way to vindication. Strander is in conversation with Dr. Harri Nevanlinna, who is director of the Finnish Red Cross's Blood Transfusion Service as well as a friend and associate of Dr. Kari Cantell—the first person to have produced enough interferon to give to others for research—of Finland's Central Public Health Laboratory. If one were to choose a single hero in this distinguished group of interferon luminaries, it would have to be Kari Cantell.

"Many people have told me that Cantell could never have done his work without your help."

Nevanlinna replies, "Oh, I only supplied the blood. Kari supplied the imagination." Nevanlinna is a trim, balding Finn with the look of a man who really savors life.

"It is amazing to me that a country the size of Finland should be supplying the whole world with interferon."

"It was Kari's determination. He thought that human leukocytes—the white blood cells— might be good interferon producers if they were challenged with some agent relatively harmless to humans, such as the Sendai virus. But where to get the leukocytes? Well, when you centrifuge human blood to separate the cells of differing densities, all the white cells come out in a layer that floats on top. We call that the buffy coat. If you take off the buffy coats, you have the white cells."

"And the blood that remains is still good for transfusion?"

"Oh, yes. Even better. There is reason to believe that the white cells sometimes cause adverse reactions. So no one is cheated out of blood transfusions by removing the buffy coats. Gradually, over the years, as Kari learned how to make the leukocytes produce interferon and then went through the painstaking and very expensive process of extracting it, more and more of Finland's blood supply has been made available for producing what is known as human leukocyte interferon." (Since there are other types of interferon, they are often referred to as "the interferons.")

"Of course," Nevanlinna continues, "what we get is still far from a pure substance. And it still takes hundreds of gallons of white cells to produce frustratingly small amounts of usable interferon. If the clinical results continue to look so encouraging, there may be a demand in Finland that we keep our limited interferon supplies at home. By then we hope that countries like the United States and Sweden, which have the best research facilities, will be producing their own.

"Strander here has been through all this with us—right, Hans?"

Dr. Strander says he worked for five years in Helsinki and closely watched the results of mouse cancer experiments before he was ready to try interferon on human cancer patients. "There was some trepidation in the beginning, of course. And some surprises. One of the first persons I injected with interferon was a young woman with plantar warts on her feet, which she had had all her life. They completely disappeared! But when we stopped giving her interferon, they came back. Now, one cannot go around giving constant doses of interferon to keep away common warts.

"But there is a kind of wart—a nonmalignant, virus-caused papilloma—that afflicts children in a most distressing way. It is called juvenile laryngeal papilloma and is fortunately rare. These growths are not cancers but they could easily kill. They fill up the whole larynx so that the child can barely speak or breathe. And the only treatment is surgery. The papillomas have to be cut out again and again. One of the children I saw had already undergone more than one hundred operations! I now have some seven cases where the use of interferon has cleared up these growths. They do come back again, but repeated courses of interferon are infinitely easier on a child than repeated surgery."

Dr. Strander says he was also impressed with tests on patients with osteogenic sarcoma, a rare form of cancer that may accompany the spurt of growth occurring at puberty. The tumor tends to grow around the long bones, and amputation is a usual treatment. This disease has a fairly predictable course in the majority of cases: metastases to other parts of the body and death within a couple of years.

"In our first thirty-four cases treated with interferon—Kari Cantell's, of course—only half as many patients developed metastases as might have been expected, and they survived longer. Some scientists understandably objected that we had used 'historical controls'—that is, case histories of *past* patients. Now we have added some contemporary controls to our tests, and I think the results are turning out to be more acceptable."

They have, in fact, been accepted by many scientists—not as definitive, of course, but as exciting and encouraging—and have been reinforced by the work of others.

The optimism expressed at Dr. Krim's party—and very apparent at the conference working sessions—should not be mistaken for euphoria. More than one scientist remarks that IF is a most appropriate designation; the whole topic is still so iffy. More mystery than knowledge has existed in the field since the discovery of interferon in 1957 by the late Dr. Alick Isaacs, at Britain's National Institute for Medical Research, along with his Swiss-born collaborator at Oxford, Dr. Jean Lindenmann.

Already well known at the time was the phenomenon called viral interference: the presence of one virus interferes with the action of another. A patient with one viral disease will seldom succumb to another. In laboratory cultures, it is difficult to infect a group of cells with a virus when a prior virus is already at work. If two live-virus vaccines are administered near the same body site, they will interfere with each other. Why? Logic would predict that an organism weakened by one virus would be even more vulnerable to the next virual invasion.

And why are so many virus diseases "self-limiting"? Here, too, logic falters. A virus takes over a cell by commandeering its metabolic machinery, ordering it to make more viruses instead of its own stuff. The occupied cell complies, destroying itself and spewing forth a host of newly manufactured viruses. One would think that the freshly reinforced viral hordes would now be more irresistible than before. Yet they are resisted. How?

Isaacs and Lindenmann, working with membrance-cell cultures from chicken eggs, infected them with flu virus. Then they removed all viruses and cells from the culture before a new virus was introduced, and the interference remained just as strong protecting new cells placed in it. It was not, then, a case of one virus interfering directly with another. The first virus obviously induced the cell to produce something, an interfering substance—which turned out to be the protein Isaacs and Lindenmann named interferon.

On being invaded by a virus, cells begin to make IF. The IF molecules do not take on viruses directly; instead, the IF goes to surrounding cells and stimultates them to manufacture other substances. These effectively inhibit virus multiplication within the cell and make individual cells, as well as whole organisms, resistant to the spread of virus. Thus, IF molecules are, in effect, chemical "warning" messages sent from cell to cell. The "interferon system" is itself a compelx series of intracellular and intercellular events.

This system is clearly the organism's first line of defense against viruses. It moves into battle position within hours after the first viral spearheads have been detected, long before other elements of the body's immune system can mobilize their forces.

The discovery that the body produced an antiviral substance of its own held out the promise that IF—isolated, purified, synthesized and mass-produced—might be, for the viral diseases, what antibiotics are for bacterial infections. Investigators in many countries took up the challenge, their principal support furnished by the Medical Research Council in England and the National Institute of Allergy and Infectious Diseases (NIAID) in the U.S. Why has it taken them so long to get anywhere, clinically speaking?

For one thing, unlike other, similar molecules—such as insulin for diabetes—IF proved to be largely (though not absolutely) "species-specific." You need rat IF for rats and human IF for people. And from the very beginning IF was extraordinarily difficult to extract. "There was at least one other immediate difficulty," says Dr. Samuel Baron, a veteran interferon virologist. "Skepticism. Quite understandable skepticism." Baron, for many years with NIAID, has more recently been head of microbiology at the University of Texas Medical Branch in Galveston, which has now become a thriving center of interferon research. Baron had the early advantage of working with Alick Isaacs.

"I shared the prevailing skepticism about interferon at the time," he admits. "When I saw at first hand what was happening in those cultures—how completely the cells were protected from lethal viruses—I became an overnight believer. I have remained so over the years. People have decried the lack of 'results' in therapeutic terms, but there really has been steady and encouraging progress."

Part of this steady progress has been the result of a greater understanding about interferon's basic mechanisms. Because it is a large molecule, its laboratory synthesis is likely to take some time. But once accomplished, this will make possible large-scale production of IF. We have also learned that there are at least four different kinds of IF and also a set of IF inducers, substances that stimulate its production.

For the most part, the IF inducers have proved too toxic for use in humans. But at the conference, Dr. Hilton B. Levy of NIAID said that a new inducer called PICL (pronounced "pickle") "revives hope for an agent that might, after all, bypass the whole process of making interferon on the outside."

Most researchers believe that we will need every type of IF and IF inducer we can produce, merely to carry out the research needed to define the limits of the fantastic medical promise of the substance. With so much promise—and with so much research in need of doing—high priority will be placed on speeding up production. "As long as interferon remains so scarce," says Kari Cantell, "we will have trouble allocating it wisely. For example, we know that interferon is effective against the herpes eye infections which cause blindness in many of their victims. Suppose there are 100,000 people with such infections and we could treat them all with existing interferon supplies. Is that what we should do with our supplies—or conduct trials on a few hundred cancer patients? This is kind of ethical dilemma we will continue to face until we get a lot more interferon."

The last session of the three-day conference is held in a small, hot auditorium at Memorial Sloan-Kettering, with standing room only. After summaries of all the intensive, early-morning-to-late-evening sessions have been presented, Dr. Frank J. Rauscher Jr., head of research for the American Cancer Society, is called upon to describe the interferon trials now under way. The trials, he says, will cover only four types of cancer. Only about 150 patients will be involved over a period of months because of the scarcity and high cost of IF. "I am working on the ACS board," he says, "to add some more money for interferon research, but I can't say what further success I'll have."

Mary Lasker asks, somewhat hesitantly, "Do you think it's worth mentioning some of the preventive possibilities you talked about the other day?"

"Oh, yes!" Dr. Rauscher says. "There is every reason to hope that if interferon turns out to be an effective therapy for cancer, it should also be an effective cancer preventive. If we had plenty of it—and if it were found safe to take—I can imagine that people with a genetic or familial predisposition to some form of cancer might want to take it as a possible preventive. The same might be true for people who have worked around or have been exposed to dangerous substances, such as asbestos or radioactive materials."

It is not unreasonable to imagine a time when several kinds of pure interferon, in different dosage forms—over-the-counter or by prescription—would be purchasable at neighborhood pharmacies. We might use it to ward off colds all year round and flu in flu season. We might not have to worry about rabies, about shingles or hepatitis or warts or cold sores or eye infections or other familiar ailments. We might be able to regulate our immune systems at will, maintaining our resistance to a variety of diseases in all seasons and at all ages. We could keep our transplanted parts and organs from being rejected. And perhaps we can count on interferon to cure and/or prevent cancer!

Was there ever a panacea-hawking, snake-oil salesman at any carnival who promised more of his product? Yet it could all come true some day.

If . . . ●

THE ANTI-INFLATION AMENDMENTS OF 1979

The SPEAKER. Under a previous order of the House, the gentleman from Virginia (Mr. FISHER) is recognized for 5 minutes.

● Mr. FISHER. Mr. Speaker, today I am introducing the Anti-Inflation Amendments of 1979. This legislation, which is designed to reduce the rate of inflation over the next several years through the guidelines approach for wages and prices and an improved process for coordinating anti-inflation efforts, is similar to a bill which I introduced during the 95th Congress. However, far from being out of date, this legislation is more timely than ever. The rate of inflation for this year will exceed 13 percent if the present trend continues, and the recent oil price increases by OPEC promise to compound the situation. Furthermore, this legislation is clearly consistent with our major post-World War II, broad-based economic legislation—the Employment Act of 1946, and more recently, the Humphrey-Hawkins Act. It will, in considerable part, be an implementing piece of legislation designed to achieve the noble goals set forth in the Employment Act and the Humphrey-Hawkins Act.

I am certainly aware that a guidelines approach may meet with skepticism, because the administration's recent attempts in that direction have met with meager success. I still believe, however, that the guidelines concept is sound. Unwinding the wage-price spiral is at the heart of controlling inflation. What is needed are guidelines that are formulated by consensus which will encourage adherence to them, and that are monitored for compliance in a way that utilizes the leadership potential of the Presidency and the contractual powers of the executive branch. I believe that this legislation which I am introducing today meets these goals. Furthermore, this bill calls for an annual coordinated set of fiscal, monetary, regulatory, antitrust, investment, productivity and international policies which are designed to reduce inflation and to prevent the guidelines from being undercut by inconsistent governmental actions.

These guidelines will represent a consensus, because they will be formulated in consultation with business, labor, and private advisers as well as with the Council of Economic Advisers and will be subject to congressional review. The guidelines will, thus, reflect the thoughtful consideration by the major segments of our economy on what are the tolerable parameters of wages and prices. Since these guidelines will be the product of a broad based decisionmaking process, they will not need to be mandatorily imposed. Rather, they will be voluntarily assumed. In a sense, then, the enforcement of these guidelines will largely be the result of their having been arrived at in a cooperative spirit which gives each sector of the economy confidence in their reasonableness and a stake in their success. As part of this effort, the guidelines will allow for sufficient flexibility to account for structural, productivity, and other major differences among the various industries. In this way, flexibility will be built into the guidelines from the beginning instead of being tortuously grafted on during their implementation in a manner which saps their credibility.

Nevertheless, the guidelines will definitely have an objective element. They would reflect the increase in the cost of living which has occurred during the preceding year and would allow for estimated productivity gains throughout the economy. The actual guidelines would be determined by multiplying the sum of the cost-of-living increase and the productivity gain by some significant anti-inflation factor, which could be as much as 25 percent a year in periods of high inflation.

As a further incentive for compliance, each business concern covered by these guidelines which proposes to make a significant price change in any major product line will be required to notify the Council on Wage and Price Stability of that change at least 30 days before it is scheduled to become effective. Similarly, the Council will monitor the trends in wage settlements, the elements of upcoming wage proposals, and the progress in wage negotiations. The Council will also review the fee schedules of each professional association representing over 1,000 members. Strong efforts would be made to mediate differences, or with mutual consent to arbitrate them, in a manner consistent with the guidelines approach.

After analyzing this data, the Council will publish for public scrutiny a report on any price increase, wage settlement or change in fee structures which in its judgment substantially exceeds the relevant guidelines formulated under this legislation. In addition, the President with these data and with the prestige inherent in his office can work to rein potential breachers of the guidelines back into compliance. Furthermore, the President is clearly granted authority by this legislation to suspend or terminate Federal procurement contracts with business concerns which exceed the price guidelines or which are a party to wage settlements which exceed the wage guidelines. He will also have authority to restrict or eliminate Federal benefits to economic sectors, or business concerns or labor organizations within those sectors, which exceed the price guidelines or are parties to a wage settlement in excess of the wage guidelines. Temporary wage and price control in particular sectors would not be ruled out. But it is hoped that the consensus surrounding the guidelines and the Presidential mediation efforts on behalf of them will make unnecessary the use of these extra elements. Nevertheless, I believe that these powers can be useful in encouraging compliance with the guidelines.

Finally, according to this legislation, the President would prepare anti-inflation recommendations as part of his overall economic and budgetary program. The recommendations could include fiscal (tax expenditure debt), monetary, regulatory, antitrust, wage and price policy, and other economic measures. The Joint Economic Committee of the Congress would review the President's recommendations, and refer them, along with its own recommendations, for appropriate action by the relevant committees of the Congress. In this way, the new anti-inflation policy which is embodied in these guidelines can be prevented from foundering in the cross-currents of contrary governmental actions.

I believe that this legislation which I am introducing today can serve as the vehicle for a new discussion of how our Nation might emerge from its current economic maze. This approach which I have set forth is both familar and innovative. It can guide us along the twisting and uncertain path toward economic stability and growth. It merits serious consideration.●

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. MIKVA. Mr. Speaker, I was unavoidably detained away from the House on rollcalls Nos. 311 and 312. Had I been present I would have voted "no" on rollcall No. 311, the Quayle amendment and "no" on rollcall No. 312, the Ashbrook amendment, both of which amended the Department of Education bill.

CONFERENCE REPORT ON H.R. 4289

Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 4289) making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 96-331)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4289) making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 4, 11, 21, 22, 27, 28, 29, 30, 31, 38, 41, 43, 53, 57, 63, 69, 70, 71, 74, 90, 101, 107, 108, 110, 155, 158, 163, and 173.

That the House recede from its disagreement to the amendments of the Senate numbered 6, 10, 12, 13, 14, 15, 16, 17, 18, 20, 24, 32, 34, 35, 36, 42, 44, 51, 54, 55, 60, 64, 65, 66, 68, 105, 109, 113, 115, 116, 118, 119, 121, 122, 123, 124, 125, 126, 127, 128, 130, 132, 133, 134, 135, 137, 138, 139, 150, 151, 152, 153, 156, 157, 159, 161, 162, 164, 165, 166, 167, 168, 170, 171, 172, 174, 175, 176, 177, 178, and 179, and to agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "116,500,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert: "OPERATION AND MAINTENANCE"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $5,900,000.

And the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$8,600,000"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,353,000,000"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$5,000,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$190,000,000"; and the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$235,375,000"; and its Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$40,000"; and the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SELF-HELP DEVELOPMENT

For advances by the Office of Self-Help Development and Technical Assistance as authorized by section 202 of the National Consumer Cooperative Bank Act (12 U.S.C. 3042), $1,000,000, to remain available until September 30, 1980.

And the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

DEPARTMENT OF THE TREASURY

INVESTMENT IN NATIONAL CONSUMER COOPERATIVE BANK

For the purchase of class A stock issued by the National Consumer Cooperative Bank as authorized by section 104 of the National Consumer Cooperative Bank Act (12 U.S.C. 3014), $1,000,000, to remain available until September 30, 1980: *Provided*, That such amount shall also be the limit on the aggregate amount of commitments by the Bank to make or to guarantee loans in accordance with section 108 of the Act (12 U.S.C. 3018).

And the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$52,603,000"; and the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,312,000"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

Health Services Administration

HEALTH SERVICES

For an additional amount for "Health services" for carrying out title III of the Public Health Service Act, $4,969,000.

And the Senate agree to the same.

Amendment numbered 62: That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,500,000"; and the Senate agree to the same.

Amendment numbered 67: That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

ELEMENTARY AND SECONDARY EDUCATION

For an additional amount for "Elementary and secondary education", $150,000,000, for title I, part A, section 117, of the Elementary and Secondary Education Act, to become available for obligation on July 1, 1979, and to remain available until September 30, 1980.

And the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

National Commission on the International Year of the Child

For necessary expenses of the "National Commission on the International Year of the Child", including services as authorized by 5 U.S.C. 3109, $685,000, to remain available until expended; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$150,000"; and the Senate agree to the same.

Amendment numbered 92: That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$874,000"; and the Senate agree to the same.

Amendment numbered 97: That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,000,000"; and the Senate agree to the same.

Amendment numbered 98: That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$450,000"; and the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$925,000"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

Office of the Secretary

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For an additional amount for "Transportation planning, research, and development", $1,000,000 to conduct a study of inland waterway user taxes and charges.

And the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

FACILITIES AND EQUIPMENT (AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for "Facilities and equipment", $8,700,000, to be derived from the Airport and Airway Trust Fund, to remain available until September 30, 1981.

And the Senate agree to the same.

Amendment numbered 111: That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ": *Provided*, That these funds may be disbursed pursuant to terms and conditions that the Secretary of Transportation may establish"; and the Senate agree to the same.

Amendment numbered 131: That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$723,900"; and the Senate agree to the same.

Amendment numbered 136: That the House recede from its disagreement to the amendment of the Senate numbered 136, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$9,000,000"; and the Senate agree to the same.

Amendment numbered 149: That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$5,000,000"; and the Senate agree to the same.

Amendment numbered 154: That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,677,000"; and the Senate agree to the same.

Amendment numbered 160: That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$90,200,000"; and the Senate agree to the same.

Amendment numbered 169: That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,000,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 7, 8, 9, 39, 46, 50, 56, 58, 59, 72, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 93, 94, 95, 96, 99, 102, 103, 112, 114, 117, 120, 129, 140, 141, 142, 143, 144, 145, 146, 147, 148, 180, 181, and 182.

Jamie L. Whitten,
Edward P. Boland,
William H. Natcher,
Tom Steed,
John M. Slack,
Neal Smith,
J. P. Addabbo,
Clarence D. Long,
Sidney R. Yates,
Tom Bevill,
Robert Duncan,
Charles Wilson
(except amendment
No. 73),
Adam Benjamin, Jr.,
Silvio O. Conte,
Robert H. Michel,
Joseph M. McDade,
Mark Andrews,
Jack Edwards,
Robert C. McEwen,
Managers on the Part of the House.

Warren G. Magnuson,
John C. Stennis,
Robert C. Byrd,
William Proxmire,
Daniel K. Inouye,
Ernest F. Hollings,
Birch Bayh,
Thomas F. Eagleton,
Lawton Chiles,
J. Bennett Johnston,
Patrick J. Leahy,
Jim Sasser,
Milton R. Young,
Mark O. Hatfield,
Ted Stevens,
Charles McC. Mathias, Jr.,
Richard S. Schweiker,
Lowell P. Weicker, Jr.,
James A. McClure,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4289) making supplemental appropriations for the fiscal year ending September 30, 1979, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I

Chapter I

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Buildings and Facilities

Amendment No. 1: Reported in disagreement. The Senate amendment provides an additional $1,700,000 each for two research facilities for which the construction bids have exceeded the funds appropriated by 47 percent and 113 percent, respectively.

The managers on the part of the House will offer a motion to concur in the Senate amendment with an amendment appropriating an additional $720,000 for the Soil Erosion facility at Purdue University and $300,000 for the feedmill at El Reno, Oklahoma which will have the effect of providing an increase of 20 percent for each facility. The House amendment will appropriate $1,020,000 in lieu of the Senate amount of $3,400,000.

The managers on the part of the House are of the opinion that in order for bids to be considered for the construction of the two projects they should have been within the appropriations of $1,500,000 and $3,600,000. Since this fact was not made clear when the funds were appropriated, the managers on the part of the House agreed to the 20 percent increase.

The conferees have agreed that hereafter it should be made clear by the Department that all construction or bids, in order to be considered, would have to be within the sum appropriated by the Congress.

Food Safety and Quality Service

Amendment No. 2: Appropriates $750,000 for state grants for meat and poultry inspection as proposed by the House.

Extension Service

Amendment No. 3: Deletes language proposed by the Senate appropriating $4,973,000 for retirement costs of Cooperative Extension employees.

Agricultural Stabilization and Conservation Service

Dairy and Beekeeper Indemnity Programs

Amendment No. 4: Deletes language proposed by the Senate appropriating $1,943,000 for beekeeper indemnity claims.

Food and Nutrition Service

Child Nutrition Programs

Amendment No. 5: Appropriates $116,500,000 for child nutrition programs instead of $100,000,000 as proposed by the House and $133,000,000 as proposed by the Senate.

Amendment No. 6: Includes Senate language earmarking $6,077,000 for state administrative expenses.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That only claims for reimbursement for meals served during fiscal year 1979 submitted to State agencies prior to January 1, 1980, shall be eligible for reimbursement".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are in agreement that all claims for meals served in fiscal year 1979, in order to be eligible for funding, must be submitted to State agencies by January 1, 1980. In reaching this agreement, the conferees recognize that adjustments to these claims may arise pursuant to audits or investigations performed subsequent to submittal of claims. It is the intention of the conferees that proper payment of these resultant reimbursement adjustments not be precluded in instances where a claim was submitted within the allowable time frame.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making the availability of State administrative expenses funds contingent upon State cooperation in studies directed by Congress and requested by the Secretary.

Food Stamp Program

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: "$900,000,000, of which $520,300,000 shall be available only upon the enactment of authorizing legislation".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have added language making the availability of funds in excess of the present authorizing "cap" of $6,158,900,000 subject to the enactment of authorizing legislation.

Amendment No. 10: Includes language limiting the availability of food stamp funds to fiscal year 1979, as proposed by the Senate.

Food Donations Programs

Elderly Feeding Program

Amendment No. 11: Appropriates $27,000,000 for the elderly feeding program as proposed by the House.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

Military Personnel

Military Personnel, Army

Amendment No. 12: Appropriates $56,200,000 as proposed by the Senate instead of $76,200,000 as proposed by the House.

Military Personnel, Navy

Amendment No. 13: Appropriates $28,000,000 as proposed by the Senate instead of $29,200,000 as proposed by the House.

Military Personnel, Marine Corps

Amendment No. 14: Appropriates $900,000 as proposed by the Senate instead of $5,800,000 as proposed by the House.

Military Personnel, Air Force

Amendment No. 15: Appropriates $42,400,000 as proposed by the Senate instead of $14,500,000 as proposed by the House.

Reserve Personnel, Marine Corps

Amendment No. 16: Deletes all funds for "Reserve Personnel, Marine Corps" as proposed by the Senate instead of appropriating $500,000 as proposed by the House.

Reserve Personnel, Air Force

Amendment No. 17: Appropriates $2,800,000 as proposed by the Senate instead of $4,100,000 as proposed by the House.

Retired military personnel

Retired Pay, Defense

Amendment No. 18: Appropriates $128,662,000 as proposed by the Senate instead of $133,662,000 as proposed by the House.

Operation and Maintenance

Amendment No. 19: Inserts title as proposed by the Senate.

Operation and Maintenance, Army

Amendment No. 20: Appropriates $10,000,000 as proposed by the Senate, of which $7.5 million is for transportation cost and rate increases and $2.5 million is for restoring Turkish bases to full operations.

Operation and Maintenance, Navy

Amendment No. 21: Deletes all funds for "Operation and Maintenance, Navy" as proposed by the House instead of appropriating $36,000,000 as proposed by the Senate.

Operation and Maintenance, Marine Corps

Amendment No. 22: Deletes all funds for "Operation and Maintenance, Marine Corps" as proposed by the House instead of appropriating $10,500,000 as proposed by the Senate.

Operation and Maintenance, Air Force

Amendment No. 23: Appropriates $5,900,000 for Operation and Maintenance, Air Force instead of $21,700,000 as proposed by the Senate and deletes transfer authority of $50,000,000 proposed by the Senate. The $5,900,000 provided is for the purpose of reopening bases in Turkey.

Operation and Maintenance, Defense Agencies

Amendment No. 24: Appropriates $600,000 as proposed by the Senate.

Procurement

Other Procurement, Army

Amendment No. 25. Appropriates $8,600,000 instead of the $16,900,000 proposed by the Senate. The funds provided are for the procurement of one hundred thirty-four 10,000 lb. forklift trucks.

Shipbuilding and Conversion, Navy

Amendment No. 26: Appropriates $1,353,000,000 instead of $628,000,000 as proposed by the House and $1,450,700,000 as proposed by the Senate. The sum appropriated is for the procurement of four DD-993 guided missile destroyers. The $97,700,000 requested for shipbuilding claims is not appropriated.

Aircraft Procurement, Air Force

Amendment No. 27: Reinstates title as proposed by the House.

Amendment No. 28: Deletes $20,000,000 appropriation proposed by the Senate. The $20,000,000 was deleted without prejudice to the requirement for additional F-100 engine modules for the F-15 aircraft program. Existing funds can be made available for this purpose through reprogramming if such funds are available and if the Air Force considers the program to be of sufficiently high priority.

Amendment Nos. 29 and 30: Delete language and amount added by the Senate.

Amendment No. 31: Makes NATO AWACS funds available for obligation until September 30, 1979, as proposed by the House instead of remaining available until September 30, 1981, as proposed by the Senate.

Procurement, Defense Agencies

Amendment No. 32: Appropriates $800,000 as proposed by the Senate.

Research, development, test, and evaluation

Research, Development, Test, and Evaluation, Army

Amendment No. 33: Appropriates $5,000,000 instead of $43,700,000 as proposed by the Senate. The $5,000,000 provided is for improvements to the TOW antitank missile.

Research, Development, Test, and Evaluation, Navy

Amendment No. 34: Deletes the appropriation of $20,000,000 proposed by the House since the Trident II missile program was not included in the supplemental authorizing legislation.

Amendment No. 35: Appropriates $3,000,000 as proposed by the Senate for the Small Waterplane Area Twin Hull ship development program.

Research, Development, Test, and Evaluation, Air Force

Amendment Nos. 36 and 37: Appropriate $190,000,000 for Research, Development, Test, and Evaluation, Air Force as proposed by the House instead of $233,000,000 as proposed by the Senate. The funds made available are for the MX missile program, for integration of the air launched cruise missile with the B-52, and for acceleration of development of ground test equipment for the air launched cruise missile. The funds are available for obligation until September 30, 1980 as proposed by the Senate.

General Provisions

Amendment No. 38: Deletes language proposed by the Senate related to the National Board for the Promotion of Rifle Practice

The Civilian Marksmanship Program was fully funded for fiscal year 1979. The President's fiscal year 1980 budget includes no funds for the program. On July 1, 1979 the Department of the Army gave "reduction in force" notices to the civilian employees of the Director of Civilian Marksmanship and notified the military personnel of impending transfer.

The Senate added a language provision prohibiting the use of any funds in this Act or any other Act to disestablish the National Board for the Promotion of Rifle Practice, Office of the Director of Civilian Marksmanship or any reduction in force of personnel assigned thereto.

During its deliberation the conferees contacted the Deputy Secretary of Defense who assured them that no action will be taken to disestablish the Board or reduce the present personnel force until a conference agreement has been reached on the fiscal year 1980 Defense Appropriation Act.

The conferees rely on the commitment to continue the program, as is, until final action on the fiscal year 1980 budget request is completed.

CHAPTER III

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $2,700,000 for the Federal Energy Regulatory Commission and also provides a limitation which precludes the use of funds available to the Commission for the payment of expenses to parties intervening in regulatory or adjudicatory proceedings.

Office of Inspector General

The Committee of Conference agrees that an additional 16 positions and not less than $55,000 be earmarked solely for the Office of Inspector General for the rest of fiscal year 1979 as proposed by the Senate.

CHAPTER IV—FOREIGN OPERATIONS

FUNDS APPROPRIATED TO THE PRESIDENT

Military assistance

Amendment No. 40: Increases the overall ceiling on funds made available to the military assistance program to $235,375,000 instead of $232,875,000 as proposed by the House and $237,875,000 as proposed by the Senate. This action has the effect of reappropriating unobligated balances of $25,000,000 instead of $22,500,000 as proposed by the House and $27,500,000 as proposed by the Senate.

INDEPENDENT AGENCY

ACTION-INTERNATIONAL PROGRAMS

Peace Corps

Amendment No. 41: Appropriates $3,221,000 as proposed by the House instead of $3,480,000 as proposed by the Senate.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

Amendment No. 42: Appropriates $108,910,000 as proposed by the Senate instead of $104,910,000 as proposed by the House.

EMERGENCY REFUGEE ADMISSIONS POLICY

Amendment No. 43: Deletes language proposed by the Senate which encouraged the Attorney General to provide for a substantial increase in the number of Indochinese refugees paroled into the United States.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

Amendment No. 44: Appropriates $17,200,000 as proposed by the Senate instead of $10,000,000 as proposed by the House.

CHAPTER V

INDEPENDENT AGENCIES

National Commission on Air Quality

Amendment No. 45: Limits travel expenses for salaries and expenses in fiscal year 1979 to $40,000, instead of $35,000 as proposed by the House and $45,000 as proposed by the Senate.

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate allowing the Commission to reimburse individuals for official travel expenses incurred during fiscal year 1979.

National Consumer Cooperative Bank

Amendment No. 47: Restores language proposed by the House and stricken by the Senate for self-help development, amended to appropriate $1,000,000 instead of $3,000,000 as proposed by the House.

Department of the Treasury

Amendment No. 48: Restores language proposed by the House and stricken by the Senate for investment in National Consumer Cooperative Bank, amended to appropriate $1,000,000 instead of $8,000,000 as proposed by the House.

CHAPTER VI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Amendment No. 49: Appropriates $52,603,000 for management of lands and resources instead of $44,850,000 as proposed by the House and $55,850,000 as proposed by the Senate. The increase of $7,753,000 above the amount proposed by the House provides for outer continental shelf (OCS) environmental studies. The increase does not include $3,247,000 for OCS environmental studies for which funds were requested and recommended in the fiscal year 1980 Interior appropriation bill.

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing that $7,753,000 shall remain available through September 30, 1980, instead of $11,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Heritage Conservation and Recreation Service Urban Park and Recreation Fund

Amendment No. 51: Provides $250,000 for reimbursement to the salaries and expenses account as proposed by the Senate instead of $500,000 as proposed by the House.

Land and Water Conservation Fund

The managers are in agreement that $3,000,000 is to be reprogrammed from National Park Service in holdings for land acquisition at Buffalo National River.

Office of Territorial Affairs

Amendment No. 52: Appropriates $3,312,000 for administration of territories instead of $1,419,000 as proposed by the House and $23,312,000 as proposed by the Senate. The increase above the amount proposed by the House provides $1,893,000 for an inflation adjustment for the Northern Marianas Islands, as authorized by law.

Amendment No. 53: Deletes language proposed by the Senate which made $20,000,000 in grants to the Government of the Virgin Islands subject to an agreement between the Secretary of the Interior and the Governor of the Virgin Islands, with the approval of the legislature of the Virgin Islands, that amounts granted shall be repaid to the Treasury of the United States in the event that the Government of the Virgin Islands received retroactive payment of excise taxes levied by the United States on certain petroleum products, and also subject to not exceeding the operating deficit of the Government of the Virgin Islands for the fiscal year ending September 30, 1979.

RELATED AGENCIES

Department of Agriculture—Forest Service

Amendment No. 54: Appropriates $57,245,000 for forest protection and utilization as proposed by the Senate instead of $60,000,000 as proposed by the House.

Department of Energy

Amendment No. 55: Appropriates $1,200,000 for energy conservation as proposed by the Senate. The House bill contained no funds for this purpose.

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $8,600,000 for Economic Regulatory Administration instead of $5,600,000 as proposed by the House and $10,900,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount proposed by the House consists of $2,800,000 for the coal utilization program and $200,000 for studies on verification of petroleum supplies.

The managers are in agreement that the public is entitled to timely information on the status of domestic petroleum supplies and direct that $200,000 shall be available for the establishment of an Economic Regulatory Administration-Energy Information Administration interagency team, to be led by the Administrators of each agency, to study the feasibility and cost of a program to verify domestic petroleum supplies held in crude storage and in refining, distribution and retail sales systems. The team's findings should be reported to the Appropriations Committees by November 1, 1979, and will be considered for program funding adjustments or future appropriations to implement a reliable petroleum supply reporting program.

Amendment No. 57: Deletes language proposed by the Senate making $2,500,000 available until expended.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $1,000,000 for the Energy Information Administration for data gathering activities required by the National Gas Policy Act of 1978 instead of $2,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The House bill contained no funds for this purpose.

CHAPTER VII

DEPARTMENT OF LABOR

Employment and Training Administration

Advances to the Unemployment Trust Fund and Other Funds

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment appropriating $500 million for advances to the Unemployment Trust Fund and other funds. The House bill contained no funds for this purpose.

Employment Standards Administration

Black Lung Disability Trust Fund

Amendment No. 60: Authorizes the expenditure of $300 million from the Black Lung Disability Trust Fund, as proposed by the Senate. The House bill contained no authorization for this purpose.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

Health Services

Amendment No. 61: Appropriates $4,969,000 instead of $14,969,000 as proposed by the Senate. These funds will permit the entry on duty of an additional 125 National Health Service Corps personnel at the end of fiscal year 1979. This will increase the Corps to a field strength of 1850. The current authorization for this program limits the Corps to 1850 positions in fiscal year 1980. Despite this limitation, the conferees are agreed that the Department should continue to emphasize its recruitment of volunteers for duty in the Corps. Should more candidates become available for service than can be supported in the field, the Department should select for service those professionals who are most likely to stay in private practice in a shortage area without regard to whether an individual candidate is a volunteer or a scholarship recipient.

National Institutes of Health

National Institute of Child Health and Human Development

Amendment No. 62: Appropriates $7,500,000 instead of $5,000,000 as proposed by the House and $10,713,000 as proposed by the Senate.

Alcohol, Drug Abuse and Mental Health Administration

Alcohol, Drug Abuse and Mental Health

Amendment No. 63: Deletes $2,554,000 proposed by the Senate.

Assistant Secretary for Health

Salaries and Expenses

Amendment No. 64: Inserts legal citations, as proposed by the Senate.

Amendment No. 65: Appropriates $11,000,000, as proposed by the Senate, instead of $10,000,000, as proposed by the House.

The conferees have agreed to an appropriation of $1,000,000 and 15 positions to initiate an adolescent pregnancy program. This program is intended to provide comprehensive care and assistance to pregnant adolescents and adolescent parents.

The conferees direct the Department to closely follow the intent of the authorizing legislation when allocating the funds for adolescent pregnancy.

The conferees are agreed that report language regarding selection of staff and advisory councils, and reporting requirements is hereby vitiated.

Amendment No. 66: Earmarks $1,500,000 for section 1317 of the Public Health Service Act, as proposed by the Senate. The House bill contained no earmarking for this purpose.

Office of Education

Elementary and Secondary Education

Amendment No. 67: Appropriates $150,000,000 instead of $200,000,000 as proposed by the House. The Senate deleted this item.

Special Projects and Training

Amendment No. 68: Appropriates $300,000 as proposed by the Senate. The House included no funds for this item.

Human Development Services

Amendment No. 69: Appropriates $151,528,000 as proposed by the House instead of $149,528 000 as proposed by the Senate.

Amendment No. 70: Earmarks $2,000,000 for section 711 (centers for independent living) of the Rehabilitation Act of 1973 as proposed by the House. The Senate deleted this item.

Amendment No. 71: Restores language proposed by the House providing that $22,500,000 be used for meeting State requirements to maintain operating levels for nutrition services for the elderly.

The conferees direct the Commissioner on Aging to determine the exact level of deficit spending among the States as of June 1, 1979 in the nutrition for the elderly program, to develop standard criteria for allocating the $22,500,000 increase over the budget provided in this bill. The conferees further direct the Commissioner to submit an allocation plan within 20 days and prior to making the allocation, to both House and Senate Appropriations Committees as to the amounts necessary to cover deficits and decreases in operating levels which have occurred during the fiscal year. The intent of the conferees is that these funds be used to cover the increased costs of actual service levels in 1979, not to undertake program increases at this late point in the fiscal year.

RELATED AGENCIES

Railroad Retirement Board

Regional Rail Transportation Protective Account

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which extends the availability of funds appropriated in Public Law 94–206.

National Commission on the International Year of the Child

Amendment No. 73: Appropriates $685,000 as proposed by the Senate. The conferees have deleted bill language proposed by the Senate which would have limited compensation to Commission Members and staff. While deleting this special language, the conferees have agreed that the payment of honoraria to members of the Commission should be limited to situations of genuine financial hardship. The conferees have further agreed that the Office of Personnel Management should conduct an immediate review of the grade levels of the Commission's senior staff, that this review should be completed by September 1, 1979 and that any corrective action required be taken by October 1, 1979.

Community Services Administration

Amendment No. 74: Deletes language proposed by the Senate which would have made available an additional $4,226,000 for emergency energy conservation services.

General Provision

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which transfers the National Mine Health and Safety Academy from the Department of the Interior to the Department of Labor.

CHAPTER VIII—LEGISLATIVE BRANCH

SENATE

Amendment Nos. 76 through 81 and 83 through 87: Reported in technical disagreement. Inasmuch as these amendments relate solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House will offer motions to recede and concur in the Senate amendments Nos. 76 through 81 and 83 through 87.

Amendment No. 82: Reported in disagreement. The managers on the part of the House will offer a motion to insist on their disagreement to the amendment of the Senate numbered 82.

Architect of the Capitol—Capitol Buildings and Grounds

Senate Office Buildings

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment appropriating $600,000 for various alterations and repairs to the Russell Senate Office Building.

General Provision

Amendment No. 89: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which provides that unobligated funds in Official Mail Costs may remain available until expended.

CHAPTER IX

DEPARTMENT OF STATE

International organizations and conferences

Contributions to International Organizations

Amendment No. 90: Appropriates $58,357,000 as proposed by the House instead of $30,641,000 as proposed by the Senate.

DEPARTMENT OF JUSTICE

General administration

Salaries and Expenses

Amendment No. 91: Appropriates $150,000 instead of $250,000 proposed by the Senate.

Legal activities

Salaries and Expenses, General Legal Activities

Amendment No. 92: Appropriates $874,000 instead of $974,000 proposed by the Senate. The amount agreed to by the conferees includes $474,000 for the Office of the Special Counsel in order to conduct an inquiry into loan transactions between the National Bank of Georgia and the Carter Warehouse and $400,000 for payment of fees to private counsel.

Salaries and Expenses, United States Attorneys and Marshals

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which repeals the numerical ceiling provisions of the Department of Justice Appropriation Act, 1979 that pertains to the lease and purchase of vehicles for the U.S. Marshals Service.

Federal Bureau of Investigation

Salaries and Expenses

Amendment No. 94: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

> *Federal Bureau of Investigation*
>
> Salaries and Expenses
>
> For an additional amount for "Salaries and expenses", $2,636,000: *Provided*, That $3,500,000 appropriated in the Department of Justice Appropriation Act, 1979 for the purpose of constructing a forensic science training and research facility at Quantico, Virginia shall remain available until September 30, 1980.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amended proposal is the same as the Senate amendment except that language proposed by the Senate which would make the funds available only upon enactment of authorizing legislation is not included.

Immigration and Naturalization Service

Salaries and Expenses

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $3,935,000 of which $3,335,000 to remain available until September 30, 1980 is for renovation of the center for processing illegal aliens at Port Isabel, Texas and $600,000 is for the Nonimmigrant Document Control System and word processing equipment.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Construction

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides funds for construction of NOAA's Western Regional Center at Sand Point, Seattle, Washington.

The conferees are fully agreed that these funds constitute the full amount required to complete the Sand Point project, including the education center, and that no subsequent funding should be needed.

Fishing Vessel and Gear Damage Compensation Fund

Amendment No. 97: Appropriates $1,000,000 instead of $500,000 as proposed by the House and $2,000,000 as proposed by the Senate.

Fishermen's Contingency Fund

Amendment No. 98: Appropriates $450,000 instead of $300,000 as proposed by the House and $600,000 as proposed by the Senate.

THE JUDICIARY

Courts of appeals, district courts, and other judicial services

Fees of Jurors and Commissioners

Amendment No. 99: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds under this heading shall be available for refreshments for jurors.

RELATED AGENCIES

Arms Control and Disarmament Agency

Arms Control and Disarmament Activities

Amendment No. 100: Appropriates $925,000 instead of $850,000 as proposed by the House and $1,000,000 as proposed by the Senate.

Board for International Broadcasting

Grants and Expenses

Amendment No. 101: Appropriates $2,000,000 as proposed by the House instead of $3,000,000 as proposed by the Senate.

International Communication Agency

Acquisition and Construction of Radio Facilities

Amendment No. 102: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which will permit the International Communication Agency to enter into a lease of up to 25 years for the establishment and operation of a radio station in Botswana.

Small Business Administration

Disaster Loan Fund

Amendment No. 103: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows: ": *Provided*, That (a) The first undesignated paragraph of section 7(b) of the Small Business Act is amended by inserting after 'under subsection (b)' the following ', except as provided in subsection (c),' ";

(b) Section 7(c) of the Small Business Act is amended by adding the following new paragraphs:

"(3) With respect to a disaster occurring on or after October 1, 1978, and prior to October 1, 1982, on the Administration's share of loans made pursuant to paragraph (1) of subsection (b)—

"(A) if the loan proceeds are to repair or replace a primary residence and/or repair or replace damaged or destroyed personal property, the interest rate shall be 3 percent on the first $55,000 of such loan;

"(B) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is unable to obtain sufficient credit elsewhere, the interest rate shall be as determined by the Administration, but not in excess of 5 percent per annum."

(c) Section 18 of the Small Business Act is amended by—

(1) inserting after "Sec. 18." "(a)";

(2) inserting a new subsection as follows:

"(b) As used in this Act, 'credit elsewhere' means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amended language includes the portions of the Senate amendment which provide that for disasters occurring between October 1, 1978 and October 1, 1982 the interest rate on loans for primary residences or personal property will be 3 percent on the first $55,000 of such loans, and the interest rate on loans for business concerns which are unable to obtain sufficient credit elsewhere shall be as determined by the Administration but not in excess of 5 percent. The amended language also includes a definition of "credit elsewhere" as proposed by the Senate.

The other elements of the Senate amendment were not approved by the conferees. The conferees are agreed that those matters should be dealt with in authorizing legislation.

No applicant under present law would be rendered ineligible by the provision approved by the conferees, as their eligibility is otherwise contained in permanent law, but those homeowners and businesses included will be eligible for lower interest rates as provided herein.

CHAPTER X

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Amendment No. 104: Appropriates $1,000,000 for transportation planning, research, and development instead of $5,000,000 as proposed by the Senate. The conferees expect the Department of Commerce to be an active participant in the waterway user fee study, especially since it has the data available to address the economic impacts enumerated in section 205 of Public Law 95-502. The conferees intend to review the funding requirements for this study in connection with the fiscal year 1980 budget.

COAST GUARD

Amendment No. 105: Appropriates $13,000,000 for Pollution Fund as proposed by the Senate.

FEDERAL AVIATION ADMINISTRATION

Amendment No. 106: Appropriates $8,700,000 for facilities and equipment (Airport and Airway Trust Fund) instead of $10,850,000 as proposed by the House. The conference agreement includes $4,100,000 for bright radar indicator tower equipment (BRITE) alpha numeric systems and $4,600,000 for additional equipment for terminal radar service areas (TRSAs). No funds have been included for the proposed terminal control areas (TCAs). The conferees expect the FAA to report on the personnel requirements associated with any newly designated TRSAs and will consider a budget request for these additional personnel in fiscal year 1980.

Amendment No. 107: Deletes language proposed by the Senate to appropriate $3,500,000 for research, engineering and development (Airport and Airway Trust Fund).

URBAN MASS TRANSPORTATION ADMINISTRATION

Amendment No. 108: Restores heading.

Amendment No. 109: Deletes language proposed by the House to transfer $40,000,000 from urban discretionary grants to urban formula grants.

The conferees direct that the fiscal year 1979 funding for urban discretionary grants be allocated as follows:

Bus and bus related facilities	$210,000,000
Rail modernization, system extensions and rolling stock	695,000,000
New starts	270,000,000
Urban initiatives	50,000,000
Planning	25,000,000

In the new starts program the conferees intend that the highest consideration be given by UMTA to those projects which are ready to proceed and have the best opportunity to obligate the additional funds during the balance of the fiscal year.

Amendment No. 110: Appropriates $5,000,000 for waterborne transportation demonstration project as proposed by the House.

RELATED AGENCIES

Washington Metropolitan Area Transit Authority

Amendment No. 111: Deletes language proposed by the House providing that $7,099,000 of the appropriation for interest payments shall be derived by transfer and restores language proposed by the House providing that the appropriation may be disbursed pursuant to terms and conditions that the Secretary of Transportation may establish. The conferees intend that this appropriation shall be available to refund advances made by WMATA to meet the June 30 interest payment.

National Alcohol Fuels Commission

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $1,500,000 for salaries and expenses.

General Provisions

The conferees direct that $50,000,000 of the $100,000,000 limitation on the aircraft loan guarantee program be earmarked for commuter carriers. The conferees intend that this $50,000,000 shall be used for the purchase of aircraft within the size limitations prescribed by Section 416(b)(4) of the Federal Aviation Act, as amended, or Part 298 of the Economic Regulations of the Civil Aeronautics Board, by any certificated or exempt air carrier providing short-haul, local and feeder scheduled air transportation.

CHAPTER XI—TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Amendment No. 113: Provides for purchase of fifty motor vehicles as proposed by the Senate instead of fifteen as proposed by the House.

U.S. Customs Service

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment provides that the Virgin Islands continue to reimburse the Customs Service for the cost of collecting customs duties in the Virgin Islands.

Bureau of the Mint

Amendment No. 115: Deletes appropriation of $1,531,000 for salaries and expenses proposed by the House but denied by the Senate.

U.S. Postal Service

Amendment No. 116: Deletes appropriation of $18,233,000 for payment to the Postal Service Fund proposed by the House but denied by the Senate. The managers are agreed that denial of these funds constitutes a failure of appropriations under 39 U.S.C. 3627 and directs that the Postal Service adjust the applicable rates of mailings of national and State political party committees accordingly.

Executive Office of the President

Special Assistance to the President

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate increasing the travel allowance of the Vice President's office by $10,000.

INDEPENDENT AGENCIES

General Services Administration

National Archives and Records Service

Amendment No. 118: Deletes appropriation of $1,000,000 for records declassification proposed by the House but denied by the Senate.

General Management and Agency Operations

Amendment No. 119: Deletes appropriation of $1,700,000 for salaries and expenses proposed by the House but denied by the Senate.

Office of Inspector General

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate establishing an Office of Inspector General, and appropriating $1,700,000 therefor.

Office of Personnel Management

Amendment No. 121: Appropriates $240,000 for salaries and expenses as proposed by the Senate but denied by the House.

Merit Systems Protection Board

Amendment No. 122: Appropriates $1,048,000 for salaries and expenses as proposed by the Senate, instead of $750,000 as proposed by the House.

Amendment No. 123: Appropriates $842,000 for the Office of Special Counsel as proposed by the Senate instead of $700,000 as proposed by the House.

CHAPTER XII

TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA

Salaries and expenses

Amendment No. 124: Inserts chapter number as proposed by the Senate.

Amendment No. 125: Inserts heading and appropriates $4,500,000, to remain available until expended, as proposed by the Senate.

DISTRICT OF COLUMBIA

Federal funds

Amendment No. 126: Inserts heading as proposed by the Senate.

Amendment No. 127: Inserts heading and appropriates $15,000,000 for "Federal payment to the District of Columbia", $1,900,000 in lieu of reimbursements for charges for water and water services and sanitary sewer services furnished to the United States Government; and $2,565,000 for reimbursement for necessary expenses incurred as a result of the American Agricultural Movement demonstration in the District of Columbia, as proposed by the Senate.

District of Columbia funds

Amendment No. 128: Inserts heading as proposed by the Senate.

Amendment No. 129: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $16,408,100 for "General operating expenses" instead of $15,223,400 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides that $250,000 shall be available for settlement of property damage claims not in excess of $1,500 each and personal injury claims not in excess of $5,000 each as proposed by the Senate.

Office of Financial Management.—The conference action provides $5,162,500 for the Office of Financial Management as proposed by the Senate. The conferees are agreed that the $462,500 earmarked for implementation of the new financial management system is provided as a pool of funds to be controlled by the Mayor and used where needed in the District government. Since the hiring of key positions at this time is critical to the success of the system, the Mayor is directed to consult with the Temporary Commission on Financial Oversight of the District of Columbia before committing any funding or placing any employees on the payroll. The conferees are further agreed that this funding is to be used solely for expenses related to implementation of the financial management system.

Office of Planning and Development.—The conference action provides $77,700 for a citizen participation unit. The conferees are agreed that a reprogramming request to establish a board to manage the operation of the Washington Civic Center will be given consideration by the Congress after the necessary legislation has been approved authorizing the establishment of the board.

Department of Labor.—The conference action provides $500,000 for the city's program to provide "Jobs for Adults with Dependents". The conferees are agreed that the costs and related positions required to administer this program are to be absorbed within existing resources.

Department of Housing and Community Development.—The conference action provides $750,000 for the repair of housing code violations. The conferees are agreed that this is a one-time non-recurring appropriation to accelerate and expand the program.

Commission on the Arts and Humanities.—The conference action deletes the appropriation of $143,000 proposed by the Senate. The conferees are agreed that additional funding in the fiscal year 1980 budget will be given consideration provided improvements are made in the management and operation of the Commission.

Amendment No. 130: Inserts heading and appropriates $11,111,000 for "Public safety" as proposed by the Senate.

Amendment No. 131: Inserts heading and appropriates $723,900 for "Education" instead of $1,823,900 as proposed by the Senate. The conference action deletes $1,100,000 proposed by the Senate to fund the reclassification of food service workers. The conferees direct that these costs be absorbed from available resources.

Amendment No. 132: Inserts heading and appropriates $43,000 for "Recreation" as proposed by the Senate.

Amendment No. 133: Inserts heading and appropriates $5,161,700 for "Human resources" as proposed by the Senate.

Amendment No. 134: Inserts heading and appropriates $4,194,900 for "Transportation" as proposed by the Senate.

Amendment No. 135: Inserts heading and appropriates $1,144,600 for "Environmental services" as proposed by the Senate.

Amendment No. 136: Appropriates $9,000,000 for "Personal services" instead of $12,000,000 as proposed by the Senate. The conferees are agreed that the reduction below the budget request is to be applied to all District agencies including the District of Columbia Council, the District of Columbia Courts, and all city agencies including independent and statutory agencies. The conferees are further agreed that not more than $2,000,000 of the reduction below the budget request is to be applied to the Board of Education (public school system).

Amendment No. 137: Inserts heading and appropriates $291,500 for "Settlement of claims and suits", of which not to exceed $230,000 shall be available for payment to Robert J. Pierce pursuant to District law, as proposed by the Senate.

Amendment No. 138: Inserts heading and appropriates $2,565,000 for "Demonstration expenses" as proposed by the Senate.

Amendment No. 139: Inserts usual "Division of expenses" language carried in all bills providing District of Columbia appropriations, as proposed by the Senate.

Redirections, Realignments, Reprogrammings, and Reorganizations

In approving the supplemental requests for fiscal year 1979 for the District of Columbia government, the conferees are not approving the redirections, realignments, reprogrammings, or reorganizations reflected in the justification material, nor are the conferees approving the changes in the personnel levels of the various offices involved. The authority to institute these changes without prior Congressional approval was questioned in a recent study conducted by the Surveys and Investigations staff of the House Committee on Appropriations.

TITLE II—INCREASED PAY COSTS

LEGISLATIVE BRANCH

SENATE

Amendment Nos. 140 through 146: Reported in technical disagreement. Inasmuch as these amendments relate solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs therein without intervention, the managers on the part of the House will offer motions to recede and concur in the Senate amendment Nos. 140 through 146.

Architect of the Capitol—Capitol Buildings and Grounds

Senate Office Buildings

Amendment No. 147: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which provides $389,000 to Senate office buildings, to be derived by release of funds reserved under Section 311 of P.L. 95–391, the Legislative Branch Appropriation Act, 1979, including $273,000 transferred from Capitol power plant and $61,000 transferred from House office buildings.

Senate Garage

Amendment No. 148: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which provides $7,000 to the Senate garage, to be transferred from the Capitol power plant by release of funds reserved under Section 311 of P.L. 95–391, the Legislative Branch Appropriation Act, 1979.

DEPARTMENT OF AGRICULTURE

Agriculture Research Service

Amendment No. 149: Appropriates $5,000,000 for pay costs of the Agricultural Research Service instead of $2,500,000 as proposed by the House and $7,500,000 as proposed by the Senate.

Rural Electrification Administration

Amendment No. 150: Appropriates $256,000 for pay costs of the Rural Electrification Administration as proposed by the Senate instead of $756,000 as proposed by the House.

Soil Conservation Service

Amendment No. 151: Appropriates $6,936,000 for conservation operations pay costs as proposed by the Senate instead of $6,000,000 as proposed by the House.

Amendment No. 152: Deletes House language appropriating $490,000 for pay costs for river basin surveys and investigations, as proposed by the Senate.

Amendment No. 153: Deletes House language appropriating $446,000 for pay costs for watershed planning, as proposed by the Senate.

Food Safety and Quality Service

Amendment No. 154: Appropriates $7,677,000 for pay costs for the Food Safety and Quality Service instead of $6,677,000 as proposed by the House and $8,677,000 as proposed by the Senate.

DEPARTMENT OF DEFENSE—MILITARY

Military personnel

Military Personnel, Air Force

Amendment No. 155: Appropriates $362,134,000 as proposed by the House instead of $366,199,000 as proposed by the Senate.

Reserve Personnel, Army

Amendment No. 156: Appropriates $13,550,000 as proposed by the Senate instead of $9,950,000 as proposed by the House.

Reserve Personnel, Navy

Amendment No. 157: Appropriates $4,475,000 as proposed by the Senate.

National Guard Personnel, Army

Amendment No. 158: Appropriates $31,600,000 as proposed by the House instead of $36,600,000 as proposed by the Senate.

National Guard Personnel, Air Force

Amendment No. 159: Appropriates $10,023,000 as proposed by the Senate instead of $8,123,000 as proposed by the House.

Operation and maintenance

Operation and Maintenance, Defense Agencies

Amendment No. 160: Appropriates $90,200,000 instead of $82,200,000 as proposed by the House and $102,200,000 as proposed by the Senate.

Operation and Maintenance, Air National Guard

Amendment No. 161: Appropriates $17,300,000 as proposed by the Senate instead of $19,200,000 as proposed by the House.

DEPARTMENT OF DEFENSE—CIVIL

Department of the Army

Corps of Engineers—Civil

Construction, General

Amendment No. 162: Appropriates $10,000,000 for Construction, general as proposed by the Senate.

DEPARTMENT OF ENERGY

Amendment No. 163: Appropriates $1,301,000 for fossil energy research and development as proposed by the House instead of $1,571,000 as proposed by the Senate.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

Amendment No. 164: Deletes language proposed by the House.

Amendment No. 165: Appropriates $8,364,000 for Indian Health Services as proposed by the Senate instead of $5,664,000 as proposed by the House.

Amendment No. 166: Deletes language proposed by the House to transfer $3,600,000 from Health Services.

Departmental Management

Amendment No. 167: Appropriates $32,000 for the Office of Consumer Affairs as proposed by the Senate, instead of $20,000 as proposed by the House.

DEPARTMENT OF THE INTERIOR

United States Fish and Wildlife Service

Amendment No. 168: Appropriates $4,310,000 for resource management as proposed by the Senate instead of $4,500,000 as proposed by the House.

National Park Service

Amendment No. 169: Appropriates $6,000,000 for operation of the national park system instead of $5,000,000 as proposed by the House and $7,041,000 as proposed by the Senate.

Federal Bureau of Investigation

(Including Transfer of Funds)

Amendment No. 170: Provides that $3,913,000 of the appropriation for "Salaries and expenses" shall be derived by transfer as proposed by the Senate instead of $3,213,000 as proposed by the House.

Drug Enforcement Administration

(Transfer of Funds)

Amendment No. 171: Appropriates $772,000 for "Salaries and expenses" as proposed by the Senate instead of $1,272,000 as proposed by the House.

Amendment No. 172: Provides that $272,000 of the appropriation for "Salaries and expenses" shall be derived by transfer from the appropriation for "Salaries and expenses, Bureau of Prisons" as proposed by the Senate instead of $772,000 as proposed by the House.

U.S. Customs Service

Amendment No. 173: Appropriates $13,459,000 for salaries and expenses as proposed by the House, instead of $10,833,000 as proposed by the Senate.

The conferences are agreed that the $2,626,000 of 1979 funds which were requested to be reprogrammed for the John F. Kennedy International Mail Facility, which was denied by the Congress, be used as follows: $465,000 to open and staff a Customs District Office in the Dallas-Ft. Worth International Airport complex; and the remaining $2,161,000 be used to recruit and train additional inspection personnel to be assigned to meet highest priority requirements.

The Service is directed to inform the House and Senate Committees on Appropriations of the number of such personnel recruited and the locations to which assigned. The permanent personnel ceiling of Customs is increased accordingly.

Veterans Administration

Amendment No. 174: Appropriates $40,000,000 for medical care as proposed by the Senate, instead of $50,000,000 as proposed by the House.

American Battle Monuments Commission

Amendment No. 175: Appropriates $1,185,000 for salaries and expenses as proposed by the Senate, instead of $873,000 as proposed by the House.

Federal Maritime Commission

Amendment No. 176: Appropriates $200,000 for "Salaries and expenses" as proposed by the Senate instead of $230,000 as proposed by the House.

Federal Trade Commission

Amendment No. 177: Appropriates $550,000 for "Salaries and expenses" as proposed by the Senate instead of $1,750,000 as proposed by the House.

Merit Systems Protection Board

Amendment No. 178: Inserts a line in the center heading as proposed by the Senate.

Office of Personnel Management

Amendment No. 179: Inserts a line in the center heading as proposed by the Senate.

Smithsonian Institution

Amendment No. 180: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken by said amendment insert:

Pursuant to the requirements of 31 U.S.C. 638a(b), (e), the Smithsonian Institution is authorized to acquire two aircraft from Federal excess property;

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 181: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which allows Senate and House pages to be paid during any Senate and/or House recess of between thirty and forty-five days which occurs on or after August 1, 1979.

Amendment No. 182: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

"SEC. 304. Section 201 of Public Law 95-480 is amended by inserting before the period at the end thereof the following: '*Provided further*, That if by the beginning of the fourth quarter, 75 percent of the reduction required by this section has not been achieved, the aggregate amount of budget authority under this act shall not be reduced by an amount in excess of $301,500,000 *Provided further*, That if the reduction required by this section results in total budget authority insufficient to pay legal entitlements in the fourth quarter, the Department may borrow from succeeding year funds to pay such entitlements'."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees wish to express their very serious concern over the unacceptably high rate of errors still occurring in the student assistance, cash assistance (AFDC) and Medicaid programs.

More than 7 percent of the payments made in the AFDC and Medicaid programs are made to ineligible recipients or are in excess of the amounts they are entitled to. These erroneous payments amount to approximately $1.2 billion a year.

In order to insure that the relaxation of the Section 201 fiscal constraints does not have the unintended effect of reducing the effort against waste, fraud, and abuse, the conferees direct the Secretary to issue regulations requiring that all States must reduce their AFDC and Medicaid erroneous excess payment rates to 4 percent by September 30, 1982, in equal amounts each year beginning in fiscal year 1980. If the States fail to make the required reductions, penalties shall be applied equal to the amount the federal share exceeds the dollar error rate for the year or years in question. The conferees note that this requirement commences in fiscal year 1980, and thus direct the Secretary to publish final implementing regulations as soon as possible, but no later than November 30, 1979. The conferees also direct that the base period to be used in determining the yearly reductions for each State shall be the April-September 1973 review period for AFDC and the July-December 1978 sampling period for Medicaid, and that the Department establish a system for determining error rates that insures equal treatment for all States.

The conferees wish to make it clear, both to HEW and the States, that under no circumstances are any payments to legitimate recipients to be curtailed or even delayed. The entitlements due eligible recipients under any programs cited by the Inspector General have never been at issue. It is the fraud, abuse and waste in those programs that must be reduced to an absolute minimum. That effort demands the attention of Federal and State agencies, and the conferees will insist it be given a higher priority by those officials than their actions to date would indicate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1979 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 budget estimates and the House and Senate bills for 1979 follow:

Budget estimates of new (obligational) authority	[1] $16, 921, 679, 900
House bill	11, 572, 461, 100
Senate bill	14, 027, 712, 100
Conference agreement	13, 783, 822, 100
Conference agreement compared with:	
Budget estimates of new (obligational) authority	−3, 137, 857, 800
House bill	+2, 211, 361, 000
Senate bill	−243, 890, 000

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[1] Includes $1,629,921,000 of budget estimates not considered by the House. Does not

reflect $1,048,000 request submitted directly to Congress by Merit Systems Protection Board.

Jamie L. Whitten,
Edward P. Boland,
William H. Natcher,
Tom Steed,
John M. Slack,
Neal Smith,
J. P. Addabbo,
Clarence D. Long,
Sidney R. Yates,
Tom Bevill,
Robert Duncan,
Charles Wilson
(except amendment
No. 73),
Adam Benjamin, Jr.,
Silvio O. Conte,
Robert H. Michel,
Joseph M. McDade,
Mark Andrews,
Jack Edwards,
Robert C. McEwen,
Managers on the Part of the House.

Warren G. Magnuson,
John C. Stennis,
Robert C. Byrd,
William Proxmire,
Daniel K. Inouye,
Ernest F. Hollings,
Birch Bayh,
Thomas F. Eagleton,
Lawton Chiles,
J. Bennett Johnston,
Patrick J. Leahy,
Jim Sasser,
Milton R. Young,
Mark O. Hatfield,
Ted Stevens,
Charles McC. Mathias, Jr.,
Richard S. Schweiker,
Lowell P. Weicker, Jr.,
James A. McClure,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows to:)

Mrs. Spellman (at the request of Mr. Wright), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Corcoran) to revise and extend their remarks and include extraneous matter:)

Mr. Hollenbeck, for 5 minutes, today.

Mr. Derwinski, for 60 minutes, on July 18, 1979.

Mr. Kemp, for 10 minutes, today.

Mr. Leach, for 10 minutes, today.

(The following Members (at the request of Mr. Barnes) to revise and extend their remarks and include extraneous matter:)

Mr. Thompson, for 5 minutes, today.

Mr. Weaver, for 10 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Benjamin, for 5 minutes, today.

Mr. Alexander, for 5 minutes, today.

Mr. Levitas, for 5 minutes, today.

Mr. Corman, for 5 minutes, today.

Mr. Brodhead, for 5 minutes, today.

Mr. Pepper, for 5 minutes, today.

Mr. Fisher, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Rudd, and to include extraneous matter, on H.R. 4580 in the Committee of the Whole today.

(The following Members (at the request of Mr. Corcoran) and to include extraneous matter:)

Mr. Wydler in two instances.
Mr. Shuster.
Mr. Young of Alaska.
Mr. Courter in two instances.
Mr. Symms in two instances.
Mr. Conte in two instances.
Mr. Kemp in two instances.
Mr. Lewis.
Mrs. Snowe.
Mr. Bethune in two instances.
Mr. Clinger.
Mr. Rousselot.
Mr. Lent.
Mr. Derwinski in two instances.
Mr. Abdnor.
Mr. Pursell.
Mr. Wylie in two instances.
Mr. Dickinson.
Mr. Quayle.
Mr. Hagedorn in two instances.
Mr. Rhodes.
Mr. Daniel B. Crane.
Mr. Findley.
Mr. Lagomarsino in two instances.
Mr. Moore.
Mr. Dornan.
Mrs. Heckler.

(The following Members (at the request of Mr. Barnes) and to include extraneous matter:)

Mr. Brinkley.
Mr. Kildee.
Mr. Edwards of California.
Mr. Pease in two instances.
Mr. Udall in two instances.
Mr. Peyser.
Mr. Skelton in five instances.
Mr. Rosenthal in two instances.
Mr. McDonald in five instances.
Mr. Hamilton.
Mr. Young of Missouri.
Mr. Fisher in two instances.
Mr. Guarini.
Mr. Hall of Ohio in two instances.
Mr. Dixon.
Mr. Gephardt.
Mr. Clay.
Mr. Ambro.
Mr. Ford of Michigan.
Mr. Moakley.
Mr. Hawkins.
Mrs. Schroeder.
Ms. Mikulski.
Mr. Moffett.
Mr. AuCoin.
Mr. Baldus.
Mr. Simon.

ADJOURNMENT

Mr. BARNES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Thursday, July 12, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1994. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report on research and demonstration projects for primary care, pursuant to section 340(e) of the Public Health Service Act, as amended; to the Committee on Interstate and Foreign Commerce.

1995. A letter from the Secretary of Health, Education, and Welfare, transmitting notice of a delay in the submission of the report on primary health care needs of immigrants, required by section 116(a) of Public Law 95-626; to the Committee on Interstate and Foreign Commerce.

1996. A letter from the Secretary, Interstate Commerce Commission, transmitting notice that the Commission is unable to render a final decision within the specified period in docket No. 37021, Annual Volume Rates on Coal—Rawhide Junction, Wyoming to Sergeant Bluff, Iowa, and No. 37029, Iowa Public Service Company v. Burlington Northern, Inc., and Chicago and North Western Transportation Company, pursuant to 49 U.S.C. 10707(b)(1); to the Committee on Interstate and Foreign Commerce.

1997. A letter from the Acting Assistant Attorney General (Civil Division), transmitting notice of the Justice Department's intention not to defend the constitutionality of an action of the House Committee on Banking, Finance, and Urban Affairs deferring for 90 days the implementation of regulations of the Department of Housing and Urban Development mandating increases in thermal requirements for FHA-insured single-family dwellings, pursuant to section 13(a) of Public Law 95-624; to the Committee on the Judiciary.

1998. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a report on the suspension of Speedy Trial Act time limits established by 18 U.S.C. 316-(c), pursuant to 18 U.S.C. 3174(c); to the Committee on the Judiciary.

1999. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes; to the Committee on Post Office and Civil Service.

2000. A letter from the Comptroller General of the United States, transmitting a report on manpower weaknesses in the National Guard and Reserve Forces, (FPCD-79-58, July 11, 1979); jointly, to the Committees on Government Operation and Armed Services.

2001. A letter from the Comptroller General of the United States, transmitting a report on NATO's new defense program (ID-79-4A, July 9, 1979); jointly, to the Committees on Government Operations, Armed Services, and Foreign Affairs.

2002. A letter from the Acting Comptroller General of the United States, transmitting a report on the Internal Revenue Service's efforts in detecting and pursuing individuals who fail to file required Federal income tax returns (GGD-79-69, July 11, 1979); jointly, to the Committees on Government Operations, and Ways and Means.

2003. A letter from the Attorney General, transmitting a draft of proposed legislation to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information; jointly, to the Committees on the Judiciary and the Permanent Select Committee on Intelligence.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 350. Resolution providing for the consideration of H.R. 3996. A bill to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for three additional years, and for other purposes (Rept. No. 96-327). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 351. Resolution providing for the consideration of H.R. 2061. A bill to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes (Rept. No. 96-328). Referred to the House Calendar.

Ms. CHISHOLM: Committee on Rules. House Resolution 352. Resolution providing for the consideration of H.R. 3920. A bill to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes (Rept. No. 96-329). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 353. Resolution waiving certain points of order against H.R. 4473. A bill making appropriations for foreign asisstance and related programs for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96-330). Referred to the House Calendar.

Mr. WHITTEN: Committee of conference. Conference report on H.R. 4289 (Rept. 96-331). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MURPHY of Illinois (for himself, Mr. Boland, Mr. McClory, Mr. Zablocki, Mr. Burlison, Mr. Aspin, Mr. Rose, Mr. Mazzoli, Mr. Mineta, Mr. Fowler, and Mr. Danielson):

H.R. 4736. A bill to establish certain pretrial and trial procedures for the use of classified information in connection with Federal criminal cases, and for other purposes; jointly, to the Committees on the Judiciary and the Permanent Select Committee on Intelligence.

By Mr. CORMAN (for himself and Mr. Conable):

H.R. 4737. A bill to amend the Internal Revenue Code of 1954 with respect to the advance refunding of certain industrial development bonds; to the Committee on Ways and Means.

By Mr. PHILIP M. CRANE:

H.R. 4738. A bill to reduce temporarily the duty on titanium sheet, plate, and other rolled titanium products; to the Committee on Ways and Means.

By Mr. DOWNEY:

H.R. 4739. A bill to suspend for a 3-year period the duty on pillow buns of latex foam; to the Committee on Ways and Means.

By Mr. ERDAHL:

H.R. 4740. A bill to amend the Fair Labor Standards Act of 1938 to provide an exemption from the minimum wage and overtime requirements of that act for residential administrators or supervisors of facilities for the physically or mentally handicapped or correctional facilities; to the Committee on Education and Labor.

By Mr. FLIPPO:

H.R. 4741. A bill to amend title 18, United States Code, to provide that whoever kills any officer or employee of the Tennessee Valley Authority assigned to perform investigative inspection, or law enforcement functions, while engaged in the performance of his official duties, shall be punished as provided under sections 1111 and 1112 of title 18; to the Committee on the Judiciary.

By Mr. HANLEY:

H.R. 4742. A bill to provide medicare benefits for individuals who require enteral or parenteral alimentation or hyperalimentation consisting of amino acid products; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. MITCHELL of New York:

H.R. 4743. A bill to amend title 32, United States Code, to allow time spent on National Guard duty to be counted toward the time a federally recognized National Guard unit is required to spend each year in summer field training; to the Committee on Armed Services.

By Mr. MOORHEAD of California:

H.R. 4744. A bill to amend the Internal Revenue Code of 1954 to provide for certain individuals who have attained age 60, a credit against income tax for amounts paid for the maintenance of their principal residences; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 4745. A bill to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information; jointly, to the Committees on the Judiciary and Permanent Select Committee on Intelligence.

By Mr. ROSTENKOWSKI (for himself, Mr. Pickle, Mr. Jones of Oklahoma, Mr. Conable, Mr. Frenzel, and Mr. Findley):

H.R. 4746. A bill to make miscellaneous changes in the tax laws; to the Committee on Ways and Means.

By Mr. SEIBERLING (for himself, Mr. Mottl, Mr. Stanton, Mr. Harsha, Mr. Latta, Mr. Stokes, and Mr. Guyer):

H.R. 4747. A bill to amend the Internal Revenue Code of 1954 to make permanent certain rules pertaining to travel expenses of State legislators; to the Committee on Ways and Means.

By Mr. UDALL (for himself, Mr. Seiberling, Mr. Oberstar, Mr. Hollenbeck, Mr. Patterson, Mr. Mottl, Mr. Kastenmeier, Mr. Harris, Mr. Anderson of Illinois, Mr. Conyers, Mr. Weaver, Mr. Brodhead, Mr. Corman, Mr. Markey, Mr. Ottinger, Mr. Gibbons, Mr. Conte, Mr. Thompson, Mr. Nolan, Mr. Vento, Mr. Stewart, Mr. Kogovsek, Mr. Ambro, Mr. Barnes, Mr. Corrada, Mr. Wolpe, Mr. Fithian, Mr. Dixon, Mr. Gray, Mr. Roe, Mr. Edwards of California, Mr. Bingham, Mr. Simon, Mr. Roybal, Mr. Gephardt, Mr. Gore, Ms. Ferraro, Mr. Carr, Mr. Bonior of Michigan, Mr. Maguire, Mr. Stokes, Mr. Drinan, Mr. Daschle, Mr. Heftel, Mr. Fazio, Mr. Bedell, Mr. Dellums, Mr. Mitchell of Maryland, Mr. Richmond, Mr. Long of Maryland, Mr. Weiss, Mr. Goodling, Mrs. Chisholm, and Mr. Pease):

H.R. 4748. A bill to amend the Clayton Act to protect against the growth of monopoly power of major petroleum companies and for other purposes; to the Committee on the Judiciary.

By Mr. GEPHARDT:

H.R. 4749. A bill to amend the Internal Revenue Code of 1954 to impose an additional excise tax upon large domestic oil producers to the extent that they make investments to acquire significant ownership interests in businesses unrelated to energy; to the Committee on Ways and Means.

By Mr. BENJAMIN (for himself and Mr. Quayle):

H.R. 4750. A bill to authorize the repayment of certain Federal-aid highway funds by the State of Indiana and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DICKINSON:

H.R. 4751. A bill to prohibit the export of grain to any petroleum producing country which has petroleum production in excess of its domestic requirements, except pursuant to an agreement providing for the exchange of such grain for petroleum; to the Committee on Foreign Affairs.

By Mr. FISHER (for himself, Mr. Lundine, and Mr. Simon):

H.R. 4752. A bill to amend the Employment Act of 1946 to assist in keeping inflation within reasonable bounds by providing for the establishment of practical wage and price guidelines along with a coordinated set of economic policies to offset inflationary pressures, and to provide for an effective process (including factfinding, mediation, and other steps) for assuring compliance with such guidelines; jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, and Rules.

By Mr. FRENZEL (for himself and Mr. Gradison):

H.R. 4753. A bill to amend the Internal Revenue Code of 1954 with respect to the amount which certain private foundations are required to distribute; to the Committee on Ways and Means.

By Mr. LELAND:

H.R. 4754. A bill to amend the Public Health Service Act to revise and strengthen the program under that act for the regulation of clinical laboratories, and for other purposes; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. SIMON:

H.R. 4755. A bill to require the Secretary of Labor to establish a pilot program for the provision of guaranteed employment opportunities in selected counties of the United States; to the Committee on Education and Labor.

By Mr. LOTT:

H.J. Res. 376. Joint resolution to authorize the President to proclaim the third Friday in October of each year as "American Enterprise Day"; to the Committee on Post Office and Civil Service.

By Mr. QUAYLE:

H.J. Res. 377. Joint resolution proposing an amendment to the Constitution of the United States to provide for a single 6-year term for the President; to the Committee on the Judiciary.

By Mr. PATTERSON:

H. Con. Res. 160. Concurrent resolution expressing the sense of Congress that the United States should adopt as a high priority policy the elimination of the power of the Organization of Petroleum Exporting Countries to control the supply and price of oil; jointly to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEARD of Rhode Island:

H.R. 4756. A bill for the relief of Mrs. Maria T. DeGoncalves Teves; to the Committee on the Judiciary.

By Mrs. HECKLER:

H.R. 4757. A bill for the relief of Michel Abi Ramia; to the Committee on the Judiciary.

By Mr. MAZZOLI:

H.R. 4758. A bill to authorize the Mayor of the District of Columbia to convey a reversionary interest of the United States in certain land in the District of Columbia to the Little Sisters of the Poor; to the Committee on the District of Columbia.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. Ashbrook, Mr. Bethune, Mr. Burgener, Mr. Clausen, Mr. Conte, Mr. Derwinski, Mr. Dickinson, Mr. Edwards of Oklahoma, Mr. Gilman, Mr. Hammerschmidt, Mr. Lent, Mr. Lewis, Mr. Lungren, Mr. Miller of Ohio, Mr. Paul, Mr. Pursell, Mr. Royer, and Mr. Snyder.

H.R. 365: Mr. Swift, Mr. Harris, and Mr. Tauke.

H.R. 605: Mr. Bafalis, Mr. Corrada, Mr. Fowler, Mr. Harkin, Mr. Hollenbeck, Mr. Corcoran, Mr. Holland, Mr. Annunzio, Mr. Fascell, Mr. Andrews of North Dakota, Mr. Davis of Michigan.

H.R. 608: Mr. Ambro, Mr. Burgener, Mr. Carr, Mr. Dornan, Mr. Gudger, Mr. Hutto, Mr. Jenrette, Mr. Lagomarsino, Mr. Lewis, Mr. Mazzoli, Mr. Symms, and Mr. Wolpe.

H.R. 1681: Mr. Gramm, and Mrs. Fenwick.

H.R. 1776: Mr. Dan Daniel, Mr. Breaux, Mr. Fazio, Mr. Evans of Indiana, Mr. Atkinson, Mr. Gilman, Mr. Synar, Mr. Symms, Mrs. Byron, Mr. Quayle, Mr. Heftel, Mr. Nedzi, Mr. Daniel B. Crane, Mr. Marriott, Mr. Frenzel, Mr. Bauman, Mr. Bereuter, Mr. Bonior of Michigan, Mr. Goldwater, Mr. Mollohan, Mr. Nolan, Mr. Young of Alaska, Mr. Rudd, Mr. Fithian, Mr. Emery, Mr. Fuqua, Mr. Jenrette, Mr. Jones of North Carolina, Mr. Archer, Mr. Steed, Mr. Fish, Mr. Schulze, Mr. Loeffler, Mr. Evans of Delaware, Mr. White, Mr. Rose, Mr. Findley, Mr. Sharp, Mr. Hightower, Mr. Walker, Mr. Brodhead, Mr. Glickman, Mr. Dannemeyer, Mr. Lungren, Mr. Jeffries, Mr. Bethune, Mr. Shelby, Mr. Slack, Mr. Anthony, and Mrs. Fenwick.

H.R. 1908: Mr. LaFalce, Mr. Stanton, Mr. Weaver, Mr. Edgar, Mr. Patterson, Mr. Baldus, Mr. Ashley, Mr. Lundine, and Mr. Alexander.

H.R. 2156: Mr. LaFalce.

H.R. 3053: Mr. Bedell, Mr. Corrada, Mr. Daschle, Mr. Gray, Mr. Heftel, Mr. LaFalce, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Murphy of Pennsylvania, Mr. Stokes, Mr. Vento, Mr. Weaver, Mr. Weiss, and Mr. Wolff.

H.R. 3460: Mr. Daschle.

H.R. 3611: Mr. Addabbo, Mr. Akaka, Mr. Ambro, Mr. Baldus, Mr. Barnes, Mr. Bedell, Mr. Beilenson, Mr. Benjamin, Mr. Bonior of Michigan, Mr. Bonker, Mr. Brodhead, Mr. Brown of California, Mr. Buchanan, Mr. Carr, Mr. Corrada, Mr. Cotter, Mr. Daschle, Mr. Dodd, Mr. Downey, Mr. Drinan, Mr. Edgar, Mr. Edwards of California, Mr. Ertel, Mrs. Fenwick, Mr. Fithian, Mr. Fowler, Mr. Gephardt, Mr. Gibbons, Mr. Gray, Mr. Hanley, Mr. Harris, Mr. Holland, Mr. Hollenbeck, Mr. Horton, Mr. Hughes, Mr. Hyde, Mr. Jenrette, Mr. Kastenmeier, Mr. Kildee, Mr. LaFalce, Mr. Lederer, Mr. Lee, Mr. Lehman, Mr. Leland, Mr. Lundine, Mr. McCloskey, Mr. McDade, Mr. Maguire, Mr. Markey, Mr. Mazzoli, Mr. Mikva, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Murphy of Pennsylvania, Mr. Nedzi, Mr. Nowak, Mr. Oberstar, Mr. Ottinger, Mr. Panetta, Mr. Pease, Mr. Pepper, Mr. Perkins, Mr. Pritchard, Mr. Pursell, Mr. Reuss, Mr. Richmond, Mr. Rinaldo, Mr. Roe, Mr. Rosenthal, Mr. Sabo, Mr. Seiberling, Mr. Simon, Mr. Solarz, Mrs. Spellman, Mr. Stark, Mr. Stokes, Mr. Traxler, Mr. Vento, Mr. Walgren, Mr. Waxman, Mr. Weiss, Mr. Wolpe, Mr. Won Pat, and Mr. Young of Missouri.

H.R. 3991: Mr. Burgener, Mr. D'Amours, Mr. Devine, Mr. Downey, Mr. Ertel, Mr. Gudger, Mr. Hughes, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Markey, Mr. Mineta, Mr. Thompson, Mr. Whitehurst, Mr. Winn, Mr. Mitchell of Maryland, Mr. Bevill, and Mr. Flood.

H.R. 4058: Mr. Marlenee, Mr. Goodling, and Mr. Anthony.

H.R. 4071: Mr. Barnard, Mr. Bedell, Mr. Butler, Mr. Carter, Mr. Cleveland, Mr. Corrada, Mr. Dougherty, Mr. English, Mr. Gilman, Mr. Green, Mr. Hubbard, Mr. Lagomarsino, Mr. McHugh, Mr. Murphy of Illinois, Mr. Nowak, Mr. Simon, Mr. Vento, Mr. Whitehurst, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Wylie, and Mr. Zeferetti.

H.R. 4072: Mr. Barnard, Mr. Bedell, Mr. Butler, Mr. Carter, Mr. Cleveland, Mr. Corrada, Mr. Dougherty, Mr. English, Mr. Gilman, Mr. Green, Mr. Hubbard, Mr. Lagomarsino, Mr. McHugh, Mr. Murphy of Illinois, Mr. Nowak, Mr. Simon, Mr. Vento, Mr. Whitehurst, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Wylie, and Mr. Zeferetti.

H.R. 4073: Mr. Bedell, Mr. Butler, Mr. Carter, Mr. Cleveland, Mr. Corrada, Mr. Dougherty, Mr. English, Mr. Gilman, Mr. Hubbard, Mr. Lagomarsino, Mr. McHugh, Mr. Murphy of Illinois, Mr. Nowak, Mr. Simon, Mr. Vento, Mr. Whitehurst, Mr. Charles Wilson of Texas, Mr. Winn, Mr. Wylie, and Mr. Zeferetti.

H.R. 4113: Mr. Zablocki, Mr. Lowry, Mr. Abdnor, Mr. McClory, Mr. Roth, and Mr. Dicks.

H.R. 4265: Mr. Stokes, Mr. Dornan, Mr. Young of Alaska, Mr. McDade, Mr. Scheuer, Mr. Addabbo, Mr. Hinson, Mr. Won Pat, Mr. Price, Mr. Murphy of New York, Mr. Leland, Mr. Shumway, and Mr. Ford of Michigan.

H.R. 4345: Mr. Roe, Mr. Dornan, and Mr. McHugh.

H.R. 4363: Mr. Hance.

H.R. 4443: Mr. Daschle.

H.R. 4459: Mr. Yatron, Mr. Courter, Mr. Marriott, Mr. Dornan, Mr. Traxler, Mr. Weaver, Mr. Murphy of New York, Mr. Rosenthal, Mr. Biaggi, Mr. Wolff, and Mr. Matsui.

H.R. 4531: Mr. Wolpe, Mr. Stokes, Mr. Downey, Mr. Drinan, Mr. Gray, and Mr. Edgar.

H.R. 4685: Mr. Forsythe, Mr. Anderson of California, Mr. AuCoin, and Mr. Carr.

H.J. Res. 355: Mr. Guyer, Mr. Chappell, Mr. Lent, Mr. Butler, Mr. Ichord, Mr. Won Pat, Mr. Whitehurst, Mr. Bevill, Mr. Satterfield, Mr. Hinson, Mr. Mineta, Mr. Gray, Mr. Nichols, Mr. Skelton, Mr. Murtha, Mr. Hutto, Mr. Burgener, Mr. Quayle, Mr. Roe, Mr. Young of Florida, Mr. Pashayan, Mr. Goodling, Mr. Dornan, Mr. Lungren, and Mr. Murphy of New York.

H. Con. Res. 131: Mr. Pepper, Mr. Carr, and Mrs. Chisholm.

H. Res. 244: Mr. Reuss and Mr. Traxler.

H. Res. 302: Mrs. Chisholm and Mr. Wolff.

H. Res. 317: Mr. Lagomarsino, Mr. Rousselot, Mr. Symms, Mr. Paul, and Mr. Richmond.

PETITIONS, ETC.

Under clause 1 of rule XXII,

170. The SPEAKER presented a petition of the Commission of the City of Miami, Florida, relative to the Cuban refugee program, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of the XXIII, proposed amendments were submitted as follows:

H.R. 3996

By Mr. McKINNEY:

—Page 79, line 21, strike out "$230,000,000" and insert in lieu thereof "$242,000,000".

Page 79, line 23, strike out "$253,000,000" and insert in lieu thereof "$295,000,000".

Page 79, line 24, strike out "$271,000,000" and insert in lieu thereof "$313,000,000".

H.R. 4392

By Mr. GARCIA:

—Page 10, line 12, strike out "$4,925,000" and insert in lieu thereof "$5,425,000".

H.R. 4393

By Mr. GUARINI:

—Page 32, after line 2, add the following new section:

Sec. 509. None of the funds available under this Act shall be available—

(1) to approve or license any public gager who is not an employee or official of the United States Custom Service for the purpose of such gager checking the quantity of petroleum or petroleum products imported into the United States; or

(2) to accept or verify the reliability of any report submitted by a public gager who is not an employee or official of the United States Custom Service on the quantity of petroleum or petroleum products imported into the United States.

By Mr. HEFTEL:

—Page 32, line 13, remove period and insert the following: ": *Provided further*, That the limits set forth in this section shall not apply to electric or hybrid vehicles.".

By Mr. MILLER of Ohio:

—On page 8, line 5, after the word "development," add ": *Provided further*, That no funds appropriated herein shall be available for payment to any candidate, or any organization supporting such candidate, for providing air transportation for Secret Service agents protecting that candidate.".

—On page 10, line 4, strike "$18,210,000" and insert in lieu thereof, "$17,500,000".

EXTENSIONS OF REMARKS

SHORTAGE OR WELL-OILED RUSE?

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. ROSENTHAL. Mr. Speaker, to state that this Nation has energy problems is to state an obvious. But do we know the root causes? Why do we not know especially when the Congress provided the President and the Department of Energy with the authority to obtain the basic facts if they so desire. In this context I would like to bring this recent article from the Dallas Morning News to the attention of my colleagues.

GASOLINE SHORTAGE OR WELL-OILED RUSE?

(By Elna Christopher)

HOUSTON.—Three workers at the Atlantic Richfield refinery in Houston sat down one evening last week to a dinner of venison, rabbit, home-grown vegetables and Tecate beer.

Before the night was over, two of them were embroiled in an argument over whether the company should be able to cut off a particular worker's benefits, including hospitalization, for malingering. One thought the company abused its right of punishment; the other defended ARCO.

But when those same two workers were asked if they believe a shortage of crude oil has existed in recent months, defenses of the company suddenly—and emphatically—vanished.

"What most people at the plant think is that there is no shortage of crude but that they've created a shortage of gasoline—and that they're going to do the same thing with heating oil," said one, a woman and 5-year ARCO employee.

The next afternoon, a young ARCO employee, who admits to a fetish for fast cars, timidly talked about his job, his salary and his beliefs about whether a shortage has existed.

He was leery of jeopardizing his job—which pays almost $10 an hour and with which he has been able to indulge his sports car fetish—but decided to talk about the dichotomy between what he sees happening at the plant and what ARCO and other oil companies have been telling the public.

Many ARCO workers, like those in nearby Houston-area refineries owned by other oil companies, say they do not believe there has been a shortage of crude oil in recent months.

The reason they are suspicious, they say, is that production of other products, particularly petrochemicals that are used for making plastics, has remained steady while gasoline production has dropped.

If there really is a crude shortage, the workers reason, overall production should have dropped. No workers have been laid off, and the crude stills, through which all the oil refined at the plant first passes, continue to operate 24 hours a day.

The question of whether the oil shortage is real or contrived—along with union involvement at the plant—has brought about some strange political connections among workers.

Debby Leonard works at ARCO and is the Socialist Workers Party candidate for mayor of Houston. When her candidacy was announced in May, Ms. Leonard openly questioned whether there was an oil shortage.

Joe Campbell, secretary-treasurer of the Oil, Chemical and Atomic Workers International Union, Local 4–227, is acquainted with Ms. Leonard because she is a union member.

He doesn't like her politics, but says he has talked with refinery workers for ARCO, Shell Oil Co., Charter Oil Co., and Crown Central Petroleum Co. in Houston and believes Ms. Leonard is right about there not being a real shortage.

The Houston ARCO plant is one of the 10 largest petroleum refineries in the nation and the largest of four refineries owned by ARCO.

ARCO refines 40 to 45 percent of all its petroleum products at the 750-acre plant, which is located near the Houston-Pasadena border and extends from the Houston Ship Channel south to State Highway 225. Between 250,000 and 370,000 barrels of crude oil can be run through the refinery in one 24-hour period, and 170,000–180,000 gallons of gasoline can be made each day, depending on the grade of crude.

The plant employs about 1,500 persons, 1,100 of whom make up more than one-fourth of the membership in the OCAW Local 4–227, which includes workers at plants in Houston and Pasadena.

ARCO officials at the refinery, like officials of all the mammoth oil companies, contend as they have for months that there has been a shortage of crude.

They admit, however, that production of petrochemicals, which could be used for high-octane gasoline, has been only about 1 percent less than in the past while gasoline production fell about 10 percent at the Houston refinery during February and March.

Feedstock for petrochemicals, much of which goes to ARCO's own chemical companies, comprises one-quarter of the output of the refinery. An ARCO official said gasoline normally is 38 to 45 percent of the output; home heating oil-diesel (ARCO uses the same grade of oil for both products) and jet fuel is about 15 percent, and heavy industrial fuel is 10 to 15 percent.

Four to 5 percent is gasoline used for fuel to operate the plant.

"There's no one that I've talked to, outside of management personnel, that believes there's any such thing as a shortage," said a 10-year ARCO employee who works throughout the plant in the maintenance department. "The company very stringently defends that there is an oil shortage, but I think it's nothing but a tool for higher prices . . .

"I'm probably one of the more conservative people around here, but apparently a lot of people in this local have labeled me radical because I'm not afraid to take stands . . . but there's still one thing—I have not talked to anybody that's a member of this local who believes there's an oil shortage."

The employee, an East Texas native, and another maintenance worker said repair work on the aeromatics recovery unit (used for the petrochemicals) is often considered "a rush job" but that repairs on gasoline stills is not.

"When they give us a job on the aeromatics recovery unit, it's a hot job," one said.

Another ARCO employee who works in the coker, a unit that processes the solid material left over from the crude, said production in his unit—which resembles an outdoor coal mine and is perhaps the dirtiest part of the refinery—has not slowed down at all in recent months.

"We've been going great guns out there," he said. "And the only message we've ever gotten is to do it faster.

"If there is a shortage, I don't know where it's coming from. . . . There is just no way production has been cut because of lack of anything."

Said a worker in the fuel department, "We know from the pumpers (who are in charge of pumping crude oil and finished products through pipelines) there is crude being moved here and there for storage—and we know what production runs are in the various departments—but we can't prove it with numbers. It's a terribly frustrating situation."

"It gets back to the same old thing," said the worker in the coker. "ARCO and the other companies, they more or less tell the government that we've pumped so much through these pipelines and it went here and it went there.

"But there's no way to really track it down because it's so spread out, and because the government's admitted that all they are doing is using figures supplied by the oil companies because they don't have the manpower to do anything else."

J. L. Cook Jr., director of operations at the ARCO refinery, maintained that the workers are wrong in doubting there's an oil shortage. "I don't know who you've been talking to," he said, "but we were short of crude. During the Iranian crisis, we were short.

"ARCO was in a different situation from many companies then because we were part of the Iranian consortium (an international group of companies with contracts to purchase Iranian crude oil). . . . We lost probably 20,000 barrels a day."

He admitted that gasoline production dropped more than petrochemical production during that time but said, "To say we were maximizing those (petrochemicals) is not fair . . . We have a demand placed against us by the chemical companies."

Cook said he believes making gasoline from the petrochemical materials would be wasteful. "It's so high in octane," he said. "It really has much greater value for petrochemicals . . .

"You can't shut the chemical industry down. A little of these products makes a whole lot of bottles or a whole lot of fabric."

Cook said the refinery is now "maximizing" production of gasoline, which is the most expensive product to make. Now—because of the sharply escalating prices—he said gasoline also may bring the highest return to the company.

"I guess it does bring the highest return today," he said, "but I'm not sure of that because it's a complicated question."

But whether it's gasoline, motor oil or home heating oil, few of the products made at the ARCO refinery in Houston find their way to Houston gasoline stations, stores and homes.

Several years ago, ARCO stopped marketing its products in Texas except for supplying a few small independent jobbers, such as Foremost Petroleum of Victoria, Texas, with gasoline that already had been contracted. Instead, most is pipelined or shipped to California and New England.

Although the company gave its employees 10 percent discount cards for the products they make, it is rare that workers drive to the refinery with ARCO gasoline in their autos because there are few ARCO stations in the Houston area.

That fact only adds to the frustration of some workers at the refinery. "I've long since

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

torn my discount card up and thrown it away," said one worker. "It was just weight in my pocket that I couldn't use . . . and I'll tell you something else.

"I'm personally convinced that this whole alleged gasoline shortage is contrived. I'm convinced that when they get the price where they want it, there's going to be a multitude of gasoline available to us.

"The lines will disappear, and you'll be able to buy all the gasoline you want—if you've got the money to do it."●

ALCOHOL FUELS

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. PEYSER. Mr. Speaker, today I am introducing an amendment to the Energy Tax Act of 1978, which will encourage the increased use and availability of alcohol fuels, particularly those derived from coal, by making permanent the exemption of gasohol from Federal motor fuels excise taxes and including in the exemption synthetic fuels derived from coal.

The Energy Tax Act of 1978 provided for an exemption from Federal motor fuels tax for alcohol-gasoline blends used in place of gasoline. The act did not include alcohol fuels derived from coal within the exemption. My amendment would include coal derived synfuels in the Federal excise tax exemption.

Our abundant supply of domestic coal is the most promising resource from which to develop alternative fuels. One estimate shows that if current consumption of gasoline from private cars were converted to 10 percent gasohol mixtures using a methanol produced from coal, only about 6 percent of our present coal output would be utilized. Thus, a relatively reasonable expansion in coal production could adequately provide a sufficient source for gasohol mixtures. Including coal in the tax exemption will encourage research, development, and production in this area in which an estimated investment of $1 to $2 billion is needed to construct commercial refining plants.

In addition to its abundant supply, recent cost estimates by the Alcohol Task Force show that methanol can be produced from coal for between 30 and 50 percent of the cost of production from other sources. With its abundant supply and lower cost we should be doing whatever is necessary to encourage synfuel production from coal.

In addition, tests have shown the feasibility of using undiluted synfuels such as methanol in turbine electrical generating units. Thus the possibility of replacing other petroleum uses is evident.

The other part of my bill would make permanent the exemption of gasohol from the Federal motor fuels excise tax. At present the exemption expires on October 1, 1984. With the large capital investment needed to finance commercial production of synfuels from coal and the large leadtime of up to 4 years needed for plant construction, it is inconceivable that any industry will invest in synfuel production for gasoline use without adequate incentive to do so. By lifting the exemption time limit, we will encourage investment in this area and signal our commitment to do all that is possible to reduce our dependence on foreign oil sources.

By establishing the excise tax exemption of alcohol blended motor fuels, Congress has recognized the importance of these fuels in helping to solve our dependence on foreign oil sources. As an example, current estimates show that full utilization of a 10-percent alcohol blended gas mixture could reduce oil imports by approximately 740,000 barrels of oil per day. My amendment would further the intent of Congress and expand the sources and availability of alcohol fuels as one means of reducing our dangerous reliance on foreign oil.

Mr. Speaker, the House of Representatives has taken the commendable step of passing legislation that would allow a $2-billion investment in the development of alternative synthetic fuels. I fully support that legislation and urge that the House act expeditiously on it as well as the bill I am introducing today to assure that alternative fuels development moves ahead as rapidly as possible.●

THE TRADE AGREEMENTS ACT OF 1979 IS GOOD FOR AMERICA

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. SHUSTER. Mr. Speaker, the Republican Policy Committee, which I chair, today voted its unanimous support for H.R. 4537, the Trade Agreements Act of 1979. This legislation will implement the product of 5½ years of multilateral trade negotiations initiated by a Republican administration in 1973 among the world's major non-Communist economic powers, an agreement that was approved by 99 nations in Geneva last April 12.

The Republican Policy Committee agrees with administration and other trade experts that the new multilateral trade agreement embodied in H.R. 4537 portends important economic benefits to the United States, and we urge its passage.

Its advantages are many, including a reduction in industrial tariffs, a policing of the growing numbers of nontariff barriers, new rules for the imposition of custom and other duties, a speeding up of import licensing, a package of arrangements on agricultural products and the establishment of a framework for reform of the general agreement on tariffs and trade, or GATT, which was signed 32 years ago by only 23 countries.

I am gratified that the Policy Committee has voted its approval of this legislation, and I urge all my colleagues to cast a similar vote.

At this point, I should like to insert into the Record the complete text of the Republican Policy Committee statement in support of H.R. 4537:

H.R. 4537—TRADE AGREEMENTS ACT OF 1979

The Republican Policy Committee supports the passage of H.R. 4537, the "Trade Agreements Act of 1979."

The "Trade Agreements Act of 1979" is legislation to change U.S. laws to conform to the new trade agreements which are the product of five and a half years of multilateral trade negotiations (MTN) initiated by a Republican administration in 1973 among the world's major non-Communist economic powers and approved by 99 nations in Geneva, Switzerland on April 12, 1979. If enacted, these changes in U.S. trade laws and the new multilateral trade agreements will go into effect beginning in 1980.

Since World War II, the cornerstone of international trade policy has been the General Agreement on Tariffs and Trade (GATT) signed in 1947 by twenty-three countries. As a result of the GATT agreement foreign trade grew rapidly in the postwar period. In the 1960's, when the world economy was growing rapidly, many countries saw their own economic interests best served by the gradual reduction of trade barriers. However, during the 1970's, slow economic growth, the rapid increase in oil prices and higher than average unemployment have prompted countries to promote exports and protect their domestic industries against imports. The result has been conflicting trade policies and practices in a once strong international consensus for free-trade with the U.S. balance of trade falling sharply into deficit. In 1971, our first trade deficit since 1888 occurred, when this nation's imports exceeded exports by $2.3 billion. In 1977, this deficit mushroomed to $26.5 billion and reached $28.5 billion in 1978.

The new multilateral trade agreement is designed to provide a political and legal basis for an annual $1.3 trillion flow of goods in international commerce. Its fundamental purpose is to establish mutually acceptable "rules of the game" by which all countries agree to conduct their trade. This new trade agreement mandates a reduction in industrial tariffs averaging about 33%, which are now about 8 to 10% in most developed countries, and to be phased in over an eight year period. The agreement also attempts for the first time to police the growing numbers of non-tariff barriers, such as government subsidies and discriminatory government procurement practices that are contentious obstacles to international commerce through a series of non-tariff barrier codes and a government that of the reduction in tariffs, have been estimated to provide a total economic benefit to the United States of $10 billion annually.

The Republican Policy Committee agrees with the Administration and other trade experts that the new multilateral trade agreement embodied in H.R. 4537 portends important economic benefits to the United States and urges its passage.●

WINDFALL PROFITS TAX

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. DERRICK. Mr. Speaker, in the Congressional Record of June 28, 1979, I am incorrectly recorded as having paired against the Shannon amendment to the windfall profits tax measure (rollcall vote No. 303). I had requested to be paired in favor of the Shannon amendment.●

THE FUTURE OF NUCLEAR POWER

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report from July 4, 1979, into the CONGRESSIONAL RECORD:

THE FUTURE OF NUCLEAR POWER

The future of nuclear power is uncertain. The nuclear reactor accident at Three Mile Island on March 28, 1979 has raised serious questions about the role that nuclear power will play in providing energy for the nation. The next several months will be critical for the future of nuclear power. The accident may be a turning point, one of those rare events that alter the course of history. At this point, we simply cannot say whether the nuclear industry will flourish or wither.

No thoughtful person can reflect on the Three Mile Island accident without wanting to reexamine the safety of nuclear power. Some people believe that the accident closes the book on nuclear power. Others argue that re-examination will ge good for the nuclear industry. Ultimately, the future of nuclear power will depend on public acceptance of it, as shown in local decisions about siting, corporate decisions about economics, and national decisions about policy. Polls have shown a three-to-one majority in favor of nuclear power in recent years, but samplings of opinion showed much less support after the accident.

The federal government has been a vigorous promoter of nuclear power through regulation of the industry and $17 billion to $24 billion in subsidies over the years. Government participation in the insurance of nuclear plants has been another form of support. Because of the Three Mile Island accident and this federal involvement, I am pleased that Congress is beginning an extensive inquiry into all aspects of the nuclear power issue. The inquiry will focus on the accident at first, but then will move on to the various safety, economic, and regulatory problems generally associated with nuclear power. In addition, the President has set up a special commission to look into the accident. The commission will complete its work by November of this year. These two investigations must determine why the accident occurred, what its effects have been, and how other accidents can be avoided. The investigations must also tell us what the implications are for the future of nuclear power.

Nuclear power presents us with many issues which require review. Can nuclear plants be designed and constructed safely? Can they be operated without emitting unacceptable levels of radiation? Is it possible for their emergency cooling systems to fail? Can the possibility of human error be minimized?

Can terrorists sabotage a nuclear plant or take control of it? Can nuclear waste be safely stored during the centuries that must pass before it is no longer toxic? Can the plutonium produced in reprocessing plants and breeder reactors be controlled? Can the economic benefits of nuclear power exceed its costs? These questions and others must be answered in a satisfactory manner.

Certain results of the Three Mile Island accident are already apparent. The search for alternate sources of energy—such as sunlight, wind, geothermal steam, oil shale, tar sands, alcohol, and coal derivatives—will intensify. No one knows for sure which alternative is the best, so it is likely that all will be given extra attention and federal support. I myself believe that no single alternate source will provide an answer. We must develop a comprehensive energy program, one which takes account of every reasonable idea and puts time and money into every promising alternative.

Another result of the Three Mile Island accident will be stronger safety standards and procedures at nuclear plants. Federal experts should be on duty at all times in the control rooms of nuclear reactors, and they should have full authority to take charge at the first indication of trouble. Inspectors will have to keep a much closer eye on the construction and operation of nuclear plants. The training of operators will have to be upgraded, and nuclear plant sites will have to be limited to sparsely populated areas. Emergency response and evacuation plans will have to be updated and improved. New construction of nuclear plants should not proceed until we understand what happened at Three Mile Island and know how to deal with the problem.

There are 70 nuclear plants licensed for operation today. Another 94 are under construction, and 34 are being planned. These numbers signify that nuclear power cannot be eliminated without severe consequences. Especially in those regions heavily dependent on nuclear power, the shutting down of nuclear plants would mean switching to coal (with all its adverse environmental effects), deepening the reliance on foreign oil, conserving more energy than may be possible without mandatory controls, or coping with blackouts and unemployment due to shortages of energy. None of these possibilities is pleasant to contemplate.

The promise of nuclear power has always been clear; it is clean, efficient, low-cost energy free from foreign influence. The question is whether this promise outweighs the acknowledged peril. The weeks ahead should be a time of reassessment of the role of nuclear power in our society.●

RECOGNIZING THE RETIREMENT OF COL. LEON E. McKINNEY

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. YOUNG of Missouri. Mr. Speaker, it is with great personal pleasure that I bring to the attention of my colleagues the distinguished military career of Col. Leon E. McKinney. Colonel McKinney is currently serving as the District Engineer for the U.S. Army Engineer District, St. Louis. He will complete his present tour of duty and retire from the Army in August after 24 years of distinguished service.

Colonel McKinney has served in a variety of command and staff positions. Upon graduating from the U.S. Military Academy at West Point in 1955, Colonel McKinney was assigned to the 3d Armored Division at Fort Knox, Ky. He later served as the Officer-in-Charge of two operational nuclear powerplants at Fort Belvoir, Va., and at Camp Century, Greenland.

Colonel McKinney also worked extensively in the civil works field. He served as Deputy District Engineer in Wilmington, N.C., and later as Assistant Director of Civil Works in the Office of the Chief of Engineers, Washington, D.C. Prior to his assignment in Washington, Colonel McKinney commanded the 802d Engineer Battalion in Korea. He also worked for nearly 3 years with the Office of the Chief of Legislative Liaison in the Office of the Secretary of the Army.

As well as being a graduate of West Point, Colonel McKinney also holds a master of science degree in nuclear engineering from the Air Force Institute of Technology. He is a graduate of the U.S. Army Command and General Staff College and just prior to his assignment to St. Louis, Colonel McKinney completed his studies at the Industrial College of the Armed Forces, Fort McNair, Washington, D.C.

A native of Johnson, Tenn., Colonel McKinney is married to the former Linda Johnson of Lynbrook, N.Y. The McKinneys have one son, Leon, who is a sophomore engineering student at Purdue University.

Mr. Speaker, I know my colleagues will want to join me in recognizing Colonel McKinney's remarkable career. It has been one of distinguished service and devotion to duty. I know, too, they will want to join me in wishing Colonel McKinney and his family all the best in their future eadeavors.●

SER CAREER EXPLORATION DEMONSTRATION PROJECT FOR YOUTH

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. HAWKINS. Mr. Speaker, as the Subcommittee on Employment Opportunities continues to hear testimony from Government and public witnesses on my newly introduced Youth Employment Act of 1979 (H.R. 4465), I would like to share with my colleagues some of the excellent information I and the other members of the subcommittee are receiving as we evaluate this new proposal. H.R. 4465, which will provide over a million additional employment and training opportunities for youth, combines immediate remedies and long-term systemic and structural changes in the institutions and programs serving youth in our country.

With the latest official unemployment rates for all youth hovering at 15.3 percent, and minority young people suffering from official unemployment rates of 34 percent, we must formulate a comprehensive and effective approach to this severe problem.

One of the many organizations who have done outstanding work over the years in administering job and training programs to unemployed people is SER-Jobs for Progress, Inc., a nonprofit Hispanic community-based organization. SER (service, employment, and redevelopment) operates employment-related training centers in over 133 cities throughout the country.

Following is some background information, prepared by SER, on the unemployment problem in the Hispanic community, and an explanation of SER's attempts to deal specifically with the joblessness of Hispanic youth through the group's new career exploration demonstration project. I urge all of my colleagues to read this information:

SER/Jobs for Progress

Career Exploration Demonstration Project for Hispanic economically disadvantaged youth

SER/Jobs for progress, Inc., commonly known as "SER" (Service, Employment and Redevelopment), is a non-profit Hispanic community-based organization.

"SER" came into existence in 1966 through the efforts of farsighted individuals of the two largest and oldest Hispanic civic organizations in the United States:

The League of United American Citizens,
The American G.I. Forum.

"SER" continues to be sponsored by these two prestigious organizations. To accomplish the goals articulated by its funding organizations, "SER" operates employment-related training centers in more than one-hundred and thirty-three cities throughout the country.

Since 1966, "SER" has assisted more than 150,000 economically disadvantaged Hispanic-American prepare for, secure, and retain gainful respectable employment. It is from this experience in serving the Hispanic community that SER recognizes the long-term and critical problem of unemployment among Spanish-speaking youth.

This unemployment problem is intensified by the fact that the entire United States Hispanic population is extremely young. Higher numbers of Hispanic youth are entering the U.S. labor market at the same time, and for the first time. SER estimates that non-institutionalized Hispanic youth between the ages of 16 and 19 is 994,000. However, only 476,000 are currently in the civilian work force. Thus, only 47.9 percent of the total number of Hispanic youth are in the U.S. labor force compared to nearly 60 percent for white youth in the same age bracket.

A number of reasons have been identified by a Congressional Budget Office Study as to contribute to this unemployment problem for Hispanic and other minority youth. Those identified factors from the CBO study include: social prejudice and discrimination, location in poverty areas; education and training inadequacies; population growth; recessive business cycle; the increased supply of higher educated white youth and adult women in competition for nonskilled entry-level jobs.

The report also states that preparation for minority youth to enter the job market is less adequate than for white youth. This finding coincides with our indication that Hispanic youth lack some of the basic academic skills required to compete for the thousands of industrial and technical jobs that become available each year.

Statistics show that 9.1 is the medium number of school years completed by Hispanics. This situation is compounded when Hispanic youth not only drop out of school, but also out of the U.S. labor market. As many as a half-million Hispanic-origin youth have become discouraged and have stopped seeking assistance in locating employment.

SER/Jobs for Progress, Inc., in an effort to reduce these critical long-term unemployment problems among Hispanic youth, has been awarded an 18 month contract from the Office of Youth Programs, Employment and Training Administration to operate a career exploration demonstration project. The purpose of this special project is to allow SER to explore the feasibility and assess the effectiveness of summer career exploration program designed to facilitate school retention, return and completion for Hispanic youth between the ages of 14–21.

SER, starting in June 1979, will enroll in the project 1,080 economically disadvantaged Hispanic youth, all of whom are in school or willing to return to school. The 1,080 Hispanic youth participants will be served through—project operations in 8 separate sites, which represents a mixture of urban, and rural Chicano, Puerto Rican and Cuban communities. The project site locations that have been selected are the following: Hayward, California, Colorado Springs, Colorado, Omaha, Nebraska, Houston, Texas, Chicago, Illinois, Yakima, Washington and Tampa, Florida.

Each project site will accommodate the following group proportions of Hispanic youth participants: 25 percent high school dropouts; 25 percent high school graduates in 1979; 25 percent high school youth who will enter their senior year in September 1979; and 25 percent other high school in September 1979.

SER will provide Hispanic youth participants with a program orientation, career information, counseling, and other support service, and personal self-development experience and skills. Participants will be exposed to career and vocational opportunities through their observation of private and public sector business operations. Project staff will arrange participants to rotate among various private and public sector placements in order to enhance their exposure to different types of careers.

There are several unique programmatic features in the SER Career Exploration Demonstration Project which are different from traditional summer youth employment programs. Those features are: 1. Spanish-speaking-bilingual staff will recruit, counsel, and provide Career and Training services to Hispanic youth participants; 2. Institutional linkages will be established with local schools to provide participants with academic credits; or 3. A standard set of pre- and post-summer program behavorial change instruments will be administered to Hispanic youth participants and to a comparison group of similar CETA prime sponsor SYP participants for program knowledge development purposes.

The imact of the SER Career Exploration Demonstration Project on Hispanic youth participants will improve their labor market awareness, economic and family status and knowledge of the world of work. This project will provide Hispanic youth participants with a smoother transistion from school to work. And will, prepare them to make appropriate career choices through their obtainment of self-sustaining employment.●

LES MALAMUT

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. RINALDO. Mr. Speaker, one of the reasons for the strength of our country is that we have a free press that is directed by men and women of integrity and a sense of civic responsibility. Every day, thousands of lines of accurate, honest and balanced news coverage reach the American public through their daily and weekly newspapers.

None of us would surrender the First Amendment right of a free press to Government, even when we sometimes disagree with what is reported. We trust in the judgment and honesty of the editors and reporters of news, and the sense of fairness and intelligence of the American people to distinguish between fact and rumors, allegation, and truth.

The professional newspaperman carries a very heavy burden of responsibility to his readers. They trust him to report the truth and to edit that which is patently false and vicious. They are accustomed to the pressures of deadlines and budgets, and sometimes the wrath of readers. In the final analysis, their integrity is the greatest protection that a free press has in America.

One such professional newspaperman is Les Malamut, who served for many years as editor of the Union (New Jersey) Leader, and the weekly newspapers published by the Suburban Publishing Co. He is from that school of newspapermen like William Allen White. They recognize that the news is more than a train wreck, a story of petty political graft, or a hold-up at the local bank.

It is the daily occurrences of life, including births, deaths, and marriages. Someone's son or daughter enlisting in the service. The chamber of commerce discussing the economic climate of a community. It is local government in action; the building of parks and the cleaning of streams. The Boy Scouts and the Little League baseball champions.

In his years as editor of the Union Leader, Les Malamut used his pen with compassion and insight. More often than not, he was on the side of the underdog, and it did not always endear him to those who were on top. He was sensitive to public opinion, and just as sensitive in giving his own opinions about events and people.

In essence, he is a newspaperman with a passion for truth and a strong streak of human kindness.

I join with the citizens of Union in saluting Les Malamut for his faithful service to the community and for his many years of outstanding performance as a newspaperman and editor of the Union Leader.●

TRIBUTE TO KURT F. PANTZER, SR.

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. HILLIS. Mr. Speaker, it is with deep regret that I report the passing of a distinguished citizen of my Hoosier State, one of my constituents, the Honorable Kurt F. Pantzer, Sr.

Engaged in the practice of law in his native Indianapolis for more than half a century, he was an active leader and a successful achiever on behalf of the Republican party at the local, State, and national levels. Mr. Pantzer was a man of varied interests relating to law, education, art, and museums, in addition to his church. He served in World War I as an officer in the Army infantry, and was later to play a major role in preventing Fort Benjamin Harrison in Indiana from being sold as surplus property. He was a member of the First Presbyterian Church in Indianapolis.

Mr. Pantzer was the author of many treatises and books relating to the law. He was a chairman of the Indiana Commission on a Uniform Commercial Code and the Indiana Commission on Uniform State Laws. He was known nationally for his legal expertise, serving in leadership positions furthering the work of the American Bar Association. He served on the ABA Committee to draft a model corporation act and the Joint Commission of the ABA and the American Law Institute to draft the Uniform Commercial Code. Mr. Pantzer was a co-founder of the Bar Association of the Seventh Federal Circuit, and had served as its president in 1951–52.

Throughout his life, Mr. Pantzer was an art connoisseur, and owned the largest and most comprehensive collection of watercolors of J. M. W. Turner in the United States. He was a cofounder and director of the Indiana State Symphony Society, and held directorships in many organizations devoted to music, art, and culture. In business, he was an officer or a former director in more than a score of corporations.

While these are only a partial listing of his many achievements, it must be said that the full litany of his endeavors is not in itself important. It is important, and highly significant, however, that Kurt Pantzer was a man who did all things well. He provided the fullest measure of his efforts in any commitments he undertook. It can truly be said that he did all things well.

One of his colleagues in the legal profession has probably provided the best assessment of Mr. Pantzer, describing him as a "great lawyer, a knowledgeable collector of art, a teacher, a civic leader, an active participant in politics, a founder of business enterprises, an innovator in education, an unfailing friend, and a devoted citizen of Indianapolis, of Indiana, and of this country."

He was indeed a "man for all seasons." ●

WELCOME TO NEWLY NATURALIZED AMERICANS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. LONG of Maryland. Mr. Speaker, it is with particular pleasure that I congratulate 60 residents of Maryland's Second Congressional District who have chosen to become American citizens, with all of the responsibilities as well as freedoms that citizenship entails. Please join me in welcoming these newly naturalized Americans and extending to them our very best wishes for a happy and prosperous life in their new homeland:

Mr. Jou-Nan Huang, Mr. Jae Sung Pak, Mrs. Virginia Conway, Mr. Giridhari Das, Mrs. Hi Sok Yu, Miss Misuk Yu, Miss In Suk Yu, Mr. Chol Su Yu, Mr. Doo Hi Kim, Mrs. Mvung Ja Kim, Mr. Turgay M. Ertugrul, Mr. Dov Shiff, and Mr. Steven I. M. Shiff.

Mr. Rosalba Martinez, Mr. Yong Chin Ko, Mr. Su Cherl Lee, Mr. Jason Michael Stairs, Mrs. Maria Pia Laudi, Mrs. Blanca Mattos, Mrs. Yunsook Lee, Mrs. Jung Kim, Mr. Patrick Gouck, Miss Judith Downes, Mr. John Palios, Miss Katherine L. Williams, Mr. Daniel Lee Zimmerman, Mr. Vladimir Enrique Martinez, Mr. Socrates Antonio Martinez, Mrs. Olda Rozencweig, Mr. Jacob Rozencweig, Mrs. Anisha Contractor, Mrs. Marjorie Kelly, Mr. Harry Millstone, Mrs. Eva Hope Schwartz, Mrs. Kailash Sood, Mr. Simon M. Cook, Mr. Ching N. Yen, and Mrs. Tse F. Yen.

Mrs. Lubia E. Wielechowski, Miss Christine Lynette Myun-Han, Mrs. King-Tong N.Y. Liu, Mr. Ignacio R. Mattos, Mrs. Sunitaben B. Patel, Mrs. Shui Hong Lui, Mrs. Yong Ja Jun, Mrs. Hyon Suk Kim, Mrs. Najma M. Ali Khan, Mrs. Nouha S. Ghanayem, Mrs. Norma Caa Pappas, Mr. David Boteach, Mrs. Vescenta L. Green, Mrs. Rachel Niebieska, Mrs. Maria Sfondilis, Mr. George Lim, Mrs. Holly Lim, Mrs. Winsome Ricketts Saunders, Mrs. Janet Van Short Moghveli, Mrs. Gloria G. Leon, Mr. Walter F. Leon, Mr. Pradeep Dixit, and Miss Melanie Robin Bass.●

RHODESIA—IT IS PAST TIME TO LIFT THE SANCTIONS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. McDONALD. Mr. Speaker, many persons have stated, incorrectly I feel, that no solution should take place in Rhodesia until a conference is held by all parties, meaning that the Nkomo and Mugabe terrorist groups should participate. Of course, as is well known, they were invited and refused to come to an all-parties conference. However, what does not appear to be well known in this country is Mr. Nkomo's undying devotion to violence and death as a solution to the Rhodesian problem. During his recent visit to the United States he called for violence while speaking in Atlanta, and during an exchange on the McNeil-Lehrer radio show, he made it plain that he only negotiates at the end of a gun. The distinguished gentleman from New York (Mr. SOLARZ) continues to insist that some sort of settlement can be reached, and that Mr. Nkomo is willing to negotiate. However, the dialog that follows, as excerpted from the McNeil-Lehrer report of Friday, May 18, 1979, shows that Mr. Nkomo is not interested in any negotiations, only in fighting till he runs things from the end of a gun:

SOLARZ. I don't think that our policy ought to be hostage to anybody. But, I would point out, as Mr. Nkomo indicated a short while ago, that last April the Patriotic Front more or less accepted the essential principles of the Anglo-American proposal and the Salisbury government did not. Furthermore, having just returned from a trip to southern Africa, where I met with each of the Front Line Presidents, President Machel, of Mozambique, President Nyerere of Tanzania, President Kaunda of Zambia and President Khama of Botswana, each and every one of them made it clear to me that they were prepared to use their influence with the Patriotic Front, which is dependent upon them for both sanctuaries and support, in order to persuade Mr. Nkomo and Mr. Mugabe to accept a new Anglo-American effort to bring the war to an end based on the principle of some kind of international and impartially supervised elections, and I think that, given all of the influence which the Front Line Presidents have with the Patriotic Front, we can be reasonably confident that if we're successful in persuading Bishop Muzorewa to accept the essentials of such a proposal, there's a very good chance that the Patriotic Front would accept it once again as well.

McNEIL. Is our policy motivated by what we think is good for the inhabitants of Rhodesia or for concern for U.S. image with black African countries, principally those Front Line countries you talk about?

SOLARZ. I think it is, and ought to be, concerned about both of those aspects of the present situation. So long as the war continues, the bloodshed goes on. So far about twenty thousand Rhodesians, almost all of whom are black, have lost their lives, and in the absence of a negotiated agreement to bring the war to an end, the killing will continue. I might point out, by the way, to our American audience that in per capita terms that's the equivalent of more than half a million Americans, which is more than the total number of Americans who have lost their lives in each and every war we've fought in the twentieth century.

But secondly, I think that our policy does have to be concerned about the wider implications and ramifications of our position in Rhodesia. The fact of the matter is that if we lift sanctions and recognize the internal settlement at this time, we will have alienated the rest of Africa. We will have put ourselves in a position where we have entered into a de facto alliance with South Africa, which is the only other country on the continent which is currently supporting the Salisbury government. And under such circumstances, it seems to me we will have provided the Soviet Union with a golden opportunity to maximize its influence throughout Africa because they will be perceived as being on the side of those forces that are fighting for majority rule, while we will be perceived throughout the rest of Africa as being on the side of those forces that are fighting to maintain white minority domination.

Finally I might say that we have been urged by some of our closest friends in Africa, and I'm not talking now about some of the Front Line states, which many people in our country think of as either Marxist or Socialist countries, but nations like Zaire and Liberia and Senegal and the Ivory Coast, countries that are clearly moderate and pro-Western, not to recognise the internal settlement on the grounds that if we did so it would be diplomatically disastrous for us and politically embarrassing to them as our friends in Africa.

McNEIL. Well, thank you. Jim.

LEHRER. Mr. Nkomo in Houston, back to you first, Sir. Putting past history aside in terms of elections that were at one time proposed, would you, as the leader of your group of the Patriotic Front, be willing to lay down your arms and come to a meeting now with Muzorewa, the United States, Great Britain and everybody else to try to work out a peaceful solution?

NKOMO. Now, the point is, don't talk about laying down arms before you are able to——

LEHRER. Stop fighting—let's——

NKOMO. You don't stop fighting because the fighting is the thing that has brought Smith even to accepting this, er, pseudo majority rule. So we are going to fight until such time as we are certain that real majority rule will be transferred—will be given to the people of Zimbabwe.

LEHRER. In other words, you wouldn't even stop fighting to go to a meeting and see if——

NKOMO. You don't go to a meeting first. No war has ended that way. What does happen, you negotiate and then—it is out of the negotiation that you stop the war. That is what is done in any war. You don't stop the war before you are certain that you are getting what you are fighting for.●

THE PROPOSED PAN AM-NATIONAL AIRLINES MERGER SHOULD BE APPROVED

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. GREEN. Mr. Speaker, I would like to commend to my colleagues' attention the following New York Daily News editorial. The editorial succinctly states the logic and justice in allowing Pan American World Airways to merge with National Airlines.

The editorial follows:

[From the New York Daily News, June 25, 1979]

APPEAL TO COMMONSENSE

Pan American Airways has offered compelling reasons for the Civil Aeronautics Board to overrule an administrative judge objections to the Pan Am-National merger.

The union comes well within the letter as well as the spirit of the law relaxing government controls over commercial aviation. It would substantially improve competition within the industry, and increase operational efficiency. The flying public, as well as the two companies, stand to benefit.

The CAB examiner didn't see it that way. His recommendation for rejection was based on factors that might apply to a wedding of National and its other two suitors, Eastern and Texas International, but aren't true in Pan Am's case.

Pan Am and National do not compete head to head on any foreign route. Pan Am has no domestic routes, while National is firmly established along the East Coast and from Florida to California. The two systems fit perfectly.

In spite of this, the hearing judge ruled that a merger would violate antitrust laws, and indulged in some far-out theorizing to make his case.

The plain truth is that Pan Am, under tight government regulation, was barred from the domestic market. In addition, the CAB and various presidents gave other American and foreign carriers access to overseas routes that Pan Am pioneered and developed at great cost.

Now that controls on market entry have been loosened, Pan Am theoretically could go out and build its own domestic service. But it is not a practical solution. Starting from scratch takes time and money, and even if Pan Am had the time, it lacks the money.

As a matter of fairness and commonsense, Pan Am's proposal to join with National ought to be approved. The CAB doesn't often go against the findings of its examiners, but the board clearly should do so in this case to serve the public interest.●

STUDY ON AGRICULTURAL AND ENVIRONMENTAL RELATIONSHIPS RELEASED

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. BROWN of California. Mr. Speaker, on Monday of this week a Congressional Research Service study titled "Agricultural and Environmental Relationships: Issues and Priorities" was released. The study, requested by Representative ED JONES, Representative JEROME AMBRO, and myself, provides an excellent summary of this subject and provides the necessary background for hearings scheduled for July 25 and 26 that will examine this topic in detail. The joint hearings between the Agriculture Committee and Subcommittee on Conservation and Credit and the Science and Technology Committee Subcommittee on Natural Resources and Environment propose to look at the myriad interrelationships between agriculture and the environment in a comprehensive fashion.

Too often we respond to issues in a piecemeal fashion, not relating today's decisions with the ones we made last week. One day we look at urban waste disposal problems, the day after, soil erosion is the topic under discussion. Next week may find us examining agricultural land retention, water shortages, pest management problems, pollution problems, or any of a number of other issues. In our complex society, beginning to face resource limitations, forced to make choices between competing demands, we can no longer ignore the relationships between these seemingly separate topics. The easiest solution to one problem may exacerbate another problem. It may be, with a proper understanding of some of the interactions of these various areas, common solutions will be revealed.

I hope that my colleagues will use this study and the upcoming hearings to begin to focus on this area. I have included a portion of the study as an example of some of the topics that we will be dealing with.

The material follows:

LAND RESOURCE BASE

The United States has a land base of slightly less than 2.3 billion acres. Of this amount 21 percent is cropland, 27 percent is pasture and range, 32 percent is forests, and 21 percent is in other lands and special uses. These proportions have been fairly constant for several decades, although some changes have occurred within regions.

The Nation's cropland base totals about 470 million acres. In any given year only part of this is used for harvested crops; the remainder being in pasture, soil improvement crops or being idle for some reason.

The conversion of agricultural land to nonagricultural uses has been a subject of concern in recent years. U.S. agriculture loses about 2.7 million acres of cropland each year to urbanization, public facilities, and other noncrop uses. At the same time about 1.3 million acres of new cropland are added to the base through irrigation, drainage, land clearing, and other development.

The process of urbanization does more than reduce the quantity of farm and forest land; it affects the basic agricultural infrastructure of an area. As land prices and taxes increase, farmers become increasingly reluctant to invest in major, long-term improvements for the farm. Farm support industries may go out of business or move elsewhere. This phenomena, which has been termed the "impermanence" syndrome, can occur in the fringes of small towns and cities as well as on the fringe of major metropolises.

Changing patterns of land ownership can also reduce the amount of land available for farming. Increasing numbers of people can afford a second home, often located on farm or forest land far from the city. It is estimated that 10 million or more recreational lots have been sold and 3.5 million second homes have been constructed in the U.S. Often located on 5 to 10 acres of land, these homes have a great impact on the land available for farming and timber harvesting.

Development pressures have been particularly acute in certain regions—specifically the Northeast, the Southeast and the Pacific States. The percentage of Class I and Class II land converted to nonagricultural uses during the 1967–1975 period was 6 percent in the Northeastern United States, 5.2 percent in the Southeast and 3.7 percent in the Pacific States.

Energy development, housing, water resources development and a host of other activities will require a substantial amount of land by the year 2000. Pressure to convert farmland and forest land to other uses will become increasingly intense in the next few decades. Much of this development will occur on land with a high crop production potential unless greater attention is paid to protecting such land through diversion of new development to less productive land.

A 1975 study of potential cropland by the Soil Conservation Service identified 384 million acres of land that met the criteria for prime farmland. Of these 384 million acres of prime farmland, 250 million acres were currently being used as cropland, 77 million acres were pasture and range, 43 million acres were in forestry, and 14 million acres were in other uses. Between 1967 and 1975, 7.4 million acres of prime farmland, land with the highest productive capability, were converted to urban and water uses. Of this converted land, 4.5 million acres were being cropped at the time of conversion. Despite this irreversible loss of prime land, the percentage of Class I, II, and III land used for crops increased from 83 to 87 percent—implying a slight improvement in the quality of the cropland base.

Another important characteristic of the cropland base is the quantity and quality of the topsoil. Topsoil is necessary for crop production because it contains organic matter and plant nutrients. Organic matter encourages water intake and storage, provides a suitable physical environment for plant growth, and makes tillage easier. In the United States topsoil varies from almost none up to several feet. Once it has been lost through erosion, it can be redeveloped only over long periods of time as plant nutrients are replaced by fertilizer and organic matter is added by roots and plant residues.

U.S. farmers and the U.S. Department of Agriculture have expended considerable time and money since the mid 1930's to encourage cultural practices and cropping systems which reduce soil erosion. At the same time the trend to larger acreages of continuous row crops and other intensive methods associated with modern agriculture has tended to increase the exposure of cropland to erosion. Soil scientists have determined the tolerable rates of erosion for various types and conditions of soils. This tolerance level equals the rate of new soil formation. As long as the soil loss does not exceed this level, the innate productivity and fertility of the soil can be maintained indefinitely.

A nationwide survey by the Soil Conservation Service indicated that in 1975 erosion losses on cropland averaged almost 9 tons per acre. Although this level of erosion is about twice the average tolerance level of 5 tons per acre, it is about one-fourth less than the level of erosion predicated had farmers followed no conservation practices.

OTHER PRODUCTION INPUTS

Land, while tremendously important, is only one of many production inputs. Other inputs include weather (light, heat, and water), labor, mechanization (which requires energy in the form of fuel), fertilizer, pesticides, improved plant varieties, and information for the manager.

The productivity of land has been increased by technology which includes large amounts of the non-land inputs listed above. Most of these non-land inputs require large amounts of energy for their manufacture and/or application. With increasing energy prices and prospective shortages of some energy forms, particularly petroleum, concern has been expressed about the future viability of today's agricultural technology. While energy is important to agriculture, total energy consumption for food production represents only 5 to 7 percent of the total fossil energy consumption of the country. It is difficult to defend, therefore, the thesis that agricultural technology will become totally obsolete due to any foreseeable energy shortage. Since technology associated with high productivity agriculture is usually energy intensive, higher energy costs in the future will keep upward pressure on production costs and could also slow the rate of adoption of new energy intensive technology.

AGRICULTURAL WATER USE

Agriculture accounts for over half of all water withdrawn from the Nation's surface and ground water sources and over 80% of consumptive water use. Irrigated agriculture is expected to increase from 45.5 million acres at the present to 52.4 million acres by the year 2000. The most dramatic increases in this irrigated acreage are expected in the eastern North Central States, with less significant increases expected in the South.

Although irrigated agriculture is expected to increase in the country as a whole, certain regions of the country are expected to have significant declines in irrigated agriculture due to intense competition for scarce water resources from other sectors of the economy. These declines are projected for the Texas Gulf, Lower Colorado, Great Basin, and Rio Grande areas. The competition for the available water supplies in these areas will come from population growth and energy development. In other regions opportunities exist for additional development of groundwater sources. According to the U.S. Geological Survey the use of groundwater could be doubled (an increase of 1.5 million acre feet annually) in the Great Basin region of Nevada and Utah. Such development would provide for the irrigation needs of more than 250,000 acres of farmland.

Ground water aquifers have a storage capacity nearly 20 times the capacity of all natural and man-made water impoundments. However, only about 25% of the available ground water, equal to about 10 years annual precipitation nationally, is recoverable under present technology. Arid and semi-arid parts of the country have tended to rely too heavily on ground in Central Arizona, Western Texas, and the Central Valley of California. Less severe depletion problems have occurred through the Central and Southern Great Plains.

In many regions in the Western States, water supply problems are generally associated with the large consumptive needs of irrigated agriculture. Many of these agricultural regions are close to huge coal deposits which, if developed, will require large amounts of water for processing and cooling. Slurry pipelines to transport western coal have been proposed, however they would require large amounts of western water, and construction would require legislation to authorize acquisition of rights-of-way. Coal gasification has been proposed to exploit western coals, but numerous technical and economic problems remain (including water resource needs). These expected needs for energy development will exacerbate the existing agricultural water supply problems in these arid regions.

Precipitation management is a potential technology to increase water supplies. Studies by the Bureau of Reclamation in 1970 of the potential increase in water supply from weather modification in the Upper Missouri River Basin indicate that seeding winter orographic storms in headwater areas can provide as much as 1.8 million acre feet of new water annually to the Missouri River Basin at an estimated cost of $2.50 per acre foot.

Water conservation in the agricultural sector appears to be the answer to the waiver shortages which are occurring in certain parts of the country. Irrigation efficiency could be increased by 20–50% through adoption of existing technologies. The structure and basis of water rights and reclamation law, however, often provide little incentive for water conservation, especially in areas of short supply.

In order to conserve water in irrigated agriculture, both the conveyance system and the on-farm application of water must be considered. Although the normal range of conveyance efficiency is between 40 percent and 85 percent in unimproved systems, conveyance efficiencies of nearly 100 percent may be attained through canal linings or replacement of open channel. Water conservation in on-farm application may be attained through the traditional methods of surface and sprinkler irrigation, as well as through new approaches such as drip irrigation, irrigation scheduling, and moisture management.

There are two approaches to surface irrigation: maximizing the use of water storage capacity of the root zone in order to minimize the number of irrigations, and maximizing the application efficiency without concern for maximum use of root zone storage. Application efficiency for the first approach averages 50 percent with a range of 30 percent to 75 percent. Average efficiencies of 85 percent may be attained through tailwater reuse. The second approach can obtain efficiencies of 80 percent to 95 percent, although more frequent irrigations are required. Automated irrigation systems are also required in order to minimize labor costs.

Sprinkler irrigation efficiencies are generally higher than surface methods, averaging 70 percent with a range of 55 percent to 90 percent. Highest efficiencies are obtained on soils of high infiltration rate. Wind conditions disturb uniformity of water distribution and lead to the lower efficiencies.

Drip irrigation is a new method originally popularized in Israel. When surface or sprinkler irrigation spreads water over the entire field, drip irrigation feeds water through holes in plastic tubing to individual plants or trees. The approach is very efficient because only soil near the roots is wetted and there is little evaporation from the soil. Application efficiencies approach 100 percent. Irrigation scheduling is designed to increase irrigation efficiencies by carefully regulating the timing and amount of water application. The Agriculture Department sponsors the computerized Irrigation Scheduling Program to assist farmers in this regard. Moisture management can also help conserve water used in irrigation. Moisture management predicts how crop production varies with the quantity and quality of water supplied.

The major water quality problem in most western irrigated areas is increased salt concentration in the return flows as irrigation water picks up minerals from the soil and as the salinity of this water is concentrated through evaporation.

An example of this problem is the fertile San Joaquin Valley of California where nearly $5 billion dollars of agricultural products are produced each year. San Joaquin farmers receive less than 10 inches of rainfall yearly and import 60 percent of their irrigation water from other areas. Accumulations of salt in the shallow groundwater deposits of the valley are currently causing crop losses estimated at $32 million annually. If the salt accumulations continue, vast areas of the valley could become wastelands. Short term measures to deal with the problem include shifts from high value, salt sensitive crops such as walnuts to low value, salt tolerant crops such as barley and corn. A Federal study has recommended better drainage of saline ground water as the long term solution. Such a system of drains, including a 290 mile viaduct to Susisun Bay could cost $750 million dollars, a cost which if assessed to the valley's farmers would price many operations out of business.

In other areas where salinity is not a problem, other problems are associated with irrigation: sediment in surface runoff from irrigated fields and nitrate enrichment of ground and surface waters. Relatively little is known about the effectiveness and cost impacts of control measures for these specific problems.

ALTERNATIVE TECHNOLOGY SYSTEMS

Many choices are available to farmers in deciding both the mix of crop and livestock enterprises best suited to their individual situations and in deciding the most appropriate technology for the production of a particular commodity. Several samples may serve to illustrate the range of choices: minimum tillage or conventional plowing, rotational cropping or monoculture, integrated pest management or routine pesticide use, selling feed grains or feeding them to livestock on the farm. Individual farmers will generally make such choices on the basis of their individual preferences, while at the same time seeking to maximize the monetary return to their resources. Since these individual choices have environmental impacts, however, the implications of these actions should be of concern to society as a whole.

Some observers believe that the efficiency of our agricultural system can only be measured in terms of increasing the output of food and fiber per unit of stock (nonrenewable) resources used. Production systems which depend on heavy use of nonrenewable resources cannot continue indefinitely. Better integration of crop and livestock enterprises and more intelligent management of crop residues and livestock waste can lessen adverse environmental impacts and also conserve stock resources.

Organic farming has been promoted in some quarters as the only sustainable system of production which at the same time solves most of agriculture's environmental problems. Organic farming might be defined as those systems which maintain soil fertility by using legumes or other green manure crops (in rotation), and animal waste or other forms of organic material in lieu of chemical fertilizer. In addition organic farmers use mechanical cultivation or mulches in the place of chemical herbicides and natural forms of pest control instead of synthetic pesticides. Organic farms generally have a greater diversity of crop and animal enterprises than is generally typical of conventional farms.

The Center for the Biology of Natural Systems at Washington University has studied organic farms in the Corn Belt over the past several years. More than 250 commercial organic farms ranging up to 800 acres have been identified. In general yields are slightly lower on organic farms, but so are production costs, according to the Washington University study. Net returns per acre were approximately the same under either system. Conventional farms were on the average 2½ times as energy intensive as their organic counterparts. This factor resulted in an increase of 11 percent in the labor input per dollar earned on organic farms. However on organic farms the diversity of crops can cause the labor requirement to be better distributed throughout the year, resulting in a more efficient use of the farm's labor.

Organic farming is not without its critics, especially when it is proposed as a widespread replacement for conventional technology. Rutgers University professor, R. White-Stevens estimates a return to the organic system would require the addition of 20 million farm laborers. Other critics point out that there isn't enough organic fertilizer to supply all farms—all animal waste and municipal sewage would amount to only about 15 percent of the Nation's total fertilizer needs. Severe dislocations, particularly in livestock production, would be required to achieve the necessary on farm diversification. Others believe that crop output would likely fall, causing food prices to rise.

POSSIBLE FUTURE TECHNOLOGY

Whether organic farming represents a regression to the old ways or the emerging technology of a new era of enlightenment, remains to be seen. Nevertheless the scientific community is at work on a number of new technologies to address the agenda of problems as they are currently perceived. These potential new technologies have important implications not only for future agricultural productivity, but also for resource needs in the future.

Substantial research is being directed toward making farms more energy efficient and in reducing their dependence on purchased energy sources.

Applications of solar heating for livestock buildings and for crop drying are still in the development stage. A return to wind power for electrical generation is a future possibility. The use of livestock waste or other biomass in digesters to produce methane gas for heating or for other uses may soon be practical at the farm level.

Plants are essentially solar food factories. Since the natural efficiency with which they capture and convert solar energy is very low, research is underway to improve the photosynthetic efficiency of various crops. If the present levels of photosynthetic efficiency for most crops were doubled, the impact on yields would be phenomenal.

Other research efforts are addressing the efficiency with which other inputs are used. At the present time only 50 percent of the applied fertilizer is utilized by the crop. Improved fertilizer formulations and better application techniques can reduce the loss of plant nutrients. Developing cereals and grasses with the ability to fix atmospheric nitrogen, as do legumes, would greatly reduce the cost of production. Water use efficiency, particularly with respect to irrigation systems, is another promising area of research. An inexpensive method of desalinizing sea water or brackish drainage water would have a great impact on future food production.

The potential exists to enhance the nutritive properties of those food crops currently being produced and consumed by most of the world's peoples. For example, a qualitative and quantitative improvement in the protein content of cereal crops would substantially reduce the land area required to adequately feed a person, and thereby reduce the cost of that person's diet. The nutritive status of billions of people would thereby be imrpoved. The search for greater solar efficiency, as well as the search for other desirable traits, such as tolerance for drought or salinity, and resistence to disease or insect pests, may even lead to new plant species, which are not currently numbered among the world's food crops.

ADEQUACY OF THE RESOURCE BASE FOR FUTURE NEEDS

Air pollution, soil erosion, water pollution and other environmental problems which can significantly reduce crop yields, suggest that more agricultural land will be needed in the future to offset the impact of these environmental constraints.

Lester Brown has recently warned that if the environmental crisis facing agriculture is not met, sooner or later crop yields will drop, critical water shortages will develop. He points out that to date the seriousness of this crisis has been masked by a growing use of farm chemicals. Secretary of Agriculture Bob Bergland is quoted as saying that failure to meet the crisis will put us on a collision course with disaster.

Despite current crop surpluses, the concern remains that the long term productiveness of the American agricultural system may not be sustainable. This concern has many aspects, most of which have been alluded to earlier. Can technological development continue to increase crop yields? Will energy and other nonrenewable resource based inputs continue to be available at affordable prices? Will damage from air or water pollution render large agricultural areas unproductive? Has our system of monoculture created a genetic vulnerability timebomb that will one day destroy our crops? Are we irretrievably losing our farmland base to use conversion and soil erosion? Will our future land requirements be increased by the need for crops (biomass) intended for energy production?

Cropland is a nearly irreplaceable resource. Insuring that sufficient quantities of this resource remain available for future use, may require an explicit public policy. The inherent productivity of the cropland base is reduced as prime land is converted to other uses and marginal land is substituted in its place. As much as 2 acres of marginal land may be needed to replace an acre of prime cropland.

A Soil Conservation Service study of potential cropland conducted in 1975 identified 78 million acres of noncropland with a high potential for cropland development. In addition another 33 million acres of noncropland were classified as having medium potential for conversion. However only 15 million acres of the high potential lands has no limitations to immediate development.

Corollary with the concern for the sufficiency of the cropland base is the concern for soil erosion. Losses of topsoil are also essentially irreversible in the short run. Even with normal agricultural operations which include tillage, applications of fertilizer, and incorporation of crop residues, creating an inch of topsoil can take a very long time.

Erosion is likely to be the most serious agricultural environmental problem of the future, particularly if the trend in yield increases levels off. In this circumstance there would be the need to convert to cropping millions of acres now in pasture, forest, and range uses. Much of this land is marginal and would likely require special treatment to avoid higher rates of erosion.

The Soil Conservation Service has estimated that to bring erosion down to the level that could be sustained without lowering future fertility would require extensive changes in cropping practices on half of all U.S. cropland. They estimate these changes could raise the cost of production by 5 to 8 percent in the near term, but they suggest the long term alternative is soil deterioration and far greater food price increases.

Agriculture in some regions is beginning to be adversely affected by water shortages. These are becoming so severe that important agricultural areas, such as the High Plains of Texas may have to return to dry-land production. Areas that are currently reliant on declining underground water tables to produce high yields cannot be counted on to produce the same performance in the future.

In the future the domestic demand for agricultural products in the United States will probably rise slowly and in proportion to the increase in total population. The future export demand will be influenced by numerous factors which are difficult to evaluate. Export demands for U.S. food and the extent to which the U.S. wishes to respond to that demand to meet humanitarian, diplomatic and economic objectives is likely to remain a central factor in determining how much, if any, our cropland base will need to be expanded in the future. If export demand rises considerably above present levels, it could significantly increase cropland use and require more nonland inputs such as energy and fertilizer.

The 1975 National Water Assessment projections based upon moderate growth in export demand shows a need for 346 million acres of harvested cropland in 1985 from a total cropland base of 424 million acres. In the year 2000 the projected harvested cropland is 354 million acres from a total cropland base of 426 million acres. The export projections of this study are conservative, but cropland needs appear sufficiently met in 1985, and with some adjustments within the sector, through 2000. Another projection, based on high export demand, indicated a need for 407 million acres of harvested cropland in 1985. This increase would require considerable use of the nonharvested component of the cropland base and also some new cropland development.

During the 1950's and 1960's the American farmer depended upon cheap sources of energy and other production inputs, such as water, fertilizer and pesticides. Their ready availability allowed farmers to increase productivity per acre, while at the same time reducing the amount of land in cultivation. In the past several years there have been sharp increases in the prices of fuels, fertilizer, pesticides and machinery, as well as decreasing supplies and increasing competition for water. Those trends will further increase the importance of land in the production equation. Further price increases for these inputs will favor the adoption of technologies which require the use of more land.

Current USDA baseline projection, cited earlier in the demand section of this paper, project the index of all input usage in 2000 will stand at 116 (1967=100) compared with the average level for 1973–75 of 101. These projections also estimate farm production costs at $96.6 billion (1974 constant dollars) compared with an average of $71.3 billion for 1973–75. The proportion of consumer disposable income spent on food in 2000 is projected at 17 percent, compared with 16.8 percent in 1973–75. These and other studies concerned with the size and potential of our cropland base indicate that for the forseeable future our population will not be confronted with a physical incapacity to meet the requirements for agricultural products.●

WORKPLACE FATALITIES

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. GAYDOS. Mr. Speaker, workers in this country are continually confronted with the threat of disease, injury, or death while on the job. An inordinate amount of those that are killed or injured are young people who, because of their inexperience, are extremely vulnerable to the hazards that exist. This year OSHA's budget has been termed "austere" and bills continue to be submitted which would repeal OSHA. But the need for OSHA is clear, and this agency should be encouraged, rather than discouraged, in its activities.

At this point, I would like to provide for my colleagues information on some recent tragedies in the workplace:

On April 3, 1979, a 17-year-old Owensboro, Ky., youth was killed when he was caught in and crushed by an elevated feeding unit at a tobacco company for which he worked.

On April 17, 1979, a 27-year-old Mulberry, Fla., worker was killed when the boom of a crane he was dismantling fell on him.

On April 18, 1979, a 25-year-old Tampa, Fla., male construction worker was killed by a rotating blade of a soil stabilizer.

On April 25, 1979, a 24-year-old Madison, Wis., female construction worker was killed when she fell from a ladder.

The work-related deaths of young people such as these are not isolated cases, but are indicative of a much more pervasive phenomena. The Occupational Safety and Health Administration can and does provide the necessary guidelines and incentives for improving safety in the workplace. Surely, a nation of concerned citizens, such as ours, should provide strong support, encouragement, and helpful suggestions to an agency with so great a responsibility.●

IRISH RESOLUTION GAINS LARGE FOLLOWING IN DETROIT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. BIAGGI. Mr. Speaker, as chairman of the 131-member Ad Hoc Congressional Committee for Irish Affairs, I am pleased to advise my colleagues of a most important endorsement of one of our committee's most important initiatives to date. I refer to House Concurrent Resolution 122 which I introduced on May 17, 1979, calling upon Great Britain to undertake a new initiative in Northern Ireland to promote peace, justice, and respect for human rights.

During the weekend of June 1–3, the Detroit chapter of the Irish National Caucus conducted an Irish festival in Detroit. During the festivities, more than 850 people took time to sign a petition urging Congress to pass House Concurrent Resolution 122. The Detroit chapter of the Irish National Caucus, under the able leadership of Michael Kirwin and Dan O'Kennedy, has been in the forefront among Irish-Americans in working for a positive U.S. role in Northern Ireland. They were among the earliest and strongest supporters of the ad hoc committee.

I consider this type of support vital to demonstrating the extent to which the ad hoc committee seeks to respond to the concerns of Irish-Americans across this Nation.●

THE AMERICAN SAVERS INCENTIVE ACT OF 1979

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, probably at no other time during the illustrious history of our Nation has the need for increased levels of personal saving ever been greater than it is today. Although these funds are direly needed to fulfill the demand for increased capital, the savings rate of the United States as a percentage of disposable income dropped to 5.1 percent in 1977 (latest available figures), the lowest in over a decade. I am today introducing the American Savers Incentive Act of 1979 as a means of once again instilling saving as a way of life for the American people and also to provide simultaneously for business the amount of capital necessary for its economic needs.

A high level of personal saving is crucial to our economy because it is through the utilization of these resources that business finances expansion and replacement of old, outdated assets, develops new and more efficient means of production, and ultimately improves the standard of living enjoyed by our citizenry as a whole. The people of the United States, however, through no fault of their own are not holding up their end of the bargain because our level of savings nationwide is dangerously low.

The reason we Americans are not saving money today is basically due to the fact that we have no good reason to. Moreover, we have good reasons not to. First, inflation acts as a vicious tax on personal savings which encourages potential savers to put their money into other financial avenues. After all, with inflation raging above the double-digit mark a person with a personal savings account earning 6 percent interest is losing money (and thus purchasing power) every day. In addition, whatever interest that is earned by the saver is taxed under our present plan, while interest payments made on incurred debt are tax deductible. Consequently this inequitable system encourages Americans to go into debt and punishes those few that do elect to save. Worse, though, is the fact that given the magnitude of the inflation problem our Government still has no program to provide incentives to stimulate the amount of savings in the private sector. A recent study showed that 24 of 30 countries have some type of special tax concession for savings or contract-for-savings plans. The United States was the major notable exception on the list. It should come as no surprise, then, that while our 1977 level of saving was 5.1 percent, Great Britain's was 13 percent, France and West Germany were at 15 percent, and Japan's was an astounding 25 percent.

The benefits incurred by the American Savers Incentive Act would be twofold. In the first place, these new savings would be used to fuel a period of accelerated economic growth, previously unheard of in the sluggish economy of the recent past. Second, by increasing savings, money that could have been used to purchase goods would in effect be pulled out of the economy, thereby easing the price spiral we are experiencing at the present time.

The bill would accomplish these objectives by amending the Internal Revenue Code to allow up to $5,000 of interest income on personal savings accounts to be excluded from gross income for an individual taxpayer in a single year. Although this exclusion would cause a $2 billion decrease in governmental revenues in the first year and approximately $13 billion yearly thereafter, this measure would undoubtedly result in increased Treasury revenues within a short time because of the dramatic expansion of industry and the economy (and thus the tax base) that would occur. The net effect would be a healthy, vigorous economy and more available funds (achieved without raising taxes) for the Government to utilize.

It is essential that at this time some action be taken to improve the savings situation in our Nation. I feel that the American Savers Incentive Act would provide the necessary spark to solve this very important problem, and I would hope that you will support this bill so that our country can regain its economic balance and once again provide the financial well-being and security that all Americans deserve.●

DEPARTMENT OF EDUCATION

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. FISHER. Mr. Speaker, the House of Representatives will be continuing its consideration a bill to establish a Department of Education this week. I have received a letter about this legislation from the American Association of School Administrators, which has its headquarters in my district. Mr. James R. Kirkpatrick, senior associate director of the association, has asked that I share his letter with my colleagues. I hope that my colleagues will read this letter with interest.

AMERICAN ASSOCIATION
OF SCHOOL ADMINISTRATORS,
June 26, 1979.

HON. JOSEPH L. FISHER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FISHER: As H.R. 2444 moves closer to completion on the floor of the House of Representatives, I would like to reaffirm this association's position in support of a Cabinet level Department of Education.

The American Association of School Administrators (AASA) represents approximately 19,000 school administrators. Our members continue to urge that a separate Department of Education be established. It is these superintendents and other administrators in local school districts who regularly deal with federal government education programs. They are personally aware of the problems encountered as they attempt to communicate with the Department of Health, Education and Welfare (HEW).

Local school administrators advise us they find the present structure unwieldy and unresponsive. Duplicate regulations generated in different departments are often conflicting; they are confusing and burden schools with unnecessary paperwork. AASA members are convinced that a Cabinet level Department of Education will be a significant improvement. AASA's 1979 delegate assembly approved a resolution urging "establishment of a position of Secretary of Education at cabinet rank." In addition to consolidating education programs, we believe this would result in a more efficient organization.

Although a number of amendments were introduced by opponents of the bill in an effort to make passage of H.R. 2444 more difficult, we feel confident that the conference committee will act to remove those amendments. Assurances have been given by House Government Operations Committee Chairman Brooks and by Senate leaders that they will firmly support their deletion. Of course, Members do have an opportunity to vote on the conference report.

We urge your support on the House floor for legislation to establish a Cabinet Department of Education.

I would appreciate your sharing this letter with your colleagues by entering it in the Congressional Record.

Very truly yours,

JAMES R. KIRKPATRICK,
Senior Associate Director.●

ENERGY COMPANY OF AMERICA

HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. ATKINSON. Mr. Speaker, on June 28, 1979, I introduced H.R. 4649. This bill was for the creation of an Energy Company of America. I felt that such a measure would provide the comprehensive energy program which this country so desperately needs. I was moved by the fact that every single major oil consuming nation in the Western World has a national oil company, or a similar entity. Every one of these nations, including Germany, England, Japan and Canada, has seen the need to create an entity which would actively pursue its national interest in the oil industry. But, in this country, the idea of such a company has not met with such broad acceptance. Now, men and women, all over America, are beginning to realize that the American position is not very different from the position that the other oil consuming nations are in now. It is time for the Congress to take an important step toward protecting the interests of the American consumer.

The Energy Company of America is an idea which is rapidly gaining appeal. From conversations and correspondences, I have learned that more and more Americans are considering it as a possible solution. Support for the idea is growing. On July 8, 1979, the Washington Post published an article on the front page of the Business and Finance section, by Mr. Larry Kramer, which accurately presents the issue and lists the growing number of organizations and individuals who support the idea of an Energy Company of America. I insert the article at this point in the RECORD:

ENERGY COMPANY OF AMERICA

(By Larry Kramer)

There is finally a solution to the American public's problem of being reluctant to believe what the oil companies say about the energy crisis.

The public can own an oil company of its very own.

Yes, the Energy Co. of America could be the solution everyone has been waiting for. Although it would not mean nationalizing the oil industry, it would mean new competition for the Exxons and Mobils of the nation.

Few people have heard of them, but three bills pending in Congress would authorize creation of a national energy company to develop and produce energy from sources found on federal lands.

The bills, S. 580 (introduced by Sen. Adlai Stevenson [D-Ill.]), H.R. 3885 (introduced by Rep. Joseph Minish [D-N.J.]) and H.R. 4649 (introduced by Eugene Atkinson [D-Penn.]) call for creation of an Energy Co. of America (ECA) that Stevenson said "would help tide us over until fusion, solar power, coal and other alternative sources can make a significant contribution to the nation's energy supply."

The idea of a government-owned energy company is not new. Ten years ago, Lee White, proposed such an entity in his final press conference as a Federal Power Commission member. Nineteen sixty-eight was the first year the country used more natural gas than it produced, White pointed out.

This year's proposals are not very different from several others that have popped up in the decade since White's trial balloon went up—and came down.

The ECA would have four specific functions:

It would negotiate with foreign governments for the purchase of all crude oil imported into the U.S., in the hopes that one entity would drive a tougher bargain than each oil company presently does negotiating only for itself.

It would enter into joint ventures with foreign governments for exploration, development and production of various energy sources. This presumably would help spur development of energy sources in nations that will not deal with private companies such as those in the U.S.

It would explore for, inventory and develop domestic oil and natural gas resources in the public domain. Most of the nation's proven yet undiscovered energy reserves are on public lands. Rather than the government always auctioning them off to private companies as is now the case, the ECA itself could develop these sources the government already owns.

It would be authorized to mine and produce coal and uranium and to reprocess nuclear fuels. This portion of the proposed legislation has drawn the most criticism from others who generally favor the ECA concept. Alternative proposals would substitute synthetic fuel development for nuclear activity.

The ECA would be "an alternative to regulation and nationalization," said Stevenson. "It would supplement, not supplant, private enterprise."

"The arguments for the federal energy company are as compelling today as they have ever been," White, now a Washington attorney specializing in energy matters, said in an interview last week. "This country has enormous leverage in its purchasing power, yet this is not utilized in any fashion."

In fact, White said, the U.S. is "the only major industrialized country that leaves its oil and gas exploring, producing and distributing to private industry exclusively."

The main problem with the ECA is that it is perceived as "a first step toward nationalization of the oil industry, even though those who promote it don't see it that way," White said.

"What it does do is provide a useful technique for measuring what energy companies do, and develops a cadre of personnel who understand what the information from those companies mean," he added.

The Consumer Federation of America's director, Kathleen O'Reilly, agrees with White on that score. "The benefit of such a corporation would be the generation of accurate data on the real cost of production," O'Reilly said.

And consumer advocate Ralph Nader takes the argument for ECA a step further. "Sure, it will promote competition, produce credible information about energy reserves and costs and prevent the inflationary impact of manipulated shortages," he said. "But it will also provide for national security contingencies that we don't now have."

White believes that the ECA actually would "spur the oil industry on to do more exploration and development of resources." He contends that the oil companies will be threatened by the competition from the government and take the attitude that if they don't develop certain available resources, the government will.

And finally, there are people in the oil industry who would secretly welcome the ECA although they will not say so publicly, according to White. "Some of those people would like to share some of the criticism they have been getting lately with the government," White said.

Another argument in favor of the ECA comes from David Freeman, the controversial head of the Tennessee Valley Authority, the government-owned electricity corporation that many say would provide the model for the ECA.

"I think there is an overwhelming case for a federal energy corporation," Freeman said in an interview from Knoxville, Tenn. "If we created such a company and gave it the powers discussed, it most likely wouldn't have to invest a single dollar because it would spur the private companies into investing much more."

Oil companies have not built enough refineries because they didn't feel they would make an adequate profit on those refineries, Freeman contends. "And it is important to realize that they have the right to invest where they want to invest. Their stockholders come before their consumers, which is something the consumers of this country are now finding out the hard way."

Freedman advances the argument for the ECA while at the same time calling for energy companies to have the same responsibilities we give to utilities.

"What is missing in this debate over oil is raising the question of who is responsible for oil supply. Utilities have a responsibility to make sure the lights go on," he said. "Oil companies have no such responsibility, yet they are dealing with a product as important as electricity."

If we are not willing to force this responsibility to supply energy on the oil companies, the federal government should have a national oil company that would serve as "a supplier of last resort," Freeman said.

"I feel that we ought to have a system in which the oil companies would say what they will be coming up with in the way of supplies, and if that is not adequate for our projected needs, we should have a government organization to fill the gap," he added.

The oil industry predictably opposes the ECA. "We've reviewed all of the arguments for the creation of a national energy company, and none of them stand the test of scrutiny," said Charles DiBona, president of the American Petroleum Institute.

"The principal reason given for it was that it provided a yardstick to assess private petroleum firm performance, yet the basic characteristics of the national company would have precluded its use in any such activity," he said. "It would, for example, have unique advantages that no private firm would have: the ability to borrow at low interest rates, to pay reduced taxes and others. It is ludicrous to think of it as an effective yardstick. You can have good years and bad years in this business, and you couldn't tell much by comparing one public firm with the 200 private firms that make up this industry."

Nader disputes this, pointing out that the oil industry already receives many subsidies, and the government corporation does not have to be structured exactly like a private company for it to have a better idea of what the private company's cost of operation is, or how well it is doing.

DiBona also claims that the ECA would not result in increased competition in the private sector. "The force of the competition argument is equally weak," he said. "There is competition in this industry on the basis of rate of return, concentration and entry. The petroleum industry is highly competitive."

The high price of oil will not change with the creation of a national oil company, DiBona added. "The problem is with the purchase of oil, and therefore OPEC" (the Organization of Petroleum Exporting Countries), he said. "Pricing has little to do with who is buying oil," the price is set by the seller, he added.

"The problem is that this country depends too much on foreign oil," he said. "We have government policies which still encourage and subsidize the purchase of foreign oil. Until we encourage domestic production and discourage imports, we are making no difference."

DiBona believes also that a public oil company would be less efficient than its private counterparts, citing Federal Energy Administration figures that show poor performance on the part of public energy companies around the world.

"Private oil companies produce 44.2 barrels of crude oil per day per employe, according to the FEA figures," said DiBona. "Government-owned companies average 6.6 barrels per day per employe." He said the figures on how much oil is refined give the same story. Private international firms refine some 36.4 barrels per day per employe, while government-owned refiners average 14.1 barrels, he said.

Proponents of the ECA point out, however, that the TVA is an extremely efficient operation that compares favorably with privately run utilities.

And the fact remains that there is little confidence left in the domestic private oil industry. People tend to put that industry on the same side as the OPEC countries. "It is high time that the stranglehold of the OPEC nations and the multinational oil companies be broken," said Sen. Howard Metzenbaum (D-Ohio). He is calling for the establishment of a national corporation that would at least make all imported oil purchases and then distribute that oil to the domestic companies.

Claiming the oil industry and the oil-producing countries are "in partnership," he said recently, "We cannot afford to allow the oil companies to continue to act against this nation's interests."

In a letter sent to President Carter earlier last week, Metzenbaum and Sen. Mark Hatfield (R-Ore.) reminded Carter that under the Emergency Petroleum Allocation Act of 1973 he had the authority to "exercise the exclusive right to import and purchase all or any part of the crude oil, residual fuel oil and refined petroleum products of foreign origin for resale in the United States."

And the final word on the subject comes from Felix Rohatyn, the banker who helped keep New York City afloat during its financial crisis as the head of the Municipal Assistance Corp. In a recent article calling for a public energy corporation to serve the northeast section of the U.S., Rohatyn wrote:

"This nation's energy program lacks even the appearance of innovation. The energy corporation . . . is obviously not the total solution to the problem. But it could be a most useful part of a series of solutions and provide an invaluable proving ground for the public and private cooperation so desperately needed to move this country ahead." ●

REPORT ON ENERGY AND DEFENSE MEETINGS IN EUROPE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. CARTER. Mr. Speaker, I was pleased to have been appointed by Minority Leader John Rhodes to accompany Majority Leader Jim Wright on a leadership delegation for meetings with three of our European allies over the Fourth of July recess. The delegation traveled to Norway, Germany, and England from June 29 to July 7, 1979, and met with government officials on matters of defense and energy. Our discussions were very candid, extremely informative, and provided a better understanding of mutual concerns over the world energy shortage and our common defense.

In our informal meetings we were able to exchange views with top government officials and their staff experts. It was enlightening to see what positive steps our allies have taken to deal with the energy shortage and to visit their facilities for producing synthetic fuels from coal. In addition, we discussed some very basic issues on defense with our allies.

Mr. Speaker, Embassay personnel in Norway indicated that our short 2-day visit to that country and the meeting with Prime Minister Nordli did more to accomplish U.S. purposes than the Embassy staff could in a year. I am happy to report that I returned from the trip with a keener understanding of our common problems and a renewed dedication for applying good old American know-how to solve the problems which face our country and the world as a whole.

While many of our discussions were informal and off the record, I would like to include in my remarks a short summary.

The summary follows:

NORWAY

PRIME MINISTER NORDLI

We met with Prime Minister Odvar Nordli and had a free exchange on matters of defense, energy and, at my instigation, health services in Norway. According to embassy personnel, our meeting with Prime Minister Nordli was much longer than usual. We found the discussions were frank, cordial and very informative.

The Prime Minister was very emphatic in his support of NATO and Norwegian defense capabilities, but emphasized that neither the East nor the West will dictate what Norway can or cannot do for its own defense. He admitted that one very key element in Norway's defense posture was to keep stability without increasing tensions with Russia in the Northern regions of their countries.

Another defense concern was the "two-way-street" of NATO, namely U.S. procurement of weapon systems from NATO allies such as Norway's surface-to-surface Penguin missile. The Prime Minister also stressed the need for American troops to be trained better in Arctic conditions. He urged that our troops be better equipped for "non-sunbelt" fighting and that they have proper training experience in cold weather. He also acknowledged that Norway has a limited weapons production capacity but still seeks a greater part in "coproduction" such as the F–16.

On energy, Prime Minister Nordli frankly urged the U.S. to raise its domestic price of energy. They did that in Norway (gasoline sells for about $2 a gallon), even though domestic Norweigan oil production is ten times greater than domestic oil consumption. Norway is also trying to cut commercial uses of energy.

Prime Minister Nordli expanded somewhat on his earlier remark that Norway could serve as a bridge to OPEC. As an industrialized nation and energy consumer Norway has a unique opportunity to play a quiet role in letting its position be known to OPEC. The Prime Minister was very emphatic about the need to find a better way to handle contacts between OPEC and oil consumer nations in the future. If contacts are not improved, it is feared that economic pressures might seriously threaten peace. The "bridge" role for Norway is to try to use quietly its contact with OPEC to reduce the possibility of a crisis situation developing in the world.

Norwegians are spending about 50 billion Krone a year on social health systems, or about 20 to 25 percent of their gross national product. While the people are basically satisfied with health care services there are problems which the government is trying to resolve. The Prime Minister suggested that they were looking at reducing the number of hospitals which only offer highly technical and specialized services which were expensive. He hinted at less specialized, general health care and more out-patient services as a way to cut costs. In sum, they needed better, less specialized and cheaper health care for the less critical illnesses.

Mr. Nordli suggested that the health care structure must be changed. The "how" was the question. The Prime Minister candidly admitted that Norway had a "price problem" with health care services, but no solution as yet.

KONGSBERG VAPENFABRIKK

Our delegation traveled to Kongsberg, southwest of Oslo, to visit the Kongsberg Weapons Factory. We toured their facility and saw their production facility for component parts of the F–16 aircraft under the NATO coproduction program and received a briefing on coproduction by industry officials.

In addition, we were able to meet briefly with General Homre, Chief of Norwegian Defense, other top defense ministry officials and business representatives of companies doing defense work.

WEST GERMANY

MINISTER HAUS

We met with Dr. Volker Haus, Minister of Research and Technology. Dr. Haus indicated that we need a global approach to the energy problem and we must face the tough issues and make hard decisions. Although Germany's energy squeeze is similar to our own there is little chance that conservation can help. Consistently high energy prices have already forced as much fuel economy as can be expected. Instead, Germany is turning to technology to increase efficiency and reduce fuel waste, especially in heat generation.

Germany is currently speeding up its efforts on coal liquifaction and gasification, seeking to ease the energy shortage and reduce imported oil (which now represents 52 per cent of Germany's energy consumption). Synthetic fuels produced from coal is only expected to replace 2 per cent of its oil needs in the near term and will only displace about 10 to 15 per cent of fuel consumption during the 80's if a strong effort for synfuels is made now and continues. In current terms Germany is still in the "pilot" stage on synfuels, but is still ahead of the U.S.

Dr. Haus stressed that we must also face the difficult issues surrounding nuclear energy. Germany presently gets 10 percent of its electricity generation from nuclear energy (about 3 percent of its total energy needs). Waste disposal is a problem, but Dr. Haus stressed that decisions must be made to keep nuclear power a key part of their energy program.

RHEINBRAUN COAL LIQUIFACTION PLANT

We toured the coal liquifaction facility and had a working lunch with plant officials. We were briefed extensively on their coal mining and production policies and operations. Power generation represents the use of 85 percent of the coal and the remainder is made into brickettes for home heating. Liquifaction is used to produce gasolines, light and heavy oils.

DEFENSE MINISTER

We met with Defense Minister Dr. Hans Apel. He was most impressive during our visit. He was open, candid and had a keen sense for grasping the political aspects of both the defense and energy situations. While we cannot report details of our meeting, I would like to indicate that we were very impressed with Dr. Apel.●

BISHOP LUERS HIGH SCHOOL KEY CLUB WINS RECOGNITION

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. QUAYLE. Mr. Speaker, it is my pleasure to welcome the members of the Bishop Luers High School Key Club to our Nation's Capital. This group of exceptional students has been named the outstanding Key Club in the State of Indiana for the 10th consecutive year. These future community leaders have distinguished themselves in the areas of service to others and leadership. It is my pleasure to acknowledge their accomplishment and to extend my heartiest congratulations.

Members of the group, all from Fort Wayne, include: Paul Gerardot, Edward Feipal, John Shank, Cheryl Stronczek, Lester Hanford, Paul Glowacki, Ann Bruggeman, Mary Renner, Bart Roberts, Chris Cox, Craig Lebamoff, Ken Didion, Steve Schenk, and Joe Celarek.●

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12 JEWISH ORGANIZATIONS ISSUE ENERGY ACTION CALL

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. BINGHAM. Mr. Speaker, on Independence Day, last week, 12 major Jewish organizations called on President Jimmy Carter and the Congress to enact "mandatory measures" to reduce energy consumption in the United States so that "U.S. vulnerability to the OPEC cartel" would be reduced.

In a letter sent to the President, the Jewish groups expressed the view that such vulnerability was a "threat not only to national security but to the maintenance of an independent foreign policy and to world economic and political stability."

The letter is signed by the heads of the 12 organizations. They are:

Richard Maass, President, American Jewish Committee.

Howard Squadron, President, American Jewish Congress.

Nathan Perlmutter National Director, Anti-Defamation League of B'nai B'rith.

Jack Spitzer, President, B'nai B'rith.

Jacob Sheinkman, President, Jewish Labor Committee.

Nathan M. Goldberg, National Commander, Jewish War Veterans of the United States of America.

Shirley Leviton, President, National Council of Jewish Women.

Rabbi Alexander M. Schindler, President, Union of American Hebrew Congregations.

Simon Schwartz, President, United Synagogue of America.

Ruth Eisenberg, President, Women's American ORT.

Ivan Novick, President, Zionist Organization of America.

Mr. Speaker, I am pleased to share this letter with my colleagues.

The letter follows:

JULY 3, 1979.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: This letter comes to you from organizations representing hundreds of thousands of Jews from all walks of life and all political persuasions. It is prompted by our deep concern about energy policy which we believe is the greatest challenge facing America today.

We commend the Administration for its efforts to help make this country less dependent on foreign energy sources. Because we believe this task must have the highest national priority, we have pledged to inform our members about energy policy options, to work with other groups, Jewish and non-Jewish, on grass roots conservation campaigns and to support policies that can reduce our dependence on unstable Persian Gulf oil sources.

The unconscionable OPEC price rise announced on June 28 underscores our belief that U.S. vulnerability to the OPEC cartel is a threat not only to national security, but to the maintenance of an independent U.S. foreign policy, and to world political and economical stability.

Several of our agencies are pioneers in intergroup relations, and are therefore particularly concerned with the exacerbation of group tensions that might result from a shrinking economy. We are convinced that energy decisions will help determine whether the economy can expand or contract.

Your Administration has tried to persuade the American public to conserve available energy resources; it is clear, however, that voluntary efforts are not enough. We hope, therefore, that the Administration and the Congress will enact equitable mandatory measures which will substantially reduce the excessive consumption of energy in our nation.

Although we applaud the steps already taken by your Administration to fund research and development on alternative non-fossil energy sources, we believe that much more remains to be done, and that such research and development, particularly on renewable sources, should have the same priority given to the Manhattan Project and landing a man on the moon. We are therefore encouraged by recent proposals for speedup of demonstration projects for alternative sources and synthetic fuels development.

Obviously, there can be no quick-fix or painless solutions for our domestic energy shortfall. It may well be necessary to trade higher costs or eased environmental standards for the expansion of domestic sources. The use of coal, for example, has been impeded not by supply or lack of technology, but by an unwillingness to make such tradeoffs. Some relaxation of our present environmental rules could permit greater utilization of this abundant resource and still guarantee adequate environmenal protection.

Natural gas has come into increasingly abundant supply and is, in fact, underutilized. We therefore urge incentives to step up conversion from oil to natural gas. In addition, we believe that appropriate Federal lands should be released for development of all energy sources at an accelerated rate.

But the heart of U.S. energy policy is our policy concerning domestic and imported oil. If the Administration's proposal for gradual deregulation of domestic oil prices is put into effect, it is essential that any "windfall" tax on company profits that result be accompanied by provisions to insure that the companies invest their increased profits in development of energy supplies. It is not good enough merely to urge the oil industry to reinvest its profits; there must be strong tax penalties if it does not.

You have often stated that the poor should not bear the special burdens of increasing energy prices. We support your view that the Federal Government must subsidize these costs. But we also believe that the price spiral will accelerate unless we produce more domestic energy, conserve more, and develop more powerful methods for dealing with OPEC in the marketplace.

If there is to be deregulation of domestic oil prices, we believe it should be accompanied by more stringent government regulation of mechanisms for importing oil, and by stronger measures to combat OPEC's price-setting power in international markets. One important step would be to eliminate abuses of foreign tax credits for oil produced abroad by American companies, especially in OPEC countries. (The removal of all foreign tax credits might impede energy development in non-OPEC countries.) We support a quota on imports of foreign oil and the use of a sealed-bid mechanism to allocate the oil within the quota.

(We believe, however, that these measures should not apply to the Western Hemisphere, where an Energy Free Trade Zone is desirable.) The U.S. must also diversify its sources of imported oil and make the market more competitive by encouraging exploration and development in regions more stable than the Middle East, particularly in the Western Hemisphere. In this connection, we hope the forthcoming negotiations with Mexico will bring a mutually advantageous agreement on its sale of oil and gas to the U.S.

We also support proposals calling for the U.S. to guarantee to purchase a portion of its oil needs from non-OPEC countries that require financial backing, as well as Western Hemisphere producers. We urge greater U.S. support for World Bank and other international financing of oil exploration in the LDCs and the creation of an energy development facility within the Export-Import Bank of the United States, Federal underwriting of risk insurance for exploration in less stable parts of the world, and U.S. aid for heavy oil exploration and processing outside the U.S., particularly the Western Hemisphere.

Perhaps the single most effective response to OPEC, we believe, would be cooperative efforts by all oil-consuming nations such as those begun at the Tokyo Economic Summit. As Walter Levy stated in Fortune (May 21, 1979), "OPEC has laid the groundwork for a continuing uncontrollable escalation in prices. If the importing countries sit idly by, watching events develop as if hypnotized into inaction, shortages will lead to unrestrained competitive bidding for scarce supplies. There will be no end to the escalation of prices if we do not see the danger and take coordinated international action to cope with it."

We are therefore encouraged by the steps taken at the Tokyo Summit. We hope that the decisions reached there will lead to more comprehensive agreements to curtail world oil demand, to stabilize the market, and to increase international technological cooperation for the development of synthetic and alternative fuels. Certainly, the U.S. can and should, under your leadership, continue to play a major role in encouraging such action.

Respectfully,

(Signatures).●

A PLOWBACK CREDIT WILL PRODUCE MORE OIL

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. SOLOMON. Mr. Speaker, before the July Fourth recess, the House passed a windfall profits tax. The proposal we adopted will produce an estimated 800,000 additional barrels of oil per day by 1985, and this is certainly a step in the right direction. However, we missed a golden opportunity to encourage even further production by failing to enact a plowback credit.

While I applaud and will support efforts to produce alternative energy sources, it is clear that oil will play a major role in energy for some time to come. We have the technology to extract this proven resource, if we will only provide the incentives for its production.

In a recent editorial William Randolph Hearst discussed the current energy situation, and emphasized the need to make better use of oil until we "build the new bridge" to new resources. I commend his remarks to the attention of my colleagues:

TIME TO GET SERIOUS

(By William Randolph Hearst, Jr.)

NEW YORK.—The President went to the Tokyo summit to learn to his surprise that the western world blames the United States for the oil shortage.

He returned home to learn, again to his surprise, that the latest polls show him to be held in the lowest esteem of any president in history, lower even than Richard Nixon just before he resigned.

Obviously, the Carter political strategists called an emergency huddle. The course was clear: Tackle the energy problem and go to the people with a display of determination and leadership. Thus Mr. Carter scheduled his TV speech.

The White House permitted some leaks. Mr. Carter, it was said, would again call for standby rationing and he would come up with some new national goals—the development of synthetic fuel and a study of the viability of gasohol.

Then, without explanation the speech was canceled.

In candor, it must be admitted that both of these new "goals" have been around for a long time. Brazilians have been using gasohol for years. Synthetic fuel—gasoline developed from the gasification of coal—was used extensively by the Germans in World War II.

As Sterling Noel, energy writer for the Hearst newspapers reported, only in South Africa is a serious effort being made to convert coal into petroleum. They began this in the 1950's, taking their cue from the Germans in World War II. Now they have a plant nearing completion that will produce 40,000 barrels of fuel a day from 40,000 tons of coal.

In fact, their program has become so enticing that they have contracted to build a duplicate plant. The first will begin operation early next year and the second in 1983. Total cost is $6.7 billion.

The criticism of Jimmy Carter that he lacks leadership in most domestic affairs has reasonable validity. It must be conceded, however, that Mr. Carter has tried frequently to do something about the growing energy crisis only to be frustrated—indeed stymied—by a befuddled Congress.

He has received no help whatsoever from that most costly of all departments, the Department of Energy. Its secretary, James Schlesinger, seems incapable of either grasping the enormity of the problem or of rolling up his sleeves and getting to work on solutions.

There must be in this nation more competent and more far-seeing administrators than Mr. Schlesinger.

There is the possibility that Mr. Carter abruptly canceled his scheduled speech because he suddenly came to the realization that there was not much competence in his Department of Energy, and as a consequence he had nothing to say to the American people.

We have behind us the sorry records of the environmentalists and conservationists. They held up the Alaska pipeline for nearly a dozen years. They blocked construction of the Trans-Canada Gas Line for so long that it is now deemed an unprofitable venture. They prohibited experimental drilling on the Atlantic coastal shelf for many years. Neither Mr. Carter nor Mr. Schlesinger has done anything about ending their preposterous obstructionism.

The conservationists have tied up in court efforts to bring in new coal fields said to contain enough fossil fuel to last 500 years.

The Department of Energy rather than the Department of Transportation should be urging that our railroads be rebuilt. We will need the rails to bring the coal to market. The rail system needs thousands of new hopper cars.

We cannot look to government for innovative solutions to our problems. It is not politicians who will discover or develop the fuel of the future but leaders in the business sector.

The role of the politicians should be to tie it all together and to encourage business to get on with the job. Such encouragement could take the form of tax incentives.

John F. Bookout, president and chief executive officer of Shell Oil Company, told Dan Rogers, economics editor of the Hearst newspapers, the other day that while it is wise to seek to develop alternative energy resources, "it's a crying shame" we can't get the same urgency associated with making public lands available to develop our conventional forms of energy—oil and gas.

"We have tried and true technology to get the large quantities of oil we think are in certain areas of the Outer Continental Shelf and in Alaska," says Mr. Bookout. "The call to get on with alternative resources is good, but there's a gap in the thinking. We are skipping over a bridge that's already in place and unrealistically trying to jump to exotic resources of the future."

It doesn't make sense, he said, to delay going after the energy resources that are believed to be out there. We need oil now because the country runs on oil. We know how to produce it and how to use it.

Oil imports, he said, are going to go up, not down. Imports will reach 12 million barrels a day by 1985, he predicts.

Mr. Bookout says that industry experts and those in the Department of Interior are agreed that there is just about as much oil in the ground in the U.S. today as we have extracted since the first barrel of oil was taken.

In other words, there's more than enough oil underground in this country right now to serve our needs until we build the new bridge to those "exotic resources of the future."

What's preventing us from exploring for that oil? We're doing it to ourselves. Delays in leasing. Delays in permits. Delays in environmental impact reports.

The largest amounts of oil are thought to exist in offshore basins around Alaska. Some of the most promising of those basins may not be up for bidding for at least six years. That's the schedule set by the Department of Interior attempting to please the extreme conservationists.

Without sounding like Pollyanna, it is my hunch that it's a very encouraging sign the President canceled his energy speech. It's likely the speech submitted to him by his energy strategists was just another stall, a placebo to calm the shattered nerves of those on gas lines and those who are tied to their homes by a shortage not really believed.

Maybe Mr. Carter is getting sore. Just maybe he decided he doesn't want to go before the public again with another bouquet of rhetoric. Maybe the President's message to his colleagues is, "if this is the best you can do, sorry, it's not good enough."

Let's hope so.●

ASSIGNMENT OF MAJ. GEN. BENNETT L. LEWIS AS DIVISION ENGINEER, NORTH ATLANTIC DIVISION

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. COURTER. Mr. Speaker, it is with a mixture of sadness and pleasure that I announce that Maj. Gen. Bennett L. Lewis will be leaving the Army Armament Research and Development Center Command at Picatinny Arsenal in New Jersey, to become division engineer, North Atlantic Division.

Ben Lewis took command of ARADCOM in 1976 to consolidate the Army's munitions research and development programs under one command at Picatinny Arsenal in New Jersey. He brought with him an extensive background in research and development, an intolerance of redtape, and a conviction that only excellence is acceptable. Under Ben's command, this consolidation effort, encompassing $33 million in construction and 6,000 employees, is well on its way to becoming an unqualified success.

Because Ben has become a personal friend, I am pleased that his new command will keep him in close contact with the Congress. As division engineer, North Atlantic Division, he will administer military construction efforts in the District of Columbia, and in 15 Northeastern States, ranging from Ohio to Kentucky, and from Virginia to New England. He will also be responsible for the U.S. Army Corps of Engineers civil works activities in all or parts of the 11 mid-Atlantic States from Lake Champlain and Hudson River basin in New York and Vermont to the James River basin in Virginia. Moreover, he will oversee the construction of the two airbases to be built in Israel, as a part of the Egyptian/Israeli Peace Agreement.

Ben's dedication to his work and his commitment to America are unparalleled. Yet I think it is significant that even with his broad responsibilities, Ben maintained an active interest in the local community, in the people around him, and in his family.

Although I will miss the personal contact I have enjoyed with Ben Lewis, I am satisfied that his assignment as division engineer is certainly in the best interests of our country.●

MR. AND MRS. CARROLL P. WILLIAMS CELEBRATE 50TH WEDDING ANNIVERSARY

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. WEAVER. Mr. Speaker, I would like to honor Mr. and Mrs. Carroll P. Williams of Portland, Oreg., on their 50th wedding anniversary August 5, 1979.

Both are descendants of Oregon pioneers. Mr. Williams' grandfather, Thomas Williams, was a member of the lost wagon train of 1853, among the first to cross the central Oregon desert and enter the Upper Willamette Valley by way of the Middle Fork of the Willamette River. He brought with him mill equipment and established the first sawmill in the region. Some of his carpentry tools and other family possessions, including the homestead fireplace, are on display at the Lane County Historical Society Museum in Eugene.

Catherine Dorris Williams' great-grandfather, James Shields, was one of the signers of the Oregon Constitution.

Carroll and Catherine Williams are both graduates of the University of Oregon, in my district, and Mrs. Williams went on to get a masters degree in library sciences at the University of Washington. After graduation they bought and managed the family general store, through the great depression, in Dexter, Oreg. Mr. Williams is a retired insurance salesman and Mrs. Williams was a librarian with the Multnomah County Library.

My best wishes and congratulations to them both on this happy occasion.●

BOAT PEOPLE

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. SAWYER. Mr. Speaker, at a time when President Carter has announced his intention to double the quota of boat people to be admitted to the United States to 14,000 monthly, a deeply disturbing report has come to my attention which suggests an increasing number of those seeking refuge "admit they fought as Vietcong soldiers against the Americans."

Having learned recently that many of these boat people qualify for preferential status over most U.S. citizens in Federal Government affirmative action programs involving recruitment, hiring, promotion, and minority contracts, I am extremely upset that in our effort to serve a great humanitarian need, we are creating an intolerable situation where a former Vietcong soldier who fought against the United States could be hired and promoted ahead of the United States-Vietnam vet who gave so much in service to his country with little recognition.

In other words, once again the American-Vietnam vet is getting a shabby deal.

I submit a copy of the newspaper report herewith:

VIETCONG NOW JOIN BOAT PEOPLE AS REFUGEES

(By Ian Mather)

KUALA LUMPUR, MALAYSIA.—The presence for the first time of significant numbers of former Vietcong soldiers among the boat people has led informed observers to revise upwards the number of refugees from Vietnam that can be expected.

A figure of 2 million is now being mentioned among those preparing for a conference called by the U.N. High Commissioner for Refugees, which will take place on July 20.

This new wave of refugees, coming on top of the ethnic Chinese who are being driven out by Vietnam, adds an extra dimension to the problem and makes it even less likely that the conference will come up with a magic solution.

While nine out of 10 of all boat people arriving in Hong Kong are ethnic Chinese, the proportion of pure Vietnamese among those beaching in Malaysia has gone up from 14 percent to 40 percent in recent weeks. Of these a significant proportion admit they fought as Vietcong soldiers against the Americans.

The presence of former Vietcong among middle-class, entrepreneurial and Catholic Vietnamese boat people provides further proof that the Vietcong have not been given their just reward for their role in the South as guerrilla fighters against the Americans.

Immediately after their victory in the South, the North Vietnamese removed all Vietcong flags in favor of the North Vietnamese flag and officially excised the Vietcong from the history books.

The official version of the "liberation" is that the "imperialist aggressors" had been driven out solely by regular North Vietnamese troops.

The reason: Hanoi wished to play down the civil war aspect of the struggle against the Americans and disguise the fact that millions of South Vietnamese had willingly taken sides against Hanoi.

Observers think that a new wave of disenchanted Vietcong could pose additional political problems. The Singapore prime minister, Lee Kuan Yew, already has said Vietnam is trying to dominate Southeast Asia by exporting people who could become fifth columns.

The very rich and those closely identified with the Americans got out at the time of the collapse in 1975. Later the upper middle class was able to bribe its way on the boats with the connivance of individual officials.

Then, when relations with China deteriorated last autumn, the Vietnamese government began to pressure its Chinese minority of 1.2 million people. This pressure turned into persecution during and after the war with China earlier this year.●

MOTOR CARRIER REGULATION

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. HARSHA. Mr. Speaker, on June 20, 1979, I joined with Chairman HAROLD T. (BIZZ) JOHNSON in sponsoring H.R. 4549 and H.R. 4550, the Motor Carrier Regulatory Improvement Act of 1979 and joint rates and through routes.

Since then, there has been brought to my attention a statement of nine former members of the Interstate Commerce Commission expressing their shared conviction that motor carrier regulation and particularly collective ratemaking is essential to the preservation of the national transportation system. I have read the statement of the nine former members of the Interstate Commerce Commission and am of the opinion that the statement strongly supports the intent as well as the provisions of the two previously mentioned bills. Therefore, I am placing the statement in the RECORD and urge that all of my colleagues interested in the subject of motor carrier regulation seriously consider the views of these learned gentlemen:

STATEMENT OF NINE FORMER MEMBERS OF THE INTERSTATE COMMERCE COMMISSION

We are former members of the Interstate Commerce Commission whose combined service in that agency totals 71 years and five months. Our service spans the period beginning July 10, 1953 and ending August 31, 1978.

This statement is published in the hope it may clarify a few basic issues in the current debate on regulatory reform for surface transportation.* Our statement implies no criticism of incumbent Commissioners. Sharp differences of opinion exist within the transportation community on the extent to which surface transportation should be regulated. Such differences exist among ourselves.

We recall that the Duchess in Alice in Wonderland said: "If everybody minded their own business . . . the world would go round a deal faster." But that was in Wonderland. If each transportation enterprise minded its own business, if carriers and shippers were not organized to facilitate communication and coordination, the wheels of transportation would turn more slowly and less efficiently. Creation of a national transportation system requires coordination, cooperation, and collective action both within and between the various modes of surface transportation. Some degree of regulation is required because if each carrier minded its own business, there would be no system to serve the public.

The conflicting claims of individual carrier action and creation of a system of transportation were first resolved by the Congress some 92 years ago. The Congress rejected rampant individualism, on the one hand, and, on the other, state socialism and nationalization of transportation. Charting a safe course between license and regimentation is not a problem peculiar to transportation but the consequences of navigational error are devastating.

There is an essential difference between an industrial cartel and a carrier rate bureau. Members of an industrial cartel have no obligation to create and to operate, for example, a national steel system, a coordinated electronics system, or an integrated system of supermarkets. On the contrary, our economic Magna Charta, the Sherman Act, prohibits any such form of cooperation because it is unnecessary and would deprive the public of the benefits of relatively unrestrained price competition. On the other hand, the concept of a national surface transportation system comprised of privately-owned carriers of different modes necessarily requires the system to be guided by collective action subject, of course, to whatever degree of regulation may be necessary to protect the public interest.

No developed nation has ever denied itself a national system of transportation. The systems are either owned and operated by the government or created and managed by the cooperative action of privately-owned carriers under governmental regulation.

It is not necessary that all carriers function as a part of the national transportation system; that entry into and exit from the system be tightly controlled; or that rates within a broad zone be regulated. A national system of transportation can function reasonably well even though a large number of private carriers, specialized carriers, and small transportation firms operate completely outside the framework of the system, and even though the right of independent action is accorded to essential elements of the system.

Our concern is not that total deregulation would revive "the law of the jungle", or "cutthroat competition", or return the common carrier industry to its condition in the Great Depression. In passing on the extent of deregulation, our concern is that the public may not fully understand the necessity for retaining a national system of transportation. No such system could exist in the total absence of regulation because the antitrust laws would condemn the collective activities required to make it operable.

The savings generally attributed to total deregulation are inflated if it is assumed that users of transportation will be protected to the same extent as consumers of goods and other services. If the industry were made fully subject to the antitrust laws and fair trade legislation, litigation in the courts and before the Federal Trade Commission could be costly, time consuming, and confusing, again assuming that the full range of consumer protection is to be accorded to transportation users.

Although we doubt that total deregulation would return the surface transportation industry to its condition in the 1930's, it should not be forgotten that the condition was appalling. A rail transportation system existed but it was debilitated and much of it in bankruptcy. No motor common carrier system existed in any meaningful sense.

Although we differ among ourselves on the optimum degree of economic regulation for surface transportation, we are unanimous in believing that a national transportation system must be preserved and that the Congress should address this issue as soon as possible. Neither the Commission nor the courts can revitalize the nation's surface transportation policy without Congressional guidance. The Commission's power to reshape transportation policy is not only limited but its full reach can be determined only after years of litigation. The Congress, on the other hand, can decide promptly the extent to which the Commission's departures from established policy are sound; whether economic regulation of surface transportation should be strengthened, relaxed, or eliminated; and, if regulation is not abolished, what degree of regulation is necessary to preserve a national system of surface transportation.

For almost a century, surface transportation has functioned as a national system. In the beginning, it was sufficient to outlaw discrimination, to require just and reasonable rates, and to permit the railroads to satisfy those commands by collective action. When it became necessary to create a more highly integrated system, the Congress responded with the Transportation Act of 1920 to curb unnecessary expansion and to encourage rationalization of plant. When, for constitutional and for other reasons, the States proved unable to foster a national motor carrier system, the Congress enacted the Motor Carrier Act of 1935. Water carriers were recognized to be part of the national system by the Transportation Act of 1940, which also provided a charter for the fair and impartial regulation of the rail, motor and water modes.

That charter, called the National Transportation Policy, has served as the touchstone of regulation for 39 years. At the heart of the policy is the conviction that surface transportation should be regulated as a multi-modal system, not as a horde of disconnected carrier enterprises. The 1940 Congressional declaration of the National Transportation Policy has as its sole objective: "To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States . . ." Whether the basic policy decision of 1940 should be reaffirmed, revised, or discarded should be resolved not by executive, administrative, or judicial response to legislative inaction but by affirmative Congressional action.

No law more clearly illuminates the existence of a national system of surface transportation than the Reed-Bulwinkle Act of 1948. In the absence of a national transportation system, carrier rate bureaus could only be regarded as legalized cartels. It is only the existence of a coordinated system which separates surface transportation from meat packers, department stores, real estate and other firms in the so-called unregulated sector of the economy. All businesses are important but the non-transportation enterprises are not required to operate as components of a national economic system and have not been since the Supreme Court's decision in *United States* v. *A. L. A. Schecter Poultry Corporation,* 295 U.S. 495 (1934).

What makes transportation different? The essential difference between common carriers and businesses not subject to economic regulation is that carriers must work within a system which serves all other businesses, regions, localities, ports and the traveling public, without discrimination and at reasonable rates. No transportation concept has won greater support than intermodalism; the idea that not only carriers but also modes of transportation should work together in forming a national system so that any commodity can be shipped from any point to any place by any means with a minimum of trouble and expense. For transportation the concept is sound, as shown by the remarkable growth of piggyback and other intermodal movements. On the other hand, a concept of intermodalism for industry generally is so incongruous that it defies formulation.

If carriers, subject to the supervision of the Commission, are denied the opportunity to consult, confer, and take collective action, the carriers will not be the principal losers. The losers will be shippers who no longer have a voice in the ratemaking process; ports denied rate equalization; and producers of countless commodities who can no longer compete on the basis of price because of their inability to overcome locational disadvantages. A fragmented national transportation network would lead toward the Balkanization of America. The barriers to commerce imposed by State boundaries, which the Founding Fathers leveled by the Commerce Clause of the Constitution, would reappear in the form of barriers raised against the free flow of goods from mode to mode and from carrier to carrier.

We recognize respectible arguments can be made both for tightening or for relaxing economic regulation of surface transportation. Total deregulation, however, poses the question whether the nation would be better served by a national system of surface transportation or by no system at all. A decision on a question of such import will not be durable unless it is made by Congress.

Nothing more clearly reveals loss of faith in a national transportation system than the proposal in the Railroad Deregulation Act of 1979 (S. 796) for a Railroad Transportation Policy as an exception to the present National Transportation Policy. If such an exception is sound, separate policy statements for the bus, trucking, water carrier, and freight forwarder industries followed by interment of the multi-modal National Transportation Policy would appear to be a logical extension. Secondly, the bill would split the rail system into its component parts by repealing the requirement for joint rates and by emasculating the conference method of ratemaking. Hacking our national transportation system into thousands of disjointed members is a prescription for disaster. Once the system is dismantled, its rebuilding would be as difficult as construction of the Tower of Babel, and for the same reason.

In transportation as in communication, the system is the solution.

Owen Clarke, Bellevue, Wash.; Robert J. Corber, Washington, D.C.; Abe McGregor Goff, Moscow, Idaho; Dale W.

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* This statement was circulated to all former members of the Commission but some, for reasons not necessarily related to its content chose not to join in the statement.

Hardin, San Marcos, Tex.; Alfred T. MacFarland, Lebanon, Tenn.; Donald P. McPherson, Gettysburg, Pa.; Robert W. Minor, Columbus, Ohio.; Rupert L. Murphy, Gainesville, Fla.; Charles A. Webb, Washington, D.C.●

DAYS OF REMEMBRANCE

HON. JAMES J. BLANCHARD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. BLANCHARD. Mr. Speaker, today my four distinguished colleagues on the President's Commission on the Holocaust, Mr. YATES, Mr. LEHMAN, Mr. SOLARZ, Mr. GREEN, and I are introducing a joint resolution which designates April 13 through April 19 of 1980 as "Days of Remembrance of Victims of the Holocaust."

We are hopeful that these days will become a fixture in the hearts and minds of people not only in the United States, but throughout the world. These days should serve as a time for reflection, for commemoration, and perhaps most especially, for learning.

The foremost goal of the Holocaust Commission has been to insure that today's world and future generations will be able to learn the lessons, however painful, that the holocaust can offer to us.

The days of April 13 to 19 can serve as a period when everyone—in communities, in schools, in places of worship, and in the home—can pause to take note, through ceremonies and activities, of the lessons of the holocaust.

As members of the President's Commission, we look back with great pride at the fitting and very moving ceremony which took place this year in the Rotunda of the Capitol. We also appreciate your support and that of the leadership in this endeavor. We were privileged to receive the eloquent remarks of President Carter, Vice President MONDALE and the distinguished chairman of the President's Holocaust Commission, Mr. Elie Wiesel. In addition, the songs of the choir, the candle lighting ceremonies and the memorial prayers all set amongst a gathering of Congress made this a truly powerful and majestic event.

Yet, this was not the only moving ceremony which took place this year. There were countless others throughout the United States and the world—all of them in their own way honoring the memory of the victims and teaching the holocaust's lessons to today's generations.

Mr. Speaker, a time for these ceremonies and activities must be established on our calendars. That is why we have introduced this resolution—so that next year a period of time will again be set aside for people to remember and learn from the holocaust.

For the benefit of our colleagues, the text of the resolution follows:

H.J. RES. 375

Whereas, less than forty years ago, six million Jews as well as millions of others were murdered in Nazi concentration camps as part of a planned program of extermination;

Whereas the people of the United States of America should always remember the terrible atrocities committed by the Nazis so that they are never repeated;

Whereas the people of the United States should continually rededicate themselves to the principle of equality;

Whereas the people of the United States should remain eternally vigilant against all tyranny, recognizing that tyranny provides a breeding ground for bigotry to flourish;

Whereas April 13 has been designated internationally as a day of remembrance of victims of the Nazi Holocaust, known as Yom Hashoah; and

Whereas it is appropriate for the American people to join in the international commemoration: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in memory of all the victims of the Holocaust and in the hope that Americans will strive always to overcome cruelty and prejudice through vigilance and resistance, the days of April 13 through April 19, 1980, are hereby designated as the "Days of Remembrance of Victims of the Holocaust". The President is requested to issue a proclamation calling upon the people of the United States to remember the atrocities committed by the Nazis and to commemorate such days with appropriate ceremonies and activities.●

THE DRAFT: WHY WE SHOULD NOT REVIVE IT NOW

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. OBERSTAR. Mr. Speaker, just prior to the Fourth of July recess, I explained in the RECORD my reasons for opposing the standby selective service registration provision of H.R. 4040.

I could better understand the rush to reinstitute registration if the All-Volunteer Force were a failure. Admittedly, there have been problems with the AVF, but considerable progress has been made toward resolving those problems. Indeed, the Department of Defense report, "America's Volunteers," states that,

> Active forces are at full strength with manpower quality equal to or superior to that produced by the draft.

While there are manpower problems with the selected Reserve and the individual Ready Reserve, DOD feels that ongoing programs may eliminate these deficiencies and recommends that those programs be given a chance to prove themselves.

Any step in the direction of resumption of the draft, such as registration, is unnecessary and inappropriate at this time.

Before we even think of resumption of compulsory service in peacetime, the Department of Defense should make sure there are no repeats of the incident at Camp Pendleton in which 116 Marine recruits were lined up in the middle of the night and systematically beaten.

This may very well be an isolated incident. Even so, as a result, young people of service age and their parents will legitimately reexamine the factors involved in military service to their country.

As long as we have incidents like the one at Camp Pendleton which are self-defeating and tends to undermine recruitment efforts, I think this House has the right and the duty to ask if the armed services are doing everything possible to encourage voluntary enlistment.

I would like to include for the RECORD an article from the Washington Post of July 7, 1979, reporting on the incident at Camp Pendleton.

The article follows:

116 MARINE RECRUITS ORDERED IN LINE, THEN BEATEN

(By George C. Wilson)

Three Marine drill instructors lined up 150 recruits under their command at Camp Pendleton, Calif., last week and systematically beat more than 100 of them, Corps officials acknowledged yesterday.

The drill instructors, Marine sources said, ordered two platoons of recruits out of their beds in the early morning hours of June 26, told them to line up and then went down the line punching, kicking and slapping the young trainees.

The apparent object of roughing up 116 recruits, sources said, was to settle an argument among the drill instructors over which of two platoons housed together in a Camp Pendleton barracks was tougher. The drill instructors had been drinking, sources said.

A fourth drill instructor may be court-martialed for failing to report the incident, the Marine Corps said.

None of the recruits was seriously injured, according to a Marine spokesman at the San Diego boot camp, home base for the recruits who were taking rifle training at Camp Pendleton.

Marine regulations forbid drill instructors from manhandling recruits in any way. The Corps overhauled its training in hopes of ending abuses in the wake of the fatal beating of Lynn (Bubba) McClure at the San Diego boot camp on Dec. 6, 1975.

The four drill instructors have been suspended from duty. An investigation will determine if there are grounds for court-martialing them.

Marine officials queried yesterday could not recall any previous case where so many recruits were abused at one time.

In a separate incident at the boot camp on Thursday, a drill instructor allegedly punched recruits under his command. He punched 14 recruits in the course of several days last month, a Marine spokesman said, and is being held for special court-martial.

"This is a hell of a welcome aboard," Gen. Robert H. Barrow, who became Marine Corps commandant on Sunday, said yesterday. Barrow and Maj. Gen. Richard C. Schulze, commander of the San Diego boot camp, were at the forefront of those officers the previous commandant assigned to reform recruit training.

Barrow said in an interview he could not speak about the cases under investigation, but added that drill instructors who abuse recruits undermine the whole reform effort of the last several years.

"I know of nothing I deplore more" than drill instructors abusing recruits in their charge, Barrow said in an interview yesterday. "It's like sticking me with a hot poker.

"At one time the DIs (drill instructors) would have thrown up their protective association" when one of their own got in trouble for mistreating recruits, said the commandant.

This time, continued Barrow, the DIs at San Diego "are mad as hell" about the alleged mistreatment of 116 recruits by the three men. This represents "an attitudinal change."

Barrow said such a change does not excuse even isolated cases of mistreatment, especially since today's drill instructors "all have been hand-picked and have plenty of supervision" and thus are professionals.

"I'm very unforgiving when a professional does something unacceptable," Barrow said, adding that the Corps is conducting "an investigation of this whole business" at San Diego.●

A TRIBUTE TO BETTY SEAMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. ANDERSON of California. Mr. Speaker, the Long Beach-Harbor unit of the American Cancer Society has become one of the most effective fundraising service agencies in the entire Los Angeles area. Last year, in just one evening alone, the organization raised over $200,000 for the fight against cancer. In addition, the unit provides valuable programs to educate the public on the causes and cures of cancer, eradicating harmful old myths, and helping those stricken to cope with the disease.

There is one individual who has been almost singularly responsible for this great success. The person I speak of is Betty Seaman, the retiring administrator of the Long Beach-Harbor area ACS unit. For her good deeds as a dedicated leader in the fight against cancer and her numerous contributions in the field of health, she will be honored on July 17 at a "Community Salute" dinner. I take this occasion to share with my colleagues the career accomplishments of this outstanding citizen.

Betty Seaman's career with the Cancer Society started 19 years ago when she joined the Covina, Calif., unit of the organization. Though she lacked formal job experience, the knowledge she gained as a longtime volunteer, combined with her persistant dedication, allowed her to quickly rise in rank and responsibilty. After only 3 years of service, she was named executive director of the Long Beach-Harbor unit. In this position, she directed the ACS effort in 19 cities with a total population of over 1.4 million. With a paid staff of 16 and hundreds of volunteers she raised over one-half million dollars annually to spend on progressive and innovative anticancer projects.

Betty Seaman's record of achievement extends well beyond her service to the ACS. As a longtime champion of effective and relevant health care for the elderly, she was instrumental in the successful development of SCAN, the Long Beach senior citizen health care and service network widely regarded as one of the most comprehensive senior citizen service systems in the Nation.

Her leadership as chairperson of the Long Beach Regional Medical Program Board produced the Long Beach paramedic program, a trendsetting system of emergency health care.

She has unselfishly devoted her time to many worthy causes, including various chambers of commerce, the soroptimists women's shelter, Meals on Wheels, the Long Beach Unified School District, and others too numerous to mention.

Mr. Speaker, without hesitation I can say this woman's career of community service is a model of citizenship. She has extended herself, working tirelessly as few people have for the benefit of others. She has left a mark in her profession which will not be forgotten, but instead will be long appreciated.

For the pleasure we have had in working personally with her on occasion and on behalf of the Long Beach-Harbor community, my wife, Lee, and I offer our sincere wishes that her future is as rewarding as her presence has been in our community. We also extend our best wishes for future success and happiness to her two sons, Lance and Kirk.●

86TH BIRTHDAY FOR DOROTHY FULDHEIM

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Ms. OAKAR. Mr. Speaker, on June 26, 1979, one of America's foremost journalist and Cleveland's and America's first lady of television celebrated her 86th birthday. The following essay was delivered by Ms. Dorothy Fuldheim on her 86th birthday on channel 5 in Cleveland, Ohio. I am pleased to insert it in the RECORD:

86TH BIRTHDAY FOR DOROTHY FULDHEIM

(By Dorothy Fuldheim)

The house I live in is 86 years old. It has lost some of its original color, much of the red and pink is gone, and the white is not as white as it used to be. It doesn't stand quite as straight—it seems to have sunk a little and sometimes it tilts slightly. But its heating apparatus, its disposal plant, its illuminating system all are functioning remarkably well.

It has talked with many people all over the world—from Chinese cooks to the priests of Bangkok. The house I live in traveled extensively, and still does, though more infrequently. It has been fanned by the perfumed winds of Hawaii, and made thirsty by the deserts. It has tasted of the foods of all people—from the Scandinavian to the Hindu food.

Its windows have looked upon God's Earth—from the villages in Spain to the glories of French art; it has looked out on the Swiss mountains and the Russian steppes. Through these windows my house gazed into the heavens and once watched the first human being step out into space and walk on the moon.

That house, which I inhabit, has heard music singing the sonorous sound of the great masters—from Bach to Ravel. That house has talked to the great and the insignificant, to world-famous individuals and to humble people.

My house has rumbled with delight and been shaken with laughter at the Bob Hopes and the Jack Bennys of the world, and the gaiety of my friends over the years.

That house has looked upon Albert Einstein, and felt the warmth of his handshake. My house, that I inhabit, has known the sweetness of tender love and been torn with stormy, glorious and ecstatic passion.

My house has been with friends and known quiet smiles and serenity, and torn with sobs for friends who left this strange and absorbing planet, even as you and I must someday, but whose memory is stored away in the computer which runs my house.

This house has known agony, and has been repaired by specialists so that it is whole again, able to withstand any storms. Sometimes the house creaks as though old, but always it has stood sturdy and staunch, withstanding pain, storm, snow and rain.

It has stored away secrets revealed to it, and treasured. The attic is full of memories, someday in a leisure hour to be taken out and remembered.

Its brain is its most important room, for here are to be found new ideas, concepts, contents of books, philosophies, poems, the treasures of the world in print, and been awed by knowledge of the expanding universe. It is like an expanding library—each new idea creates more room for other ideas. It is the one room in my house that attests to my relationship with divinity.

In another chamber, known as the heart room, are all the loves, the compassion, the hurts, the triumphs, the exquisite passions for those I love. This is a sacred room, for it has known happiness and sorrow. Its colors and radiant yellows and golds, somber greys and blues.

I look at the house and I see an aging house, needing a coat of paint, but covered with the bushes and trees of experience, willing to stand sturdy for more years.

Eighty-six years ago my parents gave me a deed to this house with the understanding that I use it and enrich it. I have done so, and I think that on this day it deserves my thanks for giving my spirit a resting place where I could see and hear and feel and love and learn.

It is a house now crammed with many memories, but still stands staunch and valiant waiting the years until it must finally be closed with a sign saying, "Sold to God."●

ANOTHER NOTEWORTHY INTERNATIONAL TREND

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. BROWN of California. Mr. Speaker, in the debates of this House on the role of the United States in the world today, the role of science and technology generally takes a back seat. For a body most often concerned with immediate, pressing problems, it makes sense for the role of research to take the back seat. But we have other responsibilities as well, and anybody which wants to responsibly lead and prepare for the future, needs to be aware of what opportunities are available, and what resources must be made available to take advantage of those opportunities. This is where research and development come in.

Western Europe has begun to surpass the United States in a number of areas where in the past the United States was dominant. A number of reasons have been given for this success, and most of those I have heard have some obvious validity. But one explanation that seems to have special validity is that the countries of Western Europe have an enthusiasm and dedication of resources to seeking innovative solutions to problems which our country seems to be losing.

Mr. Speaker, this subject was addressed in a recent column by Daniel S. Greenberg, a well-known science writer who has been touring Western Europe. I would like to insert this article in the CONGRESSIONAL RECORD for my colleagues to review.

The article follows:

[From the Washington Post, July 10, 1979]

EUROPE'S ROMANCE WITH RESEARCH

BONN.—While Western European leaders talk about the benefits and difficulties of transnational political unity, the important and little-remarked reality is that their countries are rapidly moving toward a powerful technological unity.

The key to this amalgamation is the loveless, nonetheless very convenient, convergence of French aspirations for free space between East and West, West German fears of political isolation, and the wealth and skills of both nations. Together, the two are the organizers and the main paymasters for Europe's increasingly robust presence all along the spectrum that runs from esoteric basic research to high-technology industry.

After a month of visiting over a score of Western Europe's major scientific and industrial research centers, as well as talking to officials of government research ministries, what I find most striking is the absence of the defeatist mood that is now so prevalent in the American research and development enterprise. Any snapshot of what's really happening on the two continents would, of course, show that by almost any measure and in virtually all technical fields, the United States is outspending and outperforming all of Europe. But closer examination would also suggest that the United States has slipped into the role of the rich, risk-shunning pennywatcher, while Europe is showing considerable bounce, maybe a touch of free-spending megalomania, in its newfound romance with research and far-out industry.

Furthermore, as Philip Handler, president of the National Academy of Sciences, recently told a congressional committee, West Germany does little military research, while possibly "the very best of our physical scientists and the very best of our engineers are siphoned off into the military R&D research and development] enterprise . . ."

With their combined slices of gross national product that are devoted to R&D now just a touch behind what the United States spends, France and Germany's research managers often tend to think big—which is increasingly rare among their American counterparts. French space officials, for example, have been whispering to their European partners in the French-led Ariane launch-vehicle program that the still-unflown rocket could eventually be upgraded for manned flight. "Possible, but ridiculous," was the comment of a space official in the West German ministry of research and technology. But he conceded that, indeed it might happen, adding that "space activities have a beneficial effect on all kinds of industry."

It was this rationale that led Germany to take the lead role in building the manned research module—Spacelab—that will ride aboard NASA's space shuttle. The costs have inevitably run ahead of the original estimates, and some partners, particularly Italy, have been grousing. But, with an attitude reminiscent of NASA's go-go days, the Germans and the French are taking the position that the industrial and systems know-how that are being acquired in the process are worth the price.

With a population of over 60 million occupying a land mass the size of Oregon, the West Germans take very seriously the notion that the nurturing of science is essential to their prosperity. Thus, Germany not only pays its dues into the huge particle-accelerator ("atom smashing") laboratory that all of Europe supports near Geneva, but has built and operates a similar laboratory of its own, near Hamburg as well. To finance its share of the Geneva facility, the British simply closed down their own accelerators. "That would be unthinkable," a Germany research administrator told me. "It's important to join in the international effort, but it's also important to have our own facilities."

Researchers at the Hamburg laboratory are from all over the world, including a batch from the People's Republic of China. But, for the Germans, there is pride as well as economic sense in building and running something as complex as a particle accelerator. "The demands that it makes on industrial suppliers are enormous," an administrator explained. "The country gets a lot out of building a machine like this." He also made reference to the little-spoken-of underside of European technical and industrial collaboration: Everything usually costs more and takes longer when more than one country is involved. In the international brotherhood of particle physicists, the German accelerator is known for the efficiency of its operations; the Geneva machine run by 11 nations, is much admired, but not for nimbleness of administration.

Whatever the problems involved in orchestrating Europe's multinational technical efforts, the countries are getting quite good at it—particularly through use of the American-originated "single-manager" system, in which a clearly defined boss agency runs the show. That's what they have been doing in space, commercial aviation, nuclear-fuel production and various other fields. And it's been done against a background of relatively ample resources and high ambitions. As one of the chiefs of Germany's leading laser research laboratories remarked to me, "Money isn't the problem. We just can't find enough of the trained people that we need"—a lament not often heard today on the American research scene.

What emerges from a look at Europe's research and industrial enterprises is that while the politicians talk about unity, their nations are being technologically stitched together in ways that mean a great deal more than any political compacts.●

TASK FORCE ON HOSPITAL COST CONTAINMENT

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. FISHER. Mr. Speaker, today, I am introducing legislation to establish a task force on consumer and physician incentives for hospital cost containment. The task force will be composed of seven members and will consult with numerous individuals and groups before its 2-year completion date.

The purpose of this legislation is to try to find more effective ways of involving the consumer and the provider of hospital services in containing costs and in promoting an efficient, high quality health care delivery system. The present third-party payment system, often with first-dollar (no deductible) coverage, offers the consumers and providers little incentive to be cost-conscious. A significant segment of the medical reimbursement system is on a cost-plus basis (whatever costs are incurred will be paid by a third party) and there is frequently little interest in taking account of the costs associated with the services provided.

I believe that more effective ways of helping to restrain the high costs of hospital care can be found. Alternatives to the present reimbursement system such as increased or sliding scale deductibles, coinsurance or other cost sharing arrangements or by using the tax laws to credit employers who utilize cost saving insurance programs, should make all involved more cognizant of the real costs of medical services. Increased awareness on the part of all concerned might obviate the need for future health plans to be so all inclusive or expensive.

However, there are no quick or easy solutions to our hospital and overall health cost control problems. That is why I am proposing this 2-year task force to devote its full attention to these problems and make recommendations to Congress that are workable and efficient. The study and recommendations called for in this bill could be added by amendment to the hospital cost containment bills now under consideration in the Ways and Means and Commerce Committees, or could be dealt with in the bill presented here.

I urge my colleagues to join with me in supporting this additional approach to the problem of hospital cost containment.

Text of bill follows:

H.R. 4713

A bill to provide for the establishment of a Taskforce on Consumer and Physician Incentives Toward Hospital Cost Containment

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is established a Taskforce on Consumer and Physician Incentives Toward Hospital Cost Containment (hereinafter in this Act referred to as the "Taskforce"), to be composed of seven members—

(1) three appointed by the President,

(2) two appointed by the Speaker of the House of Representatives, and

(3) two appointed by the President of the Senate.

(b) The Taskforce shall carry out its activities in consultation with appropriate Federal agencies, private organizations, consumers, physicians, and other interested parties.

SEC. 2. (a) The Taskforce will study—

(1) the effect of different policies and procedures (including use of deductibles, coinsurance, and cost- or risk-sharing; tax deduction and exclusion provisions of the Internal Revenue Code of 1954; prepaid health plans) relating to payment for hospital services on (A) consumer and physician awareness of the relative cost and quality of different hospital (and outpatient) services, (B) utilization of hospital services, and (C) the quality of hospital services provided, and

(2) the desirability of increasing the use of these and similar methods in Federally-funded and other health insurance programs, and will make recommendations for appropriate changes in legislation.

(b) The Taskforce will complete its study and submit a report thereon to the appropriate committees of Congress not later than two years after members are first appointed to the Taskforce.

SEC. 3. Members of the Taskforce shall serve without additional compensation.●

GOP VETERANS PROGRAM

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. HAMMERSCHMIDT. Mr. Speaker, our nearly 30 million veterans are disturbed. They are disappointed in President Carter. They do not like broken promises. The article printed below appeared in the July issue of the VFW monthly publication.

Our former colleague, Bill Brock, who served in the House and Senate from Tennessee prepared the "GOP veterans program." In his capacity as chairman of the RNC, he has pledged to maintain our veterans program and will not tolerate a weakening of them.

As ranking member of the House Veterans' Affairs Committee, I welcome the views of Chairman Brock. He has my enthusiastic support.

The VFW magazine article follows:

A GOP VETS' PROGRAM

Veterans' affairs have not been, and should not be permitted to become, a subject of partisan political dispute.

Although it is exceeded in size only by the Departments of Defense and Health, Education and Welfare, the Veterans Administration has been singularly free of the often bitter controversies that have swirled around those and other government agencies.

Veterans' bills routinely are approved by whopping bipartisan majorities in both houses of Congress. This bipartisan spirit extends beyond Congress to the political parties themselves. The veterans' planks in the 1976 national Republican and Democratic platforms are virtually indistinguishable.

Unfortunately, recent actions by the Carter Administration call into question the sincerity of the President's commitment to the veterans' plank in his party's platform and are straining the bipartisanship that traditionally has prevailed on veterans' issues, despite the continued bipartisanship of the House and Senate Veterans' Affairs Committees.

By and large, President Carter's claims of "trimness" and "austerity" for his proposed budget for the 1980 fiscal year have been met with thinly disguised mirth. The Carter FY 1980 budget calls for spending $531 billion, up $38 billion from a year ago.

But when it comes to the President's plans for veterans' programs, austere may be a mild description. The President proposes about a billion dollars less than the amount needed for VA programs to keep up with the present rate of inflation.

Level-funding the VA during a period of high inflation has meant a substantial cutback in services to veterans and the retrenchments the Carter Administration had made or is planning are startling.

Veterans with non-service-connected disabilities are being turned away from some VA hospitals, even though they are eligible to receive treatment.

Dental care for veterans within the first year of discharge would be eliminated.

Money spent to improve veterans' care in VA hospitals has been cut back and would be cut back further.

Vietnam veterans attending school under the GI Bill would be denied again a cost-of-living increase and forbidden to use their GI Bill benefits to pay for flight training or correspondence courses.

But the President's most devastating blow to veterans, especially to those who suffered disabling injuries in combat, has taken place already.

The President's budget for veterans' programs became "lean and tight" a year before he began making similar and unsubstantiated claims for the budget as a whole. To comply with the President's FY 1979 budget, the Department of Medicine and Surgery (DMS) is now cutting 7,000 fulltime job equivalents from the VA medical system. That means staff-to-patient ratios at VA hospitals will decline from 1.99 to 1.95. The staff-to-patient ratios at most community hospitals range from 3 or 4 to 1.

A cutback of that magnitude can't help but impair services at VA hospitals. A nonpartisan national study in 1976 showed physician staffing inadequate in a third to a half of all VA hospitals. The situation has worsened since.

The President then compounded the damage by subjecting the DMS to the general federal civilian hiring freeze under which Executive Branch agencies were permitted to hire only one worker for every two vacancies from last Oct. 25 through next Jan. 31. Already short-handed, VA hospitals were unable to fill critical vacancies.

The Senate Veterans' Affairs Committee chairman criticized this foolish move in a sharply worded letter to the President, March 13, stating that VA medical care system participation in that freeze produced severe strains on VA health care programs.

Congress attempted to block the President's cutbacks in VA medicine by approving a bill appropriating an additional $54.7 million to keep 3,132 beds in VA hospitals from being closed.

The President took the money, but he didn't use it for the purpose Congress intended. Instead of maintaining the capacity of the hospital system, the VA went right ahead with its budget cuts. The Office of Management and Budget directed the money be spent for pay raises, bonuses and postage. Federal spending must be reduced to control inflation. But medical programs for those who have served our nation should not have to bear the brunt of federal budget cuts. A reduction in the staffing in most areas of federal bureaucracy would be at worst an inconvenience and more typically a blessing. But a cutback in doctors, nurses and hospital equipment can literally be a matter of life and death. It was for this reason that the cost-conscious Eisenhower, Kennedy, Johnson, Nixon and Ford Administrations exempted medical programs from overall government employment freezes.

It is especially hard to justify the Carter cuts when he is *increasing* the number of political appointees in the VA bureaucracy at the same time he is slashing medical programs for veterans. In the last year of the Ford Administration, 17 Schedule C political employees were in the VA. Today, there are 21.

Furthermore, the President's cost-cutting efforts seem to be restricted to veterans' programs. His FY 1980 budget adds 900 more jobs to the swollen HEW bureaucracy, 500 new positions to the Department of Justice and to the Environmental Protection Agency 200 more. Resources can be allocated, it seems, to protect the environment of the nation, but not for the health of the veterans who fought for it.

More could be at work here than merely misplaced parsimony and a skewed sense of priorities.

Consider these facts:

At the same time the President is slashing medical programs for veterans, he is proposing legislation to create an expensive new national health insurance program.

At the same time the President is restricting GI Bill education benefits for veterans, he is pushing for creation of a new Cabinet-level Department of Education.

At the same time the President is calling for an end to veterans' preference in government hiring and promotion, he is seeking expansion of public jobs, including a huge increase in the scandal-ridden CETA program.

It appears as if the President has put veterans on the same level as a welfare rights group demanding a bigger handout.

If this is what the President is thinking, then he has things exactly backward. Veterans are not seeking an undeserved benefit at taxpayer expense. Veterans already have provided their country with a service of inestimable value, which can never be fully repaid.

The government, despite what Jimmy Carter may think, is not in the position of bestowing unearned favors upon veterans. A responsible program for veterans rests on recognition of this elemental truth. Veterans' programs are different from all other government social programs. Veterans' benefits exist as a matter of contract, not charity. The government provides them to those who answered the call and interrupted their lives at its behest.

This moral obligation alone is reason enough to reverse the crippling cutbacks President Carter has proposed for veterans' programs. There are other reasons as well.

Veterans' programs are sound investments. The World War II GI Bill, which paid veterans tuition and gave them a living allowance while they were attending school, is perhaps the best social investment the federal government ever has made. Economists and social scientists agree it has repaid its $2 billion cost many times over. VA no-money-down home loans have been as big a boon to the housing industry and the economy generally as they have to veterans. The VA medical system, in addition to being the nation's largest, is the most cost-effective. If it were shut down or sharply curtailed, many veterans either would be denied the care they need, which would be unconscionable, or they would be forced into other government health programs, where the same services cost far more.

Finally, veterans' programs are essential to maintain the moral fiber and will of the nation. If young men now considering military service observe a slackening in our commitment to veterans, their zeal to volunteer certainly will be weakened.

A responsible program for veterans calls for strengthening rather than weakening the VA medical system. It must be kept abreast of the times so that its capacities continue to meet the medical needs of all eligible veterans.

Special attention must be given to the Vietnam veterans who have had difficulties in making their way back into a society that turned away from the unpleasant memory of the war they fought. These veterans served their country with the same full measure of dedication as Americans who served in earlier wars. Their special needs for counseling and treatment must be met. An employment program should be developed immediately in partnership with the private sector. Unemployed Vietnam veterans have been given little but new releases in the way of job assistance by the Carter Administration.

Most important, a responsible program for veterans is based on respect for veterans and the sacrifices they have made on our behalf.

I have described this as a Republican Program for Veterans, but it is, in reality, only a return to the old bipartisanship a bipartisanship which I trust only temporarily has been interrupted by mistaken policies of the Carter Administration.●

A NEW APPROACH TO THE ECONOMY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, July 11, 1979, into the CONGRESSIONAL RECORD:

A NEW APPROACH TO THE ECONOMY

The economic outlook for the next several months is not good.

As one might guess given the current situation, our economic problems are many. The main private forecasters now see a recession beginning later this year and extending into 1980. For 1979 we can expect the economy to grow at an annual rate of 2%, about half the 1978 rate. Consumer prices shot up at a yearly rate of 13% during the first three months of 1979. Inflationary pressures may moderate in the second half of the year, but an increase of about 10% in the inflation rate is anticipated by year's end. There are a few bright spots in the economy. The unemployment rate has remained stable at just under 6% despite slow growth. The dollar rescue program has been quite successful, with the dollar moving up sharply against major foreign currencies. Overall, however, the public has given President Carter low marks for his management of the economy. One recent poll shows that three of every four Americans thinks the economic situation is going to get worse.

Not surprisingly, the gloomy outlook will form the backdrop for some fierce battles over economic policy. Mr. Carter is betting heavily on fiscal restraints, tight money, a strong dollar, decontrolled domestic oil prices, and wage-price guidelines. With these policies he is trying to pilot the economy to a "soft landing" of modest growth without recession, to be followed by a vigorous rebound in 1980. A large majority of the people do not agree with the President's ideas and favor wage-price controls instead. Many members of Mr. Carter's own political party want to keep controls on domestic oil prices. Some legislators are already talking about a significant anti-recession tax cut later this year or early in 1980. Others are demanding a balanced budget at least one year before the President is prepared to recommend it.

The recent outlook and Mr. Carter's policies are not the only points of contention in the present economic debate. At a more fundamental level there is a growing disenchantment with the course that economic policy has taken for the past two decades. The traditional approach to the economy has been an activist one, oriented toward full employment through manipulation of demand. Proponents of that approach have argued that the government's principal task is to control total spending in the economy. The goal is to counteract fluctuations in the business cycle, thereby ensuring a steady increase in jobs and income. While proponents have sometimes disagreed on the best way to achieve the goal—whether to increase or decrease government spending, raise or lower taxes, tighten or loosen credit—there has always been broad support for the goal itself.

Disenchantment with the traditional approach stems from the harsh economic experience of the 1960s and 1970s. We have had raging inflation, stubborn budget deficits, slow growth in productivity, high unemployment, a perilous dependence on imported oil, large imbalances in our international accounts, and periodic pressure on the dollar. These developments have confounded the experts and spawned disagreement among makers of economic policy. It seems to me that a new view of the economy is emerging from the disarray. Some economic thinkers are less confident of their ability to forecast trends, less sure of their capacity to control those trends, less likely to try "fine tuning" of the economy, and more aware that inflation is hard to stop once it is set off by stimulative policies. The new school of thought, led by the Secretary of the Treasury, Mr. Blumenthal, sees economic problems as long-term and structural. It holds that the United States is no longer an island unto itself, but rather an integral part of a highly interdependent world economy.

The new approach to economic policy is making itself felt in several specific ways:

Fiscal and monetary policies are marked by steady restraint: This means high interest rates and an emphasis on moving the budget slowly toward balance. Only three years ago the budget was running a deficit of $66 billion. The deficit has now been cut to $30 billion, and a balanced budget is in sight. However, such policies will not be easy to maintain against political pressures for a "quick fix" since they will not lower the inflation rate rapidly.

Production is encouraged and supply is increased: This means removing obstacles to productive output, reviving the discipline of the market through deregulation, stripping away the deadening layers of red tape, and insisting on rigorous cost-benefit analyses of environmental and social regulations. Examples are the deregulation of the airline industry, which triggered fare cuts and expanded services, and the decontrol of domestic oil prices.

America's position in the world economy is strengthened: This means that the United States recognizes how closely its economic interests are linked to the economic interests of the international community. The nation should be ready to stop speculation against the dollar when it is under pressure, block the powerful currents running in favor of protectionism, and expand its exports. An example is the new multilateral trade agreement, which will provide for a more competitive American economy with a lower rate of inflation and a better balance of trade.

The benefits of the new approach may come slowly, and the public may well become impatient for results. Ultimately, the success of the new approach will depend as much on politics as on economics. The question is whether we have the will to make short-term sacrifices for long-term gains.●

TRIBUTE TO OFFICER THOMAS J. CAPONETTO

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. SKELTON. Mr. Speaker, I bring to your attention the recent courageous action of Officer Thomas J. Caponetto, of my congressional district. Officer Caponetto has received the Red Cross Certificate of Merit, the highest award given by the American Red Cross, for saving a life by using skills and knowledge learned in a volunteer first aid training program offered by the Red Cross.

On January 27, 1979, Officer Caponetto, along with his partner, Officer Donald R. Durham, responded to a call regarding a woman having a seizure. Arriving on the scene, Officer Caponetto found the woman lying on the bedroom floor, unconscious. Seeing that she had neither pulse nor respiration, Officer Caponetto began mounth-to-mouth resuscitation and other life-supportive measures. He was soon joined by Officer Durham, who assisted. Paramedics then arrived and took the victim to a hospital. Without doubt, the use of first aid by the two officers sustained the victim's life until medical help could be obtained.

William James, a writer who lived in the 19th century, understood what it was to find courage in the course of civic duty. He understood that acts of courage come not with pomp and circumstance, but in the solitary confrontation with great social challenge: "That lonely kind of courage (civic courage, as we call it in times of peace) is the kind of valor to which the monuments of nations should most of all be reared."

Officer Caponetto saw what needed to be done to save another life and acted with courage. He did not question his duty to his fellow human being. His courage is an example to all of us who owe him our honor and gratitude.●

SUCCESSFUL COST CONTAINMENT PROGRAM AT DOUGLAS GENERAL HOSPITAL

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. GINGRICH. Mr. Speaker, Douglas General Hospital in Douglasville, Ga., has done it again. They are the national first-place winners of the third annual Cost Effectiveness Contest sponsored by the Hospital Finance Management Association, headquartered in Chicago. The hospital's cost containment program saved the hospital and its patients $286,822.

Earlier this year, I had the pleasure of announcing Douglas General Hospital as the Georgia Hospital Association's Pacer award winner. At the time, the hospital's cost containment program had saved the hospital $169,910.

As the 1978–79 national winner, the Douglas General Hospital's cost containment strategies will be compiled as part of a booklet to be distributed to the Nation's hospitals and health care publications and will be featured in the Hospital Finance Management Association's Journal.

The Douglas General Hospital has proven that hospital cost can be cut from within the hospital if staff members are willing to work at developing cost-saving strategies.●

ALCOHOLIC BEVERAGE INGREDIENT LABELING LONG OVERDUE

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. ROSENTHAL. Mr. Speaker, it is vital that producers of wine and distilled spirits be required to list the ingredients on their products' labels. Congress recognized the right of people to know what the foods they are eating are made of when it passed the Food, Drug, and Cosmetic Act in 1938. Although the food industry has been in basic compliance with the law, the manufacturers of alcoholic beverages, which today enjoy sales totaling over $20 billion a year at retail, have been scofflaws—and the Federal agencies responsible for alcoholic beverage labeling have not exactly been overzealous in their efforts to force compliance with the regulations.

Ingredients should be listed on the labels of alcoholic beverages, because the law requires it and because consumers have a right to know what is in their food and drink. The consumer is never advised by the label whether his favorite beer, wine, or whiskey contains artificial coloring, synthetic chemical preservatives, polysaccharides, or a host of other agents. Products that were once made exclusively from natural ingredients are becoming repositories for an increasing number of chemical additives, some of which may turn out to be health hazards. A decade ago several brewers began adding cobalt sulfate to their beer in order to maintain a foamy head. The combination of cobalt and alcohol killed more than 50 people before people realized what was causing the deaths. A number of doctors reported that the lives of the beer drinkers could have been saved if the beer labels had revealed the presence of cobalt. More recently, the preservative diethylpyrocarbonate (DEPC) was discovered to generate urethan, a potent carcinogen. Drinkers could not avoid alcoholic products containing DEPC, because it was not listed on the label, just as persons with allergies to certain additives are unable to determine which alcoholic beverages to stay away from.

The beer, wine, and hard liquor producers have fought for years for the right to hide the ingredients of their products from the public. The Federal agencies responsible for portecting the consumer—the Bureau of Alcohol, Tobacco, and Firearms (BATF) and the Food and Drug Administration (FDA)—for years refused to force manufacturers to list the ingredients of their products on the labels. But now, due largely to the efforts of the Center for Science in the Public Interest (CSPI), a nonprofit organization that investigates food and energy problems, it appears that ingredients may soon be listed on alcoholic beverages. This decision comes nearly 4 years after the FDA promised to enforce the ingredient labeling regulations at hearings held before the Government Operations Subcommittee on Consumer, Commerce and Monetary Affairs, which I chair.

Yet, as an article in the June issue of Nutrition Action, a bulletin of the Center for Science in the Public Interest, points out, bureaucratic squabbling between Federal agencies has thus far prevented consumers from knowing what is in the liquor they buy. As one who has been working for over a decade for legislation and regulations to help consumers know exactly what they are eating and drinking, I commend the CSPI for their persistent and worthwhile efforts in this area, and I am inserting the Nutrition Action article in the RECORD with the hope that the FDA and the BATF will quickly resolve their differences and go about the job they are supposed to carry out—protecting the American consumer:

THE FEDERAL TURTLE—JUST PLODS ALONG

(By Letitia Brewster)

It would have been nice to be able to title a brief story of the effort to get ingredients listed on alcoholic beverage labels: "Government in Action." Unfortunately, this is no short story. We prepared this chronology to illustrate how pathetically slowly the government moves, and how much persistence is necessary to enact effective regulations, when the affected industry chooses to resist the proposed regulations.

The constant theme of the labeling saga is delay. The producers of wine and distilled spirits argue that labeling will be too expensive for them, that they need more time to gear up for the changes, that consumers don't really want the information anyway, etc.

For its part, the government has not exactly streamlined the process. Two agencies within the government (Food and Drug Administration; Bureau of Alcohol, Tobacco, and Firearms) have squabbled over which one has the authority to write the final regulations. The winemakers and hard liquor producers are using the dispute to their advantage by suing FDA for its involvement in the procedures. thereby slowing the process down a little more.

As it looks now, ingredients may be listed on alcoholic beverages on January 1, 1983, more than ten years after CSPI's initial petition. But the Distilled Spirits Institute has already announced its intention to appeal the District Court's recent decision not to hold FDA's Commissioner in contempt of court. More delays will probably plague the process into the 80's.

Americans spend 40 billion dollars a year on beer, wine, and hard liquor . . . Is the industry worried that Americans will spend less when they know what's in the brew?

September 13, 1972: The Center for Science in the Public Interest (CSPI) letter to the Director of the Treasury Department's Alcohol, Tobacco & Firearms Division (BATF) asks that agency to either 1) give responsibility for labeling requirements to the Food and Drug Administration (FDA) or 2) to require alcoholic beverage bottlers to comply with the Food, Drug, and Cosmetic Act by listing ingredients on labels.

September 13, 1972: CSPI letter to the Commissioner of the FDA asks FDA to rescind agreement to delegate labeling responsibility to Federal Alcohol Administration and to enforce the Food, Drug, and Cosmetic Act with regard to labeling alcoholic beverages.

October 20, 1972: FDA Commissioner replies that FDA has no intention of taking responsibility for alcoholic beverage labeling.

December 1, 1972: BATF letter to CSPI says BATF is considering desirability of alcoholic beverage labeling.

April 6, 1973: CSPI, Consumers' Union, and other consumer representatives meet with Rex Davis, Director of BATF to discuss their concerns.

August 1, 1974: Federal Register announcement of BATF's proposed regulations on ingredient labeling requirements for malt beverages. Hearings on proposed regulations scheduled for 10/1/74.

September 18, 1974: BATF postpones hearings for ingredient labeling for malt beverages from 10/1/74 to 2/3/75.

October 8, 1974: Memo of Understanding between FDA and BATF updates 1940 agreement between the two agencies—acknowledging joint jurisdiction and giving BATF primary responsibility for regulating alcoholic beverage labeling.

January 30, 1975: BATF postpones hearings on ingredient labeling requirements for malt beverages from 2/3/75 to 4/15/75.

February 11, 1975: BATF proposes ingredient labeling regulations for distilled spirits and wine. Hearings scheduled for April.

April 15, 1975: Public hearings on the labeling of malt beverages.

April 16–17, 1975: Public hearing on the labeling of distilled spirits.

April 29–May 1, 1975: Public hearing on the labeling of wine.

(Public comment periods end 60 days after close of hearings)

November 11, 1975: BATF announces it is abandoning plans to require ingredient labeling on alcoholic beverage labels.

November 19, 1975: At House of Representatives' Commerce, Consumer, and Monetary Affairs Subcommittee hearing to examine BATFs decision not to require ingredient labeling of alcoholic beverages, FDA announces its intention to stop deferring to BATF on the matter of alcoholic beverage labeling.

November 24, 1975: FDA advises manufacturers of alcoholic beverages that their products must be in compliance with the Federal Food, Drug, and Cosmetic Act's labeling requirements by 1/1/77.

March 18, 1976: A group of distillers and winemakers sue FDA in U.S. District Court in Kentucky, claiming that liquor labeling is not within FDA's jurisdiction.

July 1, 1976: FDA extends until 1/1/78 implementation of agency's requirements for ingredient labeling of beverages.

August 31, 1976: District Court Judge issues injunction prohibiting FDA from imposing any requirements for labeling distilled spirits or wine.

September 1976: FDA asks Department of Justice to appeal the District Court's decision on FDA's behalf.

July 20, 1977: The Office of Management and Budget advises Justice not to appeal the District Court's decision, but requests that BATF work with FDA to develop partial labeling requirements.

February 2, 1979: BATF proposes rule for labeling of wine, distilled spirits, and malt beverages; deadline for comments set for April 3, 1979.

March 13, 1979: BATF announces extension of deadline for comment until June 4, 1979.

March 29, 1979: A group of distillers and winemakers file a motion in District Court asking that FDA Commissioner be held in contempt of court for encouraging BATF to promulgate labeling regulations and/or for issuing labeling requirements for beverages with less than 7% alcohol content.

April 11, 1979: District Court judge finds FDA Commissioner not in contempt of court.

June 4, 1979: BATF announces extension of deadline for comment until August 3, 1979.

REGULATORY CHAMELEONS

Nutrition Action heard that Rex Davis, who was Director of BATF during most of the battle for ingredient labeling, had recently left the government to take a job as President of the National Association of Beverage Importers. When NA called the Washington office of the Distilled Spirits Council of the U.S. (DISCUS, a trade association for hard liquor producers) to confirm this fact, we were connected to none other than George Bonifant, who in his previous incarnation was BATF's Chief of Trade & Consumer Affairs. Bonifant's experience at BATF undoubtedly serves him well at DISCUS, where he now directs the International Division.

Though we'd hate to see ex-government officials swelling the ranks of the unemployed, we can't help but be concerned when regulatory officials join the industries they had been in charge of regulating. The special knowledge and connections they gained at taxpayer expense are rich dividends for their new employers.●

GOOD NEWS—FOR A CHANGE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. BINGHAM. Mr. Speaker, the news these days is so bad on so many fronts that it is heartening occasionally to come across some encouraging items. Set forth below are two such items from the July 2 issue of World Development Letter:

A TREE FOR ALL SEASONS

Leucaena leucocephala—alias the Ipil-Ipil, the Panama, the Kao Haole, the Bayani, or Supertree, can grow 60 feet in five years, provides high protein cattle feed and forage and is an organic fertilizer. It is a high-volume wood producer, hence a good source of firewood, charcoal, banana plant supports, fence posts, low-cost housing material and an industrial fuel. It also slows soil erosion. When burned under special conditions, it produces a combustible gas mixture comparable to petroleum gas and can be used as raw material for paper pulp manufacture. In some areas the seeds are ground and used as flour or roasted and used as a coffee substitute. Some people think it's great in salads. It grows in tired soil and needs little rain.

Mike Benge, an engaging, shaggy, enthusiastic agro-forester with AID, ran across this phenomenon in Vietnam and had time to ponder its multiple properties and great potential for five and a half years as a prisoner of war there. Today he is convinced that the tree is one important answer to the deforestation that has ravaged millions of acres in the less developed countries. It grows wild in many parts of the tropics, but is easily cultivated and has been planted as a crop in many places. More than 80,000 acres are flourishing in the Philippines.

Benge is an authority on the tree and will gladly tell anyone, anytime, anyplace, about its remarkable attributes and the availability of seeds.

AFRICAN SUCCESS STORY: THE IVORY COAST

Its per capita income has risen from $70 in 1950 to nearly $1,000 today. It devotes 20 percent of its budget to education, holds no political prisoners and is growing faster economically than any non-oil producing nation in black Africa. The gross national product has tripled in 15 years. Palm oil production has increased sevenfold, making it the world's largest producer. It has dramatically expanded and diversified its agriculture, which many African countries have ignored. Coffee, for instance, accounted for 57 percent of the country's exports at the time of independence in 1960; today it accounts for 28 percent though production has tripled.●

LARRY MEANS—A PROFESSIONAL "WILDLIFER"

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. UDALL. Mr. Speaker, when H.R. 39, the Alaska National Interest Lands Conservation Act of 1979, passed the House on May 16 by a resounding 360–65 margin, a bright chapter was etched in the conservation annals of our country. That vote was visible evidence of the deep concern that millions of Americans have for the wise dedication and continued protection of a portion of the Federal lands in Alaska, lands which we all own in common.

Not so visible, Mr. Speaker, was the dedication and plain hard work by a great number of individuals, both within and without Government, who through their experience, professionalism and dedication played a major role in that decision. One such individual is Robert L. Means of Arlington, Va., who retired from Federal service in June 1979.

Larry Means is an experienced land manager and wildlife biologist who has applied the highest conservation principles to every position he has held throughout his Federal career. In 1972, shortly after passage of the Alaska Native Claims Settlement Act, the law which set the stage for H.R. 39, he was appointed as U.S. Fish and Wildlife Service representative to an interagency task force established by Secretary of the Interior Rogers C. B. Morton to study the public lands of Alaska and develop proposals on which of those lands should be recommended by the Secretary to the Congress as units of the National Park, National Wildlife Refuge, and Wild and Scenic Rivers Systems. It is a tribute to the professional manner in which Mr. Means approached this assignment that the National Wildlife Refuge System units contained in H.R. 39 are virtually identical to those which he proposed over 5 years ago after several years of field work in Alaska.

A native of Kansas, Pierre—as he is known by his associates—graduated from Colorado State University after a stint in the U.S. Navy in World War II. For nearly 20 years he managed national wildlife refuges in Arizona, Kansas, and Wyoming, gaining the experience so essential to the eventual drawing of proper ecosystem boundaries of wildlife refuge units in Alaska. The past few years he has headed the wildlife management program of the Bureau of Land Management and, later, immediately prior to retirement, was the Department of Interior's key official overseeing the trans-Alaska and proposed Alaska gas pipeline projects.

Mr. Speaker, there are literally hundreds of individuals who have worked in some capacity on the Alaska lands question, but few are able to see the direct results of their individual contribution than can Robert L. "Pierre" Means, a man of uncommon virtuosity.●

UNITED STATES VERSUS OPEC

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. PATTERSON. Mr. Speaker, today I am introducing a resolution expressing the sense of Congress that the United States should adopt as a high priority policy the elimination of the power of the Organization of Petroleum Exporting Countries (OPEC) to control the supply and price of oil. Unless we take such action, the United States will be forced to bow to the cartel continually and our taxpayers will bear the burden of economic adjustments necessitated by the cartel's actions. I am particularly concerned about the large balance of trade loans to LDC's by our commercial banks and the impact of such lending on the soundness of our banking system.

To date, the lack of a strong national program against the cartel has placed the United States in a questionable position as a world leader. How powerful can our country really be and how much influence can we expect to wield with respect to international affairs if we are resigned to dutifully accepting OPEC's pronouncements of what we and other industrialized and developing nations must withstand for energy supplies?

The United States must engage in an aggressive pursuit of numerous options to increase energy independence. The synthetic fuels production program embodied in H.R. 3930, which the House of Representatives adopted on June 26, is a step in the right direction. Additionally, the international development institutions, of which the United States is a member, should be urged to intensify loans to developing nations for purposes of energy research and development.

However, the United States needs to improve relations with Mexico as well. As a border nation rich in oil reserves, Mexico's strength should not be overlooked or underestimated. There is no excuse for the United States to treat Mexico any differently from the manner in which it treats Canada. While we share common borders with both countries, we have not had to deal with Canadian immigration problems, because Canada is not experiencing Mexico's economic difficulties. We are now presented with the opportunity to help strengthen the Mexican economy. By assisting in Mexico's oil development technology, the United States can improve its relations with Mexico and alleviate illegal immigration. It does appear opportunistic for the United States to now curry the favor of our neighbors to the South. But the attitude changes on our part have been long overdue.

There are other areas, too, in which the Nation must focus more clearly. Our Department of Defense is involved in research and development efforts which should be spotlighted. For example, the Mobility Equipment Research and Development Command has ongoing projects in solar, and synthetic fuels. The command is also engaged in an electric vehicle program together with the DOE and private industry. The NATIC Army Laboratory in Boston, Mass., is producing gasohol from trash.

In effect, the U.S. Government's Department of Defense is carrying on a lot of sophisticated R. & D. in the energy area. These efforts, which are funded through the appropriations process, deserve further scrutiny. Frankly, if we can send astronauts to the Moon, military experimentation in conjunction with private sector assistance should be capable of moving our country toward energy independence.

While energy R. &. D. projects cannot be expected to produce miracles overnight, we need to review them and monitor their progress regularly. These projects must become more visible to the entire Nation. A concerted effort to mobilize the resources, technology, and manpower of the Nation will convince the OPEC cartel that we will no longer tolerate their monopolistic practices.

While the Saudis recently agreed to increase oil production from the present 8.5 million barrels daily, such accommodations are temporary at best. So far this year, OPEC prices have risen substantially. Continued gasoline price increases domestically have fueled inflation, which now approaches 14 percent per annum. Sustained increases in inflation have, in turn, caused a decline in national economic activity on the order of 2.4 percent annually. Our economy cannot endure another round of OPEC price increases. Yet, at this time, we will have no choice but to accept them.

At a Geneva meeting on June 26, OPEC oil ministers decided to raise the price of oil from $14.55 a barrel to as high as $23.50. The scheduled oil price jump in July will result in a more than 50-percent price hike since December 1978. As Walter Heller wrote in the June 27 Wall Street Journal, the U.S. economy "has been tipped into early recession by the new $20 billion 'oil tax' that OPEC is levying on American consumers."

Developing nations, too, are suffering from high balance-of-payments deficits caused by OPEC oil price increases. David Rockefeller, chairman of the Chase Manhattan Bank, is skeptical about the ability of U.S. commercial banks to maintain present levels of LDC loans. Already, trade deficits of developing nations range between $35 and $40 billion. They owe more than $220 billion to commercial banks and public financing institutions.

This staggering level of debt is restricting domestic expansion of the LDC's. In turn, their inability to engage in aggressive trade activities is tightening the U.S. export market since nonoil-producing nations purchase large quantities of our goods.

OPEC revenues exceeded $1 trillion from 1974–78. During that time, OPEC's surplus funds exceeded $180 billion. Twenty percent of the surplus went back into the economies of the LDC's. On the other hand, roughly $139 billion or 75 percent flowed into Western financial institutions. Not surprisingly, these petrodollars are then loaned back to LDC's to pay OPEC.

In addition to our domestic economy and world trade possibilities being adversely affected by high oil prices, the amount of LDC lending by our major banks poses serious questions of financial soundness. How safe is continual large denomination LDC financing by our lenders? How might it affect U.S. depositors? What are domestic and international ramifications of default and how probable is default? How frequently are LDC loans being rolled over? What is the current total debt outstanding and payable to U.S. financial institutions? What percentage of major U.S. financial institution loan portfolios today consist of LDC loans?

I am not advocating precipitant action by the bank regulators or the major financial institutions. But public interest questions concerning the impact of petrodollars on our monetary policy, economic growth, productivity, and of LDC loans on financial soundness need to be fully addressed.

It appears that the administration is beginning to consider steps to counter OPEC's grip on world economies. I urge the administration to follow that course. It is important to focus on OPEC as Public Enemy No. 1 since it is the root of the oil supply and price problem we face. But the energy situation and our handling of the crisis must transcend mere gimmickry. It is also time for all of us—and I mean the Congress and the administration—to stop blaming each other for our energy policy fiasco. (Note, I do not intend to absolve the DOE of its operating inefficiencies and incongruencies and, indeed, call for its thorough housecleaning.) The Congress and the administration must swallow a lot of pride, look clearly at where this country is headed, and work cooperatively for the national interest. The United States cannot afford to waste any more time on the energy front. Our battle against OPEC has been on paper gathering dust for too long. We act now or never; together, or not at all.●

DEATH OF ARTHUR FIEDLER

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. CONTE. Mr. Speaker, as usual this year, the Berkshire Hills are alive with the sound of beautiful music wafting from Tanglewood, the summer home of the Boston Symphony Orchestra. But we are deeply grieved that one of our most beloved maestros will not be with us there this season to bring his very special talent to the podium. It is with great sadness that I am reporting to the House today the death yesterday afternoon of a great man, a legend in his lifetime, the conductor of the Boston Pops, Arthur Fiedler.

To anyone who had the pleasure of seeing his performances—and he performed before hundreds of thousands of people, both music buffs and the everyday man and woman—the man with the shock of white hair and courtly carriage, presented a magnificent figure at the head of the great orchestra.

His method of arriving at the podium each year at Tanglewood for his annual concert was almost as spectacular as the programs he presided over. Knowing his love for fire engines, it was always arranged for Fiedler to ride through the crowd up to the Tanglewood Shed atop a gleaming red firetruck, sirens screaming and bells clanging all the while.

Yes, his baton has stopped. The maestro will be missed in the Berkshires and he will be missed in Boston, the home of the Pops, where he gained his reputation and garnered his great following. The fact is, Arthur Fiedler will be missed everywhere there are people who heard his particular sound of music, whether at his concerts, over television and radio or through records. He is gone, but his rich legacy will live on in the hearts of these musiclovers. At this time, I extend my deepest sympathy to Mrs. Fiedler and the Fiedler family.●

H.R. 4726—RETREAD TIRE LEGISLATION

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. ROSTENKOWSKI. Mr. Speaker, yesterday I introduced for myself and my colleague from New York (Mr. CONABLE) a bill which would amend the Internal Revenue Code of 1954 to provide for excise tax refunds in the case of certain warranty adjustments on retreaded tires.

The bill extends to retreaded tires the same treatment that now applies to new tires. In promoting equity in the tax treatment of tires, it also considers the improvments made to similar legislation last year.

Under present law, manufacturers of new tires are able to claim a credit or refund of the excise tax on rubber if the sale of a tire is later adjusted pursuant to a warranty or guarantee, or if the tire is sold under certain conditions. Retread tire manufacturers, on the other hand, cannot receive a refund under any of these circumstances.

The present law raises several problems with respect to retread tires. First, because the refund rules governing new tires do not extend to tires that are recapped or retreaded, the tax law creates inequities within the tire industry. Second, situations often arise where the statute of limitations on the claim period for credits or refunds expires before a warranty adjustment is made. Finally, the absence of any tax on used tires that are exported, retreaded, and imported back into the United States gives to foreign retreaders an unnecessary advantage over their domestic competitors.

Our bill attempts to mitigate some of these difficulties. It allows a credit or refund of the excise tax on tread rubber used in recapping or retreading if rubber is wasted in the retreading process, if the sale of a tire is later adjusted under the terms of a warranty or guarantee, and in certain other limited instances.

This legislation also revises the present claim period by allowing a manufacturer—of either new or retreaded tires—to file for a credit or refund in his excise tax up to 1 year after the time that a price adjustment is made.

In addition, the bill provides that domestic tires which are retreaded abroad and then imported back into the United States would be subject to the tax on tread rubber.

I urge the House to give prompt consideration to this legislation, and I look forward to the bill's passage.●

TRIBUTE TO OFFICER DONALD R. DURHAM

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. SKELTON. Mr. Speaker, I bring your attention to the recent courageous and merciful action of Officer Donald R. Durham, of my congressional district. Officer Durham has been awarded the Red Cross Certificate of Merit, the highest award given by the American Red Cross, for saving a life by using skills and knowledge learned in a volunteer first aid training program offered by the Red Cross.

On January 27, 1979, Officer Durham, along with his partner, Officer Thomas J. Caponetto, responded to a call regarding a woman having a seizure. Arriving on the scene, Officer Caponetto found the victim lying on the bedroom floor, unconscious. Seeing that she had neither pulse nor respiration, Officer Carponetto began mouth-to-mouth resuscitation and other life-supportive first aid measures. He was soon joined by Officer Durham, who assisted. Paramedics then arrived and took the victim to a hospital. Without doubt, the use of first aid by the two officers sustained the victim's life until medical help could be obtained.

William James, a writer who lived in the 19th century, understood what it was to find courage in the course of civic duty. He understood that acts of courage come not with pomp and circumstance, but in the solitary confrontation with great social challenge: "That lonely kind of courage (civic courage, as we call it in times of peace) is the kind of valor to which the monuments of nations should most of all be reared."

Mr. Speaker, I agree that we should revere above all forms of bravery that courage which is performed in the course of duty. I honor Officer Durham for his compassion for another human life and for his courage to sustain that life as part of his duty to mankind.●

ENERGY DEVELOPMENT TAX INCENTIVE ACT OF 1979

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. GEPHARDT. Mr. Speaker, I am today introducing the Energy Development Tax Incentive Act of 1979. Under this bill, which amends the crude oil windfall profit tax bill, there would be an additional tax imposed upon large domestic oil producers to the extent that they make investments to acquire significant ownership interests in businesses unrelated to energy. The amount of the tax would be 100 percent of the cost of such investment, provided however, that the tax for any period could not exceed the producer's amount of windfall profits for the period reduced by the amount of the "basic windfall profits tax." For example, if a producer subject to this tax had $100 in windfall profits and an overall basic windfall tax liability of $65, the producer would be liable for an additional tax amounting to the full cost of an unrelated acquisition up to $35. The excess cost would be carried over as a tax liability for the next taxable period.

The large producers subject to this bill would be 16 of the major domestic oil producers. A significant ownership interest in another business would be defined as the acquisition of either a 10-percent or more voting stock interest or all or substantially all of the business assets. An unrelated business would be a business which is not involved in the exploration for, research, development, production, transportation, or sale of energy products such as oil, gas, solar, coal, uranium, et cetera.

Although this tax would not apply until the first calendar quarter of 1980, the measure of the tax would reflect acquisitions made subsequent to the announcement of this amendment. In order to prevent abuse, the tax could not be avoided by the creation of new corporate entities to make an acquisition.

The tax would apply regardless of whether an acquisition would be tax free under the income tax provisions and regardless of the nature of the property employed to finance the acquisition.

The tax would remain in effect for 7 years only. This type of tax recognizes the need of oil producers to retain some windfall profits in order to develop new resources of energy. To the extent that producers fail to do this there is no reason why their windfall profits should not be fully taxed. This type of tax presents no tracing problem; it is triggered by a defined acquisition whether or not such acquisition is made with actual windfall profit dollars, borrowed dollars, stock, or any other property.●

SOLAR ENERGY DEVELOPMENT

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. WYDLER. Mr. Speaker, there is a great deal of public concern about what the Federal Government is doing in providing incentives for businesses to develop solar energy and for individuals to use it. I suggest that my colleagues read the testimony on the subject delivered on June 21 before a joint hearing of the Energy Development and Applications Subcommittee of the House Science and Technology Committee and the Subcommittee on Energy and Power of the House Interstate and Foreign Commerce Committee. The speaker was Ronald B. Peterson, president of Grumman Energy Systems, Inc., one of the most sophisticated solar companies in the Nation.

Mr. Peterson made some provocative and thoughtful comments about the counterproductive impact on the marketing of solar power systems which has resulted from financial incentives devised by the Federal Government.

These tax measures in the administration's National Energy Act (NEA) were supposed to serve as Government "incentives" for dispersed solar applications. In fact, the sales of Grumman and many other solar system manufacturers had increased steadily from the time they decided to enter the national solar market which for Grumman was late 1976. However, this trend stopped when the President proposed incentives for solar system purchases; this caused potential buyers to hold off until the incentives were passed into law a year and a half later.

Mr. Peterson reports that the solar industry has encountered other problems in its dealings with the Federal Government. For example, the requirements of the HUD solar grant program were found to be impractical and uneconomical, and inaccurate information given to solar builders by DOE field spokesmen resulted in confusion and delay.

I call this testimony to the attention of my colleagues because I feel it is a perceptive analysis of the troublesome aspects of Federal involvement in attempting to encourage solar applications.

The testimony follows:

TESTIMONY BY RONALD B. PETERSON

Good morning, my name is Ron Peterson. I am President of Grumman Energy Systems, Inc., a wholly owned subsidiary of Grumman Corporation. We manufacture and sell solar systems for residential, commercial, and industrial use, and wind generating systems. In its entirety, Grumman Corp. is involved in a wide-range of energy developments, from uranium enrichment to solar space satellites.

We were developing solar and wind systems before the OPEC oil embargo of 1973–1974. We decided in late 1976, after field testing a number of systems, to enter the solar market nationally. We did so because we believed solar represented a fine business opportunity In the right circumstances, it could save the owner considerable utility expenditures and return a healthy return on his investment. While the decision to market solar was based on anticipated profit, we were not unmindful of the positive benefits a healthy solar industry could bring to our nation. Each hot water system saves up to four barrels of oil a year, and space and pool heating systems even more. A commercial installation at Argonne National Laboratory saves 107 barrels annually. It was not inconceivable to us then, and it is not inconceivable to us now, that the industry as a whole could install hundreds of thousands of these systems on an annual basis. After all, there were 50,000 solar hot water systems in Miami in the early 1950's. Why couldn't we duplicate the experience of Miami all over this nation? If we could install systems on such a massive scale, we would certainly be making an important contribution to our nation's energy integrity.

The recent events in OPEC only underscore the importance of this perspective. Had we been able to install solar and wind systems on a grand scale during the five years since the embargo, the nation's economy would not have been hurt, nor would the individual's pocketbook have been hurt, as much as it will be now. I can tell you that the businesses, the municipals, the families that have installed our solar systems during this period consider themselves fortunate.

Well, what happened? In 1976, the sales curve for us and for most of our competitors went straight up. It kept going up until shortly after the President's energy message of April 20, 1977. We learned a hard lesson then, and we hope it won't be repeated now. What we learned is that a proposed incentive can be a major disincentive. People who want to buy will wait for an incentive to pass the Congress.

About the same time, we began to experience difficulties with the HUD solar grant program. This was a scheme to give buyers of solar systems $400 grants to 11 states with the highest utility bills. First, the program turned buyers into lottery seekers. Then the consumer was inundated with paperwork. Then they kept changing the rules. One rule was that the system had to provide 50 percent of a family's hot water needs. So if you had a system providing 45 percent of the needs, you had to add another collector, and thereby add a considerable amount to the consumer's cost. It was clear that the implementers of the program did not understand the market.

A few months ago, 6,000 of the 10,000 grants were unclaimed. So a decision was made to rerun the program. Initially, only those systems that qualified when the program was first started could receive the grants. That meant new, improved and more economical solar systems couldn't qualify. Fortunately, that was turned around after considerable dialogue.

Then there were the problems of the DOE field spokesmen who gave out inaccurate information to builders. A Reno builder conference was told new homeowners couldn't receive credits. That wasn't true, and we had to get the IRS to send out a disclaimer. A Charlotte, North Carolina, conference was told that a homeowner couldn't get insurance coverage if he installed a solar system. We've never encountered that problem, and I don't know anybody else that has.

There was the problem of Federal Prisons, Inc. The Congress passed an amendment requiring 25 percent of all new military housing to have solar systems. Federal Prisons, Inc., became a manufacturer, and several military bids went out which said in essence that only Federal prisons could qualify.

There is the question of the solar regional centers. They have been given a very important assignment, to help commercialize the market, at considerable expense to the American taxpayer. I believe it would be instructive for you to determine precisely what these centers have accomplished since they have been in existence.

There has been some progress. Some of the technical and marketing reports from DOE and HUD have been outstanding. The Federal solar tax credits have proved to be a powerful selling tool.

But what we have seen overall is constant mis-management, constant changes in management, and constant rumors about who is leaving next. Where government is involved, the solar industry cannot plan for the future with any degree of certainty that what holds true today will be constant tomorrow. We believe the tax credits will allow us to recapture the momentum we had in 1976. But we can't be certain.

What we have concluded after all these years is something very simple, that for the present, at least, a healthy solar industry depends upon a healthy government, a government that basically attempts to understand the impact of its actions before it acts. There have been a few energy officials who have gone to great lengths to understand the solar market, its strengths and its weaknesses. There are others who hold powerful solar policy positions who rarely seek industry advice.

How well we do in the future may well depend on how well Government listens.

Thank you.●

TRIBUTE TO TROOPER TED M. WHITING

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. SKELTON. Mr. Speaker, Trooper Ted M. Whiting, of my congressional district, deserves our praise. He has received the Red Cross Certificate of Merit, the highest award given by the American Red Cross, for saving a life by using skills and knowledge learned in a volunteer first aid training program offered by the Red Cross.

On September 16, 1978, Trooper Whiting, trained in Red Cross advanced first aid and cardiopulmonary resuscitation (CPR), was pursuing a speeding car when the car crashed into an embankment. Approaching the wrecked car on foot, Trooper Whiting saw that the driver, age 16, was unconscious and not breathing. He immediately began mouth-to-mouth resuscitation, and continued his efforts for approximately 20 minutes until the arrival of an ambulance. Without doubt, the use of first aid by Trooper Whiting saved the victim's life.

Trooper Whiting is a man who used courage in the course of duty. As in the words of President Andrew Jackson, it takes more than simple bravery to make a man of courage:

> The brave man inattentive to his duty, is worth little more to his country, than the coward who deserts her in the hour of danger.

Trooper Whiting is a brave man who was attentive to duty and, because of his courage, saved another human's life. Mr. Speaker, I honor Trooper Whiting for coming to the aid of a fellow man in the hour of need.●

MRS. ELZA J. (LAURA) DUNLAP CELEBRATES 100TH BIRTHDAY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. LEWIS. Mr. Speaker, Mrs. Elza J. (Laura) Dunlap, 163 West Fray Street, Englenwood, Fla., will be the guest of honor on July 16, 1979, at a gathering of family and friends at Owenton, Ky., to celebrate her 100th birthday.

Laura was born July 16, 1879. The second of seven children born to William D. and Nancy Stubbs in Livingston County, Ky., she is now the only living member of that family. She is the mother of 5, the grandmother of 9, and great-grandmother of 15.

Through the years she has entertained her offspring with stories of her life on the farm. Her grandmother was a licensed midwife who made her own medicines and ointments. Laura would help her grandmother dig roots and gather herbs. Laura tells how her grandmother would boil, grind, and mix these into healing potions. She also tells of her mother, aunts, and grandmother carding wool, spinning yarn, and weaving blankets for home use and sale. One of her most interesting stories, and one that makes her a real pioneer in the eyes of the younger generation, is of the wagon train. Her father, his brother, Oscar Stubbs, and five other men and their families decided to go out West. The seven-wagon train took 3 weeks to go to Charleston, Mo. The men found work in Charleston but, before the year 1887 ended, one family of five was wiped out by a fever. This caused the wagon train community to break up. Some went farther west but the two brothers, William D. and Oscar Stubbs, returned to their farms in Kentucky.

Laura's mother died in 1891 and the 12-year-old Laura took up the housekeeping chores. She was married at 27, and widowed at 80. Since the death of her husband in 1959, she has made her home with her daughter and son-in-law, who are in retirement, in Florida.

Laura's hobby is making patch quilts, a skill which she learned out of necessity when she was a child. Now she averages about four a year and gives them to her family at Christmas, birthdays, weddings, and graduations.

In her 100 years Laura has had only one serious illness—pneumonia in 1924. When she was 60, she injured her hand in a wringer and spent 24 hours in a hospital, the first and last time to date. The tetanus shot, which they gave her in the hospital, was the first and last to date. The oral polio immunization, which everyone had a few years ago, was the only other treatment of this type she has ever had.

Laura has lived from the wagon train age to the jet plane age. She has fond and lively memories of the first and thoroughly enjoys the latter. She has made several trips by jet to visit her sons and grandchildren who live in California, Illinois, Kentucky, and Michigan. Her only objection to air travel is that when the airlines learn of her age, they greet her with a wheelchair which she promptly refuses, and says "when they have to wheel me around in one of those, I'll stay home." ●

THE FOURTH CONGRESSIONAL DISTRICT OF NEW YORK REGISTERS OPINIONS ON MAJOR ISSUES FACING OUR NATION

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. LENT. Mr. Speaker, as I have done each year since election to the House of Representatives, I am making available to my colleagues the results from my annual questionnaire. This year's poll of my Fourth Congressional District was the ninth time I have solicited the opinions of my constituents.

In the belief that the more than 16,000 responses to the questionnaire will be of major benefit to my colleagues as they consider legislation, and of value to President Carter and his administration officials in exercising their responsibilities in the executive department, I ask that the results of the questionnaire be published in full at the conclusion of my remarks.

Mr. Speaker, let me state that I was greatly heartened by the fact that more than 16,000 responses to the questionnaire reached my office. It is a strong indication of the sense of civic duty to be found among my constituents in the Fourth Congressional District.

It is important to recognize that responses demonstrated a widespread concern over the ever-increasing rate of inflation, and the mounting energy problems, together with an almost unanimous consensus that the Carter administration has been ineffective in controlling inflation or in doing enough to encourage development of alternate sources of energy.

The questionnaire results also reveal a widespread belief that our great country's strength and prestige in the world have declined in the 2½ years of the Carter Presidency.

The Fourth District's concerns, expressed through the questionnaire results touch on the most vital questions facing us in the 96th Congress. I am certain the questionnaire tabulations will be of assistance to my colleagues in dealing with these issues. With that thought in mind, Mr. Speaker, I ask that the tabulation of the results of my ninth annual questionnaire be published in the CONGRESSIONAL RECORD at this point.

The questionnaire results follow:

TABULATION OF NINTH ANNUAL QUESTIONNAIRE

1. Do you favor a constitutional amendment to require a balanced federal budget? Yes, 66.1 percent; no, 31.6 percent; undecided, 2.3 percent.

2. Do you feel Pres. Carter's voluntary wage and price guidelines have been effective in bringing inflation under control? Yes, 2.4 percent; no, 95.5 percent; undecided, 2.1 percent.

3. Some Defense Department officials, pointing to manpower problems in our armed forces and reserve strength have asked the Congress to reinstitute the draft on a standby basis. Do you favor such a move? Yes, 58.3 percent; no, 41.2 percent; undecided, 0.5 percent.

4. Do you favor taxpayer financing of House and Senate election campaigns as is now being done for Presidential campaigns? Yes, 46.1 percent; no, 51.1 percent; undecided, 2.8 percent.

5. Do you favor relaxing clean-air regulations to allow utilities to burn higher sulphur oil and coal to help reduce U.S. dependency on imported oil? Yes, 71.2 percent; no, 27.4 percent; undecided, 1.4 percent.

6. Do you feel the U.S. government is doing enough to encourage development of alternate sources of energy? Yes, 6.7 percent; no, 89.9 percent; undecided, 3.4 percent.

7. Do you favor the new Kemp-Roth Tax Reduction Act which couples a 30 percent across-the-board reduction in federal income tax rates with reductions in federal spending to achieve a balanced budget? Yes, 74.4 percent; no, 20.6 percent; undecided, 5.0 percent.

8. Do you feel United States strength and prestige in the world have declined during President Carter's administration? Yes, 65.3 percent; no, 32.8 percent, undecided, 1.9 percent.

9. Do you favor income tax credits for tuition payments parents make to private schools and colleges? Yes, 60.1 percent; no, 34.3 percent; undecided, 5.6 percent.

10. At present a Social Security recipient may earn $4,500 yearly without losing any benefits. Do you favor raising this limit? Yes, 77.0 percent; no, 19.3 percent; undecided, 3.7 percent.

11. To hold down the cost of National Health Insurance would you favor limiting coverage to only catastrophic long-term illness? Yes, 51.2 percent; no, 41.6 percent; undecided, 7.2 percent.

12. Do you favor reducing Social Security taxes by using general revenues to pay nonretirement benefits (Medicare, disability, etc.)? Yes, 64.5 percent; no, 28.9 percent; undecided, 6.6 percent.

13. American business claims excessive federal regulation adds to the cost of its products and services. Do you favor a reduction in such regulation? Yes, 57.9 percent; no, 36.1 percent; undecided, 6.0 percent.

MOST SERIOUS PROBLEM FACING OUR NATION?

Inflation and/or energy	71%
Taxes	18%
Social security	8%
Other	3%

●

M.A.D. IS MAD, MAD

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. McDONALD. Mr. Speaker, the essential flaw in all strategic thinking taking place in the present administration and those since the days of McNamara is that the Soviet Union will "play the game." We used to be told that all the Soviets wanted was parity so they would feel secure. The Soviets long ago achieved parity and are rushing to a commanding lead. We also were told that nuclear war was unthinkable and, therefore, civil defense was not necessary. The Soviets do not believe that and have a massive civil defense program, basing their tactics on fighting and winning a nuclear war. In the meantime we keep laying bare our defenses to show our good and peaceful intentions. The folly of such thinking was capsuled neatly by retired Rear Adm. G. E. Synhorst in an article that appeared in the Saturday Evening Post of July/August 1979. I place his article in the CONGRESSIONAL RECORD at this point for the thoughtful consideration of my colleagues:

M.A.D. IS MAD, MAD!

(By G. E. Synhorst)

It's curious that the main issue with a Strategic Arms Limitation Treaty has become a matter of verification of what the Soviets may develop in the future. That is: Can we tell if the Russians are cheating? Far more important is just where we do stand versus the Russians in strategic arms right now. Are we equal? Will we stay that way? There is danger and self-delusion in substituting the ability to keep track of what others are doing for the ability to maintain equivalence in the war-making machine itself.

One is reminded of the period when Britain slowly declined from super-power status after W.W. II. As the Russians and the Americans built satellites and missiles which went streaking around the earth, the British did a superb job of building telescopes and tracking stations. Short of having the missiles and satellites, the small country could play the game simply by watching and reporting accurately on the big powers. Eventually the British stopped doing even that. In our case, the best verification equipment and intelligence paraphernalia in the world will not deter the Soviets or make us their equivalent.

There is a unique concept underlying American thought about strategic nuclear warfare. It is called "Mutual Assured Destruction" (MAD for short). Now to be fair, MAD, as a term, is out of vogue with government strategic warfare thinkers. A more current term is "Essential Equivalence," Nevertheless, "Mutual Assured Destruction" is still widely used by professional journals and the press. MAD is still the underlying doctrine in American strategic planning.

In the Mutual Assured Destruction concept, we assume that both the United States and the U.S.S.R. have the ability to destroy the other, at least once and probably many times over. Both nations know this; consequently, each nation somberly goes about its business aware that its own populace is held hostage against nuclear war. According to MAD theory, this mutual balance of terror deters the foolishness of a strategic nuclear weapons exchange. So MAD is good.

According to MAD adherents, a defense against nuclear weapons is destabilizing and dangerous. If one nation could shoot down the other's missiles, or protect itself against their fallout, it might be encouraged to dare use its own missiles. Even increased accuracy is destabilizing. The nation with increased accuracy could destroy the other's missiles in their silos, in pin-point fashion, in a first strike. There would be no retribution, no mutual destruction; nuclear warfare would be possible.

American adherents of MAD have held sway for several years, ever since the McNamara era. America once had a missile system which could defend against incoming Soviet intercontinental ballistic missiles. This system was abandoned. America now has no civil defense to protect its people from nuclear weapon fallout. America has also cut back on fighter interceptors which might intercept Soviet manned bombers. In every way possible America has shown the Russians that her bosom is laid bare to any Russian strategic nuclear onslaught. We in effect are saying to the Russians, "See, I cannot attack you; my cities and my people lie hostage to your huge nuclear warheads."

The MAD theorists know, indeed they estimate, that a Soviet nuclear attack would kill between 120 and 180 million Americans. This does not daunt them; in fact, they believe the more the better. They feel assured that Russia would also suffer such losses. The very magnitude of such a staggering toll of lives will keep either nation from attacking the other with strategic nuclear weapons.

There is a gigantic flaw in all this MAD logic: *The Russians do not believe in it.* Now for the Russians to be deterred from destroying us, they must believe and fear that America can destroy them. Bear in mind, it is not so important whether we can or cannot obliterate Russia. The important criterion is that they will be deterred only by what they *believe to be true.* The Russian high command *believes* they can take America's best all-out nuclear attack and still limit their own casualties to between 5 and 20 million. The Soviet Union has good evidence that they can suffer such casualties and survive. They did survive deaths of that magnitude during W.W. II.

Thinking as they do, the Soviets have prepared to fight and win in an all-out nuclear exchange. They have dispersed their industry over vast areas. They have developed elaborate systems to protect their populace from nuclear fallout. They even have systems to protect farm animals and foodstuffs. They have maintained systems to shoot down incoming nuclear warheads and are developing new defensive systems. Some use neutron and laser beams which can zap at the speed of light. While convinced that they can survive a nuclear onslaught, they are not so sure that they can destroy America—this in spite of our best efforts to disarm ourselves against nuclear attack. Consequently, the Soviets are still developing more and better strategic nuclear weapons. MAD logic and its concomitant strategy is a one-way street. Only America engages in it.

There is yet another fallacy in America's strategic thinking. It has long been clear that Russia and her Warsaw Pact partners could drive across West Germany to the English Channel in a few weeks, if combat were restricted to conventional warfare. America's answer has been to deploy tactical battlefield nuclear weapons. Thus, Soviet superiority in manpower and conventional weapons is balanced by American technology. Somehow we have confused ourselves into thinking that we could use these little nuclear weapons without risk of escalation to a major nuclear exchange. The awesome spector of Mutual Assured Destruction would keep things from escalating.

American negotiators have insisted that these little battlefield tactical nuclear weapons not be addressed by a SALT treaty. The Russians, not having as many small nuclear weapons, have never bought this idea. To them a nuclear weapon is a nuclear weapon. Escalation to the big bombs is not only possible, it is quite likely. Their military is no longer awed by an all-out nuclear exchange.

Beyond a doubt, America and her allies in Western Europe and Japan are immeasurably stronger than Russia—if all capabilities are measured. The Soviets maintain their forces in Europe, in part to ensure the "loyalty" of Poland, East Germany, Czechoslovakia and Hungary. A massive portion of Russia's might is needed to checkmate China. Our industry has many times the capacity of Russia's. Our farms are more productive. We have more cars, more telephones, more refrigerators, more everything. Our people are better fed and better clothed. And, above all, our people have far more political freedom.

We should be cautious, though. Most of these assets do not equate to immediate fighting ability. It is a tragic fact of history that stronger cultures are sometimes overrun by stronger war-making machines.

There is an early historical parallel worth noting. In the late 1400s Western Europe was but a tiny besieged corner of the world. The Arabs were more adept at mathematics and science. There was more impressive architecture in India. The rich culture of China had no European parallel. Somehow, the fighting seamen of Europe broke free of their historic confines. Early on, the Pope drew a line dividing the non-European world between Spain and Portugal. Spain got the Americas and territories to the west. Portugal was awarded Brazil and permission to go around Africa to the east. Within a hundred years, ships from Spain and Portugal were meeting around the world in the Philippines. The Portuguese had gone east, the Spanish west—building ships on the west coast of the Americas and crossing the Pacific. Through the ensuing centuries until today, European customs and traditions have been dominant in the world. When the remarkable expansion began, the Europeans did not have the superior culture. They had religious zeal, the mobility of the sea, and they were tough. An unnamed cannibal somewhere in the islands of the South Pacific summed it up: The Polynesians tasted best; they were fattened with yams and pork. The Chinese were plump and succulent. Even Arab sailors were quite palatable. The Europeans were scrawny with scabs and scales on their limbs. They were salty, tough and nearly inedible. It was an inferior "culture" which had encircled the world.

We cannot complacently sit back and rely on superiority of lifestyle, worldly goods and gross national product. There are some things that America can do and none of them require exorbitant expenditures.

First, we must correct the mistaken impression given our citizens that we can destroy the Soviets many times over. In truth, we probably cannot destroy them once. Americans want and demand adequate defense. They bridle at spending money needlessly.

Second, allied forces in West Germany (which include practically our entire army) should be adequate to the job without use of nuclear weapons; or Americans have no business there. To say Western Europe and America cannot afford to match the Soviets defies reason; the West is far stronger and more populous. It should not be necessary to match the Russians man for man. Russia, after all, must man her Chinese border and she must police her Warsaw Block hegemony.

There is absolutely no reason why America and her Western allies should have a weaker combined navy than that of the Soviet Union. The West is completely reliant upon the ocean; Russia is not. The fact that Russia has many times the submarine and shipbuilding capacity of the United States is a national scandal.

As to the strategic balance of nuclear weapons, nuclear weapons are oddly but a small part of our defense budget and have been for years. We should stop trying so hard to prostrate ourselves before the Russians and, instead, achieve some degree of parity. Since Russia is a larger, more dispersed land and has some defense against nuclear attack, we will always need a few more strategic weapons for adequate coverage and essential equivalence.

Now as for SALT II; it's unreal. It is confusing Americans into believing something is being done when nothing is being done. The safest course for us, for the world, even for the Russians would be to forget the whole thing. MAD is mad, is made, and MAD by any other name is still mad.●

A SALUTE TO THE NATIONAL FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. GUARINI. Mr. Speaker, the National Federation of Business and Professional Women's Clubs, Inc. marks its 60th anniversary this year. Today, I ask my colleagues to join in this salute.

Its first president, Miss Gail Laughlin, called the federation "a special vision." She urged the full power of organized effort to overcome "a centuries-old attitude (against women) which, in business and industry is expressed in lesser pay for equal service and in restricted opportunities."

Little did this group realize at their 2-day conference in New York in 1919 the tremendous impact they would have on the condition of self-supporting women. The group now has a national membership of 165,000 individuals. The 60th anniversary of the Business and Professional Women's Club will be celebrated in Boston from July 22 through July 26. Representatives of the entire Nation will gather to support making "the business and professional world better for women."

I would like to mention the great contributions of some of my constituents. Mary York has been a community leader for many years and has encouraged the development of Liberty State Park. The dynamic Jersey City Club is led by Sister Mary Alexandrine McCabe. Through her efforts and those of Patricia Corcoran, chair of the 50th anniversary of the Jersey City Club (celebrated on April 29, 1979), we have received the address of Mrs. Mildred McLean, past president of the New Jersey federation, which contains the history of BPW in New Jersey and which I am submitting for today's RECORD:

ADDRESS BY MRS. MILDRED MCLEAN, PAST PRESIDENT, NEW JERSEY FEDERATION OF BUSINESS AND PROFESSIONAL WOMEN'S CLUBS, INC.

July marks the Sixtieth Anniversary of the National Federation of Business and Professional Women's Clubs. The New Jersey Federation of Business and Professional Women's Clubs will celebrate its Sixtieth Anniversary during National Business Women's Week in October of this year.

Today, however, calls for a very special celebration. It is the Jersey City Business and Professional Women's Clubs' Golden Aniversary. On April 29, 1929, the Jersey City Club became a member of the first, the largest, and oldest national organization in the United States devoted entirely and actively to the interests and needs of all employed women.

Let me share my research of the rich history of the club. With the onset of World War I, many women had to find employment in business and industry, the realm traditionally reserved for men. In the perspective of history, however, this modern day woman was really only the counterpart of her courageous ancestor, the pioneer woman who, when necessity demanded, worked side by side in the fields with her husband when the country was young. With the advent of the first World War, it was necessary "to man the stations" left vacant by men serving in the armed forces.

Responding to call issued by the Secretary of War, Newton D. Baker, for coordinated woman power during World War I, the Woman's War Work Council met in New York City in 1918. Financed by government funds, the meeting was held to discuss the mobilization of women workers for war service. Invitations were issued to two representative business or professional women from each state east of the Rocky Mountains. The one hundred women present at this two-day conference (May 11–12) found themselves united in their desire to adopt a wider program of action—beyond the wartime need.

Dr. Lena Madesin Phillips, an enthusiastic supporter of the program toured the country to enlist the support of business and professional women across the nation. By the end of the war, November, 1919, many American business and professional women had rallied to the cause. On the basis of this enthusiasm, Dr. Phillips organized a meeting in St. Louis, Missouri, July 14, 1919, to discuss the idea of organizing the business and professional women of the United States into a federated group. Two hundred and twelve delegates were present at the meeting representing 25,000 working women in 284 clubs from 45 states.

When the meeting adjourned, July 18, a non-partisan, non-sectarian, non-profit, self-supporting, and self-governing organization—the National Federation of Business and Professional Women's Clubs, Inc.—had emerged. At the close of the first year (1919–1920), there were 25,514 members in 284 clubs and an executive office was set up in New York City on November 1, 1919.

At the second convention in 1920, the Federation Collect was officially adopted. Mary Stewart, author of the Collect and first corresponding secretary of the Federation had written a "Collect for Club Women" in 1903. It was not written for any particular person or group but as a mediation for working women. In January 1920, the Federation pamphlet, The Bulletin, was expanded into a magazine entitled Independent Woman. It was known as such until 1956 when the name was changed to National Business Woman.

As greater acceptance of Federation goals was obtained in our nation, the Federation began to turn to the rest of the world. As a result, the NFBPWC launched the International Federation in Geneva, Switzerland in August, 1930. The first president of the International Federation was National Federation founder, Dr. Lena Madesin Phillips.

The National Executive Office was moved from New York City to Washington, D.C. on March 26, 1956. The dedication of the permanent home at 2012 Massachusetts Avenue, N.W., Washington, D.C. took place on September 27, 1957.

Program effectiveness and membership service were again enlarged when a world wide research center and library, the Business and Professional Women's Foundation, was established on February 27, 1956. This non-profit educational center acts as a clearing house for information regarding the advancement and achievement of women in business and the professions. Using money obtained from grants or gifts, the Foundation carries on research and studies of comprehensive documented data affecting working women throughout the world. The Foundation encourages and assists through Fellowships, Scholarships, and Research Grants.

Since its inception in 1919, the National Federation of Business and Professional Women's Clubs, Inc. has expanded to include approximately 165,000 working women representing a cross-section of our national business and professional life. The number of clubs in our Federation has risen from yesterday's 284 to over 3,700 today. Our sphere of influence is continually expanding to the end that, tomorrow, the Federation will embrace every business and professional woman in each of the communities, towns, and cities of our nation.

Now let's look at the Jersey City club's fifty successful years—1929–1979. Ten years after the founding of the National Federation in 1919, a young Jersey City attorney, Molly Swid, felt the influence of the National Federation of Business and Professional Women's Clubs. She proceeded to contact many executive and professional women throughout Jersey City, and a meeting was called to organize a club. Present at that meeting was Miss Mary L. Johnston for whom the Mary L. Johnston Scholarship and Loan Fund was established in 1927, and still exists today. The meeting was held in the Hotel Plaza to organize a club to be known as the Jersey City Business and Professional Women's Club. Molly Swid became the Chapter President and the object of the club was to help women achieve and participate equally with men in the economic world.

In May, 1929 at the Convention of the New Jersey Federation of Business and Professional Women's Clubs, the Jersey City Business and Professional Women's Club was presented, and accepted into membership, automatically becoming a member of the National and International Federation.

Benjamin Franklin once said, "An investment in knowledge pays the best interest." During the early years, the membership recognized the need for higher education for girls and initiated a four-year College Scholarship. This scholarship has afforded many young women a college degree that might otherwise have been impossible to achieve.

The Jersey City club has organized and sponsored three BPW Clubs in Bayonne, Secaucus, and Hoboken. These clubs are still active in the affairs of their respective communities.

The Jersey City Club was one of the first clubs in the New Jersey Federation to sponsor a Nike Club, organized through the tireless efforts of Sister Mary Alexandrine McCabe. The Nike Club guides young high school students to become business and professional women. The club is also an active part of the community life of Jersey City and has been cited many times for its accomplishments.

Of the 63 BPW Clubs in the New Jersey Federation, the Jersey City club is considered one of the outstanding clubs of the Federation. Each year it has been the recipient of awards at the Annual State Convention, such as the Nike Trophy which is presented for excellence in Community Affairs. Other awards have been given for outstanding programs in Personal Development, Legislation, Public Relations, World Affairs, and National Business Women's Week.

In 1965, BPW responded to President Johnson's "Talent Search for Womanpower", and 39 states established women's commissions. The North Jersey local commissions were guided by a member of the staff of the Jersey City Welfare Department and a dedicated member of the Jersey City club—Miss Patricia Corcoran.

During 1966–67, the Jersey City club established the Patricia Corcoran International Foundling Fund and Quen Yee, a Chinese girl in Peking became the fortunate recipient of aid from the club, whose members from time to time financially supplemented the generosity of the club, Christmas and birthdays found members frantically shopping for Quen Yee to make her years of childhood the happiest times of her life.

For the last sixteen years, Mary York, a Past President of the Jersey City club, has worked diligently for the creation of Liberty State Park.

Many meetings of the club were devoted to the Liberty State Park Project. Mary York was appointed a member of the Liberty State Park Commission.

Finally, Mary York's dedication was rewarded. The park was opened on June 14, 1976 by Governor Brendan Byrne in a moving ceremony at which the Jersey City Club members were honored guests. I am a witness to the fact that there wasn't a dry eye when the 13 flags presented by the Jersey City Club, representing the first 13 colonies, were raised.

The Past Presidents of the Jersey City Club, its current officers and members through their meritorious service have preserved the accomplishments of the Jersey City Club, making this memorable celebration possible today. This, however, I foresee as just the beginning because I am personally convinced that the members have adopted a motto—Forward Ever, Backwards Never! ●

INDOCHINESE REFUGEES

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Ms. HOLTZMAN. Mr. Speaker, in an important article that appeared in the New York Times on June 23, 1979, Archbishop Terence Cardinal Cooke made an eloquent plea for the admission of more Indochinese refugees to the United States. His words deserve the widest possible audience. The text follows:

LET IN MORE ASIAN REFUGEES

(By Terence Cardinal Cooke)

People who need the help of the United States do not always suit our national or personal convenience. We would like distressed people to fit into established programs of aid. They rarely do. We would also like to *settle* some problems. We rarely do.

The frightful crisis on the Cambodian-Thailand border is a terrible example of what can can do to man. More than 300,000 refugees (a figure that could easily rise) are in Thailand. Of those, more than 100,000 are penned in a tight area just inside the Thai border. Many of them have fled the powerful Vietnamese military forces inside Cambodia. Most of them are women and children. They are desperate for food, clothing and shelter. As I write this, the Thais, who have been generous and helpful to refugees in the past, are now driving Cambodians back to their own country where an "uncertain future awaits them." The sound of gunfire across the border strongly supports the concern that a tragic massacre is taking place.

A series of most unhappy turns seems to be isolating refugees in Southeast Asia from help.

The Thai Government, driven by fear of both the Cambodians and Vietnamese, is alarmed by so many volatile refugees occupying Thailand's border areas; at the same time the Vietnamese have announced an ethnic war on people of Chinese origin, sharply evoking Germany in 1933; and France, usually so hospitable to Eastern refugees, will soon reduce the number of refugees it will receive. As the Vietnamese Government is about to expel 1.3 million ethnic Chinese from its shores, we also have word that Malaysia and Indonesia are sealing their coastlines against boat people. The prospect of wholesale death is on the horizon. Death by drowning, starvation or bullets is imminent for as many as two million people.

The very finest tradition of American concern for human beings is being challenged. Understandably, the President and the Congress are weary and see no end to requests for help. But this Southeast Asian misery is neither hopeless nor endless, if we act now.

If our Government moves swiftly to reassure and help the Thais with their refugee problem, with food and medicine, and above all by enlarging the number of refugees we will take, the fearful slaughter of Cambodians may be stopped. World pressure should also be exerted on the Vietnamese to stop the expulsion of a whole ethnic group from its longtime home in Vietnam. New Yorkers can do something. They can speak to the White House and the Congress. They can urge the international community to support these poor people. They can write to the President and they can strongly encourage all others to take positive action to save the lives of hundreds of thousands of our brothers and sisters in God's one human family.

American aid to the Cambodians will create a special American witness. Unlike people who were once our allies and who share our cultural or religious heritage, the Cambodian refugees, pitiable in their human distress, have no political or cultural or social claims on Americans. They were, some of them, part of an army that in 1975 led a mass death march in Cambodia which may rank as one of the great horrors in history. Many are Communists and bitter verbal despisers of the United States. They are promising us no special gratitude or future friendship. What a splendid opportunity for America to reaffirm its authentic concern for suffering men, women and children and to stand firm for the human rights of all people.

What's in it for us? Nothing and everything.●

INTERSTATE I-185 TO OPEN

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. BRINKLEY. Mr. Speaker, it is with immense pride that I reflect on the within article by Beryl Sellers, a fine reporter for the Columbus Ledger-Enquirer newspapers. For so many years, we were the largest city in the Nation not served by an interstate highway, and I am happy to announce that I-185, between two of the largest cities in my district, LaGrange and Columbus, is about to be opened.

This happens within the same time frame as the opening of the Columbus Iron Works Trade and Convention Center. Columbus' cultural heritage will be enriched by the renovation of the old Columbus Iron Works. This blending of historical tradition and modern technology adds to the vibrant rebirth of downtown Columbus.

Additionally, a $1.9 million UDAG grant has been approved for the Columbus consortium for the construction of a hotel to complement the Columbus Trade Center and enable it to reach its maximum potential. The hotel will have 261 rooms and a parking facility, funded by local government, which will trigger important private capital. This signals the go-ahead for the project which will complete the downtown complex for service as a regional center.

The article follows:

INTERSTATE TO OPEN SEPT. 20

(By Beryl Sellers)

ATLANTA.—I-185, Columbus' interstate highway link to the outside world, will be opened in its entirety in a Columbus ceremony Sept. 20, Georgia Transportation Commissioner Tom Moreland announced Thursday.

The opening will be in conjunction with the meeting of the 10-member Georgia Transportation Board in Columbus.

Moreland said the four-lane will open to all traffic after the ceremony.

The road's opening had been targeted for July 4, but the weather interfered with construction. Still, the opening will come three months ahead of the original December completion date.

Moreland said a major delay in completing the road was "problems with a bridge in the middle section. This has given us some concern, but now we think we'll make it," he said.

I-185 runs from a junction with Lindsay Creek Bypass at Macon Road in Columbus to an interchange with I-85 just east of LaGrange. The first section of I-185—from the I-85 interchange to U.S. Highway 27—opened last summer.

The opening will come four years after the first construction contract was awarded for the highway.

Moreland said Columbus leaders, including Third District Transportation Board member Frank Morast Jr. and Columbus Mayor Harry Jackson, will supervise the Sept. 20 ceremony.

Among those expected are Gov. George Busbee, Lt. Gov. Zell Miller, other state officials, legislators of western Georgia, Congressman Jack Brinkley and officials of the Federal Highway Administration.

The city's new Columbus Iron Works Convention and Trade Center will open just days before the road ceremony.

Moreland said the Columbus meeting of the DOT board will be open to all citizens. "I urge Columbus and area citizens to be present and ask questions about their roads and modes of transportation and proposed road and bridge programs," the commissioner said.

Plans for I-185 were added to the nation's interstate system in 1968 after Columbus leaders objected to it being left out of the 1956 interstate plans.

In 1975, Congressman Brinkley joined First District Congressman Bo Ginn in amending an appropriations bill to make it possible for state legislatures to approve issuance of general obligation bonds to help build interstates.

Brinkley's chief aim was to speed up construction of I-185 and I-85, the interstate that goes from Montgomery to Atlanta and to the northeast.

Congress approved the amendment, and in 1976 Gov. Busbee asked the Georgia General Assembly for authority to issue bonds to complete Georgia's interstates. The legislature approved, and the action meant I-185 would be completed in 1979 instead of 1983, as projected.

The I-185 route earlier had run into environmental objections. The road had been routed over Pine Mountain. However, the route was moved west of the mountain and environmental objections ceased.●

A. PHILIP RANDOLPH

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. CLAY. Mr. Speaker, recently, our Nation lost one of her greatest pioneers in the struggle against social and economic injustice. A. Philip Randolph was a noble American who dedicated his life to improving the lives of others through his work for organized labor and civil rights. I would like to take this opportunity to recognize the contributions of this outstanding American leader and share the following tribute which appeared in the St. Louis Post-Dispatch, June 26, 1979.

TRIBUTE TO A. PHILIP RANDOLPH

HE SERVED AS LABOR'S CONSCIENCE ON RACE

(By Ernest Calloway)

In the 90th year of his fruitful life an American original has passed away, and the nation is the lesser for it. On May 16, 1979, A. Philip Randolph died quietly and peacefully in his New York apartment.

In the past struggles against the social and economic residue of class and race in American society Philip Randolph occupied a unique position in both the American labor movement and the civil rights movement.

Randolph, in addition to successfully leading one of the highly significant union struggles against a major U.S. corporation—the Pullman Co.—had the primary continuing role of serving as the unpopular, but insistent, conscience of U.S. organized labor in a most contentious area—race. Racial exclusion, the soft underbelly of a labor movement hypocritically geared to the concept of working-class brotherhood, was deeply ingrained in U.S. unionism during the early years.

From a philosophical point of view it was not an accident that A. Philip Randolph emerged as a dominant figure in both movements. His early years and intellectual interests slowly prepared him for the tasks of serving as the great connecting link between the labor movement and the civil rights movement.

Randolph was born April 15, 1889, in Crescent City, Fla. In 1911 at the age of 22 he moved northward to New York City where he took courses at City College. He held a variety of jobs.

In 1915 Randolph married, and in 1917 when America entered World War I, he and Chandler Owen launched the Messenger magazine. With this, Randolph at the age of 28 entered the first phase of his 62-year career as a social critic and activist. The Messenger was a socialist-oriented magazine that militantly agitated against Jim Crowism, the war and racial inequality.

In addition to publishing the Messenger, Randolph, now an active socialist, devoted a great deal of time and energy to labor organizing. Here he constantly observed that "the Negro should organize himself, because with organization he will be better able to break down the barriers and prejudices of white workers against him than he will without."

In 1925, the second and most dramatic phase in the working life of Randolph begins.

It all began on an August evening in 1925 in Harlem. Here a group of dissatisfied Pullman porters met to discuss their grievances. This led to the organization of the union, which Randolph was asked to head.

For 12 years this small union of Pullman porters did battle with The Pullman Co. It was the largest single employer of black labor in America at the time.

In 1928 the Brotherhood of Sleeping Car Porters affiliated with the American Federation of Labor, and in August of 1937 the battle with the Pullman Co. was won. After 12 years of struggle, the union finally gained recognition from the company and the right to bargain collectively for the Pullman porters. Randolph emerged from this struggle as the dominant economic voice in black America and a consistent voice against racial intolerance and discrimination in labor.

Randolph organized a national movement in 1942 to march on Washington as a protest against the widespread discrimination against blacks seeking employment in war plants. President Roosevelt dispatched Mrs. Roosevelt, who was highly respected in the black community, and Fiorello LaGuardia to present his concerns to Philip Randolph. As a result of the negotiations, President Roosevelt agreed to issue Executive Order 8802 which introduced a new phrase and concept in U.S. race relations—fair employment.

In 1947 it was President Harry S Truman and the issue was the matter of hardcore racial discrimination in the armed forces. Again Randolph went into action and the result was favorable. President Truman issued his historic Executive Order banning racial discrimination in the armed forces.

In 1961, Randolph called a national conference of black trade union leaders in Detroit. This conference launched the Negro American Labor Council as a new center of black trade union leadership. The primary program was to enhance the role of blacks in local and national union operations. The Negro American Labor Council, under Randolph's leadership, had made plans to conduct a March on Washington to protest the increasing levels of black unemployment.

However, after a series of meetings with other black leaders, the plans were changed. It was decided to make it a united effort with the NAACP, CORE, Urban League, Southern Christian Leadership Conference, SNCC, the United Auto Workers, and Jewish groups and to plan it for the latter part of August 1963. With Bayard Rustin a coordinator, the event became one of the greatest mass demonstrations in the nation's history. It paved the way for the Civil Rights Act of 1965.●

LAETRILE AND THE COURTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. McDONALD. Mr. Speaker, the recent Supreme Court decision on the matter of laetrile is illustrative of how far we have come with the "big brother" concept of Government. It also was illustrative of how routinely our Supreme Court will affirm the right of our Government to make personal decisions in our lives. This is truly tragic for our times. James J. Kilpatrick recently commented upon this phenomenon in a column that appeared in the Washington Star on June 28, 1979. I commend it to the attention of my colleagues:

LAETRILE AND THE COURTS

(By James J. Kilpatrick)

Considered in a vacuum, which is where the Supreme Court often seems to operate, the court's recent opinion in the Laetrile case is sound, temperate and unexceptional. Considered by the bedside of a cancer patient, the opinion is something else entirely.

On the surface, the case involved little more than a routine matter of statutory construction. Under the Food and Drug Act, the government had banned the use of a drug product known as Laetrile. Did the government have the power to issue this order? A district court in Oklahoma City had said no. The 10th U.S. Circuit Court of Appeals had agreed.

The lower courts turned a tolerant eye on Laetrile. The drug is derived from amygdalin, a substance that occurs widely in nature. Taken properly, it is no more toxic than aspirin. Though there is no scientifically acceptable proof that the drug is effective against cancer, thousands of persons have managed to give it a try. The testimonial evidence is impressive. The lower courts found that for terminally ill patients, it makes no sense to insist that drugs be "safe" and "effective." Let them have Laetrile if they want it.

The Supreme Court reversed. In a unanimous opinion by Justice Marshall, the court held that the commissioner of the Food and Drug Administration had not abused his authority. The statute is clear and unambiguous. The law contains no exception for terminally ill patients; the legislative history demonstrates that Congress intended no such exception.

"Under our constitutional framework," said Marshall, "federal courts do not sit as councils of revision, empowered to rewrite legislation in accord with their own conceptions of prudent public policy." No one can quarrel with that pious assertion.

Marshall went on to emphasize that the court intended its decision to apply not only to Laetrile but also to every other drug that fails to satisfy the act's requirements.

"To accept the proposition that the safety and efficacy standards of the act have no relevance for terminal patients is to deny the commissioner's authority over all drugs, however toxic or ineffectual, for such individuals. If history is any guide, this new market would not be long overlooked. Since the turn of the century, resourceful entrepreneurs have advertised a wide variety of purportedly simple and painless cures for cancer, including liniments of turpentine, mustard, oil, eggs and ammonia; peat moss; arrangements of colored floodlamps; pastes made from glycerin and Limburger cheese; mineral tablets; and 'Fountain of Youth' mixtures of spices, oil and suet."

Very well. Under old principles of law, the court was doubtless right. Under old principles of a free society, the court was absolutely wrong.

At some point, a line must be drawn against the overweening solicitude of the government. At some point, the principle must be upheld that free people have a right to be wrong.

In its opinion the court spoke repeatedly and approvingly of "legitimate therapy" and "conventional treatment" and the "general recognition of experts." But it has been but a tick of the clock since medical experts regarded leeches as the legitimate and conventional therapy for high blood pressure. Only yesterday, as time is measured, the wisest surgeons drilled holes in a lunatic's head to let the demons out. It is a characteristic of the totalitarian state to decree that a particular kind of medical treatment is "approved" and that other kinds are banned under penalty of law.

No one can quarrel with the basic objectives of the Food and Drug Act. Yes, the people should be protected—up to a point—against quackery and fraud. But it is a cruel kindness on the part of government to go beyond that point.

The First and Ninth Amendments, in my own view, establish the right of a freeborn citizen to make his own personal decisions about his own medical treatment. By conventional standards those decisions may be wrong. But it is far better for the health of a free society to let its people make wrong decisions than to protect them insistently from their own folly.●

OPEC NOT THE MAIN REASON WE ARE ENTERING A RECESSION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. HAWKINS. Mr. Speaker, our Nation is in the beginning stages of the sixth recession in the past quarter century, and so far, we seem to be no better prepared to deal with this recession than we were in the case of the previous five. The energy crisis, while part of the problem, is not the main reason we are entering another recession. The critical nature of the energy problem is but one glaring example of the indecision, cross-purposes, and absence of effective policy which is indicative of our overall economic problem, which goes far beyond the energy crisis and was not created by it. Even if we immediately take action to deal with energy, it will take a long time to make effective inroads on the energy problems that face us. But, we must immediately make drastic changes in current national economic policies in order to remedy the problems of our overall economy.

That we are not yet on the road toward taking this needed action is well illustrated. The administration is still saying the recession is not yet clear and strong enough to evoke counteraction at this time. So far, they seem to want to wait and see if the situation becomes worse, based on the discredited theory that it is easier to cure a deep and long recession than a small and shallow one. Evidently, they do not see an annual rate of real economic growth of only 0.4 percent, in first quarter 1979 (according to official statistics) and an annual rate of real economic growth in the second quarter of minus 2.5 percent (according to so-called unofficial estimates of the Government), as being a call to action.

I would like to remind my colleagues that even before the OPEC price increases, the administration had been following policies which even they admitted would lead to a deliberate increase in unemployment at least through 1980, and would result in a deliberate slow down of the rate of real economic growth. In my opinion, these policies are oblivious to the real needs of the economy and the people. In addition, they are in violation of the Humphrey-Hawkins Act, approved overwhelming by this Congress and signed by the President, less than 9 months ago. Economic policy was wrong before the OPEC price hike and is still going in the wrong direction.

The administration's policy is misguided, because its decision to take a "wait and see" attitude about what happens later this year is repudiated by its own assessment of the situation. The administration has estimated that the oil price increase would cost the loss of up to 800,000 jobs in the United States by the end of 1980 and would cut our real economic growth rate by about 2.5 percent, and add perhaps 2.5 percent to the inflation rate. These administration forecasts are excessively optimistic, according to the Congressional Budget Office and other forecasters. Most of the recessions since 1953 have left unemployment at higher levels than the peaks of previous recessions. Most of the "recoveries" at their peaks have left us with more unemployment and other unused resources than at the troughs of previous recessions. There is no reason to believe that this may not happen again. This is a chronic problem, not a short-term one, and the imbalances in our economy are worse now than at the start of the earlier recessions. We will be tardy, even if we start to reverse course right now.

The objective of national economic policy, as set forth very clearly in the Humphrey-Hawkins Act, is not merely to avert repeated recessions, but rather to move us forward toward the full use of our human and other production resources. This is always the No. 1 economic objective. The Humphrey-Hawkins Act is not an antirecession mandate; it is a pro-prosperity mandate. We have learned that a very low rate of real economic growth and excessively high unemployment, averaged over long periods, can inflict immense damage upon us, both domestically and internationally, even without absolute recessions. We just can not afford to continue such a process.

Conservatively estimated, the enormous social and economic costs of our roller-coaster economic performance over the last 25 years has caused us to forfeit about $6 trillion worth of GNP; has caused us to suffer more than 76 million man-, woman-, and teenage-years of unemployment, above the level consistent with reasonably full employment; brought on the huge chronic increases in the size of the Federal deficit, along with the so-called inability to afford to serve the priorities of our national needs which depend upon direct Federal action or assistance to State, local, and private initiatives, distributed income upward among the gainfully employed thereby, along with massive unemployment, imposing the heaviest burdens on low- and lower-middle income people; and has been responsible for the chronic rise in inflation. The use of policies which support the so-called "tradeoff" of more unemployment to reduce inflation is erroneous, both economically and socially, and is a travesty against commonsense and the law, as specified in the Humphrey-Hawkins Act and its legislative history.

For these reasons, Mr. Speaker, the OPEC oil price increase cannot be allowed to serve as a diversion nor as an alibi for remedial economic and social measures across the board.

Although, in the judgment of most economists, the five recessions from 1953 to 1974 have had their most fundamental causes in misguided national economic policies, with only the recession in 1974 being in some degree associated with OPEC actions, the energy situation does serve as an example that indecision, constant changes of policy, and lack of planning of economic policies has led us down a dead-end street. If we had taken appropriate action in 1974, when severe oil price increases contributed to the very severe recession in process that year, we could have been out of the woods on energy by 1976 or 1977. If we had taken effective action in early 1977, we might not be in the trouble we are in today.

We should have embarked on a dynamic development program, similar to the array of synthetic fuels legislation before us now, in addition to some necessary conservation, rather than waiting until now to react to a crisis. These kinds of programs, among other things, require huge investments by the Federal Government, working in cooperation with private industry, who would be relied upon for the major portions of the actual effort to enlarge energy supply. So far, such action is continuing to be impeded by those who adhere to the false proposition that spending additional money for vital domestic purposes is wrong, and that balancing the Federal budget should be given precedence over the real strength of the economy and the needs of the people.

A recession is no way to balance the Federal budget. A recession will add billions of dollars to the Federal deficit. Stagnation and then recession are now weakening the position of the dollar in foreign markets, adding to the inroads on our domestic markets by competition from overseas, and adding to inflationary pressures.

Other specific programs we should encourage, in addition to a massive energy development program, include more mass transportation support. In the last few months, one response of people to the gas crunch has been to turn to public transportation as an alternative to driving to get from place to place. As a result, many mass transportation systems have been hard-pressed to respond to the overwhelming increase in ridership and the need for more assistance in this area is evident. The administration, in contrast, has taken recent action to cut down on the availability of mass transportation.

Also, we should begin to shift from those activities which involve very high uses of energy to those which involve lower uses of energy. For instance, home construction involves far less use of energy per favorable impact upon GNP and upon employment than some of the forms of industrial production where increases in output are not now needed. Yet, unfortunately, we still find administration policy, as well as Federal Reserve Board interest rate policy, embarking upon a course which will result in a decline in housing starts, just as what happened before the middle of the 1970's contributed clearly to the severest economic downturn since the Depression.

In short, the road we need to travel toward energy relief and economic restoration is open and clear, yet we are not pursuing it. It is for this reason, that I urge my colleagues to reconsider our current course and join me in supporting efforts which will result in, not only energy independence, but overall economic restoration and balanced economic growth.●

REAGAN AND KENNEDY LEAD 15TH DISTRICT POLL

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. WYLIE. Mr. Speaker, 16,155 responses to a recent questionnaire which I mailed to residents of the 15th Ohio Congressional District have been tabulated. The results of the Presidential preference poll show that, at this time, Ronald Reagan is the leading contender among Republicans and TED KENNEDY is the leading candidate among Democrats. Of the 16,155 persons responding to the questionnaire, 2,160 did not express a preference for President. Many thought it was too early to commit.

The Presidential poll results are as follows:

REPUBLICANS

Ronald Reagan	3128
Gerald Ford	1942
John Connally	1673
Howard Baker	1423
George Bush	458
Phil Crane	377
Jack Kemp	361
Bob Dole	266
Bill Simon	192
Lowell Weicker	107
Jim Thompson	71
John Anderson	24
William Milliken	23
Bob Ray	11
Ben Fernandez	5
Other	109

DEMOCRATS

Ted Kennedy	944
Jimmy Carter	792
Jerry Brown	558
John Glenn	389
Henry Jackson	229
William Proxmire	184
Frank Church	152
Walter Mondale	144
Morris Udall	137
Ed Muskie	111
George McGovern	79
Lloyd Bentsen	17
Other	78

Responses to other questions came back as follows:

	His			Hers		
	Yes	No	Undecided	Yes	No	Undecided
2. Would you support a constitutional amendment requiring a balanced Federal budget except in time of war or economic necessity?	77.1	14.6	8.3	73.5	13.2	13.3
(a) If your answer is yes, would you favor a National Constitutional Convention?	21.7			18.5		
(b) Would you prefer an amendment passed by Congress and ratified by ¾ of the States?	33.9			32.4		
(c) Would you prefer an act of Congress requiring a balanced Federal budget except by a ⅔ or ¾ vote of both Houses?	33.2			29.4		
No preference between (a), (b), and (c)	11.2			19.7		
3. Do you approve of President Carter's decision to grant full diplomatic recognition of Communist China?	49.9	40.7	9.4	39.1	47.2	13.7
4. If you answered no to the previous question, would you favor full diplomatic recognition of Communist China if we "continued" full diplomatic relations with the Peoples Republic of China (Taiwan)?	38.5	8.3	53.2	39.7	11.1	49.2
5. Do you favor voluntary wage and price guidelines?	42.2	47.6	10.2	42.9	42.7	14.4
6. If your answer to the previous question is no, would you favor mandatory wage and price guidelines?	32.2	26.0	41.8	30.8	21.6	47.6
7. Do you favor an exception to the minimum wage law for 16 to 18 yr olds?	60.7	28.9	10.6	55.3	31.1	13.6
8. The Egypt-Israeli Peace Agreement calls for $5,000,000,000 in U.S. aid and an agreement to provide Israel with oil. If you were a Congressman, how would you vote?	23.1	66.1	10.8	17.4	69.8	12.8
9. Do you favor a comprehensive national health insurance program covering all Americans paid for by tax revenues?	23.4	67.9	8.7	24.2	64.7	10.1
10. Do you favor a national catastrophic illness health insurance program paid for by tax revenues?	45.4	40.3	14.3	44.8	39.6	15.6
11. Should the U.S. reinstate a military draft system?	60.6	26.7	12.7	52.8	31.1	16.1
12. Do you favor the 55 mi/h speed limit?	71.9	24.6	3.5	79.9	16.3	3.8
13. Do you feel there is an oil shortage?	39.3	46.9	13.8	34.7	47.5	17.8
14. Under the present law, a dependent child may draw social security benefits from a deceased parent as a college student until the 22d birthday while in college. Do you favor the retention of this provision in the law?	58.6	34.0	7.4	59.7	32.2	8.1
15. Should the Federal Government continue to license the construction of nuclear energy plants like the 3 Mile Island Plant in Pennsylvania and the Toledo Edison Plant at Port Clinton, Ohio?	66.9	20.9	12.2	52.7	28.4	18.9
16. Should a law be passed limiting the financial investments of foreign capital in U.S. banks, corporations and land holdings?	73.2	16.7	10.1	79.2	10.8	10.0

●

FREE ANATOLY SHCHARANSKY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. KEMP. Mr. Speaker, I want to share with my colleagues the letter which I sent to Secretary Brezhnev yesterday marking the 1-year anniversary of Anatoly Shcharansky's trial. Many of us have expressed our determination to fight for Anatoly's freedom, and toward that end I invite my colleagues to join me in petitioning Mr. Brezhnev on a regular basis lest Soviet authorities doubt our convictions.

There are many unanswered questions about the circumstances of Anatoly's arrest and trial, and we must not let up in our demand that this information be disclosed. Such probing and petitioning is the fuel which keeps hope burning within Avital and Anatoly Shcharansky that they will soon be reunited and that the basic human right of Soviet Jews to emigrate will someday be practiced freely.

I would also like to suggest that my colleagues keep in touch with Avital and Anatoly since our words of encouragement and support are so important to their courageous efforts against systemized oppression. Avital's address is Rehov Ben Zakkai 70/30, Jerusalem, Israel, and Anatoly's is Chistopol Prison, UCHR 5110/1, RSFSR, U.S.S.R. They would be grateful, as I am, for your efforts.

The letter to Secretary Brezhnev follows:

JULY 10, 1979.

DEAR SECRETARY BREZHNEV: Although I know you are well aware of the international interest in the case of Anatoly Shcharansky, I wanted to take this opportunity, the anniversary of his trial, to reiterate my concern over the circumstances of his arrest and detention.

I have just recently had the pleasure once again of meeting with Anatoly's lovely wife, who has braved their separation with great courage. She knows that her husband is innocent of the charges proffered against him, and will continue to work for his release and their reunion.

Mr. Secretary, Anatoly Shcharansky is not a criminal. He is a Jew wishing to make his home in his historical homeland with his wife, from whom he has been forceably separated since the day after their marriage. The world recognizes this matter as one involving the basic human rights of two individuals, and urges you to act in accordance with your country's agreement to permit the exercise of such rights.

I appreciate your consideration of this situation once again, and urge you to pave the way for the reunion of Avital and Anatoly Shcharansky in Israel.

Sincerely,

JACK KEMP,
Member of Congress.●

THE WINDFALL PROFITS TAX

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. FISHER. Mr. Speaker, I would like to take this opportunity to share with my colleagues some of my reflections on the windfall profits tax which was recently passed by the House. I believe that this legislation struck what may prove to be a reasonable balance between recapturing unjustified oil industry earnings and providing the incentives necessary for increased oil production. However, I believe it is important that in describing this bill, we not oversell it. Furthermore, it is essential that in the upcoming deliberations we remember that this is not merely a revenue measure, but also an opportunity to encourage and finance the development of our energy for the future.

In listening to the debate on the bill I was struck by the facility and certainty with which Members quoted production figures relating to the various proposals being offered. It was claimed that the committee bill would produce 350,000 barrels per day of extra oil by 1984. We were assured that we could count on 800,000 extra barrels per day by passing the Moore-Jones substitute. We were warned that we would be foregoing 1,500,000 million barrels of increased production per day by imposing any tax at all. The fact is that we do not know for certain how much extra oil will be produced. It is certainly reasonable to assume that if the oil companies have more money to invest, and if oil production is a worthwhile investment, then more money to the oil companies will mean more production eventually. But how much more oil? Are we assuming total reinvestment and success in discovering oil? I believe that we must not deceive ourselves and instead must be aware that we are not in the arena of mathematical certainty, but rather in the middle ground between geology and astrology.

Why do I suggest that we pause prior to prognostication? It is not, because I believe that decontrol and the windfall profits tax are futile exercises. These actions will produce more oil, and increased production is essential if we are to meet our midterm energy needs. But by becoming too specific in matters which are inherently uncertain, we risk widening the credibility gap on energy. Coping with our energy situation requires public cooperation and confidence, and such a spirit will not be fostered by unrealized projections made largely in the blind. Rather, it will be encouraged by realistic appraisals of what is possible and by a mature acknowledgement that certainty is unattainable.

In addition, we should avoid becoming too enamored of specific projections of increased oil production resulting simply from the levying of the tax. This tax will also produce billions of dollars of increased revenue which can then be spent on developing alternate energy sources and on encouraging conservation of energy for the next decade. In that way the public could see that not only is decontrol producing more revenues for the oil companies, but that it is also helping to "complete the cycle" and provide new sources of energy for the future along with more oil.

Furthermore, it is important that this money not be combined with the general revenues where it could be "lost" in the normal budgetary process. Simply stated, if the public is going to have to sacrifice, then it would be prudent to have the benefits of that sacrifice directly identifiable. That is why I will work as a member of the Ways and Means Committee to see to it that the energy trust fund created by this bill will be directed almost exclusively for research and development into new energy sources. I strongly urge my colleagues in the House to take similar actions when the detailed energy trust fund legislation is considered in the coming weeks.

A satisfactory energy future for this Nation is only possible if we dare to meet the challenge which the current situation presents to us. The windfall profits tax combined with investment of the proceeds in energy production and conservation, and combined with oil price decontrol are some of the initial steps in meeting that challenge.●

PLEA CUTS REDTAPE

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. ABDNOR. Mr. Speaker, on April 11 of this year, when a young businessman in Mitchell, S. Dak., received an eight-page Federal subcontractor Equal Employment Opportunity (EEO) form, he threw up his hands in disgust and mailed a letter to my office. This letter expressed to me the frustration and anger with Government redtape, similar to this form from the Office of Federal Contract Compliance, that I believe is being felt all across America. As such, I am inserting the text of that letter in the RECORD.

DEAR JIM: I have enclosed a copy of a letter I received from a company to which we sell a substantial amount of grain. It is this kind of nonsense paperwork that also feeds inflation and greatly irritates us poor businessmen. If this type of government nonsense continues, every small company is going to hire a specialist in government paperwork.

Currently I do not intend to fill out the form and I have not even completely read through it as I got so disgusted after reading the first couple pages.

You may just want to file this with your other people who are disgusted with government regulations and paperwork. Please do not put me in the file for nuts, kooks, and weirdos.

Thank you.

Sincerely,

MICHAEL VEHLE,
Shanard, Inc.

The story might have ended here except that I, too, am unwilling to accept this type of bureaucratic harassment of our small businessmen.

Mr. Vehle's complaint was forwarded to the Regulatory Council, where Associate Director Susan Wagner promised to follow up on the matter.

In June my office was notified that our complaint had been acted upon, and the text of that notification appears at the end of this statement. As stated in the letter, because of my office's request, the nightmarish EEO form has been reduced from eight pages to one page.

The lesson we should learn from this episode is that we must not give in to apathy and complacency in our fight against Government bureaucracy and paperwork. By continually playing the watchdog on Government redtape, we can achieve results similar to those involving this case.

I would also urge my colleagues to lend their support to the various regulatory reform bills which are now pending before this body. Particular emphasis should be placed on adopting legislation which would give Congress the authority to veto newly proposed agency regulations if determined too unnecessarily burdensome or costly. America is fast becoming a nation governed not by the acts of an elected Congress, but by the obligatory regulations of the Federal bureaucracy.

DEAR CONGRESSMAN ABDNOR: Thank you for your letter concerning the certification for sub-contractors required by the Office of Federal Contract Compliance in the Department of Labor. The certifications required in that form are all required by statute. However, the manner in which they are required (specifically or by reference) is optional.

It is true that the Commission on Federal Paperwork developed a one page form for use by contractors to make the various certifications. The commission recommended OFCCP issue a standard form to relieve businesses of the long paragraphs of language presently used.

The Department of Labor had not adopted the form at the time that the Commission expired. However, as a result of your letter and our contact with them, they agreed to review the form again and to issue the same for use by contractors. The Department of Labor will announce shortly, its adoption of the form.

Your constituent may want to forward the language back to United Grain Corporation as it does meet the statutory requirements for certification.

I would like to call your attention to pages 25, 26 and 27 of the enclosed EEO report as well. This shows the progressive passage of civil rights statutes—almost all of which require a certification of some sort by the employer. A good deal has been done in the past two years to simplify and consolidate the maze of EEO agencies. However, the task remains difficult.

If I can be of any further assistance to you please let me know.

Sincerely,

SUSAN WAGNER,
Associate Director.●

THE DECLINE OF THE EAST

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. PURSELL. Mr. Speaker, with the SALT II negotiations completed and the question of ratification before the Senate, much is being written about the relative military and strategic strengths of the Soviet Union and the Western World. The importance of this examination and debate, of course, should not be minimized; however, at the same time, I believe that it would be a mistake not to continue accessing the social and economic differences, as well as the other notable contrasts between Communist and Democratic countries.

This is the subject of a recent article by James Reston in which he writes about a remarkable book by a distinguished French professor and journalist, Raymond Aron, entitled "In Defense of Decadent Europe." I would like to share Mr. Reston's article with my colleagues:

[From the New York Times, June 24, 1979]

THE DECLINE OF THE EAST

(By James Reston)

PARIS, June 23.—Raymond Aron, one of France's most distinguished journalists and teachers, has just published in English a remarkable book with the odd title "In Defense of Decadent Europe." Henry Kissinger calls it "one of the most important intellectual statements of our time."

Mr. Aron, professor of the sociology of modern civilization at the College de France in Paris, had trouble with that title. It might have been called simply "The Decline of the East," for its recalls Oswald Spengler's gloomy analysis of "The Decline of the West"; but while Mr. Aron is not an excessively modest man, he apparently didn't want to claim such a comparison.

His theme is that the Western nations, because of their troubles, their divisions, and the fascination of many of their intellectuals with the "lyrical illusion" of Marxist mystification, are unaware of their own superiority as compared to the record of the Soviet Union.

"In terms of productivity, technical innovation, living standards, scientific progress and human freedom," Mr. Aron writes, "it is the West—the United States and Europe together—which took the lead during the course of the last 30 years."

He adds: "The Communist Party [of the U.S.S.R.] has paid an exorbitant price for building its large-scale industry, but the U.S.S.R. continues to depend on the United States for food, on the West for its technological innovations, and on its ubiquitous police for keeping order and orthodoxy.

"If the virtues of an economic regime are measured by its capacity to answer the wishes of the population, organize the rational allocation of resources, and efficiently produce the goods necessary to the physical and moral well-being of individual people, the Soviet experience remains to this day the most spectacular failure in history."

Mr. Aron does not minimize the impressive progress made by the Soviet system in the production of weapons and in achieving a rough equality with the United States in the balance of nuclear power. But it bothers him that the West keeps thinking primarily about the Communist military threat and pays so little attention to the failure of a Soviet economic system that no longer commands the respect even of most Communists in Europe.

He does not blink the weaknesses of the West in general and Western Europe in particular—their loss of respect for authority, their mindless selfishness and materialism, their inability to deal with the problems of inflation and unemployment, or what he calls "the social failure of economic success."

In some ways, he insists, the decadence of Western Europe is beyond doubt. He points to the fact that, in spite of its wealth, Western Europe as a whole does not think it is capable of defending itself and entreats the United States to insure the political balance by the maintenance of an American Army in Western Europe.

Nevertheless, Mr. Aron points out, the men in the Kremlin need the "creativity of decadent Europe," for in the fields of scientific and technological progress, they are merely "hanging on by imitations and borrowing."

"It is in strife-torn Western Europe," he insists, "that productivity grows most rapidly and workers submit to the exigencies of rationality. It is in the Soviet Union—where a few men at the summit of the state settle the fate of tens of millions of their fellow-Russians without having to account to anyone—that factories employ twice the manpower of German or American factories, even when they are using the same equipment.

"In order to play host to the Olympic Games, the Soviet Union has asked Western capitalists and engineers to build the hotels it needs and the foreign firms will even import workers to hold down the anticipated delays . . ."

Mr. Aron is not by any means saying we have nothing to fear from the Soviet Union, which has created an empire while the Western nations have lost theirs. There is always the danger—though he doesn't make the point—that the Soviet leaders might be tempted to challenge the West in the military field precisely because they are steadily falling behind in other fields. But in general, his is an optimistic theme well worth studying in the United States where so much rubbish is being taught these days about the decline of the West and the rise of Soviet power.

"Both now and in the foreseeable future," he concludes, "the U.S.S.R.'s leaders will remain fiercely hostile to the West because they envy and simultaneously despise it. As ideologues, they envy its productivity and standard of living; as men in power they despise its permanent unrest and its rulers condemned to paying court to the masses.

"Failing a favorable opportunity, such as the resignation of the United States, the men in the Kremlin will not rush into any open military aggression against decadent, fascinating Western Europe, which disappoints the dissidents by its frivolity but nevertheless constitutes a standing accusation of a regime which is unsure of itself that it is afraid of its own citizens." ●

NEED FOR A TOUGH ENERGY POLICY

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. PEYSER. Mr. Speaker, I have sent the following letter to the President today.

It is my hope that many of my colleagues will join me in calling upon the President to take strong, decisive action in the battle against the energy crisis. I, for one, am willing to take the political risks involved in offering my strong support for a tough energy program.

The domestic summit at Camp David must produce this kind of approach to our energy problems.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 11, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The gas lines may be getting shorter and the hope for the future may be getting better, but the time for action is now.

We must take the steps that may be painful to really end our reliance on the OPEC countries. I am sure that there are those among your political advisors who will tell you to play it safe and not upset the people anymore because the crisis of the moment is ending.

I will lay my job on the line in 1980 by supporting your energy program, if it is a tough, well thought out one, that offers a real solution to our energy problem. Don't sell the American people short. They are basically fighters who, when given intelligent and determined leadership, will respond and make whatever sacrifies are necessary.

This is a time when our political futures are far less important than the future of our country.

Sincerely,

PETER A. PEYSER,
Member of Congress. ●

SCHOOL FUNDING

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. DIXON. Mr. Speaker, I have a great deal of concern over an amendment by Representative DORNAN to the Treasury appropriations bill, H.R. 4393, which would prohibit the Internal Revenue Service to use funds for implementation of regulations governing tax exemptions for private and religious schools. Such action, I believe, is inappropriate legislation for an appropriations bill. In addition, Mr. DORNAN's amendment threatens to circumvent the laws of our country by denying the IRS its regulatory jurisdiction as determined by the Supreme Court.

I have written to the Commissioner of the Internal Revenue Service asking him to respond to the initiative taken by Mr. DORNAN. I would like to share with my colleagues his letter:

COMMISSIONER OF INTERNAL REVENUE,
Washington, D.C., July 11, 1979.

Hon. JULIAN C. DIXON,
House of Representatives,
Washington, D.C.

DEAR MR. DIXON: This responds to your letter of July 9, 1979, requesting our comments on an amendment proposed to be included in the Department of Treasury Appropriations bill and sponsored by Representative Robert Dornan.

The proposed amendment would prohibit the Internal Revenue Service from using funds to carry out a proposed revenue procedure providing guidelines for determining whether certain private schools are racially discriminatory. If this proposed amendment were adopted, it would limit the Service's ability to carry out its obligation under existing law to limit tax exemption to private schools which are not racially discriminatory. The Service cannot take a passive stance on this issue since it must make a determination one way or the other with respect to a private school claiming tax exempt status. To grant tax exemption to a racially discriminatory private school would violate the law.

In order for the Service to carry out its obligation to make such determinations, it must provide guidelines for determining when schools are racially discriminatory, consistent with factors used in Federal court decisions making such determinations. The revenue procedure was proposed to provide such guidelines under existing law.

The procedure was proposed after the Service reviewed the adequacy of its existing procedures in this area in the course of formulating a litigation position in a recently reopened lawsuit alleging that IRS has not properly enforced the racial nondiscrimination requirement for private schools claiming tax exemption. We concluded that more specific guideliines were needed to focus on certain schools' actual operations to verify that their practices conformed to their asserted policies. The clearest example of the need for such guidelines is the fact that a number of private schools retain their tax exemption even though they have been held by Federal courts to be racially discriminatory.

The IRS efforts in this area have been the subject of much misinterpretation, distorton, and misinformation. I believe that the proposed procedure is both reasonable and appropriate and would like to clarify a number of highly misunderstood issues.

First, the requirement that private schools be operated in a racially nondiscriminatory manner to be eligible for Federal tax exemption has been required by the Federal courts for a number of years. The IRS has been under a Federal court injunction since 1970 under the *Green* v. *Connally* decision, affirmed by the Supreme Court, not to permit racially discriminatory private schools to qualify for Federal tax exemption. The basis for this requirement is that the Internal Revenue Code language granting tax exemption to educational organizations may not be construed, under well established legal principles, to allow exemption to organizations which violate the law or Federal public policy.[1] Beginning with the *Brown* v. *Board of Education* decison, there is clearly a strong and pervasive Federal public policy against racial discrimination in public and private education.[2] It is thus the Internal Revenue Code as construed by the courts that constitutes the basis for the rules in this area.

Second, the proposed procedure is applicable only to a limited class of private elementary and secondary schools—those which have already been held by a court or appropriate agency to be racially discriminatory, and those which are classified as "reviewable" under the procedure. A "reviewable" school is one which was founded or substantially expanded at the time of public school desegregation, whose founding or expansion was related in fact to such public school desegregation, and which has insignificant minority enrollment. Schools of this type have been the subject of special scrutiny in Federal court decisions determining whether schools are racially discriminatory.[3] Schools which do not fall into these fact patterns are not subject to further review under this proposal. It is simply not true that the proposal affects all schools in this country, religious and secular.

Third, the IRS procedure does not require schools to meet racial quotas or to grant preferences to minorities in hiring or admissions. In accordance with Federal court decisions, the proposal would require "reviewable" and adjudicated schools to do more than merely assert a racially nondiscriminatory policy in order to offset the indications of a racially discriminatory policy arising from their history and operation. The proposal provides examples of actions and programs undertaken by a school which would indicate that it does not operate in a racially discriminatory manner, but these are merely examples and a school may show other actions undertaken appropriate in its particular circumstances. The proposal does not presume schools generally to be discriminatory until proven innocent. The schools affected by the proposal would be reviewed

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Footnotes at end of article.

in accordance with their overall facts and circumstances. The IRS is not attempting to regulate private education, but only to determine if a school's racial policies adversely affect its claim for tax exemption. Moreover, schools have full administrative and judicial remedies to appeal any adverse IRS action under the proposal, and in the case of a proposed revocation, the deductibility of contributions is protected within limits until the date of the court's decision.

Finally, the IRS is not attempting to usurp Congressional power in this area. On the contrary, the IRS action is based on the provisions of the Internal Revenue Code and on the mandate of the Federal courts that racially discriminatory private schools are against well defined public policy, and therefore do not meet the statutory test for Federal tax exemption.

The IRS proposal has been the subject of two Congressional hearings, one in the House and one in the Senate, and is currently under review by two Congressional Subcommittees. If Congress were to mandate other rules in this area, the IRS would of course administer such rules.

Legislation such as the amendment proposed by Representative Dornan would prevent us from providing comprehensive guidance to implement our obligations in this area. Legislation of this type, forbidding the National Office from providing guidance to agents and to affected organizations is the worst of all possible solutions from an administrator's point of view. The absence of guidance to the field would prevent an orderly and consistent administration of the law. Moreover, to the degree such legislation may prevent the Service from denying tax exempt status to racially discriminatory private schools, it may also raise constitutional issues. We oppose the proposed amendment that would prevent us from implementing the proposed revenue procedure.

I am enclosing for your information a copy of my opening statement before the Senate Finance Committee's Subcommittee on Taxation and Debt Management, which explains in somewhat more detail the background and provisions of the proposal.

With kind regards,

Sincerely,

Jerome Kurtz.

FOOTNOTES

[1] *Green v. Connally*, 330 F. Supp. 1150 (D.D.C. 1971), *aff'd sub. nom. Coit v. Green*, 404 U.S. 997 (1971); *Prince Edward County School Foundation v. Commissioner*, No. 78-1103 (D.D.C. filed April 18, 1979); Rev. Rul. 71-447, 1971-2 C.B. 230.

[2] *Brown v. Board of Education*, 347 U.S. 483 (1954); *Runyon v. McCrary*, 427 U.S. 160 (1976).

[3] *Norwood v. Harrison*, 382 F. Supp. 921 (N.D. Miss. 1974); *Brumfield v. Dodd*, 425 F. Supp. 528 (E.D. La. 1977).●

ARMED INSURRECTION AND THE INTERNAL SECURITY SCANDAL

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. McDONALD. Mr. Speaker, hearings of the House Intelligence Committee last month have brought into sharp focus the comprehensive collapse of this country's internal security defenses.

The Office of Personnel Management, formerly the Civil Service Commission, has arbitrarily decided not to ask prospective employees whether or not they have been members of totalitarian, subversive and/or violence-prone organizations. The FBI had had the responsibility of checking to insure that members of those groups did not successfully commit perjury to obtain Government employment. And these civil service standards are applied to almost all Government agencies, including highly sensitive ones like the Department of State, and rule the hiring of all civilian personnel in the Department of Defense.

When the Defense Department was asked whether it collected information on U.S. extremist and totalitarian groups that might attempt to penetrate the military, its spokesman said no, the DOD relied on the FBI to tell them about such things. But the chief of the FBI's terrorism section assured the House Intelligence Committee that since the FBI had stopped investigating such organizations in accordance with Attorney General Edward Levi's guidelines that were put in effect in April 1976.

In the Intelligence Committee hearings, a case in point was the Progressive Labor Party (PLP), which publicly calls for armed insurrection to overthrow the U.S. Government and institute a Marxist-Leninist regime.

As was pointed out in the Intelligence Committee hearing, last year the Progressive Labor Party commenced a program of infiltrating the Armed Forces and the National Guard. As written in the April–May 1978, edition of the PLP's theoretical journal, Progressive Labor magazine:

> Our strategy remains the armed struggle for working class state power. To bring that about, our primary task is to build a base around that concept on the job, especially in basic industry, but in other sectors of the working class, and among students and intellectuals as well.
>
> We must continue to build our work in the armed forces. We wish to encourage party members and friends, especially youths just graduating from high school, to join the armed forces and help build this work. Some older members and friends can join the National Guard. Area leaderships should supervise efforts to put more people into the armed forces. A subcommittee of the National Committee was created to lead this work. Area leaders should make sure that this committee is informed of new people joining the armed forces.

Our distinguished colleague from Florida (Mr. Bill Young) pointed out to the FBI representative that the above statement appeared in the PLP magazine and asked whether the FBI could collect public documents on groups like the PLP. The response from the FBI spokesman was, "Absolutely not."

My colleagues may not know that the Progressive Labor Party arose in the 1960's, as the creation of former hardline Stalinist members of the Communist Party, U.S.A. (CPUSA). PLP aligned itself with the extreme Maoist Communist regime in China and supported the violence of the Red Guard disruptions in the People's Republic of China. Here in America, the PLP became very active in Students for a Democratic Society (SDS). A number of persons formerly associated with PLP and its Worker-Student Alliance joined with the Weatherman faction and moved into urban terrorism.

The PLP has maintained its violent reputation as "cop fighters" by continuing to attack police officers at demonstrations. Together with members of its current principal front, the (International) Committee Against Racism, PLP's paramilitary cadre who march helmeted, usually in red T-shirts and wearing heavy leather belts that can be used as weapons, and who often carry lengths of lead pipe concealed inside copies of the PLP newspaper, Challenge/Desafio, have been involved in violent attacks on police in Boston, Chicago, Detroit, and in California.

The PLP infiltration of the military is an outgrowth of its efforts to become the vanguard leadership of the street-fighting revolutionary Marxist groups in the United States. These efforts have focused on leading mob attacks against rival totalitarian groups, particularly the U.S. Nazi groups and allied extremists in the Ku Klux Klan. The PLP has taken a prominent role in protests and demonstrations designed to exacerbate racial tensions at Camp Pendleton. The PLP sees that having its members join the military will give it two advantages: First it will provide arms training for its revolutionaries who will use those military skills in the eventual "armed struggle"; and second, it will be easier for PLP to agitate and cause trouble for the Armed Forces from within the ranks.

Lest anyone think that the Progressive Labor Party may have ameliorated its line since the April 1978 edition of its magazine we quoted earlier, the masthead of the April 25, 1979, edition of the PLP newspaper, Challenge/Desafio, carried the following statement:

> The Progressive Labor Party fights for socialism. Socialism means liberation for the entire working class—the destruction of the bosses * * *.
>
> In order to achieve socialism, the capitalist system, the bosses and their dictatorial government must be crushed. This cannot be accomplished peacefully through elections. It can only happen when the majority of the exploited unite behind communist leadership, violently overthrow the bosses, and install a new government of revolutionary workers—the Dictatorship of the Proletariat.
>
> Members of the Progressive Labor Party are devoted to this goal. They dedicate their lives to actively building, promoting and organizing for the cause of revolutionary communism.

This masthead statement appears on each issue of Challenge/Desafio.

The same edition of Challenge carried a PLP official editorial which reviewed acts of violence during strikes and labor disputes in which strikers "have physically fought * * * cops and troopers." Challenge claimed that employers and union leaders attacked the intervention of PLP and CAR, its front, into these labor disputes because they provide "revolutionary leadership." The PLP official editorial claimed the labor violence could destroy the moderate union leadership and "break the bosses' back," and continued:

> That is why we say build CAR chapters on every job, in every school and college campus, in every neighborhood and in the

armed forces—to unite the multiracial working class * * * .

That is why we say Join the PLP, the only leadership that goes outside and beyond the bosses' laws, which follows the law of the working class—the law of class interest.

Only Socialist Revolution, an armed seizure of state power to smash the bosses' stranglehold on us, can end the treadmill of constant struggle merely to keep our heads above water. Only such a revolution gets to the core of the problem, the bosses' profit system and their use of state power to enforce that power, whether in escorting scabs through picket lines or in keeping nuclear plants going that kill workers.

Only a workers' armed revolution can turn the bosses' preparation for war into a civil, class war that will bury these bosses and their traitor flunkies who mislead the union.

With national headquarters at 220 East 23d Street, New York, N.Y. 10010 (212/685-3650), and chapters in nearly 30 cities, the Progressive Labor Party is primarily active through its front, the International Committee Against Racism (InCAR or CAR).

CAR's headquarters is in room 825, 41 Union Square West, New York, N.Y. 10003 (212/989-5499). CAR's officers include:

OFFICERS OF CAR

COCHAIRPERSONS

Finley Campbell, 2315 E. 68th Street, Chicago, IL 60649.

Toby Schwartz, 201 Cedar Swamp Rd., Storrs, CT 06268 (203/429-3564-h; 486-4557-lab).

ADMINISTRATIVE COORDINATOR

Carol Deak, 509 W. 110th Street, New York, NY 10025 (212/222-0208).

EXECUTIVE COMMITTEE

Finley Campbell.

Carol Deak.

Raul Fernandez, 1156 S. Menlo Avenue, Los Angeles, CA 90006 (213/380-8905); Western Regional Chairperson.

Adrent Hall Naseef, 1021 Spencer Street, Apt. G, Philadelphia, PA 19141 (215/224-5291); Eastern Regional Chairperson.

Charles Roach, 5 Selby Street, Toronto, Ontario, Canada; Canadian Regional Chairperson.

Toby Schwartz.

Mary Greenwood, 319 E. Jeffrey Road, Willimantic, CT 06226 (203/423-9668).

Margaret Browne, 243 W. 99th Street, Apt. 2-E, New York, NY 10025 (212/865-5425).

Regional Chairpersons in addition to those listed above on the Executive Committee include:

Houston Stevens, 23-B University Houses, Madison, WI 53705 (608/238-9961); Midwestern Regional Chairperson.

Pat Keeton, 200 W. 79th Street, Apt. 3N, New York, NY 10024 (212/580-9024); Arrow.

CAR STEERING COMMITTEE MEMBERS AND LOCAL CONTACTS

CHAPTER NUCLEUS

West

Los Angeles

STEERING COMMITTEE MEMBER

Kathy Dahlgren, 3084 Manning Ave., Los Angeles, CA 90064. (212) 839-0451.

LOCAL CONTACTS

Zennie Harris, 2067 Manning Ave., L.A. CA 90037. (213) 294-1360.

CHAPTER NUCLEUS

San Francisco

STEERING COMMITTEE MEMBER

Lisa Gutierrez, 1851 8th Ave. No. 2, S.F., CA 94122.

CHAPTER NUCLEUS

San Diego

STEERING COMMITTEE MEMBER

Mike Brondstetter, 4060 Winnona, San Diego, CA 92150. (714) 282-1198.

LOCAL CONTACTS

Byron King, 4756 63rd St., San Diego, CA 92115.

CHAPTER NUCLEUS

McFarland, CA

STEERING COMMITTEE MEMBER

Eva Camacho, 263 E. Perkins, McFarland, CA 93250.

CHAPTER NUCLEUS

Sacramento

LOCAL CONTACTS

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Mr. Speaker, I would further commend to my colleagues' attention the following article on the abysmal state of our internal security defenses as revealed by the hearings of the House Intelligence Committee which appeared in the July 7, 1979, edition of Human Events:

A NEW INTERNAL SECURITY SCANDAL

America's internal security program isn't bad, say security experts, it's just non-existent.

The Civil Service Commission (and its successor agency, the Office of Personnel Management), which screens applicants for most civilian government jobs, does not even ask prospective employees anymore if they've ever been members of totalitarian, subversive and/or violence-prone organizations. Nor does the commission acquire much assistance from a hampered FBI these days in evaluating a potential worker's background.

Equally important, the commission, in the absence of discovering anything more than "mere membership," cannot bar from federal employment even known members of such overtly subversive groups as the Communist party. Moreover, "mere membership" in an extremist organization does not warrant a notation by the commission in the subject's file.

Yet Civil Service procedures—or lack of them—are applied to the majority of government bodies, including such highly sensitive agencies as the State Department. Civil Service personnel security criteria, furthermore, also govern the hiring of all civilian personnel in the Department of Defense.

Federal security procedures, obviously, are in a shambles when it comes to the hiring of civilian employees. But surely, you may think, subversives or potential saboteurs can easily be blocked from penetrating the U.S. military. That comforting notion, however, would be wrong.

Representatives John Ashbrook (R.-Ohio) and Bill Young (R.-Fla.), both members of the House Select Committee on Intelligence, have been battling hard to restore some semblance of toughness to our internal security programs. (Ashbrook, in fact, will lead the battle after the July 4 recess to pump $1.8 million back into the FBI's counter-terrorism program, money the Justice Department eliminated from the budget for "economy" reasons.) And they are hopeful at making improvements.

But bad as they know our internal security programs are, both they and other panel members were stunned at the recent testimony of Defense Department and FBI officials on the inability of their organizations to stop members from known subversive groups from getting into the military.

The program used to prevent military subversion is a virtual sieve. The Progressive Labor party, for instance, is an avowedly Marxist-Leninist organization with several hundred members. The April-May 1978 issue of its chief publication, the *Progressive Labor Magazine*, openly calls for "armed insurrection" against the United States, arguing that capitalism can only be "crushed by armed force . . . no compromise is possible with the capitalist class. It must be destroyed."

To help bring this about, the publication calls for infiltration of the U.S. military, stressing: "We wish to encourage party members and friends, especially youths just graduating from high school, to join the armed forces. . . . Some older members and friends can join the National Guard. Area leaderships should supervise efforts to put more people into the armed forces. A subcommittee of the National Committee was created to lead this work."

Clearly, members of such an organization have no business being anywhere near our military forces. But the Department of Defense's security personnel, it turns out, get their primary information on such extremist groups from the FBI. And the FBI—largely because of the guidelines imposed by former Atty. Gen. Edward Levi and continued under current Atty. Gen. Griffin Bell—has *closed* its files on Progressive Labor. Thus the Defense Department has no way of knowing whether a prospective recruit has come to the U.S. military via the orders of this organization, even though it is publicly committed to destroying our Armed Forces.

This amazing loophole in the Pentagon's security program was discovered in the June 21 hearings before the House Select Committee on Intelligence. Staff member Herbert Romerstein asked whether the Department of Defense collected information on subversive and violence-prone organizations. Thomas J. O'Brien, director, Security Plans and Program Office of the deputy under secretary of Defense for Policy Review, responded: "We do not."

If some revolutionary group, pressed Romerstein, comes up with "a plan to penetrate the Armed Forces, from whom would you expect to get the information so that you could take protective measures to prevent such people from coming in?"

"Our primary source of information . . . is the Federal Bureau of Investigation," said O'Brien.

So, then, the FBI must have the data on Progressive Labor. Not true. Rep. Young (R.-Fla) questioned Paul Nugent, of the FBI's Terrorism Section, on that very point.

"It is my understanding," said Young, "that most of them [organizational cases] have been closed since the attorney general's guidelines were issued. Is that correct?"

Nugent replied that most of these cases "have been closed since the adoption of the guidelines in April 1976. . . ."

If a case has been closed, asked Young, "are you still permitted to collect public-type information relative to the group and its activities?" "No sir," said Nugent.

"When was the case on the Progressive Labor party closed?" Young asked. Said Nugent: "The Progressive Labor party case was closed in September 1976. . . ."

"Well," said Young, "the Progressive Labor party has publicly proclaimed that they intend to take power in the United States by using 'armed struggle' and that they are engaged in a program of penetrating the Armed Forces.

"Now this information appeared in the *Progressive Labor Magazine*, their own magazine that was published in the spring of 1978. Now . . . can the FBI collect public documents on a group like the Progressive Labor party . . .?"

Nugent's astonishing response: "Absolutely not." According to Nugent, the FBI cannot keep files on domestic organizations which have not yet engaged in violent action, even though they urgently espouse it.

Young pressed onward: "If the United States Army sent you a name . . . of someone who had recently joined the PLP, and had penetrated the Army, which is what they say they are going to do, what would you have to answer, 'No record.'?"

Nugent replied that "the possibilities of our coming up with that name . . . would be practically remote."

The case is beyond comprehension for the normal American. Because of guidelines imposed by the attorney general, the FBI not only had to close its files on an organization still dedicated to overthrowing us by force and violence, but cannot presently collect *public* information on the group, even material printed by the organization itself.

As Young told Human Events: "The testimony of FBI officials at open hearings of the intelligence committee confirms the story I hear when talking with FBI agents in the field. That message is loud and clear, that government restrictions prevent them from doing their job of protecting the American people from foreign intelligence agents, domestic terrorists and organizational crime as well as they can or as well as we want them to.

"Congress has the responsibility to repair some of the damage and much needs to be done. One step is to change the laws, executive orders and guidelines that make it so difficult for the FBI to do its job thoroughly.

"Another is to provide the FBI with the funds it needs to do the job. I am sure the people will support us in the effort to restore the effectiveness of the FBI. I hope Congress will too."

When Congress convenes after the July 4 recess it can begin repairing our internal security program by following Ashbrook's lead in restoring $1.8 million to the FBI's counter-terrorism program. It must then proceed to force the Administration to alter those FBI guidelines which virtually invite saboteurs into our Armed Forces.●

NASHPITZ RELEASED FROM PRISON—STILL AWAITING EXIT VISA

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. AMBRO. Mr. Speaker, on June 26, I dispatched a letter to Soviet President Leonid I. Brezhnev, asking him to intervene on behalf of Soviet "Prisoner of Conscience" Dr. Mark Nashpitz to insure that when Dr. Nashpitz was released from prison—after serving his 5-year sentence—he was not subject to further harassment and was expeditiously granted permission to emigrate to Israel. Eighty of my esteemed colleagues in this House joined me in signing this letter, a copy of which follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C.

His Excellency, LEONID I. BREZHNEV,
President, The Kremlin, Moscow, U.S.S.R.

DEAR MR. PRESIDENT: As Members of the United States House of Representatives, we are writing to you at this time to express our deep concern over the fate of Dr. Mark Nashpitz. A twenty-nine-year old dentist from Moscow, Dr. Nashpitz was sentenced to five years in exile in March of 1975 for "active partaking in group activities that are disturbing public order."

Without going into the merits of the charges against Mark Nashpitz or the justification for his conviction and lengthy sentence, we are appealing to you at this time to see that he is granted an exit visa once he has served that sentence and he is released from prison. We are fearful that due to his religious beliefs, his avowal of Israeli citizenship, and his past activities on behalf of other Soviet Jewish dissidents he will be investigated and imprisoned once again.

As a signatory of the United Nations Declaration of Human Rights and as a party to the Helsinki Agreement of 1975, the Soviet Union has proclaimed its commitment to let Soviet citizens enjoy internationally recognized human rights. Surely the granting of an exit visa to Mark Nashpitz—after he has served his prescribed jail sentence—to be reunited with his mother in Israel would indicate that the Soviet Union underscores its signature and treaty obligations with action.

Therefore, Mr. President, we are writing to you to request that you do all within your power to see that Dr. Nashpitz is not subject to further harassment and is expeditiously granted permission to emigrate.

With best wishes, we are,

Very truly yours,

Jerome A. Ambro, Benjamin A. Gilman, James M. Shannon, Martin Frost, Gary A. Lee, Robert W. Edgar, John W. Jenrette, Patricia Schroeder, Allen E. Ertel, Mario Biaggi, Jack F. Kemp, Michael D. Barnes, Christopher J. Dodd, Silvio O. Conte, James J. Blanchard, Leo C. Zeferetti, Charles F. Dougherty, Millicent Fenwick, Bill Frenzel, Andrew Maguire, Edward J. Stack, Dan Lungren, Lucien N. Nedzi, David E. Bonior, Daniel B. Crane, Raymond F. Lederer, Bennett M. Stewart.

Dan Glickman, Richard L. Ottinger, Thomas J. Downey, Baltasar Corrada, Gladys Noon Spellman, Antonio Borja Won Pat, James H. Scheuer, Barbara A. Mikulski, Floyd J. Fithian, Elizabeth Holtzman, John M. Murphy, Don Edwards, Margaret M. Heckler, Edwin B. Forsythe, Benjamin S. Rosenthal, Charles Wilson, Robert K. Dornan, Frederick W. Richmond, Robert J. Lagomarsino, Paul Simon.

William M. Brodhead, Sidney R. Yates, Joe Moakley, Les AuCoin, Hamilton Fish, Jr., Adam Benjamin, Jr., Joseph P. Addabbo, Eugene V. Atkinson, Daniel J. Flood, James L. Oberstar, S. William Green, William Lehman, Claude Pepper, James J. Howard, Henry A. Waxman, Charles B. Rangel, Geraldine A. Ferraro, Norman F. Lent, Robert F. Drinan, Clarence D. Long, Howard Wolpe, Norman Y. Mineta.

Brian J. Donnelly, Matthew F. McHugh, John H. Rousselot, Jim Lloyd, Parren J. Mitchell, Lester L. Wolff, Stephen J. Solarz, William J. Hughes, Bill Royer, Don Ritter, Bill Frenzel, Members of Congress.

It is now my pleasure to announce that Mark Nashpitz has been released from prison and has been reunited with his grandmother in Moscow. The joy and satisfaction we feel at this development however, is tempered by concern and anxiety because there has been no word on his request to emigrate to Israel to join his parents.

Mr. Speaker, as we all know, the United States is committed to upholding the human rights of all. When one individual is denied his basic liberties, the deprivation is felt by all people who are free. Dr. Nashpitz is just one of many who are in this position. Unfortunately my colleagues and I can only help people individually. It is my sincere hope that in the not too distant future, liberty will become a reality to these prisoners and not be solely an elusive dream.

For Mark Nashpitz this dream of liberty is hopefully on the way to becoming a reality. For Anatoly Shcharansky, perhaps the most famous of the Soviet "Prisoners of Conscience" the dream might never crystallize. Today marks the first anniversary of the kangaroo court-like trial, in which Shcharansky was never given the opportunity to defend himself on the alleged charges. He is now detained in prison under conditions so harsh that there is great concern over the state of his health.

On July 14, 1978, the day Shcharansky's sentence was handed down. President Carter responded with a statement which said, in part:

> We are all sobered by this reminder that, so late in the twentieth century, a person has been sent to jail simply for asserting his basic human rights. * * * The struggle for human liberties is long and difficult, but will be won. There is no power on earth that can delay its progress.

I, along with many of my colleagues, concur with the President that the struggle to gain worldwide human rights will prove victorious. I am grateful for the opportunity to have helped Dr. Mark Nashpitz attain his release from jail. It is my sincerest hope that he be allowed to join his parents in Israel as quickly as possible so that he will be able to enjoy a future of happiness and freedom.●

SEARCH FOR AN ENERGY POLICY—PARTS 3 AND 4

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. MOAKLEY. Mr. Speaker, today I would like to share with my colleagues parts 3 and 4 of the Boston Globe's editorial series entitled "Search for an Energy Policy." These editorials deal with two important topics in our national energy debate—conservation and nuclear power.

It is obvious that there is much work to do in saving energy and by increasing our energy efficiency, it will ease our dependence on foreign sources of oil. The debate over nuclear energy is also at a crucial stage, and the policies we decide upon in the near future will determine the role of nuclear powerplants for the next century.

The articles are as follows:

SEARCH FOR AN ENERGY POLICY NO. 3: AN END TO WASTE

Almost every energy source has some drawback. Fortunately there is one source that produces no pollution, is silent and is better than free because using it increases one's cash. It is conservation. We have known about it for years, but we have only barely begun to tap its vast potential.

A study produced for the Ford Foundation a few years ago estimated that conservation alone could cut energy use in America by 50 percent with no harm to the national economy. Another, being completed at the

Harvard Business School, puts the figure at 30–40 percent.

At the very least, there is no doubt that conservation can eventually produce savings much greater than the entire present volume of oil imports—imports which account for roughly half the country's total oil consumption, and one-fourth of all its energy needs.

If that were only half true, conservation still would be capable of more than eliminating our present shortage.

It will take new incentives to turn things around because conservation has a bad name. The word, for example, has acquired too many Spartan connotations. Some of its more ardent supporters, moreover, have discolored our thinking about it by linking it to irrelevant concerns like zero growth and a less industrial society.

The doctrine that increased energy consumption is directly related to increased economic growth, and vice versa, is not only false, it misses the point. Sensible conservation maintains existing levels of economic activity on reduced levels of energy use. The savings it makes possible are similar to those a business realizes from increased productivity.

The sacrifice that may be involved should not be confused with deprivation. Prudent action on energy consumption is preferable to letting things go on as they are. If we take the latter course, the sacrifices we will eventually be forced to make will be genuinely painful.

A national conservation policy should seek to achieve three goals: greatly improving the gasoline mileage of cars, increasing the heating and cooling efficiency of buildings, and reducing the needlessly wasteful consumption of electricity in manufacturing.

Typical energy costs of home appliances

[Estimates are based on costs of 4.8¢ per kwh]

	Estimated use (kwh or Th)	Typical energy cost
Food:		
Coffeemaker, electric	¼ kwh/brew	1¢ per brew
Dishwasher, electricity for normal cycle	1 kwh/load	5¢ per load
Freezer—frostless, 15 cu. ft	5 kwh/day	24¢ per day
Microwave oven, 5 minutes	⅒ kwh/use	½¢ per use
Oven, electric, self-cleaning feature	4 kwh/clean	19¢ per clean
Range, electric	1 kwh/meal	5¢ per meal
Range, gas, total usage	⅒ Th/meal	2¢ per meal
Pilot light usage (800 Btu/h)	⅕ Th/day	4¢ per day
Refrigerator, frostless, 20 cu. ft	6 kwh/ day	29¢ per day
Refrigerator, manual, 10 cu. ft	2 kwh/day	10¢ per day
Toaster-oven, electric portable	½ kwh/hour	2½¢ per hour
Entertainment:		
Radio or phonograph	⅒ kwh/hour	½¢ per hour
TV—B & W—tube type	⅒ kwh/hour	½¢ per hour
TV—color—tube type	¼ kwh/hour	1¼¢ per hour
Laundry:		
Clothes dryer, electric	3 kwh/load	14¢ per load
Steam iron (hand)	⅓ kwh/hour	1½¢ per load
Laundry—Continued		
Washing machine (50 gal.)	¼ kwh/hour	1¢ per load
Water heater, electric (about 52 gal.)	13 kwh/day	62¢ per day
Waterheater, gas (about 100 gal.) includes pilot usage of 750 Btu/h	1 Th/day	22¢ per day
Comfort:		
Air conditioner, central electric (35,000 Btu/h, EER:7)	5 kwh/hour	24¢ per hour
Air conditioner, room (42,000 Btu/h, EER:8)	1½ kwh/hour	7¢ per hour
Electric blanket, double or queen	¾ kwh/night	3½¢ per night
Floor or wall heater, gas—total usage	⅓ Th/day	7¢ per hour
Pilot usage (1,000 Btu/h rating)	¼ Th/day	6¢ per day
Furnace, gas, central forced air, total usage (100,000 Btu/h rating)	½ kwh— 1 Th/hour	24¢ per hour
Portable heater, electric (4,500 watt)	1½ kwh/hour	7¢ per hour

Source: Pacific Gas & Electric Energy Ass'n., 1975.

Nothing will help more than increased car mileage. In one of its few serious responses to the energy crisis in this decade, Congress four years ago enacted a statute setting fuel economy standards on all automobiles made after 1977.

In 1974, US-made cars were getting a paltry average of 12.8 mpg. The law set a standard—based on the average mileage of a manufacturer's whole line—that will rise to 27.5 mpg in 1985.

Pressure to postpone that goal must be resisted. If anything, the law should be strengthened by increasing the fines for noncompliance. What is at stake here is immense: a five-year effort to more than double the energy efficiency of a machine that accounts for one-fourth of the nation's total consumption of oil.

It will also be necessary to rethink incentives favoring the purchase of more efficient cars.

Consider, for example, the case of the 1969 Clunker, paid for and getting 11 mpg. The 500 gallons of gasoline it burns each year in commuter trips costs about $500. The insurance on the car in Massachusetts is $200, and the annual excise tax is but $19.

The price of a smaller, much more efficient car is $6000, with savings of perhaps $300 a year in gasoline costs. However, if it is bought from a savings account, it will cost up to $600 a year in lost interest. Add a few hundred dollars in sales tax, at least a doubling of the annual insurance bill and a stiff excise tax for the first few years.

It would be wrong to try to legislate Clunkers off the road. Many are bought in the used car market where the poor are the most numerous customers.

Time is the most equitable solution. The car population turns over roughly every decade. Given the federal mileage standards, the next generation will be much more efficient. Meanwhile rationing would encourage the purchase of small, more efficient cars and allow those who have unused coupons to exchange them for cash.

The 55 mph speed limit not only saves lives, it also saves oil—200,000 barrels daily, according to the Administration. Higher fines would encourage observance of the speed limit. More car pooling and use of mass transit would also help.

The second pillar of policy must be our homes, apartments, office buildings and factories.

If thermostats are set at 80 degrees in summer and 65 degrees in winter, the nation will save up to 400,000 barrels of oil daily. That saving is certainly worthwhile but there are other areas where still greater savings can be made.

Dramatic strides have been made in the construction of new homes and buildings. Unlike automobiles, the lifespan of buildings can run into generations. Retrofitting them with insulation and storm windows can be extremely expensive.

The stimulative techniques being used by the government are the right ones: tax credits, loans and loan guarantees. To this list we would add direct subsidies in the form of grants to the poor.

The problem is that at existing levels, the incentives now offered are not adequate. The present $300 subsidy nowhere nearly meets the cost of insulating a private house, which may run into the thousands of dollars. To work, an incentive system must pay up to half the cost of an energy-saving project.

In addition to direct subsidies for conservation, there should be improved financing provisions. Utilities, which can borrow at more favorable rates than individuals and over longer terms, ought to be encouraged, if not required, to provide conservation financing for their customers, with repayment through the customer's monthly bills.

The federal commitment required would be a worthwhile public investment, but it must be financed within an overall budgetary policy of prudence. That is one reason why we would prefer a higher windfall profits tax.

Since the Arab oil embargo and subsequent explosion in prices, American industry has in general been the nation's most successfull energy conserver, outperforming individuals and office and apartment building owners.

This record may be due in part to federal incentives already available to industry. Industry, and business too, could make still further energy savings if they moved ahead with cogeneration. This system, widely used in Europe, captures waste heat from on-site electrical generation and uses it for such other purposes as space heating or cooling, heating of water or even industrial processing. It can be effective in individual buildings as well as in large-scale plants. For maximum efficiency utilities should be required to purchase any excess power produced.

There may be other lessons in conservation to be learned from Europe. Sweden, with a standard of living very close to our own, uses little more than half the amount of energy we consume in America. The same is true of West Germany.

We are a nation nurtured on the idea that bigger is better. In the field of energy use that notion is now absolutely wrong. It costs more now to produce a barrel of oil than it does to save it. And in the process of acquiring each barrel we are diverting money from more productive endeavors, increasing our dependence on foreign nations, endangering our national security, raising havoc with our economy, risking near chronic stagflation.

No individual proposal for developing new domestic energy, in fact no combination of proposals for additional production, offers the potential of conservation. It is economic, nonpolluting, environmentally safe, and job-producing. It produces none of the debilitating social and political strains that accompany proposals for new nuclear or coal-fired electric generation plants. It is essential to breaking the stranglehold which the OPEC countries have on our national economy. It hastens the day of alternative energy sources by reducing the demand the sources will have to meet.

We have spent billions of dollars in this country to produce energy; we now must spend billions to conserve it. Conservation is the key ingredient of any effective national energy policy.

We have devised a whole series of mechanisms both public and private to facilitate energy production. We now must be equally creative in establishing tools at the local, state and federal levels to spur energy conservation. Virtually any money spent, by either the public or private sectors, to conserve energy will be money well spent.

SEARCH FOR AN ENERGY POLICY NO. 4: THE LIMITS OF THE ATOM

No issue since the Vietnam War has divided America more than nuclear energy. It has provoked huge demonstrations. It has led to civil disobedience. It has spawned lawsuits. It has roused passions all across the country.

There are those who see nuclear power as crucial to solving the energy crisis and would push ahead with new and bigger plants. There are those who see nuclear power as the road to doomsday and would not only forbid the construction of new plants but also shut down all existing ones. And there are vast numbers of people who see the value of tapping the energy in the atom but who are concerned about radiation, especially since the accident at Three Mile Island.

The facts are simple: There are 72 existing nuclear power plants in the United States; utilities have construction permits to build 94 others, and 34 more are in the engineering stage. If all the plans were approved we would nearly triple the number of plants in the country.

We believe that nuclear power has failed to meet its promise, so widely trumpeted in the 1960s, of cheap, reliable and safe electricity. But a sound energy policy steers a course between extremes. We should neither push ahead with all the new plants nor shut down all the existing ones. Sound policy requires the following:

1. The safety of all existing plants should be upgraded in accordance with recommendations of the presidential commission studying Three Mile Island Plants that cannot meet such standards should be shut down.

2. The operating permits of the 94 plants with construction permits should be held hostage by the federal government until the stricter safety standards resulting from the Three Mile Island study are debated and approved by the Nuclear Regulatory Commission. And they should be built then only if they are clearly superior to all other feasible combinations of energy sources and conservation.

3. No new construction permits should be issued unless it can be demonstrated that there is a clear need for the additional energy and that nuclear power is a last resort. If other kinds of plants are feasible they should be built instead.

4. As safer and more constant sources, such as solar, are developed our reliance on nuclear power should be reduced. Nuclear power in its present form is only a temporary source of energy.

In New England, such a policy would mean the following: the twin reactors at Seabrook, N.H., and the third Millstone unit in Connecticut, which have construction permits, would have to be justified anew, and Boston Edison should not get a construction permit for a second Pilgrim facility until new safety standards are ordered.

We believe such a policy would be good for New England in the long run, and that the region could adjust to it in the short run. There are alternatives: natural gas right now, and hydro-electric power later on, if we invest heavily in them now. And above all, there is conservation.

Obviously, such a policy would injure utilities that have spent large sums on planned new plants under the old ground rules. It would be entirely appropriate for the federal government to compensate them for any losses they incur.

What would not be appropriate would be to double or triple the national production of nuclear power on the flimsy excuse that money has already been invested and that it is too late to stop. It is never too late to change policy; what is required is that the tough questions be faced and answered, and that we deal forthrightly with the consequences.

There are safety measures that can be taken now. The Kemeny Commission has already commented unfavorably on some aspects of the personnel performance at Three Mile Island. And public confidence requires some real changes in the federal role in operating such plants. Even before the Kemeny report is out, the Nuclear Regulatory Commission could establish a special emergency team to fly immediately to any plant in the event of an accident.

In the longer run, NRC personnel should be stationed on a full-time basis at each of the 48 nuclear complexes around the country. That would represent no heavier an obligation than the placing of Department of Energy officials in the offices of many oil companies to supervise the operations of the oil allocation system.

Nagging doubts about nuclear safety dictate that the regulatory and permit processes function on the basis of President Carter's oft-repeated but never realized principle of accepting nuclear plants only as a last resort.

Henceforth, new nuclear approvals must depend on rigorous study of other domestic fuel sources like coal, natural gas, hydro-electric power or even wood. Unless there is clearcut superiority of nuclear power over those other sources of energy, permission for the nuclear plant should be withheld.

In the future, regulators must also evaluate the impact of conservation in assessing potential demand for new power. It was exactly such a review in 1978 by the Massachusetts Energy Office, for instance, that produced questions about the proper timing for completion of Boston Edison's Pilgrim 2 nuclear plant in Plymouth. Those questions must be answered in the construction permit hearings scheduled to begin later this month.

The review must also take into account, but not necessarily be governed by, the issue of whether nuclear plants actually displace oil. The choice between nuclear energy and excessive oil imports will not be easy. Neither is intrinsically desirable. But the 1.8 million barrels of oil now burned each day to generate electricity is almost exactly the amount the nation should eliminate from imports to meet a daily ceiling of 6 million barrels. Nuclear power could make up that difference.

The review does have other questions to consider. While Three Mile Island raised questions about nuclear safety, regulators must also weigh the health and safety hazards associated with other energy sources. Coal, the most prominent alternative in much of the country, must pass its own rigorous exam on health and safety questions. Many scientists fear massive coal burning will put too much carbon dioxide into the atmosphere, creating a "greenhouse effect" that might melt polar icecaps and flood low-lying coastal regions.

In the interests of safety and efficiency, there should also be major efforts to standardize as many features of plant design as possible.

Finally, the problem of selecting a safe repository for nuclear wastes must be solved. Problems of groundwater, heat dispersion and security have cast doubts on the potential for storage in salt domes. But the Department of Energy is still pursuing its study and now says it hopes to have selected a new technical work necessary for possible breeder development. Given the extensive use of plutonium in such projects (unless, as is theoretically possible, less hazardous fuels are developed), remote and highly secure sites must be identified and set aside for future use.

Avoiding development of breeder reactors will depend on the development of other large-scale sources, of which solar and fusion power are the most promising. But it is possible they will not be developed in time to fulfill the needs of industry. It would be foolhardy, even while hoping the reliance on breeders will be unnecessary, to ignore that possibility.

In one respect, the nuclear business is like the oil business: Its raw material, uranium, is in limited supply. Sometime in the next century, depending on how many plants there are but probably in 40 to 60 years, the world will run out of uranium.

At that point, either reprocessing or the breeder will take over, or the nuclear industry as we know it will gradually die.

The nation is unavoidably dependent on the nuclear plants it has now. Nuclear power provides 13 percent of our electricity nationally—30 percent in New England. Critics have not put forward convincing evidence to warrant shutting them down.

For the long-term future, however, such dependence is avoidable. Using the concept of last resort, it is hard to believe that the nation is incapable of getting the electricity it will need from other sources—water, sunlight, steam and, ultimately, fusion.

It is also hard to believe that sensible conservation cannot significantly greatly reduce the need itself.

One of the great strengths of the United States is that it has the option of a literally bright energy future in the next century with neither increased oil imports nor greatly increased reliance on nuclear power.

Let's exercise it.●

U.N. SYSTEM FINANCES

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. PEASE. Mr. Speaker, recently serious allegations have been made concerning the financial practices of the U.N. and its specialized agencies. Articles by Ronald Kessler in the Washington Post have accused the U.N. of amassing large financial bank reserves, beyond its operating needs. I would like to bring the following letter to the editor of the Washington Post to the attention of my colleagues. In this letter, George Davidson, Under Secretary General for Administration and Management for the U.N., explains some basic misunderstandings about the structure and finances of the U.N. system reflected in Mr. Kessler's articles and persuasively rebuts Mr. Kessler's figures and assumptions. I commend this letter to my colleagues. It has been very helpful to me in clarifying some of these complex matters.

The letter follows:

DEAR SIR: The articles concerning the United Nations and its associated agencies which appeared in the Washington Post earlier this week set a new high in irresponsible financial reporting. What is worse, your reporter, Ron Kessler, was supplied in advance with commentary which clearly showed that his account of alleged UN surpluses and excess funds is a gross distortion of the facts. The Post's decision to publish these allegations when it knew them to be false is therefore doubly inexcusable.

For example, the charge that the UN and its affiliates have $1.4 billion in excess funds in the bank is simply untrue. In the first place Kessler has compiled his erroneous calculations from audit reports that go back to 1977. In the second place, he has lumped together the accounts of a dozen or more completely separate and independent bodies, not distinguishing between the funds contributed by governments for regular administrative purposes and special funds in trust which have been earmarked for specific purposes and cannot under the terms of the trust be diverted to other uses.

It is pure and simple nonsense to lump together figures from the reports of the World Health Organization, the International Civil Aviation Organization, UNESCO, ILO, the United Nations itself and half a dozen other international organizations located in different parts of the world, operating under separate charters, separate governing bodies with different governmental membership, different financial arrangements—and say "look at all the money the UN has". Each of these agencies is as financially distinct and independent from the others as Chase Manhattan Bank is distinct from the Bank of America or the Washington Post from the New York Times. No one would ever think of adding together the cash balances of the Post and the Times, because it makes no sense to do so. It adds up to nothing. The same is true of adding together the cash balances of WHO, ILO, UNESCO etc. No one agency can use the other agency's money. Each one must be self-sufficient unto itself. Mr. Kessler knew that when he was writing his article. The Post knew that when it published the article. The question must be asked—why did the Post publish statements that it knew—or should have known—to be false.

Not only that, but even the simplest beginner in reading financial statements knows that when you look at a balance sheet to determine an individual's or an organization's financial position, you look at the liabilities as well as the assets. Cash in the bank does not mean "excess funds" to use Mr. Kessler's words in the opening sentence of his article. Cash and accounts receivable plus other liquid assets have to be balanced off against accounts payable, unliquidated obligations and other current liabilities before deciding whether the organization has "excess funds" or not. Mr. Kessler did not do this. He ignored completely the fact that on the 31st December 1977, the United Nations, from its General Fund which finances its regular budget on the basis of assessed contributions against member states, had debts of $22.5 million in accounts payable, $27 million in unliquidated obligations, and over $97 million in obligations to its Working Capital Funds, and other special funds and accounts. To meet these liabilities the UN had on the date mentioned $35.5 million in cash, $17 million in accounts receivable, $12 million in amounts due from other funds and $75 million in unpaid assessed contributions of governments, two thirds of which was in fact uncollectable. Even assuming that all of these could be collected, the result on 31 December 1977 was a total of $137.5 million to meet obligations due and payable on that same date of $146.5 million. The truth is that on 31 December 1977, the United Nations was more than $9 million short of the funds required to meet its regular budget obligations, despite the $35.5 million cash on hand which Mr. Kessler erroneously reported as "excess funds".

Mr. Kessler failed also to mention that ever since its founding in 1945 the United Nations has been authorized to carry a Working Capital Fund of $40 million made up of special assessments made against member states. That Working Capital Fund is now entirely depleted, due to the need for the Organization to borrow from it to meet recurring short-falls in its annual budget. The United Nations has no authority to borrow money externally and can only meet its periodic cash flow problem by short-term internal borrowings which must be repaid within the year.

Another Post headline charges that "UN Accounts lose Millions in Interest", and alleges that "more than $100 million of excess funds amassed by the UN and its affiliates is being kept in U.S. and foreign bank accounts that pay little or no interest". Reference is made to current interest rates of 9 and 9.9 percent, and on this basis the calculation is made of an interest loss of $3 million a year. Let us examine this from the point of view of the United Nations and see what are the facts.

First of all, any one who knows anything at all about interest rates knows that there is a vast difference between interest rates in mid-1979 and those obtainable in 1977. Any bank will confirm that no overnight rate of 9 percent—or anything like it—was obtainable at the end of 1977, and to make a calculation based on that impossible assumption is therefore meaningless. Second, the only references which Mr. Kessler makes to interest rates payable on UN bank accounts (UN, UNDP, and UN University) mention 5 percent as the bank rate payable. Mr Kessler, not unwittingly, took his reference to the 5 percent payable on our $7 million deposit in New York's Chemical Bank from page 79 of the Auditors' report of 1977; yet he overlooked the fact that this same page records a total of $13.5 million deposited in other banks at rates ranging from 7 1/16 to 7¼ percent. Was this accidental? Was this objective reporting? Or was it a calculated selection of the "facts"?

Mr. Kessler turns his attention also to UN practices and policies in the awarding of contracts. He complains that he was refused access to the UN files in this regard. The truth is that Mr. Kessler was refused an open-ended "fishing license". When he wrote to ask to "see the files showing how current contracts have been awarded" he explained that he would like to be able to determine what bidding procedures were used, what prices were offered for particular goods and services, what companies were selected and what prices were paid. In reply he was told that while files are not open to public inspection, we would be glad to discuss with him the procedures followed in our bidding system, and the basis on which contracts are awarded. We offered to furnish copies of the rules and regulations applicable, as well as to explain the audit and inspection procedures used to evaluate these arrangements.

When Mr. Kessler appealed against this refusal of access to the files, he was asked to indicate which contracts he was interested in and invited to present to us, either orally or in writing, any questions which he had concerning them. I promised personally that if he would do so I would do my best to get the answers for him; despite my offer I received no response. The article alleges that hundred of millions of dollars of supplies and services are contracted for each year without throwing the contracts open for competitive bids. So far as the United Nations Organization is concerned this is simply not true. World-wide advertising was long ago discarded as impracticable, but selective invitations to bid are issued in sufficient numbers to ensure fair and competitive prices. In Mr. Kessler's article of Monday, 18 June, he mentions the cleaning contract of the UN building as one which has been in the hands of the same company since 1951. He refers to it as a cost-plus fixed-fee contract—meaning that the contractor is reimbursed for his actual out of pocket expenses and paid a management fee which does not vary during the life of the contract. This particular contract involves a payroll of $3 million annually; the management fee is less than $100,000 out of which the contractor has to pay for the uniforms of his staff, cleaning of uniforms, cleaning supplies, legal fees, insurance, etc. How was the contract awarded? Periodically it is opened up for tenders, the latest occasion being 1971 when 7 major cleaning firms in the New York area were formally invited to bid. Four bids were received. The contract was awarded to the lowest bidder whose bid was 25 percent lower than the other bids.

The only other contract mentioned is that for electrical work. Part of this, because of the complex nature of the operation and the special familiarity required with the installations in the building (dozens of interpreters' booths, hundreds of microphone positions for delegates etc.) can not readily be put up for periodic tender and switched from one contractor to another. The contractor holding the contract would have in fact an insuperable advantage because of his specialized knowledge of the installations over all other bidders. That is why the contract for this portion of the work is offered on a cost plus fixed management fee basis. For other parts of the electrical work—new construction for example—tenders are called and depending on the quality of the tender, normally awarded to the lowest bidder.

Finally, Mr. Kessler, referring to reports of the external Board of Auditors—composed of the Auditors General of three member states—states that they have repeatedly "qualified" their opinion on the soundness of the UN's finances, and refused to certify that the books as presented were accurate. This is a completely false statement and it is only necessary to read the certificate signed by the three members of the Board of Auditors in successive audit reports to prove it.

Here is the Audit Opinion of the Auditors as it appears on page 24 of their report for 1977:

"We have examined the following appended financial statements, numbered I to XV, properly identified, and the relevant schedules and annexes of the United Nations for the biennium 1976–1977 ended 31 December 1977. Our examination included a general review of the accounting procedures and such tests of the accounting records and other supporting evidence as we considered necessary in the circumstances. As a result of our examination, we are of the opinion that the financial statements properly reflect the recorded financial transactions for the biennium, which transactions were in accordance with the Financial Regulations and legislative authority, and present fairly the financial position as at 31 December 1977, subject to the observations contained in paragraphs 57 and 58 of our report."

The final words of the auditors' opinion deserve notice. This is not a "qualified" opinion in the sense alleged by Mr. Kessler. The Board did not refuse to certify that the books as presented were accurate. Paragraphs 57 and 58 of the report to which reference is made refer exclusively to a total of $240.3 million of unpaid contributions of member states, most if not all of which is considered by the Auditors to be "uncollectable". The Board states therefore in para. 58 that "its opinion on the financial statements is subject to the ultimate realization of these assets". It may well be as the Auditors have implied that these amounts will in large part be uncollectable. If the United Nations were a commercial organization it might well make sense to write them off as bad debts. But the United Nations is not a commercial organization. It is a political body; and each dollar of the amounts referred to is a dollar that is owed to the Organization by a viable member state. It therefore requires a political decision—not an audit opinion or an administrative action—on the part of the member states themselves, to dispose of these uncollected amounts; and for obvious reasons the majority of member states are not prepared to relieve their delinquent colleagues of these obligations under the Charter of the United Nations by writing off their debts.

Mr. Managing Editor, the United Nations faces many difficult problems, because sooner or later most of the problems of the world come to its doorstep. One of the problems it has had to face year in, year out, is that of adequate financing. Here it must rely entirely on the willingness of its member states to honour the pledges which they make by paying the assessments to the United Nations regular budget and by adding to these assessments the voluntary contributions which they make to programs and projects in which they have a special interest. Member states who contribute these voluntary funds to special programs—whether it be children or food or narcotics control or population—do not want their gifts to be diverted to purposes for which they were not intended. That is why you cannot jumble up the accounts of the voluntary funds, as Mr. Kessler does, with the regular administrative budgets of the agencies. Nor does a government which pays its assessed contribution to one agency—say WHO—expect to see a part of its contribution diverted to another—say ILO—of which it may not even be a member. How then can you lump all of these amounts and accounts together and treat them as one—as Mr. Kessler does?

Each UN agency must rely, for its day-to-day operations on the assessed contributions contributed by member states in accordance with a formula which they themselves have approved. The USA has accepted 25% as its share of that formula and it has never, up to this year, failed to pay its full contribution to the last dollar. Unfortunately, not all other countries have done the same; and this in essence explains why the UN is in financial difficulties with a "true deficit" on regular budget account of $150–$200 million. This is why it continues to carry a bonded indebtedness of some $75,000,000 from the days of the Congo which it is still struggling to pay off by annual installments. This is why its Working Capital Fund has been depleted from $40 million to zero.

These are true statements, Mr. Managing Editor; and it is difficult to understand why a reputable journal such as the Washington Post would not take the trouble to acquaint itself with these facts, instead of lending its columns to the kind of faulted journalism that is represented by Mr. Kessler's tales. It would have been easier, less costly and infinitely more truthful and honest to have presented these truths of the UN's financial position than to have gone to the infinite trouble and expense of assembling the detailed catalogue of misrepresentation over which Mr. Kessler has labored. The result of his efforts will not do justice to the United Nations, nor credit to the Post.

Yours truly,
George Davidson,
Under-Secretary-General for Administration and Management.●

OUR ENERGY PROBLEMS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. ROSENTHAL. Mr. Speaker, this Nation has energy problems. OPEC, the U.S. multinational companies and the Department of Energy are root causes for the existing energy causes.

At the Commerce, Consumer and Monetary Affairs Subcommittee's hearings June 11, Mr. Dougherty of the Federal Trade Commission testified that current gasoline shortages could not be explained by crude shortages. This judgment agreed with the findings and conclusions of a study independently arrived at by the subcommittee staff.

Following the hearings on June 14, Secretary of Energy Schlesinger admitted that we had more than adequate crude oil inventory stock and that he would undertake to use the Department of Energy's allocation authority to urge recalcitrant refiners in the direction of serving the consuming public. He pointed out that "prudent" company management was not in such instances consistent with the national interest.

On Thursday, June 21, Secretary Schlesinger reversed his stand, expressing fear that the U.S.-multinational oil companies might retaliate by withholding crude oil from the United States.

It is most difficult to believe the fears he expressed could be real. The American market for imported oil is the world's largest. Every oil producing country needs dollars and wants to trade with only the possible exceptions of Saudi Arabia, Kuwait, and the United Arab Emirates. There is little doubt that each producing country wants its share of the U.S. market. A refusal to supply the U.S. market is not a real option for the multinational oil companies.

It is possible to believe that the U.S. multinational oil companies are involved in a ruse even greater than in November 1973, when they claimed they could not supply the U.S. Armed Forces with the Saudi Arabian oil because the Saudi Arabians did not wish it. As a result, without verifying the fact, existing bunkering and supply contracts were broken and the companies profited to an amount in excess of a half-billion dollars.

The multinational oil companies have shown that prudent management is not consistent with th U.S. national interest. Further, it becomes obvious that much of the blame for current gasoline shortages must also be ascribed to deliberate actions by the Department of Energy and the oil companies not to refine the large available supply of crude oil.

The above blackmail threat by the U.S. multinational oil companies to ship crude oil to Europe rather than the original intended market, the United States, calls for a vigorous response by this Nation.

We must recognize the mutual self-interests and closeness of the collaboration between the multinational oil companies and the oil-producing countries, OPEC and non-OPEC. The 1973 incident is such an example. The foreign oil tax credit is another such incident. A producing nation will create an income tax to disguise royalty payment in order that U.S. multinational oil companies can claim the foreign oil tax (royalty) payment be deducted dollar for dollar from U.S. income taxes as foreign tax credits. Without the foreign tax credits, the royalties would have had to be taken as ordinary business expenditures at much lower tax savings. Everytime OPEC prices rise, the foreign oil tax credits also escalate upward thus creating less taxes and create greater net profit. The tax credits have also been used to offset other foreign profits generated by the companies, some of this profit, in turn, generated from U.S. operations by transfer pricing.

We can no longer play by the rules made by OPEC and multinational oil companies who drive up the price of oil at will and artificially through threat and dislocation create shortages of sorts.

We must face up to this charade.

We must abolish phony foreign tax credits claimed by U.S. petroleum companies to prevent greater raids on the U.S. Treasury and to remove this unwarranted advantage given to the oil companies to explore and develop foreign crude oil.

We must create a Federal, nonprofit corporation which would be the sole purchasing agent of all U.S. imported petroleum and petroleum products through the use of sealed competitive bids so that we may purchase crude oil without being subject to blackmail threats.●

VALUABLE BIRD IS DIMINISHING

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. EDWARDS of California. Mr. Speaker, I am pleased to see that the Appropriations Committee Subcommittee on Interior has recommended that the fiscal year 1980 appropriation for the Department of the Interior include $500,000 to insure the preservation of the California condor, North America's largest land bird.

This funding will be used to implement the California condor recovery program, and without these funds the extinction of the condor is inevitable. The most important factor concerning the fate of the condor is that time is of the essence. There are less than 30 of these birds alive today.

The reason there are so few condors is largely the result of human interventions. The shooting of these birds and the collecting of their eggs can be attributed to their early decline, but in the last decade poor reproduction has become the big problem. This problem has developed primarily from chemical pollution of the environment which causes eggshell thinning and from the condors loss of habitat. In Kern County alone over 100,000 acres of condor habitat have been lost to land developers.

There is a drastic need for the preservation of some critical condor habitat. In Los Padres National Forest two condor sanctuaries have been established but there are still other critical areas needed. Besides a need for habitatual land such items as additional feeding, captive breeding of condors for future release in the wild and firearm restrictions in designated areas are needed for the condors preservation. This above items are found in the California condor recovery program. I urge my colleagues to support this appropriation to the Fish and Wildlife Service for without this program we will not only lose one of the rarest and most endangered species of bird in the world but we will also lose a symbol of our natural heritage.●

H.R. 4725—PRINTING OF FEDERAL AIRLINE TICKET TAX

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. ROSTENKOWSKI. Mr. Speaker, yesterday I introduced a bill to amend the Internal Revenue Code of 1954 to modify the rule relating to the printing of the Federal tax on airline tickets when the ticket has more than one segment.

Present law requires the airlines to print on each passenger's ticket both the fare and the Federal tax levied on that fare. When the ticket has more than one segment, the tax must be computed and shown for each segment. Airlines divide a trip into its component segments whenever a change of service is involved. For example, if, in the course of a trip, a passenger switches airlines, flies both first class and coach, or uses several rate structures—that is, both weekday and weekend excursion fares—his ticket will reflect the fare for each segment. Under present law, the airline must also determine the tax on the individual segments and list it separately for each segment.

This situation creates considerable administrative problems. Many of the estimated 120 million tickets sold annually are broken down into segments. Calculating the tax for each segment wastes time not just for the airline, but for the passenger waiting at the ticket counter. This requirement produces no extra revenue—only extra difficulties.

My bill would resolve these difficulties by deleting the current requirement in the code that airlines publish separately for each ticket segment the excise tax apportioned to that segment. However, under this legislation, airlines would still have to print on the ticket the total tax and fare.

Inasmuch as the bill only makes an administrative modification in the Internal Revenue Code, it has no revenue impact; yet, at the same time, it will save both expense and annoyance for the airlines and their passengers.●

THE SUBJECT OF H.R. 3930 AND THE AMENDMENT OFFERED BY MR. WRIGHT OF TEXAS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. FORD of Michigan. Mr. Speaker, I rise today to support H.R. 3930 which is an extention and amendments to the Defense Production Act. I also rise to support the amendment offered by Mr. WRIGHT of Texas which extends and expands the intent of the original bill.

There was a time in this country when the gas stations were in line waiting for customers. Now, the customers are in line waiting for the gas station. I do not believe this country should find itself at the mercy of forces beyond its immediate control. Right now, without synthetic fuels being produced, we have no choice but to rely upon continued importation of oil. The picture painted by the media and the public opinion each Member finds in his district and in the mail is that we are hostages. We are hostage to forces which are not in our immediate control. This is the problem addressed by H.R. 3930. We will never be able to resolve the problem so long as we depend upon the OPEC nations for 50 percent of our consumption. Synthetic fuels may enable us to declare our independence from OPEC's economic throttlehold.

Synthetic fuels have a bright future with the passage of this bill. By guaranteeing both prices and a market for synthetic fuel, this bill would accelerate the development of svnthetic energy plants. The language of the bill is broad enough in defining synfuels to include everything from bundles of solid wastes to be used to produce steam to make electricity to liquified and gasified coal. For coal, sulphur is removed in the conversion process and becomes saleable, thus giving us an additional economic benefit. In addition, the sulphur-free fuel would ease the burden on the auto industry in meeting emission standards. And each job at a synfuel plant is another step toward our goal of full emplovment.

It seems to me that the United States has everything to gain, and nothing to lose, by an immediate crash program. We did it to get to the Moon, and we can do it to solve the present dangerous situation, which finds us growing more and more dependent on other nations for our energy supply.

I ask each Member to support H.R. 3930 and support the amendment of Mr. WRIGHT of Texas which expands the commitment and expands the objectives of this bill. Congress has waited for a long time, and the time has arrived to vote for this very important measure.

Thank you, Mr. Speaker.●

H.R. 2444—DEPARTMENT OF EDUCATION

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. MOORE. Mr. Speaker, I voted against H.R. 2444 to establish a Cabinet-level Department of Education not as an antagonist of public education, but rather as a strong advocate of its importance in our heritage and future. I am a product of public education throughout my academic training as is my wife. Mv children attend public schools. My wife and I have taught in public education systems. It is because of mv love and devotion for public education that I voted against H.R. 2444.

My fears regarding the intent and likely outcome of H.R. 2444 are several in number and considerable in size. I expect the Department of Education will be oppressive bv usurping control properly administered now by State and local authorities. It strikes at the heart of academic automomy as currentlv exercised bv those units of government closest to the student, parent, and taxpayer. There is even some usurpation of academic control away from local and State hands under current law. State and local control will likely continue to erode as the centralized power of the Department of Education grows.

Despite some protections in the bill to help ward off power gravitation to the centralized Department of Education at the expense of State and local units of government, the power of the Department of Education will grow as did the interest of the camel once his nose went under the tent of his master. The camel soon entered and the master soon left to wander the desert alone.

There is no need for a national Department of Education unless the declared purpose of its creation is to establish a nationwide education policy to be directed and enforced by Federal regulations announced and enforced by the Department of Education. Explicit control over education can only be the eventual result of the Department of Education and it will grow in influence and authoritv as have all other departments before it. We will see increases in its number of employees, regulations, and expense as each justifies the duty of what Cabinet-level department secretaries want and largely receive. The Department of Education will not be an exception to this practice.

During my nearly 5 years tenure in Congress, I have repeatedly had local education officials complain to me about the inflexibility and lack of understanding on the part of the HEW Office of Education officials. These problems will only be compounded and redtape will mount as the influence of the Department of Education grows.

A constructive alternative to H.R. 2444 is a concerted commitment by local communities and their citizens to support local education. This may be in the form of approval of bond issues, recommendations for higher tax bases and levies, or parents taking more of an interest in the education their children receive.

Mr. Speaker, we must have a strong and viable public education system that merits and receives public support, but H.R. 2444 will not aid in the advancement of our academic health. Local education is the backbone of education and I will continue to do all I can to help it stay that way.●

THE UNDERSIDE OF HISTORY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mrs. SCHROEDER. Mr. Speaker, to read an American history book, one would never guess that women were essential to the success of the new American colonies. Women in the colonies did more than just cook, sew, and support their men. It was not unusual in the colonies to find that women were running newspapers, schools, and print shops, supervising plantations, and even practicing medicine. The colonies understood that women would be an important economic force in the new colonies. In Virginia, women, as well as men, were given land grants. It was only when settlements had advanced to a state of self-government based on participation of male heads-of-household that land grants were no longer given to women.

In her book, "The Underside of History," Elise Boulding points out some contributions of early American women which have been overlooked. There were women like Elizabeth Haddon who founded what later became the town of Haddonfield in the New Jersey settlement. Only after she founded the settlement, building her own cabin, did she marry. So you see, colonial women were not all appendages of their men. In New Amsterdam, Dutch women were crucial to Indian trade and overseas commerce, acting as interpreters between the colonial government and the Indians. In fact, a Dutch colonial woman, Philipse, organiezd the first transAtlantic passenger service from New Amsterdam to Europe. Eliza Lucas, a South Carolinian colonist, pioneered the indigo trade, which proved to be important to the economic development of that colony. And, as the country moved from colonization toward independence, the women were right there—from the revolutionary instigators, the Daughters of Liberty, to the fighters, Molly Pitcher and Deborah Sampson.

Women toiled side-by-side with the men for the new land and the new country. That they were left out of both the Declaration of Independence and the U.S. Constitution and could not enjoy the fruits of their hardearned freedom is at best ironic and at worst tragic.●

SHCHARANSKY'S HEALTH IS FAILING

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. DRINAN. Mr. Speaker, yesterday, July 10, 1979, marked the first anniversary of the opening of the trial against Soviet human rights activist Anatoly Shcharansky. Numerous Members of this body joined with me then in expressing their deep concern over the Soviet's continued harassment of this brave young man.

For some time, reliable reports have indicated that Shcharansky's health has been deteriorating. But today, it has been reported in the New York Times that the situation is even worse than anticipated. In a letter which Shcharansky sent to his mother, Ida Milgrom, he wrote that his eyesight had deteriorated to the point where he can hardly see.

I hope the administration and the Soviet authorities realize the significance of this new development, and will take immediate steps to insure that Shcharansky receives the medical attention that he so desperately needs.

The New York Times article follows:

SHCHARANSKY BLINDNESS IS FEARED

MOSCOW.—The mother of Anatoly B. Shcharansky said today that her son was in danger of losing his eyesight in prison where he is serving a 13-year sentence for treason.

The 70-year-old mother, Ida Milgrom, reported that in a letter June 10 he said that he could hardly read or write. She said she would try to obtain treatment for him by appealing to the medical department of the Ministry of Internal Affairs.

Mrs. Milgrom also told Western reporters that she planned a vigil on Saturday, a year from the day her son was sentence for allegedly spying for the Central Intelligence Agency, by standing outside the courthouse from which she was barred during the trial.

"I will be there to relive that terrible moment," she said. "I will go alone to that place and stand for 15 minutes to resurrect in my memory that terrible hour when they handed down that inhuman sentence."

Mrs. Milgrom said she hoped to be allowed to see her son next month. That would be a year since she last saw him. A visit scheduled for Feb. 2 was canceled. She never received an explanation, she said, but believes it was because he had been unable to perform assigned prison work and thus had violated the rules.●

TRADE AGREEMENTS ACT OF 1979

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. KEMP. Mr. Chairman, I urged strong support today of the Trade Agreements Act of 1979 which passed overwhelmingly. International trade is the one area of economic policy in which this administration can take justifiable pride in its achievements. Special credit is due to Special Trade Representative Robert Strauss and his able deputy, Alonzo McDonald, for turning the Tokyo round negotiations from a stagnant, sterile debate into a productive and mutually satisfactory agreement. They really have made significant contributions to our Nation and the world.

Although freer world trade increases exports and creates employment, its most important effect is to raise the standard of living of the citizens of trading nations. In fact, increased international trade has the same effect as a worldwide improvement in productivity, since it increases the purchasing power of each unit of our labor. The act of exchanging something we have for something we need enables each nation to specialize in producing what it can produce best, most efficiently, with greatest variety, and at lowest cost to consumers.

The results of past international trade agreements have been dramatically beneficial to the United States and the world. In the decade following the 1960–61 Dillon round, which cut tariffs an average 20 percent, world trade doubled in volume. In the decade since the 1964–67 Kennedy round, which cut tariffs an average 35 percent, the volume of world trade has tripled. The Kennedy tariff cuts, coupled with tax cuts, helped achieve full employment and price stability.

The Tokyo round agreement also includes an average 31 percent tariff reduction. But more significant are the agreements to remove nontariff barriers to trade, which have sprung up especially since 1970.

The Tokyo round agreement does the following:

Outlaws unfair government subsidies of exports, and requires that domestic subsidies not be used to injure competing foreign industries. Requires an injury test before imposing countervailing duties or antidumping measures; but speeds and toughens the process of imposing these measures when an injury is shown.

Standardizes and simplifies customs valuation. Opens foreign government procurement competition for $20 billion worth of contracts to U.S. firms, and about $12 billion, or 15 percent, of American Federal procurement bidding, with adequate safeguards, to foreign firms.

Removes unreasonable technical barriers to trade, implements tariff reductions, removes tariffs on civil aircraft, parts, and repairs. Implements agricultural measures, largely to the advantage of American farmers.

The Office of the Special Trade Representative estimates that when fully implemented, the trade agreements will result in yearly economic benefits to the United States worth $10 billion, and increase the buying power of the average consumer by $695.

This bill is especially important for my own New York State. New York is second only to California in the number of jobs dependent on the export of manufactured goods, according the Census Bureau. Nearly 1 in 6 workers, or 276,000 owed their jobs to exports in 1976, the most recent year for which statistics are available. Of these, 135,900 jobs were in manufacturing plants producing the finished export goods and parts for their production, and the remaining 140,100 were jobs in activities supporting the exporting plants.

Exports have also contributed heavily to the growth of job opportunities in New York. While the number of manufacturing jobs in the State dropped by 13 percent between 1972 and 1976, export-related jobs rose more than 20 percent. The value of production for export rose 90 percent during the same period, while domestic production rose 30 percent. New York ranks fifth in the Nation in value of exports, which totaled $5.32 billion in 1976. New York's air and seaports rank first in value of goods shipped overseas, with $11.8 billion.

It is clear that the Tokyo round agreements, if enacted, would contribute substantially to New York's economic well-being. Many of the biggest concessions secured in the negotiations from our major trading partners have been precisely in the State's leading export areas—machinery, electrical and electronic equipment, chemicals, computers and photographic film. In addition, the agreement on civil aircraft will add to New York's primacy in instruments, since a large portion of the cost of aircraft is in avionics. The liberalization of Government procurement competition, especially in nonmilitary aircraft, will have a similar effect.

New York ranks first in exports of instruments—$792 million—second in electric and electronic equipment—$958 million—and fourth in nonelectric machinery exported—$1.358 billion. These three categories alone account for 58 percent of all the State's exports. Chemicals, transportation equipment, fabricated metal products, printing and publishing, and primary steel products follow in order.

While freer trade significantly increases the American standard of living, increased competition can cause growing pains. Workers in formerly protected, marginal industries can be displaced by lower priced imports in the short run. New York's most vulnerable industries have traditionally been garment, textile, leather, and steel production. I am happy to say that special agreements for each of these industries have been reached, to treat these industries separately. Both management and labor groups in each sector have announced their support of the trade agreements and I am pleased at the consensus that has been worked out by Bob Strauss.

We need jobs, economic growth and more production, all of which are enhanced by this trade bill. It is not perfect but a good step toward a healthier and freer world trading climate. I congratulate the administration and the bipartisan supporters.●

DO WE EXPECT TOO MUCH?

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. QUAYLE. Mr. Speaker, the Wall Street Journal yesterday carried a pertinent article on the Presidency written by Timothy D. Schellhardt. After reading the article, which underscores the growing burden of the Presidency in these complicated and crucial times, it becomes clear that the Congress should consider a constitutional amendment to limit the Office of President to one 6-year term. It is an idea whose time has come.

Under leave to extend my remarks in the RECORD, I include the article from the Wall Street Journal:

DO WE EXPECT TOO MUCH?

(By Timothy D. Schellhardt)

(We give the President more work than a man can do, more responsibility than a man should take, more pressure than a man can bear. We abuse him often and rarely praise him We wear him out, use him up, eat him up. And with all this, Americans have a love for the President that goes beyond party loyalty or nationality; he is ours and we exercise the right to destroy him.)

—*John Steinbeck.*

WASHINGTON.—Vice President Walter Mondale thinks John Steinbeck's observations are more appropriate in 1979 than when he wrote them in the mid-1960s while big, brash Lyndon Johnson was Chief Executive.

Mr. Mondale, feet propped on his desk in his office down the hall from Jimmy Carter's, ponders the question: Do Americans expect to much from the presidency? He believes they do and he wishes they would be a little more realistic about presidential abilities to combat such problems as stubborn inflation, growing energy shortages and upheavals in faraway spots like Iran—the kind of problems Mr. Carter is now grappling with at his Camp David retreat.

"I'm not crying for help or lamenting the fact that we're here. As I recall we wanted to be here, and I'd like to stay," he declares. "But I think it's important for Americans to understand what a President goes through, the difficulties of the problems, sometimes the limits on the capacity of any President to handle certain issues, and often the patience required in dealing with them."

THE RIGHT TO DESTROY

Are the Vice President's concerns mere complaints of a man attempting to explain away the sagging political fortunes of his boss? A growing number of political scientists who "track" the presidency don't think so. These scholars suggest that Americans, confronted with expanding social and economic pressures, increasingly do expect too much from the presidency. As a result, Americans frustrated by unfulfilled expectations may be, as Mr. Steinbeck suggested, exercising the right to destroy the modern President, according to some of these observers.

"Consider the last two decades," says James Stanley Young of the University of Virginia. "Kennedy was murdered. Johnson abdicated. Nixon was overthrown and exiled. Ford was defeated in office. Carter appears increasingly weak. We may be in for a period where we waste every President who comes in. Perhaps we should be reconciled to a series of one-term Presidents," he observes.

In a new book entitled "The American Presidency" (Basic Books), political scientist Richard Pious of Barnard College suggests Presidents will continue to be embattled through the 1980s. Presidents in the next decade, he says, "aren't likely to become popular or party leaders." Voter turnout will continue to decline and the electorate will continue to become disillusioned by failures to fulfill campaign promises, he expects. Most presidential attempts to control the national agenda through their legislative proposals probably will fall victim to special-interest challenges, he believes. And Presidents, he predicts, won't be able to manage foreign relations well because of conflicting interests within the government itself. "The White House will remain in a state of siege," he concludes.

Changes in the world, in the nation and in official Washington explain the increasing pressures on the presidency and the accompanying sense that modern Chief Executives can't meet public expectations, political scientists say.

For one thing, many of the problems a President must address seem now to be intractable. A growing number of them involve global issues that can't easily be manipulated by a U.S. President facing the increased influence of other world power centers. The decisions of the major oil-exporting countries to jack up prices without the traditional economic justification provide a clear example. Americans who aren't used to such flagrant disregard of their economic interest are slow to realize that retaliatory options are limited. As a result, they've become frustrated by presidential inability to sway OPEC action.

Increasingly, "economic policy is determined by international considerations," contends political scientist Aaron Wildavsky, citing as one example Mr. Carter's moves last November to shore up the U.S. dollar. "That represented a milestone in American government," he says, because the commitment to defend the dollar will "severely restrain" domestic economic decision-making for this President and "all his successors." He adds, "The pace of change is so terribly swift."

Undermining presidential power, too, has been the fragmentation of Congress and the growing influence of special-interest groups. A President no longer can be sure that he can get his legislative proposals adopted simply by corralling the congressional leadership. And intense lobbying by special-interest groups has frequently thwarted Jimmy Carter's pet programs, including hospital cost-control legislation and measures to overhaul welfare and to establish a separate education department.

"Americans never quite believe they have a strong President unless he masters Congress, or has a military background, or sends the troops somewhere in a conspicuous display of force," maintains Prof. Reo Christenson of Miami University (Ohio).

Persisting public memories of Watergate have contributed to the pressures on the presidency. The downfall of Richard Nixon didn't necessarily reduce Americans' expectations of the presidency; rather it raised the public's suspicions of the officeholder.

Since Watergate, asserts Mr. Pious, "the 'Hail to the Chief' attitude of Americans is mixed in with a 'jail to the chief' cynicism." Harvard University's Richard Neustadt belives the Watergate-spawned suspicions toward Presidents "probably will last for quite a while."

Several political scientists trace a good bit of the post-Watergate cynicism toward the presidency to the news media. The legacy of Watergate "is wolfpack journalism, which will confirm the worst fears of the public," claims Mr. Pious. Adds Mr. Christenson of Miami University: "The presidency is becoming the victim of macho-ism and a show-biz atmosphere. The media want to demonstrate how strong and courageous and indomitable they are. They also want to entertain—and red meat is always more entertaining than helping people understand the complexities of political life and of political decisions."

Furthermore, a number of scholars cite specific presidential authority that has diminished or been lost altogether because of Watergate and other events, notably the Vietnam war. The war powers resolution passed by Congress in 1973, which requires Presidents to consult more with Congress before committing U.S. forces to conflicts abroad, is seen as restricting presidential authority in foreign affairs. In addition, Congress since 1974 has displayed an increasing determination to assume an active role in foreign policy, they say.

TOO MANY PROMISES

Presidents add to their problems by making too many campaign promises, several presidency watchers maintain. "A President really can't do what he promises to do in a campaign," asserts Lawrence K. Munns of Goucher College. And when a President can't deliver, he's apt to be judged all the more skeptically in the future, Mr. Munn says. Of Mr. Carter, Betty Glad of the University of Illinois says: "We blame him for too much, but the problem is he promised so much."

If Americans expect too much from the Chief Executive, what should they be content with? "On domestic affairs," believes Mr. Christenson, "we should expect leadership from the President on major problems—a willingness to grapple, even if only experimentally, with these problems. People will forgive a President for misjudgments but not for inaction. We should not expect solutions to deep-rooted problems, especially when the intellectual leaders of the country are as baffled by them as they are today."

On foreign affairs, this political scientist contends, Americans should expect diplomatic or military action "where the vital interests of America or our major allies are threatened by undemocratic forces—but no military involvement unless the need is very clear and is practicable. The benefit of the doubt should always be given to military restraint."

It's clear that the public expects a great deal—and should—from the leader they elect every four years. But it's also plain that Americans expect more than today's President has the power to deliver. "Like everyone else, there are limits to what a President can do," says Mr. Mondale. He favors a little more understanding—"and a little more patience."●

IN RECOGNITION OF MILLARD NELSON

HON. ALVIN BALDUS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. BALDUS. Mr. Speaker, I would like to take this opportunity to commend one of my constituents whose efforts have been dedicated to the conservation of our soil. Millard Nelson worked with the ASCS since 1939, and although he retired several years ago has carried on his conservation efforts.

Since 1961 he has planted over 200,000 evergreen trees on his farm in Pierce County. As we learned from the Dust Bowl of the 1930's our topsoil is a precious but perishable natural resource and initiatives to conserve it should be commended. Therefore, on the behalf of the House of Representatives, I would like to congratulate Millard Nelson for his efforts in the area of soil conservation.●

TRIBUTE TO LEONARD N. HALL

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. WYDLER. Mr. Speaker, recently in National Review my good friend, William J. Casey, one of the close friends and a law partner of Len Hall, wrote a tribute in his behalf. It is worthy of being read by all of us about this fine and good man.

The article follows:

LEONARD N. HALL, RIP

(By William J. Casey)

"I was a rebel," reads a sentence at the beginning of the memoir Len Hall dictated a few years ago. To Christ Church in the hamlet of Oyster Bay there came last week old pals from the hustings on Long Island more than half a century ago, from both sides of the aisle in the New York Assembly and the Congress of the United States, from the Dewey campaign of the Forties, the Eisenhower campaign of the Fifties, the Nixon campaign of the Sixties, the Roosevelts of Oyster Bay, clients of a self-styled country lawyer, colleagues on corporate, civic, and charitable boards—and just friends and neighbors of the big man. They were there to pay a final tribute to the rebel who had become a national leader.

More than a quarter of a century has passed since the Republicans last won both Houses of Congress. Leonard Hall had been organizer and chairman of the Congregational Campaign Committee in that victorious election, and then chairman of the Republican National Committee in the years his party held the Congress. How did this self-styled rebel become the Mr. Republican of our time?

An open, genial friend to all, regardless of faction or party, he was always ready to take a stand. A 27-year-old lawyer seeking nomination for the New York Assembly at a time when the Ku Klux Klan was riding high, he was told that he could have it on a silver platter if he would join the Klan. He refused and went on to fight his way to the Assembly and to political leadership in Long Island.

In the Assembly, a Republican Speaker, reneging on his commitments, precipitated Hall and a half dozen other assemblymen into a six week fight which resulted in the ouster of a sitting Speaker.

In the Congress, with a vote coming up on extending the draft, Hall contrived to get the Army Chief of Staff, General Marshall, to give him and a handful of others on the Republican side a briefing on the military situation facing the nation. Announcing that he was convinced, Hall led 21 Republicans in voting, against the leadership, to extend the draft. A majority of one avoided the spectacle of thousands of men coming home from the training camps months before Pearl Harbor.

It was Hall who walked out of the hospital room where President Eisenhower was recuperating from his heart attack, and, on his own, announced in his cheerful, confident way, that "Ike will run again if he is able." He did; and the Republicans got their second four-year lease on the White House in the first 25 years of Len Hall's half century in politics.

A few years ago, Hall described himself as astonished by the Watergate scandal and gave four explanations for it: "entirely too much money"; "grim, starchy young amateurs"; "a failure to recognize that the relationship between political parties in a campaign is an adversary relationship rather than the relationship of enemies"; and "a lack of humor." To Len Hall, politics had to be fun. It was in this spirit that he reached out to gather people and unify them under a standard of integrity and responsibility.

In Len Hall we have lost a politician who brought honor and dignity to that profession by standing up tall, true to his ideals, true to his word, true to his obligations, sensitive to the proprieties and the interests of others, dedicated to his party and his country, warm in his friendships, and ever ready to extend a helping hand.

WILLIAM J. CASEY.●

RETIREMENT OF LT. GEN. RAYMOND FURLONG

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. DICKINSON. Mr. Speaker, June 30 marked the end of the distinguished military career of Lt. Gen. Raymond B. Furlong, Commandant of the Air University, Maxwell Air Force Base, Montgomery, Ala. General Furlong retired after 30 years of commissioned service to a grateful nation.

Immediately after his retirement, General Furlong consented to an interview by Nick Lackeos, a reporter for the Alabama Journal. His remarks regarding the state of our national defense—or at least the lack thereof—should be of interest to every Member of the Congress. According to General Furlong—and he certainly was in a position to know—there is no question that we now rank second to the Soviet Union and that the only answer to this serious situation is more spending on defense. I include his remarks at this point in the RECORD:

[From the Alabama Journal, July 2, 1979]

FURLONG SAYS U.S. NO. 2, DECLINING

(By Nick Lackeos)

The retiring commander of Air University at Maxwell Air Force Base says the United States is No. 2 in military might, behind the Soviet Union, and "declining."

Lt. Gen. Raymond Furlong, who retired Saturday, said the Defense Department annual report for 1980 shows the Soviet Union surpassing the United States in 1979 in military might.

Furlong, who was a fighter pilot during the Korean War, said the 1980 report shows Russia leading the United States by a much greater margin than the department's 1979 report had predicted.

Russia's military supremacy was reflected in the SALT II treaty negotiations when Soviet leader Leonid Brezhnev drove a hard bargain, said Furlong, explaining the treaty favors Russia, and Brezhnev indicated he would not sign the arms control document if it did otherwise.

"He said don't you screw around with that SALT treaty or I won't have any part of it," said Furlong.

"He threatened us. He couldn't have done it 10 years ago. Why can he do it now? Because he's got the tickets.

"It's really time to eat crow and humble pie.

"And it's not very pleasant."

When asked how the United States can regain the upper hand in military strength or at least catch up with the Soviets, Furlong replied, "You can't fix it that quickly. We're stuck. The real question is do you (the American citizen) care? And if so, what are you going to do about it?"

He said Americans need to face the fact that more money needs to be appropriated for defense.

"The disadvantage becomes worse if you dont sign it (the treaty)," he said.

Some senators were worried whether the Soviets' living up to the conditions of the treaty can be verified, said Furlong.

"Can it be verified? Yes.

"Perfectly? No.

"Can the Soviets cheat? If they want to.

"We're not talking about the opportunity to get a better treaty. We can't do that. We don't have the horses."

Furlong said what really worries him is that Russia has drastic domestic and economic problems as well as a declining work force and an inability to feed herself without agricultural imports.

He said these problems will culminate in the early 1980s.

"How will they react" when the Soviet nation feels the maximum burden of these problems is a question that the United States needs to ask itself, said Furlong.

"Will they become hostile or pacific? I don't know the answer to that question.

"But we are going to find out. The die is cast. And in the interim we may be embarrassed again. We swallowed it (from Brezhnev) and we are going to have to learn how to do this."

America will have to learn to accept "strategic impotence" with "dignity and style," said Furlong as long as Russia remains far enough ahead of the United States in its military capabilities.

Officers participate in war games at Maxwell where enemy movements in tactics are made by a computer, and at other times by other officers who try to think like the Soviet military leaders would think in a war with the United States, said Furlong.

"We had a very different environment in Korea," said Furlong, referring to hostile forces pilots encounter on combat missions.

"It was almost permissive air space," he said of the few MIG fighters.

"They did have some antiaircraft guns and some fighters.

"The defense we will face (in a possible conflict with Russia) is a much tougher defense than I ever saw (as a fighter pilot)."

He added, "The surface-to-air missile . . . there were none then.

"Now there is a great family of surface-to-air missiles that we face."

He said Soviet ground forces have the latest technology in their guns to knock down aircraft.

"The density of these systems is incomparably greater than I ever experienced."

When asked how a pilot would penetrate the sophisticated defense of Russia if the United States were retaliating against a Soviet nuclear strike on North America, Furlong replied, "It will be difficult.

"There are ways to work it. When we went to a target (in Korea) we normally went at a high altitude, about 25,000 feet.

"But when you fly high, you can be picked up on radar 100 miles away.

"Nowadays you fly at lower altitudes, 200 feet and below, so the defense can not see you."

Flying at 500 mph at 200 feet can be extremely dangerous because of approaching a rise in ground elevation and the short reaction time at that speed that a pilot would have in which to pull up, he said.

"You have to pay attention."

Aircraft being spotted by farmers and private citizens on the ground is not a threat because even if they promptly called the authorities to report the sighting, the ground forces would need to have an exact fix on the radar screen to respond effectively, he said.

"It's not enough to know they're going north," he said.

He said the enemy would have difficulty determining what the aircraft's target would be because the pilots could be taking "an evasive route," and "zig-zagging."

The problem with low-level flying is that it burns more gas because the air is thicker, offering more friction and resistance at low-level altitude, he said, explaining, "It really gobbles it (fuel) up at low altitude."

In order to save fuel, pilots would fly at high altitude and drop down as they approached enemy air space, he said, and the aircraft would be refueled in mid-air during the mission.

Aircraft are still not easy to hit, even with sophisticated weaponry, he said.

"We flew B–52s (bombers) at a high altitude in North Vietnem," he said and despite sophisticated Russian-made surface-to-air missiles "the loss rates were quite acceptable, 3 percent. It is not simple to shoot down aircraft."

Although most of Russia's nuclear warheads are in missiles, Furlong said, "most of our payload in strategic warfare is in bombers."

The nuclear warheads in missiles launched by our submarines are small and "they're not that accurate."

Another drawback of the big long range intercontinental ballistic missiles is that they can not think for themselves after they are launched, and can not cope with the unexpected which often happens in a combat situation, he said.

"Once it goes... it's gone. It has all the instructions it's going to get when it leaves the silo."

Furlong said he is disturbed over the fact that "we don't have any surface-to-air missiles as part of our defense, missiles that shoot down airplanes," explaining that Russia has a great network of surface-to-air missiles for her defense.

"And we have few squadrons of aircraft for our continental defense. The United States has for this continent 12 squardons of aircraft for air defense, six active and six in the guard.

"We have other fighters that are given the added mission of air defense. They practice some (air defense missions) but are not assigned to that job.

"In 1977 they (Soviets) had 2,650 manned interceptors (jet fighters for air defense). We had 331. They had 12,000 surface to air missiles for air defense. We had none."

He said Russia had 64 launch sites for antiballistic missiles around Moscow, and the United States had none.

"They had 550,000 people involved in this function (defense) and we had 24,595."

Furlong said of Russia's taking the military lead, "this is the crossover year," when they surpass us on the chart.

He said if we keep progressing at our present rate, "we catch up in 1988...if everything works, if all our plans go through."

He said it is important "that we understand that that is where the hell we are.

"We are No. 2.

"And we are declining."●

TAX EQUITY FOR STATE LEGISLATORS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. SEIBERLING. Mr. Speaker, Congress passed legislation in 1976 allowing State legislators to declare their residences in their legislative districts as their homes for the purposes of business tax deductions. However, since this special tax treatment was limited to years beginning before 1976, the legislators have been dependent on congressional action to extend the provision year-by-year. Today I am introducing legislation to correct this situation by making the special tax treatment of State legislators' district homes permanent.

The bill provides a deduction equal to the standard Federal per diem allowance for each day the legislator spends in the State capital on legislative business. This is a matter of simple equity since the expenses of people away from home, because of their work as legislators ought to be treated no differently then the equivalent expenses of people engaged in private business. However, State legislators have suffered unnecessary anxiety and delay in filing their tax returns while waiting for Congress to pass the needed extension legislation. This year, for example, the extension bill, H.R. 3091, is being held hostage in conference by a series of nongermane amendments added by the Senate. In the absence of this legislation, the State legislator is exposed to the politically awkward possibility of the State capital being considered his tax "home."

Mr. Speaker, State legislators should not have to be in the precarious position of hanging on the uncertainties of an annual congressional tax bill to determine what their income tax status is. It is time to give these dedicated public servants assurance that they can plan their personal financial affairs on the same basis as other citizens. The text of the bill follows:

H.R. —

To amend the Internal Revenue Code of 1954 to make permanent certain rules pertaining to travel expenses of State legislators

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

(h) State Legislators' Travel Expenses Away From Home.—

"(1) In General.—For purposes of subsection (a), in the case of any individual who is a State legislator and who makes an election under this subsection for the taxable year—

"(A) the place of residence of such individual within the legislative district which he represented shall be considered his home, and

"(B) he shall be deemed to have expended for living expenses while away from his home (in connection with his trade or business as a legislator) an amount equal to the sum of the amounts determined by multiplying each legislative day of such individual during the taxable year by the amount generally allowable with respect to such day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States.

"(2) LEGISLATIVE DAYS.—For purposes of paragraph (1), a legislative day during any taxable year for any individual shall be any day during such year on which—

"(A) the legislature was in session and the individual was physically present at such session, or

"(B) the legislature was not in session but the physical presence of the individual was formally recorded at a meeting of a committee or subcommittee of such legislature or official party caucus.

"(3) ELECTION.—An election under this subsection for any taxable year shall be made at such time and in such manner as the Secretary shall by regulation prescribe."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1977.●

THE ENERGY ANTIMONOPOLY ACT OF 1979

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. UDALL. Mr. Speaker, today I am introducing, for myself and 53 of my colleagues, the Energy Antimonopoly Act of 1979. We hope that this legislation will win quick consideration and approval by the House.

In the past, all attempts at reforming the oil industry have been blocked. Energy supply crises have often intervened, causing possible changes to be delayed and then forgotten. I propose that passage of the Energy Antimonopoly Act will prevent or lessen future energy crises by diversifying our energy future.

In the midst of conflicting claims about the causes of our energy problems and accusations aimed at supposed culprits, one thing has become clear to me—and it is one of the few things that seem clear anymore—that there is no one answer to our energy dilemma. All our problems were not caused by OPEC or the oil industry or Government mismanagement, and they can not all be solved by just one answer, whether it be coal, fusion, nuclear, conservation, or price decontrol.

It is, therefore, vitally important to assure that we explore all possible options. We must not be dependent upon one supplier—like OPEC—or one supply—like crude oil.

This legislation would have us proceed on a careful path. It does not change the structure of the oil industry or prevent the majors from doing business in the same way that they have always done. It does not require that they spinoff any divisions of their corporate selves. It simply prevents 16 of the largest oil companies from purchasing any other company worth more than a $100 million. If one of the oil majors wants to increase its coal division, for example, this bill would not prevent that. It requires that instead of buying a company that is already in the coal business and producing coal, the oil major enter the coal industry on its own. So that instead of switching the names on boards of directors and changing logos, that more money—not just different money—is invested in coal. This should lead to more competition in the coal industry and more coal being produced.

The Energy Antimonopoly Act aims at preventing future abuses. Without this legislation, oil companies will continue—especially considering the fruits of decontrol they will soon enjoy—to buy up coal, uranium, solar, electric machinery companies, and any other large investments they can find to soak up their capital funds.

The economic risks of not passing this legislation are great. As the oil companies come to dominate the highest rungs on the Fortune 500 and accumulate vast resources, they dominate the stock market and our economic future. Traditionally they have been able to finance a greater percentage of new projects with their own funds than other industries can. With the increase in cash flow due to higher prices, this trend can be expected to continue. The decisions on our country's energy future will be made by a decreasing number of oil company executives. The possibility for abuse or misjudgment is too great for us not to act.

Great though the economic risks may be, the political ones are even greater. Given the importance of energy to our Nation's security and economic well-being, how can we expect objective political decisions to be made in a climate where so few people are holding so many of the cards? The odds are against us.

How do the costs of not passing this legislation compare with the possible costs that might accrue? I believe the cost of this legislation will be negligible. It does not break up the oil companies; it does not prevent them from developing any sources of energy they care to invest in. They tell us that they have the capital and the expertise to develop America's energy resources and we are asking them to prove it. And if it turns out that they cannot expand their operations quickly enough to employ all the capital they accumulate, they can recycle it through dividends to their stockholders who can invest it in companies that can. That is how the free enterprise system is supposed to work.●

IN SUPPORT OF H.R. 1150

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, the Clean Air Act Amendments of 1977 mandated that each State had to submit a revised State implementation plan (SIP) to the Environmental Protection Agency (EPA) by January 1, 1979. EPA then had until June 30, 1979, to improve the submitted plans. Failure of a State to secure an EPA-approved plan by June 30 could result in severe sanctions—a freeze on industrial development and a withholding of Federal funds for sewage construction and highway programs.

Only six States and the District of Columbia met the January deadline. The most prevalent reason for States' failing to submit a plan is frustration with the unnecessarily tight timeframe provided in the statute and with the constant changing of standards by the EPA.

Illinois started their plan based on the ambient air qualities of .08 when the EPA came out with a new ruling of .12. This is a step in the right direction as it exempts some additional counties in Illinois from the EPA's formerly stringent standards. Unfortunately, the EPA revision came too late. Illinois now has to reformulate, revise, and resubmit a State implementation plan based on the .12 standard. Consequently, Illinois is one of the States who did not submit an SIP on time.

It is clear that Illinois and other States need more time to develop and submit their plans.

H.R. 1150 is a sensible and vital technical amendment to the Clean Air Act; the intent and scope of the act remains unaltered, States receive the additional time needed to do a technically competent job in revising and developing their SIP's, and economic chaos via threatened sanctions is averted. I urge my colleagues to support H.R. 1150.●

REPUBLICAN POLICY COMMITTEE OPPOSES DEPARTMENT OF EDUCATION

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. SHUSTER. Mr. Speaker, the Republican Policy Committee, which I chair, is already on record in strong opposition to the passage of H.R. 2444, which would create a Cabinet-level Department of Education. This legislation not only is bad educational policy, but also bad Government management policy. It would establish the 13th Cabinet department with a budget of $14.5 billion and 24,300 employees, 14 executive level positions, 61 supergrade positions and an additional 15 supergrade positions for a 3-year transitional period. Passage of this bill will establish a new department larger than the current departments of Commerce, HUD, Interior, Justice, and State. Passage of this politically endorsed, costly Presidential payoff is nothing more than a raw political expedience, catering and caving in to the powerful education lobbies in Washington. Doing so would be an injustice to a whole generation of Americans.

H.R. 2444 should be soundly rejected.

I should like to insert into the RECORD the complete text of the Republican Policy Committee statement opposing passage of H.R. 2444:

H.R. 2444—CREATION OF A CABINET-LEVEL DEPARTMENT OF EDUCATION

The Republican Policy Committee strongly opposes the passage of H.R. 2444, to create a Cabinet Level Department of Education.

H.R. 2444 upgrades the Department of

HEW's Office of Education to Cabinet level status and omits numerous education programs scattered throughout the Executive Branch. It would establish the 13th Cabinet Department with a budget of $14.5 billion and 24,300 employees, 14 executive level positions, 61 super grade positions and an additional 15 super grade positions for a 3 year transitional period.

Passage of this bill will establish a new department larger than the current Departments of Commerce, HUD, Interior, Justice, and State. If precedent is any indication, this new department can be expected to grow in size and expenditures as soon as it is established. For example, the Department of Energy (DOE) was created on October 1, 1977 and spent $5.2 billion and employed 18,078 in fiscal 1977. In 1978, the DOE spent $8.2 billion and employed 19,500. In fiscal 1979, OMB estimates the DOE will spend $10.1 billion and employ 19,109. The history of the eleven other Cabinet Departments shows similar trends.

Cabinet level departments are usually established to enunciate policy where there is an overriding national responsibility such as defense, energy, transportation, and, not for providing merely a support role. Never before has the federal government deemed education to be primarily a federal responsibility. Education has always been a responsibility of the States, a wholesome tradition which should be continued.

H.R. 2444 is clearly bad education policy because it further erodes local control over education policy, it politicizes education at the federal level, and damages the educational opportunities of our children. Creation of a Department of Education would eliminate two great strengths of American education—diversity of choice at the local level which has fostered the intellectual vitality of our system and permits parents and students the wide spectrum of choice in determining what type of schools are best for them, as well as the opportunity to affect those choices at the local level—and freedom from partisan politics which has permitted education policy to be debated on its merits resulting in consensus solutions receiving wide bipartisan support. H.R. 2444 would supplant these strengths with centralized federal direction and policy making by partisan whim.

What is at stake is not governmental reorganization but rather basic education policy. The consequence of establishing a Department of Education with the federal government as the principal policymaker in education is to lock in the categorical grants in aid. This prejudges the value of alternative choices because no Cabinet Department will support alternatives which diminish its authority. The new Department of Education would justify its existence by resisting alternatives to categorical grants such as block grants and revenue sharing. The federal government as the principal policymaker in education would provide the foundation for more federal rules and regulations and more federal decision making in education. American education is already overregulated. Education and school administrators are being strangled by red tape, and the taxpayers are being robbed by the cost of cutting through that red tape.

H.R. 2444 is also bad government management policy. Creation of a Department of Education is contrary to the recommendations of every Presidential Commission on government reorganization. The Hoover, Heineman and Ash Commissions all recommended that the President should have fewer Cabinet Secretaries reporting to him. In fact, the Heineman Commission under President Johnson specifically recommended against a Cabinet Department of Education. Passage of H.R. 2444 could be the first step in spawning more bureaucracy. If Education deserves its own department so does Welfare—and—a Department of Health is only a campaign promise away. The management philosophy embodied in this legislation rewards one special interest group over others. The structure of government should reflect management decisions and not the spoils of interest group politics.

For those who argue that this bill would better coordinate federal education programs, it should be pointed out that 96 percent of the education programs now outside HEW would remain outside the proposed Department of Education. This bill is only the first step in affirmative authority necessary for this new department. Once the new department is created a President, through Executive order and reorganization plans can move more programs into the department without affirmative legislative approval by Congress.

Those who gain by the creation of a Department of Education are some of the teacher organizations and the industry that supplies educational materials. Our children will not benefit. The resulting educational-industrial complex will not need to answer to the American people when they complain about federal domination of education policy, erosion of equal educational opportunities and simply inefficient government. Congress will be the target for them and justifiably so. Congress will also be the target of massive lobbying efforts to increase federal spending for education to benefit the educational-industrial complex.

Passage of this legislation would be political expedience, catering to one powerful education lobby here in Washington. H.R. 2444 should be defeated.●

MANION FORUM INTERVIEWS CONGRESSMAN GEORGE HANSEN

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. SYMMS. Mr. Speaker, I wish to submit to the Record an interview conducted by the Manion Forum with Congressman George Hansen regarding the cost of the Panama Canal implementing legislation. This publication can be obtained by writing to Manion Forum, P.O. Box 1258, South Bend, Ind. 46624.

I want to commend my colleague from Idaho for all of his work to inform the American people about the actual cost of the Panama Canal agreement. One of the best ways in which Congressman Hansen illustrated the cost of the agreement was when he brought the truck load of simulated gold brick to Washington. Had Congressman Hansen used actual gold bricks to portray the true cost of this agreement to the taxpayer, it would have taken 30 semitrucks, each carrying 20 tons, to transport the load.

611 Tons of Gold: The Cost of Implementing the Panama Canal Treaties

(By Hon. George Hansen)

Dean Manion. My friends, Congressman George Hansen of Idaho is a big man, physically, intellectually, and morally. That is why it is impossible for our internationalist State Department lobby to push him around. He radiates a sincere patriotic purpose which energizes those who meet and hear him talk on any subject.

When I met him in Washington some weeks ago, I was immediately convinced that this Manion Forum audience should hear him tear our scandalous Panama giveaway treaty apart. Consequently, our Manion Forum Washington Reporter, Captain Frank Manson, brings him to our microphone today to do just that. Now here is Captain Manson to introduce him to you.

Captain Manson. Welcome to the Manion Forum Congressman Hansen.

A few months ago, you anticipated that we were coming into one tough showdown battle on the Panama Canal. Now, I suppose one would have to say that we are in the midst of that showdown and since the time you made your last broadcast you have made one tremendous determination and that is the cost of giving away the Panama Canal. Would you tell our audience what that determination is?

Congressman Hansen. Frank, I would be happy to. The way the things lay out is that we have a 20 billion dollar installation. That includes the 50 mile stretch of land, 10 miles wide, the canal, locks, dams, military bases, bridges, and everything else that is there. The replacement value is some 20 billion dollars.

Then we have the commitments from the Administration to increase aid and loans and guarantees of some 100 million dollars a year which would run up to some 2 billion dollars over the next 20 years of the treaty's time.

Then there is the real estate transfer cost, the realignment of bases, the transfer of bodies from one cemetery to another, the management and running of the schools, the post offices and all of the things that the Canal Company has been doing. These costs come to a total of over 4 billion dollars.

My own calculations were, even after cutting out a lot of things to make the figures conservative, some 4 billion 111 million dollars. I thought that perhaps we would get into a little controversy over this because it was so much larger than anybody had talked about before.

Captain Manson. What figures had we talked about before?

Congressman Hansen. The State Department first said that it would cost nothing. They said there were no costs involved in transferring, that every cost could be borne out of the tolls. The President said this on at least three public occasions. High officials of the government and many officials of the United States Senate at the time of the passage of the treaties said that the American people would bear no cost.

Then the next thing that happened was that we had an admission from the State Department that there would be a 350 million dollar cost. Then, as we kept prodding with the realities that are at hand, the State Department admits that the figures are 981 million dollars, plus the 20 million dollars a year interest, which adds up to 400 million dollars over the period of time, plus the unamortized debt, plus the fees that the Air Force is having to assume for the management of the schools and post offices which is another 1.4 billion dollars, plus payments to Panama itself which are called for in the treaties which run somewhere between 1.4 and 2 billion dollars. So we come up with 4 billion 111 million dollars by my calculations.

Since then, the Chairman of the House Merchant Marine and Fisheries Committee, who is the sponsor of the bill for the implementation of the treaties, has come out with his figures which show 4 billion 280 million dollars. If you add up the State Department figures, including the ones they want to discount and the ones they say shouldn't be included, those figures are higher than my 4.111 billion dollars.

So, no matter how you cut it, the bill is well over 4 billion dollars and they are asking the American taxpayer to assume it in two ways. The first is a cost right out of taxes, and the second the tolls and other income that would come into the Treasury of the United States to lighten the burden to the taxpayer are being transferred to

Panama. Add it up and it comes to over 4 billion dollars.

Captain Manson. Congressman, when you think about this, there are only three sources of money. Isn't that correct?

Congressman Hansen. There are three sources as far as implementation of the treaties is concerned. One, it is going to come from the taxpayer of the United States. Two, it is going to come from tollpayers who use the Canal. Those are primarily Americans who are going to pay for that. Three, Panama itself could pay for these charges in one way or another. Those are the only possible sources.

PROMISES VIOLATED

The Administration's proposals have looked at it from the idea that you leave Panama out of it. We are going to give them the billions of dollars. It is the American taxpayer and tollpayer who are going to have it socked to them. I don't believe that that is right. That is a violation of promises to the taxpayer and tollpayer, and certainly a violation of the spirit of the treaties. The Administration's bill seems to be dying on the vine.

Now, we have a bill that came out of the Merchant Marine and Fisheries Committee. It is a better bill but it still is a 4 billion dollar payaway bill. Unless we put a gate in to stop this, it is going to give away the shirt of the taxpayer and consumer of the United States.

I say that there is one other option. That is, out of the money that is destined for Panama because of treaty commitments, that money should be used to pay for transfer charges before it goes to Panama. If Panama is to receive this huge business or asset, and the income from this asset, then they ought to be willing to pay the real estate transfer charges. If we are giving it away, we shouldn't have to pay those charges as citizens and taxpayers of the United States.

Captain Manson. Congressman, you have gained quite a bit of recognition throughout the country, and I would guess the greatest recognition in the State Department. They have issued quite a long statement on the Hansen price tag and they challenge just about every figure. But, I think one of the most ludicrous challenges is on the 20 billion dollar figure. They say, in effect, that if we aren't selling the property we can't place any value on it. Isn't that about what they say?

Congressman Hansen. It is crazy. If I give my business away, and there is a debt on the business, they are saying that the person receiving the business should get it debt free and that I should continue to pay the debt on the business that I now don't have.

Captain Manson. When they issue statements like this they apparently think that people don't read or that they don't comprehend anything.

Congressman Hansen. I think that they are banking on the fact that a good share of the press in the United States has been quiet on this whole issue and that people aren't going to hear about it. But, thanks to programs like this, the people are going to hear.

Captain Manson. Now, you are in touch with your colleagues on both sides of the aisle. What is your impression? I know that it is difficult for you to forecast, but you are forecasting victory in the final showdown on the treaties. You are forecasting that the House of Representatives is going to save the day. Isn't that correct?

Congressman Hansen. I think they will. As I have said, the U.S. Senate let the horse out of the barn, but it isn't out of the corral. The House of Representatives is now having to deal with this matter in the form of implementing legislation. We have to decide how to implement those treaties, or if we are going to implement them at all.

I feel that the mood of the House is that it is not going to stand for this assault on the taxpayers and the tollpayers and that it is going to find some way, if this Canal is transferred at all, it is going to be with Panama paying her fair share. This is particularly true in view of the fact that the money that Panama does get seems to be going for mischief in Latin America—for revolution.

Captain Manson. I want to get into that. But, before we leave talking about the mood of Congress, I want to ask you one thing. Is there somewhat of a subliminal feeling in the House that the House should have had an opportunity to vote a constitutional issue. The Constitution does provide for the Congress to dispose of U.S. property. Is there a feeling in the House that you should have had an opportunity to vote on the Treaties?

Congressman Hansen. There is a feeling among many members that the Administration and the Senate tried to trap them, to put them in a position where they had to go along whether they wanted to or not. I think they resent this. I think that many members are going to rebel becasue of this.

Captain Manson. Of course, the real, hard issue is money. It is money that most congressmen think ought to be spent for other things in this country. Isn't that really the heart of the matter.

UNHAPPY CONGRESSMEN

Congressman Hansen. A lot of congressmen went down to the White House recently where the President was doing a lot of talking about how necessary these treaties were. Many congressmen, particularly of his own party, had a lot to say about the fact that their constituents were not happy about things that we weren't able to afford in this country such as help for farmers, to cities, to senior citizens, the veterans, etc., but we had all this money to pay to Panama. They didn't like it and they were telling the President that it makes it very awkward for them to support these treaties.

Captain Manson. Congressman Hansen, the people of America have sort of become immune to people talking about billions of dollars, how much it is and all that. But, not too long ago, you came up with the idea a "Gold Brick Truck," a truck filled with gold bricks. Will you tell the audience about this and what it has done?

Congressman Hansen. You always try to tell people how much a billion dollars is, or, in this case, how much 4 billion dollars is. It is difficult. You can say that you can lay dollar bills end to end from here to China or something like that. But, how do you do it in a way that people can see it and really be able to comprehend it. I got to thinking how much is a gold brick worth? In today's value, it is worth approximately 92 thousand dollars. So, we calculated how many of these bricks it would take to make 4 billion 111 million dollars. It came out to 44 thousand 300 gold bricks.

A gold brick is about the size of a 2 X 4—about 2 inches thick and 4 inches wide and 7 inches long. So, we decided that we would make a simulated load of these 44 thousand 300 bricks on a big semi-truck and bring them to Washington to show Congress exactly what we were talking about. If those were real gold bricks, they would weigh 611 tons and it would take 30 semi-trucks with over 20 tons of load apiece in order to carry this kind of weight. This 4 billion dollars constitutes over 10 percent of the gold in Fort Knox. This is what we are talking about—giving over 10 per cent of the gold in Fort Knox away in order to give away the Panama Canal. This really burns people when they see it.

This gold truck was sensational. We parked in front of the Denver Mint. The guys came out and said that this looks as good as what we have here. Then we took it to Fort Knox and people said the same thing. This really had an impact as we went across the country. We parked it right under the shadow of the Capitol Dome. A lot of congressmen thought that this was interesting and important. Then we took it and put it in front of the State Department. These people have spent a lot of money lobbying in Congress trying to tell us how good a deal these treaties were. We thought we would take the message back to them so we took the truck down and put it right in front of their door. I think that it helped some. These people get very nervous about these things.

Captain Manson. I went by the gold brick truck one day and two congressmen, who will be nameless, were standing there. One of them said he never did think that these treaties were a good idea, and the other one said he had been against it all along. They were looking at the gold bricks and it really does have an impact when you realize what tremendous wealth is going into this deal.

Congressman Hansen. That pile of simulated gold bricks on the back of that truck was 32 feet long, 6 feet wide and 6 feet high. Forty four thousand 300 bricks. That is a lot of gold.

Captain Manson. I hear that you are considering dividing these bricks up, when the battle is over, and sending them out across the United States as mementoes. I am sure that you would have a lot of Americans who would like to have a piece of wood from this gold brick truck. I hope that you will give this some serious consideration.

Congressman Hansen. I think we will do that.

Dean Manion. Thank you, Captain Manson and Congressman George Hansen, for this informative revelation of our pending Panama giveaway. Both of these gentlemen will be back here at this microphone next week, my friends, and I hope you will be back with us to hear the rest of the story.●

U.S. SUPREME COURT RULING ON PUBLIC TRIALS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. AuCOIN. Mr. Speaker, as a former journalist and an elected official committed to preserving first and sixth amendment rights, I rise today to express dismay at the ruling last week by the U.S. Supreme Court regarding public trials.

As the Washington Post said in an editorial following the decision:

> Thirty years ago, the Supreme Court said it had been "unable to find a single instance of a criminal trial conducted in camera in any federal, state, or municipal court during the history of this country," except for courts martial and juvenile proceedings. Yesterday, the justices said, in a vote of 5 to 4, that any trial can be conducted in secret whenever the defendant, the prosecutor and the judge want it that way.

The Post is quite right in pointing to the contradiction this ruling poses to our Nation's judicial history. And the Post is also right in quoting the words of Lord Acton:

> Everything secret degenerates, even the administration of justice.

For by this decision, the U.S. Supreme Court has contributed to the erosion of fundamental guarantees to American liberty.

Americans are prone to hyperbole. But

in this case, the danger this ruling poses cannot be exaggerated.

Trials are public in the United States for good reason. Distrust of secret trials—of inquisitions and Star Chamber proceedings—was one of the strongest motives for the founding of this Nation and the drafting of its Constitution. Among other things, the sixth amendment declares that—

> The accused shall enjoy the right to a speedy and public trial.

Now five members of the highest Court say that does not mean the public must be allowed to attend a trial. With this ruling the court ignores 200 years of history as well as the basic principle that it is only through the guarantee of a public trial that the right of a fair trial ultimately rests, not only for the accused, but for all who someday may be accused.

How else, if the courts are not open to public scrutiny, are the rights of defendants to be protected? By what means is this basic institution of Government, the judiciary, to be held accountable to the public if the public cannot keep watch?

Openness allows the people, on whose behalf the State and its agents act, to witness firsthand the apparatus of justice. Even if only one reporter oversees what happens in the courtroom, the public has a witness.

And it is the reporter who is the target of the Supreme Court ruling. Judges and prosecutors have grown understandably anxious as defense attorneys have undertaken a variety of delaying measures, often citing excessive and sometimes sensational pretrial publicity as cause. Changes of venue, which frequently result, are expensive, and judges and prosecutors, as locally elected officials sensitive to the outcries of overburdened taxpayers, are looking to hold down costs.

From this standpoint, the Supreme Court might seem at first blush to have some credibility. But the potential costs of this precedent, extended to logical extremes as it most assuredly will be, far outweigh the savings to taxpayers.

Many States have focused attention on less drastic ways to minimize pretrial publicity. Bench-bar-press guidelines have been one byproduct that has been relatively successful. If more needs to be done, this should be the course to follow.

Some insist the Supreme Court ruling's impact is being overstated. It is hard to imagine how. For the past 200 years of our Nation's history, our Constitution has stood as an affirmation for open and speedy justice. A distrust of secrecy, and the excesses it breeds, is implicit in our body of law.

It is not reason enough to sweep away this fundamental precept with the explanation that a defendant, for whom a public trial is a right, may waive that right. A defendant is not the only party to a criminal action. The people also have a vested interest in seeing justice done.

The reasoning expressed by Justice Lewis F. Powell that the courts will protect the public against abuses is hollow rhetoric, and the justice knows it. Who would tolerate such an answer from the legislative branch today? It is just possible for judges and prosecutors to abuse their high office, fail to perform their duties or become incompetent. They are human just like the rest of us.

Americans are not accustomed or constituted to rely on paternalistic assurances. They like to see for themselves.

And that is exactly how it should be—in Government and in court. The doors of our courtrooms should be kept open so we can find out who is adjudged guilty and who is found innocent, and so we can see who is oppressed and who is the oppressor.

I hope the justices of our highest court will have an early opportunity to reexamine this ruling, which has come on the narrowest of margins and without a guiding consensus, to restore the intent of the framers of the Constitution and the expectation of Americans.●

OPEC AND ITS IMPACT ON THE UNITED STATES

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. MOFFETT. Mr. Speaker, the Organization of Petroleum Exporting Countries recently set a new tier price structure—an $18 benchmark and $23.50 ceiling—easily an overall rise of 40 percent. When OPEC raises prices, all other nations' oil prices rise to its level. All other prices follow and, in turn, inflation moves ever upward.

On June 21, 1978, the Subcommittee on Environment, Energy, and Natural Resources, which I chair, held hearings on OPEC and its impact on the United States. We heard testimony from distinguished academicians, oil economists, and Members of Congress. I wish to bring to my colleagues' attention the significant statement of my friend and colleague, Representative BENJAMIN S. ROSENTHAL.

The statement follows:

TESTIMONY OF REPRESENTATIVE BENJAMIN S. ROSENTHAL

Mr. Chairman, our unrelieved dependence on imported oil is eroding our Nation's foreign policy independence and is pushing our economy toward greater double-digit inflation and recession. The United States must find a way to limit its reliance on foreign oil imports, particularly those from OPEC nations. The need was urgent six years ago. It is critical today.

The American people are confused and angry. They are confronted daily with skyrocketing energy prices, long gas lines, uncertain home heating fuel supplies and exorbitant utility costs. Inflation continues unabated and jobs are in jeopardy. Explanations by oil industry executives and Department of Energy officials are contradictory and unsatisfactory. Public anger is mounting.

The administration has not advanced a constructive program to confront the root cause of the problem, which is OPEC and the multinational oil companies preoccupation with foreign crude oil development. Meanwhile, an extraordinary meeting of OPEC will take place at the end of this month at which further price rises—a minimum of 37 percent—could be agreed upon. And yet, the U.S. Government has no program for combating higher prices.

On June 12 the Iraqi Ambassador to Brazil stated in Brasilia "that if possible the Arab countries will impose a new oil embargo on the United States based on the principle that although the price of petroleum is an economic matter, its supply is a political matter and thus the Arab countries may choose not to supply oil to those countries which they do not regard as friends." Because OPEC nations have learned that the industrial economies can be shaken down, they now also shout blackmail threats.

OPEC greed can well be its undoing. OPEC's share of the non-Communist world market has fallen from more than 65 percent in 1978 to less than half. All oil producing countries excluding Saudi Arabia, Kuwait, and the United Arab Emirates will sell oil to the consuming nations because they need our dollars. The United States need not quiver in helplessness every time OPEC moves against our economy. There are many constructive steps we can and must take.

The first steps that must be taken to break the grip of OPEC include (1) the abolition of the impermissible foreign tax credits claimed by U.S. petroleum companies and (2) the creation of a nonprofit governmental corporation to purchase all petroleum and petroluem products imported into the United States.

FOREIGN TAX CREDITS CLAIMED BY U.S. PETROLEUM COMPANIES

In reality, foreign oil "taxes" are royalties and should be treated as an ordinary and necessary business deduction under U.S. tax law. It has been the position of the Government Operations Committee (House Report No. 95–1240 entitled "Foreign Tax Credits by U.S. Petroleum Companies") that foreign oil tax credits are counterproductive and contrary to national economic, energy and national security policies because they perpetuate our dependence on foreign oil. By allowing the foreign tax credit, the Treasury Department and IRS have failed to properly administer the Tax Code and they have ignored national energy policy goals in this essential area. The consequences of this failure are a direct tax loss to the U.S. Treasury of ten or more billions of dollars since 1972 and indirect tax loss of many more billions due to the loss of jobs and consolidated tax offsets. Foreign oil tax credits impair our efforts to achieve greater energy independence as the foreign oil tax credit encourages foreign petroleum exploration and development at the expense of domestic production. It creates an unfair competitive advantage by allowing multinationals tax benefits for which the smaller independent domestic petroleum companies are ineligible.

The subcommittee received testimony that intermediate domestic subsidiaries of U.S. multinational petroleum companies "lose" money, and the profits through transfer pricing are moved out of the United States into subsidiaries—refineries, shipping and dummy companies—in foreign tax havens. The tax credits accumulated through operations in OPEC nations are then applied directly to profits of the tax haven subsidiary. As a result of the offset, the profits can then be repatriated to the United States with an effective tax rate of zero.

Even with the decontrol of U.S. produced oil, if the current tax credit treatment and Entitlements Program are retained, the incentive to import from OPEC rather than develop domestically produced oil or other energy sources will continue. There will be no real equity in pricing between domestic and OPEC crude oil while the foreign tax credit and entitlement subsidy exist. Although domestic crude oil will cost refiners as much as imports, there will be no cost advantage to purchase domestic crude. For U.S. multinational firms, the aftertax cost of imported crude will effectively be less than domestic because they will enjoy far greater after-tax profits on imports. It may even be natural for the multinational to allow their domestic production to decline and import more. Currently, approximately 150,000 production and maintenance jobs are lost in the domestic oil industry due to oil imports—a number which will certainly increase if foreign oil tax credits continue. In the meantime the tax loss to U.S. Treasury continues, domestic jobs are lost, unfavorable trade balances are created and it is doubtful whether the Treasury or Energy Departments have taken these factors into account in drafting or submitting energy tax provisions since neither department possesses data on the after-tax profits from the foreign operations of U.S. petroleum companies.

Therefore, it is not surprising to discover our multinational oil companies such as Exxon, Mobil and others lobbying the Departments of Treasury, State, and Energy, as well as other units of the Executive branch, to maintain and create through IRS private rulings impermissible foreign tax credits so they may "increase energy supplies in every country of the world and it is especially in the U.S. interest to have U.S. companies participate in that development." (Mobil letter of May 11, 1979, to Secretary of Energy, James Schlesinger).

OPEC—U.S. PETROLEUM COMPANIES AND THE FOREIGN TAX CREDIT

Since World War II it has been U.S. foreign and economic policy to further oil production in Saudi-Arabia, Iran and other OPEC countries. We have urged our allies and client states to become dependent on OPEC oil production, which they have done. Our multinational oil companies and their bankers became the advocates for and the chosen instrument in carrying out this policy. They have succeeded so well that we, too, are now hooked on imported crude oil mainly from OPEC nations for about half our needs.

The OPEC cartel has never set the volume of oil to be produced among its member states. This is still left to each individual country. In some OPEC nations the decision still may be made jointly with the major oil companies who either extract the oil and/or ship it out of the exporting country. The OPEC member state, as a seller, must reach agreement as to the volume of oil with the purchasing nations and the multinational oil companies who control distribution and marketing. Thus, the multinational companies still have considerable leverage in determining how much oil each OPEC member will produce, who will receive it and when. Company management decisions may not be in the U.S. national interest.

The manner in which OPEC has succeeded in controlling world oil prices in turn is related to the "creditability" of foreign oil taxes claimed by U.S. companies. The individual OPEC member, seeking to maximize its revenues, works with the purchasing oil companies in structuring an appropriate formula to minimize the taxes which the companies have to pay to the U.S. Treasury and to the governments of other consuming countries. A higher price of oil where tax credits are involved also increases the tax credit and diminishes the U.S. companies' U.S. tax payment. The credits encourage the U.S. oil company to become dependent on OPEC oil rather than domestic, Candian or Mexican crude oil. This is because in the United States and Canada the "so-called" tax is considered, in fact, a royalty and in Mexico all production is in the hands of the state.

WHAT HAS OCCURRED

Until 1972, an over-abundance of oil supplies kept market prices relatively low, while "posted"—artificially set OPEC prices—were forced upward by Iranian and Saudi desire for more revenue. Oil company payments to producing countries became increasingly based on the "posted" price and as the producing country received a higher payment based on the artifically set price by OPEC, the oil companies received increasing tax credits to wipe out their tax liabilities on other operations, primarily in the United States.

Foreign oil tax credits are tantamount to the kind of "tax avoidance scheme" which IRS would not permit, absent massive pressure from the oil companies and from the State, Treasury and Energy Departments to place form over substance for the purpose of evading U.S. taxes and moving U.S. operations abroad. Taxpayers with lesser clout would not be permitted to engage in such charades. Nevertheless, we find it incredulous that Treasury and IRS have failed to properly administer the Tax Code. Since 1961, the cumulative loss to the U.S. Treasury by permitting foreign oil taxes to be credited in lieu of deducted has been far in excess of $10 billion; losses for 1974 through 1976 alone were $6 billion; and the current rate of loss exceeds $1.5 billion per year.

We can no longer afford the foreign oil tax credit. We must do away with this burden which enhances OPEC countries at our expense.

THE NEED FOR A NONPROFIT GOVERNMENTAL PETROLEUM IMPORTING CORPORATION

Our present fuel shortages, high prices, dislocations have been blamed by the multinational companies and the Department of Energy on the Iranian stoppage and shortfall in production. As a result the Nation has been told: "Our crude oil inventories are low and crude oil imports are below last year. Refinery capacity utilization is down 6 to 7 percent because there is not enough crude stock available."

The Commerce, Consumer and Monetary Affairs Subcommittee has data showing that crude oil inventory stocks are above 333 million barrels (DOE data) and have sharply increased since the first of the year. Existing stocks now equal the lower inventory level of the "glut" period of 1977–1978. Including the Strategic Petroleum Reserve inventory, our present inventory is at the highest level it has ever reached. Even without the Strategic Petroleum Reserve inventory, we are within 12 million barrels of our all-time high. In fact, our present crude oil inventory stocks are greater today than they were a year ago.

The Bureau of Census reports on petroleum and petroleum products imported into this country. Their figures are obtained by U.S. Customs Inspectors and Public Gaugers by gauging and verifying the tanker-carried amounts. The American Petroleum Institute (API) receives its figures from the oil companies. The Department of Energy receives data from Customs which is not the gauged reading but the amount cited in the ship's manifest. The API data is not verified; according to a recent GAO report the Department of Energy data is not verified either. The Bureau of Census verified reports show that crude oil imports for the first four months of this year are 10 percent over the first four months of last year. Only in the month of February did a slight drop (3%) occur which could be attributed to Iran. For all intent and purposes, there has been no Iranian shortfall or dislocation here despite Department of Energy and API statements to the contrary.

Thus there is adequate crude oil stock and refinery capacity available to refine this Nation's needs—an additional minimum of 1 million barrels of distillate a day.

The American people are repeatedly told that crude oil inventory is low, that demand is up, that OPEC states are cutting back and that prudent management requires husbanding of stocks. Yet we find crude oil inventory stock levels at least 40 million barrels over traditional levels. DOE figures disclose demand is up only marginally and that world oil production is up over 4.5 percent despite Iran. In turn, the OPEC countries have accused the multinational companies and consuming nations of stockpiling crude oil and also price manipulation. The European * * *

In short, the American people are witnessing a fuel delivery system in which the power and profit motives of the multinational oil companies override the national and public interest. We can only defeat this situation by creating a Federal nonprofit government oil purchasing agency.

To maintain their status and operations the multinational commit themselves heavily to the oil producing countries by contractual service and investment. In fact they are the direct beneficiaries of higher OPEC prices. In recognition of this fact, many if not most governments, acting in behalf of their national interest, have entered in direct contractual relations with oil-producing countries sometimes using private or partially private oil companies as their chosen instrument. The list grows day by day. Last week, for example, at the Forum of Americas meeting in Sao Paulo, Paraguay proposed to Urugay, Chile and Brazil that they join in the creation of a common entity to purchase crude oil directly from producing countries in order to bypass intermediaries and lower their costs. Saudi Arabia now sells through its national oil company Petromin essentially through nation-to-nation agreements all the oil it produces above the 7-million-barrel-a-day lifting agreement it has with Aramco.

Virtually every other nation in the world is moving in this direction. We cannot afford to do otherwise. The President and Secretary of Energy presently have the discretionary authority to set up an entity to carry out such a purchasing function. They have not acted. We must mandate this action. H.R. 3604, the Oil Imports Act of 1979, is such a vehicle. It creates a nonprofit Federal corporation not unlike the successful Tennessee Valley Authority to carry out this necessary function.●

CLEANUP DEMONSTRATION PROJECT IN THE ALEUTIAN ISLANDS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, on June 21, I and my colleague from Ohio, Mr. HARSHA, introduced legislation designed to authorize a demonstration project on Umnak Island in the Aleutian Islands of Alaska.

During World War II, the Aleutian chain was a very important military strategic area due to its proximity to Japan. As a result of the military activities on the islands, a tremendous amount of debris has been left on these islands. Most of the material has been abandoned. Currently this debris serves only as an eyesore and as an environmental hazard to the people on the respective islands.

I would like to take this opportunity to share with you and my colleagues, a letter I received from Mr. Pat Pletnikoff, executive director of the Aleutian/Pribilof Islands Association, Inc. This project which Mr. HARSHA and I propose, would be beneficial to the residents of the area by providing jobs and by cleaning up the environment that has been polluted by the aforementioned debris.

The letter follows:

ALEUTIAN/PRIBILOF ISLANDS
ASSOCIATION, INC.,
Anchorage, Alaska, June 22, 1979.
The Honorable DON YOUNG,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN YOUNG: Thank you for introducing your bill HR 4575, which would amend § 35 of the Water Resources Development Act of 1974 to authorize the United States Army Corps of Engineers to conduct a demonstration project for the removal and disposal of World War II debris and obsolete buildings in the vicinity of Ft. Glenn, on Umnak Island.

As you know, I serve as Executive Director of the Aleutian/Pribilof Islands Association, Inc., a non-profit Native corporation established under the Alaska Native Claims Settlement Act to promote the interests of all of the Aleut people. On behalf of all Aleuts in Alaska and throughout the Nation, I wish to express to you our deep appreciation for your concern and for your initiative in introducing HR 4575. The magnificent Aleutian Islands chain is littered with the debris from combat operations and extensive military construction conducted during the war. With enactment of your bill, the long-sought objective of the Aleut people to restore the Islands from the ravages of war will be begun.

Throughout the world, the American people are known for their generous assistance to countries whose communities and lands have been destroyed in wartime. The Marshall Plan provided billions for the reconstruction of Europe, and Japan has benefited from American compassion and assistance. But for almost 35 years the Aleutian Islands, where Alaska was defended from conquest by the Japanese, continue to bear the scars of warfare and neglect.

We were encouraged when in 1975 the Congress recognized its national responsibility for the cleanup of this hazardous, unhealthy and unsightly debris and directed the Department of the Army to undertake an evaluation of the problem and report back to Congress methods and costs of removal (Public Law 93–251, Section 35, adopted 7 March 1974, Civil Works Omnibus Bill).

In June 1977, in its report to the Congress, the Department of the Army submitted method and cost data to support three contingencies. It estimated that total cleanup in 1976 dollars would cost $117 million, alternate cleanup $79 million and minimum cleanup $22 million.

Questions were raised concerning the advisability of expending these sums to cleanup areas for which no land use program had been initiated by the Aleutian Natives. Several plans were discussed to determine the best course of action to follow. In the Fall of 1978 a group of Army Engineers, headed by the Deputy Chief of Engineers, accompanied me and members of the APIA for a visit to several of the debris sites.

My people are the first to admit that at this time there are locations on the chain where we do not have immediate land utilization plans. Some areas might be left to the natural elements for cleanup; others might be preserved as national monuments. But we are most anxious to have certain areas cleared as soon as possible so that they may be utilized properly.

The Corps of Engineers in a letter of April 4, 1979 has suggested the possibility of a site for a demonstration or pilot project in the chain. Along with the Engineers we agreed that our priority site was Umnak Island. Your bill will make this project possible and it provides several initiatives.

First, it will cleanup the hazardous debris from an area which at present cannot be used by the Aleutian people.

Second, it will enable these people to move forward with their plans for agricultural uses and livestock production on this Island.

Third, it will provide employment to the Native population in an area where the unemployment rate is 76 percent.

Fourth, it will provide funds which will enable the Aleut people to develop new industry in the area of bottom fishing. This industry is new to U.S. fishermen and the passage of the 200-mile limit law has placed this potential development within our grasp, provided necessary seed money can be generated.

It seems almost incredible, but since the 1977 report was submitted, the Army Corps of Engineers now estimates that it would cost $192,000,000 to clean up the World War II debris on the Aleutian Islands. The Ft. Glenn project, which your bill would authorize as a modest priced demonstration of only $12 million, is a necessary first step in an urgently needed program to provide for an American home land the same benefits Americans have already provided to former aliens and enemies overesas.

The Aleutian people want to work in the effort to restore their communities from the destruction and dislocation of the war. Your bill may be the only realistic opportunity available to accomplish this objective. We urge the Congress to approve HR 4575 at the earliest possible time.

Sincerely yours,

PAT PLETNIKOFF,
Executive Director.●

CHINKING DAY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mrs. SNOWE. Mr. Speaker, I recently received from a constituent in Skowhegan, Maine, a suggestion for a new annual holiday—one devoted entirely to saving energy. For one whole day each year, all of our citizens would work both together and individually to find additional ways to save energy: Caulking, walking, insulating, fixing, and what have you.

I think it is an excellent idea. Not only would substantive projects be undertaken that would actually save energy, but equally important it would create additional national awareness of the urgent need to conserve energy. It would force all of us to focus on our most serious national problem, and hopefully the effects of that one day would spill over into the rest of the year.

The idea for this new holiday comes from Bernard Huebner of Skowhegan He wrote an excellent essay about his special day—"Chinking Day"—which is reprinted below. I commend it for your consideration,

The article follows:

CHINKING DAY

I can hear them snorting now: "What! Another holiday? What's wrong with the ones we already have?"

Actually, nothing, as holidays go. We get time off from work. We rest or mow the lawn, watch the ball game on T.V. or go visiting in the evening. Next day at work nothing has changed to suggest we had more than a short—or long—weekend. In the adult world, many holidays are the same: faceless, meaningless time off in the name of some ancient's birthday, or else the remote, hollow giving of thanks (Thanksgiving), gifts (Christmas) or parties (New Years) marked more by indigestion and obligatory conversation with relatives than any connection with the original celebration.

I'd like to propose something a little different, a holiday with a specific purpose, a goal to be approached more closely with each annual day (even a few hours?) of effort. Rather than the self-congratulatory "look-what-a-good-time-we've-provided-ourselves" holiday, replete with picked turkey carcass and bag full of beer cans, Chinking Day would be an opportunity for all those willing to put a little time into saving energy. Mounted in homes and in business or community groups, local Chinking Day activities could add up to a significant difference in and, more importantly, consciousness about, energy conservation. It could even be fun.

A prerequisite for most holidays is a respectful nod to some forefathers or other, be he Christ, Columbus or an unknown corporal. Chinking Day would be no exception, though we must be careful not to ascribe too much conservation spirit to our forbears, who ploughed the Great Plains to a Dust Bowl and slaughtered a race of buffalo. Still, heat was hard for most to come by in winter, so chinking the logs of your cabin was a good autumn practice.

Heat—read "energy"—was hard to come by for many Americans two winters ago, and may be again soon enough. A little chinking now is in order. For those who find it hard to imagine just what to chink, let me pose a few warm-up questions:

Did you ever find, year after year, the same tiny draft in a window casement? You keep meaning to caulk it, but there's never time. Besides, it's a bore, and your oil heater keeps you warm.

You say you've been running on five cylinders for months now? Sure, it uses more gas and it's a little noisy, but it gets you there and back, and helps keep you under the speed limit.

How about that dripping hot water faucet that started last winter? You keep the bathroom door shut so you can sleep at night? And it couldn't use more than a heater tankful once every several . . . days?

If the answer is yes to any of the above questions, you and the nation could use Chinking Day.

The politically savy reader is probably chuckling now: "Listen to this fellow, he wants to give us a day off, then tell us what to do!" In truth, there's no quicker way to touch the American Revolutionary Spirit than to tell it what to do. Look what happened to King George. A better approach might be to point up the twin pillars of change, self-interest and a desire to be with others of like mind.

Chinking Day, 1979 could be much like our older Arbor Day. A voluntary holiday, not national but voted on separately by each state, it would find people at home or in the community, alone or in groups, spending part or all of the day tightening up tiny leaks in our national energy supplies.

For those at home, this could include: caulking and weatherstripping; insulating walls, ceiling, floors, hot water pipes and heaters; knitting wool socks and sweaters; cleaning furnaces, radiators and air conditioners; installing alternate energy systems like solar roof panels; planting windbreaks and shade trees; tuning cars and correcting tire inflation; collecting firewood from parks and public and private forests for fireplaces; fixing up bikes for neighborhood trips; organizing new carpools and much more.

Much of the less affluent world does such things routinely.

Most of all, Chinking Day would find people for once setting aside a little time to consider seriously their use of energy. We badly need a simple formula whereby the average resident can analyze his use of all the various forms of energy. We need a common unit of energy (the "ant"?) which would allow us to compare the efficiency of our use of electricity with that of gasoline, oil, natural gas, wood, solar, wind, even pedal power. To take a minute example: which consumes more energy, cooking three English muffins in the broiler or the toaster? I surely don't know, and so sometimes use one, sometimes the other.

The point here is not to compare one fellow's level of energy consumption with another's, but to help each person or family isolate wasteful uses.

These are of two types. One is the "Do I really need to make a separate trip to the store?" kind of unnecessary use. The other is the unwise use of some form of precious energy-petroleum-derived heat in a clothes drier, for instance—where a renewable form—solar heat and a breeze on a clothesline—might have been substituted.

In all these domestic efforts, self-interest will be served in the form of financial savings.

On a more spiritual level, Chinking Day would provide an opportunity for people to spend a day working together for the common satisfying good. In the manner of that archetypal American tradition, barn-raising, individuals could join informally once a year to save energy in their churches, municipal buildings, schools and clubs (and damn the insurance regulations and union rules that would hinder their work). Anyone who has participated in such a community effort knows the far-reaching value of an active meeting of minds. It is exciting, persuasively contagious, and gratifying.

Communities could save energy by organizing community vegetable gardens for the landless. In fact, any kind of local production will cut the energy cost of transportation. (I am reminded of the teamster whose orders called for him to drive his rig full of Maine chicken to the Carolinas, unload, then drive a load full of Carolina chickens back to Maine.)

The list of things that could be done on Chinking Day is limited only by the number of creative people, including engineers, scientists and those with big and small businesses, willing to take part.

What date to set for Chinking Day? Probably mid to late fall. Right after Halloween might be nice to get the broken windows fixed promptly.●

CARTER SELECTS LIBERAL ACTIVISTS FOR FEDERAL BENCH

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. ROUSSELOT. Mr. Speaker, in recent years, the judicial activism of the Federal courts has created intense controversies which have swept the Nation. The American people have reacted negatively as the courts have usurped the legislative role and imposed fundamental policy decisions on them.

A prime example of unwise judicial activism is the nationwide archipelago of court-ordered school busing. The nonelected judiciary has short-circuited our system of self-government by taking it upon itself to dictate this social change. Some have called this "judicial tyranny." In response, we now stand on the verge of passing an amendment to the Constitution to end forced busing, for that is the only avenue left for our people to decide this issue for themselves.

The lesson here is that judicial legislative activism ought to be restrained. When the courts stray from their task of dispensing justice and begin to invent the law, our democratic system is severely undermined.

In my home State of California this has become a painful issue, with the actions of Chief Justice Rose Bird in invalidating the State mandatory penalties law, and the nearly successful referendum on her recall, fresh in our minds.

President Carter should be careful on the Federal level not to choose judges who will use the bench as a soapbox on which to expound their own brand of philosophy. The President must select judges who will use the courts as they are intended to be used, and not as a tool for social change. Unlike California, on the Federal level we have no mechanism for recall. The only way to remove a judge is through impeachment, a difficult process reserved for only the most drastic cases. Therefore, we must be absolutely positive that judicial appointees will be appropriate before they are confirmed.

The increasingly liberal and activist bent of President Carter's judicial nominees was very capably analyzed in the June 18 issue of U.S. News and World Report. This article noted that of 63 persons nominated to appeals courts by President Carter's commissions, 42 percent described themselves as liberal or very liberal, and 55 percent claimed to be moderate. Only 3 percent called themselves conservative. The article suggests that this is a result of pressure brought to bear by liberals in forming a Judicial Selection Project task force made up of Common Cause, the American Civil Liberties Union, organized labor, and women's and minority groups. To quote the article, "Conservatives lack a watchdog group of their own."

In the face of such strong liberal pressure, such a watchdog group is needed. Absent such a group, it is the responsibility of conservatives in Congress to raise these issues. May I ask my colleagues to review the U.S. News article entitled "The Judges Carter Picks—Activist and Liberal."

[From the U.S. News & World Report, June 18, 1979]

THE JUDGES CARTER PICKS—ACTIVIST AND LIBERAL

The President didn't set out to choose jurists by their legal creed. But most of the people he is putting on the bench fit a common mold.

With little fanfare, one of the nation's most powerful institutions, the federal court system, is being given an infusion of liberal members.

Jimmy Carter already has selected 108 trial and appeals-court judges, and by the end of next year, he may have appointed almost half of the 648 jurists on the federal bench.

The selections—made by the President with the help of an array of new commissions—are altering the predominantly white, male and Protestant makeup of the federal judiciary.

Going into courts are more blacks and other minorities, more women, more Catholics, more Jews and, in general, people from backgrounds different from those of most present members of the bench.

The newcomers are apt to give the federal courts a markedly more activist approach to the law. The shift comes at a time when some scholars and other critics are warning that the judiciary already has gone too far in assuming executive and legislative power over a wide array of public-policy matters.

NIXON'S STRATEGY

Some Presidents have openly set out to reshape the philosophy of the federal courts. Richard Nixon, for one, scoured the country for lawyers with a conservative, strict-constructionist view of the law, and appointed as many as he could to 224 vacancies—including four Supreme Court seats.

Carter could end up filling even more judgeships than Nixon—the 152 new court seats created by Congress last year plus normal judicial vacancies, which may exceed 150 by the end of 1980. In contrast to Nixon, Carter is a nonlawyer without an identifiable legal creed. There is no evidence that he is choosing nominees on the basis of their judicial views. Even so, a number of forces are coming together to give his selections a liberal cast.

During the 1976 campaign, Carter pledged to appoint more women and minorities to the federal courts and to make all choices on the basis of merit, not political connections. He established broad-based citizen panels in each of the 11 federal-appeals-court circuits to screen judgeship candidates, a job traditionally regarded as a cherished prerogative of S.S. senators. He also persuaded half of the Senate's members to set up merit-selection commissions to pick federal trial judges for their states.

Seizing upon Carter's merit and minority promises, liberals are putting heat on both the White House and Congress. They have formed a Judicial Selection Project—a coalition made up of Common Cause, the American Civil Liberties Union, labor and women's and minority groups—to monitor appointments. Conservatives lack a watchdog group of their own.

The liberals have found a sympathetic ear at the Senate Judiciary Committee, which reviews all federal judicial appointments. Senator Edward M. Kennedy (D-Mass.) took over the chairmanship in January, ending the panel's long domination by James Eastland (D-Miss.), a strong conservative who retired at the end of 1978.

Under Kennedy, the committee staff routinely investigates nominees more fully than ever. The object: To determine whether they have a "commitment to equal justice." Questions include whether a person has done legal work for the disadvantaged or, conversely belongs to private clubs excluding blacks, women or Jews.

The new selection methods are producing some clear results.

When Carter took office, there were 5 women, 19 blacks and 5 Hispanic judges on the federal bench—making up about 5 percent of all federal judges. The President has dramatically stepped up such appointments, giving about 1 out of 3 to women or minorities. What's more, nearly 95 percent of Carter's first batch of nominees were Democrats—a higher partisan ratio than that of either Nixon or President Gerald Ford. By and large, however, these Democrats have "fine legal credentials," says Sheldon Goldman, a political-science professor at the University of Massachusetts who has analyzed the appointments carefully.

RECRUITMENT POOL

Carter has been more inclined than previous Presidents to name relatively young lawyers from outside traditional political and legal circles. He has been picking fewer ex-prosecutors and more lawyers with experience in public-interest law, more who have been state or lower federal court judges and more law professors.

Many analysts believe people from such backgrounds are likely to be more liberal than most current judges. This supposition is supported by a study by the American Judicature Society. That survey found that of 63 persons nominated for appeals courts by Carter's commissions, 42 percent described themselves as liberal or very liberal, and 55 percent claimed to be moderate. Only 3 percent called themselves conservative.

Some observers, such as Ann K. Macrory, director of the Judicial Selection Project, say that it is risky to predict the philosophy a lawyer will follow once on the bench. Some judges have been surprises. One example is Supreme Court Justice Harry A. Blackmun, a Nixon nominee who pleases liberals with many of his opinions.

The liberal quotient also could be diluted by a number of nominations not yet acted upon by the White House. In many instances, senators or commissions are putting forward judicial candidates who are white, male and conservative.

But it will take a strong surge of such appointments to reverse early trends. Barring that, America's federal courts seem likely to be more liberal and activist for years to come.●

VIETNAM REFUGEES FLEECED OF POSSESSIONS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. LAGOMARSINO. Mr. Speaker, the following is an accounting of the forced departure of a Vietnamese refugee family, which appeared in the July 8, 1979, edition of the Los Angeles Times.

This exemplifies the pathetic situation in which the ethnic Chinese in Vietnam find themselves. They may either stay in the country and be sent to what are referred to as concentration camps, or pay the exorbitant fees charged for passage on flimsy boats to the high seas.

The testimony of these refugees confirms that the Vietnamese Government is realizing a great profit in deportation and other fees charged to the fleeing families—one of the most heinous government actions of all times.

VIETNAM REFUGEES FLEECED OF POSSESSIONS, EXPELLED

(By Linda Mathews)

HONG KONG.—For the family of Haiphong dentist Kooi Peih-khin, the midnight knock on the door came in early March.

Outside stood a Vietnamese police lieutenant and a squad of policemen. They pushed their way into Kooi's house and the lieutenant announced, "All Chinese are now advised to leave Vietnam. They are not wanted here anymore. For the sake of security we must have a Vietnam free of Chinese."

Sitting in his undershirt last week, still wan and weak from a month at sea, Kooi, 45, told the story of the long odyssey that took him, his wife and their five children from the security of their Haiphong neighborhood—the family's home for four generations—to a makeshift refugee camp on the Hong Kong waterfront.

"The first time the police came, I didn't know whether to take their threat seriously," Kooi said. "But then they came once a week, and then once a day, to threaten us. It became clear there was no future for us or people like us in Vietnam. It was either leave or die.

"So we sold all our belongings, gave the police the money they demanded, and we left."

Kooi's account echoes the stories related by the hundreds of thousands of ethnic Chinese who have been forced out to sea by the Vietnamese authorities over the last year. Theirs is a collective tale of being forcibly deported from the land of their birth, systematically fleeced by Vietnamese officials of practically everything they owned.

No one—not the international relief organizations or Western intelligence operatives or the refugees themselves—knows how much of the gold collected from the "boat people" goes into the pockets of corrupt policemen and soldiers, and how much ends up in the hands of the government in Hanoi.

What seems certain, despite Vietnamese denials, is that the deportation policy has been implemented nationwide and that it has at least the tacit consent of the Communist Party hierarchy in Hanoi. Its ultimate aim appears to be to rid Vietnam of its entire ethnic Chinese population, which stood at about 1.8 million when the Americans withdrew in 1975.

"There can no longer be any doubt that there's a well-organized refugee racket operating in Vietnam," James K. Reid, director of the Shamshuipo refugee camp here, said. "It may have originally been organized by private individuals, but now there is overwhelming official complicity," another relief official said. "This couldn't be happening without the blessing of the Vietnamese government."

Refugees here contend that the deportations are directed by Hanoi's Interior and Finance ministries, which have reportedly ordered local police to collect an "expatriate departure tax" from every refugee. This operates on a sliding scale, the tax is much higher in the south, where ethnic Chinese businessmen still have caches of gold hoarded since pre-Communist days, than in the northern region, which has been Communist for a generation.

American officials here and in Washington say they have no firm evidence that the refugee trade is directed by Vietnamese ministries. But Charles Freeman, deputy U.S. coordinator for refugee affairs, said that Vietnam has set up a boat-building industry specifically to move ethnic Chinese out of the country.

"The Vietnamese government has clearly expanded its policy of assisted departures for those it no longer considers desirable participants in Vietnamese society," Freeman testified before a congressional committee

Considerable light has been shed on Vietnam's role in the refugee trade by testimony given in the Hong Kong trial of the captain and crew of the freighter Huey Fong, one of the first big ships to ferry ethnic Chinese out of Vietnam. The defendants face up to four years in jail and $3.5 million in fines for smuggling illegal immigrants into Hong Kong.

One of the organizers, Kwok Wah-leung, testified under a grant of immunity last week that he arranged the ship's departure at a government building in Ho Chi Minh City, where clerks routinely processed the passengers' exit forms and weighed the gold collected from them. The 3,318 passengers later boarded the freighter through a barbed-wire security area, where policemen checked off their names on an official mainifest, Kwok said.

Other refugees say that anyone who tries to avoid this formal processing, and escape without paying the departure tax, does so at great peril. Last December, Vietnam's marine police reportedly sank a boat loaded with 220 refugees off the coast of Haiphong, then machine-gunned the survivors. The reason for the massacre? The boat had slipped out of Haiphong before paying off the authorities.

The refugee racket is so lucrative that it has established itself as Vietnam's only growth industry.

Hong Kong police uncovered $1 million in gold hidden in the engine room of the Huey Fong and calculated that it represented only a sixth of the gold paid by the passengers for their escape. By demanding up to 12 taels of gold worth $3,500 from each refugee, Vietnam stands to earn nearly $3 billion by the end of the year, according to a Hong Kong government spokesman, David Ford.

Refugees have already overtaken coal as the leading export of Vietnam's threadbare economy, Ford said, and the money continues to pour in.

International banking sources here report, that overseas Chinese desperate to help their relatives in Vietnam remitted $242 million to the Bank of Vietnam in April, the last month for which figures are available. Much of that money was designated to pay the boat passage for fleeing ethnic Chinese.

The importance of the refugee trade to Vietnam's economy is apparent from the statistics. The April bank remittances from overseas represented more than half of the revenue from Vietnam's total exports for all of last year—$416 million.

Money extorted from the refugees has apparently been used to pay for Soviet arms and machinery. An intelligence source here said that the Vietnamese last month made a down payment of $100 million, in gold, to the Soviet Union for armaments and other supplies that are being pumped into Hanoi at the rate of $3 million a day. Another possible sign of the Soviet connection in the refugee racket is that gold still bearing faint Vietnamese government markings has cropped up in Soviet gold sales in Europe, according to a European banker here.

Vietnam's avarice, however, does not seem to be the primary motivation for the purge. The millennia-old racial animosity between Vietnam and neighboring China has always made many Vietnamese suspicious of the ethnic Chinese spread throughout their country. For the xenophobic Vietnamese government, China's invasion this spring provided the final excuse needed to eliminate the troublesome Chinese minority.

"Ever since the blood flowed between Vietnam and China, all Chinese in Vietnam have been regarded as a fifth column," Haiphong bricklayer Xie Chengguang said. "Although most of us had lived our entire lives in Vietnam, and our fathers, too, we were told that we were traitors. The government has stirred up so much hatred against the Chinese that an ordinary man cannot survive."

More than 200,000 ethnic Chinese fled or were forced across the border in China last summer, when Sino-Vietnamese relations began to deteriorate. New pressures were applied to eliminate the ethnic Chinese as soon as the month-long border war ended in March.

All Chinese, even Communist Party members and military veterans, were sacked from their government jobs. Ethnic Chinese were no longer permitted to work in factories or mines, or operate a business of any sort, or work at any of 12 occupations, from barbering to fishing, in which they might constitute a security risk.

Why were Chinese barbers considered security risks? "Because the authorities said they might slit the throats of their Vietnamese customers," said Pan Yuanan, a young barber who escaped from the town of Mong Cai with his wife, small son and newborn baby.

The noose tightened further around Vietnam's ethnic Chinese in April, when all

Chinese-language schools were shuttered and a nationwide nighttime curfew was imposed on the ethnic Chinese.

What finally induced the Kooi family to leave were the ominous nighttime visits by the police. "They wouldn't leave us alone," Kooi said. "They told us we could either leave or be sent to a concentration camp. They were determined to push all of us Chinese out of Vietnam . . . With no job, no schools and not enough to eat, it seemed to me that we had no prospects in Vietnam."

Kooi said that once he told the police, with resignation, that he would leave, they put him in touch with another local Chinese delegated to organize the exodus from his neighborhood. To collect the 500 dong (about $150) the police demanded from each family member, Kooi sold his house and all his possessions. A self-trained dentist, typical of those who practice in Chinese communities all over Southeast Asia, Kooi had very little savings.

The elaborate system of payoffs depleted the family's finances, he said. Besides paying off the police, Kooi also kicked in for the old fishing junk that the organizers bought, for $6,000, from a government-run fishing cooperative. A government-supervised grocery wholesaler demanded a bribe before he would supply the boat with rice and other rations for the voyage, and the naval vessel that escorted Kooi's boat beyond Vietnamese territorial waters demanded a cut, too, he said.

Kooi said that, in his mind, there is little doubt that the deportation is officially sanctioned. "On the day of departure, the police stood around and watched us board, taking our photographs and checking off our names," he said. "And the navy ship followed us for some distance as we left and shot over our heads . . . I suppose they wanted to be sure that we were really gone."

What the Kooi family got, in exchange for all their belongings, was passage on a leaky 40-foot wooden junk that "always seemed in danger of sinking," the dentist said. He estimated that it could have comfortably held about 100 people, but the authorities loaded 223 aboard. "There was not even space for all of us to lie down," he recalled. "We sat up most of the way."

The boat, powered by a single sail, left May 1 and took exactly a month to reach Hong Kong. Fearful that the craft might be swamped by high seas, the passengers steered it close to the Chinese coast and sometimes bought water and supplies from passing Chinese fishing boats. Hong Kong authorities here suspect that, like other refugee craft, it probably put ashore in Chinese fishing villages. The passengers apparently fearful that they might be sent to China, will not say whether they stopped in China.

To back up their threats, the Vietnamese reportedly have set up two camps for Chinese who are too stubborn to leave their homeland, too frightened to risk their lives at sea or too poor to pay the fare. The camps, almost always described by refugees as concentration camps, are said to be at Vinh Bao, near Haiphong, and at Nghe An.

"I have heard of people who have been sent to those camps," said He Zhongbiao, a noodlemaker from northern Vietnam. "But I never heard of anyone who got out."

Vietnam's tactics seem to be having the desired effect. A Hanoi-based diplomat recently estimated that 200,000 Chinese have been expelled from northern Vietnam in the last 12 months, leaving about 50,000 there. Nearly half a million have fled the southern part of the country since 1975, roughly 300,000 in the last year.

As many as 1 million Chinese may remain in the south, though Cholon, once the bustling heart of Ho Chi Minh City's Chinese community, is said to be a ghost town.

"Buses are boarded up, schools are closed and no one dares venture out after curfew," a recent arrival said. "The police say curfew violators will be shot."

Despite all evidence to the contrary, Vietnam denies that it is trafficking in human lives.

"There are quite a few people—the bourgeoisie, the capitalists, the land owners and some of the high officials of the former regime—who detest our Socialist system," Nguyen Trong Vinh, Hanoi's ambassador to China, said. "If these people want to go elsewhere, we cannot force them to stay . . . It is not within our capacity to completely control 2,000 miles of coast."

The Vietnamese Foreign Ministry has cast the blame elsewhere.

"The U.S. imperialists and the Beijing expansionists are . . . the engineers of the exodus of hundreds of thousands of Vietnamese, Laotians and Kampucheans (Cambodians)," the ministry said on June 20, "and they must be held fully responsible for the difficulties caused by the flow of illegally outgoing refugees, a burden that Vietnam and other Southeast Asian countries must bear."

Under direct questioning, Hanoi officials insist that they are making no money from refugees, in an interview in Asia magazine, Vietnamese Minister of State Nguyen Co Thach said, "That has not been our policy." He acknowledged that some "low-level cadres" might be profiting a little from the refugee trade but said that higher authorities were not involved. "In our country, the administration is very clean," he added.

To the refugees here, who monitor every scrap of news from Vietnam, the official denials are the source of many mirthless jokes. They are skeptical, too, of the promises Vietnam has made to U.N. officials to set up an orderly emigration process that will not endanger so many lives. Nearly half of the boat people drown or die of dehydration before they can land, according to U.N. officials.

"I know a riddle," said a pretty, 20-year-old girl who came to Hong Kong from Ho Chi Minh City aboard the freighter Huey Fong. "What is the only country in the world that has broken every promise it has ever made?

"The answer, I'm sorry to say, is my country, Vietnam."●

PRESIDENT'S ENERGY ADVISERS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. COLLINS of Texas. Mr. Speaker, we have just seen the list of the top experts that President Jimmy Carter has called to Camp David. These advisers are to help him work out the new direction for the energy policy.

I have read the list published in today's Washington Star and only see names of three Republicans.

I am surprised to see 10 religious leaders listed along with the economists and energy advisers. I do not know what experience President Carter has had with the Baptist preachers in Georgia, but we have found in Texas that it is better not to put the preachers on the finance committee. There are no finer people in this world than the preachers, but, if you want to run a business on a solvent basis, you had better leave them out. Preachers can give you more suggestions in 10 minutes on how to achieve immediate bankruptcy than commonsense businessmen can give you in 24 hours on how to achieve a successful long-term economic solution.

I hope among this group of advisers that someone will remind the President that we need to keep a little money at home before he sends it all overseas paying for OPEC oil. Remember, 6 years ago the United States was importing $3 billion of OPEC oil. Last year we were up to $42 billion that the United States paid out for OPEC oil. This year we are looking at $60 billion of U.S. money which will be paid for imported OPEC oil. The estimates already show that we will go over $72 billion of this country's basic cash in order to pay for our overloaded oil imports. I hope that as the President listens to this group, he will lay aside political considerations and place the emphasis on the future economic strength of America. But as I read the list, my only thought is that he should call on the religious leaders to pray for the future of this country. With this group he has meeting at Camp David, this country needs all the prayers we can get.

The list follows:

EXPERTS INVITED TO CAMP DAVID BY THE PRESIDENT

INNER CIRCLE ADVISERS

Stuart Eizenstat, Jody Powell, Patrick Caddell, Gerald Rafshoon, Charles Kirbo, Hamilton Jordan, Walter Mondale.

GOVERNORS

James B. Hunt, Julian M. Carroll, Ella T. Grasso, Otis R. Bowen, Hugh L. Carey, Brendan T. Byrne, George L. Busbee, Dixy Lee Ray.

Jay Rockefeller, Hugh L. Gallen, Robert Graham, Russell Peterson, John Sawhill, Martin Ward, Jerry Weisner.

CIVIC LEADERS

Jesse Jackson, Clark Clifford, Lane Kirkland, John W. Gardner, Sol Linowitz, Robert Keefe, Barbara Newell, James T. McIntyre.

ENERGY ADVISERS

James Schlesinger, James Akins, Corinne Boggs, Thornton Bradshaw, David Freeman.

ENERGY LEGISLATORS

Lloyd M. Bentsen Jr., Dale Bumpers, Robert C. Byrd, Wendell H. Ford, Henry M. Jackson, J. Bennett Johnston Jr., Russell Long, Daniel P. Moynihan, Pete V. Domenici, Mark O. Hatfield, Ted Stevens, Jim Wright, Thomas P. O'Neill Jr., Thomas L. Ashley, John D. Dingell, Thomas S. Foley, Don Fuqua, Al Ullman, Toby Moffett, Morris Udall, Philip R. Sharp.

ECONOMIC LEGISLATORS

Edmund S. Muskie, Lawton Chiles, William Proxmire, Russell Long, Daniel P. Moynihan, Lloyd M. Bentsen Jr., Thomas P. O'Neill Jr., Robert N. Giaimo, Paul Simon, Richard A. Gephardt, Parren J. Mitchell, William S. Moorhead, Joseph L. Fisher.

ECONOMIC ADVISERS

Lawrence Klein, Al Somers, J. Kenneth Galbraith, Arthur Okun, Walter Heller, Marina Whitman, Jesse Hill, Robert Abboud, Reginald Jones, John Gutfreund, Paul Hall, Douglas Fraser.

W. Michael Blumenthal, Juanita Kreps, Ray Marshall, James McIntyre, Alfred Kahn, Lyle Gramley, Dick Snelling.

RELIGIOUS LEADERS

Jimmy Allen, Robert Bellah, William R. Cannon, Terrence Cooke, Patrick Flores, Archbishop Iakovos, Otis Moss Jr., David Preus, Claire Randall, Marc Tanenbaum.●

NATO'S FLEET

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. FINDLEY. Mr. Speaker, one of the most welcome developments in NATO affairs is the mixing of personnel in NATO fleet activities. A recent issue of the Atlanta Constitution and Journal carried this promising report by Barry James:

OFFICERS FROM ALL LANDS BELONG TO NATO'S FLEET

(By Barry James)

DEN HELDER, THE NETHERLANDS.—The staff officer is a Dutchman, the operations officer a Dane. A German is responsible for the weapons and a British Royal Navy chap has the job of sending the other side's submarines to the bottom.

Welcome to the U.S. Navy.

The guided-missile destroyer USS Coontz, presently serving as flagship for NATO's standing force in the Atlantic, is host to an international team of officers led by an American, Captain Gerald M. Carter.

The fleet, in existence for 11 years, is one of NATO's success stories.

Over the years, hundreds of officers like those aboard the Coontz, have served in one another's navies, made friends and learned different procedures.

If a serious crisis were to erupt, the standing force—now numbering six destroyers and frigates from as many different navies—would form the nucleus of an international fleet that would have the task of keeping open trans-Atlantic supply lines.

The force now is on its way to the United States after visiting ports in Norway and The Netherlands.

From a June 18 to 19 call on Bermuda, it is scheduled in Norfolk, Va., June 22 to July 11, and in Charleston, S.C., July 12 to 19. Other ports and dates have not been disclosed.

Showing the NATO flag is a key part of the fleet's peacetime mission.

The fleet recently visited the Baltic and will call at Mediterranean ports next year. Such missions outside the Atlantic area are made, however, only with the approval of the NATO council in Brussels.

The question arises whether the multinational fleet will ever be sent to show the flag in trouble spots outside NATO's geographical boundaries—a matter of the utmost political delicacy.

From a strictly military or technical point of view, there is no reason why such missions cannot be carried out, senior officials say.

Gen. Alexander Haig, the retiring supreme commander of NATO forces, said recently that the single most important challenge facing the alliance in the 1980s will be its ability to react to crises outside its boundaries.

Soviet "adventurism" in the Third World, he warned, threatens Western sources of energy and raw materials and provides Moscow with bases from which to cut NATO's lifelines of commerce.

Furthermore, Haig said, the Soviet expansion creates a "syndrome of inevitability in which even historically friendly Third World countries such as Saudi Arabia begin to adjust their stances to accommodate the policies of those whom they perceive as on the winning side."

At present, NATO navies operate individually outside alliance territory, which is considered to end where the Tropic of Cancer crosses the Atlantic. Both the United States and France, for example, have fleets in the Indian Ocean because of concern about Soviet naval activity there and the threat to energy lifelines.

U.S. Secretary of Defense Harold Brown said in Brussels recently that America would continue its role of keeping open the lifelines, but looked to its NATO allies to share the burden by giving political support and training to friendly Third World countries and providing support for U.S. forces.

Within the NATO area, port visits by a multinational fleet jointly flying the alliance's star-shaped symbol, are considered to be effective public relations.

The fleet also trains hard in anti-submarine warfare and air defense.

Command of the NATO fleet rotates among the United States, Canada, the Netherlands and Britain. Portugal also is authorized to command the fleet, but has never done so because it lacks a suitable flagship.●

MORE ATTENTION TO BUSES—LESS FEDERAL SUBSIDY TO AMTRAK

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. HAGEDORN. Mr. Speaker, since the present gasoline shortage hit this country in midspring, the American public has been seeking alternative modes of transportation to the private automobile. Two transportation systems that have received tremendous boosts in ridership are bus and rail. The increase in the number of riders on the Amtrak national rail system has brought increased revenue, but there will still be a need for a significant subsidy of Amtrak routes by the Federal Government.

Two-thirds of the price of an Amtrak ticket is picked up by the American taxpayer. One way to cut down on this use of tax dollars would be to raise the price of an Amtrak ticket. The increases would not have a great effect of reducing ridership because the price of travel in a private automobile has also increased significantly.

If one of the changes brought about by the gasoline situation is the increase in Amtrak ridership, I think this is a positive benefit as I have no argument about the need for Amtrak service. The problem I have is with the tremendous subsidy given to the rail system by the Federal Government. This subsidy is at the expense of the American taxpayer and the private bus system in our Nation.

At the same time that Amtrak is receiving more attention by the Government, the bus transportation system has been virtually neglected. Buses are the most cost-efficient form of public transportation we have and it is virtually unsubsidized by the Government. In fact, there is a significant cost-benefit imbalance when comparing the bus and rail systems.

The increased ridership on Amtrak should go a long way toward reducing the need for a Federal deficit. By raising ticket prices and lowering the Federal subsidy, we will be doing more to allow these rail routes to pay for themselves and prevent such an undermining of the privately run bus system.

Last year, the Amtrak system carried less than 19 million passengers. The Nation's bus systems carried 335 million passengers—more than the airlines and rail systems combined. Our rural areas are almost totally dependent on buses as the only form of nonautomobile transportation because rail and air service are mostly nonexistent there. With speedy travel on interstate systems, bus service between some major metropolitan areas is competitive with rail and air time schedules and is much cheaper for the consumer. We must do more to build this efficient mode of transportation for the benefit of all parts of our Nation to offer our citizens feasible alternatives to automobiles and higher gasoline prices.

For the benefit of my colleagues, I would like to insert into the RECORD a newspaper column from the July 2, 1979, Christian Science Monitor, which addressed Federal inattention toward the bus transportation system in our Nation:

THINK BUSES—NOT AMTRAK

(By Ralph E. Rechel)

Federal transportation policymakers picked an awkward time to cut the Amtrak rail passenger system in half. The gasoline shortage has filled many of Amtrak's empty seats and backlogged reservations on the more popular routes such as Boston-New York-Washington, Chicago-Detroit, and Chicago-St. Louis.

However, in terms of producing one passenger mile of transportation service, Amtrak is still the highest-cost mode of mass travel—higher than autos, planes, or buses.

Amtrak is high cost because its form of organization, devised by Congress at the behest of the railroad brotherhoods, locks it into unenforceable operating contracts with freight-oriented railroads which have no incentive to reduce or control passenger-service costs covered by federal subsidy. Amtrak cannot break even with every moving seat filled.

Even more embarrassing, Amtrak is not fuel-efficient. Here buses at present average loads and cars with an average of five passengers (double the presently observed intercity travel averages) are much superior. It is not that rail technology is inefficient—in fact, from the purely mechanical standpoint, the railway should be the most efficient mode of transport. Amtrak is caught in at least two traps, the kind provided by Congress when it forges laws on the spur of the moment.

The first trap is being subject to extensive federal safety regulations for rail freight and passenger operations jointly using the same tracks. These require very heavy equipment built to withstand collisions between loaded trains. The present intensity of public interest in safe transportation and the lack of any opportunity for Amtrak to run on passenger-only trackage means no immediate relief from the heavy equipment requirement, however.

The second trap is the original concept of providing a high-speed rail service which would compete for business travelers against the air-plus-ground transport times of the airlines in the case of short city-center to city-center trips. Amtrak has a lot of equipment designed for 100 to 150 m.p.h. performance which would be more fuel-efficient if designed for 75 to 85 m.p.h. These speeds would shift travelers from cars but not planes, something thought to be impossible at the time Amtrak was planned in the early 1970s.

This issue raises an unresolved question about what Amtrak is supposed to be and do.

The original congressional intent was to have a high-performance system that would break even. This has been a failure up to now. In fact, the subsidy gets larger year by year or the fares go up—partly because of too many congressional patronage routes with 80 percent subsidies (cut off by Transportation Secretary Adams's recent actions) and more largely because there has been no workable incentive for the railroads contracting to provide the service to control costs, or even to perform in any way according to the terms of the contracts.

The real challenge to transportation planners in intercity passenger travel is the low social standing of the most efficient mode—buses. The majority of Americans wouldn't be seen riding in one! Intercity buses suffer perhaps even more from such attitudes than do urban transit buses.

But the intercity bus services *do* carry the lowest-income groups, including large numbers of racial minorities. Bus fares are the cheapest travel available for those without cars. The bus lines make small net profits from their low fares and provide comparatively comfortable, reliable services.

In the New York-Washington corridor the cheaper buses take only about 40 minutes longer than Amtrak's Metroliners at present schedules and have a much smoother ride, although the Federal Railway Administration continues to hype the Northeast Corridor track improvements.

While the physical aspects of bus stations could be improved and more branch stations could be opened in suburban areas, deep-seated human attitudes about social classes are slow to change. However, the US Interstate Highway System is a first-class bus network between medium and large cities and a great many of the smaller ones.

At the average seat occupancy of the bus lines before the gas crisis—about 55 percent—they were the most fuel-efficient mode of travel by a factor of two. The subsequent increases in seats occupied has only improved on this energy-efficient performance.

The challenge to transportation planners therefore is to provide bus services that will appeal to wider audiences and will be used by a few people who don't want to make a car trip in the era of $2-a-gallon gas, sure to be here by the end of 1980.

I would propose a deluxe or "super" high-speed bus operation on highways with four or more lanes and cruising at 75 to 85 m.p.h. with express or limited-stop service. The additional speed would not seriously erode the fuel efficiency of the diesel-engined bus. It would still be the efficiency champion. Even with special express fares it would still be the lowest-cost public intercity passenger service.

The proposed cruising speeds are those routinely used by long-distance buses pre-1974 and require no significant mechanical changes. The service coverage and schedule frequency would be much greater than anything possible with an Amtrak system. The travel times would not suffer too badly for trips up to 250 miles when compared with city-center to city-center airline times.

The principal objection to this proposal has always been a non sequitur from auto drivers, "Why can't I go as fast as the buses? They don't deserve any special treatment."

Restructuring Amtrak as an efficiency mode would require eight to ten years and extensive purchases of lightweight foreign-made passenger cars, in effect starting all over again. If it was really to break even, Congress—in effect the Amtrak employer—would have to face the overmanning and labor-agreement work-rule issues. Congress would have to be prepared to take strikes on freight railroads whose employees belong to the same unions although working under separate contracts.

All of these qualifications for saving more of Amtrak's routes than a few well-patronized corridors radiating out from the largest cities would require a superhuman effort from a Congress which is not currently providing much such effort, a Congress which has bumbled the rail business into a shambles.

(Mr. Rechel is a private transportation and urban consultant with extensive experience in the United States and abroad.) ●

RHODESIAN POLICY

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. RHODES. Mr. Speaker, one of our former colleagues, John Davis Lodge, has written me concerning the Rhodesian policy of our Government. He was one of the official observers of the past election in Rhodesia.

John Lodge has served our Nation with distinction, in the House, the Foreign Service where he was Ambassador to Spain and Argentina, and as Governor of Connecticut. He has outlined the cogent facts of Rhodesian political affairs today, as he interprets them from his background of international experience.

I urge my colleagues to take note of Mr. Lodge's analysis, which would seem to indicate that our continued refusal to recognize a duly-elected government is inconsistent with our professed advocacy of human rights and self-government.

I regret that Mr. Lodge was not given the courtesy of a hearing before the subcommittee handling this Rhodesian question. I feel Congress should seek out the full story, from those who know the real facts, and failure to schedule one of the official observers as a witness does not reflect an attitude of impartiality on the part of the subcommittee.

Text of Mr. Lodge's letter, and a telegram to me concerning his desire to appear as a witness, are as follows:

JOHN DAVIS LODGE,
Westport, Conn., June 30, 1979.

Hon. JOHN RHODES,
Minority Leader, House of Representatives,
Washington, D.C.

DEAR JOHN: Enclosed is a copy of the telegram I sent you on June 28th.

As a former member of the House Foreign Affairs Committee and as an accredited observer of the elections in Rhodesia, I should like to call your attention to the following facts:

1. All the American observers, including black civil rights leader, Bayard Rustin, and former members of Congress Charles Brownson, Howard Pollock, Allard Lowenstein, and myself, thought the elections in Rhodesia free and fair and that sanctions should be lifted. I venture to assert that we qualify almost by definition, as experts.

2. The opinion is unanimous that if the exodus of the whites from Rhodesia accelerates, the blacks under Bishop Abel Muzorewa will be unable to defend themselves successfully and will be savagely slaughtered and replaced by the Russian and Red Chinese supplied guerrillas under their gauleiters, Joshua Nkomo and Robert Mugabe, leaders of the so-called patriotic front.

3. The problem then is not a disproportionate number of whites in a black government. This disproportion also exists in Kenya, Tanzania and Zambia.

4. The problem is rather to induce the whites to remain, thereby preserving the blacks from being massacred and preventing our antagonists in Moscow and Peking from taking over Rhodesia with its chrome and threatening the diamond mines and gold mines in South Africa and the tanker routes around the Cape of Good Hope. This could, perish the thought, cut our gasoline supply even more.

Those who worry about too much white influence in Rhodesia should understand that without the whites there would be no Rhodesia as it is today. Without the whites, the blacks will be butchered by the black mercenary hit men and the guerrilla terrorists who could not exist without Russia and Red China.

Need I point out that Russia and Red China are not interested in democracy or in black domination of the African Continent they seek to dominate.

To lift sanctions would inevitably advance the national security of the United States.

Since I was not given the opportunity which was requested, to testify before my old committee on Foreign Affairs, I write to you in the hope you can somehow give these views adequate exposure.

With warm personal regards,
Sincerely,

JOHN D. LODGE.

Congressman JOHN RHODES,
Minority Leader, House of Representatives,
Washington, D.C.:

Acceleration of white exodus from Rhodesia would be tragic. Strongly recommend lifting of sanctions by amending H.R. 4439 with Byrd bill S. 428 to serve American national interests. We help Kenya, Tanzania, and Zambia where white disproportion to blacks is greater. Regards John Lodge, observer, former Member of Congress.●

PILOT JOBS PROGRAM

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. SIMON. Mr. Speaker, today I am introducing the Pilot Guaranteed Employment Opportunities Act. This bill would establish an experimental program of guaranteeing jobs for all unemployed people in 20 counties across the country. In addition to putting people into productive jobs who are now forced to rely on unemployment compensation or welfare, this program would provide us with valuable and necessary data to assist us in fully implementing the provision of the Full Employment Act of 1978.

Although the unemployment rate has been steadily declining in recent months, we still have, by official estimates, over 6 million people looking for jobs but unable to gain employment. In areas such as those that I represent, we still have many communities who have double digit unemployment rates, with little sign that the picture will improve through normal economic policies.

Mr. Speaker, it was over a year ago that the House approved full employment legislation and it will be a year in October that it became law that we would achieve a 4 percent unemployment rate within the next 5 years. This year, we find ourselves in the midst of a continuing economic crisis and once again, the production of jobs must be weighed against other major economic decisions. I am sorry to say that moving the Nation along the road to reaching the realistic goals laid out in last year's full employment law has suffered as we try to grapple with the inflation problem. This legislation offers the opportunity to, on an experimental basis, put into place in 20 counties the foundations for full employment and to see where they work and where they need to be changed in order to allow the Nation to achieve the goals of the full employment act within the mandated period.

The experimental bill will set up 20 pilot projects. The Secretary of Labor would have the authority to designate 20 counties to participate in the program. The number of unemployed people and the percentage as well as the number of people in the county who are participating in Government assistance programs would be part of the criteria in making this decision. Applications will include statistics on unemployment and employment figures, employment opportunities, population, welfare recipients, and criminal statistics.

The bill currently limits eligibility to 20 counties with populations of 20,000 or below. As the legislation proceeds through Congress, however, these figures may have to be revised. My reason for the 20,000 population limit at this point is because it reduces the total costs of the program. In addition, there are a great number of rural counties which have urban characteristics, so that the statistical data gathered would have applicability to both rural and urban areas.

To be eligible for participation in the program an individual would have to be over 18, a resident of the county involved at the time of the law's enactment, unemployed for at least 3 weeks and a member of a family where the income earned the previous month did not exceed $700. No more than 2 people are eligible from the same family.

The bill sets up a three-tiered system for guaranteed employment in those communities participating in the program. The primary emphasis is on the private sector. The Federal Government will reimburse private businesses in participating communities the the rate of 50 percent of the minimum wage for newly hired eligible employees. This reimbursement will be made for a maximum of 32 hours per week and will last for 1 year after the date of employment.

The number of new employees for whom an employer is entitled to reimbursement depends on the size of the business. An employer with 1 to 10 employees could be reimbursed for 1 new worker. With 11 to 30 employees, an employer could be reimbursed for 2 workers and for 4 new workers for employers with between 31 and 60 employees. This scale continues until an employer with more than 100 employees could be reimbursed for 10 new workers.

Strict provisions are included in the bill to insure that no employees are fired or suspended so that an employer can take part in the program. The bill also protects employees from being fired without sufficient cause within a 90-day period after the subsidy for his or her job ends. These provisions will be central to providing long-term employment opportunities in the counties involved in the program.

As with the full employment legislation passed last year, this legislation is based on the maximum utilization of the private sector in the production of jobs. This is where permanent jobs can be created with long-term benefit to the community and to the Nation. In some areas and in some situations, the Federal Government will also have to enter the job-production market. This is to both pickup the slack from the private sector and to assist in the delivery of valuable services that are not offered by the private sector. In these cases, State and local governments could provide jobs. The Federal Government will reimburse State and local governments for new employees at a rate of 50 percent of the minimum wage, again for 32 hours a week. The same restrictions on substitution that apply to private businesses also apply to State and local governments.

Finally, when sufficient jobs cannot be provided by the private sector and State and local governments, the Federal Government will step in and fill the gap by providing minimum wage jobs for 32 hours per week.

The Secretary of Labor will be required to report back to Congress on the pilot programs. In addition to addressing the costs of the program, this report will also include the effects of the program, county by county, of at least the following factors: Unemployment insurance and welfare costs, criminal activity, Federal revenues, State and local revenues, public school attendance and population changes.

Mr. Speaker, I do not feel that I need to go into detail on the economic, human and social costs of continuing high rates of unemployment. That has been discussed by this body on numerous occasions. Under the leadership of our colleague GUS HAWKINS from California and the late Hubert Humphrey, we have made an important first step toward ridding the Nation of high unemployment and the devastating results that accompany it. A full employment economy is what we should be striving for—both for the economic and social stability of the Nation. I feel that this legislation is the next logical step toward achieving this goal. These pilot programs in themselves will not be the complete answer to our problems. But it does begin moving us in the right direction. It is open to constructive changes. I do feel, however, that enactment of this type of legislation would be a significant step toward a fuller understanding of what we need to do in order to achieve full employment in this country and toward achieving full employment itself.

I urge careful consideration of this bill and the concepts and policies it embodies.●

ARTHUR FIEDLER

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mrs. HECKLER. Mr. Speaker, Arthur Fiedler was, and always will be, an authentic American legend. The tributes, to the man and the musician, which began yesterday will fill a volume. They will help to console Arthur's beloved wife Ellen and the children—Johanna, Deborah and Peter—he loved so much.

None will be written with more knowledge or love than the words which appeared in the Boston Globe and Boston Herald-American this morning.

I ask unanimous consent that those articles and editorials appear with these words in the RECORD.

[From the Boston Globe, July 11, 1979]

THE MAESTRO

Arthur Fiedler refused to grow old gracefully. That phrase is used to describe the person who accepts the wrinkles and the graying and the stooped shoulders that come with time. Fiedler grew old crankily instead. He didn't like the aging process one bit and was never convinced of its attraction.

"Give up? Quit now? Never. I'll keep working until I die. I'll die with my boots on," he said on his 80th birthday, adding with curmudgeonly aplomb that "he who rests, rots." Obviously it pained him to have to spend his last Fourth of July in bed while the crowds gathered on the Esplanade for the annual Boston Pops concert which he initiated 50 years ago. "I wasn't asked to play; they were making plans without me," he told reporters.

Fiedler simply wouldn't accept the fact that he was dying, that life would go on without him, that the notes on the scoresheet—flyspecks, he called them—would sound long after he was gone.

But by fighting his 84 years, by railing against them, the maestro realized what many fail to. He knew in his bones that you have to work, enjoy, complain, react, joke, assert yourself each minute, good or bad, until the end in order to live. Arthur Fiedler pulled that trick off neatly and the man who was perhaps the best-known Bostonian in the world managed to avoid the withering of spirit which crushes many in their declining years. "You aren't going to put this old geezer out to pasture," he seemed to say, wagging his finger at those who would have had him give in. And one last time he leaves us with a bit of music ringing in our ears.

[From the Boston Globe, July 11, 1977]

REMEMBERING THE POPS MAESTRO

(By Richard Dyer)

APPRECIATION

Arthur Fiedler knew everything there was to know about getting people to go to concerts. Once he got them there he gave them the best kind of good time, for a characteristic Fiedler program was not merely fun to listen to, but also an unobtrusive display of skill and discipline and discernment and experience and, yes, taste.

Fiedler knew what the public wanted. He met that need on its own level as fully as anyone ever has—and then went on, without any missionary condescension, to stretch the public taste until it reached the more extensive boundaries of his own. He believed with Rossin that "every kind of music is good—except the boring kind," and for Arthur Fiedler no music was boring. No other conductor has matched him in his double gift of communicating the joy that is in serious concert music and in identifying, respecting and presenting both the durable and the entertaining qualities that are in lighter music.

The memory of some lapses in a few concerts in the last years after his health had begun to collapse cannot obscure the fact that Fiedler was a first-rate musician.

This, after all, was a man Toscanini was willing to entrust his NBC Symphony to, the man who prepared the chorus for the American premiere of Stravinsky's "Symphony of Psalms," the close friend and advocate of Walter Piston, the man who was conducting works written for chamber orchestra with a stylistically authentic number of performers at a time when even the most famous conductors were either ignoring the 18th century or making it over in the image of the 19th, the man who in one of the last seasons learned the tricky Ginastera Harp Concerto because he wanted to honor a Pops member who had been scheduled to play it on a prestigious occasion, a man who knew musical talent when he heard it and who went about hearing it in unexpected places.

Fiedler's readings of the standard symphonic and concerto repertory were uneccentric, traditional, reliable and solidly satisfying (his "New World" Symphony record is a lot better than some by "serious" conductors of great celebrity).

The most opulent Pops arrangements somehow sounded in better taste when he played them, tongue planted in cheek, and they were lots more fun. And when Fiedler conducted a Strauss waltz you could tell that he had grown up absorbing the style when it was something new; the composer, in fact, was still alive when the conductor was born. And that was true of most of the popular music Fiedler would conduct for his nostalgic audiences; "New Moon" was not old hat in 1928 when he conducted it at the opening series of concerts on the Esplanade, but the latest popular success in London and New York. Fiedler knew what the popular music he conducted sounded like when it was new, and he knew how to make it sound that way again. And his repertory was comprehensive; how often it turned out that some piece one had never heard of on a Fiedler program was music you've not quite been able to place all your life.

To everything he did, Fiedler brought color, flair, personality and a unique sense of publicity value. It never took him long to climb into a Santa Claus suit.

He pulled on a Beatles wig in the '60's and people complained, but that didn't bother him, for he had realized what the musical qualities of the Beatles were before the highbrows got around to writing essays about them in the New York Review of Books.

And he was also, after all, used to getting into trouble because he likes whatever was good, wherever he found it. Twenty years before the Beatles brouhaha, Serge Koussevitzky had canceled Fiedler out of a Boston Symphony Orchestra date because the younger conductor had agreed to appear with Frank Sinatra. Fieldler would be stirring up controversy right on up to the end. Someone in the audience at one of the Pops concerts last summer complained that a guest conductor had put the disco version of the beginning of Beethoven's 5th Symphony on the program. "That would never happen if Mr. Fiedler were here," he said, definitely, little knowing that Mr. Fiedler had been the first to choose to play it.

"I get tired of being asked how I could lower myself, Fiedler would say. "That kind of remark goes in one ear and out the other. There is a terrible snobbism about music. The fact is you cannot play and listen to the same thing all of the time."

Fiedler's image changed with the years. There was the young-man-about-town that made Black Bay matrons want to lock up their daughters; "the deb's delight and the mother's despair," the old joke went. Then there was the middle-aged bon-vivant and world-traveler, well on his way to the most commercially successful career in the history of musical performance.

More lately there had been the inspiring evidence of the man's indefatigability, the seasons of 196 concerts, plus rehearsals and recording session, that, owing to his failing health after his 80th year, had to be "cut down" to 164.

Most recently of all there has been the image of the crustry curmudgeon, grouching about the public and about his family and praising his doctor because he prescribed bourbon instead of vitamins. In all of Arthur Fiedler's images there were high spirits, and a going beyond what one would have thought were the boundaries of natural possibility.

But Fiedler was far more than an image, or a changing image. He was a man who went unobtrusively about his business (the podium may have been the one place he never exercised his showmanship), and at his business he was the best, no apologies needed. To his stamina Fiedler owed one of the longest careers in the history of performance. To his charisma, his shrewdness about his charisma, and to his all-embracing taste he owned his unique popularity and its attendant financial reward.

But it was his quality, both innate and hard-earned, and his devotion to quality in the work of others, composers and performers and technicians alike, that Fiedler owed the fact that he was, of all musicians, the one most widely loved.

[From The Boston Herald, July 11, 1979]

A Monument to Fiedler

Yesterday, just a few hours after Arthur Fiedler died, a 40-year lease was signed which should mean that Boston will soon have an adequate hall to accommodate opera, ballet and other performing arts well into the 21st century.

That center ought to be named for the Maestro.

For many years, some of the world's most renowned touring companies have bypassed the Athens of America or scaled down their performances here simply because we couldn't provide them with a large enough hall or stage.

That situation may soon be remedied, now that a non-profit organization has signed a long-term lease on the old Music Hall theater, which it plans to convert into a first-class center for the performing arts.

Refurbishing the hall, however, is going to cost a lot of money. It won't be easy to raise that cash for something called the "Metropolitan Center, Inc." But we'd be willing to bet that if it were designated as a monument to Arthur Fiedler, the fund-raising campaign would be oversubscribed in no time at all.

Besides, the Maestro had a long association with the Boston Ballet and other artistic institutions that will be performing in the new center. His name, in fact, has been synonymous with the city and its culture for half a century.

What, really, cou'd be a more fitting name—and tribute—than the Arthur Fiedler Center for the Performing Arts?

[From the Boston Herald American, July 11, 1977]

Perfection, a Handshake, Grace Notes

(By Ellen Pfeifer)

Arthur Fiedler was a musical perfectionist—whether the music was by Mozart or the Bee Gees. As a European-trained musician, his background was old world, yet his first allegiance was to American performers and American works. He was a loner, yet he was a loyal friend and jovial companion who enjoyed good food, good drink, and a good joke.

Those are the qualities that Fiedler's colleageus remember most vividly. Here are some of their memories:

John Barwicki, bass player, Boston Symphony Orchestra and Boston Pops:

"When Arthur began the Esplanade Concerts in 1929, he had a hard time getting all the musicians together. All the BSO players were in Europe. And no one wanted to play a few weeks here for an experiment. So he went to the conservatory to find students who would play. He wasn't too thrilled with me, but he said, 'John, I think you'll do.' Every summer, it was my job to play with him on the Esplanade and then to fill vacancies in the Pops. He inspired me to continue with the double bass and eventually I became a member of the BSO.

"He was a hard man to work for, very demanding. He wanted us to play as well as we did for the BSO. He was always serious and would never tolerate any fooling around.

"He had such a love for the public. You know, during Pops season, people wanted to be a little relaxed and they would say, 'Let's have a little fun with Fiedler.' So, they would wait until we came to a pause or a quiet spot and all of a sudden, someone would pop a champagne cork. Fiedler would then turn around with a big grin, and say, 'Bring it over here.'"

Richard Hayman, pops arranger.

"I met Arthur Fiedler through Sherm Feller who used to host a late-night talk show. After a concert, Fiedler would often sit in on the show, sometimes pretending to be a visiting music lover from England named Krackenbusch. In a very proper English accent, he would give his opinion of musical life in the United States.

"Sherm wrote a song, 'Francesca' for his mother. And Fiedler told him if he could get an arrangement made, he would play it at Pops. Sherm asked me if I would do the arrangement.

"Fiedler asked Sherm what instrument I played. At the time, it was harmonica. When Fiedler heard that, he almost threw Sherm out the window. "What does a harmonica player know about an orchestra."

"After the first rehearsal, though, Fiedler called me into his office and asked me if I'd do some more work for him. We shook hands on it and that was the only contract we had for 30 years. And in all those years, with me writing 40 arrangements a year, I don't think he ever changed more than 30 notes."

Emanuel Borok, Concert-master, The Boston Pops:

"There is no such thing as Pops in Russia. It was absolutely a new thing to me when I came five years ago, and Fiedler knew that. Pops had such an enormous repertory. And a large part of it was unknown to me, especially the American stuff. Fiedler was worried how I would do in it. Then, one night, on tour in Ames, Iowa, I was in a good mood. I'd had dinner with a few drinks. And we were performing the 'Fiddler on the Roof' collection. I felt the violin solo was not written right. It wasn't Jewish enough. So I played it the way I thought it should sound, added a few grace notes. And everybody in the orchestra laughed. And Arthur laughed, too. After that, he never gave me any trouble, always let me do things my way."

Harry Ellis Dickson, Assistant Conductor, Boston Pops:

Fiedler had a marvelous ear. He could always hear wrong notes or when things were out of tune. Invariably, when we would be rehearsing a new arrangement of a piece, he would stop and point out a mistake in, say, the trumpet or horn parts which hadn't been corrected. After the Fourth of July concert (which Dickson conducted), I went to see him. I had asked his advice on the 'Lincoln Portrait' which his wife Ellen narrated. And so I said, 'How did it go.' He said, 'Fine, but the bass drum was too loud.'"

Michael Steinberg, Director of Publications, Boston Symphony Orchestra:

"There was at one time a real serious musician (in him), and that's a part of him that everyone lost sight of, including himself. And I don't think he was ever completely at peace with himself because of that. He set very much store by such things as the Fiedler Sinfonietta (which recorded Handel Organ Concertos with E. Power Biggs), or the fact that, at one time, the Pops had performed more Mozart Piano Concertos than the Boston Symphony.

"I first met him a month or two after I came to Boston (as Music Critic of the Boston Globe). I sat next to him at a dinner in honor of Roland Hayes. And I remember that I had just met his daughter, Johanna, who was then a freshman at Sarah Lawrence. At dinner, he grumbled about higher education for women being a lot of rubbish. He also said it was a nuisance to have women in the orchestra.

"That was the curmudgeonly side of him. His more courtly manner was maifested to me in a very curious and touching way After I came to Symphony Hall, he learned I spoke German and thereafter we never again exchanged a word of English. That obviously gave him a great deal of pelasure and he spoke an exquisitely elegant German."

Jesus Maria Santoma, pianist

Recalling a Pops performance of Saint-Saens' "Carnival of the Animals," Santoma said, "In the section devoted to the Bird, they would wipe from their eyes an unnamed 'substance' deposited from overhead. During the 'Cuckoo,' Fiedler would station a clarinetist in the balcony to echo that characteristic bird call. Then we would feign astonishment when the echo sounded throughout the hall. We came up with something for every piece except the Dying Swan. That one we kept serious and straight." ●

ZIMBABWE CONSTITUTION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. LAGOMARSINO. Mr. Speaker, the following editorial by Bayard Rustin appeared in the Washington Star on July 8, 1979. It emphasizes the importance of U.S. recognition of the new Zimbabwe Constitution and our support of the April elections held in that country.

The continuation of economic sanctions by the United States will only succeed in encouraging continued guerrilla warfare and postponing economic and political stability within Zimbabwe-Rhodesia.

As the article points out, we have accepted the results of other elections which were more blatantly unfair than those which were held in Zimbabwe. Indeed we have recognized many totalitarian regimes that have never held any elections. As long as the black majority is satisfied with the results of their negotiations and election, it is our responsibility to offer support for their decisions.

The article follows:

AMERICA'S WAR VS. DEMOCRACY IN ZIMBABWE

(By Bayard Rustin)

No election held in any country at any time within memory has been more widely or vociferously scorned by international opinion than the election conducted last April in Rhodesia now Zimbabwe Rhodesia. In scores of other countries, non-democratic governments periodically stage elections whose predetermined results are never challenged or questioned, even by the world's democracies.

In contrast to the silent acquiescence in what passes for elections in the world's tyrannies, the outcry against the Rhodesian election has been deafening. The United Nations Security Council immediately passed a resolution condemning it and calling upon all countries not to lift economic sanctions against Zimbabwe Rhodesia. And the New York Times, urging no change in the Carter administration's Rhodesian policy, announced that it would be a "moral and diplomatic disaster" for the United States to recognize the legitimacy of the election or of the government resulting from it. The Time's wish since has been granted.

Few critics have even pretended to have an open mind on the subject. United Nations Ambassador Andrew Young, who had earlier described as "neofascist" both the interracial transitional government in Rhodesia and anyone who supported it, announced that the election was "rigged" and called for "new elections without pressures."

Contrary to such opinions, however, the people of Zimbabwe did vote in an election that was freer than most held in the developing world—freer, certainly, than elections held anywhere in Africa with the exception of Gambia, Botswana, and possibly several other small countries. Moreover, not only did they not vote with "a gun to their heads," many voted with genuine, unmistakable enthusiasm. The contrast between how the election was viewed by most Zimbabweans and how it was described by critics outside the country is nothing less than extraordinary.

To be sure, the election was held under extraordinary circumstances. The Patriotic Front had vowed to use violence to disrupt the voting—Joshua Nkomo, the leader of one wing of the Front, had predicted a "bloodbath" at the polls, and so martial law was in force throughout most of the country. The security forces at the polls protected voters. Their presence may also have had a coercive effect, but we saw no evidence that they compelled people either to vote or to vote for a particular candidate.

This is not to say that the government took a passive role in the election. Everyone 18 and older was allowed to vote, and the government encouraged participation through publicity. But these actions were not inappropriate in a situation where most people were voting for the first time in their lives; and their overall effect was to increase majority control over the results.

At the same time, the government sharply curtailed the nonviolent expression of opposition to the election, though such expression was allowed in some places. White employers encouraged people to vote, as did the local militias (the security forces organized by the black political parties).

No one can say with certainty what influence these different pressures had on the voters. But clearly a very large proportion of the population felt free to participate in the election. The turnout was well over 50 percent and most likely nearer the official figure of 64.5 per cent.

While the election did not meet the rigorous standards that one would apply to elections in Western democracies, it was remarkably free and fair, especially considering that a civil war was in progress and that most of the population had never before participated in an election. But the opponents of the election—not just the Patriotic Front, the frontline states (Zambia, Mozambique, Botswana, Tanzania, and Angola), the Communist world, and the United Nations, but also political leaders and publicists in Western democracies, including the United States—have not shown the least interest in the question of how democratic the voting process was. As the New York Times put it, "The real issue is not how the election was conducted, but what it was about."

In this connection, two major objections have been raised, the first having to do with the new constitution. It is charged that this constitution was never submitted to the black voters for approval; that it reserves, for a period of ten years, 28 of the 100 parliamentary seats for the 4 per cent white minority; and that it preserves white domination over the army, police, judiciary and civil service.

The second objection is that the internal settlement, under which the constitution was adopted and the election was held, did not include the Patriotic Front, and so would not end the civil war but lead to its escalation, with the likely involvement of Cuban troops.

Summing up these objections, the Times has charged that the internal settlement is "little more than a device for keeping real power in the hands of Rhodesia's small white minority" and is, therefore, "rightly suspect in black African eyes" and "a receipt for civil war."

Here again, the views of outside opponents of the election and the views of the people inside the country diverge in a most extraordinary way. The Zimbabweans participated in the election with enthusiasm precisely because they felt it marked the beginning of real majority rule and would also bring an end to the war. Virtually all the people I spoke with gave these reasons to explain why they were voting.

The "internal leaders" who negotiated the settlement with Ian Smith felt that the agreement reached on March 3, 1978 established, in the words of Bishop Muzorewa, "the machinery for dismantling the structures and practices of colonialism and racism and of minority rule." They went into the negotiations with the objectives of destroying the legal foundations for institutionalized racial discrimination and winning the transfer of power from the minority to the majority in an election based on the principle of one person/one vote.

The first objective was achieved on Oct. 10, 1978 with the abolition of all statutory discrimination, including the Land Tenure Act which reserved lands for white ownership. The second objective was achieved with the election in April.

The argument that the constitution was never submitted to the black voters for their approval is weak. Throughout the talks, black negotiators reported back to the executive bodies of their respective parties to get their approval for any agreements that were made. At one point in the negotiations, when Bishop Muzorewa walked out in a dispute over the number of white seats in the new parliament, a special meeting of the Provincial Council of the United African National Council was called which was attended by 800 delegates from all over the country. These delegates represented local constituents who were kept informed about the progress of the talks. In the view of the black parties, a referendum on the constitution would simply have delayed independence and exposed their party workers to increased guerrilla violence. And it would have been redundant, they felt, since participation in the election was itself a vote in favor of the constitution and the internal settlement—a point implicitly recognized by those who opposed the election because of "what it was about."

The black negotiators compromised on the issue of the 28 white seats; they were, after all, negotiating, and they did not feel that they had sacrificed their fundamental position. In the first place, such an arrangement was in the tradition of Britain's African decolonization policy of "multiracialism." (In Zambia, for example, the special allotment of parliamentary seats to the non-African minority was not discontinued until 1968, four years after independence.)

Then, too, all the plans that have been introduced for a negotiated transition to majority rule have made a special provision for white representation in parliament. Even the now obsolete Anglo-American plan, which is vigorously defended by Andrew Young, reserves 20 of the 100 seats for the white minority. During Nkomo's bilateral talks with Smith in 1976, he proposed an election with three different voting rolls which would have assured the whites a substantial minority of legislative seats. He did so, as he said, "to meet fears expressed by the Rhodesian Front" (Smith's party) and "in a spirit of compromise." In the talks leading to the internal settlement, Smith wanted 34 seats for the whites, Muzorewa wanted the number limited to 20 but reluctantly compromised at 28 after his black negotiating partners, Sithole and Chirau, accepted that figure.

The blacks agreed to this arrangement for a ten-year period; they also agreed to clauses in the constitution which protect the institutional interests of whites for an equal period, in order to reassure the white minority that its political and economic position would be stabilized under an African-dominated government. The alternative to this kind of settlement would have meant the inevitable flight of whites from the country and the collapse of the economy, as happened recently in Angola and Mozambique.

Muzorewa has made the point that if independence is not to be a "hollow shell," Zimbabwe must not repeat the mistakes of other African countries which drove out indigenous skilled whites, and then in desperation rehired, at three times the cost, "economic mercenaries who were inevitably failures in their own countries and who came to Africa for what they could milk out of their hosts."

The internal settlement, then, was designed to provide a period of stable transition during which blacks could acquire the experience and skills they were denied under white rule. Muzorewa has promised training programs for Africans to achieve "both . . . the necessary efficiency and the necessary orientation to black majority rule." He is not impatient, since black control over the institutions now dominated by whites is inevitable in a country 96 per cent black. Already the army is 85 per cent black and the police force is 75 per cent black, and the cabinet minister responsible for each force is also black. Moreover, all white officials are now answerable to a black head of state and to a parliament and cabinet which have over a two-thirds black majority.

While Muzorewa and the other internal black leaders have expressed a practical interest in retaining the skills and energies of the whites for Zimbabwe, expediency has not been their only consideration. Whites who have been four generations in Zimbabwe, Muzorewa has said, and who have no other home, must not be "driven out to nowhere." In an open letter to American blacks, Muzorewa has emphasized that Zimbabweans had never "fought the white man's skin. We fought his evil system. We fought his racism." Some people, he said, feel that we should "be ruthless with the white race. But I wish to warn against the reversal of discrimination . . . it makes us hypocrites to turn into black racists ourselves. It makes us oppressors and not liberators."

Ordinarily one might expect such sentiments to be applauded by Western liberals. But in fact, as Bishop Muzorewa said recently, while Zimbabweans "are prepared to forget the past and work together with our white brethren . . . some people in Britain, America, Africa, and other parts of the world appear unwilling to allow us to do so." Little attempt has been made even to understand the practical and moral aspects of the bishop's position, which is viewed as a rationalization for continued white control of Zimbabwe Rhodesia. As a result, we have the paradoxical situation that a settlement which has been accepted by most people inside Zimbabwe Rhodesia as the best and only realistic course for their country is opposed by foreign advocates of "majority rule"!

What alternative do they urge on us? A role for the Patriotic Front, the paper alliance of the organizations of Joshua Nkomo and Robert Mugabe (which have adopted as uncompromising an attitude toward each other as toward the internal settlement). Nkomo, given his narrow base, could only rule through force. And his close ties to Russia nad Cuba make it inevitable that both countries would have a decisive influence in any government he headed. Mugabe, even more than Nkomo, favors totalitarianism out of ideological conviction. He has made no secret of his belief that "the multiparty system is a luxury," and he has announced that if the blacks of Zimbabwe do not like his ideology, "then we will have to reeducate them."

Both have said they would only consider holding elections *after* power had been transferred to the Patriotic Front. This, if anything, is a sure recipe for civil war, since an election policed by the two guerrilla forces of the Patriotic Front would quickly degenerate into a war between them.

It is especially interesting that the excommunication of Zimbabwe has been decreed in the name of racial self-determination, but in total disregard of the views of that country's black majority; and that the Patriotic Front is favored by outsiders in the name of majority rule, but in total disregard of that group's anti-democratic outlook. Thus, we have the unedifying spectacle of the United Nations denying a platform to an "illegitimate" black African leader (as it did to Muzorewa), who is then greeted upon his return home by a cheering throng of over 150,000 blacks; and of the New York Times, ordinarily a proponent of political democracy, asserting that for the U.S. to "pressure" the Patriotic Front to come to terms with the newly elected black government "would be a betrayal of American support for majority rule."

One can account for such anomalies only if it is understood that the issue is not whether or not there shall be rule by the black majority, but what form such rule shall take. And here the alternatives are as clear as they were at an earlier time between white minority and black majority rule. For if the presidents of Zambia, Mozambique, Tanzania, and Angola have their way, majority rule will take a form more or less similar to what exists in their own countries; which is to say that it will be a dictatorship by a small black elite over a destitute black population. It is, of course, precisely this kind of "majority rule" that Muzorewa has said would be a betrayal, for it would have "the mere trappings of independence—a brand new flag, sleek and shiny limousines, black faces in parliament, the OAU, and the United Nations—while those in power are not accountable to the governed for their actions."

In fact, it has been Muzorewa's rejection of "worn-out ideologies," of "political philosophies which could make people secondary to the state—which would regard people as expendable," which constitutes his indictment of the post-colonial experience in much of Africa, and which accounts for the antagonism to him and to Zimbabwe Rhodesia among those who cling to such ideologies and who rule uneasily over the increasingly disillusioned and discontented black masses. And it is, not least, the need to conceal the betrayal of independence and the self-infliction of poverty and political oppression which explains why the struggle for "majority rule" is proclaimed with such strenuous devotion.

Into the essentially internal African debate have stepped the Soviet Union and its Cuban and East German proxies, seeking to exploit African conflicts and frustrations to advance Moscow's geopolitical ambitions. And into it also has wandered the United States, newly sensitive, as it would like to think, to the aspirations of black Africa and determined, as Secretary of State Vance has put it, not to "mirror Soviet and Cuban activities." The foremost U.S. objective has been to preserve American "credibility" in black Africa.

With respect to Zimbabwe Rhodesia, the price for maintaining American credibility among the frontline presidents and with Nigeria has been that we support—or at the very least, do nothing to oppose—the Patriotic Front. As a result, we have found ourselves, until now, tacitly aligned with groups armed by Moscow, hostile to America, antagonistic to democracy, and unpopular within Zimbabwe Rhodesia itself. And we have opposed the internal parties which look to us for support, share our professed belief in an open multiracial society, and have genuine popularity within the country.

The fact is that this has not been the only practical course open to us. The psychology of appeasement is now so deeply rooted among most American officials and political commentators that they have, almost as a matter of course, underestimated our own strengths and the strengths of our friends, as well as the weaknesses of the Soviet position. U.S. officials tremble at the thought of a Nigerian oil embargo, forgetting the fact that Nigeria needs American capital and technology at least as much as America needs Nigerian oil. Most importantly, within Zimbabwe Rhodesia itself, there is now less sympathy for the guerrillas than ever before. If this government takes steps, as it has promised, to improve the social and economic position of the black population, the rate at which guerrillas will defect could increase dramatically. Moreover, Zambia and Mozambique, which have suffered badly from the fighting and are heavily dependent on the much stronger economies of Zimbabwe Rhodesia and South Africa, are already under pressure internally to end their support of the Patriotic Front and to accommodate to the new reality.

The point is that it should not be our policy to create opportunities for the Russians and to encourage the guerrillas to continue fighting, which is what U.S. repudiation of the Muzorewa government has done.

Beyond this is the larger question of whether we will do anything to help the new black government to survive and continue to evolve in a democratic direction; or whether, by our inaction and failure of nerve, we will embolden its enemies and thus destroy any hope for democracy in the country. If we take the latter course, we will have done nothing to increase the credibility of the United States either in Africa or elsewhere. On the contrary we will have raised a signal to all the world that this country no longer has the capacity to defend or even understand its interests, or to help those who, unlike ourselves, continue to believe in freedom.●

DAVIS-BACON CAUSES INFLATED LABOR COSTS

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. HAGEDORN. Mr. Speaker, recently I spoke in this House regarding the massive administrative problems faced by businessmen across the Nation in complying with the Davis-Bacon Act. Today, I would like to address myself to another aspect of the Davis-Bacon problem, that of inflated labor costs that add to the increasing economic dislocation faced by the American taxpayer. I have received countless communications from across the country from businessmen appealing to this Congress to repeal this piece of outmoded legislation. The following information is from Roger Biale, of Reno, Nev., and I would like to submit it to the RECORD.

Mr. Biale is with the Resource Development Co., an engineering and construction firm which has been in business for 5 years. Among its recent projects is the one described below by Mr. Biale for the Bureau of Indian Affairs, Department of the Interior, and also the planning of a State park, for Nevada, also subject to Davis-Bacon. Overall, Mr. Biale estimates that Davis-Bacon adds at least 3 percent to his overhead for paperwork expenses alone. He further adds that:

> Resource Development Company recently completed a project for the Department of Interior, Bureau of Indian Affairs, here in Nevada. The project consisted of building six diversionary dams on the Yomba Indian Reservation. Our labor costs on the job amounted to $28,000.00. According to our calculations, had it not been for the Davis-Bacon Act, the cost could have been $23,000.00. This estimate includes our payroll costs of health benefits; $1.00 increase in base pay due to the distance involved; and $14.00 per day per diem for food, lodging, and travel. In addition, a similar savings would have been involved for all sub-contractors involved on the project. We are giving you this information to make a point . . . that the present Davis-Bacon Act sets a standard pay scale that is much too high, and sets a precedence of built-in inflation.
>
> We have been told by a reliable source that the scale used is merely a duplication of the regional union pay scale and not one developed by our Labor Department. Although this is convenient, resulting in less of a cost to enact, we would recommend a little effort of surveying the actual area be done by our Labor Department, to assess what would be a more equitable scale based not only on union labor but the open shop wages as well. We would wager a guess that the Labor Department has never developed an adequate system to collect information on all construction wages and determine appropriate wages.
>
> In its present form, the Davis-Bacon Act is costing the taxpayer too much, as much as 22 percent on labor as can be seen by the above.

Mr. Speaker, the sentiments of Roger Biale and other businessmen who must cope with the seemingly endless bureaucracy of Davis-Bacon reflect why there is a major disincentive to bid on Government projects. No wonder so many are calling for the early repeal of Davis-Bacon. It is our duty to listen with concern and take action.

Mr. Speaker, the second Davis-Bacon inflation account that I wish to present to my colleagues concerns the Wolgast Construction Corp. of Freeland, Mich. At a recent series of meetings in Bridgeport, Mr. Wolgast discovered that the cost of building the new Bridgeport Township Building, which had first been bid under the assumption that it did not fall within Davis-Bacon, was highly inflationary when it was bid under Davis-Bacon.

JUNE 8, 1979—IN THE MATTER OF THE BRIDGEPORT TOWNSHIP JOB

On the night of May 1 there was to be a contract award for the new Bridgeport Township Building.

Present at the meeting of the township board were five construction union representatives. The spokesman for the group was Joe Frappart. The union representatives raised the question of whether the project fell within the statutory jurisdiction of the State Public Works Act or the corresponding Federal statute known as the Davis-Bacon Act.

Due to the question that was raised by the union representatives as to the prevailing wage issue, contracts were not awarded. Another meeting was then scheduled for May 15.

At the May 15 meeting it was decided that due to the jurisdiction of Davis-Bacon over this project, the project would be rebid.

The following is the cost of the project before and after Davis-Bacon using low bidders on general contractors, mechanical and electrical:

Before: 710,794;
After: 735,561;
Total increase: 24,767; and
Percent increase: 9.6 percent.

Mr. Speaker, I would like to point out that the increase in cost under Davis-Bacon in this project was 9.6 percent. This severe inflation should be of specific importance to the Congress in considering the future of Davis-Bacon in light of the administration's own opinion that increases above 7 percent are beyond what our economy can tolerate.●

SEE YOU THEN

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. DORNAN. Mr. Speaker, the Los Angeles media market is an exciting celestial sphere of shooting stars, a land where a great sense of competition reigns. And often, in the hustle and bustle of the broadcasting business, some newscasters replace their idealistic visions with self-serving motivations. Not so, George Putnam.

Mr. Speaker, I have been one who has worked in the Los Angeles media environment. It is my privilege to mention to my colleagues the achievements of Mr. Putnam, that city's finest single individual in the television and radio world who has set his standards high and who continues to provide inspiration to young journalists wishing to break into the market.

George Putnam celebrates his 45th year of work before the mike and camera this Saturday, July 14, 1979. George is receiving a proclamation in city council chambers on Friday. Here in Washington, D.C., in this Chamber, I wish to introduce him and his very fine accomplishments to you and our colleagues. It is therefore my honor to take you, Mr. Speaker, and the other Members of the House on a trip through the unparalleled career of Los Angeles' finest newscaster—George Putnam.

The profession is journalism. The name of the game is objectivity, accuracy and quality—qualities synonymous with the name of George Putnam. In a career punctuated with his successful efforts toward community betterment, George has been the recipient of countless professional awards. The coveted Emmy has been awarded to George on three occasions for his excellence in news reporting. He has been honored six times with the Associated Press's TV and Radio Association Award and has won the annual California Radio and TV News Club Award a total of nine times. The first reporter ever to make over $300,000 a year, George has interviewed the political superstars of the world including nine U.S. Presidents—Walter Winchell wrote that George's voice was "the greatest in radio and television."

An interviewer par excellence, George knows that occasionally part of the total message is lost during the hourly news segments of which most audiences are accustomed. It could truly be stated that today's people in the news are subject to having their deepest thoughts and philosophies edited, honed-down and chomped into bits to be thrust forth for bite-sized public consumption.

Realizing the shallow limitations inherent in most other stations' brief news wrap ups, George Putnam, doing his own investigative reporting, personally gathers the material for his excellent comprehensive nationally syndicated "One Reporter's Opinion." He goes out of his way to make the reports on his KTTV–channel 11 telecast as comprehensive as possible and brings the top news names of the day to his KIEV radio broadcast booth at the ARCO Towers where he successfully conducts his in-depth interviews. Guests are afforded a generous time to fully explain themselves, defend their viewpoints and interact with their listeners—all of which translates into an important benefit to the community.

George was a pioneer in opening up the evening news by instituting this two-way TV and radio "Talk Back" forum.

Listeners and viewers, long distressed by the helpless role in which they were cast, were at last allowed a segment of air time to voice their opinions. This gave the audience a piece of the action by including them in the two-way news communication process. Los Angeles is beholden to George for his outstanding work in this innovative concept of "Talk Back" news broadcasting.

If we were to use one word to describe the essence of George Putnam on or off the TV or radio tube, it would have to be the word "courageous." George the lion-hearted never hestitates to wade in where other journalists fear to tread. A former U.S. Marine officer and a true patriot. George rolls up his sleeves and assists in projects that benefit his country and the people of his community. No longer, George feels, must a reporter restrict himself to the sidelines for fear of compromising his objectivity. When he sees a child starving, a teenager helplessly on narcotics, a defenseless animal tortured, he reaches out to help.

To my colleagues in the House of Representatives, I wish to express what a personal honor it has been to know and work with George Putnam over the years.

When I am back in my southern California district I must say it is always a comfort and joy to hear and see my old friend riding like a bucking bronco the airwaves of the city of the angels.

Congratulations, George, on a job well done. We will appreciate your next 45 years in the business of broadcasting just as much as we have the first 45. We will all be better off and better informed as we move into an uncertain future in these perilous times when we have had, each day, the benefit of your superb reporting and analysis and hear your famous sign-off "See you then." ●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 12, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 13

8:00 a.m.

Budget

To continue hearings in preparation for reporting the second concurrent resolution on the Congressional Budget for fiscal year 1980.

6202 Dirksen Building

*Energy and Natural Resources

To resume hearings on title 2, proposed Priority Energy Act, of S. 1308, to provide for the development of domestic energy supplies.

1202 Dirksen Building

9:00 a.m.

Armed Services

To hold hearings on the nominations of John H. Moxley III, of California, to be an Assistant Secretary of Defense; Hans M. Mark, of Virginia, to be Secretary of the Air Force; Antonia H. Chayes, of Massachusetts, to be Under Secretary of the Air Force; and Robert J. Hermann, of Maryland, to be an Assistant Secretary of the Air Force, and other pending unobjected-to military nominations.

212 Russell Building

Banking, Housing, and Urban Affairs

Business meeting, to consider the nomination of Frederick H. Schultz, of Florida, to be a Member and Vice Chairman of the Board of Governors of the Federal Reserve System.

5302 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary Subcommittee

To hold hearings on the substance of H.R. 4392, making appropriations for fiscal year 1980 for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies (pending before the House).

S-146 Capitol

Labor and Human Resources

To hold hearings on the workplace, employment and training and their perspectives thereon for the coming decade, with a focus on the Federal role in public sector employment and training policies and programs.

4232 Dirksen Building

Joint Economic

To resume hearings to review economic conditions and to discuss the future outlook for the economy emphasizing productivity.

5110 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings to review the authority of the Department of Labor to issue regulations to prohibit Federal contracts from paying membership dues for employees in private clubs or organizations that practice discrimination. (Exec. Order 11246)

5302 Dirksen Building

Conferees

On H.R. 3324, authorizing funds for fiscal year 1980 for international development and economic assistance programs and for the Peace Corps.

S-116 Capitol

Environment and Public Works

To hold hearings on certain proposed building prospectuses.

4200 Dirksen Building

Finance

International Trade Subcommittee

To hold hearings on reductions in the rates of duty on imported textile and apparel negotiated during the recent Multilateral Trade Negotiations in Tokyo.

2221 Dirksen Building

Rules and Administration

To hold hearings on proposed amendments to the Federal Election Campaign Act of 1971; S. Res. 170, to require documentation for reimbursements out of Senators' official office expense accounts from the contingent fund of the Senate; and to consider other legislative and administrative business.

301 Russell Building

2:30 p.m.

Banking, Housing, and Urban Affairs

To continue oversight hearings to review the authority of the Department of Labor to issue regulations to prohibit Federal contracts from paying membership dues for employees in private clubs or organizations that practice discrimination. (Exec. Order 11246.)

5302 Dirksen Building

JULY 16

10:00 a.m.

Agriculture, Nutrition, and Forestry

Environment, Soil Conservation, and Forestry Subcommittee

To hold oversight hearings on the impact of proposed geothermal steam recovery for energy on the planning and management of the National Forest system.

322 Russell Building

Banking, Housing, and Urban Affairs

To hold oversight hearings on foreign acquisition of U.S. banks.

5302 Dirksen Building

Energy and Natural Resources

To hold hearings on S. 730, to provide for the establishment of the Energy Corporation of the Northeast designed to bring together the States, Federal Government and private industry in a creative effort to deal with the energy problems of this area.

3110 Dirksen Building

Foreign Relations

To resume hearings on the proposed SALT II Treaty.

318 Russell Building

2:00 p.m.

*Energy and Natural Resources

*Energy Research and Development Subcommittee

To hold hearings on title 3, to encourage the demonstration of near-term energy technologies, of S. 1308, to provide for the development of domestic energy supplies.

3110 Dirksen Building

JULY 17

9:00 a.m.

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold oversight hearings to examine the accomplishments and goals of the mass transit programs in response to our current energy problem.

5302 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1390 and title 2, of S. 1400, measures to upgrade commercial motor vehicle safety standards and to promote the Federal and State enforcement of those standards.

235 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold joint hearings with the House Subcommittee on Science, Research and Technology of the Committee on Science and Technology, to examine U.S. policies and initiatives of the U.S. Conference on Science and Technology for Development.
5110 Dirksen Building

Judiciary
Business meeting on pending calendar business.
2228 Dirksen Building

Select on Small Business
To hold hearings to review the nature and scope of the recently promulgated Federal Trade Commission's "franchise disclosure" rule and its impact on small business.
424 Russell Building

10:00 a.m.

Energy and Natural Resources
Business meeting, on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings on S. 344, to assist States in their responsibility for highway beautification, and to review outdoor advertising regulation programs.
4200 Dirksen Building

Foreign Relations
To continue hearings on the proposed SALT II Treaty.
318 Russell Building

Governmental Affairs
To resume hearings on S. 377 and 891, bills to provide for the reorganization of the Federal Government's international trade functions.
3302 Dirksen Building

11:00 a.m.

Judiciary
Antitrust, Monopoly and Business Rights Subcommittee
To resume hearings on S. 334, to prohibit the acquisition and control of agricultural land by certain investors, corporations, and foreign governments or foreign corporations.
2228 Dirksen Building

2:00 p.m.

*Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on title 3, to encourage the demonstration of near-term energy technologies, of S. 1308, to provide for the development of domestic energy supplies.
3110 Dirksen Building

Foreign Relations
To continue hearings, in closed session, on the proposed SALT II Treaty.
S-407, Capitol

JULY 18

9:00 a.m.

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings in conjunction with the investigation of alleged fraud and mismanagement practices in the General Services Administration.
1318 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 104, proposed Regulatory Reduction and Congressional Control Act, receiving testimony on the Congressional oversight of the regulatory process, reform of rulemaking procedures and citizen participation in administrative decisions.
2228 Dirksen Building

9:30 a.m.

Banking, Housing and Urban Affairs
Financial Institutions Subcommittee
To resume hearings on S. 1347, to provide for the improvement of consumer services and to strengthen the ability of financial institutions to adjust to changing economic conditions.
5302 Dirksen Building

Commerce, Science, and Transportation
To continue hearings on S. 1390 and Title 2, of S. 1400, measures to upgrade commercial motor vehicle safety standards and to promote the Federal and State enforcement of those standards.
235 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 535, to provide for an effective and safe transport of nuclear waste and radioactive nuclear reactor fuel.
5110 Dirksen Building

10:00 a.m.

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To resume joint hearings with the Subcommittee on Resources Protection on S. 1325, to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To continue hearings on S. 344, to assist States in their responsibility for highway beautification, and to review outdoor advertising regulation programs.
1114 Dirksen Building

Foreign Relations
To continue hearings on the proposed SALT II Treaty.
318 Russell Building

10:30 a.m.

Governmental Affairs
To continue hearings on S. 377 and 891, bills to provide for the reorganization of the Federal Government's international trade functions.
3302 Dirksen Building

2:00 p.m.

Energy and Natural Resources
Energy Resources and Materials Production Subcommittee
To hold hearings on S. 1388, to provide for more rapid commercialization of geothermal energy.
3110 Dirksen Building

JULY 19

9:00 a.m.

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings in conjunction with the investigation of alleged fraud and mismanagement practices in the General Services Administration.
1318 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings on S. 535, to provide for an effective and safe transport of nuclear waste and radioactive nuclear reactor fuel.
5110 Dirksen Building

Energy and Natural Resources
Energy Regulation Subcommittee
To resume hearings on S. 685, 594, 701, and 797, bills to insure that Federal responsibilities in effectively managing nuclear energy policy are carried out.
1114 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on S. 1096, to provide for a limited increase in second-class postal rates over a 3-year period.
1224 Dirksen Building

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on the implementation of hazardous waste management program.
357 Russell Building

Labor and Human Resources
Handicapped Subcommittee
To hold oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).
4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To resume oversight hearings to examine the accomplishments and goals of the mass transit programs in response to our current energy problem.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of George H. P. Bursley, of Maryland, to be a Member of the National Transportation Safety Board.
235 Russell Building

Energy and Natural Resources
Parks, Recreation and Renewable Resources Subcommittee
To hold hearings on S. 1104, to provide for the establishment of the Channel Islands National Park.
3110 Dirksen Building

Environmental and Public Works
Environmental Pollution Subcommittee
To continue joint hearings with the Subcommittee on Resource Protection on S. 1325, to provide for adequate and safe treatment of hazardous substances being released into the environment.
4200 Dirksen Building

Finance
International Trade Subcommittee
To hold hearings on the President's recommendation to extend the waiver authority of the Trade Act of 1974 (P.L. 93-618) to substantially promote the objectives of freedom of emigration.
3302 Dirksen Building

Foreign Relations
To continue hearings on the proposed SALT II Treaty.
318 Russell Building

Rules and Administration
To resume joint hearings with the House Administration Committee on S. 1436 and H.R. 4572, measures to provide for improved administration of public printing services and distribution of public documents.
301 Russell Building

2:00 p.m.

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To resume hearings on S. 339, to amend the Export-Import Bank Act of 1945 with respect to credit to Communist countries, receiving testimony on the aspects of revising provisions relating to foreign trade treatment of nations allowing free emigration.
5302 Dirksen Building

Energy and Natural Resources

Energy Research and Development Subcommittee

To continue hearings on title 8, to promote the use of gasohol in the United States, of S. 1308, to provide for the development of domestic energy supplies.

5110 Dirksen Building

Foreign Relations

To continue hearings on the proposed SALT II Treaty.

318 Russell Building

JULY 20

9:00 a.m.

Governmental Affairs

Federal Spending Practices and Open Government Subcommittee

To continue hearings in conjunction with the investigation of alleged fraud and mismanagement practices in the General Services Administration.

1318 Dirksen Building

Judiciary

Administrative Practice and Procedure Subcommittee

To resume hearings on S. 262, 755, and 1291, bills to coordinate and oversee Federal regulatory policy, to promote competition in the regulated industries, and to increase public participation in rulemaking procedures.

424 Russell Building

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To continue hearings on S. 535, to provide for an effective and safe transport of nuclear waste and radioactive nuclear reactor fuel.

5110 Dirksen Building

*Energy and Natural Resources

Energy Regulation Subcommittee

To hold hearings on S. 1371, proposed Domestic Energy Policy Act.

1202 Dirksen Building

Finance

Tourism and Sugar Subcommittee

To hold hearings on S. 589, 749, and 940, bills to provide for the applicability of tax rules affecting foreign conventions.

2221 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To resume oversight hearings on foreign acquisition of U.S. banks.

5302 Dirksen Building

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To hold hearings on Title 10, to provide incentives for increasing the supply of energy from renewable energy resources, of S. 1308, to provide for the development of domestic energy supplies.

3110 Dirksen Building

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To resume hearings on S. 1388, to provide for more rapid commercialization of geothermal energy.

Room to be announced

Environment and Public Works

To hold hearings on proposals for the John F. Kennedy Center for the Performing Arts to issue free tickets and to provide payment on outstanding bonds.

4200 Dirksen Building

JULY 23

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on S. 1215, to establish a uniform Federal policy for the management and utilization of inventions developed under Federal contracts.

235 Russell Building

Governmental Affairs

Oversight of Government Management Subcommittee

To resume oversight hearings on the implementation of hazardous waste management program.

6226 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the conduct of monetary policy.

5302 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Energy Regulation Subcommittee

To receive testimony from officials of the Energy Information Administration on the second status report on the current fuel situation.

3110 Dirksen Building

JULY 24

9:30 a.m.

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To resume hearings to explore the areas of basic learning skills used in elementary and secondary schools.

4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue oversight hearings on the conduct of monetary policy.

5302 Dirksen Building

Energy and Natural Resources

Business meeting, on pending calendar business.

3110 Dirksen Building

Environment and Public Works

Water Resources Subcommittee

To hold hearings on S. 1241, authorizing funds through fiscal year 1981 for water resources projects, and on the proposed cost-sharing feature of the Administration's plan for reshaping water policy.

4200 Dirksen Building

Governmental Affairs

To hold oversight hearings on the activities of the Department of Energy.

3302 Dirksen Building

Rules and Administration

To resume joint hearings with the House Administration Committee on S. 1436 and H.R. 4572, measures to provide for improved administration of public printing services and distribution of public documents.

2157 Rayburn Building

Joint Economic

To hold hearings on the impact of rising railroad coal shipping rates on the national energy goal of increased coal utilization.

6226 Dirksen Building

JULY 25

9:00 a.m.

Special on Aging

Business meeting on pending committee business.

S-126, Capitol

9:30 a.m.

Judiciary

Administrative Practice and Procedure Subcommittee

To resume hearings on S. 262, 755, and 1291, bills to coordinate and oversee Federal regulatory policy, to promote competition in the regulated industries, and to increase public participation in rulemaking procedures.

424 Russell Building

Veterans' Affairs

To resume hearings on S. 870, to amend and extend education programs administered by the Veterans' Administration for veterans and dependents, and S. 881, to provide for the protection of certain officers and employees of the Veterans' Administration assigned to perform investigative or law enforcement functions.

412 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on S. 524, 581, and 730, bills to provide financial assistance for the development and conservation of energy programs, and Section 9 of S. 750, to require the use of fuel sources which are renewable in the distillation process of alcohol for motor fuel, and other related proposed legislation.

5302 Dirksen Building

Energy and Natural Resources

Business meeting, on pending calendar business.

3110 Dirksen Building

Environment and Public Works

Water Resources Subcommittee

To continue hearings on S. 1241, authorizing funds through fiscal year 1981 for water resources projects, and on the proposed cost-sharing feature of the Administration's plan for reshaping water policy.

4200 Dirksen Building

Governmental Affairs

To continue oversight hearings on the activities of the Department of Energy.

3302 Dirksen Building

JULY 26

8:00 a.m.

Budget

To resume hearings in preparation for reporting the second concurrent resolution on the Congressional budget for fiscal year 1980.

6202 Dirksen Building

9:30 a.m.

Judiciary

Administrative Practice and Procedure Subcommittee

To continue hearings on S. 262, 755, and 1291, bills to coordinate and oversee Federal regulatory policy, to promote competition in the regulated industries, and to increase public participation in rulemaking procedures.

424 Russell Building

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue hearings on S. 524, 581, and 730, bills to provide financial assistance for the development and conservation of energy programs, and Section 9 of S. 750, to require the use of fuel sources which are renewable in the distillation process of alcohol for motor fuel, and other related proposed legislation.

5302 Dirksen Building

Rules and Administration

To resume joint hearings with the House Administration Committee on S. 1436 and H.R. 4572, measures to provide for improved administration of public printing services and distribution of public documents.

345 Cannon Building

Joint Economic

To resume hearings on the Consumer Price Index figures, and on inflationary trends.

6226 Dirksen Building

JULY 27

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 1215, to establish a uniform Federal policy for the management and utilization of inventions developed under Federal contracts.

235 Russell Building

Labor and Human Resources

Business meeting, to mark up S. 1075, to require drug companies to conduct postmarketing and scientific investigations of approved drugs, to transmit drug information to patients and doctors, and to provide more education to doctors and health professionals regarding the use of approved drugs; and S. 446, to provide legal protection to the employment rights of handicapped citizens.

4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To continue hearings on S. 524, 581, and 730, bills to provide financial assistance for the development and conservation of energy programs, and section 9 of S. 750, to require the use of fuel sources which are renewable in the distillation process of alcohol for motor fuel, and other related proposed legislation.

5302 Dirksen Building

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To receive testimony from officials of the Harvard University, School of Business on a 6-year review of energy resources.

3110 Dirksen Building

JULY 30

9:15 a.m.

Governmental Affairs

To hold hearings on S. 930, to restrict free Federal employee parking.

3302 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on S. 1300, proposed International Air Transportation Competition Act.

235 Russell Building

JULY 31

9:30 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on S. 663, to establish an Earth Data and Information Service which would supply data on the Earth's resources and environment.

6226 Dirksen Building

Labor and Human Resources

Handicapped Subcommittee

To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

AUGUST 1

10:00 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1300, proposed International Air Transportation Competition Act.

235 Russell Building

AUGUST 2

10:00 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To continue hearings on S. 1300, proposed International Air Transportation Competition Act.

235 Russell Building

SEPTEMBER 12

9:00 a.m.

Veterans' Affairs

To hold hearings on S. 759, to provide for the right of the United States to recover the costs of hospital nursing home or outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts.

457 Russell Building

SEPTEMBER 25

11:00 a.m.

Veterans' Affairs

To resume hearings on fiscal year 1980 legislative recommendations for veterans' programs.

5110 Dirksen Building

CANCELLATIONS

JULY 20

10:00 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To continue hearings on Title 8, to promote the use of gasohol in the United States, of S. 1308, to provide for the development of domestic energy supplies.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, and the National Endowment for the Humanities; and S. 1429, authorizing funds through fiscal year 1982 for Museum Services.

Room to be announced

JULY 18

2:00 p.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To resume hearings on title 8, to promote the use of gasohol in the United States, of S. 1308, to provide for the development of domestic energy supplies.

3110 Dirksen Building

JULY 24

9:30 a.m.

Labor and Human Resources

To resume hearings on S. 446, proposed Equal Employment Opportunity for the Handicapped Act.

4232 Dirksen Building

SENATE—*Thursday, July 12, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, Lord of all life, Ruler above all men and all nations, let not the magnitude nor the gravity of our problems deter us from courageous and creative action. But show us the way through the maze of conflicting forces until we find light and order and well-being for the Nation. May a loyal and disciplined people join the Chief Executive and a wise Congress to concert the best measures for the Nation and the world.

This day and always, may the words of our mouths and the meditations of our hearts be acceptable in Thy sight, O Lord, our strength and our Redeemer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 12, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the ma-

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

jority leader is recognized for not to exceed 2½ minutes.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FOOD EXPORTS STRENGTHEN U.S. TRADE BALANCE

Mr. ROBERT C. BYRD. Mr. President, recently the U.S. Department of Agriculture announced that American food exports will be much higher this year than originally predicted. This is good news not only for the agricultural sector, but for the entire economy. Such exports will help to stabilize the dollar abroad, and improve our balance of payments.

The capacity of the United States to produce and export large quantities of essential food supplies is unmatched by any other country in the world. Through both private and public facilities, raw agricultural products have been made available to foreign countries which are not blessed with our abundance.

Both in the area of trade and in the area of assistance, the United States has provided high quality goods and farm technology to other countries. The food for peace program, now celebrating its 25th year, has been particularly important in this regard.

Our food exports have traditionally been the largest positive item in the U.S. balance of trade. Exports in 1978 set an all-time record—nearly $28 billion worth of food was sold abroad. This year the picture looks even better, as total exports of food could reach $35 billion or more.

Worldwide weather problems account for some of the projected increase in food exports. The bumper wheat crop harvested in the United States last year is finding good markets in developed countries, as well as poor nations. Food sales to developed countries such as Japan and the United Kingdom provide a good return for American farmers, and help alleviate shortages in countries hit by bad weather.

In addition, exports to developed countries are a direct counterbalance to the goods we import from them. The drag on our economy caused by large oil imports is reduced as food exports expand.

Competition in world trade has become more pronounced in the last decade. We certainly do not shrink from healthy competition in the marketplace. The United States leads the world in food production and has proved its ability to trade on fair terms for the benefit of all involved. A vigorous food export policy helps insure that we can continue to lead in this area.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader is recognized for not to exceed 2½ minutes.

THE SENATE BUSINESS

Mr. BAKER. I thank the Chair.

Mr. President, I will use only a part of that time. We have previously notified Members on this side of the aisle to expect a session of the Senate on Saturday. Might I take this opportunity to inquire of my friend and colleague, the distinguished majority leader, if it is still his expectation that the Senate will indeed be in session on Saturday of this week?

Mr. ROBERT C. BYRD. It certainly is. You can tell them to keep their seats warm. I will ask the distinguished minority leader to help me work on a schedule to the extent that we can have plenty of work to do. We have the military construction authorization bill. How long that will be before the Senate, I do not know. It depends upon what happens with the Davis-Bacon proposition.

We have backed up three housing bills. Behind them we have, any time there is a gap, a nomination on the Executive Calendar which can be taken up by a motion, which is not debatable. That nomination might require a rollcall vote and, of course, the nomination will be debatable.

I would prefer to be able to put something in behind the housing bills and ahead of the nominations to give Mr. HUMPHREY a chance to work his problem out with his colleagues.

Mr. BAKER. Mr. President, I thank the majority leader.

I believe with that information, the earlier advice to the Republican Members still stands; that is, there is a virtual certainty that there will be a session of the Senate on Saturday.

Mr. ROBERT C. BYRD. Yes. I believe that is good advice to give, and I will also give it to my colleagues on this side of the aisle. I hope we can schedule legislation to be taken up during that time.

Mr. BAKER. I hope so. We will work on that today.

Mr. President, I have no further requirement for my time under the standing order, and I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, I am glad to see my colleague back from his visit to his grandmother who celebrated her 100th birthday. I understand she stood on her feet for 3 hours thanking the well-wishers.

Mr. BAKER. Mr. President, if I could reclaim a few seconds of my time, I would confirm what the majority leader said. My grandmother is 100 years old and 1 day.

They had a reception at the Lambda Chi Alpha fraternity house at the University of Tennessee. She was a housemother there in the 1930's. There were about 500 people there. Arrangements were made to be sure she was not overtaxed. Instead, she stood in line for 3 hours and shook hands.

She is bright and alert, and promised to be present at the celebration of my 100th birthday.

RECOGNITION OF SENATOR EAGLETON

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Missouri (Mr. EAGLETON) is recognized for not to exceed 15 minutes.

SCOWS OF DESPAIR: THE BOAT PEOPLE

Mr. EAGLETON. Mr. President, a few months ago, I took the floor to discuss the tragic state of affairs of Cambodia. At that time, I suggested that if history were any indicator, the suffering in Cambodia was far from over. Today, I am sorry to say that my prediction has come painfully true.

As I speak, the flood of refugees from Indochina continues to swell. The suffering is immense; indeeed, it is almost impossible to imagine how their plight could be any worse. But it is growing worse, as tens of thousands of a gentle race flee from a once-gentle land. Driven by war, famine, and oppression, more than 700,000 ethnic Chinese have left Indochina since South Vietnam fell in 1975. The specter of starvation and the certainty of death goad them onward, and they have nowhere to go but to the sea. These are people, not lemmings—they are driven to the shores not by instinct, but by fear. They fear extermination. They fear heartless, unspeakable cruelties.

As caring, compassionate citizens of the world, we must share their fear. There are eerie and horrible parallels between the flood of refugees from Indochina and the masses of Jews expelled from Germany in the 1930's. The awful memory of the Nazi holocaust still burns in our hearts and minds. If the continuing flow of refugees is keeping a second such unspeakable horror from being visited upon the Earth, we can only pray that the flow will continue.

But what good does it do these refugees to escape persecution in their homeland, only to be herded like beasts onto dilapidated, rancid scows and left to die at sea? What are the odds against their surviving perilous journeys in these ramshackle vessels? Are they any better off than if they had remained at home? Can the sea offer them any real hope, when an estimated 200,000 of their kin and countrymen already have died, victims of storms, piracy, disease, or starvation?

Clearly, we have a moral obligation to offer them hope and to welcome them to our shores. They are not visiting us as chance strangers, after all. We were not necessarily welcome guests when we visited them between 1969 and 1973, leaving their land scarred by bombs and pesticides and their society scarred by death and political upheaval. President Carter recently doubled our refugee quota, raising it from 7,000 to 14,000 a month. This is no token gesture, but neither is it total restitution for the grief and agony our Nation visited on the Indochinese.

In addition to our moral obligation to give a hand to the refugees from Vietnam, we have an American tradition of hope for the disheartened and dispossessed. In New York harbor stands a magnificent, generous woman—the Statue of Liberty, the "Mother of Exiles." Inside the pedestal on which she proudly stands, there is a bronze plaque bearing a sonnet written by the American poet Emma Lazarus in 1883, shortly before France presented the statue to the United States. Emma Lazarus may not be among the best known of American poets, but the last five thundering lines of her sonnet are familiar to every American school child:

Give me your tired, your poor,
Your huddled masses, yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest tossed to me;
I lift my lamp beside the golden door!

That door stands open to the Indochinese refugees today, and I do not rise to belittle our country's efforts in this hour of need. I do rise, Mr. President, to plead the desperate case of the boat people to our sister nations, many of whom have yet to show the refugees the compassion which is the hallmark of civilized society. The plight of the boat people is not an American problem or a Vietnamese problem or a Cambodian problem. It is a world problem, and all of the nations of the world must solve it.

Unfortunately, many nations of the world are turning their backs. Malaysia, which has 77,000 refugees in its camps, has threatened to shoot at boats landing on its shores and to ship out the refugees already in its camps. Malaysian patrol boats have been towing would-be homesteaders back into international waters—after magnanimously supplying food and fuel to the uninvited guests. Indonesia has employed similar tactics, and Thailand has forced tens of thousands of refugees back across its borders into Cambodia.

Japan, a wealthy industrial nation, to date has issued papers to only three Vietnamese refugees. Not 3,000, Mr. President, not 300, but 3. Japan has agreed to take in 500 boat people, but the Japanese are in a position to play a much larger role than that. The Japanese claim that there is no room for refugees, and that refugees will not fit in with the Japanese society. What a shame it is that a progressive and successful nation like Japan turns its back on these drowning men, women, and children. How ironic it is that, barely three decades after the compassion of a victorious world rescued Japan from desperation, the Japanese themselves seem to have run out of pity.

Of the Asian community, only Hong Kong is allowing permanent residence for the unfortunate boat people. However, even if Malaysia and its neighbors are reluctant to offer permanent homes to the refugees, it is imperative that they drop their closed-door policies and allow temporary refuge. That, perhaps, would allow us time to encourage other Western nations to expand their resettlement efforts and eventually to empty refugee camps in Southeast Asia. For the United States and for other Western countries, it is a difficult time to be confronted with this problem. However, despite a declining economy, rising unemployment, and a national mood of frustration and anxiety, we must continue to help the refugees and encourage the international community to help.

Wide-scale cooperation of all nations is absolutely essential to resolving the plight of the boat people. The United States triggered the chain of events which eventually led to the Vietnamese takeover of Cambodia, and we have accepted the lead role in helping the refugees. Since 1975, we have taken in more than 205,000 refugees, more than any other nation. Under the increased quota, we will be making a home for an additional 168,000 Vietnamese refugees a year. However, we cannot do this job alone.

China has taken 200,000 refugees, which is more than it can absorb. France has done a valiant job of rescuing refugees, even patrolling the waters off Southeast Asia with hospital boats. France has resettled 50,000 refugees. Australia and Canada also rank in the top 5 resettlement nations, with 21,000 and 15,000 respectively. I ask unanimous consent that a list of countries with resettlement figures for each be printed in the Record, Mr. President.

There being no objection, the list was ordered to be printed in the Record, as follows:

Resettlement of Indochinese refugees as of June, 15, 1979

United States	205,000
China	200,000
France	50,000
Australia	21,000
Canada	15,000
Germany	3,500
Malaysia	2,000
United Kingdom	1,500
Switzerland	1,500
Belgium	1,200
New Zealand	1,000
Norway	700
Denmark	600
Netherlands	400
Austria	350
Sweden	300
Hong Kong	300
Italy	250
Taiwan	50
Japan	3

Figures do not include 180,000 boat refugees in camps in Southeast Asia nor 150,000 refugees in Thailand.

Figures from the State Department Office of Refugees.

Mr. EAGLETON. Mr. President, these are noble efforts, but they are not enough. We need an international crusade to rescue the long-suffering boat people, and we need it now. Our leadership in this cause is a source of legitimate national pride; the continuing plight of the boat people must be a source of national and international concern. The United Nations will convene a special conference on refugees next month in Geneva, and we can only hope for a rapid consensus leading to meaningful action by the whole community of nations. Anything less, Mr. President, will be too little, too late.

I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend beyond 10:30 a.m., and that Senators may speak up to 5 minutes therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Robert C. Byrd). Without objection, it is so ordered.

BALANCE OF STATE AND FEDERAL AUTHORITY MAINTAINED WITH GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, for over 30 years, the United States has been considering the ratification of the Genocide Convention. During that time, the Senate has served as a great forum for debate on the merits and consequences of this treaty's passage. One of the issues repeatedly discussed by this body has been whether or not adoption of the Genocide Convention would alter the relationship between the States and the Federal Government.

Concern has been raised that ratification of the treaty would deprive the States of an area of criminal law, placing it within Federal jurisdiction. It is feared that such a shift would give undue power to the Federal Government, eroding the careful balance between State and Federal authority that was so wisely established at our Nation's inception.

Mr. President, that fear is unfounded.

Nothing in the Convention would preclude the States from prosecuting the acts proscribed by the Convention. In addition, the proposed implementing legislation would clarify that Congress does not intend to move into this field and, while the treaty may supersede any State laws inconsistent with it, at this time there is no evidence that such laws exist.

Concern that the Genocide Convention would increase Federal power may also be laid aside. Ratification of the treaty would add no new power or authority to the Federal Government. The existing power of the Federal Government to assume jurisdiction in these types of cases is further confirmed through the Civil Rights Acts of 1957 and 1964, and the Voting Rights Act of 1965.

With these concerns put aside, I ask my distinguished colleagues to put this long debate to an end. Join with me in support of this most honorable and worthwhile treaty. Let us ratify the Genocide Convention.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEAKS OF CLASSIFIED MATERIAL

Mr. GOLDWATER. Mr. President, as actual discussion of SALT II has already begun to take place, with hearings before the Foreign Relations Committee and with hearings to begin this week before the Select Committee on Intelligence and shortly before the Armed Services Committee, I think it is most proper that my colleagues understand the importance of classified information and the absolute necessity of the prevention of any leaks of that material. This country has long suffered under a series of leaks of highly classified material, leaks to leading newspapers mainly on the eastern seaboard, such as the New York Times, the Washington Post, and so forth. While at first the intelligence community was completely mystified by the sources, I must tell my colleagues that the paths are slowly coming together and before long they are bound to join. At that time, we will be able to point out those who have been violating secrecy, violating oaths of office and violating the safety of our Nation, and I hope that time comes soon.

The reason I believe it is opportune to bring this matter up at this time is that I know it is of the deepest concern to the leadership on both sides of the aisle in the Senate, and I hope this is reflected in the House. As the leadership will agree, several meetings have been held on the general subject of secrecy; and while nothing concrete has been reached yet, there is the understanding of all concerned of the absolute need for maintaining secrecy on any material that is under the proper stamp of classification. I know that with the ability of our leadership, as time goes on, methods will be developed that will lay the responsibility of maintaining secrecy entirely on each member and not upon the body as a whole.

I want to be honest with my colleagues and tell them that I am convinced that these leaks are not coming out of the Intelligence Committee or the Armed Services Committee. More and more, the finger is pointing in the direction of the administration, not only this administration, I quickly add, but also other administrations—but this administration, in particular, because it is now wrapped up in selling SALT II. If the finger finally points at the administration, the finger is going to be pointed and pointed with emphasis, followed by legal action. This should serve as necessary warning to anyone in or out of the administration who engaged in little dribbles here and there to various newspapers and media around this country that they are heading for a bucket full of trouble if they do not stop it.

A very interesting article on this subject appeared in the current issue of the Armed Forces Journal, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SALT I LEAKS VS. SALT II LEAKS

(By W. Donald Stewart)

Leaks and techniques of leaks occurring during the development of the SALT I and SALT II agreements are similar in all respects. The Carter Administration and the Nixon Administration desired to have their respective SALT agreements ratified by the US Senate before the Presidential election. In an effort to expedite the finalization of their SALT agreements, each Administration has been inclined to make concessions to the Soviets. These concessions were often not believed to be in the best interest of our national security by certain members of the Senate Armed Services Committee; hence, each side aired its feelings by "leaking" highly classified data to the press to sway public opinion.

Now that we are in the fourth quarter, so to speak, of the Arms Race Superbowl, also more commonly known as the Strategic Arms Limitation Talks (SALT II) agreements, we can expect a rash of leaks until the final whistle blows. Rest assured that there will be one loser—the US public.

My knowledge of and interest in leaks stems from my experience in the Office of the Secretary of Defense as Chief of the Investigation Division, Directorate for Inspection Services. This office investigated major criminal and security matters for the Office of the Secretary of Defense, Office of the Joint Chiefs of Staff, and the Defense Intelligence Agency. From August 1965 until December 1972, while Chief Investigator, I handled 222 leak cases. Even after I left the Directorate for Inspection Services in December 1972 for the position of Inspector General of the newly formed Defense Investigative Service (until my retirement in June 1975), I was recalled to handle certain sensitive leak cases.

WHY SALT LEAKS

We have SALT leaks because we have two principal US groups involved with different objectives. We have the present Administration I shall call the "Vote Getters" and we have the Senate Armed Services Committee which has the responsibility to insure that any SALT treaty signed provides adequate national security. This group I shall call the "Protectors." There are two other minor groups who play a lesser role but cannot be ignored. They are the liberal Senators whom I shall call the "Detractors." They aren't exactly sure what they want, but to me it doesn't appear that the strongest form of national security. This group I shall call the we have the "Extortionists," a group of Senators who are more concerned with their personal interests than they are with our national security interests. Accordingly, the Vote Getters are sometimes pressured into buying their vote to insure ratification of the treaty. However, as far as SALT leaks are concerned, the Detractors and the Extortionists have shown little need to engage in leaks.

TOP SECRETS BECOME WEATHER BULLETINS

Probably the first open sword rattling between the Vote Getters and the Protectors in the SALT II debate appeared in the press on November 30, 1978, when Senator Henry Jackson (D–WA), voiced his discontentment with the developing SALT II agreements. Things may have gone somewhat smoother except for the fact we lost a vital intelligence capability in Iran. As a result we no longer have the ability to closely monitor Soviet adherence to any SALT agreement.

Accordingly, the April 4, 1979 issue of the New York Times evidenced the first act of desperation on part of the Vote Getters. It came in the form of a leak of highly classified data to the effect that the US would be able to monitor Soviet adherence to SALT II agreements through the use of a modified version of the U–2 aircraft, the type Gary Powers flew over the USSR for CIA until he was shot down in 1954. Senator Jake Garn (R–UT) was incensed over this leak and charged in the letter-to-the-editor column of the Washington Post on April 11 that the leak data was made available to the public to create a misimpression of our monitoring capability. (See May 1979 AFJ.) It was obvious that the Protectors were not responsible for the leak, because it served them no purpose. Moreover, that particular area was not the chief concern of the Detractors.

In the typical fourth quarter fashion of the Arms Race Superbowl, we could expect and did receive a counter-leak, obviously this time by one of the Protectors. The leak appeared in the New York Times issue of April 17, to which hip-shooting press secretary Jody Powell quickly and heatedly responded in so many words that Senator Garn was responsible. The Senator denied the accusation, and Jody Powell later backed off his charge.

Let's look at the new leak. It disclosed that CIA Director Stansfield Turner briefed a Senate committee on our Iran intelligence capability loss and stated it would be at lest five years before we could attain a comparable capability to monitor Soviet adherence to the SALT II agreements. Secretary of Defense Harold Brown instantly countered in a Vote Getter rescue effort that we would be able to retain our former capability in a year.

The bottom line is that once again the public is the loser. Now the Soviets know how badly we've been hurt by our Iranian intelligence capability loss, and they also know of the U–2 as our second rate alternative. Top secret information was given out like a public weather bulletin.

SALT I leaks took a slighty different patterm than SALT II leaks. That is, there were continuous leaks from 1968–1972, each time there was to be a SALT I discussion. At the expense of National Security, the Vote Getters made their Top secret point and the Protectors made their Top secret point. On one of the more explosive leaks in 1969, I had occasion to interview Paul Nitze, then our chief SALT I negotiator. His comment was, "I consider the disclosure to be a deliberate leak of information by well-informed sources who indulged in a very dangerous practice for the purpose of placing the Soviet missile warfare capability before the US public." He further advised that the figures disclosed in the news story were very accurate and highly classified.

BEECHER'S 22 INVESTIGATIONS

Probably the greatest SALT leak of all times appeared in a New York Times article by William Beecher on July 23, 1971; it was entitled "US Asks Soviets to Join in Missile Moratorium." The article appeared one day before a scheduled SALT I meeting on July 24 with the Soviets in Helsinki, Finland. President Nixon was absolutely livid, as the article exposed our fall-back position to the Soviets. Let me say bluntly that all hell broke loose. I was called at home on Saturday morning to begin an investigation.

I had my first meeting with the newly appointed White House "plumber" chiefs, Egil Krogh and David Young. The FBI was also called; however, since I had developed the prime suspect, Dr. William VanCleave, Paul Nitze's top aide, I more or less carried the ball. President Nixon's blind anger toward VanCleave (whom we later proved innocent) was displayed on the now released White House tapes. But VanCleave enjoyed the same reckless public hip shooting from the Nixon Vote Getters that Senator Garn recently did from Jody Powell. VanCleave became a suspect because two days before the Beecher article appeared, Beecher visited VanCleave. Also, VanCleave, like so many top government aides, could not be bothered with security regulations such as "do not reproduce the original," a statement which appeared on a highly sensitive document in his possession and which he nevertheless, chose to reproduce.

Although vindicated of the major crime, he was censured for security violations uncovered during the investigation. The investigation was probably one of the most intensive ever undertaken. Beecher's path for instance, was retraced on a minute-to-minute basis. His past modus operandi was well known to us, and it was of help. His travels led him to Senator Henry "Scoop" Jackson's office. The Senator had been briefed earlier in the week by State Department aides. Naturally, the obvious next step was to interview Senator Jackson. This required White House approval, but it was never obtained.

The last and final SALT I leak that I investigated appeared in the New York Times on March 21, 1973—another article by William Beecher, this one entitled "US Says Soviets Improve ICBMs." Although the SALT I treaty had been signed, this leak was made to show the public we lagged the Soviets in arms and to develop support for the Nixon Vote Getters in their efforts for a larger supplemental appropriation. Actually, neither Defense Secretary Melvin Laird nor his successors knew the Vote Getters were handing out these leaks, because to give the leak more credibility the Vote Getters would raise a storm—and I'd be hurriedly called to investigate again. The most interesting thing about this last leak was that it suddenly occurred to me that on every major leak we had on SALT I, William Beecher was the reporter with all the hard facts. (Other prominent reporters had stories, but as I explained to one later, he and the others just had "crumbs." That reporter demanded to know how I could state that. I said, "Very simply, if you had the hard facts, we would have opened a case on your article." Only then did he realize that he had been part of the Nixon Vote Getters' smoke screen.)

In my final report, I showed how I arrived at the fact that the Nixon Vote Getters were responsible for several contrived leaks.

Being the "favorite son" reporter was not all bad for William Beecher: in April 1973, just one month after the above leak and six months after SALT I ratification, he was appointed Deputy Assistant Secretary of Defense for Public Affairs. Subsequently, he became the Acting Assistant Secretary of Defense for Public Affairs, complete with the car and chauffeur which then went with that position.

Beecher left the Pentagon in May of 1975 and on June 1st he joined the Boston Globe. On July 31, Beecher printed another big leak: "U.S. Believes Israel Has More Than 10 Nuclear Weapons." Although I had already retired, I was called at home by a high Pentagon official and asked where I thought Beecher got his story. I laughed and recall saying, "Where else? You left the fox in the hen house."

The fact that my office had run 22 leak investigations of William Beecher's articles certainly had no bearing on his Pentagon appointment. Therefore, the question naturlly arises: after all the SALT II leaks are tabulated, which prominent news reporter will be as lucky as William Beecher?

CAN LEAK CASES BE SOLVED?

Contrary to popular misconception leak cases can be solved. Unfortunately, as far as national security interests are concerned, the cure most often is worse than the illness. By that I mean: in an effort to put the guilty party in jail, we must declassify the classified data involved in order to go to trial. In doing so, foreign enemy intelligence becomes privy to our secrets—that we cannot afford as a rule, and thus must forego prosecution.

Prosecution is not the only form of punitive action. During my tenure, I've seen three flag officers punished—one was transferred, one was requested to retire, and one had his career advancement terminated. A civilian was reduced from GS–18 to GS–15, and others in the civilian ranks and military were administratively disciplined. The most effective tool for Schedule "C" appointees (political appointees) was to neutralize them—excluding them from receiving sensitive documents and from high level conferences. One former high level civilian employee serving as a consultant lost his security clearances. Our best security contributions frequently came from our investigative by-products—such as developing "holes" in our own security operations.

PROSECUTION PROBLEMS

Prosecution was not always thwarted by so-called "grey mail," documents in question which couldn't be declassified. Politics on part of President Nixon, Senate Armed Services Committee chairmen Sen. John Stennis (D-MI), and Justice Department officials late in 1971 and early 1972 and later in 1974 obstructed the possible successful prosecution of Yeoman Charles E. Radford III, Rear Adm. Robert Welander and Admiral Thomas Moorer, then Chairman of the Joint Chiefs of Staff.

Radford admitted stealing highly classified documents from the briefcases of Dr. Henry Kissinger, then head of the National Security Council, and from General Alexander Haig, then a Presidential aide. Admirals Welander and Moorer admitted receiving those documents. But President Nixon couldn't stand the public embarrassment. Sen. Stennis dedicated himself to protecting the military establishment during his 1974 hearings on this matter—known as the Pentagon Spy Case. The Justice Department performed in its typically lethargic manner. No action was ever taken against anyone involved.

Earlier in 1970, the Justice Department failed to take action against an Air Force captain who distributed to the press a secret-sensitive memo on our ABM (Anti-Ballistic Missile) position, prepared by then Secretary of Defense Melvin Laird. The case was turned over to Justice, which accepted it but later allowed Secretary Laird to withdraw it. Laird informed Justice he had made a deal with Tom Wicker of the New York Times that if Wicker returned his copy of the memo in question, no prosecutive action would be taken. Wicker returned the memo, and through it we trapped the suspected Air Force captain. Later, Wicker denied in a memo to Justice that he had ever made such a deal. I received the above data under the Freedom of Information Act. Personally, I believe Wicker. He couldn't have known that we could use the memo to trap the suspect. No action against the suspect was taken.

Another case from which Justice ran was when it was presented with evidence that Elliot Richardson, while Under Secretary of State, has caused top secret data to be leaked to Daniel Ellsberg of Pentagon Papers fame. That data subsequentlty turned up in a newspaper story in March of 1970.

The long and short of leak prosecutions is that you can only be prosecuted if you meet the two following criteria:

(1) You cannot be an important person; and

(2) You cannot know an important person.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. Ford). Morning business is closed.

MILITARY CONSTRUCTION AUTHORIZATIONS, 1980

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 having arrived, the Senate will now proceed to the consideration of S. 1319, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1319) to authorize certain construction at military installations, and for other purposes.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. I was not seeking recognition, Mr. President.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, does the Senator from Nebraska wish me to yield?

Mr. EXON. Mr. President, I wish to ask unanimous consent for aides to be accorded the privilege of the floor, if it is in order.

Mr. HART. Mr. President, I yield to the Senator from Nebraska for that purpose.

Mr. EXON. Mr. President, I ask unanimous consent that Mr. Jon Oberg and Mr. Bill Hoppner, of my staff, be accorded the privilege of the floor during debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Armed Services and the Committee on Labor and Human Resources be accorded the privilege of the floor during the consideration of S. 1319:

Mr. Frank Sullivan, Mr. James Smith, Mr. Jack Ticer, Mr. Rhett Dawson, Mr. Ed Kenney, Mr. Ron Lehman, Ms. Phyllis Bacon, Ms. Jeanie Killgore, Mr. Steve Paradise, Mr. Jerry Lindrew, Mr. Mike Goldberg, Mr. Mike Forcey, and Ms. Denise Medlin.

Mr. President, I also ask unanimous consent that Mr. Jim Case, of the staff of Senator MUSKIE, be accorded the privilege of the floor during consideration of S. 1319.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. I thank the Chair.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. What is the pending business before the Senate?

The PRESIDING OFFICER. The pending business before the Senate is S. 1319.

Mr. HART. I thank the Chair.

Mr. President, S. 1319, the bill before the Senate, is an annual authorization bill which provides for the construction of new facilities for all of the military services. In addition, authorization is included for the funds necessary to operate, maintain, and repair the 400,000 units of family housing now in the military inventory.

The Department of Defense request for military construction for fiscal year 1980 was $3,721,356,000. When compared to the $4,128,312,000 actually authorized for fiscal year 1979, the request for fiscal year 1980 is more than 20 percent less in real dollar terms than the authorization for the current fiscal year. I shall return to this point in a few moments.

The amount recommended to be authorized by the Armed Services Committee for fiscal year 1980 is $3,728,166,000, just slightly more than the administration's request.

In reviewing the bill, the committee recommended deletion or deferral of many projects where the justification or the urgency was questionable and, based on service-furnished lists of high priority unfunded requirements, additional projects totaling about $100,000,000 have been added, keeping the final bill total near the President's budget number.

Let me highlight a few of the more important issues raised by this bill:

DAVIS-BACON

First of all, the committee has recommended the inclusion of a provision in this bill, section 810, which would waive the provisions of the Davis-Bacon Act as it applies to military construction contracts.

Mr. President, largely on procedural grounds I strongly oppose this provision. I opposed it in subcommittee and in full committee markup sessions. I will not get into details of my reasons for opposing the amendment, but regardless of the pros and cons of the Davis-Bacon Act, this military construction bill is not the proper vehicle to use to rewrite labor law. At the appropriate time I intend to support an amendment to strike section 810 from the bill.

ENERGY

Second, the Subcommittee on Military Construction has continued its heavy emphasis on using military installations as so-called test beds for energy conservation initiatives. The military initiatives range from the mundane—adding insulation and storm windows—to some very exciting, comprehensive "energy show case" bases where attempts are being made to minimize energy usage by examining every aspect of the bases operation.

Last year, we added a provision to the bill requiring that solar energy systems be considered in the design of all new facilities and that, if they could be shown to be cost effective, solar systems would be included in the construction contract. We expect to see the fruits of this provision next year. By the Defense Department's own estimates $30 million in design contracts are now requiring solar systems to be analyzed, and by fiscal year 1981 or 1982 the value of solar systems installed in defense facilities will be $50 to $100 million each year—in an industry that now has total sales of about $200 million.

So, Mr. President, one can readily see the impact that military procurement can have on the development of this new and important energy resource.

This year we have added a rather simple provision, section 807, to allow the use of mass transit vehicles on military bases for administrative purposes—something that was previously precluded by law. The provision requires that the mass transit systems be paid for by the users so that there will be no cost to the taxpayer. However, the potential energy savings are enormous if the provision is applied at the hundreds of large military installations throughout the world.

I invite my colleagues to go to any military installation in their State and ask about their energy conservation program—I think each Member of the Senate would be surprised at the breadth and depth of this effort and the degree to which it is beginning to contribute to the overall energy solution to this country's problem.

CONSTRUCTION IN EUROPE

The committee has continued its emphasis from last year on encouraging our NATO allies to pay an increased share of the capital investment program requirements in Europe. NATO infrastructure funding is up, but projects funded solely by the United States are down sharply. The committee will continue to press for greater participation by our allies to support U.S. forces stationed overseas.

OVERALL CONSTRUCTION AUTHORIZATION LEVEL

I mentioned in my opening comments that the military construction request for fiscal year 1980 was down more than 20 percent from the fiscal year 1979 level. There is a backlog of construction requirements estimated by the Defense Department to total $35 billion. The amount of construction authorized in this bill will not even keep the backlog level—inflation will mean that the backlog will be even bigger next year. In addition, there are significant new requirements for construction in support of MX missile system, an east coast Trident base, Space Shuttle facilities, et cetera. To further compound the problem many permanent facilities built during or shortly after World War II, such as runways, utility systems, ammunition plants, et cetera, are now at or past their expected life and new capital investment is needed in each one of these cases.

The point that I am making is that I am uneasy with the level of authorization in this bill. I have a feeling it should be more. I do not know how much more, but we have asked the Defense Department to look at the "big picture" and systematically develop a level of military construction that is prudent. It is easy to defer capital investment—that is what private industry does when budgets are tight—but at some point private businesses fail if they do not make the necessary capital investment.

And even though, Mr. President, each of us is trying his best to balance the Federal budget, at some point, in this area at least, we may become penny wise and pound foolish.

Mr. President, aside from the Davis-Bacon provision, to which I have referred, I believe this is a good bill which deserves the support of the Senate.

I wish to thank other members of the subcommittee and the full committee, particularly the ranking minority member, the Senator from South Carolina, and I yield at this time to him for opening remarks.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of S. 1319, the fiscal year 1980 military construction authorization request, which provides for military construction programs in the amount of $3.7 billion.

At the outset I would like to call to the attention of the Senate the growing military construction backlog which is now estimated by Defense Department witnesses to be $35 billion.

HUGE CONSTRUCTION BACKLOG

Despite this backlog, the last few military construction budgets have not even kept up with inflation, much less attempted to address this serious problem. Here again we have a situation where the burden of meeting needed military requirements is being put off on future generations when the dollar will be worth less and the need even more acute.

While the committee recognizes fiscal restraints are necessary, it does not make sense to delay, delay, and delay to the point where it will be impossible for some future administration to fund the needed projects. Further, while the committee has added some worthy projects, there are many others which, if funded now, would reduce costs in the long run.

INCREMENTAL PROGRAM NEEDED

Therefore, Mr. President, I urge the administration to conduct a thorough survey and propose next year an incremental program designed to begin elimination of this huge backlog. If we fail to take this approach, we will witness an even further weakening of U.S. military preparedness in the years ahead.

Mr. President, this bill continues the committee's policy of giving special attention to innovative programs to meet our energy needs. The committee has especially given a boost to solar energy and hopefully the results will be significant for our military forces as well as the public in general.

In other areas, the committee has attempted to reduce construction overseas to a minimum and where possible, enlist the financial assistance of the allied nations in Europe and elsewhere.

SHIPYARD NEEDS DESERVE ATTENTION

In line with these backlog problems the committee has called special attention to the backlog in construction requirements at our public shipyards. The low level of capital investment in these vital yards must be recognized by the administration as a high priority item. Special hearings on this subject will be undertaken by the committee next year.

DAVIS-BACON WAIVER

Mr. President, of special interest in this year's bill is the inclusion of an amendment which waives the provisions of the Davis-Bacon Act of 1931 for the purposes of contracts funded in the United States under this bill. This amendment could save the taxpayer from $70 to $210 million, a sum which could in future years help redress some of the construction backlog. While some oppose outright repeal of Davis-Bacon, this modest approach impacts on only $1.4 billion in this bill, less than 5 percent of the $37 billion in Government-financed construction which falls under the Davis-Bacon laws.

In conclusion, Mr. President, I think the Senate will find this bill fully justifies the spending levels authorized. While I would support a higher level of funding for top priority military construction projects, this legislation is nevertheless vital and deserves prompt and favorable action by the Senate.

Mr. President, I would like to commend the able chairman of the subcommittee (Mr. HART) for the outstanding leadership he has given in handling this bill.

I would also like to highly commend the majority counsel, Mr. Jim Smith, who is a very able staff man and who has done such a fine job for a number of years in military construction work.

In closing, I would also like to commend Mr. Ed Kenney, who has been on the Armed Services Committee staff for over 10 years, and who has done an outstanding job on this bill, as he has on many other pieces of military legislation.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I would like to join my distinguished colleague in adopting the military construction bill. I know it contains a great deal of money, but it is not nearly what is required to meet our military construction requirements, and I am hopeful we can address ourselves in future military construction authorization bills to some of the important projects that are still awash in the backlog that has built up over the years by virtue of the fact that there is a limited military budget.

We have tended to dedicate more of our resources to hardware and research and development than in the authorizations presented annually in the military construction budget.

There is provision in this bill which was adopted by an 11 to 5 majority in the committee which, I think, will result in some savings in military construction and, hopefully, those savings can be applied in the future to important military construction projects that to date have not been funded. I refer, of course, to that provision which waives the applicability of the Davis-Bacon Act to military construction which is, by the way, not an attempt to rewrite the labor law.

It does not alter or address itself to one single word, comma, jot or title of the Davis-Bacon Act except to waive its applicability so far as military construction is concerned.

It is my view that the Armed Services Committee should get the biggest bang for the buck, and I think we do so by the savings which are estimated at between $70 million to $210 million.

I think we can probably go to third reading now. [Laughter.]

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. TOWER. It is just such a good bill that, perhaps, nobody wants to tamper with it.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise to compliment the distinguished subcommittee chairman on his foresight and on his efforts to demonstrate in the military construction authorization budget that there is a future for more energy efficiency in this country and for ultimately renewable energy sources.

I think his efforts in this regard show a leadership role here in the Senate. Three of the projects are at Picatinny Arsenal in New Jersey, my home State, and I think this effort is, in the years to come and will be, recognized more and more as being a leadership role in promoting renewable energy sources.

Mr. President, on another matter, however, the authorization creates some concern on my part in that it does not contain any funds for construction at Fort Dix in New Jersey.

As the chairman of the subcommittee knows, retaining basic training facilities at Fort Dix is an issue of grave concern to the entire Northeast, the Northeast which supplies 20 percent of the volunteer Army, and it is particularly of concern to me because the Secretary of the Army recommended that Fort Dix stay open. He was overruled by the Defense Department.

The chairman of the subcommittee has been accommodating in allowing a number of hearings at which we have, I think, successfully disputed the narrow cost estimates of the Army, and at which we have heard the testimony of the Secretary of the Army who recommended that Fort Dix stay open, and who really perceived the wider responsibility of the Army in making that recommendation.

Mr. President, my intention today is not to offer an amendment because I still believe there are administrative remedies for this situation in changing the path of the Defense Department which it has taken in overruling the Secretary of the Army.

My purpose instead is simply to state that this is an issue which is strongly felt by Members of this body, not only from New Jersey—my distinguished senior colleague, Senator WILLIAMS—but also by Senators from Delaware, Pennsylvania, and New York, and this is a matter we will continue to follow with great interest and with efforts to see that the decision made by the Secretary of the Army will be the one that is finally applicable.

Mr. HART. Mr. President, first of all let me thank the Senator from New Jersey for his kind remarks in regard to the efforts of our subcommittee in the area of energy conservation and the development of new energy alternatives. It is an effort the subcommittee has made for the last 2 or 3 years, and I think will prove to be an important one in the years to come, not only to help solve our economic and energy problems, but also to make this country more secure in terms of our dependence on foreign supply.

The Senator from New Jersey is to be commended for his concern about the military presence in New Jersey, particularly at Fort Dix. The Senator did take a leading role in pushing for hearings to explore the issue of closure and phasedown, and I think he deserves a great deal of credit from his constituents for the degree of concern which he has demonstrated.

I also appreciate his willingness to forgo offering an amendment at this time. We have had to resist the pleas from a large number of Senators for specific amendments at a variety of bases around the country. I appreciate the forbearance of the Senator this morning and commend him for his remarks.

Mr. WARNER. Mr. President, I rise in support of section 810 of the military construction authorization bill, a provision to exempt military construction from the application of the Davis-Bacon Act. The Senate Committee on Armed Services considered this matter thoroughly before voting decisively, 11 to 5, on the language of section 810.

In these days of competing interests and conflicting goals, section 810 allows the Senate to reconcile two urgent priorities: the desire for fiscal restraint and the immediate need for military construction.

The Senate Armed Services Committee highlighted the need for additional military construction in its report to the Senate. Indeed, the report notes that there is currently a $35 billion backlog in military construction projects—and it is getting worse. Construction projects with a high and urgent priority have been delayed again this year because of funding constraints. The further delay of needed projects is costing us in decreased military readiness, in increased operating costs, and, in some cases, it is even threatening the health, safety, and lives of American service men and women.

Antiquated ammunition-handling facilities, substandard medical facilities, and other problems will continue to plague our Armed Forces.

To eliminate this problem entirely would cost $35 billion. Obviously, fiscal responsibility precludes the Senate from acting to totally remedy the situation. But, Mr. President, the Senate can make a start on this backlog by demanding the dollars we are spending are spent effectively. We cannot continue to waste funds while so many urgent projects go unfunded.

The Senate must insure that the $3.7 billion in military construction funds is used efficiently.

The General Accounting Office has indicated that section 810 may reduce the costs of construction by as much as 15 percent, a savings of $210 million this year alone.

Mr. President, if there were some overwhelming need for the Senate to spend these additional millions in higher construction wages, the committee would have acted differently. But this is simply not the case.

As the General Accounting Office confirmed, the economic makeup of the construction industry today and the general effect of other Federal wage laws render Davis-Bacon unnecessary; it is arbitrary in its application and inflationary in its impact. Both conclusions were agreed to by a consensus of editorial writers and documented by the GAO.

The forced application of improperly determined wage rates increased Federal construction costs by hundreds of millions of taxpayers' dollars. In addition, the costs of administering and complying with the Davis-Bacon Act were estimated in the GAO report to exceed $200 million in 1977. These compliance requirements were described as "onerous and nonsensical" by a recent MIT study.

Mr. President, upon review, I must agree with the conclusion of the GAO report, that "the concept of issuing prevailing wages as stated in the act is fundamentally unsound."

I urge the Senate to support the Armed Services Committee in its earnest attempt to provide for the necessary military construction America needs while remaining within fiscally reasonable bounds.

UP AMENDMENT NO. 314

(Purpose: To authorize the Secretary of the Army to convey additional real property of the United States to the Alabama Space Science Exhibit Commission for use as a permanent site for the Alabama space science exhibit)

Mr. STEWART. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. Stewart), for himself and Mr. Heflin, proposes an unprinted amendment numbered 314: On page 49, insert the following after line 13:—

Mr. STEWART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 49, insert the following after line 13:

ALABAMA SPACE AND ROCKET CENTER

Sec. 811. (a) Section 2 of Public Law 98-276 is amended—

(1) by inserting "(1)" immediately before "A certain tract or parcel of land containing 35.69 acres";

(2) by striking out the period immediately after "Secretary of the Army" and substituting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(2) A certain tract or parcel of land containing approximately 300 acres, less that land occupied by the Department of the Navy on the date of enactment of this paragraph, lying within range 1 west, township 4 south, parts of sections 8 and 9, more particularly described as beginning at the established northeast corner of the Alabama Space and Rocket Center, running east along the Redstone Arsenal northern boundary, thence south along the Redstone Arsenal eastern boundary to a point north of the northwest corner of the intersection of Patton Road and Goss Road, thence west parallel to the north side of Goss Road to MacDonald Creek, thence northwesterly parallel to the east bank of the creek to the northern line of the Tennessee Valley Authority easement, thence west along the easement to the Alabama Space and Rocket Center established corner, thence north and east along the Alabama Space and Rocket Center boundary to point of beginning. The exact description of such property is to be determined by an accurate survey and approved by the Secretary of the Army.".

(b) Section 3 of Public Law 90-276 is amended by—

(1) inserting "and related educational and recreational purposes" after "instrumentalities"; and

(2) striking "purpose" and substituting "purposes".

Mr. STEWART. Mr. President, let me begin by commending Senator Hart and the members of the subcommittee, including the ranking minority member, the Senator from South Carolina (Mr. Thurmond), on the detailed and energetic work which has culminated in the consideration of S. 1319 today.

This amendment, which I propose for myself and my colleague from Alabama (Mr. Heflin), would authorize the Secretary of the Army to convey additional acreage to the Alabama Space and Rocket Center at Huntsville to enable expansion of the missile and rocket museum.

Less than 15 years ago, the citizens of Alabama and the State legislature voted to construct a missile and space exhibit in Huntsville, Ala. Over $2.5 million dollars were invested by the city of Huntsville, Madison County and the State of Alabama in the design and construction of the Alabama Space and Rocket Center. In 1968, the Congress of the United States provided property for its location by deeding to the Space Science Exhibit Commission property on Redstone Arsenal. The combined facility serves as a Visitor Information Center for all governmental agencies based in the area. These include: NASA's Marshall Space Flight Center, U.S. Army Materiel Readiness Command, Missile and Munitions Center and School, Corps of Engineers, Ballistic Missile Defense Systems Command, and the Readiness Command Group.

The Alabama Space and Rocket Center has become the largest missile and space museum in the world * * * truly our national rocket museum. It has collected over 1,500 pieces of missile and space hardware valued at over $26 million. The Center also serves as a major repository for the Smithsonian Institution's National Air and Space Museum, having over 300 historical artifacts on loan from that institution.

The State of Alabama has retired the bonds which were used to finance the design and construction of the facility and the Center has been self-sustaining since its opening, operating on nominal admission fees.

The Center has undertaken a 10-year expansion plan which would involve the addition of several new public facilities. They would include an educational complex, a missile and rocket park, a youth science center, an energy information center, a space theater planetarium, a cafeteria, an Earth resources facility, and a large recreational area.

The amendment Senator Heflin and I have proposed would not call for a single dime of Federal money. It would simply transfer existing Government property to the Space Center. The expansion proposals would serve to complement the existing Government facilities and provide the taxpayer with a valuable educational effort and a chance to see their dollars put to efficient use.

The House of Representatives, I would point out, has consented to the inclusion of this proposal in its companion bill.

At this time, Mr. President, I yield to the distinguished floor manager of the bill.

Mr. HART. Mr. President, this provision is in the House bill. The Army officially supports it. There is no budget impact, so far as I am able to tell, and I would be inclined to strongly support the proposal of the Senator from Alabama. It seems to make a great deal of sense, and I urge the adoption of the amendment.

Mr. THURMOND. Mr. President, this amendment, I think, is a sound one. I see no objection to it and many benefits that could be derived from it. Therefore, I support it.

Mr. HART. Mr. President, in connection with this matter, I ask unanimous consent to have printed in the Record a letter dated June 29, 1979, from the Assistant Secretary of the Army, Mr. Gibbs, to the chairman of the Senate Armed Services Committee (Mr. STENNIS) on this issue.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY,
Washington, D.C., June 29, 1979.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on S. 501, 96th Congress, a bill "To authorize the Secretary of the Army to convey additional real property of the United States to the Alaoama Space Science Exhibit Commission for use as a permanent site for the Alabama space science exhibit." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

The purpose of the bill is to authorize the Secretary of the Army to convey to the Alabama Space Science Exhibit Commission additional land for the expansion and further development of public facilities at the Alabama Space and Rocket Center by amending section 2 of Public Law 90–276, approved March 28, 1968 (82 Stat. 68). The additional area proposed for conveyance consists of approximately 300 acres of land at Redstone Arsenal, Madison County, Alabama, less land occupied by the Department of the Navy. The bill provides that the exact description of the property to be conveyed is to be determined by an accurate survey and approved by the Secretary of the Army.

The Department of the Army, on behalf of the Department of Defense, interposes no objection to the proposed bill, subject to the recommendation contained in the following paragraph.

The Department of the Army desires to exclude approximately 6.5 acres of land, required for Army Reserve purposes, from the 300-acre tract to be conveyed under the bill. It is, therefore, recommended that the bill be amended after the word "paragraph" on line 9, page 2, by inserting the following language: "and less approximately 6.5 acres of land required for Army Reserve purposes,".

Approximately 36 acres of land at Redstone Arsenal were initially conveyed to the Alabama Space Science Exhibit Commission under Public Law 90–276, supra. Section 3 of the Act provides that the conveyance is subject to the conditions that the property conveyed shall be used as a permanent site for the Alabama Space Science Exhibit to display suitable public exhibits of United States weaponry, developments of National Aeronautics and Space Administration (NASA), and space-oriented exhibits of other Federal agencies; that if not used for such purpose, all right, title and interest in such property shall revert to the United States; and to such other conditions as the Secretary of the Army may prescribe to protect the interests of the United States.

The Department of the Army, on behalf of the Department of Defense, reported on S. 793, 90th Congress, later enacted as Public Law 90–276. In its report, the Department of the Army stated that, as a general rule, it does not suport the conveyance of property without compensation. However, in view of the pertinent circumstances, reiterated below, enactment of S. 793, 90th Congress, was supported as an exception to that policy.

In 1965, the Legislature of the State of Alabama established the Alabama Space Science Exhibit Commission (2 Ala. Stat. 1044) for the general purpose of providing and operating facilities to display exhibits, in cooperation with the Department of the Army and NASA, of the technological development of military rocket weaponery and space sciences. The Alabama Legislature also authorized the issuance of State bonds in the amount of $1,900,000 to be used for the construction, equipment, and operation of buildings and other facilities for the science exhibit. However, no part of these funds was authorized to be used for the purchase of a site, it having been assumed in the early planning that a site on Redstone Arsenal would be made available by reason of the proposed consolidation of exhibits by Federal and State agencies. The Commission employed a private firm to make a comprehensive evaluation study for the economic development of the overall project. The study, closely coordinated with representatives of Army and NASA, proposed, in brief, that (1) facilities be constructed in yearly increments at a cost upwards of $1,700,000; (2) exhibits will reflect the historical and future development of military weaponry and NASA space technology in cooperation with these agencies; (3) existing public exhibits of Army and NASA will be consolidated in the Exhibit Center; and (4) operation and management of exhibits will be in cooperation with Army and NASA. Benefits expected to accrue to the Federal Government, upon enactment of S. 793, included closure of Army's temporary museum at Redstone, housed in three old air-inflated structures not readily accessible to the public, with anticipated savings of $45,000 annually, and incorporation of NASA's Marshall Space Flight Center display area.

In noting that the Commission was without authority to expend funds for the purchase of land and could not, therefore, acquire land through the General Services Administration, the Army concluded its report by finding that the potential mutual benefits to Federal and State agencies and the public warranted the restricted conveyance of land as proposed in S. 793, 90th Congress.

Construction of the Alabama Space Science Exhibit Center was completed and opened to the public in March 1970. Since that time, it is estimated that the Center has served 1,700,000 visitors from the United States and foreign countries. The Center has become the largest missile and space museum in the world, with a current collection of over 1,500 pieces of missile and space hardware valued at over $26,000,000, and more than 60 active exhibits. The Center also serves as a major repository for the Smithsonian Institution's National Air and Space Museum, having over 300 historical artifacts on loan from the Institution.

The State of Alabama has retired the bonds used to finance design and construction. The Center has been self-sustaining since its opening, operating on nominal admission fees. Funds remaining, after operating expenses are paid each fiscal year, are used to add new exhibits, purchase equipment, and develop educational programs and services for students and teachers.

The circumstances which warranted the earlier conveyance continue to exist. In addition, it is estimated that Army and NASA, by closing their museums, have saved $1.5 million since the Center opened. The Commission plans to expand the Center over the next ten years if S. 501 is enacted. Plans involve the addition of several new public facilities including an Educational Complex, a Missile and Rocket Park, Youth Science Center, Space Theater Planetarium, an Earth Resources Facility and a Recreation Area. The facilities would be available to Federal agencies and to the public, and would provide benefits of training and community relations for the Army. The Recreational Area would serve as a buffer between the Arsenal and Space Center Exhibit activities. The Commission has fully coordinated its Exhibit Center activities with the Army. As previously indicated, Public Law 90–276 provides for compatible use of property obtained from Redstone Arsenal.

The Department of the Army, on behalf of the Department of Defense, does not normally support the disposal of Federal real property at variance with the authority contained in the Federal Property and Administrative Services Act of 1949, as amended. However, in view of the unique circumstances of this case, an exception is warranted.

The fiscal effects of this legislation are not known to the Department of Defense.

This report has been coordinated within the Department of Defense in accordnace with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

ALAN J. GIBBS,
Assistant Secretary of the Army.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 314) of the Senator from Alabama.

The amendment was agreed to.

Mr. STEWART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 315

(Purpose: To include $6,600,000 for Maxwell Air Force Base, Ala.)

Mr. STEWART. Mr. President, I send to the desk another amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 315:

On page 17, between lines—

Mr. STEWART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 17, between lines 9 and 10, insert the following:

"Maxwell Air Force Base, Alabama, $6,600,000.".

On page 29, line 22, strike out "$370,810,000" and insert in lieu thereof "$377,410,000".

On page 29, line 24, strike out "$480,050,000" and insert in lieu thereof "$486,650,000".

Mr. STEWART. Mr. President, I offer an amendment to include an additional $6.6 million under title III of the Military Construction Authorization Act of 1980. This addition to the construction budget of the Air Force would provide funding for two projects at Maxwell Air Force Base in Montgomery, Ala. One is the construction of two 80-man visiting quarters there, and the other is the addition and alteration of the base's academic classroom facility.

There is clearly a need for these projects to be carried out, and this is reflected in the strong, bipartisan support which they have engendered. The Air Force firmly maintains that the construction is necessary if Maxwell is to effectively continue its program of advanced officer training and education. The projects have received the enthusiastic endorsement of the entire Alabama congressional delegation. The House Armed Services Committee included full funding for the projects in the Military Construction Authorization Act which it reported to the full House on May 15. Before the Senate Subcommittee on Military Construction and Facilities marked up this legislation, both I and Congressman DICKINSON were in contact with the chairman of the subcommittee, Senator HART, urging that the allocations be included. The subcommittee members, we were told, viewed our request favorably, and did not act specifically against the appropriations. However, in its efforts to stay within the overall budgetary constraints imposed by the administration, the subcommittee was forced to leave out this as well as a number of other items which were included in the House version of the bill.

As I stated, the need for these projects is well-documented. As the Air Training Command's center for professional military education, Maxwell Air Force Base has provided valuable training to several thousand officers at various stages of their military careers. Despite this, and despite the fact that enrollment in courses there has risen during the past decade, investment by the Air Force at Maxwell has been sorrowfully small. Total spending on new construction at the base has amounted to only $7.4 million since 1968; a mere $278,000 has been allocated there over the past 5 years. During the past fiscal year, there was no money in the military construction budget for Maxwell. As a result of this inattention, the facilities at the base, many of which are of World War II vintage, have seriously deteriorated. Most of the buildings there are now in need of either major rehabilitation or replacement.

The Air Training Command, after these years of neglect, recently completed a plan outlining development at Maxwell for the next several years. In its initial stage, the plan calls for the Senior Non-Commissioned Officer's Academy, which is presently located at Gunter Air Force Station, to be transferred to Maxwell. In order for the relocation, which the Air Force has long desired, to occur, additional investments at Maxwell have to be made. Specifically, new visiting quarters need to be constructed, since the noncommissioned officers would move into the facilities currently occupied by personnel taking courses at Maxwell. Moreover, it would be necessary to expand the classroom building, which is already overcrowded, in order to accommodate the additional students and faculty.

Mr. President, I do not think that these basic investments are too much to ask for, when we are talking about maintaining quality education at the base which provides professional training for Air Force personnel from all over the country. As I have pointed out, there is strong, bipartisan support for these efforts to be undertaken, and I urge that funding for the projects be included in this legislation.

I yield once again to the floor manager of this bill, the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, once again I want to express my appreciation to the Senator from Alabama, first of all, for bringing this matter to the attention of the committee, which he did with great vigor over a period of time. He expressed his own personal concerns and that of other Members of the delegation from his own State, and I believe in a very logical and realistic manner. There is no doubt in my mind that the proposal which he suggests here in the form of an amendment has merit. But, as he also recognized, our committee had to operate within the budgetary guidelines essentially put forward by the administration. Dozens of Senators have projects in their own States in military facilities which would require additional expenditures of the same sort that the Senator from Alabama focuses on here at Maxwell Air Force Base. Many of these, if not all of them, have great merit. As I indicated in my opening remarks, if we had considerably more money, were in a different fiscal situation than we are now, almost all of these should be taken care of, and should be taken care of in 1980. Unfortunately, we just cannot do it.

Our committee has to operate given the priority lists provided us by the various services, including the Air Force. Often in that priority list, projects that are near and dear to us, which we feel are very important, and which we have some personal familiarity with, cannot be accommodated. Frankly, Mr. President, that includes projects in my own home State of Colorado.

What the subcommittee and full committee ask is the indulgence of all Senators in trying to help us work out these difficult problems of priorities. In almost all cases Senators have been extremely cooperative and willing to understand the difficulties caused by pressing for proposals of this sort.

I would strongly urge and appreciate the Senator from Alabama withholding on this amendment with the understanding that it is in the House bill, and with the understanding that our conferees will do all that we can to accommodate the concerns of the Senator from Alabama, which we believe to be genuine, again within the boundaries of reasonable fiscal restraint.

Mr. THURMOND. Mr. President, the projects referred to by the distinguished Senator from Alabama are essential projects. However, they are in the House bill. We can assure him that we will give the most careful consideration to them in the conference.

Mr. STEWART. Mr. President, I understand the position of the committee and of the manager of the bill and the ranking minority member with regard to this particular request.

In light of the fact that the House has approved this item and it is in their bill, it obviously merits a request for the recognition of that fact by both Senators here today representing the committee. I trust, based on their statement, that this issue will be given the highest priority in the conference committee.

In consideration of the position of the Senator from Colorado and the Senator from South Carolina, I will at this time withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask unanimous consent that Don Zimmerman of Senator JAVITS staff be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Will the Senator from New Jersey yield for a question, Mr. President.

Mr. WILLIAMS. I will be happy to.

Mr. DOMENICI. I have a dialog with Senator HART which will take about 30 seconds. I wonder if the Senator will agree to let us do that and not interfere with his amendment. I am for it, as a matter of record.

Mr. WILLIAMS. It is agreeable with me if I can have unanimous consent to return to this amendment after such dialog is completed.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the dialog which I will engage in with Senator HART be in order and that it precede any reference to the amendment of the Senator from New Jersey and his introduction thereof.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

Mr. DOMENICI. I wish to clarify one point in this Military Construction Act. I note that $2.2 million for constructing an interchange on I–70 at Holloman Air Force Base, N. Mex., is contained in the House-passed version of this authorization. Since I have been working on this funding project for some time, I am interested in what the Senate version of the bill contains for this construction project.

Mr. HART. The project which the Senator is discussing was not included in the budget request and consequently was not considered by the Committee on Armed Services. However, as we have discussed, I have looked into the requirement for this project, found it to be valid, and I intend to urge Senate conferees to accept the House language for construction of the I–70 interchange at Holloman. I believe we can reach the goal of authorizing money for this project without having to amend the bill as reported by the Senate Armed Services Committee.

Mr. DOMENICI. Then, am I to understand that the Senator feels reasonably confident that we can be assured that authority for the I-70 interchange will be included in the conference report on the Military Construction Authorization Act?

Mr. HART. That is correct.

Mr. DOMENICI. I thank my distinguished colleague from Colorado for his help on this important project and I know that the residents of the Holloman area will be grateful for the resolution of funding for construction.

Mr. President, I ask unanimous consent that Jim Case of Senator MUSKIE's staff be granted the privileges of the floor.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

Mr. STENNIS. If the Senator will yield me 1 second on this matter, in response to what the Senator said regarding the short connection with the interchange, what I know about it is favorable to its inclusion and I am proud of the fact that the manager of the bill and others have found merit also. I can assure the Senator that is my position.

Mr. DOMENICI. I thank the chairman of the committee very much for his remarks.

Mr. STENNIS. If the Senator from Colorado will yield to me for one additional statement, I am supporting the bill, of course. This is not a matter of helping him, as he does not need help, but I am on the floor in an expression of interest and will be available at any time the Senator wishes me.

Mr. HART. I thank the Senator.

UP AMENDMENT NO. 316

(Subsequently numbered amendment No. 322)

Mr. WILLIAMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from New Jersey (Mr. WILLIAMS), for himself and Senators JAVITS, RANDOLPH, PELL, KENNEDY, CRANSTON, RIEGLE, HART, MOYNIHAN, MELCHER, and LEVIN, proposes an unprinted amendment numbered 316.
>
> On page 49, strike lines 5 through 13.

Mr. WILLIAMS. Mr. President, the amendment I am proposing is on behalf of the following Senators: Senators JAVITS, RANDOLPH, PELL, KENNEDY, CRANSTON, RIEGLE, HART, MOYNIHAN, MELCHER, and LEVIN.

Mr. President, S. 1319, the Military Construction Authorization Act, 1980, was reported by the Committee on the Armed Services with a provision which seriously affects an important program within the jurisdiction of the Committee on Labor and Human Resources. This provision—section 810 of the Military Construction Authorization Act—would waive the application of the Davis-Bacon Act with respect to any construction activity authorized by S. 1319 or any other military construction authorization.

Thus, with one stroke, the Armed Services Committee, which has no jurisdiction over and incomplete understanding of our Nation's labor laws, has eliminated nearly all military construction activity from the Davis-Bacon Act's provisions.

The opponents to the Davis-Bacon Act have attempted to have this body repeal the Davis-Bacon Act in a piecemeal fashion. First, by amendments in the Committee on Banking, Housing, and Urban Affairs to both housing legislation and to the Economic Development Act, attempts which the members of that Banking Committee, in my judgment, very wisely voted down. Failing there, they took their jurisdictional forum shopping to the Armed Services Committee, which acted favorably on their proposal despite the objections of that committee's wise and gracious chairman, the Senator from Mississippi (Mr. STENNIS).

We offer this amendment for two very distinct and very important reasons. The first reason is procedural—the Senate does its business through a committee system. These committees are established and assigned jurisdictional responsibilities, and labor standards legislation is clearly within the jurisdiction of the Committee on Labor and Human Resources, and is not within the jurisdiction of the Committee on Armed Services.

I read from rule 25 of the Standing Rules of the U.S. Senate:

> (1) The following standing committees shall be appointed at the commencement of each Congress, with leave to report by bill or otherwise on matters within their respective jurisdictions:
>
> (m) (1) Committee on Labor and Human Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
>
> 12. Labor standards and labor statistics.
>
> 20. Wages and hours of labor.

The Labor and Human Resources Committee has not had the opportunity to evaluate section 810 of the pending bill or its effects on our Nation's construction industry. And the sponsors of this provision have not even introduced this legislation in bill form so that it could be referred to the appropriate committee for consideration.

I do not believe that the Senate should act favorably and thus approve these procedures. Such approval would invite us to abandon our system of committee jurisdiction and to take an irreversible step toward legislative chaos and, indeed, anarchy, which I believe, we would, in the end, deeply regret.

The second reason that I believe the Senate should delete this destructive provision is because it is entirely devoid of merit.

Mr. President, the Davis-Bacon Act is the most important wage-stabilizing legislation in the construction industry. It requires that Federal construction contractors pay the prevailing wage for labor in the area where the construction is to occur. The Davis-Bacon Act has helped to stabilize the construction industry by discouraging cut-throat competition by unscrupulous contractors who would destroy all labor standards in their attempts to secure construction contracts. The Davis-Bacon Act is a commitment that our Federal building programs will not be undertaken at the expense of the worker on the job. By protecting the prevailing living standards of construction workers, the act assures that competition for Federal construction contracts will not be based on the ability of a contractor to slash wages. Under this law, contractors are, however, free to compete against each other in all of the expected ways within our economy—in efficiency, know-how and skill, but not in how much they can exploit their workers.

To understand the importance of the Davis-Bacon Act, it is necessary to understand some aspects of the construction industry. In this country, the construction industry has always been volatile and intermittent in its business volume, and in the employment opportunities it provides. Over four million workers are attached to the construction labor force. They are employed by about one-half million businesses, and divided into more than 30 crafts and trades. Unlike most other industries, these are not long-term employment relationships: Workers move from job to job and from site to site, rarely forming permanent attachments to a single employer. The intermittent nature of this work diminishes the effect of a sometimes seemingly high wage rate. Unemployment has been persistently higher in this industry than in most other segments of our economy, recently averaging more than 50 percent higher than the national average. Ten percent construction against 6 percent national average.

The potential for destructive wage competition is always present in the construction industry. Because of the relatively high unemployment rate, these workers are particularly vulnerable.

In fact, the 1972 Commission on Government Procurement Study Group No. 2, a group that would likely be more concerned with procurement than worker protection, found that "the wages of construction workers on Government construction would likely be adversely impacted without prevailing wage protection."

Mr. President, the Davis-Bacon Act was enacted in 1931, was part of a trend that began much earlier. Kansas had adopted a prevailing wage statute in 1891. Forty-one States have now adopted "little Davis-Bacon laws," many of them in the 1950's and 1960's. The Davis-Bacon Act was a major force in preventing the complete disintegration of the construction industry in the 1930's. Its importance in preserving labor standards during a period of economic decline cannot be understated.

In this regard, it is significant to note that the construction industry housing starts for February were at their lowest level in 2½ years. It is beyond belief that, at a time when many forecasters are predicting a recession, we would seriously entertain the possibility of abolishing one of the major stabilizing influences in the construction industry.

Yet, there are those who would suggest that the construction worker should be sacrificed in the battle against inflation. Section 810 of the pending bill is the instrument by which that sacrifice will be accomplished, even though there is little to suggest that construction wages are a significant cause of inflation.

The annual percentage increases in hourly wage rates over the last 7 years for construction workers has lagged behind the all-industry increases.

Between 1971 and 1977, the construction workers' increases were 5.9 percent per year, compared to the all-industry average of 7.3 percent. Between 1975 and 1977, the gap widened. During that period of time, construction workers' increases were 5.5 percent per year, and the all-industry increases were 7.17 percent. The April 1977–78 wage rise for construction workers was the smallest 12-month increase since 1967.

Under these conditions, it is apparent that the repeal of the Davis-Bacon Act would cause serious economic and social repercussions. It would create havoc in the construction industry, giving rise to a degree of cut-throat competition we have not seen for 50 years.

This provision obviously will not curb inflation. It will not promote stability in the construction industry. It will not result in an appreciable reduction in the Government's construction costs.

In short, Mr. President, the Senate is being asked to buy a pig in a poke. We are being asked by a committee without subject matter jurisdiction to abandon a public policy which has existed and been reaffirmed over and over again since 1931.

A vote for my amendment to strike this dangerous provision from the pending bill is a vote to return to the rational consideration of this important question. A vote for my amendment is a vote against precipitous action by the Senate. A vote for my amendment is a vote of confidence in the Senate committee system, and in our ability, through the committee system, to effectively evaluate the needs of America's construction workers and the construction industry. A vote for my amendment is a vote of confidence in the ability of the Senate to act carefully, and calmly, and with a complete understanding of all the issues and all the ramifications of our actions.

(Mr. HEFLIN assumed the chair.)

Mr. HATCH. Will the Senator yield for a question?

Mr. WILLIAMS. I am happy to yield to the Senator from Utah.

Mr. HATCH. I appreciate the distinguished chairman of the Labor and Human Resources Committee's yielding to me.

Is it not that as of April 27, 1979, I sent a letter to him, in fact, Senator TOWER and I sent a letter to him, where we asked, as cosponsors of S. 29, the Davis-Bacon repeal legislation, to start holding hearings on that particular matter in this Congress?

In other words, almost 3 months ago, we asked him to start holding hearings so that we could be prepared for this type of matter when it came up, rather than coming in and ask that we do what we have asked him to do 3 months ago; is that not true?

Let me be more specific——

Mr. WILLIAMS. My reaction to that earlier request, I know the Senator will recall, was that those who conscientiously feel there should be repeal of Davis-Bacon, or amendment of Davis-Bacon certainly should have the opportunity to be heard. The matter should be considered, and it will be in the Labor and Human Resources Committee.

But it would require that we approach it, as we should all legislative matter, by going to that committee, rather than addressing this subject matter through amendments on other and unrelated bills.

But that was the approach the opponents of Davis-Bacon took—the oblique approach on unrelated legislation. It was done on the housing bill, as I mentioned earlier, and now on military construction. Certainly, I do not sit on the Armed Services Committee, and I do not know how completely that committee dealt in its hearing on this matter. But I do sit on Banking, Housing, and Urban Affairs.

This matter is likely to be coming up as an amendment to the housing bill when it is taken up by the Senate. We did have a hearing on the Davis-Bacon application to the housing bill.

Again, I responded in that committee to the need to address the question, although I knew it was not the most effective, efficient way to approach legislative matters, piecemeal, in the wrong committees.

Mr. HATCH. All I am asking is this. I did not file the amendment in the Military Construction Committee. I had nothing to do with that committee. But, as I recall, we sent a letter dated April 27, 1979, to the Senator, as chairman of the Labor and Human Resources Committee, which says the following:

COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., April 27, 1979.

Re S. 29, The Davis-Bacon Repeal Legislation.

Chairman HARRISON A. WILLIAMS,
Labor and Human Resources Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: As I am sure you are aware, Senator Hatch introduced the above-referenced bill, which Senator Tower co-sponsors, on January 15, 1979, the purpose of which is to repeal a federal law that makes government an accomplice in cost and price excesses in the construction industry. The subject is the federal prevailing wage law, more commonly referred to as the Davis-Bacon Act.

This 1931 law requires the payment of "prevailing" wages on federally assisted construction projects which are frequently determined by the U.S. Department of Labor to be far in excess of average wages in a given area. Thus, the law effectively prohibits all wage competition. In addition, the many archaic work rules required by that law also have an inflationary impact on the construction industry and the nation's economy as a whole, resulting in the waste of taxpayer dollars, and loss of some needed construction projects and jobs—particularly in lower-income areas.

We believe that this outmoded wage law, although briefly worded, should be repealed for the following reasons:

It was a depression era measure which has long since outlived its usefulness;

It substantially interferes with the working of a free competitive market;

It is inflationary because it results in federal and federally-assisted construction contracts costing more than other construction contracts;

It gives an unfair advantage to union employers over nonunion employers in bidding for government construction contracts;

It impedes entry of minority groups into the construction industry; and

It unnecessarily protects the highest paid skilled workers in our society by legislating standards even though they are fully capable of competing successfully without government intervention.

For these reasons, the Davis-Bacon Act has been subject to attack by prominent economists such as Milton Friedman and Walter Heller, the Council on Wage and Price Stability, the National Association of Minority Contractors, the New York Times, the Chicago Tribune, the U.S. Chamber of Commerce, the Joint Economic Committee, and many other individuals and organizations.

We commend to your immediate attention the GAO report on this subject which was distributed today. GAO strongly recommends repeal of the Act on the grounds that it is no longer needed because of changing economic conditions in the economy and the construction industry, as well as the inflationary impact of several hundred million dollars annually in unnecessary public construction and administrative costs. We are attaching for your review the GAO Report Summary and the transmittal letter to Congress, which clearly set forth the GAO position on this matter.

Under these circumstances, we believe that immediate hearings on S. 29 are warranted before the Labor and Human Resources Committee, which has the subject-matter jurisdiction over this law, and we respectfully request that they be scheduled. We feel it is totally in the public interest to fairly and fully consider the wisdom underscoring this Act, which has not received oversight in many years, so as to make a final Committee determination whether the critics of Davis-Bacon, including our congressional watchdog, the GAO, are correct in their respective evaluations.

We hope you will agree that the time has come to exercise jurisdiction over this serious national concern and to set the record straight. We submit that if the GAO Report is accurate, this statute is more than just a bad one, in these inflation-wracked times, it is intolerable.

Sincerely,

ORRIN G. HATCH,
U.S. Senator.
JOHN TOWER,
U.S. Senator.

THE DAVIS-BACON ACT SHOULD BE REPEALED

The Congress should repeal the act because:

Significant changes in economic conditions, and the economic character of the construction industry since 1931, plus the passage of other wage laws, make the act unnecessary.

After nearly 50 years, the Department of Labor has not developed an effective program to issue and maintain current and accurate wage determinations; it may be impractical to ever do so.

The act results in unnecessary construction and administrative costs of several hundred million dollars annually (if the construction projects reviewed by GAO are representative) and has an inflationary effect on the areas covered by inaccurate wage rates and the economy as a whole.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C.

To the President of the Senate and the Speaker of the House of Representatives.

This is our report to the Congress, "The Davis-Bacon Act Should Be Repealed."

We are recommending that the Congress repeal the Davis-Bacon Act because (1) there have been significant changes in the economy since 1931 which we believe make continuation of the act unnecessary, (2) after nearly 50 years, the Department of Labor has yet to develop an effective program to issue and maintain accurate wage determinations, and it may be impractical to ever do so, and (3) the act is inflationary, and results in unnecessary construction and administrative costs of several hundred million dollars annually.

We are sending copies of this report to the Secretaries of Labor; Commerce; Defense; Health, Education, and Welfare; Housing and Urban Development; Transportation; and the Treasury; the Administrator, Environmental Protection Agency; the Postmaster General; and the Director, Office of Management and Budget.

ELMER B. STAATS,
Comptroller General
of the United States.

Now, that was the letter we sent. We have not had 1 day of hearings on Davis-Bacon in the Labor and Human Resources Committee, and I am asking a question of my distinguished chairman.

Mr. HART. Will the Senator yield?

Mr. HATCH. Yes.

Mr. HART. We have not had a day of hearing in the Armed Services Committee.

Mr. TOWER. If the Senator will yield, there were questions asked of witnesses on this particular matter, and I would be glad to read that into the RECORD, or will do it subsequently.

So a record has been made in the Armed Services Committee.

Mr. HART. Does the Senator from Texas think that is making a record on an issue of this magnitude?

Mr. HATCH. There is a 50-year record on this issue that goes both ways.

I am not saying we should not have more hearings because I think they could not help but further enlighten everybody in America as to how bad this bill really is.

Mr. WILLIAMS. Will the Senator yield?

Mr. HATCH. The Senator has been very kind.

Could we have a hearing in the Labor and Human Resources Committee and could we have a time when this bill could be brought to the floor and voted up or down?

Mr. WILLIAMS. I will say again to the Senator from Utah what I told him back in April. If we can proceed with the questions about Davis-Bacon in the orderly, legislative way, I would be agreeable. If that forum is to be the Labor and Human Resources Committee, if that is to be the forum selected by opponents of Davis-Bacon, the answer is clearly "yes."

But simultaneously with the April letter and discussions with the Senator from Utah, the opponents of Davis-Bacon were pursuing the Davis-Bacon repealer on other legislation.

It was then being pursued at the Banking, Housing, and Urban Affairs Committee.

Mr. HATCH. But I did not——

Mr. WILLIAMS. I told the Senator then, "If you folks who oppose Davis-Bacon will gather around, and get together and approach this through the Labor Committee, that is the way we will proceed, in the orderly way to hearings."

However, as chairman of the Committee on Labor and Human Resources, if I have to be meeting this issue on many bills, in many other committees, I will have to take my time and apply it to those bills from other committees, as I did with Banking, Housing and Urban Affairs and the Housing Act.

The Senator from Texas stands beside the Senator from Utah, and he knows that is exactly what happened in our other committee.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. HATCH. I cannot speak for Representatives and other Senators. All I can say is that it was my understanding that we would have hearings on this matter and that we would have it come to the floor and vote up and down on S. 29. All I can say is that, as a result of our conversations, so far as I am concerned, I have been willing to go through our Labor and Human Resources Committee process, so long as we get it out to the floor and vote it up or down.

Considering the makeup of the Senate, I think the odds are heavily against my side winning on Davis-Bacon at this particular point. However, it nevertheless needs to be debated on the floor of the Senate and voted up or down, one way or the other.

I will say this: It is like one of those perennial issues—it will be brought back and brought back and brought back until ultimately the taxpayers of the United States are considered.

The only thing I am asking is that, since I am willing, as a member of the Labor and Human Resources Committee—and I think I have done this thus far—to work within the committee and to work within the committee structure and to work within the hearings and not foment amendments—I cannot speak for my other colleagues and will not even try to—could we get this matter heard and get it on the floor and vote on it up or down?

It does not have to be right away. I am in no big hurry on it. I want to have hearings and an ultimate vote on the floor. I know the distinguished Senator from New Jersey can accommodate on this matter, if he will.

Mr. WILLIAMS. I will reply to that, precisely.

Before doing so, I recall that when we did hear the Davis-Bacon subject in the Banking Committee, the Senator from Utah appeared.

Mr. HATCH. I did testify, yes.

Mr. WILLIAMS. He came over, and it was a day we all remember. I recall the Senator from Utah informing us in our Davis-Bacon housing hearing of the application of prevailing wages to Ballet West, a ballet company.

Mr. HATCH. That is correct, and how it was inapplicable.

Mr. WILLIAMS. And we had to suggest that that was not Davis-Bacon that was being applied in that case.

Mr. HATCH. No, but the concept was the same.

Mr. WILLIAMS. The concept of the prevailing wage. It was a finding that when Ballet West went to perform, with great accomplishment, in New York, the prevailing wages in New York——

Mr. HATCH. That was not the way it was. What happened was that Ballet West had a troop that they paid annually. The Labor Department came in and, with the concept of prevailing wages, demanded that they meet the New York union rates, even though Ballet West was the only company in the area of the mountain west, and they applied the New York prevailing wage rates.

Mr. WILLIAMS. Only while Ballet West was performing within that region.

Mr. HATCH. No.

Mr. WILLIAMS. The New York prevailing wage applied in the State of Utah?

Mr. HATCH. That is right.

Mr. WILLIAMS. I will join the Senator in alarm that that should be the situation.

Mr. HATCH. I was very upset about it. That is how far these types of concepts have pervaded this country and cost the taxpayers billions of dollars.

Mr. WILLIAMS. I will now have to do a little research in terms of following the appearance of the New Jersey Ballet at the Virginia Festival of Performing Arts in Norfolk, last Friday night. It was a performance, I will say, that was worth the highest wage ever paid in New York. However, I rather doubt that New York wages applied to that excellent company of the New Jersey Ballet when they appeared last Friday night at the Chrysler Auditorium in Norfolk, in a performance that was most gratifying to those who appreciate ballet, and I am sure we all do. The reception was just tremendous and, again, worthy of New York wages. However, I would not support New York wages for performances in Norfolk.

Mr. HATCH. I agree.

Mr. HART. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. HART. Mr. President, the fact that we are discussing ballet companies in connection with the armed services military construction bill is the strongest argument I can think of as to why this provision should not be in this bill.

The Senate, in its wisdom, has a committee system. The committees are for the purpose of exploring these issues. The fact that the Senator from Utah and the Senator from New Jersey are now deeply enmeshed in a discussion of the wage rates of ballet companies, in the framework of the Senate military construction authorization bill, is the strongest argument I can think of as to why the amendment of the Senator from New Jersey should be adopted, deleting this provision from this bill.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. WILLIAMS. The Senator from Colorado is speaking.

Mr. HART. Just as the Senator from Utah is correct that measures of this importance deserve hearings—and I agree with him on that, and I believe the chairman of the committee also agrees—on the other hand, measures of this importance should not be voted on without hearings, which is exactly what is happening here and happened in the Armed Services Committee.

There were some perfunctory questions, as I recall rendered by a staff member, responded to by middle-level managers——

Mr. TOWER. Senator THURMOND is not a staff member. He is a Member of the Senate.

Mr. HART. The excerpts of the transcript that I saw indicated that the questions were propounded by a staff member. Nevertheless, I think that all of the testimony occupied about 20 minutes, at most, in the deliberations of our committee on this bill, which took literally hours, if not days.

The Senator from Texas well knows that, when we took a vote on this, there were perhaps 5 minutes of discussion on this issue. If that constitutes a record, as I said before, I will eat my hat.

So, just as the Senator from Utah has a legitimate grievance that there should be hearings, I think the Senator from Colorado has a legitimate grievance that there were no hearings.

We are marching off a cliff here, without knowing what we are talking about. The facts that we are going to debate the question of prevailing wage rates for ballet companies in New York, or with New York wage standards, is the argument I am trying to make.

Mr. HATCH. I hardly brought that up, but it is an important point.

Mr. HART. Of course, it is.

Mr. HATCH. If the Federal Government, pursuant to the application of Davis-Bacon, can be so obstreperous and asinine as to try to put prevailing New York union wage rates on a nonprofit ballet company that performs only in the West, can the Senator imagine the billions of dollars it costs us in military construction? That is precisely the point.

Mr. HART. The only thing I can do is imagine it, since I do not know it.

Mr. HATCH. If the Senator does not know it, then perhaps it is time he started to find out about it; and this is one way the august U.S. Senate occasionally brings up these multibillion-dollar boondoggles. That is precisely what Davis-Bacon is, and I think everybody else knows it, including GAO, which just issued a huge report that went into the matter.

I have a question for the distinguished chairman, for whom I have tremendous respect. In case he has not seen it, here is a copy of the report, entitled "The Davis-Bacon Act Should Be Repealed." I hardly think any Senator should not be aware of it, since it has been on the books almost 50 years, come 1981.

I ask this question of my friend and colleague from New Jersey: What I am saying is that I, for one, did testify before the Banking Committee. As to the fact that the Senator from New Jersey thought the Ballet West incident was memorable, I think it was memorable and very important, because it raised the large issue of prevailing wage rates, which are ruining taxpayers all over America—at least, in my humble opinion.

What I am saying is this: I agree, that I would like to have hearings in the Labor and Human Resources Committee. My chairman indicated today that he would hold them. In the past, even though it has now been almost 3 months since I requested them, he said he would hold them. Maybe it would help to stop this piecemeal approach toward Davis-Bacon. If we would go forward with hearings in the committee and if we could have some assurance—and I do not care when, so long as it is in this Congress—that we will bring S. 29 to the floor, debate it fully, and vote up or down, I will agree to a time limit on the debate.

Mr. WILLIAMS. That is what I said in April. The committee with jurisdiction is the proper way to go on such legislative matters.

Mr. HATCH. Will the Senator do that?

Mr. WILLIAMS. If a committee has a bill that is referred, it should be heard but when the same subject matter comes in from other committees, that is not the way.

If the Senator will join me in striking this labor matter from the military construction bill, then we can proceed in the orderly way to do the business of the U.S. Senate.

Mr. HATCH. I will consider joining the Senator from New Jersey. I have to think it over and see what we are agreeing to.

Mr. WILLIAMS. We are about ready to vote.

Mr. HATCH. What are we agreeing to?

Mr. WILLIAMS. To proceed in the regular way on a legislative matter, hearing it in the committee of jurisdiction.

Mr. HATCH. Can we get it to the floor and have a debate?

Mr. WILLIAMS. That is a matter for committee deliberations.

Mr. HATCH. No. We have brought matters to the floor before.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. HATCH. I am afraid the distinguished Senator from New Jersey has the floor.

Mr. THURMOND. Mr. President, will the able Senator from New Jersey yield to me a minute or two, so that I may question the Senator from Utah.

Mr. WILLIAMS. I yield.

Mr. THURMOND. I call to the attention of the distinguished Senator from Utah that this does not repeal Davis-Bacon.

Mr. HATCH. I understand that.

Mr. THURMOND. This merely waives it. It waives it and according to Mr. Fliakas' testimony—he testified in the Senate, and I was the one to propound the question to him—it will save from $70 million to $210 million.

Mr. HATCH. In military construction alone.

Mr. THURMOND. On this military construction bill alone.

Mr. HATCH. Who saves that money? Whose money?

Mr. THURMOND. The taxpayers get the benefit of this money. Why should anyone object to the taxpayers saving $70 million to $210 million if we can do it on this bill, and that is what Father Fliakas says. The General Accounting Office, as he has stated, has made a study here. We have recommended it be repealed. They have no interests. That is an arm of Congress. And Mr. Fliakas is with the administration. He recommends that we do this. What is the objection to saving money for the taxpayers?

THE DAVIS-BACON ACT

● Mr. HELMS. Mr. President, I strongly support the proposal to waive the Davis-Bacon Act as it applies to military construction.

The Davis-Bacon Act has been around for a long time—since the 1930's, in fact. I do not dispute that the Davis-Bacon Act was enacted in response to what some people saw as a serious and legitimate need. But times change, Mr. President, and I for one no longer believe that the Davis-Bacon Act serves a useful purpose. In fact, the effects of the Davis-Bacon Act are now detrimental.

Many groups and individuals have spoken out against the Davis-Bacon Act. I would like to bring to the attention of my distinguished colleagues the conclusions of one such group.

In April of this year, the U.S. General Accounting Office published a report entitled "The Davis-Bacon Act Should Be Repealed." The report—dated April 27, 1979—is a result of almost two decades of oversight by GAO. I heartily encourage my colleagues to review it because it details example after example of wasteful Government spending.

In the interest of saving time, I will not discuss each of the reasons cited by GAO in support of repeal of the Davis-Bacon Act. I would, however, like to list each of these reasons. They are as follows:

First. The Davis-Bacon Act is no longer needed;

Second. Significant changes in economic conditions and worker protection laws make the Davis-Bacon Act less relevant;

Third. The Davis-Bacon Act is impractical to administer, resulting in the Department of Labor developing and issuing inaccurate wage determinations;

Fourth. The Davis-Bacon Act has resulted in increased costs for federally financed construction; and finally

Fifth. The Davis-Bacon Act has had an inflationary impact on the economy.

In conclusion, Mr. President, the Davis-Bacon Act should be eliminated whenever, and wherever possible. By waiving its provisions as they apply to the military construction bill, we can test the feasibility of eliminating the prevailing wage rate in one particular type of government construction contract. In addition, and of paramount importance, we can save the taxpayers of this country a substantial amount of money.●

Mr. TOWER. Mr. President, I wish to gain the floor.

Mr. WILLIAMS. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I am, of course, strongly opposed to the effort of the Senator from New Jersey to delete this section from the military construction bill, and I respond to the jurisdictional question by simply noting that this section does not touch one word of the Davis-Bacon Act. It does not repeal it or amend it in any way. It simply does, as the Senator from South Carolina suggests, waive it in terms of military construction. And it is within our jurisdiction to try to save money on military construction.

Now, for years and years and years there have been complaints about Davis-Bacon and the cost of it. There are numerous studies, committee testimony, in the Joint Economic Committee, even of this Congress, which have criticized Davis-Bacon. The Joint Economic Committee has noted that it does discriminate against minorities in employment in the construction business and yet the Labor and Human Resources Committee has not held hearings on it. That is why we are acting. And we have no reasonable expectation really that hearings are going to be held. Given the disposition of that committee a bill will never be reported to the floor probably. That is why we have to resort to this kind of situation.

Now, to satisfy the Senator from New Jersey, Mr. President, I move that S. 1319, a bill to authorize certain construction at military installations and for other purposes, be referred to the Committee on Labor and Human Resources with instructions that the committee report the bill as referred no later than July 25 with such recommendations as the committee may deem appropriate.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. WILLIAMS. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Boren). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 317

(Purpose: To authorize funds for Department of Defense share of upgrading the waste treatment facility that serves Little Rock Air Force Base, Little Rock, Arkansas)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Until the motion to refer has been acted upon, further business is not in order.

Mr. TOWER. Mr. President, I ask unanimous consent that the motion to refer be temporarily set aside and that other amendments be in order.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, will the Senator make it specific?

Mr. TOWER. I believe the pending business is the motion by the Senator from Texas to refer S. 1319 to the Committee on Labor and Human Resources for a period of 2 weeks. I am simply asking unanimous consent that that motion be set aside temporarily and that other amendments may proceed ahead of it.

The PRESIDING OFFICER. That motion is pending. There is also an amendment underlying that motion.

Mr. TOWER. Mr. President, I ask unanimous consent that the amendment of the Senator from New Jersey also be set aside temporarily, reserving the rights of the Senator from New Jersey and the Senator from Texas.

The PRESIDING OFFICER. Without objection, that will be the order, and the amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. Bumpers) proposes an unprinted amendment numbered 317.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 21, line 19 and 20, insert the following:

DEPARTMENT OF DEFENSE SHARE FOR WATER POLLUTION CONTROL FACILITIES

Sec. 305. There is authorized to be appropriated, in accordance with section 808 of this Act, the sum of $2,400,000 for the Department of Defense share for the upgrading of the waste treatment facility that serves Little Rock Air Force Base, Little Rock, Arkansas.

On page 29, line 22, strike out "$370,810,000" and insert in lieu thereof "$373,210,000".

On page 29, line 24, strike out "$480,050,000" and insert in lieu thereof "$482,450,000".

On page 48, line 20, insert "on or" after "enacted".

Mr. BUMPERS. Mr. President, the military construction authorization bill, S. 1319, as reported by the Senate Armed Services Committee, includes an amendment, which allows the Department of Defense to make the contribution required by the Environmental Protection Agency for the construction of waste treatment facilities serving military installations. However, a specific authorization is necessary before DOD can use funds for this purpose.

My amendment would provide the authorization for the Air Force to pay its share of the costs of construction of a new waste treatment facility in Jacksonville, Ark., which is the location of the Little Rock Air Force Base.

Normally, EPA would grant the city of Jacksonville 75 percent of the construction cost, and the city would raise the other 25 percent. However, pursuant to section 202 of the Federal Water Pollution Control Act of 1972, EPA issued regulations (Program Guidance Memorandum PG–62) which require all Federal facilities being served within a project to pay their fair share of the cost allocable to the project, in this instance, the new waste treatment facility. EPA has determined that the Little Rock Air Force Base will receive about 25 percent of the benefit from the new facility, and has therefore told the city of Jacksonville that it will only give them 50 percent of the construction cost, and the balance will have to be raised by them and the Little Rock Air Force Base. Specifically, the cost break down is as follows: $9.5 million total cost; $2.0 million city of Jacksonville; $2.4 million Little Rock Air Force Base; and $5.1 million EPA.

Normally, this would be a perfectly suitable method of financing, but in this instance the city of Jacksonville has a contract with the Air Force, executed in 1962, the effect of which is that it may not be renegotiated, nor may the Federal Government be called upon to pay more than is provided under the contract.

And the Air Force has taken the position that it cannot comply with its own guidelines and contribute to the cost of this project. So Jacksonville finds itself in the position of not being able to raise its share and the Air Force base share both. Obviously, if the present waste treatment system fails, the Air Force base could not be served, and this is precisely what is going to happen unless the city of Jacksonville gets help.

Although increased costs of construction are one of the primary reasons this should be accomplished at the earliest possible time, there are many other pressing reasons. The Jacksonville waste treatment facility is among the top 15 percent of Arkansas pollution problems in terms of severity of the pollution. According to EPA, toxic material is now being discharged from the facility. In addition, there has been no change in the level of treatment since 1960, and although the facility qualifies for at least secondary treatment, it only has the capacity for primary treatment. There are instances of sewage overflow, and the facility is presently in violation of State regulations.

EPA has committed its share of funds to this project, and the Jacksonville City Council is prepared to vote a bond issue to provide its share. Both are waiting, and have been waiting for more than 2 years, for the Air Force to commit its share.

Mr. President, my amendment would authorize the Air Force to pay its share in fiscal year 1980. All requirements for step I, determination of the most cost effective plan, have been met. The project has been ready to go to step II, initiation of the engineering design, since early 1976. But now the project is at a standstill and has been for more than 2 years.

The Environmental Protection Agency's section 201, construction grants program, has been recommended by the President, the House, and the Senate HUD and Independent Agencies Subcommittee to be cut by $400 million. The argument for this cut is that EPA is estimated to have an unobligated balance of anywhere from $3 to $4.6 billion at the end of fiscal year 1979. Often a project's development is slower than the schedule of appropriations and the funds are not spent as rapidly as anticipated.

This is not the case with the city of Jacksonville. EPA construction grant funds have not been spent because a cost-sharing agreement with the Little Rock Air Force Base has not been reached.

Mr. President, this is a community in a catch-22 situation, a community which has done everything it knows how to work out this problem, a community which has been unable to move the bureaucracy by a single degree.

I respectfully request the U.S. Senate to give Jacksonville, Ark., the relief it so desperately needs.

Mr. President, I have discussed this amendment with the distinguished chairman of the Military Construction Subcommittee, and I believe the amendment will be acceptable. It is very simple and equitable. It allows a city which serves this Little Rock Air Force Base some relief in order to provide waste treatment facilities from which the Air Force will derive substantial benefit.

Mr. HART. Mr. President, the Senator from Arkansas is correct. The bill before the Senate does provide general authority for the Department of Defense to make contributions in concert with the Environmental Protection Agency for the construction of waste treatment facilities serving military installations. There is no authorization for that to be carried out with respect to the specific installation that the Senator from Arkansas refers to and is concerned about.

I am perfectly willing, as the manager of this bill, to take this proposal to conference. It is not in the House bill. I think it is a matter we can take up with the House. It has legitimate reasons for inclusion.

Mr. THURMOND. Mr. President, this proposal has some merit, and I think it would be well to have it in conference and to consider it carefully there. In order for that to be done, we would have to adopt it here. Therefore, I will not object, so that it can be considered in conference.

Mr. BUMPERS. I thank both distinguished floor managers.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BUMPERS. Mr. President, I would like to ask my friend, the distinguished chairman of the subcommittee a few questions about the bill. I am quite concerned about the language in the military construction bill providing that "no funds authorized to be appropriated by this or any other act shall be obligated or expended for the purpose of the realignment of the Strategic Air Command's (SAC) Loring AFB." I want to be certain that this language has no implications so far as the Blytheville AFB is concerned; that is, that this language is not a signal to the Air Force to close Blytheville, or any other SAC base.

Mr. HART. I can assure the distinguished Senator from Arkansas that the language he has quoted does not affect and will not result in the closing of Blytheville Air Force Base. The committee's provision in section 809 to preclude the realinement of Loring Air Force Base has absolutely no connection to Blytheville Air Force Base. In fact, the committee's intention, as expressed in the report language concerning strategic basing, is that there be no further consideration of closing any SAC base until the future of our strategic systems is sorted out. It is my view and, I think, that of the committee that the Air Force had better quit studying SAC base realinements until they know where they are going to base their strategic systems.

Mr. BUMPERS. I am pleased to learn that the committee has in essence put a freeze on any SAC base realinements for the time being. I know the people in Blytheville will be greatly relieved to learn that their Air Force base is not to be on any realinement list. You can imagine the concern and turmoil that have existed in that community. It seems that the base has lived under a base closure cloud for years.

Blytheville Air Force Base has many distinct advantages. First, the geographic location of Blytheville Air Force Base, near the center of our country, gives its strategic forces an excellent operational flexibility in both readily available uncongested airspace as well as a close proximity to many other bases whose missions are essential to the smooth functioning of the Strategic Air Command. A prime example of this is the fact that the current bomber and tanker mission at Blytheville is considered essential in one important aspect because of Blytheville-based tanker support for the refueling requirements of various tactical fighter installations in the southeastern United States. The nearness of Blytheville to these tactical fighter installations provides for more economical air refueling support to those forces, while keeping the tankers positioned to support the bomber force.

Second. Blytheville Air Force Base allows bomber aircraft to be located sufficiently close to primary targets for effective utilization.

Third. Blytheville Air Force Base is capable of supporting increases in its overall mission with its existing physical plant and facilities which are in good condition.

Fourth. Blytheville Air Force Base has been demonstrated to be one of the least costly bases to operate when it is compared to Strategic Air Command installations of similar size and mission in other parts of the country.

Fifth. Blytheville Air Force Base has favorable climatic conditions with a mean temperature at 60 degrees compared to a 30 degree mean at Loring. Also, average annual snowfall at Blytheville is 8 inches compared to 114 inches of annual snow at Loring. This translates to a utility cost per square foot at Blytheville 50 percent less than the same costs at Loring.

These five advantages are but a few of the benefits of keeping Blytheville Air Force Base at full strength. From a purely strategic standpoint, it should also be noted that Blytheville is situated so that an additional 10 minutes of warning time is gained in case of attack when compared with the warning time available to bases situated in the northernmost reaches of the continent. Blytheville's inland location also affords it a distinct advantage in the event of a so-called "depressed trajectory" attack from submarines off our coasts.

Mr. President, may I ask one further question of the distinguished manager of the bill? Why did the committee require the Defense Department to do a study of strategic basing requirements?

Mr. HART. I would be pleased to respond to my good friend. During deliberations on this bill and on the recent round of base realinement decisions, it became very apparent to the committee that the Defense Department has not taken a hard look at the future requirements for the basing of strategic systems. At a time when the Defense Department is considering first, a new strategic tanker; second, a new cruise missile carrier; third, a long-range verision of the FB-111; fourth, a replacement for the B-52; fifth, the possible air mobile basing of ICBM's—although that option now appears to have been discarded for the time being—and sixth, the deployment of air launched cruise missiles, they are proposing to close a SAC base. The committee was unable to get any cogent responses to questions on future basing of these systems. It seems to me and to the committee that now—on the eve of the SALT debate—is not the time to be dismantling a SAC base. The committee, therefore, added language prohibiting the closure of Loring Air Force Base and directing the study of future SAC basing.

The advantages of Blytheville Air Force Base which you have outlined certainly demonstrate the value of this base to the Strategic Air Command and our strategic systems.

I understand the Senator's concerns very well. I have the same concerns with bases in Colorado. While I do feel that there are potential economies in base realinements in some places, I am nevertheless persuaded that the present Air Force SAC bases should be retained.

Mr. MUSKIE. Mr. President, I would like to address the military construction authorization bill which the Committee on Armed Services has reported. I support the bill from a budgetary standpoint. I oppose the provision within the bill that waives the requirements of the Davis-Bacon Act in regard to military construction activities.

Regarding the cost implications of the bill, it proposes an authorization level of $3.7 billion in budget authority. Fiscal year 1980 outlays resulting from the bill are approximately $1 billion. Both of these amounts represent slight reductions from the levels of the administration's request.

Mr. President, this military construction authorization, if appropriated at the levels discussed here, fits within the assumptions contained in the national defense targets of the budget resolution.

I extend my congratulations to my friend, the chairman of the Military Construction Authorization Subcommittee and the distinguished Senator from Colorado, Mr. HART. He has devoted a great deal of effort to this important legislation in order that our military facilities satisfy the military and housing needs of our Active and Reserve Forces. He has brought a military construction bill before the Senate that is fiscally responsible from the standpoint of the first budget resolution for fiscal year 1980. He serves as a valued member of the Budget Committee, and I thank him for his support in that regard.

STATEMENT ON LORING

Mr. President, the military construction authorization bill contains the funding necessary to assure that adequate facilities are available for military housing and military operational needs. I have stated that the bill is consistent with assumptions regarding the first budget resolution.

There are many significant provisions covered in the bill and I would like to address one that has a profound impact on the strategic capabilities and flexibilities of our forces and the economic viability of northeast Maine. I am referring to section 809 of the bill that prohibits the proposed realinement of Loring Air Force Base.

In March 1976, the Air Force initially announced the decision to realine the base. In March of this year, the Air Force announced that it had reconfirmed its earlier position and that the base strength would be reduced by 83 percent and Loring would become a forward operating base. Since the March 1976 announcement, I have probed continually for an answer from the Air Force as to the grounds for such a decision. Unfortunately, no answer has ever been forthcoming that can stand up to objective analysis of all aspects of the realinement.

In discussions with top Department of Defense officials and in detailed evaluations of the Air Force environmental impact study and other so-called Air Force justification documents regarding the realinement, the case against Loring has never been remotely made.

Mr. President, Loring Air Force Base is crucial to the operational effectiveness of our strategic and tactical forces. It is impossible to imagine why the Air Force would propose to phase down the base which is the most ideal SAC base from the standpoint of supporting logistics operations to European and Middle-East contingencies and supporting possible strategic operations aimed at Soviet targets.

Loring is 200 miles closer to these locations than other SAC bases located in the United States and I do not believe that we can afford to relinquish this advantage. Further, it seems military unwise to realine the base prior to decisions affecting future strategic options associated with the cruise missile program, the potential follow-on bomber program to the B–52, and air defense basing alternatives to counteract potential Soviet backfire capabilities.

Mr. President, I feel very deeply that the Air Force decision to reduce Loring Air Force Base is unsound, inconsistent with our national interest and an economic injustice to the people of northern Maine.

I have not come to my position lightly. I recognize that base realinements can be necessary actions if we are to have an effective structure for our national defense. I have demonstrated in the past that I can accept reductions in my own State where the case can be made that reductions are necessary in the national interest.

I do not believe, and the people of Maine do not believe, that our basing strategy ought to be dominated by economic factors. We are interested in an effective, efficient defense structure. But, in the process of developing a sound defense structure, there is room to consider other Federal priorities.

Environmental policies, local economic impact, and regional equity are all important Federal policies that should come in to play. I am sure there are those in the Department of Defense who resent the application of many or all of these concerns. Nevertheless, it is one of the responsibilities of Defense officials to assure that the broader social and economic policies of our country are respected, even as we pursue the critical goal of providing for the defense of our country.

In the case of the realinement of Loring, two specific directives require the Department of Defense to examine the broader implications of the realinement. Section 612 of the Military Construction Authorization Act of 1976 and its successor statute, and a directive from President Carter in the spring of 1978, require the Department of Defense to consider the economic implications of a realinement at Loring.

I will not speak at length today on the economic consequences of the Air Force proposal. I will state that it would be devastating. Estimates indicate that unemployment in the Loring area could reach 23 percent; there would be a loss of 30 percent of the area's total personal income and at least a 20-percent loss in retail sales. The alleged savings of approximately $13.5 million a year claimed by the Air Force for the first years of a Loring phase-down would be offset by an estimated $100 million cost to other Federal agencies over the initial 5-year period. So, contrary to the stated position of the DOD, there are no savings associated with Loring phase-down. The Government would pay and it would pay heavily.

Therefore, Mr. President, for both national security reasons and economic reasons, I strenuously oppose the Air Force's decision on Loring. I stated most of the basic points of my position in a letter to President Carter, dated May 23 of this year. I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., May 23, 1979.

Hon. JIMMY CARTER,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Since you and I last discussed Loring Air Force Base two important events have occurred: (1) the Secretary of Defense announced a decision for a phased reduction of the base; and (2) the Senate Armed Services Committee held a hearing to evaluate the proposed reduction of Loring.

As to the latter, the Committee members present at the hearing and myself were impressed that the Air Force could not justify its decision. We were amazed by the admission that they had not performed the thorough analysis necessary to meet the terms of your commitment of the requirements of law under Title 10, U.S. Code, Section 2687, Base Closings and Realignments.

The inadequacy of the Air Force rationale in the Loring decision was again revealed at the Armed Services Committee hearing. The reduction of Loring jeopardizes a valuable strategic asset (to preserve support operations elsewhere), places a devastating burden on the people of the area for cost savings which, at best, are marginal to the DOD, and under the only complete analysis available imposes costs of approximately $100 million on the Federal Government. Some of the significant information provided at the hearing supporting these views included the following:

(1) Testimony that Loring is the prime U.S. base for refueling aircraft for NATO and Middle East contingencies. Further, because Loring is 200 miles closer to key Soviet targets than other U.S. SAC bases, it offers range and target flexibilities for multiple

strategic options. These advantages are particularly significant when considering options for future bomber/cruise missile missions and the force limitations established by the proposed SALT II treaty.

(2) Rebuttal of Air Force testimony that Loring's vulnerability to the Soviet SLBM threat is significant since 9 of 11 SAC bases closer than Loring to the SLBM threat will be recipients of aircraft from Loring.

(3) An independent estimate that 5-year socio-economic costs to non-DOD Federal agencies as a result of the Loring proposal may exceed $100 million while the Air Force estimates these costs at only $25 million. No attempt has been made to resolve the wide disparity in these estimates, the sum of which exceeds projected DOD cost savings for many years.

(4) A failure by the DOD to comply with Title 10, U.S. Code, Section 2687, Base Closings and Realignments, which requires that the Secretary of Defense submit estimates of fiscal, local economic, and other consequences of proposed closures or realignments.

(5) A refusal by many non-DOD agencies to quantify the costs anticipated because of the Loring action.

(6) Suppression of a letter from the Regional Director, Region 1, of the Small Business Administration which states that the proposed Loring action would devastate Aroostook County in Maine and that "SBA's support of retention of Loring as a major facility would be the single most important action that we (SBA) would take in the state of Maine for years to come."

All the information suggests the Loring decision is unwise from a military perspective and unsound from an economic one. There is no military case for phasing down. For these reasons, I believe our national interests dictate the continuation of the base in a fully operational bomber/tanker status.

With warm regards.

Sincerely,

EDMUND S. MUSKIE,
U.S. Senator.

Mr. MUSKIE. Mr. President, I would like to state my support of the position of the Armed Services Committee and of the military construction bill before us. The committee held hearings. It listened to the arguments on both sides of the issue. It reached the only logical conclusion that could be reached. The committee's report accompanying the bill states that it "has become convinced that there are cogent strategic reasons not to dismantle this installation (Loring)."

I believe the committee should be congratulated for making its decision. The adoption of the Loring provision enables the Congress to accept its proper role, whereby, in conjunction with the executive branch, decisions are made regarding military missions and priorities. These types of decisions are rightly those of the Congress. The decision sets a precedent—but it is a precedent with which I am in total agreement. Ordinarily, I support the Department of Defense in the process of determining the U.S. base structure. However, the strategic and tactical logistics mission advantages provided to our forces by Loring Air Force Base cannot be overlooked—and discarded. For this reason, I congratulate Senators STENNIS and TOWER for the full committee, and Senators HART and THURMOND for the Military Construction Authorization Subcommittee, for their decision to prohibit the closing of Loring and to preclude the loss of a very valuable asset of our strategic capability.

In conclusion, I would like to ask the distinguished chairman of the Military Construction Subcommittee a few questions regarding the committee's position on the Loring matter, to make certain the intent of the provision is clearly understood.

The language of the Loring provision refers to the March 1979 Air Force decision and then states that no funds authorized to be appropriated in the Military Construction Act or any other act shall be obligated or expended for the purpose of realining Loring Air Force Base.

First, is it not true that the mention of the March decision is to merely refer to a point in time when a decision had been announced on Loring—and that the intent of the Loring provision is to prohibit the realinement of the base?

Mr. HART. My colleague is correct on both points. I will state that the purpose of the Loring provision is to prohibit the realinement of that base. The committee was very concerned about strategic implications associated with Loring and, until such time as critical decisions are made about future strategic alternatives for our forces, the committee believed it would be impractical to realine Loring.

Mr. MUSKIE. I thank my good friend for his eloquent explanation of the Loring provision and the excellent job he has done on this military construction authorization bill.

Mr. HART. I thank my colleague.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF MOTION TO REFER

Mr. TOWER. Mr. President, I amend my motion to read July 26 in lieu of July 25.

The PRESIDING OFFICER. The motion is so modified.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADLEY). Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

Mr. TOWER. Mr. President, I think we are ready to vote.

The PRESIDING OFFICER. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Georgia (Mr. TALMADGE) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 35, nays 63, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—35

Armstrong
Bellmon
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Chiles
Cochran
Cohen
Dole
Domenici
Durenberger
Exon
Garn
Hatch
Hatfield
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Percy
Pressler
Roth
Schmitt
Simpson
Stevenson
Stone
Thurmond
Tower
Wallop
Warner
Young

NAYS—63

Baker
Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Church
Cranston
Culver
Danforth
DeConcini
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevens
Stewart
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—2

Goldwater
Talmadge

So the motion was rejected.

Mr. ROBERT C. BYRD. Mr. President, I merely take the floor at this time to see if we might be able to reach some agreement on the Williams amendment as to time. The distinguished Senator from Texas is seeking recognition. Will he have a response?

Mr. TOWER. If I may have——

Mr. HART. Mr. President, may we have order?

The PRESIDING OFFICER. Let there be order in the Senate.

Mr. TOWER. I am not prepared at this time to agree to controlled time. The distinguished chairman of the Human Resources Committee has complained that there had been no opportunity by the Human Resources Committee to hold hearings on this measure, and my motion was to give the Human Resources Committee that opportunity, and then we could have gone ahead with other business today.

However, the Human Resources Committee chairman and other members of that committee have rejected jurisdiction of it at this point. Therefore, we probably should go ahead and debate the matter on its merits at this point because I have a great deal of material that I will put into the RECORD that I would not have done had there been hearings held on the matter.

I thought that was the orderly way to dispose of it, to give the Human Resource Committee the opportunity they sought. They have decided to reject that opportunity. Therefore, I think there is a great need that we debate this issue before we act on it.

Therefore, I am not in position to agree to controlled time.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator from Texas one reason why this was rejected was that the vote came when I was off the floor negotiating with the chairman of the Human Resources Committee. The Senator from Colorado was off the floor, and we were discussing the very thing the Senator is talking about, possibly reaching an agreement that would send it there but with a time agreement when it came back.

But nobody was here to protect us. Now, I have never let that happen. I would never let that happen. If the opposition was off the floor, I never took advantage of the opposition to see that a vote occurred. I have never done that. I have tried to protect the opposition, whether it be on the minorty side or on this side.

But on this occasion, I was sitting in my office discussing this very matter. Bang, the bells rang, and I said, "That's a rollcall vote." I come out, and I find the Senate voting the matter up or down.

Any Senator might have wished to move to table. We were trying to reach an agreement whereby the Senator might have his matter sent to the committee. This military construction authorization bill cannot wait forever. There are appropriation bills backed up behind it. We have an August holiday coming up. That is one reason why I voted against this motion.

I want to be protected while I am off the floor. I always see that the other side is protected. Nobody has to have that written in blood. But this matter of just calling for a vote when everybody is off the floor is a little bit unfair, in my judgment, and that is not the game I play.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. I had no desire to leave the Senator from West Virginia, or anybody, for that matter, unprotected. The Senator from New Jersey, perhaps I misunderstood him, but I thought he had indicated to me that no agreement could be arrived at because of certain undertakings I was not prepared to make, and therefore I thought the ball game was over.

Mr. ROBERT C. BYRD. He had come back to me, and we were discussing the matter.

Mr. TOWER. I had misunderstood the Senator from New Jersey. I simply asked for the yeas and nays; nobody sought to speak on the matter.

Mr. ROBERT C. BYRD. And nobody put in a quorum.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I interject these remarks not to try to assert one point of view or the other, but rather to say it was my understanding when I left the floor of the Senate a few minutes ago that the negotiations undertaken had failed. That was my understanding, and I went to the caucus room to participate in the SALT hearings.

I am frankly distressed that it appears now that negotiations were underway at the time, and we might have worked this out. Frankly, I would like to see it worked out so we can address mil-con as one matter and Davis-Bacon as a free, separate package.

I did not know this vote was going to occur. I am sure the Senator from Texas was in good faith in believing that the negotiations had been ended, just as I thought they had been ended. But it seems to me if there is still a remaining chance that we can arrive at a unanimous-consent arrangement to find a way to deal with this in an orderly fashion, we should try to do it. There is no irreparable damage done. I understand the distress of the majority leader, but I would hope we could see if we can work out an arrangement either to refer mil-con for a time, or find a way to split the Davis-Bacon aspect out of it, so we can deal with that at some future time as a separate measure. I am willing to participate in such negotiations, if that would be helpful, but I do not like there to be any inference that anything was done in bad faith.

Mr. TOWER. Mr. President——

Mr. ROBERT C. BYRD. I will yield in a moment. I am as much a peacemaker as anybody, when it comes to that, may I say to the distinguished minority leader, and I have as much patience as aynone has, I think. But I do not believe it is kosher, just because one thinks negotiations have broken down, to take advantage of the opportunity when the opponents of the motion are off the floor, and let the vote occur. I would certainly have thought it would have been common courtesy to put in a quorum call and alert the others that a vote was about to occur.

That having been said, I made a proposal to the distinguished Senator from New Jersey. I do not know whether he was about to accept it or not, but I had proposed that we send the matter to the committee and that it be referred back by a certain date—the date the Senator from Texas suggested was all right with me—provided we could get a time agreement when it came back, so the thing would not be around the Senate for several days, because this authorization measure ought to be passed before we go out for August, because when we come back we still have the appropriation bill backed up behind it, and we have the second concurrent budget resolution to be passed by September 15; so this ought to be disposed of in a day or so.

That was the proposal I had just made to the Senator from New Jersey. Whether he was prepared to accept it or not, he can say for himself, but there was still room for negotiation.

Mr. TOWER. Mr. President, if the Senator will yield——

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. I had already said I would agree to a controlled time when the matter was reported back to the Senate, and a reasonable controlled time. I am as anxious as anyone to see the military construction bill passed.

There were about six Democratic Senators on the floor at the time I requested the vote, most of whom I thought were opposed to the motion. Perhaps I was remiss in not putting in a quorum call. I did not set the time for the vote. It is something that just happened. But as the majority leader knows, I had already said before the vote that I would agree to controlled time, and that I would not take any initiative other than this one on Davis-Bacon in the interim period between the time this was referred to the Human Resources Committee and the time it came back. But that is the only undertaking I can make.

Mr. ROBERT C. BYRD. All right. Does the Senator from New Jersey wish to comment?

Mr. WILLIAMS. Mr. President, we have honestly tried to work this out so that we could find a way to deal with the military construction bill without this Davis-Bacon provision—so that that would be handled separately, but obviously we cannot go through all of the complex discussions that have been held over the last 3 hours, and we are at a point now where we are faced with a very limited time to consider this in committee, with many other things to consider before the committee within the next 2 weeks.

I joined the majority leader in not voting for this motion to refer. I have spent considerable time in saying that Davis-Bacon ought to be referred to the Human Resources Committee, and now I have voted against sending it there, but it was being sent for a limited reason: Not because it was part of military construction, which I say it should not be part of, but because it was sought to be referred for too short a time for our meaningful consideration.

The Senator from New York (Mr. JAVITS), who was the ranking minority member on our Subcommittee on Labor, when we had it, and I could confer further, perhaps we could see whether we could do justice to the limited subject matter of the Tower amendment to the pending military construction bill within that short time, and with other understandings that might be part of that. Maybe we could do that within 5 minutes.

Mr. ROBERT C. BYRD. Will the Senator do that?

Mr. WILLIAMS. Yes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that privilege of the floor be granted to my legislative aide, Peter Connolly, during the consideration of and during all votes on S. 1064 and S. 1149.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I yield the floor.

Mr. EXON. Mr. President, this is in the interest of saving time that I think will be meaningful, because I am hopeful that the latest round of negotiations and renegotiations, and renegotiations of negotiations, will be fruitful in the next few moments.

Since 10:30 this morning, as those of us who have been here know, we have been on S. 1319. Since that time, there has been laying on the desk an amendment I was going to offer. But with the agreement that has been worked out, I will withhold offering that amendment until toward the end of this month. Then I suspect that the bill in question will be coming up once again.

I wish at this time, just as a matter of explanation, to briefly make these remarks in the RECORD with regard to the amendment which I am offering.

It is a very simple amendment. It merely says that it would raise the threshold of applicability of the Davis-Bacon Act from $2,000 to $50,000.

Mr. President, this act has been at a $2,000 level since way back in 1935.

While I certainly am not for total repeal of the Davis-Bacon Act, I think those of us who have studied it recognize that there are some legitimate complaints that have been made against that act.

If the amendment that I intend to offer at the end of the month is finally adopted, we would reduce significantly the amount of paperwork for Davis-Bacon compliance. In fact, it could cut by half the amount of paperwork that is involved because the research that we have done indicates that almost half of the total jobs that have been authorized and previously qualified for under Davis-Bacon would be eliminated if we would simply raise this limit.

To those who are concerned about raising this limit, that it might affect unfairly the wage scales in a certain area, I would suggest that it would not, because even if this amendment is adopted by the Senate when it is offered, 95 percent plus of all the moneys that we still spend on all our construction involving Federal funds would come under the Davis-Bacon Act as in the past.

Mr. President, what my amendment would do would be to eliminate about half of the contracts that presently are and in the past have been out under this act, giving the smaller, independent businessmen a chance to bid—successfully, it is hoped—on many of these contracts, and simply modernize Davis-Bacon.

Some opposition has been expressed to this, but I hope that when it comes to a vote, all of us will recognize, regardless of how we feel about Davis-Bacon in toto, that somewhere along the line it must be modernized.

The main complaint about Davis-Bacon, I think, has come about because of the poor administration of this act over the years, by both Democratic and Republican administrations. I hope this administration will hear us loud and clear, with the actions we are taking in the U.S. Senate today, that it is about time the Department of Labor did a much better job than it has done in the past on the wage survey rates. Even the Department of Labor indicates that it has done a poor job on this in the past.

I hope that after all our deliberations and the many votes that undoubtedly we will have on this bill in the next few weeks or the next few months, and perhaps next year, we will remember that we can eliminate most of the problems that involve Davis-Bacon at the present time if we simply will raise the amount of the contracts covered under Davis-Bacon, on one hand, and, even more important, see to it that there is much better administration of the bill by the Department of Labor.

UP AMENDMENT 318

(Purpose: To delay the proposed closure or realinement of Fort Indiantown Gap, Annville, Pennsylvania, and New Cumberland Army Depot, New Cumberland, Pennsylvania, until after the Secretary of the Army has conducted an economic impact study)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. This amendment is not in order because of the pending amendment by the Senator from New Jersey.

Mr. HEINZ. Mr. President, I ask unanimous consent that my amendment be considered in order at this time, so that we can expedite the business of the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 318.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . No action with respect to the proposed closure or the realignment of Fort Indiantown Gap, Annville, Pennsylvania, or New Cumberland Army Depot, New Cumberland, Pennsylvania, until the Secretary of the Army has conducted a study of the economic impact on central Pennsylvania of (1) the proposed closure or realignment, as the case may be, of each such military installation, and (2) the recent nuclear accident that occurred at Three Mile Island, Middletown, Pennsylvania.

Mr. HART. Mr. President, will the Senator yield?

Mr. HEINZ. I yield.

Mr. HART. Will the Senator send the floor manager a copy, or can one be provided?

Mr. HEINZ. I apologize to the Senator.

Mr. President, this is the same amendment I discussed with the managers of the bill a few minutes ago.

Mr. President, my amendment to S. 1319, the military construction authorization, would prohibit the relocation of some 2,000 positions at Fort Indiantown Gap and New Cumberland Army Depot, until the Secretary of the Army has conducted a study of the impact on the local economy of this relocation and the Three Mile Island nuclear plant accident.

The announcement of the realinements were made on March 28, the same day that the accident at the Metropolitan Edison Three Mile Island nuclear plant occurred. That accident has had a serious adverse effect on central Pennsylvania, the same region impacted by the two base realinements. The difficulties the region is experiencing are made all the more difficult by the unprecedented nature of the nuclear accident and the uncertainties it creates for the future.

We simply do not yet know what this disaster is going to mean for the region's economy. We do know, however, that relocating the personnel at these bases will be an additional severe blow to the economy, adding further to the region's burdens.

I have written Army Secretary Alexander requesting him to conduct an in-depth economic impact analysis of the combined effect of the base realinements and the nuclear accident on the region. That study, which Jack Watson of the President's staff estimated would take 6 to 7 months, will provide the administration the necessary guidance as to what action to take with respect to Indiantown Gap and New Cumberland Army Depot. To relocate those personnel without this detailed study would be a real blow to the people of that part of my State, already burdened by Three Mile Island.

My amendment would simply prohibit the implementation of the realinements until completion of the study. At that point, if the administration chose, it could proceed with them. If it did so, however, it would be with full knowledge of the economic consequences, knowledge we currently lack.

I believe this amendment is an important part of our efforts to help the citizens in the area around Three Mile Island to recover from the economic effects of what happened there last March, and I urge my colleagues to support it.

Mr. President, I ask unanimous consent the text of my June 21, 1976 letter to Secretary Alexander be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
June 21, 1979.

Hon. CLIFFORD ALEXANDER,
Secretary of the Army,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: As you know, I and other Members of the Pennsylvania Delegationtion have met with your assistant Secretary to discuss the proposed transfer and elimination of some 1621 jobs at Indiantown Gap and New Cumberland, Pennsylvania.

At that meeting, Assistant Secretary Gibbs advised us of the results of Army studies with regard to the economic impact on the area, as well as on the comparative economic advantages to the Department of Defense. Moreover, the Assistant Secretary was kind enough to offer to review any additional economic statistics which Members had which we felt were relevant.

It came as a surprise to the Assistant Secretary, however, when he was advised that the Army's announcement was made on the same morning as the accident at Three Mile Island. Clearly, the resulting economic impact from the Three Mile Island was not a part of the Army's study for the proposed realignment. Nor, at the same time, do we in the Delegation, nor does the Governor, have the capacity to provide you accurate projections of the economic impact over the coming year.

Given the Army's ability to gauge economic adjustment factors, I believe that your agency would be well suited to undertake such an analysis. Without question, no recommendation on Fort Indiantown Gap or New Cumberland can be complete without an in-depth analysis of the combined effects of the accident at Three Mile Island with the Army proposals for the central area of Pennsylvania. To propose any major move without a clear understanding of the total impact would be unreasonable, as such a proposal might well serve to aggravate existing fears and concerns for the economic health and viability of the communities surrounding Three Mile Island, New Cumberland Army Depot, and Fort Indiantown Gap.

Consequently, I would very much appreciate your full review of the situation, including an economic impact analysis which takes into account the Three Mile Island accident. In this way, both the Army and the Congress would have full opportunity to balance the effects of your recommendations before taking any action.

Sincerely,

John Heinz,
U.S. Senate.

Mr. HEINZ. The situation, very simply, is that on the very day that we had a nuclear accident at Three Mile Island, some decisions were taken in the U.S. Department of Defense that would impact directly on the economy of the area by relocating certain military activities from Fort Indiantown Gap and New Cumberland Army Depot to other army installations.

I do not seek to undo those decisions by the Department of Defense. However, I do seek to delay them until the study that I have discussed with the White House—and which I understand the Secretary of the Army is in the process of undertaking—is completed. This may be a matter of some months. It is not the intention of this Senator to foreclose a decision that might be based on the completion of that study at some future date. Obviously, if this amendment is not accepted, it will be an open and shut issue.

I hope the amendment will be accepted.

The PRESIDING OFFICER (Mr. Exon). The Chair recognizes the Senator from Colorado.

Mr. HART. Mr. President, the subcommittee and the full committee have resisted strenuously efforts by various Senators to make adjustments or changes or to attempt legislatively to block efforts by the Defense Department to consolidate and realine bases.

The case which the Senator from Pennsylvania cites is an extraordinary one, having to do with circumstances that have nothing to do with the question of the realinement of those bases.

Under those circumstances, and since the amendment does not attempt in any way to prejudice or prejudge the ultimate outcome of the question of closure or realinement, it seems that the committee would be prepared to accept the amendment at this time, take it to conference, and discuss it with the House conferees.

Mr. THURMOND. Mr. President, for the reasons stated by the distinguished Senator from Colorado, and in view of the special circumstances that have existed in the State of Pennsylvania with regard to the Three Mile Island situation, I am willing to go along with the amendment.

Mr. HEINZ. Mr. President, I thank the managers of the bill, the distinguished Senator from Colorado and the distinguished Senator from South Carolina, for their understanding of this matter. I appreciate their support.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, on my amendment just adopted by the Senate I neglected to send a corrected copy of the amendment to the desk. I ask unanimous consent that the technically correct copy of the amendment be sent to the desk and be considered as the amendment that was adopted.

Mr. HART. Mr. President, reserving the right to object, do I understand the corrections will not subsequently change the amendment?

Mr. HEINZ. The Senator is entirely correct. I conferred with the Senator's staff. Indeed, were I not to make this correction, we would not have voted on the amendment that the Senator originally agreed to.

Mr. TOWER. Does the Senator understand that?

Mr. HART. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 49, after line 13 insert the following new section:

Sec. . No action with respect to the proposed closure or the realignment of Fort Indiantown Gap, Annville, Pennsylvania, or New Cumberland Army Depot, New Cumberland, Pennsylvania, shall be taken until the Secretary of the Army has conducted a study of the economic impact on central Pennsylvania of (1) the proposed closure or realignment, as the case may be, of each such military installation, and (2) the recent nuclear accident that occurred at Three Mile Island, Middleton, Pennsylvania.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I believe that I am correct in stating, based on my conversations with the distinguished manager of the bill (Mr. Hart), that all amendments to the bill, so far as we know, have been disposed of with the exception of the pending amendment by Mr. Williams to strike section 810, and an amendment by Mr. Exon.

If that be the case, I am about to propound a unanimous-consent request that is based on consultations with——

Mr. TOWER. Everybody.

Mr. ROBERT C. BYRD. Everybody, but specifically the minority leader, the manager of the bill (Mr. Hart), the ranking Republican manager (Mr. Thurmond), the chairman of the Labor and Human Resources Committee (Mr. Williams), the ranking Republican member of that committee (Mr. Javits), Mr. Tower, the chairman of the Armed Services Committee (Mr. Stennis), Mr. Exon, and others if I have left them out.

Mr. President, the request is as follows:

I ask unanimous consent that the military construction authorization bill be referred to the Committee on Labor and Human Resources, to be reported out as referred no later than the close of business July 26, 1978;

Provided further, that the majority leader be authorized, after consultations with the distinguished minority leader, to call up the bill between July 30 and August 1, inclusive of both dates;

Provided further, that the pending amendment at that time would be the amendment to strike section 810;

Provided further, that the only other amendment permitted would be that of Mr. Exon, the identity of which we are all familiar with, and any amendment to that amendment which is germane to that amendment;

Provided further, that there be a time limitation on the bill, when it is called up, of 2 hours, to be equally divided between Mr. Hart and Mr. Thurmond, and that there be 1 hour on any amendment; that there be 30 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate by the Chair; and

That the agreement as to the division and control of time be in the usual form.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object——

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I have the floor. I yield to the minority leader for a reservation of the right to object.

Mr. BAKER. I thank the Chair, and I thank the majority leader.

Mr. ROBERT C. BYRD. The Senator has the floor on reservation.

Mr. BAKER. I reserve the right to object only for the purpose of advising the majority leader that the request as he has propounded it conforms to the request as we have submitted it to Members on this side. I see the distinguished manager of the bill on our side is here, and the distinguished ranking minority member of the Armed Services Committee is here, and other Senators as well. I know of no objection to this formulation, and I have none. I wish only to reserve to advise the majority leader of that.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

Mr. HART. Mr. President, reserving the right to object, it is my understanding that under the request of the distinguished majority leader, all business that has transpired to this point on the bill will be, in effect, preserved when the bill is reported back by the Labor Committee; and further, that any other amendments except those which are contained in the order would not be in order.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. HART. I thank the majority leader.

Mr. THURMOND. Mr. President, the request that has been made pursuant to the agreement of the parties meets my approval, and I go along with it.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

The Chair hearing none, it is so ordered.

The text of the agreement follows:

Ordered, That S. 1319 (Order No. 226), a bill to authorize certain construction at military installations, and for other purposes, be referred to the Committee on Labor and Human Resources with instructions that it be reported out as referred, including all amendments agreed to, no later than the close of business on July 26, 1979.

Ordered further, That the Majority Leader be authorized on July 30th or 31st, or August 1st, to call up said bill, with the pending amendment by the Senator from New Jersey (Mr. Williams) to be the pending question, and with no other amendments in order, except an amendment by the Senator from Nebraska (Mr. Exon) and any germane amendment thereto.

Ordered further, That debate on any amendment be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Colorado (Mr. Hart) and the Senator from South Carolina (Mr. Thurmond): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. HART. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from Colorado.

Mr. HART. Mr. President, I thank the majority leader and the minority leader for their efforts in a very difficult situation. I think they have both acted very wisely and very helpfully, and I thank them both.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from Colorado.

Mr. BAKER. I thank the Senator as well.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate now proceed to the consideration of matters under the order previously entered.

REAUTHORIZATION OF FEDERAL INSURANCE ADMINISTRATION INSURANCE PROGRAMS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 903, which the clerk will report.

The second assistant legislative clerk read as follows:

Calendar Order No. 155, a bill (S. 903) to extend the crime insurance and riot reinsurance programs under title XII of the National Housing Act, the national flood insurance program under the National Flood Insurance Act of 1968, to authorize appropriations for studies under the National Flood Insurance Act of 1968 for the fiscal years 1980 and 1981, and for other purposes,

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

That section 1201 of the National Housing Act is amended—

(1) by striking out in subsection (b)(1), "September 30, 1980" and inserting in lieu thereof "September 30, 1981"; and

(2) by striking out, in subsection (b)(1)(A), "September 30, 1983" and inserting in lieu thereof "September 30, 1984".

SEC. 2. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof September 30, 1981".

(c) Section 1376(c) of such Act is amended by striking out "and not to exceed $114,000,000 for the fiscal year 1979" and inserting in lieu thereof the following: "not to exceed $114,000,000 for the fiscal year 1979, and not to exceed $74,000,000 for the fiscal year 1980".

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Alabama yield?

Mr. STEWART. Yes.

UNANIMOUS CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on this measure there be a time limitation as follows:

A one-half hour time limitation on the bill, to be equally divided between the Senator from Alabama (Mr. STEWART) and the Senator from Utah (Mr. GARN);

That there be a time limitation on any amendment thereto of 10 minutes, a time limitation on any debatable motion, appeal, or point of order of 10 minutes; and

That the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, with respect to the next bill which follows on after the disposition of the pending bill, or Calendar Order No. 169, the rural housing bill, I ask unanimous consent that the following agreement be in order:

That there be 1½ hours on the bill, to be equally divided between Mr. MORGAN and Mr. GARN;

That there be 1 hour on any amendment in the first degree, 30 minutes on any amendment in the second degree, and 20 minutes on any debatable motion, point of order, or appeal; and

That the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I further ask unanimous consent, in the case of both bills, Calendar Order No. 155 and Calendar Order No. 169, that following the third reading of the measures, they be put aside temporarily until such time as the third housing bill, Calendar Order No. 176, has been called up and is in the amendment stage, and that no call for the regular order bring either of those two bills back before the Senate until such time as the third measure is before the Senate, and only then for the purposes of incorporating them into that bill, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I believe that concludes my request, and I thank the minority leader and all Senators.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

STATEMENT OF SENATOR STEWART

Mr. STEWART. Mr. President, S. 903, is a bill to extend the crime insurance and riot reinsurance program under title XII of the National Housing Act, the national flood insurance program under the National Flood Insurance Act of 1968, to authorize appropriations for studies under the National Flood Insurance Act of 1968 for the fiscal years 1980 and 1981, and for other purposes.

S. 903 was reported favorably to the Senate by the Committee on Banking, Housing, and Urban Affairs on May 15. The bill is a simple extension and reauthorization measure. It is similar to the bill submitted by the administration in order to continue the programs conducted by the Federal Insurance Administration.

S. 903, as recommended by the Committee on Banking, Housing, and Urban Affairs would extend the National Flood Insurance and the crime insurance and riot reinsurance programs for 1 year, and in addition, would authorize appropriations for necessary flood studies not to exceed $74 million in fiscal year 1980. This is the amount requested by the administration.

In recommending committee adoption of S. 903, I indicated that I believed passage of this measure is necessary at this time in order to insure that the proper oversight hearings on these programs can be conducted during the coming year and that subsequent legislative deliberations can be held in an orderly manner. Reauthorization for an additional year will, I believe, eliminate the possibility that the Senate would be faced with the necessity for passing a short-term extension for the programs, or making last minute decisions because the programs are expiring.

I understand that on several previous occasions, delays in enacting authority for the insurance programs resulted in panic buttons being pressed all across the country because existing insurance arrangements were threatened with unexpected termination.

We all know that neither the private insurance industry, nor the Federal Insurance Administration, can operate effectively on uncertainty, delay, or short-term extensions.

We cannot, this year particularly, permit the flood insurance program to be jeopardized. The crime insurance program is just now beginning a critical test; I believe we should permit the demonstration to be carried out and the results evaluated in a systematic way, rather than force the results by untimely scheduling.

The riot reinsurance program and the related FAIR plan property insurance program need a lot of study. Failure to act this year would mean that study, interpretation, and legislative deliberation could be straitjacketed by the calendar.

Mr. President, at this time I yield to my distinguished colleague.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, I thank the distinguished Senator. I have no comments at this point.

The PRESIDING OFFICER. The Senator from Alabama.

UP AMENDMENT NO. 310

(Purpose: To transfer position of Federal Insurance Administrator to the Federal Emergency Management Agency. Transfers Level IV position on executive pay scale from Department of Housing and Urban Development to Federal Emergency Management Agency)

Mr. STEWART. Mr. President, I have two technical amendments to offer. These amendments would simply transfer the position of the administrator of the national flood insurance program now lodged in the Department of Housing and Urban Development to the newly created Federal Insurance Administration.

This has been discussed with Mr. Macy, designated nominee of FEMA and he desires that this transfer be made at this time.

These are technical amendments, and I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection. it is so ordered.

Mr. STEWART. Mr. President, I send the amendments to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. STEWART) proposes an unprinted amendment numbered 319.

Mr. STEWART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, after line 22, insert the following:

Section 1105(a) of the Urban Property Protection and Reinsurance Act of 1968 (Title XI of Housing and Urban Development Act of 1968) is amended by striking out "Department of Housing and Urban Development" and substituting in lieu thereof "Federal Emergency Management Agency."

On page 3, after line 22, insert the following:

Section 5313 of Title V United States Code is amended by striking, at paragraph "(91)" the words "Department of Housing and Urban Development" and substituting in lieu thereof the words "Federal Emergency Management Agency."

Mr. STEWART. Mr. President, my statement indicated the purpose of the amendment. I yield to my colleague.

Mr. GARN. Mr. President, the bill before the Senate—S. 903—does two things. It is a simple 1-year extension of the Federal flood insurance, crime insurance and riot reinsurance programs. These programs are presently authorized through September 30, 1980, and the bill would extend the authorizations until September 30, 1981. Further, the bill would authorize appropriations of $74 million in fiscal year 1980 for flood insurance mapping studies, an ongoing process to determine actuarial premium rates for flood insurance.

While I am supporting S. 903, I wish to reiterate briefly the concerns about the bill which I expressed during its consideration by the Committee on Banking, Housing, and Urban Affairs in May of this year. It should be made clear that extending these programs does not represent any conclusion by the Banking Committee or by the Senate that all of these programs should be continued indefinitely, or that they should not be modified. Unfortunatley, no hearings have been held on S. 903; as a result, detailed evaluation of the operations of the programs must be deferred.

In that regard, my willingness to support the bill has been and continues to be dependent upon an undertaking by the Subcommittee on Insurance to conduct meaningful oversight hearings on the present operations of the programs. At that time the subcommittee will have an opportunity to assure itself that the programs are operating in accordance with congressional intent, and to evaluate the question of whether the riot reinsurance and crime insurance pograms should be continued.

It should be remembered that the Federal riot reinsurance and crime insurance programs were created as temporary programs to address the insurance needs of urban areas in the wake of riots which occurred in the late 1960's. The laws creating these two programs contain a provision requiring the submission to Congress of a plan for the "liquidation and termination" of the programs.

Thus, it is clear that Congress has a responsibility to judge periodically whether the programs should be continued or, on the other hand, whether the private insurance and reinsurance markets are in a position to provide the needed insurance coverages. I should emphasize that I have not reached any conclusions on these questions, but I believe that Congress has a continuing responsibility to ask the questions.

This is of course true of any Government program, but it is particularly true in this case. The Federal Insurance Administration, which administers the insurance programs, was combined into a new Agency, the Federal Emergency Management Agency (FEMA) earlier this year. However, the administration has been unable or unwilling to appoint a Director of FEMA, even though it has reportedly been seeking to do so since last year. Under these circumstances, it may have been more prudent for the Senate to withhold the extension of these programs until the administration discloses who is going to be in charge of the Agency.

Mr. President, the taxpayers of this country are demanding—as they should demand—that Congress stop enacting and extending Federal programs on a bare showing that somebody thinks that they are a good idea. It is incumbent upon the Senate to respond to the public's expectations by carefully examining existing programs, and I urge the members of the Banking Committee to do just that in its oversight of the Federal insurance programs.

Mr. STEWART. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GARN. Mr. President, I yield back the time of the minority on this particular amendment.

The PRESIDING OFFICER. Does the Senator from Alabama yield back the remainder of his time on the amendment?

Mr. STEWART. Mr. President, I yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Are there further amendments?

Mr. STEWART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 320

(Purpose: To require a study of the impact of the national flood insurance program on well developed flood hazard areas)

Mr. HUDDLESTON. Mr. President, on behalf of myself, Senator FORD and Senator STEWART I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON) proposes an unprinted amendment numbered 320.

Mr. HUDDLESTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

SEC. 3. The Director of Federal Emergency Management Administration, in consultation with the Appalachian Regional Commission, the United States Army Corps of Engineers, and other appropriate agencies, shall carry out a study to identify (1) the extent to which individual political jurisdictions have significant concentrations of population, businesses, and commercial and public facilities within special flood hazard areas under the national flood insurance program but have a limited availability of alternative sites for construction and development, and (2) the impact of the national flood insurance program on property values, the tax base, and economic activity in such jurisdictions, and shall report not later than March 1, 1980, to the Congress on the special problems of such jurisdictions and alternative means of meeting any problems identified. The alternative means considered shall include but not be limited to technical assistance, long-term subsidized interest rate loans, and development of alternative building sites.

Mr. HUDDLESTON. Mr. President, I believe that many of the objectives of the flood insurance program are desirable, perhaps even necessary. A system that insures against disaster losses is certainly preferable to one of waiting for a calamity and then for Federal grants and loans.

Even so, however, I think we are all aware of the many problems that have plagued the flood insurance program and of the rather harsh repercussions which result when a community either will not or cannot meet the requirements for participation in the program.

Indeed, I understand that the committee has reported the straight 1-year extension of the existing law in order to provide additional time to examine in detail this somewhat complicated and controversial program.

The amendment I am offering today goes to the heart of a problem which continues to plague the program—how to deal with those areas, such as the very mountainous ones in the Appalachian region of my State, where much of existing development is within the 100-year flood plain; where alternative development sites are expensive, limited, inconvenient or simply unavailable and where the flood insurance program as it currently exists can practically bring to a standstill expansion and development within an area and depress the property values therein.

It is a very simple matter to say that one should build outside the flood plain. Certainly one "should" build outside the flood plain, but the realities and practicalities are something else. We are talking about communities which already exist—homes and businesses that represent investments and roots—homes and businesses that were built in many cases long before there was any such thing as a flood area designation.

Yet, we have come into these areas and said, "Either you do not build in the flood plain or you build with protection," a requirement which can be costly, if not practically impossible.

Furthermore, we have said, "If you do not accede to our requirements, then funding for expansion and growth of your community will be severely limited."

This might be an acceptable approach if these communities were not well established ones or if they had ready options. But in many mountainous areas, that is not the case. In those areas, there is often no alternative site outside the flood plain, no financing for a move even if one were feasible and no inclination to abandon home and resources.

In a number of areas, including my State, the situation is compounded by the fact that our most abundant energy supply—coal—comes from these regions. Development of that energy means additional people, additional businesses and expansion, all of which exacerbate already-existing pressures in the area.

The bottom line question is what restrictions, what limitations we can fairly and reasonably impose upon such communities—what economic burdens we can expect them to bear, principally because of the accident or happenstance of their location.

Consequently, this amendment seeks to provide us with an assessment of the extent of the problem and some initial recommendations for consideration—an assessment and recommendations that could, I hope, form the base for committee hearings and consideration of this special matter.

Mountainous areas as well as developed areas within the flood plain are scattered throughout our Nation, but the problems they pose for the flood insurance programs are ones that need to be addressed, not ignored. I would hope that this amendment could provide the groundwork for addressing those problems.

The amendment calls for a study of these special situations where much of a developed community lives within the special flood hazard area and alternative developable land is limited or nonexistent. It also requires a report by March 31, 1980 on both the impact of the flood insurance program on these areas and recommendations for meeting the problems which exist because of their special situation.

Mr. GARN. Mr. President, several community leaders in Utah have informed me that the flood insurance regulations imposed on many Utah areas are inappropriate for the type of flooding problems which might occur in those communities. In such areas where the flood level would be very low, and the designated flood hazard area covers a large portion of the community, they believe that the communities are required to comply with essentially the same regulations as major flooding areas. I understand that the same problem exists in other Western States.

As a matter of fact, at one point when I was mayor of Salt Lake City, as large as that city is, almost the entire city was included in the flood plain, even up on the high bench levels, and we were fortunately able to get rid of the 1875 map they were using to determine the flood plain and make it more realistic.

But in our smaller communities, it does become a real problem.

So my question to the distinguished Senator from Kentucky is, Would the study contemplated by your amendment include an analysis of this type of problem?

Mr. HUDDLESTON. I would certainly anticipate that it would.

That is the kind of problem, regardless of its cause, that ought to be included in the study, and we should have some recommendations on it.

Mr. GARN. Under the amendment, would it be appropriate for local officials to submit information to the Federal Insurance Administration concerning the economic effects of the flood insurance regulations, and for that information to be considered in the study?

Mr. HUDDLESTON. I would think it would not only be appropriate, but necessary, for those conducting the study to include information about economic geographic and other related factors from local officials. I believe that is where they ought to start with the study.

Mr. GARN. I would agree with the Senator. But what is logical, sometimes is not taken into consideration by Federal agencies.

So with that clarification, that these type studies would be contemplated, where the area includes much of a community and where local officials certainly would be welcome to submit their economic data on the effect it has in their community, and that be taken into consideration, I have no objection to the amendment.

Mr. STEWART. Mr. President, I commend the Senator from Kentucky for offering the amendment.

I, too, have similar problems in my State, particularly in the southeastern part of the State along the gulf coast.

I have joined with him in sponsoring this amendment. In line with what the Senator from Utah asked in his questions, I would hope that our people could take advantage of this opportunity.

I have no objection to the amendment whatsoever.

Mr. HUDDLESTON. I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GARN. I yield back the remainder of the time for the minority.

Mr. HUDDLESTON. I yield back my time.

The PRESIDING OFFICER. The

question is on agreeing to the amendment.

The amendment (UP No. 320) was agreed to.

The PRESIDING OFFICER. Are there any further amendments?

Mr. STEWART. I understand, Mr. President, that is all the amendments. With that understanding, I would yield back the remainder of my time.

Mr. GARN. I yield back the minority time.

The PRESIDING OFFICER. All time has been yielded back.

FEDERAL INSURANCE PROGRAMS: THE IMPORTANCE OF FLOOD INSURANCE

Mr. ROBERT C. BYRD. Mr. President, I commend the chairman of the Insurance Subcommittee of the Banking Committee, Senator STEWART, for his management of the Federal insurance programs reauthorization bill. Senator GARN did a commendable job managing for the minority. The ranking minority subcommittee member, Senator LUGAR, has also done a fine job in connection with this bill.

Particularly important to me and to the people of West Virginia is the extension of the flood insurance program. The 11-year-old program has done much to reduce the losses suffered by people driven from their homes and businesses because of floods. The bill extends flood insurance for 1 year. During that time, the Banking Committee will carry out thorough oversight hearings on the program and make legislative recommendations to improve it.

One addition to the program is authorized by this bill; $74 million for the mapping of flood plains. Once detailed maps of flood plains are available, a new system of premiums designed to keep the insurance system on a sound footing can be put into effect. Particular care will be paid to mountainous regions where flooding is more difficult to predict.

I again commend the managers for their work on this measure and thank all Senators involved.

The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

RURAL HOUSING AMENDMENTS OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1064, which the clerk will state by title.

The second assistant legislative clerk read as follows:

A bill (S. 1064) to amend and extend title V of the Housing Act of 1949.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs with amendments as follows:

On page 2, line 11, strike "1981" and insert "1980";

On page 2, line 13, strike "1981" and insert "1980";

On page 2, line 20, strike "1981" and insert "1980";

On page 3, beginning with line 8, insert the following:

(1) by inserting "and" after "clause," at the end of clause (A);

On page 3, line 10, strike "(1)" and insert "(2)";

On page 3, line 12, strike "(2)" and in sert "(3)";

So as to make the bill read:

S. 1064

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Rural Housing Amendments of 1979".

EXTENSIONS AND AUTHORIZATIONS

SEC. 2. (a) Section 513(b) of the Housing Act of 1949 is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1980".

(b) Section 513(c) of such Act is amended by inserting after "September 30, 1979" the following: ", and not to exceed $30,000,000 for the fiscal year ending September 30, 1980".

(c) Section 515(b)(5) of such Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(d) Section 517(a)(1) of such Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(e) Section 523(f) of such Act is amended—

(1) by inserting in the first sentence after "any such fiscal year," the following: "and there are authorized to be appropriated not in excess of $7,500,000 for the fiscal year ending September 30, 1980,"; and

(2) by striking out "1979" in the second sentence and inserting in lieu thereof "1980".

(f) Section 523(g) of such Act is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1980".

(g) The second sentence of section 525(c) of such Act is amended by striking out "for the fiscal year ending September 30, 1979," and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1980".

REFINANCING

SEC. 3. Section 501(a)(4) of the Housing Act of 1949 is amended—

(1) by inserting "and" after "clause," at the end of clause (A);

(2) by striking out ", and" at the end of clause (B) and inserting in lieu thereof a period; and

(3) by striking out clause (C).

ASSISTANCE ALLOCATION

SEC. 4. Title V of the Housing Act of 1949 is amended by adding at the end thereof the following:

"ALLOCATION

"SEC. 529. Notwithstanding any other provision of law, the Secretary shall assure when providing assistance for housing under this title that, in each fiscal year, at least 30 per centum of the eligible households assisted have incomes below 50 per centum of the national median income, and no more than 15 per centum of the eligible households assisted shall have incomes above 80 per centum of the national median income.".

COMPENSATION FOR DEFECTS PROGRAM

SEC. 5. Section 509(c) of the Housing Act of 1949 is amended by striking out the word "eighteen" the second and fourth places it appears and inserting in lieu thereof the word "thirty-six".

PROPERTY DISPOSITION

SEC. 6. Section 510(e) of the Housing Act of 1949 is amended—

(1) by inserting, ", to repair and rehabilitate such property," after "United States therein"; and

(2) by inserting before the semicolon at the end thereof the following: "; except that the Secretary may not sell or otherwise dispose of such property unless (1) the property meets the plans and specifications established for that type of housing by the Secretary under section 506(a) of this title, (2) the recipient of the property is obligated, as a condition of the sale or other disposition of the property, to meet such standards with respect to the property before such property is occupied, or (3) such recipient is precluded, as a condition of the sale or other disposition of the property, from using the property for purposes of habitation".

FARM LABOR HOUSING

SEC. 7. (a) Section 516 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(h) Notwithstanding the provisions of subsection (a)(3), the Secretary may, upon a finding of persistent need for migrant farmworker housing in any area, provide assistance to eligible applicants for 90 per centum of the development costs of such housing in such area to be used solely by migrant farmworkers while they are away from their residence. Such housing shall be constructed in such a manner as to be safe and weatherproof for the time it is to be occupied, be equipped with potable water and modern sanitation facilities (including a kitchen sink, toilet, and bathing facilities), and meet such other requirements as the Secretary may prescribe. Such housing shall be located in a safe and sanitary environment with adequate recreation area.".

(b) Section 516(c)(1) of such Act is amended by inserting before the semicolon at the end thereof the following: "; except that in no case may the monthly rental exceed 25 per centum of one-twelfth of the tenant's annual income unless the applicant is receiving assistance under section 521(a)(2)(A) of this title (or has been denied such assistance after making a good faith effort to obtain it) or the tenant is receiving assistance under section 8 of the United States Housing Act of 1937".

PREPAYMENT—LOW-INCOME CHARACTER

SEC. 8. (a) The Congress declares that it has been its intent since the enactment of sections 514 and 515 of the Housing Act of 1949 that prepayments or refinancing under section 502(b) of such Act should not operate in a manner which will deprive low- and moderate-income occupants, or potential low- and moderate-income occupants, of rural rental or farm labor housing financed under such sections, of their right to continue residency in that housing upon reasonable terms and conditions.

(b) Section 502 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(c) When enforcing the provisions of subsection (b)(3) of this section with respect to any loan under section 514 or 515, including any loan made or insured before the date of enactment of this subsection, or when approving the repayment of any such loan before the time when it was originally scheduled to be repaid, the Secretary shall take appropriate action to require the borrower and any successors in interest (1) to continue to use the housing for its original purposes during the remainder of the original repayment schedule, and (2) to give assurance that no person occupying the housing shall be required to vacate because of early repayment. The preceding sentence does not apply where the Secretary determines that there is no longer a need for such housing.".

TECHNICAL ASSISTANCE

Sec. 9. Section 523(b) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) to make grants to, or contract with, national or regional private nonprofit corporations to provide training and technical assistance to public or private nonprofit corporations, agencies, institutions, organizations, and other associations eligible to receive assistance under this section in order to expand the use of authorities contained in this section and to improve performance; and".

RENTAL ASSISTANCE

Sec. 10. (a) The first sentence of section 521(a)(2)(A) of the Housing Act of 1949 is amended—

(1) by striking out "public and private nonprofit owners" and inserting in lieu thereof "the owners"; and

(2) by inserting a comma before "congregate".

(b) Section 521(a) of the Housing Act of 1949 is amended—

(1) by striking out, in paragraph (1)(H), "of loans made" and inserting in lieu thereof "of new loans made in any year"; and

(2) by striking out the second sentence of paragraph (2)(A) and inserting in lieu thereof the following: "Such assistance may be for up to 100 per centum of the units in any farm labor, cooperative, or other rental project assisted under this section. In approving such projects, the Secretary shall give priority to projects in which assistance is provided to 40 per centum or less of the units contained in the project.".

Mr. STEWART. Mr. President, I ask unanimous consent that the following aides have the privilege of the floor during the debate on S. 1149, the Housing and Community Development Amendment of 1979: Albert Eisenberg, David Yudin, Frank Shafroth, Steven Rohde, Flip Morris, Charlesetta Griffin, Michele Turcotte, Stephen Paradise, Gerald Lindrew, Michael Goldberg Deniese Medlin, Philip Corwin, Judith Davison of Senator SARBANE's staff, Ken McClean, Bob Malahoff, Phil Sampson, Jessalie Barlow, Tony Clough, and Howard Mennell.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. STEWART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORGAN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business before the Senate is S. 1064.

The question is on agreeing to the first committee amendment.

Does the Senator wish all committee amendments to be considered en bloc?

Mr. MORGAN. I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

Mr. MORGAN. Mr. President, this bill was reported favorably by the Committee on Banking, Housing and Urban Affairs on May 15 of this year, following a markup on May 10 and a hearing on May 4, during which testimony was received from the Administrator of the Farmers Home Administration, the Assistant Secretary for Housing of the Department of Housing and Urban Development, and representatives of organizations which have broad experience with rural housing programs.

The committee bill would extend and provide appropriations authority for the basic housing programs conducted by the Farmers Home Administration, and would make nine substantive changes in rural housing programs.

The committee bill is similar to the bill submitted by the administration in terms of spending authority. It differs from the administration bill chiefly in restricting spending to 1 year, instead of providing authority for 2 years, as requested by the administration.

The Congressional Budget Office estimates that the bill would provide authorization for $84 million in loans and $66½ million in spending authority for rural housing grants.

The bill would continue the authority requested by the administration for a rural homeownership assistance program.

CBO estimates that outlays for these rural housing programs will amount to $140 million in fiscal year 1980, and that the long-run budget authority authorized will total just over $1 billion.

In addition to extending and reauthorizing the homeownership and rental assistance programs, the farm labor housing program, the very low-income repair program, and several other valuable rural housing programs, all of which are explained in the committee report in more detail, the bill would make several important changes in the Farmers Home programs.

Section 4 would direct the Secretary of Agriculture to target more funds for housing assistance to lower income families.

Section 7 would aid the Nation's farmworkers, one of the lowest income groups in the Nation, by extending the 25 percent maximum rent rule used in other housing programs to farmworker housing projects. This section also would authorize grants to construct housing appropriate for seasonal occupancy in order to improve the frequently appalling living conditions these essential workers find themselves in.

Mr. President, I have toured some of this housing in my own State, and I know the need for the improvements we are talking about.

Section 8 of the bill would clarify congressional intent regarding the obligation of sponsors of rural rental housing to maintain projects financed with FmHA loans for persons of low- and moderate-income. This provision was adopted by the committee out of a concern that the shortage of decent housing and increasing property values in rural areas is increasing financial pressure to convert FmHA-aided rental housing now serving lower income persons to higher income rentals. The committee received information indicating that during the past 3 years there has been a significant increase in the number of owners of FmHA financed projects who have prepayed or refinanced their loans.

Such action, the committee believes, could result in a significant reduction in the number of rental units available to lower income persons in rural areas, the very persons this program was intended to help; in the tragic displacement of elderly and lower income families from apartments that were intended for their use; and an increased costs to the Federal Treasury for providing rental housing assistance in our smaller communities. Section 8 of the committee bill would clarify congressional intent that prepayment or refinancing of FmHA loans should not result in eliminating housing that has been financed to provide shelter for elderly and lower income persons in rural areas, and require the Secretary of Agriculture to take appropriate action to insure that such housing will remain available for the purpose intended by the law.

In addition to making these changes, the committee bill also would improve the farmers home property disposition programs, its home refinancing authority, its program of technical assistance and several other programs.

Mr. President, I am aware that there is substantial concern about section 8 of the bill, the prepayment provision. I share a good deal of this concern. For the problem that the provision attempts to resolve is a difficult and complex issue. It involves the interests and well being of low- and moderate-income rural residents and of builders and investors who have, expanded housing opportunities in rural America and are continuing to. It also vitally affects the rental program of the Farmers Home Administration. And, in addition, it affects all of us as taxpayers.

I have in recent days received a considerable amount of new information about the prepayment issue. I have, as a result, reviewed the provision. I have come to share some of the views of those who believe the provision can be improved.

I understand that several of my colleagues wish to speak to the prepayment issue with a view toward amending it.

I would be most happy to hear additional discussion of the provision and to entertain any proposals which may improve the committee bill.

While I have, after reviewing the subject, come to believe that some change may be necessary to provide for a better balancing of the various interests affected by the provision, I will, as manager of the bill, hold my mind open to the suggestions that my colleagues may wish to make.

I indicated in my remarks that I have received additional information concerning the provision in the bill which would require borrowers to continue to use the housing for its original purpose "during the remainder of the original prepayment schedule".

While we did not receive many comments on this provision before the committee's markup of the bill, we have since then.

The information we are receiving indicates that there is considerable concern that the amendment could significantly reduce the production of rental housing in rural areas. Many builders and many investors have stated that a restriction on prepayment for a period as long as 50 years which is normally the period of the loan could in effect dry up investor interest in rural housing. A number of my colleagues have also expressed concern about the possible impact of the amendment on the production of housing.

While our original estimate did not support the view that the amendment would drag production to a standstill, more recent information has raised more doubts in my mind about the potential impact. I sought from the Department of Agriculture and from the Department of Housing more information to assess the potential impact. The answers indicate that we really do not know what the impact would be for sure. The rural rental housing program is still too new to provide much information. Moreover, the rapidly changing economic climate raises even greater questions.

Rental housing production in the Nation is at an all-time low. In our smaller communities, the need for rental housing is increasing as never before. Recent economic changes cloud the future of housing production, particularly the production of rental housing.

I would not want to see a sharp reduction in rural rental housing production at this time.

Nor do I want to see rural rental housing opportunities for low- and moderate-income families reduced simply because owners of projects financed by FmHA find that it is in their economic interest to pay off the loans and to convert these apartments to condominium or higher income rentals.

It is not easy to strike a balance between the objectives of maintaining production and maintaining rural rental housing for low- and moderate-income persons.

But, in reviewing this matter, I have come to the conclusion that an amendment to the committee bill is needed.

I, therefore, am introducing an amendment to limit the period during which the Secretary of Agriculture would oversee early repayments under the section 515 program to 15 years. This, I believe, is a reasonable compromise from the requirement of the committee bill.

UP AMENDMENT NO. 321

(Purpose: To modify the prepayment provision)

Mr. MORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 321.

Mr. MORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 18, strike out "remainder of the original repayment schedule" and insert in lieu thereof "15-year period beginning on the date the loan is made or insured".

On page 6, line 20, before "because of early repayment" insert "prior to the close of such 15-year period".

Mr. MORGAN. Mr. President, I move that the amendment be adopted.

Mr. President, I yield the floor at this time.

Mr. GARN. Mr. President, the housing and development problems of rural America are serious. There are countless small communities and millions of families which desperately need the assistance provided in S. 1064, the Rural Housing Amendments of 1979, which we have before us. This legislation authorizes for fiscal year 1980 important rural housing programs administered by the Farmers Home Administration. I commend Senator MORGAN, chairman of the Rural Housing Subcommittee, for his leadership in putting this legislation together.

I am basically in support of the provisions of S. 1064 which for the most part represent increases over previous years' funding levels. We have a long way to go in meeting the needs of our rural citizens, and while it contains increases, I still feel this bill is a reasonable measure keeping with our efforts to hold down Federal spending.

However, I have one problem with this legislation. During markup the Banking Committee adopted as section 8 the prepayment low-income character provision. Upon further consideration and discussions with Senator MORGAN, I have decided that this provision will so seriously hamper the future development of section 514 and section 515 housing that I will support the amendment offered by Senator MORGAN and propose one of my own. Senator MORGAN and I have reached an agreement that these two amendments are a more reasonable provision than contained in S. 1064 regarding prepayment or refinancing of projects built under the section 514 and section 515 programs of the Housing Act of 1949.

Our amendments would apply to the relatively small section 514 farm labor housing program, and it would be primarily directed at preserving the highly successful section 515 rural rental housing program. This program provides loans to nonprofit limited-profit and profitmaking organizations and individuals who are developing low-rent housing for low- and moderate-income persons and the elderly.

Let me speak first to Senator MORGAN's amendment which deals with a provision which is currently contained in the bill, which I believe is unreasonable and inequitable. It would provide that with respect to prepayment or refinancing of any loan under the section 514 or 515 programs, the borrower or any new purchaser would be required to maintain the housing for low- and moderate-income persons for the entire term of the loan, which is up to 50 years. In addition, the provision appears to be intended to apply retroactively to all projects which have already been developed under these programs.

Mr. President, the "50-year lock-in" provision, as it has been called, seems to me particularly unwarranted and onerous. I understand the intent of the supporters of this provision which is to maintain low- and moderate-income housing for its intended beneficiaries for as long a term as possible. But what this provision will actually do is to eliminate any possible incentive for the private developer or private investor to participate in these programs. And I think that the unintended result of this "50-year" provision—which does not exist in any other low- and moderate-income housing program—would be a significant loss in the available housing for low- and moderate-income families and the elderly because the private developer would be excluded from the program.

It is a fact that although the institutional nonprofit groups are given priority in funding under the section 515 program, the largest percentage of loans under the program—well over one-half in 1978—are given to profit-motivated sponsors. If private sponsors were virtually excluded under this program, I do not believe that nonprofit sponsors would be able to fill the gap.

I believe that it is important to maintain some incentive to allow the private developer—both large and small—to remain in this program. This program was developed to provide needed housing in smaller communities where conventional financing is not available. In fact, a "credit elsewhere" provision is included in the Housing Act of 1949 which provides that loans should be refinanced whenever it is determined that this can be done through private sources on reasonable terms and conditions.

I do not oppose a congressional determination at this time which provides that the program should be operated so that prepayment or refinancing does not result in the elimination of low- and moderate-income housing for a reasonable period of time. But I think that the solution contained in this bill is a classic case of legislative overkill. First, we have no statistical or objective evidence from the Farmers Home Administration which shows that when these projects are refinanced or prepaid, the existing tenants are displaced. In fact, all of the evidence that I have seen indicates that in most instances the projects remain within the program and continue to serve the low- and moderate-income occupants. The

Farmers Home Administration has been unable to provide documentation which demonstrates the scope and nature of this alleged problem.

Second, just a few years ago, the Farmers Home Administration developed provisions which made syndication of this type of project feasible. Now, this provision would eliminate this form of investment in these projects because no investor would want to lock up his money for a term of 50 years. The tax advantage in this type of project looks toward a maximum term of about 10 years for this type of project.

Finally, let me say a few words about my amendment which addresses the retroactive provision in this bill which I find particularly shocking and unconscionable. The program has always mandated prepayment or refinancing if private sources of financing become available. The section 515 program has been operated in this manner since its enactment. Now, this bill seeks to change the rules for existing players in the middle of the game. It seems hard to believe that Congress in 1979 would choose to tell the Secretary of Agriculture that this program—which has been in existence since 1962—has operated improperly and that it has always been the intent of Congress—although never before expressed—since the enactment of section 515 that prepayments and refinancing not operate to deprive low- and moderate-income people of rural rental housing.

I believe that retention of the retroactive provision—which I understand is opposed by the Department of Agriculture—would result in extensive litigation by borrowers and investors under this program since all current loan agreements contain the clear mandate which authorizes refinancing through private credit sources.

Mr. President, these amendments would offer a reasonable compromise which would assure that low- and moderate-income housing remains available for its intended beneficiaries for a reasonable term and would encourage continued private sector investment in this program. The amendments would provide that when approving any prepayment or refinancing of a loan, the housing would be maintained as low- and moderate-income housing for a period of 15 years from the date of obligation of the loan. These amendments would retain the concept already in the bill that this provision would not apply if the Secretary determined that there was no longer a need for such housing and would also waive the provision if Federal or other subsidy funds were no longer provided. My amendment would apply only to those loans made or insured subsequent to the date of enactment of this bill.

I urge my colleagues to accept these amendments which will assure that the section 515 program will continue to provide decent shelter for our needy rural citizens.

Mr. MORGAN. Mr. President, a parliamentary inquiry. Is the pending matter the amendment I sent forward?

The PRESIDING OFFICER. The Senator is correct.

Mr. MORGAN. For the present time I will withhold my remarks to the Senator until we consider the amendment of the Senator from Utah, so I ask that we act on the pending amendment——

The PRESIDING OFFICER. The pending amendment is the amendment offered by the Senator from North Carolina.

Is all time yielded back on the amendment?

Mr. MORGAN. I yield to the Senator from Alabama.

Mr. STEWART. I ask the Senator to yield for some questions at this time, Mr. President.

Mr. MORGAN. I would be happy to yield, Mr. President.

Is the Senator directing his questions to me or to the Senator from Utah?

Mr. STEWART. It is my understanding, Mr. President, and if I am not correct please correct me, that the matter before the body at this time is the amendment of the Senator from North Carolina to the bill; is that not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEWART. My concern about the provision in the amendment is what effect it will have basically on those people who stand to benefit from the program the Federal Government is financing.

I do not know how many projects have been converted since the program got underway. I have no understanding, or I have an understanding from people very much interested in the program that they do not have any facts or information about that.

What my concern would be, and I want to have this established for the RECORD, is if these projects are converted at the end of the 15-year period of time that you contemplate what would be the effect of that as far as the residents and people who are low-income people in rural areas—what would be the result of that conversion?

Mr. MORGAN. Well, first of all, I assume the Senator understands my amendment speaks only to future loans.

Mr. STEWART. I understand.

Mr. MORGAN. The effect is it would provide them some additional protection from what they have at the present time.

Let me see if I can give to the Senator an illustration. Under the present law as it exists today there are no prohibitions against a borrower paying off a loan and thus once he pays it off there are no obligations that run with the property, so he is free to do what he wants to do with the property.

Let us assume there is a market in a small town in North Carolina which, speaking particularly of a given area I have been through, there is a market in a small town for some low-income rental housing, and there is a very special need for it there.

Some investor decides he is willing to invest his money in some low-income housing provided he can obtain some money, some low-interest money, from Farmers Home.

So he goes and utilizes the resources of Farmers Home low-interest money and builds some low-income rental housing, and the tenants move in.

Mr. STEWART. Mr. President, will the Senator yield at that point?

Mr. MORGAN. Let me finish my description.

The tenants then move in and, of course, they are probably subsidized under section 8, but either because of the improved economic conditions in that area or the demand for a greater rental property the investor decides he will pay off the Farmers Home loan and evict the low-income tenants and rent it to someone who will be able to pay a higher rent. That is a possibility under the present law. While it has not happened to any great degree, the evidence before our committee—and there was not much evidence—indicated it may very well become a real problem because, for instance, out of 4,400 loans that were made in the last 4 years—and I do not know how many have been made in the 15 years in which the program has been in existence—only 400 have been paid off. But there was some evidence submitted to us by the National Law Project Group, as I recall, and I do not have the record before me, which indicated that in three given areas, in three different projects, the problem had become very real, and low-income renters were either evicted or almost evicted.

So what we did in our committee based upon that small bit of information was that we added to the bill that it had to maintain its own status for the whole term of the loan regardless of whether it was paid off or not, which sounded pretty reasonable to me.

But now, as we studied the problem, we found out there are more problems involved than just the possibility that low-income renters may be evicted. Investors may very well stop investing and, for that reason, I think a 15-year limitation or restriction on them now is certainly better than what we have. It would serve notice upon the investors that from this stage forward at least you are going to have to maintain the character of the property for at least 15 years.

I think we can also say—I will say—on the floor of the Senate that we expect to pursue this matter in our committee with a great deal of vigor later on. But I just simply do not feel, in light of all the information we now have, that we would be wise to tie up investors' property for 50 years on the basis of the meager evidence we have before us.

So, to answer the Senator's question, I think they would be far better off than they are today. I think if the Senator will bear with me for a minute, I can give him the total number of loans and the prepayments.

For instance, in 1966 there were 81 loans made under this program, and only 3 repayments.

In 1967, there were 110 loans and only 2 repayments.

In 1968, 297 loans and no repayments. That is essentially the record on down until about 1975, when there were 1,153 loans and 36 repayments—some increase, but not a great deal.

In 1976, there were 1,539 loans, and 54 repayments. But in 1977, the number of repayments jumped to 111, and in 1978, 104.

So I think in the last 4 years the increase has been sufficient to warrant Congress in doing something, but we just simply do not have enough information as to how it would affect the overall program to go through with a 50-year restriction.

Mr. STEWART. Mr. President, let me ask the Senator a couple of questions, just for the RECORD and for clarification.

Is it not true that those people who are investors in this program get the benefit of low interest rates, or at least lower than conventional market rates, for participating in the program? Is that not correct?

Mr. MORGAN. Yes. That is the incentive for it.

Mr. STEWART. An additional incentive that they also have, and I am not as clear as I might be on this matter, but an additional incentive they might have is a change in the tax law that took place sometime in 1977 as a result of a law passed by Congress. Is that not correct?

Mr. MORGAN. A tax indulgence, I guess it is called.

Mr. STEWART. Because those matters caused me to have some concerns about this particular program, I agree with the Senator that he is making the provisions of the law as they now stand better than what they have been, but it is my understanding that the House committee, which held hearings on this same matter, set the 50-year cap, in effect, a period of time during which they had to hold the title for its use as originally intended.

The Senator is seeking to place this at a 15-year level. Is his reason for doing that and offering this amendment—and frankly I want to support the amendment, because I do not want to drive the private investor out of the program, but I want to make sure that these concerns are satisfied—is the Senator's effort to do that an effort to keep private investors interested in the program, and keep the program going on from that standpoint?

Mr. MORGAN. The Senator states it exactly correctly. I do not understand all about tax shelters, but I do know and I think everyone knows that one of the reasons many investors get involved in this sort of thing is for the tax shelter. We also know that without that, there might not be the incentive for them to build this kind of rental housing. So I think that is what we are trying to do, is keep the private investor in this kind of low-income rental property until we in the Senate can have time to have some hearings and try to ascertain what effect a 50-year restriction or limitation would have on it.

Mr. STEWART. I assume, because of the differences in the House bill, with the Senate bill as the Senator is now proposing to amend it, this will be a matter that will be taken up in conference; is that not correct?

Mr. MORGAN. It certainly will have to be taken up in the conference, because the House, as the Senator has stated, provides for 50 years, and if my amendment is adopted the Senate bill will provide for 15 years.

Mr. STEWART. I would respectfully request of the Senator two things, and I am certain he is going to do this, because it is a matter of concern to me and I am sure to him, because there are public policy questions involved.

Because of the problem of possible conversion and eviction of elderly and low-income people, I would hope we would have this matter addressed not only in conference, but within the Senator's subcommittee and within the Banking Committee itself, because apparently the conversions are on the rise. Apparently this will become more of a problem, and there is a tremendous amount of money being invested by the Federal Government in it.

I thank the Senator for his responses to my questions.

Mr. MORGAN. I can assure my colleague that we will, and I might say that a number of suggestions have been made, which we will be taking up.

Mr. President, unless someone else wishes to speak, I ask for action on my amendment.

The PRESIDING OFFICER. Is all remaining time on the amendment yielded back?

Mr. MORGAN. I did not realize there was a time limitation, but I do yield back my remaining time.

The PRESIDING OFFICER. Does the Senator from Utah yield back the remainder of his time?

Mr. GARN. I yield back the minority time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

UP AMENDMENT NO. 322

(Purpose: To remove retroactive application prepayment requirements in rural housing programs)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) offers an unprinted amendment numbered 322:

On page 6, line 12, strike ", including any loan made"——

Mr. GARN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 12, strike ", including any loan made or insured before" and insert "after".

Mr. GARN. Mr. President, this amendment is very simple. I have already explained it, and will only repeat that it would exclude the retroactive provision, which has been in effect since 1962. I think whether in this case or any other type of contract with the Government anyone goes into, the Government should expect that the contracting party will exercise good faith and credibility, and follow through on it.

So I will just simply say the effect of the amendment would be, in concert with that of the Senator from North Carolina, that the provisions would apply from the date of the enactment of the act, and not be retroactive all the way back to 1962.

Mr. MORGAN. Mr. President, if I may make a few comments on the amendment, while I think there may be questions we would want to ask for the RECORD, first of all, let me say that as a lawyer I have some very real problems with enacting any kind of legislation that changes or varies the terms of a contract that is already in existence.

In other words, many of these loans are by investors who have utilized these loans in the years past, and did so with the knowledge and understanding, if they bothered to check into it, that they could be paid off as they have been in the past, without restrictive limitations placed on them.

While I think there have been substantial arguments presented pro and con as to the constitutionality of such legislation, I doubt the wisdom of doing it or the rightness of doing it, although I really suspect that constitutionally it could be done.

The problem is not all that great, to be that concerned about, because, as I have listed them, there have been only about 400 paid off in all. There are possibly some other ways that we can deal with this subject, if considered adequately by the committee. For instance, I had suggested to me this afternoon by some of my friends representing the Rural Housing Coalition, a group that I think has made tremendous contributions in rural housing, and I think also the Housing Assistance Council, that what we might possibly do is encourage Farmers Home to refinance a project in the event an investor wanted to sell it.

In other words, if the investor wanted to sell it to someone else, we ought to encourage Farmers Home to refinance it in order to keep that housing available for low-income people.

But that in itself presents a problem which the Farmers Home Administration does not particularly like, and I think it has that authority now, that it might encourage that sort of thing, that it might encourage profit taking. There are also a number of other objections.

For that reason, after considering it with my staff and others, we thought perhaps we should not write anything into the bill that would mandate or require Farmers Home to do that sort of thing without at least having to consider it in the full committee.

I think what we are doing here is today offering to the low-income renters some immediate protection without varying the terms of contracts which are already in existence, which I find repugnant to my way of thinking.

I wonder if my colleague would allow me to ask him a couple of questions for the record?

Mr. GARN. Certainly.

Mr. MORGAN. Am I correct in understanding that the Farmers Home loans in question are direct loans from the Federal Government to the owners of the property?

Mr. GARN. That is my understanding.

Mr. MORGAN. Does the Senator believe that a developer who borrows Federal funds to build houses for low- and moderate-income people should feel some kind of responsibility to maintain such housing for a significant period of time?

Mr. GARN. Yes, I certainly do.

Mr. MORGAN. I assumed so by the Senator's support of the amendment. The question of time we have agreed upon today is 15 years, but we will look into that matter.

I have another question: Am I correct in understanding that at the present time if an owner of a Farmers Home-financed project prepays the mortgage on the project, he can raise rents or even evict tenants or convert the housing to a different use if he desires?

Mr. GARN. That is correct. So the low- and moderate-income people at this time have no protection. What the bill did was to go to 50 years, which is quite another extreme, and the 15 years gives them immediate protection.

Mr. MORGAN. What the Senator and I are trying to do is to recognize, really, these bad aspects of it, and trying to provide some protection immediately for them in the future, giving us time to look further into the matter.

Mr. GARN. That is correct.

Mr. MORGAN. I thank my distinguished colleague.

I yield to the Senator from New Jersey.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from New Jersey is recognized.

Mr. WILLIAMS. I would like to be further enlightened on what is involved here. I do commend the manager of the bill and the ranking member for the work they have done on this legislation. In this particular area, perhaps, my understanding is not as complete as I would like it to be. I have a table in my hand which shows that there are what I consider to be a fairly significant number of loans that are prepaid. Last year, in 1978, there were 104. In 1978, new loans were 1,466 and loans prepaid were 104.

I just wonder if Senators who are more knowledgeable can give me some appreciation of what is basically the nature or the makeup of the tenants in this housing and then, after a prepayment, who are the new tenants in this housing, if there are new tenants.

Mr. MORGAN. I would say to my distinguished colleague with regard to who the new tenants are we really do not know, because there has been so very little experience. The record of the hearings in this matter indicated that one of the housing groups submitted to us a report which talked about three particular projects. If I remember my facts correctly, in one of the projects, after it was paid off, the tenants were evicted. That was in Ohio.

There was another project, if my recollection serves me correctly, perhaps in Wisconsin, where part of the tenants were evicted, or at least in one of the other two projects, but then wiser heads prevailed and the owners of the property realized what was happening to the low-income tenants and they did not evict any more. They let the tenants stay in the status they were in.

I would say candidly to my colleague that I suspect if we do not do something, which I think we have already done, eventually there would be other problems. For instance, let us say IBM comes into my hometown with a new industry. There is a lot of demand for new housing and rents go up. I would expect that the low-income tenants would find themselves evicted and some high-income tenants would be replacing them. That is why I am very much concerned about the problem and why we put the provision into the bill to begin with.

Mr. WILLIAMS. I share the concerns of the distinguished Senator from North Carolina. With the knowledge that between 35 and 40 percent of this assisted rental housing is occupied by elderly families, that even sharpens my concern, because we know so clearly the problems of rental housing for older people on reduced incomes. There is just not available vacant housing for them. If they are to lose the opportunity which was given to them when this program was created, which was to serve people of this income level, if they lose their housing, it really is defeating the objective we wrote into this law. Somebody is going to be making a considerable profit at the expense of the lower-income people we thought we were serving by creating this program. That is my concern.

Mr. MORGAN. I certainly share the Senator's concern. I realize, and I know the Senator does, too, there is really not a greater need in this country today, in my opinion, than for decent housing for low-income people and for the elderly. I can say to the Senator that I am going to do everything in my power to make sure that those investors who utilize the advantages that we offer to them by low interest loans maintain the character of these units just as long as I think it is possible to do without destroying the program.

I say to the Senator I had no hesitation putting this provision into the bill when it came out of our committee, because the three projects submitted to us were just so telling with regard to the need for it. But I must say in all candor I have been approached by people from all over the country, builders and investors, but particularly one or two in my home State, who I know have always had the public interest at heart. They tell me that there is a point beyond which you cannot go without killing the goose, so to speak.

As we go into this matter in the future I can assure the Senator that we will take evidence. I, for one, favor maintaining the character of it as long as we can and, at the same time, having some incentive for investors to build.

Mr. WILLIAMS. I hope I am way off on this, but I understood that the thrust of this amendment would be to eliminate all loans that are out there now from this provision of maintaining, prospectively, the nature of the tenancy in the housing.

Mr. MORGAN. That is exactly what it would do. That is the law now, however. What I am saying is that I question, first of all, whether we ought to, even with good motive, alter the terms of existing agreements or contracts between the investors and the Farmers Home.

Second, there is a substantial question as to the constitutionality, as to whether or not we can do it.

Third, I think there may be other alternate ways that we can do it without getting the Farmers Home Administration involved in years of litigation.

It is now July, and what I am really saying is that the problem has just arisen. It is not of the magnitude that I think would require us to get involved in that kind of litigation, and we shall go into it next year.

Mr. WILLIAMS. I see the Senator from Utah wants to respond and I am happy to listen.

I thank the Senator from North Carolina.

Mr. GARN. Mr. President, let me make two points. First of all, the Senator from North Carolina has pointed out that, right now, the situation the Senator from New Jersey described does exist. This is not a retroactive feature. It is really just to keep the law as it is. This is not a change.

Second, my understanding is that, the way the law is written now, by putting in the 15 years, if somebody in an existing building does refinance it, it triggers the 15 years. They can do it once, but then it has to stay that way for 15 years.

In any event, the basic principle, I think, that the Senator from North Carolina and I have talked about it, do we go back, even if there have been some abuses—and there have—and impose this on contracts, many of them that have been in existence since 1972? We have a lot of information that has come in that a lot of these developers would simply default. They would suddenly, when they have gone in it, they are in it for 5, 10, 15 years, and they are going to have their money now locked up for 50 years, they would walk away from it. That certainly does not serve the poor- or moderate-income people very well.

I agree with Senator MORGAN that we need to do something about it. On future loans, put in 15 years so that, at a minimum, they have to keep them. Then we could study the time. Maybe it should be lengthened. But 50 years is entirely too long. On many retroactive contracts that now have been in over a period of 16 or 17 years, it would be unfair.

The Senator would not want to be in something for a number of years and have the Government change the rules and say, sorry, suddenly, you are locked into this for another 33 years.

Mr. WILLIAMS. I can see that would be a problem. Thinking it through, though, developers went into this program for the advantage of a reduced rate of financing, and with the purpose of making housing available to lower-income people. If they did this in the full spirit of what we are trying to do with this program, they have to realize that there should be a considerable period that this housing should be available at rents that lower-income people can afford.

Mr. GARN. I think people usually go by what the law says. I do not know how they anticipate that, 16 years later, we would impose 50 years on them. The Department of Agriculture opposes the retroactive feature, because they fear a lot of lawsuits in that area.

I understand what the Senator is saying, but I also feel the poor- and moderate-income groups would not be well served by making it retroactive, because I think we would have a lot of defaults and a considerable number of losses.

Mr. PROXMIRE. Will the Senator yield?

Mr. GARN. I am happy to yield.

Mr. PROXMIRE. I have a letter from the GAO dated January 16 of this year. Let me read some sentences, then I want to ask the Senator some questions:

> We have, therefore, looked in some detail at the policies and procedures governing section 8 and have, during the course of our investigation, observed what appears to be a serious and very costly problem in the way this program is administered. This problem could immensely reduce the effectiveness and increase the costs of housing assistance by allowing private investors who own and operate section 8 housing to sell their projects or convert them to condominiums in as little as 5 years.

I understand the Senator from North Carolina and the Senator from Utah have agreed on a 15-year compromise rather than 5 or 50. What concerns me is that the pending amendment by the Senator from Utah, I understand, would make this retroactive and, therefore, would qualify some units immediately if they had been in operation——

Mr. GARN. No, my amendment would make it not retroactive.

Mr. PROXMIRE. Would knock out retroactivity?

Mr. GARN. That is correct. It would start with new loans.

Mr. PROXMIRE. So the effect of the Senator's amendment, then, would be to reduce the cost of the program?

Let me put the question a different way: Would the Senator's amendment permit builders or owners of the units to convert at once under some circumstances?

Mr. GARN. Let me read from Farmers Home Administration regulations under loan agreement. Now, as to the current law, this improves it for those people, because the current law requires that they refinance.

Mr. PROXMIRE. I know it improves it. This whole bill improves it. The amendment of the Senator from Utah and the Senator from North Carolina does improve it. What concerns me is that what the Senator from North Carolina has done, as it stands, without the amendment by the Senator from Utah, would improve it more than the Senator from Utah would.

Mr. GARN. If at any time it appears to the Government that the partnership is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government the partnership will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purposes.

What we have had since 1962 is directions that, as soon as you can get more favorable terms, get out of the Government loan program, get private financing and do it. Then we pass something out of committee which says you have to keep the 50 years and make it retroactive.

That is a tremendous turnabout on the part of Government, to go from one extreme, encouraging to refinance, then to go to another area and say we are going to change the law and you cannot refinance until the whole first loan is expired, as long as 50 years.

I am saying that principle, Mr. President, is wrong, whether it is applied to this or not. When people go into a contract in good faith, even if it was wrong, even if the Government should not have had that kind of policy, do not go back and lock people in that way. We shall have defaults, we shall harm the poor more than we are getting improvement, considerable improvement, over the present situation.

Mr. PROXMIRE. That is right, but my concern is that this would permit immediate sale under certain circumstances. Is that correct or not?

Mr. GARN. That is true at this time.

Mr. PROXMIRE. I understand it is true at this time, yes, but it would not be true if we simply enact the provisions of the amendment as the Senator from North Carolina is offering it. It is a compromise to what the committee reported, the 50-year proposal, which has been compromised to 15 years. I understand that. But then, in turn, to permit immediate disposal, which is what the Garn amendment would do under some circumstances, it seems to me, greatly reduces the force and benefit of the Morgan amendment.

Maybe I am unfair. I would like to get the opinion of the Senator from North Carolina.

Mr. MORGAN. I think I have to say to the Senator that it would change, to some degree, or diminish the effect of my amendment. But it would not diminish or change the present law.

Mr. PROXMIRE. I understand that.

Mr. MORGAN. I follow what the Senator is saying, but I just do not think the problem is great enough for us to get involved with the business of changing existing contracts and risking litigation without going into further hearings.

For instance, in North Carolina, there were seven payoffs. Four of them were required under the terms of the contract; that is, where the Government itself required them to pay off. One of them was for settling up the estate, which I think we would say was a legitimate reason. In another one, the Farmers Home had pressured them for reports, so they got tired of Government redtape and paid them off. But out of the seven, five were legitimate payoffs, either prompted by the Government or settling the estate.

What I am really saying is that I really do not think the problem is serious enough for us to go back and make it retroactive without at least having an opportunity to have hearings and consider this aspect of it in committee.

Mr. PROXMIRE. Can the staff give us any information on how serious this problem would be if the Garn amendment is accepted, what effect that might have on the cost of the program, because the GAO letter goes on to say:

> This would likely result in the displacement of low- and moderate-income tenants and is in marked contrast to the much longer service which can be expected from a program such as conventional public housing which should serve subsidized tenants for at least 40 years at much lower costs.

The Senator is modifying the committee amendment to reduce it from 50 to 15 years.

My question is, how substantial is it, in fact, if we have that information, that the Garn amendment is increasing costs and displacing tenants; is there any way to estimate that?

Mr. GARN. If the Senator will yield, I cannot answer the Senators' question in specific numbers. I do not know. But I do know and I must repeat, we will have defaults and find people that just walk away.

I cannot quantify how many people that hurts. I do not know, if people just walk away, how much that costs the Government, how many people are displaced in that manner.

But there is a principle here I must insist on, whether it applies to this or something else.

We do not have much credibility in this body, or in the Congress. The President has a low rating. Ours is lower.

I think one of the reasons is that we do not keep our word. I just think from a principle standpoint, it is incredible that we passed a law in 1962 and 17 years later, that maybe we made a mistake in 1962.

I was not here, I did not vote for it. The Senator was. But that is neither here nor there.

Maybe a mistake was made at that time. I was not a part of it. But to correct it retroactively, and people that decided to invest in something in good faith and then suddenly tell them we are changing all the rules, are contracts not valid anymore? Are we like the superstars in sports that decide they are more valuable now and will not honor the rest of the contract?

I think it is a terribly important principle and that now Congress should start keeping its word.

But I cannot answer about tradeoffs, lawsuits——

Mr. PROXMIRE. Was there any record of this in the hearings or the markups?

Mr. MORGAN. That is exactly what I say to the Senator, the record was very meager. It consisted of a report from the housing law project, which brought to our attention that three particular projects were converting and causing problems.

Now, it appeared such an apparent injustice to us that we moved forward with it.

What we should have done is have some hearings and serve notice to everybody concerned.

But with regard to the specific question as to what it is going to cost in dollars and cents, I think we could say it is not anything except the inflationary rate.

For instance, if an investor pays off his project, then to get that many housing units available, we would have to make that loan to someone else and add some inflationary cost to it.

But it would cost in housing available for low-income people.

Mr. PROXMIRE. That is right. That is the principal concern.

Mr. MORGAN. But I say, I do not think the cost is so urgent that it cannot wait until we have hearings and consider it.

Mr. PROXMIRE. Would the Senator, as chairman of the subcommittee, expect to have hearings on this in some foreseeable future?

Mr. MORGAN. I say to my chairman, immediately. I would have already had them, because I am very much concerned about it, had I realized all these would come to light.

Mr. PROXMIRE. And he might be able to act on this this year, or next year?

Mr. MORGAN. Or early next year.

Mr. GARN. If the Senator will yield, the House version of this has the 50-year and retroactive in it. So this is not decided. There is a conference committee that will have to be conducted.

So there is still opportunity to press the Senator's point of view there.

But the reason I bring this up again is that Senator MORGAN and I both agree this is something that needs hearings. It is certainly far better, what we are doing, than what exists at the present time. I cannot see there would be a great deal of harm, in any event, in the time we hold hearings, and if we decide a longer number of years is necessary.

I will be very candid, though, no hearings could convince me on the retroactive feature. It is a basic feature that applies to my political philosophy, that we do not change in many ways. When I tell somebody something, I will stick by it, whether I like it or not. I think that is particularly important for Government and Government officials, to be willing to keep their word.

But we will hold hearings.

Mr. WILLIAMS. I would like to make an observation. We must remember the owners got into this program knowing it was for the tenancy of low- and middle-income people. So when we talk about the morality of the situation of changing a contract, there is a morality mandate on those who got the low-interest loan to create housing for the low- and moderate-income people.

Mr. GARN. The Senator is correct except it ignores the fact of the legislative language I read to him, of the Government telling them they should refinance as soon as possible and——

Mr. WILLIAMS. I did not hear that reading.

Mr. GARN. It was left open. Then Senator MORGAN said, I think, that five, or four, out of seven, were forced by Farmers Home Administration to refinance, that they should go get normal financing, "You don't need this, get out."

We have gone from that situation, and that is where it is—when you can get out, we want you out.

It is a situation to make it one extreme to another. Our amendments are middle ground.

Mr. WILLIAMS. All right, they can get out of the loan—I did not hear the reading.

Mr. GARN. It does not tell them to get out, but to refinance.

Mr. WILLIAMS. With whom?

Mr. GARN. With commercial.

Mr. WILLIAMS. At market?

Mr. GARN. With private loans.

Mr. WILLIAMS. I hope the hearings will develop what the devil the Farmers Home was trying to promote, displacement housing for——

Mr. GARN. That is what the Senator Morgan said in his——

Mr. WILLIAMS. Is that what they are doing?

Mr. GARN. Yes. To spread the money further, to get it back to do other projects.

Mr. WILLIAMS. But in the process, releasing that housing from the tenancy of low- and moderate-income people?

Mr. GARN. Yes. That is the policy now.

Mr. WILLIAMS. That should be part of the hearings.

Mr. GARN. It certainly should.

Mr. WILLIAMS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN. I yield back all my time.

Mr. GARN. I yield back all my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah.

So the amendment (UP No. 322) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MORGAN. Mr. President, I yield to the Senator from Massachusetts.

UP AMENDMENT NO. 323

(Purpose: To revise the definition of rural areas)

Mr. TSONGAS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 323.

Mr. TSONGAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

DEFINITION OF RURAL AREA

SEC. 11. Section 520 of the Housing Act of 1949 is amended by adding at the end thereof the following: "The Secretary may waive the requirement contained in clause (3)(A) of the preceding sentence in the case of any open country, place, town, township, village, or city eligible for assistance under section 119 of the Housing and Community Development Act of 1974 or other Federal program targeted to areas of distress, upon application showing the rural character, need for low income housing, lack of mortgage credit, and lack of sufficient funding from other Federal housing programs.".

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 minutes in support of his amendment.

Mr. TSONGAS. Mr. President, I thank the Chair.

I will not take much time, since I understand this amendment is noncontroversial and has been agreed to.

Mr. President, there is a unique problem with Farmers Home housing loan eligibility in my State that has left the citizens of a rural community without access to these FmHA programs. I am proposing an amendment to correct this situation.

The town of Adams has a population of 11,000. It lies inside the Pittsfield SMSA, but Adams is a rural community with open space and no definable downtown. It meets the distress factors of title I of the Housing and Community Development Act—the UDAG program—but it has received very limited HUD assistance. Adams needs low-income housing and mortgage credit which is hard to obtain. Its residents are not eligible for FmHA rural housing loans because under present law a town that is part of an SMSA must have a population under 10,000 to qualify.

In last year's housing bill, the Senate included a provision to make communities with population up to 20,000 inside an SMSA eligible for FmHA assistance. This did not prevail in conference, but the conferees directed "that FmHA is expected to interpret section 520 of the Housing Act of 1949 in a manner that would benefit residents of local communities and not administratively restrict their access to FmHA assistance." The conference report—House Report 95-1792—went on to state that—

> In defining the terms "rural" and "rural areas," the FmHA is instructed to use the latest official U.S. Census data, except where the community presents more recent and reliable population counts.

Farmers Home officials continue to deny Adams residents access to FmHA loans because the population figures are over the 10,000 mark by 1,000.

I do not want to open a Pandora's box by changing eligibility requirements because, in probably 99 percent of the cases, the limited funding available to Farmers Home reaches the communities for which it is intended. But I do not think Congress intended that obviously rural communities like Adams, which meet distress factors but happen also to be inside an SMSA, be denied access to Farmers Home housing loans.

Therefore, Mr. President, I am proposing that the Secretary of the Department of Agriculture may grant a waiver to allow participation in the housing loan programs in very specific cases. A community of under 20,000 population but inside an SMSA would have to meet strict criteria of, first, eligibility under Federal programs targeted to areas of distress, such as UDAG or EDA; second, rural in character; third, a need for low-income housing; fourth, lack of mortgage credit for lower income families; and, fifth, lack of sufficient funding from other Federal housing programs. This amendment would adequately restrict the waiver to communities like Adams which find themselves entangled in a technicality that effectively denies their access to both urban and rural housing programs.

I reserve the remainder of my time, Mr. President.

Mr. MORGAN. Mr. President, I understand the intent of the distinguished Senator from Massachusetts.

I have talked with my staff and with my colleagues on the committee, and we think his solution is entirely appropriate, and we are willing to accept the amendment.

I point out, however, that it is not the intent of Farmers Home to open the door to every community that wants to come in; but where there is a distress situation, as here, we think it is entirely appropriate to do it. We are willing to accept the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back his time?

Mr. TSONGAS. Mr. President, it is not my intent, either to open up eligibility. I appreciate the Senator's acceptance of the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from Massachusetts.

The amendment was agreed to.

Mr. MORGAN. Mr. President, I yield to the distinguished Senator from Arizona (Mr. DeConcini).

UP AMENDMENT NO. 324

(Purpose: To increase the ceiling amounts under section 504(a) for loans and loan-grant combinations from $5,000 to $7,500)

Mr. DeCONCINI. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DeConcini) proposed an unprinted amendment numbered 324.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Delete the second sentence of section 504 (a) of the Housing Act of 1949 and insert in lieu thereof the following:

"No assistance shall be extended to any one individual under this subsection in the form of a grant in excess of $5000, and no assistance shall be extended to any one individual under this subsection in the form of a loan or a combined loan and grant in excess of $7500.".

Mr. DeCONCINI. Mr. President, my amendment will modify section 504(a) of the Housing Act of 1949. Section 504 authorizes loans, grants, and loan-grant combinations for very low-income individuals to allow them to repair or improve their residences to make them safe, decent, and sanitary.

Mr. President, the 504 program has helped many low-income families to make their dwellings livable by removing health hazards not only to the occupants, but to the community as well. However, home improvement and home repair are not immune from inflationary pressures and the present $5,000 ceiling now serves to restrict the use of the program in many instances. My amendment would increase that ceiling to $7,500 for loans and loan-grant combinations. I would like to stress that while the amendment increases the loan and loan-grant ceilings, it does not increase the authorizations for the program.

Mr. President, I ask unanimous consent to have printed in the Record a table showing several actual cases provided by the city of Casa Grande, Ariz., which demonstrate the need to increase the ceilings on the 504 program.

There being no objection, the table was ordered to be printed in the Record, as follows:

Case No. 1:

Electrical	$1,766
Plumbing	1,440
Heating	1,650
Roofing	1,434
Insulation and weather-proofing	1,162
Total	7,462

Case No. 2:

Electrical	1,671
Plumbing	2,160
Heating	1,440
Roofing	1,350
Insulation and weather-proofing	818
Total	7,439

Case No. 3:

Electrical	1,273
Plumbing	2,068
Heating	1,290
Roofing	642
Insulation and weather-proofing	883
Total	6,156

Case No. 4:

Electrical	1,500
Plumbing	1,740
Heating	1,128
Roofing	738
Insulation and weather-proofing	1,337
Total	6,443

Mr. DeCONCINI. Mr. President, I point out that these costs are not incurred in the construction of new dwellings; these expenditures are necessary, in certain cases, in order for low-income individuals to make their homes safe and free from health hazards.

Mr. President, by increasing the ceilings on section 504 loans and loan-grant combinations from $5,000 to $7,500, we will be providing a more realistic and effective program for our State and local governments to administer without having to increase the authorization ceiling for these programs. The strain on 504 program funds is usually felt in the grants-only part of the program. Under my amendment, the $5,000 limit on grants-only is retained, thus insuring the continued maximum participation by those in dire need of assistance.

Since this $5,000 ceiling on section 504 loans was established, construction costs have escalated an average of 36 percent nationwide. It would seem unfair to preclude program participation by sticking to a ceiling which, in many cases, is unrealistic in these inflationary times. I would urge my colleagues to support this amendment.

Mr. President, I yield back the remainder of my time.

Mr. MORGAN. Mr. President, this is a badly needed amendment. Quite frankly, I would have proposed it if the Senator had not.

Seventy-five hundred dollars is not much to repair a house. I think we all recognize that inflation has made this amount much, much smaller than it used to be, and it is time to increase it.

One thing we need to do in rural America—and I hope we will be able to do more of it—is to conserve our existing housing stock; and I think the Senator's amendment would be beneficial in doing this. On behalf of the committee, we are willing to accept this amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from Arizona.

The amendment was agreed to.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. MORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 325

(Purpose: To modify the allocation requirement)

Mr. MORGAN. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from Alaska (Mr. Gravel), who is busy with other Senate business at the present time, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr.

MORGAN) for Mr. GRAVEL proposes an unprinted amendment numbered 325.

Mr. MORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 24, after "income" insert ", except that the percentage requirements of this section shall apply to State or area median income rather than national median income in those States or areas with extremely high prevailing incomes, as determined by the Secretary".

Mr. GRAVEL. Mr. President, I express my gratitude to the Senator from North Carolina for the services he rendered in offering my amendment while I was not present in the Chamber.

Mr. President, section 4 of the bill contains a provision relating to allocation of housing assistance. It is an effort on the part of the Rural Housing Subcommittee to insure that Federal assistance under the Farmers Home Administration is delivered to the most needy citizens. It would direct the Secretary of Agriculture to target assistance so that 30 percent of all households assisted under the programs had incomes below 50 percent of the national median income, and no more than 15 percent of all households assisted had incomes over 80 percent of the national median.

While I have no qualms with addressing the issue of targeting, this provision as written creates a problem for high income areas such as Alaska, Hawaii, and Guam.

Currently, Farmers Home adjusts the national median income figures to take into account the prevailing higher incomes in these areas. However, section 4 makes no mention of the need to allow the Farmers Home Administration to continue to make such adjustments.

My amendment provides that the Secretary shall target assistance as outlined above, except that the Secretary shall apply State or area median income rather than national median income in those States or areas with extremely high prevailing incomes, as determined by the Secretary.

The intent of the amendment is to allow the Secretary of Agriculture to continue to make adjustments for high-income areas. Currently, the national median income for Farmers Home low-income programs is $11,200. For Hawaii and Guam, the Agency adjusts this figure to $13,700 and for Alaska, the figure is $16,800. Under the moderate-income programs, the national median income is $15,600. For Hawaii and Guam, the limit is $18,500 and for Alaska the limit is $23,400.

Mr. President, last year Alaska finally received a full-fledged State Office of the Farmers Home Administration. Since that time interest in the program has soared and the Alaska office has performed admirably under the leadership of Mr. Jack Roderick, our State director. Adoption of this amendment will allow the good work of the Farmers Home Administration to continue and will insure the program is sensitive to the unique situation in areas such as Alaska.

Mr. President, this amendment was prepared in consultation with the staff of the subcommittee and it is my understanding that it is acceptable to the managers of the bill.

Mr. MORGAN. Mr. President, my staff and I, along with the ranking minority member, the distinguished Senator from Utah, have reviewed the amendment, and we have no objection to it.

The crux of the amendment has to do with income limitations. The State of Alaska and the State of Hawaii have some particular income problems because of the bill, and this provides the Farmers Home Administration an opportunity to offer some relief there. We are willing to accept the amendment.

Mr. GARN. Mr. President, I am willing to accept the amendment.

Mr. MORGAN. We yield back our time.

Mr. GARN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. MORGAN. Mr. President, it is my understanding, and I inquire of the Chair if I am correct, that as to this bill that concludes all the amendments and it is my understanding that this bill will be set aside for third reading until the major housing bill is considered. Is that correct?

Mr. GARN. Mr. President, if the Senator will withhold that, there is possibly another amendment. I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 326

(Purpose: To reduce authorization for certain programs under Title V of the Housing Act of 1949 for fiscal year 1980)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 326.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 8, delete "$30,000,000" and insert in lieu thereof "$25,000,000".

On page 2, line 17, delete "$7,500,000" and insert in lieu thereof "$5,000,000".

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 30 minutes in support of his amendment.

Mr. HELMS. The Senator from North Carolina will not take nearly that much time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HELMS. At the outset, let me say there are not two Members of the Senate for whom I have greater respect and affection than the managers of the bill, my distinguished friend from North Carolina (Mr. MORGAN) and my good friend from Utah (Mr. GARN).

Nevertheless, I feel obliged to offer an amendment to this bill for reasons which I shall state. This is another case in which we are presented with a piece of legislation which would authorize or appropriate more funds than the administration says it can spend wisely. It authorizes the expenditure of deficit dollars borrowed against future generations to fuel the fires of our present inflation.

Mr. President, there are so many pieces of legislation which I would enjoy supporting but which I must oppose, because if we do not get inflation under control this Nation faces dire consequences.

I realize not much money is involved, as we regard money in Washington, D.C., but it is the principle involved. I made up my mind a long time ago that, to the best of my ability, I am going to try to reduce appropriations as much as I could in every instance that occurs.

So I offer this amendment not in any disrespect whatsoever for my good friends who are managing this bill—and I do it with a certain hesitancy, because this is the kind of program which has great appeal—but under the circumstances I feel obliged to try to reduce the proposed amount to be spent to what the administration has proposed and, thereby, save $5 million in one instance and $2.5 million in another.

As I say, this is not a great deal of money as we view money in Washington, D.C., because we are spending other folks' money. We are spending the money of the taxpayers. Just to be consistent I offer this amendment in good faith.

I reserve the remainder of my time.

Mr. MORGAN. Mr. President, I am as concerned about deficit financing as any Member of this Senate, and I suspect I have voted against as many appropriations in terms of dollars and cents as most Members of the Senate. But because we are involved with, we do have, deficit spending in this country, does not mean that there are not programs that deserve some priority.

This program, I think, is one of those programs that definitely should be considered as deserving priority.

There is not a greater need in this country today than the need for housing, not only in the urban areas but just as importantly and certainly in rural America for rural Americans there is nothing more important than rural housing.

For that reason I hope the Senate will not accept this amendment and will see fit to reject it, because the Farmers Home Administration, in my opinion, has the best record of any Federal agency in the country for delivering services to the people of this country.

If we have to delete some funds let us delete them from some of those programs that are wasteful. But I daresay there are not many people in the country who would not agree with me that the Farmers Home Administration gets more for its money than any other agency, and provides more services for the people.

So I hope we will reject this amendment. It would eliminate only $7.5 million, which is a lot of money if you think of it in terms of a balanced program, which our committee has brought forward unanimously to the Senate, it is not all that meaningful.

So I hope the Senate will reject it. I am prepared to yield back the remainder of my time.

Mr. HELMS. Mr. President, I am not quite prepared to yield back my time.

This is not a comfortable situation in which this Senator from North Carolina finds himself. Bob Morgan has been my friend for more than a quarter of a century. We agree far more than we disagree, but this is a matter of trying to maintain some concept of consistency in terms of trying to achieve a balanced budget.

It is all we talk about when we go home, and with all due respect to my friend, the argument just presented is precisely the argument that every Senator makes—perhaps not as eloquently as my friend has just done, but precisely the argument that every Senator makes—when he wants to nudge an appropriation or an authorization up to bust the budget.

So it is with great reluctance and great regret that I must stand by my amendment. I suppose we ought to have the yeas and nays, Mr. President, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Now, Mr. President, I am willing to yield back the remainder of my time.

Mr. MORGAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Levin). All remaining time having been yielded back, the question is on agreeing to the amendment (No. UP-326) of the Senator from North Carolina (Mr. Helms). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. Ribicoff), and the Senator from Mississippi (Mr. Stennis), are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Goldwater), the Senator from Pennsylvania, (Mr. Heinz), the Senator from Vermont (Mr. Stafford), the Senator from Wyoming (Mr. Wallop), and the Senator from North Dakota (Mr. Young), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 15, nays 77, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—15

Armstrong
Bellmon
Byrd,
  Harry F., Jr.
Exon
Hatch
Hayakawa
Helms
Humphrey
Kassebaum
Laxalt
McClure
Proxmire
Roth
Tower
Zorinsky

NAYS—77

Baucus
Bayh
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Ford
Garn
Glenn
Gravel
Hart
Hatfield
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Jepsen
Johnston
Kennedy
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stevens
Stevenson
Stewart
Stone
Talmadge
Thurmond
Tsongas
Warner
Weicker
Williams

NOT VOTING—8

Baker
Goldwater
Heinz
Ribicoff
Stafford
Stennis
Wallop
Young

So Mr. Helms' amendment (No. UP-326) was rejected.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendments to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MORGAN. Mr. President, we have just completed the rural housing authorization bill. I thank my distinguished colleague and members of the committee for their assistance in bringing this to the floor of the Senate, especially the staff, Bob Malakoff of the Housing staff.

Also, Mr. President, I express my appreciation to rural America and to the Housing Assistance Council and to the National Law Project for their interest and assistance in rural housing. I think these three organizations have done an outstanding job. I wish the record to reflect it.

I thank the Chair.

APPOINTMENT OF SUBSTITUTE CONFEREE ON H.R. 3173

Mr. CHURCH. Mr. President, I ask unanimous consent that Senator Pell of Rhode Island be named as a conferee on H.R. 3173, the International Security Assistance Act of 1979, in lieu of Senator Biden of Delaware.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMS CONTROL DISARMAMENT ACT AMENDMENTS OF 1979

Mr. CHURCH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2774.

The PRESIDING OFFICER (Mr. Levin) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 2774) to authorize appropriations for fiscal years 1980 and 1981 under the Arms Control and Disarmament Act, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CHURCH. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Church, Mr. Pell, Mr. McGovern, Mr. Glenn, Mr. Javits, Mr. Percy, and Mr. Helms, conferees on the part of the Senate.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979

The PRESIDING OFFICER. Under a previous order of the Senate, the Senate will now proceed to the consideration of S. 1149, which the clerk will state.

The second assistant legislative clerk read as follows:

A bill (S. 1149) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation and related programs, and for other purposes.

The Senate proceeded to consider the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that Mr. Armstrong will be calling up an amendment to the pending measure and that there will be a rollcall vote thereon yet today.

I propose the following unanimous-consent agreement, which has been cleared with the minority. It has been cleared with the manager of the bill, also:

That there be 4 hours on the bill, equally divided between Mr. Williams and Mr. Garn; that there be 1 hour, equally divided, on any amendment in the first degree; 2 hours, equally divided, on an amendment by Mr. Proxmire; 1 hour, equally divided, on an amendment by Mr. Javits which has to do with UDAG; 1 hour, equally divided, on each of two amendments by Mr. Helms on Soul City; 1 hour equally divided on an amendment by Mr. Garn, having to do with Davis-Bacon, on which there shall be no tabling motion; 30 minutes on any second degree amendment; 20 minutes on any debatable motion, appeal or point of order if such a point of order is submitted to the Senate for discussion; that the agreement be in the usual form; and that a vote on passage occur no later than 7 p.m. tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 1149 (Order No. 176), a bill to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation and related programs, and for other purposes, debate on any amendment in the first degree (except an amendment by the Senator from Wisconsin (Mr. Proxmire) reducing authorization, on which there shall be 2 hours, an amendment by the Senator from New York (Mr. Javits) UDAG, on which there shall be one hour, two amendments by the Senator from North Carolina (Mr. Helms) Soul City, on which there shall be one hour each and one amendment by the Senator from Utah (Mr. Garn) Davis-Bacon on which there shall be one hour and which shall not be subjected to a motion to table), shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled by the Senator from New Jersey (Mr. Williams) and the minority leader or his designee: Provided, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Ordered further, That the vote on final passage of said bill shall occur no later than 7:00 p.m., Friday, July 13, 1979.

Mr. ROBERT C. BYRD. Mr. President, I thank the manager of the bill and I thank the minority manager, Mr. WILLIAMS and Mr. GARN respectively.

Let me say to the Members, if Mr. ARMSTRONG calls up his amendment, there will be a vote on that amendment tonight. If he is present, we can get the yeas and nays ordered as soon as he calls up the amendment.

The PRESIDING OFFICER. Who yields?

Mr. ROBERT C. BYRD. Mr. President. I yield the floor.

Mr. WILLIAMS. Mr. President, I yield myself such time as I may need.

Mr. President, on May 15, 1979, the Committee on Banking, Housing, and Urban Affairs reported a clean bill, S. 1149, the Housing and Community Development Amendments of 1979, following 4 days of hearings by the Subcommittee on Housing and Urban Affairs, and 2 days of full committee markup. The legislation reauthorizes and revises programs essential to the improvement of housing conditions for low- and moderate-income people, the advancement of homeownership opportunities for the broad spectrum of Americans, and the development of sound economies and wholesome social environments in communities both large and small. In accomplishing its purpose, the legislation fully reflects a desire of Congress and the public for thoughtful, prudent Federal spending during an era of enormous inflationary pressures.

Mr. President, allow me to review briefly the major features of the bill.

It would provide new authorizations for the section 312 rehabilitation loan program, the section 701 comprehensive planning program, and the urban development action grant program. For the first time, specifically defined pockets of poverty in cities now ineligible for the UDAG program would be allowed to compete for up to 20 percent of the program's funds.

Assisted housing programs—that is, section 8, public housing, and Indian housing—would receive funding sufficient to reserve an additional 300,000 new, substantially rehabilitated and existing housing units. New authorizations have also been provided for public housing operating subsidies and HUD's troubled multifamily projects program. Moreover, the legislation targets section 8 assistance more to lower income families by reducing the program's eligibility ceiling from 80 percent of median area income to 70 percent.

Under S. 1149, the insurance authorities of the Federal Housing Administration have been extended, mortgage limits have been increased for single and multifamily FHA programs in order to reflect the rising development costs of housing, and a number of important modifications have been made in FHA programs to assure their proper availability to those seeking to purchase a home. A new graduated payment mortgage program has been created aimed at wage earning, young, or first-time home buyers, and the section 235 homeownership assistance program has been revised to make it more useful in alleviating the problems of displacement that can accompany urban revitalization. I am particularly pleased that the bill contains a 3-year reauthorization of the section 202 program of housing for elderly and handicapped people. The money provided for this program will enable it to maintain the current reservation level.

Finally, the bill creates new exemptions for Federal reporting and disclosure requirements under the Interstate Land Sales Full Disclosure Act.

Mr. President, as I noted earlier, this is a truly lean bill in comparison with recent years. A number of programs have received sizable reductions from current activity levels, or have received only minimal increases. For example, the section 312 rehabilitation loan program would experience a 47-percent cut from its fiscal year 1979 authorization. The section 701 comprehensive planning program would receive an authorization 30 percent lower than that for fiscal year 1979. Assisted housing programs would accept a 25-percent reduction from the number of additional units that would be reserved in fiscal year 1979, according to HUD projections. This cutback entails budget authority $6 billion less than we would need for fiscal year 1980 to assist the number of units HUD estimates it will place under reservation this year. Operating subsidies for public housing would experience only a 2-percent raise from its fiscal year 1979 authorization.

The only real departure from this pattern of restraint is the urban development action grant program, which would receive an additional authorization of $275 million to accommodate the new eligibility of pockets of poverty, and to respond more fully to the heavy demands placed on the program by currently eligible communities.

Mr. President, I am concerned that the reduced funding levels for a variety of programs will cause us to fall far short of meeting needs we know to exist. However, what disturbs me most deeply is that there will be an attempt to cut back the bill's funding still further in the area of assisted housing. This proposal can have no beneficial impact on inflation or on the 1980 budget deficit. It would, though, deny decent, affordable housing to 60,000 or more people who have no choice but to turn to their Government for housing assistance. Ironically, the amendment could actually contribute to inflation conditions in the rental housing market by encouraging more instability in housing production, and by undercutting efforts to relieve a critical shortage of rental housing. In my view, the amendment is extreme and unnecessary, and I am hopeful that the Senate will recognize it as such.

Mr. President, the committee bill is a reasonable bill. It is a responsible bill. I believe that it makes a serious effort to address the pressing and urgent housing needs of citizens who, without its benefits, would not otherwise be able to attain a decent place to live at a rent they can afford. I urge its approval.

Mr. President, I yield to my good friend, the distinguished Senator from Utah, the ranking member of this committee.

Mr. GARN. I thank the distinguished chairman.

Mr. President, today the Senate will consider S. 1149, the Housing and Community Development Amendments of 1979. This legislation for the most part is a modest proposal for fiscal year 1980. The Banking Committee is not recommending any major, expensive initiatives in the housing and community development programs, rather S. 1149 includes numerous refinements to ongoing HUD programs. I believe the committee has failed to show fiscal restraint, though, in setting the 1980 authorization level for assisted housing programs and will speak about that shortly.

First, though, let me comment on several aspects of this legislation of particular interest.

An important provision of S. 1149 concerns the allocation of housing assistance. I was pleased that the committee adopted my amendment to assure that a State will maintain its fair share of housing assistance and to increase local flexibility in administering housing assistance plans.

This means that a State or its communities cannot lose any of its "fair share" of funds through reallocation to another State unless the HUD Secretary explicitly finds that other areas of the State cannot use the funds within the fiscal year.

The provision also directs the Secretary to provide an expedited procedure for review of amendments to housing assistance plans so a community can update its housing plan as necessary to reflect local needs and conditions. Furthermore, changes to the HUD funded allocation mix between different types of housing units would be allowed to reflect the updated housing assistance plan. This expedited review procedure for housing funds while assuring that housing assistance plans continue to reflect the requirements of the act.

I am particularly pleased that this bill includes an expansion of the existing HUD section 245, graduated payments program. This means that HUD will be able to reduce the downpayment requirements, increase maximum mortgage limits, and provide more alternatives for repayment graduations. This is particularly important, because housing costs are escalating at such a rate that many families, particularly in the $15,000 to $24,000 annual income range, are being priced out of the homeownership market. Here the Federal Government is providing another alternative for potential home buyers without any Federal subsidy. I personally feel this will be most helpful to young, first-time home buyers.

There are several other important provisions of S. 1149. First, the 1-year extensions of authority for all FHA insurance programs with the one exception of the 3-year authorization for the sec tion 202, elderly and handicapped housing programs; second, the increases in maximum mortgage limits for both single and multifamily mortgage insurance programs to bring them more in line with today's housing production costs; third, changes in cumbersome reporting requirements of the Interstate Land Sales Act; fourth, the adoption of the "pockets of poverty program" under the urban development action grant program; and, fifth, independent funding for the Neighborhood Reinvestment Corporation.

I would like to explain, however, before I yield the floor, that I do intend to offer an amendment to exempt neighborhood-based nonprofit rehabilitation activities from the journeyman-apprentice work rule requirements under the Davis-Bacon Act. This is essentially the same amendment I sponsored during committee markup which was defeated by one vote.

It is no secret to any of my colleagues that I supported an amendment in committee to exempt all housing and community development activities from the requirements of the Davis-Bacon Act. However, the amendment I will offer today is a very limited proposal not addressing this general issue.

I want to explain that this is a very narrowly defined amendment. I will go into greater detail about the amendment as we consider it, but let me stress it has very narrow application only to rehabilitation activities undertaken by neighborhood-based nonprofit groups. These are basically what is referred to as "sweet equity" projects and I urge all of you to be open minded as to the merits of the narrow exemption when we get to the issue.

This is where people are working in their own homes to help rehabilitate them. Davis-Bacon has caused some problems in work rules. So not only will the amendment apply very narrowly to certain specified subsidized housing, but goes to deal with neighborhood self-help projects. It will not apply to the situation of prevailing wage rates, only to work rules.

This was brought up last year and I did not push the amendment and was promised hearings. They were held. The amendment lost by one vote.

I want to emphasize that it has nothing to do with the overall battle of Davis-Bacon, prevailing wage rates, the military construction bill, or overall repeal.

So I would like to put the Senate on notice that tomorrow I will be bringing up that amendment.

Before I sit down, I want to comment on the very serious subject of spending levels as reflected in the Banking Committee's recommendations for the basic Federal housing assistance program. S. 1149 does not reflect a firm commitment on the part of the Senate Banking Committee to restrain increases in federal spending. I want to restate today what was said in the additional views concerning spending levels filed with the committee report by Senators TOWER, LUGAR, ARMSTRONG, KASSEBAUM, and myself.

First, the bill increases budget authority for section 8 and public housing subsidies—the primary Federal housing assistance programs—to $32.2 billion, more than was included in the first concurrent resolution on the budget which just passed the Senate.

The administration recommended that Congress approve $27 billion in budget authority for these programs. In defending this recommendation, Housing and Urban Development Secretary Patricia Harris told the Banking Committee:

> It is exemplary for the government to show restraint in its spending . . . I believe it is acceptable, conscionable, justifiable and defensible for the President to present a budget that proposes 300,000 units of housing . . . in Section 8. It protects the future pipeline, and it demonstrates a willingness to have a restrained budget even in the area of assisted housing.

The administration has sound reasons for concluding that $27 billion in budget authority for this program is adequate. First, since 1940, Congress has approved $209,766,592,000 in so far unspent budget authority for assisted housing programs. In other words, the Government is already obligated to spend nearly $210 billion on housing assistance, not including the $30.4 billion in additional spending authority contained in this legislation.

Second, Congress has not been lax in providing housing for the needy. In the past 4 years, Congress has appropriated some $9.7 billion for federally assisted housing projects, and has authorized $102 billion to be spent on this program. The appropriated funds since 1940 have been used to provide housing for 3.1 million American families.

Third, if Congress in the future continues to approve the level of funding contained within this legislation, outlays for section 8 and other housing subsidy programs will double in 4 years.

For these and other reasons, Congress should act now to restrain unwarranted funding increases in the section 8 program.

Finally, let me comment that some proponents of large housing authorizations argue that any cutbacks would "balance the budget on the backs of the poor." This is just not true.

The way these housing programs operate any new authorization represents an increase of housing assistance for the poor. Even if this bill contained no budget authority for these programs, which I am not recommending, the 3.1 million families now assisted would continue to get subsidies and in increasing amounts which allow for inflation. All of the authorization for these programs represents long-term subsidy commitments to house more of the poor. Thus even if the committee had adopted the $25.8 billion amount provided in the first resolution on the budget, this bill would still help hundreds of thousands additional low-income families.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. I yield to the distinguished Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, since World War II the United States has shifted from a predominantly renter society to an ownership one. In 1940, 43.6 percent of all American households owned their own houses. By 1975, the percentage of American households owning their homes had jumped to 64.6 percent.

This substantial realization of the American dream for a large percentage of our Nation was a credit to us as a Nation. We had accomplished something which few other world nations had done—a sharing in the good life through homeownership for vast numbers of people.

The rental side of the housing market during the same 30-year period plummeted. In 1940, 56 percent of all housing was renter occupied. By 1975, that figure stood at 35.4 percent. Yet it was during this same time period that Americans became a highly mobile people, moving from place to place, frequently in pursuit of job opportunities.

So the ownership of a home and the American dream became separable concepts over time. Owning a home became a hedge against inflation, while at the same time contributing at least one element toward that inflation.

As he became savvy about the real estate market and concerned for his financial security, the middle and upper income American began investing in residential real estate.

As columnist Neal Peirce has noted of this phenomenon:

> The problem with this gravy train is that a lot of Americans—the poor, many senior citizens, and young people—aren't and can't get aboard.

It is these very people who depend on rental housing—not as an investment hedge against inflation—but as their basic shelter.

There are some significant features of our renter population. Female-headed households predominate among renters. One in six of all rental housing is black occupied, a significantly large ratio based on their 10 percent showing of all American households.

Yet when we look at the rental housing market, there is a severe decline in the volume of rentals coming on the market. The national rental market is now the tightest it has ever been since World War II.

The pulse takers of the housing scene report a continuing drop in the number of so-called unsubsidized rental units started for construction. Advance Mortgage Corp., one such pulse taker, noted in its March quarterly report:

> Last year's (1978) starts of conventional (unsubsidized) rental units were the second lowest in 20 years (1975 was lower).
>
> This year they should be a quarter to a third lower still. We estimate there were 220,000 to 250,000 starts of conventional rentals in 1978. This year we expect 150,000 to 200,000.

Rental housing, in the words of former HUD Secretary Robert Weaver, has become an endangered species. And its decline has exerted untold hardship on those least able to deal with escalating rents and limited availability. These are the Americans with limited assets who lack the reliability of an income to sustain them in housing.

There are persuasive reasons for the decline in developer interest in rental housing. Rental housing construction is now perceived as a high risk due to its limited return on investment, the overriding threat of rent control, and uncontrollable costs of utilities, operations, and maintenance.

Those now owning rental buildings are converting them to condominiums and cooperatives at an unprecedented rate. In 1978, 100,000 units were converted. An estimated 130,000 more will be converted by the end of this year. And they will be selling at inflationary prices well beyond the reach of low- and moderate-income people, many of whom were former tenants of the buildings.

So the smart money is finding other safer, more lucrative investments.

But where does that leave the mother with several small children? Or the senior citizen on a fixed income? Or the young couple beginning their working careers but lacking the downpayment and monthly income necessary to purchase? It leaves them out in the cold.

While vacancy levels of rental housing drop, further squeezing their housing options, the demand for rental housing continues unabated. Housing experts estimate that female-headed households under age 65 with two or more persons will need 416,000 additional units of rental housing in 1980; over 1,300,000 units during the decade of the 1980's; and by the 1990's they will have become the single largest renter household category.

All this leads me to believe there is a responsibility to address this need which must be met by the Government. The HUD budget request for fiscal year 1980, which begins October 1 of this year, proposes a modest, yet attainable, production level of "up to 300,000" units of rental housing.

This is the lowest production level of rental housing which HUD has requested in the past 10 years, with the exception of 1974, when the Nixon administration imposed a "freeze" on housing.

There are some who argue that as upwardly mobile renters move up and out, the rental housing they left behind becomes available to lower income people. This "filter down" theory of housing may have worked in the past, but in today's inflated housing market, the rents escalate out of reach of the poor; the buildings convert to condominiums; or the buildings have aged and been depreciated to the point where they are razed or converted for another use. The rental housing stock, thus, experiences a net decline, by attrition and a decline in production while the need for such housing increases through new family formations.

In 1968, the Nation set for itself a 10-year goal of meeting the housing needs of low- and moderate-income families. That goal consisted of an assisted housing production level of 600,000 units per year for the decade 1968–78, with a large segment of these to be rental.

Sadly, we have fallen significantly short of that goal of 6 million units in 10 years. Since 1969, 2.2 million units of HUD-assisted lower income housing have been built; 1.7 million of that figure were rental units.

The figures showing HUD assisted housing production speak for themselves:

HUD subsidized production 1969–79

	Total production (starts plus rehab. begun) (Units)	Multi-family rental	Percent of total production
1969	166,950	151,900	90.9
1970	276,790	196,470	70.9
1971	397,400	247,220	62.2
1972	338,190	213,250	63.0
1973	234,170	166,250	71.8
1974	90,520	75,410	83.3
1975	46,540	41,460	89.0
1976	51,130	43,170	84.4
TQ	26,110	21,820	83.5
1977	130,030	125,420	96.4
1978	181,440	161,000	88.7
1979	298,950	269,200	90.0
Total	2,238,220	1,714,570	[1]76.6

[1] Of 10-year total.

Source: HUD Annual Housing Survey.

Yet, during the same time period, a healthy level of single-family nonassisted housing production has been maintained.

The production of that housing was greased by a number of indirect subsidies created by the Government. The Federal Housing Administration and the Veterans' Administration have enabled many Americans over the years to become homeowners by insuring conventional mortgages and providing low down payments.

Once in his new home, the happy homeowner found the Federal tax code to be a boon to him. He found that he could deduct from his Federal income taxes his mortgage interest payments and his property tax payments. When he went to sell his home the capital gain he realized upon sale could be deferred from his Federal income tax for up to 18 months. And if he was over 55 and sold his home, up to $100,000 of that capital gain was totally exempt from Federal income taxation.

All of these indirect subsidies to middle-income Americans add up to a sizable figure. In 1979, for example, the forgone Federal revenue for mortgage interest deductions totaled $5.1 billion; the property tax deductions totaled $5.5 billion; the deferral of capital gains and the exemption for those over age 55 approached $2 billion for a grand total of $12.6 billion. When the Government comes to the aid of lower income Americans, the rubric need not change to that of welfare subsidies.

The Senate Banking Committee in reviewing the HUD proposed level of assisted housing production for fiscal 1980 wanted to assure that HUD's "up to 300,000 units" became a solid 300,000 figure. So they used a more realistic estimate of the inflation rate than HUD has used and specifically spelled out that 300,000 low- and moderate-income housing units would in fact be produced by HUD. They assured that this would happen by authorizing $1.2 billion for fiscal year 1980.

The Senate Banking Committee's Housing and Community Development Act of 1979 is now being debated. Members of the Senate should find little difficulty in supporting this authorization bill in light of promises already made to the Nation's poor which remain to be fulfilled.

The young mother with children, the elderly, and the young working couple—all on limited incomes—are entitled to share with other Americans in the Federal housing largesse.

Taken in the context of the other

housing incentives provided middle and upper income Americans, this authorization level of $1.2 billion is a small, but absolutely essential responsibility which we, as a nation, must fulfill. Moreover, it is a wise investment.

The have-nots at the bottom of the income ladder in the United States have little other housing choice but to look to their Government for a helping hand.

Mr. GARN. I yield to the distinguished Senator from Colorado.

Mr. ARMSTRONG. I appreciate the yielding of the Senator from Utah. I also appreciate the forebearance of the floor managers in permitting me to offer this tonight and accommodating my schedule in that way. In return, it is my intention to be brief in my explanation of it.

UP AMENDMENT NO. 327

(Purpose: To assure the low-income character of public housing)

Mr. ARMSTRONG. Mr. President, at this time I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 327.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, strike out lines 10 through 17 and insert in lieu thereof the following:

(b)(1) Section 8(a) and section 8(b)(2) of such Act are amended by striking out "lower-income" and inserting in lieu thereof "very low-income".

(2) Section 8(c)(4) of such Act is amended by striking out "lower income" and inserting in lieu thereof "very low-income".

(3) Section 8(c)(7) of such Act is repealed.

(4) Section 8(f) of such Act is amended by striking out paragraph (1).

(5) Section 8(f)(2) is amended by inserting "or $12,000, whichever is less," between "area," and "as".

(6) The amendments made by this subsection do not affect the elegibility to receive assistance under section 8 of such Act on the part of any family or person occupying housing which is subject to an annual contributions contract on the effective date of this section.

Mr. ARMSTRONG. Mr. President, the purpose of this amendment is simply to limit the rental subsidies under the section 8 housing program to the neediest portion of the public.

Under current law, low-income families could be ignored while middle-income wage earners receive rent subsidies.

I am sure a majority of the Members of the Senate would agree this would be most unwise. Yet it could happen, and to a limited extent is already happening, unless the law is amended in the way I have suggested.

Under current eligibility standards, more than 30 million families qualify for rent subsidies according to the CBO. Obviously, it is not the intention of the committee, nor, I am sure, of the Senate, to fund a program on this scale. As a matter of fact, the pending authorization, which is above the administration's recommendation, funds only a very small percentage of the estimated total.

So in order to restrict the program to a realistic total and at the same time to assure the limited funds available will be used for those most in need, it is the purpose of my amendment to limit it to families of income of no more than 50 percent of the median, or $12,000 per year, whichever is less, in any geographic area.

I would stress that the amendment grandfathers in those persons who are already receiving subsidy under this program.

I think the justice of this and the merit of the amendment is very simple. First, from the standpoint of the equity of the needy, we are saying it is wrong to tax the poor in order to pay a subsidy to those who are better off.

So this simply says it is the lower half of the income families that will receive payments under the section 8 program.

On the general taxpayer grounds that somehow we ought to focus this and bring a degree of efficiency to the program, I think it is also appealing.

Mr. President, I am hopeful the amendment will be approved and then we can move on to the balance of the bill. With that, I yield, if I may reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, this amendment was offered during markup in committee. I felt obliged to oppose it then. I have not changed my mind and must oppose it now.

First, I know the distinguished Senator from Colorado has circularized Members with a "Dear Colleague" letter, and as I read it, I believe there could be a misunderstanding about the people who are really receiving assistance under this housing program.

I would like to read just a part of the Senator's letter that went out as a "Dear Colleague" letter:

> As things now stand, low-income families could be ignored while middle and upper-income wage earners receive rent subsidies.

Well, that certainly is not the case. The program has operated for an eligibility group who are at or below 80 percent of median area income.

The bill before us reduces that to 70 percent and the experience has been that prevailing numbers of people receiving assistance under this effort are at 50 percent or below median income.

I do not disagree with the goal of housing assistance programs that primarily serve low-income persons. Adequate and successful low-income housing programs have been among my highest priorities as a Member of the Senate. And now, as chairman of the subcommittee with responsibility for Federal housing programs, I take my charge to work for decent housing for all Americans with utmost seriousness.

My opposition to the Senator's amendment is not based on a desire to support a program targeted to "middle and upper income families," which the Senator charged is the current structure of the section 8 program in his "Dear Colleague" letter. In fact, I take strong exception to this characterization of the section 8 program. The program does allow participation by families with incomes of up to 80 percent of the median area income. However, 93 percent of assisted tenants are already below 50 percent of median area income. The overall national average for section 8 housing is 28 percent of median area income.

We should also put into prospective the Senator's claim that 30 million families are eligible for the program. In absolute numbers this may be true. However, there is a great difference between income eligibility and need. Many of these individuals, despite their low income, have been able to find decent shelter, and do not pay excessive rents. For all practical purposes, these people have no need to seek assistance.

So it is clear that the program does serve primarily low-income people; it is a low-income housing program. The limits of the program are broad, useful and purposeful. The limitation of 70 percent of median income adopted in committee serves to focus the program on the target population, without eliminating the flexibility of the program to assure its own fiscal integrity.

The ability to have a spread of incomes in this program helps produce a larger tenant contribution to total costs, thereby reducing the Federal subsidy, and contributing to the long-range stability of the program.

In fact, in response to CBO criticism that the program's long-term budget authority may not be sufficient to cover the full cost of subsidy contracts, HUD has moved to assure a more balanced income mix in its projects by proposing regulations to direct project managers to work toward an income mix averaging 40 percent of median area income. This is a responsible, prudent step by HUD that can help keep this program strong, and effective as a source of low-income shelter.

I believe that a failure to make this move could have left HUD open to the charge of jeopardizing the fiscal future of the program.

Yet, Mr. President, a Senator who might be very quick to point out any financial problems with a program of this nature, comes in with an amendment that could harm the program's ability to protect its own strength. To deny HUD the power to mandate a reasonable income mix that both focuses on low-income tenants, and maintains the program's integrity seems to me inconsistent with the Senator's stated goal of both controlling the ultimate program costs and assuring that available funds are used for the truly needy.

Another point to note about the Senator's amendment is the $12,000 annual income limitation, which would apply even if that figure constituted less than 50 percent of an area's median income.

This provision is particularly discriminatory to lower income people who live in high-cost, high-income communities.

The concept of low income is to an extent a relative concept—especially with regard to housing. Housing is simply more expensive in more expensive communities.

In Anchorage, Alaska, where the

median income is today $25,000, this amendment would soon begin to make people at 50 percent of area median ineligible for section 8. As inflation continues, this problem would quickly spread to other high-cost cities, such as Washington, D.C., and Honolulu.

There is just so much money that is available under this program. If they are low-income people, very low, at the very bottom, that means it is more expensive in terms of authorizations and appropriations.

The way it has been working out, with the flexibility that is there, while most are below 50 percent, in certain situations there are those who are above 50 percent; under present law up, to 80. Under new law, it will be up to 70. But they can make it possible for the project to succeed.

Also, let me point out that the average annual tenant incomes under section 8, newly constructed, and rehabilitated units, in 1977, was $4,476; for existing units, $3,938; for public housing, $4,656.

I use these figures to show that this program does reach not the middle-income people of this country but the low-income people. It is already serving the poor and the needy.

While we have this 70 percent figures, it is to give flexibility, so that in certain situations the housing will not flounder. To have a few who are over 50 percent up to 70 percent, I think, also serves a very useful social arrangement of people, so that we will not be ghettoizing and persisting in seeing that the desperately very poor are the only people who ever see each other.

Mr. PROXMIRE. Mr. President, will the Senator from Colorado yield?

The PRESIDING OFFICER (Mr. CHURCH). The Senator from Colorado has the floor.

Mr. ARMSTRONG. If I may, I would like to yield to the distinguished Senator from Wisconsin and then the Senator from Utah.

Mr. PROXMIRE. Mr. President, I strongly support this amendment. It is a good amendment. It was considered carefully by the Committee on Banking, Housing, and Urban Affairs and failed by a single vote. It makes sense because it concentrates our help with the people who need it the most.

There are 18 million people, as I understand it, who would be eligible with a 50-percent cutoff on median income. Those people would be helped under the Armstrong amendment.

Most of those people do not get assisted housing now, the overwhelming majority. Eighty-five percent or ninety percent are not assisted. They are left out. Meanwhile, we assist people who have more funds, who are more affluent, more able, and that simply does not make sense.

There is no way that this country, in the next few years, is going to be able to provide all the housing we would like to provide. I wish we could; all of us wish we could. But the resources of this country are not enough. The cost would be in the tens of billions, perhaps the hundreds of billions, to try to do that. We have to make a cutoff.

The position of the Senator from Colorado is that we should help those who need the help most. As long as the overwhelming majority of the very poor do not get help, does it make sense for us to provide assistance for those who really do not need as much?

The committee bill would provide, as I understand it—as the Senator from New Jersey stated earlier this evening—eligibility for those with 70 percent of median income, which would mean that families with incomes of $10,000 or $11,000 a year would be eligible. But the Senator from Colorado would reduce that to families with incomes of $7,500 or less. They are the people who need the help.

I know it would be nice if we could have a diversification of income in these projects. It helps in some ways. But the important thing is to put the money where it is most needed. We have limited resources, and the Senator from Colorado is right to provide those resources where they should be targeted.

Mr. ARMSTRONG. I appreciate the Senator's statement, and I am complimented by his support.

Mr. President, I now yield to the distinguished Senator from Utah (Mr. GARN).

Mr. GARN. I thank the distinguished Senator.

Mr. President, I support the amendment. I supported it when the Senator from Colorado offered it during the Senate Banking Committee markup of the housing and community development bill. In fact, it was supported by the distinguished chairman of the committee, who has just spoken, as well by all six members of the minority.

The amendment has broad-based support. It deserves the support of the Senate. The amendment targets Federal housing subsidies to those Americans who truly need help. According to the Department of Housing and Urban Development, some 6 million American families live in "substandard housing." Yet, some 30 million American families qualify for Federal housing assistance under the section 8 program.

Doing a better job of targeting assistance to those who need is simply commonsense. And I am convinced that is what the majority of American taxpayers want. As the Senator from Colorado noted, each unit of section 8 rental assistance costs, during the life of the housing contract, between $46,000 and $151,000.

In view of this steep fiscal commitment we make on behalf of taxpayers, it is commonsense to make sure that a family with moderate income is not provided housing while many lower income families are not assisted.

The amendment is reasonable. In fact, it simply puts into law what is now common practice at the Department of Housing and Urban Development.

Mr. President, I would like to bring up another point. I am a little surprised at the opposition of the distinguished chairman of the subcommittee, because I have before me a newsletter of the National Low Income Housing Coalition, dated July 11, yesterday. Former Senator Edward Brooke is now chairperson of that organization. The president is Cushing N. Dolbeare, a distinguished fighter for low-income housing, who has appeared before our committee for years. They support this amendment. I quote from the newsletter:

> On the other hand, given the far more urgent needs of very low income people, and the diminishing number of units provided each year, we believe that the relatively small number of units becoming available should be limited to the lowest fourth of the population.
>
> Thus, the proposal is a timely one, and should be enacted.

I repeat: The National Low Income Housing Coalition is in favor of this amendment. They represent a good number of people of low income around this country. Former Senator Brooke preceded me as ranking minority member of the Banking Committee. No one would ever question his desire to have low-income housing. During the 5 years I served with him, he fought for low-income housing. Mrs. Dolbeare certainly has been in the same position. I think our colleagues should be aware that they support the amendment of the distinguished Senator from Colorado.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield to the Senator from Alabama.

Mr. STEWART. Mr. President, I would like to raise two points, just to substantiate the argument raised by the Senator from New Jersey a moment ago in opposition to this amendment.

It sounds good to talk about targeting funds for the lower income people, but with the number of units that we have authorized under the housing legislation, some 250,000, if you decrease or lower the targeting rate and get lower income people in that housing, what you do is increase the cost of the housing.

The Senator indicated a moment ago that he did not have the figures, but we will be expected to make annual outlays of $15 million to $25 million. So unless you get those moneys, you will have less housing for the poor as a result of this amendment because the subsidy is going to be greater.

I have another concern, as a representative of a Southern State. We have a substantial number of poor in our State and our part of the country, as well as in the Southwest, and I think the Senators from the Southwest should think about this. If we lower the targeted area, I am afraid that there will be less people who fit into the category. The people in the South or the Southwest, where there are a disproportionately large number of low-income people, will be adversely affected by the amendment offered by the distinguished Senator from Colorado.

When you lower the targeted figure and take into consideration the fact that our median income is lower than that in other sections of the country, you are excluding, in effect, a large number of people.

If this amendment is adopted, I think it will penalize our section of the country with regard to this type of housing and will have an effect opposite that which the people in our part of the country want in connection with this project.

Another thing that should be taken into consideration is that this goes against the grain of the policies that are attempted to be followed by HUD in other housing programs and in section 8 housing. In most low-income projects under the section 8 program, they attempt to have an income mix. This goes against that and certainly causes these projects, which are in some difficulty today—and that information was brought before the committee—to be placed in even more difficulty.

If we are talking about the program itself, I do not see how that has any good effect so far as the low-income people are concerned.

For those reasons, I offered the amendment to modify the amendment of the Senator from Colorado, raised it from a 50-percent target to a 70-percent target in the committee. That gives us, as has been pointed out, some 18 million people rather than 30 million and is a reduction. It is a more reasonable reduction, I think, for the reasons I have offered previously.

I urge my colleagues to take into consideration these arguments and to vote against the amendment of the Senator from Colorado.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, will the Senator yield me 2 minutes?

Mr. GARN. Mr. Armstrong controls the time.

Mr. ARMSTRONG. I am pleased to yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 2 minutes.

Mr. LEVIN. I thank the Senator from Colorado and the Senator from Idaho for taking the chair momentarily so I may ask this question if I might of the sponsor of the amendment.

Would this amendment, if it is adopted, apply to any person presently in existing low-income housing? Is it retroactive in any way?

Mr. ARMSTRONG. No. The amendment clearly grandfathers in specifically those who are in the subsidy program.

Mr. LEVIN. What would be the effective date of the amendment?

Mr. ARMSTRONG. If the Senator will withhold a moment, let me check that detail.

Mr. LEVIN. All right.

Mr. ARMSTRONG. Mr. President, the amendments, under this section, are spelled out in section (6) of the amendment itself and let me quote it. It is spelled out clearly:

> (6) The amendments made by this subsection do not affect the eligibility to receive assistance under section 8 of such Act on the part of any family or person occupying housing which is subject to an annual contributions contract on the effective date of this section.

So we are talking clearly about people only in the future. Anyone who is presently under the program is fully protected as to his rights and would not be preempted.

Mr. LEVIN. I thank the Senator.

Mr. WILLIAMS. Mr. President, I simply wish to say that I heard the support for this amendment from Members here who have a record that can be applauded for prudence in budgeting the public's money.

I hope that it is recognized that the more people who come under the section 8 program who are of the very lowest income now, the higher our subsidy authorization will be.

So I hope if this should be the law, and there are shortfalls out there, when the time comes to make it up through authorizations and appropriations, we can look to the distinguished chairman of our committee and to the distinguished ranking minority member to be there when the figures need to go up on the authorizations.

It is true, philosophically, that I wish to see all of those of the lowest income housed, but we work with the numbers that are arrived at through a very elaborate process of budgeting around here.

With that in mind, what we have here with 70 percent of the median income that is in the bill, is an opportunity for a few people of somewhat higher income to get into this housing. They will be paying a higher rent, and that will take some relief from any obligation on the part of Congress to supply subsidies.

Mr. GARN. Mr. President, will the Senator yield for a response to his statement?

Mr. WILLIAMS. I yield.

Mr. GARN. That is the nicest way I have ever been called a conservative. I appreciate what the Senator said.

But my whole philosophy in all of these subsidized programs, welfare and unemployment is that what we do not do as nearly as good a job as we should for the truly needy, for the elderly, for the physically and mentally handicapped, and those who cannot take care of themselves.

We spread most programs so wide and so far to so many people who are not in need of help that we deprive the truly needy and the truly poor.

I just wanted to say yes, that I wish to help these truly needy much more and if as a result of this it requires more dollars to do that so be it.

I do not think it will, if we applied that philosophy across the board and kicked off a lot of people who really could take care of themselves, if they wanted to, and helped these truly needy categories.

Mr. ARMSTRONG. Mr. President, I am nearly ready to yield back my time. But in view of what has been said, I think I should clarify a couple issues and I think at this time, also, I should ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. LEVIN). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, simply to trace the legislative history of this, the present act does provide that people who earn up to 80 percent of the median income are eligible relative to this program. In committee, as our friend Mr. STEWART pointed out, that was reduced to 70 percent. However, even under that reduction some 25 million Americans would qualify for rent subsidies.

All my amendment does is say let us limit this to people who are below 50 percent of the median income or $12,000, whichever is less.

Now, this in itself is an extraordinarily generous program. Under my amendment, if it is enacted, at least 15 million American families would still be eligible for housing assistance which I take to be a vastly larger number than we presently intend to fund. There are 15 million eligible under my amendment. Yet we are talking here about 300,000 units.

So the question is if we are only going to fund 300,000 of either 15 million, under my amendment, or 25 million under the bill as it now reads, or 30 million under the present law, the question is who should these favored 300,000 be?

It seems to me that as a matter of commonsense and best expenditure of funds as well as justice to the truly needy we should target a very limited program to those who are most in need.

My amendment, by the way, implements the present practice of the Department of HUD. Ninety-three percent of families now receiving section 8 rental subsidies earn less than $9,000, and I am advised that at the present time there are less than 700 families receiving subsidy under this program who earn more than $11,000 per year.

If that is true, you may wonder why do we need an amendment such as I am today proposing because it really implements the present practice? The reason is simple, that is, at this moment the section 8 program is under review and HUD is considering regulations which would increase the units made available with incomes between 50 and 80 percent; in other words, HUD itself has administratively been doing what is contemplated by my amendment and is now planning to move into the middle- and upper-income subsidy bracket.

In view of the fact we have funds for relatively speaking a handful of recipients in very great need, in view of the fact this is a year of budget stringency, it is scarcely wise to take the step at this time.

When we fulfill the need for 15 million, 5 million, or 10 million, we can always come back to make the program more generous.

It seems to me at this moment this is a modest step toward focusing the use of scarce resources.

Mr. STEWART. Mr. President, will the Senator yield for a question?

Mr. ARMSTRONG. I am happy to yield.

Mr. STEWART. Mr. President, I wish to clarify one thing. The Senator is talking about the figure of $12,000 in the bill as median income, or the area of median income, which is less.

Mr. ARMSTRONG. Whichever is less.

Mr. STEWART. In conjunction with that, let me point out what I did not do clearly enough for those people representing areas which have, perhaps, a disproportionate share of the poor.

What you are doing with this particular situation if you target less of that group to fit into the median income, if that is less than $12,000 in your areas, you are cutting out people who should be eligible for this program. I am not talking about the near-poor, I am talking about the working poor, the people who pay taxes in some of the poor areas of our country, and I think those who represent those areas need to take a look at this particular amendment from that standpoint.

I do not argue with the fact that we ought to target the moneys we spend in housing for those who need it. But we are talking about the median income and we are talking about a median income in some parts of the country that is far less than $12,000 a year, and when we are talking about by targeting 50 percent of that, we are cutting out some people in some areas of the country, particularly in my part of the country, who are in desperate need of the program. I think those who represent those areas should take a look at that amendment from that standpoint, and I suggest they do.

Mr. ARMSTRONG. Unless others are prepared to speak, I am prepared to bring this to a vote. Before I do that, let me point out that $12,000 is nearly twice the Government standard for a nonfarm family of four; $12,000 approximates the national median income—it is a bit less, and nobody argues that $12,000 is a lavish amount to live on. But the question is whether or not we should subsidize the housing of people in the $12,000, $15,000, $18,000 bracket while we are unable to subsidize people in the $5,000, $6,000, and $8,000 bracket. So it is not a question of absolute need, but relative need.

Mr. NUNN. Mr. President, could I ask the Senator from Alabama a question?

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. I might ask for the Senator from Colorado's attention also because I am looking for information here.

The Senator from Alabama makes a point that some who represent some areas of the South, where there is disproportionate share of the poor people in the country, should be alerted to the dangers of the amendment.

I ask the Senator from Alabama is he saying if the median income in the South is $14,000 a year under the Armstrong amendment 50 percent of that would be $7,000 and $7,000 is less than $12,000, and, therefore, the people in a family of four that makes $8,000 would not be eligible under the Armstrong amendment? Is that what the Senator is saying?

Mr. STEWART. With all due respect, I prefer to go the other way. I would say if you have a median income of $7,000, which is less than $12,000, and you take 50 percent of that, under this program then you have some people who might, perhaps, be or should be eligible for the program or above that. He uses the $12,000 figure in explaining his amendment. But what we are talking about is a $12,000 figure or a median income that is less than that.

Mr. NUNN. I thought 50 percent was applied before you decided which is the lesser figure, not after you decided it. Which is it?

Mr. ARMSTRONG. Mr. President, I think we are getting wrapped around something extraneous. There are two limitations. One is 50 percent of the median income within the geographic area. In other words, median incomes in Georgia are not compared to median incomes in Colorado or New York or someplace else. That is the present law. In other words, median income per capita is within the standard area set up by the Department of Labor. The $12,000 limit is a separate limit, but it would not have the effect the Senator states.

Mr. NUNN. I understand that. Let me just give the Senator a hypothetical example. If the median income was $14,000 in the State of Georgia, what then would be the eligibility criteria if this amendment passes? Would it be $7,000?

Mr. ARMSTRONG. I will say to the Senator at the present time the median income computations are made, as I understand it, on the basis of the standard metropolitan statistical area rather than State-by-State. But if you would state the Atlanta SMSA, I would say at the present time the limitation is based on whatever your median income is in Atlanta based on 80 percent of whatever that is. My amendment says that would be 50 percent.

Mr. NUNN. I am giving you a hypothetical. Assuming median income in Atlanta is, the SMSA is, $14,000, what then would be the eligibility limit of a family living in this area? Would it be 50 percent of that or $7,000?

Mr. ARMSTRONG. If I understand the Senator's question correctly, that is correct, $7,000 in the circumstances he described. The justice of that is, in my opinion, that otherwise we would have families in the $10,000, $11,000, $12,000, $15,000 bracket getting subsidies which would not be available to the lower-income families. That is precisely the purpose of my amendment, which is to direct the subsidy to the poorest, neediest segment.

Mr. NUNN. What I am puzzled about, though, if I could continue to have some time, is let us assume the median income hypothetically in Colorado is $14,000, and let us assume the median income in the State of Georgia is $10,000.

It seems to me under your amendment in Colorado a family earning $14,000 would be eligible, a family earning $7,000 would be eligible, because that would be half of $14,000 in Colorado, whereas in Georgia a family earning $14,000 would not be eligible, while a family earning $5,000 would be.

It seems maybe that is the point the Senator from Alabama is making, that the higher your median income is, the higher income family is eligible.

The poor in the area, it seems to me, the more poor people, are excluded. How is it fair, and this is my question, for a family in Colorado that has a higher median income I am sure, that earns $7,000, has a family of four being eligible, whereas a family which earns under my example $6,000 in Georgia would not be eligible?

Mr. ARMSTRONG. I think the situation the Senator has described is exactly the circumstances that prevail at the present time because at the present time, just as under my amendment, the percentage limitation based on the median-income is applied on a metropolitan-area-by-metropolitan-area basis.

If the concern which the Senator is raising is whether or not the amendment tends to favor high-income areas over low-income areas, I think the purpose of my judgment is to direct money to low-income families wherever they may be. It could easily be argued that geographically my amendment favors precisely those sections of the country which have the larger concentration of lower income families.

Mr. NUNN. It seems to me it favors low-income families in high- and median-income areas.

Mr. ARMSTRONG. Well, the purpose of it——

Mr. NUNN. But it discriminates against low-income families in low- and median-income areas.

Mr. ARMSTRONG. I think not. But the main issue, so far as I am concerned, is not that anyway. That is a question which, it seems to me, in a program of this type is beside the point. The real issue is should we be subsidizing relatively prosperous, relatively more affluent, families when we are unable to fulfill the needs in the lower income brackets?

Mr. NUNN. But why would not the Senator let the $12,000 figure be applied across the Nation to help the lower median-income families?

Mr. ARMSTRONG. Is the Senator suggesting that as an alternative proposal?

Mr. NUNN. I am not on the committee and I would not want to amend it myself that way. Of course, you are the experts and you know how this would affect the overall program. I do not understand how it is fair for a family making $6,000 in the State of Georgia to not be eligible whereas a family making $7,000 in a higher median area would be eligible. I understand what the Senator is saying that that already is the way the law applies, because it is tied to median incomes, and you just raise the figure to 80 percent. But I am just asking the question of those who are expert whether that is fair at all.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. NUNN. I do not have the floor.

Mr. WILLIAMS. I yielded to the Senator from Georgia. I do not know how much time is remaining here.

The PRESIDING OFFICER. The Senator has 10½ minutes.

Mr. LEAHY. Mr. President, will the Senator yield for a unanimous-consent request? I ask unanimous consent that DeAna Hamilton of Senator HUDDLESTON'S staff have the privileges of the floor for the remainder of the evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, the rationale behind using the percentage figure against median income is that you have, or the rough rationale is that you have, differneces in cost of living that are reflected in housing costs and other things. This is one effort to try to, although you get a different absolute figure, sort of accommodate roughly the same sort of people in different areas. That is a rough approximation, and it can lead to the situation which the Senator from Georgia is describing in which a family of $9,000 in one area is eligible and not in another. You know, they have to be somewhat lower in another area.

The really important point that this colloquy is developing though, which the Senator from Alabama has underscored and which, I think, everyone has to keep in mind in thinking about the amendment offered by the Senator from Colorado, is that amendment has been offered with a great deal of emphasis on this $12,000 figure.

Everyone is thinking of himself, and how does that affect my area, and who is under $12,000, and is that a reasonable sort of figure for us to be working with?

Then you stress that this is a subsidy program and a section 8 program, and should we not get it down? But that is not what the amendment says. What the amendment says is $12,000 or 50 percent of median income, whichever is lower.

The only areas in this country that have a median income twice $12,000, so that the $12,000 figure would have any applicability, would be Alaska and perhaps the Washington, D.C., area.

What we are talking about is 50 percent of the median income. If the median income is $13,000, we are cutting eligibility down under this program, by this amendment, to $6,500. So when you think about this program, you have to be thinking about people making under $6,500. As soon as you start doing that, you have to think about two things: What about the working poor the Senator from Alabama was talking about, who in my view ought to be able to get into this program, and what about the mix in this section 8 housing, where you are trying to get some reasonable mix so you get some families in there who can provide leadership, set examples, and so forth, and you do not have the whole thing just stacked in such a way that you are taking everybody right off the bottom 10 percentile of the income, which then gives you problems in putting together a housing development or project that will really work?

The next thing you know, you have gone out and done this thing, and everyone looks at it and says, "Look at it, it is in a terrible condition, it is not working," and so forth.

That is the kind of complications you get into. What everyone ought to realize is that this $12,000 figure is virtually irrelevant, and the real point is being made by the Senator from Alabama, when he puts his finger on the fact that what this will do is cut eligibility down to 50 percent of the median income in your area.

Now, median is half of the families, and 50 percent of that will put you to the very bottom 25 percent.

Mr. NUNN. If we would just simply change it from whichever is less to whichever is more, we would be directing the amendment to what is the common perception. If we say 50 percent of the median income or $12,000, whichever is more, we would be covering the $12,000 families.

I do not know whether the appropriate figure is $12,000 or $10,000, but it seems to me that when we throw that figure in, we throw in the whole question of whether we ought to be considering median income at all.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. NUNN. I do not know the answer, but it seems to me the question ought to be answered. Why throw $12,000 figure in at all, if we are tying it to median income? One or the other should not be in there, is seems to me.

I yield the floor. That is my question.

The PRESIDING OFFICER (Mr. TSONGAS). Who yields time? The Senator from New Jersey has 5 minutes and 5 seconds. The Senator from Colorado has 15 minutes.

Mr. SCHMITT. Will the Senator from New Jersey yield to me?

Mr. ARMSTRONG. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes and 56 seconds.

Mr. ARMSTRONG. I am pleased to yield to the Senator from New Mexico.

Mr. SCHMITT. I appreciate that, because I do not think we are going to use up all the time, but I am afraid I am probably going to oppose the amendment. But I would like to get some thoughts clarified first.

If there is anyone on the Banking Committee more concerned about waste and abuse in public housing than I, I do not know who it might be. But I am concerned that an amendment of this kind, in the absence of a number of other actions such as tax reduction for the lower middle class or the entire country, for that matter, but particularly for the lower middle class economic group, taking an action of this kind, in the absence of other actions, becomes punitive.

The Senator from Georgia can say it ought to be reduced to this or that figure for this reason or that reason, but I am very much concerned about the level to which we lower the limit for eligibility for public housing.

I know that in New Mexico one of the most common complaints that I get from my constituents, particularly those in the lower middle class economic group, is that there is nothing for them. Inflation is eating them alive, they are paying extraordinarily high taxes for their income level, both adult members of the family are working, and there are no Government services they are eligible for, and so on.

This Congress has got to take a much more extended look at that problem, but I am afraid this particular amendment, without that extended look, literally becomes punitive against that particular group.

I appreciate the Senator from Colorado yielding on his time for that kind of comment. It is not that I am not sympathetic with his goal; I just do not know how to get there without hurting this particular group in excess of what they deserve.

Mr. ARMSTRONG. Mr. President, I am glad the Senator from New Mexico has raised this concern. I believe I can satisfy him. I can assure him that this entire issue has been subject to a great deal of study, and I believe every single question raised during the course of this debate has been discussed at some length in committee.

The question of whether or not we ought to have a mixture of income groups in public housing, for example, has been the subject of a survey which analyzed 37 housing projects; and the conclusion, basically, was that the income-mixing concept did not have a lot of validity. That is paraphrasing a lengthy report, but that is the conclusion I drew.

We are not suggesting in this amendment that future housing subsidies under section 8 go to only a handful of people in a very narrow range of income families. We are saying, through this amendment, that 15 million American families could qualify. I do not think Congress will fund any such number, but we could under this amendment.

What I am suggesting is that we should, in all fairness, narrow the range so that we would not have people in the 69th or 70th percentile of median income in the country or geographic area collecting money where people in the 25th percentile are not able to get any help.

We are only funding 1 percent. We are going to reduce to only slightly under 25 million the number of families eligible. My amendment says, in all fairness, that we should not be taxing people in the lower half of the income sector within the community to provide the rent subsidies to people in the upper half.

The real control on this, ultimately, is in the individual project, but I think we ought to target this more precisely.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I will be happy to yield in a moment. I want to make one additional point.

You can say this is punitive, you can say it goes too far, but what I am trying to improve is the present practice and the present program. There are only 700 families, I am advised, with incomes above $11,000 who are getting subsidies, but there is now a subsidy regulation being considered to begin on a larger scale to pay housing subsidies to those families between the 50th and the 80th income percentile. I would suggest that when there is a huge unfilled need in the lower half, and where we are facing budgetary restraints, we ought to think a little on this.

I am happy to yield to the Senator from Maryland.

Mr. SARBANES. I do not understand the Senator's assertion that the lower half of those in this income scale would be paying taxes in order to pay subsidies to people in the upper half of the income scale. Will the Senator explain that?

Mr. ARMSTRONG. Yes, I will be happy to. At the present time, it is perfectly possible for someone with a family of four with an income up to $17,000 a year to qualify for a subsidy under this program. In your State and mine there are many families who do not get subsidies, who are paying taxes into the general treasury, who earn $10,000, $12,000, $13,000, or $18,000, who do not get any subsidy.

So just in principle we have a situation where a lot of taxpayers, in fact, the vast majority, who earn less than $17,000 a year are paying taxes to support a program that benefits those.

I am not saying that there are no chances where people at the 80th percentile should not be the beneficiaries of some kind of Government program, but I want to say it is inappropriate in this particular case.

Mr. SARBANES. Let me restate my question. As I understand it, under existing law, if your income is more than 80 percent of the median income, you are ineligible. Is that correct?

Mr. ARMSTRONG. That is correct, if you are 78 or 79 percent.

Mr. SARBANES. But half of the people are above the median income. The other half of the people are below the median income. The half of the people who are below the median income, if they are above 80 percent of the median income, are also ineligible.

It seems to me by definition you cannot have people in the bottom half paying for people in the top half of the income scale because the people in the top half of the income scale are excluded automatically. Median income means that 50 percent are above that income.

The only statement that the Senator has made that I am taking issue with, and I understand the thrust of where he wants to go with this amendment, is the assertion that there is a situation now where those from the bottom half of the income scale can be paying for subsidies to go to people in the top half of the income scale. By definition, the people in the top half of the income scale, all of whom are above the median income, are excluded to begin with.

Then we get into an argument of which people in the lower half of the income scale ought to be able to participlate in this program. Is it going to be those at 80 percent of the median income? Is it going to be those at 70 percent of the median income, which is what the committee has brought out in this bill, which represents a partial response by the committee to some of the points which the Senator from Colorado is making?

Those points were made in the committee and there was some response to them. I do not contend that some of the points the Senator is making are not without merit. We have responded to some of them. But I am speaking about 50 percent as the median income. The Senator is referring to the bottom half of the income scale by definition, so there is no way that people in the bottom half of the income scale can be paying to subsidize people in the top half. On the argument about who is in this program, it is those in the bottom half of the income scale.

Mr. ARMSTRONG. Let me point out that the national average income now is $17,600 for a family of four. In many areas of the country there are geographic areas where the regional median income obviously is well above $17,000. So if we take 80 percent of an above-average median income in a particular standard metropolitan statistical area, we quickly arrive at a situation where a family above the national median could receive subsidy under section 8.

However, that is not really the issue. The statistics can be bent around a lot of different ways. The fact of the matter is should we target this program, relatively speaking, to the poorest of the poor, or should we target it to somebody else? My amendment suggests it should go to the poor people, and on that basis I believe it will be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. PERCY. Will the Senator yield?

Mr. TSONGAS. Mr. President, I am very sympathetic to the remarks made by my colleague from Colorado. I am sure that none of the Members of the Senate fails to recognize the fact that resources for the section 8 program are too limited to meet the needs of all low-income people. I am certain that we would all like to find a way to serve the needs of the very low income people.

However, I am not sure that the issue is really one that can be addressed by an arbitrary reduction in eiligibility. Right now the law provides section 8 eligibility to people at or below 80 percent of the median. Yet the administration tells us that 93 percent of all people served under this program are at or below 50 percent of the median. In fact they tell us that the average income of clients in this program is 28 percent of the median.

The committee bill has called for a reduction to 70 percent of the median. We have no assessment of the impact of this change. Now we are being asked to take 50 percent of the median, again with no assessment of the impact of this change.

I would suggest that before we set an arbitrary reduction figure, we need to carefully analyze the issue with greater care.

My point is, that the present eligibility level does not relate to the reality of the clients HUD is serving. Maybe this is not the way to get at the issue. Maybe it is. But I would urge the Senate to withhold any changes in this limit until we can receive a better clarification of the problem.

The PRESIDING OFFICER. The Senator from Colorado has 5 minutes remaining.

Mr. ARMSTRONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislation clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. Chiles), the Senator from Connecticut (Mr. Ribicoff), the Senator from Mississippi (Mr. Stennis) and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Goldwater), the Senator from Pennsylvania (Mr. Heinz), the Senator from Vermont (Mr. Stafford), the Senator from Wyoming (Mr. Wallop), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators wishing to vote?

The result was announced—yeas 34, nays 55, as follows:

[Rollcall Vote No. 164 Leg.]

YEAS—34

Armstrong
Bellmon
Boschwitz
Byrd, Harry F., Jr.
Chafee
Church
Cohen
Danforth
Dole
Domenici
Exon
Garn
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Levin
Lugar
McClure
Packwood
Percy
Proxmire
Roth
Schweiker
Simpson
Stone
Talmadge
Thurmond
Tower
Warner
Zorinsky

NAYS—55

Baucus
Bayh
Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Cochran
Cranston
Culver
DeConcini
Durenberger
Durkin
Eagleton
Ford
Glenn
Gravel
Hart
Hatfield
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Pressler
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Stevens
Stewart
Tsongas
Williams

NOT VOTING—11

Baker
Chiles
Goldwater
Heinz
Ribicoff
Stafford
Stennis
Stevenson
Wallop
Weicker
Young

So Mr. Armstrong's amendment (UP No. 327) was rejected.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, there will be no more rollcall votes today.

I have some other information they may be interested in.

S. 344—THE NEED TO REPAIR THE FAILURE OF THE HIGHWAY BILLBOARD CONTROL LAW

Mr. STAFFORD. Mr. President, the Subcommittee on Transportation of the Committee on Environment and Public Works will hold hearings on Tuesday, July 17, and Wednesday, July 18, to consider my bill S. 344. This is legislation that will add greater flexibility to the

Federal highway billboard control law, giving the States the option of dropping out of the program. These hearings will begin at 10 a.m. each day, and Tuesday's hearing will be in 4200 Dirksen and Wednesday's hearing will be in 1114 Dirksen.

Mr. President, this is an important issue. I think it is most interesting that the only group now supporting the perpetuation of the present billboard law is the billboard industry itself. The reason: The law has become nothing more than a billboard protection law.

As a clear sign of this, the Journal of the American Planning Association magazine, in its April 1977 issue, carried an article entitled: "Billboard Control Under the Highway Beautification Act—A Failure of Land Use Controls."

I ask unanimous consent that this article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Billboard Control Under the Highway Beautification Act—A Failure of Land Use Controls

(By Charles F. Floyd)

Perhaps no environmental or land-use issue evoked more discussion and debate during the 1950s and 1960s than did aesthetics and sign control. This movement culminated in the Highway Beautification Act of 1965 which promised to control:

"The erection and maintenance of outdoor advertising signs, displays, and devices in areas adjacent to the interstate system and primary system . . . in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty."

In practice, however, the Act has largely been a failure, achieving little toward the accomplishment of the stated Congressional goals. Crippling amendments, problems arising from reliance upon the use of eminent domain rather than the police power to remove nonconforming signs, "loopholes" in the designation of commercial and industrial zones, the exemption of on-premise signs, a lack of national standards, and general indifference among former supporters have been the main causes of the Act's ineffectiveness.

THE BONUS ACT

Local governments have been attempting to control billboards since these eyesores became prevalent around the turn of the century.[1]

A strong push for national billboard legislation came after the beginning of the interstate highway system in 1956. Two years later Congress passed the so-called "Bonus Act," which encouraged individual states to develop control measures consistent with national standards by offering a federal-aid highway bonus payment in the amount of one-half of one percent of the cost of interstate highway construction projects. The Act prohibited most off-premise signs along the interstate system and provided some control of on-premise signs.[2] Later amendments exempted from control those segments of the interstate system which traversed (1) areas that had been either zoned commercial or industrial within the boundaries of incorporated municipalities as of September 1959, or areas in which the state had clearly established land use as industrial or commercial as of that date, and (2) older rights-of-way incorporated into the interstate system.[3]

Twenty-five states, located mostly in the Northeast, the Midwest, and along the Pacific Coast, passed enabling acts and entered into bonus agreements before the expiration of the program on June 30, 1965 (Johnson 1970). The Bonus Law did not specify the method to be used in effecting the required outdoor advertising controls. Only three states utilized the power of eminent domain to eliminate nonconforming signs; seven states combined compensation for certain existing signs along with police power controls; the remainder relied solely upon the police power. Six of these states had their laws tested in the courts and all were upheld with the exception of Georgia's. In an opinion which is widely quoted because it is so in variance with prevailing legal opinion in other states, the Georgia Supreme Court declared the law unconstitutional because it did not provide compensation in the acquisition of nonconforming signs.[4]

Even though it was the first attempt to develop national advertising control legislation, the Bonus Act has been much more successful in achieving its stated objectives than has the 1965 Beautification Act. The primary reasons for the Bonus Act's success were:

It provided for definite national standards.

The freeze date on the designation of new commercial and industrial zones kept these areas from proliferating to an extent that would undermine the purposes of the Act.

An alternative to the passage of the Highway Beautification Act would have been to amend the Bonus Act to make outdoor advertising control along the interstate system mandatory for all of the states and to eliminate some of the Bonus Act's loopholes. In retrospect, there is little question that this approach would have been far more effective in controlling billboards than the one actually adopted in the 1965 Act.

THE HIGHWAY BEAUTIFICATION ACT

The year 1965 marked the passage of the Highway Beautification Act, sometimes called the Ladybird Johnson Bill but more accurately described as the Billboard Protection and Compensation Act. The Act was conceived with lofty intentions—to make billboard control mandatory in all the states and to extend control to the primary system (most US-numbered and some state-numbered highways). What emerged offers a classic case of a powerful industry gutting environmental legislation. On the positive side, billboard control was made mandatory (a state would lose 10 percent of its federal-aid highway funds unless it complied with the Act), and regulation was extended to the primary system.[5] The costs, however, both in monetary and other terms, were enormous.

First, *all* areas zoned for commercial and industrial use, including "unzoned commercial and industrial areas," were exempted from any but the most minimal controls. The exemption is much too broad, lumping research parks and rural areas that happen to be zoned for possible future commercial development with ugly commercial strips. The practical effect of the provision has been to allow billboards in commercial areas where they are totally inharmonious, and also in areas which are almost totally rural in character.

Second, on-premise signs, those signs that identify a place of business, were exempted from any controls. The result has been huge gas station signs towering above the landscape at almost every interchange and the unchecked spread of sign clutter along our highways.

The most devastating triumph of the billboard lobby, however, was the provision making payment of compensation mandatory for the removal of all noncomforming signs. As will be shown, this forced compensation feature, combined with meager appropriations for the program, has meant that very few signboards have actually been removed under the Act.

THE HIGHWAY BEAUTIFICATION ACT IN PRACTICE

How effective has Title I of the Highway Beautification Act of 1965 been in (1) controlling the erection of new billboards and (2) removing billboards that are nonconforming? The record indicates that the Act has been ineffective in both respects.

CONTROL OF NEW BILLBOARDS

Size and spacing standards. The Highway Beautification Act required that each state enter into an agreement with the Secretary of Commerce (later Secretary of Transportation) to "provide effective control of outdoor advertising," including size and spacing requirements for billboards permitted in commercial and industrial areas. The Secretary was not allowed to set national standards for size and spacing limitations, however, but was to accept what was "customary" in each state.

In an attempt to set a basis for the negotiations with the states, and to assist in developing the required cost estimate for Congress, the Bureau of Public Roads developed draft standards for directional and official signs, a draft definition of unzoned commercial and industrial areas and draft criteria for the size, spacing, and lighting of signs permitted in commercial or industrial zones. Following the publishing of these criteria in the Federal Register, a series of public hearings was held in each state (Federal Register 1966).

The proposed standards were opposed within both the billboard industry and Congress because they would have established some restrictions on the sign companies' activities. The regulations set a maximum size limitation of 300 square feet—400 square feet if the sign was located more than 150 feet from the edge of the right-of-way. Billboards were also required to be set back 25 feet from the right-of-way, and a maximum of six signs per mile was established. No signs were to be allowed within 2000 feet of an entrance or exit ramp for an interchange or rest area, in effect creating a "blocked out zone" for approximately one and one-half miles at each interchange as a safety feature.

As a result of the opposition that developed during the hearings, when these proposed guidelines were presented to Congress in January 1967 they had been watered down considerably. The maximum size had been increased to 650 square feet with no setback requirement, while the maximum number of signs per mile had been increased to twenty-one.

Even these reduced standards met considerable opposition from the billboard lobby and its supporters in Congress, and the proposed standards were vigorously attacked during the hearings on the Beautification Act that were held by both Houses in 1967. The primary questions at issue were what constituted "customary use," and how much right the Secretary had to set any type of minimum standards. The Federal Highway Administrator testified that:

"We received a lot of testimony on what constitutes 'customary use,' and as you might suspect, it was certainly not unanimous in its presentation. We finally wound up with, for example, a size proposal of 650 feet. Just as a matter of interest, *this size is larger than all but 1.85 percent of existing signs*" (U.S. Congress, House, 1967, p. 961). (Emphasis added.)

Finally, in a May 24 letter to Representa-

Footnotes at end of article.

tive Kluczynski, Chairman of the Subcommittee on Roads of the House Public Works Committee, Transportation Secretary Boyd abandoned the proposed standards, and stated that "subject to supporting evidence, state determination of customary use will be accepted with respect to size, lighting, and spacing of signs" (U.S. Congress, Senate, 1967). Essentially, this was defined to encompass almost everything the sign companies wanted. F. C. Turner, Federal Highway Administrator, later wrote to Congressman Wright, then also Chairman of the Commission on Highway Beautification, that:

"The Federal Highway Administration, in cooperation with the Outdoor Advertising Association of America, Inc., developed a model agreement which could be utilized by any state during the negotiation process" (Commission on Highway Beautification 1973).

This "model agreement" set a maximum size limitation of 1,200 square feet that was adopted by thirty-two states. The square footage is equal to the floor area of a medium-sized three bedroom house and is approximately twice the size of the largest billboards normally erected along the interstate system. George McInturff of the Outdoor Advertising Association of America later testified:

"That size limit is the outer limit of what is used by the industry in major urban areas within the United States. . . . I doubt greatly that more than one sign out of 2,000 now erected, or erected since those controls were established, even approaches that 1,200 square feet."[6]

"Customary spacing" in the guidelines, and in most of the states, was defined as every 500 feet on the interstate system, every 300 feet on the primary system, and every 100 feet on the primary system within municipalities. The billboard industry favored the spacing requirements since they prevent a competitor from erecting another sign close enough to block an unobstructed view out of an existing billboard. Under the spacing requirements it is possible to have 10.5 billboard sites per mile on each side of the road along an interstate highway, a total of 21 sites on both sides. Since two faces are permitted at each site, 42 billboards per mile are allowed along any portion of the interstate system that is zoned commercial or industrial. On the primary system, the comparable figures are 35 sites and 70 faces per mile. Within municipalities the allowable sites reach the somewhat absurd level of 106 per mile with 212 possible sign faces. If each of these signs were of the maximum allowable size (1200 square feet per site), the total area of the sign faces would be equal to approximately three football fields for each mile of roadway (Commission on Highway Beautification 1974).[7] (Table 1 illustrates the difference between proposed and final regulations under the Highway Beautification Act).

TABLE 1.—GUIDELINES FOR SIZE AND SPACING AGREEMENTS IN COMMERCIAL AND INDUSTRIAL AREAS

	Highway Beautification Act		
	Proposed in Federal Register, Jan. 28, 1966	Proposed in report to Congress, Jan. 10, 1967	Final guidelines
Maximum size	300 s ft^2, 400 s ft^2 if located more than 150 ft from right-of-way.	650 s ft^2	1,200 s ft.^{2}
Maximum height from ground	30 ft	None	None.
Setback from right-of-way	25 ft	None	None.
Maximum number per mile on:			
Interstate	6	21	42.
Primary-rural	6	21	70.
Primary-cities	6	21	212.

	Highway Beautification Act		
	Proposed in Federal Register, Jan. 28, 1966	Proposed in report to Congress, Jan. 10, 1967	Final guidelines
Allowable square footage per mile:			
Interstate	2,400	13,650	25,200.
Primary-rural	2,400	13,650	42,000.
Primary-cities	2,400	13,650	127,200.
"Blocked-out" zone from interchange	2,000 ft	2,000 ft	500 ft outside municipality; none within municipality.
Number of firms needed to qualify as "Unzoned commercial and industrial area"	2	2	1.

Source: Federal Register, Jan. 28, 1966, Senate Document No. 6, 90th Congress, 1st session. Highway Beautification Commission, Hearings, 1974, pp. 413–419.

Commercial and industrial zones. Since the size and spacing requirements contained in most of the agreements amount to virtually no control of outdoor advertising, the designation of commercial and industrial areas becomes all important. Unfortunately, local zoning authorities often do not place great importance on providing an uncluttered view for the interstate motorist. The real or imagined benefits to be derived for local businesses through billboard advertising usually assumes a much greater priority. In practice, therefore, many local communities, and particularly rural counties have attempted to circumvent the Highway Beautification Act by zoning long stretches of rural highways as commercial and industrial areas. The absence of any requirement that such areas actually contain commercial or industrial land uses, and the Congressional insistence that state and local zoning actions be accepted for the purposes of the Act, makes this provision perhaps the largest loophole in the entire Highway Beautification Act.

"Anticipatory" commercial and industrial zones. Under generally accepted planning techniques lands are zoned not just for the present, but also for anticipated development some years into the future. Because there is no requirement in the Beautification Act that restricts billboards to areas of actual commercial or industrial land use, this practice results in signboards being allowed in vast areas of rural countryside. For example, on Interstate 85 in Gwinnett County near Atlanta an industrial zone extends approximately four miles beyond the currently developed industrial area. In this four miles there are fifty-one billboard sites, only four of which are actually located near any type of commercial or industrial land use.

"False" commercial and industrial zones. Many states or local communities have classified areas as commercial and industrial zones that fail to qualify for this designation under any accepted land use standards. Consequently, it is difficult to reach any conclusion other than the obvious one that they were zoned primarily to allow billboards. In some cases, strips along the entire length of rural highways have been zoned solely for this purpose. Other rural counties have designated large areas on either side of interchanges as commercial zones, even though such activities are confined almost exclusively to the areas immediately adjacent to the interchange. Still others have classified strips along interstate highways as agricultural-commercial zones, in which billboards are almost the only permitted commercial use. Several states passed legislation to comply with the Highway Beautification Act that zoned vast areas as commercial or industrial. The most obvious was Wyoming, which zoned all lands outside of municipalities within 660 feet of the rights-of-way of interstate and primary highways as commercial (U.S. Congress, House, 1967, p. 1005). South Dakota zoned all land within 660 feet of interstate and primary highways up to fifteen miles from municipal limits as commercial (Commission on Highway Beautification 1973, pp. 644–645). Georgia zoned similar areas from two to eight miles from municipal limits, varying with municipal population size.[8]

These flagrant examples of false commercial and industrial zoning were not accepted by the U.S. Department of Transportation. Even though the Highway Beautification Act gives the states full authority to zone commercial and industrial for the purposes of the Act, the Federal Highway Administration has taken the position that zoning created primarily to permit outdoor advertising structures will not be recognized (U.S. Department of Transportation 1975).

Unzoned commercial and industrial areas. The designation of "unzoned commercial and industrial areas" is another gigantic loophole permitting billboards in predominantly rural areas. The U.S. Department of Transportation initially proposed that at least two businesses be located in such an area to qualify it as commercial (Federal Register 1966). On the other hand, much of the billboard industry took the position that billboards should be allowed in any area that *might* be suitable for commercial and industrial development, even though there were no such firms there at all. In the definition that was finally accepted, even the most obscure commercial or industrial use will serve to permit signs. For example, small family businesses that happen to back up to an interstate highway—and that in many cases cannot even readily be seen from the highway—will permit the erection of several large billboards. Ironically, junkyards in rural areas that are screened and controlled under the Highway Beautification Act have also served as the justification for permitting billboards.

Four of the states, California, Hawaii, Oregon, and Colorado, do not allow signs in unzoned commercial and industrial areas, while another four, New Hampshire, Massachusetts, Washington, and Vermont, require a minimum of two or three activities to qualify. (Vermont has since prohibited all billboards advertising within the state). The remainder of the states, except South Dakota, require only one activity and allow signs within 400 to 1000 feet (Commission on Highway Beautification 1974).

The ingenuity shown by some advertising companies to get a foot into this loophole are fascinating. In Georgia one property owner erected a small shed in a rural area and put up a sign designating it as a warehouse. A large billboard was erected next to

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Footnotes at end of article.

this "warehouse" and the outdoor advertising firm then applied for a permit based on the area's being an unzoned industrial area. In South Carolina, a large national advertising company helped set up a small radio repair shop in a residence that happened to be located near Interstate 95, and then used this "business" as justification to erect several large billboards.

The case of South Dakota. The Federal Highway Administration refused to accept the South Dakota law which zoned vast areas as commercial, and Secretary of Transportation Volpe invoked the ten percent penalty in federal-aid highway funds. The Secretary's determination that South Dakota was not providing "effective control," as called for under the Act, was challenged in federal district court, but the action was upheld. The court found that the State had:

"Zoned commercial corridors through the State corresponding to the federally assisted highway systems, affording the State virtually no protection from outdoor advertising and subjecting the Interstate traveler to an array of billboards in the midst of an area obviously agricultural. For example, under the South Dakota law, on Interstate 90, crossing the State east to west, there would be only two short segments from one border to the other in which billboards would not be permitted. Each of these excepted segments would have been approximately two miles long. The Secretary reasonably concluded that these provisions were obviously inconsistent with the Act's purpose."[9]

Although South Dakota did pass new legislation and sign an agreement with the Secretary of Transportation (who returned the withheld federal-aid highway funds), this did not end South Dakota's efforts to circumvent the Highway Beautification Act. Local communities passed zoning ordinances designating large areas along interstate and primary highways as commercial, and these zoning determinations were accepted for purposes of the Highway Beautification Act by the State.

For example, Lyman County, with a population of approximately four thousand people, passed a zoning ordinance in 1975. Despite the fact that the county's population had been declining since 1910, and only slightly over two hundred persons were employed in wholesale and retail trade within the entire county, 29 of the 52 miles of I–90 within the county, comprising approximately 2,200 acres, was zoned for commercial use. These commercial zones were 300 feet wide on each side of the highway and sometimes extended more than three miles from any access to the interstate at an interchange. The town of Lyman, which had a population of approximately fifty and not a single commercial enterprise, zoned four miles of I–90 as commercial (Fifth District Planning and Development Commission 1976).

After the billboard industry successfully challenged the state's new law on the grounds of improper delegation of power, South Dakota passed still another act.[10] This act was a blatant attempt to not only circumvent the intent of the Highway Beautification Act but to use it to protect and enrich the billboard industry.[11] Among its provisions were:

"Direction signs," which are allowed in all types of areas, were defined to include billboards.

Local government control of outdoor advertising was pre-empted and local ability to require removal of any type of nonconforming signs through amortization under the police power was eliminated.

Depreciation of the sign coud not be taken into account in determining compensation.

All nonconforming billboards could be "repaired or replaced by a sign of substantially the same kind," in effect giving all these signs eternal life.

The state was required to secure negative easements rather than use traditional zoning powers to control the erection of new signs.

In addition, the unzoned commercial and industrial area was defined to include:

All land on both sides of the road within one mile in either direction of the property boundaries of any commercial or industrial activity.

All land within one thousand feet of the right-of-way that is traversed by a railroad.

"All pockets of land" lying between zoned or unzoned commercial and industrial areas which are not more than one thousand feet apart.

"All other unzoned lands, *or zoned lands without regard to zoning classfication,*" as determined by any board of county commissioners. (Emphasis added.)

Determining that the South Dakota law "failed to provide for effective control of outdoor advertising," Secretary of Transportation Brock Adams invoked an approximate $4.5 million penalty on the State in November 1978.[12] He also reserved ten percent of the State's current allocation, pending possible revision of the South Dakota law by March 31, 1979. South Dakota has appealed this decision to the courts.

The 660 foot control zone. Framers of the 1958 Bonus Law felt that some limit of control was necessary, and for somewhat obscure reasons this was set at 660 feet (⅛ mile) from the edge of the right-of-way. These limits were continued in the Highway Beautification Act of 1965. The billboard industry responded in predictable fashion to this loophole by creating the phenomena of the "jumbo" sign. There are very large billboards, usually 1200 to 2500 square feet in size, but sometimes even larger. By 1973 the states estimated that there were nearly five thousand of these jumbos located just beyond the 660 foot control limit (Commission on Highway Beautification 1974). Several thousand more were erected before state laws were changed to comply with a 1974 amendment to the Highway Beautification Act which extended the control zone to the limit of visibility. The cost of removing the existing jumbos is now estimated at $77 million.[13]

REMOVAL OF NONCONFORMING SIGNS

Communities have traditionally eliminated nonconforming signs through amortization under the police power (Floyd and Shedd 1979, Chapter 4; Dobrow 1975; Travers 1974; and Williams 1974–75, Chap. 116). Almost all of the "Bonus" states used this method, but Congress decided upon compensation in the Highway Beautification Act, supposedly because control was being extended to the primary system (Floyd 1979).

In 1972 the Secretary of Transportation made a determination that Vermont's policy of not paying compensation for the removal of nonconforming billboards did not constitute "effective control" under the meaning of the Highway Beautification Act. The State challenged this mandatory compensation provision on the basis that (1) such action was not authorized under a proper construction of the Act, and (2) the provision violated the Tenth Amendment to the Federal Constitution. The court ruled against Vermont, and the State agreed to pay compensation.[14]

Congress made compensation mandatory for the removal of nonconforming signs, declared in a 1968 amendment that no signs are required to be removed unless the federal share of compensation is available, but has since failed to appropriate the funds necessary to complete the program within any reasonable time. In May 1971 Secretary Volpe attended ceremonies in Shreveport, Maine, marking the removal of the first sign purchased under the Highway Beautification Act. The outdoor advertising company was awarded $6,000 in compensation for this sign which had a town property tax valuation of some $820 (U.S. Congress, Senate, 1974). This event occurred nearly a year after the "final compliance date" of July 1, 1979, that was originally set in the Highway Beautification Act for the removal of all nonconforming signs.

Approximately 91,650 nonconforming signs had been removed under the Highway Beautification Act as of March 31, 1978; this is 30 percent of all nonconforming signs. Expenditures on the outdoor advertising control program, including administrative expenses, totaled $107.5 million through June 30, 1978 (Floyd and Shedd 1979, pp. 124–127).

State sign removal programs have varied widely, with some of the states removing all or almost all nonconforming signs, while others have removed few, if any. Eleven states had acquired less than 10 percent of their total nonconforming signs while only fourteen had purchased more than 50 percent.

The Federal Highway Administration estimates the total cost of removing signs made nonconforming by the Highway Beautification Act at approximately $515 million.[15] This represents a considerable underestimation, however, since the figure was derived by employing an average acquisition cost per signboard based on past experience, and the remaining signs are acknowledged to have a much greater average value than those removed during the early part of the program. The General Accounting Office estimates the removal cost at $823 million (Comptroller General 1978). Even if the lower FHWA cost estimate is correct, at the current level of appropriations the sign removal program could not be completed in less than 110 years.

Most public projects are planned so as to maximize the benefit-to-cost ratio; the billboard removal program has been designed to minimize the benefit-to-cost ratio. In 1976 amendments Congress directed that the first priority for removal be signs voluntarily offered by the billboard companies, while other nonconforming signs along heavily traveled rural highways will be the last removed. This strategy has resulted in the very limited funds that have been appropriated for highway beautification being dissipated to little benefit except to the outdoor advertising firms.

The program has been further weakened by another amendment contained in the 1976 Federal Highway Act. In addition to directing the states to retain nonconforming rural signboards giving directional information until the end of the program, the amendments also allowed the states to keep these billboards permanently where their removal might cause "economic hardship."[16] This provision has the potential of completely halting the removal of rural signs.

Still not satisfied, the billboard industry is lobbying hard to further amend the Act to permit "private directional signs" in all rural areas. This euphemism describes any billboard that contains directional information, a definition that covers an estimated 80 percent of existing signboards. Only a few hours and a few gallons of paint are needed to change the others. Needless to say, the proposed amendment would almost completely gut what still remains of the billboard control program.

1978 AMENDMENTS

In response to requests from the outdoor advertising industry, the Act was amended in 1978 to require that compensation be paid whenever a nonconforming sign is removed under any state or local land-use control, environmental, or zoning law.[17] Previously, compensation was required only where signs were removed because of the Act; it was not required where signs were removed because they were nonconforming under other state conservation or environmental laws, or under local comprehensive zoning

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Footnotes at end of article.

ordinances. The amendment represents an unprecedented limitation on local zoning authorities and a victory by the industry in its longstanding campaign to deny state and local governments the traditional right to remove nonconforming signs through the use of the police power.

This Congressional action comes at a time when the principle of compensation through an amortization period has met with increasing acceptance in the courts (Floyd and Shedd 1979, Chap. 4; Dubrow 1975; and Environmental Law Review 1976.) In a major challenge by the sign industry, the amortization provision in Denver's sign ordinance was upheld by the Tenth Circuit Court of Appeals.[18] Other examples of amortization period held to be reasonable include the six and one-half years allowed for removal of all advertising signs in the Catskill and Adirondack Parks of New York,[19] the three year amortization period provided prior to mandatory removal of billboards in the Village of Minnetonka's residential communities,[20] the ten month period allowed for removal of billboards in Boothbay, Maine,[21] and the two year period enacted by Doraville, Georgia, provided before removal of signs within five hundred feet of an expressway.[22]

BILLBOARD CONTROL UNDER THE HIGHWAY BEAUTIFICATION ACT: AN ASSESSMENT

Billboard control under the Highway Beautification Act has largely been a failure, both in removing nonconforming signs and in preventing the spread of billboard clutter to much of the rural countryside. In particular:

The requirement that size, spacing, and lighting would be in accordance with "customary use" has meant that for all practical purposes there are no restrictions on billboards in the areas that are designated as commercial and industrial zones.

These ineffective regulations have tended to shield the billboard industry from more effective regulation at the state or local level.

The designation of commercial and industrial zones has been so loose that local or state governments desiring to circumvent the Act can do so with almost complete impunity.

The designation of "unzoned commercial and industrial areas" is so loosely defined that even very obscure commercial or industrial uses will permit billboards.

Only a relatively small number of nonconforming billboards have actually been removed, and at the present level of funding the program could not be complete is less than 110 years.

Ineffective regulations have permitted billboard companies to continually rebuild and refurbish nonconforming signs, in effect, to give them eternal life. Allowing the billboard companies to rebuild their signs continually has meant that the cost of acquisition continues to rise rather than to decline as was stated Congressional intent.

The mandatory compensation provision has hindered the use of the police power to remove signs at the state and local level.

Adequate alternative motorist information systems have not been provided.

This gloomy assessment of the program's effectiveness is shared by many observers, including the General Accounting Office, which recently completed a study of the Highway Beautification Act (Comptroller General 1978). That study concluded:

"The program as it is now structured may not achieve the overall objective of preserving natural beauty along the highways. A general lack of support for the program, the legal complexities that may result between States and sign owners, the numerous exemptions granted under the law, and the differences in State and local rules all appear to hamper achieving the aesthetic results of sign removal. . . . It appears that the objectives of the Highway Beautification Act will not be accomplished in the near future."

Senator Robert T. Stafford (R-Vt.), one of the Act's strongest supporters over many years, recently evaluated the billboard control program in discussing the 1978 amendments (Congressional Record 1978):

"This program is only a small part of the total Federal-aid scheme but, in my opinion, is one which functions the least well, raises more controversy, and provides fewer benefits than any other program element.

"It seems to me that we have succeeded in tying the hands of those States, such as my own, which want to move aggressively to clear highways of billboards. At the same time we have achieved very little in States which are less interested in the scenic value of their roads. We are fostering the worst of two worlds. And at the funding levels provided by Congress since the program began in 1965 it is evident that the program has little support from its creators. . . . In some instances it seems as if *the Beautification Act has been turned around and now promotes rather than discourages billboards... I want my colleagues to consider the possibility that repeal of the highway beautification experiment may ultimately prove to be the only way to further the goals originally sought.*" (Emphasis added.)

STEPS TOWARD AN EFFECTIVE BILLBOARD CONTROL PROGRAM

What are some realistic ways that the Highway Beautification Act could be amended so as to become more effective?

CONTROL OF NEW BILLBOARDS

The proliferation of billboards in commercial and industrial zones that are actually primarily rural is the greatest loophole in the Highway Beautification Act.

This loophole could be eliminated by:

Initiating a freeze on the designation of additional commercial and industrial zones similar to that in the Bonus Act.

Redefining "unzoned commercial and industrial areas" to limit this designation to areas of significant commercial and industrial activity.

Requiring that billboards be located near actual commercial or industrial uses. This would eliminate the problem of anticipatory or false commercial and industrial zones.

Some control of on-premise sign is also necessary to eliminate obvious abuses such as the huge signs that tower over the landscape near interchanges. These regulations would not need to be complex; only size and height limitations are essential.

The size and spacing limitations for billboards in commercial and industrial areas should also be reassessed. The present requirements are so broad that they provide no real limitation on outdoor advertisers and serve merely to shield the industry from effective local regulation. The requirements should either be revised so as to be effective or else be eliminated.

Alternative motorist information services should be provided. A first step would be to establish "logo" information signing on all rural freeways. These signs, which are located on the right-of-way, display panels showing brand names, trademarks, and names of business establishments. Separate blue panels are erected in advance of interchanges for gas, food, lodging, and camping facilities (U.S. Department of Transportation 1974). Firms near the interchange and meeting certain criteria can furnish panels containing a brand name logo or other type of name identification to be placed on these panels. A few states, notably Virginia and Oregon, have made extensive use of the logo signs, and a number of other states have begun similar programs. After years of experimentation there are no longer valid reasons to delay implementation of such a program.

REMOVAL OF NONCONFORMING SIGNS

The principle of mandatory compensation for the removal of nonconforming signs under the Highway Beautification Act appears to be firmly established, and it is unlikely that Congress would be willing to eliminate this provision. Even so, the removal program could be made much more realistic and effective. First, rules and regulations regarding the replacement, repair, and refurbishment of nonconforming signs should be revised so that these signs would actually depreciate as the years advance. This is consistent with generally accepted practices regarding nonconforming uses and would make it possible to eliminate these signs over a reasonable period of time.

Second, the monies that are available for sign removal should be utilized for maximum benefit rather than frittered away as is current practice. Nonconforming signs on the heavily traveled interstate system should be completely removed before any funds are expended on the primary system. Exceptions to this rule could be made for especially scenic roads, but the program should definitely involve removal of all nonconforming signs on a particular stretch of highway. Partial removals leave little discernible visual improvement for the average motorist.

These steps would make it possible to conduct a meaningful billboard removal program within a reasonable period of time. Obviously, this is not being achieved under the current program.

BILLBOARD CONTROL: THE FORGOTTEN ENVIRONMENTAL ISSUE

The outdoor advertising industry has been able to dismember the Highway Beautification Act almost unimpeded in recent years and reduce it to near total ineffectiveness because the Act has been virtually abandoned by environmentalists. Even though billboard control was one of the first important environmental issues, it now is seemingly out of vogue with these groups.

Effective billboard control can still be achieved under the Highway Beautification Act if significant public support can be mobilized in support of extensive amendments and vigorous administration. Otherwise, perhaps it would be preferable to acknowledge failure as Senator Stafford suggests, and repeal the Act.

In his proposed budget for fiscal year 1980 President Carter has recommended that funds be discontinued for the Highway Beautification program. On February 6th, Senator Robert Stafford, the program's greatest supporter in the Congress, introduced a bill to repeal the mandatory provisions of the act. The Senator explained that "The purposes this act was intended to achieve have been to a large degree perverted. The act has become more a protection for billboards than the cause for their removal." Senator Stafford was attacked as a "rabble-rouser" by an official of the Outdoor Advertising Association of America, who praised the act as "a worthy endeavor that should continue." Hearings on the bill are scheduled for this summer.

FOOTNOTES

[1] For a review of these local efforts see Floyd and Shedd (1979); Travers (1975a, 1975b); and Williams (1974–1975, Chapter 11, 120–127).

[2] Federal Aid Highway Act of 1958, 23 U.S.C. Sec. 131.

[3] Public Law 86–342 (1959).

[4] The flavor of the Court's opinion can be gathered from the following excerpt:

"We believe this matter is important enough to justify the following observations. Private property is the antithesis of Socialism or Communism. Indeed, it is an insuperable barrier to the establishment of either collective system of government. Too often, as in this case, the desire of the average citizen to secure the blessings of a good thing like beautification of our highways, and their safety blinds them to a consideration of the property owner's rights to be saved from harm by even the government. The thoughtless, the irresponsible, and the misguided will likely say that this court has blocked the effort to beautify and render our highways safer. But the actual truth is that we have only protected constitutional rights by condemning the unconstitutional method to attain such desirable ends, and to emphasize that there is a perfect constitutional way which must be employed for that purpose. . . . *State Highway Department v. Branch*, 222 Ga. 770, 152 S.E. 2d 372 (1966)."

[5] 23 U.S.C. Sec. 131.

[6] Testimony given before a public hearing to consider a challenge to the constitutionality of the State College Borough, Pennsylvania. Sign Ordinance 888 (March 13, 1978).

[7] For a review of legal issues concerning the Highway Beautification Act see Cunningham (1973).

[8] Georgia Laws, 1967 Session, No. 271.

[9] *State of South Dakota v. Volpe*, 353 F. Supp. 335 (S.D. S.D. 1973).

[10] *Hogen v. South Dakota State Board of Transportation*, 245 N.W. 2d 493 (1976).

[11] House Bill No. 786, 52d Sess., Legislature of the State of South Dakota (April 1, 1977).

[12] Final Determination and Order by Secretary of Transportation Brock Adams, November 9, 1978.

[13] Letter from G. B. Saunders, Chief, Real Property Acquisition Division, Federal Highway Administration (June 17, 1977).

[14] *State of Vermont v. Brinegar*, 379 F. Supp. 606 (D.C. Vt. 1974).

[15] Saunders letter, *op. cit.*

[16] 23 U.S.C. Sec. 131(o).

[17] Public Law 95-599, Nov. 6, 1978. 92 Statues at Large 2689.

[18] *Art Neon Co. v. The City and County of Denver*, 448 F. 2d 118 (10th Cir. 1973) *cert. denied* 417 U.S. (1974).

[19] *Modjeska Sign Studios, Inc. v. Berle*, 402 N.Y.S. 2d 359, 373 N.E. 2d 255 (N.Y. Ct. of App. 1977).

[20] *Naegele Outdoor Advertising Company of Minnesota v. Village of Minnetonka*, 281 Minn. 492, 162 N.W. 2d 206, 213, (Minn. Sup. Ct. 1968).

[21] *Inhabitants of the Town of Boothbay and State of Maine v. National Advertising Company*, 347 A2d 419 (Sup. Judicial Ct. of Me. 1975).

[22] *City of Doraville v. Turner Communications Corporation*, 236 Ga. 385, 223 S. E. 2d 798 (Ga. Sup. Ct. 1976).

REFERENCES

Bell, Brenda. Highway Beautification Program May Die. *Atlanta Journal and Constitution*. February 4, 1979.

Commission on Highway Beautification. 1973. *Public hearings before the commission on highway beautification*, pp. 410–419.

Commission on Highway Beautification. June 1974. *Staff papers*, Washington, D.C.

Congressional Record 124, S. 13719, 1978.

Congressional Record S1124–25, February 6, 1979.

Controller General of the United States. 1978. *Obstacles to billboard removal*. General Accounting Office.

Cunningham, Roger A. 1973. Billboard control under the Highway Beautification Act of 1965, 71 *Michigan Law Review*: 1295.

Dobrow, Ilene. 1975. Constitutionality of sign amortization ordinances. 9 *Urban Law Annual*: 303.

Environmental Law Review. 1976. Aesthetics off the pedestal: Massachusetts Supreme Judicial Court upholds aesthetics as basis for exercise of the police power. *Environmental Law Review*. 10036.

Federal Register Vol. 31, No. 19, January 28, 1966, pp. 1162–1166.

Fifth District Planning and Development Commission, *Lyman County Interim Zoning Ordinance*. Pierre, S.D., July 1975, revised April 1976.

Floyd, Charles F. 1979. Removal of billboards under the Highway Beautification Act. *Real Estate Appraiser and Analyst:* March–April.

Floyd, Charles F., and Shedd, Peter J. 1979. *Highway beautification: the environmental movement's greatest failure*. Boulder: Westview Press.

Johnson, Ruth R. 1970. The Highway Beautification Act: cosmetic for the city? *The Catholic University Law Review* 20: 69–90.

Travers, Timothy E. 1974. Classification and maintenance of advertising structure as nonconforming use. 80 *American Law Review 3d:* 613.

Travers, Timothy E. 1975a. Validity and construction of state or local regulation prohibiting the erection or maintenance of advertising structures within a specified distance of street or highway. 81 *American Law Review 3d:* 557.

Travers, Timothy E. 1975b. Validity and construction of state or local regulation prohibiting off-premises advertising structures. 81 *American Law Review 3d:* 474.

U.S. Congress, House, *Hearings on H.R. 7797*, 90th Cong., 1st Sess., 1967.

U.S. Congress, Senate Report No. 542, 90th Cong., 1st Sess., 1967.

U.S. Department of Transportation, *Federal aid program manual*, Vol. 6, Chap. 8, sec. 3, subsec. 8, Transmitted 1974.

U.S. Department of Transportation, *Federal aid program manual*. Vol. 7, Chap. 6, Transmitted September 26, 1975.

Williams, Norman, Jr. 1974–1975, *American land planning law*. Chicago: Callaghan & Company, 5 Volumes.

DR. DONALD KENNEDY

Mr. NELSON. Mr. President, one of this Government's most capable and dedicated public servants, Dr. Donald Kennedy, decided to return to private life after serving as Commissioner of the Food and Drug Administration (FDA) for 2 years.

During his tenure at FDA, Dr. Kennedy and his staff has shown an uncanny willingness and ability to tackle issues of great public concern such as saccharin, nitrites, and DES, and made significant progress on drug regulation reform. In a period of only 2 short years, Dr. Kennedy raised both the status of and morale within the beleaguered FDA.

Dr. Kennedy's dynamic and farsighted leadership has drawn praise from all parties, consumers as well as industry representatives, who are subject to FDA regulatory functions. The following article in the June 28 issue of the Washington Post is one of numerous articles recounting Dr. Kennedy's many accomplishments.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KENNEDY'S KIND FAREWELL TO FDA

(By Marian Burros)

Often departing government officials take potshots at the bureaucracy. But Dr. Donald Kennedy, commissioner of the Food and Drug Administration for a little over two years, leaves office tomorrow generally satisfied with every branch of the government.

His only real complaints are reserved for those who criticize the system. In light of his victories in the past 10 days, Kennedy may have a point.

On Friday, Kennedy is expected to sign an order banning the use of DES (diethylstilbestrol) in animal feed. It will have taken seven years and one botched attempt by the agency to ban the hormone. This time Kennedy made sure it was done right.

Some daughters of women who used DES during pregnancy have suffered a rare form of vaginal cancer; and some male offspring have suffered testicular abnormalities.

Last week the Supreme Court gave the FDA the authority it sought to ban Laetrile as a cancer drug.

On Monday of this week, the Office of Technology Assessment, an arm of Congress, confirmed FDA's position that antibiotics used in animal feed as a growth promoter may be making human bacteria more resistant to the drugs.

That same day FDA issued its final regulations for labeling yellow No. 5 artificial coloring, also known as tartrazine. Many people are allergic to it, but have been unable to determine if it is used in a particular product since the presence of artificial colors is listed on labels generically. Beginning in June 1980, all drugs that contain the color will have to list its presence on the label, as "yellow No. 5 and tartrazine." By July 1981, foods containing the color also will have to list its presence.

Kennedy, the first non-physician to head the agency, admits that the bureaucracy works slowly, but he has come to appreciate it even more than he did during the beginning of his tenure. In December 1977, he said that he was "occasionally frustrated by their tendency to want to keep a very close hold on their own operations." In an interview earlier this month he conceded that "the bureaucracy is a pretty damn good institution. If I have one wish, it would be that the kind of respect that used to be attached to it will be reattached."

The current attack on the bureaucracy is the only thing he found frustrating about his job. "It's sort of trendy to criticize the bureaucracy. Politicians run against the bureaucracy and are getting votes for it. If that goes on, people who go in for public service are going to decide not to do that. I think the people who are criticizing will be very disappointed that what they have run out of town has to be reinvented."

Kennedy said the slow pace of the government results because "this society goes to a lot of pain to make sure that somebody can't get taken to the cleaners because they don't have a chance to be heard on an issue."

The former Stanford University professor of biology, who gets high marks on his performance from almost everyone, regrets that he did not stay on the job for the four years he had said were necessary to accomplish anything. So does Michael Jacobson, director of the Center for Science in the Public Interest and a sharp critic of the two previous FDA commissioners.

Said Jacobson: "Kennedy is bright, candid, articulate and approachable. His best marks are in the area of explaining to people why the tests using huge doses of chemicals to evaluate food additives are appropriate and valid. I think he fought very hard and very eloquently on saccharin being outlawed.

"When he leaves, presumably the bureaucracy will reassert itself. The real disappointment is he was here two years instead of four. His problems on nitrite and saccharin lie not with him but with Congress and the tremendous pressure industry is putting on Congress."

Kennedy, however leaves office with positive feelings about Congress, industry and consumers.

He is "encouraged by the considerable difference I see in the congressional attitude now" toward some sort of a ban on saccharin and the one he saw when he first testified a little over two years ago. "Then there was unambiguous, unallayed outrage. Now the line is quite different and each report shows that FDA has acted correctly." But Kennedy said he was "actually impressed with how fair" his treatment by Congress has been.

Congress returns the compliment. Said Chris Hitt, a member of the Senate Nutrition Subcommittee staff, "Kennedy brought to the FDA an authority and credibility that had been missing for years. It's a shame he's leaving. You have to think in five-year blocks around here to achieve something."

(While waiting for Congress to do something about saccharin, Kennedy advises parents either to be "very cautious about allowing their children to drink saccharin-sweetened drinks or to ban them outright.")

Kennedy described the pressure put on him by special-interest groups as "reasonably intensive, but not outrageously aggressive." He is not quite so generous, however, in his appraisal of the performance of the Calorie Control Council, an association of diet soft drink and food processors, which produced a media blitz to keep saccharin from being banned. "I thought it was very much counter to the public interest. I was a little astounded at the amount of money being spent," he said.

"I didn't like it very much. One of the aspects of the Calorie Control Council's campaign that troubled me was their use of newspaper ads with tear-out clips to be mailed to FDA, which saturated our hearing clerk's comment-receiving system, and their numerous harassing Freedom of Information requests. They were taking advantage of a public-access statute."

Though he agrees "there is not a good balance" between public interest and special interests, "the public interest groups are learning and are getting stronger. They make up in diligence and often in ingenuity what they lack in financial support. They give a good account of themselves.

"Federal agencies ought to be helping them to give a good account of themselves," he said and mentioned the proposals to help public interest groups participate in government decisions by paying attorneys' fees, etc.

Kennedy's only serious complaint about his agency has to do with research facilities. "Our research labs and facilities are in 15 different buildings just in Washington. Half of our people spend just an outrageous amount of time commuting back and forth. The Bureau of Food labs are in spaces not even designed as labs. We are not going to meet even reasonable safety standards within a year or two. We desperately need to get modern lab space. If something isn't done, I am troubled about the quality of protection for the American people."

Otherwise, Kennedy, who returns to Stanford University as provost, thinks things are going along reasonably well. The fast-food companies seem to be willing to use nutrition labeling on their products, he said. The proposal to label alcoholic beverages with a limited ingredient statement is "going along reasonably well" and changes in food labeling will be under way before he leaves office.

Kennedy is certain that a suitable format can be found for putting nutrition information on food labels. "The world must be full of people who can make understandable formats. After all, we can all find our way around international airports. We ought to be able to do as well for the food we eat as the roads we drive on."

His greatest success, however, he feels is not in the food area but in the introduction of new legislation for comprehensive drug reform. It also is, he said, his greatest failure. The legislation has not been passed.

Overall, Kennedy said he has enjoyed his job enormously and wouldn't mind coming back some day.

As Secretary of Health, Education, and Welfare?

"Oh! Some day in the wild distant future it might be an interesting job," he said with a big smile.

THE WITHDRAWAL OF PUBLIC LANDS

Mr. STEVENS. Mr. President, there is a great controversy raging in this Congress regarding the recent actions by the Carter administration to withdraw nearly 125 million acres of public lands from uses under the public land laws. It is my position that Congress has the constitutional authority and duty to act to insure that final disposition of public lands in Alaska is rationally and reasonably decided.

In making the withdrawals in December, the President stated that these withdrawals were made only to allow Congress the time to act. I vehemently disagree with the President that these withdrawals were necessary because adequate protection under existing withdrawals at the time were adequate.

Nevertheless, it is important that Congress act to provide for rational and reasonable land use planning on these lands. A recent editorial by the Arizona Republic indicates the importance of sound legislation. That editorial points out that the same environmental extremists who fought for years to prevent the development of the North Slope and the construction of the Alaska pipelines are making unreasonable demand is for wilderness and other restrictive classifications on Alaska's public lands. It is important that Congress view this issue in a sound and reasonable manner. It is our duty and responsibility to insure that America's public lands are managed properly.

Mr. President, I ask unanimous consent that the editorial entitled "Ban on Development," be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Ban on Development

Despite intense lobbying by conservationists and the Carter administration, a bill to put 102 million acres of Alaska off limits to development failed to get through Congress earlier this year.

Now, the administration has done what Congress balked at doing—and then some. Using the authority granted him under a section of the Bureau of Land Management Organic Act, Secretary of the Interior Cecil Andrus has set aside 110 million acres for three years.

And President Carter has nailed down 56 million of those acres by designating 17 areas as national monuments under the Antiquities Act of 1906.

We quite agree that parts of Alaska should be preserved so that our grandchildren and their grandchildren can see that our nation once wasn't all paved over.

However, 110 million acres do seem excessive.

That's almost a third of Alaska. It's an area larger than California. With a stroke of his pen, Andrus has doubled the size of the national Wild Life Refuge and the National Park systems.

And, on top of this, the act granting statehood of Alaska provides that 44 million acres be set aside for the Eskimos, Aleuts and Indians.

The Alaskan wilderness is a place of great natural beauty, and therefore a valuable natural resources, but the state has other resources, too, and they must be tapped for the future prosperity of the nation.

The conservationists fought for years to prevent the development of the North Slope and the construction of the Alaska pipeline. Fortunately, they lost the fight. Had they won, the nation's dependence on foreign oil would be even greater than now, and the dollar even shakier.

They are celebrating a great victory now, but the administration's actions will come up for review by the next Congress. We hope Congress decides that it's not necessary or advisable to bar quite so much land from development.

We enjoy a primeval forest as much as the next man—but 110 million acres?

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:04 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 3363, an act to authorize appropriations for fiscal years 1980 and 1981 for the Department of State, the International Communication Agency, and the Board for International Broadcasting; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. Zablocki, Mr. Fascell, Mr. Solarz, Mr. Pease, Mr. Mica, Mr. Barnes, Mr. Gray, Mr. Bowen, Mr. Broomfield, Mr. Derwinski, Mr. Buchanan, and Mr. Pritchard were appointed managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message also annonced that the Speaker has signed the following enrolled bill:

H.R. 3978. An act to amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such Act.

The enrolled bill was subsequently signed by the President pro tempore (Mr. Magnuson).

At 1:06 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the bill (S. 975) to authorize appropriations for fiscal year 1980 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BOLAND, Mr. BURLISON, Mr. ZABLOCKI, Mr. MINETA, Mr. ROBINSON, and Mr. WHITEHURST, and for consideration of differences with the Senate on intelligence-related activities, Mr. PRICE, Mr. ICHORD, and Mr. BOB WILSON were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 827. An act to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the United States Postal Service;

H.R. 4616. An act to make certain technical and clerical amendments to title 5, United States Code; and

H.J. Res. 353. A joint resolution congratulating the men and women of the Apollo program upon the tenth anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance".

At 5:09 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 4057. An act to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 827. An act to establish dispute resolution procedures and an arbitration board to settle disputes between organizations of supervisors and other managerial personnel and the United States Postal Service; to the Committee on Governmental Affairs.

H.R. 4616. An act to make certain technical and clerical amendments to title 5, United States Code; to the Committee on Governmental Affairs.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 4057. An act to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Appropriations, with amendments:

H.R. 4388. An act making appropirations for energy and water development for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96–242).

By Mr. GRAVEL, from the Committee on Finance, without amendment:

S. Res. 188. A resolution relating to transitional rules for tax exempt mortgage bonds (Rept. No. 96–243).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Special Report Pursuant to Section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96–244).

By Mr. SASSER, from the Committee on Governmental Affairs, with an amendment:

S. 221. A bill to establish a congressional award program for the purpose of recognizing excellence and leadership among young people (Rept. No. 96–245).

By Mr. EAGLETON, from the Committee on Appropriations, with amendments:

H.R. 4387. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96–246).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Samuel B. Nemirow, of Virginia, to be Assistant Secretary of Commerce for Maritime Affairs.

Tyrone Brown, of the District of Columbia, to be a Member of the Federal Communications Commission.

The following-named persons to be Members of the Board of Directors of the Corporation for Public Broadcasting:

Geoffrey Cowan, of California;
Kathleen Nolan, of California;
Paul S. Friedlander, of Washington;
Howard A. White, of New York;
Michael R. Kelley, of Virginia;
Michael A. Gammino, Jr., of Rhode Island; and
Jose A. Rivera, of New York.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE COMMITTEE ON FINANCE, FROM APR. 1, TO JUNE 30, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Roth:									
Erypt	Egyptian pounds	210.00	300.00					210.09	300.00
Israel	Israeli pounds	3,276.00	150.00	10,065.66	453.00			13,341.66	603.00
Saudi Arabia	Riyals	724.20	213.00		282.40			724.20	495.40
Total			663.00		735.40				1,398.40

June 28, 1979.

RUSSELL B. LONG,
Chairman, Committee on Finance.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, U.S. SENATE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]
Senator Pete V. Domenici. Mexico	Peso	1,412.50	62.09					1,412.50	62.09
Louis H. Gallegos: Mexico	Peso	1,512.50	67.22					1,512.50	67.22
Total			129.31						129.31

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION	Amount
Foreign currency (U.S. dollar equivalent)	$129.31
Appropriated funds: Transportation	673.64
Total	802.95

June 21, 1979.

JENNINGS RANDOLPH,
Chairman, Committee on Environment and Public Works.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE COMMITTEE ON FOREIGN RELATIONS, FROM APRIL 13 TO APRIL 23, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Frank Church:									
P.R.C	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
Senator Jacob K. Javits:									
P.R.C	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
Senator Joseph R. Biden, Jr.:									
P.R.C	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	60,685	279.37					60,685	279.37
Senator Paul Sarbanes:									
P.R.C	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
Senator Edward Zorinsky:									
P.R.C	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
William B. Bader:									
P.R.C	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
Albert A. Lakeland, Jr.:									
P.R.C	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	66,198	305.22					66,198	305.22
William J. Barnds:									
P.R.C	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	57,005	309.00					67,005	309.00
Joanne Novins:									
P.R.C	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	62,623	289.00					62,623	289.00
Cleve Corlett:									
P.R.C	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	55,955	257.19					55,955	257.19
Marcy Krause:									
P.R.C	Yuan	594.86	375.00					594.86	375.00
Japan	Yen	67,005	309.00					67,005	309.00
Delegation expenses:									
P.R.C	Yuan						2,231.50		2,231.50
Japan	Yen						3,345.51		3,345.51
Total			7,518.78				5,577.01		13,095.79

Note: Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of sec. 502B of the Mutual Security Act of 1954, as amended by sec. 22 of Public Law 95-384, and S. Res. 179, agreed to May 25, 1977.

FRANK CHURCH,
Chairman, Committee on Foreign Relations.

June 28, 1979.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SELECT COMMITTEE ON INTELLIGENCE, EXPENDED BETWEEN APRIL 1 AND JUNE 30, 1979

Name and continent	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]
Senator John Chafee: Europe									2,008.78
Donald J. Planty: Europe									1,495.02
Total									3,503.80

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BIRCH BAYH,
Chairman, Select Committee on Intelligence.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN MAY 24 AND JUNE 5, 1979

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]
Senator Lawton Chiles:									
Italy	Lire	128,400	150.00					128,400	150.00
Israel	Pound	6,942	287.57					6,942	287.57
Jordan	Dinar	19.80	64.71					19.800	64.71
Egypt	Pound	157.50	225.00					157.700	225.00
Saudi Arabia	Riyal	195.55	58.37					195.55	58.37
Airline ticket from Washington, D.C. to Rome, Italy, and return.					964.00				964.00
Less reimbursement by personal check for expenditures of a personal nature.									−45.00
Richard L. Collins:									
Italy	Lire	128,400	150.00					128,400	150.00
Israel	Pound	6,722	278.45					6.722	278.45
Jordan	Dinar	21.60	70.59					21.60	70.59
Egypt	Pound	157.50	225.00					157.50	225.00
Saudi Arabia	Riyal	39.30	11.73					39.30	11.73
Airline ticket from Washington, D.C. to Rome, Italy, and return.					964.00				964.00
Less reimbursement by personal check for expenditures of a personal nature.									−45.00

Footnote at end of table.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN MAY 24 AND JUNE 5, 1979—Continued

Name and country	Name of currency	Per diem: Foreign currency	Per diem: U.S. dollar equivalent or U.S. currency[1]	Transportation: Foreign currency	Transportation: U.S. dollar equivalent or U.S. currency[1]	Miscellaneous: Foreign currency	Miscellaneous: U.S. dollar equivalent or U.S. currency[1]	Total: Foreign currency	Total: U.S. dollar equivalent or U.S. currency
William H. Jordan:									
Israel	Pound	5, 698	227.92						227.92
Jordan	Dinar	20, 255	66.44						66 44
Egypt	Pound	127.500	180.00						180.00
Saudi Arabia	Riyal	433	12.75						12.75
Italy	Lire	128, 550	150.00						150.00
Airline ticket from Washington, D.C. to Rome, Italy, nad return.					964.00				964.00
Delegation expenses:									
Italy	Lire			223.452	261.04			223.452	261.04
Israel	Pound			5, 431	225.00	10, 427	431.95	15, 859	656.95
Total			2, 158.53		3, 378.04		431.95		5, 878.52

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[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent)	$5, 878.52
Total	5, 878.52

WARREN G. MAGNUSON,
Chairman, Committee on Appropriations.

July 2, 1979.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JEPSEN:

S. 1483. A bill to amend the Internal Revenue Code of 1954 to increase and index the amount which may be excluded from taxable gifts each calendar year; to the Committee on Finance.

By Mr. TOWER (for himself and Mr. BENTSEN):

S. 1484. A bill to amend the Clean Air Act with respect to the prevention and control of air pollution in border areas of the United States and countries contiguous to the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURENBERGER (for himself, Mr. BOREN, Mr. BOSCHWITZ, and Mr. HEINZ):

S. 1485. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to encourage competition in the health insurance industry, to encourage the provision of catastrophic health insurance by employers, and for other purposes; to the Committee on Finance.

By Mr. CHURCH (for himself, Mr. BOREN, Mr. HAYAKAWA, Mr. ROTH, Mr. DOMENICI, and Mr. ZORINSKY):

S. 1486. A bill to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S. 1487. A bill for the relief of Alfredo M. Maglinao; to the Committee on the Judiciary.

By Mr. NELSON:

S. 1488. A bill to amend the Internal Revenue Code of 1954 to provide for the partial exclusion of interest from gross income; to the Committee on Finance.

By Mr. CHURCH (for himself, Mr. GARN, Mr. HATCH, Mr. SIMPSON, Mr. WALLOP, and Mr. MCCLURE):

S. 1489. A bill to consent to the amended Bear River Compact between the States of Utah, Wyoming, and Idaho; to the Committee on the Judiciary.

By Mr. WILLIAMS:

S. 1490. A bill to amend the Woodrow Wilson Memorial Act of 1968 with respect to the Hubert H. Humphrey Fellowship in Political and Social Thought at the Woodrow Wilson International Center for Scholars; to the Committee on Rules and Administration.

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S. 1491. A bill to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building"; to the Committee on Environment and Public Works.

By Mr. NELSON (for himself, Mr. DURENBERGER and Mr. PROXMIRE):

S. 1492. A bill to save the Milwaukee Road's freight-carrying capacity; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENSON:

S. 1493. A bill to create the Department of Commerce, Trade and Technology, to consolidate in such department various functions of the Government with respect to commerce, international trade and technology, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 1494. A bill to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977; to the Committee on Armed Services.

By Mr. HATFIELD:

S. 1495. A bill to acquire certain lands so as to assure the preservation and protection of the Potomac River shoreline; to the Committee on Energy and Natural Resources.

By Mr. INOUYE:

S. 1496. A bill to amend the Interstate Commerce Act to provide for more effective regulation of carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1497. A bill to amend Title 49, United States Code, transportation to encourage motor carrier efficiency and to provide for more effective regulation of carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATSUNAGA:

S. 1498. A bill to amend title II of the Social Security Act to provide an alternative retirement test for certain individuals receiving self-employment income substantially attributable to their activities in a preceding taxable year; to the Committee on Finance.

By Mr. ROTH:

S. 1499. A bill to promote and encourage the formation and utilization of export trade associations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENTSEN:

S. 1500. A bill to amend the Federal Rules of Criminal Procedure to provide certain sentencing requirements in any case in which a person commits a felony while admitted to bail; to the Committee on the Judiciary.

S. 1501. A bill to prohibit the pretrial release of any person charged with an act of aggravated terrorism; to the Committee on the Judiciary.

By Mr. MATSUNAGA (for himself and Mr. BAUCUS):

S. 1502. A bill to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; to the Committee on Finance.

By Mr. HEFLIN (for himself, Mr. STEWART, Mr. GOLDWATER, Mr. GLENN, Mr. TOWER, Mr. HEINZ, Mr. CHILES, and Mr. DECONCINI):

S.J. Res. 95. A joint resolution to authorize the Commissioner of Education to make a grant for the purpose of constructing a building at Tuskegee Institute in memory of General Daniel "Chappie" James, Junior, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEPSEN:

S. 1483. A bill to amend the Internal Revenue Code of 1954 to increase and index the amount which may be excluded from taxable gifts each calendar year; to the Committee on Finance.

THE GIFT TAX EXCLUSION SHOULD BE INCREASED

● Mr. JEPSEN. Mr. President, today I am introducing legislation which will increase the gift tax exclusion from $3,000 per year to $12,000 and index it to the rate of inflation thereafter.

Currently, one is allowed to give up to $3,000 in cash or equivalent property to another individual per year without having to pay gift taxes upon it. Were there no such exclusion one would have to pay gift taxes and keep records of every Christmas, birthday or wedding present. This would clearly be unenforceable and would simply cause a great deal of unnecessary paperwork for everyone.

Unfortunately, the gift tax exclusion has not been increased since 1932, when it was raised from $500. Thereafter, the exclusion was reduced to $4,000 in 1938 and to $3,000 in 1942, on the grounds that people were able to avoid gift taxes but the estate tax altogether by disposing of their estates a piece at a time during their lifetimes. This may have been true at that time, when incomes and estates were so much smaller, but because of inflation and because our national wealth has increased so much since World War II I think that it is time to revise the gift tax exclusion accordingly.

Had the gift tax exclusion kept pace with inflation it would have increased to $12,000 today, since prices have roughly quadrupled since 1942. Looking at it from another perspective, in 1942 the average price for an acre of farmland was $34. Today it is more than $500 nationwide and higher still in Iowa. Thus in 1942 a father could give his son 88 acres of land in a year without having to pay gift taxes on it, but today he could only give him six acres or less. Thus I believe that raising the gift tax exclusion to $12,000 is really quite a modest proposal.

The revenue impact of this legislation will be minimal. At present all estate and gift taxes combined only raise $5.3 billion per year, about 1 percent of Federal revenues. If most people realized how little revenue estate and gift taxes raise compared to the amount of anguish it causes people who must sell family farms and small businesses to pay them I think there would be a very strong move in this country to abolish these taxes. As far as I can see they serve no useful purpose. Rich people can afford the high-priced legal advice necessary to escape them so that they impact largely on those with only modest estates.

If I am charged with trying to undermine the estate and gift tax with this legislation, then so be it. It is an unfair and inequitable tax which I would just as soon see abolished. In the meantime, it is only fair that we raise the gift tax to its equivalent real value in 1979 dollars. This modest proposal will at least help to mitigate some of the unnecessarily annoying effects of the estate and gift tax and allow people to dispose of some of their wealth during their lifetime without being penalized.●

By Mr. TOWER (for himself and Mr. BENTSEN):

S. 1484. A bill to amend the Clean Air Act with respect to the prevention and control of air pollution in border areas of the United States and countries contiguous to the United States, and for other purposes; to the Committee on Environment and Public Works.

● Mr. TOWER. Mr. President, in November 1977, the city of El Paso, Tex., in conjunction with the Texas Air Control Board and the Texas Attorney General's office, conducted an international air pollution meeting in El Paso. Officials of the Republic of Mexico and the U.S. Environmental Protection Agency participated in those discussions, as did staff members from my office and that of my distinguished colleagues from Texas, Senator LLOYD BENTSEN and Representative RICHARD WHITE of El Paso.

Issues discussed at that 1977 meeting focused on air pollution control matters of mutual interest and importance to Mexico and the United States. The States bordering Mexico in the Southwestern United States are extremely concerned about air pollution problems, particularly since our standards are, in most instances, more stringent than those prevailing in Mexico. As our cities strive to comply with ambient air quality standards resulting from the Clean Air Act amendments of 1977, the situation experienced by the Southwestern border States is one which causes great concern.

Today I am introducing with Senator BENTSEN legislation designed to address some of the unique air pollution problems faced by the border States. Identical legislation is being introduced in the House of Representatives by Representative RICHARD WHITE.

My bill would require the President to enter into treaties or other appropriate agreements with those countries whose borders are contiguous with ours for the purpose of preventing or controlling air pollution in these areas. Furthermore, the Secretary of State would be directed to take such diplomatic measures as necessary to reduce or eliminate that pollution which has an undesirable effect in our country.

Under this bill, the EPA Administrator would be directed to test air quality in the border areas and determine the percentage of pollutants emanating from foreign sources. Those pollutants determined to be from foreign sources would then be eliminated for the purposes of determining attainment or nonattainment of ambient quality standards in the region. Until those determinations are made, the border cities would be exempt from the current standards.

Finally, the EPA Administrator, in establishing ambient air quality standards, would be directed to take into account those unusual geographical and topographical conditions which directly or indirectly affect air quality. Such conditions include, for example, mountain ranges, stagnant air, and inversion layers.

Mr. President, this legislation is intended to address these unique border area air pollution problems in a reasonable way, and I welcome my colleagues support in this effort.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 115 of the Clean Air Act is amended by inserting at the end thereof the following:

"(e) (1) The President shall undertake to enter into treaties or other appropriate agreements with countries contiguous to the United States for the purpose of preventing and controlling air pollution in border areas. Such treaties or agreements shall be negotiated and entered into not later than six months after the date of enactment of this subsection.

(2) The Secretary of State, in consultation with the Administrator, shall take appropriate diplomatic actions to reduce or eliminate air pollution which has an undesirable effect on any area of the United States and which originates in another country. Such diplomatic actions shall be entered into not later than six months after the date of the enactment of this subsection.

(f) In carrying out the provisions of this Act, the Administrator, after testing the air quality control regions in border areas, shall determine the per centum of pollutants in each region which results from foreign sources and shall eliminate such per centum for the purpose of determining attainment or non-attainment of ambient quality standards in such region. Such testing shall be conducted not later than three months after the date of the enactment of this subsection. Effective on the date of enactment of this subsection and until such determination is made with respect to any such region the provisions of this Act shall not apply in such region."

Sec. 2 Section 113 of the Clean Air Act is amended by inserting at the end thereof the following:

"(e) In implementing and enforcing the provisions of this Act relating to the attainment and non-attainment of ambient air quality standards the Administrator shall take into account the pollutants attributable to unusual topographical and geographical conditions, such as mountain ranges, stagnant air and inversion layers and other such conditions which may contribute to such attainment or non-attainment and shall adjust ambient air quality standards in those regions accordingly."●

● Mr. BENTSEN. Mr. President, today I join with Senator TOWER to introduce legislation to amend the Clean Air Act with respect to prevention and control of air pollution in border areas of the United States and countries contiguous to the United States. This legislation is designed to respond to a problem that is perhaps most prevalent in the area around El Paso, Tex. It is a problem that must be resolved on an international basis. El Paso, like other cities in the United States, is now attempting to comply with requirements of Clean Air Act amendments passed by this Congress in 1970 and again in 1977. It is, however, constrained in the success of its efforts as a result of pollutants generated outside our boundaries that are contributing to the ambient air quality of El Paso.

One element of this legislation would direct the President to undertake efforts to enter into treaties and other appropriate agreements with those countries contiguous to the United States for the purpose of preventing and controlling air pollution in border areas. Mr. President, for areas near the border countries next to the United States to hope to have success in meeting the requirements that this country has mandated in attainment of ambient air quality standards we must have the participation of our neighbors. I believe this Government must participate in developing the conditions that will allow for the necessary cooperation between border communities on both sides of the border.●

By Mr. DURENBERGER (for himself, Mr. BOREN, Mr. BOSCHWITZ, and Mr. HEINZ):

S. 1485. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to encourage competition in the health insurance industry, to encourage the provision of catastrophic health insurance by employers, and for other purposes; to the Committee on Finance.

HEALTH INCENTIVES REFORM ACT OF 1979

Mr. DURENBERGER. Mr. President, the 1970's will be remembered as one of the most difficult periods in this Nation's history. In has been a decade characterized by faltering political leadership, economic inflation, energy crises, and perhaps most crucial, bewilderment over the place of the individual in our complex society.

We have experienced earlier periods of turmoil and conflict, but there is a difference between the problems of today and those of yesterday. Previous conflicts have arisen from the aspirations of various social groups to preserve or participate in the benefits of our democratic society. Today, the problem is not one of conflict, but of doubt as to whether this country can develop solutions to the complex problems confronting us. Even the positive developments of the decade have been bittersweet. This is particularly true of the subject of my remarks today, health care.

The United States has developed the most sophisticated health care delivery system in the world. New technologies, new procedures and new medicines provide better health care for more and more Americans. At the same time, we have been plagued with rapidly increasing costs for this health care. In the past few years, physician and hospital bills have been rising at double digit rates. We have reached a plateau of physical well-being even though we are spending more of our national income on health care.

The basic problem of our health care system is a reflection of the much larger crisis in our society. That is, the individual does not intelligently participate in nor have adequate responsibility for the decisions being made on health care for that individual. Doctors, and sometimes nurses, make the decision on treatment. No one makes any decision on the cost. Third party payers—either employers, insurance companies or the Government—foot the bill. It is a health bill based solely on cost, and not on the efficiency or effectiveness of health care. The crux of the problem is that we have created a cost-plus reimbursement system for health services which completely ignores the normal economic theories of supply and demand.

The cost of health care is particularly important to all levels of Government because the Government pays about half of all health expenses in this country annually. Public sector spending on health care, $9.5 billion in 1965, will reach $85 billion this year. Medicare, a program that was supposed to provide adequate health care for the aged and disabled, is doubling in cost every 4 years. The aged pay more in premiums under medicare than they paid for their entire health bill before medicare was initiated.

The reaction of both the Executive and Congress to the economic problem of health care—the inflationary reimbursement procedure—reveals the same inability to confront the core issues as does our public policy in many other areas.

The problem, simply stated, is what level of health services will our system provide for the consumer-patient. To date, the answer has been whatever the supplier of health care decides to provide with no limit on reimbursement. The system is so distorted that the more health services are supplied, the more will be demanded regardless of the necessity or appropriateness. The health care system is in a state of imbalance.

The response to this disequilibrium has not focused on insuring that demand restrains a potentially unlimited and expensive supply. Instead, public policy has sought to interject political rather than economic judgments on how to control demand and supply of services. Our political policy has, on the one hand, stimulated increased demand for new and expanded services, such as renal dialysis, in a manner which has increased costs. At the same time, policymakers have created new regulations and economic controls in an attempt to limit or ration health services. So, we are developing a system that says if you get sick, the system will pay whatever it costs to make you better, but if you exceed what has been approved or rationed for a particular service, you are cut off.

Further regulation is clearly not the answer. Adequate health care at a reasonable cost can best be provided by ensuring that consumers make wise choices and suppliers are rewarded for efficiency and not excess, as now occurs. It is a simple solution, but it is one that works. It combines both responsibility and participation—the two elements lacking in the existing system and lacking in the regulated structure we are busily erecting.

This alternative approach does not rely on controls. Rather, it seeks through competitive incentives to change the basic financial incentives that guide health care delivery.

Today I am introducing the Health Incentives Reform Act of 1979 as a first step toward this kind of necessary change. I am proposing a program which rewards providers for delivering better care at less cost and which rewards consumers for choosing better quality care at lower premiums. The basic principle of HIRA is that the option to choose among competing health care alternatives can lower prices and improve medical care coverage. Competitive incentives, which operate effectively in other sectors of the economy, can work in the health sector, if we plan with reasonable forethought.

The Health Incentives Reform Act is designed to foster competition by involving employers, providers, and patients in an expansion of consumer choices. Briefly, it states that:

> Employers must offer each employee a choice of at least three alternative health care plans;
>
> The employer's contribution to premiums remains the same, regardless of the employee's choice. The employee who chooses an economical plan keeps the savings while the employee who chooses a more costly program pays the additional cost; and
>
> The tax-free employer contribution to the employee's health insurance would be limited to the average premium cost for federally qualified HMOs across the country. Above that limit, employees would have to pay premiums with their own net after-tax income. This involves employees in the cost of their health insurance and gives them the incentive to shop wisely.

To qualify for tax-free treatment, all health plans must:

Cover at least a minimum set of basic benefits;

Provide catastrophic expense protection;

Offer coverage to dependents; and

Provide reasonable continuity of coverage to families and individuals who lose group membership.

Finally, HIRA offers an effective HMO option for medicare beneficiaries, and also allows medicare beneficiaries to choose to be insured by other innovative and cost-effective private health care plans.

Under these rules of fair economic competition, consumers who join health plans that do a good job of controlling costs will get more for their money. Health plans that do a poor job will lose customers and risk being driven out of business. Over the years, we will see an evolution of the system toward one with cost control and incentives for good service to consumers.

Are these proposals practical? Based on the experience of the Twin Cities, I know they are. In the Twin Cities, we have seen tremendous benefits from competition and consumer choice. We now have seven—soon to be eight—HMO's enrolling over 300,000 residents and competitive with one another and with traditional insurance on the basis of costs and benefits. Many of our leading employers are already offering employees a choice of several plans, to the benefit of all.

HIRA is an attempt to get Government back to a more traditional and successful role, that is, to see to it:

First, that there is competition—in terms of both cost and quality;

Second, that people have freedom to make choices;

Third, that people have full reliable information about those choices; and

Fourth, that the competitors all meet reasonable performance standards. That is, the Government sets reasonable minimum standards for what they must do, but does not tell them how to do it.

What does HIRA do to increase incentives?

First. It gives consumers both a choice and a reward for choosing wisely;

Second. It rewards doctors and hospitals that do a good job of controlling costs;

Third. It puts insurers under competitive pressures to act as prudent buyers for their policyholders—to identify cost-effective providers and to contract with them in ways that reward economy; and

Fourth. It encourages employers to find or develop new economical health plans for their employees.

What does HIRA do for the general public?

It moves us toward a health care economy served by a variety of comprehensive health care plans. By rejoining the system and making it economically efficient, it lays the groundwork for expanded coverage.

First. Medicare beneficiaries will be able to benefit by joining HMO's and other innovative private insurance plans. They will get the savings, now not available to them, in the form of reduced cost sharing and premiums and more extensive benefits.

Second. Workers will get better service, better accessibility, better care, at a lower cost. Employers will be able to pay higher wages or other benefits as health care cost come under control.

Third. The economically disadvantaged. With a reformed delivery system, we will be better able to afford extending coverage to those in economic need, and to those who are uninsurable in today's system.

Fourth. Doctors and hospitals. The system of fair economic competition in the private sector is the best way for providers to avoid increasing the burdensome and frustrating regulations that would otherwise be necessary.

The Health Incentives Reform Act promotes competition in terms of cost and quality in health care delivery. Unlike regulatory controls imposed from without it sets benefit standards without dictating how competing insurers will organize their plans. Unlike more universal proposals, HIRA stops short of adding more revenue to an imbalanced system and addresses system reform first. Its impact is intentionally limited to the private sector in order to set the framework a more cost effective system of health care financing.

The Health Incentives Reform Act represents a response to the overwhelming need to stop medical inflation. As with all reform measures, the success of this legislation depends on strong leadership—congressional leadership, leadership in industry, the leadership of health professionals, and concerned citizens capable of making hard decisions without compromising quality medical care. Having nearly made our way through the difficult 1970's, we have before us the opportunity to use our great private and public resources to form a more confident, progressive, and equitable society for the 1980's.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the bill, a section description and analysis, an article from the Federationist, the official publication of the AFL–CIO, on HMO's, and several articles by Prof. Alain Enthoven of Stanford University describing how the competitive incentive program works.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 1485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Incentives Reform Act of 1979".

STANDARDS FOR EMPLOYER HEALTH BENEFIT PLANS

SEC. 2. The Social Security Act is amended by adding at the end thereof the following new title:

"TITLE XXI—STANDARDS FOR HEALTH BENEFIT PLANS

"PURPOSE OF TITLE

"SEC. 2101. (a) The purpose of part A of this title is to establish standards which must be met by any health benefit plan offered by an employer in order for the employer's contribution to such plan to be excluded from the gross income of his employees under section 106 of the Internal Revenue Code of 1954.

"(b) The purpose of part B of this title is to establish standards which must be met by any health benefit plan in order for such plan to be considered 'insurance' for purposes of determining the deduction for health insurance under section 213 of the Internal Revenue Code of 1954.

"PART A—STANDARDS FOR EMPLOYER HEALTH BENEFIT PLANS

"MULTIPLE CHOICE OF PLANS

"SEC. 2111. (a) Each employer shall make available to his employees a choice of not less than three health benefit plans, each of which meets the requirements of this title, and each of which is offered by a different carrier.

"(b) To the extent available, and in accordance with the requirements of section 1310 of the Public Health Service Act, at least two of such plans shall be plans offered by a health maintenance organization that meets the definition of 'health maintenance organization' under section 1301(a) of the Public Health Service Act.

"(c) To the extent that plans required to be offered under subsection (b) are not available to an employer, such employer must offer, in lieu of such unavailable plans, alternative health care plans (to the extent that such alternative plans are available and have requested such employer to offer the plan) that the Secretary determines meet the following requirements:

"(1) The plan provides, or arranges for the provision of, a specified set of benefits that includes at least the benefits required under part B of this title.

"(2) The plan is provided to individuals who choose to enroll under the plan for a specified contract period.

"(3) Benefits are provided under the plan to enrollees for a fixed premium amount, specified and paid in advance, plus deductible and copayment amounts that are specified in the contract.

"(4) The providers of services under the plan constitute a small enough percentage of the total number of providers of such services in the community so as to generate competition with other providers.

"(5) The plan meets all applicable requirements of State law.

"(d) Each such plan must provide for an open enrollment period, which shall be the same for each plan, during which any employee may change his enrollment from one such plan to another.

"(e) The provisions of this section shall apply only to an employer who is an 'employer' within the meaning of section 3 of the Fair Labor Standards Act and has at least 25 employees.

"EQUAL CONTRIBUTION TO PLANS

"SEC. 2112. (a) Each employer who offers more than one health benefit plan shall, subject to subsection (c), make an equal contribution for each employee regardless of which plan the employee chooses.

"(b) If the contribution amount selected by the employer is in excess of the total cost of any plan offered, the employer shall contribute, to any employee choosing such plan, an amount equal to the difference between the employer contribution amount and the total cost of the plan chosen by that employee. Such contribution may be in cash or in any other form of compensation or benefit.

"(c) An employer may make contributions of differing amounts for employees based upon reasonable actuarial categories, but contributions may not vary among plans within the same actuarial category.

"(d) Each employer shall provide his employees the right to make any contributions to a health benefit plan required of such employee through a payroll deduction system.

"LIMITATION ON AMOUNT OF EMPLOYER CONTRIBUTION

"SEC. 2113. (a) For purposes of section 106 of the Internal Revenue Code of 1954 (relating to contributions by employer to accident and health plans) an amount contributed by an employer to a health benefit plan shall not be excluded from the gross income of a taxpayer to the extent that such contribution exceeds the average premium cost for health benefit plans offered by health maintenance organizations meeting the requirements of section 1301(a) of the Public Health Service Act, for the same family status actuarial category as such taxpayer's filing status (as determined under subsection (c)).

"(b)(1) The average premium cost for health benefit plans offered by health maintenance organizations shall be determined for any taxable year as follows:

"(A) Each health maintenance organization qualified under section 1301(a) of the Public Health Service Act shall report to the Secretary, prior to September 1 of each year, its weighted average premiums as of June 30 of such year for health benefit plans for individual, couple, and family plans, and the number of individuals covered by each such category of plan.

"(B) The Secretary shall determine the weighted average (based on the number of individuals enrolled in each category of plan) premium for individual, couple, and family plans. Each such amount shall be increased by a percentage equal to the percentage increase in the Consumer Price Index for the 12-month period ending on such June 30. The amount so determined shall be published on October 1 of each year and shall be the applicable average premium cost for purposes of subsection (a) for taxable years that begin on or after the next January 1 and end on or after the December 31 following such January 1.

"(C)(1) The Secretary of the Treasury shall by regulation provide that the amount of each such average premium cost for a taxable year shall be made available to taxpayers on the written statement required to be made by employers under section 6051(a) of the Internal Revenue Code of 1954 (relating to receipts for employees).

"(2) The Secretary of the Treasury, in consultation with the Secretary of Health, Education, and Welfare, shall by regulation provide for rules applicable to all taxpayers whereby the taxpayer's filing status under subtitle A of the Internal Revenue Code of 1954 shall be properly correlated with the equivalent category of plan (individual, couple, or family) for purposes of determining the amount which may be excluded from income under section 106 of such Code, and the amount of any deduction which may be allowed under section 213 of such Code. Such regulations shall provide in general that—

"(A) with respect to a taxpayer filing a separate return who claims no dependents (as such term is defined for purposes of this title), the limitations on exclusion from income under section 106 of such Code and on deductibility under section 213 of such Code shall be equal to the average premium amount for an individual plan as determined under this section;

"(B) with respect to a taxpayer who is married and filing a joint return, and who claims no dependents, such limitations shall be equal to the average premium amount for a couple plan as determined under this section; and

"(C) with respect to a taxpayer who claims at least one dependent (other than his spouse), such limitations shall be equal to the average premium amount for a family plan as determined under this section.

"CONTINUITY OF COVERAGE

"SEC. 2114. Each health benefit plan offered by an employer must provide—

"(1) continued group coverage under the plan for a period of at least 30 days to any individual covered under the plan who would otherwise lose such coverage on account of the death, unemployment, or divorce of the employee;

"(2) continued group coverage under the plan for an additional period of 6 months to any individual referred to in paragraph (1) upon payment of a premium to exceed the applicable group premium rate;

"(3) for the right of any individual who was covered under such plan to convert, within 6 months after the time that his group coverage ceased, to an individual health benefit plan meeting the requirements of part B of this title without regard to prior medical condition or proof of insurability;

"(4) that coverage shall begin within 30 days after the beginning of employment; and

"(5) that there shall be no exclusions or restrictions on coverage based upon prior medical condition.

"COVERAGE FOR DEPENDENTS

"SEC. 2115. (a) Each health benefit plan shall provide to an employee the option to purchase coverage under the group plan for his spouse and for any of his dependent children.

"(b) For purposes of this section an individual shall be a dependent child of an employee if such individual is—

"(1) a dependent of such employee within the meaning of section 152 of the Internal Revenue Code of 1954; and

"(2) is a child of the employee (within the meaning of section 151(e) of such Code) and (A) has not attained the age of 19, or (B) is a student (within the meaning of section 151(e) of such Code).

"(c)(1) Each health benefit plan must provide that coverage under the plan shall continue (in the same manner as if he were a dependent child) for any disabled dependant child without regard to age for so long as such child remains disabled and resides in the same household as the covered employee, if such child became disabled during a period of time in which the child was a dependent child of such employee as defined in subsection (b).

"(2) A child shall be considered disabled for purposes of this section if he is unable to engage in substantial gainful activity within the meaning of section 223 of this Act.

"(d)(1) Each health benefit plan must provide that coverage under the plan shall continue (in the same manner as if he were a dependent child) for any dependent child who becomes ill during a period of time in which the child is a dependent child as defined in subsection (b), for the duration of such illness.

"(2) The Secretary shall by regulation establish criteria for determining onset and duration of illness for purposes of this subsection.

"(e) Each health benefit plan must provide that, in the case of an employee who chooses coverage for dependent children, such coverage shall begin automatically for his children at the time of birth or adoption.".

STANDARDS FOR ALL HEALTH BENEFIT PLANS

SEC. 3. Title XXI of the Social Security Act (as added by section 2 of this Act) is amended by adding after part A the following part:

"PART B—STANDARDS FOR ALL HEALTH BENEFIT PLANS

"MINIMUM BENEFITS

"SEC. 2131. (a) Each health benefit plan must at least provide coverage for—

"(1) physician services (including consultant and referral services by a physician);

"(2) inpatient and outpatient hospital services;

"(3) medically necessary emergency health services;

"(4) short-term (not to exceed 20 visits), outpatient evaluative and crisis intervention mental health services;

"(5) medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

"(6) diagnostic laboratory and diagnostic and therapeutic radiologic services;

"(7) home health services; and

"(8) preventive health services (including (A) immunizations, (B) well-child care from birth, (C) periodic health evaluations for adults, (D) voluntary family planning services, (E) infertility services, and (F) children's eye and ear examinations conducted to determine the need for vision and hearing correction).

"(b) The requirements of subsection (a) shall not affect any provisions of such a plan relating to deductibles or copayments, or relating to requirements that covered services be provided by particular persons or facilities.

"CATASTROPHIC EXPENSE PROTECTION

"SEC. 2132. (a) Each health benefit plan shall provide for payment of 100 percent of the cost of services included under section 2131(a) which are provided to a beneficiary of the plan during a catastrophic benefit period.

"(b) A catastrophic benefit period with respect to any individual—

"(1) shall begin at such time as the individual and his spouse and dependent children have incurred out-of-pocket expenses for services included under section 2131 (a) provided to them during any calendar year in excess of $3,500; and

"(2) shall end at the end of such calendar year.

"(c) For purposes of this section the term 'out-of-pocket expenses' means expenses, the payment for which such individual, or his spouse, or dependent child covered under the plan, is responsible, and for which reimbursement cannot be made, or cannot reasonably be expected to be made, under any form of insurance or benefit plan, or any law or government program, but does not include expenses incurred for which reimbursement is not made under a health benefit plan solely by reason of the fact that the individual or his spouse or dependent child incurred such expenses for services provided by a person or facility, and under such circumstances, such that payment under such plan is not authorized.

"(d) For purposes of this section the term 'dependent child' has the same meaning as in section 2115 of this Act.

"CANCELLATION PROHIBITION

"SEC. 2133. Coverage provided under a health benefit plan may not be cancelled for any reason based upon the status or actions of the covered individuals, other than nonpayment of premium.

"CARRIER REQUIREMENTS

"SEC. 2134. (a) Each health benefits plan must be provided by a carrier who complies with the requirements of subsection (b).

"(b)(1) Each carrier must offer at least one health benefits plan meeting the standards established by this part which individuals entitled to conversion rights under section 2114 (3) of this Act may purchase, in accordance with the provisions of such section 2114(3), at a reasonable premium rate.

"(2) The reasonable premium rate for such plans shall be determined by the appropriate State agency in accordance with standards established by the Secretary, which standards shall ensure that the rate is reasonable on the basis of the costs involved in providing such coverage.

"(c) For purposes of this section the term 'carrier' means a nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar arrangements, in consideration of premiums or other periodic charges payable to the carrier.".

INTERNAL REVENUE CODE AMENDMENTS

SEC. 4. (a) Section 106 of the Internal Revenue Code of 1954 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

"(a) ACCIDENT PLANS.—Contributions by the employer to accident plans for compensation (through insurance or otherwise) to his employees for personal injuries shall not be included in gross income.

"(b) DENTAL PLANS.—Contributions by the employer to dental plans for compensation (through insurance or otherwise) to his employer for dental services shall not be included in gross income.

"(c) HEALTH PLANS.—Subject to the limitation in subsection (c), contributions by the employer to health plans for compensation (through insurance or otherwise) to his employees for personal injuries or sickness shall not be included in gross income, provided that the health plan meets all applicable requirements of title XXI of the Social Security Act.

"(d) LIMITATION.—Contributions shall be excluded from gross income under subsection (c) only to the extent that such contributions are not in excess of the applicable limitation established under section 2113 of the Social Security Act.".

(b) Section 213(e)(1)(C) of such Code (relating to definition of medical care) is amended to read as follows:

"(C) for insurance covering medical care referred to in subparagraphs (A) and (B) which meets the requirements of paragraph (5).".

(3) Section 213(e) of such Code is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of paragraph (1)(C) the term 'insurance' means—

"(A) supplementary medical insurance for the aged under part B of title XVIII of the Social Security Act,

"(B) a health benefit plan which meets all applicable requirements of title XXI of the Social Security Act, and

"(C) a dental benefit plan.".

(c) Section 6051(a) of such Code (relating to receipts for employees) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof ", and"; and

(3) by inserting after paragraph (7) the following:

"(8) the maximum allowable health benefit plan contribution amount as determined under section 2113 of the Social Security Act.".

EFFECTIVE DATES

SEC. 5. (a) Except as provided in subsection (b), the amendments made by sections 2, 3, and 4 of this Act shall apply with respect to taxable years beginning more than two years after the date of the enactment of this Act.

(b) The requirements of section 2111 of the Social Security Act (as added by section 2 of this Act) shall apply—

(1) for taxable years beginning more than two years after the date of enactment of this Act with respect to employers (within the meaning of such section 2111) who have more than 200 employees;

(2) for taxable years beginning more than three years after the date of the enactment of this Act with respect to such employers who have more than 100 employees; and

(3) for taxable years beginning more than four years after the date of the enactment of this Act with respect to all such employers.

MEDICARE PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS

SEC. 6. (a) Section 1876 of the Social Security Act is amended to read as follows:

"PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1876. (a)(1) The Secretary shall annually determine a per capita rate of payment for each class of individuals entitled to benefits under parts A and B who are enrolled under this section with a health maintenance organization with which he has entered into a contract under subsection (i), and shall annually determine a per capita rate of payment for each class of individuals entitled to benefits under part B alone who are enrolled under this section with such a health maintenance organization. The Secretary shall define appropriate classes of members, based on such factors as age, sex, institutional status, disability status, and place of residence. The rate for each class shall be equal to 95 percent of the adjusted average per capita cost for that class. Each month the Secretary shall pay each such organization the appropriate rate, in advance, for each individual enrolled under this section with the organization, or such lesser amount as the organization requests. Those payments shall be instead of the amounts which would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled under this section with the organization, or enrolled other than under this section with the organization but eligible to enroll under this section with the organization.

"(2) For purposes of this section, the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by a health maintenance organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for services covered under parts A and B, or part B only, and types of expenses otherwise reimbursable under parts A and B, or part B only (including administrative costs incurred by organizations described in sections 1816 and 1842), if the services were to be furnished by other than a health maintenance organization (and, for services covered only under section 1861(S)(2)(G), if the services were to be furnished by a physician or as an incident to a physician's service).

"(3) The payment to a health maintenance organization under this subsection for individuals enrolled under this section with the organization and entitled to benefits under parts A and B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

"(A) the product of (i) the number of such members for the month who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(1), and

"(B) the product of (i) the number of such members for the month who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839 (c) (4).

The remainder of that payment shall be paid by the former trust fund.

"(b)(1) For purposes of this section, the term 'health maintenance organization' means a legal entity that is licensed as a health maintenance organization by the definition of 'health maintenance organization' under section 1301(a) of the Public Health Service Act as that definition applies (or would apply) to individuals not entitled to benefits under this title, except that—

"(A) with respect to individuals enrolled under this section with the organization—

"(i) the term 'basic health services' in title XIII of that Act shall be considered to mean (I) the services listed under parts A and B that are available to individuals residing in the geographic area served by the organization, and (II) preventive health services under section 1302(1) of that Act,

"(ii) the term 'supplemental health services' in title XIII of that Act shall be considered to include those services listed in section 1302(1) of that Act that are not included in clause (i) of this subparagraph,

"(iii) the organization may not include any supplemental health services in its basic health services,

"(iv) the organization fixes the payments required from those individuals as prescribed by subsections (g) and (i)(2), and

"(v) the organization provides the services listed under parts A and B through institutions, entities, and persons meeting the applicable requirements of section 1861, and

"(B) with respect to the enrollment of individuals with the organization under this section—

"(i) subsections (c)(4) and (d) of section 1301 that Act shall not apply, and

"(ii) the organization must enroll individuals eligible to enroll under this section without regard to their health status (but may commence or cease enrolling such individuals at any time).

"(2)(A) The administration of the duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a 'health maintenance organization' within the meaning of paragraph (1), shall be integrated with the administration of section 1312 of the Public Health Service Act.

"(c) If an individual is enrolled under this section with a health maintenance organization, neither the individual nor any other person or entity (except for the health maintenance organization) shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(d) Subject to the provisions of subsection (e), every individual entitled to benefits under parts A and B, or part B only (other than an individual medically determined to have end-stage renal disease), shall be eligible to enroll under this section with any health maintenance organization with which the Secretary has entered into a contract under subsection (i) that serves the geographic area in which the individual resides.

"(e) An individual may enroll under this section with a health maintenance organization as may be prescribed in regulations, and may terminate his enrollment with the health maintenance organization as of the beginning of the first calendar month following a full calendar month after he has requested termination.

"(f) Any individual enrolled with a health maintenance organization under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the health maintenance organization a party. If the amount in controversy is $1,000 or more, the individual or health maintenance organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the health maintenance organization shall be entitled to be parties to that judicial review.

"(g)(1) Except as provided in paragraph (3), the portion of a health maintenance organization's premium rate and the actuarial value of its other charges for individuals enrolled under this section with the organization and entitled to benefits under parts A and B, and the portion of its premium rate and the actuarial value of its other charges for individuals enrolled under this section with the organization and entitled to benefits under part B only, for services covered under parts A and B, or part B only, respectively, may not exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with a health maintenance organization) and entitled to benefits under parts A and B, or part B only, respectively, if they were not members of a health maintenance organization; and the portion of its premium rate and the actuarial value of its other charges for those individuals for other services may not exceed the value of the adjusted community rate for those services (except as prescribed by the last three sentences of section 1301(b)(1) of the Public Health Service Act).

"(2) For purposes of this section, the term 'adjusted community rate' for a service means the rate of payment for that service that the health maintenance organization annually estimates (and the Secretary verifies) would apply to an individual enrolled under this section with a health maintenance organization if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), but adjusted for differences between the utilization characteristics of the individuals enrolled with the health maintenance organization under this section and the utilization characteristics of the other members of the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals in the area, in the State, or in the United States, eligible to enroll under this section with a health maintenance organization and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(3) The provisions of paragraph (1) shall not apply to a health maintenance organization if the Secretary determines that—

"(A) there is significant competition among health maintenance organizations in the area served by such health maintenance organization; and

"(B) such health maintenance organization received payments under this title for the calendar year 1979 that were not in excess of $10,000,000.

"(h)(1) Except as provided in paragraph (2), each health maintenance organization with which the Secretary enters into a contract under this section shall have an enrolled membership at least half of which consists of individuals who are not entitled to benefits under a State plan approved under title XIX.

"(2) The Secretary may modify or waive the requirement imposed by paragraph (1) in circumstances which the Secretary finds warrant special consideration (and may take into account, in determining whether to modify or waive that requirement, the reasonableness of the organization's premium rate and other charges for members entitled to benefits under this title or under a State plan approved under title XIX).

"(i)(1) The Secretary is authorized to enter into a contract with any health maintenance organization that undertakes to provide the benefits described in title XIII of the Public Health Service Act (as modified by subsection (b)) to individuals enrolled under this section with that organization.

"(2) The contract shall provide that, if the adjusted community rate for services under parts A and B (as reduced for the actuarial value of the coinsurance and deductibles under those parts), for individuals enrolled under this section with the organization and entitled to benefits under those parts, or if the adjusted community rate for services under part B (as reduced for the actuarial value of the coinsurance and deductibles under that part), for individuals enrolled under this section with the organization and entitled to benefits under that part only, is less than the average per capita payment to be made under subsection (a) at the beginning of an annual period for individuals enrolled under this section with the organization and entitled to benefits under parts A and B, or part B only, respectively, the health maintenance organization shall provide to each individual enrolled under this section with the organization and entitled to benefits under parts A and B, or part B only, respectively, certain additional benefits that the Secretary finds are at least equal in value to the difference between that average per capita payment and that adjusted community rate (as so reduced).

"(3) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the health maintenance organization involved as he may provide in regulations), if he finds that the organization (A) has failed substantially to carry out the contract, (B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or (C) no longer substantially meets the applicable conditions of subsection (b).

"(4) The effective date of any contract executed pursuant to this subsection shall be specified in the contract.

"(5) Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under the contract, and

"(ii) shall have the right to audit and inspect any books and records of the health maintenance organization that pertain to services performed or determinations of amounts payable under the contract,

"(B) shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the organization,

"(C) shall require the organization to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act, and

"(D) shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary.

"(6) The Secretary may prescribe the procedures and conditions under which a health maintenance organization that has entered into a contract with the Secretary under this subsection may inform individuals eligible to enroll under this section with the organization about the organization, or may enroll such individuals with the organization.

"(7) The Secretary may not enter into a contract with a health maintenance organization under this subsection if a former contract with that organization under this subsection was terminated at the request of the organization within the preceding five-year period, except in circumstances which the Secretary finds warrant special consideration.

"(j) The function vested in the Secretary by subsection (i) may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.".

(b) Section 1861(s)(2) of such Act is amended—

(1) in subparagraph (E), by striking out "and",

(2) in subparagraph (F), by adding "and" at the end, and

(3) by adding after subparagraph (F) the following subparagraph:

(G) services furnished pursuant to a contract under section 1876 to a member of a health maintenance organization by a physician assistant or by a nurse practitioner (as those terms are defined in subsection (aa)(3)) and such services and supplies furnished as an incident to his service to such a member as would otherwise be covered under this part if furnished by a physician or as an incident to a physician's service;".

(c) The amendments made by this section shall apply with respect to services furnished on or after the first day of the thirteenth calendar month that begins after the date of enactment of this Act, or earlier with respect to any health maintenance organization if the organization so requests and the Secretary of Health, Education, and Welfare agrees, but shall not apply—

(1) with respect to services furnished by a health maintenance organization to any individual who is enrolled with that organization and entitled to benefits under section 1833(a)(1)(A) of the Social Security Act at the time the organization first enters into a contract subject to the amendments made by this section, unless the individual requests at any time that the amendments apply, or

(2) with respect to services furnished by a health maintenance organization during the five year period beginning with the date of enactment of this Act, if a contract between the organization and the Secretary of Health, Education, and Welfare under section 1876(i)(2)(A) of the Social Security Act was in effect immediately before enactment of this Act, unless the organization requests that the amendments apply earlier.

PAYMENTS TO HEALTH BENEFIT PLANS

SEC. 7. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENTS TO HEALTH BENEFIT PLANS

"SEC. 1882. (a)(1) The Secretary shall annually determine a per capita rate of payment for each class of individuals entitled to benefits under parts A and B who are enrolled under this section with a health benefit plan with which he has entered into a contract under subsection (h), and shall annually determine a per capita rate of payment for each class of individuals entitled to benefits under part B alone who are enrolled under this section with such a health benefit plan. The Secretary shall define appropriate classes of members, based on such factors as age, sex, institutional status, disability status, and place of residence. The rate for each class shall be equal to 95 percent of the adjusted average per capita cost for that class. Each month the Secretary shall pay each such plan the appropriate rate, in advance, for each individual enrolled under this section with the plan, or such lesser amount as the plan requests. Those payments shall be instead of the amounts which would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the plan to individuals enrolled under this section with the plan, or enrolled other than under this section with the plan but eligible to enroll under this section with the plan.

"(2) For purposes of this section, the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by a health benefit plan or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for services covered under parts A and B, or part B only, and types of expenses otherwise reimbursable under parts A and B, or part B only (including administrative costs incurred by organizations described in sections 1816 and 1842), if the services were to be furnished by other than a health benefit plan (and, for services covered only under section 1861(s)(2)(G), if the services were to be furnished by a physician or as an incident to a physician's service).

"(3) The payment to a health benefit plan under this subsection for individuals enrolled under this section with the plan and entitled to benefits under parts A and B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the plan for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

"(A) the product of (i) the number of such members for the month who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(1), and

"(B) the product of (i) the number of such members for the month who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(4).

The remainder of that payment shall be paid by the former trust fund.

"(b)(1) For purposes of this section the term 'health benefit plan' means a nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the plan, but does not include an organization that meets the definition of 'health maintenance organization' under section 1301(a) of the Public Health Service Act.

"(2) In order to enter into a contract with the Secretary under subsection (h), a health benefit plan must—

"(A) use a community rating system with respect to individuals enrolled under this section in the plan for purposes of setting the premiums, within the classes of members used by the Secretary in determining the per capita rate of payment under subsection (a);

"(B) demonstrate to the satisfaction of the Secretary that the ratio of premium amounts to benefits paid for individuals enrolled in the plan under this section will not exceed the average ratio of premium amounts to benefits paid for individuals enrolled in such plan who are not beneficiaries under this title;

"(C) meet reasonable standards established by the Secretary with respect to fiscal soundness;

"(D) demonstrate to the satisfaction of the Secretary that the plan will be able to meet its obligations under the contract, based on substantial experience in providing health benefits to populations other than beneficiaries under this title or State plans approved under title XIX of this Act;

"(E) utilize significant and innovative cost control methods, such as the use of participating providers at negotiated rates or incentive payment systems;

"(F) inform all beneficiaries of any limitations on participating providers under the plan, including the identity and location of the participating providers;

"(G) provide the services listed under parts A and B through institutions, entities, and persons meeting the applicable requirements of section 1861; and

"(H) enroll individuals eligible to enroll under this section without regard to their health status (but may commence or cease enrolling such individuals at any time).

"(c) If an individual is enrolled under this section with a health benefit plan, neither the individual nor any other person or entity (except for the health benefit plan) shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(d) Subject to the provisions of subsection (e), every individual entitled to benefits under parts A and B, or part B only (other than an individual medically determined to have end-stage renal disease), shall be eligible to enroll under this section with any health benefit plan with which the Secretary has entered into a contract under subsection (h) that serves the geographic area in which the individual resides.

"(e) An individual may enroll under this section with a health benefit plan as may be prescribed in regulations, and may terminate his enrollment with the health benefit plan as of the beginning of the first calendar month following a full calendar month after he has requested termination.

"(f) Any individual enrolled with a health benefit plan under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the health benefit plan a party. If the amount in controversy is $1,000 or more, the individual or health benefit plan shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the health benefit plan shall be entitled to be parties to that judicial review.

"(g)(1) Except as provided in paragraph (2), each health benefit plan with which the Secretary enters into a contract under this section shall have an enrolled membership at least half of which consists of individuals who are not entitled to benefits under a State plan approved under title XIX.

"(2) The Secretary may modify or waive the requirement imposed by paragraph (1) in circumstances which the Secretary finds warrant special consideration (and may take into account, in determining whether to modify or waive that requirement, the reasonableness of the plan's premium rate and other charges for members entitled to benefits under this title or under a State plan approved under title XIX).

"(h)(1) The Secretary is authorized to enter into a contract with any health benefit plan that undertakes to provide the benefits described in sections 1812 and 1832 of this Act to individuals enrolled under this section with that plan.

"(2) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, with a health benefit plan, neither the individual nor any other person or entity (except for the health benefit plan) shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(d) Subject to the provisions of subsection (e), every individual entitled to benefits under parts A and B, or part B only (other than an individual medically determined to have end-stage renal disease), shall be eligible to enroll under this section with any health benefit plan with which the Secretary has entered into a contract under subsection (h) that serves the geographic area in which the individual resides.

"(e) An individual may enroll under this section with a health benefit plan as may be prescribed in regulations, and may terminate his enrollment with the health benefit plan as of the beginning of the first calendar month following a full calendar month after he has requested termination.

"(f) Any individual enrolled with a health benefit plan under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay shall, if the amount in controversy is $100 or more, be entitled to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the health benefit plan and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the health benefit plan involved as he may provide in regulations), if he finds that the plan (A) has failed substantially to carry out the contract, (B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or (C) no longer substantially meets the applicable conditions of subsection (b).

"(4) The effective date of any contract executed pursuant to this subsection shall be specified in the contract.

"(5) Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under the contract, and

"(ii) shall have the right to audit and inspect any books and records of the health benefit plan that pertain to services performed or determinations of amount payable under the contract.

"(B) shall require the plan to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the plan, and

"(C) shall contain such other terms and conditions not inconsistent with this section as the Secretary may find necessary.

"(6) The Secretary may prescribe the procedures and conditions under which a health benefit plan that has entered into a contract with the Secretary under this subsection may inform individuals eligible to enroll under this section with the plan about the organization, or may enroll such individuals with the plan.

"(7) The Secretary may not enter into a contract with a health benefit plan under this subsection if a former contract with that plan under this subsection was terminated at the request of the plan within the preceding five-year period, except in circumstances which the Secretary finds warrant special consideration.

"(i) The function vested in the Secretary by subsection (h) may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.".

(b) The amendment made by this section shall apply with respect to services furnished on or after the first day of the thirteenth calendar month that begins after the date of the enactment of this Act.

THE HEALTH INCENTIVES REFORM ACT OF 1979

1. Standards for employer health benefit programs and for private health care financing and delivery plans to qualify for exclusion of employer contributions and deductibility of employee contributions from employee's taxable income.

A. Standards for Employer Health Benefifit Programs

In order for employer contributions to employee health benefits to qualify for exclusion from the employee's taxable income, the employer health benefit program must meet the following standards.

1. Multiple Choice of Plans Offered.

Proposal: Each employer subject to the Fair Labor Standards Act, having 25 or more employees, shall include in any health benefits program offered to employees a choice of no less than three health insurance or delivery plans meeting the standards described in Part B below. Employees must have a periodic opportunity to change plans. The choice of plans may include private indemnity or service benefit plans, a self-funded plan, health maintenance organizations, or a labor-management health and welfare trust fund. (Three different "options" from the same carrier would not meet this requirement.) Two of the three must be state or federally qualified health maintenance organizations, if available.

Reasons: The link between jobs and health insurance, fostered by the favorable tax treatment of employer-provided health benefits, has become one of the most important barriers to competition among health care financing and delivery plans in the United States today—a result Congress surely did not intend when it enacted the Internal Revenue Code of 1954. Most employed people still are offered a single health insurance plan by their employer, and are thus denied some of the important benefits of competition and choice. The multiple choice of health plan principle has been proved to be practical and desirable in such programs as the 18-year old Federal Employees Health Benefits Program now covering 10.5 million people. It has also found successful though limited application in the private sector.

Congress recognized the desirability of multiple choice in the HMO Act when it required employers to offer their employees one group practice and one individual practice HMO, if available. However, HMOs are too few in number, for the most part too small, and too tightly regulated by HEW, to be able to bring the benefits of competition and choice to most Americans in the foreseeable future. Moreover, there are other potentially attractive alternative health-care financing and delivery systems that do not meet the detailed specifications of the HMO Act. This proposal would open up competition and multiple choice of health insurance plans to all employed Americans.

The HMO Act would still apply, i.e., if appropriate federally-qualified HMOs are available in an area, the employer would still be required to offer them. They could be included in the required three plans.

2. Equal Dollar Contributions to All Plans Offered.

Proposal: The employer's premium contribution must be the same whichever plan the employee chooses. If an employee chooses a plan whose premium is below the employer contribution level, the employer must give the employee the difference in cash or other benefits. The employer must also offer payroll deduction to the employee for the employee's contribution.

The employer may contribute different amounts on behalf of employees in different actuarial categories (e.g. individuals, couples, families). This provision does not require employers to contribute at any particular level. If the employer is not currently making a fixed periodic dollar contribution per employee (because, for example, he is offering a self-insured or retroactively adjusted experience-rated insurance plan), he must ascertain the actuarial value of his current arrangements per employee and contribute an equal dollar amount on behalf of those who join HMOs or other health plans.

Reasons: The intent of this proposal is twofold. First, it would subject health plans to economic competition. The employee who chooses a more costly plan would have to pay the difference in cash or other benefits foregone. Second, it would make the competition fair.

Today, many employers pay 100 percent of the premium, whichever plan the employee chooses, thus paying more to more costly health plans, and subsidizing plans with weak or no cost controls against those with effective cost controls.

Employers or collective bargaining agreements not now in compliance with this principle could work out alternative arrangements that are in compliance at the next contract renewal. For example, employers could contribute the difference, on behalf of those who chose less costly health plans, to other tax-sheltered fringe benefits. One frequent response would be for the employer to pay no more than 100 percent of the premium of the least costly plan, leaving it to the employee who selects a more costly plan to pay the difference. An important effect would be to make all employees aware of the costs of their health benefits.

These two proposals together would put Congress firmly on record as in favor of fair economic competition among health plans.

3. Limit on Tax-Free Employer Contribution.

Proposal: The tax-free employer contribution would be limited to the average premium cost for federally qualified HMOs across the country. The limits would be calculated for the categories by which HMOs quote premiums such as individual, couples, and families (subscriber with 2 or more dependents). The limit would be applied by family, so that a family with 2 or more workers could not accept tax-free employer contributions above the limit.

Reasons: The present open-ended tax subsidies to health insurance have motivated employees to negotiate for extremely costly health benefits without built-in cost controls.

In effect, the federal government is subsidizing people's choices of the most costly health plan options. It is appropriate for the federal government to subsidize health insurance purchases up to the level required for good quality comprehensive care (as provided by the HMOs). If people want to buy, or negotiate for their employers to buy, more costly health insurance, that should be their right—but not at taxpayer expense. Moreover, over 30 million people have duplicate insurance, usually provided tax free through the employers of both spouses. Again, this duplicate coverage should not be tax free. (Note: If this Congress mandates employer provided catastrophic medical expense insurance for employees, the requirement of multiple-choice would not be applied to those employers not previously offering health insurance and whose insurance plan is limited to the mandated level.)

B. Standards for Health Care Financing and Delivery Plans. Any health benefits plan that results in nontaxable fringe benefits or itemized deductions must meet the following standards.

1. Standard Basic Minimum Benefits.

Proposal: All health benefits plans must cover, as a minimum uniform set of benefits, the Basic Benefits defined in the HMO Act. Coverage may be subject to substantial copayments and deductibles. Additional benefits may be offered. Such plans may require the beneficiaries obtain covered services from participating providers.

Reasons: The covered benefits of health plans are often hard to understand and compare. There are complex exclusions and limits on coverage. Consumers can understand copayments and deductibles and make reasonable judgments about quality and accessibility of services. But the effort required to become well informed about the significance of many "fine print" exclusions is very great. This proposal would standardize a lot of the fine print. All health benefits could then be described in terms of Basic Benefits plus a manageable number of additional benefits. This would focus competition on quality and accessibility of services, and price. Price comparisons would be easier and more meaningful. And consumers would be protected from tricky or misleading exclusions of important services. This provision would also hold HMOs and other health benefits plans to a more comparable standard of benefits. This provision need not increase premium costs; premium can be reduced even to quite low levels by raising the deductible.

2. Limits on Cost-Sharing-"Catastrophic Expense Protection."

Proposal: All health plans must limit consumer cost-sharing (co-insurance, copayments, deductibles) for Basic Benefits to a maximum annual amount of $3,500 per family (with the consumer to provide evidence of applicable payments).

Reasons: Tens of million of Americans lack "catastrophic expense protection" even though they have some health insurance. This is particularly unfortunate in view of the fact that the infrequency of catastrophic illness expense makes this kind of insurance much less costly than "first dollar coverage." Many millions of Americans now must plan to fall back on the public sector in the event of catastrophic illness. Thus, it seems reasonable to require that every plan provide such protection. The extremely costly expenses should be insured before "first dollar" coverage is provided.

Cost-sharing by the patient has been considered to be a valuable economic incentive to motivate the patient to consider the cost of care. Whatever its merits in the case of ambulatory visits might be, when the patient is seriously ill, it is the providers, not the patient, who make the main cost-generating decisions. Thus, cost-sharing by patient should be limited to the comparatively low cost "patient-initiated and elective" care.

3. Continuity of Coverage.

Proposal: All health plans must provide to covered beneficiaries:

(a) at least 30 days coverage without premium payment for the unemployed after termination of employment, for dependents after death of an employed family member, and for divorced spouses after divorce;

(b) at least 6 months additional continuation of existing coverage for the categories identified in (a) upon payment of premium not greater than 100% of the premium (or cost) applicable to the pertinent group coverage;

(c) the right for the employee, widows or widowers, spouses and other dependents of retirees, divorced spouses and dependent children, and dependent children upon attainment of majority, who have been members of an insured group to convert, without proof of insurability or reference to prior medical conditions, to individual coverage. Each participating carrier shall offer one standard individual conversion plan which shall provide benefits at least equal to those specified in section B.1. at a premium rate to be determined by a formula to be submitted by the carrier to the applicable state agency. Such state agency shall be responsible for determining, in accordance with criteria to be established by the Secretary that such formula provides a rate that is reasonable, taking into account the cost of providing covered benefits to such individuals.

(d) coverage with a waiting period of no more than 30 days, and with no exclusions or restrictions for prior medical conditions.

Health plans may not cancel coverage because of illness or any reason other than failure to pay premiums.

Reasons: Many people lose their health insurance when they lose their jobs, are divorced, their spouse dies, etc. Dependent children lose coverage upon relinquishing dependent status. This causes individual hardships, and subjects the private health insurance industry to justifiable criticism. This proposal would add little to the cost of insurance, but would greatly enhance people's continuity of coverage.

4. Dependent Coverage.

Proposal: All health plans must offer the employee the option of buying coverage for dependent spouses and children. The employer is not required to pay for it. Employers must offer payroll deduction for employee premium contributions. The definition of these dependents must include at least those defined as dependent children by the IRS. Moreover, children who were disabled while dependents must be covered by such policies as long as they are living with their parents. Newborns must be covered automatically.

Reason: About 45 percent of those who have no health insurance are members of a family the head of which is insured. Young adults are almost twice as likely as any other age group to be without coverage. Their families ought to have the option of buying them health insurance at affordable group rates.

II. MEDICARE

A. An Effective HMO Option for Medicare Beneficiaries.

Proposal: Change Section 1876 of the Social Security Act to permit any Medicare beneficiary to direct the 95 percent of the "Adjusted Average Per Capita Cost" (AAPCC) to the Medicare program for people in his actuarial category who are not members of a HMO, be paid, as a premium contribution on his behalf, to the HMO of his choice in the form of a fixed prospective periodic payment. Each HMO agreeing to this form of payment would construct an "Adjusted Communited Rate" which would be its basic community rate actuarially adjusted for Medicare benefits and the utilization of the Medicare beneficiaries.

If the "Adjusted Community Rate" is less than the Prospectively determined AAPCC, the HMO must pass on the difference to its Medicare beneficiary members in the form of better benefits, or reduced premiums or cost-sharing. If the Adjusted Community Rate exceeds the AAPCC, the HMO must provide the Medicare benefits for the AAPCC amount.

Reasons: Today, Medicare does not pay HMOs in a way that conforms to their usual way of doing business, i.e. on the basis of a fixed prospective periodic payment for comprehensive services. Instead, Medicare imposes on them the fee-for-service cost-reimbursement mode of payment with its cost-increasing incentives. (There is a provision—Section 1876—for paying HMOs on a quasi-per capita basis, but it is very complex, is discriminatory against HMOs and their members since the government keeps half the "savings", retains elements of cost reimbursement, and has not been put into operation to any appreciable extent).

Thus, Medicare often pays substantially less on behalf of beneficiaries who join HMOs than on behalf of similar beneficiaries in the same area who choose to get their care from the fee-for-service sector. For example, in 1970 Medicare paid $202 per capita (on a cost-reimbursement basis) on behalf of beneficiaries cared for by cost-effective Group Health Cooperative of Puget Sound, but paid $356, or 76 percent more, on behalf of similar beneficiaries (i.e., an age-sex-area matched sample) who chose fee-for-service. On average, for six group practice prepayment plans around the country included in the study from which these data come, Medicare paid 36 percent more on behalf of similar beneficiaries who chose fee-for-service.

This Medicare system deprives beneficiaries of an important financial incentive to join a cost-effective organized system of care. In 1977, less than 300,000 Medicare beneficiaries were HMO members, about one percent of all beneficiaries.

For Medicare reimbursement to HMOs at 95% of AAPCC, those HMOs engaged in significant competition with other health plans *and* with less than $10 million in existing Medicare business will be exempt from the Adjusted Community Rate (ACR) provisions.

The ACR provision is designed to insure that any savings an HMO realizes (the difference between costs and 95% AAPCC) are returned to the beneficiary in the form of additional benefits. While this may be necessary for the isolated and/or large HMO, it is unnecessary for an HMO locked in competition with other cost-effective plans for Medicare beneficiaries. In this case, the market place will act to naturally fill the gap with benefits attractive and appropriate to the Medicare population. Furthermore, the ACR provision establishes a potential vehicle for the federal government to regulate price and benefits.

For a number of existing HMOs, Medicare beneficiaries already constitute a fair amount of business (Kaiser, Group Health of Puget Sound, HIP). For them, the recruitment of their existing Medicare beneficiaries is over and will not be affected by this bill. For those people, we want to insure that the change in reimbursement arrangement results in increased benefits to them, not just increased revenue for the HMO. The ACR scheme assures that.

B. A Similar Private Health Service on Insurance Plan Option for Medicare Beneficiaries.

Permit the Secretary of HEW to contract with health service or insurance plans other than HMOs to underwrite health insurance for medicare beneficiaries. HEW would contribute 95 percent of the Adjusted Average Per Capita Cost to Medicare, prospectively determined, as a fixed premium contribution to the plan of the beneficiary's choice. The health plan would offer enrollment through an annual open enrollment process, run by DHEW, similar to that used in the Federal Employees Health Benefits Program. Participating health plans would have to agree to the following:

1. Compliance with enrollment and marketing procedures specified by the Secretary, including annual open enrollment to all Medicare beneficiaries in the plan's designated service area.

2. The plans must provide the Medicare benefit package for 95 percent of AAPCC. They may offer additional benefits.

3. The plans must use a community rating system for premium setting, within the actuarial categories used by the Secretary to determine AAPCC.

4. The plans must be able to meet reasonable standards, established by the Secretary, with respect to fiscal soundness.

5. The plans must provide evidence, based on substantial experience in markets other than for Medicare and Medicaid beneficiaries, that they are able and likely to meet their obligations.

6. The plans must provide evidence of significant and innovative cost control methods, such as selection of a limited set of participating providers who are wiling to accept negotiated incentive payment systems. (If the participating providers are limited in number, the health plan must fully inform the beneficiaries of their identity and location).

7. If the Secretary finds evidence that the health service or insurance plan is systematically selecting preferred risks, failing to perform its contractual obligations, or engaging in fraud and deception, he may cancel the contract as of the next annual enrollment.

B. These proposals would enhance fair competition and incentives for cost control. Thus, it would make Medicare more of a force for delivery system reform.

HMOs: The Road To Good Health Care

(By James F. Doherty)

If all had gone according to plan, there would have been 1,700 health maintenance organizations (HMOs) enrolling 40 million people in 1976. And in 1980, 90 percent of the American public could have had the option of enrolling in an HMO.

This was the objective presented by President Nixon to Congress in the spring of 1971 as an ambitious plan to remedy many of the ills of the nation's health care delivery system. Unfortunately, actual HMO enrollment by 1976 was only 6 million and the most optimistic projections of 1980 are for only slightly more than 9 million people to be enrolled in 245 HMOs. The story behind the eight years separating the rhetoric of 1971 and the reality of 1979 is an interesting tale of the evolution of a good idea that many have liked but to few have supported.

From its inception in 1970, the acronym HMO was designed to curry immediate favor among both health policymakers and the general public. Who wouldn't want their health maintained? But while the acronym sparks immediate interest, the organizations on which the term is based belie the notion of simply maintaining the health of their members. While in fact providing their members with a number of preventive servicts, HMOs owe their existence to their ability to organize and discipline the process of directly providing a wide range of health services. The efficiency of that process produces considerable savings which are in turn used to eliminate many co-payments and deductibles accompanying such services under traditional insurance plans. But from the beginning, the over-simplified HMO concept may have caused as many problems as it solved.

Early models for HMOs date to the late 1920s. Spawned by the hard times of the early Depression, the earliest model was the Ross-Loos Medical Group in Los Angeles which for a prepaid fee of $2 per person per month provided city Water and Power Department employees with a wide range of medical and hospital services. Prepayment enabled the workers to set aside a fixed amount for medical care and enabled the two founding physicians, Ross and Loos, to accumulate sufficient funds to finance health care facilities. By 1931, the prepaid group practice plan was providing services to more than 6,000 city employees and their dependents at half the price of what the same services would have cost on a fee-for-service basis. These savings were generally attributable to prepayment, which eliminated the physicians' financial inventives to provide unnecessary or unusually expensive services.

Other prepaid group practices emerged during the 1930s and 1940s from a variety of backgrounds. Some were consumer-sponsored and others, like the Kaiser-Permanente Medical Care Program, evolved out of a wartime industrial setting.

All relied heavily on organized labor for their existence and growth. Like other forms of health insurance, HMOs and their earlier versions are financed mainly by employee group contributions. Thus labor's early and continued support was and is a key to survival.

By 1948, about 15 prepaid group practices were operational around the country. Members enrolled voluntarily and were free to disenroll, giving the plans considerable incentives to ensure satisfactory health services. The result was a remarkably effective private sector system of containing health costs—through the prepayment mechanism—while providing high quality services through the physicians' group practice. But even good ideas are not without their opponents.

As early as 1932, the American Medical Association had attacked prepaid group practice as the corporate practice of medicine, or the pejorative, "contract practice." Prepaid group practice physicians were expelled from or refused admission to local medical societies which in turn often caused the loss of hospital staff privileges. In some cases, local medical societies even worked to deny plan physicians state medical licenses.

Prepaid group practices were viewed as a competitive threat to many fee-for-service practices in some areas, prompting organized medicine and others to work for the passage of state laws to restrict the formation of such groups. By the mid-1960s, a total of 26 states had laws on the books that limited HMO growth by requiring huge financial reserves, preventing physicians from being employed by non-physicians, preventing

HMOs from limiting their members' choice of physicians to those employed by the plan, and limiting management of the organization to all or a majority of physicians. It was not until the 1970s that these restrictions were finally eased through social pressures and federal legislation. However, the Federal Trade Commission is today still attempting to eliminate provider-induced restrictions on HMOs.

Despite these obstacles, prepaid group practices had by the early 1970s established an impressive record of containing health costs. Studies of federal employees comparing those enrolled in prepaid group practices and those covered under traditional insurance showed that the prepaid groups were hospitalized only half as much as the others. And this was due almost entirely to the prepaid groups' providing more care in centralized outpatient facilities than in hospitals. There was also a significant reduction in certain kinds of surgery, such as tonsillectomies, with no reduction in the quality of care. This was attributed to the prepaid group's unique incentive to provide both high quality care to retain members and to provide appropriate kinds of care to reduce plan costs.

In contrast, federal health programs such as Medicare and Medicaid had by the 1970s begun to have huge cost overruns. Relying on the existing health care delivery system to provide care for the poor and elderly with federal funds, both Medicare and Medicaid were costing two to three times what had been projected in the mid-60s. Although many people were for the first time receiving some essential medical care, the infusion of federal dollars into a fee-for-service system—with no incentive to provide care cost-effectively—resulted in a new era of inflation in both the federal health budget and the health industry as a whole. Faced with these problems, prepaid group practices looked extremely attractive to the Nixon Administration.

The term health maintenance organization was coined by Presidential health advisor Paul Ellwood, M.D., to describe the prepaid group practices. Even as late as 1970, organized medicine was strongly opposed to the prepaid group practice concept, so a more general, politically neutral term, HMO, was coined. Although prepaid group practices do provide their members with so-called preventive services, such as annual physicals and well baby care without any additional charges, the term HMO was a bit misleading. The prepaid plans were really providing appropriate illness and injury care with emphasis on the value of early detection of illness or disease. But none of the plans claimed to be able to keep all of their patients healthy.

HMOs were posed by President Nixon in a Feb. 18, 1971, address to Congress as the centerpiece of a national health strategy to contain soaring national health costs. The federal government would provide funds to support the development of new plans and would provide up to $300 million in loan guarantees to build new facilities. State laws would be overridden when they prevented HMO development and insurance companies would be required to offer subscribers the choice of HMO membership if one were available. Medicare and Medicaid beneficiaries would be encouraged to join and, as a result, many of the nation's health delivery problems would be solved.

In 1971, about 20 prepaid group practices in the country enrolled less than 4 million people. In just five years, that number was to increase 1,000 percent and in nine years the number of operating plans was to increase by 8,600 percent.

In 1971, the Department of Health, Education and Welfare began funding HMO development, using $6 million of existing funds from other programs. However, by year's end, key congressional leaders became concerned that HEW was acting without specific congressional guidance on how and where to develop HMOs. In a letter to HEW Secretary Elliot Richardson in February 1972, Sen. Edward Kennedy (D-Mass.) and Rep. Paul Rogers (D-Fla.) requested HEW to halt their HMO funding until Congress could take up the matter. Kennedy and Rogers chaired key congressional health committees.

By 1972, faced with growing opposition from a number of groups, HEW had already revised its HMO growth numbers, promising by then that by 1976 it would fund 450 HMOs rather than the originally proposed 1,700. However, HEW Secretary Richardson was still promising 1,800 HMOs by 1980. The numbers game had already begun, even before formal HMO legislation had been introduced in Congress.

National politics also intervened in the HMO strategy. The American Medical Association and others mustered their forces in mid-1972 to strongly object to the massive HMO development strategy. Although HMO-type organizations had over 40 years of demonstrated experience in providing high quality health care, the AMA insisted that the HMO concept needed further testing. As a result, by 1973 the Nixon Administration had adopted a far more conservative approach to HMOs. The Administration at that point proposed a bill in Congress that called for a much scaled-down federal HMO program.

Congress had as early as 1970 considered HMO legislation that would have provided new incentives for HMO-like organizations to enroll more Medicare patients. But delays in both the House and Senate caused by the need for considerable changes in the existing Medicare program and the unwillingness of key congressional staff to back normal HMO payment methods prevented the bills from serious consideration.

By mid-1972, a number of other HMO bills had been introduced in Congress. One, sponsored by Kennedy, proposed to do with HMOs what he had been unable to do with an earlier national health insurance bill. HMOs would be required to offer a comprehensive set of benefits to everyone at a uniform rate. Kennedy proposed a $5 billion federal susbidy over a period of five years to start new HMOs that would develop in both urban and rural areas. But the Nixon Administration and Kennedy were at great odds as to the amount of federal subsidies that should be committed to meet the promise of 1,700 HMOs by 1976. However, enormous subsidies were clearly required if the HMOs were to provide everyone with virtually unlimited benefits.

Throughout 1972 and 1973, congressional debates continued on the merits of the HMO arguments. Following the AMA attack on HMOs prior to the 1972 presidental election, the Nixon Administration had all but abandoned its earlier support for broad-based HMO development. The result was passage in late 1973 of an HMO law that required a wide range of benefits but which authorized HEW to spend a fraction of the funds originally requested by Kennedy. And as it turned out, Congress in the next three years appropriated only a third of the amount authorized under the 1973 law, or little more than $100 million.

Relatively little progress was made from 1974 through early 1977 in developing new HMOs due to the unrealistic requirements placed on plans to receive federal funding. To meet the federal qualification requirements, plans were required to offer an expensive benefit package to everyone in a community, regardless of their health status. Even with the various efficiencies of the prepaid system, without sizable federal subsidies the plans were too expensive to be competitive in most marketplaces. Even established plans had no incentive to participate in the federal program. And one important provision in the HMO law that required most employers to offer qualified plans to their employees was unavailable to the majority of successful plans that could not afford to become qualified.

By 1976, the original HMO law was amended to provide additional funds for the HMO program, to significantly revise the restrictive benefit requirements, and to provide newly developing HMOs time to achieve financial stability before having to offer enrollment to everyone in their communities. However, the 1976 amendments did give a union bargaining team the exclusive right to accept or reject an HMO offering on behalf of its organized workers. And even though organized labor has historically been a key supporter of prepaid group practices, even this provision has in some instances hindered effective HMO marketing to organized groups.

The Carter Administration since taking office in 1977 has to a certain extent revived the federal commitment to aggressively develop HMOs. The President for fiscal year 1980 doubled the request for HMO funds over 1979, something Congress is currently considering. HEW has mounted a promotional effort to support HMO development in a number of new areas and plans to provide support to existing HMOs for expansion.

But given the rhetoric of the last eight years, some observers remain cautious about the future for HMOs. HEW currently says that by 1990 there will be 440 HMOs enrolling over 20 million people. Cost savings are expected to be over $20 billion as a result. Sixty-one cities have been targeted for new HMO development and an HEW field staff is currently at work trying to develop community support to start new HMOs. Even though current HEW projections are well under those of 1971, the increases promised in 10 years are enormous. The question today is whether HEW can deliver on those promises.

By the end of 1978, national HMO enrollment was around 8 million in slightly more than 200 plans. Of those members, 3.5 million are in the country's largest HMO, the Kaiser-Permanente Medical Care Program, which has health facilities in six states. Seventy-one percent of the 1978 HMO enrollment was in plans more than 10 years old which will require an enormous increase in new plans to meet the 20 million enrollment goal.

The current HEW strategy for HMO development is geared primarily to produce cost savings. The $20 billion savings by 1990 has undeniable appeal in the increasingly cost-conscious Congress which must fund the HEW effort. And, if anything, the savings figure is conservative if in fact 440 HMOs were to enroll 20 million people by 1990. But to double the number of operational HMOs in 10 years poses formidable problems that current HMO legislation does not adequately address.

The financing of facilities remains a major problem. Although some federal loans will become available in 1980 as a result of 1978 HMO amendments, the capital needs of 220 new HMOs over the next 10 years will be enormous. The Kaiser program alone has close to $500 million invested in facilities and equipment to serve its 3.5 million members. Even a rough calculation of the facility needs of the plans that will serve the 12 million new members that are expected to join HMOs in the next 10 years demonstrates the magnitude of the problem. Private capital will have to become available for such growth.

Another strategic problem facing HEW's growth plans for HMOs is its targeted cities. The strategy rests on the premise that because HMOs save money they will thrive in high-cost areas. This may be true once they have become established and do not have to subsidize start-up costs and are not dependent on free-for-service hospitals and specialists. But a new developing plan must not only reflect its area's hospital and other medical costs in addition to sizable start-up costs, but it must also compete with traditional insurers for members that are able to offer national employers national rates. The problem for HMOs is that a national rate reflects the average of costs between high-cost areas and low-cost areas. Because an HMO must reflect the local costs of medical and hospital services, it is often at a competitive disadvantage. Thus, the selection by HEW of high-cost cities such as Boston, New York, and Washington, D.C., for new HMO development may be somewhat unrealistic. And many of the targeted cities already have several competing HMOs so that interjecting new HMOs into an already crowded HMO market could produce only minimal results.

It is certainly clear that much real support for HMOs—dollars for both initial development and for marketing assistance for growing plans—will be necessary from both business and labor if HEW is to make good on its projections of future HMO growth. Given the disappointing experiences of the past eight years, even the most optimistic observers expect that whatever the future holds for new HMO growth will depend to a large extent on the HMO industry's own ability to make its case in the private marketplace.

Competitive HMOs Are Bringing Changes to Area Medical-Care System

(By Peter Vanderpoel)

When John Miles, 6, developed an ear infection the other day, his mother Linda, 801 Terrace Dr., Roseville, didn't hesitate—she bundled him into the car and drove to one of Group Health Plan's seven clinics, at 2500 Como Av. in St. Paul.

"There's no charge to see the doctor, so you never hesitate to bring the children in," she said, illustrating one of the features a growing number of Twin Cities-area residents find attractive about health-maintenance organizations (HMOs).

"We have a very good rapport at this clinic," Linda said, nodding toward Dr. Joseph ("call me Joe") Rignatano, one of two pediatricians who see John regularly. "The people know you here and are very friendly. And financially, the cost of care and medicine is extremely reasonable."

Linda and her husband, Michael, an assistant state attorney general, have been Group Health Plan members since they moved to the area in 1970.

Back then, Group Health—the area's oldest and largest HMO—had only two clinics; it was the area's only alternative to traditional insurance coverage and "fee-for-service" physicians, and only a relatively few employers, mainly public bodies, offered workers even that choice.

Today, the Twin Cities metropolitan area boasts eight HMOs competing with each other and with traditional indemnity insurance plans; nearly every major company offers its employees a choice of two or three HMOs, and membership is mushrooming.

(The newest, Metropolitan Area Pre-Paid Plan, was formed last month and covers about 400 of 700 private-practice physicians in Ramsey, Dakota and Washington counties.)

HMO enrollment stands at nearly 256,000, or 13 percent of the seven-county population. Membership gains over the last two years alone are about equal to *total* HMO membership in 1975. The health plans have captured more than 50 percent of the market in some corporations (from 69 percent at Cargill and 60 percent at General Mills to 4 percent at 3M) and an average of 26 percent in 21 companies recently surveyed randomly; they invariably gain in subsequent enrollments, and they are beginning to turn to smaller companies and groups. Estimates that they will have 30 percent to 50 percent of the market within five years or so are common.

The area, in fact, is unique, according to Dr. Paul Ellwood, president of InterStudy, the Shorewood healthy-policy research institute, who in 1970 coined the term HMO and sold the concept to the Nixon administration.

"It is clear that this is the only community (in the nation) where we have a majority of the medical profession and hospitals locked in this kind of competition," declared Ellwood, although a few metropolitan areas do have a higher percentage of HMO subscribers. "We have here a health system being subjected to a lot of economic, social and market forces that have never occurred in a health system before."

So what?

So this area is showing the country that a generous injection of the marketplace into the traditional medical-care system can cause fundamental changes—changes that, for the first time, are giving doctors and hospitals incentives to keep costs down and are cutting the all-too-familiar steep annual increases in health-care costs, say HMO backers.

"All the problems (of rising costs) come down to the absence of market forces," said Dr. Walter McClure, InterStudy's director of health-policy analysis. "Until you change those incentives, ain't nothing going to happen" to change the system.

In an HMO, a family pays a set monthly fee for essentially all the medical and hospital care it needs. Since the HMO must provide this care for the fixed annual rate, it presumably has a financial incentive to hold down expenses, to keep the family healthy and especially to keep it out of costly hospitals. The fee includes services such as routine office visits, physical examinations and other preventive care seldom covered by conventional insurance.

"You feel like you can afford to go to the doctor," Karen Nelson, 122 18th Av. N., Hopkins, said of the MedCenter HMO plan her husband, Gene, chose at the Onan Corp., where he works in building maintenance. MedCenter, the area's second largest HMO, was begun by the St. Louis Park Medical Center in 1972 and now comprises 15 clinics, including St. Louis Park satellites and other suburban and St. Paul clinics.

"We get a lot cheaper and much better care" than under the Nelsons' former conventional insurance coverage, even though Onan would pay the entire cost of that plan and MedCenter costs the Nelsons about $7 a month, Karen said. "We use it a lot—we have four children" ranging from 10 to 16 years old, she said.

Under the traditional system, which critics say has a "spare-no-expense" mentality, no one—patients, physicians, hospitals—has an incentive to hold down costs or to be efficient, especially with widespread insurance.

The payoff, of course, is in consumer savings—either lesser annual cost increases or more and better care for the same dollar.

And if, as skeptics maintain, a final verdict isn't yet in, at least a number of indications exist here that Ellwood and other HMO boosters are right.

Item: HMO members are spending significantly less time in hospitals than the Twin Cities-area average, according to several studies—between 400 and about 700 days per 1,000 HMO members, compared with 1,350 over-all. (This comparison is not exact, because HMOs have few elderly or low-income members.)

Item: The difference is less but still substantial in at least some comparable groups. The rate for the 31 percent of Honewell's Twin Cities employees in HMOs is about 500 days per 1,000, half that of those with conventional group insurance.

Item: The cost of traditional group-insurance plans, which pay for fee-for-service care, has been rising faster than HMOs. When General Mills first offered MedCenter in 1973, for example, the plan cost employees about $9 more than conventional coverage; that difference has shrunk to essentially zero today. MedCenter's 1979 rates are up only 4.6 percent over last year, according to Stephen Goldstone, executive director. (For 1979, at least some conventional plans have virtually eliminated increases.)

Item: The Twin Cities-area consumer price index for medical care rose 8.1 percent in 1978, less than the 8.4-percent increase for all urban areas, according to the U.S. Bureau of Labor Statistics.

Item: The 1977 hospitalization rate for HMO members averaged about 320 days per 1,000 members less than for Blue Cross-Blue Shield groups in Minnesota, according to one study. With today's HMO membership and hospital costs, that would mean about $18.4 million a year less in hospital bills. (Actual savings would be somewhat less, since an undetermined amount of this care would occur in doctors' offices and clinics.)

Item: The careful, efficient use of hospitals by HMOs may be spreading (many physicians with mainly fee-for-service practices also have some HMO patients), according to Ellwood. He cites preliminary national data for Blue Cross-Blue Shield groups showing a drop in hospital use here of about 17 percent over the last 18 months and a decrease of almost 11 percent in hospitalization of Medicare patients in 1978—"the largest drop in the country, and contrary to national trends; admissions are up in Boston, New York, Atlanta, Los Angeles, Chicago, Salt Lake City."

The explanation?

"Physicians are incapable of practicing a double standard of medicine," said Ellwood (one for HMO patients, another for fee-for-service patients).

"They've learned their patients do just as well without being hospitalized so often, and so they have stopped putting them into the hospital."

(Other observers argue that peer review of hospitalization, conducted by federal law under the Foundation for Health Care Evaluation since 1974, is at least equally responsible for drops in hospital use.)

If, indeed, the Twin Cities area is setting an HMO example for the nation, why is this happening here?

A wide variety of the people involved agree on essentially four factors, although they tend to weigh them differently depending upon their vantage points and backgrounds: The existence of Group Health Plan, pioneer in the prepayment field here, and of InterStudy, with Ellwood and McClure constantly arguing the necessity of doses of competition; the interest and encouragement of at least part of the corporate leadership, and the decision of St. Louis Park Medical Center, a prestigious, multispecialty clinic, to form an HMO in 1972—essentially, to offer prepayment as an alternative to its customers.

Group Health, a consumer-oriented plan that grew out of the cooperative movement, was widely opposed by organized medicine when it began in 1957 and grew slowly until 1970, "broke the ice and was doing reasonably well," said Ellwood.

"The whole HMO movement in the Twin Cities is directly a product of Group Health," said Maurice J. McKay, its general manager since 1960. "No question about it. The reason is that all of the organizations now offering HMOs really did not subscribe to the concept, and all without exception fought it until Group Health, by reason of a certain kind of doctrinairism, succeeded in making it a reality in spite of all the opposition of the established medical community and the established insurance community.

"The environment is quite different today . . . But back then, anything that departed from the fee-for-service concept . . . and, basically, individual practice, was seen as some form of socialism. Even at times group practice—such prestigious groups as the Mayo Clinic and St. Louis Park Medical Center—were greeted with skepticism and fear from the medical community."

In addition to Group Health's demonstration that the HMO idea could work, McKay said, "the whole milieu" in the late 1960s and early 1970s was alive with thoughts of change.

That is precisely how a number of other participants describe it.

In 1968, Dr. Loren Vorlicky, a St. Louis Park Medical Center pediatrician, persuaded the clinic to begin looking at a prepayment option. He became chairman of an in-house committee that did just that, but the clinic was reluctant to make any quick changes, despite Ellwood's prodding. "Those doctors just didn't want to go further" than the study, said one close observer.

By 1971, Ellwood had sold the Nixon administration on his ideas, and a February presidential message on health plugged HMOs heavily and proposed $23 million in federal aid for HMO sponsors, which drew considerable attention to the concept and raised the interest of the insurance industry.

In early 1972, nearly 20 Twin Cities corporations and foundations contributed up to $40,000 each to a feasibility study called the Twin Cities Health Care Development Project. Their action was partly in response to a vague proposal by the Equitable Life Assurance Society to set up one large "umbrella-type" HMO embracing the entire metropolitan area.

"Primarily, we (the business community) wanted to see a more competitive health-care environment," said Verne Johnson, a General Mills vice president active in the effort. "Health care was generally our fastest-growing cost at that time. The incentives were all wrong under the traditional system.

"I personally felt very strongly that, one, the (Equitable) proposal would be dominated by the insurance industry, and we didn't want that, and, two, that we shouldn't have one monolithic system."

The project, abetted by InterStudy, involved corporate, community and medical interests, focused attention on health-care costs and helped educate the business community.

Physician participation meant "we were able to capture those doctors early on in such a way that they couldn't kill it before it got started," said one corporate participant.

"If credit is due anywhere in the provider field, St. Louis Park has to get it—they had the credibility (with consumers and the medical profession) needed to move into an HMO," said Johnson.

Another participant put it this way: "Once St. Louis Park moved, they (the medical profession) couldn't say, 'Yeah, but their quality (of care) is lousy,' " a not uncommon allegation about "the socialists at Group Health."

St. Louis Park offered a prepay option only after a number of internal concerns were ameliorated, encouragement by InterStudy and federal developments and an offer by General Mills to offer the plan to its employees in competition with its conventional indemnity insurance. And, some observers say, after Group Health moved to open a satellite clinic in St. Louis Park.

Neither Vorlicky, now medical director of MedCenter, nor Dr. Glen Nelson, St. Louis Park Medical Center president, believes that Group Health competition was responsible for the clinic's decision.

More important, both say, is that the medical center's very efficient, cost-effective group practice was "masked" by the traditional insurance-payment system. In other words, there was no reward to the clinic for its cost-effective practice. "Prepayment unmasked that efficiency and allows us to get into the market and compete with nongroup practices," said Vorlicky.

Based on hospitalization rates, the two physicians are correct. The clinic has lowered its use of hospitals only slightly since forming the HMO, but nevertheless has among the lowest of HMO rates (only 350 days per 1,000 members last year).

Also in 1972 and also with considerable urging and support from InterStudy, Ramsey Health Plan was organized in St. Paul, primarily as an effort to open expensive, underused St. Paul-Ramsey Hospital to county employees.

Next, in 1973, and also in St. Paul, came Share, an outgrowth of an attempt to save a small hospital that had been operated by railroad unions and the Northern Pacific Railroad solely for railroad employees. The Nicollet-Eitel Health Plan, built on the long-established Nicollet Clinic and Eitel Hospital in Minneapolis, also began operating in 1973.

With this level of HMO activity, most observers agree, Ellwood's initial reasoning about marketplace behavior proved correct. The five health plans now enrolled 75,000 patients. For largely competitive reasons, other HMOs inevitably would be formed.

The most dramatic example of how health-maintenance organizations, with their prepaid feature in which physicians are at economic risk, can change doctors' practices is Physicians Health Plan (PHP). This loosely knit HMO has 1,350 physicians in all metropolitan-area counties except Ramsey and includes most of the private-practice physicians in Hennepin County.

Unlike the so-called "closed panel" HMOs such as MedCenter and Group Health, whose members must see that group's doctors (at least initially, pending referral as necessary), PHP is an "open panel" plan. Patients can join the HMO without changing physicians, if their doctor is a member.

PHP, formed by the Hennepin County Medical Society, came close to bankruptcy because of start-up costs and undercalculation of the rate at which member physicians would put their patients into hospitals.

The plan lost more than $700,000 in about two years, and by mid-1977 the plan's board warned that "drastic measures are necessary to get medical costs under control." Physicians absorbed those losses, since the plan had not charged members enough to reimburse the doctors for their entire bills to the HMO for their work.

Most members, perhaps surprisingly, opted to accept rigid controls, including tough hospital-admission and hospital-stay reviews and limitations on physician fees for some services.

With those controls, PHP began immediately to reverse its deficit, said Richard Burke, director. Its hospitalization rate per 1,000 members dropped from 805 days in 1976 (nearly 40 percent over the calculated rate), its first full year of operation, to 639 days in 1977 and 520 days last year.

"Naively enough," said Thomas Hoban, county medical society executive director, "we thought the physician could really practice as he always did. We were wrong, and the controls were necessary."

Some Still Skeptical About Group Health

"It's too early to tell whether health maintenance organizations (HMOs) will continue to be cheaper in the long run," says Harry Rosaasen, Honeywell's manager of group insurance.

Rosaasen, who terms himself "supportive of the HMO concept," nevertheless is adopting a wait-and-see attitude about whether the comprehensive health-care plans will continue to show savings and rapid expansion. Despite estimates by enthusiasts that within five years or so HMOs could gain up to between 30 percent and 50 percent of the Twin Cities-area population, compared with today's 13 percent, Rosaasen is not alone.

Dr. Thomas Briggs of the White Bear Lake Family Practice Clinic, a self-admitted "skeptic" although his clinic is part of the MedCenter HMO, worries about quality of care, about whether patients who aren't really sick will demand unnecessary care, about competition becoming so keen that physicians will cut legitimate costs to attract patients.

Given all those and other concerns, "you've got to be a little skeptical over the long haul," he says. Even so, Briggs concedes that he has been "pleasantly surprised" by the clinic's experience in MedCenter and his fears "haven't been borne out yet."

Briggs also points out that hospitalization comparisons with conventional insurors and fee-for-service physicians are not fair because HMOs enroll "a select group, usually the healthy and the working."

George Halvorson, director of Minnesota Blue Cross-Blue Shield's HMO in Minnesota, a loose "network" health plan, makes the same observation. Under the fast-expanding plan of Blue Cross, 25 separate "health-care organizations" (essentially, clinics and groups of doctors) contract separately with the HMO.

Nevertheless, Halvorson expects that his health plan will continue to gain members throughout the state and agrees that some HMO enthusiasts' observations that their continued growth now is "irreversible" here is "pretty accurate."

The Blue Cross' HMO, like some others here, avoids one common objection to the prepaid health plans because members need not leave their doctors and receive care in strange clinics—or, in some cases, change hospitals.

One family unhappy with its new clinic, the Dale Johnsons, 11956 Terrace Rd. NE., Blaine, plans to leave MedCenter and return to its former physicians.

The Johnsons left a conventional insurance plan for MedCenter because "something was always happening" to their four boys, said Mrs. Johnson. "They get a cut or a sprained ankle or kicked."

But her experience at one of MedCenter's clinics has been less than happy, she said. "I don't think they're thorough enough, and they make you feel like you're on welfare."

That reaction appears to be relatively rare, however, since the record to date indicates that few families leave HMOs, once they join. At General Mills, for example, the number is "very, very low," said David McIntire, manager of employee benefits. Employee surveys indicate that they "perceive HMOs as a great employee benefit, something important to them," he said.

Others such as Stephen Goldstone, executive director of MedCenter, worry that employers "will pick up the entire cost" of competing plans (as a few companies now do), thereby removing the employee's financial incentive to choose the most efficient (and therefore least expensive) plan.

"You've got to compete on price," said Dr. Paul Ellwood, president of InterStudy. "If the employer subsidizes one plan more than another, he's destroying that competition."

And one HMO director, who would not be quoted, suggested that current praise of the health plans' achievements here is premature.

"Sure, we've had great, fabulous success" in cutting hospitalization rates, he conceded. But rapid membership expansion has meant a lag in hospital use ("it takes a while to get patients into the pipeline") that might make the record look artificially good, he said. This could change when—and if—membership gains slow, and HMO costs could rise.

Trio Led Way for HMO Growth in Twin Cities

(By Peter Vanderpoel)

The strong-willed son of a liberal Montana newspaper publisher, legislator and sometime union organizer.

A California-educated physician who has been throwing gentle darts at the health-care industry for nearly two decades.

A St. Louis Park Medical Center pediatrician with what one colleague calls "a tremendous sense of balance."

If any three individuals are the prime movers in the growth of Twin Cities health-maintenance organizations (HMOs)—and therefore what is labeled as the unique state of competition in the health-care industry here—it is that trio:

Montana native Maurice McKay, general manager and chief strategist since 1960 of Group Health Plan, the area's oldest HMO.

Dr. Paul Ellwood, long-time director of the Kenny Institute in Minneapolis, who is president of the health-care "think tank" InterStudy in Shorewood.

Dr. Loren Vorlicky, medical director and board member of MedCenter, the second-largest HMO, and the leader a decade ago in the St. Louis Park clinic's pivotal decision to create MedCenter.

This area's eight HMOs, competing with each other and with traditional indemnity insurance plans for the area's health dollar, appear to be providing the incentives that HMO supporters deem essential to hold down spiraling health-care costs.

Group Health provided a living example that prepaid plans could work long before Ellwood coined the now-familiar term HMO. McKay held the fledgling Group Health together and helped it grow—albeit slowly at first—after coming here from a similar but larger plan in New York, says a long-time Group Heath board member who was largely responsible for importing McKay.

"Maurice came up with the dual plan, and that's what did it for us," said the board member. "That was the breakthrough."

He was referring to an arrangement McKay deemed essential for young, struggling prepaid plans in those days, and one in which the New York plan was not interested.

"The concept was that developing HMOs needed to employ some facets of traditional indemnity insurance, recognizing that both doctors and the public had grave reservations about closed-panel medical care, and that we needed to provide an optional arrangement," said McKay.

So he worked out what he called an "instant choice" plan, under which subscribers had both Group Health and traditional indemnity health insurance, and could use either the Group Health clinic or a private-practice doctor interchangeably.

"We installed our first contract of that kind in 1961," McKay recalled. Group Health remained "terribly undercapitalized," with no ability to serve a large group even if we could enroll one. We were limited to small groups . . . little steps forward. But all the time we were building staff, resources and capabilities."

In those days, said a 1977 Federal Trade Commission report, "Group Health physicians were denied access to hospitals, were socially ostracized and were subject to professional ridicule."

Group Health grew slowly but inexorably; it had 4,278 members and one full-time physician in 1960; 10,249 members and four full-time physicians in 1965 and—buoyed by gaining access in 1962 to state employees, 35,996 members and 18 physicians in 1970, compared with today's 96 doctors, 16 dentists and 121,000 members.

At about the same time—1962—Ellwood, as Kenny's young assistant director, was telling the medical community things such as "the political face of medicine . . . gives the impression of being reactionary and pursuing the economic motives of doctors."

A year later, he was warning that deficiencies in the health-care system would lead to more government programs and regulations (and then came Medicare), just as he and other InterStudy thinkers now argue that the medical industry must either develop competition or face tough regulation.

By 1967, Ellwood was advising the leadership of the health-insurance industry that they should "reorganize . . . the prevailing mechanisms for paying for and delivering health services" and arguing for "prepayment mechanisms for programs offering total health care"—in other words, HMOs, an idea he sold to the Nixon administration in 1970.

In the late 1960s, he was helpful in persuading the Twin Cities business community to promote HMOs and was dogged in his pursuit of St. Louis Park Medical Center's forming an HMO.

"Paul promoted it," said Dr. Glen Nelson, now president of St. Louis Park Medical Center and then an HMO proponent. "He really felt we should do it." And, said another St. Louis Park doctor: "He was constantly in the wings, telling us we were the ideal group to do this, and sharing in federal developments."

And that was a key decision because the move of the big, respected, multispecialty clinic attracted the medical community's immediate attention and made prepaid, closed-panel group practice respectable among physicians and others who had opposed or looked down on Group Health and implied that it provided second-rate care.

Vorlicky, who in 1968 challenged the St. Louis Park clinic's board to adopt a prepaid option and then chaired a committee that studied this possibility, downplays his own role. "I don't think anybody (at the clinic) felt as a philosophical matter that we shouldn't get into prepayment. The politics of the medical environment and three years of planning, plus a lot of local and national stuff, began to blow away much of that kind of concern," he said.

But McKay remembers Vorlicky "promoting the prepay concept" with little initial success.

And a Minneapolis corporate executive who was close to that scene said that it was primarily Vorlicky who "nurtured the idea along. That clinic had a better-balanced set of doctors, less interested in the almighty dollar and less conservative in political outlook than many doctors, but Larry (Vorlicky) was able to pull that different orientation together and move it along, when most of them didn't want to move."

Where Doctors Scramble for Patients' Dollars

(By Edmund Faltermayer)

Those who doubt that health-maintenance organizations have a big future in the U.S. ought to take a look at what is happening in the Twin Cities of Minneapolis-St. Paul and their suburbs. In just seven years, the proportion of the area's 1.9 million inhabitants enrolled in HMO's has leaped from 2 percent to nearly 12 percent. Major companies have encouraged the trend to help brake inflation in the cost of workers' medical benefits. Amazingly, most of the area's doctors are now connected with HMO's, including hundreds who were against the whole idea.

The blessings to the consumer are pretty much what the champions of HMO's long foresaw in theory but were hard-put to document in real-life experience. These prophets saw HMO's as an antidote to the waste and inflation that have driven the nation's medical bill to the threshold of $200 billion a year—a third paid by business in the form of employees' health insurance. In conventional fee-for-service medicine, they said, a "spare no expense" mentality prevails because most of the big bills are reimbursed automatically by the federal government and private insurance plans. In both cases, the reimbursers are too far removed from individual doctors and patients to judge whether the services they are paying for are excessive.

But suppose there were HMO's offering comprehensive medical care for a flat annual fee. Such plans would be run by administrators close to the scene and staffed with doctors who were forced to stay within each year's subscription income or see the organizations go broke. These better medical mousetraps, the prophets said, would not only strive to avoid the waste that is rampant elsewhere, but would also by their mere competitive presence induce the rest of the system to mend its ways.

WORRIES ABOUT "UNDERPRICING"

The renowned Kaiser-Permanente medical plans, operating in California and Hawaii for decades, have shown how HMO's can hold down costs, but not even they have kicked off the kind of competitive free-for-all and price warfare that has erupted in the Twin Cities. There is an unprecedented multiplicity of these better mousetraps in Minneapolis-St. Paul—seven HMO's, soon to be eight—all battling with each other and with conventional health-insurance plans. "The competition among HMO's is getting cutthroat," observes Stephen K. Goldstone, executive director of MedCenter Health Plan, one of the area's most successful HMO's. Employing language that is often heard in the business world but almost never in the corridors of American medicine, Goldstone adds, with a touch of concern in his voice: "Some of the HMO's in town are underpricing their product."

Whether they are "underpricing" or not, most of them are operating in the black, and they all deliver more product for the money. John G. Turner, a senior vice president at Northwestern National Life Insurance Co., which helped set up the MedCenter plan, estimates that the same coverage would cost 15 to 20 percent more under conventional health insurance, mainly because a lot of unneeded services would be rendered.

Over the past several years, moreover, the HMO's have generally got by with smaller rate increases than those posted by conventional insurers. None of them is planning an increase higher than 8.5 percent next year. The biggest HMO in the area, known as Group Health Plan, Inc., with 115,000 members, is hoping to get through two years on a 12 percent increase that took effect this year. Partly because of competition from HMO's, the conventional insurers in the area have started to crack down on waste, particularly the excessive hospitalization of patients.

Critics of HMO's have often charged that they achieve their savings by carrying efficiency too far, skimping on both the quality and the quantity of services. That is clearly the case in some other parts of the U.S., where niggardly HMO's have had trouble attracting and holding members. In the Twin Cities, however, competing HMO's have actually improved the quality of medical care in many ways. Instead of forcing members to travel long distances to a few large clinics, as is the case in some cities, the seven HMO's have blanketed the metropolitan area with forty-nine clinics and branches. Like gas stations in a price-war zone, the clinics have been lengthening their hours of operation.

To speed the patient's recovery and keep down costs, some HMO's have begun to stress what physicians call "compliance"—telephoning to make sure the patient is actually taking the medicine or doing the exercises the doctor ordered. They are also helping to keep incompetent doctors from practicing medicine. The conventional medical system, like the public schools, tends to shield professional mediocrity. But the physicians in several of the HMO's, intent on maintaining their reputation for excellence, screen doctors who seek to join. And some HMO's have done the utterly unthinkable—they have fired physicians.

Consumer grousing is rare in the Twin Cities. In 1977, less than two-tenths of 1 percent of all HMO enrollees sent in written complaints, according to data supplied to the Minnesota Department of Health. Not all unhappy consumers bother to write letters, of course, but most HMO members appear to be satisfied. Out of fourteen people interviewed at a Group Health clinic in suburban Bloomington, only one criticized the service. She was recently forced to see a physician at another clinic far from her home, she complained, and had to wait a long time for the appointment: "I saw a bone doctor who acted like he was doing me a favor." But she also volunteered that the care given her husband, who needed heart surgery, has been "terrific."

The other thirteen rated the services "good" (six) or "excellent" (seven). Richard Radl, a state trooper with allergy problems, said he has turned down a transfer just to stay in the plan. His family used to be on Blue Cross, he said, "and paying bills was a hassle."

One big advantage of HMO's, Twin Cities subscribers say, is that they almost never *see* a medical bill. Except for a few nominal, out-of-pocket outlays for certain types of services and for prescription drugs at HMO pharmacies, everything is paid in advance, with the employer of the family breadwinner footing most or all of the bill. Even children's checkups and immunization shots, which are excluded from most conventional health-insurance plans, are covered. Nor is there any deductible, such as $100 a year, below which the family pays everything.

FREEDOM FROM PERPLEXING FORMS

Last spring, when Honeywell first offered the HMO option to its 15,000 workers in the Twin Cities, it made liberation from paperwork a major selling point. During a slide presentation on HMO's, shown to all workers on company time, a scene familiar to most adult Americans flashed on the screen. A man standing at a counter was scratching his head while filling out a form thrust at him by a nurse. With HMO's, the voice on the sound track said, "you don't have to juggle around a lot of confusing bills." Another slide showed that an employee's monthly contribution to the cost of an HMO plan would be less than it is under a conventional plan—as much as $9.60 a month less in the case of a worker with dependents.

On the strength of this education effort, 31 percent of Honeywell's workers defected from conventional health insurance to HMO's in one crack—the biggest single changeover to date in the Twin Cities.

CONVERTS BY THE DROVES

This is only the most recent victory for the prepaid plans. At Control Data, where the HMO option has been available for a year, about 30 percent of the local employees have made the switch. Sharon S. Collins, manager of corporate benefits, expects the figure to grow to 40 to 50 percent the next time workers are given a chance to sign up. HMO's have captured half the workers at the regional offices of Prudential, which ironically enough is in the conventional health-insurance business. At General Mills, a company that has enthusiastically offered the HMO option for five years, an astounding 60 percent of all Twin Cities employees are enrolled. Only at the headquarters of 3M have the employees given HMO's their one major rebuff; a mere 3.5 percent have signed up.

The HMO boom in the Twin Cities—where total enrollment is expected to rise by at least 30 percent this year—is part of a nationwide trend that appears to be accelerating again after losing steam. Until very recently, HMO growth was heavily concentrated in cities that already had strong, well-established organizations, most notably the Kaiser medical plans. Elsewhere, the requirements for establishing a new HMO looked so formidable—millions of dollars to build clinics, and a willingness to buck the local medical interests—that few organizations besides Kaiser seemed able to pull it off.

During the last fifteen months, however, HMO enrollment across the land climbed by a record one million people to a new high of 7.4 million. For the first time, more than half the growth took place outside the Kaiser plans. There are other hopeful signs. The American Medical Association, which bitterly fought HMO's for decades, has begun to give them cautious endorsement. Joseph A. Califano, Jr., the U.S. Secretary of Health, Education, and Welfare, has been urging corporations to take the lead in setting up more of the prepaid health systems.

The Twin Cities have had some special things going for them. One of them is Group Health, the oldest and biggest of the area's HMO's. Group Health dates from 1957, but was long ignored by doctors and shunned by private employers; it was organized as a consumer cooperative, by people regarded as a touch socialistic. By 1970 the plan had bootstrapped its way to 36,000 members, and some of the areas's physicians were growing uneasy at the number of patients who were asking to have their X-rays and medical records transferred to Group Health, a phenomenon that, it appears, wonderfully focused the doctors' innovative faculties.

About the same time, when some hospitals and groups of physicians were talking of setting up new HMO's of their own, the local business community began discussing the idea as a way to slow down annual, double-digit increases in health-insurance costs. The companies in the Twin Cities, which have a long history of discussing problems of mutual concern, turned down a proposal for grouping all the new organizations under a single plan controlled by doctors and hospitals. "We didn't want a single provider organization to work through, because it wouldn't have been competitive," says Verne C. Johnson, vice president for corporate planning at General Mills. Johnson played a leading role in quashing the single-HMO idea.

In favoring multiple HMO's, Twin Cities executives were strongly influenced by a local physician named Paul M. Ellwood Jr., who has evangelized widely across the U.S. in the cause of introducing market forces into medical care. Ellwood runs an unusual think tank called InterStudy, which has contributed more than just ideas. Some of InterStudy's former theorizers actually run HMO's, including three of the successful ones in the Twin Cities.

While the receptive climate in the Twin Cities has been unusual, the ways in which the new HMO's got going are not. All around the U.S. in recent years, the founders of prepaid plans have devised ways to launch them on a comparative shoestring by enlisting portions of the local medical establishment, instead of battling the whole system. The new HMO's in the Twin Cities have been grafted onto existing institutions—medical groups, hospitals, and in some instances medical societies serving an entire area.

Multi-specialty groups of doctors abound in the Middle and Far West. The most prestigious of these in the Twin Cities area is the St. Louis Park Medical Center dating from 1952. By the late 1960's, some of the doctors in the St. Louis Park group began to worry not only that Group Health's success would cut into their own future growth; they were also genuinely intrigued by the prepayment idea, which among other things substitutes a steady cash flow for a bill-collection system in which postage and noncollectibles can run as high as 15 percent.

THE CONSTRAINTS OF "CAPITATION"

Since the St. Louis Park group already had a magnificent, well-equipped clinic, it took relatively little capital to launch its MedCenter HMO in 1972—a bit over $200,000. MedCenter, in effect, started up as an alternative payment system for patients treated by doctors at the St. Louis Park Center. By now, the proportion of HMO patients at the clinic has grown to 30 percent, and new satellite clinics have been built to handle the growing enrollment. The key difference with HMO members is that the clinics receive only a fixed monthly "capitation" income for each member—and not a dime more, regardless of the volume of services performed.

MedCenter lost money three years ago, but turned the corner shortly thereafter. The plan produced a surplus of $94,000 last year, not counting $70,000 that was turned back to the affiliated doctors' groups as a kind of bonus. With 45,000 members, the plan is the second-largest HMO in the area and one of the fastest growing.

Another successful HMO plan, called SHARE, is the offshoot of a formerly underutilized hospital in a working-class neighborhood in St. Paul. The U.S. as a whole has a surplus of hospital beds, but the surplus is especially large in the Twin Cities. SHARE's principal outpatient clinic uses some of the hospital's surplus space and sends some patients there. It is the only HMO in the Twin Cities that has received government start-up money, but the loans and grants have been modest—under $1 million from the federal government—and SHARE has done better financially than most federally aided HMO's. Thanks to tight controls instituted by Robert K. Ditmore, an InterStudy alumnus who is SHARE's president, the plan will achieve an impressive surplus of $250,000 this year. Despite the hospital tie, it has done a remarkable job of not sending patients down the hall and into hospital beds. SHARE's hospitalization rate, in fact, is the lowest of any medical plan in Minnesota.

The most interesting HMO, with the rockiest experience, is the one formed in desperation by doctors left out of the other plans. By 1975, the Hennepin County Medical Society, which represents most physicians in the county that includes Minneapolis, had become sufficiently alarmed by the inroads of HMO's to set up an organization called the Physicians Health Plan. This is called an open-panel HMO, or "independent practice association," because it enrolls a large number of doctors—85 percent of the medical society's 1,600 members—who treat HMO participants in their own private offices along with their other patients. This gets around a widespread objection to most HMO's, which are of the closed-panel type; in the Physicians Plan, instead of being restricted to seeing the doctors connected with one clinic or hospital, the consumer has a wide choice. Many consumers agree, and in just three years the Physicians Health Plan has become the third-largest HMO in the Twin Cities.

KEEPING THE DOCTORS "AT RISK"

In theory, the Physicians Health Plan could not be simpler. Instead of billing an HMO member for an office visit or operation, the doctor bills the plan, which in turn reimburses him out of the general kitty of subscription income. In practice, such a plan can readily go broke if the moneys are paid out too generously. To keep that from happening, the doctors have had to swallow some of the strictest rules ever applied to their profession anywhere.

For one thing, the doctors are reimbursed at the average rate charged by all members for each type of service. Because of this rule, some high-priced physicians have dropped out of the plan. Doctors are also kept "at risk" for a portion of the fees, in order to give them a collective stake in keeping costs in line. They receive only 80 percent right away. The rest is withheld to cover the plan's possible losses; all or part of it is paid out to doctors later if the plan breaks even. A year ago, when the plan was deeply in the red, the reimbursement formula had to be cut temporarily to 70 percent. Since the doctors never saw any of the remaining amount, they were, in effect, giving a 30 percent discount to keep some of their patients from deserting to other HMO's.

But even that kind of incentive feature wasn't enough to stanch a hemorrhage of funds caused by the excessive hospitalization of patients. In the spring of 1977 the directors of the plan imposed a rule requiring doctors to notify headquarters each time they sent an HMO member to a hospital. Six months later the rule was tightened further. Today, a doctor's fee can be withheld in toto if he sends a patient to a hospital for nonemergency reasons without "preadmission certification."

Certification is given only by Diana Tchida, a registered nurse formally known as the plan's Medical Services Director. As hospital gatekeeper, she also approves the duration of the stay, following a manual based on what she calls "the acceptable mode of practice in this area." That is not all. Every day, someone from plan headquarters calls hospitals to inquire about each patient's progress. This procedure is called "concurrent review of patient confinement," but Charlotte Katz, the plan's administrator, has a blunter translation: "We call it post-admission harassment."

Flat turndowns of hospital admissions are very rare, but the mere existence of the new procedures has helped to put the Physicians Plan in the black at last. This year, says Richard T. Burke, the plan's executive director, "we'll be down around 500 hospital days per 1,000 members, and 400 in the case of some company groups enrolled in the plan." That is considerably below the 800-day average in the Twin Cities for persons of a comparable age mix who are covered by conventional health insurance.

By bringing its costs in line, the Physicians Plan has also been able to survive in the tough, competitive climate of the Twin Cities, one that gives employers unusual bargaining clout. Honeywell initially rejected the plan because its quote on monthly rates was way out of line. By last spring the plan had come back with a quote closer to those of other HMO's, and Honeywell included it along with five other prepaid plans offered to its workers. Of the workers who chose HMO's, half signed up with the Physicians Plan.

Partly because of such marketing successes, the plan's doctors seem willing to put up with all those tough rules. Dr. William L. Jefferies, a family physician in Minneapolis, admits he doesn't like preadmission certification for hospital patients. "But if that's what it takes to make the plan work," he says, "I'll do it. We physicians must provide a service the public is demanding, or we may be on the outside looking in."

IT PAYS TO KEEP THEM SCRAPPING

How much of the Twin Cities market can HMO's get? Says Dr. Richard J. Frey, chairman of the Minnesota State Medical Association, who isn't a member of an HMO himself: "I believe it's possible that 50 percent of our people will be enrolled in HMO's in the not too distant future." Much will depend on whether the HMO's begin signing significant numbers of Medicare and Medicaid patients. SHARE is the only HMO in the Twin Cities that currently meets federal criteria for enrolling them, though Washington could one day liberalize the regulations. The HMO's might also change their prevailing policy against recruiting self-employed workers.

Whatever the future holds, the Twin Cities experience already has proved a lot of things about building a strong HMO movement in cities that never had one. First, if the services are good and the price is competitive, many consumers will sign up. Second, the growth in enrollment may be slow at first, but will take on an irresistible momentum once it reaches a critical mass. Third, the enthusiasm and support of business can help move enrollment toward that level. And fourth, an age-old business principle—keeping many suppliers scrapping—applies to employee medical plans just as it does to the purchase of bushings and ball bearings.

IMPROVING THE HEALTH CARE SYSTEM AND CONTROLLING THE COST

I. Inflation and inequity today.

1. Health care costs are straining the federal budget and putting a heavy burden on employers.

Medicare is doubling from about $18 to $36 billion from 1976 to 1980, is projected to exceed $52 billion in 1982.

Public spending on health care rose seven times over from 1965 to 1977, from about $9.5 to $68.4 billion.

General Motors health insurance premiums also rose about sevenfold from 1965 to 1977, from $170 million to $1.3 billion. Similar increases have been experienced by many other companies.

2. There is a great deal of waste: excess specialized facilities, excessive use of hospitalization, diagnostic tests and other costly procedures.

3. Health care resources are distributed unevenly. Subspecialists crowd attractive metropolitan areas while rural and poor urban areas lack doctors.

4. While many factors contribute to the cost increase, the main cause of the unjustified and unnecessary increase in costs is the complex of perverse incentives inherent in today's dominant system of health care financing. Uncontrolled fee-for-service rewards doctors with more revenues for providing more and more costly services, whether or not more is necessary or beneficial to the patient. Cost reimbursement rewards hospitals with more revenue for generating more costs. And health insurance, provided by employers or government, leaves most patients with little or no financial incentive to question the need for or value of services. There is no reward for economy in the use of health care resources. Such a system must produce inflation in prices and waste in the use of resources.

II. Public regulation of prices and capacity will not solve these problems.

1. The nature of medical care defies regulation. The government cannot measure output or evaluate its quality (except in extreme cases). The "doctor office visit" and the "patient bed day" are not standard units whose price can be regulated like passenger miles or kilowatt-hours. The leading experts cannot agree on standards for such things as the appropriate number of hospital beds or days of hospitalization per capita.[1]

2. The critical component of total cost is the extent of utilization of costly services such as hospitalization and procedures using advanced technology. These are inherently matters of individual doctor and patient judgment.

3. Certificate-of-need regulation has failed to control the problems of excessive investment.[2,3,4,5] People accept efficiency-improving changes (e.g. closing unneeded facilities) when they are produced by impersonal market forces in the private sector. When such changes are imposed by government, those who would be harmed resist them, usually successfully, through legal and political action. Public officials (including regulators) could not withstand the pressure if they denied people medical care their doctors said they needed.[6]

4. Price regulation, in the long run, amounts to cost reimbursement, and gives producers the same incentives.

5. Public-utility regulation would fail to protect the general public for the same reasons it has failed in airlines, trucking, and elsewhere. Well focused producer interests and special-interest political pressures dominate.

III. Appropriately designed incentives and competition in the private sector can work effectively.

1. The key to cost control is to motivate physicians to use hospital and other health care resources economically; to establish competing system in which physicians are rewarded for finding ways to give better care at less cost. With appropriate organization and incentives, costs could be cut substantially without cutting the quality of care.[7]

2. We have numerous Alternative Delivery Systems in this country (alternative to uncontrolled fee-for-service and cost-reimbursement) with built-in cost controls and incentives to use resources wisely. They include:

Prepaid Group Practice (e.g. Kaiser Permanente);

Individual Practice Associations (e.g. Physicians Association of Clackamas County);

Health Maintenance Plans (e.g. SAFECO Life Insurance Co. of Seattle; Wisconsin Physicians Service);

Physicians accept responsibility for providing comprehensive health-care services to enrolled members, usually largely for a periodic per capita payment. The idea is compatible with many different systems and styles of care.[7]

3. Numerous comparison studies show that Prepaid Group Practices reduce total per capita costs (premium and out-of-pocket) to levels 10 to 40 per cent below those for comparable people cared for under traditional fee-for-service insurance plans.[8] Under competitive pressure, other Alternative Delivery Systems could achieve similar savings.

4. Physicians will impose on themselves and accept from other physicians controls far more stringent than they would ever accept from government if it is in their economic interest to do so. Competition of alternative delivery systems can make acceptance of such controls a matter of economic survival.

5. Where tried, competition is effective in controlling cost and improving service. The best examples are Hawaii and Minneapolis-St. Paul.[9,10] Competition between Kaiser and Physicians Association of Clackamas County, Oregon, is also a significant force.

6. If given a chance to compete on equal terms, Alternative Delivery Systems could grow rapidly. Many types of institutions have sponsored HMOs (e.g. industrial and insurance companies, unions, and universities, the Blues, consumer cooperatives, physician association, etc.). Many insurers could switch fairly quickly from traditional fee-for-service to per capita plus incentive plans like SAFECO's.

IV. Alternative delivery systems have not grown faster because they have been denied the opportunity to compete on equal terms.

1. Medicare and Medicaid are based on fee-for-service and cost reimbursement. Thus,

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they pay more on behalf of people who choose more costly systems of care. For example, in 1970, Medicare paid 65 percent more on behalf of beneficiaries in the Portland area who got their care from the fee-for-service sector than on behalf of similar beneficiaries who got their care from Kaiser.[11]

2. The tax laws, in effect, limit the employee's health insurance options to the plan or plans offered by the employer or health and welfare fund because employer contributions are excluded from taxable income. Also, the tax exclusion encourages employee pressure for more employer-paid health benefits and for 100 percent employer-paid premiums. Employers often do pay more on behalf of employees who choose a more costly health plan; and the tax laws allow this greater compensation to be tax free.[12] Thus, employees often have a weakened incentive to join an efficient Alternative Delivery System, even if their employer offers one.

V. Incremental steps or a comprehensive national plan?

The creation of an effective national competitive system can be approached either on an incremental basis, i.e. selected changes in today's laws, or on the basis of a comprehensive national health insurance (NHI) plan based on a fair-market competition in the private sector.

The incremental approach is more realistic in today's economic and political climate. And a few key changes could do a great deal to enhance competition.

But it is also useful to keep the comprehensive plan in view as an indication of the desired end point of the process of incremental change, and as a practical proposal in the event a comprehensive approach becomes feasible.

VI. Recommended low-cost changes to existing laws to enhance competition among health care financing and delivery plans.*

1. Standards for employer health benefits programs and for private health care financing and delivery plans to continue to qualify for favorable tax treatment.

(a) Each employer should be required to include in any health benefits program offered to employees a choice of no less than three health insurance or delivery plans. The link between jobs and health insurance, fostered by the favorable tax treatment of employer-provided health benefits, has become one of the most important barriers to health plan competition, a result Congress surely did not intend. The multiple choice of health plan principle has been proved to be practical and desirable in such programs as the Federal Employees Health Benefits Program. Congress recognized the desirability of this idea in the HMO Act. The principle ought to be extended to all health benefits programs.

(b) The employer's premium contribution should be the same whichever plan the employee chooses.

(c) All health benefits plans should be required to cover, as a minimum uniform set of benefits, the Basic Benefits defined in the HMO Act. This coverage may be subject to substantial copayments and deductibles, if necessary, to keep premiums down. This would make health insurance plans easier to understand and compare. It would focus competition on quality and accessibility of services and price. It would protect consumers from misleading exclusions of important services.

(d) All health plans should be required to limit each family's out-of-pocket payments to a maximum annual amount such as $1500. That is, all should be required to provide "catastrophic expense protection" before they provide "first-dollar coverage."

(e) All health plans should be required to assure continuity of coverage, through the right of conversion to individual coverage at group rates, in such cases as loss of job, death of spouse, divorce, etc. Health plans should not be allowed to cancel coverage because of illness.

(f) Health plans that offer care through a limited number of participating physicians should not be allowed to sign up more than 50 per cent of the doctors in a market area. This is to prevent Blue Shield Plans or Individual Practice Associations to be used to restrain competition.

2. Section 1876 of the Social Security Act should be changed to create a genuine and fair HMO option for Medicare beneficiaries, i.e. to permit any beneficiary to direct that the "Adjusted Average Per Capita Cost" to the Medicare program for people in his actuarial category be paid, as a premium contribution on his behalf, to the state or federally qualified HMO of his choice in the form of a fixed prospective periodic payment. This would permit Medicare beneficiaries who join HMOs that do a good job of controlling cost to realize for themselves the benefits in the form of more covered services or reduced out-of-pocket payments.

3. Eventually, a similar option should be offered to all Medicaid beneficiaries. But the complexities of doing this now have not been resolved.

VII. Consumer-choice health plan (CCHP): A comprehensive NHI proposal based on regulated competition in the private sector.[13] [14]

A. Overview: CCHP would resemble the Federal Employees' Health Benefits Program (FEHBP) for the nonpoor. The FEHBP covers 10.5 million people and has been in successful operation for 18 years. CCHP would resemble Multnomah County's PROJECT HEALTH for the poor. It would assure that all people have a choice among competing alternatives. Government would help people enroll in and pay for the private health benefits plan of their choice with tax credits or vouchers whose amounts are based on actuarial category and, for the poor, financial need, and which are usable only for premiums in qualified health plans.

B. Financing:

1. Tax credit. The present exclusion of employer contributions and deductibility of employee premium payments to health insurance, and deductibility of medical expenses from taxable income (costing about $10 billion in FY 1978 including payroll taxes) would be replaced by a tax credit based on actuarial category (e.g. nonaged family of four). That is, the present open-ended tax subsidy of roughly 30 percent of health insurance costs up to any level would be replaced by a 100 percent subsidy up to a predetermined level with no subsidy above that.

2. Vouchers for Medicaid. Medicaid would be replaced by a system of vouchers for premium payments to qualified health benefits plans, reaching 100 percent of actuarial costs (AC) or basic benefits in the case of the very poor.

3. Freedom of Choice in Medicare. The Medicare law would be changed to permit each beneficiary to have his Adjusted Average Per Capita Cost paid to the qualified health plan of his choice as a fixed prospective period payment. (Conventional Medicare would be retained for present beneficiaries who choose it. But new beneficiaries should be phased onto a per capita payment system. A voucher would supplement Medicare for poor beneficiaries.)

In a full version of CCHP, with tax credits equal to 60 percent of Actuarial Cost (AC), a typical tax credit for a nonpoor family of four would be about $800 per year a typical voucher for a poor family might be as high as $1,350 (all in 1978 dollars). The net cost to the federal budget would be about $22 billion. CCHP is a flexible concept, not an "all or none" proposal. It can be phased in. For example, a version with a tax credit equal to 30 percent of AC for the nonpoor, raised on a sliding scale to 100 percent of AC at the income-guarantee level ($4,200 for a family of four) would have a net cost in FY 1978 prices of $3.1 billion. The credit could be raised, e.g., 2.5 percentage points per year over 12 years, until the tax credit reached 60 percent, at an annual increase in outlay of about $1.6 billion.

C. Pro-competitive regulatory framework: Criteria for qualified plans.

1. Open Enrollment, through an annual government-managed open-season, would enhance competition and assure everybody access to all qualified health plans in their area.

2. Community Rating, i.e., premiums equal for all persons in the same actuarial category enrolled for the same benefits in the same area, would preclude prohibitive rates for poor risks and would spread health care costs over the total population.

3. Rating by Market Area would "internalize" costs of health services by NHI market area to give local regulators incentives for cost control and eliminate anti-competitive cross-subsidies. (Today, local regulators have little incentive to close unneeded health facilities because the cost of operating them is paid mostly from outside their area, while the jobs that would be eliminated are inside their area.)

4. Basic Minimum Benefits and a Required "Low Options" would prevent plans from limiting membership to the well-to-do by offering only plans with costly supplemental benefits. Qualified plans would have to cover at least basic minimum benefits as defined in the NHI law. They could offer a "high option" as in the FEHBP, but they would also have to offer a "low option" limited to basic minimum benefits.

5. Limit on Out-of-Pocket Costs, i.e. "Catastrophic Expense Protection", would provide full protection against catastrophic expense, and also put pressure on the health plans to establish effective cost controls. Qualified plans could use cost sharing, but it would have to be limited to a maximum annual amount per individual and family (e.g. $1500).

6. A Systematic Program of Information Disclosure would help consumers judge the merits of alternative plans and help assure public confidence. Data would include patterns of utilization, availability of services, and total per capita cost including premiums and out-of-pocket costs.

7. Grievance Procedures would be required to provide a forum for resolving disputes.

8. Anti-monopoly Provisions would ensure that market forces operate to control costs. A qualified "limited provider plan" with participation agreements with physicians could not have such agreements with more than 50 percent of practicing physicians in a county or metropolitan area, unless the Secretary of HEW waived the provision in the case of sparsely populated areas.

D. Goals of CCHP include the following:

1. Equity in the Use of Public Funds. Today Medicare and the tax-subsidies pay more for people with more income and who are better insured; CCHP would pay more to people in greater medical and financial need.

2. Motivate Efficiency by Changing Financial Incentives. The system of economic competition would reward doctors and other providers for funding ways to deliver better care at less cost.

3. Continuity of Coverage. Each person would be assured of continuity of coverage in the same health plan regardless of job status. (Today loss of job generally means loss of health coverage and change of job means change of coverage.)

4. Improve Access to Care. Access (financial, geographic, social) for every American to comprehensive health care services of

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Footnotes at end of article.

good quality, willingly provided, and with a freedom of choice that respects each person's preferences.

5. Delivery System Reform. Transformation of the health care delivery system into competing organized systems that reward providers for offering high-quality but cost-effective care.

6. Personal Choice in Use of Resources. Within the limits required by the goal of universal comprehensive coverage, CCHP would let spending for personal health care services be set in the marketplace on the basis of individual priorities rather than being set in a political process.

FOOTNOTES

[1] A. Enthoven and R. Noll, "Regulatory and Nonregulatory Strategies for Controlling Health Care Costs," prepared for the Sun Valley Forum on National Health, August 1977; Research Paper No. 403, Graduate School of Business, Stanford University, September 1977.

[2] D. S. Salkever and T. W. Bice, "The Impact of Certificate-of-Need Controls on Hospital Investment," *Milbank Memorial Fund Quarterly*, 54, 1976.

[3] F. J. Hellinger, "The Effect of Certificate-of-Need Legislation on Hospital Investment," *Inqury*, 13, 1976.

[4] Evaluation of the Efficiency and Effectiveness of the Section 1122 Review Process, Washington, D.C., Lewin & Associates, September 1975.

[5] W. Wendling, "A Reexamination of the Impact of Certificate-of-Need Laws," *Socioeconomic Issues of Health 1978*, American Medical Association, 1978.

[6] C. Schultze, *The Public Use of Private Interests*, Washington, D.C., The Brookings Institution, 1977.

[7] A. Enthoven, "Shattuck Lecture—Cutting Cost Without Cutting the Quality of Care," *New England Journal of Medicine*, 298, June 1, 1978.

[8] H. S. Luft, "How Do Health-Maintenance Organizations Achieve 'Savings'?" *New England Journal of Medicine*, 298, June 15, 1978.

[9] J. Christianson, Do HMOs Stimulate Beneficial Competition? Interstudy, Excelsior, Minnesota, April 1978.

[10] E. Faltermayer, "Where Doctors Scramble for Patients' Dollars," *Fortune*, November 6, 1978.

[11] S. Goss, A Retrospective Application of the Health Care Maintenance Organization Risk-Sharing Savings Formula for Six Group Practice Prepayment Plans for 1969 and 1970. Actuarial Note Number 88 (DHEW Pub. No. (SSA) 76–11500), Washington, D.C., Government Printing Office, 1975; also, M. Corbin and A. Krute, "Some Aspects of Medicare Experience with Group-Practice Prepayment plans," *Social Security Bulletin*, 38 March 1975.

[12] A. Enthoven, "Consumer-centered vs. Job-centered Health Insurance," *Harvard Business Review*, Jan.–Feb. 1979.

[13] A. Enthoven, Memorandum to Secretary of HEW, Joseph Califano, September 22, 1977.

[14] A. Enthoven, "Consumer-Choice Health Plan," *New England Journal of Medicine*, 298, March 23 and 30, 1978.

* For further detail, see attached paper with this title.

SHATTUCK LECTURE—CUTTING COST WITHOUT CUTTING THE QUALITY OF CARE

(By Alain C. Enthoven, Ph.D.)

The invitation to give the Shattuck Lecture posed a problem for me. How could an economist from California relate to Dr. Benjamin Shattuck, colonial physician in Templeton, Massachusetts, and the distinguished line of Shattuck physicians that followed him? Then I discovered Lemuel Shattuck (1793-1859), not a physician, but a businessman, a founder of the American Statistical Association and principal author of the Report of a General Plan for the Promotion of Public and Personal Health, published in 1850. Lemuel's interest was not primarily in how the medical profession could lift itself above quackery, a problem very much on the mind of Dr. George Cheyne Shattuck when he addressed the Society in 1866. Lemuel was interested in how the people of Massachusetts could most effectively use their resources to promote the health of the population, a problem he considered too large to be left exclusively to physicians. He proposed a broad program of practical measures, to be refined with the help of better statistics, and justified by cost-effectiveness analysis. When I read Lemuel's Report, I knew I had found my Shattuck. I felt comfortable about coming here as I realized that Lemuel Shattuck had demonstrated that one does not have to be an M.D. to be able to speak intelligently about health policy.

Lemuel was concerned that the Commonwealth was spending far too little on health. Today, of course, our concern is that we appear to be spending too much.

The rapid increase in the cost of health care has become a serious problem. Government will do what it must to bring this spending under control; its financial commitment is now too large for it not to. The main line of public policy has been to attempt direct economic controls: certificate of need, price controls, Medicare and Medicaid reimbursement limits and, recently, the proposed Hospital Cost Containment Act of 1977. Generally speaking, studies have shown that such controls are ineffective. Even if they were to be made effective, there is nothing in them, or in the history of economic regulation in general, to suggest that they would promote more efficient or equitable delivery of services.

The main alternative to increasing direct economic regulation is to change the basic framework of financial incentives within which the health-care industry operates. Today's system of fee for service for the physician, cost reimbursement for the hospital, and third-party intermediaries to protect the consumer rewards providers of care for cost-increasing behavior and leaves the insured consumer little or no incentive to consider the cost of care. The alternative is to create a system in which consumers and providers can benefit from seeking out and joining health-care financing and delivery plans ("health plans") that are economical in the use of resources. Such a system would rely on incentives and competition to promote economy and equity. I have proposed such a system of health-care financing, called Consumer-Choice Health Plan. More recently, the AMA-sponsored National Commission on the Cost of Medical Care recommended a similar strategy for cost control.

The Shattuck Lecture gives me an opportunity to respond to two questions physicians often ask about such competitive market approaches to cost control:

The first is, "How can we organize to control cost? Are you saying that we must join an organization like Kaiser-Permanente or Harvard Community Health Plan? Or would we be able to continue practice in our own offices on a modified fee-for-service basis?"

The second is, "How can we cut cost without cutting the quality of care?"

These are not easy questions. The answers require balancing different values, which will be weighed differently by different people. And there is much uncertainty about many of the relevant facts. In this spirit, I offer suggestions for consideration, not definitive answers.

ORGANIZING FOR IMPROVED EFFICIENCY AND COST CONTROL

In the system of fee for service, cost reimbursement and third-party intermediaries that dominates health-care financing today, the question of efficient use of resources does not even arise. The problem of how best to spend a given amount of money for the health care of a population is not posed. Providers are not required to set priorities, look at alternatives and make hard choices. From the point of view of the provider, there is an apparently unlimited amount of money. This system rewards cost-increasing behavior with more revenue; it punishes cost-reducing behavior with less revenue. Such a system must produce inflation in prices and waste in the use of resources.

By contrast, an economically rational health plan will have built-in incentives for cost effectiveness. It will reward people for finding ways to deliver better care at less cost. The source of funds will not be open-ended. Rather, in such, a plan, physicians will accept responsibility for providing comprehensive health care services to defined populations, largely for a prospective per capita payment, or some other form of payment that rewards enconomy in the use of resources. Physicians control or influence most health-care spending. The key issue in health-care costs is not physicians' fees; it is how to motivate physicians to use hospital and other resources economically.

Physicians and other health professionals are motivated by nonfinancial goals, including a desire to cure the sick and to achieve professional excellence and the esteem of peers and public. But their use of resources is inevitably shaped by financial incentives. Those who survive and prosper must do what brings in money and curtail what loses money.

In the design of health plans with built-in incentives for cost effectiveness, physicians are not limited to a single blueprint. Today, there are several successful or promising models in existence. And one of the objectives of the Consumer-Choice Health Plan is to stimulate the development of more good ideas.

Prepaid group practice

The best known type of health plan with built-in incentives for economy is prepaid group practice. The main examples include the Kaiser-Permanente Medical Care Program, the Group Health Cooperative of Puget Sound and the Ross Loos Medical Group. And an important recent entry is the Harvard Community Health Plan. The essential principles are that a group of physicians, working together, agree to provide comprehensive health-care services, for a fixed prospective per capita payment, to a defined population of members who have enrolled as the result of a free choice. There are many variations on the theme, depending on their origins and sponsorship and the conditions in which they operate. Prepaid group practices have been sponsored by industrial companies, physician partnerships, consumer co-operatives, insurance companies and Blue Cross, universities and others. The physicians may be salaried, as in the Harvard Community Health Plan, or receive capitation plus a share of the program's net income as group, and salary and bonuses as individuals, as in Kaiser-Permanente, or the physician partnership may own the plan as in Ross Loos. The prepaid group practice may or may not own its own hospitals. The physician group may include a broad range of specialties, or it may emphasize primary care, referring elsewhere patients who need care by specialists not in the group.

There is convincing evidence that prepaid group practices are effective in holding total per capita costs (premium and out-of-pocket) to levels well below those for comparable people with health insurance cared for under fee for service. Luft reviewed and reanalyzed the many comparision studies done since 1950 and concluded that the cost reduction was on the order of 10 to 40 percent. The cost savings are mainly attributable to much lower hospitalization rates and to greater economy and efficiency of operation. They cannot be explained away by out-of-plan utilization, differences in age and sex composition, previous health status or government subsidies.

For example, one large study compared the costs to Medicare of beneficiaries in six prepaid-group-practice plans with the costs of a control group on fee for service matched for age, sex and area. The average cost of the former was 74 per cent of the latter. Medicare beneficiaries who regularly get their care from prepaid group practices are free to get the same benefits from fee-for-service providers outside their plan; in this study, the costs of the outside services were identified and charged to the costs of the group-practice beneficiaries. Another large study, by Gaus, compared days in hospital and surgical admissions for Medicaid beneficiaries enrolled in eight prepaid-group-practice plans with those of beneficiaries in matched control groups who got their care from fee-for-service providers. The group-practice beneficiaries averaged 340 days in the hospital and 24 surgical admissions per 1000 persons per year, as compared to 888 days in the hospital and 50 surgical admissions per 1000 persons per year in the control groups. This study investigated prior health status as perceived by the beneficiaries and number of chronic conditions, and it found no statistically significant difference between the members of prepaid-group-practice plans and the control groups. As for government subsidies, federal assistance to health-maintenance organizations has been both recent, small and more of a burden than a help.

The prepaid-group-practice model offers many advantages for economy and quality. The method of payment gives the organization a prospective budget. Its physicians and managers must seek to get the most effective medical care out of limited resources. The method of payment also virtually eliminates the administrative burden of billing and collecting from patients for each service. And an economical division of labor frees the doctor from business management and allows him to concentrate on medical care.

Secondly, practice in a multispecialty group has advantages independent of the method of payment. These advantages include ease of consultation, which can be a convenience for both the physician and the patient, a single unified medical record, which allows each doctor to see what the others are doing to and prescribing for the patient, and the stimulation and reassurance of mutual professional support. Ellwood has found evidence that "good multispecialty group practices manage to provide good medical care with less hospitalization" whether on a fee-for-service or a prepayment basis.

Thirdly, a major contributor to cost in the fee-for-service sector is unneeded facilities: hospital beds, surgery suits, radiation-therapy units and the like. The hospital-based prepaid-group-practice plans have a strong financial incentive to match carefully their facilities to the needs of the populations that they serve. And they operate roughly half the beds per capita (adjusted for age and sex) as their fee-for-service counterparts.

Fourthly, prepaid-group-practice plans have economic and professional incentives to match their specialty mix to the needs of their enrolled populations. The goals of proficiency and economy are best served by a limit on the number of surgeons to those who can be kept fully employed during surgical procedures and by primary care performed by primary-care physicians. Prepaid group practices employ relatively more primary physicians and fewer surgeons than are in the population as a whole.

Fifthly, group practices offer advantages in terms of opportunities for quality control. They can control the quality of their members and have incentives to do so. They can review the qualifications of a physician before he joins, and take action to correct poor performance afterward. They can adjust the professional activities of each physician to the tasks that he is currently well qualified to perform without threatening his livelihood. In the group-practice setting, there is no financial incentive for a physician to practice beyond his competence.

However, it is also clear that the model has serious limitations. In the first place, it takes much time and cost to get one started. The experiences of Georgetown University and Harvard Community Health Plans and others suggest that several years and several million dollars in investment and operating losses are required before a new prepaid group practice will reach the financial break-even point.

Secondly, to join one, patients must change their physicians, something many will be reluctant to do. Thus, prepaid group practices seem to grow fastest in areas and among population segments characterized by high mobility in which people are required to find new physicians anyway.

Thirdly, many patients apparently do not prefer this style of care. Some perceive it as impersonal, institutional or inconvenient. However, it is really not known how many prefer the prepaid-group-practice to the individual-practice style of care because most Americans have not been given the choice on an equal basis.

Fourthly, and even more important, it is evident that this style of practice, although attractive to some physicians, is quite unattractive to many others, who see it as posing unacceptable limitations on their professional independence.

In a national system of fair market competition, prepaid group practice would be an effective competitor. But, because of these limitations, it is not likely to dominate the scene. There would be a good deal of room for other kinds of organizations.

Individual-practice associations

Another type of health plan with built-in cost controls is the individual-practice association or "fee-for-service health-maintenance organization." Its protoype is the San Joaquin Foundation for Medical Care, established in 1954 in response to the threat of entry by Kaiser-Permanente. There are many variations on this theme. The essential principles are these. The physician continues to practice in his office on a fee-for-service basis. However, as part of a group, the physician agrees to provide comprehensive health benefits to an enrolled population largely for a fixed prospective periodic payment.

To reconcile fee-for-service with the fixed payments, the physicians agree to the following arrangements. First of all, they agree on a maximum fee schedule. When they render a service to a member of the plan, they bill the plan, not the member. Secondly, they accept peer review of the appropriateness of services. This has led individual-practice associations to develop a number of management tools for cost control, including criteria for patient care such as model treatment systems and peer review before hospitalization. Thirdly, the association either pays hospital costs or teams up with an insurance carrier that offers a hospital insurance policy. The premium for the policy reflects the hospital use of those enrolled in the individual-practice association: the less the hospitalization, the more left over for the doctors. Finally, the physicians accept varying degrees of financial risk. If the money runs low, they may agree to accept a pro rata reduction in fees. In some plans, physicians are also liable for costs of inappropriately ordered hospital use or for hospital costs in excess of the budgeted amount.

The individual-practice model offers some substantial advantages. The first is that, as compared to a prepaid group practice, an individual-practice association can be established more quickly and with a smaller initial investment. Secondly, it requires a minimal change in the established physician's practice style. Physicians can remain in fee-for-service solo practice with existing doctor-patient and hospital-staff relationships. Patients may be able to keep their doctors when enrolling in an individual-practice association. However, despite the apparent ease of startup, these associations have not grown in number or membership as fast as prepaid group practices. As of the July, 1977, census of health-maintenance organizations, 65 per cent of all prepaid plans representing 90 per-cent of total membership were prepaid group practices. Thirdly, fee-for-service practice has positive aspects that should not be overlooked in the present concern with cost. It does reward the doctor for working harder and for being more attractive to his patients.

Apparently, individual-practice associations have not so far succeeded in controlling costs. Gaus, Cooper and Hirschman compared days in hospital and surgical admissions for Medicaid beneficiaries enrolled in two individual-practice associations with beneficiaries in matched control groups getting their care from uncontrolled fee-for-service providers. The data revealed no statistically significant differences between the individual-practice beneficiaries and the control groups. This study is the only one with matched control groups. However, its value is limited by such factors as small sample size and the fact that hospital admissions for the Medicaid beneficiaries in Sacramento in the fee-for-service control group were also subject to the Sacramento Medical Care Foundation's Certified Hospital Admissions Program. Studies of total per capita costs for California state employees found that the costs for individual-practice associations were 24 to 27 per cent higher than those for the Kaiser-Permanente program. Luft concluded that "there is no evidence that costs for enrollees in Individual Practice Associations are any lower than for people with conventional insurance."

Egdahl recently sought evidence of the ability of independent-practice associations to reduce hospital use. His investigation was seriously limited by lack of good data, a condition that he is working to correct, and by a lack of comparisons with suitable control groups. Nevertheless, he did find that "three IPA-type plans studied in detail achieved a striking decrease in hospitalization of their patients after introduction of the plan, or in contrast to a comparison population." I believe Egdahl's research points to the correct conclusion: these or similar fee-for-service organizations can control cost if they must. Competitive necessity is the key factor. For example, Hawaii Medical Service Association, a community-sponsored Blue Shield type of plan with built-in cost controls, competes effectively with the Kaiser-Permanente Medical Care program in Hawaii. Both have hospital-use rates (for patients under 65 years old) below 400 days per 1000 per year, and premiums among the lowest of all the comprehensive plans participating in the Federal Employees Health Benefits Program.

Cost control of individual-practice associations is weakened by the fact that the physicians are paid fees for service. In a sense, the format of the individual-practice association assumes that abuse or overutilization is the cause of the cost problem. Peer review curbs the excesses, but it does not do much to motivate a reduction in the costs generated by the majority of doctors whose practices are near the norms.

Individual-practice associations have a propensity to sign up 75 to 100 per cent of the physicians in private practice in their service areas—many more than the number needed to serve their enrolled populations. One main reason for this excess is marketing: the association cannot tell the prospective enrollee that he will be able to keep his own doctors unless most of the doctors belong. And marketing is a critical problem for any health plan starting up. Another reason is political: to gain physician support and neutralize opposition.

But this means that the individual-practice association accounts for a comparatively small percentage of most physicians' practices, which limits its ability to influence their behavior. (Or, if its controls influence physician behavior with patients who are not enrolled in individual-practice associations, as some claim, it does not enhance the association's competitive position.) It also means that the association includes the physicians who generate high costs as well as the economical ones. And it means that the association cannot realize the benefits of matching the specialty mix of its physicians to the needs of its enrolled population. Thus, individual-practice associations face a dilemma: one of their main strengths is connected to a serious weakness. I doubt if they will become effective competitors unless they become selective in their physician membership.

Moreover, signing up most of the physicians in an area invites charges of anticompetitive behavior. The tradition of county-medical-society sponsorship of individual-practice associations makes this situation worse. The individual-practice association then appears to be a restraint of trade for the purpose of fixing prices and blocking competitive entry by other health plans. This position will not be viable in the long run. If competition is not genuine and effective in controlling costs, the government will surely step in and regulate.

Individual-practice associations should carefully select their physician members on the basis of quality, commitment and cost consciousness. They should also reasonably relate the numbers and specialties of their physicians to the needs of their enrolled populations. They should avoid county-medical-society sponsorship And they should leave the market open to competitive entry by other health plans. The model is flexible enough to make such adaptations.

The health-maintenance program

A third and much more recent model has been called by its originators a "health-maintenance program." Its prototype, the Wisconsin Physicians Service Health Maintenance Program, begun at Wild Rose, Wisconsin, in 1970, now covers about 150,000 people. A similar system was inaugurated in 1974 in Woodland, California, by the SAFECO Insurance Company of Seattle in collaboration with the Woodland Clinic. It has been extended to other areas in California and Washington, and now covers roughly 9000 people. Thus, these plans are both small and new. The value of studying them is for the innovative quality of their ideas rather than for the duration and breadth of their experience.

In the SAFECO plan, a member of a covered group is given a choice between a conventional third-party insurance plan, with cost sharing (i.e., coinsurance), and a prepaid health plan, with essentially no cost sharing. A beneficiary who chooses the prepaid plan agrees to get all his care from or through (i.e., on referral by) the participating primary-care physician of his choice. (Except for emergencies, services not ordered or referred by the primary-care physician are not covered.) If the beneficiary is not satisfied with his doctor, he may select another participating physician and remain in the prepaid plan, or he may switch to the conventional insurance plan.

The participating primary-care physician (or group of physicians) agrees to provide directly all primary-care services, and to arrange referrals and supervise all other care, including specialist services and hospitalization, for each of his (or their) enrolled beneficiaries. For his services, this physician (if he has 50 or more enrollees) is paid a negotiated age-sex-adjusted monthly capitation payment. An account is set up for each participating physician from which the bills for all referral services are paid. Money flowing into this account is based on the gross premium revenue associated with the doctor's patients, less an allowance for the insurance company's costs, and less the capitation payments. The physicians must see and approve every bill. The doctor receives or pays back 50 per cent of the annual surplus of deficit in this account, with a limit on his share of the deficit equal to 5 per cent of his capitation revenue, but with no limit on the surplus. To protect physicians from the costs of catastrophic illness, the costs of patients whose annual expenses exceed a limit are excluded from these calculations, and paid by the insurance company from its reserves. A medical director, assisted by a board of participating physicians, monitors utilization, hospitalization and prescription patterns. Questionable patterns of use are reviewed for possible corrective action. The company reports hospital use of about 300 days per 1000 per year, about half the rate in the community as a whole.

As with the other models, there is room for considerable variation on this theme. In the Wisconsin Physicians Service Program, the primary-care physicians are paid on a fee-for-service basis, not capitation. The Wisconsin plan includes specialists; the SAFECO plan is built on primary-care physicians. The Wisconsin plan is sponsored by physicians and endorsed by the county medical societies. The SAFECO plan is sponsored by an insurance company. The formulas for sharing in the savings can vary.

The health-maintenance-program model offers some attractive features. It makes the individual primary-care physician knowledgeable and accountable for the total health-services costs of his enrollees. It gives him an incentive to increase productivity—e.g., by using nurse practitioners for well-baby visits. It gives him incentives to emphasize prevention of illness and instruction of patients in self-care. It makes the primary-care physician the "general manager" of his patient's medical care, a much needed role in today's complex health-care system.

The health-maintenance program can be started with a minimum of investment and a minimum of disruption of established practice patterns and relationships between doctors and patients, hospitals and other doctors. SAFECO's cost to establish its plan in four areas over a four-year period was less than $500.000. The program can start small, with a few doctors and families, and can be extended gradually into a whole system including specialists and hospitals.

The health-maintenance program creates a market for specialty and hospital services in which the buyers are experts—i.e., physicians able to judge quality, need and appropriateness of services all in relation to cost. Primary-care physicians can see what specialists are charging, and reflect judgments about quality of services in deciding what they should be willing to pay.

The SAFECO model is a partnership between an insurance company and physicians in which the company contributes its skills of organization, administration, underwriting and marketing, and its capital. And the plan can be tied into existing group-insurance arrangements. Thus, it is one way in which the established health-insurance industry can participate in the restructuring of the health-care delivery system.

The health-maintenance program has many of the advantages of the individual-practice association without its most serious defect—i.e., that in the individual-practice association the individual doctor is paid fee for service and has no knowledge of or incentive to control total per capita cost of services for his enrollees.

There are potential disadvantages. Are the cost-control incentives too strong? Will they lead to inadequate service? There might be a problem of preferred-risk selection—i.e., a doctor could benefit financially by discouraging high-risk patients from continuing their enrollment with him. There may be an economic incentive for the physician to take his capitation patients for granted and seek the extra revenue obtainable from serving fee-for-service patients. But there are safeguards against such abuses, the most important of which is the freedom of the dissatisfied patient to change doctors or health plan. And the design of such a plan can be modified to correct problems.

There is potential for abuse under any system of health-care organization and financing—including fee for service or a National Health Service. A physician who wants to take advantage of the incentives of the health-maintenance program, or any other scheme, can surely do so. If there is an optimal set of incentives, I do not know what it is. There is not a priori basis for deriving one. The only way to find good incentive schemes is through experience in a system of fair market competition among alternative health plans. And any payment system, including fee for service, must ultimately place some reliance on the ethics of physicians.

Other models

There are other models: some in actual operation, some only proposed. Newhouse and Taylor proposed variable cost insurance. Ellwood and McClure proposed health-care alliances. The essential idea in both is that beneficiaries agree to get their care from a defined set of providers (or on referral by them); the premium for their insurance policy reflects the cost-generating behavior of these providers. In a competitive situation, the providers will be under pressure to control costs. I believe there are other interesting possibilities that have not yet been conceived because we do not have a system of fair market competition that would create a demand for them.

Each of these models is flexible. The variations on each of these themes are many and important. Participating in an organized health plan with built-in cost controls need not be an uncomfortable straitjacket for the physician. There are enough models to suit the tastes of many—perhaps most. Moreover, in a world of competing health plans, there would be substantial room for individual fee-for-service practice. Some consumers, because of their life-style or tastes, will prefer ordinary insurance and will be willing to pay the higher cost associated with it. Moreover, all the organized systems would refer some of their patients to physicians outside their plan for specialty care, which may be on a fee-for-service basis.

CUTTING COST WITHOUT CUTTING THE QUALITY OF CARE

As physicians join such organized health plans with built-in cost controls, they will confront the question, "How can we cut the cost without cutting the quality of care?" I believe that lower cost does not need to mean lower quality of care. On the contrary, in many cases quality and economy work together. In other cases, spending can be reduced substantially with no discernible loss in benefit to the patients. Determining the effect of different patient-management policies is extremely complicated, and can be discussed in detail only on a case-by-case basis. What I can offer here are a few insights and suggestions, not a complete catalogue of methods of medical-care cost reduction.

Curtailing "Flat-of-the-curve medicine"

A basic principle of economics is the law of diminishing marginal returns: as one input is applied to a production process in successively larger amounts, the resulting increases in output will each be successively smaller. The marginal return—i.e., the increase in output associated with a unit increase in input—may even become zero or negative. As an empirical generalization this law fits many (though not all) situations in the production of goods and services, national defense and environmental protection.

For medical examples of diminishing marginal returns, one should think of the relation of health outcome to more in-hospital days for a patient with a given diagnosis, or the relation of the probability of a correct diagnosis to the number of diagnostic tests, or the relation of health status for a given population to the percentage of the population to which an elective surgical procedure is applied.

I believe that a great deal of "flat-of-the-curve medicine" is being practiced in the United States today—that is, applications of health-care resources yielding no discernible or valuable health benefit. Admittedly, the evidence is suggestive, not conclusive.

Lembcke observed wide variations in the per capita rate of primary appendectomies in different hospital service areas of New York. He found that a lower per capita rate of operations for appendicitis was not associated with higher appendicitis death rates. If anything, he found the contrary. His data suggest that patients in areas with a high rate of appendectomy would have been no worse off if the rate of operations had been reduced to that in the areas with a low rate.

More recently, Wennberg and Gittelsohn found wide variations in the per capita consumption of various health services in 13 different service areas of Vermont, despite the similarity of the populations in terms of rates of illness, income, racial and social background, insurance coverage and per capita physician contacts. They found a twofold variation in the overall age-adjusted per capita rate of surgical procedures, with much wider variations for some operations. There was also wide variation in use of nonsurgical procedures: among Medicare enrollees, total laboratory services per capita varied by 700 per cent. Wennberg observed, "There is no evidence that the latter (i.e., those living in high cost areas) have greater medical need, or indeed, that more health is produced . . . in terms of their health status, it is not possible in my opinion to argue that Vermonters in more expensive areas are better or worse for the effort." Other studies have documented similar variations elsewhere.

As mentioned earlier, there have been many comparisons of hospital use by members of such groups as federal employees and their families, some of whom get their care through fee for service paid by insurance, and some of whom get their care through prepaid-group-practice plans. The latter are hospitalized, typically, some 30 to 50 per cent less. The fact that those cared for by prepaid group practices are there as the result of a free choice suggests that, at least in their judgment, the lower rate of hospitalization was not associated with lower quality of care.

Another indication of "flat-of-the-curve medicine" is provided by the results of second-opinion surgical consultation programs such as the one directed by McCarthy for several unions in New York City. In some of the programs, a second opinion was voluntary, and in others it was mandatory. In the voluntary programs, 34 per cent, and in the mandatory programs, 17 per cent, of the recommendations for operation were not confirmed by the second opinion.

I am careful to avoid the term "unnecessary surgery" in discussing such findings, although that term will inevitably be used in political discussion and by the media. I am quite prepared to believe that in most of the cases not confirmed by a second opinion, the patient had a real ailment to which the recommended operation was addressed. Moreover, I believe that most physicians sincerely want to do the best thing for their patients, and that the surgeons recommending these operations honestly believed that they were in the best interest of their patients. The findings of Bunker and Brown about high surgical rates among physicians' families would support this view. And in some cases, medical management may cost as much as surgical care, so that avoidance of surgical procedures may not save much. But these second-opinion results do suggest that in many cases, the risks and benefits to the patient are quite closely balanced. If two surgeons, both well qualified and honestly seeking what is best for the patient, come to different conclusions about the advisability of an operation, generally speaking its net benefits must not be large or obvious. One might say that some of the operations are examples of "flat-of-the-curve" medical care.

Another example of "flat-of-the-curve" care was reported by Hutter and his associates. Their prospective randomized controlled study found "no apparent additional benefit to the patient with an uncomplicated definite myocardial infarction from a three-week as compared to a two-week hospital stay." McNeer and his colleagues recently reported a similar result with hospital discharge at one week. Unfortunately, the samples in both studies were small, and McNeer's description of methods makes no mention of randomization. But if their conclusions hold up under further study, the cost savings could be very large. Similar conclusions about the hospital treatment of many diseases must have been reached by physicians who have formed individual-practice associations, developed model treatment systems with criteria for length of stay and substantially reduced hospital use.

It is apparent that there is a great deal of bias in favor of more care, and more costly care, whether or not it helps the patient. This situation is quite understandable in terms of the values of patients and physicians. The insured patient and his anxious family have every reason to seek whatever care might do some good. And it seems unnatural for the physician to stand back and not do all he could to cure disease and alleviate suffering. And the bias is increased by the fear of malpractice suits. We now need to introduce some correction to this bias. We are facing a new situation. The costs are becoming too large. To use Fuchs' phrase, ". . . medicine should consider the possibility of contributing more by doing less." And the places to begin doing less are where the curves relating benefits to costs are flat.

Regionalization

In the production of many specialized services, average total cost per unit decreases substantially as the number of units produced per year increases. In such cases, economies can be achieved if production is consolidated into facilities producing at an efficient volume.

For example, my student, Steven Finkler, recently estimated the costs of open-heart surgery as a function of annual volume, based on an examination of all the relevant costs for a typical mix of operations at a large medical center in California in 1976. He found that at 50 patients per year, the cost per patient would be about $21,000; at 500 patients per year, the cost would be about $8,700. The average costs per unit decrease with volume mainly because many of the costs of a heart-surgery center are fixed.

Finkler then examined the distribution of open-heart operations in California. In 1975, nearly 15,000 operations were performed in 91 hospitals, for an average of 163 per hospital. In 48 hospitals, there were 100 or fewer operations. Finkler estimated what the total costs would have been if every hospital had produced its reported volume at the unit costs he had calculated and then what they would have been if all the heart procedures had been done in 30 centers doing about 500 operations each. He estimated that consolidation would have saved about $44 million per year in California alone.

Additional savings to be expected from proficiency based on experience are not reflected in these estimates. Moreover, other things equal, the quality of care is likely to be much better in the hospital that does 500 operations per year than in the one that does less than 100. Quality and economy are not always opposed; here is a case in which they go together.

Other services that exhibit decreasing unit cost with increasing volume include clinical laboratories, computed tomography, maternity and neonatal intensive care. Pettigrew's estimates of the costs of an efficient minimum capability maternity unit imply $1,245 per admission at 500 admissions per year and $653 per admission at 1200 admissions per year. Evens and Jost estimated the technical cost per tomographic examination at about $157 at a volume of 40 patients per week, and $89 at 80 patients per week.

Regionalization is not a new idea, but its practical implementation is not widespread. If most people got their health care through organizations that actively sought out the best combination of cost and quality of specialized services for their enrollees, and if today's system of cost reimbursement for hospitals were replaced by a system of competitive pricing, I believe that competition would bring about a desirable degree of regionalization on a voluntary basis. (For them to be able to compete, the teaching and research costs of university medical centers would need to be separately identified and subsidized on their own merits.) The resulting improvements in economy and quality would be large.

Cost-effectiveness analysis

Physicians should encourage and participate in the development of cost-effectiveness analysis for medical decision making. And they should learn to use it. By cost-effectiveness analysis, I mean a synthesis of principles of economics, statistics, probability and decision theory applied to the complex and uncertain problems of medical decision making. The goal is to elucidate all the costs, risks and benefits of alternative courses of action so that decision makers can be well informed in applying the necessary judgments. Such analysis, properly conceived, should be an aid to judgment, not a substitute for it.

Such an analytical approach to decision making should be formal—that is, written down in precise terms, with the logical steps of the argument exposed to view. Quantitative aspects should be treated quantitatively (rather than with adjectives). The analysis should be empirical, with standard definitions and criteria for measurement, broadly based data and the best statistical methods. Decision analysis should be open and explicit. It should be presented in such a format that it can be reviewed critically from many perspectives. Such an approach allows the experiences of many physicians to be pooled, so that the individual physician does not have to rely excessively on his own experience. It can allow value judgments by patients, public officials and others to be introduced and considered. And an open, explicit analysis can be debated and corrected much more easily than an intuitive, implicit analysis.

Analytical aids to decision making have been developed and applied extensively in such fields as industrial management, natural-resource development, environmental protection and national defense. In 1850, Lemuel Shattuck defended his General Plan for the Promotion of Public and Personal Health with an economic analysis. But there was virtually no progress in the application of cost-effectiveness analysis to health care in the 100 years after that. There are several reasons for this lack. In the first place, the total costs, in relation to income, were not nearly so large as they are today. Secondly, it is often exceedingly difficult, if not impossible, to put a meaningful numerical value on the benefits of medical care. Thirdly, people understandably resist what appears to be "trading dollars for lives." Fourthly, the system of fee for service, cost reimbursement and third-party financing gives providers little or no incentive to consider costs. However, in recent years there has been a considerable development of cost-effectiveness analysis for medical decision making, much of it at Tufts and at the Center for the Analysis of Health Practices at the Harvard School of Public Health.

The development of cost-effectiveness anlysis is needed because of the extreme complexity of medical-decision problems. I recognize that these decisions require difficult judgments in the face of uncertainty, with wide variations in the responses of different patients, and often a wide variety of diagnostic and therapeutic choices, each having a large number of components with different probabilities of producing different outcomes in different people. The trade-offs among these variables must be considered. And decisions must be made in a timely way, in the face of pain, suffering and risk of death. That the medical profession has dealt with all this as well as it has is a most impressive achievement. But I believe that physicians need help from other disciplines in the development of a set of aids to decision comparable to those developed in other fields.

The need for such help is illustrated by the findings of my Stanford colleague, Dr. David Eddy, who recently did a study of the clinical policy-making process in mammography, which included a thorough review of the literature through 1975. Among other problems, he found numerous errors in probability reasoning such as confusing the conditional probability that a woman will have a positive mammogram, given that she has breast cancer (the sensitivity or true-positive rate), with the conditional probability of cancer, given that a woman has a positive mammogram (predictive accuracy). The two probabilities are quite different, and confusing them can have very harmful consequences. Eddy also found a general pattern of single-minded pursuit of breast-cancer detection to the exclusion of such relevant considerations as the false-positive rate and the costs, risks, and discomfort of biopsies generated by false-positive results, radiation hazards, the costs of the procedure and the evidence of effectiveness. This type of reasoning is found in many recommendations to use mammography annually to screen relatively young, asymptomatic women. The recommendations may or may not prove to be wise. My concern here is not with the specific conclusions, but with the quality of the supporting rationale.

In 1850, Lemuel Shattuck observed of the medicine of his time, "The great error has been in forming theories upon observations or statements, without duly inquiring whether they have been sufficiently numerous, and have been carefully and truthfully made, upon a uniform and comprehensive plan, or whether they are otherwise imperfect." The medical literature of the 1970's still shows an inadequate awareness of the principles of statistical inference. One still finds comparisons in which the control group was not selected randomly, and sample sizes too small to support the conclusions drawn.

The art of medicine has drawn heavily from the physical and biologic sciences. Physicians should now draw the decision sciences into their synthesis.

Controlled introduction of new technology

The history of medicine includes many innovations that were initially greeted with enthusiasm, and then subsequently dropped for lack of evidence that they were beneficial. Although new drugs can be introduced for general use only after thorough testing according to careful experimental designs, new operations and other new technologies often move quickly into widespread application without the benefit of similar controls. Only a minority of medical innovations are tested by a randomized controlled trial. Investigator enthusiasm for new procedures appears to be much greater in the uncontrolled studies than well controlled studies. And only a minority of innovations prove to be preferred to standard existing treatment when evaluated by a randomized controlled trial.

Although recognizing the many difficulties in planning and executing a randomized controlled trial, and recognizing that such trials do not answer all the questions and settle all the arguments, I believe that many more innovations should be evaluated by this means. In any case, innovations in medical technology should be thoroughly evaluated early, before being put into widespread use. Public officials have good reason for concern when they see, for example, that the number of coronary-artery bypass grafts has grown to more than 70,000 operations a year at a cost of roughly $1 billion while the medical profession is still debating the merits of the procedure. The debate is healthy. But it is entirely reasonable for those concerned with public finances to believe that it would have been better if the procedure had been limited to perhaps a few thousand per year, done in a few centers under careful experimental protocols, including long-term follow-up observation, until the indications for the operation and its efficacy had been clearly established.

A similar point can be made for computed tomography. In a very short time, we will have installed 1000 computed-tomography scanners, with an annual cost of roughly $300 million, without established guidelines for its use. Although tomography is a marvelous innovation that will doubtless improve care and save much cost in some applications, there is no evidence that Americans would not be just as healthy with, for example, half as many scanners. Again, early controlled evaluations leading to guidelines for use of computed tomography might have saved tax and premium payers a great deal of money.

Government regulation can exacerbate the problem of uncontrolled introduction of new technology by rewarding those who move quickly to buy a new device before proof of efficacy and evaluation of cost-effectiveness, and punishing those who take a more deliberate approach. Such perverse incentives need to be corrected.

But private action by physicians is also needed. They should forbear in the introduction of costly new technology until a controlled evaluation has been done. Bunker, Hinkley and McDermott have recently recommended the creation of an "Institute of Health Care Assessment" to provide independent evaluation of surgical procedures, to act as a "central reviewing authority capable of sophisticated statistical and economic analysis and empowered with authority and resources necessary to initiate and coordinate appropriate trials." Similar evaluation of other new technologies and of many existing practices is needed. Physicians would find the process far more satisfactory if the evaluation were done on a private and voluntary basis by the profession than if it were done by the government.

Although my purpose in making these recommendations to suggest ways of controlling costs, I also believe their adoption could improve the quality of care.

OTHER METHODS

These are only a few of the ways in which physicians could respond to a financing system that rewarded economy in care without cutting quality. I believe that we could find many other possibilities if the incentives were appropriate. Observation suggests many things that could be done in a less costly but equally effective way. If our financing systems were not biased against it, we could make greater use of home care. And, if incentives for physicians and patients were appropriate, we could make more use of self-care. Bear in mind that health-care spending will inevitably be brought under control. Control could be effected voluntarily by physicians in a system of rational incentives, or by direct economic regulation by the government. I believe the incentives approach to cost control would produce an outcome far more satisfactory to doctors and patients. Physicians are by far the best qualified to make the difficult judgments about need and cost effectiveness. So I hope the medical profession will accept the challenge.

Consumer-Choice Health Plan

(First of two parts)

(By Alan C. Enthoven, Ph.D.)

Inflation and Inequity in Health Care Today: Alternatives for Cost Control and an Analysis of Proposals for National Health Insurance.

Abstract: The financing system for medical costs in this country suffers from severe inflation and inequity. The tax-supported system of fee for service for doctors, third-party intermediaries and cost reimbursement for hospitals produces inflation by rewarding cost-increasing behavior and failing to provide incentives for economy. The system is inequitable because the government pays more on behalf of those who choose more costly systems of care, because tax benefits subsidize the health insurance of the well-to-do, while not helping many low-income people, and because employment health insurance does not guarantee continuity of coverage and is regressive in its financing. Analysis of previous proposals for national health insurance shows none to be capable of solving most of these problems. Direct economic regulation by government will not improve the situation. Cost controls through incentives and regulated competition in the private sector are most likely to be effective.

Headlines will soon appear proclaiming the latest round of health-care cost increases. The nations' health-care spending exceeded $160 billion in 1977—four times the 1965 amount. Congress will consider cost-control measures with increasing urgency. The Carter Administration is working to develop a national-health-insurance (NHI) proposal that will satisfy key constituencies and still have a chance of passage. The problems are closely interrelated.

INFLATION AND INEQUITY TODAY

Main problems

Real per capita spending on health care (i.e., net of general inflation) increased 79 per cent from 1965 to 1976; it increased 74 per cent on physicians' services and 110 per cent on hospital care. As a proportion of the Gross National Product, health care went from 5.9 to 8.6 per cent.[1] Costs of medical care are straining public finances at every level of government, and are forcing cutbacks in services to the needy. Public-sector spending rose from $9.5 billion, or 25 per cent of the total, in 1965 to $59 billion, or 42 per cent of the total, in 1976. Most of this outlay is in open-ended third-party reimbursement programs in which government spending is not controllable. For example, Medicare outlays are increasing from about $17.8 billion in (fiscal) 1976 to about $26 billion in 1978 (i.e., by nearly 50 per cent in two years).[2] In 1975, the increase in medical costs forced Massachusetts to stop paying for the health care of the general-relief population, throwing the burden on local government. From 1968–69 to 1975–76, Medi-Cal costs in Los Angeles County increased from 24 to 42 per cent of property-tax revenue.

Meanwhile, President Carter has recommended a tax cut of some $25 billion. Such a cut is urgently needed to lower the tax burden on the productive sectors of the economy, to spur saving and capital investment, to create jobs and to enhance productivity. And the pattern of local taxpayer resistance to tax increases is clear. Moreover, society has other pressing needs: helping the poor, rebuilding cities, energy conservation and environmental protection, to mention a few. So there is no ready source of funds to pay for these increases in health-care costs. It may take time, but the government will do what it must to bring health-care spending under control.

There are good reasons for much of the increase in health spending: growth in public and private insurance coverage brought access to many who previously did not have it, especially the aged and the poor; advances in technology increased the power of medicine to prolong life and enhance its quality; the population aged; the health-care system took on new assignment (e.g., in mental health, alcohol and drug abuse); the pay of health-care workers was brought up to the level of other industries; and rising incomes and expectations increased consumer demand for health-care services. Present concern with the growth in spending should not mislead one into thinking it is all bad.

However, the increase has far exceeded what could be justified on these grounds, especially in recent years. Hospital charges and physician fees rose faster than consumer prices in general. Health workers' pay overshot equality and other industries.[3] There is great inefficiency (e.g., duplication of costly underutilized facilities). For example, in California alone in 1975, cardiac operations were performed in 91 hospitals. Millions of dollars could have been saved, and the quality of care improved, if these 15,000 procedures had all been done at 30 or fewer centers. Wide variations in the per capita consumption of various costly health services (e.g., hospitalization and operations) among similar populations, without any apparent difference in medical need or health outcome, suggest that there is much spending that yields little or no discernible benefit in terms of health.[4-7] People might be just as healthy with half as much hospitalization.

While the nation is spending more, some people are enjoying the benefits less. Gaps in coverage leave some unprotected from heavy financial burdens, and others protected by Medicaid only after medical costs have made them poor. Public funds (including tax subsidies) do more for the well protected well-to-do than for the working poor who need help more. Also, there is uneven geographic distribution, leaving many rural and inner-city residents poorly served, and there are too many doctors in some well-to-do areas.

Causes of inflation and inequity

The main cause of the unjustified and unnecessary increase in costs is the complex of perverse incentives inherent in the tax-supported system of fee for service for doctors, cost reimbursement for hospitals, and third-party intermediaries to protect consumers. Fee for service rewards the doctor for providing more and more costly services, whether or not more is necessary or beneficial to the patient. Cost reimbursement rewards the hospital with more revenue for generating more costs. Indeed, a hospital administrator who seriously pursued cost cutting (e.g., by instituting tighter controls on surgical procedures and laboratory use and avoiding buying costly diagnostic equipment by referring patients to other hospitals) would be punished by a loss in revenue (Medicare and Medicaid would cut him dollar for dollar) and a loss in physician staff and, therefore, patients. Third-party reimbursement leaves the consumer with, at most, a weak financial incentive to question the need for or value of services or to seek out a less costly provider of style or care.

The economic factors are important, but the important factors are not all economic. The financial incentives are reinforced by the demands and expectations of anxious patients, the prestige associated with costly technologic care, the malpractice-induced need for "defensive medicine" and the government-inspired proliferation of health manpower—especially physicians. Thus, the financing system rewards cost-increasing behavior and provides no incentive for economy. It is also inequitable. Medicare and Medicaid are among the worst offenders.

Medicare pays more on behalf of people who choose more costly systems of care. For example, in 1970, Medicare paid $202 per capita on behalf of beneficiaries cared for by Group Health Cooperative of Puget Sound, a prepaid group practice, but paid $356, or 76 per cent more, on behalf of similar beneficiaries in the same area who got their care from the fee-for-service sector.[8] Medicare pays more to doctors who charge more and more to hospitals that cost more. At the same time, Medicare pays more on behalf of rich than poor (because they live in better served areas and can more easily afford the coinsurance), white than black and well served than underserved.[9]

Medicaid, which also relies almost entirely on third-party payment, fee for service and cost reimbursement, is particularly vulnerable to fraud and abuse. Its beneficiaries are particularly unlikely to be able to judge the need for or value of services provided to them, and are less motivated to weigh the value against the cost because they are not spending their own money.

Private insurance receives important subsidies through the tax system. Employer contributions to employee health-insurance premiums, no matter how large, are not counted as taxable income to the employee. This exemption means that if an employee takes $100 of additional compensation in the form of health insurance, he gets about $100 worth of benefits, whereas if he takes it in cash, he gets (net after tax) $70 or less. Also, within limits, employee premium payments and out-of-pocket medical expenses are tax deductible. In fiscal 1978, these "tax expenditures" will amount to roughly $10 billion. However meritorious in origin and intent, these features of the tax laws have unfortunate effects in terms of both incentives and equity. They subsidize employee decisions to select more costly health-care systems and encourage employee pressure for rich employer-paid benefits. Also, this tax system provides more subsidy for better paid and covered than for poorly paid and covered people.

The incentives in these systems of payment also help to defeat local efforts to control costs by limiting hospital capacity. Most of the costs of operating unneeded hospital capacity are paid by Medicare, Medicaid and insurance policies whose premiums are rated on the experience of an area larger than a typical county or health-service area. Why should a health-systems agency or a board of county supervisors defy local pressures and force the closing of an unneeded hospital, with loss of jobs, when most of the extra costs of keeping it open are paid for with funds from outside their area?

The physicians' role

Physicians receive only about 20 per cent of the health-care dollar, but they control or influence most of the rest. Even though it may not appear so on an organization chart, physicians are the primary decision makers in the health-care system. But the present structure of the system assigns very little responsibility to them for the economic consequences of their health-care decisions. They are not trained in medical economics. Most doctors have no idea what hospital costs, pharmacy costs and other ancillary patient-care costs actually are. The system gives them little or no incentive to find out, or to act on the information if they have it. Their professional values combine with the financial incentives and other factors, such as the malpractice threat, to minimize concern over cost and to foster cost-increasing behavior. If the decision makers in a system are not concerned with cost effectiveness, the system will not be cost effective.

Lack of competition and choice

There are competitive elements in the health-care system. For example, insurance companies compete with each other, and with self-insurance, for group contracts, by offering lower administrative costs. But there is very little competition among providers of care to produce services more efficiently or to offer a less costly style of care, and to pass the savings on to consumers. Most workers are offered a single health-insurance plan by their employer or health and welfare fund, usually a third-party reimbursement plan with no limit on choice of physician. (The Health Maintenance Organization [HMO] Act was intended to open up employee groups to HMO's by mandating dual choice, but the qualification process has been bogged down in the Department of Health, Education, and Welfare, and many employers are holding back on offering HMO's until the HMO's are qualified.[10,11])

The Medicare law has a complex provision for paying HMO's, but it is based on retrospective cost finding, includes an implicit tax on HMO's, and has not been put into operation. So Medicare beneficaries are stuck with a third-party, cost reimbursement system; they cannot choose a more efficient system and realize the savings for themselves.

Although the fee-for-service, third-party-reimbursement system offers the patient a free choice among doctors and hospitals in his community, it does not offer him the alternative of keeping much of the savings that he would generate by choosing effective but less costly care. The premiums and charges that he must pay reflect the cost-generating behavior of the doctors and hospitals caring for his insured group. His choice of doctors and hospitals is generally limited to those who work within the framework of the cost-increasing incentives. If he would prefer, for example, a system that used half as much hospitalization per capita, in exchange for more home care or better access to ambulatory care, at an equal per capita cost, the third-party fee-for-service system would not be able to offer it to him.

For many years, some physicians have been effective in blocking the development of competing alternative systems of care in which consumers could choose a less costly system or style of care and realize the benefit in the form of a reduced premium. They have done so through such devices as boycotts of insurers seeking to develop closed-panel plans, in the name of defending "the patient's right of free choice of physician," and professional ostracism and denial of hospital privileges to physicians participating in closed-panel plans.[12] Insistence that every insurance plan give the patient a completely free choice of physician is, in effect, denial of the patient's right to elect to obtain his care from a limited group of

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physicians who offer less costly care for a lower premium. And these monopolistic practices are not relics of a distant past. As recently as 1977, medical staffs in Massachusetts and California have voted to deny hospital privileges to physicians belonging to highly reputable prepaid group-practice plans. In November, 1977, the Michigan State Medical Society House of Delegates voted to boycott Blue Shield because Blue Shield, acting under pressure from employers and unions, sought to discriminate in favor of participating physicians and to institute reimbursement incentives for utilization control.[13]

Other failures in the health-care market

In addition to these barriers to competition, consumers today generally have poor information about health-care alternatives. Most do not know what their health premium costs are because the costs are paid by the employer or the government. So they have, at most, a weak incentive to learn about and consider the costs of the care that they receive. In most communities, there is no organized information for consumers on the availability and merits of alternative providers. Moreover, consumers must rely for advice about the benefits of proposed treatments on physicians who often have a financial interest in more costly care. The situation is made worse by the great uncertainty about the benefits in many cases. The system is not built to facilitate thoughtful choices. There are many restrictive laws and practices.

Geographic and specialty maldistribution of physicians is exacerbated by third-party, fee-for-service financing, which creates on open-ended demand for subspecialty care in well-to-do areas, and little incentive to offer primary care in inner-city or rural areas.

Discontinuity of coverage

Most private health insurance is provided as an employment-related fringe benefit—a system that works reasonably well for a large portion of the economically self-sufficient population with job stability (except that, as noted above, the limit on employer health-plan offerings is a key barrier to competition and consumer choice). However, the employment-health insurance linkage is not compatible with an effective universal system of insurance coverage because people lose their coverage when they lose their jobs, because job changes commonly require health-coverage changes, with breaks in continuity of coverage and care and nonproductive administrative costs, and because it is very difficult to arrange good coverage for persons in marginal industries or with seasonal, intermittent or otherwise unstable employment. Furthermore, employer-employee financing is regressive. Without mandated employer-provided coverage the low paid, who often need the most protection, get the least; with mandated coverage, in addition to great administrative problems for workers with unstable employment, the economic burden would fall heaviest on the lowest paid and provide a strong disincentive for employing marginal workers.

In a society that agrees that everyone should have financial access to a decent level of health care, it makes no sense to have a system in which many people lose their coverage when they lose their jobs and many others lose their Medicaid eligibility when they get even a poorly paid job. Cycling in and out of Medicaid eligibility produces hardship and work disincentives for the poor, and heavy nonproductive administrative burdens for states, counties and providers. As incomes fluctuate, contributions, not eligibility, should vary with ability to pay. Everyone's health-care coverage should be continuous.

In sum, the status quo in health-care financing is untenable. If nothing else does, the growth in cost will force a change. The issue is not whether or not to enact national health insurance (NHI). This country already has a sort of NHI system, with separate programs for such groups as the aged, poor, employed middle-class, veterans, military and dependents. The issue today is "what kind of NHI?" I do not accept the view that Americans cannot afford comprehensive NHI now and must wait for it until costs are brought under control. On the contrary, they are already paying for NHI, but are not getting the benefit because of an inefficient, inequitable system that results from historical accident and interest-group pressure. Prompt action is needed to assure universal coverage. But an equally urgent reason for an effective NHI today is the need to find good ways to reorganize the system and build in incentives for equity and cost effectiveness.

BROAD ALTERNATIVES FOR COST CONTROL

The government will do what it must to bring health-care spending under control. The costs are too large for it not to. There are two broad alternative approaches to this end: one is direct economic regulation; the other is cost control through incentives and competition.

Direct economic regulation will not make things better

In recent years, the main line of government policy has been to attack the problems created by inappropriate incentives with various forms of regulation (e.g., planning controls on hospital capacity, controls on hospital prices and spending, controls on hospital utilization and controls on physician fees). The weight of evidence, based on experience in many other industries, as well as in health care, supports the view that such regulation is likely to raise costs and retard beneficial innovation.[14]

A great deal of regulation of health services is inevitable. And in some fields, regulation is used to maintain competition (e.g., the Securities and Exchange Commission and the antitrust laws). The issue, then, is not regulation in general, but the specific types of regulation and their likely consequences. The point here is that direct controls on costs, in opposition to the basic financial incentives, are not likely to make things better.

To determine a regulated price for a service, a regulator must start with the producer's costs, allowing a reasonable profit margin. So in the long run, price regulation amounts to cost reimbursement, and it gives the producer the same incentives. Because of the incentives that regulators face (e.g., to avoid being over-ridden by appeals to the courts and to avoid a failure in service for which they are blamed), regulation tends to protect regulated firms whenever competition or technologic change threatens established positions within the industry. Regulators often see the purpose of the price structure as providing a mechanism for subsidizing some groups at the expense of others, rather than as a mechanism for offering incentives to buyers and sellers to make economical choices.[14] For example, airline fares subsidize travelers on uneconomic routes at the expense of travelers on dense routes. The main reason some hospitals favor regulation is that it would function as a cartel to protect them from buyers who want to cut costs; they know that the approved rates will be based on their costs.

Medical care has many characteristics that make it a particularly unsuitable candidate for successful economic regulation.[15] Basic to the problem is the subtle, elusive and indeed almost indefinable nature of the product. In the health-care sector to date, the most extensively tested form of economic regulation has been regulation of hospital capacity. And it is clear that certificate-of-need regulation has not helped control the problem of overbedding.[16] [18] A fixed legislated limit on total capital spending by hospitals might offer, a temporary illusion of effectiveness, but it is vulnerable to a number of countermeasures such as "unbundling" (i.e., breaking proposed investment projects down into small pieces, the value of each of which is below the threshold at which planning approval is required, or placing equipment in physicians' offices or other facilities beyond the reach of the regulators).

Physician fee controls have been advocated and were tried in the Nixon Administration. In judging their likely value as a cost-control device, would-be regulators should be aware that the "doctor visit" is high compressible, and the need for physician services is impossible to test objectively except in extreme cases. So the physician who considers his income to be threatened by fee controls can increase the frequency of recommended follow-up visits, increase the number of services rendered in each visit and bill separately for individual services, thereby making up the loss in increased volume. By triggering higher utilization, such controls might become counterproductive.

Overall controls on hospital spending face similar prospects: circumvention, "unbundling" and exceptions. The Carter Administration emasculated its proposed Hospital Cost Containment Act of 1977 by exempting wage increases from the hospital revenue limit, despite the fact that many hospital workers now earn more than their counterparts doing similar jobs in other sectors.[3] But even if such a law were ultimately successful at controlling total hospital spending at the stated growth rate, there would be no force in the system to assure efficiency or equity in the allocation or production of services. At best, the hospital industry would have been frozen in its present wasteful and inequitable pattern.

The danger in ineffective controls from the physicians' point of view is that they will inevitably bring on demands for more stringent controls that are likely to be increasingly burdensome and unpalatable. The next steps in controlling the costs of physician services are likely to include tighter utilization reviews, justified and accompanied by increasingly strident attacks on "unnecessary surgery" and other abuses. Another step might be, in effect, negotiated budgets for the total of all physician services in each state that are paid for by government or by tax-exempt or tax-deductible insurance policies. One effect of this approach would be to get physicians fighting among themselves over fees. The next step on hospital cost controls might be for the government to extend capital investment and spending limits to all health facilities and to create the detailed regulatory apparatus needed to process requests for exceptions, justified and accompanied by attacks on "obese hospitals." Although exceptions would have to be granted, the regulators could slow the rate of increase in spending by bogging down investment projects in procedural requirements. The failure of Congress to act on the Administration's cost-control proposal is not a rejection of the need for controls; it reflects uncertainty and disagreement over means.

LIMITATIONS OF PREVIOUS PROPOSALS FOR NHI

In addition to Consumer-Choice Health Plan (CCHP), a new proposal to be explained in the second part of this article, the Carter Administration has been examining four NHI alternatives, all of which have been introduced in previous Congresses. They are the Health Security Act ("Kennedy-Corman"), Universal Federal Third-Party Reimbursement Insurance ("Kennedy-Mills"), the Comprehensive Health Insurance Plan or "CHIP" (Nixon Administration) and the Catastrophic Health Insurance and Medical Assistance Reform Act ("Long-Ribicoff").

Because the first two would essentially give the federal government a monopoly of health-care financing, and because many people assume that NHI must inevitably mean

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such a monopoly, it is useful to begin evaluation of these alternatives by asking whether health-care financing is more appropriately organized as a government monopoly or through private markets. Much of the case for NHI rests on "private-market failure." And there is no doubt that the private market for health insurance, *as presently constituted and shaped by numerous government policies,* does a poor job of allocating resources, and fails to meet important social objectives. Consideration of private-market failure needs to be balanced by an appreciation of some of the characteristic limitations of government. The following generalizations, although obviously not true in every case, summarize important insights that must be considered in the decision whether NHI should be based mainly on private markets or on a government monopoly. To save time, they are stated here baldly and without applicable qualifications. The point of what follows is not to imply that government is "bad" as compared to private enterprise, or that government people are better or worse than private-enterprise people. Rather, the point is that government has certain limitations that are deeply rooted, if not inherent. Government is good at some things, such as taking money from taxpayers and paying it to social-security beneficiaries, and maintaining competition in many industries; it performs badly at other things. The problem of public-policy design is to define the appropriate role for government to achieve desirable social purposes most effectively.

1. Government responds to well focused producer interests; competitive markets respond to broad consumer interests. People specialize in production, and diversify in consumption. They are therefore much more likely to pressure their representatives on their producer interests than on consumer interests.

2. In Charles Schultze's words:

"We tend to subject political decisions to the rule, 'Do no direct harm.' We can let harms occur as the second- and third-order consequences of political action or through sheer inaction, but we cannot be seen to cause harm to anyone as the direct consequence of collective actions . . . The rule of 'Do no direct harm' is a powerful force in shaping the nature of social intervention. We put few obstacles in the way of a market-generated shift of industry to the South . . . but we find it extraordinarily difficult to close a military base or a post office." [18]

Thus, a government-run or regulated system must be very rigid, and government managers are often not allowed to make changes to improve efficiency.

3. When every dollar in the system is a federal dollar, what every dollar is spent on becomes a federal case. The recent Congressional deadlock over Medicaid funding for abortion illustrates the point. Putting permissible medical procedures to majority vote would, to use Schultze's phrase, "stretch thin the delicate fabric of political consensus by unnecessarily widening the scope of activities it must cover." [19]

4. Equality of treatment by government trends to mean uniformity. The uniform product is often a bargained compromise that pleases no one.

5. Government generally does a poor job providing services to individuals.

6. The government performs poorly as a cost-effective purchaser. Think of the Rayburn Building, the Humphrey Building (Department of Health, Education, and Welfare headquarters), Medicaid and the C-5A. If a government agency gets tough with suppliers, the suppliers can bring pressure to bear to get the rules changed. Government purchasers are surrounded by many complex procedural rules. They have to "go by the book." They are not allowed to exercise much judgment. And their incentives to achieve economy are weakened by the fact that they are not using their own money. (An important exception to this situation has been the Federal Employees' Health Benefits Program, in which the Civil Service Commission has acted as a "private" buyer on behalf of federal employees; the statute authorizing the Program establishes a competitive system, exempts the Civil Service Commission from required competitive bidding and allows it to use judgment—which it has done to good effect.) Private purchasers are using their own (or their company's) money. They generally have the authority to use their own best judgment, and they must bear the consequences of poor judgments. The government seems addicted to cost reimbursement despite its notorious record for generating cost overruns. Cost reimbursement protects providers at the expense of taxpayers and consumers.

7. The political system is extremely averse to risk. Private businessmen speak without apology of the gambles they made that did not pay off. To survive in a changing industry, one has to innovate, which means taking chances. Business is tolerant of individual mistakes as long as the batting average is good. By contrast, the political system gives inordinate attention to individual mistakes. Congressional investigators and the press get large rewards from discovering and exposing error in government. So government has become a sophisticated mechanism for dispersing and avoiding personal responsibility and avoiding risk. Moreover, visible errors of commission are punished far more severely than invisible errors of omission. This fact makes it extremely difficult to innovate in a government environment.

The financing of individual health-care services does not need to be a monopoly. There is no technical or economic factor that makes it a "natural monopoly like a public utility. Nor is personal health care a "public good" like defense or police protection. The benefits of individual health-care services are enjoyed primarily by the individual and his family, and he should be allowed a large measure of choice concerning it. The important public purposes of universal access to good-quality care can be pursued most effectively in a decentralized private system guided by an appropriate structure of incentives and regulation to support competition.

The Health Security Act,[20] proposed by Senator Kennedy and backed by organized labor, is designed to get away from third-party reimbursement and to shift health-care financing to a per capita and prospective budgeting basis within a publicly determined total. The Act would assign the entire financing and management of NHI to the federal government. It would create a Health Security Board in the Department of Health, Education, and Welfare to administer the program. It would levy payroll taxes and match this amount with an equal sum from general revenue. The Board would establish an annual national budget, not to exceed total receipts, and allocate it to each Health, Education, and Welfare region on a per capita basis in categories for institutional services, physicians' services, dental services, drugs or appliances. Within these totals, the Board would then contract for covered services with participating providers (i.e., providers who agreed to make no charge to the patient for covered services).

In brief, health security would create a system that is centrally and politically controlled, in which every participating provider received all his money from the federal government. Spending for personal health-care services would be set in the political process on the basis of national priorities rather than in the marketplace on the basis of individual priorities.

Health security has important strengths. It recognizes that the third-party-reimbursement principle provides inappropriate economic incentives in medical care. It seeks to restructure health services into organized systems. Capitation financing, which it emphasizes, gives incentives for economic efficiency in use of total resources. Health security seeks equity in the use of public funds. And it seeks to equalize per capita spending among regions and between HMO's and the fee-for-service sector.

Many of health security's weaknesses were summarized in my earlier discussion of government monopolies and private markets. But the main criticism of health security is that it cannot achieve its goals. The government cannot restructure the system by direct controls. Experience with other regulated industries, and with NHI in other countries, suggests that the government would freeze the system in its existing patterns. The "do-no-direct-harm" rule has prevented the government for years from closing unneeded Public Health Service hospitals and military bases. Its attempts to close hospitals in obviously overbedded areas drown in a deluge of lawsuits and pressure from employee groups. Imagine the vested interests and the rigidity surrounding the history-based allocations among hospitals, doctors, dentists and others. It would become much more important to provider groups to defend their allocation than to serve patients. The Health Security Act seems designed to freeze existing allocations and to protect existing jobs.

The Health Security Act proposes to bring total spending under control by "top-down budgeting." Top-down budgeting may indeed bring total spending under control, but of itself, without competition, the mechanism has no built-in means for assuring that much useful output is produced. This deficiency is especially true of a medical-care program whose output cannot be measured in any simple and adequate way. Look at the experience in our largest public health-care systems. At least by civilian standards, the Defense Department operates and fills far too many beds.[21] A recent study of the Veterans Administration (VA) system concluded—

"There are too many acute beds being operated in the system . . . about half the patients in acute medical beds, one-third of the patients in surgical beds, and well over half the patients in psychiatric beds do not require—and are not receiving—the acute care services associated with these types of beds. These data provide additional evidence that many more VA hospital beds are being operated than are required to meet the needs of veterans . . . The VA has installed many expensive specialized medical facilities that, in many hospitals, are used at rates far below their capacity." [22]

The point is that in the bureaucratic budgeting system, one strengthens one's case for more by doing a poor job with the budget that one has. If the budgeting system at the institutional level is based on workload rather than capitation, it gives physicians and administrators incentives for utilizations that are similar to fee for service.

The government is simply incapable of managing the Health Security Program. It does not have the organization, and it cannot acquire the management capability on a sustained basis. To illustrate one of the problems, the Act provides that members of the Health Security Board will be paid at Executive Level IV. This proposal means that the top management of the Program would be paid about 25 per cent less than the average doctor. The Board might attract outstanding management talent to begin with, on the basis of dedication to public service. But when it becomes clear what doing an effective job means—e.g., closing excess acute hospitals in some areas to pay for needed facilities in others—and Board members start feeling the wrath of citizens expressed through their

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Footnotes at end of article.

Congressmen, and seeing the implementation of their plans tied up in court, the two-year turnover typical of assistant secretaries in the departments of Defense and Health, Education, and Welfare, is sure to emerge. Running a large organization effectively requires long-term commitment by its managers; it cannot be done well on revolving tours of two to four years.

Finally, health security would add over $100 billion to federal outlays in fiscal 1978 cost, which effectively rules it out on fiscal grounds. And there is no way to phase it in; it is an all-or-none proposal.

Universal Federal Third-Party Reimbursement is the most familiar approach to NHI. A bill to create such a system was proposed as a grand compromise by Senator Kennedy and Congressman Mills in 1974.[23] This is the approach that the Canadians took, though theirs is a joint federal-provincial program.

Conceptually, and initially, this is the simplest NHI idea from the point of view of consumers and providers of care: everybody goes right on doing what he was doing, and the government pays the bills. But anybody who has tried seriously to understand and implement the Medicare regulations knows that ultimately this must be the most complex approach. For this system would be "modified Medicare for everybody." The government would have to process over a billion claims a year. If costs were to be controlled, each would have to be reviewed for appropriateness. Arbitrary numerical criteria would have to be used. Rules for retrospective cost finding would become increasingly complex as institutions sought to interpret them to their advantage while the government sought to control the costs.

This approach would set in concrete the third-party reimbursement principle, which experience and economic reasoning indicate is not a rational way to finance medical care. By making scarce resources free, or nearly so, to the user, third-party-reimbursement insurance gives people economic incentives to use them excessively. Third-party-reimbursements insurance relieves the consumer of the additional cost of the services he receives, and therefore the incentive to conserve resources, without putting the incentive on the provider. A rational economic system of health-care financing would tie the physicians to the economic consequences of their decisions and hold them responsible for using total health-care resources wisely. It would also allow consumers to realize the full benefits from choosing less costly systems of care.

The worst effect of universal third-party insurance would be to destroy the incentive of consumers and physicians to reorganize the delivery system in more cost-effective ways.[24] It would deny consumers the opportunity to reap the benefit from choosing less costly systems or styles of care. Consumers would be relieved of most of the costs implicit in their choices, and larger reimbursements would be made on their behalf if they chose more costly providers. Similarly, with government-financed, open-ended demand for services where and when they wanted to deliver them, physicians would see little gain from accepting the discipline of an organized system.

"Kennedy-Mills" would not produce a stable equilibrium in health-care financing. The cost growth induced by the third-party-reimbursement incentives would have to be restrained by ever tighter controls. Eventually, the government would be forced to impose a "top-down" limit on health-care spending, with regional caps, negotiated prospective budgets for institutions and negotiated totals on spending for physician services by state or NHI region. Within a decade or less, "Kennedy-Mills" would become indistinguishable from health security. "Kennedy-Mills" would add more than $60 billion to federal outlays in fiscal 1978 costs.

The Comprehensive Health Insurance Plan, or "CHIP,"[25] proposed by the Nixon Administration in 1974, would have established a three-part national program including mandated employer-employee health-benefits programs meeting certain standards, a state-operated "assisted health-care program" providing coverage for low-income families and for families and employment groups who are high medical risks, and a federal program for the aged—in effect, expanded Medicare.

The employee plan would require employers to offer full-time employees a health plan including hospital, medical and preventive services and protection against catastrophic illness. Coverage would be implemented through private health insurance, and financed through employer and employee premium contributions. The assisted plan was designed to make health insurance available to all persons not otherwise insured. There would be income-related deductibles, coinsurance and a limit on each family's liability. Premiums would be income related, and tied to the state average for the employee plan.

CHIP is very appealing to federal officials because its costs are largely kept off the federal budget. (Its costs to the federal budget would be roughly $8 billion in fiscal 1978.) And it has the important advantage of keeping much of the management and underwriting in the private sector.

But CHIP has important weaknesses. It reinforces the link between job and health-plan coverage, with all the failings of that system mentioned earlier. Moreover, mandated employer coverage works as a strong disincentive to hiring people with low job skills and productivity. Combined with the recently signed minimum wage, and increases in Social Security payroll taxes, it would mean that by 1981, a person could not get a full-time job unless his services were worth well over $8,000 per year.

CHIP's fatal flaw is that it shares with "Kennedy-Mills" the error of seeing NHI solely as a matter of providing third-party-reimbursement insurance coverage for everybody, not a matter of incentives for cost control or reform of the delivery system. Thus, CHIP would leave to direct economic regulation the overriding problem of cost control. CHIP would not break down a main barrier to competition (i.e., that most employees are offered a single health-benefits plan, usually based on third-party reimbursement). Thus, it would not realize one of the main advantages offered by the private sector. Employers would have to offer membership in one prepaid group practice and one individual practice association, if available, as required by the HMO Act. But that leaves out much potential competition from health-care alliances, variable-cost insurance and other innovative ways that providers and consumers might organize to use resources wisely. The market should not be limited to HMO's meeting the present rigid detailed legal definition. There is no way of knowing whether these are the "best" or the only good means of organizing care. And the legal requirements add greatly to the time, cost and difficulty in starting such an organization. Moreover, CHIP would not correct the inappropriate cost-increasing incentives in Medicare, Medicaid and the tax laws. By continuing to subsidize more costly systems of care, the government would have failed to create the essential fair-market test among competing alternatives.

Ultimately, the need for cost controls would force the government to impose "top-down" limits on spending. And within a decade or less, the system that started with CHIP would also begin to resemble health security.

The fourth alternative is known as "Long-Ribicoff"[26] in honor of its two senatorial sponsors. The federal government would take over the acute-care part of Medicaid, providing essentially full insurance coverage for low-income families—for example, up to an income of $4,800 for a family of four. (Above that income, a family could become eligible if its medical expenses were large enough to cause it to "spend down" to an income net of medical expenses of $4,800.) For nonpoor families, "Long-Ribicoff" would provide insurance against catastrophic medical expense It would add about $12 billion to the federal budget.

"Long-Ribicoff" has the important strength that it targets the available funds on the areas of greatest urgency—i.e., full coverage for the poor and insurance against catastrophic expense for the nonpoor.

But as it stands, it too has important weaknesses. For one thing, it has a big work disincentive for a low-income family at the cutoff income. There would not be much point for such a family working to earn more than $4,800 if it expected substantial medical bills. This part of the bill could and should be revised to reflect the lessons and decisions that went into the Carter Administration's welfare-reform proposal (that is, the loss of benefits as earned income rises should be gradual, so as to preserve work incentives).

Secondly, it locks in the third-party-reimbursement principle. Not only does this step perpetuate the cost-increasing incentives, but also it denies to institutions that would serve the poor a predictable source of capitation financing. Like everyone else, the poor should have choices among competing alternative health plans, and should be able to buy into good plans that serve the middle class. And the poor should be allowed to benefit from economizing choices. Thus, a voucher system for Medicaid is clearly preferable to an inflexible commitment to third-party reimbursement.

Thirdly, assuring that everyone has full protection against catastrophic medical expense is a good idea. But again, "Long-Ribicoff" locks in the third-party-reimbursement system that rewards providers for cost-increasing behavior and provides no restraint on cost once the catastropic expense threshold is reached. Instead, people should be allowed to have the actuarial value of their catastrophic expense protection paid to the qualified health plan of their choice in the form of a fixed prospective per capita payment—provided the qualified health plan provides catastrophic expense protection.

Finally, "Long-Ribicoff" does not correct the cost-increasing incentives in Medicare and the tax laws. And it does not assure every American a choice among competing plans.

If the costs are to be brought under control in a system that seeks consumer and provider satisfaction, and respects individual preferences, millions of Americans must be made interested in and well informed about the cost and quality of their health care, and allowed to benefit from choosing less costly systems and styles of care. The second part of this article will describe a new NHI proposal that meets these requirements.

CONSUMER-CHOICE HEALTH PLAN

(Second of two parts)

(By Alain C. Enthoven, Ph. D.)

A national-health-insurance proposal based on regulated competition in the private sector.

Abstract: Medical costs are straining public finances. Direct economic regulation will raise costs, retard beneficial innovation and be increasingly burdensome to physicians. As an alternative, I suggest that the government change financial incentives by creating a system of competing health plans in which physicians and consumers can benefit from using resources wisely.

Main proposals consist of changed tax laws, Medicare and Medicaid to subsidize individual premium payments by an amount

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based on financial and predicted medical need, as well as subsidies usable only for premiums in qualified health insurance or delivery plans operating under rules that include periodic open enrollment, community rating by actuarial category, premium rating by market area and a limit on each person's out-of-pocket costs. Also, efficient systems should be allowed to pass on the full savings to consumers. Finally, incremental changes should be made in the present system to alter it fundamentally, but gradually and voluntarily. Freedom of choice for consumers and physicians should be preserved.

In the first part of this article, which appeared last week, I reviewed the causes of inflation in health-care costs and the inequities in financing today, explained why direct economic regulations will not make things better and reviewed the limitations in the main previous proposals for national health insurance. In this part, I explain the main ideas of, and reasons for, Consumer-Choice Health Plan, a new national-health-insurance proposal.

There is an effective alternative to direct economic regulation. It is to change the financial incentives—i.e., to create a financing framework in which physicians and consumers can benefit from forming and joining organized systems that use health-care resources wisely. In such a system costs can be controlled with freedom of choice that respects each person's preferences. Because the distinctive idea of this proposal is to let consumer preferences guide the reorganization of the health-care delivery system, I have called it "Consumer-Choice Health Plan (CCHP)." Its main ideas are as follows.

ORGANIZED SYSTEMS WITH INCENTIVES TO USE RESOURCES WISELY

To achieve comprehensive care of good quality for all, at a cost we can afford, we must change the fundamental structure of the system of health-care financing and delivery. Instead of today's fragmented system dominated by the cost-increasing incentives of fee for service, we need a health-care economy made up predominantly, though not exclusively, of competing organized systems. In such systems, physicians would accept responsibility for providing comprehensive health-care services to defined populations, largely for a prospective per capita payment, or some other form of payment that rewards economy in the use of health-care expenditures. They are by far the best qualified to make the difficult judgments about need and cost effectiveness. Because of the personal, uncertain, often intangible nature of medical care, physicians' judgment is a far more appropriate basis for resource allocation than arbitrary numerical standards are. So it makes sense for physicians to accept the main responsibility for keeping health-care costs within the limits desired by society. I believe that accepting that responsibility is the only way in which the medical profession can maintain its autonomy in the United States.

The government cannot reorganize the health-care economy by direct action. People would resist such changes involuntarily imposed. And nobody can bring about such a change quickly. But the government can change the underlying economic incentives so that consumers and providers of care can benefit from forming and joining organized systems that use resources wisely. The delivery system would then be forced to reorganize itself in response to consumers who are seeking out and choosing what is in their own best interest. CCHP seeks to accomplish this transformation by voluntary changes in a competitive market.

To date, we have not had a great deal of experience with alternative forms of organization and payment of physicians that reward economy in the use of resources. The tax laws, Medicare and lack of competition have discouraged their development. So we are not in a good position to prescribe how this can best be done. We should seek to learn more about the possibilities by establishing an overall system that rewards desirable innovation—i.e., by a fair market test among competing alternatives in which systems that do a better job for a lower cost survive and grow. Many types of systems might succeed in such a competition. One is prepaid group practice, in which groups of physicians practicing together accept responsibility for providing comprehensive health-care services to defined populations for a fixed prospective per capita payment, and the individual physicians receive a salary, sometimes augmented by a bonus based on the overall success of the program. Another might be the individual practice association, in which the physicians as a group accept responsibility for providing comprehensive services for a fixed prospective per capita payment, but practice individually and are paid fee-for-service.

However, the cost-control record of such associations so far has not been impressive. In another model, individual primary-care physicians agree to provide all the necessary office-based primary care to enrolled members who have chosen them, for a fixed prospective per capita payment, and to manage all referral services for a cost-control incentive payment related to the per capita cost experience of their patients. This system makes the family doctor the "general manager" of his patient's health care, a role that should be attractive to many. This plan is comparatively new and exists only on a small scale. Other successful models might include "health-care alliances" as proposed by Ellwood and McClure,[27] and "variable-cost insurance" as proposed by Newhouse and Taylor,[28] in which premiums reflect the cost-control behavior of providers. In such an economy, pure fee-for-service practice would ultimately be reduced to a comparatively small percentage of the total, but it would probably have a secure place, both for specialty services bought by health plans not large enough to have their own full-time specialists and for consumers who preferred to continue to buy their health care and insurance on a fee-for-service third-party reimbursement basis, as most do today, and who would be willing to pay the extra cost above the subsidy level associated with that mode of financing.

INFORMED CHOICE AMONG COMPETING ALTERNATIVES

CCHP is designed to assure that all people have a choice among competing alternatives, that they have good information on which to base their choice, and that competition emphasizes quality of benefits and total cost. CCHP would resemble the Federal Employees Health Benefits Program (FEHBP) and similar plans. It would extend to the whole population and to all qualifying health plans FEHBP's proved principles of competition, multiple choice, private underwriting and management of health plans, periodic government-supervised open enrollment and equal premiums for all similar enrollees selecting the same plan and benefits.

EQUITY AND INCENTIVES FOR ECONOMIZING CHOICES

CCHP seeks to correct inequities and cost-increasing incentives in the tax laws, Medicare and Medicaid. Today, the tax laws exclude employer contributions to health insurance, no matter how large, from the employee's gross income and, within limits, they allow the employee who itemizes to deduct his contributions. This setup has important implications for incentives and income distribution. For example, if a married employee has $25,000 taxable income and his employer pays $1,600 per year for his health insurance, the exclusion saves him $512 in federal income taxes, not to mention savings in Social Security taxes (given the recently enacted rates) and state income taxes. If he sought out and joined a health plan with a $1,500 premium, and asked his employer to pay him the $100 difference in cash, the tax laws would let him keep less than $68 of it. Obviously, this situation weakens his incentive to seek out a less costly plan. At the same time, a self-employed or intermittently employed person earning $6,000 or $7,000 per year is likely to have no employer contribution to his health insurance and no help from the tax laws or other public assistance. This inequity can be corrected by replacement of the present exclusion and deduction with a refundable tax credit that is the same for the high-income and the low-income person. In other words, the employer contribution would be included in taxable income, but the resulting tax would be reduced by a tax credit. ("Refundable" means that the taxpayer gets a cash refund if he has no tax liability.) In CCHP, the tax credit would be based on actuarial cost—i.e., the average total cost of covered benefits for persons in each actuarial category (e.g., men 45 to 64 years of age). Thus, persons in higher-risk groups having higher predicted medical need would get larger tax credits. But people would not get extra subsidies for joining more costly health plans.

In CCHP, Medicaid would be replaced by a system of vouchers for premium payments, integrated with the Carter Administration's proposed cash-assistance welfare reform, and reaching 100 per cent of actuarial cost for basic benefits for families with no income other than welfare. Medicare would be changed to give each beneficiary the right to have the average cost for his actuarial category paid to the qualified plan of his choice as a fixed prospective periodic payment.

Thus, CCHP would take money now used to subsidize people's choice of more costly systems of care, and use it to raise the floor under the least well covered. It would give people an incentive to seek out systems that provide care economically by letting them keep all the savings. While government assures that people have enough money to join a good plan, above the subsidy-level people would be using their own net after-tax money, which should motivate them to seek value for it.

These changes would also permit continuity of coverage regardless of job status.

INCREMENTAL CHANGES

CCHP is not an immediate radical replacement of the present financing system with a whole new one. Rather, it is a set of incremental "mid-course corrections" in the present financing and regulatory system, each one of which is comparatively simple and familiar taken by itself, but whose cumulative effect is intended to alter the system radically, but gradually and voluntarily, in the long run. CCHP corrects the faulty incentives produced by present government programs, and seeks to correct known market imperfections. CCHP preserves flexibility. If these changes do not produce the desired results, after experience has been gained, more corrections can be made. CCHP recognizes that there is no "final solution" to problems of health-care financing, as experience in countries with national health insurance clearly demonstrates. CCHP is not necessarily incompatible with some proposed regulation such as health planning, hospital-cost controls and physician-fee controls. On the contrary, CCHP would increase the effectiveness of the Health Systems Agencies

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by giving them the incentives to control costs that they now lack. But CCHP would reduce the need for such regulation and, if successful, render it superfluous.

CCHP can be thought of in two related parts: a financing system and rules to create a socially desirable competition.

THE FINANCING SYSTEM

Actuarial categories and costs

The flow of government subsidies to individuals to help them buy health insurance in CCHP would be based on actuarial cost—i.e., the average total costs of covered benefits (insured and out-of-pocket) in the base year, updated each year by a suitable price index, for persons in each actuarial category. For persons not covered by Medicare, the actuarial categories might be the simple and familiar three-part structure of "indivdual, individual plus one dependent, and individual plus two or more dependents." However, in a competitive situation, this classification might give health plans too strong an incentive to attempt to select preferred risks by design of benefit packages (e.g., good maternity benefits to attract healthy young families), location of facilities, or emphasis in specialty mix (strength in pediatrics, weakness in cardiology). Carried to a logical extreme, such a system could lead to poor care for high-risk persons (though open enrollment—described below—would always assure the right of high-risk persons to join any qualified health plan). So experience might show that a more complex set of actuarial categories is desirable. For example, the three-part structure might be supplemented by special categories for persons 45 to 54 and 55 to 64 years of age. In the limit, one might go to a structure based on individual age (e.g., in 10-year steps) and sex, though I doubt whether this development would be necessary.

Actuarial cost would also reflect location, because there are large regional differentials in health-care costs. The appropriate geographic unit would probably be the state. However, regional differences in real per capita subsidies based on actuarial cost would be phased out over a decade.

The approximate price index for updating actuarial cost would probably be the "all-services" component of the Consumer Price Index.

The average per capita cost for physician and hospital care in 1978 will be about $200 for people under 19, and about $475 for people 19 to 64 years of age (1976 costs inflated to 1978 at 10.3 per cent per year).[29] So, if these are the covered benefits, actuarial cost for a "typical" family of four would be $1,350. A higher or lower amount, based on a more or less generous benefit package and on broad political judgments about priorities, might be chosen.

In CCHP, premiums would be set by each health plan for each actuarial category and benefit package, on the basis of its own costs and its own judgment of what it can charge in a competitive market. Thus, persons in more costly actuarial categories would pay higher premiums. This step is desirable because we want competing plans to be motivated to serve them and is made socially acceptable by giving such people higher subsidies through tax credits or vouchers.

Tax credit

The present exclusion of health-insurance premium contributions by employers (and health and welfare funds) from employees' taxable incomes, and the deductibility of individual premium contributions, would be replaced by a refundable tax credit equal to 60 per cent of the family's actuarial cost. (The deductibility of direct medical expenses would be limited to those in excess of 10 per cent of adjusted gross income instead of today's 3 per cent.) Tax withholdings would be adjusted to make the taxpayer's estimated net remaining tax liability at the end of the year approximate zero, so that he would not have to wait until the end of the year to receive the cash. Employers and health and welfare funds would continue contributing to employee health insurance under existing agreements, but they would report such contributions as part of total pay on W-2 forms. The tax credit is allowed only if spent on premiums for a qualified health plan. To the ordinary employee, then, CCHP would appear initially as a quite simple change in the way in which his compensation is taxed.

Consider a typical employee with a family whose employer is contributing, say, $1,600 per year to his health-benefits plan. Under CCHP, his personal income tax would increase roughly $480 because of the inclusion of the $1,600 in taxable income (assuming he is in the 30 per cent bracket), and decline by $810 (60 per cent of the estimated actuarial cost of $1,350) because of the tax credit, for a net saving of $330. The $330 would, of course, have to be financed through some combination of special taxes and federal general revenues. The importance of the change is that the $810 subsidy would be the same for people with higher and lower incomes (above the welfare line), and that the subsidy would not increase if the employee chose a more costly health plan.

The choice of 60 per cent of actuarial cost as the level for the tax credit is based on a judgment that balances a number of factors.

The first is that if the tax credit were too low (e.g., below 25 per cent of actuarial cost), many low-risk employee groups might find it advantageous to form a nonqualified plan and stay out of the system. For the incentive effects of the system to be pervasive, most people must find it to their interest to join qualified plans. Moreover, a tax credit at least as large as the tax benefit in the present law for middle-income taxpayers would help to minimize political opposition to the change from that group. Secondly, if the tax credit were too high (e.g., over 80 per cent of actuarial cost), the incentives of health plans to be truly efficient would be weakened. There would be no point in plans reducing premiums below the tax-credit level. But Medicare experience suggests that prepaid group practices can deliver comprehensive health-care services for an average of 73 per cent of the cost of their fee-for-service counterparts.[8] Similarly, if the tax credit were too high, middle-class consumers would see too little of their own money going into premiums to be motivated to shop for or help form more efficient systems. A tax credit at 60 per cent of actuarial cost would limit the potential for people to manipulate the system to their advantage by taking a minimum-cost "catastrophic insurance" plan when they expected to be healthy, and then switching to a full-benefit plan when they anticipated elective surgical procedures or pregnancy. This level approximates the FEHBP, which has worked well. However, other levels could be chosen, depending on the availability of funds. For example, it could start at 30 per cent, with higher levels phased in as revenues permitted.

Vouchers for the poor

The poor need more subsidy to assure their access to an acceptable plan. CCHP would provide them with a voucher usable only as a premium contribution to the qualified plan of their choice. It should be administered through the reformed cash-assistance welfare system proposed by the Carter Administration, or whatever program is chosen to assist low-income people. The value of the voucher should be related to family income, and should decline gradually with increasing income on a sliding scale that preserves work incentives. Here is one example. The Carter Administration welfare reform would guarantee a family of four a minimum cash income of $4,200; the cash assistance would be reduced 50 cents for each dollar of earned income until it reached zero at a family income of $8,400 (the "cash assistance breakeven" point). Related to this, one could set the health-insurance premium voucher at $1,350 for a family with a total income, including cash assistance, of $4,200 (i.e., zero earned income), and phase it down to $810—the tax-credit level for nonpoor families—at a total income of $8,400. The result would be a "benefit-reduction rate" (i.e., the cents worth of cash assistance and voucher lost for each additional dollar earned) of 56 per cent, which would not be inconsistent with the goal of preserving work incentives underlying the Administration's proposed welfare reform. (If the voucher exceeded the family's health-insurance premium, the extra money could be used to buy additional health benefits such as dentistry, or left on deposit to offset cost sharing.) The voucher system can be integrated with the tax system and the unemployment-insurance system.

To illustrate how the voucher system might work, suppose that the rates now in effect for childless couples in the California Public Employees' health-benefits plan were the rates in effect in CCHP. They include $55.88 per month for Kaiser Northern California, $73.17 for the Family Health Program, $92.00 for the United Foundations for Medical Care, $93.15 for Blue Cross-Blue Shield, and others. Suppose a couple were totally dependent on reformed welfare. Using the Administration's proposed amounts for welfare plus CCHP, they would receive a voucher worth $79.17 per month ($950 per year) for health premiums, and cash assistance of $183.33 per month ($2,200 per year). They could elect the Kaiser plan and have $23.29 per month left over for additional health benefits (such as copayments, dentistry and eyeglasses), elect Family Health Program and have $6 per month for such additional benefits, or elect the Foundations plan and have to contribute $12.83 per month out of their cash assistance. If, instead, their income were at or above the "cash assistance breakeven" for childless couples of $4,400, their voucher could be worth $47.50 per month, and they would have to contribute $8.38 per month of their own money to join Kaiser, or $44.50 to join the Founadtions plan. (These numbers are illustrative; the actual voucher level might be different, depending on such factors as political judgments and regional cost levels, and I would expect competition to narrow the difference in premiums.)

Medicare would be retained for the aged, disabled and victims of end-stage renal disease. Eligibility would be expanded to all legal residents 65 years of age and over for Part A (institutional services) and Part B (physicians' services). The benefits should be expanded to conform to the benefits for the rest of the population. The 150-day limit on hospital days should be removed—in effect providing catastrophic coverage. Better still, an annual limit on out-of-pocket expenses on covered benefits by any individual subscriber should be enacted.

The most important change needed in Medicare is a freedom-of-choice provision that would permit any beneficiary to direct that the "Adjusted Average per Capita Cost" (AAPCC) to the Medicare program for people in his actuarial category be paid to the qualified plan of his choice in the form of a fixed prospective periodic payment. If done properly, this change would end the Medicare subsidy to those who choose a more costly system of care, and would permit beneficiaries to reap the benefit of their economizing choices in the form of reduced cost sharing or better benefits.

Footnotes at end of article.

For example, I pointed out in the first part of this article that in 1970, Medicare paid $202 per capita on behalf of beneficiaries cared for by Group Health Cooperative of Puget Sound, but paid $356 on behalf of similar beneficiaries in the same area who got their care from the fee-for-service sector. Nevertheless, as far as Medicare was concerned, the Group Health members were liable for the same deductibles and coinsurance and limitations on covered hospital days as their fee-for-service counterparts. They received no reward from Medicare for choosing a less costly system. If CCHP had been in effect, they would have been allowed to designate that $356 be paid by Medicare as a premium contribution on their behalf to Group Health or other qualified health plan. In a competitive situation, Group Health would have been able to pass on the extra $154 to the beneficiaries in the form of reduced or eliminated coinsurance and deductibles, removal of the limitation on hospital days covered, increased scope of benefits (e.g., outpatient drugs) or reduction in supplemental premium, as an inducement for those beneficiaries to join Group Health. In CCHP, this option would be available to Medicare beneficiaries not only with respect to HMO's, but with respect to any qualified health plan.

About 7.7 million aged, blind and disabled persons receive Medicaid supplements to assist with costs not covered by Medicare. (Medicare pays about 71 per cent of hospital costs and 55 per cent of physician costs for aged beneficiaries.) Under CCHP, there supplements for acute care would be replaced by a voucher similar to that for the nonaged poor. This substitution would assure the ability of the poor Medicare beneficiary to pay the premiums for a policy to supplement Medicare. In 1978 the average per capita hospital and physician costs for the aged not covered by Medicare will be about $385. This would be an appropriate level for the full voucher.

RULES TO CREATE A SOCIALLY DESIRABLE COMPETITION: CRITERIA FOR QUALIFIED HEALTH PLANS

To qualify to receive tax credits, vouchers or Medicare payments, a health plan would have to operate according to a set of rules intended to create a fair and socially desirable competition based on quality and cost effectiveness. (The actual rules that I have proposed in my report to Secretary Califano are somewhat more complex; the essentials are reported here.)

Open enrollment

Each plan must participate in a periodic government-run open enrollment in which it must accept all enrollees who choose it, without regard to age, sex, race, religion, national origin or, with possible minor exceptions prior health conditions. Each September, for example, every family would receive an informative booklet published by the administrative agency. The book would give an understandable presentation of the costs, benefits and limitations of each qualified health plan in the area.* During October, each head of household would make an election for the coming year, through his employer, welfare office or local office of the administrative agency. This step would greatly enhance competition by giving each person a choice from among competing plans, and it would assure that every person could enroll in a qualified plan.

The enrollment process should be run by a government agency for several reasons. First of all, an impartial regulatory agency is needed to assure that the information presented is complete, balanced and fair. Secondly, such an agency is needed to assure that every eligible person is truly given an opportunity to enroll in the plan of his choice. Thirdly, this apportionment obviates the need for each health plan to have its own salesmen, reducing cost and possibly preventing the marketing abuses associated with the Southern California prepaid-health-plan scandals.

Community rating

A qualified plan must charge the same premium to all persons in the same actuarial category enrolled for the same benefits in the same area, to preclude prohibitive rates for poor risks and to spread health-care costs over the whole population. (As noted earlier, each plan can set its own community rates.)

Rating according to market area

Qualified plans must set community rates according to market area (such as Health Service Areas or groups of contiguous Health Service Areas). This rule is to prevent anticompetitive cross-subsidies from one area to another, and to "internalize" the costs of health services by Health Service Area so that a decision by a Health Systems Agency to permit construction of a new health facility will be fully reflected in the premiums paid by citizens in that area, thus giving the area a more balanced set of incentives to control costs.

Low option

Qualified plans must offer a low option limited to the basic benefits defined in the national-health-insurance law. This requirement is to prevent plans from limiting membership to the well-to-do by offering only plans with costly supplemental benefits.

A limit on each person's (or family's) out-of-pocket costs

Qualified plans must publish a clearly stated annual limit on individual (or family) out-of-pocket outlays for covered benefits (e.g., $1,500 per year). Out-of-pocket outlays include deductibles, copayments and any differences between indemnity payments and the actual cost of covered services. Beyond the limit, the plan must pay all costs for covered benefits. This requirement would help assure that plans do not compete by offering inadequate benefits that would leave the seriously ill uninsured and a burden on the public sector. It would provide full protection against catastrophic medical expenses and prevent medical bankruptcies.

Qualified plans would be permitted to require that their members obtain all their covered benefits from participating providers with whom they have made agreements concerning fees and utilization controls (except for out-of-area emergency treatment). Indeed, the pressure of economic competition would gradually force health plans to make such agreements. But if a plan did not have an agreement with a participating provider in a needed specialty, it would nevertheless have to pay the cost and "hold the consumer harmless" within the agreed cost-sharing limits.

A program to provide meaningful, useful information on the features and merits of alternative health plans would be an essential part of CCHP and a major departure from present practice. To aid consumer choice, each plan would be required to publish total per capita costs, including premiums and out-of-pocket costs. The administrative agency would have authority to review and approve (for accuracy and balance) promotional materials, including presentations to be included in the booklet available to all eligible persons at "open season." The administrative agency would also have authority to review and approve "endorsed options" and contract language so that all options offered would either conform to a standard contract or be able to be described by a standard contract and a manageable number of additions and exclusions. This supervision would force plans to publish their terms in a format that is understandable to consumers and that facilitates direct comparison among plans without forcing the consumer to master and compare a lot of fine print. Uniform financial disclosure would be required—comparable to what the Securities and Exchange Commission requires of public companies. Data on patterns of utilization, availability and accessibility would be required, as is required of HMO's in the HMO Act.

Other

In CCHP, as in any system of national health insurance, there would be requirements for grievance procedures, safeguards for civil rights and against fraud and conflict of interest and quality standards for participating providers.

In the language of economic regulation, these criteria for qualified health plans are "performance standards," not "design standards." They say what a health plan must do to be qualified, not how it must organize to do it. In particular, a health plan would not have to be an HMO or other direct service plan to qualify. Even pure third-party reimbursement-insurance plans could qualify, although their lack of effective cost controls would be likely to put them at a competitive disadvantage.

BENEFITS AND ELIGIBILITY

Any plan for national health insurance must include definitions of covered benefits and eligible persons. The choices are largely political judgments. The principles of CCHP can be applied to any of a broad range of benefit packages and eligibility criteria, including coverage of essentially every legal resident of the United States. The philosophy of CCHP suggests that, beyond the essentials that must be specified by law, what is included in health benefits plans should be determined by the consumer desires expressed in the marketplace, rather than by provider interests.

FEDERAL-STATE ROLES IN FINANCING AND ADMINISTRATION

CCHP is compatible with many possible ways of splitting federal and state financing responsibilities. The choice must be considered in the context of federal-state burden sharing in general (of which acute-medical-care financing is only one piece), and it must rest largely on political judgments. Because states are potentially important factors in health-facilities planning and cost controls, the federal government should not pay more on behalf of states that have higher real per capita health-care costs in such a way as to weaken their incentive to control costs.

CCHP could be administered entirely by the federal government or jointly by the federal government and the states under federal standards.

SPECIAL CATEGORIES: DOD (CHAMPUS), VETERANS, INDIANS, MIGRANTS, UNDERWORLD, ILLEGAL ALIENS, INCOMPETENTS, NON-ENROLLERS

Special measures can be designed for the special problems of each of these categories within the context of CCHP. CCHP will not, by itself, solve the special problems of each of these groups, but it does provide a framework that helps. Special programs are required for special problems. Under any of the proposals for national health insurance being considered, there would need to be a residual system of public providers of last resort.

TRANSITION

The enactment of CCHP would cause no sudden wrenching upheaval in medical-care delivery or financing. There would be a transition period, of perhaps two years, during which health plans intending to qualify would prepare for the first open enrollment. To many plans, this would be a familiar procedure because they already participate in the FEHBP or other multiple-choice systems. Some insurance companies would seek to obtain signed participation agreements with physicians covering fees and assignment similar to those already used by Blue Shield. Some would seek to sign up physicians to participate in capitation-payment arrangements or other cost-controlling incentive systems. Physician groups would doubtless accelerate efforts already under way to form independent practice associations. Various groups would seek to form qualified direct service plans such as HMO's. In all probability, Blue Cross-Blue Shield would offer a qualified plan in each national-health-insurance market area.

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* The best example of such a booklet that I have seen is the one published by the State of California, Public Employees' Retirement System, Health Benefits Division, P.O. Box 1953, Sacramento, CA 95809.

Some physicians would sign agreements to participate in several plans. Some would decide to devote their efforts to one plan. Some would decide that the demand for their services was such that they would not need to sign any agreements, although that stance might become economically disadvantageous quite soon. In the first few years of CCHP, most physicians would continued to practice in their same offices and hospitals and care for the same patients as before.

Gradually, however, competitive economic pressures would have their effect. If capitation or other similar incentive payment systems were effective in reducing cost while maintaining consumer satisfaction, health plans would seek to extend them to more of their participating physicians. Newly trained physicians in specialties in excess supply in a given area would find no health plans interested in signing them up, and they would have to look for work in areas where their services were needed. Primary-care physicians would assume more of the responsibility for the total costs of care of their patients, and specialists whose costs were judged by such primary-care physicians to be excessive would find themselves obliged to negotiate lower fees to retain their referrals. Independent practice associations would tighten utilization controls and more carefully balance the specialty mix of their membership to the needs of their enrolled populations. Prepaid-group-practice HMO's would continue to grow. In short, the competitive market would generate cost controls, but they would be private market controls based on individual and group judgments about cost versus value received and not public controls based on arbitrary numerical standards, insensitive to the quality or value of the services.

PUBLIC POLICY TOWARD DELIVERY-SYSTEM REFORM

CCHP would create a competitive economy whose rules were fair to cost-effective organized systems. It would correct the biases against them in the tax laws, Medicare, Medicaid, employer-employee financing arrangements and elsewhere, and it would give them the opportunity to reach their whole potential markets through the government-run open enrollment. It would allow them to pass on to consumers the full benefit of their savings in the form of reduced premiums, which would help them to attract new members. But CCHP would not, in itself, create those systems. If such systems are to come into being, many local efforts to organize them will be required. Such initiatives might be led, as they have been in the past and are being today, by employers, unions, universities, consumer co-operatives, foundations, insurance companies, physician groups, hospitals and local governments. If additional public policies to encourage such efforts prove to be needed, they should be the subject of separate legislation.

I would not place much confidence in proposals for special grants and subsidies for HMO's. Experience with the HMO Act shows that they come at an extremely high price. The HMO Act promised large grants and loans to HMO's on the basis of which many costly restrictions were justified—burdens that were not placed equally on their competitors. The list includes an annual 30-day open enrollment, community rating, data reporting, a requirement that they offer such benefits as mental health, infertility services and preventive dental care for children, as well as complex constraints on staffing. The financial help actually delivered fell far below the amounts originally authorized.[11] This deficiency is typical of Department of Health, Education, and Welfare programs, and is readily understandable in terms of the political process. Given a truly fair market test as proposed in CCHP, health plans demonstrating the economic superiority of many HMO's will prosper without help. Even the investment capital needed for startup will be far easier to raise if people can be confident that the basic economic ground rules will allow an efficient system to compete successfully.

An antitrust strategy specifically designed for the peculiar economics of the health-care industry is needed. Ordinary antitrust theory, developed for other industries, does not fit very well in health care. It is easy to imagine some noncompetitive outcomes in CCHP. For example, a county medical society might form an independent practice association and use it as a price-fixing arrangement, and keep out would-be competing physicians through control of hospital privileges. Or a market might continue to be dominated by multiple third-party plans, all paying the same providers the same fees and costs. Continuing research, policy analysis and possibly more legislation would be needed. What is clear is that boycotts of qualified health plans, or ostracism or denial of staff privileges to physicians participating in them, would have to be outlawed. The medical profession would have to agree to live by the competitive rules accepted by American business in general.

COSTS AND THE FEDERAL BUDGET

The costs will depend on the benefits and the amount of the tax credits and vouchers. Here are some illustrative examples using fiscal 1978 dollars.

Assume that actuarial cost is $200 for a person under 19 years of age, $475 for persons 19 to 64 and therefore $1,350 for a "family of four." Actuarial cost for a Medicare beneficiary will be $1,150. On the average, Medicare pays about 67 per cent of this amount. Therefore, a poor Medicare beneficiary needing 100 per cent public support would need a voucher worth $385. (In addition, he would have the right to designate that the $765 of actuarial cost for which Medicare is liable be paid on his behalf to the qualified health plan of his choice.)

Now, assume that the tax credits for families that are not poor is set at 60 per cent of actuarial cost (e.g., $810 for a family of four). Let the voucher for a poor family with no income other than cash assistance (welfare) be 100 per cent of actuarial cost (e.g., $1,350 for a family of four). Let the voucher's value be reduced 12 cents for each dollar of family income, including cash assistance, above the income-guarantee level (e.g., above $4,200 for a family of four), until it reaches the $810 available to the nonpoor at a family income of $8,700. The total cost to the federal budget for these tax credits and vouchers, including the supplemental vouchers for poor Medicare beneficiaries, would be $46.2 billion.** (This figure does not include the costs of the Medicare program, which are assumed to continue unchanged in the short run.) Offset against the tax credits and vouchers would be the extra revenues gained from the proposed changes in the tax laws (eliminating the so-called federal income and Social Security "tax expenditures") worth $10.1 billion, federal Medicaid of $11.8 billion and other programs of $1.9 billion that would be replaced by the tax credits and vouchers, for a total of $23.8 billion. (The states would be relieved of Medicaid acute-care costs but would pay for all costs of long-term care; this revision would maintain approximately the present federal-state division of costs.) Thus, the net additional cost to the federal budget for the full CCHP proposal would be about $22.4 billion. Initially, total national health-care spending would be unchanged, but the federal contribution would be increased.

Alternatively, as the low-cost start of a program to phase in CCHP, let the tax credit for the nonpoor be set at 30 per cent of actuarial cost (i.e., $405 for a family of four). Let the voucher for the poor be 100 per cent of actuarial cost for a family at the income-guarantee level. Let the voucher's value be reduced 20 cents for each dollar of family income (including cash assistance) above that, until it reached the $405 available to the nonpoor at a family income of $8,925. The total cost to the federal budget for these tax credits and vouchers would be $26.9 billion. The net cost to the federal budget, after subtraction of the above-mentioned offsets, would be $3.1 billion.

From a fiscal point of view, CCHP would make the government's contribution to personal health services a "controllable" expenditure that could be set at a level in balance with other priorities, instead of today's open-ended commitments through the third-party intermediary system. Moreover, in CCHP, those who wanted more health services would have the option of using their own net after-tax income to buy them, which would result in less pressure on the Congress than there would be if all the costs were paid by the federal government.

Most important, by establishing strong incentives for cost effectiveness, CCHP promises in the long run to reduce total national health-care costs below what they otherwise would be.

WHY CCHP? SOME ISSUES

Will the desired reorganization of health services take place fast enough?

Reorganization of heath services will take a long time, a decade or more before half the population is served by some kind of organized system with incentives for economy, even under the most favorable conditions. This is a very long time by political standards. Doctors and patients are understandably wary of new organizational schemes. They will want to see how each innovation works before they can be confident that it is a change for the better. The health-services industry is based on many institutions with long traditions and deep roots in their communities. Many people will change their health plans and providers only reluctantly and slowly. There are no easy routes to health-services reorganization. It will take time and a great deal of effort by many people in many localities.

Direct regulatory approaches to reorganizing health services promise fast results—but all the evidence shows that the promises are false. Health security and universal third-party insurance would freeze the system in its present patterns. A judgment in favor of the CCHP approach must be based, in part, on a realistic appraisal of the alternatives.

The main reason for optimism about the prospects for a reorganization, given a fair market test among competing alternatives, is that the economic advantage of orga-

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**The estimates of the costs of the tax credits and vouchers were prepared by Mark Worthington, Office of Income Security Policy, Office of the Assistant Secretary for Planning and Evaluation, Department of Health, Education, and Welfare, whose valuable assistance is gratefully acknowledged.

Footnotes at end of article.

nized systems can be large. A recent review of the many comparison studies over the past 25 years concluded, "The evidence indicates that the total costs (premium and out-of-pocket) for HMO enrollees are 10–40 percent lower than for comparable people with health insurance."[30] A Social Security Administration comparison of Medicare reimbursements for beneficiaries served by six group-practice prepayment plans and a matched sample served by fee for service in 1970 found that the former cost 73 percent of the latter.[8, 31] The point is not that all HMO's cost a lot less; in any industry there will be more and less efficient producers. The point is that a substantial number of HMO's have shown that the savings can be large. Moreover, these HMO's have achieved large savings even in the absence of real competition from similar organizations.

The creation of organized systems of care would not have to take the many years of institution and facilities building characteristic of the leading prepaid group-practice plans. If there were a market, simpler organizations, based on existing institutions, facilities and practice styles, might be developed fairly quickly on the individual-practice-association model, the heath-care alliance, or other broadened definition of HMO. In an individual practice association, the physicians agree to provide comprehensive benefits, largely for a fixed prospective periodic payment, under the following arrangements.[32] First of all, they agree among themselves on a fee schedule. When they render a service to a member of the plan, they bill the plan, not the member. Secondlv, they accept peer review of the appropriateness of services. Thirdly, they agree to accept a pro rata reduction in fees if the money runs low. Fourth, the association pays hospital costs or teams up with an insurance company that offers a hospital-insurance policy. The premium for that policy reflects the hospitalization experience of the members of that plan, which is, of course, controlled by the doctors in the individual practice association. So if the total premium for physician and hospital services is determined by the market, the less the hospitalization, the lower the insurance premium, and the more left over for the doctors.

Individual practice associations, like other HMOs, have not grown rapidly in the past for reasons explained below. Moreover, there is evidence that they have been less effective than prepaid group practices at control of hospital utilization. I believe the reason has been a lack of competitive necessity. If they had to develop good utilization controls to survive. I believe they would do so.

Individual practice associations like this could be operative within a fairly short time. They could start with physicians already established in fee-for-service solo practice, with existing doctor-patient relations, existing facilities and without the need for large initial investments. I believe that, to survive in the long run, they would have to strengthen internal controls and carefully balance specialty mix. But these changes could come gradually.

Similar arrangements can be created by physicians and insurance companies. Ellwood and McClure call them "health-care alliances," a looser concept than HMC.[27] In one variation on the theme, an insurance company makes capitation payments to family physicians for providing primary care and for managing total medical-care costs of the enrolled beneficiaries. The range of such interesting possibilities is large; we have hardly begun to see what could be done with cost-control incentives in an appropriately restructured private market.

In CCHP, physicians would be under economic pressure to form or sign up with qualified health plans, where the consumers will be. This pressure will be intensified by the coming doctor surplus. In 1959, there were about 1.49 physicians per 1000 population in the United States. By 1973, the ratio had reached 1.73. And by 1990, it has been projected to reach 2.37.[33] (The specific ratio depends on definitions and assumptions, but by any definition, the relative increase will be large.) The fact that prepaid group-practice plans care for their members with about one physician per 1000 (of course reflecting in part, a membership that is younger, healthier and busier than the population at large) gives some indication that in a world of efficient organized systems, there will be more doctors than needed. Therefore, given the economic framework created by CCHP, the process of forming organized systems is likely to be accelerated by physicians who are seeking a place to practice. Thus, I do not believe that one should estimate future membership in organized systems with some incentives for economy by applying a plausible growth rate to today's HMO membership of roughly six million. Rather, there is reason to expect that many new organizations would be formed quickly.

If HMO's are superior, why haven't they grown faster?

The main answers are, first, the monopolistic practices of some physicians described earlier, and second, the strong and pervasive anti-HMO bias in the policies of the federal government, and the consequent lack of incentives for consumers and providers to join HMO's under existing financial arrangements. The tax laws, the Medicare law, the planning laws, and the HMO Act all have important anti-HMO biases.[34, 35] And the anti-HMO bias in state laws is notorious. Most people do not have a choice between an HMO and a third-party, fee-for-service plan, or if they do, the tax laws, Medicare and employer financing arrangements do not let them keep the savings. HMO's have done very well in competitive multiple-choice situations. For example, Kaiser-Permanente of Northern California serves 37 per cent of the federal employees, 43 per cent of the state of California employees, and 37 per cent of the University of California employees in its service area. And, despite the obstacles, the growth rate of HMO's in areas where they are established is impressive. From 1960 to 1976, Kaiser's California membership increased from 720,000 to 2,617,000, a compound annual growth rate of 8.4 percent, despite the fact that in many years, they had to limit new enrollment because of the time and cost required to plan, build and staff new facilities.

The "consumer-choice" issue

Proposals to rely on consumer choice to guide the health-services system are invariably subjected to the attack that consumers are incapable of making intelligent choices in health-care matters. So it seems worthwhile to make clear exactly what is being assumed. Admittedly, the element of ignorance and uncertainty in health care is very large; that is true for physicians and civil servants as well as ordinary consumers. CCHP does not assume that the ordinary consumer is a good judge of what is in his own best interest. Consumers may be ignorant, biased and vulnerable to deception. CCHP merely assumes that, when it comes to choosing a health plan, the ordinary consumer is the best judge of it. The theory of optimum allocation of resources through decentralized markets does not assume that every consumer is perfectly informed and economically rational. Markets can be policed by a minority of well informed rational consumers. And we are seeking merely a good and workable solution, not a theoretical optimum. CCHP provides consumers with substantially better information than they get now and much stronger incentives to use it. If there were a demand for it, much could be done to organize better consumer information. In any case, the key factor is the incentive that CCHP gives to providers—i.e., provider systems will get their money from satisfied consumers rather than from the government. In CCHP, above the tax credit/voucher level, consumers would be working with their own money, not somebody else's.

Critics of the consumer-choice position usually are not very explicit about whom they consider to be better qualified than the average American to choose his health plan for him.

Presumably every national-health-insurance scheme under consideration would allow each consumer choice of physician and free choice of whether or not to accept recommended medical treatment—decisions that could be aided by technical knowledge. What distinguishes CCHP from the others is that it seeks to give the consumer a choice from among alternative systems for organizing and financing care, and to allow him to benefit from his economizing choices. The issue, then, is whether consumers can be trusted to choose wisely when it comes to picking health plans—some of which cost less than others.

Part of the "consumer-choice" issue is resistance to the idea of letting the poor, because of their poverty, choose a less costly health plan that might not meet their medical needs. There is appearance of a conflict here with the principle of CCHP that people must be allowed to benefit from their economizing choices. (There is, of course, the issue of how much the poor should be forced to accept their share of society's assistance in the form of costly medical technology of doubtful value, as opposed to leaving them free to spend the resources on other things like food and housing known to be good for health.) The problem can be resolved in CCHP by setting the premium vouchers (usable only for health care) at a high enough level to assure access to a plan with adequate benefits—always letting plans that do a better job attract members by offering less cost sharing or more benefits.

Equity issues

CCHP uses the most effective way to redistribute purchasing power for medical care—i.e., directly. It takes money from the well-to-do and pays it to lower-income people in the form of tax credits and vouchers. By this method, the amount of redistribution is clearly visible, and one can be sure the money reaches its intended target. CCHP can thus be used to bring about whatever income redistribution for medical purchases the political process will support. By contrast, third-party insurance systems are an exceedingly ineffective way to redistribute income. Medicare pays more on behalf of rich than poor.[9] In a bureaucratic system, individuals and organized groups who are forceful and skillful at getting their way come out ahead.

Will CCHP perpetuate a two-class system of care for rich and poor? The question should be judged realistically in terms of where we are today, in which direction CCHP would move us, and where we are likely to go as a society. CCHP focuses on raising the quality of care available to the poor by assuring that they have the money (through vouchers) and the access (through the government-run open enrollment) to the health plans serving the middle-class. Competition is likely to keep the cost of many of these plans in reach for many low-income people. Moreover, unlike the present tax law, under CCHP, the well-to-do would have to pay the extra cost of more expensive health plans out of net after-tax income. Thus CCHP would be a large step toward equalization of health-care purchasing power, without enforcing absolute equality. I believe it would be foolish to reject it on the grounds that it does not reach a hypo-

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Footnotes at end of article.

thetical egalitarian ideal that has never been attained in any society and is surely not supported by the American people today.

Is a multiple-choice system feasible?

The feasibility of a competitive model for national health insurance has been demonstrated by the Federal Employees Health Benefits Program (FEHBP) and numerous other choice-of-plan systems. The FEHBP was authorized in 1959. It now provides health benefits for 10.5 million people. The government pays essentially 60 percent of the average premium of the six largest participating plans, or, in 1978, $58.72 per month for a family. The employee pays the rest. There are now 79 participating plans, including the government-wide indemnity-benefit plan offered through the Aetna Life and Casualty Company, government-wide Blue Cross-Blue Shield service benefit plan, numerous employee organization plans (e.g., letter carriers), and comprehensive medical plans (e.g., HMO's). The administrative expense is very low. A 1964 report of the FEHBP noted:

"The program finally authorized by Congress permits a wide range of choice of plans by all employees and was, in effect, a negotiated compromise among many divergent and highly organized interests. It was the only approach which at any time during the legislative process gained acceptance by all of the principals: the American Medical Association, Blue Cross-Blue Shield, insurance companies, employee unions, group and individual practice prepayment plans, and the Federal Government as the employer. Although there can be no doubt that the "single plan" approach would have been most desirable from the standpoint of administrative simplicity, now that we have learned to live with the administrative problems which stem from multiple choice, it becomes equally clear that the wide choice of plans has produced a program which is more effective in meeting the needs of Federal employees and their dependents. . . . It was anticipated by many that serious administrative problems would develop that would require continual legislation of a perfecting and remedial nature. This has not been the case."[36]

The California State Public Employees' System has been in operation for almost as long as the FEHBP. It provides benefits for about 425,000 people. It has proved so successful that non-state public employee groups are now joining it. And it has helped the growth of HMO's in California.

Underserved rural areas

CCHP would not "solve" the problem of underserved areas, but it should help. It would provide assured medical purchasing power to people in rural areas, many of whom have low incomes, and by ending the open-ended tax subsidy in the well served areas, it would put some financial pressure on physician location decisions. The best way to provide good care in rural areas is through organized systems that can provide outreach (e.g., through physician extenders) and that can provide financial and professional support to physicians working in such areas. For example, Kaiser-Permanente operates remote outposts in Hawaii, including a single-physician clinic on the northern shore of Oahu. Though far from the main medical center, this doctor can easily consult with his specialist partners by telephone, and can refer patients if necessary.

The "HMO underservice" issue

Some allege that HMO's achieve financial success by underserving their members. The established HMO's like Kaiser-Permanente and Group Health of Puget Sound have for many years served such educated middle-class groups as federal and state employees, university faculties and other teachers. If there were a substantial amount of underservice, one would think that the word would get around and that these people would switch at the next open season. I have been unable to find any documented case of a pattern of underservice among such HMO's. On the contrary, the main selling point of such organizations is usually improved accessibility. A recent study comparing patterns of use of ambulatory-care services in five health-care delivery systems in Washington, D.C., found that "taking patient factors into account . . . preventive use is lowest in the OPD/ERs (out-patient department/emergency rooms) and highest in the prepaid group (Group Health Association). Rates of initiating care are also highest in the prepaid group. Medication is most likely in the OPD/ERs, while volume of follow-up care is greatest in fee-for-service groups and moderately high in the prepaid group. Services are more equitable delivered within the prepaid group than within the fee-for-service systems, in relation to income, education, and medical need."[37] The allegations of underservice arose for the Medicaid prepaid health plans, mainly in Southern California. There, a state government was trying to cut costs in a hurry, and accepted unrealistically low bids for Medicaid contracts and enrollment practices that interferred with free choice. The underservice problem arose from the state government's politically motivated purchasing policies, not from the nature of HMO's. If we assure that every family has the purchasing power to buy membership in a good plan, and a free choice among competing plans, organizations that make a practice of underserving members will not last long.

This statement is not to imply that the financial incentives in the existing HMO's are perfect or that their performance is without shortcomings. We simply do not know what are the "right" financial incentives; there is no logical or empirical basis for such a determination. CCHP proposes to find out what are good incentives through experience in a competitive market. And good incentives do not guarantee good performance. Medical care is full of judgment and uncertainty; mistakes are made in any setting, including HMO's. HMO's may have replaced financial barriers with institutional barriers to care. The most effective pressure to perform to satisfy consumers is competition.

CONCLUSIONS

CCHP's design principles were equity, practicality and rational economics. But it was developed with an appreciation of the broad political realities. Although it may not be a first choice for any group, like the FEHBP, it might well be an acceptable "second best" for many. CCHP offers the *medical profession* the surest basis for maintaining its autonomy. Without an effective system of economic competition to control and legitimize costs, a system of direct government economic controls is inevitable. Such controls would inevitably be based on arbitrary numerical standards applied across the board without respect for individual preferences or quality. They would involve increasing paper work of a frustrating and unproductive kind. The Medicare regulations give a taste of what is in store down that road. The politicizing of the negotiating process over physician fees would inevitably be damaging and unpalatable. By contrast in an effective system of economic competition, such as that proposed in CCHP, medical-care costs could be controlled by the judgment of physicians. Individual preferences would be respected. For this system to work, physicians would have to accept responsibility for managing the total health-care costs of their enrolled population groups. Acceptance of such a role would enhance the social contribution and recognition of the profession.

In addition to offering the best prospect for bringing costs under control, CCHP offers substantial attractions to various important groups in society. This characteristic should give it broad political appeal. For the poor, it offers continuity of subsidized health-plan coverage that is independent of job or Medicaid eligibility, access to health plans that serve the middle class and an increased supply of doctors resulting from the "capping" of demand in well served areas. CCHP would be especially helpful to the working poor. For workers, it offers an expanded range of choice, improved efficiency and reduced cost through competition and assured continuity of coverage in the face of job changes or unemployment. Medicare beneficiaries would be able to obtain protection against catastrophic expense and reduced or eliminated cost sharing by joining an efficient health plan. For the well-to-do, CCHP offers a finite "controllable" government commitment to personal health-care services versus today's open-ended commitment, less of a tax increase than for some of the main alternatives, less of a tax burden in the long run than would be entailed by the status quo, and a private-sector solution with a limited government role. For hospital administrators, CCHP could mean relief from burdensome, frustrating government regulations and a chance to succeed by offering better services at lower cost rather than today's increasing emphasis on beating the regulations. CCHP offers private health insurers continued existence and a meaningful role.

FOOTNOTES

[1] Gibson RM, Mueller M: National health exenditures: fiscal year 1976. Soc Secur Bull 40 (4):3–22, 1977

[2] The Budget of the United States, Fiscal Year 1978. Washington, D.C., United States Office of Management and Budget

[3] Feldstein M, Taylor A: The Rapid Rise of Hospital Costs. Washington, D.C., United States Council on Wages and Price Stability

[4] Bunker JP: Surgical manpower: a comparison of operations and surgeons in the United States and in England and Wales. N Engl J Med 282:135–144, 1970

[5] Lembcks P: Measuring the quality of medical care through vital statistics based on hospital service areas. I. Comparative study of appendectomy rates. Am J Public Health 42:276–286, 1952

[6] Wennberg JE: Getting Ready for National Health Insurance: Unnecessary surgery. Testimony and Statement presented at Hearings before the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce, House of Representatives, 94th Congress (Serial No. 94–37), July 15, 1975

[7] Gaus CR, Cooper BS, Hirschman CG: Contrasts in HMO and fee-for-service performance. Soc Secur Bull 39(5):3–14, 1976

[8] Goss S: A Retrospective Application of the Health Maintenance Organization Risk Sharing Savings Formula for Six Group Practice Prepayment Plans for 1969 and 1970 (DHEW Publication No. [SSA] 76–11500). Washington, DC, Government Printing Office, 1975

[9] Davis K: Equal treatment and unequal benefits: the Medicare program. Milbank Mem Fund Q F 53:449–488, 1975

[10] Health Maintenance Organization Act of 1973. PL 93–222, 93d Congress, 1st session, December 29, 1973

[11] Factors that Impede Progress in Implementing the Health Maintenance Organization Act of 1973, Department of Health, Education, and Welfare (General Accounting Office Report No. HRD–76–128). Washington, DC, Government Printing Office, 1976

[12] Goldberg LG, Greenberg W: The emergence of physician sponsored health insurance: historical perspective, Competition in Health Care Sector. Edited by W Greenberg, Washington, DC, United States Federal Trade Commission, Bureau of Economics (in press)

[13] MD's to quit Blue Shield in Michigan. American Medical News, November 7, 1977

[14] Noll R: The Consequences of Public Utility Regulation of Hospitals: Controls on health care. Washington, DC, Institute of Medicine, National Academy of Sciences, 1975

[15] Enthoven A, Noll R: Regulatory and Nonregulatory Strategies for Controlling Health Care Costs (Research Paper No. 402). Graduate School of Business, Stanford University, September, 1977.

[16] Hellinger FJ: The effect of Certificate-of-Need legislation on hospital investment. Inquiry 13:187–193, 1976

[17] Salkever DS, Bice TW: The impact of Certificate-of-Need controls on hospital investment. Milbank Mem Fund Q 54:185–214, 1976

[18] Evaluation of the Efficiency and Effectiveness of the Section 1122 Review Process. Washington DC, Lewin & Associates, September, 1975

[19] Schultze CL: The Public Use of Private Interest. Washington, DC, Brookings Institution, 1977

[20] Health Security Act, S. 3, 95th Congress, 1st session, January 10, 1977

[21] Report of the Military Health Care Study, Washington, DC, Government Printing Office, 1975

[22] Health Care for American Veterans. Report of the Committee on Health Care Resources in the Veterans Administration. Washington, DC, National Academy of Sciences, 1977

[23] Comprehensive National Health Insurance Act of 1974, S. 3286, 93d Congress, 2nd session, April 2, 1974

[24] Vayda E: Prepaid group practice under universal health insurance in Canada. Med Care 15:382–389, 1977

[25] Comprehensive Health Insurance Act of 1974, S. 2970, 93d Congress, 2nd session, February 6, 1974

[26] Catastrophic Health Insurance and Medical Assistance Reform Act of 1975, S. 2470, 94th Congress, 1st session, September 11, 1975

[27] Ellwood PM, McClure W: Health Delivery Reform. Minneapolis, Interstudy, November 17, 1976

[28] Newhouse JP, Taylor V: How shall we pay for hospital care? Public Interest 23:78–92, April 1971.

[29] Gibson RM, Mueller MS, Fisher CR: Age differences in health care spending, fiscal year 1976. Soc Secur Bull 40(8):3–14, 1977

[30] Luft HS: How Do HMOs Achieve Their 'Savings' (Research Paper No. 77–7). Stanford University School of Medicine, 1977

[31] Corbin M. Krute A: Some aspects of Medicare experience with group-practice prepayment plans. Soc Secur Bull 38(3):3–11, 1975

[32] Egdahl RH: Foundations for medical care. N Engl J Med 288:491–498. 1973

[33] DuVal MK: Health Manpower: The factors and issues. Presented at the spring meeting on Manpower for Health Care, Institute of Medicine, National Academy of Sciences, May 8–9, 1974

[34] Enthoven A: Competition of Alternative Health Care Delivery Systems (Research Paper No. 378). Graduate School of Business, Stanford University, June 1977, pp 1–36

[35] Starr P: The undelivered health system. Public Interest 42:66–85, Winter 1976

[36] Ruddock AE: Federal Employees Health Benefits Program. I. History and future of the federal program—1964. Am J Public Health 56:50–53, 1966

[37] Dutton OB: Patterns of Ambulatory Use in Five Health Care Delivery Systems (Research Paper No. 76–2). Stanford University School of Medicine

HEALTH INCENTIVE REFORM ACT OF 1979

[Introduced by Senator Dave Durenberger]

	Senator Durenberger	Senator Long, S. 350, 351	Senator Long, S. 760	Senators Dole, Danforth, and Domenici, S. 748	Senator Kennedy, HCAA	Administration	Senator Schweiker
Employer plans	Employers with 25 or more employees offer 3 plans from 3 different carriers, 2 of which are qualified health plans, if available. Employers pay equal dollar, fixed limit contributions to each plan. Standard benefit packages are based on HMO Act. Copayments negotiable.	(Tax provisions only) Employers must cover employees through a public or private plan.	Employers must provide catastrophic coverage to full-time workers 30 days. Extend to spouse and dependent children to age 26. Approved plans include S. 350 hospital and medical deductibles (60 days and $2,000) and cover medicare program services.	Employer must provide catastrophic coverage to full-time employees/30 days. Plans must meet changes re: divorce, death, new dependents. 60 day/$5,000 deductibles and coverage of medicare program services.	Employers must offer private or HMO plans with certified benefit package. Rebates to employers and employees for choosing cost-effective HMO's.	Employers offer private plan or "HealthCare" with its $2,500 deductible (excepting maternal and child health) and coverage of children to age 26 and disabled (prior to age 22 disability req.) Death, divorce, etc., contingencies required.	Employers with 200-plus workers must offer 3 plans from 3 different carriers, at least one with 25 percent hospital copayment to 20 percent of family income. Employee receives rebate from employer for copayment choice. Medicare benefits plus preventive package. Firms must offer catasrophic coverage with 20 percent of family income deductible with 6 months grace period.
Premium payment	Shared premium costs not mandated.	Employer responsible for premium costs of private plans.	Employer responsible for premium costs	Employer responsible for 75 percent premium.	65 to 75 percent employer payment negotiated.	Employer pays 75 percent, equal amount to each plan.	
Tax credits	Tax exemption for employees contingent on offering 3 plans, standard benefits package and equal contributions. Tax free contribution limited to median HMO rate.	50 percent tax credit against mandatory 1 percent catastrophic health insurance payroll tax; replaces present business expense deduction tied to 90 day grace period for unemployed.	Straight tax decuctions for premiums. Employers with payrolls at less than $250,000 opt for 50 percent tax credit of premium costs rather than deduction as business expense.	Straight tax deduction for premiums; claim allowed for self-employed as well, both contingent on catastrophic coverage.	Employer tax credit for premium costs.	--------------------	Tax deduction for employer tied to offering three plans and preventive package (immunizations, check-ups, etc.)
Hardship clause	No subsidy for additional expenses.	--------------------	--------------------	Tax credit allowed to 50 percent of total amount over 2 percent increase in payroll costs in 1st year on diminishing need scale in subsequent years.	Application to National Board for financial relief for excessive economic impact of marketed premiums.	5 percent of payroll limit on costs to employer with subsidy available through HC or to purchase private coverage.	
Penalties	Noncompliance means benefits are taxable income to employee.	No penalties.	Employers failing to provide catastrophic are liable to tax of 150 percent of estimated premiums they would have paid.	Employers failing to provide catastrophic are liable to civil penalty. Employee guaranteed right of legal action.	Violations handled through State and Federal boards via negotiations, hearings, etc.	Employers can be subject to noncompliance fine.	No penalties.
Unemployment	Grace period of 90 days, with first 30 paid by employer, next 6 months paid by employee at no more than 100 percent group rate. Subsequent conversion to individual plan allowed at end of 6 months.	Covered under public plan (federally administered).	Coverage for 6 months after termination of employment (must be employed 30 days).	Grace period of 90 days. Permits conversion to individual policies prior to termination of group coverage. Coverage extends for three months following separation from employment.	Automatic coverage through health insurance card.	Continuity of coverage of 90 days. Individuals can buy coverage at national community rates, with Federal subsidies available to cover 25 percent.	States assign small firms, self-employed, high-risk, and individuals to private carriers with limit to 125 percent of group coverage premiums.
Medicare	Qualified health plans and insurance companies to be paid 95 percent of average per capita Medicare costs in an area to enroll beneficiaries. Savings returned to beneficiaries in form of additional benefits.	Expanded institutional and medical benefits for those meeting the catastrophic illness test.	Same as S. 350.	Catastrophic provisions, expanded hospital and medical benefits.	Expanded hospital and medical benefits.	Expanded benefits set on 55 percent of FPL.	Catastrophic and expanded hospital and preventive medical benefits.

	Senator Durenberger	Senator Long, S. 350, 351	Senator Long, S. 760	Senators Dole, Danforth, and Domenici, S. 748	Senator Kennedy, HCAA	Administration	Senator Schweiker
Financing.............	Competitive incentives, shared premium costs.	1 percent payroll tax.	Employer pays for premiums.	Employer pays most of premium costs; government assistance.	Medicare payroll and premiums; general revenues; employers pay up to 70 percent of premiums.	Medicare payroll tax; premiums for public plans with Federal general revenues; private plans require at least 75 percent premium payment by employer.	Shared premium costs, savings on competition.

● Mr. BOREN. Mr. President, because of my firm belief that our country must stop its drift down the path toward more and more regulation of the health care industry which will ultimately result in a system of socialized medicine, I am pleased today to join as the principal cosponsor with Senator Dave Durenberger of the Health Incentives Reform Act of 1979. The bill provides an alternative method of attacking cost increases without more reliance upon controls.

This bill, which I refer to as the "Health Care Competition Act." addresses head-on the misguided incentives of cost-plus reimbursement which is the largest contributor to rising health care costs in this country. It introduces, through competition, incentives which will place downward pressure on these costs.

The per capita cost of health care in this Nation has tripled in the last 10 years, and the amount of total medical care expenditures in the United States has risen from $38.9 billion in 1965 to $206 billion this year. In 1979, cost for medical care will rise to over $900 per capita compared to a per capita cost of $198 in 1965.

These startling statistics prove that something must be done to prevent further rapid increases in the future.

The answer, however, must not be increased governmental regulation of the health care industry. This bill gives us a real alternative by addressing the causes of rising costs and curing the disease of only treating the symptom through increased governmental regulation.

There is a total lack of competition in today's health care system. Under today's system, over 75 percent of all wage and salary workers are covered by health insurance financed by employer-paid premiums. Many more are covered by employer-related health insurance programs which require some employee contribution.

Under such a system, consumers have little or no opportunity or incentive to "shop" for the least costly and best health plan to provide for their individual needs.

Generally speaking, employers offer to employees only one health plan. The Durenberger-Boren bill would make it mandatory that employers of 25 employees or more, in order to maintain tax-free status of medical benefits, must offer a choice of at least three health insurance plans. This feature is further strengthened by a requirement that the employer contribution must be the same for whichever plan the employee chooses. If an employee chooses a plan below the employer's contribution, the employee must receive the difference in cash or increased medical benefits. If, on the other hand, the employee chooses a more expensive plan, the employee must pay the difference in cost.

It is easy to see how this feature introduces competition into the health care system and gives the consumer an incentive to shop around for the best health care bargain. We must not only give consumers an incentive to make selective purchases, but we must also induce more competition among providers.

One provider-related competitive component of our bill is to increase incentives for use of HMO's. Where they now exist, HMO's have proven to be successful in delivering health care in an efficient and effective manner.

The Durenberger-Boren bill will result in more participation in HMO's by medicare recipients through changes in the medicare payments system. It also requires employers to include HMO health plans where they are available. It is anticipated that many new groups offering health care will develop, competing with each other to offer quality care at lower prices.

Another problem the bill addresses is one of insufficient health care coverage. A significant portion of persons not now covered by any health care plan are dependents in families where only the wage earner is covered by the plan offered by his or her employer.

Our bill requires that plans offered by the employer include coverage of other family members.

One of the most crucial problems in today's health care system is the devastating financial impact on a family faced with catastrophic illness.

While our bill encourages cost-sharing by the consumer, it also protects the consumer from catastrophic costs by placing a limit on the maximum amount of his or her out-of-pocket expenses.

The insurance plan must provide for total coverage of health care costs when the individual or family medical expenses exceed $3.500 in 1 year.

I am convinced that this alternative approach to the serious problem we now face in health care in this country is realistic and effective. It changes the path in which we are traveling from one of increasing governmental regulation to one of increased competition in our health care system.

This moves us toward the shared goal of dealing with the devastating increases in health care costs which our country has faced over the last two decades.

I urge my colleagues to join with me and Senator Durenberger in supporting this bill.●

By Mr. CHURCH (for himself, Mr. Boren, Mr. Hayakawa, Mr. Roth, Mr. Domenici, and Mr. Zorinsky):

S. 1486. A bill to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970; to the Committee on Labor and Human Resources.

EXEMPTING FAMILY FARMS AND NONHAZARDOUS SMALL BUSINESSES FROM OSHA

● Mr. CHURCH. Mr. President, the legislation I have introduced today will exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act (OSHA). It amends OSHA to read:

> This Act shall not apply to any person who is engaged in a farming operation and employs 10 or fewer employees.
>
> This Act shall not apply to any person who is engaged in a non-hazardous business and employs 10 or fewer employees.
>
> The term "non-hazardous business" means any business included within a category having an occupational injury/illness incidence rate which does not exceed 7 per 100 full-time employees as set forth in the 1976 Bureau of Labor Statistics survey of three-digit Standard Industrial Classification Code industries, and for each subsequent year.

The first part of my legislation codifies the family farm exemption originally passed by Congress in 1976 on the OSHA appropriations bill, and passed again each year thereafter.

The second part of my legislation exempts small businesses whose safety and health records have amply demonstrated them to be nonhazardous.

This legislation, Mr. President, is very similar to an amendment I joined in offering with the late Senator Dewey Bartlett last year. It was passed by the Senate by a substantial majority to a bill amending small business programs.

I have long felt, Mr. President, that the most serious defect in the Occupational Safety and Health Act was the attempt to regulate conditions of safety and health in every American business, regardless of the type of business, the size, or the presence of hazards in the nature of the business.

When Congress originally passed the OSHA Act, insufficient consideration was given to the inability of any Federal agency to undertake a task of such magnitude, and do it fairly. The result is to be found in the maze of regulations and chaotic enforcement history of the act. Farmers and small businessmen have rightly been up in arms over this potshot assault and the cases of arbitrary enforcement are legion.

Mr. President, I know of no law intended for so salutary a purpose which has caused so much distemper, disgruntlement, and dismay as OSHA. Actual inspections have been spotty; enforcement action has frequently been harsh. There will never begin to be enough inspectors to change this condition, since the price would skyrocket out of sight.

Congress has sought for years to rectify its original mistake. If we could get the OSHA Act back on the floor of the Senate, we might be able to repair it by confining its application to work of a hazardous nature, which was clearly what Congress had in mind at the time of its enactment. But so far, we cannot get the act out of committee.

Years have passed. The only opportunity we have had to limit the application of the law, such as excluding family farms, which never should have been under it in the first place, or attempting to exclude mom-and-pop stores, which also should never have been included, is the annual effort to restrict appropriations.

This is an admittedly awkward and unsatisfactory way to proceed, but we succeeded on one occasion at least to eliminate, through an appropriations restriction, the money to enforce the act, as it related to farmers who hire 10 or fewer employees.

Last year, Senator Bartlett and I finally succeeded in passing an amendment which reached the OSHA Act itself. That amendment, like the legislation I offer today, takes 10 or fewer employees as its benchmark.

I believe that it is perfectly fitting to consider my legislation as a small business measure. Our small businesses certainly see it that way. In a recent poll, the National Federation of Independent Business, the largest small business organization in the country, reported that its members favor a small business exemption from OSHA 9 to 1. The NFIB strongly supports my legislation, and joined with the Council of Small and Independent Business Associations (COSIBA), an umbrella group for small business organizations, in unanimously endorsing it. I ask unanimous consent that the list of COSIBA members be printed at the conclusion of my remarks.

I am introducing this legislation as a bill today in order to furnish Senators an opportunity to join in cosponsorship, and I urge the Senate to support it again.

My legislation does differ in some respects from the proposal adoption by the Senate last year. For one thing it specifically codifies the farm exemption, as part of organic law. But it does not differ on its standard for defining nonhazardous businesses.

The latest BLS rate report for the classification scheme in this legislation is drawn from the year 1976. In that year, scores of businesses exceeded the 7 per 100 standard set for "nonhazardous." Just as commonsense would dictate, hazardous businesses, which would remain covered under OSHA even after enactment of my legislation, are mainly in construction and manufacturing.

Under present law, Mr. President, whole industries, like finance, real estate, insurance, and the wholesale and retail trade, are subject to inspections and recordkeeping, just as though they were as hazardous as construction and manufacturing. In my judgment, that is the inherent flaw in the OSHA Act which calls out for correction. At the moment, however, the best we can hope to do is to exempt family farms and nonhazardous small businesses from the scope of the act.

I have chosen to utilize the 10-or-fewer employee criterion and the 1976 BLS survey for other important reasons, as well. Since this survey has been in the public domain for years, and the 1976 survey for more than a year itself, there is no requirement for delay, for any interpretations or further regulations. Upon enactment of my legislation, every business will know whether or not it has been excluded from OSHA.

In addition, by specific reference to the 1976 survey, and the provision for surveys in subsequent years, my legislation offers an incentive for businesses whose injury/illness rate presently classifies them as hazardous to improve their health and safety record. Any business category that improves its injury/illness record in future BLS surveys will be exempted. Almost all authorities agree that providing incentives to do what should come naturally—operating safe and healthful workplaces—is superior to the present system of crime and punishment.

American small businessmen and farmers have resoundingly sent their message to Congress, and the Senate should hear it. We must finally take OSHA off their backs. Our sights must be set on enacting relief into law, for false starts and empty promises are simply no longer enough.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COSIBA: COUNCIL OF SMALL AND INDEPENDENT BUSINESS ASSOCIATIONS

1. National Federation of Independent Businessmen.
2. National Small Business Association.
3. National Business League.
4. National Association of Small Business Investment Companies.
5. Small Business Association of New England.
6. Independent Business Association of Wisconsin.
7. Smaller Manufacturers Council of Pittsburgh.
8. Syracuse Business Council of New York.
9. Council of Smaller Enterprises of Cleveland.●

● Mr. BOREN. Mr. President, family farms and small businesses are locked in a struggle for survival. The future of the free enterprise system itself is riding on the outcome of this struggle.

The more people we have in the United States who have the experience of being responsible for the ultimate decisions in their own businesses, the stronger our Nation will become. The preservation of small business is essential to keeping alive a spirit of individual initiative and responsibility.

The trend is alarmingly against small businesses. Since 1935, the concentration of business has grown. Today, 2 percent of all U.S. corporations control 89 percent of net profits. The heavy hand of Government has helped to stifle and kill small businesses.

Excessive Government regulation hits small businesses and family farms especially hard. They cannot afford to hire extra people to fill out forms and to provide compliance with costly regulations. This year it is estimated that the cost of Government regulations will increase 30 percent over last year and will exceed $100 billion.

I am pleased today to join with Senator CHURCH in cosponsoring his bill to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act. At a time when the American people are demanding less Federal regulation and control of their lives, this bill is a step in the right direction.

The Church bill is of special significance to the people of Oklahoma. As many in this distinguished body know, it was the late Senator Dewey F. Bartlett of Oklahoma who first introduced legislation to exempt family farms and small businesses from OSHA regulations. Senator Bartlett was keenly aware of the frustrations and burdens experienced by our Nation's smallest businesses as a result of rules and regulations issued by OSHA. His efforts to free small business from the grip of overregulation shall long be remembered by those of us who knew him, and I can think of no finer tribute to the memory of Senator Bartlett today than to see his work on this bill completed.

I urge my colleagues to join with me in voting for this bill. In so doing, we will lift a costly, unnecessary Federal burden from the backs of our Nation's family farms and small businesses.●

By Mr. NELSON:

S. 1488. A bill to amend the Internal Revenue Code of 1954 to provide for the partial exclusion of interest from gross income; to the Committee on Finance.

Mr. NELSON. Mr. President, American families' savings are being eaten up by inflation and Government taxes. Given today's double digit inflation, Americans are penalized for saving and encouraged to spend.

America is the only major industrialized Nation which fails to encourage savings, consequently Americans currently save only 5.3 percent of disposable income. According to the National Savings and Loan Foundation, the British save 13 percent of their disposable income, the West Germans save 15 percent, and the Japanese 25 percent. Each of these countries encourages savings through national tax laws.

The Individual Savings Act of 1979 would allow any interest earned from savings accounts in excess of the previous years to be tax free up to a total of $500. Persons filing a joint return would be allowed a $1,000 exclusion.

Inflation is sapping the American family's ability to save for the future.

Moreover, inadequate savings is bankrupting our economic system by starving it of the dollars needed for necessary investment. Without savings, there can be no money loaned for new home construction or for capital investment.

Without investment, productivity declines, inflation increases, and no new jobs are created.

It has become a vicious circle. Inflation encourages people to buy now by pushing prices higher and higher. Unfair taxation discourages people from saving now by taxing the interest they receive. The consumer is left with no choice but to buy, buy, buy, leaving the economy bankrupt of savings dollars and fueling inflation even further.

For example, with stable prices, the same automobile that could be purchased today for $5,000 could be purchased next year for $5,000. With 10-percent inflation it would cost the consumer an additional $500. It is cheaper to buy now and save the $500 in spending power.

Alternative approaches to exempt savings from taxation, while worthwhile, do not create the incentive for people to continue to increase their savings. In addition, they involve a much greater revenue loss for the Government.

The following two tables, prepared by the Joint Committee on Taxation, indicate the cost effectiveness of the Individual Savings Act. The first table shows the revenue loss created by allowing a taxpayer to exclude the excess of his interest income over the previous year but no more than the amount shown in the first column—twice the amount for joint returns. This is the approach embodied in the Individual Savings Act.

The second table shows the revenue effect of certain interest exclusions where there is no test for increase over the previous year.

TABLE 1.—INDIVIDUAL SAVINGS ACT OF 1979, REVENUE LOSS FROM THE EXCLUSION OF INCREASES IN INTEREST INCOME

[In millions of dollars]

	Exclusion per individual [1]—$500				
	[2] 1980	1981	1982	1983	1984
CY	932	1,025	1,127	1,240	1,364
FY	140	1,032	1,132	1,254	1,287

[1] Joint returns receive twice this amount.

[2] Assuming a Jan. 1, 1980, effective date.

TABLE 2I.—FLAT EXCLUSION REVENUE LOSS FROM THE EXCLUSION OF INTEREST INCOME

[In millions of dollars]

	Exclusion per individual [1]—$50				
	[2] 1980	1981	1982	1983	1984
CY	810	891	980	1,078	1,186
FY	122	889	985	1,090	1,119

[1] Joint returns receive twice this amount.

[2] Assuming a Jan. 1, 1980, effective date.

As can be seen from these tables, the Individual Savings Act, providing a maximum $500 exclusion, would potentially provide the individual taxpayer with 10 times the benefit of the flat $50 exemption; would encourage individuals to increase their savings from year to year; and, would cost the Government a comparable amount of money when compared with the flat $50 exclusion. That is 10 times the benefit at a comparable cost.

In the table below, it is easy to see that the consumer benefits considerably from adopting a "buy now" philosophy during an inflationary period. During a period of stable prices, a consumer could make a $1,000 purchase now or a year from now without suffering a price increase. If prices are increasing at a 10 percent rate, the benefit to the consumer for purchasing is greater now than if he made the same purchase next year while leaving the money in savings.

HOW INFLATION ENCOURAGES SPENDING

	Zero inflation	10 percent inflation
Purchase price today	$1,000	$1,000.00
Purchase price 1 yr later	1,000	1,000.00
Incentive to buy now	0	100.00
Cost of foregone purchasing power	−40	+43.18
Benefit of buying now	−40	+143.18

This benefit increases substantially when the consumer uses his borrowing leverage to make a major purchase—for example, a $75,000 house.

TABLE 3.—HOW INFLATION ENCOURAGES "BUYING NOW"

HOME PUCHASING

	Zero inflation	10 percent inflation
Purchase price now	$75,000	$75,000
Purchase price after 1 yr	75,000	82,500
Benefit of buying now	0	7,500
Cost of foregone real interest on downpayment	−600	−787
Mortgage interest cost:		
1960 equals 6 percent	−3,600	−6,765
1979 equals 10.25 percent	−4,050	+9,525

With 10-percent inflation, a house costing $75,000 today will cost $82,500 the next year. The benefit of buying now is $7,500 saved. This cost is further compounded when we consider that in times of high inflation interest rates will also be higher. Thus, to buy the same house with prices soaring at a 10-percent inflation rate will cost the consumer $9,525 more. Even if we assume a 30 percent marginal tax rate on the interest, the cost of buying next year would still buy $8,493 more. During a period of price stability the consumer can defer his purchase and still buy a comparable house at a comparable price.

But, inflation is not the only disincentive to save. Higher prices and the current tax system, which is based on dollar incomes, further discourages saving.

TABLE 4.—HOW TAXES DISCOURAGE SAVINGS

	Zero inflation	10 percent inflation
Purchasing power	$1,000	$1,000.00
Interest income in 1 yr	1,040	1,052.50
Federal taxes (30-percent rate)	12	15.75
After-tax dollars after 1 yr	28	36.75
After-tax purchasing power after 1 yr	1,028	942.50
After-tax purchasing power benefit	+28	−57.50
After-tax breakeven interest rate (percent)	12.5	

During a period of price stability the saver in the 30-percent tax bracket would pay $12 on $40 of real benefit. In contrast, during a period of 10-percent inflation, the same saver would pay $15.75 in taxes, even though he loses real purchasing power.

If prices are increasing at a 10-percent rate, while saving rates remain constant, the real benefit is to buy now rather than save. To save now and foresake consumer spending would result in a loss of purchasing power while, at the same time, prices are increasing at a 10-percent rate.

This "buy now" philosophy and the resulting reduction in savings only tend to worsen our current inflation problem. The consumer is finding himself in a vicious circle. This "buy now" attitude to avoid higher prices in the future, only pushes prices up. Borrowers bid up interest rates as the supply of savings declines. "Buy now" means greater demand for the same amount of goods. All these pressures translate into higher consumer prices.

The inflation and tax disincentives to save clearly show up in our declining savings rate.

The rate of saving as a percent of disposable income has dropped from 7.7 percent in 1975 to 4.8 percent in the fourth quarter of 1978, according to the U.S. Department of Commerce. At the same time, consumer prices have risen at a 10.8-percent annual rate.

This alarming decline in savings means reduced capital investment, lower productivity and higher interest rates. In order to increase savings during a period of higher prices, some action must be taken to offset the disincentives to saving that accompany rampant inflation. If current savings and buying trends are to be reversed, substantial savings incentives must be created.

The tax relief measure I am introducing today provides such incentives and would substantially benefit all savers, while helping to spur economic growth. By increasing the flow of dollars to savings accounts it would relieve pressure on the high interest rates which are preventing young Americans from purchasing a house. In addition, by making savings more attractive, it would help shift dollars spent on consumption to dollars put in savings accounts, thus helping to relieve demand inflation.

Every portion of society would benefit from the bill. It would help stabilize consumer prices. It would help stabilize housing prices by stimulating more home building. It would help provide increased dollars for needed capital investments and help spur productivity growth. And, it would help protect the savings of our elderly and retired who now see those savings dwindled by the ravages of inflation.

By Mr. CHURCH (for himself, Mr. GARN, Mr. HATCH, Mr. SIMPSON, Mr. WALLOP, and Mr. MCCLURE):

S. 1489. A bill to consent to the amended Bear River Compact between the States of Utah, Wyoming, and Idaho; to the Committee on the Judiciary.

UPDATING THE BEAR RIVER COMPACT

● Mr. CHURCH. Mr. President, I am pleased to introduce legislation giving congressional consent to amendments to the Bear River Compact that have been agreed to by the States of Idaho, Utah, and Wyoming. Senators GARN and HATCH of Utah, Senators WALLOP and SIMPSON of Wyoming, and Senator

McCLURE of Idaho join me in asking that the Senate give its early consent to this amended compact.

Water in the West is crucial. With careful management and foresight, this limited resource can continue to fulfill its vital role in Western life. The future of our Western farms, factories, wildlife, recreation, and energy production are inextricably dependent upon water. The demands placed on our streams and lakes are multiple and can lead to a complex array of difficult issues.

The original Bear River Compact, consented to in 1958, sought to resolve difficult issues of water use, development, and apportionment among the contracting States of Idaho, Wyoming, and Utah. The Bear River drainage area is a unique mix of mountains and farms, forests and homes. While the original compact has been useful and productive to the area, changes in water use patterns and evolving future demands pointed to the need to review and amend the compact. Because of the key role water plays in the area, detailed discussions were required to arrive at equitable solutions. It is commendable that local citizens and State representatives were able to resolve these difficulties and produce an amended compact which has been approved by the legislatures of the three States.

Mr. President, I ask unanimous consent that the text of the bill consenting to the amended Bear River Compact be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amended Bear River Compact between the States of Idaho, Utah, and Wyoming. Such compact reads as follows:

"AMENDED BEAR RIVER COMPACT

"The State of Idaho, the State of Utah and the State of Wyoming, acting through their respective Commissioners after negotiations participated in by a representative of the United States of America appointed by the President, have agreed to an Amended Bear River Compact as follows:

"ARTICLE I

"A. The major purposes of this Compact are to remove the causes of present and future controversy over the distribution and use of the waters of the Bear River; to provide for efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River; to promote interstate comity; and to accomplish an equitable apportionment of the waters of the Bear River among the compacting States.

"B. The physical and all other conditions peculiar to the Bear River constitute the basis for this Compact. No general principle or precedent with respect to any other interstate stream is intended to be established.

"ARTICLE II

"As used in this Compact the term

"1. 'Bear River' means the Bear River and its tributaries from its source in the Uinta Mountains to its mouth in Great Salt Lake;

"2. 'Bear Lake' means Bear Lake and Mud Lake;

"3. 'Upper Division' means the portion of Bear River from its source in the Uinta Mountains to and including Pixley Dam, a division dam in the Southeast Quarter of Section 25, Township 23 North, Range 120 West, Sixth Principal Meridian, Wyoming;

"4. 'Central Division' means the portion of Bear River from Pixley Dam to and including Stewart Dam, a diversion dam in Section 34, Township 13 South, Range 44 East, Boise Base and Meridian, Idaho;

"5. 'Lower Division' means the portion of the Bear River between Stewart Dam and Great Salt Lake, including Bear Lake and its tributary drainage;

"6. 'Upper Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River and the tributaries of the Bear River joining the Bear River upstream from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming; excluding the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

"7. 'Upper Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming, to the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, and including the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal.

"8. 'Lower Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, to the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph, Utah;

"9. 'Lower Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph to and including the diversion at Pixley Dam;

"10. 'Commission' means the Bear River Commission, organized pursuant to Article III of this Compact;

"11. 'Water user' means a person, corporation, or other entity having a right to divert water from the Bear River for beneficial use;

"12. 'Second-foot' means a flow of one cubic foot of water per second of time passing a given point;

"13. 'Acre-foot' means the quantity of water required to cover one acre to a depth of one foot, equivalent to 43,560 cubic feet;

"14. 'Biennium' means the 2-year period commencing on October 1 of the first odd-numbered year after the effective date of this Compact and each 2-year period thereafter;

"15. 'Water year' means the period beginning October 1 and ending September 30 of the following year;

"16. 'Direct flow' means all water flowing in a natural watercourse except water released from storage or imported from a source other than the Bear River watershed;

"17. 'Border Gaging Station' means the stream flow gaging station in Idaho on the Bear River above Thomas Fork near the Wyoming-Idaho boundary line in the Northeast Quarter of the Northeast Quarter of Section 15, Township 14 South, Range 46 East, Boise Base and Meridian, Idaho;

"18. 'Smiths Fork' means a Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Bear River near Cokeville, Wyoming;

"19. 'Grade Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a westerly direction and in its natural channel is tributary to Smiths Fork in Section 17, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"20. 'Pine Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, emerging from its mountain canyon in Section 34, Township 25, North, Range 118 West, Sixth Principal Meridian, Wyoming, and in its natural channel is tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"21. 'Bruner Creek' and 'Pine Creek Springs' means Smiths Fork tributaries which rise in Lincoln County, Wyoming, in Sections 31 and 32, Township 25 North, Range 118 West, Sixth Principal Meridian, and in their natural channels are tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"22. 'Spring Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, in Sections 1 and 2, Township 24, Range 119 West, Sixth Principal Meridian, Wyoming, and flows in a general westerly direction to its confluence with Smiths Fork in Section 4, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"23. 'Sublette Creek' means the Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general westerly direction to its confluence with Bear River in Section 20, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"24. 'Hobble Creek' means the Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Smiths Fork in Section 35, Township 28 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"25. 'Hilliard East Fork Canal' means that irrigation canal which diverts water from the right bank of the East Fork of Bear River in Summit County, Utah, at a point West 1,310 feet and North 330 feet from the Southeast corner of Section 16, Township 2 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the Southwest Quarter of Section 21, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"26. 'Lannon Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, East 1,480 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"27. 'Lone Mountain Ditch' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, North 1,535 feet and East 1,120 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"28. 'Hilliard West Side Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, at a point North 2,190 feet and East 1,450 feet from the South Quarter corner of Section 13, Township 3 North, Range 9 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"29. 'Francis Lee Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter corner of Section 30, Township 18 North, Range 120 West, Sixth Principal Meridian, Wyoming, and runs in a westerly direction across the

Wyoming-Utah State line into Section 16, Township 9 North, Range 8 East, Salt Lake Base and Meridian, Utah;

"30. 'Chapman Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter of Section 36, Township 16 North, Range 121 West, Sixth Principal Meridian, Wyoming, and runs in a northerly direction crossing over the low divided into the Saleratus drainage basin near the Southeast corner of Section 36, Township 17 North, Range 121 West, Sixth Principal Meridian, Wyoming, and then in a general westerly direction crossing the Wyoming-Utah State line;

"31. 'Neponset Reservoir' means that reservoir located principally in Sections 34 and 35, Township 8 North, Range 7 East, Salt Lake Base and Meridian, Utah, having a capacity of 6,900 acre-feet.

"ARTICLE III

"A. There is hereby created an interstate administrative agency to be known as the 'Bear River Commission' which is hereby constituted a legal entity and in such name shall exercise the powers hereinafter specified. The Commission shall be composed of nine Commissioners, three Commissioners representing each signatory State, and if appointed by the President, one additional Commissioner representing the United States of America who shall serve as chairman, without vote. Each Commissioner, except the chairman, shall have one vote. The State Commissioners shall be selected in accordance with State law. Six Commissioners who shall include two Commissioners from each State shall constitute a quorum. The vote of at least two-thirds of the Commissioners when a quorum is present shall be necessary for the action of the Commission.

"B. The compensation and expenses of each Commissioner and each adviser shall be paid by the government which he represents. All expenses incurred by the Commission in the administration of this Compact, except those paid by the United States of America, shall be paid by the signatory States on an equal basis.

"C. The Commission shall have power to:

"1. Adopt bylaws, rules, and regulations not inconsistent with this Compact;

"2. Acquire, hold, convey or otherwise dispose of property;

"3. Employ such persons and contract for such services as may be necessary to carry out its duties under this Compact;

"4. Sue and be sued as a legal entity in any court of record of a signatory State, and in any court of the United States having jurisdiction of such action;

"5. Co-operate with State and Federal agencies in matters relating to water pollution of interstate significance;

"6. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in cooperation with others, including State and Federal agencies.

"D. The Commission shall:

"1. Enforce this Compact and its order made hereunder by suit or other appropriate action;

"2 Compile a report covering the work of the Commission and expenditures during the current biennium, and an estimate of expenditures for the following biennium and transmit it to the President of the United States and to the Governors of the signatory States on or before July 1 following each biennium.

"ARTICLE IV

"Rights to direct flow water shall be administered in each signatory State under State law, with the following limitations:

"A. When there is a water emergency, as hereinafter defined for each division, water shall be distributed therein as provided below.

"1. Upper Division

"a. When the divertible flow as defined below for the upper division is less than 1,250 second-feet, a water emergency shall be deemed to exist therein and such divertible flow is allocated for diversion in the river sections of the Division as follows:

"Upper Utah Section Diversions—0.6 percent,

"Upper Wyoming Section Diversions—49.3 percent,

"Lower Utah Section Diversions—40.5 percent,

"Lower Wyoming Section Diversions—9.6 percent.

"Such divertible flow shall be the total of the following five items:

"(1) Upper Utah Section Diversions in second-feet,

"(2) Upper Wyoming Section Diversions in second-feet,

"(3) Lower Utah Section Diversions in second-feet,

"(4) Lower Wyoming Section Diversions in second-feet,

"(5) The flow in second-feet passing Pixley Dam.

"b. The Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal, which divert water in Utah to irrigate lands in Wyoming, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"c. The Chapman, Bear River, and Francis Lee Canals, which divert water from the main stem of Bear River in Wyoming to irrigate lands in both Wyoming and Utah, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"d. The Beckwith Quinn West Side Canal, which diverts water from the main stem of Bear River in Utah to irrigate lands in both Utah and Wyoming, shall be supplied from the divertible flow allocated to the Lower Utah Section Diversions.

"e. If for any reason the aggregate of all diversions in a river section of the Upper Division does not equal the allocation of water thereto, the unused portion of such allocation shall be available for use in the other river sections in the Upper Division in the following order: (1) In the other river section of the same State in which the unused allocation occurs; and (2) in the river sections of the other State. No permanent right of use shall be established by the distribution of water pursuant to this paragraph e.

"f. Water allocated to the several sections shall be distributed in each section in accordance with State law.

"2. Central Division

"a. When either the divertible flow as hereinafter defined for the Central Division is less than 870 second-feet, or the flow of the Bear River at Border Gaging Station is less than 350 second-feet, whichever shall first occur, a water emergency shall be deemed to exist in the Central Division and the total of all diversions in Wyoming from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, Smiths Fork, and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and from the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border shall be limited for the benefit of the State of Idaho, to not exceeding forty-three (43) percent of the divertible flow. The remaining fifty-seven (57) percent of the divertible flow shall be available for use in Idaho in the Central Division, but if any portion of such allocation is not used therein it shall be available for use in Idaho in the Lower Division.

"The divertible flow for the Central Division shall be the total of the following three items:

"(1) Diversion in second-feet in Wyoming consisting of the sum of all diversions from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, and Smiths Fork and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border, Wyoming.

"(2) Diversions in second-feet in Idaho from the Bear River main stem from the point where the river crosses the Wyoming-Idaho State line near Border to Stewart Dam including West Fork Canal which diverts at Stewart Dam.

"(3) Flow in second-feet of the Rainbow Inlet Canal and of the Bear River passing downstream from Stewart Dam.

"b. The Cook Canal, which diverts water from the main stem of the Bear River in Wyoming to irrigate lands in both Wyoming and Idaho, shall be considered a Wyoming diversion and shall be supplied from the divertible flow allocated to Wyoming.

"c. Water allocated to each State shall be distributed in accordance with State law.

"3. Lower Division

"a. When the flow of water across the Idaho-Utah boundary line is insufficient to satisfy water rights in Utah, covering water applied to beneficial use prior to January 1, 1976, any water user in Utah may file a petition with the Commission alleging that by reason of diversions in Idaho he is being deprived of water to which he is justly entitled, and that by reason thereof, a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds a water emergency exists, it shall put into effect water delivery schedules based on priority of rights and prepared by the Commission without regard to the boundary line for all or any part of the Division, and during such emergency, water shall be delivered in accordance with such schedules by the State official charged with the administration of public waters.

"B. The Commission shall have authority upon its own motion (1) to declare a water emergency in any or all river divisions based upon its determination that there are diversions which violate this Compact and which encroach upon water rights in a lower State, (2) to make appropriate orders to prevent such encroachments, and (3) to enforce such orders by action before State administrative officials or by court proceedings.

"C. When the flow of water in an interstate tributary across a State boundary line is insufficient to satisfy water rights on such tributary in a lower State, any water user may file a petition with the Commision alleging that by reason of diversions in an upstream State he is being deprived of water to which he is justly entitled and that by reason thereof a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds that a water emergency exists and that interstate control of water of such tributary is necessary, it shall put into effect water delivery schedules based on priority of rights and prepared without regard to the State boundary line. The State officials in charge of water distribution on interstate tributaries may appoint and fix the compensation and expenses of a joint water commissioner for each tributary. The proportion of the compensation and expenses to be paid by each State shall be determined by the ratio between the number of acres therein which are irrigated by diversions from such tributary, and the total number of acres irrigated from such tributary.

"D. In preparing interstate water delivery schedules the Commission, upon notice and after public hearings, shall make findings of fact as to the nature, priority and extent of water rights, rates of flow, duty of water, irrigated acreages, types of crops, time of use, and related matters; provided that such schedules shall recognize and incorporate therein priority of water rights as adjudicated in each of the signatory States. Such findings of fact shall, in any court or before any tribunal, constitute prima facie evidence of the facts found.

"E. Water emergencies provided for herein shall terminate on September 30 of each year unless terminated sooner or extended by the Commission.

"ARTICLE V

"A. Water rights in the Lower Division acquired under the laws of Idaho and Utah covering water applied to beneficial use prior to January 1, 1976, are hereby recognized and shall be administered in accordance with State law based on priority of rights as provided in Article IV, paragraph A3. Rights to water first applied to beneficial use on or after January 1, 1976, shall be satisfied from the respective allocations made to Idaho and Utah in this paragraph and the water allocated to each State shall be administered in accordance with State law. Subject to the foregoing provisions, the remaining water in the Lower Division, including ground water tributary to the Bear River, is hereby apportioned for use in Idaho and Utah as follows:

"(1) Idaho shall have the first right to the use of such remaining water resulting in an annual depletion of not more than 125,000 acre-feet.

"(2) Utah shall have the second right to the use of such remaining water resulting in an annual depletion of not more than 275,000 acre-feet.

"(3) Idaho and Utah shall each have an additional right to deplete annually on an equal basis, 75,000 acre-feet of the remaining water after the rights provided by subparagraphs (1), and (2) above have been satisfied.

"(4) Any remaining water in the Lower Division after the allocations provided for in subparagraphs (1), (2), and (3) above have been satisfied shall be divided; thirty (30) percent to Idaho and seventy (70) percent to Utah.

"B. Water allocated under the above subparagraphs shall be charged against the State in which it is used regardless of the location of the point of diversion.

"C. Water depletions permitted under provisions of subparagraphs (1), (2), (3), and (4) above, shall be calculated and administered by a Commission-approved procedure.

"ARTICLE VI

"A. Existing storage rights in reservoirs constructed above Stewart Dam prior to February 4, 1955, are as follows:

	Acre-feet
"Idaho	324
"Utah	11,850
"Wyoming	2,150

"Additional rights are hereby granted to store in any water year above Stewart Dam, 35,500 acre-feet of Bear River water and no more under this paragraph for use in Utah and Wyoming; and to store in any water year in Idaho or Wyoming on Thomas Fork 1,000 acre-feet of water for use in Idaho. Such additional storage rights shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam. One-half of the 35,500 acre-feet of additional storage right above Stewart Dam so granted to Utah and Wyoming is hereby allocated to Utah, and the remaining one-half thereof is allocated to Wyoming.

"B. In addition to the rights defined in Paragraph A of this Article, further storage entitlements above Stewart Dam are hereby granted. Wyoming and Utah are granted an additional right to store in any year 70,000 acre-feet of Bear River water for use in Utah and Wyoming to be divided equally; and Idaho is granted an additional right to store 4,500 acre-feet of Bear River water in Wyoming or Idaho for use in Idaho. Water rights granted under this paragraph and water appropriated, including ground water tributary to Bear River, which is applied to beneficial use on or after January 1, 1976, shall not result in an annual increase in depletion of the flow of the Bear River and its tributaries above Stewart Dam of more than 28,000 acre-feet in excess of the depletion as of January 1, 1976. Thirteen thousand (13,000) acre-feet of the additional depletion above Stewart Dam is allocated to each of Utah and Wyoming, and two thousand (2,000) acre-feet is allocated to Idaho.

"The additional storage rights provided for in this Paragraph shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam; provided, however, there shall be no diversion of water to storage above Stewart Dam under this Paragraph B when the water surface elevation of Bear Lake is below 5,911.00 feet, Utah Power & Light Company datum (the equivalent of elevation 5,913.75 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947). Water depletions permitted under this Paragraph B shall be calculated and administered by a Commission-approved procedure.

"C. In addition to the rights defined in Article VI, Paragraphs A and B, Idaho, Utah and Wyoming are granted the right to store and use water above Stewart Dam that otherwise would be bypassed or released from Bear Lake at times when all other direct flow and storage rights are satisfied. The availability of such water and the operation of reservoir space to store water above Bear Lake under this paragraph shall be determined by a Commission-approved procedure. The storage provided for in this Paragraph shall be subordinate to all other storage and direct flow rights in the Bear River. Storage rights under this Paragraph shall be exercised with equal priority on the following basis: six (6) percent thereof to Idaho; forty-seven (47) percent thereof to Utah; and forty-seven (47) percent thereof to Wyoming.

"D. The waters of Bear Lake below elevation 5,912.91 feet, Utah Power and Light Company Bear Lake datum (the equivalent of elevation 5,915.66 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947) shall constitute a reserve for irrigation. The water of such reserve shall not be released solely for the generation of power, except in emergency, but after release for irrigation it may be used in generating power if not inconsistent with its use for irrigation. Any water in Bear Lake in excess of that constituting the irrigation reserve may be used for the generation of power or for other beneficial uses. As new reservior capacity above the Stewart Dam is constructed to provide additional storage pursuant to Paragraph A of this Article, the Commission shall make a finding in writing as to the quantity of additional storage and shall thereupon make an order increasing the irrigation reserve in accordance with the following table:

"Additional storage (acre-feet):	*Lake surface elevation, Utah Power & Light Co., Bear Lake datum*
5,000	5,913.24
10,000	5,913.56
15,000	5,913.87
20,000	5,914.15
25,000	5,914.41
30,000	5,914.61
35,500	5,914.69
36,500	5,914.70

"E. Subject to existing rights, each State shall have the use of water, including groundwater, for ordinary domestic, and stock watering purposes, as determined by State law and shall have the right to impound water for such purposes in reservoirs having storage capacities not in excess, in any case, of 20 acre-feet, without deduction from the allocation made by paragraphs A, B, and C of this Article.

"F. The storage rights in Bear Lake are hereby recognized and confirmed subject only to the restrictions hereinbefore recited.

"ARTICLE VII

"It is the policy of the signatory States to encourage additional projects for the development of the water resources of the Bear River to obtain the maximum beneficial use of water with a minimum of waste, and in furtherance of such policy, authority is granted within the limitations provided by this Compact, to investigate, plan, construct, and operate such projects without regard to State boundaries, provided that water rights for each such project shall, except as provided in Article VI, paragraphs A and B, thereof, be subject to rights theretofore initiated and in good standing.

"ARTICLE VIII

"A. No State shall deny the right of the United States of America, and subject to the conditions hereinafter contained, no State shall deny the right of another signatory State, any person or entity of another signatory State, to acquire rights to the use of water or to construct or to participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals, and conduits in one State for use of water in another State, either directly or by exchange. Water rights acquired for out-of-state use shall be appropriated in the State where the point of diversion is located in the manner provided by law for appropriation of water for use within such State.

"B. Any signatory State, any person or any entity of any signatory State, shall have the right to acquire in any other signatory State such property rights as are necessary to the use of water in conformity with this Compact by donation, purchase, or, as hereinafter provided through the exercise of the power of eminent domain in accordance with the law of the State in which such property is located. Any signatory State, upon the written request of the Governor of any other signatory State for the benefit of whose water users property is to be acquired in the State to which such written request is made, shall proceed expeditiously to acquire the desired property either by purchase at a price acceptable to the requesting Governor, or if such purchase cannot be made, then through the exercise of its power of eminent domain and shall convey such property to the requesting State or to the person, or entity designated by its Governor provided, that all costs of acquisition and expenses of every kind and nature whatsoever incurred in obtaining such property shall be paid by the requesting State or the person or entity designated by its Governor.

"C. Should any facility be constructed in a signatory State by and for the benefit of another signatory State or persons or entities therein, as above provided, the construction, repair, replacement, maintenance and operation of such facility shall be subject to the laws of the State in which the facility is located.

"D. In the event lands or other taxable facilities are acquired by a signatory State in another signatory State for the use and benefit of the former, the users of the water made available by such facilities, as a condition precedent to the use thereof, shall pay to the political subdivisions of the State in which such facilities are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the average of the amount of taxes annually levied and assessed against the land and improvements thereon during the ten years preceding the acquisition of such land. Said payments shall be in full reimbursement for the loss of taxes in such political subdivision of the State.

"E. Rights to the use of water acquired under this Article shall in all respects be subject to this Compact.

"ARTICLE IX

"Stored water, or water from another watershed may be turned into the channel of the Bear River in one State and a like quantity, with allowance for loss by evaporation, transpiration, and seepage, may be taken out of the Bear River in another State either above or below the point where the water is turned into the channel, but in making such exchange the replacement water shall not be inferior in quality for the purpose used or diminished in quantity. Exchanges shall not be permitted if the effect thereof is to impair vested rights or to cause damage for which no compensation is paid. Water from another watershed or source which enters the Bear River by actions within a State may be claimed by that State and use thereof by that State shall not be subject to the depletion limitations of Articles IV, V and VI. Proof of any claimed increase in flow shall be the burden of the State making such claim, and it shall be approved only by the unanimous vote of the Commission.

"ARTICLE X

"A. The following rights to the use of Bear River water carried in interstate canals are recognized and confirmed.

"Name of Canal	Date of priority	Primary right 2d-feet	Lands irrigated	
			Acres	State
Hilliard East Fork	1914	28.00	2,644	Wyoming.
Chapman	Aug. 13, 1986	16.46	1,155	Wyoming.
	Aug. 13, 1986	98.46	6,892	Utah.
	Apr. 12, 1912	.57	40	Wyoming.
	May 3, 1912	4.07	285	Utah.
	May 21, 1912	10.17	712	Utah.
	Feb. 6, 1913	.79	55	Wyoming.
	Aug. 28, 1905	[1] 134.00		
Francis Lee	1879	2.20	154	Wyoming
	1879	7.41	519	Utah.

"[1] Under the right as herein confirmed not to exceed 134 second-feet may be carried across the Wyoming-Utah State line in the Chapman Canal at any time for filling the Neponset Reservoir, for irrigation of land in Utah and for other purposes. The storage right in Neponset Reservoir is for 6,900 acre-feet, which is a component part of the irrigation right for the Utah lands listed above.

"All other rights to the use of water carried in interstate canals and ditches, as adjudicated in the State in which the point of diversion is located, are recognized and confirmed.

"B. All interstate rights shall be administered by the State in which the point of diversion is located and during times of water emergency, such rights shall be filled from the allocations specified in Article IV hereof for the Section in which the point of diversion is located, with the exception that the diversion of water into the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal shall be under the administration of Wyoming. During times of water emergency these canals and the Lone Mountain Ditch shall be supplied from the allocation specified in Article IV for the Upper Wyoming Section Diversions.

"ARTICLE XI

"Applications for appropriation, for change of point of diversion, place and nature of use, and for exchange of Bear River water shall be considered and acted upon in accordance with the law of the State in which the point of diversion is located, but no such application shall be approved if the effect thereof will be to deprive any water user in another State of water to which he is entitled, nor shall any such application be approved if the effect thereof will be an increase in the depletion of the flow of the Bear River and its tributaries beyond the limits authorized in each State in Articles IV, V and VI of this Compact. The official of each State in charge of water administration shall, at intervals and in the format established by the Commission, report on the status of use of the respective allocations.

"ARTICLE XII

"Nothing in this Compact shall be construed to prevent the United States, a signatory State or political subdivision thereof, person, corporation, or association, from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under State or Federal law or under this Compact.

"ARTICLE XIII

"Nothing contained in this Compact shall be deemed

"1 To affect the obligations of the United States of America to the Indian tribes;

"2. To impair, extend or otherwise affect any right or power of the United States, its agencies or instrumentalities involved herein; nor the capacity of the United States to hold or acquire additional rights to the use of the water of the Bear River;

"3. To subject any property or rights of the United States to the laws of the States which were not subject thereto prior to the date of this Compact;

"4. To subject any property of the United States to taxation by the States or any subdivision thereof, nor to obligate the United States to pay any State or subdivision thereof for loss of taxes.

"ARTICLE XIV

"At intervals not exceeding twenty years, the Commission shall review the provisions hereof, and after notice and public hearing, may propose amendments to any such provisions, provided, however, that the provisions contained herein shall remain in full force and effect until such proposed amendments have been ratified by the legislatures of the signatory States and consented to by Congress.

"ARTICLE XV

"This Compact may be terminated at any time by the unanimous agreement of the signatory States. In the event of such termination all rights established under it shall continue unimpaired.

"ARTICLE XVI

"Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or to the Constitution of the United States, all other severable provisions of this Compact shall continue in full force and effect.

"ARTICLE XVII

"This Compact shall be in effect when it shall have been ratified by the Legislature of each signatory State and consented to by the Congress of the United States of America. Notice of ratification by the legislatures of the signatory States shall be given by the Governor of each signatory State to the Governor of each of the other signatory States and to the President of the United States of America, and the President is hereby requested to give notice to the Governor of each of the signatory States of approval by the Congress of the United States of America.

"IN WITNESS WHEREOF, the Commissioners and their advisers have executed this Compact in five originals, one of which shall be deposited with the General Services Administration of the United States of America, one of which shall be forwarded to the Governor of each of the signatory States, and one of which shall be made a part of the permanent records of the Bear River Commission.

"Done at Salt Lake City, Utah, this 22nd day of December, 1978.

"For the State of Idaho:
"(s) Clifford J. Skinner
"(s) J. Daniel Roberts
"(s) Don W. Gilbert
"For the State of Utah:
"(s) S. Paul Holmgren
"(s) Simeon Weston
"(s) Daniel F. Lawrence
"For the State of Wyoming:
"(s) George L. Christopulos
"(s) J. W. Myers
"(s) John A. Teichert
"Approved:
"Wallace N. Jibson
"Representative of the United States of America
"Attest:
"Daniel F. Lawrence
"Secretary of the Bear River Commission."●

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S. 1491. A bill to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building"; to the Committee on Environment and Public Works.

HENRY D. PARKINSON FEDERAL BUILDING

● Mr. DOLE. Mr. President, today Senator KASSEBAUM and I are introducing legislation to designate the Federal Building in Scott City, Kans., as the "Henry D. Parkinson Federal Building."

Renaming this local Federal Building in honor of Mr. Parkinson is particularly appropriate, because he contributed so much time and effort in bringing this building to Scott City.

This proposal has the enthusiastic support of all Scott City residents. The mayor of Scott City, the Honorable E. S. Gene Henderson, and over 15 leading civic organizations have endorsed resolutions to name the building for Mr. Parkinson. Mr. Parkinson's influence in the development of this community and his efforts are deeply appreciated. He worked unselfishly in local, State, and national affairs, and truly loved this country and the principles under which it was founded.

Born at Wellsville, Utah, on September 5, 1907, his active career in agriculture, banking, and politics spanned over four decades. He died in Wichita, Kans., on June 25, 1977, after a full and productive life.

Mr. Parkinson, who had been a resident of Scott City since 1925, was owner of the Burnett-Parkinson feedlot at his farm near Scott City. He was founder, president, and chairman of the board of directors of the Security State Bank of Scott City. He was a member of the Garden National Bank board of directors in Wichita, Kans., the Kansas Bankers Association, and the Kansas and National Livestock Associations. Mr. Parkinson was a past member of the Anthem Masonic Lodge 284, KCCH degree, Scott County Shrine Club, the Wichita Consistory, and Isis Temple of Salina, Kans.

In addition to his interests in agriculture, banking, and civic affairs, Mr. Parkinson was active in politics. His race for Congress in 1948 and his primary campaign for the office of Governor in 1952 were the highlights of his interest in public life.

Henry Parkinson's voice was heard and respected in the highest councils of fraternal, business, agricultural, and political affairs and his advice was sought by many.

Honoring Mr. Parkinson, as proposed by the mayor and citizens of Scott City, will do much to encourage others to pursue the principles of community commitment, sound conservation of our agriculture resources and responsible business practices. I join with the overwhelming majority of the citizens of Scott City in stating that there can be no more deserving recognition than to give this building his name.

The Senators from Kansas encourage the Environment and Public Works Committee to give this bill prompt and favorable consideration. Henry D. Parkinson meets all of the criteria for such an honor. This legislation has the support of the entire Kansas congregressional delegation. Most importantly, naming the Federal building for him will recognize his many contributions to Scott City and the State of Kansas.●

By Mr. NELSON (for himself, Mr. DURENBERGER and Mr. PROXMIRE):

S. 1492. A bill to save the Milwaukee Road's freight-carrying capacity; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON. Mr. President, along with my distinguished colleague from Wisconsin (Mr. PROXMIRE) and the distinguished Senator from Minnesota (Mr. DURENBERGER), I am introducing today this companion bill to H.R. 4686, which was introduced in the House on June 28 by Congressman HENRY REUSS and 18 cosponsors. The bill provides a legal framework within which the essential core of the Chicago, Milwaukee, St. Paul, and Pacific Railroad—"The Milwaukee Road"—can be preserved.

The Milwaukee Road's current state of near collapse is profoundly dangerous to the economy of the entire Midwest. At present, the bankrupt road is losing approximately $10 million per month. It is being kept alive only by a recent loan of $20 million by the Federal Railroad Administration. This loan will probably allow the Milwaukee to survive through the summer and into the fall. Most observers agree that another winter like the last one may force the Milwaukee into liquidation. The Milwaukee's creditors are already urging U.S. District Judge Thomas McMillen, who is presiding over the Milwaukee's bankruptcy proceedings, to liquidate the railroad's assets lest their "estate" be eroded by further losses.

What is to be done? Various proposals have been made. Some in Congress have proposed that we explore the feasibility of employees and shipper ownership of the railroad. This does not seem to me to be a possible alternative. The Milwaukee is losing hundreds of thousands of dollars a day. It is deferring thousands of dollars worth of needed maintenance every month. Its accumulated capital needs are huge, in excess of $1 billion. In its present state, it is not a reasonable investment for anybody, especially its hard-pressed employees.

In my view, the Milwaukee's only hope lies in the proposed reorganization plan proposed by Stanley Hillman, the Milwaukee's able former trustee in bankruptcy. This plan would preserve the essential core of the railroad and would include routes in Illinois, Indiana, Iowa, Minnesota, Wisconsin, South Dakota, North Dakota, and west to Miles City, Mont. Negotiations are now underway which may provide for the assumption of other Milwaukee routes by other railroads, particularly the Northwestern in Iowa, the Rock Island in Iowa and Missouri, and the Burlington Northern and Union Pacific in Montana, Idaho, and Washington. However, there is no question that totally uneconomic routes will have to be abandoned. This reorganized "core" would contain approximately one-third of the Milwaukee's present 9,800 miles of lines.

Judge McMillen, on June 1, 1979, held that under current law he lacked the power to implement the trustee's reorganization plan. This legislation will give him the power to do so and also provide adequate protection for the Milwaukee's employees.

Section 1 of the bill would amend the Federal bankruptcy law to allow Federal judges to order abandonment of uneconomic lines for railroads already in bankruptcy at the time the Federal Bankruptcy Act amendments were passed in 1978. This provision would bring the Milwaukee Road under the aegis of the expedited abandonment procedures provided by the Bankruptcy Reform Act.

Section 2 of the bill would provide that the ICC could direct another railroad to operate for up to 240 days a line abandoned by a railroad pursuant to the order of a Federal bankruptcy judge. Under present law, "directed service" can only be ordered after a line has been ordered pursuant to ICC proceedings. Section 2 would also permit the ICC to direct service by truck or water transportation if this would be "less costly or more energy-efficient than directing rail service." Public money is required to subsidize directed service and we want that money to be spent as efficiently as possible. Section 2 also states that railroad employees need only transfer to other transportation modes "to the extent feasible." The present directed service law only provides for one railroad assuming temporarily the routes of another and employees generally transfer. It would not make sense for, say, a barge company to have to accept railroad employees who were either unable or unwilling to learn barge work. Likewise, it would be ill-advised to require that railroad workers make a sudden adjustment to the very different job demands of other transportation modes.

Section 3 provides the labor protection which is generally made available after other officially approved abandonments. What will be provided to discharged employees is either one lump sum payment or 6 years of payments, both based on previous salary. What this will cost the taxpayers is at present uncertain. It has been estimated that the services of approximately 2,000 of the Milwaukee's 10,000 employees would no longer be required when reorganization was complete. Payments to them might amount to $125 million, according to preliminary estimates. Obviously, much more detailed cost estimate need to be made during the committee process. Section 3 would require that the reorganized railroad would have to repay to the Government such funds as it can. However, in all candor, I doubt that much, if any, labor protection payments will ever be repaid to the U.S. Treasury, as even a reorganized Milwaukee Road will not possess many excess dollars.

It is terribly regrettable that any employees will lose their jobs. And there are dangers in Government rescuing failing corporations. But allowing the Milwaukee to fail will cause all employees to lose their jobs and inflict far greater costs on our economy than would this bill. It would, in fact, be an unthinkable catastrophe.

The time is short. I urge the speediest possible consideration of this measure and its early enactment by the Senate. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ABANDONMENT OF RAILROAD LINES

SECTION 1. Section 77(o) of the Bankruptcy Act (11 U.S.C. 205(o)) is amended by striking out "or as it may be hereafter amended" and inserting in lieu thereof "unless a petition had been filed between December 18, 1977 and November 6, 1978."

SHIPPER PROTECTION

SEC. 2. (a) Section 11125(a) of title 49, United States Code, is amended by adding after the first sentence thereof the following new sentence: "The Commission may also negotiate with, and issue directions to, a willing provider of truck or water transportation to transport the traffic of shippers using a railroad line abandoned pursuant to court action under section 77 of the Bankruptcy Act, if the Commission finds that such transportation would be less costly or more energy efficient than directing rail service."

(b) Section 11125(b)(4) of title 49, United States Code, is amended by inserting "(but only to the extent feasible in the case of a directed carrier by truck or water)" immediately after "A directed carrier shall".

LABOR PROTECTION

SEC. 3. Section 11125 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) Any employee displaced from his employment by an abandonment pursuant to court action under section 77(o) of the Bankruptcy Act who does not receive employment under subsection (b)(4) of this section or otherwise in the railroad industry, and any such displaced employee whose employment under subsection (b)(4) of this section is terminated at the conclusion of directed service, shall be provided a fair arrangement at least as protective of his interests as the terms imposed under section 11347 of this title before February 5, 1976, and the term established under section 565 of title 45.

"(2) Any rail carrier required to provide protective arrangements for employees under this section shall be reimbursed for the cost of such arrangements by the Railroad Retirement Board. At such time as the Board determines that the financial condition of such rail carrier so permits, the Board shall direct such carrier to repay the Board for such reimbursement.

"(3) There are authorized to be appropriated to the Board such sums as may be necessary for making reimbursements under this subsection.".

Mr. DURENBERGER. Mr. President, I rise today with my distinguished colleague from Wisconsin, Senator GAYLORD NELSON to introduce a bill that will restore stability to the financially troubled Milwaukee Road.

The financial difficulties encountered by the Milwaukee have been widely publicized, and their effect on the economy of the Northwest cannot be overstated. The Milwaukee Road provides the commercial lifeline through one of America's richest agricultural areas. In my State alone, the railroad services 48 of the 100 most productive agricultural counties in the world, according to the 1974 farm census. Approximately 75 percent of the production from these counties is exported to national and international markets, and the railroad is a critical link in this national—international food cycle.

In addition to its role as an agricultural hauler, the Milwaukee Road is a key link between Minnesota utilities and the coal fields of Montana and North Dakota. Interruption of service along Milwaukee's northern or Miles City main line could mean a loss of electrical service for at least 43,000 Minnesota homes and businesses, and an even greater number in our sister States of North and South Dakota. In the longer run, deterioration of this main line would yield increasingly serious results. The recently published report of the National Transportation Policy Study Commission points out that between today and the year 2000 our national dependence on coal will increase dramatically. Before the turn of the century, the center of our coal production will shift from eastern to western fields, a trend which will magnify the importance of railroads, like Milwaukee, with the capability of hauling coal from the Rockies to Mideastern and Midwestern States. These same energy and agricultural considerations apply to most of the States along the Milwaukee's road, and the line is simply too valuable a national asset to abandon.

But as devastating as that loss might be, it is becoming increasingly imminent with each passing day. Four weeks ago, the Federal Court administering the Milwaukee's bankruptcy rejected a proposed reorganization that would have addressed the railroad's long-term problems by focusing its limited resources and rolling stock on the system's most viable lines. The tragedy of this decision is illustrated in the words of the court itself, which recognized the rejected plan as the best if not the only way to assure the railroad's survival. But while recognizing the need to implement the plan, the court found itself without jurisdiction to order its adoption because of technicalities in the Bankruptcy Reform Act. Left with no alternative, the judge ordered the railroad to continue present operations until its financial resources were exhausted, and left it to Congress to make a final decision on whether the Milwaukee would live or die.

This ruling truly represents the worst possible alternative. As my colleague in the House, Congressman HENRY REUSS remarked, the railroad is literally bleeding to death, and unless some action is taken, it will cease operation before the end of September. For the farmers, this is a disastrous situation, because it threatens their ability to move fall crops to the market. For the hundreds of grain elevators along the Milwaukee lines, this situation is equally critical, since loss of the railroad would cut their commercial lifeline to State, national, and international markets. For a Federal Government attempting to balance its accounts, this bankruptcy has been an inordinate expense, draining tens of millions of dollars in operating subsidies from emergency railroad funds. But the cruelest loss is falling on the railroad's employees, who stand to lose their livelihood with only a bankrupt railroad to look to for security. Taken together, these events are rending both the social and economic fabric of the many agricultural communities dependent on Milwaukee Road.

The bill we propose today will remove the legal obstacles to the railroad's reorganization. In doing so, it will also provide directed rail, truck, and barge service to protect shippers along the embargoed lines, while creating a strong labor protection program to safeguard the financial well-being of railroad employees. It will return stability to the Milwaukee by permitting it to reorganize to a more geographically compact and economically sound system, an achievement which will yield benefits for every person dependent on the railroad's service.

First, for farmers and shippers, the bill will result in a stabilized commercial environment, insuring that this year's harvest will reach State, national, and international markets.

For those dependent on coal-powered utilities—both now, and in the next quarter century—the bill insures continuation of service, and preservation of an energy-efficient lifeline to the coal fields of Montana and North Dakota.

For the families of 10,000 employees faced with the bankruptcy or liquidation of their employer, the bill will provide a more financially certain future. It will preserve the jobs of the vast majority of Milwaukee employees, while endowing displaced employees with both guaranteed employment in the directed service system, and a strong, long-term labor protection package.

For the Federal Governemnt, the bill provides a fiscally responsible alternative to endless railroad subsidies. At present, the Milwaukee is living off Federal dollars, using tax moneys to sustain daily losses in the hundreds of thousands of dollars. Twenty million dollars in emergency railroad funds are already gone, and unless action is taken, the Milwaukee will have bled the Nation's emergency railroad funds dry by the end of this year.

In addition to these subsidy dollars, State and Federal Governments will sustain millions of dollars in tax losses, economic losses, and unemployment compensation payments as the railroad slips into insolvency. This is an entirely unsatisfactory arrangement. These millions of dollars in subsidies have done nothing to bring about a solution to Milwaukee's problems; despite such massive expenditures, we are ending up exactly where we started—with a bankrupt railroad.

The bill we file this afternoon alters that philosophy. Instead of wasting Federal dollars on subsidies, it invests those same dollars in a long-term solution to the railroad's problems. By creating structures that will facilitate the railroad's reorganization, it shifts the Federal role from subsidy to solution, enabling a public service industry to solve its own problems.

The course we advocate is certainly not an easy one. Some lines will be abandoned, including miles of trackage in my own State of Minnesota. But these are the same lines whose financial performance is draining the railroad, and a problem this complex cannot be resolved without facing these difficult choices. I want to make it plain, however, that I do not advocate abandoning shippers on the abandoned lines. The bill provides directed service on an interim basis, and I will do everything within my power to fashion long-term solutions for those lines, facilitating acquisition of the better routes by other railroads, and working with private industry to fashion transportation alternatives in other cases.

In advocating this approach, I am not ruling out the other solutions now under employee-shipper railroad. But that is discussion, including the option of an a complex option which will require long-term planning and substantial risk for both the Federal Government and the employees and shippers who must stake their personal finances against the long-term performance of the railroad. That plan provides an option, but it would be dangerous to view it as the only solution.

The bill we file this morning provides an immediate opportunity to fashion long-term solutions for the railroad's problems. And while this will involve some costs, they are minimal in comparison to the financial, economic, and human costs of continued inaction. I urge my colleagues to give the bill expeditious consideration and join in the effort to fashion a real solution to a very critical problem.

By Mr. STEVENSON:

S. 1493. A bill to create the Department of Commerce, Trade, and Technology, to consolidate in such department various functions of the Government with respect to commerce, international trade, and technology, and for other purposes; to the Committee on Governmental Affairs.

DEPARTMENT OF COMMERCE, TRADE, AND TECHNOLOGY ORGANIZATION ACT

• Mr. STEVENSON. Mr. President, I introduce a bill to create a new Department of Commerce, Trade, and Technology with functions at present dispersed among a number of agencies and offices. The Department of Commerce would be merged into the new Department of Commerce, Trade, and Technology.

The purposes of the bill are twofold. First, by consolidating trade functions into a single department, international trade and investment policy will be elevated to a status reflecting their importance to our economic well-being. Second, by uniting trade functions with the responsibilities for industrial policy and technology which already exist within the Department of Commerce, this bill develops an institutional framework in which technological innovation, industrial competitiveness, and export growth can all be promoted more effectively.

The United States alone among the major industrial countries has no single Government agency with authority and responsibility to advance its trading interests. Yet these trading interests are substantial—international trade and investment flows already mean one-third of a trillion dollars for this country annually. Other nations, more dependent upon maximizing their share of international commerce, have long organized for successful and aggressive competition in the world. In the United States we have been slow to awaken to the importance of overseas markets and laggard about competing. In the fast-growing trade with developing countries, for example, the Japanese over the past two decades have more than doubled their market shares in the export of manufactures—from 12.6 percent to 27.1 percent—while the U.S. share has declined. We cling to a quaint notion that Government policy has no role to play in promoting industrial well-being or trade expansion. We persist in casting Government and business as adversaries while foreign competitors find an integrated approach to industry, trade, and investment the key to economic success.

Today there is scarcely an industrial sector in the United States which does not face vigorous competition from abroad. In three decades, the Japanese and Europeans have recovered from World War II to challenge our dominance even in those industries where we had no peers—electronics, communications, and aviation.

Technology is the basis of our ability to compete. Technology-intensive products, measured by R. & D. input, account for approximately 40 percent of U.S. exports. By contrast, R. & D. intensive exports comprise only 28 percent of the total exports of Germany, Japan, France and the United Kingdom. Improved export competitiveness is tied clearly to support for technological innovation.

But even superior products do not market themselves. Successful competition in the world arena increasingly depends upon financing, marketing, and servicing. U.S. institutions like EXIM and OPIC lack the resources, clout, and policy backup to organize export "packages" as attractive as those proffered by foreign competitors. The trade promotion unit of the Commerce Department is unable to exploit fully the on-the-spot services of commercial attachés, who are State Department officers with only minimal career experience and commitment to trade. As a result exports remain the province of major corporations in part because information about market opportunities and direct assistance with languages and customs are not aggressively extended to small and medium sized firms, which constitute a virtually untapped pool of export potential.

Most importantly, a central U.S. Government department responsible for export expansion, domestic industrial growth and maintenance of our long term innovative advantage is needed to provide the mix of expertise, flexibility, control and perspective with which to formulate coherent and effective trade policy.

Inconsistencies and impediments in the treatment of U.S. industrial and agricultural exporters have been, in some instances, crippling. U.S. exporters face a web of controls—antitrust, antibribery, human rights, environmental review—and other restrictions which their counterparts abroad do not. The absence of an advocate with the visibility and clout to fight for consistent policies and minimal bureaucratic restrictions has seriously undermined U.S. export competitiveness in both agriculture and industry.

As chairman of the International Finance Subcommittee, I have been concerned about U.S. export policies for some time. It is gratifying to note that the bill I am introducing today is the fourth proposal regarding a Department of Trade to be introduced this session. I am glad to see that concern about our trade position and recognition of the need for institutional reform is spreading.

All four proposals—S. 377, introduced by Senators ROTH and RIBICOFF; S. 891; introduced by Senator BYRD; S. 1471, introduced by Senator DURENBERGER, and my bill—share the same objectives. My bill is similar in many respects to H.R. 4567 introduced by Representatives JONES, FRENZEL, and others in the House. Creation of the Department I contemplate would not entail an additional Cabinet post or department, unlike some of the proposals.

Mr. President, this bill goes further than the other proposals before the Senate. I believe that if we are to consider seriously the twin questions of Commerce reorganization and creation of a Trade Department, we must work from a proposal which is comprehensive in its incorporation of trade offices and functions.

My bill strives for comprehensiveness. It unites responsibility for the following areas in one Department for the first time:

Export promotion and financing;

Import monitoring and relief;

International investment policy;

International trade negotiating authority;

Industry and trade economic analysis; and

Trade policy and coordination.

The bill draws in the Office of the Special Trade Representative, the International Trade Commission, the Export-Import Bank, and OPIC, in addition to consolidating responsibilities presently scattered throughout six different departments.

World trade has expanded sixfold since Bretton Woods and adoption of the GATT. Over this period, the dependence of this Nation on access to the markets and supplies of others has grown no less rapidly. Effective participation in multilateral trade negotiations is critical if we are to continue to push back the protectionist barriers which constantly threaten the world commerce.

Yet we remain the only nation whose negotiators come from six different, uncoordinated departments, equipped with neither the overall perspective, nor the clout, to advance the interests of U.S. exporters. An STR maintained in the White House has access to the President, we are told. Yet access to the carrots—such as export financing—and sticks—such as countervailing duties—employed by other international negotiators, are the province of three different agencies in this country. Nor is the STR the effective and knowledgeable advocate of U.S. industrial and agricultural producers which the Secretary of Commerce, Trade and Technology could be.

The United States is paralyzed at the negotiating table by competing agency interests which often cannot be resolved in the existing framework. By uniting within one department the responsibilities and powers which at present are scattered, this bill creates one strong voice out of a weak and disparate chorus.

The bill also offers a framework for concomitant reform of the Commerce Department's programs relating to industry and technology. I have already introduced a bill—S. 1250, the National Technology Innovation Act of 1979—that would improve the ability of universities and industries to collaborate in generating new technological ideas that could reach the market and would improve the U.S. Government's capability to identify specific sectoral problems and opportunities to advance socially and economically important technologies. I have also joined with Senator SCHMITT and Senator CANNON in sponsoring S. 1215, the Science and Technology Research and Development Utilization Policy Act of 1979, that establishes a coherent Federal policy to encourage the use of inventions developed under federally-supported research and development. Hearings on S. 1250 have been held before the Subcommittee on Science, Technology, and Space; hearings on S. 1215 are scheduled for July 23 and 27, 1979.

The administration has also initiated a domestic policy review of industrial innovation. The Secretary of Commerce and her Assistant Secretary for Science and Technology have convened a score of task forces to study innovation, ranging from tax and regulatory policy to patent administration and information services. This review and its recommendations are presently under consideration by the White House; I am hopeful that President Carter will soon announce his decisions on these proposals.

An effective policy to promote industrial innovation may well require further institutional changes. We might want to look at agencies which would be appropriately moved out of the reorganized Department of Commerce, Trade and Technology. These possibilities will be examined in detail once the administration's proposals are released and as we consider further the legislation already introduced. This bill, by underscoring the inseparable relationship between technology and trade, creates a frame within which to proceed.●

By Mr. HELMS:

S. 1494. A bill to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977; to the Committee on Armed Services.

PANAMA CANAL DEFENSE ACT OF 1979

● Mr. HELMS. Mr. President, so that the Committee on Armed Services might have another alternative during the markup of the proposed implementation legislation for the Panama Canal Treaty, I am today introducinng S. 1494. This bill consists of the House bill, H.R. 111, with certain additional amendments which would protect the interests of the U.S. taxpayer.

As Members of the Senate are well aware, many, many statements were made that the Panama Canal legislation would not cost the taxpayers any money whatsoever. The truth, however, has turned out to be quite different. According to figures compiled by the House Merchant Marine and Fisheries Committee, after 8 weeks of hearings, the total bill for implementation of the treaties will be over $4 billion, including both payments to Panama (which otherwise could have gone to the U.S. Treasury to reduce the taxpayers' burden) and costs that have been paid or will be paid directly by taxpayers.

My bill, therefore, will insure that the maximum possible protection of the taxpayer will be achieved.

Mr. President, I ask unanimous consent that a table of costs prepared by the House Merchant Marine Committee be printed in the RECORD at the conclusion of my remarks.

Under my bill, Mr. President, the costs saved would be about $1.3 billion, or all those costs other than those listed as "General Costs" in the committee's list.

Mr. President, I also ask unanimous consent that a side-by-side comparison of the relevant changes between my bill and H.R. 111, as enacted by the House, be printed in the RECORD for the convenience of the Senate. My bill is identical in all other respects other than those listed in the comparison.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

COST OF 1977 TREATY

(1979 Dollars in Thousands)

Panama Canal Costs:	
General	
Payments to Panama	$2,157,146
Relocation of facilities	14,279
Transition costs	1,455
Inventory loss	2,716
Loss of net revenue terminals and shipyard	122,060
Disinterment and reinterment	3,200
Book value property transferred	648,000
Subtotal General	$2,948,856
Employee related	
Early retirement	314,000
Severance pay	4,690
Commuted leave of separated employees	2,500
Repatriation	4,284
Cost of living allowance	154,161
Elimination of tax factor in pay of non-citizens	11,856
Social Security payments to Panama	1,400
Expanded training programs	6,560
Rotation of Employees	5,000
Subtotal employee related	$504,391
Department of Defense	
Base operations, military construction, etc.	$757,000
Retirement non-appropriated fund employees	2,000
Subtotal Dept. of Defense	$759,000
Department of State	
Consular services	3,700
Joint Committee expenses	3,800
Foreign Military sales reserve	5,000
Subtotal Dept. of State	$12,500
Battle Monuments Commission	900
U.S. Treasury	
Loss of depreciation of Canal Zone Government assets	54,860
Total	$4,280,507

SIDE-BY-SIDE COMPARISON OF HELMS BILL (S. 1494) WITH H.R. 111 (AS ENACTED BY THE HOUSE)

S. 1494	H.R. 111 (AS ENACTED BY HOUSE)	COMMENT
SEC. 4. AUTHORITY. (a) This legislation protects the interests and expresses wishes of the taxpayers of the United States as as espoused by the United States Senate in its ratification of the Panama Canal Treaty of 1977. It assists the United States Treasury in providing for a balanced Federal budget and requires that all funds used to implement the Panama Canal Treaty of 1977 be expended only with the express consent of the Congress of the United States; and to specifically exercise those rights which the United States is authorized to exercise by Article III, section 2(d) of the Panama Canal Treaty for 1977, for the purpose of allocating the cost of maintaining that treaty in force and to provide limits to the economic consequences to the United States and to users of the Panama Canal. (b) Acceptance of payments by Panama under the provisions of this Act constitutes recognition by the Republic of Panama that the United States rightfully exercised sovereignty in the Canal Zone under the terms of the treaties between the United States and Panama of 1903, 1936, or 1955.	No comparable provision.	Helms bill specifically cites the authority in the Panama Canal Treaty for allocating costs to protect taxpayers. Protects the historic exercise of sovereignty by the United States up until the effective date of the 1977 Treaty from retroactive legal attack.

SIDE-BY-SIDE COMPARISON OF HELMS BILL (S. 1494) WITH H.R. 111 (AS ENACTED BY THE HOUSE)—Continued

SEC. 373. DISPOSITION OF PROPERTY OF THE UNITED STATES.—The Congress, in exercise of its authority under article IV, section 3, clause 2 of the Constitution of the United States, authorizes the President to convey to the Republic of Panama the Panama Railroad and such property located in the area comprising the Canal Zone immediately before such date, which area is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. Property transferred pursuant to this section may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. With respect to fire protection installations referred to in paragraph 14 of the Agreed Minute to the Agreement in Implementation of Article III of the Panama Canal Treaty, signed September 7, 1977, the United States shall not transfer to the Republic of Panama any such installation (other than the Balboa Fire Station and the Coco Solito Fire Station) until the Administrator of the Panama Canal Commission has determined that, because of voluntary transfers or voluntary separations, an adequate number of firefighters does not exist to sufficiently staff such installation and such installation is excess to the needs of the United States. *Provided*, That, prior to the entry into force of that treaty, the Republic of Panama shall agree to the terms and conditions set forth in section 374 of this Act: *Provided further*, That the President shall notify the Congress not less than ninety days prior to the proposed date of any such transfer. Final transfer is authorized to be made of the Panama Canal and all those portions of the Zone which are not otherwise ceded to the Republic of Panama, to occur not earlier than December 30, 1999, at 12 o'clock noon local time: *Provided*, That each of the following conditions shall have been met on or before that date.	SEC. 373. DISPOSITION OF PROPERTY OF THE UNITED STATES.—No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress. SEC. 374. TRANSFER OF PROPERTY TO PANAMA.—On the date on which the Panama Canal Treaty of 1977 enters into force, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area comprising the Canal Zone immediately before such date, which area is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. Property transferred pursuant to this section may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements. With respect to fire protection installations referred to in paragraph 14 of the Agreed Minute to the Agreement in Implementation of Article III of the Panama Canal Treaty, signed September 7, 1977, the United States shall not transfer to the Republic of Panama any such installation (other than the Balboa Fire Station and the Coco Solito Fire Station) until the Administrator of the Panama Canal Commission has determined that, because of voluntary transfers or voluntary separations, an adequate number of firefighters does not exist to sufficiently staff such installation and such installation is excess to the needs of the United States.	The Helms bill specifically cites the Constitutional authority of Congress to authorize the President to dispose of U.S. territory and property. Authorizes the President himself to make such disposition, rather than delegating this important Constitutional function to the Secretary of State. Requires that transfer of property be conditioned on Panamanian acceptance of the conditions in Section 374, i.e., the "conditions for transfer." Requires the President to notify Congress 90 days before transfer. Property authorizes to be transferred is the same in both bills.
SECTION 250(f) (f) All previous expenses incurred by the United States to implement the Panama Canal Treaties of 1977 during fiscal years 1978 and 1979 shall be treated as an expense of the Panama Canal Commission. The Commission shall make full reimbursement to the United States Treasury for all such expenses.	No comparable provision.	This proposal would re-indemnify the American taxpayers for costs associated with the treaty which took place before the effective date of the treaty, e.g. military construction which will be turned over to Panama at the end of 1999, but which was effected with funds appropriated before the Panama Canal Commission comes into being.
SEC. 374. CONDITIONS FOR TRANSFER.—(a) That the entire net investment cost of the construction of the Panama Canal shall have been paid to the Treasury of the United States prior to that date. (b) That all interest upon the net investment cost shall have been paid on or before December 30, 1999, as required by the reservation numbered 6 (the Cannon Reservation) to the Panama Canal Treaty as consented to by the Senate of the United States on April 18, 1978. (c) That the Republic of Panama shall have borne, out of the revenues it receives pursuant to the terms of Article XIII of the Treaty, all costs incurred by the United States which are incidental to carrying the Treaty into effect; not allocated by the Treaty and prohibited from being derived from tax revenues of the United States by the terms of the Treaty, in Article III, paragraph 2, section (d),	No comparable provision.	The Helms bill sets up conditions for transfer of U.S. property to Panama: (1) That the cost of the construction of the Panama Canal ("net investment cost") be repaid to the Treasury before the canal is transferred at the end of 1999; (2) that the Cannon reservation is implemented before the end of 1999; (3) that Panama has borne, out of canal revenues, all costs incurred by the United States which are incidental to carrying the Treaty into effect—costs of services formerly borne by the Panama Canal Company; costs of personnel changes required by the terms of the Treaty; costs of construction and refurbishing of military buildings and bases; expenses of the Panama Canal Commission, and all the payments otherwise specified in the Treaty. Furthermore, if Panama fails to pay its obligations, such obligations become a charge upon the Commission's payments to Panama.

SIDE-BY-SIDE COMPARISON OF HELMS BILL (S. 1494) WITH H.R. 111 (AS ENACTED BY THE HOUSE) —Continued

S. 1494	H.R. 111 (AS ENACTED BY HOUSE)	COMMENT
the reservations and understandings added to the Treaty by the Senate of the United States, and representations relied upon during the deliberations concerning the Treaty. Such costs shall include but not be limited to costs of services formerly borne by the Panama Canal Company; costs of personnel changes required by the terms of the Treaty; costs of construction and refurbishing of military buildings and bases; expenses of the Panama Canal Commission and all payments required in (a) and (b) above. Certification of such costs by the Comptroller General of the United States shall be binding upon the Republic of Panama. Such costs shall not include (1) those non-Treaty related items regularly (as formerly) incurred by the United States by reason of its obligation to defend the Panama Canal; (2) nor costs related to providing a final resting place for those deceased whose interment is disrupted by the Treaty. (d) All obligations to be paid by the Republic of Panama pursuant to this section shall be paid within three months of certification by the Comptroller General; otherwise such obligation shall thereafter be and become a charge upon any payments to be made to the Republic of Panama pursuant to the Treaty by the Panama Canal Commission and shall be deducted from each such payment until the obligation is discharged.		
SECTION 412(d)		
(d) Irrespective of subsections (b) and (c), supra, tolls charged for passage through the Panama Canal shall not exceed those tolls charged on July 1, 1979, together with— (1) adjustments to allow toll increases equal to rises in the cost of living as set by the United States Department of Labor in its consumer price index, and (2) that minimum increase in the percentage of rate of tolls sufficient to provide funds necessary to make those payments required by Article XIII, section 4 (a) and (b) of the Panama Canal Treaty and as limited by Understanding Numbered 3 thereto as consented to by the Senate of the United States on April 18, 1978 (the Danforth Understanding).	No comparable provision.	The Helms bill provides the tolls charged for passage through the Panama Canal shall be held to the very least possible minimum, without unduly raising such tolls in order to make payments to Panama, thereby protecting Canal users to the greatest extent possible.

By Mr. HATFIELD:

S. 1495. A bill to acquire certain lands so as to assure the preservation and protection of the Potomac River shoreline; to the Committee on Energy and Natural Resources.

● Mr. HATFIELD. Mr. President, today I am introducing a bill to resolve the debate surrounding proposals to renew the Georgetown waterfront.

The intention of this legislation is to insure that the area south of K Street, between the Key Bridge and Rock Creek in Georgetown, becomes a greenway flanking the Potomac River. At present, this area is an acknowledged eyesore detracting from the beauty of our Capital City. A group of interested individuals representing citizens' groups, the government of Washington, D.C., the Interior Department, the Transportation Department, and private developers has been meeting for several months to plan the conversion of the waterfront into a useful and esthetically pleasing area.

Any plans for the riverfront area must take into account the existing development in Georgetown, south of M Street. Planners have been quoted as stating that given existing development plans, the population in the area between M Street and K Street in Georgetown will increase by 10,000. Such an increase is incomprehensible in light of the congestion that presently exists in that part of the city. Nevertheless, that increase will occur according to plans that have already been set in motion.

For this reason, I am adamantly opposed to any development plans for the area south of K Street which would include any commercial or residential buildings. This is the area which is the subject of my bill and it includes only 20 acres, stretching along 4,200 feet of the Potomac riverbank. At some points, this strip of land is only 160 feet wide. There is absolutely no reason for destroying this beautiful area forever by piling upon it concrete and glass structures, such as those which have been constructed north of K Street.

Even a small area of development on this ribbon of land along the river cannot be justified. We must take bold action not simply to renew the Georgetown Waterfront, but to preserve it for people. It is the most beautiful spot of Potomac River frontage in the Capital. The Potomac bends at this point, and the views up the river and downstream are unmatched for their scenic drama.

A people's park on this land would provide the type of waterfront development that is so important for the integrity of Washington as a city of beauty. It would provide for the true needs of the citizens of the city, who will soon find that there is less and less space for "getting away" from the hustle and bustle of the urban environment.

The legislation I am proposing will enable the Interior Department to acquire the portion of the Georgetown waterfront which is not publicly owned at present. It is inconceivable that we should allow this opportunity to preserve the riverfront, and to avoid more crowded development, to pass.

For these reasons, I urge my colleagues to support this legislation and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1495

Be ti enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) effective on the date of the enactment of this Act, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all of the following described lands and improvements comprising that area within the District of Columbia which is generally bounded on the north by K Street, on the east by Rock Creek, on the south by the Potomac River, and on the west by a line four hundred feet west of Key Bridge.

(b) Such area shall be administered by the Secretary of the Interior in a manner so as to assure the preservation and protection of the Potomac River shoreline and for recreational and other compatible purposes. The Secretary shall promulgate such regulations as may be necessary to carry out the provisions of this Act.

(c) Any action against the United States for the recovery of just compensation for the lands and improvements herein taken by the United States shall be brought in the United States district court for the district where the land is located without regard to the amount claimed. Just compensation shall be determined as of July 12, 1979. The United States may initiate proceedings at any time seeking a determination of just compensation in the district court in the manner provided by sections 1358 and 1403 of title 28, United States Code, and may deposit in the registry of the court the estimated just compensation, or a part thereof, in accordance with the procedure generally described by section 258a of title 40, United States Code. Interest shall not be allowed on such amounts as shall have been paid into the court. In the event that the Secretary determines that the fee simple title to any property (real or personal) taken under this section is not necessary for the purposes of this Act, he may revest title to such property subject to such reservations, terms, and conditions, if any, as he deems appropriate to carry out the purposes of this Act, and may compensate the former owner for no more than the fair market value of the rights so reserved, except that the Secretary may not revest title to any property for which just compensation has been paid.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. INOUYE:

S. 1496. A bill to amend the Interstate Commerce Act to provide for more effective regulation of carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1497. A bill to amend title 49, United States Code, transportation to encourage motor carrier efficiency and to provide for more effective regulation of carriers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER REGULATION

● Mr. INOUYE. Mr. President, today I am introducing legislation designed to make specific reforms in the Nation's motor carrier transportation regulatory system. While motor carrier regulation has served the Nation well, the time has come for a serious review of the regulatory structure with a view toward instituting changes that will update the system.

Decisions on this matter ought not to be made until all the proposals are considered and all the ramifications of their enactment are explored. It is in this spirit that I am introducing two bills representing the positions of the trucking industry and the Teamsters Union respectively. And, while I have not made my decision on the issues involved, I believe both bills merit very serious consideration.

The bill developed by the American Trucking Associations, Inc., was developed after several years of negotiations between member motor carriers, the 51 ATA affiliated State associations, and the 13 affiliated ATA conferences which comprise the organization. The bill developed by the International Brotherhood of Teamsters is also the product of an equally arduous process. Both bills contain provisions on collective ratemaking, rate bureaus, entry regulation, and other important issues. They are more similar than different. In fact, some of the provisions are identical. There are, however, some differences—most notably on the issues of hauling by private and contract carriers.

Substantive reforms are proposed in ratemaking; for example, both bills would allow carriers to raise or lower rates by 7 percent annually without suspension by the Interstate Commerce Commission. In the area of collective ratemaking, new provisions would reform the voting process within rate bureaus, and add to the law provisions guaranteeing the right of any carrier to set its rates independent of the rate bureau's without interference by the rate bureau. Concerning entry controls, the degree of competition and fuel efficiency would become major factors in granting certificates, and frivolous carrier protests would be prohibited. Many other substantive proposals are included in these detailed bills.

I congratulate the IBT and the ATA for developing these proposals. Both bills merit a close look by the Congress. Introduction today assures that.

I ask my colleagues to review these proposals, as I will, before deciding what reforms are necessary.●

By Mr. MATSUNAGA:

S. 1498. A bill to amend title II of the Social Security Act to provide an alternative retirement test for certain individuals receiving self-employment income substantially attributable to their activities in a preceding taxable year; to the Committee on Finance.

● Mr. MATSUNAGA. Mr. President, today I am introducing a bill to correct an anomalous situation which occurs in applying the social security retirement test to formerly self-employed persons such as retired farmers, independent insurance salesmen, and business partners. The bill addresses an unintended problem resulting from the Social Security Amendments of 1977.

Prior to the 1977 amendments, social security benefits were payable to any retired person in full for any month in which that individual did no substantial work, regardless of the recipient's annual earnings. This made it possible for an individual to receive earned income in 1 month and still be eligible for social security benefits in the other 11 months.

As a result of a Senate floor amendment, the 1977 social security legislation mandated a change from a monthly retirement test to an annual test for earned income. This annual test sought to end various abuses occurring under the old test and to determine when a person is actually retired.

At that time, however, we overlooked the problem of the self-employed person who, after retirement, received compensation for work previously performed. For example, a retired farmer might receive payment for his past year's work, or a retired insurance salesman might receive commission payments for policies sold in the previous year. However, the retired farmer and the retired insurance salesman may well find themselves disqualified from any social security benefits, because of the annual earnings test. This adverse effect was not intended by the Congress.

The problem, arises, because the social security program considers income from self-employment to have been earned in the year in which it is received, even if the income resulted from service performed in prior years. Consequently, previously self-employed persons who are actually retired can be disqualified for social security benefits, if they receive continuing payments for services rendered in prior years. By contrast, an employee's wage is considered to be earned income for retirement test purposes only in the year in which the work is actually performed.

It should be stressed that the social security program benefits are payable not on the basis of need as measured by an income test but as a matter of social insurance payable in relation to prior earnings upon the individual's retirement. The annual earnings test seeks to determine whether retirement has actually occurred. However, the test does not work fairly for self-employed individuals. It is inappropriate to apply the earnings test to strip people of social security benefits even when they have completely retired but continue to receive the fruits of their earlier labors. The real test as to whether someone is retired should depend upon a person's activity—whether he continues to perform self-employment services. The test should be based on when the work is performed, not on when payment is received. In the case of retired farmers, insurance salesmen, and others, payments for past services continue over a period stretching into postretirement years.

In the last session of Congress, the Senate Finance Committee unanimously approved a measure for farmers and insurance salesmen similar to the one I am proposing today. The committee included the provision as part of H.R. 12380, and the bill as amended passed the Senate. Unfortunately, in the great rush at the end of the session, the House-Senate conference committee never met, and the measure died. The bill I am presenting today will complete the job started in the last session.

My bill is broader in scope than previously introduced measures; it applies not just to farmers or to insurance salesmen, but to all persons who are similarly situated. The strict requirements of my bill allow the exclusion to be claimed only under the following conditions: First, at least 50 percent of the individual's self-employment earnings for the year would have to be of the type attributable to prior-year services. Second, the individual would have to be willing to accept a complete loss of benefits for any month of the year in which he does, in fact, engage in substanital work activity. Lastly, the annual benefits total would have to be increased even after one or more months of benefits are lost, because of substantial work activity. These safeguards will insure that abuse does not occur as it did prior to the amendments.

My bill seeks to treat retired persons who were self-employed in an equitable manner, consistent with the goals and policy of the social security program. It should be noted that the Senate did, in fact, approve an earlier version of this legislation. For the reasons stated and to meet the urgent need of those affected by the present restrictions, I urge quick Senate action on this measure.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f)(5) of the Social Security Act is amended—

(1) in subparagraph (B)(i), by striking out "shall be determined" and inserting in lieu thereof "shall (subject to subparagraph (E)) be determined", and

(2) by adding after subparagraph (D) the following new subparagraph:

"(E)(i) If, of the total of an individual's net earnings from self-employment for any taxable year, an amount equal to at least 50 per centum thereof is substantially attributable to such individual's engagement in self-employment for a period prior to such year, such amount shall be excluded in determining, for purposes of this subsection, the total of such individual's net earnings from self-employment for such year.

"(ii) If, during any month of a taxable year with respect to which an amount is excluded pursuant to clause (i) from an individual's net earnings from self-employment, such individual—

"(I) renders substantial services with respect to a trade or business the net income or loss of which is includible in computing (as provided in paragraph (5) of this subsection, but without regard to this subparagraph) his net earnings or net loss from self-employment for such taxable year, or

"(II) renders services for wages (determined as provided in the preceding provisions of this paragraph) of more than the applicable exempt amount as determined under paragraph (8),

such individual shall, for purposes of subsection (c) be deemed to be charged with excess earnings for such month—

"(III) in case such individual is entitled to benefits for such month under a provision of section 202 other than subsection (a) thereof, equal to such individual's benefit or benefits under such section for such month, or

"(IV) in case such individual is entitled to old-age insurance benefits under section 202(a) for such month, equal to such individual's old-age insurance benefit for such month plus the monthly benefits for such month of all other persons under section 202 based on such individual's wages and self-employment income.

Amounts of excess earnings for which an individual is deemed to be charged for any month under this clause shall not operate to reduce the total of the excess earnings for which he is chargeable under this section as determined without regard to this subparagraph.

"(iii) The provisions of this subparagraph shall not be applicable, in the case of any individual for any taxable year, if the application of such provisions would result in the aggregate of the deductions under subsection (c), on account of excess earnings with which such individual is charged or deemed to be charged, being greater than would have been the case without the application of such provisions.".

(b) The amendments made by subsection (a) shall be applicable, in the case of any individual, only in the case of taxable years of such individual which begin after the date of enactment of this Act.●

By Mr. ROTH:

S. 1499. A bill to promote and encourage the formation and utilization of export trade associations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT TRADE ACTIVITIES ACT

● Mr. ROTH. Mr. President, I am introducing the Export Trade Activities Act which replaces the Webb-Pomerene Act. This bill increases the effectiveness of export trade associations while adequately protecting nonassociation members. This bill is only one of many steps I believe necessary to restore the U.S. competitiveness in the world markets.

The U.S. share of world markets has dropped from 18 percent in the early 1960's to less than 12 percent today. Our export of manufactured goods has been declining in recent years. Between 1975 and 1978, the U.S. trade account in manufactured goods dropped from about a $20 billion surplus to a $5.8 billion deficit. The massive trade deficits of the past few years have caused unemployment, have increased inflationary pressures and have contributed to the erosion of the dollar.

The Webb-Pomerene Act was enacted in 1918 to allow producers of goods to join together to export without fear of antitrust or anticompetitive action provided the association's actions do not adversely affect its domestic trade. It was the intent of Congress that American exporters could combine to meet the aggressive competition of powerful foreign competitors.

There was a need for the Webb-Pomerene Act in 1918, and today there is a need to improve and update it. Government sponsored or controlled exporting activities of other countries are still prevalent. Webb-Pomerene associations have never been as effective as hoped. Although they were more widely used at one time, today they account for less than 2 percent of the total U.S. exports. Given our trade problems, we must try to increase the effectiveness of our trading vehicles.

Export trade associations should be more effective under this bill because of three significant changes. First, the bill includes the exporting of services under the antitrust exemption. Second, the Department of Justice's ability to bring an antitrust action has been curtailed. This will assuage the reluctance of producers to join together to export. Third, an individual injured by an association's unlawful activities is limited to suing for compensatory damages only.

The Export Trade Activities Act would increase the effectiveness of our export trade associations. We must encourage the exportation of our services and goods.

Mr. President, I am under no delusion that the Export Trade Activities Act is the elixir to our trade problems. However, it should enable our producers to more ably compete with their foreign competitors for world markets.

Mr. President, I ask unanimous consent that the text of the bill and section-by-section explanation of the bill be printed in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 1499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

This Act may be cited as the "Export Trade Activities Act".

Sec. 2. Findings; Declaration of Purpose.

(a) Findings.—The Congress finds and declares that—

(1) exports account for one out of every six jobs in the manufacturing sector and 8 percent of the gross national product of the United States;

(2) every billion dollars in new exports is estimated to provide 40,000 jobs, $2,000,000,000 in national income, and $400,000,000 in government revenue;

(3) there is increasingly fierce competition to American goods and services in international markets;

(4) the ability to pool resources and expertise would help equalize the bargaining position of American businesses in international transactions, particularly of small- and medium-sized businesses; and

(5) the existing legislation involving export trade associations is outdated and needs to be changed to make export trade associations more useful.

(b) Purpose.—It is the purpose of this Act encourage and promote the formation of export trade associations, and to enable businesses to share the costs of export trade. The Federal Trade Commission shall consider and process applications submitted under section 6 as expeditiously as possible. The Secretary of Commerce shall take appropriate measures to encourage the establishment and use of such associations.

Sec. 3. Definitions.

As used in this Act—

(1) Export trade.—The term "export trade" means trade or commerce in goods, wares, merchandise, or services exported, or in the course of being exported, from the United States to any foreign nation, but does not include—

(A) trade or commerce in any such goods, products, or merchandise subsequently imported into the United States for sale for consumption or resale, without regard to whether they are imported in the same condition as when they were exported from the United States or in a changed condition by reason of remanufacture or otherwise, or

(B) trade or commerce in patents, licenses, trade secrets, or technology (except to the extent that technology is incidental to the sale of such goods, products, merchandise, or services).

(2) Export trade activities.—The term "export trade activities" includes any activities or agreements which are incidental to export trade.

(3) United States.—The term "United States" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(4) Association.—The term "association" means any combination, by contract or other arrangement, of persons who are citizens of the United States, partnerships which are created under and exist pursuant to the laws of any State or of the United States, or corporations which are created under and exist pursuant to the laws of any State or of the United States.

(5) Antitrust laws.—The term "antitrust laws" means the antitrust laws defined in the first section of the Clayton Act (15 U.S.C. 12) and section 4 of the Federal Trade Commission Act (15 U.S.C. 44), any other law of the United States in *pari materia* with those laws, and any State antitrust or unfair competition law.

(6) Commission.—The term "Commission" means Federal Trade Commission.

(7) Chairman.—The term "Chairman" means the Chairman of the Federal Trade Commission.

(8) Attorney General.—The term "Attorney General" means the Attorney General of the United States.

Sec. 4. Antitrust Exemption.

An association certified under section 6 of this Act, entered into for the sole purpose of engaging in export trade, and engaged in export trade activities, and its members, are exempt from the application of the antitrust laws except to the extent that the existence of the association, or the activities in which it and its members are engaged, result in—

(1) restraint of trade within the United States,

(2) a substantial decrease in competition within the United States, or

(3) a substantial restraint of the export trade of any domestic competitor.

Sec. 5. Enforcement.

(a) Exclusive Jurisdiction of Commission.—The Commission shall have exclusive jurisdiction to determine whether an association certified under section 6—

(1) has failed to comply with the terms and conditions of its certification, or

(2) has taken any action which is inconsistent with the requirements of section 4.

(b) Determinations.—The Commission shall make a determination under subsection (a) after an investigation commenced after receipt of a complaint, filed with it at such time and in such manner as it may require, or upon its own motion, and after notice to the association and an opportunity for a hearing on the record.

(c) Remedies.—If the determination of the Commission under subsection (a) is affirmative, then it may—

(1) in the case of an affirmative determination under subsection (a)(1)—

(A) require the association to file an amended application for certification under section 6(c),

(B) require the association to modify its organization or operations,

(C) revoke, in whole or in part, the certification of the association, or

(D) refer the matter to the Attorney General for prosecution under the antitrust laws, or

(2) in the case of an affirmative determination under subsection (a)(2)—

(A) require the association to modify its organization or operations, or

(B) revoke, in whole or in part, the certification of the association.

(d) Civil Actions by Injured Parties.—

(1) Standing requirement.—No person shall have standing to bring an action against an association certified under section 6 for injuries arising out of the export trade activities of that association unless—

(A) the Commission has made an affirmative determination under subsection (a) with respect to the activities of the association to which the action relates, and

(B) those activities have, as a purpose or as a primary effect, a result described in section 4.

(2) Limitation on damages.—Notwithstanding any other provision of law to the contrary, damages in excess of the amount necessary to compensate the injured party for losses suffered may not be awarded in any action brought against an association certified under section 6 for injuries arising out of its export trade activities.

Sec. 6. Certification.

(a) Application.—In order to become certified as an association engaged solely in export trade, a person shall file with the Federal Trade Commission a written application for certification setting forth the following:

(1) The name of the association.

(2) The location of the association's offices or places of business in the United States and abroad.

(3) The names and addresses of the association's officers, stockholders, and members.

(4) A copy of the certificate or articles of incorporate and bylaws, if the association is a corporation; or a copy of the articles or contract of associations, if the asssociation is unincorporated.

(5) A description of the goods, wares, merchandise, or services which the association or its members export or propose to export.

(6) The methods by which the association conducts or proposes to conduct export trade in the described goods, wares, merchandise, or services, including, but not limited to, any agreements to sell exclusively to or through the association, any agreements with foreign persons who may act as joint selling agents, any agreements to acquire a foreign selling agent, any agreements for pooling tangible or intangible property or resources, or any territorial, price-maintenance, membership, or other restrictions to be imposed upon members of the association.

(7) The names of all countries where export trade in the described goods, wares, merchandise, or services is conducted or proposed to be conducted by or through the association.

(8) Any other information which the Commission may request concerning the organization, operation, management, or finances of the association; the relation of the association to other associations, corporations, partnerships, and individuals; and competition or potential competition, and effects of the association thereon. The Commission may not request information under this paragraph which is not reasonably available to the person making application or which is not necessary for certification of the prospective association.

(b) Issuance of Certificate.—Based upon the information obtained from the application, the Commission shall certify an association within 90 days after receiving the association's application for certification if the Commission determines that the association and its members and the proposed export trade activities meet the requirements of section 4 of this Act. The certification may be issued subject to such terms and conditions as the Commission determines to be appropriate to ensure that the association and its activities meet the requirements for certification during the period for which the certification is in effect, and that all members of the association are treated equitably.

(c) Material Changes in Circumstances; Amendment of Application.—

(1) Voiding of certification.—Whenever there is a material change in—

(A) the domestic and international conditions, circumstances, and factors which make an association useful for the purpose of promoting the export trade of its goods, wares, merchandise, or services, or

(B) the association's membership, export trade, export trade activities, or methods of operation which would cause the association to fail to meet any requirement of section 4, then the association shall apply to the Commission for an amendment of its certification.

(2) Amendment of application.—The request for amendment shall be filed within 30 days after the date of the material change and shall set forth the requested amendment of the application and the reasons for the requested amendment. Any request for the amendment of an application shall be treated in the same manner as an original application for certification. If the request is filed within 30 days after the material change which requires the amendment, and if the requested amendment is approved, then there shall be no interruption in the period for which certification is in effect.

(3) Amendment upon recommendation of Commission.—After notice to the association involved and the opportunity for a hearing on the record, the Commission may, on its own initiative, or upon the recommendation of the Attorney General or any other person—

(A) require that an association's certification be amended,

(B) require that the organization or operation of the association be modified to correspond with the association's certification, or

(C) revoke, in whole or in part, the certification of the association upon a finding that the association, its members, or its export trade activities do not meet the requirements of section 4 of this Act.

Sec. 7. Guidelines.

(a) Initial Proposed Guidelines.—The Commission and the Attorney General shall publish proposed guidelines for purposes of determining whether an association, its members, and its export trade activities meet the requirements of section 4 of this Act.

(b) Periodic Revision.—After publication of the guidelines, the Commission and the Attorney General shall meet periodically to revise the guidelines as needed.

Sec. 8. Certification for Existing Associations.

The Commission shall certify any export trade association registered with the Federal Trade Commission as of the date of enactment of this Act if such association, within 180 days after that date, files with the Commission an application for certification as provided for in section 6 of this Act, unless such application shows on its face that the association is not eligible for certification under this Act. If the application submitted by such an association shows on its face that the association is not eligible for certification under this Act, its registration under the Webb-Pomerene Act shall cease to be effective 30 days after the date on which the Commission notifies the association of its determination of ineligibility.

Sec. 9. Review of Determination.

Whenever the Commission makes a determination under this Act with respect to an application for certification, the amendment, modification, or revocation of a certification, or the modification of the organization or operation of an export trade association, it shall—

(1) notify the association of its determination and the reasons for its determination, and

(2) upon request made by the association, afford the association an opportunity for a hearing.

SEC. 10. ANNUAL REPORTS.

Every certified association shall submit an annual report to the Commission on January 2 of each year, in such form as it may require, setting forth the information described by section 6(a) of this Act.

SEC. 11. MODIFICATION OF ASSOCIATION TO COMPLY WITH UNITED STATES OBLIGATIONS.

At such time as the United States undertakes international obligations by treaty or statute, to the extent that the operations of any export trade association, certified under this Act are inconsistent with such international obligations, the Commission or Attorney General may require such association to modify its operations so as to be consistent with such international obligations.

SEC. 12. REGULATIONS.

The Commission, in consultation with the Attorney General, shall promulgate such rules and regulations as may be necessary to carry out the purposes of this Act.

SEC. 13. REPEAL OF WEBB-POMERENE ACT.

The Webb-Pomerene Act (15 U.S.C. 61–66) is repealed as of the 90th day after the date of enactment of this Act.

SECTION-BY-SECTION EXPLANATION

Section 1. Short Title: Export Trade Activities Act.

Section 2. Findings: Declaration of Purpose.

This section sets forth the findings and declaration of purpose.

Section 3. Definitions.

This section defines the pertinent terms. The term "export trade" includes both goods and services exported from the United States, but does not include trade in goods which are subsequently imported back into the United States nor trade in patents, licenses, trade secrets or technology. The term "export trade activities" includes any activities or agreements which are incidental to export trade. The term "United States" is specifically defined. The term "association" means any combination, by contract, or other arrangement, of persons who are citizens of the United States, partnerships which are created under and exist pursuant to the laws of any state of the United States, or corporations which are created under and exist pursuant to the laws of any State or of the United States. The term "antitrust laws" includes all antitrust laws of any state or of the United States.

Section 4. Antitrust Exemption.

This section provides that a certified association is exempt from the application of the Antitrust laws provided that the association or its export trade activities do not result (1) in restraint of trade within the United States (2) in a substantial decrease in competition within the United States or (3) in a substantial restraint of the export trade of any domestic competitor.

Section 5. Enforcement.

This section grants to the Federal Trade Commission the exclusive jurisdiction to determine whether a certified association has failed to comply with the terms and conditions of its certification or whether its actions or agreements have been inconsistent with the requirements of Section 4. Such an investigation can be in response to a properly filed complaint or it can be initiated by the Federal Trade Commission.

If it is determined that the association has failed to comply with the terms and conditions of its certification then the Commission can:

(1) require the association to file an amended application for certification;

(2) require the association to modify its organization or operations;

(3) revoke, in whole or in part, the certification of the association; or

(4) refer the matter to the Department of Justice.

If it is determined that the association's actions have become inconsistent with the standards of Section 4 although in conformance with its registration, then the Commission can (1) require the association to modify its organization or operations or (2) revoke, in whole or in part, the certification of the association.

No person can bring an action against a certified association unless the Commission has determined that the association has failed to comply with the terms and conditions of its certification and its activities have become inconsistent with the requirements of Section 4, and in no case shall the damages be more than compensatory.

Section 6. Certification.

This section sets forth the procedure for certifying an association. It lists the required information to be filed with the FTC, most notable are the descriptions of the goods or services to be exported, the methods by which the association proposes to conduct its export trade, and any other needed information that is reasonably available.

Within ninety days after receipt of the association's application, it shall be registered subject to the terms and conditions established by the Commission as long as the proposed export activities meet the requirements of Section 4.

If there is a material change in circumstances, the association shall apply to the Commission for an amendment to its certification within thirty days of the material change. If the request for the amendment is approved, there shall be no interruption in the period of certification.

After an opportunity for a hearing on the record for the association, the FTC may require that the association's certification be amended, order that the organization or operation of the association be modified to correspond with the association's certification, or it may revoke, in whole or in part, the certification of the association upon a finding that the association, its members or its export trade activities do not meet the requirements of Section 4.

Section 7. Guidelines.

This section requires the FTC and the Department of Justice to publish proposed guidelines for the purposes of determining whether an association, its members, and its export trade activities, meet the requirements of Section 4. These guidelines shall be periodically revised.

Section 8. Certification For Existing Associations.

This section allows an existing association 180 days after the enactment of this bill to file with the Commission to continue its immunity from the antitrust laws. The association shall be registered unless the application shows on its face that the association is not eligible for certification, in which case 30 days after the association becomes aware of the FTC's decision any immunity for future conduct shall cease.

Section 9. Review of Determinations.

This section provides that whenever the Commission makes a determination under this Act affecting the certification of the association, it shall notify the association of its determination and the reasons for its determination and afford the association an opportunity for a hearing.

Section 10. Annual Reports.

This section requires the certified association shall submit an annual report to the Commission on January 2 setting forth the information listed in Section 6.

Section 11. Modification of Association To Comply With The United States Obligations.

This section authorizes the FTC and the Department of Justice to modify its operation so as to be consistent with future international obligations of the United States set by treaty or statute.

Section 12. Regulations.

The Commission in consultation with the Attorney General shall promulgate such rules and regulations as may be necessary to carry out the purposes of this Act.

Section 13. Repeal of Webb-Pomerene Act.

This section repeals the Webb-Pomerene Act 90 days after the enactment of this Act. ●

By Mr. BENTSEN:

S. 1500. A bill to amend the Federal Rules of Criminal Procedure to provide certain sentencing requirements in any case in which a person commits a felony while admitted to bail; to the Committee on the Judiciary.

S. 1501. A bill to prohibit the pretrial release of any person charged with an act of aggravated terrorism; to the Committee on the Judiciary.

BAIL REFORM LEGISLATION

● Mr. BENTSEN. Mr. President, in the wake of recent crime statistics showing a 17-percent increase in violent crime, it is appropriate to take a few moments to consider what I believe is the new realism in crime control, and how that new realism can enable our Nation to respond to this important problem.

Today I will introduce legislation to reform Federal bail laws, and call on the Senate Judiciary Committee to consider major reforms and to hold hearings that can help focus a national debate and analysis of this difficult and complex topic. I believe we can reform our criminal law in a manner that can increase the odds that society will be protected from dangerous criminals, and we can make the administration of justice more fair and effective.

The problem of bail is just one of a number of serious issues that must be faced if we are to move closer toward a just and safe society. The criminal justice system is overworked and understaffed. Courts are clogged, prosecutors strapped, prisons jammed, and the criminals know it. Indeterminate sentencing often provides neither certainty nor fairness of punishment. Career criminals careen through revolving doors and emerge on the streets where they continue their violent habits. Inadequate and sometimes brutal prisons serve neither society nor justice nor the offender. Bail laws often allow some of the most dangerous criminals to commit additional crimes as they await trial for previous offenses.

Today I introduce legislation that will bring the new realism on crime control to bail reform. These are modest proposals that can begin a movement toward wider reform.

The first bill would provide increased punishment for persons convicted of felonies committed while they were on bail for previous crimes. The second will allow judges to detain offenders accused of terrorist violence where such persons pose a serious danger to community safety. I call on the Judiciary Committee to conduct hearings on the general status of bail laws, to determine how we can best reduce the amount of violent crimes in this country while maintaining the basic protections guaranteed by the Constitution.

I want to commend the recent remarks by Senator Kennedy, the distinguished chairman of the Senate Judiciary Committee, before the National Governors Conference on Crime Control. I am in strong agreement with the general drift of his presentation, and with many of the specific proposals he mentions. He recognizes, correctly I believe, that we must do more to protect community safety, and that current bail laws simply fail to do an adequate job and, therefore, allow many dangerous people to commit violent crimes that can be prevented. I have long advocated bail laws that would provide increased protection for the public, and while there may be some areas of difference, Senator Kennedy's speech is symptomatic of the kind of new consensus that is now possible on the issues of crime control. At the outset, I ask unanimous consent that his speech be printed in the Record at the conclusion of my statement today.

Mr. President, an analysis of the career criminal program in Dallas indicates that over 36 percent of the repeat offenders involved in that program were on bail for previous crimes at the time of their most recent arrests. The number of crimes committed while on bail is somewhat less for the most part—perhaps 15 to 20 percent, but the far higher number for violent career criminals demonstrates the need for reform in a clear and decisive manner.

The first bill I introduce today will mandate consecutive sentences for persons convicted of felonies while on bail for previous crimes. Under current law, judges often give concurrent sentences for these crimes. Since the sentences then run together, there may be no additional punishment for the second offense, and in effect, the criminal receives two crimes for the price of one.

I have long advocated major sentencing reforms, changes that would bring uniformity to sentencing by allowing sentences to vary with the seriousness of the offense and the criminal history of the defendant. In any rational scheme of sentencing, crimes committed while on bail should be treated severely. The bill I introduce today incorporates this notion. It increases the price. To some degree, it will increase the deterrence to the criminal, and the assurance to society that he will be punished with a sentence he deserves.

The second bill will allow judges to detain persons accused of terrorist violence if he finds, assessing the information before him, that a major threat would be posed to the community by the person's release. Under current law these people could be released if they were likely to show up for trial, even if they had committed the most vicious crimes and even if they pose a severe threat to public safety.

I first introduced this bill in the wake of the Hanafi kidnap murder case, where the persons involved were released before the funeral of the victim, before all of the hostages had been returned home. I understand the limits of the community safety standard, but I also deplore the senselessness of releasing violent terrorists in the midst of their self-declared war against society.

I would hope that the Senate Judiciary Committee can carefully evaluate my bills and the general question of bail reform. Surely we can do much more to protect our citizens. Surely there is considerable room for improvement. Surely we can reduce the number of violent and even deadly crimes committed by dangerous people who continue their criminal careers while on bail for previous crimes. Surely we can somehow restrict this unregulated license to do violence, through limitations on release, through more rational consideration of who should and who should not be released, through more restrictions on those who are released, and through tougher sentencing of those who commit additional crimes when they are released.

Mr. President, this must be part of our overall effort to improve and renovate the Federal Criminal Code, to bring fairness and rationality to the criminal law in an effort to improve our system, and to restore public respect for it. This effort will take a broad consensus that can compromise in the pursuit of improvements. It will take joint efforts by people with diverse views and interests, but it can be done, and I pledge to work hard as we seek to enact reforms to improve the criminal law.

We need sentencing reforms to make punishment more certain and more fair, to bring uniformity to the system, to assure both society and the offender that the punishment will fit the crime.

We need increased support for career criminal programs, which have helped to identify, prosecute, and imprison those repeatedly violent individuals who now spin their way through the revolving doors of justice.

We need improved efforts against drug smuggling and organized crime. I have introduced legislation to close loopholes in currency smuggling laws, loopholes now used by major drug smugglers and organized crime to avoid apprehension and conviction.

We need strict sentencing provisions for terrorists, and a more unified governmental program against terrorism.

We need reform of the bail laws, along the lines that I have discussed today.

I understand that this effort will be long and difficult, but I believe that it can be successful and that if it is, we will have performed a great service to the American people.

I urge my colleagues to join in this new consensus, which can bring important changes and progress in our battle against crime.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address of Senator Edward M. Kennedy

I appreciate the opportunity to participate in this important Conference and to join with the National Governors Conference and the National Institute of Law Enforcement and Criminal Justice in discussing some of the current problems that affect the administration of criminal justice in our Nation.

The Governors Conference has been a continuing source of advice and assistance to Congress and the Nation. It was more than 60 years ago that the Governors first convened in a collective effort to "influence the development and implementation of national policy and apply creative leadership to state problems." And that leadership has grown over the years.

From your new headquarters in the Hall of States, you have offered valuable advice and assistance concerning the major issues that confront our Nation. Your Committee on Criminal Justice and Public Protection has been especially active in dealing with such important issues as criminal code revision, juvenile delinquency, organized crime, drug abuse, compensation for victims of crime and white collar crime.

Your recommendations—especially in the area of reforming the Federal Law Enforcement Assistance Program—have been particularly constructive and helpful. I owe a special thanks to the Chairman of the Committee, Governor Hunt, for his assistance with the LEAA legislation that passed the Senate last week. And I look forward to working closely with you during the next few months as Congress completes final action on this comprehensive bill to reform and restructure LEAA and make it more responsive to state and local needs.

Crime is primarily a state and local problem that will not be solved in Washington. The most appropriate federal role is to try to put our own house in order, and to encourage the fifty states to experiment, to retain their historic individuality, and to seek innovative responses to the problem of crime control. Ultimately, the answers you produce are likely to be applicable to the Federal Government as well.

And that is the purpose of this Conference. Your workshops—on court congestion, prison overcrowding, sentencing reform, violent juvenile crime and alternatives to incarceration—are designed to encourage new approaches and develop more effective criminal justice policy.

The Nation is about to enter the decade of the 1980's with its criminal justice system in disarray. We lack a consensus on purposes and methods. We are unsure of what works and what ought to be done. Priorities are confused and resources misallocated. And, meanwhile, our crime rates are the highest in the western world. If recent trends continue, at least three Americans in every hundred will be the victim of a violent crime during this year and one household out of every ten will be burglarized.

When traveling around the Nation, I find that the problem of crime ranks alongside inflation and energy as the chief concerns of the American people. Crime is not confined to our urban ghettos: it stalks everyone, everywhere. The inner city resident refuses to open the door to anyone after nightfall. The suburban family's neighborhood stroll is a thing of the past. The farmer in the great plains locks his door to secure his family and property. The elderly couple wait for police escorts before venturing out to the local supermarket.

Nor is our preoccupation with crime a recent phenomenon. Criminal violence has debased the quality of life in America since the founding of the Republic. In one of the earliest speeches that brought him public attention, Abraham Lincoln spoke of "the increasing disregard for law that pervades the country." Over a century ago a Senate Committee investigating crime in the District of Columbia lamented that "riot and bloodshed are of daily occurrence; innocent and unoffending persons are shot, stabbed, and otherwise shamefully maltreated, and not infrequently the offender is not even arrested." And in 1893, one out of every eleven Chicago residents was arrested for some crime!

Yet, Congress has done little about the problem in recent years. We have had committee after committee involved in the issues of the economy and energy, but there wasn't much discussion about crime. Unsure of what could work, unconvinced that anything meaningful could be done, Congress quietly sidestepped the issue.

This attitude is slowly beginning to change—a result in large part of the dedicated work of organizations like the National Governors Conference and LEAA. A few of the most important recent steps would include developments like these:

A new Federal Criminal Code is closer to enactment than at any time in our Nation's history. The current federal criminal law, never before codified, is a random assembly of inconsistencies, a Tower of Babel, laced with ambiguities and archaic provisions. It constitutes a serious impediment to effective, fair law enforcement.

Comprehensive criminal sentencing reform enjoys broad, bipartisan congressional support. Sentencing today is a national scandal. There are no guidelines to aid judges and little appellate review of sentences. And we have an arbitrary, unfair parole system that deceives the public, the victim and the offender alike.

A new Charter for the FBI is about to be introduced to define the permissible conduct of the Bureau and proscribe the sort of abuses that occurred in the recent past.

And, of course, there is the LEAA Reform bill, just adopted overwhelmingly by the Senate, which will simplify the grant process, reduce waste, and target limited resources. We need LEAA: but we need a program that works for, not against the best interests of our local communities.

These are all vital, constructive signs that Congress is beginning to shoulder new responsibilities in the crucial areas of crime control and criminal justice. But we also need to deal effectively with significant challenges in other important areas—such as gun control, the plague of juvenile violence, and white collar crime. And, Congress and the states must also turn their attention to the festering problem of bail.

BAIL

The public is rightly concerned about current bail practices. After more than a decade of experience with bail reform, it is apparent that the reform effort has serious flaws. It has failed to deal effectively with the problem of crimes committed by defendants released on bail. With increasing frequency, persons on bail are being arrested and charged with serious felonies—especially burglary, robbery, larceny and drug offenses. A recent study by the Institute of Law and Social Research found that over fifteen percent of all persons arrested for crimes committed in the District of Columbia were on bail at the time. This arrest rate is over ten times the rate of arrest for the general population.

And this is only the tip of the iceberg. In one study, sixty-five percent of the offenders arrested for auto theft and subsequently bailed were rearrested for another auto theft! The figures are forty percent for larceny, thirty-three percent for robbery and twenty-seven percent for burglary!

Our current bail procedures are not working. In particular, they pose an unnecessary threat to the safety of the community. It is time to recognize that these procedures need substantial revision, within the scope of what is permissible under the Constitution.

Most federal and state bail statutes now specify that, in deciding whether to permit a suspect's release on bail, judges must consider only what is necessary to secure the suspect's appearance at trial. Flight is the only stated test. The law does not permit a judge to consider the defendant's potential dangerousness to the community in reaching the bail decision. Bail is designed only to insure the presence of a defendant in court. Preventive detention—the jailing of people not for what they have done in the past, but for what they might do in the future—is contrary to most existing bail statutes and offends the Bill of Rights.

The 1966 Federal Bail Reform Act was enacted with this principle in mind. It attempted to narrow the distinction between the rich and the poor by mandating a presumption in favor of release for all those arrested. This presumption could be overcome; but it was designed to assure a more even-handed, non-discriminatory approach to bail and was premised on the belief that the poor were no more likely to flee the jurisdiction than the wealthy, who could afford to post high bail.

A decade of experience has vindicated the assumption of the Bail Reform Act. Flight is not as serious a problem as some had predicted. For example, in one major study of persons released on bail, less than four percent willfully failed to appear. There is no evidence that the poor—the prime beneficiaries of recent bail reform efforts—are more likely to flee.

Recent bail reforms at the state level confirms this fact. Kentucky has replaced the traditional bail system—where the defendant pays a bail bondsman to secure release—with one that permits the defendant himself to post ten percent of the bond. The deposit is then returned to the defendant at the conclusion of his case. Similar laws are also in place in Illinois, Oregon and the City of Philadelphia. The advantage of this "defendant's option" system is twofold. First, the defendant himself as a financial incentive not to flee, unlike the traditional system where the risk is on the bondsman once the bond is posted. Second, the defendant has no reason to commit additional crime on bail to pay the bondsman's bond. In Kentucky, recent statistics actually demonstrate a drop in the burglary rate attributed to the fact that some defendants are no longer committing crimes to pay the bondsman.

For the Nation as a whole, however, the problem of crimes committed by persons on bail continues to be a critical one. Statistics show that the likelihood of a person committing additional crimes while on bail is much higher than flight of the suspect. Although federal and state bail laws largely ignore this fact, the judges do not. Although they publicly deny it, many judges concede in private that they set high bail or jail a suspect because they feel the suspect is dangerous and will commit another crime if released. In effect, they nullify the law. They jail offenders because of danger, while adopting the transparent pretext that the offenders pose a risk of flight. But this approach is neither candid nor fair. Almost forty percent of the persons jailed in lieu of bail in the District of Columbia were deemed in one study to pose little risk of committing additional crimes if released!

Another serious problem involves the sentencing of offenders convicted of crimes on bail. Today, if an offender commits a second offense while on bail and is later convicted of both offenses, he usually receives a concurrent sentence. Public cynicism and frustration mount as the offender commits two crimes for the price of one. Meanwhile, court congestion and trial delay prevent speedy disposition of cases involving bailed persons, who roam local streets in no hurry for their cases to be called.

Preventive detention—the simplistic response to the bail problem—is not the answer. It is unsound as a matter of constitutional law, because it flies in the face of the due process clause of the fifth and Fourteenth Amendments, and the prohibition against excessive bail under the Eighth Amendment. Preventive detention is also unsound as a matter of public policy, because it is based on the erroneous premise that accurate predictions of future danger can be made.

We know that such predictions cannot be made when it comes to indeterminate sentencing or parole release. Bail is no different. One limited study of the District of Columbia's preventive detention law shows that only one out of twenty persons who could have been detained were actually rearrested for a dangerous or violent crime. Theoretically, nineteen defendants who would not commit crime on bail could be detained in order to prevent one from committing a crime on bail.

The experience of the District of Columbia proves that preventive detention doesn't work. The District has a preventive detention statute; it also has one of the highest arrest rates in the Nation of persons on bail. Of some 1,500 cases in the District last year when preventive detention could have been used, it was actually invoked only thirty-six times. Prosecutors and judges alike are reluctant to use the statute, partly because of its detailed due process requirements and expedited hearing schedule. Nor is there any reason for them to use preventive detention. Prosecutors simply ask for high bail which the defendant cannot afford. The judges go along, and the result is the same—preventive detention in disguise.

The goal of bail reform must *not* be to jail more defendants pending trial, but to develop a more rational policy for distinguishing who should be released and on what conditions. A recent study by the Institute of Law and Social Research concludes that if bail procedures were more rational and fair, no more defendants would be jailed pending trial, yet a thirty percent decrease in the rate of crime committed by persons on bail could be achieved.

The challenge is to develop a bail policy that takes into account the legitimate concern of the public about community safety. Innovative and effective alternatives should be studied and tested in at least four areas:

1. Restricted Bail:

First, bail should not be an all-or-nothing decision. A range of stringent restrictions should be considered in cases where bail is granted.

Under most current procedures, substantial money bail is the sole condition of release. Yet, in too many cases it has the effect of assuring preventive detention. In my view, judges should be permitted to consider danger to the community, not in the initial decision to grant bail, but in the subsequent decision whether, once the defendant is released, additional restrictions should be imposed based on predictions of dangerousness.

This power of the court to set bail release conditions based on the fact that a defendant poses a risk to the safety of the community has no parallel in existing federal law. If such a consideration were permitted at the time of the initial bail decision it would constitute unacceptable preventive detention. But once the defendant has been ordered released, a new balance can be struck. Although constitutional issues may be raised, they are much less substantial than those involved in preventive detention. Once a defendant has been released, I believe that the community's safety can and should be legitimately considered, and that reasonable restrictions can be designed that fairly meet the requirements of the Constitution.

Several types of conditions may be suggested—certainly, one condition would be that the defendant will not commit a crime while on bail. Many other conditions can easily be suggested, depending on the facts of particular cases:

The defendant will report to appropriate law enforcement agencies on a regular basis;

That he will avoid all contact with witnesses;

That he will avoid specific neighborhoods and personal associations;

That he will not possess a weapon;

That he will participate in a drug rehabilitation program; or

That he will seek employment.

Indeed, in rare cases involving offenders perceived to be especially dangerous, release might be severely restricted by placing the defendant under severe custody restrictions.

To some extent, such conditions are currently found in existing statutes but they cannot be used effectively because they are not sufficiently related to risk of flight. By allowing the court to consider the risk of crime in setting conditions of bail release, judges will acquire an effective tool that is lacking today. The defendant's movements, associations and activities can be intensively monitored and restricted. Prosecutors and judges can draft bail orders which limit the permissible conduct of the defendant. Restricted bail can have a significant impact in reducing danger to the community. Yet it does not suffer from the grave constitutional infirmities and arbitrariness of preventive detention.

2. Revocation of bail:

Second, if a defendant is charged with an offense on bail, the court should make better use of the power to hold him in contempt. Today the contempt power is rarely used in this context; usually, the court deals with the new offense in isolation, and makes a new finding as to bail. The previous case is ignored. Often, the court is not even aware of the prior charge. If the defendant seems likely to appear for trial, bail may again be granted and the revolving door of crime takes yet another senseless spin.

This must change. A defendant arrested on bail should be brought before the court which initially granted release. That court can then hold the defendant in contempt for violating the conditions of bail and order him jailed. This finding of contempt is based on the fact that the defendant has breached his bail contract. Preventive detention is not the issue. The defendant faces jail for violating the previous conditions of his bail, not because he is perceived to pose a danger to the community. Contempt can be carried out with an adequate hearing to determine the facts, but without the necessity of a full trial. In this way, the concept of swift punishment can be brought home with force.

Obviously, due process guarantees must be observed. The contempt power should be limited to situations where the defendant has been charged with a serious crime or has breached a major condition of his bail. A probable cause finding as to the validity of the new arrest should be made. Once these requirements are met, use of the contempt power to compel compliance with a bail order would be an effective weapon in deterring those released on bail from committing additional crimes.

3. Consecutive sentencing:

Third, conviction for a crime committed on bail should result in a sentence consecutive to any other sentence which might be imposed. Today a habitual criminal who commits a crime on bail often receives a sentence concurrent with the sentence for other convictions. Such a result actually encourages the offender on bail to commit other crimes, since the likelihood of a concurrent sentence offers him an opportunity to commit additional crimes without fear of additional sanctions. Currently, there is little statutory penalty for committing crimes on bail. The law should mandate that an offender's conviction for a crime on bail shall give rise to a consecutive sentence.

4. Speedy trials:

Fourth, defendants on bail should be brought to a speedy trial. One of the most glaring defects of the current system is the scandalous delay in bringing the bailed offender to trial. Yet such delay constitutes one of the major causes of additional crime on bail. In the District of Columbia, trial delays in excess of a year are commonplace. And yet the District has a better record in this area than many metropolitan courts.

Legislation should require that offenders on bail—especially those high risk offenders on restricted bail—must be given a trial priority second only to defendants actually detained in jail. Neither the community nor the offender should be made to wait on the vagaries of the court calendar. Each day a defendant on restricted bail is free in the community, the likelihood increases that an additional crime will be committed. Bail reforms cannot be considered without also taking more effective steps to assure prompt disposition of the charges.

These four reform proposals—restricted bail, contempt procedures for revocation of bail, consecutive sentencing, and prompt trials—are not etched in stone. Further study and research are required. Attention must also be paid to other innovative proposals—like the recent bail reform study bill proposed by Mayor Koch of New York City.

Nor can these proposals succeed in a vacuum. In the coming weeks, I intend to consider this problem of bail in the context of the new criminal code effort. I look forward to the advice and comments of the Governors Conference and all other interested groups.

Substantive reforms, however, are not enough. We must also provide our criminal justice system with the financial and technical resources needed to make bail reform work. The concept of restricted bail, for example, is undercut from the outset if the offender cannot adequately be supervised and monitored by the court, marshals, or other agencies geared to monitor defendants on bail. Similarly, speedy trials for offenders will require that the courts and prosecutors be given the modest resources to dispose of cases on a priority basis. Without this type of additional financial commitment, true bail reform probably cannot be implemented effectively.

We also need better data on how bail is working, what factors are considered by the court in granting bail, and which offenders are most likely to flee or commit another crime if released. Judges, prosecutors, defense lawyers and others, like the highly respected District of Columbia Pretrial Services Agency, should be encouraged to conduct a systematic study of the strengths and weaknesses of bail and the reforms that are achieved. The ultimate success or failure of our system of bail will depend on the adequacy of this oversight and evaluation.

What is at stake is not whether we are labeled "hard" or "soft" on crime. What is at stake is our competence, our ability to reduce criminal violence in ways that reflect our basic legal values. In any nation suffering from violence, the danger is understandable that the passion for safety and security may override traditional principles and lead to harsh solutions that only make the problems worse. Sometimes, as we learned in the early 1970's, government itself inflames the problem by encouraging simplistic solutions and law and order rhetoric. The test for our generation and for the decade of the 1980's is whether we can shed these shibbolleths and develop workable alternatives to bring the crime rate down. As I have tried to indicate, bail reform must be a useful part of our new, more responsible arsenal in the war on crime.

As Governors, you have a paramount role to play in the current debate. I look forward to continuing our partnership, to working with you to improve the fairness and effectiveness of our criminal justice system. I congratulate all of you for the past role you have played so well in this debate, and I am confident you will be making an even greater contribution in the years to come.●

By Mr. MATSUNAGA (for himself and Mr. BAUCUS):

S. 1502. A bill to implement the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property; to the Committee on Finance.

CONVENTION ON CULTURAL PROPERTY IMPLEMENTATION ACT

● Mr. MATSUNAGA. Mr. President, today I am introducing a bill to implement articles 7(B) and 9 of the United Nations Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

The Convention's chief purpose is to combat the illegal international trade of national art treasures. The parties to the Convention undertake to prohibit importation of cultural property stolen from museums, public monuments, and similar institutions, and also undertake to recover and return such property to the rightful owners.

The United States played an active role in negotiating this convention and it was adopted by the United Nations Educational Scientific and Cultural Organization (UNESCO) on November 14, 1970. The U.S. Senate approved the convention by a vote of 77 to 0 on August 11, 1972. Despite the U.S. role in bringing about this Convention and our commitment to the Convention's purpose, the U.S. Congress has still to enact the implementing legislation.

Today the illegal traffic in stolen art objects has soared to unheard of levels. Recently, we in the United States had an experience demonstrating the important of and deep attachment to our cultural patrimony. The Smithsonian Institution National Portrait Gallery announced the acquisition of the Gilbert Stuart portraits of George and Martha Washington from the Athenaeum of Boston. The removal of these famed portraits from Boston raised an outpouring of indignation from Boston citizens, and several public officials have sharply criticized the removal of Boston's cultural patrimony by the Smithsonian Institution.

This uproar over Gilbert Stuart's portraits seems quaint when viewed in light of the pillaging and plundering occurring abroad to satisfy antique and art collectors. If the Stuart portraits had been stolen from the Boston Museum of Fine Arts and later exhibited in the National Portrait Gallery, these stolen portraits would have been quickly returned to Boston.

Yet, that same situation is occurring regularly today. The cultural patrimony of various foreign countries are being stolen from museums, public monuments, and similar institutions, only to turn up in the hands of private collectors and museums in the United States and other Western countries.

Bronze figurines and marble reliefs from the archaeological sites of Herculaneum and Pompeii in Italy have been stolen; amber, glass, and bronze ornamental jewelry dating from the fourth century B.C. have been robbed from a museum in Yugoslavia; numerous bronze and gold artifacts from the tomb of the legendary King Midas have been taken from the Gordion Museum in Turkey; important archaeological sites in Thailand have been plundered. The cultural patrimony of these countries, equal in importance to the Stuart portraits to the United States, are being pillaged and sold to satisfy the acquisitiveness of private collectors.

In some areas, this rape of cultural patrimony has been devastating. In the Mayan ruins in Mexico, huge sculptures are broken into pieces that can be carried away and sold in the illegal international traffic in antiquities. Huge statutes have been battered with sledge hammers, sliced into pieces with stone saws, and mutilated for clandestine shipment and sale abroad. Mayan walls decorated with larger-than-life size models of human and animal forms have been blasted into fragments, so that pieces may be transported out of Mexico and illegally sold. This pillaging could be compared to the blasting and removal of the statuary in the U.S. Capitol to satisfy the acquisitiveness of some European collector or some museum in the Middle East. We certainly would not allow it.

To prevent the wholesale rape and plunder of the various nations' cultural heritage, the United States advocated the adoption of the UNESCO Convention and the U.S. Senate approved the Convention on August 11, 1972. Those good intentions must be translated into hard action, and I believe that it is high time that the Congress adopted the implementing legislation to end the continued trafficking in this country of stolen art objects which has encouraged the unconscionable plundering and pillaging abroad. Just as we seek to protect our own cultural heritage and the cultural patrimony of the citizens in Boston, we should be willing to help other nations protect and maintain their own cultural heritage.●

By Mr. HEFLIN (for himself, Mr. STEWART, Mr. GOLDWATER, Mr. GLENN, Mr. TOWER, Mr. HEINZ, Mr. CHILES, and Mr. DECONCINI):

S.J. Res. 95. A joint resolution to authorize the Commissioner of Education to make a grant for the purpose of constructing a building at Tuskegee Institute in memory of Gen. Daniel "Chappie" James, Jr., and for other purposes; to the Committee on Labor and Human Resources.

DANIEL JAMES MEMORIAL CENTER FOR PREVENTIVE HEALTH EDUCATION ACT

Mr. HEFLIN. Mr. President, I am very pleased to introduce today for Senators STEWART, GOLDWATER, GLENN, TOWER, HEINZ, CHILES, and myself the Daniel James Memorial Center for Preventive Health Education Act. This legislation would authorize funds for the construction of an educational facility at Tuskegee Institute in Alabama as a permanent tribute to the late Gen. Daniel "Chappie" James, Jr.

Needless to say, the concepts embodied in the establishment of this Center are nonconventional in the health field. The Center will represent the first such effort not only in the South, but perhaps also in the country. It will usher in the new direction that health care must take in the remaining years of this country. It will emphasize the preventive health education and effective health maintenance. The program components will be designed to instruct, communicate, develop, convey and practice total health. The facility will also serve as the repository for General James' memorabilia and as the Tuskegee Institute Art Museum.

This is a pioneering effort honoring a man who was a great American patriot. The late General James fought in military conflicts as a member of the U.S. Air Force in the Pacific in World War II, in Korea, and in Vietnam, and received numerous military decorations for his distinguished leadership and valor in combat.

He rose from service as a pilot, was appointed Commander in Chief of the North American Air Defense Command, and became the first black person to hold the rank of four-star general in the Armed Forces of the United States.

Tuskegee Institute in Alabama established the first airplane pilot training program for black trainees, and provided the late General James with the education and the aviation training that encouraged him to pursue and enabled him to achieve an outstanding career of service and dedication to his fellowman and to his country.

Mr. President, I hope that the Congress of the United States will see fit to honor this great American in the way that my named colleagues and I are proposing.

Mr. President, I yield to the senior Senator from Alabama, the Honorable DONALD STEWART, who wishes to make a supporting statement at this time. When he finishes, Mr. President, I will send this bill to the desk and ask that it be referred to the appropriate committee.

Mr. STEWART. Mr. President, I am very pleased to join my colleague, Senator HEFLIN, in introducing the Daniel James Memorial Center for Preventive Health Education Act of 1979.

This bill would establish the Daniel James Center for Preventive Health Education at Tuskegee Institute in Alabama.

The Daniel "Chappie" James Memorial Center for Preventive Health Education is an especially fitting tribute to the late Gen. Chappie James. It is also fitting that this Center be located on the campus of Tuskegee Institute. It is Tuskegee which prepared General James for a lifetime of service to this country. General James was a 1942 graduate of Tuskegee Institute and received his pilot training at the Tuskegee Army Airbase. He was truly an honorary son of Alabama. Throughout his life Chappie James was a model alumnus, forever grateful for the fine preparation Tuskegee had given him for a lifetime of leadership.

General James received his commission in the U.S. Army Air Corp shortly after leaving Tuskegee. He went on to fly nearly 200 combat missions in Korea and Vietnam. He became one of the most decorated airmen in the history of the U.S. Air Force. By virtue of his courage and leadership, Chappie James rose to the rank of four-star general, becoming the first and only black to attain that rank. His last assignment in active service was Commander in Chief of the U.S. Air Force—North American Air Defense Command. Clearly, General James built an exemplary record of service and patriotism. Moreover, Chappie James showed that we live in a society in which character counts more than color and that ability is the ultimate determinant of achievement in America.

Chappie James was a true pioneer and the Chappie James Memorial Center for Preventive Health Education represents a truly pioneering effort. With the new focus in our medical community on preventive health, the James Memorial Center for Preventive Health Education will be an important resource in the uphill struggle against illness and poor health in this country. Chappie James would be proud that this center bears his name.

Chappie James dedicated his life to serving this country. We have a unique opportunity to express our gratitude to this great American by authorizing this worthy tribute to the late General James. I ask my colleagues on both sides of the aisle to support the Daniel Chappie James Memorial Center for Preventive Health Education Act.

ADDITIONAL COSPONSORS

S. 246

At the request of Mr. BENTSEN, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 246, a bill to amend the Internal Revenue Code to encourage greater individual savings.

S. 378

At the request of Mr. BELLMON, the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 378, a bill to authorize the Robert A. Taft Institute of Government Trust Fund.

S. 736

At the request of Mr. DOLE, the Senator from Iowa (Mr. JEPSEN) was added as cosponsor of S. 736, the Employment Tax Act of 1979.

S. 1056

At the request of Mr. JEPSEN, the Senator from Iowa (Mr. CULVER) was added as a cosponsor of S. 1056, a bill for the relief of Artemio C. Santiago, M.D., and Josefina Santiago, husband and wife.

S. 1068

At the request of Mr. DOLE, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1068, a bill to amend title XVI of the Social Security Act to continue the disabled children's program another 3 years.

S. 1107

At the request of Mr. Stevenson, the Senator from North Carolina (Mr. Helms) and the Senator from South Carolina (Mr. Thurmond) were added as cosponsors of S. 1107, the Youth Opportunity Wage Act of 1979.

S. 1274

At the request of Mr. Pressler, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of S. 1274, a bill to make postsecondary vocational institutions offering 6-month programs of training to prepare students for gainful employment eligible for certain Federal student assistance programs.

S. 1328

At the request of Mr. Hatfield, the Senator from Vermont (Mr. Stafford), the Senator from Vermont (Mr. Leahy), the Senator from Montana (Mr. Melcher), and the Senator from South Dakota (Mr. McGovern) were added as cosponsors of S. 1328, a bill to amend the Water Pollution Control Act.

S. 1420

At the request of Mr. Hatfield, the Senator from Nevada (Mr. Cannon) was added as a cosponsor of S. 1420, a bill to authorize the Secretary of the Interior to construct, operate, and maintain hydroelectric powerplants at various existing water projects.

S. 1421

At the request of Mr. Hatfield, the Senator from Nevada (Mr. Cannon) was added as a cosponsor of S. 1421, a bill to authorize the Secretary of the Interior to engage in feasibility studies of various potential hydroelectric power projects.

S. 1435

At the request of Mr. Nelson, the Senator from Missouri (Mr. Danforth) and the Senator from Utah (Mr. Hatch) were added as cosponsors of S. 1435, the Capital Cost Recovery Act of 1979.

S. 1467

At the request of Mr. Dole, the Senator from Oklahoma (Mr. Boren) was added as a cosponsor of S. 1467, a bill to amend the Internal Revenue Code of 1954 to provide that the retirement-replacement-betterment method of accounting for property used by a common carrier is an acceptable method for determining depreciation allowances for income tax purposes.

AMENDMENT NO. 210

At the request of Mr. Sasser, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of amendment No. 210 intended to be proposed to S. 712, the Rail Passenger Service Authorization Act.

AMENDMENTS SUBMITTED FOR PRINTING

FEDERAL TRADE COMMISSION AUTHORIZATIONS—S. 1020

AMENDMENT NO. 316

(Ordered to be printed and to lie on the table.)

Mr. SIMPSON submitted an amendment intended to be proposed by him to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

INCREASED AUTHORIZATIONS FOR 1979 FOOD STAMP PROGRAM—S. 1309

AMENDMENTS NOS. 317 THROUGH 320

(Ordered to be printed and to lie on the table.)

Mr. HELMS (for himself, Mr. Dole, Mr. Hayakawa, Mr. Lugar, Mr. Zorinsky, Mr. Cochran, Mr. Boren, Mr. Jepsen and Mr. Pryor) submitted four amendments intended to be proposed by them, jointly, to S. 1309, a bill to increase the fiscal year 1979 authorization for appropriations for the food stamp program.

Mr. HELMS. Mr. President, when S. 1309 is taken up for consideration by the Senate, I intend to offer four amendments. These amendments involve moderate changes in the administration of the food stamp program to be effective in 1979. With minor technical changes, the first three of these amendments are identical to provisions in S. 1310, the administration's bill amending the Food Stamp Act of 1977. My fourth amendment is a direct response to points raised by State food stamp administrators who have complained that current regulations bind their hands in verifying eligibility of program applicants.

Mr. President, I might say that some of the most cogent complaints came from constituents of the distinguished occupant of the chair (Mr. Boren), who have found great difficulty in administering the food stamp program.

I will briefly explain each amendment.

First. State share of recoveries. This amendment permits States to retain 50 percent of the value of all funds or food stamp allotments the States recover from those who have fraudulently obtained food stamps. This amendment will increase the low recovery rate in the food stamp program by providing an incentive for States to pursue fraud cases.

Second. Repayment for fraudulent participation. This amendment establishes the principle that the recipient of food stamps who has committed fraud shall have to compensate the Government for benefits illegally received before resuming participation. It provides two alternatives for repayment of the value of wrongfully acquired food stamps: The recipient may agree to a moderate reduction in the food stamp allotment to the household of which the defrauding person is a member; or the recipient may agree to a cash repayment of the value of the fraudulently obtained food stamps over a reasonable period of time. This amendment will provide a meaningful deterrent to fraud in the program and save millions of dollars.

Third. Provisions for information. This amendment authorizes USDA and State administrators to require social security numbers of participants. It provides for the same standards and procedures as are now employed by HEW in administering the Aid for Families with Dependent Children (AFDC) program. In addition, the administrators are granted access to data pertaining to supplemental security income recipients under the same terms and conditions as the Secretary of HEW. This amendment simply provides USDA and State administrators with the authorization to obtain information already in the possession of HEW so that the eligibility of those applying for food stamps may be better verified, thus reducing fraud and saving millions of dollars.

Fourth. Eligibility verification. This amendment permits States to employ additional procedures to verify the eligibility of households applying for food stamps. In many ways the Federal regulations inhibit the States from taking sound measures to verify eligibility, and yet other Federal regulations penalize State agencies for having ineligibiles on the rolls. This amendment will simply permit State agencies to employ additional procedures to assure the eligibility of applicants.

Mr. President, I ask unanimous consent that my amendments be printed in the Record.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

On page 7, between lines 2 and 3, insert the following:

"STATE SHARE OF RECOVERIES

"Sec. 4. Section 16(a) of the Food Stamp Act of 1977 is amended by inserting before the period at the end thereof the following: 'as well as to permit each State to retain 50 per centum of the value of all funds or allotments recovered or collected through prosecutions or other State activities directed against individuals who fraudulently obtain allotments as determined in accordance with this Act. The officials responsible for making determinations of fraud under this Act shall not receive or benefit from revenues retained by the State under the provisions of this subsection'.".

On page 7, line 4, strike out "Sec. 4" and insert in lieu thereof "Sec. 5".

On page 7, between lines 2 and 3, insert the following:

"ELIGIBILITY VERIFICATION

"Sec. 4. Section 4(c) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: 'The Secretary shall not preclude State agencies from adopting verification standards that supplement the verification standards issued by the Secretary under this Act.' ".

On page 7, line 4, strike out "Sec. 4" and insert in lieu thereof "Sec. 5".

On page 7, between lines 2 and 3, insert the following:

"PROVISIONS OF INFORMATION

"Sec. 4. Section 16 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (f) as follows:

'(f) The Secretary and State agencies may require, obtain, and use social security account numbers assigned to members of households applying for or participating in the food stamp program under the same terms and conditions as the Secretary of Health, Education, and Welfare and State agencies under Part A of title IV of the Social Security Act. The Secretary and State agencies shall also have access to data from other Federal programs for individual food stamp program applicants and participants who receive benefits under title XVI of the Social Security Act and may use such data under the same terms and conditions as the

Secretary of Health, Education, and Welfare under title XVI of the Social Security Act.' ".

On page 7, line 4, strike out "Sec. 4" and insert in lieu thereof "Sec. 5".

On page 7, lines 2 and 3, insert the following:

"REPAYMENT FOR FRAUDULENT CONDUCT

"Sec. 4. Section 6(b) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: 'After any specified period of disqualification pursuant to findings under clauses (1) and (2) of this subsection, no disqualified individual shall be eligible to participate in the food stamp program unless such individual agrees to (A) a reduction in the allotment of the household of which such individual is a member or (B) to repayment in cash, in accordance with a reasonable schedule as determined by the Secretary that will be sufficient over time to reimburse the Federal Government for the value of the coupons obtained through the fraudulent conduct. If any disqualified individual elects repayment in cash under the provisions of the preceding sentence and fails to make payments in accordance with the schedule determined by the Secretary, the household shall be subject to appropriate allotment reductions.' ".

On page 7, line 4, strike out "Sec. 4" and insert in lieu thereof "Sec. 5".

MILITARY CONSTRUCTION AUTHORIZATIONS—S. 1319

AMENDMENT NO. 321

(Ordered to be printed and to lie on the table.)

Mr. EXON submitted an amendment intended to be proposed by him to S. 1319, a bill to authorize certain construction at military installations, and for other purposes.

AMENDMENT NO. 322

(Ordered to be printed.)

Mr. WILLIAMS (for himself, Mr. Javits, Mr. Randolph, Mr. Pell, Mr. Kennedy, Mr. Cranston, Mr. Riegle, Mr. Hart, Mr. Melcher, Mr. Moynihan, and Mr. Levin) proposed an amendment to S. 1319, supra.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, the Committee on Labor and Human Resources will hold a hearing on the following nominations: Leroy D. Clark to be General Counsel of the Equal Employment Opportunity Commission; Charles J. Chamberlain, who has been nominated for reappointment as Labor Member of the Railroad Retirement Board; and Mrs. Frankie Muse Freeman to be Inspector General of the Community Services Administration. The hearing will be held on Wednesday, July 18, 1979, at 2:30 p.m. in room 4232 Dirksen Senate Office Building.●

SUBCOMMITTEE ON ENVIRONMENT, SOIL CONSERVATION, AND FORESTRY

● Mr. MELCHER. Mr. President, I wish to announce that the Subcommittee on Environment, Soil Conservation, and Forestry of the Senate Agriculture Committee will hold an oversight hearing on the impact of proposed geothermal steam recovery for energy on the planning and management of the Targhee National Forest.

The subcommittee has invited representatives from the U.S. Department of Agriculture, U.S. Department of the Interior, and the U.S. Department of Energy to testify. Public witnesses have also been invited.

The hearing will be held at 10 a.m., Monday, July 16 in room 324. Anyone wishing further information should contact the Agriculture Committee at 224–2035.●

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

● Mr. SASSER. Mr. President, the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs will hold the following hearings during the month of July:

July 17, 10 a.m., room 6226: To examine the question of State and local government compliance with the President's wage-price guidelines.

July 18, 10 a.m., room 6202: Intergovernmental fiscal impacts of tax-exempt single family housing mortgage bonds.

July 24, 10 a.m., room 6202: Oversight hearing on General Revenue Sharing.

July 26, 9:30 a.m., room 357: Grant reform legislation with focus on S. 878, the Federal Assistance Reform Act; and S. 904, the Federal Assistance Reform and Small Community Act of 1979.

July 27, 10 a.m., room 457: Grant reform legislation with focus on S. 878, the Federal Assistance Reform Act; and S. 904, the Federal Assistance Reform and Small Community Act of 1979.●

SUBCOMMITTEE ON ANTITRUST, MONOPOLY, AND BUSINESS RIGHTS

● Mr. METZENBAUM. Mr. President, the Subcommittee on Antitrust, Monopoly and Business Rights has scheduled hearings on the "failing company" intitrust defense. Under this judicially created doctrine, companies which are competitors are allowed to merge in circumstances which normally violate section 7 of the Clayton Act.

The hearing will begin on July 19, 1979, at 9:30 a.m. in room 6226 of the Dirksen Senate Office Building.●

SUBCOMMITTEE ON AGRICULTURAL CREDIT AND RURAL ELECTRIFICATION

● Mr. ZORINSKY. Mr. President, I wish to announce that the Subcommittee on Agricultural Credit and Rural Electrification of the Agriculture Committee has scheduled hearings on S. 850, sponsored by Senator McGovern. S. 850 would authorize the Secretary of Agriculture to guarantee loans for the construction and operation of fuel alcohol plants, provide for a secure supply of feedstocks for the operation of such plants, and amend the Agricultural Act of 1949 with respect to the set-aside program for feedgrains.

The hearings will begin at 9:00 a.m. on Tuesday, July 17 and Thursday, July 19 in room 324. The subcommittee will hear from invited witnesses only, but written statements submitted for the record are welcome. Anyone wishing further information should contact the committee staff at 224–2035.●

COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, the Committee on Labor and Human Resources will hold 2 days of hearings on July 17 and 19, 1979, on section 810 of the Military Construction Authorization Act, 1980. (S. 1319)

The hearing is scheduled to begin at 9:30 a.m. in room 4232 of the Dirksen Senate Office Building. Questions concerning this hearing should be directed to Jerry Lindrew at 224–3674.●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES

● Mr. GLENN. Mr. President, I wish to announce a hearing which will be held by the Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Committee on Governmental Affairs.

On Thursday, July 19, 1979, at 9:30 a.m., the subcommittee will hold a hearing on S. 1096, a bill to extend the phasing of rates charged for mailing of commercial and nonprofit mail matter. The hearing will be chaired by Senator Ted Stevens, a member of the subcommittee, and will be held in room 1224 of the Dirksen Senate Office Building.

If you have any questions regarding this hearing, please contact Jamie Cowen of Senator Stevens' staff at 224–2254, or Anne Boni of the subcommittee staff at 224–1477.●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Energy Research and Development Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today beginning at 2 p.m. to hold a hearing on S. 1308, the Energy Supply Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the sessions of the Senate on Tuesday and Wednesday, July 17 and 18, 1979, to hold hearings on S. 1377, Synthetic Fuel and Alternate Fuels Production Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL FINANCE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on International Finance of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate today—beginning at 2:30 p.m.—to hear testimony on S. 339, a bill concerning trade with Communist countries.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Friday, July 13, 1979, to consider the Federal Election Campaign Act Amendments and other administrative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. HART. Mr. President, I ask unanimous consent that the Aviation Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold a hearing on the certification and inspection of DC-10's.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CAPTIVE NATIONS WEEK

● Mr. DOLE. Mr. President, while the recent release of five dissidents from the Soviet Union has been a happy development in which the free world has rejoiced, it should not overshadow the fact that oppression and repression continue to take place within the Communist-dominated nations of the world. The arrest of 10 members of the Charter 77 Group in Czechoslovakia on May 29, even though it went practically unnoticed in the U.S. press, served to remind us that violations of human rights are a daily occurrence in the lives of the citizens of satellite countries.

Captive Nations Week has become an important landmark on our calendars in that it serves to focus attention on the plight of nations who are pursuing their dream of freedom in a daily struggle for human rights and self-determination, strengthened by indomitable courage and sustained by undaunted hope.

It is only in nations where citizens participate in the decisions that affect their daily lives, by being full partners in their governmental system, that a people's own destiny and the guarantee that its human rights will be observed, can be accomplished. In nations where man is the servant of the state, human rights become an irrelevant issue and the "pursuit of happiness" that is integrated in our own Constitution a futile chimera—an unreachable illusion of the mind.

The Russian people hoped that a revolution, in 1917, would lead to a more just society. That dream was shattered by the realities of the Bolshevik regime which imposed a new form of autocratic rule from that which the Russians had attempted to obliterate. The formation of the Union of Soviet Socialist Republics in the 1920's marked the beginning of a new brand of Russian imperialism based on ruthless repression of individual, religious, and national rights. The United States has never recognized the forced Soviet incorporation of the Baltic Republics of Estonia, Latvia, and Lithuania which followed their invasion by the Soviet forces after Stalin and Hitler reached an understanding concerning spheres of influence in Eastern Europe.

The imperialistic pursuits of the Soviet Union continued with the annexation of Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania, and Yugoslavia who, rendered helpless by the invaders, were forced to submit to a Communist regime. The pattern of Communist domination was to be repeated in Asia and in Africa.

That those who live under Communist domination rebelled time and again, from East Germany in 1953, Poland and Hungary in 1956, to Czechoslovakia in 1968, is a demonstration of man's inherent need for freedom and a tribute to man's courage and tenacity in pursuing the fight for justice and human rights.

The Helsinki Final Act in 1975 offered new hope to those trying to free themselves of their Communist yoke. Ways to implement expectations into realities have yet to be devised. Will Madrid in 1980 complete the task begun in Belgrade in 1977?

Pope John Paul II's visit to his native Poland focused attention on religious freedom and on the commitment of Eastern European citizens to the spiritual values of the Catholic Church. The enthusiasm of the crowds demonstrated that their religious aspirations were alive and well, in spite of the barriers erected against them.

Privileged as we are to living in a democratic society, we tend to take for granted the freedom of speech, of thought, and of worship that we enjoy. The 20th anniversary of Captive Nations Week is a reminder that some of our fellowmen are still struggling to gain access to those same freedoms that to us are simply a given right. In observing that anniversary, let us pledge our continuing support of the countless prisoners of conscience, of the dissidents who persevere against all odds in shaking the foundations of regimes built on the destruction of the spirit of independence.●

THE HIGH COST OF REFUGEE RESETTLEMENT

● Mr. HUDDLESTON. Mr. President, there is increasing evidence that our overenthusiastic policy on refugees is rapidly propelling us toward a major confrontation between the interests of the refugees and the interests of our own poor and unemployed. While we should continue to offer assistance to refugees, we must realize that the United States has limitations in this regard and that efforts to do more than our fair share will ultimately result in depriving our own needy citizens of their opportunity to have a better life. We still have a great deal of hardcore poverty and unemployment in this country and our efforts to balance the budget will mean that efforts to alleviate these problems will be shortchanged if we commit ourselves to accepting endless numbers of refugees. The $1 billion price tag that is already attached to our Indochinese refugee program will seem like small change compared to future expenditures at present projected admission levels of 14,000 per month.

We already have 6 million unemployed in this country and this number will increase by approximately 1 million if we have the economic recession later this year which most economists are predicting. The hardest to be hit by high unemployment are blacks, who consistently have higher than average unemployment rates.

Our commitment to improve the lives of disadvantaged individuals in this country is still not fulfilled and will require a great deal of additional work on our part. However, our policy of trying to outdo every other nation in the world in our refugee program will have a serious impact upon our domestic programs. Two noted journalists, Carl Rowan and William Raspberry, recently raised serious questions about our refugee program. I agree completely with Mr. Rowan's assessment that:

> Americans—especially minorities—who are suffering from both unemployment and inflation will find it hard to dismiss as "humanitarian" Mr. Carter's decision to accept 7,000 more Vietnamese a month.

This same concern was also reflected in a recent Wall Street Journal article depicting the success of the Iowa refugee program. While I commend the people of Iowa for the outstanding job they have done in this area, there is definitely another side to this whole issue. The undertone of this article strongly indicates that serious problems exist with the expanded refugee program and that these problems will intensify if the United States continues to assume primary responsibility for resettling the hundreds of thousands of refugees streaming out of Southeast Asia.

The article notes that the problems go beyond the high welfare expenses. It states:

> But the costs go beyond dollars. "Local citizens are reluctant to welcome any more refugees, and the refugees are having a hard time feeling at home," the welfare official says. "Whenever the federal government phases out the program, and the states have to pay, tempers will rise even higher."

The article goes on to say that—

> There has been grumbling in the black community that the refugees are taking jobs away from blacks. The Iowa unemployment rate is about 4 percent; in some areas of Des Moines, say Arzania Williams, director of the Gateway Community Center in a black section of Des Moines, the unemployment rate for young blacks is 40 percent. "I'm not saying don't do anything for the refugees," Mr. Williams says. "It's just that charity begins at home and spreads abroad."

Although our rush to assist the refugees is motivated by the best of intentions, I am extremely concerned that we may be creating serious economic and social problems for the United States by attempting to do too much too fast. These are the types of problems which we should be fully investigating and evaluating. Unfortunately, they are being ignored or glossed over.

I ask unanimous consent that the transcript of Mr. Rowan's comment on station WDVM, Mr. Raspberry's article in the Washington Post, and the Wall Street Journal article by Mr. Rout be printed in the RECORD.

There being no objection, the articles follow:

ASIAN REFUGEES

President Carter's decision to double to 14,000 the number of Vietnam refugees the U.S. will accept each month was designed to shame Japan, France and other industrial nations into doing something for the homeless boat people.

While this may appear to be Carter leadership in Tokyo, it will cause the already-beleaguered President some new headaches in the United States.

Americans—especially minorities—who are suffering from both unemployment and inflation will find it hard to dismiss as "humanitarian" Mr. Carter's decision to accept 7,000 more Vietnamese a month.

As Sen. Frank Church pointed out recently, the U.S. already was taking 70 per cent of the Vietnamese, at an annual cost of $200 million a year for resettling them. The Tokyo decision will cost taxpayers another $150,000,000 a year.

Mr. Carter will find that this outrages especially some black members of Congress who note that black unemployment in America is still a dreadful 11.6 percent, and who argue that these refugees add to the prospect of joblessness among blacks. Blacks ask why Mr. Carter was so bold in Tokyo in standing up for the Vietnamese when he has been so indifferent to the economic woes of black Americans, without whose votes he would not be President.

Add to this the prospect that the increase in oil prices ordered by OPEC will reduce American jobs by 800,000 by the end of next year, and the outlook becomes grim for black America.

Not just blacks, but a majority in Congress, may try to override the President's recent outburst of humanitarianism.

This is Carl Rowan.

[From the Washington Post, July 4, 1979]

OUR OWN "WRETCHED REFUSE"

(By William Raspberry)

The United States, obviously moved by the sad spectacle of the homeless "boat people," has doubled, to 14,000 a month, the number of those poor souls it will take in as refugees.

This big-heartedness, even during a time of economic uncertainty at home, is one of the things I admire about America.

But with unemployment among black Americans running at twice the rate for whites, with blacks losing ground to whites in terms of family income—and with this depressing discrepancy certain to grow worse as a result of the energy shortage—we are told not to expect much more by way of catch-up help for blacks.

This is one of the least admirable things about America. It is also one of the most mystifying.

Racism doesn't quite suffice as an explanation. When the favored refugees were Europeans—freedom-seeking Hungarians, for instance—some of us were convinced that it was their whiteness that triggered American sympathy.

But the Indonesian "boat people" aren't white. Nor do they share the American language and culture.

Is it our assumptions about a group's industriousness that tilts the scales of welcome? Unquestionably, the Indochinese have a reputation for being willing to work hard at low pay.

But that isn't the whole explanation either. Surely blacks who toiled so hard and for so little as share-croppers in the American South, and who fled to the industrial North for a chance at low-skill factory jobs, cannot be said to have been congenitally lazy.

In fact, most of the negative traits assigned to poor blacks can be read not as the cause but as the outcome of the denial of opportunity.

Perhaps it is the angry insistence of black Americans on a better chance, or their present-day unwillingness to take the worst—and worst-paid—of the jobs that triggers resentment.

But, then, how do we account for the comparable resentment against Mexican migrants, who enter this country illegally for the privilege of performing back-breaking stoop labor? Or against Haitian peasants, who look to the lowliest of American jobs as their chance for a better life? Why do we round up these wretched opportunity-seekers and send them packing while we welcome the Indochinese?

The "boat people" are, of course, a special case, since America's only choice, finally, was to admit them or condemn them to death.

But weren't we welcoming Vietnamese refugees long before there were "boat people"?

Maybe a sense of national guilt growing out of the Vietnamese war, has something to do with it. But that only raises the question of how this country has managed to overcome its sense of guilt regarding the plight of black Americans, or of American Indians.

Why do we hoist the welcome sign for some wretched outsiders but not for others?

A major part of the explanation may have to do with perceptions: Perceptions of the basic qualities of a group of people, perceptions as to the degree of threat they represent, perceptions as to how easily they will fit in.

A thousand and one things conspire to create negative perceptions of America's black poor. If the jobless rate among blacks is twice as high as among whites, doesn't that suggest that blacks are only half as willing to work as whites? And if the jobless rate among black teen-agers soars to 30, 40 or 60 percent, doesn't that tell you that black teen-agers perfer to hang out on street corners?

Unfortunately, these perceptions fulfill themselves.

I am proud of America for opening its doors—and its hearts—to the "boat people." But I do wish that we could save some of our sympathy—and our cash—for our own "wretched refuse" who, no less than Hungarians or Cubans or Vietnamese, want a chance at the good life the country has to offer.

[From the Wall Street Journal, June 27, 1979]

HAVEN FOR BOAT PEOPLE: IOWA DOES SO WELL BY ITS INDOCHINESE REFUGEES THAT IT'S GAINING A REPUTATION IN ASIAN CAMPS

(By Lawrence Rout)

DES MOINES, IOWA.—It's Saturday night here, and three young men, in skin-tight bell-bottom pants and shoes with two-inch heels, flail away at electric guitars. Dozens of couples fill the dance floor.

The music, however, isn't anything like the top 40. These tunes, musicans and dancers are from Laos. And while the younger couples hustle to a faint disco beat their parents, as if keyed to a different ryhthm, glide about the floor doing the traditional Lamvong dance.

This curious blend of the East and West is becoming increasingly commonplace in this Midwestern state. Since the fall of Saigon in April 1975, about 3,700 refugees have settled here. At least 1,000 more are due to arrive this year. Iowa seems to be absorbing these refugees without the social and economic costs that have been paid elsewhere.

With some 235,000 Indochinese refugees in the U.S., and over 5,000 more coming each month, all 50 states are, to some extent, touched by such problems. The latest available figures show the number of resettled refugees ranging from under 100 in Vermont to over 45,000 in California. Yet no matter how many refugees they have in their states, most state governments have made few, if any, special efforts to find them jobs.

WELFARE PAYMENTS

"It has meant a lot of refugees on welfare," says a welfare official in one Eastern state. Last year the federal government, under a special program, spent $43.9 million in welfare money for the refugees.

But the costs go beyond dollars. "Local citizens are reluctant to welcome any more refugees, and the refugees are having a hard time feeling at home," the welfare official says. "Whenever the federal government phases out the program, and the states have to pay, tempers will rise even higher."

But probably not in Iowa. "Any refugee we put in this state will eventually get a job," says Colleen Shearer, director of the Iowa Refugee Service Center and of the state's Department of Job Service.

Iowa's success has been noted elsewhere. Some other states, Michigan and New Jersey for instance, are developing similar programs. And when Iowa Congressman Jim Leach visited a refugee camp in Thailand recently, he found that "everyone in this forlorn part of Thailand knew of Iowa, and their first preference was to go there."

What Iowa does to warrant this praise isn't so different from what private organizations, such as the U.S. Catholic Conference and the Luthern Immigration and Refugee Service, do in all the states. Iowa puts the power and resources of the governor's office behind the refugees.

"GLAD TO BE HERE"

Tran Vinh Kiet is glad it does. Last April 29, after an escape by sea from Vietnam and a seven-month stay in a Malaysian refugee camp, the goateed Mr. Tran, 31 years old, arrived in Des Moines with his 24-year-old sister and their nephew. Five days later, both Mr. Tran and his sister had jobs, and their nephew, seven-year-old Tran Kien Nghiep, was in a day-care center. "All things are very different than in my country," Mr. Tran says in broken English. "But we are very glad to be here."

Such success wasn't easy; the wheels started turning when Mr. Tran was still in Malaysia. To begin with, a sponsor, someone to help Mr. Tran adapt to his new life, had to be found, a task that is typically left to private agencies. In Iowa, however, the state gets involved, too, tapping sponsors outside the church groups that are the bread and butter of the private organizations. Kenneth and Kristen Tharp of Grimes, Iowa, were persuaded to sponsor Mr. Tran.

Mrs. Tharp, a 25-year-old social worker, explains that her husband had met some refugees in his job as a real-estate agent in Des Moines. Then, when Gov. Robert Ray went on television earlier this year to ask Iowans to "open our hearts," she says, "we decided it was something we wanted to do."

First, though, they had to learn how, and the state's 12-member Refugee Service Center was ready to teach them. A meeting of old and new sponsors was set up a few weeks before the refugees' arrival, and there the Tharps were given a glimpse of the future. The advice ranged from the mundane (many of the refugees have never slept in beds) to the enigmatic ("Laotians don't show emotion," staff member Khuyen Baccam told the sponsors. "A smile can mean they're happy, but it could also mean they're unhappy.").

The sponsors were given $150 per refugee—federal money that could be used for rent deposits, clothes and other necessities before the refugees arrived. The Tharps, after three days of looking, found a $150-a-month, one-bedroom apartment on the edge of a lower-class section of Des Moines and furnished it with gifts from friends and relatives. They had to buy some clothes, Mr. Tharp says, "because the refugees are smaller than most people." (Mr. Tran is five-foot-three.)

Mostly, though, the couple, egged on by the refugee center, went looking for jobs. "Try to exhaust all job possibilities before you apply for cash assistance," Jonann Wild of the center told the sponsors. "If your back is against the wall," she said, "come to us and we'll try to work it out."

A JOB IS FOUND

Two days after Mr. Tran arrived by plane, Mr. Tharp did just that, and the center, conveniently situated in a corner of the Department of Job Service, placed Mr. Tran in a $3.50-an-hour job making aluminum windows at Corn Belt Aluminum Inc., of Des Moines.

John Graham, one of the owners of Corn Belt Aluminum, had already contacted the refugee center. "I called them because I knew they would be taking care of the refugees and we had been happy with the ones we've employed in the past," he says. The company employs about 30 workers, 10 of them refugees.

Most employers end up pleased with the refugees. "They are good workers and dependable, and that's hard to find," says Walter Henderson, owner of Nimble Thimble, a tailor shop here that hired Mr. Tran's sister to work as a seamstress.

While Mr. Tran was grateful for his job, he was keenly aware that screwing together four sides of a window frame didn't fit the skills he acquired in Vietnam as an assistant manager in an import-export firm. "It's simple work, menial," he said. "I'd like to get a better job in the future." Recently he did get a better job, doing electrical repair work on home appliances in a local shop. He is still paid $3.50 an hour, but the job requires more skill.

GRIND BOTHERS SOME

For many refugees, the 9-to-5 grind is a problem in itself. "Over here you have to work all the time just to have this," says Cam Ngo Ngiem through a translator, referring to his four-bedroom house in a lower-class section of Des Moines. He recalls that in Laos, where he was a commander in the army, "once you have a cow, a water buffalo, and a little rice, you only have to work once in a while."

A few refugees complain that the state goes overboard in promoting the Western work ethic. Khamma Van Chau Luong, 52, another former Laotian army officer, came to Des Moines in October 1975 and was immediately given a woodcutting job in a furniture factory. "They don't ask what kind of job you can do, but they just say you have to do anything," he says. Mr. Luong lost his index finger in an accident at the factory soon after he started.

The slender Mr. Luong recently quit his job to study accounting and went on welfare. Since the state's refugee center periodically gets a list of all refugees on welfare, Mr. Luong has been receiving much of the staff's attention. "They chew me out every day" is the way he puts it.

There has been grumbling in the black community that the refugees are taking jobs away from blacks. The Iowa unemployment rate is about 4 percent; in some areas of Des Moines, says Arzania Williams, director of the Gateway Community Center in a black section of Des Moines, the unemployment rate for young blacks is 40 percent. "I'm not saying don't do anything for the refugees," Mr. Williams says. "It's just that charity begins at home and spreads abroad."

AIDS SEVEN FAMILIES

Gateway Center itself has sponsored seven refugee families. "We were amazed at how quickly we were able to get them jobs," Mr. Williams says. "The employers took them much quicker than they would the black male." The reason for that, he surmises, is that "Americans have opened up their hearts to these people." They haven't, he says, for the blacks.

Mr. Williams and others are also impressed with the fact that the state stays involved even after the refugees have jobs. The refugee center is constantly giving advice on legal matters, housing problems and ways of dealing with the bureaucracy. Lawrence James, an assistant vice president at United Federal Savings & Loan in Des Moines, says that when he lived in Chicago, "processing a loan for these people was a devil of a chore—I had to hunt around to find translators." In Des Moines, he says, he just calls the refugee center.

Of course, problems crop up each day that the refugee center depends on the sponsors to solve. Some are easy: "We've had to show them how to put on socks—like where the heels go," Mr. Tharp says. Others are more difficult: "The refugees," one sponsor says with exasperation, "don't trust banks. They stuff all their money into their mattresses." Mr. James confirms this account, noting that he often gets $2,000 down payments from the refugees in cash.

THE COOLNESS OF THE CHILDREN

Many refugees are put off by the eagerness of their children to adapt to the American way of life. "The way the boys act, the 'coolness,' it's seen as a sign of disrespect," says Somsak Saythongphet, a Laotian refugee who works for the refugee center.

Most parents, however, seem to be resigned to such a change. "Our daughters have to go with where they are. They have to keep with the pace," says Mr. Ngiem, the former commander in the Laotian army.

The parents hope that their children will get better jobs someday than they themselves have. Such hopes may be inflated, though, particularly for the older children who know little English and have only a short time to learn.

"The 18- and 19-year-old kids, they say they want to go to college," Jay Laughman, a teacher at the Des Moines Technical High School, says with a sigh. "But they have no idea what college is, or why they want to go there, and most of them can't speak English well enough to get by anyway."

Siang Bacthi, 25, a Laotian refugee who works for the state, agrees. "We know that the people over 15 don't have hope," she says. "Most of them will come out of school and work like their parents." ●

ELDERLY IOWANS' FEAR OF CRIME

● Mr. CULVER. Mr. President. I would like to bring to the attention of my colleagues a recent Des Moines Register article about elderly Iowans' fear of crime.

It is generally well known that senior citizens are especially vulnerable to crime. But what is less well known is that their suffering from crime reaches into all areas of our Nation. Elderly victimization by crime is not confined to the eastern region of the United States or our big cities. Unfortunately, they are also plagued by crime in many of Iowa's cities, as this article documents.

Several factors combine to render older Americans particularly susceptible to the incidence and aftermath of crime. The elderly are often less able to defend themselves or flee from an assault, and may be more likely to suffer serious injury. Due to their longstanding homeownership and limited incomes, many senior citizens live in older, possibly deteriorating, and crime-prone neighborhoods. Simply living alone, as many retired people do, can tend to lessen one's sense of safety and heighten fears and insecurities. Also, the predictable arrival of a regular monthly social security or other pension check tends to make senior citizens easy prey to the theft of these vital checks.

The elderly often suffer more from crimes in terms of financial devastation and emotional trauma. For people living on limited incomes, who must continually struggle to cover basic necessities, the loss of even a modest amount of money can inflict serious hardship. Many have little or no savings and literally depend on each check for their very survival. So losses through theft or costly medical treatment are significant setbacks.

This informative but sobering article relates how serious crime has affected the elderly in several Iowa cities. Several tragic deaths, as well as numerous robberies and muggings, have understandably instilled fear in the survivors and their neighbors. Such incidents tend to further isolate these senior citizens, who are often afraid to go outside for even the most common errands. Fortunately, the article notes, police departments and senior citizens groups are beginning to organize neighborhood watch programs and other needed measures for self-protection and crime prevention.

The article also cites several surveys which indicate that crime is a predominant concern of the elderly. ranking along with finances and health. Ninety-five percent of retired persons considered crime a serious problem according to a Des Moines Tribune metro poll.

Mr. President, I urge my colleagues to closely read this article which illustrates how our senior citizens are victimized by crime in the Midwest. I ask that the following Des Moines Register article be printed in the RECORD.

The material follows:

FEAR OF CRIME MAKES PRISONERS OF THE ELDERLY

(By Sherry Ricchiardi)

The crime is fear.

It doesn't appear in Iowa law books. But it could, because every time an elderly Iowan is beaten or robbed, others become victims.

The fear of crime forces them to live isolated existences behind barricaded windows and locked doors. They become increasingly reclusive . . . and silent. Some—especially women living in metropolitan areas—are afraid to go to supermarkets, to a doctor's office or even to take the garbage out alone.

Crime, surveys show, ranks as a major concern of the elderly along with money, health and loneliness. Fear of reprisal in some neighborhoods is so strong that elderly citizens refuse to be seen talking with reporters or uniformed police officers. They are afraid to give their names. Afraid to give their addresses. Afraid something might happen to them . . . again.

Many already have been victimized or know others who have been mugged, robbed, conned, or in some cases, killed. Until recently, little was being done to curb this paralyzing fear the elderly have of crime. "People expect it to happen in New York City, but not here," said Des Moines Police Lt. Jaspers Trout.

In Iowa, with nearly 13 percent of the population over 65, law enforcement agencies are just beginning to address the problems elderly have with crime. In some cities, the police are helping the elderly marshal forces to carry out crime prevention activities like block-watching, telephone reassurance and peer support in court.

REASON TO WORRY

Police records, especially in Iowa's larger cities, show the elderly have reason to worry. Among crimes involving older citizens during the past year:

In February, Mildred White, 80, of Sioux City, died of brain damage after being beaten and robbed by a gunman in a garage near her house. His take: several rings and a brooch.

In August, Clara Schiele, 90, of Davenport, died of injuries received during a purse snatching that occurred just outside her home. A few months later, Schiele's neighbor, Martha Kistemacher, 74, also was attacked and later died from the injuries in a nursing home.

Last fall, Ruby Boyd, 88, of Des Moines, suffered a fractured hip, leg injuries, cuts and bruises when she was thrown to the ground by a mugger in an alley in back of her house. She was found by a 15-year-old neighbor who called for help.

In January, Lucile Littler, 91, of Des Moines, awakened to find a man in her bedroom. Crippled and unable to move, she listened in terror as the man roamed the house finally stealing a television set. It was the second time in a year that her home had been burglarized.

Dessie Parrish, 83, of Council Bluffs, was beaten with her cane and robbed in February. Parrish was hospitalized for more than three weeks after the incident.

"EASY PICKINGS"

Older citizens are more vulnerable not only to malicious mischief, but to violent crime, according to police officials. Many are physically weak and slow on their feet, few constitute a serious threat to attackers. In street slang, they are called "crib jobs" or "easy pickings." Police records show the offenders often are juveniles.

According to Trout, director of Des Moines' Crime Prevention Program, catching the criminal is only part of the job. "The hardest task is relieving the terrible fears and frustrations the elderly have. It's horrible when they lose money, especially since most are on tight fixed incomes. They're not only frightened of being harmed, but of not having enough money left to survive," Trout said.

"Unfortunately, the victimizers know too well when the Social Security checks arrive. One 80-year-old woman struggled with an assailant in an attempt to save her purse. The attacker pulled her arm right out of its socket. Later, she confided she only had $1.15 in the purse, but didn't want to lose photographs of her grandkids."

POLL FINDINGS

The Des Moines Tribune's Metro Poll found that 95 percent of the retired persons interviewed rated crime a serious problem. A study by the Omaha, Neb., police department revealed that only finances worried the elderly more than crime in that city. According to a national Harris Poll, fear of crime ranks as a major concern of the elderly along with money and health.

A 71-year-old Des Moines woman, who requests anonymity, tells of her home being burglarized four times in one year, the worst occurring while she cleaned chickens for a food concession at the Iowa State Fair in August. "It was the hottest time of the year, and they took my air conditioner and TV," the woman said.

"Another time, they hit my garage and tried to steal my car, but I heard them and flicked the lights on. They broke into a shed and stole all my good tools. Every night, I ask God to be with me while I sleep. I can't afford to constantly live with fear. I have heart trouble. When I get excited, I pass out."

The woman hasn't considered moving because, "I've lived in this house for 52 years." Two of her elderly neighbors, however, moved to care centers after being burglarized several times.

In 1976, the U.S. Crime Control Act provided funds and specifically encouraged programs for the elderly. Since then, police departments in Iowa, and around the United States, have organized programs aimed at solving a lingering problem between the elderly and the police: personal communications.

DES MOINES PROGRAM

A purse snatching incident this spring in Des Moines spurred a group called "Prime Time Senior Citizens" to request meetings with police foot patrol units in the neighborhood. "When the police officers first came, it was touchy. The people didn't relate with them at all. But, we kept at it and finally, the barriers fell," said Glynn Jones, director of nutrition for the Prime Timers.

Now, police drop in at least once a month to lunch with the senior citizens. Sometimes, they even attend parties with the oldsters. Along with fostering better personal communications, the Des Moines police have organized "neighborhood watch" groups in high crime areas.

"The elderly are perfect for this because they're often home during the day," said Trout. "Besides, it's good for them to take a break from watching TV and get up and peek out the window to see what's going on once in awhile."

To counteract fear of reprisal, police issue secret watch numbers that allow callers to remain anonymous and avoid direct contact with them. Des Moines police recently began marking the property of elderly citizens with special indentification numbers to discourage burglars.

"We paste stickers on windows and doors informing would-be burglars that items in the house are marked. We've actually seen a decline in burglaries in areas where we're utilizing this," Trout said.

But, some social workers say that Des Moines police aren't visible in certain high crime areas. Paul Walley, director of the Southeast Neighborhood Development Agency, believes foot or jeep patrols would help curb crime in that area. "I know they're doing it in other parts of the city and we would welcome it here. It seems to be a deterrent when the police are more visible. I'd like to see them come to our center where the kids, who often might be involved in some of these crimes, could get to know them."

AROUND IOWA

Neighborhood watches are in the planning stage in Davenport, according to Police Sgt. Richard Zoeckler. The Davenport police conduct home security checks for the elderly and help them secure facilities at a minimum cost. Zoeckler's own mother was burglarized last year.

"My mother is a widow who lived on the good side of town. They ransacked her house while she was in church one Sunday. She couldn't adjust to living there alone after that. She sold the house and moved to a security controlled apartment," Zoeckler said.

"I know some elderly people in this town who have been burglarized five and six times. The most pitiful part is that some are assaulted and even die of the injuries they receive. It's pretty hard to tell them their fears aren't justified."

The Waterloo police department is in a "holding pattern" awaiting for confirmation of a $90,000 Law Enforcement Assistance Administration grant for crime prevention, according to Bill Hermanson of police community relations there. That police department, like many others in the state, has developed special programs on safety for the elderly.

During these presentations, Hermanson tells senior citizens to "be disciples and learn to take care of each other. Go out and share what you learn here today." He tells them to "use common sense and don't be greedy if you want to avoid being ripped off by con men. The world isn't like it used to be 40 years ago. You can't just be trusting, you have to check things out. That's sad, but it's a fact of life."

Chris Harshbarger, director of the Hawkeye Valley Area Agency on Aging in Waterloo, recently applied for a Health, Education and Welfare grant to organize "Victim Pact," a program aimed at researching the effect of crime on the elderly and improving the ability of neighborhoods to protect the elderly in their midst. His proposal, however, was turned down, and Harshbarger is angry about that.

"The federal government provides money to study the freckles on the backside of gnats, but they take a different stand on this type of issue. I followed it up, but couldn't get any solid reasons for the denial," he said.

Senior citizens in some Waterloo neighborhoods back off from reporting crimes, Harshbarger believes, because "they literally fear for their lives." He relates the story of a partially blind woman, in her mid-80s, who barricaded herself inside a small roach-infested hotel room, too fearful even to walk to the bathroom at the end of the hall.

"She heated what little food she ate on a radiator and spent most of her life in bed," Harshbarger said. "We finally relocated her in a cleaner, safer place, but she spent years living life petrified by fear.

"It's absolutely criminal for society to sit back and let human beings exist that way."●

THE CLASSIFIED INFORMATION PROCEDURES ACT

● Mr. HUDDLESTON. Mr. President, I would like to congratulate Senator BIDEN on the role he has played in formulating this important bill.

The use of classified information in litigation is an area fraught with difficulties. Of course, I am very concerned that each defendant in a criminal trial be afforded the right to public adjudication guaranteed by the sixth amendment. At the same time, it is intolerable that those with access to classified information can use their positions of trust to frustrate justice. By threatening to release national security information, they can often get off scot-free. Currently, the Government must often choose between disclosing classified information and allowing criminal conduct to go unpunished. I think the Biden bill goes a long way toward ending this perversion of justice without damaging constitutional rights.

Currently, we on the Intelligence Committee are trying to work out charter legislation that would provide a firm legal basis for intelligence activities. While the charters will guarantee that the Government has the authority to undertake needed actions in the intelligence area, at the same time it should protect the American people against abuses of this authority. I fear that without the procedures contained in the Biden bill, many of the charter provisions would become unenforceable as violators threaten to disclose sensitive information during trial.

I am pleased with this bill; it goes a long way toward closing a gap in criminal procedures that has become increasingly obvious and harmful.●

THE HOME NEWS CELEBRATES A CENTURY OF SERVICE

• Mr. WILLIAMS. Mr. President, for a century one of the vigorous voices of New Jersey journalism has been the Home News of New Brunswick, N.J.

With a circulation of 58,000 daily and 72,000 Sunday, the Home News serves one of our State's most important cities and its residents with a blend of excellent local, State, and national news coverage.

The paper is the oldest family-owned newspaper in New Jersey; a fact which testifies to the strength, persistence, and business acumen of the Boyd family.

From the paper's founder, Hugh Boyd, to William M. Boyd, the current editor and publisher, the Home News has been blessed with wise and creative leadership in the best of America's journalistic tradition.

On Sunday, June 24, the Home News marked its 100th anniversary with a special issue and the editorial from that day's paper captured the hopes and goals of the newspaper in a most eloquent way.

In an accompanying article, Ken Jennings, a former Home News editor and retired journalism professor chronicled the fortunes of the paper over its first century.

Mr. President, I was particularly touched by the portions of the article which dealt with the late Hugh N. Boyd, who served as publisher of the Home News for 21 years until 1976. I was an admirer of Hugh's forthright and exceptional leadership of the Home News and if there is a sad note to this otherwise happy occasion, it is that Hugh's untimely death last May 14 prevented him from sharing in this special celebration.

Mr. President, in an era when the family newspaper seems to be a vanishing breed, our entire Nation can be proud that we still have fine community newspapers like the Home News of New Brunswick, N.J.

I ask that the editorial from the Home News of June 24, 1979, be printed in the Record along with excerpts from the accompanying article by Ken Jennings.

In addition, Mr. President, a fine new magazine in our State, New Jersey Monthly, printed a most eloquent tribute to Hugh Boyd in its most recent issue. I would ask that this editorial letter, written by the magazine's Editor-in-Chief Christopher F. Leach and Publisher Hendrix F. C. Niemann, also be printed in the Record.

The material follows:

Reflections on Our 100th

In the newspaper business, history is yesterday's news. We chronicle today's events, and our favorite tense is the future. A knowledge and a sense of the past are essential to the presentation of today's news, of course, in order to bring it into focus and perspective, for what happens today and what will happen tomorrow are rooted in what happened yesterday—and the day before that.

It isn't often, though, that we reach back to our own beginnings as a daily publication to seek an understanding of how we have changed and of how those changes have shaped and effected the way we—and you—view the world.

We've been doing that lately, however, in preparing the special 100th anniversary edition of The Home News which is contained in today's paper. We've been reading crumbling and yellowed copies of our old newspapers, and it has been a delightful—and a sobering—experience.

The Home News has come a long way, in a lot of ways, in its first one hundred years. The most immediately apparent change has been in our face; bigger type, multi-column headlines, photographs. And the technological changes in production methods, particularly in the last few years, have been breathtaking—and we're only beginning to see the effects of 21st century technology on our operation.

But what has really fascinated us, amused us—and given us pause—is our change in style.

Long gone are the days of breathless headlines and unabashedly subjective stories in which the writers routinely reported the happenings of the day in a context of the day's mores. Woe betide the miscreant of yesteryear whose deeds came to the attention of correspondents and editors in the long ago time when the community was small and insular and when the views of the community were widely held and generally unchallenged ones!

Gone, too, are the days when a crusading editor of The Home News (one J. Dark Chandlee by name) could crystallize public sentiment for a new Albany Street bridge over the Raritan River through a hoax—an elaborately false story describing the catastrophic crash of a steamroller through the old wooden bridge.

And gone are the days when a private garden party or a fist fight on the corner or the purchase of a particularly handsome new horse carriage were vital nuggets of information for readers who were likely to know, first-hand, those involved.

But if our style has changed, it is because the world has changed—and you have changed. Newspapers do not exist in a vacuum, and ours reflects and is reflective of the growth and change of Central New Jersey and its residents. Not all of the changes are unequivocably for the better; there's a lot to be said for the chatty, even gossipy, tone of those early editions which mirrored and amplified the sense of community and friendliness and caring. And there are times and issues when Editor Chandlee's unethical tactics bring a momentary gleam to a frustrated editorial writer's eye.

We believe—we hope—however, that The Home News today remains a publication which serves its readers as they need to be served and as they wish to be served. Forty years ago, in a 60th anniversary editorial the editor of The Home News wrote, "We look back upon ourselves and as we do so we find cause for only a smallness in contentment, for only a humbleness in pride. Much perhaps has been done, but much more certainly could have been done."

We can say the same today.

And on that 60th anniversary date, the editor vowed that The Home News stands "in solemn rededication" to work in "helpful cooperation toward the common goal—a greater New Brunswick, a greater Middlesex County."

We renew that pledge today. But on this 100th anniversary, we must expand it, dedicating ourselves to serve better the greater community of Central New Jersey, to produce papers that are relevant to society's needs, to present news fairly, accurately and in depth, and to be the public's watchdog, advocate and spokesman.

For at least another century.

Paper's History Is Story of Growth

(By Kenneth Q. Jennings)

Newspapers, as are people, are born, live and breathe. Unlike people, some of them never die. Their growth usually fluctuates with the community in which they live.

So has it been with The Home News.

Because his straitlaced Presbyterian father refused to allow him to work on the Sabbath when the Belfast News-Letter started a Sunday edition, Hugh Boyd, a journeyman printer, left his native North Ireland for fame and fortune in the United States.

Ten years later, Hugh Boyd was the sole proprietor of a nine-month-old daily newspaper which its backers were glad to sell him for the $200 borrowed from them to launch it.

This was on Dec. 1, 1879.

Now, 100 years later, the fifth generation of the Boyd family, and the third named Hugh, is a member of the board of directors. His father, William M. Boyd, is president of the Home News Publishing Co. This lineage makes The Home News the oldest family-owned daily newspaper in New Jersey and one of the most venerable in this American tradition.

In Hugh N. Boyd, the best traits of three generations of Home News publishers were evident. He inherited his father's business acumen and the writing ability of his uncles, Elmer and Arthur. The latter was evident in his popular Sunday column entitled, "A Boyd's Eye View" and the personality profile of Mamie Eisenhower in 1953 which won wide acclaim.

In guiding the course of bringing more news and services to the reader, Hugh N. Boyd expanded the influence of The Home News to other areas during the past decades. Under his direction, as chairman of the board, the Home News Publishing Co. owns two television outlets from Connecticut to Florida. They are:

Housatonic Publishing Corp., which publishes weekly newspapers in Brookfield, New Milford and Litchfield, Conn., and Pawling, N.Y.; the Housatonic Broadcasting Co., which operates AM and FM radio stations in Brookfield, Conn.; the Holston Valley Broadcasting Corp., which operates an FM radio and a television station in Kingsport, Tenn.; Northwest Connecticut Broadcasting Corp., which operates an AM station in Torrington, Conn., and Caloosa Television Corp., operator of the television station in Naples/Fort Myers, Fla.

Luckily for New Brunswick, Hugh N. Boyd, like his predecessors, was active in civic affairs. He served on every important board of directors associated with all facets of community life. In addition, his sphere of public service covered the state level being appointed there three times by New Jersey governors to serve on commissions. His interests were even wider, with association with Freedom of Information groups which gave him international acclaim. Throughout his lifetime, Hugh Boyd maintained a deep interest in young people, especially those involved in journalism. His interests journalistically and religiously were heightened when, just before his death, Bishop George Ahr of Trenton appointed him to the editorial board of the official diocesan publication.

Hugh Boyd's untimely death last May 14, at age 67, ended abruptly what was to be the most rewarding year of his life. After stepping down in 1976, after 21 years as publisher and 44 years as a staff member, he remained active as chairman of the board and editorial head of the newspaper looking forward to the centennial anniversary of The Home News.

The long Home News tradition of community coverage and service will continue under the stewardship of William M. Boyd, who succeeded his father three years ago as editor and publisher. After graduation from the School of Journalism at Stanford University, Bill Boyd joined the staff of the San Diego Union-Tribune, in California. After becoming a director and member of the executive committee of The Home News, he became general manager in 1960.

It is interesting to note that The Home News in its three moves during the past century has continued to publish within the city limits.

The Home News has never changed in another respect. A reader has always been able to look with pride and satisfaction on the success of independent journalism in New Brunswick first demonstrated 100 years ago by pioneer Hugh Boyd.

[From the New Jersey Monthly, July 1979]

THE TALENT SCOUT

The last time I saw Hugh Boyd alive was at a McDonald's in New Brunswick on Friday, May 4. We met by chance, had a quick lunch, and talked for an hour about New Jersey Monthly, the problems of parochial school, New Brunswick politics, and an idea he had cherished for years—a national newspaper that would compile the best thinking from opinion pages of newspapers all over the country for national circulation. In a very real way, the last item on the agenda tells the most about the kind of man Hugh Boyd was—a man of ideas and a nourisher of dreams. One dream he helped nourish into life was this magazine, as a founding partner in NJM Associates, the group that owns the New Jersey Monthly.

Mr. Boyd died eight days after suffering a cerebral hemorrhage on the evening of the same day we met for lunch. His death was a profound shock to the communities he had known so well for varying periods during 67 years of life—to the staff of the New Brunswick Home News, of which he was publisher for twenty years; to the people who ran the two television stations, the radio stations, and the weekly newspapers he had either acquired or built during his career; to all who knew and respected his knowledge and judgment throughout New Jersey and all over the country. And to Drix Niemann and myself, two young men to whom he gave a chance that resulted in this magazine.

At Mr. Boyd's funeral mass those who spoke of him gave little time to his many physical monuments. They spoke, rather, of his ability to dream. As was said of Robert Kennedy, he asked "Why not?" when others would ask "Why?" Hugh Boyd was described by one of his eulogists as a talent scout, a man who sought and cultivated young people with ideas. His legacy, to us at least, is the notion that nothing is so valuable as a person or an idea given an opportunity to mature, a legacy we have tried to incorporate into the way we run New Jersey Monthly.

Hugh Boyd cared deeply about quality, too, which is why I think he would have been proud to know that, shortly before he died, New Jersey Monthly won two Sigma Delta Chi awards for outstanding journalistic achievement—the second year in a row we have been so honored. What we do here is really a tribute to his faith, and of him it can truly be said, "If you seek his monument, look around you."

We will miss you, Hugh. And although words are hollow substitutes, there's one we have to say: "Thanks." ●

WORLD ADMINISTRATIVE RADIO CONFERENCE

● Mr. GOLDWATER. Mr. President, this fall an important international conference that could have a profound effect on our Nation is convening in Geneva, Switzerland. Unlike our negotiations on SALT or the Law of the Sea, this Conference has received little attention from the general press. As a result, most Members of Congress and the American people are generally unaware that it will take place.

Mr. President, I am describing the World Administrative Radio Conference (WARC) to be convened by the International Telecommunications Union, and attended by 154 ITU member states. It will have the authority to make major modifications in the existing international radio regulations, the laws governing international telecommunications. General WARC's such as this one are convened only once every 20 years. Thus, the decisions made there will establish the direction and parameters of global telecommunications into the next century. A broad spectrum of significant foreign policy and security interests will be affected by WARC 1979.

As a member of the Communications Subcommittee, I have been concerned with the growing politicization of the ITU as a result of the efforts being made by Third World nations to accomplish political objectives in what has been in the past, a forum for technical discussion. Because of this concern, in January, Senator HARRISON SCHMITT and I requested the Congressional Research Service to evaluate U.S. preparations for WARC 1979. That study has been completed and its conclusion confirms my fears. I ask that a copy of the CRS study be printed in the RECORD at the conclusion of my remarks. After reviewing the CRS study, I wrote to Deputy Secretary of State, Warren Christopher, asking him to advise me of the actions being taken to protect the interests of the United States at WARC. I ask that the letter also be printed in the RECORD. Because the Congress must be in a position to evaluate U.S. preparations and to analyze the results of the Conference, including perhaps proposing reservations to the treaty, I requested the Commerce, Science, and Transportation Committee to hire an outside consultant. That is being done and the committee will make the findings of this study available to Members of the Senate in an effort to assist them in meeting their responsibilities next year.

If the Senate's schedule permits me to do so, I hope to attend the WARC to assess the problems faced by the United States and personally evaluate our delegation's efforts to protect U.S. interests. I will report to the Senate on my findings.

The material follows:

JULY 9, 1979.

Hon. WARREN M. CHRISTOPHER,
Deputy Secretary of State
Department of State
2201 C Street
Washington, D.C.

DEAR MR. SECRETARY: As you know, I have been concerned that U.S. interests may be adversely affected by decisions made at the 1979 World Administrative Radio Conference.

In order to determine what the Congress can do to help protect U.S. interests, Senator HARRISON SCHMITT and I requested the Congressional Research Service to report on U.S. preparations. That report has been completed; I am enclosing a copy for your information.

The report concluded that the Department of State now anticipates there will be areas of "potential confrontation" despite the Department's previous emphasis on the areas of agreement between U.S. and foreign proposals.

If the Department recognizes, as Ambassador Robinson predicted to a House Foreign Affairs Subcommittee on June 14, that the U.S. will encounter "considerable resistance" and "great controversy" at WARC, what action is being taken to coordinate the interests of the U.S. in this forum with other foreign policy objectives? Further, please advise me of the specific action being taken by the U.S. delegation to coordinate fall-back positions on controversial issues with Departmental and agency policy-level personnel.

I look forward to a continuing dialogue on this very important matter.

Sincerely,

BARRY GOLDWATER.

WASHINGTON, D.C.,
June 29, 1979.

Hon. BARRY GOLDWATER and
Hon. HARRISON SCHMITT,
Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR SENATORS GOLDWATER AND SCHMITT: In response to your request, I am submitting a report on U.S. preparations for the World Administrative Radio Conference of 1979.

As you requested, the report includes an assessment of U.S. preparatory efforts, an analysis and evaluation of the substance of the U.S. position, and an overview of the major policy positions and the principal foreign positions, with particular emphasis on the positions of the developing countries.

The report was written by Dr. Joel M. Woldman, Specialist in U.S. Foreign Policy, Foreign Affairs and National Defense Division, with the execption of a section on Allocation Issues, which was written by Marcia S. Smith, Analyst in Aerospace and Energy Technology, Science Policy Research Division.

We hope this report will serve your needs. Please feel free to call on us if we can be of further assistance.

Sincerely,

GILBERT GUDE,
Director.

THE WORLD ADMINISTRATIVE RADIO CONFERENCE OF 1979: U.S. PREPARATIONS AND PROSPECTS

EXECUTIVE SUMMARY

The International Telecommunication Union (ITU) has scheduled the first general World Administrative Radio Conference (WARC) in twenty years for ten weeks from September 24 through November 30, 1979 in Geneva, Switzerland. To be attended by most of the 154 ITU member states, the WARC will have the authority to modify significantly the existing International Radio Regulations, the laws governing international telecommunciations. Since general WARCs are convened only once every twenty years, the changes in the Regulations resulting from the meeting may set the direction and parameters for global telecommunications until approximately the year 2000.

Significant questions affecting U.S. security interests, industry, and official overseas information programs will be decided at WARC 79. Since Conference decisions will be reached on a one-country, one-vote basis, however, and over two-thirds of the members are less developed countries (LDCs) from the Third World, the Conference may prove a considerable challenge to U.S. policy makers and representatives. Moreover, in the United States, as in other countries, the Regulations have treaty status; therefore, any changes made by the WARC will have to be approved by the Senate.

Radio broadcasting is only the most familiar use of radio (electromagnetic) waves. Others include television; telegraphy; telephone; telex; fixed or mobile point-to-point communication between ships or aircraft, taxis or police; radar; microwave relay; radio astronomy; and all forms of satellite and cable communication. Since the electromagnetic spectrum is finite, there must be both international rules governing its use and national regulations for communications services within the borders of each country. Otherwse, each country's signals would constantly be interrupted by both domestic and foreign interference.

U.S. participation at WARC 79 can be viewed in a matrix of four general sets of issues—technological, economic, legal, and political/national security—which may or may not cause problems for us:

1. Technological

The technological issues include the U.S. proposals for an expanded High Frequency band permitting significant improvement in international shortwave broadcasting; for increasing allocations in the Ultra High Frequency band for land mobile services to be shared with broadcasting services; and several satellite-related problems, including the question of the right of equatorial countries to charge rent for use of the space above them for the positioning of geosynchronous communications satellites, the already highly politicized Direct Broadcast Satellite issue, and the Remote Earth Sensing Satellite issue.

2. Economic

Any changes in the ITU International Radio Regulations are of special interest to the U.S. telecommunications industry, both the manufacturers of hardware and software and the international communications carriers. Significant change could render existing equipment obsolete or, at least, require expensive retooling. The multibillion dollar U.S. communications industry could also be seriously affected by changes in the basic groundrules governing the use of and access to the spectrum on which their livelihood depends. Understandably, specific companies and branches of the industry have tended to view the process from their own perspective, and not necessarily from the same vantage point as U.S. Government planners.

3. Legal

Questions have been raised by those who foresee the possibility that the Regulations might be revised along lines which the United States would find difficult to accept. Like all ITU members, the United States has the option of footnoting or taking a reservation on a particular clause or section to indicate that the provision will not be considered binding. While in the past, the U.S. has emphasized harmony and refrained from following this practice except on one occasion, it may be advisable to attach reservations this year if the WARC accepts provisions that could be considered unwise or a threat to U.S. national interests.

It appears to be generally agreed that it would be difficult and even unproductive to opt out of the entire WARC agreement, since it governs orderely cooperation in spectrum use and global telecommunications, and the U.S. has more at stake in this regard than any other country. This relates to the dominant international role played by U.S.-owned information carriers, telecommunication equipment manufacturers, and news media. It also relates to the confusion and chaos that might develop in telecommunications if there were not some international regime governing spectrum use. In the event that new Regulations could not be finalized by the conference, the existing Regulations would remain in force until acceptable changes were agreed upon at a subsequent meeting.

4. Political/national security

After the conclusion of the WARC, it will be possible to enumerate the changes in the Radio Regulations and to quantify the consequences for the U.S. telecommunications industry or the additional or reduced frequencies that will then be available to U.S. international broadcasters such as the Voice of America and Radio Free Europe/Radio Liberty or military communications. It might be noted in this context that the Department of Defense is a major consumer of U.S. spectrum assignments and has become increasingly dependent upon satellite technology for surveillance and communications coordination.

It will be more difficult to define the wider implications for U.S. global interests of drastic changes in the Regulations. These concerns relate to possible barriers to accustomed U.S. access to foreign markets, audiences, and computerized data banks, and the concept of information as a basic resource in the conduct of international relations.

There is growing apprehension that Third World countries, which now comprise over two-thirds of the membership of the ITU (like all U.N. agencies) and therefore command a majority if they choose to vote en bloc, might use the occasion of WARC 79 to attempt to win a round in what they see as the continuing conflict between the developed countries of the "North" and the developing countries of the "South."

In the area of international communications, the Third World has voiced a number of grievances under the general heading of the "New World Information Order." These concerns include a more "balanced" flow of information between North and South; the prior consent of governments before their people are exposed to foreign "propaganda" or cultural influence (in anticipation of the future development of direct broadcasting by satellite); and the demand—more relevant in the WARC context—that portions of the increasingly crowded spectrum be reserved for developing countries that might not be able to use it until some unspecified future time. Only the latter issue could legitimately be considered an item on the WARC 79 agenda, but the others will nevertheless also probably be raised in general debate.

A 64-member U.S. delegation will participate in WARC 79, under the direction of law professor and former FCC commissioner Glen O. Robinson. The delegation, partially appointed in early 1979, and with additional appointees named in late May, includes representatives of both Government and the private sector. There will also be 4 representatives from each House of Congress. Some concern has been voiced by the U.S. telecommunications industry that because of a reinterpretation of conflict of interest legislation, private industry representatives will no longer be able to act as delegation spokespersons or to their committees or working groups. A recent amendment to the State Department authorizing legislation by the Senate—but not yet passed by the House—would permit the Secretary of State to waive this regulation, but apprehension persists that the original legislation could limit U.S. effectiveness by restricting the activities of the most knowledgeable members of the delegation.

The U.S. proposals for changes in the Regulations were submitted to the ITU in January, following extensive discussions within the U.S. Government and telecommunications industry, both of which are spectrum users and would therefore be directly affected by the outcome of the conference. The Government discussions were led by the State Department and the Interdepartment Radio Advisory Committee (IRAC) of the Department of Commerce's National Telecommunication and Information Administration (NTIA), representing the eighteen Federal agencies and departments that are major spectrum users. The Federal Communications Commission chaired similar deliberations for the private sector and the general public.

There were some differences within the Government on the U.S. proposals, notably the one which dealt with the High Frequency band. While the International Communication Agency, the parent body of the Voice of America, and the Board for International Broadcasting, which oversees Radio Free Europe/Radio Liberty, favored increased allocations for international shortwave broadcasting, the Department of Defense opposed such a move because it would require reduction of some of the frequencies now assigned to DOD communications. Ultimately, the dispute had to be referred to the National Security Council, where it was reportedly decided in favor of the broadcasters.

The basic U.S. objectives as stated in the proposals are:

(1) to continue to support the ITU as the best means of maintaining order in global telecommunications;

(2) to achieve minimal change in spectrum allocations or procedures based on present or predictable needs;

(3) to support spectrum management procedures that permit a flexible approach to solving problems as they arise; and

(4) to accommodate the needs of all countries—developing *and* developed—to the maximum degree possible.

Among other changes, the U.S. has proposed the following:

(1) An expansion of the AM radio band that would make possible an additional 700 stations;

(2) Co-equal sharing by broadcasting and land mobile services (e.g., Citizen's Band) in the UHF band;

(3) Future consideration of changes that would provide for inexpensive two-way voice and data communications via satellite to remote areas where terrestrial facilities are not available

(4) Expansion of fixed satellite service

(5) Splitting the satellite service in the 12 GHz band into two sub-bands for fixed satellites and direct broadcast satellites, effectively tripling the number of orbital positions available to each; and

(6) Expansion of the number of frequencies available to the amateur service.

Since the submission of the U.S. proposals in January, the United States has participated in over 50 bilateral and multilateral discussions to measure foreign reactions and gain some background to the proposals prepared by others. Although the U.S. delegation staff at the State Department reported in mid-May that foreign reactions to date had been largely positive, later public statements indicated significant areas of controversy both on the use of specific frequencies and on certain procedural issues. The LDCs, for example, are most interested in the High Frequency band and below. All the LDCs want to retain the fixed services in that band and question the U.S. proposal to reduce fixed service allocations in order to expand shortwave broadcasting and alleviate crowding and interference. They also disagree with the U.S. position on right of access to the spectrum and the geostationary orbit. On the other hand, most countries support the U.S. proposals to expand the amateur and fixed satellite services.

At this writing, the basic outlook of the U.S. delegation is one of cautious apprehension and an apparent feeling that there could be considerable politicization or confrontation between North and South at WARC 79. It is difficult to confirm whether or not such views are justified.

Now that the U.S. delegation has been named, the remaining months before the opening of WARC 79 offer continuing opportunities for both the executive branch and Congress to prepare for what may be ahead. The executive branch can continue to consult with foreign governments and multilateral organizations to better anticipate the reactions of other countries to the U.S. proposals, as well as to analyze foreign proposals in advance of the conference.

The relevant Committees of Congress could schedule investigative and educational hearings to provide a forum for both Government and private views to be expressed. This would be an opportunity for the exercise of legislative oversight and also increase public exposure to the complex but important issues raised in the context of WARC 79. The results of the conference will necessarily be examined by the Senate to determine whether U.S. national interests have been sufficiently protected within a system of harmonious global telecommunications for the last 20 years of this century.

I. INTRODUCTION

A. The International Telecommunication Union (ITU) and WARC's

The International Telecommunication Union, oldest affiliate of the United Nations family of agencies, traces its origins back to the founding of the International Telegraph Union in 1865. Throughout the years, it has served as a forum for achieving international cooperation in telecommunications.

In recent years, international agreement on telecommunications matters has been achieved through the convening of ITU meetings called World Administrative Radio Conference (WARCs). While most WARCs have dealt with limited agendas focused on such specific issues as maritime satellites, the ITU also sponsors general WARCs approximately once every 20 years. The last such conference in Geneva (1959)—like its predecessor in Atlantic City in 1947—was tasked with general adjustment of the International Radio Regulations governing the basic technical rules, operating procedures, and radio frequency allocations covering the flow of global telecommunications. This was necessary because of the changes in technology and usage since the previous general WARC.

B. The general WARC of 1979

On September 24, 1979, the ITU will convene another general WARC in Geneva. It will be one of the largest international conferences ever held. This 10-week conference will be attended by representatives of most of the 154 ITU member states and will once again have the authority to modify significantly the existing International Radio Regulations. As is the case with most U.N. agencies, each member-state has one vote, and this results in preponderant representation for the over 100 developing and/or nonaligned countries belonging to the ITU.

Since general WARCs are held only once every twenty years, the Regulations which result from the 1979 WARC will set the direction for global telecommunications until approximately the year 2000. In the United States, as in other countries, the Regulations have treaty status; therefore, any changes made by the WARC will require approval by the Senate.

It might be recalled that radio broadcasting is only the most familiar type of service dependent on the use of radio (electromagnetic) waves. Others include television; telegraph; telephone; telex; fixed or mobile point-to-point communication between ships or aircraft, taxis or police; radar; microwave relay; radio astronomy; and all forms of satellite and cable communication. While radio and television are normally intended for public reception, most of the other services cited are for more limited audiences. Since the electromagnetic spectrum is finite, there must be both international rules governing its use and national regulations for communications services within the borders of each country. Otherwise, each country's signals would constantly be interrupted by both domestic and foreign interference. This problem has been growing in recent years despite the existence of the ITU and the International Radio Regulations.

The potentially contentious, as well as more prosaic, issues for the United States which might arise fall into four general categories:

1. Technological

The technological issues include increasing High Frequency (HF) international shortwave broadcasting allocations and sharing those portions of the band with the fixed services; increasing allocations in the Ultra High Frequency (UHF) band for land mobile services to be shared with broadcasting services; allotment plans for distributing frequencies and orbital satellite positions on a country-by-country basis; a plan by Colombia and some other Third World equatorial countries to allocate orbital "parking spaces" for geosynchronous communications satellites and/or to establish a fourth (equatorial) ITU region—there are now three for the entire globe*—to enable these states to function like a cartel and perhaps to exploit their unique resource, the equatorial airspace needed for geosynchronous satellites; and several satellite-related problems, including the highly politicized Direct Broadcast Satellite (DBS) issue, and the Remote Earth Sensing (Earth Environmental) Satellite issue, in which, respectively, the right of foreign states to directly send information *to* or gather and disseminate it *from* other states without the prior approval of the host governments is being questioned.

2. Economic

Any changes in the Radio Regulations are of special interest to the U.S. telecommunications industry, both the manufacturers of hardware and software and the international communications carriers. Significant change could render existing equipment obsolete or, at least, require expensive retooling. U.S. manufacturers produce equipment for both the home and foreign markets, especially in the high technology satellite field. The multibillion dollar domestic U.S. communications industry could also be seriously affected by changes in the basic groundrules governing the use of the spectrum on which their livelihood depends. Unlike many countries which may be as small as individual U.S. states, the physical expanse of the United States allows for a huge domestic and largely self-contained market with uniform operating procedures and a large, basically unilingual audience.

3. Legal

Questions have been raised by those who foresee the possibility that the Regulations might be revised along lines which the United States would find difficult to accept and implement. The United States, like all ITU members, has the option of footnoting a provision or taking a reservation on a particular clause or section to indicate that the provision will not be considered binding. In the past, however, the United States has emphasized compromise and refrained from following this accepted practice except on one occasion in 1974. In this regard, Ithiel de Sola Pool has suggested that the United States should be prepared to attach reservations on any aspect of the 1979 agreement that we see as unwise or a serious challenge to our national interests, rather than compromise in the interest of harmony as we have usually done in the past.[1]

The United States would find it difficult to opt out of the entire WARC agreement, since it governs orderly cooperation in spectrum use and the wide range of global telecommunications, and the United States has more to gain from such an agreement than any other country. This relates to the dominant role played by U.S. information carriers, telecommunications equipment manufacturers, and news media. Moreover, although the ITU provides no sanctions for noncompliance with WARC decisions, there are strong unofficial political and economic incentives for U.S. agreement.

Some observers have suggested that if the results of the WARC were so unacceptable that the United States could not live with them, we would have the ultimate option of withdrawing from the ITU, as we did from the International Labor Organization (ILO), and perhaps trying to regulate telecommunications on a regional, rather than a global scale. The problem with this solution relates to the different nature of the two international agencies. While the United States can function perfectly well without participating in ILO activities, considerable confusion and chaos could develop in the field of global telecommunications if there were not some international regime governing the use of the spectrum. At any rate, the U.S. Government is not currently considering opting out of the ITU as a practical alternative.[2]

WARC agreement would undoubtedly include provisions for the convening of future general and specialized WARCs to consider the unresolved issues.

Pool suggests that even the worst scenario, a deadlocked WARC unable to resolve many specific issues, would still result in some kind of an agreement, however limited and tentative.[3] The consequence of such a development would be a continuation of the *status quo ante*, and a stable global telecommunications structure would continue to operate until resolution of the outstanding issues could be achieved. Such a tentative WARC agreement would undoubtedly include provisions for the convening of future general and specialized WARCs to consider the unresolved issues.

4. Political/National Security

The foreign policy and national security implications of the outcome of the 1979 WARC are both tangible and intangible. It would not be difficult—once they are known—to enumerate the specific changes in the ITU International Radio Regulations which will result, and quantify most consequences for the U.S. telecommunications industry or the additional or reduced frequencies that will be available to U.S. Government international broadcasters (the Voice of America, Radio Free Europe, and Radio Liberty) or military communications.

It will be more of a problem to define the implications of a drastic revision of the Radio Regulations for U.S. global interests. The United States has grown accustomed to relatively unrestricted access to foreign telecommunications markets, audiences, and data. This has permitted the development of something approaching a cultural/economic "sphere of influence" for the United States in many countries, even some with which we have political tensions. Critics of the cultural aspect of this impact have called it "cultural imperialism" or "information dependency," while its proponents

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Footnotes at end of article.

view it more positively as a catalyst in the creation of a "global village." The foreign policy implications of such influence are difficult to quantify, but its disappearance would, it would seem, diminish or curtail the U.S. role in the world. In this context, the broad definition of information as a basic resource central to the conduct of international relations permits us to view these concerns from a broader perspective.

A specific U.S. concern in the area of international information flows is European legislation already enacted or being considered that would restrict the export of computer data and other transborder data flows.[4] These restrictions are being discussed by the OECD, the Council of Europe, the Nordic Council, and a number of individual European governments because many of them store vital data in instantaneously accessed U.S. computers. They apparently fear that these data could be—or are already being—used by the United States for purposes that they perceive as potentially injurious to their own national interests. Moreover it is possible that there could be an incursion by a foreign state—in the name of protecting its own privacy or sovereignty—into the kind of encrypted information on foreign operations and movements being sent down by U.S. military satellites, as well as other sensitive international data transmissions such as State Department of Department of Defense (DOD) cables.

In addition, John Clippinger has recently suggested that it would be inconceivable that this country would compromise or jeopardize its current or future capability in the area of Department of Defense use of spectrum through any form of restrictive WARC agreement.[5] He saw such a development as the catalyst for sovereignty issues at WARC becoming "paramount, and, in effect, nonnegotiable [for the U.S.]." While the DOD may find the final WARC 79 agreement perfectly acceptable and nonrestrictive, an agreement that they consider to be too limiting for their purposes might require a U.S. decision to restrict private sector use of a particular band or portion of the spectrum in order to permit increased DOD access.

II. MAJOR POLICY ISSUES AND PROBLEMS

A. Technical/procedural

1. New and Changed Frequency Allocations to Meet Changing Needs

Increases may be sought by various countries in frequencies allocated to broadcasting, amateur, land mobile, maritime, and satellite services, among others. Most increases agreed upon would, of necessity, require decreases in allocations for other services, although some could be accommodated through sharing of frequencies among different services. Yet sharing is opposed by many of the developing countries because it requires more planning and imposes more discipline on the co-users than non-sharing.

Any changes in frequency allocations arrived at by WARC 79 in the International Radio Regulations would first be felt by U.S. Government users of the spectrum. This includes the U.S. international broadcasters—the Voice of America (VOA), Radio Free Europe (RFE), and Radio Liberty (RL)—and the Departments of State and Defense. New frequency allocations for the U.S. international broadcasters could require changes in broadcasting schedules, possible reductions in or additions to broadcast time, and realignment of transmitters and antennae. The DOD, in particular, is a major consumer of U.S. spectrum assignments and is becoming increasingly dependent upon satellite technology for surveillance and communications coordination, and for advanced applications.[6] Examples include the DOD worldwide communications network, the NAVSTAR satellite system for pinpointing plane and ship locations, as well as planned laser-based satellite systems. At the same time, it has been argued that "military uses are particularly wasteful of the spectrum, because they are redundant—with several channels available in the event equipment is demolished or jammed.[7]

Non-Federal Government use will only be affected following possible negotiations with neighboring nations in ITU Region 2 (the Western Hemisphere) and Federal Communications Commission (FCC) rulemaking. The American public will then begin experiencing directly the impact of WARC 79 in frequency allocation changes involving AM broadcasting, the various land mobile services (two-way radio), direct broadcasting from satellites,[8] and the further use of satellites to facilitate point-to-point communications for business and personal use. Many of the proposed changes—if implemented—would require redesign and adjustment or replacement of existing equipment. The implications for both the public and the telecommunications industry are significant.

2. Review and Possible Revision of Technical Standards for Sharing of Frequencies

The suggestion has been made that frequencies now reserved for only one type of service be shared to the maximum extent technically and administratively possible. Sharing occurs when two or more different services have legitimate access to the same frequency and is based on the presumption that competing services can be kept from using the same spectrum at the same time in the same geographic area. Such a goal requires procedures that give careful attention to technical standards to prevent interference. Without such attention, the resulting interference would make the remedy worse than the problem. Once these steps have been taken, the main issue becomes the added costs of administering the closer coordination required among users by the sharing of previously unshared frequencies.

3. Review and Possible Revision of General Principles for Allocations, Orbital Utilization, and Procedures for Coordination, Notification, and Registration of Frequencies

Proposals will probably be made by some countries to revise existing procedures to make them clearer, simpler, and more efficient. The practice of giving recognition and priority to use to those countries which have first registered ("first come, first served") frequency assignments with the ITU will most likely be raised. Alternative proposals may include the establishment of allotment plans for the distribution of frequencies and/or orbital satellite space slots on a country-by-country basis, regardless of present or anticipated requirements.

Under the present system, when a broadcaster needs a frequency, he makes a request to the ITU International Frequency Registration Board (IFRB) and is assigned one allocated to his specific purpose that is not being used by another broadcaster; the principle of "squatter's rights" applies. But the growing demands of established broadcasters and newcomers for existing frequency assignments and the relatively new and—in the United States—unpopular concept of "a priori" advanced planning of telecommunications facilities have created pressures on the system to change traditional methods of allocation. Some observers fear that growing demands by the developing countries and other users of spectrum will require an as yet unknown degree of change in existing frequency allocations. How much change is one of the issues to be taken at WARC 79.

The WARC 79 agenda also includes a review of the report of the ITU International Frequency Registration Board (IFRB)—the permanent body charged with frequency registration—and revision, where necessary, of its methods of work and internal regulations under Articles 8 and 11 of the International Radio Regulations. It is possible that some countries may propose changes which would strengthen the authority of the IFRB over individual country spectrum users.

B. Political/cultural

1. North-South

Unlike the previous set of issues, the political/cultural group is far less specific and more in the nature of modalities. Often termed "demands," they range from the all-encompassing "New World Information Order" to the more finite issue of prior consent by foreign governments to information transmission or collection and dissemination by other states. In addition, these issues are not formally on the agenda of WARC 79, but most observers expect that they will be raised primarily by LDC representatives, with support on certain aspects of the problem from communist governments.

a. New World information order

The call for a "New World Information Order" has been termed the umbrella issue for the Third World ("South") in its approach to the solution of international communications problems. In this view, the less developed countries (LDCs) view the domination of international communications by the developed countries ("North") led by the United States as part of a conscious effort to keep the Third World in a subordinate and exploitable position for the foreseeable future. If the rhetoric sounds familiar, it may be because the information order demand is simply the extension to the communications field of the more wide ranging LDC demand for a "New International Economic Order" articulated in recent years. It is under this general and non-specific rubric that many Third World demands can be subsumed.

b. Communications assistance for LDS's

A number of developed countries have suggested countering some of these grievances by offering development assistance to help the Third World countries develop more adequate communication infrastructures. Such an offer by the United States—an AID commitment of $25 million over a period of six years for the use of satellites to assist in communications development in rural areas of LDCs—helped to calm LDC concerns at the 1978 UNESCO General Conference.

2. "Cultural Imperialism" and a "Balanced" North-South Information Flow

As a consequence of the underdeveloped state of communications capacity in most LDCs, citizens of the Third World tend to find themselves most often in the position of information consumers, rather than producers. Communications hardware, software, and the information transmitted often originates in the developed countries. Because the major news media— radio, television, the press, and the wire services—are dominated by a few global giants, LDC representatives charge that they suffer from "information dependency" or a permanent imbalance in the flow of information. They couple such charges with complaints about the phenomenon they call "cultural imperialism," by which they mean an allegedly conscious policy by the developed countries to achieve various ends (primarily political and economic) by attempting to impose their culture and cultural values on the Third World. The LDCs feel that they hear and read too much about the developed countries, and that the scant information transmitted from the Third World back to the developed countries—as well as to other LDCs—by these foreign media tends to be highly selective and biased, and emphasizes the bizarre and sensational, rather than national accomplishments. It is expected that

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some LDC representatives will raise the issue in general debate, if not actually try to achieve changes in the Radio Regulations that would somehow contribute to redressing these grievances.

3. The Free Flow of Information

As noted above, spokesmen for various interests, including LDCs, many communist states, and even some developed countries have challenged the position taken primarily by the United States that there should be a basically free flow of information around the world. While the free flow issue is a matter of principle for the United States arising from cherished traditions of freedom of expression and the American tendency to treat information as a commodity in the market place, rather than a resource to be controlled by government, many foreign governments—especially in the Second (Communist) and Third Worlds—view U.S. support for free information flows in more conspiratorial terms. For example, the first (interim) report of the UNESCO Commission for the Study of Communications Problems finds:

"The concept of free flow of information as it has been invoked for the past thirty or so years, and as it is applied today, can serve to justify a doctrine serving the interests of the powerful countries or groups which all too frequently enables them to ensure or perpetuate cultural domination under the cloak of generous ideas.[9]

4. The Prior Consent Principle

The issue of prior consent derives from a differing approach to the international flow of information. A number of countries, particularly those with authoritarian forms of government, but also many developing countries that observe varying degrees of democratic freedoms, feel some need for controls over the kinds of information flowing in and out of their borders. It is reasoned that their national sovereignty is challenged unless they have the right to approve or disapprove of various forms of information that could either influence their peoples or in which they have some kind of proprietary interest.

The issue has surfaced in the past with special regard to two phenomena that could conceivably be discussed at WARC 79—Direct Broadcast Satellites and Remote Earth Sensing Satellites. Both are now under consideration in the United Nations Committee on the Peaceful Uses of Outer Space, where the prior consent demand has been spearheaded by the Soviet Union. As Pool has suggested, "were the principle of prior consent to be accepted, and the right of sovereignty in the airwaves recognized, it would be hard to justify rejection [by WARC 79] of a technical orbital plan assigning positions appropriate to domestic transmissions." [10]

Pushed to its logical extreme, prior consent could ultimately be applied to international radio broadcasts and result in troublesome restraints on all broadcasters.

If the prior consent principle were applied to the Earth Sensing issue, it would have greater impact on the United States than on most countries, because of our extensive sensing activities. It is based on the concern of some governments that information on ecology, agriculture, geology, natural resources, etc., obtained through the remote sensing satellite program could be used by the United States or other countries for purposes counter to the target country's national interests. The United States has as a matter of policy made much of the data obtained through this program available to the public both here and abroad.

The head of the U.S. delegation to WARC 79, Professor Glen O. Robinson, has frequently reiterated the U.S. position on prior consent, that we would not accept it as a political principle. He has also indicated that although the United States had reluctantly agreed to some prior consent conditions for technical coordination purposes at the 1977 Broadcast Satellite WARC, we continue to be mindful of the danger that technical consent clauses might be proposed with political objectives. The U.S. thus maintains its philosophical opposition to prior consent in the face of an opposite trend in many other countries.

III. U.S. PREPARATIONS TO DATE FOR WARC 79

A. Participants and interested parties

Unlike most other countries, whether capitalist or communist, the United States does not have a Ministry of Information or Post, Telephone and Telegraph Department or comparable, unified, official policy-making structure for international telecommunications. Reflecting the almost unique structure of our polity and economy, with its system of checks and balances, there is considerable sharing of power between government and private industry, a consequent built-in tension between the two sometimes opposing sets of interests. Similarly, considerable tension exists among constituent organizations within each of the two categories. Private sector ownership of various kinds of telecommunications facilities is spread among a number of large corporations. Government control is also divided into several agencies and levels with sometimes competing interests, although an attempt was made at improving this situation through presidential reorganizations of certain agencies in 1978.

1. The U.S. Delegation

The U.S. delegation is chaired by University of Virginia law professor and former FCC commissioner Glen O. Robinson, who was appointed January 6, 1978. He reports directly to the Deputy Secretary of State. In its initial phase, the delegation consisted of 20 representatives of federal agencies active in telecommunications activities and WARC preparations. It has responsibility for advising the Secretary of State on all WARC matters and for developing the U.S. position and negotiating strategies that it will use at the conference in Geneva.

As of May 30, 44 additional members were named, bringing the total to 64 members and approximately 30 technical and administrative support staff.[11] As such, it will be the largest of the 140 or so delegations to attend the conference, although it will still be smaller than U.S. delegations to previous general WARCs because of Department of State directives to keep costs as low as possible. Of the 64, 20 represent industry and the private sector (e.g., broadcasting, satellites, amateur and mobile users, and general public interest groups). In addition, the delegation will ultimately also include some eight Members of Congress.

Due to a recent Department of Justice Interpretation of existing legislation (the Ethics in Government Act) governing conflict of interest,[12] the State Department had determined that unlike the case at previous general WARCs, private industry representatives on U.S. delegations to international meetings would not be permitted to chair committees or act as U.S. spokespersons.[13] In the case of WARC 79, some industry representatives then charged that this would reverse previous practice and have the effect of precluding some of the delegation members most knowledgeable on certain technical points from being official spokespersons, and that they would be restricted to providing technical advice to the delegation during the WARC. They also charged that the purview of WARC being highly technical and involved, and because most of the work of the conference will be done at sessions of committees and working groups, the U.S. delegation should not only include more than its 13 industry representatives, but more members in general in order to more adequately handle the heavy work load.[14]

Senator Harrison Schmitt submitted an amendment to the Foreign Relations Authorization Act of 1980 and 1981 to exempt the industry representatives to WARC 79 from the abovementioned sections of the Ethics in Government Act, "provided that: (1) The Secretary of State or his designee certifies that no government employee on the delegation is as well qualified to represent U.S. interests with respect to such matter, and (2) such designation serves the national interets. All such representatives shall have on file with the Department of State the financial disclosure report required for special government employees." [15]

The amendment was offered and passed by the Senate on May 10, 1979. Senator Schmitt subsequently expressed concern that the amendment would still not guarantee an appropriate role at WARC for private sector experts, since it only gave the Secretary of State the *option* of waiving the applicable section of the Ethics in Government Act and did not require him to do so.[16] Moreover, at the time of this writing, the bill had not yet been enacted into law.

2. The U.S. Government

a. Department of State

The policymaking role of the State Department with respect to WARC was strengthened by President Carter's Reorganization Plan No. 1 of 1977. Under Sec. 5-201 of Executive Order 12046 implementing the Plan, the Secretary of State was given primary authority for the conduct of foreign policy relating to telecommunications, including the determination of United States positions, and the conduct of United States participation in negotiations with foreign governments and international bodies.

Subsequently, the White House ordered a comprehensive review of State's communication policymaking apparatus in mid-1978 and assigned the Deputy Secretary responsibility for coordinating international communications activities in the future.

Within the Department, the Office of International Communications Policy in the Bureau of Economic and Business Affairs has responsibility for international telecommunications matters, and it is that office which has been handling preparations for the 1979 WARC. It includes the head and staff of the U.S. delegation and will continue to grow in sizes as the date of the WARC approaches.

b. National Telecommunication and Information Administration (NTIA)

Headed by an Assistant Secretary of Commerce for Communications and Information, the NTIA is the successor to the former Office of Telecommunications Policy (OTP) which was located in the Executive Office of the President prior to the implementation of Reorganization Plan No. 1 of 1977. As a result of the reorganization, the erstwhile OTP was shifted to the Department of Commerce and given an essentially advisory role, especially in international matters.

Under the terms of the reorganization, the NTIA works primarily with the State Department, the Federal Communications Commission (FCC), and the White House "to coordinate economic, technical, operational, and related preparations for U.S. participation in international telecommunications conferences and negotiations." Its Office of International Affairs performs these functions, while its Office of Federal Systems and Spectrum Management is responsible for certain WARC preparations and for coordinating the Interdepartment Radio Advisory Committee (IRAC). IRAC consists of representatives of over 18 Federal agencies and departments that are the major Government spectrum users.

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c. Federal Communications Commission (FCC)

The Federal Communications Commission has primarily a regulatory authority with regard to international telecommunications, derived from the Communications Act of 1934 and the Communications Satellite Act of 1962. One of its functions that will be affected by the results of WARC 79 includes the power to assign commercial frequencies. The FCC offices administering these responsibilities are those of the Chief Engineer and of the Foreign Affairs Advisor. In addition, its Offices of Plans and Policy and of the General Counsel advise on the interpretation of regulations and the implementation of international agreements such as the International Radio Regulations. With fifteen delegates, the FCC is the most heavily-represented single institution in the public *or* private sector on the U.S. delegation to WARC 79.

The FCC is primarily a regulatory body, but has often taken the lead in communications policymaking. This may be because of the relative lack of interest in the State Department in international communications policy matters, despite its mandate under the recent reorganization, and because of the far greater depth of technical expertise on the part of the Commission; communications is only one of a myriad of issues on which State must act, while it is the major focus of the FCC. In addition, the FCC tends to approach problems from the perspective of the powerful U.S. tele-communications industry, the views of which are also sometimes supported by the Department of Defense, the major Government user of both commercial and official telecommunications.[17]

d. Department of Defense (DOD)

As the largest single U.S. user of telecommunications in both the public and private sectors, the DOD is a force to be reckoned with whether or not it has a formal role as a communications policymaker. As mentioned above it has its own satellite system and leases commercial cable and satellite facilities at an annual cost of over $50 million.[18] The DOD uses approximately 60 percent of U.S. Government spectrum space and this makes it a powerful force on the Interdepartment Radio Advisory Committee (IRAC), an important government agency chaired by a representative of NTIA. There has been speculation that the DOD may gain additional influence on the IRAC because of the "demotion" of the former OTP from the status of a element of the Executive Office of the President to that of an obscure subdivision of the Department of Commerce (under terms of Reorganization Plan No. 1 of 1977).

DOD controls the National Communications System (NCS), a 16-year-old Government communications network intended to facilitate interconnection of official U.S. telecommunications facilities. The Secretary of Defense is the Executive Agent of the system and the Director of the Defense Communications Agency (DCA) is responsible for its daily management. Another result of the reorganization of the Executive Office of the President was to shift the responsibility for policy guidance from the OTP (now NTIA) to the National Security Council.[19]

e. Other executive agencies

Since the International Communication Agency (ICA), the former U.S. Information Agency, operates the worldwide broadcasts of the Voice of America, it has both an interest and a voice in determining U.S. policy for WARC 79. ICA also has an international communications policy office which has contributed to the preparation of the U.S. WARC proposals. The staff director for the U.S. delegation is an ICA official on detail to the State Department. In addition, the Board for International Broadcasting (BIB), a quasi-official, but nearly wholly U.S. Government-backed entity which oversees and funds the broadcasts of Radio Liberty and Radio Free Europe to the USSR and Eastern Europe, respectively, has contributed to the preparation of that part of the U.S. proposal dealing with international broadcasting in the high frequency band.

Among other agencies that play a less significant role in communications policymaking are the National Aeronautics and Space Administration (NASA), the National Science Foundation, the Department of Transportation, the National Oceanographic and Atmospheric Administration (NOAA), the Maritime Administration, and the Office of Science and Technology Policy.

f. Congress

A number of congressional committees have either expressed interest in or have a potential interest in U.S. preparations for and participation in WARC 79. They include the Communications Subcommittees of the Senate Commerce, Science and Transportation Committee and the House Interstate and Foreign Commerce Committee.[20] In addition, the Senate Foreign Relations Committee and the House Foreign Affairs Committee have an interest in the results of international conferences like WARC 79 because of their long-term foreign policy implications. The Senate Foreign Relations Committee—and ultimately, the full Senate—will have to review the changes made in the International Radio Regulations at WARC 79, since the Regulations have treaty status and will have to be approved by the Senate before the United States is legally bound by them.

In addition, individual members including Senators Schmitt, Goldwater, and Percy and Representatives Van Deerlin and Fascell have taken an interest in the process of developing U.S. WARC proposals and in the role of the United States in the conference. Under current plans, there will also be congressional membership on the U.S. delegation.

3. Private Industry

As might be expected, there has been keen interest by the U.S. telecommunications industry in proposals and preparations for WARC 79. U.S. ownership of international telecommunications facilities is divided between COMSAT for satellites and four major U.S. owners of undersea cables, AT&T, RCA Globcom, ITT Worldcom, and Western Union International (WUI). In addition, AT&T has a monopoly over voice communications and RCA, ITT, and WUI control record traffic including telegraph, telex, and leased channel services.

Moreover, U.S. manufacturers of communications equipment of all kinds for both the domestic and international markets have long played a leading role, especially in the high technology satellite field. Major telecommunications users, such as the air transport industry, have also scrutinized U.S. preparations and ground rules for WARC 79.

4. Public and Consumer Interest Groups

Various non-governmental or -industry groups with an interest in the preparations, operation, and results of WARC 79 have also expressed judgments. They include the National Council of Churches, the United Nations Association, the World Federalists, the Consumers Union, the National Education Association, to mention only a few—in a word, a wide variety of associations with direct or indirect interests in the broad range of issues to be decided at the conference.[21] Of these groups, only the Consumers Union and the Citizens Communication Center will actually be represented on the delegation. In addition, Professor David Honig of Howard University, an early critic of U.S. preparations for WARC, and representatives of the Booker T. Washington Foundation and the National Black Network will presumably speak for minority interests.

B. Ongoing processes

1. Consultative Meetings

The State Department has organized at least four consultative meetings of the Advisory Committee on the 1979 World Administrative Radio Conference, originally formed in May 1978. The Committee is chaired by delegation head Glen Robinson and represents industry and the general public. It has 38 members and is organized into five working groups which report to the full committee and the delegation. The working groups cover such issues as high frequency broadcasting, satellite allocations, coordinating procedures, and special concerns of the LDCs. Its meetings have been open to the public and provide a forum for interests that may not be represented on either the delegation or adivsory committee. There has been some criticism voiced by advisory committee members that they have been ignored by the Initial (Government) Delegation Group in U.S. WARC preparations. Some 14 advisory committee members were named to the delegation when the additional appointments were announced on May 30, 1979.

The "Ad Hoc 144" subcommittee of the Interdepartment Radio Advisory Committee did the bulk of the government sector preparatory work for WARC 79. The *U.S. National Committee of the International Radio Consultative Conference (CCIR)*, under the chairmanship of the Department of State, also was charged with some responsibility for developing recommended U.S. proposals,[22] assisting in the preparation of U.S. positions, and planning for U.S. implementation of the final acts of the conference. The U.S. CCIR committee generally assists the Secretary of State in meeting treaty responsibilities under the International Telecommunication Convention and advises him on matters concerning U.S. participation in the CCIR, a permanent organ of the ITU. CCIR activities relate to technical standards and operating practices for radio equipment and systems, and thus, are directly linked to the scope of WARC 79.

The *Federal Communications Commission* has established an internal steering committee as well as structure of Service Working Groups for the private sector. The FCC's Office of the Chief Engineer (OCE) is one of its major operating bureaus. Among many other responsibilities, the OCE participates in technical aspects of international telecommunication the U.S. proposals and either support or oppose foreign proposals.

The Assistant Chief Engineer (International and Operations Division) is responsible for OCE management activities. He has been designated the FCC Liaison Representative to the IRAC and works with the OTP, IRAC, and executive branch agencies on matters of mutual concern, including WARCs.

The FCC and the NTIA have developed a sense of the differing needs and requirements of non-Federal and Federal Government spectrum users, respectively, through close consultation with each other and with the State Department. Industry and general public concerns have been solicited by means of a series of nine public notices of inquiry issued by the FCC in coordination with the IRAC. The notices treated different aspects of WARC planning, especially changes in the international table of frequency allocations and procedures governing frequency assignments. The notices culminated in an FCC report and order, which represented the FCC's recommendation for proposals to the WARC. NTIA's position was represented through the FCC report when agreement was reached be-

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tween the two agencies or through separate policy statements where appropriate.

2. Bilateral and Multilateral Discussions

a. With foreign governments

The United States began a series of bilateral consultations on WARC in 1977. The talks were intended to explain U.S. views as they were evolving and to obtain information on foreign positions to help us in our own planning. In the course of these discussions, U.S. representatives have consulted with spectrum managers, broadcasters, foreign offices, and anyone connected with the Non-Aligned movement, as well as with academics that have been influential in UNESCO. Individual consultative meetings have been held or are scheduled to be held with as many as fifty countries in various regions. They include a number of LDCs, many of which—especially the smaller and less well prepared—have reportedly been genuinely grateful to the United States for taking the time and effort to hold these talks.

b. With multilateral organizations

The United States has participated in multilateral discussions in such forums as NATO, the European Conference of Postal and Telecommunications Administrations (CEPT), and the Inter-American Telecommunications Conference (CITEL), an organ of the OAS. The United States has also participated in ITU-sponsored seminars on WARC preparations in Panama City, Sydney, and Nairobi, using these meetings as opportunities for extended contact with Third World countries.

IV. U.S. PROPOSALS AND POSITIONS

A. Overall U.S. policy objectives

The United States prefaced its submission to the ITU for WARC 79 with the following statement of objectives based on U.S. requirements: [23]

(1) To support and maintain the central thrust of the ITU and its Radio Regulations as the principal international vehicle to ensure a high degree of order in this increasingly complex field, in the belief that the radio spectrum cannot be managed on anything less than a global basis;

This objective reflects the official U.S. view that the ITU is the best long-range means of maintaining order in international communications, and that, contrary to some observers, global rather th an regional management will continue to be the most effective approach to these problems.

(2) to provide incremental changes to the Radio Regulations based on shifts in the pattern of radio use, improvements in technology, the efficiencies to be gained by change, and the need to amortize existing communications equipment;

The United States favors minimal change in spectrum allocations or procedures, based on present needs or those that are reasonably predictable over the next twenty years. This objective runs counter to demands by some ITU members for change in either allocations or procedures that would "reserve" spectrum or guarantee future adjustments in procedure not presently required.

(3) to increase the flexibility built into the Radio Regulations so that all administrations are better able to meet the changing demands for telecommunications services and to take advantage of the rapid improvements in technology; and

The United States stresses the need for flexible rather than rigid management procedures regarding frequency allocations and regulatory controls. This anticipates demands by some ITU members for establishing rigid procedures based on existing technology and reflects the U.S. view that it should not lock itself into situations which might look quite different in the face of future and as yet unforeseeable breakthroughs or different social and economic conditions.

(4) to accommodate the requirements of all administrations to the maximum extent practicable.

The United States favors accommodating the needs of other nations and achieving a broad consensus of developed and developing countries by adhering to flexible procedures and a spirit of international accord on technical requirements. This posture of flexibility stands out in sharp contrast to the rigid positions expected to be taken by other countries more suspicious of the motives of the "haves" of the international telecommunications world, and desirous of guaranteeing themselves a share of the spectrum while there is still some left and under safeguards which would protect their future interests.

B. Suggested changes in the international radio regulations

1. Allocation Issues [24]

The U.S. proposal as finally submitted to the ITU is the culmination of many months of deliberations and negotiations among Government agencies, private industry and public interest groups. The Interdepartment Radio Advisory Committee (IRAC), which operates within the National Telecommunication and Information Administration (NTIA, part of the Department of Commerce), is responsible for decisions regarding Government use of the spectrum, while the Federal Communications Commission (FCC) deals with non-governmental usage.

IRAC consists of representatives from eighteen Government agencies: Agriculture; Air Force; Army; Coast Guard; Commerce; Energy; Federal Aviation Administration; General Services Administration; Health, Education and Welfare; Interior; International Communication Agency (formerly United States Information Agency); Justice; National Aeronautics and Space Administration; Navy; National Science Foundation, State; Treasury; and Veterans Administration. The FCC has a non-voting liaison representative on the Committee.

The proposals for WARC 79 concerning government usage of the spectrum were made by NTIA through IRAC. If a Government agency vehemently disagreed with an IRAC decision on a certain matter, that agency could appeal the IRAC decision to the head of NTIA, then to the Secretary of Commerce, and then to the State Department, which would make the final decision in consultation with the Office of Science and Technology Policy and the National Security Council. Ultimately, the President himself could have been called upon to make the final decision, although this did not happen. Some of the issues were contentious enough to be brought as high as the National Security Council for determination (specifically, that regarding the High Frequency portion of the spectrum in a dispute between the Department of Defense and the International Communication Agency) although the vast majority of issues were decided within IRAC.

For non-Government users of the spectrum, the FCC did not have an IRAC counterpart but rather used a group of service committees dealing with specific subjects, such as AM broadcasting, to make inputs to an advisory committee consisting of the chairmen of all the service committees. Input from the public was received primarily through issuance of ten notices of inquiry. Deliberations over information obtained from these various inputs resulted in FCC's "Report and Order" to the State Department delineating its positions.

Throughout the process, the FCC and NTIA maintained close communication so their positions would conflict to as small an extent as possible. In the two cases where NTIA and FCC disagreed (over maritime mobile allocations and how to deal with passive sensors on satellites) the Department of State made the final determination, in consultation with the National Security Council.

The electromagnetic spectrum is a finite natural resource, and considering the large number of competing demands for this resource just within the United States, not to mention to rest of the world, it is inevitable that there were some "winners" and some "losers" in the deliberations over the U.S. proposal for WARC. Appeal routes did exist for those who felt certain decisions were intolerable, and a very small number of appeals were made to higher levels of authority than the FCC or NTIA. The resulting proposal, therefore, is a consensus of those involved, even if some of the interested parties support certain parts of the proposal less enthusiastically than others.

It is important to remember that the U.S. proposal is just that, a proposal. As discussed elsewhere in this study, no guarantees exist that any part of the U.S. proposal will emerge victorious from the WARC. Some of those involved in U.S. WARC preparations felt there was little point in fighting battles now, before the U.S. proposal had been acted upon at WARC. After WARC is completed, the Senate must still approve the resulting treaty, and it is conceivable that U.S. interests dissatisfied with a certain aspect of the treaty will then seek to have the U.S. take a reservation regarding that portion of the treaty.

a. Very low, low and medium frequencies (VLF, LF and MF) (3–3000 KHz)

The United States has proposed the expansion of AM broadcasting for region 2 (North and South America) to accommodate new broadcast stations. The proposal specifically asks for new MF broadcasting allocations in the band 1605–1860 kHz to satisfy a projected demand in the United States for an additional 1300 commercial stations and 1000 educational and public broadcast stations by the year 2000. The United States is also proposing a number of changes in other services including radio determination to satisfy the worldwide growth in air, sea, and land operations, and improved accommodation of amateur frequencies.

b. High frequencies (HF) (3–30 MHz)

It is anticipated that changes proposed by the United States for the High Frequency (HF) bands will be controversial. The United States has proposed significant increases in HF allocations for international broadcasting and maritime mobile services plus some increased accommodation for amateur services. These increases would require a reduction in some of the present exclusive HF allocations for the fixed services. Such reductions would affect foreign countries—especially the LDCs—that still have substantial demand for the lower technology and less costly HF fixed service (especially for domestic point-to-point communications).

It has been suggested that the opposition to this change might be lessened by establishing a long transition plan, possibly with interim sharing of the band by both fixed service and broadcasting users. This could minimize disruption of existing services and phase in the changeover only as the LDCs were able to shift from fixed service to higher frequencies by gaining access to satellite facilities. If this could be accomplished through technical assistance from the developed countries, it might set a precedent for the way in which such technological tradeoffs might ameliorate North-South tensions over the use of communications resources.

In addition, there was considerable difference of opinion within the U.S. Government itself. The DOD feared it would lose the use of frequencies which it felt vital to U.S. security, while the broadcasters felt that they needed additional frequencies to surmount the significant interference in their program-

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ming caused by the growing authorized and unauthorized usage congesting the global airwaves. Because of this difference, the issue ultimately had to be resolved at the National Security Council level in favor of the international broadcasters, delaying the submission to the ITU of U.S. Document 4 (Bands below 27.5 MHz) until April.

c. Very high and ultra high frequencies (VHF and UHF) (30–3000 MHz)

The United States favors increased allocations for land mobile services to be shared with the broadcast service in this band. This change recognizes the explosive growth in the use of such services as citizens' band (CB) radio by permitting sharing in the upper UHF bands with the broadcasters who had exclusive use of these bands until recently. Such a move reportedly has been opposed by U.S. broadcasters. The purpose of this U.S. proposal is to align the international table of allocations in ITU Region 2 (the Western Hemisphere) with the U.S. domestic table, in which such changes have already been adopted. This proposal recognizes the desirability of coordinating such usage with close regional neighbors, especially Canada, in order to minimize U.S. interference with television broadcasting or other telecommunications services in adjacent border areas.

The United States has also proposed and strongly endorsed a frequency allocation to accommodate the NAVSTAR Global Positioning Satellite, a new DOD satellite navigation system that, in the words of the U.S. WARC delegation head, "promises to revolutionize radionavigation."[25] In addition, provisions for a land mobile satellite and also for aural (radio, in addition to television) broadcasting by satellite have been proposed. Other U.S. proposals include provisions to accommodate increased needs for amateur, maritime mobile, and aeronautical services.

Another possibly controversial U.S. proposal in the upper UHF portion of the spectrum is for a small frequency band for the experimental transmission of solar-generated electricity from a satellite to earth by microwaves. The development of such a system is still in the study stage. This proposal could be opposed by foreign administrations because of the potential for harmful biological and environmental effects, as well as possible interference with existing radio communication, even though the proposal states that such use "shall not cause harmful interference to stations in other bands which are operating in accordance with these regulations."[26]

d. Super high and extremely high frequencies (SHF and EHF) (3–300 GHz)

(1) Fixed Satellite Service

INTELSAT, the global communications satellite network, has claimed major additional frequency requirements that have not yet been fully accommodated. The United States, as a major shareholder in INTELSAT, has proposed several allocations to meet these requirements, especially in the 2, 3, and 6 GHz bands. It is anticipated that some of these will be controversial because of potential conflicts with terrestrial microwave services in certain European countries.

The United States is also proposing "very significant changes" in the fixed satellite allocations for both the fixed service and the broadcast satellite service frequencies at 12 GHz.[27] A problem relating to the broadcast satellite service arose after the 1977 WARC on that service. Because of the concern of many countries that they be assured access to the spectrum for satellites that they might develop in future years, ITU Regions 1 (Europe and Africa) and 3 (Asia and Australasia) adopted prior allocation plans in the 12 GHz band. Although the United States was successful in postponing implementation of an orbital plan for Region 2 until 1983, we did agree to an arc segmentation plan as part of the overall plan for Regions 1 and 3. The effect of this was to place severe constraints on the use of both broadcast and fixed satellites in Region 2. In the interim, the United States has developed a possible means of easing these constraints by expanding the band (now 11.7 to 12.2 GHz) and separating the two services (broadcast satellite and fixed satellite) into sub-bands (11.7–12.2 and 12.2–12.7 GHz, respectively).[28] However, we foresee controversy with Canada on this proposal, since it could conflict with their plans for future terrestrial microwave services.

The U.S. plan is especially interesting because, if implemented, it could more than triple the orbital positions now available for both fixed and broadcast satellite services. While broadcast satellite technology is still in the experimental stage, the fixed satellite service is becoming increasingly crowded and the additional space would be very welcome.

This plan would affect only Region 2, but it would still have to be approved by all ITU members. Although most nations outside the region would probably approve, support from other Western Hemisphere nations less technologically developed than the U.S. and therefore less likely to use these bands in the near future must also be obtained.

(2) Mobile Satellite Service

Similarly, the United States has proposed a mobile satellite service in the 7 and 8 GHz band; this is also controversial because of potential conflicts with terrestrial services.

(3) Earth Exploration and Space Research Satellites

In another potentially controversial move, the United States has proposed allocations for satellite sensing of environmental and earth resources throughout the SHF and EHF bands. Such allocations could conflict with other satellite and terrestrial systems. In addition, as noted above, remote sensing of other countries by U.S. satellites is a politically sensitive issue, and it has been much debated in the U.N. Committee on the Peaceful Uses of Outer Space, as well as in other international forums.

(4) Advanced or Experimental Services above 30 GHz

Allocation needs in the upper reaches of the spectrum are considered speculative by most observers. Only the United States and a small number of other countries have the technology to use these frequencies. Nevertheless, the United States is proposing several specific allocations for advanced or experimental services in these bands. They include new allocations for fixed service, fixed satellite, mobile service, mobile satellite, space research, radio astronomy, earth exploration, radiolocation, aeronautical mobile, martitime mobile, maritime and aeronautical radionavigation, and amateur services. Unlike some other U.S. proposals, these are less likely to cause controversy.

2. Non-Allocations Issues

a. Flexible notification and coordination procedures

The United States feels that present procedures are basically fair and reasonable, but that they could be clarified and simplified in the interests of greater efficiency. The review of frequency assignment procedures is a specific WARC 79 agenda item. It has been suggested both in the U.S. and abroad that a panel of experts be convened to review these procedures and propose changes for consideration by a future limited agenda WARC, rather than try to resolve them at WARC 79. Nevertheless, the U.S. agrees that specific proposals to insure equitable spectrum access by all nations must be considered carefully.

The U.S. proposals in this regard relate directly to overall U.S. policy objectives. They have been prompted by the anticipation that other countries will seek to revise existing procedures based on first registration (the "first come, first served" principle) and to substitute the future establishment of allotment plans for frequency distribution and/or orbital satellite space slots on a country-by-country basis. Such plans, from the U.S. perspective, would not give sufficient weight to critical evaluation of a country's demonstrated foreseeable need for the frequency or orbital slot. Moreover, plans based on the fixed country-by-country allotment system might not allow optimal utilization of the spectrum, or provide adequate incentives for adoption of spectrum and orbit conserving technologies and patterns of use.

b. The responsibility and authority of the IFRB

Although the WARC 79 agenda provides for reviewing the report of the International Frequency Registration Board (IFRB), the United States does not consider this a mandate to change the board's basic role, but only to review IFRB internal procedures. The U.S. would probably not support changes which may be proposed at the conference by other governments to enhance IFRB authority in relation to particular countries.

V. PRINCIPAL FOREIGN PROPOSALS AND REACTIONS TO U.S. PROPOSALS

At the present time, the United States delegation believes it has a fairly clear view of both the proposals and reactions of most foreign countries to U.S. proposals for WARC 79, although thus far, U.S. representatives have had wider contacts in this regard with technicians or technocrats, rather than political or government leaders.[29] While the United States was not one of the first countries to submit proposals, the U.S. proposals are among the most comprehensive. This reflects the high level of U.S. expertise, technological development, and long-term interest in the broad range of issues to be considered at WARC 79.

Some other countries have apparently decided to submit group proposals, or have only submitted proposals on issues in which they have an interest. This does not mean, however, that they will not also actively participate in the debate on other issues at the conference. Many groups are trying to develop regional positions and to help identify their collective needs over the next 20 years. To some extent this process has been encouraged by three regional seminars sponsored and funded by the ITU as a basic introduction to the WARC process for LDCs.

It does not now appear that the Third World will speak with one voice at WARC. In addition, it might be useful for U.S. planners to separate LDC rhetoric from anticipated requirements and to differentiate between spokesmen and real decision-makers. As noted above, however, there may be some regional alliances and countries at similar stages of development or sharing the same former colonial overlord may tend to have like views on issues they think will be of importance to them.

Some—but not all—observers feel that vocal LDC representatives at UNESCO meetings are not likely to be key players at WARC because they lack the necessary technical expertise, and that the country spectrum managers will play the dominant role. It is these technical experts with whom the United States has been establishing contacts through bilateral discussions and meetings at ITU regional seminars over the past two years, and with whom the U.S. delegation feels it is in a good position to work productively during the conference session. Moreover, even if the spokesmen attend part of the conference to deliver a political broadside, the work of WARC over its six-week

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Footnotes at end of article.

duration will be completed by technical specialists.

In the view of the Department of State, there are widely differing reactions to many of the U.S. proposals, both on operating principles and on the use of specific frequencies. The LDCs, for example, are most interested in the High Frequency (HF) band and below. All the LDCs foresee a need to retain the fixed services in the HF band and consider that goal is very important. They know it is insignificant internationally because of growing access to communication satellites, but need it for low-cost domestic communications. Reacting to the U.S. proposal to reduce the fixed services to increase HF international shortwave broadcasting, they respond, "you have to understand our needs also." Sharing in the HF band is not generally favored by the LDCs because this requires a self-inventory and bilateral agreements. The United States agrees it is not desirable, but argues that it is necessary because the spectrum is becoming too crowded.

There is a general consensus in favor of the U.S. proposal for an increase in the amateur services. The proposal is especially popular in Latin America, where the amateur service is widely used in time of natural disaster, in Asia (particularly Japan), and Western Europe.

It is also widely held that there should be an increase in the fixed satellite service, but there is some conflict between the U.S. and European positions in the 12 GMz band. Many countries accept the frequency bands suggested by INTELSAT for expansion of the fixed satellite service, but the United States has some problems with this request and is proposing alternative bands to satisfy this documented need.

A. Non-Communist Third World

1. Asia

a. India

India takes an essentially technical rather than political approach to the conference. It wants to retain a large portion of the fixed service and maritime mobile service and to increase broadcasting by 1000 kHz; it does not wish to expand beyond that range because it would have to be at the expense of the fixed service. In addition India supports the U.S. proposal for direct aural (radio) satellite broadcasting.

b. Japan

The U.S. WARC proposals are in substantial agreement with those of Japan. There has been close consultation throughout and the Japanese have taken a very flexible stance. They favor an increase in the HF band similar to the U.S. proposal, an increase in the maritime frequencies to be shared with the fixed service, and an increase in the amateur service.

2. Africa

In general, the Africans are cool to the U.S. proposals, especially on sharing or deletion of the fixed service in the HF band because it is still vital to their domestic communications. Some relatively more developed countries with well-developed ocean shipping such as the Ivory Coast favor a reduction in the fixed service in order to increase maritime mobile.

While most African states do not object to the U.S. proposal for an increase in the amateur service, they do not use it much themselves. In fact, amateur radio is even illegal in some African states, although they are beginning to see its uses and some influential states such as Senegal, the Ivory Coast, and Nigeria view the proposal as acceptable.

Many of the less developed African states strongly prefer to meet in regional conferences before committing themselves on a particular point. This reflects their general lack of expertise and familiarity with some of the finer technical points. In addition, there is much regional cooperation in telecommunications in Africa, e.g., microwave, because it is more cost-effective if an expensive system is shared by several countries. In addition, Britain and France have been actively conferring on WARC with their former African colonies. Interestingly, technically advanced but politically ostracized South Africa has given a good deal of technical assistance and advice on establishing regional telecommunications to neighboring black states, including not only Lesotho, Botswana, and Swaziland—with which it has always had close ties—but also front-line Zambia.

3. Middle East

There is less information available about reactions and proposals from Middle East states. Two of the more radical members of the non-aligned group, Algeria and Iraq, are in the region but neither has been active in the ITU in the past. While Egypt has been influential in the past, its role after the signing of the peace treaty with Israel is difficult to predict; the recent efforts at the Yaounde and Colombo non-aligned meetings to discredit Egypt could be repeated at WARC and could surface at the very beginning of the conference as part of the credentials process. The political changes in Iran have also made its potential WARC 79 role more murky.

Saudi Arabia has very narrow interests in the issues covered by WARC 79; its proposals deal only with broadcasting, possibly because only broadcasting interests participated in their drafting. The Saudis tend to agree with the U.S. proposals because, like us, they have (and can afford) the latest technology. While the Arabs had been discussing a regional shared ARABSAT communications satellite that would eliminate the need for many HF allocations, there has not been much activity, especially since the Egyptian-Israeli treaty.

4. Latin America

a. Brazil

Brazil straddles the developed and developing worlds. While it has the expertise, technology, industrial development, and almost enough money to be in the first world, it is clearly looked up to as a leader by the Latin American LDCs. In the communications world, the Brazilians have experienced and knowledgeable satellite people; they support both the U.S. LANDSAT and earth environmental sensing programs.

Because of the size of the country, they have to retain the fixed service, but they are sophisticated enough to realize that they can share the fixed with the maritime mobile service. They favor an increase in the amateur service and in the fixed satellite service and support the U.S. proposal to split the fixed satellite and broadcast satellite services in the 12 GHz band. Since they do little international broadcasting, they see no need for an increase in HF, but they do support a domestic increase in the medium wave (AM) service. They are satisfied with the functioning of the ITU and its International Frequency Registration Board (IFRB), although the feel the two bodies could be more efficient.

On the controversial issue of geostationary orbit space, Brazil did not sign the Colombian-sponsored Bogota Declaration of 1977 claiming equatorial orbit sovereignty and does not agree with that position. The Brazilians are satisfied that the U.S. proposal for the 12 GHz band is the best solution to the problem of crowding.

b. Argentina

Like Brazil, Argentina is moderate in telecommunications policy and a leader in Latin America. Unlike Brazil, Argentina is not as advanced in higher spectrum technology. Nevertheless, the Argentines have in general reacted favorably to the U.S. proposals. They support our fixed service and amateur proposals, as well as that for an increase in AM broadcasting.

c. Peru

The Peruvians have been enthusiastic about the U.S. proposals for splitting the fixed and broadcast satellite bands and have suggested that the United States raise the proposal at CITEL (the Inter-American Telecommunication Conference of the OAS) and then notify the ITU.

d. Colombia

The Colombians, who were very vocal at the ITU regional pre-WARC seminar, adamantly oppose any reduction in the HF fixed service. Although they have little need for such service because broadcasting is not important to them, they do not want to eliminate any broadcasting from the fixed service. The Colombians might, however, support the U.S. proposal for splitting the fixed and broadcast satellite services, since it does not compromise their orbital sovereignty claim, reduces the need for planning, and postpones the date of confrontation. At the same time, in the best possible Colombian scenario, acceptance of the U.S. proposal could eventually result in three times as much space rent!

B. Communist and socialist countries

1. Soviet Union and Soviet Bloc

There is general agreement between the United States and the Soviet Union on basic proposals, since our levels of technological development and worldwide interests and requirements are similar. The Soviets favor the current system and, like most developed countries, are satisfied with ITU procedures. It is unlikely that any of the Soviet bloc countries (East Germany, Czechoslovakia, Hungary, Poland, and Bulgaria) would take a different line. Romania is unpredictable.

Their proposals touched the HF band only lightly with no increase for international broadcasting. They see HF broadcasting as a sensitive issue and would prefer not to conflict with the LDCs on it. They have also been consulting with the LDCs in advance of the conference. At the same time, they continue to broadcast out-of-band, where they have little competition; this perpetuates a practice they began in 1959, when they took a reservation to that effect. They apparently prefer the status quo so they can continue to broadcast on the cheap low-power frequencies. It is not clear whether they will continue the reservation or request additional conventional broadcast frequencies. Their broadcasting in higher nonbroadcast bands—which is probably for military use—does cause some unintended interference with non-broadcast signals in Scandinavia and Africa.

Soviet proposals for microwave and satellite frequencies are similar to ours. They would probably support U.S. maritime mobile proposals, since they also have a large navy and merchant fleet.

2. Yugoslavia

Yugoslavia, as a leader of the Non-Aligned Movement, will undoubtedly go its own way at WARC vis-a-vis the Soviet Union.

3. People's Republic of China

The Chinese are reportedly well prepared and have documented their requirements. They have not made any radical proposals.

They recognize the differing HF broadcasting needs of the LDCs, but have not yet formulated their own proposals except that they favor an unspecified increase. They have told the U.S. that they think our proposal for conversion to single sideband is premature and are concerned about the cost of conversion to new equipment. They do not favor our proposal for power limitaton to reduce interference because they feel that their large land mass requires high power broadcasting; it is more economical for them to have stronger signals and fewer transmitters and relay stations. The Chinese do, however, support the U.S. proposal to use only one frequency per band per target area.

They agree with the U.S. proposals to share HF with maritime mobile and to expand the amateur service.

While they tend to like planning for HF broadcasting, they agree with the U.S. opposition to permanent orbital assignments for broadcast or fixed satellites. They do, however, support consideration of HF planning at a future limited agenda WARC.

They have submitted a proposal for fixed satellites in the 10–11 GHz band similar to the U.S. proposal supporting INTELSAT recommendations to expand the fixed satellite service. They are also interested in and do not oppose the U.S. LANDSAT program and have expressed interest in the U.S. proposal for an experimental solar power satellite.

In addition, they have indicated that they would like us to review currently unused assignments originally registered for our military forces in Taiwan and to either reregister them in the United States or to drop them.

C. Developed countries

1. Australia

Except in the area of international broadcasting, the Australians have many of the same interests as the United States. They support the sharing of HF fixed service with mobile because of their need to communicate with their remote "outback." They agree that the ITU system is functioning basically well. Many other U.S. proposals have no bearing on their needs because of their isolated geographical position. This position, however, and their developed economy permit them to play a dominant telecommunications role in the immediate vicinity and they provide technical support and advice for many of their smaller neighbors such as Papua-New Guinea and other island states.

2. Canada

There have been a number of differences between Canada and the United States in the telecommunications field in recent years. For example, there have been interference problems between U.S. and Canadian land mobile and UHF television; most have been resolved bilaterally without recourse to the ITU. The Canadians prefer that we footnote domestic frequency changes bilaterally, rather than through changes in the ITU Regulations.

The largest current area of conflict is in the GHz band, especially the fixed satellite and broadcast satellite services. Canada is planning a terrestrial microwave relay system and does not want to share the band with the satellite services. Since the U.S. has put forward the potentially mutually beneficial band-splitting proposal for that band, it hopes that compromise could be achieved to accommodate both our needs, but the matter is not yet resolved. A hardline Canadian position on this proposal could also put it at odds with many South American countries.

In terms of specific WARC 79 concerns, Canada does support increased allocation for HF broadcasting and the amateur service.

3. Western Europe

The United Kingdom, West Germany, France, and other NATO members generally agree with the U.S. proposals on HF broadcasting, amateur service, aeronautical mobile, and ITU registration procedures. There is also a common position on maritime mobile, perhaps because the heaviest shipping in the world is in the north Atlantic.

There is potential conflict on the U.S. proposals for the 1–2 GHz fixed satellite band, where the West Europeans already have terrestrial services, are also some problems with our proposal to expand land mobile into the UHF bands because some of the Europeans may wish to shift their VHF television into the less crowded UHF bands. This could probably be resolved regionally without interference, but the United States feels that it might be better to have uniform allocations in terms of standardization of equipment; resolution of this issue will probably require compromise. In addition, we differ on Earth Environmental Sensing by satellite. Countries such as the United Kingdom have terrestrial microwave systems with which they fear sensing might interfere. These are not insurmountable problems, however, and adjustments can be made.

VI. THE AGENDA: WHAT REMAINS TO BE DONE

A. The executive branch

1. Naming of U.S. Delegation

U.S. delegation head Glen Robinson stated as recently as April 4, 1979 that he expected public announcement of the remainder of the group—some 40 members—by mid-May. The actual announcement was made May 30. Some criticism was voiced of this apparent delay in the naming of the delegation for this important and complex conference, but it is not unusual for members of U.S. delegations to international conferences not to be named publicly until very close to the opening session of the meeting. By that measure, the late May announcement of the additional members of a delegation to a conference beginning in late September was ahead of the normal time frame for such action.

2. Continue Bilateral and Multilateral Discussions

The State Department has a continuing schedule of bilateral discussions with foreign governments on their preparations and proposals for WARC 79 up to the opening of the conference. These bilaterals run the gamut from the Soviet Union to small African and Latin American LDCs. Department sources feel that such discussions may help pave the way for a more smoothly functioning conference. In addition to establishing personal contacts between U.S. officials and their foreign opposite numbers, the process offers the option for the United States of working through these contacts with third countries, who, for a variety of reasons, might not welcome direct contact with the U.S. Government prior to WARC or with the U.S. delegation at the conference.

B. The possible role of Congress

1. Hearings

Although both the House Interstate and Foreign Commerce Communications Subcommittee and the House Foreign Affairs International Operations Subcommittee have already held hearings on U.S. preparations for WARC 79, other congressional committees with oversight responsibility for international telecommunications and its foreign policy aspects might also consider holding hearings in advance of the convening of the conference later this year. Those committees include the Communications Subcommittee of the Senate Commerce, Science, and Transportation Committee, and the Senate Foreign Relations Committee.

Perhaps because of the relatively short duration of the conference, U.S. delegation head Glen Robinson will have the personal rank of ambassador for only the period of the meeting. Such a designation does not require formal nomination, or confirmation since the President is empowered to grant individuals the personal rank of ambassador for periods of less than 6 months without Senate approval.

2. Participation in U.S. Delegation

Four members of each house of Congress are scheduled to be included in the U.S. delegation to WARC 79. While it might be difficult for a member to attend the entire 10-week session at Geneva, especially since the conference will likely overlap with the end of the first session of the 96th Congress, it might be useful for interested and available congressional participants to be present at as much of WARC 79 as possible. Such a presence would be a clear indication of congressional interest in the deliberations and outcome of the conference.

VII. CONCLUSIONS

Based on a series of discussions with and a study of statements by U.S. Government observers, as well as a survey of certain private assessments, the official U.S. approach to the 1979 World Administrative Radio Conference could be characterized as one of cautious apprehension. There has been a change in public stance since early May; until that time, Department of State officials, especially U.S. WARC delegation members, had been expressing a degree of optimism that earlier fears of troublesome politicization and Third World intractability at WARC 79 were misplaced and that it was more likely that that a measure of reason and harmony would prevail.

At a hearing on U.S. preparations for WARC held June 14 by the International Operations Subcommittee of the House Foreign Affairs Committee, however, U.S. delegation head Glen Robinson voiced more concern than he had at an earlier hearing in April that ideological rhetoric carried on too long could "sabotage the conference." He also mentioned the possibility that the United States might have to take "several" reservations if changes were voted by the majority which the United States could not accept.

The U.S. apparently still assumes that there will be little East-West conflict at WARC because the major world powers—the United States, the USSR, and the People's Republic of China—are in basic agreement on the means by which the spectrum is managed because it is to our mutual advantage that the ITU, a truly global agency, function efficiently and with relatively little friction.

Unlike UNESCO, which has been a locus of North-South conflict and politicization in recent years, the ITU actually manages a limited resource to which all nations must have access and which all must use cooperatively if a global telecommunications "babel" is to be avoided. At the same time, recent aggressive initiatives by leaders of the Non-Aligned Movement may have been interpreted as a signal by the State Department that the traditional harmony of ITU proceedings could be disrupted by certain Third World ideologues.

While there was an earlier emphasis in official on-the-record U.S. assessments on the extent of agreement between U.S. and foreign proposals, current statements seem to be somewhat more anticipatory of areas of potential confrontation. If these assessments are indeed accurate, it would appear that certain ITU members are strongly opposed to some of the U.S. proposals. Many of these proposals involve sharing of bands now allocated to single purpose use or the expansion of services to bands now allocated to other use.

In his statement to the House Foreign Affairs Subcommittee on June 14, Robinson predicted "considerable resistance" from LDCs to U.S. proposals to substantially increase HF broadcast allocations. He also foresaw "great controversy" over U.S. proposals to increase satellite allocations and called the problem of "fair and equitable access [from the U.S. perspective]" to the spectrum and the geostationary orbit "one of the most vexing problems that will confront us at the Conference."

While individual countries or groups of countries may oppose these suggested changes in principle, the United States still hopes it can reach accommodation in fact by making the many small adjustments it realistically expects it will have to make anyway. The guiding maxim of the functioning of the ITU has always been cooperation. Barring an unmanageable epidemic of politicization in Geneva later this year, it is possible that such an atmosphere might again prevail.

There is always the possibility that individual countries or groups of countries will adamantly insist on a certain proposal or provision that the United States strongly feels is not in its own best interest. In that case, the United States has the option of taking a reservation on—refusing to abide by—the particular point, but still accepting most of the changes in the Regulations; based on the Robinson remark quoted above, the United States may be giving increasing thought to exercising the reservation option to a far greater extent than it ever has in the past. This would still leave open the chance of reaching a compromise in future, either through bilateral or regional negotiation, or by scheduling a limited agenda WARC on the specific unresolved point or points.

In addition, as was noted above, the failure of the Conference to reach agreement on new International Radio Regulations would not signal the total breakdown of the ITU regulatory system. The existing Regulations would continue in force until new ones could be fashioned.

There has been little if any praise, and some criticism, of the pace and scope of U.S. preparatory activity for WARC 79. The United States was not the first, but certainly was not the last either in submitting a very comprehensive set of proposals to the ITU. In addition, the U.S. did not name its full WARC delegation until the end of May. Only the operation and the results of the 1979 World Administrative Radio Conference will tell us whether enough was done in a sufficiently timely fashion to protect U.S. national interests and further the cause of harmonious global telecommunications in the last two decades of this century.

FOOTNOTES

[*] See Appendix 1 for chart showing the three existing ITU Regions. [Appendix 1 not printed in RECORD.]

[1] Ithiel de Sola Pool, The Problems of WARC, Journal of Communications, Winter 1979: 189–191.

[2] Glen O. Robinson [Head of U.S. Delegation to WARC 79], Statement before the House Interstate and Foreign Commerce Committee Subcommittee on Communications, April 4, 1979.

[3] Pool, Op. cit.

[4] Vincent Mosco, Who Makes U.S. Government Policy in World Communications? Journal of Communications, Winter 1979: 168.

[5] John H. Clippinger, The Hidden Agenda, Journal of Communications, Winter 1979: 202.

[6] John H. Clippinger, Op. cit.: 202.

[7] Anne W. Branscomb, Waves of the Future: Making WARC Work, Foreign Policy Spring 1979: 140.

[8] Direct broadcasting from satellites to home radio or television sets is still in the experimental stage, although the technology has been tested for broadcasts from satellites to small ground stations attached to receivers.

[9] UNESCO. International Commission for the Study of Communications Problems. Interim Report on Communications Problems in Modern Society. Paris, UNESCO, 1978. p. 64.

[10] Pool, Op. cit.: 192.

[11] See Appendix 2 for a list of the membership of the U.S. delegation.

[12] Secs. 203, 205, 207, and 208, Title 18, United States Code.

[13] 44 Fed. Reg. 17846 (March 23, 1979).

[14] Letter to Sen. Hollings from George F. Mansur, Aeronautical Radio, Inc., Enclosure 1.

[15] Congressional Record, May 10, 1979: p. 10580.

[16] U.S. Senate. Committee on Commerce, Science and Transportation. Subcommittee on Communications. Hearings on S. 611. May 11, 1979.

[17] Mosco, Op. cit.: 165.

[18] Ibid.

[19] Executive Order 12046, Sec. 4–2.

[20] The interest of the Senate Communications Subcommittee was the impetus to the preparation of this study. In addition, the House Communications Subcommittee has already held more than one hearing on WARC 79. The most recent such hearing was held April 4, 1979. The International Operations Subcommittee of the House Foreign Affairs Committee also held a hearing on U.S. preparations for WARC 79 June 14, 1979.

[21] See, e.g., Communication As Power: WARC 79, the Christian Century, May 2, 1979: 498–500.

[22] "Proposals" are the suggestions for changes in the International Radio Regulations which the United States has forwarded to the ITU, while "positions" are papers the delegation will bring with them to the conference, spelling out for them the degree of negotiating flexibility they have in trying to achieve activities.

[23] U.S. Department of State, Proposals of the United States of America for the World Administrative Radio Conference (Geneva, 1979), [multilithed] January 1979. Document 1, General Views, pp. 1–2.

[24] Prepared by Marcia S. Smith, Analyst in Aerospace and Energy Technology.

[25] Robinson Statement, Op. cit., April 4, 1979, p. 13.

[26] U.S. WARC 79 Proposals, Proposed footnote 3709A.

[27] Ibid., p. 15.

[28] Philip N. Whittaker, Beating the Band, Journal of Telecommunications, Winter 1979: 160–164.

[29] This section is based on discussions with U.S. WARC delegation staff at the Department of State in mid-May 1979.

UNITED STATES DELEGATION TO THE WORLD ADMINISTRATIVE RADIO CONFERENCE, GENEVA, SEPTEMBER 14–NOVEMBER 30, 1979

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George Jacobs, Director, Research and Engineering, Board for International Broadcasting.

Donald Jansky, Associate Administrator, National Telecommunications and Information Administration.

Raymond Johnson, Acting Chief, Spectrum Management Staff, Federal Aviation Administration.

Jay Kenneth Katzen, Office of International Communications Policy, Department of State.

Wayne Kay, Senior Policy Analyst, Office of Science and Technology Policy, White House.

Harold Kimball, Chief, Communications and Frequency Management National Aeronautics and Space Administration.

Ronald Lepkowski, International and Satellite Branch, Common Carrier Bureau, Federal Communications Commission.

Stephen J. Lukasik, Chief Scientist, Federal Communications Commission.

William Luther, Chief, Engineering Division, Field Operations Bureau, Federal Communications Division.

Robert May, Frequency Management Office, United States Air Force, Department of Defense.

Robert Mayher, Deputy Chief, Spectrum Engineering and Analysis Division, National Telecommunications and Information Administration.

Robert P. Moore, Head, Microwave Radiometry, United States Navy, Department of Defense.

Vernon I. McConnell, Frequency Manager, Department of Defense.

Neal McNaughten, Assistant Chief, Broadcast Bureau, Federal Communications Commission.

James E. Ogle, Director, Office of Radio Frequency Management, Department of Commerce.

Lawrence Palmer, International Conference Staff, Office of Science and Technology, Federal Communications Commission.

Richard Parlow, Acting Chief, Spectrum Engineering and Analysis Division, National Telecommunications and Information Administration.

Paul Phillips, Physical Scientist, Frequency Management, United States Army, Department of Defense.

Richard M. Price, Astronomy Research Section, National Science Foundation.

Thomas Tycz, International Conference Staff, Office of Science and Technology, Federal Communications Commission.

Arlan van Doorn, Deputy Chief, Private Radio Bureau, Federal Communications Commission.

Constantine Warvariv, Office of United Nations Educational, Scientific and Cultural Organization, Bureau of International Organization Affairs, Department of State.

Francis Williams, Chief, Treaty Branch, Office of Science and Technology, Federal Communications Commission.

PRIVATE SECTOR ADVISERS

Perry G. Ackerman, Manager, Systems Engineering Laboratory, Hughes Aircraft Company.

Ann Aldrich, Professor of Law, Cleveland State University Law School, Cleveland, Ohio.

George Bartlett, Vice President for Engineering, National Association of Broadcasters.

Herbert Blaker, Manager, Communications/Regulatory Policy, Rockwell International.

William Borman, Manager of Technical Programs, Motorola, Inc.

Nolan Bowie, Executive Director, Citizens Communications Center.

Charles Dorian, Director, Technical Planning, Comsat General Cororation.

James A. Ebel, Chairman of the Satellite Transmission Committee, ABC, CBS & NBC Network Affiliates Association.

E. Merle Glunt, Consultant, American Radio Relay League.

Robert E. Greenquist, Assistant Vice President for Technical Policy and Standards, Western Union.

David Honig, Assistant Professor, Howard University.

Marion Hayes Hull, Associate Director, Booker T. Washington Foundation.

Karyl A. Irion, Systems Analyst, Systematics General Corporation.

Eugene Jackson, President, National Black Network.

John J. Kelleher, Vice President, National Scientific Laboratories.

Sharon Nelson, Legislative Counsel, Consumers Union.

Edward Reinhart, Manager, CCIR and WARC Activities, Communications Satellites Corporation.

Ronald Stowe, Assistant General Counsel, Satellite Business Systems.

Hans Weiss, Director, Systems Studies, Communications Satellite Corporation.

H. E. Weppler, Engineering Director, American Telephone and Telegraph Company.

DEPARTMENT OF STATE,
Washington, D.C., July 6, 1979.

Hon. BARRY GOLDWATER,
United States Senate

DEAR SENATER GOLDWATER: The Secretary has asked me to reply to your letter of May 11 requesting a list of the U.S. Delegates to the 1979 World Administrative Radio Conference (WARC). As you requested, I am enclosing the list of the delegates which was approved by Acting Secretary Christopher on May 26. The list includes a description of the technical background of each of the delegates.

Sincerely,

J. BRIAN ATWOOD,
Acting Assistant Secretary for Congressional Relations.

Enclosure: List of WARC delegates.

UNITED STATES DELEGATION TO THE 1979 WORLD ADMINISTRATIVE RADIO CONFERENCE

Ackerman, Perry: Manager, Systems Engineering Laboratory, Hughes Aircraft. Holds BSME from Univ. of Michigan. ITU experience: Observer at 1977 Broadcasting Satellite Conference; active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM; Sydney Seminar; bilateral discussions; member of WARC Advisory Committee.

Aldrich, Ann: Professor of Law, Cleveland State University. Holds BA from Columbia University and LLB, LLM, and JD from New York U. School of Law. Served 9 years as staff attorney, FCC's Office of General Counsel. ITU experience: Delegate to 1959 General WARC.

Anderson, Dexter: Telecommunications Attache, U.S. Mission, Geneva. Graduate of Yale and George Washington Univ. Foreign Service Officer with overseas assignments in Africa, Europe, and USSR. ITU experience: Delegate to 1974 Maritime and 1977 Broadcasting Satellite Conferences; Vice Chairman, USDEL, to 1978 Aeronautical Conference; Delegate to 1978 and 1979 Sessions of the Administrative Council. WARC–79 participation: Delegate to 1978 SPM; bilateral discussions. Delegate to numerous CITEL meetings. Formerly Staff Officer, Office of International Communications Policy, Dept. of State.

Bartlett, George: Vice President for Engineering, National Association of Broadcasters. Graduate of Mass. Radio Institute, Boston, Mass. Holds BSEE from Brown University. Served 9 years as chief engineer of WDNC, Durham, N.C., 3 yrs as inspector for FCC. Also served in engineering capacity in private industry. Employed by NAB since 1954; appointed V.P. in 1965. Member of European Broadcasting Union. Officer of the Asia Pacific Broadcasting Union. ITU experience: Active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee.

Blaker, Herbert T.: Manager, Standards and Certification, Rockwell International. Employed by Pan American World Airways, 1937–59. Participated in numerous meetings of International Civil Aviation Organization. Served as International Air Transport Association spokesman at Fourth Inter-American Radio Conference, 1949. ITU experience: Delegate to 1974 Maritime and 1978 Aeronautical Conferences; active in CCIR Study Groups; Chairman, U.S. CCIR Study Group 8. WARC–79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee.

Borman, William: Technical Director, Motorola, Inc. Holds BSEE from Fournier Institute of Technology and MSEE from Illinois University. Served as Chairman, Land Mobile Services Group's Committee in International Allocations and Agreements. Member of NTIA's Frequency Management Advisory Council. ITU experience: Active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM; Nairobi Seminar; bilateral discussions; member of WARC Advisory Committee.

Bowie, Nolan: Executive Director, Citizens Communication Center. Holds AA from Los Angeles Harbor College, BA from Cal. State Univ. at Long Beach and JD from Univ. of Michigan Law School. WARC–79 participation: Member of WARC Advisory Committee.

Bradley, Lewis: Staff member, Spectrum Management Division, NTIA. Holds BSEE from Texas A&M and degree in Military Science from Univ. of Maryland. Former U.S. Air Force Officer. Convenor of IRAC Ad Hoc 144–Ic. WARC–79 participation: Sydney Seminar; bilateral discussions. Member, NATO/ARFA.

Breig, Charles: Electronics Engineer, Office of Chief of Broadcast Bureau, FCC. Holds BSEE from Pennsylvania State University. ITU experience: Delegate to 1977 Broadcasting Satellite Conference; active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM.

Case, Anna: Chief, Frequency Division, Voice of America. Holds BSEE from LSU and MS from George Washington Univ. Member of IRAC. Has represented VOA on International Frequency Coordination Committee for HF broadcasting since 1964. U.S. Army Signal Corps experience. Formerly employed by Radio Free Europe. WARC–79 participation: Nairobi and Sydney Seminars; bilateral discussions.

Cook, William: Assistant to Asst. Secretary for Communications Command and Control, Dept. of Defense. Holds BSEE from Drexel Univ. and MS from George Washington Univ. Formerly employed by Philco and Dept. of Navy, Electronic Systems Command. WARC–79 participation: Delegate to 1978 SPM; Sydney Seminar, bilateral discussions. Participated in NATO/ARFA.

Corrado, Anthony: Chief, Frequency Assignment and Interdepartment Radio Advisory Committee Administration Division, NTIA. Executive Secretary, IRAC. ITU experience: Involved in preparatory work for 1974 Maritime Conference; assisted ITU with introduction of computer techniques into the International Frequency Registration Board.

Cutts, Robert: Chief, International and Operations Division, FCC. Holds BSEE from U.S. Naval Academy and MPA from Indiana Univ. Former U.S. Navy Officer. FCC Liaison representative to IRAC. ITU experience: Participated in preparations for 1967 Maritime and 1971 Space Conferences.

Dizard, Wilson: Vice Chairman, U.S. WARC Delegation. WARC Staff Director, Office of International Communications Policy, Dept. of State. Holds BS from Fordham College. Foreign Service Information Officer with overseas assignments in Turkey, Greece, Iran, Pakistan, Poland and Vietnam. Assistant Dep. Director, U.S. Information Agency, 1966–67. Executive Director, White House Working Group on Communications Satellite Earth Stations, 1966. Executive Director, White House Working Group on Communications Satellite Applications, 1966–67. Attended INTELSAT Conferences, 1968–69.

Dorian, Charles: Director, Technical Planning, Communications Satellite Corporation. Graduate of U.S. Coast Guard Academy. Served 30 yrs. with Coast Guard. Chief of C.G. Communications 1964–67. Dep. Director, Office of Telecommunications, Dept. of Transportation. ITU experience: Delegate to 1959 General and 1974 Maritime Conferences; Delegate to 1971 Special Joint Meeting; active in CCIR Study Groups. WARC-79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee. Participated in numerous IMCO meetings.

Ebel, A. James: Chairman, Satellite Transmission Committee, ABC, CBS and NBC Network Affiliates. Holds BA from Iowa State Teachers College, BA from Univ. of Iowa and MSEE from Univ. of Illinois. Member of NTIA's Frequency Management Advisory Council. ITU experience: Delegate to 1971 Space and 1977 Broadcasting Satellite Conferences. WARC-79 participation: Member of WARC Advisory Committee. Presently Manager of KOLN-TV, Lincoln, Nebraska.

Feigleson, Harry: Director, Electromagnetic Spectrum Management, U.S. Navy. Holds BSEE from U.S. Coast Guard Academy and ME from American University. Navy representative to IRAC. ITU experience: Delegate to 1967 Maritime Conference; participated in preparations for 1971 Space Conference; active in CCIR Study Groups. WARC–79 participation: bilateral discussions.

Gilsenan, John: Electronics Engineer, Private Radio Bureau, FCC. ITU experience: Active in OCIR. WARC–79 participation: Nairobi Seminar; bilateral discussions. Participated in INMARSAT meetings.

Glunt, E. Merle: Consultant, American Radio Relay League. Graduate of U.S. Navy Radio and Communications School. Attended George Washington Univ. and Capitol Radio Engineering Institute. Employed by

FCC, 1940–45 and 1952–74. Retired from FCC as Asst. Chief, Treaty Branch (1974). Participated in IRAC for 30 yrs. Under AID contract in 1966 to develop plan to reorganize PTT of Thailand. ITU experience: Delegate to 1974 Maritime and 1973 Plenipotentiary Conference. WARC–79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee.

Greenquist, Robert E.: Assistant Vice President (Technical Policy and Standards), Western Union Telegraph Co. Holds BSEE from Cornell Univ. Continuously employed by Western Union since 1948. Served as Director of Western System Engineering, 1970–74; Deputy Program Manager, 1974–75; and Assistant Program Manager, Engineering, 1976–78. Served on Joint Technical Advisory Committee and ad hoc FCC Advisory Committees. ITU experience: Active in OCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM.

Harris, Wendell: Electronics Engineer, Policy and Rules Division, Common Carrier Bureau, FCC. Holds BSEE from Howard Univ. Member of IEEE. ITU experience: Active in CCIR. WARC–79 participation: Delegate to 1978 SPM; Nairobi Seminar.

Harrison, Melvin: Foreign Affairs Adviser, Office of International Communications Policy, Dept. of State. Holds BA from Univ. of Maryland; attended American Univ. Graduate School. Foreign Service Officer who has served in Quito, Ecuador, and Saigon, Viet Nam. WARC–79 participation: Panama Seminar; bilateral discussions. Participated in several CITEL meetings.

Holliman, Earl: Chief, Frequency Management Staff, U.S. Coast Guard. Holds BSEE from Texas A&M. 40 yrs. experience in maritime communication system design and spectrum planning. Coast Guard representative to IRAC. ITU experience: Delegate to 1959 General WARC; participated in preparations for HF Broadcasting and Maritime Conferences; active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM.

Honig, David: Assistant Professor, Howard University. Also Research Director, Black Media Coalition. Holds BA from Oberlin College and MA from Univ. of Rochester. Participated in several Congressional hearings on communications industry structure. Has also served on several FCC Advisory Committees. WARC–79 participation: Member of WARC Advisory Committee.

Hull, Marion Hayes: Director of Telecommunications Programs, Booker T. Washington Foundation. Holds BA, Long Island Univ. and MA, New York Univ. Has been employed as researcher and editorial assistant in publishing industry; college professor specializing in broadcasting and journalism; and as communications specialist for Dept. of Justice. Has worked for Booker T. Washington Foundation since 1973. Member of numerous public service, civic and professional organizations. WARC–79 participation: Member of WARC Advisory Committee.

Irion, Karyl: Systems Analyst, Systematics General Corporation. Holds BS from Duke Univ. ITU experience: Active in CCIR. WARC–79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee.

Jackson, Eugene: President, National Black Network. BSEE, Univ. of Missouri; MS in business, Columbia Univ. Worked previously as industrial engineer for Colgate Palmolive Company; as project coordinator for Black Economic Union; and as Director, Major Industries Program, Interracial Council for Business Opportunity. With National Black Network since its founding in 1972. WARC-79 participation: Member of WARC Advisory Committee.

Jacobs, Edward: Chief, International Conference Staff, FCC. Holds BSEE from Johns Hopkins Univ. ITU experience: Delegate to 1977 Broadcasting Satellite Conference; active in CCIR. WARC-79 participation: Panama Seminar; bilateral discussions. Delegate to numerous CITEL meetings.

Jacobs, George: Director, Research and Engineering, Board for International Broadcasting. Holds BSEE from Pratt Institute and MSEE from Univ. of Maryland. Joined Voice of America in 1949; BIB in 1976. Member of IEEE. Charter life member of Amateur Radio Relay League. Licensed radio amateur (W3ASK). ITU experience: Delegate to 1959 General and 1963 Space Conferences; Delegate to 1966 CCIR XIth Plenary Assembly and 1971 Special Joint Meeting; active in CCIR Study Groups. WARC-79 participation: Member of WARC Advisory Committee.

Jansky, Donald: Associate Administrator, NTIA. Holds BA in Engineering Science from Dartmouth College; BEE from Thayer School of Engineering; and MSE from Johns Hopkins Univ. ITU experience: Delegate to 1971 Space and 1977 Broadcasting Satellite Conferences; Delegate to 1971 Special Joint Meeting; active in CCIR Study Groups; U.S. Representative to Working Group on Orbit Spectrum Utilization of CCIR. WARC-79 participation: Delegate to 1978 SPM. Delegate to numerous CITEL meetings.

Johnson, Raymond: Chief, Spectrum Management Staff, U.S. representative to International Civil Aviation Organization for planning studies. FAA representative to IRAC. WARC-79 participation: Delegate to 1978 SPM. Delegate to numerous ICAO meetings.

Katzen, Jay: Political advisor, U.S. WARC Delegation. Presently in Office of International Communications Policy, Dept. of State. Holds BA from Princeton and MA from Yale. Foreign Service Officer who has served as political officer in Leopoldville (now Kinshasa, Zaire); Deputy Chief of Mission in Bamako, Mali; economic officer in Bucharest, Romania; and Charge d'Affaires in Brazzaville, Congo. Served as political advisor, U.S. Mission to the UN, 1973–77. WARC–79 participation: Nairobi Seminar.

Kay, Wayne: Senior Policy Analyst, Office of Science and Technology Policy, White House Colonel, U.S. Air Force. Holds BS from Wisconsin State Univ. and MS from Univ. of Maryland. WARC–79 participation: Nairobi and Panama Seminars.

Kelleher, John: Vice President, Systematics General Corporation. Graduate of U.S. Army Signal Corps Radio School and numerous other professional and managerial training programs. Employed by Systematics General since 1969. Previously with NASA, 1962–69; Office of Chief Signal Officer, 1943–62; and Signal Corps Laboratories, 1940–43. Member of IEEE. ITU experience: Delegate to 1963 Space, 1971 Space and 1977 Broadcasting Satellite Conferences; Delegate to 1966 CCIR XIth and 1970 XIIth Plenary Assemblies and Special Joint Meeting; active in CCIR Study Groups; Chairman, U.S. CCIR Study Group 4. WARC–79 participation: Delegate to 1978 SPM; Sydney Seminar; bilateral discussions; member of WARC Advisory Committee.

Kimball, Harold: Chief, Communications and Frequency Management, NASA. Holds BSEE from Wayne St. Univ. and MSEE from Univ. of Illinois. Served with U.S. Air Force. Convenor of IRAC Ad Hoc 144–Id. ITU experience: Delegate to 1978 CCIR XIVth Plenary Assembly; active in CCIR Study Groups; Chairman of U.S. CCIR Study Group 2. WARC–79 participation: Delegate to 1978 SPM; Nairobi and Sydney Seminars, bilateral discussions.

Lepkowski, Ronald: Supervisor, International and Satellite Branch, Common Carrier Bureau, FCC. Holds BSEE from MIT and MS from George Washington Univ. Employed by FCC since 1969. ITU experience: Delegate to 1977 Broadcasting Satellite Conference. WARC–79 participation: Delegate to 1978 SPM.

Lukasik, Stephen J.: Chief Scientist, FCC. Holds BS from Rennsselaer Polytechnic Institute, and MS and Ph. D from MIT. Private experience with Westinghouse (1955–57) and Xerox Corporation (1974–76). Also held teaching positions with MIT (1951–1955) and Stevens Institute of Technology (1957–66). Served as Director, Defense Department's Advanced Research Projects Agency (1971–74); and Senior Vice President, subsequently Chief Scientist, Rand Corporation (1977–79). Joined FCC as Chief Scientist in May 1979.

Luther, William A.: Chief, Engineering Division, Field Operations Bureau, FCC. Holds BSEE and MSEE from Drexel Univ. Employed by FCC since 1959. ITU experience: Active in CCIR Study Groups since 1968. WARC–79 participation: Delegate to 1978 SPM.

McConnell, Vernon J.: Frequency Manager, Department of Defense. Attended Los Angeles Trade-Technical College, 1948–51. Served as Marine Radio Officer. Serves as Chairman, Joint Frequency Panel's Permanent Working Group on Space Frequency Matters. Specializes in Radio Regulations dealing with satellite coordination procedures. ITU experience: Has participated in conference preparation since 1958. Participated in numerous NATO/ARFA meetings.

McNaughten, Neal K.: Assistant Chief, Broadcast Bureau, FCC. Employed with International Division, FCC, 1940–48. Served as Director for Engineering, National Association of Broadcasters; Manager of Market Planning, RCA; and Vice President, Ampex Corp. Returned to FCC in 1961. ITU experience: Vice Chairman, USDEL, 1977 Broadcasting Satellite Conference; delegate to 1978 CCIR XIVth Plenary Assembly; active in CCIR Study Groups; Chairman, U.S. CCIR Study Groups 10 and 11. WARC–79 participation: Panama Seminar. Attended numerous CITEL meetings.

May, Robert: Frequency Manager, U.S. Air Force. Holds BSEE and MBA from Univ. of Michigan. Formerly systems engineer for aerospace industry, 1945–64; government service in operations research, 1964–69. Air Force representative to IRAC. WARC–79 participation: Nairobi Seminar; bilateral discussions. Has attended numerous NATO/ARFA meetings.

Mayher, Robert: Deputy Chief, Spectrum Engineering and Analysis Division, NTIA. Holds BSEE from MIT. ITU experience: Active in CCIR Study Groups since 1974; Chairman of International Working Party 1/2. WARC participation: Delegate to 1978 SPM; Panama Seminar; bilateral discussions.

Moore, Robert: Physical Scientist with Microwave Radiometric Branch, Naval Weapons Center, Corona, CA. Employed as consultant on command, control and communications, Office of Chief of Naval Operations, U.S. Navy. Holds BS and MS from Univ. of Michigan. ITU experience: Active in CCIR Study Groups. Also participated in number of NATO study and advisory groups on millimeter wave matters.

Nelson, Sharon: Legislative Counsel, Consumers Union. Former staff member, U.S. Senate Committee on Commerce, Science, and Transportation. WARC–79 participation: Member of WARC Advisory Committee.

Ogle, James: Director, Office of Frequency Management, Department of Commerce. Commerce representative to IRAC. Former delegate to NATO/ARFA. Former Chief, U.S. Air Force Frequency Management Office. ITU experience: Delegate to 1959 General, 1971 Space, 1974 Maritime and 1973 Plenipotentiary Conferences.

Palmer, Lawrence M.: Communications Specialist, International Conference Staff, FCC. Holds BS from George Washington Univ. Served in U.S. Navy and specialized in communications field. Employed by U.S. Navy Frequency Management Office before joining FCC. ITU experience: Delegate to 1974 Maritime and 1978 Aeronautical Conferences. WARC–79 participation: Sydney Seminar;

bilateral discussions. Attended numerous NATO/AFRA and CITEL meetings.

Parlow, Richard: Chief, Spectrum Engineering and Analysis Division, NTIA. Holds BSEE from Univ. of Wisconsin and MEA from George Washington Univ. Formerly employed by Mitre Corp., Philco Corp., and U.S. Air Force (specializing in radio communications systems). ITU experience: Active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM; Nairobi and Sydney Seminars; bilateral discussions.

Phillips, Paul: Physical Scientist, employed in Frequency Management Office, U.S. Army. Army representative to IRAC. Former U.S. Air Force Officer. WARC–79 participation: Panama Seminar; bilateral discussions. Delegate to NATO/ARFA.

Price, Richard M.: Radio Astronomer, National Science Foundation. Holds BS in physics from Colorado State University and Ph. D. from the Australian National University. NSF representative to IRAC. Formerly employed by Nat. Bureau of Standards Laboratory, Boston, Mass.; and National Radio Physics Laboratory, Sydney, Australia. Served 8 years as member of faculty, MIT Physics Dept. Employed by NSF since 1975. ITU experience: Delivered paper at 1976 IFRB Seminar.

Probst, Samuel E.: Vice Chairman, U.S. WARC Delegation. Director, Spectrum Plans and Policies, NTIA. Holds degrees in civil engineering and electrical engineering from Univ. of Kansas and Penn State. Chairman, IRAC and Ad Hoc 144. Former spectrum manager for U.S. Army, ITU experience: Delegate to 1971 Space and 1973 Plenipotentiary Conferences; Chairman, U.S. Delegation, 1978 SPM. WARC–79 participation: Panama Seminar; bilateral discussionss. Attended several CITEL meetings.

Reinhart, Edward: Radio Engineering Manager, Communications Satellite Corporation. Holds BA and MA from University of California. Formerly employed by Rand Corp. and Jet Propulsion Laboratory, California Institute of Technology. ITU experience: Delegate to 1971 Space and 1977 Broadcasting Satellite Conferences: Delegate to 1971 Space and 1977 Broadcasting Satellite Conferences; Delegate to 1971 SJM. WARC–79 participation: Delegate to 1978 SPM; Sydney Seminar; bilateral discussions.

Robinson, Glen O.: Chairman, U.S. WARC Delegation. Holds AB from Harvard Univ. and LLB from Stanford. Member of D.C. Bar. Attorney associated with Covington and Burling, 1961–62 and 1964–67. Professor of Law, Univ. of Minnesota, 1967–74. Commissioner, FCC, 1974–76. Since 1976, Professor of Law, Univ. of Virginia. Appointed Chairman, U.S. Delegation, January 1978.

Schaffer, Kalmann: Vice Chairman, U.S. WARC Delegation. Foreign Affairs Advisor, FCC. Attended numerous CITEL meetings. Experienced with UNESCO MacBride Commission and UN Committee on the Peaceful Uses of Outer Space.

Shrum, Richard E.: Vice Chairman, U.S. WARC Delegation. Coordinator of Technical Affairs, Office of International Communications Policy, Dept. of State. Graduated from U.S. Coast Guard Academy (BS Eng.) and U.S. Naval Postgraduate School (MSEE). Former frequency manager for U.S. Coast Guard and FCC. ITU experience: Delegate to 1971 Space, 1974 Maritime, 1977 Broadcasting Satellite Conferences; Delegate to 1971 SJM; Delegate to 1976 and 1977 Sessions of Administrative Council. WARC–79 participation: Vice Chairman, U.S. Delegation, 1978 SPM; Nairobi and Sydney Seminars; bilateral Discussions. Delegate to NATO/ARFA.

Stowe, Ronald F.: Assistant General Counsel, Satellite Business Systems. Holds AB from Brown Univ. and JD from New York Univ. Formerly employed as attorney in Dept. of State Legal Adviser's Office; served with U.S. Mission to the UN. Delegate to several meetings of UN Committee on Peaceful Uses of Outer Space. WARC–79 participation: Delegate to 1978 SPM; Panama Seminar, bilateral discussions; member of WARC Advisory Committee.

Torak, William: Vice Chairman, U.S. WARC Delegation. Assistant Chief, International and Operations Division, FCC. Univ. of Pittsburgh, BSEE. WARC–79 participation: Vice Chairman, U.S. Delegation, 1978 SPM; Panama Seminar, bilateral discussions. Delegate to NATO/ARFA. Attended several meetings of CITEL.

Tycz, Thomas: Electronics Engineer, International Conference Staff, Office of Chief Scientist, FCC. Holds BSEE from Lowell Technological Institute, and MSEE from Univ. of Maryland. Previously employed by Air Force Systems Command and U.S. Navy Electromagnetic Compatibility Analysis Center (ECAC). Joined FCC January 1975. ITU experience: Active in CCIR Study Groups. WARC–79 participation: Bilateral discussions in Africa, Middle East and Latin America.

Urbany, Francis: Vice Chairman, U.S. WARC Delegation. International Manager, Spectrum Plans and Policies, NTIA. Holds AB from Harvard and JD and MS Bus. Admin. degrees from George Washington Univ. ITU experience: Delegate to 1973 Telegraph and Telephone, 1977 Broadcasting Satellite and 1978 Aeronautical Conferences. WARC–79 participation: Nairobi and Panama Seminars; bilateral discussions. Attended various meetings of CITEL, INMARSAT and INTELSAT.

Vanden Heuvel, William: U.S. Ambassador to the European Office of the UN and Other International Organizations, Geneva. Graduate of Cornell Univ. and Cornell Law School. Former Special Asst. to Attorney General Robert Kennedy, 1963–64. Served as Acting Regional Administrator, Office of Economic Opportunity, 1964–65; Vice President, N.Y. State Constitutional Convention, 1967; Chairman, N.Y. City Board of Correction, 1970–73; and Chairman, N.Y. City Commission on State-City Relations, 1971–73. Partner in law firm of Stroock, Stroock, and Lavin since 1965.

Van Doorn, Arlan: Deputy Chief, Private Radio Bureau, FCC. Attended Univ. of Virginia and George Washington Univ. Previously employed as Senior Engineer, Western Development Laboratories and System Technology Center, Philco/Ford Corp. Serves as Vice Chairman, Radio Technical Commission for Marine Services. Participated as head of delegation in bilateral discussions with Mexico and Canada on various communications matters. WARC–79 participation: Panama Seminar; bilateral discussions.

Warvariv, Constantine: Agency Director, Transportation and Communications, Bureau of International Organization Affairs, Dept. of State. Holds MS in Pol. Sci. from Columbia Univ. Formerly Deputy Chief of Mission, U.S. Mission to UNESCO, Paris, 1973–78. Has attended numerous international conferences. Served as U.S. Spokesman on drafting group at UNESCO 20th General Conference, November 1978.

Weiss, Hans: Director, Systems Engineering, Communications Satellite Corporation. Holds MS in Physics from Univ. of Karlsruhe (Germany). Formerly systems engineer for RCA. Employed by ComSat since 1964. Responsible for definition, design, and integration of advanced space communications systems. ITU experience: Delegate to 1971 Space, 1977 Broadcasting Satellite and 1971 SJM; active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM.

Weppler, H. E.: Director, Technical Standards and Regulatory Planning, AT&T. Holds BSEE from Purdue Univ. Radio engineer employed by AT&T since 1959. Member, NTIA's Frequency Management Advisory Council, since 1967. ITU experience: Delegate to 1963 Space, 1971 Space, 1974 Maritime. 1977 Broadcasting Satellite, 1965 and 1973 Plenipotentiary Conferences; Delegate to 1966 CCIR XIth, 1970 XIIth, 1974 XIIIth, 1978 XIVth Plenary Assemblies and 1971 SJM; active in CCIR Study Groups; Chairman, U.S. CCIR Study Group 9. WARC–79 participation: Delegate to 1978 SPM; member of WARC Advisory Committee.

Williams, Francis K.: Chief, Treaty Branch, FCC. Holds BSEE from MIT. Has attended numerous International Civil Aviation Organization meetings. ITU experience: Delegate to 1974 Maritime and 1978 Aeronautical Conferences; active in CCIR Study Groups. WARC–79 participation: Delegate to 1978 SPM; Nairobi Seminar; bilateral discussions.

ABBREVIATIONS USED

ITU—International Telecommunication Union.

CCIR—International Radio Consultative Committee.

SJM—Special Joint Meeting of CCIR Study Groups held in 1971.

SPM—Special Preparatory Meeting for 1979 WARC, held in 1978.

IFRB—International Frequency Registration Board.

CITEL—Inter-American Telecommunications Conference.

NATO/ARFA—North Atlantic Treaty Organization/Allied Radio Frequency Agency.

UNESCO—United Nations Economic and Social Council.

ICAO—International Civil Aviation Organization.

INTELSAT—International Telecommunications Satellite Organization.

INMARSAT—International Maritime Satellite Organization.

IEEE—Institute of Electrical and Electronics Engineers, Inc.

IRAC—Interdepartment Radio Advisory Committee.●

SKYLAB'S HOMECOMING

● Mr. STEVENSON. Mr. President, Skylab is home. And it is good news that its homecoming was accomplished without injury to person or property. Although we must await the accounting and verification of debris found in Australia to know precisely Skylab's final reentry path, it appears that, on balance, the last orbit was as favorable to a safe outcome as we could have hoped.

As NASA emphasized repeatedly, the risk of injury was always very small. In this era of Three Mile Island and DC–10 disasters, it is nonetheless a relief to know that the unlikely did not occur.

Did we learn anything from this event? I was impressed with the generally accurate reporting of the media, even though one might question the amount of attention directed to this story by print and electronic media. This balanced treatment occurred in large measure because from the outset the Government made a determined effort to tell the whole story. Preparations for reentry were drawn up carefully. Every effort was made to spell out, in detail, what was likely to happen and why. An equal effort was devoted to explaining what was not known and what could not be predicted with accuracy. As a consequence, most people kept the event in perspective. It is encouraging to discover that such behavior is still possible.

Some persons might still argue that we must never again run such risks, however remote. I disagree. A more sensible approach, in my view, would be to recognize that almost any effort in life involves some risks and that we must evaluate the potential risks along with the benefits. We mave often overlooked the benefits of Skylab. For instance, important scientific knowledge was gained in understanding the physical and chemical processes of the Sun.

This knowledge, in time, will permit us to know a great deal more about the Earth's climate and weather. The benefits of understanding the dynamics of severe storms and climatic change, for example, are incalculable. The Skylab missions also expanded our knowledge of remote sensing from space of the Earth's resources and environment. This will benefit mankind in countless ways: Monitoring agriculture and forests, exploring for energy and minerals, controlling pollution, and producing more accurate maps, to cite only some of the more obvious applications. Skylab also broadened our understanding of human survivability in space, knowledge that will be valuable once we begin to use the Space Shuttle's capabilities for extended manned missions in space.

In short, the benefits of Skylab were real, and the risks associated with its reentry were small. With the wisdom of hindsight, it is clear that NASA reached a correct decision to initiate the project.

It also is true that every effort must be made to avoid exposing the Earth's population to needless risks. There is little reason to prolong the argument over whether Skylab should have been equipped with propulsion equipment to avoid an uncontrolled reentry. The decision not to provide such equipment was made nearly 10 years ago, for reasons that seemed acceptable at the time. What we should focus on today is that the space shuttle will provide the United States with a new capability to retrieve or revisit large objects in space. This should make it possible to avoid a situation such as the Skylab reentry from ever happening again.

My final thought is that Americans owe NASA and the other Federal agencies that participated in the Skylab reentry planning a vote of confidence for their handling of a very difficult situation. We are not hesitant to criticize the Government when things turn out badly. In this instance, so far as we know, the outcome was far more satisfactory—not only that Skylab's reentry caused no harm but also that the Government handled the situation well. We should have the intellectual honesty to acknowledge this success and to express our appreciation.●

SENATE RESOLUTION 188—TAX-EXEMPT MORTGAGE BONDS

● Mr. BRADLEY. Mr. President, I am pleased to join my colleague from Alaska, Senator GRAVEL, in cosponsoring a resolution to express the sense of the Senate that until Congress is ready to take definitive action regarding tax-exempt mortgage bonds, State housing agencies and local governments should not be precluded from continuing to finance their housing programs.

On April 25, 1979, H.R. 3712 was introduced in the House of Representatives. This bill would end the tax exemption for State and local government bonds used to provide mortgages for owner-occupied residences and restrict the use of housing related industrial development bonds to those bonds whose proceeds are used for low- or moderate-income rental housing. The bill's effective date is retroactive to the date of its introduction.

Since the introduction of H.R. 3712 the market for mortgage bonds has dried up. Wisely, the House Ways and Means Committee is currently considering transitional rules which would continue the tax exemption for bonds being prepared for issue on the date of the bill's introduction. The resolution which Senator GRAVEL and I are cosponsoring in effect expresses the Senate's support of acceptable transitional rules and sends a message to the bond markets that we will proceed in a manner which will not be unreasonably disruptive.

An example of the severe impact of H.R. 3712 can be seen in my State where the New Jersey Mortgage Finance Agency's $21 million bond issue, authorized on April 3 for a statewide home improvement loan program servicing low- and moderate-income homeowners, is in a stage of limbo. Bond counsel are unwilling to give clean opinions regarding tax exemption of bond issues until Congress has acted. The mere introduction of legislation has had the effect of prohibitory law. The bond industry has been stopped dead cold.

The investment community is waiting for definitive action from Congress. While we are deliberating on the best way of handling tax-exempt housing bonds we should free those deals caught in the pipeline as of April 25. That is what our resolution advocates.

In cosponsoring this sense of the Senate resolution, I do not foreclose the advisability of legislation regarding the issue of mortgage bonds. Varied opinions regarding the use of proceeds of such bonds and all of these views should be aired. My position on the issue is that the bond proceeds should be targeted so that they reach those in our society who most need assistance. However, until Congress has legislated, I firmly believe that the bond market should not be hampered. The adoption of the resolution forecloses no options.●

THE DECLINE OF PRIVATE PENSIONS

● Mr. ARMSTRONG. Mr. President, often Federal programs start out to help solve problems and end up creating new and more serious difficulties for the very people supposedly to be helped. This week Dennis E. Logue, associate professor of business administration at Dartmouth College, pointed out how Government interference has caused the decline of private pension plans throughout the country. His article in the Washington Star deserves the serious consideration of every Member of the Senate. I commend it to the attention of my colleagues:

THE DECLINE OF PRIVATE PENSIONS

(By Dennis E. Logue)

Despite repeated expressions of concern for senior citizens, the government itself has contributed to the termination of a large number of private pension plans.

Whether intended or not, the thrust of federal actions over the last decade has ensured that a greater portion of the retirement needs of older Americans will be financed from public rather than private sources.

This trend is a cause for concern both in the White House and on Capitol Hill. Last year the White House recommended changes to cut down on the blizzard of paper work generated by federal regulation governing corporate pension plans.

The House Government Operations Committee currently is drafting legislation aimed at encouraging the formation of new private pension plans. Presumably the new bill will be designed to offset some of the dampening effects of both the Employee Retirement Income Security Act of 1974 and the expansion of the Social Security system.

The intention of federal lawmakers apparently was to guarantee sufficient income to retired Americans both by providing larger Social Security benefits and by shoring up private pension plans.

Ironically, what the government has done is to make it more attractive to corporate planners either to terminate existing pension plans or not begin them at all.

The Employee Retirement Income Security Act of 1974 has tended to standardize the terms for vesting and eligibility requirements in pension fund contracts. It has established funding standards and created a new quasi-government pension insurance agency, the Pension Benefits Guarantee Corporation. In short, the law has changed the nature of pension in fundamental ways. The net effect has been to reduce the benefits to employers offering pensions to their employees.

ERISA also created the opportunity for employees who are not covered by private pension plans to save for retirement through their own tax-deferred savings plans or individual retirement accounts. As a result, the special tax-related attractions of private pension plans have been reduced.

The law appears to be based on an erroneous view of the private pension program. It has raised the cost of such programs and simultaneously reduced their benefits to firms. As evidence, between the end of 1974 and July 1977, nearly 30 per cent of all private pension plans were terminated.

The basic error embodied in the legislation is the theory that private pensions are simply deferred wages. But while private pensions are considered deferred income for tax purposes, they have a different and important role in the employment relation—that of providing incentives to employees.

To the extent that legislation has undermined the role of pensions as incentives, these laws may weaken the industrial pension system.

The Social Security system also is creating disincentives for corporate pension plans. The growth of private pension benefits has been dwarfed by growth in Social Security benefits in recent years. A retired person is now likely to receive more from Social Security than he does from his pension plan, a marked change from the early 1950s.

As expected Social Security benefits rise, the work incentives produced by a pension of a given dollar size tend to diminish. This in turn, reduces corporate incentives to provide pensions.

Similarly, as Social Security taxes rise, the individual's inclination to save declines, and this tends to reduce the employee demand for pension programs.

Two significant influences—ERISA and Social Security expansion—are acting in consort. Both have substantial potential for reducing the number and size of corporate pension programs.

Some would argue that the demise of the private pension system is welcome. However, the principal argument against that view is that employees should themselves be able to decide whether the pension contract they have is satisfactory.

If private pension plans get shoved aside because of restrictive legislation or increasingly generous Social Security benefits, the choices open to employees will diminish. This situation can never be viewed as desirable.

Nearly everyone agrees that efforts should be made to assure retired Americans a secure future. But federal lawmakers should be certain that adverse side effects of their attempts to help do not outweigh the benefits.●

REPORTS ON PIONEER VENUS MISSION

● **Mr. STEVENSON.** Mr. President, too often we watch with awe the success of a new endeavor in space exploration, only to lose interest in the results of that endeavor and how these results contribute to our understanding of the solar system. Last December the United States successfully directed five spacecraft through the atmosphere of Venus and placed another spacecraft in orbit about it. Data on the composition and temperature of the atmosphere were quickly made available to scientists around the world. But interpretation of data takes many months, and these interpretations must be analyzed and compared with other knowledge, theories, and data.

The July 6, 1979, issue of Science presents a collection of 30 reports on Pioneer Venus experiments. These 30 reports represent the published work of over 125 principal investigators representing approximately 33 different institutions. This breadth of involvement of the scientific community in a single mission testifies to the widespread interest and importance of planetary science.

The results of this research gives us a picture of a planet of nearly the same size and mass as Earth, but with major differences in the composition and structure of the atmosphere. Most notable are the larger amounts of rare gases on Venus, such as argon and neon, that suggests the primordial state of the planet's atmosphere. The differences with Earth are analyzed as to their consistency with various theories of the solar system's formation.

What emerges from this process are new ideas about the origin of the solar system—the distribution of elements and temperature in the solar system's early history and the mechanisms that must have taken place as the planets began to assume their present form. The larger amounts of argon and neon caused a reexamination of the evolution of the atmospheres of Earth, Mars, and Venus. Instead of the atmosphere developing after the planets formed, through solar processes, for instance, it now appears that the atmospheric components were contained in the material out of which the planets themselves were formed. This new view of the evolution of planetary atmospheres is important in analyzing the water history and chemical processes in those atmospheres.

The Pioneer Venus results thus demonstrate how planetary scientists are using the other planets as "laboratories" for understanding physical processes on Earth. It is no coincidence that some of the principal scientists on the Pioneer Venus mission are those who first analyzed the danger to our atmosphere of excessive aerosols, carbon dioxide, and sulfur compounds. These molecules are abundantly present on Venus and are affecting its atmospheric evolution.

Pioneer Venus does not end our exploration of this planet. The planet's surface has never been seen, for example. However, with the use of imaging radar, it will be possible to examine the Venusian surface and to learn more about atmospheric processes and planetary composition. The Venus orbiting imaging radar (VOIR) mission is a priority item on NASA's agenda of future planetary missions.

Pioneer Venus does not give us full understanding of the solar system's formation, but it does contribute an important increment to our knowledge. The significance of our emerging picture of Venus is discussed in an editorial by Philip Abelson that also appeared in the July 6 issue of Science. I ask that Mr. Abelson's editorial be printed in the Record.

The editorial follows:

VENUS

(By Philip H. Abelson)

The earlier romantic and the newer realistic views of Venus are in sharp contrast. This difference is typical of many situations that scientists deal with. They often find themselves in the position of demolishing illusions. On the other hand, the objectivity of scientists is usually narrowly confined, and even in their professional activities, illusion or self-delusion often surface. This is especially true when the information is limited and the area of possible speculation is large. For example, an ill-based belief in the possibility of life on Venus, the moon, and Mars was sufficiently strong for some scientists to alarm the public and force special precautions in the return of astronauts and samples from the moon.

In ancient times there were few constraints on imagination about Venus, and the very name of the planet reflected this. Later, it became evident that Venus was a body about the same size as Earth, that it had an atmosphere, and that it was cloud-covered. Nobel Laureate Svante Arrhenius believed that the planet supported luxuriant vegetation. His views are shared by others.

By 1960 Earth-based astronomers had determined that the atmosphere of Venus consisted principally of CO_2 with little H_2O evident. Nevertheless, confidence in the possibility of life on Venus persisted in some quarters.

Exploration of the moon and planets has left no room for little green men or microbes elsewhere in the solar system. This is especially true of Venus. Temperatures at the planet's surface range up to 400°C. The dense atmosphere consists mainly of CO_2 with an atmospheric pressure of 90 kilograms per square centimeter (90 times the total on Earth). The second most abundant component is nitrogen (about 3 percent). Water vapor is a minor constituent, being present in about the same concentration as SO_2 (of the order of 1000 parts per million). Other forms of sulfur include elemental sulfur and carbon oxysulfide. The atmosphere is acid and toxic, and the clouds probably consist largely of droplets of H_2SO_4.

Despite contrasts between their atmospheres, Earth and Venus share some important features. The abundances of nitrogen relative to the masses of the planets are comparable. The same is true of the amounts of CO_2 if one takes into account the amounts present in carbonate rocks on Earth. Within experimental error, the $^{13}C/^{12}C$ ratios are alike. The amounts of ^{40}Ar derived from decay of ^{40}K are also comparable, indicating similar contents of potassium in the two bodies.

In the current issue of *Science*, Pollack and Black discuss some of the compositional features of the atmospheres of Venus, Earth, and Mars. They also examine three hypotheses that have been advanced for the origin and evolution of these atmospheres. The view that best fits the available data is the grain-accretion hypothesis: Grains of material containing potential volatiles such as nitrogen and H_2O were accumulated into plantesimals that subsequently accreted to form planets. Later, as a result of internal heating, volatiles reached the surface. Since the amounts of CO_2 and N_2 which have reached the surface on Venus and Earth are comparable, it is possible that similar amounts of water likewise were outgassed. But little H_2O is present today in the atmosphere of Venus, and this absence must be explained. In any event, the comparative absence of water on Venus has profoundly affected weathering, the incorporation of CO_2 into solid carbonates, and the contrasting greenhouse effects on the two planets.

The results obtained from American and Soviet missions to Venus leave little room for romance. The same is true of missions to the moon and the other planets. Those who have yearned for evidence that forms of life exist on other bodies of the solar system have been disappointed. But their frustration is to a degree balanced by a positive factor. Exploration of our solar system is a triumph of human ingenuity—a triumph shared by all humans.●

CENTENNIAL COLORADO CONFERENCE V

● **Mr. ARMSTRONG.** Mr. President, each year since 1975 a group of Coloradans has convened in the Colorado Rockies to debate State and Federal public policy issues. The forum, called the Centennial Colorado Conference, was held earlier this month at Keystone, Colo.

Traditionally the 8 or 10 consensus resolutions adopted by the conferees are bellwethers to decisions made later by the Colorado General Assembly and the U.S. Congress. That is not surprising, given the fact that the conferees represent a cross section of a State which traditionally is a testing ground for new concepts.

What makes the Centennial Colorado Conference unique is the fact that its topics are not limited to any particular interest area, and that the attendees are about equal measures of Democrats, Republicans, and independents; liberals, conservatives, and independents; and high- and low-profile citizens. For example, both the Republican and Democratic State chairmen of Colorado attended the 1979 session.

By the way, no one is included or excluded because of who or what they are in the everyday world. The previous year's conferees are the nominating committee.

Centennial Colorado Conference V, as the 1979 version was called, was attended by 132 persons. I would like to share with my colleagues the highlights of the conference positions.

The group passed resolutions opposing price and wage controls, endorsing State participation in funding of Federal water projects, and opposing ratification by the Colorado General Assembly of the District of Columbia representation amendment.

The conferees also recommended that Congress initiate a constitutional amendment which would require the Federal Government to operate on a balanced budget basis, and to make the social security system actuarially sound and limited to retirement and other pensions, and death benefits.

Other resolutions supported decontrol of crude oil prices by 1981 and the enforcement of antitrust laws to insure a free market and competition in the oil industry, called for the retention of Colorado's present system of designating and nominating candidates for public office, and opposed limitations on direct or indirect foreign investments in the United States but requiring full disclosure of such investments.

The text of all resolutions adopted by Centennial Colorado Conference V follows:

RESOLUTION

Resolved: That the Congress of the United States shall not enact legislation to limit increases in wholesale and retail prices, wages and rates charged by professional and technical services.

That Congress shall support the decision of the President to decontrol crude oil prices by 1981, and be it further resolved that Congress shall pass legislation directing the individual states to control the allocation and appropriate conservation of available refined petroleum products and derivatives within their states. Also, that wholesale gasoline prices not be regulated by the Federal Energy Regulatory Commission and that retail gasoline prices not be regulated by state entities such as the Colorado Public Utilities Commission, but that there be effective enforcement of anti-trust laws and other efforts to ensure a free market and competition in the oil industry.

That a Convention shall not be called to prepare a new Constitution for the United States, but that the Congress of the United States shall pass a constitutional amendment to be ratified by the states, which would require a balanced federal budget by prohibiting further increases in the national debt, except by a 60 percent vote of the members of the House and Senate present and voting.

That the Congress amend the Social Security System law to make it actuarially sound and to provide a fair system limited to a program of pensions, retirements, and death benefits.

That the Congress of the United States enact legislation which will allow each State to establish its own water storage and hydroelectric power generation project priorities, to be funded on a 90-10 federal-state or local matching basis, and with an amount annually to be appropriated by Congress for that purpose, with funds to be apportioned on the basis of the following formula: ¼ on the basis of population, ¼ on the basis of land areas, and ½ to be apportioned by each state's undeveloped entitlements.

That the present Colorado system of designation and nomination of candidates be retained.

That no limit be placed on direct or indirect foreign investments in the United States real properties and business, but that full public disclosure of all foreign investment be required.

That the Colorado General Assembly not ratify the District of Columbia Representation Amendment, which would afford voting membership in the United States Senate and House of Representatives on the same basis as that of states.●

SYMPOSIUM COMMEMORATING THE 10TH ANNIVERSARY OF THE APOLLO 11 MISSION

● Mr. STEVENSON. Mr. President, next week we observe the 10th anniversary of mankind's first visit to a celestial body other than Earth—the Apollo 11 lunar landing. While we recall this achievement with pride and nostalgia, this anniversary is also an opportunity to look ahead with the same self-confidence and vision that motivated President Kennedy to initiate the Apollo program.

The characteristic of Apollo that most distinguishes it from our current efforts is the Government's commitment to achieving a specific goal within a certain number of years. This approach permitted both Congress and the Executive to make informed judgments about the resources needed in any fiscal year to accomplish the job of landing a man on the Moon and returning him safely to Earth before the end of the 1960's. Today our budgetary planning for the civilian space program is fundamentally a year-by-year process. We have no way of judging whether the resources in a given year are adequate because we have not identified, even in general terms, the longer run purposes of these annual expenditures.

I do not advocate a commitment of national resources on the scale of Apollo. But I do believe we should attempt to identify the basic goals of the U.S. civilian space program that will be achieved during the next decade. S. 244, the Space Policy Act of 1979, establishes such goals in space transportation, space science, and space application. It also provides a procedure for translating these broad objectives into annual program activities that would be reviewed and approved by Congress according to the established authorizing and appropriations process. It is my intention to seek passage of the legislation during the 96th Congress.

One occasionally hears the argument that space exploration should wait until more immediate problems on Earth are solved. Margaret Mead, the anthropologist, responded to this view by pointing out that, in her opinion, there was no reason to believe that any of the money spent on space exploration would have been available for other Earth-related problems. I agree with Margaret Mead. Also, it is important to remember that money for space activities is spent on Earth. These expenditures have brought considerable benefits to our society in terms of expanding scientific and technological knowledge, in strengthening our economy, and in broadening our cultural perspectives.

As we recall with pride this Nation's effort that led to the triumph of Apollo, it is appropriate to consider this country's future in space. Accordingly, the Committee on Commerce, Science, and Transportation and the House Committee on Science and Technology are sponsoring a symposium, "Next Steps for Mankind—The Future in Space." The symposium will be held on Thursday, July 19, 1979, 4 to 6:30 p.m., in the Senate caucus room. Prof. Carl Sagan of Cornell University, Dr. Noel Hinners, Director of the National Air and Space Museum, and Mr. George Jeffs of Rockwell International will make opening presentations. Discussion with Members of Congress and the audience will follow. Mr. Julyes Bergman of ABC News will moderate. The symposium is open to the public. Senators and staff are urged to attend.

One of the symposium participants, Carl Sagan, has written:

> Centuries hence, when current social and political problems may seem as remote as the problems of the Thirty Years War are to us, our age may be remembered chiefly for one fact: it was the time when the inhabitants of the Earth first made contact wih the vast cosmos in which their small planet is imbedded.

This is the heritage of the Apollo program that will be recalled in numerous ceremonies next week here in Washington and across the United States. It is fitting that Congress in its observance will look to future opportunities and challenges of using space to serve the intellectual, cultural and economic needs of mankind.●

AMENDMENT 223 TO S. 689, VETERANS DISABILITY COMPENSATION AND SURVIVOR BENEFITS ACT OF 1979

● Mr. BAYH. Mr. President, I am submitting a brief statement today in support of amendment number 223 to S. 689, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans and the rates of indemnity compensation for their surviving spouses and children. Specifically, amendment 223 will provide to qualified veterans and their dependents a 10.8 percent increase in the rates of compensation they currently receive.

I can only agree with the chairman of the Veterans Affairs Committee when he indicated on June 7 that the service-connected disability program ranks first among the priorities we must consider in legislation affecting veterans and their dependents.

As my colleagues know, compensable disabilities are rated on a graduated scale ranging from 10 to 100 percent according to the VA's schedule of rating disabilities and payment is made on that basis to compensate somewhat for impaired earning capacity.

In December 1978, the number of veterans receiving service-connected disability compensation numbered 2,258,790. Of that number, 284,476 were rated

100 percent disabled. In Indiana about 59,004 veterans and their dependents receive some form of VA disability compensation from the Federal Government. In so many cases, the veteran who has incurred a service-connected disability relies on his compensation under the program as a major source of income with benefits ranging from $44 to $809 monthly.

This being the case, it is very important that the rates of compensation keep pace with increases in the cost of living. This will maintain the integrity of our promise and commitment to "care for him who shall have borne the battle and for his widow and orphan."

Eight public laws have been enacted from 1968 to 1978 to insure that service-connected disability benefits and the DIC program keep pace with the cost of living. Amendment 223 to S. 689 is intended to uphold that commitment by providing a cost-of-living benefit increase based on the actual increase in the cost of living. This is necessary because of the unanticipated increases in the cost of living which is evident because the President's original proposal called for an increase of 7.3 percent when the actual Consumer Price Index increase over the base period was 8.8 percent.

Economic projections now indicate that even this figure will need to be revised upward in the neighborhood of 10 or 11 percent. Only by the action proposed by this amendment will we have assurance that disability compensation will keep pace with the actual increases in inflation instead of projections which are often months behind the "real world."

For Indiana's 34,364 World War II, 9,389 Vietnam war, 4,055 Korean war, 835 World War I, and 3,805 veterans who sustained service-connected disabilities while serving in peacetime, such an adjustment will mean a great deal if we are to be sure that their purchasing power can be sustained as it has been our national policy to do.

At a time when national attention is correctly being focused on ways to balance the Federal budget that does not deny essentially services to provide for our legitimate defense and human needs, some would question the increases which the committee is considering today. However, I would argue strongly that a promise made by the Government to those who not only heeded the call of duty but sacrificed through physical disability resulting from that service should be a promise kept.

It is for this reason as well as those derived from brutal economic necessity that I hope the Senate will move to speedy approval of amendment 223 to S. 689.●

ORDER FOR CONSIDERATION OF S. 562, THE NUCLEAR REGULATORY COMMISSION BILL, ON MONDAY, JULY 16, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order and after any orders for the recognition of Senators, if such are entered in the meantime, the Senate proceed to the consideration of S. 562, the Nuclear Regulatory Commission bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be the following time agreement on that bill: One hour on the bill equally divided between Mr. Hart and Mr. Simpson, 30 minutes on any amendment, 1 hour on an amendment to be offered by Mr. McGovern dealing with State veto on nuclear waste, 1 hour on an amendment by Mr. Kennedy which has to do with review of construction permits, 1 hour on an amendment by Mr. DeConcini which deals with special powers for the NRC in certain cases, 1 hour on an amendment being joined in by Mr. Hart and Mr. Simpson, and then 40 minutes on a second degree amendment to the Kennedy amendment which will be offered by Mr. Hart.

Ordered further, that there be a 40-minute limitation on an amendment by Mr. Johnston which deals with the moratorium evacuation plan, 40 minutes equally divided on an amendment by Mr. Bumpers, and on a possible amendment in the second degree to that amendment by Mr. Johnston.

The Bumpers amendment is an amendment to be offered to Mr. McGovern's amendment. There will be 40 minutes on that amendment, and 40 minutes on the possible amendment by Mr. Johnston in the second degree.

That there be 20 minutes equally divided on other amendments in the second degree, 10 minutes on debatable motions, points of order, or appeals, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, there is no objection to this. I am really pleased to see the matter disposed of in such detail. I congratulate the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF H.R. 4388, THE ENERGY WATER APPROPRIATION BILL, ON THE DISPOSITION OF THE NUCLEAR REGULATORY BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the disposition of the nuclear regulatory bill, the Senate proceed to the consideration of H.R. 4388, the energy water appropriation bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, what time would that come up then, that is at the conclusion of the NRC bill?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Is it the majority leader's intention that bill be completed on Monday, the NRC bill?

Mr. ROBERT C. BYRD. I would hope so. But, in any event, the appropriation bill would follow it.

Mr. STEVENS. It follows it?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. So it could be on Monday or Tuesday?

Mr. ROBERT C. BYRD. It could be on Monday or Tuesday.

Mr. STEVENS. Very well. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 737, THE EXPORT CONTROL ADMINISTRATION BILL, UPON THE DISPOSITION OF THE ENERGY WATER APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the energy water appropriation bill, the Senate take up the Export Control Administration bill, S. 737.

Mr. STEVENS. Reserving the right to object, I have had some discussion with the Senator from Washington (Mr. Jackson). The two of us have been working on some amendments. Has he agreed to this?

Mr. ROBERT C. BYRD. Yes; as a matter of fact, Mr. Jackson agreed to a time limit, which I am not asking for just now.

Mr. STEVENS. I do not object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AUTHORIZATION TO VITIATE ORDER FOR THE SENATE TO BE IN SESSION ON SATURDAY, JULY 14, 1979

Mr. ROBERT C. BYRD. Mr. President, due to the fact that the military construction authorization bill was at least temporarily disposed of today, and with a time agreement when action resumes thereon; due to the fact that three housing bills will have been completed by no later than 7 o'clock tomorrow evening, by agreement entered into; by virtue of the fact that the Senate has now ordered a time agreement on the nuclear regulatory bill and that it is scheduled for Monday, and that it will be followed by the appropriation bill dealing with energy and water—the 3-day rule having been waived thereon; by order that that bill will be followed by the export control administration bill, and that things are looking up for a time agreement on that bill; as a result of all this progress, I ask unanimous consent that the order for a Saturday session be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I understand that means we will have the liberty of Saturday off this week, is that it?

Mr. ROBERT C. BYRD. Yes; in view of the fine cooperation I have had from the Senator's side of the aisle in working out agreements on the three housing measures and on the nuclear regulatory bill and on locking in the energy-water appropriation bill—with waiver of the 3-day rule—to be followed by the export control administration bill, I have undergone a change of heart in respect to this coming Saturday, and Senators will now be able to renew their energies over the weekend and be ready for the hard work next week. I do expect a Saturday session next week.

Mr. STEVENS. If the Senator were on our side, we could say he follows in the footsteps of a great American, Teddy Roosevelt, in walking softly and carrying that big stick.

Mr. ROBERT C. BYRD. I thank the able Senator.

ORDER FOR RECOGNITION OF SENATORS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, for tomorrow, I ask unanimous consent that the following Senators be recognized, each for not to exceed 5 minutes.

May we have order in the well of the Senate? I wish the Sergeant at Arms would exercise his tremendous powers and secure order, and not only secure it but maintain it as well.

I ask unanimous consent that the following Senators be recognized for not to exceed 5 minutes each on tomorrow: Messrs. HUDDLESTON, RANDOLPH, PERCY, and ROBERT C. BYRD, following any orders that have been entered into previously.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. WEICKER TOMORROW TRANSFERRED TO MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. WEICKER on tomorrow be vitiated and that that order be transferred to Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the convening hour for tomorrow?

The PRESIDING OFFICER. Ten o'clock.

Mr. ROBERT C. BYRD. That about wraps it up, then.

U.S. SPACE OBSERVANCE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 353.

The PRESIDING OFFICER laid before the Senate House Joint Resolution 353, a joint resolution congratulating the men and women of the Apollo program upon the 10th anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the House joint resolution be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

Mr. STEVENS. Mr. President, reserving the right to object, this is a rather unique situation. We have not had time to check on this with the people who normally would be involved on our side of the aisle, but the dates involved are such that I think the majority leader's request is well taken, and I offer no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. STEVENSON. Mr. President, I urge passage of House Joint Resolution 353, which is identical to Senate Joint Resolution 77, which was introduced by myself and Senators CANNON, SCHMITT, CHILES, COCHRAN, DOMENICI, GARN, GLENN, GOLDWATER, HEFLIN, INOUYE, JOHNSTON, MAGNUSON, RANDOLPH, RIEGLE, SARBANES, WALLOP, WILLIAMS, YOUNG, ZORINSKY, STEVENS, HATFIELD, HAYAKAWA, CRANSTON, BURDICK, KASSEBAUM, WEICKER, and HATCH.

This resolution, upon the 10th anniversary of the Apollo 11 mission, would express the congratulations of Congress to the Americans who made possible the successful Apollo program. President Kennedy set the goal of landing men on the Moon and returning them safely to Earth before the end of the 1960's. The unprecedented teamwork of scientists and engineers from Government, industry, and the academic community—supported by Americans from all walks of life—carried out the President's commitment. As a consequence, a human left the confines of Earth and walked on another celestial body. This moment will remain a dividing line in recorded history. Now, one decade later, it is appropriate for Congress to take note of this historic event.

The resolution also would bring this anniversary to the attention of the American people by authorizing and requesting the President to issue a proclamation designating the period of July 16 through July 24, 1979, as "United States Space Observance." Passage of this resolution is needed today since the commemoration period occurs next week.●

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALLOCATION OF TIME

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time that is running now not be charged against either side of the housing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the time following the last vote not be charged against either side.

The PRESIDING OFFICER. It has not been.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session, for not to exceed 2 minutes, to consider nominations beginning with the Alaska Natural Gas Transportation System and going through the calendar on page 2.

Mr. STEVENS. There is no objection, Mr. President.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

The assistant legislative clerk read the nomination of John T. Rhett, of Virginia, to be Federal Inspector for the Alaska Natural Gas Transportation System.

Mr. STEVENS. Mr. President, I am pleased to see that this nomination is on the calendar and am pleased to see that it has moved along as quickly as it has. I hope it will expedite the administration's review and actions pertaining to the construction of the Alaska natural gas pipeline.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the remaining nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL COUNCIL ON FINE ARTS

Thomas Patrick Bergin, of Indiana, to be a member of the National Council on the Arts.

THE JUDICIARY

R. Lanier Anderson III, of Georgia, to be U.S. circuit judge for the fifth circuit.

Albert J. Henderson, of Georgia, to be U.S. circuit judge for the fifth circuit.

Reynaldo G. Garza, of Texas, to be U.S. circuit judge for the fifth circuit.

Carolyn D. Randall, of Texas, to be U.S. circuit judge for the fifth circuit.

Henry A. Politz, of Louisiana, to be U.S. circuit judge for the fifth circuit.

Francis D. Murnaghan, Jr., of Maryland, to be U.S. circuit judge for the fourth circuit.

Joseph W. Hatchett, of Florida, to be U.S. circuit judge for the fifth circuit.

Thomas M. Reavley, of Texas, to be U.S. circuit judge for the fifth circuit.

DEPARTMENT OF JUSTICE

Maurice Rosenberg, of New York, to be an Assistant Attorney General.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the votes by which the nominations were confirmed en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The PRESIDING OFFICER. The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NOMINATION OF FRANCIS D. MURNAGHAN TO THE U.S. COURT OF APPEALS

Mr. SARBANES. Mr. President, I rise in strong support of the Judiciary Committee's recommendation of Francis D. Murnaghan for appointment to the U.S. Court of Appeals for the Fourth Circuit.

He was nominated by President Carter to serve on the U.S. Court of Appeals for the Fourth Circuit following an extensive selection process undertaken by a Presidentially appointed panel. I have known Frank Murnaghan for more than 20 years, and I regard this nomination as a superior choice for this important judicial position.

Frank Murnaghan is a native of Baltimore. He was graduated from the Baltimore City College, one of the Nation's most prestigious public high schools. In 1941, he was graduated from Johns Hopkins University, where he was elected to Phi Beta Kappa. He served 4 years in the U.S. Navy during the Second World War. He then entered the Harvard Law School, where he was an editor of the Harvard Law Review, graduating in 1948.

Immediately following law school, he practiced for 2 years in Philadelphia with the firm of Dechert, Price & Rhoads. Then from 1950 to 1952, he served in Germany in the Office of the General Counsel of the U.S. High Commissioner. Upon returning from that assignment, he went into the attorney general's office of Maryland where he served as an assistant attorney general.

In 1954 he joined the Baltimore law firm of Venable, Baetjer & Howard. He has practiced law continuously with that firm since that time, becoming a partner in 1956. His practice has been an unusually broad one, involving him in many areas of the law, with much of his time spent in the courtroom, both in trial and appellate work. He has measured up to the highest standards of the code of professional responsibility and has been especially sensitive to the lawyer's responsibility to assure that legal services will be available for those who cannot afford them.

His distinction as an attorney is universally recognized. At the time of his nomination one of the Baltimore newspapers editorialized as follows:

> Frank Murnaghan is acknowledged by judges and fellow lawyers alike as the foremost of his generation at the Bar and is among the finest two or three lawyers Maryland has lately produced.

Another editorial described him as "brilliantly qualified and profoundly versed in the theory and philosophy of the law as an instrument for justice."

In addition to his distinction at the bar, I would be remiss if I did not bring to the attention of the Senate Frank Murnaghan's outstanding service as a responsible citizen in our community. He has been willing to undertake important civic duties and to perform them in a first-rate manner. In 1963–64, he served as chairman of the city's charter revision commission, which recommended a revised charter that was approved by the city council and by the voters of Baltimore City. From 1967 to 1970 he served as president of the Board of School Commissioners of Baltimore City. At that time the school system had over 200,000 students and was one of the largest public school systems in the Nation, well within the top 10 in the country in size. It will be recalled that was a difficult period of time in this country, especially in our large cities. Frank Murnaghan brought a steady and visionary leadership to that office, which has stood the city and its school system in good stead ever since.

He is presently a member of the board of trustees of the Johns Hopkins University and also serves as president of the board of trustees of the Walters Art Gallery, a position he has held for more than 15 years. The Walters Art Gallery is one of our Nation's finest art institutions, and it has grown tremendously under his leadership.

Frank Murnaghan is a person of absolute integrity and superior intellect, who combines a profound sense of the importance of the rule of law with a keen knowledge of the law. He will bring to public office an independent and seasoned judgment, depth and firmness of character, a balance and judicious temperament and, above all, an understanding and a perception of the meaning of American democracy and the importance of the law to the working of our constitutional system. Maryland and the Nation will benefit from the great strength and quality he will bring to the Federal bench.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIIDNG OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10 o'clock tomorrow morning.

After the two leaders have been recognized under the standing order. Mr. STEVENS will be recognized for not to exceed 15 minutes, after which the following Senators will be recognized, each for not to exceed 5 minutes, but not necessarily in the order named: Messrs. HUDDLESTON, RANDOLPH, PERCY, and ROBERT C. BYRD.

Following this, the Senate will resume consideration of S. 1149, Calendar No. 176, Housing Community Development Amendments of 1979. There is an agreement on the bill under which the final vote will occur no later than 7 p.m. tomorrow, with the understanding that paragraph 3, rule XII, has been waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. There will be rollcall votes throughout the day on amendments and on motions in relation to that bill.

Mr. President, other matters cleared for action may be taken up in the meantime.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to and at 7:56 p.m. the Senate recessed until tomorrow, Friday, July 13, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate on July 12, 1979:

DEPARTMENT OF STATE

Harvey J. Feldman, of Florida, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Papua, New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Solomon Islands.

THE JUDICIARY

J. Jerome Farris, of Washington, to be U.S. circuit judge for the ninth circuit, vice a new position created by Public Law 95–486, approved October 20, 1978.

Betty Binns Fletcher, of Washington, to be U.S. circuit judge for the ninth circuit, vice a new position created by Public Law 95–486, approved October 20, 1978.

James C. Paine, of Florida, to be U.S. district judge for the southern district of Florida, vice a new position created by Public Law 95–486 approved October 20, 1978.

Benjamin F. Gibson, of Michigan, to be U.S. district judge for the western district of Michigan, vice a new position created by Public Law 95–486, approved October 20, 1978.

Douglas W. Hillman, of Michigan, to be U.S. district judge for the western district of Michigan, vice a new position created by Public Law 95–486, approved October 20, 1978.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 12, 1979:

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

John T. Rhett, of Virginia, to be Federal Inspector for the Alaska Natural Gas Transportation System.

NATIONAL COUNCIL ON THE ARTS

The following-named person to be a Member of the National Council on the Arts for a term expiring September 3, 1984:

Thomas Patrick Bergin, of Indiana.

DEPARTMENT OF JUSTICE

Maurice Rosenberg, of New York, to be an Assistant Attorney General.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

R. Lanier Anderson III, of Georgia, to be U.S. circuit judge for the fifth circuit.

Albert J. Henderson, of Georgia, to be U.S. circuit judge for the fifth circuit.

Reynaldo G. Garza, of Texas, to be U.S. circuit judge for the fifth circuit.

Carolyn D. Randall, of Texas, to be U.S. circuit judge for the fifth circuit.

Henry A. Politz, of Louisiana, to be U.S. circuit judge for the fifth circuit.

Francis D. Murnaghan, Jr., of Maryland, to be U.S. circuit judge for the fourth circuit.

Joseph W. Hatchett, of Florida, to be U.S. circuit judge for the fifth circuit.

Thomas M. Reavley, of Texas, to be U.S. circuit judge for the fifth circuit.

HOUSE OF REPRESENTATIVES—*Thursday, July 12, 1979*

The House met at 10 a.m.

Rev. Aimee Garcia Cortese, Protestant chaplain, Bedford Hills Correction Facility, New York State Department of Corrections, Bedford Hills, N.Y., offered the following prayer:

We reverence Your presence here this day, dear Lord.

Help us to seek You, for You have told us that when we do, surely we will find You. Only as we search for the eternal does the temporal find its proper place and true balance. How we long to be the balanced creatures that can face life and cope. Grant us this blessing.

Give us a vision of Your will that we might set goals that will bless our people for surely without vision the people perish. Keep us in touch with You so we might be able to reach out and touch others.

Lord through this House of Representatives let Your voice be heard loud and clear. May Your servants feel the hurt of our Nation, the fears and perplexities, the tremendous uncertainties that are ours in such a real way today. Lord I rebuke from them all spirit of fear and helplessness and may they know You have chosen them and will never fail them or leave them alone. Make this House, each Representative an instrument of love, peace, and justice. In Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2807. An act to amend the Bankruptcy Act to provide for the nondischargeability of certain student loan debts guaranteed or insured by the United States.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 1786) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses, thereon, and appoints Mr. CANNON, Mr. STEVENSON, Mr. FORD, Mr. GOLDWATER, and Mr. SCHMITT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1159. An act to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes.

The message also announced that the Vice President, pursuant to Public Law 86–41, appointed Mr. ZORINSKY, Chairman, and Mr. STEVENS, Vice Chairman, of the Canada-United States Interparliamentary Group, to be held August 9–17, 1979, in Canada/Alaska.

REV. AIMEE GARCIA CORTESE

(Mr. GARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARCIA. Mr. Speaker, I would just like the Members of the House to know that the young lady who offered the prayer this morning is my sister, and I think it is the first time, Mr. Speaker, that we have had a brother and sister act here on the floor. My sister's prayers have helped me and many others and you can be sure they will help us here.

My sister graduated from Central Bible College in Springfield, Mo., and she was the first woman to be appointed by the Governor of the State of New York as a chaplain in a New York State correctional facility. She works presently with the women who are incarcerated in Bedford Hills in the State of New York.

Mr. Speaker, in closing I would like to say that somehow we confused things in my family, because I was supposed to be the minister and my sister was supposed to be the politician. But here we are, with reversed roles.

THE TEN COMMANDMENTS ON ENERGY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, as the President confers with various groups at Camp David this week to discuss the politics of energy, the absence of news from that summit is being replaced with a good deal of mystique. The picturesque and historical setting of Maryland's Catoctin Mountains is being referred to in a Biblical sense from which the President will soon descend with two tablets of stone on which will be carved "the Ten Commandments on Energy."

In a recent letter to the President, I outlined what I believe would closely constitute such a group of commandments.

The list goes as follows:

Thou shalt maximize the use of coal.

Thou shalt fully utilize existing nuclear powerplants.

Thou shalt develop a synthetic fuels industry.

Thou shalt decontrol your oil, expand your domestic oil and gas production, and mix your gasoline with at least 10 percent of alcohol.

Thou shalt continue to encourage the use of solar energy.

Thou shalt improve hydroelectric power generation.

Thou shalt develop other sources of energy from the winds, the woods, the oceans, geothermal, and hydrogen.

Thou shalt expand fixed-rail mass transit and fund the intercity bus and terminal program so thou shalt have alternatives to your passenger cars.

Thou shalt provide Government tax and loan offerings for alcohol-powered farm equipment and home and business energy improvements.

Thou shalt establish an Emergency Energy Production Board to advise the President on actions that will enable the Nation to bring forth the blessings of a secure energy future.

PERMISSION FOR SUBCOMMITTEE ON SURFACE TRANSPORTATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY WHILE HOUSE IS IN SESSION

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation may be permitted to sit today while the House is in session, merely to take testimony.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

THE ENERGY CRISIS

(Mr. HOWARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOWARD. Mr. Speaker, yesterday evening's Washington Star had on the front page a list of the people who have been called to Camp David this week to confer with the President concerning the energy crisis that affects this Nation.

When we think about the energy problem that we have now and will have in the future, we have to realize that over 50 percent of all of the petroleum used in this country is used in some form of transportation, and we are not going to solve this problem unless we involve transportation in it.

So when we look at this long list of lines, to see whether the voice of transportation has been involved, we might look for the name of Congressman BIZ JOHNSON, the chairman of our own House Public Works and Transportation Committee, and we find that he has been ignored in this whole process. In fact, we find that the Secretary of Transportation, Brock Adams, is not among the people who have been interviewed or had discussions on the tremendous energy problem that we have.

In this morning's newspaper we find that Secretary Schlesinger has had four option plans for the energy crisis that has been submitted to the President. We can look through all plans, we can look through the entire article, and we do not find the word "transportation" once.

Mr. Speaker, if we ignore half of the problem on energy in establishing whatever policy we do, then even if we do a perfect job we are really only going to do half the job. I think it is about time that transportation is involved in this matter.

LET US MINISTER TO THE ILL AND INJURED IN INDOCHINA

(Mr. BARNES asked and was given permission to address the House for one minute and to revise and extend his remarks.)

Mr. BARNES. Mr. Speaker, if one American adventurer set sail in a sloop across the Atlantic and radioed that he was in trouble, we would automatically dispatch planes, ships, and helicopters in a massive air-sea rescue effort, and we would not wait for a new fiscal year or for a supplemental appropriation to be drafted and approved by Congress before lending aid.

But tens of thousands of people are today in trouble in the waters off Indochina. They are drowning at sea, receiving inadequate care in refugee camps, being sent back to sea in leaking boats, or forced back across a border into combat zones.

These people cannot wait, Mr. Speaker. This is not a problem which can be dealt with "in due course."

I am an amateur at this business. But it seems to me that there are emergency measures which can and should be taken. In a telegram which I sent to the President last night, I urge the following actions:

First. That naval vessels be ordered to Indochinese waters to conduct continuing search and rescue operations for refugee vessels.

Second. That transport vessels, whether of the U.S. Navy or private operation under charter, be employed to relieve crowding in existing refugee camps. Such vessels could be used either as temporary quarters, or to transport refugees to more distant, less crowded encampments;

Third. That naval hospital ships, and army field hospitals, as well as military medical personnel, be dispatched immediately to minister to the ill and injured.

When we made war in Vietnam we had little trouble overrunning that country with ships, aircraft, helicopters, and ground transports. Now we have the opportunity to demonstrate the capacity of America's Armed Forces in making peace livable for hundreds of thousands of individual human beings who are victims of that war and its continuing aftermath. I appeal to the President, as Commander in Chief, to mobilize our Nation's services to do what we can do best: help people.

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U.S. COAL MUST REPLACE FOREIGN ENERGY IMPORTS

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, that the citizens of our Nation must continue to suffer daily—as a result of our dependence upon foreign energy supplies—is a fact which I find shocking and thoroughly unnecessary.

Never before have U.S. citizens had to face the energy problems which we are confronting today. We are living under constant threat of a foreign oil embargo which could bring this Nation to a standstill. Foreign oil is more exorbitantly priced each successive month. Yet the leadership of our country continues to ignore the most extensive and valuable energy resource we possess—coal.

Proven U.S. coal reserves can supply our energy needs for 300 to 500 years to come, with many more reserves yet to be proven. Through American ingenuity, our scientists have discovered methods for maximizing our production of coal, while at the same time providing the necessary safeguards for our environment. Coal must be promoted to insure our earliest possible energy independence.

In light of our Nation's superior position in domestic coal reserves, I find it inconceivable that the United States has yet to formulate a commitment to coal. Therefore, I would like to urgently ask that my colleagues in the U.S. Congress call for the President's establishment of a national energy plan which emphasizes a dramatic increase in coal production and coal use as a means of replacing our current, deplorable reliance upon foreign energy sources. Our commitment to coal is imperative if we are to look into the next decade with optimism.

PERSONAL EXPLANATION

(Mr. O'BRIEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'BRIEN. Mr. Speaker, yesterday morning when the House voted on the Trade Agreements Act of 1979, H.R. 4537, I was unavoidably detained. I ask unanimous consent that my vote be recorded as "aye" in the RECORD.

The SPEAKER. The Chair will state that the gentleman's vote cannot be recorded as "aye." The gentleman's statement will be printed in the RECORD.

Mr. O'BRIEN. I thank the Chair.

VICE PRESIDENT'S SPEECH IN LOUISVILLE IGNORES NUCLEAR ENERGY

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, yesterday I spoke of the cynicism involved in the central message in Vice President MONDALE's speech in Louisville where he echoed the "new party line" of shifting the blame for all our Nation's ills to the OPEC nations, thus avoiding placing responsibility at the feet of the Federal Government.

But the Vice President's speech is more remarkable in what it does not mention than in what it does. In it, the Vice President talked of managing gasoline supplies, of conservation, of solar energy, gasohol, hydroelectric generation. He included coal, natural gas, pipeline construction, peat and agricultural biomass. He mentioned shale oil and wind, tar sands, and geothermal resources as well as synthetics.

If the comprehensiveness of the list is a harbinger of what we can expect from President Carter when he returns from Camp David, I regret the absence of even a mention of one source of energy vital to our success. He could not bring himself to mention the name of a source that already accounts for 12 percent of our electricity generation and could yield through relatively simple utilization the energy equivalent of 240 billion barrels of oil. That source, ignored in the administration's only comprehensive energy statement since the cancellation of the President's speech a week ago, is, and I do not fear to use the word, "nuclear."

AMERICA SHOULD SHOW MORE OUTRAGE ABOUT VIETNAM TREATMENT OF BOAT PEOPLE

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I share the concern that has been expressed about the Vietnamese refugees, particularly "boat people," the ethnic Chinese who are being driven out of Vietnam.

Yesterday I inserted an article in the Extensions of Remarks outlining the tragedy that befell a refugee Chinese family and their story of what happened; they recounted there was very little doubt in their minds that it was official Vietnam Government policy that drove them out of that country.

I would suggest that we show not only concern for and assist the refugees but that we also express our strong moral outrage and that we take appropriate sanctions against that repressive government that is perpetrating one of the most heinous crimes of this century.

I would suggest also that much of the reluctance of the American people, at least as reflected in my mail, about taking in these refugees, would be overcome if we would take appropriate action to stop illegal immigrants from coming into this country. In total we have taken in about 200,000 Vietnamese refugees; estimates of the number of illegal aliens coming across the Mexican border alone are nearly that much every month.

ARTHUR FIEDLER

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, I rise to pay tribute to one of the most significant and lasting traditions in American music: Arthur Fiedler. Arthur Fiedler, who died in Boston Tuesday at the age of 84, had become virtually synonymous with the popularizing and development of every kind of musical expression in the Nation.

Fiedler's career with the Boston Symphony began in 1929, at the beginning of the Great Depression. After a 10-year career as a member of the Boston Symphony Orchestra, during which time he played six or seven different instruments, Fiedler became the conductor of the offshoot of the famous BSO whose name is now known in every corner of the world: the Boston Pops. Fiedler was convinced that the best in the world's tradition of music should be made both understandable and enjoyable for all Americans. One way to do this, Fiedler was convinced, was to hold outdoor, free concerts where the public would be exposed to every style and form of music, from Bach to Puccini, from Tommy Dorsey to Frank Sinatra.

Fiedler was successful in raising moneys which allowed the Boston Pops to begin their free concerts on the Esplanade alongside the Charles River in Boston in the summer of 1930. For 50 years, Fiedler's presence at the Esplanade's bandshell became synonymous with summer in Boston. Generations of Bostonians and tourists visited the Esplanade concerts over the years, and Fiedler's presence at the podium on the Fourth of July became a major part of the national celebration of Independence Day. Fiedler reached perhaps the apex of his career during the celebration of the Nation's Bicentennial on July 4, 1976. On that day, some 250,000 thrilled celebrants watched and listened as maestro Fiedler conducted the Pops in their famed rendition of Tchaikovsky's "1812 Overture." and as the cannonade greeted the beginning of this Nation's third hundred years.

Arthur Fiedler's prescription for success, perhaps, was his ability to catch his audience at the entry level of classical music. He was able to blend classical music with elements of both popular and familiar music, to blend Brahms, Bach. and Beethoven with Gershwin, Pearl Bailey, and Steven Sondheim. That ability is a rare gift, seen all too infrequently on the American stage.

Arthur Fiedler, the man, is gone. But Arthur Fiedler's contribution to American music, the Boston Pops, will live on and grow in the hearts of America's listening public.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1980

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 314 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 314

Resolved, That during the consideration of the bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clauses 2 and 6, rule XXI, are hereby waived: beginning on page 2, line 3 through page 15, line 9; beginning on page 16, line 5 through page 17, line 6; beginning on page 17, line 17 through page 18, line 11; beginning on page 19, lines 8 through 19; beginning on page 20, line 6 through page 22, line 11; beginning on page 29, line 7 through page 30, line 5; beginning on page 32, line 22 through page 34, line 24; and beginning on page 37, lines 9 through 16.

The SPEAKER. The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 314 provides for the consideration of H.R. 4392, the Departments of State, Justice, and Commerce, the judiciary, and related agencies appropriation bill for fiscal year 1980. The resolution waives all points of order against certain provisions of the bill for their failure to comply with clause 2 of rule XXI. Under this provision of the rules, no appropriation shall be reported in any general appropriation bill for any expenditure not previously authorized. The clause also prohibits legislation in an appropriations bill.

In addition the resolution waives clause 6 of rule XXI against specified provisions of the bill. This provision of the rules prohibits the consideration of a general appropriations bill if it contains a provision reappropriating unexpended balances of appropriations.

This resolution reflects the wishes of the Committee on Appropriations and the judgment of the Committee on Rules as to the waivers that are needed in order to preclude points of order from being raised against the consideration of the bill.

Mr. Speaker, H.R. 4392 provides $7,646,707,000 in new budget authority for fiscal year 1980 for the Departments of State, Justice, and Commerce, the Federal Judiciary and 20 related agencies.

The amount recommended in the bill is an increase of $458,276,000 above appropriations for these purposes enacted to date for fiscal year 1979. The total is $321,105,000 below the administration's request for fiscal year 1980. The bill does not contain funding for the Law Enforcement Assistance Administration (LEAA), the Economic Development Administration, Regional Action Planning Commissions, and the Federal Trade Commission. The committee chose not to include funding for these agencies because of lack of authorizations.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule waives certain points of order against particular provisions of H.R. 4392, the Departments of State, Justice and Commerce, the judiciary, and related agencies appropriations bill for fiscal year 1980. The waivers granted by the rule relate to unauthorized appropriations and legislation on a general appropriations bill (clause 2, rule XXI) and to reappropriations of unexpended appropriations (clause 6, rule XXI).

The provisions in the bill against which the points of order are waived deal with the following items:

Department of State—all items.

Department of Justice—all items.

Department of Commerce—Office of Economic and Statistical Analysis, NOAA, Office of Science and Technical Research, and Maritime Administration.

Related Agencies—Arms Control and Disarmament Agency, Board for International Broadcasting Commission on Civil Rights, International Communications Agency, Special Foreign Currency Program, Center for Cultural and Technical Interchange Between East and West, International Trade Commission, and Select Commission on Immigration and Refugee Policy.

The total appropriation in this bill for fiscal year 1980 is approximately $7.65 billion. This figure is about $321.1 million below the budget request. There are a few individual items in the bill which are above the President's budget. These include a $481,000 increase for salaries and expenses for general legal activities of the Justice Department; a $3.1 million increase for operations and training of the Maritime Administration; a $41 million increase for SBA; and a $13.2 million increase for the Legal Services Corporation.

It should be pointed out that the total appropriation for the Legal Services Corporation for fiscal year 1980 is $305 million. This figure is $35 million more than the fiscal year 1979 appropriation and, as stated earlier, $13.2 million above the fiscal year 1980 budget request. In fairness it should also be mentioned that the Corporation's own request was $32.5 million more than the amount recommended in the bill.

So what the Legal Services Corporation ultimately had recommended for fiscal year 1980 in the bill was a 13-percent increase over last year's appropriation, even though the Corporation itself requested a 25-percent increase. This fact makes me wonder how much of a cushion the Corporation builds into its request each year. It is obvious that there must be a several million-dollar pad, and I simply want to draw the attention of the House to this matter with the hope that it can be addressed during consideration of the bill.

I would like to commend Chairman SLACK and the ranking Republican member, the gentleman from Illinois (Mr. O'BRIEN) for their leadership in working up this appropriation bill. It is a very difficult appropriation bill, I am sure, to develop properly and hold under the budget because we are dealing with what I consider to be basically three major, worthless, ineffectual, and uncooperative departments in the Departments of State, Justice, and Commerce. However, in spite of that, the rule is one that we have to adopt if we are going to get this appropriation through this year and, therefore, I support the rule on this worthless appropriations bill.

Mr. DODD. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SLACK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Illinois (Mr. O'BRIEN) and myself.

The SPEAKER pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. SLACK).

The motion was agreed to.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4392) with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from West Virginia (Mr. SLACK) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. O'BRIEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. SLACK).

Mr. SLACK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we held extensive hearings on this bill, and the testimony is contained in nine volumes. Every member of this subcommittee has worked very diligently in an effort to get this bill marked up and reported. I would like at this point to express to each of them my personal appreciation for their excellent cooperation, as well as the support of our very outstanding staff members, Mr. Dempsey Mizelle and Mr. John Osthaus.

Mr. Chairman, the total amount of new budget authority in this bill for fiscal year 1980 is $7,646,707,000. While this amount is an increase of $458,276,000 over comparable appropriations enacted to date for fiscal year 1979, it is a decrease of $321,105,000 from the total requested for fiscal year 1980. This represents a decrease of slightly over 4 percent from the requests.

The following table summarizes by department and agency the recommendations of the committee and shows comparisons with the appropriations for fiscal year 1979 and the budget estimates for 1980:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR FISCAL YEAR 1979 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR FISCAL YEAR 1980

Agency and item	New budget (obligational) authority, fiscal year 1979[1]	Budget estimates of new (obligational) authority, fiscal year 1980	New budget (obligational) authority, recommended in bill	Bill compared with—	
				New budget (obligational) authority, fiscal year 1979	Budget estimates of new (obligational) authority, fiscal year 1980
(1)	(2)	(3)	(4)	(5)	(6)
Department of State	$1, 234, 520, 000	$1, 386, 101, 000	$1, 325, 569, 000	+$91, 049, 000	−$60, 532, 000
Department of Justice	1, 826, 598, 000	[2]1, 878, 610, 000	1, 848, 448, 000	+21, 850, 000	−30, 162, 000
Department of Commerce	1, 590, 956, 000	[3]2, 086, 961, 000	1, 904, 987, 000	+314, 031, 000	−181, 974, 000
The Judiciary	489, 647, 000	619, 769, 000	589, 866, 000	+100, 219, 000	−29, 903, 000
Related agencies:					
Arms Control and Disarmament Agency	16, 395, 000	18, 876, 000	17, 670, 000	+1, 275, 000	−1, 206, 000
Board for International Broadcasting	85, 000, 000	86, 917, 000	82, 990, 000	−2, 010, 000	−3, 927, 000
Commission on Civil Rights	10, 752, 000	11, 372, 000	11, 230, 000	+478, 000	−142, 000
Commission on Seucirty and Coopration in Europe	521, 000	550, 000	264, 000	−257, 000	−286, 000
Equal Employment Opportunity Commission	107, 000, 000	125, 060, 000	119, 000, 000	+12, 000, 000	−6, 060, 000
Federal Communications Commission	70, 446, 000	71, 816, 000	71, 816, 000	+1, 370, 000	
Federal Maritime Commission	10, 550, 000	11, 217, 000	11, 175, 000	+625, 000	−42, 000
Federal Trade Commission	(64, 750, 000)	[4](69, 021, 000)			
Federal Claims Settlement Commission		1, 030, 000			−1, 030, 000
International Communication Agency	411, 009, 000	432, 782, 000	429, 112, 000	+18, 103, 000	−3, 670, 000
International Trade Commission	12, 950, 000	14, 700, 000	14, 106, 000	+1, 156, 000	−594, 000
Japan—United States Friendship Commission	1, 500, 000	1, 500 000	1, 500, 000		
Legal Services Corporation	270, 000, 000	337, 500, 000	305, 000, 000	+35, 000, 000	−32, 500, 000
Marine Mammal Commission	702, 000	640, 000	640, 000	−62, 000	
Office of the Special Representative for Trade Negotiations	2, 665, 000	4, 173, 000	3, 900, 000	+1, 235, 000	−273, 000
Presidential Commission on World Hunger	1, 300, 000	975, 000	975, 000	−325, 000	
Renegotiation Board	5, 260, 000	7, 363, 000		−5, 260, 000	−7, 363, 000
Securities and Exchange Commission	64, 650 000	69, 039, 000	68, 946, 000	+4, 296, 000	−93, 000
Select Commission on Immigration and Refugee Policy		2, 226, 000	1, 600, 000	+1, 600, 000	−626, 000
Small Business Administration	974, 435, 000	795, 300, 000	836, 300, 000	−138, 135, 000	+41, 000, 000
U.S. Metric Board	1, 575, 000	3, 335, 000	1, 613, 000	+38, 000	−1, 722, 000
Grand total	7, 188, 431, 000	7, 967, 812, 000	7, 646, 707, 000	+458, 276, 000	−321, 105, 000

[1] Does not include amounts in Suoolemental Appropriation bill for 1979.

[2] Excludes estimate of $170,853,000 for the Law Enforcement Assistance Administration which was not considered due to lack of authorization.

[3] Excludes estimates of $759,042,000 for the Economic Development Administration and $74,005,000 for Regional Action Planning Commissions which were not considered due to lack of authorization.

[4] Not considered due to lack of authorization.

AUTHORIZING LEGISLATION

Mr. Chairman, almost 60 percent of the amounts requested for programs under the subcommittee's jurisdiction require authorization for fiscal year 1980. These programs involve more than 20 authorization bills. While most of these have been reported to the House, only several of them have been passed at this time. The committee deferred consideration of budget requests for the Law Enforcement Assistance Administration, the Economic Development Administration, Regional Action Planning Commissions, and the Federal Trade Commission because they are not yet authorized. Authorizing bills dealing with LEAA and EDA have been reported to the House, but since a substantial restructuring of programs is proposed we felt it was not appropriate to recommend funding at this time. With respect to the FTC, we have proceeded without authorization for the last 2 years and funds were ultimately appropriated with no authorization. However, the FTC is now engaged in several controversial programs and the issue of legislative veto has not yet been resolved. Under the circumstances our committee feels it is better to wait for the authorization. Several budget amendments have been received since the subcommittee mark up and they have not been considered.

TRAVEL FUNDS

The committee was quite concerned about the increasing amount of funds used for travel. The 1980 budgets for departments and agencies funded in this bill included increases for travel totaling $51 million. While we realize that certain travel must be performed in order to carry out the programs funded in this bill, we felt that the increases proposed were excessive. Therefore, reductions have been made in most of the individual requests in order to hold travel costs in fiscal year 1980 to the levels projected for fiscal year 1979.

TITLE I—DEPARTMENT OF STATE

The total amount recommended for the Department of State is $1,325,569,000. This amount is $60,532,000 less than the total requested for fiscal year 1980, but is an increase of $91,049,000 over appropriations enacted to date for fiscal year 1979. The increases over the current appropriations are due primarily to increased requirements for international organizations and for international peacekeeping activities.

The largest appropriation item for the Department of State is "Salaries and Expenses," for which we are recommending $769,700,000. This amount is $8,211,000 less than the budget request. The decrease includes $2.3 million in travel funds and $3 million in funds budgeted for the Bureau of Oceans and International Environmental and Scientific Affairs, a bureau which the committee feels is overstaffed and generally ineffective.

For contributions to international organizations, we are suggesting a total of $370.3 million. This amount reflects deletion of $41.2 million requested for technical assistance programs. Mr. Chairman, at the time we marked up this bill there was still a question of whether technical assistance should be funded from assessed budgets or voluntary contributions for international organizations. The 1979 appropriation bill for the Department of State excluded the amounts requested for technical assistance and the pending bill is consistent with the position of Congress as reflected in that appropriation. However, last month the House voted to restore the 1979 funds for technical assistance and yesterday the conferees on the supplemental appropriation bill approved such funds. At the appropriate time, Mr. Chairman, I intend to offer an amendment to restore technical assistance funds to the pending bill.

TITLE II—DEPARTMENT OF JUSTICE

The total amount in the bill for the Department of Justice for fiscal year 1980 is $1,848,448,000. This amount is $21,850,000 more than comparable appropriations for fiscal year 1979 enacted to date. However, it is $30,162,000 less than the amounts requested for fiscal year 1980. These amounts exclude funds for the Law Enforcement Assistance Administration.

Included in the Justice title of the bill is $299,326,000 for the Immigration and Naturalization Service. This amount represents essentially the level of the budget request. We were asked by several witnesses to increase the INS budget. However, we did not feel it was wise to do so at this time, since there appears to be no immigration policy and there is evidence of poor management and use of resources. In fact the Attorney General himself says they seem to have a system of nonmanagement.

To enable INS to improve its recordkeeping and management functions, the committee has earmarked $3,000,000 in the bill to install fully automated systems for processing and recordkeeping in district offices, as well as $2,100,000 to redesign, update, and maintain the nonimmigrant control system applicable to arrival and departure of aliens in and from the United States. The $3,000,000 for installing automated systems will enable INS to automate 23 of its district, regional, and field offices in fiscal year 1980. The balance of the field operation can be automated in fiscal year 1981.

TITLE III—DEPARTMENT OF COMMERCE

The bill includes a total of $1,904,987,000 in new budget authority for the Department of Commerce for fiscal year 1980. This amount is a reduction of $181,974,000 from the budget estimates, but is an increase of $314,031,000 above the comparable amounts appropriated to date for the Department for fiscal year 1979.

The committee did not consider the budget requests for the Economic Development Administration and the Regional Action Planning Commissions because of lack of authorization.

The major element of the increase over current funding for Commerce is the 1980 Decennial Census. A total of $554,676,000 is included in the bill for that census, a reduction of $48 million from the request. Our report expresses concern about the high cost of the 1980 Decennial Census—the latest Census Bureau estimate is $960,000,000. We believe that some reductions can be made in the interest of economy without jeopardizing the quality of the census. Reductions are to be applied to those items identified in committee hearings as of lesser priority and to the contingency item.

The budget for the National Oceanic and Atmospheric Administration included another proposal to close weather stations—22 this time. We did not approve that proposal and have designated $689,000 and 40 positions to keep these stations open and operating at the current level of service.

The committee's recommendation reduces the request for the ship construction program of the Maritime Administration by $69 million. These funds were requested for three dry bulk ships. Maritime Administration officials indicated in testimony to the committee that funds for these ships were being requested in conjunction with a special dry bulk legislative initiative. Since this special legislative proposal has not yet been transmitted to the Congress, we have not included the funds requested for these vessels.

TITLE IV—THE JUDICIARY

Title IV of the bill provides funds for the operation of the Federal courts, including salaries of judges, judicial officers and employees, and other expenses of the Judiciary. A total of $589,866,000 is recommended to carry out these activities, an increase of $100,219,000 over the amounts provided to date for fiscal year 1979, and a decrease of $29,903,000 from the total amount requested for fiscal year 1980. The increase over the current appropriation is due primarily to enactment of the Omnibus Judgeship Act which authorized 152 new judges, the Bankruptcy Reform Act, and the Jury System Improvements Act.

TITLE V—RELATED AGENCIES

The subcommittee considered budget requests totaling $1,996,371,000 for 20 related agencies. The total amount of new budget authority recommended for these agencies for fiscal year 1980 is $1,977,837,000, a reduction of $18,534,000 from the budget requests, and a reduction of $68,873,000 from the total appropriated for these agencies for fiscal year 1979. The reduction from the 1979 level results from a lesser amount being provided for the SBA disaster loan program.

The bill includes $305 million for payment to the Legal Services Corporation. This amount is $35 million more than the appropriation made for the current fiscal year but is $32,500,000 less than the amount requested by the Corporation for fiscal year 1980. The increase over the current level will permit minimum access to civil legal assistance in all areas of the country. It will also permit some program improvement.

The bill includes a proviso, similar to language contained in recent Department of Labor appropriation bills, which prohibits the use of Federal funds appropriated to the Legal Services Corporation for activities on behalf of any alien known to be in the United States in violation of the Immigration and Nationality Act or any law, convention, or treaty of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens. The intent of the provision is to establish clearly that the proper use of federally appropriated funds is to provide legal assistance to citizens and resident aliens of the United States who otherwise meet eligibility requirements for assistance through the Legal Services Corporation Act.

The bill includes a total of $836,300,000 in new budget authority for the Small Business Administration. This amount includes increases above the budget totaling $41 million—$7 million for salaries and expenses, primarily for loan processing and servicing, and $34 million for direct business loans.

For the U.S. Metric Board we are recommending $1,613,000. While this amount is $38,000 more than the appropriation for this year, it is $1,722,000 less than the request for 1980. Our committee is concerned that the Board, in its policies and actions, is becoming an advocate of the metric system and is giving the impression that our official national policy is to convert to the metric system, albeit voluntarily. We believe that the proper role for the Board, as mandated by the Congress, is to educate the public concerning the metric system, including its disadvantages as well as its benefits, and to offer help and guidance to those segments of our society, industries, and other groups who want to convert. We, therefore, expect the Board to review its policies and programs to insure that it provides complete information about the metric system and about all aspects of the conversion process.

Mr. Chairman, we held extensive hearings on this bill and the testimony is available in nine volumes of hearings. Every member of the subcommittee worked diligently in an effort to get this bill marked up and reported to the House and I want to express to each of them my personal appreciation of their excellent cooperation.

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Mr. O'BRIEN. Mr. Chairman, I yield myself such time as I may consume. With respect to this important bill, I would like to touch on what appears to me the overall consideration; namely, observing a policy of frugality without overlooking essentials. As the chairman indicated, we are approximately $321.1 million under the administration's request. That accomplishment ought to be underscored, because we achieved such a result under the leadership of the gentleman from West Virginia, in the face of certain nondiscretionary increases or, practically speaking, mandatory expenses. One such increase as found in the Omnibus Judgeship Act of 1978 which caused a 20.5-percent increase in the amount required by the judiciary most of which, if not all, going to provide for essential and additional Federal judges.

Another such increase is found in the mandated-by-law upcoming census, which brings with it a required expense of something like $389 million. The heart of the matter is that while all of the agencies which appeared before this committee, had a full and patient hearing, were treated fairly, not overgenerously but properly, the committee managed to come through the process with a reduction of $321 million under the President's request. Only one account received an increase, and that, as the chairman mentioned, was the Small Business Administration. It should be underscored however, that such increase constitutes a loan account which will be repaid to the Treasury.

Mr. Chairman, I think it is a fair bill. I think it is a frugal bill. I think it is a bill that no Member of the House need be embarrassed about voting for or supporting, an appropriation intended in the best interest of the United States. I would like to underscore the chairman's comments with respect to Mr. Mizelle, Mr. Osthaus, Miss Bon, Mr. Baikauskas, and Miss Yoho staff people of immense help to the committee. I would like also to point out that in my limited experience in this House I have never served under a more competent nor responsible chairman than the gentleman from West Virginia (Mr. Slack).

Mr. Chairman, at this time I yield 4 minutes to the gentleman from California (Mr. Lagomarsino).

Mr. LAGOMARSINO. Mr. Chairman, in recent years I have looked with dismay at the way our foreign policy has been formulated and implemented. It often seems to me that some high State Department officials are more interested in serving one constituency or another overseas rather than promoting the interests of our own citizens. Indeed, I have suggested—only in part facetiously—that an American desk be established in the State Department to look after the interests of the American public. With that in mind, and for budget increases that have not been fully justified, I have voted in the past, against the State Department authorizations and appropriations bills.

I do want to take this opportunity to make clear for the record that these votes are not directed at the U.S. International Communication Agency and the Board for International Broadcasting, both of which, I believe, perform valuable service in representing American interests overseas as the instrument of U.S. "Open Diplomacy."

Radio Free Europe and Radio Liberty, operated by the Board for International Broadcasting, and the Voice of America, operated by USICA provide information about the United States and our people to audiences in closed societies around the world who have no other means of learning the truth about what is going on, not only here but also in their own country as well.

The information, educational, and cultural exchange programs conducted by the U.S. International Communication Agency represent the means by which citizens of other countries, our allies and adversaries, come into direct contact with Americans—our society and culture.

As I have traveled around the world in my capacity as member of the Foreign Affairs Committee, I have been constantly reminded how similar people are around the world. As we get to know one another better, we understand each other better and the usual negative stereotypes are replaced by a more realistic appreciation of other people's interests and desires. I believe USICA accomplishes that admirably in the daily performance of its duties, informing others of our country and its policies and increasing an understanding of the United States, as a symbol of freedom, openness, and diversity.

USICA's programs are as varied as our own society; it distributes press materials, motion pictures, magazines, books; operates libraries, bi-national cultural centers, English-language classes; presents American classical and popular performers, and artists; and schedules American scholars and specialists from every field of American achievement.

It does all this on a budget that has not even managed to keep up with inflation over the past 10 years. Frankly, I wish that State and USICA budgets' were not combined in the same measure year after year. I would wholeheartedly support the USICA program and its budget. As it is, it may once again be the unintended victim of my vote against the State Department appropriations if I remain unconvinced of the merits of the State's Department's policies.

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Mr. O'BRIEN. Mr. Chairman, I yield 8 minutes to the gentleman from California (Mr. Burgener).

Mr. BURGENER. Mr. Chairman, I want to express my appreciation to the chairman, the gentleman from West Virginia (Mr. Slack), to the ranking member, the gentleman from Illinois (Mr. O'Brien) and all the members of this subcommittee for their excellent work and for their understanding of an extremely difficult problem which is as yet unresolved but about which we have great hopes that between now and final enactment of this bill a reasonably satisfactory solution will be reached.

I speak of the extremely difficult problem of what I choose to call an invasion from the Republic of Mexico to the United States, particularly in the southern California area. The invasion is friendly, the invasion is unarmed, the invasion is caused by economics but it is, nonetheless, an invasion that creates great problems of us and great problems for citizens who are nationals of Mexico.

I would like to describe as best I can the situation on the border. I do represent a great segment of the Mexican-American border in California.

The situation is that the border is an open sieve and that several thousand people per day attempt to cross the border and perhaps more than a couple of thousand actually make it each and every day, illegally.

Ever since the President's ill-conceived and most unfortunate remarks about amnesty, a program the Congress had never considered, a program probably unenforceable and unworkable, it cruelly encouraged people to cross the border illegally.

Let me point out that in the first 5 months of this year alone, just in the San Diego sector alone, which is called the Chula Vista sector, there were 180,963 apprehensions in that one area alone. That is 56 percent of the entire total for the preceding year. The number is growing.

Dr. Garrett Harden, a professor at the University of California at Santa Barbara, an expert in demography, immigration, and population, has written a very penetrating study called "The Limits of Sharing." I placed that in the Congressional Record some months ago. It indicates that no matter how well motivated we might be, no matter how hard we try, we cannot assimilate this culture rapidly. In the first place, our country has a very generous immigration policy. We legally admit, I believe, some 400,000 people each and every year from other countries around the world and this is good, it is what has built our country. I do not believe any other nation in the world has such a generous immigration policy.

In spite of the foregoing, we have a tremendous influx of illegal aliens, particularly from the Republic of Mexico. As long as it is legal to hire these people, which it is, and as long as this Congress in this administration does not address that probem, a long as we have turned our backs on it and have made no attempt to solve that problem, we will continue to have this major problem.

There is also no penalty for the illegal alien for entering other than being hauled back across the border.

What kind of people are coming over? They are good people. The overwhelming majority are good, hard-working, honest people but they are in desperate straits. These people come here for the same reasons that our grandparents and the ones before them came. They came for an opportunity to work. The situation in Mexico is difficult. Unemployment is something like 50 percent. These people come because they want to support their families and they want to work. They perform work that, for whatever reason, our people cannot or will not do. The point is that is against the law, it is illegal, and when they live here they live in desperate situations.

In northern San Diego County, an area which I am privileged and proud to represent, there currently are camps of upward of a thousand people living in each camp. They are probably illegal aliens or undocumented workers. They live in squalor and in highly unsanitary conditions, which is dangerous and inhumane.

We are asking for a substantial increase in the border patrol funding for border patrol positions. I want to commend my colleagues, the gentleman from New York (Mr. Fish) and the gentleman from California (Mr. Lungren), from the Committee on the Judiciary for taking a very special interest and I am sure they will speak later today on this subject. They have a very special interest in this overall problem.

We do not have an amendment for this bill at this time, because we have some homework to do between now and when the bill goes through the Senate, and we will do that homework, indeed the chairman of the committee and the ranking member have promised their cooperation. The reason we need the additional positions is to send the right signal to our understaffed border patrol, as well as to the Republic of Mexico who have been very cooperative, particularly at the current time. The Republic of Mexico now is recognizing the seriousness of this problem and they want to cooperate with us. It will send the right signal if we enlarge the border patrol at this time. The morale is very, very low. We are asking a handful of men and women to do an impossible task. At any one time the number of border patrol agents active in the field on that border could be 30 or 40, attempting to stem a tide of several thousand every day. It is impossible. There is no earthly way they can do it.

I merely ask for the understanding of this House and this Committee.

Mr. Chairman, we are sitting on a virtual powder keg. This situation is explosive. It is wrong. Either the law should be obeyed and enforced or the law must be changed.

There are ways to make much of what is occurring legal and manageable without totally opening the border and having no restriction at all and without having the massive illegal immigration that we now are having.

Again, I want to call this problem to the attention of my colleagues. The San Diego newspapers are filled with it. It is headline news every day. We have met with the border patrol wives. There is a very dangerous situation here because hungry and desperate people can do things that ordinarily they would not do.

I again want to thank the Committee for its understanding. It is my complete and firm belief by the time this bill comes to conference, is finally sent to the President for enactment into law, we will have these positions because we will have overwhelming and conclusive proof to support our case.

I thank the Chairman.

Mr. O'BRIEN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. Lungren).

Mr. LUNGREN. Mr. Chairman, I would like to reiterate much of what has been said already by the gentleman from California (Mr. Burgener). In a "Dear Colleague" letter I sent out with my colleague, the gentleman from New York (Mr. Fish), I indicated it was our intent to bring forward an amendment to address the problem. As has been suggested by the gentleman from California (Mr. Burgener) we will not do this today, but we have every firm belief that as we prove our case over the next couple of weeks that the ultimate outcome of this bill will be such that we will have an increase in the border patrol.

Let me just address this question for a few moments and suggest to you the urgency with which this matter must be addressed.

In the Chula Vista sector, in just that 65-mile border between California and Mexico that is basically centered in San Diego, they have had over 51,000 apprehensions of illegal aliens last month. That is last month. The rate of apprehensions in the El Centro section, which is the bordering section along that border has gone up over 2,061 percent from 1960 until last year and it is even higher today.

Recognizing this problem, the President of the United States, President Carter, said sometime ago that we needed to add 2,000 employees to the border patrol and, in fact, he said that in the presence of the INS Commissioner, Mr. Castillo. Mr. Castillo's response to the President's public urging for this was to develop programs that would allow that amount of manpower to come onboard.

But what has been the final response of the administration? Well, the INS, following the President's lead, suggested that about 1,200 additional men and women be hired under the fiscal year 1980 budget.

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Then that proposal went to the Justice Departmnt and when it got through at the Justice Department, that had been pared down to 202 additional.

Then it went to OMB. What happened at OMB? Not only did they take out the 202 additional that the Justice Department thought was necessary, but they actually reduced the authorized and appropriated level of border patrol agents by 293 positions from that of fiscal year 1979.

When we brought some of the people involved in this process before our committee, I asked the No. 2 man at INS why the administration had done this and the specific reason given, in the words of Mr. Noto, was because the pressure on the border was less this year than it was a year ago.

In response to that, I went for 4½ days to all the border stations from El Paso across our southern border to San Diego and asked every border patrol officer whether that characterization was correct. I cannot in this context tell you exactly what they said, because what they said is unprintable; but the fact of the matter is that we are having more difficulty on the border than we ever had before. I spent several hours sitting on the banks of the Rio Grande River talking with illegal aliens as they came across, because if you go to downtown El Paso you will see the Rio Grande is cemented and the actual river is not 1½, 2½, or 3½ feet deep, but a couple inches deep, and you can tiptoe across.

What happens is many illegal aliens come across and sit on the levee on our side and wait until the lone border patrol officer who happens to be in that area goes by and then they come in by the hundreds. These are not people that are coming here because they want to do harm to this country. These are people who are coming here because they have no opportunity for work. They have no opportunity for sustenance for their families in their own country.

I believe we urgently need a comprehensive program in this country to address it; but in the meantime and as an element of any such program, we absolutely have to bolster the border patrol.

Things are so bad in the San Diego area that three weekends ago for the first time we had serious gunfire there. We had rifle shots across the border against the border patrol. There are gangs that are subjecting the illegal aliens and the people who live legally on both sides of the border to attack. The fact of the matter is that this is allowed to occur because this country and this Federal Government will not address the serious question of illegal immigration.

My colleagues. I suggest that this is a Federal responsibility. No State has the authority under the U.S. Constitution to control the border, only the Federal Government can do that.

I truly believe that if the U.S. Capitol were located in the Southwest United

States, we would have solved this problem by today; but, unfortunately, because we are so far away, because the problem is several thousand miles away, we fail to realize the importance and the impact of this.

I would suggest that the attention of my colleagues be directed to this problem and some of its solutions as seriously as possible and as immediately as possible.

Mr. SLACK. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Chairman, first of all, I would like to compliment the chairman of this subcommittee. Of the various subcommittees that I have had the opportunity to serve on during my tenure in the House, I have not worked with anyone that is more cooperative, both with the Members of Congress that serve there, nor with the members of the various agencies that appear before that committee than the chairman of this subcommittee.

Also, I would like to compliment the members of the subcommittee, who together with the chairman worked in a spirit of cooperation, one of conciliation, negotiation, and compromise with the various issues that are presented for consideration before this committee. It is, indeed, a smooth operation and one that I am proud to be associated with.

Later on in the morning I am advised that there will be amendments offered to this bill, and more particularly I am interested in some proposals that are to be offered to the provisions that have been appropriated for the Bureau of Oceans and International Environment and Scientific Affairs.

Now, I would like to say at this time, while I see Members in the Chamber with whom I have spoken concerning this Bureau, that the committee has looked in depth into the operations of this Bureau for the last several years and that at the proper time we will be prepared to address those issues as they are presented for consideration and debate and resolution in the House today.

I notice that there are a number of "Dear Colleague" letters that have circulated with reference to the Bureau of Oceans and International Environmental and Scientific Affairs. Frankly, I am somewhat surprised that our Members in the Congress are unaware of the activities of that Bureau as reflected in the naivete of those "Dear Colleague" letters. When that issue is presented, the issue will be fully debated, at which time I am sure that the other Members of this body and our colleagues here will welcome the revelations that will be revealed at that time.

I thank the chairman very much for the good work the gentleman has done.

I thank the members of the staff and the Members of the other side for the cooperation they have given me in the interests I have expressed. I look forward very much to working with them during the months ahead.

Mr. SLACK. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman I want to commend our distinguished colleague from West Virginia, the chairman of the Subcommittee on State, Justice, Commerce, Judiciary Appropriations (Mr. SLACK), and the distinguished ranking minority member (Mr. O'BRIEN), for their efforts to reduce spending wherever possible in this bill.

The bill provides budget authority that is $321 million below the total requested in the President's fiscal year 1980 budget for comparable items, and it is my own view that these cuts were judiciously made so that programs involved would not be adversely affected.

It was with great interest that I noticed the recent action of the House to increase by $1.8 million the authorized amount for antiterrorism activities of the Federal Bureau of Investigation. It is my hope that the House will see fit to accommodate that proposal in this bill.

Authorizing legislation already passed by the Senate has also provided modest but vitally needed increases for the FBI to help bolster crime-fighting in the areas of bank robberies, organized crime, white collar crime, as well as for foreign counterintelligence and general law enforcement training.

These authorized increases over the President's request for the FBI in Senate action amount to $8.3 million, and it is my hope that this bill can be adjusted to accommodate these vitally needed funds for anticrime, antiterrorism, and counterintelligence operations.

I was also greatly impressed by the committee's firm action in its report to direct an end to metric conversion advocacy and promotion by the U.S. Metric Board, and to cut the Board's requested appropriation by a substantial amount to help enforce that directive.

The Metric Conversion Act of 1975, which established the Metric Board, was intended to provide Federal assistance to any organization or person in the private or government sector who requested assistance to convert to metric measurement on a voluntary basis.

However, since its inception, the Metric Board has become an advocacy group promoting metric conversion, in violation of the intent of Congress.

For example, the Board has just taken on a nationwide advocacy campaign to get retail gasoline dealers to switch their gas pumps to sale of gasoline by liters instead of the tradition gallon or other customary unit.

This is in spite of a great deal of evidence provided to the Board that such a massive change would create havoc among consumers and the petroleum industry, not to speak of the impact such a change would have on the rest of our economy.

The committee has instructed the Metric Board in its report accompanying this bill to implement the recommendations of the Comptroller General in his October, 1978, report to Congress on the metric issue.

Those recommendations of the Comptroller General were as follows—

1. Inform the American people that conversion is strictly voluntary and that our national policy does not favor the metric system over the customary system, or vice versa.

2. Ensure that its policies and actions do not advocate or discourage the use of one system over the other.

3. Ensure that if a voluntary metrication proposal is presented to the Board, all affected parties are adequately represented in the voluntary decisionmaking process.

4. Hold public hearings on those conversion plans that affect the general public to obtain their comments which should be considered in finalizing such plans.

5. Make provisions to handle questions and complaints by the general public in an expeditious manner.

6. Adopt a national metric symbol (logo) to be used only on materials that the Board has reviewed for accuracy and completeness and make the public aware of this designation.

7. In planning and coordinating conversion activities of U.S. industries involving the adoption of international standards, give consideration to those conversion activities that have taken place, such as that of the U.S. fastener industry in its attempt to achieve (1) adoption of its proposals for international standards and (2) the benefits of standardization and rationalization.

8. Use the experience gained in the conversion of the wine and distilled spirits industries in reviewing plans for other sectors, especally those involving consumer products.

9. Develop avenues through which the States may define their roles and coordinate appropriate voluntary conversion activities among other States under the current national policy.

10. Ensure that State education agencies and the U.S. Office of Education coordinate the timing of metric conversion in education so that metric instruction in schools will be in phase with the needs of the Nation in order that time, effort, and money will not be expended to develop and teach a predominantly metric program to students for a still nonmetric society. Educators must be reminded that U.S. policy at this time is voluntary, which includes the option not to convert.

11. Consider the information and specific recommendations contained in the chapters of our report in reviewing any conversion plans submitted to the Board.

12. Gasoline pump computers may have to be changed because of the increasing unit price per gallon. Therefore, we recommend that the U.S. Metric Board advise the petroleum industry of the conversion plans, if any, of other related consumer products. The petroleum industry then can plan for the volume unit price change to the quart or liter depending on what measuring system other consumer products will be sold by.

Mr. Chairman, a primary intent of Congress in passing the 1975 act was to insure that the Federal Government in no way impose or advocate the use or adoption of metric weights and measures upon the American people, and this intent has now been reaffirmed by the action of the House in connection with this appropriations legislation.

The Comptroller General's metric report recommendations, which the U.S. Metric Board has now been directed to implement, also included specific recommendations for other agencies of the Federal Government.

These recommendations of the Comptroller General were as follows—

RECOMMENDATIONS TO THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, IN WORKING WITH THE U.S. METRIC BOARD

1. Clarify for Federal agencies what they are expected to do in regard to planning and coordinating any increased use of the metric system.

2. Ensure that Federal agencies establish policies consistent with the intent of the Metric Conversion Act of 1975 and inform the private sector of Federal metrication plans whenever appropriate.

3. Ensure that Federal agencies convert regulations or mount other metrication activities when the initiative comes from the sectors which will be affected—industry, the States, and the general public. Federal agencies should only initiate action when they can demonstrate that such action is in the Nations's best interest.

4. Require that Federal agencies inform the public of the impact of those conversion actions that affect them and hold public hearings to obtain their comments which should be considered in any final determination on such actions.

RECOMMENDATIONS TO THE SECRETARY OF TRANSPORTATION

1. Because of past actions by the Department, the importance that the voluntary aspect of our current national policy be complied with, and Departmental metrication activities may adversely affect the Nation, we recommend the Department of Transportation adopt metrication policies, change regulations to metric specifications, or mount metrication activities only when the initiative comes from the sectors which will be affected—industry, the States, and the general public. In such cases, the Department should inform the public of the impact of those conversion actions that effect them and hold public hearings to obtain their comments which should be considered in any final determination on such actions.

2. To help ensure that the measurement terms used for automobile tires are those consumers are most familiar with, we recommend that the National Highway Traffic Safety Administration be directed to reevaluate the requirement that P-metric tires show the metric units as the predominant measurements on tire sidewalls. In selecting the measurement terms to be used, the Safety Administration should consider whether it is to consumers' interests to convert tire consumer information to metric. Uniform requirements should be established for all automobile passenger car tires.

RECOMMENDATION TO THE SECRETARY OF COMMERCE

We recommend that the Secretary instruct the National Weather Service to delay implementing the proposed plan for metrication of weather reporting until there is a clear public demand or a firm national decision to convert to the metric system.

RECOMMENDATION TO THE SECRETARIES OF TRANSPORTATION AND COMMERCE

We recommend that the Secretaries of Commerce and Transportation report to the Congress what actions need to be taken to provide adequate available air service to insure tire safety and longevity to the general public, particularly since the tire industry began introducing metric tires.

RECOMMENDATION TO THE SECRETARY OF HEALTH, EDUCATION AND WELFARE

We recommend that the Office of Education be directed to clarify its publications and other communications regarding metric education to show that the U.S. policy is one of voluntary conversion. It should also encourage schools to time their progress to predominantly metric instruction to conform to the conversion trends of industry, government, and other sectors in the communities where students will live and work.

RECOMMENDATION TO THE SECRETARY OF THE TREASURY

1. In view of the difficulties in converting the wine industry's records into customary units for the purpose of determining Federal tax liabilities and the likelihood that similar problems will occur in the distilled spirits industry, we recommend that when appropriate the Secretary request that the Congress amend the Internal Revenue Code to tax wines and distilled spirits on the basis of metric quantities.

2. To ease the wine and distilled spirits industries' recordkeeping burden, the Secretary should review the Bureau's statistical reporting requirements and convert them to metric when appropriate.

3. The Secretary should also expand its public awareness program to better inform consumers about the size and price changes being made to wines and distilled spirits.

4. The Secretary should require the Director, Bureau of Alcohol, Tobacco and Firearms, to reevaluate the metric-container sizes adopted for distilled spirits. Specific consideration should be given to replacing the 1.75-liter and the 200-milliliter sizes for distilled spirits with sizes which would facilitate price comparisons consistent with consumer needs.

Mr. Chairman, these recommendations of the Comptroller General resulted from the General Accounting Office's 5-year nationwide survey of the costs and impact associated with metric conversion. In essence, they coincide with the directive accompanying this bill that Federal agencies stop advocating or pressuring metric conversion, since it is not our national policy to abolish our customary measurement system and switch to metric.

The report accompanying this bill instructs the U.S. Metric Board to implement these recommendations of the Comptroller General in this October 1978, report to Congress.

Mr. Chairman, since the Metric Board is required by statute to coordinate metric activities of all Federal agencies, and since the recommendations of the Comptroller General which the report has directed be implemented also involve other Federal departments and entities, I would like to propound a question to the chairman of the subcommittee, the gentleman from West Virginia (Mr. SLACK): Is it the intent of the committee in its report directive that all Federal entities abide by this mandate not to advocate or impose the use or adoption of metric weights and measures, and that they each implement the recommendations of the Comptroller General in his October 1978, report to Congress on the metric situation?

Mr. SLACK. Mr. Chairman, the gentleman is absolutely correct.

Mr. RUDD. Mr. Chairman, I thank the gentleman for this clarification.

Mr. O'BRIEN. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Chairman, it is my understanding that the Fish Farming Experimental Station in Stuttgart, Ark., will be forced to shut down its warmwater fish research, extension and diagnostic operations this fall unless we correct a serious administrative oversight by restoring $157,000 in deleted Commerce funds.

Since 1972, the Stuttgart laboratory has received Federal funds under a contractual agreement between the Departments of Commerce and Interior to provide valuable research, extension and disease prevention services to the commercial fish farming industry. The two Departments reached this joint agreement in 1970 when the President's Reorganization Plan No. 4 moved all marine and commercial fisheries projects out of the old U.S. Bureau of Commercial Fisheries at Interior to the newly-established National Oceanic and Atmospheric Administration (NOAA) at Commerce. Since catfish research is a freshwater project, and the Interior Department conducts primarily freshwater programs, NOAA has traditionally contracted this type of funding out to the U.S. Fish and Wildlife Service. This year, the Commerce Department unexpectedly dropped the $157,000 from its fiscal year 1980 budget, but in doing so, failed to notify the U.S. Fish and Wildlife Service of that decision. By the time the Interior Department learned of the Commerce Department's action, it was too late for this amount to be added to their fiscal year 1980 budget. As a result of this bureaucratic lack of communication, the country will lose its only Federal facility with the specific role of research, extension and diagnostic services for commercial fish farmers.

In fiscal year 1979, this $157,000 amount represented 35 percent of the total operating budget of the Stuttgart station. Mr. Jim Malone, president of the American Fish Farmers Federation, and officials at the Fish and Wildlife Service, have said this cutoff of funds would cause a significant and severe reduction in the available services currently provided by the Stuttgart facility to commercial fish farmers in the United States and internationally.

Before the Stuttgart laboratory was established in 1960 under Public Law 85-342, little was known about the causes and treatments of fish diseases or proper pond management to insure good harvests. Fingerlings for stocking were expensive and difficult to obtain, and even if fish were harvested, processing and marketing mechanisms did not exist. The Stuttgart station was instrumental in determining nutritional requirements for commercial fishes and developing practical spawning and fry-rearing techniques for stocking.

Pond management techniques were developed to insure good water and fish quality. Fish diseases were diagnosed and drugs for their treatment developed. National diagnostic assistance and extension was provided to the new and practicing warmwater fish farmer, and informational support was given to foreign governments with fish farming interests.

Due to these and other technological advances at the Stuttgart laboratory, there has been a tremendous surge in the commercial fish farming industry since the 1960's. Currently over 60,000 acres of channel catfish are produced with a farm value of $70 million annually, compared to 400 acres and $100,000 in 1960. Production has increased from a 1,200 pounds per acre average in 1961, to somewhere between 3,500 and 6,000 pounds per acre today.

If the present NOAA contract expires September 30 this year without replenishment, the station will be unable to overcome this loss because all of their funds are committed to ongoing research. The laboratory will lose five professional staffers in water quality and a significant portion of their administrative funds as well.

Mr. Chairman, this $157,000 is precisely the level at which the Stuttgart Station is currently funded by the Department of Commerce. This would not be a new appropriation or a funding increase. I will be working with Members of the other body to have funding provided and hope it will be acceptable to Members of the House.

☐ 1110

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. Yes; I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, I share the gentleman's comments relative to the merits of the case. The chairman and I believe this may have slipped by the two departments, Commerce and Interior, and was overlooked. We will do what we can to help correct the situation.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I compliment the gentleman on his discovery of the omission by the administration in providing funding for this important function in the gentleman's district in Arkansas, and I wish to pledge my support to do whatever I can to accommodate the gentleman's interests.

Frankly, I would like to add that I am surprised at the lack of diligence by those persons who are responsible for this important function, failing to recognize the lack of funding and failing to demonstrate some interest both by the administration and to the Congress in the continued funding of this operation.

Mr. Chairman, the gentleman from Arkansas (Mr. BETHUNE) should be complimented for his alertness and awareness and for his representation of this important function.

Mr. BETHUNE. Mr. Chairman, I thank my colleague for his statement.

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. Yes; I yield to the chairman of the subcommittee.

Mr. SLACK. Mr. Chairman, the gentleman has made excellent points. He has spoken very well with respect to the merits of this program. It is a good program. Let me assure the gentleman that he will have the support of this committee in attempting to work out a solution, and this will be done in the immediate future.

Mr. BETHUNE. Mr. Chairman, I thank the distinguished chairman of the subcommittee, and I yield back the balance of my time.

Mr. O'BRIEN. Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, the bill we have under consideration today includes appropriations for the Immigration and Naturalization Service. The authorizing legislation came out of our subcommittee of the Judiciary Committee. The INS performs many important service functions. I want to call to the attention of the House today, a significant enforcement problem faced daily by the Immigration Service's border patrol. The patrol is charged with the duty of maintaining the integrity of our land borders between ports of entry. And we all know, our Southwest border is an area that has been crossed illegally by literally millions of aliens.

Unfortunately, the present strength of the border patrol is overwhelmed by the influx across the border of illegals. Morale is low and the dangers inherent in the job on the increase. The administration's budget for this year does not, in my estimation adequately provide the border patrol staffing needed to fulfill its mission to control our borders. In fact, unbelievably it provides for 293 positions less than are authorized and appropriated for in fiscal year 1979. At a time of increased pressure and violence on the border, we are in effect at fiscal year 1978 strength.

The subcommittee chairman, the gentleman from West Virginia, and the ranking minority member, the gentleman from Illinois, have shown an acute understanding of the problem. I know the subcommittee has traveled to the Southwest—as have I—to view personally some of the problems faced by the Immigration Service. The bill reported by the Judiciary Committee authorizes 495 additional border patrol personnel for fiscal year 1980. This figure is arrived at by adding to the rollback of 293, the 202 requested by Department of Immigration. I trust that the Appropriations Subcommittee will continue its interest in this problem and will consider additional requests for funds to staff those positions.

INS Commissioner Castillo testified before the Judiciary Committee this winter:

> We also have continuing reports from the field of even more severe pressures on them (referring to border patrol personnel. We have continuing reports of more violence, of more necessity to cover more areas, and we tried to respond to that need by requesting the people we thought were still within the guidelines that the President had set ". . . and again," with more border patrol people, we can have more effective patrol.

At any given time today, there are no more than 350 border patrol officers along the almost 2,000 mile Mexican border. Testimony at our hearings was that often there is no response to sensor device signals and visual sitings of aliens crossing the border because of lack of staff. This spring the increasing violence has led to two-man patrols. This will further reduce the number of units able to respond when needed.

The more conservative estimates by Border Patrol officers are that for every alien apprehended at the border, at least one and perhaps more aliens successfully enter the country. I asked Commissioner Castillo whether he had any reason to think that it is less than a 1-to-1 relationship. His answer was "no, there is no evidence that would indicate less. It is all in the other direction."

At the border during fiscal year 1978, there were 835,000 apprehensions. Using a 1-to-1 ratio at least that many aliens entered our country across our border illegally. I suspect that the true figure is higher.

Actual experience proves the case for increased personnel. In June 1977, INS detailed 100 additional Border Patrol officers to the Chula Vista, San Diego County, sector in what was known as Operation Shortstop. During the 4 months of that effort, over 192,000 apprehensions were made. This represents 1,109 apprehensions per man-year, in contrast to the regular rate of 800 apprehensions per man-year in that particular sector. When the Border Patrol has sufficient manpower and support personnel to allow officers to engage in patrol functions rather than support duties, efficiency increases dramatically.

Press reports on July 7, 1979, indicate a record number of illegals being apprehended—almost 1,600 per day or 1,190 apprehensions per man-year. Would assigning an additional 100 personel to this sector result in 119,000 more apprehensions per year? Not necessarily.

The visible presence of the Border Patrol also has the effect of deterring illegal entry; few aliens attempt to cross the border if they see the Border Patrol, but I personally have seen persons wait, on the Mexican side of the border, for the undermanned Border Patrol to pass by so they can cross into the United States illegally.

The increased pressure on our southwest border coincides with Mexican Government efforts to crack down on alien smugglers on their side of the border. It would be a gross dereliction not to respond to Mexican efforts to cooperate.

My colleagues, it is clearly preferable, less expensive, and more humane, to apprehend undocumented aliens at the border. Once an alien enters our country undetected, he or she is more difficult to locate and to remove from the interior; involving a significantly higher cost per alien to do so.

No one should be left with the impression that manpower in any numbers along our southwest border—even as highly trained and professional as our border patrol—is the total answer. As long as there are economic incentives for the unemployed and hopeless to seek work in the United States, they will continue to risk entering illegally.

Our Committee on Immigration and Refugees has waited patiently and receptively for a range of legislative initiatives from the administration—from tightened anti-smuggling laws and sanctions against employers who make a market for smuggling, to an organized, humane documented worker program.

As my colleagues know, the problem in Mexico is economic. Hopefully, the existence of huge oil and gas resources will provide the opportunity for economic development to create the needed employment and reduce the pressure to leave home.

The United States has an opportunity that is clearly in the self-interest of both nations. The times call for a partnership of full equality with Mexico based on mutual respect. It is an exciting challenge—one that could go far to meet many basic problems. The vision only awaits necessary policies and actions.

The CHAIRMAN. The time of the gentleman from New York (Mr. Fish) has expired.

Mr. O'BRIEN. Mr. Chairman, I yield an additional one-half minute to the gentleman from New York (Mr. Fish).

Mr. SLACK. Mr. Chairman, may I ask the gentleman if he needs some addditional time?

Mr. O'BRIEN. We could use some additional time.

Mr. SLACK. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. O'Brien).

Mr. O'BRIEN. Mr. Chairman, I thank the gentleman, and I yield 2 additional minutes to the gentleman from New York (Mr. Fish).

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I want to thank the chairman of the subcommittee, the ranking minority member, and the gentleman in the well for yielding.

I want to say that I certainly subscribe to what the gentleman in the well has said, as well as to what my colleagues from California (Mr. Burgener) and (Mr. Lungren), have said.

It seems to me to be very clear indeed that if we are going to have a law on the books with respect to immigration and if we are to keep the respect of the American people in our system of justice, we are going to have to enforce that law. We can and should talk about changing that law, and the various proposals, some of which the gentleman in the well has enumerated, and many of which I support are very worthy of support. I would suggest one of the highest priorities in this country should be to do something about this very severe problem. It is not only a problem for us but even a greater problem of our sister republic to the south, Mexico. One immediate way to help solve the problem is by increasing the strength of the Border Patrol.

So, Mr. Chairman, I commend the gentleman in the well and all other Members involved for their remarks on this issue.

Mr. FISH. Mr. Chairman, I thank the gentleman.

I would like to add that we have waited in our committee for the better part of 5 months to get the benefit of initiatives from the administration.

In closing, let me say to my colleagues that despite the problems, there are opportunities that lie ahead that I think are very constructive. For the present, however, we must deal responsibly with the immediate threat to our borders, the needs of our Service, and the integrity of our laws.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, does the gentleman from New York (Mr. Fish) have an amendment he will offer to bring back some of these provisions in the bill?

Mr. FISH. Mr. Chairman, I did propose to introduce an amendment that would bring the strength up to the authorized level of the Committee on the Judiciary of the House. This amendment will not be offered today. It will be offered, however, in the Senate, particularly providing 495 additional border patrol personnel.

Mr. KAZEN. Mr. Chairman, I would hope that would be done, because it will do us no good to talk about our shortcomings unless we are prepared to try to correct them.

☐ 1120

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Chairman, the Congress has authorized a Select Commission on Immigration and Refugee Policy to make a study and report back in 1981. I would like to call attention to the fact that in this bill we have provided $1,600,000 for this Commission.

The CHAIRMAN. The time of the gentleman from New York (Mr. Fish) has expired.

Mr. SLACK. Mr. Chairman, I yield 2 minutes to the gentleman from New York.

Mr. Chairman, this committee has been well aware of the problems along the border for some years. As a matter of fact, last year we held hearings in Los Angeles. It is the first time that this committee has ever gone out of the city of Washington for hearings, I might add.

The Attorney General has said within the last couple of months that the Immigration and Naturalization Service has no policy, no management; as a matter of fact, it has a system of nonmanagement. So dollars are not always the answer to these problems. However, I have assured the gentleman in the well, who has an amendment, that we are going to work very closely, and we are going to attempt to beef up the Border Patrol.

I can assure the gentleman from Texas that this will be done.

Mr. KAZEN. I thank the gentleman.

Mr. FISH. I thank the gentleman.

● Mr. MAVROULES. Mr. Chairman, I rise before you today to speak in behalf of the amendment being offered by the Honorable Mr. Biaggi. The amendment which is before us is the only method that we as Members of this Congress can employ to guarantee to the people of Ireland and to the American people that we do not intend to allow, authorize, condone or sanction the continued selling of arms to the British Government for their eventual delivery to the constabulary forces in Northern Ireland.

Mr. Chairman, in the early days of June of this year, the American people were informed that their State Department had authorized the sale of 3,000 handguns and 500 automatic rifles to the Royal Ulster Constabulary Police in Nothern Ireland by a Southport, Conn., manufacturer. When questioned about this sale and the granting of an export license for its expedition, Mr. Matthew Nimetz, a counsel to Secretary of State Vance, responded, and I quote:

> It was done with approval. Our people thought it was all right.

Well, Mr. Chairman, maybe the counsel and the people of the State Department think it is all right for the United States to demand peace in all parts of the world and simultaneously sell arms to further destroy that peace, however, I do not agree that we have any right in the name of human justice and human rights, to perpetuate this insanity. The atrocities which have taken place in Northern Ireland, and continue to take place as I stand here today, are painful testimony to the death and destruction caused by our State Department authorizing these arms exports.

Mr. Chairman, I do not condone the use of violence and force for the settlement of any issue. And I believe that it is the intent of the American people not to condone the use of arms in any part of the world, including Northern Ireland. But yet, we stand here and listen over the years to the rhetoric stating that the Northern Irish question is an internal British problem. We have over the years, severely criticized and even prosecuted American citizens who have chosen to ship armaments to Northern Ireland. However, now we find out that while we have prevented the shipment of arms to relatives and friends in Northern Ireland, we as a government have not only allowed the shipments but in fact have licensed and facilitated the delivery of these arms. This insane and ridiculous contradiction must be stopped.

As Members of Congress, we are the only ones who can prevent this travesty from occurring ever again—if it is our intent to have an impact on the peace of the world, then let us begin with this small step toward a sane and just atmosphere for peace. Not only will this amendment be a significant effort at bringing to an end the continued oppression of the Catholic minority in Northern Ireland, but it will serve as a notice to other human rights violators in other parts of the globe that we are in fact true to our commitment to the world—a world which looks to us for leadership and guidance in the search for a just and everlasting peace for all mankind.

Mr. Chairman, I call upon my colleagues to reaffirm their dedication to the principles of humanity, I call upon them to support the amendment to H.R. 4392. And let us put peace before politics.●

● Mr. RODINO. Mr. Chairman, I want to commend the gentleman from Mississippi and the gentleman from West Virginia for bringing this bill to the floor for consideration. The Committee on the Judiciary has a special interest in the operations of the Department of Justice, and I am pleased that H.R. 4392 represents careful attention to the Department's budget needs for fiscal year 1980.

Notwithstanding the importance of this bill, however, and notwithstanding the need to complete action on the Justice Department's fiscal year 1980 appropriation, I am concerned and disappointed that once again this year we are faced with appropriating funds for this agency before they have been authorized.

As you know, clause 2 of rule XXI of the Rules of the House provides that:

> (N)o appropriation shall be reported in a general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law.

But for that important provision to have any real meaning it is important that the authorizing bills in fact reach the floor ahead of the appropriations legislation. Points of order, of course, can always be waived as House Resolution 314 waives them here, but the logical approach to spending bills is then lost.

Rule XXI is designed to enhance the capability of the Congress to review the performance and to set the priorities of the executive branch. It gives the legislative committees the opportunity to establish the policy and spending boundaries for the areas of Government within their rule X jurisdiction, and it allows for important guidance to the Committee on Appropriations.

Perhaps most important, the rule greatly enhances the oversight leverage of the various committees—the budgetary authorization responsibility carries with it a most persuasive means for obtaining necessary information.

The Justice Department authorization process is particularly important, I think, both because of the nature of that Department's responsibilities and because this particular authorizing process was specifically mandated by the Congress only 3 years ago. Fiscal year 1980, in fact, is only the second year of the existing statutory requirement that these appropriations be specifically authorized.

The Department of Justice was created by act of Congress in 1870, more than a century ago. And legislative jurisdiction over virtually every activity within the Department reposes in the Judiciary Committee. Yet until 1 year ago the Department had never been required to come before the Judiciary Committee, nor indeed before the Congress at large for authorization of its annual appropriations.

The act of 1870 creating the Department, and the subsequent creation of subdivisions within the Department and the authorization of certain Department activities were treated in themselves as the requisite authorization of appropriations.

In 1976, however, the Congress felt it was time to put an end to this unique standing authorization. It enacted Public Law 94-503, title II of which explicitly states that beginning with fiscal 1979 specific authorizing legislation is now required in order for the Justice Department to qualify for the appropriating process.

A year ago, however, when the process first began, it was unfortunately and inadvertently undermined by the floor schedule. Despite the fact that the Judiciary Committee met its May 15 Budget Act deadline, the appropriations bill was long enacted—passed and signed by the President—before the authorization bill conference report reached the floor during the marathon windup weekend last October. And perhaps even more disturbing, the appropriations bill was basically written by the Senate because rule XXI points of order lay against the Justice appropriations in the House.

Now, again today we are faced with appropriating the Justice Department's budget before considering the bill to authorize it. The Judiciary Committee reported its authorization bill well in advance of the May 15 Budget Act deadline. The Rules Committee has reported a rule. And still we follow the illogical scheduling approach that confronts us today.

We have waived the points of order, but we have not corrected the basic problem.

My concern does not reflect on the quality of the work that went into H.R. 4392, but the matter of adherence to Public Law 94-503 is a subject that the House needs to address in the near future.●

● Mr. RODINO. Mr. Chairman, I cannot express strongly enough my opposition to the gentleman from Texas who will offer the so-called busing amendment.

What this amendment asks us to do is nothing less than to effectively prevent the Justice Department from carrying out its constitutional responsibilities.

Mr. Chairman, a full quarter century after Brown against The Board of Education is hardly the time to prohibit the Federal Government from seeking appropriate remedies for unconstitutional segregation.

And let us be clear, too, about the true nature of the role of the Department of Justice. The sole enforcement authority of the Department of Justice with respect to school desegregation is to sue in Federal court under one of the several congressional acts forbidding unlawful racial discrimination in schools. Thus the Justice Department has no authority to require busing or any other means of correcting unconstitutional segregation. Rather, its responsibility has been and is to present the relevant facts and on occasion to suggest remedies to the appropriate Federal court, leaving to the judiciary the determination as to whether the facts show a constitutional violation and, if so, what remedy is appropriate.

Mr. Chairman, we must not waver in our commitment to constitutionally protected rights. And the right to equal opportunity is the most basic of these rights. Separate is not equal; and after having secured a judicial determination that a school district or its officials have discriminated against minority students, it is appropriate for the executive branch to seek implementation of a plan that will practically and effectively remedy the proven constitutional violation. We are simply talking about basic adherence to the Constitution and to the 1964 Civil Rights Act.

Finally, Mr. Chairman, let me offer a comment on an assertion of the gentleman that 63 percent of all fuel used in transporting schoolchildren is for busing to achieve racial balance. Only an estimated 2 to 7 percent of all public school students being used are being bused pursuant to desegregation plans.

When the issue is the integrity of constitutionally protected rights, the issue of gasoline, of course, pales. But as long as it has been raised I think we should at least put the real figures in perspective.

Mr. Chairman, I urge a "no" vote on the amendment.●

● Mr. JENRETTE. Mr. Chairman, although I support the bill before us—H.R. 4392, the State-Justice-Commerce appropriation—as reported by the Committee on Appropriations this bill poses one issue that is of particular concern to me. The committee has accepted the recommendation of the administration to abolish the U.S. Travel Service, which is part of the Department of Commerce, in fiscal year 1980. The administration, with the concurrence of the committee, would transfer the $3 million of the USTS budget that provides for data collection, policy formulation, technical assistance and coordination with other governmental organizations to the Industry and Trade Administration. The committee has endorsed the view that the $10.5 million which our Government now spends on tourism promotion through USTS can be eliminated without any significant effect on the Nation's overall promotion effort, and that the Government can better help to promote tourism with a shift of emphasis to the policy, data, and coordination functions.

I find no fault with the conclusion that these latter functions can usefully be strengthened. But I cannot agree that the promotion efforts of USTS can simply be eliminated without affecting our Nation's tourism industry. Given the intensely competitive nature of the international tourism industry, with widespread Government involvement, just makes no sense to me. The extensive advertising and travel promotion of the airlines, which the committee cites as justification for its position, are no substitute for the official network of promotional activities that USTS has operated overseas.

The House Committee on Interstate and Foreign Commerce, which has jurisdiction over the International Travel Act of 1961, has also investigated the matter this year. Commerce finds that the value of the USTS foreign promotion effort is considerable. While it is not really possible to determine precisely how many visitors have come to the United States solely as a result of USTS's efforts, the agency has been able to quantify results from three of its programs. Its efforts in tour development, incentive travel, and conventions over the last 4 years have had a cost/benefit ratio of $18.60 in foreign exchange earnings for every USTS budget dollar. And the agency has projected that 720,000 tourist arrivals and $375 million in earnings will be the result of its efforts in 1979.

Let me mention also that the last several years of active USTS promotion activity has brought about a 15-percent drop in the U.S. tourism trade deficit. It has fallen from $2.7 billion in 1971 to $2.3 billion last year, the lowest level in a decade. While some of this must be attributed to the decline in the value of the dollar, there is considerable evidence that the efforts of USTS, and particularly its overseas offices, have also played an important role.

Furthermore, USTS acts not only to bring foreign tourists here, but also to channel more of them to the interior and Southern States. Without assistance, most foreigners would travel only in the Northeast and the most popular resorts in Florida and California. The travel service has promoted travel to other areas that are less well known, which helps to spread the benefits of the tourism trade.

The proposal to eliminate all tourism promotion under Government auspices ignores the fact that most of the world's governments compete vigorously for travel earnings. There are 125 nations operating national tourist offices. If USTS is eliminated, the United States will become the only industrialized Nation, and one of the few independent ones, without a national tourism office or tourist facilities in foreign countries.

Instead of elimination, the Commerce Committee has proposed in H.R. 2795, the International Travel Act Authorization for 1980, to reorient the promotional effort, with spending reduced and greater emphasis placed on USTS's overseas efforts. Under this bill, the USTS Washington staff, which has been the target of much of the criticism, would be cut by almost two-thirds. The funding level authorized for USTS would be cut from $13.5 million to $8 million. The bill also specifies that no more than 10 percent of these funds could be used for the expenses of Washington headquarters personnel, with the remaining $7.2 million to be allocated to regional offices and activities.

Mr. Chairman, I believe this bill, which would cut the USTS funding level by more than 40 percent, meets the test both of providing more economy in government and placing greater emphasis on the part of the USTS effort which has the real payoff in tourist earnings in the United States. I intend to support H.R. 2795 when it reaches the House floor. And if Congress does adopt legislation along the lines of this bill, I would hope that my colleagues on the State-Justice-Commerce Appropriations Subcommittee would reconsider their position on this matter. I would urge them to accept funds for USTS in conference, if they should be added to H.R. 4392 by the Senate, or failing that, include funds for USTS at the reduced level in the fiscal year 1980 supplemental appropriation.●

● Mr. VAN DEERLIN. Mr. Chairman, I would like to add my voice to those in support of funds for expansion of the border patrol.

My district abuts the Mexican border and includes the San Ysidro entry point. Not a day goes by that I do not receive letters from constituents whose backyards and streets have become pathways for the smugglers of illegal aliens. People complain that they cannot get a good night's sleep for the nocturnal smuggling activities in these neighborhoods.

The county of San Diego has recently identified several sites where illegal agricultural workers live in shanty towns of up to 1,000 inhabitants, lacking the most elementary health and sanitation facilities. The county approached the Immigration and Naturalization Service about clearing these sites up, only to be told that no border patrol officers could be spared. To provide the manpower for such an operation, a checkpoint elsewhere would have to be shut down, allowing even more illegal aliens to enter than would be apprehended.

In a visit to the border just 2 weeks ago, I saw first hand the most difficult and troublesome aspect of this whole problem. Our border patrol officers are being taxed beyond human limits. They simply do not have adequate resources to do the job. When 1 or 2 officers must arrest as many as 40 or 50 individuals, all the ingredients for tragedy are present. Violence is an inevitable byproduct of this highly organized and amoral trafficking in human beings. The fewer the officers, the greater the peril.

Additional funding would enable the border patrol to restore the positions cut by the Office of Management and Budget from the 1979 authorized level and restore the positions OMB knocked out of the Justice Department's 1980 budget request.

Enabling the border patrol to hire these additional agents will not in itself solve the illegal alien problem, but it will relieve the pressure on the severely hard-pressed patrol agents and may save lives.

I would like to thank the distinguished Chairman for his consideration of this matter, and to express my appreciation for the fine and constructive work of the gentleman from New York (Mr. FISH) and my able colleagues from California, Mr. BURGENER and Mr. LUNGREN.●

● Mr. PATTERSON. Mr. Chairman, I rise in general support of H.R. 4392 to provide appropriations for fiscal year 1980 for the Departments of State, Justice, and Commerce. The Appropriations Committee made a number of prudent and necessary reductions in the budget for the Commerce Department, however, I have some serious reservations about the cuts made in the Census Bureau's budget for the 1980 Decennial Census.

H.R. 4392 provides a total of $554,676,000 for the 1980 Decennial Census. This amount represents a reduction of $98 million from budget requests.

While I share the committee's concern about the extremely high cost of the 1980 Decennial Census, which has been estimated by the Census Bureau to be around $960 million, I am just as concerned about the impact this cut will have on the ability of the Census Bureau to insure against the serious undercount problem which occurred in the last census count. They have instituted a number of improvement programs and techniques designed to reduce the overall undercount in the 1980 census with particular emphasis on substantially reducing the differential undercount between whites and minorities. These improvement efforts include a program of local community review which will allow local officials to review the counts made by the Census Bureau in order to insure an accurate census count. The cost of this program has been estimated to be about 19.2 million and is the most costly of all the improvement programs planned by the Bureau. It is costly because field offices will have to stay open for a longer period of time for local officials to provide their input.

The Secretary of Commerce, Juanita Kreps, has indicated that she plans to eliminate the community review program if Congress acts to cut the full $48 million for the 1980 census. I strongly oppose this action. The community review program is by far the most important program initiated by the Bureau for reducing the undercount and if it is cut, it will completely negate the other efforts by the Bureau to improve the census count.

There are other areas where these cuts can be made. The Appropriations Committee in its report on H.R. 4392, intended that reductions be applied to those improvement items identified during committee hearings as being of lesser priority, as well as the Bureau's contingency fund.

In testimony before the Appropriations Committee, the Census Bureau identified the community review program as being of second priority to other improvement programs which provide quantifiable results. The Census Bureau believes that the community review program is essential to the overall improvement efforts and are secondary only in relation to direct coverage improvement efforts with measurable benefits. I cannot agree with the Census Bureau's assessment. The community review program is vital if we are going to insure accurate counts in populations, particularly in those urban areas with large minority populations.

I do not need to belabor the importance of insuring accuracy in census count. It has a major impact on almost all federally funded programs which require census data. An accurate census count will obviously have an impact on the number of congressional seats allotted to the States.

While I am concerned about the size of the cuts made by the Appropriations Committee, for the decennial census, I will reluctantly support the bill. I feel that the committee has given the Census Bureau adequate leeway to make cuts in a number of other porgram areas. I do not feel that the Department of Commerce would be acting responsibly if it should in fact eliminate the entire community review program.●

Mr. O'BRIEN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SLACK. Mr. Chairman, I have no further requests for time, and I yield back any remaining time that was allocated to me.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945); expenses authorized by section 2 of the Act of August 1, 1956 (22 U.S.C. 2669), as amended; telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; acquisition by exchange or purchase of vehicles as authorized by law, except that right-hand drive and security vehicles may be purchased without regard to any price limitation otherwise established by law and except that chief of mission vehicles may be replaced at a cost not to exceed $6,500; $709,700,000.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: On page 2, line 20, strike "$709,700,000" and insert in lieu thereof: $712,700,000".

Mr. CONTE. Mr. Chairman, at the outset, let me say that I very reluctantly offer this amendment because of my high respect and regard for the chairman of the subcommittee, the gentleman from West Virginia (Mr. SLACK), and the ranking minority member on the subcommittee, the gentleman from Illinois (Mr. O'BRIEN). I sat in the markup of this bill, and I felt that they did an outstanding job. I was, unfortunately, also in another markup when this item was taken up. I have had a lot of discussions with the gentleman who made the cut, the gentleman from Arkansas, and I had kind of hoped, in the weeks of discussion, that we would be able to resolve the issue; but, unfortunately, we have not been able to.

Mr. Chairman, I rise in support of the amendment to restore the $3 million deleted from the State Department budget for the Bureau of Oceans and International and Scientific Affairs. This cut, which represents 51 percent of the Bureau's current budget will severely hamper its ability to deal with some of today's most crucial global problems. I am referring specifically to the environment, pollution, population planning, energy and nuclear nonproliferation, oceans and fisheries, and science and technology.

Numerous times we have heard the ominous warnings of those experts who claim the greatest threat to U.S. security lies not with enemy nations, but in the areas of population, energy, and food. I believe them. Even now we are on a collision course with the Earth's biological systems as we pollute and exploit our environment with little concern as to what the future holds. Well, the future is right around the corner and the time to be concerned is now. It is imperative that the Earth's ecological systems receive greater attention and management than they have had in the past. And it is imperative that this management be on the international level. The United States cannot solve these problems alone. International cooperation is the key and OES our means for assuring this.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is making a very important statement and, if it is in order, Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

☐ 1130

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 321]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dicks
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCloskey
McCormack
McEwen
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1150

The CHAIRMAN. Three hundred eighty-four Members have answered to their name, a quorum is present, and the Committee will resume its business.

At the time the point of order was raised with regard to no quorum, the gentleman from Massachusetts (Mr. CONTE) had consumed 2 minutes in support of his amendment.

The gentleman from Massachusetts is recognized for an additional 3 minutes.

(By unanimous consent Mr. CONTE was allowed to proceed for 5 additional minutes.)

Mr. CONTE. Mr. Chairman, I want the Committee of the Whole House to know that this amendment which I offer, I offer on behalf of, not myself, but on behalf of the chairman of the International Affairs Committee, the gentleman from Wisconsin (Mr. ZABLOCKI), myself, and many other Members.

Mr. Chairman, the OES has been and will continue to be critical in the advancement of U.S. foreign policy objectives—if the Bureau is adequately funded. It serves as a central coordinating point between other agencies and private enterprises. OES provides U.S. representation in international negotiations and at international organizations. And it does so for areas in which international coordination and management are instrumental for the present and future. This morning I would like to address three areas of particular importance.

Energy is an issue in which interdependence finds its most immediate range of application. Whether we have been forced to wait in seemingly endless gas lines, or to pay higher prices for not only petroleum products, but other consumer goods dependent upon energy for their production, our lives have been affected. The consequences for the developing world are even more far reaching. Economic development is substantially curtailed while scarce foreign exchange reserves are used for higher energy bills. Uppermost in every mind are the questions of both alternative sources and forms of energy. OES is dealing with both of these questions.

Working with other Government agencies, OES facilitates cooperation on various energy agreements at the international level. To date they have involved themselves with Japan, the European Community, Mexico, and most recently with those nations participating in last week's economic summit in Tokyo. Long-term planning is evident in their energy survey now being conducted with much of the third and fourth world. The goal of this survey is the development of energy sources appropriate to their peculiar environments. If funds are not restored, not only will the energy technology cooperation programs be curtailed, OES efforts in encouraging international attention to alternative energy sources will be virtually eliminated. The present chaos we are engulfed in proves that we can no longer postpone effective international energy development. We cannot afford to err again.

A second issue of global import is that of population. How can we expect the Earth's generous bounty to satisfy our most fundamental needs if we continue to press the limits of our resources with explosive population growth? The population problem is the root of many of the other challenges we now face including energy, inadequate food supplies, and general poverty. It seems that each time we take two steps forward with respect to increasing food production, discovering new energy sources, or facilitating economic development, we are pushed three steps backward because of burgeoning populations. Some success has been achieved in this area, yet it will be years before the problem is solved. OES provides our only mechanism for attempting to find international solutions to this pressing problem. Without a strong OES, international cooperation and coordination of population policy becomes virtually impossible.

A third major area under the auspices of OES is the critical, yet little publicized issue of ocean management. The oceans have traditionally been a life-giving force through their bountiful nutritional resources. And their importance is increasing as land sources of raw materials and minerals become more and more scarce. The ocean floor as well as its waters hold unexplored treasures which, if effectively managed, could yield substantial benefits to both the developed and developing worlds. Yet this requires great attention, attention which OES may be prevented from giving due to the budget cut.

The projected reduction in funds will reduce support to seven International Fishing Commissions. It will delay negotiations of international fishing agreements including the negotiations with Canada. It will eliminate the Department's role as executive secretary of the Panel on International Programs and International Cooperation in Oceanography. Finally, it will further reduce or even eliminate OES participating in and support for the Law of the Sea Conference. This Conference, which in effect is drawing up plans for the management and exploitation of the ocean floor, is of not only economic, but political importance. Even the economic benefits of mining managanese nodules and other minerals do not overshadow the political implications of Law of the Sea. This issue also provides a major forum for the North-South debate in which the industrialized nations can demonstrate their commitment to the development of the Third and Fourth Worlds. Continuation of effective U.S. input is, therefore, crucial.

The three issues mentioned and others which the Bureau deals with have assumed increasing importance to the United States—in fact they are fundamental to our security. I do not want to risk the danger inherent in U.S. neglect of the Earth's biological systems. And I further do not wish to exclude the United States from participation in international management schemes to protect these systems. I, therefore, strongly urge that the $3 million be restored to this account.

□ 1200

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Virginia.

Mr. WHITEHURST. I thank the gentleman for yielding.

I want to commend the gentleman for his statement. I rise in strong support of this amendment.

Mr. Chairman, I would like to speak briefly in favor of the amendment to restore the budget and positions of the Department of State's Bureau of Oceans and International Environmental and Scientific Affairs to the level in the original budget proposal.

The Bureau of Oceans and International Environmental and Scientific Affairs, or OES for short, is responsible for a wide range of issues. OES plays a major role in the licensing and policy review of our nuclear exports, and in working with other countries to promote our nonproliferation objectives OES also plays a major role in coordinating our cooperation with other countries in S. & T. and coordinating the international S. & T. activities of various U.S. technical agencies to insure that such activities contribute to our foreign policy objectives. OES has major responsibilities in the management of our oceans resources and in working with other countries to protect the environment. For example, OES takes the lead in our international efforts to protect endangered species.

I for one do not want to see any diminution in our international efforts to protect our living heritage. This is not a reversible process, once a species is lost it is gone forever. We must maintain an active, dynamic organization in the Department of State to carry out this battle on the diplomatic front. To reduce the OES staff by 50 percent would mean a drastic, and I believe, unacceptable, reduction in the efforts currently underway on environmental and other important issues. I believe that the OES staff and budget should be restored to the level proposed in State's budget submission. I believe that OES should be encouraged to continue and expand the work currently being done on endangered species, energy technology, and in other important areas. I urge that we restore this cut.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding. I also want to commend the gentleman for his statement, associate myself with his remarks, and speak in strong support of the amendment.

Mr. Chairman, the effect of this amendment will be to restore to an adequate level, the funding for personnel and programs of the Bureau of Oceans and International Environmental and Scientific Affairs of the U.S. Department of State.

The suggested reduction by the House Appropriations Committee of $3 million for this Bureau's activities would delay and curtail fisheries negotiations with Mexico on tuna and with Canada on salmon; eliminate close contact with the regional fishing councils in eight areas of the United States; effect drastically the OES's capacity to negotiate future agreements for fish worth $850 million.

The funding cut would also cripple the OES's capacity to approve about $2 billion worth of export licenses in the nuclear industry each year; drastically cut the OES capacity to support the nuclear industry and nonproliferation policy including close cooperation with the major nuclear states; stretch out indefinitely the renegotiations of 24 nuclear cooperation agreements; reduce seriously the OES ability to participate in the international nuclear fuel cycle evaluation.

In addition, reducing the funding for this Bureau's activities would eliminate its ability to carry out title V of Public Law 95-426 which requires that the Secretary of State integrate and coordinate foreign policy in the science and technology area. Such funding cuts would make it impossible for the United States to follow up an effective Migratory Species Convention now under negotiation, deal with the major problems of tropical deforestation, desertification, wildlife conservation, and toxic substances.

Finally, the suggested funding cuts would reduce the OES's capacity to oversee U.S. population programs worldwide and provide guidance. In addition, the OES would be hampered in its ability to manage and oversee new science programs with China, Japan (fusion research and coal liquefaction), Mexico, the Soviet Union, and the European Community.

Mr. Chairman, the Bureau of Oceans and International Environmental and Scientific Affairs is unique among the nine functional Bureaus of the Department of State, in that much of its work involves carrying out legislatively required tasks contained in over 50 congressional acts. As a consequence, OES has acquired a talented technical staff of some 80 professionals, 44 of whom have graduate degrees in technical areas and 41 have had experience in other U.S. technical agencies.

Mr. Chairman, the timeliness of a 50-percent cut in budget and staff of this Bureau is illustrated in one specific example relating to the current efforts of the International Whaling Commission to reach new agreements in the commercial killing of whales. The United States has historically taken a lead role in the IWC meetings, with recent activities aimed at bringing all member nations to reach a decision on a possible moratorium on the commercial killing of whales. Should the OES budget be cut as suggested by the House Appropriations Committee, the Department of State's role in international negotiations to conserve whales and other marine mammals through IWC participation would be greatly curtailed.

In an even more critical area, energy development, such an OES budget cut would virtually eliminate this Bureau's effort in encouraging international attention to alternative energy resources. Given our current need for the development of alternative energy sources, an effort which the entire world community should participate in, such budget cutbacks are very untimely.

In a third area, nuclear nonproliferation policies, the OES plays a critical role in formulating and implementing the U.S. Government's position, which would be made impossible to fulfill adequately with the suggested funding cuts.

Mr. Chairman, all in all, it would be in the best interest of the Nation on several fronts, for my colleagues to support the amendment pending, and restore the $3 million suggested cut by the Appropriations Committee. It appears to me that without restoring this funding to this crucial Bureau of the Department of State, we would suffer irreversible consequences as a Nation which would have lasting effects on our environment and foreign policy.

Thank you, Mr. Chairman.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman for yielding. I, too, want to associate myself with the remarks of the gentleman in the well.

Mr. Chairman, we often overlook the importance of the world's oceans to mankind; yet, they are unmistakably the backbone that supports life on this Earth.

Just yesterday, Skylab's safe reentry over the Indian Ocean reminded us that the ocean has its uses. Still, while we are thankful that the bulk of Skylab came down in the ocean and over uninhabited sections of land, we also must remember that Skylab was just one more piece of now useless junk that found its way into our seas, which rapidly are becoming the recipient of more and more of man's waste and garbage.

Therefore, Mr. Chairman, it remains highly important that we concentrate our attention on the utilization of the world's waterways by man. The seas not only are a dumping ground; they are a source of bountiful harvest from their fishstocks; they are increasingly explored for yields of fossile fuel; and their mineral resources are becoming targets for undersea mining activities of unprecendented scale.

If we are to maximize our beneficial uses of ocean resources and minimize our degradation of that environment, it is foolhardly to cut back funding for the Bureau of Oceans and International Environmental and Scientific Affairs. As a result, I rise to support restoration of the Bureau's funding.

In its report, the committee criticized the Bureau for general faults of technical weakness and lack of effective interface with other Federal agencies having responsibilities for ocean, environmental, and scientific policy. As a result, the committee recommends a 50 percent slash in the Bureau's budget at the same time it expects an improvement in performance from the remaining Bureau staff. I fail to see how quality can improve absolutetly while the office responsible for this function is effectively eviscerated.

Mr. Chairman, obviously, the Bureau's record has not been perfect because the problem-solving environment has not been ideal. For years, we have taken our environment for granted; for centuries the oceans have been regarded as every man's and yet no man's. Now, when we finally recognize the need to conserve and fairly share the ocean's resources, we have been unable to completely eradicate the mentality that finds nations seeking to jealously reap their share of the pie.

If we are to break this entrenched mind-set, we must increase and not lessen our efforts to improve international cooperation in such areas as the ocean environment, fisheries, and undersea mining. Halving the budget of the Bureau of Oceans and International Environmental and Scientific Affairs is not a step forward; it is a step backward. I urge my colleagues not to step backward into the past but forward into the future so that the American commitment to the international environment and the open seas will be unmistakable.

Mr. ALEXANDER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to congratulate the good intentions of the gentleman from Massachusetts (Mr. CONTE). Mr. Chairman, I would like further to stipulate that the gentleman from Massachusetts means well in the effort that he is making today to bring this amendment before the House. I respect the gentleman. I respect his good intentions, and I respect the fact that he means well.

Before I was elected to the Committee on Appropriations, I was privileged for 4 years to have served as a member of the Committee on Government Operations, and for those 4 years I was assigned to the Subcommittee on Foreign Operations. During the tenure of my service there, I had the opportunity to review the activities of the Department of State in their operations outside the United States, and I took particular interest in the activities that are now under the bureau and are being debated here today. I would say to the Members, based upon the experiences that I have had there and the experiences on the Subcommittee on Appropriations for State that while it may be intended by the Congress that the Bureau of OES should achieve these lofty goals to which my friend and colleague, the gentleman from Massachusetts, refers to solve the energy crisis, to halt the population explosion all over the world, to feed the hungry multitudes that are undernourished and underfed all around the globe, to bring peace among the nations of the world, and to bring good will among the brotherhood of men and women, the fact remains that there is an ocean—not a gulf but an ocean—that lies between the fantasies that we harbor in this Congress about what this agency should do and the facts of the operation and maintenance that actually take place in the day-to-day workings of the agency. There is an ocean that separates the perception that Members of Congress have about the good will of this bureau, the good intentions that we harbor that this bureau should achieve, and the realities that our Subcommittee on Appropriations have discovered in the day-to-day operations.

□ 1210

It is the intent of the Congress that this bureau should develop a comprehensive and current U.S. policy on issues which arise in these areas. It is the intent of Congress that this bureau advise the

Secretary in the consideration of various factors affecting these areas. It is the intent of Congress that this bureau coordinate the policy responsibilities between the Department of State and the other departments and agencies of the Federal Government in the field of oceans, international environmental and scientific affairs.

The fact remains, as we have discovered in our committee, that the bureau has performed none of these charges comprehensively, in all or in part.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. ALEXANDER was allowed to proceed for 5 additional minutes.)

Mr. ALEXANDER. The committee, after several years of deliberation has concluded that in fact no U.S. international policy has been advanced in the fields identified and particularly, in the area of the oceans. For example, no formal policy-level, bureau-chaired, interagency coordinating mechanism is now actively functioning. The once operational Committee on International Ocean Affairs has remained inactive for at least 3 years at a time when the oceans are subject to increasing pressure, use, and domestic and foreign concerns and conflicts. In fact, the oceans have been referred to, and I think properly, as, indeed, the last frontier from which this industrial Nation can look forward to recovering and developing the minerals and the fuels that we need in order to sustain the standard of living to which we have become accustomed.

Furthermore, the two existing advisory groups on fisheries and ocean science fall far short of representing the full range of ocean activities and issues. The general situation within the bureau, I regret to advise, can best be characterized as reactive, short-term oriented, narrowly focused and advised, and lacking of adequate technical competence and balance between professional and diplomatic staff. In fact, in a recent conversation which I had with the Under Secretary of State, Mrs. Benson, she told me, quite apologetically, that former Secretary of State Henry Kissinger told her that this bureau is where the Department of State places its incompetents.

The committee feels we should take action to help the Department remove those incompetents when they have failed to do so themselves instead of defending its actions.

In the light of the fiscal restraints with which we are faced in this Nation today, it occurs to me that the Congress should more properly be directing this bureau to prepare and implement a plan which—

First. Develops a coherent and comprehensive U.S. international policy for the oceans.

Second. Establishes effective interagency coordinating mechanisms. Title 5, Science and Technology in American Diplomacy of Public Law 95-426, Foreign Authorizations Act of 1979, will hopefully provide the impetus for carrying out this responsibility.

Third. Establishes an advisory arrangement consistent with the broad range of international ocean activities.

Fourth. Develops a long-range planning capability as well as the ability to conduct assessment and analysis of international ocean resources use and management.

Fifth. Promotes U.S. scientific technological, economic and foreign goodwill and development through bilateral and multilateral agreements, international organizations, et cetera.

Sixth. Develops the internal professional competence and staff balance necessary to carry out these foregoing functions.

After all, if we intend that this Bureau achieve the objectives and we spend the taxpayers' moneys appropriated for these objectives, it appears to me that what we should be doing today is giving this agency—which has vacillated; which has, indeed, rocked in this vast ocean of indecision and lack of direction—some firm direction so that it can chart a course which will justify the expenditures that we appropriate in this body.

The emphasis on discharging these responsibilities should not be on duplication, as we have observed, but rather on judiciously utilizing the existing expertise and capabilities within all other operating agencies. The bureau has not actively pursued this approach, I regret to say, principally, I have concluded, because the staff composition lacks the managerial and technical personnel necessary to draw together competing and complementary interests and such reasoned evaluations and judgments.

It will do no good for this Congress to appropriate 3 additional millions of dollars in order for this bureau to buy a fleet of Chevettes. What we need is a few Oldsmobiles and a few Cadillacs down at this bureau, not more Chevettes.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent Mr. ALEXANDER was allowed to proceed for 5 additional minutes.)

Mr. ALEXANDER. I would rather have one good horse than a whole team of lame nags that sit grazing at the trough of public expense without producing one tangible objective that has been charged by this Congress in order for them to achieve.

Although OES has characterized itself as the "leading edge" in international oceans efforts, it appears to be a more reactive agency. A typical example: Although OES has become active in negotiating with Mexico with regard to U.S. academic oceanographic research ship operations in Mexican waters, it did so only at the formal urging of the Presidentially appointed National Advisory Committee on Oceans and Atmosphere. It should be noted that ocean marine science is vitally important to the United States and that the academic community shoulders the principal responsibility for conducting this kind of research.

That political or other unrelated issues influence OES positions in international negotiations seems clearly indicated in two other ocean-related matters. The United States-Canadian fisheries treaty which American fishing interests say will damage their opportunities in the Georges Bank area seem to have been governed by State's interest in getting Canada to submit an ocean floor boundary dispute to arbitration. The U.S. position on dividing up the East Tropical PACIFIC tuna fishery resources seems more guided by our concern over who will get Mexican oil than any awareness of the legitimate concerns of a major food industry and of the conservation and protection needs relating to porpoises.

Mr. Chairman, I regret this procedure today and I have tried to negotiate with the gentleman from Massachusetts and those who are sincerely and genuinely interested in the objectives of this bureau. However, as a responsible Member of Congress accountable to the people who vote for and elect me to this institution, I cannot sit idly by for an additional year and watch this bureau squander tax funds in millions of dollars without producing one tangible result for us to look to with pride that we can go back and return to our districts and report to them, "Yes, I have the responsibility over appropriated funds for the Department of State," and "Yes, some progress is being made there to take out these incompetents and send them off to where they need to be."

Yes, I would like very much to report to my people that progress is being made but I cannot sincerely do that, as long as we in this subcommittee continue to observe the facts that I have tried to articulate today.

Nor can I accept the argument that no budget cut should be made at this time because the bureau is showing some progress in its work and needs to be doing more. That is arguing that an agency should be rewarded because congressional dissatisfaction with the quality of its performance has finally forced it into some forward movement. With the exception of matters that appear to be purely political, this habit of reaction rather than initiating action appears to often too accurately describe performance in the areas in which this bureau has responsibility.

The reexamination, possibly the first real examination, State has underway of its responsibilities for aggressively promoting and protecting U.S. interests in the areas of science and technology is being undertaken because Congress directed that the work be done—through section 504 of the Foreign Relations Authorization Act of Fiscal Year 1979.

Such an effort should automatically have been a part of State's response in 1974 to the mandate that resulted in the establishment of the bureau. That that was apparently not done is clear throughout the "Report to Congress on Science, Technology and U.S. Foreign Policy" submitted to the Congress last January.

The object of the creation of the bureau and the requirement of the report—called the "Title V Report"—is to generate a greater degree of sensitivity among career State Department people of the national interest in these areas.

That the State bureaucracy is not overly enthusiastic about having its minions gain expertise, understanding and sensitivity to the real U.S. interest in these areas—as opposed to a purely political interest in gaining a consensus—runs like a depressing echo throughout the title V report.

The Bureau's creation was basically an effort to improve State's willingness and ability to work cooperatively and knowledgeably with the operating departments and agencies with primary responsibility in the areas of oceans, science and the environment. Even so, throughout the title V report there is evidence that the career Foreign Service officers resist gaining proficiency in these areas because they do not see this as enhancing their career prospects.

The report frankly acknowledges the weakness of State's ability and awareness of the need to deal effectively with the issues for which it claims responsibility. The report says that there is a need for eliminating this weakness but other than indicating the need it makes few positive commitments to replacing those weaknesses with strength in the form of personnel specifically equipped by training, experience and motivation in dealing with these problems.

Frankly, if political considerations are going to continue to override all other U.S. interests in these areas when we are at the policy table there appears to be little to choose between the Bureau and the old method of dealing with these matters through areas and country desks at State. And, the Bureau has already had nearly 5 years to demonstrate that there is a significant and substantive difference.

Mr. Chairman, I suggest there needs to be a restructuring of this Bureau in the current staff and makeup in order that this bureau might provide the managerial, technical and scientific help to which the gentleman refers in order to achieve the objectives we would like to achieve.

☐ 1220

The plan that we can draw up in this body and the course that can be charted then should be directed to the Bureau and resubmitted to the Congress not later than about 120 days following enactment of this legislation.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield briefly to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to thank the gentleman for yielding.

I want to ask the gentleman a few questions.

First, how many additional employees did this Bureau ask for to the Congress?

Mr. ALEXANDER. I only yielded to the gentleman for a comment.

Mr. CONTE. I think we ought to have a colloquy, because the gentleman is making some very serious accusations here about the Agency.

Mr. ALEXANDER. I would like to finish my remarks.

Mr. CONTE. Well, I would have objected. The gentleman has gotten 15 minutes to speak and I think the gentleman owes me the courtesy to try to answer some of these questions.

Mr. ALEXANDER. I would like to address some of these questions and I intend to in my remarks.

Mr. CONTE. Would the gentleman tell this body how many additional bodies they have asked for in this budget?

Mr. ALEXANDER. Mr. Chairman, I reclaim my time.

Mr. CONTE. I think the gentleman has given this body the answer.

Mr. ALEXANDER. Mr. Chairman, I will be pleased to yield to the gentleman from Massachusetts as soon as I have completed my remarks.

There was a memorandum circulated to my office and to Members of Congress yesterday apparently from this bureau, which is entitled, "OES Cut Assessment." It is not signed. There is no heading on the memorandum. It may have been prepared by Jack Anderson, for all I know; but it claims in here some impact on this agency from these cuts.

I would like to refer to a couple of these preposterous claims. It says here that the proposed cut would reduce by one-half the department's effort to negotiate agreements to interdict maritime narcotic smuggling. I wonder what the U.S. Coast Guard function is and even the U.S. Navy.

It claims that this cut would reduce by one-half the department's technical assistance support of the International Atomic Energy Agency. I again wonder what technical assistance does the Department of Energy provide.

It goes on to say that these proposed cuts would reduce by one-half the department's effort to promote international development of alternate sources of energy. Here again, I wonder what functions the Department of Energy performs in this area. Perhaps the Bureau could first enlighten our domestic interests in developing alternate sources of energy.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. ALEXANDER) has expired.

Mr. ALEXANDER. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

Mr. NEDZI. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SLACK. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the memorandum continues, to allege preposterously that considerable delays will be incurred in reviewing nuclear export applications worth $2.3 billion annually. This certainly appears to be a function of the Department of Energy which they could perform and certainly that this bureau could delegate to and coordinate with the Department of Energy.

The memorandum goes on to say that it will reduce to a minimal level the monitoring of existing air and water agreements with Canada and Mexico.

Are not these the functions that could be performed by the National Oceanic and Atmospheric Administration and the Environmental Protection Agency?

Now, the gentleman from Massachusetts has referred to the number of personnel. I would like to address that subject and I will be glad if the gentleman from West Virginia would yield to the gentleman from Massachusetts; but before the gentleman yields, I would like to address one thing specifically. It has been stated by the gentleman from Massachusetts that to approve this cut will dramatically reduce the bureau's ability to perform in a number of essential areas because of severe cuts in the staff.

Now, I ask for a memorandum of staffing from the agency about 3 weeks ago and last evening about 5 o'clock we received some of the information we requested. I would say that is about par for the course, that that is about the usual response that we receive from this agency. When we ask for a simple statement of fact it takes 2 or 3 weeks for this agency to respond.

Now, on the memorandum of personnel which the Bureau says that will be cut is the name of one Eileen M. Maturi, and according to the Agency this lady performs the important function as a member of this Bureau, paid by the Department of State, as Executive Secretary of the Panel on International Programs and International Cooperation in Oceanography. I have discovered what this Bureau apparently does not even know, that this lady is employed by the Navy, the Navy Oceanographic Office, which has gratuitously assigned this fine person to the OES on a nonreimbursable basis. She is not a State Department employee. She is not an OES employee. She works for the U.S. Navy, but she is alleged to be one of the employees that will be lost by the cut that this committee I believe has judiciously made.

Now, the question arises for the gentleman, does the State Department, the Bureau of OES, know what it is doing and who is assigned to do it? I think the answer is clearly no.

Now I would be glad to yield to the gentleman from Massachusetts.

Mr. SLACK. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I ask the gentleman again, how many additional employees—I am asking the gentleman in the well to answer. The gentleman seems to be the expert. The gentleman seems to know all about it.

Mr. ALEXANDER. The gentleman from West Virginia has the time.

Mr. CONTE. Then please yield to the gentleman from Arkansas.

Mr. SLACK. I will advise the gentleman from Massachusetts, the answer is zero.

Mr. CONTE. They asked for one less.

I would like to refer to the hearings chapter 8 of the Department of State and ask my colleagues to read this volume. There has not been 1 day of hearings. There have been no witnesses. There have been no cross-examinations. If the gentleman in the well was so interested in this Department and this Department was doing such a bad job, why did not the gentleman call a member of this agency before his committee and examine him and build a record on which the gentleman can make these accusations, these unfounded accusations, or is it because of some other reason?

The CHAIRMAN. The time of the gentleman from West Virginia (Mr. SLACK) has expired.

Mr. ZABLOCKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by our distinguished friend and colleague, the gentleman from Massachusetts (Mr. CONTE). This amendment would restore the reduction made by the Committee on Appropriations to the budget and staff of the State Department Bureau of Oceans and International Environmental and Scientific Affairs (OES).

At the very outset, Mr. Chairman, I wish to commend the chairman of the subcommittee, the gentleman from West Virginia (Mr. SLACK). I think the gentleman is a very fair and conscientious chairman. Indeed, I understand the gentleman is going to offer an amendment later to restore the technical assistance funds for the United Nations, an action we deeply appreciate.

I do not question the intentions of the gentleman from Arkansas, but I must observe that the gentleman's action to cut these funds in the committee and his opposition to the restoration of the $3 million is very irresponsible.

It was my intention to offer this amendment, Mr. Chairman, that I now cosponsor with the gentleman from Massachusetts (Mr. CONTE) for two fundamental reasons. The first deals with the vitally important prerogatives provided to the authorizing committees by the rules of the House.

The second deals with the counterproductive nature of the appropriations cut in light of the excellent contributions made by OES in support of a coordinated U.S. policy in the field of oceans and international environment and scientific affairs.

☐ 1230

With respect to my latter point, I must say that the gentleman from Arkansas (Mr. ALEXANDER) is speaking from the past; he is not speaking of the current situation. There may have been allegations that there were some shortcomings in this particular Bureau some years ago, but I submit that the gentleman from Arkansas must agree with me that since Ambassador Tom Pickering became head of this Bureau, there has been some improvement.

He is a topnotch man, is he not?

Mr. ALEXANDER. Mr. Chairman, may I ask, is the committee chairman directing his question to me?

Mr. ZABLOCKI. I am, Mr. Chairman, and I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I find Mr. Pickering to be a fine person, skilled in diplomacy and having a good record in the State Department.

I would respond further by saying that he has no technical expertise in oceans, science, or the environment. While it is not our job here to approve or disapprove the confirmation of the gentleman who heads this agency, I think he, too, can fit within the category of the gentleman from Massachusetts. He means well, but he needs help, and we are trying to give him some help to get rid of some of these incompetents he has got to deal with down there.

Mr. ZABLOCKI. Mr. Chairman, I just want a response as to what the gentleman's evaluation is of the Bureau Chief. I am sure the gentleman from Arkansas does agree with me that the Bureau Chief is very competent, skilled, a good negotiator, and a good administrator. We want to give the tools to them to reorganize and administer that Bureau to the extent the gentleman from Arkansas and all of us desire.

Mr. Chairman, the reason for and the nature of the cut that was made by the Committee on Appropriations require serious challenge.

It is my understanding that this action was taken without hearings or discussions by the Committee on Appropriations. In the Committee on Foreign Affairs we have given close attention to this Bureau. We have had close oversight over the Bureau, and we have held numerous hearings.

In fact, Mr. Chairman, I submit that these cuts were adopted without any consideration and chiefly at the urging of one individual, our good friend, the gentleman from Arkansas. That unfortunate record stands in sharp contrast to the extensive review and hearing effort taken by the Committee on Foreign Affairs.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

(By unanimous consent, Mr. ZABLOCKI was allowed to proceed for 5 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, not only was the authorization figure reduced by $3 million, more than half of the authorized figure, but it was also specified by the committee that the OES staff be reduced from 138 to 69. If we expect Ambassador Pickering to do a good job and then give him only half the support he needs, I think we are asking the impossible.

Such an action, Mr. Chairman, is not an action designed to trim fat from the budget or reduce unnecessary expenditures; rather, it is a conscious and deliberate attempt by the Committee on Appropriations to make policy judgments and force policy decisions to be made or altered because of drastic reductions in appropriations. Action is a clear intrusion into the jurisdictional prerogatives of the Committee on Foreign Affairs. It far exceeds the fiscal oversight function provided to the Committee on Appropriations by the rules of the House.

My second reason, Mr. Chairman, for cosponsoring this amendment relates to the need for OES to continue its valuable contributions to a coordinated U.S. policy on oceanic, international environmental and scientific affairs.

Since its establishment by Congress in 1973, OES has succeeded in bringing to the State Department a single office responsible for developing and implementing a comprehensive and coherent policy in the areas of oceanic, environmental and scientific affairs.

If we focus only on this past year, the major accomplishments of OES have been significant, and I submit that these accomplishments would not have been possible with an incompetent staff. In the area of nuclear proliferation and energy, for example, OES has successfully strengthened the U.S. agreements for cooperation to achieve common supplier export policies. It has also pursued international efforts to insure adequate controls associated with the use of nuclear energy. I can say the same for all the various activities of OES whether they are in the area of environmental issues or in the area of science and technology.

As an illustration of the effective work which OES is doing, I decided to research the validity of a contention in the report of the Committee on Appropriations on this bill. That report—to which I understand that at that time the gentleman from Arkansas contributed—alleged that there had been "insufficient interface between the Bureau and other Federal agencies having primarily responsibilities for oceanic, environmental and scientific policies and programs."

Well, Mr. Chairman, I will say to the members of the committee that I took it upon myself to write to some 15 different Federal agencies who have such interface with OES and asked them to evaluate the effectiveness of their relationships with OES. Their replies reflected a unanimous and enthusiastic appraisal of their working relationships with OES. And at the end of my statement, Mr. Chairman, I will include for the RECORD excerpts from those replies.

Given the wide scope of OES activities and its major accomplishments, on which I have briefly touched, the reduction by the Committee on Appropriations is inappropriate and unfortunate. The $5,963,800 authorized for OES by the Committee on Foreign Affairs hardly represents a "spendthrift" attitude on the part of the committee, since this figure is only $84,000 more than the estimated OES budget for fiscal year 1979. On the other hand, the $3 million reduction from that figure can only be characterized as irresponsible.

For these reasons, Mr. Chairman—the counterproductive nature of the cut and its implications for continued intrusions into the prerogatives of the authorizing committees and the authorization process—I urge that the amendment be agreed to and the cut restored.

Mr. Chairman, before closing, I would like to refute the allegations that the OES is a dumping ground for incompetents: Not only is the head of the Bureau, Ambassador Tom Pickering, eminently qualified, but his Senior Deputy Assistant Secretary, Leslie H. Brown, is also superbly qualified as the record will show, the same is true with respect to the Director of Policy Assessment Unit, Bruce L. R. Smith, and for all other officers in the top eschelon of the Bureau.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has again expired.

(On request of Mr. MCCORMACK, and by unanimous consent, Mr. ZABLOCKI was allowed to proceed for 3 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, in order not to take any more time, I will insert at the end of my remarks a comprehensive list of the chief officers of the Bureau along with their qualifications and a summary of the qualifications of the supporting staff.

Excerpts From Replies of Federal Agencies

COUNCIL ON ENVIRONMENTAL QUALITY

The Council has had a rewarding and productive working relationship with OES, especially in developing the Global 2000 Study. The Council is distressed with the Appropriations cut for OES and would like to see the funds restored, thereby enabling OES to continue its essential work with the Council.

INTERIOR DEPARTMENT—FISH AND WILDLIFE

The Fish and Wildlife Service (FWS) has had a successful liaison with OES. The OES Liaison Office has assured the views of FWS on various international delegations dealing with environmental matters. The OES Liaison has also guided FWS in meeting its responsibilities under the Endangered Species Act, revitalizing implementation of the Convention on Nature protection, wildlife preservation in the western hemisphere and various other environmental issues. FWS believes OES is necessary to their functions and any reduction in OES funding would create severe difficulties for the Service in meeting its responsibilities and assuring that its needs and interests are broadcast widely within the State Department.

INTERIOR DEPARTMENT—GEOLOGICAL SURVEY

The Geological Survey, being a domestic agency, has relied on OES for invaluable assistance and guidance in its dealings with foreign governments. OES has played an essential role in the effective conduct of international activities by the Survey. The Geological Survey believes that a reduction in OES funds would seriously affect its international activities.

ENVIRONMENTAL PROTECTION AGENCY

OES has consistently supported and provided positive guidance for EPA programs such as marine pollution prevention, Law of the Sea, UN environment programs and others. The efficient and constructive assistance by OES to EPA has allowed EPA to concentrate on substantive issues, rather than time consuming coordination and clearance functions among other U.S. agencies and foreign governments.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The National Oceanic and Atmospheric Administration (NOAA) and OES share complementary responsibilities on many international fishery, oceanographic, meteorological and climate matters. NOAA considers OES cooperation routine and a source of strength to its programs and does not support the Appropriations cut for OES.

DEPARTMENT OF ENERGY

DOE has had a close relationship with OES specifically in the area of nuclear non-proliferation. OES has taken on the task of renegotiating the 24 agreements for peaceful nuclear cooperation, and among other programs, plays a significant role in developing new energy technologies with other industrialized countries. Also, the review of nuclear export activities to ensure effective non-proliferation oversight (handled by OES) would suffer in light of the OES cut. DOE would hope that funds can be restored when the State Appropriations bill reaches the floor of the House.

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

HEW is pleased with the cooperative relationship with OES. At the policy level, HEW has consulted frequently with OES on such matters as development of bilateral health agreements with Italy and the PRC. Additionally, working relationships with component agencies of HEW such as FDA had been very good. HEW feels the working relationship is mutually helpful and should be strengthened, not weakened; which is what the Appropriations cut would do.

NATIONAL INSTITUTES OF HEALTH

NIH has had an adequate and productive relationship with OES and considers it to be an effective instrument for coordination of international scientific activities of the U.S. Government. As NIH becomes involved in more compex situations, it expects the need for assistance from OES to rise.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

NASA, through its International Affairs Division, has maintained a close and effective relationship with OES. OES and the International Affairs Division consult daily on numerous international space projects. Of particular significance where OES provides valuable assistance are projects such as the UN Commission on Peaceful Uses of Outer Space, development of satellite remote sensing programs, skylab briefings for various government groups, and facilitating clearances for NASA overflights in foreign territories. NASA has found OES to be technically competent and positively oriented toward facilitating NASA programs and feels the role of OES in its space activities to be valuable and constructive.

NATIONAL SCIENCE FOUNDATION

The National Science Foundation and OES have had a favorable and constructive relationship in such matters as the U.S.-U.S.S.R. World Ocean Agreement, conduct of ocean research in non-U.S. territorial waters and operating the U.S. natural research program in Antarctic, for which the NSF assumed full responsibility in 1976. From NSF's point of view, it would be a severe loss if the activities of OES were significantly curtailed. Additionally, the coordinated approach to International Science policy desired by Congress and expressed in Title V of the Foreign Relations Authorization Act will not be realized with the cut. NSF strongly urges that Members of the Foreign Affairs Committee take whatever steps are necessary to restore the funds for OES.

FEDERAL SCIENCE AND TECHNOLOGY COMMITTEE—INDUSTRIAL RESEARCH INSTITUTE

The Industrial Research Instittue is an organization of 258 U.S. companies which carry out more than 85 percent of the privately supported research programs in the U.S. IRI has had several dealings with OES in the past year. The cut for OES would be counterproductive with respect to non-proliferation matters, continuing negotiations on the problem of fisheries, studies of international fuel cycles, and bilateral science and technological relationships such as those with China.

DEPARTMENT OF THE NAVY

The Oceanographer of the Navy and professional staff have maintained a long-term and continuous relationship involving a wide spectrum of subjects and issues such as U.S.-U.S.S.R. World Ocean Study and the People's Republic of China cultural agreement, Law of the Sea Conference, international satellite program, Antarctic natural resources, among others. The interaction between Navy and OES has been one of cooperation and effectiveness and the Navy Department's intention would be that the relationship continue to be strengthened.

U.S. NATIONAL COMMISSION FOR UNESCO—U.S. NATIONAL COMMITTEE FOR MAN AND THE BIOSPHERE (MAB)

MAB program is an international science effort which carries out ecologically-based research monitoring and training programs throughout the world. OES has been instrumental in carrying out cooperative programs with participating MAB countries, in particular, the Soviet Union with respect to an ecological monitoring project. The MAB Committee feels OES is essential to the long-term success of bilateral, multilateral, and other international science efforts. Steps to weaken the Bureau such as the Appropriations cut, would hinder the efforts of U.S. agencies under the MAB program.

AGENCY FOR INTERNATIONAL DEVELOPMENT—DEVELOPMENT SUPPORT BUREAU

In the areas of population, energy and science and technology, there has been effective interface between A.I.D.'s Development Support Bureau (DSB) and OES. The proposed budget cut for OES would have a significant adverse effect on the interagency relationship. The efforts of DSB and OES require a sizeable additional commitment of OES time and personnel that would be unsupportable with a smaller staff. DSP hopes that this situation will not develop since its relationship with OES has proved to be highly productive and mutually beneficial.

Qualification of Top OES Personnel

ASSISTANT SECRETARY THOMAS R. PICKERING

Career Minister;

Former Ambassador to Jordan, 1974–1978;

Deputy Director of the Bureau of Political-Military Affairs, 1969–1973;

Special Assistant to the Secretary of State and Executive Secretary of the State Department, 1973; and

Deputy Chief of Mission, Dar es Salaam, Tanzania, 1967–69.

SENIOR DEPUTY ASSISTANT SECRETARY LESLIE H. BROWN

FSRU 1;

Former Director of Planning, Bureau of Political-Military Affairs, 1965–1976; and

Special Assistant to the Under Secretary of State for Security Assistance, Science and Technology, 1977–1979.

DIRECTOR, POLICY ASSESSMENT UNIT, BRUCE L. R. SMITH

Former Professor of Public Law in Government, Columbia University;

Senior Staff Worker, Rand Corporation, 1964–1966;

Consultant to numerous government agencies;

Harvard Ph. D., 1964; and

Author of six books and various scholarly articles.

DEPUTY ASSISTANT SECRETARY FOR ENVIRONMENTAL AFFAIRS, WILLIAM ALSTON HAYNE

Diplomat;

Senior Staff Member, Council on Environmental Quality;

Counselor for Economic Affairs, Embassy Mexico City; and

Served in Diplomatic Posts in Lima, Paris, Kingston.

DEPUTY ASSISTANT SECRETARY FOR NUCLEAR ENERGY AND ENERGY TECHNOLOGY AFFAIRS, LOUIS V. NOSENZO

Research Assistant, Willow Run Research Labs, University of Michigan;

Director, Missiles-Space Planning, United Aircraft Corp.;

Vice President, General Manager, Lulejian Associates, Los Angeles; and

Office Director, Bureau of Political-Military Affairs, Department of State.

DEPUTY ASSISTANT SECRETARY FOR OCEANS AND FISHERIES AFFAIRS, JOHN D. NEGROPONTE

Consul General, Thessalonici, Greece;

Political Officer, Embassy Saigon;

Member, Delegation to Paris Peace Talks on Vietnam;

National Security Council Staff, in charge of Indo-China Affairs; and

ACDA Summer Session on UN Committee on Disarmament, Geneva.

DEPUTY ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY, NORMAN TERRELL

Director of International Affairs, National Aeronautics and Space Administration, 1977–1978;

Assistant Director for Policy Review, U.S. Nuclear Regulatory Commission, 1975–1977;

Foreign Service Officer serving at Embassies Warsaw and Canberra; and

Served in the Bureau of European Affairs and Political Military Affairs, 1963–1975.

COORDINATOR FOR POPULATION, RICHARD E. BENEDICK

FSO 2;

Served in ICA and AID in Tehran and Karachi as a program analyst and economist;

Financial economist, Embassy Bonn;

Director, Office of Development Finance, Bureau of Economic and Business Affairs; and

Counselor for Economic and Commercial Affairs, Embassy Athens.

SUMMARY OF PROFESSIONAL TRAINING AND EXPERIENCE OF OFFICERS IN THE BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AFFAIRS

OFFICE OF NON-PROLIFERATION AND EXPORT POLICY

There are four regular professional staff positions with three currently occupied, plus one officer on detail from another agency. Of the four officers on board, two have PhD's and two are Foreign Service Officers with 18 years of combined experience. One officer has six years of experience on the NSC plus two years with the NRC before joining OES last year.

OFFICE OF ENERGY TECHNOLOGY COOPERATION

There are two regular professional staff members, plus one officer on detail from DOE. One officer has a PhD in economics plus almost two years of experience at the Argonne National Laboratory. Both of the other officers have technical training and considerable experience in the Foreign Service. One has a Masters Degree in geology.

OFFICE OF NUCLEAR AND SAFEGUARDS TECHNOLOGY

There are four regular professional staff positions with three occupied, plus two officers on detail and one part-time expert. Of the six officers on board four have PhD's two in nuclear engineering, one in physics and one in economics. One has had seven years of experience on non-proliferation issues in ACDA and IAEA, while two others have spent a combined total of 30 years at Argonne Natioal Laboratory.

OFFICE OF EXPORT AND IMPORT CONTROL

There are four regular professional staff positions with three currently occupied. Of the three officers on board, two have an education in nuclear engineering and a combined total of almost 40 years of experience in working on nuclear issues in DOE and its predecessor. One officer is a Foreign Service Officer who, in addition to 20 years of diplomatic experience, has a Masters of Science Degree.

OFFICE OF ENVIRONMENT AND HEALTH

There are seven regular professional staff members, two have PhD's, two have worked a combined total of six years for EPA, one has had four years experience with NIH and one has had 10 years of university teaching experience in addition to four years with the Department of Agriculture and four with the Office of the President's Science Adviser.

OFFICE OF FOOD AND NATIONAL RESOURCES

There are five regular professional staff members. One has a PhD, one has a Masters Degree in geology, one has 5 years experience with AID and one has 7 years experience with non-governmental environmental organizations.

COORDINATOR FOR POPULATION AFFAIRS

There are five regular professional staff members who hold 3 PhD's. In addition one officer has two Masters Degrees in related subjects. One officer has 20 years of experience in academe and the four career Foreign Service Officers have a combined total of more than 75 years of diplomatic experience.

OFFICE OF ADVANCED TECHNOLOGY

There are seven regular professionals assigned plus a military exchange officer serving on detail. Among these eight officers there are 4 PhD's, 2 JD's and 2 Masters Degrees. Experience in other agencies includes USIA (ICA), AID, NATO International Staff, NSF and ONR. In addition, there is a combined experience in the Foreign Service of over 100 years.

OFFICE OF COOPERATIVE SCIENTIFIC PROGRAMS

There are nine regular professionals assigned. Among these nine officers, there is one PhD and several Masters Degrees. Eight of the nine are career Foreign Service Officers with a combined total of over 160 years of diplomatic experience. The officer responsible for the Chinese program is fluent in Chinese. The officer responsible for the Soviet program is fluent in Russian. The officer responsible for the Japanese program is fluent in Japanese. The officer responsible for the Yugoslav program is fluent in Serbo-Croatian. In addition the officer responsible for the Indian program is a recognized expert in the field of Indian politics, having published a major work on this subject.

POLICY ANALYSIS STAFF

There are four professionals assigned, two of which are career Foreign Service Officers. Three of the four hold PhD's, one has almost twenty years of university experience, one has more than ten years experience in university and private research organizations and the two Foreign Service Officers have a combined total of 15 years of diplomatic experience.

OFFICE OF FISHERIES AFFAIRS

There are 8 regular professional staff members, plus 1 Coast Guard officer on detail. Of the 8 officers, six have had undergraduate or graduate university training in fields directly related to their responsibilities; i.e., marine biology, fisheries management, international marine affairs. Three of the officers have Masters Degrees and 1 has a PhD. Five of the officers have had previous professional experience in fisheries or marine affairs, most of them with the National Marine Fisheries Service, its predecessor, or international fisheries organizations. This is a total of 28 professional years experience before joining OES.

OFFICE OF MARINE SCIENCE AFFAIRS

There are 4 professional staff members in the office. All 4 of them have had undergraduate or graduate work in fields directly related to their responsibility; i.e., physical oceanography, marine affairs, etc. One of the officers has a Masters Degree, 2 others have law degrees, together with an additional degree in international marine law. All 4 officers have had previous professional work experience in oceanography, marine affairs, the law of the Sea—for a total of 35 years experience previous to their joining OES.

OFFICE OF OCEAN AFFAIRS

There are 7 professional staff members in this office. Four of the staff members have had graduate work in directly related fields; i.e., oceanography, marine affairs, with 1 PhD and 1 Masters Degree and 1 law degree. Six of the 7 professionals have had previous work experience in related fields either in marine science, oceanography, law of the sea, Navy or Coast Guard, for a total of 57 years experience previous to OES.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for yielding. I associate myself with his remarks. I agree with the gentleman completely.

I would like to point out that Assistant Secretary Tom Pickering can hardly be called incompetent. He is one of our outstanding leaders in the field of science in this country, particularly in diplomatic circles.

I would also like to point out that although they are not directly affected by the cut in the committee bill we have several dozen science attachés and science counsels, working in science and energy and in various other fields in our various Embassies overseas. They are working with Mr. Pickering's personnel and Mr. Pickering's office. There are about 130 staff persons in Mr. Pickering's office, a portion of whom are designated to work with our scientists overseas.

These are some of the finest scientists in the world. I have traveled around the world and met with them and worked with them and seen this interaction between them and Assistant Secretary Pickering's staff. It is my opinion that the cuts proposed by the gentleman from Arkansas would cripple that program and have disastrous results for the country in the fields of international science and communication.

For this reason, Mr. Chairman, I support the amendment, and I thank the gentleman for yielding.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for his contribution. He is absolutely correct.

This cut would endanger the coordination we have with these various scientific attachés and counsels that we have all over the globe.

Mr. Chairman, I urge the adoption of the amendment and I yield back the balance of my time.

☐ 1240

Mr. McCLOSKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, there is no Member in the House for whom I have more personal respect than the gentleman from Arkansas. I suspect that until we Republicans have marathon runners of his caliber, we can never hope to achieve a majority, nor should we, in this body.

I regret also opposing my personal hero in this year's Congress, the chairman of this subcommittee, the gentleman from West Virginia (Mr. SLACK), who abolished the first Government agency in 23 years by standing firm against the President request that we refund it, the Renegotiation Board.

But I speak in favor of this amendment which, after all, only restores $3 million to a $6 million budget for the Bureau of Oceans and International Environmental and Scientific Affairs. I would like to tell the House precisely why.

The gentleman from Arkansas has done a service in pointing out that in past years this new bureau of the State Department has, on occasion, been the repository for less than the most competent members of the State Department. It is a little like the trust departmens of banks in past years, where people whose careers held little promise were assigned to the trust department.

But what the Congress has done in the last several years is to upgrade substantially the responsibility of the State Department with regard to the oceans and ocean fishery negotiations. I want to point out to my colleagues that this very minor part of the State Department has jurisdiction over that area of ocean controversy which has led to more wars in the history of this country than any other—the *Turner Joy* and the *Maddox* off the coast of North Vietnam, the *Pueblo* off the coast of North Korea, the *Mayaguez* off the coast of Cambodia, the *Lusitania* in World War I, the sinking of the *Maine*, the incident of the U.S.S. *Panay* in the 1930's, all were incidents which led either to war or a serious threat of war.

Negotiations today which can achieve peace and world law for the oceans, and which can provide for settlements of disputes in the oceans are the responsibility of this small agency, which, if this amendment is not adopted, will be cut in half.

Let me try to provide to the committee two personal experiences that I have had recently. My responsibilities in this House are not great, but I have been privileged to represent the House for 5 years as the Congressional Adviser to the Law of the Sea negotiations, now approaching fulfillment in August or September of this year.

And, second, for the last 3 years I have been privileged to serve as the Congressional Delegate to the International Whaling Commission.

Let me tell the Members a little of what has happened in the International Whaling Commission this week, because I have been in London until yesterday for this year's annual session of the IWC. For some 6 years, the United States has tried to urge the nations of the world to adopt a moratorium on the commercial taking of whales. We have been increasingly successful in cutting whale quotas each year, but unfortunately, until this year, our State Department did not play a major role in the whaling negotiations. Those negotiations were conducted primarily by the Department of Commerce and NOAA. Because of the lack of success at the IWC last year, several of us on the Committee on Merchant Marine and Fisheries urged, indeed, demanded, that the State Department assign a high-level member of this Bureau of Oceans to assist in the whaling negotiations. A very talented negotiator, Morris Busby, who has responsibilities for dealing in law of the sea and in fisheries negotiations, was assigned, perhaps somewhat against his will, and somewhat against the State Department's will, because of the feeling that this bureau is already understaffed in dealing with the Canadian fisheries problems, in dealing with the international tuna negotiations, in dealing with the fisheries problems with Peru and Chile and Mexico, where we have paid over $11 million to recapture ships seized within those nations' 200-mile zones, in dealing with the Law of the Seas negotiations, scheduled to resume next week in New York * * * in all of these areas where Mr. Busby has major responsibilities.

Against his will, Mr. Busby and members of this Bureau were assigned to try to beef up our effort on the whaling negotiations in London. And the result of those efforts are shown today. The State Department did its homework which preceded the negotiations in London. State Department representatives from this Bureau took their time to talk with representatives of the 23 whaling nations, and yesterday, for the first time, the IWC adopted what is the first step toward a moratorium toward the saving of the great whales. I want to tell the Members, from my personal experience, in my judgment this would not have occurred but for the services of Mr. Busby of the State Department shoring up, coordinating, and making effective our international negotiations this whaling effort.

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

(By unanimous consent, Mr. McCLOSKEY was allowed to proceed for 2 additional minutes.)

Mr. McCLOSKEY. Mr. Chairman, this amendment would restore only $3 million. I want to advise the committee of a second personal experience which, in my judgment, justifies restoring these funds.

At the Law of the Sea negotiations last year in London, I was present at two sessions where the real work is done in the international negotiations. The first was a Russian Embassy cocktail party where the finest vodka, the finest caviar, was served to the representatives of 156 nations by the Soviet delegates who were wooing those 156 nations to take positions sometimes adverse to the interests of the United States. The following night, the State Department, backing up our Law of the Sea delegation, held a similar cocktail party for the 156 nations' representatives, and the best we could produce was some relatively cheap liquor and some potato chips. This Bureau is operating on a budget which, in my judgment, has not been used with a Cadillac mentality; it has not been used for abuses of power or excessive expenditures. It is operating on a budget which we cannot afford to limit if we consider fisheries negotiations, the saving of the great whales, the protection of our anadromous species, the controlling of foreign nations fishing within our 200-mile zone, the protection and conservation of tuna, as deserving of the major importance Congress has increasingly recognized. If anything, this particular Bureau, in my judgment, ought to be continued.

I want to commend the gentleman from Arkansas, however, for doing one service, because I think the gentleman has properly pointed out that this Bureau in the past has been allowed to suffer neglect and lack of status within the State Department itself. If the gentleman's amendment does nothing more than force the Secretary of State to recognize that one of the great contributions we make to peace in our time is in the oceans and fisheries efforts, and in population, I might add, where this Bureau also has major responsibilities, I think the gentleman has done a great service, I hope we will vote against him with great pleasure and respect and adopt the amendment that has been offered by the gentleman from Massachusetts (Mr. CONTE).

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Chairman, I appreciate the gentleman's candor, and I, too, want to see that this agency gets a better brand of caviar; but I suggest that the best place to do that is in conference and not by supporting this amendment today.

Mr. FUQUA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the distinguished gentleman from Massachusetts (Mr. CONTE).

During the past few weeks, I have had an opportunity to carefully examine the implications of the drastic 50-percent cut in the budget of the Bureau of Oceans and International Environmental and Scientific Affairs. It is my conclusion that the drastic cuts would seriously damage the State Department's capabilities in science and technology, the environment, and the oceans.

My examination of the matter showed that there was a long list of legislatively mandated responsibilities and, to a large degree, they resulted in a series of actions taken by Congress over a number of years. These actions have been designed to strengthen and improve the Department's capabilities and performance in using science and technology as increasingly important factors in foreign affairs. Instead of demolishing the State Department's capabilities in these vital foreign policy areas I would urge a course of action that has somewhat been recommended by my good friend and esteemed colleague, the gentleman from Arkansas. I might say that I have the greatest respect for my good friend. I know of nobody in this Congress who works any harder and for whom I have any greater respect than my good friend, the gentleman from Arkansas. But I think we should involve ourselves in concerted oversight review—whether it be this subcommittee, whether it be the Committee on Foreign Affairs, whether it be the Committee on Government Operations, or the Committee on Science and Technology—and review and make specific recommendations for performance improvement.

When we have agencies that do not perform as we think they should—and this agency is not totally innocent of that—I think we should strive—and it is our responsibility—to improve that performance rather than trying to cripple the agency by drastic cuts in budgets. That may ultimately be necessary, but I do not think this Congress has exercised the oversight responsibility over this agency that it should. Until such time as we do that, I think we should adopt the amendment offered by the gentleman from Massachusetts.

I understand, from talking with the State Department, that they would welcome such a searching inquiry of this agency. In every area that the Committee on Science and Technology has worked we find, more and more, that science and technology has become a very significant influence in the international scene.

□ 1250

They have become very vital parts in foreign policy, whether it be in the peaceful uses of outer space or the many cooperative arrangements that we have with other nations; in solving some of our energy problems, many of the nations of the world are caught in the same problems that this Nation is and are yearning to work with us in trying to mutually solve some of these issues.

It is not a time to cripple ourselves in dealing with these new areas of responsibility in foreign policy.

Mr. Chairman, I urge all Members of the House to support the amendment of the distinguished gentleman from Massachusetts (Mr. CONTE).

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Washington.

Mr. PRITCHARD. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Conte amendment, which would restore $3 million to the State Department budget. This funding would be for the support of the Bureau of Oceans and International Environmental and Scientific Affairs, which among other things is responsible for conducting fisheries and other ocean resource negotiations, which are of the utmost importance in Washington and other coastal States. Currently, in the Pacific Northwest, it is essential to reach agreement between the United States and Canada on a very critical problem of salmon interception. If this agreement can be achieved, both countries will be able to invest and receive significant benefits from an expanded salmon development program. In order to achieve this agreement, however, we must have the continued support, and in fact increased efforts on the part of the State Department to help resolve this very contentious issue.

Therefore, this reduction of over one-half of this particular agency's budget comes at a very bad time. It would result in the loss of 69 positions, and many of the important fisheries negotiations which are ongoing would not be handled as effectively. Fisheries negotiations are unique in that they require constant monitoring due to the changes in the actual physical condition of the stocks. This requires constant updating of the negotiations, and a lot of time and effort on the part of the negotiating teams which are assembled.

Although the salmon negotiations are at the forefront in my view, there are many other ocean, environmental, and scientific issues which are dealt with by this particular agency within the State Department, all of which are important in these days when we are seeking to cope with more demands on our natural resources, as well as trying to develop important new energy alternatives. The 50 percent reduction will strongly affect the ability of the State Department to conduct negotiations in the following areas:

Nuclear and renewable energy issues including nonproliferation negotiations.

Population issues and general global environmental protection issues.

International science and technology issues including space and communications negotiations.

Other marine resource and science negotiations conducted by this agency include negotiations on Antarctic resources, marine pollution, fisheries, and other ocean interests in Micronesia in the South Pacific, and general support of marine mammal protection.

Mr. Chairman, I feel that this cut in the State Department budget is very untimely, given these important negotiations which must receive continued high-level attention, because these resources which I have mentioned are becoming increasingly valuable and will become more valuable in the future. We must maintain our effectiveness in negotiating with other countries to protect them. Therefore, I strongly support Mr. CONTE's amendment.

Mr. LAGOMARSINO. Mr. Chairman, while I can and do quarrel with State Department policies and budgets and do and would vote to cut many of their budget items, I rise in support of the amendment of the gentleman from Massachusetts (Mr. CONTE) and the chairman of the Foreign Affairs Committee, Mr. ZABLOCKI, to restore the 50-percent cut in the budget of the State Department's Bureau of Oceans and International Environmental and Scientific Affairs (OES). I believe all the implications of such a cut have not been fully and adequately considered. While such different fields as fisheries, the environment and bilateral scientific cooperation would be affected, as has been already pointed out, I would like to focus specifically on our nuclear policies and programs, which relate to my responsibilities as ranking Republican on the Subcommittee on International Economic Policy and Trade.

A failure to restore funds for this Bureau could severely limit U.S. efforts in carrying out our nuclear nonproliferation policy. The Bureau is responsible for the formulating and implementing policy in the following areas:

The renegotiation of the 24 existing agreements for nuclear cooperation. These agreements outline the terms and conditions governing transfers of nuclear material and equipment, as well as the negotiation of new agreements, as called for in the Nuclear Nonproliferation Act of 1978;

The review and coordination of executive branch consideration of all U.S. nuclear exports, which are to be handled on a timely basis as mandated in the Nuclear Nonproliferation Act of 1978;

Initiation of our participation in the international nuclear fuel cycle evaluation involving 57 countries and 4 international organizations in a comprehensive technical study to examine more proliferation-resistant approaches to meet future nuclear energy needs;

The encouragement and focusing of international attention on the development of alternative energy sources.

The projected budget cut, among other things, would:

Make it very difficult to comply with the legally mandated 60-day period for review of nuclear exports without reducing the reviewing function to a mere rubberstamp rather than an analysis of the merits of these applications;

Slow down significantly the negotiations of our agreements for nuclear cooperation, which provide for enhanced safeguards and controls;

Severely hamper our cooperation with other countries, especially LDC's in the areas of development of energy technology, and development of alternative sources of energy.

The critical task of furthering nuclear nonproliferation is a difficult one at best. A 50-percent cut in the OES budget would make this difficult effort even more difficult, if not an impossible one. I urge my colleagues to support restoration of these funds.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, somebody might wonder, if they are listening to this and watching it, why we are taking so much time on such a small amendment, $3 million that cuts 50 percent out of a roughly $6 billion budget.

The answer is obvious to anybody who has listened and watched. This is not an ordinary cutting amendment. There is something punitive about this amendment since there is no justification on the record for that kind of a cut.

As chairman of the Subcommittee on International Operations, having jurisdiction over the State Department budget, I want to disagree with those people who said there has been no oversight over this particular Bureau.

I can tell my colleagues that we have had ample oversight. We have a record of our oversight on this particular Bureau.

I want my colleagues also to know that the Subcommittee on International Operations started back several years ago to do something about increasing the level of importance of this Bureau within the Department of State. Our former colleague was in charge, the Honorable Patsy Mink of Hawaii, and we undertook with her modification of this Bureau: to increase its importance; to get the right kind of personnel in it; to give it the personnel they wanted and to increase its budget. We did that. We gave them additional people. This Congress supported that action. The Appropriations Committee supported it. The cut, which this amendment would restore, is a complete reversal of an effort of improvement over several years.

Ambassador Pickering is now in charge. He is one of the topflight diplomatic people who we have in the Department. He has the capability and the confidence, not only diplomatically, but as we have heard from those who are interested in science and technology, of the scientific community not only in the United States, but abroad.

He has brought and is continuing to bring and amass the kind of capability we are all talking about in this Bureau.

There is desirable change in the Bureau taking place and will continue to take place.

To say that one way to solve the problems in this Bureau is to cut its personnel in half, is illogical to me. People do not have to be fired to be moved to other jobs.

The Congress has given them additional personnel they so desperately need to help carry out the legislatively mandated additional duties that have been placed upon that Bureau. But they are still short of personnel and we provided no additional personnel this year. The Department has recognized the interest of the Congress. The Bureau has good management and personnel. It is obtaining the acceptability, and the credibility within the Department that this bureau deserves and this has come about not only because of the interest of Congress but also the Secretary.

And just last year, as the chairman of the Committee on Science and Technology pointed out, the Congress passed a special provision dealing with science and technology and its importance in diplomacy in which we related the importance that all of us see to science and technology by a whole special section of law. We gave this Bureau the responsibility of administering that law. This new law was the culmination of a 5-year effort of the chairman of the Foreign Affairs Committee, the gentleman from Wisconsin (Mr. ZABLOCKI). He was too modest to mention his personal efforts, supported by the committee, supported by the Appropriations Committee and the full Congress. Also the State Department is anxious to raise the level of the operation of the Bureau of OES and to fit into U.S. diplomatic efforts the very important role that science and technology has.

We are just getting there now after about a 4- or 5-year struggle. And now we are faced with an absolutely unsupported effort to cut personnel in half in that Bureau. It does not make sense to me.

I respectfully disagree with whomever in good faith support this committee position, advocating this cut. I rise to support strongly the amendment that is now pending before us which would restore the full opportunity to about $6 million and permit the Bureau to carry out its responsibilities.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I simply want to confirm what the gentleman is saying and strongly associate myself with his remarks.

The last thing we need to do is cut half the budget away from this Bureau to which we have given additional responsibility, which they are determined to meet without any increase in staff.

I urge support of the amendment.

Mr. FASCELL. After we have had 3 years to build it up.

□ 1300

Mr. BINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will try not to take 5 minutes, since I think the arguments for the amendment have been well made. I had intended to speak about the particular responsibilities of this Bureau of which I have personal knowledge, in the field of nuclear nonproliferation—but my friend and ranking Member (Mr. LAGOMARSINO) has done that very well. I endorse what the gentleman said.

Let me just add a footnote or two. Last year in the Nuclear Nonproliferation Act we gave to the State Department a heavy responsibility in this field. My friend from Arkansas (Mr. ALEXANDER), speaking of the fact that the State Department has pointed to its responsibility for licensing $2 billion worth of nuclear exports, suggested that that responsibility should be carried out by the Department of Energy. But that is not what this Congress said. In the Nuclear Nonproliferation Act of 1978, we said that the State Department should be the lead agency in this regard, and of course that is as it should be.

What surprises me so much about my friend from Arkansas pressing for a 50-percent cut in this Bureau's funding is that such a cut would be a devastating blow to these important exports and the gentleman from Arkansas well knows how important exports are to this country; indeed he is the chairman of the House Task Force on Exports.

Nuclear nonproliferation is a vitally important area in which we have given the responsibility to the State Department to take the lead. I believe the OFS Bureau is doing a good job; indeed, in my judgment, they do not have enough personnel to carry their heavy responsibilities. We certainly should not cut them in half.

In the nuclear area, OES is going to have in the coming year the heaviest responsibility they have had yet because coming up early next year will be the work done by the broad international study on nonproliferation with many, many task forces at work. OES will have the responsibility for carrying out the U.S. side of that operation.

Although it involves $3 million, this is perhaps the most important amendment we have had this year in the foreign policy area, because the cut would have such a devastating impact on the ability of our State Department to function in a variety of important fields, only one of which I have mentioned, the nuclear nonproliferation area.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to my friend from Massachusetts.

Mr. MARKEY. Mr. Chairman, I would like to echo and repeat the points made by the gentleman from New York and speak in support of the amendment. The role this agency plays as a representative of our Government to the International Atomic Energy Agency is crucial in upholding our Nation's commitment to halt the spread of atomic weapon capacity. A specific example of the problems faced by the OES is the worldwide threat of nuclear arms proliferation, of which a recent example is the Pakistani attempt to expand their nuclear capacity. The OES coordinates U.S. Government efforts, in conjunction with the IAEA, to extend the scope of international safeguards on nuclear materials, to improve proliferation-resistant alternatives, and to increase the role of our Government in nuclear cooperation agreements with other governments in trying to limit the proliferation of nuclear hardware. The proposed cut would severely limit the U.S. activity in preventing the global spread of nuclear weapons. For this reason I think this amendment is one of the most important amendments that we will be facing not just here today, but I think for future generations.

Mr. BINGHAM. May I add my personal word to what the gentleman from Florida (Mr. FASCELL) said. I know Ambassador Tom Pickering well. I have worked with him personally and I have the highest regard for him, I think he is one of the top public servants in our Government. I have worked with many of the people on his staff and from my personal knowledge I know they have good interface and good working relationships with the other agencies having responsibilities.

I yield back the balance of my time.

Mr. LLOYD. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I think it is clear that we ought not to allow this cut to continue. I think in reviewing the issue it is clear also that this agency has, indeed, performed in an admirable manner. There are many questions I am sure with regards to all bureaucratic agencies and the way they operate. That is one of the reasons why I have in the past supported sunset legislation. But this is not the correct action.

But with regards to this agency, which deals with the transfer of technology, which deals with the gathering of technology throughout the world, it is probably one of our greatest national assets to have an agency that can deal with technology on a 1-to-1 basis with representatives of countries such as Mexico.

I recently had the opportunity to visit Mexico, and while I was there I also had the opportunity, and I am very grateful for it, to meet with the president, President Lopez Portillo. I also had the opportunity to meet with many of the scientific community, the people who deal in the technology. I got a better feel for what it was that the people of Mexico want.

But why am I even referring to this? It is important to do that but, you know, Mexico has so many things we want. What do we want? We want oil.

Mexico happens at this point to have a pretty goodly amount of oil down in the Campeche region and other areas of the Gulf and it is important we communicate with these people. I want them to take care of their own country, but they need help in, for instance, the area of hydroelectric power and they also have other areas developing in the areas of food and feeding their own people. They have a crying need to reduce their unemployment. All of this can be addressed by technology transfer.

In the areas of technology transfer if we do not have an agency which is going to coordinate and cooperate with these other countries, who then is going to do it? Certainly it is not going to be this House. In reality we must give the people and the tools of the trade the money with which to operate. That is really what this is all about. It is true that it is only $3 million, but the fact remains I think it probably, as evidenced by the amount of time that has been spent on it, it probably is the most important money we will spend in a long time. Frankly, it merits more of our consideration and the continuing support of this House that we continue to support the technology transfers to other countries and from other countries to us. This is the only agency that can do it and I urge strongly at this time that we support the amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. LLOYD. Yes, I yield to the gentleman from Massachusetts.

Mr. CONTE. I want to take this opportunity to compliment the gentleman from California in the well for the very fine and sound statement he has just made here today.

Mr. LLOYD. I thank the gentleman and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CONTE).

The question was taken; and on a division (demanded by Mr. ALEXANDER) there were—ayes 25, noes 11.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $370,300,000.

AMENDMENT OFFERED BY MR. SLACK

Mr. SLACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SLACK: On page 4, line 6, strike out "$370,300,000", and insert in lieu thereof "$411,500,000".

□ 1310

Mr. SLACK. Mr. Chairman and members of the Committee, as I indicated when the 1979 supplemental appropriation bill was considered by the House last month, the issue of technical assistance has been a troublesome one for the Committee on Appropriations for several years. There are those who feel that technical assistance should be funded under voluntary programs of the United Nations, such as the U.N.D.P. (U.N. Development Program). The U.N. agencies themselves maintain that their charters, to which the United States subscribes, authorize the pursuit of programs involving technical assistance. In the past the House Committee on Appropriations has supported the view that such programs are permitted by the charters of these organizations and that assessments levied by these organizations constitute legal obligations on the part of the United States. Failure to pay our assessments will ultimately jeopardize our voting rights and membership in these organizations.

Last year the appropriation bill for the Department of State was amended in the Senate and funds for technical assistance were deleted. Conferees on the bill suggested restoration of such funds, but the House instead agreed to the Senate amendment—the Helms amendment—which deleted $27,716,000 from the appropriation. In dealing with the 1979 supplemental appropriation bill, our committee deferred for floor consideration a request to restore such funds. We did the same thing on the 1980 request of $41,200,000 for technical assistance.

Mr. Chairman, the House on June 6 voted to restore the $27,716,000 in technical assistance funds for 1979 and yesterday the conferees on the supplemental appropriation bill approved such funds. In light of these actions, I felt it was appropriate that such funds be provided for 1980. The amendment I have offered would provide all of the technical assistance funds requested for fiscal year 1980.

I ask for your support of the amendment.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the distinguished chairman of the Committee on Foreign Affairs.

Mr. ZABLOCKI. Mr. Chairman, I rise in support of the amendment offered by the gentleman from West Virginia.

I want to commend my colleague, the distinguished chairman of the Subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies for his initiative in sponsoring this amendment. The effect of his amendment will be to enable the U.S. Government to meet its legal obligations as a member of the United Nations and the specialized agencies by paying in full its regularly assessed dues for fiscal year 1980.

Mr. Chairman, this is the fourth time in the last 2 months that I have stood before the Committee of the Whole to endorse full payment of our membership dues. I do not believe it is necessary to repeat all of the reasons why it is so important for the United States to meet these obligations. Those reasons are spelled out in detail in the CONGRESSIONAL RECORDS of April 5, April 24, and June 6. On each of those days, following extensive and thorough debate, the House determined by a series of majority votes that technical assistance, which would be funded under this amendment, constitutes a necessary component of our assessed contribution to the United Nations.

To Members who are critical of certain United Nations programs and the manner in which some of those programs are managed and administered, I merely say, Mr. Chairman, that that is not the issue. The issue is whether the United States is to carry out its legal responsibilities under the United Nations Charter. It is our credibility as a nation and as a legislative body which is at stake here * * * and I would like to add that if we are seriously interested in reforming or changing certain practices of the U.N. and its specialized agencies, we will have more influence and moral authority to do so if we preserve our status as a dues-paying member in good standing than as an organizational "delinquent."

That, Mr. Chairman, is why I support the amendment of the gentleman from West Virginia and urge its adoption.

Mr. BAUMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I did not come here prepared today to talk at any great length on the issue of international technical assistance. I was not aware that the chairman was going to offer this amendment, but there is no reason that I should know that. I did read the report, and I noticed this amount of money, $41.2 million, had been deferred. Quite frankly, I am distressed that the amendment should be before us at all. Simply because the supplemental appropriation included the amounts supposedly that the U.S. Government was in arrears. For last year does not mean that we must include money for the current year, and does not mean that we ought not to settle this issue one way or another.

Everytime this issue has come up on the floor—and it was subjected to hours of debate last year—we have been told by the gentleman from Wisconsin and others that some day this issue of technical assistance is going to be settled. Just spending money does not settle it. To add money just acquiesces in what has been assessed to us.

The issue, as I see it, is whether or not these international organizations have the right to dictate to the United States that we are going to spend money, whether we like it or not. Then their advocates come in and say that they are sorry but this claim has been made on us and we must pay it. The U.S. taxpayers pay the largest percentage of money in all these international organizations, as the gentleman well knows. These agencies have used this device of assessing us, rather than permitting voluntary contributions, to rob us in many instances, and to place on our taxpayers a burden they ought not to have to bear.

The gentleman from Illinois is correct, some of these funds go to worthy goals to stem disease, fight hunger, but an awful lot goes to bureaucrats, people with fat, high-paying jobs in New York, Geneva, and elsewhere. In fact, if the international bureaucrats salaries were given to the objectives these programs are supposed to serve, such as hunger, famine, disease, the world would be much better off. We all know that these international organizations have become customary dumping grounds for bureaucrats who cannot make it in their own governments.

I am sorry that the chairman of the Appropriations subcommittee has been placed in the position of trying to commit this House to do something it should not want to do. I would urge defeat of this amendment until we have legislation reported by the Foreign Affairs Committee on this issue. Otherwise, you are going to be soaking the taxpayers and you are going to be soaking them $41 million, which even on the Eastern Shore of Maryland is not an insignificant amount of money.

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the distinguished gentleman who bears the brunt of leadership on this matter, the gentleman from West Virginia.

Mr. SLACK. Mr. Chairman, this has been a troublesome issue. This House voted on both sides of the issue; last year for deletion, and in the supplemental this year for restoration of these technical assistance funds. So this committee assumed that the House was on record for this program. Certainly, the Foreign Affairs Committee supports it, and it will be authorized. They have just indicated their support.

Mr. BAUMAN. The Foreign Affairs Committee is a distinguished part of this body, and all of us have respect for the individual members, but their collective judgment has been questioned many times by a majority of this House; and the gentleman has the right to Act on his own for the subcommittee and the full committee. We are certainly within our rights to exercise our prerogative and say no.

Mr. SLACK. I am sorry the gentleman was not here during discussion of the supplemental to voice his opposition.

Mr. BAUMAN. I was here, but the issue remains before us now.

I would just like to reiterate, the issue is whether we are going to knuckle under to international organizations who demand money from us. If the Congress votes to add $41 million to this bill, I guess that is what it wants but I believe we have the right to decide for ourselves how our money will be spent.

□ 1320

Mr. FASCELL. I move to strike the requisite number of words.

Mr. Chairman, I had not intended to speak on this matter, but I need to take some time to give some kind of perspective to this issue at least from my point of view. The United States is not an involuntary member of the United Nations. We are a member because we chose to be. We signed the charter and we passed all the laws necessary to implement our position in the United Nations and the affiliated agencies. Part of the responsibility of that membership is that we have to pay our share of the assessed budgets in either the parent organization or the affiliated organizations. You can quarrel with the budget if you want to. I think that is legitimate. You can quarrel with the percentage of contribution or the amount of assessment the United States has to pay for participating; but it never has been—and we have debated this many times in this House—rational to deny our obligation because we are displeased and thus be in default of the U.S. legal obligations. The difficulty is that the United States as a separate member of each one of these affiliated agencies has to fight within that agency to affect those budgets one way or another. The United States has been doing that all the time, despite the fact that we have only had one vote. The United States has been somewhat successful in reducing the percentage of our contribution, reducing the budgets and holding the line. Lately the issue has arisen as to whether technical assistance ought to be part of the assessed budgets. It is in those agencies whose sole or primary operation is technical and is more readily understandable. But the issue of concern is increased assessments for technical programs in all affiliated agencies.

We can have a legitimate argument as to how much program operations we want out of an assessed budget. But when the assessment is made and the United States is part of that operation in fixing that budget, it is then too late to come in and ask the Committee on Appropriations to do something which would be actually a violation of our obligation on something that we have already agreed to. That does not stop necessarily our efforts to do whatever we can in terms of the U.S. position in those agencies. The debate that we have had on this whole issue has been extremely helpful in focusing attention not only in the Congress but in the executive branch about the necessity of either holding that down or changing the manner by which that is done. I commend that kind of discussion and effort. I am part of it.

The Subcommittee on International Operations will continue to pursue that question in terms of limiting the kind of automatic liability, if you will, imposed upon the United States through the assessed budget process for program operations. We have urged the agencies of Government at this moment, meaning State, General Accounting, and others, to take a look at that whole problem to see what other means can be achieved other than the single U.S. representative in that particular agency fighting for his life to hold down the budget to which the United States would ultimately be committed. I do not know that there is any easy answer to that, but the process has started.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. The gentleman is correct. This is a continuing controversy, but it is always sloughed off in the same manner. We are always told it is part of our obligation, that we are part of the organization and we have an obligation.

Mr. FASCELL. The gentleman can characterize in any way he wants to but I am not sloughing it off.

Mr. BAUMAN. If the gentleman will yield further, no, the gentleman is not. The gentleman is at least describing correctly what is being done, which is nothing. Every year we go through the same ritual debating technical assistance. We are assessed. We do not like the assessment. The gentleman says we hold oversight hearings. He urges people to do things. We debate it. The gentleman says it puts pressure on the U.N. It does not do a darned thing. We go right on spending the money.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. FASCELL was allowed to proceed for 1 additional minute.)

Mr. FASCELL. The truth of the matter is something is being done. It is being done by the United States, in every one of those agencies, and they are trying as hard as they can. The problem is the gentleman from Maryland just does not like any part of it, and he wants to get at it by just simply cutting the money here in the Congress no matter what goes on in those agencies. It is frustrating. It is difficult. But there is a way to do it without going back on our obligations.

Mr. BAUMAN. Will my good friend, the gentleman from Florida yield? Will my excellent friend, the gentleman from Florida yield? Will my outstanding friend, the gentleman from Florida yield?

Mr. FASCELL. I would be delighted to yield to the gentleman.

Mr. BAUMAN. I thank my good, excellent, and outstanding friend for yielding. The gentleman from Maryland is not opposed to all of these programs. That may come as a surprise to the gentleman, but I am opposed to forced assessments that we have little to say about.

Mr. FASCELL. When the gentleman says "forced assessments," he already adversely characterizes this whole operation. It is not a forced assessment. We are members voluntarily and vote on each budget.

Mr. BAUMAN. But we do nothing to change the assessments.

Mr. FASCELL. The gentleman is doing his best.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from West Virginia (Mr. SLACK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

Mr. SLACK. Mr. Chairman, if the gentleman will withdraw his point of order that a quorum is not present, we would be pleased to give him a recorded vote.

Mr. BAUMAN. In that case, Mr. Chairman, I withdraw my point of order that a quorum is not present.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 216, noes 190, not voting 28, as follows:

[Roll No. 322]

AYES—216

Addabbo
Akaka
Alexander
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Anthony
Aspin
AuCoin
Baldus
Barnes
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Danielson
Daschle
Dellums
Derrick
Derwinski
Dicks
Diggs
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erdahl
Erlenborn
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gephardt
Gibbons
Glickman
Goldwater
Gonzalez
Gore
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Hightower
Holtzman
Howard
Hutto
Ireland
Jeffords
Jenrette
Johnson, Calif.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McHugh
McKay
McKinney
Maguire
Markey
Marks
Matsui
Mavroules
Mica
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Neal
Nedzi
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa
Snowe
Solarz
St Germain
Stack
Staggers
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
White
Williams, Mont.
Wilson, Bob
Winn
Wirth
Wolff
Wolpe
Wright
Wydler
Yates
Young, Mo.
Zablocki
Zeferetti

NOES—190

Abdnor
Albosta
Andrews, N. Dak.
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bailey
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boner
Bouquard
Breaux
Brinkley
Broomfield
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Devine
Dickinson
Dingell
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Evans, Del.
Evans, Ga.
Evans, Ind.
Flippo
Fountain
Frenzel
Gaydos
Gilman
Gingrich
Ginn
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McDonald
Madigan
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Myers, Pa.
Natcher
Nelson
Nichols
Oakar
Pashayan
Paul
Pursell
Quayle
Quillen
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Whitten
Wilson, Tex.
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—28

Ashley
Bolling
Conyers
Davis, S.C.
Deckard
Dixon
Emery
Flood
Foley
Forsythe
Giaimo
Hinson
Holland
Jeffries
Leach, La.
Lent
McDade
McEwen
Pepper
Petri
Rousselot
Royer
Skelton
Spellman
Stark
Treen
Williams, Ohio
Wilson, C. H.

☐ 1340

Messrs. YATES, WYDLER, and WEAVER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 103. Funds appropriated under this title shall be available, except as otherwise provided, for salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1946, as amended (22 U.S.C. 801–1158); allowances as authorized by 5 U.S.C. 5921–5925; services as authorized by 5 U.S.C. 3109; expenses as authorized by setcion 2 (a), (c) and (e) of the Act of August 1, 1956, as amended (22 U.S.C. 2669); and hire of passenger or freight transportation.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: page 8, immediately after line 7, insert the following new section:

"SEC. 104. Funds appropriated by this title may not be used to approve any export, any sale, or any transfer by any other means, of any defense articles of United States origin to Great Britain for use in Northern Ireland or to or for any police or other law enforcement authorities of Northern Ireland."

Mr. SLACK. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from West Virginia reserves a point of order.

Mr. BIAGGI. Mr. Chairman, the Irish issue has been very clearly stated. The question of human rights in Northern Ireland has been under discussion and consideration by many Members for some time; however, now we are talking about a very narrow aspect of this entire undertaking. The amendment deals with the conduct of some members of the Department of State to deal more specifically with the sales of arms that the Department of State has licensed to export to Great Britain.

Mr. Chairman, I rise today to offer an amendment to the appropriations bill for the Department of State for fiscal year 1980. My amendment would prohibit the use of any State Department funds for use in the authorization or approval of any sale, export, or transfer of any defense articles to Great Britain for use in Northern Ireland by police authorities or other law enforcement authorities in Northern Ireland.

As chairman of the 130-member Ad Hoc Congressional Committee for Irish Affairs, I feel that there is a most compelling need for this amendment. On January 31 of this year, the Office of Munitions Control of the State Department authorized the sale of 3,000 .357 magnum handguns and 500 .223 rifles to the Royal Ulster Constabulary, the major British police force in Northern Ireland. This decision was implemented without any consultation or notification with Congress. More importantly, this action condoned the activities of a group which has been cited on numerous occasions for human and civil rights violations of suspects and prisoners by the Nobel Prize-winning Amnesty International, as well as the Bennett Commission, under the auspices of Britain itself.

This act is a violation of the intent of section 502(B) of the Foreign Assistance Act of 1961 which prohibits licenses from being issued under the Export Administration Act for "crime control detection instruments and equipment to a country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights." The rationale from State regarding this decision was the fact that it was felt that these arms were needed by British troops in light of recent troop reductions. We must take a hard look at the implications of this decision to arm another nation's police authorities to further perpetuate the violent nature of the problem of Ulster.

Cries of outrage came instantaneously from members of the Irish-American community in this country. In response to this, I dispatched a letter cosigned by 29 of my colleagues on the ad hoc committee to Matthew Nimetz, Counselor of the State Department who approved this sale expressing my strongest objections. This administration has committed itself to a policy of promoting human rights for all people, in all parts of the world yet the State Department, in its implementation of this policy, has seen fit to conveniently overlook Northern Ireland. This action was a strong indication that human rights has become a selective concern, which excludes countries such as Ireland, when it is allowed to be implemented in such a fashion. At this point, I would like to insert into the Record a copy of the letter which the ad hoc committee sent to Mr. Nimetz.

Washington, D.C.,
June 6, 1979.

Hon. Matthew Nimetz,
Counselor of the Department of State,
Washington, D.C.

Dear Mr. Nimetz: We the undersigned members of the Ad Hoc Congressional Committees for Irish Affairs wish to register our strong protest of the decision made by the State Department approving the sale of more than 3500 pieces of ammunition to police authorities in Northern Ireland.

We oppose this action on several grounds. The first relates to the oft-stated claim by the Department that it is neutral concerning the issue of Ireland. This decision clearly challenges the claim and in fact, interjects the United States clearly on one side of the dispute.

Our second, and perhaps more fundamental concern relates to the inconsistency between this decision and our advocacy and concern for human rights. The arms are being sent to police authorities who have been cited on several occasions for human rights violations by such respected international organizations such as Amnesty International, the European Commission and Court of Human Rights as well as the Bennett Commission in Great Britain itself. Despite human rights being the "cornerstone" of our nation's foreign policy, the Administration has been silent with respect to Ireland. Further, to approve the shipment of arms to an offending party lends credence to the contention that human rights is a selective concern which does not include Ireland.

If the United States is to become involved in the Irish question, it should be on the side of advancing peace in a balanced fashion. We request a full explanation of the actions which lead to the Department's decision with special attention to the provision of the law which sanctioned this action. We seek this information in advance of consideration by the House of the appropriations bill for the Department of State. We would like a reply either in written form or at a meeting which can be arranged.

Sincerely,

Mario Biaggi, Chairman; Leo C. Zeferetti, Geraldine A. Ferraro, Frank J. Guarini, Gerald B. H. Solomon, Frank Annunzio, Ronald M. Mottl, Doug Walgren, Tennyson Guyer, William R. Ratchford, Nicholas Mavroules, Lester L. Wolff, Pat Williams, Herbert E. Harris II, Edward J. Stack, Frederick W. Richmond, Benjamin A. Gilman, Hamilton Fish, Jr., and William S. Moorhead, Members of Congress.

June 7, 1979.

Hon. Matthew Nimetz,
Counselor of the Department of State,
Washington, D.C.

Dear Mr. Nimetz: As Chairman of the Ad Hoc Congressional Committee for Irish Affairs, I am writing to inform you that the following additional Members of the Committee have joined as co-signers to the letter which I recently sent to you protesting the decision by your department to authorize the sale of arms to British police authorities in Northern Ireland:

James J. Howard, William R. Cotter, Michael O. Myers, Bruce F. Vento, Eugene V. Atkinson, William Carney, Gary A. Lee, Mary Rose Oakar, Benjamin S. Rosenthal, Raymond F. Lederer, James M. Collins, and Charles B. Rangel, Members of Congress.

I would greatly appreciate an expeditious reply on this matter as the State Department appropriations bill will be under consideration by the House on June 19.

With kindest regards, I remain,

Sincerely,

Mario Biaggi,
Member of Congress.

The reply which I received I also wish to insert into the Record and my colleagues will see how this response does very little to justify the exclusion of human rights concerns in this arms sale decision.

Washington, D.C.
June 15, 1979.

Hon. Mario Biaggi,
House of Representatives,
Washington, D.C.

Dear Mr. Biaggi: Thank you for your letters of June 6 and 7, also signed by a number of other Members of Congress, regarding the sale of weapons to the police in Northern Ireland.

The Royal Ulster Constabulary is the legally constituted police force in Northern Ireland. As such, it has the responsibility for protecting all of the people there against crime and terrorism. Therefore, we believe that the recent commercial export sale of arms to this police force in no way reflects any U.S. partiality with regard to the tragic communal differences in Northern Ireland. In this connection I would note that Irish Foreign Minister O'Kennedy, in a May 31 foreign policy speech to the Dail, pledged the continued cooperation of the Irish police and army with the Royal Ulster Constabulary in the fight against violence in Northern Ireland.

We of course deplore any maltreatment of individuals in police custody. Following the issuance in March of the Bennett Committee report cited in your letter, the British Government announced immediate acceptance of its findings and promised immediate steps to avoid a recurrence of the abuse which the report had revealed. The new British Government formed after the May 3 election made a similar statement in Parliament on May 24, and also announced that the medical evidence in cases of possible maltreatment identified by the Bennett Committee will be referred to the Director of Public Prosecutions for Northern Ireland, who will decide whether any prosecutions should be brought against members of the Royal Ulster Constabulary.

President Carter articulated United States policy toward the Northern Ireland situation in his statement of August 30, 1977 as follows:

"The United States wholeheartedly supports peaceful means for finding a just solution that involves both parts of the community of Northern Ireland, protects human rights and guarantees freedom from discrimination—a solution that the people in Northern Ireland, as well as the governments of Great Britain and Ireland can support."

I can assure you that we shall continue to follow closely the human rights situation in Northern Ireland, including possible abuses by police or military authorities there.

Insofar as the legal framework for this decision is concerned, Section 38 of the Arms Export Control Act empowers the President to control the export of defense articles and defense services on the United States Munitions List "[i]n furtherance of world peace and the security and foreign policy of the United States." This authority is implemented through the International Traffic in Arms Regulations (the ITAR), 22 C.F.R. parts 121 *et seq.*, administered by the Office of Munitions Control of the Department of State. Each application for a license to export commercially-sold Munitions List articles is reviewed by the Department from the standpoint of the compatibility of the proposed export with the security and foreign policy of the United States. In accordance with our policy and the requirements of Section 502B of the Foreign Assistance Act of 1961, as amended, the possible human rights impact of the proposed export is one of the principal foreign policy factors, taken into consideration in evaluating a license application.

I hope you find this reply responsive to your questions and concerns. I am sending copies of this reply to the other Members of Congress who signed your letter.

Sincerely,

Matthew Nimetz.

Again we see the inherent hypocrisy of our foreign policy in this matter as demonstrated by State. The Department of State preaches its neutrality with respect to Ireland, yet feels no qualms about dispatching 3,500 weapons to aid 1 major party in the dispute. They pontificate about respect for human rights in our foreign policy, yet when it comes to Great Britain and Northern Ireland, human rights are an expendable consideration.

Press reaction to this State action has been highly critical. Jimmy Breslin, in writing in the New York Daily News said:

> The order for the arms purchase came from the British Home Office in London. The Home Office had first lied and said the arms were for police in Britain. When people in the U.S. State Department who license arms exports queried the Home Office a second time, the British admitted the funds were to be sent to the police in Northern Ireland.

A similar editorial in the June 6 edition of the Washington Post entitled "Guns to Ulster" noted:

> * * * question will and should be raised about the American Government's support of a British policy that does not yet seem fully committed to the goal of restoring self-government to Ulster.

The Irish press was equally as quick with criticism.

The most distressing fact of this entire action is that there are no assurances as to who these guns will finally go to. The Office of Munitions Control at State has confirmed this and even those in Ireland are aware of what will happen with these arms. As Bernadette Devlin stated:

> Pretty soon people who aren't policemen will be going around with them (.357 magnums)—the police will be slipping as many as they can to their friends. It all adds up to the general armament of the people.

We must not allow this country to be responsible for the further escalation of a conflict which has taken thousands of lives since its beginning. If the United States is to become involved in the Irish problem, it should be involved in the promotion of peace, not the promotion of violence. Our tax dollars should not be spent in shipping arms to a law enforcement authority which has been acknowledged to be a violator of human and civil rights but rather be spent to promote the return of civil justice to a land which has been ransacked by violence for too long. I urge my colleagues to join us in this amendment.

☐ 1350

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Chairman, I appreciate what the gentleman is saying, and I agree with him thoroughly.

I think the issue is a very narrow, precise one, whether the State Department exercised ordinary prudence and caution in the character and nature of the weapons they sold to the Northern Ireland police force. In my judgment, they did not.

The gentleman from New York (Mr. BIAGGI) is to be commended. The House has a responsibility for inquiring into this matter in great depth. Whether this is the appropriate vehicle or not, I am not sure I know the answer to that, but certainly some relevant committee, perhaps the Committee on Foreign Affairs, ought to look into the matter. And for that purpose I might ask the gentleman to yield to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I am delighted to yield to the chairman of the committee.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding.

I can certainly appreciate the gentleman's concern in this matter, and I know of his deep interest. We are all concerned about the situation in Northern Ireland.

I can assure the gentleman that, as the chairman of the Committee on Foreign Affairs, we will investigate this matter thoroughly, and I will insist that policy decisions on arms transfers to Great Britain for use in Northern Ireland as licensing be made at the highest level in the Department of State in the future.

Mr. Chairman, I hope my assurances will satisfy the gentleman that we are genuinely concerned and will continue to investigate the matter thoroughly. In view of these assurances, I hope that the gentleman will withdraw his amendment.

Mr. BIAGGI. Mr. Chairman, I appreciate what the chairman of committee has said, and I am also aware of his concern.

However, may I engage further in colloquy with the gentleman from Wisconsin (Mr. ZABLOCKI)?

Mr. ZABLOCKI. The gentleman has the time.

Mr. BIAGGI. All right. Mr. Chairman, I understand the gentleman's commitment to a comprehensive, exhaustive investigation, but I wonder if it will take the form of a hearing. And what will the time frame be to deal with this very narrow issue?

We are not getting into the involved passionate displays about which some people are fearful. We are talking about the conduct of the Department of State, which has obviously adopted a partisan position.

The CHAIRMAN. The time of the gentleman from New York (Mr. BIAGGI) has expired.

(By unanimous consent, Mr. BIAGGI was allowed to proceed for 5 additional minutes.)

Mr. BIAGGI. Mr. Chairman, to continue, the Department of State professes to be neutral on one hand and yet we see a visible conduct of partiality. They are providing arms to a part of a country that has been found guilty and in violation of the law.

I think it is essential that we make the Department of State accountable—I appreciate the gentleman's cooperation and his comments along these lines—and it could be done best through a very exhaustive investigation and a hearing to deal with this very precise issue.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I am delighted to yield to the committee chairman.

Mr. ZABLOCKI. Mr. Chairman, as I earlier assured the gentleman, it is my intention, on the narrow issue to which the gentleman is addressing himself, to conduct a thorough investigation of this matter pursuant to the oversight authority and jurisdiction of the Committee on Foreign Affairs.

I am sure the gentleman would not advocate conducting an open hearing which would open a Pandora's box on the issue of Northern Ireland. To the extent the gentleman is concerned about the licensing of arms sales and other arms transfers to Great Britain for use in Northern Ireland, I can assure the gentleman that the committee will look into the matter as carefully and as thoroughly as possible.

Mr. BIAGGI. Mr. Chairman, may I inquire, when we can expect that we will have a hearing?

Mr. ZABLOCKI. Mr. Chairman, I can assure the gentleman that the committee's investigation will be done very expeditiously.

Mr. BIAGGI. Mr. Chairman, I am very grateful for the gentleman's cooperation.

Mr. WOLFF. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I am delighted to yield to the gentleman from New York.

Mr. WOLFF. Mr. Chairman, I want to compliment the gentleman from New York and thank him for yielding.

I am happy that the gentleman from New York (Mr. BIAGGI) has been able to center and focus some little attention on a problem that has been plaguing us for lo these many years. I am a little disturbed, however, at the statement that was just made by my esteemed and distinguished colleague the very able chairman of the Foreign Affairs Committee "that we should not open a Pandora's box."

I think it is about time we opened up a Pandora's box on Northern Ireland. I think for too long that box has been closed up.

I put in a resolution of inquiry on this question of military aid to Britain destined for Northern Ireland, but no action was taken we have been asking for hearings on the question for three Congresses—6 years. Unfortunately there has been no action. And as for limiting the inquiry, I understand the gentleman in the well indicates now there will be a limiting of the inquiry.

May I just ask the chairman of our committee this question? Is it not true, I will ask the chairman, that we do have an amendment, the Harkins amendment, that passed this House that prohibited military equipment from being furnished to any nation which has a record of continuing violations or gross violations of human rights, and has not that finding been made of mistreatment, torture and imprisonment without trial by the British of the minority in Northern Ireland? And is it not true the British themselves issued a similar report, the Bennet commission report, of gross violations of human rights?

Is it not time then to open that Pandora's box?

Mr. ZABLOCKI. Mr. Chairman, will the gentleman from New York (Mr. BIAGGI) yield to me in order that I may respond to the question of the gentleman from New York (Mr. WOLFF)?

Mr. BIAGGI. Yes, I yield to the chairman of the committee.

Mr. ZABLOCKI. Mr. Chairman, in answer to the gentleman's question, yes, we do have the Harkin amendment, and, yes, the provisions of the amendment are as the gentleman perceives them.

As to the implementation of the Harkin amendment by the State Department, I am not at this moment prepared to say that the State Department has been negligent in implementing the Harkin amendment as far as human rights in Northern Ireland is concerned.

Let me state that there are matters far beyond the scope of the issue which the gentleman from New York (Mr. BIAGGI) has called the attention of this committee, which are confined solely to the licensing provisions and arms transfer policy on the part of the State Department with respect to Great Britain and its province in Northern Ireland.

I am sure that if we would open the full question on Northern Ireland, under the format of open hearings, and as the gentleman said, open a Pandora's box, we would then have to go into all relevant issues such as the question of where the IRA receives its military equipment. Such a step should take into consideration the interests of our allies in Europe, in Great Britain, and particularly the people in Northern Ireland. Therefore, I do not think that an open hearing on the matter suggested by the gentleman from New York (Mr. WOLFF) would help the situation at all. I make this statement in conjunction with the agreement I have just made with the gentleman from New York (Mr. BIAGGI) to conduct a thorough investigation of U.S. arms transfer policy with respect to Great Britain and its province, Northern Ireland.

Mr. BIAGGI. Mr. Chairman, I would like to punctuate that last remark. The gentleman from Wisconsin (Mr. ZABLOCKI) and I have made an agreement for a hearing.

I do not disagree with the gentleman from New York (Mr. WOLFF). Our long-range objective is to have a full hearing of the Northern Ireland question.

Mr. Chairman, I make this statement at this point in the light of the circumstances which have inhibited the subcommittee chairman, the gentleman from West Virginia (Mr. SLACK), who has reserved a point of order on my amendment, and we appreciate his reservation. But we are grateful for even a full investigation of this very narrow aspect of the question.

The CHAIRMAN. The time of the gentleman from New York (Mr. Biaggi) has expired.

(On request of Mr. Zeferetti, and by unanimous consent, Mr. Biaggi was allowed to proceed for 5 additional minutes.)

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I would like to compliment the gentleman in the well for offering his outstanding amendment, and I would like to associate myself with his remarks.

I would also like to compliment the gentleman for his yeoman job as chairman of the "Irish Caucus" and for working out this agreement with the chairman of the committee, the gentleman from Wisconsin (Mr. Zablocki), to have a hearing on this issue.

Mr. Chairman, I thank the gentleman for yielding.

Mr. ZEFERETTI. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. ZEFERETTI. Mr. Chairman, I merely want to commend my colleague, the gentleman from New York (Mr. Biaggi), for offering this amendment.

The gentleman is opening up the door, and if it is a Pandora's box, then let us open it up.

In all the years the gentleman spent in law enforcement and in my own years in law enforcement, I do not know of any police department that has to have .357 magnums and MI rifles to maintain law and order.

So, Mr. Chairman, with that I say I extend my congratulations to the gentleman for offering this amendment.

Mr. Chairman, I rise in support of the amendment offered by my colleague from New York. It is totally incomprehensible to me that our State Department continues to preach impartiality with respect to Ireland while at the same time approving the recent sale of weapons for use by the police force in Northern Ireland.

The Royal Ulster constabulary has a long history of inflicting torture and abuse on prisoners and suspects alike, and Mr. Biaggi has already mentioned the fact that this police force has been cited by Amnesty International and the British Government itself for violating the human rights of the citizenry of Northern Ireland.

The carnage in Ireland must stop, and by approving the sale of guns to an already strife-ridden area such as Northern Ireland is merely adding fuel to the fire.

I realize that many of my colleagues may be hesitant to limit the sale of arms to a nation that has been our staunch ally during the past century, but the time has come for this Congress to take a stand against that nation's continuing involvement in the affairs of Northern Ireland. If the United States fails to act, I am convinced that the conflict that has to date claimed more than 2,000 lives will continue for years to come.

For these reasons, I wholeheartedly support the gentleman's amendment, and I strongly urge my colleagues to support the cause of human rights by voting in favor of the proposal.

☐ 1400

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the Biaggi amendment to the State, Commerce, and Judiciary appropriations bill, which seeks to prohibit any arms sales to Northern Ireland police forces, or to Great Britain for use in Northern Ireland. I want to commend the gentleman from New York for his unfailing and diligent efforts on behalf of the Irish, and I want to praise him for his leadership as chairman of the Ad Hoc Committee on Irish Affairs.

Mr. Chairman, the recent arms sale to Great Britain, a sale in which 3,000 .357 magnum guns and many rifles were handed over to the British for use in Northern Ireland, was approved by the administration. The State Department, we have learned, had foreknowledge of that sale, approved it, knowing full well that the sale may prove disastrous. Great Britain has been accused, and has admitted on several occasions before the world, that there have been gross violations of human rights, and that the British Police have been major perpetrators of these crimes. To arm a violent and morally offensive segment of the population in Northern Ireland is a disgrace, particularly when the United States is the party arming these people. This region of the world has had more than its share of hardship and violence. It makes no sense whatsoever for our Nation to approve a shipment of deadly weapons to the police stationed in Northern Ireland.

Mr. Chairman, on many occasions, in the House of Representatives, we have pointed out the consistent and flagrant violations of human rights which continue to occur in Northern Ireland, directly resulting from the British presence there. I need not belabor the point at this time, but suffice it to say that no other U.S. ally has so consistently and so publicly admitted that they are guilty of human rights violations. And suffice it to say that the U.S. State Department approved a sale of arms to this nation whose record is less than admirable in this area. Documentation of human rights violations has been compiled, and year after year, the evidence comes through substantiating the continuing British violations. The evidence speaks for itself. In early April of this year, nearly 25 of our colleagues submitted for the Record written statements attesting to the violations. That special order appears in the Record of April 9, 1979, and establishes, beyond the shadow of a doubt, the Congress concern with this deplorable situation.

I have visited Northern Ireland on several occasions and have personally observed the conditions in prisons, and have listened to the pleas by prisoner's mothers and by their loved ones.

The gentleman from New York (Mr. Fish in a fine report, has recently documented his meetings with many of the prisoners' families, and has compiled recommendations and suggestions as to how the United States might effectively assist the Irish in mollifying the horrendous conditions which face them daily.

The continuation of these violations is disturbing. In meeting with our State Department officials, in various capacities, we hear the same statements over and again, pleading a lack of knowledge of the situation and suggesting that nothing substantive can be done to assist in an "internal" situation. And I say to them, as I say now, how did we assist in achieving peace in other parts of the globe, and under what reasons do we continue to pressure other governments to ease restrictions placed on their dissidents? And why does the State Department continue to speak out against violations in South America, Africa, and in Southeast Asia, without one hint of concern for the Irish? It is not laxity on the part of our State Department—we have produced enough evidence to fill volumes—no, it is a subtle attitude of disregard, a hope that the problem will go away—will clear itself up so that the United States does not have to go on record in opposition to the violations carried out by the British. It reflects a narrow view by the State Department in regard to the British Isles, a preservation of the status quo. We are entitled to know why the State Department feels that this question is virtually untouchable, why the Irish should be singled out as one of the few groups who cannot share in the benefits of America's conscience. The State Department should promulgate a rational, fair and estimate determination in this matter—not a half-hearted, evasive human rights policy—which fails to treat all nations equitably. To date, the State Department has failed to live up to its commitment toward human rights in all parts of the globe.

Mr. Chairman, I urge the adoption of the Biaggi amendment, and urge my colleagues to join in supporting this measure.

I also urge our House Foreign Affairs Committee to conduct a full and thorough hearing on the issue in Northern Ireland to seek opportunities for bringing peace and justice to that troubled part of the world.

Mr. CARNEY. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. CARNEY. Mr. Chairman, I would like to add to the sentiments of those who have spoken before me, and I commend my colleague, the gentleman from New York (Mr. Biaggi), on the yeoman's job that he has done on this issue, bringing this issue to the attention of the Members of the Congress and to the people of the United States.

I would support the amendment. But, more importantly, I would support whatever decision the gentleman from New

York (Mr. Biaggi) would make as to whether to withdraw the amendment and go into open hearings. The situation in Northern Ireland demands that this Congress investigate the many human rights violations which have occurred in Northern Ireland. I believe that we would accomplish much more by having the Foreign Affairs Committee initiate this most important issue, and I look forward to the full cooperation of the committee chairman (Mr. Zablocki) to expedite these hearings.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I want to say that I think the gentleman has touched on something that has bothered the conscience of a great many Americans, not just Irish Americans, for many, many years now, and it is a move, a step, toward bringing about justice and, perhaps, peace in Northern Ireland. I commend the gentleman for his work in this matter.

Mr. HANLEY. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. HANLEY. I thank the gentleman for yielding.

Mr. Chairman, I, too, want to commend the gentleman in the well, Mr. Biaggi, for his outstanding contribution in providing leadership on this issue here in the Congress. The gentleman certainly has earned the gratitude of all who are concerned with human rights. Speaking of human rights, it appears that there are some who tend to provide a dual standard for human rights, that human rights in one set of circumstances applies, but with respect to the tragedy in Northern Ireland, in their eyes, it should not apply.

So I commend the gentleman, and it certainly is inconceivable to me and, I hope, most Members of this Congress, that the State Department would demonstrate the irresponsibility it did in approving that recent arms sale.

I again commend the gentleman in the well for his outstanding leadership.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

Mr. Chairman, I hope the gentleman will not mind if I voice a discordant note here. My name has a slightly Irish ring, so I suppose that, because of that, I ought to be sympathetic to the amendment. But I wonder if anyone can seriously describe this as a constructive and helpful amendment after actually reading the language.

This would shut off the export, sale or transfer of any defense articles to a part of Great Britain. Great Britain is a member state of the North Atlantic Treaty Organization. We are pledged under the treaty to regard an attack on any part of Great Britain as if it were an attack on U.S. territory. Great Britain includes Northern Ireland.

So, with all due respect, I think this amendment would be a very serious mistake. I favor public inquiry into the status of human rights in Northern Ireland, but I am convinced it would be a blunder to impair our military relationship with any part of a NATO ally.

The CHAIRMAN. The time of the gentleman from New York (Mr. Biaggi) has expired.

(On request of Ms. Holtzman and by unanimous consent, Mr. Biaggi was allowed to proceed for 3 additional minutes.)

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I want to commend my colleague, the gentleman from New York (Mr. Biaggi), for his leadership in raising this issue. He addresses a very important point, namely, the willingness of the State Department to wink and look the other way when it comes to potential human rights violations and actual human rights violations, not by our enemies, but by our friends. I think the sale of weapons to Great Britain in this case raises some very serious questions of prudence. I do not think they should have been sold. I think, if nothing else, the gentleman's amendment here on the floor today should send a very strong signal to the State Department to stop winking at this kind of behavior.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Chairman, I, too, wish to commend the gentleman. As I understand, the gentleman has reached a practical agreement with the chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. Zablocki).

I just have two polite observations to make. One is that as I listened to all of the accolades that the gentleman is receiving, I am amazed that he is able to keep his modesty in the face of the overwhelming adulation he has received from Members of the House.

My second observation is that, should the gentleman from Wisconsin (Mr. Zablocki) not be able to solve the problem, I will be prepared next year when this bill is before us to offer an amendment requiring the State Department to appoint a special ambassador to work with the Congressional Irish Caucus.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the amendment being offered by my colleague from New York (Mr. Biaggi) which would prevent the State Department from helping to arm the Royal Ulster Constabulary.

This amendment would disassociate the United States from the human rights violations and repression that continue to afflict Northern Ireland. The State Department-approved sale of 3,000 .357 magnum handguns and 500 .223 rifles to the main police authority in Northern Ireland would breach any claim of neutrality of the United States toward the situation in Ulster. The Royal Ulster Constabulary has been cited by Amnesty International and other respected human rights organizations as a practitioner of abusive treatment of suspects and prisoners in Northern Ireland. The United States should not place itself in the position of arming this repressive police organization.

It would in fact appear that the January 31 decision by the State Department's Office of Munitions Control to approve the sale directly violates section 502(B) of the 1961 Foreign Assistance Act. This provision prohibits licenses from being issued for "crime control and detection instruments and equipment to a country, the government of which engages in a consistent pattern of gross violation of internationally recognized human rights."

A commission appointed by the British Government recently reported that human rights are systematically violated in Northern Ireland by occupying forces and Ulster authorities. Arming the agents of this oppression is indefensible. I strongly urge my colleagues to support a peaceful resolution to the conflict in Northern Ireland by voting for Mr. Biaggi's amendment and I urge the Committee on Foreign Affairs to hold full and open hearings on the deprivation of human rights in Northern Ireland.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, the amendment offered by my colleague from New York (Mr. Biaggi), is entirely appropriate in view of the recent State Department approved sale of 3,000 hand guns and 500 high-powered automatic rifles to the Royal Ulster Constabulary in Northern Ireland. These arms are hardly routine type police weapons.

The amendment would prohibit the use of any State Department funds to approve any export or sale of any United States defense articles to Great Britain for use in Northern Ireland or for any police or other law enforcement authorities in Northern Ireland.

The State Department approved sale of arms is an outrage. It does violence to the President's position of August 1977 on the resolution of the tragedy in Northern Ireland and makes a mockery of U.S. policy which forbids military aid to a country which violates human rights.

The Royal Ulster Constabulary has been consistently indicted for violations of human rights—in 1978 by Amnesty International, in 1979 by the British Government's own Bennett Commission Report. In 1976, Great Britain was found guilty of torture in the Irish Government case before the European Commission on Human Rights in Strasbourg, and again in 1978 was found guilty by the European Court of Human Rights of degrading and inhumane treatment in interrogation techniques.

In the face of these findings of human rights violations for most of the decade of the 1970's, I am at a loss to give a charitable explanation to our State Department's approval of a sale of high-powered rifles and hand guns to the RUC.

Section 502(b) of the Foreign Assistance Act of 1961, as amended states:

> Security Assistance may not be provided to the police, domestic intelligence, or similar law enforcement forces of a country, and licenses may not be issued under the Export Administration Act of 1969 for the export of crime control and detection instruments and equipment to a country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee that extraordinary circumstances exist warranting provision of such assistance and issuance of such licenses.

It is extraordinary that these findings and allegations are ignored by our Government. It is difficult to understand how our Government, committed as it is to human rights, refuses to condemn well-documented violations of human rights and continue to authorize arms sales to the violators of these human rights.

This amendment should force a reassessment by our State Department of its contorted interpretation of the law.

I find it appalling that our country is assuming the role of arms merchant in the highly volatile political situation in Northern Ireland at a time when we should be promoting peace and justice. Central to such a policy would be an evenhanded denunciation of violence from any quarter.

Our State Department's present position can only serve to continue the bloodshed and repression; to further the syndrome of the bomb and the bullet.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

Mr. Chairman, I, too, would like to commend my colleague, the gentleman from New York, on his dedication to the work of bringing justice to Northern Ireland.

I would just like to say that, not only is an investigation of this matter called for, but, in my judgment, it would be appropriate and wise—and I know the gentleman agrees—for the Committee on Foreign Affairs to have open hearings on the whole range of issues involved in Northern Ireland.

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from West Virginia.

Mr. SLACK. I thank the gentleman for yielding.

Mr. Chairman, I am certainly sympathetic with the concerns of the gentleman from New York (Mr. BIAGGI), but in view of assurances that were given a few moments ago by the chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI), I would respectfully request that the gentleman withdraw his amendment.

The CHAIRMAN. The time of the gentleman from New York (Mr. BIAGGI) has expired.

(By unanimous consent, Mr. BIAGGI was allowed to proceed for 1 additional minute.)

Mr. BIAGGI. Mr. Chairman, in light of the assurances that I have received from the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Committee on Foreign Affairs, that he would commit himself to a complete, comprehensive, and exhaustive investigation, and closed hearings, if necessary, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, without in any way taking away from the accolades just bestowed upon our brother, the gentleman from New York (Mr. BIAGGI), but in order for the record to be made clear, I have heard reference to a weapon defined as a .357 Magnum, and by someone else as a .375 Magnum during the recent debate, as though it were something out of "Star Wars."

I happen to know that the .357 revolver has been in use by civilian police agencies in the United States for at least 40 years. There is nothing very exotic about it.

The CHAIRMAN. Are there additional amendments to title I?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK: On page 8, after line 7 add the following new section:
>
> "SEC. 104. No more than 95 percent of the funds appropriated by this title shall be expended."

Mr. ASHBROOK. Mr. Chairman, on April 24 a majority of this House, while in the Committee of the Whole, voted to cut 10 percent of the funds for the Department of State. Only last minute power tactics by the leadership was able to reverse the will of the Committee. The points I raised in April are more valid now than then. The record of this administration and its Department of State is one of the most dismal in American history. One close friend and ally after another has been sold down the river by this administration. After 2½ years of Carter foreign policy we have lost a major waterway in Panama, we have shipped our close friend Taiwan into a diplomatic never-never land, we have lost vital monitoring stations in Iran, we have signed a faulty SALT II agreement, and we have left the doors open in Africa and Central America for Cuba to run rampant. No other recent administration has been able to do so much damage in so little time. To reward such incompetence with an increase in funding the very arm of Government most responsible for this embarrassing record is an outrage to Americans.

The President is now up at Camp David trying to understand what is going on in America. It is a major tragedy when a President has to admit that he does not know what is going on in his own Nation. Part of the blame for this isolation of the President is the clatch of advisers who find it in their own interests to warp reality. America cannot tolerate such actions. Today we have an opportunity to signal our disgust. I urge the adoption of the amendment.

☐ 1410

Mr. SLACK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, our committee reviewed the budget request for the Department of State very carefully over a long period of time. We recommended a total for the Department, which was $60,532,000 less than the total request. Even with the amendments that have been adopted here today, the total is still $16,432,000 less than the total request.

A cut across the board in my judgment is certainly not the way to make reductions.

Therefore, Mr. Chairman, I would ask that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Seventy-seven Members are present, an insufficient number. A quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 323]

Abdnor
Addabbo
Akaka
Albosta
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clay
Cleveland

Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1430

The CHAIRMAN. Three hundred and ninety-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote. In accordance with the previous announcement of the Chair, 5 minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 210, noes 199, not voting 25, as follows:

[Roll No. 324]

AYES—210

Abdnor
Ambro
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bouquard
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Devine
Dickinson
Donnelly
Dornan
Duncan, Tenn.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fithian
Flippo
Fountain
Fowler
Frenzel
Gaydos
Gephardt
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hansen
Harkin
Harsha
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kelly
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Levitas
Lewis
Livingston
Loeffler
Lott
Lujan
Luken
Lungren
McDade
McDonald
Marks
Marlenee
Marriott
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Neal
Nelson
Nichols
Oakar
Panetta
Paul
Perkins
Petri
Preyer
Pursell
Quayle
Quillen
Regula
Rinaldo
Ritter
Roberts
Robinson
Roth
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Snowe
Snyder
Solomon
Spence
Stangeland
Stenholm
Stockman
Stratton
Stump
Symms
Synar
Taylor
Thomas
Traxler
Trible
Vander Jagt
Volkmer
Walgren
Walker
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Ohio
Winn
Wirth
Wyatt
Wylie
Yatron
Young, Alaska
Young, Fla.

NOES—199

Addabbo
Akaka
Albosta
Anderson, Calif.
Annunzio
Aspin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conte
Corman
Danielson
Daschle
Davis, S.C.
Derrick
Derwinski
Dicks
Diggs
Dingell
Dodd
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Giaimo
Gibbons
Gilman
Gonzalez
Gore
Gray
Green
Hall, Ohio
Hanley
Harris
Hawkins
Hightower
Holtzman
Howard
Jeffords
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Matsui
Mattox
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Natcher
Nedzi
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Seiberling
Shannon
Simon
Slack
Smith, Iowa
Smith, Nebr.
Solarz
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Studds
Swift
Tauke
Thompson
Udall
Ullman
Van Deerlin
Vanik
Vento
Waxman
Weiss
Whitten
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—25

Alexander
Ashley
AuCoin
Bolling
Coelho
Conyers
Dellums
Dixon
Emery
Evans, Ga.
Flood
Forsythe
Hinson
Holland
Leach, La.
Mikva
Pashayan
Rodino
Rousselot
Skelton
Spellman
Treen
Wampler
Wilson, C. H.
Wydler

The Clerk announced the following pairs.

On this vote:

Mr. Emery for, with Mr. Mikva against.
Mr. Pashayan for, with Mr. Dellums against.
Mr. Wydler for, with Mr. Conyers against.
Mr. Wampler for, with Mr. Dixon against.
Mr. Rousselot for, with Mr. Flood against.

Mr. NELSON and Mr. CHAPPELL changed their vote from "no" to "aye."

Mr. MADIGAN changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1440

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will proceed to read title II.

The Clerk read as follows:

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including miscellaneous and emergency expenses authorized or approved by the Attorney General or the Assistant Attorney General for Administration; and not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; $98,600,000, of which not to exceed $1,500,000 shall be available for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals: *Provided*, That not to exceed $105,000 may be transferred to this appropriation from the "Alien Property Fund, World War II", for the general administrative expenses of alien property activities, including rent of private or Government-owned space in the District of Columbia.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: On page 9, line 6, strike "$98,600,000" and insert "$100,900,000".

On page 9, line 7, strike "$1,500,000" and insert "$2,300,000".

Ms. HOLTZMAN. Mr. Chairman, this is a simple and noncontroversial amendment which would increase the appropriation earmarked for the investigation and prosecution of alleged Nazi war criminals by the Criminal Division of the Department of Justice by $800,000—from $1.5 million to $2.3 million. Additionally, the amendment would restore $2.3 million to the appropriation for General Legal Activities of the Department which includes the Criminal Division, to fund the office charged with these prosecutions.

This amendment reflects the transfer in April of the Nazi investigations unit from the Immigration and Naturalization Service to the Criminal Division at the urging of the Judiciary Committee. It is in line with a fiscal year 1980 budget amendment sent to Congress by the President on June 8 to take account of the transfer, although the total amount is slightly higher—$2.3 million instead of the administration request of $2.052 million.

I have discussed this amendment with the chairman of the subcommittee (Mr. SLACK) and he supports its adoption. I wish particularly to commend the gentleman from West Virginia for his efforts throughout the consideration of this appropriations bill to assure that the Nazi unit is given the full funding needed to complete its important task. I also wish to single out my good friend from Florida (Mr. LEHMAN) and my colleague from Illinois (Mr. YATES), both members of the full committee, for raising the issue in committee and for their untiring efforts to reach an accommodation on this matter.

Mr. Chairman, the fact that individuals alleged to have been involved in Nazi atrocities were allowed to enter this country and live here freely has been a concern of mine since 1974, and since then a substantial amount of my time has been spent in disclosing over 30 years of U.S. Government incompetence and indifference—if not complicity—in this intolerable situation and seeking ways to rectify it. Unfortunately, early hopes raised by the Justice Department and the Immigration Service in 1977 to act forcefully on this issue by creating a centralized unit in INS to conduct prosecutions were dissolved in a morass of funding, staffing, and bureaucratic problems. As a result, not a single new case has been filed since the unit was created.

Finally, this March, at the urging of the Subcommittee on Immigration, Refugees, and International Law, which I chair, the Justice Department agreed to take immediate and substantial steps to upgrade the Nazi unit, including setting aside the full amount authorized by Congress for the unit's operation in fiscal year 1979, amending its current authorization bill to earmark funds specifically for the unit in fiscal year 1980, increasing the staff dramatically, and transferring the unit out of INS to the Criminal Division. The full Judiciary Committee subsequently authorized $3 million for the establishment and operation of a new Office of Special Investigations in the Criminal Division.

Mr. Chairman, the $800,000 increase to $2.3 million for the operation of this office is entirely reasonable. It is based on budget projections submitted to the Immigration Subcommittee by the staff of the Nazi unit during oversight hearings this spring. These projections reflect the substantial staff increases (from the current 5 attorneys to 20, from 3 investigators to 10, and from a total staff complement of 13 full time to 51 full time) to which the Justice Department is committed in fiscal 1980.

I would note that the new office chief, Mr. Walter Rockler, a former Nuremburg prosecutor, has hired nine new attorneys and made offers to five more within the last few weeks. This additional staff will finally permit a thorough investigation of the roughly 175 credible cases which the office has in its files, in addition to completion of the 12 cases now in trial. This will also undoubtedly increase litigation costs markedly.

Although monumental bureaucratic problems have severely limited expenditures by the Nazi unit in the first half of fiscal 1979, additional figures submitted to my subcommittee show that, even with the limited number of cases in trial at the moment, for the last half of this fiscal year the unit will spend over $1.1 million—an annualized rate approximating the total amount appropriated for the Nazi investigations if my amendment is adopted.

Mr. Chairman, the second part of my amendment—raising the total amount appropriated for the Criminal Division by $2.3 million—is simply to reflect the transfer of the Nazi unit out of INS to that division. The administration had requested roughly $98 million for general legal activities prior to the transfer. Although the Appropriations Committee eliminated funds requested for the unit by INS when the unit was transferred out, it did not add funds to the Criminal Division budget when the unit was transferred in. Instead, it simply earmarked moneys out of the original $98 million request. My amendment, in line with the administration budget amendment, would simply restore to the division its requested funding.

Mr. Chairman, my amendment is necessary to assure that the new Office of Special Investigations has adequate funding to complete its cases expeditiously and professionally. Given the number of cases which need investigation, the delays already encountered, and the ages of the suspects and witnesses involved, it is imperative that the office be fully staffed and operational immediately. The addition of only $800,000 to that amount already appropriated will permit this. It is a small price to pay for a vitally important undertaking which has been far too long in coming. I urge my colleagues to join me in adopting it unanimously.

Mr. SLACK. Mr. Chairman, would the gentlewoman yield?

Ms. HOLTZMAN. I will be happy to yield to the gentleman from West Virginia.

Mr. SLACK. The distinguished gentlewoman from New York and I have discussed this amendment. I have likewise discussed it with the gentleman from Florida (Mr. LEHMAN) and the gentleman from Illinois (Mr. YATES). I have also discussed this with the Justice Department. These funds are sorely needed and I am willing to accept the amendment of the gentlewoman from New York.

Mr. LEHMAN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Florida.

Mr. LEHMAN. Mr. Chairman, I rise in support of the Holtzman amendment to provide an additional $800,000 for the Special Nazi Litigation Unit. The increase will enable the Unit, which is being transferred from INS to the Criminal Division, to carry on the work of investigating and prosecuting Nazi war criminals living in the United States.

I also want to take this opportunity to thank the subcommittee members and staff for being so helpful in a situation in which they did not have the budget estimates in time for the mark-up and for trying to reach a resolution of this issue under those circumstances.

Since the end of World War II, more than 200 individuals accused of direct complicity in genocide and other Nazi crimes have lived with impunity in America. The failure to prosecute them or to take steps to withdraw American citizenship where they have obtained it by fraud and denial of their past record is unworthy of the high human-rights ideals of our country. The allegation that some of these alleged criminals found not only refuge but also employment under the auspices of various U.S. agencies lends dramatic emphasis to the moral necessity for finally resolving this issue.

Furthermore, there is a grave danger that the history of the Holocaust will be revised or rewritten in our courtrooms due not only to the loss of the case but more seriously to the ill-prepared and ineffective performance of the prosecuting trial lawyers at denaturalization and deportation cases of alleged Nazi war criminals. This is apparently the result of bureaucratic indifference, inadequate staffing or lack of priority for prosecutions. For example, in the case of the United States versus Feodor Fedorenko, the presiding judge held that the defendant himself was "a victim of Nazi aggression" and that the eyewitnesses to his alleged atrocities at Treblinka death camp were not to be believed and in fact had conspired against the defendant.

The President's Commission on the Holocaust, on which I serve as a member, has recommended to the President that our government take steps to assure a high priority to the issue of Nazi war criminals in America and insure adequate funds and staffing for the Office of Special Investigator charged with the responsibility of investigating and prosecuting accused Nazi war criminals. Concurrent with this, experienced trial counsels should be assigned who are more able to contend successfully against defense counsels employed by alleged Nazi war criminals. In addition, all government agencies should render accessible all records and testimony related to the issue, and full diplomatic efforts be made to assure the cooperation of other governments in obtaining material relevant to ongoing investigations and trials of alleged Nazi war criminals since that information is vital to the prosecution efforts.

It is noteworthy that the U.S. Congress has taken legislative action aimed at redoubling our efforts to deal effectively with the prosecution of Nazi war criminals living in the United States, and I applaud the recent decision of the Federal Republic of Germany to abolish the statute of limitations for Nazi war criminals in West Germany under which some of the accused would be tried. For crimes of the magnitude of the Holocaust, the exercise of justice must prevail. And we are morally bound to support that effort until the job is done.

Ms. HOLTZMAN. I want to compliment the gentleman from Florida for his contribution and also commend again the chairman of the subcommittee and the subcommittee staff.

Mr. O'BRIEN. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, I believe this amendment to be a good one and we on this side of the aisle support it.

Mr. FISH. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I rise in support of this amendment. There have been significant recent developments regarding the prosecution of Nazi war criminals that Members should consider. The Government of the Federal Republic of Germany recently abolished the statute of limitation on murder to enable that Government to continue its investigation and prosecution of alleged former Nazi war criminals. In addition, the membership should be aware that the U.S. Fifth Circuit Court of Appeals just last week decided a significant denaturalization case in favor of the Government reversing the district court's decision.

As the gentlelady of New York has stated, the Subcommittee on Immigration, Refugees, and International Law has persuaded the Department of Justice to reorganize their Nazi Unit and transfer its function to the Criminal Division. We expect this reorganized unit to pursue its task aggressively and we will closely oversee its activities.

Funds appropriated by this amendment, while below the level of funding which would be authorized by the Judiciary Committee bill, should be adequate at this time for the Department to carry out their assigned task. I strongly support adoption of this amendment.

Mr. PEPPER. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Florida.

Mr. PEPPER. Mr. Chairman, I commend the gentlewoman for the introduction of this amendment. I heartily support it.

Ms. HOLTZMAN. I thank the gentleman for his comments and yield back the balance of my time.

Mr. PEPPER. Mr. Chairman, I join my distinguished colleague, Mr. LEHMAN of Florida, in strong support of the amendment offered by the able gentlelady from New York, Ms. HOLTZMAN.

Last April the Nazi Investigations Unit of the Immigration and Naturalization Service was transferred to the Criminal Division of the Department of Justice. This was just not another bureaucractic shuffling of a unit from one department to another, but an effective move to accomplish something that must be successfully finished if we are to be able to look ourselves in the mirror and call ourselves conscious human beings.

This amendment to which I refer would increase the appropriations for the investigation and prosecution of alleged Nazi war criminals by the Criminal Division of the Department of Justice by $800,000.

It is hard to believe that 34 years since the Nuremberg trials, which I attended, began where the horrors and atrocities of the Nazi regime against the Jewish people were made public to the world we still are inflicted with the unconscionable knowledge that many of these criminals are still free from the justice that they deserve and some are at large here in the United States.

The money appropriated here today would assure the new Office of Special Investigations of adequately going forth with this most important task for not only the unit itself but mankind as well. I hope the amendment will be agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was agreed to.

Mr. GUDGER. Mr. Chairman, I move to strike the last word.

My purpose in rising, Mr. Chairman, is to clarify by colloquy a question which very much affects my own State of North Carolina and sister State of South Carolina in that it appears in the committee report that some $3.5 million have been deleted from the funding of U.S. attorneys and marshals, reducing that appropriation to $231,275,000. Now, the committee report is quite clear that this reduction is contingent upon legislation being enacted which would discontinue private process service by U.S. marshals, an action which has not yet been taken by this House but may have inferentially been taken by the Senate in its Department of Justice authorizations enactment earlier in the session.

My question of the chairman is this: Are there funds within the bill, in general, which would cover the continuance of this service if legislation is not enacted by the Congress in the current session to terminate the service of private process by U.S. marshals?

Mr. SLACK. Mr. Chairman, the gentleman is correct. There are funds in this bill. This reduction was made at the request, as you know, of the Justice Department. If additional funds are needed and this is enacted there will be no question about the funding. If it is funded at this time it will not reduce the effect of serving of these papers at this point.

Mr. GUDGER. Mr. Chairman, I thank the distinguished chairman for his explanation that there are supplemental resources available within the bill which would cover the contingency of a failure of enactment of legislation terminating this service authorization.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield?

Mr. GUDGER. I would be glad to yield to the gentleman from Wisconsin in whose subcommittee of the Committee on the Judiciary most of these court concerns ultimately fall.

Mr. KASTENMEIER. Mr. Chairman, I will say that in oversight, the U.S. Marshal Service indicated it would ask to be statutorily relieved of service of civil process or private process. It is very problematical whether or not that legislation will pass, at least in the form requested. I would, therefore, anticipate the probability that there will be no legislation this year or possibly this coming year, which would, necessarily, relieve the U.S. Marshal Service of the responsibility of service of civil or private process.

As the gentleman from North Carolina knows, the service of process is viewed differently in different States and in different jurisdictions. Some States will insist that there is a need to continue this Federal service. It seems to me we are not close to repealing the statute at this point in time and, therefore, the gentleman's question is well taken.

Mr. GUDGER. Mr. Chairman, I sincerely thank the gentleman from Wisconsin, the chairman of the Courts Subcommittee of the Committee on the Judiciary, for this enlightening comment.

I would like to say there are several States I believe like my own State of North Carolina where private agencies do not even exist for the service of civil process and where there would be considerable disturbance or disruption were the service to be discontinued.

I thank the gentleman and I thank the Chair for letting me bring these comments to the attention of this body.

□ 1450

Mr. BOB WILSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am very much concerned about the problem of illegal aliens along the California and Texas border with Mexico. I am confident that a solution will be worked out where more border patrolmen will be put on duty.

Mr. Chairman, the stretch of land running along California's southern border east from Tijuana is a veritable combat zone at night, a no-man's land. This is the stretch where our Border Patrol, laughingly outnumbered, tries to check the stream of illegal aliens that cross our southern border at the rate of more than 800 a day. That is about 25,000 a month.

Daily at dusk, the Border Patrol gears up for another night of battle, and battle it is, with our forces on the losing end, beleagured, and frustrated.

INS Commissioner Leonel Castillo has promised help, but so far, that help consists of only about 30 additional officers assigned to temporary duty in the combat zone for 30 days. Commissioner Castillo must realize that promises do not stop illegal aliens from jumping the border. Promises do not protect our Border Patrol officers. And promises do not resolve a situation that verges on total uncontrollability.

The crimes committed almost daily along that stretch of border are incredible. Alien smugglers, charging extreme prices, prey on those poor people wishing to cross the border into what they have been told is the promised land. Other aliens, posing as illegals themselves, beat, rob and even murder their fellows. Women are sexually molested.

If what I have said so far does not give you the idea that there is a problem, let me tell you this. One of the hottest selling items along the border is the bulletproof vest. Who buys them? Our Border Patrol agents buy them. With their own money.

Last year, our concern focused on the economic burden we attributed to the illegal alien. This year, we are still talking about the same thing, but the added factor of the safety of our Border Patrol agents has got to be taken into consideration. We are asking these men to do an impossible job, and we are giving them nothing to do it with. The situation is absurd. It is ridiculous, and our handling of it approaches criminality. How can we ask these men to go out there into the combat zone, night after night, 6 days a week, while at the same time we cut back on what little support they have?

The illegal alien problem, as I have said so many, many times before is not a San Diego problem, or even a border State problem. It is a national problem. And as a nation, I believe that it is imperative that we support in every way possible those we have designated to man the firing line. I do not often advocate budgetary add-ons, but this case deserves special attention. I urge you to support increased funding and manpower for the Border Patrol.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in its wisdom a few moments ago the Committee of the Whole voted a 5-percent cut in the funds for the Department of State, a reduction of about $68 million. The vote was by an overwhelming margin of 210 constitutionally sworn Members in favor, to 199 constitutionally sworn Members against.

The House of Representatives and, therefore, the people of the United States have worked their will on that issue.

Now, under our procedure we have the right once the committee goes back into the full House to consider again any amendment that might be adopted in the Committee of the Whole and sometimes the earlier vote is reversed.

Last April 28, a 10-percent cut of the State Department authorization bill was adopted and within a matter of a few magical moments, certain congressional arms having been relocated in their sockets, the vote was reversed and eventually the House cut the bill only 5 percent.

Now, I just want to inform the House that any brave Members who have voted in favor of cutting $68 million from the State Department may report immediately to the gentleman from Wisconsin (Mr. ZABLOCKI) or the gentleman from Florida (Mr. FASCELL) who are now working the floor to change votes once again. Those Members who did not know what they were voting on, those who were not informed about the issue, those who have since received enlightenment from on high, perhaps a call from Secretary Vance, can, of course, enlist in their cause. They only have to change roughly six votes, as I calculate it. In this body anything is possible, but I wanted any Members who wished to enlist in the legion of liberalism for spending more taxpayers money and those who enjoy voting both ways on the same day to report to those two gentlemen and deliver them their votes.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding. I think the gentleman is paraphrasing an old saw, "They did it before and they can do it again."

Mr. BAUMAN. Yes; they "have done it again" to the taxpayers many times here on this floor.

Mr. ASHBROOK. I thought I was getting much more moderate. I had offered a 10-percent cut in April and that was reversed. If a 5-percent cut gets reversed, you know, we will have established what is going on around here. We just want to see what the price is. I will have to bring the cut down to a 1-percent amendment the next time and see if that can be reversed.

Mr. BAUMAN. Yes, I think we have established that it is a matter of price; I agree with the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for the detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use (not to exceed one thousand two hundred for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $575,608,000.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 10, line 23, strike out "$575,608,000" and insert in lieu thereof "$585,708,000".

Mr. ASHBROOK. Mr. Chairman, I thank the chairman.

It is a strange day, I suppose, when I offer an amendment to increase an authorization or an appropriation; but in the light of action that was taken by the House and the committee earlier on July 10 and in light of the action that has already been taken in the Senate in the authorization bill, I offer this amendment to increase the FBI's appropriation by $10.1 million.

Most of the Members were present and will recall that on the intelligence-related activities authorization on July 10, a committee amendment called for an increase in the counterterrorism bill of $1.8 million. One point eight million would be a part of that $10.1 million. The committee, of course, did not have that amount in there. I think we all know the authorization bill has not yet become law, but in this strange way that we are appropriating around here, we cannot hold anyone accountable for that.

Four million dollars was added in the floor of the other body for general priority crime, that would be white-collar crime and the like. The Senate in their committee increased the authorization $2.6 million for bank robbery and $1.7 million for general law enforcement programs, which include the training of State and local police.

I offer this amendment to increase the appropriation of $10.1 million, not in any degree of criticism for what the Appropriations Committee has done, but in light of the recent actions in both the House and the Senate.

Mr. Chairman, the FBI has been severely damaged in recent years. In vital areas ranging from combatting espionage and subversion to fighting organized crime, the FBI has been hampered by a propaganda campaign, lawsuits, in addition to budget and manpower cuts. Morale in the Bureau is at its lowest ebb.

The newspaper Newsday, on Long Island, N.Y., reported on June 18, 1979, that an internal FBI memo prepared last November by two veteran agents addressed to the head of the New York office, Neil Welch, had complained that there was a "very serious" decline in intelligence gathering on organized crime. The agents complained that, "organized crime intelligence has been systematically neglected."

Other FBI agents told the newspaper that organized crime is increasing while the information obtained by the FBI is decreasing. Despite this, substantial gains have been made by the FBI in convicting organized crime figures in the courts. Nevertheless, the FBI agents are worried about the effect on future prosecutions if the intelligence gathering continues to be neglected.

Two weeks ago the Intelligence Committee heard testimony from FBI witnesses that restrictions on domestic security intelligence gathering has prevented them from investigating violence-oriented groups, including one that plans to penetrate the U.S. Army to train their members for the violent overthrow of the Government. I have spoken to the FBI agents in the field who have told me of restrictions in every important Bureau function. Budget is only one of the problems, but it is a serious one. Judge Webster has pointed out that the FBI budget is a bare bones budget.

The Senate Judiciary Authorization bill, has added much needed funds for such priority programs as "organized crime" and "foreign counterintelligence," as well as for training and bank robberies. The Senate Judiciary Committee also added $500,000 for counterterrorism. On Tuesday this House approved an addition of $1,800,000 to the FBI counterterrorism program in the Intelligence Authorization bill.

My amendment is consistent with the authorization bill of the Senate Judiciary Committee and the House Intelligence authorization for counterterrorism. I urge passage of the amendment.

Mr. Chairman, I urge support for this amendment.

Mr. HIGHTOWER. Mr. Chairman, I move to strike the requisite number of words. I rise in reluctant opposition to the amendment.

Mr. Chairman, the reason I say reluctant is that I am reluctant to oppose anything that is for the FBI, because I would not want to be understood as unfriendly to law enforcement; but the truth of the matter is that the subcommittee, working closely with the authorizing committee, has put into the bill the full amount that was authorize by bill that has been reported by the Judiciary Committee.

Now, then, if this Committee of the Whole House says that we are going to spend a whole lot more than that, we can of course, do it. This is the amount that the Judiciary Committee recommends. The Subcommittee on Appropriations thought it was a proper amount.

For that reason, we do oppose the amendment and would ask the Committee to vote no.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words. I rise in strong support of the amendment offered by the gentleman from Ohio to add $10.1 million to the FBI's budget. As the ranking minority member of the Judiciary Committee, in every Congress, I see legislation come our way which broadens the law enforcement responsibilities of the Federal Government. The answer to law enforcement seems to be, well, let Washington do it.

It seems to me that the FBI is the law enforcement agency which must respond when these demands are set forth.

Really, this $10.1 million is a very modest increase for this important law enforcement agency. The $10.1 million breaks down into several categories which are of vital importance to every man, woman, and child in America.

In the first place, let me point out that in the consideration of the Intelligence Committee's authorization legislation the other day, we did add $1.8 million to the FBI budget in order to take care of its counterterrorism activities and responsibilities. We realized that next year we are going to have the winter Olympics in this country and we are charging the FBI with providing protection against terrorism which is rampant around the world and often directed toward Americans; so of the $10.1 million, $1.8 million is intended to go for the counterterrorism program.

Now, another part of the funding that is in the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) relates to white-collar crime. This problem has been reported upon by the Judiciary Committee after hearings were conducted by the Subcommittee on Crime. It is a top priority item in the fight against crime in America while in this year's authorization bill, as reported, the Bureau did receive funding for 176 new positions in the area of white-collar crime; it also lost 681 other positions. Since 1975, the loss has accounted for more than 1,000 personnel positions.

The Appropriations Committee recorded its concern over this reduction in FBI resources:

> While the Committee supports redirection of manpower and resources, the crime problems which have a significant national dimension to which cannot be addressed adequately at the state and local level, it questions the advisability of overall reductions imposed on the FBI in recent years.

Yet, why has the committee not acted to provide more dollars for the Bureau?

If you are truly aware of what the priorities are in this country, after the problem of inflation, you will find that the problem of crime in America is a very top priority item. The Congress of the United States and this administration must respond.

Another item which is covered in this amendment regards bank robberies. We have tried to shift as much responsibility as we can with regard to bank robberies to State law enforcement officials and they do have a responsibility there, but they recognize that without the expertise and without the capability of the FBI, we are going to just see bank robberies on the increase. This amendment would provide $2.6 million to increase the funding for the FBI's personal crimes program, specifically to combat the growing problem of bank robberies. In fiscal year 1978, this crime reached an all-time high, surpassing the 1977 figures by approximately 12 percent. Even more alarming, should the trend established during the first 6 months of the current fiscal year be maintained, 1979 would set yet another record high for bank robberies.

Although bank robberies usually constitute a violation of State law as well as Federal law, the FBI is generally the lead investigative agency summoned to the scene. This is an area in which the States may eventually assume primary investigative responsibility—but not yet, for they are presently less than adequately prepared for the job. As one chief of police testified before a committee in the other body last August:

> We don't in the local operations have the capability to follow through for the length of time that goes on for some of these bank holdups (investigations). . . . We don't have the staffing, we don't have the expertise, and we certainly don't have the capability to follow through the dogged way the FBI does.

Mr. Chairman, I believe that the Congress would be acting irresponsibly if it rejected the gentleman's amendment, for without it, 101 present positions in the bank robbery program would be eliminated—at a time when this criminal endeavor is on the rise.

This amendment also would add $1.7 million to the FBI's budget to continue and supplement its training program for State and local law enforcement officers. I believe that Federal funding in this area is imperative; so much so that I expect to offer a similar amendment to the Law Enforcement Assistance Administration authorization bill when it reaches the floor. At that time my amendment will attempt to reauthorize the Federal Government to pay travel expenses of State and local law enforcement personnel when they are trained at the FBI Academy in Quantico, Va.

We recently received a report from the Director of the FBI indicating a rising tide of serious, violent crime in this country. To cut back on funds for the principal law enforcement agency of the country, it seems to me, would be an act of irresponsibility on our part.

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I am happy to yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Chairman, I do not completely disagree with what the gentleman said. The gentleman, I believe, is the ranking member of the Judiciary Committee, is he not?

Mr. McCLORY. I am, yes.

Mr. SLACK. Well, why was this item not taken into consideration in the authorization bill in the Judiciary Committee? We funded up to the amount included in the authorizing bill, which is all we felt we could do.

Mr. McCLORY. Well, for whatever mysterious reasons, the authorization bill has yet to come to the floor of the House.

Mr. SLACK. Well, the authorization bill has been reported, has it not?

Mr. McCLORY. Yes, but it has not come up on the floor of the House, and I would expect that I would naturally be supporting the same position in the authorization bill as I am in the appropriation bill.

☐ 1500

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I think in light of the action of this body July 10, we clearly acted to add the $1.8 million for counterterrorism. But, I think it is fair to say that the other amounts in my amendment would not be in the Judiciary Committee's bill. They were, however, added in the other body.

Mr. McCLORY. We have taken action with regard to the $1.8 million, so that is already in the authorization as far as the Intelligence Committee's action is concerned.

Mr. BURLISON. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Missouri.

Mr. BURLISON. Mr. Chairman, the gentleman has been speaking of the great priority for domestic terrorism.

Is the gentleman aware that this $1.8 million on the ZBB structure that is for the enhanced terrorism program ranks 46th out of a total number of 68?

I would submit to the gentleman that that is at the very bottom, the lower one-third of the priority list for the Federal Bureau of Investigation.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. McCLORY) has expired.

(By unanimous consent, Mr. McCLORY was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Mr. Chairman, I would like to respond to that by saying that the threat of terrorism has been explained by the Director of the FBI as being a very egregious; it is a very serious threat. This $1.8 million, which seems to me to be a modest figure to fight terrorism, is important because of the fact that we are hosting the Winter Olympics next year, and the Olympics seem to have developed into a forum at which the terrorists like to launch their attacks.

That is why we are trying to prepare for this. If we can, through this modest amount, prevent acts of terrorism from taking place, we would have fulfilled our responsibilities.

What has been described as "terrorism" by some relates to the kinds of demonstrations we had during the 1960's, but I am not talking about that at all. The form that terrorism takes these days is extremely violent, extremely vicious. That is the thing to keep in mind.

Mr. HIGHTOWER. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Texas.

Mr. HIGHTOWER. Mr. Chairman, the gentleman from Illinois (Mr. McCLORY) talks about adding $1.8 million for terrorism, and he makes it sound as if that is all that would be in the bill for terrorism.

The gentleman is aware of the fact that the bill already provides $10 million for terrorism, is he not?

Mr. McCLORY. Yes. I also mentioned that there are funds in the amendment to combat bank robberies, to provide training for local police, and for other high priority items. They are also involved in the amendment.

Mr. HIGHTOWER. But terrorism is included to the extent of $10,605,000 already in the bill.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. McCLORY) has again expired.

(On request of Mr. RUDD, and by unanimous consent, Mr. McCLORY was allowed to proceed for 3 additional minutes.)

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I am happy to yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I rise to underscore the gentleman's remarks in support of this amendment and add that this amount or this lump sum has to do with the divisions of crime the gentleman outlined, for organized crime and also for white-collar crime.

It is also for foreign counterintelligence activities, which has to do with some of the actions the gentleman talked about. According to the information received and reported here with regard to the number of people who would be assigned here by Red China amounts to 1,200, plus another 700 or 800 students. The figures I received earlier this year indicate that figure would possibly run as high as 2,000 consular officials from Red China plus 1,000 to 1,500 students.

The Director of the FBI, I believe, also testified that these people would be over here in some sort of intelligence-gathering capacity, and I think we can go a lot further than that and say that they will be assigned here specifically for the purpose of espionage activities. To counter this our Nation's security must have a sizable counterespionage corps.

Mr. McCLORY. Mr. Chairman, the gentleman is entirely right.

In addition to that, we have the foreign visitors and we have the foreign students. Many of them are foreign agents, and if the FBI is incapable of taking care of all the investigations of all these persons, we certainly ought to at least do this much in order to assist them in trying to prevent terrorist acts, subversive acts, and other types of law violations which are committed against our country and our people.

Mr. RUDD. Mr. Chairman, will the gentleman yield further?

Mr. McCLORY. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, together with this, I think the training program should be better supported by the funds that would be involved in this. This is vital.

The gentleman mentioned bank robberies. Bank robberies are more numerous this year than they ever have been in the past, and yet we have fewer funds for them. And the numbers of special agent personnel have been reduced. That should be restored.

Another danger that is vitally involved is that the convictions for bank robberies and such types of crimes during 1978 were down drastically from what they were in years past, which indicates that we need to put more funds in this area to give them more personnel so that a proper job can be done in criminal justice.

Mr. McCLORY. Mr. Chairman, the gentleman is absolutely right. The gentleman from Arizona (Mr. RUDD) is very knowledgeable about this because the gentleman himself is a former FBI agent and a highly respectable one. He has proven himself to be knowledgeable on this subject here today.

Mr. O'BRIEN. Mr. Chairman, I rise in reluctant but deliberate opposition to the amendment.

Of all the witnesses who appeared before our subcommittee, I think the one that impressed us the most was Judge Webster, the Head of the FBI. He just seemed to exhibit the strength, the courage, and the intelligence that all of us would want in that position. It was my colleague, the gentleman from Texas (Mr. HIGHTOWER), and I who questioned him on this subject of sufficient funding. "Do you have enough? Are you going to be able to do the job? Can we help you?"

I would like to take just a moment to quote from one of the answers he made, and I think this is material to what we are discussing right now.

He said in the course of his testimony:

> If there is an upsurge in terrorism beyond what we have been able to provide for, we would be in here in a minute. If bank robbery statistics shoot up—and they are going up—beyond our capacity to deal with them in our modified response that we are trying to work out with State and local law enforcement, I think I have an obligation to come back, particularly if you expect me to do so.

Mr. Chairman, as far as I am concerned, he is the head of the agency, and we encouraged any request from him that we could. We gave him what he asked for, and ultimately I think we should leave it that way. Therefore, I oppose the amendment.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. O'BRIEN) has expired.

Mr. BURLISON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, when the gentleman from Illinois (Mr. O'BRIEN) was telling us about what the Director had testified, I think he failed to point out that the Director has testified that he has all the money that he wants and all the money that he needs for the programs as they appear in the President's budget.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. BURLISON. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, just to correct the misstatement I made at the beginning of my remarks, I wish to point out I support the position of Judge Webster, and I oppose the amendment that would increase the appropriation.

Mr. BURLISON. Mr. Chairman, I rise in opposition to the amendment.

In particular, I want to address myself to the $1.8 million increase for terrorism. Statistics reveal a significant decrease in terrorism activities during the past 3 years.

Mr. Chairman, let me quote just a few of those statistics. In 1975 there were under investigation 4,868 individuals and organizations; in fiscal year 1976 this had declined to 626; in fiscal year 1977 it was down to 119; and for fiscal year 1979 it is down to 47.

Now, what about the number of informants who are employed in the terrorism program by the FBI? In 1975, the number was 1,502; in fiscal year 1976 it was 645; in fiscal year 1977 it was 90; and in fiscal year 1979 the figure was 17.

What about terrorist bombings?

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. BURLISON. I will yield when I have concluded my statement.

Mr. Chairman, the gentleman from Illinois (Mr. McClory) mentioned the problems of terrorism around the world. Well, the funding to confront that is not in this budget.

□ 1510

He also referred to the terrorism in this country that seems to be directed at Americans from foreign organizations.

I would say to the gentleman that that is not in the terrorism budget. It appears in the foreign counterintelligence portion of the FBI budget.

But now continuing with our statistics: On terrorist bombings in 1975, there were 108 of them in this country; 106 in 1976; 100 in 1977; and in 1979 it was down to 52. You see the clear downward trend in all of these statistics. Finally, investigative matters, total investigative matters, have dropped from 52,391 in 1975 to 24,402 in 1976, to 9,415 in 1977, down to 7,723 in fiscal year 1979.

So it becomes obvious, Mr. Chairman, that Judge Webster was totally correct when he said that the terrorist problem has been diminishing steadily throughout the country and, therefore, we need less money for terrorism, and that is why the request is down.

Mr. Chairman, before the authorizing Committee on Intelligence, Judge Webster was asked by the gentleman from Missouri:

> What is the current obligation rate of funds which were authorized for the domestic security and terrorism program in fiscal 1979?

The answer was given by Mr. Groover, who was sitting at Judge Webster's right hand, and he answered the question at the request of Director Webster. He said:

> We are running considerably under 1978, contrary to what we thought we would when we were here a year ago. We are running in the investigations, at about 42 percent less than the appropriated amount.

He did not say in that statement, but it is true—it appears in other testimony—that for fiscal year 1978, 30 percent of the funds for terrorism were unused.

He said, and the Members of the House have just heard from that statement, that in 1979 the surplus is going to be even greater, it is going to be 42 percent.

No wonder the administration does not want this money. Past experience shows that there is no way they can reasonably and justifiably spend the money.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. Burlison) has expired.

(On request of Mr. McClory and by unanimous consent, Mr. Burlison was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BURLISON. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, the gentleman referred to the $1.8 million for the FBI for terrorism. This is in the Intelligence Committee budget and it is in the Judiciary Committee budget. It is the same amount. It is not an additional amount. There is just one figure of $1.8 million which I am trying to get into this appropriation bill to help fight terrorism.

Mr. BURLISON. Mr. Chairman, let me say to the gentleman that it was in the Intelligence authorizing bill but it is not in the Judiciary authorizing bill.

Mr. McCLORY. It will be.

Mr. BURLISON. The gentleman is familiar with the background of how it got into the intelligence bill, and I am not going to take precious time here to go into the mechanics of that. But it provides good reason for us not permitting it to get into this bill.

Mr. Chairman, as I have already mentioned earlier, Judge Webster said in 1978 there was 30 percent of the funds he could not use. This year, if we continue at the present rate, there will be 42 percent of these funds for 1979 that cannot be used.

He said in testimony before the State-Justice Subcommittee on Appropriations that if he needed more money in the future he would not hesitate to come back for a reprograming.

So, in essence, Mr. Chairman, the bottom line is that Judge Webster says he does not want this money, he does not need it, he cannot reasonably spend it; if there does arise a need for it, he will not hesitate to come back and ask for it.

Mr. Chairman, this proposed $10.1-million addition to the budget is a very unwise, very wasteful, expenditure of Government funds and should be defeated.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to echo the words of the gentleman from Illinois (Mr. O'Brien). I conducted these hearings both last year and this year for the FBI. Last year, when they came before the committee, we said:

> Now, what do you really need in the way of resources? Do not just tell us what was approved by Justice, tell us what you really need.

They told us. We added the money that they needed for the additional agents so that they would be sure to have the resources they needed. We did not go along with the idea that they should slough off bank robberies onto the States, and some of the other things. And after we had done that, then the administration did change. This year, in submitting their budget request, the administration did not cut the FBI agency request like they did a year ago.

We have been very sympathetic to this agency. This year we asked and we solicited from Judge Webster whether they need any additional funds above the official request. He said he was very happy to live with what was in the budget request, which happens to also be what is in the Judiciary Committee authorization.

Now, if this additional sum in the amendment is so important, why did not the Judiciary Committee have the authorization out here a year ago when the bill should have been passed? The authorization is a year late.

The FBI should have had their authorization for fiscal year 1980 last October, not this October. Why did the committee wait around this long?

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I think the lateness of action on the FBI funding should be laid at the doorstep of this body, because we were late with regard to the authorization.

Mr. SMITH of Iowa. Absolutely.

Mr. McCLORY. We were late with regard to the appropriation of funds last year. The authorization bill goes before two committees before it ever comes to the floor and before the authorization process is finished. Now, I think this is a deficiency which exists right here. When the FBI does not spend all of the money which is appropriated it is sometimes because they do not have all of the money in time to spend. But it seems to me that Judge Webster is a very good guy; he goes along with the figures given to him by the OMB. But I say this, that the FBI and Judge Webster need more money and the American people need more money for their own protection. That is what we are trying to provide in this amendment.

Mr. SMITH of Iowa. Mr. Chairman, I say the expert on this is Judge Webster, and Judge Webster is satisfied with the amount we put in this bill, which is the maximum amount that is permitted under the authorization which has been reported from the committee.

It does not do anything constructive just to add money to any recommendation our committee makes. We are being responsible. We are working with the FBI closely to determine the actual needs. Judge Webster is completely satisfied with that we have recommended. Now stay with the committee on this.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Is it not fair to say, though, that just recently before the other body Judge Webster, on this very point that my colleague, the gentleman from Missouri, was mentioning, indicated to the Senate committee that he could use $500,000 more for FBI central office managerial needs?

Mr. SMITH of Iowa. I am not aware of that; but if that is the case, there will be no problem whatever in conference in working it out. They know we work closely with them. We will not have any problem. We do not need any amendment to that effect on the House floor.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I just want to comment briefly on what the gentleman from Missouri said earlier. He seemed to take some solace in the fact that the number of informants is decreasing down to a trickle. I would suggest that that is something that ought to give you pause rather than comfort. And one of the reasons for that is the Freedom of Information Act which makes the security of these informants very questionable. There are ways to find out who the informants are. More and more, people are getting their files, and that is our major problem: developing informants who are secure in doing their jobs.

I just wanted to make that comment.

Mr. SMITH of Iowa. I want to say, first of all, I agree completely. This committee is working very closely with the FBI to help them protect their informants.

Mr. BURLISON. Mr. Chairman, if the gentleman will yield, the gentleman from Illinois (Mr. HYDE) is right on his facts, but he is fallacious on his conclusions. The facts are true that the Freedom of Information Act and the Attorney General's guidelines on investigations have precluded the use of these informants. What good would it do to give the Bureau this extra money if the Attorney General's guidelines and the Freedom of Information Act and other mechanisms in the Government preclude the FBI from spending the money?

The solution for the problem of the gentleman is legislation to change the FOIA and the Attorney General guidelines, not to give additional money that cannot be prudently spent.

□ 1520

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I simply suggest that in obtaining information through informants is a much more reliable source than relying on intuition or spirit messages, which seems to be the order of the day.

Mr. SMITH of Iowa. This is an important matter. I agree with the gentleman completely. It is a real problem. I ask members to stick with the committee today on this amendment and reject it.

Mr. DANIELSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, without adding either heat or light to the argument which has been going on, I would like to point out one thing that concerns me very much about the functioning of this House in the appropriations process. I think it is about time we get around to doing something about it.

With fine impartiality on both sides of the aisle, some Members who have been debating this point, and it is a serious point, have been protesting that the authorization bill has not yet passed the House. Others have been relying upon an authorization bill which has not yet passed the House. We have been mixing up these apples and donkeys of authorization and appropriations with fine indiscrimination and absolutely no responsibility.

I do not know how on earth the Appropriations Committee can be guided by an authorization bill which has not passed the House of Representatives. Yet we are now debating an appropriations bill.

Sanctimoniously, in rule XXI, we provide that no appropriations bill can be passed unless it has heretofore been authorized. But we have not yet authorized. So we keep running up to the Rules Committee and getting these waivers of rule XXI.

Now, I do not know how we can expect the substantive committee, in this instance the Judiciary Committee, to give guidance to the Appropriations Committee by passing an authorization bill if we do not at least give them time enough to bring the bill to the floor.

With an authorization bill, if the gentleman from Illinois (Mr. MCCLORY), had wished to offer an amendment to the authorization bill which would have permitted the appropriation which we have just been debating, he would have had that opportunity here on the floor, and it could have been debated fully and freely and openly; and the House could have worked its will.

But what do we do? We labor in the Judiciary Committee. We take testimony. We put together an authorization bill.

Then it goes on the top shelf in the cupboard and it sits there and sits there and sits there and sits there, because under our Budget Act we have got to get a first resolution out of here by May 15, and that takes 11 days of time on the floor just to consider it. Then we have to put out some 15 or 18, or whatever it is, appropriations bills.

I am not criticizing the work of the Appropriations Committee, or the Budget Committee, or the Judiciary Committee. They are working like mad. What I am pointing out is that we have an obsolete system.

A few years ago we recognized how far behind we were in our procedures. So we moved the end of the fiscal year up from June 30 to September 30. The big trouble is we only went half far enough. Like a bunch of timid Tommies, we moved it up 3 months. We should have moved it up 6 months.

The work of this Government, the work of the United States, the work of this Congress, is so great that there is no way that the legislative committees can properly consider authorizations, get them on the floor, and have them considered and adopted by the House working its will, and yet provide guidance to the Appropriations Committee, when we box ourselves in to such a short time frame.

I say it is time that the leadership of this House, on both sides of the aisle, get to work and do something realistic.

We should change the fiscal year to coincide with the calendar year. Then, in 1979 we should be working on the budget for the fiscal year which would start January 1, 1980. We need a year to put this together. We cannot do it in the short amount of time available.

It is absolutely silly for these well-meaning, hard-working, talented, geniuses whom we call Congressmen trying to put together, trying to dovetail appropriations and authorizations, when neither committee has had a chance to complete its work.

I am not complaining about the legislative committee, the Judiciary Committee. I am not complaining about the Intelligence Committee. I am not complaining about the Appropriations Committee.

I am complaining about the fact that we are trying to put a No. 10 foot in a No. 8 shoe. It just does not work. Let us get on with this thing and start having some time for authorizations.

I am annoyed at the idea that the work we had to do in Judiciary to put together an authorization bill makes absolutely no contribution to the appropriations we are considering here today.

And with full respect to the distinguished gentleman from Iowa, the 95th Congress could not have authorized the 96th Congress appropriations on this particular subject matter. We adjourned sine die on the 14th day of October, after some 22 rollcalls, if I am not mistaken.

The CHAIRMAN. The time of the gentleman from California (Mr. DANIELSON) has expired.

Mr. CHARLES H. WILSON of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before I start, may I suggest to my friend, the gentleman from California (Mr. DANIELSON), that perhaps he will join with me in trying to abolish the Budget Act. That would be the most objective thing we could do in this House of Representatives. Then we could get back to a normal procedure again.

The reason I have asked for these few moments is because I have heard discussions about the Lake Placid Olympic games. I would like to find out if there is money in this bill or money in this amendment for the Lake Placid games. People tell me no, there is not; and yet, this has been a big point of discussion.

The reason I want to know whether or not there is money in here for Lake Placid is because Lake Placid has been milking this Congress dry with all of these requests for funds for the Olympic games, the Winter Olympic games.

Now they started with the $49.4 million appropriations, which we generously gave to them by a close vote, when there was only 343 of us voting on one of those light days; and that thing is up to $100 million now through reprogramings and the type of things that I understand have taken place in this particular—I think most of the people on the floor today voted with me against that bill back there in 1976—but to me this is a very important thing.

The city of Los Angeles—and I mentioned this earlier today in the 1-minute speeches—the city of Los Angeles is going to justify a $141 million request for the Los Angeles Olympic games based upon what we are doing for Lake Placid. That will be their whole justification. We did it for Lake Placid, so we are going to have to do it for Los Angeles.

If the pattern follows, it will be a half billion dollars. Mark my words on that.

Now, can someone on the committee tell me if there is a penny in here for Lake Placid? In this amendment first, is there any money involved here regarding security for the Olympics in Lake Placid?

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Chairman, I can assure the gentleman that there is no money in this bill for construction at Lake Placid.

Mr. CHARLES H. WILSON of California. We got that through the Judiciary bill where they built a prison up there for the housing.

Mr. SLACK. Secondly, if the gentleman would yield further, there are funds in the FBI appropriation in this bill for assisting local authorities in providing security at Lake Placid.

Mr. CHARLES H. WILSON of California. There are funds in here for the FBI for Lake Placid? In the amendment or in the bill?

□ 1530

Mr. SLACK. In the bill. The FBI is working in conjunction with the Lake Placid officials to provide security at the Olympic games that will be held in February 1980.

Mr. CHARLES H. WILSON of California. This is a rather ironic thing. The Olympic games are supposed to be peace and brotherhood, and we have to have special FBI guards there to provide security for the people. The Olympic games do not prove their purpose if we have to provide this type of security. I wonder if this is a worthwhile expenditure.

Mr. BURLISON. Mr. Chairman, will the gentleman yield?

Mr. CHARLES H. WILSON of California. I will be happy to yield.

Mr. BURLISON. Director Webster was asked in his testimony before this Appropriations Committee specifically the question the gentleman from California is addressing. Mr. EARLY of this subcommittee asked Director Webster,

> How about Lake Placid? Are you satisfied that we are doing everything in that area to prevent terrorism?

Judge Webster's answer was:

> Yes, sir, we are several months away, several months farther down the road for Lake Placid. We are doing everything at this point. There will probably be more that we will be doing.

On the following page, that is page 950 of the hearings of the Appropriations Committee, the gentleman from Massachusetts (Mr. EARLY) is still questioning Judge Webster. He says:

> Your Honor, I refer to your budget request for 1980 for the San Juan and the Lake Placid Olympics. Do you feel your budget request has sufficient resources to adequately cover these events while meeting the Bureau's other responsibilities?

The answer from Judge Webster was:

> I do at the present time for the field. We will find the money to do whatever we need to do, if we need to do it in a hurry. We may have to come back for a reprograming, but we won't hold back, because we are not like the Fire Department that says we don't have money for overtime, we will be there.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

I am the chairman of the Judiciary Subcommittee that held a series of hearings on the authorization of funds for the FBI, and I assure the Committee that in every regard the FBI is getting all the money it wanted, all of the money the Department of Justice wanted, both for terrorism and for bank robbery. I am at a bit of a loss to understand why the gentleman from Ohio, who is a member of the subcommittee, but who regrettably—I am sure he was busy on other activities—was not able to be at any of the hearings, I am at a loss to understand why he would offer this amendment. But apart from that, I just do not think we are supposed to operate like this in the Committee of the Whole. If we are going to have an orderly budget procedure in the executive branch, to come before the Committee with these random increases in appropriations after hard work by the authorizing committee and the Appropriations Committee, is just not going to work.

With regard to terrorism, there is a good reason why the FBI and the Department of Justice are not asking for more money for terrorism. My subcommittee has held a series of hearings on terrorism in the United States and overseas and has issued a report. I refer all of the Members to this very comprehensive report.

The reason the FBI does not want any more money for terrorism is that it has been going down in the United States to where it is now No. 10, I believe, in the priorities of the FBI. The incidence of terrorism, particularly terrorist bombings, in the United States is down, not up. The FBI readily acknowledges this. Indeed, last year the FBI could not even use all of the money authorized for this program. It is merely that excess that was eliminated in this year's budget.

If the FBI needs more money and wants more money, the proper way for them to get that money is to ask the authorizing committee for the money and the appropriations committee for the money. This year they asked for an amount that they felt reflected the level of activity in this country and would allow them adequate resources to respond.

I want to touch on bank robbery for just a moment. Insofar as bank robbery is concerned, my subcommittee asked for a General Accounting Office study of the FBI's activities in bank robbery, and they do a good job. But GAO wants to keep the FBI in the big bank robberies and important bank robberies. The General Accounting Office recommended and the FBI agreed that where a little old lady down the street comes in and hands to the teller a note "Give me $50," the FBI should not send out three agents in a U.S.-taxpayer-financed automobile. That is a local crime. Bank robbery is a local crime as well as a Federal crime, and wherever possible local crime should be the matter for local police. Where Federal involvement is needed, the FBI will still be there.

Certainly we have enough sense, I assure the gentleman, Mr. Chairman, in the Judiciary Committee we are not going to denigrate the FBI's activities either in terrorism or in bank robbery.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. Yes, I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I merely want to point out that the Judiciary Committee authorization bill, which was referred likewise to the Intelligence Committee, has already been approved by the House and the House has added the $1.8 million, so there is an authorization for that already.

I merely would say with regard to bank robberies and funds for training, it is true that we have eliminated a large part of the bank robbery responsibility from the FBI and we have vested that responsibility in the local and State law-enforcement agencies. But in this bill we are eliminating not only funds for bank robbery investigation and enforcement, but we are also eliminating funds for training local law-enforcement people.

It seems to me we ought to support one or the other. Indeed, I think we ought to support both, but I think it is not right to deny funds for training and also to deny funds for having the FBI do the job they have traditionally done in bank robberies.

Mr. EDWARDS of California. I thank the gentleman.

However, I would point out that we should, wherever possible, not second- and third-guess the FBI and the Department of Justice and give them a lot more money than they are asking for. That is what we are doing with this amendment.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Arizona.

Mr. RUDD. I thank the gentleman for yielding. I would like to know how the gentleman can determine whether a bank robbery is insignificant and strictly of a local nature or not, or whether it is a big bank robbery, in any case, in order for the FBI to comply with its responsibilities it must have special agent personnel at the scene to protect FBI responsibilities and to prevent destruction of evidence at the scene of the crime.

Mr. EDWARDS of California. It is entirely appropriate for the local officers on the scene to make that determination, and generally speaking, I understand, the banks make the determination too. If it is a big bank robbery they will get hold of the FBI and, as a matter of fact, they get ahold of the FBI in any case. What we are talking about here is a level of response equal to the seriousness of the crime; that is all. The local police are invariably the first on the scene anyway. They are surely capable of determining whether they need help. If they need help, the FBI can provide it.

The legislative history of the Federal bank robbery statute makes it clear that the FBI's role was to be secondary—to provide support where the locals could not handle the situation. The FBI's budget request is simply a reflection of Congress original intent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was rejected.

AMENDMENT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. McCLORY: Page 10, line 23, strike out "$575,608,000" and insert in lieu thereof, "$577,408,000".

Mr. McCLORY. Mr. Chairman, all this amendment does is to add $1.8 million to the total appropriations for the FBI which have already been authorized by the House for the FBI's antiterrorism program. I will not debate the subject further. We have debated this subject already during our discussion of the amendment to add other funds for the FBI that have been authorized and which I think are necessary. I hope there will be agreement on both sides of the aisle to accept the present amendment.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. Yes, I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank my colleague for offering the amendment and yielding.

After listening to the debate I certainly would not want to think we would take an hour on this debate. But my colleague from Iowa and the gentleman from West Virginia, the members of the committee certainly have convinced me that they will place in the appropriation bill the amount of money that the FBI needs.

As I pointed out in my statement when I offered the amendment I was offering $4 million that had already been added on the floor as an amendment in the other body. My amendment included $2.6 million that had been added for bank robbery in the authorizing committee in the other body and $1.7 million for general law enforcement training. Those will already be matters for consideration in difference in conference. But the $1.8 million would not be before the conference and has only been offered on this side. If it were offered I certainly would accept the judgment, as we can do with this subcommittee, of our conferees in working with the other body's conferees in arriving at an appropriate figure for the FBI. I thank my colleague for offering the $1.8 million. That would put all four items in contention in the conference.

□ 1540

Mr. McCLORY. I appreciate the gentleman's very informative statement.

Mr. BURLISON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have just had an amendment for a $10.1 million increase. Most of the debate on that amendment was on the $1.8 million increase for terrorism. If there is one portion of that $10.1 million that is justified less than any other, it is that dealing with terrorism. I am surprised that the gentleman did not come back, if he wanted to offer a scaled back amendment, and offer to reinstate the bank robbery portion or some other.

I want to remind my colleagues that since 1975 the individuals and organizations under investigation by the FBI for terrorism activities has declined from 4,868 to 47—get that—47. The total number of investigative matters has declined from 52,000 to 7,000. The number of terrorist bombings, the most obvious and the most vivid indicia of terrorism, has declined from 108 in 1975 to 52 in fiscal year 1978.

Now, earlier I quoted the testimony from Judge Webster before the Intelligence Committee, as well as the Appropriations Committee, where he testified that in fiscal year 1978 there was a surplus of 30 percent of the terrorism money. In fiscal year 1979 there will be 42 percent of it that is not spent.

What justification can there be for now coming in here and increasing that portion of the budget for which the Director has said there is a surplus? There was last year; there will be this year. Why should we be giving him money that he does not want and cannot use?

I would submit to my colleagues that if the $10.1 million could not be justified, even more convincing and persuasive is the argument for the elimination of the $1.8 million.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. BURLISON. I would be delighted to yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman. It was my understanding in the earlier debate that the reason for defeating the amendment was that there was no authorization for these funds but there has been authorization by the Intelligence Committee, and approved on the floor of the House here. Those are the funds we are trying to get into this appropriation bill.

Mr. BURLISON. The gentleman is in error in that the rule does not preclude an appropriation because it is not authorized. The gentleman is incorrect if he says that the amendment was defeated because it was not authorized, because under the rule it did not need to be authorized. It was defeated because it was an unnecessary add-on to the budget request.

Mr. McCLORY. But these funds were authorized. That is why we are offering this amendment.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not really sure that these funds are needed. I want to point out that what we are talking about is about $1.8 million. A rough calculation would indicate that would employ about 70 people of which, using the usual ratio, about 35 of them would be agents and the others backup personnel. I do not think anyone can calculate within 70 people the number of people the FBI is going to need in the coming year, so I do not really want to oppose the amendment on that basis. I think we can accept the amendment.

I do want to point out, though, that it should not be construed, in looking at this record, that this money can only be used for agents at Lake Placid. What we are talking about is an increase of $1.8 million for personnel for the FBI, and they can use them any authorized way they need to if they need them.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank my colleage for yielding.

It was in that spirit that I had indicated I was not going to proceed with the $10 million amendment. This would put all four items before the conference for determination.

I would like to make one point. The ranking minority member of the House Permanent Select Committee on Intelligence, the gentleman from Virginia (Mr. ROBINSON) did propound an inquiry to the Director on May 24 regarding specifically the $1.8 million that has been added in the committee. In an eight-page letter which I think, if Members would read it, they would find slightly at variance with what our friend and colleague from Missouri has indicated, I would particularly like to read the last paragraph, because there has been a lot of talk about the case with which the FBI could reallocate funds or reprogram if an emergency arose which required immediate funds for terrorism.

The question was asked:

> Could funds for these Agents be obtained by reprogramming resources within the Bureau without doing irreparable harm to other important programs such as Organized

> Crime, White Collar Crime, or Foreign Counterintelligence?

And the reply was:

> Since additional funding was specifically sought for the priority areas of Foreign Counterintelligence, Organized Crime, and White-Collar Crime and approved for those areas, it would not be feasible to reallocate resources from those programs without affecting the overall program objectives of those priority areas.

I do not think $1.8 million is very much inasmuch as the House has already voted on Tuesday to accept that increase.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. EDWARDS of California. I certainly do not have any strong disagreement with what the gentleman from Ohio said. I think it is important from the point of view of precedent. We want our agencies to behave in an orderly manner insofar as their connections with this body are concerned, and with the Senate. When the authorization bill comes up it will come up in my subcommittee, and the gentleman from Illinois (Mr. Hyde) and I will offer an amendment with regard to reprograming a certain amount of money for highly-secret matter. The FBI came over, the Department of Justice came over, and explained why this is necessary, why they needed this equipment. That is the proper way to proceed. I do not really think this amendment offered is orderly. The FBI has not asked for it; the Department of Justice has not asked for it. I think it is not appropriate. I agree that it is not a lot of money when we are talking about an appropriation of $500 million for a year, and 20,000 employees.

Mr. SMITH of Iowa. We have been concerned about terrorism. Our committee has been very concerned. A year ago we did not go along with the Department's recommendation on terrorism. I feel that what we had in here should be sufficient. We went with the authorization level. However, since that time a lot of issues have arisen.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Illinois.

Mr. McCLORY. I would just like to point out that the funds are not earmarked for Lake Placid or any particular area. It is directed against a very serious activity, terrorism. It has been authorized by this body and by the action of the Intelligence Committee authorization bill, which was on the floor here.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, we would be inclined to accept the $1.8 million.

Mr. BURLISON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Missouri.

Mr. BURLISON. I do not know about the letter from which the gentleman from Ohio has just read, but I know Judge Webster and his supporting witnesses testified before the Intelligence Subcommittee on the Budget, and I know what the testimony was. It was that in 1978 they had to turn back 30 percent of their funds for the terrorism program, and in 1979 they turned back 42 percent of them.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(At the request of Mr. Burlison and by unanimous consent, Mr. Smith of Iowa was allowed to proceed for 1 additional minute.)

Mr. BURLISON. I remember and have before me the sworn testimony of Director Webster and his supporting witnesses, in response to my question, and I quote:

> What is the current obligation rate of funds which were authorized for the Domestic Security and Terrorism Program in fiscal 1979?

And the answer:

> We are running considerably under 1978, contrary to what we thought we would when we were here a year ago. We are running in the investigations, at about 42 percent less than the appropriated amount.

□ 1550

Mr. SMITH of Iowa. I think Judge Webster is being responsible and not requesting more than the believes is needed.

This subcommittee now is intending to appropriate exactly what they need and no more or no less. That is the process we are in now and I think Members ought not increase appropriations without good reason but I do not think there is any particular reason why we could not accept this small amendment.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Illinois (Mr. McClory).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed three hundred fifty-eight which shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; research related to immigration enforcement; $299,326,000, of which not to exceed $400,000 shall remain available for such research until expended, not to exceed $3,000,000 shall be available to install fully automated systems for processing and recordkeeping in district offices, and not to exceed $2,100,000 shall be available to redesign, update, and maintain the nonimmigrant control system applicable to arrival and departure of aliens in and from the United States.

Mr. PREYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to engage in colloquy with the chairman of the subcommittee concerning the Immigration Service records system appropriation.

I note that the bill earmarks $3 million for the installation of fully automated systems for processing and recordkeeping in district offices of the Immigration and Naturalization Service. I incorporate by reference my earlier floor remarks on the subject of the Immigration Service's records systems of June 26 and July 10, 1979.

Is it the gentleman's understanding that any acquisition of equipment of services for accomplishing this purpose must be in full accord with the policies and regulations promulgated pursuant to the Brooks Act, Public Law 89-306, which require, according to both Federal Management Circular 74-5 and Federal Information Processing Standards, that ADP procurements be based upon well documented studies and are fully evaluated and justified?

Mr. SLACK. If the gentleman will yield, the answer is yes. The committee fully intends that the formal evaluation and justification required for the procurement of any computer system under the policies and regulations which the gentleman refers to, be complied with.

Mr. PREYER. Is it the gentleman's understanding that the bill's language would allow the use of the earmarked $3 million to conduct needed management studies of the agency's records processing, and studies to carefully evaluate the capability of INS's proposed nationwide automated system to meet all its recordkeeping needs, in line with the policies of the Brooks Act just discussed?

Mr. SLACK. Yes, that is the committee's intention, I would say to the gentleman.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I want to thank the gentleman from North Carolina for clarifying these two points and add that the Justice Department authorization bill reported by the committee containing the same provision was intended to allow the full study and evaluation to which the gentleman referred.

Mr. PREYER. I thank the gentlewoman and the chairman of the committee.

Mrs. FENWICK. Mr. Chairman, I rise to strike the requisite number of words.

I would like to ask the subcommittee chairman, the gentleman from West Virginia (Mr. Slack) or the gentleman from North Carolina (Mr. Preyer), whoever can answer, if we are doing anything about an abuse that I think we all know exists and it seems to me this is the place where it ought to be corrected.

Many come to the United States as students or as visitors and we find them getting employment and otherwise abusing the terms of their visas. They are sometimes, therefore, let go from employment when it is discovered they have no proper green card and so on.

In one case of which I happen to know, a woman was employed and it was discovered she had no green card. It was in a nonprofit convalescent home where people were taken care of free. She had to be let go.

The woman went back to her native land, apparently, and picked up five children and came back 6 months later. The first thing that the convalescent home knew, they were slapped with an increase in their unemployment compensation—because this woman had filed for unemployment compensation.

What happened then was that the convalescent home director said, "I want her back." She said, "I will not come. I now have five children and we are living in Brooklyn." The lady was granted unemployment compensation. The thing that struck me as odd is that she should be given another visa. She must have had a visa if she had a green card. I do not see how you can get unemployment compensation without a green card.

The whole chain comes back to the Immigration and Naturalization Service. Are they allowing people to return who have abused the conditions under which they were admitted to this country? It seems to me the committee could well consider a barrier: "For 5 years, you cannot come back if you abuse the terms of the visa you were given."

We have another problem. Personnel of the supplemental security income office tell me that very often the travel agent will bring in someone who has just arrived in the United States to be with their family, and they apply for SSI. SSI is not allowed to check with Immigration and Naturalization to see whether or not they qualify. It is very difficult for the office to check and verify.

In other words, I think we should be addressing some of these problems, which continue year after year. Has the committee considered any of this?

Mr. SLACK. If the gentlewoman would yield, she has asked a very lengthy question. I have the answer but I am not sure I understand the question.

Mrs. FENWICK. You mean it was lengthy but not clear?

Mr. SLACK. That is correct.

Mrs. FENWICK. I could state it again in very short terms.

Mr. SLACK. I understand.

I call the gentlewoman's attention to page 11 of the bill where the committee has appropriated $2,100,000 to be made available to redesign, update and maintain the nonimmigrant control system applicable to arrival and departure of aliens in and from the United States. That is the only answer I can give to the gentlewoman.

Mrs. FENWICK. Well, it is totally inadequate, if the chairman would forgive me.

Mr. SLACK. I am sorry.

Mrs. FENWICK. I say it is not adequate, if the chairman would forgive me. I read that and it was reading that section which caused me to remember the abuses I have outlined. Perhaps this is not the place for correction in an appropriation bill; but the committee should be considering what our policy is. When this $3 million is spent, as I trust it will be to enforce the law, what policy are they going to follow concerning those people whom they discover?

Mr. SLACK. If the gentlewoman would yield further, we have in this bill appropriated $1,600,000 to make a thorough study of immigration and refugee policy. As I respond to your question today, I would say there is no policy. We hope by 1981, with the assistance of the Committee on the Judiciary and this new study that we will know in which direction we are going and for what purpose.

At the present time we do not understand, the Congress does not understand, the national policy on immigration.

Mrs. FENWICK. Do we not set the policy here?

Mr. SLACK. The policy should be established through authorizing legislation. We simply appropriate the dollars to carry out that policy.

Mrs. FENWICK. I am very grateful to the chairman for the extraordinary frankness of his response because it seems to me incredible that we have had an Immigration and Naturalization Service for so many years with so many grievous abuses and no policy with which to deal with them.

The CHAIRMAN. The time of the gentlewoman has expired.

(On request of Mr. O'BRIEN and by unanimous consent Mrs. FENWICK was allowed to proceed for 2 additional minutes.)

Mr. O'BRIEN. Mr. Chairman, will the gentlewoman yield to me?

Mrs. FENWICK. I yield to the gentleman from Illinois.

Mr. O'BRIEN. With reference to the case that the gentlewoman put, as I understand it, this person was deported for lacking a green card and then came back in.

Mrs. FENWICK. I do know that she was deported. She may have gone back voluntarily.

Mr. O'BRIEN. As I understand it, if you are once deported, then the State Department cannot permit you to come back in again. It goes back to the gentlewoman's basic point probably the recordkeeping originally dealing with the deportation was faulty.

Mrs. FENWICK. I do not think she was deported. It may be that she went voluntarily.

Mr. O'BRIEN. In any event she did not have the green card and got in in some fashion.

Mrs. FENWICK. Yes.

Mr. O'BRIEN. I believe what the chairman says is correct, we are heading in the right direction. It does seem 1981 is a long way to establish some kind of policy in an extraordinarily confused and poorly managed agency.

Mrs. FENWICK. I thank my colleague.

The CHAIRMAN. The time of the gentlewoman has expired.

☐ 1600

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Federal Prison System

SALARIES AND EXPENSES, BUREAU OF PRISONS (INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed thirty-nine of which twenty-seven are for replacement only) and hire of law enforcement and passenger motor vehicles; $311,600,000, and, in addition, $9,900,000 shall be transferred to this appropriation from the appropriation entitled "Buildings and Facilities": *Provided*, That there may be transferred to the Health Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions.

AMENDMENT OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KASTENMEIER: On page 12, line 16 strike "$311,600,000" and insert in lieu thereof, "$317,348,000".

Mr. KASTENMEIER. Mr. Chairman, I would like to take this occasion to compliment the gentleman from West Virginia and the subcommittee on the State-Judiciary appropriations. They have occasion to process a good deal of our authorizing legislation and have done overall a very good job. I am sorry that the debate and the number of amendments have made the matter so protracted today, but that is in the nature of things.

The amendment I offer here is, I hope, in the nature of an improvement in the bill and provides an additional $5,748,000 to maintain and improve medical services in the Federal Prison System. These moneys were requested by the Bureau of Prisons in their fiscal year 1980 budget request, they were approved by the Attorney General, but the request was rejected by the Office of Management and Budget which apparently believed that these chronically needed programs could wait for some time in the future. The Committee on the Judiciary reviewed this determination and without a single member objecting, these additional funds were included in the committee's authorization for fiscal year 1980.

The amendment will provide necessary funds for four essential medical needs.

The amendment will insure that the medical center for Federal prisoners at Springfield, Mo., does not lose its hospital accreditation, a distinct possibility if the amendment is not agreed to. It is clearly not appropriate for this to be permitted in such an important Federal institution while we are prepared under the recently approved H.R. 10 to insist on quality services in State institutions.

Second, the amendment will provide much needed 24 hour medical staff coverage in the 14 Federal prisons which lack such coverage. I believe that this need is essential and the lack of coverage daily places prisoners and the Bureau in danger of serious medical incidents and possible resultant law suits. Also, the amendment will permit the removal of inmates from certain staff positions involving confidential medical records, and X-ray and laboratory tests. The use of so-called prisoner "trustees" has long been criticized by the courts and others, because the practice puts some prisoners in positions of power over others. The quality of medical services provided by prisoners is not likely to be at the level properly provided by trained professionals who could be hired under this amendment.

Finally, the amendment will fund a chronically needed psychiatric unit for women at the Lexington, Ky. institution. There are no facilities in the Federal system for the seriously psychotic female offender. The continuing increase in the number of female offenders indicates that the new unit is absolutely necessary, both to meet present needs and to anticipate future problems. This issue has been studied by a special bureau of prisons task force and the specific plans for the unit are merely awaiting funding.

The funds provided in this amendment are reasonable and needed. We can afford this amendment, but there will be no lobbyists or constituents urging you to support it. I urge you to support it because it represents a small additional commitment to an adequate Federal prison system that is truly a part of the 20th century. These moneys will be managed by a Federal agency that has an excellent record for fiscal managerial responsibility. The Committee on the Judiciary believes that these funds will be well spent on real and in some cases chronic needs. I hope you will share that belief and support this amendment today.

Mr. SLACK. Mr. Chairman, I rise in reluctant opposition to the amendment. I have a very high regard for the gentleman who just left the well. Let me say this, that in marking up the bill we attempted to exercise some fiscal restraint and to report a bill to this House under the budget request. The amount we have recommended for the Bureau of Prisons is in our judgment the full amount needed.

Our committee has historically fully supported the requirements of the Federal Bureau of Prisons and I am sure we will continue to do so. We have a very high regard for its director, Norman Carlson.

Now, we have already adopted some several amendments here today which have increased the bill's totals. Even though I reluctantly oppose this amendment, I would urge the Members of this House to hold this item to the level of the budget request and, thereby, reject this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The question was taken; and on a division (demanded by Mr. SLACK) there were—ayes 8, noes 16.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MARITIME ADMINISTRATION

SHIP CONSTRUCTION

For construction-differential subsidy incident to construction, reconstruction, and reconditioning of ships and acquisition of used ships under title V of the Merchant Marine Act, 1936, as amended; and for the cost of national defense features on ships, $32,000,000, to remain available until expended.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: Page 20, line 12, strike "$32 million" and insert in lieu thereof "$101 million".

□ 1610

Mr. MURPHY of New York. Mr. Chairman, because of the very heavy and crowded schedule, the maritime authorization bill, instead of preceding the commerce appropriation bill, will be up tomorrow, and as a consequence we have a scheduling problem that affects the construction of three vessels.

The additional money here is for three bulk vessels that are in the authorization bill which has passed the full committee. The chairman of the comparable subcommittee in the other body yesterday introduced legislation that will include these three vessels.

The administration will have up to us—and unfortunately, because of administrative delays, it has not come yet—the request for these three vessels. This will amount to only a four-vessel program in this coming year in this legislation, and we hope that the committee will accept this amendment.

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I yield to my colleague, the chairman of the subcommittee.

Mr. SLACK. Mr. Chairman, the fiscal year 1980 budget did include $101 million in new budget authority for the ship construction subsidy program. However, $69 million, as I understand it, was linked to the enactment of the special dry bulk subsidy legislation.

As of a half hour ago, the OMB had not sent this proposal to Capitol Hill, and I think we must get on with the appropriation of these funds. The future seems to be quite uncertain with respect to these dry bulk carriers.

In view of that, Mr. Chairman, I am inclined to accept the amendment offered by the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Chairman, I thank the chairman of the subcommittee.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I am happy to yield to my colleague, the gentleman from Illinois.

Mr. O'BRIEN. Mr. Chairman, we will accept the amendment.

Mr. McCLOSKEY. Mr. Chairman, will the gentleman yield?

Mr. MURPHY of New York. I am happy to yield to the gentleman from California.

Mr. McCLOSKEY. Mr. Chairman, I am wondering why the Committee on Appropriations would yield and accept this amendment, and I would like to point out to the House just precisely what this situation is.

The administration asked for $101 million in the authorization legislation to build four ships and in effect contribute 50 percent to four ships which would cost roughly $200 million. The Committee on the Budget cut that in half, so in the rule of the Committee on the Budget that has been adopted by the budget bill, $50 million has been cut out. They cut it to $50 million, in effect cutting it in half.

This committee, properly realizing that only one of the four ships the administration sought to build had been authorized, cut that to $32 million, if I understand it correctly.

Mr. Chairman, is that my understanding? I direct my inquiry to the chairman of the subcommittee.

Mr. SLACK. Mr. Chairman, if the gentleman from New York (Mr. MURPHY) will yield, the gentleman is correct. The reason we cut it to $32 million is because the $69 million was linked to the special dry bulk legislative proposal, and that has not been sent to the Hill.

Mr. McCLOSKEY. Mr. Chairman, if the gentleman will yield further, was the committee aware when the distinguished subcommittee chairman presented this that the testimony before the Committee on Merchant Marine and Fisheries is that very possibly even these ships cannot be built within the 50-percent construction subsidy limitation that the law imposes because we are limited under the 1970 act to contribute no more than 50 percent of the cost of these bulkers?

There has been no testimony before either the Committee on Merchant Marine and Fisheries or the Committee on the Budget of the House or, I assume, the Committee on Appropriations that would indicate that these ships can be built within the 50-percent construction subsidy.

At this point I would like to go back and address my distinguished chairman, and I am glad to be working with him this year because I think we are going to solve this problem before the year is out.

Is it not true, I will ask the committee chairman, that there is no testimony before our committee that these ships can be built? In fact, the testimony of Mr. Hood of the Shipbuilding Council was precisely that we cannot build these ships with the 50-percent subsidy, that it would now take a 60-percent subsidy or even more to build these ships?

Mr. MURPHY of New York. Mr. Chairman, the gentleman and I have worked extensively in this area, and it was through the gentleman's initiative that the construction differential subsidy was cut back to 35 percent several years ago. At that level no one would invest in ship construction. We have now phased that up to 40, 45, and eventually 50 percent.

Of course, with the almost total demise of the dry bulker fleet of the United States, which is down to 19 vessels, with an average age of 25 years, I am hopeful that that 50 percent will be sufficient.

The CHAIRMAN. The time of the gentleman from New York (Mr. MURPHY) has expired.

(By unanimous consent, Mr. MURPHY of New York was allowed to proceed for 2 additional minutes.)

Mr. MURPHY of New York. Mr. Chairman, I am confident that in the atmosphere today it will be possible at the 50-percent level to construct these vessels. If not, I would say the law would prevail and we cannot have a subsidy of 50 percent and they would not be built.

But I have every confidence from information from the industry and from other information we have received that these vessels would proceed as planned.

Mr. McCLOSKEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, one of the great problems of this Nation has been our construction subsidy program for shipping which the distinguished chairman of the committee, the gentleman from New York (Mr. MURPHY), characterizes this year as a disaster. At the present time the committee chairman has taken the lead in proposing a comprehensive new maritime bill by which we will try to assist the maritime industry of the United States to restore a proud and a competitive and an effective U.S. Merchant Marine that is capable of carrying, and being protected by our Government in carrying, at least 40 percent of all forms of our cargo, oil, bulk, and liner cargo.

But this particular program, the construction subsidy program, should not be debated in the appropriation process; it should be debated properly in the authorization process, and we were prepared, when the maritime authorization bill, which was set for tomorrow, was to come on the floor, to debate this issue squarely.

Let me try, if I may, to point out to the Members some of the problems of the shipbuilding industry. It has been subsidized since 1936, and since 1970, when we conceived a bold new program to try to keep our shipyards in existence and build a number of ships, we found that we could not do so. Worse than that, we have found that all of the nations in the world, pursuing policies that date back to the 1930's, before World War II, are engaged in a race which parallels the arms race.

Belgium, Germany, Norway, Japan, Korea, and other nations are all trying to keep their shipyards in existence, with the end result that the testimony before our committee is that the shipyards of the free world are presently operating at about 25 percent capacity because the industrialized nations opposing the Communist bloc are exhausting their resources to try to keep shipyard employment going.

Mr. Chairman, I have asked that an easel be placed before the House to show the Members what we are talking about in the shipyard element of the seapower of the United States. If I may, Mr. Chairman, I will address the Members from this side of the House where the easel is located. Sometimes my colleagues to the left think I should be speaking on this side anyway.

In any event, these circles show the locations of the 26 major shipyards of the United States capable of constructing ships of over 800 feet in size. The red circles indicate shipyards where construction subsidies have been given to permit the construction of ships during the last 5 years.

Now, if the amendment proposed by the chairman of the committee is adopted, there will be four ships constructed rather than one. Instead of one shipyard being given one construction subsidy for a ship, there will be two shipyards that will get construction subsidies out of the 26 total shipyards.

I am going to ask the chairman of my committee in just a minute to answer a specific question. Is it not true, I will ask the chairman, that the head of the shipbuilding industry of the United States has said that within 7 years, by 1985, if the current shipyards program continues, the total number of 26 major shipyards shown on this map will be reduced to no more than 8 major shipyards? Has that not been the testimony?

☐ 1620

Mr. MURPHY of New York. The head of the shipbuilding lobby did make that statement, and it was corroborated by the Maritime Administration.

Mr. McCLOSKEY. If that is so, I want to ask my colleague on the Committee on Appropriations, at a time when we are trying to balance the budget——

Mr. MURPHY of New York. Will the gentleman yield on that point?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. MURPHY of New York. The Budget Committee cut the ODS $50 million, not the CDS, because it was a hangover from last year. That is the reason.

Mr. McCLOSKEY. I may be in error. It was a $50 million cut.

But let me go back to this point. If we all concede that the number of shipyards in America are going to drop from 26 to 8 or 12 or 13, what real benefit are we accomplishing by subsidizing one additional shipyard in this particular year by the $69 million that the gentleman from New York (Mr. MURPHY) seeks to add back?

The CHAIRMAN. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

(By unanimous consent, Mr. McCLOSKEY was allowed to proceed for 2 additional minutes.)

Mr. McCLOSKEY. Mr. Chairman, it seems to me that it is time to end the construction subsidy program. The testimony before our committee has been clear that the United States shipping industry, which we are trying to promote, considers it an albatross around its neck that it is forced to buy a ship built in the United States at twice the cost it can be built elsewhere. The most successful U.S. shipping line, Sealand, has just contracted to construct ships in Korea because they can build them for less than half of the cost of the ships in the United States. They can have them delivered in 2 years rather than 4. And a reputable shipping adviser has said that the worst burden we place on the U.S. Merchant Marine is to force American shipping companies to buy U.S. ships constructed at U.S. shipyards at over twice the cost.

I submit to the Members that, in my judgment, the Appropriations Committee was right. It was right to cut the appropriations for the construction subsidy to the level of those authorized. Even at this point in the House of Representatives there is no bill to authorize construction of the three additional ships for which we would be appropriating this $69 million. And I would ask the chairman of the subcommittee, the gentleman from West Virginia (Mr. SLACK), would not this set a precedent unknown to the House of Representatives, to appropriate money for the construction of ships in which there is not even a bill before the House to authorize those ships?

Mr. SLACK. If the gentleman will yield, we have done this on other occasions, I will say to the gentleman. We have waited a considerable length of time for the authorizing legislation to be enacted, and we cannot wait for the rest of our lives.

Mr. McCLOSKEY. That is precisely the reason why the chairman of the Committee on Merchant Marine and Fisheries yesterday unveiled a bill to adopt a new maritime policy for the United States, in recognition that this administration is incapable of reaching this kind of decision.

I submit the amendment should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. MURPHY).

The question was taken; and on a division (demanded by Mr. McCLOSKEY) there were—ayes 13, noes 6.

Mr. McCLOSKEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Thirty-two Members are present, an insufficient number. A quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

☐ 1640

[Roll No. 325]

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett

Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell

Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Dickinson

Dicks
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hanley
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

The CHAIRMAN. Three hundred eighty-four Members have answered to their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The pending business is the demand of the gentleman from California (Mr. McCLOSKEY) for a recorded vote.

Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 135, noes 272, not voting 27, as follows:

[Roll No. 326]

AYES—135

Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Aspin
Atkinson
AuCoin
Bailey
Baldus
Benjamin
Bevill
Biaggi
Bingham
Boggs
Bonior
Bonker
Bowen
Breaux
Buchanan
Burgener
Burton, John
Burton, Phillip
Chisholm
D'Amours
Daniel, R. W.
Davis, Mich.
Davis, S.C.
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Fary
Ferraro
Fithian
Flippo
Florio
Foley
Frost
Garcia
Gaydos
Gilman
Ginn
Gray
Guarini
Hammer-schmidt
Hawkins
Heckler
Heftel
Hollenbeck
Holtzman
Howard
Hubbard
Huckaby
Hughes
Jenrette
Jones, N.C.
LaFalce
Lederer
Lent
Lloyd
Long, La.
Long, Md.
Lott
Lowry
Markey
Marlenee
Mavroules
Mikulski
Miller, Calif.
Minish
Moakley
Mollohan
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Neal
Nowak
Oakar
Oberstar
Patten
Patterson
Peyser
Price
Rahall
Rangel
Richmond
Rinaldo
Roe
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Scheuer
Shannon
Shelby
Slack
Snowe
Snyder
Solarz
Stack
Stanton
Stark
Steed
Stokes
Studds
Swift
Trible
Ullman
Van Deerlin
Waxman
Weaver
Whitehurst
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wolff
Wyatt
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NOES—272

Abdnor
Albosta
Anderson, Ill.
Andrews, N.C.
Anthony
Applegate
Archer
Ashbrook
Ashley
Badham
Bafalis
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Bennett
Bereuter
Bethune
Blanchard
Boland
Boner
Bouquard
Brademas
Brinkley
Brodhead
Broomfield
Brown, Calif.
Burlison
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Danielson
Dannemeyer
Daschle
de la Garza
Deckard
Dellums
Derrick
Derwinski
Devine
Diggs
Dornan
Downey
Drinan
Eckhardt
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Fuqua
Gephardt
Giaimo
Gibbons
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Hanley
Harkin
Harris
Harsha
Hefner
Hightower
Hillis
Holt
Hopkins
Horton
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lehman
Leland
Levitas
Lewis
Loeffler
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Maguire
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mazzoli
Mica
Michel
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Natcher
Nedzi
Nelson
Nichols
Nolan
O'Brien
Obey
Ottinger
Panetta
Pashayan
Paul
Pease
Pepper
Perkins
Petri
Pickle
Preyer
Pursell
Quayle
Quillen
Ratchford
Regula
Reuss
Rhodes
Ritter
Roberts
Robinson
Rodino
Rose
Royer
Rudd
Runnels
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shuster
Simon
Smith, Iowa
Smith, Nebr.
Solomon
Spence
St Germain
Staggers
Stangeland
Stenholm
Stewart
Stockman
Stratton
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Udall
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weiss
White
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, C. H.
Winn
Wolpe
Wright
Wydler
Wylie
Yates
Yatron
Young, Fla.

NOT VOTING—27

Alexander
Barnard
Bolling
Brooks
Brown, Ohio
Broyhill
Clay
Conyers
Dixon
Emery
Flood
Forsythe
Hansen
Hinson
Holland
Leach, La.
Livingston
Madigan
Mikva
Pritchard
Railsback
Rousselot
Shumway
Skelton
Spellman
Treen
Wirth

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Flood for, with Mr. Mikva against.

Mr. Leach of Louisiana for, with Mr. Conyers against.

Mr. Livingston for, with Mr. Hinson against.

Mr. Pritchard for, with Mr. Hansen against.

Mr. Emery for, with Mr. Shumway against.

Mr. McHUGH changed his vote from "aye" to "no".

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the amendment I planned to offer today would increase the appropriation for the facilities program for public broadcasting, under the Commerce Department's National Telecommunications and Information Administration, from $12 million, as reported by committee, to $23.705 million, as requested by the administration.

I believe this amendment is necessary for several reasons.

The facilities program is the backbone of public broadcasting. It funds the construction of new public television and radio stations, as well as provide grants for better transmitters and other equipment. Without the stations, the system does not exist. So if we are to have a nationwide system of public telecommunications, we need the strongest possible facilities program.

Last year, the Subcommittee on Communications, in the Public Telecommunications Finance Act of 1978, fully reviewed the facilities program.

To further centralize telecommunications planning and policy, we transferred this program from HEW to the Department of Commerce.

We strengthened the emphasis of the program on increasing ownership of public broadcasting stations by minorities and women.

We redoubled our commitment to public radio.

Most importantly, we were concerned that the program's primary purpose—to establish public television and radio stations throughout the United States—be completed as quickly as possible.

Currently, 20 percent of the American people cannot receive a public television station; 40 percent cannot hear public radio.

The system remains incomplete.

The Subcommittee on Communications determined that $40 million per year would be necessary to do the job. The administration proposed $24 million. And now the Appropriations Committee has recommended $12 million—a $6 million cut from fiscal year 1979, a $6 million cut even though there will be nearly $100 million in grant requests in fiscal year 1980.[1]

Mr. Chairman, I submit that this level of funding is insufficient to complete construction of a public broadcasting system which will reach all the American people, much less meet the other ambitious goals this Congress has explicitly endorsed.

I urge my colleagues not to repudiate those commitments.

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I would be pleased to yield to the gentleman from West Virginia.

Mr. SLACK. Mr. Chairman, let me assure the gentleman that his request will be given full consideration in the conference with the other body.

Mr. WAXMAN. I thank the chairman of the subcommittee for that assurance.

Mr. VAN DEERLIN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the chairman of the Communications Subcommittee, the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Mr. Chairman, I believe my fellow Californian, Mr. WAXMAN, has raised an issue vital to the continued growth and development of our Nation's publicly funded broadcast service.

In October of last year, Congress saw the culmination of a year-long effort to strengthen the public broadcasting system. It was a year of lengthy debate, and the results, I believe, will serve to encourage accountability and independence in public broadcasting.

At the time that bill was passed in the House—just about a year ago—I pointed out that one of six primary purposes of the legislation was to: "Assist in the planning and construction of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means."

In considering the fiscal year 1980 appropriation for the Departments of State, Justice, Commerce, and the Judiciary, we will be determining whether or not these public telecommunications services are to reach millions of Americans currently unserved. I am talking about the Public Telecommunications Facilities Program.

In authorizing funds for the public telecommunications facilities program last year, we transferred the program from the Department of Health, Education, and Welfare, to the Department of Commerce. We made this change for two reasons. First, the program had not received enough administrative support from HEW. This led to delays in the award of grants and inadequate oversight of grant recipients.

Second, in view of developments in communications technology, we thought the program could benefit from the expertise of the Commerce Department's National Telecommunications and Information Administration (NTIA).

The Commerce Department has administered the program for only a short time, but already it has demonstrated a great commitment to its success. The Department has developed and issued new regulations and solicited applications. It expects to award the 1979 grants soon.

Considering the optimistic outlook for completion of the public broadcasting system, I was disappointed to learn that the Appropriations Committee had approved only $12 million for the facilities program for fiscal year 1980. This is $28 million less than the amount authorized by Congress; $6 million less than the amount available for fiscal year 1979, and only half of the $23.7 million requested by the administration.

If enacted, this cut will mean a significant delay in expanding public broadcasting to reach all Americans. There are still millions of people who live outside the reach of a public broadcast station. Yet, all of them pay with their tax dollars to support the programs broadcast by public TV and radio. At present, citizens in Montana and Wyoming are without local public television outlets. Large areas of the States we represent—especially in the west—do without the benefit of a public television signal. Large metropolitan areas still go unserved by public television. For instance, Santa Barbara, Calif., Fort Wayne, Ind., and Beaumont, Tex. are in markets of over 350,000 people and yet have no public television outlets.

Even larger areas of the United States are unable to receive public radio service. Nassau and Suffolk counties in New York, with a combined population of over 2.5 million people, have no public radio. Cleveland, Ohio, a major metropolitan area with over 2 million people, has no public radio. Six States—Delaware, Hawaii, Idaho, Nevada, New Hampshire, and Rhode Island—are totally without public radio stations. Nine other States have service from only one public radio station. It is unfair and unnecessary to deny the taxpayers in these areas the chance to hear and see programs that they are paying for.

Finally, I believe that the Appropriations Committee's action will actually result in increased costs to the taxpayer. We expect that the 16-year-old facilities program can be eliminated once the public broadcasting system is complete. In fact, I introduced legislation to that effect earlier this year. With construction and administrative costs rising every day, the longer it takes to complete this job, the higher the cost will be to the taxpayer.

As chairman of the Subcommittee on Communications, I strongly recommend that we finish what we started. We should restore the funding, and then look toward phasing out the program just as soon as the task is completed. This course of action will permit a rapid and economical response to the needs of millions of Americans who are currently denied access to the educational, cultural, and informational services of public broadcasting.

Mr. WAXMAN. Mr. Chairman, in light of the comments that we received, and I think the point that we have made, I will not offer this amendment and I will wait with optimism in hopes that the conference will recognize the need for additional appropriations for this facilities program. I am pleased to have the receptive comments that the subcommittee chairman has made.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $82,990,000, of which $2,000,000, to remain available until expended, shall be available only for fluctuations in foreign currency exchange rates in accordance with the provisions of section 8 of the Board for International Broadcasting Act of 1973, as amended: *Provided*, That not to exceed $52,000 shall be available for official reception and representation expenses.

□ 1700

AMENDMENT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DERWINSKI: Page 29, line 17, strike out "$82,990,000" and insert in lieu thereof "$85,990,000"; and on line 18, strike out "$2,000,000" and insert in lieu thereof "$5,000,000".

Mr. DERWINSKI. Mr. Chairman, my amendment would restore $3 million to the currency devaluation fund for Radio Free Europe and Radio Liberty. Seventy-six percent of RFE and RL's expenses are in West German marks, and this funding is needed to compensate for the value of the mark against the U.S. dollar. The rate of exchange has dropped from 2.10 West German marks to the dollar in October 1978, to 1.83 now. The appropriation assumes that the exchange rate will go to 1.93, but this is an unrealistic figure.

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[1] Estimate by the Joint Council on Educational Telecommunications.

Since 1971, when Radio Free Europe and Radio Liberty became openly financed by the Congress, financial support to both has declined steadily. Congressional appropriations have never compensated fully for the devaluation of the dollar and rising costs.

In fiscal years 1978 through 1979, Congress cut a total of $1,838,000 from the appropriation requests. One million dollars has just been cut from the fiscal year 1979 supplemental request. The $5 million request for currency devaluation funding in this fiscal years 1980 bill has been cut by $3 million, and I urge its restoration. According to the Board for International Broadcasting, RFE and RL would need $100 million just to operate at the same level as 1971. The Soviets spend three times that much on jamming them.

RFE broadcasts in six languages to Eastern Europe. Radio Liberty beams programs in 15 languages to the nationalities of the Soviet Union. Both radios represent 80 percent of the total output of western broadcasts to this part of the world. In contrast, the Soviet Union has recently expanded its broadcasts in 62 foreign languages to the Middle East, Africa, South and East Asia, and Latin America.

In recent years, while the Soviets have stepped up their propaganda use of air waves, the United States has been slowly weakening its efforts. The Voice of America has restricted the political content of its programs to the Soviet bloc to such a degree that the Soviets stopped jamming VOA.

It is the strong consensus of Soviet dissidents that crippling of Radio Liberty and Radio Free Europe would deal a serious blow to the whole movement for defense of human rights within the Soviet orbit.

Radio Free Europe and Radio Liberty are important weapons in the war of truth against Soviet propaganda, and as such are truly U.S. defense assets. We must not cut back on the message of freedom. We cannot afford to lose the broadcasting battle to the Soviets.

Mr. Chairman, my amendment is needed for Radio Free Europe and Radio Liberty. These are the U.S. radio broadcasts that beam into Eastern Europe and the Soviet Union proper. The specific issue involved here is the loss of value of the U.S. dollar against the West German mark, and the purpose is to produce for the entity the necessary adjustment of the expenses, their needed expenses. They actually do not have the equivalent power of with the loss of dollar value. I understand there has been some discussion in the committee, and before I proceed further, I wonder if the chairman or the ranking member could enlighten me as to just what consideration they have given to this problem.

Mr. O'BRIEN. If the gentleman will yield, in view of the fact that these broadcasts clear Ireland at a considerable height, the gentleman's interest surprises me. However, we have discussed his point in committee to some degree, and we believe that while we feel we have provided enough, it seems to us that there will be an opportunity to provide additional funding should the occasion of need arise.

Mr. DERWINSKI. Would that possibly be the supplemental?

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from West Virginia.

Mr. SLACK. I thank the gentleman for yielding.

Mr. Chairman, this bill includes $2 million for currency fluctuations for the operation of radios in Western Europe, as my friend knows. This is the same amount that was provided for currency fluctuations in the regular annual appropriation bill for fiscal year 1978 as well as for fiscal year 1979. In the event additional requirements for this item arise during the course of 1980, let me assure the gentleman from Illinois that this matter can be handled in the supplemental appropriation bill as we have done in the past 2 fiscal years. If he would see fit to withdraw this amendment, I would assure him that this would be handled in a supplemental measure in the event it is needed.

Mr. DERWINSKI. Mr. Chairman, I thank the gentleman. I would like to point out, as a member of the authorizing committee for the Board of International Broadcasting, I feel these are truly valuable and practical programs and, I think, a good investment. But in view of the gentleman's comments, to expedite procedures, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; $11,175,000: *Provided*, That not to exceed $1,500 shall be available for official reception and representation expenses.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to point out to the Members of the Committee at this point in the bill there would normally have been an appropriation provided for the Federal Trade Commission. I note that there is no appropriation for the Federal Trade Commission contained in this bill, and I want to state that it is because the chairman of the subcommittee and the members of the subcommittee, exercised the proper responsibility of the Appropriations Committee. There is no authorization for the Federal Trade Commission and, therefore, there should be no appropriation until there has been an authorization.

During the last Congress the authorization legislation for the Federal Trade Commission was defeated. The conference report authorizing appropriations for the FTC was rejected on two occasions by overwhelming votes in this House because the other body refused to compromise and go along with a legislative veto over the rules and regulations issued by the Federal Trade Commission. I am happy to state that our Committee on Interstate and Foreign Commerce has now reported out an authorization bill for the Federal Trade Commission which will include the legislative veto provision. I hope that the House will speedily act upon that and that a conference report can come back containing the legislative veto. If not, I think we will have to see a sunset occur through lack of appropriations, because I intend again to make every effort I can to defeat any authorization that does not contain a legislative veto.

Mr. Chairman, I would like at this time, if I may, to engage the chairman of the subcommittee in colloquy. Could the chairman tell me whether or not in conversations with Members of the other body there is going to be any attempt made to put in funds for the Federal Trade Commission in this legislation when it comes back in conference?

Mr. SLACK. If the gentleman would yield, I have not discussed this matter with the other body, but I assume that they will put funds in the bill for the FTC, whether or not it is authorized.

Mr. LEVITAS. I would also like to make the observation that in that instance I know the gentleman will do this: defend the House position; but if the conference report comes back in a matter of disagreement between the House and the Senate, with FTC appropriations without authorization then it would be my purpose at that time to make every effort to uphold the House position and strike out those funds so that we will make certain that an unauthorized, in fact a defeated authorization, will not be funded, and I know the gentleman feels that way.

Mr. SLACK. If the gentleman will yield, since this bill was funded for 2 years without authorization, we feel very strongly before we move forward in this area with appropriations we must have authorization, and the congressional veto question must be settled.

Mr. LEVITAS. I thank the gentleman. I commend him and his subcommittee for this position. I think we have got to draw the line and not fund agencies on and on and on without authorization.

Mr. Chairman, I yield back the remainder of my time.

□ 1810

AMENDMENT OFFERED BY MRS. SNOWE

Mrs. SNOWE. Mr. Chairman, I ask unanimous consent to offer an amendment on page 21, line 9 of the bill.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Maine?

There was no objection.

(The portion of the bill to which the amendment relates is as follows:)

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, including not to exceed $2,500 for entertainment of officials of other countries when specifically authorized by the Maritime Administrator; not to exceed $2,500 for representation allowances; not to exceed $2,500 for contingencies for the Superintendent, United States Merchant Marine Academy, to be expended in his discretion; $64,622,000 to remain available until expended: *Provided*, That reimbursement may be made to this appropriation for expenses in support of activities for National Maritime Research Centers financed from the appropriation for "Research and development": *Provided further*, That reimbursements may be made to this appropriation from receipts to the "Federal ship financing fund" for administrative expenses in support of that program.

The Clerk read as follows:

Amendment offered by Mrs. SNOWE: On page 21, line 9, strike "$64,622,000" and insert in lieu thereof "$66,620,000".

Mrs. SNOWE. Mr. Chairman, I am offering this amendment to H.R. 4392 on behalf of my colleague from Maine (Mr. EMERY) It will provide $1,998,000 ($1.9 million) to State marine schools for the purpose of purchasing fuel for training vessels.

The Maritime Administration projects that fuel costs will increase over the next year by at least 10 percent. Given our recent experience, this is a conservative estimate, indeed. Using last year's consumption as a basis for computing the cost and multiplying that figure by the current fuel price plus 10 percent, the agency estimates that $1,998,000 must be spent in fiscal year 1980 in order to operate the marine school training vessels. Unless our amendment is accepted, the schools will have to come up with this amount themselves.

As a member of the Ad Hoc Select Subcommittee on Maritime Education and Training, Mr. EMERY has had an opportunity to review the operation of many marine schools and has expressed his impression of the cost-effective operation of most of them. They have exhibited the ability to revise their budgets in light of increasing inflation and, yet, continue to train merchant seamen to a high level of excellence and competence. The training vessels are an integral part of a seaman's curriculum at the schools and cannot be dispensed with or minimized.

For this reason, I feel that we should appropriate $1,998,000 for State marine schools in order that they may purchase fuel for training vessels during fiscal year 1980.

Mr. SLACK. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, first of all, there is no budget request for this item. The usual practice of our committee is to wait until the President submits a budget estimate for a program before providing funds in an appropriation bill. This procedure provides an opportunity for us to hold hearings and examine a request in detail and then make adjustments accordingly. By offering this amendment, the gentlelady would bypass this very important part of the appropriations process.

Second, this item is not yet authorized. Furthermore, it is not even included in the Maritime Administration authorization bill for fiscal year 1980 which has been reported to the House by the Merchant Marine Committee.

Third, the State marine schools have experienced increased fuel costs in each of the last 5 years. In 1975 the total fuel bill for the school-ships was $576,179. In 1979 the total cost is estimated to be $1,243,700. This amount reflects an increase of $667,521 over the 1975 cost of fuel for the ships. I am sure that it has not been easy for these schools, but I would point out that they have been able to meet these costs out of their own budgets in every one of the last 5 years. The gentlelady's amendment would have the Federal Government pick up the entire cost of this item for each of the schools. I do not think the American people want this Congress to approve increases of such magnitude. I think the American people are asking us to show some restraint in the growth of the Federal budget, by disapproving this type of amendment.

Fourth, our committee has been very, very generous this year with regard to the State marine school program. We included a total of $10,285,000 in this bill for fiscal year 1980 for these schools. This amount represents an increase of $4,915,000 above the $5,370,000 provided for this program for fiscal year 1979. This increase is comprised of $3,500,000 for a replacement vessel for the Massachusetts Maritime Academy as well as $1,415,000 for a significantly increased level of maintenance and repair for the school-ships and additional cadet allowances. Surely these additional funds will provide significant help to these schools in meeting their total budgetary requirements for fiscal year 1980.

In summary, there is no budget request for this item, there is no authorization, the State marine schools have been able to meet these increased costs, and the bill provides a significant budgetary increase—81 percent above the current year level for the State marine school program. For these reasons, I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maine (Mrs. SNOWE).

The question was taken; and on a division (demanded by Mrs. SNOWE), there were—ayes 24, noes 30.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

UNITED STATES METRIC BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205), $1,613,000.

AMENDMENT OFFERED BY MR. PHILIP M. CRANE

Mr. PHILIP M. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILIP M. CRANE: On page 39, strike line 6 and all through the end of line 10.

Mr. PHILIP M. CRANE. Mr. Chairman, reduced to the basics, my amendment will save 1,613,000 taxpayer dollars by eliminating all funds allocated to the unnecessary U.S. Metric Board.

The U.S. Metric Board was authorized by the Metric Conversion Act of 1975. The title of this 1975 bill was most unfortunate. It misled many into believing that the United States had made a national commitment to convert to metrics and that a Federal agency would carry out the switch. In fact, the law specifically stated otherwise. The operative language in section 3 of that act clarifies that—

> The *policy* of the United States shall be . . . to coordinate the *voluntary* conversion to the metric system. (15 U.S.C. 208, emphasis added.)

Conversion, if it takes place at all, is to be totally voluntary. Each American is free to decide for himself whether or when his business would benefit from a switch to metric measurement. Each American is free to decide whether or when to learn all the conversion tables and gain a working knowledge of the metric system. Each American is free to decide what he wants and when he wants it with regard to systems of measurement.

Leaving all decisions regarding measurement systems to the individual is an act of commonsense. After all, an individual knows his needs far better than some bureaucrat who sits in an air-conditioned office in Washington, D.C. I still believe that Congress has preserved at least a smidgin of commonsense. Of course, if Congress had been truly wise, it would not have tampered with this question at all. By going to the effort of telling Americans they are free to convert or not convert to metrics, an agency somehow got formed in the process. Congress cannot even tell Americans they are free to choose without creating a Federal agency. Moreover, by stating the obvious that Americans are free to decide, we also got the unfortunate title of the 1975 act that caused many to believe the exact opposite—that is, that their Government was deciding for them again. Congress often cannot even state the obvious without creating a Federal agency and causing confusion.

In any event, that brings us to the subject of my amendment. Since Congress was sensible enough to make conversion totally voluntary, surely it is wise enough to understand that we do not need to spend $1,613,000 for a Federal agency to influence that choice. Americans do not need to pay a Federal agency to tell them what to decide.

The Appropriations Committee was half wise. They cut the U.S. Metric Board's budget request in half. In making its reduction, the committee gave us their insight into the Metric Board's effectiveness (and empire building proclivities):

> This amount is a reduction of $1,722,000 from the budget request, but is an increase of $38,000 above appropriations enacted to date for the Board for fiscal year 1979.
>
> The Committee has not approved any of the 21 additional positions or other program increases requested for the Board for fiscal year 1980 because the Committee is not convinced that the Board, which has been in existence for only one year, needs an 84 percent increase in its permanent staff.

In the first place, Mr. Chairman, we have to wonder about the dire need for an agency that could not even manage to get moving until 3 years after it was authorized. And then we have to admire the guts, if not the brains, of an agency that seeks an 84 percent increase in personnel after a single year in operation. By the way, the committee did use its commtitee report to give added weight to the Comptroller General's study on the metric conversion:

> The Comptroller General has recommended that the Metric Board initiate a program to inform the American people that conversion to the metric system is strictly voluntary and that the national policy as mandated by the Congress does not favor the metric system over the customary system or vice versa. The committee is concerned that the Board, in its policies and actions, is becoming an advocate of the metric system and is giving the impression that our official national policy is to convert to the metric system albeit voluntarily.

Congress should now proceed to complete the job left half-done by the Appropriations Committee, that is, cut the rest of the funds for this useless Federal agency.

Mr. Chairman, since the Appropriations Committee mentioned the GAO study, let us look at that next. The Comptroller General's October 20, 1978, study confirms that conversion is to be voluntary:

> The 1975 Act and its legislative history show the national policy is not to prefer one system over the other but to provide for either to be predominant on the basis of the voluntary actions of those affected. . . . Despite opinions and statements to the contrary, it is not the United States' policy to convert to the metric system.

This should not be news. Voluntary conversion has been U.S. policy since 1866 when the metric system was authorized. In 1975, Congress only echoed what Americans had understood for over a hundred years.

Once again we come to the undeniable conclusion that Americans do not need to spend $1,613.000 to have a Federal agency make their decision for them. They are perfectly capable of weighing the alternatives and reaching their own conclusion. This $1,613,000 would be spent for speechwriters, toll-free telephone lines, automated communications systems (computerized tvpewriters), and more secretaries and assistants for the U.S. Metric Board. To what avail? Any switch to metric is to be the product of voluntary choice, not the persuasion or coercion of an expensive Federal agency.

Mr. Chairman, because my amendment is based on commonsense, I anticipate objections from some Members of this House. Therefore, I would like to address those objections before they are even made.

The first objection will be "we have already decided by a conclusive vote of Congress to create this agency and cannot just eliminate the funds to sustain its existence." In the first place, the 300–63 margin of passage for this agency is more evidence of a mistake than of merit. When Congress makes mistakes, it usually does so by a conclusive margin. In any event, we should not allow a mistake to continue simply because we do not want to admit that we made it. This House has not hesitated in the past to reverse an authorization decision by eliminating its funding. Let me cite a few examples: In 1977, the legislative appropriations bill eliminated funding for an authorized (and unwarranted) pay raise for Congressmen. The President's ill-fated amnesty program for draft evaders was authorized but denied funds. The Trexler Lake public works project was underway in Pennsylvania when the House cut its funding. Five additional B–1 bombers were authorized for construction when the House reversed itself and weakened our defense by cutting the appropriations. The House does not need to feel squeamish about correcting a past mistake by eliminating the funds for the unnecessary U.S. Metric Board.

Another objection we will hear is that "if we abolish the Metric Board, our trade with metric nations will be damaged." This objection misses the point completely. Americans have their freedom to choose. If it is profitable and beneficial to convert to metrics for international trade, you had better believe that our enterprising American businessmen will effect the change tomorrow. But if it is not profitable, no Federal agency has or should have the power to force a change. If conversion is to take place at all, it should come naturally, as demanded by the marketplace, not in response to pressure from a Federal bureaucracy. Moreover, Congress should not decide for everyone when or if to convert, individuals and businesses can decide for themselves. America's businesses can decide to convert if they feel their trade is being harmed.

Before we pass this last objection, however, a glance at what our studies say on this topic of trade damage would be helpful. Under Public Law 90–472, the National Bureau of Standards conducted a $1.3 million study into the need for metrication. They checked this trade question closely and concluded:

> The notion that the U.S. is losing exports to metric countries because its products are not designed and manufactured in metric units and standards appears to be ill-founded. U.S. exports of MSS (measurement sensitive) products to metric countries are more than double the exports to nonmetric countries. Furthermore, some of the fastest growing markets for U.S. MSS products are the metric countries. For example, shipments to both Japan and EEC markets grew faster than total exports of MSS products. In the period 1965–69, exports of MSS products to metric countries grew 48.3 percent compared with a 44.6 percent growth to nonmetric countries.
>
> U.S. exporters and importers rank the measurement factor very low, indicating it affects U.S. trade only slightly. Exporters indicate that the top three factors promoting sales abroad of MSS products were reliability and reputation, superior technology, and high quality of product. These three factors account for over 60 percent of total rankings. As to promoting exports, the measurement system used to design and manufacture U.S. products (either U.S. customary or metric) received only 1.6 percent of the total rankings. The measurement system received only 3.3 percent of the total ranking of export deterrent factors.
>
> The only instance where the measurement factor was cited as having an important effect on trade was in the importation of wood and lumber products and primary metal products. Importers in these produce categories stated that because these products are generally designed and manufactured in U.S. customary units and engineering standards, their sales in the domestic market were greatly enhanced.

The Comptroller General reached the same conclusion just recently:

> The effects of metrication in promoting or deterring trade appear to be relatively insignificant and companies in the forefront of metrication appear to be pursuing conversion for reasons other than a favorable impact on trade.

The trade loss objection lacks a sound foundation.

Others will object that "without the Metric Board, conversion to the metric system will be disruptive, disjointed, and uncoordinated." At this objection, I must chuckle a little. Since when has the Federal Government been noted for smooth and efficient management. Can a government which claims the speed of the Postal Service, the fairness of the Internal Revenue Service, and the efficiency of Amtrak really presume to prevent disruption? Nonetheless, someone is sure to stand up as soon as I am seated and swear that we need a Federal agency to "coordinate" the nationwide conversion process. By the way, I hasten to add that there is no national commitment to metrication. We do not need a Federal agency to coordinate a national commitment we have not made.

Mr. Chairman, let me add one more point while we are discussing whether the Federal Government is needed to participate in conversion to metrics. One of our major industries, the automobile industry, had substantially converted to metrics long before we even had a Metric Board. That voluntary conversion occurred without major disruptions. Moreover, 60 percent of the Fortune 500 companies had made some commitment to metrics voluntarily without a metric agency. Freedom of choice works. If the Metric Board does for conversion what the Department of Energy has done for oil production, maybe the opponents of any conversion should oppose my amendment in the hope that the Government will get involved and nothing will ever happen.

In conclusion, let me just invoke for you the visions of an expanding Federal Government. Every new agency and bureau wants to do something to help Americans. Instead, they are making the decisions Americans must make for themselves. After all, our constituents know their own needs better than some law graduate sitting in Washington, D.C. Let me also invoke the picture of a budget in the red. Senseless spending has put it in the red and, unless we start cutting marginal spending projects like this, it will stay in the red.

Finally, Mr. Chairman, let me invoke for you the picture of America's farmers going to the feed store to buy fertilizer for so many kilograms per hectare. If you can convince that farmer that a Federal agency is needed to help him choose to convert voluntarily to metrics and that his Congress should appropriate $1,613,000 for that purpose, let me know. I would like to visit with that gentleman.

□ 1720

Mr. HIGHTOWER. Mr. Chairman, I rise in opposition to the amendment.

I agree with the gentleman that the Metric Board has gotten off to a bad start and has not carried out its program in the way that the Congress intended. However, the gentleman's amendment goes too far. It would eliminate funding for the Board entirely. Consequently, no resources would be available to carry out the Metric Conversion Act of 1975 which established the Metric Board and gave it significant responsibilities in assisting those groups, industries, and other segments of our society which want to convert voluntarily to the metric system. If the gentleman disagrees with the basic purpose of that legislation—which I might add was overwhelmingly approved by this House in a vote of 300 to 63—then he should work for repeal of the act. If that is the gentleman's position, he should work with the authorizing committee to amend or repeal the basic legislation and should not try to accomplish his objective in an appropriation bill by simply cutting off all funding for this program.

I think our committee has taken a much more responsible approach to try to straighten out the direction of this program. The budget request for fiscal year 1980 for the Metric Board was $3,335,000. The bill before you includes $1,613,000 for the Board, a reduction of $1,722,000 or about 52 percent from the request. This reduction reflects the committee's disapproval of 21 additional positions requested, as well as all of the requested increase for travel. The committee's recommendation would hold the Board to essentially its current level of operations, including 25 positions, adjusted for certain nondiscretionary cost increases. By eliminating all program increases the committee intends that the Board reexamine and redesign its programs and policies to insure that they adhere strictly to the intent of Congress as stated in the Metric Conversion Act. In addition, the committee intends that the Board in all of its programs reemphasize that conversion to the metric system is entirely voluntary.

In summary, I think that the recommendation of the committee contained in this bill is the responsible approach to reshaping the program of the Metric Board. The committee recommendation provides the Board with the minimum level of resources. It provides for a limited number of personnel. But most important, the committee recommendation provides the direction and guidance needed to carry out the intent of Congress as expressed in the basic legislation for this program. I would therefore urge that the committee recommendation be accepted and that the gentleman's amendment be defeated.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. HIGHTOWER. I would be happy to yield.

Mr. PHILIP M. CRANE. Mr. Chairman, the gentleman makes a point that is well taken, that the House overwhelmingly passed the legislation creating this agency; but mistake and merit have to be distinguished from one another.

I would argue that we made a profound mistake in doing that and we have a chance here to remedy our past errors.

I would laud the Appropriations Committee for at least denying this empire-building agency the chance to expand by 21 members; but this is not unprecedented action that I am proposing.

You know, we have had authorizations in the past, including congressional pay raises. But this body has subsequently decided not to appropriate the money to carry through with the authorizations that have been made. There are many other examples of that nature I could cite.

I think the most important thing to keep in mind is that when it is economically in any business' interest, and it is in many, when it is economically in their interest, they will make the conversion. The auto industry made this conversion to metric before the Metric Board was ever created, much less before it began to take any position action.

For those reasons, I think we stand a chance here at this time in history when Americans are understandably concerned over how their tax dollars are being spent to save a modest $1,613,000.

As my distinguished former Senator from Illinois, Everett Dirksen, used to say:

> You know, a billion here, a billion there, it begins to add up to real money.

As a result, while we are dealing here with a relatively modest amount of money, we nevertheless can take this positive action to guarantee that the taxpayers will enjoy some relief.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I rise in firm opposition to the amendment offered by my colleague from Illinois (Mr. PHILIP M. CRANE). The issue he raises today is not a new one, and previous attempts to reduce or delete funding for the U.S. Metric Board have been overwhelmingly defeated by this body.

Indeed, since the passage of the U.S. Metric Conversion Act in 1975, the House of Representatives has repeatedly demonstrated its strong support for the process of voluntary conversion to the metric system. The Metric Conversion Act passed this body in 1975 by a vote of 300 to 63. The first appropriation for carrying out the provisions of this act under the auspices of the U.S. Metric Board was approved by a margin of 302 to 75. Almost a year ago to date, the gentleman from Illinois (Mr. PHILIP M. CRANE) offered a similar amendment to a supplemental appropriations bill to delete funds for the Metric Board which was rejected by a vote of 302 to 75.

Since today's discussion focuses on the nature of exactly what constitutes a voluntary conversion to the metric system rather than the obvious benefits of metrics, I will not review the well-known benefits that the simple, yet scientific, system of metric measurement provides. I will not review the fact that the United States is the only major industrial country in the world which does not make general use of the metric system. I will not review the fact that many U.S. corporations are converting to metrics in order to enhance the marketability of their goods overseas and to make their products compatible with foreign plant equipment.

The colleague letter circulated by the gentleman from Illinois in support of the pending amendment raises questions as to the nature of a voluntary conversion and contends that—

> It is foolish to spend $1.613 million for a Federal agency to influence that voluntary choice.

In that regard, I would like to emphasize that the function of the U.S. Metric Board as mandated in the 1975 legislation is not to influence that voluntary choice, but to coordinate a voluntary private sector shift toward the metric system. Through the informational and educational functions of the Board, any potential confusion and misunderstanding on the part of the public, business, or labor can be minimized. There can be no dispute that all of the conversion activities are strictly voluntary and I have seen no evidence which indicates that the metric board is forcing an unwanted system of measurement on our society.

In deliberating on the proper policy to be pursued by the Metric Board and in debating the pending amendment, it is wise to weigh the thoughts of our former colleague, the gentleman from Texas, Olin Teague, past chairman of the Committee on Science and Technology, as expressed in a letter to Louis F. Polk, chairman of the U.S. Metric Board. In discussing the proper policy of the Metric Board, he states:

> That policy is to facilitate the conversion to Metric use in our country in order to reduce the total cost and inconvenience to our people. The intent of the Act is that the Metric Board should seek to reduce the time needed to make the conversion activities and to coordinate conversion activities, so as to achieve the benefits of Metric use sooner and reduce the cost and inconvenience arising from an unduly prolonged period of dual use. Furthermore, the policy is based on the principle of voluntary participation and for that reason the Act specifically states that the Metric Board shall have no compulsory powers, but it is expected to give positive guidance to any and all who voluntarily convert to Metric.

Mr. Teague continues:

> I would emphasize that the fact that the process is voluntary does not mean that the role of the Board should be a passive one. The Board, in its public education activities should try to reach every American both

> directly and indirectly . . . In its coordination activities the Board should actively seek out the members of every sector in our society which may be affected by conversion to Metric with the aim of identifying those who wish to participate in the Board's coordination work.

The U.S. Metric Board functions to aid and assist a broad base of industry, labor, business—including small business, agriculture, educational institutions, State, and local governments, the consumer, and the general American public who voluntarily move toward utilization of the metric system and their recognition of the advantages it offers. I urge my collegaues to defeat this unsound amendment.

☐ 1750

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield for a question? Is the gentleman, when he refers to study preceding our acceptance of metrics, talking about the period before 1866?

Mr. McCLORY. I want the gentleman to have the benefit of a little history so he will be able to debate more definitively on the subject.

Mr. PHILIP M. CRANE. I want to find out if the gentleman is talking about studies prior to 1866, or something more recent.

Mr. McCLORY. I am talking about a study which originated, I believe, in about 1965 or 1966.

Mr. PHILIP M. CRANE. I see. One of the more recent studies?

Mr. McCLORY. That is the study which culminated then in a 1972 report, I believe. This report and recommendations, which were based upon a broad cross section of interrogatories and investigations, including studies of the metric conversion programs of other nations, some of which have already been completed while we are still working on this voluntary program.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. Mr. Chairman, first I want to explain to the gentleman the purpose of this legislation so that he will understand how economical and how efficient and how wise it is for us to proceed with this program, even with this modest appropriation. What this Metric Conversion Board can do is to provide a mechanism whereby the private sector can voluntarily organize for a voluntary and coordinated conversion to the metric system of weights and measures, a system which has been adopted by every other industrial nation in the world, including several other nations which are in the course of completing their conversion to the metric system.

There are committees of such groups as the petroleum and natural gas industry, the steel and metals industry, the structural and agricultural equipment industry, the instruments industry, and the medical devices industry that are working today with the Metric Conversion Board, and I could go on and on.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield on that point?

Mr. McCLORY. These are all separate industrial or business units which are working with the Metric Conversion Board in order that they themselves can provide for these conversion programs in an orderly and efficient way. Without this mechanism, without this device of this 17-member board of private citizens representing a broad cross section of the men and women of this Nation, we do not have an agency which can help in this program.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. Mr. Chairman, let me just add this one thing first: The nations which have gone forward without this kind of mechanism have been the ones that were the losers. Japan is one. They went forward, and then they went back. Even England suffered great expense because of falling back.

The fact that we did not have a metric conversion board appointed for about a 2½-year period is the thing that resulted in our losing momentum in the metric conversion program.

Mr. PHILIP M. CRANE. Mr. Chairman, will my colleague, the gentleman from Illinois, yield?

Mr. McCLORY. I yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. Mr. Chairman, there are a number of instances in which my esteemed neighbor, the gentleman from Illinois (Mr. McClory), refers to conversions that have been made in cooperation with this Metric Board. I submit to the gentleman that most of them were making conversions to metric before the Board came into existence.

I have cited the automobile industry. The automobile industry basically made the conversion before the Board was ever brought into creation, and in the case of some businesses, it obviously has merit.

Mr. McCLORY. Mr. Chairman, let me just answer the gentleman on that one point.

It is true that the automobile industry opposed any kind of study program for a long time, but they finally recognized that this was inevitable, that metric conversion was coming. It is coming, and they recognized that. Consequently, they got behind the study program which was the basis for this legislation which we have now and which is enabling the private sector and the educational community to convert voluntarily.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise to speak against the amendment, which I think is unrealistic in the extreme, and also to speak also to the wording in the report by the subcommittee on the legislation we are considering today.

First of all, let me say that I think the remarks of the gentleman from Illinois (Mr. Bob McClory) are well taken. The gentleman has worked for many years with the Committee on Science and Technology, helping to prepare this legislation, creating a Metric Board. The legislation, which is Public Law 94-168, was enacted under the chairmanship of Congressman Tiger Teague of the Science and Technology.

I wish to read for the Record the policy statement of the law, and I wish to emphasize for the Record that this is the law:

> It is therefore declared that the policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system.

Mr. Chairman, the point that must be made for the Record at this time is that conversion to the metric system is the policy of this country under the law. The voluntary portion of it applies to every individual or corporation. But it is the policy of this country, under the law, to convert to the metric system. This is important for us to understand.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I will not yield at this time; I will yield after I have finished making my point, if I have time.

Mr. Chairman, in November 1978 Congressman Teague, who was then chairman of the Committee on Science and Technology, wrote to the Chairman of the Metric Board concerning the GAO report which is quoted in the subcommittee's report today. Chairman Teague said the following:

> It has come to my attention that the recently issued GAO report on the Metric System may have caused some misunderstanding of the legislative intent embodied in Public Law 94-168, the Metric Conversion Act of 1975. I want therefore to provide to you and your associates on the U.S. Metric Board, who are charged with carrying out the letter and intent of this law, a clear indication of what the Congress intended when it enacted this Act.
>
> The most notable aspect to keep in mind, and the aspect which the GAO entirely fails to reflect, is that the legislation which was sent to the President in December 1975 was the result of a lengthy legislative consideration stretching over several Congresses. Because there were sharply differing views on this subject, ranging from those who favored a conversion mandated by the Government within a fixed time period to those who favored no legislation at all which would mean a continuation of the uncoordinated changeover in effect since 1866, the Metric Act is a compromise in the best sense of that word.
>
> But, contrary to the analysis in the GAO report and some of the news stories which have accompanied its release, this compromise does, in fact, set forth a clear policy for Metric conversion in the United States. That policy is to facilitate the conversion to Metric use in our country in order to reduce the total cost and inconvenience to our people. The intent of the Act is that the Metric Board should seek to reduce the time needed to make the conversion and to coordinate the conversion activities so as to achieve the benefits of Metric use sooner and reduce the cost and inconvenience arising from an unduly prolonged period of dual use. . . .

And the letter goes on.

Mr. Chairman, I wish to make this point very clear: That the policy of the law is to convert to the metric system in this country. The voluntary aspect of this law applies only to individuals and corporations. Any individual or any corporation may convert over to the metric system at his or its discretion and in his or its own time; but it is the policy of this country under the law to convert to the metric system.

Therefore, the GAO report is completely inconsistent with the law. Unfortunately, the subcommitee report confuses this matter, and attempts to make policy which is in direct contradiction to the law. This cannot be allowed to stand unchallenged.

The committee report, for instance says:

> The Committee, therefore, expects the Board to implement the recommendations of the Comptroller General and review its policies and programs to ensure that it provides complete information about the metric system and about all aspects of the conversion process.

However, for the Metric Board to abide by this wording in the subcommittee report would be to reverse the purpose and meaning of the law, because the recommendations of the Comptroller General are explicitly in contradiction to the law.

The CHAIRMAN. The time of the gentleman from Washington (Mr. McCormack) has expired.

(By unanimous consent, Mr. McCormack was allowed to proceed for 3 additional minutes.)

Mr. McCORMACK. Mr. Chairman, I wish to point out for the Record that this statement in the report of the subcommittee is inconsistent with the law, and any attempt to modify the policy of this Government for conversion to metric by words in this report, saying that the Metric Board should comply with the recommendations of the GAO report, has no validity.

I have nothing but respect for the chairman and the members of the committee, but I submit that they have been drawn into a misinterpretation of the law which cannot be accepted by inference or by silence at this time.

Mr. Chairman, I point out to the Members that the recommendations of the Comptroller General include the following:

> We recommend that the U.S. Metric Board:
>
> Inform the American people that conversion is strictly voluntary and that our national policy does not favor the metric system over the customary system, or vice versa.
>
> Ensure that its policies and actions do not advocate or discourage the use of one system over the other. . . .

☐ 1740

That is contrary to the law. The law says that the policy of the Government is to advocate conversion to the metric system and provide educational programs to do so.

Understanding that fact, it is obvious that we should reject the amendment offered by the gentleman from Illinois (Mr. Philip M. Crane) and go ahead with funding of the Metric Board.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. Mr. Chairman, I just want to remind the gentleman from Washington (Mr. McCormack) of the operative language that I referred to in section 3 of the act, which clarifies the policy. I am putting emphasis on the word "policy."

"The policy of the United States shall be to coordinate the voluntary conversion to the metric system."

That is the policy.

Mr. McCORMACK. That is correct. The responsibilities of the Board include coordination of voluntary activities by any individual or entity, as this country converts to the metric system, under its policy as established by the law.

Mr. PHILIP M. CRANE. The policy is voluntary conversion.

Mr. McCORMACK. The word voluntary applies only to individuals and corporations. The policy of the Nation is to convert to the metric system.

Mr. PHILIP M. CRANE. What is the Nation? The Nation is all of us individuals.

Mr. McCORMACK. The policy of the Government is to convert to the metric system. That is the law.

Mr. SLACK. Mr. Chairman, we have discussed this amendment at quite some length. We have been on this bill since 10:30 this morning.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto cease at 5:50 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. GOLDWATER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SLACK. Mr. Chairman, I move that all debate on this amendment and all amendments thereto cease at 5:50 p.m.

The motion was agreed to.

The CHAIRMAN. Members standing at the time the motion was agreed to will be recognized for 30 seconds each.

The Chair recognizes the gentleman from Pennsylvania (Mr. Ertel).

Mr. ERTEL. Mr. Chairman, I had a prepared speech concerning my opposition to deleting the Metric Board funds, which I will submit for the Record, but I would like to indicate that the chairman of the full committee, the gentleman from Florida (Mr. Fuqua), also opposes this amendment, and he has made it very clear that this program is voluntary in a letter to Dr. Louis Polk, U.S. Metric Board. He wrote to him and stated: "Our policy includes the important principle that the conversion is voluntary."

Mr. Chairman, I rise in opposition to the amendment by the gentleman from Illinois, which would delete all funds for the U.S. Metric Board.

I want first to commend the chairman and the members of his subcommittee for the work they have done on this bill. Given the severe fiscal restraints we are facing today and the resulting need to balance the many competing claims, they have produced a good bill.

In a few small areas the bill would provide funds which, through the reduction of a few million dollars, would have the effect of reducing the programs in question by more than one half.

One such program is the U.S. Metric Board. This Board was established by the 1975 Metric Act which passed this body almost exactly 4 years ago, on September 5, 1975. Due to delays in the nomination of the Board membership, it was 3 years later that the Board was formally constituted and held its first meeting just last August following confirmation of the membership by the other body.

The Metric Act of 1975 was the result of nearly 15 years of work by the Science and Technology Committee, an effort that was begun by former Chairman George Miller and completed by former Chairman Olin "Tiger" Teague.

When the bill was brought to this floor, our committee stated in its report that the expected costs of administering the act would be $2 million for the first year and $3 million annually thereafter (H. Rept. 94–369).

The Canadian Metric Commission has a budget of $7 million and a staff of 97 with a country one-tenth the population of the United States.

Those were 1975 dollars. We all know what has happened to the purchasing power of the dollar in the 4 years that have passed since then. Yet we find that the Board and the administration is staying closely to the figures which we forecast at that time.

Furthermore, the $3.3 million figure which is in the budget request reflects the considered opinion of the President and his administration. It is a figure which survived the needle eye of the OMB at a time when unusually severe scrutiny of all budget items, and especially of all budget increases, was taking place.

The President requested the sum of $3,335,000. The committee bill would reduce this by more than half, or by 51 percent, to $1,613,000. This is essentially the fiscal year 1979 level which enables the Board to have a staff of only 25. I think my colleagues will agree that this is not much more staff than a single Member of the House has at his or her disposal, and that it is not adequate to cover the public education activities for 225 million Americans, let alone to cover the coordination of ongoing metric conversion activities in every sector of American life.

When the Metric Act was passed 4 years ago the choice was not whether to go metric or not. As we are all becoming more aware every day, an increasing number of firms, school boards, and other organizations throughout the country are now going metric.

So the choice today is, as it was then, whether to continue that conversion process in an entirely uncoordinated manner, or whether the Metric Board should assist in the broad coordination of the changeover process so that the costs in terms of dual parts inventories, et cetera, will be reduced. That is the mission of the

Metric Board. I believe it should be continued and strengthened.

I also think that we must recognize that American science and American scientists uniformly use the metric system. Furthermore, in our foreign trade and in our many other contacts with our friends abroad we must deal in the metric system. The people of the country must have a working knowledge of the metric system, and this is especially important for the younger generation. We must face the fact that all Americans need the public education work of the Metric Board.

I am well aware of the need to exercise budgetary restraint. But I am also aware of the large costs which are facing us if the current, ongoing metric conversion is continued without the coordination which the Metric Board will provide. That coordination is to be based entirely on voluntary participation, and the U.S. Metric Board has no powers of enforcement whatsoever.

Mr. Chairman, I urge the rejection of this amendment.

(By unanimous consent, Messrs. O'Brien, Symms, Philip M. Crane, and Collins of Texas yielded their time to Mr. Edwards of Oklahoma.)

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma (Mr. Edwards).

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in support of this amendment to eliminate the appropriations for the U.S. Metric Board. I am entitled to speak for 5 minutes—or 118 seconds Celsius—but I will not take that long. The 1975 Metric Act called for the establishment of the U.S. Metric Board "to coordinate the voluntary conversion to the metric system." I stress the word "voluntary." As has been quite obvious, the conversion, while voluntary, has not been without the implicit approval and pressure of the Federal Government. And, the $1.6 million asked for by the Metric Board reflects a tremendous effort for a plan that is described as "voluntary." It may be the policy of this country to encourage conversion, but policy is just a little shy of gospel and it can be changed by the Congress.

How much conversion to the metric system have we seen since 1975? The change has not been overwhelming. The reason for this lack of change is that there is a great deal of resistance to conversion by the American people. Many manufacturers fear that they may alienate their customers if they change to the metric system. Millions of Americans do not understand weights and measures in metric terms and refuse to buy products figured in metric sizes.

Because metrics are being taught today in schools, that generation of Americans may be more willing to purchase products described in metric terms. Future voluntary conversion may be more feasible than it is today. These are times of great budget deficits and unacceptable rates of inflation. Why should we be spending $1.6 million on a voluntary program that is having little effect?

The Metric Board seems to dwell on the fact that the United States is a virtual island of English measure in a sea of metric. They emphasize cost savings to manufacturers as a result of metric conversion. Yet, if this is the case, if the United States is isolated by the use of English measure, and that there are potential cost savings available to manufacturers, then manufacturers will eventually change their products when international trade and cost pressures are great enough to bring about this change. At some future date, consumer acceptance may demand a switch to metric, but there is no reason for manufacturers to change at this time.

America is the world's largest exporter. American businessmen are not ignorant of the costs and benefits of metric. When they feel it will be beneficial to change, they will do so. And that will be at a time when consumers will no longer be confused or misled by metric measures. Now is not the time to spend nearly $2 million to try to speed up metric conversion and I urge you to support this amendment.

I think the gentleman from Illinois (Mr. Philip M. Crane), made a very beautiful point. Our businessmen in this country understand what is going on. If it is economically beneficial to them, if it is beneficial to this country to convert to metric, then Americans, who are the world's largest exporters, who are not ignorant of the costs and benefits of metric conversion, can change when they are voluntarily ready to do it. The American people do not understand metric.

Mr. PHILIP M. CRANE. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Illinois.

Mr. PHILIP M. CRANE. Mr. Chairman, I would like to just confirm the point the gentleman makes. Sixty percent of the Fortune 500 companies in this country made a voluntary conversion—and that documents the point—before the Metric Board was created. The Comptroller General reached the conclusion recently, "The effect of metrification in promoting or deterring trade appeared to be relatively insignificant."

Mr. EDWARDS of Oklahoma. Let me say to the gentleman that there is one point that has not been mentioned, one point only, and that is that the reason there has not been more conversion during this preceding time is because there is a resistance by the American people to conversion to metric. Millions of Americans do not understand weights and measures in metric, they refuse to buy products that are measured in metric, they do not understand it when the newscasters or the weathermen on television tell them what the temperature is in Celsius. If this conversion is so great a policy, then I submit the American people are going to embrace it and grab it up themselves without us spending $1.6 million.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Goldwater).

Mr. GOLDWATER. Mr. Chairman, I rise in opposition to the amendment of my dear friend and close friend, the gentleman from Illinois (Mr. Philip M. Crane), who has been probably one of the most effective Members of the Congress in trying to reduce the size of this burdensome Government and the taxes that have to be raised. But in this case, I have to differ with my friend. The function of the Board is to devise and implement a broad program of education and coordination. Going metric is a national program that will take this kind of coordinated effort in order to answer questions, to give guidelines, and, certainly, to work with the private sector in achieving a metric system in this country.

(By unanimous consent, Mr. Bailey yielded his time to Mr. McCormack.)

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. McCormack).

Mr. McCORMACK. Mr. Chairman, I just want to say that I hope all of those people who are boycotting the metric system will abstain from using .35-millimeter film.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Ritter).

Mr. RITTER. Mr. Chairman, I would just like to state to my colleagues that this $1.6 million represents an excellent investment in a whole series of companies that need some assistance in going through the redtape of getting involved with their measurements, their weights and their products in going metric. It can help our exports immeasurably and I think it is a very wise move for the Members of this body to support this $1.6 million.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Chairman, this is a very well-thought out program which has resulted from extensive hearings of the Science Committee. We have already been over this ground before. The measure, when it came to the floor here, was overwhelmingly supported by the Members. Last year, when we had a similar amendment offered by the gentleman from Illinois (Mr. Philip M. Crane), it went down overwhelmingly, and we are going over the same ground again.

This is very useful, helpful legislation for benefit of all Americans, every segment of our society, not only big business, but many small business, retailers, consumers, and people in education.

☐ 1750

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Philip M. Crane).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PHILIP M. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 122, noes 280, not voting 32, as follows:

[Roll No. 327]

AYES—122

Abdnor
Albosta
Applegate
Archer
Bafalis
Bauman
Beard, R.I.
Bedell
Bethune
Bevill
Biaggi
Bowen
Brinkley
Broomfield
Burgener
Carney
Cavanaugh
Cheney
Clausen
Cleveland
Collins, Tex.

Corcoran
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dougherty
Duncan, Tenn.
Edwards, Okla.
English
Evans, Del.
Evans, Ind.
Fithian
Florio
Fountain
Fowler
Gaydos
Gingrich
Goodling
Gramm
Grassley
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hefner
Hopkins
Hubbard
Hughes
Hutto
Ireland
Jeffries
Jenkins
Johnson, Colo.
Kelly
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lewis
Loeffler
Lott
McDonald
Madigan
Marlenee
Mathis
Montgomery
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Neal
Nichols
Obey
Pashayan
Paul
Quayle
Robinson
Rose
Roth
Rudd
Runnels
Satterfield
Schulze
Sebelius
Sensenbrenner
Sharp
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Steed
Stenholm
Stockman
Stump
Symms
Taylor
Trible
Walgren
Walker
Watkins
Weaver
Whittaker
Williams, Ohio
Wyatt
Yatron
Young, Alaska
Young, Fla.

NOES—280

Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Badham
Bailey
Baldus
Barnes
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brodhead
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Chappell
Chisholm
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
Courter
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Dingell
Donnelly
Dornan
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Erdahl
Erlenborn
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Foley
Ford, Mich.
Ford, Tenn.
Frenzel
Frost
Garcia
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gray
Green
Grisham
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heftel
Hightower
Hillis
Hollenbeck
Holt
Horton
Howard
Huckaby
Hyde
Ichord
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marriott
Martin
Matsui
Mattox
Mavroules
Mazzoli
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Shelby
Simon
Slack
Smith, Iowa
Snowe
Solarz
St Germain
Stack
Staggers
Stanton
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Wampler
Waxman
Weiss
White
Whitehurst
Whitley
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wydler
Wylie
Yates
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—32

Alexander
Anderson, Ill.
Ashbrook
Barnard
Bolling
Brooks
Brown, Ohio
Clay
Conyers
Dixon
Dodd
Duncan, Oreg.
Emery
Flippo
Flood
Forsythe
Fuqua
Gephardt
Hinson
Holland
Holtzman
Leach, La.
Livingston
Mitchell, Md.
Pritchard
Rousselot
Shumway
Skelton
Spellman
Stark
Treen
Winn

□ 1800

Messrs. DE LA GARZA, GRAMM, and BETHUNE changed their vote from "no" to "aye."

Messrs. DONNELLY, CAMPBELL, BEARD of Tennessee, and SAWYER changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. SLACK. Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I do so only to ask the gentleman from West Virginia what the legislative program is for the remainder of the evening.

Mr. SLACK. Mr. Chairman, if the gentleman will yield, hopefully, with the completion of this bill, there will be no further business today.

Mr. BAUMAN. The leadership has told the gentleman if we finish this bill, then that will be the last business for tonight?

Mr. SLACK. I have been so advised.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. Are there any points of order against the remaining portion of the bill? If not are there amendments?

□ 1810

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: On page 40 after line 5 insert the following new section.

SEC. 605. Of the total budget authority provided in this Act, for payments not required by law, two per centum shall be withheld from obligation and expenditure: *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed five per centum: *Provided further*, that this section shall not apply to budget authority or funds in this Act which have been reduced or withheld from obligation or expenditure by any other provision of this Act.

The CHAIRMAN. The gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes in support of his amendment.

Mr. SLACK. Mr. Chairman, will the gentleman yield to me?

Mr. MILLER of Ohio. I will yield to the chairman of the subcommittee.

Mr. SLACK. Mr. Chairman, we have been on this bill since 10:30 this morning. The hour is getting late.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments to the bill end at 6:30 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. MILLER of Ohio. Mr. Chairman, this is the usual 2-percent reduction that has been offered so many times on the appropriation bills. Only, in this particular instance, language has been added to this amendment that would exempt the Department of State, title I, from the 2-percent reduction. As the Members know, earlier in the session today a 5-percent reduction was approved for title I, covering the Department of State.

The total in the bill is $7.646 million. The nonmandatory section is $7.157 million. If we exempt the $1.3 billion that already has a 5-percent reduction, we come up with the nonmandatory section of the bill being $5.8 billion. The 2-percent reduction amounts to $116 million.

We must keep in mind that there are other items that will be added to this particular bill, because there are about $1 billion worth of items that are at the present time not authorized. So, that means there is another $1 billion worth to be added later.

I believe that we can find the 2-percent reduction of $116 million. It is hard to tell our people back home that we did not vote for a reduction in spending when we stop to think about the national debt that we have today, and the more than $52 billion that we are paying in interest annually on that national debt. That comes to $144 million a day interest. It is hard to explain to the people back home why we did not vote for at least some small reduction.

Mr. Chairman, I would hope that the Members would vote for the amendment reducing this bill by 2 percent.

Mr. EARLY. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this amendment would reduce each appropriation in this bill by 2 percent except for those items of a mandatory nature and those items in the bill already reduced by other provisions of the act. I am opposed to this general, indiscriminate approach to reducing budget requests. Our committee held comprehensive hearings on this bill over many months. We have very carefully reviewed each item in this bill and made reductions on individual items that we thought were appropriate. These reductions totalled $321 million or about 4 percent. While we have accepted some amendments this afternoon, the bill, in total, is still substantially below the budget request. Therefore, I see no need for this amendment, it is not the way to exercise budget restraint, and I urge its defeat.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and on a division (demanded by Mr. MILLER of Ohio) there were—ayes 45; noes 84.

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. The Chair has determined a quorum is present.

The pending business is the demand of the gentleman from Ohio (Mr. MILLER) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK: On page 39, after line 10 add the following:
>
> INTERVENOR FEES
>
> None of the funds appropriated or otherwise made available by this title shall be available to pay the expenses of parties intervening or otherwise participating in any regulatory preceding or of any person acting as a witness, expert, or advisor for or upon the behalf of any organization appearing before any agency receiving appropriations under this title.

Mr. ASHBROOK. Mr. Chairman, this amendment is offered largely because of the interesting parliamentary situation in which we find ourselves. As I understand it, the Federal Trade Commission appropriation which would normally be in the title we are considering of independent agencies was deleted by the subcommittee. I think we all recognize there is a strong possibility that an FTC appropriation would be offered in the Senate. We would find ourselves in the position of the Senate having money in the bill in conference and the House not having money in the bill in conference. This amendment, of course, is in an area and subject about which the conferees themselves last year expressed grave concern. I quote directly. The 1979 appropriations conference report contained the following language:

> The conferees wish to emphasize the job participation funds authorized by 15 U.S.C. 57A should be used in a fair and balanced manner to develop a full and accurate record on such matters.

Even a casual perusal of the actions of the FTC in the past year indicates 95 percent of all the tax money awarded by the FTC has gone to those appearing in support of FTC rulemaking decisions.

I offer this amendment largely as a bargaining chip so that when the conferees go to conference, if the Senate places an FTC appropriation in their bill, our conferees will have this matter before them so it can be a matter in deference for consideration.

Mr. Chairman, I yield back the remainder of my time.

Mr. SLACK. I rise in opposition to this amendment.

Mr. Chairman, while this amendment is technically germane since there are interveners appearing before agencies that are funded in this bill, we all know that this amendment is aimed at the Federal Trade Commission for which no funds are provided in this bill. We have properly deferred consideration of the FTC budget until the authorization is enacted. This amendment, then, would really have no effect on the FTC, and I would therefore urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was rejected.

The CHAIRMAN. Are there additional amendments?

AMENDMENT OFFERED BY MR. COLLINS OF TEXAS

Mr. COLLINS of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. COLLINS of Texas: Page 40, line 6; add the following new section:
>
> "SEC. 605. No part of any appropriation contained in this Act shall be used by the Department of Justice to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped."

Mr. COLLINS of Texas. Mr. Chairman, every few months we again raise the busing issue on the House floor. Time and again, individuals, States, and the Congress have clearly raised their voices in protest to forced busing. However, the courts and the Federal agencies continue to turn a deaf ear to the public's plea to stop this practice which disrupts neighborhoods, promotes instability in the schools, and has done nothing to improve educational standards.

Today, I am offering an amendment to H.R. 4392, the State, Justice, and Commerce appropriation bill, which will preclude funds from being used by the Justice Department for court-ordered busing. As a result of recent events, a new duty has been added to the Department of Justice's responsibilities. This function concerns direct intervention by the Justice Department to bring busing cases before the court rather than through administrative procedures originally handled by the Department of Health, Education, and Welfare.

Since 1977, Congress has prevented HEW from taking administrative action against school districts which refused to bus their students. The Biden-Eagleton amendment has been included in the Labor-HEW appropriations every year since that time, and was a recent provision in the HEW appropriations for 1980. Although HEW has been relieved of its responsibility for bringing busing suits to court, the power to enforce busing has now been transferred to the Department of Justice. HEW's approach is now to turn over the cases where they believe that busing is required to the Department of Justice to seek busing by means of a court order. This fact is clearly evidenced by what is now happening in Marion County, Fla.

In the Florida case, HEW attempted to get the school district to institute a voluntary busing plan, but the negotiations between HEW and the school district reached an impasse. When the school district refused to submit a voluntary busing plan after a 10-day period, the matter was referred to the Justice Department which in turn filed suit against the school district under title 6 of the Civil Rights Act. The district judge subsequently turned the case out of court on the basis that the U.S. Attorney General does not have the authority to sue under title 6. The case has since been moved to the Fifth Circuit Court of Appeals in New Orleans where it is currently pending for further action. The authority of the Federal Government to force mandatory busing plans on local school systems rests in the decision on this case.

My amendment would prevent this suit from ever coming to court by eliminating the funds the Justice Department uses to activate these suits. My amendment will prevent funds from being authorized for the Department of Justice to bring suit against any school district to require the transportation of any student to a school other than the school which is nearest to the student's home. My amendment will not effect those who are bused as a result of being physically or mentally handicapped.

The States have taken their own actions to prevent court-ordered busing. Massachusetts has approved by a 3-to-1 margin an antibusing measure that would prohibit assignment of children to a school on the basis of race. In the State of Washington, the voters approved by a two-thirds margin a ban on the compulsory transfer of pupils to any school but the school nearest the pupils' homes. In California, court ordered busing in Los Angeles is causing a large-scale exodus of white families and some middle-class black families according to a New York Times report.

Last fall, I completed a study on forced busing and the changes which have occurred between the periods of the school years 1970–71 and 1977–78. Nine major metropolitan areas were polled by contacting the director of pupil transportation for the respective school board. Requests for information included: First, numbers of students bused versus the total student population; second, numbers of fleet miles traveled; third, total fleet gallons consumed; fourth, numbers of buses; and fifth, average daily student mileage.

The survey showed that busing for desegregation has increased 96.9 percent since 1970 and now accounts for approximately 63 percent of all fuel used in transporting public school children. This is a dramatic discovery in light of HEW's U.S. Civil Rights Commission's claims that busing for desegregation does not constitute more than 1 to 3 percent of all busing. The increased level of busing is readily indicated by the fact that the nine polled cities have purchased 2,639 buses since 1970 or an average of 293 per city.

My analysis showed the busing patterns vary widely across the country and that some areas realize better equipment usage than others. For example, Los Angeles operates one bus for every 36 students transported while Shelby County, Tenn., transported 154 students for each bus owned.

The average student bused travels 144.4 miles per year, but many of the school district transportation directors we spoke to admitted that students are often sent 40 miles per day to schools participating in cross-city, cross-county busing plans. I found it significant that in these desegregation plans the average fuel expenditure was $305,514 per city, with Boston spending the greatest amount at $448,000 for bus fuel.

Furthermore, approximately 80 percent of the school buses currently in use are less efficient gasoline users. Only the very newest programs have the more efficient diesel equipment.

I have included a table for your reference that details the number and percent of students bused in respect to the total enrollment, the percentage increases in numbers of students transported, the average yearly miles a student is bused, the percent of fuels used for desegregation plan busing, and the percent change in the number of buses since 1970.

	Number of students bused			Average yearly fleet miles per student bused	Percent of fuel used in desegregation plan	Percent change in number of buses
	1978	Percent of all students	Percent change since 1970			
Boston, Mass	38,000	54.2	100	156.9	100.0	100.0
Charlotte, N.C	45,915	58.1	108	138.1	54.8	123.9
Chicago, Ill	15,000	3.2	114	340.0	6.2	142.9
Fort Worth, Tex	30,000	42.9	566	162.7	77.9	600.0
Los Angeles, Calif	50,000	8.6	42	172.0	29.4	84.0
Louisville, Ky	74,000	52.9	100	130.9	100.0	9.0
Memphis, Tenn	29,378	25.6	100	101.1	100.0	50.0
Mobile, Ala	30,000	44.8	114	66.0	100.0	114.0
Shelby County, Tenn	20,700	90.0	29	31.7	[1] 20.0	(25.0)
Averages	36,999	42.3	[2] 96.9	[3] 144.4	63.2	[2] 77.6

[1] Estimated.

[2] Adjusted for Fort Worth figures.

[3] This number may actually be much higher; where a 2 mi rule is in effect a student will travel 4 mi a day times 180 days or 720 mi in a school year.

In an effort to update last fall's figures in my study, I found that the Los Angeles school district, the second largest school district in the Nation, is the only one of the 10 which had completed their 1979 figures on busing. Prior to 1978–79, Los Angeles was under a "Permit With Transportation" voluntary program of minorities being transported to white schools. This past year, Los Angeles put in an expanded program which has increased their PWT plan by 10,000 students, implemented a magnet voluntary program which involves another 10,000, and includes a mandatory reassignment of whites and minorities which takes in another 40,000 students. According to the Los Angeles Unified School District Board of Education, this plan has raised the total number of students bused in Los Angeles to 70,000; increased the total bus fleet to 2,400; and skyrocketed the cost of the total busing program to a projected figure of $41.9 million.

It is easy to see from these astronomical figures why the citizens of this area have reacted by leaving their neighborhoods and homes for a better lifestyle and education for their kids. According to the New York Times article, many parents have angry reactions. Said one father:

> I moved because it was ridiculous for a 9-year-old girl to have to get up so early she'd have to be on a corner at 6:30 a.m. to meet a bus that would carry her all over the (San Fernando) valley, across freeways, to a strange neighborhood.

Said a mother of five:

> Busing is destroying the neighborhoods in Los Angeles. If my kids had taken part in the program, I would have had them attending four different schools scattered all over the city. I think neighborhood schools have a great value; they give kids a sense of security. We feel like we're being shoved out of Los Angeles.

Even James Coleman, "the father of busing," now admits that busing is an enormous mistake and should be stopped. Although Coleman argued in the 1960's that Integration would bring about achievement benefits, he was quoted last year as saying:

> It has not worked out this way in many of the school desegregation cases since that research . . . Thus, what once appeared to be fact is now known to be fiction.

In an interview with the Washington Post last fall, Coleman said that he still strongly opposed segregation and strongly favors integrated schools. However, he said that mandatory busing in many cities has been counterproductive, because it has been followed by an extensive loss of white students.

My amendment will insure that the bureaucracy will no longer be able to play games with this crucial issue by passing it from one agency to another. My amendment will prevent the Justice Department from going to court and asking for involuntary busing.

My amendment will not prevent the Department of Justice from participating in court procedures on this issue. They simply will not be able to ask that a court implement busing requirements. The Department of Justice will be able to ask for any other remedy for integration purposes that they want or the court wishes to impose.

My amendment will not affect court ordered busing plans which are already in effect. The amendment is applicable prospectively, but not retrospectively.

My amendment will not affect "the power of the courts to issue busing orders." The only effect of my amendment is to prevent the Justice Department from bringing action against a community. A private individual or group of individuals could still bring suit and the court could order busing as a remedy to racial imbalance.

My amendment will not affect the handicapped, the disabled, the gifted, or the talented child. These groups could still receive transportation at Government expense.

My amendment will insure that the Department of Justice is not authorized responsibilities that HEW has been precluded from administering.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I will be glad to yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding. Is it not a fact that the Department of Justice does not bring actions that in fact result in busing? The Department of Justice brings actions against school districts that are discriminating. Is that not the reality with which we are dealing?

Mr. COLLINS of Texas. Of course, discrimination is still open anywhere. All this amendment does is get into the matter of unnecessary school desegregation where it is not necessary.

Mr. PANETTA. Is the gentleman preventing the Department of Justice from going into a school system where it feels discrimination is the case through this amendment?

Mr. COLLINS of Texas. It is not a matter of discrimination. This is a matter of unnecessarily taking children beyond the school nearest their homes.

Mr. PANETTA. I know, but I think the consequence of the gentleman's amendment is to in effect stop the Department of Justice from bringing actions against school districts that they feel are discriminating, and I feel that is bad.

Mr. COLLINS of Texas. My amendment in effect simply stops the Department of Justice from getting involved in something that does not concern them, that is specified in the Constitution and the law of the land.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

I think I heard the gentleman from Texas wrong; I hope I did. He said integration did not work out. Is that what the gentleman meant to say?

Mr. COLLINS of Texas. Integration got into this matter of trying to move students around based on busing. Busing has not achieved anything for either black or white. In other words, this has been proved statistically everywhere. What they have tried to do is solve it. All of the statistics show that the greatest achievement in education comes from source of greatest achievement. Busing will not achieve it.

Mr. GLICKMAN. The implication is the gentleman is opposed to integration.

Mr. COLLINS of Texas. We solved integration in 1954.

The CHAIRMAN. The time of the gentleman has expired.

● Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment.

The amendment is ambiguous. If it means that the Department of Justice cannot file lawsuits where there has been a violation of the 14th amendment by a board of education, then the amendment contravenes article II, section 3, of the Constitution which states that the Chief Executive "shall take care that the laws be faithfully executed." For as the author of the amendment indicates, with the passage of this amendment, there will be no Federal department or agency capable of enforcing the 14th amendment in this respect.

If the amendment means that the Department of Justice can file equal protection lawsuits but cannot petition for busing as a remedy, then the amendment is unworkable and meaningless. For it is not the Department of Justice that orders busing; that is the function of school boards—or of the courts.

If the amendment merely means that while the Department of Justice may prove that the Constitution has been violated in a particular case, it is still within the discretion of the courts to do what is just and proper, then the amendment will prove—fortunately—quite ineffectual.●

Mr. SLACK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my genial colleague, the gentleman from Texas. The gentleman is asking the Department of Justice not to enforce the law. The chairman of the House Committee on the Judiciary has a bill to amend the Constitution to deal with the busing issue. I understand a discharge petition is to be considered by the House later this month. In view of that, I feel it would be appropriate to defer consideration of this busing issue until that bill is considered. I would respectfully request, in view of that, that my friend withdraw his amendment. If not, I ask for its defeat.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. It is quite simply, unconstitutional. Its passage will result in costly and time-consuming litigation, that is to say, a waste of precious Government resources.

I have read the gentleman's "Dear Colleague" in support of this amendment. Let me suggest that certain of his allegations are not accurate; apparently obtained from sources known only to him.

First, his suggestion that "63 percent of all fuel used in transporting schoolchildren is for busing to achieve racial balance," is not true. Approximately 55 percent of all public school students are bused to their schools but only 2 to 7 percent of that 55 percent are bused for purposes of desegregation.

Second, his suggestion of a conspiracy between the chief law enforcement agency, the Department of Justice, and the Department of Health, Education, and Welfare to circumvent congressional intent is again misleading and inaccurate.

The Eagleton-Biden amendment, passed in the 95th Congress, prohibits HEW from fashioning administrative plans which require busing of students to achieve desegregation of public schools. The clear intent of that amendment, as stated by its authors (CONGRESSIONAL RECORD 21262, June 28, 1977), was to require judicial determinations as to the appropriateness of busing as a remedy in such cases, rather than administrative decisions.

The authors were wise enough to understand that a total ban on busing would be unconstitutional. Indeed, the matter has been litigated and a decision rendered by Judge Sirica in *Brown* v. *Califano*, D.C. D.C., C.A., No. 75-1068, July 17, 1978.

Plaintiffs in that case challenged the constitutionality of congressional restrictions on HEW as set forth in the Esch and Eagleton/Biden amendments. In upholding their constitutionality, Judge Sirica stressed the litigation option available to the Department of Justice. He stated that—

> Should further proceedings in this case reveal that the litigation option left undisturbed by these provisions cannot, or will not, be made into a workable instrument for effecting equal educational opportunities, the Court will entertain a renewed challenge by plaintiffs on an as applied basis. (Pages 12-13.)

At the heart of his finding is the legal principle that where there is a right, there must be a remedy. The Collins amendment would leave the constitutional right of equal protection under law without a remedy. This is unconstitutional.

For this reason, I urge a "no" vote to the Collins amendment and ask that the analysis of the Civil Rights Commission be inserted in the RECORD at this time.

□ 1830

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. COLLINS).

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COLLINS of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 209, noes 190, not voting 35, as follows:

[Roll No. 328]

AYES—209

Abdnor
Albosta
Ambro
Annunzio
Anthony
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bethune
Bevill
Blanchard
Bonior
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Broyhill
Burgener
Burlison
Butler
Byron
Campbell
Carney
Carter
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Okla.
English
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Ferraro
Fithian
Florio
Ford, Mich.
Fountain
Frost
Gaydos
Gibbons
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hammerschmidt
Hance
Hanley
Hansen
Harsha
Hefner
Hightower
Hollenbeck
Holt
Hubbard
Huckaby
Hutto
Hyde
Ichord
Jeffries
Jenkins
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lent
Levitas
Lloyd
Loeffler
Lott
Lujan
Luken
Lungren
McDade
McDonald
McEwen
McKay
Madigan
Marlenee
Marriott
Martin
Mathis
Mattox
Mica
Mikulski
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Pashayan
Paul
Pickle
Pursell
Quayle
Quillen
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shuster
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stump
Symms
Taylor
Thomas
Traxler
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—190

Addabbo
Akaka
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Biaggi
Bingham
Boggs
Boland
Boner
Bonker
Brademas
Brown, Calif.
Buchanan
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chisholm

Clinger
Coelho
Collins, Ill.
Conable
Conte
Corman
Cotter
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Diggs
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Erdahl
Erlenborn
Ertel
Fascell
Fazio
Fenwick
Findley
Fish
Fisher
Ford, Tenn.
Fowler
Frenzel
Garcia
Giaimo
Gilman
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hamilton
Harkin
Harris
Hawkins
Heckler
Heftel
Hillis
Hopkins
Horton
Howard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Lewis
Long, La.
Long, Md.
Lowry
Lundine
McClory
McCloskey
McCormack
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mikva
Miller, Calif.
Mineta
Moffett
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Nolan
Nowak
O'Brien
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Rahall
Railsback
Rangel
Ratchford
Reuss
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Sebelius
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
St Germain
Stack
Staggers
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Whitley
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Yates

NOT VOTING—35

Alexander
Anderson, Ill.
Barnard
Bolling
Brooks
Brown, Ohio
Clay
Conyers
Dixon
Dodd
Emery
Flippo
Flood
Foley
Forsythe
Fuqua
Gephardt
Hinson
Holland
Holtzman
Ireland
Leach, La.
Livingston
Michel
Mitchell, Md.
Oakar
Pritchard
Richmond
Rousselot
Shumway
Skelton
Spellman
Stark
Treen
Winn

□ 1840

Messrs LLoyd, BURLISON, and ROYER changed their vote from "no" to "aye."

Mr. NOLAN changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. SLACK. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4392) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1980, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. SLACK. Mr. Speaker, I demand a separate vote on the so-called Ashbrook amendment to title I of the bill, which added the following:

SEC. 104. No more than 95 percent of the funds appropriated by this title shall be expended.

The SPEAKER. Is a separate vote demanded on any other amendment?

Mr. DICKS. Mr. Speaker, I demand a separate vote on the so-called Collins of Texas amendment.

The SPEAKER. Is a separate vote demanded on any other amendment?

Mr. BAUMAN. Mr. Speaker, I demand a separate vote on all of the amendments adopted to this bill. We all can play the game.

□ 1850

The SPEAKER. The Clerk will report the first amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: On page 2, line 20, strike "$709,700,000" and insert in lieu thereof "$712,700,000".

The SPEAKER. The Chair will state for the benefit of the Members that this is the so-called Conte amendment.

The question is on the amendment.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 173, nays 62.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: On page 4, line 6, strike out "$370,300,000" and insert in lieu thereof "$411,500,000".

The SPEAKER. The Chair will inform the Members that this is the so-called Slack amendment.

The question is on the amendment.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 176, nays 96.

RECORDED VOTE

Mr. BAUMAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 198, noes 197, not voting 39, as follows:

[Roll No. 329]

YEAS—198

Addabbo
Akaka
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Boggs
Boland
Bonior
Bonker
Bowen
Brademas
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Cavanaugh
Chappell
Chisholm
Clinger
Coelho
Collins, Ill.
Conte
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Dicks
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Erlenborn
Ertel
Fary
Fascell
Fazio
Ferraro
Findley
Fisher
Fithian
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Giaimo
Gibbons
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Hall, Ohio
Hamilton
Hanley
Harkin
Harris
Hawkins
Heftel
Hightower
Howard
Hutto
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Lloyd
Long, La.
Long, Md.
Lowry
McCormack
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Matsui
Mavroules
Mica
Mikulski
Mineta
Minish
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Neal
Nedzi
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Rahall
Railsback
Rangel
Ratchford
Reuss
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa
Solarz
St Germain
Stack
Staggers
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
White
Williams, Mont.
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki
Zeferetti

NAYS—197

Abdnor
Albosta
Andrews, N.C.
Andrews, N. Dak.
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boner
Bouquard
Breaux
Brinkley
Broomfield
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Carter
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dingell
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Fish
Fountain
Frenzel
Gaydos
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Heckler
Hefner
Hillis
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Levitas
Lewis
Loeffler
Lott
Lujan
Luken
Lungren
McClory
McCloskey
McDade

McDonald
Madigan
Marlenee
Marriott
Martin
Mathis
Mattox
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Nelson
Nichols
Pashayan
Paul
Petri
Pursell
Quayle
Regula
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Roth
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shuster
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Vander Jagt
Volkmer
Walker
Wampler
Watkins
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NOT VOTING—39

Alexander
Anderson, Ill.
Barnard
Bolling
Brooks
Brown, Ohio
Clay
Conyers
Diggs
Dixon
Dodd
Emery
Flippo
Flood
Foley
Forsythe
Fuqua
Gephardt
Hinson
Holland
Holtzman
Ireland
Leach, La.
Livingston
Lundine
Mazzoli
Mikva
Miller, Calif.
Mitchell, Md.
Pritchard
Quillen
Richmond
Rousselot
Shumway
Skelton
Spellman
Stark
Treen
Winn

□ 1910

The Clerk announced the following pairs:

Mr. Foley with Mr. Anderson of Illinois.
Mr. Mazzoli with Mr. Emery.
Mr. Mitchell of Maryland with Mr. Quillen.
Ms. Holtzman with Mr. Shumway.
Mr. Ireland with Mr. Treen.
Mr. Brooks with Mr. Winn.
Mr. Dodd with Mr. Hinson.
Mr. Dixon with Mr. Forsythe.
Mr. Flippo with Mr. Brown of Ohio.
Mr. Fuqua with Mr. Livingston.
Mrs. Spellman with Mr. Pritchard.
Mr. Stark with Mr. Rousselot.
Mr. Leach of Louisiana with Mr. Mikva.
Mr. Richmond with Mr. Miller of California.
Mr. Conyers with Mr. Flood.
Mr. Diggs with Mr. Barnard.
Mr. Alexander with Mr. Clay.
Mr. Gephardt with Mr. Holland.
Mr. Lundine with Mr. Skelton.

Messrs. DERWINSKI, ROTH, McCLOSKEY, and ANDREWS of North Carolina, Mrs. SNOWE, and Mrs. FENWICK changed their vote from "yea" to "nay."

Mr. ROSE and Ms. OAKAR changed their vote from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DICKS. Mr. Speaker, I withdraw my demand for a separate vote on the so-called Collins of Texas amendment.

Mr. SLACK. Mr. Speaker, I understand that the gentleman from Maryland will withdraw his demand for separate votes on the remaining amendments if we do the same on this side.

With that assurance, Mr. Speaker, I withdraw my demand for a separate vote on the so-called Ashbrook amendment.

Mr. BAUMAN. Mr. Speaker, I withdraw my demand for separate votes on the remaining amendments.

The SPEAKER. The requests for separate votes are withdrawn.

Is a separate vote demanded on any of the remaining amendments? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 299, nays 93, not voting 42, as follows:

[Roll No. 330]

YEAS—299

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Broomfield
Brown, Calif.
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corman
Cotter
Coughlin
D'Amours
Danielson
Davis, Mich.
de la Garza
Dellums
Derwinski
Diggs
Dingell
Donnelly
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hanley
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Hopkins
Horton
Howard
Hubbard
Huckaby
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lloyd
Loeffler
Long, La.
Long, Md.
Lowry
Luken
Lundine
Lungren
McClory
McCormack
McDade
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Martin
Matsui
Mavroules
Mica
Michel
Mikulski
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Murphy, Ill.
Murphy, N.Y.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Rostenkowski
Roybal
Royer
Russo
Sabo
Santini
Sawyer
Scheuer
Sebelius
Seiberling
Shannon
Sharp
Shelby
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solarz
Solomon
St Germain
Stack
Staggers
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Synar
Tauke
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Wampler
Waxman
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—93

Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Bereuter
Brodhead
Campbell
Carney
Cheney
Collins, Tex.
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Deckard
Derrick
Devine
Dickinson
Dicks
Dornan
Edwards, Okla.
English
Erdahl
Evans, Ind.
Frenzel
Goodling
Gore
Guyer
Hagedorn
Hance
Hansen
Harsha
Hollenbeck
Holt
Hughes
Ichord
Jeffries
Jones, Okla.
Kastenmeier
Kelly
Kemp
Kramer
Lagomarsino
Latta
Lewis
Lott
Lujan
McDonald
Marlenee
Marriott
Mathis
Mattox
Miller, Ohio
Montgomery
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Panetta
Pashayan
Paul
Pursell
Ritter
Robinson
Roth
Rudd
Runnels
Satterfield
Schroeder
Schulze
Sensenbrenner
Shuster
Snyder
Spence
Stangeland
Stockman
Stump
Swift
Symms
Taylor
Trible
Volkmer
Walker
Watkins
Weaver
Wylie
Young, Fla.

NOT VOTING—42

Alexander
Anderson, Ill.
Barnard
Boggs
Bolling
Brooks
Brown, Ohio
Clay
Conyers
Corcoran
Davis, S.C.
Dixon
Dodd
Emery
Erlenborn
Flippo
Flood
Forsythe
Fuqua
Gephardt
Hightower
Hinson
Holland
Holtzman
Ireland
Leach, La.
Livingston
McCloskey
Mazzoli
Mikva
Miller, Calif.
Mitchell, Md.
Pritchard
Quillen
Richmond
Rousselot
Shumway
Skelton
Spellman
Stark
Treen
Winn

□ 1930

The Clerk announced the following pairs:

Mrs. Boggs with Mr. Anderson of Illinois.
Mr. Mitchell of Maryland with Mr. Emery.
Mr. Ireland with Mr. Hinson.
Mr. Holland with Mr. Erlenborn.
Mr. Davis of South Carolina with Mr. Corcoran.
Mr. Fuqua with Mr. Forsythe.
Mr. Brooks with Mr. Livingston.
Mr. Alexander with Mr. Brown of Ohio.
Ms. Holtzman with Mr. Rousselot.
Mr. Skelton with Mr. Winn.
Mrs. Spellman with Mr. Treen.
Mr. Mikva with Mr. Shumway.
Mr. Dodd with Mr. Quillen.
Mr. Leach of Louisiana with Mr. Pritchard.
Mr. Mazzoli with Mr. McCloskey.

Mr. Dixon with Mr. Miller of California.
Mr. Richmond with Mr. Stark.
Mr. Clay with Mr. Conyers.
Mr. Barnard with Mr. Gephardt.
Mr. Hightower with Mr. Flippo.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SLACK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO FILE REPORT ON H.R. 4514, CETA AMENDMENTS

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor may have until midnight tonight to file a report on the bill (H.R. 4514) to amend title III of the Comprehensive Employment and Training Act to provide for the assessment of manpower needs for the full development of domestic energy resources.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

FINANCING OF THE OLYMPICS IN THE UNITED STATES

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, in 1976, on a day when there were only 323 Members present and voting in the House, the first authorization bill for the Lake Placid Olympics was passed by less than 30 votes. That bill was for $49.4 million. Today the Government has obligated close to $100 million to the Lake Placid Olympic games. This money is going to be the excuse for the city of Los Angeles to come to the Congress and ask for $141 million to start their 1984 Olympics.

I predict that if the pattern holds true, there will be one-half billion dollars asked for by the city of Los Angeles to try and finance the 1984 Olympics. I am opposed to this type of Federal funding for such events.

This morning I am putting into the Record the first of a series of articles that I will introduce having to do with the financing, the Federal financing, of Olympic games activities.

Mr. Speaker, the Congressional Research Service of the Library of Congress has recently prepared a report on the financing of the Olympic games in this country. I would like to share this information with my colleagues:

REPORT ON FINANCING OF THE OLYMPIC GAMES

SUMMER OLYMPICS AT ST. LOUIS IN 1904

The 1904 Olympics were held in St. Louis, Missouri, as part of the "physical culture" exhibit of the Louisiana Purchase Exposition being held in celebration of the purchase of the Louisiana Territory from France in 1803.

The Olympic games were a secondary event to the Exposition, rather than the major international sporting event we have become accustomed to in recent years. In fact, few foreign athletes competed at all.[1] The lack of foreign competitors and the unusual nature of some of the sporting events made this Olympics something of an embarrassment for many in the Olympic movement.[2]

One such embarrassment was a competition called "Anthropology Days", in which "a group of aborigines, gathered from various points, most of them, it is said, from the side shows of the Exposition, participated in athletic contests of a fundamentally simple nature."[3] The aborigines competing in these events ran foot races, such as a 100 yard dash, won by an American Indian in 11⅘ seconds with an African Pygmy bringing up the rear in 14⅗ seconds." The Pygmies lost many such competitions, but did succeed in pleasing the judges with their ability to "dodge and throw" during the "Mud Fight" competition.[4]

Financing for the Exposition came from three main sources: a Federal Government loan of $4,600.000; the city of St. Louis issued bonds for $5,000,000; and the Exposition Corporation provided the remaining funds to cover the $21 million total cost.[5] What part of the $21 million was actually spent on the Games is unavailable.

SUMMER OLYMPICS AT LOS ANGELES, CALIFORNIA 1932

The 1932 Summer Games in Los Angeles, California, were more in line with present day Olympic standards of competition and celebration.

Although Congress and the President were supportive of the idea of holding the Olympic competitions in the United States, no Federal financial support was appropriated.

State of California

The exact amount spent by the State of California for the Summer Games is unclear, but it is known that the State issued bonds in excess of $1 million dollars to pay for the construction of an Olympic village, to increase the seating capacity of the Olympic stadium, and to construct a swimming pool.[6] Some of this expense was very likely offset by revenues from ticket sales, but exact figures are unavailable.

American Olympic Committee

The American Olympic Committee, (the forerunner to the present U.S. Olympic Committee) using donated funds, did contribute about $82,000 dollars for the care, clothing, and transportation cost of the American teams and athletes competing at Los Angeles.[7]

LAKE PLACID WINTER OLYMPICS OF 1932

The 1932 Winter Olympics held at Lake Placid, New York, received no funding from the Federal Government. Principal financing was provided by the community of Lake Placid with some assistance from the State of New York.

Lake Placid

The financing of the Games resulted from the sale of bonds amounting to $375,000. This debt was said to be a "real burden for the Community in 1932," since it came at the lowest economic point of the Great Depression.[8]

The State of New York built the bobrun at an undisclosed cost and the community of Lake Placid constructed the Olympic arena.[9] The bonds sold to finance the Games were ultimately paid in 1967 at a total cost to the Lake Placid community of $1 million dollars. A detailed breakdown of expenses is not available for this report.

American Olympic Committee

The Committee expense for the 1932 Winter Games was slightly in excess of $25,000. Monies were allocated for clothing, transportation, and athlete selection trials.[10]

WINTER OLYMPICS AT SQUAW VALLEY, CALIFORNIA, 1960

Federal Support

Authorization for Federal participation in the Winter Olympics at Squaw Valley was provided by Public Law 85–365 (see attachment B), which was enacted April 3, 1958. Federal participation was concentrated in two areas of support: financing the construction of a sports arena, built on Forest Service land and leased to the State of California, and the Defense Department providing the services of mountain, and cold weather trained military personnel for snow compaction, communications, and avalanche control.[11]

The Federal appropriation for the sports arena was $3,500,000 and for the military service personnel, $800,000 (P.L. 86–166).[12] The total appropriated by Congress for both areas of Federal support was $4,400,000 of which $4,300,000 was actually spent.

States of California and Nevada

The State of California provided approximately $8,000,000 from State sources. In addition, the State of Nevada contributed $200,000.

U.S. Olympic Committee

The U.S. Olympic Committee contributed $2,500,000 to the event.

The total cost of the Winter Olympic at Squaw Valley was $15,000,000. Construction of facilities such as a sports arena, administration building, two large spectator centers, a 125 acre parking lot, a press building, ski slope and road improvements, and numerous other structures consumed $11,000,000. Administration costs accounted for the remaining $4,000,000.

FOOTNOTES

[1] Henry, Bill. An Approved History of the Olympic Games. New York, C.P. Putnam's Sons, 1976. p. 53.

[2] Ibid. p. 53.

[3] Ibid. p. 56.

[4] Ibid. p. 57.

[5] Francis, David R. The Universal Exposition of 1904. St. Louis, Mo. The Louisiana Purchase Exposition Company. 1913. p. 684-690.

[6] Reibien, Frederick W. ed. Report of the American Olympic Committee, New York, 1934. p. 37.

[7] Ibid. p. 283.

[8] U.S. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Transportation and Commerce. 1980 Winter Olympic Games, 1976. Hearings, 94 Congress, 2nd session on H.R. 8906 March 3–4, 1976. Washington, U.S. Govt. Print. Off., 1976. p. 53.

[9] Ibid. p. 53.

[10] Reibien, Frederick W. ed. Report of the American Olympic Committee, New York, 1934. p. 283.

[11] U.S. Congress. Senate. Committee on Armed Services. Hearing on Miscellaneous bills. Washington, D.C., U.S. Govt. Print. Off., February 27, 1958. p. 3.

[12] H.R. 7454—Appropriations, Defense Department 1960. Reported from the House Appropriations Committee, May 28, 1969; Rept. 408. Approved Aug. 18, 1959.

DOE ISSUES NEW GAS ALLOCATION RULES AND PROPOSED RULE FOR PRICE REGULATIONS

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, long gasoline lines are a painful symbol of our Nation's dependency on foreign oil and the complexity and often contradictory nature of the rules which regulate the distribution of supply.

We all know the allocation rules work poorly at best. The regulations often pit regular branded dealers who have been in business for years, against convenience stores and self-serve facilities which have sprung up almost overnight. We need good, healthy competition, but too often, these rules have given an unfair advantage to convenience outlets, to the detriment of the established dealers. This is not right. Although this contradiction was not necessarily intended, it is nevertheless a cruel fact.

This week, Energy Secretary James Schlesinger issued a new set of gasoline allocation rules, effective July 15. In part, the rules limit the number of new gasoline outlets which can open. The rules will not hurt the free enterprise system, and certainly this is not our goal or desire. But this new clause means more gasoline may go to the regular, established dealers. There are too many "willing suppliers" who operate on paper, creating questions of where the gasoline goes.

My colleague, BOB ECKHARDT, and I met with Secretary Schlesinger this week and were encouraged that industry will get added supplies and most refineries will attain approximately 90 percent capacity.

The Department of Energy is also issuing a proposed rule for new price regulations. The point of this proposal is to enable consumers to know exactly what they are paying for a gallon of gasoline and why. The rule also would cut out much of a dealer's paperwork.

Prices seem to increase even while we wait in gas lines. With such price disparities in the same State, city, or even neighborhood, the people rightfully question whether they are victims of price gouging. Everyone deserves to know the full story. I hope the Department will quickly evaluate this rule and the comments and impliment a new, easier to understand policy.

Mr. Speaker, added emphasis in the allocation process should be placed on growth, to allow more gasoline in areas which have experienced rapid growth.

There is no shortage of gas stations—just a shortage of gasoline. I hope these new steps from the Department of Energy will be helpful. They do not go far enough, but they head us in the right direction, and I commend the Secretary for taking this decisive action.

Motor Gasoline Allocation Base Period and Adjustments (Issued)

[Docket No. ERA-R—79-23 et al.]

Agency: Economic Regulatory Administration, Department of Energy.

Action: Notice of Intent to Issue a Final Rule.

SUMMARY

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) intends to adopt on July 15 final rules amending the mandatory allocation regulations for gasoline in the following respects:

(1) The base period for gasoline allocation will be established as November 1977 through October 1978.

(2) The rules regarding the size of allocations to new gasoline retail sales outlets will be changed to limit assigned volumes to either the typical sales volume for outlets of the same type or the average sales volume for all retail outlets nationally during the base period year, whichever is less. The rule will apply to all new outlets for which no assigned base period volume had been made by July 6, 1979 and in which an investment in the capital costs of the outlet (excluding real estate) has not exceeded 25 percent of total capital costs on July 6, 1979. All other new outlets will be covered by the existing rule.

DOE has determined not to adopt the proposal made by some commenters in the rulemaking that purchasers be allowed to choose between 1972 adjusted or November 1977-October 1978 base period volumes, whichever is larger. Such an adjustment would have the effect of reducing allocation fractions of all suppliers and reducing total available supplies to the substantial number of marketers of gasoline who have increased their sales volumes since 1972. The effect of such a rule would in general be to shift gasoline supplies away from geographical regions that have experienced substantial growth and to areas that have not experienced such growth, thus exacerbating the present shortage in high growth areas. The reasons for this decision will be described in further detail in the notice to be issued on July 15.

Prior to July 15, DOE will further review the comments received in the rulemaking and will make such additional changes as the information presented in the comments warrant.

Retailer Price Rule for Motor Gasoline (Proposed)

[Docket No. ERA-R-79-32]

Agency: Economic Regulatory Administration, Department of Energy.

Action: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a proposed rulemaking and public hearing regarding proposed amendments to the retailer price regulations for motor gasoline. Specifically, ERA proposes the following four amendments to the retailer price rule for motor gasoline.

1. The maximum lawful selling price for each type or grade of gasoline would equal the most recent acquisition cost plus a fixed cents per gallon markup plus certain Federal, state and local taxes.

2. The carry forward of unrecouped increased product costs ("banks") would be eliminated and the passthrough of previously accumulated increased product costs would be prohibited.

3. The cost of acquiring product would be calculated on the basis of the most recent acquisition cost rather than on the weighted average cost of product in inventory.

4. Retailers would be required to post on the face of each gasoline pump the acquisition cost, the allowable markup, applicable taxes, and the maximum lawful selling price.

The purpose of the proposed amendments is twofold. First, the proposed amendments would simplify the present rules, thereby easing administrative burdens on retailers and facilitating ERA audit and enforcement activities. Second, DOE wants to identify the appropriate margins for retailers in light of reduced allocations of gasoline and increases in non-profit costs due to inflation.

In addition to the proposed amendments, ERA is requesting comments on three alternative regulatory schemes.

1. Continuation of the present regulatory scheme, except current and prospective "banks" would be eliminated, and the limitation on nonproductive cost increases would be adjusted.

2. Adoption of the proposed amendments but with a maximum fixed percentage of acquisition cost markup rather than a fixed cents markup.

3. Establishment of a single maximum price for gasoline or type of gasoline at a national or regional level for all retail sales. This price would be adjusted periodically to reflect increased costs.

LEGISLATION ON DEVELOPMENT OF DOMESTIC ENERGY RESOURCES SHOULD HAVE PROMPT CONSIDERATION BY HOUSE

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PERKINS. Mr. Speaker, today the Committee on Education and Labor files its report on H.R. 4514 for the development of domestic energy resources, and recommends that the bill as amended do pass.

This bill addresses the gravest danger the United States has faced since World War II. It deserves the prompt consideration of the House, and it is my hope that the Committee on Rules will schedule it for a hearing at the earliest possible date.

We are today dependent upon interruptable sources of foreign petroleum for half of our liquid energy needs. It is tragically true that some of the nations upon which we rely for this vital need are potentially hostile to us, or are themselves subject to potential domination by nations unfriendly to us.

This is a threat to the national security of the United States. Moreover, it robs of us of our freedom of action in developing and conducting foreign policy in the best interests of the American people.

But most immediately, Mr. Speaker, it holds the potential for bringing the American economy down in ruins—and half of the economic power of the Western World down with it.

We are subject to the whim of oil ministers whose chief priorities do not include the economic well-being and security of the United States.

Every Member of this Congress knows the damaging effects upon our economy when we pour out into other treasuries some $60 billion a year for petroleum purchases. That outflow is the real engine that drives inflation. And inflation has reached into the paychecks of the working people, eats away at the savings of our people, and drives the old and the poor to the edge of despair.

H.R. 4514 addresses this problem with a proposal to create an American synthetic fuel industry based upon natural resources amply available within our own borders. It would rid us of dependence upon foreign sources of petroleum.

It would lift this threat to our national security.

It would put our economy back on a stable basis, and it would stop the evaporation of American jobs that occurs every time the OPEC ministers raise the price of oil again.

The Committee on Education and Labor did not start out to produce a comprehensive synthetic fuel production bill. We began by considering the manpower and training needs of such an industry should it come into being.

We brought in experts from all parts of the Nation—some distinguished scientists and engineers, some representatives of major industries, some Government officials, some knowledgeable retired military men.

The picture they painted in their testimony was one of danger to the United States if we do not embark upon synthetic fuels production now. We cannot dally longer with experimentation and symposia.

The danger with which this hour is fraught is real. It will not go away. It has not been dissipated simply because one of our foreign suppliers has offered to increase its production, or because the imposition of rationing by high prices and odd-even sales systems have somewhat reduced lines at gas pumps.

We are in military and economic jeopardy. And the early and massive production of synthetic fuels from coal, shale, lignite, peat, biomass, and any other available materials and technologies offers us the quickest way out of our problem.

Our committee would not have amended the manpower bill as it did had there been any indication that other committees of the House were proceeding on the scale required to protect the Nation.

There was no such movement discernible, and the Committee on Education and Labor felt duty bound to place something before the House. And that is the genesis of H.R. 4514.

The mechanism for beginning synthetic fuels production is simple.

We propose the creation of a Government Corporation to either undertake construction and operation of synthetic fuels plants itself, or to contract with private industry to do the job.

Time after time during the hearings, we asked the most knowledgeable people we could find what incentives do we need to get private industry involved.

Their informed responses were included in this bill, and I am sure the Members will want to study their underlying bases in the committee report.

The corporation would be governed by a Board of Directors appointed by the President with the advice and consent of the Senate. Only three of the members could be from the same political party, and the committee expresses the hope that the President would name to this Board the ablest, best qualified managers available in a country rich in managerial talent and experience.

We set a target of 5,000,000 barrels equivalent of oil, and we provide bonding authority for the corporation to the extent of $200 billion outstanding at any one time.

We firmly believe that after the initial stages of establishment, synthetic fuels production will be self supporting, and, indeed, profitable.

We affirm that the corporation should, to the maximum extent possible, rely upon the private sector to produce the required energy fuels.

Mr. Speaker, the Committee on Education and Labor has proposed a huge undertaking. It may well be an expensive one.

But the alternative of doing nothing would be ruinously costly.

I urge the Rules Committee to bring this measure to the floor at an early date so that Members of this body may have an opportunity to work the Nation's will, and to make any corrections that may in the House's judgment be required.

□ 1020

THE POLITICS OF SUGAR

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEDERER. Mr. Speaker, in the unfortunate event that H.R. 2172, the consumer sugar rip-off bill of 1979, comes to the Floor of the House for a vote, I would like to share with this body an article by our colleague, Representative Peter Peyser, which was printed in the Wednesday, July 11, 1979, New York Times:

The Politics of Sugar

(By Peter Peyser)

Washington.—When the Sugar Act of 1764 was passed by the British Parliament, imposing strict enforcement of taxes on sugar and molasses imported to North America, it so angered the colonists that they attacked and burned British vessels patrolling for colonial sugar smugglers.

It was considerably ironic, then, that the first Congress, in 1789, imposed, as one of its earliest acts, a sugar tariff to raise revenues for the new Government.

Sugar has been embroiled in American politics ever since.

At the present time, the Government adds 5.5 cents a pound to the price of sugar through import fees and duties, costing consumers more than $2.6 billion a year in higher sugar prices.

Now, the Administration, a few Congressional leaders, many corporate farmers and major sugar associations have been quietly pushing legislation that would sharply increase price supports for sugar, and provide direct subsidies to sugar growers.

Their efforts, while benefiting a handful of major corporations and several thousand American farmers, would have a devastating effect on American consumers by hiking prices in the marketplace and adding to the spiral of inflation. Every product using sugar, including processed foods and breads, would be affected.

Thomas M. Lenard, a senior economist with the Council on Wage and Price Stability, told a Congressional committee last year that increasing sugar price supports "would, in our view, be inconsistent with the nation's anti-inflation effort."

But while economists in the White House were opposing the sugar bill, politicians there evidently were supporting it. The politicians won, and the economists were forced to play cat-and-mouse when pressed on the issue.

Alfred Kahn, the President's inflation adviser, at first termed this year's proposal "unthinkable." Apparently, so was Mr. Kahn's comment. He has since refrained from discussing the issue. "I guess there is a point at which a member of the President's inner body of advisors has to keep his mouth shut," he said. "Let the record show an embarrassed silence."

Elsewhere in the Administration, the battle raged. The Agriculture Department had proposed a level of price support increases which the State Department considered unacceptable, since it posed a serious threat to negotiations with sugar-exporting nations.

The fight has now been carried to the Congress. When the sugar legislation was introduced in February, it was to be the centerpiece of this year's agricultural subsidy and price support program—the first bill to reach the floor and the one to set the tone for all the other bills to follow.

The sugar bill was first scheduled for floor action before Easter, but has been repeatedly put off, mired first in the Agriculture Committee and now in Ways and Means, despite the two committee chairman's being the principal sponsors of the legislation. It has apparently been replaced by the milk parity legislation as the premier agricultural bill.

Those of us who opposed the bill last February were given a slim chance of succeeding in our efforts to kill it. Since then, we have strengthened our ranks, while proponents have broken theirs. Some who had once supported the bill, such as Hawaiian sugar growers and the Sugar Users Group, are now firmly opposed.

Like the rebellious colonists before them, today's consumers are balking at the new hikes. Organizations such as Common Cause, Ralph Nader's Congress Watch, the Consumer Federation of America, the Community Nutrition Institute, the National Council of Senior Citizens and the American Association of Retired Persons have banded together into a powerful consumer lobby called Citizens Against Sugar Hikes (CASH).

The sugar bill is clearly bad economics. Price supports have already increased by more than 11 percent in one year, far above the President's guideline. The proposal would increase it still more, while adding the direct subsidy to sugar growers. But it is "political rather than economic considerations," even the Agricultural Department admits that usually shape our sugar policy.

The lines are now clearly drawn. I am convinced that this battle can be won. However, there is still a need for the people to express their outrage to the Congress, as our founding fathers once did to the British.

FREDRIC R. MANN

Mr. LEDERER. Mr. Speaker, I would like to pause in the business of the House to share with my colleagues a Philadelphia Bulletin newspaper article about one of my city's most famous, colorful, and self-depreciating citizens, Fredric R. Mann:

"Tough" Freddie Mann: Unlikely Culture Vulture

(By Jim Barniak)

Last week, when word got back to Fredric R. Mann that the city of Philadelphia was going to change the name of Robin Hood Dell West to the Mann Music Center, 75-year-old Freddie took a long draw on his cigar and uttered a brief expression of distress that sounded so much like "oh spit."

Immediately, he began to worry about how the public might react to the news. There would be some people, he figured, who would object to the fact he was still alive. After all, you usually have to be dead in order to have your very own monument.

And, then, since the Dell, er, the Mann Center is so dependent on federal, state, city and private funds—well, how was it going to look being named after somebody other than Abraham Lincoln or John F. Kennedy or Mario Lanza even.

"I better get myself out of town when they make the announcement," rasped Mann, this time not bothering to remove the cigar.

Freddie Mann will not be out of town, of course. No way. He wouldn't miss this next week for anything. The ceremonial name change of the outdoor concert hall is only part of it. The Dell, or Mann Center, or whatever you want to call it, is going to celebrate its 50th anniversary. For that occasion, there should be only one soloist—Old Freddie, the foster father of the place. He'll be in tears.

Mann took over running the Dell in 1948, at a time when the facility was in its then-familiar belly-up position. He was a millionaire paper-box tycoon at the time and so had the clout to start the old bowl on the comeback trail. He hammered next at outside agencies for additional support and won them over when he developed a program that essentially allowed free admission to anyone who wanted to enjoy a Dell Concert.

In 1976, an expanded, more modern and technically superior Dell was constructed in Strawberry Mansion across the Schuylkill River from the original. Improvements have been made steadily ever since, so that Philadelphians now enjoy maybe the finest outdoor concert facility in the world.

All for free, for the most part. It is also Freddie Mann's "baby," no arguing that. Were he suddenly to pass away, it would have to be written that he is survived by his wife, Silvia, five daughters and one concert hall.

There appears no need to be concerned about obituaries, however. Freddie suffers periodically from high blood pressure. Otherwise, he roams through the cultural, social and political circles of Philadelphia and the world like a fully ignited open hearth.

He is on a first-name basis with all of the great classical musicians of the world and on a last-name basis with all of the various leaders of the Philadelphia community.

Concerning the latter, he merely has to bark a last name into a telephone in order to command immediate attention. And, as one of the most loyal Sugar Daddys of the country's Democratic Party, he can take his act long distance with equal effect. Beneath all of that, however, is a soul who is almost a total contradiction to the image he projects.

New acquaintances first must endure the performer in him. His voice, which has been shredded by a half century of cigars, usually about 10 per day, is also loud and not unlike that of a man trying to talk with a mouthful of steel wool. His speech patterns are brief and the language often coarse. He is quick to jump on a listener, and like an impassioned trial lawyer, appears to revel in putting you on the defense.

Outwardly, at least, Freddie Mann is what you would get if you taught some old gangland chieftain how to bang out a piano concerto and pronounce names like Debussy and Piatigorsky.

For him, a typical workday begins about 10:30 A.M. He first positions himself behind a cigar, then calls for the morning mail. The mail immediately drives him to the telephone, or telephones. Usually, he looks like a Mexican outlaw, with the telephone wires crisscrossing over his chest like a couple of bandoliers. Then, it goes like this. . . .

"Crawford (to recreation director Bob Crawford), for God sakes, can't we get the cops off their butts. We've got a $9-million facility that's standing idle out there on Saturday nights because the cops won't chase the neckers home. Take care of it, Crawford, or I'm going to call O'Neill."

And, then, when an associate from New York calls to apologize for being tardy with the details of a business deal, Fred snaps, "Listen, I'm going to be in New York on Wednesday and let's get it done, do you understand, No, I won't have lunch. You're not fit to eat with."

A secretary interrupts to say that George Jessel is on the line.

"Yeath, what is it?" Fred barks into the phone. "I'm fine. Is that all you want to know. Well, I'm fine. You should feel so good, you old coot. Listen, I'll talk to you later. . . ."

To an eavesdropper unfamiliar with the ways of Freddie Mann, the man's actions might seem appalling. Those around him every day merely get a chuckle out of it. He has a keen interest in just about all the folks he deals with and a genuine fondness for most. He may bark and snarl, but deep down, he is a giant softy just looking, often begging, to be squeezed.

Shortly before noon, he is forewarned that a man from Scotland will be arriving, hoping to sell Mann on the idea of promoting a youth cultural festival at the Dell in 1982.

Fred is told that the man may also be looking for some big-bucks backers, to which he snarls, "We solicit funds, we don't provide them. Why don't he tap one of his own Scotch outfits? Nah, that's no good. You can't have a Johnnie Walker Youth Festival, can you? Send him in."

The man from Scotland made a detailed and noble presentation, something about a bunch of kids from all over the world competing in classical musical competitions, and Fred took it all in. In his inimitable, curt fashion, he barked about costs, the nonprofit philosophy of the Dell and the fact that he would have nothing to do with fast-buck operators. To test the man's credibility, he rattled off a list of his highly placed Scottish and English friends and carefuly gauged the man's reactions.

It all went well, however. In a matter of minutes, Fred was able to cut through all the fat and gristle, strip off the meat of the matter and leave only the bone. While he made it clear that he would have no part in any financing, he made it quite apparent, too, that he and the Dell would be most eager to do all else necessary to pull off such a festival. The man from Scotland was enthralled.

"I got no time for wheeler-dealers," he said later, "but, if I sense somebody is out for nothing more than to accomplish something worthwhile, I'll listen. Hell, I'll not only listen; I'll turn into a pussycat. I'm the biggest soft touch around."

And certainly the most active. Lunches are almost always eaten at the Locust Club, where he also will spend a good part of this afternoon either conducting business or playing gin with a few cronies.

During the summer, he spends most evenings at the Dell, administering to every detail and personally attending to the comforts of his star soloists and freebie patrons alike. During the actual concert, he spends most of his time in the remotest reaches of the grassy amphitheater asking his nonpaying clients if they are enjoying themselves.

"My objectives with the Dell have always been threefold," Mann explains. "Number one, I wanted to make the music available to the masses. This was accomplished when the city agreed to match the funds we were able to collect from our private donors. As a result, anyone can come to a concert simply by clipping out a coupon in the newspapers and sending it in for a ticket. Up to 10,000 people a night can come in that way.

"And, secondly, I wanted to support the Philadelphia Orchestra. The Dell provides it with a summer outlet. Or, in plain words, another eight weeks of employment. Although I am most proud of the free-admission thing, I think the survival of the Dell has also meant the survival of the Philadelphia Orchestra, at least as far as staying in Philadelphia is concerned.

"And third, well, the Dell is providing the community with another worthwhile leisure-time activity."

Through it all, the guy has had to endure a goodly measure of criticism. His original Dell on the east side of the river was rapped for its poor parking, slummy environment, and the fact that sometimes you couldn't hear the oboes for the expressway traffic.

Later, when the new Dell was opened over on St. Georges Hill, the music critics knocked the acoustics while various social commentators were appalled over the way the "paying" customers sat in covered luxury while the freebies rolled in the grass.

Fred was running a modern-day version of the Old Vic, the critics said. Mostly, though, Fred is always getting rapped for passing off the Dell as his own private domain. And now that it is about to become the Mann Center, that is just like putting gasoline on the fire.

To criticize him is to find his Achilles Heel. Utter one derogatory word about his, yes *his*, concert facility and you can puncture that tough, hard-nosed exterior just as a surgeon wields his scalpel. He'll fight back in those blustery, raucous tones of the baseball dugout, but, deep down, you've hurt him significantly.

"There can be no question that it is *his* Dell," says Bob Crawford, the recreation commissioner. "Without him, I don't see how it could exist."

It is probably impossible even for Fred Mann himself to estimate how much of his own wealth he has pumped into the Dell down through the years. He has made considerable direct contributions, has paid for full advertising campaigns out of his own pocket and has paid the fees and expenses for musicians countless times.

And because of him, many of the world's greatest musicians perform here strictly out of loyalty and many for no fees at all. The late Lauritz Melchior, for example, would often appear as long as Fred could come up with two five-pound lobsters and a case of National Bohemian beer. And there are dozens of performers who work here to repay a favor. Many of them, for example, received their training and education because it was Fred who picked up the tab.

To keep the greats happy and eager to return, Fred treats them first class. He provides them with luxury accommodations or, if they choose to stay with him in his spacious apartment in The Barclay, super-luxury accommodations. He provides a limousine and opens his own home to them for rehearsals. While such amenities are rather common for the stars of the rock music industry, they are genuine treats for classical performers.

But even among his dear friends, the musicians, Fred often emerges as a James Cagney among a pack of Boy Scouts.

"Fred really doesn't know how to be a bad guy, maybe that's why he tries to act like one sometimes," says a close associate. "He reminds me of my Jewish grandfather who would holler and scream at me about playing in the street and then, when the tears started to form, he'd take me out and buy me a giant ice cream cone."

Freddie Mann's harsh voice is inherited from his mother, Ginny, who is also responsible for steering him into classical music.

"She wanted to be a stage mother, I think," says Mann. "She was the boss and, so, when she said we've got to buy the boy a piano, my father had no choice but to go out and buy a piano. We were living in New Haven (Conn.), and by the time I was 12 I was commuting to New York for lessons. She had great expectations."

Whatever Fred's skills at the piano, they were pretty much dashed when he was severely injured when a bicycle he was riding was struck by an automobile. His arms were so badly torn up that, for years, he could barely move his fingers to reach the keys and the extreme ends of the piano.

"A blessing in disguise," Mann says now of the injury. "It was a time to take stock of myself. The truth was that I didn't have great talent. At best, I would have ended up playing a little jazz or something in a bar. Anyway, my folks sent me off to college and I was able to do a lot better for myself."

First to Yale, then later at Penn's Wharton School; then a first marriage and entry into the booming paper-container industry. The marriage fizzled, but that was not the case with Fred's business drive. "Suddenly," he recalls, "industry needed boxes. It was a marvelous period in time to be someone able to supply them."

Fred became a Philadelphia city representative and the ambassador to Barbados, among scads of other things, all the while keeping his nose and checkbook in close proximity to Robin Hood Dell.

During his heyday, he belonged to five country clubs and numerous social clubs, and dashed off to Paris as though it were a stop on the Paoli local. When Israel called, he responded, most notably with the building of the country's first major concert hall, now appropriately called the Fredric R. Mann Auditorium.

Lately, Freddie has dropped his country club memberships from five to one; otherwise there's been little let-up in his daily routine. Once or twice a week he attends sporting events: The Phillies in summer, the 76ers or Flyers in winter.

His days end around three in the morning or when the last good late show flickers off the TV screen. He watches late movies religiously. Seven hours later he is on the way to his office to begin another day of snarling.

"My father was 91 and still going strong when he died an accidental death," he says, "so it runs in the family. It's like Eugene Ormandy says. Maybe the only smart thing he has ever said, in fact. 'When you retire, you die in six months.' Anyway, it's all numbers. I'm 75, but I feel 50. Maybe 60."

Periodically, Freddie must check himself into a special diet program at the Duke University Medical Center in Durham, N.C. Just the other day, he was on the phone making plans for his next visit.

"I need a better accommodation than the last time and, listen, the service down there wasn't so hot last time either," he snarled. "Who's going to take care of me? Who's he? Well, what about a rental car? Yeah, a rental car. I go stir crazy if I'm around you people all day long. What's that? You've got a what? Hey, that's really something!"

"Freddie the Terrible" hung up the phone and paused for a moment. Then he said, "Well, I'll be a son of a gun. They've got a Lincoln Continental down there for me."

He was almost in tears.

ACROSS-THE-BOARD REDUCTION IN TAX RATES WOULD STIMULATE ECONOMY AND CURE BOTH INFLATION AND RECESSION

(Mr. KEMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEMP. Mr. Speaker, it is increasingly apparent the official mascot of the Carter administration's economic policymakers is the "scapegoat." According to the Director of the Council on Wage and Price Stability, the administration blames inflation on "the American people." Now we are to understand that OPEC is to blame for singlehandedly causing our recession.

Both inflation and recession, in fact, are caused only by misguided Federal economic policies. Put briefly, the Government is devaluing the dollar. This dollar inflation coupled with steeply progressive tax rates results in a huge tax increase which is a main cause of our economic decline. Current 13.4-percent inflation is pushing all Americans into higher tax brackets and increasing income taxes at a rate of 21.4 percent in 1979 and God only knows for 1980 and 1981.

The Congressional Budget Office today released the "updated" economic forecast we have been hearing so much about in the press. It confirms what my constituents already knew—we are in recession, and a lot of working Americans are about to lose their jobs.

The CBO forecasts that under current economic tax and monetary policies, probably 1.7 million and possibly as many as 2.3 million American workers will lose their jobs by next year. To my friends from New York City, I would point out the tragic human consequences of more unemployment.

As I pointed out during the debate on the first budget resolution for 1980, such a rise in unemployment would widen the budget deficit by $32 to $42 billion. In other words, unless we act quickly to prevent the rise in unemployment, we will have a $55 to $65 billion deficit on our hands next year, and we can kiss the balanced budget goodby.

In 1963, a Democratic President went before the American people in a similar situation and said that "the main roadblock to full employment without inflation is an unrealistically heavy burden of taxation. The time has come to remove it."

President Kennedy proposed a deep, across-the-board reduction in the tax rates of all Americans.

As a matter of fact, when the cuts were enacted, there were no "transitional deficits." In the course of a 30-percent cut in tax rates over 2 years, never at any time did the deficit increase. More people working meant more revenue and less spending on unemployment and inflation went down, not up.

Once again we need at least a 30-percent, across-the-board cut in tax rates. The bulk of these cuts must go to both labor and capital in the form of lowered marginal income tax rates. Unlike tax rebates or tax credits which merely stimulate demand, marginal tax rate reduction, in President Kennedy's words, provides the powerful supply side "incentive of additional return for additional effort."

If we wish to fight inflation, avoid recession, and balance the budget, there is only one way to do all three—with incentives for employment, saving, investment, and production to get this country moving again toward prosperity. Encouraging supply and production reduces inflation, and holding down unemployment will enable us to balance the budget.

Unless we act now, it will soon be too late, specially for 2 million soon-to-be-unemployed American working men and women. Unemployment is no answer to inflation. Sound monetary policy coupled with lower tax rates on workers and investors will help America produce its way out of both inflation and recession.

RESOLUTION INTRODUCED TO PROMOTE SOLAR DOMESTIC POLICY

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. OTTINGER. Mr. Speaker, in his April 5 energy message, and again on June 20 with the release of his policy initiatives on the Solar Domestic Policy Review, President Carter proposed additional tax credits for solar energy investments. It is clear that such credits will help move solar energy's usage forward quickly, particularly at the 20-percent levels now proposed.

Congress must act quickly on this matter—especially as the problems of petroleum supply and prices continue to worsen—and must act to make the tax credit retroactive to April 5.

By making the credits retroactive, people making investment decisions over the next few months would have substantially more certainty; this approach is comparable to our approach to the tax credits contained in the National Energy Act, where they were retroactive to April 20, 1977, when the President first proposed them.

With the goal of increasing interest in the solar tax credits and of pressing for early action by the Ways and Means Committee, a number of my Science and Technology Committee colleagues, including our distinguished chairman, Mr. FUQUA, have joined with Ways and Means member JOE FISHER in introducing today a resolution expressing the sense of the House that early action is essential.

We will be adding names to the cosponsors' list through next Wednesday, July 18, and I hope that my colleagues will give serious consideration to joining with us in our efforts to get action on the solar tax credits.

H. RES. 355

Whereas solar energy is an essential part of the Nation's energy future; and

Whereas the solar energy tax credits proposed by the President on April 5, 1979 are necessary to encourage the use of such systems; and

Whereas uncertainty over such credits, when they might be enacted, and their effective date if enacted, will impede investments in solar energy; now therefore be it

Resolved That it is the sense of the House of Representatives that the Congress should promptly enact legislation providing solar energy tax credits with such credits to be available for expenditures made after April 5, 1979, the date upon which the President proposed such credits to the Congress.

COMMEMORATING THE TRIALS OF SHCHARANSKY AND PETKUS

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, a year ago this week, an outraged world protested the travesty of justice that was occurring in the U.S.S.R.—the simultaneous trials and convictions of human rights activists Anatoly Shcharansky, Aleksandr Ginzburg, and Viktoras Petkus. That our protests were not in vain was evidenced by the early release of Moscow Helsinki Monitor Aleksandr Ginzburg, who was included in the April prisoner exchange between the United States and the Soviet Union. While we are deeply gratified that Ginzburg is no longer imprisoned in the U.S.S.R., we deeply regret that his colleagues in the Helsinki Monitoring Groups still languish in the Soviet Gulag. On this, the first anniversary of their trials, I want to reiterate my concern as well as the determination of the American people and the Congress to seeing Petkus and Shcharansky freed.

Recent reports on the situation of these two men indicate the necessity to continue and, indeed, intensify the struggle for their freedom. Shcharansky's health is deteriorating to the point where his mother fears that he is in danger of losing his eyesight. Petkus, who is incarcerated in Chistopol prison in the same cell as Shcharansky, is also suffering from a variety of ailments, brought on by the deplorable conditions under which both men must live and work. While the Soviet authorities have only allowed Shcharansky one visit from his mother in nearly a year, Petkus has no close relatives to visit him and, thus, is completely isolated.

The details of the activties of these two courageous men which led to their arrest and imprisonment need not be repeated here. My colleagues are already familiar with the selfless actions Jewish refusenik Anatoly Shcharansky performed in behalf of fellow refuseniks, human rights activists, and other oppressed minorities. The work of Viktoras Petkus, a leader in the Lithuanian Catholic movement, is also well-known. That the efforts of Shcharansky and Petkus, founding members of, respectively, the Moscow Lithuanian Helsinki Monitoring Groups should be deemed "anti-Soviet" by the Soviet courts is, in itself, a telling indictment of the sorry state of human rights in the U.S.S.R.

It is necessary, however, to emphasize the widespread sympathy and concern the plight of these two men has evoked here and abroad. That this concern will not dissipate with the passage of time must be made clear to the Soviet authorities. I urge my colleagues to take every opportunity to remind the Soviet Government of our ongoing interest in the fate of Shcharansky and Petkus, as well as the other imprisoned Helsinki Monitors. Such actions will help to reassure the families and friends of Viktoras Petkus and Anatoly Shcharansky that they will not be abandoned.

EMMA HART WILLARD, 1787–1870

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, in the Jacksonian era, there was great emphasis on democracy. Males were encouraged to get an education and become more responsible voters. Since women could not vote, education for females continued to be ignored.

When she was 17, Emma Willard began to dream of a school of her own—a school for girls. Her plan horrified many people who were certain that if women tried to learn the same subjects young men did, their health would be ruined and they would not be good wives and mothers.

Throughout most of the 19th century, women's education lacked significant public support. The education of women at the secondary and junior college level was largely undertaken by female seminaries. In 1819 Emma Willard presented to Governor Clinton of New York her "Plan for Improving Female Education," which included her plan for a girls' seminary. In 1821 she opened the Troy Female Seminary in Troy, N.Y.

Emma Willard was an effective pioneer in a tremendous revolution—creating educational opportunities for young women.

TRIBLE INTRODUCES DEATH PENALTY BILL

The SPEAKER. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 10 minutes.

○ Mr. TRIBLE. Mr. Speaker, we all remember the headline: "Judge in Drug Case Murdered in Texas."

It happened on May 29. A Federal judge, John H. Wood, Jr., was shot to death in the parking lot of a fashionable condominium complex in San Antonio.

Judge Wood was known for the tough sentences he imposed on narcotics smugglers. He was preparing to try one of the major suspected American smugglers of South American cocaine and marihuana.

Judge Wood's murder was clearly premeditated. Premeditated murder is usually punishable by death. However, if his killer is ever prosecuted by Federal authorities, the severest sentence he could receive is life imprisonment.

The murder of a Federal judge is a Federal crime, but there is no effective Federal law to impose capital punishment. That was struck down by the U.S. Supreme Court on July 2, 1976. Although the capital punishment laws of several States—including my own State of Virginia—have been judged to be constitutional, a workable Federal death penalty statute has yet to be tested.

Today I have introduced such a bill. My bill provides for the death penalty for the Federal crimes of murder, treason, espionage, and sabotage.

Briefly stated, my bill would establish a constitutional procedure by which persons convicted of a Federal capital crime could be sentenced to death by a judge. Once a person plead guilty to or was convicted of a Federal capital crime, this legislation would require the judge who presided at the trial to hold a special hearing to determine if the defendant should be executed or receive some lesser sentence. (Unlike S. 114, this bill would not delegate to the jury the responsibility for passing sentence on the defendant. This responsibility would be vested solely in the judge—as it is with all other Federal crimes.) Establishment of this special hearing would be an addition to the present Federal sentencing procedure. Persons cannot be sentenced to death by Federal courts today because the Federal criminal code does not provide for such a special hearing. Enactment of my legislation would fill this gap.

At the hearing, the attorneys for the Government and the defendant would be allowed to introduce any evidence which might be relevant to the sentencing of the convict without regard to the Federal rules of evidence. Since this hearing would be a proceeding in which both sides would be allowed to present evidence and arguments, no presentence report would be filed. However, to assure that the defendant is given every consideration, this bill would require the attorney for the Government to present any evidence of which he is aware that is relevant to any of the statutory mitigating factors set forth in the bill. (This safeguard is not included in S. 114.)

Further, this bill would dispense entirely with the sentencing hearing and the possibility of a death sentence if the attorney for the Government stipulates that none of the statutory aggravating factors established by this bill are present in the case in question. (This safeguard is likewise absent from S. 114.) In presenting their arguments to the judge, both parties would bear the same burden of proof in establishing the existence of aggravating factors (in the case of the Government) and of mitigating factors (for the defendant). (This equal burden of proof is another significant difference between the Trible bill and S. 114, which makes the Government bear the burden of proof beyond a reasonable doubt.)

Before the judge can sentence a person to death, the judge must make two affirmative findings. First, the judge must decide that at least one statutory aggravating factor applies to the defendant. Second, the judge must affirmatively find that any aggravating factors that are relevant to the sentencing of the defendant outweigh any mitigating factors that are relevant to the sentencing. (Unlike S. 114, if the judge makes an affirmative finding that an aggravating stautory factor is present and fails to find that any mitigating factors are present, the judge must sentence the defendant to death.)

As a procedural safeguard, this bill would require that the sentencing judge file with the clerk of the court a memorandum of decision stating the reasons for any sentence imposed. (S. 114 does not contain such a requirement.)

This bill establishes specific factors which the sentencing judge should consider as aggravating or mitigating factors in setting sentence for the defendant. In addition, this bill allows the judge to supplement these factors with any aggravating or mitigating factors that the judge may find to be present in the case, although they are not listed as aggravating or mitigating factors in this bill. In fact, the judge could find in a particular case that the one or more statutory aggravating factors are present (thus fulfilling the first affirmative requirement for a death sentence) and decide against sentencing the defendant to death because nonstatutory mitigating factors outweigh the aggravating factors (statutory and nonstatutory) that are applicable. (S. 114 makes no provision for the jury or judge to consider nonstatutory aggravating or mitigating factors in sentencing—a possible constitutional problem.)

The bill would establish several aggravating factors from which the judge must draw in satisfying the affirmative requirement that a statutory aggravating factor is present. These factors include: Prior capital and felony convictions of the defendant, murder for hire, paying for a murder, substantial risk of death to others, heinous or cruel manner of the crime, extent of premeditation, intent to kill two or more persons, and murder of a Federal judge, candidate for Federal office, elected Federal official, or a foreign official. (S. 114 does not include as a factor intent to kill two or more persons—mass murder—and does not include murder of a candidate for Federal office—a new capital offense established by this bill. (S. 114 does include the additional factor of death occurring while attempting to escape from a correctional institution or while committing treason, kidnaping, explosion of interstate commerce, or skyjacking. All of these matters are covered in one way or more in the other factors and to include them again might constitute an unconstitutional double consideration of the same factor and the person next in the order of Presidential succession.)

In mitigation of the death sentence, the judge is required to consider the following statutory factors and any others which the judge may consider relevant: The defendant was less than 18 years of age, the mental capacity of the defendant was impaired at the time of the offense but not enough to constitute a defense to the crime, the defendant acted under duress, the defendant's participation in the crime was minor, and the defendant was unable to foresee the consequences of his actions. (The primary difference between S. 114 and the Trible bill is the specific direction that the judge may consider factors other than those listed in the bill—S. 114 leaves this ambiguous and most likely in favor of no consideration of nonstatutory factors. In addition, S. 114 requires the court to consider the "youthfulness" of the defendant instead of fixing a specific age as a mitigating factor.)

The Trible bill creates new capital offenses for persons convicted of killing a candidate for Federal office, sabotage where death results, and murder of a foreign official in the United States on official business. (S. 114 adds only the latter crime to the present list of capital crimes.)

To protect the rights of the unborn, this bill would stay the execution of a pregnant woman.

If a judge does sentence a person to death, the sentence is subject to automatic review by the Court of Appeals (S. 114 makes such review discretionary). To assure that the appeal is not unduly delayed, this bill would require that the mandatory review be given priority over all other appeals except other appeals of a federally imposed death sentence. This appeal is in addition to any other appeal which the defendant may have as a consequence of the original trial, which appeal shall be consolidated with the mandatory appeal of sentence. (S. 114 makes consolidation of the appeals discretionary.)

This bill would require the appelate court to affirm the district court sentence unless it determines that: The procedures used in sentencing were contrary to law; the sentence was influenced by passion, prejudice, or any other arbitrary consideration; a clearly erroneous finding of an aggravating factor or nonexistence of a mitigating factor affected the sentence; or the sentence is excessive. (S. 114 reverses the review procedure.)

The court of appeals must affirmatively find that the negative of all of the above were present in the sentencing of the defendant. This is the rough equivalent of requiring a completely new sentencing hearing at the appellate level. If the court of appeals finds the district court erred on any of the above points other than whether the sentence was excessive, the sentence is vacated and a new sentencing hearing must be held. The defendant may be freed from an original death sentence by a court of appeals only if the court of appeals finds that the original sentence was excessive. Otherwise, the defendant must proceed to a new sentencing hearing where all of the evidence would be considered again. (S. 114 would require reconsideration by the district court in all circumstances—no provision is made for the case where the appeals court determines the sentence would be excessive.)

To assure that appropriate records are maintained, the Trible bill would require that the judicial conference maintain information on all capital sentencing cases for future reference (S. 114 makes no such requirement).

The Trible bill amends existing statutes which would permit the death penalty in cases where death does not result. Among these offenses are the following: Espionage, treason, rape, bank robbery, and skyjacking.

That in summary is the Trible bill.

As you can see, this bill is carefully constructed to protect the rights of both the defendant and society. For too long, we have centered our attention on the rights of the criminal and ignored the rights of the innocent, law-abiding citizen. My bill strikes a balance between the two.

I am convinced that the Trible death penalty bill will stand the constitutional tests required by the U.S. Supreme Court, because it is based on past court decisions and legislative attempts to fashion an effective capital punishment statute. If enacted into law, the bill would also serve as a model for similar laws to be adopted by the States.●

LIMITING ENVIRONMENTAL SUITS AT NEW ENERGY PLANTS

The SPEAKER. Under a previous order of the House, the gentleman from Virginia (Mr. WAMPLER) is recognized for 5 minutes.

● Mr. WAMPLER. Mr. Speaker, I think most all of us would agree that two energy crises—the present and the 1973 Arab oil embargo—have convinced us that we must reestablish our own domestic energy production system from our own natural resources. We must not make ourselves vulnerable to an oil cutoff or subject our people to outlandish energy prices imposed by people or countries outside our boundaries.

We have the natural resources to gain satisfactory control over our own national destiny and I believe we of the Congress are prepared to provide for new energy initiatives to accomplish what is necessary to attain these goals.

But, Mr. Speaker, there is a roadblock that could, has been, and is being imposed by a small minority that could thwart this effort. I refer to those who have, are, and will utilize our environmental laws and regulations to delay, hinder, and halt any proposal the President may send down to us from Camp David.

Mr. Speaker, I wrote the President yesterday to include in his national energy program similar provisions that Congress had to take to allow the building of the trans-Alaskan oil and gas pipeline.

The text of my letter to the President follows:

COMMITTEE ON AGRICULTURE,
Washington, D.C., July 10, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: This is a follow-up to my letter of June 15 suggesting that you call an urgent Summit of National Leaders to develop a new energy policy for the country. I was pleased to learn from Frank Moore's reply of June 19 that you are taking this recommendation under consideration.

During my trip over the 4th of July work period to the 9th Congressional District which I represent, I became even more convinced that people are demanding a solution to the energy crisis gripping this nation.

I am also convinced that success in this endeavor can best be achieved from a program which balances on the one hand a rapid increase in production of all forms of domestic energy resources (oil, natural gas, coal, synfuel, nuclear, gasahol, solar, etc.) with, on the other hand, a reasonable program of conservation in the use of these energy resources, especially imported fossil fuels.

As you well know, the biggest drawback to any successful energy policy lies not with the will of the people to get behind a meaningful program, but rather with a few, well-intentioned individuals who utilize to the fullest the laws of the land, the mountains of regulations and the courts to thwart such efforts. Similar problems developed, as you may recall, with the Alaskan pipeline prior to enactment of the Trans-Alaskan Oil and Gas Pipeline Authorization Act (Title II, Public Law 93–153). In that case, however, Congress limited the National Environmental Policy Act of 1969 and the judicial review of all other actions pertaining to the construction and completion of that vital pipeline. As a result, the pipeline was completed.

To preclude undue delays in the development of specific projects to increase domestic energy production which might be contained in your recommendations to the Congress—such as converting electric power plants from oil to coal, opening new coal mines, citing and building new syn-fuel plants, constructing gasahol plants, increasing capacity at existing oil refineries or bringing already approved nuclear power plants on line after new safety laws are adopted and implemented—I respectfully recommend that your new national energy program include similar provisions to Title II of Public Law 93–153. I would also recommend that any such provisions, which would severely restrict judicial review and the environmental laws, be limited to the period of the emergency required to set our domestic energy production house in order—that is not more than ten years.

We can—and we must—achieve the energy independence you have called for, Mr. President, and I am convinced this is the only way to do it.

Sincerely,

WILLIAM C. WAMPLER,
Member of Congress.●

ENERGY NOW AND IN THE FUTURE

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 10 minutes.

● Mr. FINDLEY. Mr. Speaker, an energy policy for the United States must look into the future while it provides for the present. America must prepare for the inevitable day when the oil wells of the world run dry and have alternative energy sources ready. At the same time, we must see that our people have adequate supplies of petroleum now at fair prices. In the years immediately ahead oil will continue to be the best source of energy for many uses in an industrial society with a high standard of living. Our national energy policy must be forward looking and visionary while simultaneously current and practical.

With those goals in mind, Mr. Speaker, I am offering for the consideration of my colleagues several important steps that can be taken to expand energy production and availability and conserve what we already have. I realize that other Members of Congress are also developing energy policies, as are the congressional committees assigned to this subject and the administration. Yet energy is certainly important enough to warrant careful consideration by every public official. Thinking through the energy problem has focused my attention on difficulties and opportunities and helped prepare me for the decisions I will have to make as energy questions come before the House.

My research and analysis leads me to the conclusion that a national energy program with any hope of meeting both present and future needs must contain these five action directives:

First. Diplomatic activity to assure adequate supplies of foreign oil at fair prices.

Second. Increased domestic oil exploration and development to reduce U.S. dependence on foreign oil.

Third. A strengthened competitive private market for oil in the United States to hold prices down.

Fourth. Reasonable energy conservation measures.

Fifth. Development of nonpetroleum energy sources to lessen our need for, and eventually end our dependence on, oil.

Mr. Speaker, I would like to take a look at each of these recommendations, reviewing the nature of the problem, what has been done to date, and what needs to be done.

THE DIPLOMATIC FRONT

Our current energy crisis stems from a sudden reduction of imports from the oil-producing countries of the Middle East, particularly Iran. But declining production and skyrocketing prices go back to 1973.

Import reduction and high prices are directly related to the United States foreign policy in the Mideast. Our oil trade with the Organization of Petroleum Exporting Countries (OPEC) has become intensely politicized. What was previously a purely economic matter involving only the buying and selling of oil has, since the 1973 October war in the Middle East, become embroiled in the powder-keg politics of that area.

The oil embargo of 1973 gave Americans their first taste of long lines at gas stations. Arab states stopped selling oil, because the United States airlifted weapons to Israel while Israel fought to keep the Arab land it captured in the 1967 war.

As soon as U.S. jets began landing in Israel, the OPEC nations imposed an oil embargo against the United States. Before the airlift oil supplies were abundant and the prices of oil were reasonable.

In June 1973, Arabian light oil sold for $2.90 a barrel. By January 1974, just 6 months later, that price skyrocketed to $11.65 per barrel—a 400-percent increase. Thereafter, it has steadily increased to $12.70 in July 1977, $13.34 in January 1979, $14.55 in May, and $18 to $24 at present.

Arabs are preoccupied with the plight of the Palestinians and Israel's willingness to return lands occupied in the 1967 war. This has had a profound impact upon their oil pricing and supply policies. And, so far, the United States has not been able to cope with the economic and political problems this has presented.

The OPEC countries have recognized that, despite their upward pricing policy, the United States has been unable to limit consumption, conserve energy, and cut back our oil imports. In fact, at a time when domestic oil production is dropping, our consumption of oil has continued to soar from approximately 14 million barrels a day in 1973 to over 19 million barrels a day in 1979.

All that increase must come from abroad, most from OPEC members and much from the Arab countries. Thus, for the Arab oil-producing countries, oil has become a very effective politico-economic weapon, in some ways as effective as U.S. military might.

Sheik Yamani of Saudi Arabia contends that the most recent price increase had nothing to do with the signing of the Egyptian-Israeli peace treaty, yet he did emphasize that Saudi Arabia favored a "total solution" to the Middle East crisis and that the peace accord did not fill this requirement. After 6 years of high prices and ever tightening supplies, it should now be clear to Americans that a change in our Mideast policy will encourage the oil producing Arab States to continue sending us oil.

Clearly, if our energy problem is to be solved, we must pursue a just settlement of the Middle East problem, one that allows Palestinians to determine their own future. To date, we have steadfastly supported the Israeli occupation of Arab lands taken with U.S. military weapons (tanks, aircraft, ships, and guns) in 1967.

More than a million and a half Palestinians were made homeless. These people must be allowed to return to their land and, together with those Palestinians still in the occupied areas, determine their own future.

A comprehensive settlement in the Middle East is also in the best long-run interest of Israel. Surrounded and outnumbered by Arabs, Israel will not always be able to count on military superiority. The earlier the peace, the better for Israel. The human and material costs of maintaining itself as an armed camp amounts to a tremendous strain on the Israeli economy.

In recent years I have met with various Arab leaders, including the Palestine Liberation Organization's chairman, Yasser Arafat. I have noted a growing willingness among Arabs to accept Israel as a permanent state in the Middle East.

At a Damascus meeting I had with Chairman Arafat and two other PLO officials in November 1978, the chairman said that if Palestinians were allowed to form a state on the West Bank and Gaza with a connecting corridor, the PLO would not try to increase the territory of the Palestinian state through the use of violence.

Chairman Arafat did say that he would want to be free to use democratic and diplomatic means, but even so, his statement showed a flexibility one would hardly have expected from the PLO leader just a few months earlier. In the event of the creation of a Palestinian state, Israel should not have to rely for its security on promises. The United States can help guarantee Israeli security by treaty and the establishment of a base in or near Israel, if this is agreeable to the principal parties.

My conversations with Mr. Arafat convince me that the United States should begin discussions with this representative of the Palestinian people. We could make important progress toward a peaceful settlement. Without participation of the PLO, and without self-determination for the Palestinians, I am convinced that the bloodshed and loss of life in the Middle East will only increase.

That would be bad enough. But also, unless the Palestinian problem is solved, no Arab nation will be enthusiastic about helping the United States solve its energy problem. It is as simple as that, and it is time Americans wake up to that reality.

DOMESTIC OIL DEVELOPMENT

The United States has already found and tapped most of the easy-to-drill oil under our land and coastal areas. Proven domestic crude oil reserves have declined from 39 billion barrels in 1970 to 27.8 billion barrels today. If we were to rely on domestic oil with no oil imports and no new oil discoveries, at our present consumption rate of about 19 million barrels a day we would find ourselves out of oil in just a little over 4 years.

That dismal projection shows that the United States will continue to need foreign oil in the foreseeable future. The shortage of known domestic oil reserves also means we must locate and exploit new sources of domestic crude oil to purchase valuable time for developing nonpetroleum sources of energy.

The economics of oil exploration are well known and established. Drillers can never be sure oil lies under the ground or ocean bottom until they drill for it and bring it to the surface. Exploration wells are expensive, and 8 out of 9 end up dry. Wildcat drillers and large companies alike drill only because they know that one good gusher can pay for all the dry holes and still yield a profit.

The major incentive to oil explorers is still the profit motive. The price of oil in a free market must be sufficient to stimulate enough new oil finds to keep supplies strong enough to meet demand. The President has begun gradually removing domestic crude oil price controls. That should result in price incentives that will encourage exploration. The Congressional Budget Office estimates that price decontrol will increase production by 405,000 barrels of oil per day by 1985.

It is important, however, to take a close look at a related administration policy—a windfall profits tax on the oil industry. A windfall tax tends to diminish the incentive that removing price controls would create. Windfall taxes also take away capital from the oil industry that could be used for oil exploration.

A windfall profits tax should definitely not apply to new oil that is discovered and brought into production in the future. Removing the profit motive would significantly discourage the vigorous exploration for new oil we so desperately need.

Congress could use the tax system in other ways to help solve our energy problem. A great incentive for energy production and conservation would result if Congress would provide an accelerated writeoff for any capital investment which would have the effect of boosting oil production, finding new sources, or conserving existing energy supplies. I suggest that a full writeoff be allowed within 2 years.

Selective policies which stimulate, or at least do not inhibit, production should be the key to taxation of the oil industry. Used carefully and wisely, I am convinced such policies will help us deal effectively with our Nation's energy shortage.

COMPETITION WITHIN THE OIL INDUSTRY

To increase competition in the oil industry I have introduced H.R. 4585 to require that crude oil and refined products be sold through Government supervised public auctions. Under my bill all crude oil used in the United States, regardless of origin, would have to be sold in a commodity market auction, similar to those used for agricultural products. The first sale by refiners of their gasoline and other finished petroleum products would also be by public auction.

This would mean that Exxon, Shell, and all other crude oil producers and importers would have to sell all of their crude through competitive markets open to all bidders. Refiners, whether Exxon, Shell, or one of the independents, would have to buy all of the crude they make into gasoline and fuel oil entirely through these auction markets and sell the gasoline and fuel oil they produce in the same way.

Major oil companies and independent distributors—in fact virtually anyone—would be able to buy gasoline and other petroleum products at the auction. This would assure that all dealers, whether affiliated with major oil companies or independent, would have an equal chance to buy fuel for their service stations.

Under my bill the auction markets would be regulated, like other commodity markets, by the Commodity Futures Trading Commission.

Frankly, the purpose of my bill is to strengthen competition in the oil business. Many people, believing that a few big oil companies have a monopolistic stranglehold on the industry, are calling for divestiture—a Government-ordered breakup of the big firms.

Divestiture would mean that companies drilling and shipping crude oil could not also refine and retail it. However, divestiture is a long agonizing legal process that could take decades to accomplish.

My bill would have all the advantages of divestiture and none of its disadvantages. Public auction markets could be set up swiftly with minimum inconvenience to the industry.

An even more extreme measure that some people favor is nationalization of the oil industry—Government takeover, ownership, and management. The inefficiency of the postal system should be answer enough to that proposal. The Federal Government should not take over the oil business.

The chief advantage of a public auction market for oil and its refined products would be to insure everyone equal access to supplies of gasoline, diesel fuel, and other oil products. This would encourage new business enterprises to organize in all aspects of the petroleum industry.

Today many Americans simply do not believe the oil shortage is real. They assume that the oil companies have withheld crude oil and gasoline in order to take advantage of higher prices later on.

In many areas gas stations have shortened hours, because they cannot get enough gasoline to sell. Lines have gotten longer during the few hours they remain open, and frustration is mounting.

It is clear that the Department of Energy has been unable to solve the problem or even to explain it to the satisfaction of most people. Evidence suggests that Energy Department regulations may have actually made a bad situation worse.

The auction market for gasoline and other refined oil products would help dramatically. Every corner gas station would be able to get through the auction market its fair share of the gas that refineries produce.

Auction markets for crude oil and refined products would insure all refiners and distributors equal opportunity to secure the supplies they need.

These auctions would place industry operations before the full view of the U.S. Government and the American people. As it now stands, most of the oil drilled in the United States or purchased overseas is controlled by eight major companies until company dealers sell it at the pump. Most of the information we have about that oil and its products comes exclusively from those companies.

These major companies are vertically integrated. A single company like Exxon drills for oil, transports it, refines it, and then distributes it to contracted retail dealers or company-owned stations. It would be the same if the big three auto makers not only built and sold cars but also dug the iron ore and made the steel for their cars. Vertical integration allows monopoly profits and control of supplies.

Public auction sales, on the other hand, would generate reliable data on prices and volumes, both before and after refining. And the Government would gather information to estimate future production to facilitate the trading in futures which occurs on commodity markets.

Such information would make it relatively easy to detect attempts by large oil companies to take advantage of their monopoly.

I first proposed a public auction market for oil during the shortages caused by the oil embargo in 1973. It was a timely idea then, but it is even more urgently needed now, in view of the administration's decision to deregulate the price of domestic oil.

Under present price controls, a complicated entitlement program requires the major oil companies to share crude oil with independent refiners. As price controls are removed, a mandatory public auction market for oil will assure access to supplies for independent refiners at fair prices, without the need for Government directed allocations.

Summed up, establishing mandatory public auction markets for oil and oil products would assure competition within the oil industry conducted in full public view. Consumers would be assured they were paying for gasoline and heating oil what is required by the economics of the marketplace.

REASONABLE CONSERVATION

A national energy program must include reasonable oil conservation measures. But we cannot look to conservation as a primary, long-term solution to our energy shortage.

Abundant oil and other forms of energy have allowed the United States to provide the highest standard of living in the history of the world. Take the automobile, for instance. We burn over a hundred billion gallons of gasoline a year to keep our cars going. Yet the automobile provides us with a degree of personal freedom and mobility never dreamed of by our ancestors and unparalleled in any other country.

Millions of Americans live in comfortable suburban and country homes with spacious yards. Our cars make this dispersion of our population from crowded cities possible by giving us a convenient way to get to work, schools, stores, and entertainment events.

Automobiles open to everyone parks, historical sites, and recreational opportunities from coast to coast. Additionally, an industry of restaurants, motels, and amusement centers that provides millions of jobs developed because of the automobile and our modern highway network.

Our lives are greatly enriched, because the average American has a means of individual, personal transportation. Small wonder we take great pride in our automobiles. We may have to curb automobile use somewhat for a while, but our national goal should be to preserve and increase our standard of living and transportation, not to lower it.

For that reason gasoline rationing must be avoided, except during a grave national emergency. Gasoline rationing is not really an energy policy. Rather, it would mark the failure of a national energy policy.

Temporary gasoline conservation measures short of rationing may play a limited role. Cutting the hours service stations are open, assigning drivers alternate days to fill up, restricting tank topping, and closing stations on weekends have all been suggested by the Carter administration. These inconveniences disrupt our work and private lives. They should be only temporary until adequate gasoline supplies can be restored. In a sense, like gas rationing, their prolonged use marks the failure of a national energy policy.

We should, of course, take reasonable, long-term conservation steps. Americans can consolidate their trips to town and use car and van pools to get to work. And automobile manufacturers can be encouraged to develop lighter, more fuel-efficient cars.

Parallel steps to conserve fuel oil also are possible. To counter short-term heating oil shortages we can lower thermostats in the winter and run airconditioners less in the summer. But comfortable indoor temperatures are as much a part of our living standard as is the automobile. Better insulation promises a more reasonable, long-term answer to conserving energy in homes and buildings.

I introduced legislation providing a tax credit for home insulation early in 1977. Congress finally passed such a bill last year. Under it, homeowners can take a credit on their Federal income tax for 15 percent of the cost of insulation and other energy-saving improvements, up to a maximum credit of $300. The law also allows a credit for the cost of installing solar heating devices—30 percent of the first $2,000 and 20 percent of the next $8,000, up to a maximum credit of $2,200.

An especially needed step to encourage conservation would be to require an energy impact statement for each new proposed Federal regulation on energy use. This would be similar to the environmental impact statements already required.

Environmental impact statements force officials to take a hard look at any adverse effects on the environment a proposed project may have. By the same token, Federal regulators should be required to take just as hard a look at whether their rules force the use of more energy or shift use from an abundant, nearby source to a scarce or faraway source. I am sure many proposed regulations would be dropped or modified if the energy consequences were brought to light. That would help conserve scarce energy.

It would be too optimistic to expect reasonable energy conservation measures actually to roll back national oil use, but they can help stem the rapid growth in our use of oil. Since the 1973 oil embargo, for instance, American oil consumption jumped from 14 million barrels of oil a day to the present rate of 19 million barrels a day. Conservation can help slow our climbing energy needs, but the real answers must come through securing the additional oil we need in the short run while developing alternate sources of energy for the long run.

ALTERNATIVE ENERGY SOURCES

A greater use of coal offers the most immediate and promising alternative to oil as an energy source. Known coal reserves in the United States are estimated at 438.3 billion tons, large enough to last for 200 or 300 years.

The first step to greater coal development is to encourage the use of coal instead of oil in generating electricity and running factories. To that end I wrote the President in April and urged him to order the U.S. Environmental Protection Agency to abandon proposed new air quality standards that would have made much of the coal in the United States and most of Illinois unusable.

If the EPA action were to go unchecked, I told the President, a valuable energy resource would be threatened and thousands of coal miners would be thrown out of work. The EPA proposal would have lowered the standard for sulfur dioxide emission from new powerplants and factories from 1.2 pounds per million Btu's on an annual average to 0.55 pound. That would have meant that more than 60 percent of the coal reserves in my congressional district would have become useless, because of their higher sulfur content.

The proposed regulations would have required the city of Springfield, Ill., to ship coal into Illinois by truck and train, despite the fact that the largest coal mine in the United States is located just a few miles from Springfield. Since western coal is more expensive to start with and shipping cost would increase the price still further, the new EPA regulations would have added more than $100 a year to individual consumer electric bills in my district. In addition, requiring the unnecessary shipment of western coal to Illinois would have wasted scarce liquid fuel necessary to power the trains at a time when we should be doing everything we can to conserve such fuel.

Fortunately EPA backed down and the new standards announced May 25 proved reasonable. Coal industry spokesmen feel that most high-sulfur U.S. coal will remain usable. The new EPA standards retain the requirement of no more than 1.2 pounds of sulfur dioxide per million Btu's. They add a requirement that new plants using high-sulfur coal must reduce sulfur dioxide emission by 90 percent and those using low-sulfur coal by 70 percent. Expectations are that the EPA standards will allow us to use coal effectively while still giving reasonable protection to our environment.

Another initiative to keep Federal environmental standards realistic and reasonable is my bill to prevent the Environmental Protection Agency from classifying fly ash and slag as hazardous wastes until detailed studies on the safety of these materials are completed. My bill will promote the recycling of such combustion byproducts generated from burning coal.

EPA admits it lacks information on the degree of hazard, if any, posed by fly ash and slag, and acknowledges that any potential hazards are relatively low. Yet EPA persists in writing regulations that would add $1 billion over a 3-year period to the cost of producing electricity, costs which will be passed along to consumers. This would discourage utilities from using our abundant coal to produce electricity.

Currently, large quantities of fly ash, bottom ash, and slag, created by the burning of coal and other fossil fuels, are used extensively as a concrete additive. As a supplement, they can reduce the cement content between 10 and 30 percent, thereby lowering costs. In addition, these materials contribute to the strength, water tightness, and durability of concrete.

In several areas of the country, including my district, substantial quantities of ash are used in road work to construct pavement bases and subbases. Fly ash can also be used:

In brick manufacturing to replace clay.

In the manufacture of roofing felt.

To absorb oilspills.

For grouting.

As a filter medium for water purification.

In 1978, it is estimated that 68.2 million tons of ash and slag material was generated and that by 1985 this figure will reach 90 million tons.

EPA is misguided in trying to regulate these byproducts in the same manner as those wastes that undeniably pose an immediate and substantial danger to the health and safety of people and the environment. In the public interest EPA should abandon its plan.

To improve the long-range prospects for coal development I sponsored legislation to create the beginnings of a synthetic liquid fuel industry in the United States. The bill passed the House of Representatives on June 26. It authorizes $2 billion in guarantees to stimulate the production from coal and shale oil of enough liquid fuel to meet all of our defense needs.

If the Senate and the President agree, we will soon have the nucleus of synthetic fuel industry that could be expanded to meet totally from domestic resources our minimum liquid fuel needs in time of emergency. And the presence of a U.S. synthetic fuel industry, even in embryo form, will serve as a damper on future OPEC hikes in the price of oil.

There is no doubt that this legislation is a high national priority.

Another approach to providing needed liquid energy is gasohol. A mixture of 90 percent gasoline with 10 percent alcohol, gasohol can power automobiles with no adjustment to engines or carburetors.

Gasohol promises to make good use of agricultural surpluses. Production on a large scale would reduce oil imports, improve farm income, and create a new industry with many new jobs.

In 1977, I personally tested gasohol in my mobile office, a 1973 Chevrolet station wagon. The results were a slight improvement in miles per gallon and a significant reduction in carbon monoxide and hydrocarbon exhaust emissions. In that same year I urged that one of four federally sponsored pilot gasohol plants be located in the Midwest and use our abundant grain as a raw material. I have also sponsored legislation to provide an additional $180 million in guaranteed loans so that more plants can be built.

When I talked with Secretary of Agriculture Bob Bergland to urge him to approve a grain alcohol plant in the Midwest, he indicated that he recognized the need.

In 1978, I sponsored legislation to exempt gasoline from the 4-cent Federal fuel tax if it contained at least 10 percent alcohol. This provision became Federal law that year, and the result has been a significant increase in gasohol production. In Illinois dozens of stations offer gasohol to drive-in customers at only a few cents more than the cost of no-lead gasoline.

Also last year I joined with other Members of Congress to urge the U.S. Environmental Protection Agency to grant gasohol a permanent waiver from its ban on certain gasoline additives, including alcohol. Fortunately, EPA found that gasohol pollutes less than straight gasoline and extended the waiver. That action opened the way for stations then selling gasohol to continue to do so and for new stations to began carrying the gasoline-alcohol blend.

We should not neglect nuclear power as a present and promising nonpetroleum energy source, though it has problems that must be solved.

Already about 12.5 percent of the electricity generated in the United States comes from 72 nuclear powerplants. Under construction or in planning are an additional 125 reactors. In my home State of Illinois 58 percent of the electricity comes from nuclear plants.

By Department of Energy estimates, without the nuclear electricity generating capacity now in operation we would require an additional million barrels of oil a day. The recent shutdown of five nuclear plants, because of design problems boosted our national oil consumption by about 100,000 barrels a day.

A big concern is safety, as the well-publicized threat of a meltdown at the Three Mile Island nuclear powerplant in Pennsylvania illustrated. Fortunately no disaster occurred, but the incident demonstrated the need for extreme care in safe design and operation.

Much can be learned from the 25 years of experience with nuclear reactors by the U.S. Navy under Adm. Hyman G. Rickover. The Navy program has operated without a single accident.

What stands out most about the Rickover approach to nuclear safety is thorough, tough training for the personnel operating nuclear reactors. Since most of the problem at Three Mile Island can be traced to human error, the importance of excellently trained personnel cannot be stressed too much.

Radioactive waste presents another problem with present nuclear plants which use a process called fission. Fission reactors create heat by splitting a uranium isotope into lighter fragments. These radioactive byproducts remain dangerous for hundreds or thousands of years. And we have not fully solved the problem of how to dispose of them in such a way that they will never get into the environment.

Fortunately a new technology for nuclear power production seems very promising. It is called fusion. Instead of splitting uranium isotopes, fusion combines hydrogen isotopes into a heavier element, helium. Fusion leaves very little radioactive waste. And the fuel supply for fusion is virtually unlimited.

Already the Department of Energy has spent about $2 billion on fusion research and hopes to demonstrate scientific feasibility by the early to mid-1980's. The Federal timetable projects commercial fusion plants sometime after the year 2020.

The total Federal price tag will reach an estimated $18 billion. That compares with the $25 billion costs to put a man on the Moon. The practical advantages of nuclear fusion makes it well worth the substantial investment.

Remaining for consideration are natural energy sources—solar, wind, geothermal, and others. They have the advantages of being ready to tap and of not requiring combustion or other processes which threaten the environment. Disadvantages limit their usefulness, however. Each requires expensive equipment and construction. Nor does the Sun always shine or the wind always blow when needed most. And geothermal energy is not well distributed.

Despite these drawbacks a small but significant portion of our energy needs can be supplied from natural sources. Research for cheaper ways to tap this energy needs to continue. And the Federal Government can encourage the use of available technology sponsoring pilot projects and through tax incentives. Already homeowners can claim an income tax credit for installing solar heating units.

CONCLUSION

Just as developing natural sources of energy cannot be a complete answer to our needs, neither can any other single policy. A national energy program must attack all aspects of the problem. We must assure a favorable climate for future imports of foreign oil while improving incentives and competition in domestic production. We must adopt reasonable energy conservation measures while continuing to develop nonpetroleum energy sources.

The logic dictating our future course of action has become clear. We need only the courage and determination to take the necessary steps.●

DEPARTMENT OF ENERGY WEEKLY PETROLEUM STATUS REPORT

The SPEAKER. Under a previous order of the House, the gentleman from Kentucky (Mr. SNYDER) is recognized for 5 minutes.

● Mr. SNYDER. Mr. Speaker, yesterday afternoon I took another look at the June 29, Department of Energy Weekly Petroleum Status Report and I noticed something interesting about the format that might give us an idea about where DOE puts its priorities.

I noticed that the first page discussed world oil supplies and the impact of Iranian cutbacks. The next page and a half contained the "highlights" of the oil situation. Then came four pages on oil prices, three pages discussing domestic petroleum demand, and two pages on imports. Then came two summary pages with an overview of oil supply and demand, followed by 13 pages of facts and figures on stocks and prices of various petroleum products and on refinery utilization.

They are all very important topics and I for one, appreciate having the information.

But, Mr. Speaker, it struck me a bit odd that in those 27 pages about oil, there was not one single page devoted to something that—to me—would seem to be vital to our review of the oil situation—domestic production. Domestic production was mentioned in three lines in the "highlights" section and in several lines in each of the two summary pages. But that is it.

Apparently DOE does not think domestic production is very important, and maybe that is what our problem is.●

KING CRIME

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, I take this opportunity to again remind the House, the Congress, and the Nation that there are as yet no arrests in the unprecedented murder of Federal District Judge John W. Wood, and the prior attempt to murder the assistant Federal district attorney, James W. Kerr. It is significant, and I think it needs to be emphasized, that this once again brings into focus the urgency of the Nation controlling what I call "king crime." Rather, it looks as if the reign of "king crime" continues supreme.

The fact is that the troubling aspect in this particular case is that it is a direct assault on not only the judiciary of our country, but on the organized aspects of our society. The fact is that there are not even any leads, much less arrests, in either case. The attempted assassination of James Kerr happened last autumn, in October, and the murder of Judge Wood occurred in the waning days of the month of May.

It seems to me that the problem essentially is the inability of the law enforcement forces, the forces of good, the forces that we ourselves have chosen to enforce the laws forged and passed by the Congress, in their inability to penetrate this highly organized mass of crime that reigns supreme in our country; the lack of coordination which was the motive that impelled me to communicate with the President and in turn with his domestic chief counsel involving the main Federal law enforcement agencies, continues to be a cause of great concern.

As I pointed out after the attempt on James Kerr's life, there is absolutely no coordination, or has not been up to now, between, say, the Drug Enforcement Administration, the Immigration and Naturalization Service, the Border Patrol, or the Justice Department. It seems unbelievable, but I discovered last autumn that our agencies were acting as if they were separate entities or nationalities instead of dependencies of the same Federal Government.

I have pointed out repeatedly that there is absolutely reason to know and believe, and good probable cause to know, that there is a relationship between the mysterious death of Sante Bario, the drug enforcement officer who was administering the Mexico City office, whom they had while in custody charged with bribery, with the charges being based on those made by a higher level informer who had been the source of his great coups when he undid the French Connection up in the New York area, and the other exposé of crime up in New York.

☐ 1940

There is a connection between the two, and yet I do not know and cannot be assured that anything has been done to try to get the information now obtainable through the Drug Enforcement Agency and the probability of that information having relevancy to the murder of Judge Wood and the attempted murder of James W. Kerr. I have made a request of the Department of Justice that they look into this possibility. I said I do not know what reaction I will have to that request.

Mr. Speaker. I yield back the remainder of my time.

AMTRAK REORGANIZATION ACT OF 1979

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

● Mr. AuCOIN. Mr. Speaker, very shortly Congress will determine the geographical balance of the Nation's passenger rail system. This is a critical moment for Oregon's passenger rail service, as well as America's. With the final vote on the Amtrak Reorganization Act, the Congress will dictate the fate of future generations in their choices for rail travel.

Hard decisions on energy plague Americans in every aspect of our lives, from scheduling when to fill the gas tank to investing time and hope in synthetic fuel development. To maximize the benefits of the fuel we consume, it is imperative to support mass transportation. Given the stark facts of energy today, we cannot ignore this.

But it appears that the Department of Transportation is asking Americans to do just that with its present reorganization plan for Amtrak.

The entire route system—drastically reduced in breadth—virtually disregards the growing demand for passenger rail service in the Western States. For example, the Pioneer train, running from Salt Lake City to Seattle, boasts impressive gains in ridership which confirm a strong passenger need.

Yet the Department's ax has fallen to sever this run from the national rail system as it has numerous other western routes. I am convinced that the people of Utah, Idaho, Oregon, and Washington have spoken clearly—through their dramatically increased ridership on the Pioneer—to protest that cutback. I add my voice to that cry of protest in the name of regional balance for the Nation's rail system. My involvement in this issue goes back several months. It predates America's long gas lines. It came in advance of the Transportation Department's own belated recognition of its flawed policy.

My first protest, a letter to Secretary Adams in March of this year, emphasized that human needs must counter the hard analysis of cost efficiency in such a policy decision. Ridership increases on the Pioneer were accelerating impressively. My colleagues, Congressmen Gunn McKay and Al Ullman, joined me in this appeal to extend the Pioneer's operation for 1 more year. We never received an answer from the Department of Transportation.

On April 11, I submitted testimony relating to the Pioneer to Chairman Florio of the Subcommittee on Transportation and Commerce which was holding hearings on the Amtrak Reorganization Act. Subsequent ridership increases later that month warranted additional testimony, for that month's figures for the number of passengers traveling per mile on the train (PM/TM) revealed that the Pioneer had already achieved DOT's expected performance level for the entire fiscal year 1979. More important, I discovered that DOT had placed the Pioneer at an even greater statistical disadvantage by calculating the Pioneer's expected PM/TM level on the assumption that it runs efficient superliner equipment as do most long-haul trains. However, the line has only four or five of those cars—the major portion of its equipment is Amfleet—far less attractive and efficient for long-haul trains.

Silence from the Department—and increasing alarm from the people of Oregon—then motivated my cosponsorship of Congressman Wyche Fowler's motion of disapproval of the Amtrak reorganization. Eastern Oregonians expressed such distress over their eventual total rupture from the urban centers of the West that they sent a representative to testify before the Subcommittee on Transportation of the Appropriations Committee. I supported their appeal with a floor statement of support. I did so because it was important to speak up for those who will feel the prejudicial pinch of this long-term transportation decision.

The inefficiencies that plague trains today result from decades of neglect. Throughout this century, the Federal Government has subsidized highways, and therefore the automobile, to the tune of $1 trillion. And what degree of support did rail transportation enjoy before Amtrak in 1971? A comparatively insignificant $65 million. As I again asked the Department of Transportation on June 15, is there any question why the American passenger rail system has not yet attained cost-efficiency?

At a time when the gas shortages and the recent airline strike have demonstrated how people are willing to convert their transportation habits to riding the rails, this is not the moment to dismantle a balanced national passenger rail service. Preliminary ridership figures I just received for May indicate the Pioneer's ridership is up 21.2 percent over last May's figures. How can we solve energy and transportation problems by abandoning such promising possibilities? We cannot. I continue to remain not only the Pioneer's advocate but also an advocate of a balanced national rail system. The people want more than what DOT has been willing to give. The words of the Tokyo energy summit will ring hollow if Congress accepts an inadequate mass transportation system.●

TO BRING SOME ACCOUNTABILITY TO THE DEPARTMENT OF ENERGY

The SPEAKER. Under a previous order of the House, the gentlewoman from Colorado (Mrs. SCHROEDER) is recognized for 5 minutes.

● Mrs. SCHROEDER. Mr. Speaker, I am today introducing a resolution calling for the resignation of James Schlesinger as Secretary of the Department of Energy and a bill calling for an immediate review of the operations, funding, and personnel management practices of the Department of Energy.

In my opinion, there has been an appalling lack of leadership at DOE since its creation. The Department has been poorly run, employee morale is at rock bottom, one-third of the positions lack approved descriptions and classifications, key positions remain unfilled, and there is a general sense that nobody knows what is going on. In short, there is mismanagement at the top, disorganization in the middle, and chaos at the bottom.

As chairwoman of the Subcommittee on Civil Service, I held hearings on DOE's personnel management practices in March of this year. These hearings only served to highlight the serious problems that are plaguing DOE. It is questionable whether the Department is organized well enough to handle its day-to-day work, let alone confront a major energy crisis.

Since it was established in 1977, DOE has cost the taxpayers over $10 billion and has not yet come up with a satisfactory short- or long-term national energy plan. Even the President had to cancel his speech last week and light out for an "energy summit" at Camp David because DOE could not provide him with any useful proposals.

Specifically, the Department of Energy has failed to promote comprehensive conservation measures in the transportation, industrial, residential, and governmental sectors of our society. It has not aggressively pursued the development of alternative energy sources. And it is not much further along today in developing a central data collection and analysis system to reduce the Federal Government's dependency on energy production and supply data provided by the oil companies than it was in 1977. Moreover, we are now importing more oil from OPEC than when the Department was created.

I cannot understand how 19,000 people—the number of personnel at DOE—armed with over $10 billion could accomplish so little in 2 years. The Congress must find out. The bill I am introducing today can serve as a vehicle for getting the answers.

I hope my colleagues will join me in this effort to bring some accountability to the Department of Energy. If any of my colleagues would like to cosponsor either the resolution on Secretary Schlesinger or the bill on the review of DOE, I would be happy to have them on board.●

STANDING FIRM ON OUR COMMITMENT TO THE ELIMINATION OF HUMAN RIGHTS VIOLATIONS

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. FERRARO) is recognized for 5 minutes.

● Ms. FERRARO. Mr. Speaker, earlier today the distinguished gentleman from New York (Mr. BIAGGI) offered an amendment to prohibit the use of any funds in the fiscal year 1980 State-Justice-Commerce and Judiciary appropriations bill from being used for the sale or shipment of defense articles to Great Britain for use in Northern Ireland or by the Northern Ireland police authorities. The amendment was withdrawn when the chairman of the House Foreign Affairs Committee (Mr. ZABLOCKI) assured Mr. BIAGGI and this House that the Foreign Affairs Committee would hold hearings on this important matter.

Because I was introducing a witness at hearings of the Subcommittee on Oversight and Review of the Public Works Committee, I was unable to be on the floor of the House during the debate on that amendment. I would, however, like to go on record at this time in support of the sentiment of the Biaggi amendment. I would also like to join my colleagues who spoke earlier today of the commitment of Mr. BIAGGI to peace in Northern Ireland.

The citizens of Northern Ireland, both Protestant and Catholic alike, are experiencing their 10th year of violence and bloodshed. The past decade has been sadly marked by the loss of 2,000 lives. Despite ongoing promises by the British Government to bring about a peaceful solution to the conflict, there is no end in sight.

Our State Department has stated on a number of occasions that it pursues a nonpartisan posture in this conflict. The Department's approval of the sale of 3,000 magnum handguns, and 500 automatic rifles to the Royal Ulster Constabulary makes a mockery of that neutral posture. Cloaked by the fact that the RUF is the legally constituted police force in Northern Ireland, the State Department continues to maintain that this commercial arms sale in no way reflects partiality. I take sharp disagreement with that rationale.

While it may be the legally constituted police force, it is also a police force that has been cited by a number of organizations, including Amnesty International, for gross violations of human and civil rights. The record of this police force does not substantiate impartiality—and our support of it negates any neutral posture that we may have assumed in the past. Beyond that, there remains the inevitable fact that the use of American weaponry will only lead to an escalation of the hostilities.

The President and the Congress have made the pursuit of human rights throughout the world the cornerstone of this Nation's foreign policy. That policy should be pursued indiscriminately and equitably. Our pursuit of those goals should be continuous and even-handed. The outward manifestations of human rights policy should not be arbitrary and capricious. Our commitment must be total.

While Great Britain has been a longtime ally of the United States, the time has come for us to take a stand in the name of peace and justice. That stand can be taken by merely recognizing that this arms sale has a potential human rights impact and by standing firm on our commitment to the elemination of human rights violations.

I look forward to early hearings on this issue, as promised by Chairman ZABLOCKI, and I commend Mr. BIAGGI for bringing this important issue to the attention of the House.●

THE WM. JENNINGS BRYAN DORN VETERANS' HOSPITAL

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

● Mr. ROBERTS. Mr. Speaker, on June 14, thousands of people attended the dedication of the new Wm. Jennings Bryan Dorn Veterans' Hospital in Columbia, S.C. Many Federal, State, and local officials attended the dedication. Friends of Bryan Dorn throughout the State of South Carolina witnessed the dedication of this magnificent new facility and the naming of such facility for Mr. Dorn.

Mr. Speaker, my colleagues know of the tremendous dedication of Bryan Dorn and the work he did for so many years in the Congress on behalf of our Nation's veterans. For many years he served as chairman of the Subcommittee on Compensation, Pension, and Insurance and during the 93d Congress Bryan served as chairman of the full committee. This dedicated American has always placed the health care of our Nation's veterans as our No. 1 priority. He long advocated a quality medical and prosthetic research program whose budget now exceeds $127 million per year. Bryan was instrumental in getting the new medical school at the University of South Carolina established and he is now a lecturer on the university staff.

Mr. Speaker, I was unable to attend the dedication ceremony naming the Columbia facility for my good friend from Greenwood, S.C.; however, several of us did convey our thanks to Bryan by way of telegrams for his many accomplishments, not only for South Carolina veterans but for all veterans throughout the country. Those who attended the ceremony have indicated to me that it was one of the most impressive dedication ceremonies ever conducted by the Veterans' Administration. Of course, much credit for its success is due to the dynamic personality and effective leadership of the director of the Columbia VA facility, Mrs. Joan S. Kershner. She is one of the Department of Medicine and Surgery's outstanding hospital directors. Much credit should also go to the assistant hospital director, Mr. Ray T. Williams, for the many hours he devoted to the success of the program.

Mr. Speaker, thanks to Bryan, the State of South Carolina has one of the most impressive medical complexes in the entire Southeast. With the establishment of this new medical facility to be affiliated with the newly created medical school at the University of South Carolina, the modern VA hospital in Charleston and its affiliation with the excellent medical school of Charleston, and the

VA Outpatient Clinic at Greenville, S.C., veterans will have quick access to excellent facilities that are equipped to provide quality medical care on a timely basis.

Mr. Speaker, I want to join the thousands that have already paid tribute to Bryan for his efforts on behalf of our Nation's veterans and their families.●

MOST-FAVORED-NATION TREATMENT FOR ROMANIA SHOULD CONTINUE

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, on Wednesday, July 18, the House will consider House Resolution 317, disapproving the President's recommendation to extend most-favored-nation treatment to Romania for another year under the Trade Act of 1974.

I urge you to vote no on the resolution. There are unresolved problems in our relationship with Romania, but in my judgment they can be better resolved if we maintain our trade relationship which has provided significant progress. MFN cannot be turned on and off. To deny MFN to Romania could permanently push that country into a closer relationship with the rest of Eastern Europe. This would be tragic.

On July 10, the Subcommittee on Trade ordered that House Resolution 317, disapproving continuation of most-favored-nation treatment for Romania, be reported unfavorably to the Committee on Ways and Means. The subcommittee's action was taken following 2 days of public hearings during which 50 witnesses were heard or filed statements for the record. By an overwhelming margin of 3 to 1, testimony favored continued MFN as necessary to improve economic and political relations with Romania. The full committee reported the resolution unfavorably today.

In reaching a decision on continuation of MFN, the subcommittee considered several important elements in United States-Romanian relations, most importantly Romania's adherence to the freedom of emigration requirement of the Trade Act of 1974, upon which extension of MFN to non-market-economy countries is based.

First, with respect to adherence to the emigration requirements of the Trade Act of 1974, there has been an upward trend in emigration to the United States in the 4 years the Romanian agreement has been in effect. Emigration to the United States for the first 11 months of fiscal year 1979 increased by more than 50 percent over the same period in fiscal year 1978 from 1,064 to 1,629.

Although Jewish emigration to Israel has declined, it is important to note that the Jewish community of the United States has endorsed without qualification continued MFN for Romania. They testified that concrete assurances were received from Romanian authorities that, in the spirit of the Trade Act's emigration requirement, hopefully will remove remaining impediments to the freedom of Jews to emigrate. These impediments include intimidation and harassment, as well as procedural measures which were cited by a number of the witnesses during the subcommittee's hearing.

Second, our trade with Romania, which has been stimulated by the granting of MFN 4 years ago, is expected to reach $1 billion in 1980. This year, imports are likely to reach $350 million, and our exports to Romania will probably approach $400 million. Although we had a deficit with Romania of $30 million in 1978, it is encouraging to note that so far in 1979 the balance has reversed to a $83 million surplus for the United States.

Third, Romania continues to conduct its foreign relations in a manner which indicates independence not shown by other members of the Warsaw Pact. For example, Romania does not participate in pact military maneuvers, nor does it permit Soviet troops to be stationed within its borders; Romania has established broad economic ties with the West and is the only Warsaw Pact member to have joined the World Bank and the International Monetary Fund; Romania has strongly and actively supported an Arab-Israeli peace; and finally, Romania has directly aided the United States by not participating in the OPEC oil embargo.

I would also like to note that I have received a report from the Commission on Security and Cooperation in Europe, chaired by our colleague, Congressman DANTE FASCELL. The Commission supports extension of the MFN waiver authority for another year, noting the upward trend of emigration to the United States, the high success rate of casework, and also the impressive trade picture. The Commission's support, however, is qualified by concern with declining Jewish emigration to Israel and what appears to be a tightening of emigration procedural policies.

With respect to casework referred to by the Commission, I am pleased to confirm the high success rate during the years MFN has been in effect. For example, 98.5 percent of the cases on the official December 1976 U.S. representation list have been resolved.

With respect to emigration procedures, I would again draw attention to the American Jewish community's statement regarding assurances received from the Romanian Government about these very same problems.

In conclusion, I want to state my firm conviction, that for the reasons I have outlined, most-favored-nation treatment for Romania should be continued. It is clearly in our national interest to do so both for economic and political reasons. Romania has made an effort to cooperate with our requirements. It has also steered a precarious course of independence in Eastern Europe, one which we hope will encourage other Eastern Bloc countries to follow.

I urge my colleagues to vote against House Resolution 317 and continue MFN to Romania.●

DECISIONS ON ENERGY

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BOLAND) is recognized for 5 minutes.

Mr. BOLAND. Mr. Speaker, the events of recent weeks have made it increasingly clear that the United States has reached a crossroads in its energy policy. Tight supplies of crude oil, which have caused long gasoline lines in many areas, have demonstrated once again the folly of our continued reliance on foreign sources of petroleum. We have reached the point where we must make some exceedingly difficult choices on energy. These choices will have to be made in a relatively short time, so that we can begin to implement an energy program that will reduce our reliance on foreign imports. We no longer have the option of delaying the making of these choices.

President Carter, as we all know, has been at Camp David for a week in an attempt to formulate a program for a new direction on energy. I hope that a major energy initiative results from his deliberations and consultations. Any energy program, no matter who puts it together, will have to involve a mix of short-term and long-term components. In the short term, our best hope for dealing with our current reliance on foreign oil supplies lies in a major conservation effort. This effort will have to involve all segments of our country. I believe that a standby gasoline rationing plan is an essential component of any conservation effort, and I hope that the House has an opportunity in the near future to reconsider such a plan.

While conservation will result in fuel savings which will allow us to better manage our crude oil supplies, any long-term solutions to our energy problems will require substantial additional action. I believe that any effective long-term solution will have to include a synthetic fuel program. In addition, I believe that the creation of an energy mobilization board to identify key energy projects and expedite the decisionmaking process on them is absolutely essential. A bill introduced by Congressman UDALL, which I was pleased to cosponsor, would establish the procedure for the creation of such a board.

There are a number of other potential components to a "long-term package." Weighing the relative merits of such options as increasing the use of coal, nuclear power, solar, and biomass will occupy the attention of this House and the Nation in the days ahead. The Boston Globe recently published a series of eight excellent editorials, entitled "Search for an Energy Policy," which made some persuasive arguments for several of these options. I would like to insert one of those editorials, "New Fuels for the 1980's" in the RECORD at this point. I intend to insert several of the other editorials into the RECORD in the next few days, and I commend them to the attention of my colleagues. I believe they accurately convey not only the urgency of the task ahead of us but also the collective effort that will be required to successfully accomplish it. As the Globe said in "A Challenge We Can Meet," the last editorial in the series: "For generations the country has produced an ever-rising living standard to pass on to its children. A great abundance of natural resources has played a role to be sure, but an even larger role has been played by an equally great abundance of will, commitment, and ingenuity—by a continuing ability to make use of those resources with which the country has been graced. The task today is to make what we have work more efficiently. The effort will require millions of individual decisions from millions of Americans who want to keep the American dream alive for their children."

New Fuels for the 1980's

We are running out of available oil; this country cannot rely on additional imports. Meanwhile there are serious drawbacks to increased production of either coal or nuclear power. And conservation, which could produce real savings, must not take place at the expense of jobs or our standard of living.

In such an energy environment the United States needs to start immediately on the development of new sources—synthetic fuels that can run our cars and trucks, operate our factories and heat our homes.

Luckily the country, rich in resources, is even richer in technological and problem-solving skill to exploit them.

But if some commitment is not made shortly, the new fuels will not be ready when we need them in the latter part of the 1980s.

This technology must be provided by both the private and public sectors. And we will need improved technology in using all energy with greater efficiency.

One of the first orders of business is the development of the very large reserves of oil now locked in huge formations of shale in the West.

By the most conservative cost appraisals, shale holds the equivalent of more than 500 billion barrels of oil. At still higher costs the total amount of oil in shale may amount to about 1.8 trillion barrels.

Last month the Organization of Petroleum Exporting Countries established a range of prices for crude oil, based on location and quality, ranging from $18 to $22.50 a barrel. That is very close to industry's estimate of about $22 a barrel for shale oil, and the Administration has recommended an additional $3 subsidy. Congress is considering this and other forms of assistance for shale oil development.

There are, to be sure, major problems. The residue from surface-processed shale is about 115 percent of the bulk of the original rock. Finding acceptable places to bury that powdered surplus will be a challenge, even in the spacious stretches of Wyoming and Colorado where the shale is mostly concentrated.

In addition, the process depends on very large quantities of water, which is in short supply in the western states. The problem is not impossible to solve but it may be necessary to build pipelines from more plentiful supplies in the Mississippi-Missouri valley.

Another solution may be to fracture the rock explosively without moving it. The shale is then heated, allowing oil to seep through the rock to collection pools at the base of the beds. This technology, which has been developed by Occidental Petroleum, avoids some of the water and disposal problems but is less efficient than surface processing.

Because of the high start-up costs ($50,000 per barrel per day by some estimates), Congress may have to provide protection for shale plants against ruinous competition from foreign sources, even OPEC, that might undercut them.

One way out of that dilemma would be creation of a federal corporation to construct and operate plants for shale development. That would avoid placing too heavy a burden on private investment and guarantee that the benefits of federal expenditures are returned directly to the people. Federal participation would also give officials a clearer picture of the issues confronting their private counterparts, which is important if there is to be a regulatory function in private shale development.

Coal, converted to gas or liquid fuel, has great potential as a new energy source. With existing technologies, it can provide synthetic oil at a cost of about $30 a barrel. This is even more expensive than shale extraction. But, again, research must be encouraged. And a federal presence in this field, as in shale, may be desirable to protect both the public interest and the threat to investment by cheaper foreign fuels.

On another energy front, natural gas has resurfaced as a highly attractive solution to many of our energy and environmental problems. Its primary virtue is availability and the fact that it can often be used in place of imported oil.

Industry experts have estimated that as many as 1100 trillion cubic feet of natural gas may yet be discovered. And there are tantalizing prospects of far more in deep sediments, down as far as 20,000 feet, under portions of Mississippi, Louisiana and Texas.

But this geopressurized gas, as it is known, will be quite expensive to develop. So far, we have had little direct experience in dealing with the enormous pressures involved or with the possible need to reinject large amounts of water into the earth to prevent cave-ins as the natural gas is withdrawn.

Some experts forecast production costs of about $5 per thousand cubic feet. This is about three times the curent price of natural gas and is the equivalent of an oil price of about $30 a barrel. That price is high. But new technology might cut the costs and they should be given the fullest possible support.

There are other possibilities.

In the case of geothermal energy—rocks or steam deep below the surface that can be tapped for heat to drive electric generating plants—technology must still provide us with new methods of extraction and, in the case of some highly volatile brines, for reinjecting the products of the wells back into the earth. We must also have assurance that these geothermal projects represent no threat to the seismic stability of the regions being tapped.

Beyond the issue of new resources, we must find ways to improve efficiency in practically every aspect of our energy use.

One of the more promising experiments has been the development of a technique for generating electricity directly from combustion of a fuel, side-stepping the need to use turbines and generators. This technology, called magnetohydrodynamics, has been known and worked with experimentally by both American and Soviet engineers but moving beyond the experimental to the practical has so far been impossible. This work should be pursued vigorously since it offers chances of improving the efficiency of fossil-fired plants well above the current maximum of about 40 percent.

Exxon claims it has developed energy-saving control devices for the running of electric motors and it wants to acquire a major electric motor manufacturer, Reliance Electric, so it can put its ideas to work as soon as possible. These improvements should be pursued for their own sake. But they will be most consequential if they lead to reductions in the consumption of oil—which could also be achieved by converting oil-fired power plants to other fuels, notably coal.

Fusion power is the greatest single challenge for the forseeable future. If we can learn how to fuse the nuclei of heavy hydrogen—deuterium and tritium—in a controlled situation, we will have an essentially inexhaustible supply of energy. Two basic, quite different techniques are being pursued by both Soviet and American scientists. But fusion has been an elusive target.

Competing American fusion projects at Princeton and at Livermore are expensive. Funding in the 1980 budget will amount to about $364 million, bringing the total outlay to about $1 billion. The Department of Energy plans ultimately to select one or the other project for a demonstration plant.

Technology is just one player in the whole energy game. Its contributions can be very large but must be heavily supplemented by conservation, subsidy and above all by patience. But technology, despite the fact that it has been given a black eye at Three Mile Island, remains an indispensable element of our national energy program and deserves the fullest possible public support.

The task of harnessing American resources—money, technology, know-how and ingenuity—to the production of new domestic energy sources can be compared to the magnitude of the Apollo project. The urgency is even greater. At the center of the effort is not merely national pride—the desire to compete in space with the Russians. At issue is national security.

A concerted effort at energy conservation will reduce the growth in future energy demand. Natural gas to the extent it is available, coal to the extent is it environmentally acceptable, nuclear power to the extent it is absolutely necessary, can help us meet that demand while still reducing OPEC oil imports. But if we are truly to free our selves from OPEC—and its stranglehold on our economy, its power to shape our very lives—new alternative energy sources and new synthetic fuels will be required.

Their development will require a bold venture. In financial terms it will surely prove sometimes to be a risky venture. There will be mistakes. Promising technologies will fail to fulfill their promises. But properly conceived and executed, a concerted American effort to develop new domestic energy sources can only succeed in the long run. It will help generate new American jobs, new American enterprises, a renewed sense of American purpose and, ultimately, new resources to meet the nation's energy needs.

OUR CHOICES

1. Limit OPEC imports.
2. Ration gasoline.
3. Subsidize conservation.
4. Tax windfall profits.
5. Limit expansion of nuclear.
6. Expedite synthetic fuels.
8. Develop biomass and solar.

TEN COMMANDMENTS ON ENERGY SURVIVAL IN THE NATION'S CAPITAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 5 minutes.

● Mr. ALEXANDER. Mr. Speaker, earlier today I shared with my colleagues 10 commandments which I have suggested to the President as a possible solution to our energy dilemma.

Several members of my staff have taken another approach to this matter, albeit in a lighter vein, which I wish to also share with my colleagues. I ask that my colleagues take into account the sweltering heat conditions in the Cannon Building under which these "Ten Commandments on Energy Survival in the Nation's Capital" were born.

The commandments follow:

Thou shalt worship no member of the Organization of Petroleum Exporting Countries;

Thou shalt not take the name of the seven sisters in vain;

Thou shalt keep holy the fill-up day;

Honor thy Secretary of Energy;

Thou shalt not steal odd license plates to go with even ones;

Thou shalt not covet thy neighbor's gasoline;

Thou shalt carpool to work;

Thou shalt ban three-piece suits and distribute hand fans in House Office Buildings;

Thou shalt move into the District and use Metro; and

Thou might as well take away our parking places.●

TRIBUTE TO ARTHUR FIEDLER

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

● Mr. O'NEILL. Mr. Speaker, all flags in the city of Boston are flying at half-mast today, and they will remain at half-mast throughout this week to mark the untimely passing of Boston's most illustrious citizen, Arthur Fiedler.

It is with a deep sense of personal loss that I rise on this occasion to salute the man known as the heart and soul of the "Boston Pops" Orchestra. For more than 50 years Arthur Fiedler warmed the hearts of Bostonians and delighted the souls of millions throughout our country and the entire world. Through his yearly Fourth of July concerts and vibrant personality, Arthur Fiedler epitomized the patriotic spirit of our great Nation.

The master composer's career spanned a half-century and made Arthur Fiedler the most famous maestro in world history. He conducted American and international orchestras including the Boston Symphony Orchestra, the San Francisco Orchestra, the New York Philharmonic, World Symphony Orchestra, BBC Symphony of London, and the Tokyo Symphony Orchestra. His Christmas and New Year's concerts were broadcast nationally from Boston Symphony Hall. He was the most successful and best selling classical artist in recording history. His beloved "Boston Pops" Orchestra sold more than 50 million recording copies, reaching more people throughout the world than any other single orchestra.

Arthur Fiedler was not only a symbol of Boston, he was a world famous institution, and he was a vigorous performer. Just in the past 2 years he conducted throughout the world 328 concerts at the age of 83. In 1967, he was the first American conductor every to lead a foreign orchestra, the 100-piece Yomiuri Nippon Symphony of Tokyo. By 1970, he was conducting nearly 200 concerts throughout the world.

Perhaps the highlight of Arthur Fielder's glorious career, at least to the millions of Americans who witnessed it, was his exhilarating Bicentennial performance at the Esplanada. I shall never forget that striking scene along the banks of the Charles River. Although his outdoor concerts at the Esplanada—begun July 4, 1929 and maintained over the past 50 years—had become a national institution, on the evening of our Bicentennial, the usual crowd of close to 10,000 swelled to nearly 500,000. It was the largest crowd ever assembled along the banks of the Charles River. Fifty million more Americans viewed the performance on television as the teaming throng revelled to the glorious sounds of the "Pops" and exalted in the magic of the moment that marked the 200th anniversary of the birth of our Nation. As the "Boston Pops" orchestra gave a superb rendition of the "Stars and Stripes Forever," as the bombs burst in the air over the Charles River, and people joyously waved American flags, the hearts of half a million Americans ebbed and flowed with the beat of the maestro's baton.

Recently asked what accomplishment in his long and distinguished career was the most meaningful to him, Arthur Fiedler stated, "Of the things I've done in my life, the thing of which I'm most proud is the Esplanade concert. It was my own creation, my own baby. I felt that, since literature and art were open to the public, music should be made available to all people as well. Music is another, and a universal, language."

No other conductor has ever equalled the skill, enthusiasm, taste, and entertaining qualities of communicating and blending serious and light concert music. Arthur Fiedler played for the public he loved—the citizens of Boston, of the Nation, and of the world. The people loved him and returned his devotion with sincere affection and a loyalty rare in any age.

On August 9, 1979, there was to be a concert here on the Capitol grounds conducted by the master composer himself. Since Arthur Fiedler has gone to his reward the concert will be dedicated to his memory and to his talent.

I shall always remember Arthur Fiedler at the podium before his beloved "Boston Pops" Orchestra enthusiastically leading them in a fiery rendition of the "1812 Overture," and the audience thundering with applause. Arthur Fiedler was a true friend, a great and distinguished American, and Arthur Fiedler was, "Mr. Boston."

My wife, Millie, joins me in expressing our sincere sympathy to the family and many friends of Arthur Fiedler.

CONGRESS MADE AN ERROR 26 YEARS AGO

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, 26 years ago, the Congress made a grievous error when it sustained an administration effort to kill an Interior Department program that was producing synthetic fuels from coal and oil shale.

As one of those who participated in the fight to save this modest program, I want to share with the Members who have arrived here since that time another view of the controversy over energy policy.

We lost our fight to save synthetic fuels from coal and shale then, but I believe the day is nearing when that fight will be won.

Synthetic fuels provide the surest and quickest way of making ourselves energy independent.

Mr. Speaker, I include this excerpt from the RECORD of April 28, 1953, at this point:

EXCERPT

Mr. JENSEN. Mr. Chairman, I rise in opposition to the substitute amendment.

Mr. Chairman, there has been a lot of talk about this Louisiana, Mo., plant, and one would think to hear the statements made by those who propose to put this money back in the bill for the Louisiana plant that experiments now going on to process oil out of coal would stop completely if this amendment offered by the gentleman from Missouri (Mr. Cannon) were not adopted. Here are the facts in just a few words: There is a new hydrogenation process which is known as the one-step process, which has been developed, and experimentation with it is going on at Bruceton, Pa., and Morgantown, W. Va. The new process makes the old process now in operation at Louisiana, Mo., obsolete.

We have allotted $767,600 for the new method of processing which is being carried on at Morgantown and Bruceton. That is the full amount which the Department of the Interior in the newly revised budget requested for that purpose. They have recommended that the Louisiana, Mo., plant be put in a standby status for the present time. Hence the committee had no other recourse than to delete the request for this money for the Louisiana, Mo., plant from the original budget estimate, as did the Eisenhower budget. I say again that it would be a waste of money to appropriate this sum for the Louisiana, Mo., plant because of the fact that it has been found, without question of doubt, that the process there used is obsolete and that the one-step hydrogenation process carried on at Bruceton and Morgantown will be much more effective, much cheaper. Therefore this committee cannot be justified in expending this huge sum of money to carry on the Louisiana, Mo., plant.

Mr. DAWSON of Utah. Mr. Chairman, will tho gentleman yield?

Mr. JENSEN. I yield to the gentleman from Utah.

Mr. DAWSON of Utah. I would like to ask the gentleman if he has any figures as to the amount of shale oil that is to be found in the Utah-Colorado area?

Mr. JENSEN. I may say there is no limit to the amount of oil shale that can be processed in the Western States.

Mr. DAWSON of Utah. I understand there are millions of acres available.

Mr. JENSEN. Yes; millions and millions of acres.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. JENSEN. I yield to the gentleman from Kentucky.

Mr. PERKINS. First, I want to state that the laboratories at Bruceton, Pa., and at Morgantown, W. Va., are quite different from the plant at Louisiana, Mo., and that the plant in Louisiana, Mo., is not obsolete. It has proven successful, and more progress has been made at the Louisiana, Mo., plant in the last year than in all previous years.

Can the gentleman tell the committee whether or not any scientist has recommended the closing down of the plant at Louisiana, Mo.?

Mr. JENSEN. If there are scientists in the Government employed in the Interior Department, then, certainly, there has been such a record established for the benefit of the Department of the Interior.

Mr. Perkins. Can the gentleman tell us why the scientists did not testify?

The Chairman. The time of the gentleman from Iowa has expired.

Mr. Elliott. Mr. Chairman, I offer an amendment to the substitute.

The Clerk read as follows:

"Amendment offered by Mr. Elliott's to the substitute amendment offered by Mr. Cannon: Strike out '$15,842,222' and insert '$15,977,622.' "

Mr. Elliott. Mr. Chairman, the purpose of my amendment is to add $135,400 with which to carry on the experimentation in underground coal gasification at Gorgas, Ala., which experimentation has been going on since about 1949.

Mr. Chairman, the United States Government, acting through the Department of the Interior and the Bureau of Mines, has spent $1,348,000 at Gorgas, Ala., on this experiment. In addition, the Alabama Power Co., cooperating in the experiment, has spent another quarter of a million dollars. They have gone to a great deal of trouble to gather a fine scientific team with which to carry on this experiment. They have learned to control to some extent the burning of coal under ground; they have learned how to extract a gas from the burning coal which can be used for the manufacture of chemicals, for the manufacture of gasoline, or for the production of electric power. There are possibilities that the knowledge which they have gained may be used to aid the depressed coal industry in many ways, in addition to adding to our fund of scientific knowledge.

I have had the privilege since coming to Congress to be in close touch with this experiment and to have visited it and observed it on many different occasions. The scientists and officials there tell me, Mr. Chairman, that they have made very, very great progress with this experiment or, more correctly, with this series of experiments at Gorgas, Ala. They need another year, perhaps a year and a half, and at the outside 2 years, in which—to use their language—to establish the engineering factors on which those same scientists can calculate the costs of the various steps in the process of underground gasification by the various methods used, to the end that we may approach a result which can be used by the Government in times of national emergency, and which can be picked up by private industry and turned into good account in developing a stronger economy.

Now to close down this experiment at this time will have the effect of more or less casting aside the knowledge which has been gained through 5 years of experimentation; it will dissolve and dissipate the experimental team that has been gotten together and this knowledge will be lost.

Mr. Chairman, this unwise action comes at a time when we should certainly keep in mind that the Russian Government is going full speed ahead with its experiments in underground coal gasification. The little information that seeps from behind the Iron Curtain indicates that the Russians are probably much ahead of us in this field and that they are now operating several large electric power-generating plants with the gas that they make through their process of underground gasification of coal.

This, Mr. Chairman, is the only experiment of its kind now being operated in the entire free world and, as I see it, it is a great mistake and very disadvantageous to our country to shut the experiment down when we have $1,348,000 invested in it and when no provision is being made, as was so well pointed out in a recent editorial in the Washington Post, that the important reasearch work will be carried on by private sources. Success in this experiment is near. The fields have been plowed, planted, fertilized, cultivated, and harvest time is near.

I have made some inquiry but have found no inkling whatsoever that any private source is now ready to pick up the threads of this experiment and carry it to its logical conclusion.

Mr. Chairman, the coal industry is depressed throughout the United States. Demand for production of coal has been falling for some years. The coal industry in the Warrior coal field, where this experiment is located, is particularly depressed. This experiment is a ray of hope to those who must depend on coal for their sustenance.

I share the hope of all Members of the House that we may be able to balance our budget and reduce taxes. If my amendment is defeated we will thereby cut $135,400 from our spending in the next fiscal year. However, I wonder if we will make any actual saving in so doing. Someone has pointed out that this country is blessed with a supply of coal to last us thousands of years. We will have much coal left when we have used every drop of our natural petroleum.

Should we become involved in an all-out war our known reserves of natural petroleum could not be called upon sufficiently to roll the war machine, and fly the planes which we and our allies would have to put into the field and in the air.

Mr. Chairman, I ask the House to adopt this amendment and let this great experiment go forward. This is not a matter, or at least should not be a matter of partisan politics. Scientific advancement knows no partisanship.

Carried to a successful conclusion, underground gasification of coal will do much to give us an alternate supply of energy for the benefit of mankind.

Mr. Bray. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the Record.

The Speaker. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. Bray. Mr. Chairman, our entire country has become dependent upon gasoline and oil. We all remember the inconvenience and downright injury to our economy during the last war when the war effort caused rationing of gasoline. Our civilian economy is even more dependent upon gasoline now than it was at that time. Our war economy has now become even more dependent upon oil than it was during the last war.

I believe that any well-informed person today realizes that another war of the magnitude of the last one would so tax our oil supply that the civilian use of automobiles would of necessity be critically curtailed. This would be true even if the seaways remained open. If submarines prevented the oil of the Near East and South America from reaching us, even our war effort could be dangerously handicapped.

However, a standby solution to this danger is available if we care to use it. Our Government wisely prepared for the day when we must have more oil than is available from the oil wells. All of us know that this day will come within a relatively short span of years.

We have in America coal to last 2,000 years and a productive capacity to supply the world with coal. Oil can be made from coal. Our Government now has six small plants experimenting with this. The most important of these is located at Louisiana, Mo. Seventy-five million dollars have been spent on these plants. The cost of continuing this work is relatively small. Our Government in the operating of these small plants is not competing with natural oil. The plan merely increases the knowledge of how to quickly, economically, and efficiently commence the commercial making of oil from coal and shale when the need arises.

Our Government has, in these projects, brought together a small group of scientists and technicians who are exploring the best methods of producing oil from coal and shale. They have already made progress in this field, but we are still far from perfection. I have discussed the progress in this field with unbiased experts on the subject. I only very recently discussed it with Dean Briscoe of Indiana University. If these projects are discontinued at this time, these scientists and technicians will naturally go into other fields, and then the progress which is sorely needed in this field will be curtailed. Then, when the time comes that we must rapidly produce more oil, years of time will be lost. We will spend billions of dollars in a frantic effort to repair the damage which our shortsightedness had caused. Our civilian economy will suffer greatly. The family car which means so much to America will be grounded and our war potential could be gravely damaged.

We had a similar situation which took place at the beginning of World War II. Although our Government had been repeatedly warned to be ready to make synthetic rubber in the event the rubber supply from the West Indies and Malaya would be denied to us, we adopted a "penny-wise, pound-foolish" attitude in carrying out our synthetic-rubber program. Because of necessary haste and no previous preparation millions of dollars of our taxpayers' money went uselessly down the drain, and necessary rubber was denied to our civilian economy and our war effort was impeded.

We are at present confronted with a similar but more serious situation. A shortage of oil could injure our civilian and war economy far greater than the shortage of rubber. This shortage need not happen if we will use common sense, and not a "penny-wise, pound-foolish" philosophy. We must restore to this appropriation bill the necessary funds to permit for this so badly needed research in the making of oil from coal and shale.

Let us see that our Government continues the worthwhile work in the experimentation that has been going on at these pilot plants that are trying to discover better and more economical methods of producing oil from coal and shale.

Mr. Fenton. Mr. Chairman, I rise in opposition to the amendment to the substitute.

Mr. Chairman, I dislike very much to oppose the amendment that is offered by the gentleman from Alabama. I know something about that experiment down there; in fact, I was there a few years ago and crawled into the mines where they had just completed a test. I think I know something about it.

Being a professional man, I am of course more or less research-minded. However, last night I talked to the Bureau of Mines, as I did on the Rifle proposition, and they told me that they did not want this project continued at this time. While I am research-minded. I do not possess such ability as to cast my opinion against theirs.

I know the gentleman from Alabama, Milton Fies, is very much interested in this experimental work at Gorgas, Ala. He is a great fellow. I like him. He has done a good job. But as to my supporting this project at this time, I must say that I cannot go along until we get the "go" sign from the people who are responsible for assisting in that research; that is, the Bureau of Mines.●

ANOTHER LOOK AT THE ENERGY SITUATION

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, for the past 2 weeks I have been recalling a great controversy that raged in this House in 1953. At that time, the Nation had a program of making synthetic fuels from coal and shale. The new administration that came to power in 1953 wanted to kill it, and did.

I do not recall this debate in an effort to show who was right and who was wrong back there 26 years ago, but to afford those of us in the House now a valuable perspective on the whole energy situation.

I include the following excerpt from the House debate on April 28, 1953, in the RECORD at this point:

EXCERPT

Mr. FENTON. Mr. Chairman, yesterday this item was discussed at considerable length. You will recall that during the discussion it was brought out that certain funds were eliminated for the demonstration plant at Rifle, Colo.; at the same time funds were eliminated to put in standby the plant at Louisiana, Mo.

During the debate I recalled that there was considerable merit in the argument advanced that maybe we did go a little bit too far as far as Rifle is concerned. The administration and the Bureau of the Budget had allowed some funds for the continuation of Rifle. The committee, however, in their deliberations in the markup of the bill, taking into consideration the argument of the administration and the Bureau of Mines that the reasons for putting Louisiana in a standby condition was simply because they had reached that stage in research, felt that it was no longer necessary to go to the additional expense of that great plant, that had done so much in research for developing oil from coal.

However, the committee was told that the plant at Rifle had advanced even further in their research of developing oil from shale, so we thought that plant, too, could be put in standby and we allowed funds for that plant to be put in standby. I took it up with the Secretary of the Interior and asked him whether or not they were really anxious to keep that program going at Rifle for a year or two longer and they, of course, said they were. They thought it would be a great disservice to discontinue it at this time. So, I am simply restoring the amount that the administration wishes for the functioning of that plant for this coming fiscal year.

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. FENTON. I yield to the gentleman from Missouri.

Mr. CANNON. I ask for information. The gentleman proposes to restore money for the operation of what plant?

Mr. FENTON. Rifle, Colo. So, it is the committee wish to reinstate this item, and it has the consent of all the membership of the subcommittee.

Mr. CANNON. Mr. Chairman, I rise in support of the substitute for the amendment offered by the gentleman from Pennsylvania.

Mr. Chairman, I am glad to see that the committee on reconsideration realize they have gone too far. Of course they have gone too far, and it is to be hoped they will not become weary of well doing and stop half way on the way back.

Oil is the most indispensable commercial commodity in the world today. It is as a matter of fact merely a matter of time, war or no war, before the great reservoirs of oil will be exhausted. Already in every oilfield wells are being pumped dry, and the demand for fuel grows.

In order to meet this situation the Government established a number of plants, only two of which need be mentioned here. One was the plant at Rifle, Colo., which the gentleman proposes to reinstate. It deals only with shale. It does not deal with coal. He merely wishes to continue the study of oil processed from shale at the Rifle plant and abandon the study of coal at the Louisiana plant, the Government simultaneously established a plant which is studying the processing of oil from coal, low-grade coal, much of it ineligible for commercial quotation. So he is presenting the rather remarkable proposition here of discontinuing the processing of coal for oil and substituting the processing of shale for oil. Of course, so far as oil is concerned, the source of it is not material. Oil from either shale or coal is.

Mr. ELLIOTT. Mr. Chairman, will the gentleman yield?

Mr. CANNON. I yield to the gentleman from Alabama.

Mr. ELLIOTT. Does the gentleman's amendment also restore the funds to continue the experimental work at Gorgas, Ala., in underground coal gasification?

Mr. CANNON. This proposes to carry on simultaneously the study of oil processed from shale and oil processed from coal. Certainly we should not overlook this possibility of providing a great industry with natural resources.

I may say also in connection with this that in addition to oil we provide something that has not been mentioned before but something that is very essential. All through the Central West there has been a famine of electric power.

We had at this plant at Louisiana a standby generator. This one generator was capable of developing power sufficient to supply many cities. It was not intended for commercial service. It was a spare tire to be used only in case of emergency. But power was greatly needed through the area. After considerable discussion we got through the committee a proposition to start up this generator, and sell the power wholesale to both private and public power agencies, with no distinction. It has been supplying the last 2 or 3 years this much needed amount of electric power. It has been marketed and the Government has received a very substantial sum, whereas the generator would otherwise have lain idle rusting out and the people over a vast area would have been without sufficient power.

This situation which has proven of such benefit to the United States Treasury and to the consuming public in need of power, will have to be discontinued if the pending amendment is defeated. The bill authorizes a continuation of production and distribution of current by the plant but the funds necessary to keep the revolving fund at work and keep the generator running have been taken out by the committee and cannot be restored unless you approve this amendment.

It should not be difficult to reach a decision on this amendment. On one side, it provides oil in limitless quantities both for peace and war. In the second place, it rehabilitates a great industry and starts the mines and provides employment for the miners. In the third place it brings into the Treasury a large amount of revenue it would never get. And last, it provides power and light for a great famine area where electric energy is needed for both public and private utilities and by both resident families and large business enterprises.

Mr. Chairman, I trust the amendment to the amendment will be agreed to.

Mr. FENTON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Missouri.

Mr. Chairman, had the gentleman been here yesterday during general debate, during the entire time, because I know he was here during part of it, he would not have missed my remarks on this particular bill. I believe, if he will recall, that the reason advanced by the administration and by the Bureau of Mines for putting in standby position the plant at Louisiana, Mo., was a very good reason, in my opinion. They have been experimenting there with two types of research. It has been found that they have reached the point with those two particular types of research that they have pretty nearly come to the commercial price of gasoline and oil. So they have discovered another type of research which they call the one-step research method. I believe it is the Pelipetz process, and they can go right down the line at less expense. Certainly, it is more modern. Of course, we do not want to continue types of research that will be becoming more or less obsolete. That is the only reason that the administration is asking that this plan be put in a standby status for the time being. Certainly, the gentleman has no reason to worry about the government continuing its research and development of oil from coal. I happen to come from the coal fields and I am very much interested in the coal mines, and in the development of oil from coal. So I hope the gentleman will not infer that anyone on this committee, or infer that I, particularly, am trying to throttle research and development of synthetic fuel.

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. FENTON. I yield.

Mr. CANNON. The gentleman says we have almost reached the point where oil can now be produced and sold at the current price of gasoline. Is not that the reason why we should go ahead and finish the work and reach the point of actual competition? Why should we stop just short of success and let these private industries who are anxious to control this plant get the patents? Why should we not go ahead and let the Government finish it and hold the patents? It is a question of who is going to control this monopoly—the private industries or the people?

The gentleman has proposed only one plant that confines the recovery of oil to one source. It does nothing for the coking coal industry. It deals only with shale.

Mr. FENTON. Of course, the gentleman knows that private industry certainly would not want to get obsolete patents. So I hope Mr. Chairman, that the committee will vote down the amendment offered by the gentleman from Missouri and support the committee.

Mr. PERKINS. Mr. Chairman, I rise in support of the substitute amendment, and I ask unanimous consent that I may proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. JENSEN. Mr. Chairman, the gentleman spoke on this amendment several times yesterday. Certainly the gentleman has had plenty of time. He can develop his argument in 5 minutes.

The CHAIRMAN. Is there objection?

Mr. JENSEN. I object, Mr. Chairman.

Mr. BENDER. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. BENDER. It is now 5 minutes after 5. We passed daylight saving time yesterday.

The CHAIRMAN. The gentleman's point of order is not well taken at this time.

The Chair recognizes the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Chairman, you will note that the gentleman from Pennsylvania [Mr. Fenton] proposes to restore funds to operate the Rifle, Colo., plant—oil shale to oil plant. The gentleman has changed his mind in this connection since yesterday. The oil shale in this country is very much concentrated. In fact, 1 State has one-half of the total, 2 States 80 percent, and 5 States 98 percent. Colorado, Utah, Wyoming, and Nevada are the States where the shale is concentrated. We find some oil shale down in Indiana and Kentucky.

I have nothing against scientific research in this field. In fact, I feel that the funds should be restored for the Rifle, Colo., plant. On the other hand, coal is our most abundant mineral fuel, and scattered throughout the United States. In fact, the coal reserves are so abundant that they have more than 100 times the energy value of all known petroleum and natural-gas reserves combined.

I cannot go along with this line of reasoning. Here we are willing today to restore funds to operate the plant, making oil from oil shale. On the other hand, we have the plant in Louisiana, Mo., which has proved successful in making oil from coal that is being closed.

Where would we get our oil in the event of an all-out war and all of our supplies were cut off from the Near East? We cannot afford to let any selfish group endanger the defenses in this country. Yesterday I asked the committee the question whether any assurance could be given that the Communists are also scuttling their research programs. We can with profit recall that it was not until the German scientists had perfected the synthetic ammonia process to take nitrogen from the abundant supplies in the air to make explosives, thus freeing them from the faraway Chilean nitrogen deposits, that they were ready to start World War I.

I regret to see this committee scuttle the coal-to-oil program here today. This proposal to put the plant on a standby basis is all a camouflage. The Department has the authority to dispose of the plant, and undoubtedly will dispose of it. Let us not destroy our progress made at this plant. Let us support the amendment to the amendment offered by the gentleman from Missouri. The United Mine Workers of America are vitally interested in the welfare of the coal industry just like numerous Members of Congress here today. The continuation of this demonstration process will contribute immensely to the welfare of the coal industry.

I now yield to the gentleman from Pennsylvania.

Mr. Eberharter. I thank the gentleman. I cannot quite understand the statement of the gentleman from Pennsylvania (Mr. Fenton) to the effect that the research into the reduction of oil from coal is proceeding. Now, where is the plant that is making it?

Mr. Perkins. It is not proceeding; they are destroying it. They eliminated the funds, and they are going to dispose of this plant.

Mr. Eberharter. That is what I want to make plain.●

PILOT PROGRAM ON SYNTHETIC FUELS SHOULD NEVER HAVE BEEN STOPPED

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, for the past several days, appended to my remarks here have been excerpts from a debate in this House in April 1953 over funds for a promising synthetic fuels bill.

In the current effort to create a synthetic fuels industry to make our country energy-independent and to prevent the ruin of our economy, I think it is important that we know how long this effort has taken.

Had we permitted the pilot program to continue in operation back there 26 years ago, we would not today be in the sorry fix we are in with respect to energy. There would not be any of these long gasoline lines. There would not be this potential blackmail by foreign oil producers who supply us with half of our liquid fuels.

I keep bringing up these events of a quarter century ago not in a spirit of "I told you so" but in the hope that we will be able move ahead to real energy independence in this country.

Mr. Speaker, I include the following excerpts from the debate of April 28, 1953, at this point:

The Chairman. The Chair recognizes the gentleman from West Virginia [Mr. Bailey].

Mr. Bailey. Mr. Chairman, the longer this debate proceeds the more evident does it grow to those who are observing that if this process is completed, and it is on the point of being brought to completion, it will be competitive with the natural oil industry of this country.

Yesterday I made the statement, and I want to reiterate it now, that as a boy in high school I learned one of the immutable laws of nature: That liquids always find their own level. Here we find ourselves in the process of reversing the laws of nature, and we find crude oil creeping out of the cleavages between the strata of upper levels of the administration competing with those in the lower level; and the level of the liquid has risen so high that it has flooded all of the soft-coal mines in the State of West Virginia.

That is the issue here: Shall these processes go into private hands and into the hands of those who do not want it to become competitive with natural oil?

The Chairman. The Chair recognizes the chairman from Kentucky [Mr. Perkins].

Mr. Perkins. Mr. Chairman, Walter S. Hallanan's Petroleum Council set up to counsel the Interior Department, recommended in February this year that the coal-to-oil plant at Louisiana, Mo. should be closed. Mr. Hallanan is head of the Plymouth Oil Co. of Pittsburgh, and is the Republican national committeeman from West Virginia. This gentleman, as we all recall, was chairman of arrangements of the Republican National Convention in Chicago last July.

I do not think we should make a decision for oil or coal but that we should proceed with our demonstration processes in both fields without being discriminatory. We have a process that has proved successful and has reached the point of being commercially competitive with crude oil. Yet, because of that fact, we want to destroy that process in favor of the oil lobby, and at the same time, endanger the defenses of this country. That is all we are doing.

The Chairman. The Chair recognizes the gentleman from Ohio [Mr. Bender.]

Mr. Bender. Mr. Chairman, this has been a most enlightened afternoon; we have all understood what is before us; there is no confusion in our minds regarding this issue. I suggest we now vote.

Mr. Byrd. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the Record.

The Speaker. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. Byrd. Mr. Chairman, I am in favor of the amendment offered by the gentleman from Alabama [Mr. Elliott]. His amendment would restore funds sufficient to provide for the continuation of production of synthetic fuels from coal and oil shale at experimental plants of the Bureau of Mines.

It would seem to be a sound conservation policy and in the national interest to go forward with the development of this program which would shift as much demand as possible from our limited petroleum supplies to our very large coal reserves. The development of synthetic-fuel processes offers a means of doing this.

Coal has not held its output level since 1920. Instead of sharing very much in the new markets, it has lost its old markets, such as ships, railroads, and homes. In many areas the coal industry is in a depressed state, some mines are working only a few days a week, and in other cases shut down.

In the years ahead coal can provide the answer to America's liquid-fuels problem, and I believe that in view of the remarks which have been offered here today the fundamental research that has been conducted paves the way toward the consummation of this objective.

We would, therefore, in my opinion, be pennywise and poundfoolish to discontinue funds at this time providing for the continuation of a program which promises within a few short years to perfect processes whereby synthetic fuels and valuable chemicals may be derived from a raw material virtually unlimited in its supply.

I hope that the gentleman's amendment will be adopted.

The Chairman. The Chair recognizes the gentleman from California [Mr. Phillips].

(By unanimous consent Mr. Phillips and Mr. Jensen yielded their time to the gentleman from Pennsylvania [Mr. Fenton]).

The Chairman. The Chair recognizes the gentleman from Pennsylvania [Mr. Fenton], and in accordance with the Chair's calculations he is entitled to be recognized for 5 minutes.

Mr. Fenton. Mr. Chairman, much as I dislike to oppose a lot of amendments offered by my very good friends, at the same time I think we will have to do that at this time. Something has been said here about our defenses going to be throttled by the relinquishment of certain of these facilities for research. Nothing could be further from the truth. We know that the Secretary of the Interior is a member of all of these great defense committees that have to do with our fuels, gas, oil, metals, and all that sort of thing.

Mr. Price. Mr. Chairman, will the gentleman yield?

Mr. Fenton. I yield to the gentleman from Illinois.

Mr. Price. Has the Secretary of the Interior ever informed your committee that this matter was discussed with the National Security Council?

Mr. Fenton. No; I do not think the Secretary went that far but certainly we have to have some confidence in our administration. I do not think that the Secretary of the Interior would take it unto himself to do away with some very, very important functions of government at the expense of our defense. The Secretary of the Interior has the welfare of our country at heart, as well as I have the welfare of the country at heart. We certainly would not want to do anything that would scuttle or endanger our national defense.

Mr. Price. The gentleman knows I consider this a matter of interest to our national defense. Does he not think it would have been advisable for the committee to have asked for a recommendation by the National Security Council?

Mr. Fenton. Of course, we might have gone to that extent, but having confidence in our Bureau of Mines and the Secretary of the Interior we did not think it was necessary to go that far.

Mr. Chairman, that is all I have to say at this time.

Mr. Kelley of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. Fenton. I yield to the gentleman from Pennsylvania.

Mr. Kelley of Pennsylvania. In the gentleman's opinion does he believe that under the present cost of oil, private industry would take it up or buy it from the Government? They would if the price were competitive, but now you leave it hanging in the air.

Mr. Fenton. I may say to the gentleman from Pennsylvania that certainly it is not the intention of the Government to do research to the point that we are going to drive private industry out of business.

Mr. KELLEY of Pennsylvania. You would not do that because you do not have the facilities to produce that.

Mr. FENTON. I think the functions of Government is to go so far and no further.

Mr. CHENOWETH. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. CHENOWETH. Mr. Chairman, I wish to thank the distinguished gentleman from Pennsylvania, Dr. FENTON, for offering this amendment which will provide for the continued operation of the oil shale experimental plant at Rifle, Colo. It is recognized that this plant has done a splendid job in perfecting the process of producing synthetic fuel from oil shale. This is a project in which the people of Colorado are very much interested. We are indeed gratified over the action taken by the committee in offering this amendment.

I wish also to mention that Colorado has large deposits of coal, and we are intensely interested in the experiments that have been carried on to produce synthetic fuel from coal. I am happy to hear the chairman of the committee [Mr. JENSEN] assure this House that the experiments will be continued. We have been following the experiments up to this time with keen interest.

We feel in Colorado that we have excellent sites for the location of a synthetic fuel plant for the use of coal. My home county is the largest producer of coal in the State. There has been a great deal of discussion over the possibility of locating a plant in southern Colorado. I certainly hope that this committee will continue to make the necessary funds available for this experimental work to continue, so that the time may be hastened when private industry will look with favor upon the production of synthetic fuel and byproducts from coal.

The Colorado State Legislature has had a special committee working on this matter for some years. At the session of the legislature this year this committee was continued. Every effort is being made to interest private industry in locating a coal synthetic fuel plant in Colorado. We have the coal and our people are anxious to cooperate in every way possible.

Mr. Chairman, I again wish to express my appreciation to the committee for continuing the oil shale plant at Rifle, Colo., and to Dr. FENTON for offering his amendment, which should receive the unanimous approval of the House.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Alabama [Mr. ELLIOTT] to the substitute amendment offered by the gentleman from Missouri [Mr. CANNON].

The amendment to the substitute was rejected.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Missouri [Mr. CANNON] to the amendment offered by the gentleman from Pennsylvania [Mr. FENTON.]

The substitute amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. FENTON].

The amendment was agreed to.●

LIQUID FUEL FROM COAL AND SHALE

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, nearly 30 years ago, this country had operating a synthetic fuels program producing liquid fuels from coal and shale. The administration then in power junked it as contrary to a policy of relying on petroleum for our energy needs.

Now we have to import half of the liquid petroleum we use. Now we are dependent upon sometimes unfriendly and always potentially hostile nations to supply us with the energy to make our economy run.

One of those who fought to save that little program was a young Congressman from Illinois. His name was MEL PRICE, and he is with us today as the distinguished chairman of the Committee on Armed Services. I believe he is as far-sighted today as he was then.

Mr. Speaker, I include the following excerpt from the House debate of April 28, 1953, relative to closing a synthetic fuel plant in Colorado, at this point in the RECORD:

Mr. EBERHARTER. Mr. Chairman, it has not been made clear to me, or at least it has not been categorically answered, whether or not this so-called one-step process proposes to continue these investigations into the utilization of coal in the production of oil. That has not been answered. If I could have a categorical answer to that, I think it might help toward a compromise on this matter, but so far nobody has said that this so-called one-step process will continue experimentations into the utilization of coal for the purpose of producing oil.

Mr. EBERHARTER. Mr. Chairman, it has

Mr. FENTON. Mr. Chairman, will the gentleman yield?

Mr. EBERHARTER. I yield.

Mr. FENTON. We have the word of the scientists and the Bureau of Mines that they have this experiment already in operation and they are functioning and they are going to continue to function, and it is on coal.

Mr. EBERHARTER. And there will be sufficient money for them to continue the experiments for the coming fiscal year?

Mr. FENTON. They received every nickel they asked for, I will say to the gentleman.

Mr. EBERHARTER. Then why was it necessary to cut down on the request of the Secretary of the Interior. That is the point: The Secretary of the Interior is not being allotted the money that he first requested.

Mr. FENTON. He is getting everything that he wants on coal.

Mr. EBERHARTER. On coal he is getting everything he wants?

Mr. FENTON. Yes.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. KELLEY).

(By unanimous consent, the time allotted to Mr. BYRNE of Pennsylvania was given to Mr. KELLEY of Pennsylvania.)

Mr. KELLY of Pennsylvania. Mr. Chairman, there is nothing in this report regarding this one-step process. I wonder if the gentleman from Pennsylvania will tell me what is the name of that process?

Mr. FENTON. I will be glad to. The name is the Pelipetz process.

Mr. KELLEY of Pennsylvania. Why is there no mention in the report about it? You pay great tribute to the work accomplished at Rifle and also at Louisiana, Mo., and yet you say nothing about this new process. How far have the experiments gone? Have they been able to determine whether they can produce this cheap enough to compete?

Mr. FENTON. I want to say to the gentleman in answer to his query, on page 20 of the report you will find this language:

"In addition, the committee has disallowed other funds programed for the synthetic liquid fuel program with the exception of $767,600 needed for laboratory and pilot plant research on a new refinement in the hydrogenation process which is reported to hold great promise for the future in production of synthetic liquid fuels."

That is the process they referred to.

Mr. KELLEY of Pennsylvania. How far has the process gone?

Mr. FENTON. It is in the laboratory state.

Mr. KELLEY of Pennsylvania. In the laboratory state. It will probably take years to accomplish anything.

Mr. FENTON. Well, I do not know how long.

Mr. KELLEY of Pennsylvania. It has taken many, many years to develop the hydrogenation process to this point. Many, many years ago the Germans started this hydrogenation process, the Bergius process.

Now, after all the years of experimentation, since the beginning of the war, we have developed the process where it can be produced at almost competitive prices. There was a joint committee set up during the war, when we were losing so many oil tankers, to make this investigation. The joint committee recommended that we take up experimentation in order to assure ourselves that we would have a source of oil and gasoline, and this is the result of it. I hope the committee does not think you could market these plants with the price not competitive. Nobody would buy them.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

The Chair recognizes the gentleman from Illinois [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I would like to ask the chairman of the subcommittee, or the gentleman from Pennsylvania, whether or not there are any funds carried in this bill to take care of placing this plant at Louisiana, Mo., in a standby position.

Mr. FENTON. Yes. There is $250,000.

Mr. PRICE. It was testified before the committee that it would take from $600,000 to $1,000,000 to place it in a standby position. It would take just about the same amount to continue the operation of the plant for a year.

I would also like to point out that the subcommittee was just as vigorous in its defense of its position yesterday on the plant at Rifle, Colo., as it is this afternoon with reference to the plant at Louisiana, Mo. Of course, I think they acted wisely in agreeing to place funds back into the bill for the Rifle plant. It is a very successful operation. The Louisiana plant is a successful operation.

I think the gentleman from Pennsylvania [Mr. Kelley] hit the nail on the head, when he answered the gentleman and stated that the Bruceton proposition was still in the laboratory stage. The laboratory stage is very, very far from a demonstration plant. It will be many, many years before it gets to the point of a demonstration plant. Perhaps 20 or 25.

As I have pointed out the subcommittee was wrong yesterday in its defense of the closing of the oil shale plant at Rifle, Colo. In my opinion, it is just as wrong now in its defense of the closing of the Louisiana, Mo., coal-to-oil demonstration plant.

I am glad the subcommittee today acknowledges its error in judgment in regard to the Rifle project. I wish it would be just as honest in conceding its error in connection with the coal-to-oil project.

The fact remains that the subcommittee had called for the closing of the Rifle oil shale demonstration plant without so much as hearing the regional director of the Bureau of Mines in whose area the plant was operated. News of the attempt to close it hit him like a bombshell and he frankly told the Colorado press the action looked like false economy.

Federal experts believe they are close to proving that oil shale and coal can eventually compete successfully with the petroleum industry. For this reason the projects should be continued to the successful conclusions indicated by demonstrations up to date. They are important to our natural resources. Just when they are to the point of furnishing concrete information. Congress seeks to end the demonstrations. This most certainly is false economy.

More than that, it is failure to recognize the importance of these projects to our national security. In the interest of national defense these experiments should be continued. This certainly is no time to throw them out the window without thinking of the consequences.

To say the Louisiana, Mo., plant is obsolete is sheer nonsense. Nowhere in the hearings does the Bureau of Mines substantiate a position. Nothing is shown in the hearings to indicate that the Louisiana plant has been other than a very successful operation, and if allowed to continue, can produce additional evidence of the feasibility of developing oil and gas from coal.

The House should adopt the amendment of the gentleman from Missouri [Mr. Cannon].

The Chairman. The time of the gentleman from Illinois has expired.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. Spellman (at the request of Mr. Wright), for July 12 and 13, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Courter) to revise and extend their remarks and include extraneous material:)

Mr. Leach of Iowa, for 10 minutes, today.

Mr. Trible, for 10 minutes, today.

Mr. Wampler, for 5 minutes, today.

Mr. Findley, for 10 minutes, today.

Mr. Collins of Texas, for 15 minutes, today.

Mr. Snyder, for 5 minutes, today.

(The following Members (at the request of Mr. Leath of Texas) and to revise and extend their remarks and include extraneous matter:)

Mr. Weaver, for 10 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Cavanaugh, for 15 minutes, today.

Mr. AuCoin, for 5 minutes, today.

Mrs. Schroeder, for 5 minutes, today.

Mr. Pepper, for 10 minutes, today.

Ms. Ferraro, for 5 minutes, today.

Mr. Roberts, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Boland, for 5 minutes, today.

Mr. Alexander, for 5 minutes, today.

Mr. O'Neill, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Perkins, and to include extraneous matter.

Mr. Bevill, and to include extraneous matter.

(The following Members (at the request of Mr. Courter) and to include extraneous matter:)

Mr. Shuster in two instances.

Mr. Wylie.

Mr. Evans of Delaware in two instances.

Mr. Derwinski in two instances.

Mr. Tauke.

Mr. Leach of Iowa.

Mr. Collins of Texas in three instances.

Mr. Gilman.

Mr. Findley in two instances.

Mr. Dannemeyer.

Mr. Dornan in two instances.

(The following Members (at the request of Mr. Leath of Texas) and to include extraneous material:)

Mr. Edwards of California in two instances.

Mr. Garcia in two instances.

Mr. Vento in two instances.

Mr. Stark in two instances.

Mr. Derrick in five instances.

Mr. Nolan.

Mr. Brown of California.

Mr. Conyers in two instances.

Mr. Carr.

Mr. Moakley.

Mr. Mavroules in two instances.

Mr. McDonald in five instances.

Mr. Murtha.

Mr. Wolpe.

Mr. Santini.

Mr. Mazzoli in two instances.

Mr. Gaydos.

Mr. Rose.

Mr. Ottinger in two instances.

Mr. Albosta.

Mr. Matsui.

Mr. Bonker.

Mr. Maguire.

Mrs. Schroeder.

Mr. Weiss.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3978. An act to amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such Act.

ADJOURNMENT

Mr. LEATH of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 42 minutes p.m.), the House adjourned until tomorrow, Friday, July 13, 1979, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2004. A letter from the Secretary of the Treasury, transmitting the audit report of the Student Loan Marketing Association for calendar year 1978, pursuant to section 439 (k) of the Higher Education Act of 1965, as amended; to the Committee on Education and Labor.

2005. A letter from the Assistant Secretary of Health, Education, and Welfare for Management and Budget, transmitting a report on the Department's matching programs; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 3995. A bill to authorize appropriations for the Noise Control Act of 1972 for the fiscal years 1980 and 1981; with amendment (Rept. No. 96–202, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 3807. A bill to amend subtitle IV of title 49, United States Code, to codify recent law and improve the code without substantive change (Rept. 96–332). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BONKER:

H.R. 4759. A bill to amend title 39, United States Code, relating to the mailing of absentee ballots cast in elections or referendums free of postage; to the Committee on Post Office and Civil Service.

By Mr. WYLIE:

H.R. 4760. A bill to promote the development and production of gas turbine vehicles and the equipment and technology to allow existing vehicles to convert to the use of nonpetroleum derived fuels; jointly, to the Committees on Interstate and Foreign Commerce, Science and Technology, and Ways and Means.

By Mr. COELHO:

H.R. 4761. A bill to provide that the U.S. Postal Service shall use the mail transportation services provided by Amtrak if such use does not result in deterioration of mail services or increased costs to the Federal Government; to the Committee on Post Office and Civil Service.

By Mr. COUGHLIN:

H.R. 4762. A bill to add 682.4 acres to Valley Forge National Historical Park, Pa.; to the Committee on Interior and Insular Affairs.

By Mr. EVANS of Delaware:

H.R. 4763. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. HEFNER (by request):

H.R. 4764. A bill to amend title 38 of the United States Code to permit disclosure of names and addresses and other information maintained by the Veterans' Administration to a consumer reporting agency for certain debt collection purposes; to the Committee on Veterans' Affairs.

By Mr. JACOBS:

H.R. 4765. A bill to amend the Motor Vehicle Information and Cost Savings Act to require EPA automobile fuel economy tests to be based upon actual road conditions; to the Committee on Interstate and Foreign Commerce.

By Mr. McKAY:

H.R. 4766. A bill to amend title 28 of the United States Code to make the United States liable for damages, arising from certain nuclear tests at the Nevada Test Site, to individuals residing for a year in the affected area, and having cancer, to individuals present at the site during a test, and to certain sheep herds; to the Committee on the Judiciary.

By Ms. MIKULSKI (for herself, Mr. Scheuer, Mr. Bonior of Michigan, Mr. Miller of California, Mr. Guarini, Mr. Mitchell of Maryland, Mr. Bingham, Mr. O'Brien, Mr. Howard, Mr. Pepper, Mr. Carr, Mr. Horton, Mr. Guyer, Mr. Mineta, Mr. Hawkins, Mr. Oberstar, Mr. Panetta, Mr. AuCoin, Mr. Burgener, Mr. Kogovsek, Mr. Dougherty, Mr. Vento, Mr. Brademas, Mr. Kildee, Mr. Broyhill, Mr. Heftel, Mr. McCormack, Mr. Lowry, Mr. Gray, Mr. Gudger, Mr. Weiss, Mr. Corrada, and Mr. Simon):

H.R. 4767. A bill to amend the Internal Revenue Code of 1954 to provide for individuals a refundable tax credit for amounts paid or incurred for television subtitle equipment for use by hearing-impaired individuals; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 4768. A bill to amend the Federal Election Campaign Act of 1971 to reduce multicandidate political committee contribution limits; to the Committee on House Administration.

By Mr. MURPHY of New York (for himself, Mr. Snyder, and Mr. McCloskey):

H.R. 4769. A bill to revitalize maritime policy, reorganize certain Government agencies, and reform regulation of maritime affairs in the United States; referred to the Committees on Merchant Marine and Fisheries, Ways and Means, Government Operations, and the Judiciary for consideration of such portions of the bill as fall within their respective jurisdictions.

By Mr. NATCHER:

H.R. 4770. A bill to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws; to the Committee on the Judiciary.

By Mrs. SCHROEDER:

H.R. 4771. A bill to require an immediate review of the operations, funding, and personnel management practices of the Department of Energy; jointly, to the Committees on Armed Services, Interior and Insular Affairs, Interstate and Foreign Commerce, Post Office and Civil Service, and Science and Technology.

By Mr. SEIBERLING (by request):

H.R. 4772. A bill to provide that the 1972 revision in the social security benefit computation formula for men shall fully apply with respect to individuals who retired in or before 1972 as well as with respect to individuals retiring after that year; to the Committee on Ways and Means.

By Mr. TAUKE:

H.R. 4773. A bill to amend title 39, United States Code, to provide that absentee ballots and certain other voting materials pertaining to absentee ballots may be mailed free of postage; to the Committee on Post Office and Civil Service.

By Mr. THOMPSON (for himself, Mr. Ashbrook, Mr. Erlenborn, Mr. Duncan of Oregon, Mr. Stump, Mr. Quillen, and Mr. Clausen):

H.R. 4774. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Education and Labor.

By Mr. TRIBLE:

H.R. 4775. A bill to amend title 18, United States Code, to establish a constitutional procedure for imposing the sentence of death, and for other purposes; to the Committee on the Judiciary.

By Mr. MOFFETT:

H.R. 4776. A bill to make improvements in the weatherization program conducted by the Department of Energy; jointly, to the Committees on Banking, Finance and Urban Affairs, and Interstate and Foreign Commerce.

By Mrs. SCHROEDER:

H. Con. Res. 161. Concurrent resolution to call for the immediate resignation of James Schlesinger as Secretary of the Department of Energy; jointly, to the Committees on Armed Services, Interstate and Foreign Commerce, Interior and Insular Affairs, and Science and Technology.

By Mrs. HOLT:

H. Res. 354. Resolution providing for the immediate consideration of the bill H.R. 466 to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school; to the Committee on Rules.

By Mr. OTTINGER (for himself, Mr. Fisher, Mr. Fuqua, Mr. Roe, Mr. McCormack, Mr. Harkin, Mr. Lloyd, Mrs. Bouquard, Mr. Blanchard, Mr. Walgren, Mr. Flippo, Mr. Glickman, Mr. Gore, Mr. Young of Missouri, Mr. Pease, Mr. Wolpe, Mr. Nelson, Mr. Anthony, Mr. Ertel, Mr. Hance, Mr. Winn, Mr. Fish, Mr. Dornan, Mr. Walker, Mr. Forsythe, Mr. Kramer, and Mr. Davis of Michigan):

H. Res. 355. Resolution expressing the sense of the House of Representatives that the President's proposal for solar energy credits should be enacted and made retroactive to April 5, 1979; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Illinois:

H.R. 4777. A bill for the relief of Seung Sue Cua; to the Committee on the Judiciary.

By Mr. PATTERSON:

H.R. 4778. A bill for the relief of Seung Ja Kim and Lada Kim; to the Committee on the Judiciary.

By Mr. SOLARZ:

H.R. 4779. A bill for the relief of Chava Miriam Deautsch, Shaina Dina Deautsch, Chaim Zvi Deautsch, and Chaya Gittel Deautsch; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. Broomfield, Mr. Carney, Mr. Carter, Mr. Coleman, Mr. Courter, Mr. Dannemeyer, Mr. Davis of Michigan, Mr. Deckard, Mr. Duncan of Tennessee, Mr. Findley, Mr. Fish, Mr. Hansen, Mrs. Heckler, Mr. Hollenbeck, Mr. Lujan, Mr. McDade, Mr. McKinney, Mr. Marks, Mr. Michel, Mr. Mitchell of New York, Mr. Quayle, Mr. Quillen, Mr. Rhodes, Mr. Shuster, Mr. Solomon, Mr. Stanton, Mr. Vander Jagt, Mr. Wydler, and Mr. Wylie.

H.R. 571: Mr. McClory.

H.R. 811: Mr. Roth.

H.R. 996: Mr. Conable.

H.R. 1129: Mr. Mineta, Mr. Anderson of California, Mr. Burgener, Mr. Corrada, Mr. Dellums, Mr. Dixon, Mr. Drinan, Mr. Edwards of California, Mr. Hawkins, Mr. Heftel, Mr. Hughes, Mr. Johnson of California, Mr. McHugh, Mr. Mitchell of Maryland, Mr. Ottinger, Mr. Patterson, Mr. Simon, Mr. Solarz, Mr. Stark, Mr. Stokes, Mr. Waxman, Mr. Weiss, and Mr. Bob Wilson.

H.R. 1297: Mr. Gaydos, and Mr. Brown of California.

H.R. 2077: Mr. Corcoran.

H.R. 2472: Mr. Findley.

H.R. 2737: Mr. Bevill.

H.R. 3028: Mr. Dannemeyer, and Mr. Walker.

H.R. 3102: Mr. Maguire, and Mr. Wolpe.

H.R. 3383: Mr. Broomfield.

H.R. 3480: Mr. Solomon, Mr. Guyer, Mr. Frenzel, Mr. Glickman, Mr. Edgar, Mr. Gramm, Mr. Roe, Mr. Hubbard, Mr. Hopkins, Mr. Ginn, Mr. Rousselot, Mr. Cheney, Mr. Ertel, Mr. Vento, Mr. Dickinson, Mr. Young of Missouri, Mr. Davis of South Carolina, Mr. Hagedorn, Mr. Clinger, Mr. Collins of Texas, Mr. Patten, Mr. Vander Jagt, Mr. Stump, Mr. Kindness, Mr. Stokes, Mr. Cleveland, Mr. Stanton, Mr. Evans of Delaware, Mr. Marlenee, Mr. Livingston, Mr. Fazio, Mr. Frenzel, Mr. Charles Wilson of California, Mr. English, Mr. Mineta, Mr. Holland, Mr. Stockman, Mr. Corcoran, Mr. Carr, Mr. Pashayan, Mr. Bowen, Mr. Emery, Mr. Stenholm, Mr. Erdahl, Mr. Winn, Mr. Hanley, Mr. Butler, Mr. Edwards of Alabama, Mr. McDonald, Mr. Duncan of Tennessee, Mr. Wyatt, Mr. Lewis, Mr. Grassley, Mr. Daschle, and Mr. Courter.

H.R. 3574: Mr. Abdnor, Mr. Daniel B. Crane, Mr. Dan Daniel, Mr. Derwinski, Mr. Grisham, Mr. Gudger, Mr. Hagedorn, Mr. Hutto, Mr. Jeffries, Mr. Lott, Mr. Murphy of New York, Mr. Pashayan, Mr. Paul, Mr. Roe, Mr. Stump, Mr. Whitehurst, Mr. Whittaker, Mr. Bob Wilson, Mr. Young of Missouri, and Mr. Zeferetti.

H.R. 3697: Mr. Campbell and Mrs. Heckler.

H.R. 3958: Mr. Whitehurst, Mr. Coelho, Mr. Conyers, Mr. St Germain, Mr. Moakley, Mr. Skelton, Mr. Panetta, Mr. Rangel, Mr. Vento, Mr. Erdahl, Mr. Yatron, Mr. Young of Missouri, Mr. Downey, Mr. Kogovsek, Mr. Frost, Mr. Bonior of Michigan, Mr. Bedell, Mr. Gilman, Mr. Evans of Georgia, Mr. Mikva, Mr. Corrada, Mr. Harris, Mr. Mottl, Mr. Udall, Mr. Edwards of California, Mr. Fazio, Mr. Lagomarsino, Mr. Miller of California, Mr. Bevill, Mr. Gray, Mr. Moorhead of Pennsylvania, Mr. Long of Maryland, Mr. Glickman, Mr. Dellums, Mr. Albosta, Mr. Traxler, Mr. Sabo, Mr. Nolan, Mr. Gephardt, Mr. Markey, Mr. Murphy of Pennsylvania, Mr. Lederer, Mr. Santini, Mr. Weaver, Mr. Gudger, Mr. Charles H. Wilson of California, Mr. Fithian, Mr. Lloyd, Mrs. Chisholm, Mr. Roth, and Mrs. Heckler.

H.R. 4128: Mr. Drinan, Mr. Guarini, Mr. Hollenbeck, Mr. Hughes, Mr. Maguire, Mr. Miller of California, Mr. Minish, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Pepper, Mr. Rosenthal, Mr. Sabo, Mr. Seiberling, Mr. Studds, Mr. Weaver, Mr. Harris, and Mr. Stokes.

H.R. 4185: Mr. Stangeland, Mr. Stokes, and Mr. Montgomery.

H.R. 4188: Mr. Michel, Mr. Devine, Mr. McKinney, Mr. Hagedorn, Mr. Fish, and Mr. Cleveland

H.R. 4294: Mr. McKay.

H.R. 4314: Mr. Stenholm, Mr. Kogovsek, and Mr. Williams of Montana.

H.R. 4329: Mr. Dornan, Mr. Hance, and Mr. Stockman.

H.R. 4367: Mr. Robert W. Daniel, Jr., Mr. Wyatt, Mr. Livingston, Mr. Guarini, Mr. Gudger, Mr. Hagedorn, Mr. Hall of Texas, and Mr. Lungren.

H.R. 4400: Mr. COLLINS of Texas, Mr. DORNAN, Mr. GRASSLEY, Mr. HALL of Texas, Mr. ROUSSELOT, and Mr. VANDER JAGT.

H.R. 4563: Mrs. SMITH of Nebraska, Mr. BEVILL, Mr. FAZIO, Mr. BONIOR of Michigan, Mr. MCCORMACK, Mr. COURTER, Mr. ERTEL, Mr. NICHOLS, and Mr. ANDREWS of North Dakota.

H.R. 4747: Mr. FROST.

H.J. Res. 213: Mr. CAMPBELL.

H.J. Res. 336: Mr. ANDERSON of Illinois, Mr. BROOMFIELD, Mr. CAMPBELL, Mr. CARR, Mr. COELHO, Mr. COLLINS of Texas, Mr. CORCORAN, Mr. DASCHLE, Mr. DORNAN, Mr. EMERY, Mr. EVANS of Indiana, Mr. EVANS of Delaware, Mr. GINN, Mr. GOLDWATER, Mrs. HOLT, Mr. JENRETTE, Mr. KELLY, Mr. KEMP, Mr. KRAMER, Mr. LATTA, Mr. LEDERER, Mr. LOEFFLER, Mr. LONG of Louisiana, Mr. LUJAN, Mr. MCDONALD, Mr. MCHUGH, Mr. MOAKLEY, Mr. MONTGOMERY, Mr. GAYDOS, Mr. MURPHY of Illinois, Mr. MURTHA, Mr. MYERS of Pennsylvania, Mr. PAUL, Mr. PATTEN, Mr. PERKINS, Mr. PETRI, Mr. RODINO, Mr. SCHEUER, Mr. SWIFT, and Mr. THOMAS.

H. Con. Res. 50: Mr. DASCHLE.

H. Con Res. 149: Mr. VENTO, Mr. GUARINI, Mrs. SCHROEDER, Mr. STUDDS, Mr. WAXMAN, Mr. HUGHES, Mr. WEAVER, Mr. CARR, Mr. BEDELL, and Mr. WALGREN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

171. By the SPEAKER: Petition of the National Sheriffs' Association, Washington, D.C., relative to bail procedures in criminal cases; to the Committee on the Judiciary.

172. Also, petition of the City Council, Cambridge, Mass., relative to assistance to the boat people of Southeast Asia; jointly, to the Committees on Foreign Affairs, and the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3996

By Mr. JENRETTE:

—Page 89, after line 16, insert the following new section:

COMMITTEE ON AMTRAK ANCILLARY REVENUES

SEC. 128. (a) The President of the National Railroad Passenger Corporation (hereinafter the "Corporation") shall, no later than 90 days after the date of enactment of this Act, establish a Committee on Amtrak Ancillary Revenues (hereinafter the "Committee"). The Committee shall consider and evaluate possible means for the Corporation to increase its revenues from the transportation of mail for the United States Postal Service, from the transportation of package express, and from such other non-passenger revenue sources as the Committee considers appropriate.

(b)(1) The committee shall be composed of 13 members, appointed by the President of the Corporation as follows:

(A) Six members who are officers or employees of the Corporation.

(B) Five members who are not officers or employees of the Corporation and who have knowledge of or experience in (i) rail transportation, (ii) the transportation of mail, or (iii) the transportation of package express. Members and staff of the Congress who meet the criteria of the preceding sentence shall be eligible for appointment under this subparagraph.

(C) One member who is not an officer or employee of the Corporation and who represents the interests of consumers.

(D) One member who meets the criteria set forth in either subparagraph (A) or (B) of this paragraph.

(2) The President of the Corporation shall appoint one member of the Committee to serve as Chairman.

(3) Members of the Committee shall be appointed for the life of the Committee. Any vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(4)(A) Except as provided in subparagraph (B) of this paragraph, members of the Committee shall be entitled to receive the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties of the Committee.

(B) Members of the Committee who are officers or employees of the Corporation shall receive no additional pay by reason of their service on the Committee.

(C) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(c) The Committee shall meet at least once each quarter for purposes of carrying out its duties under this section.

(d)(1) The Committee shall, no later than 18 months after the date it is established, submit a report to the President, to each House of the Congress, and to the President of the Corporation setting forth its recommendations with respect to possible means for the Corporation to increase its revenues from the sources described in subsection (a) of this section.

(2) The Committee shall cease to exist after it submits its report under paragraph (1) of this subsection.

H.R. 4393

By Mr. DORNAN:

—Page 32, after line 2, add the following new section:

SEC. 509. None of the funds available under this Act may be used to carry out any revenue ruling of the Internal Revenue Service which rules that a taxpayer is not entitled to a charitable deduction for general purpose contributions which are used for educational purposes by a religious organization which is an exempt organization as described in section 170(c)(2) of the Internal Revenue Code of 1954.

H.R. 4440

By Mr. ALEXANDER:

—Page 12, line 8, strike out "$35,000,000" and insert in lieu thereof "$120,000,000".

—Page 21, insert after line 18 the following:

TERMINAL DEVELOPMENT PROGRAM

For necessary expenses to carry out section 21 of the Urban Mass Transportation Act of 1964; $20,000,000, to remain available until September 30, 1980.

INTERCITY BUS SERVICE

For necessary expenses to carry out section 22 of the Urban Mass Transportation Act of 1964; $15,000,000, to remain available until September 30, 1980.

By Mr. DINGELL:

—Page 33, after line 21, insert the following new section:

SEC. 317. (a) None of the funds provided in this Act may be used to implement or enforce any standard or regulation which requires any motor vehicle to be equipped with an occupant restraint system (other than a belt system).

(b) Nothing in this section shall be construed to prohibit the use of funds provided in this Act for any research and development activity relating to occupant restraint systems.

H.R. 4473

By Mr. RINALDO:

—Page 19, line 13, insert "Afghanistan," before "Angola".

EXTENSIONS OF REMARKS

SUNSET PROVISION OF DEPARTMENT OF EDUCATION ACT

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. CLINGER. Mr. Speaker, I deeply regret that the sunset amendment offered by my colleague, Mr. BEARD, failed in this House today.

I am concerned, as I am sure that many others are, about the possibility of the Department of Education becoming a second Department of Energy in terms of size, inefficiency, and cost.

Unlike with the Department of Energy, we had a chance to insure that if this happens with the Department of Education, we could dismantle it.

Many here and elsewhere have expressed concern about what this new Department might, over the course of time, become: whether the limitations on staff size will be effective, or whether they will be bent; whether the act's requirements that the Department preserve the traditional independence of State and local governments in education will be heeded; whether the creation of this new Department will increase the regulatory burden now borne by our schools and colleges; whether it will increase the Federal presence in our classrooms; whether it will serve as a pressure point for the lobbying activities of special interest groups, enlarging and politicizing the Federal role in education; whether in fact this legislation will do what it is intended to do, that is, to put in place an effective management structure conducive to the more efficient delivery of services to the States, local governmental agencies, and public and nonpublic edu-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

cation institutions, a structure that is more responsive than the present one to the public that it serves.

If, like Macbeth's witches, we "could look into the seeds of time, And say which grain will grow and which will not," we would not need a sunset provision. However, given our imperfect knowledge and control of the future, including a sunset provision in this legislation was one way of insuring that Congress' legitimate hopes, rather than any misgivings, were fulfilled by the creation of a Department of Education.

The presence of a sunset provision in H.R. 2444 would have served as a check to any bureaucratic impulse toward expansion in size and influence. Some say that the inclusion of such a provision would have made it difficult to recruit able people into the Department because it would have offered them little security. The contrary, however, is at least as likely to have been the case. It seems to me that the professionals in the Department would be motivated by such a provision to strive harder to make the Department work as it was intended to work. So as not to see all their endeavors undone at the end, they would labor more conscientiously to fulfill the intent of Congress in passing this legislation.

Sunsetting would place the burden of proof on the Department, to demonstrate to Congress and to the Nation its value in service to the Nation's children.

The sunset provision would strengthen Congress' hand in exercising its oversight responsibility, requiring us to decide whether the Department of Education is accomplishing what we want it to accomplish, what it was supposed to accomplish.

In this proposed Department of Education, we have before us only a theory that remains to be tested. In a few years, with the passage of H.R. 2444, we would have experience. A sunset provision would allow us to make the fullest possible use of this experience. It would have made our action today in creating a Department of Education more responsible in making it more easily reversible, should time prove that to be desirable.●

VOTER TURNOUT

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. TAUKE. Mr. Speaker, "The House of Representatives shall be composed of Members chosen every second year by the people of the several States." Article I, section 2 of the Constitution is clear: The people are to choose their Representatives. Yet an examination of recent voter turnout data evokes deep concern about our failure to live up to that constitutional mandate. As Representatives, we know it would be far more accurate to say that we are chosen by a relatively small group of people.

In 1978, two-thirds of the U.S. voting age population stayed at home on election day. Only 36.1 percent voted in the 1974 congressional elections. Both off-year elections set records—for the lowest midterm turnout marks since the wartime campaign of 1942.

And the recent Presidential election year figures are not much better. Less than half of voting age population participated in the 1976 election. That was the lowest turnout since 1924. The U.S. voter turnout record is worse than that in any other Western democracy.

The reasons for this record are complex. They range from legal and administrative obstacles to downright apathy. There is little we can do about apathy, but we can eliminate some of the remaining administrative obstacles.

I have introduced legislation which would make the absentee ballot more accessible to those wishing to vote in that manner. My proposal would make the mailing of absentee ballots postage-free in all local, State, and Federal elections. The last vestige of the poll tax would thus be removed.

The present postage requirements no doubt discourage voting by many of the poor and elderly who are unable to make it to the polls. Making the mailing of absentee ballots postage-free would encourage voting by these members of the electorate.

In addition, the limited absentee ballot figures available show that absentee ballots account for only 5.75 percent of all votes cast. The mobile nature of modern society takes many more potential voters away from home on election day. Removing the postage requirement would give many of these eligible voters a voice in their community, State and Nation.

The vote is the most effective way for a constituent to review the performance of a representative. Congress should, therefore, share the franking privilege with absentee voters.

The text of the bill follows:

H.R. —

A bill to amend title 39, United States Code, to provide that absentee ballots and certain other voting materials pertaining to absentee ballots may be mailed free of postage

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 34 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3405. Mailing of absentee ballots and other voting materials

"(a) Except as provided in subsection (b) of this section—

"(1) any election agency may send free of postage absentee ballots for any election or referendum conducted under the authority of such election agency, voting instructions pertaining to such ballots, and envelopes for return of such ballots to individuals requesting such ballots; and

"(2) any individual casting an absentee ballot in any election or referendum conducted under the authority of any election agency may return such ballot free of postage to such election agency.

Any envelope or other cover containing any absentee ballot, voting instruction, or envelope referred to in the preceding sentence shall bar the words 'Free Postage—Absentee Voting Material', or words to that effect specified by the Postal Service, in the upper right-hand corner.

"(b) This section shall not appy in the case of any mail matter transmitted under the provisions of the Federal Voting Assistance Act of 1955 (42 U.S.C. 1973cc–1973cc–26) or the Overseas Citizens Voting Rights Act of 1975 (42 U.S.C. 1973dd–1973dd–6).

"(c) For purposes of this section—

"(1) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

"(2) the term 'election agency' means that department, agency, board, commission, or official of a State or political subdivision of a State charged under the laws of such State or political subdivision with responsibility for elections or referenda.".

(b) The table of sections for chapter 34 of title 39, United State Code, is amended by adding at the end thereof the following new item:

"3406. Mailing of absentee ballots and other voting materials.".

SEC. 2. (a) Section 2401(c) of title 39, United States Code, is amended by striking out "3405" and inserting in lieu thereof "3406".

(b) Section 3627 of title 39, United States Code, is amended by striking out "3405" and inserting in lieu thereof "3406".●

THE MULTILATERAL TRADE NEGOTIATIONS: A MONUMENTAL ACCOMPLISHMENT

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Ms. MIKULSKI. Mr. Speaker, I would like to take this opportunity to speak out in support of the MTN. The completion of the MTN represents a truly monumental accomplishment. It is now up to Congress to approve this legislation which is of critical importance to our country.

Trade with other nations should be encouraged because it is ultimately in the best interests of our country as well as the economic health of our global neighbors. But free trade must be fair trade. We cannot allow other countries to export their unemployment to the United States. The MTN will help to put an end to the trade practices which have given imports an unfair advantage over similar domestically produced goods. Once the MTN is approved by Congress we must see to it that it is fully implemented. The antidumping provisions of this legislation must be effectively enforced. We must see to it that those exporters who are flagrantly guilty of dumping are immediately fined, so this unfair trade practice will be put to an end.

As the Representative for the Nation's fourth largest export seaport, the MTN is of vital importance to my district as well as to the entire State of Maryland. Maryland's exports of manufacturing totaled $641 million in 1976, more than double the 1972 value. About 10,500 jobs depend directly on exports of manufactured goods and an additional 11,000 jobs were required to produce components and other inputs for goods that are eventually exported. This means that 1 out of every 11 jobs in the State of Maryland depends on exports.

Competition depends on the existence of recognized rules, agreed to by all players. The MTN will provide these rules and will promote improved trade relations among all parties.●

THE SAVINGS ENCOURAGEMENT ACT OF 1979

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. EVANS of Delaware. Mr. Speaker, I am today introducing legislation, the Savings Encouragement Act of 1979, which would give individuals and families a much-needed tax break on the interest earned by them on deposits held in banks, savings and loans, mutual savings banks, and other similar institutions.

My measure would exempt the first $100 of interest in the case of an individual, or $200 in the case of a joint return, from Federal taxation. It would encourage savings by individuals, which has sunk to dangerously low levels, and at the same time provide additional funds for consumer loans, particularly new mortgages.

Mr. Speaker, inflation hurts everyone. But people who try to save money in today's economy are particularly hard-hit. Interest payments have not been able to keep up with the inflation rate, and these consumers see their buying power wasting away in savings accounts.

In addition, our current tax system penalizes the saver. By taxing the interest received on savings accounts, the after-tax purchasing power of the saver's dollar is further decreased.

Finally, soaring prices increase the benefits of buying now. Immediate purchases, particularly for high-cost durable goods such as automobiles, homes, and heavy appliances, are substantially less expensive than they would be if purchases were delayed. Further, since our tax system gives a deduction for interest paid, the individual consumer quickly realizes that he is better off buying than saving. This creates extraordinary demands for scarce goods and services, and further pushes up inflation.

One way to break the inflationary cycle is to increase the consumer's incentive to save. My bill helps encourage savings by at least partially removing the tax penalty for savers.

Mr. Speaker, I am deeply concerned over the decline in the rate of savings in this country. Since 1975, the rate of savings as a percentage of disposable income has dropped from 7.7 percent in 1975 to 5.3 percent in the first quarter of 1979. Even more ominously, other industrialized countries of the world are saving far more of their income than the United States. Japan has a savings rate of 20 to 25 percent of disposable income, while many countries in Western Europe save between 15 and 20 percent of income. I think there is a direct correlation between these significant rates of savings and the tremendous economic growth sustained by countries like Japan and West Germany.

Mr. Speaker, I believe Congress must take steps to curb the trends of reduced capital investment, lower productivity and higher interest rates that the decline in savings helps cause. My proposal is one step in a desperately needed effort to remove disincentives to saving, and I urge its prompt consideration.

I insert in the Record a copy of the Savings Encouragement Act following my statement:

H.R.—

A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Savings Encouragement Act of 1979."

Sec. 2. (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 125 and by inserting after section 123 the following new section:

"Sec. 124. Interest on Savings.

"(a) Exclusion.—In the case of an individual, gross income does not include amounts received as dividends or interest on interest on deposits or withdrawable accounts in a bank, cooperative bank, domestic savings and loan association, mutual savings bank, credit union, or any other savings institution chartered and supervised or a savings and loan institution under Federal or State law.

"(b) Limitation on Exclusion.—Subsection (a) shall not apply to interest paid or accrued to the taxpayer during the taxable year on deposits and withdrawable accounts described in such subsection to the extent that such interest for the taxable year exceeds $100 ($200 if the taxpayer and his spouse file a joint return for the taxable year)."

(b) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Interest on certain savings deposits.

"Sec. 125. Cross references to other Acts.".

Sec. 3. The amendments made by the second section of this Act shall apply with respect to taxable years beginning after December 31, 1978. ●

PERSONAL EXPLANATION OF TRADE AGREEMENTS ACT OF 1979

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. DERRICK. Mr. Speaker, I was not recorded on rollcall vote 309, the Trade Agreements Act of 1979. However, I would like to state my strong support of this important legislative measure which will open new international trade opportunities for American business and labor over the next decade. This bill holds the promise of a stronger, more prosperous, more competitive American economy.

The multilateral trade negotiations began 5 years ago as an attempt to reduce barriers to international commerce and to increase cooperation among the world's trading countries. This Trade Agreements Act is the most comprehensive and far-reaching treaty since the inception of trade negotiations over 30 years ago. International trade was once important only to the United States because of the inexpensive, high quality goods it made available to the rest of the world. But the growing industrial strength of Europe, Japan, South Korea, and Taiwan, helped by U.S. technology, has now threatened U.S. commerce.

As a member of the House Banking Committee, I was instrumentally involved in passage of legislation to protect the extile industry from import competition. This legislation relieved a serious roadblock to congressional approval of the Trade Agreements Act of 1979. Because of this legislation (H.R. 460, 96th Congress) the Trade Agreements Act of 1979 will restore order to our domestic textile and apparel markets by holding future growth in imports more in line with domestic market growth.

Mr. Speaker, I reiterate my overwhelming support of this vital piece of legislation and applaud its passage.●

NEW YORK INSTITUTE FOR HUMAN DEVELOPMENT

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. GARCIA. Mr. Speaker, community involvement and self-help are instrumental to the revitalization of our blighted urban areas. The self-motivation of a community to lift itself from decaying physical and emotional structures is a force difficult to contend.

In cities like New York, we find hundreds of community groups and development corporations dedicated to the revitalization of their neighborhoods. The scope of their activities range from rehabilitation of buildings, to training in different blue-collar skills of neighbors, to the development of youth programs, and health-related training. Many of these community groups have broadened the scope of the services they provide to the point where their budgets are in the millions of dollars.

Last month, I spoke before the first graduating class of community leaders trained in comprehensive management skills by the New York Institute for Human Development. The institute has performed a marvelous job of training these leaders in fiscal practices and accountability, community and public relations, legal issues of nonprofit agencies, and so forth. This kind of training will be of great benefit to the communities being served by these groups. The following is a summary of the graduation activity and the goals of the New York Institute for Human Development and its program. Their efforts, and their commitment to our urban neighborhoods are truly commendable and merit the attention of this body:

NEW YORK INSTITUTE FOR HUMAN DEVELOPMENT

The first graduation of a unique education program which is equipping 50 community leaders with comprehensive management skills took place the weekend of June 8, 9 and 10th at General Electric's Management Development Institute in Crotonville, New York. Program graduates are residents of New York's inner city neighborhoods and represent a wide spectrum of community organizations which provide vital services to the disadvantaged: the poor, the new immigrant, the elderly, those of ill health, the youth of the city.

The Minority Leadership and Management Skills Development Program which is jointly sponsored by the New York Institute for Human Development, Inc. and Fordham University, is filling the gap between the more traditional academic offerings and the practical needs of today's and tomorrow's personnel in community based organizations. The program is funded by the Greater New York Fund and the New York Community Trust.

The commencement weekend of the Minority Management Program featured guest speakers Julio Martinez, Director of the New York State Division of Substance Abuse Services, himself a veteran community leader, and Congressman Robert Garcia of the Bronx.

Beginning in October 1978, community workers, mainly non-professionals, from 18 of the New York Institute for Human Development's 77 affiliated neighborhood organizations, began a year-long program of classes, seminars and workshops. The "action-learning" program has provided in-service training in such areas as legal issues of non-profit agencies; fiscal practices and accountability; community and public relations; fund raising; managing a community organization; developing community leadership. The program has been designed to develop existing abilities and equip participants with new skills which are enabling them to meet the demands of leadership and management of effective and far reaching community programs. The program has involved respected and highly qualified experts in government and the private sector as instructors.

William De Marle, Executive Director of the 12 year old New York Institute, founded the non-sectarian community development agency with the support of the Archdiocese of New York. A staunch defender of community self-determination, De Marle, who came from the City's Poverty Program, is adamant that community based and directed programs are making a difference, albeit slowly. "While the city, the media and almost everyone else with power to wield were abandoning community action programs and labeling them corrupt and/or ineffective, the New York Institute was encouraging community growth, providing community leadership with technical assistance and staying with them, often to provide problem solving on a day to day basis." The relationship between the New York Institute and its community affiliates is a unique partnership steeped in the firm belief that the people of our disadvantaged neighborhoods are in the best position to know their communities' needs and to act on those needs.

Community programs such as those participating in the Institute's Management Training course, says De Marle, are actively resisting the grim decay of the City. "They have been disregarded but they are not disregarding themselves. They are digging in their heels and saying, 'we won't let this community, this city die. We'll get the skills and use our grass-roots know-how to bring poor people together to fight for their dignity and effect deep social change.'"

The New York Institute, which has worked with some of its 77 affiliates for as long as 12 years, believes that a community development agency like the institute is obligated to stay with a community program, to grow with and nurture its growth and to expand the institute's services to meet the needs of community workers today.

The Minority Leadership and Management Skills Development Program is one of the Institute's answers to the need of community programs for professional skills in running their increasingly demanding and complex service agencies. This program and the programs of participating agencies attest to the viability and relevance of community development and leadership in the creation of a more humane city.●

A PROPOSAL TO DEAL WITH THE PRICE-FIXING, SUPPLY-RESTRICTING OPEC CARTEL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. CONYERS. Mr. Speaker, at Ras Tanura, Saudi Arabia's port, the cost of production of light crude oil put aboard a tanker is between 15 cents and 20 cents a barrel (less than one-half cent a gallon). The latest Saudi posted price of $18 a barrel is 100 times the cost of production, and 1,000 percent higher than what oil was selling for just 7 years ago.

This extraordinary spread between cost and price is the measure of the price-fixing, supply-restricting powers of the OPEC cartel. It could not exist without the agreement of the multinational oil companies. Their commitment to OPEC through contractual service, investment, privileged markets, and their collaboration in coordinating worldwide production, in shutting down operating wells to avert glut, and in limiting purchases outside of OPEC makes possible the cartel's pricing power and the oil companies' market power, that are at the source of the oil crisis.

President Carter has called the latest OPEC pricing decision the major threat facing the Nation and the world. Yet the White House so far has taken no action to match the President's tough rhetoric. Nothing can be of greater importance than to create an alternative to the present oil import structure. That alternative has to do three things: First, create an independent purchasing agent for all imported oil that could negotiate directly with the oil-producing countries; second, a capability to engage in long-term contracts with non-OPEC producers that would spur exploration, development, and production of the vast, untapped petroleum reserves that exist in the Third World; and third, establish a Federal authority that could limit imports and oversee their allocation in times of shortage, that the United States alone among the industrial powers today lacks.

The Oil Imports Act of 1979 (H.R. 3604), which Representatives ROSENTHAL, ROSE, and myself introduced April 10, provides the workable alternative. It establishes a Federal nonprofit corporation whose sole responsibility is to purchase all foreign oil brought into the United States. It would resell the oil to all qualified buyers so as to spur competition among domestic marketers, insure equitable distribution, and maximize domestic refining capacity.

It is, of course, essential to move ahead to develop oil substitutes such as synthetic fuels and polar power. Yet since foreign oil will remain a major source of our energy for years to come, a new system of oil importing has to be created. The President already has the authority under the 1975 Energy Policy and Conservation Act to create such a Federal corporation. He should now take the tough action to implement that authority.●

METRO

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. STARK. Mr. Speaker, there has been much written about Metro, the national capital region's premier mass transit system, in the past few years of its development. However, the following article provides a fresh analysis of the system and its remarkable growth.

As we will soon be considering whether or not to authorize funds to complete the 101-mile system, I recommend the following article from the June issue of Civil Engineering magazine to my colleagues' attention.

The article follows:

WASHINGTON METRO: A PEOPLE'S EYE VIEW

(By Ann Seltz-Petrash)

To those accustomed to the grim realities of the physical appearance of subways in New York, Philadelphia and Boston, the National Capital Region's system comes as a delightful surprise.

Soaring, vaulted ceilings, clean attractive tile floors and quiet, comfortable trains are some of the reasons. Others include the high visibility of pleasant, helpful Metro employees and the easy-to-follow directions.

Sound too good to be true? In a way it is, for the cost of building and maintaining this system was $6.8 billion. Some say such a system will never again be built in the U.S.

Still, Metro must be judged within the context it was conceived, designed and built. Said President Lyndon Johnson: build us the best transit system in the world. The designers and engineers did just that. Along the way, some big problems emerged:

The delays brought about by local political squabbles during times of double-digit inflation sent costs soaring;

Building in an era crossed by two geologic zones was expensive and slow;

The difficulties of building underneath an established city populated by old, federal buildings, some as long as two city blocks; and,

The problems of having a major constrution project governed by the Fine Arts Commission which must approve anything built within Washington's Federal area. Last were the political complications surrounding a project of interest to U.S. president, members of Congress, and politicians from two states and the District of Columbia.

WHENCE CAME THIS SUBWAY

Written of in 1909 in a Washington Post article, Metro received its first funding in 1955—$500,000 for a mass transit survey—and was furthered by a 1960 appropriation of $250,000 to hire the first staff. But it was President Johnson who believed in the system and who told Walter McCarter (Administrator of WMATA's precursor—the Federal National Capital Transportation Agency) "In designing the system for the Nation's Capital, I want you to search worldwide for concepts and ideas that can be used to make this system attractive as well as useful. It should be designed so as to set an example for the Nation, and to take its place among the most attractive in the world."

Says Stanley Allan, president of Harry Weese & Associates, architects for WMATA, "Johnson became as interested in Washington's subway as he did in his Great Society—he wanted the best and that is what our goal became."

The unusual presidential interest, combined with the political realities governing the Washington area, led to a unique contractual arrangement: engineers (De Leuw, Cather and Co.) and architects (Harry Weese & Assoc.) were put under separate contract to the client, the Washington Metropolitan Area Transit Authority (WMATA). Why? First, building anything in the Federal area of the Federal City can be trying. The Fine Arts Commission must approve any structure. So one school of thought had it that an architect would be more likely to work smoothly with the Commission. Second, Johnson wanted a beautiful system. Cost was not as critical as it is in other systems. (And, it was the mid-1960's; the economy was booming so money was available.) Both architects and engineers traveled worldwide studying systems and noting what worked and what did not.

General engineering consultant for the Washington Metro, De Leuw Cather, and Co., provided overall management of engineering for the system, including design criteria, preliminary plans, track alignments and grade plans, and designed most of the specialty items: escalators (some among the world's longest), elevators, shops, track, and the floating concrete track slab that allows quiet trains. De Leuw also supervised construction of Phase 1, after which Bechtel took over as construction manager.

Much has been written about the contractual arrangement on Metro. It was unusual (architects and engineers under separate contract to the client) but much of Metro is unusual. There are, says James Caywood (President of De Leuw Cather and former project manager for the Metro contract) some things that De Leuw would do differently in the future. For example, the coffered arch is difficult to make of uniform quality when using cast-in-place concrete. It is also difficult to prevent the stations from leaking. De Leuw used bentonite panels among other methods to seal coffers. The all escalator system has been modified to include stairs in shallow stations. Escalators, says Caywood, are expensive, difficult to install and, like all machines, breakdown. "Still," he adds, "It is a beautiful system and I like it."

Asked what the most difficult engineering problem on Metro was, Caywood said building large underground stations in rock. There are 11 of them: each one 700 ft long, 45 ft high and 65 ft wide. These stations cost on the order of $30 million each and take about 3 years to build.

Because Washington lies on the boundary between two significantly different physiographic provinces and because of economic, environmental and sociological factors, cut-and-cover, earth and rock tunneling, retained cut and surface and elevated structures were necessary. One of the most difficult areas to construct was near the White House. This is near the fall line separating the two geologic formations and required mixed-faced tunnel headings (partly soft ground and partly rock)—one of the most difficult types of construction. It was completed safely.

The Metro project made extensive use of automatic tunneling techniques. Because of blasting and vibration restrictions, a tunnel boring machine was used to tunnel the 19.1 ft/diameter, 10,000-ft long twin tunnels in rock parallel to and under Connecticut Avenue—one of Washington's main arteries. Then, by drill and blast methods, approximately 42,000 yds. cu. of rock were removed for station excavation. Next the rockface was lined with steel sets, rock bolts and shotcrete which provided almost immediate support for the blocky, fractured rock. Finally, the precast concrete-finish liner was placed.

The second most difficult engineering problem on this project was the extensive underpinning required. Because of height restrictions (no building over 13 stories high) in Washington, most federal buildings are wide and long. For the Judiciary Square station, contractors underpinned the entire north and east face of the National Portrait Gallery (two blocks long). The Gallery is built on a rubble foundation and not caissons. To underpin, contractors had to go under the footings—difficult and dangerous. Says Caywood, "We are proud to say we had no serious accidents and no serious cracking. Many federal buildings were built in the 1800s."

What was the most challenging engineering feature? Designing a fully automated rail system that works—and that can be run efficiently manually as well. The system, says Caywood, was built to be run easily. A retired trainmaster from the New York Transit Authority, the late Richard Schroeder, retired and came to De Leuw to help design the system from the operator's standpoint.

Another innovation was the use of floating track. Using elastomer pads and floating concrete slabs to absorb vibrations and sound was widespread on Metro and the result is a quiet system. Pads were also placed alongside platforms, which had the effect (vibration-wise) of adding 180 ft distance between train and nearby buildings. Toronto had an experimental track using these pads. In their travels, De Leuw engineers saw it and included it in their track design.

The most difficult nonengineering challenge, according to De Leuw Cather, was gaining public acceptance of station locations. Everyone wants a subway station nearby, but doesn't want to suffer the disruption of having one built. Also, adds Bob O'Neil, current Metro project manager, "It was difficult to change people's perceptions of what a subway system should be. Most people are only familiar with the older systems. It took the public awhile to understand what we were trying to do and what was involved in building a subway in an already established city."

Asked what he thought was the least talked about aspect of Metro, Caywood says, "It has become a source of civic pride in the Washington area. People are proud of it. It's generated a whole new feeling about the city: made it more of a whole."

METRO FACTS

Operating as of April 1979 are 30.7 miles of revenue producing track and 34 stations. Approximately 12 miles at grade; 4 elevated; and 14 underground. By the end of 1979, 2.5 miles (and four stations) will open into Virginia. Funded and under construction are 31.1 miles and 24 stations. The 60 mile system will have approximately 22 miles at grade, 6 miles elevated and 31 miles of subway. The additional 40 miles, to complete the 101-mile system, is not yet funded or fully designed, but are expected to be.

Key WMATA personnel involved in the beginnings of Metro were C. Darwin Stolzenbach, administrator from 1961–65 of the National Capital Transit Administration; Walter McCarter, second administrator, 1965–67; Jackson Graham, first general manager of WMATA, 1967–76; Warren Queensted, acting general manager, 1976–77; Theodore Lutz, general manager 1977–79 and current general manager, Richard Page.

CREDITS

General engineering consultant for Metro is De Leuw, Cather & Co.; general architectural consultant is Harry Weese & Assoc.; general construction consultant (after phase I) is Bechtel, Inc.; and general soils consultant is Mueser, Rutledge, Wentworth and Johnston.

Says James Caywood (now president of De Leuw Cather, then project manager for De Leuw) "In spite of some rocky moments at the beginning of our involvement in the project (1966), the system benefited from the unusual contract arrangement. Metro is, in a way, a national landmark; the best in mass transit and as such fitting for the Federal City."

Bob O'Neil, also with De Leuw, Cather and now Metro project manager adds, "It probably wasn't possible to build an 'economical' system in the District because of the political problems and because the Fine Arts Commission's role is to keep the downtown area beautiful."

UNUSUAL PROBLEMS FACING SYSTEM

The administrative complications affecting this system include working for "two states and a state of mind—the District," says Cody Pfanstiehl, Director of Community Services for WMATA. WMATA is governed by a board composed of representatives of 8 jurisdictions: 2 counties and 3 cities in Northern Virginia, 2 counties in Maryland plus the District of Columbia (whose purse strings are controlled by Congress).

In order for decisions to be made, there must be one affirmative vote from each of the three major jurisdictions, plus one more. And each jurisdiction is loathe to give the other the advantage. One result of this governing system is the complicated and often criticized bus and rail fare system. Fares are based on distance and time of day, but differences in fares are not always explainable in those terms. Because fares are established by the WMATA Board, some quirks are more political than economical. Thus, it is more expensive to travel a given distance from Virginia into the District than from Maryland into the District.

As Ted Lutz (the recently departed General Manager of WMATA) says "the fare system is the most justifiably criticized aspect of Metro, but it can't be controlled. The system is too complicated and not equitable and the average rider knows it. But it is the system that could be agreed upon by the Board."

Another constant source of problems has been financing the system. Up to 1973, people in the Washington area never directly subsidized a transit system. The area was served by privately owned buses. There is no dedicated tax to ensure a steady flow of local funds, making it cumbersome to raise more money from Maryland and Virginia. To complicate matters further, the District budget is controlled by Congress.

This arrangement sometimes results in far-reaching problems. For example, in 1970 Congress held up the District's $30 million contribution for almost two years. While the amount was only one-third of the 33 percent match then required, in fact all money stopped. Maryland and Virginia would not contribute their matching funds until the District could; the Department of Transportation would not contribute their 65 percent until matching local funds were set. This is one example of Metro's political problems which have occurred regularly during design and construction.

METRO: UP AND RUNNING

Despite problems and delays, the Metro system is no longer a dream or even a small demonstration project. It is a transit system and it works. As of December 1978, 30.7 miles of track and 34 stations were on-line. The lines extend to Silver Spring, Maryland and to National Airport in Northern Virginia. Scheduled to open in the fall of 1979 is 2.5 more miles and 4 stations extending the system farther into Virginia.

Stations are of an arched vault design (see Box). The Roman arch ceilings curve as much as 30 ft above track level. The surface is unfinished concrete with deeply recessed coffers. Floors are title; lighting is indirect; the system is quiet. Says architect Stanley Allan, "We designed the system for ladies and gentlemen. People are encouraged to be comfortable—and to behave." The floating mezzanines are attractive; there are no dark corners in which to hide and an additional advantage is that station walls are unreachable, minimizing grafitti.

The 31 completed miles connect the downtown business area with Capitol Hill, the District's train station and the Washington National Airport. The closest suburbs are now easily accessible to the downtown area by rail. And the football stadium and the Smithsonian buildings are on-line. Subway ridership is now at 250,000 per work day—in a metropolitan area of 2.87 million people; there are an additional 350,000 trips by bus. According to WMATA since 1977, the number of trips on public transit in this area has increased 35 percent.

In fact, Metro celebrated its 5 millionth rider after 10 months of operation; they had projected 2 million riders at that time. All this points to high acceptance on the part of the area's residents. And there has been the additional bonus of the "lunch bunch." The government workers in Washington are concentrated in an area away from the downtown business/restaurant district. With the opening of Metro (and the short headway between trains), District workers soon found it possible to hop on a train, lunch and shop uptown and be back at work within a reasonable time. This has dramatically increased ridership and means that on Metro there is a third rush hour.

METRO: WHAT'S NEXT

There are about 42 miles of track (revenue and maintenance) and 24 stations under construction to complete the funded 60 miles of the 101-mile authorized system. For a time, it seemed that the final 40 miles needed to finish the originally planned 100-mile system might not be built. Not completing the system, says Cody Pfanstiehl, is like "borning the baby without arms." Metro was designed as a whole and so maintenance yards, turnaround tracks, etc., were all placed on the basis of a 100-mile system. Says Lutz, "Operating with an incomplete system is hard, time-consuming and expensive. Lines are temporarily terminating in areas that can't easily handle storage. In effect, we have had to design a temporary system to act as a stop gap until the Metro is complete."

Now that the Metro is running and gathering support from riders, it is likely that the entire 100 miles will be built. Recently, the consulting firm of Peat, Marwick, Mitchell and Co., under contract to the Metropolitan Council of Governments, the Regional Transportation Planning Board and WMATA, explored 72 options for Metro's future, most of which involved cutbacks. But after 1½ years and $1 million, the study reaffirmed the need for the entire system and, in fact, added an additional mile. Another reason to complete this system is the phenomenal support it enjoys among its users. The most recent poll shows that 77% of the area residents (District, Maryland and Northern Virginia) favor finishing the system regardless of cost. In fact, surveys over the past 5 years have consistently reported that more than 60% of those polled favor completing the system.

One facet of Metro that has received constant emphasis in the past three years is the bus-rail interface. By the early 1970s, the area's four private bus systems were not providing adequate service and were operating at a loss. In 1973, WMATA, as ordered by Congress, acquired the systems, inheriting a hodge-podge of line, outdated equipment and conflicting routes that provided too much service to one area and none to another.

The first order of business was to upgrade bus quality, survey routes and map new ones. Metro is now based on a two-part system: some areas are served by buses that go directly into the District—and will continue to do so. The other areas are or will be served by a rail-bus interface system. Buses collect passengers and feed into the rail/train system. As each new rail section opens, the bus routes are re-routed, becoming feeders.

The re-routing has not always been painless. It has, says Lutz, "been a difficult process—you are forcing people to learn a new way of commuting . . . and there are bound to be angry citizens." WMATA began re-routing in March 1976 and later estimated savings in Metro operating costs of $5 million/year. During the busiest time, 500 bus routes were re-routed in six months. An additional complication is that because subway routes are not complete, some Metro stations are receiving buses that were not designed to do so, causing traffic jams—both bus and people.

Still, WMATA is proud of their approach to bus-rail interface. Has Metro reduced downtown traffic? "It's very hard to prove anything with traffic statistics" says Lutz "There are certainly fewer buses in the downtown area, but as to traffic reduction probably not. Though probably, there is a reduced traffic growth factor."

Another WMATA innovation will be the use of articulated buses: jumbos to serve the downtown area and to provide service to suburbs best accommodated by buses. Articulated buses have 61 seats compared to 41 on regular buses. Because they are longer, they are designed to bend in the middle, permitting the tight turns on city streets.

WHAT DOES WASHINGTON THINK?

It is hard in Washington to find anyone who will complain about Metro. It makes travel from the business district to Capital Hill quick and easy. It cuts travel time to the airport. There are, of course, still passengers late for work. The Farecard machines are the source of countless problems. No one understands the fare structure.

But riders like the system. A recent survey taken on the new line that connects the suburb of Silver Spring to the downtown area showed that one in four riders formerly drove to work. The stations open the longest (three years) are clean, not defaced and the cars are holding up reasonably well.

The downtown real estate market is also booming. It's hard to prove exactly what effect Metro has had on that market, but WMATA has already received $3 million from sale or lease of excess land at Metro stations, and there will be much more to sell or lease. Office retail developments at Farragut North (in the business district) and Rosslyn, a nearby Virginia suburb now linked to the District by Metro, have totaled $35 million. Woodward and Lothrop, a major Washington department store, not only decided to keep their downtown store open but built a direct connection from the store to Metro Center Station and invested $6 million in renovating the store. In nearby suburbs, Rosslyn and Crystal City (see map), rents are climbing—and are now close to those in the District's downtown area. Since both are linked to the District by short Metro rides, there is no reason not to locate there.

According to Cody Pfanstiehl, the suburban counties are using the transit lines to shape development. For example, Montgomery County (a Maryland suburb, see map), is using it to relieve pressure around the highrise developments in the western part of the country by concentrating land zoned for multifamily development along the two transit lines now planned for the county. Advertisements for new apartment and condominium complexes now frequently list proximity to Metro stops as part of the sales pitch.

METRO: TRANSIT PACESETTER

Although it is difficult to change people's perceptions about subways and rail systems, as Jim Caywood says, "Metro helps give rapid rail a good name." Washington is a major tourist attraction and, unlike other cities, tourists here use the system. Consequently, people not formerly exposed to mass transit are.

Ted Lutz adds, "We are a representative system: probably the only exposure most members of Congress get to urban mass transit is the Metro. But it means that WMATA operates in a fishbowl; there is a tremendous pressure to bring lines into service sooner than we'd like; we are constantly interviewed, examined, discussed. That, coupled with the complex governing structure of WMATA means that people here operate under tremendous pressure." (Lutz has recently resigned from WMATA for precisely that reason. Richard Page, former administrator of the Federal Urban Mass Transit Administration is now general manager.)

If gas shortages worsen as expected this summer, it will be a tremendous incentive to fund the remaining 40 miles of Metro. Could the system handle a dramatic increase in ridership? Metro is using every available rail car and must wait at least 18 months for delivery of additional cars. However, says Lutz, out-of-service buses have been kept ready in case of an emergency and could increase system capacity about 12%. With spreading the rush hour peak (by staggering work hours) the system could handle an additional 50%.

One thing for sure, though, without the Metro, the Washington region would be crippled by a gas shortage. With it, the city will be inconvenienced, but can function. It is now an area with a good mass transit system.●

ARE WE REALLY FREE?

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. WYLIE. Mr. Speaker, Miss Vicki Pinkerton and Mr. Tom Regrut, graduating seniors from Dublin High School at Dublin, Ohio, are recipients of the U.S. Government Award presented by the Dublin Area Women's Republican Club. I would like to publicly congratulate the Dublin Area Women's Republican Club for providing this forum to stimulate the thinking of our young people about our democracy and the individual freedoms we enjoy.

It has become a tradition of the award to have the winners' essays formally presented for public attention through insertion in the CONGRESSIONAL RECORD. Miss Pinkerton and Mr. Regrut are to be commended for their good work in helping foster an appreciation of our system of government. Their essays follow:

AWARD WINNING ESSAY

(By Vicki Pinkerton)

Are we, the people of the United States of America, actually living in a society enriched with the freedom and democracy our forefathers intended? To answer this broad question one must consider the positive and negative aspects of the concept of a free people and their effects on the culture.

"Really Free," suggests an independent, ungoverned, unlimited, and unrestrained atmosphere. Although, on the whole we are relatively an independent people, it cannot be said we go ungoverned. Because our forefathers strived to establish a system which advocates and promotes individual progress, America has always been a land of opportunity. Such enticing publicity has, on the other hand, encouraged abuse of the free system. It was then necessary to institute governments to advise and protect the people, their rights, and liberties.

The Declaration of Independence expressed the drafter's desires as it was written to state:

"All men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their powers from the consent of the governed."

Quite clearly it was the intent of our forefathers that our country be controlled by the voice and consent of the population. This positive aspect enables us to take an active part in the running of our National Government. Often we take a blasé attitude towards our fortunate lifestyle, in contrast to our neighbors under a socialistic rule who will fight a life time for one day of freedom.

The drafters of the Declaration were concerned with not only insuring the happiness and welfare of the people in America, but also creating a government that, by under the social contract theory, could reorganize if the people were dissatisfied. The Declaration goes on to state:

"That whenever any form of Government becomes destructive of these ends, it is the Right of the people to alter or abolish it, and to institute new governments laying its foundations on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness."

Our country went on to develop and prosper within the unconfining spirit that is America's. Our society is a free capitalistically run system engaging in the theory of Free Enterprise. This use of an open market encouraged competition and the advancement of quality and quantity in products. This type of production has become the life blood of the American people. The idea behind the open market can be considered a positive factor in our society. However, because our system allows for freedom with loose control, often people feel the need to take advantage. The resulting effects are of a negative character and show the disadvantages of a cornered market. Therefore, the people are forced to pay constantly rising prices.

Our freedom is often two-sided in nature. What is good for some of the people is not always to the benefit of the others. Where, in the Declaration of Independence, it is an attempt to call all men free and equal, it was the introduction of our civil rights in the Bill of Rights which confirmed it. The Constitution of the United States divides and explicitly explains the offices and obligations of the Government in regard to the people. The people rejected the first Constitution which only included a general statement of their rights. The Constitution was then revised as a Bill of Rights was added specifically listing all the rights of the people of the United States. It has been instrumental in protecting our liberties as well as maintaining a fair amount of justice.

We as a people have the power of freedom only because the documents bequeath it to us. We are fortunate to live, work, worship, and speak as well as write as an individual without our rights being impeded.

We continue to exercise our rights and expand for the good of the country in all fields today. With any system which functions on a voluntary basis, there are certain obligations the people are responsible for. We as a free people are expected to work for a living, pay taxes, and serve in the military if called upon. This in turn supports the country which supports our free lifestyle.

"Are We Really Free? We are, in my opinion, as free as any civilization can be and still exist on a productive level in all phases, including economy, education, and government. To continue to thrive in our free environment, we must comply with what few regulations and restrictions that the Government imposes to insure that our freedom is honest and equal for all people.

ARE WE REALLY FREE?

(By Tom Regrut)

The people of the United States are blessed with freedom. Our Founding Fathers cherished liberty above all else, so they created a government in which the people are sovereign. Our Constitution contains many civil rights guarantees which are extended to everyone in the United States. In this country, all persons are free to worship and express themselves as they please. The people are free to assemble peaceably and petition the government for a redress of grievances. All people are entitled to equal justice under the law. All people are also entitled to the right of privacy.

However, we are not really free. We are free to do as we please only as long as we do not infringe upon the rights of other people. Everyone must be considerate of other people's rights. All persons possess the right to express themself as they please, but no one has the right to slander or libel another person. When an individual exercises personal freedoms, he does not possess the right to endanger the well-being of others. Civil rights guarantees may not be used to justify the disobediance of a law, unless the law itself is found to be unconstitutional.

The continued existence of our government depends upon the support of the people. As voters, we must remain informed so that we are able to make responsible decisions. We must continue to provide adequate financial support for our government. Everyone must answer his call to duty, for our country is only as strong as the people standing behind it. In the course of history, many people have died for the American cause. We must continue to support this cause. As adults, one of our greatest responsibilities is the preservation of the freedoms and opportunities that we were afforded.●

OMNIBUS MARITIME REGULATORY REFORM, REVITALIZATION, AND REORGANIZATION ACT OF 1979

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. MURPHY of New York. Mr. Speaker, during the past 3 years the Merchant Marine and Fisheries Committee has conducted numerous hearings and investigations in its pursuit of an effective and consistent maritime policy. During these hearings it has become starkly clear that several problems do exist. First, an objective assessment of our merchant fleet, which now carries only 5 percent of our import-export commerce, reveals that it is in sad decline. Where there were 10 subsidized liner companies some 18 months ago, there are now 8 after 2 major bankruptcies. In the bulk trades, America's flag ships carry less than 2 percent of our total cargo. Testimony before the committee indicates that our 26 building shipyards will decline to 8 or 9 by 1984. The vessel that can be built in the United States for $50 milion costs half the price when built in foreign yards. A rigid insistence upon applying American antitrust theories to a multilateral international activity has hamstrung American business. In the meantime, the expanding influence of Government-controlled fleets—especially those of the Communist bloc—raises the specter of politically motivated rate cutting. And in the face of all this, the Federal Government seems unable to develop a national maritime policy—one that will serve our maritime industry and the national economy.

Second, the committee investigations and hearings have discerned the following conditions:

First, lack of a single consistent, continuing and effective national maritime policy;

Second, failure by the Secretary of Commerce to coordinate with the Secretary of the Navy in order to provide an adequate and well-balanced fleet necessary for our national defense needs;

Third, ineffective or absent coordination between the various Federal agencies concerned with maritime problems;

Fourth, fragmentation of policy and programs due to a lack of a unified, central focus for administration;

Fifth, failure to develop a competitive and efficient ocean transportation system capable of carrying a fair share—at least 40 percent of our imports and exports;

Sixth, failure by the administration and the agencies to identify, catalog, and present specific recommendations to the Congress in order to resolve these problems.

Since enactment of the Shipping Act of 1916, revolutionary changes have taken place in the technology and philosophy underlying world ocean transportation systems. The industry has grown vastly more complex. The advent of containerization in ocean liner shipping has introduced demands for extraordinary capital investments—further compounded by what now appears to be permanent inflation. And above all, more and more countries have moved actively toward economic interdependence resulting in the expansion of ocean commerce worldwide.

For the past 2 years, an Interagency Maritime Task Force has been gathering information, receiving divergent and conflicting agency views, and attempting to achieve a coherent resolution of this Nation's international maritime problems. The result so far has been termed an "international embarrassment" and an "interagency dogfight." Currently, there is still no stated national maritime policy as a result of the interagency study. The people of the United States can no longer await pronouncements from this task force. As a result of our own committee studies and investigations, we have, through a bipartisan effort, fashioned legislation designed to revitalize our merchant marine. I am introducing today the Omnibus Maritime Regulatory Reform, Revitalization, and Reorganization Act of 1979. Joining with me in introducing this landmark legislation are Mr. McCLOSKEY and Mr. SNYDER.

Although the merchant marine is a very small part of our overall national economy, it is the single most vital element for maintaining and promoting our international trade, and has proven indispensable in time of war or national emergency to carry the cargoes essential to our Armed Forces and our national security.

The proposed omnibus bill in five major divisions makes a major advance and change in the way Government deals with ocean transportation.

First, the new policy to be effected by this bill recognizes the importance of maintaining and promoting our foreign import-export trade. It is declared as a specific purpose that we develop an efficient ocean transportation system which will carry a fair share—at least 40 percent—of our foreign commerce. The policy of providing for the national security of the Nation as well as advancing our foreign commerce is necessarily one which can only be addressed by a unified and consistent maritime policy.

Second, the bill addresses the problems that beset the regulation of ocean liner transportation. During the 60 years since the passage of the Shipping Act of 1916, the industry has experienced considerable change. Advancing technology has altered not only the manner in which cargo is carried on the high seas, but also in inland transportation. The use of national fleets for political as well as economic purposes, and the resultant imbalance in which cargoes are allocated among the world's carriers have become an increasingly heavy factor in ocean transportation. And, finally, the interpretation and vigorous application of the U.S. antitrust laws to the shipping industry has created gross inequalities in treatment between U.S. carriers and their foreign counterparts.

This Omnibus bill would, for the first time, authorize the formation of conferences which may limit their membership except for the immediate trading partners; authorize shippers' councils; encourage bilateral agreements; provide antitrust immunity for conference activities; permit agreements involving intermodal services between ocean and land carriers; and provide exclusive jurisdiction of all ocean transportation in foreign commerce with a single shipping agency.

We believe that this new proposed regulatory framework will minimize delay, decrease Government regulation, and insure competitive rates to U.S. shippers. And, most importantly, the rationalization of services authorized under this bill will permit the most effective use of high cost, scarce fuel, and other resources.

Third, there are substantial revisions to the promotional policy which provide greater flexibility and effectiveness for maritime programs. Despite all the promotional programs currently available under the Merchant Marine Act of 1936, and its amendments, the U.S. merchant fleet carries less than 5 percent of our total foreign trade. This bill establishes a clear national cargo policy which has as its goal a minimum of 40 percent carriage in all our trades. To achieve this goal novel changes in the construction subsidy program designed to stimulate the efficient utilization of shipbuilding resources are provided. This includes incentives for series construction, direct payments for capital improvements to shipyards, and incentives for improving efficiency.

Consistent with the foreign commerce emphasis of the bill, vessels receiving operating-differential subsidy will no longer be restricted to specific trade routes, and indeed will be authorized to carry foreign-to-foreign cargoes. Foreign-built ships will be eligible for ODS. The bill provides greater flexibility by permitting vessels to operate in both the domestic and foreign trades. Further, the demonstrated advantages of the Capital Construction Fund as a stimulus to enlarging the U.S.-flag fleet are further enhanced by extending its provisions to operating funds from foreign-built vessels.

Fourth, this bill will provide the U.S. shipping industry with a more realistic tax status which will promote expansion, and also will remove certain anomalous provisions.

Presently, the tax laws exempt carriers of any foreign country from U.S. taxation if that country gives U.S. carriers an equivalent exemption for taxation on earnings. Certain tax havens impose no tax on the earnings of their citizens. The proposed change would limit the exemption to nonresident individuals or foreign corporations who are either engaged in the commerce of the country of registry or are wholly owned and operated by citizens of that country. The effect would be to deny the exemptions to vessels registered in tax haven countries which are wholly owned subsidiaries of U.S. corporations and are registered abroad, in large part, merely to avoid U.S. taxation.

We are proposing a method for taxing income attributable to U.S. shipping when there is no valid reciprocal exemption or outstanding tax treaty.

The bill removes the provision in the Internal Revenue Code which allows U.S. shareholders to defer taxation on current earnings by investing in foreign shipping assets. This provision provides U.S. shareholders with an incentive to invest abroad as a means of avoiding U.S. taxes. It would be fruitless for us to request that carriers return to the U.S. flag if we do not remove this existing disincentive.

A further provision extends the full advantages of the investment tax credit to persons who make qualified withdrawals from the Capital Construction Fund program.

The bill also provides accelerated depreciation for various kinds of vessels in various stages of construction. The tax benefits of accelerated depreciation will promote development and increased investment in U.S. shipyards.

These provisions will thereby serve the dual purpose of removing incentives for foreign investment and providing incentives for the development of a U.S. merchant marine.

Finally, in order to provide a single focus for maritime policy development and implementation, this bill mandates a Government reorganization. This reorganization will emphasize the international trade aspect of ocean transportation by placing within the Office of the Special Representative for Trade Negotiations, Executive Office of the President, a Deputy Special Representative for Maritime Affairs. Policy functions now vested in the Secretary of Commerce, the Federal Maritime Commission, and other agencies with respect to international maritime affairs will be transferred to the Deputy Representative.

For the first time there will be vested, in a single ranking official, all international maritime policy. No longer will the administration of maritime policy suffer because of the lack of accountability.

This is a momentous undertaking. We believe that this legislation will serve as an excellent framework for our committee to conduct comprehensive hearings and provide a national maritime law which will promote both our foreign trade and a strong, competitive U.S.-flag merchant marine. At hearings already scheduled we will need the best efforts and most constructive recommendations from all knowledgeable public and private witnesses concerned with the merchant marine. With a combined and dedicated effort we will finally enact legislation that will secure America's maritime future.●

SABRINA WEST, MISS KENTUCKY TEEN, U.S.A.

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. PERKINS. Mr. Speaker, recently Sabrina West, the daughter of Robert West of Jackson, in Breathitt County, Ky., became a semifinalist in the Miss Kentucky Teen U.S.A. Pageant and her speech, "My Favorite Patriot," seems to me to be appropriate for the times that face us today and for the future. The article about Sabrina and her speech which I am inserting in the Record is from the Jackson Times, a very fine weekly newspaper in the Seventh Kentucky Congressional District.

The article follows:

Teen U.S.A. Speech Award

The city of Jackson has a winner! Miss Sabrina West, daughter of Mr. Robert West of Jackson, and Martha West of Canore, Texas, became one of the 15 semifinalists in the Miss Kentucky Teen USA Pageant, held at the Hyatt Regency Lexington last Saturday evening. Sabrina was sponsored by the Jackson Seafood Inc., Long John Silver's of Jackson, Kentucky. She will be attending Lees Junior College this fall.

Not only was Sabrina chosen as one of the 15 semifinalists but, she won the esteemed speech award. This award was offered to the young lady who gave the best speech on the theme of "My Favorite Patriot." Sabrina competed with over 50 girls for this award. Ninety-four girls from throughout Kentucky competed for the crown of Miss Kentucky Teen USA.

The text of Sabrina's speech is as follows:

MY FAVORITE PATRIOT

I would like to dedicate this speech to my father, a veteran of the Korean Conflict, and to my oldest sister, who recently became a member of the Honorable United States Army's 82nd Airborne Division.

I have traveled quite extensively throughout America, and for this opportunity I am very grateful, for it is through my various travels that I draw the portrait of my beloved patriot. He is with me always, and in his own way, communicates to me through my senses.

He speaks to me from Valley Forge when I walk softly across the ice, and the cold but soft falling snow comes to rest on my nose and ears.

As I wade through the waters of the mighty Mississippi, he touches me from New Orleans and the Thames.

When I swim in the cool waters of the Rio Grande, he touches me from Monterrey and Veracruz.

When I'm resting safely in my bed, he speaks to me through the thunder of a spring rain from Gettysburg and Shiloh.

And, when I cry and my tears touch my face, I hear many voices crying out to me from Pontiac, Tippecanoe and Little Big Horn.

When I'm riding horseback in Texas, he jostles me from the hills of San Juan.

When I'm walking through the woods, and a thorn bush tears my clothes and pierces my skin, he screams out to me from the Hindenburg Line and the Argonne.

As I freely walk through the mist of my Eastern Kentucky Mountains, he touches me from Dunkirk.

When I let the sands of Arizona and New Mexico trickle through my toes, he touches me from North Africa.

When I wade through the surf and sand on the coast of Maine or California, he cries out to me from Battan and Corrigador.

When I climb to the top of Lookout Mountain in Tennessee, he speaks to me in the wind from Pork Chop Hill and the 38th Parallel.

He cries out to me from the Mekong Delta as I run through the first torrential rain of summer.

He walks beside me and helps me raise my hand at public meetings. And, he's always by my side when Dad and I go hunting.

He assits me with my words as I speak out in a crowd whether I'm right or wrong.

He stands beside the door to my home and defends it from illegal entry.

He helps me turn the pages of the New York Times and the Washington Post as I search for diverse opinion.

He kneels beside me when I worship in my church, and helps me pray when I'm alone.

He is with me now, because I'm doing something I want to do.

Thank you dear God for my beloved patriot, and thank you America for honoring him with a tomb in Washington, D.C. My favorite patriot forever, the Unknown Soldier.

Sabrina would like to take this opportunity to thank each and every person who helped her achieve the awards bestowed upon her in the Miss Teen USA pageant this past weekend. "It was an experience that only comes once in a lifetime, and I shall treasure it always."●

HOUSE VOTES IN 1979

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. CARR. Mr. Speaker, the Clerk of the House has just released the computer compilations of House votes for the first 6 months of 1979. I note that voting activity is down from the same periods in the preceeding 4 years. Rules changes and a generally lower level of legislative activity are undoubtedly the driving force behind this trend. The combined numbers (quorum calls, ayes and nays and recorded votes) for the 5 years, January to June are: 1975, 361; 1976, 495; 1977, 402; 1978, 517; and 1979, 300.●

FEEDING THE WORKERS

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. NOLAN. Mr. Speaker, the pending sugar bill is necessary in order to assure the survival of our domestic sugar producers. Persons who claim to speak for consumer interests oppose the sugar bill and instead are urging higher imports of cheap sugar. These consumer representatives ignore the question of who is paying the price in order to provide the United States with cheap sugar.

Much of our imported sugar comes from developing nations, including the Philippines. In these countries sugar production is characterized by exploitation of labor, by increasing concentration on export cropping at the expense of local food production, and by diverting funds from already meager national treasuries to subsidize exports of sugar. Consumer representatives therefore are doing their constituency a great disservice by advocating a policy which will continue and perhaps increase conditions of misery, hunger, and dependence in developing nations which export sugar.

Brennon Jones of, "Bread for the World," described the situation in the Philippines in an article which appeared in the New York Times on July 11, 1979.

The article follows:

Feeding the Workers

(By Brennon Jones)

The producing of crops for export is an effective foreign-exchange earner for developing nations that are rich in land and other natural resources, and have an abundant rural labor pool. But who benefits from such earnings and the plight of the individual plantation worker are often obscured.

The World conference on Agrarian Reform and Rural Development, which will take place from July 12 to 20 in Rome, can address such issues, but will only be successful if it tackles them head-on.

Like most United Nation conferences, it has an overly ambitious agenda that will likely undermine the ability of the international community to reach significant conclusions. As usual, the conference will carefully avoid singling out specific countries and their domestic policies in respect for each nation's "sovereign right" over how it manages its internal development.

While this avoids controversy, it skirts the role that external forces such as international investment and trade play in a nation's policies and often blinds the world community to needed solutions.

Take the example of sugar in the Philippines. The United States has played the pivotal role in encouraging the Philippines to over-expanded production and export of that commodity. United States colonial rule of the Philippines from the late 19th century to 1946 spurred the expansion of sugar production. The Kennedy Administration's trade blockage against Cuba, then our major foreign supplier, triggered a substantial increase in the quota for Filipino sugar entering the United States, and promoted the continued shift of its land to production of that crop. This policy increased that Southeast Asian nation's dependency on sugar as a prime export and on the United States as a trade partner.

Consider conditions in the Philippines' province of Negros Occidental—or "Sugarlandia" as it is called locally. Sugar, a top export, earned 25 percent of total foreign exchange in 1975. The province produces 56 percent of Filipino sugar. In the mid-1970's, approximately 70 percent of the province's population were involved in various aspects of sugar production, with the majority of these being plantation workers and their families. According to Filipino government surveys of that province, 45 percent of households have insufficient food intake, with 83 percent of all children suffering various degrees of malnutrition. Most of these families are involved in sugar production.

The plight of Mario Salazar is typical of such workers in "Sugarlandia." During the peak cultivating and harvesting periods—which total about 180 days per year—Mr. Salazar earns at best 50 pesos per week, or approximately $7.00, for toiling 13 to 14 hours a day. Ironically, his income remained about the same when world sugar prices skyrocketed in the early 1970's, as when they bottomed out in recent years.

In the face of rapidly soaring prices for food and other basic necessities, the sugar worker's real income has rapidly declined—to its lowest point since the beginning of the hacienda system in the late 1700's, according to research sponsored by the Association of Major Religious Superiors in the Philippines. Mr. Salazar is angry. His 50 pesos are inadequate to feed his family of six.

Mr. Salazar has his own ideas of how to solve this crisis—and he is backed by at least one union in Negros—the National Federation of Sugar Workers. He suggests that 10 to 30 percent of the sugar land, most now exempt from Filipino land reform laws, be shifted to food production by the sugar workers themselves. "Within three months, myself and other workers would have food to feed our children," he claims. With sugar in worldwide oversupply, and likely to remain so, such a shift makes sense. And it would still allow the Philippines to sustain adequate levels of sugar production. In fact, a stated goal of the national sugar commission is to reduce sugar production by some 15 to 30 percent, a policy that to date has had little success.

Of course, such a land reform strategy will inevitably clash head-on with the interest of the present landowners—some of whom are financially hard-pressed themselves because of sugar prices.

The United States and other developed nations could play a crucial role in removing this obstacle. Economic assistance could provide the funds for landlords to be paid a cash down payment—perhaps 20 percent of the value of the land—with the remainder to be paid in long-term bonds. Such a program could yield quick and lasting results, as food aid and other welfare schemes usually cannot, in resolving a situation of poverty for which the United States must bear some responsibility.

It would also be a solution inspired by the poor themselves, one that might provide a useful model for other developing nations saddled with a persistent surplus of agricultural export commodities and workers who are being pushed into the ranks of the hungry by wages that do not keep up with rapidly escalating food costs. But the open question now is whether the voices of Mr. Salazar and his fellow sugar workers will be heard in the plush halls of the Agrarian Reform Conference this week.●

BISHOP MUZOREWA IN WASHINGTON

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, July 12, 1979

● Mr. HARRY F. BYRD, JR. Mr. President, I ask that an editorial from today's Washington Star entitled "Bishop Muzorewa in Washington" be printed in the RECORD.

The editorial follows:

BISHOP MUZOREWA WASHINGTON

It must sometimes seem to Bishop Abel Muzorewa and his new government in Rhodesia that their quest for international acceptance and the end of crippling economic sanctions is a game whose rules are rewritten, to their disadvantage, every time a settlement comes into view.

That impression would not be false. The criteria of political respectability, steadily raised, are more exacting tcday than they were three years ago when Dr. Kissinger first obtained a commitment to basic change from Ian Smith.

That there is hypocrisy in the recognition game, that we are setting a loftier standard of democracy for Rhodesia than for other African states, that the game is tainted by hints of oil blackmail, has not discouraged the bishop in the face of all this. Nor should it.

There is the consolation, the bishop is finding on his present journey to Washington and London, that the quoted price of normalization is a bit lower than before. We have moved from fundamentals to details—to fine tuning, if you will. The last Rhodesian visitors to Washington were issued visas grudgingly and treated as pariahs by the White House; Bishop Muzorewa was seeing President Carter yesterday.

Signal differences remain, of course. In the air now, both here and in London, are intimations that to cleanse itself sufficiently to keep company with the righteous, Bishop Muzorewa's government must toss Ian Smith out of the cabinet and dilute the protective constitutional mechanisms designed to keep the confidence of Rhodesian white.

These intimations derive, we gather, from soundings recently made by Britain's Lord Harlech in a visit to seven African states. They must be weighing with Mrs. Thatcher's new Tory government. For in spite of her campaign pledge to recognize the Muzorewa regime, she seems to be hedging and has prudent reason to hedge. She and Queen Elizabeth must attend the Commonwealth Prime Ministers Conference in Zambia next month and Mrs. Thatcher is reluctant to risk embarrassment to the Queen, or an ugly expulsion incident. The British, moreover, are likely to set the pace for Washington. It is the view here that what began as an unlawful secession from British colonial status is best mended in accord with British conditions, on a London timetable.

These are all reputable considerations. Yet the timetable cannot be stretched indefinitely without grave risk to the Muzorewa government, on the other side of which waits economic chaos and an even bloodier civil war. The present delay, however justified, keeps alive the hope of the Nkomo and Mugabe guerrilla factions that they can eventually overthrow and kill or exile the elected government. And the continuation of economic sanctions, as the bishop observed here this week, prolongs an unemployment problem that is most hurtful to African miners and factory and tobacco-farm workers. It is they who bear the burden.

And there is this to be said of the constitutional and political changes which are being put to Bishop Muzorewa: After our disillusioning efforts to shape the internal political patterns and destinies of other countries, especially in Indochina, one would expect the U.S. to be more modest in pressing others for political adjustments we happen to find expedient.

Bishop Muzorewa has said again and again that prosperity and survival depend upon retaining the confidence and skills of Rhodesia's white community. He has observed, accurately, that other revolutionary African states have driven such communities out, only to replace them later with mercenaries and freebooters lacking the disinterested commitment of natives.

Constitutional arrangements produced by long internal negotiation, now implicitly sanctioned at the polls by Rhodesia's black majority, are a questionable object of meddlesome pressure from Washington. It is a mistake, in any case, to make a fetish of numbers and percentages.

The test of Rhodesia's fitness for recognition is the relative freedom, flexibility and fairness of its internal processes and institutions; and by the testimony of some pretty impressive American observers they are already among the freest and fairest on the continent.●

TERRE FLEENER'S PLO ASSIGNMENTS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. McDONALD. Mr. Speaker, yesterday Terre Fleener, 24, an American citizen, held a press conference in Washington. Miss Fleener, aided by a U.S. front for the terrorist Palestine Liberation Organization (PLO) called the Palestine Human Rights Campaign, made repeatedly contradictory statements both admitting she had taken photographs in Israel at the direction of the Palestinian terrorists and denying she was involved in terrorism.

However, Miss Fleener told an Associated Press reporter who accompanied her on her flight from Israel after her release from jail that "she has no difficulty justifying the PLO's violence against Israelis, even civilians;" and that she believed the PLO's terrorism was "the only route available to them." That AP report was published on July 1, 1979, in the Baltimore Sun, published in the hometown of another American girl, Gail Rubin, a talented photographer who was murdered by a PLO terrorist unit early in 1978 on a beach of the variety Terre Fleener had been photographing and sending to the PLO's terrorist strategists.

The following article was published in the June 15, 1979, edition of the Israeli newspaper, Maariv, provides some highly informative insights into the PLO's recruitment and espionage techniques taken from Terre Fleener's own confession—her defense lawyer was Felicia Langer, a member of the Politburo of RAKAH, the Israeli Communist Party, who makes a specialty of defending accused terrorists.

The article follows:

TERRE FLEENER'S TWO ASSIGNMENTS

(By Yigal Lev)

First disclosure of statements made at the trial of Terre Fleener, which was conducted behind closed doors at the district court in Tel Aviv. The young American woman who is about to be released at the request of President Carter, was sent by the PLO to take pictures of Israel's coasts from Haifa to Elat—which was only one of her assignments.

Terre Fleener, 24, has long, honey colored hair, falling over her shoulders. She wears no makeup. Her hair, curtain-like, reveals a high forehead. A strong nose dominates her face. A soft mouth, two large, light color eyes. Even in prisoner's uniform she shows a shapely body. The brown shirt seems custom-made. The dark pants round out her thighs in a perfect fit.

Tripper Fleener, nicknamed Terre, a native of Maryland, is a typical American, an intelligent young woman, graduate of the University of Texas at San Antonio. She has uncles who are prominent in American jurisprudence, including a justice of the supreme court and law professors. Her friends say she is very sensitive, humane, open to others.

One day she sensitively photographed the coasts of Israel. She recorded with her camera places where terrorists could land and buildings they could enter. She then mailed those pictures to the Fatah center in Cyprus.

It was not such a humane act. At the Fatah training camp in Cyprus the material was used for a very specific purpose. To the plotters of murder the pretty American was an ideal emissary: Holder of an American passport, inspiring confidence, intelligent, and full of desire to serve her operators without reservations.

Terre was the first American who came to Israel as a spy. The first American who collaborated with the terrorists and was captured in Israel.

United States President Jimmy Carter arranged for an appeal to the Israeli government for her release. American Secretary of State Cyrus Vance contacted Israeli Justice Minister Shmuel Tamir about the matter. It was promised that a recommendation would be made to reduce her term. In the U.S. public committees of jurists were formed to press for the release of Terre Fleener. The fate of the first American citizen captured in Israel gained wide-spread interest in the United States.

A STAR OF DAVID

Terre knows her stay at Neve Tirtza is not going to be long, and that soon she will be released. Given the opportunity she won't spare us her tongue-lashing. She will explain to the American public what has happened to her and how Israeli law picked on her. She will go on to talk about the way she was mistreated. Meanwhile, till she starts spreading her pearls of humanity, Terre is sitting in the wing for female terrorists at Neve Tirtza awaiting her release.

Terre's friends at the wing for female terrorists at Neve Tirtza are young women who were sentenced for putting explosives in Israeli public places, in supermarkets, in market places. Here Terre has time to remember the days when she paraded with a Star of David around her neck. She had Jewish friends at school whom she tried to emulate. Her friends recall how the walls of her room were not decorated with the Rolling Stones or rock stars but with four posters: a synagogue, a mosque, a pyramid and a camel.

Terre was a sensitive child. Hers was a seemingly stable family. In reality, she was a lonely child. Her father left her mother when she was two weeks old and she was raised by her grandmother in San Antonio.

Terre gives the impression of a pleasant, sophisticated young American woman. Her outward appearance is misleading. There is a certain lack of self-confidence about her, a certain confusion.

THE CONNECTION WITH JOHNNY

On the eve of her release Terre can ponder the question, which Prosecutor Sirota threw at her: "What did we do to her? Why would a young American woman come from the end of the world to mix in our affairs? What injustice did we commit against her? What right does she have to help terrorists sow destruction in our midst?"

It all began at the University in San Antonio when she met a young man named Johnny Akiki.

"It was in the beginning of 1972," she relates, "Johnny studied at the university and lived with his uncle, a Maronite priest in San Antonio. That summer he went back to Lebanon to visit his family. I joined him. We spent one month together in Lebanon. We vacationed at a beautiful mountain village not far from Beirut.

After we returned to San Antonio Johnny received his B.A. and in 1974 returned to Lebanon. That summer I went to visit him and we spent some time together.

So far—factually, briefly, the first step. The romance. American young lady seduced by the magic of the Orient.

Terre, 17, a captive of the double charm of Johnny and his country, sends emotional letters to her grandmother. She is fascinated by what she sees and decides to stay in the Orient.

"I found work as a stewardess with Kuwait Airlines," she says, "and there I met Victor, a pilot for the company. It was fall 1975. Victor was the one who put me in touch with my Fatah operator. In Beirut I met for the first time representatives of Fatah. When I was given a month vacation, in January 1976, I wanted to go to Israel for a visit. I told Victor about it. Several weeks later he called me and said that my operator wanted to see me. I met him at the Sheraton Hotel in Kuwait. He told me while in Israel I will take pictures and pick up maps.

I stayed in Israel as a tourist for two months—from January 1976 to February. Most of the time I was in Jerusalem and from there I went to the Galilee and to Beer Sheba. I visited Tel Aviv and Haifa, and I spent one night in Acre. I took pictures and sent them to Cyprus to the address I had received. Afterwards I returned to Athens and from there I went to Cyprus. In Cyprus I met a friend from the U.S., Jiss. It was around March 1976." (By then Terre had already been associated with the terrorist organization. She had been to Israel, took pictures, sent them on, and met with her operators at a terrorist base near Nicosia). Says Terre: "One night we went to a bar in Nicosia. I met a man there who I thought was a Cypriote. He gave me two letters to send to Rome." (Those were two parcels of explosives, which made Terre a courier for the organization without her knowing what she was carrying).

THE INNOCENT EXPRESSION

Terre has an innocent expression. Even the story about her joining up with the terrorist organization she tells with an innocent expression. Why did she agree to undertake their mission? This is a secret she is keeping. The terrorists took her to refugee camps, arranged a meeting for her at a certain point with Kadar Husseini, head of the operations department of Fatah who later on was liquidated in Beirut by unidentified people.

Prosecutor Sirota argued: "The terrorists were looking for girls like Terre who had gone to the Middle East in search of adventures, and who identified with their outlook. The terrorists knew how to fire the imagination of girls of this kind, and eventually this girl, who was sensitive and humane, forgot that in her way she was causing murder and slaughter. She didn't care any longer. That was the gravest aspect."

From her trip to Israel Terre brought to the terrorist base in Cyprus, in her words: "Photos of hotels in Jerusalem, Tel Aviv and Haifa. I took with me maps. I photographed the coasts as I was asked to do. In London I developed the pictures and brought them to Beirut."

Regarding another task she was given, transferring explosives, she says: "When I went to Beirut my operator took me to an office near the university. Near the office stood a guard with a rifle. We went up the elevator. When in the office the operator showed me something which looked like a hunk of cheese and told me it was explosives. He asked me to take it to London, hidden in a suitcase. He showed me how to do it. I listened out of curiosity, but I refused. I told him it was too much. I did not want to do anything which could hurt or kill anybody."

She brought additional information to the terrorist base: "When I came from Israel the operator asked me about the state of security inside Israel. I told him about an incident I had there, when I was stopped at Zion Square in Jerusalem and was told to open my suitcase. I told him about security arrangements in post offices and threatres which I visited in Israel. I knew the people I was talking to were members of Fatah."

She returned to Cyprus. The terrorists treated her royally. It was already clear she was a very important person in view of the plans assigned to her.

She met a female terrorist of German origin: "A girl who looked like me, same build, same colors, I don't remember her name. She might have been Austrian or Swiss; at any rate, she spoke German."

"I wanted to Get to Know Israel."

Terre returned to the U.S., finished her studies in October 1976. "I left my address and telephone number in Cyprus. Fatah got in touch with me in the States. I decided to go back to Israel. Of my own initiative. I wanted to stay there and see the other side of the Middle East. I got this idea about studying Hebrew in Israel and then perhaps enrolling at the Hebrew University. I left the States on October 5, 1976. I arrived in Cyprus. I met the operator. He suggested that I carry out a mission in Israel. I was not coerced. I agreed. I was asked to pay attention to the coastal area around Haifa and photograph it. I imagine it was meant for the purpose of landing boats there. I also had to take as many pictures as possible inside the city of Haifa. I was told to stay in the Galilee and take pictures of public buildings, to stay at a kibbutz in the upper Galilee and remember its topography, the locations of the power station. I suppose these assignments were all intended for the purpose of attack and sabotage."

"I was also told to go to Elat and take as many pictures as possible of the business section and the commercial section. I was told to send the pictures and the letters to the post office box in Nicosia, Cyprus. I committed myself to do this. I was also told to try to make contact with foreigners in Israel, take their names and addresses." This was an important mission given Terre in addition to her espionage and photography assignments: to make contacts with foreigners in Israel in order to recruit them later on for terrorists acts against Israel.

"I obtained a new passport in the U.S. since my old one had too many Arab visas—Kuwait, Lebanon, Syria, and Egypt, which I visited in the fall of 1976."

Terre arrived at the airport in Lod with a camera, a suitcase, a blouse and a skirt, honey color hair, and a lot of innocence in her eyes. She was arrested the moment she arrived. It was October 25, 1977.

THE OTHER CAMERA

The jail doors which shut behind her upset Terre's world. The young American who came from the other end of the globe to help the murderers found out quickly it was not easy for her to bear the consequences. But Terre is a romantic girl. In her letters from jail the sensitive girl complains: "As for things esthetic, I lack privacy, milk and the sky at night, in that order. Is the moon still there?"

She will soon be released. The President of the United States has taken a personal interest in her case and has been pressuring Israel to move up her release date. She was sentenced to five years in jail. During the period between her sentencing and the taking up of her appeal by the supreme court the incident of the terrorist attack on the bus along the coast took place. On their way from the shore to the road the terrorists killed Gail Rubin, Terre's compatriot, an amateur photographer who took pictures of flowers, birds, butterflies. Did the murderers use the information and the pictures of Terre Fleener? ●

CORN PRICES MAY PLUNGE WITHOUT ADMINISTRATION ACTION

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. LEACH of Iowa. Mr. Speaker, with yesterday's Federal crop report and world crop summary both indicating a substantial reduction in worldwide grain production, it is imperative that the Department of Agriculture act quickly to revise its regulations for the orderly marketing of the 750 million bushels of corn currently held in the farmer-owned grain reserve.

Under the reserve program, when the U.S. price of corn reaches a formula price of $2.80 per bushel, the Department of Agriculture must call on farmers to pay off their loans or forfeit their grain to the Government.

Yesterday's U.S. corn forecast shows farmers are producing a crop which is expected to yield 6.66 billion bushels or 6 percent less than 1978 levels. In my home State of Iowa, the corn crop is projected to be 120 million bushels below a year ago, with world production of all coarse grain projected to be 5 percent below last year.

If major overseas buyers of corn such as Japan, Poland, Brazil, and the Soviet Union make early purchases for their next year's needs, a short-term runup of the domestic price for corn could occur, thus forcing the Department of Agriculture, in the absence of any changes in its program regulations, to require farmers to redeem within 30 days the loans they have secured from the USDA on their corn held in the farmer-owned reserve. Such action is mandated by USDA regulations filed on March 2, 1978, with the price average being determined through a series of complex calculations based on prices paid by some 4,000 country elevators across the Nation. The USDA was within 3 cents per bushel of being required to call its loans in late June.

Most farmers realize that a sudden calling of loans under today's conditions where reserves have grown to such substantial proportions would drive prices severely below today's market levels. To prevent incurring huge financial losses in this event, many farmers would presumably look to private commercial credit channels to repay their Government crop loan. However, should this very natural action be taken by corn growers, the most massive farm credit crunch in modern history would result. The high cost of farming has already stretched to the limit the resources of rural financial institutions.

Clearly, yesterday's announcement increases the prospect of sporadic buying sprees by foreign countries and the major international grain corporations. If the USDA were forced to call loans on grain held in the reserve, a precipitous slide in prices could result. The beneficiaries would be Soviet consumers rather than American producers; the grain giants rather than country elevators. In addition, our grain transportation system would almost certainly be taxed beyond its capacity as farmers attempted en masse to deliver their grain to market.

The administration can avoid such confusion and costly inaction by announcing a clear plan for more orderly marketing through amending the farmer-owned grain reserve regulations to permit farmers 90 to 120 days to redeem their loans, instead of the 30 days called for under the regulations in effect today. This will be better for our farmers, our transportation facilities, our balance of payments and could help avert a precipitous plunge in grain prices.

The farmer-owned grain storage program has served to stabilize farm prices, but now, with yesterday's announcement of reduced worldwide yields expected this year, the farmer has been backed into a corner. The Department of Agriculture has authority to modify its loan redemption regulations to permit a more orderly marketing pattern—one in which farmers have the maximum freedom to choose the best time to sell their crop. I strongly urge early action to revise the current regulations.●

PERSONAL EXPLANATION

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. HEFNER. Mr. Speaker, yesterday, July 11, I was detained on my way from a subcommittee hearing to the floor to vote on final passage of H.R. 4537, the Trade Agreements Act of 1979 and was unable to record my vote. I wish the record to show that I favored this legislation and would have voted "yea." ●

PROPOSED ENERGY REMEDIES

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. BEVILL. Mr. Speaker, I had a meeting with Vice President MONDALE and other officials on June 26, where we discussed the energy crisis concerning our country.

Mr. Speaker, I enclose the letter which I sent to you along with suggested recommendations that I feel will be of benefit to the House and its Members:

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 28, 1979.

Hon. THOMAS O'NEILL, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Following our meeting on June 26 with Vice President Mondale and other Administration officials regarding the energy supply situation and its impact on the economy, you asked for any ideas or recommendations that we might have to help alleviate our current and future problems.

You are, I know, thoroughly familiar with the efforts to conserve energy and to stimulate domestic production of oil, gas and coal through the National Energy Act legislation and legislation now pending in Congress. These comprehensive programs certainly move us in the right direction for the future.

There is, however, a significant aspect of the energy problem that needs, I believe, additional attention by the Congress: that of regulatory delays and the need to balance energy considerations with other responsibilities to protect the Nation's environment, economic viability and security.

As Dr. Schultze stated during our meeting, energy supply and the economy tend to move in parallel directions. Therefore, I have assembled some examples of delays in energy supply projects and other regulatory actions, along with their economic effects, which have impacted or will impact our energy supply situation. Admittedly, some of the examples involve controversial projects, but in the aggregate, they show, I believe, the need to better balance energy considerations without other responsibilities.

In the near future, solar, geothermal, fusion, breeder reactors and other renewable energy supplies will not materially assist our energy requirements. In the United States, we have only coal and nuclear (light water reactors) to turn to in meeting our immediate energy needs. Conservation may help, but it will not by itself materially alleviate our need for additional energy.

Therefore, to contribute to solving the problem, like it or not, we must burn more coal, moderate clean air standards, use nuclear power, speed up the regulatory process and increase development of renewable energy resources for the long term. If we do not face these realities, we must continue to import oil—at whatever price.

The first of the attached examples, conversion to coal by electric utilities, reflects the exciting possibility of increasing oil available for gasoline, diesel fuel and home heating oil by substituting coal for the oil now used to generate 20 percent of our Nation's electricity. Yet this specific project has been under consideration in one form or another for over five years, with no success because of environmental constraints.

The second example shows the significant impact on the consumer of the lengthy delays in the regulatory process.

Other examples show both the potential and the economic benefits of substituting domestic resources for foreign oil.

The final example reflects the significant impact that our early decision on automobile emissions, regardless of location, has on gasoline supply.

The examples raised several legislative avenues It appears:

1. We need to place additional emphasis on switching the oil now being used to generate electricity and much of our industrial process heat, to gasoline, diesel fuel and home heating oil production by substituting coal, hydroelectric and nuclear power. The Consolidated Edison example indicates in that case alone we could reduce oil imports by 15 million barrels a year, or channel that much more into liquid fuels supply.

2. We should give additional powers to the President to provide across-the-board reviews of regulatory determinations in order to balance energy requirements with other national needs, possibly through an energy board established by legislation.

3. We should legislate a time frame for regulatory decisions to permit reasonable certainty of decisions, fair to all parties concerned, requiring prompt governmental action on permits and applications.

4. We should provide authority for the President to establish rationing or allocation plans fair to all sectors of the Nation to deal with critical shortages.

5. Finally, we need a National Commission such as the Hoover Commission to review our energy problems and provide advice to the Administration and Congress on what should be done to carry us forward for the next decade or two.

I hope that these suggestions and recommendations will be of help. I will be pleased to assist you in any way I can.

Sincerely,

TOM BEVILL,
Chairman, Subcommittee on Energy and Water Development.

SUGGESTED RECOMMENDATIONS

CONVERSION TO COAL

Consolidated Edison Company—Electricity supplier for greater New York City Area.

90 percent of Company-owned generation is oil fired.

Company is required to use a special residual fuel with not more than 0.3 percent sulphur, virtually all of which must be imported.

Company proposed conversion of three plants which have dual coal burning and oil burning capability to use domestic coal with a 1.0 percent sulphur content along with improved precipitators to meet air quality standards.

The company's proposal, if it meets air quality, would save 15 million barrels of imported oil a year (40,000 bbl/day) 60 percent of which could be converted to gasoline or heating oil. It would also save consumers nearly $100,000,000 per year over the cost of oil generation. It would also alleviate the home heating oil supply problems.

This proposal, in one form or another, has been pending for five years before various local and federal agencies.

PIPELINES AND TRANSPORTATION

SOHIO Terminal and Pipeline—California (Pipeline going from Long Beach, California to Midland, Texas).

Crude oil receiving terminal and pipeline for Alaskan and West Coast oil.

The capacity would be 700,000 barrels per day into port; 500,000 barrels per day through pipeline.

Over the past four years SOHIO has managed to obtain nearly all of the 715 permits required for construction and operation of the facility. Recently the company announced plans to abandon the project because even optimistic predictions of the time required to resolve the remaining issues in California put the project past a date when the company no longer considered the economics attractive. This decision is being reconsidered, however, as a result of a meeting between company representatives, DOE and California officials, and several members of Congress in which agreement was reached to expedite the remaining permits.

Economic penalties of approximately $170 million per year expected if pipeline not built.

To ship 1 barrel oil per day to Gulf Coast from Valdez via tanker, $3.05.

To ship 1 barrel oil to Gulf Coast from Valdez via SOHIO, $1.90.

Cost differential, $1.15.

Current Alaska shipments, 400,000 bbl/day.

Annual cost differential—($1.15) times (365 days per year) times (400,000 barrels per day) equals $170 million per year.

If not built, it could result in lower production levels in Alaska.

One principal permit which is expected to be issued shortly is needed before construction can begin. However additional delays due to litigation are likely and the Company may withdraw altogether.

REFINERY CAPACITY

Pittston Company of New York—Eastport, Maine.

Oil Refinery (Heavy Fuel Oils).

250,000 barrels per calendar day.

Project in process for six years. Some permits required to begin construction still outstanding.

The Pittston Company is appealing the EPA denial of a water effluent (NPDES) permit. The permit was denied based on a DOI determination of negative impacts on Bald Eagle and White Whale feeding grounds. Unless this issue is resolved soon, the company will have to reapply for an air emissions (EPA) permit under more stringent Clean air Act requirements.

Project completion could result in a net national economic benefit of approximately $120 million per year.

Pittston refinery capacity will be 250,000 barrels per day.

Cost of shipping product from Gulf Coast refineries to New England is approximately $1.30 per barrel.

The economy would not incur these costs (250,000 barrels per day times 365 days times $1.30 per barrel) if the Pittston refinery were built.

Consumer costs may not change due to the Pittston refinery because marginal supplies to New England will continue to be supplied from Gulf Coast, Caribbean and European refineries. Increased competition could have a favorable cost impact to New England, however.

Hampton Roads Energy Company—Portsmouth, Virginia.

Oil Refinery (Heavy Fuel Oils).

175,000 barrels per calendar day.

Project in process for five years. Some permits required to begin construction still outstanding.

The Secretary of the Army will make the final decision regarding issuing a construction permit in the near future. The decision was elevated to the Secretary due to disagreement between DOI and the Corps of Engineers as to the impact of the refinery on fish and wildlife.

CONSTRUCTION OF COAL GENERATING FACILITIES

Montana Power Company—Colstrip 3 & 4—Colstrip, Montana.

Coal Fired Powerplant.

1556 MW (46,000 barrels per day oil equivalent).

Permit application filed 1973; not yet approved.

Montana Power and the EPA have been unable to agree on the projected air quality impacts of the proposed plant on an Indian reservation (Class I) 26 km away. The disagreement is over the appropriate air quality model to use. One model indicates that the plant meets the standards and the other indicates it would not. In addition, some permits already obtained for the plant have lapsed during the air quality dispute and may have to be resubmitted. Some progress is being made at the staff level to resolve this issue but the issue continues to drag.

Economic impact—equal to $250,000,000 a year in imported oil.

CONSTRUCTION OF NUCLEAR GENERATING FACILITIES

Seabrook Power Plant—Seabrook, New Hampshire.

Nuclear Power Plant.

Two 1,150 MW units (70,000 barrels per day oil equivalent).

Project in process for six years. All applicable permits obtained. Unit No. 1 scheduled for operation April 1983. Unit No. 2 scheduled for operation February 1985.

A complex series of legal and regulatory developments have delayed development of the nuclear facility. They are:

NRC approved site and cooling system subject to EPA agreement.

EPA revoked approval of the plant's cooling system, then later approved it with modifications.

Project delays result in approximately $400 million in additional low sulphur residual oil imports.

Cost of low sulphur residual—$17 per barrel.

Oil equivalent impact due to project delay—70,000 barrels per day.

Added cost=($17/bbl) (70,000 bbl/day) (365 day equals $400 million per year.

Economic loss due to delay is approximately $100 million per year based on cost of oil plants ($400 million/year) less cost of operating Seabrook ($300 million/year).

Sundesert Power Plant—Mojave Desert near Blythe, California.

Nuclear Power Plant.

One 950 MW unit (30,000 barrels per day oil equivalent).

San Diego Gas and Electric decided in May 1978 not to pursue the project.

The primary factor in the decision to abandon the project was the California law which requires the applicant to demonstrate that there is a proven technology for the disposal of the radioactive wastes. Federal courts recently ruled that California law is not constitutional.

Economic impact—equal to $165,000,000 a year in imported oil.

PROGRAM PRESENTLY EXPECTED TO AFFECT ENERGY SUPPLY

EPA's Low-Lead Phasedown Regulations for Gasoline.

Program Description: Pursuant to the Clean Air Act, the Environmental Protection Agency was required to promulgate gasoline standards reflecting a phasing down of the lead content. On October 1, 1979, a more stringent standard should go into effect (EPA proposing 0.8 grams of lead per mile) based on a Presidential order suspending the phasedown until that date.

Energy Implications.

Based on a survey of the 18 largest refiners, DOE estimates that suspension of the .8 limit will result in increased gasoline production of 28,000 barrels per day in the second quarter and 42,000 barrels per day in the third quarter. DOE estimates that suspension of the .8 requirement also will save 15,000 to 20,000 barrels per day in oil consumed in refinery processing.

October 1980 Phasedown.

On October 1, 1980, all refiners are to meet a currently planned EPA requirement to reduce lead in gasoline to .5 grams per gallon. Compliance with that standard could reduce gasoline production by as much as 350,000 to 450,000 barrels per day.

Cost of the added energy requirement for EPA's low-lead requirement is estimated to be: $275 million a year ($16.50 per barrel × 16.5 million added barrels).

Approximately 45,000 barrels per day of additional oil needed to produce unleaded gasoline versus leaded gasoline to meet the low-lead regulations.

Amount of additional crude required to produce 1 barrel of unleaded gasoline relative to 100 percent leaded—.015 barrels.

In 1980 approximately 50 percent of gasoline demand will be for unleaded—1.1×10^9 barrels per year.●

FDA AND BIG BROTHER

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. McDONALD. Mr. Speaker, while the recent Supreme Court decision upheld the right of the Food and Drug Administration to regulate the movement of substances in interstate commerce, the logic of the FDA crusade against Laetrile still remains controversial. It seems to be a pattern of Government acting as everyone's big brother. The Richmond Times-Dispatch in an editorial on June 19, 1979, captured the essence of this argument in a recent editorial. It is a well-reasoned statement and I commend it to the attention of my colleagues.

FDA and Big Brother

The unanimity with which the U.S. Supreme Court yesterday acted in the Laetrile case suggests that there is no real doubt as to the legal right of the Federal Food and Drug Administration to ban that substance from interstate commerce. But a question remains as to the wisdom of the FDA's stand on this controversial issue.

Laetrile is a substance—there is a dispute as to whether it is a drug—that is useful in the treatment of cancer, according to its supporters. But a federal law permits the FDA to ban drugs that it determines have not been proven safe and effective. Acting under that authority, the FDA in 1977 prohibited the interstate shipment of Laetrile.

That the FDA's action is not universally viewed as justified is demonstrated by the fact that some judges have specifically authorized terminally ill cancer patients to acquire and use Laetrile, and 17 states have enacted laws which, under variously stated conditions, permitted the use of the substance prior to yesterday's decision.

Few would dispute that cancer is the most dreaded, most devastating and often the most painful of all human ailments. While many people have been cured of the disease, the fact remains that medical science has not yet developed effective means of dealing with the disease in many advanced cases. So extremely ill patients, finding conventional treatment ineffective, understandably sometimes turn to nonconventional treatment. One of the most popular of these is Laetrile, a substance derived largely from apricot pits.

Laetrile supporters can produce many testimonials alleging positive results from the use of the substance. Most medical authorities respond that Laetrile is medically useless, and we suspect they may be right.

But a basic fact to keep in mind in this controversy is that there have been few allegations that Laetrile contains anything that is harmful to the human body when taken in prescribed doses. Primarily, what the FDA says is that Laetrile is ineffective, and that a patient who takes it is doing himself harm in the sense that it is a substitute for conventional treatment.

If there were substantial evidence that Laetrile contains anything seriously damaging to the human body, then its banning would be in the public interest. But there's a disquieting Big Brother aspect in the situation in which government denies to a desperate, terminally ill patient the right to decide wheher to follow the conventional treatment road or to try a product that many believe is effective and the use of which may be mentally and emotionally reassuring to the pain-wracked patient.

It is interesting to note that the case decided by the Supreme Court yesterday had come on appeal from two courts that had ruled in Laetrile patients favor and against the government. A federal district judge had held that a cancer patient's constitutional right to privacy allows him to decide how he will cope with the disease. A federal court of appeals did not rule on constitutional questions involved but said merely that the FDA had misinterpreted the law's safety and effectiveness requirements as they applied to terminally ill patients.

There is a legitimate role for government in protecting people from harmful substances, but there is a limit to how far government should go, especially when the alleged harm is largely an indirect one, at most. In the case of Laetrile, reason and compassion would seem to dictate that government inform the public as to what it sees as the dangers in Laetrile, but then to allow cancer victims to acquire and use the substance under reasonable specified conditions.●

SEARCH FOR AN ENERGY POLICY—PARTS 5 AND 6

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. MOAKLEY. Mr. Speaker, we face many options in our quest to develop a stable energy inventory for the future. One resource that will be called on to play an ever-increasing role in the shaping of our inventory supplies is coal. This Nation must take pains, however, to insure that the strides made in environmental quality are not imperiled by rapid movement to coal.

The Boston Globe, last week, ran an eight-part series of editorials on the critical issues the Nation faces as it assembles its national energy policy. In part 5, the Globe looked at coal's potential contribution to our energy needs, and in part 6, they examined the role technology must play in the development of new energy sources.

Today, I would like to share with my colleagues the Globe's well-written and documented articles:

[Search for an Energy Policy—5]

The Limits of Coal

It is mesmerizing to contemplate coal. There is a reason: The numbers involved are immense. Just using a common, conservative estimate, Americans are sitting on nearly 450 billion tons of coal. In the less unfamiliar language of oil (four barrels to the ton), our reserves amount to the equivalent of 1.7 trillion barrels, or 10 Saudi Arabias, 500 times the known oil reserves in this country.

Currently, we produce nearly 700 million tons of coal annually. That is roughly 20 percent of all the energy we use; more important, coal produces 50 percent of our electricity and is the crucial fuel for the steel industry.

It is national policy to attempt to increase coal production substantially. Some analsyts believe the nation should double its annual coal production by the mid-1980s.

We do not believe that it can or should.

President Jimmy Carter has set a production goal of more than one billion tons per year by 1985. That is very ambitious; perhaps too ambitious.

Before giving the nod to a carefully watched increase in coal production as one step toward reducing oil imports, it is vital that coal's limitation be recognized.

They are considerable, involving the complex areas of labor, transportation, public health and the environment.

For starters, the President's goal—originally enunciated in his energy proposals of April 1977—is now bereft of some of its most important assumptions.

The goal was predicated on congressional enactment of stiff measures designed to make coal burning more attractive to industry and electric utilities. There was to be a flat ban on the burning of oil in new power plants and an increasingly tough tax over the years on the burning of oil in existing electric-generating facilities and factories.

Congress, however, gutted that portion of the Carter plan, as it did most of the others. What survived does not constitute much of an incentive to electric utilities, which will make the 1985 goal of more than one billion tons of coal per year hard to achieve. Other considerations will make it even more so.

Roughly half of America's coal is in the East.

Getting more of it out of the ground will not be easy. For one thing, eastern coal's labor relations have long been chaotic.

And once out of the ground, there will be a problem getting more coal to market. Railroad coal cars are badly overworked and roadbeds are in widespread disrepair. Without investment on a scale much larger than anything President Carter has indicated he will support, transportation will be a serious bottleneck for the coal industry for years.

That goes double for the West, coal's new frontier, where the other half of our reserves lies. In remote reaches of Wyoming and the Dakotas, it will be years before the bare rudiments of transportation are fully in place.

Fortunately, America's inventive minds never stop working, and there is a promising means of easing the transportation problem in the West. Coal can be crushed into powder, mixed with water and then pumped through a pipeline, just like oil, to electric power stations.

But such coal-slurry pipelines are not without obstacles, too; coal and oil shale may be plentiful in the West, but in most places water isn't. Further, the railroads have been successful in preventing would-be slurry pipeline operators from getting the rights of way necessary for construction.

The practical problems that coal faces are compounded by those involving public safety. They begin at the coal mine and continue from the smokestack into the stratosphere.

Deep coal mining has always been tough, dangerous work, and it still is. Even without major disasters more than 100 people die in mines every year, usually in small, especially dangerous facilities. In addition, more than $1 billion in federal money is paid annually to miners and their families who have been victimized by black lung disease.

It is even possible to ascribe a share, perhaps a tenth, of the more than 2,000 deaths that occur along the nation's railroads each year, mostly at grade crossings, to the transportation of coal. We must realize that, without increased vigilance, increased coal production will lead to more deaths.

Still, the dangers of production and transportation pale beside the demonstrable danger coal burning poses to public health and the environment.

The nation has cut a deal on strip mining. After years of debate, a statute was enacted last year and signed by President Carter offering a careful mix of provisions, combining increased use of the controversial technique with tighter regulation and land-reclamation requirements.

Nonetheless, it is hard to predict just what will happen as increasingly large amounts of coal are ripped from the earth. The issue is not just disfigurement of the land but also how much damage will be done in Appalachia as rainwater with acidic contaminants runs off into the streams and other water supplies.

Especially serious is the proven health hazard of the sulphur gas produced by burning coal. The lives of thousands of Americans every year are shortened because of exposure to it.

Fortunately, there are rules. In May, the US Environmental Protection Agency announced new standards for the burning of coal at existing electric utility plants. Though earlier drafts had proposed a tighter rule, the final version maintained the basic standard at 1.2 pounds of sulphur for a specified unit of coal-produced energy.

For new plants, the agency went further, saying they must have equipment that can remove at least 70 percent of the remaining sulphur that goes up the smokestack as gas.

The EPA estimates that the cost of meeting these standards will be $35 billion over the next 15 years, an additional $1.20 on the average monthly electric bill.

We think it would be worth it at twice the price. At a minimum there must be no relaxation of environmental standards for coal burning. To the contrary, if the dangers to public health require it they should be stiffened, even if that inevitably retards the effort to produce more coal.

A final environmental issue raised by coal may in generations to come turn out to be the most important one: carbon dioxide. Many scientists are worried that a major increase in carbon dioxide, also a byproduct of coal burning, in the atmosphere could produce what has become known as the "greenhouse" effect.

In the atmosphere, carbon dioxide acts to trap some of the sunlight that would otherwise be bounced back into space; instead, it shines on the earth, raising ground temperatures.

In small doses that might turn out to be beneficial; for example, food production could become possible at extreme latitudes where it isn't now. On the other hand, in large doses, the hotter atmosphere could melt parts of the polar ice caps, with potentially disastrous results.

Producing more energy from coal is not worth the price of some day turning New Orleans into a North American version of waterlogged Venice. The point is that no one knows what will happen, and probably won't for decades, because scientific research into the "greenhouse" effect is still in its infancy. Thus we have, as of now, yet another reason to be very careful in our approach to coal.

In fact, the entire subject illustrates one of the basic tenets of a sensible national energy policy; there can be no single magic button to push.

The worst course for a nation with serious problems and a wide range of attractive options would be to exchange excessive dependence on oil in general and imports in particular for excessive dependence on another fossil fuel—coal.

A better course would be to increase coal production cautiously, under vigilant regulation and monitoring. We must also invest much more heavily in technology that uses coal as the raw material for making energy liquids and gas that do not endanger public health.

King Coal was dethroned by cheap oil 40 years ago. It is good that the veteran monarch has returned from exile.

It would not be good, however, if he were put back on his throne. A more appropriate role for coal in the future would be something akin to a cabinet ministry, in a representative government.

(Next: The search for synthetic alternatives.)

Our choices:

1. Limit OPEC imports.
2. Ration gasoline.
3. Subsidize conservation.
4. Tax windfall profits.
5. Limit expansion of nuclear.
6. Go slow on coal.
7. Expedite synthetic fuels.
8. Develop biomass and solar.

[Search for an Energy Policy—6]

NEW FUELS FOR THE 1980's

We are running out of available oil; this country cannot rely on additional imports. Meanwhile there are serious drawbacks to increased production of either coal or nuclear power. And conservation, which could produce real savings, must not take place at the expense of jobs or our standard of living.

In such an energy environment the United States needs to start immediately on the development of new sources—synthetic fuels that can run our cars and trucks, operate our factories and heat our homes.

Luckily the country, rich in resources, is even richer in technological and problem-solving skill to exploit them.

But if some commitment is not made shortly, the new fuels will not be ready when we need them in the latter part of the 1980s.

This technology must be provided by both the private and public sectors. And we will need improved technology in using all energy with greater efficiency.

One of the first orders of business is the development of the very large reserves of oil now locked in huge formations of shale in the West.

By the most conservative cost appraisals, shale holds the equivalent of more than 500 billion barrels of oil. At still higher costs, the total amount of oil in shale may amount to about 1.8 trillion barrels.

Last month the Organization of Petroleum Exporting Countries established a range of prices for crude oil, based on locations and quality, ranging from $18 to $22.50 a barrel. That is very close to industry's estimate of about $22 a barrel for shale oil, and the Administration has recommended an additional $3 subsidy. Congress is considering this and other forms of assistance for shale oil development.

There are, to be sure, major problems. The residue from surface-processed shale is about 115 percent of the bulk of the original rock. Finding acceptable places to bury that powdered surplus will be a challenge, even in the spacious stretches of Wyoming and Colorado where the shale is mostly concentrated.

In addition, the process depends on very large quantities of water, which is in short supply in the western states. The problem is not impossible to solve but it may be necessary to build pipelines from more plentiful supplies in the Mississippi-Missouri valley.

Another solution may be to fracture the rock explosively without moving it. The shale is then heated, allowing oil to seep through the rock to collection pools at the base of the beds. This technology, which has been developed by Occidental Petroleum, avoids some of the water and disposal problems but is less efficient than surface processing.

Because of the high start-up costs ($50,000 per barrel per day by some estimates), Congress may have to provide protection for shale plants against ruinous competition from foreign sources, even OPEC, that might undercut them.

One way out of that deliemma would be creation of a federal corporation to construct and operate plants for shale development. That would avoid placing too heavy a burden on private investment and guarantee that the benefits of federal expenditures are returned directly to the people. Federal participation would also give officials a clearer picture of the issues confronting their private counterparts, which is important if there is to be a regulatory function in private shale development.

Coal, converted to gas or liquid fuel, has great potential as a new energy source. With existing technologies, it can provide synthetic oil at a cost of about $30 a barrel. This is even more expensive than shale extraction. But, again, research must be encouraged. And a federal presence in this field, as in shale, may be desirable to protect both the public interest and the threat to investment by cheaper foreign fuels.

On another energy front, natural gas has resurfaced as a highly attractive solution to many of our energy and environmental problems. Its primary virtue is availability and the fact that it can often be used in place of imported oil.

Industry experts have estimated that as many as 1100 trillion cubic feet of natural gas may yet be discovered. And there are tantalizing prospects of far more in deep sediments, down as far as 20,000 feet, under portions of Mississippi, Louisiana and Texas.

But this geopressurized gas, as it is known, will be quite expensive to develop. So far, we have had little direct experience in dealing with the enormous pressures involved or with the possible need to reinject large amounts of water into the earth to prevent cave-ins as the natural gas is withdrawn.

Some experts forecast production costs of about $5 per thousand cubic feet. This is about three times the current price of natural gas and is the equivalent of an oil price of about $30 a barrel. That price is high. But new technology might cut the costs and they should be given the fullest possible support.

There are other possibilities.

In the case of geothermal energy—rocks or steam deep below the surface that can be tapped for heat to drive electric generating plants—technology must still provide us with new methods of extraction and, in the case of some highly volatile brines, for reinjecting the products of the wells back into the earth. We must also have assurance that these geothermal projects represent no threat to the seismic stability of the regions being tapped.

Beyond the issue of new resources, we must find ways to improve efficiency in practically every aspect of our energy use.

One of the more promising experiments has been the development of a technique for generating electricity directly from combustion of a fuel, sidestepping the need to use turbines and generators. This technology, called magnetohydrodynamics, has been known and worked with experimentally by both American and Soviet engineers but moving beyond the experimental to the practical has so far been impossible. This work should be pursued vigorously since it offers chances of improving the efficiency of fossil-fired plants well above the current maximum of about 40 percent.

Exxon claims it has developed energy-saving control devices for the running of electric motors and it wants to acquire a major electric motor manufacturer, Reliance Electric, so it can put its ideas to work as soon as possible. These improvements should be pursued for their own sake. But they will be most consequential if they lead to reductions in the consumption of oil—which could also be achieved by converting oil-fired power plants to other fuels, notably coal.

Fusion power is the greatest single challenge for the foreseeable future. If we can learn how to fuse the nuclei of heavy hydrogen—deuterium and tritium—in a controlled situation, we will have an essentially inexhaustible supply of energy. Two basic, quite different techniques are being pursued by both Soviet and American scientists. But fusion has been an elusive target.

Competing American fusion projects at Princeton and at Livermore are expensive. Funding in the 1980 budget will amount to about $364 million, bringing the total outlay to about $1 billion. The Department of Energy plans ultimately to select one or the other project for a demonstration plant.

Technology is just one player in the whole energy game. Its contributions can be very large but must be heavily supplemented by conservation, subsidy and above all by patience. But technology, despite the fact that it has been given a black eye at Three Mile Island, remains an indispensable element of our national energy program and deserves the fullest possible public support.

The task of harnessing American resources—money, technology, know-how and ingenuity—to the production of new domestic energy sources can be compared to the magnitude of the Apollo project. The urgency is even greater. At the center of the effort is not merely national pride—the deside to compete in space with the Russians. At issue is national security.

A concerted effort at energy conservation will reduce the growth in future energy demand. Natural gas to the extent it is available, coal to the extent it is environmentally acceptable, nuclear power to the extent it is absolutely necessary, can help us meet that demand while still reducing OPEC oil imports. But if we are truly to free ourselves from OPEC—and its stranglehold on our economy, its power to shape our very lives—new alternative energy sources and new synthetic fuels will be required.

Their development will require a bold venture. In financial terms it will surely prove sometimes to be a risky venture. There will be mistakes. Promising technologies will fail to fulfill their promises. But properly conceived and executed, a concerted American effort to develop new domestic energy sources can only succeed in the long run. It will help generate new American jobs, new American enterprises, a renewed sense of American purpose and, ultimately, new resources to meet the nation's energy needs. (Next: Solar energy and renewable resources.) ●

MIDSESSION REVIEW AND HOUSE TV

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. ANDERSON of Illinois. Mr. Speaker, it has been 6 months since this 96th Congress convened and 5 months since the television broadcast coverage of our debates has been available to the public. This might be an appropriate time to assess just what impact this innovation has had on our proceedings.

When our Ad Hoc Subcommittee on Broadcasting of the House Rules Committee studied this matter in the 94th Congress, we concluded on the basis of State experiences with broadcasting their legislatures that the introduction of cameras would not significantly alter or lengthen the proceedings.

While the 44 States surveyed which have at least some broadcast coverage of their debates indicated some initial grandstanding by some Members, they went on to report that this soon disappeared and Members soon forgot the cameras were even there. Others reported that, if anything, the introduction of broadcast coverage had a beneficial effect on their proceedings—that Members were better prepared, dressed and behaved.

While there is no scientific way to measure the direct impact of television on our proceedings, I think most Members would agree that it has not radically altered our routine one way or another. At the same time, I think Members have heard, as I have, favorable comments from the viewing public who have seen portions of our debate on the network news or on cable television.

There is no doubt in my mind that as the public sees more of our proceedings on TV, its understanding of the workings of the House and of the public policy issues we debate will increase considerably. That is not to say Members can expect our public approval rating to skyrocket simply by virtue of TV exposure. The public will still ultimately judge us by what we do, and not whether they see us doing it or not doing it. Nevertheless, the presence of that electronic eye in the House Chamber might play some small part in making a consensus at both ends of our democratic process easier to achieve.

Mr. Speaker, there were some who feared that bringing the cameras into the House Chamber would result in prolonged sessions. I even expressed some concern about this if Members were given easy and instant access to tapes of their own speeches. Fortunately, the steep costs of tapes and the delay involved in obtaining this have apparently discouraged Members from ordering these up to spoon feed to their local media.

But it was my feeling that Members otherwise would not take more time on the floor than before TV because they would soon realize how little of any debate would actually be used by broadcasters and therefore how fruitless it would be to speak simply for the sake of TV exposure. On this point we do have some statistics to point to.

In comparing the first 6 months of the 95th Congress and the first 6 months of the 96th Congress we find that the average time per day the House has been in session is exactly the same, 4 hours and 42 minutes. In addition, the House portion of the CONGRESSIONAL RECORD averaged 68.8 pages a day at this point in the 95th Congress, and 64.6 pages a day in this Congress.

The above figures should be considered in the context of the legislative activity of the two Congresses. This Congress has been less active legislatively, and hopefully more active on oversight. As of the end of June only 28 public bills had been signed into law as compared with 58 at this point in the 95th Congress; only 287 measures have been reported in the House as opposed to 479 in the 95th; only 238 have passed the House as compared with 381 in the 95th; and there have been 283 rollcall votes in this Congress as opposed to 373 at this point in the 95th Congress.

Mr. Speaker, at this point in the RECORD I include the comparative data on the 95th and 96th Congress and an article from the July 7 TV Guide by Ron Nessen entitled, "It's Live, It's Different, It's Drama, It's Real Life." The items follow:

Comparative data for the House of Representatives 95th and 96th Congresses, January–June, 1st session.

	95th	96th
Days in session	99	85
Time in session	467 hrs 33′	403 hrs 29′
Average time/Day	4 hrs 42′	4 hrs 42′
Measures introduced	9, 687	5, 573
Measures reported	479	287
Measures passed	381	238
Public bills enacted	58	28
Total rollcall votes	373	283
CONGRESSIONAL RECORD pages	6, 810	5, 492
Average RECORD pages/day	68. 8	64. 6

SOURCE.—CONGRESSIONAL RECORD Daily Digest, Resume of Congressional Activity, July 1, 1977, and July 9, 1979.

NOTE.—The 95th Congress convened on Jan. 4, 1977; the 96th on Jan. 15, 1979.

[From the TV Guide, July 7, 1979]

"IT'S LIVE. IT'S DIFFERENT. IT'S DRAMA. IT'S REAL LIFE."

(By Ron Nessen)

The program has an unwieldy cast of 435 characters. Its plot is more slow-moving than a soap opera's. Its dialogue is usually improvised and often incomprehensible. Its air time changes from day to day.

What kind of TV show is this?

Live from Capitol Hill, it's the United States House of Representatives!

Starting March 19, every day's proceedings of the House—from opening gavel to closing gavel—has been broadcast live via satellite to more than 400 cable-television systems reaching some five million homes in all 50 states. That's a potential audience of 15 million people.

The telecasts, produced by the House itself, also are available to ABC, CBS, NBC and PBS. But, aside from nearly four hours of coverage by the Public Broadcasting Service on opening day, the networks have used only brief snips of House debate on their regular news shows, mostly to illustrate stories about the coverage itself.

"Nobody is using it much," says Phil Jones, who covers Congress for CBS News. "The fact is, the House members haven't done a damn thing this session."

"They haven't gotten their act together," agrees a producer of Walter Cronkite's *CBS Evening News*, but he anticipates the networks might use more excerpts from House debates when more-exciting issues come up.

Even C-SPAN, the nonprofit cooperative set up by the cable-TV industry to transmit the House telecasts, concedes in the promotional brochure it sends cable operators, "Much of what transpires in our national legislature is less than exciting."

And yet, people out there are watching. So far, there are no ratings for this experiment in turning parliamentary democracy into a spectator sport. But Brian Lamb of C-SPAN offers what he calls "a mother-in-law survey," an unscientific smattering of favorable letters and phone calls from viewers around the country.

A man in Norfolk, Va., confined by a handicap, wrote that he wouldn't care if every TV program except the House of Representatives were taken off the air. "I like it better than the soap operas," he said. A bedridden woman in Florida wrote that she watches the House coverage all day every day. And one cable executive gushes, "It's live. It's different. It's drama. It's real life."

For the privilege of seeing their members of Congress in action, American taxpayers were billed $1,600,000 for the most up-to-date television equipment and are paying $278,000 a year in salaries to the 12 technicians hired away from commercial TV stations to run it.

The darkened, cork-walled control room is jammed in among enormous gray steam pipes in a subbasement of the Capitol. In a lower bay, three camera operators sit facing a bank of television monitors, one for each of the six cameras mounted in the gallery above the House floor. Each operator maneuvers two cameras with remote-control "joy sticks" on the console in front of him. The intensity of the lighting in the House chamber was more than doubled in order to produce sharp pictures. The extra lights are beamed at the Speaker's rostrum, at two microphones on stands in the well of the House and at the Democratic and Republican leadership tables, the locations where Speaker Tip O'Neill has ruled the cameras must be kept focused.

At the main control board sit the director and his video and audio assistants. They face the six camera monitors, plus a large monitor showing which shot is going out over the air and a standby monitor showing which shot the director has selected next, and a clock. The clock ticks toward starting time. Some days its noon. Other days its 10 or 11 A.M., or 2 or 3 P.M. And some days the House doesn't meet at all. All of which makes it confusing for faithful viewers.

Two minutes before the House convenes, another technician near the back of the control room presses a button on his console and a message begins crawling across the on-the-air monitor, giving the schedule of legislation to be discussed each day for the rest of the week. This technician also is responsible for superimposing on the screen the names of House members who speak during the session. He has all 435 names in a computer and flashes them on the screen by tapping out a three-digit code on his keyboard. As a camera picks up the white-haired, portly Speaker entering the chamber and climbing to his seat at the top of the ornate, three-level wooden rostrum, the technician taps "406" and the words "Speaker Thomas P. O'Neill Jr." appear on the monitor.

After the chaplain offers the opening prayer, a period is set aside each day for House members to make one-minute statements, usually on topics of particular interest to their constituents. These statements range from two Illinois representatives reading eulogies to "one of the pillars of the city of Chicago" to Rep. Larry Winn Jr. of Kansas calling for a better tornado-warning system. Rep. John F. Seiberling of Ohio uses his time to announce that color films of Alaskan fish and wildlife are available for viewing by members trying to decide how to vote on a conservation bill, and Rep. Silvio O. Conte of Massachusetts protests the jailing of a newspaper editor in Argentina.

Rep. Tony Hall takes his one minute on camera to commend the cable-TV system in his home district in Ohio for inaugurating coverage of the House sessions. It will, he says, create an "informed electorate."

If, indeed, the electorate is to be better informed, the civics lesson will come after the daily period of one-minute statements is over and the members swing into debate on legislation. But even much of the substantive debate is—in the words of veteran PBS anchorman Paul Duke—"uninspiring and dull."

A lot of it goes like this:

"In the past we have provided $1.6 billion in 1977 for a countercyclical program. In 1978 we provided $1.4 billion, vesting $3 billion in the program. Because of the opposition in the enacting committee, they have cut that programmatic amount down to $250 million."

There is no anchorman on the cable-TV broadcasts to clarify the more arcane developments. Both C–SPAN and the House itself are working on booklets to explain complicated parliamentary procedures to interested viewers.

But occasionally the cameras and microphones pick up a flash of natural humor or a well-phrased bit of oratory that makes the dull parts tolerable.

For example, during a debate on the billions of dollars authorized for the Pentagon but not yet spent, Rep. Parren J. Mitchell of Maryland was asked whether he did not similarly put aside money for his children's education. Mitchell replied, to the laughter of his colleagues, that he is a bachelor "and if he had children, he would not 'own up' to them at this point."

Another time, Rep. Stephen J. Solarz of New York squelched his opponents with a lofty quotation from the philosopher Hegel: "If theory and fact disagree, so much the worse for facts."

During the high moments and low moments of House debate, the viewer is not likely to see more than a close-up shot of the person speaking. This rankles the networks. Throughout the years of discussion about opening the House to television, the networks demanded that they be allowed to run the cameras and control board through a pool arrangement. The networks insisted on the freedom to show empty chairs and sleeping members. To avoid such coverage, the House voted 235 to 150 to retain control of the TV pickup. Speaker O'Neill ordered his TV crews to keep their cameras tightly focused on the speakers.

One disgruntled broadcast executive likens the limited coverage to trying to follow a basketball game when the cameras are pointed only at the two backboards.

Roger Mudd of CBS complains that House members "might as well be in a studio" since almost nothing of what is going on in the chamber is shown. Mudd once did a story for the evening news in which he intercut close-up shots of members speaking with artist sketches of the nearly-empty chamber beyond camera range.

But lately the control-room director has allowed a few medium shots and even an occasional wide shot, showing vast ranks of empty seats and members who are not strictly paying attention to the business before the House.

Joan Teague, a soft-spoken North Carolinian who oversees the House TV system, explains: "We're going slowly with wider shots of the floor. But if we upset enough members, they'll say 'no TV.' We hope to gradually loosen up."

Miss Teague also is trying to work out a compromise to meet the networks' objections to the blackout decreed by Speaker O'Neill while members are casting their votes. The cameras are capped during the 15-minute voting period and during the revealing moments immediately afterward when members are allowed to switch their votes, often in response to arm-twisting by lobbyists or party leaders. A blue-and-white scoreboard of the vote count fills the screen, concealing these gamier scenes of old-fashioned politics.

One unanticipated benefit of House coverage is that members and their staffs are keeping up with what's happening on the floor via closed-circuit television without leaving their offices. By tuning his office TV set to Ch. 3, a representative can follow the debate while handling other chores. Some members say this enables them to make more informed decisions on issues instead of relying on a furtive signal from a party leader when they rush onto the floor to vote.

Opponents of opening the House to TV argued that members would turn into clowns, hams or demagogues in front of the cameras. Other critics worried that members would buy video tapes of themselves and ship them to news directors back home, placing political challengers at a disadvantage.

Neither of these fears has come true. The number of video tapes ordered from the House TV system has averaged barely one a week. For one thing, the tapes are expensive: $104 for a 30-minute cassette. For another, House rules forbid members to use the tapes for political purposes.

And there is no sign that television coverage has turned representatives into camera hogs. A statistical analysis of House records by Don Wolfensberger, the TV expert on the staff of the House Rules Committee, backs up this impression. Wolfensberger found that less time is being spent on floor debate this year than in 1977, before television. Sure, more members seem to show up these days in well-tailored three-piece suits, blue shirts and conservative ties. Sure, a Washington public-relations firm is offering classes to teach representatives how to look good on TV at a cost of $5000 for 12 private lessons, $3500 for group lessons. (So far, there have been no takers.)

One House staffer suggests, "The last thing these guys want to do is make fools of themselves on TV."

And, by and large, they haven't. In fact, a favorable image of the House emerges from watching the TV coverage for days on end—and despite the dull passages, the convoluted parliamentary maneuvering, the frustration of not being able to see beyond the tight shots.

When the House first went on the air, Rep. Charlie Rose of North Carolina, who ran the special committee that set up the TV coverage, forecast: "I believe the American people are going to be impressed with the ability that we have in Congress to debate the complex issues that face this country."

Rose's prediction seems likely to prove accurate. On television, House members come across as hard-working men and women seriously wrestling with horrendously complicated matters of state.

The last time members of the House were shown extensively on television was during the Judiciary Committee's impeachment hearings in 1974. A Gallup Poll at the time showed that public confidence in Congress increased sharply during that period, largely as the result of the television coverage. The daily telecasts of the House of Representatives almost certainly will have a similar impact in improving the public's attitude toward its representatives.

In fact, Jerry Lipson, press aide to House Republican Leader John Rhodes, believes that regular TV coverage may strengthen the House as an institution of Government. Television, he thinks, will move the House out of the shadow of the better-publicized executive branch and the Senate.

The first resolution calling for broadcast coverage of Congress was introduced in 1922. More than 50 years passed before the House agreed to permit TV broadcasts of its sessions.

But can the Senate be far behind in broadcasting its own sessions? It already has relented slightly by allowing live radio coverage of the Panama Canal Treaty debate and is considering allowing television coverage of the SALT II debate.

One Capitol Hill cynic—or, perhaps, she's a realist—suggests that when enough senators grow jealous of all the free air time House members are getting, the Senate will turn up the lights and invite the cameras in, too.●

GOD BLESS AMERICA RALLY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. McDONALD. Mr. Speaker, last month I was invited to make an address at a "God Bless America" rally at the Statue of Liberty in New York on June 17, 1979. Circumstances prevented my being there, but the major address was made by Mr. Peter Koltypin, who is active in the cause of freedom, and at this point I would like to place his excellent speech, slightly edited and abbreviated, in the Congressional Record. Mr. Koltypin expresses some good thoughts about the worldwide struggle against communism. His speech follows:

Your Grace, Dear Reverend Fathers, Honorable Guests, Ladies and Gentlemen!

For me as one of many millions of Americans of Russian descent, it is indeed an honor and a privilege to address this distinguished gathering.

All of us have come here today for one reason, for one purpose—to present to this gracious lady, the symbol of America, our sincere gratitude and to tell the whole country—May God keep, may God preserve, and may God Bless America.

In 200 years of endless love and devoted struggles for freedom, America proudly earned the title of "the land of the free and the home of the brave". At the same time all Americans of Russian descent can proudly say that our ancestors have played a very important and active part throughout the history of the United States.

Let us briefly analyze just how much influence the Russian ethnic group has on the American life. Peter Ilyich Tchaikowsky is one of America's favorite composers. How about the captivating Lara's theme from Doctor Zhivago? The five time Academy Award winning movie "Deer Hunter" truly portrays the comradeship, love and loyalty of the Russian Americans for their new homeland.

"The San Francisco" magazine of January 1972 describes in detail the importance of the Russian American community upon San Francisco and what disastrous economic consequences would follow if the Russians were to leave en masse.

I do not have the same statistics for New York, Washington and Chicago or the other major cities; but I'm sure that in all of these cities, the Russian community is as active a contributor in the life and the growth of the city as in San Francisco.

In 1977, U.S. News & World Report stated that of all ethnic groups the Russian is among the smallest. But as far as higher education and salary is concerned, it takes precedence over many other ethnic groups.

Sometimes one hears . . . "The Russians are coming" . . . "The Russians are coming" . . . Well, ladies and gentlemen, the Russians have been here for a long time. Which Russians?

Russian immigrants love, respect and cherish this country. Many have voluntarily served in the armed services. Many have given their lives under the Stars and Stripes, beginning with the Civil War throughout World War II, Korean War and Viet Nam.

The harmonious relationship between the U.S. and Russia dates back to the American War of Independence. England had difficulty in trying to squash the rebellious colonies. She proceeded with recruiting mercenaries. King George IV wrote many times to Catherine the Great, Empress of Russia, and instructed his ambassador to approach her and obtain 20,000 Cossacks to help him stop the rebellion in the colonies.

Every time, the Empress refused. Finally her dignified reply was, "I do not trade the blood of my subjects". . . and . . . "it ill becomes a civilized monarch to crush the effort of a young nation fighting for independence."

No wonder King George asked for 20,000 Cossacks at that time. These were the very same men who just completed 2 victorious campaigns—one against the Turks and the other against the Germans by capturing Berlin.

Washington's army at its peak had only 17,000 men and very little cavalry. The 20,000 Cossacks might have been impossible for General Washington to cope with.

However, not only did the Empress refuse to send the troops, she went a step further by declaring the "Armed Neutrality" and "Freedom of the Seas". Today everyone is keenly aware of the importance of trade to U.S.A. and to many other countries. So one can well understand just how important the insurance of uninterrupted trade was for the newly formed American Nation.

Upon reaching the shores of the United States all this news was received with such a jubilation that some newspapers referred to Catherine the Great as "the Grandmother of American Independence".

Some years later was another significant time when Russians took a very active part in the defense of the Union during the American Civil War. This was the time when the United States was exhausted by the Civil War and threatened with intervention by England and France who were contemplating a military blockade on the North. The Emperor Alexander II ordered the deployment of two fleets—one to New York harbor and the other to San Francisco.

The arrival of these fleets at the most crucial time for the U.S. prevented England and France from intervening. Just think, ladies and gentlemen, this is the very place the Russian fleet anchored! The *Varyag*, the *Alexander Nevsky, Peresvyat, Almaz, Oslablya* and the Ship of War *Vityaz*. *Vityaz* made the appropriate cannon salute and Fort Columbus, now Fort Jay on Governor's Island, returned the salute.

How important was this event? Let me quote the American historian, D. S. Muzzey, from "An American History" wherein he states, and I quote, "The Russians sent their ships at a moment when the fall of the U.S. was imminent and intervention already planned. By their appearance, Russian naval forces helped America to overcome the crisis, avert intervention and prevent the collapse of the nation."

The Army and Navy Union Garrison No. 297, to which I belong, was named for Brigadier General John V. Turchinoff. In 1856 Turchinoff came to the U.S., and in 1861 was appointed colonel of the Illinois Volunteers, cited for bravery and campaign victories, and was promoted to Brigadier General in July of 1862.

History is full of examples such as the one I have just mentioned. To describe, it would take many hours and many volumes of books. I have mentioned only a few of the more significant ones.

Many years have passed; many things have changed. For one, Russia, the good and loyal friend that the Americans had no longer exists. In its place is a gigantic concentration camp—a prison house called the Soviet Union, whose military potential threatens the sovereignty of America and of all free nations.

What a horrible reversal! The millions of Russians, anti-communists of all nationalities who went into exile, have endlessly tried to alert the entire world about the imminent threat from the inhumane totalitarian Reds. But their warnings were in vain.

Russia was only the first victim of Soviet occupation and she has lost between 80 and 100 million people, a holocaust beyond human comprehension. Whole nations were uprooted and shipped to Siberia to be tortured or starved to death. Today, at this very moment, the Crimean-Tartars are undergoing genocide. We must not forget the Cossacks of all nationalities and the Kalmycks. Do you realize that in all of the Soviet Union there is not a single family that has not had someone executed or put into a concentration camp?

Several months ago, President Carter spoke at a memorial service at the Capitol Rotunda for the victims of the National Socialists, "The Nazis". As reported in the New York Times of April 25, 1979, the President pledged:

"Our generation . . . will never permit the lesson to be forgotten." Then he continued, "I vowed then, as people all over the world are doing this week, to reaffirm our unchangeable commitment that such an event will never reoccur on this earth again."

In view of this pledge, which I presume applies equally to all religions, races and nationalities, I would like to take this opportunity to remind our President and our Congress that now in the Soviet Union a gigantic holocaust is in progress by the International Socialists, the Communists. Christians, Moslems, Jews, different races and nationalities are being butchered while others are denied the most fundamental human rights.

We appeal therefore to the conscience of every American, whether in government, religion, education, business, and most of all to the average citizen—DO NOT GIVE the murderous Soviets the "Most Favored Nation" status—DO NOT GIVE this gang a credit card to commit even more atrocities. Write, call your representatives in Washington and urge them to stop this legislation.

The majority of Americans do not know and cannot imagine what it means to lose one's country.

Over 62 years ago, it happened to us. After a bitter 5 year bloody civil war, the efforts of our fathers unfortunately were unsuccessful and they were compelled to leave Russia on the bitter road of exile. Since then there has been only a few opportunities to leave the compounds of the Soviet prison. Some were fortunate in coming to the U.S.A. and praise the Lord for this opportunity of being able to live among free people and to serve its great and noble traditions. They entered this country with ample talents. All of them glorified the U.S.A. each in his own way. Their work, their achievements and dedication are a solemn hymn to America.

To mention only a few: the father of television, Zworikin; the creator of the helicopter, Igor Sikorsky; the inventor of octane gasoline, Ipatieff; the masters of ballet, Balanchine and Misha Barishnikof; and composers Rachmaninoff, Stravinsky and many, many more. Here is a book full of famous Russian Americans who were active participants in creating American culture.

The Russian American community in the

U.S.A., as previously noted, is a small one. We do not have lobbyists in the Congress, and we do not think and act in terms of political pressure groups.

However, we do have legitimate grievances or better said, requests to make of our Congress, to the newsmedia and especially to the average American all over the country.

First and foremost—let us remember that famous statement, "The price of liberty is eternal vigilance." Our concern is for the safety and wellbeing of America. We, the first victims of communist tyranny and all the others, Poles, Rumanians, Yugoslavs, Chinese, Bulgarians, Estonians, Latvians will tell you, "Do not trust or believe the Communists, they are worse than the Nazis."

Second, America's armed forces must be the strongest and second to none; this is our unequivocal position.

Third, This request is made especially to the news media—remember that the U.S.S.R. is NOT Russia. The Soviet Union does not represent all the Russian people.

(a) You can not blame all of the Germans for the Nazi atrocities. You cannot and you must not.

(b) It is unfair to blame all of the Italians for what the Mafia is doing. You cannot and you must not.

How on earth can the Public Law 86-90 be constitutionally fair when it has a basic violation of discriminating against the captive Russian people?

For the record, the signing of the SALT II treaty yesterday will be of no benefit to anyone in the free world. It will weaken the U.S. and its allies, and deeper enslave the Russian people and all other nations behind the Iron Curtain. The Soviet side will end up with all of the benefits, because they sign only those treaties that are for their good. Out of the hundreds of treaties they have signed, more than half have been broken.

Ever since the establishment of the Iron Curtain, not a single person of Russian ethnic origin has been allowed to legally emigrate from the Soviet Union and enter the U.S. We respectfully request that the Jackson amendment be changed so as to specifically assure immigration from the U.S.S.R. of all ethnic groups equally, beginning with the Russians, Armenians, Georgians, and all nationalities.

Edmund Burke once said, "All that is necessary for evil to triumph is for good people to do nothing." The motto of our fathers was, "It is better to light one candle than curse the darkness," when they took up arms against the Communists during our Civil War. But, there were not enough good men.

In this country, there are many good men and women and we all must work together harder than ever before to overcome any problem this country faces so that future generations can proudly say that our land under God is still the land of the free, and our home under God is still the home of the brave.

I thank you.●

THATCHER MAKES A U-TURN ON RECOGNIZING RHODESIA

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. WOLPE. Mr. Speaker, I would like to draw the attention of my colleagues to two articles that have just been published in the Washington Post and the Washington Star, reporting a major change of direction in the British Conservative government's policy toward Zimbabwe-Rhodesia. Contrary to the initial predisposition of the new British Government to support the unconditional lifting of sanctions, Prime Minister Thatcher is now indicating her government's determination to press for the ouster of Ian Smith from the new Zimbabwean-Rhodesian Government, and for changes within the Zimbabwe-Rhodesian constitution that will facilitate genuine majority rule. In my judgment, this new British initiative represents a very positive and hopeful development, and affirms the wisdom of the decision made by this body 2 weeks ago to maintain sanctions against Zimbabwe-Rhodesia at this time—pending further developments in British policy and in Zimbabwe-Rhodesia itself. While the British Government, under international law, has a unique and continuing responsibility toward Zimbabwe-Rhodesia, the United States can and must play a major role in supporting this new initiative of the British.

The articles follow:

Thatcher Makes a U-Turn on Recognizing Rhodesia

(By Frank Melville)

London.—Prime Minister Margaret Thatcher has performed a U-turn on rebel Rhodesia. She has decided that Britain will not unilaterally recognize Bishop Abel T. Muzorewa's regime in Salisbury, despite Conservative clamorings that it should.

The bishop has been told that before there can be any question of recognition, the former premier and current minister without portfolio, Ian Smith, must leave the multiracial government and a new constitution must be enacted giving the blacks a real say in the running of the country. Such a revised constitution would have to win the backing of world governments.

Overcoming her deep emotional attachment to Britons in southern Africa, Thatcher now accepts that Britain cannot afford to find itself isolated over Rhodesia.

Lord Harlech, who has just returned from a mission to Africa on her behalf, told her that any attempt to return Rhodesia to legality (Whitehall's euphemism for recognition) on the basis of the status quo would not command the support of a single African country, not even South Africa.

Thatcher also has been guided by reports from British ambassadors that none of Britain's partners in the Commonwealth, NATO, the European Economic Community or the United Nations would follow its example.

Hence, Thatcher and the foreign secretary, Lord Carrington, are demanding from Muzorewa, who is in Washington this week, far-reaching changes in the Zimbabwe Rhodesia constitution overwhelmingly endorsed in an all-white referendum just before the universal suffrage election in April.

They are anxious to see a slackening of the white grip on power, increased promotion of blacks and the withdrawal of Smith from the political scene. Smith has indicated he is prepared to withdraw, but only with a guarantee of recognition of the Muzorewa government.

Thatcher and Carrington want Muzorewa and the whites who stand behind him to agree to a reduction in the 28 seats reserved for whites in the legislature and a scrapping of the entrenched clause in the constitution that allows the white Rhodesian Front to nominate who shall occupy the six Cabinet posts reserved for the whites.

Clauses that appear to guarantee indefinite white hegemony in the armed forces and judiciary should be redefined to allow for much greater black participation at all levels.

NO FORMAL TALKS NOW

No formal negotiations on constitutional changes between Britain and Muzorewa will take place before the Commonwealth Conference scheduled to start in Lusaka on Aug. 1. However, consultations with Commonwealth governments are to take place between the end of this week and the end of the Commonwealth Conference.

If Muzorewa and Rhodesia's whites accept the idea of meaningful changes, formal negotiations with them and presidents of the nearby "front-line" nations will take place between mid-August and mid-November. In November sanctions will lapse unless the 1965 Rhodesia Act is renewed in Parliament.

Thatcher said last week in Australia that, realistically, renewal is unlikely because of Conservative members of Parliament's hostility to sanctions. But her government is anxious to avoid a row over sanctions in the United Nations, and most of all in the Commonwealth, by making the bishop's government internationally acceptable.

The stakes are high for all concerned in the Rhodesian crisis. If no constitutional settlement can be reached, the war will be intensified on both sides. Lord Harlech warned that a rival Patriotic Front Zimbabwe government will be established that will obtain instant recognition from the Soviet bloc and many Organization of African Unity countries.

British intelligence sources deny reports that major new military aid is on the way from East Germany to Joshua Nkomo's guerrillas, along with officers to lead those forces in combat. But if British efforts to reach a settlement collapse, they expect that to happen.

Whitehall officials take violent issue with Henry A. Kissinger's charge that Carter White House policy—and by inference British policy—favors radicals against moderates and is leading to increased Soviet and Cuban intervention in Southern Africa. They claim the situation is the reverse: to have sided with the moderates would have lost for the United States and Britain all their remaining friends in black Africa.

Thatcher To Offer Muzorewa Plan—Suggests Reforms in Zimbabwe-Rhodesia To Gain World Acceptance

(By Leonard Downie, Jr. and Jay Ross)

London, July 10—The British government today said it will propose a new plan for restoring Zimbabwe-Rhodesia to legality and making the multiracial government of Prime Minister Abel Muzorewa acceptable to the rest of the world.

Prime Minister Margaret Thatcher's foreign secretary, Lord Carrington, announced that, as a result of premilinary consultations with African leaders, Britain intended "to make firm proposals of our own to bring Rhodesia to legal independence on a basis which we believe should be acceptable to the international community."

Those proposals would include changes in Muzorewa's government and constitution to reduce the power reserved for Zimbabwe-Rhodesia's 3 percent white minority, according to British government officials. They said Thatcher and Carrington will urge Muzorewa in meetings here later this week to seek changes in constitutional provisions preserving white control over the military, police, civil service, judiciary and the process for amending the constitution.

Lord Harlech, Britain's special emissary to Zimbabwe-Rhodesia's black African neighbors and Nigeria, found that some of their leaders might accept Muzorewa's government if sufficient constitutitonal changes were made, according to one well-informed

British official. The official would not name these leaders.

"They don't rule Muzorewa out if he demonstrates that he is in charge and makes those changes," the official said. "Some of them acknowledged that there had to be some special protection of whites—as there was when they were granted independence from Britain—but they felt the Rhodesian constitution just went too far."

Officials here say Muzorewa apparently does not believe that he can get the necessary support from whites to make the constitutional changes. But the officials said that the British Foreign Office has received an informal report that some influential whites were ready to agree to changes, so long as their security was not compromised, and were waiting for Muzorewa to ask them.

British officials have little hope that the plan they devise will be acceptable to the Patriotic Front rebels led by Joshua Nkomo and Robert Mugabe, who are continuing their guerrilla war against Muzorewa's government from bases in neighboring Zambia and Mozambique. One source said Britain's goal would be to win enough African and other international support for the British plan to isolate the rebels and force their defeat or repatriation.

It is also clear that Thatcher's Conservative government remains committed to Muzorewa as the democratically elected black leader of Zimbabwe-Rhodesia and determined to find a way to give his government legal recognition.

Thatcher said in a press conference in Australia last month and privately in a meeting with U.S. Sen. Jesse Helms (R-N.C.) last week that Britain's 13-year-old economic sanctions against Zimbabwe-Rhodesia will be ended when they come up for renewal in Britain's Conservative-controlled Parliament in November.

She is under heavy pressure from the right wing of her party in both the House of Commons and House of Lords to end sanctions and move more quickly to give Muzorewa's government legal recognition.

But her commitment to restore Zimbabwe-Rhodesia to legality has been publicly criticized by much of black Africa and the rest of the British Commonwealth. The Organization of African Unity summit meeting next week in Monrovia, Liberia, is bound to produce more criticism.

Thatcher could face additional problems when the Commonwealth nations meet next month in Lusaka, Zambia, the base for Nkomo's guerrillas. Lusaka has suffered frequent military attacks from Zimbabwe-Rhodesia.

There have been fears here that a confrontation over Zimbabwe-Rhodesia at the conference, which both Thatcher and Queen Elizabeth II will attend, could lead to the breakup of the Commonwealth. Britain's economic ties with Nigeria, its biggest trading partner, also are threatened.

Thatcher told Helms, the chief supporter of the Muzorewa government in the U.S. Senate, that she was afraid of the Commonwealth meeting, according to informed sources. She told Helms that she wanted to convince enough black African nations to support the British plan for recognizing Zimbabwe-Rhodesia to win over a majority of the Commonwealth members.

Although the British plan will not be completed and announced until after the Commonwealth meeting. Thatcher will be consulting with the other heads of government in Lusaka on its likely contents. Her government's hope is to have the most acceptable plan possible ready before the economic sanctions come up for renewal in Parliament here in November.

In his announcement today of Britain's intentions, Carrington made no mention of the United States. The previous Labor government here and the Carter administration had jointly drawn up a settlement plan for Zimbabwe-Rhodesia that failed to gain acceptance. British government officials said the United States would be consulted but that the plan likely would be solely British.

U.S. officials, attempting to forestall attempts by conservatives in Congress to force recognition of the Muzorewa government, have emphasized in recent months that the problem is basically a British one now and the next move was up to Britain.

In making his announcement in a speech in the House of Lords here today, Carrington noted that Britain did not share the "disposition in some sections of the international community to seek to ignore the changes which have taken place in Rhodesia to argue that Bishop Muzorewa should be treated in the same way as the previous government of Ian Smith."

But Carrington said that Lord Harlech, in his consultations with government leaders in Nigeria, Zambia, Tanzania, Botswana, Malawi, Angola and Mozambique, "found in Africa encouraging recognition that major changes had taken place" in Zimbabwe-Rhodesia with the election by black and white voters of a multi-racial government.

He said they also made clear, to Harlech their criticisms of the new Rhodesian constitution and their "recognition and indeed even a demand that a solution must spring from Britain, as the legally responsible authority" for its former colony.

Carrington said Harlech also met with representatives of the Patriotic Front and communicated "the views and attitudes" of the African presidents and the Patriotic Front to Muzorewa. He also conveyed Britain's "conviction that the present situation gives us the opportunity to work with him for a lasting and generally acceptably settlement," Carrington said.

Carrington said he believed the British government, through its new contacts with the Muzorewa government, is now "in a better position to influence events in Rhodesia than at any time" since Ian Smith declared white-run Rhodesia's unilateral independence in 1965 and was outlawed by Britain and the world.

Many observers feel that Muzorewa's chances to maintain power are decreasing markedly as the guerrilla war continues and he fails to gain recognition. Last month Muzorewa lost his absolute majority in the Rhodesian Parliament with the defection of an eight-member bloc led by James Chikerema.

White emigration, which had slowed earlier this year, has increased again to about 1,400 a month. Since whites form the back bone of the military and police forces, a continuing exodus could doom Muzorewa no matter what Thatcher does.

Another potentially crucial test will come next month when the spring planting season begins. There is growing concern that many white farmers will cut back or stop planting because of fears for their safety, which would be another bad blow to the already weakened economy. ●

REFLECTIONS OF THE PRESIDENT'S ADVISER ON ENVIRONMENTAL QUALITY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. BROWN of California. Mr. Speaker, Charles Warren, who until a few weeks ago was Chairman of the President's Council on Environmental Quality, was recently interviewed by California Tomorrow on his perceptions of the Nation. I found this interview to be quite interesting, and generally consistent with my own perceptions.

Washington is going to miss Charlie Warren, who returned to California for personal reasons, but I am sure we will continue to hear from him in his future endeavors. Because of his close involvement with energy and environmental issues for more than a decade, I think Charlie has a unique perspective to comment on this area of great national concern. I commend this interview to my colleagues:

[From the Cry California, Summer 1979]

Reflections From Washington

California Tomorrow: How is the environmental movement doing, as you see it?

Charles Warren: The environmental movement in California and in the nation appears to be well, strong and thriving. It is a different phase, however. For the most part, national programs and policies have now been set, and environmentalists did very well in influencing their formulation and enactment. Now the debate is about how the programs and policies are to be implemented. This gives rise to the present discussion of cost-benefit analysis and risk assessment.

The environmentalists have been very active throughout this process and, although there have been a few events they might describe as setbacks, these have been comparatively few and maybe their significance has been exaggerated. Public support of environmental objectives is as strong as it ever was. There have been a number of major polls taken within the last six months to determine if there has been an environmental backlash or if public support of environmental objectives has weakened. They all indicate there is no public backlash to environmental activity and that the support of environmental programs is solid.

It is true that environmental matters are not of the urgent category they once were; the urgency is reserved for inflation and other national concerns, but there is still appreciation of the need to move ahead with our environmental programs and a willingness to spend the money necessary. Although environmentalists will indeed be involved in debate, discussion, controversies and arguments over implementation questions, because of this continued public support I think they will fare reasonably well. It's difficult to pick up a newspaper these days without finding two or three major stories on a topic that concerns the environment. Recently I noticed that one issue of the Wall Street Journal had two feature stories on the front page: a column on the left side about the Colorado River—the impact of developing a specific project and the overdrafting of the river—and in a column on the right side was the second part of a 2-part series on whether there would be further nuclear power development in the United States.

Business Week ran an article—well before the Three Mile Island incident—saying, essentially, that nuclear power is dead from the business community's point of view.

Speaking of Busines Week, it carried a recent editorial about the RARE II decisions of the U.S. Forest Service, saying that the service's recommendations put too much of the national forest into development category and not enough into wilderness. I was rather startled. When did Business Week take this environmental turn?

Another interesting thing is that Equitable Life Assurance Society—one of the largest private investors in the world—is considering a policy that, when they make future investments, the projects must be environmentally acceptable. Also, I understand they are reviewing their policy on investing in commercial nuclear power; they're also taking a look at agricultural land and agricultural practices, particularly to see if perhaps they can't influence such techniques as integrated pest management, to try to get farmers away from reliance on chemical fertilizers and pesticides, which not only present a public health risk but degrade the land.

So even the business community, I think, is beginning to recognize that the objectives sought for so long by environmentalists also have an economic payoff. They're not doing this out of the goodness of their hearts, because they're still hardheaded businessmen, but they are beginning to appreciate that in the mid-term, as well as the long term, their economic benefit lies in pursuing development objectives in an environmentally acceptable way.

But there are some pretty powerful backlash forces. One of the big ones in California at this point is the move against the Coastal Commission.

I would like to see figures showing what percentage of applications made to the Coastal Commission have been rejected. I suspect it's very small. If one were to ask the critics how many examples of bad decisions they can give, I suspect that at most they can probably identify half a dozen. It's like the Tellico Dam/snail darter situation—everybody thought it was outrageous that a nice water-project development would be postponed by an insignificant 3-inch fish, and because of the amount of attention that particular example drew, there was an assault on the entire Endangered Species Act.

But what has happened? Bills were introduced to repeal the act, citing this as an example of an outrageous result. After some reflection and discussion it was realized that the Endangered Species Act had benefits that transcended the consideration of the snail darter; and second, that the project involving the small darter was no good anyway—that the fish was but a symbol of the economic outrage the Tellico Dam project represented. And what happened when we had some hardboiled economists sit down and analyze the project itself? They said the project should be stopped because of its economic unfeasibility.

I think most people appreciate the need for the Coastal Commission—know what it has accomplished and, more important, what outrageous things have been prevented on the coast—and will come down on the side of retaining the Coastal Plan and the Coastal Commission. I really believe that. It's always very hard for environmentalists to point to the good things they've accomplished, because what they've accomplished in many instances is to prevent bad things. One could only imagine what the coast would be like in another ten years if it weren't for the existence of the commission. And once the whole issue is discussed seriously and rationally, despite the examples of alleged mistakes by the commissioners, people will ultimately support its existence and continued authority. There may have to be some backing and filling, I don't know.

There undoubtedly will be.

But I accept that. Something else—I think this is also true about the Energy Commission, which as an institution was established before the Coastal Commission. People said, my god, they've been in existence for five years and haven't built an energy facility, haven't constructed one power station! What such critics overlook is that the commission was not put in business to construct power stations, it was put in business to minimize the need for them. In this they've been successful, while still assuring that California's energy needs will be met. And California is still growing, still putting people to work, with fewer power stations than once thought necessary. California no longer faces the energy future projected earlier by the utility companies, one that would have required construction of more than 100 nuclear power plants by the year 2000. The future is now more rational, thanks to the commission; it is keeping the environment of the state acceptable. That's why the Energy Commission is well worth the money that's been spent on it.

The trouble is, these blacklash movements are powerful enough that a lot of the energies and resources of the environmental organizations are devoted not so much to seeing that the institutionalized policies are carried out, as they are to fighting off the backlash—preventing the loss of the Energy Commission or the Coastal Commission, for example.

No question about it: That will continue and we'll just have to be prepared for it. That's the price of public commitment—a lifetime of dedication and zeal.

But it's harder for the organizations to get public support for the long marches. These challenges don't generate the kind of excitement there was ten years ago, when people were just finding out about environmental problems.

I recognize the difficulty—nobody can get excited over implementation and administration battles. I do think we are soon going to become involved in a new substantive agenda in which the issues to be discussed and debated will be the urgent ones. One project we're undertaking now is preparation of what we call the "Global 2000 Report," in which we look at the population and economic projections for the globe, for each region and for each nation between now and the year 2000. We try to determine what resource demands will be required as a result of that population and industrial growth, and then we attempt to set forth the environmental consequences of accommodating them. So we're beginning to identify the global environmental threats; they're severe ones and they're scary ones. Our effort is admittedly rather elementary, but to the extent that it's accurate, it reveals problems of some consequence . . . problems an individual nation will not be able to address, but that will require global effort.

Some of these will involve the coastal areas. As an example: Wetlands, marshlands and swamps are being lost at a rapid rate as a result of the need to expand food production in order to meet the needs of a growing population. This is going on not only in the United States but all around the world. And the consequences—as we're just beginning to understand—can be quite serious. The report goes into the loss of marshlands and wetlands, into the declining fisheries. It goes into declining forests, particularly tropical forests where in the next 20 years we may witness depletion as high as 40 percent. It goes into the climatic effects of carbon dioxide accumulation from increased combustion of fossil fuel; into the transnational transportation of airborne pollutants, the oxides of nitrogen, sulfur dioxide, and into the formation of acids from both those pollutants and the increasing experience of acid precipitation.

Our loss of agricultural land, principally the prime land, the overgrazing of our grazing land, the loss of our topsoil—all are problems that, if looked at in terms of their possible dimensions 20 years from now, take on frightening proportions.

We hope to have the report finished by August; we've been working on it now for almost a year. The projections will all be government projections. The data will come from government agencies, the analyses for the most part will be government analyses. It is an attempt to determine by using these data and analyses the extent to which private forecasts are correct—by private forecasts I refer to the papers of the Worldwatch group, the Limits to Growth scenario by the Club of Rome, and other such global forecasts.

This kind of research could conceivably have some major impacts on American policymaking: Environmental policy up to now has been largely domestic policy—but this suggests an integration of environmental policy with foreign policy, which the foreign-policy establishment in this country has not seriously confronted up to now.

I think that is true. But they are interested. We are collaborating on this project with Assistant Secretary Thomas Pickering of the State Department's office dealing with international environmental affairs. He is very much interested; he has fully briefed higher State officials and when the report is released we expect to have their assistance and cooperation.

So you think the next thrust of environmental consciousness will be into dealing with the world environment?

Yes. What's more, environmental issues will again be identified as crucial and urgent. This will also enable us to discuss such concepts as carrying capacity more clearly, because once you get to the globe, that's your inventory—then you start taking a look at environmental thresholds and resource limits, and it makes the problems a lot clearer.

How would you appraise the policy impact of some of the gospels of the environmental movement, such as the writings of Amory Lovins and E. F. Schumacher?

I think Lovins and Schumacher are taken seriously in Washington. Certainly the themes established by both are in the jargon of the day, are understood—at least in part—by most officials: appropriate technology, soft-path energy future, and so forth. These concepts are seriously discussed, which is not to say that all who discuss them agree with their authors as to the implications. For example, I just received a report from the Institute of Gas Technology. They had an industry-wide meeting on soft technology, which took place in Chicago. They couldn't get Amory to come over here, so they went to England to get his presentation on film. He is being taken seriously by people whose main responsibility is energy development and production.

But does any of this have any real impact on federal policy?

The Council on Environmental Quality put out a report on solar energy a little over a year ago in which we projected various solar futures indicating that, depending upon the extent of national commitment, by the year 2000 we could have as much as 25 percent of our nation's energy needs met by solar applications. Everybody kind of laughed at us—particularly Department of Energy officials. Later the President issued a policy review memorandum of national solar policy, and as a result of that it appears that we're nearer to the mark than anybody else. Similarly, I think, as our conservation report will disclose, the opportunities for conservation have not yet been fully explored. If we are again correct, and if what appear to be modest policy recommendations are accepted, we could indeed be finding the United States adopting a modified soft-path energy future, through a combination of increased solar development and increased conservation efforts.

In that case the energy demand would be substantially less in the year 2000 than was projected as few as five years ago. The opportunities for solar energy will be far greater than the professional, sophisticated managers thought five years ago, and the opportunities for conservation will also be far greater than the energy managers believed then. The need for all these nuclear and coal-fired power stations may diminish somewhat.

How strong is the administration's commitment to solar energy?

Look at the budget: The administration

proposes to increase the solar budget from $720 million in 1979 to $845 million in 1980. That's almost a billion dollars—and a $125-million increase over last year.

And you're satisfied with that?

Well, no. But I just don't see how one can suggest that it indicates an unenthusiastic commitment.

Isn't the Treasury Department opposed to the increase?

Yes, there are people in the administration who quarrel with some of the strategies suggested for increasing, or developing, solar energy use. The department has some questions about incentives, particularly whether tax incentives are the best approach.

I've read things in the papers that indicate this is a fairly big conflict.

The question is, can we do more to further the development of solar energy in a manner that does not unacceptably intrude on other national objectives? That's the conflict and it's a conflict of bona fides. Treasury believes that this period, when we are trying to balance the budget, is not the time to be giving a billion dollars in tax incentives for solar applications. Personally, I believe that by furthering development of the solar energy industry you can avoid the need for capital-intensive systems. But that's beyond my range of analysis. I guess it's fair to say, right now, there is greater awareness of the potential of solar energy and the chances of an enhanced solar future are good. I think there are some exciting things going on, and I only hope that we don't take that higher budget and devote it to a solar satellite system. That's really an idea whose time has not come.

It's unfortunate that the Three Mile Island event happened, but it also appears to have had a good effect—questions about the safety of atomic power begin to seem a lot more reasonable to a lot more people.

The incident—or "transient," as the technologist called it—at Three Mile Island was a blessing, in a sense. It was a blessing in that it revealed the fallibility of nuclear technology, and that the event apparently did not result in damage. People weren't killed or noticeably harmed, but nevertheless the occurrence revealed to everybody—to many people throughout the world—that there are aspects of arguments by critics of nuclear power that have to be taken seriously.

It moves a lot of the argument out of the nervous-Nellie, crank category.

Yes, the Chicken Little sort of thing. I think what will result will be a more widespread understanding of a range of concerns with the nuclear fuel cycle other than just safety systems. This will direct attention to the problem of waste management, which is a very difficult one to understand. In California, the people who supported the nuclear safeguards statute adopted in June 1976 will be revealed as having acted prudently and in the public interest. I'm particularly proud to have been associated with that effort.

This event may also direct attention to something else that hasn't been talked about much, something we plan to have an article on in our coming summer issue: nuclear plant decommissioning.

Absolutely right. It's an area that has been little explored. There is a small experimental reactor in Michigan, the Enrico Fermi plant, that had a similar transient a number of years ago and they have yet to figure out how to decommission it.

Yes; it's been mothballed.

It may be that Three Mile Island will present us with the same situation. If the reactor equipment and vessel are not reparable, what do you do with them? How do you open the vessel up in order to decommission it?

It's a huge technological problem, and hugely expensive.

And the expense of decommissioning has not been built into the rates the consumers are paying for nuclear-generated electricity, so it's another case in which the costs of nuclear energy have not been internalized. The electricity produced is benefitting the consumers, but the expenses of generating it may well be foisted onto future generations, in amounts a hell of a lot more than contemplated today.

Presumably a shift is now taking place in public opinion concerning nuclear power. I don't see anything yet to indicate a comparable shift in policy at the Department of Energy. Do you see any sign of this?

No, there is as yet no visible sign of a shift in department policy regarding nuclear energy, but that expectation may be a little premature. The department is still committed to legislation that would speed up the permit process for commercial nuclear systems, and still strongly supports deployment of additional technology for commercial nuclear energy. I'm not sure, however, that those signals sufficiently reassure the private sector, which will ultimately make the decision for further deployment. I think utility management, despite reassurance by DOE spokesmen, is now more skeptical and I think may become more hesitant to consider nuclear options for the electricity requirements in its various service areas. Throughout the European countries, many commitments to nuclear power are now being reviewed. For example—not as a result of Three Mile Island but because of other concerns about nuclear energy—Austria has by plebiscite determined not to activate a nuclear station already constructed. In Sweden there will be a referendum sometime this year on whether nuclear plants operating there should continue. Germany, particularly, is reviewing the public acceptability of a commitment to nuclear power made by its government.

The Presidential commission that has been appointed is essentially for the specific purpose of investigating the Harrisburg incident. There hasn't been a commission appointed to do a fundamental review of U.S. energy policy or of the role of nuclear power in general. Do you foresee a move in that direction?

I think a review of energy policy based on the Three Mile Island transient will have to await the results of the President's commission and of the hearings in Congress, especially those by Senator Gary Hart and by Representative Morris Udall. The general policy implications are still uncertain. If the findings of the various inquiries conclude that the nuclear option is still feasible, though perhaps to a lesser extent, then energy policy will have to be reviewed with that as background. If they show that nuclear power shouldn't exist at all, then energy policy will have to be reviewed from that fact. But I think before we review energy policy generally, we've got to better understand the implications of Three Mile Island, and better understand all safety aspects of the fuel cycle, all waste-management concerns, all decommissioning problems, and the alternatives available.

Does the Council on Environmental Quality have any clearly defined role in whatever dialogue may be forthcoming?

CEQ has, among other things, been trying over the past two years to develop the category of alternatives. We have always felt that if we could make the case for alternative sources of energy, and to the extent we can make the case, it would back out nuclear power. We may not be able to back it out completely, but at least we could keep the nuclear commitment to a minimum. How do we do that? By pointing out that we can continue to grow economically between now and the year 2000, with probably no more commitment to nuclear power than is already made, by conserving energy, by increasing energy productivity and by increasing development of our renewable-resource alternatives. Our most recent report, which we call The Good News About Energy, shows how we can go about all that.

So all of this material is sort of standing in the wings.

When they start thinking about energy policy, we want to make it difficult for people to say, well, we have to go nuclear because there's no alternative. We want to make the case, to the extent a case can be made, for the alternatives. And frankly, that was a major principle of the Energy Conservation and Development Act in California. Although nuclear power was never discussed, the act's ultimate objective was to minimize the need for nuclear power in California. It has a strong conservation component, and in the energy productivity section it directs the commission's attention to the potential in California for solar and geothermal resources, the only two specific resources we mentioned for development. That was the principal theme motivating passage of the act in California in 1974. At that time we believed we could not get by without some nuclear energy, but to the extent we can, by following those alternatives, we certainly should move in that direction and back nuclear out to the maximum extent possible.

After you've completed your new assignment, do you expect to continue to be involved in environmental policy-making?

My plans are unsettled, but I want to continue to work in an area related to resources, energy and the environment—perhaps in government, perhaps in a university, perhaps in the private sector. I'm especially interested in finding out how corporate practices and business growth might be pursued in more environmentally sound ways. I think that's an avenue that has potential and needs exploring. Also I'm interested in digging deeper into the problems underlying this latest gasoline crisis. It's clear that our energy supply system is under great stress, and I suspect such episodes will happen with increasing frequency and severity. We have to find ways to make better use of our present transportation modes, and see how we can deploy more effective ones. Until we do, every ripple in the international energy system is going to cause a new crisis in California.●

MCPL NUCLEAR ALERT SERIES: IV

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. EDWARDS of California. Mr. Speaker, as a member of Members of Congress for Peace through Law (MCPL), I request unanimous consent to insert in the RECORD a column which appeared in the New York Times during the recent congressional recess. The column describes in frightening, but I suspect accurate, form, the pressure that India may feel if Pakistan continues its production of a nuclear bomb.

The article, authored by Indian editor and journalist Khushwant Singh, depicts the Indian point of view. While many would argue that it was India—not Pakistan—which, through its detonation of a nuclear device 5 years ago, fueled the nuclear arms race on the subcontinent, the question of "who started what" is now moot. The facts are that India has nuclear capacity, that Pakistan will have it within 5 years, that neither India nor Pakistan has opened all its nuclear facilities to international inspection, and that neither country has signed the Nonproliferation Treaty.

Given these facts, and given the apparent competition between a "Muslim" bomb and a "Hindu" bomb on the subcontinent, I hope that our Nation will take the leadership in finding a long-term solution to the problem: That of negotiating a nuclear-free zone on the subcontinent. Only such a comprehensive solution will, in the long run, insure the lives of millions of people.

I insert the column from the July 1, 1979, edition of the New York Times:

PAKISTAN, INDIA AND THE BOMB

(By Khushwant Singh)

NEW DELHI.—"President Zia has told me he is not interested in nuclear weapons. I believe him," said Prime Minister Morarji R. Desai in reply to a question relating to reports of Pakistan's nuclear program.

That was a month ago. Since then a climate of suspicion has been built up in India through sustained propaganda warning people that Pakistan has acquired the wherewithal for exploding a nuclear device and is likely to do so sometime before the general elections promised by Nov. 17. No reliable evidence is available on the progress Pakistan has made in acquiring nuclear technology.

The Pakistan Atomic Energy Committee was set up in 1953. Since then it has trained a large number of scientists: its first "swimming pool" reactor went into operation in December 1965. The late Mr. Bhutto, who fathered Pakistan's nuclear program then told his people: "If India builds the bomb, we will eat grass or leaves, even go hungry, but we will get one of our own. We have no alternative."

India did not "build a bomb" but in May 1974 it exploded a nuclear device in the desert adjoining Pakistan. Prime Minister Indira Gandhi's assurance that India would use atomic energy only for peaceful purposes was taken with a pinch of salt.

How Mr. Bhutto felt about it has come to light recently with the publication of his testament written in the death cell: "We know that Israel and South Africa have full nuclear capability. That Christian, Jewish and Hindu civilizations have this capability. The Communist powers also possess it. Only the Islamic civilization was without it, but that position was about to change."

This was the first that India heard that Pakistan had planned to make a nuclear bomb quite some time ago and that the bomb had the backing of Islamic nations.

Subsequent investigations have confirmed reports appearing in foreign journals that many Arab countries, notably Libya and Saudi Arabia, have been financing the research and clandestine purchase of equipment from different countries. Arab sponsorship of the bomb is obviously for use against Israel; Indians are convinced that Pakistan will deploy it against India.

Prime Minister Desai has again affirmed that India will not go in for nuclear weapons unless there is concrete proof of Pakistan's doing so. The official explanation of the spate of publicity given to Pakistan's nuclear intentions is that it has been instigated by the United States to arm-twist India into accepting internatioanl safe-guards, including inspection of its nuclear plants, and agreeing to declare South Asia as a nuclear-free zone.

Indian reaction is categorical: major nuclear powers have no right to impose restrictions upon others that they do not accept for themselves. India's Department of Atomic Energy functions in strict secrecy. But it is common knowledge that a heavy-water plant was put out of commission by explosions and a nuclear fuel complex damaged by fire. The performance of the plants in generating power has been considerably below what was envisioned. By next year only two of them will be working. Of these, the one near Bombay relies on the United States for its fuel. Under these circumstances the cost of embarking on a nuclear arms program may be more than India can bear.

Dr. H. N. Sethna, chairman of India's Atomic Energy Commission, admits that if reports that Pakistan had acquired the means to put up a centrifuge uranium-enrichment plant are true "they have a head-start over India." But he advises Indians to ignore Pakistan's nuclear explosion when it comes. He is sure that Pakistan will not be able to sustain a nuclear program because it does not have the necessary industrial base to do so.

His opinion is not generally shared in India. The pro-bomb lobby includes nuclear scientists, the defense forces and right-wing Hindu political groups.

A recently published book, "Pakistan's Islamic Bomb," written by a retired Major General, D. K. Palit, and P. K. S. Namboodiri, research officer at the Institute for Defense Studies, has set the ball rolling. Extracts from the book have been widely reproduced. The subject will inevitably come up in the monsoon session of Parliament, which opens next week. The Government may resist pressure to go nuclear for some time—but not for too long after the Pakistan explosion.

(Knushwant Singh, editor of the fortnightly magazine "New Delhi," is a guest columnist.) ●

EXPLOSION IN IRAN SHOULD ALSO BE HEARD IN UNITED STATES

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. MURTHA. Mr. Speaker, I want to insert into the RECORD for the information of the Members an article from today's Washington Post concerning sabotage to the Iranian oilfields.

In recent days Saudi Arabia has increased their oil production, but this event illustrates how vulnerable the entire Middle East is, and how possible disruptions of Middle Eastern oil reemphasizes the need for a comprehensive, independent energy plan.

The article headlined "New Explosion Rips Iranian Oil Pipeline; Sabotage Is Feared," appeared on page A20 of the Washington Post.

NEW EXPLOSION RIPS IRANIAN OIL PIPELINE; SABOTAGE IS FEARED

(By Nicholas Cumming-Bruce)

TEHRAN, July 11.—The latest in a series of oil pipeline explosions today raised new fears of sabotage in Iran's vital oil-producing region.

The cause of the blast, which apparently occurred at midnight, has not been established. But it has spurred new efforts to tighten security in the area where weekend explosions damaged as many as nine pipelines, most of them carrying oil products from the world's largest refinery at Abadan to the export terminal of Bandar Mahshahr.

Shortly after the explosion was reported, the head of the National Iranian Oil Company, Hassan Nazih, contacted military commanders to discuss increased security for oil installations in the southeastern province of Khuzestan.

Among those contacted was the military police chief, General Amir Rahimi, who was reinstated by Moslem leader Ayatollah Ruhollah Khomeini yesterday after being fired by the government. Rahimi announced that he has 3,000 men ready for deployment in Khuzestan.

The effect of the latest explosion, which damaged a pipeline carrying crude oil from Ahwaz at the center of the oil fields, to Abadan refinery, was not believed to be serious.

Production at the refinery has already been reduced to 100,000 barrels a day, or a fifth of capacity, following the weekend explosions.

The full extent of the damage from the earlier blasts is still not known. Nazih said today that repairs should be completed in five or six days, contradicting earlier estimates that only three or four days were needed for the job.

The authorities' main concern is to guard against sabotage of installations producing and exporting crude oil, in the area where Iranian Arabs have been agitating with increasing vigor for local autonomy.

There appears to have been some apprehension among Arab leaders about the news of Rahimi's readiness to intervene in the province. In recent statements, Rahimi has taken a tough line on the demands of ethnic minorities seeking autonomy, particularly those of Iranian Arabs.

However, Rahimi said he would not be moving forces into the province without orders to do so from the government, which so far does not appear to be preparing for any major troop buildup.

Defense Minister Gen. Taqi Riahi commented that there were already enough troops in the province and that there was "no need for reinforcement for the time being."

Other incidents in the area underline the continuing threat to the stability of the province, where substantial quantities of arms are believed to have been stored by the Arab community.

Two men were killed during a shootout that started when Islamic Revolutionary Guards opened fire on a boat near Minoo island, located in the narrow Shatt-al-Arab waterway dividing Iran and Iraq.

The governor of nearby Khorramshahr, Mohammed Alavi, said the boat, which was captured, was found to contain Soviet-made RPG7 bazookas. One of the boat's crew, wounded and captured in the shooting, was an Iraqui, the governor said, adding that he was now under interrogation.

In Khorramshahr, a grenade attack on a railway club was reported. In addition, railway tracks close to the town were damaged in an explosion. ●

AMERICAN AUTO COMPANIES CREATE THEIR OWN TROUBLES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

○ Mr. BROWN of California. Mr. Speaker, yesterday I introduced a major bill, the "Automotive Innovation and Productivity Act of 1979", which was referred to four House committees. (See pp. 17943, 17944, and 17953.) This morning I testified on this legislation, and a bill by Representative TOM HARKIN, in hearings before the Subcommittee on Transportation, Aviation, and Communications of the Committee on Science and Technology. Also testifying today were representatives of Ford and General Motors.

The testimony of the two largest automobile companies was particularly disappointing in its negativity to new and creative proposals to end the confrontational atmosphere between Government and industry. The proposals by Representative HARKIN and myself were both aimed at having the Government meet the automobile industry half way, and the continued reluctance of the American automobile companies to recognize this is a disappointment to me.

Two recent items from the newspapers bear directly on this problem. One item, which appeared last week in the Los Angeles Times, demonstrates why foreign automobile manufacturers are developing better cars than American companies. The item I refer to is a report from Bonn, West Germany, on Chancellor Helmut Schmidt's report to the German people on the recent Tokyo summit. Chancellor Schmidt called for the West German auto industry to lead the world in developing a "completely new" economical and environmentally safe, energy efficient car. Knowing what we do about West Germany, it is certain that this will be a joint government-industry venture. President Carter would be well advised to initiate a similar venture in this country.

The second item is an editorial from the Washington Star. In this editorial, the writers clearly lay the blame for Detroit's economic woes upon the auto companies themselves. Detroit can expect a growing lack of sympathy if they continue to refuse to compromise their historical lack of concern for the policies and goals of this Nation.

Mr. Speaker, I offer both items for the RECORD at this time:

[From the Los Angeles Times, July 5, 1979]

SCHMIDT'S PROPOSAL: ALL NEW, SAFE CAR

BONN, WEST GERMANY.—Chancellor Helmut Schmidt Wednesday challenged the West German auto industry to lead the world in developing a "completely new" economical and environmentally safe car.

Schmidt made the proposal to Parliament in an 80-minute report on the recently completed seven-nation economic summit meeting in Tokyo and his government's plan to deal with energy problems.

"In the long run we must develop a completely new automobile that saves energy and is environmentally safe," Schmidt said. "Until then, the automobile companies should concentrate on the competition to reduce gasoline consumption as well as exhaust and noise. They should seek a leading international position in this field, too."

He noted that an agreement between the German auto industry and the economics minister to produce an energy-saving car by 1985 was concluded before the latest oil-price increases.

"Therefore, I appeal today to the automobile industry to shorten this time period," Schmidt said. "I would be very surprised if this is not possible."

Schmidt rejected suggestions to place a speed limit on West German autobahns, where high-powered sports models and sedans regularly roar along at 140 m.p.h.

Gasoline, which costs more than $2 a gallon in West Germany, is still readily available and there have been no lines of motorists waiting to fill up.

Schmidt said he assumed rising prices would make drivers more energy-conscious. If not, he said, the government would rethink the speed-limit question.

The rest of Schmidt's energy plan was a continuation of plans that were begun in 1973–74 in response to the Arab oil embargo.

"At present there is still no necessity for a revision (of the plans)," Schmidt said. "However, it is necessary to intensify and accelerate this policy, especially in conservation."

He repeated his warning that "the shortage and in part the irreplaceability of oil imply the danger of worldwide struggles for supplies."

Schmidt said West Germany's immediate energy plans would continue to stress the need for more nuclear reactors and more reliance on coal.

[From the Washington Star, July 10, 1979]

THE DETROIT BLUES

There are many victims of the fuel shortage, but it is getting harder to sympathize with American automakers. That is to say, the industry which may have been hit hardest during the 1973-74 oil embargo seems to have disregarded some very clear messages and has only itself to blame for its current problems.

Domestic car sales are 10 per cent below those for the first half of 1978—and nearly 28 per cent down from June. At the same time, total industry sales may yet reach 11 million units, which would seem at first glance to be a solid accomplishment in a year of gasoline lines and talk of recession. (In 1974, a disastrous year, fewer than nine million cars and trucks were sold.)

The real problem is not car sales in general, but sales of cars made in Detroit. There is a difference. For the first half of 1979, foreign cars claimed more than 21 per cent of the market, as opposed to 18 per cent in 1978. In May, the figure was about 25 per cent. Volkswagenwerk A.G. is having its best American year ever.

This hardly suggests a rejection of U.S. automotive technology, although some buyers do find a certain mystique in imports. Rather, it suggests a consumer sensibility which domestic auto manufacturers have had nearly six years to understand. It should come as no surprise that sales of domestic subcompacts increased by some 72 per cent for the first five months of the year. What is surprising is that more subcompacts haven't been produced here.

To be sure, the auto industry hasn't been blind to changing times. The major automakers have significantly reduced the size of cars, while improving gasoline mileage. This year, General Motors introduced a new compact line, the so-called X-bodies, with impressive mileage claims and, so far, impressive sales. Some small Ford and Chrysler cars are enormously popular.

But, overall, present car-buying patterns are out-of-sync with present car-making habits. More than a fifth of the cars sold here are imported, which dislocates Detroit and, in a way, the rest of us. The sales pattern aggravates the U.S. balance-of-payments problem in the same way OPEC prices do, and it depresses a major industry.

It is possible that a temporary surge in gasoline supplies will bring with it a renewed appetite for those cars which now make up such a large part of the unsold inventory. That is precisely what happened when the gasoline returned in 1974. Indeed, with a glut of unsold larger cars, Detroit has begun to advertise their driving range, observing that large cars tend to have large gasoline tanks. Such claims make us wish for tiny cars with elephantine tanks.

In any case, the signals in the auto market have never been clearer. Volkswagen, no slouch at grasping automotive trends, has just announced plans to invest $820 million in the United States by 1982—the better to sell Volkswagens here.

But it is the marketplace, not Volkswagen, that has spoken. This time, we hope Detroit is listening.●

THE CARBON DIOXIDE GAMBLE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. OTTINGER. Mr. Speaker, I want to call to the attention of my colleagues a truly insightful editorial which ran in today's New York Times entitled "The Carbon Dioxide Gamble."

This editorial outlines the environmental dangers of an excessive reliance on synthetic fuel development and wisely states:

> The best advice is to resist irrevocable commitments to the dirtiest fossil fuels . . . investing in solar power or conservation is far less apt to disrupt the world's climate.

I urge my colleagues to consider this important analysis:

THE CARBON DIOXIDE GAMBLE

No wonder President Carter has been hiding from the energy crisis at Camp David. Most proposed solutions seem to involve untoward, even perilous consequences. The Saudi promise to pump more oil may shorten the gas lines, but it will prolong the nation's addiction to imported oil. Nuclear energy raises nightmares of an uncontrollable accident. And now the two energy sources that have lately been receiving the most political attention—coal and synthetic fuels—stand accused of threatening climatic catastrophe. Is there no safe way to produce energy?

The latest disaster warning comes from four prominent environmental scientists concerned about the build-up of carbon dioxide in the atmosphere. Some of that results from the cutting of the world's forests, which releases carbon dioxide. But the chief cause is most likely the burning of fossil fuels. They vary in the amount of carbon they release on burning. Natural gas is the cleanest, then comes oil and then, progressively dirtier, come coal and synthetic fuels made from coal or shale oil. Thus any major switch to coal or synthetic fuels would accelerate the already significant rise in CO_2 in the atmosphere.

The consequences, though uncertain, could be disastrous. Carbon dioxide blocks the escape of radiation from the earth's surface into space. The resulting "greenhouse effect" could cause warmer climates, particularly in the polar regions. Wind, rain and ocean currents could be disrupted; agricultural belts might shift northward, where the soil is less fertile; and melting polar ice could raise sea levels as much as 20 feet, flooding heavily populated coastal plains around the world. Small shifts in climate over the past decade have disrupted harvests around the world and brought the West African nations of the Sahel close to ruin. It is not hard to see how the greenhouse effect could produce a catastrophe far worse than any imaginable nuclear accident.

No one knows for certain that carbon dioxide will be a major problem. As yet undiscovered processes may remove carbon from the atmosphere. The impact on climate may be less than feared, or a global warming could turn out to be beneficial. But the level of scientific concern is clearly rising. Warnings have been issued by the National Academy of Sciences, by an Energy Department advisory committee and now by the four scientists, reporting to the Council on Environmental Quality. The Carter Administration has begun a serious research program to assess the CO_2 threat but no answers will be available for years.

What, in the meantime, should energy planners do? The best advice is to resist irrevocable commitments to the dirtiest fossil fuels. Other things being equal, investing in solar power or in conservation is far less apt to disrupt the world's climate than investing in fossil fuels; among the latter, natural gas seems the safest. The nation may come to decide, carbon dioxide notwithstanding, that it must bet on coal and synthetic fuels, but it should do so in full recognition of the gamble. ●

SOUTH BRONX BUSINESS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. GARCIA. Mr. Speaker, the people of the South Bronx are not only anxious and willing to work, but they are also actively seeking to establish businesses which will employ their neighbors. This article from the July 9 issue of New York Times illustrates the determination of two men from the South Bronx to set up a functioning and profitable business. Success stories like this one are too often lost in the publicity about bankruptcies and decay. The unceasing efforts of these two men set an example for those who are eager both to enjoy the dignity of labor and to provide additional employment for area residents.

The article follows:

IN THE SOUTH BRONX, A BUSINESS BLOOMS

(By David Vidal)

John Mariotta and Fred Neuberger are an odd couple whose relationship "took a little bit of adjusting," as John said. But they worked it out. Fred, a Rumanian Jew and a mechanical engineer, sold his Buick for $2,000 nine years ago to go into business with John, a Puerto Rican diemaker.

Mr. Neuberger, who had escaped from Nazi persecution, came in as one-third owner with Mr. Mariotta, who was born and raised in the Bronx. Mr. Mariotta, who held two-thirds ownership, had two business failures behind him.

Now the two men, both in middle age, are partners in a thriving small business that has refused to die the death of the South Bronx—a business that is making its own economic imprint in an area that, in the last six years, has lost 300 companies and 10,000 jobs.

THREE MILLION DOLLAR SALES THIS YEAR

From a converted red-brick garage at 1049 Washington Avenue—exceptional only because it stands erect amid the skeletons of tenements and other urban ruins in an otherwise wasted, humiliated neighborhood—they run the Welbilt Electronic Die Corporation, a contractor of the Pentagon. Welbilt's sales have grown from less than $200,000 four years ago to an anticipated $3 million this year, with a backlog of $6 million in orders waiting to be filled.

As business has grown, the factory's 20,000 square feet of space has become crammed and the hammering of the machinery has grown louder. But the company continues to design, engineer and manufacture precision metal parts, employing about 70 neighborhood people and hoping to employ as many more within a few years.

In the case of one product, a belt crank made of high-temperature resistant stainless steel, it is the sole approved United States manufacturer for the Air Force. This and other sophisticated parts are used in the engines of the B–52 bomber and the F–104 Phantom jet. They also include the stabilizer fins that guide the Navy's Sidewinder missile in flight.

There is conventional work too—for example, the Consolidated Edison Company buys metal rings to install on its lighting meters, designed to keep consumers from tampering with them.

But it is the glamour products that have transformed the company, winning for its visibly defenseless neighborhood a say in the defense of the West, despite the incredulity displayed by some people with whom it deals.

"The first thing they say is: 'Oh, my God! It's all bombed out! What kind of a company can this be?' " Mr. Mariotta said, bemoaning the stigma of location that he says the mention of the South Bronx often brings in his business encounters. The area has lost 40 percent of its manufacturing jobs since 1965 and 14 percent of its population in this decade, roughly comparable to the loss of housing in the same period.

But the partners say they have no intention of leaving the area, although skilled blue-collar workers are sometimes hard to find.

"One of the things that is going to turn the South Bronx around is business," Mr. Mariotta said recently. "But nobody wants to come in because they think we are too left-handed to produce. You say minority and they look at you with two left hands. But here we are, producing."

FOUNDED COMPANY 14 YEARS AGO

Mr. Mariotta, who says he was taken for a Sicilian in the Army because of his last name, wanted to study chemistry at the Bronx High School of Science. But he could not pass the English test, so he took up machine-shop courses at a vocational high school instead, sharpening his skills as a tool- and die-maker.

He founded the company 14 years ago, got his new partner, Mr. Neuberger, in 1970 and moved to the current location two years ago. Out of the frustration of not being taken seriously, he turned to the Government. "I went around one time looking for work for my company," Mr. Neuberger recalled, "and a guy told me, 'But you're not German!'—as if you have to be German to do machine work."

Mr. Neuberger said: "It has been a good combination. He has the ability to motivate local people. I provide engineering skill."

"Most employers that left or were driven out of the Bronx, besides complaining about the atmosphere, said that the people here cannot be trained to do skilled jobs," Mr. Neuberger went on. "We have proven that to be wrong—we have done this in spite of the surroundings and the negative attitude."

ASSISTED BY FEDERAL PROGRAMS

Their good fortune today, with a payroll of more than $10,000 weekly, an offer to sell their technology to Japan, and their hopes for the future, owes a direct debt to Federal programs aimed at benefiting small businesses run by members of minority groups. The programs known as "8(a) set-asides," began in 1968 after the urban rioting of the previous year. They provide that a portion of all Government contracts are set aside under the minority, or 8(a), provision, of the small-business program. Some $2.8 billion has been advanced to minority-run businesses across the country since the program's inception, two-thirds of it in the last five years.

The 8(a) contracts were originally intended to be distributed for a wide variety of services. But in fact, most have been issued to minority-run concerns for the supply of janitorial and food services at military bases. In its production of military components, Welbilt is in a minority of minority-run concerns that deal in technology, not service delivery.

Carter Administration officials have said the program is the backbone of Federal efforts to expand minority-run businesses. The President, who visited an area two blocks away from the location of the Welbilt plant in 1977, has committed himself to expanding by half the loans made under it. But Government investigations recently found that the program had squandered or lost millions of dollars, and the Small Business Administration has also come under critical scrutiny.

"A BADLY NEEDED SUCCESS STORY"

In addition, non-minority contractors have challenged the legality of such programs, and last month the Supreme Court of the United States agreed to review the constitutionality of a program involving construction contracts.

The consequences of this have made themselves felt on Washington Avenue, where, over the years, the Small Business Administration has granted loans or loan guarantees to Welbilt ranging from $25,000 to $100,000. To the agency, the company represents what an official there recognized as "a badly needed success story."

"They got us walking on water while everybody else walks on the rocks," Mr. Mariotta said. "I have to fill out forms, and there are threats they give us that they'll cancel if I don't get a piece of paper in on time."

He wonders which arms of the Government—the one congratulating him for his value-added engineering and the thousands of dollars in savings it says he has made for them, or the one demanding more paper—he should listen to.

"It's like Catch-22," he said. ●

PUBLIC POLL SUPPORTS USE OF NUCLEAR POWER

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. GAYDOS. Mr. Speaker, all of us, I know, recall the tension which gripped the Nation and the world last spring when a nuclear powerplant at Three Mile Island in Pennsylvania was shut down. We remember, all too vividly, the fear that a nuclear disaster was imminent.

Fortunately, the crisis passed without tragedy. But, in its wake there raged an intense debate over the continued development and use of nuclear power as an energy source. At home and abroad, people and governments pondered the question of balancing the need for more energy against the dangers inherent in the use of nuclear power.

To determine the opinion of constituents in my 20th Congressional District.

I conducted a public survey, asking residents:

> Based on what you have read, heard or experienced, do you believe the U.S. should proceed with the development and use of nuclear power?

I received more than 22,000 responses and, Mr. Speaker, an overwhelming majority expressed the belief our continued use of nuclear power was essential despite the risks involved. The totals were 14,944 (68 percent) in favor of nuclear power and 7,144 (32 percent) opposed to it.

I might add that many of the pronuclear responses emphasized the need to employ every existing safeguard to prevent a recurrence of the Three Mile Island incident as well as recommending an all-out effort on the part of our Government to develop technology that would reduce the possibility of a nuclear disaster to the barest minimum.

I am aware of the momentous problems the administration faces in its efforts to solve the present energy situation which confronts our Nation. Consequently, I have forwarded to the President the results of this survey in the hope the views of the people of the 20th Congressional District of Pennsylvania will prove of assistance to him in formulating his decisions.●

THE CASE OF THE RYNSKY FAMILY WHO ARE DETAINED IN THE SOVIET UNION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. SANTINI. Mr. Speaker, I am pleased to participate for a second year in the "Shatter the Silence Vigil" sponsored by the Union of Councils for Soviet Jewry on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R. as a result of the Soviet Government's repressive emigration policies.

In 1975, 35 nations signed the Helsinki Final Act, which committed the 35 signatory nations to pursue policies consistent with basic principles of human rights, including the reunification of divided families whose members live in different countries, religious freedom, minority rights, and free travel between countries.

Unfortunately, the Soviet Government has regarded the human rights provisions of the Final Act as empty promises. This is most apparent now in the Soviet Union's restrictive emigration policies.

We who take freedom from such harassment for granted must do all we can to change these practices.

Today, I would like to once more bring to my colleagues' attention the case of Edouard Mikhailovich Rynsky and his family in Moscow. He, his wife, Natalya, his daughter, Yelena, and his mother, Mariya, have applied again during this past year for their emigration visas, and have been refused once more. They have now applied six times for emigration visas since 1974, and have been refused each time, ostensibly for "state interests."

This continued refusal of their emigration applications is entirely groundless. Mr. Rynsky had quit his position as a design engineer engaged in elevator design projects (with a second class security clearance) in 1972, 2 years prior to first applying for his emigration visa. He found another job as an engineer with a passenger elevator operation and maintenance agency, in no way associated with sensitive matters. Since 1974, he has been employed as a mechanic at a small factory. Although trained as a mechanical engineer, he has been unable to find employment in his field since applying for exit visas for his family.

Edouard Rynsky and his family have no idea how long they will have to wait—days, months, or years—before they will be allowed to emigrate. It is my hope that this vigil for freedom will result in early emigration to Israel for this family.●

HOW THE STUDENT LOAN SYSTEM DEFEATS COLLEGE ACCESS

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. MAGUIRE. Mr. Speaker, over the last month I have been addressing some major problems with the present guaranteed student loan program and the ways H.R. 3769, my Fair Access to Higher Education Act, would deal with them to make college more affordable for students—and their parents.

On Tuesday, June 5, thanks to an exceedingly kind of invitation from Chairman WILLIAM FORD, I was the main witness at the Postsecondary Education Subcommittee's hearing on student loan proposals.

On Monday, June 11, syndicated columnist Jane Bryant Quinn also turned to the problems which families of all income levels face in trying to finance their children's higher education.

Noting that "The bad news is in about next year's college tuition" because "total expenses will rise an average of 8.5 percent at public institutions and 10.6 percent at private colleges," Ms. Quinn reported that:

> Many parents have given up savings for college in traditional ways. Prices rise so fast that small, fixed contributions to an ordinary savings account can't possibly produce the amount of money needed * * *. Advance savings make economic sense if, and only if, total returns keep up with inflation and you avoid taxes by putting the savings in the child's name. Otherwise, borrowing is better; you pay off in cheaper dollars and the loan interest is deductible * * *. The cheapest source of money is a government-subsidized student loan, available at many commercial banks and a few other institutions.

Ms. Quinn then stated what we all know:

> Many lenders don't give student loans, because they think the government program is more trouble than it's worth.

And that—

> Bills now before Congress would encourage lender participation and make more student-loan funds available.

And she concluded that—

> The proposal with the broadest support appears to be that of New Jersey's Representative ANDREW MAGUIRE:
>
> In brief, he would make the lending mechanism more liquid, hence more appealing to banks; create a central loan-information system, so that students don't have to trek from bank to bank; allow students to repay through income-tax withholding; and allow low-income students to take longer than 10 years to repay.

Mr. Speaker, that is the basis for my approach: That structural changes in the GSL program can relieve students of unnecessary burdens by making needed loans easier to get and repay—without junking proven elements of the present system, imposing added costs, or introducing new uncertainties that will defeat loan-based access by driving lenders away.

My Fair Access to Higher Education Act rests on five premises: First, that continued use of private capital is preferable to direct Government funding of student loans, especially in these times of budget cuts and Federal austerity;

Second, that the GSL program is working relatively well in the 39 States where the decentralization mandate of the 1976 Higher Education Amendments has been carried out by establishment of State guarantee agencies;

Third, that successful change must be gradual, be supplemental, and build on the strengths of the existing program;

Fourth, that improved loan delivery must be obtained by giving students and lenders a series of options which they can use to meet their individual needs, rather than trying to mandate changes from above; and

Fifth, that any program which entitles every student to a loan on request will be self-defeating, since those kinds of "guaranteed loans" will merely displace grants and tempt schools to raise their tuitions even faster, leaving recipients worse off than before.

Very briefly, the Fair Access Act would carry out these objectives by:

Giving students a choice of conventional or income-based repayment, thus matching repayments to ability to repay;

Giving students a choice of loan consolidation at their option, where the paperwork and overlapping payments produced by multiple obligations warrant that step;

Giving lenders a choice of State-based or Federal-based repayment services that would sharply reduce both their collection costs and the risk of defaults, thereby increasing loan funds and access;

Raising the annual loan limits for advancing undergraduates, and the lifetime loan limits for those going on to graduate school;

Providing incentives for State agencies to expand and integrate their roles as local "safety valves" for private lenders, as loan consolidators, and as lenders of last resort for needy cases, allowing Sallie Mae to deal with 50 States instead of 10,000 individual lenders;

Encouraging States to operate lender-referral services that would permit student aid officers to package loans with other aid on the campus, relieve students of the need to trot from bank to bank without knowing when a loan will be obtained, and make GSL's more certain; and

Limiting loans to a reasonable portion of need-based assistance or costs of attendance and direct loans of last resort to a percentage of insured adverse effects on tuition and grants.

Mr. Speaker, that is the theory—to increase loan-based access for students by supplementary options which allow lenders to eliminate risks, reduce costs, and increase their net yield, rather than adding more subsidies in ways which do nothing to promote increased lending or efficiency.

The reality can be something else. The State guarantee agencies—particularly those like New Jersey, Pennsylvania, Illinois, and New York with long experience and strong relations with lenders—have done a creative job of delivering an expanding stream of private loan funds to help finance postsecondary education. But even in those States, getting a loan may not be a rose garden for the individual students. And getting a GSL in States without guarantee agencies, or where loans depend on the FISL part of the program run directly from Washington, can be like trying to push the rock of Sisyphus. Lack of effective aid packaging, rising interest rates, and the present system's inability to attract eligible lenders whose low costs of funds might expand GSL participation have all contributed. But the greatest hurdle is the inability of students, schools, and lenders to respond to real needs without being strangled in redtape.

Mr. Speaker, I want to share a little story that shows how the present system can work against its stated goals as well as American values, ensnaring students in a series of Catch-22's. It is a true story. It is about a girl—let us call her Ann. Ann is 22 and the middle child in a family with five children. Her parents are mid-income freelancers whose income fluctuates sharply from year to year. Two of her brothers are presently in private colleges, one at Georgetown, the other about to enter Harvard Business School.

When Ann graduated from high school in 1974 she was accepted to Brandeis, a private university, and the University of Virginia, a State school whose costs of attendance were far lower. She deliberately chose the University of Virginia to save money. She also chose not to borrow to meet those costs because she knew she would be going to graduate school and did not want to use up her $15,000 GSL lifetime limit. She was not eligible for other aid and put herself through school, with considerable but erratic help from her parents, by working summers and saving all she could.

When Ann graduated summa cum laude in 1978, she sensibly decided to work for a year and explore career plans before going on to graduate school. She came to Washington and got a relatively good job as a secretary-research assistant, but was not able to put much money aside because of the high cost of living here.

In February 1979, Ann was accepted to the University of Chicago's Ph. D. program in archaeology. She immediately contacted the university's financial aid office. She was told she was not eligible for any university scholarships or assistantships because they were not given to incoming students in her field. She was not eligible for a BEOG or SEOG, since those are limited to undergraduates. She was not eligible for a Danforth Fellowship because she was out of school and that fellowship requires nomination by an undergraduate institution while the nominee is attending it. She was ruled ineligible for an NSF grant because her recommending letters from the University of Virginia faculty were not on NSF's form and two of their authors, who were out of the country, could not be reached to correct that technicality. And she was declared to be a "dependent student" under OE's guidelines—despite the fact that she had been self-supporting for an entire year—because her parents contributed $600 toward her last undergraduate semester in the spring of 1978. This made her ineligible for several other forms of aid.

That left loans—a route which seemed promising because the University of Chicago is both a school lender under the FISL part of the GSL program and a substantial direct lender under NDSL. But, Ann was told, neither of these loans would be made to her now. First she would have to exhaust the possibility of getting GSL's from private banks "within her State." Only then would she be allowed to apply for a FISL loan from Chicago. When she did apply, the University of Chicago could lend her no more than $3,000 under its internal policies—$2,000 less than the statutory GSL ceiling for graduate loans. She would then be permitted to apply for an NDSL to make up the difference between $3,000 and Chicago's tuition of $4,700. Under no circumstances could she receive loan aid of more than this $4,700, though total costs of attendance for her first year would run around $8,000.

This seemed a bit complicated, but Ann proceeded to try to follow the aid office's orders. The first thing she found was that no one could tell her whether "her State" for GSL purposes was Missouri, Virginia, or the District of Columbia. The second thing she found was that no one could tell her whether Missouri had a State guarantee agency to contact for help. It turned out that Missouri, like about five other States, had been ready to establish a guarantee agency but was holding off because the U.S. Office of Education was making noises about a national loan bank that might make State agencies superfluous.

Ann then began her own trek from bank to bank in St. Louis. She discovered that the commercial bank her parents had used for most of their accounts was not making any new GSL's. Another bank where her parents had substantial account relations refused to make a GSL unless her parents cosigned the note—a requirement that contravened the spirit, if not the letter, of the Higher Education Amendments of 1976. Besides, she felt, she was 22 and this was her debt, not her parents; they had supported her long enough.

She and her parents then contacted over a dozen other Missouri banks where family members or relatives and done business. They were uniformly turned down, either because those banks were not making any GSL's or because the family did not have extensive enough account relations. And they were at their wits' end, since Chicago had not been able to tell Ann what it would take to satisfy the "exhaustion" requirement so her FISL application could be filed. It was now June 10, over 12 weeks since Ann's financial aid hunt began, and the university's deadline was the end of the month.

As it turns out, last week Ann did receive approval from the financial aid office to file her loan application. The school is also exploring ways to make at least some college work-study money available to her. But even if she gets $4,700 in FISL and NDSL money—a prospect which is by no means certain—she will have a tough time making ends meet next year, let alone when costs continue to rise. What will she do when she finishes her Ph. D. with high honors, an assistant professorship paying $12,000, and $15,000 in GSL debt to repay—a debt which will cost over $150 per month under present repayment schedules, not counting her NDSL obligations?

To top matters off, at the same time Ann and her parents were going through this confusion and uncertainty with respect to the University of Chicago, her brother was swiftly supplied a complete aid package, including a GSL, within a month after his acceptance for graduate work next fall at the Harvard Business School.

Mr. Speaker, this kind of disparity in aid processing between two equally prestigious and costly graduate institutions is outrageous. The treatment of a knowledgeable and needy honors student at the hands of the present aid system is equally intolerable. It is no wonder that according to the American Association of Community and Junior Colleges, under 12 percent of the much less sophisticated body of students attending 2-year schools receives any aid, and only about 7 percent of such students receive such basic aid as a federally-administered, straight-formula BEOG.

That is not an irrelevant statistic: For though Ann happens to be a graduate student, her story is repeated over and over at the undergraduate level. Indeed, according to a recent study by HEW, over 40 percent of first-time BEOG applications were rejected in 1978–79—many simply because of incomplete or incorrectly filled-out forms. Secretary Califano has hailed this statistic as proof of the Department's success in controlling fraud and abuse. But it may equally well mean substantial denial of educational access to students who are unable to deal with the complex BEOG forms and are too afraid of the computerized Washington bureaucracy to re-apply after their initial attempt is denied.

Mr. Speaker, I think several morals can be drawn from Ann's story.

First, there is a desperate need for a comprehensive aid-packaging mechanism which will hold down unnecessary indebtedness, insure that loans are used as aid of last resort rather than first instance, and increase the certainty and predictability of obtaining GSL's. There is simply no excuse for a university pushing the initial burden on the student and using nondebt or lower-debt aid to make up the difference, instead of the other way around. That is a perversion of the GSL program's purpose.

Second, where loans are needed, students must at least have the option of electing repayment keyed to their incomes instead of being saddled with repayment schedules which refuse to recognize that equal-cost training may produce vastly different earnings cycles, and that even within those cycles graduates will be earning more their eighth year out of school than their first. Otherwise we are perpetuating a time bomb that will explode in society's face, by forcing students to make their initial income level virtually the sole criterion in choosing how to start their careers. The present program too often favors that result. As the American Association of Law Schools stated in supporting the Fair Access Act:

> How can a student admitted to graduate school afford not to desert that school and work . . . as many hours as possible to meet the bills for tuition, books, and living expenses?
>
> How can a graduating professional student with substantial educational debt exercise free career choice rather than automatically sell his mind to the highest . . . bidder to be able to repay the debt?
>
> These are the major problems that confront the untold potential and 1 million currently enrolled graduate students . . . Unless they are resolved, graduate education is in serious trouble. The present loan programs . . . are as much part of the problem as . . . a solution. . . .
>
> The Maguire bill . . . would enable graduate students . . . to attend a school by borrowing with confidence . . . that they could afford to repay their loans over an open-ended period . . . based upon their earnings from any employment they chose upon graduation. They would be forever free from the mental, physical, and fiscal constraints of a flat-rate 10-year repayment schedule that locked them into a future not of their own selection.

Third, there is a pressing need to upgrade the services provided by college financial aid offices, which even in prestigious universities may not be up to snuff. In community or junior colleges where aid advice is often rendered by volunteers or interns, those services may be far worse. Over the long run, efforts in this direction by NASFAA and other aid-officer associations should help considerably. Over the short run, supplementing campus-based aid efforts by tying them into the State agencies—which are intimately involved with multiple sources of aid and aid information—seems the only route.

Fourth, loan and other aid programs must be simplified and coordinated. That goes for repayment as well as getting loans in the first place. A large part of the reason for hard-pressed financial aid offices' present performance is the overwhelming complexity of the Washington-based programs they must deal with. In this sense those programs defeat access instead of promoting it.

Mr. Speaker, I have extensively addressed the ways the Fair Access Act would respond constructively and sensibly to these concerns. I will not take more time by repeating those remarks here. I respectfully refer my colleagues to my previous RECORD statements of April 26 and May 1–3 on this topic, and insert Ms. Quinn's article below:

SAVING FOR COLLEGE CAN STILL BE DONE

(By Jane Bryant Quinn)

NEW YORK.—The bad news is in about next year's college tuition. Total expenses will rise an average of 8.5 percent at public institutions and 10.6 percent at private colleges and universities, according to the College Scholarship Service. Private schools now cost about two-thirds more than those supported by the states.

In figuring average costs, the CSS counts everything—tuition, room, board, fees, books, transportation and personal expenses. The bottom line for the 1979–80 school year looks like this:

Type of school:	*Cost*
Public, 2-year	$2,760
Public, 4-year	3,258
Private, 2-year	4,552
Private, 4-year	5,526

Many parents have given up saving for college in traditional ways. Prices rise so fast that small, fixed contributions to an ordinary savings account can't possibly produce the amount of money needed. But there are at least some ways of keeping your college savings in the ball park.

Take advantage of the new higher interest rates the government has just authorized for long-term savers. Savings banks and savings and loan associations may now pay as much as 8 percent on four-year term accounts, with no minimum deposit. If the interest is compounded daily, and you leave all the interest in the account, your average annual return after five years would be 10 percent—enough to keep up with prices. If you put the account in your child's name, there will probably be no tax to pay on the annual interest income.

Not all savings institutions will be offering these high rates, so look around for one that does.

Buy good quality bonds that mature around the time your child will leave for college. You'll get guaranteed annual yields of around 10 percent. Again, if the bonds are in your child's name, you'll save on taxes.

Save what money you can in the year or two before college, then borrow the rest. Borrowing for college is saving in reverse: Instead of putting away small fixed amounts for 10 to 15 years before college, you borrow when the child is 18 and repay in small fixed amounts for the next 10 to 25 years (depending on the type of financing).

Advance savings make economic sense if, and only if, total returns keep up with inflation and you avoid taxes by putting the savings in the child's name. Otherwise, borrowing is better; you pay off in cheaper dollars and the loan interest is deductible.

Many parents borrow against the increase in value of their homes. You can either put a second mortgage on top of the first, or else refinance with a larger first mortgage. Second mortgages are available at finance companies (and some banks and S&Ls when money isn't tight), and may run for seven to 12 years. For a new first mortgage, see your bank or S&L.

The cheapest source of money is a government-subsidized student loan, available at many commercial banks and a few other institutions. Interest is only 7 percent (the government pays a subsidy to the lender of another 4 or 5 percent); the government pays the interest while the student is in school; the student doesn't start to repay (on a 10-year repayment schedule) until nine months after leaving school. The maximum loan for undergraduates is $2,500 a year, although many lenders impose a lower ceiling.

Many lenders don't give student loans, because they think the government program is more trouble than it's worth. Dozens of bills now before Congress would encourage lender participation and make more student loan funds available.

The proposal with the broadest support appears to be that of New Jersey's Rep. Andrew Maguire. In brief, he would make the lending mechanism more liquid, hence more appealing to banks; create a central loan information system, so that students don't have to trek from bank to bank; allow students to repay through income-tax withholding; and allow low-income students to take lower than 10 years to repay.

Maguire also has a good idea for reducing student-loan defaults—an idea now effectively used in New Jersey. Defaulters, he said, should be reported to credit bureaus. When a deadbeat student tries to get a mortgage but can't because of a bad credit record, he'll pay up.●

A TAG FOR TERRORIST BOMBS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. VENTO. Mr. Speaker, today during the debate on H.R. 4580, the Treasury, Postal Service, and General Government Appropriation bill for fiscal year 1980, there was discussion of taggants, those particles which when embedded in explosives identify the circumstances of manufacture and distribution. Explosive taggants are an important tool in fighting terrorism but their wider use in the United States has been stymied for a variety of reasons.

I would like to have printed in the CONGRESSIONAL RECORD at this point an article from the Washington Post and an editorial from the New York Times emphasizing the value of identifying explosives taggants as demonstrated by an actual incident.

The materials from these papers follow:

[From the Washington Post, June 19, 1979]

SUSPECT IN TRUCK EXPLOSION CAPTURED WITH NEW SYSTEM

A man accused of using dynamite to blow up a truck and its driver in Baltimore last month was arrested yesterday by U.S. agents who used an experimental system to trace the explosives.

James L. McFillian, 56, of Baltimore was arrested in Martinsburg, W. Va., by agents of the Bureau of Alcohol, Tobacco and Firearms.

He was charged with maliciously damaging a truck by means of an explosive causing the death of Nathan A. Allen, Sr., 46, and with interstate transportation of explosives without a license. Allen was killed in the parking lot of the Bethlehem Steel plant where he worked.

Bruce Tibbo, a spokesman for the federal enforcement agency, said agents looked for and found tiny plastic particles in the debris of the explosion. The composition of these particles, placed in explosives for the purpose of tracing them to their manufacturers, can disclose where, by whom and when an explosive was manufactured.

"After that it's just like tracing a gun," said Tibbo. "There are records which lead from the manufacturer to the retailer to the purchaser who has to sign something to buy them."

The experimental explosives identification program would be mandated by law under the Anti-Terrorism Act now pending in Congress.

McFillian could receive the death penalty if convicted, according to Tibbo. He was held under $250,000 bond.

According to court documents filed in connection with the case, McFillian and Allen had a dispute over a woman.

[From the New York Times, July 3, 1979]

A Tag for Terrorist Bombs

One would think everybody in a modern society would be relieved to learn that there exists a way to mark explosives so that the police could trace their origin after detonation. When investigating a terrorist attack or gangland bombing, detectives could learn as much about the explosive as if they had in hand a distinctive laundry mark.

Yet the National Rifle Association and the chemical companies that manufacture explosives are not so pleased. In fact, they have succeeded in holding up legislation that would require such tracers in gunpowder and high explosives. They say the tags create too many technical problems. And so Congress has asked its Office of Technology Assessment to study the complaints for two months, after which the lobbying struggle will no doubt begin again.

There are about a thousand bombings in the United States each year and very few of them result in an arrest. Part of the reason is that explosives are now almost impossible to trace. But the Treasury Department's Bureau of Alcohol, Tobacco and Firearms has been sponsoring experiments in which laboratory explosions can be identified. And a pilot program has accidentally proved that the procedure works under real conditions.

These marker-substances, or "taggants," can be matched against the records of sales and so allow investigators to trace the explosives through the distribution system. There exists another kind of marker as well that betrays the presence of explosives—when, for example, a bomb is carried through an airport screening device.

The gun lobby opposes mandatory tagging on the grounds that it would be costly, unlikely to aid law enforcement, pose a safety hazard and become a burden. But these are dubious objections. No one knows for sure what the markers would cost, but they are likely to be cheaper than the damage caused by unsolved crimes. The tagged explosives that have been sold under a pilot program so far appear quite safe, although it's hard to evaluate charges that the markers might make the explosives unstable while in storage. We would prefer to trust independent authority on that point. As for the burden of keeping another set of records, it doesn't seem particularly great in an industry already subject to strict record-keeping requirements.

The impressive argument for mandatory tagging is the testimony of law enforcement authorities and airline officials that they find it most useful. In fact, Federal agents last month made their first arrest with the help of the new markers. They sifted through the debris from a bombing murder, discovered the markers, identified the batch of dynamite from which they came, traced the dynamite to a small number of buyers and eventually found that one buyer had recently argued with the slain man. The detective work—an unexpected result of the pilot tagging program—seems to explode the argument that tagging won't help.●

IS PATRIOTISM DEAD?

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

○ Mr. HUGHES. Mr. Speaker, I would like to call to your attention an editorial which, in my opinion, aptly describes many of the feelings which we, as Americans, have about our homeland. This commentary, authored by my constituent, Mr. Sidney Ascher, appeared in his column in south Jersey's Mainland Journal, and was broadcasted throughout my congressional district by station WIIN:

Is Patriotism Dead?

It has been a long time since I have heard anyone mention the word Patriotism. I guess the word came into disfavor during the Vietnam War, and this is sad. Being patriotic is nothing to be ashamed of because it was the spirit of patriotism that made ours a great nation.

In recent years there has been a noticeable drop in the number of flags flying in front of homes on Memorial Day, Flag Day, and the Fourth of July. It is as if Americans are sour on their own country. Our system of government is in deep peril, not because of outside forces but rather from within. It was Russian Premier Khrushchev who said, "We shall bury you," in speaking of the United States, but he was alluding to the fact that we would be defeating ourselves. I wish it would be possible for every American to spend some time in Iron Curtain countries so that they could learn what it means not to be able to speak openly, not to be free to travel, and not to be able to vote for anyone you prefer . . . and of course not to be able to vote someone out of office.

The late Adlai Stevenson noted, "What do we mean by patriotism in the context of our times? A patriotism that puts country ahead of self; a patriotism which is not short, frenzied outbursts of emotion, but the tranquil and steady dedication of a lifetime." These are words that are easy to utter, but this is a mightly assignment. For it is often easier to fight for principles than to live up to them. When an American says that he loves his country, he means not only that he loves the New England hills, the prairies blistening in the sun, the wide and rising plains, the great mountains, and the sea. He means that he loves an inner air, an inner light in which freedom lives and in which a man can draw a breath of self respect.

Yes, while our government is far from perfect, and while there are many problems to solve, ours is still the best country in the world. God Bless America.●

CATTLE-HIDE EXPORTS

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. MAVROULES. Mr. Speaker, I rise today in support of the thousands of American shoe and leather goods manufacturers and employees who are crippled with the problem of escalating prices and a diminishing supply of domestic cattle hides. Because of the export by the United States of a major portion of their hides and the consequent import of finished products from abroad, raw materials for native producers become scarce and prices to the domestic consumer amount to more than $1 billion.

A limit on American export of hides must be implemented. Other countries must be required to share the responsibility to provide the world with raw materials. We cannot ignore the plight of our own shoe and leather workers and must act in their best interests. I commend to my colleagues the following resolution issued by the Commonwealth of Massachusetts:

The Commonwealth of Massachusetts

Whereas, American shoe manufacturers, who recently began to rebound from the flood of cheap imported footwear, now find themselves shod with a potentially more crippling problem, the steadily increasing prices for a shrinking supply of domestic cattlehides; and

Whereas, the price of American cattlehides has more than tripled in the past 17 months, and hide prices have risen by more than 68 percent since January, from 59.3 cents per pound to one dollar per pound as of last month; and

Whereas, the impact of such increases on consumers will probably be felt next year, and at least two of New England's major shoe firms fear continued higher prices could lead to layoffs and possibly shutdowns in leather-related industries; and

Whereas, primarily because of Taiwanese and Korean imports, the footwear industry currently employs about 14,000 workers in Massachusetts as opposed to an employment figure of more than 20,000 eight years ago, but the hide market situation may prove a more serious aggravation, hitting the industry from the inside; and

Whereas, as the United States provides 75 per cent of the world's commerce in hides yet accounts for only 15 per cent of the supply, the main reason for the bleak outlook is that most of the domestic hides are being exported to nations which capitalize on the devalued dollar, where they fetch a higher price than if they were sold to American tanneries and leather processors; and

Whereas, the high amount of exports combined with a steadily declining slaughter rate have resulted in scarce supplies at inflated prices of raw materials needed by producers of shoes, handbags, belts and other leather goods, so that increased hide prices could cost consumers from 1 to 2 billion dollars; therefore be it

Resolved, That the Massachusetts House of Representatives hereby urges the President and the Congress of the United States to pass legislation whereby a limit shall be placed on the number of hides which may be exported from the United States; and be it further

Resolved, that the President's special trade advisor, Robert Strauss, be exhorted to convince Brazil and Argentina to cease and desist from restricting the export of their own hide supplies, which would relieve some of the demand in foreign quarters on the purchase of material from the United States; and be it further

Resolved, that copies of these resolutions be forwarded by the clerk of the House of Representatives to the President of the United States, special trade advisor Robert Strauss, the presiding officer of each branch of Congress and to the members thereof from this commonwealth.●

ABIGAIL ADAMS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mrs. SCHROEDER. Mr. Speaker, Abigail Adams has been known in the history books as the wife of President John Adams, and as the woman who hung the wash in the east wing of the White House. However, she has played a role in American history which has often been overlooked—that of advising Adams and his colleagues that the women of this new country must also be recognized with equal rights.

Abigail Adams realized the advantages of the new country and thought that women deserved a fair share of the new liberties and opportunities. After all, this was a country ruled by the people—and many of those people were women. She believed that all women as part of the community of this new Nation should be given the same rights as men.

In conjunction with the Minutewomen series, I would like to remember Abigail Adams, the founding mother who issued the directive which has been echoed by feminists for the past 200 years, "Remember the Ladies":

BRAINTREE, MARCH 31, 1776.

Abigail Adams to John Adams: I long to hear that you have declared an independency—and by the way, in the new Code of Laws which I suppose it will be necessary for you to make I desire you would Remember the Ladies, and be more generous and favourable to them than your ancestors. Do not put such unlimited power into the hands of the Husbands. Remember all Men would be tyrants if they could. If particular care and attention is not paid to the Laidies we are determined to foment a Rebellion, and will not hold ourselves bound by any Laws in which we have no voice, or Representation.

That your Sex are Naturally Tyrannical is a Truth so thoroughly established as to admit of no dispute, but such of you as wish to be happy willingly give up the harsh title of Master for the more tender and endearing one of Friend. Why then, not put it out of the power of the vicious and the Lawless to use us with cruelty and indignity with impunity. Men of Sense in all Ages abhor those customs which treat us only as the vassals of your Sex. Regard us then as Beings placed by providence under your protection and in imitation of the Supreme Being make use of that power only for our happiness.●

TRIBUTE TO MSGR. FRANCIS X. MAHONEY

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. OTTINGER. Mr. Speaker, this month marks the first time that the congregation of St. Catherine's Church in Pelham, N.Y. is without the services of Msgr. Francis X. Mahoney.

I join with Monsignor Mahoney's parishioners in thanking him for so many years of devotion to the church community and wishing him well in all his new endeavors.

I am pleased to share with my colleagues at this time an excerpt from the Pelham Sun on the occasion of Monsignor Mahoney's retirement:

END OF AN ERA—MONSIGNOR MAHONEY LEAVES PELHAM

Msgr. Francis X. Mahoney, Pastor of St. Catharine's Church for over 40 years, plans to retire at the end of the month. The 75-year old preliate will leave behind a wealth of friends and confidants, members of a spiritual family who have grown to love and depend on their pastor for leadership and guidance in times of personal crisis as well as happiness.

"I'm retiring from the active clergy," said Monsignor Mahoney this week, "but not from the priesthood." The pastor emeritus of Pelham who plans to move to Toms River, N.J. and share a home with his sister, Mary, says he has a new title awaiting him: Voluntary Pastor-in-Residence.

According to Monsignor Mahoney, the 800 or so Catholics living in the small, isolated retirement community on the New Jersey shore have no church and no pastor. "Everyone crowds into the local community hall to hear two services on Sundays from a priest who travels 26 miles to say Mass and give out Communion," explained Monsignor Mahoney who plans to help out by saying daily and Sunday masses.

Building a congregation and establishing new parishes seem to be Msgr. Mahoney's stock in trade. In 1939, a 35-year-old Father Mahoney arrived in Pelham to assist Father Hammer at St. Catharine's just as another fledgling mission, Our Lady of Perpetual Help on the site of the old Grant (of W. C. Grant Department store fame) estate got its start. The chapel, carved out of the family's living room, sat 100 parishioners with the overflow crowd spilling into the front hall. The spacious, 24-room mansion sat on five manicured acres of rolling lawns and formal gardens on the corner of the Boston Post Rd. and Fowler Ave.

Msgr. Mahoney recounted the controversy surrounding the deeding of the property by the Grant family to the Catholic Church.

Originally, the Grants wanted to sell their property to a commercial real estate developer. When the Village of Pelham Manor refused to approve the zoning change necessary for the sale, old Mr. Grant retaliated by donating the estate to the Church and effectively eliminated the property from the village tax rolls.

I'd say the property was assessed at about $250,000 then," speculates Msgr. Mahoney today. "The community was up in arms because everyone's taxes were going to increase as a result of the property transfer," he explained.

Msgr. Mahoney recalled that few of the Grants' neighbors approved of the new mission and many tried, unsuccessfully, to block the mission church.

"Influential families in the Manor threatened to socially ostracize those who supported us," Msgr. Mahoney recalls. "There were many good families who went out on a limb for us in those difficult days . . . I'll never forget those fine people."

Most of Msgr. Mahoney's energy and time went into tending his growing flock at St. Catharine's Church in the Old Village of North Pelham. During the 1950s, the parish was spiritual headquarters for 2,700 Catholic families in Pelham, parts of Eastchester and Mt. Vernon. Six priests said 13 Masses every Sunday. There were an average of 200 baptisms a year (down to about 50 today) and over 100 marriages (25 last year) annually.

Sixteen nuns taught 900 students enrolled in the church's parochial school. (Today there are about 175 students, primarily from Mount Vernon attending St. Catharine's School, which is staffed by five nuns and five lay teachers.)

"We still have a full house on Sunday," Msgr. Mahoney is quick to add least anyone be misled that parishioners have forsaken their church. "There are simply fewer children being born today, Msgr. Mahoney admits, and many of the young adults in the parish are getting married outside the community, either away at colleges or in the parish of their spouse.

How will leaving St. Catharine's affect the Monsignor after all these years?

"You take roots in a place after 40 years . . . it's going to be very hard to get down the kinds of roots I have here any place else," Monsignor admitted. "I intend to be back in Pelham visiting whenever I can," he said. "It's hard to leave old friends."

No one has yet been assigned to fill Msgr. Mahoney's shoes at St. Catharine's parish. Even after the new pastor arrives, it will doubtlessly be many years before the new man will take Msgr. Mahoney's place in the hearts of his parishoners.●

TOO MANY REGULATIONS AND PERMITS IN COAL PLANTS

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. PICKLE. Mr. Speaker, several Texas utilities are taking the lead in switching from oil and natural gas to coal and lignite-fired plants. This action is commendable and indeed, right in keeping with National and State policies. Texas has made some good strides in this switch to coal, but several new problems have been encountered.

One problem, of course, is the skyrocketing cost of transmitting the coal from the West to the plants in Texas.

But a major problem concerns regulations. The Lower Colorado River Authority, a quasi-governmental supplier of electricity to several central Texas utilities, has just opened a new coal plant and is completing work on a companion plant at the same site. The LCRA general manager, Charles Herring of Austin, is again discovering firsthand the maze of regulations and steps he must cross before the LCRA gets into the coal business.

I would like to share with my colleagues a list of 43 permits required to open a coal plant in Wyoming. Similar twisting steps down the paths of regulation await utilities in Texas and other States.

The Federal Government on one hand wants us to convert to new forms of energy, which is good. On the other hand, the Government insists on many varied and often-confusing rules and permits. We can all understand why reasonable regulations are needed, particularly with environmental concerns. But when faced with such a list as this one, a utility manager could understandably be driven up a wall.

We must all work to make the regulatory process more efficient, while maintaining protections to life and property. A glance at this list of 43 permits for a coal plant demonstrates we have a long way to go.

Mr. Speaker, we have created a complicated, agonizing set of procedures. The Government looks silly trying to enforce the requirement of every kind of regulation. We have got to get more commonsense in the regulatory process or we will all freeze—in the dark.

PROJECT REQUIRED 43 PERMITS

How do you construct a $1.6-billion power plant these days? Well, first you have to get a permit. And then you get another permit, and another and another—seemingly, ad infinitum.

In the case of the Laramie River Station, 43 permits were required. Even after complying with all Federal, state and local permit requirements, a lawsuit might come along to threaten the entire program.

Here is the obstacle course successfully (so far) maneuvered by the consumer-owned utilities constructing the Missouri Basin Power Project. The purpose of the permit is followed by the agency granting it.

1. To appropriate groundwater at plant site; Wyoming State Engineer.

2. National Pollutant Discharge Elimination System discharge permit; Wyoming Department of Environmental Quality, Division of Water Quality.

3. Certificate of Public Convenience & Necessity; Wyoming Public Service Commission.

4. Industrial Siting Permit; Wyoming Industrial Siting Council.

5. Solid waste disposal of construction material; Wyoming Department of Environmental Quality.

6. Solid waste disposal of industrial wastes; Wyoming Department of Environmental Quality.

7. Construction permit, Division of Air Quality; Wyoming Department of Environmental Quality.

8. Operating permit, Division of Air Quality; Wyoming Department of Environmental Quality.

9. National Environmental Policy Act determination; U.S. Agriculture Department, Rural Electrification Administration.

10. Aeronautical permit for chimney; Federal Aviation Administration.

11. To construct public water supply; Wyoming Department of Environmental Quality.

12. Spill prevention control and countermeasure plan; U.S. Environmental Protection Agency, Wyoming Department of Environmental Quality.

13. To construct ash pond; Wyoming State Engineer.

14. Approval of bottom of ash pond; Wyoming State Engineer.

15. To construct reservoir for on-site raw water storage; Wyoming State Engineer.

16. To construct reservoir for storm water runoff; State Engineer.

17. Waste-water treatment system; Wyoming Department of Environmental Quality.

18. Construction water supply: Wyoming State Engineer.

19. Aeronautical permit for coal silos; Federal Aviation Administration.

20. Permit for the prevention of significant deterioration; U.S. Environmental Protection Agency.

21. Local zoning; Platte County, Wyo., Commissioners.

22. To appropriate surface water for Grayrocks Reservoir; Wyoming State Engineer.

23. To appropriate surface water for water treatment tests; State Engineer.

24. Laramie River pipeline to divert water; Wyoming State Engineer.

25. Final construction plans for Grayrocks Reservoir; Wyoming State Engineer.

26. Change of appropriation permits for Boughton Ditch water; Wyoming State Board of Control.

27. To appropriate groundwater of Johnson Wells for industrial use; Wyoming State Engineer, State Board of Control.

28. Dredge and fill permit for Grayrocks Dam; U.S. Army Corps of Engineers.

29. Revision of water appropriation permits for inundated area; Wyoming State Board of Control.

30. Transfer of existing plant site water rights; Wyoming State Board of Control.

31. Mining permit to excavate dam construction material and license to explore; Wyoming Department of Environmental Quality.

32. Right-of-way approval of lands to be inundated by Grayrocks Reservoir and for pipeline crossing; U.S. Bureau of Land Management.

33. Right-of-way for Platte County road relocation; U.S. Bureau of Land Management.

34. Transfer of federal mineral leases at Grayrocks Reservoir; U.S. Bureau of Land Management.

35. Dredge and fill permit for Platte County bridge; U.S. Army Corps of Engineers.

36. Certificate of Public Convenience & Necessity for transmission-line approval; Wyoming Public Service Commission.

37. Transmission-line permit for Weld County, Colo., Colorado Public Utilities Commission.

38. Transmission lines in Morgan and Weld Counties, Colo.; Morgan and Weld County Commissioners.

39. Construction of Nebraska transmission lines; Nebraska Power Review Board.

40. Transmission line design approval; Nebraska Public Service Commission.

41. Right-of-way and easements on federal lands; U.S. Bureau of Land Management.

42. Colorado Certificate of Public Convenience & Necessity; Colorado Public Service Commission.

43. Transmission centerline approval; Wyoming Industrial Siting Council.●

THE AIRBAG QUESTION

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. MATSUI. Mr. Speaker, as a new Member of the 96th Congress, I am honored to occupy the seat held for 26 years by the Honorable John E. Moss. During his years in Congress, Mr. Moss established an enviable record as an advocate for consumers. Among his many concerns was providing the American public with safer automobiles. Today, as a private citizen, he continues those efforts as chairman of the National Committee for Automobile Crash Protection, a coalition of more than 60 public health, medical, consumer, insurance, labor, law enforcement, and disabled persons' organizations.

Recently, he sent me a copy of a letter in which he outlined several convincing reasons for opposing the amendment that his former colleague from Michigan, Mr. DINGELL, plans to offer to the Department of Transportation appropriations bill (H.R. 4440). That amendment would have the effect of putting the Congress on record as opposed to airbags.

The letter follows:

JUNE 25, 1979.

Hon. JOHN D. DINGELL,
House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR JOHN: Congratulations on the excellent letter that you and a few of your colleagues wrote on the evils of air bags and the great value of a "belt-only" auto safety system. You well state your case, as always. Might you take the time to read a summary of mine? I'll enumerate briefly four of the many points I believe persuasive, at least they are to me.

1. The draft GAO report which purports to raise questions about air bags was initiated by the GAO Detroit office which undoubtedly relied heavily upon the auto industry's assessments of testing sufficiency;

2. Your concern about sodium azide was dismissed even in the auto industry's own exhaustive studies of this issue;

3. Congress' own research arm, the Office of Technology Assessment, has given air bag technology a resounding vote of confidence in a recent report which concluded: "Technically, the air cushion system is extremely reliable. Operationally, it provides good protection in front-end collisions, which account for more than 50 percent of vehicle fatalities. The probability of inadvertent inflation of the air cushion restraint system is virtually nil; experiments have demonstrated that if it does occur, no real problems, such as loss of control of the vehicle, are likely to occur."

4. Last year's "air bag" vote had no effect upon the passive restraint rule and was a gimmick to build a precedent for attacking the standard through the appropriations process at a later time when such an attack would mean something.

As you know, I have agreed to serve as the Chairman of the National Committee for Automobile Crash Protection, a broad-based organization of more than 60 medical, public health, labor, insurance, consumer, law enforcement and disabled persons' organizations. We are urging your colleagues to reject your amendment which may force the American public to use only passive belt systems. We believe the consumer should be given the choice of choosing a car model with passive belts, air cushions, or any other technology that might be developed in the future. Let the marketplace decide the cost and customer preference among technologies. That is what the existing standard does.

It would be a shame for the House to go on record in support of forcing the public to buy and use passive belts to the exclusion of other technologies. That's what Ford Motor Company convinced the Nixon Administration to do in 1972 when that company proposed for the American people the safety belt interlock fiasco.

Let's have some diversity in the technologies available—belts for some—air cushions for others. That would be fair to all.

Timidity, fear and delay are the allies of non-accomplishment. There is too much of that today. It is time to unshackle technology and move ahead to a safer tomorrow.

Sincerely,

JOHN E. MOSS,
Honorary Chairman,
National Committee for Automobile Crash Protection.

MEMBERS OF NATIONAL COMMITTEE FOR AUTOMOBILE CRASH PROTECTION

Allstate Insurance Companies.
American Academy of Pediatrics.
American Association of Physical Medicine & Rehabilitation.
American Coalition of Citizens with Disabilities.
American Congress of Rehabilitation Medicine.
American Family Insurance Group.
American Insurance Association.
American Nurses Association, Division on Medical Surgical Practice.
American Public Health Association.
American Trauma Society.
Amica Mutual Insurance Company.
Association of Massachusetts Consumers.
The Atlantic Companies.
Automobile Club of Missouri.
Automobile Owners Action Council.
Susan P. Baker, Associate Professor Johns Hopkins School of Hygiene and Public Health.
Cal Farm Life Insurance Company.
Center for Auto Safety.
Center for Concerned Engineering.
Center for Independent Living.
Chubb & Son, Inc.
Colonial Penn Insurance Company.
Commercial Union Assurance Companies.
Congress Watch.
Craig Hospital, Denver, Colorado.
Crum & Forster Insurance Companies.
Disability Rights Center.
Epilepsy Foundation of America.
Farmers Insurance Exchange.
Government Employees Insurance Company.
Greenbelt Cooperative, Inc.
Harleysville Insurance.
The Hartford Insurance Group.
International Association of Chiefs of Police.
League Insurance Group.
Liberty Mutual Insurance Company.
Maryland Institute for Emergency Medical Services.
Mid-Atlantic Emergency Medical Services Council.
Ralph Nader, Attorney.
National Association of Emergency Medical Technicians.
National Association of Independent Insurers.
National Association of Mutual Insurance Companies.
National Association of Professional Insurance Agents.
National Consumers League.
National Safety Council.
National Spinal Cord Injury Foundation.
Nationwide Insurance Company.
Norte Vista Medical Center, Hobbs, New Mexico.
Ohio Farmers Insurance Company.
Physicians for Auto Safety.
Physicians National Housestaff Association.
Prudential Insurance Company of America
Prudential Property & Casualty Insurance Company.
Safeco Insurance Company of America.
Saint Paul Fire & Marine Insurance Company.
State Farm Insurance Companies.
S. Lynn Sutcliffe, Attorney.
Travelers Insurance Companies.
United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW).
United Services Automobile Association.
Wisconsin Consumers League.●

ALTERNATIVE SOLUTIONS TO OIL SHORTAGE BEING NEGLECTED

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. BROWN of California. Mr. Speaker, we have heard much debate recently on our energy problems and the need to find ways to reduce our oil imports. The House recently passed a synthetic fuels bill, initiating a multibillion dollar research effort into alternative domestic sources of petroleum. Before we proceed too far with our current approaches, I think that it is important to discuss all of the alternatives to imported oil.

We have been hearing a great deal about oil shale, gasohol, and a number of other sources of energy but there are as many other important petroleum and petroleum product substitutes that have received little attention. This may be because we are concentrating on simply replacing petroleum and are not devoting attention to the end uses. If we can replace the petrochemical derivatives by using domestically produced sources, then we reduce our oil import needs just as much as if we had discovered new oil deposits.

For many years I have been encouraging the development of guayule, a semiarid plant that grows in the southwestern United States and produces latex rubber. Development of this plant could reduce our natural rubber imports and possibly begin to replace petroleum-based synthetic rubber. Another alternative is jojoba, another semiarid plant growing in the Southwest, which produces a high grade oil. Euphorbia is a semiarid plant that, when its latex is mixed with acetone, yields a black oil that behaves like crude petroleum. Developer Melvin Calvin, nobel laureate in chemistry, says he can make it for $20 a barrel. Biomass of many plants now considered nuisances because of their high growth rates, such as mesquite, are being studied and should receive more attention.

Many other avenues of development are open to us if we take an innovative approach to this problem. I encourage my colleagues to read the following article on two plants mentioned previously and hope that we can begin to discuss the entire range of options open to us.

The article follows:

[From the Christian Science Monitor, July 11, 1979]

OIL FROM A TURNIP? NO, BUT MAYBE A JOJOBA

SOUTHWEST U.S. DESERT PLANTS COULD BECOME ECONOMICALLY VIABLE SUBSTITUTE FOR OIL

(By Paul Van Slambrouck)

HOUSTON.—While Congress rushes to launch a crash program for the production of synthetic fuels in the United States, energy researchers in the Southwest are "rediscovering" the value of natural substitutes for oil, like plant life.

From the arid San Joaquin Valley of central California to the lush Rio Grande border region of southern Texas, government, private business, and academia are finding certain native desert plants can help cut US dependence on foreign crude.

There is a growing feeling that this type of energy research, called "petroculture," is about to blossom into usable products.

The plant most likely to gain significant use in the next five years is guayule, a scruffy desert shrub that yields a natural rubber chemically identical to that produced by Asian rubber trees.

Jojoba, another desert plant that grows wild in Arizona and California, is also gaining new interest as a long-range source of industrial lubricants and even motor oils.

Daniel M. Bragg, an engineer at the Center for Strategic Technology at Texas A & M University, says there are at least 20 other plants in the Southwest now considered useless that have potential as energy suppliers or substitutes for commodities now dependent on foreign oil for their production. And these do not include the growing number of crops being used for making gasohol, a combination of gasoline and alcohol already serving as an automotive fuel in many parts of the country.

Guayule is being developed rapidly for two reasons: It could reduce US dependence on foreign natural rubber, which carries an annual import bill of $800 million, and it could supplement domestically made synthetic rubber, which uses vast amounts of costly imported oil as feedstock.

Congress last year passed the Native Latex Commercialization Act, a bold step allocating $30 million over the next four years in an effort to help commercialize guayule.

"We have moved, in a very short time, from the phrase 'if guayule becomes commercial' to 'when guayule becomes commercial,'" notes Dr. James Tipton, plant scientist with the Texas Agricultural Experiment Station in El Paso, at a recent meeting of the Southwest Border Regional Commission, an economic development group that has funded work in guayule.

Dr. Tipton said his work in cultivating the plant and developing better harvesting methods has progressed fast enough that he envisions guayule becoming commercially feasible in less than five years.

He cited production costs that are rapidly tilting in favor of guayule. The current world market price for natural rubber is about 65 cents a pound, and Dr. Tipton says the latest research shows guayule could be produced for 70 cents a pound.

Goodyear Tire & Rubber Company has planted experimental guayule plots in Litchfield Park, Arizona, and has made prototype passenger tires from the plants. The tires passed the federal high-speed and endurance tests.

Jack Riedl, Goodyear general manager of plantation operations, says the prospect of a world shortage of natural rubber by 1990 also argues for a domestic source of natural rubber. "We are going to need much more natural or synthetic [rubber] than will be available from conventional sources," he says.

Guayule was grown successfully in the U.S. during World War II because foreign sources of natural rubber were cut off. Thus, the technology for guayule production exists, but experts say it must be updated to become cost competitive with synthetic rubber.

Mr. Riedl says the main drawback to guayule production is plant yield. Most plants produce only about one-third the rubber that is needed to make guayule farming profitable.

Still, the Goodyear executive says optimistically that guayule is "close to becoming a commercial reality."

Jojoba, a plant that produces a small oil-bearing seed with properties almost identical to sperm whale oil, is also gaining popularity.

Importation of sperm whale oil is prohibited in the U.S., and advocates of jojoba say it is an ideal substitute as a source of industrial lubricants.

A study by the National Academy of Science last year pointed out that world demand for jojoba is growing faster than supply. Only an estimated 2,000 acres of the plant are grown commercially in the U.S.

Jojoba takes several years to mature, and often dies at temperatures below 20 degrees F. Also, as yet, there is no machinery perfectly suited to jojoba planting and harvesting, and farmers have yet to find a way to determine which young plants are female—the only ones to yield oil.

However, jojoba farming is on the rise. In Texas, an association of jojoba growers was formed last September and now boasts 75 members. Robert Race, secretary of the group, says 600 acres of the plant will be cultivated this year, double the amount of last year.●

SOME SUCCESSFUL DISCHARGE PETITIONS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. DORNAN. Mr. Speaker, with the completion of the discharge petition requiring that a constitutional amendment be taken up on the House floor regarding the issue of busing, it might be of some help to Members to learn how this parliamentary device has been used in the past. The first discharge petition rule was adopted in 1910.

During the second session of the 72d Congress, Congressman Linthicum, Democrat of Maryland, filed a petition to discharge the House Judiciary Committee (full of "drys") from considering the "wet" antiprohibition constitutional amendment. Congressman Linthicum, having obtained a completed discharge petition, on March 14, 1932, called the matter up for a vote. His measure failed by 187 yeas, 227 nays, with 18 not voting.

However, this record vote enabled the "wets" among the citizenry to vote out a sufficient number of "dry" Congressmen in November 1932, and convince the rest to repeal prohibition. Members of the 73d Congress lost no time and on February 29, 1933 within 2 weeks of convening, reported the antiprohibition amendment to the States. It was proclaimed law on December 5, 1933.

At that time only 145 signatures were needed to complete a discharge petition. The present requirement of 218 Members was established in 1935.

In recent times the following discharge petitions have been completed, some of which were passed into law:

Civil Rights Voting Act of 1960.—petition filed by the late Emmanuel Celler (D-NY) to discharge the Rules Committee from further consideration of H.R. 8601. The list was never formally complete although the information was informally publicized. The voting act became P.L. 86–449. (See Page 203 Congressional Quarterly Almanac for 1960).

Prayer in Public Buildings.—Started by Chalmers P. Wylie (Ohio) on April 1, 1971, list completed on September 21, 1971, which discharged the House Judiciary Committee from further consideration of the proposed constitutional amendment (see Congressional Record, September 21, 1971, pp. 32576-32577). Vote taken on Wylie prayer amendment on November 8, 1971, 240 yeas, 163 nays, 27 not voting. Amendment failed by 29 votes of the necessary two-thirds.

Equal Rights for Women.—Started by Martha Griffiths on June 11, 1970, and completed on July 20, 1970, to discharge Judiciary Committee from further consideration (see Congressional Record, July 29, 1970, pp. 24999–25000). Vote taken in House on August 10, 1970, 352 yeas, 15 nays, 62 not voting.

Elected Mayor, City Council, and non-voting delegate to Congress for District of Columbia.—Submitted by Abraham J. Multer on Aug. 24, 1965, and completed on September 3, 1965 to discharge the Rules Committee from further consideration (see Congressional Record, for September 3, 1965, pp. 22900–22901). The bill passed on September 29, 1965, by 283 yeas, 117 nays, 31 not voting, and 2 present.

General Federal Pay Raise Including Congress and Supreme Court.—Submitted by Congressman T. A. Thompson (Louisiana) on June 2, 1960, to discharge the Rules Committee from further consideration. The list was completed on June 3, 1960 (see Congressional Record, pp. 11843–11844). It passed the House on June 15, 1960, by 378 yeas, 40 nays, 14 not voting. It was vetoed later by the President, but the House and Senate overrode his veto and the bill became Public Law 86–568.

Postal Pay Raise.—Submitted by Congressman T. A. Thompson (Louisiana) on May 15, 1957, to discharge the Rules Committee from further consideration. List completed on July 11, 1957 (see Congressional Record pp. 11437–11438). The bill passed on July 23, 1957 by 379 yeas, 38 nays, 15 not voting.

Anti-Monopoly and Restraint of Trade Resolution.—Submitted by Congressman Wright Patman (Texas) on May 21, 1956, and completed the same day (see Congressional Record for May 21, 1956, pp. 8601–8602.) It was never called to the floor.

Postal Pay Raise.—Submitted by Congressman Harold C. Hagen (Minnesota) on June 30, 1954, to discharge Rules Committee from further consideration. List completed on July 21, 1954 (see Congressional Record for July 21, 1954, pp. 11310–11311). Bill voted and passed on August 9, 1954, by 346 yeas, 29 nays, 57 not voting.●

THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA ANNOUNCES ITS OPPOSITION TO THE RESUMPTION OF DRAFT REGISTRATION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. SEIBERLING. Mr. Speaker, the House will soon begin consideration of the fiscal year 1980 Department of Defense authorization bill (H.R. 4040). As I am sure Members of the House are aware, this legislation contains a provision which, if enacted, will once again require the registration of young Americans with the Selective Service System. I strongly oppose draft registration, and I am convinced that a careful examination of the facts surrounding the registration issue will show that the Armed Services Committee has failed to justify the need for its resumption.

A growing number of individuals and organizations are taking public stands in active opposition to the resumption of draft registration. I am pleased to announce that the United Presbyterian Church in the United States of America, at its 191st general assembly, approved a resolution in opposition to the renewal of military registration and conscription. The resolution urges members of the United Presbyterian Church to "monitor attempts to reinstate a peacetime draft or establish compulsory national service and to work against such legislation should it be proposed" and asks "the President, the Congress, and other public officials to resist pressures to reactivate a selective service system."

I commend the United Presbyterian Church for its forthright stand on this issue, and I welcome their addition to the growing number of organizations and churches which oppose the resumption of draft registration.

The full text of the United Presbyterian Church's statement and resolution is as follows:

Resolution of Opposition to a Renewal of Military Registration and Conscription

BACKGROUND

Draft inductions into the United States armed forces ended in 1972. The Selective Service System ceased registration and classification of draft-eligible men in 1975 with an executive order that placed the draft in the "deep stand-by" status, and the Selective Service budget was greatly reduced, to $6.8 million in fiscal year 1977. The military services have been maintaining what national policymakers considered adequate personnel levels by means of an all-volunteer force.

Recent debate in the U.S. Congress has focused on criticism of the all-volunteer concept, concern that Selective Service in deep stand-by could not respond quickly to a national emergency, and authorization of several studies of military preparedness. The Selective Service budget has been increased to $7.0 million for fiscal year 1979 and $9.8 million for fiscal year 1980, and there have been proposals that compulsory peacetime registration, testing, and classification be instituted and that there be greater cooperation in training between the armed forces and institutions of post-secondary education. If pressures to re-establish Selective Service directly are not successful, there are indications that compulsory national service, with paramilitary elements, may be recommended. Executive, legislative, and budgetary signs point to a strong initiative to return to a peacetime draft.

STATEMENT

Whereas the 185th General Assembly (1973), "mindful of the long-standing positions of The United Presbyterian Church in the United States of America's favoring repeal of the military draft, and mindful of the continuing dilemma posed for young men facing the question of registration for the draft" (Minutes, 1973, Part 1 p. 300), urged support for moves toward repeal of the then-existent draft law; and

Whereas there is present activity in the U.S. Congress to reinstate a peacetime draft in this country to require compulsory registration, testing, and classification of 18-year-olds with an expanded selective service system; and

Whereas General Assemblies on many occasions have expressed their aversion to the settlement of international differences by war and have upheld the rights of individuals to assert their conscientious objection to military service; and

Whereas the 181st General Assembly (1969), in a major statement on many aspects of "War, Peace, and Conscience," stated that "the United Presbyterian Church does not teach a single response to war, which all members must accept, for God alone is Lord of the conscience, and not the state or church" (Minutes, 1969, Part 1, p. 696), and said further "The church has a prime responsibility to assist in forming the conscience of and to render pastoral care and understanding to all persons in agony of conscience" (Ibid., p. 697); and

Whereas the 181st General Assembly (1969) also observed that "there are many young men who, in good conscience, choose not to cooperate with the Selective Service System in any way . . . (and) the church offers them her ministries of compassion and pastoral care without necessarily approving or encouraging such responses" (Ibid., p. 699); and

Whereas the 185th General Assembly (1973), addressing itself to "National Service," declared its opposition to "national service plans that are universal, compulsory, or paramilitary, noting that these are undesirable forms of government intervention in a field of activity that should be voluntary and pluralistic in design, administration, and implementation" (Minutes, 1973, Part 1, p. 545);

Therefore, the 191st General Assembly (1979):

1. Urges judicatories and members of the United Presbyterian Church to monitor attempts to reinstate a peacetime draft or establish compulsory national service and to work against such legislation should it be proposed.

2. Asks the President, the Congress, and other public officials to resist pressures to reactivate a selective service system.

3. Requests the Office of The General Assembly to draw attention to the document "War, Peace, and Conscience: Resources for the Church's Ministry" and, in addition, request the Program Agency to continue to develop updated information on the current situation; asking The Office of the General Assembly to send the updated information to pastors and sessions for use in counseling with young persons faced with issues of conscience.

4. Authorizes the Office of the General Assembly, should the need arise:

a. To re-establish the Presbyterian Service Committee for Religious Objectors, and in other ways to make available counseling and legal assistance for young persons faced with conscience issues on this subject; and

b. To request appropriate government agencies to establish procedures permitting application for conscientious objector status at the time of registration in any reinstituted selective service process.

5. Direct the Moderator and the Stated Clerk to immediately send a telegram to the President of the United States, the U.S. Senate, and the House of Representatives declaring the opposition of the General Assembly of The United Presbyterian Church in the United States of America to any re-instatement of peacetime draft or compulsory peacetime registration.

(Approved by the 191st General Assembly, United Presbyterian Church in the U.S.A. May 30, 1979.) ●

THE SITUATION IN IRAN

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. DANNEMEYER. Mr. Speaker, I would like to take a few minutes today to discuss the problems faced by the religious and racial minorities in Iran under the government of the Ayatollah Khomeini. To say the least, recent events have created an air of uncertainty among the non-Islamic elements of Iranian society. This climate of uncertainty and fear, if you will, was set off by the secret trial and subsequent execution of a prominent Jewish businessman, Habib Elghanian, who was accused of corruption and of aiding the Nation of Israel. The fact that the trials of Elghanian, and many other accused persons, were held in secret has led to understandable speculation about, and concern over, the objectives of revolutionary government.

The rumors of persecution directed against the minority communities of Iran, as well as international concern for the human rights of the Iranian people, could be allayed if the revolutionary government would do two things: Apply the principles of due process to its legal proceedings and make those proceedings public. After all, one of the major points revolutionary leaders made in their campaign against the previous government was its handling of prisoners; if we are to believe that the current regime is any less guilty of the abuses it accused its predecessor of, then these two steps are essential. Furthermore, such steps would instill confidence that the verdicts being reached were appropriate and not simply a callous expression of foreign policy.

Mr. Speaker, given past history it is little wonder that minority groups in Iran, and especially the Jewish community, are concerned. Neither is it surprising that 25,000 Jews have fled the country in the past year with more being urged to leave all the time. Perhaps they are overreacting, but the burden of proof lies not on them but on the Khomeini-dominated government. If, indeed, Mr. Elghanian was guilty of corruption, an open trial with proper attention to due process might have provided some of the proof. But the trial was not public, due process was not observed and the opportunity for appeal was obviously restricted, leaving anyone in a minority group wondering if they might be the next to be accused of "corruption." One would hope the new government would want to inspire as much confidence as possible among the peoples of Iran but, as a May 23 article in the Los Angeles Times indicates, such does not appear to be the case. In hopes things will change, I urge my colleagues to read this article to be inserted in the RECORD at this time:

[From the Los Angeles Times, May 23, 1979]

JEWISH LEADERS REPORTED ADVISING PEOPLE TO FLEE IRAN AMID GROWING ANTI-SEMITISM

(By Doyle McManus)

TEHRAN, IRAN.—Leaders of Iran's Jewish community have begun advising their people to flee the country, Jewish sources said Tuesday.

Despite promises from the Ayatollah Ruhollah Khomeini, the leader of Iran's Islamic revolution, that they will not be harmed, Jewish leaders still fear that the wave of anti-Semitic feeling is growing, the sources said.

"This is not your synagogue," one rabbi told his startled congregation recently. "Go to your own synagogue."

A woman who was present explained: "He meant that we should get out and go to Israel, to Europe or to America."

The centuries-old Jewish minority, already reduced by emigration to about 45,000 people from almost 70,000 a year ago, has been gripped by rumors of impending persecution since the execution May 9 of Habib Elghanian, a prominent Jewish businessman who was a confidante of the deposed ruler, Shah Mohammed Reza Pahlavi. Elghanian, the only Jew among the more than 210 victims of Iran's secret revolutionary courts, was accused of corruption and of aiding Israel.

Unconfirmed rumors of persecutions have created a climate of fear. Last week, for example, Jewish sources produced a list of 12 Jews who purportedly had been arrested. But only two of the arrests could be confirmed: those of two members of the multimillionaire Hay family who, like Elghanian, had close ties to the shah.

Another story, earnestly believed by some prominent Jews, is that the government seized a list of some 1,600 financial contributors to Israel when urban guerrillas overran the Israeli trade mission during the February revolution. But knowledgeable Western diplomats said no such list was found.

And yet another list has been reported of more that 4,500 Jews who are supposedly banned from leaving the country while the government investigates whether they sent money to Israel. But a Justice Ministry spokesman said no such list exists, and there have been no reports of Jews actually being denied exis visas.

On Saturday, a prominent Jewish journalist, Saul Bakhash, was arrested at Tehran's Airport as he was about to board a plane to leave the country. But Bakhash was released Sunday after interrogation, and was given back both his passport and his exit visa.

"Every day there's a new rumor," a young Jewish professional said. "But there's no sign yet that a pogrom is beginning. The government says they didn't kill Elghanian because he was a Jew, they killed him because he was corrupt. Maybe they're telling the truth."

The chief rabbi of Tehran, Yedediah Shofet, is equally optimistic—in public. But Shofet, a white-bearded man whose forehead is deeply and permanently creased, is described by friends as desperately worried. In private, it is said, he has wept over the future of his community.

In an interview with three Western correspondents, the aged rabbi took pains to express confidence in Khomeini's assurances of equal treatment—but still refused to allow the reporters to quote him by name. "Don't tell them anything, it will only give us problems," his son, Rabbi David Shofet, counseled in Hebrew.

Behind the fear is not only the suspicion that more arrests might come, but also the growing belief that Khomeini's Islamic republic, with its reliance on Moslem religious law and its ferociously anti-Israeli foreign policy, will be an uncomfortable place for Jews to live in the best of times.

"We want to leave," said one man, a member of a family of successful rug merchants. Would he abandon the family business? "We will be better off somewhere else," he answered simply.

Others are more reluctant to pull up their roots. "My father is crazy," complained a 28-year-old radio announcer who lost his job after the revolution. "He wants to stay. He thinks it will all turn out fine."

"I'm getting out," the announcer said. "There's no place for us here."

Hundreds of other Jews agree. They have flooded the passport office with requests for exit visas, relatively easily granted, and Western embassies for entry visas, less easy to obtain.

The U.S. Embassy, for example, is granting almost no visas except to students who can prove they have been accepted at a U.S. college and to businessmen who can prove that they will quickly return to Iran.

Shofet has pleaded with American diplomats to give his people visas, and he spends hours writing letters of recommendation in hope that they will ease Iranian Jews' passage to other countries.

But the U.S. Embassy is in a dilemma over the issue. It cannot show preference to Jewish Iranians over Moslem Iranians without the risk of sparking more anti-American and anti-Semitic sentiment. And diplomats believe any public pressure on the Iranian government to reassure the Jews is likely to create a backlash of resentment. Like Shofet, they have decided that the best approach is to remain quiet.

That may not be an easy path to follow, for the only sentiment more popular than anti-Zionism in Iran is anti-Americanism. On Tuesday, demonstrators in the northwestern town of Astara, on Iran's border with the Soviet Union, burned a U.S. flag in public to protest what the government-run radio network called "American imperialism and Zionism."

And most of the country's political parties have announced that they will join an anti-American march planned for Friday in Tehran to protest a U.S. Senate resolution that condemned the executions. Khomaini and his government have bitterly denounced the Senate resolution as interference in Iran's internal affairs.

In a statement published by Iranian newspapers Tuesday, Ayatollah Sadegh Khalkhali, a judge in the secret courts, again rejected foreign criticism of the trial—and repeated his call to the people of the world to assassinate the deposed shah.

"Most of the executions have been carried out under my approval, something I will be proud of for the rest of my life," the newspapers quoted Khalkhali as saying. "I have never had any political ambitions, but I do want the blood of the shah in return for all the blood which has been shed for the country."

He said Khomaini has personally ordered the assassination of the shah, now living in the Bahamas, and former Prime Ministers Shahpour Bakhtiar and Jaafar Sharif-Emami, both believed to have fled Iran.

"I call on all the free people of the world to kill the shah as soon as possible, to strike a grave blow against the American Senate and particularly Sen. (Jacob K.) Javits," Khalkhali said.

Javits (R-N.Y.), principal author of the Senate resolution, has come under personal attack here as "a notorious Zionist" and because his wife was briefly paid $70,000 a year for public relations work by Iran Air, Iran's national airline, during the shah's reign.

On Sunday, Khalkhali announced that he was summoning Javits and his wife Marion before the revolutionary courts to answer for their alleged crimes.●

HEROIC ILLINOISANS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. FINDLEY. Mr. Speaker, I would like to bring to the attention of my colleagues the heroic actions of two outstanding Illinoisans. The following story from the State Journal Register, Springfield, Ill., of June 21, 1979, tells how Maurya and Bryan Padget risked their own lives to save Bill Rumisel from drowning. These two young people deserve commendation for brave and selfless conduct.

CITY PAIR RISKED THEIR LIVES TO SAVE ANOTHER

(By Ron Ebest)

A 19-year-old man lay drowning at the bottom of a 10-foot-deep river in Indiana for five minutes Sunday.

Meanwhile, crowds of people, not wishing to get involved, passed above him in canoes, ignoring cries for help from his friend.

But Bill Rumisel of Danville, Ill., is alive today because a brother and sister from Springfield risked drowning to pull him out.

Bryan and Maurya Padget, 100 N. Illinois St., said they were spending the last day of a weekend camping trip at Turkey Run State Park in Indiana when they heard the cry for help.

The first cry came from a man standing on the opposite shore of 25-foot wide Sugar Creek. "At first I thought it was a joke," Bryan said. But by the time they reached him, "he was hysterical. He was grabbing his head and screaming that his friend was drowning.

"The guy got sucked under this big rock," about 20 feet high, Bryan said. "The undertow was really bad. It was so strong I didn't think I could swim against it without getting swept under the rock myself."

All three began to cry for help.

"It was just incredible," Bryan said. "It was a terrible experience. Nobody would stop. We kept hollering, 'Help, please, there's a boy down here!' They slowed down to look and see what's going on, but never stopped."

Maurya said a crowd grew on the bank of people who "just wanted to watch us. Some people even sent their children, I mean little kids to see what was happening."

After a minute or two, Bryan said they knew no one was going to help. They decided to "go after the guy ourselves. Maurya braced herself against the rock and held my legs and I felt around for him.

"The water was opaque. The current was swirling up this sand. I couldn't see anything."

"I started getting tired," Maurya said. "I want to rest."

Bryan said he continued "yelling at people as they went past, but none of them stopped. It seemed unreal. I finally actually grabbed a canoe and hollered at them, and the man in the back said to his wife in front, 'Aw come on, I guess we have to backpaddle,' like he was disgusted."

Bryan said he used the canoe as a brace against the current to continue his search. But he still could not find Rumisel, who by this time had been on the creek bottom for about five minutes.

Bryan said he decided to stop searching under the rock. "I started looking for him other places" near there.

"I figured, if he's under that rock, he's dead, there's no way to get him out. But if the current pulled him out, maybe we could get him."

Bryan found him a minute later at bottom, about six feet from the rock. "I couldn't see, but I felt his pants. I just hoped it wasn't some more of the trash that people had been throwing down there.

"He was real heavy, because his bluejeans were weighing him down. I just pulled him up and out" onto the bank.

"His skin was grey and his lips were blue. He was dead. He wasn't breathing, he didn't have a pulse, and one of the nurses there said his pupils were not reactive. He was dead."

Maurya and two nurses who were camping nearby performed cardio-pulminary resuscitation. His pulse resumed in about two minutes, and he took his first breath shortly after that.

"Breathing seemed painful for him," Mauya said. "One of his ribs was cracked during the CPR. He didn't breathe except when we all yelled, 'Breathe, Bill.' After a while it started to pick up on its own.

"They had to carry him on a stretcher over a mile. There was this suspension bridge, that was the closest they could come" with the ambulance.

Rumisel remains in serious condition in the intensive care unit at Methodist Hospital in Indianapolis.

The Padgets call every day to check on him. "We're concerned about him," Maurya said. "We just hope he's all right."

"I was scared, I'll admit it," Bryan said. "But it's somebody's life, so you have to just do it." ●

ENERGY ANTIMONOPOLY ACT

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. SEIBERLING. Mr. Speaker, yesterday I was happy to join our colleague Mr. UDALL and 52 other Members of the House in introducing the Energy Antimonopoly Act of 1979. This bill, which is identical to S. 1246, introduced by Senator KENNEDY, would prohibit the largest oil companies from acquiring any firm with assets exceeding a value of $100 million.

The hardship and frustration we are experiencing today because of gasoline shortages and high prices are outweighed only by the threat of a more serious energy crisis in the future—months from now and years from now. The demand from the American people for accelerated energy development has never been stronger. However, it is just as clear that there is no one answer to our energy problem. Because the situation is so complex, it requires a response that is comprehensive and multifaceted. To pin our hopes on one policy, especially one as faulty as decontrol, is naive. The bill that we are introducing is certainly not in itself the answer either. However, it is a key component of the kind of full effort called for if we are ever to get a grip on our energy problem.

One premise behind the decontrol of domestic oil prices, as proposed and carried out by President Carter, is that higher prices will result in greater production and new crude oil supplies. However, there is no assurance that decontrol will deliver those results. Crude oil prices are already so high that a substantial incentive for further exploration and development already exists. The oil industry financial statements for 1979 show the greatest profit levels in history. First quarter 1979 profits were up almost 50 percent. Add to this the very generous tax benefits which the oil companies already enjoy and you will be left with no doubt as to who ends up in the decontrol winner's circle—and it is not the American public.

Whether or not some of these huge profits are subjected to a windfall profits tax—and I strongly believe they should be—it is certainly not asking too much that the oil companies reinvest this money in new energy sources. Unfortunately many of them have gone on a spree of buying unrelated businesses in nonenergy fields, as well as competing energy companies, such as coal and uranium companies. For example, in 1974, Mobil Oil Co. used its windfall profits from the Arab oil embargo to purchase the holding company for the Montgomery Ward department store chain. And in 1977, Atlantic Richfield took over the Anaconda Co., a $2-billion copper mining company.

The first type of acquisition, by an oil company of a nonenergy firm, is aimed at increasing the conglomerate growth of the company and usually generates no energy-oriented benefits. The second type of acquisition, of a competitor in the oil, coal or uranium business, increases concentration in the energy field and so tends toward a less competitive energy industry. In either case, such acquisitions make even less likely the success of decontrol as envisioned by the President. Certainly, there is no assurance that any of the profits resulting from decontrol will be used to increase oil and gas production in the United States. If the industry's behavior ever since the OPEC price increases is any guide, much of those excessive revenues will be diverted from exploration for additional oil and gas in favor of other, nonenergy investments. Such conduct is, I believe, contrary to a sound national energy policy. Congressional attention to, and action on, this issue is essential now that oil prices are being decontrolled and the already incredible buying power of the oil industry giants is vastly being increased.

Earlier this year, I introduced in the House the Small and Independent Business Protection Act (H.R. 3169). That legislation seeks to restrict the current trend of large conglomerate mergers throughout the entire business community. I did so in response to the widespread and valid concern that the growing level of concentration of the country's economic resources threatens the future of the free enterprise system as well as the Nation's democratic institutions. The Energy Antimonopoly Act recognizes that this trend is especially undesirable, and also more immediate, in the oil industry, given its huge profits and economic power.

If we allow huge acquisitions by the oil companies to continue unabated, not only will the potential for greater domestic energy production and self-reliance be decreased, but national economic productivity will suffer, local control of businesses will subside, unemployment and inflation will rise, the political power and influence of large corporations will grow and the competition so necessary to keep free enterprise free will most certainly decline. We need this legislation to avoid such unhappy consequences. I hope the Congress will therefore act promptly on the Energy Antimonopoly Act.●

HARVARD PUTS DAMPER ON SYNTHETIC FUELS

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. FOWLER. Mr. Speaker, synthetic fuel has been widely touted in recent weeks as the panacea for our national energy crisis. However, at best, synthetic fuel is only a partial answer to our problems. It is an expensive and rather slow route to energy self-sufficiency. Also, environmentalists are pointing out that synthetic fuel could have serious, harmful side effects, such as raising the carbon dioxide level of our entire planet.

The Harvard Business School has recently completed a 6-year study of our energy problems and concluded that conservation and solar power should be stressed rather than synthetic fuel. In a front-page article by Anthony J. Parish, the New York Times reported on that study.

I offer it for consideration by my colleagues:

Harvard Study Urges Conservation and Solar Use Over Synthetic Fuel

The United States can reduce its oil imports much faster by improving the efficiency of the economy—that is, by conservation—and by accelerating the transition to solar energy than by relying on programs to develop synthetic fuels, according to a study by the Harvard Business School.

The six-year study of the nation's energy problems, which will be formally published by Random House later this month but which is already beginning to appear in bookstores under the title "Energy Future," calls for a diverse national energy policy that would encourage modest growth in the use of coal, some reliance on nuclear power and continued efforts to develop such alternatives as shale oil and other synthetic fuels.

But the authors nonetheless argue that in today's political environment, a stepped-up program to accelerate conservation and solar energy would prove far more rewarding than any other energy path.

Although earlier studies by both private institutions and Government agencies have arrived at much the same conclusion, most of the previous works have come from groups considered to have some antibusiness and antigrowth bias.

"We tried for a more balanced approach, a more hard-headed analysis," said Robert Stobaugh, director of the Harvard Business School's Energy Project and co-editor of the 350-page report. "We're not saying we're going to have a solar society. We're just saying we should go in this direction, and the move should be supported not only by the environmentalists but by the oil companies and the rest of the business community—for their own good."

The authors—including Professor Stobaugh, his co-editor, Daniel Yergin, and six other contributors—argue that the need to constrain oil imports is much greater than most economists and energy analysts have realized. The real cost of increasing oil imports only becomes apparent, they say, when one includes not only the indirect costs associated with the political and strategic dangers posed by dependence on the Middle East, but also the implied costs of increasing the demand for oil from the Organization of Petroleum Exporting Countries.

The latter point, Dr. Stobaugh asserted in a telephone interview, is usually overlooked. That is, the price the consuming nations pay for increasing their oil imports is actually compounded, he noted, because the more oil they buy from the cartel, the more readily the cartel can raise the world price of oil.

"A good example is what has happened this year," he said. "If we could have reduced demand by two million barrels a day and wiped out the shortage, the price would have stayed about $14 a barrel instead of jumping to $20 a barrel." Including the effect the price rise has had on non-OPEC oil, which rose accordingly, the saving would have been $80 million a day, or $40 a barrel, he said.

By this reasoning, an expenditure on alternative energy sources of anything less than the equivalent of $40 a barrel would have been justified, he said.

AUTO MILEAGE, INSULATION STRESSED

The study argues that, for the future, the most profitable alternative is greater emphasis on conservation. By subsidizing such improvements as greater gasoline mileage for automobiles and tighter building insulation, Dr. Stobaugh asserted, "You can save five million barrels a day by the late 1980's—faster than you can get even one million barrels a day from synthetic fuels."

In one chapter, a colleague, Modesto A. Maidique, presents the case for subsidizing solar energy. But the authors concede that they are less certain of the gains that can be made with solar than with conservation. Indeed, Dr. Stobaugh said that, despite all the environmental objections, coal can probably be counted on to provide more relief from oil imports over the next decade than solar energy, after which, the authors said, solar should begin to play a larger role.

In another chapter, Irvin C. Bupp concludes that the environmental, political and economic constraints on nuclear power will probably limit its overall growth over the next decade or so to no more than twice its current contribution. The atom will remain important in such areas as New England and the upper Middle West, the study says, but will gradually wane elsewhere.

As for conventional oil and gas production, "The oil companies are going to have to run like the devil just to stay even," said Dr. Stobaugh. "The United States is simply running out."●

"B.B." KING, THE KING OF THE BLUES, GOES ABROAD

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. CONYERS. Mr. Speaker, "B.B." King, a great artist and talented entertainer, recently returned from a successful 4-week musical tour of the Soviet Union arranged through the U.S.-U.S.S.R. cultural exchange plan. Accompanied by his 10-piece band, this wonderfully gifted musician played to overflowing audiences in 30 Soviet cities, including Leningrad and Moscow.

Reilly B. King was born in 1925, in Indianola, Miss., and as a child worked long hours on cotton plantations with his parents. Black workers in the South sang songs while they labored and chanted "field hollers" of African origin. From these roots the "blues" was born.

"B.B." King is an exponent of "blues" music and expression of joy and the black experience in the rural South. At age 9 he began playing the guitar and learned his first chords. At 15 an uncle gave "B. B." his own guitar and he was hooked. "B.B." King moved to Memphis, Tenn., in 1947 where he molded his own style in local clubs. He acquired the nickname "B.B." as a disk jockey in Memphis and was billed as the "Beal Street Blues Boy." Today "B.B." King is known as the "King of the Blues" the world over.

The New Yorker magazine has included an article on "B.B.'s" visit to the Soviet Union in a recent issue. I have inserted it in the RECORD for the benefit of my colleagues:

[From the New Yorker, June 25, 1979]

THE BLUES ABROAD

A few week ago, we were lucky enough to attend a B. B. King concert in the Gorky Culture Palace in Leningrad. B. B. King, correctly described by his publicity as the best-known blues musician in the world, had been touring the Soviet Union for three weeks, generating waves of enthusiasm among its citizens—who had known jazz well but had had little idea what the blues was. The tour began with a concert in the capital of Azerbaijan; it moved on to Yerevan and then to Tbilisi, where, according to a State Department aide, the impulsive Georgians nearly started a riot, shoving into the theatre until two people sat in every seat. In Leningrad, excitement had been building up long before we reached the Culture Palace. There had been absolutely no advance publicity in the city, but all our Russian friends knew about the concert from "the Voice"—the Voice of America. The afternoon of the concert, a subtle excitement diffused itself through the crowds on Nevsky Prospekt. On the Mtro, groups of well-dressed people were eying one another and anxiously demanding the time. The horde of ticket scalpers encountered on the way to any Soviet performance extended this time all the way down into the subway. "Do you have extra tickets?" people were shouting on all sides. Vasilii, a Russian friend who was with us, said that on the street tickets were going for between fifty and a hundred rubles apiece—that is, between seventy-five and a hundred and fifty dollars.

Inside the performance hall, we found an ample display of Soviet fashion. There were endless pairs of American jeans, which women wore with skinny-heeled Italian ankle boots that are the *dernier cri* of Russian style. The really chic men wore not only jeans but one or two additional items of denim—for example, a jacket and a vest. The curious thing about the crowd, though, was that it consisted not mainly of young people, as one might expect, but of people of all ages. There were many middle-aged men and women, dressed in their best baggy suits and polyester dresses. There were small children, and there were some of the oldest *babushki* I have ever seen, walking slowly, with pleased grins, their heads wrapped in shawls.

A slick-haired Soviet m.c. announced B. B. King ("A great *Negritanski* musician"), and then King was onstage with his well-known guitar—Lucille—and with a ten-man ensemble. As King and the ensemble swung into "Why I Sing the Blues," one could sense the puzzlement of the Soviet audience "Negro" music to them meant jazz or spirituals, but this was something else. Also, there was the question of response. B. B. King is a great, warm presence when he performs, and he asks his audiences to pour themselves out to him in return. King teases his audiences, urging them to clap along, to whistle, to hoot their appreciation, like the congregations in the Southern churches in which he grew up. But to the Russians such behavior suggests a lack of culture and an almost frightening disorder. Though obviously impressed, the audience at first kept a respectful silence during the numbers, as it might at the symphony. (Only the foreigners shouted and stomped out the beat; we found the Russians around us staring at us openmouthed.) Then King played an irresistible riff, stopped, and leaned toward the audience with his hand cupped to his ear. The audience caught on and began to clap. King changed the beat, and waited for the audience to catch up. Then he changed it again. Soon the whole place was clapping along to "Get off My Back, Woman," and there were even a few timid shouts and whistles. King, who has carried the blues to Europe, Africa, and the Far East, had broken the ice one more time.

At intermission, we were fortunate enough to talk to B. B. King. He rose when we came into his dressing room, a large, dark-skinned man with sweat glistening on his forehead. Mr. King is one of the few performers whom it is not a revelation to see close up; he presents himself onstage exactly as he is, and his conversation has the same warmth and intermittent playfulness as his music. We asked him about his experiences in the Soviet Union, and he answered carefully, glancing occasionally at his manager, Sid Seidenberg, who stood by the door, and at an Intourist guide sitting nearby. (The backstage area was bristling with security people and Intourist personnel; our friend Vasilii said, "This place is full of K.G.B.") Mr. King said that although he preferred capitalism, he respected the Soviet system, and that he had been impressed by the cordial hospitality of the Soviet people. Audiences all over the Soviet Union, he said, had received his music enthusiastically.

"The blues is likely something they've never heard before," he said. "I like to help them understand." He told us a bit about touring Georgia and Armenia—his favorite parts of the Soviet Union. His best memory, he said, was driving up to a mountain lake in Armenia, eating a fish dinner, and meeting the local farm people. "I grew up working on farms," he added.

We asked Mr. King what he felt he'd learned from touring the Soviet Union, and he seemed to give the question serious thought.

"I've learned two things," he said, finally, leaning toward us. "The first is patience. The Soviet people are very patient. When things don't happen on time—if a plane doesn't take off for three hours, if a meal doesn't come—they wait. I've learned how to wait. The second thing I've learned here is that you can be a great musician and an amateur. I didn't think that was possible before I came to the Soviet Union. But we have listened to—and in one case actually jammed with—some very fine jazz musicians in Baku and Tbilisi. None of them were professionals."

We asked Mr. King what he thought about Soviet jazz. "Jazz is a peculiarly American kind of music," we said. "What does it seem like to you when it's played by people whose own musical heritage is so different?"

"I was very impressed by what I heard," he said. "They were good technically—sure, that you'd expect. But these fellows felt the music, and that's what impressed me. I don't know where they got the feeling, but they felt it."

We said goodbye to Mr. King and left the dressing room to talk with some of his backup musicians. These musicians were less guarded in their comments. Like Mr. King, they were happy about the audience response, and they praised the jazz musicians of Baku and Tbilisi. But they generally agreed that for a touring musician the Soviet Union is a boring place.

"There's nothing to do here," said one. "At home, we'd finish up the show and go to some little after-hours joint and listen to some music or something. But there's nothing like that here. Everything closes down. It's hard to meet women. It's hard to meet anybody."

Another player complained, "It's like a damn prison here. We go down to dinner in a big group, we go up to our rooms in a group, and there's two, three Russians watching us all the time. Are we followed? Hell, yes. I live in New York. I know the fuzz when I see it. Guides, they call them. They don't like us to do one thing on our own. I like the people, man. The people—especially those Georgians—are something else, if you can just get away from the guides."

By the second half of the performance, the audience was looser than any other Soviet audience I'd ever seen. People whistled, they hooted with delight, they clapped along, answering B. B. King's playful coaxing on the guitar. The guards standing against the auditorium walls looked uneasy. "This is exactly what they don't like," whispered Vasilii. "This rowdiness. They're terrified of a riot." The music, already superb, got better and better. By the time B. B. King swung into his final song—the showstopper—"The Thrill Is Gone," the audience was in love. Following the number, there was tumultuous applause, flowers were flung on the stage, and three Soviet hippies forced their way up onto the stage to kiss B. B. King's hands and to get his autograph. They were quickly wrestled away by a combination of American and Soviet security forces. B. B. King bent to shake hands from the stage, and the guards frowned some more as the crowd broke out into a roaring chant of "B. B. King! B. B. King!" Quickly, the guards fanned out through the audience, pushing people toward the cloakrooms and ending the wild applause before it really got going. At one point, during a lull, we had a chance to talk to our neighbor, a woman who had initially stared at our clapping. She was a well-dressed middle-aged woman who hadn't taken part in any of the "rowdy" behavior.

Nevertheless, she had seemed deeply moved by the performance, and when we asked her how she had enjoyed it, we saw that she had tears in her eyes. "I have been studying American Negro music for years," she said. "I have listened to hundreds of records. It has been a kind of dream of mine to attend a live performance. Now—all that I can say is that I understand the music. One performance is worth a thousand records."

In the cloakroom line, we talked to other local people. The reactions were all enthusiastic and emotional. One girl said, "This is one of the greatest things that ever happended to me in my life! A friend gave me the tickets; I never expected to go. It's almost impossible for an ordinary person like me to see something like this. You have to be special—to have a lot of money or some Party connections—to get to a performance like this."

An older man in a baggy suit looked thoughtful as we talked to him. "B. B.

King," he said, pronouncing the syllables distinctly. "B. B. King astounded me. This blues music—it's not like jazz. He poured his whole heart and soul out there on the stage. Such feeling is very Russian—we believe in emotion, in the soul. I never thought that an American could feel that way."●

INVENTIVE ANSWERS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. BONKER. Mr. Speaker, the energy crisis is here and it is having a very drastic effect on the public. For sure we need to reduce our dependence on oil imports and that will require a major conservation effort and massive involvement in energy alternatives; ultimately, it will be the great American ingenuity that will help solve our energy problems.

In a recent news editorial in my district, a cursory look was given of this ingenuity at work.

Mr. Speaker, I would like to commend to my colleagues an editorial, "Inventive Answers," which appeared in the Daily News, Longview, Wash., on May 27, 1979:

INVENTIVE ANSWERS

Since the gasoline crunch descended on us again, the old bromides that some of us have heard since our teen days have surfaced again.

It was always the same. Some fellow invented and built a miracle carburetor for an automobile that will allow the car to get anywhere from 50 to 100 miles per gallon of gasoline but the oil companies bought him out so this marvel will never again see the light of day.

In the latest version, it is two men who came up with the invention. One was bought off and the other mysteriously disappeared. The inference is that the oil companies did away with him.

All of this nonsense aside, there are some things going on today that may really be innovations in this field and one of them is right here on our doorstep.

Fort Williamson Research & Development Inc., 3306 Highway 101 East, is working on an engine that it claims works on hydraulic principles of fluid under high pressure.

It does not use gasoline or any other type of fuel, the developers claim.

Howard J. Ruff, in his TV program, "Ruff House," has had a couple of guests who have developed innovations in the automotive field which could also solve the oil shortage in a hurry if they prove to be practical.

Dr. Gerald M. Schaflander, the head of Solar-Hydrogen Development Co., has come up with a system using solar energy cells to generate electricity which is used to break down water into oxygen and hydrogen.

The hydrogen is converted from a gas to liquid hydride, which, according to Ruff, acts, pours and burns the same as gasoline. Using the same technology now used to convert automobiles to burn propane, the cars can be easily set up to use the liquid hydride. They would be about the same mileage and have the same range as they would with gasoline.

The essential process came about as the result of finding a way to mass produce the solar cells at about two-thirds less than current costs, making the conversion of solar energy into electricity competitive in cost to nuclear or fossil fuel energy.

Ruff said the system is ready to go now and there will be franchising centers to convert cars and pump the new-type fuel but he didn't say exactly when that is going to take place.

He also said the new firm claims with 20,000 to 30,000 acres of land and access to fresh water it could produce enough of the hydrogen fuel to run all the cars in the nation. Naturally, this opens up great possibilities in the electric power field.

Incidentally, the only exhaust from an engine burning this fuel would be water vapor so air pollution problems would be eliminated. Still another development has been worked out by inventor Vincent E. Carman. According to Ruff, he has come up with a system to store and reuse the energy that is normally lost in braking a car.

The key is a new type of transmission and and an oil pressure storage tank. The car has no brakes. The transmission serves that function when the driver lets up on the accelerator. Oil is pumped into the tank and builds the pressure. When the driver is ready to go this pressure drives the vehicle.

When the stored energy is used up, a solenoid starts the regular gas driven engine until the pressure in the tank is built up then it furnishes the power again.

The big advantage to this device would be in the stop-and-go driving in the city where a lot of braking takes place. There would be little advantage gained in freeway driving where little braking occurs.

Ruff said the car would be driven by the stored energy about 80 percent of the time in city driving thus saving a lot of gasoline.

Right now this all seems pretty far out, but back in the early days of this century so did a flying machine contraption a couple of brothers named Wright were fooling around with in North Carolina.

ANATOLY SHCHARANSKY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to commend the distinguished gentleman from Massachusetts (Mr. DRINAN), for his persistent and diligent efforts in helping to keep human rights as a cornerstone in our country's foreign policy. In particular, I wish to applaud the gentleman for his constant endeavor to keep the struggle for the release of Anatoly Shcharansky alive and from fading away into obscurity.

I wish to enclose in the RECORD, in full, at this point, an article written by Mr. DRINAN, who is also the Chairman of the International Committee for the Release of Anatoly Shcharansky.

I have also been maintaining a strong continuing interest in this particular case. I believe that Anatoly Shcharansky is being used as an example to deter other dissidents from seeking the most fundamental of human rights, most notably, the right to emigrate. The Soviet Union's adamant refusal to allow the release of Mr. Shcharansky, despite worldwide outrage, is indicative of their willingness to readily comply to the Helsinki final accords. Therefore, I am convinced that the only way to see Mr. Shcharansky eventually free is through the perpetual endeavor of making his case known to the world.

I urge my colleagues to join us in this struggle on behalf of Anatoly Shcharansky, and I am hopeful that our endeavor may never fall short of success.

[From the Boston Globe, July 10, 1979]

A VICTIM OF SOVIET INJUSTICE

(By ROBERT F. DRINAN)

One year ago this week world attention turned toward Moscow where dissident Anatoly Shcharansky was convicted on charges of treason and slander against the Soviet state. Leaders throughout the world vehemently condemned the Soviet action, the result of a "farcial trial," and a "gross miscarriage of justice."

Twelve months later, Shcharansky's name has faded from the headlines and the world's attention has focused on other matters. Yet today this 31-year-old champion of fundamental human freedom languishes in ill health in a Soviet prison, while the injustices he has so valiantly fought against have yet to be rectified.

Shcharansky was one of the founders of the Helsinki Watch Committee, formed to monitor Soviet compliance with the 1975 Helsinki accords—particularly those human-rights provisions which require free emigration practices by signatory countries. It remains one of the tragic anomalies of our time that he remains a victim of the abuses he sought so hard to correct.

As a leading critic of the Soviet Union's restrictive emigration practices, Shcharansky frequently met with visitors from the West who were interested in Soviet efforts to allow Jews and other groups to leave the country. His command of the English language, his commitment to the substance of the Helsinki accords, and his dynamic personal manner made him a particularly effective spokesman for human rights.

The charges brought against Shcharansky stem from the accusation that, in his dealings with people from the West, he made contact with agents of the Central Intelligence Agency. In an unprecedented action, President Carter denied that this charge was legitimate. When the trial had ended, Shcharansky was found guilty and sent to Chistopol Prison to serve 13 years at hard labor.

Today, world opinion has been numbed by the passage of time and conflicting signals from the Kremlin. In an obvious attempt to win American approval of the SALT II treaty, and to lobby for most favored nation trade status, the Soviets are releasing larger numbers of Jews who have asked for permission to emigrate to Israel.

In addition, the Soviets have negotiated a dramatic prisoner exchange and released five dissidents involved in an attempted airline hijacking in Leningrad in 1970, including such figures as Alexander Ginsburg and Gregory Vins. Yet Shcharansky remains behind bars.

Today, reliable reports indicate that Shcharansky's health is seriously impaired. Weak and undernourished, he requires immediate medical attention.

Throughout the pain and agony of 12 long months, Shcharansky's wife, Avital, has traveled endlessly from Toronto to London to Washington, to Seattle and back to her home in Jerusalem, with the hope that leaders in the West could impress upon leaders in the Soviet Union the necessity of Shcharansky's release. Avital's courage and stamina throughout this ordeal have been a source of inspiration to those who have come to know her.

With the release of certain Soviet dissidents in May, the hope emerged that a turning point had finally been reached, that the pressures on the Soviets to get concessions from the United States outweighed whatever sordid benefit the Soviets may gain by holding on to Shcharansky and others.

Sensing that more dissidents would be released, cautious optimism spread through Washington and other Western capitals. The Vienna summit was about to convene. The two people capable of negotiating Shcharansky's release were to meet for three days.

At the conclusion of the summit, Shcharanskywas still incarcerated.

The Soviet Union has expressed its sincere desire to have the SALT II treaty ratified by the Senate in the near future. The Soviet economy can benefit greatly from favorable trade benefits that come with most favored nation trade status. It would be enormously helpful, if progress on these and other complex issues is to be made, if the Soviets demonstrated their willingness to honor the commitments they have already made.

In keeping with the provisions of the final act of the Helsinki accords—guaranteeing free emigration—Shcharansky's release is demanded.

The time for action is now. If there is not an immediate decision by the Soviet Union to release Shcharansky, then our rationale for working quietly is past. We will have to intensify our efforts and build an ever-rising public outcry against this injustice.

People of conscience everywhere must join together in demanding that the Soviet Union release this brave young man.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. McDONALD. Mr. Speaker, due to my factfinding visit to Nicaragua on July 10, 1979, I missed two votes during the day's proceedings. If I had been present I would have voted as follows:

"No" on rollcall No. 307, the passage of H.R. 827, the U.S. Postal Service Dispute Resolution Procedures, and "No" on rollcall No. 308, an amendment to H.R. 3821, that sought to require the President to publicly disclose the aggregate appropriations total for the national foreign intelligence program for fiscal year 1980 on November 1, 1979.●

SUPPORT FOR WAGE-PRICE CONTROLS HIGHEST SINCE 1974, ACCORDING TO GALLUP POLL

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. WEISS. Mr. Speaker, the Congressional Budget Office said yesterday that the economy has entered a recession that will last the rest of this year and inflation will remain at or near double-digit level in 1979 and 1980. CBO predicts that the unemployment rate will rise to the intolerable level of 7.3 percent.

This is a clear indication that the time is long overdue for the Congress to grant the President standby authority to impose mandatory wage and price controls. We can no longer allow the American people to suffer the ravages of inflation and extremely high unemployment.

I would like to insert a copy of a poll published by the Gallup organization on May 27 showing that the support among the American people for wage and price controls is the highest since such controls were removed in 1974. In addition this poll demonstrates that the current majority favoring controls—57 percent—represents the highest recorded over a period of four decades during which time more than 40 national surveys were conducted on the subject. I hope that my colleagues will carefully read this poll and realize that we can wait no longer to enact the necessary legislation. The poll and the description of it by the Gallup organization follows:

SUPPORT FOR WAGE-PRICE CONTROLS HIGHEST SINCE THEIR REMOVAL IN 1974

(By George Gallup)

PRINCETON, N.J.—As concern over inflation continues to grow, support for wage-price controls has reached the highest point recorded in the five years since President Richard Nixon removed all controls April 30, 1974.

A majority in the latest survey, 57 percent, says they would favor having the government bring back wage-price controls, while 31 percent say they would oppose such a move.

The current percentage favoring controls represents one of the highest recorded over a period of four decades during which time more than 40 national surveys on the subject have been conducted. Support has been on a general upswing since February of last year, when 44 percent voiced support for controls.

Here is the question asked to determine current attitudes toward returning to wage and price controls:

"Would you favor or oppose having the government bring back wage and price controls?"

And here is the trend since February 1978:

Favor or oppose return to controls

[In percent]

	Favor	Oppose	No opinion
Latest -----------	57	31	12
July 7-10, 1978----	53	34	13
May 19-22, 1978---	52	36	12
April 14-17, 1978---	52	37	11
Feb. 10-13, 1978---	44	40	16

A return to controls has support from a broad spectrum of the American public including members of labor union families and residents of every geographic region.

Sharp differences do appear, however, by political affiliation, educational attainment and family income. As one might expect, Republicans are less apt to favor controls than are Democrats or independents.

As has been the case in previous surveys, college-educated Americans are less likely to vote for returning to controls than are those whose formal education ended at the high school or grade school level.

Similarly, those in the highest income bracket are less likely to favor controls than are people in the middle and lower income groups.

President Carter continues to assert that he will not impose controls, despite mounting pressure from various quarters to do so. Business and labor leaders also continue to oppose controls. Labor leaders believe wage controls unfairly penalize union workers; business people fear that controls will cause shortages in some commodities.

The results reported today are based on personal interviews with 1,490 adults, 18 and older, interviewed in more than 300 scientifically selected localities across the nation during the period May 4-7.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1979

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent from the House on July 11, 1979. Had I been present, I would have voted: "No" on rollcall No. 315, House Resolution 231, to disapprove Reorganization Plan No. 2 transmitted by the President on April 10, 1979.●

HOUSE OF REPRESENTATIVES—*Friday, July 13, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Heavenly Father, we offer our thanks for the gifts we have received—for each new day, for friends and home and family.

We pray for all people who have special needs. May Your presence be known to those who are sick or infirm, that they may feel the power of Your healing spirit. Be with those who suffer persecution and who long for freedom and release, that they may have hope. Give to all who are anxious or afraid or whose minds are clouded by uncertain futures the peace and confidence that comes from trust in Your goodness and mercy. Minister to us all, O Lord, in the depths of our own hearts. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 353. Joint resolution congratulating the men and women of the Apollo program upon the tenth anniversary of the first manned landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance".

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2774) entitled "An act to authorize appropriations for fiscal years 1980 and 1981 under the Arms Control and Disarmament Act, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CHURCH, Mr. PELL, Mr. MCGOVERN, Mr. GLENN, Mr. JAVITS, Mr. PERCY, and Mr. HELMS to be the conferees on the part of the Senate.

The message also announced that Mr. PELL be a conferee, on the part of the Senate, on the bill (H.R. 3173) entitled "An act to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for fiscal years 1980 and 1981, and for other purposes," vice Mr. BIDEN, excused.

RUMORED RESIGNATION OF SECRETARY SCHLESINGER

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, newspaper headlines and television commentators are speculating again that Secretary Schlesinger is thinking of resigning. I take the floor to say that I believe those reports to be untrue, as recurrent rumors to this effect have been untrue for the past 2 years, and that I earnestly hope they are untrue.

I hope and believe that the Secretary will not offer his resignation. I certainly hope and believe that the President will not ask for it.

At times, Jim Schlesinger has been like a voice crying in the wilderness. In my opinion, he has grown in the job and now is much more valuable to the American Nation than when he began. Today he is warning the Nation that we must make a major commitment to more domestic energy production.

Last year about this time people were talking about the so-called oil "glut," saying the energy crisis was a phony. But not Jim Schlesinger. He told us, and correctly, that the existing oversupply of world oil was illusory and temporary. He warned us then that we could not rely indefinitely upon the ability or willingness of foreign nations—members of OPEC—to increase their production and meet our expanding appetite. He was, of course, absolutely right.

He may not always have been right. Which one of us has been? What has been too often overlooked, is that Jim Schlesinger has been right more often than he has been wrong. His critics for the most part do not have that good a record.

Secretary Schlesinger is to be commended for his steadfastness, and, if you will, grace, under the severest pressures. The fix we are in comes from the combination of a long period of bad policy and inattention to this energy problem, combined with the opportunism displayed by the OPEC cartel countries in recent years, and—let us face it—a certain amount of political cowardice. No one person can be blamed. There is enough blame to go around.

The Nation faces grave difficulties. In the Congress we are trying to do something about it. I believe the President wants to work with us—to unleash the creativity and willpower of the American people to secure our independence from the will of foreign powers and to get on with the pursuit of our national goals. Jim Schlesinger has been faithful to that task. I hope and expect that he will stay to help us finish that task.

SYNFUELS AND REFORESTATION

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, this House recently passed a synfuels bill. Synfuels are not only highly inflationary, they also add considerably to the carbon dioxide in our atmosphere.

The planting of a tree will reduce the carbon dioxide in the atmosphere. Yet our Nation is woefully behind in the reforestation of its forest lands. I, therefore, suggest that for every ton of coal we use for synfuels we plant trees.

I shall offer legislation designed to impose a royalty on coal taken from public lands to go into a reforestation fund.

RESIGNATION OF LT. GEN. EDWARD J. ROWNY

(Mr. HYDE asked and was given permission to address the House for 1 minute.)

Mr. HYDE. Mr. Speaker, one ancillary issue of considerable significance concerning the SALT II Treaty emerges from testimony presented to the Senate Foreign Relations Committee yesterday by Lt. Gen. Edward J. Rowny, and that is the necessity for General Rowny to resign from the Army so he could speak his mind.

We find ourselves in an era of unparalleled danger with the frightening mushroom clouds of Hiroshima woefully obsolete as a symbol of the destructive capacity of modern strategic weapons. The full and candid opinions of knowledgeable people are indispensable to making a judgment as to whether SALT II enhances or inhibits the chances for peace in the coming decade.

How reliable are the opinions of the Joint Chiefs of Staff? I surely do not question their integrity nor their intentions but one must be naive to underestimate the need for professional survival.

Apparently it takes extraordinary courage to testify against the reigning dogma that SALT II is in our national interest.

That General Rowny felt it necessary to resign from the Army so he could give his candid views tells us two things:

One, General Rowny is a true patriot.

Two, we should best find a way to protect the careers of such persons so they need not pay such a high price for providing us with their honest views concerning whether or not the United States will make it into the 21st century.

MORAL ASPECTS OF DRAFT

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, the other day I had the chance to participate in a very interesting Capitol Hill seminar. I was asked to speak on the moral aspects of the draft, and I was glad to do so, because this is the most important reason to oppose this misguided idea.

Our country was founded upon the idea of natural rights—that we have our individual rights from God, not from government, and that therefore the government does not have the authority to take them away.

Government does not own us, and has no business forcibly taking young people and inducting them into the military.

The draft is not a sign of military strength, it is a sign to the Soviets of weakness, that not enough Americans are willing to defend their country out of patriotism. I reject this defeatist idea.

Americans would always volunteer to defend their country from any threat, but they are rightly hesitant to go off to be killed in a no-win war as they have been asked to in recent years.

We have a deep moral obligation to defend our country, but the Government cannot define that obligation. Each individual in a free society has the right to decide for himself what that obligation is. It is immoral to use the authoritarian measure of the draft to defend a society based on freedom and natural rights.

DEVELOPMENT AND PRODUCTION OF ALCOHOL AUTOMOBILE ENGINE

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, yesterday I introduced H.R. 4760, a bill to promote the development and production of an alcohol automobile engine. Actually the technology is here.

The cars in the Indianapolis 500 run on alcohol. Brazil recently passed a law which resulted in Volkswagen developing an alcohol auto engine which runs on 95 percent ethyl alcohol and 5 percent water. The ethanol is produced from jungle trees. If Brazil can do it we can do it.

I have cosponsored a bill with the gentleman from Kentucky (Mr. PERKINS) to develop refineries to produce alcohol from grain, biomass, coal, or even garbage. With the development of an engine to use that ethanol or methanol, we can utilize products of the Perkins bill.

Twenty-six percent of all the petroleum we use goes into gasoline for automobiles. We must get away from our dependence on the vicious OPEC cartel.

I have talked with many knowledgeable people about this bill since the 96th Congress began. At the least, the bill can provide the vehicle for hearings and debate.

Today I am sending around a "Dear Colleague" letter. Look it over. You may want to sponsor my bill. I hope so.

☐ 1010

BLAME FOR ENERGY CRISIS BELONGS WITH THE DEMOCRATS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, President Carter will return from his Camp David mountaintop to give our country a new report on energy. We do not anticipate much in the way of positive thinking or constructive plans for progress. This week he has had a much publicized open house as he welcomed all of the Democratic politicians from across the country.

It is obviously the Democratic politicians who do not understand the energy situation. The Democrats have caused the problem. For 25 years the Democratic Party has controlled Congress and passed all of the energy legislation. Today the Democrats have a 2 to 1 majority in Congress and have passed all of these bills that leave America in its energy crisis.

Just 6 years ago our country was importing $3 billion of oil. They now report that we will be receiving $72 billion of OPEC oil next year. The Democrats' energy policy is giving away all of the assets of this country to pay for stopgap oil imports.

We have sympathy for President Carter because he is receiving all of the blame for the energy crisis. But let's be fair and place the blame where it rightfully belongs. The energy crisis belongs on the poor and inadequate legislative program of the Democratic Party which has controlled and passed all energy legislation these past 25 years.

SAUDI ARABIA'S INCREASED PRODUCTION SMACKS OF HYPOCRISY

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, the recent pronouncement that Saudi Arabia has increased its production of crude oil by 1 million barrels per day on behalf of the American public smacks of hypocrisy. Since the embargo of 1973, this country has been victimized by the OPEC cartel. In October of that year we paid $3 a barrel for their crude oil. By the end of that year prices had almost quadrupled to $11 a barrel. Now we face the two-tiered pricing mechanism created by our "friends" in the Middle East of $18 a barrel and $23.50 a barrel, with additional price hikes possibly scheduled for September.

The Government has estimated that the actions taken by our "benefactors" in Geneva last month will add $6 billion a year to the annual U.S. oil import bill for a total of nearly $60 billion for 1979. In addition, because of the price hikes since last December of 60 percent, the iinflation rate in this country will escalate by nearly 2 additional percentage points over the current rate. It will also reduce the economic growth by the same 2 percent.

A July 3 Wall Street Journal article indicates that the Saudis have decided to raise temporarily its daily oil output to provide enough cash to spend on development projects in the country in accordance with its $142 billion 1976–81 development plan.

Mr. Speaker, how can this Nation expect to become energy independent, when we chase after every carrot grown with OPEC petroleum-base fertilizer that is dangled before this Nation's leaders. We must begin to curb this insatiable appetite for crude oil now. We cannot afford to continue to subsidize Saudi Arabia's 5-year development plan with U.S. dollars.

THE SUSAN B. ANTHONY DOLLAR

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, not wanting to throw a wet blanket on Treasury's recent efforts to encourage wide circulation of the new small dollar coin, I have been reluctant to reassert my opposition to its minting.

However, recent articles and comments by individuals have prompted me to address the arguments that I raised in the Banking Committee.

The question is yet to be answered as to whether the Mint has rushed headlong to produce a coin that may prove to be unacceptable by the American consumer. Recent experience with the $2 note should have made it rather obvious that wide circulation of the new coin was not something that could be readily guaranteed. Lacking any reasonable certainty that the dollar coin would become widely accepted and circulated throughout the country, I repeatedly questioned the propriety of having the American taxpayer finance such an experiment at a cost of $15 million—that is, 3 cents to mint each of the 500 million coins. I also stressed that the costs of retrofitting this country's vending machines, estimated to run from a low of $25 million to a high of $200 million, were additional costs that had to be considered as they would ultimately be passed on to the consumers through higher prices.

Mr. Speaker, to put it quite simply, the question of who was to appear on the coin completely overshadowed the very fundamental question of whether a new dollar coin was such a good idea. What has resulted is not just a commemorative coin, but rather a coin that is expected eventually to take the place of the dollar bill—at least that is the notion upon which the cost savings were predicated.

In an age where even a new line of toilet tissue must undergo the rigors of some type of a scientific marketing survey before being marketed, it is indeed absurd to think that today we have a new dollar coin that has cost $15 million to produce without anyone having addressed thoroughly the very real questions of consumer acceptance and the potential inflationary impact of circulation.

The fact that the new dollar coin may be easy to hear when dropped, as offered in one of the Treasury's promotional fliers, may soon prove to be perhaps the only intrinsic advantage that the coin may have over the dollar bill. Until such time as the new coin proves to be acceptable to all, the silence may become deafening.

U.S.-U.S.S.R. MILITARY BALANCE—MYTHS AND FACTS III

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, those who would have us believe that the West is threatened by superior military power from the East often point to the fact that the Warsaw Pact nations have from 2½ to 3 times as many tanks as NATO. But numbers alone can be very misleading. When other vital factors are considered, the picture is very different.

First, it should be remembered that the role of the NATO forces is primarily defensive and a defending army does not require the numerical strength of an attacking army.

This strategic fact is especially important when one compares the comparative range of the Warsaw Pact and NATO tanks. According to experts, the T–62 tank, which the Soviet Army has been using for 17 years and which has only recently been provided to some of the other pact forces, tends to break down after 100 to 125 miles. The comparable figure for NATO tanks, which will have to travel shorter distances, is 150 to 200 miles.

Over 40 percent of the Warsaw Pact's tank capability comes from the six non-Russian members of the pact whose equipment is largely obsolete. In general, pact tanks are lighter, have smaller ammunition loads, less accurate guns, and thinner armor than NATO's.

Next week, I will discuss the comparative strength of the two sides, in terms of tank crew training and antitank capabilities.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS, 1980

Mr. STEED. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4393), making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Ohio (Mr. Miller) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Oklahoma (Mr. Steed).

The motion was agreed to.

The SPEAKER. The Chair designates the gentleman from North Carolina (Mr. Preyer) as Chairman of the Committee of the Whole and requests the gentleman from California (Mr. Lloyd) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4393, with Mr. Lloyd, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the unanimous consent agreement, the gentleman from Oklahoma (Mr. Steed) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. Miller) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. Steed).

Mr. STEED. Mr. Chairman, I yield myself such time as I may consume.

First, let me say that I want to express my deep appreciation for the cooperation and help that I received from the members of the subcommittee that made it possible for us to bring this bill here today.

I especially want to say a word of thanks to my ranking minority member, the gentleman from Ohio (Mr. Miller), because for day after day for many long, long weeks, the gentleman came to the committee and worked with me. The gentleman made a very big contribution to the hearings we held and the information we gathered to support the items in this bill and his loyalty and his cooperation have been very important. I want the gentleman to know that I appreciate it and that I think we owe the gentleman a debt of gratitude for his dedication, especially since the gentleman did a lot of it at a time when another subcommittee of which the gentleman is a member was also holding hearings. It is a little difficult around here to be in two places at once.

Mr. Chairman, this work we are talking about covers about 90 hours of hearings from the time we started last January until the time we appear here today. This is almost par for the course for all appropriation bills. When we realize that the amount, including both permanent and annual appropriations totals $107 billion, and that about $9 billion of that amount is for a part of it to which the subcommittee has to give a very detailed consideration, we can understand why the 62 agencies funded in this bill require so much time.

We are about $10 billion above last year, but all of this increase is attributable to the items in the bill over which the subcommittee has no control. The interest on the national debt, of course, is covered in our report, and since it stands at about $67.5 billion at this time, that is a very large increase over last year. We have other items in the bill that are also automatic.

So, Mr. Chairman, our remarks today, then, will confine themselves to the part of the budget request over which we do have appropriation jurisdiction. The budget request is for $9,500,214,000 and we have reduced that by about $186 million, which brings us to a figure of about $37 million under the appropriations for these same agencies last year.

Mr. Chairman, almost all the increases that are contained in the bill for any of these agencies can be attributed mainly to two things: One is the pay raise that made an impact, and the other is the workload increases. Most of these agencies have workloads that are easy to measure. They are matters over which they have little or no control, and so they just have to handle what comes along. So this growth in workload and the automatic pay raise increase account for almost all the increases in the bill.

Getting to the items that make a big financial demand over which we have no control, in addition to the national debt, there is an interest payment on IRS refunds, there are payments to the retirement funds, there are payments to the Virgin Islands, to Puerto Rico, and for customs and internal revenue work, there are payments to the Presidential Election Campaign Fund, and there are expenses of the Postal Service and the Office of Comptroller of the Currency, and the trust fund accounts.

So this is why in this bill the total of $107 billion consists of about $98 billion of uncontrolled items.

There is one item in the Treasury Department for the U.S. Secret Service. They have a net increase of $20.2 million, bringing the new total to $157 million. Part of this is attributable to the fact that next year will be a Presidential election year, and under the law they will be required to protect candidates for President who qualify before a committee as major candidates. They estimate from the information they are able to have at this time that there could be about 15 candidates who will require protection for 1 month or more during the campaign next year. They have 18 people who they are currently guarding at this time and as required by law.

Mr. Chairman, I will offer an amendment that will add another $1,900,000 to the 1979 budget because the travel related to the protective activities has so exceeded the estimates for this year that the Secret Service is going to be out of funds some time this month unless we are able to make this provision by the amendment which I will offer. We were unable to get the matter resolved in time to include it in the supplemental, and to meet this emergency, I will offer this amendment and hope the House will go along and help us keep this fine agency in business.

Another item I would like to mention is the Bureau of the Public Debt. I find that some people do not even know we have such a Bureau, but we do, and the maintaining of the public debt, the issuing of the securities, and the making of the interest payments and all the other things that go with it cost us this year $183,466,000, which is about $466,000 more than for the current year. I would like to note that we have gone from the series E bond into the series EE bond, and so there will be some interest payments and cashings that will be brought about by this change. So this accounts for the reason they need more money.

In terms of the total personnel contained in this bill, most of the funds in this bill do go to pay personnel, and that is why the impact on the expenses in the bill are so closely related to pay increases, because of course, salaries are paid in the current year.

The bill provides for a grand total of 124,857 positions, 56 more than the budget request but 640 below the current year. Most of this absorption will be by attrition and does not result in any program reduction. In addition to these jobs that are funded directly in the bill, these agencies perform duties for other agencies and are reimbursed or are funded by nonappropriated funds. The Postal Service, of course, operates separately.

The Treasury Department will have about 8,275 positions funded from other sources. The Postal Service currently is authorized 521,522 positions and the independent agencies have about 25,650 positions, bringing the total of the positions that are involved in the bill but not funded by the bill to 555,447. Altogether there will be a decrease of 1,349 personnel funded from other sources who are involved in the bill.

There will be an item to come up concerning the Bureau of Alcohol, Tobacco and Firearms about the tagging of explosives. We believe the legislative committees are taking this up and this matter can be resolved there.

There is also a proviso about some overtime pay that involves the Customs Service and that we think is very desirable. We have explained that in the report.

This is, of course, the year in which we now have in production a new metal dollar. A lot of people call it a silver dollar, but it is not; it is a metal dollar known as the Susan B. Anthony dollar.

It has been put into production and circulation. If costs a little under 4 cents to make it, and we get a dollar for it. That is why we make money making money, because I understand they have received about $500 million worth of orders for this coin.

In the manufacturing of metal money, with the difference between the cost of the coins and their face value, this will add to the Federal Treasury about $1 billion, which is called seigniorage but which is actually profit. So the mint is still making money. It is making money making money.

The Postal Service will get a subsidy of $1.697,558,000, which is $105,851,000 less than in the current year. That is because some of these subsidies we are paying are being phased out, so the phaseout for this year is rather substantial.

There is a new item in the bill for about $25 million for a postal subsidy on certain mass mailings by political activities, but I think an amendment will be offered to take that out of the bill. When we get to that, we will have an explanation of why this is acceptable, at least to me personally, and I think the matter can be worked out separately rather than being in the bill at this point.

Mr. Chairman, the Congress reformed the Civil Service Commission, and we have set up two new agencies now. We have had a little difficulty getting those agencies reorganized and funded. Some of this money we recommend here is an estimate, because it will take another year before their workloads and their needs can be clearly worked out and we will know just how much resources they will need.

The Office of Personnel Management, which is the largest function, is funded here with $114,139,000.

The bill also contains a payment to the retirement and disability fund of $2,411,104,000. Then the Merit System Protection Board, which is the other phase of the reorganization, is funded at $10,590,000.

Mr. Chairman, in addition to that, there is a special counsel, which is funded at $3,250,000, and they may need more because they do not know yet what kind of a workload they will come up with.

Mr. Chairman, this generally touches upon most of the changes and the new things in the bill. I think that of all the bills I have been privileged to help bring to this floor, this is one of the soundest and one of the best, and I can recommend it wholeheartedly to the Members of the House.

□ 1030

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I appreciate the work of the gentlemen of the subcommittee. I have looked over the bill, and I have confidence that they have done good work in this appropriation measure.

I am concerned about some of the language on page 9 of the comittee report under the heading of "Explosives Tagging," which the Chairman just mentioned. The Committee seems to make clear its strong opposition to funding implementation of the Federal explosives tagging program. The Bureau of Alcohol, Tobacco and Firearms, as well as other law enforcement agencies inside and outside the Government have long favored using certain identifying materials which, when mixed with active explosive ingredients, permit either their detection or identification of their manufacture and distribution. Tagging is extremely important in tracking down terrorists.

Mr. Chairman, it is my understanding that the basic difference between detection materials, which are still being perfected and require considerably more research before they can be accepted in identifying taggings, on the other hand, have been developed in a variety of means to a high degree of sophistication. They can, for example, indicate in a tiny capsule of a variety of important information which is easily decoded by examination under an ordinary microscope.

In recent weeks a man was indicted in Baltimore for criminal dynamiting activity because the police said they were able to trace the explosives to him through indentifying taggings. If the national law enforcement authorities are going to be more effective in combating terrorism, they ought to be assisted by the Federal program which mandates identifying taggings for explosives, which obviously is not the jurisdiction of the Appropriations Committee.

I hope the manager of the bill will take this opportunity to explain to those of us in the House who are alarmed about the many instances of terroristic explosives which have killed or maimed innocent citizens and victims, what will be required to have been fulfilled before an identifying program for explosives is acceptable to the Committee.

It is my understanding that the Senate Governmental Affairs Committee, as an example, is currently awaiting corroboration as to the efficacy of identifying taggings from the Office of Technology Assessment before including explosive tagging legislation in S. 333, its antiterrorism bill. If the Office of Technology Assessment confirms the effectiveness of identifying taggants, will there be a reconsideration of Committee strictures against these particular taggants?

Mr. STEED. Mr. Chairman, let me explain to the gentleman this: We got into this matter because we fund the Bureau of Alcohol, Tobacco and Firearms, and it became evident that if a tagging program could be developed it would be a very great help to them in their law enforcement duties, especially in the terrorist field. On the basis of that, we have provided money for them to do the research that has been going on.

Then we had some hearings where we talked with the various manufacturers of explosives, and it became evident that the wide variety of explosives create problems that would be far beyond the purview of our subcommittee to deal with. Therefore, when it goes beyond the matter of us appropriating money to permit the Bureau of Alcohol, Tobacco and Firearms to participate in research, that any regulations or any activities beyond that would have to be a legislative committee duty, and there would be no connection on the part of our committee to be involved in that any more than we have to.

Mr. VENTO. If the gentleman will yield further, I want to commend the committee for its work in terms of funding research in identifying taggings. I think it is an extremely important endeavor and one that has already delivered positive results and encouraging results in terms of identifying taggings and is likely to do so, as well, in the detection area.

I realize there are unanswered questions with regard to that. I want to just point out the Office of Technology Assessment's work. But I also want to point out that the Public Works Committee has been considering for the past few years legislation prescribing and mandating the utilization of identifying taggings in explosive materials. It has been under active consideration in that committee, and I think they will sort out whether or not there would be such a requirement. Many foreign nations, as the chairman probably knows, have adopted the technology basically developed by the initial research done in this country and which is funded by this committee, and it would be our hope that they would be unfettered in terms of their activity in terms of implementing that particular system.

The language here, of course, gives some pause with regard to whether or not that in fact is possible. I am pleased to hear the chairman's response with regard to the difference between the appropriation authorizing committee, and maybe any misunderstandings that might exist now can be clarified in the conference committee with regard to this language.

Mr. STEED. Actually, what we are trying to do here is to keep the agency from taking any arbitrary action until all of these other legislative processes have had a chance to be involved. So we are more than happy to be bound by what the legislative committees develop. We will be more than happy if they could bring up any finalizing of this issue.

Mr. VENTO. I thank the gentleman very much.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. STEED. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I want to join with my colleague, the gentleman from Minnesota (Mr. VENTO), in pinpointing this very important item in this bill. I have been very interested in this matter because we all recall the terrible bombing at La Guardia Airport which remains unsolved, and it possibly could have been solved if there had been some taggants in that powder. The Bureau could have possibly traced where the explosives had been obtained, and the perpetrators of that horrible crime would have possibly been apprehended by this time.

I also take this time to commend the gentleman and to bring to the attention of the House that this is the 14th Treasury appropriation bill that my chairman has brought to this floor, with his great expertise and patience, and it has been a great privilege working with him for many of his 30 years of service. I hope the gentleman remains with us another 30 years.

Mr. STEED. I thank the gentleman.

Mr. ADDABBO. Mr. Chairman, I want to pay special tribute to the experience and patience of our subcommittee chairman, my good and respected friend, Tom Steed in guiding this bill through hearings, markup, and here today. This is the 14th Treasury appropriations bill the gentleman from Oklahoma has brought to the floor during his 30 years in the Congress. The keen mind of our ranking minority member, Clarence Miller, has helped shed light into all corners of the program covered here. Other members of the subcommittee and our hard-working staff, headed by Tex Gunnels and his assistant, Bill Smith, have worked together as a team and I am proud to be associated with each of them.

The new obligational authority recommended in this bill is $37.2 million below the amount appropriated for fiscal year 1979 and $186.1 million below the administration's budget request. Within this reduction, $177 million is attributable to stockpile operations which was denied without prejudice contingent upon legislation. The committee diligently examined each item in the budget request and, while cuts have been made, the full request is recommended where justified.

I would point out a few items in order to illustrate the significance of some of the agencies and programs included here.

This bill provides $446.9 million, the full amount of the budget request, for the U.S. Customs Service. The Office of Management and Budget has proposed a reduction of 518 permanent positions for the Service. This proposal is, in my opinion, totally unjustifiable.

According to testimony by Commissioner Chasen, and I quote from page 227, part I of the hearings:

> The guidance provided by the Office of Management and Budget specified the Budget Activities, such as Inspection and Control or Appraisement and Entry Processing, to be reduced.

The committee is concerned that such reductions could have significant impact on the ability of the Service to accomplish its many responsibilities. I would also point out that such reductions could have significant impact on the efficiency of other services.

One illustration of the chain reaction that can accrue was brought out during our hearings on the Postal Service. The Postmaster General told us:

> I would certainly like an opportunity if I saw the customs staff being cut down drastically, to discuss the continuation of full coverage at very important ports like New York or San Francisco, to see that the mail comes in, moves through. We cannot store mail, because we do not want the expense of storing it and because storage will delay the mail.

I am concerned that, while cutting spending and reducing personnel, we do not make cuts solely for the purpose of cutting. Careful analysis is required in order to reduce wasteful fat from our Federal budget without reducing the efficiency of needed Government services.

As stated on page 11 of the report, the committee believes that the $5 million saved on other items should all be applied toward maintaining customs inspectional personnel levels as high as possible. The bill places a ceiling on overtime pay and allows 200 positions above the budget request.

The full budget request of $139 million is recommended for the Bureau of Alcohol, Tobacco and Firearms. The responsibilities of the Bureau touch upon problems of particular interest to me as a Member from New York. Arson is a growing national problem costing over 1,000 lives a year and billions of dollars in property loss. I am supportive of efforts at all levels, Federal, State, and local to deal with this problem. I have, in fact, introduced legislation to coordinate and support programs directed toward the reduction of this vicious crime.

I have also strongly supported research into the development of a safe and effective taggant program to help insure speedy identification, capture and prosecution of criminals responsible for the bombings. The report discusses the questions of cost, safety, and effectiveness of the program and directs that it not be implemented without committee approval. Funding is authorized for continued research.

BATF also has the responsibility to eliminate trafficking of contraband cigarettes. While this problem rarely makes headlines, it has been estimated that approximately $391 million is lost each year by the bootlegging of cigarettes from low-tax States to those with higher taxes. The loss to my State of New York is estimated at $72 million. I support efforts to investigate and eliminate this activity.

One important point that has been amply demonstrated during the extensive hearings of the subcommittee held this year is that BATF is involved in a number of vital matters which directly affect the lives and safety of our citizens. The Agency generally does a credible job under difficult conditions. Because it is so valuable, I would hope that Treasury Department officials will work closely with BATF in seeing to it that this Agency continues to be able to perform the essential tasks it faces. While we need to keep a prudent eye on spending generally, we must also insure that agencies have the capability of performing the missions assigned to them.

The Treasury Department, incidently, has at times been less than candid with the subcommittee. That problem now seems to be resolved and I would hope that communication between this valuable Department and the subcommittee will continue to be open and direct, as it ought to be if we are to work together to provide essential service to the people.

The budget request of $50.6 million is provided for the Bureau of the Mint. The committee was concerned about the possible closing of the gold and silver bullion refining operation in the New York Assay Office. This is the last remaining Government facility in operation, handling half of the gold currently refined in the United States. The Treasury Department has now announced that, based upon the current cost-effectiveness of the operation, the Assay Office will remain open.

The Office of Personnel Management and the Merit Systems Protection Board are funded in this bill at levels commensurate with their inherited and mandated responsibilities. Within OPM, the intergovernmental personnel assistance program is funded at $20 million, the same level as the current year. This highly effective seed program assists State and local governments in improving their personnel management systems. Studies have found that over 90 percent of IPA projects completed all or most of their goals. As a result, most projects were continued by the jurisdiction after IPA funding had ended. This program can be particularly productive at this time of reduced personnel and funding ceilings.

The resources of the Secret Service will be stretched during the coming election year and the report addresses the committee's concern regarding campaign travel costs. Additionally, the committee has sought to clarify conditions under which reimbursement may be made to State and local agencies relating to protection of foreign dignitaries.

The General Services Administration has come through some dark days and deserves credit for its housecleaning efforts. It is now working well, evidently. In particular, our own New York regional office, under Administrator Gerald Turetsky, has done and is doing a good job. If other districts around the country can achieve the same good results, I commend them.

The scope of this bill is wide. It includes the Executive Office, IRS, GSA, the U.S. Tax Court and a number of small committees and commissions. The committee has examined the responsibilities, the workload and the effectiveness of each of these agencies and has rendered its best judgment.

I recommend the full support of the House for this bill.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I, too, would like to congratulate the gentleman.

I understand that this is the first appropriation bill to come up this year which recommends a net reduction in the funding of the programs covered by the bill, which is a credit to the gentleman from Oklahoma. Also I would like to personally commend the chairman for his good work .

Secondly, I am particularly interested, as the chairman mentioned, in the section having to do with the Postal Service and the mail subsidy for the political committees. But, as the chairman knows, I do intend to offer an amendment, along with the gentleman from Illinois (Mr.

DERWINSKI), to strike that section. I understand that the chairman will probably be supporting our effort.

Mr. STEED. Mr. Chairman, I can just say to the gentleman now that personally I will go along with the amendment. I cannot speak for all of the members of the subcommittee, but we do have the assurance from the Postmaster General that taking this money out here will work no hardship, and it will clear up some other very important matters. I think, for the sake of the procedures, that the gentleman's amendment should be adopted, and I will so say at the time the gentleman offers it.

Mr. GLICKMAN. I thank the chairman.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

Mr. Chairman, I, too, would like to commend the chairman on the tremendous amount of work he has put in on this bill. I know he has worked very hard on it. I have personally spoken to him, and he has indicated to me how much work he has done on it. I have talked to the gentleman about a couple of issues that are very small, in comparison to the total context of his bill. In fact, they are so small that a lot of people would say they are insignificant. But I would like to raise a couple of questions, and the chairman has indicated that he had some information that he might be able to give to me.

There are two things that I propose to offer amendments on, one being under the allowances and office staff of former Presidents. Although it is broken down in the report, it is not broken down in the bill itself. It indicates $35,000 for travel for people, both for former President Nixon and former President Ford. I have looked at the authorizing legislation, and I find, at least from my research—and maybe there is something that I missed—that the authorizing research provides for $66,000 for pension, $96,000 for one and $150,000 for the other, which is mandated by law for staff, and then there is a provision for office space, suitable office space. But I do not find anything for travel. I do not think it is implied there. I wonder if the chairman could comment on the $35,000 for travel for people, because certainly I do not think this fits within the definition of suitable office space. Maybe I missed something. I thought maybe the chairman might be able to point that out to me.

Mr. STEED. Mr. Chairman, I will say this: In the procedures that we have always followed for former Presidents, their budgets are made up by consultation between the General Services Administration, which actually administers the program, and the Office of Management and Budget; and they not only decide what items are fundable under the law, but also they review the use of these items to make sure the money is properly expended.

While the Former Presidents Act does not specifically mention travel in the authorizing legislation, it authorizes the employment of personnel, the furnishing of office space, and related support so a former President can effectively discharge his duties as a former President.

☐ 1040

The Former Presidents Act, which is 3 U.S.C. 102, Public Law 85–745, states:

> The employees will be responsible only to him for the performance of their duties.

When an office staff is authorized, it is implied that part of their duties may involve traveling.

We have been following what the people who have the official duty of preparing and supervising these budget items have recommended, and I suppose that it also comes down to the fact that it would be almost impossible for any of these functions to be followed unless they did have some travel allowance. So it is largely a matter of what I would call commonsense and common practice.

Mr. ERTEL. If the gentleman would yield further, the act is very specific on $96,000 for staff allowances. When it is $96,000 and $35,000 for travel for those people, that is over one-third. It does not seem to me if they are going to have an office staff that they have to travel all over the United States. I probably will offer an amendment. I understand the chairman's position, but I am not convinced by the explanation by the GSA Administrator.

Mr. STEED. Let me say to the gentleman, we are trying to follow what the law says the will of the House is, since the House has willed that there be such a law. If the House decides to change its will, it is acceptable to us.

I do think that it is our duty in the light of any indication to the contrary, that we try to follow the will of the House, which the budget recommendation is supposed to reflect.

Mr. ERTEL. I can certainly appreciate what the chairman is saying. I will enter into a colloquy when I submit that amendment.

If I may have the chairman's attention for one further question, and I am sorry to take so much time on this. I have discussed this with the chairman, and as he is well aware, former President Nixon agreed at one point to turn over San Clemente to the American people. In a written statement he presented that, and in addition, he submitted to the Joint Committee on Taxation his returns. They went over them and audited them very carefully and indicated there was $66,000 that they could not justify on any security ground whatsoever. That money went into the improvements in San Clemente.

Then at that point, the former President indicated he would turn it over to the American people.

Just a couple of weeks ago, or maybe a month, he indicated he was going to sell the house, and I think last week he actually sold it to three developers. That is all a newspaper report.

At this point the American people cannot recover the money unless there would be a lawsuit. I was proposing to offer a reduction in the staff allowances, not in the security, because I think every President is entitled to security, but in the total appropriations to him, to cut away $66,000 there.

I discussed this with the chairman. He said he had some additional information he might be able to impart to me on that particular provision. I was kind of curious as to what it was.

Mr. STEED. Let me say to the gentleman that the Secret Service, and the General Services Administration who were in charge of this, also did the followup on the property in Florida that the former President had, have been out there now going over this property.

Our staff man, Mr. Gunnels, has been out there with them.

Now the Government is reclaiming everything that is reclaimable, and there are some variations. We do not have the final report on it yet, but hopefully within the next few weeks we will have. We will make it available to the gentleman. It is going to change the figures.

I am sorry we cannot give him a final decision at this time, but they are definitely working on it. They have been out with a fine-toothed comb going through this whole thing.

Mr. ERTEL. If the chairman would yield for one additional comment.

The CHAIRMAN pro tempore. The Chair would like to remind the chairman that he has consumed 26½ minutes.

Mr. ERTEL. Mr. Chairman, I will be very quick.

Some of the things included here, there is no way to reclaim: For instance, the cost of boundary surveys and the cost of a gazebo. One of those burned down after he built it. There is a loss of those things which have no security deletion at all. I appreciate that there is going to be waste.

Mr. STEED. That will be spelled out in the final report.

Mr. ERTEL. I will offer the amendment, and I am sure the chairman will probably oppose it.

Mr. STEED. Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of Ohio. Mr. Chairman, I wish to commend the chairman of the committee, the gentleman from Oklahoma (Mr. STEED), for the work he has done on this bill. We also have two very good staff members, Tex Gunnels, and Bill Smith, who have worked diligently attempting to put together the facts. We have many people and many agencies, departments, committees, and commissions that come to this subcommittee for their annual appropriations.

I think that we should make one thing clear, though. When we say that we are under last year's amount and under the budget. I think we should make it clear as to exactly how we are under.

This bill is an $8,819,118,000 bill for 1980, as compared to $8,856,344,000 in 1979.

On paper, it appears that the fiscal year 1980 bill is $37 million lower than the fiscal year 1979 bill.

These figures, however, do not take into account that the 1979 bill had a onetime appropriation of $543 million for the payment through HEW for certain social services claims to the States. That was a one-time payment. Really, the funds had no relation to the Bureau of Government Financial Operations' activities that are normally in the bill, but it was a one-time payment. When we subtract that unusual $543 million payment from the fiscal year 1979 bill, we find that the fiscal year 1980 bill is $506 million over the prior year.

So, in reality, we are considering a bill with an increase of over a half billion dollars.

A number of items in the bill or the report need some additional explanation.

On the issue of explosive taggants that we heard about just a few minutes ago, it was hoped that the taggants would provide leads to criminal use of explosives. That seems now to lack the promise that it once had.

It has been demonstrated that the taggants can be easily and safely removed from the explosive before criminal use.

We have suggested that the BATF research continue, but that the implementation not be contemplated until the committee is satisfied that such use is practical and safe. The taggants are very small, and are mixed in with the powder. They are a foreign material in the powder.

When explosives are manufactured procedures normally attempt to filter out and remove all of the foreign material. So our concern has been that we will create a problem if we add a foreign material to the explosive. That foreign material is very small and is magnetic on one side, and it is florescent on the other side. With a black light it is possible to see it and pick it up with a magnet after the explosion, but one concern is that the millions of pounds of explosives that are manufactured and stored for some time will be made unsafe by having a taggant.

These identification taggants have layers of colors which would help identify where the explosive was manufactured.

It is, as I say, florescent on one side and magnetic on the other.

This is a problem that could be dangerous to the people who are working in the factories that manufacture the explosives. We are not certain at this time that it is not dangerous, but we should prove safety first. It would be mighty hard for us to go back and talk to the widows of the people who were killed in a plant that was completely destroyed, and explain to them that we approved, and demanded that the taggant be put in the explosives.

☐ 1050

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. Yes; I yield to the gentleman.

Mr. VENTO. Mr. Chairman, working in dynamite plants no doubt is a high-risk type of employment. I am sure there has been efforts to minimize the risks that might be involved in that type of employment. But the fact is that the taggants material by themselves and, of course, I think there should be a further review of the potential for taggant to cause an explosion or modified flash point of black powder or dynamite, but the facts are rather different from what has been portrayed. It is a rather sophisticated method to take this identification taggant material out of the powder. The fact is there already has been a demonstrated success with identification taggants, vis-a-vis an incident in Baltimore recorded here in the June 19th press, which may lead to a conviction with regard to the very use of identification taggants. I think we ought to be specific. If the gentleman is talking about detection taggants which have apparently some instability, which are an indeterminate factor at this time, I think that is something that should be explained in the gentleman's explanation. Nevertheless, I am certainly prepared to say that further research on this is, I think, desirable, based upon what the needs are and based upon the terrorist type of activities in our society.

But I also think that we ought to point out that taggants have a lot of hope, and their development is in a very advanced stage. Various European nations have already implemented programs that mandate taggantive use. This ought to be subjected to a cost benefit as well as a safety analysis with regards to material, and the Appropriations Committee in this instance ought to recognize that the authorization committee, the Public Works Committee, is looking very intensely at this area, both in the Senate and in this House.

I appreicate the gentleman from Ohio's (Mr. MILLER) concern, but I think that it does not engage all of the information that is relevant to this particular point. I appreciate the gentleman yielding.

Mr. MILLER of Ohio. I thank the gentleman. The committee also has moved to restrict the Customs Service overtime. We found that about one-half of the agents received over $10,000 per year overtime. We found at least three received $39,000 a year overtime and the average annual pay is $17,500. We had three that were making about the same income as the Secretary of the Treasury.

What we did in the language was to restrict the overtime to not more than equal the amount of the annual pay. That will, of course, allow pay up to $35,000 to $38,000. I attempted to lower that but was not successful in committee.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. Yes, I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, the Trade Subcommittee of the Ways and Means Committee is concerned about this overtime problem of the Customs Service, just as your subcommittee is. I am glad that you put this cap on it.

The problem, of course, is that the President suggested a large reduction in the number of customs officials. Both our committee and yours I think have made substantial reductions, about 300 less employees for customs inspection than were available in the previous year. With less officials and a cap on overtime, is it not possible we are going to get poorer inspections this year than we have had in the past?

Mr. MILLER of Ohio. Yes. It always could be possible that that would take place, but by the same token we have not had the request for that many additional people. Maybe that is so that the overtime could be paid. I think if it is necessary to do this, it is possible for Customs to come back with a supplemental requesting more personnel and more dollars. We have to put the cap on now in order to control the overtime.

Mr. FRENZEL. If the gentleman will yield further, I agree with the gentleman, the principal problem has been in the management of the Customs Service. Obviously there are better ways to do it than have been done in the past. I appreciate the way your committee has worked on this, and we look forward to working with you and trying to insure better management and better organization of the resources available to the Customs Service.

Mr. MILLER of Ohio. I thank the gentleman.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. Yes, I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, could the gentleman make a comment on why it was that the Internal Revenue Service, which is commonly referred to as the Infernal Revenue Service, would have been given more money by the committee?

Mr. MILLER of Ohio. The Internal Revenue Service is divided into many areas. Collections is one area. Is that the area I understand the gentleman is interested in? Is that the particular section the gentleman addresses his question to?

Mr. SYMMS. If the gentleman will continue to yield, my question to the gentleman is I see here just in the total appropriations they are going to get approximately a half a billion dollars more in 1980 than they got in 1979. In view of the fact that escalating taxes is one of the problems that causes restraint on economic growth in the country, I wonder why it is we are trying to make the Internal Revenue Service any more efficient?

Mr. MILLER of Ohio. The Internal Revenue Service needs to be efficient and fair. The problem is to attempt to find those people who are not paying their taxes. As long as we have the tax laws on the book, it is necessary to furnish the funds and the personnel to enforce them.

I agree with the gentleman from Idaho that we should reduce taxes, and if we had legislation that was authorized that would allow us to reduce taxes, we would not need the expenditure for IRS. So I am willing and have cosponsored a bill with the gentleman to reduce taxes.

Mr. SYMMS. If the gentleman will continue to yield, I would like to ask the gentleman one more question.

Mr. MILLER of Ohio. I yield to the gentleman.

Mr. SYMMS. Is there anything in the committee report that talks about how much money the IRS has paid to bounty hunters, the people that turn in their neighbors if they suspect them of tax evasion or something? Maybe the chairman of the committee would want to comment on that.

Mr. MILLER of Ohio. First of all, before the chairman does comment, I would say that that has been talked about many times but it has never been brought forth where we actually have any solid information that we can act on. We have heard that there may be bounty hunters, but we would need some convincing evidence in order to take steps to correct it.

Perhaps the chairman would be able to verify and elaborate on that a little bit.

Mr. SYMMS. Mr. Chairman, I was bringing up the question of bounty hunters hired by the Internal Revenue Service. We have discussed this on the floor of the House in the past where the IRS pays people to become informers. I was wondering if that had come before the committee this year in your deliberations and if the chairman could give the gentleman from Idaho any reassurances.

Mr. STEED. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman.

Mr. STEED. It is not dealt with specifically, but it has always been a practice to earmark approximately $500,000 each year for the discretion of the Commissioner of Internal Revenue to pay informers. Of course some years they do not spend that much. As a matter of fact in 1978 only $379,000 was spent for this purpose.

Mr. SYMMS. $500,000 a year?

Mr. STEED. $500,000 a year in Internal Revenue Service. In addition, there is carried in the appropriation for the Secretary of the Treasury an additional $100,000 for this general purpose. It is not a part of the appropriation for IRS. It is out of the Secretary's office, and subject to his discretion. It is available to be used by all of the law enforcement agencies of the Treasury. The Treasury Department, the gentleman knows, is the world's largest law enforcement agency and this fund is a secretarial fund and is used in all of these agencies. But I would say that history shows the Internal Revenue Service probably uses a lot of it.

Mr. SYMMS. I thank the gentleman and if the gentleman from Ohio will continue to yield——

Mr. MILLER of Ohio. Yes, I yield to the gentleman.

Mr. SYMMS. I thank the gentleman for yielding again. I would say it appears to me that the Internal Revenue Service has probably become the world's leading organization of harassment and oppression. I think that it is interesting that a year ago this Congress passed legislation on the floor of the House that is now law dealing with third-party debt collectors in the collection of private debt.

□ 1100

It would seem to me that it would be appropriate that we apply the same rules to employees of the Internal Revenue Service so that they have to operate within the same code of ethics that is required of private debt collectors. I would hope that the committee would look favorably on this idea and discuss it later on in the amendment process and vote on it at that time.

Mr. MILLER of Ohio. I thank the gentleman. I would like to say that I have not seen any information that was conveyed to anyone that said that we do have the bounty hunters, and they are paid $100,000, and that by and through IRS. As the chairman said, the Treasury Department would have the $100,000. Counterfeiting is a big problem, and there is where I understand the $100,000 is used.

Mr. SYMMS. If the gentleman would yield further, I thank the gentleman very much for bringing that up, because I think counterfeiting is a big problem. I think the Congress is the leading proponents of counterfeiting in the country, but we do it legally by running these deficit budgets and printing the money up on 14th Street and Independence Avenue.

I think it is interesting that the Constitution of the United States only has two crimes listed. One of them is counterfeiting, and the other is treason. There are no other crimes listed, and yet the Congress continues its counterfeiting process. I think that since the gentleman is only talking about bounty hunting, and it is only a minor thing with the Internal Revenue Service, maybe the committee will look favorably upon an amendment that I will offer later which will insure that the IRS does not become a revenue-producing agency, operating a police state. I am glad to hear it is not an important item in the IRS budget.

Mr. STEED. If the gentleman will yield, I just want to say that most of the information they get on income tax evaders is done gratis, and happily.

Mr. MILLER of Ohio. Mr. Chairman, another area that the subcommittee took into consideration was where Presidential nominees fly all over the United States and have Secret Service protection. But, they charge back to the Secret Service—the candidate and the candidate's committee—for a seat on the plane. In other words, the candidate's committee will lease a plane; then, they will charge the Secret Service for a seat on that plane at first-class rates. As the Members know, it does not take one, but many Secret Service people, and in 1976, out of the account that we are considering now, the Secret Service paid over $1 million out to the political committees.

Now, there is a problem with Secret Service trying to keep up, trying to protect the nominees who are moving pretty fast. I believe that the nominees should either waive protection and sign the waiver, or furnish the transportation for the Secret Service, so the taxpayers do not pay that additional money. It came out to the tune, as we say, last year of over $1 million, paid by the taxpayers. It is a back door way for the committees to get a few more dollars and get their hands in the taxpayers' pocket.

I have an amendment concerning the White House Office appropriation, and the amount the subcommittee agreed to. It is a figure of $17 million 500 thousand rather than $18 million 200 thousand that is in the bill. It is not a lot of money compared to what we are talking about here, but it is $700,000 and I would hope that the committee would agree to that reduction.

I have several amendments that we will talk about at amendment time, but one in particular is for a 2-percent reduction. Instead of this bill being $37 million under last year, as I stated in the beginning, it is $506 million over, because of that one-time payment of over one-half billion dollars. I believe that a 2-percent reduction, which would equal $114 million, could be removed from the bill. It would be again on nonmandatory items. I believe that we could stand that reduction.

Let us just think about GSA for a moment. They have over 10,000 buildings. Their appropriation is in this particular bill. The President has said that we will reduce thermostats. We will lower the thermostat in the wintertime and we will raise it in the summertime. That should reduce their utility bills by approximately 20 percent. We should not need the amount of dollars that are in the bill. There are several reasons why we would not need the full amount that is in the bill. We could have a reduction.

● Mr. GRADISON. Mr. Chairman, the language of the committee report on this legislation, the Treasury, Postal Service, and general Government appropriation bill, clearly acknowledges the role of the subcommittee on Oversight of the Ways and Means Committee in investigating the role of the Internal Revenue Service in determining the tax-exempt status of private schools. As the ranking minority member of the subcommittee, I have been deeply involved in that issue for many months, and I would like to share with you some of the conclusions I have reached.

At issue here is not the question of whether or not a private school that has been proven to discriminate on the basis of race should be permitted to retain its tax exempt status. Clearly, that is opposed to public policy. The issue is the process of determining if a private school discriminates. The Internal Revenue Service has drafted one revenue procedure, and subsequently has revised it, in an attempt to establish such a process.

This, I believe, is not the proper order. Congress has determined that the Government should not support any institution that discriminates, and the courts are in the process of defining such support and the act of discrimination. Because the courts have not finalized these decisions, I feel that the IRS has moved too quickly in this case. The IRS should follow, not lead, Congress and the courts. For that reason, I support the language in the committee report and I will support motions to bar the expenditure of funds on the enforcement of the revenue procedures.●

Mr. MILLER of Ohio. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, earlier in this debate reference was made to the necessity of a very close watch upon the expenditures of former President Nixon, and by implication, by any former President. I think concern for proper Federal expenditures is a perfectly legitimate goal. All taxpayers' funds expended for any purpose are in fact a matter of trust, and they should be spent for the proper purposes; and if not, then action ought to be taken to correct the situation.

In that same light I would like to raise a question about the appropriation which appears on page 9, title III of the bill, the Executive Office of the President. As that section indicates, there is appropriated in this bill $200,000 for the salary of the President of the United States, and a $50,000 expense account which is to be used at his disposal.

Several months ago the question was raised by a number of our colleagues about the propriety of the President of the United States soliciting funds from corporations, wealthy individuals, citizens at large, to pay for the expenses of the White House dinner accompanying the signing of the Egyptian-Israeli Treaty, and also for the gala performed at the Kennedy Center when Chinese Vice Premier Deng Xiaoping visited the United States. Both of these occasions, it seems to me at least, would have been appropriately compensated for by the funds in the $50,000 expense account.

It appears from information adduced by one of the veteran Capitol Hill reporters, Jesse Sterns, that in 1977 President Carter spent, of the $50,000 expense account, only $1,372. The remaining $48,628 he took as his own personal income and paid the taxes on it, thus augmenting his salary. In 1978 the President spent $13,165 for expenses, and the remainder of his expense account, $36,835, was taken as salary.

Now, it is my feeling that if it can be shown that the President of the United States needs a higher salary, he should receive that salary. I do not know, quite frankly, how we could ever adequately compensate a President for the responsibilities that are placed upon him—any President, this President or a future President. But, it is demeaning to the office and to the man, in my view, to force him, if he needs this extra money, to divert funds given to him for his expenses for entertainment and activities in the White House to his own personal use, and to have to solicit private funds to allow him to keep his expense money.

☐ 1110

We had a similar situation in the House of Representatives until a few years ago when some of the Obey commission recommendations were adopted—and I served on that commission—which did away with House Members expense accounts and the ability to divert those funds to personal use. The new House rules made us use such funds only for officially certified expenses for which we have to sign. One of the reasons was that the Members were diverting the funds, which they legally could do, and which the President obviously legally can do, to their own personal use and paying taxes on them, and that was an indirect pay raise.

The Vice President of the United States, Mr. MONDALE, in the same 2 year period has had an excess in his $10,000 allowance, and he has seen fit to return unused balances to the Treasury. That is a matter of personal choice. Of course, in any other Federal agency, if moneys are unexpended, unless allowed by special act or appropriation, they must revert to the Treasury.

The only question I am raising here is, and I would address this to the gentleman from Oklahoma as chairman of this committee, is there some necessity for raising the President's salary? Could we not instill a better feeling on the part of the American people by granting the President a $250,000 salary and curtailing the use of his expense account to only official expenses?

Mr. STEED. If the gentleman would yield, the gentleman asked me for an opinion. I would rather answer him by just giving him a little bit of history. On January 19, 1949, the salary of the President was raised from $75,000 to $100,000, and the $50,000 expense account was added with no accounting, and it was tax free. In 1951 they made the expense account taxable. The present law says no accounting other than for income tax purposes shall be made by him, meaning the President. That is the situation today. We have had no indication from the President that this does not meet with his approval, and since this would have to be a legislative committee problem, our committee has given no further attention to it than to follow what we think the practice and the law is.

Mr. BAUMAN. The gentleman certainly has restated the law, as I think I correctly paraphrased it early in my remarks, but I repeat: it seems to me that we need to take some step to either raise the compensation of the President, if that is the necessity, or to do away with what appears to be a backdoor pay raise. I think it would make the American people feel better and it would be the honest thing to do.

Mr. STEED. If the gentleman will yield, I say the President does probably the most impossible job on Earth, and I do not think we could ever pay anybody a sufficient amount for serving in that position.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MILLER of Ohio. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Chairman, just to follow up on the comments of my colleague, the gentleman from Maryland (Mr. BAUMAN), I certainly want to add my voice to say we ought to put accountability into that and to change the law when the appropriate opportunity presents itself. I believe the American people are fully willing to support the President in any expenses that have to be incurred and that are rightfully the responsibility of the taxpayers. But to appropriate $50,000 and see one year $1,100 used and another year $13,000 used, and yet at the same time to solicit $5,000 tax-deductible contributions from major corporations and virtually selling seats to significant and historic state dinners I believe is almost reprehensible.

I am not saying the President is not worth $250,000. The Office of the Presidency should be obviously adequately compensated, but let us put it on an up or down position, and if the position is worth that, let us increase the salary of the President and then pay only those bills that are rightfully those bills that the taxpayers have a responsibility for and eliminate this kind of grab bag opportunity for the President that we see in existence.

At this time I also want to commend my fellow Minnesota citizens, the Vice President, Mr. WALTER MONDALE, because according to the press he has only used his funds for legitimate purposes and has turned the rest back to the Treasury. I think in keeping with the times he has really set up an outstanding example that other people in high positions ought to emulate.

Mr. MILLER of Ohio. Mr. Chairman, the gentleman from Maryland (Mr. BAUMAN) and the gentleman from Minnesota (Mr. HAGEDORN) were discussing the amount of expense that the President used. In the hearing book of part 3 on page 323 we have a statement there where I talked to the gentleman who came in to justify the budget for the President, Mr. Hugh Carter, Jr., Special Assistant to the President for Administration. At that point the record states, so that it will show that it was not just a news report:

> Mr. MILLER. We have an article in U.S. News & World Report, and it is stated that the President only spent $1,372 of this $50,000 last year.
>
> Mr. CARTER. I believe that is correct.

So we do have on record information conveyed that says that the bulk of the expense money was not spent for expenses. We are not indicating that it is illegal because the President paid tax on it and it was legal. The point is, that if we are going to increase the compensation of the President, we should show it as a line item and increase the compensation. If the President is doing his work, he certainly should be paid the proper amount.

I have no additional requests for time, Mr. Chairman.

Mr. STEED. Mr. Chairman, I yield back the remainder of my time.

Mr. MILLER of Ohio. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. All time having expired, the Clerk will read.

The Clerk read as follows:

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of two hundred passenger motor vehicles for replacement only, including one hundred and ninety for police-type use; operation, and maintenance of aircraft; hire of passenger motor vehicles and aircraft; and awards of compensation to informers as authorized by the Act of August 13, 1954 (22 U.S.C. 401); $446,857,000, of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; and of which not to exceed $1,200,000 for research and studies shall remain available until expended: *Provided*, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of the annual base salary of that employee.

Mr. MYERS of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to ask a question pertaining to the Customs Service. It has been the practice of the U.S. Customs Service to monitor the import of crude oil into the country, to make reports as to the amount of crude oil being imported and from what countries it comes. About a month ago the Department of the Treasury, through the customs procedures manual, reported that they were going to terminate this policy and rely completely upon reports of gaging from the oil companies and from the exporting nations. I am in no position this morning to question the authenticity of any of these reports or the accuracy of any of these reports, but it is common knowledge that the American people do not trust the oil companies today. I think this is really not the time to raise further question with an already skeptical American public.

I, along with the gentleman from Arkansas (Mr. BETHUNE) wrote the Secretary of the Treasury on June 28, asking what would happen if this order were carried out. I received a letter, and I think Mr. BETHUNE received a similar letter, dated July 6 that they would let us know later when more was known about this. I take this time to question the chairman and the ranking member about what knowledge they might have about the change in policy as far as reporting the import of crude oil. I yield to my chairman.

Mr. STEED. I thank the gentleman for yielding. I might say to the gentleman I have a letter dated July 12 from the Commissioner of Customs saying that there is no truth to this report, that they are not changing their present program, and although they are not required to collect tax on it by executive order of the President, they are continuing to measure and will continue to do so. There are some studies going on that some time in the future may result in some changes, but we are assured that before any action is taken we will be advised of it and have opportunity to discuss it. So at the present time there is no change in the situation and none contemplated.

□ 1120

Mr. MYERS of Indiana. My mail has not been answered yet but I am pleased to hear you have had that information that the Customs Service will continue to monitor and to report on the importation of crude oil into the country.

I thank you for that response.

I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Secret Service, including purchase (not to exceed two hundred and twelve for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments which may be provided without reimbursement; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be necessary to perform protective functions; the conducting and participation in firearms matches; $157,000,000, of which not to exceed $2,000,000 shall remain available until expended, for payments to State and local governments for protection of permanent and observer foreign diplomatic missions, pursuant to Public Law 94–196 including costs of providing protection for motorcades and at other places associated with a visit qualifying under section 202(7) of title 3, United States Code; for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided*, That funds appropriated herein will be available for repairs and alterations of the Beltsville, Maryland, facility and for research and development.

AMENDMENT OFFERED BY MR. STEED

Mr. STEED. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEED: On page 8, after line 5, insert the following:

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for fiscal year 1979 for "Salaries and expenses" for travel of employees on protective missions, without regard to the limitations on such expenditures in this or any other Act, $1,900,000.

Mr. STEED. Mr. Chairman, this is an item contained in House Document 96–156 which came too late for either House to act on it to include it in the supplemental bill which was finalized day before yesterday.

Mr. Chairman, this is a very urgent and important item because it has to do with the ability of the Secret Service to continue to furnish protection for about 18 people including the President and his family and the Vice President and his family. Therefore, Mr. Chairman, as a matter of expediency it was deemed by those who are concerned that this would be the most logical place to answer this urgent need.

I recommend the approval of this amendment.

Mr. MILLER of Ohio. Mr. Chairman, I just received information on this amendment a few minutes ago. I understand the problem the chairman of the subcommittee has, to try to keep the Secret Service working on the mission they have of protecting people.

I would like to inquire of the chairman as to whether the funds, $1,900,000, would be used to protect the candidate who would be running for President.

Mr. STEED. Mr. Chairman, this money would be used between now and October 1 of this year. This is what they need right now. This part of the program would be finished before the guarding of candidates for President begins which would be next January or February.

Mr. MILLER of Ohio. This amount of money would then be used in 1979 fiscal year?

Mr. STEED. Yes it would be, Mr. Chairman. As of today or tomorrow they will be almost depleted of any funds for this purpose.

Mr. MILLER of Ohio. We are presently considering the fiscal year 1980 appropriation now. How would they be able to spend that $1.9 million in fiscal year 1979?

Mr. STEED. Mr. Chairman, the language of the amendment I offer covers that, if it is agreed to here. As a matter of procedure this seemed to be the easiest and most logical way to meet this urgent need with which the Secret Service is faced. I was hoping the House would go along with it as the best solution for a problem that must be solved one way or the other.

Mr. MILLER of Ohio. It would not be involving the nominees running for President. I wanted to make that clear because I have an amendment concerning that. The gentleman's amendment would in no way affect the amendment I would offer to reduce funds?

Mr. STEED. This money will either have been used or will lapse before that other program begins.

Mr. MILLER of Ohio. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. STEED).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: On page 8, line 5, after the word "development" add ": *Provided further*, That no funds appropriated herein shall be available for payment to any candidate, or any organization supporting such candidate, for providing air transportation for Secret Service agents protecting that candidate.".

Mr. SYMMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1140

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the

Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes in support of his amendment.

Mr. MILLER of Ohio. I thank the Chair.

Mr. Chairman, this amendment would restore subcommittee language which would prevent the Secret Service from paying Presidential campaign organizations for seats on campaign aircraft while they provide protection to the President and the nominees. Had this been in effect in the last election, taxpayers would have saved over $1 million.

Federal law requires the Secret Service to protect Presidential candidates unless candidates decline that protection. They can waive that protection.

This amendment would suggest that candidates who benefit from that protection should provide transportation or decline the Government protection. It will not require that the Secret Service seek alternate transportation or spend more money than they now pay for transportation.

Under current guidelines the Secret Service pays the agent's share of the charter cost or an amount equal to the first-class fare, whichever is less. The guidelines governing the protection are flexible enough to cover this modification and can be redrawn when necessary.

The Secret Service has expressed some concern with the language since it is easier for them to pay the money and take the ride, and it requires no additional initiative or imagination to continue to charge money to the taxpayers.

My amendment would require Presidential candidates to share part of the burden of their own protection. This measure is bipartisan and has no benefit to any one party above another. It treats them all equally. In addition, it provides no advantage to the incumbent, since he is required to reimburse the government for campaign-related transportation and protection costs.

To give some idea of what was spent during the last Presidential election time, we have from the Secret Service a listing of the payments to campaign committees for travel of Secret Service personnel during the 1976 President election. This is quite a list, and it shows that for Gov. George Wallace the amount was $79,932. That is money charged back to the taxpayers for a seat on a Presidential nominee's plane so that he can go out and campaign, and that Secret Service agent is there for his protection.

As a matter of fact, the amount for former Gov. Ronald Reagan was $310,313; for former Gov. Jimmy Carter, $129,182; and for Senator FRANK CHURCH, $26,645.

Mr. Chairman, I urge the committee's support of the amendment, and I will include here the list to which I have just referred in the RECORD so we will have a complete accounting to show where the dollars were spent.

The list is as follows:

Payments to campaign committees for travel of Secret Service personnel during the 1976 Presidential election

Former Gov. Jimmy Carter	$129,182
Former Gov. Ronald Reagan	310,313
Senator Henry Jackson	12,851
Gov. George Wallace	79,932
Senator Birch Bayh	6,110
Congressman Morris Udall	74,364
Senator Lloyd Bentsen	11,930
Senator Frank Church	26,645
Senator Eugene McCarthy	406
Sargent Shriver	7,150
Gov. Milton Shapp	2,259
Former Senator Fred Harris	2,035
Subtotal (prenomination)	663,177
Democratic Nominees Carter and Mondale	251,027
Republican Nominee Dole	151,010
Subtotal	402,037
Total	1,065,214

Mr. STEED. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have had this matter up before, and we have discussed it with the Secret Service. The amendment says that this applies only to air travel, which is probably the most important part of the candidate's protection. The Secret Service thinks it can go along with this by arranging to deal with the lessors of the planes rather than with the candidate or political party.

Mr. Chairman, I have no objection to the amendment, and I recommend its approval.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GENERAL PROVISIONS—TREASURY DEPARTMENT

SEC. 101. Appropriations in this Act to the Treasury Department shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-2) including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

This title may be cited as the "Treasury Department Appropriations Act, 1980".

□ 1150

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYMMS: Page 8, after line 16, insert the following new section:

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communication in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

Mr. SYMMS. Mr. Chairman, during the years that I have served as a Member of this body, I have been contacted by many of my constituents because of the unduly harsh treatment they received by Internal Revenue Service agents. And, I am sure that every Member in Congress can relate various renditions of instances where their constituents have been harassed, intimidated or embarrassed.

In the 95th Congress, we passed the Debt Collection Practices Act which requires that third party debt collectors in the private sector follow a certain code of conduct in their collection efforts. It seems to me that public servants should be subject to a similar code of ethics in the administration of their duties.

Consequently, I am offering an amendment which will prohibit funds being appropriated today from being used in connection with the collection of any underpayment of taxes imposed by the IRS unless the conduct of the officers and employees of the Internal Revenue Service is in compliance with certain provisions of the Debt Collection Practices Act.

Basically, this amendment would prohibit IRS agents from harassing or intimidating any person in connection with the collection of any debt or the threat or attempt to do so. Presently, taxpayers are oftentimes harassed at home or at work where they have been threatened or where armed agents have come to their homes at late evening hours in an effort to collect revenue that in many instances is not due.

In addition, the amendment would prohibit employees of the Internal Revenue Service from communicating with third parties unless that party was the attorney for the individual taxpayer concerned. In other words, IRS agents would no longer be allowed to question a taxpayer's neighbors, friends, or relatives as to his lifestyle or various other assorted unethical questions.

It is my hope that my fellow Members will support this effort to upgrade the conduct of our public servants and to instill into our system a certain standard of ethics. During these times when most citizens are looking to our Government with disdain, I believe that it is vitally important to require that the Government and public servants adhere to the same code of conduct that is required of the private sector.

Mr. STEED. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment came to the attention of the Committee at the 11th hour. It involves something that is very close, if not actually, legislation on an appropriation bill.

It seems to us that if this has any value at all that the gentleman, in all good conscience, would have taken this before the legislative committee, to obtain the kind of redress that he wants.

We have had no opportunity to find out what the Internal Revenue Service's reaction on this would be. There is no way on Earth we can give the Members of this House any assurance as to the effect of this amendment except the gentleman's word. And since we have been in session since January, I think it is unfair for anything as complicated as this, and which is subject to some question as much as this is, to be brought here at this time and ask the Members to approve it.

The legislative committees are still in session. If it deserves redress, that is the proper place to do it.

Mr. Chairman, I ask that this amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 15, noes 17.

Mr. SYMMS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was take taken by electronic device.

The following Members responded to their names:

[Roll No. 331]

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnes
Bauman
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Broomfield
Brown, Calif.
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Coughlin
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hillis
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDonald
McHugh
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Mikva
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pursell
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Robinson
Roe
Rosenthal
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Russo
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shuster
Simon
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1210

The CHAIRMAN. Three hundred sixty-four Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Idaho (Mr. SYMMS) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 299, noes 69, answered "present" 3, not voting 63, as follows:

[Roll No. 332]

AYES—299

Abdnor
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Barnes
Bauman
Beard, R.I.
Bedell
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Buchanan
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Clausen
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Ferraro
Findley
Fish
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frost
Gaydos
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Hansen
Harkin
Harris
Harsha
Hawkins
Hefner
Heftel
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Levitas
Lloyd
Loeffler
Lott
Lowry
Lujan
Luken
Lungren
McClory
McDade
McDonald
McHugh
McKinney
Madigan
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Miller, Calif.
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nichols
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patterson
Paul
Pease
Petri
Peyser
Preyer
Pursell
Rahall
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roberts
Robinson
Roe
Rostenkowski
Roth
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Sharp
Shuster
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—69

Addabbo
Akaka
Baldus
Beilenson
Bennett
Bingham
Boggs
Brademas
Brown, Calif.
Burlison
Chisholm
Conable
Conte
Corcoran
Corman
Davis, S.C.
Dellums
Diggs
Eckhardt
Edgar
Edwards, Calif.
Fascell
Fisher
Gephardt
Giaimo
Gibbons
Gore

Gray
Guarini
Holtzman
Jeffords
Johnson, Calif.
Jones, Okla.
Kastenmeier
Lehman
Long, La.
Lcng, Md.
Lundine
McCloskey
Mikulski
Mikva
Miller, Ohio
Mineta
Mcorhead, Pa.
Nedzi
Nelson
Ottinger
Patten
Pepper
Perkins
Pickle
Price
Railsback
Rangel
Rosenthal
Roybal
Sabo
Scheuer
Shannon
Simon
Solarz
Staggers
Steed
Synar
Thompson
Ullman
Van Deerlin
Vanik
Waxman

ANSWERED "PRESENT"—3

Gonzalez
McCormack
Williams, Mont.

NOT VOTING—63

Albosta
Alexander
Anderson, Ill.
Anthony
AuCoin
Barnard
Beard, Tenn.
Bolling
Brooks
Brown, Ohio
Broyhill
Burton, John
Clay
Cleveland
Convers
Cotter
Crane, Philip
de la Garza
Deckard
Dixon
Early
Emery
Flippo
Flood
Forsythe
Fuqua
Garcia
Heckler
Hightower
Hinson
Holland
Hutto
Ireland
Kostmayer
Lent
Lewis
Livingston
McEwen
McKay
Maguire
Mazzoli
Mitchell, Md.
Myers, Pa.
Nolan
Obey
Pritchard
Quavle
Quillen
Richmond
Ritter
Rodino
Rose
Rousselot
Shelby
Shumway
Skelton
Spellman
Stack
Stark
Stokes
Treen
Wilson, C. H.
Winn

☐ 1220

The Clerk announced the following pairs:

On this vote:

Mr. Albosta for, with Mr. Richmond against.

Mr. Myers of Pennsylvania for, with Mr. Mitchell of Maryland against.

Mr. Anthony for, with Mr. Garcia against.

Mr. Rose for, with Mr. Stark against.

Mr. Emery for, with Mr. Dixon against.

Mr. Beard of Tennessee for, with Mr. Fuqua against.

Mr. Ritter for, with Mr. Stokes against.

Mr. Deckard for, with Mr. Flood against.

Mr. Livingston for, with Mr. Clay against.

Mr. Lewis for, with Mr. Conyers against.

Mr. LLOYD and Mr. ERTEL changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 8, after line 18, add the following new section:

"SEC. 103. None of the funds made available pursuant to the provisions of this Act shall be used to formulate or carry out any rule, policy, procedure, guideline, regulation, standard, or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under section 501(c) (3) of the Internal Revenue Code of 1954 unless in effect prior to August 22, 1978."

Mr. ASHBROOK. Mr. Chairman, a plan to create a quota or minority affirmative action system for the Nation's private education is a matter that deserves only the highest deliberations within the Congress.

For the administrative branch to create such a policy without direction from Congress is a violation of the doctrine of the separation of powers.

The committees with oversight responsibilities over such a plan had not been consulted when the IRS moved last August 22 to reinterpret the Internal Revenue Code, section 501(c) (3), charitable tax-exempt section. In fact, the IRS proposals were made immediately prior to Congress adjournment last year. There were no opportunities for hearings, or for deliberation on alternative methods by the Congress. A matter of such import deserves careful consideration by the legislative branch.

The Nation's churches and their schools should be free to function without regard to local neighborhood minority mixes or arbitrary "affirmative action" quota plans. Such Federal overreaching is a violation of the constitutional separation of church and State. Churches and their schools should be free to function without Federal harassment. Citizens should be able to exercise their religious freedom without meddling by the Federal bureaucracy. This plan would dictate internal policies of a broad range of private educational institutions, church schools being only one variety. Schools for the blind, hearing impaired, and crippled would also be forced to comply. The IRS has no authority to create public policy. There is no congressional or court-ordered mandate for the IRS to create a mechanical quota system or any other arbitrary system for private schools.

The Internal Revenue Service does not properly possess the authority to implement provisions of proposed revenue procedures published in the Federal Register on August 22, 1978, or February 9, 1979, relating to tax-exempt status of private schools. Neither the Congress or the courts have issued a clear mandate as to the responsibilities of the IRS to make such determinations as are embodied in the proposed revenue procedures. There exists, in fact, a great deal of legal controversy over this Agency's authority to act in this manner.

So long as the Congress has not acted to set forth a national policy respecting denial of tax exemptions to private schools, it is improper for the IRS or any other branch of the Federal Government to seek denial of tax-exempt status. Isolated court decisions and ex parte agreements with litigants of pending legal actions against the IRS have brought the IRS into criticism for permitting itself to be used as an instrument to implement certain social policies.

Such policy determinations, when made without the action of Congress, become dangerous encroachments upon congressional authority. Although the Tax Code has often been termed to be an instrument of social policy, it properly becomes such only upon action or lack of action by the Congress. For the IRS to create a mechanistic quota system for private schools is a rejection of previously established policies.

For the IRS to select private schools as targets of its own substantive evaluation and tax exemption denial, while leaving unhampered tax-exempt organizations which practice or promote witchcraft, homosexuality, abortion, lesbianism, and euthanasia leaves this Member confused as to the objectives of those who would make this agency into a powerful instrument to selectively implement social policy. My colleague, Congressman ROBERT DORNAN, most eloquently attested to this problem when we appeared before the Senate Subcommittee on Taxation and Debt Management May 14, 1979.

For an agency to permit itself to be guided by pressures of pending legal action, other Federal agencies, outside pressure groups, or changes in an administration is to confuse its own role as tax collector with that of legislator, jurist, or policymaker. There exists but a single responsibility which is proper for the Internal Revenue Service: To serve as tax collector. It is the responsibility of Congress to conduct oversight over this agency to prevent transgressions into legislative authority. Accordingly, I am asking my colleagues to find that the Internal Revenue Service exceeded its proper authority in the issuance of the above revenue procedures for tax exemptions for private education, and that the implementation of the contents of these procedures must be prevented.

To presume that the growth in private education is the result of segregation is grossly unfair and an insult to our system of justice. By an after-the-fact application of these standards, the IRS would disallow donations made as tax-deductible contributions. By claiming that private schools have violated "public policy" in the past by not meeting a newly created quota standard, the IRS would deny private deductions to these schools. This is a seriously repressive ex post facto application of the taxing power, and must be stopped immediately Because a case has not been made in favor of these regulations, and because the Congress has not had an opportunity to exercise its authority, I urge the Congress to withhold IRS action on these regulations so that the various committees of the Congress can determine the propriety of these actions. There is no need to rush to judgment. The House Ways and Means Committee is still considering these proposed regulations and the Subcommittee on Taxation and Debt Management is weighing the propriety of such regulations. Let us be circumspect today and allow the committee process to work its will.

☐ 1230

Mr. STEED. I rise in opposition to the amendment.

Mr. Chairman, the matter dealt with here, we are informed, is under serious consideration at this time by the Committee on Ways and Means, and they expect to have a comprehensive report very soon that takes care of this whole problem. We have also been informed by the Internal Revenue Service that they are working with the committee on this, and it seems to us that the limitation here will serve no useful purpose. I think that the problem that we are all concerned about will be far better served if we leave it up to the legislative committee where it belongs. I think that in order to guard against doing probably more harm than we do good by adopting such an amendment, the wise course here is to turn this amendment down and rest our case on the assumption that our legislative committee will proceed with what they have been working on and bring the solution that we want to us in proper order very shortly.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had not expected to speak on this bill, but I saw the preceding amendment as a limitation on an appropriations bill which raised a matter in which it is very difficult for Members to explain a vote against such an amendment. I really seriously deplore the use of an amendment to an appropriations bill as a means of getting to extremely serious questions that should not be determined ad hoc on this floor. I voted against the last amendment. I intend to vote against this one.

If this body does not itself exercise some restraint in moving on what appears to be the most explainable, the easiest, the most favorable vote on an immediate analysis without consideration of the effect of an amendment on an appropriations bill, we destroy the ability of this House to seriously consider legislation. We are under as strong a duty to stop bad legislation as we are under a duty to advance good legislation. We have no way of determining whether an amendment which has substantive effect and which is attached to an appropriations bill at the last minute is good or bad in the 5 minutes of judgment that was required on the last amendment or even in the 15 minutes of judgment that is permitted on this one. I would urge my colleagues to use restraint with respect to changing substantive law and policy by merely voting automatically on the basis of what may be the easiest thing to explain or the most popular vote on a limitation on appropriations bills. There is no area in which more harm can be done more heedlessly than in this form of legislation.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Idaho.

Mr. HANSEN. I thank the gentleman for yielding.

I appreciate the concern that the gentleman expresses for the proper legislative process in this body, but I do say this that sometimes this legislative process needs a good kick in the pants because we find injustices going on and on and nobody will get off their legislative backsides to do anything to alleviate the problems of the people.

I might say that the gentleman from Idaho (Mr. SYMMS), who sponsored the previous amendment, and this gentleman from Idaho have lived in an area where we have experienced severe behavior on the part of the Internal Revenue Service to the point of creating a hit list of some 170 people.

Mr. ECKHARDT. If the gentleman will yield back to me at this point, does the gentleman know whether the gentleman has come to the committee of major jurisdiction to ask that this provision be considered in that committee?

Mr. HANSEN. I can express to the gentleman—I cannot speak for the other gentleman from Idaho—but this gentleman from Idaho has been to the committees. He has written to all sorts of chairmen of committees and asked for some kind of hearings and oversight relief.

Mr. ECKHARDT. If the gentleman will yield back to me for a moment further, can he give me any express case in which he has done so and on what legislative problem? Has a bill been introduced by the gentleman that has not been considered in the Committee on Ways and Means? Has the gentleman proposed a bill to that committee?

Mr. HANSEN. I can express to the gentleman I have asked for hearings.

Mr. ECKHARDT. Hearings on what, if the gentleman will answer me?

Mr. HANSEN. On injustices in the Internal Revenue Service and the way they pick on the people of the United States, and I have had no positive response.

Mr. ECKHARDT. Identify it by a bill. Did the gentleman write it into a bill and ask the committee to consider it?

Mr. HANSEN. This has been addressed to specific legislation.

Mr. ECKHARDT. Has the gentleman himself introduced a bill to correct this question?

Mr. HANSEN. Yes, I have introduced and supported legislation to correct it.

Mr. ECKHARDT. Will the gentleman identify the legislation for the gentleman?

Mr. HANSEN. I can furnish that. I do not happen to have it at hand, but I can certainly furnish it to the gentleman.

Mr. ECKHARDT. I should very much like to have it. Has the committee refused to hear the gentleman's bill?

Mr. HANSEN. The committee has been obviously silent in most cases, or one gets a polite letter that says, "We will take it under consideration."

Mr. ECKHARDT. I am not talking about in most cases; I am talking about with respect to the gentleman's bill.

Mr. HANSEN. I will just tell the gentleman I have more than one bill and more than one request, and I have to sort them out and will be pleased to give the gentleman information on what happened at any specific time.

Mr. ECKHARDT. But the gentleman cannot remember one single instance here or identify the subject matter with respect to the bill?

Mr. HANSEN. Certainly I can tell the gentleman——

The CHAIRMAN. The time of the gentleman has expired.

Mr. CAMPBELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment to prohibit use of funds in this bill for carrying out the proposed IRS revenue procedures with respect to private, tax-exempt schools which would put the burden on individual private schools to prove they are nondiscriminatory in impractical, costly, and perhaps impossible ways, or to lose their tax exemption.

In 1975, the IRS declared that private schools seeking to maintain their tax exempt status must have a policy of nondiscrimination which would be evidenced by the school announcing such a policy through its bylaws, mentioning it in their brochures and public relations materials, and making a public announcement of such policy at least once a year.

Thus, Mr. Chairman, the school had to go on public record. But it was still allowed to maintain high academic standards, a prime attraction of private schools and the reason why many parents choose private schools for their children. That policy did not attempt to set de facto quotas. While I oppose on principle efforts by the IRS, a tax-gathering organization, to make public policy, I cannot argue with the actual effect of the 1975 declaration.

The new proposal, however, is not acceptable. The Internal Revenue Service has gone too far in making national policy which is far from beneficial to the public. Americans have a right to choose, and certainly they have a right to choose to send their children to private schools. It is not the role of Government nor the role of the IRS to dictate conditions that could well affect educational standards of private schools and, indeed, even their ability to remain economically viable.

I do not quarrel with the idea that our schools should be nondiscriminatory. I do quarrel with complicated, probably unworkable, inflexible standards promulgated by unelected bureaucrats. I do quarrel, Mr. Chairman, with assuming all private schools are "guilty until proven innocent."

Mr. Chairman, it is time for this House and the full Congress to assert our rights and responsibilities by keeping a wary eye on the actions of the executive branch. This amendment is a good step in that direction, and I urge its adoption. It does not attempt to go back and undo the case-by-case attacks that have taken place to eliminate discrimination, but it does prevent a tax-collecting body from making policy and imposing their will on every private school in the United States.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Idaho.

Mr. HANSEN. I thank the gentleman for yielding. I would just like to say something that I was not able to complete in the earlier colloquy, and that is the fact that in my own State and in the western region of the United States we have had severe examples where the Internal Revenue Service has acted callously and shockingly on religious matters and other arbitrary factors in determinations on how they would make collections and contacts with people. Certainly I think the IRS is a dangerous sole arbiter for our first amendment rights, and that is what we are talking about protecting in support of legislation such as this.

I might say, as I began to state earlier that there are 170 people put on a hit list in a small community in my State because the Internal Revenue Service was too lazy to determine which of these people should be called in for an audit or for a discussion, or whatever, just because they may not have filed a tax return because they were sick in bed with no income or away on a church mission or something else. The IRS had a plan all worked out to come out with guns to go door to door. And this plan was aborted only when some IRS employees became afraid of the confrontation that would happen.

The Internal Revenue Service has an abominable record in this regard, and we should not want them to arbitrarily make these determinations without our guidance. If we do not correct this in the regular process in Congress, maybe we can at least do it through this kind of legislation.

□ 1240

The CHAIRMAN. The time of the gentleman from South Carolina (Mr. Campbell) has expired.

(On request of Mr. Dornan, and by unanimous consent, Mr. Campbell was allowed to proceed for 1 additional minute.)

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I will be happy to yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I wanted to clarify this issue for the distinguished gentleman from South Carolina and our colleagues to prevent confusion over the similarity between this amendment of the gentleman from Ohio (Mr. Ashbrook) and the amendment that I will be submitting this afternoon or Monday at page 32, line 2 of this bill.

What the amendment of the gentleman from Ohio (Mr. Ashbrook) does, and I will be supporting it is just to put more solid steel boilerplate around the IRS. They were set up to collect revenue, not to engage in social engineering across our country. What the amendment of the gentleman from Ohio (Mr. Ashbrook) does is far more generic than mine. My amendment speaks specifically to IRS proposal 4830–01–M. Mine was given to the Parliamentarians earlier this week. They said that it is germane, that it is negative in nature which is required on an appropriations bill, and it is reentrenchment on its face. All of this also applies to Mr. Ashbrook's amendment. I will be supporting this amendment of the gentleman from Ohio (Mr. Ashbrook) as he will be supporting my amendment.

Mr. CAMPBELL. Mr. Chairman, I appreciate the gentleman's comments.

Mr. ULLMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if we begin this kind of procedure in connection with appropriations bills, I think the legislative process is well on the way to disintegration.

The question of tax-exempt status of private schools is a very complex matter that has a long history of judicial action, executive decisions, and direction as well as legislation.

The amendment is a blunt instrument brought to this House without the consideration of any of the expertise from the committee having jurisdiction or without review or consideration of any of the historical background or any of the implications or other tax provisions involved with what is being contemplated.

Let me say that the gentleman from Florida (Mr. Gibbons), chairman of the Subcommittee on Oversight of the Committee on Ways and Means, has conducted a number of days of hearings this year, has received the views of all parties concerned with this action, and has had a great deal of staff work done on the subject. The subcommittee is now in the process of diligently working to come up with some sound recommendations that are responsible, that do take into consideration the delicacy and complexity of this matter that will resolve it and it is my hope that this House will follow orderly procedures and not get onto the irresponsible track of considering matters with absolutely no consideration for the responsible legislative process.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. Mr. Chairman, I yield to the chairman of the subcommittee, the distinguished gentleman from Florida (Mr. Gibbons).

Mr. GIBBONS. I thank the Chairman.

Mr. Chairman, you are absolutely correct. The problem of the tax-exempt organizations, churches and schools, is a very involved one. As anyone knows who has been deeply into this subject, many people aim to be tax exempt when they are really taking advantage of other types of operations. This includes semi- and quasi-business operations and everything else. All kinds of imaginable enterprises that could be carried on.

The Ashbrook amendment as I read it here would be very deleterious as far as collecting taxes is concerned because it absolutely ties the hands of IRS and says you cannot do anything unless that regulation was in existence as of August 22, 1978.

Unfortunately, the question of taxes is not that refined process. The laws we have passed occasionally have to be interpreted by the IRS and what the gentleman from Ohio (Mr. Ashbrook) has done or will do if this amendment becomes law, and I trust it will not, is say that the tax lawyers and accountants out there may just have a field day. You can set up anything that has not already been outlawed under these laws that we have passed, or by regulations and I do not know how many loopholes will be driven into our income laws because of legislation like this.

Let me say, Mr. Chairman, as you know we have been going into this thing very methodically and very diligently trying to work out the problems that have been caused here. We have court decisions we must worry about, we have laws we must worry about, we have past procedures to worry about, we have first amendment rights under the Constitution, we have the desegregation laws to worry about and it is a very narrow path to tread. Nothing precipitous has been done by the IRS. They have only to put forth some proposed revenue procedures. They have not put anything in final form.

As I say, I think it would be premature and inappropriate to adopt the Ashbrook amendment.

Mr. ULLMAN. Mr. Chairman, let me further add that the IRS has not implemented these regulations. They have held them in abeyance. The language that is already in the report will take care of the situation until we can do the responsible thing in the Committee on Ways and Means.

I urge the Members to vote down this very, very bad amendment.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. Gibbons and by unanimous consent Mr. Ullman was allowed to proceed for 2 additional minutes.)

Mr. ULLMAN. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. ASHBROOK. I appreciate my colleague's statement. I would like to clarify two points.

My friend and colleague, the gentleman from Florida (Mr. Gibbons) at one point indicated that even if my amendment were not mischievous it would probably prevent the collection of taxes. Later in his statement he indicates the IRS has really done nothing, nothing has been placed so there can really be no taxes raised if there is nothing in place.

My amendment very clearly indicates on its face that all the regulations in existence as of August 22, 1978, would not be touched.

My colleague surely knows that existing revenue procedure 7550 would be in effect, they can continue to review, they still impose detailed recordkeeping requirements on the schools.

Mr. GIBBONS. I am sorry, the gentleman from Ohio (Mr. Ashbrook) misses my point.

Mr. ASHBROOK. I would be glad to get it.

Mr. GIBBONS. What the gentleman has done in his amendment is open a field day for those who watch this Internal Revenue Code like hawks. Everytime there is any potential loophole there, there is nothing to stop them from setting up something that is described as a religious institution or a school or something and conduct a private business out of it and pocket untold amounts of tax-free money.

I think the gentleman just goes too far. It will require a little trust here while we are trying to work this out. I am very sensitive to the question you raise and that the gentleman from California (Mr. Dornan) raises and that other Members have raised here but it is not something we should try to attack in an appropriations bill.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Missouri.

Mr. GEPHARDT. I would just like to say that as a former member of the Subcommittee on Oversight of the Committee on Ways and Means and one who has followed this issue very closely, I feel very strongly that the place to handle this matter and other such matters is in the Subcommittee on Oversight of the Committee on Ways and Means and committees like it on the Senate side.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. GEPHARDT and by unanimous consent Mr. ULLMAN was allowed to proceed for 2 additional minutes.)

Mr. ULLMAN. I yield to the gentleman from Missouri.

Mr. GEPHARDT. I think the chairman of the subcommittee has made a very valuable point and that is that by using this remedy, by cutting off the funds for the IRS to carry out these kinds of activities we really throw out the baby with the bath water. This is a very dangerous way to go about it. It does not make good logical sense. The Subcommittee on Oversight of the Committee on Ways and Means is attacking this problem and is working hard to try to solve it and I think they can solve it. I think the actions they have already gotten the IRS to take indicate it is going to be solved correctly. I commend the gentleman and I hope that Members will consider this as they vote on this amendment and will vote the amendment down.

□ 1250

Mr. GIBBONS. Mr. Chairman, I thank the gentleman.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

I would just like to say that we have been given some rather broad assurances by the members of the Committee on Ways and Means who are involved in these hearings. But these IRS regulations to which many of us object, and which are objected to by the leaders of many religious denominations, including parochial school systems, Catholic, Protestant, and many other religious groups which have schools have been proposed since August of last year.

It is my impression that it was with the greatest reluctance that the hearings were even scheduled. I know as one of the cosponsors, and there are more than 120 Members of this House who have cosponsored 20 bills to nullify these IRS regulations.

As I understand it, these regulations may take effect next January, so I think that there is every reason to pass the Ashbrook amendment. I strongly support it as a means to stop a serious threat to the private and religious schools of the Nation. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding.

We know precisely what we are doing here. I think my amendment, ample copies of which are on the desk, is very clear. I think the point that was overlooked by my friend and colleague, the gentleman from Florida, is that not long ago the IRS and the Justice Department had themselves appeared in courts and filed briefs against the very position that IRS is taking, should they make the basic changes contemplated last August while we sit idly by.

All right, they changed the ground rules last August. Almost a year has gone by. I know the heavy work schedule that they have on the Committee on Ways and Means, but as my colleague has pointed out, as many as 120 Members have introduced legislation requesting action but none is forthcoming. The IRS has gone forward and is promulgating regulations, regulations which should not go unchallenged.

The thing to reemphasize is that my amendment would not in any way interrupt their continued case-by-case process which they were using up until August 22 and from which point they are going to change.

Let them do that. That worked for years; but why give them a year running time, in effect, which is what we have, to promulgate regulations and unless something comes in specifically they will go into effect on January 1, 1980.

Now, there is no harm that will come from my amendment, which will be a stopgap. I wish we had a legislative remedy. We have not had it in a year. We have to judge whether or not we will, but does every Member of this body want to take the chance? Do they want to take the chance in the remaining few months of this session that we will not act? At least by my amendment we are holding the floodgate until the Committee on Ways and Means properly acts.

My amendment in no way will preclude them from making additions or revisions in the permanent law and for at least 1 year we will have kept the IRS from going forward with their August 27, 1978, regulations. That is what I am trying to do, not to say they cannot issue regulations of any kind. As I pointed out, under their current regulation 7450, they can review schools. They can bring schools in effect before the mast, even though they have given them prior tax-exempt status. I am not trying to take that away.

We are just saying do not go forward with these broad regulations or procedures, whatever you want to call them, until the Congress or a court affirmatively acts on that subject. That is all we are trying to do.

Mr. BAUMAN. Mr. Chairman, as I understand the gentleman's position, the gentleman is actually doing a favor to the gentleman from Florida and others in the sense that he is giving the committee more time for the deliberate type of action which has been described to us, and failing that, these regulations could take effect the beginning of next year and we would have no recourse, except to repeal the existing regulations.

Mr. Chairman, I yield to the gentleman from South Carolina.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for bringing to the attention of this body the method that the IRS used to try to put into place these regulations. They tried to bypass the hearing process. It was only upon the insistence of Members of Congress that hearings were held and this matter was brought into an open light from behind closed doors. That is an unfortunate way to legislate also.

We have heard criticism of the efforts here to legislate on the floor. That is the bureaucracy legislating.

The other thing that bothers me, statements have been made that this would open the door to all types of corporations being set up to get around the law, to get around paying taxes. This amendment deals specifically with schools.

Mr. BAUMAN. Only schools.

Mr. CAMPBELL. Only schools, and I do not think that smokescreen should be allowed to stand, because this is a different situation completely.

The other thing is, and it really bothers me, when the IRS goes into this we are talking about a burden of proof situation. We are talking about changing things completely and, obviously, it should be done legislatively when we deal with this sort of situation; but it has been pointed out that we have been almost 1 year with nothing done. Are we going home and come back next year and say, "Well, gosh, it's all too late now." Or are we going to act? I think that is the question.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall try not to use the 5 minutes. I just want to correct some factual errors. One, as soon as we became aware of these regulations, we began our oversight activities into them, long before I got the even first letter from any Member of Congress. We immediately took them under consideration and the only problem we ever had was whether the full Committee on Ways and Means would have a hearing on them, on whether they would be taken up by one of the subcommittees.

It became obvious right after the first of the year that the agenda of the Committee on Ways and Means would be too full to handle this very complex matter and that the IRS was beginning to back off from some of their regulations anyway.

So the oversight committee went ahead with the hearings. We had extensive hearings. We heard everybody that wanted to be heard. We listened to them and paid attention to them.

I have made suggestions to the IRS as to how those regulations ought to be changed. One reason they had not been promulgated was because I asked the IRS not to promulgate them so that we could go into them thoroughly. They have cooperated with the committee and with the Congress, I believe, in an honest, straightforward manner; but the IRS is under the gun from court decisions on the other side interpreting the 14th amendment to the U.S. Constitution and they have a problem of being held in contempt of court or being overruled by the court, and that is where we are.

I feel very strongly about this matter, just as many Members do, that the IRS perhaps went too far in their original regulations.

As I say, they have backed off on them. They are holding them and we are working with them now to try to straighten them out, but I am not the President of the United States. I cannot control everything that goes on here; but give us a chance to make a good faith effort to do it.

The Ashbrook amendment goes too far. Anybody could set up anything under the law and call it a school or a church and there are no definitions under the law as to what is a church. You could just go on and on and carry on all kinds of businesses as a school or church.

We have problems all the time. The mind of man is fertile and the mind of man who is equipped with a law degree or an accounting degree is even more fertile than when it comes to ways of not paying the taxes that all the rest of us pay; so I ask you to please be patient, please give us time and please let us work ahead on this in the way that we are doing.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. Yes, I would be glad to yield to the gentleman from Oregon.

Mr. ULLMAN. Mr. Chairman, the gentleman is absolutely correct. What is attempted to be done here—this principle itself—erodes away the very basis for the Internal Revenue Code. I strongly recommend to the Members that they vote down this amendment and allow the committee to proceed in an orderly way.

We are just very, very conscious, as the gentleman suggests, of the problems that the IRS creates; but we are approaching them in an orderly, responsible way.

I want to tell the Members that it is the intention of the Committee on Ways and Means to face up to this matter at the earliest possible moment, as soon as we are able to find the kind of solution that is responsible and bring it to the House for consideration.

Mr. GIBBONS. Mr. Chairman, I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I thank the gentleman for yielding.

I would bring to the attention of the House that this subcommittee went into this question fully. We discussed it in markup. We discussed it during our hearings. No one asked to testify before our committee. We feel that this is an appropriation bill. What we are discussing is legislation and we did not wish to legislate on an appropriation bill. Although it comes forward as a limitation, it is still legislation; but in our report on page 15, we directed the IRS and told them that they were improperly going into certain regulations and they should wait for legislative direction, and they are waiting until they do get legislative direction; so this committee has thoroughly gone into this question. We have in our report pointed it up and according to this direction, IRS is waiting for legislative direction.

□ 1300

Mr. GIBBONS. Mr. Chairman, the gentleman is correct. I think the Committee on Appropriations has taken a very responsible course, and I think we ought to support the Committee on Appropriations, vote down the Ashbrook amendment, and then vote down the Dornan amendment.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this amendment is essential if Congress is to act on the various sticky issues that have been raised by the IRS as promulgating the regulations of August 22, 1978. Basically, what those regulations do is to change the burden of proof from the IRS having to prove that a private school was in fact discriminating to the school having to prove that in fact it was not discriminating.

The gentleman from Florida (Mr. GIBBONS) said or implied at least that the 14th amendment is requiring the IRS to change these regulations. I find nothing in the 14th amendment relating to the burden of proof whatsoever.

What the IRS is attempting to do with these regulations is to tell every private school in the country that they are guilty until proven innocent, which seems to me to be a great turnaround of our system of jurisprudence that has evolved over the years.

Furthermore, the IRS regulations that are under attack on the floor here today only apply to schools, and most of the schools to which they apply are nonprofit schools.

So if the IRS is successful in passing these regulations, what is to be gained in terms of additional revenue for the U.S. Treasury? Probably very, very little, since nonprofit schools will not pay any tax whatsoever and since the corporate income tax is based on the amount of profit.

So in sum and substance, Mr. Chairman, the regulations are purely and simply a form of harassment against the private schools of this country. The regulations that were in effect prior to August of last year or the proposals of last year were very adequate in revoking the tax-exempt status of those schools that did discriminate. No one complained that they were inadequate until somebody down at the IRS came up with the proposed regulations.

Mr. Chairman, it is my feeling that we ought to give the Committee on Ways and Means an additional year of breathing time to resolve this problem on a permanent basis through legislative action, and that the Ashbrook amendment should be adopted.

Mr. McDONALD. Mr. Chairman, will the gentleman yield,

Mr. SENSENBRENNER. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding.

I just want to commend the gentleman for his statement, and I certainly agree with him. I strongly support the Ashbrook amendment. I appreciate the gentleman's offering the amendment, and I plan to support it.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, I rise as well to commend the gentleman from Wisconsin (Mr. SENSENBRENNER) for his statement. I associate my remarks with him, and I rise in support of the amendment.

Mr. Chairman, this amendment proposed by Mr. ASHBROOK addresses an urgent problem facing private schools—the Internal Revenue Service's interference with their tax status and revenue sources. It appears that the IRS is establishing social policy in their regulations, an act clearly outside their statutory authority.

This is not to suggest that the goals of the IRS are entirely wrong. Nobody argues that racial discrimination should receive preferred tax status in the United States. However, the IRS should not be making these decisions on the agency's own discretion. Congress should make these decisions.

The function of the IRS is to collect revenue for the United States, not to determine what percentage of a private school's enrollment indicates a racially discriminating school. Nor should the IRS be judging whether an individual's contribution to a religious school which does not charge tuition constitutes a charitable contribution only if it exceeds the IRS-determined fair market value of that tuition. Some sort of legislative direction is needed to prevent the IRS from engaging in social policy issues.

The historical adage that the power to tax is the power to destroy, applies here. Many private schools are financially imperiled by the IRS's new actions. The IRS needs legislative direction on the proper scope of its duties and the will of the Congress. Mr. ASHBROOK's amendment provides us with this opportunity, I urge my colleagues' support of this measure.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I would just like to compliment the gentleman from Wisconsin (Mr. SENSENBRENNER) on his correct statement of the legal situation. Yet twice the gentleman from Florida (Mr. GIBBONS) has raised this bugaboo of the possible creation of many new corporations that could qualify for tax-exempt status without restrictions if this amendment is passed. That is just simply not correct.

A reading of the amendment makes it very clear that it is the loss of tax-exempt status which applies to existing entities that now have such a tax-exempt status. None of these new corporations the gentleman is talking about could escape IRS examinations under existing rules.

This amendment simply grants a 1-year grace period, during which we will take the gentleman from Florida at his word and wait for his committee to act.

Mr. SENSENBRENNER. Mr. Chairman, the gentleman is correct. Any new entity that is created would have to apply for tax-exempt status and be granted that status by the Internal Revenue Service before they get it.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I compliment the gentleman from Wisconsin (Mr. SENSENBRENNER) on his statement, and I compliment the gentleman from Ohio (Mr. ASHBROOK) for offering this amendment.

Mr. Chairman, as one of over 100 Members who have sponsored legislation to deny the Internal Revenue Service any authority to promulgate their regulations to eliminate tax exemption for private and religious schools that were not complying with Federal racial standards, I rise in support of the Ashbrook amendment. In effect, this amendment would stop the funds to carry out any policy, procedure, guidelines, regulation, standard, or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under the Internal Revenue Code of 1954, unless in effect prior to August 22, 1978.

In my judgment, the Internal Revenue Service has seen fit to exercise this violation without the benefit of public or congressional approval by claiming it to be a matter of defining existing internal guidelines. It makes utterly no sense to create this hardship for private schools. The IRS should do what Congress has mandated and stay out of the legislative processes.

It should be stressed that only Congress has the right to legislate a new tax status for traditionally exempt charitable institutions. The responsibility of the IRS is purely to enforce the tax laws, clarify the laws, but not to expand on them. The power of the IRS is being overblown by the new assumption that whatever private activity the IRS does not tax, in fact it refrains from taxing. Tax exemption is being equated with Federal aid. The outgrowth would be to allow the IRS to regulate virtually any activity in society it chooses. All religious activity along with private education could be seriously affected by the proposed procedures.

If the IRS is not stopped, their action would put thousands of Christian schools in the position of having to prove that they were not guilty of violating the new definitions set forth by the agency and would add an impossible financial burden onto the schools. This ruling would force many schools to close simply because they could not afford the cost of defending themselves or conforming to costly and overbearing guidelines. Christian schools are usually small institutions, supported exclusively by parents of enrolled students and by a local church congregation. These schools are not run as major corporations, with CPA's and general counsels available to interpret, appeal or comply to the latest bureaucratic rulings.

To retain tax-exempt status under the proposed procedures, private schools would be required to undertake programs for minority preference in admissions and hiring. The IRS would automatically place thousands of Christian schools in the position of having to prove that they were not guilty of violating the new definition set forth by the agency, which appears contrary to our rule of law, "innocent until proven guilty."

Uniformity, equality and fairness in their application of these regulations would be impossible. No school is to know whether or not they are in fact discriminating until the IRS renders judgment on their school. These procedures also give the IRS the option of selecting which churches are to be allowed to educate their youth as a part of their religious mission.

Furthermore, this plan violates the constitutional separation of church and state, and disregards recent Supreme Court rulings which prohibit the use of federally imposed quotas in the schools. Certainly to impose student and faculty quotas on private schools is wrong, and infiltrates a constitutionally protected realm. By setting severe compliance standards, and volumes of paperwork, the Federal Government would close more than half of all private schools.

This is not an issue of race. In 1970, the IRS announced that racially discriminatory schools, who did not maintain an open-door policy must forfeit their tax-exempt status and as a result of this action by the IRS over 100 schools lost their tax-exempt status. That action was sufficient and there is no need for regulations of this magnitude and expense.

The long-range consequence of this IRS action is indeed frightening, and strikes at the very heart of the first amendment and the future of religious freedom and jeopardizes the future of private education in America. The Internal Revenue Service has undertaken to deal a death blow to private, elementary and secondary education and must be stopped.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, let us reiterate again the last point the gentleman made. What was in place on August 22, 1978, all of the obstacle courses, all of the application forms IRS had in effect would still be in effect. All we are doing is to stop the overreach of power since that time. Three basic points should also be remembered by all of us before we vote on this amendment.

No. 1, IRS has acted.

No. 2, the Congress has not acted. No matter what my colleague says that he has done in his oversight committee, no matter what they said in private conversations or working arrangements with the IRS, the Congress has not acted.

No. 3, all of us have followed the IRS closely since August, and we have seen them acting as a race car going down the track looking for that hole or opening to get through. They are trying to change the basic procedures. They tried to do it in August of last year when we were not even in session. They will look for any hole to get through.

Mr. Chairman, I would recommend the Members vote for my amendment or on January 1, 1980, we will probably be confronted with IRS regulations in place with no congressional action.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I rise in support of the amendment.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I rise in support of this amendment, to prevent the Internal Revenue Service from implementing its proposed revenue procedure against private church-related schools during fiscal year 1980. I also wish to point out one fact that I think has not been stressed.

We have heard the House should hold off action because the Committee on Ways and Means has the matter under advisement and is working on it. However, there is nothing in this amendment that would prevent the Committee on Ways and Means from going on with its deliberations and turning out a bill on this subject. This is simply a stopgap measure to head off what I think would be the irreparable harm that the IRS wants to perform on the American public.

In order to effectively enforce the tax laws of this Nation and maintain public confidence in its operations, IRS must administer and enforce the tax laws in a fair and impartial manner. Tragically, their proposed revenue procedure, which this amendment would block, is so thoroughly flawed and defective that its main accomplishment is to undermine public confidence in the Internal Revenue Service, the Department of the Treasury and the entire administration.

At the present time, IRS has more than adequate authority to strip away the tax-exempt status of private schools that practice racial discrimination and I know this authority has been used effectively in a number of cases. The intelligent and sensible thing to do would be to leave it at that.

Unfortunately, we seem to be in the era of the "social engineer." Some people have a commitment to a cause which they consider to be so high and noble that little concern is shown for anything else, including the Constitution of this Nation. Proponents of the IRS guidelines seem uninterested in their constitutional perils or lack of legislative mandate from the Congress, but I do not believe questions relating to freedom of religion or due process of law should be passed over so lightly. I am also greatly alarmed by the implications of some statements by IRS to the effect that the churches might also lose their tax-exempt status when the exemption for the schools they sponsor is revoked.

The inherent evil in the radical proposal by IRS is that it shifts the presumption of innocence away from the alleged violator and creates a burden for the school in question to prove they are not violating the guidelines. This "guilty until proven innocent" concept is totally alien to our system of justice and ought to be stopped right here and now.

Proponents of the IRS guidelines seem to feel that the granting of the tax exemption to certain organizations under the Internal Revenue Code is a form of aid or benefit bestowed by the Federal Government. In my view, this concept is way off the track. I think a much better case can be made for saying that Congress intended the exemption to keep the Government from getting entangled in the affairs of religious and other organizations covered by the IRS Code.

In addition to its basic constitutional and legal deficiencies, the IRS revenue procedure is so badly drafted that it is murky and ambiguous. The guidelines are so vague and imprecise that they readily lend themselves to being applied in an arbitrary and capricious manner. No doubt a great many lawyers would have to be hired by both IRS and the reviewable schools before the mess created could be straightened out.

So, Mr. Chairman, let us agree to the amendment and then let the Committee on Ways and Means come up with the legislation it wants. Certainly this amendment would not preclude that, in fact, a favorable vote here today could provide the committee with the impetus for taking prompt and affirmative action to report out a bill permanently preventing the IRS from trying to implement its proposed rules. I urge the House to adopt the amendment.

● Mr. DUNCAN of Oregon. Mr. Chairman, I rise in support of Ashbrook's amendment to the appropriation bill of the Treasury Department, and I urge that my colleagues of the House also support it.

My reasons for supporting this amendment are many and varied. The action of the IRS in considering issuance of a revenue procedure of the nature of the one at issue, is, in my opinion, a very serious infringement by the executive branch of our Government on the constitutional provision making the Congress the sole legislating body of this Government. This must not be allowed to happen if we are to maintain our system of "checks and balances" as provided for in our Constitution.

Additionally, the reasons put forth by the IRS as justification for its action by the IRS, as shown, in hearings before the Oversight Subcommittee of the Ways and Means Committee were shallow and unsupportive to their actions.

The revenue procedure, when examined closely, brings up many very serious constitutional and procedural questions for which no readily available answers are known at this time. It is certainly neither the duty nor province of the IRS to make the judgments necessary to resolve them.

Mr. Chairman, the serious questions of integration of our schools; of allowing tax policies, via exemptions, and so forth, be used to affect the conduct of national affairs, private education, separation of church and state, and the many other serious problems involved in this matter, should not be left to or allowed to be the province of the IRS.

Mr. Chairman, while some might question the use of an amendment to an appropriation bill to prevent an executive department from performing some objectionable act, I would point out to my fellow Members the duty of the Congress is to provide a "check and balance" on the other branches of our Government. The most reliable and effective way known is "through the pocketbook."

Therefore, Mr. Chairman, I again urge all the Members of this distinguished House to support the Dornan amendment.●

● Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague from Ohio.

A number of my colleagues and I have fought attempts by the Internal Revenue Service during the past year to regulate educational policies of private tax-exempt schools. I have voiced my opposition at every juncture in regard to IRS attempts to place the various institutions in a "guilty until proven innocent" position.

The IRS was not designed to set social policy, decide quotas for educational institutions, or expand its designated function. Instead, the IRS was designed to collect revenue and enforce tax laws within the guidelines set forth by the Congress.

Mr. Chairman, I strongly urge my colleagues to abide by the recommendations of the Appropriations Committee report. In essence, the committee report requests that the revenue procedures proposed by the IRS should not be promulgated until Congress has had an opportunity to evaluate pending legislation on this matter.

The amendment offered by Mr. ASHBROOK would prohibit the IRS from expending funds for implementation of such regulations. This amendment is germane and timely during a time when many Government agencies are attempting to expand their powers beyond the original intent of the Congress.

I urge you to support the amendment offered by Mr. ASHBROOK.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Does the gentleman from Ohio (Mr. ASHBROOK) withdraw his point of order of no quorum?

Mr. ASHBROOK. Yes, Mr. Chairman, I withdraw my point of order, and I renew my demand for a recorded vote.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 297, noes 63, not voting 74, as follows:

[Roll No. 333]

AYES—297

Abdnor
Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Bauman
Beard, R.I.
Bedell
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Boggs
Boner
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Clausen
Clinger
Coelho
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Ferraro
Fish
Fithian
Florio
Foley
Ford, Mich.
Fountain
Fowler
Frenzel
Frost
Gaydos
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hanley
Harkin
Harris
Harsha
Hefner
Heftel
Hillis
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Levitas
Lewis
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lungren
McClory
McCloskey
McCormack
McDade
McDonald
McKay
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mica
Michel
Mikulski
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Petri
Peyser
Preyer
Price
Pursell
Rahall
Regula
Rhodes
Rinaldo
Roberts
Robinson
Roe
Rostenkowski
Roth
Roybal
Royer
Rudd
Runnels
Russo
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shuster
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
St Germain
Staggers
Stangeland
Stanton
Stenholm
Stewart
Stockman
Stratton
Stump
Swift
Symms
Tauke
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—63

Barnes
Beilenson
Bingham
Bonior
Brademas
Brodhead
Brown, Calif.
Burlison
Burton, Phillip
Cavanaugh
Chisholm
Collins, Ill.
Corman
Danielson
Dellums
Diggs
Downey
Drinan
Eckhardt
Fascell
Fisher
Ford, Tenn.
Gephardt
Gibbons
Gonzalez
Gray
Hall, Ohio
Hawkins
Holtzman
Jeffords
Jones, Okla.
LaFalce
Lehman
Leland
Lundine
McHugh
Markey
Miller, Calif.
Moffett
Ottinger
Patten
Pepper
Pickle
Rangel
Ratchford
Reuss
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Solarz
Stark
Steed
Studds
Synar
Thompson
Ullman
Van Deerlin
Weiss
Wolpe
Yates

NOT VOTING—74

Albosta
Alexander
Anderson, Ill.
Ashley
Barnard
Beard, Tenn.
Boland
Bolling
Bonker
Brooks
Brown, Ohio
Broyhill
Burton, John
Clay
Cleveland
Conyers
Cotter
Crane, Philip
de la Garza
Deckard
Dixon
Early
Edwards, Calif.
Emery
Fenwick
Findley
Flippo
Flood
Forsythe
Fuqua
Garcia
Giaimo
Hansen
Heckler
Hightower
Hinson
Holland
Ireland
Kastenmeier
Kostmayer
Lent
Livingston
Luken
McEwen
Maguire
Mazzoli
Mikva
Mitchell, Md.
Montgomery
Myers, Pa.
Nolan
Obey
Pritchard
Quayle
Quillen
Railsback
Richmond
Ritter
Rodino
Rose
Rosenthal
Rousselot
Shelby
Shumway
Skelton
Slack
Spellman
Stack
Stokes
Treen
Udall
Wilson, C. H.
Winn
Wyatt

□ 1320

The Clerk announced the following pairs:

On this vote:

Mr. Slack for, with Mr. Richmond against.

Mr. Myers of Pennsylvania for, with Mr. Garcia against.

Mr. Boland for, with Mr. Ashley against.

Mr. Montgomery for, with Mr. Fuqua against.

Mr. Emery for, with Mr. Mitchell of Maryland against.

Mr. Hansen for, with Mr. Stokes against.

Mr. Ritter for, with Mr. Clay against.

Mr. Shumway for, with Mr. Conyers against.

Mr. Beard of Tennessee for, with Mr. Dixon against.

Mr. Deckard for, with Mr. Flood against.

Mr. VENTO changed his vote from "no" to "aye."

Mr. YATES and Mr. MILLER of California changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms: Page 8, after line 18, insert the following:

Sec. 104. None of the funds appropriated by this Act may be used to pay rewards (or other amounts) to persons for providing information leading to the detection of any person violating the internal revenue laws, or conniving at the same.

POINT OF ORDER

Mr. WEAVER. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman from Oregon (Mr. Weaver) is recognized on his point of order.

Mr. WEAVER. Mr. Chairman, I have felt that other amendments we have voted on have been out of order, and I do not make a special case on this one. I simply say it is legislating an appropriation bill. It requires an agency of the Federal Government to make a determination, for instance, as to what "conniving" is, and therefore is legislation and violates the rules of the House.

Mr. SYMMS. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman is recognized to be heard on the point of order.

Mr. SYMMS. Mr. Chairman, I would first say to the chairman that in past appropriations bills that this same amendment has been ruled in order in the previous Congresses to this.

Secondly, I believe my amendment does not change existing law and is merely a limitation on the use of funds in the bill. I do not think my amendment would require any additional duties on the executive officer administering the funds.

I think that, based on the past record, this amendment is clearly a limitation on spending and funds and is not legislating on an appropriations bill.

The CHAIRMAN. The Chair is prepared to rule.

The Chair does not consider that there has been any official ruling made on a similar provision in the past. Such a provision has been in appropriations bills, but it has not been ruled on.

In the opinion of the Chair, the amendment requires those affected by the limitation to make new determinations as to what constitutes "conniving" thus imposing a new duty of investigation that is not currently in the law.

Therefore, in the opinion of the Chair, it constitutes legislation on an appropriations bill, and the point of order is sustained.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms: Page 8, after line 18, insert the following:

Sec. 104. None of the funds appropriated by this Act may be used to pay rewards (or other amounts) violating the internal revenue laws.

Mr. WEAVER. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. Does the gentleman wish to be heard on his point of order?

□ 1330

POINT OF ORDER

Mr. WEAVER. I will make the same point that there must be a determination as to what is a "reward," or what "an amount" is.

The CHAIRMAN. Does the gentleman from Idaho desire to be heard on the point of order?

Mr. SYMMS. Mr. Chairman, I would make my previous argument and have removed from the amendment the objectionable statements according to the Chairman's ruling. I think this clearly is not legislating in an appropriation bill and would say all it is is a limitation on spending.

The CHAIRMAN. The Chair is prepared to rule.

In the opinion of the Chair this amendment constitutes a restriction on funds and does not impose any new duties and is not, therefore, a legislative restriction on an appropriation bill. The point of order is overruled.

The gentleman is recognized for 5 minutes.

Mr. SYMMS. Mr. Chairman, in keeping with my initial effort to require that employees of the Internal Revenue Service be subject to certain ethical standards that are required of the private sector, I believe it is also important to eliminate a certain unethical use of taxpayers' funds—that is the payment of rewards or "bounties" to individuals providing information to the Internal Revenue Service leading to the detection of individuals who "might" have violated the internal revenue laws.

Presently, the Internal Revenue Service can pay an individual up to ten percent (10 percent) of the revenue that is collected if he turns a suspect taxpayer over to the Government.

This practice seems to be a totally unethical approach in the collection of revenue. I believe that our taxpayers are already overburdened by the amount of money they have to pay each year to the Federal Government and I do not believe that the Government should add a psychological burden to the taxpayer by having him be subject to "head hunters" as well as sometimes overzealous IRS agents.

Furthermore, the policy of paying a bounty is a policy of mistrust. It instills into our system an unhealthy practice of encouraging mistrust between taxpayers and an attitude of suspicion and greed among the citizenry.

When our Founding Fathers came to this country, they founded a system which was based upon certain ethical standards that was backed by a trust amongst themselves. It seems highly inappropriate that as lawmakers we would allow this policy of mistrust to continue in our system.

I hope that the Members here today will join me in my efforts to restore to our system of Government a policy which inspires trust.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from New York.

Mr. PEYSER. I want to be sure I understand the gentleman's amendment. Is what the gentleman is saying that information that now occasionally reaches the IRS through people reporting and say so-and-so earned substantial moneys and they probably did not file, it is that type of information?

Mr. SYMMS. Yes. I thank the gentleman for the question. What we are talking about and talked about in the colloquy earlier, in the general debate, it was pointed out the IRS is practically paying no money out for this purpose at the present time. In the past they have paid out millions of dollars to encourage people to rat on their neighbors, so to speak. I think it is a very unethical practice that we should not further in the United States of America. We should just not have head hunters being paid to go and turn in their neighbors whom they suspect may be in violation of the IRS Code. When the IRS does audit on someone, and whether it was purposeful or nonpurposeful violation of the income tax code, they can pay the informer a bounty of up to 10 percent of the revenue received from the taxpayer who was then audited. What this does is make the taxpayers tax collectors and it makes tax collectors out of more and more citizens as they start turning in their neighbors, and it smacks of a police state activity which I think we should try to avoid.

Mr. PEYSER. If the gentleman will yield further, it seems to me one of the things we are all concerned with, and certainly the gentleman has expressed this many times, is that as taxpayers we all want to bear an equal burden by honestly filing our returns and paying what is due. If on the occasion when someone has reason to suspect that a law is being violated, why not turn them in?

Mr. SYMMS. I think the gentleman and I are in total agreement. A good citizen should want to see the laws of the land upheld anyway and do this voluntarily. But why should we have this extra encouragement to provide an incentive for those who would then work in this field and become head hunters or bounty hunters?

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. Yes, I yield to the gentleman.

Mr. PHILLIP BURTON. I would like to join with my colleague from Idaho in support of this amendment. I think bounty hunting or head hunting is more in the tradition of a totalitarian rather than a free society. I think the gentleman's earlier amendment was well-placed. I supported him on that one, and I do not want to spoil the gentleman's whole week by supporting him twice in a row, but he is right again this time and I intend to support the gentleman's amendment.

Mr. SYMMS. I would say to my distinguished friend from California on the House Interior Committee that it will not spoil the gentleman from Idaho's week to have him support me twice. The gentleman can support me any time he wishes.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. Yes, I will yield to the gentleman from Texas.

Mr. KAZEN. I may have been out of the Chamber when this was discussed. I think the gentleman just touched on the point as to how much money has actually been paid for information. This would be my question, how much was paid out by the Government last year for this type of information?

Mr. SYMMS. I thank the gentleman for the question. In past years it was upwards of a half million dollars to a million dollars. According to the chairman of the committee, the distinguished gentleman from Oklahoma, this year it has been less than $100,000.

The gentleman from Idaho did not offer an amendment to strike that $100,000 from the bill, because he did not know what other contingencies the Secretary of the Treasury might have that he needed the $100,000 in his contingency fund for. Rather than do that I have just limited it so that we can send a message down to the Internal Revenue Service to let us not have bounty hunting. We can have good citizenship, yes, but encouraging bounty hunting, no.

The CHAIRMAN. The time of the gentleman from Idaho has expired.

(At the request of Mr. McCLORY and by unanimous consent Mr. SYMMS was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman.

Mr. McCLORY. The thing that I am concerned about is this: Informants are an extremely important part of law enforcement and the payment of informants for information, which is provided through law enforcement agencies, including the IRS or Department of Justice, should be a practice which we would want to continue and for which we would want to provide compensation. I assume that the IRS would continue to be eligible to have informants whom they could pay? This amendment of the gentleman's would not inhibit the continued use of informants by any and all law enforcement agencies, would it?

Mr. SYMMS. In no way would it. It would only inhibit the Internal Revenue Service.

Mr. McCLORY. And it would only inhibit the Internal Revenue Service with regard to persons who are not engaged as informants, but persons who volunteer as informants for a reward?

Mr. SYMMS. Yes.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Georgia.

Mr. McDONALD. I thank the gentleman for yielding. Let me ask a question. If there is an informant that perhaps turns his neighbor in and the neighbor goes through a very extensive and expensive audit, and it turns out that there is no money owed to the IRS, does the IRS then turn back and pay for the cost of that audit?

Mr. SYMMS. Unfortunately, as the gentleman from Georgia well knows, it is always a one-way street when dealing with the IRS. The poor citizen who has been unduly harassed by overzealous IRS agents must provide their own defense, and are not compensated for that.

Mr. McDONALD. I think the gentleman from Idaho has made a tremendous amendment and addition to the bill and I strongly support it.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. DORNAN. I have a question on this superb amendment, which I certainly will support. Two years ago when I tried to research this I found that it was about 100 times easier to get top secret information out of the Defense Department than to find out the following facts, and I wonder if the gentleman had any luck.

The CHAIRMAN. The time of the gentleman from Idaho has again expired.

(At the request of Mr. DORNAN and by unanimous consent Mr. SYMMS was allowed to proceed for 1 additional minute.)

Mr. DORNAN. Mr. Chairman, will the gentleman continue to yield?

Mr. SYMMS. I yield to the gentleman from California.

Mr. DORNAN. The question is what is the percentage of failure in audits when a neighbor would instigate an audit for purposes of harassment, or just neighborly meanness? It is almost impossible to find out from the IRS, at least it was for me, what their percentage of failure was on these informers before they are paid, for these instigated audits? Has the gentleman been able to find out this information?

Mr. SYMMS. It is very difficult to say. I would say to the gentleman from the colloquy during the general debate it appears it has been difficult for members of this distinguished committee to find out how much of this goes on or what information takes place. I think what we have to do in this body is to be sure we send an unmistakably clear message to the Internal Revenue Service.

Mr. DORNAN. If the gentleman will continue to yield, I believe a unanimous vote would accomplish that and I look forward to a unanimous vote on this issue.

Mr. SYMMS. We do not then have citizens becoming tax-collecting agents as they had in Rome right before the fall of Rome.

Mr. STEED. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this could well be labeled an amendment in favor of the law violators. But let me make one thing clear before this red herring of the Internal Revenue misleads the Members. This is a general provision that applies to the entire Treasury Department. If this amendment is adopted, the ability of the Secret Service to combat counterfeiting and forgery will be eliminated, the ability of the U.S. Customs Service to fight smuggling across the border and work on the task forces of the Drug Enforcement Agency and other Government agencies will be eliminated, and also the ability of the Alcohol, Tobacco, and Firearms Agency to fight terrorism and bombings and that sort of thing.

☐ 1340

This is a very dangerous amendment. It should not be adopted. In addition to that, it probably was well known as one of the finest programs of any agency of the Government. That is the incentive awards program of the Treasury Department, where they get ideas from the employees that save thousands of dollars and improve efficiency. I cannot imagine anybody wanting to cause a program like that to be jeopardized.

So, I recommend that a thing as mischievous as this be defeated because any case they can make about abuses of the IRS are chickenfeed compared to the damage this amendment will do if it is adopted.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. STEED. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I would be happy if the gentleman would yield for one question. Would the gentleman imply to the Members of this body that alcohol, tobacco, firearms, anticounterfeit, antidope smuggling and all of this can be handled by the mere expenditure of a hundred thousand dollars of reward?

Mr. STEED. That is just one part of it. There are other funds and other activities in which this whole program is involved. The opportunity to use this weapon will be totally eliminated. No one can benefit from the adoption of this amendment except law violators. That is as plain as the nose on your face, and I make no bones about it, that a vote for this amendment is a vote to encourage violation.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I would like to point out that if this amendment is adopted, what we are doing, in effect, is we are losing our chance to collect about $50 billion in underground income upon which there are no taxes paid. If we want to balance the budget, if we want to make people in this country pay their fair share, and if we want to reach the billions of dollars of illicit income that pay no taxes, by voting for this amendment we are taking away one of the most effective tools the Treasury Department has.

I think it would be a very, very dangerous step to take. It is something that ought to be considered in the appropriate committees that deal with the collection of taxes, that deal with the responsibilities of Internal Revenue collectors, which will provide reports for the conduct of the collection of taxes. But, if we want to legalize the $50 billion that escapes the Treasury, that is the gentleman's responsibility. It is a very dangerous step.

Mr. SYMMS. Mr. Chairman, would the chairman of the committee yield?

Mr. STEED. I yield.

Mr. SYMMS. Mr. Chairman, it was the intention of the gentleman from Idaho to limit this only to the Internal Revenue Service.

Mr. STEED. I say this to the gentleman: He puts it in a place in the bill that applies to the entire Treasury Department, because it is a general provision under the whole Treasury Department. In the first place, if it only applied to Internal Revenue, it should not be adopted for more reasons than I will take the time to say here, because most of the Members are already aware of them, but the amendment applies to the entire Treasury Department and it cannot be interpreted any other way.

Mr. WEAVER. Mr. Chairman, I move to strike the last word.

Mr. SYMMS. Mr. Chairman, would the gentleman yield for the purpose of a unanimous-consent request?

Mr. WEAVER. I wanted to take the floor to ask the gentleman from Idaho, does this apply only to IRS or to the entire bill?

Mr. SYMMS. I will say to the gentleman from Oregon, the gentleman from Idaho would ask unanimous consent, regarding this, that the amendment read:

> In connection with income tax collection by the Internal Revenue Service.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

Mr. GIBBONS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. WEAVER. The question was, it does deal with the entire bill, is that correct?

Mr. SYMMS. If it is not amended, the gentleman is correct.

Mr. WEAVER. It does deal with the entire bill. Then I feel constrained to oppose the amendment, and I would like to ask the gentleman from Idaho one further question. It would constrain paying any amount by any of these agencies, including perhaps income tax refunds? It says, "pay any amounts".

Mr. SYMMS. Rewards for bounties.

Mr. WEAVER. Or any amounts.

Mr. SYMMS. The amendment does need an amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II

U.S. POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for public service costs and for revenue foregone on free and reduced rate mail, pursuant to 39 U.S.C. 2401 (b) and (c), and for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund and to postal employees for earned and unused annual leave as of June 30, 1971, pursuant to 39 U.S.C. 2004, $1,697,558,000.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. GLICKMAN: On page 9, line 3, delete "$1,697,558,000." and insert in lieu thereof "$1,672,810,000: *Provided*, That no funds appropriated herein shall be available for implementing special bulk third-class rates for 'qualified political committees' authorized by Public Law 95-593."

Mr. ECKHARDT. Mr. Chairman, on this amendment I wish to reserve a point of order.

The CHAIRMAN. The gentleman from Texas reserves a point of order on the amendment.

Mr. GLICKMAN. Mr. Chairman, the purpose of the amendment is quite straightforward. It will prohibit the continued implementation of authority granting certain qualified political committees the use of special bulk mail rates available to nonprofit organizations. According to Postal Service estimates, the amendment will save the American taxpayers $24,748,000 in fiscal 1980. The subsidy amounts to 6 cents on each piece mailed, and it has been available since the enactment of Public Law 95-593, and about 150 different committes have qualified. The subsidy goes largely to the various State and national committees of our two major parties, but it also has benefited parties ranging from the Nazis to the Communists. Libertarian and Socialist Workers Party committees have also benefited.

First, I want to recount for you the process by which this expensive subsidy worked its way into public law. Last September, the House approved S. 703 under suspension of the rules. The bill was a broad piece of legislation designed to assure the voting rights of Americans living overseas, but the House Administration Committee had tacked on a provision amending title 39 of the United States Code to include these political committees in the definition of nonprofit organizations for purposes of bulk mailing rates. The committee report included a CBO estimate that the subsidy would cost between $2.4 and $4.5 million in each of the fiscal years between 1979 and 1983. Beyond a brief reference in the summary of the bill which was printed in the RECORD, this provision of the bill was never discussed during the debate in the House. When the Senate considered the question of concurring in the House amendments to S. 703, the only in-depth discussion of this provision came from former Michigan Senator Griffin who roundly criticized it. Senate concurrence was by unanimous consent; there was not even a recorded vote on the question there.

Another point that I think needs to be remembered is that the bill which authorized this subsidy was reported by the Committee on House Administration; it was not considered by the Committee on Post Office and Civil Service which has jurisdiction over the Postal Service. In fact, it is my understanding that, in spite of the fact that the idea for this subsidy has been around for a number of years, the Post Office Committee has never voted on the issue. I am sure that is largely thanks to the persistence of my colleague, ED DERWINSKI, who I am glad to have cosponsoring this amendment. As far as I am concerned, the question of committee jurisdiction was reenforced by the fact that my bill to repeal this authority was referred not to House Administration, but to the Post Office Committee where it rightly belongs.

Second, we need to consider the fiscal policy questions raised by this subsidy. There is no question about it, it is a very expensive plum for the political committees who benefit. We approved a supplemental appropriations bill for fiscal 1979 including $18,233,000 to cover the revenue loss which the special rates are expected to cost the Postal Service for the 11 months of the year in which the bill has been in effect. The bill before us provides another $24,748,000 for fiscal 1980. Those figures are a far cry from the $2.4 million estimated for fiscal year 1979 and $4.5 million for fiscal year 1980 when the authority was approved. The cost situation is made even worse by the fact that the expense of this subsidy is largely uncontrollable. Those committees, not the Congress and not the Postal Service, determine how much the taxpayers must pay to cover the costs of this subsidy as they decide how many mailings they want to make. It has not been so long since we debated the budget resolution and we found that our hands were tied on category after category because they were "uncontrollable." The authority we are considering here will only worsen that problem at a time when we need to be bringing it under control.

Before I leave the question of fiscal austerity, I want to remind my colleagues that both of our major parties have advocated bringing the Federal budget into balance by one means or another. And the rhetoric in support of reducing the Federal deficit has been echoed across the political spectrum. In light of that, I find it highly ironic that those same political parties are so anxious to maintain this little taxpayer-financed subsidy.

Finally, we need to look at the logic behind giving State and national political party committees the benefit of this low-cost, high-subsidy postal rate. Traditionally, the rate has been restricted to nonprofit organizations which fall into seven types: religious groups, educational organizations, philanthropic organizations, agricultural groups, labor organizations, veterans groups, and fraternal organizations. And I think it is instructive to look at the groups that currently do not qualify, in spite of the fact that they are nonprofit from a technical point of view: The American Automobile Association and its State clubs, Chamber of Commerce, Civic Improvement Organizations, Rural Electric Cooperatives, the Rotary, and Kiwanis Clubs, and the list goes on. As far as I am concerned, while I obviously believe that our political parties play a very important role in our free society, there is a clear distinction between groups like churches, the Heart Fund, the Cancer Society, and political committees.

And we need to give some thought to the question of how compelling is the need for the subsidy which is currently in effect. Both of our major political parties are well over a century old, and they have managed for all that time without this break at taxpayer expense. That leads me to believe that—while I am sure that both of the major parties and a number of lesser ones are enjoying the benefit of this subsidy—they would continue to prosper without it.

At a time when the Congress is looking for ways to cut spending, including some like reductions in social security benefits which will have a real and serious impact on individual Americans hard hit by inflation, I think we need to look at priorities. My constituents sent me here to represent their best interests, not the best interests of any political party, and I intend to keep that in mind as I assess appropriations requests. I would hope my colleagues will share that commitment and support this amendment.

☐ 1350

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding. Is the gentleman indicating by this amendment that the Democratic Party, the gentleman's party, never mails anything to its members of an educational nature which is not worthy of a nonprofit status?

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 1 additional minute.)

Mr. GLICKMAN. The answer to the question of the gentleman is, of course not. Both political parties, the major parties, send matters of educational interest. But I am concerned here about process as much as anything else: That a provision slipped through that was not subject to full debate in this House, that was estimated to cost between $2 and $4.5 million a year and will cost $25 million this year. I think we need to consider this matter in connection with other legislative priorities.

Mr. THOMAS. If the gentleman would yield further, if it is a legislative priority, if that is the problem, why do we not consider it in the legislative committee and not on an appropriations bill, because we cut off everybody else?

Mr. GLICKMAN. I have introduced that kind of bill, but, if we do not do it now, we are going to spend $25 million this year. That is the reason for the amendment.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I will be glad to yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

Do I understand the gentleman is saying that what he intends to do by this amendment is in effect strike out the provisions of Public Law 95-593 which state:

> Section 3626 of Title 39, United States Code, is amended by adding at the end thereof the following new subsection:
>
> (e) (1). In the administration of this section the rates for third-class mail matter mailed by a qualified political committee shall be the rates currently in effect under former Section 4452 of this title for third-class mail matter mailed by a qualified nonprofit organization.

Is that the point the gentleman is making?

Mr. GLICKMAN. That, together with other relevant provisions of the same public law.

Mr. ECKHARDT. As I read this section, what this section deals with is a reimbursement to the Postal Service fund which would include a reimbursement for mailing at a lower rate. Under that section, where these qualified political committees have received the benefit of third-class mailing, the Postal Department gets reimbursed for what it costs the Postal Department to reduce the rate. Is that correct?

Mr. GLICKMAN. They get reimbursed, I assume, through this appropriation or through prior appropriations.

Mr. ECKHARDT. So would it not be true that by the gentleman's amendment these various committees, including, as he mentions, the Communist Party, the Socialist Workers Party, and so forth, would still get the benefit but the Postal Service would not be reimbursed? Is that the effect of it, or is it not?

Mr. GLICKMAN. I would like to read a letter.

Mr. ECKHARDT. In other words, the gentleman gives the Socialist Workers Party cheap mail and the Government is required to do so, and the gentleman's amendment prevents the Postal Service from being reimbursed. Is that not the effect of the amendment?

Mr. GLICKMAN. I have a letter that was addressed to the Honorable TOM STEED by William F. Bolger that I would like to read because it addresses that point.

Mr. ECKHARDT. Surely.

Mr. GLICKMAN (reading):

> JUNE 25, 1979.
>
> DEAR MR. CHAIRMAN: This responds to your request that we advise you what would be the effect of a disallowance of the Postal Service's appropriations request for revenue foregone under Public Law 95-593, which authorized the special bulk third-class rate for qualified non-profit organizations to be extended to mailings of national and State political party committees.
>
> Under 39 U.S.C. § 3627, if Congress fails to appropriate an amount authorized for revenue foregone appropriations, the Postal Service adjusts the rates involved to make up through postage revenues the amount that was not appropriated. This was done shortly after postal reorganization for regular-rate third class, which had been authorized 5-year phasing by 39 U.S.C. § 3636. When both Houses of Congress—

And this is the important point, I will tell the gentleman—

> decided not to provide revenue foregone appropriations requested for this category, the Postal Service began charging the full, unreduced rate. This action was upheld by the U.S. Court of Appeals in *Ass'n of Am. Publishers, Inc., v. Governors of United States Postal Service*, 485 F. 2d 768 (D.C. Cir. 1973).

For the FY 1980 regular appropriation, the result of a disallowance of the $24,748,000 revenue forgone request for political committee mailings would be that in FY 1980 these mailings would be charged the full unsubsidized bulk-third class rate instead of the lower non-profit rate.

POINT OF ORDER

Mr. ECKHARDT. Mr. Chairman, I am ready to make my point of order. The gentleman, I think, has already made it for me.

The CHAIRMAN. Does the gentleman wish to be heard on his point of order?

Mr. ECKHARDT. I do at this time, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ECKHARDT. My point of order is that the amendment places a burden on the Postal Department which would not exist but for this amendment. As the gentleman has so eloquently pointed out by the letter which he just read, if the amendment is passed, it does not merely withhold funds, but it requires the Postal Department to adjust the rates of the Postal Department in order to comply with the limitation contained in this amendment. Therefore, this is not a mere limitation on an appropriation but it is a limitation which requires the Postal Department, as the gentleman has stated in his letter, to adjust all rates, determine which rates need adjustments, which ones qualify or would not qualify under the provision, and, thus, reduce those rates to the figures that would permit the reduction in revenue. Therefore, it seems clear to me that this affords an extremely heavy burden on the Postal Department which would not otherwise exist but for the passage of the amendment. If this were not true, the situation would create an anomalous condition which I had pointed out in my initial question to the gentleman in the well and the author of the amendment. It would create a situation in which the benefits provided under section 3626 of title 39 would still be enjoyed by qualifying political committees, and yet the Postal Department would not be able to receive the adjustment due to the additional costs. It seems to me that in effect if the gentleman is correct and if adjustments are made in the rate, there is another change in substantive law occasioned by the adjustment in rates. That is, the adjustment in rates substantively changes Public Law 95-593 so as to deprive qualified political committees, including the Democratic Committee and the Republican Committee, and all others that qualify, of the benefits that we have enacted in another piece of legislation, not one that deals with the Postal Department but deals generally with the rates of political parties with respect to the use of the mails.

Mr. GLICKMAN. Mr. Chairman, may I be heard on the point of order?

The gentleman from Texas as usual gives a very scholarly but I would suggest convoluted interpretation of the purpose of the amendment. The amendment is strictly one of limitation. It reduces funding by $25 million and limits the use of that funding with respect to the charging of postal rates. I would state for the gentleman and for the Chair that section 3627 of title 39, United States Code is discretionary authority to adjust rates if the appropriation fails and is not mandatory authority and, therefore, I do believe that the amendment is merely a limitation and is germane.

□ 1400

Mr. DERWINSKI. Mr. Chairman, I would like to support the gentleman in the well and point out to the Chair this is a very carefully drawn amendment. It does specifically delete funds from the bill before us which is for the fiscal year 1980, the period covered by this appropriation bill, and it is a proper limitation of funds and I believe, therefore, the point of order should not be sustained.

The CHAIRMAN. The Chair is prepared to rule on the point of order.

In the opinion of the Chair, the amendment constitutes a negative limitation on how funds in the bill are spent rather than being legislation on an appropriations bill. No new determinations are required. Even if the amendment should be considered as constituting legislation, it constitutes a retrenchment because it cuts the amounts in the bills and the legislative effect directly contributes to that reduction.

The Chair, therefore, overrules the point of order.

Mr. VANDER JAGT. Mr. Chairman, I move to strike the requisite number of words and will speak in opposition to this amendment.

Mr. Chairman, I rise in opposition to the amendment and I rise in support of the Democratic Party as well as the Republican Party.

I am sure there may be a few who might view with skepticism the assertion of a Republican campaign chairman that he is rising on behalf of the Democratic Party but I sincerely believe that this amendment in its present form would be even more injurious to the Democratic Party in the long run than it is to the Republican Party.

I am really rising this afternoon on behalf of both our great political parties and certainly on behalf of our two-party system.

I know that every Member, including the gentleman who offered the amendment, believes that our two-party system has served us well. In fact, it has served us so well that we take it for granted. We just think it will go on irregardless of what we do to it. Obviously, that is not the case.

Our two-party system needs to be strengthened, revitalized, and nurtured. It needs to be helped, not hindered as this amendment would do. A couple of years ago the respected national columnist, Dave Broder, wrote a book entitled "The Party Is Over," and in it he documented the decline in influence of both our political parties and he bemoaned the day that might soon be coming when our parties would lose any significant role whatever in impacting upon the American political decisionmaking process.

Obviously, this amendment would hasten the coming of that day. I cannot conceive of any Member of this House voting for an amendment which says, in effect: We are going to charge the Democratic Party and the Republican Party 2½ times as much to mail a letter as a labor union or a common cause or a gun group or an abortion group or whatever kind of group you have. That simply does not make any sense whatever.

Now, Mr. Chairman, the proponents of the amendment say, well, it is just taking a subsidy away from the political parties. No other group with a political message to communicate, just our political parties.

The issue here is not a subsidy issue. It is a fairness issue.

I do not pretend to be as expert as the distinguished chairman of the subcommittee and its members on the subject of postal subsidies but you do not have to be an expert to know that the determination of what is and what is not a subsidy for a given category of mail since the system already in place is an extremely complicated and controversial one.

One needs not be an expert to know that the Post Office overestimated the cost of the political party postal rate system by at least 5,000 percent. You need not be an expert to know that this amendment which comes to us without the benefit of any hearings or any testimony or any analysis at all simply cannot tell this body whether this rate system costs $500,000 a year or $1 million a year or, in fact, can be a moneymaker for the Postal System since it is a bulk-handling opportunity and because of the fact the mailman has to deliver the mail anyway.

There is another serious problem of deep concern to every Member of this body affected by this amendment and that is the rise of the single-issue group.

Every Member who serves here knows he can vote "right" 99 out of 100 times and then vote "wrong" once and a single-issue group can spring into action flooding the U.S. mails with hundreds of thousands of pieces of political propaganda.

Should our two political parties have any less access to the mails at the same cost and at the same rate? Obviously, they should not be discriminated against.

Mr. Chairman, to offer this amendment and to place that discrimination on our two parties and only our two parties, it seems to me, because of some concern down the line there is a possibility of minute, trivial helping of some fringe party, is to throw the baby out the window because you are dissatisfied with the bath water.

Mr. Chairman, I ask my colleagues not to place a penalty and a burden on our two political parties which need help and not hindrance. I ask those of you who believe in the Democratic Party and believe that it is important to communicate what it stands for to the American people to join together on behalf of our two-party system and give this amendment the resounding defeat it so richly deserves.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN TO THE AMENDMENT OFFERED BY MR. GLICKMAN

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. FORD of Michigan to the amendment offered by Mr. GLICKMAN: On page 9, line 3, delete "$1,697,558,000." and insert in lieu thereof "$1,676,810,000" and strike the period after "Public Law 95–593" and insert the following: ", other than the national, state or congressional committee of a major or minor party as defined in Public Law 92–178, as amended."

Mr. ECKHARDT. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Texas reserves a point of order.

Mr. FORD of Michigan. Mr. Chairman, I think it should be made clear at the outset that the House has passed on this issue on more than one occasion in the past. The gentleman who offered the amendment unfortunately has been misinformed about the history of this provision in the law.

Mr. Chairman, it is true that the present language came into the law as part of an amendment to the Federal election statute. As a matter of fact, this House has acted on more than one occasion in the past, and a committee of this House with legislative jurisdiction, the Committee on Post Office and Civil Service, has acted with respect to this classification of the mail of the major and minor political parties.

The Postal Service has had a very special dislike for the idea of affording our political parties the same kind of treatment by the Post Office that almost every other group which attempts to influence public opinion in this country has available to them. A list of the kinds of organizations we are subsidizing, while denying it to our American citizens to speak through their organized political parties would make the hair stand on the back of your hand.

The real point here is that the Postal Service has once again demonstrated their totally irresponsible reaction to this concept. They did not give us figures like this when we passed the legislation in 1976 during the Ford administration and, as a matter of fact, we negotiated out the language of the act with the Ford administration, the Ford Budget Office, and they did not throw figures like this at us. They did not do it again when we came through here the last time with the postal reform bill. We have never heard this kind of figure in the Committee on Post Office and Civil Service.

In anticipation of this amendment we checked with the Congressional Budget Office.

□ 1410

The Congressional Budget Office in an official letter to Chairman FRANK THOMPSON, which I will be glad to share with you, I cannot insert it in the RECORD at this point because we are in the Committee, estimates that the cost for both political parties plus the State subsidiaries, plus the congressional campaign committees, could be $2.4 million for fiscal year 1979.

Now, the gentleman says the Post Office says it is going to cost $25 million. I suggest that all the political parties in the country are not going to spend $25 million in total expenditures for all purposes during this fiscal year.

We are not talking about new subsidies. We are talking about the level of the subsidy. The political parties already qualify as third-class mailers. They do not qualify, strangely enough, as nonprofit third-class mailers.

Is there anybody in this body that believes that the parties are in business for the purpose of making a profit for some private organization? It is possible that the Republican Party makes a profit, and in all deference to my colleague, the gentleman from Michigan, who spoke before me, I have never seen a profit on our side of the aisle.

It is patently ridiculous to go on for all these years continuing to assume that the political parties are something other than a nonprofit organization entitled to the same dignity and consideration in the dissemination of information as all the special one-interest groups that have been mentioned by my colleague and others that I could mention.

I think that we are at least entitled to the same dignity as other organizations that continue to enjoy this special status.

The letter that the gentleman read from the Post Office Department saying that everybody's rates would have to go up is the worst kind of a red herring, because the fact of the matter is what we are talking about is revenue foregone. We give the Post Office about $950 million to cover this up front and that includes this year when they are going to have a surplus because of the big rate increase that has just gone into effect. If you have forgotten that they raised rates very dramatically this year, just talk to one of your constituents. I am sure you heard about it when we went up to the brand new first-class stamp. They are talking about a surplus this year, but they are talking about a surplus because of a rate increase.

There is no rate increase contemplated in anything we do with this kind of legislation.

The idea that this is going to be an excessively expensive item is wrong.

Finally, let me say this, that the gentleman's amendment should be adopted if it is amended by my amendment, because the result would then be that we would clarify a disagreement that is going on now with respect to what was meant by the language in the Federal election code and make it clear that we did not intend that the American Nazi Party or the Communist Party, or anybody else that called themselves a political party could automatically walk in and get this privilege. It would make it clear that we are talking about a bona fide political party, because we adopt as a definition of a political party that which is already in the law, that which has been discussed by the Supreme Court in the Valeo case, in terms of the Federal election law that sets up the financing of the Presidential election.

We simply adopt the definition of a party. We do not rewrite the law that has already been in the law for some time. It has already been examined by many authorities.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(At the request of Mr. CORCORAN, and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 3 additional minutes.)

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I promised the gentleman I would yield, and I yield to the gentleman.

Mr. CORCORAN. Mr. Chairman, I would like to congratulate the gentleman on this very helpful amendment. It does two things to the amendment which has previously been pending. One, it reduces the total appropriation from about $25 million down to $4 million, whch is the amount of money which is needed in order to carry out this very worthwhile program.

Secondly, it does provide a definition as to what kind of parties will qualify. What we have done is following the precedent established in the 1971 act providing for support for the Presidential nominees; we have defined in the gentleman's amendment that only those political parties with 5 percent or more of the vote in a previous Presidential election will qualify.

I congratulate the gentleman. I think it is a helpful amendment and I hope it is adopted.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman.

I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, this amendment does go part of the way that I was concerned about in the problem, but I would like to ask two questions.

As I understand it, the gentleman's amendment cuts $21 million from the bill, as opposed to my $25 million; is that correct?

Mr. FORD of Michigan. Well, I would rather not say that, because I do not believe that this amendment with or without mine would ever cost $25 million, but it cuts the figure that the gentleman was working with by $21 million and is $21 million less.

Mr. GLICKMAN. Now, what happens during the year if perchance the subsidy exceeds $4 million?

Mr. FORD of Michigan. There is not any subsidy paid out, as such. It is revenue foregone.

Mr. GLICKMAN. All right. What happens if the revenue foregone exceeds $4 million?

Mr. FORD of Michigan. Well, the same thing that happens with any other revenue foregone by the Post Office Department. If the Post Office ends this year with a deficit, they come to see Mr. STEED and we will subsidize that deficit.

Mr. GLICKMAN. Then what I am saying, we might have to come back with a supplemental for more money.

Mr. FORD of Michigan. Well, I do not know how we would identify it with this specific supplemental for the Post Office, but not this year because they are going to have a surplus.

Mr. GLICKMAN. All right, the second question I would like to ask the gentleman is this. The gentleman's amendment says that major parties and minor parties as defined in the Presidential election campaign matching act are eligible for the subsidy; but anything smaller than that is not.

For example, small either splinter or mainstream political parties that are very small in orientation. Now, my question to the gentleman is, do we not run into constitutional problems by saying that the Democratic Party is eligible for a 3-cent bulk rate postage, but the Bill Ford Independent Party of Michigan when it wants to mail out a letter to a thousand people must pay 8 or 9 cents.

Mr. FORD of Michigan. The Bill Ford Independent Party of Michigan, had I one, would not qualify under this; but the Democratic Party and the Republican Party clearly would and any other party that received as much as 5 percent of the popular vote in any preceding Presidential election.

Now, if there is a constitutional question with respect to the definition of a major or a minor political party in the Federal election law, that must be attacked by going after the Federal election law and, as we know, we probably will disburse something in the magnitude of $80 million in 1980 for the purpose of financing candidates in both the Democratic and Republican primaries, and finally in the general election and we also will finance both of the national conventions out of that fund, about $80 to $82 million.

The CHAIRMAN. Does the gentleman from Texas (Mr. ECKHARDT) insist upon his point of order?

Mr. ECKHARDT. Yes, Mr. Chairman, I do.

The CHAIRMAN. The gentleman will state the point of order.

POINT OF ORDER

Mr. ECKHARDT. Mr. Chairman, the Ford amendment, is, indeed legislation on an appropriations act, because by limiting the amount available under the bill, the Postal Service will be required to establish two different rates; one for major and minor political parties entitled under the bill and another rate for political parties which do not qualify.

Unlike the discretionary authority under section 3627, this adjustment would be mandatory.

I would like to point out that the reference in the bill is to Public Law 92-178, which in its title VII deals with certain tax incentives for contributions to candidates for public office and which sets out certain definitions with respect to national committees of national political parties and State committees of a national political party as designated by the national committee of such party.

The Ford amendment says:

> . . . And strike the period after "Public Law 95-593" and insert the following: ", other than the national, state or congressional committee of a major or minor party as defined in Public Law 92-178, as amended."

Now, there are definitions here and those definitions must be addressed by another body besides the Post Office Department; but here the Post Office Department is going to have to determine whether a committee is a State committee of a national political party as designated by the national committee of such party and must apply the definitions as the result of additional duties attributed and ascribed to the Postal Department that are not previously attributable to that Department; so there is, indeed, an additional burden with respect to defining or establishing and applying the definition of a major or minor party as defined under this law and also with respect to establishing two separate rates in order to accomplish the objective sought here.

☐ 1420

The CHAIRMAN. Does the gentleman from Michigan (Mr. FORD) desire to be heard on the point of order?

Mr. FORD of Michigan. Yes, Mr. Chairman, I do, briefly.

First, I believe that the gentleman from Texas (Mr. ECKHARDT) confuses the addition of duties to the executive branch that require the exercise of discretion and the imposition of an obligation to make determinations that would not otherwise have to be made.

What our amendment does is it simply refers them to a clearly defined interpretation, consistent with virtually everything else that is contained in the postal code, with respect to qualifying and nonqualifying people.

I might suggest to the gentleman that every time an employee of the Postal Service picks up a letter and handles it there is a duty involved to determine whether or not the sender of the letter qualifies for the class of mail that is being used to assess the cost to the Government through the payment of postage.

The second point is that I would refer to the gentleman's argument against the amendment offered by the gentleman from Kansas (Mr. GLICKMAN) on this point of order in which he pointed out that the effect of not adopting the amendment offered by the gentleman from Kansas (Mr. GLICKMAN) would be that the law would not be changed, and that the Post Office Department would have a continuing duty to determine whether a political party was a political party for the purpose of giving them a subsidy, even without the Glickman amendment. I suggest that the effect of knocking out my amendment will be to leave the duty of the Postal Service to make that determination much broader and much more complex than it would with the narrowing effect of our amendment which requires that they need only pick up the telephone and call the Federal Election Commission and ask, "Who, if anyone, qualifies for this class of mail? We have got some people who are applying for a permit. Shall we grant them the permit?"

The way this discretion is exercised is not that you mail a letter and wait to see if the Post Office catches you; you go down to the Post Office first and you say, "I am representing the Democratic"—or the Republican—"National Committee. We wish to have a permit with a number assigned to us so that our mail is clearly identified and to entitle us to mail as a nonprofit organization third class bulk mail."

At that point the Postal Service makes a determination as to whether or not you qualify. They do not make a determination as to whether the Democratic Party or the Republican Party qualifies; they simply pick up the phone and call the FEC and find out.

Mr. ECKHARDT. Mr. Chairman, may I be heard further on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. ECKHARDT. Mr. Chairman, I have one response to that argument, and that is that I can find no place where the election agency determines what is a "congressional committee of a major or minor party."

So this would place a duty on the Post Office Department to determine what is a "congressional committee." I do not know what it is. It would seem to me very difficult to establish that question.

The CHAIRMAN (Mr. PREYER). The Chair is prepared to rule.

Exceptions to limitations or retrenchments permitted to remain in the bill are permitted if not constituting additional legislation. In the opinion of the Chair, the law already imposes a duty on the Postal Service, under Public Law 95-593, to determine whether any political committee is a National, State, or congressional committee of a political party.

Public Law 95-593 provides definitions of what constitutes political parties. Since these standards exist in the law, it is the opinion of the Chair that no additional burden is imposed by the amendment, or, in any event, the amendment remains a retrenchment, and the point of order is overruled.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise specifically in support of the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

Mr. Chairman, this amendment overcomes, at least for 1 year, a hasty and ill-advised legislative action taken in the waning days of the 95th Congress. Its purpose is simply to deny in fiscal year 1980 the $24,748,000 which would be used to subsidize mail generated by political organizations.

In the rush of closing business in the House last fall, a little-noticed and undebated amendment was skillfully attached to the Overseas Citizens Voting Rights Act. The amendment extended to political committees the preferential postal rate applicable to nonprofit organizations.

I suspect there were not more than a handful of Members on the floor that day who knew this nongermane amendment had been attached to an otherwise acceptable piece of legislation. The RECORD shows there was no debate or justification of this political subsidy. I think it was a serious breach of the rules, and of courtesy, for a committee lacking jurisdiction to assume the responsibility for bringing a postal subsidy issue before the House.

Unfortunately, our otherwise alert committee staff was not aware of the action taken by the House Administration Committee and so the members of the Committee on Post Office and Civil Service were not forewarned. My opposition to a subsidized postal rate for political organizations is well established in committee, and overtures in that direction have been successfully headed off in the past.

When the Senate took up and considered the overseas citizens voting rights bill on October 13, 2 days before adjournment, minor attention was given this windfall provision. It was contended that the cost of this postal subsidy would be $2.4 million in fiscal year 1979 and $4.5 million in fiscal year 1980—estimates we now know that are far off base.

The vagueness of the law allows any makeshift organization under the color of a political party to qualify for this postal rate subsidy, and it places an unreasonable burden on the American taxpayer. In fiscal year 1979, instead of $2.4 million, the subsidy was $18,233,000, which was contained in the 1979 Supplemental Appropriations Act. In the coming year, the subsidy calculated by the Postal Service is $24,748,000 which is contained in the bill under consideration.

The overgenerous funding of Presidential elections and the income tax checkoff, to name just two, already give political organizations substantial Federal benefits. There is no justification for any further incursions into the taxpayer's pocket.

Under the standing provisions of postal law, if the Congress fails to appropriate an amount authorized for any class of mail sent at reduced rates, the rate for that class may be adjusted by the Postal Service so that the increased revenues received from the users of that class of mail shall be equal to the amount Congress was to appropriate.

The effect of the amendment, therefore, is that the political groups that presently enjoy a healthy subsidy will be required to pay the full and regular postal rate on their mailings. Of course, the elimination of this subsidy is only for fiscal year 1980, but that should give the appropriate committee of the House the necessary time to deal in a practical manner with this important matter.

Mr. STEED. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in the hope that I may add to some of the information my colleagues may want before they vote on these amendments. I can live with either one of these amendments. Personally, I prefer the Glickman amendment, but the other amendment would be much better than the situation as it now stands, so I hope that one or the other is adopted.

What happened was that, after this very well intended bill passed last year, the matter of issuing these mailing permits came up and the Postmaster General turned down several applicants. They immediately went over to the Department of Justice and got a ruling from the Attorney General that threw the whole thing into another posture. Under the ruling of the Attorney General, anybody can have a committee that qualifies under this bill, so as long as the law stands the way it is now, the sky is the limit.

So what is being done here today is to try to correct a situation no one intended to create in the first place. After some dealings with the other body, I thought the easiest way to do it would be to kill this off and start over again and make sure the next time we have a proposal that does exactly what the Members want to do and not anything else.

The Postmaster General has told us that if we do turn this down flat, he does have a loophole under which he can recover his funds, and he says that he would prefer it that way. But this other limitation here may work all right. This is something that has come up since the bill was brought on the floor, and I am not going to object to it either.

I just thought that the Members would like to know that what we are trying to do is to correct a mistake that was made in the language of the original bill, language that has been used by the Attorney General to put this thing in a focus that no one in the House wanted in the first place.

The problem is this: How do we pin down this program to these areas where we intended to help in the first place in order to make it possible for the political organizations in the country that are legitimate to bring the American people into a greater knowledge of the issues and to increase their interest in participating in Government?

So I am afraid that if the bill stands the way it is, without any amendment, we are going to be surprised and sadly disappointed as to what effects the bill would have if it stands the way it is now. As a matter of fact, if the bill is not changed, I am very sure, after having gone through this same matter in the supplemental with the other body, that we are going to have a lot of trouble with them on this amendment as it now stands when we get over there, if we do not change it.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Michigan (Mr. FORD).

Mr. Chairman, I think the afternoon's discussion has been a good thing for this body, because all of our Members will be thoroughly aware of the reason behind the original law, the bill emanating from the Committee on House Administration. In addition, I think the criticisms leveled by the gentleman from Kansas (Mr. GLICKMAN) and the gentleman from Illinois (Mr. DERWINSKI) in their amendment are significant and they are responsible. It is well that they were heard, too.

However, I would hope that this body would endorse the Ford amendment, as has been suggested by the gentleman from Oklahoma (Mr. STEED), the distinguished subcommittee chairman.

Personally, I think its definition of party may be a little too tight. It may keep some parties out, or it may deny them a privilege which they ought to have. But, on the other hand, the committee of jurisdiction, in this case the Committee on House Administration, may, if it wishes, go back and look at those definitions, and loosen them if it feels that is necessary.

I would like to stress, however, that the Committee on House Administration, in first writing this law, did so because it was absolutely necessary. We looked at political parties, and we saw their estate falling around the country. Because our committee and this Congress had agreed to put limitations on political contributions, we have almost forced all people and parties seeking political contributions to go the route of direct mail. That meant that people who could use direct mail and get this subsidy—and many of those organizations have already been delineated on this floor—could do so at a cheap rate, but the parties, which are our principal political mechanisms in this country, were obliged to pay the regular high-priced postage rate.

So we were not trying to help the parties or to give them an undue advantage. We were just trying to bring them up to the advantages enjoyed by conservative groups, liberal groups, single-purpose groups, public citizen groups, and people who call themselves citizens' lobbies, or whatever, people who were seeking to impact the political process. It was absolutely necessary that we act, and we did so.

The distinguished gentleman from Michigan (Mr. VANDER JAGT) also made a fine statement on this matter in which he described the disadvantageous position into which the two major parties had fallen. It was his opinion, too, that the action of the House Administration Committee was necessary.

□ 1430

So if the law extended that privilege too far, if it has been extended to groups that it should not have been extended to, as alleged by the gentleman from Kansas (Mr. GLICK,MAN) then the Ford of Michigan amendment does cut it back adequately, and guarantees that the original cost estimates will not be overrun.

So I would urge this body to accept the Ford of Michigan amendment as the reasonable compromise between the position of the Committee on House Administration and the position of the gentleman from Kansas and the gentleman from Illinois. I think we will have a responsible compromise that will allow the political processes of this country to move in the way we all accept and approve.

Mr. VANDER JAGT. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Michigan.

Mr. VANDER JAGT. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman on his fine statement. I join the distinguished chairman of the subcommittee on finding the Ford of Michigan amendment acceptable. I go a little further than the chairman goes in finding the Ford of Michigan amendment one that is very commendable indeed. I commend him for his statesmanlike resolution of the conflict which makes sure that the fears of runaway spending will not be there because there is a $4 million cap and addresses specifically the fears of the distinguished chairman of the subcommittee and makes sure we will not be giving any benefit, however minute, to parties like the Communists or Nazis.

I commend the gentleman from Michigan for his statesmanlike resolution, and I urge that this body support it.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I raised my points of order to indiacte the dilemma we are in here. If indeed neither of these amendments alters the provision providing that in the administration of this section the rates of third-class matter mailed by a qualified political committee shall be the rates currently in effect under former section 4452 of this title, if indeed that section is not changed it is true that both amendments are only limitations on an appropriations bill. The gentleman from Michigan (Mr. FORD) argued that in opposition to my point of order against his amendments. The Chair ultimately ruled that this amendment does not affect substantive law. I agree with the gentleman from Michigan (Mr. FORD), and I certainly agree with the Chair that, under that interpretation, the two amendments are indeed merely limitations of funds to be expanded and do not alter that section.

But the gentleman from Kansas (Mr. GLICKMAN) has been arguing that, in effect, his amendment removes this subsidy. It does not, as stated in the amendment remove the subsidy. The subsidy is mandated. It says that in the administration of this section, the rates of third-class mail by a qualified political committee shall be the rates currently in effect under former section 4452 of this title for third-class mail matter. What we are amending is a section in the appropriations bill which says: "for payment to the Postal Service fund for public service costs and for revenue foregone on free and reduced mail."

What the amendment offered by the gentleman from Kansas (Mr. GLICKMAN) does is simply limit funds for public service costs for revenue foregone under this section.

The result is that the section cannot be changed by the appropriations bill under the attack of a point of order, because if it did change that section, it would affect substantive law. If the ruling on the point of order is correctly founded, the only thing that this amendment can do is limit the money that flows to the Postal Service for public service costs and for revenue foregone on free and reduced mail. So that revenue foregone on free and reduced mail to political parties, within the limitations of the Glickman and Ford of Michigan amendments, cannot be replaced under this amendment to the appropriations bill. If the ruling on the point of order is correct, we are not doing anything in these amendments to alter the advantage granted to the political parties as provided in the previous legislation for, if we did, we would be acting existing law. All we are doing is saying that the Postal Department will not be reimbursed for these losses.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. ECKHARDT. I yield to the gentleman from Kansas.

Mr. GLICKMAN. That is confusing, because that is different from what I interpreted the Postmaster General, Mr. Bolger, to say, and from what my conversations were with the chairman of the subcommittee, assuming my amendment passes. If we eliminate it all, then the preferred rate would not be given whatsoever beginning the next fiscal year period.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield back to me, I can read the English language as well as the Attorney General or the Postmaster. It says under Public Law 95–593, in the administration of this section the rates for third-class mail matter mailed by a qualified political committee shall be the rates currently in effect under former section 4452.

The Chair has ruled that we do not alter substantive law, that the gentleman's amendment only limits an appropriation. If that is all it does, I think the ruling is correct. If all we do is limit an appropriation, we are simply depriving the Postmaster of a reimbursement for the sending of mail at a reduced rate. I think that is a mistake. I do not think we ought to do that. I urge my colleagues that the other interpretation was absolutely foreclosed by the ruling of the Chair that no substantive change was affected.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Missouri.

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Does the gentleman have before him title 39, United States Code, section 3627?

Mr. ECKHARDT. I do not have that immediately before me, no.

Mr. VOLKMER. That section pertains to all of the rates, et cetera, and it provides that if Congress does not appropriate funds, then the Postal Authority has the right to increase the cost to pay for the lack of appropriation. And that has been held in a U.S. Court of Appeals decision under similar circumstances to this, when Congress has failed to appropriate the previous time. So even though that law is there, and it says that happens, as the gentleman well knows, you always have another part of this code that applies, and this is in the general authority of the Postal Authorities.

Mr. ECKHARDT. That may be so. If that be so, then the ruling of the Chair was incorrect; because the effect of the law is then very substantially changed by the amendment and a very substantial duty is placed upon the Postmaster in making such a determination.

Mr. VOLKMER. No. I disagree with the gentleman.

Mr. ECKHARDT. He has to change the administration of his office in order to retrench that money.

Mr. VOLKMER. That is presently the duty of the Postmaster right now, the commission right now.

Mr. ECKHARDT. But it would not have been triggered but for the withdrawal of the funds.

Mr. VOLKMER. That is correct.

Mr. ECKHARDT. That is the point I was making earlier. You have to go one way or the other, either this amendment induces a change in substantive law, or the Postmaster General's administration of it, or it is a mere limitation on appropriation in which case it merely withholds the payment to the Postal Service fund for public service costs and for revenue foregone on reduced mail.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Glickman amendment.

Mr. Chairman, I am in agreement that the $25 million that is involved here can be seen and interpreted as being definitely a subsidy. I do not see how we can interpret it in any other way. There are a lot of us who have been frowning upon the subsidization and the financing through the Federal Government, the financing of elections. I think this is not exactly the same, but it is somewhat similar. I think in the arguments I hear today, the one conclusion I come to, is that I have heard the best arguments for taking out of the hands of the Federal Government the mail delivery monopoly. Because of this monopoly and because it is controlled by political people here in the Congress, it is used as a subsidy that can be arbitrarily passed out to the different groups. The argument is given that we must receive this benefit because unions and other groups receive this benefit.

□ 1440

The question we must ask, do they deserve that subsidy, just because they receive the subsidy? Why do magazines, which are very, very heavy, get delivered per pound at a much lower rate than it costs us to mail first-class mail? Therefore, those of us who mail first-class pieces of mail subsidize those industries that make money off shipping their products around the country.

This is a political football. This is subsidy run rampant, and all we are arguing here is who is to get the subsidies? First we come up, and try to find out which political parties are deserving of the benefits. We determine that those who are small are undeserving; therefore, we must discriminate against them. It is claimed we must protect the two-party system.

We reject the idea that the strength of the two-party system should be by a natural evolution but rather it should come about by suppressing any opposition to it.

I strongly supported the idea that the subsidy to the political parties through the Post Office should not continue. Someday I think we should strongly consider legalizing delivery of mail by private enterprise. We also should consider the removal of the other groups who benefit from this by indirect subsidization obtained at the expense of the ordinary taxpayer.

Mr. CORCORAN. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Illinois.

Mr. CORCORAN. Mr. Chairman, I would just point out to the gentleman that the revenue function we are dealing with here relates to third-class mail, for which there is no monopoly. The monopoly to which the gentleman refers only affects first-class mail.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. FORD) to the amendment offered by the gentleman from Kansas (Mr. GLICKMAN).

The amendment to the amendment was agreed to.

Mr. THOMAS. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Does the gentleman wish to speak on the Glickman amendment.

Mr. THOMAS. I wish to speak on the Glickman amendment as amended by the Ford of Michigan amendment.

Mr. Chairman, I know some of my colleagues may think this is an unusual time, but I waited until this moment, hoping someone on the Democratic side would come forth and talk about what we are doing in terms of this appropriations bill.

The only argument we have received in opposition has been a narrow legalistic argument.

I asked the gentleman from Kansas, in terms of his amendment, which struck totally the appropriation for political parties mailings, if his party—and granted, the question was put somewhat facetiously—if his party had nothing to offer, in any mailings that could qualify it in terms of nonpartisan funding?

He said, "Of course not."

The same is true, of course, of my party.

The amendment offered by the gentleman from Michigan, because he could not legislate, and a point of order was raised on that question as to whether or not in fact he was legislating, and he was sustained, had to utilize some figures that were already in the law. The figure that he used was a 5-percent criterion.

He said the major party definition under this current law is 25 percent. There are only two parties that qualify, the Democrats and the Republicans.

There is a minority-party qualification, 5 to 25 percent. The irony of it is no parties qualify under this requirement.

The distinguished chairman said that no one wants what occurred under 95-593.

What is it that occurred that is so horrendous? What is it that is going to occur between now and the time we can legislate, that we can investigate through committee hearings as to what is an appropriate percentage, so not just the Nazi party and the Socialist Workers Party, which are always the examples brought up in terms of the minority parties, will not be allowed to use the mail because somehow they are going to come up with a letter, given the fact they can send it on a preferential rate, that will suddenly turn around, given a single mailing, the history of this country and ideology of this country, the society of this country and political history of this country. Somehow we are going to be jeopardized by these individuals through the mails.

To set a 5-percent criterion indicates that the Libertarian Party, which is an active party today, somehow constitutes a threat to the Democrats and the Republicans. I do not think it does. I think they ought to be qualified under the legitimate political party criterion.

As the appropriations is amended, a party that qualifies within a State is not even allowed to use this unless they had a 5-percent-for-President criteria.

My problem is that the Democratic Party, the party of the masses, the party of the people, apparently is willing to cut off in a democratic society the opportunity for minority parties to utilize the mails. I am upset about that.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. First of all, I think the gentleman has raised a good point. It is one that troubled me with the Ford amendment. That is, it sets an arbitrary criterion which favors big parties.

Mr. THOMAS. It does not favor big parties. It excludes all other parties.

Mr. GLICKMAN. Either way we look at it, it does prevent smaller parties from entering the picture, and whether it be ones I like or do not like, that is probably irrelevant.

The other side of the coin is that this amendment does reduce the appropriations by $21 million, which is helpful in that process. I think the gentleman has raised an interesting point that causes me some personal anguish.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I strongly commend the gentleman for his statement. I had already talked to the author of the amendment, and it is clear that if a new party was formed, and it was obvious that it had substantial support or if a present minority party obviously had substantial support, it would be placed at a disadvantage as compared to the parties that the gentleman and I represent.

I do not think that is what was meant by our democratic process, and I strongly supported the Glickman amendment, but I certainly am going to vote against the Ford amendment, because I believe it is terribly discretionary and self-serving for the two parties we represent.

Mr. THOMAS. I guess my primary concern is we mouth the concept of democracy over and over. My concern is that the minority parties, I think legitimately, will now be able to argue that we have ours. But have not allowed them to have theirs.

Yes, this is a Republic, but more importantly I think it is a democracy. Even though I know people are shouting for a vote, I think this is an important question.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I want to compliment the gentleman in the well and join him in his statement. There have been minority parties that have greatly and beneficially affected the United States.

For instance, the Populist Party around the turn of the century, which had enormous influence on the passage of the antitrust acts. I think we should not predetermine the party because it is not one of the two biggest, and should not be supported at all.

Had that been done, the Republican Party may never have gotten started.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas (Mr. GLICKMAN), as amended.

The question was taken; and on a division (demanded by Mr. BEDELL) there were—ayes 30, noes 9.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. BAUMAN. Mr. Chairman, I withdraw my demand for a recorded vote and my point of order of no quorum.

The CHAIRMAN. The gentleman withdraws his demand and his point of order.

So the amendment as amended, was agreed to.

□ 1450

Mr. STEED. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker, having resumed the chair, Mr. PREYER, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 4393) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1980, and for other purposes, had come to no resolution thereon.

STRATEGIC AND CRITICAL MATERIALS STOCK PILING REVISION ACT OF 1979

Mr. BENNETT. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2154) to revise the Strategic and Critical Materials Stock Piling Act, to require that appropriations for acquisition of strategic and critical materials be authorized by law, to establish a National Defense Stockpile Transaction Fund, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

> Page 12, line 10, after "fund." insert "Such moneys shall remain in the fund until appropriated or until the end of the third fiscal year following the fiscal year in which they are received. Any such moneys remaining in the fund after the end of such third fiscal year that have not been appropriated shall be transferred to miscellaneous receipts of the Treasury. Any of such moneys that are appropriated shall be disbursed from the fund in the order in which they were covered into the fund.".

● Mr. BENNETT. Mr. Speaker, the only change in the bill as passed by the House on March 19 is in section 9, which establishes the National Defense Stockpile Transaction Fund. In the House version all moneys received from the sale of excess materials would remain in the fund for an indefinite period. The Senate amendment would require that moneys remaining in the fund without being appropriated for more than 3 years revert to the Treasury as miscellaneous receipts. The President has indicated he would veto the House version of the bill, and its seems certain that the Senate would sustain his veto. I believe the 3-year provision is a reasonable compromise between the two alternative positions. In addition, the Committees on Armed Services of the House and Senate will exercise control of the fund balance during their consideration of periodic commodity authorization legislation. There are such substantial needs for acquisitions of needed materials that I hope the trust fund will not be allowed to experience any substantial reversions to the general fund which could be used for needed materials. The 3-year limit also may spur us all to see that the needed materials are promptly acquired. Once this bill is signed into law, we can proceed to restructure the strategic stockpile by disposing of those materials in excess to defense requirements and acquiring those needed and in short supply. By accepting the Senate amendment we can eliminate the need for a conference on this one minor difference. The House Armed Services Committee has authorized me to move that the House concur in the Senate amendment to H.R. 2154.●

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM FOR REMAINDER OF WEEK AND FOLLOWING WEEK

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute.)

Mr. ASHBROOK. Mr. Speaker, I see our majority leader on the floor and I would inquire as to the schedule for the balance of this week and the schedule as proposed for the week of July 16. I would yield to my friend and colleague, the majority leader, for that purpose.

Mr. WRIGHT. Mr. Speaker, I will be happy to advise that plans for this week have been completed. The schedule is finished. Adjournment should occur momentarily.

On Monday we will meet at noon to take up the Consent Calendar and three bills are scheduled for consideration under Suspension of the Rules.

We would plan to postpone votes on those suspensions until after all three had been debated, but not to postpone them until the following day.

After that we would take up under a special district day one bill, H.R. 3951, to provide for the National Capital Transportation Act amendments. Thereafter, the Treasury-Postal appropriation would be resumed and we would move until we completed consideration of that appropriation bill.

Following that we would hope to take up the District of Columbia appropriation bill again and complete its consideration. Then we will take up the conference report on H.R. 4289, the supplemental appropriations bill for fiscal 1979.

On Tuesday we meet at noon to consider the Private Calendar and go immediately to H.R. 4473, the Foreign Assistance Appropriation Act for fiscal 1980.

On Wednesday we will be meeting at 10 o'clock as we will on Thursday and Friday also and begin with the Amtrak Reorganization Act under an open rule providing for 1 hour of general debate.

Then the Transportation appropriations bill, followed by the Health Planning and Resources Development amendments under an open rule of 1 hour of general debate.

We will then go to the Monetary Control Act of 1979, also 1 hour of general debate.

Then we will go to the disapproval resolution of the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania.

Then we would hope to take up the Department of Defense authorization for fiscal 1980 and the Export Administration Act amendments of 1979. On the latter a rule has already been adopted. On the Department of Defense Authorization it will be necessary to grant a rule.

On Thursday and the balance of the week we hope to consider the maritime authorizations for fiscal 1980 under a 1-hour rule and the Nurses Training Amendments of 1979 under a 1-hour rule, the Disability Insurance Amendments of 1979 under a modified 1-hour rule, the Consolidated Farm and Rural Development Act amendments under a 1-hour open rule, the unemployment compensation regarding per diem compensation subject to the granting of a rule.

Also subject to the granting of a rule, the Postal Service Act of 1979 and a measure to increase the Coast Guard enforcement of laws on the importation of controlled substances.

I think it is important to call to the Members' attention the fact that the House will be in session until at least 7 p.m. on all days except Friday. We will adjourn by 3 o'clock on Friday.

Mr. ASHBROOK. I notice that my friend, the majority leader, has outlined a very extensive schedule. I noticed also his voice had a certain amount of inflection and emphasis when he said at least 7 o'clock every evening. It would seem we have a very long workweek ahead. Do we have any indication how late we will work on Wednesday, our normally late working day?

Mr. WRIGHT. I would suggest it would be somewhat later than 7 o'clock. We do have a busy schedule to complete. I think the gentleman recognizes that the Congress faces the responsibility to complete a great range of activities before the beginning of the statutory August recess or home district work period. It is incumbent upon us I think, therefore, to stay on the job and do our duty.

There are obviously going to be some recommendations made to the Congress by the President of the United States next Sunday evening, and some of this undoubtedly may claim priority for our actions before the adjourning of the Congress for the August break. So we do have a full slate and I think Members really ought to expect that we will be in session until late every evening except Fridays.

Mr. ASHBROOK. I thank my colleague and friend, and I guess the old adage applies to be forewarned, we do know we have a lot of work ahead as our schedule indicates.

I thank the majority leader for giving us that information.

AUTHORIZING THE CLERK TO RECEIVE MESSAGES AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED, NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, July 16, 1979, the Clerk be authorized to receive messages from the Senate, and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT TO MONDAY, JULY 16, 1979

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Tthere was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that any business scheduled for consideration under the Calendar Wednesday rule shall be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

☐ 1500

CONFERENCE REPORT ON H.R. 2729, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT FOR FISCAL YEAR 1980

Mr. BROWN of California. Mr. Speaker, I call up the conference report on the bill (H.R. 2729) to authorize appropriations for activities of the National Science Foundation, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 10, 1979.)

The SPEAKER. The gentleman from California (Mr. BROWN) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House and Senate conferees have resolved the differences in the House and Senate versions of H.R. 2729, the National Science Foundation Authorization Act for fiscal year 1980.

When the Senate acted on the original House version, it struck all after the enacting clause and substituted new language. This substitution produced a number of differences for the conferees to resolve.

The conference report and statement of managers on the bill were printed in the RECORD on Tuesday, July 10, and give the detailed results of the many agreements reached. Since the details are in print, I will not repeat them, but I will give a very brief summary that highlights those features of the compromise that deserve emphasis.

First, however, I want to thank my colleagues on the committee of conference for the genuinely constructive attitude that made reasonable and equitable resolution practical. I especially recognize the distinguished chairman of the Committee on Science and Technology, the gentleman from Florida (Mr. FUQUA), the ranking minority member of that committee, the gentleman from New York (Mr. WYDLER), and the ranking minority member of the Subcommittee on Science, Research, and Technology, the gentleman from New Jersey (Mr. HOLLENBECK).

The compromise bill retains all provisions of either bill. Where dollar amounts differed, the compromise amount lies between the two proposed figures. The House total was $999.34 million, the Senate total was $1,009.5 million, and the conference total is $1,007.7 million. I have a table here summarizing action on the major line items, and, without objection, I will submit it for the record.

The House had made increases from the NSF request in several items intended to apply science to practical problems. The House version included modest increases to counter the hazards of earthquakes, to improve the lives of the handicapped, to encourage appropriate technology, and to stimulate the use of science resources in policymaking by State governments.

The House increases were more than offset by small decreases from the request in two basic research categories, and a $15.5 million decrease in biological, behavioral, and social sciences. The Senate, on the other hand, feeling strongly about the biological sciences and science education, made increases in these areas; in all other areas it approved the Foundation's original budget request.

The overall result of the various compromising adjustments made by the conferees was that the House retained half or more of each of the additions it had made, while the Senate obtained assurance that important programs in physiology, cellular and molecular biology, and neural science, would not be severely cut.

The individual line item adjustments left intact the U.S. Antarctic program, and the NSF planning and management budget. They added somewhat to the directorate that manages science policy, to the applied science directorate and to science education. The rest of the programs, all representing basic research, were cut below what the President had requested. Nevertheless, these cuts still leave a margin over last year's appropriation to absorb some of the impact of inflation.

I believe that the bill, as modified in conference, represents a realistic and sensible compromise, and I urge its adoption by the House.

*NSF authorization—conference fiscal year 1980 broad categories**

[Dollars in millions]

Category	House	Senate	Conference
Mathematical and Physical Sciences and Engineering	$293.37	$295.65	$293.4
Astronomical, Atmospheric, Earth and Ocean Sciences	241.47	243.35	241.5
Biological, Behavioral, and Social Sciences	158.0	175.5	170.0
U.S. Antarctic Program	55.0	55.0	55.0
Science Education	86.2	86.2	86.2
Applied Science and Research Applications	70.9	62.4	68.7
Scientific, Technological and International Affairs	28.8	25.8	27.3
Program Development and Management	59.6	59.6	59.6
Special Foreign Currency	6.0	6.0	6.0
Total	$999.34	$1009.5	$1007.7

* Floors and ceilings are not included in this table.

Note.—NSF request is same as Senate amount, except the request for BBS is $173.5 million, the request for science education is $84.7 million, and the total request is $1006 million.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman from California has shown me courtesies on many occasions, and I appreciate that. I can understand his ability to speak for the minority on his committee, but there are many Members who have left the Chamber some time ago under the impression that legislative business had been concluded. The majority leader made that statement only a few moments ago. I am not sure that some Members might have some interest in what the gentleman has proposed.

Mr. BROWN of California. The gentleman is quite correct. I thought I had adequately cleared that. If I made a mistake, I would be happy to withdraw my request.

Mr. BAUMAN. The gentleman from Maryland has no way of knowing what other Members have been discommoded by this being brought up. The disruption of the schedule is bad enough.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, as a general matter we have known this conference report was filed since last week. Has it not been available since that time? I know I have had it in my possession. I forget whether it was Tuesday or Wednesday of last week.

Mr. BROWN of California. It was filed on Tuesday.

Mr. ASHBROOK. So, I would simply say, as in the past, I think many of our amendments lose a little bit in conference. On balance, I think it is fair to say that there is a cut that has been made, not as deep as the gentleman from Ohio might like, and probably not as deep as my colleague from Maryland might like, but the conference committee did go halfway.

While my amendments were basically to one section, as I understand it, some of the cuts are spread throughout the bill. I have no objection to that. I would have cut them a little bit deeper, but I recognize the circumstances under which the gentleman operates. While I would not vote for the conference report, I certainly understand.

Mr. BROWN of California. I appreciate the gentleman's courtesy in this matter, and I apologize to the gentleman from Maryland.

Mr. BAUMAN. There is no need to apologize to the gentleman from Maryland. The only point I was making was that the Members were under the impression that when 3 o'clock came business was concluded. I think a lot of the Members were under that impression. I do not think anyone was disturbed by this, but the point is, that we have had a tough week and there is another tough week coming up. I am not addressing my remarks to the gentleman from California, but obviously the Members should be given better notice.

Mr. ASHBROOK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this conference report. When this bill was before the House earlier this year this Chamber wisely limited the increase in the biological, behavioral, and social sciences. The margin of support for that limit was a decisive 45 votes. We now have the conference report that shows that $12 million has been restored to the increase in this part of the bill.

I fail to see what the National Science Foundation has done in the last few months to merit any change of this House's opinion on increasing their funding. I would like to share with my colleagues some projects that have been approved just since March of this year.

THE SHADOW KNOWS

In April the NSF signed away $52,739 to study "person perception and social behavior." This is an extension of a research project that has been funded since 1976. The project is concerned with a person's view of himself/herself and others as psychological beings. The startling interim conclusion is that "An individual's view of people is essentially the commonsense psychology each of us has developed as a result of our experience with people." I am certainly glad to know that whether we like someone or not has something to do with our experiences with them.

The project goes on to ask such major questions as "Will a gentle and kind person also be thought to be sincere?" The project hopes to use new scaling methods to come up with what associations we make with each trait, even using free association based in works of literature. I think we can all wait for this "exciting research" to be completed.

DIVORCE AS A CHANGE IN LIFESTYLE

In March 1979 the NSF approved a $60,584 project to study changes in the lifestyles of people who are divorced. The project will try to show that there is a linkage between changes in taste and changes in patterns of time use and consumption patterns. This is quite a new concept. Can you imagine that without the NSF spending $60,000 we might not realize that consumption might change with taste, and that changes in marital status might have some impact on this? The project is called "crucial." I think it is time for the NSF to study their use of adjectives in their project descriptions.

INCUMBENCY INSURANCE

The NSF is now in the business of helping State legislatures to meet the growing demands of legislation. In what is called a "staff weak" situation the NSF is shipping $30,000 to New York so that "legislative leaders could get quick response to their emergency calls for help in meeting legislative energy crises, and providing a consultative and training service for legislators concerned with energy programs. I cannot believe that we are now placing the American taxpayers in a position of having to bail out overburdened legislatures through the NSF.

We have revenue sharing, and we have other grant programs for the States, to help local governments meet their needs. To say that incumbents need issue backup to appear more knowledgeable to the voters is one thing, to say that we should use Federal tax dollars so these legislators can avoid going back to their own voters for the money is quite another.

IT IS CALLED COLLEGE

In May 1979 the NSF sent off $39,996 to help develop "A Multidisciplinary Program To Improve Reasoning of Freshman." In the old days this was known as a 4-year liberal arts undergraduate school. Now it is called a freshman abstract reasoning program (FAR) and is based on the theories of psychologist Jean Piaget. This project implements a common interdisciplinary problem solving experience. I do not argue that some innovation in education techniques is desirable.

However, for the NSF to honor one college's innovation over another is to say that they have some magical way of knowing ahead of time which trend in education will contribute the most to the educational development of this Nation. I submit that to use tax money for this purpose subverts the parental prerogative of supporting the colleges of their choice.

In these cases and others I have mentioned, whenever the NSF funding comes before the House, I have tried to show that tax dollars are not being used wisely. I am not against the search for knowledge, nor am I opposed to the Government assisting in such major programs as space exploration or the fight against cancer. However, I think we can draw the line on those areas where the course of history has shown that individuals, not Government grantsmanship experts, have built the base for modern thought.

The evolution of philosophy, of economic theory, of psychology, and of many of the other social sciences has come from individual or joint private initiatives. The vitality of the history of thought is based on its diversity and its freedom.

To think for a minute that review boards and grants can outdo the actions of one person coming up with a new thought is to discount what mankind is all about. We do not have the luxury of unlimited resources to support the thinking process of a select few. Every time we spend an additional dollar of tax money we are limiting, either through increased taxation or government-induced inflation, the freedom of someone else to have the leisure to do things instead of just making ends meet.

Most of our citizens would love to get just a little ahead on payments or to build up some savings so they could have the leisure time to help their community, spend time with their families, or even write that short story that has been in the back of their mind. It is through these actions that a civilization moves forward. It should not be up to the Government to anoint one person over another to reach this position in life.

We must also recognize that, no matter what the social scientists say, the social sciences are not objective. There is controversy in each of its fields about what is the "right" position. There are different economic theories, different interpretations of history, and now even differing views on what is normal behavior. For the Government to fund projects in these fields is to inevitably subsidize one view over another.

In effect, we use tax dollars to stack the academic deck. To be blind to this situation would be just as dangerous as to consciously decide in favor of one set of views over another. Thought control is a very dangerous concept, but we all know that those researchers with the connections and the resources have the upperhand in academia. So Federal subsidy is a subtle form of this type of control. It is a questionable activity for this government to be involved in and it is one we can put a stop to by cutting back on its lifeline of tax dollars.

In closing I would like to call my colleagues' attention to two items that came across my desk just yesterday. One is something every office receives, the "Daily Congressional Notification of Grants and Contracts Awarded" by the National Science Foundation. In that notification was a grant to the Center for Philosophy and Public Policy for $89,113 to study "Intergenerational Ethics and National Energy Policy."

In just driving to work each day I can see that this energy crisis is affecting people of all ages. The gas lines have created probably the best integrated and cross-cultural event in recent history. If the Government's answer is to spend $89,113 to study it, then we should say that the Congress answer is to stop it.

Another item was a letter from Mr. Atkinson with a clipping on social science exchanges with China. The theme of the article is how valuable the Chinese experience with social issues is to the future developments of the social sciences in this country. I fail to see how the slaughter of millions of people by the Communist Chinese has applications in the United States. If America's social scientists feel the Chinese method of population control can contribute substantially to our own policy then I suggest the NSF fund some study on why this Congress continues to support such nonsense.

● Mr. HOLLENBECK. Mr. Speaker, I rise in support of the conference report to the National Science Foundation Act of 1980 and would like to associate myself with the remarks made by my colleague from New York (Mr. WYDLER).

As was noted, for three of the five Directorates for which there was a difference between the House and the Senate bills the conferees accepted or favored the House's recommendations. With regard to the Directorate of Biological, Behavorial, and Social Sciences—where the conferees adopted the bulk of the Senate figures—I would concur with my colleague's point that this compromise reflects the intent of the House as expressed in the debate of the original bill. At that time, it was clearly the intent not to detract from the biological and behavorial sciences. Yet, the House bill as passed would have unfairly penalized these programs within the Directorates.

Let me illustrate the importance of the programs which would have been severely affected by the original bill. One such program within that Directorate is the environment biology program which undertakes a major study of the carbon dioxide production and transformation in the atmosphere and the relationship to the biological carbon cycle represented by the photosynthesis in trees and other plants. The resolution of the carbon cycle issues will have a tremendous impact upon future energy and agricultural policies.

For example, should the research implicate fossil fuels as a causal agent in worldwide climinate change through the "greenhouse effect," we could be forced to drastically cut back the use of fossil fuels. In particular coal, which is our major untapped domestic energy source, would be drastically affected. If, on the other hand, it turns out that land clearing of tropical forests and deforestation worldwide is a major cause of increased carbon dioxide, then we may have to drastically revise our estimates of potential world agricultural production because of the above-mentioned climate change.

However the research turns out, the results will be of enormous importance in the middle- and long-term future. If only we had those answers now. Imagine the tremendous effect that it would have in helping to prepare our current energy and agricultural policies. Unfortunately, in our ignorance we must proceed by guess and good luck until the answers are provided by such research conducted by the National Science Foundation. Yet, this program would have been severely affected by the original House NSF authorization.

Mr. Speaker, as one of the managers in this conference, I want to point out that in no way is this bill a "sellout to the Senate." We succeeded in reducing the Senate authorization levels in several cases and the tradeoff we received by accepting a compromise nearer the Senate figure on the Biological, Behaviorial, and Social Science Directorate makes it possible to continue some enormously important research.

Still, I think that the National Science Foundation should look at the passage of the Ashbrook amendment as a clear warning. There are a lot of crazy titles for research projects which are not easily understood or appreciated. The classic example is the project entitled "The Sexlife of the Screwworm." Time and again on the House floor we have reiterated the importance of that study demonstrating that as a result of the research a very costly cattle parasite in Texas has been virtually eleiminated.

From its title alone, however, it is not easy for a nonscientist to comprehend the importance of that study. Scientists must learn to write titles and the language for their projects in a clear fashion. This is perhaps particularly true in the social sciences, where appalling jargon creeps into what is used to describe essentially commonplace situations for which perfectly good simple English words are readily available. I am in no way denying the importance of social science research. However, I would think that, considering some of the more outrageous jargon that social scientists use, it would be appropriate for the NSF to recommend or require a basic English course for many of its grantees.

One must also recognize that many times the subjects that are dealt with are highly technical, necessitating the use of specialized languages that have been developed to describe specific situations with greater precision than is attainable through ordinary expressions and phrases. Given this situation, it is of great importance that the NSF take a much stronger initiative in getting these important new concepts across to the public.

These important subjects can and should be appreciated by nonscientists. But the scientific community is asking society to dip into its pocket and support its activities, without being provided with a clear and simple explanation of what these projects are, why they should be supported, and what long-term intellectual and economic benefits may be obtained. As I see it, this function should be a primary role of the National Science Foundation. They should serve as a bridge between the scientific community and the general public.

In conclusion, I would like to point out that while basic research is enormously important for the future health of our economy, we must also recognize that we all have to learn to live with a little bit less during this time of economic recession.

It will not be easy for anyone and the scientific community must share in this general austerity as much as any other sector of the economy. Research projects must be carefully chosen and I would agree with my colleague from New York that the NSF must take particular care to assure that its projects have great promise for the highest long-term benefits, both in intellectual and economic capacities.

Basic research is tremendously important but frivolous research concepts cannot be supported when we are making major adjustments and changes in the long-term direction of our economic and social environment. We are moving into a generation of limited world resources, while, at the same time, we are confronted with growing world demands. This provides us with tremendous opportunities in the field of research.

Mr. Speaker, let me just say that I believe that this compromise with the Senate is sound. It does, I believe, truly reflect the wishes of the House. I urge my colleagues to adopt the report of the conference committee.●

● Mr. FUQUA. Mr. Speaker, I recommend adoption of the conference report for H.R. 2729, the National Science Foundation authorization for 1980. Despite the very significant difference between the House and Senate versions of the bill, the conferees achieved a realistic and fair compromise. The compromise retained all of the applied science mandates in the House bill, but reduced the sums provided for them. I believe we can accept those cuts in lieu of removing the programs altogether and by this means gain a second opportunity to review the programs after a year of operation.

The gentleman from California (Mr. BROWN) has briefly described and characterized the compromise. I would like to add a few remarks on some of the specific program adjustments made in report language that will affect the budgeting of funds.

The House instruction regarding scientific instrumentation was preserved. It requires the Foundation to develop objective measures of the status of scientific equipment in the United States and the need for equipment updating. In exchange, the Senate provision was preserved for setting aside $3 million worth of instrumentation funds specifically for grants to 2- and 4-year colleges for small research equipment.

The Senate also recognized the concern expressed by House conferees over any sudden restructuring of the science faculty professional development program. As a result, they receded from their support of an NSF request to redirect the program grants for research sabbaticals. The Foundation wished to substitute a whole new program of institutes and conferences and give a larger group of much shorter research sabbatical awards.

In the compromise, it was agreed that 80 percent of the faculty development budget would be retained for the customary year-long grants and only 20 percent for a pilot project of the sort described by the Foundation. This pilot program will be tried and evaluated before any further attempt is made to change the nature of the larger program.

Finally, I wish to call attention to the Resource Centers for Science and Engineering. The purpose of these centers is to promote increased entry into science careers by minorities and low-income citizens. One center has already been established, and a second will be started with 1979 funds. The Foundation requested funds to start a third in 1980.

The Senate had authorized a third center but agreed with the House conferees that an evaluation of the three centers would be performed before any further support is contemplated beyond 1980. We want to determine how well the concept is working before committing money that could be used in alternative science programs designed for minority citizens.

Mr. Speaker, it is gratifying to observe that the tradition of treating science and engineering as a nonpartisan subject has been well preserved in these negotiations, and I wish to pay particular respect to the wisdom and objectivity of my minority colleagues, the gentleman from New York (Mr. WYDLER) and the gentleman from New Jersey (Mr. HOLLENBECK) and to their counterparts on the Senate conference delegation. With their assistance and advice, we have obtained a balanced and workable authorization document.●

● Mr. WYDLER. Mr. Speaker, I urge the House to accept today the conference report on H.R. 2729, the National Science Foundation Authorization Act for fiscal year 1980 of which I was one of the managers. Let me say that I believe we have reached a sound compromise between the provisions of the bills passed by the two separate Houses and, as usual in this situation, we had to yield on some points but many of our central recommendations were accepted.

Mr. Speaker, as I emphasized in my floor remarks when this bill was originally debated, research is very important to the fundamental economic health of this Nation. In the interim, since we debated that bill, our economy has turned steadily downward. Admittedly, research will not immediately turn this situation around, but it does have the potential to cure the fundamental ills which are plaguing our economic system at this time.

While it is important to continue support for basic and applied research through agencies such as the National Science Foundation, at the same time we must recognize that this is a time of fiscal austerity. Projects chosen for support must be chosen carefully so as to provide the maximum long-term payoff. I would urge the Foundation, even as we support its basic mission here, to fully review its mission so that as a society we continue to get the maximum social benefits from this research over the long term. While we cannot afford to stop supporting research, neither can there be any fat in our research budget.

Mr. Speaker, I urge the House to adopt the compromise represented in the conference report. For the reasons I explained earlier I believe that as a body we have more than gained an even bargain with the Senate.●

GENERAL LEAVE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report under consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

JULIA K. ARRI, NATIONAL PRESIDENT-ELECT OF BPW

(Mr. LLOYD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LLOYD. Mr. Speaker, on Thursday, July 26, a good friend and constituent, Julia K. Arri, will be installed as president of the National Federation of Business and Professional Women's Clubs, Inc. It would be very difficult to live in the Pomona Valley area for very long without knowing about Julia. She has not only made her mark as a very active community leader, but has also worked hard on issues that transcend her own locality. Her amazing vitality and determination have put her on the front line, and while her many involvements have been personally rewarding for her, they have meant even more to the people, and particularly the women, she has helped—from Girl Scouts to highly successful professional women.

BPW is very fortunate to have Julia at the helm, as she brings an impressive history of experience and success to the office. As the following account of her career indicates, her term is bound to be an exciting one, marked by progress, achievement, and a lot of hard work.

An article follows:

JULIA K. ARRI, NATIONAL PRESIDENT-ELECT

Julia K. Arri, a Claremont, California, business woman is President-elect of The National Federation of Business and Professional Women's Clubs, Inc. (BPW). She was elected at BPW's National Convention in July 1977 and sits on BPW's National Board of Directors as well as the Board of Trustees of the Business and Professional Women's Foundation.

The owner of her own firm specializing in accounting, financial planning and taxation, Mrs. Arrie attended the University of California and has continued her education through management seminars, leadership courses, economics seminars and a liberal arts colloquium at Claremont College Graduate School.

Since she joined BPW in 1951, Mrs. Arri has served in many capacities at the local and state levels and has held four national offices prior to her election as President-elect. A past president of the Pomona BPW Club and the California BPW Federation, she has served on National Convention Committees, as National Personal Development Chairman, and on the National Equal Rights Amendment Ratification Fundraising Committee.

Through her BPW involvement, she has been instrumental in instituting personal development programs, leadership development courses, and vocational guidance clinics for teenage girls. During her activities as a national officer Mrs. Arri has worked with local clubs to motivate women to change careers, upgrade their abilities and take advantage of continuing education for new careers.

Mrs. Arri served as at-large delegate to the first National Women's Conference in Houston during November 1977.

She served on the Advisory Board for Continuing Education at Claremont College and is a past chairman of the board. She serves on the Attorney General's Voluntary Advisory Council, is a past president of the Quota Club and Executive Secretaries, Inc., and is a member of the National and California Association of Parliamentarians and the League of Women Voters. She is a member of the Board of Directors of the Spanish Trails Girl Scout Council and the YWCA.

Mrs. Arri entered California politics in 1972 as a candidate for the 49th District Assembly seat and has served on the Democratic State Central Committee. She has conducted political action seminars throughout the United States.

In 1959 and 1970, Mrs. Arri was selected as "Woman of the Year" by the Pomona BPW Club and in 1977 she received the Woman Achiever Award from the San Gabriel Valley, California, Club. She appears in the Bicentennial Edition of "Community Leaders and Noteworthy Americans." ●

THE RISE IN HOSPITAL COSTS

(Mr. WALGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WALGREN. Mr. Speaker, as the Ways and Means Committee seems almost deadlocked over the issue of hospital cost containment, I thought two bills sent to me by a constituent would be interesting for other Members to see.

They are hospital bills for identical operations—only 19 months apart—for the extraction of wisdom teeth first for his son and then his daughter. Each had two teeth removed.

In the 19 months, the hospital bill had risen from $658 to $985—an increase of 50 percent.

The only difference in service provided between these two hospital stays was the addition of a $50 fee for inhalation therapy.

A letter and copies of the bills follow:

MT. LEBANON, PA.,
May 10, 1979.

OFFICE OF CONSUMER AFFAIRS,
Reporter's Building,
Washington, D.C.

GENTLEMEN: For whatever purpose it may serve, enclosed, herewith, copies of four hospital bills. I am sending you these to show the comparison of what has happened to hospital charges in just two years for basically identical situations.

Each of the two bills represents charges for the same operation—extraction of two wisdom teeth. The first two were for my daughter, the second two for my son.

Each involved taking the child in on a Thursday afternoon and having him discharged by 9:00 a.m. Saturday.

Except for "Inhalation therapy" the categories are all the same.

The surgeon's bill, of course, was over and above these charges. His bill remained constant for all the operations. He charged $250 per twenty minute operation. $1,000 for eighty minutes of basic mechanics. If we had not had Blue Shield's "Prevailing Fee Plan" his charge would have been $300. No comment.

Hope this has been of some value to you. As much as I am opposed to socialized medicine, this strains my principles.

Very truly yours,

—— ——.

Summary of payments			1.00CR
Summary of charges:			
Telephone	1.00		.100
Lab	81.00	81.00	
X-ray	20.00	20.00	
Operating room	120.00	120.00	
Anesthesia	159.60	159.60	
Med-surg supl	4.86	4.86	
Pharmacy	19.50	19.50	
Med-surg supl	2.90	2.90	
R. & C.: 2 days in S-4605 at 125/day, 2 total days	250.00	250.00	
Subtotal of charges	658.86	657.86	1.00

			Increase in 19 mo.	
Summary of payments				1.20CR
Summary of charges:				
Telephone	1.20		.20	1.20
Lab	81.50	81.50	.50	
X-ray	30.00	30.00	10.00	
Operating room	155.00	155.00	35.00	
Anesthesia	315.00	315.00	179.00	
Pharmacy	39.90	39.90	12.50	
Inhalation therapy	50.00	50.00	[1] 50.00	
Med-Surg supl	2.90	2.90	0	
R. & C.: 2 days in S-6631 at 155/day, 2 total days	310.00	310.00	32.00	
Subtotal of charges	985.50	984.30		1.20

[1] New.

ADMINISTRATION SEEKS TO PREVENT HOUSE FROM WORKING ITS WILL ON H.R. 4040

(Mr. WHITE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WHITE. Mr. Speaker, I want to take this opportunity to acquaint the Members of the House with a recent letter from the Director of the Office of Management and Budget, Mr. James T. McIntyre, Jr., to the chairman of the Rules Committee. Mr. McIntyre, acting for the administration, has in effect asked the Rules Committee to prevent the House from considering H.R. 4040, the defense authorization bill for fiscal year 1980, even under the open rule requested, because the administration opposes certain portions of the bill that relate to Selective Service registration, the nuclear carrier, and contracting out. The clear implication of Mr. McIntyre's letter should be disturbing to the House as an institution.

I will place Mr. McIntyre's letter in the RECORD hereafter, as well as chairman PRICE's letter to Mr. McIntyre on this matter. I ask unanimous consent to include this material at the end of my remarks.

I am not concerned that this intrusion will influence the members of the Rules Committee to act in a manner other than they consider appropriate. What does disturb me is this effort by the administration to prevent the House from having an opportunity to work its will on legislation reported by the Committee on Armed Services by a vote of 36 to 2.

I hope each Member of the House will take the opportunity to review this unusual correspondence.

Thank you.

The correspondence follows:

COMMITTEE ON ARMED SERVICES,
Washington, D.C. July 10, 1979.

Hon. JAMES T. MCINTYRE, JR.,
Director, Office of Management and Budget, Executive Office of the President, Washington, D.C.

DEAR MR. MCINTYRE: I am in receipt of the copy you forwarded to me of your letter to the Honorable Richard Bolling, Chairman, Committee on Rules, concerning H.R. 4040, the Department of Defense authorization bill for fiscal year 1980.

While I can appreciate your desire to present the Administration's position forcefully, particularly in those cases where the stated opinions of important Executive Branch officials are divided, such as on selective service registration, I must say that I was surprised by your letter.

The intent of the final paragraph of your letter is not completely clear. It appears that you are asking the Committee on Rules to prevent the House from considering the bill, even under an open rule.

If, indeed, that be the case, I know of no prior example of a Director of the Bureau of the Budget or the Office of Management and Budget attempting to intercede officially and directly with the Rules Committee in a way that could prevent House consideration of legislation recommended by the Armed Services Committee. Such could only be perceived as an unwarranted intrusion into the procedures of the Legislative Branch.

It may be that the staff of your office is insufficiently familiar with the rules of the House. The open rule requested by the Committee on Armed Services would allow full debate on all provisions of the bill and would allow deletion of the nuclear aircraft carrier, the selective service registration provision, or any other items—if a majority of the House so voted. I cannot believe that the President or you would take the position that a majority of the House should not be entitled to work its will on the legislation.

H.R. 4040 must be acted on promptly since under the law funds cannot be obligated or expended for major defense programs without enactment of an authorization bill. Delay in granting a rule can only delay passage of a bill. I am confident that selective service registration and the other issues raised in your letter will be addressed reasonably and fairly during normal floor debate and the amendment process.

At a time when the President is trying to rally support for a unified approach to pressing national problems, your letter will make more difficult efforts by responsible Democrats to achieve a better working relationship between Congress and the Executive Branch. I hope the letter will not be a precedent.

Sincerely,

MELVIN PRICE, *Chairman.*

EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, D.C., July 6, 1979.

Hon. RICHARD BOLLING,
Chairman, Committee on Rules,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It is our understanding that the Rules Committee will resume consideration of the FY '80 Department of Defense Authorization Bill, H.R. 4040, shortly after the Fourth of July recess.

The Administration is deeply concerned about three provisions contained in this bill.

The first is the authorization of $2.094 billion for a fifth nuclear aircraft carrier. As we stated last year and as our budget this year demonstrates, the Administration is committed to a strong, modern Navy as an essential element of our national defense. We do not believe that yet another nuclear carrier is helpful in reaching that objective. In fact, it would have just the opposite effect as it diverts resources from other more pressing Navy needs.

Second, we object to the provisions regarding reinstatement of registration for the draft. The Administration is opposed to registration. It is not necessary to impose this burden on our nation and its youth when there are effective ways to improve the capability of the Selective Service system so that it can meet current needs.

Because reinstatement of registration raises issues of national importance, we believe that it deserves comprehensive consideration and debate by both the Armed Services Committee and the full House. This is made more difficult in our judgment, so long as registration is tied to the military program authorizations contained in H.R. 4040 which should be acted upon promptly, in light of the Congressional calendar and the approach of the new fiscal year.

Third, we object to the serious management impediments which would be caused by Sections 801 and 805. Section 801 would legislate an exemption for R&D activity from the provisions of Circular A-76. We have already suspended application of A-76 to these activities while we review the many elements of R&D programs and capabilities more fully, and we do not believe that Section 801's blanket exemption is consistent with sound management of this complex subject. Section 805 requires advance notification and a 30 legislative day waiting period for any conversion from DOD to contractor of commercial and industrial type functions. While the committee's concern about locality impact is certainly appropriate, past experience in DOD has demonstrated that there is no significant economic impact on the community when work is converted from government to contract performance at the same location. Because we would anticipate more than a thousand such actions (and associated cost studies, which are now and would continue to be provided independent to Section 805), this new provision would conflict with orderly management and procurement activities, particularly when Congress is not in session.

Thank you for allowing me the opportunity to raise these issues at this time and for the careful consideration that I know you and your Committee will give to them. Obviously, we would appreciate any appropriate assistance you can give to help alleviate these concerns.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

SOLAR LEGISLATION INTRODUCED

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, Congressman FISH and I today are introducing legislation which will enact the recommendations of the President's new domestic policy in favor of solar energy. This is legislation which goes no further than the legislative recommendations that he makes.

He incorporates the very fine legislation offered by the gentleman from North Carolina (Mr. NEAL) to establish a solar energy bank, and includes the tax credit recommendations of the President.

Mr. Speaker, over the past year or so, Congress and the American people waited for the President to announce his new solar policy direction as a result of the Cabinet level "Domestic Policy Review of Solar Energy." On June 20, 1979, the President announced a solar goal for the Nation, along with a series of administrative actions and some legislative proposals to achieve that goal. We applaud this goal of deriving 20 percent of our energy needs by the year 2000 from the Sun.

During joint hearings on June 21 before our Subcommittee on Energy Development and Applications and the Energy and Power Subcommittee, my friend and New York colleague, Congressman HAMILTON FISH, JR., and I stated our pleasure that the President has finally acted and in a positive fashion. The initiatives he has proposed are a good first step toward achieving the goal he has set for the Nation. We are very optimistic about the role which solar energy can play in reducing our reliance on uncertain foreign oil supplies. Solar energy offers us a virtually inexhaustible energy source that can be developed in a manner consistent with our environmental goals. In fact, it might just be the deciding factor in whether we can truly ever become energy independent.

Shortly, we intend to introduce, with a number of our colleagues, legislation which will go the next step—further than the President's proposals—and authorize programs which will, if implemented, actually meet the goal of 20 percent of our energy being supplied by solar by the year 2000.

However, as an interim step, and to insure against further long delays in the introduction of the President's program, we are today introducing legislation, the "Accelerated Solar Energy Utilization Act of 1979," which we believe represents the President's proposals as set forth in his address and in Department of Energy testimony.

We believe that by beginning congressional action immediately on these mitment to addressing the Nation's en- initiatives, we will demonstrate our com- ergy problems in a responsible way and with dispatch. Further, we have specifically avoided tying these initiatives to the windfall profits tax or any specific fund proposed to be set aside.

Included in this package is the solar energy bank bill introduced by the gentleman from North Carolina (Mr. NEAL) and which has been acted upon favorably by his Banking, Currency, and Housing Committee Subcommittee. He deserves great credit for his creative work and for the great efforts he has made to enact this legislation over the past 3 years.

If we are serious about a commitment to solar energy, we cannot hamstring these programs by unwisely making their future dependent upon congressional action on the windfall profits tax.

THE LATE KATHRYN ELIZABETH GRANAHAN

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. LEDERER. Mr. Speaker, I rise today for the sad but honored task of noting the passing of the first woman Member of Congress from my home city of Philadelphia.

Kathryn Elizabeth Granahan died Tuesday, July 10, at the age of 84. She was first elected to Congress to fill the unexpired term of her husband, William T. Granahan, and went on to establish her own reputation in her 6 years here serving on the Government Operations and Post Office and Civil Service Committees. As chairman of the Postal Operations Subcommittee, she spoke out vigorously against pornographic material in the mails and other abuses of the postal system. When her seat was lost in the redistricting of the 1960's, she was appointed by President Kennedy as Treasurer of the United States. She served as Treasurer through November 1966 under President Johnson.

This was the formal public official the books will always tell us about. But I knew her as a Philadelphian and a local leader much more significantly. As a ward leader of the 52d ward, she became a self-styled "mad hatter" waging her own campaign to improve the image of politicians in the City of Brotherly Love. This fell in line with her pitched battles here in the Congress. At her ward meetings, she refused to serve alcoholic beverages and, instead, served tea and cookies. She represented her people and the people of Philadelphia both in Washington and back home in the highest traditions of our political system and the Congress.

Mr. Speaker, fellow Members, today we mark the passing of a leader and a true representative of our ideals and American way of life. Kathryn Granahan's career and life will serve as a guide to younger Americans, especially young women seeking their careers in our reforming society. But she also served in her life and will continue to serve as a strength to all of us who should and try to do our jobs the best way we know how for those who elected us.

I ask the House to observe a moment of silence to honor the passing of this great Philadelphian and great American.

PERSONAL EXPLANATION

Mr. CORCORAN. Mr. Speaker, last night when the House voted on the final passage of H.R. 4392, making appropriations for the Departments of State, Justice, and Commerce, and the Judiciary, and related agencies for the fiscal year ending September 30, 1980, I was unavoidably absent. If I had been present, I would have voted for the bill.

THE ADMINISTRATION ARMS CONTROL NEGOTIATIONS JEOPARDIZE U.S. SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

● Mr. KEMP. Mr. Speaker, although the current hearings in the U.S. Senate on the strategic arms limitation talks dominate congressional attention, other negotiations with the Soviet Union are proceeding. Recent developments in one of these negotiations, the comprehensive test ban negotiations reveal that the administration is willing to take grave risks with long-term American security interests to reach quick agreement with the Soviet Union to maintain the momentum of détente.

Negotiations leading toward a comprehensive test ban have been underway for several years. One of the elements negotiated with the Soviet Union to facilitate verification of Soviet compliance with the terms of the agreement has been an arrangement where American seismic sensors—devices designed to detect small tremors initiated by underground nuclear explosions—would be emplaced on Soviet territory to record seismic events on instruments American experts could be confident would faithfully record whether or not the Soviet Union was complying with the terms of the agreement. The Soviets have recently renounced this agreement. Instead, they insist that only Soviet equipment be installed for the benefit of the verification of Soviet compliance for the United States.

Despite the Soviet renunciation of terms previously accepted, the Carter administration refuses to cancel a visit by Soviet scientists next month to study—although espionage would be a more appropriate term—American seismic technology. In view of the Soviet attitude toward verification expressed in their rejection of the emplacement of American seismic technology, it is essential that the Soviet visit be terminated. Failure to do so will result in a comprehensive test ban which is irrevocably flawed rendering it incapable of congressional ratification. Should the Soviet delegation be allowed to collect information on the technical character of American seismic sensor technology, the opportunity to assure that we can verify

Soviet compliance with a CTB will be lost.

This episode reflects that casual attitude toward verification of arms control agreements I have witnessed as a member of the congressional delegation to the strategic arms limitation talks. I urge the President to terminate Soviet scientific collection activities in connection with the CTB negotiations until such time as the Soviets see fit to support a reasonable plan for the verification of compliance with the terms of CTB.●

SYNTHETIC FUELS DANGER TO CLIMATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon, (Mr. WEAVER) is recognized for 10 minutes.

● Mr. WEAVER. Mr. Speaker, synfuels will sharply increase the amount of carbon dioxide in our atmosphere, a danger to the world climate. Trees use carbon dioxide, trees take carbon dioxide from the atmosphere. So it makes sense to plant more trees when we develop synfuels.

Therefore, I will propose legislation imposing royalties on minerals from Federal lands to create a reforestation fund to promote a measure to plant trees in America.

I place in the RECORD the following newspaper story on this subject:

[From the Washington Post, July 11, 1979]

SYNTHETIC FUELS DANGER TO CLIMATE, SCIENTISTS SAY

(By Joanne Omang)

Synthetic fuels might help solve the gasoline problem, but their use would accelerate the carbon dioxide buildup that is threatening to overheat the earth's atmosphere, the Council on Environmental Quality warned yesterday.

In a report to the council, four environmental scientists said the danger from carbon dioxide is such that it should be considered as "an intrinsic part of any proposed policy on energy."

Large amounts of carbon dioxide are produced in the burning of any carbon fuel, such as oil, gas or coal. In the atmosphere, carbon dioxide absorbs infrared radiation and prevents it from escaping into space, the scientists' report explained. This process is often referred to as the greenhouse effect.

Although many complex factors affect the climate, it is generally thought that the result of continued carbon dioxide production will be a warming of the atmosphere "that will probably be conspicuous within the next 20 years," the report said. "If the trend is allowed to continue, climate zones will shift and agriculture will be displaced."

Gordon J. MacDonald, environmental studies professor at Dartmouth College, who is one of the authors, said in an interview that large-scale use of synthetic fuels—made from coal or oil shale—could cut the time involved by half.

"We should start seeing the effect in 1990 without synthetic fuels . . . but if you use them, the effect would be much more pronounced by 1990," he said.

Synthetic fuels produce more carbon dioxide than regular fuel because the amount generated in their manufacture has to be counted as well, MacDonald said. The report estimated that for the same amount of heat, synthetic fuels put out 1.4 times as much carbon dioxide as coal, 1.7 times as much as oil and 2.3 times as much as natural gas.

Synthetic fuels are enjoying a popularity boom on Capitol Hill, where legislation is pending that would boost their production with funding of $2 billion and more.

A Department of Energy environmental impact study of synfuels, not yet made public, notes the high carbon dioxide emissions but does not relate them to the climate question. In fact, the study says there is "no absolute environmentally related constraint" on fuel conversion processes now known. DOE is studying carbon dioxide buildup but not in this context.

The relationship to climate is controversial. MacDonald, along with scientists George M. Woodwell, Roger Revelle and C. David Keeling, said in the CEQ study that the warming trend is sure even without synthetic fuels and that it could result in the melting of the west Antarctic ice cap in about 200 years. That would raise the sea level worldwide by about 20 feet, flooding most coastal areas.

Other scientists are more cautious. "We're still not completely sure there is a carbon dioxide problem," said Lester Machta, director of the air resources laboratory at the National Oceanic and Atmospheric Administration. It is known that carbon dioxide is increasing at the rate of 3 to 4 percent per year now and at that rate will double its concentration in the atmosphere by about 2030, he said.

"But we don't know how much gets absorbed into the ocean . . . we're not sure of our climate [computer] models . . . and then if there is a warming maybe it's an advantage," Machta continued. Although the CEQ group and other scientists said world agricultural patterns could be disrupted as the weather changes, Machta noted that the growing season would be lengthened in some areas, such as Canada and central Russia.

Scientists agree that if there is a warming trend from carbon dioxide buildup, it could still be reversed if enough of mankind cut back on burning fossil fuels soon enough.

"If we wait to prove that the climate is warming before we take steps to alleviate the carbon dioxide buildup, the effects will be well under way and still more difficult to control," the CEQ scientists said.

They recommended that the United States embark on a four-part program: acknowledge the problem and relate it to all future energy decisions; pursue conservation of fossil fuels; choose natural gas or other low-emitting fuels, such as nuclear power or solar energy, over coal or synthetics, and promote extensive reforestation to increase the amount of carbon dioxide taken out of the air by plants.

CEQ acting chairman Gus Speth said the report was "very important and cannot be ignored." He added that the council "takes the carbon dioxide problem very seriously and intends to pursue it."

The CEQ is a three-member commission set up in 1969 to advise the president on environmental problems and to recommend measures to deal with them.●

AIR BAGS SAVE LIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, the National Association of Insurance Commissioners—NAIC—the organization for State insurance regulatory officials held its annual meeting last week in Chicago. This yearly event provides the commissioners with a forum to debate and take positions on issues which relate to insurance. From time to time the NAIC adopts resolutions which bear on Federal matters. In one of the resolutions enacted last week, the commissioners agreed among themselves to convey to their congressional delegations the NAIC's strong support for the Department of Transportation's passive restraint standard. This standard provides for the installation of automatic crash protection—air bags or passive seat belts—in passenger cars beginning in model year 1982. The standard has been subjected to exhaustive administrative, congressional, and judicial review.

The NAIC resolution was drafted and introduced by Bill Gunter, Florida insurance commissioner and former Member of Congress from Florida's Fifth District. It is especially noteworthy that Gunter chairs the NAIC's auto insurance cost containment task force since the passive restraint standard will do much to assist insurers in keeping down costs.

I am pleased that the insurance commissioners, with their unique perspective as regulators have joined the list of those groups who have concluded that automatic crash protection is the most reliable and cost effective means to reduce both the frightening death toll and the staggering economic waste associated with auto crashes.

I attach the NAIC resolution on passive restraints so that each of you will be prepared to discuss this matter when contacted by your State insurance commissioners:

NAIC AUTOMOBILE INSURANCE (D3) SUBCOMMITTEE RESOLUTION ON PASSIVE RESTRAINT

Whereas, on January 20, 1976, the NAIC adopted a resolution urging the Department of Transportation to promulgate, without further delay, Motor Vehicle Safety Standard 208 requiring passive restraints to be installed in all new cars at the earliest possible date; and

Whereas, in May of 1977, the Department of Transportation adopted the passive restraint standard, finding that full implementation thereof will save 9,000 lives each year and prevent hundreds of thousands of serious injuries; and

Whereas, the Department of Transportation found that in addition to the life saving and injury reducing benefits of the passive restraint standard, implementation thereof would produce substantial benefits to society, generally, including insurance cost savings; and

Whereas, many insurers currently offer discounts on first party injury coverages for passive restraint equipped cars because of the economic benefits attributable to the standard; and

Whereas, bodily injury liability costs will be reduced substantially over the period of time during which the passive restraint requirement is being implemented; and

Whereas, in October of 1977, the United States Congress refused to overturn the standard under veto authority granted to it in the Motor Vehicle Safety Act, with two-thirds of the Senate endorsing the DOT decision; and

Whereas, on June 12, 1978, the NAIC adopted the findings and resolutions of the Cost Containment Task Force of the Automobile Insurance (D3) Subcommittee which included, among other things, a finding that the lack of adequate crashworthiness and occupant protection had significantly contributed to the 49,000 vehicle accident deaths and 1.9 million disabling injuries in 1977, and a resolution urging that passive restraints be made available to the public earlier than required by the DOT, and that DOT continue to work to improve occupant protection in high speed crashes; and

Whereas, special interest groups have continually attacked the standard and its life saving benefits in the false name of "deregulation"; and

Whereas, notwithstanding strong government and public support for passive restraints, these efforts on the part of a few special interests will likely continue; and

Whereas, the NAIC must restate its strong support for passive restraints and communicate that support to the United States Congress and the public; now, therefore, be it

Resolved, That the National Association of Insurance Commissioners hereby reaffirms its historical support for the passive restraint standard of the DOT and commits to recommend to each of its members that this policy be communicated to their individual state delegations to the United States Congress.●

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. Dodd) is recognized for 5 minutes.

● Mr. DODD. Mr. Speaker, I was unavoidably detained and unable to vote on rollcall No. 309 on the passage of H.R. 4537, the Multinational Trade Agreements Act.

Mr. Speaker, I would like the record to show that had I been present, I would have voted "aye."

During the vote on final passage of H.R. 4392, the State-Justice-Commerce-Judiciary appropriations bill, I was unavoidably absent from the House Chamber.

Mr. Speaker, I would like the record to show that had I been present, I would have voted "aye." ●

CONGRESSMAN AUCOIN SUPPORTS SALT II

The SPEAKER. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

● Mr. AuCOIN. Mr. Speaker, I want to take this opportunity today to express my support for the Strategic Arms Limitation Treaty, SALT II, now under consideration by the U.S. Senate. I do so on the eve of a visit to my home State of Oregon by Vice President Walter Mondale who will address a forum of concerned citizens in Portland on the importance of ratifying SALT II.

SALT II deserves ratification because it is a hope for peace. It does not trumpet our retreat; it signals our progress on the long road toward a safer world, a world in which the risk of nuclear terror has been curtailed.

At its heart, SALT II is a life and death issue and a bread and butter issue.

The life and death issue requires little explanation. The United States and the Soviet Union possess unthinkable capabilities of mass destruction. Statistics inadequately capture the magnitude of the violence we can unleash.

But perhaps more alarming than the actual weapons themselves are the serious strategies of how to wage nuclear war—and win. These strategies are possible because military planners enjoy the detachment of sterile environments far from the stench of any battlefield and out of sight of the grotesque rubble mankind and Earth would be reduced to in the event of nuclear warfare. SALT II might not be needed if we were simply stockpiling nuclear weapons. What makes it necessary, to secure our collective well-being and sanity, is the possibility of a remote control war.

SALT II will not halt the arms race, but it is our only hope to curb it. SALT II will not remove the cloud of terror from overhead, but it is a beginning step, a small one, to get out from under it. Some critics say SALT II does not go far enough, but I say that without SALT II we go backwards, which is far worse.

SALT II is fundamentally an economic issue, too. Worldwide, more than $400 billion of the world's resources were consumed last year by the global arms race.

At a time when we in the United States are trying to balance the Federal budget and curb inflation, we need to look skeptically at nonproductive expenditures of Federal tax dollars—which is what military spending amounts to. A recent study shows that for each $1 billion in additional military spending, 11,600 potential jobs evaporate. The ratio is worse for spending on exotic weapons, where 22,000 potential jobs are sacrificed per $1 billion expenditure.

Just as Americans do not buy the principle of "peace at any price," they also do not buy the idea of deterrence at any price. Take, for example, the MX missile, which experts predict will cost a minimum of $30 billion to develop, and compare that to the fiscal year 1980 budget for timber reforestation and improvement of $67.8 million. Even if that amount were doubled, enabling the U.S. Forest Service to come close to meeting the cut recommended by the Resources Planning Act, it would still be just 5 percent of the cost of developing the MX missile. The difference: Money spent on reforestation in a few years would pay dividends in forests for recreation and for harvesting to meet our wood products needs. Money spent on the MX missile would be the equivalent of burying $30 billion deep in the sod in silent silos we pray will never have to see the light of day.

Simply put, America and the world cannot afford the arms binge we are bent on. We talk of conserving oil, and that is important. But what we really need is a more fundamental conservation of our resources, concentrating them on means that will lift the standard of living of all people, not the curtain of terror.

I submit that SALT II is not evidence of decay in the American will. Rather it is a manifestation of our Nation's growing maturity.

SALT II, to work, relies not on unilateral deterrence, but on mutual deterrence, a shared risk-taking by the United States and the Soviet Union.

Mutual deterrence implies rough equivalency in military capability.

For some this concept equals surrender. For me it is the product of careful and sound reasoning, and reflects the sober realization that world stability will only result when the United States and the Soviet Union find a means to end competition through an arms race.

In this context, SALT II is an unmistakable affirmation that nuclear war is unwinnable, that brinkmanship is inhumane and that mankind possesses the capacity to work out disagreements in ways less destructive than warfare.

SALT II, then, should not be loaded with one-sided advantages because that is destabilizing. A one-sided advantage always triggers an urge on the other side to overcome the advantage, and a process is begun that never ends.

It is precisely because we have fundamental differences with the Soviet Union that SALT II is imperative.

We are at a pivotal time in our dealings with the Soviet Union. Moderates are in control. Not long from now they may not be, especially if adventurist elements within the Soviet government are handed the ammunition of U.S. bad faith in defeating SALT II. It is here American leaders have a real opportunity to help shape the future of Soviet leadership and avoid a return to Stalinist thuggery.

But perhaps the greatest benefit for the United States offered by SALT II is an often overlooked one. In all our self-flagellation, Americans forget that our own greatness, our own ability to innovate, to compete and to win. Diverting competition between ourselves and the Soviet Union from building more powerful armaments to building a stronger economy works greatly to the advantage of the United States. Herein lies our greatest strength, and the way to a better world for all of us.

We must be careful not to overload SALT II with all our fears or hopes. SALT II will not end all war. It will not remove all conflicts. It will not secure freedom for all. But SALT II is an alternative to suicidal arms competition; it is a step forward, not backward. We have no other options that offer even that much promise.●

SOUND AS A DOLLAR

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Lewis) is recognized for 5 minutes.

Mr. LEWIS. Mr. Speaker, time was when a buck was a buck. An expression of strength was: "Sound as a dollar." Hefting a U.S. silver dollar once gave a person a feeling of value and strength.

By contrast, when one looks at and feels the new silver dollar in his hand, he must wonder if the Carter administration has not minted a sad tribute to its own inability to sustain the value of the U.S. dollar both domestically and internationally.

Far be it from me to downgrade the reputation or contribution of Susan B.

Anthony that the coin purports to honor, but the style with which she has been remembered is just short of a national disgrace. The new silver dollar, because of its diminished size and value, may soon become known as the "Carter quarter."

The coin is poorly designed to represent the U.S. dollar. It is of a size that will easily be confused with the U.S. quarter. At a time when national frustration with inflation, energy shortages, and general lack of leadership has reached mammoth proportions, do we really need a dollar that will go in many a 25-cent vending machine and at best will not buy much more than a quarter would a few short years ago?

The difficulty with the new silver dollar extends beyond the fact that its size bears a striking resemblence to that of a quarter. The domestic purchasing power of the U.S. dollar is declining at an alarming annual rate of 14 percent. At this rate, by the end of Mr. Carter's 4 years in office, the dollar will be worth 21 cents less than it is today.

The impact of such high inflation is felt by all Americans. Those who feel it the most are, unfortunately, those who can afford it the least. Individuals living on fixed incomes are seeing their real purchasing power decline at an alarming rate. Their dollars are rapidly becoming "Carter quarters."

It is ironic that the administration of James Earl Carter has chosen to carve in silver so vivid a reminder of just how devastating its economic policies have been. While the administration talks in lofty terms about caring for the old and infirm, its economic policies are designed to undermine the basis of their security.

I submit that the Nation does not need a new silver dollar of smaller size and even smaller value. What the Nation does need is someone who can lead the country with sound economic and domestic policies that will restore the value and integrity of the U.S. dollar both at home and abroad.

MEDICAL BENEFITS FOR INDIVIDUALS REQUIRING ENTERAL OR PARENTERAL ALIMENTATION

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, yesterday I introduced a bill, H.R. 4742, to provide medicare benefits for individuals who require enteral or parenteral alimentation.

When a patient's nutritional needs cannot be met by "ordinary means," physicians have a variety of alternatives with which to supplement or replace the patient's food intake. For patients who have had intestinal disorders, surgery, or certain trauma or disease which makes normal feeding and digestion impossible, TPN—total parenteral nutrition—best understood as intravenous feeding, has been considered the most appropriate. This method of nutritional support, although effective, is both expensive and risky. Since TPN is classified as drug therapy and is covered under medicare for hospital patients, it is often the method of feeding chosen.

In recent years, however, an alternative called enteral alimentation has been developed and widely used. Essentially, this feeding system provides nutrition, such as an elemental diet, to these special patients through a more natural route—the gastrointestinal tract by a small tube through a nasal opening or directly into the stomach or small intestine.

This elemental amino acid diet requires no digestion and is completely absorbed in the system. Patients are more comfortable than with intravenous feeding, and can even be ambulatory if their physical condition permits. They are no longer forced to rely on the more dangerous and expensive TPN feeding. The estimated daily cost of intravenous feeding is $150, while enteral alimentation costs approximately $20 to $40 per day.

Considerable published medical data supports the fact that enteral alimentation accelerated wound healing, smooth postoperative recovery, and shortens hospital stays. For example, a 70-year-old man was hospitalized with an intestinal obstruction due to a tumor, which had continued to recur following three operations over a 7-year period. His obstruction was cleared and he was placed on an elemental diet. When conventional food was given, he reobstructed. This readily cleared with the elemental diet, which became his sole source of nutrition for over a year.

Ironically, Mr. Speaker, the one thing that is keeping patients from taking advantage of this medical advancement is the fact that it is not covered under medicare. Because of this, thousands of patients are forced to be nutritionally supported by the costlier and more dangerous form of care, intravenous feeding.

Mr. Speaker, I have introduced a bill which would amend the Social Security Act to provide medicare coverage for individuals who could benefit from enteral alimentation. The benefits of this bill would be twofold. First, it would make a safer and less expensive alternative to intravenous feeding available to more people. Also, many patients' hospital stays would be considerably shorter because of this treatment's speed in increasing the strength of the postoperative patient. The second benefit would be in the savings to the Federal Government. Because enteral alimentation is less expensive and does not require specially trained personnel to administer, patients can often treat themselves at home at a considerable savings. This, combined with the shorter hospital stays, creates substantial savings in medicare benefit payments.

Mr. Speaker, we have before us an opportunity to relieve the burden of thousands of people who have had their lives radically changed and, in the process, save the Government a considerable amount of money. I urge my colleagues to support this legislation, making thousands of lives simpler, safer, and better.●

ST. ELIAS ORTHODOX CHURCH

(Mr. HANLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. HANLEY. Mr. Speaker, in mid-July 1979, on a majestically rising hill overlooking the city of Syracuse, N.Y., the people of St. Elias Orthodox Church will give thanks to God for 50 years of growth and development centered around their parish church.

The setting, in a strikingly modern ediface in a pleasant suburban area, is a far cry from the beginnings in 1929.

A sense of community and need for spiritual direction had stirred itself among the Arab-speaking people who had settled in the Syracuse area in the early part of this century. At the urging of the visiting Bishop His Grace Victor Abu Assaly, the Middle Eastern natives began to organize and to plan a parish. The first meeting was held November 10, 1929, in the home of Michael Morris. A second meeting in the home of Joseph Seikaly resulted in the formation of the first parish committee headed by Habeeb Rezak.

In 1930, the former Lafayette Methodist Church on West Lafayette Avenue was purchased for $9,000, and the parish established itself physically.

Weathering organizational problems, a serious fire in 1936 and numerous obstacles, the annual St. Elias Mahrajan was instituted in 1937, and became the social event of the year for the Arab-speaking community of central New York. This proved to be the catalyst which allowed the parish to stabilize and to grow.

In 1955, weekly pledge envelopes were begun, replacing the old system of annual dues which had averaged only $12 per family. St. Elias had moved from providing the minimal requirements of a small immigrant neighborhood in 1929 into a spiritual center of orthodox people of Arabic heritage serving those as far away as 70 miles.

In 1963, the present site on Onondaga Hill was acquired, and by July 20, 1969, the first services were held in the new facility.

On July 14, 1979, under the kind pastoral leadership of Father Hanna Sakkab, St. Elias will give thanks for its 50 years of successful growth, and give special honor to the Metropolitan of All North America Philip Saliba.

These final words from the history of St. Elias are most fitting:

> As with any organization, there must be a purpose first, then a driving force to keep it alive and functioning. Our purpose, the Church, our Faith, the Sacraments, and finally, our Lord's saving grace of salvation, are only too evident to us all. These, we seek, receive, and embrace, as the expectations of all Orthodox Christians. The driving force—the desire to create and nurture, that ingredient so necessary for fulfillment of the purpose—remains for us, ourselves, as a commitment, a labor, a sacrifice. Our forebears, in that "small immigrant neighborhood," created and nurtured a desire so intense, that neither foreign land, financial sacrifice, personalities nor any other adversity could restrain it. Their contributions, of-

fered by many whose names do not appear in this record, are indelibly written in our hearts, minds, and memories. The preservation and perpetuation of our Faith had become a demanding need to them. We pray that future generations will write a record as great, having received the solid foundation upon which to continue building.●

RESTRICTIVE REGULATORY PROCEDURES

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, what is being done to preclude generation of energy to reduce our dependence on petroleum is incredible. An article in this morning's Washington Post summarizes regulatory procedures which will restrict the operation of a constructed and previously successfully operated nuclear powerplant for at least a year. The energy which will be lost in this period is equivalent to over 10 million barrels of oil. The financial loss involved in procurement of replacement energy is estimated to be over $150 million.

The reactor involved is the undamaged Three Mile Island No. 1 reactor. The Nuclear Regulatory Commission proposes a series of administrative actions and regulatory procedures involving filing of petitions, prehearing conferences, discovery activities, hearings, and so forth, estimated to total at least a year during which time no energy will be generated.

Such actions are completely at cross purposes with a serious effort to obtain control of the energy dilemma we face. There is completely no excuse in getting the plant back in operation. If professional judgment indicates interim operating restrictions should be imposed to control any unevaluated concerns about safety such restrictions can easily be imposed which will satisfy any reasonable person's concern. Administrative activities must be made secondary to getting control of our energy supply problem.

Following is the Washington Post article which summarizes the administrative and regulatory activities which preempt the use of this powerplant.

UNDAMAGED PENNSYLVANIA ATOM PLANT REACTOR TO BE OUT A YEAR FOR NRC HEARINGS

(By Joanne Omang)

Public hearings on whether to reopen the undamaged Three Mile Island 1 reactor, will take at least a year, further jeopardizing the parent company's already shaky financial status, the Nuclear Regulatory Commission learned yesterday.

A spokesman for General Public Utilities, which owns both Three Mile Island 1 and 2 in Pennsylvania, said the company had been counting on the unit unaffected by the March accident coming back on line by Jan. 1. The delay could be "a significant financial problem" if short-term credits are withdrawn as a result, the spokesman said.

Three Mile Island 1 was closed along with several other plants for changes in the wake of the March 28 breakdown of Three Mile Island 2. Cleanup of unit 2 will not begin for several years and it is not known when, if ever, it will resume operation.

The commissioners decided last week to rule personally on whether unit 1 could reopen and to do it only after a full public hearing. Other units that were closed, including Rancho Seco in California and Davis Besse in Toledo, Ohio, will be allowed to operate while hearings on their status continue.

Kenneth McKee of GPU estimated that the utility is spending $22 million to replace lost nuclear power with more expensive oil-fired power for every month the two units are out of action. Costs involving unit 1 alone are about $13 million, he said.

The NRC staff said the year's proceedings will break down as follows: 20 calendar days for filing petitions to participate in the hearings, 15 days for the commission to answer the petitions, 25 days for the petitions to be amended and for issues of the hearing to be refined, 15 days for the petitions to be examined and for a special prehearing conference, and five days to set the agenda. That is 80 days.

Then there are 60 days for discovery of information, during which a staff safety evaluation comes out, and on the 60th day there is the main prehearing conference that sets dates and priorities. There are five more days to the issuance of the prehearing conference order, 20 days to file testimony and 15 days to the start of the hearing. We are now at Day 180.

Sixty days later the hearings end. Parties file proposed findings by 40 days later, replies are filed in 10 days and a decision is reached by the Atomic Safety and Licensing Board in another 10 days. That is 335 days. Then the NRC itself has four months to review the decision and issue its order.

"This is the shortest feasible schedule," said Guy Cunningham, assistant chief counsel for the hearings. "In practice most schedules include extensions of time."

The NRC also voted to ask for public comment on its intention to require more stringent state and local emergency planning as a condition of issuing future operating licenses to nuclear reactors. General Counsel Leonard Bickwit said that procedure could take as little as six months.●

SOUND ADVICE ON SOLVING OUR ENERGY PROBLEM

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, the president of the Soviet Academy of Sciences has given us some sound advice on what must be done to solve our energy problem. In an interview published in the July 4 issue of the Washington Star he stated:

> Nuclear powerplants must be built all over the world since gas and oil deposits are running out.
>
> If this is not done, wars will be between capitalist nations, since the Soviet Union will lead in the development of nuclear energy as a substitute while the United States is not moving ahead as it should in this field.

It is truly ironic that the Soviets are telling us what we and the rest of the world should be doing. We were the first to study the energy supply and demand problem and in the early 1960's came up with the consensus that nuclear was the only practical solution to our growing energy supply problem. No one knowledgeable or interested in the long-range supply of energy disagreed.

To summarize, as indicated in the 1962 report to the President, it was agreed that we must find a new basic source of energy and that the only practical source was nuclear energy. It was also agreed that our only significant domestic source of fossil energy—coal—had to be utilized at increasing rates while we bought time to make the conversion to nuclear energy. Since we have fallen behind in this effort, as Anatoly P. Alexandrov, president of the Soviet Academy of Sciences said, we are headed for more and more severe energy and economic problems until we can increase our utilization of nuclear energy.

In contrast, the Soviets, after recognizing the fact that their petroleum resources would peak out in the early 1980's, adopted our plan and are moving out with the exploitation of nuclear energy in the Soviet Union and its satellites.

It is, indeed, discouraging to reflect on the fact that we, clearly and correctly recognizing in the 1950's that our petroleum production would peak out in 1970, developed a detailed plan to supplement our basic energy sources and did not follow the plan; the Soviet Union and other industrialized nations are following the plan. Nothing basic has changed in the energy equation except that we have fallen behind. Unfortunately, there is no shortcut. We must make up for lost time.

Since Alexandrov in his interview covers a number of other important points, I am including the complete article in the RECORD at this point.

ENERGY SCRAMBLE SEEN RISKING WAR

(By Henry Brandon)

MOSCOW.—Without the development of nuclear power as a source of energy, the competition for energy sources in the world could ultimately lead to war, the president of the Soviet Academy of Science warns.

Resistance to the development of nuclear power as an energy source, Anatoly P. Alexandrov said in an exclusive interview, poses more danger for mankind than the original splitting of the atom.

Alexandrov, a nuclear physicist and director of the I.V. Kurchatov Institute for Atomic Energy, blamed regulations in the United States, inadequate safety standards, incompetent supervisory personnel and the news media for the harm done to the use of nuclear energy.

Also present at the interview was Nikolai Inozemtsev, the director of Moscow's prestigious Institute for World Economics and International Relations.

A member of the Academy of Sciences and, like Alexandrov, a member of the Communist Party's Central Committee, Inozemtsev cautioned that a shift of priorities from military to civilian production cannot even begin until the SALT II treaty has been ratified by the U.S. Congress.

The influence of scientists in the Soviet governmental decision-making process, Inozemtsev said, exceeded that of their counterparts in the United States.

Alexandrov was interviewed in his spacious office at the headquarters of the Academy of Sciences, located in a well-kept 18th century mansion built for Catherine the Great.

On the future of nuclear power plants, Alexandrov opened his discussion with a reminder that even early in the Middle East conflict, when there was no enegry crisis, the United States began talking about the possibility of having to protect its oil imports by force of arms.

"You know that all gas and oil deposits are likely to run out in 30 to 50 years—Russia's may last close to 50 years—but in 30 years it is impossible to reorganize the world in terms of energy from coal," Alexandrov said.

"We must therefore build nuclear power reactors in all parts of the world, otherwise wars will one day be fought over the remnants of oil and gas deposits. And there will be wars, however peculiar this may sound, between the capitalist countries, because the Soviet Union will have concentrated on the production of nuclear power and be ahead of everybody else," the Soviet scientist declared.

Alexandrov suspects opponents of nucelar power fear it because they believe a nuclear power plant failure can lead to an atomic bomb explosion akin to that of Hiroshima.

"They have no real idea of the modern safety devices imposed on the risks involved," he said.

Alexandrov voiced strong criticism of the handilng of the Three Mile Island nuclear accident, claiming that from the beginning there were faults with the operating methods which accounted for the trouble: negligence regarding security measures taken by the plant management, inferior operating personnel and inadequate technical safeguards built into the plant against accidents.

He said that only specially trained engineers are allowed to operate Soviet nuclear plants, and that at the central control panel two men must always be on duty.

"I can't imagine the kind of (accident) in the Soviet Union, where pump valves remain closed when they were supposed to be open."

(Among other problems, a pump valve remained closed at Three Mile Island and prevented cooling of the reactor.)

Alexandrov added: "And yet, despite all that happened, there was no serious danger, and whatever danger might have existed, was exaggerated."

On the issue of storing radioactive waste, one aspect of the nuclear power problem that troubles the American public, he said he was certain this could be solved.

"There are many ways to go about it because there exist 'hermetic structures' in the outer layer of the earth which are safe storage places," Alexandrov said.

In a reference to the youthful character of the anti-nuclear movement in the United States, Alexandrov countered that he had three sons who were all in favor of it.

The Soviet scientist insists that nuclear energy production is safer than coal mining or production of chemicals.

"People in the vicinity of nuclear power plants are not exposed to greater radiation than that which comes from natural radiation sources. And a worker in a nuclear power plant does not absorb more radiation in a year than you get from one x-ray examination," he said.

"For all practical purposes, we in the Soviet Union have today the same technical know-how as the United States. The United States was ahead at the start, but her nuclear energy development has slowed down, while ours has accelerated," Alexandrov contended.

"All people with common sense should realize that by the end of the century the United States will be compelled to create new great nuclear production facilities, possibly nuclear fusion plants, otherwise she will find herself desperately short of energy. There is no other way to preserve the modern way of scientific development," Alexandrov said.

Inozemtsev, the Soviet economist, was asked whether the Soviet Union would begin shifting the economic emphasis from military to civilian production now that the SALT II agreement has been signed.

Without hesitation, he seized on the occasion to sound still another Soviet call for the U.S. Senate to ratify the agreement.

His reply: "We live in a very important period when decision as regards industrial production can move in either direction. The Vienna meeting opened the way for decisions to be taken in favor of civilian production, certainly.

"But the history of the last years tells us that progress in the field of armaments can be swift and that newer and newer types of weapons are being invented.

"The only way we can protect ourselves from surprises and a further escalation is through the SALT process, which now includes not only quantitative but also qualitative restrictions."

TRIBUTE TO AMBASSADOR ROBERT STRAUSS

(Mr. SCHEUER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, earlier this week the House approved by a margin of 395 to 7 the massive trade liberalization agreement that the United States signed in Geneva in April after 5 years of negotiation. This lopsided vote was this body's best way of paying tribute to a remarkable man, Ambassador Robert Strauss and to his virtuoso performance of negotiation, accommodation, and compromise of a myriad of conflicting and vying interests both at home and abroad. Ambassador Strauss negotiated with infinite patience and resourcefulness with a wide variety of regional interests, industry-by-industry, and trade group-by-trade group, and simultaneously negotiated an equally complex equation of delicate balances with a myriad of foreign economic interests around the globe. Indeed, he has perfected the skills of negotiation, accommodation, and compromise to the level of a new high art form.

Having completed this extraordinarily difficult juggling act with remarkable success he has now been asked to undertake the even more difficult task of representing the President in the Middle East, a region in which no President or administration within memory of living man has ever been able to produce the harmony, and the interface of competing national interests, essential both to the interests of that region or to the interests of the United States.

Elizabeth Drew of the New Yorker has written an excellent profile of Ambassador Strauss. I think my colleagues will find it valuable to read this thoughtful description of the complete diplomat undertaking this crucial assignment. I commend this article to my colleagues:

PROFILES

One day in late March, I went to see Robert S. Strauss, officially the United States' Special Representative for Trade Negotiations—he has the title, which he relishes, of Ambassador, and is in charge of our participation in the current trade negotiations among ninety-nine nations, and of guiding the result through Congress—but also the Administration's kibitzer, political adviser, fund-raiser, pinch-hitter on all sorts of matters, and conduit to all manner of people. In addition to all this, a few weeks after my visit he was named Ambassador-at-Large for the Middle East negotiations—a job he is to begin after Congress has acted on the trade bill. By the time I reach his office, which is a few blocks from the White House, at eleven o'clock, Strauss has already: talked to Hamilton Jordan, the President's chief political adviser, about Carter's recent trip to Texas, during which he attended a luncheon for some hundred and fifty people at Strauss's home in Dallas (Strauss also has a penthouse apartment at the Watergate), about a forthcoming decision to close certain military bases, and about the next of the biweekly Monday breakfasts that Strauss and Jordan attend with Vice-President Walter Mondale and Cyrus Vance, the Secretary of State; spoken with an assistant to Alfred Kahn, who is in charge of the Administration's wage-and-price program, about the current wage negotiations between the Teamsters union and the trucking companies (Strauss is the conduit between the Administration and Frank Fitzsimmons, the Teamsters' president); spoken with Henry Owen, who handles international economic matters for the National Security Council; spoken on the phone with Mike O'Callaghan, a former governor of Nevada, who is now executive vice-president of the Las Vegas *Sun*, and who called to thank Strauss for arranging an invitation for Hank Greenspun, the editor and publisher of the *Sun*, to the recent White House dinner honoring Israeli Prime Minister Menachem Begin and Egyptian President Anwar Sadat; and worked out a difficult problem involving Senators Edward Kennedy, Democrat of Massachusetts, and Robert Dole, Republican of Kansas, which threatened to hold up progress on the trade legislation.

"That's a pretty good morning," Strauss says. "I'll tell you something. I am going to pass a trade bill, and I'm going to make it so easy they won't know wha' hoppened." During our talk, he places a call to the office of Senator Harrison Williams, Democrat of New Jersey, and tells an aide to Williams that Fort Dix, in New Jersey, is going to be virtually shut down, that he tried to help but couldn't, and that he is giving Williams advance warning so he can be prepared. Then he talks on the phone to Cyrus Vance about a number of matters. One of them is Strauss's backing of the appointment as Ambassador to Mexico of Robert Krueger, a former Democratic congressman from Texas who lost an election to the Senate last year. He has been arguing that the appointment of Krueger, a moderate Democrat who has had support from the oil industry, would be good politics for the President in Texas. Some of the career foreign-service officers are opposed, and Strauss has suggested, typically, that Texas might do the President more good in 1980 than the foreign service can.

Strauss, who is sixty, is, as always, dressed immaculately. He is wearing a dark-blue suit with pinstripes about an inch apart, and a blue shirt with "RSS" embroidered on the cuffs and with the spread collar that he favors. He has olive skin and almond-shaped somewhat soulfoul hazel eyes, and his hair, grayish white, sweeps back in waves. He speaks with a strong Texas accent, and his voice is nasal—he sometimes sounds as if he were honking at you rather than speaking to you—and can reach a squeak when he becomes agitated. Strauss talks fast, and a lot.

His particular problem with the trade negotiations and legislation at the moment is to get a bill through Congress extending the authority of the Treasury Department to waive what are known as "countervailing duties"—duties that are to be imposed on imports that have been subsidized by foreign governments. He needs to get the bill through Congress in the next few days, he explains to me, so that the negotiations with the European Communities, or E.C.—nine

European nations that form a customs union and negotiate on trade with one voice—which are a prerequisite to reaching a worldwide agreement in the multilateral trade negotiations, or M.T.N., can be wrapped up. Last year, the bill became hostage to some members of Congress seeking protection of certain interests. One of those members was Russell Long, chairman of the Senate Finance Committee—which handles, among other things, trade—whose concern was for his sugar-growing constituents in Louisiana. So this year Strauss was instrumental in getting the Administration to support legislation to raise prices for United States sugar producers. If the countervailing-duty bill does not pass, the European Communities might not sign the trade agreement, because it would mean that the United States would have to impose a duty on Danish butter cookies. And one of Strauss's negotiating counterparts, Finn Gundelach, is from Denmark. (Butter cookies have become the symbol of the countervailing-duty issue, but, in fact, if the bill does not pass, import duties may have to be imposed on a number of European exports.) These are among the thousands of equations that Strauss must keep in his head as he tries to work out the trade issue. His problem this morning is that Dole wanted to attach an amendment to the countervailing-duty bill, which has already been passed by the House, to repeal a tax reform passed in 1976. "That meant that the President would have had to veto my countervailing bill," Strauss explains to me. "So I said to Dole, 'Attach your amendment to something else.'" Dole decided to attach it to a minor tax bill that the House had passed, and Strauss promised Dole that that bill could be voted on before the countervailing-duty bill was brought up. But then Kennedy objected to that, because he wanted more time for debate on Dole's amendment, which he opposed. So each senator then had Strauss' countervailing-duty bill hostage. Strauss talked to Kennedy and to Dole and to Long and got an arrangement under which all parties were satisfied, and the bill is now expected to be taken up and passed by the Senate this afternoon. "We've had fifty things like that," Strauss says.

Strauss's office, which is large, is decorated in beige and gold velours and has print wing-back chairs, a French Provincial desk, a conference table, a flag, and a large globe; and on a table next to Strauss's desk there is a sign that says, in gold on maroon leather, "IT CAN BE DONE." Averell Harriman, who backed Strauss for his previous job, as chairman of the Democratic National Committee, gave him the sign. Strauss shows me some letters he has written in longhand. "I do something other people in government don't do," he says. "I write my own letters, in longhand. I get them out quicker that way, and people appreciate them more. I don't know anybody in the bureaucracy that writes in longhand." Pause. "I don't know anybody in the bureaucracy that writes."

He decides to check with one of Russell Long's aides, to be sure that all is in order on the countervailing-duty bill and that it will go through the Senate this afternoon. Strauss has taken the time to cultivate this particular staff member (the number of people he has taken the time to cultivate is staggering)—an exercise that yields him, among other things, information when he needs it. And he and Long are old friends (Long also lives at the Watergate) and are worthy of each other as bargainers. "There's always some staff jerk up there who thinks of something he wants to add at the last minute," Strauss says.

He reaches Long's aide, and asks him, "Did you talk to Russell?" There is a momentary silence, and then Strauss says, "Oh, for Christ's sake. Who thought of that goddam brilliant idea?" Clearly, someone wants to add something to his bill. He listens again. "Well, is there any controversy in this sonofabitch?" He continues, stressing his efforts, which have been successful so far, to keep either chamber from adding an amendment to his bill. That way, once the Senate passes the bill, it can become law. Strauss says to Long's aide, "We've just got to keep that bill clean. I can't stand that. I better talk to Russell. He's got to put that on something else. I've only got three or four days to move in. This would have to go back to the House, and then we're dead. It would free up some time for me. I'll get out of the government this afternoon. I'm going to have to talk to Long. Where is the sonofabitch now?"

While he waits for Long to come to the phone, he explains to me that the latest hitch is that Long wants to attach to the bill an amendment to extend child-support and day-care programs.

Now Strauss says into the phone, slowly and sorrowfully, "Russell, I can't take that ——— child-support thing. It'll have to go back over to the House, and this is my last shot before the April 2nd E.C. meeting." Silence. Then Strauss's voice rises, nearing its squeak. "Godalmighty, Russell, you're wearing me out. You ———, I'm putting myself in your hands. If that amendment goes through, I'm getting out of the government tomorrow, because that will louse it all up." Silence. "Trust me. Russell, let me tell you something. I've worked out problems with Dole; I've worked out problems with Kennedy; I've worked out problems with the Japanese. I just can't work out this one, too. There just isn't enough time." Now Strauss is getting truly agitated—or acting as if he were truly agitated—and he talks very fast. "Russell, if this thing goes through, the trade bill is through, and that's good for me—I'll be practicing law and making more money." Then he laughs, and says, "And the first thing I'll do is come down to Louisiana and get someone to run against you. Don't give me that 'little old noncontroversial amendment' stuff." Pause. Then, sorrowfully again, "But Russell, how'm I going to get the House to act on this? Let me tell you this, Russell, if we can't get this waiver by April 2nd, I'm dead. I'm not kidding. I've got to get it before the E.C. by April 2nd. Then we can get the trade bill through Congress by July 15th. I don't want to go down on crap like this. We've got Dole in place. Isn't there some other bill of yours we can put this on? I know it sounds simple to you. It doesn't sound simple to me." Now he squeaks, "I know I'm a tough ——— You're a tough ———. I've solved every problem. I've worked these guys on the Finance Committee to death for two years." He is silent while Long talks. Then: "Russell, don't get me against day care and child support. I'm for 'em. Russell, it isn't right to do this. I know I'm right. This is the first time I've said, 'This time I'm right and you're wrong.' I just can't have this. Now go and get another bill to attach that thing to." Pause. "All right."

And then Strauss hangs up, and says to me quietly, somewhat wrung out, "He'll go along."

Robert Strauss is a peculiarly Washington phenomenon, and even within the context of Washington he is a phenomenon. He arrived on the scene in 1970, at the age of fifty-one, as the treasurer of the Democratic National Committee and a protégé of John Connally (then a Democrat), became chairman of the Party in late 1972, and, through a combination of force of personality, a special set of talents, and circumstance, established himself as a major power in the city—and the nation. Strauss is not simply a "fixer" or "wheeler-dealer." He can fix and he can wheel-and-deal with the best (or worst) of them, but he is also a man who takes on big, awesome problems—like putting the Democratic Party together again, like negotiating a highly complex trade package—and stays with them and throws himself into working them out. He is not a miracle man, and he does not accomplish everything that he sets out to do, or as much as he would sometimes have people believe, but he does accomplish a great deal.

He was not notably successful in running what there was of the Administration's anti-inflation program, which he was asked to do, on top of his trade job, for a few months last year. His is a particular kind of power: it is not tangible, as a corporation chairman's or a military commander's or a President's might be, and it is not transferable. When the head of a Cabinet department or a White House official or a President assumes his job, he assumes a large amount of transferable power—to make of it what he can. Strauss's power is peculiar to Strauss and is his own creation. He parlays just about every situation into more than most others could make of it, charms more people, and works harder at it all than just about anybody around. He has a long memory, a special skill at negotiating among conflicting groups, and a very strong drive to show the world just what Bob Strauss—he often refers to himself that way—can do. He is an almost classic story, even a cliche, of the poor boy out of a small Texas town who made it big, first in Texas politics, business, and law, and then in the nation's capital. In the process, he has also made himself a controversial figure. There are people who are put off by his bluster, his bravado, his self-promotion; there are people who think that he consistently gets in over his head and that he will do almost anything to make a deal. Strauss is a self-promoter, and that is part of his effectiveness. He reads Washington very well: he understands that to be seen to have power in Washington is to have it, and to get more of it. Power is the ability to influence others' behavior; if people think someone has power, they act toward him as if he has, and therefore he is powerful. The more people who think that Bob Strauss can get things done, the more likely he is to be able to get them done. He has a very wide range of contacts, which causes him to have an even wider range of contacts, as word spreads that Bob Strauss is the man to be in contact with.

All of this is of value in an Administration that is not exactly filled with people who know how to get things done or who have a gift for reaching out. In a Johnson Administration, a Strauss would be an addition; in the Carter Administration, he may be crucial. But, whatever the Administration, such people are essential in Washington. Strauss' value is that he can deal with the numberless conflicting elements in a political transaction. He does not preoccupy himself with substance—he makes a big point of not appearing to do so. There are many people around who concern themselves with the substance of issues, but not all that many who can work them out. If the political process is to function, somewhere among the people of ideas and the people (in Congress, in the law firms, and in the lobbying organizations) whose sole role is to take home all the coonskins they can there must be a few who can piece things together. People who do this well do it through a complex combination of winning trust, threatening, rewarding, and conveying—accurately—an impression of power. It becomes firmly fixed in thousands of minds that these are people who know what they are doing, that they have a kind of competence that can be trusted.

Strauss's method of operation is characterized by native intelligence, a shrewd understanding of people, flexibility, a willingness to go by instinct, and humor. He disarms people and defuses situations with his humor. One White House aide who has at times been at odds with Strauss says, "It's very hard to get mad at Strauss, and if you do it's hard to stay mad at him." Strauss himself has said to me of one political figure, "He can't get his hand on me as long as I keep kidding him." He also disarms people with put-downs and sheer effrontery. In the recent trade negotiations, at a particularly sticky moment he threw an arm around a presumably startled Nobuhiko Ushiba, his Japanese counterpart, and said, "Brother Ushiba, you're crazy as hell." After the Canadians, in a negotiation with Strauss, put forward their trade proposals, Strauss looked at them and said, "That's nice. Real nice. You have as much chance of getting that as I have of going to bed tonight with Farrah Fawcett-Majors." And he disarms through self-exaggeration: he turns his substantial ego and love of success, and even his clear need for applause, into a joke.

His network is probably as large as any around, and he works hard to keep it. One of his friends says, "His network is everywhere. It ranges from bookies to bank presidents." (Strauss is a devotee of the race track—he got to know Frank Fitzsimmons at the track at Del Mar, California, where Strauss and his wife, Helen, go each summer—and also of poker.) Hamilton Jordan said to me recently, "Strauss is all over the damn place. He's got contacts on the Hill, he's got contact in the states, he's got contacts in the business community, he's got contacts in the press. There's just nobody quite like him." Someone else who has observed Strauss for years says, "It's not just his contacts; he knows how to use his contacts." One of Strauss's friends said, after telling me of an instance in which Strauss got in touch with Attorney General Griffin Bell on behalf of a Washington lawyer, "He runs a lot of errands like that for friends, and then he can go back. So when he needs things he can go get them. He's been doing that all his life." Washington is a city of channels—front channels and back channels. The front channels are the normal processes and meetings by which things get done. The back channels consist of people getting in touch with other people who can put them in touch with other people or can relay a message. A great deal of Washington's business gets done in the back channels, and Strauss is often there. He seems to find time to make innumerable phone calls to "keep in touch;" he cultivates secretaries as well as senators; he will befriend a middle-level White House aide whom other important officials won't bother with. Every few months, he sends candy to the White House switchboard operators. There is a genuine warmth to him. He performs more acts of kindness—of the type that people aren't likely to forget—than most people far less busy than he. He also seems to know the value of having other people's gratitude. He is highly skilled at dealing with the press. And he appears to be the only person in Washington to have established a kidding relationship with Jimmy, and even Rosalynn, Carter.

When I asked people about his ubiquity, his involvement in so many matters, it was explained to me that this stems in large part from the way he approaches problems. He will listen for a while and then say, "I don't know much about the substance of this, but one thing I do know about is politics, and here's what I think will work politically." Sometimes, I'm told, he will say of someone else in a meeting, "So-and-So was just saying, 'Bob, you don't know about the substance of this, but the thing you do know about is politics,'" when So-and-So has said no such thing. Appearing to be uninterested in substance can provide a certain safety—keeping one from getting caught in details—and also a credential for coming at questions politically. And Strauss is not bashful about injecting himself into all kinds of situations. His advice having been valuable a certain percentage of the time, his contacts being known to be of a certain range, he is likely to be listened to. Some say that he will be flexible within the confines of the problem he is dealing with but there are limits to how far he will go. One man has observed him closely, and who does have a moral base, says, "He's one of these guys who like through their gruff exterior to imply they're manipulative and unprincipled. But I think he has principles—he just wouldn't attribute them to values. He always explains that it's the political thing to do—he covers his decent values with that sort of language." Barbara Mikulski, a Democratic representative from Baltimore who was part of the Democratic Party's reform movement and headed a reform commission while Strauss was Party chairman, says of his chairmanship of the Party, "I thought he was absolutely fantastic. I consider him to be my political mentor. One of the things you learn when you work with Strauss is how you broker conflict, which is the essence of government. He doesn't look for A's or F's—whether it's the Democratic Party of the M.T.N. He's an absolute genius negotiator. I've found him very straight, very straightforward. He's factual, and if that doesn't work he charms, and if that doesn't work he arm-twists." Strauss uses an expression about himself that is instructive: he says, "I'm a closer." One man who has seen him in negotiations says, "He almost cultivates an air of superficiality, remains above the battle, until the crucial moment, and then he comes in and closes the deal." One man in the State Department—which is traditionally suspicious of trade negotiators—says, "He's able to seize the political issue quickly. He can say, 'Here's who you have to talk to and here's how you have to put it to him.' He's a master. He's the only person who could get the M.T.N. through Congress—the only one." And when the Administration wanted someone to take over the continuation of the Middle East negotiations after the peace treaty between Egypt and Israel was signed, it turned to Strauss.

A few days after my visit to Strauss, I accompany him to Boston, where—at the request of Kennedy—he is to addess a luncheon of the New England Council, Inc., an organization of businessmen from the six New England states. ("Teddy can deliver me pretty well where he wants to.") Strauss does a great deal of travelling, to attend political fund-raisers, to drum up support for his trade bill, to pay back favors, to earn new favors, and often combines several of these purposes in one trip.

As we rush from his office into his waiting car, I ask Strauss where, exactly, in Boston we are going. Last week, he was in New York and Columbus, Ohio; this week he was also in Chicago; next week he will be in Tucson.

"I don't know," Strauss replies. "It's all Indianapolis to me. Every other goddam day, one of these trips. Next week, East Lynne." He gets in the front seat, next to his driver, Nat Brannum, picks up the telephone beside him, and calls his wife. The Strausses are famously close. He talks of her quite often ("I was saying to Helen," "Helen and I were talking about . . ."), and she travels with him on most of his trips in the country and overseas. They have three children, with whom they are constantly in touch, and six grandchildren. The Strausses try to return to their Dallas home at least once a month. Helen Strauss is short, dark-haired, warm, and very intelligent, and seems to understand her husband quite well. The Strausses have a good time. On the way to the airport, Brannum makes a somewhat chancy turn, and Strauss says, "Nat, I don't want my obituary to say that he was hit on a half-green light. I want to go down in style." Brannum laughs. Next, Strauss calls Henry Owen at the White House. He says, "Tell them I'm as stretched out as I can be—I can't go any further. I'm losing some friends of mine and I'm fighting the Japanese as hard as I can. Just press on. Good. Goodbye." He tells me a story "When I first came into this government, I wrote a memorandum to the President and I didn't get an answer. Another day went by. After about five days, I said to someone over there, "What happened to my memo?' He said, 'We didn't think it should go to the President.' I said, 'Let me tell you something, you sonofabitch. Any time I send something to the President of the United States, you make goddam sure it goes in there. You can put on top of it 'This is crap' or 'Strauss is crazy,' but you get it in there, or I'll walk out of here or get you thrown out of here, or both.' Other people in the White House heard about that, and it helped."

In the airport, we encounter a political reporter, who asks Strauss where he is going. "New Hampshire," Strauss shoots back. "To see what's going on. I couldn't tell from reading your story." The reporter laughs.

On the plane, Strauss studies some material for the luncheon, and talks. "God, I'm tired," he says. "I must have thought a half hour in the shower this morning. I always think through my problems of the day in the shower—and I also lick my wounds." By seven o'clock each morning, Strauss has read the Washington Post, the New York Times, and the Wall Street Journal, and at some point in the day he also reads the Dallas Times Herald and the Los Angeles Times. Today, Strauss is particularly interested in how the papers played the story about a meeting he held with Japanese negotiators yesterday afternoon. At the meeting, Strauss broke off the negotiations with Japan on the question of government procurement of telecommunications equipment, complaining that Japan's offer to relax its restrictions on access to its market was "wholly inadequate." The issue was which equipment Nippon Telegraph & Telephone, a government-owned utility, might open to bidding from foreign countries. The Japanese offered to allow bidding on contracts for such things as steel telephone poles but not on those for any sophisticated equipment. ("Now, how many steel telephone poles do you think we'll sell in Japan, with their steel business," Strauss says. "What the hell good does that do us?") There is reason to believe that Strauss actually did not want the Japanese to be more forthcoming as yet—that he did not mind having an opportunity to criticize the Japanese, whose restrictive trade policies have become a political issue (one that John Connally, now running for the Republican nomination, is using against Carter), and that he saw breaking off the talks as a good move after he had got the countervailing-duty bill through Congress. He thought about how the story would play both in Japan and in the United States, and he assumed that the Japanese would want to talk about the matter again.

That sort of thing Strauss refers to as "instincts without evidence." One man who has observed Strauss as a trade negotiator has told me, "I've never seen him do anything that hasn't been thought through, even when it doesn't appear to be. Even when he's throwing a temper tantrum, he's thought through the effect and he's usually planned the next move—when he's going to call the other guy back in and smooth things over." Someone else involved in the trade negotiations says, "Strauss is a master of theater." I have been told by others that Strauss's standing is actually very high in Japan, that the government there believes he is the one to deal with—the one who can make the deals—and also believes he is a kingmaker in the United States.

Strauss tells me, "The reason my credibility has gotten so high in Japan—and it is—is, number one, I haven't lied to them and, number two, when they've negotiated responsibly I've gone and told that to the

Congress, and that's not a particularly politically popular thing to do." He explains the problem with the Japanese over telecommunications equipment and then he says, "Two years ago, I wouldn't have been able to deal with these things. I'm not an intellectual, but I learn fast."

I ask him what else he has been doing in the last day or so.

He tells me that he has been talking to someone in New York about playing a major role in Carter's reelection effort; talking to Hamilton Jordan about two or three matters, including the Mexican Embassy and "the kind of people we ought to use in the campaign next year;" talking to Alfred Kahn and his aide about the Teamsters negotiation.

Then he talks about his wife, and says, "Little ole Helen is a hell of a woman. She knows who she is and what she's about, and she knows who I am and what I'm about. I bore easily; my attention span is not great. Helen doesn't bore me."

Then he talks about his mission today. "My basic problem up in New England is that people don't really understand what trade means to them. It's such an easy subject to demagogue. It's so easy to say shut our doors to imports, and they don't realize what that would do to us, and how desperate they are to shop for the best products. They're all protectionist until they go out to shop. The first thing I did when I came on this job was to cut back on the imports of Japanese TVs. This fellow back in Dallas came up to me and said, 'By God, Bob, I knew when you came on this job you'd put the ——— thing in shape and you'd tell it like it is.' I said, 'You know what I really did over there?' He said, 'No.' I said, 'You got a TV set?' He said, 'Yeah, got two or three.' I said, 'How must you pay for them—about four hundred dollars?' He said, 'Yeah.' I said, 'I'll tell you what I really did. The Japanese government's been subsidizing that set, and it would otherwise cost five hundred dollars. I cut out that foolishness. I stopped those Japanese from cutting down on the cost of that TV set.' He said, 'Is that what you did?'Actually, he used a little rougher language. He said, 'I guess it's a little more complicated than I thought.' "

There are those in the United States government—professional bureaucrats who do not share Strauss's outlook or style—who give him the credit for keeping the international trade negotiations alive at all. He is dealing in a world that has become increasingly protectionist. The current round of trade negotiations was decided upon at a meeting of more than ninety countries in Tokyo, in 1973, under the General Agreement on Tariffs and Trade (GATT)—the set of rules and arrangements adopted for the purpose of reducing trade barriers. (It is called the Tokyo Round; some people used to refer to it as the Nixon Round, but times have changed.) The countries pledged not only to cut tariffs but also to try to get at the increasing number of non-tariff barriers to trade—subsidies, quotas, government procurement policies, varying standards for applying tariffs, and so on. The current round amounts to the most ambitious trade negotiations in history.

But after the Tokyo meeting came the oil embargo of 1973-74, and a worldwide recession—and a change in the political atmosphere surrounding trade. The Tokyo Round became an exercise as much in staving off a wholesale retreat to protectionism as in freeing up trade. There was also Watergate and then there was the 1976 American election, and the trade talks were essentially moribund. Strauss likes to say that until 1977 the talks, which were taking place in Geneva, did little except "produce a bunch of fine skiers." A number of people say that it was the sheer force of Strauss's personality that got the talks going again.

On the plane to Boston, Strauss tells me, "The first thing I had to do was establish credibility, so that we could move these talks. The European Communists and the Japanese didn't think we could move—because of protectionism, a fragile world economy, the attitude in our Congress. The first thing I did was, I had several meetings with the E.C. and Japan and said that either we move forward or, protectionism was so strong, we'd move backward—that the status quo was not one of our options. Then I had to go and convince them that I was the one who could move them. I had a pretty good press ahead of me. One day in Europe, I told them a story: The first fellow who held my job was Christian Herter, a former Secretary of State, governor of Massachusetts— As a matter of fact, I'm glad I thought of that—I think I'll tell that story today. When John Kennedy was President, he called Herter in and said we need some people with a proper State Department background who might be able to fill this job. Herter said, 'Mr. President, you don't need a diplomat to fill this job. You need someone with a political background, someone who understands the Congress, who understands what the country's all about and makes it tick, and who particularly understands the political process on the Hill.' Kennedy said, 'I'll be damned, Christian. I hereby appoint you America's first trade representative.' I told that story over there. I said, 'President Carter has appointed such a man and I can make this thing move'—and we started talking. The next thing I did was make a decision that the Europeans were scared to death that someone was going to use this negotiation to destroy the Common Agricultural Policy—something they couldn't stand politically." The Common Agricultural Policy, or CAP, is the system by which the European Communities supports the agricultural prices of its members, and it includes trade restrictions. "I told them that we weren't going to try to destroy it, that we would protect it if they would let us get our nose under the tent. It was silly for us to bay at the moon and get nothing—a third of a loaf is better than none, and we were getting none. That's the way we were able to get concessions on tobacco, rice, poultry, and many others. At the same time, we didn't give up too much in the way of cheese." (Strauss is currently negotiating with members of Congress who represent dairy areas—the dairy industry is very strong politically in this country—an arrangement to allow a certain additional amount of cheese into this country.)

In exchange for allowing more of some cheeses into the United States, the dairy industry has won a proviso that the price of imported cheese cannot undercut that of domestic cheese. (Strauss and members of Congress are now haggling over how this proviso will be enforced.) Strauss continues, "We have a very delicate market on cheese. The Europeans will take all the grain we can ship them, but they'll put it in the mouth of a cow and they'll make cheese. So the process had to stop. We're sending more grain than we have been sending, but there's no point in screaming 'Take it all' when we know it will end up as cheese." At bottom, American trade policy is a massive, complex political problem. Nothing is simple when it comes to trade; if one button on the console is pressed, twenty lights are likely to go on. Each bilateral arrangement involves other products, other countries, their domestic politics, our domestic politics. Strauss has had to proceed with all this in mind. He is, says one of his aides, "a walking political computer."

Now Strauss tells me, "I kid a lot, but I don't kid myself. I know what my strengths and my weaknesses are, and one of my strengths is people. You have to develop personal relationships, credibility. You do what you say you'll do." One's "word" is crucial in politics, and members of Congress have told me that Strauss keeps his word. "You have to remember that my background is rather broad. I have a bit of experience in business as well as law, in government as well as politics. My business touched on banking and real estate and communications." Strauss is, by any measure, a very wealthy man. "I understand a little bit about a lot of things. That's what I bring to the government. Some people have a better intellectual background. I have a lot of common sense. And I'm not timid. I have a lot of confidence in myself and my judgments. I come to decisions easily. I may not always be right, but I make them."

Strauss tells me that once the negotiations were under way he invited a number of senators and congressmen to Geneva to receive briefings on them. "It paid off," he says. "When you can get them over there, and the buzzers aren't going for votes, and they don't have meetings to attend, and reporters aren't calling them up for interviews, they get a chance to see what the problem is and what we're doing. I make at least five calls to the Hill a day. It's a habit. Also, we take any partisanship out of it. We treat a Republican call and a Democratic call the same. It doesn't take long for word to get around about that. Then I started inviting senators and congressmen and their staffs to the White House Mess for briefings. I paid for it myself. No one had ever brought the staffs in. We gave them some briefings on what the trade bill would mean for their states and districts. The first thing you know, you have some action going." He befriended his European counterparts—even staged a post-Thanksgiving dinner for them in his Washington apartment. "When the countervailing-duty bill failed last year, it created an international crisis," Strauss says. "I jumped in a Concorde, got to Paris, and jumped in a plane and went to six capitals in two days. Meanwhile, I talked to London along the road. I was trying to show that we cared, that we'd do what we could."

At the Boston airport, Strauss is met by Robert Griffin, his special assistant. The presence of Griffin on Strauss's staff is indicative of how Strauss functions. Griffin is the deputy administrator of the General Services Administration whom Jay Solomon, then the administrator, fired in July of last year, thus enraging House Speaker Thomas P. O'Neill, whose protégé Griffin had been. This put the White House in a fix. Whereupon Strauss offered to give Griffin a high-ranking, well-paid job on his staff. A number of people in Washington laughed, but Strauss had, in one stroke, relieved the White House of a problem, ingratiated himself with O'Neill, and added someone to his staff who could be useful to him.

At a reception at the Copley Plaza Hotel, where the luncheon is to be held, Strauss, as they say, "works the room," and it is clear that the people here want to get his ear. He greets John Gikas, who runs a laundry business in New Hampshire and Canada. Gikas has been described to me by a friend of Strauss's as "one of those guys who if Strauss whistles they come with checks." The friend said, "They're the guys who kept Strauss going in the Democratic Party in terms of money. Whenever he's raising money, he can always count on John Gikas." I asked this friend how many such people Strauss had around. He laughed, and replied, "Scores. There are a few more now than there were five years ago, obviously." Strauss still involves himself in raising money for candidates and for the Party, and few whom he calls upon could be unaware of his importance, or of his potential for making decisions, or arguing for decisions, that involve their interests. As he introduces me to Gikas, Strauss says, "Right after I went to the Democratic Committee as chairman, I wrote a letter to about eight hundred, a thousand people and said, 'This thing is a mess—a bunch of fools, pot smokers, have been running it. I'm going to give it a ten-month shot to see what I can do. This is the year '73, and if you'll send seventy-three dollars a month for ten months, I'll send you a progress report to tell you how it's going.' One of the first checks that came in was from John. John raised more than ten thousand dollars. He's never said no. I try never to call him unless I need him."

Several New England congressmen are here, as well as a number of businessmen. Strauss spots Representative James Shannon, Democrat of Massachusetts and member of the Ways and Means Committee's Trade Subcommittee and says to him, "I want to move the trade bill by the August recess, and I want you to help me. I want to come up to the Hill and see the New England Caucus." (Many think that Strauss's intention, or stated intention, of getting the trade bill through Congress by this summer is optimistic.) John Wasserlein, a division manager of Boise Cascade, introduces himself to Strauss. Strauss says, "I want Boise Cascade off their ———. I don't want you for the trade bill passively. I want you for it actively. You write to me, Bob Strauss, the White House. I'm glad you came up." Strauss, holding a glass of white wine in his left hand, continues to circulate. A man comes up to him and complains that he has offered to help the President's reelection effort in New Hampshire and hasn't heard from anyone. Strauss, who knows all too well, replies, "I know. These things happen.

They slip between the cracks. We'll get back to you. The President needs and deserves your support. They're good boys, but occasionally they don't follow through. But we do in our office. We'll be in touch." Strauss, obviously enjoying the attention, jokes, "I might come up here and run for office. Against Shannon or Kennedy. Kennedy up any time soon? I might come up and run against him." People laugh appreciatively. Strauss asks some of the people what is going to happen in New Hampshire in 1980.

A man comes up to Strauss and introduces himself as representing Wang Laboratories, in Lowell, Massachusetts. Strauss asks him, "What does Wang Laboratories do?" The man tells him that it is in the computer-processing business and that about forty-five per cent of its business is outside the United States. "Then you have a big stake in this trade bill," Strauss says. The man complains about what he describes as a tax problem, and starts to go into a complicated explanation. Strauss stops him. "That's not a tax problem," he says. "It's a customs-evaluation problem. You've got a real problem: you just don't know how to explain it. We're going to deal with it. You're right to be concerned, and we're taking care of it in a very constructive way." He talks to Rob Trowbridge, the publisher of Yankee Magazine and the New England Business Magazine. Strauss tells him, "The people of your region have a big stake in this trade bill, and only a few people understand it. They only hear from those who oppose. The great trouble in America is that only those who are opposed write in. With your subscribers, you can do a lot of good." Another man reminds Strauss that they met at Kennedy's home one Sunday afternoon, when Kennedy was meeting with about ninety Japanese. Strauss says, smiling, "Kennedy delivered me. He was selling Massachusetts pretty effectively. I was trying to sell the country. I don't know how to spell Massachusetts. I know you're a significant state." Pause. "Not a major one, but a significant one."

Kennedy comes into the reception. Strauss fingers Kennedy's shirt collar and, referring to one of Kennedy's brothers-in-law, says, "You wearing Steve Smith's shirt?" He tells me that this is an old joke between them.

Kennedy laughs, and says to Strauss, "You got some good news for us?"

Strauss replies, "I'm going to survive."

Kennedy laughs again, and says, "What about Massachusetts? You've looked after Texas beef and oranges in Japan."

Strauss says, "I know what you're trying to preach, you sonofabitch." Then he grows serious for a moment and talks about the problem that was worked out recently with Kennedy and with Dole so that the countervailing-duty bill could be got through Congress. Kennedy says that he understood Strauss' problem and was satisfied with the solution. "You're a good man," Strauss says to Kennedy.

Kennedy bows slightly, smiles, and says, in mock humility, "Thanks, Bob."

New England is just one area that Strauss keeps in his brain-computer, but it is an important one, as it has been for some time in the matter of trade. Also in that brain-computer is the fact that New Hampshire and Massachusetts hold Presidential primaries that are among the earliest. The area's particular trade concerns have to do with textiles, footwear, high-speed electronics, and even clothespins, and Strauss has taken steps to see that these concerns are handled. What he is trying to do is to "pre-cook" the trade bill so that the members of Congress will be satisfied with it when it comes before them. He hopes to have the trade talks wound up shortly, to submit the trade package to Congress by May, and to get it passed by this summer. (In accordance with special rules for the trade bill, it is subject only to an up-or-down vote, and cannot be amended. An amending process could, of course, set off a logrolling jamboree such as has seldom been beheld.) To this end, Strauss and his staff have been meeting with members of the Ways and Means and the Finance Committee (in closed sessions) and with other members of Congress, to hear their complaints and suggestions. And, also to this end, Strauss has been making deals. The most complicated deal, having to do with textiles, involved, in effect, quintilateral negotiations, with the textile industry, labor, foreign governments, the executive branch, and Congress. The industry and its associated labor groups wanted, of course, a cutback in the amount of textiles imported into this country—and that industry is well represented in Congress, having plants in virtually every state, and constitutes the largest industrial lobby on the subject of trade. Last year, on Strauss's recommendation, the President vetoed a bill passed by Congress to remove textiles altogether from the M.T.N. (The Kennedy Administration, in order to get its trade bill through Congress in 1962, also made a deal with the textile industry.) But Strauss's theory was that he must neutralize the industry, and that the way to do that was to slow the growth of textile imports. The State and Treasury Departments, which (unlike the Commerce and Labor Departments) usually take positions in favor of liberalized trade, and also some of the President's economic advisers were unhappy with the way Strauss was proceeding. Strauss negotiated over a period of several weeks with leaders of major textile firms and unions, and, on the basis of outcries from this or that participant (outcries that some observers believe he anticipated), renegotiated—balancing off the political questions, international questions, employment questions, inflation questions. Eventually, the State Department swallowed hard and accepted the arrangement Strauss worked out, as essential for the larger purposes of trade. (Treasury was never reconciled. Relations between Strauss and Treasury Secretary Michael Blumenthal are not good—a situation that has its origins in differences of style, of philosophy, and of policy, and in simple rivalry.) Strauss and Treasury are also at odds over proposals, backed by Strauss, to speed up the procedures for imposing countervailing duties.

Strauss is currently working on tightening existing restrictions on shoe imports, which affect not only New England but also such states as Georgia and Tennessee. There was the Administration's support for legislation to protect the sugar industry. Only sparing cuts have been made by the United States on imports of steel, and that industry is also protected through other pricing arrangements. Strauss's office recommended temporary import relief—which can be provided under the existing trade law—for the clothespin industry, which is concentrated in New England but is also situated in certain other areas of the United States. The clothespin industry is labor-intensive and does not require sophisticated technology or much capital investment; therefore, a number of developing countries—in particular, China—are going into the clothespin business and threatening American companies. Strauss also recommended that import restrictions be placed on "metal fasteners"—nuts and bolts and the like—which are made in plants in, among other places, Ohio, Pennsylvania, Illinois, and New York. One official has told me that this was done not so much because the metal-fastener industry is important politically as because Strauss wanted to demonstrate that the President would use the current trade laws to protect American industry.

A number of people around Washington argue that Strauss has given away the store; that he is paying too much to get a bill, any bill, that is called a trade bill. Others argue that the prices he has been paying are probably necessary. One State Department official says, "I feel uncomfortable about textiles, but Strauss is closer to the Hill than I am. Whenever I feel critical of something he's done, I look at it this way: Strauss is getting through a bill that is essentially, though not totally, a liberalization effort. Some of the deals that are made to get the bill through can be seen as protectionist, but the bill will improve the system—and in a period of incredibly strong protectionist pressure, here and everywhere." One man involved in trade policy says, "It's the classic problem with trade: sometimes you have to take one step backward to get two steps forward over all; sometimes you have to abandon ideals with respect to a particular sector where your political problems are great, so as to preserve the fragile consensus needed to move trade forward." The effects of what Strauss has been doing are hard to judge. One can look at this particular arrangement or that and find reason for discomfort about it, but he is working with so many pieces at once that any single move on the checkerboard tells you little. And the full implications of the M.T.N. agreement, should an agreement finally be approved, will probably not be known for at least a decade. It is also argued that if there were not a revision of the rules of trade, which is a major part of the current negotiations, the whole system could collapse.

Another thing Strauss has been doing is hearing out what trade concessions members may want for industries they represent and seing what he can do. For example, Eastman Kodak is said to be pleased that Strauss, at the behest of Barber Conable, a Republican from upstate New York, got an easing of Japanese tariff restrictions on color film.

He did get the Japanese to open their markets a bit to beef and to citrus crops. He moved quickly to mollify small business and minorities after the news broke that his staff had negotiated agreements which might have impinged on special arrangements for their bidding on United States government contracts. When Strauss was informed by a member of the White House staff that this could cause a political problem, he quickly went back to the Europeans and told them he had to have the decision reversed, and fast. (He paid for this by making another concession to the Europeans.) He thereupon got credit for having undone this terrible thing that his own office had done in the first place.

After Kennedy has introduced Strauss at the luncheon ("He has the reputation of being the top designated hitter of this Administration. I have found him accessible; I have found him willing to listen to legitimate concerns"), praised the arrangements that Strauss has made on footwear and textiles ("very sensitive to our needs"), warned him that New Englanders "are going to read very carefully the small print" of the trade agreement, and demanded to know what Strauss is going to do to increase exports, Strauss goes to the rostrum, puts on halfglasses, and begins in a subdued manner. He thanks Kennedy for his "generous" comments. He says, "I appreciate them and as a matter of fact I believe them." Then he tells a story—he tells it often: "Helen and I came home a few weeks ago after I'd given a long speech. It was good, if I say so myself. I said, 'Helen, let's have a drink,' and then we had another one and another one, and after the third one I said, 'You know, Helen, there aren't but a handful of great leaders in this country today.' And she said, 'I know you're right, and I believe there is one less than you're thinking right now.'" The audience laughs. Then Strauss tells the story he told me on the plane about President Kennedy's appointment of Christian Herter. He says, "This job does require someone who knows Congress, who knows the people in this country." He says, "It's nice to have been a bit of a lawyer and a businessman and been a bit of a success at each"—Strauss wants them to understand that he knows about the real world—"and someone who has been a bit of a politician, without taking cheap shots. Because trade is a bipartisan effort." He says that President Carter deserves "tremendous, tremendous credit" for what he has done to push the trade talks along. Strauss is always careful to praise the President: for one thing, he appears to genuinely believe that those who serve the President should give him the credit—he often makes this point in Cabinet meetings— and, for another, the fact that he does praise the President publicly does not hurt his standing with the President and his closest aides. They believe that, as one of the President's top aides put it to me "Strauss would do anything for Carter."

Now, speaking from "talking points" that have been prepared for him, he tells this audience of New England businessmen that one out of seven manufacturing jobs in the country depends on our ability to export, that one out of three acres produces for exports. He tells the businessmen that worldwide trade is worth about a trillion dollars a year and that "one hundred and twenty billion belongs to us—and we ought to raise that figure." He says, "The trade deficit we have now is a terribly debilitating thing for this country; it weakens the value of the dollar, it increases inflation, it weakens world economies." Then he does something else that is typical: he tries to establish the fact that he is not promising excessively. He says, "The trade deficit accumulated over twenty years and it can't be cured with a magic wand. Anyone who tells you that Bob Strauss is going to solve this overnight is kidding you." Then he talks about the government's various efforts to increase exports. "In the meantime, what's Bob Strauss doing?" he asks. And he answers, "He's trying to do those things; he's looking into those things; he's talking to President Carter; and mainly he's negotiating in what's called the Tokyo Round." Then he explains what the Tokyo Round is, and explains that the efforts to revise the trade codes are far more important than the efforts to cut tariffs ("a tempest in a teapot"). The United States is expected to cut tariffs by an average of about thirty to thirty-five per cent. He explains the non-tariff barriers to trade in very simple terms, and he explains the importance to New England of what he is doing. "The Northeast has some six hundred and fifty thousand textile jobs. We got the textiles business not in good shape—we got it in exquisite shape. Shoes. We've got a lot of work to do on shoes. We've almost doubled our shoe exports in the last two years, and that's pretty good." He talks about what he is doing to try to increase the purchase of American electronics equipment by foreign governments ("We'll open up twenty billion dollars in contracts") and he talks about his meeting yesterday with the Japanese. "We had trouble with the Japanese yesterday. We called off the negotiations. Why did we do it? We don't like to be tough with people. It's a lot easier to tell people to go to hell than to get them there. But on the telecommunications area we gave up. Those are things that are very important to you." He gets a laugh with a reference to the outlook for sales of steel telephone poles in Japan. Then he urges the businessmen to write to their congressmen in support of his trade bill. "You all write and tell them how unfair it would be to vote against Bob Strauss." He continues, again trying to indicate that he is not a man who oversells, "Loss of jobs? Sure there is a loss of jobs. It's a very serious problem. One of the ways we solve that is to improve our exports. . . . Will it cure all our problems?

"Of course not. Will it solve our balance-of-payments problems? Of course not. It's the first chapter in a long, long book called trade." And he says he needs their support, "given the strong protectionist climate." He ends with a little pep talk, saying that "we have a great habit in this country of looking at what's wrong, with the President, with the Congress, with your city government," but that "we need a little more look at what's right in this country." He says, "We have a job to do in this country, my friends. We've been lazy and we've been indolent," and he quotes Walter Lippmann on the necessity for sacrifice, and he calls for sacrifice, without which, he says, paraphrasing Lippmann, "there is nothing, but nothing, for America any longer." When he has concluded, he is presented with a New England Council tie, and he remarks, "I hope it looks better than Kennedy's tie." Kennedy and the audience laugh.

After Strauss holds a brief press conference, we are in a car on the way to the airport, to return to Washington. He comments that the luncheon crowd seemed attentive. He says, "It wasn't a very hot crowd, but they were attentive. I always listen to the cough level. There wasn't a cough in the crowd. I wish I'd had time to warm them up more. I didn't get enough time. They were running twenty-three minutes behind—they lost fifteen minutes in the serving. I watch that like a hawk." Strauss is nervous about making the plane, which is scheduled to depart at two-fifty. "I got to be at the White House at five o'clock." We're now in a traffic jam. Griffin, who is returning to Washington with us, assures the driver, Joe Lawless, that we can make it. Strauss says, "Good thing we had Paul Revere instead of you and old Joe. We'd all be British today." As we approach the airport, Griffin points out that we are near it now, and can actually see it. Strauss says slowly, "Those things between here and there are cars."

On the plane, Strauss becomes reflective for a moment. "You can go just so far being just a 'flippant politician.' It's almost a cover, being a politician—it serves you in good stead. I get by with a lot of murder playing a nonsubstantive person, who doesn't care about the issues. The heart of the matter is, I know more about the substance than most of the people I work with."

I ask Strauss to tell me some of his views on what makes for effectiveness in Washington.

He replies, "It's amazing how people go to the Hill with a problem—whether it's a piece of legislation they're for or whether it's a piece of legislation they're against. They go on their issue, cold. What I always do is to figure out what the bottom line is: How do you come up with a profit for the guy you're going to? You have to figure out what does he want, how does what you want help his constituents. It's damn rare you get something on the Hill without their getting something in return. The guy's got to see that it helps his constituents—or, at least, that it's a draw, that it doesn't hurt his constituents. His bottom line is how does it affect his constituents. I keep seeing people take things up there in a capsule—isolated from what's good or bad for a congressman, how does it play in his district, how does it play to his prejudices. We all have prejudices, preconceived notions. I know darn well that, as much as a congressman or a senator may like Bob Strauss personally, if I go up there with something detrimental to his district or his state I've got a problem. So I always try to show, number one, how minor the minus is—and it's never minor enough—and, number two, what are the offsetting gains for his area. Whenever I found a region that had to give up something on trade, we quickly looked up what we could come up with for it that would be a plus. If you look at this package when it gets up to the Hill, that's what it's going to have in it." He talks about a particular political problem he is having now on something called the "wine-gallon" issue, which has to do with the duties that are levied on imported liquors. In this instance, Strauss made a concession to the Europeans, and a large segment of the American liquor industry is upset. "Now, why did we give up on the wine-gallon issue?" he says. "The Europeans really wanted it and they were willing to pay." (The major concession was on agricultural products.) Strauss continues, "The bourbon industry will be hurt, so I'm trying to find a tax advantage for them. We've got the Heublein industries in Connecticut and the bourbon industry in Kentucky that are upset. Probably the tobacco industry in Kentucky is going to gain as much as any by this package. The package, first of all, has to be fair to those areas and, second, has to enable the people from those areas to support us."

Strauss eats the snack that is served on the plane, and says, "I don't eat before I speak. They say, 'Aren't you going to eat, Mr. Strauss?' I tell them I don't eat before I speak because it makes the blood rush to my head. They say, 'It makes the blood rush to your head?' I say, 'Yeah.' Now, how many people know much about that issue? It always works. I bet there are a hundred people before you speak makes the blood rush to your head.' It's better than hurting their feelings."

Strauss tells me about a group of economists, lawyers, lobbyists, and former congressmen which he has assembled to help him lobby for the trade bill. Among its members are Strauss's great friends Lloyd Hackler, president of the American Retail Federation and former aide to Senator Lloyd Bentsen, Democrat of Texas, and Robert Keefe, who has long worked in Democratic politics and is now a "government-affairs consultant;" Washington lawyers such as Berl Bernhard, Harry McPherson, and Thomas Boggs (son of the late Majority Leader of the House); former Representatives Wilbur Mills, who was, of course, chairman of the Ways and Means Committee, and Joe Waggoner, a conservative from Louisiana who served on the Ways and Means Committee; William Timmons, who worked in the White House in the Nixon and Ford Administrations and is a Washington lobbyist; Charls Walker, the lobbyist; and Robert McNeill, who is an official of a group representing multinational corporations. Typically, soon after Strauss formed the committee he leaked it to a Washington columnist, thus establishing for all to know that Strauss had assembled a powerful group to help him on the trade bill. He says to me now, "There never has been a group put together with the political sophistication and clout that that group has. It's gotten to be almost a prestige symbol to be in that group. People are bombarding us to get in." He continues, "Not many people know all those people well enough to ask them to help. I like the idea that I know them. It's a people thing. That's why Washington is my kind of town—it's a people town. The law is not a people profession. It's a tremendous asset to be able to make people comfortable with you. That's what I'm good at—the people thing. What I plan to do with that group is get them informed enough—this is a very complicated issue—so that they can talk to people on the Hill and so that every senator and every congressman has someone he can talk to on the trade package, in May, June, July, someone who can answer his questions, so he can vote for it. It's a tough vote. I don't want them to walk the plank for me. I want them to vote for it because they see it in their interest—and in the national interest."

Strauss continues, "Another thing that's important in Washington—everything that goes on in the streets of Washington comes in to us, comes in to me, comes in to Vera." Vera Murray is Strauss's executive assistant, and she served in the same capacity when Strauss was the chairman of the Democratic National Committee. When Straus got to the D.N.C., in March, 1970, Vera Murray was a relief receptionist; now she is an important person in Washington.

People know that if they can get a message to her it is as good as getting one to Strauss, and that she has her own channels of information and a great deal of wisdom. Between them, Strauss and Vera Murray talk to governors and ex-governors, senators and ex-senators, state party chairmen and ex-state party chairmen, to congressmen and reporters and congressional staff members and lobbyists and Washington lawyers. If some lieutenant governor he met years ago needs a hotel room for Mardi Gras, Strauss will get it. When it is announced that the President is going to make a speech, Strauss will get at least a dozen calls from people in Congress, from governors, saying that they hear the President is going to say such-and-such and don't let him do this or that. Strauss says, "I'm in a position to be a second-guesser. I take the complaints. I really run the complaint department. Unfortunately, I have no authority to give refunds."

Now Strauss tells me, "Very few people have as many agents out as we do. Bob Keefe knows more about what's going on in Washington than the next three people. Same thing with Lloyd Hackler. They're just like appendages. They bring in information that So-and-So is mad about this issue, and that they're going to try to move this piece of legislation or take on the President that way, or who's going to run against who; squabbles that take place within a state delegation. All this gets out in the streets in Washington, and it flows within a very carefully defined group of people, and pretty quickly it comes across my desk." There is reciprocity in Strauss's relationships, just as there is in so many in Washington. When Hackler's Retail Federation holds its annual meeting in Washington in early May, Strauss will host the dinner. Keefe's clients include some in Japan and a number in the United States, and it cannot hurt him to be known as Strauss's great friend. And not only has Strauss made himself a good source for the press but he has made some members of the press a good source for him. He places great value on knowing what goes on in "the streets" in Washington. When the Carter Administration was foundering after some months, Strauss talked about how the people in the White House should talk more to people who were "in the streets." Early in 1978, at his Watergate apartment, he held a meeting of White House aides—Hamilton Jordan and Jody Powell, the President's press secretary, and other political aides—and such people as Hackler, Keefe, McPherson, and Bernhard. "It was a funny meeting," one of the participants (from "the streets") told me. "Some people there were talking as if Lyndon Johnson were President and some were talking in terms of Jimmy Carter as President, so there were a lot of cross-cultural problems.

The idea was to get across to the Administration group that they ought to put more political thinking into what they were doing: one, to get across that they should, and, two, how to do it. I think we got further on the first point than on the second." One idea that came out of that meeting was that White House aides should hold the biweekly meetings they now do with people from "the streets"—lawyers, such as Robert Barnett and McPherson; and Hackler and Keefe. When I ask him about this, Strauss says, "I talk to all the participants, but I don't participate."

One of Strauss's friends says, "He's always telling the White House people to think about where they won the last election, and check whether they will have that base and what they can do politically and governmentally to protect that base and, hopefully, add to it."

Hamilton Jordan said to me, "He brings to bear the perspective of the traditional Democrats and people on the Hill. That's something we need." I'm told that Strauss bridges the world between the traditional party elements and the White House by giving the White House such advice and then saying, "Hell, you beat all those bastards, but you need them involved." Strauss will also pass along to the White House information he has picked up himself, or through his agents. Jordan says, "He goes to a dinner party and hears something, and he'll pass it on. He goes to the Hill and hears that the President did something well or something stupid, and he'll pass it on."

Jody Powell says, "He'll call you up and just chat, and make a suggestion or observation along the way. I find him persuasive but not heavy-handed. He's not going to insist on something. He realizes he comes at things from a different way of looking at them than we do. But he doesn't pretend he's playing a different sort of game. That's what makes him so appealing. When he's making a political argument, he doesn't cloak it with some rationalization. He knows more about a lot of the Democratic Party groups; he has a personal relation with a lot of them and is instinctively concerned with their interests." Powell says that Strauss will tell him that a certain reporter feels this way or that. "He'll say, 'I hear this reporter is extremely close to that politician—you'd better keep that in mind.' He knows what web of relationships, biases, and quirks that influences the way business gets done around Washington—and that we were in no position to know about, because we hadn't been around to see them."

Another man in the White House says, "Strauss will not be reticent about telling anyone around here when he thinks they've done something dumb, and we always take it well, because it usually is dumb and he always does it with humor."

After a certain Carter appointee, of whom Strauss had disapproved in the first place, denounced the President publicly, Strauss called Hamilton Jordan and said he thought that Jordan, Strauss, and the President ought to get together. Jordan asked him why. Straus said, "Now that X has been appointed to the Y and has denounced the President, I think he should get a really big job." Strauss, who had taken pains to reestablish the Democratic Party's ties to businessmen after the 1972 election, brought important people into the White House for meetings, and that was good for the President—and good for Strauss. Strauss will warn people at the White House of impending trouble. It was he, I have been told by Powell, who got through to them that they had to deal with Billy Carter's seemingly anti-Semitic behavior earlier this year. And thus there appeared in the newspapers stories saying that the President had told Robert Strauss that he was "terribly concerned with the whole situation of Billy." The stories went on to say that the President had said, "You know, Bob, I just totally disassociated myself from his comments."

White House officials call Strauss in to help them get votes on a piece of legislation that is causing them difficulty. I ask him on the plane what he did, for example, to help get Senate approval last year for the Panama Canal treaties—which the White House succeeding in getting by a very narrow margin.

"I got votes," he replies. "It had nothing to do with the issue. I just cold-bloodedly got votes."

I ask how.

"By using all the skill I had, pulling out all the due bills I had. Yessir, I got votes. Just like on the energy bill, I got votes, a lot of votes. I always described the energy bill as a C-minus bill all the time I was trying to get votes on it, and I was right. That's all it was. But that was all we could get."

People in the White House say that Strauss was particularly effective with the various groups that were brought into the White House to be lobbied on the energy bill, though some White House aides would have preferred that he not describe it as a C-minus bill. Strauss called in some members of his network to help out the Panama Canal vote. He lobbied Democratic governors. He knew that Senator Henry Bellmon, a Republican of Oklahoma, owed Lloyd Bentsen a favor, and he made use of that sort of intelligence. (Bellmon voted in favor of the Panama Canal treaties.) Strauss was among those who did things to try to help Paul Hatfield, a Democrat who had recently been appointed to a Senate seat from Montana, in his effort to win the nomination for that seat, in order to get his vote for the treaties. Hatfield lost, but he supported the treaties. Strauss did fail to "deliver" the vote of Wendell Ford, Democrat of Kentucky, whom he is particularly close to. Strauss is said by his friends to have helped in the handling of Senate Minority Leader Howard Baker and to have soothed Majority Leader Robert Byrd when he grew unhappy with the White House in the course of the Panama Canal effort, and he helped secure the vote of Russell Long for the treaties.

Someone who observed much of this says, "He would say, 'O.K., here's a guy you've got trouble with. What can you do?' Strauss could deal with business interests, could generate their concern about keeping the Canal open. He could point out to the grain people and the oil people that Panama meant a lot to them, that they needed that shipping route. He talked to businesses that invest in Latin America."

All of this is not to say that Strauss and the Carter White House have a blissful relationship. Strauss can be quite critical of members of the White House staff, particularly of what he sees as their political naïveté—and they must know this—and some of them resent his penchant for taking credit. He will occasionally let it be known that Carter sometimes makes it difficult to drum up support for him. When Carter was shuttling around the Middle East in March, Strauss told a group of reporters—on the record—at a breakfast, "I think he'd better come right back and sit down and figure out how to make something cost less." Occasionally when Strauss does some interesting chore for the White House, he will let it be known—ostensibly in the most confidential manner ("Here's a real cute story. Now, I don't want you to print this")—until it makes its way into print. Some are amused at the way he sometimes exaggerates his role. Some will point out that, while he will make an argument within the White House circles about which way things should go, he will be alert to which way they are going. One man in the White House, who definitely likes Strauss, and who takes a relaxed view of all this, said to me recently, with amusement, "Strauss has three predictable flaws: one, he's never kept a secret beyond the first edition of the Washington Post as far as anyone can tell; two, he'll give a background briefing when he's not clear on the facts and it takes a day to tidy up; three, he'll always arrive where the victory is—if he hears there's a success coming up, he'll be the first to arrive and claim credit for it. But it's a good deal for us. He knows how to put things together. He's a good bargainer around here. And he's got more contacts than anyone." It was Strauss's contacts in the steel industry that helped the Administration get a settlement of the coal strike last year. The settlement was inflationary, and disturbed some of the Administration's economists, but a White House man has told me that the White House wanted the settlement and that Strauss is not to be blamed for its cost. Nevertheless, one Administration official suggests that if the President does everything Strauss suggests that he do in order to get reëlected, the result may be so inflationary that Carter will be defeated.

The fact that Strauss has a good relationship at all with the Carter White House is remarkable, considering where the various parties began. Jimmy Carter certainly was not Robert Strauss's choice to be the Party's candidate in 1976, and Carter and the people around him knew that. Strauss's first allegiance was to Henry Jackson—and Carter—and the people around him knew that, too—who had helped make him chairman of the Party, and then to Hubert Humphrey and Lloyd Bentsen and almost anyone but Jimmy Carter. Strauss did represent those elements of the Party that Carter was running against. Strauss had selected Carter to run the Party's congressional effort in 1974—which Carter, for his own reasons, had wanted to do—and later, when Carter began to do well in the early primary period, Strauss wondered what he had wrought. Early in 1976, he was involved in getting expression of distaste for Carter from Democratic governors, who were meeting in Washington and among whom Carter, the former governor of Georgia, was quite unpopular, but essentially he was neutral in deed. For some time in 1976, Strauss apparently believed—he told a number of people—that the Democrats would hold a brokered Convention, that the nomination would be settled in a room. He talked about how that room would have in it representatives of all segments of the Democratic Party. This dispelled the idea of a "smoke-filled room" and encouraged a number of people, who were led to believe they would be in that room, to cooperate with Strauss.

Then things changed. After the Pennsylvania primary, in late April, when it was clear that Jackson was out of the picture and it seemed clear that Carter would be the nominee, Strauss discouraged Hubert Humphrey from entering the race for the nomination. In several conversations with both Humphrey and Humphrey's wife on the eve of his decision, Strauss argued that Humphrey would be seen as a "spoiler," that he could not get nominated, and that his entry at that point would hurt him, hurt Carter, and hurt the Party. Strauss had decided that he wanted his legacy to the Party to be a unified Convention—as compared with the fractious one held in Miami four years earlier. From that point on, he did a number of things to help Carter. After Humphrey announced that he would not enter the New Jersey primary—the last one he could enter—Strauss had people called who were holding blocks of uncommitted delegates, to urge them to get in line behind Carter. And he revelled in the fact that he produced a harmonious Convention.

He was delighted that Carter's acceptance speech began at ten-thirty-eight and eleven seconds; he had been determined that his Convention's nominee would go on as close to ten-thirty as possible. In 1972, George McGovern gave his acceptance speech shortly before three in the morning. Vice-President Mondale recalls that Strauss came into the room where he was waiting to give his own acceptance speech, and said, "Fritz, I'm going to tell you something that's going to shock you. Nobody's going to listen to you out there. That might upset you, but those TV cameras are going to be on you, and the TV audience won't know nobody is listening to you, so you get all excited and just pour it on."

Though some in the Carter entourage were opposed to the idea, Carter asked Strauss to remain as chairman for the course of the campaign. (Ordinarily, a nominee selects a new chairman.) Hamilton Jordan explained to people at the time that it was a marriage of convenience—that Strauss knew people they didn't know, and things they didn't know and didn't have time to learn. But Strauss was not at the center of the Carter Presidential campaign, and from time to time he let reporters know that he thought the Carter people were not doing a very good job. After the campaign, Strauss was not offered a job in the Administration, and he made a big point of saying that he did not want one, which convinced a numer of people that he did. He returned to the practice of law, in the Washington office of his Dallas law firm (the office had been opened in 1971 with two lawyers and now has a total of sixty-two lawyers), and, by all accounts, quickly became bored. The new Carter Administration ran into a problem in filling the job of special trade representative—various candidates were unacceptable to one important group or another—until it hit on the idea of appointing Strauss, which it did in March of 1977. Strauss has spoken of how he had to be talked into taking the job, but there is evidence that he was interested and ready. Once he became a part of the Administration, he became more and more a part of it. I recently asked Jody Powell how Strauss had ended up being on the inside. He replied, "By sort of having something that we needed and being there when we needed it."

One the plane back to Washington from Boston, I ask Strauss why he ran for the chairmanship of the Democratic National Committee, which promised to be a difficult job at best.

"I don't know," he replies. "I suppose I was offended by the way I was treated at the '72 Convention. You got to remember I raised all the money to put that thing on; I made it possible to put that thing on. All of a sudden, I woke up and I had no role. I got treated like a step child. That was a little contrary to anything that had happened to me in my whole life. Helen was offended, too." According to others, he was simply shunted aside by the people around George McGovern, who became the Party nominee, and by the people around Lawrence O'Brien, who was then the Party chairman. Strauss continues, "I remember when we flew out of there I said, 'Helen, I'll never be as vulnerable again. I've learned a lot. I'm going to take that thing over and show those ——— a thing or two.' I was mad, and I wanted to get even. Even more than I wanted to put the Democratic Party back together again, I wanted to show those ———. That may not have been the best motivation, but that was it. The next Convention I went to was in New York in '76, and I assure you I wasn't vulnerable."

After the 1972 Convention, Strauss volunteered to help the Senate and House Democratic campaign committees; he raised a good deal of money for them, and took Carl Albert, then the Speaker of the House, and Mike Mansfield, then the Senate Majority Leader, all over the country for appearances. The congressional leaders were worried about the outlook for their party that fall. As a result of his work, Strauss created congressional support for his effort to become chairman of the Party and also for his activities as chairman.

In our conversation on the plane, Strauss continues, "After the Convention, I still might have backed out of running for the chairmanship. I was doing the Democratic congressional-reelection thing; I was getting some mentions as chairman, and I was encouraging that. And then they started planting some stories about this 'right-wing ———' who wanted to take over the Party. I remember having dinner with Helen and Vera, and I say, 'The only way to get out of this is to win our way out,' and Helen said, 'Here we go again,' and we won our way out." Bob Keefe and some others ran the Strauss-for-chairman campaign out of Henry Jackson's office. (Keefe later served as an assistant to Strauss at the D.N.C.) Jackson was part of a group that came out of the '72 Convention determined that after the election, which McGovern was expected to lose, they would put the Party back together. Others in the group were labor leaders, governers, and other people who had backed Humphrey or Edmund Muskie. Strauss was also part of the group, and though apparently he did not begin as Jackson's candidate, the group finally settled on him as the man most eager for the job and most likely to be able to win it.

Strauss remembers getting a phone call from Averell Harriman offering his help. "Then Tip O'Neill came out for me and Mike Mansfield came out for me, and all of a sudden the 'right-wing Texan' had a liberal constituency."

Strauss's triumph of winning the chairmanship in December of 1972 was a narrow one, but then Strauss, being Strauss, made the most of it—more of it than most other people would have been able to. First, characteristically, he made a number of moves to show that despite his narrow victory he was in charge. Through carefully calibrated appointments to the Party's Executive Committee, he appeased elements of the liberal wing which had opposed his selection. Over the next four years, the great majority of the votes in the Executive Committee, which included representatives of all elements of the Party from very liberal reformers to conservative labor anti-reformers, were unanimous. One person who observed Strauss during that period recalls, "Everyone got taken care of; everyone had a stake in the compromises. It's a great skill. Strauss never dealt with a discrete matter—he'd always deal with a package. He'd say, 'You want A? I'll go with you on A, but you have to support me on B and C. It's a deal? O.K., it's a deal. Next case, Judge.'" One time that this technique failed was at the Party's first midterm conference, in Kansas City in 1974, when the Black Caucus refused to buy his deal on new rules on affirmative action. Finally, after the conference threatened to come apart—a prospect that upset Strauss very much—and the proceedings hard to be recessed for a while, Strauss, with important help from some of the governors, got it worked out. Some Party reformers say that Strauss turned out to be an ideal chairman for them, because he was so anxious to establish his credentials with them and so desperate for "unity." And he was flexible. The reformers say that if they screamed loud enough Strauss would move in their direction just to shut them up. Like as not, if he saw himself losing a battle he would manage to end up with the winners. One of the reformers says, "We were almost always on opposite sides. He never rubbed it in if he won, and if he lost he immediately adopted the winning position and went on from there. Sometimes he would jump to the other side with the greatest alacrity I ever saw. I admired him a great deal." In the end, the rules were not changed so substantially from those that obtained at the '72 Convention as to upset the reformers but were changed enough to pacify labor and other Party regulars.

Some say that the Party was ready to be united after the bruising period between 1968, when it divided over the war, and 1972. But the divisions of that period carried over—divisions over who was where on the war when, divisions over the symbols, and sometimes the realities, of the reform rules. Strauss played off the reformers against the opponents of reform (who had helped put him in office and at times considered him a traitor), and accomplished what he had his heart set on accomplishing: he delivered a united party to the nominee in 1976. One person who went through those battles says, "He had no beliefs, at least within the world in which he was negotiating. He was utterly pragmatic." Another says, "I don't know if he has an ideology." It is also true that it took a certain kind of person to deal with the illusions, the postures, the symbols, and the mythology—that there are all sorts of people who cannot deal with such things. Someone caught up in symbols—or ideology—could not do it. It took a certain kind of negotiator. When I asked Barbara Mikulski about some people's assertion that Strauss has no beliefs, she said, "I don't accept that. I think he always operates from a very firm base of what he wants to achieve. In terms of the Democratic Party, it was to rebuild a coalition and elect a Democratic President. If he had to do a lot of ballet dancing to keep us happy, so be it. If he thought we were screwing that up, he'd resist. I'm a firm believer in openness, affirmative action, process, and all that, but process is not an end in itself. There are some people who would still be caucusing in Iowa. He thought it was more important to elect a Democratic President than to please any particular constituency. That was his value. It's the same thing with trade. There are those of us who are concerned about steel, or about textiles. He's trying to get the best deal for the United States of America. For him, it is not a game. He relishes the game and the wheeling and dealing, like a lot of us do, but deep down he's got a sense of what's best for the country and for the Party. When you take him out of his fancy suits, he's an old-fashioned Democrat."

When we reach the airport terminal in Washington, Nat Brannum, Strauss's driver, is holding the receiver of a pay telephone and hands it to Strauss. "They don't wait a minute, do they?" Strauss says. It is his office, with some messages.

As soon as he gets in his car, he places a phone call to Robert Byrd. "Hi, how *you*, Robert?" Strauss says. "I missed you yesterday. How'd you do with Ushiba? I hit him hard. He was supposed to give you a little more coal. Did he give you more coal?" This presumably means that Strauss was pressing Nobuhiko Ushiba, the Japanese trade negotiator, to agree to import more coal from the United States; coal is, of course, mined in Byrd's state, West Virginia. Strauss continues, "I want to talk to you Monday or Tuesday. We've got the Foreign Minister coming in. The problem is that those concerns are buying cheaper coal in Australia. That's what makes it difficult for you, Bob. Did he offer you just a little more coal this year than last year? That's what he said he'd do. I told him it wouldn't be enough to satisfy you. I want to keep it outside the trade talks, and there's a way to do it. I know how. We'll talk about it. All right, my friend."

He hangs up, and says, "That's the next one. They're going to create problems for me. They'll get the coal states mad and next the steel states." He urges Brannum to hurry, so that he can get to his office and then the White House.

Some time later, Strauss and I have dinner in Washington. (Helen Strauss is in Texas for a wedding.) As we enter the restaurant, where Strauss dines frequently, the maitre d' starts joking with Strauss, and after a few minutes Strauss cracks, "Show me a table, will you? If I'd wanted humor, I'd have gone to the Catskills." Strauss tells me that when he went to the race track recently, with Brannum, about four people came up and introduced themselves to him. He tells me that the fourth one said, "This must drive you crazy," and that he gave the old reply, "Yes, but about a third as crazy as when they stop coming up." Strauss has talked frequently about how he planned to leave the government after he got the trade bill through, and it seems that, as usual, there were several purposes in saying what he did: to try to convince others that there was no job he coveted, and that he was independent; to try to convince himself that he really wanted to leave. Just about everyone who knows him well thinks that he would be miserable if he were very far removed from the excitement, and that what he would like most is a new challenge. Strauss has said he told the President that he planned to leave and that he could help Carter more with his reelection from the outside.

Which is not to say that he was not helping from the inside. Or that he really wanted to leave. Strauss orders a vodka Martini—he also had one, as he usually does, before he went out—and tells me that he spoke with Vice-President Mondale earlier this evening. "It was about a political problem we had in a certain state concerning an appointment," he says. "Mondale can play that role, too. Mondale and I don't have to talk to each other forever; Mondale and I talk in shorthand. I'm a Texas conservative and he's a Minnesota liberal, but on matters like this we agree completely. And it's nice to have a man like Arnie Miller, who's in charge of personnel at the White House, that I can call and say, 'I've got this problem. Can you help me?' Miller's smart enough to know when a problem's coming up and get it treated. Political problems aren't cured, the way people think they are; they're treated and contained until you can get back and cure them over a period of time. A lot of people make the mistake of trying to cure a political problem right away. If you appoint someone that the governor or senator from his state despises, you don't cure it; you treat it and contain it for a few minutes, and you cure it over a period of months and years."

I ask Strauss how he keeps in his head all the political data that he draws upon.

"I don't keep track of it all," he replies. "I don't know what I know. I have a pretty good encyclopedia of America, but I couldn't recite it. If you mention a town to me, I know who the mayor or the sheriff or the commissioner is, and whether he is reliable or unreliable. If you ask me to write what I know, I could maybe fill a page. But if you ask me a hundred questions, I could tell you the answers. I could tell you who matters where and what he's like. When you mention Gary, Indiana, or Newark, New Jersey, I've got a recall on it. I haven't paid any attention to Ohio politics in over two years—haven't thought about it—but when I spoke at a state dinner in Columbus recently I was shocked at how quickly it all came back. I was amazed at how many people I knew. Something may come up and I may say, 'Let's do something for So-and-So.' I may say to Vera, 'Vera, the next state dinner, let's try to get So-and-So invited.' Or someone might not get some appointment, and I might say, 'When something else comes up, that's something So-and-So might get appointed to.' Or Bob Keefe or Loyd Hackler might say So-and-So is hurt, and then I'll call Eleanor"—Eleanor Connors, Hamilton Jordan's executive assistant—"and say, 'Why don't you have Hamilton call?' Or Eleanor may call Vera and say, 'Why doesn't Strauss call So-and-So?' Hamilton and Eleanor and Vera and I are four people who work together very closely."

Strauss also spends a great deal of time talking to Stuart Eizenstat, the President's assistant for domestic affairs. Strauss is aware that Eizenstat is likely to have a strong impact on the President's substantive decisions on domestic policy, and also that Eizenstat, like Strauss and like Mondale, believes that the President must work to maintain a base among the constituent groups of the Democratic Party. Strauss says, "Stu and I talk about everything from taxes to energy to sugar. We talk about everything—everything. Try to keep in mind that there's a tremendous amount of stuff that comes over my transom that maybe ought to be brought to his attention. Stu is the best I've ever known for his age and weight. If I say that to him, I also say, 'And you're pretty young, and you don't weigh much, Stu.'" Strauss makes a point of praising others; he knows that, as he says, it "gets around" that he's doing so. He continues, "Stu Eizenstat and his staff now understand that sugar is politics, not sugar—that it's steeped in politics, that it affects the chairman of the Senate Finance Committee and it affects the chairman of the Senate Foreign Relations Committee." Both Russell Long and Frank Church, Democrat of Idaho, who is the chairman of the Foreign Relations Committee, represent states where sugar is grown. "In a town like this, you have to find out what *their* business is, what they want out of the way—not what you want out of the way. Then you piggy-back your business on top of theirs. Just remember that Frank Church is chairman of the Senate Foreign Relations Commitee and the Administration has a lot on his committee's plate and Frank Church is up for reelection in 1980 and his interest is in seeing that his constituents' interests are properly represented. You have two very powerful chairmen interested in sugar, and properly interested, I might say. They represent their constituents very well."

I ask him about the period in which he was in charge of the anti-inflation program.

There is a long silence, and then he shakes his head sorrowfully. It clearly is not something he chooses to remember or talk about. Not only was he strained just about to his limits—he looked ashen during much of that period—but also it was not one of his triumphs (a failure in which he has company). Finally, he tells me about how the President in April of last year asked him, while he was in Europe working on the trade negotiations, to take on the inflation problem until the Administration could get a program in place. There was no program at the time, and the President apparently thought that it would be reassuring to businessmen if he announced that Strauss was in charge of fighting inflation. Now Strauss says, "I travelled the country with little more than a smile and a shoeshine. I didn't have a program." Alfred Kahn, who was put in charge of the new wage-and-price program last October, has said sympathetically, "His program was to pick up the phone and swear—and he was very good at it." Strauss continues, "We did pretty good."

We didn't solve inflation, obviously, but we did alert the country. Finally, they got a program and they got Alfred Kahn in there. He's the kind of fellow they need. I felt guilty about talking him into it. The President didn't ask me to work on the inflation thing but for a few months. I was in there as a holding action until the President got a program and a person."

The conversation turns to Strauss's position in Washington.

"I have power in this town for four reasons," he says. "One, there are people on the Hill who I'll go out of my way to help and they'll go out of their way to help me. Two, I have power in this town because I have the kind of relationships I have with the Bob Keefes and the Lloyd Hacklers and the Harry McPhersons. There, I have power in this town because I have a base in Texas. People in government and politics forget—you got to keep your base. If you lose that base, every son of a gun thinks he can knock you over. You can get blown away. I keep my base in Texas. I got my friends there, I like them and they like me. Four, I have power in this town because people think I'm close to the President. They think I see him all the time. I don't see him that much, but people think I do, and that gives me power. People think I'm closer to the President than I am. They think I talk to him every two, three days. It's not my fault that people think that." But Strauss doesn't strain to dispel any such impression.

Strauss may in fact be as close to the President as anyone who has not been around Carter for many years can be, and that is in part because he has proved his loyalty, and in part because it is recognized that he brings a certain practical wisdom to the White House, and in part because the President, who does not have many friends and does not give the impression that he enjoys the company of many people other than his wife, enjoys Strauss. The President has an earthy streak that Strauss appeals to. A joking relationship has developed between them: Carter once gave Strauss a blown-up picture of Strauss's mother-in-law, and Strauss, at a Cabinet meeting, once presented Carter with a blown-up picture of Carter with a fly on his nose; subsequently, Carter presented Strauss with what purported to be a credit card of a place in Europe with a shady reputation, and suggested that Strauss must have lost it during his travels there. Strauss even kids Rosalynn Carter—about her figure (which is good) and about her husband, and one cannot imagine anyone else with the nerve to do this. Or the wisdom: Strauss understands that these people are virtually trapped in their public roles, and need some humor and human contact in their lives. By giving them that sort of contact he gives them pleasure—and makes himself welcome.

The President is said to seem pleased when Strauss comes into a room. The Carters very rarely go out socially, but the world knew that in the first year Carter was in office they and their daughter, Amy, went to the Strausses' Watergate apartment for a dinner of barbecued shrimp. Strauss persuaded the President to go for dinner one night last year with him, Byrd, and O'Neill at Paul Young's, a restaurant where a number of political people hang out. (O'Neill didn't show up; he was under the impression that the dinner was scheduled for the following night.) One White House aid says, "Strauss is the only one who could get Carter to do that." After the recent lunch that Carter attended at Strauss's home in Dallas, a White House aide remarked to Strauss, in the presence of a number of White House aides, that it was a good thing he didn't have yet another home to arrange a Presidential visit to. Strauss replied, at once, "Listen, you squirt, Carter's only the third most popular President I've had in my home."

Strauss gets people's number—figures out what is important to them, to their lives. His interest seems genuine enough, and probably is—there is a real humanity and compassion about the man—and it leaves people with a good feeling about Bob Strauss. In a city where so many personal transactions are impersonal, where there is a good deal of abrasion in daily life, where so many people are simply manipulative, Strauss is both manipulative and kind; he establishes human contact.

After talking about something else for a while, Strauss suddenly says, "When you start as low as I did, you don't realize where you've come to."

I ask him to tell me more about that.

He grows reflective, and says, "You play your hand; that's what I always say."

He tells me that he was born in Lockhart, a small town in south Texas, and that when he was eight his family moved to Stamford, in west Texas. He goes on, "My father was a musician—a pianist—and he spoke three or four languages. As a matter of fact, he played every instrument there was. He was a cultivated man—impoverished and cultivated both. He would have been a successful musician; he wasn't a successful businessman. He ended up with a little drygoods store in a town of two, three thousand people in west Texas. My mother was strong and had drive and ran the business and made a good living for us. My father liked books and music. My mother got up and worked in the store all day and came home and fixed supper at night." He continues, "After I got through high school, I went to the University of Texas."

I ask him what happened to him there.

He replies, "Not many things happened to me at the University of Texas. I discovered I was Jewish, which meant that you were ostracized from certain things. That wasn't the case in the town where I grew up, because it was so small. I'd have been elected president of the Baptist Young People's Union if the local Baptist minister hadn't thought it was a bum idea because I didn't belong to the church.

"Later on, I also discovered I could compete with people, which is a very important discovery. I really learned I could compete when I got in the F.B.I. It's a very important thing to learn you can compete. After college and before I joined the F.B.I., I went to law school. My mother thought the way for me to get out of that store was to be a lawyer. She always thought I could have a public career, and she thought the law was the way to get at it. She was determined that I do that. She dreamed dreams for her son, the way every mother does. She knew you had to bottom your dreams on something, and she thought the law was something to bottom them on." Strauss has one brother, who is a successful banker in Dallas and is leading an effort to make Dallas the site of the 1980 Democratic Convention. "The truth of the matter is, everybody in my law-school class applied for the F.B.I. In those days, the F.B.I. got the cream out of the universities. That was just before the Second World War—June of 1941. It was a way of not getting drafted. There were people with much better records than I had, but the interviews were important, and I interviewed well. I didn't do very well in the F.B.I.—I wasn't a very spectacular fellow. I was all over the country—in Iowa, Ohio, Washington, Texas. I was lazy, a bit shiftless, but I had enough confidence, or whatever it took, to get along. I was about a C-plus—that's an overstatement. After I left the F.B.I., after four years, I became successful. The truth of the matter is, I've been successful. I love the fact that I'm rich. I've earned it, honorably. I built a good law firm. I built a good bank. I had a measure of success in other economic matters. I started in politics by handing out circulars for politicians when I was nineteen, in college, and ended up being chairman of the Party." (One of the first politicians Strauss handed out circulars for was Lyndon Johnson, who was conducting his first campaign for Congress.)

Something else that happened to Strauss at the University of Texas was that he met John Connally, and later, as Connally rose in Texas politics, so did Strauss. When Connally became governor, Strauss was appointed to the state banking board, on which he served for six years, and then he became national committeeman from the state, and was on his way, playing his hand. Strauss continues, "The Party had an almost nine-and-a-half-million-dollar debt when I took over as treasurer and a debt of less than three million when I left that job, and I cut that debt down further when I was chairman. Helen and I have worked hard, and we've been successful. God damn, I do have a lot of fun. I'm one lucky sonofabitch."

We talk about the fact that Strauss will attend some fund-raisers in Washington next week. He attends about six to eight a week when fund-raisers are in season. I have been told by others that the knowledge that Strauss will be present at such affairs helps draw the lobbyists and lawyers who have access to campaign contributions and seek access to power. By turning up, Strauss earns the gratitude of the politician who is seeking to raise money. (On occasion, he holds a fundraiser himself, at his Watergate apartment. He held one last year for Robert Krueger—to which the President came—and he is planning to hold one soon for a Democratic senator who is up for reelection in 1980.) "The things you earn on the Hill are not free, you know," he says. "You earn them. The reason I can get some things done up there isn't because of my personality; it's because I worry about their business. A personality will carry you only so far. You have to deliver. If you can show the average person in Congress how he can vote right—no way in the world an average member of the House and Senate can know what the issue is all the time, they're so torn apart—they'll go with you. No way in the world they can know what the issue is. If you can show them where the national interest is, they want to be on that side. If it's going to cost them reelection, they shouldn't vote that way. Nobody does anything just to do it for me. I've had some awfully good friends turn me down on things I've asked for. Maybe somebody else could go up there and get a lot more votes by making an intellectual presentation of the case. But if I have any unique ability it's that I know how to present a case in a way that makes it possible for members to vote the way I want them to, and is a way that they would want to vote. Most of those guys don't expect you to get them to Heaven on a tough issue; they just want you to keep them from going to Hell. If you can show them how to vote the right way and stay alive, that's all they want. That's what people don't understand: they'll make the right vote if you show them how to do it without getting defeated. They correctly say, 'If I get defeated on this issue, I won't be around to vote on other issues.' The truth of the matter is that every Cabinet officer is up there on what he thinks is the most important issue, and the senator or congressman is looking at ten other issues. Just because I think my trade issue is the most important issue in the world doesn't mean that it is. It's a watershed vote to me. It's not to a congressman, and he's not going to make it and he shouldn't make it if it's going to cost him his job.

"If SALT is important, and I think it is, if hospital-cost containment is important, and I think it is, and if the trade bill is important, and I think it is, then a President is entitled to take certain steps to keep enough political muscle to do these other things. The press doesn't write about that. They say he did these things as political acts, and that's where they're right, but they don't go on to say he did it for the larger goals. That's where the press is wrong, and that's where the Administration has failed—in explaining the over-all political context, that they did certain things for the good of the country. You'd say, 'You did this for clothespins and this for textiles,' and you're goddam right. The way you get the canoe to shore is you feed the sharks a little this and a little that until you get to shore."

At three o'clock on a Tuesday afternoon in early April, Strauss is talking to a group of about sixty California bankers in the family movie theatre in the East Wing of the White House. He stands at the front of the room, which has pale-green walls and pale-green drapes; the bankers are seated in rows of chairs. Already today, he has addressed representatives of the Kansas Farm Bureau (at 7:30 a.m.), testified before the Senate Small Business Committee's Subcommittee on Government Procurement, spoken to a luncheon of the National Democratic Club (which is made up largely of congressional Democrats and lobbyists), had his picture taken with a congressman from Louisiana, and attended a session of the Ways and Means Committee's Trade Subcommittee on the M.T.N. Before Strauss began to speak, he told me that he was very tired, that he had a lot on his mind, that he had had a long talk with the President yesterday after a Cabinet meeting, and that the trade negotiations in Europe were near-multilateral negotiations to be concluded shortly, and he had been up most of the night talking to negotiators in Europe, and thinking and worrying.

Now Strauss points out to the bankers that he has followed Mondale and Kahn in appearing before them: "You see, we're improving the quality as we go along." The bankers laugh. He tells them, "I'm just in the final hours, maybe minutes, as to whether they'e going to accept our package in Europe. They're asking for changes. We've been negotiating back and forth and back and forth, and there comes a time when you make a deal or you don't. Sometimes in this country, we reach too far to make a deal. I can tell you we're not going to reach too far. You don't get something without giving something. I'm no genius, and neither are you." He is talking somberly and seems preoccupied and he rambles, but he remembers that his purpose here is to persuade these bankers that his trade package is a good one. He talks about his "excellent staff." He says, establishing his credentials once again, "I bring some different skills: I've been a bit of a businessman, a bit of a banker; I've been a lawyer, a politician. I've been dealing with the Congress and I've been having a hell of a time."

The group laughs, and Strauss changes his tone. "The narrowness of the Congress has to do with you fellows—you complain all the time and put those poor devils under terrible pressure." And then he seems to realize how far he has gone, and he says, "I'm going to talk straight to you, whether you like it or not. I'm tired. I worked until three last night and sneezed from three to four, for some reason. I'm rambling a bit because I've a lot on my mind." He tells them the Christian Herter story and says, "Having lived with the Congress and having lived with the international community and having lived with the business community and the farming community, I have some experience. What are we really about? Well, we're really trying to write for the first time a set of rules to guide the game of trade." And he explains the new codes that the negotiators are writing. He mentions citrus ("from your state") and says that the negotiators are trying to write a new code covering subsidies, so that California crops "don't have to compete with an orange or an almond that comes into a country from a third country and has been subsidized." He talks about the new government procurement rules. "I'm catching hell because we're opening a little bit of our markets up, but in return we're getting the opportunity to bid on twenty billion dollars' worth of foreign-government purchases. We have a thirty-billion-dollar trade deficit in this country. Now, that shouldn't be. This country has the know-how. This country has the technological capacity. We've been lazy. My gosh, I'll bet there are one thousand two hundred and fifty Japanese people in New York today knocking on doors and selling products, and they can speak English as good as you. And I'll bet there aren't but thirty Americans over there in Japan and there aren't but two of them who can speak Japanese."

He tells them about his schedule today and then he says, "Hell, if you want to be in style, take a kick at the President—it's cheap, it's easy, but it's a ——— outrage. Is President Carter perfect? Nyuh. He's made mistakes and he's going to make more mistakes. The trade package is going to be good. One reason it's going to be good is that I'm negotiating it." The group laughs. Strauss continues, "Another reason it's going to be good is that Carter's fought for it and he's taken political scars for it." He talks a bit more about the trade bill, and then he says, "The problem is people on the Hill only hear from the naysayers. Is the trade bill A-plus? No. It's B-plus. But if it doesn't get support it's going down the drain, and it's your own ——— fault. There is enough political influence in this room right now to contact every member of the California delegation and tell them to be for this. If you care enough to come here, you ought to get off your duffs. If you don't care enough to do that, then you're not worth a tinker's damn. I'm tired of businessmen who do nothing but complain." Now he's getting worked up. "There are people who complain about the President and about everything." Pause. Silence. "And, I'll tell you, they also complain about bankers." The bankers laugh and applaud.

Strauss concludes, and then takes a few questions. The first is about what he thinks of California Governor Jerry Brown's Presidential prospects in 1980. Strauss explains that he had a very cordial relationship with Brown in the course of 1976, and then he says, "I think he's going to run. I think he's going to be defeated. That's all she wrote." Through his answers to questions, he explains that the European government he is negotiating with have political problems, too. He says, "We needed a wheat agreement, but I couldn't get the right kind of bottom on that agreement, so I left it on the table. Sometimes it's harder not to take a deal than to take it." He tells the bankers about the problems with the Japanese and telecommunications equipment, and uses his line again about the steel telephone poles.

As he is talking, a telephone in the room rings, and Strauss remarks to an aide, "If that's for me, I'll take it." The group laughs. But it is for him, and Strauss gets on a white phone in the front of the room, saying to the audience, "Y'all make a little noise while I take this." He ducks behind a curtain and talks on the phone. After a few minutes, he comes back out with the phone still in his hands and turns to the bankers and, trying to get rid of them, waves goodbye and says, "Thanks a lot, good to see you," and they take the hint and leave the room. Now Strauss shouts into the phone, "If it blows today, we're in big trouble. You get it, Stevie—you make those ——— stay and make a deal." "Stevie" is Viscount Etienne Davignon, who is in charge of the E.C.'s industrial policy; he is talking to Strauss from Luxembourg. After Strauss hangs up, he says to me, "They're still negotiating. Somebody always chokes in these things."

We return to Strauss's office. Strauss talks to some staff members about where the negotiations stand; returns a call to Frank Moore, the White House assistant for congressional liaison; makes plans to attend the Kentucky Derby in May; calls Theodore Brophy, the chairman of the board of General Telephone & Electronics (from whom he received a letter today commending him for his position in the negotiations with the Japanese on telecommunications equipment. Strauss tells him, "You made my day," and after he completes the call he tells Vera Murray, "He's going to come see me." He meets with Lee Kling, a St. Louis banker, who attended the meeting at the White House and was finance chairman of the Democratic National Committee when Strauss was chairman, and is now involved in fund-raising for Democrats. He meets with some staff members about a problem on the wine-gallon issue which came up in his meeting with the Ways and Means Trade Subcommittee this afternoon.

All the while, Vera Murray, a remarkably calm woman, is taking calls (they are screened by two other aides before they get to her) from people who have urgent messages for Strauss about the wine-gallon issue, about Presidential politics, about the trade bill; who want appointments with Strauss; who want to arrange a White House tour for someone. She places a call to a congressman whose help Strauss is seeking on the wine-gallon issue, and sees to it that a certain memo gets delivered to the White House. An aide gives her a memo for Strauss about cheese, so that Strauss can talk to Gaylord Nelson about the matter sometime before the Finance Committee meets tomorrow Strauss is still working on the Krueger question; now it has been decided that the present Ambassador to Mexico will remain there, and Strauss is pushing Krueger for a position that is to be created—Ambassador-at-Large for U.S.-Mexican relations.

Vera Murray tells me that Strauss—she refers to him as "Strauss"—has already spoken to about forty people on the phone today. She says that he gets from seventy-five to a hundred "legitimate" calls a day, that he tries to return every call before he leaves the office, and that if he cannot he takes the remaining message slips with him and makes the calls from his car or his home. She says that he insists that calls be returned within a day and that mail be answered in three days.

Now it is nearly six o'clock, and Strauss talks on the phone to an old friend from Texas, which relaxes him. Strauss is to be at the first of two receptions by six, so that he can be at the second one, at the Averell Harrimans', by six-forty-five. As he leaves the office, he receives a message that Wilbur Mills has talked to some people in the domestic liquor industry about the wine-gallon issue. He tells Vera Murray that he wants to talk to Mills in the morning, and he says to me, "The point is that Wilbur talked to them. He knows more about trade by accident than most people in this town ever learn." He is told that a certain congressman wants to talk to him. He considers whether he should return the call this afternoon and decides, given his state of fatigue, that he will not. "I might say something I shouldn't," he says. "I try not to make decisions at the end of the day."

In the car on the way to the first reception, he places a call to James McIntyre, the director of the Office of Management and Budget. He gets on the phone and says, "Jim McIntyre, please, this is Ambassador Strauss." There is a brief silence, and then Strauss brightens and says, "I'm fine, darlin', how are you?" And then he says to Brannum, "Nat, we mustn't forget to send those Easter flowers to the White House switchboard people." And then he talks briefly to McIntyre.

The first reception, in the Chandelier Room of the Sheraton-Carlton Hotel, is for Senator Donald Stewart, Democrat of Alabama, who won election last November to fill out the last two years of a Senate term, and who is now trying to pay off his campaign debt. Often politicians run up campaign debts and then try to raise money to pay them off; the winners have an easier time raising the money than the losers do. When Strauss enters the room, a waiter, who recognizes him, asks, "Can I get you a drink, Mr. Ambassador?" Strauss replies, "You damn sure can," and he orders a vodka Martini. This fund-raiser, which costs five hundred dollars per person, is being attended, according to one of Senator Stewart's staff members, essentially by representatives of groups that have business in Alabama—steel, trucking, dairy, insurance, agriculture, rural electric—and about fifty people are expected to show up. Strauss greets Stewart and after talking to him briefly he says, "Let's go meet your guests. If you and I stand here lobbying each other, we're wasting our time." Strauss tells a man who is wearing a diamond stickpin and is a lobbyist for sugar interests, "The Administration is hitched. If they get unhitched, you let me know."

A representative of the International Paper Company tells Strauss that his company has a letter supporting the trade bill ready to send to every member of Congress. The man says, "It's pretty strong."

Strauss says, "Good. Let's make it stronger."

The paper industry is not entirely pleased with the trade package thus far; Strauss was able to get concessions from the Japanese but less satisfactory ones from the Europeans. The man offers to go get the letter, saying that this will take a few minutes, and Strauss looks at his watch and says, "Why don't you get it? Let's get some work done." He talks to someone about energy. He jokes to someone else, "I imagine if you looked around this room you could find a lobbyist or two." The International Paper man comes back with the letter. It refers to the support by the company's chairman, J. Stanford Smith, for the M.T.N. agreement. Strauss reads it, gets out a pen, plunks the letter down on a buffet table, between a platter of cold hors d'oeuvres variés and a chafing dish filled with squares of quiche, and writes, "Bob Strauss has negotiated firmly, tenaciously, and aggressively for the United States. He didn't get everything he wanted or we wanted but he has negotiated a set of agreements that are in the best interest of our nation. We urge your support of the Trade Agreement when it reaches the Congress." He gives the letter back to the man, saying, "That kind of language in there makes it more direct."

He says, to another man, "How's the beef business—you robbin' sonsofbitches, those prices you're charging us consumers." And then he asks, "The beef people going to be all right on this trade thing?"

The man replies, "We can't promise our support until we see the full package."

Strauss says, "I understand that. We have to encourage people to keep their herds up. There isn't enough beef in the world." Then he talks to the sugar lobbyist again, and says, "We have a position. You people have to get together. If you push for more, you'll get nothing. You act like a bunch of damn fools. The Administration has a reasonable package and it's going to stay hitched. The President won't move. You're going to make it difficult for Russell Long, and he's trying to help you." Strauss is using this opportunity to get a message to the sugar industry.

It's now six-thirty-seven, and Strauss says his goodbyes and leaves the reception. He got a lot accomplished in a short time. Brannum drives us to the Watergate to pick up Helen Strauss, and from there we go to the Harrimans, in Georgetown. On the way, Helen Strauss kids Strauss about his speech to the National Democratic Club luncheon today—which she attended—and makes some objective remarks about it. Then she laughs, and says how sick she is of hearing the story about how she once told him there was one fewer great man than he was thinking. Strauss tells her that they are going to the Middle East on the day after Easter, because the President has asked him to lead a trade mission of government, business, and labor people to Egypt and Israel, and to "get to know Begin and Sadat a little better."

The reception at the Harrimans is to encourage support for the annual fund-raising dinner for congressional campaigns, to be held in May; Strauss has talked Pamela Harriman into being cochairman of the dinner. He has also helped persuade Senator Wendell Ford and Representative James Corman, of California, to head the Senate and House Democratic campaign committees. And now a number of senators up for reelection and a few members of the House leadership and several Washington lawyers and lobbyists are gathered at the Harrimans' home. Strauss mingles for a while, and shortly after seven he is called to the phone. After a brief time, he returns and, smiling and speaking slowly, tells his wife and a few others, "The Council of Ministers just approved a trade package in Luxembourg."

Then, after several people have made formal remarks to the gathering, it is Strauss's turn, and holding a drink, he says, "This is my second Martini and I'm tired and I'm going to take my time." He tells them that a friend of his once said, "Bob Strauss has spent a lifetime taking money from the rich and votes from the poor and assuring both he's protecting them from each other." He tells them, "I think that what you do the Senate makes a difference in the quality of life in this country. I don't agree with everything that happens in the House and the Senate. I sometimes disagree philosophically. But I really think it does make a difference."

Strauss is clearly exhausted, but after his speech he mingles a little longer, working all the while. A man who represents the insurance industry introduces himself to Strauss. Strauss tells him, "I need help with the Connecticut liquor people." His brain-computer has said insurance-Connecticut-Heublein. A reporter asks him how he squares the increased price of tickets to the Democratic congressional dinner—they cost five hundred dollars last year and will cost a thousand dollars this year—with the Administration's fight against inflation, and Strauss, as he sometimes does, especially when he is tired, answers an unwanted question with bluster: "I don't know anything about it. I've been working my ass off and here we are in this nice home and you're asking me a stupid question like that." After going on for a while, Strauss—not one to leave anyone angry with him if he can help it—tries to jolly the reporter, and then he says, "We've both learned something tonight. I've learned that I'd better hold my temper better, and you've learned not to ask a question like that. I'm very sorry. I'm tired." And without another word he walks away.

Now all that Strauss wants to do is go home. As he and his wife head for the door, he is cornered by a man who proceeds to tell him about how he had always wanted to meet "Dick Nixon" and how he finally met Dick Nixon last weekend and spent an hour with him and how he and Dick Nixon had such a good conversation. Strauss, now leaning against a wall for support, his eyes closing with fatigue, says, "It figures."

Finally, Strauss leaves the reception and returns to the Wategate, where he will have scrambled eggs with his wife, return some more phone calls, and try to get some sleep.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Charles H. Wilson of California (at the request of Mr. Wright), for July 13 and 16, on account of official business.

Mr. Rodino (at the request of Mr. Wright), for today, on account of illness in the family.

Mr. Ritter (at the request of Mr. Rhodes), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Corcoran) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 5 minutes, today.

(The following Members (at the request of Mr. Fazio) to revise and extend their remarks and include extraneous material:)

Mr. Weaver, for 10 minutes, today.
Mr. Annunzio, for 5 minutes, today.
Mr. Gonzalez, for 5 minutes, today.
Mr. Nelson, for 5 minutes, today.
Mr. Dodd, for 5 minutes, today.
Mr. AuCoin, for 5 minutes, today.
Mr. Cavanaugh, for 5 minutes, today.
Mr. Florio, for 60 minutes, on July 16, 1979.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Scheuer, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $3,957.

(The following Members (at the request of Mr. Corcoran) and to include extraneous material):

Mr. Paul in three instances.
Mr. Badham.
Mr. Evans of Delaware.
Mr. Roth in two instances.
Mr. Lewis in four instances.
Mr. Derwinski.
Mr. Burgener in two instances.
Mr. Hollenbeck.
Mr. Archer.
Mr. Dickinson in two instances.
Mr. Collins of Texas in two instances.
Mr. Michel in two instances.
Mr. Grassley in two instances.
Mr. Railsback.
Mr. Wydler.
Mr. Shuster.
Mr. Bethune.
Mr. Bob Wilson in two instances.

(The following Members (at the request of Mr. Fazio) and to include extraneous material:)

Mr. Boland.
Mr. Mazzoli in two instances.
Mr. Moakley.
Mr. Hamilton.
Mr. Leland.
Mr. Albosta.

Mrs. SCHROEDER.
Mr. EARLY.
Mr. OTTINGER.
Mr. WIRTH.
Mr. CONYERS.
Mr. WAXMAN.
Mr. OBERSTAR in two instances.
Mr. ADDABBO.
Mr. VENTO.
Mr. LAFALCE in two instances.
Mr. CAVANAUGH.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on July 12, 1979, present to the President, for his approval, a bill of the House of the following title:

H.R. 3978. To amend the Federal Trade Commission Act to exempt savings and loan institutions from the application of certain provisions contained in such act.

ADJOURNMENT

Mr. FAZIO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until Monday, July 16, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2006. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation; transmitting the financial report of the Corporation for the month of March 1979, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

2007. A letter from the Assistant Secretary of the Treasury for Legislative Affairs, transmitting the first annual report on fishery allocations, permits, and foreign import barriers, pursuant to section 201(f) of the Fishery Conservation and Management Act of 1976, as amended; to the Committee on Merchant Marine and Fisheries.

2008. A letter from the Administrator of Veterans Affairs, transmitting a report on the agency's computer matching programs; to the Committee on Veterans' Affairs.

2009. A letter from the Executive Secretary, Agricultural Policy Advisory Committee, transmitting the committee's report on the Multilateral Trade Negotiations Agreements initialed in Geneva on April 12, 1979, pursuant to section 135(e)(1) of the Trade Act of 1974; to the Committee on Ways and Means.

2010. A letter from the Chairman, Agricultural Technical Advisory Committee for Trade Negotiations on Oilseeds and Products, transmitting the committee's report on the Multilateral Trade Negotiations Agreements initialed in Geneva on April 12, 1979, pursuant to section 135(e)(1) of the Trade Act of 1974; to the Committee on Ways and Means.

2011. A letter from the Comptroller General of the United States, transmitting a report on management improvements and legislative amendments needed for effective implementation of the Endangered Species Act, as amended; jointly, to the Committees on Government Operations, and Merchant Marine and Fisheries.

2012. A letter from the Secretary, Federal Trade Commission, transmitting a report on the study and evaluation of the rulemaking procedures prescribed by the Magnuson-Moss Warranty—FTC Improvement Act, pursuant to section 202(d) of Public Law 93-637, as amended; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 3942. A bill to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, and for other purposes; with amendment (Rept. No. 96-203, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 4514. A bill to amend title III of the Comprehensive Employment and Training Act to provide for the assessment of manpower needs for the full development of domestic energy resources; with amendment (Rept. No. 96-333). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. Report pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96-334). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. Legislative savings report of the Committee on Ways and Means pursuant to section 4(b) of House Congressional Resolution 107, First Concurrent Budget Resolution for Fiscal Year 1980 (Rept. No. 96-335). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3275. A bill to amend the Small Reclamation Projects Act of 1956, as amended; with amendment (Rept. No. 96-337). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 4591. A bill to make technical corrections and miscellaneous amendments in certain education laws contained in the Education Amendments of 1978; with amendment (Rept. No. 96-338). Referred to the Committee of the Whole House on the State of the Union.

ADVERSE REPORTS

Under clause 2 of rule XIII,

Mr. ULLMAN: Committee on Ways and Means. House Resolution 317. Resolution disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania. Reported adversely, without amendment (Rept. No. 96-336). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DRINAN:

H.R. 4780. A bill to extend for 2 years the existing suspension of duty on synthetic tantalum/columbium concentrate; to the Committee on Ways and Means.

By Mr. FISHER:

H.R. 4781. A bill to amend the Internal Revenue Code of 1954 to encourage the production of alcohol for use as a fuel or petroleum substitute by allowing the amortization based on a 60-month period of facilities producing alcohol for those uses; to the Committee on Ways and Means.

By Mr. JONES of Tennessee (by request):

H.R. 4782. A bill to amend further the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes; to the Committee on Agriculture.

By Mr. LEWIS:

H.R. 4783. A bill to amend the Coinage Act of 1965 to change the size and weight of the $1 coin; to the Committee on Banking, Finance and Urban Affairs.

By Mr. OTTINGER (for himself, Mr. FISH, and Mr. FAZIO):

H.R. 4784. A bill to increase the use of solar energy and energy from other renewable resources by establishing a Solar Energy Development Bank, and by providing certain tax and housing benefits to encourage the use of such energy; jointly, to the Committee on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. PATTERSON:

H.R. 4785. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for certain fees imposed by State and local governments with respect to municipal services; to the Committee on Ways and Means.

By Mr. PAUL:

H.R. 4786. A bill to amend the Internal Revenue Code of 1954 to allow individuals a deduction for certain transportation and meal expenses; to the Committee on Ways and Means.

H.R. 4787. A bill to amend the Internal Revenue Code of 1954 to exempt all interest received by individuals from Federal income tax; to the Committee on Ways and Means.

By Mr. ROBERTS (for himself, Mr. JOHNSON of California, Mr. HARSHA, and Mr. CLAUSEN):

H.R. 4788. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ROE:

H.R. 4789. A bill to stimulate research and development aimed at the production of gasohol as an alternative energy source by establishing national demonstration facilities for the conversion of garbage and other solid wastes into fuels, to be constructed by the Secretary of Energy under the Federal Nonnuclear Energy Research and Development Act of 1974; to the Committee on Science and Technology.

By Mrs. SNOWE:

H.R. 4790. A bill to authorize the Campfire Girls of Cundy Harbor, Maine, to erect a monument on Maine Avenue in the District of Columbia; to the Committee on House Administration.

By Mr. STAGGERS (for himself, Mr. PRICE, Mr. UDALL, Mr. FUQUA, Mr. RODINO, Mr. REUSS, Mr. BROOKS, and Mr. MURPHY of New York) (by request):

H.R. 4791. A bill to amend the Department of Energy Organization Act to encourage the domestic development and production of synthetic fuels; jointly, to the Committees on Banking, Finance and Urban Affairs, Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. WRIGHT:

H.R. 4792. A bill to name a certain Federal building in Houston, Tex., the Bob Casey Federal Building—U.S. Courthouse; to the Committee on Public Works and Transportation.

By Mr. UDALL:

H. Con. Res. 162. Concurrent resolution providing for the printing of the final report of the Indian Claims Commission as a House document; to the Committee on House Administration.

By Mr. KEMP:

H. Res. 356. Resolution to express the sense of the House of Representatives that the leaders of the Communist nations in Eastern Europe should release certain Christian political prisoners who have committed no crimes against the state according to the provisions of Basket One of the Helsinki Accords; to the Committee on Foreign Affairs.

By Mr. WAXMAN (for himself, Mr. Rangel, Mr. Pepper, Mr. Preyer, Mr. Maguire, Mr. Walgren, Mr. Leland, Mr. Carter, Mr. Stockman, Mr. Lee, Mr. Ford of Tennessee, Mr. Drinan, Mr. Bonker, Mr. Ratchford, Mr. Stack, Mr. Mica, Mr. Abdnor, Mr. Marks, Mr. Regula, Mr. Hollenbeck, Mr. Whittaker, and Mr. Grassley):

H. Res. 357. Resolution relating to the report by the Secretary of Health, Education, and Welfare with respect to home health and other in-home services; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

253. The SPEAKER presented a memorial of the Legislature of the State of California, relative to human rights' atrocities; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CORMAN:

H.R. 4793. A bill for the relief of Simon Ifergan Meara; to the Committee on the Judiciary.

By Mr. CORRADA:

H.R. 4794. A bill for the relief of Olga Alicia Fernandez de Recanatini; to the Committee on the Judiciary.

By Mr. PATTERSON:

H.R. 4795. A bill for the relief of Ghassan Y. Cotta; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1173: Mr. Daniel B. Crane.

H.R. 1177: Mr. Shelby.

H.R. 2249: Mr. Bonior of Michigan, Mr. Markey, Mr. Bedell, Mr. Erlenborn, Mr. Weiss, Mr. Grisham, and Mr. Moffett.

H.R. 2540: Mr. McCloskey.

H.R. 2658: Mr. Symms.

H.R. 3335: Mr. Early.

H.R. 3542: Mr. Shumway.

H.R. 3766: Mr. Gilman, Mr. Goodling, Mr. Lungren, Mr. McHugh, Mr. Stokes, Mr. Courter, and Mr. McEwen.

H.R. 3905: Mr. Courter and Mr. Frost.

H.R. 3908: Mr. Stokes.

H.R. 3957: Mr. Steed, Mr. English, Mr. Sebelius, Mr. Ichord, and Mr. Volkmer.

H.R. 4093: Mr. Leland, Mr. Pease, Mr. Moakley, Mr. Moorhead of Pennsylvania, Mr. Leach of Louisiana, Mr. Studds, Mr. Mitchell of Maryland, Mr. Edwards of California, Mr. LaFalce, Mr. Fazio, Mr. Hughes, Mr. Weiss, Mr. Richmond, Mr. Drinan, Mr. Edgar, Mr. Hawkins, Mr. Moffett, Ms. Mikulski, Mr. Flood, Mr. Nolan, Mr. Whitehurst, Mr. Downey, Mr. Gray, Mr. Seiberling, Mr. Phillip Burton, Mr. Dougherty, Mr. Mineta, Mr. Stark, Mr. Thompson, Mr. Barnes, Mr. John L. Burton, Mr. Mavroules, Mr. Stokes, Mr. Bedell, Mrs. Chisholm, Ms. Holtzman, Mr. Luken, Mr. Bonior of Michigan, Mr. Maguire, Mr. Brodhead, Mr. Lehman, Mr. McDade, and Mr. Oberstar.

H.R. 4312: Mr. Young of Florida, Mr. Scheuer, Mr. Stokes, Mr. Dornan, Mr. Weiss, Mr. Coughlin, and Mr. Rinaldo.

H.R. 4329: Mr. Lungren.

H.R. 4514: Mr. Bailey, Mr. Nichols, Mr. Bevill, Mr. Hubbard, Mr. Carter, Mr. Hopkins, Mr. Wampler, Mr. Mazzoli, Mr. Jones of North Carolina, Mr. Williams of Montana, Mr. Nowak, Mr. Stokes, Mr. Rahall, Mr. Ratchford, Mr. Miller of California, Mr. Snyder, Mr. Flood, Mr. Burgener, Mr. Erdahl, Mr. Gudger, Mr. Wylie, Mr. Shelby, Mr. Lehman, Mr. Ertel, Mr. Yatron, Mr. Johnson of Colorado, Mr. Evans of the Virgin Islands, Mr. Quillen, and Mr. Latta.

H.R. 4548: Mr. Dornan, Mr. Lagomarsino, Mr. Erdahl, and Mr. Charles Wilson of Texas.

H.R. 4549: Mr. McKay.

H.R. 4747: Mr. Regula.

H. Res. 293: Mr. Stokes.

H. Res. 347: Mr. Drinan, Mr. Yates, Mr. Brodhead, Mr. Moakley, Mr. Rangel, Mr. AuCoin, Mr. Stack, Mr. Lagomarsino, Mr. Harkin, Mr. Wolpe, Mr. Lederer, Mr. Conte, Mr. Gradison, Mr. McHugh, Mr. Buchanan, Mr. Van Deerlin, Mr. Bedell, Mr. Philip M. Crane, Mr. Quayle, Mr. Mineta, Mr. Solomon, Mr. Mitchell of Maryland, Mrs. Heckler, Mr. Wirth, Mr. Jeffords, Mr. Benjamin, Mr. Blanchard, Mr. Williams of Montana, Mr. Levitas, Mr. Daniel B. Crane, Mr. Fascell, Mr. Boland, Mr. Oberstar, Mr. Long of Maryland, Mr. Harris, Mr. Waxman, Mr. D'Amours, Mr. Corrada, Mr. Beilenson, Mr. Stewart, Mr. Frost, Mr. Corman, Mr. Horton, Mr. Hughes, Mr. Hall of Ohio, Mr. Barnes, Mr. Gore, and Mr. Lehman.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2462

By Mr. CORRADA:

—Page 4, after line 5, add the following new section:

Sec. . Until the Secretary of the Treasury determines that there is sufficient service on vessels of the United States to carry the passenger trade between ports on the east and gulf coasts of the United States and ports in Puerto Rico, the Secretary of the Treasury may issue permits annually to foreign-flag vessels authorizing such vessels to transport passengers between such ports. No foreign-flag vessel issued a permit under this section shall be subject to section 8 of the Act of June 19, 1886 (24 Stat. 81; 46 U.S.C. 289) during the period such permit is in effect.

H.R. 2471

By Mr. GUARINI:

—Page 3, after line 10, add the following new section:

Sec. 4. Checks on Quantity of Imported Petroleum.

The Secretary of the Treasury shall take such action as may be necessary to insure that employees of the United States Custom Service (rather than licensed public gagers or other individuals not employees of the United States Custom Service) check the quantity of all petroleum and petroleum products imported into the United States.

H.R. 3996

By Mr. DUNCAN of Oregon:

—Page 72, line 19, strike out "subsection" and insert in lieu thereof "subsections".

Page 72, line 20, insert "(1)" immediately after "(d)".

Page 73, line 3, strike out "(1)" and insert in lieu thereof "(A)".

Page 73, line 7, strike out "(2)" and insert in lieu thereof "(B)".

Page 73, line 23, strike out the closing quotation marks and the following period.

Page 73, after line 23, insert the following:

"(2) Where reductions in operating expenses can be obtained, the Corporation shall operate rail passenger service over any short distance route which is recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978, with or without any restructuring of such route to serve major population centers as end-points or principal intermediate points, in order to maintain a national intercity rail passenger system, if—

"(A) the short-term avoidable loss per passenger mile on such route, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not more than nine cents per passenger mile; and

"(B) the passenger mile per train mile, as calculated by the Corporation and projected for the fiscal year ending September 30, 1980, is not less than 80.

"(e) (1) In order to preserve regional balance in the national intercity rail passenger system and to ensure that long distance routes recommended for discontinuance by the Secretary pursuant to section 4 of the Amtrak Improvement Act of 1978 which provide service to regions with few population centers in a large geographic area have equal opportunity to qualify for continued operation, the Corporation shall operate a long distance route in each section of the United States (with sections being determined by dividing the United States into four quadrants) if—

"(A) service is not maintained on any long distance route in that section under the criteria set forth in subsection (d) (1) of this section; and

"(B) the Corporation determines that (i) a long distance route exists in that section which has shown and will show improvements in performance under the criteria set forth in subsection (d) (1) of this section, and (ii) such route shows potential, under such criteria, to warrant maintenance in the system.

"(2) The Corporation shall not continue to operate any route under this subsection if service is provided on a significant part of that route by any other route.".

"(3) Service operated on a route under this subsection shall continue to be operated after October 1, 1981, only if such route meets the criteria set forth in subsection (d) (1) of this section.".

Page 80, line 17, strike out "$35,000,000" and insert in lieu thereof "$50,000,000".

Page 80, line 18, strike out "$36,000,000" and insert in lieu thereof "$52,000,000".

Page 80, line 19, strike out "$37,000,000" and insert in lieu thereof "$55,000,000".

Page 89, line 9, after "tions." insert the following: "Substitute service provided over an existing route under this paragraph shall continue to be operated after October 1, 1981, only if such route meets the criteria set forth in section 404(d) (1) of the Rail Passenger Service Act.".

SENATE—*Friday, July 13, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. BILL BRADLEY, a Senator from the State of New Jersey.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

God of our fathers and our God, who has watched over this Nation from generation to generation, we lift our morning prayer to Thee, opening our hearts to Thy presence and seeking Thy light for our pathway. Take away all that hinders us from giving ourselves to Thee or obstructs obeying Thy will. Give us grace and courage to take one step at a time, in the faith that light and wisdom will be given for the future. We would not live unto ourselves, but unto Thee. May the mind and spirit of Christ be in us to guide us and strengthen us for we pray in His name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 13, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL BRADLEY, a Senator from the State of New Jersey, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BRADLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to yield the remainder of my time to Senator RANDOLPH and others who will be speaking on a matter later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader, the Senator from Tennessee, is recognized.

Mr. BAKER. Mr. President, I have no need for my time. Before the Senator from West Virginia begins, might I inquire of the distinguished assistant minority leader if he has any need for my time?

Mr. STEVENS. Mr. President, I have the first order. I might need it.

Mr. BAKER. Mr. President, I, therefore, ask unanimous consent that my time remaining under the standing order be yielded to the distinguished assistant minority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR STEVENS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alaska (Mr. STEVENS) is recognized for not to exceed 15 minutes in his own right, in addition to the time yielded to him by the minority leader.

Mr. STEVENS. Thank you, Mr. President.

I will be happy to yield to my good friend from West Virginia. Has he a special order this morning?

Mr. RANDOLPH. If I may respond, Mr. President, to the acting minority leader, and perhaps the majority leader, with whatever time they would occupy, it would seem to be better for the three speakers, Senator HUDDLESTON, Senator PERCY, and myself to go in sequence.

Mr. STEVENS. All right. I thank the Senator.

PRIORITY ENERGY PROJECT ACT OF 1979

AMENDMENT NO. 330

Mr. STEVENS. Mr. President, recently I and a number of other Members of Congress met with President Carter to discuss the Nation's priority concern—energy. The meeting had promise, provided that the President acts on some of the measures that were discussed to make this country less dependent on foreign energy sources.

But I wish I had a nickel for every time that I stood before the Senate in the last 10 years and urged that we take steps that would allow America to break out of the stranglehold that foreign oil producers have us in.

Several crucial projects that could go a long way toward decreasing our dependence on foreign oil have literally been sabotaged by the morass of Government regulations. Projects have been overregulated to the point that they are being abandoned by willing but frustrated investors.

Take, for example, the Sohio oil pipeline project to move Alaskan oil from the west coast eastward. The company invested more than $50 million in attempts to wade through more than 700 permits to build that line but ended up abandoning the project.

The natural gas pipeline to deliver Alaska gas to the Midwest is another example where bureaucratic delays are adding $2 million per day to a project that has already been delayed 2 years.

President Carter some time ago described our national energy situation as the moral equivalent of war. I think that it is about time that something positive is done to win that war.

This is the purpose of the legislation which I am introducing today. This legislation, in the form of an amendment to S. 1308, Senator JACKSON's Energy Supply Act, establishes a method to cut through the governmental and bureaucratic delays that plague the development of domestic energy projects.

What I propose is the establishment of a Civil Energy Priority Projects Board, modeled after the concepts of the old War Production Board of World War II. The old War Board was notable for its ability to act quickly and efficiently to acquire materials in the interest of national defense. The Energy Projects Board works on a similar principle.

Mr. President, I noted that Mr. Eisenstat has mentioned a similar concept to the President. My staff and I have been working on this idea for some time. I think the concept I am outlining goes far beyond what Mr. Eisenstat had in mind, although I would be delighted to have the President and his advisers recognize the advantage of going as far as this legislation which I am introducing today goes.

This amendment to S. 1308 would create a five-man board which would have the authority to assign priority status to certain energy projects, the completion of which is determined to be in the national interest, and then would establish procedures and schedules for their timely completion.

All decisions made by the board would be final and not subject to judicial review, except on a constitutional basis. Federal departments and agencies would be required to comply with the policies mandated by the board. Included within the power of this body is the authority to mandate issuance of State or local

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

licenses, permits, and regulations or preemption of those that might interfere with the development of national energy projects.

The President would appoint the members of this board to represent groups concerned with the development and production of energy, including individuals of the energy-development industry, economists, environmental specialists, and Federal, State, and local officials.

While I am proposing this Board to expedite the development of domestic projects, at the same time I feel that the President has within his powers today the authority to take actions that would dramatically stimulate domestic production if he would only have the courage to use those powers.

President Carter right now holds the key to unlock for inventory and exploration some of the potentially richest lands in the United States with respect to energy resources. One-third of all the lands in the United States are federally owned and one-half of those are in Alaska. Yet there has been very little leasing activity on Federal lands in this country. In my State of Alaska there has not been one new oil and gas lease issued on Federal lands since 1965.

Roadless area review evaluation, which some call Rare II, is an administrative order. It was not mandated by Congress. It is not statutorily required. A new area in the Rocky Mountains, the Overthrust Belt area, has been identified as having great oil and gas potential. Forty-seven percent of the Overthrust Belt is presently withdrawn or restricted from entry by administrative decision. The President has it within his authority today to designate those lands as priority lands and free them from the planning phase of Rare II for exploration and development. He has the authority to lease these lands, to direct that the Secretary of the Interior lease these lands under the Mineral Leasing Act of 1920.

In addition, the President has it within his authority to open some of the wildlife ranges and refuges for exploration. President Eisenhower did this in 1950. He opened the Kenai Moose Range in Alaska and the Lacassine Wildlife Refuge in Louisiana. Today those ranges are major oil-producing areas and the wildlife within them still thrives and still has protection.

The authority that the President has extends to BLM and Forest Service lands, all of which are currently under some type of designation for administrative review.

The President has the authority to act to bring about immediate oil and gas production from the Federal lands in this country.

The President could provide incentives to oil and gas exploration and development simply by abbreviating the permitting processes that companies must comply with before proceeding.

For example, the exploration permits process issued by BLM and the drilling permits process issued by USGS could be greatly simplified and shortened. Today they take years to comply with, and there is no need for that procedure.

More offshore lands could be opened up and much more quickly as the President is given the authority to set the schedules for leasing under the Outer Continental Shelf Lands Act. He has authority to act in that area.

Coal offers another virtual storehouse of energy which could take some of the pressure off the oil industry to supply much of America's energy needs. There are in existence approximately 100 million acres of Federal coal lands. Only 800,000 acres of those lands are under lease.

Imagine that, less than 1 percent of the Federal lands that contain coal have been made available for exploration and development by the administration.

The Department has not leased coal lands in significant quantity since 1971, and no major lease sales of coal lands are planned by this administration until late in 1980.

Mr. RANDOLPH. Mr. President, will my able colleague yield?

Mr. STEVENS. Yes, I am happy to yield.

Mr. RANDOLPH. The Senator from Alaska brings to our attention the failure of the leasing of lands that have beneath their surface vast deposits of usable coal; is that correct?

Mr. STEVENS. That is correct. Less than 1 percent of all the Federal coal lands have been leased.

Mr. RANDOLPH. That is exactly right.

It is a further indication—and I speak in no vein of partisanship but only as a realist, to the lack of an understanding of the necessity not for talk, talk, talk, but action, action, action by those in the executive branch of the Federal Government.

I am not familiar with all the provisions of the legislation proposed by the Senator now speaking, but because of the thrust of what he is presenting, if it is agreeable with him, I would like at this time to ask that I be included as a cosponsor.

Mr. STEVENS. I would be delighted to have the Senator as a cosponsor. I will be happy to give the Senator a copy for review to make certain he wants to endorse the proposal.

Mr. RANDOLPH. Yes.

Mr. STEVENS. I thank the Senator.

Mr. President, I want to make certain that the Senate understands I, too, am not making a partisan statement but pointing out that this has not been done through the history of the management of Federal lands; 1971 was a year of Republican administration when the coal leasing was stopped on Federal lands. But the problem really is that now we are at a period where this President says it is the moral equivalent of war. If it is the moral equivalent of war, as the Commander in Chief the President should take dramatic action to demonstrate to the country the necessity for making sacrifices, and the Federal Government ought to be the first to make the sacrifice, by changing some of its policies which have been restrictive in the past so far as making available energy resources to meet the Nation's needs.

The leasing rate for Federal coal lands could be dramatically raised under the Mineral Leasing Act of 1920 and the Federal Coal Leasing Act Amendments of 1976 if so directed by the President.

Though 2 phototype leases for Federal oil shale reserve lands have been issued, more land could be released for leasing, again under the Mineral Leasing Act of 1920. They are only prevented from being leased by administrative inaction and not by any act of Congress.

Other options available to the President to increase production of energy supplies include removal of price controls on oil and gasoline. The President has discretion under the Environmental Policy and Conservation Act to remove controls on oil.

He has indicated he wants to make a start on phased decontrol for the eventual removal of controls. Removal of these controls would spur production, and he has the authority today to do this. He need not berate Congress for failure to act on his phased decontrol. We have already given him the authority to totally decontrol the prices on oil.

He also has the authority, subject to disapproval by Congress, to remove the controls on gasoline, and the President should do that also. That authority is granted to him under the Environmental Policy and Conservation Act.

Finally, the President could immediately direct a swap of additional Alaska North Slope production under the TAPS Act. This would encourage North Slope producers to increase production. In addition, while consumers would not lose a drop of oil, they would actually gain access to more through increased production as well as additional supplies of Mexican oil if the swap were to take place with Mexico. This would have the added benefit of improving our relations with our neighbor country.

We should not belabor the question of the price of their gas. We should look at the question of whether we increase the supplies of energy in this country. As for the price of Mexican oil, it will never reach the level of the price of OPEC oil.

Mr. President, it is a tragic thing that at this time of crisis, domestic oil and gas production in this country continues to decline. The administration seems afraid to provide economic incentives for oil companies to invest in domestic energy sources. I would favor the restoration of the depletion allowance as an incentive to new production. Those who oppose this say we cannot produce much more oil.

So they say why try incentives? That is the real problem. The administration, as it reviews the options of increased production, appears to be afraid to try to increase production through incentives. If these incentives worked, it would certainly prove that those who sought to repeal the depletion allowance and other incentives to domestic production were wrong in the first instance.

The American public wants leadership now. We, in Congress, can give the administration the tools such as I propose in the Civil Energy Priority Projects Board. These are tools the President would need to cut through the bureaucratic bottlenecks that energy projects are up against. But the President himself must use his existing authority to allow research and development so that these projects can be processed even more quickly.

Mr. RANDOLPH. Mr. President, will my colleague yield again?

Mr. STEVENS. I am happy to yield to my good friend.

Mr. RANDOLPH. The President of the United States is the Commander in Chief, is he not?

Mr. STEVENS. This is my point; yes, sir.

Mr. RANDOLPH. I certainly feel it is not that anyone should shift the burden to his shoulders but that is the responsibility of the leadership that must come from the White House.

Mr. STEVENS. I thank the Senator. Mr. President, that is my point also. A President who finds he has the moral equivalent of war has the duty to use his powers as the Commander in Chief to prevent the losing of that war, and it is absolutely essential that the administration's energy goals be set as soon as possible. We cannot afford indecisive policy or a new energy plan every few months. Exploration and development take decades of leadtime. Energy is not something that can be delivered to the consumer's gas tank or oil furnace overnight.

Lastly, the President must not deviate from his course of action when the political winds shift, or yield to the threats from special interest lobbies, including the environmental groups.

If these resources that exist on Federal lands are not developed now in a wise, environmentally sound manner in a few years the American public will be even more desperate for domestic energy, and then will demand quick exploitation of some of our Nation's most precious and scenic wilderness areas.

The way to preserve and protect the wilderness and other environmental values on our Federal lands is to plan now for the rational and reasonable access to those lands that have oil and gas potential.

That can be done if the President acts wisely, and I am one who hopes that when he makes his address to the American public on Sunday evening, he will demonstrate that, as Commander in Chief, he has taken the necessary action. If he once again says Congress must take action, then I think the country must only draw the conclusion that we are indeed in a war without a leader.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD at this point.

The ACTING PRESIDENT pro tempore. The amendment will be received and appropriately referred and, without objection, the amendment will be printed in the RECORD.

The text of the amendment is as follows:

Beginning on page 3, line 15, strike all down through page 17, line 16, and insert in lieu thereof the following:

SEC. 201. This title may be cited as "Priority Energy Project Act of 1979."

SEC. 202(a) FINDINGS.—The Congress finds and declares that—

(1) the lack of a constant and reliable supply of energy has the potential to cause devastating effects on the interstate commerce and general welfare of the Nation, and poses a threat to national security and world peace;

(2) a clear need exists to decrease reliance on foreign sources of energy and to promote the development, production, and transportation of domestic sources of energy in interstate commerce;

(3) there is a lack of central focus for the development and implementation of common policies and programs for energy development and production among Federal agencies and State and local governments; and

(4) many important energy projects, which have an overriding effect on interstate commerce whose prompt completion is clearly in the national interest have been delayed or terminated due to the conflicting actions of Federal agencies and State or local governments and the length of time needed to meet Federal, State and local requirements.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act to create the Civil Energy Priority Projects Board which shall assign priority status to certain energy projects whose completion is determined to be in the national interest and necessary to prevent disruptions in interstate commerce and to establish policies, procedures and directives for their timely completion.

CIVIL ENERGY PRIORITY PROJECTS BOARD

SEC. 203. (a) ESTABLISHMENT.—There is established as an independent instrumentality of the Federal government the Civil Energy Priority Projects Board (hereinafter referred to as the "Board").

(b) MEMBERSHIP (1).—The Board shall be composed of five members appointed by the President, by and with the advice and consent of the Senate. The President shall appoint the members of the Board from among representatives of groups concerned with the development and production of energy, including representatives of the energy development and production industry, economists, environmental specialists, and Federal, State, and local officials; at least three of which shall be persons in private life. No more than three members of the Board shall be members of the same political party. The President shall designate one of the members of the Board as Chairman.

(2) Members of the Board shall be appointed for a term of three years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment one at the end of one year, two at the end of two years, and two at the end of three years.

(c) TRANSACTION OF BUSINESS.—Three members of the Board shall constitute a quorum, but one or more such members designated by the Board may hold hearings. A vacancy in the Board shall not affect its power to function.

(d) STAFF AND ADMINISTRATION.—(1) Each member of the Board who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, including travel time, for each day such member is engaged in the actual performance of duties as a member of the Board. A member of the Board who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(2) In carrying out the provisions of this Act, the Board is authorized—

(A) to appoint such personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and to pay such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(B) to employ experts and consultants in accordance with the provisions of section 3109 of such title;

(C) to promulgate such rules, regulations, and procedures as may be necessary to carry out the functions of the Board;

(D) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal departments and agencies and of State, local and private agencies with or without reimbursement therefor;

(E) to enter into agreements with other Federal departments and agencies and State and local governments as may be appropriate;

(F) without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the functions of the Board, with any public agency or with any person, and make payments (in advance, by transfer, or otherwise) and grants to any public agency or private nonprofit organization;

(G)(i) to accept voluntary and uncompensated services, without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(ii) to accept volunteer service in accordance with section 3111 of title 5, United States Code; and

(H) to request such information, data, and reports from any Federal department or agency as the Board may require and as may be produced consistent with other law.

(3) Upon request of the Board, the head of each Federal department or agency shall promptly make available to the Board the services equipment, personnel, facilities, and information of the department or agency including suggestions, estimates, statistics, and proprietary information.

(e) ADVISORY COMMITTEES.—The Board shall appoint advisory committees to assist the Board in carrying out its functions under this Act The Board shall include on such committees representatives of Federal agencies, State and local governments, the private sector, and the public.

(f) DIVESTITURE OF HOLDINGS.—Members of the Board shall not be subject to Federal rules or regulations requiring divestiture of holdings.

(g) TERMINATION OF THE BOARD.—The Board shall terminate fifteen years after the date of enactment of this Act.

FUNCTIONS AND POWERS OF THE BOARD

SEC. 204 (a) PRIORITY ENERGY PROJECTS.—(1) The Board shall coordinate and expedite the approval of projects for the exploration, development, demonstration, transportation, production, or commercialization of any form of energy designated by the Board as priority energy projects.

(2) The Board on its own motion or at the request of any person planning proposing, or implementing an energy project shall designate a project as a priority energy project under this paragraph if it determines that—

(A) the commencement or implementation of the energy project, which is found to be in the national interest and necessary to prevent disruption in interstate commerce, is being delayed by a conflict between the actions of two or more Federal or State agencies or between Federal, State and local governments in granting or denying a license, permit, certificate, lease, right-of-way, or other authorization for the project;

(B) any Federal, State or local regulatory requirements which must be met by the applicant are or will cause undue delay for the commencement or implementation of an energy project found to be in the national interest and necessary to prevent disruptions in interstate commerce;

(C) any Federal, State or local regulatory requirements will cause delay for the commencement or implementation of any energy project whose immediate commencement or implementation is found to be of critical national interest and necessary to prevent disruptions in interstate commerce.

(b) Coordination of Federal Activities.—The Board shall coordinate and expedite the actions of Federal agencies necessary to a final decision concerning any project designated under subsection (a) as a priority energy project. Not withstanding any other provision of law in carrying out the provisions of this Act, the Board may—

(1) require any Federal agency with authority to grant or deny an application for license, permit, certificate, lease, right-of-way, or other authorization with respect to a priority energy program to submit to the Board a list of significant actions taken by the agency concerning the project, a list of significant actions required of the applicant prior to a final decision by the agency concerning the project, a list of significant actions which must be taken by the agency prior to a final decision by the agency concerning the project, and a schedule of action by the agency and the applicant for completion of the application process;

(2) establish deadlines for any such agency to complete action concerning any application for a license, permit, certificate, right-of-way, or other authorization required for any such project;

(3) If an agency fails to meet a deadline established pursuant to paragraph (2), make a decision concerning the application concerned;

(4) order any federal agency to grant or deny an application for a license, permit, certificate, or lease or make a specific rule making;

(5) establish policies, procedures, plans, and methods, promulgate rules and regulations, and issue orders to coordinate and expedite agency actions concerning any such project; and

(6) provide procedures and methods for the modification of State and local programs which carry out Federal statutes if such programs adversely affect the expedition of procedures and policies for a priority energy project.

(c) Federal agencies shall comply with the policies, procedures, plans, methods, rules, regulations, and orders of the Board.

(c) Coordination of State Activities.—Board shall as necessary coordinate, or expedite the actions of State or local governments necessary to a final decision concerning any project designated under subsection (a) as a priority energy project. Notwithstanding any other provisions of law in carrying out the provisions of this Act, the Board may—

(1) request any State or local government with authority to grant or deny an application for license, permit, certificate, lease, right-of-way, or other authorization with respect to a priority energy project to submit to the Board a list of significant actions taken by the State or local government concerning the project, a list of significant actions required of the applicant prior to a final decision by the State or local government concerning the project, a list of significant actions which must be taken by the State or local government prior to a final decision by the State or local government concerning the project, and a schedule of action by the State or local government and the applicant for completion of the application process;

(2) establish voluntary deadlines for any such State and local government to complete action concerning any application for a license, permit, certificate, right-of-way, or other authorization required for any such project;

(3) request a state or local government to grant or deny an application for a license, permit, certificate or lease or make a specific rule making;

(4) in any case where a State or local government fails to comply with a request or meet a deadline established pursuant to this section, or issue or deny a license, permit, certificate, or lease or make a specific rule making as requested by the Board, the Board may make a decision concerning the application concerned, upon such action by the Board the State shall have no further authority; and

(5) establish policies, procedures, plans, and methods, promulgate rules and regulations, and issue orders to coordinate and expedite State or local government actions concerning any such project.

(d) No State may adopt any law or regulation or attempt to enforce any State law or regulation that will abrogate or will have the effect of abrogating the authority granted to the Board under this Act to coordinate and expedite the exploration, development, demonstration, transportation, production, or commercialization of any form of energy by designating certain projects as priority energy projects.

(e) National Environmental Policy Act of 1969.—The actions taken by the Board pursuant to this Act shall be taken without action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

(f) Judicial Review.—The actions taken by the Board pursuant to this Act shall not be subject to judicial review under any law except claims alleging either that an action will deny rights under the Constitution of the United States, or that the action is beyond the scope of authority conferred by the Act which shall be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States or any State, territory, or possession of the United States or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

(g) Annual Report.—The Board shall transmit to the President and Congress by January 31 of each year an annual report. Such report shall contain among other things a review and study of the activities of the United States pursuant to existing Federal laws and regulations which effect the planning, proposal, implementation, and expedition of energy projects.

AUTHORIZATION OF APPROPRIATIONS

Sec. 205. To carry out the functions of the Board, there are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

THE INTERIM REPORT OF THE COAL COMMISSION

Mr. HUDDLESTON. Mr. President, yesterday the President's Commission on Coal recommended to President Carter a program involving increased direct use of coal and the creation of a synthetic fuels industry that would decrease oil imports by 1.3 million barrels per day or 16 percent by 1985 and 4.5 million barrels per day or 50 percent by 1990. These recommendations were based on exhaustive analysis and special hearings held by the Commission at the President's request on May 29 and May 30.

Specifically, the Commission recommends that—

First. All coal-capable electrical utility boilers now burning oil and gas should be reconverted to burn coal, at a savings of 400,000 barrels of oil per day by 1985.

Second. All oil- and gas-fired utility boilers not capable of burning coal should be replaced by new coal-fired units, at a savings of over half a million barrels of oil per day by 1985 and 1 million barrels per day by 1990.

Third. All new large industrial boilers should be absolutely prohibited from burning oil or natural gas, at a savings of 400,000 barrels of oil per day by 1985 and 800,000 barrels of oil per day by 1990.

Fourth. Immediate action must be taken to develop a major, efficient synthetic fuels industry capable of producing at least 2.3 million barrels per day by 1990.

The philosophy behind the recommendations is clear and simple. OPEC's stranglehold on our national security and our economy has to be broken, and coal offers the most viable means of doing that in the near term.

The Commission's goals are ambitious and toughly worded. The report says, in essence, that the use of oil and gas in utility and large industrial boilers must be drastically decreased by 1985, and virtually prohibited by 1990, with no room for the exceptions, exemptions and extensions which weaken existing conversion laws. But, these are achievable goals and absolutely essential to our Nation's future as an independent and prosperous nation.

The Commission's goals are expensive. But, what price is too high to preserve our national security and our very way of life? Certainly, the $38.5 to $58.5 billion pricetag for this program over the next 5 years pales in comparison to the more than $70 billion we will send overseas for imported oil in this year alone. And, unlike that $70 billion we are sending abroad, the money for this program will stay in our economy, create jobs for our workers, and help strengthen the dollar worldwide.

This report provides the framework for what this Nation's coal commitment ought to be—it should be tough, total and unwavering. There can be no questions in any minds that this Nation is embarking on the rapid replacement of oil and gas with coal and synthetic fuels—no questions in the minds of OPEC, of American industry, the regulatory and administrative agencies of our Government, or the American people.

In this regard, there are two points which I think are absolutely crucial.

First, the pursuit of uncoordinated, and often conflicting policies affecting coal by various Federal, State, and local government entities has to stop. A vigorous program of oil import reduction through increased reliance on domestic coal is in the national interest, and the policies of these Government entities must yield to that national policy.

Second, our total commitment to oil import reductions cannot be compromised in any way. Under no circumstances can we permit ourselves to be lured back into dependence by production increases or price reductions by any foreign energy source. What OPEC does, it can undo. Production increases today can be decreased tomorrow; prices reduced today can be raised tomorrow. That is a lesson we have learned the hard way, and one which we can never forget.

I ask unanimous consent that the Coal Commission's report to the President, entitled "Acceptable Ways To Hasten the Substitution of Coal for Oil" be printed in the RECORD, together with a list of the witnesses who appeared before the Commission at the May hearings.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE PRESIDENT'S
COMMISSION ON COAL,
July 12, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Executive Order 12103, and in my capacity as Chairman, I am honored to transmit an interim report of The President's Commission on Coal, entitled "Acceptable Ways to Hasten the Substitution of Coal for Oil."

The findings and recommendations contained in the report are based on staff analysis and on public hearings held at your request on May 29 and 30, 1979, in Washington, D.C.

Sincerely,
JOHN D. ROCKEFELLER, IV.

ACCEPTABLE WAYS TO HASTEN THE SUBSTITUTION OF COAL FOR OIL

America's growing reliance on imported oil has brought us to the verge of a national crisis. The Commission believes that our vast available coal reserves must be tapped to *dramatically reverse* this alarming trend.

At your request, the Commission held two days of hearings and undertook a thorough study of the means, costs and benefits of stemming oil imports through increased coal use. The report we deliver to you today contains our findings and recommendations based upon this effort.

The Commission believes that growing American reliance on imported oil threatens our security; constrains our foreign policy; and undermines our ability to manage the economy, to control our balance of payments, to keep the dollar sound worldwide, and to bring inflation under control at home. And the recessionary effect of escalating world oil prices will severely hamper your attempts to balance the budget.

Neither the exact causes, nor the specific responsibilities for our current energy situation are clear. However, we are certain that now is the time for government to act and to do so decisively.

Current policies, at best, will only slow the growth in oil imports so that by 1990 they will be at 9 million barrels per day. We recommend a program of actions involving both the direct use of coal and the creation of a synthetic fuels industry to decrease oil imports 1.3 million barrels per day or 16 percent by 1985 and 4.5 million barrels per day or 50 percent by 1990. This is shown graphically in Figure 1.

[Graphs mentioned not printed in the RECORD.]

Coal will play this role with results in the near to mid-term, if aggressive actions are taken immediately, and deliberately, to mandate the direct use of coal to replace oil now being burned under electrical utility and large industrial boilers.

Actions must be taken now to develop a synthetic fuels industry that will further hasten the substitution of coal for oil over the longer term.

The direct use of coal and the development of synthetic fuels are the two key elements in a strategy of coal replacement of oil. Direct use of coal will replace oil more quickly at less cost and still permit maintenance of clean air standards.

The recommended coal substitution program will require additional investment and budget outlays. Realistically, any program to reduce oil imports and provide appropriate environmental protection will impose added costs on our economy. We believe that the benefits of reducing our dependence on imported oil in terms of enhancing economic security, relaxing constraints on our foreign policy, and keeping the dollar sound worldwide outweigh the costs of reducing oil imports. Because we all benefit from decreased national reliance on imported oil, and cost of the coal substitution program we recommend should be shared by all Americans.

Current energy policy must be toughened. The reasonable, practicable objectives are clear:

1. Coal-capable electrical utility boilers now burning oil and gas should be reconverted to burn coal.

Approximately 60 electrical utility plants burn oil and gas to generate steam in boilers that once were fired by coal. These plants tend to be located in the Northeast.

Reconversion of these utility boilers to coal will save 400 thousand barrels of oil per day. This can all be accomplished by 1985.

2. Oil and gas fired utility boilers not capable of burning coal should be replaced by new coal fired units.

Large quantities of oil and natural gas are burned under electrical utility boilers which cannot be converted to burn coal. These tend to be located in the South and Southwest. Because of the much lower cost of coal, the economics of replacing the existing generating units with new coal units are close. Over its useful life, the new coal plant generally will be cheaper to the consumer.

The new coal units must meet the New Source Performance Standards and will emit less sulfur dioxide particulates and nitrogen oxide than most existing oil units. Replacing these oil and gas units with new coal units will hasten an inevitable process. The oil savings will be over half a million barrels per day by 1985 and one million barrels per day by 1990.

3. New large industrial boilers should be absolutely prohibited from burning oil or natural gas.

Under current policy, an estimated one million barrels of oil and natural gas will be burned per day under new industrial boilers in 1990. Prohibiting oil and natural gas in new industrial boilers larger than 5 megawatts will save approximately 400 thousand barrels of oil per day by 1985. By 1990 these savings will reach 800 thousand barrels per day.

These three actions to speed the direct use of coal in the utility and industrial sectors will save 1.3 million barrels of oil per day by 1985. By 1990 the savings will be 2.3 million barrels per day, representing a 25 percent reduction in oil imports.

4. Immediate action must be taken to develop a major, efficient synthetic fuels industry.

A synthetic fuels industry capable of producing 2.3 million barrels per day by 1990 must be developed. This will save 25 percent of oil imports by 1990. In combination with proposals for increased direct use of coal, a total 50 percent reduction in imported oil can be achieved by 1990.

The reasonable, practicable objectives are clear. The objectives call for specific, bold actions.

Only mandated conversion to coal—without administrative discretion—will work.

No exemptions, extensions, exceptions or non-compliance should be automatic and substantial. Incentives will be required. There ar several options such as: allowing rapid tax depreciation for new equipment; offering additional tax credits; or directly paying for a share of the necessary equipment or operating costs. The incentives need to cover the extra costs involved.

To achieve the synthetic fuels objective, the most promising technologies should be identified quickly and construction begun immediately. A market for the full production of the 2.3 million barrels per day of synthetic fuels must be guaranteed.

The creation of a U.S. synthetic fuels industry within ten years will be an extraordinary peacetime challenge. Forty to fifty plants each with a capacity of 50,000 barrels per day equivalent would be required. However, it can be done with industry and government cooperation and public understanding and support.

This program means a doubling of coal production by 1985–86. This kind of commitment requires a climate of certainty within both the public and the private sectors. It is a challenge to the coal industry and to government.

A national commitment of this magnitude depends on stability in this industry. The Commission is working with management and labor toward this end, and we see progress.

Federal energy and related policies must be molded to a clear, bold plan of action. The Commission is convinced that the primary obstacle to greater coal use is the lack and the framework of certain such a policy would provide.

We are struck by the degree to which federal agencies—DOE, EPA, ICC, DOI, DOT and others—are pursuing uncoordinated, independent policies to the detriment of oil import reduction. We urge the establishment of a procedure to identify and resolve regional, state and local conflicts and reconcile competing interests within the Federal government and between Federal and State governments to enable this Nation to aggressively pursue a program of oil import reduction through increased reliance on domestic coal.

Mr. President, we submit this report to you in the certainty that the American people will respond to a challenge of this magnitude.

TABLE 1.—RECOMMENDED PROGRAM

[In millions of barrels per day]

Coal substitution actions	Imported oil savings By 1985	Imported oil savings By 1990
Reconversion of coal-capable utility boilers now using oil and natural gas	0.4	0.4
Accelerated construction of new boilers fired by coal and other fuels to replace existing oil and gas utility boilers	.5	1.0
Prohibition of oil and natural gas in new industrial boilers	.4	.8
Introduction of synthetic fuels	(?) .5	2.3
Total	1.3-1.8	4.5

TABLE 2.—AVERAGE COST PER BARREL SAVED FOR EACH RECOMMENDED ACTION

[1978 dollars]

Action	Cost per barrel saved, 1990
Reconversion of coal-capable utility boilers now using oil and natural gas	$2
Accelerated construction of new boilers fired by coal and other fuels to replace existing oil and gas utility boilers	3
Prohibition of oil and natural gas in new industrial boilers	3
Introduction of synthetic fuels	9

TABLE 3.—ESTIMATED BUDGET IMPACTS

[In billions of 1978 dollars]

Action	In year 1985	In year 1990
Reconversion of coal-capable utility boilers now using oil and natural gas	0.2	0.2
Accelerated construction of new boilers fired by coal and other fuels to replace existing oil and gas utility boilers	1.0	1.0
Prohibition of oil and natural gas in new boilers for industry	.4	1.0
Introduction of synthetic fuels	(?)2.2	7.6
Total	1.6-3.8	9.8

Note: Synthetic fuels are assumed to cost $30/bbl (1978 dollars). The world oil price in 1978 dollars is assumed to be $18 in 1985 and $21 in 1990. These estimates reflect the difference between the synfuel and world oil price.

TABLE 4.—CUMULATIVE CAPITAL COSTS OF RECOMMENDED PROGRAM

[In billions of 1978 dollars]

Action	1985	1990
Reconversion of coal-capable utility boilers now using oil and natural gas	5.2	5.2
Accelerated construction of new boilers fired by coal and other fuels to replace existing oil and gas utility boilers	27.0	[1] 48.0
Prohibition of oil and natural gas in new boilers for industry	6.3	14.0
Introduction of synthetic fuels [2]	(?) 20.0	92.0
Total	38.5-58.5	159.2

[1] It's important to remember that the cost of this program falls to zero eventually, i.e., almost zero by 1995. This is because the action only accelerates an investment that would have happened anyway.

[2] Assumes 46 plants each producing 50,000 bbl/day in 1990. Each plant is assumed to cost $2,000,000,000 to build.

TABLE 5.—COAL PRODUCTION

[In million tons per year]

	1977	1985	1990
Current policy	673	1,025	1,405
Under recommended program	673	1,160	1,800

TABLE 6.—PROJECTED EMISSIONS OF SULFUR DIOXIDE IN THE UTILITY SECTOR

[In million tons per year]

	1985	1990	1995
Emissions under current policy	19.8	20.3	20.7
Emissions under recommended program	19.8	19.1	19.6

TABLE 7.—PROJECTED EMISSIONS OF PARTICULATES IN THE UTILITY SECTOR

[In million tons per year]

	1985	1990	1995
Emissions under current policy	0.97	0.99	1.03
Emissions under recommended program	.96	.88	.94

TABLE 8.—PROJECTED EMISSIONS OF NITROGEN OXIDES IN THE UTILITY SECTOR

[In million tons per year]

	1985	1990	1995
Emissions under current policy	7.6	8.8	9.9
Emissions under recommended program	7.6	8.7	9.8

TABLE 9.—PRELIMINARY LIST OF INITIAL RECONVERSION CANDIDATES

Company and plant	Unit	Megawatts	State	Estimated oil savings (barrels per day) [1]
Central Hudson Gas & Electric Co.: Danskammer	3	147	New York	2,987
	4	239	do	4,857
Niagara Mohawk: Albany	1	100	do	2,032
	2	100	do	2,032
	3	100	do	2,032
	4	100	do	2,032
Consolidated Edison:				
Arthur Kill	20	335	do	6,808
	30	491	do	9,979
Ravenswood	30	1,028	do	20,892
Philadelphia Electric: Cromby	2	230	Pennsylvania	4,674
Virginia Electric Power Co.: Chesterfield	[2] 2	69	Virginia	1,402
	[2] 4	188	do	3,821
Baltimore Gas & Electric: C. P. Crane	1	190	Maryland	3,861
	2	209	do	4,247
Virginia Electric Power Co.: Portsmouth	3	185	Virginia	3,760
	[2] 4	239	do	4,857
Possum Point	3	114	do	2,317
	4	239	do	4,857
Baltimore Gas & Electric: H. A. Wagner	1	133	Maryland	2,703
	2	136	do	2,764
United Illuminating Co.: Bridgeport Harbor	1	82	Connecticut	1,666
	2	180	do	3,658
	3	400	do	8,129
New England Power Co.: Salem Harbor	1	82	Massachusetts	1,666
	2	82	do	1,666
	3	156	do	3,170
	4	482	do	9,796
Delmarva Power & Light Co.: Edge Moor	3	75	Delaware	1,524
	4	150	do	3,048
Public Service Electric & Gas:				
Bergen	1	325	New Jersey	6,605
	2	325	do	6,605
Hudson	1	454	do	9,227
Burlington	7	193	do	3,922
Kearny	7	147	do	2,987
	8	147	do	2,987
Sewaren	1	103	do	2,093
	2	100	do	2,032
	3	109	do	2,215
	4	119	do	2,418
Tampa Electric: F. J. Gannon	1	125	Florida	2,541
	2	125	do	2,541
Long Island Lighting Co.: Port Jefferson	3	188	New York	3,821
	4	188	do	3,821
Hartford Electric Light Co.: Middletown	2	114	Connecticut	2,317
	3	239	do	4,857
Norwalk Harbor	1	163	do	3,313
	2	163	do	3,313
New England Power Co.: Brayton Point	[2] 1	261	Massachuestts	5,304
	[2] 2	261	do	5,304
	[2] 3	640	do	13,007
Total		10,750		218,467

[1] Estimated oil savings were calculated by assuming an average capacity factor for the coal plant of 50 percent, an average heat rate of 10,500 Btu /kWh, and an average of 6,200,000 Btu's per barrel of oil.

[2] These plants have already announced plans to convert from oil to coal.

TABLE 10.—PRELIMINARY LIST OF FOLLOWUP RECONVERSION CANDIDATES

Company and plant	Unit	Megawatts	State	Estimated oil savings (barrels per day) [1]
Public Service of Colorado: Zuni	2	75	Colorado	1,524
Northeast Utilities: Connecticut Power & Light Co.: Devon.	3	66	Connecticut	1,341
	7	104	do	2,114
	8	104	do	2,114
Hartford Electric Light Co.: Middle Town	1	69	do	1,402
Northeast Utilities: Connecticut Power & Light Co.: Montville.	5	75	do	1,524
Delmarva Power & Light Co.: Delaware City.	1	27	Delaware	549
	2	28	do	569
	3	75	do	1,524
	4	28	do	569
Delmarva Power & Light Co.: Edge Moor	1	66	do	1,341
	2	66	do	1,341
Potomac Electric Power Co.: Buzzard Point.	2	35	District of Columbia	711

Footnote at end of table.

TABLE 10.—PRELIMINARY LIST OF FOLLOWUP RECONVERSION CANDIDATES—Continued

Company and plant	Unit	Megawatts	State	Estimated oil savings (barrels per day)[1]
Savannah Electric & Power Co.: Port Wentworth	1	50	Georgia	1,016
	2	54	do	1,097
	3	103	do	2,093
	4	126	do	2,561
New England Gas & Electric: Kendall Square.	3	30	Massachusetts	610
Northeast Utilities:				
Holyoke Water Power Co.: Mount Tom	1	136	do	2,764
Montaup Electric Co.: Somerset	6	122	do	2,479
Western Massachusetts Electric Co.: West Springfield.	2	50	do	1,160
	3	114	do	2,317
Detroit Edison Co.:				
St. Clair	5	358	Michigan	7,276
River Rouge	1	283	do	5,751
Omaha Public Power District: Jones Street.	12	49	Nebraska	996
Public Service of New Hampshire: Schiller.	4	50	New Hampshire	1,016
	5	50	do	1,016
Deepwater Operating Co.: Deepwater	1	82	New Jersey	1,666
	6	74	do	1,504
GPU: Jersey Central Power & Light Co.:				
Sayreville	4	123	do	2,500
	5	125	do	2,540
Werner	4	60	do	1,213
Consolidated Edison Co.: Astoria	1	180	New York	3,658
	2	180	do	3,658
	3	380	do	7,723
	4	380	do	7,723
	5	395	do	8,028
Central Hudson Gas & Electric Corp.: Danskammer.	1	72	do	1,463
	2	74	do	1,504
	5	156	do	3,170
Consolidated Edison Co.: East River	6	156	do	3,170
	7	180	do	3,658
Long Island Lighting Co.:				
E. F. Barrett	1	188	do	3,821
Far Rockaway	4	114	do	2,317
Glenwood	4	114	do	2,317
	5	114	do	2,317
Niagara Mohawk Power Corp.: Oswego	4	92	do	1,870
Orange & Rockland Utilities: Lovett	3	69	do	1,402
	4	180	do	3,658
	5	202	do	4,105
Georgia Power: McManus	1	50	Georgia	1,016
	2	94	do	1,910
Commonwealth Edison Co.: Ridgeland	1	173	Illinois	3,516
	2	173	do	3,516
	3	173	do	3,516
	4	173	do	3,516
Kansas Power & Light Co.: Lawrence	2	38	Kansas	772
	3	49	do	996
Central Maine Power Co.: Mason	3	33	Maine	671
	4	33	do	671
Baltimore Gas & Electric Co.:				
Gould Street	3	104	Maryland	2,114
Riverside	4	72	do	1,463
	5	81	do	1,646
Delmarva Power & Light Co.: Vienna	7	38	do	772
Boston Edison Co.:				
Mystic	4	125	Massachusetts	2,540
	5	125	do	2,540
	6	138	do	2,805
Edgar	4	81	do	1,646
	5	81	do	1,646
Oklahoma Gas & Electric Co.: Mustang	2	63	Oklahoma	1,280
Philadelphia Electric Co.: Delaware	7	156	Pennsylvania	3,170
	8	156	do	3,170
Virginia Electric Power Co.:				
Chesterfield	3	113	Virginia	2,296
Portsmouth	1	113	do	2,296
	2	113	do	2,296
Yorktown	1	188	do	3,821
	2	188	do	3,821
Possum Point	2	69	do	1,402
Wisconsin Public Service Corp.: Weston	2	75	Wisconsin	1,524
Total		9,151		185,970

[1] Estimated oil savings were calculated by assuming an average capacity factor for the coal plant of 50 percent, an average heat rate of 10,500 Btu/kWh, and an average of 6,200,000 Btu per barrel of oil.

SPECIAL HEARINGS ON LESSENING OIL DEPENDENCY THROUGH GREATER COAL USE

AGENDA

May 29–30, 1979.

Tuesday, May 29:

9:30: Governor John D. Rockefeller IV.

Consequences of Oil Dependency:

9:45: Dr. William O. Baker, Chairman of the Board, Bell Laboratories, Murray Hill, New Jersey.

10:10: General James M. Gavin, (USA, Ret.), Arthur D. Little, Inc., Cambridge, Massachusetts.

10:35: Richard D. Hill, Chairman of the Board and Chief Executive Officer, First National Bank of Boston.

Public Perception of the problem:

11:00: Mayor Lila Cockrell, San Antonio, Texas.

Industry Capacity to Respond:

11:25: Robert H. Quenon, President, Peabody Coal Company, St. Louis, Missouri; and Chairman, National Coal Association.

11:45: Arnold Miller, President, United Mine Workers of America.

12:15: Lunch.

Wheeling of Power from Coal to Oil-Fired Plants Wheeling Panel (Government):

1:15: Jerry L. Pfeffer, Acting Assistant Administrator, Office of Utility Systems, Economic Regulatory Administration, Department of Energy.

Dr. William W. Lindsay, Director, Office of Electric Power Regulations, Federal Energy Regulatory Commission.

1:55: Wheeling Panel (Utilities):

W. S. White, Jr., Chairman of the Board, American Electric Power, New York, New York.

Edward F. Mitchell, Senior Vice President for System Engineering and Operations, Potomac Electric Power Co./PJM, Washington, D.C.

2:45: Conversion of Coal Capable Plants to Coal: Robert L. Davies, Deputy Assistant Administrator for Fuels Conversion, Department of Energy.

Utility Panel:

3:05: John F. Kaslow, President, New England Power Company, Westborough, Massachusetts.

Charles F. Luce, Chairman of the Board, Consolidated Edison, New York, New York.

Accelerated Replacement of Oil-Fired Boilers:

3:55: Dr. Raymond C. Scheppach, Assistant Director, Natural Resources and Commerce Division, Congressional Budget Office, Washington, D.C.

Utility Panel:

4:15: C. King Mallory, III, Vice President and General Counsel, Middle South Services, Inc., New Orleans, Louisiana.

T. Louis Austin, Chairman of the Board, Texas Utilities Company, Dallas, Texas.

Capital Requirements:

4:55: Theodore J. Komosa, Vice President, Merrill Lynch, Pierce, Fenner & Smith, Inc., New York, New York.

5:15 Adjourn.

Wednesday, May 30:

9:00: Governor John D. Rockefeller IV.

Industrial.

9:10: David Bardin, Administrator, Economic Regulatory Administration, Department of Energy.

Harry B. Bartley, Jr., President, Celanese Chemical Company, Inc., Dallas, Texas.

Industrial Panel:

10:10: George R. Armstrong, Executive Vice President, Caterpillar Tractor, Peoria, Illinois.

Frank W. Luerssen, President, Inland Steel, Chicago, Illinois.

James W. McSwiney, Chairman of the Board, The Mead Corporation, Dayton, Ohio.

11:10: Douglas M. Costle, Administrator, Environmental Protection Agency.

12:10: Lunch.

1:10: James R. Schlesinger, Secretary of Energy.

2:10: A. Daniel O'Neal, Jr., Chairman of Interstate Commerce Commission.

3:10: Guy R. Martin, Assistant Secretary for Land and Water Resources, Department of the Interior.

Mr. HUDDLESTON. Mr. President, I yield at this time to my colleague on the Coal Commission, the distinguished Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, I once again am honored and privileged to be working with my distinguished colleagues the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Kentucky (Mr. HUDDLESTON). I have been privileged to work closely together with them on many other matters. Now we find ourselves bound together by a common interest in the energy needs of the United States of America and with the common goal of making this country less dependent on imported oil by encouraging the use of a huge and abundant domestic energy resource: coal. We are proud indeed to be working on the President's Coal Commission, and to be discussing today the interim report of that Commission. I know we are all very proud of the work done by the Chairman of the Commission, the distinguished Governor of West Virginia, Jay Rockefeller, who has also devoted himself through the years to this matter.

Let me just add that I do not know of any of my colleagues who exceed the dedication of Senators RANDOLPH and HUDDLESTON to the belief that this Nation's national security and national interest will be served by increasing this Nation's use of coal. I know we are joined also in that belief by the distinguished majority leader of the Senate (Mr. Robert C. Byrd).

The Commission's report spells out four straightforward measures which could dramatically reduce this Nation's dependence on foreign oil. The proposals include converting coal-capable boilers now burning oil or natural gas back to coal, replacing oil and gas-fired boilers with coal-fired units on an accelerated basis, prohibiting the construction of new oil- or gas-fired boilers, and encouraging the development of a synthetic fuels industry based on coal. A very thorough analysis conducted by the Commission concluded that these measures would reduce oil imports by 1.3 million barrels a day by 1985 and 4.5 million barrels a day by 1990.

These are not pie-in-the-sky proposals. Rather they are extremely well-thought-out measures which are well within our grasp. Although the Commission's report endorses the concept of synthetic fuels development, it rightfully stresses the direct use of coal. Indeed, the projected 1.3 million barrels a day savings by 1985 would be achieved entirely through the substitution of coal for natural gas and oil.

I cannot think of a more obvious and essential step for our Nation to take. It is madness for this Nation to continue to burn imported oil in large industrial and utility boilers. We have enough coal to last us for hundreds of years, and a coal industry which is eager to produce more coal. Indeed, the coal industry is currently producing at a level 100 million tons below its annual capacity. We should turn the industry loose on this problem. As long as there are large boilers consuming oil in this country, we have no one to blame but ourselves for the petroleum shortages which threaten to destroy our economic prosperity.

It is important to note that the Commission's recommendations involve no loosening of current clean air standards. Furthermore, they would entail what I consider to be reasonable capital costs in view of the long-range return. The Commission has suggested, rightly I think, that the Federal Government should help defray the costs of conversion and accelerated replacement.

I am pleased to note that earlier this week, eight Republican Senators announced our support for proposals similar to those made by the Commission for increasing the direct use of coal. They included, besides myself, Senators Armstrong, Chafee, Danforth, Javits, Lugar, Schweiker, and Stafford. I see similar receptivity to these proposals on the other side of the aisle, and believe that a broad, bipartisan coalition can be assembled in support of them. I am looking forward to working on legislation which will implement the Commission's proposals.

Lastly, I believe that the Commission has set a very reasonable goal for synfuels production. This is an area of concern to many of us here in the Senate. It is an issue of great interest to my colleagues on the Governmental Affairs Committee, and we are looking forward to holding hearings on Senator Domenici's synthetic fuels bill, S. 1377, on the 17th and 18th of this month. The Commission's recommendations should prove most useful both to the Governmental Affairs Committee and to the other committees with an interest in the synfuels issue.

In closing, I strongly urge my colleagues to support the recommendations presented in the Commission's interim report. I believe that they represent a clear and simple way to make a significant reduction in the amount of oil which our Nation imports. It is an option which this Nation cannot afford not to follow.

Mr. President, I will join with my colleagues now in making certain that we do everything humanly possible to address this Nation's energy problems. As everyone in the United States knows, particularly those who have waited for hours in gasoline lines, we are in an emergency situation. If we indeed are involved in the moral equivalent of war, then let us act expeditiously in the Senate and in the House of Representatives. When there is an emergency, a strike on the railroads for example. We are able to move within 24 hours in both bodies and get something done. I think we have that necessity now to move forward in the energy area, and to indicate clearly a new national policy must be developed.

We are all waiting with considerable anxiety for the President's energy address on Sunday night. I hope it is as factual, as tough-minded, and as practical as the recommendations now being made by the Coal Commission.

We intend to move forward on this, we hope working in partnership with the administration. But whatever it may be, we intend to move ahead.

Mr. President, in conclusion, I recently wrote a letter to the chairman of the Coal Commission, Governor Rockefeller of West Virginia, describing some of the issues which I believe should be addressed in the Commission's final report. I ask unanimous consent that the letter be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., June 25, 1979.

Hon. John D. Rockefeller IV,
Governor, State of West Virginia,
Charleston, W. Va.

Dear Jay: As the Coal Commission moves into the final phase of its efforts, I would like to discuss several issues which I believe should be addressed in the Commission's final report. I would also like to make some suggestions about how the Commission's findings should be presented, and how we might go about following up on our recommendations.

Before beginning, let me say that I believe that the Commission has done an outstanding job so far. I have been impressed by the work that has been done in the area of labor management relations, most notably with the series of seminars which the Commission has sponsored. I also feel that the hearings held in late May on increasing the use of coal produced some very useful testimony.

The work that has been done thus far has established the credibility and objectivity of the Commission. By so doing, it guarantees that the Commission's report will have substantial impact. I believe that you, the other voting members of the Commission, and the Commission staff should be proud of your efforts.

Turning to my comments on the contents of the final report, let me reiterate several points I have made in the past. First, I believe that ICF's analysis of potential coal production and demand could be an extremely useful part of the report. As I said in early Commission hearings, I believe it is important to examine the President's goal of doubling coal production by 1985. If his goal is not realistic, then we should use ICF's model to establish a more realistic goal, and to show what needs to be done to reach it. We might want to think in terms of identifying maximum and minimum goals. First, we would have ICF establish a baseline level of production which would result if there were no changes in current coal policy. Second, we could establish a somewhat limited goal and show that the steps which would have to be taken to reach it. Lastly, we could establish an optimal goal which could be reached if extraordinary measures were taken.

In doing this, it is very important to identify the impact which specific policy initiatives would have on the supply/demand picture. In other words, ICF's models should be used to estimate the effect of each of a number of different policy options, while all of the other variables in the models are held constant. Given that information, the readers of the report will be able to construct variations of the hypothetical minimum-maximum goals discussed above.

In the labor-management area, I was very impressed with the potential for establishing labor-management committees at the mine level to work on improving productivity. The question of productivity is of course a very sensitive one, and should not be addressed unless worker health and safety issues are discussed as well. Tensions about those issues can be reduced only through a long term labor-management dialogue at each mine. For that reason, the Commission should consider recommending the establishment of new labor-management committees to specifically address productivity, and related issues. Alternatively, it might recommend that productivity be addressed by committees which have already been established for other purposes.

In addition, I think that the Commission should review the results of the production incentive programs which have been established under the 1978 UMWA–BCOA contract. The experiences of those programs should prove valuable in shaping the recommendations of the Commission.

One issue which the Commission should look at closely is the effect of clean air regulations on the use of coal. Such an analysis will probably have to be qualitative as well as quantitative. Its goals should be to identify both the direct economic costs of environmental regulations to coal users, and to assess the impact of regulatory uncertainty and concern about the reliability of pollution control equipment.

However, I feel that the Commission should be cautious about any recommendations it might make about revising clean air statutes. Such recommendations should be made only in the case of regulations which are clearly ill-conceived or unproductive. An example would be the multiple and sometimes conflicting permit requirements for coal fired power plants. Otherwise, the Commission should use its influence to encourage the development of the technologies needed to meet current clean air standards in a cost effective manner. Coal will never be used extensively in this country unless we learn to burn it cleanly. In this regard, it would be extremely useful if the Commission made an assessment of the state of pollution control technology, including scrubbers, fluidized bed combustion, and coal gasification. The Commission should identify what improvements need to be made in those technologies, and perhaps could recommend increased federal or joint industry-federal research.

It is my belief that the best long-term policy is to insist that coal be used in an environmentally responsible manner, while realizing that regulations must be reasonable enough not to significantly discourage coal use. Until coal can be used relatively cleanly, it will be at a significant disadvantage with respect to its competitors—conservation, solar and nuclear. It is shortsighted to believe that the public will accept large amounts of coal-generated pollution when cleaner alternatives exist. The sooner the pollution control technology is forced along, the sooner coal will be able to fulfill its vast potential as an energy source.

Lastly, I think it would be wise for the Commission to begin thinking about how to follow through on its recommendations. Specifically, if the Commission is planning to make any recommendations which would require federal legislation, we should begin laying the groundwork for that legislation now. I am eager to work on legislation designed to increase coal use, as I am sure the other Congressional members of the Commission are as well.

In order to further this end, I have asked my staff to keep in touch with the Commission staff in the months ahead. I also would like to set up a luncheon meeting late in the summer between the members of the Commission and the members of the Senate Coal Caucus.

In closing, I would like to congratulate you again on how well the Commission has progressed thus far. Given its good start, the Commission is in a position to make a significant contribution to resolving this nation's energy problems.

Warm personal regards,

CHARLES H. PERCY,
United States Senator.

Mr. PERCY. I wish to express deep appreciation to my colleagues for the pleasure I have had in working with them on this Commission.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, it is a privilege and a responsibility to join with my two able colleagues from coal-producing States, these States being Kentucky and Illinois. We have, for the RECORD, the further comment of Senators HUDDLESTON and PERCY, and the filing with the Senate of the report from the President's Commission on Coal. The subject of the report is "Acceptable Ways to Hasten the Substitution of Coal for Oil."

It is our hope, the hope of the members of the Commission, that the President of the United States will not only have the opportunity but will assign to himself the responsibility of going through the report very, very carefully.

We feel that this would be important to him as he and his associates in the administration prepare for his address to the American people, which will be at 10 p.m. on this Sunday.

On April 11, 1979, the President requested Mr. Rockefeller, the Governor of the State of West Virginia and the chairman of the Commission, to hold public hearings within 60 days to identify acceptable ways to increase coal utilization in the short run.

Senator HUDDLESTON will recall that at a meeting several weeks ago at the White House the President said, "I am eager for the increased production and the increased use of coal."

As I have indicated, these assignments, commitments, were given to the Commission. I wish to underscore that 2 days of intensive and thorough hearings were held for the very purpose I have explained on May 29 and 30.

The agency heads for the Department of the Interior, for Energy, for EPA, and ICC testified. We also had additional representatives who spoke for the public. We had spokesmen for the electric utility industry and the coal industry.

Our report is based, Mr. President, on the testimony elicited at the hearings, the research which has been carried on by members of the Coal Commission staff, and by the members of the Commission themselves.

It presents technically feasible and realistic recommendations which would decrease our reliance on oil by one-half, Mr. President, before 1990.

I need not say what the record must reflect, that Senators are acutely aware, as are the American people, of the national security crisis which is involved in these matters. There is a confrontation, in degree, before the Nation, and it comes because the American people have reliance on foreign oil. Each day the Nation exists, that our people live, foreign oil continues to flow into the United States to meet our energy requirements.

I had a call from a very good friend of mine in West Virginia a few mornings ago, and he said, in effect, "I think the energy crisis is contrived." Then, of course, he set forth where he felt the mistakes had been made.

This was all well and good, but I said to him, "Do you realize that 70 percent of all the oil that is used in the United States, either for gasoline or for home heating—in other words for all purposes, as of this day"—and it is approximately the same today—"comes from foreign sources? It is not produced within the United States of America."

If you are held hostage, and that is exactly what it is, by oil-producing countries overseas, as Senator HUDDLESTON has emphasized, those nations can do and do exactly what they wish in reference to the production, and then the supply, at whatever price they desire to set.

I say to Mr. HUDDLESTON, we have nothing to do with the price. Is that not correct?

Mr. HUDDLESTON. That is correct, sir.

Mr. RANDOLPH. Yes, it is set by the oil-producing countries.

Do we pay it? Yes, we pay it, because we are not producing the energy within our own country.

We need an affirmative national program implementing this report's recommendations. We would be permitted, if the report were more than words, and action came from the words, to markedly decrease that reliance. The benefits of reducing our dependence on imported oil in terms of enhancing, strengthening, our economic security, relaxing constraints in the area of foreign policy, and keeping the dollar sound worldwide clearly outweigh the costs of reducing oil imports.

Mr. President, I do not want to seem to assume the role of a prophet, but I do want the RECORD to reflect that the Senator from West Virginia now speaking testified before the Committee on Interior of the Senate in early 1961. That is 18 years ago. At that time, I stated to my colleagues who were present:

> Every year that passes in which we become more and more dependent on foreign oil to buttress our national economy and security is one year nearer to disaster.

Those are strong words, but they were correctly spoken. I then stated:

> We are gambling on our country's future.

I could add, on the future of millions and millions of men and women and children.

Yes, I repeat, 18 years have passed. I am not attempting now to place the blame on any one person or persons or on an administration or administrations, but until this hour, I say to Senator HUDDLESTON, we have not acted. We have not really come to grips with the problem. Yes, timid steps have been taken, but we have made no frontal attack, across the broad front, which was absolutely necessary for independence from the standpoint of a supply of energy for this Nation.

We went to the Moon. There are no energy problems up there for the American people, are there, I ask the Senator from Kentucky, Mr. President?

Mr. HUDDLESTON. Not that I am aware of.

Mr. RANDOLPH. No, there are no energy problems on the Moon for the American people, but there was a resolve that this country would do that and it has been done. I shall place in the RECORD, because I want to be very careful, though I think I know the figure, what that total cost has been until the present time, literally billions.

I speak again about the need for action, as I did 18 years ago. I speak of the disaster that will befall us if we do not act. We come to times that are very critical, maybe the worst of times—on this subject, it certainly would seem so. It is not enough to say we must take action now. The action must be forthcoming.

We have proven national coal reserves sufficient to supply our country's energy needs, Mr. President, for over 300 years. Coal, we know—this is a statement of truth—is an effective and available answer to our tragic energy dilemma. What are we going to do? We must be quiet and very earnest as we discuss this matter. We must initiate aggressive and deliberate actions to mandate the direct use of coal—the direct use of coal—to displace oil now being burned in electrical utility and large industrial boilers.

We must take action now, not later, to develop a synthetic fuels industry that will further hasten the substitution of coal for oil. We have had the technological ability to utilize coal gasification and liquefaction for many, many years.

Our responsibility is to foster their development on a commercial scale.

As indicated in the report, and I emphasize, there are approximately 60 coal-capable boilers currently burning oil in this country. Their reconversion will save 400,000 barrels of oil per day and, because of coal's lower price per Btu, at a saving, not at an extra cost, to the American public. Accelerated replacement of oil- and gas-fired utility boilers not capable of burning coal would result in savings greater than 500,000 barrels of oil per day by 1985 and 1 million barrels per day by 1990.

I say to Senator HUDDLESTON, there are people who do not want this to happen. We have to be very frank about it and know that it is true. The evidence is very clear. I shall not take the time today to sketch that, except to say that action on these and other recommendations that are outlined in our report will enable us—that is, the American people—to reduce oil imports by 50 percent before 1990.

The year 1990 is not very far, really, when I think back to 1961 and know that 18 years have passed. Now I am talking about 10 years, approximately half that time.

The majority leader, the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), is conscious of these matters and may discuss them in his own time.

I further call to the attention of our colleagues that the report's recommendations can be effected within the parameters of our environmental laws. In fact, emission of sulfur dioxide, particulates, and nitrogen oxide would be less than under current policy.

Mr. President, the technology is available. We need the commitment.

The Commission's recommendations do not provide a total solution to our energy problem. They do, however, outline measures which can and should be immediately implemented to lessen our dependence on oil.

I hope that the Members of the Senate will give to this report their thoughtful and reasoned analysis and be mindful of coal's great potential by acting on legislation necessary, whatever it is, before this Congress ceases its work this year.

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. I yield to the Senator from Kentucky.

Mr. HUDDLESTON. I thank the distinguished majority leader.

Mr. President, I commend the Senator from West Virginia, who has so long been dealing with the energy problems of this country and has made such a significant contribution to the efforts we have made to achieve a reasonable and effective policy.

I say again, to emphasize, that the report that is now before the President of the United States from his Coal Commission is an interim report. There are many other problems attendant with the increased production and utilization of coal that the Commission is dealing with, which their final report at the end of this year will address. Problems such as transportation, such as the production of coal in view of the New Surface Mining Act that is now in the process of being implemented, and certainly the problem of management and labor relations. All of these will be addressed.

I add my comments on the chairman of our Coal Commission, the distinguished Governor of the State of West Virginia, Mr. Jay Rockefeller, and advise my colleagues that during the final days of the preparation and presentation of this report the chairman was acting under unusual stress and strain, with the impending birth of an additional child for the Rockefellers being more and more imminent as the hours went by.

That blessed event has now occurred, and on yesterday Governor and Mrs. Rockefeller received a new member of the family by the name of Justin Aldrich Rockefeller.

I know that now he will be able to pursue his work with the Commission——

Mr. RANDOLPH. Ten pounds, three ounces.

Mr. HUDDLESTON. Without quite as much pressure as he has been under in the last few days.

Again, my thanks to my colleagues for participating in this colloquy today.

I commend this report not only to the President of the United States but to the Senate and the House of Representatives as a method of expressing the determination and the will of the Congress and the administrative branch in meeting this moral equivalent of war, which has been described for us, with a positive, aggressive, effective, and workable program.

If we let this opportunity pass, I do not know how we can expect our citizens in this country or, just as importantly, the citizens of those countries that control the major source of petroleum today to know that we are indeed serious about putting the United States on a sound and independent footing as far as the energy supplies of this Nation are concerned.

I think we must seize this opportunity and must go forward with the kind of program that is envisioned here, to be sure we protect the interests of the world.

THE PRESIDENT'S COMMISSION ON COAL

Mr. ROBERT C. BYRD. Mr. President, three most distinguished Members of the Senate currently serve on the President's Commission on Coal: Senator RANDOLPH, Senator HUDDLESTON, and Senator PERCY. Under the distinguished leadership of the Governor from my home State, Governor Rockefeller, this panel has spent the past year examining ways in which our most abundant natural energy resource can be put to better use to solve our energy crisis. At the end of this year, the Commission will issue a lengthy report on the use and development of coal—a report which I am certain will carry great weight with everyone struggling to find solutions to this most serious national problem.

Recognizing the collective wisdom and expertise of the distinguished members of this Commission, President Carter turned to this group for advice on ways in which coal can be used to replace imported oil. On April 5, 1979, the President requested the Commission to study ways in which coal production, development, and use could be increased. The Commission held 2 days of hearings and undertook a thorough study of the means and costs of stemming oil imports through increased coal use. The Commission is now releasing its interim report on this matter and its findings are encouraging.

Briefly, the panel believes that the United States can significantly reduce oil imports through a program of actions involving the direct use of coal and the development of a synthetic fuels industry. If aggressive actions are taken now to mandate the replacement of oil being burned by utilities and other industrial plants for coal and if the necessary resources are committed for the development of a substantial synthetic fuels industry, we will be well on our way toward the energy independence we all seek.

I compliment Mr. RANDOLPH, Mr. HUDDLESTON, and Mr. PERCY for the contributions they have made as members of that Coal Commission.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, that that period not extend beyond 15 minutes, and that Senators may speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENERGY: THE NEED TO ACT

Mr. COHEN. Mr. President, a pervasive sense of frustration, anger, and, to some degree, hopelessness hangs over our Nation. Americans, accustomed to steady growth and national prosperity, are now confronted with an uncertain economic future and a threat to their way of life.

We are a divided people, unclear about our goals, and distrustful of government leadership and institutions. Government indecision on energy has turned us into a nation of doubters and cynics. Somehow we feel better if we can assign blames for our woes.

The frustration is understandable. There is a lack of credibility on the part of those who should be taking the lead in resolving the problem. Oil company profits have advanced in lockstep with the ever-increasing prices for gasoline and heating oil; Government-mandated allocations have skewed supplies heavily in favor of certain States and regions; three Presidents and four Congresses have failed to provide either leadership or answers, and the Organization of Petroleum Exporting Countries (OPEC), the 13 nations supplying most of the world's oil, has raised prices tenfold since 1973.

We cannot afford to be paralyzed by that frustration. The bleak history of energy mismanagement since the first shock waves of the 1973 oil crisis cannot be allowed to interfere with our decisionmaking and problem-solving processes today.

The United States faces formidable energy and economic challenges. This is a time of transition, a period of difficult changes in lifestyle and national direction, that has seldom been equalled in U.S. history. We must face the reality that U.S. oil production peaked in 1971, while our energy consumption has continued to increase. Our Nation's future strength rests on our ability to readjust our energy habits to reflect present energy realities.

As a Nation, we use 42 percent of the world's natural gas and 32 percent of the world's oil. Shockingly, 44 percent of the oil we use is imported. Even more distressing, about 36 percent of our imports today come from politically unstable Middle Eastern sources, as opposed to only 15 percent in 1973.

Our problems will not be solved simply by cutting off those imports or by breaking up OPEC. What is required are fundamental changes in the way we use and think about energy. We have years of wasteful habits to change.

The challenge is not an easy one. Two decades of abundant, low-cost energy have left us ill-prepared to deal with the energy turbulence of the 1970's. Like water, oil and gasoline have been viewed as inexhaustible resources. The United States will have used more oil in the 1970's than it did in the first 190 years of its existence.

It is ironic that this same decade is the one in which we first recognized the fragility of our fossil fuel supplies and are taking steps to extricate ourselves from the problem. The Federal Government has initiated a number of steps aimed at meeting our present and future energy needs. Perhaps the most important action has been to provide billions of dollars for research and development of alternative fuels.

We have also begun to explore the virtually inexhaustible energy potentials of solar and fusion power.

Other possibilities exist and are receiving more attention: Coal gasification and liquefaction, oil shale, solid waste, nuclear, and thermal hydrogen, for instance.

All of these alternatives have their own limitations and unresolved questions, ranging from technical problems to economic, environmental and social issues. All the alternatives offer great potential, but the benefits they yield would be in long-term rather than short-term solutions.

For now, we must continue to build on present conservation efforts. American industry is using energy more efficiently than it did in 1973, but must make even greater progress in the years ahead. Each of us must remain energy conscious as we heat our homes, shop for cars, and make use of our limited energy resources.

We must all recognize the competing needs for those resources and make appropriate sacrifices. If we are to insure that adequate supplies will be available to heat our homes, fuel our cars, and meet the needs of agriculture, industry, and other sectors of our economy, we must operate on a basis of cooperation, understanding and conservation.

To make those sacrifices, we need firm, effective leadership. The critical consideration is that we seek solutions that are politically acceptable, while at the same time making significant contributions to resolving the problem.

We simply must come to terms with the reality of the situation and begin at once to make the hard choices on energy. We cannot, as one recently observed, escape the necessity of choice. Rarely has the need for inspired and courageous leadership been greater.

How can we reverse the deteriorating energy situation we have been facing since early in this decade? What steps are necessary to restore rationality to the energy debate and set the Nation on an orderly course leading to energy security at a reasonable cost? In my view, several actions are urgently required:

We must end the futile search for scapegoats. Each of us must be mature enough to accept part of the blame, and concerned enough to shoulder part of the solution. Blaming OPEC, the oil industry, the President, the Congress, the environmental movement, or the Department of Energy may make us feel better, but it only distracts us from the more immediate task.

We must accept the uncomfortable fact that there is no cheap, quick fix. It will take years to bring our energy budget back into balance, and the job will be expensive. It is imperative that we rid ourselves of the notion that energy prices will ever again return to pre-OPEC levels.

We must begin to view conservation as an absolute necessity, not a passing fad. It is the single most important step we can take to reduce oil imports, lessen environmental, health and safety problems associated with energy use, and lower energy costs for the consumer. While it is true that Americans have become increasingly energy conscious as a result of rising prices and supply shortages, we have not begun to approach our potential in this critical area. We must build a vocal and broad-based constituency for energy conservation. To do this we must greatly expand existing incentives for individuals and businesses, and remove regulatory roadblocks that discourage conservation. State and local government must play an active role in this effort.

We must forge a constructive relationship on energy between the oil industry and the Government. We need to recognize that the economic, environmental, social, and foreign policy implications of oil transactions make it necessary for Government to remain an active partner with private industry in energy decisions. Energy is not a problem that can be left to whims of the "free market." To do so risks the very real possibility that the public interest will be ill-served.

We need to vastly overhaul our existing regulatory mechanisms for assessing the economic, environmental, and social impacts of major public and private energy projects. Present procedures are too time-consuming, too costly, and too rigid. Consideration should be given to creating an Energy Mobilization Board to coordinate and direct decisionmaking on major energy projects. The Board should have the authority to render final decisions on major projects within a set period of time. A special three-judge panel could be established to serve as the final arbiter of Board decisions.

We should seek to develop a long-term, hemispheric energy policy through improved relations with Mexico and Canada. This common market approach on energy can be expanded to include joint efforts aimed at resolving other pressing, unresolved problems facing the North American community of nations.

We should use our membership in international lending institutions such as the World Bank and the International Development Association to aggressively promote development of energy supplies in non-OPEC nations. Such an effort will not only diversify world oil sources, but also enhance orderly economic development in less developed nations.

We must embark on a massive effort to promote the development of a synthetic fuel industry in the United States. Specifically, we would establish a Federal Synthetic Fuels Corporation and give it the resources and authority necessary to achieve a production target of up to 3 million barrels a day by the mid-1980's. While the cost of this effort will be substantial, it will help reverse the upward trend in oil imports and check OPEC's stranglehold on fuel supplies.

Our enormous coal reserves must play an expanded role in reducing our reliance on foreign oil. We must step up our efforts to resolve the institutional and environmental problems that limit use of this resource.

Any comprehensive set of recommendations for addressing our Nation's energy problems must include policies and programs designed to stimulate the development of alternatives to fossil fuels. Solar and geothermal energy, wood, low-head hydro, solid waste, wind power, the tides, and fusion can all play an important role in meeting our future energy needs. As we have subsidized the development of coal, nuclear energy, and oil, so, too, must we be prepared to spend whatever is necessary to insure full realization of the alternative sources open to us.

We must continue to aggressively support research and development on alternatives to gasoline and diesel engines. We must also adopt a broad range of incentives that will encourage greater use of mass transit in our large urban areas. Additionally, assistance should be increased to rural communities interested in upgrading existing transit systems.

We must continue to address the legitimate public concerns over nuclear power—specifically, the management and disposal of nuclear wastes, the safety of reactor operations, health and environmental risks, and proliferation of nuclear weapons through the use of reactor byproducts. We should not view nuclear fission energy as the long-term answer to American's energy problems, but as a necessary and important transitional resource that will buy our Nation time until alternative sources are fully developed.

Congress must recognize that State and local governments can play a significant role in alleviating our Nation's energy problems. We should immediately approve a broad range of economic incentives that will assist State and local governments in their efforts to conserve energy or promote the expanded use of renewable resources.

We need to gradually free domestic oil prices from Federal regulations, but only after the following conditions are met:

First. Presentation of credible evidence that decontrol will stimulate significant additional production.

Second. Demonstration that decontrol will not significantly worsen our Nation's already serious inflationary problems.

Third. Enactment of a workable windfall profits tax that will recapture, for the public's benefit, a percentage of the vast new revenues that will result from decontrol.

Fourth. Presentation of conclusive evidence that world prices reflect true U.S. marginal replacement costs.

Fifth. Assurances that additional profits resulting from decontrol will be reinvested in exploration, development and production of new energy sources.

Sixth. Approval of a wide range of economic assistance programs that will help consumers adjust to higher prices and convert to alternative sources of energy.

Seventh. Demonstration by the oil industry that it is willing to cooperate fully with the Government in such areas as verifying petroleum inventories and true production costs.

We should strictly adhere to the ceiling on oil imports agreed to at the Tokyo energy summit conference. We should turn to a standby gas rationing plan only as a last resort. Such a plan should have as few exceptions as possible.

For the years immediately ahead, we must recognize that our choices are limited. Rapid and effective implementation of an energy conservation policy seems to be the only real prescription for at least partial relief of our national energy headache. Energy conservation alone cannot close the energy gap. It will, however, reduce the magnitude of the problem by bringing supply and demand into closer correspondence while allowing us to stretch our nonrenewable fossil fuel resources.

The critical consideration is that we seek solutions that are politically acceptable, while at the same time making significant contributions to resolving our energy problems. As Robert Stobaugh and Daniel Yergin wrote in a recent edition of "Foreign Affairs," such a solution is better than one that might theoretically solve our problems altogether, but which has no chance of being adopted.

"It is time," Stobaugh and Yergin wrote, "for the United States to come to terms with the realities of the energy problem, not with romanticism, but in a pragmatic and reasonable way—and not out of altruism, but for the most pressing reasons of self-interest."

We are past the point where we can afford to discuss the energy issue from a detached or ideal perspective. The reality is that our own supply has peaked, while our demand has not. Our sources of oil in the international market are more protective of their own supplies, and they are charging what the market will bear—a price considerably higher than we expected to pay at this point in our Nation's history.

The problem is not a purely technical one. Many other factors must be weighted and carefully balanced. We must take into account not only individual considerations, but environmental, economic, social, and foreign policy considerations as well.

The crisis in energy has only magnified the crisis in leadership that has paralyzed our Nation in recent years. Our Nation is paying an extremely high price for that indecision, and it will pay an even greater price if action is not taken immediately.

Clearly, the time is at hand to enact a comprehensive energy policy for the United States that looks beyond the next election and into the next generation. This task will require an immense amount of leadership, will, imagination, sacrifice, and courage. Above all, it will require that we overcome the regional and philosophical differences which have, to date, resulted in an energy deadlock.

As former Secretary of State Henry Kissinger said in a 1975 speech on energy, "History has given us a great opportunity disguised as a crisis."

Our task is to seize the opportunity while it is still available, and mold a comprehensive, far-sighted energy policy for the United States.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the pending business, S. 1149, which will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 1149) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without the time being charged against either side.

The PRESIDING OFFICER (Mr. Ford). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Time for debate on this bill is limited to 4 hours, to be equally divided between and controlled by the Senator from New Jersey (Mr. Williams) and the Senator from Utah (Mr. Garn), with 1 hour on any amendment in the first degree, except a Proxmire amendment on reducing authorization, on which there shall be 2 hours; a Javits amendment on UDAG, on which there shall be 1 hour; two Helms amendments on Soul City, on each of which there shall be 1 hour; and a Garn amendment on Davis-Bacon, on which there shall be 1 hour and which shall not be subjected to a motion to table, with 30 minutes on any amendment in the second degree, 30 minutes on any debatable motion, appeal, or point of order.

The vote on final passage of the bill is to occur no later than 7 p.m. this day.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that Tony Arroyos, of the staff of Senator Domenici, be granted the privilege of the floor during the consideraion of S. 1149.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 328

Mr. WILLIAMS. Mr. President, I send to the desk an unprinted amendment and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 328:

On page 31, between lines 2 and 3, insert the following:

MATURITIES FOR SUPPLEMENTAL LOANS

SEC. 322. Section 241(b)(2) of the National Housing Act is amended by striking out the phrase "but not to exceed the remaining term of the mortgage".

Mr. WILLIAMS. Mr. President, this amendment presents no controversy, so far as I know. The minority, I know, has expressed approval of this amendment, and the Department has expressed no opposition either.

The amendment would address a problem experienced by a number of nursing homes with mortgages originally insured for 20 years under FHA's section 232 nursing home insurance program. Some of these facilities are seeking to expand in order to remain competitive and to assure continued economic viability. Under FHA's section 241 program, nursing homes may secure supplemental loan insurance for renovations, additions, and new construction connected with existing facilities.

However, the term of the supplemental mortgage insurance may not exceed the remaining life of the original mortgage. Naturally, such short-term mortgage insurance entails high monthly payments that can halt expansion projects at the outset. Ironically, in 1974, the section 241 program was made available to nursing homes not insured under FHA, and Congress applied no restrictions on mortgage insurance terms comparable to those imposed on FHA insured facilities.

While this provision has not been implemented to date, the effect of present law is that a nursing home in which the Federal Government has no financial interest could have the opportunity to secure supplemental loan insurance, while an identical facility, insured under FHA, is now unable to obtain under reasonable terms the loan insurance it needs to carry out an expansion that will help protect the Government's original interest.

The amendment would allow HUD to insure a supplemental loan for an FHA-insured nursing home, and other insured multi-family projects now covered by section 241, but would remove the restriction tying the term of the supplemental loan insurance to the remaining life of the original loan. Approximately 900 facilities now in existence could be affected by my amendment.

I stress that this amendment will in no way encourage the construction of unnecessary nursing home bed space, for nursing facilities will still have to comply with existing State and Federal requirements regarding certification of need.

Mr. President, I believe that this amendment will help FHA insured nursing homes maintain sound economic standing, while bringing more consistency to the low governing supplemental loan insurance, and I urge its adoption.

Mr. GARN. Mr. President, I have no objection to this amendment. If the Senator from New Jersey is ready, I yield back my time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

UP AMENDMENT NO. 329

Mr. WILLIAMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS) proposes an unprinted amendment numbered 329.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, after line 22, insert the following:

RENTAL UNIT CONVERSIONS AND AVAILABILITY

Section 108.

(a) In reviewing local housing assistance plans submitted pursuant to Section 104(a)(4) of the Housing and Community Development Act of 1974, the Secretary shall evaluate whether applicants have accurately assessed the effect of the conversion of rental units to condominiums, cooperatives, and other ownership housing forms. This assessment shall meaure the extent of ongoing conversion activities; shall estimate the expected number of units to be converted during the fiscal year for which assistance is being sought; and shall describe the

(1) anticipated effect of such conversions on the availability of affordable rental housing for low and moderate income persons residing or expected to reside in the community,

(2) present and anticipated involuntary displacement of low and moderate income persons in the community due to conversion activities, and

(3) extent to which conversion activities affect the present and anticipated housing assistance needs of lower-income persons residing or expected to reside in the community.

(b) Within six months after the enactment of this Act, the Secretary shall submit to the Congress a report on the present and anticipated availability of affordable rental units for low, moderate, and middle income Americans. Such report shall assess, but is not limited to—

(1) the present and anticipated effects of condominium and cooperative conversions, reinvestment activity, and abandonments, on the availability of such affordable rental units,

(2) innovative means which can prevent or reduce the involuntary displacement of tenants due to conversions, reinvestment, or abandonment, including financial and technical assistance to facilitate the conversion of private market rental units to non-profit cooperatives or condominiums by tenants,

(3) the present and anticipated dependence of the multifamily construction market upon Federally subsidized or insured construction, and

(4) steps which can be taken by the Federal government to encourage increased construction and rehabilitation of such affordable rental units by the unsubsidized multifamily construction market.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, this amendment is designed to focus greater attention at both the local and national level to the difficulties caused by an escalating number of conversions of rental units to condominiums and cooperatives in the context of a depressed multifamily construction market.

A hearing held by the Subcommittee on Housing 2 weeks ago revealed that conversions are skyrocketing. Between 1977 and 1978 they doubled, to a level of 100,000 units annually, and estimates for 1979 range from 130,000 to as high as 250,000. At the same time, the number of private market rental starts is at its lowest level in two decades, and the national rental vacancy rate for the first quarter of this year is also at a two-decade low of 4.8 percent. Housing experts have long recognized that a minimum rate of 5 percent is necessary to maintain a healthy and competitive rental market.

While there is nothing inherently wrong with condominiums, the loss of rental units in a tightening rental market results in much involuntary displacement of tenants—particularly the elderly—and also may cause undue inflation in housing costs.

My amendment responds to this situation in two ways:

First, it explicitly requires communities with substantial conversion activity to take this into account when formulating their housing assistance plans. Testimony received by the subcommittee indicated that many communities receiving Federal assistance for low-income housing not only are not exercising control over the loss of affordable rental units due to conversion but are not even keeping accurate counts of this activity. This amendment will require communities to begin paying attention to conversions—something they should already be doing under the HAP requirements—and will hopefully encourage localities to formulate appropriate responses to conversions. Also, it will help to provide HUD with accurate national data on conversion levels, which is now sorely lacking.

Second, the amendment requires the Secretary to report to Congress within 6 months on the state of the multifamily housing market. It is clear that present trends may result in the middle class losing its free choice between renting and owning, and in low-income Americans having great difficulty in locating decent, affordable shelter. Further, I believe it would be a matter of grave concern if the only new rental housing construction was that subsidized by the Federal Government. In addition to giving Congress an accurate status report on the multifamily market, the amendment also requires the Secretary to evaluate means of encouraging renewed vigor in the private multifamily market as well as methods of assistance which can enable tenants to avoid displacement and improve their housing conditions through nonprofit, tenant-initiated conversions to cooperatives and condominiums.

The amendment will, to summarize, bring greater focus to rental housing conditions at the local level while providing Congress with the data and analysis it needs for an appropriate response to this growing national crisis.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, once again I have no objection to this particular amendment but wish to make a brief comment that the conversion assessment in HAP is sensible. I think what the Senator from New Jersey is doing is a good amendment. But I just hope that when we get to conference with the House of Representatives the language is such that we do not give conversions more attention in HAPs than other housing needs so we are not giving an impression of overemphasis in this area and neglecting some other areas of housing.

I agree with what the Senator is trying to do. I simply do not want an overemphasis from this amendment.

Mr. WILLIAMS. I certainly appreciate the thoughtful comments of the Senator from Utah and will join with him in guarding against any warping of our intention with an overemphasis on this area. It is important, but it has to fit within many, many problems that will be before us in the conference.

Mr. GARN. With those comments, I have no objection to the amendment and yield back my time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 315

(Purpose: To exempt rehabilitation activities conducted by neighborhood-based nonprofit organizations from certain labor standards requirements)

Mr. GARN. Mr. President, I call up my amendment No. 315.

The PRESIDING OFFICER. The Chair asks the Senator is this the one he has a time limit on?

Mr. GARN. Yes, it does have a time limit of 1 hour.

The PRESIDING OFFICER. All right.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an amendment numbered 315.

Mr. GARN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 2 and 3, insert the following:

SEC. 322. Notwithstanding any other provision of law, no requirements relating to the ratio of journeymen to apprentices shall apply to any housing rehabilitation activities which are carried out, directly or by contract, by a neighborhood-based nonprofit organization, and which are financed, in whole or in part, by a mortgage or loan which is insured or made by a grant or other assistance which is provided under any program administered by the Secretary of Housing and Urban Development.

Mr. GARN. Mr. President, this is the amendment that has a 1-hour time limit and is the amendment in the unanimous-consent agreement that is not subject to a tabling motion.

Mr. President, first, I wish to give a little background on this. In the last couple of days there has been a great deal of discussion about Davis-Bacon, particularly in relationship to the military construction bill and to the whole Davis-Bacon Act. I certainly want to separate this amendment from all of that discussion that has gone on.

I brought up this amendment on the floor last year on this bill and withdrew it without bringing it to a vote on the basis that Senator PROXMIRE promised me we would hold hearings, which we did. After those hearings were completed, on the mark-up on the bill the amendment lost in the Banking Committee by only one vote. So this is not a new thing. It was brought up a long time before we ever got involved in this other Davis-Bacon discussion which is very much broader.

I want to emphasize how limited this is and why I feel that it is important.

Mr. President, the amendment I have to S.1149, the Housing and Community Development Amendments of 1979, would exempt self-help housing rehabilitation conducted by neighborhood-based groups from requirements concerning the ratio of journeymen-to-apprentices imposed by the Davis-Bacon Act.

This amendment would only exempt self-help housing rehabilitation conducted by neighborhood based groups from the requirements imposed by the Davis-Bacon Act. This amendment is not a repeal of the Davis-Bacon Act but merely a refinement to the housing laws which will facilitate housing rehabilitation by neighborhood nonprofit groups.

These projects are commonly known as "sweat equity" where someone helps in rehabilitating their own home or their own neighborhood.

These self-help rehabilitation projects attack the dual problems of inadequate housing and unemployment in the inner city by involving unemployed people in the rehabilitation of their neighborhood and learning skills. Often these people are paid in part by receiving a "sweat equity" share in the building being rehabilitated. In other areas the nonprofit group's main interest is in upgrading their neighborhood. These rehabilitation projects stretch Federal dollars by enlisting sweat equity, voluntary, and other forms of community help. But most important of all, they revitalize neighborhoods by building up community and individual pride.

As an example, 235 units of housing in New York City have been reclaimed and 160 formerly unemployed and "unemployable" persons have received training in housing rehabilitation skills of blueprint reading, drafting, accounting, construction management, housing finance, and cooperative management. Most of these people now own their own apartments and hold down full-time jobs in the private sector—off the public welfare roll.

These worthwhile programs have met an unexpected, unintended, yet imposing obstacle in the form of journeyman-to-apprentice ratios imposed under the authority of the Davis-Bacon Act. These ratios require, on average, employing five journeymen for each apprentice working on the project. Generally the neighborhood group worker is unskilled, learning a skill while rehabilitating the building, and so is classed as an apprentice, thus requiring the employment of five professionals for each individual on a project. Effectively this would destroy the neighborhood based self-help character of these projects and makes them financially infeasible given the limited resources available to neighborhood groups. Because the housing and community development laws generally apply Davis-Bacon requirements only to projects with eight or more housing units, self-help rehabilitation can now only occur in smaller buildings.

My amendment merely exempts neighborhood-based self-help nonprofit rehabilitation from journeyman-to-apprentice ratio requirements so that rehabilitation of buildings with eight or more units becomes feasible. My amendment could not be narrower. It does not repeal Davis-Bacon. It does not affect prevailing wage requirements. As such, it is far narrower than amendments that have been offered in the House that would have also removed prevailing wage requirements. It was never contemplated that Davis-Bacon should in any way inhibit such neighborhood revitalization efforts. The amendment merely facilitates self-help rehab.

The amendment has received support from rehab groups and city housing authorities all across the country. For example, Ramon Rueda, executive director of the People's Development Corporation in New York City, says that this amendment is the kind of thing that they are looking for, adding that if the Congress does not take action to provide this exemption, 5 years down the road we will see an end to self-help rehab. The director of community sponsored projects in the Philadelphia city housing office, who has also had experience with self-help rehab, heartily endorses any measure that reduced the burdens on such programs; exemptions can only facilitate them. Another official, in the Office of Housing Conservation in Gary, Ind., stated that an exemption would be extremely helpful, especially with regard to 312 programs. Again, Alex Harris, director of Minority Contractors—an organization of minority group contractors, covering Missouri, Iowa, Kansas, and Nebraska—believes that the amendment would be a very good piece of legislation and hopes that it would not become watered down or nonimplementable.

Since I raised this issue on the floor of the Senate last year during consideration of the Housing bill, neither HUD nor the Labor Department have proposed any changes in regulations to alleviate the problem, although a few single arrangements have been worked out.

This is not the first time the Congress has amended the housing laws to include exemptions from Davis-Bacon requirements. As early as 1949, and again in 1966 and 1974, housing projects for less than eight families were exempted under various housing program. This is just one more refinement of housing programs eliminating application of Davis-Bacon from areas that it was never intended to impede.

The amendment is a small matter that does not generally affect Davis-Bacon. But it is of major importance to neighborhood self-help rehabilitation. Its adoption would serve to facilitate these worthwhile programs.

I reserve the remainder of my time and yield to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I rise in opposition to the amendment of the Senator from Utah. I will say he certainly accurately described, as I recall it, the development of this issue in the committee, its presentation last year, its withdrawal, and its continued discussion within our committee.

I do not like to be in opposition to the Senator from Utah. This has been my first experience to stand here in partnership on the presentation to the Senate, and I am enjoying it. This will be the only part, perhaps, I will not enjoy in opposition to the amendment the Senator has offered. But I do oppose, and strongly and with conviction, his amendment.

It seems to me by exempting the journeymen-apprentice ratio that are applicable to rehabilitation or homestead housing this amendment could well spell disaster for the projects, and shortchange the trainees and homesteaders engaged in these projects.

The proponents of this amendment would have us believe that the Davis-Bacon Act and the apprentice-journeyman ratios of registered apprenticeship programs have been major obstacles to housing rehabilitation and homesteading programs. In fact, nothing could be further from the truth.

First, the Davis-Bacon Act and the apprentice-journeyman ratios simply do not apply to most rehabilitation housing, including virtually all "sweat equity" housing. The Davis-Bacon Act and the applicable apprentice-journeyman ratios generally apply only to the rehabilitation of structures designed for the residential use of eight or more families.

However, almost all "sweat equity" rehabilitation housing is done on small 1- to 4-family structures. Thus, the suggested impact of the Davis-Bacon Act and the apprentice-journeyman ratios has been vastly overstated.

Second, in every instance where the Davis-Bacon Act and apprentice-journeyman ratios do apply, the contractors, the trade unions, and the neighborhood rehabilitation groups have demonstrated that there is sufficient flexibility in the administration of the work rule requirements to enable them to negotiate special programs with special journeymen-apprentice-trainee ratios. To understand how the apprentice-journeyman ratios impact on these projects, it is necessary to understand certain basic characteristics of rehabilitation housing "sweat equity" homesteading and the Davis-Bacon Act.

Rehabilitation housing is one of the most important approaches of our national housing legislation to solving housing shortages, especially in metropolitan areas. Neighborhood groups are frequently involved in the effort to restore existing structures to serve as livable quarters for our people. One form of sweat equity homesteading is a program approach to housing rehabilitation where a homesteader performs labor which helps to reduce the overall cost of the dwelling being rehabilitated and provides the homesteader with an equity position in the unit based on the value of the labor contributed. Moreover, where the homesteader is not employed Davis-Bacon does not apply at all.

Where the Davis-Bacon Act applies, that act requires that no less than the prevailing wage in the locality be paid to journeymen on the construction project. However, less than prevailing wages may be paid to bureau of apprenticeship and training—certified trainees—such as CETA trainees, including homesteaders who are paid as trainees—provided that a reasonable ratio of instructors to trainees is maintained in order to provide for an effective training process. Building trades journeymen actively cooperate in "sweat equity" rehabilitation housing, serving as supervisors or instructors on such rehabilitation projects.

It has been alleged that the journeymen-apprentice ratios require the employment of several journeymen to instruct one trainee on rehabilitation projects. And I gather from the opening remarks of the author of this amendment, the Senator from Utah (Mr. GARN), that this is central to his thought, that there are several journeymen required to instruct one trainee on rehabilitation projects.

Mr. President, I have to emphasize as strongly as I can that this just is not the case. It is not true. In fact, on such rehabilitation projects, such ratios are locally determined, and they are flexible. In rehabilitation projects in general as well as multifamily sweat equity housing in particular, these ratios have been negotiated so as to completely reverse traditional practices and allow one journeyman to instruct several trainees.

For example, the homestead/rehabilitation project in the South Bronx involving a multi-family homesteading demonstration project has been very successful and is serving as a prototype for expansion to 17 other cities. That program in effect established a wage rate of 80 percent of standard wage rates negotiated with the building trades locals of New York City and a journeyman to trainee ratio that was approximately 1 to 4 in the South Bronx and 1 to 5 in the Lower Eastside. In Milwaukee, Oklahoma City, and Minneapolis, special ratios of trainees to supervisors and apprentices have been established in neighborhood and rehabilitation programs.

The fact of the matter is that these negotiated ratios are of crucial importance to the success of these rehabilitation projects. You simply can not expect to obtain a high quality of restoration or rehabilitation in these multifamily projects if you send in large number of unsupervised or untrained apprentices or trainees without adequate supervision by qualified journeymen. Such a proposition would spell disaster for the housing project in question.

Moreover, the negotiated approach to these projects involving qualified journeymen supervising apprentices, trainees and homesteaders may be the greatest opporunity that the trainees and homesteaders have for acquiring a start on a meaningful career. Most of these individuals would otherwise lack the training and experience to qualify them for an apprenticeship program. Many of the trainees in such projects may not have completed high school or otherwise lack the basic familiarity with construction to enable them to compete for apprenticeship programs. However, training under the supervision of journeymen gives these individuals a basic familiarity with the skilled trades that may eventually open the door to an apprenticeship program. Real job opportunities and lasting job security can come from effective training. Trainees in rehabilitation projects in Milwaukee, Oklahoma City, and Minneapolis, working under such negotiated training programs, have already reached apprenticeship status.

I wish that this thought could be understood and appreciated fully by all the Members. There are so many young people without adequate training, who do not have the tools to acquire a job or trade and begin a productive life.

Recently, a survey was presented to the President of teenaged youngsters just beyond the expected graduation age from high school who have not yet received their high school diploma and at this point look as though they never will. These are the dropouts of our educational system.

The survey was of New York City. It is staggering the number of young people who are not getting what we consider one of the basic building blocks of a successful life, a high school education. Lacking that, they have dropped out of any other productive activity in numbers greater than 50 percent in some areas of New York, such as the South Bronx and the Lower Eastside. These are the people who can be brought into our rehabilitation housing programs, and under the proper supervision of journeyman instructors can acquire a skill that can be used for the rest of their lives. It seems to me that if we remove this opportunity, it would be a sad mistake.

A neighborhood city project not only can be useful in the revitalization of a neighborhood, but through the infusion of journeymen instructors of trainees and apprentices in ratios that will assure that the job will be done right. We can also assure the transfer of job skills to the trainees on the job.

Abolishing the apprentice-journeyman ratio would throw our rehabilitation programs into a morass of confusion. To allow large numbers of unskilled apprentices and trainees without adequate supervision would increase the costs of our rehabilitation projects, increase materials waste, and raise significant questions of safety. In short, abandoning these work rules could spell disaster for these projects. At the same time, the trainees and homesteaders would be denied the real job opportunities and lasting job security that comes from effective training. The cooperative spirit under which these special ratios and preapprenticeship programs have been negotiated would be destroyed. Under the guise of helping neighborhood "sweat equity" housing, we would be killing the best hope that inner-city workers on rehabilitation housing have of acquiring meaningful job opportunities.

Moreover, it should be noted that the effects of the amendment by the Senator from Utah on rehabilitation housing has never been examined. The amendment suffers from ambiguities that could spell disaster for neighborhood rehabilitation housing.

For example, the amendment appears to go far beyond so-called "sweat equity" housing or homesteading, and would exempt all rehabilitation from apprentice-journeyman ratios. Thus, if a for-profit contractor contracted with a neighborhood rehabilitation group, would that contractor be exempt from the applicable apprentice-journeyman ratios requirements of his own apprenticeship program? If so, could he shortchange the neighborhood rehabilitation group by utilizing unskilled labor on such projects? Exempting such a contractor from the apprentice-journeyman ratios must be viewed as an attack on the apprenticeship-training programs under the Fitzgerald National Apprenticeship Act that has been our preferred way of training skilled journeymen for over 40 years.

The effect of this amendment on the Department of Labor's certifying an otherwise acceptable apprenticeship training program is also not clear. Moreover, it is not clear whether an unregistered apprentice or an "apprentice" in an unregistered program would be paid a full journeyman's wage or an apprenticeship differential.

The question of journeyman-trainee ratios as opposed to journeyman-apprenticeship ratios is not even explicitly addressed by the amendments. The effects of this amendment on ongoing CETA preapprenticeship programs that have trained many of our disadvantaged youth through our rehabilitation housing programs is also unclear. It is possible that much of the progress that we have made in expanding job opportunities for disadvantaged youth would be destroyed by this amendment. Indeed the full ramifications of this amendment on labor standards in the construction industry has not been examined, as it properly should be by the committee of jurisdiction over labor standards, the Committee on Labor and Human Resources.

Given the ambiguity and the potential destructive effects of this amendment, the Committee on Banking, Housing and Urban Affairs wisely rejected it. I urge that the Senate act with similar wisdom in rejecting it now.

Mr. GARN. Mr. President, I am very much intrigued by the argument of the distinguished Senator from New Jersey against my amendment.

Mr. WILLIAMS. I would rather hear the Senator use the word "persuaded" than "intrigued," but——

Mr. GARN. I am intrigued because he makes a very eloquent case for one of my chief concerns in my years in public office.

As a former mayor, there was no one who pushed harder for rehabilitation of the existing housing stock as opposed to new construction.

Most cities have neighborhood groups and mayors must work with them. My point is that I have had 7 years' experience working with projects, not at this level where we pass the laws, but at the receiving end. As a Member of the Senate I have been one of those who, every year, has pushed for increased funds for rehabilitation of existing housing despite my conservative nature. Last year, as a member of the Banking Committee, for example, I sought an increase of $50 million in authorization for the section 312 rehabilitation loan program.

So I could not agree more with what the Senator says about the unemployed and the untrained. I could not have made a better speech myself on the need to do these things.

What I am intrigued is with the claim that my amendment will impede all of these things. For someone with my background and record of pushing for these types of programs, for the last 12 years it would be rather out of character for me to suddenly turn around with an amendment to impede or inhibit what I have been trying to accomplish for 12 years of my adult life.

No, the effect of the amendment is quite different, because what we see is the current work rule provision greatly inhibiting neighborhood self-help.

The Senator says most of the projects are small. Of course they are small, because there is an exemption from Davis-Bacon projects with eight or less housing units. So that is where most of the self-help rehab money is going. You would be amazed at the number of projects that are seven units. I wonder why they always decide to get into buildings with six or seven units? Because there is an exemption from these impeding work rules.

A representative of the Department of Labor's Bureau of Apprenticeship and Training told me that the nationwide average is four or five journeymen to each apprentice. It seems incredible to me that we need that many experts to train one person.

The Senator can cite individual examples where the ratio is being set at a reasonable level. There is no doubt that where you have one journeyman for four or five trainees it seems to me to be a reasonable ratio. But I can also pick isolated examples around the country: like New York City where in one case they had 12 to 14 journeymen for each apprentice. The nationwide average is four or five to one.

All I am trying to do is to simply allow these neighborhood self-help projects to go ahead, to help these untrained unemployed, poor people, not only build some sweat equity in a house, or apartment building, but to learn a trade as well.

Let us face the fact of why this amendment is being opposed. If it did not have the name Davis-Bacon on it, it would go through this Senate without a dissenting vote. We would not have to have a rollcall. But because it is part of Davis-Bacon, that puts the death knell on it from organized labor.

In many cases around this country, what the Senator says is true, there are local unions where these ratios are negotiated reasonably. They have a great interest in these projects in the local unions and they do work out the ratios on the projects. In general, however, it is a simple matter to see that the average ratio of four to five provides jobs for organized labor. The rehab is incidental to the local unions which negotiate the ratio. So they load them up until the projects cannot be worked. This is why all the rehab under these programs is going into the buildings with under eight units, because there is an exemption from Davis-Bacon.

I do not know how to define the issue more carefully. Look how narrow this amendment is. It applies only to HUD-assisted housing rehabilitation projects conducted by nonprofit neighborhood organizations, and only exempts these projects from journeyman-to-apprentice work rules. Incredibly narrow. But organized labor and HUD do not want it. Therefore, that is the reason it will be defeated. But do not let the record show or anyone hearing this debate think that this amendment would keep people from being trained, or would inhibit rehab. Certainly not from this Senator. Because there is no Senator on the Banking Committee—Republican or Democrat, liberal or conservative—who has spent as many years outside the Senate working for rehab and apprentice training program as this Senator. So all my amendment would do is facilitate these people and these projects.

This amendment is going to lose. I knew that before I ever came here. There is no doubt about it. Organized labor has put out the word, "Let us protect those journeymen ratios. Let us keep those men on the job. Do not worry about the poor people." That is a blanket condemnation that fortunately does not apply across the country.

The Senator from New Jersey has pointed out that there are areas where local labor unions have been very helpful and productive and have worked them out on a reasonable basis. But they ought to be worked out on a reasonable basis all across the country. That is the purpose of this particular amendment.

THE PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I have received many communications from people who are actually involved in neighborhood rehabilitation efforts. These are the people who are on the line, putting these efforts together to rehabilitate areas where there is poor housing. These are the people who turn rundown housing into wholesome and good housing through some support from the Federal Government and low-interest rehabilitation loans.

These communications are from people who are involved in the rehabilitation effort and who are worried about the effects of the pending amendment. They are worried that programs that have been developed and that are being developed under current law to facilitate the transfers of skills from journeymen to trainee and apprentices could be endangered by this amendment.

Mr. President, the local organizations support the Davis-Bacon application to their neighborhood self-help and urban homesteading programs because they see, as we do, two distinct and very valuable benefits deriving from the application of the labor standards laws to their efforts.

First, they realize that the journeymen-trainee ratios insure quality rehabilitation of dilapidated housing. Second, they know that these programs provide job opportunities for inner-city workers which will last long after the rehabilitation projects end.

They know that the experience the hard-core urban unemployed receive during the housing rehabilitation will qualify these workers for approved apprenticeship programs, and that through these programs, workers can learn skills which will qualify them for well paying jobs and careers in the skilled construction trades.

So, Mr. President, the local organizations, the organizations which are actively involved in revitalizing their own neighborhoods, in creating decent housing for their neighbors, in creating long-lasting careers for their structurally unemployed, see the Garn amendment for the cruel hoax that it is.

They know that the effect of the Garn amendment will be not to encourage quality urban housing rehabilitation, but to insure shoddy housing if any at all. They know that the effect of the Garn amendment will be to insure low wages to those working on the projects, and to insure that once the project ends, even these low wages will cease, and the workers will have few prospects for further, meaningful employment.

The Garn amendment should be rejected. We should reject this harmful idea that we help the impoverished by taking away their statutory protections from exploitation.

Mr. President, rather than reading from these communications I ask unanimous consent that these communications in opposition to the amendment, which come from many parts of the country be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Mailgram]

WOODLAWN ORGANIZATION,
Chicago, Ill. July 11, 1979.

Senator HARRISON WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: On behalf of the Woodlawn Organization and the Woodlawn Community Development Corporation which represents a confederation of 115 neighborhood organizations in Chicago's Woodlawn community we go on record in opposition to Senator Jake Garn's amendment to the HUD appropriation bill. In this regard, while we are concerned about the Davis-Bacon Act as it affects the structurally unemployed, we do not feel that the Guam amendment will in the broader sense advance the cause of the structurally unemployed of this country. Further, we have serious reservations about the amendment's impact on housing production through rehabilitation. Finally, we feel that it is possible for not-for-profit organizations and those interested in unemployment to work within the Davis-Bacon Act.

Sincerely,

LEON D. FINEY, Jr.,
Executive Director/President.

NORTH WARD EDUCATIONAL
AND CULTURAL CENTER,
Newark, N.J., July 11, 1979.

Senator HARRISON WILLIAMS: Senator Garn's amendment to waive Davis-Bacon provisions for nonprofit development will be voted on within the next few days. We are concerned about such wholesale exceptions to Davis-Bacon. We understand that HUD, AFL–CIO and the Department of Labor are negotiating a method of certifying CETA housing rehab projects as preapprenticeship programs and that some resolution will be reached this month. We feel this latter approach is preferable to the Garn amendment.

STEPHEN ADUBATO.

[Mailgram]

UNITED HOUSING
DEVELOPMENT FUND BROOKLYN,
Brooklyn, N.Y., July 11, 1979.

Senator HARRISON WILLIAMS,
Dirksen Senate Office Building,
Washington, D.C.:

Regarding the amendment to Davis-Bacon for nonprofit groups, we find there are problems. We would rather have local people on neighborhood construction projects certified through local building trades associations as trainees. Opportunities for jobs and entry into unions that historically limit minorities, would hopefully result. Goals of comprehensive employment and training programs become a more real facet of our work on neighborhood revitalization projects.

DOUGLAS MORITZ,
Development Director Southside.

[Telegram]

NEW YORK, N.Y.,
July 12, 1979.

Senator HARRISON WILLIAMS,
U.S. Senate,
Capitol One D.C.:

The Urban Homesteading Assistance Board is a nonprofit technical assistance organization in New York City. We have been involved in multifamily urban homesteading and other neighborhood self-help activities for over 6 years.

Davis-Bacon work rules and requirements have been and continue to be a serious impediment to neighborhood based rehabilitation. Indeed, many innovative efforts have been stymied by some of Davis-Bacon's requirements.

The Departments of Housing and Urban Development and the Department of Labor have in the past been severely deficient in their efforts to support innovative solutions to these problems.

For these reasons we have in the past supported legislative remedies and are grateful to their sponsors for bringing this issue forward into serious public consideration.

However, recent discussions between HUD neighborhood organizations and representatives of the labor unions have made some progress to resolving outstanding issues, HUD has stated that it is possible to administratively resolve these problems and expects that a certified preapprenticeship program will be approved in the next few weeks we feel that this is the appropriate solution to this problem and that the wholesale approach of the Garn amendment is not the correct approach.

We urge these discussions to go forward to rapid completion and believe that they will be helpful. For this reason, we currently do not see a legislative amendment as the most fruitful solution.

URBAN HOMESTEADING ASSISTANCE BOARD.

Mr. WILLIAMS. I will say the Senator from Utah has been fair indeed in recognizing that there are presently in the application of present law some very worthwhile arrangements which have been arrived at locally, where the ratio, of journeymen to apprentices is in his judgment, not top heavy.

However he cites examples of 5 journeymen to 1 apprentice.

From our experience, and we have been on this for a year now, we have not found that this kind of ratio is required as a general proposition where there is rehabilitation housing; 4 to 1 and 5 to 1? No; it is the other way around in examples we have found in many part of the country.

The law does not fix these ratios. These ratios are arrived at locally through negotiation with the groups involved in these projects. The negotiated ratio not only reflects the desire of neighborhood rehabilitation groups to get quality construction, but to get quality training in ratios that make sense. These are ratios of 1 journeyman to 4 or 5 trainees on these projects.

Respecting my colleague I have not found abuses in these numbers. That is why I say this amendment is unnecessary.

Mr. GARN. Mr. President, if across the country the ratios were, as the Senator says, 1 journeyman for 4 or 5 apprentices, this amendment would not be necessary.

I can play the letters game on the other side and I will. I will put them into the RECORD, too. Here is a letter from the Center City Neighborhood Development Corp., Niagara Falls, and one from Mr. John McClaughry, a member of the President's Commission on Neighborhoods, dated June 25, 1979, and states what he has found all over the country.

I ask unanimous consent that these letters be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CENTER CITY NEIGHBORHOOD
DEVELOPMENT CORP.,
Niagara Falls, N.Y., May 24, 1979.

Re: Amendment regarding exempting not-for-profit neighborhood organizations from certain Davis-Bacon Act regulations and other work-union rules.

Senator JAKE GARN,
U.S. Senate, Committee on Banking, Housing, and Urban Affairs, Washington, D.C.

DEAR SENATOR GARN: The Center City Neighborhood Development Corporation is a non profit organization, comprised of residents of the urban core area of Niagara Falls, New York.

We are responsible for neighborhood revitalization through residential and non-residential rehabilitation programs, uitilizing a combination of funding sources, such as: Section 312 funds, Community Development Block Grant funds, Section 8 (Neighborhood Strategy Area) Substantial Rehabilitation monies and other sources available to non-profit neighborhood organizations.

As many other community/neighborhood organizations are aware, certain restrictions are placed on them, just as these restrictions are placed on other municipalities and organizations in their efforts to combat blight and deteriorating neighborhoods. These restrictions, such as Davis-Bacon Act and other labor standards prohibit many community minded citizens and organizations from obtaining their desired goals in rehabilitating housing and other efforts towards neighborhood preservation activities.

Items such as Journeyman-to-apprentice ratios, union scale and other labor oriented mandates, restrict and prohibit our intended desire to turn our housing around in our own designated target area. Some effort must be made to amend or exempt these organizations from those labor laws, as mandated by the federal government.

As a board of director on the New York State Association of Housing and Renewal Officials, I believe I am speaking from other neighborhood based organizations, with the intent of, not sacrificing or eliminating Davis-Bacon, but only, with the interests of rehabilitating as many housing units, as possible.

For the first time in the history of housing rehabilitation, residents and homeowners are actually participating in rehabilitating and improving their own homes. With non-profit neighborhood organizations, such as ours, housing rehabilitation will be the difference between decent, safe and sanitary housing and blight and slum areas.

I applaud the proposed amendment and re-emphasize the necessity to help us help ourselves, instead of mandating legislation, which hinders our overall objectives.

Yours truly,
RODNEY W. CONRAD, Jr.,
Executive Director.

CONCORD, VT.,
June 25, 1979.

Senator JAKE GARN,
Committee on Banking, Housing, and Urban Affairs, Senate Office Building, Washington, D.C.

DEAR SENATOR GARN: During my 15 months of service as a Presidential appointee to the National Commission on Neighborhoods, I made a special effort to catalog obstacles to neighborhood self-help posed by various statutes, ordinances, and governmental practices. Among the most egregious examples of a governmentally-imposed obstacle to self-help is the Davis Bacon Act.

This Act requires that whenever construction amounting to more than $2000 is undertaken using funds from the Community Development Block Grant program, the § 312 rehab loan program, FHA mortgage insurance, and the Housing Act of 1937 (§ 8), all tradesmen employed must be paid the "prevailing wage" as calculated by the regional office of the Department of Labor; and further, that certain ratios of apprentices to journeymen must be observed.

The prevailing wage requirement clearly drives up the cost of the housing whenever Labor's calculation of "prevailing wage" exceeds the actual wages being paid in the area. These higher costs mean that a given amount of Federal assistance aimed at lower and middle income families must be spent on behalf of fewer units. Thus fewer needy persons can enjoy the improved housing made possible by the Congress, while certain privileged persons, i.e., building tradesmen, receive a subsidy never intended by the housing legislation.

This is not the worst of it, though. The apprentice/journeyman ratios may be set at preposterous levels. In one New York project I have personal knowledge of, Labor required twelve journeyman plumbers be hired for one apprentice, a young Puerto Rican who wished to contribute sweat equity toward his own cooperatively owned apartment. Over all the trades involved in that rehab project, an average of five journeymen were mandated for each young CETA worker contributing sweat equity.

Now it is simply not possible to carry on low-budget, sweat equity rehab when the sponsors must hire twelve highly paid plumbers to do the work that two or three could do. It seems clear to me that Davis-Bacon is being used here to maintain employment in the building trades rather than to assist the poor. Any statute which penalizes the poor—especially those willing to help themseves as these young men are—to the benefit of the better off is fundamentally immoral.

I thus hope you will work to eliminate the Davis-Bacon Act's coverage with respect to all Federal housing programs targeted to low and middle income families. It is the least Uncle Sam can do to help those who are willing to help themselves.

Yours truly,
JOHN MCCLAUGHRY.

Mr. GARN. The interesting thing is that from the Bureau of Apprenticeship and Training, dated May 9, 1979, in the Department of Labor, the average for journeyman-to-apprentice ratios is about 4 or 5 journeymen to 1 apprentice. That is the national average. The Senator should be voting with me. He said if it was top-heavy that way, we should do something about it legislatively. We can both pull out isolated examples but unless the Department of Labor is suspect in what they say, then it appears to me that this 4- or 5-to-1 average is very, very top-heavy in favor of the journeymen in urging these self-help projects.

Let me give one example of what has happened and then we will bring this to a vote. Some of these groups have rather quickly withdrawn their support since the markup.

UHAB TELEGRAM

My staff has had numerous discussions with various rehab groups in recent months. Earlier, I mentioned one conversation with UHAB—widely recognized as one of the most successful in this area, so successful that HUD has given them a $184,000 contract to work with other neighborhood organizations.

All along, UHAB and other groups have supported my amendment. But in the last 2 weeks, it seems they have started to back off. It has been a sensitive topic. No one wants to provoke the unions or HUD which both oppose my amendment.

On May 3, UHAB said they would send me a letter to document our discussions. The letter never came and finally, yesterday, my staff spoke to Charles Lavin of UHAB. He is the same one they talked to the day after the hearing, the same one who has been working with HUD and he advised me he had sent a telegram withdrawing their support for my amendment.

What does it tell you? Do you not find it a little strange that there has been such a turnaround, especially when HUD has not had anything to show that they are any closer to an agreement with DOL?

I want to read part of a telegram from a New York group.

The Urban Homesteading Assistance Board is a nonprofit technical assistance organization in New York City. We have been involved in multi-family urban homesteading and neighborhood self-help activities for over 6 years.

He goes on to say he has changed his mind from initial support of my amendment. This telegram says he no longer supports it.

Davis Bacon work rules and requirements have been and continue to be a serious impediment to neighborhood based rehabilitation, indeed, many innovative efforts have been stymied by some of Davis Bacon's requirements.

The Departments of Housing and Urban Development and the Department of Labor have in the past been severely deficient in their efforts to support innovative solutions to these problems.

For these reasons we have in the past supported legislative remedies and are grateful to their sponsors for bringing this issue forward into serious public consideration.

He says that, after recent discussions with HUD and labor unions, they have made some progress.

This group has a $184,000 grant from HUD. HUD has been going around, saying, OK, now we will try to work with you on your problems, do not let that legislative thing withdraw your support. I would not go so far as to call it blackmail with these Federal programs, but this group says the problems have not changed, talks about all the problems that are still there, and they do exist.

Mr. President, I ask unanimous consent to have the telegram and a discussion about the supposedly great progress of HUD with the DOL printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

[Telegram]

NEW YORK, N.Y.,
July 12, 1979.

Senator JAKE GARN,
U.S. Senate,
Capitol One, D.C.:

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Davis-Bacon work rules and requirements have been and continue to be a serious impediment to neighborhood based rehabilitation, indeed, many innovative efforts have been stymied by some of Davis-Bacon's requirements.

The Department of Housing and Urban Development and the Department of Labor have in the past been severely deficient in their efforts to support innovative solutions to these problems.

For these reasons we have in the past supported legislative remedies and are grateful to their sponsors for bringing this issue forward into serious public consideration.

However, recent discussions between HUD neighborhood organizations and representatives of the labor unions have made some progress to resolving outstanding issues. HUD has stated that it is possible to administratively resolve these problems and expects that a certified pre-apprenticeship program will be approved in the next few weeks. We feel that this is the appropriate solution to this problem and that the wholesale approach of the Garn amendment is not the correct approach.

We urge these discussions to go forward to rapid completion and believe that they will be helpful. For this reason, we currently do not see a legislative amendment as the most fruitful solution.

URBAN HOMESTEADING ASSISTANCE BOARD.

RESPONSE TO HUD'S MAKING GREAT PROGRESS WITH DOL

Mr. GARN. Mr. President, if HUD feels so confident about the prospects for reaching an agreement with the Department of Labor on a preapprenticeship program then you would think I would be the first to know.

Last year, I proposed the same amendment. This is not the first time I have brought up this problem. You will recall I withdrew my amendment last year after receiving assurances that there would be hearings.

Hearings were held. In fact, we heard from both Secretary Harris and Secretary Marshall. It was an extensive day of hearings, and yet neither of them mentioned any effort to reach agreement on the problem of the journeyman-apprentice, work ratio requirements. During a discussion with one of the union representatives, figures were brought up showing where agreement had been reached in South Bronx and Lower East Side Manhattan projects.

On May 3, I had my staff contact Charles Lavin with Urban Homesteading Assistance Board (UHAB) in New York and ask him about the figures used in the hearing. This group is one of the pioneers in self-help rehab. Let me read from the note prepared for me after that phone call. Keep in mind this is the day after the hearing.

Spoke with Charles Lavin of UHAB. According to him, Davis-Bacon work rules remain a serious problem. Journeyman-to-trainee ratios are still lopsided.

The figures for South Bronx and Lower East Side Manhattan cited by AFL-CIO witnesses at hearing were obtained from UHAB. Lavin expressed some surprise at the way in which they were used. The figures certainly were correct, but that is only a special project being conducted by UHAB and the union, not the general situation at all.

Lavin also indicated that they are being limited to projects of sub-eight units by HUD, in order to come under the eight-unit Davis-Bacon threshold. He noted that if one looks at their projects, there is a significant clustering around projects of seven units.

Information will be provided by mail.

The following week during markup, Senator WILLIAMS hailed me as the reason so much was happening and cited again the success in working out an agreement in South Bronx. HUD was asked to respond, and they went on about working with DOL and that progress was being made on a case-by-base basis by working with the unions and CETA employees. Why does HUD not discuss it with me?

Well, I should like to think we were moving ahead and that DOL-HUD were close to some kind of agreement but I do not think so.

HUD did not contact me before the hearing, or before markup. You would think they would want to at least tell me about their supposed success. I waited for over a month thinking HUD would share the details of their progress with me.

On June 18, I wrote the Secretary to try and find out what, if indeed anything, had taken place between HUD and DOL.

I am sure it is only a coincidence that HUD sent its letter to DOL the day before the Banking Committee marked up the bill and DOL's response to HUD was dated the day of markup.

I had a meeting with Under Secretary Jay Janis of HUD that afternoon and personally give him the letter to hand-carry to Secretary Harris.

Several days later, I was told about a conversation between my staff and Mr. Janis after another hearing where he was asked about HUD's progress. HUD was to get back with me and yet, even as early as Monday of this week, there has been nothing more from HUD outside of their letter to me, dated June 27, including a copy of a letter from DOL to HUD.

I am confident that HUD would like to work out any impediments which interfere unreasonably with sweat-equity rehabilitation, but if I read DOL's letter right, it does not look to me as if it is possible.

Let me quote directly from DOL's letter of May 9 to HUD:

Thus Davis-Bacon prevailing wages are required to be paid to all laborers and mechanics employed by contractors or sub-contractors on the homesteading project.

You do not question applicability of Davis-Bacon to the nonhomesteading CETA workers and journeyman supervisors, but suggest that it should not apply to homesteaders. That relationship of the homeowners to the neighborhood organization is that of any CETA participant, and therefore there can be no basis for such a distinction in the law.

We have therefore concluded that under these circumstances all workers employed by the neighborhood organization are covered by Davis-Bacon requirements and must receive the applicable prevailing wage rate unless they are enrolled in apprenticeship or training program approved in accordance with the Department of Labor regulations, 29 CFR § 5.5(a)(4).

Thus, the homeowner would be required to receive the same wage rate as the other CETA participants—in this case the Davis-Bacon wage.

Principles discussed above would of course apply to the other housing statutes.

I cannot see, despite HUD's so-called willingness that DOL shares HUD's opinion that Davis-Bacon is "sufficiently flexible." That is why legislative action is necessary to enable this narrow exemption for these neighborhood-based nonprofit sweat equity projects.

Mr. GARN. Mr. President, I close by saying there is only one reason we do not pass this amendment, which is a very narrowly defined elimination of a problem in work ratios for poor people, unemployed people, people on welfare in neighborhood self-help projects. That is that labor unions do not want to lose their ability to stack, in some cases in this country, ratios of four or five to one over their apprentices.

If the Senator from New Jersey is ready to yield back, I am ready to yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, will the Senator yield to me some time?

Mr. WILLIAMS. We are about to yield back the time.

Mr. JAVITS. I know that. I want the Senator to yield me a few minutes.

Mr. WILLIAMS. Yes, I yield.

Mr. JAVITS. Mr. President, the Davis-Bacon Act has for nearly 50 years stood for the proposition that the Federal Government has a vital interest in maintaining stability in the construction industry and in protecting the employment standards of the workers who supply their labors to it. Amendments to dismantle the protections of the act piece by piece deserve no more support than those to repeal it outright. This is not to say that there have not been serious flaws in the way this statute has been administered. There have been a number of problems, as the Secretary of Labor has testified before the Banking Committee. He has committed the Department to a thorough review of the Department's administrative practices and has already noted a number of areas for improvement. By the action of the Senate yesterday, the Labor and Human Resources Committee will provide interested parties the opportunity to present their views on the act and will review the actions taken by the Labor Department. These hearings have already been scheduled for next week.

No one is more sympathetic to the problem of sweat equity in housing than I. I have seen these projects, especially in the South Bronx, one of the most devastated areas in New York, an area in which the President of the United States took a very specific interest. I have seen their success, I have seen the extraordinary assistance which they represent to the individual community, even though they are now relatively small in number. In all of these cases, Mr. President, let us remember that the people who work on the sweat equity projects are the workers themselves. They, too, have a profound interest in the retention of wage and hour standards and other conditions of work. So they themselves realize, and we realize here, that in these rehabilitation projects, some balance must be kept between what will facilitate and enable them to do the job and, at the same time, what will not break down the employment opportunities and standards for those who regularly work in the construction industry. It is from this point of view, Mr. President, that I find it necessary to oppose the amendment. I think that the adoption of the amendment would tend to break down that balance of interest and of equity.

Sweat equity homesteading is an important concept to promote home ownership by those who would never be able to afford it on their own. Where homesteaders contribute their own labor to lower rehabilitation costs and gain equity in the housing based on the value of the labor they contribute, the Davis-Bacon Act should not stand in the way. In fact, in the true "sweat equity" situation I have described, it does not apply. Not only are small projects themselves entirely exempt from the act, the homesteaders themselves are in no sense "employees" and the act can in no way be made applicable to them. So this amendment is unnecessary to protect homesteaders working on their own homes from the act.

What this amendment really affects are journeyman/apprentice ratios on large projects which by their very nature must involve construction contractors. On these projects, where the act is applicable, both HUD and the Labor Department have worked to encourage the maximum employment of low-income people in the rehabilitation work. This is not only a valuable source of employment for the poor, it is an opportunity for them for the first time to learn a trade under the supervision of skilled craftsmen.

On these multifamily rehabilitation projects the journeyman/apprentice ratios are the reverse of those found on the ordinary construction project where there might be one apprentice for every four or five journeymen. Instead, the ratio is usually at least five or six apprentices for each journeyman, who is actually working as an instructor.

It is important to understand that the Davis-Bacon Act has not blocked these training opportunities, either by unrealistic or unreasonable ratio requirements, or by requiring payment of the prevailing wage for the particular skill involved. Instead, where there is a legitimate apprentice training program, the apprentice-trainees are in fact paid less than the prevailing wage. Thus, in New York and in other cities across the country, deteriorated housing stock is being restored, low-income residents of the neighborhood and gaining wages and new skills, and skilled workers are finding job opportunities they would not otherwise have.

The effect of this amendment could only be to disrupt these efforts, and to undercut prevailing wage levels for skilled workers by allowing contractors to hire them at depressed apprentice wages. That is not sound public policy. That is not the purpose of Federal housing legislation or of established labor standards.

I will say to the Senator from Utah the following: I understand that the Labor Department and HUD are working to see that the standards of apprenticeship work to provide training opportunities and do not impede these important rehabilitation projects. Whatever may happen to this amendment, I do not know, and no one knows until the Senate votes. I wish to assure the Senator and assure the Senate that I will take a very real personal interest in doing my utmost to see, insofar as humanly possible, that the criteria will be adjusted to encourage the development of these self-help rehabilitation projects. But I deeply believe, based upon all of my experience in the labor field, that it would be unwise to adopt this amendment.

Mr. GARN. Mr. President, I yield 5 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the Senator from Utah (Mr. GARN) to S. 1149, the Housing and Community Development Amendments of 1979.

This amendment is very limited in its scope. It simply says that the provisions of the Davis-Bacon Act, which require a minimum ratio of journeymen construction workers to apprentice workers, will not apply to housing rehabilitation activities undertaken by neighborhood-based nonprofit groups. The amendment does not have anything to do with the Davis-Bacon provision which requires contractors on federally funded projects to pay no less than "prevailing local wage rates." This latter requirement, as I understand the arguments of the proponents of Davis-Bacon, is the part of the Davis-Bacon law that they deem to be crucial.

The Garn amendment is meritorious, Mr. President, because it is designed to make one particular housing program—a program that is based on the fundamentally American ideal of "do-it-yourself"—more workable. These particular housing projects are founded on the concept of persons working in their own homes, on a cooperative basis with their neighbors, to improve and rehabilitate their dwellings.

With this kind of self-help housing rehabilitation program, it seems utterly ridiculous to me for one agency of the Federal Government—the Department of Housing and Urban Development—to be funding and promoting this type of "do-it-yourself" projects, while another agency—the Department of Labor—actually impedes the projects by enforcing unrealistic work rules (under the Davis-Bacon law) which require a certain number of skilled craftsmen for every unskilled laborer that is hired. Furthermore, Mr. President, as I understand the scheme of this housing improvement program, the persons hired to do the work are supposed to come from the ranks of the unskilled and chronically unemployed. While working on these projects, these previously unemployed and untrained people have an opportunity to learn construction skills so that they will then be in a better position to find jobs on their own.

When a Federal program is set up with these purposes—first, to assist low-income people in working together to improve their own housing, and second, to give jobs to unskilled, unemployed persons and train them on the job—it makes no sense at all to then impose work rules which impede the achievement of the goals for which the program is established. Mr. President, if the voters and the taxpayers were fully informed of this kind of nonsensical, cross-purposes policy, I have no doubt that they would rise up in a fit of rage. Of course, the tragic truth of the matter is that so few people know of this ridiculous contradiction, and the stranglehold of big labor on Congress makes it difficult to take even a small step such as this to correct the situation.

It is no secret that I have long been an advocate of a complete repeal of the Davis-Bacon Act, because I feel it is outmoded, unnecessary, inflationary, and unwise. Those who oppose this amendment no doubt take the position that its proponents are merely trying to repeal Davis-Bacon in a piecemeal fashion. Yesterday we went through a similar scenario with regard to the waiver from Davis-Bacon included in the military construction authorization bill. The chairman of the Labor and Human Resources Committee also contended that anything dealing with Davis-Bacon ought to come through his committee. Now some of the same arguments are raised in opposition to this amendment. I will not rehash them in detail. I simply say they are without merit.

Mr. President, if the Davis-Bacon Act is bad public policy, and I and a growing majority of Americans believe it is, then we ought to change the law, and we ought to do it promptly. Especially where, as here, Davis-Bacon requirements obstruct carrying out other Federal programs, then the very least we ought to do is limit the application of Davis-Bacon so that it does not interfere with these self-help housing rehabilitation programs.

Mr. President, the amendment of the Senator from Utah is soundly conceived and patently meritorious. I urge my colleagues to support it.

Mr. GARN. I thank my distinguished colleague from South Carolina for his support of my amendment.

If the distinguished majority manager on this bill is ready to yield back his time, I am.

Mr. WILLIAMS. I am prepared to yield back all time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GARN. I yield back all of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Utah. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

The PRESIDING OFFICER (Mr. BUMPERS). Have all Senators in the Chamber voted? Are there Senators in the Chamber who have not voted?

The result was announced—yeas 35, nays 57, as follows:

[Rollcall Vote No. 165 Leg.]

YEAS—35

Baker
Bellmon
Boren
Boschwitz
Byrd, Harry F., Jr.
Chiles
Cochran
Cohen
Dole
Exon
Garn
Hatfield
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Morgan
Nunn
Pressler
Pryor
Roth
Schmitt
Simpson
Stevens
Stevenson
Stone
Thurmond
Tower
Wallop
Warner
Young

NAYS—57

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Church
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
McGovern
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Randolph
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stewart
Talmadge
Tsongas
Weicker
Williams
Zorinsky

NOT VOTING—8

Armstrong
Eagleton
Goldwater
Hatch
Heinz
Matsunaga
Ribicoff
Stennis

So the amendment (No. 315) was rejected.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, I yield to my good friend from Vermont with the understanding that I do not lose my right to the floor.

Mr. LEAHY. Mr. President, I appreciate the courtesy of the Senator from Wisconsin.

UP AMENDMENT NO. 330

Mr. LEAHY. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposed an unprinted amendment numbered 330.

On page 2, line 19, strike "$40,000,000" and insert in lieu thereof, "$50,000,000".

Mr. LEAHY. Mr. President, I rise to propose an amendment to section 701 of the housing and urban development authorization bill to increase the committee's authorization level for section 701 from $40 to $50 million. If accepted, this level still represents a reduction from the fiscal year 1979 level of $53 million. The 701 program is the principle source of funding for regional planning commissions. These commissions provide technical assistance and expertise to communities so that they can carry out their housing and development activities in a comprehensive and coordinated manner. More than 600 commissions have been established to deal with a whole range of problems, such as housing, community, and economic development, transportation, and social services. The administration had steadily reduced the level of 701 funds from its original $150 million in fiscal year 1976. The present level of $40 million represents the latest stage in the continuous undermining of this program. This reduction is especially serious for small communities that do not have full time professional staff. As we all know, better planning means less waste, and better use of funds—often Federal funds. This results in significant savings in the long run.

I know that some of my colleagues may point out that there are other programs already in existence that do assist communities—and especially small communities—with their development planning. However, I would respond to this by also pointing out that traditionally these programs have not received funding until very recently. Even then, this funding has been woefully inadequate to meet the wide range of problems these communities face.

There are several points that are especially important to remember when considering the merits of section 701 and the regional planning commissions.

Section 701 requires matching funds from the State and local communities. This commitment assures us that we are not throwing money indiscriminately at the problems of our communities. The program provides incentives, but also demands local commitment from the community to solve its own problems.

The assistance provided by section 701 is especially valuable to small communities, whether they are facing the problem of economic decline, or the opposite problem of too rapid growth. Unlike metropolitan communities, it is highly unusual for small communities to have the professional staff to identify and successfully resolve these problems. Over the last few years, I have had the opportunity to monitor the work of 13 regional planning commissions in Vermont, and I can say without hesitation that they have played a key role in the success of many community development programs, including many that did not involve Federal money, being completed at less expense than originally projected.

Mr. President, I cannot emphasize strongly enough the advantages of increased funding for section 701 regional planning purposes. Although it has both urban and rural application, it is especially important to small communities. These regional commissions funded by section 701 help prevent costly duplication and waste, both in capital expenditures, and planning activities. This will result in keeping the current level of planning that has resulted in concrete savings in local, State funds, as well as Federal funds.

Mr. President, this is on the 701 planning grants. Quite frankly, I propose this amendment with the idea and with the knowledge that it will be a matter that will be at issue in the conference, but I think strong reasoning can be given for it.

I have seen it work in my own State where small amounts of money at the planning level have saved millions and millions of dollars later on.

Mr. President, what I hear from regional commissions throughout the country is that this is money that substantially saves other Federal money.

Mr. President, I have discussed this matter with both the majority and minority managers of the bill. I do not think there is any objection to it. If not, I am perfectly willing to yield back my time and go with a voice vote.

Mr. HUDDLESTON. Mr. President, will the Senator yield me 1 minute?

Mr. GARN. Mr. President, before we do that, I am sorry. There must be a misunderstanding as far as accepting a $10 million increase. It was not my understanding that the minority did accept the increase.

Mr. LEAHY. Mr. President, it has been my understanding that it had been cleared. I apologize.

Mr. GARN. If the Senator will yield to Mr. HUDDLESTON I will talk to him.

Mr. LEAHY. Mr. President, I yield to the Senator from Kentucky.

Mr. HUDDLESTON. I thank the Senator for yielding.

Mr. President, I am pleased to cosponsor the amendment offered by the distinguished Senator from Vermont (Mr. LEAHY) to increase the authorization for the 701 comprehensive planning program from $40 to $50 million.

We have seen a steady erosion over the past few years in funding for this program, an erosion which, I believe, has detrimental consequences for our States and localities, for those levels of Government which must deal on a day-to-day basis with the realities of the aid programs which exist.

We in Congress have passed a multitude of categorical aid programs for the States and localities to implement. We have allowed the Federal bureaucracy the authority to issue extensive and detailed regulations which ultimately require time, labor, money, and effort on the part of States and localities.

Yet, we expect that the States and localities will be able to handle all of this completely and effectively. That is no simple job.

The 701 program has, like revenue sharing and perhaps one or two other programs, been a bright spot in this picture. It has provided the one type of funding which enables localities to prioritize their own needs and determine courses of action. It has allowed them to coordinate the many diverse functional areas with which they must deal.

Critics of the program have suggested that there are alternative funds available—for transportation planning, for health planning, for community development planning, and so forth. This is true, but what those programs lack and what the 701 program offers is the opportunity to cut across those categorical and functional lines and, as its title suggests, to plan on a comprehensive basis. Transportation needs, health facilities, community development projects do not exist in a vacuum. They are related and interrelated—at least in efficient areas. It is only logical to encourage their joint consideration.

The program has also been criticized as one which developed plans which merely found their ways to the shelf and dust. Perhaps some years ago, there were instances of this, but HUD has worked extremely hard to insure that funds are directed to those areas where results will be direct and obvious.

At a time when resources available to all levels of Government are limited, but when the demands upon State and local governments are increasing, it seems to me pennywise but pound foolish to provide a rather extensive amount of functional aid, but deny reasonable resources to assist in planning the wise and efficient use of such aid.

Mr. WILLIAMS. Mr. President, on the majority side I understand this amendment fully and feel that it is worthy and indeed necessary in light of certain situations that developed under comprehensive planning in the 701 program. I support it. There is evidently a problem.

There are other amendments. If this is not resolved now, could we set it aside and go to another amendment?

Mr. LEAHY. Yes.

Mr. WILLIAMS. It is hoped that it will be resolved shortly.

Mr. LEAHY. I am willing to do that, Mr. President. The matter is before the Senate. I understood that it had been agreed to. I apparently was in error. With that in mind—I have intruded on the time of the Senator from Wisconsin—I wonder if from a parliamentary point of view the amendment can then be left there at the desk and be one of the amendments to be disposed of either by voice vote or if the yeas and nays are requested otherwise prior to final passage of this bill.

Mr. CRANSTON. It can be set aside and brought up again at any time.

Mr. LEAHY. Then I am willing to do that, Mr. President, and yield back to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may yield to the Senator from California without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 331

(Purpose: To extend to Indian tribal government deposits the same amount of deposit insurance and security as provided to other public unit deposits)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes unprinted amendment numbered 331.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 2 and 3, insert the following:

SEC. 322. (a) Paragraph (2)(A) of section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" following the semicolon at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or ageny thereof having official custody of tribal funds and lawfully investing or depositing the same in time and savings deposits in an insured bank;".

(b) Paragraph (1) of section 405(d) of the National Housing Act (12 U.S.C. 1728(c)) is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" following the semicolon at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing the same in an insured institution;".

(c) Subparagraph (2)(A) of section 207 (c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing the same in a credit union insured in accordance with this title;".

(d) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by striking out "nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act" and inserting in lieu thereof "nonmember units of Federal, Indian tribal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act".

(e) The amendments made by subsections (a) through (d) are not applicable to any claim arising out of the closing of a bank, savings and loan association, or credit union prior to the date of enactment of this Act, but shall be applicable to any such claim arising on or after such date.

(f) Section 5153 of the Revised Statutes (12 U.S.C. 90) is amended by adding at the end thereof the following paragraph:

"Any national banking association may, upon the deposit with it of any funds by any federally recognized Indian tribe or including any officer, employee, or agent thereof in his or her official capacity, give security for the safekeeping and prompt payment of funds so deposited by the deposit of United States bonds and otherwise as may be prescribed by the Secretary of the Treasury for public funds under the first paragraph of this section."

Mr. CRANSTON. Mr. President, this amendment, which is supported by the administration, would extend to bank deposits by Indian tribal governments the same level of deposit insurance and security as is now provided to other local governments.

This amendment would increase from $40,000 to $100,000 the Federal deposit insurance on tribal funds and provide for substitution of securities in the same amount and to the same extent as authorized by the National Bank Act for public funds of all other local governments.

Federally recognized tribal governments are the local general government for Indian reservations. They administer governmental services including public housing, schools, welfare, police; maintain courts and exercise legislative functions. This amendment will encourage Indian tribes and the local national banks they do business with to cooperate on normal banking arrangements that are mutually beneficial and improve the economic climate in the communities near Indian reservations.

The amendment modifies, in the way I have described, four existing acts: the National Housing Act, the Federal Deposit Insurance Act, the Federal Credit Union Act, and the National Bank Act.

I believe that this amendment has been cleared with the floor managers on both sides of the aisle, and I urge that it be accepted.

Mr. WILLIAMS. Mr. President, it has been, and this would bring the Indian tribal governments, as I understand it, into parity with other local governments.

Mr. CRANSTON. That is right.

Mr. WILLIAMS. And I support it.

Mr. CRANSTON. Good.

Mr. WILLIAMS. And I will vote for it.

Mr. GARN. Mr. President, the minority has no objection to this amendment.

Mr. CRANSTON. I thank the leaders on each side of the aisle very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may yield to the Senator from Ohio.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 332

Mr. METZENBAUM. Mr. President, I call up an amendment that I have at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes unprinted amendment numbered 332.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

VERIFICATION OF INCOME

SEC. 210. Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end thereof:

"(k) The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and federal income taxation and data relating to benefits made available under the Social Security Act, the Food Stamp Act of 1977, or title 38 of the United States Code. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section."

Mr. METZENBAUM. Mr. President, the amendment I am offering is an effort to improve the section 8 program to insure that our limited housing assistance funds are going to those people who legally meet the requirements of the program and who have the most need. This amendment would require HUD to do a thorough and periodic audit of randomly selected recipients of section 8 assistance—in much the same way that the Internal Revenue Service audits our tax returns—in order to verify that section 8 recipients meet the income requirements laid out by the program. The effect of this amendment will be to require HUD to conduct a better screening of applications for section 8 assistance while at the same time serving as a deterrent to individuals who may fail to report their actual levels of income.

Since 1971, the General Accounting Office has issued five reports which have identified shortcomings and weaknesses in tenant income and verification in HUD's housing assistance programs. GAO has indicated that much of the payment error is the result of poor area office monitoring. According to HUD's own experimental housing allowance program report issued in December 1978, there may be a total payment error in the current section 8 program of up to $78.3 million. That figure includes recipients who the being given too much assistance as well as those who are given too little assistance, on the whole, the study found that the section 8 program is overpaying an estimated $10.8 million a year to recipients.

During hearings before the House Subcommittee on Manpower and Housing on April 25, 1979, the GAO made the following statement:

> HUD field offices have historically done little or no monitoring of income certifications and verifications. We believe it is unreasonable to expect that the project managers and owners will adequately emphasize income certifications and verifications when HUD itself places little emphasis on it. Further compounding this problem is the fact that project managers have little, if any, incentive to do a good job verifying income.

This amendment would require the secretary of HUD to establish procedures necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance from the section 8 program is complete and accurate. The Secretary will have wide discretion to determine the exact type of procedures that are necessary to perform such income verification on a random, regular and periodic basis. The amendment specifically states that information received shall remain confidential to protect the privacy of the individuals involved.

Mr. President, I understand that HUD is about ready to embark on a study of the verification process. I support any efforts by the Department to improve its verification program, but unfortunately it would take at least 2 years before we would see the results of a study of this type. This amendment would require the Department to establish such verification procedures in the meantime, which could, of course, be modified upon completion of that study.

I am concerned, like many of my colleagues, with the increased costs of our housing assistance programs. I support our Federal commitment to an effective program, because I believe the Federal Government has a moral obligation to provide decent housing at an affordable cost to our low and moderate income families. But at the same time, I believe we have a moral obligation to insure that the programs we authorize are administered fairly, efficiently and effectively. We must be certain that the taxpayers' dollars are being spent to help those citizens who are truly eligible for assistance. I believe that this amendment serves that constructive purpose.

Mr. President, it is my understanding that this amendment is acceptable to the Senator handling the bill and I believe that the minority has no objection to it.

I ask Senator GARN if I am correct that the minority has no objection?

Mr. GARN. The Senator is correct. We have no objection to this amendment.

Mr. METZENBAUM. I thank the Senator from Utah.

Mr. WILLIAMS. There is no objection from the majority side.

I think that this is a worthwhile amendment which as, I understand it, will help prevent the overreporting of income as well as the underreporting of income among those seeking and receiving housing assistance. We need to make sure that our programs operate efficiently and I think this proposal by my good friend from Ohio will contribute to that goal.

Mr. METZENBAUM. I appreciate the remarks of the Senator from New Jersey.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may yield to the Senator from Indiana under the same terms and conditions and that I not lose the floor.

Mr. BAYH. Mr. President, I know how busy the Senator is. I thank him for his courtesy.

UP AMENDMENT NO. 333

(Purpose: To amend section 207(c)(3) of the National Housing Act)

Mr. BAYH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 333.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 17, between lines 4 and 5, insert the following:
>
> (d) Section 207(c)(3) of such Act is amended by striking out "$3,900" and inserting in lieu thereof "$8,000".

Mr. BAYH. The purpose of my amendment is to increase the amount of Federal mortgage insurance for mobile home parks. I offer this amendment because I feel the present amount is much too low, given the ever-increasing cost to develop such sites. At present time the ceiling is only $3,900 which, all my colleagues will agree, is much too low. To remedy this problem I am suggesting that the ceiling be raised to $8,000.

Mr. President, I do not feel that raising the ceiling to $8,000 is inflationary for a number of reasons. Primarily, the mobile home industry is not an inflationary industry when compared to conventional housing. The fact is that this amendment will be the key in helping develop housing costs that are 60 percent less than conventional housing.

Furthermore, this is an industry that has great promise for the future because it is within the range of many middle income families who now are frustrated because they cannot afford conventional housing. With the mobile home prices being 60 percent below conventional homes, one certainly cannot argue that by raising the Federal mortgage insurance to help finance the construction of the mobile home parks is inflationary.

The second point, is that if we do not raise the limits, then park developers will be forced to cut back on their designs and their developments. What we will then have are parks not equipped to attract the mobile homes. And if they do attract buyers, eventually, the developers will have to spend much more money in repairing the parks because they were not sufficiently developed initially. Therefore, we can argue that by refusing to raise the limits, we will create a situation that could possibly be more inflationary in the long run.

For these reasons, and for the reason that the present ceiling is much too low, I offer my amendment to S. 1149 to raise the ceiling to $8,000. I know that Senator Lugar supports this amendment and I know of no objection from my colleagues so I ask that the amendment be accepted.

Mr. LUGAR. I appreciate the Senator's yielding to me.

I simply want to rise in strong support of the amendment offered by my colleague from Indiana (Mr. Bayh).

The 207(n) program which insures loans to mobile home park developers has played an important role in the development of affordable, quality housing. In the first years of the program more than 230 parks were insured at a time when private financing was difficult to obtain and the demand for mobile homes was high. Over the past 2 years the program has not performed the role it was designed to play. There have been only eight park loans insured since 1977. There have been few loans because the program has had absurdly low-loan limits, $3,900 per space.

At this level, only one project was insured during the past 2 years. The other seven projects were financed under a special high cost exemption the Secretary has available. The cost of land development of all kinds has risen much more quickly than other costs and mobile park costs have not been an exception. My research has shown that the cost of developing a park in accordance with existing State laws has risen to an average of $7,500 in the seven States we have surveyed.

Thus, this amendment, if it was to be meaningful, had to allow for inflation. Accordingly, we have set the new limit at $8,000 per lot. This loan limit is realistic in light of current costs and will still contain costs somewhat. Certainly, I would prefer that an increase was not necessary, but we are faced with costs that require a higher limit.

Fortunately, this is a program that encourages the development of low cost housing which enables people to afford quality housing. Mobile homes, or more correctly manufactured housing, cost less than one-half the cost of conventional homes. In 1977, mobile homes cost $13.75 per square foot to deliver, conventional homes cost $24.25 per square foot. A cost 100 percent higher than mobile homes and the mobile home cost included furniture, carpet, and drapes. But there is one statistic that says it all, manufactured housing provides 96 percent of all new housing under $20,000.

I am pleased to be able to help improve a program which assists people of lower incomes to own homes.

I appreciate the opportunity to support this amendment and urge its immediate adoption.

The PRESIDING OFFICER (Mr. Leahy). Do Senators yield back their time?

Mr. WILLIAMS. I would support this amendment and I yield back my time.

Mr. GARN. Mr. President, I also support the amendment of the distinguished Senator from Indiana.

The PRESIDING OFFICER. All time is yielded back, the question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

UP AMENDMENT NO. 334

(Purpose: To reduce the funding for the assisted housing program to the amount requested by the President)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. Proxmire) proposes an unprinted amendment numbered 334.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 8, strike out "$1,286,155,000" and insert in lieu thereof "$1,140,661,000".

Mr. PROXMIRE. Mr. President, this is the amendment on which the unanimous-consent agreement provides for 2 hours. It will not take that much time.

I ask unanimous consent that Senator Helms be named as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Now I yield to the Senator from Indiana (Mr. Lugar).

The PRESIDING OFFICER. Without objection, the Senator may do so without losing his right to the floor.

UP AMENDMENT NO. 335

(Purpose: To instruct the Secretary to recommend programs which will encourage ownership of mobile home sites)

Mr. LUGAR. Mr. President, may I direct an inquiry to the Senator from Wisconsin? As a companion measure to the amendment we have just adopted in this body, I had another short amendment that I am offering, along with Senator Bayh, and I was wondering if it might be possible at this time to dispose of that.

Mr. PROXMIRE. I have no objection.

Mr. President, I ask unanimous consent that my amendment may be laid aside temporarily and that the Senator from Indiana be allowed to call up his amendment, and that my amendment be the pending business after his amendment is disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I appreciate the Senator from Wisconsin's yielding.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana (Mr. Lugar) proposes an unprinted amendment numbered 335:

On page 31, between lines 2 and 3, insert the following:

"The Secretary shall make recommendations by March 31 of 1980 on programs and policies which would encourage individual ownership of mobile home lots through condominium or cooperative development of mobile parks or through the development of mobile home subdivisions."

Mr. LUGAR. Mr. President, my amendment instructs the Secretary of Housing and Urban Development to recommend programs which would encourage individual ownership of mobile home park lots by March of 1980. I offer this amendment so that the committee will be in a position to respond to a change in the mobile home industry.

In the early years of the mobile home industry these homes were truly mobile and the homeowners moved with some frequency. Thus, rental mobile home parks were the preferred development style. People owned their homes and leased space in a park. As the industry has matured, we find that mobile homes are not really mobile anymore; they are manufactured housing. People use manufactured housing in the same manner they use conventional housing. They want to purchase a home and land. Mobile homes are quality low cost housing, not travel trailers.

This change in use has meant that a growing number of people do not want to lease a space in a park; they want to purchase a site. Unfortunately the FHA statutes, as currently written, work against the development of planned, condominium or cooperatively owned park development. We find that people have a choice between rental spaces or a lot that they develop on their own. Either one can be the right option in some cases.

However, the highest quality development at the lowest cost will occur where people buy a lot in a mobile home development. Yet, such a development cannot be insured by FHA. Next year I hope the Banking Committee will consider this problem. To aid in this consideration my amendment will have HUD analyze the situation around the country and recommend programs which will encourage individual ownership of mobile home lots through condominium or co-operative development or through some other approach.

I know that Senator Bayh supports this amendment and I know of no objection from my colleagues so I ask that the amendment be accepted.

Mr. BAYH. Mr. President, will the Senator permit me 1 minute to respond?

Mr. PROXMIRE. Yes.

Mr. BAYH. I would like to be associated with my colleague in this request of the Department. I think it is important to understand fully what is happening in our mobile home industry, and I ask that I be associated as a cosponsor as well as expressing my appreciation for the opportunity to work with him on this matter. Again I express our gratitude to the distinguished Senator from Wisconsin for his patience.

Mr. WILLIAMS. This amendment of the Senators from Indiana is supported on this side.

Mr. GARN. The minority supports this amendment.

The PRESIDING OFFICER. Is all time yielded back? The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

UP AMENDMENT NO. 334

Mr. PROXMIRE. Mr. President, the pending amendment would reduce the annual contract authority specified in S. 1149 in order to bring it into conformity with the amount recommended by the administration.

What this amendment would do would be to reduce the contract authority back to what the administration requested. That is above the first budget resolution, incidentally, but it is at the level the President recommended in his budget.

Mr. President, addressing the housing needs of our Nation's low- and moderate-income people is certainly an important domestic priority. I believe it is essential that Congress continue to work to improve housing opportunities for this segment of our population.

However, we must not lose sight of the fact that in today's world combating inflation is our most critical economic priority. Combating inflation, in my view, is more important than any of the other economic objectives, and I think we have to recognize that and make our priorities consistent with it.

There is no way we can justify going above the budget that Congress recommended in the fist concurrent resolution, going above the budget the President recommended, even in an area in which all of us recognize we have great obligations.

Congress must contribute its share to this struggle of holding down inflation, and this means holding down Federal spending and reducing the Federal deficit. If that objective is to be achieved, we must exercise fiscal restraint even for things as important as housing.

I believe S. 1149, as reported from the Banking Committee, fails this crucial test of fiscal restraint. If this situation is left uncorrected, the result will be more budget deficits, and another blow to our efforts to control inflation.

It must be emphasized that while the President's budget is austere, it still represents a substantial increase in our commitment toward meeting the housing needs of our low and moderate income people. Under the President's budget, the number of housing units eligible for subsidies will reach 3,237,000 by the end of fiscal year 1980, an increase of 7.6 percent over the previous year. Under the President's budget, actual outlays for assisted housing will increase by 23 percent in fiscal year 1980.

Let me repeat that figure because I think it may surprise some Members of the Senate. Under the President's budget, which is what I am proposing here, actual outlays for assisted housing will increase by 23 percent, almost one-fourth—that is a tremendous increase—in fiscal year 1980.

Mr. President, if we are to be successful in curbing inflation and in reducing the size of the budget deficit, we cannot afford to increase spending above the amounts requested by the President. S. 1149, as reported by the Banking Committee, contains $1.286 billion in annual contract authority. This is $145 million above the President's request.

But these figures, by themselves, vastly understate the long term cost to the Federal budget. Housing assistance contracts under public housing and section 8 are written for terms of up to 40 years. Thus, in order to ascertain the total amount of budget authority that is made available by this bill, each contract must be multiplied by the number of years for which HUD is legally obligated to make payments.

When these procedures are done, we find that S. 1149, as reported by the committee, will require $30.7 billion in new budget authority. This is $3.5 billion above the President's request. Further, the bill actually exceeds the first budget resolution by a full $4.9 billion in new budget authority, and by $204 million in annual contract authority.

Well, only a couple of months ago, this body agreed that we would try to come in with a budget resolution that was responsible, that was aimed toward trying to achieve a balanced budget next year, that would restrain inflation. Now we are going for $4.9 billion over it in this particular bill, unless this amendment is adopted.

The long term budget implications of the bill, as reported, are therefore quite troubling. In addition, we must also keep in mind that a recent study by the Congressional Budget Office warned that the ultimate amount of budget authority required under the assisted housing program could be double or even triple the amounts currently estimated, depending upon the future rate of inflation.

Mr. President, my amendment to hold funding to the level requested by the President expresses the reality of today. We must face up to the fact that our financial resources are not unlimited. My amendment is supported by the White House and the Department of Housing and Urban Development. I urge its favorable consideration by the Senate.

I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, I regret, in personal terms, to be in opposition to the chairman of our committee, but I certainly have no hesitancy in opposing the substance of this amendment, which I do, and strongly. I certainly do not dispute its intent of reducing the cost of Government. We all want to promote lean and efficient Government, and we want to eliminate any wasteful and unnecessary expenditures. The taxpayers have a right to no less. However, this amendment would betray its own purpose because of the enormous economic and social costs it would entail.

The committee bill already represents substantial restraint in new Federal spending for assisted housing. The 300,000 additional reservations it proposes to provide for fiscal year 1980 total only one-half the annual production goal of 600,000 assisted units that Congress established in 1968 for the following 10 years. It would provide 25 percent fewer subsidized units than the 400,000 the administration requested for fiscal year 1979, and it would allow some 60,000 units less than the number of units HUD says it will reserve this year. Furthermore, it requires $6 billion less in budget authority than it would cost to achieve the fiscal year 1979 level of reservations in fiscal year 1980.

The committee bill fully recognizes that today's unusual inflationary spiral demands that the Federal Government set an example for fiscal restraint. But the amendment would exceed the rule of reason by slashing another 34,000 units out of our reservation goal, and leaving only 266,000 units, according to CBO estimates.

Mr. President, this amendment is extreme and unnecessary. It will negate the Nation's repeated promise to provide decent shelter for the poor, and it will undermine the efforts of distressed communities to rejuvenate their deteriorated neighborhoods. It will not reduce inflation, nor will it have any measurable impact on our budget deficit for fiscal year 1980. This amendment does not merely ask subsidized housing programs to accept their fair share of budget reductions at a time of austerity. Instead it would exact an unacceptable, unfair price from the poor and the housing industry—a price that can only be described as punitive.

Regardless of the intent of the amendment's sponsors—and I do not question their purpose—the amendment's inescapable consequence is to place the burden of our fight against inflation squarely on the backs of society's most defenseless, most vulnerable members. The average income of someone aided by our housing programs is only about $4,500 a year. Such individuals as these—living at the very bottom of the economic scale—would feel the weight of this amendment most keenly.

No one can deny the need for housing assistance that persists in every area of the country—rural as well as urban. The Congressional Budget Office stated in hearings before my subcommittee last April that 5.4 million low-income households live in substandard units, and 12.9 million households pay excessive rents. About 3½ million such households pay more than 50 percent of their income for rent.

As the former chairman of the Senate Committee on Aging, I am particularly concerned that a substantial proportion of these needy individuals are elderly, with no opportunity to improve their financial condition. While senior citizens comprise about one-ninth of the general population, they make up about a third of those HUD states are in need of housing assistance. Housing is the single largest expense of the elderly. Typically, they pay over a third of their income in rent. And the very old—those aged 75 or over—on the average pay out 48 percent of their income for rent.

I should also emphasize that this amendment will have a direct impact on improvement of housing conditions in rural areas. In addition to the programs funded through the Farmer's Home Administration, approximately 20 percent of all HUD housing assistance is made available to communities outside metropolitan areas. Some of our most desperate housing conditions exist in small rural towns and villages.

Yet in the face of this need, the amendment would slam the door on 34,000 households—more than 50,000 people—telling them, in effect, that they are to be sacrificed in an effort to control inflation. In fact, their sacrifice would gain nothing. The cutback proposed in this amendment, following on the heels of that already in the committee bill, would only help create greater inflationary pressures in the rental housing market by causing us to fall still further behind in matching housing production to demand. The stark reality is that even the 300,000 units provided in the committee bill cannot keep pace with both the growing number of low-income people needing housing assistance, and the steadily diminishing supply of affordable rental housing.

It has become increasingly evident that rental housing is suffering from a pervasive and deepening crisis in supply. While this has an impact on virtually all renters, those with modest incomes—the ones most dependent on rental housing—are the most threatened.

Their two major sources of rental housing—units originally built for middle-income people who have moved on to newer housing, or federally subsidized projects—are no longer secure. In 1979, unsubsidized multifamily housing construction starts are expected to total only 250,000 units, the second lowest level for such starts in 20 years. At the same time, our subsidized programs, even if we maintain them at the fiscal year 1979 reservation levels, are simply not matching the need. As the rental housing stock diminishes, rents are forced up, and already meager incomes are placed under greater strain.

Mr. PROXMIRE. Will the Senator yield?

Mr. WILLIAMS. I am happy to yield.

Mr. PROXMIRE. What was the source of that quotation?

Mr. WILLIAMS. That was from the Secretary of HUD, in a memorandum for Lawrence D. Simons.

Mr. PROXMIRE. May I point out to my good friend that the Secretary of HUD supports my amendment?

Mr. WILLIAMS. I heard the Senator from Wisconsin. Mr. President, I ask unanimous consent that this document be printed in the RECORD and it will speak for itself.

Condominium conversion, abandonment and deterioration, and lack of adequate production, are all taking their toll on our supply of rental housing. The chief economist for the National Association of Home Builders projects that the Nation is losing 420,000 rental units annually. Citicorp Real Estate estimates that condominium conversion will gobble up 130,000 units in 1979. Newsweek recently reported that apartment owners in New York City abandon 30,000 units a year, but only 2,000 new units a year are built to take their place.

According to a just completed study by the Library of Congress, the Nation must produce 670,000 new or substantially rehabilitated units a year for the next 10 years, to meet the needs of low- and moderate-income people. HUD Secretary Patricia Harris has written, "I am now convinced that unless the Department takes significant action in this area, that the crisis will cause a serious shortage of available and affordable rental units for low, moderate, and middle income Americans."

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MARCH 23, 1979.

Memorandum for: Lawrence B. Simons, Assistant Secretary for Housing, FHA Commissioner.

Subject: "The Crisis in Multi-Family Housing."

I am deeply concerned at the indications you and I have received recently that the Nation is facing a serious and growing crisis in the multi-family rental housing market. I am now convinced that unless the Department takes significant action in this area that this crisis will cause a serious shortage of available and affordable rental units for low, moderate and middle income Americans. Specifically, I am concerned about the following indicators:

The high and growing dependence of the multifamily construction market upon Federally subsidized or insured construction. In this connection, recent estimates project that more than 40 percent of the multifamily starts in 1980 will be HUD subsidized and more than 50 percent will be HUD subsidized or insured. Additionally, of the multi-family rental starts, as much as 60 percent may be HUD subsidized and more than 70 percent may be subsidized or insured.

The two-fold pressure of inflation on multi-family rental housing: increased construction and operating expenses on the one hand and the loss of middle income renters to the homeownership market because of increasing tax benefits and the expectation of appreciation on the other.

The loss of rental units through 30,000–40,000 condominium conversions annually and the estimates that as many as 200,000 of the 550,000 multi-family construction starts predicted in 1980 will be condominiums or cooperatives.

The steady drop in rental unit vacancy rates over the past five years, producing a nationwide rate below five percent, an effective nation-wide rate of two percent to three percent, and effective rates in some cities of one percent and below.

The continued abandonment of large numbers of rental units in declining urban areas, and the shortage of rental housing in rural areas.

These indicators lead me to believe that HUD will have to take the lead to increase the supply of moderately priced rental units for working families and, in particular for minorities who wish to leave racially impacted areas.

As we begin the Fiscal Year 1981 budget process, I would like your views on the gravity of this apparent crisis, and how the Department may best respond to it. One particular concern must be to produce the maximum housing benefit for the smallest possible cost and budget impact. In this connection, we have both noted that the high subsidy costs of the Section 8 new construction program, however successful our efforts to limit development and operating costs, place serious limits on the political willingness and financial ability to support large numbers of additional units.

You should therefore explore innovative approaches to production assistance, as well as budgetary and financial mechanisms that have the least possible fiscal impact as part of our 1981 budget package.

To expedite this process, I ask that you convene and chair an intra-departmental working group consisting of the following individuals:

Assistant Secretary Embry; Assistant Secretary Shalala; William White, General Manager, New Communities; Fred Taylor, Executive Assistant, GNMA; Stephen Coyle, Executive Assistant to the Secretary/Under Secretary; Dale Riordan, Special Assistant to the Secretary/Under Secretary; Al Kliman, Director, Office of Budget; and Edward Norton, Acting General Counsel.

You should also consult with a number of outside individuals whose expertise in the field of multi-family rental housing production would be useful in your deliberations.

I ask that you provide me with the working group's preliminary report by April 15, and that your final recommendations be made to me no later than June 8, 1979.

PATRICIA ROBERTS HARRIS.

Mr. PROXMIRE. I refer to her most recent statement. She vigorously supports the amendment. Does the Senator think this is a responsible level and the appropriate level? She thinks it is the appropriate and responsible level.

Mr. WILLIAMS. On the housing situation that I am describing, I think the record is that to which Mrs. Harris was addressing herself in her memorandum to Mr. Simons. It is the same thing that I read in her statement of the week before last, which was fully reported concerning the rental housing situation in this country. It is acute.

This is not the answer to it, but by reducing this kind of housing, we make things worse. With 300,000 units, we are not approaching the need which is there. I am not saying that this is the panacea for the dilemma we are facing: For adaquate at rents which can be afforded by lower income people.

I would rather not slide back further than we have already slid. Over the years we have promised over 600,000 units a year for those who need them.

Mr. President, I ask unanimous consent to have printed in RECORD at this point the authority that we can rely upon which addresses the housing condition, describes the lack of housing, and the need for housing. I will include that. I believe this to be the appropriate point in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

HOW PROXMIRE-CHILES AMENDMENT AND COMMITTEE BILL APPROACH LOCAL LOW-INCOME HOUSING NEEDS[1]

SMSA/central city	Unit allocation under Proxmire-Chiles amendment	Unit allocation under S. 1149	Housing need as stated in local housing assistance plan	Percent new and rehabilitation
I. Boston	1,300	1,600	4,635	72.0
Springfield-Chicopee-Holyoke	450	550	1,390	60.2
Providence-Warwick-Pawtucket	450	550	1,225	58.2
II. Albany-Schenectady-Troy	400	500	650	59.0
Buffalo	750	900	1,110	53.9
Rochester	500	600	1,120	44.6
Newark	800	950	1,300	74.5
Clifton-Paterson-Passaic	450	500	700	85.5
III. Baltimore	1,100	1,300	3,800	60.5
Allentown-Bethlehem-Easton	250	300	[1] 943	73.2
Pittsburg	900	1,100	6,325	68.4
Richmond	250	300	959	80.8
IV. Atlanta	700	800	[1] 1,344	82.5
Birmingham	350	400	1,075	76.7
Raleigh-Durham	250	300	1,390	31.3
Miami	750	900	[1] 2,050	63.4
Orlando	100	100	[1] 625	53.3
Louisville	450	550	[1] 978	48.9
Memphis	350	100	3,512	82.9
V. Cleveland	1,200	1,400	3,300	77.3
Cincinnati	900	1,100	2,400	79.2
Columbus	800	950	[1] 1,100	63.6
Dayton	410	490	1,685	56.2
Saginaw	100	150	[1] 183	83.6
Grand Rapids	150	200	925	67.0
Indianapolis	850	1,000	1,600	62.5
Madison	200	250	293	100.0
Milwaukee	900	1,200	2,549	72.3
Minneapolis-St. Paul	1,300	1,500	2,599	76.0
VI. Dallas-Fort Worth	950	1,100	3,117	42.2
Houston	2,100	2,600	4,150	39.7
New Orleans	550	650	[1] 1,200	[1] 16.7
Oklahoma City	350	400	810	62.9
San Antonio	850	1,000	2,125	43.5
Tulsa	300	350	750	60.0
Albuquerque	350	400	2,530	84.1
VII. Kansas City	400	500	[1] 323	[1] 46.5
Wichita	200	250	608	41.6
Omaha	450	550	900	49.5
St. Louis	950	1,100	1,965	79.7
VIII. Colorado Springs	150	150	[1] 100	[1] 66.7
Denver-Boulder	700	850	1,900	71.7
Salt Lake City	200	250	760	73.7
IX. Honolulu	650	750	[1] 1,507	[1] 66.8
San Bernardino-Riverside-Ontario	450	500	1,287	78.2
Anaheim-Garden Grove-Santa Ana	550	650	1,932	71.5
Los Angeles-Long Beach	5,400	6,500	34,142	67.8
Phoenix	900	1,100	2,057	75.5
San Diego	1,100	1,300	7,500	57.3
Sacramento	400	450	890	82.0
Las Vegas	200	200	395	71.6
San Francisco-Oakland	2,700	3,200	5,700	56.9
X. Portland	450	550	1,900	89.5
Seattle-Everett	200	950	[1] 625	[1] 80.8
Spokane	300	400	1,150	58.7
Tacoma	200	200	675	44.4

[1] Indicates that fiscal year 1978 annual goal is not available in HUD's computer systems: data displayed in these cases is based on an annual average of the fiscal year 1977 3-yr goal.

Note: Unit allocations rounded to nearest 50 units.

Source: U.S. Department of Housing and Urban Development.

Mr. WILLIAMS. A key indicator of our housing shortage is a low rental vacancy rate. A rate between 5 and 6 percent is considered to be the minimum level acceptable to accommodate the normal mobility of the population. Yet, rental vacancies nationwide have dropped to an average 4.8 percent—the lowest point since the measurement was first made 24 years ago. When we subtract substandard units from the calculation, the vacancy rate drops to between 2 and 3 percent of the rental stock, and this does not even consider that units available for rent may not be the right size to answer local demand.

The R. L. Polk Co. which specializes in vacancy rate surveys for individual communities, normally smaller ones, is the best current source for accurate data on vacancy rates according to HUD. Polk's latest surveys, conducted in 1977, found many places across the country where rental vacancies were virtually nonexistent. Monterey, Calif., for example, had a rate of only 1.8 percent while Greensboro, N.C., had 2.5 percent and Rochester, Minn., 1.8 percent. Vacancy rates are no doubt even lower today. Mr. President, I ask unanimous consent that a table be printed at this point in the RECORD showing rental vacancy rates for selected cities throughout the country.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Rental vacancy rates for selected cities

[In percent]

	Rental vacancy rate for all unit types less than or equal to 4.0
ALABAMA	
Gadsden	3.9
Huntsville	2.3
ARKANSAS	
Pine Bluff	3.6
ARIZONA	
Tucson	3.8
CALIFORNIA	
Fairfield	2.4
Lodi	3.2
Lompoc	4.0
Modesto	3.4
Monterey	1.8
Napa	3.5
Oxnard	2.2
Redding	3.4
Salinas	2.0
San Jose	3.6
Santa Barbara	2.7
Santa Maria	1.8
Stockton	3.5
Turlock	3.9
Ventura	1.6
Visalia	2.9
DELAWARE	
Wilmington	3.6
FLORIDA	
Boca Raton	3.4
Bradenton	3.4
Clearwater	4.0
Cocoa	3.2
Fort Lauderdale	3.5
Lake Worth	3.7
Pompano Beach	2.2
Sarasota	3.3
Titusville	3.1
West Palm Beach	3.3
GEORGIA	
Macon	3.6
Rome	3.2
Savannah	2.2
IOWA	
Ames	3.3
Cedar Rapids	3.5
Waterloo	3.7
ILLINOIS	
Galesburg	2.6
Peoria	3.9
Springfield	3.6
INDIANA	
Lafayette	3.5
KANSAS	
Lawrence	3.4
KENTUCKY	
Lexington	4.0
LOUISIANA	
Baton Rouge	2.2
Lake Charles	3.8
Monroe	3.9
Shreveport	4.0
MASSACHUSETTS	
Fitchburg—subs	2.0
Gloucester	2.6
Lawrence—subs	2.9
Worcester	3.8
MICHIGAN	
Ann Arbor	1.6
Muskegon	4.0
MINNESOTA	
Rochester	1.8
St. Cloud	3.4
NEVADA	
Reno	2.4
NEW JERSEY	
Plainfield	1.3
NEW MEXICO	
Albuquerque	2.3
Las Cruces	3.7
NORTH CAROLINA	
Charlotte	3.4
Greensboro	2.5
Winston-Salem	2.9
NORTH DAKOTA	
Fargo	3.2
Grand Forks	2.3
OHIO	
Toledo	3.9
OKLAHOMA	
Lawton	3.8
Tulsa	3.0
PENNSYLVANIA	
Altoona	3.7
TENNESSEE	
Nashville	3.1
TEXAS	
Amarillo	4.0
Beaumont	3.3
Bryan—colls	2.3
Corpus Christi	2.7
El Paso	3.4

TEXAS—Continued

	Rental vacancy rate for all unit types less than or equal to 4.0
Midland	2.2
Orange	3.6
Port Arthur	3.7
VIRGINIA	
Richmond	3.0
WEST VIRGINIA	
Charleston	3.2

Source: R. L. Polk Vacancy Reports, Summary of Results.

The shortfall in rental assistance inevitably results in long lists of people seeking entry to subsidized housing projects. During hearings which my subcommittee held in New Jersey in April, witnesses testified that a 1978 New Jersey State Division on Aging survey of just subsidized elderly projects found more than 35,000 low-income senior citizens on waiting lists throughout the State. The witnesses further noted that individuals could typically expect delays of 2 years or more before gaining access to a subsidized unit, and that a great many needy people are so discouraged by the long waiting lists they do not even bother to apply.

Doubtless, the same kind of situation will be found in other States. Senators need look only as far as their own case files to see the extent to which poor, often elderly, people must endure long delays before they can get into one of the few assisted units available.

The National Low-Income Housing Coalition recently analyzed the data contained in the 1976 annual housing survey to determine the degree to which affordable rental housing is moving out of reach of the very poor. The conclusions were fully dismaying. According to their calculations, there were about 6.2 million renter households in 1976 earning below $4,000 a year, but only about 3.4 million units renting for no more than 25 percent of their income. If the trend from 1970 to 1976 were projected through 1980, by next year there would be 5.4 million households earning below $4.000 per year, but only 677,000 units available at the appropriate rent level.

Mr. President, the sponsors of the amendment insist that one of their major aims is to combat inflation by reducing the cost of Government. Yet, in the face of a deepening shortage in rental housing they propose a dramatic cutback in production. Few proposals could be more inflationary.

Unfortunately, the amendment's contribution to increased rents is not its only inflationary impact. It has others. For one, it would help fuel the boom-and-bust cycle to which the housing industry has been subjected throughout the 1970's. Stops and starts in production mean costly disruptions for materials suppliers who must be able to anticipate orders, for builders who depend upon predictable credit sources and inventory turnovers, and for construction workers who need a steady demand for labor. Unstable production has been one of the underlying causes of the housing cost explosion. Last year, the sponsors of this amendment objected to last year's authorization bill on the grounds that it would create inflationary instability in the housing industry by providing some 75,000 more units than requested by the administration. Certainly, the argument is no less noted for the amendment's proposed reduction of more than 100,000 from HUD's 1979 reservation goal.

The amendment may also result in unnecessary Federal expenses for health care to the extent that it will deny improved housing conditions for low-income senior citizens. We know that elderly people living in substandard buildings may become ill more frequently. We know that those who pay an excessive share of their income in rent may put off seeking necessary medical attention fearing that even with the assistance of medicare they will be left with too little to make ends meet. And we know that nursing homes and intermediate care facilities are full of elderly people who have no real medical reason for being there, but who have no place else to go.

Now, hospital room charges are running $150 a day and more, and it costs the Federal Government at least $5,500 a year to maintain a low-income person in a nursing care facility. It seems to me that a good deal of the cost-savings anticipated by this amendment will only be siphoned off by higher Federal medicare and medicaid payments—hardly a bargain by anyone's calculation. Of course, needless consignment of elderly people to nursing homes entails human costs beyond measurement.

Mr. President, I am also concerned that this amendment will interfere with revitalization programs in distressed communities. There are scores of cities throughout the country which remain locked in the grip of recession, regardless of the state of the economy in general. Unemployment, poverty, weakened tax bases, and economic stagnation are daily facts of life for these communities, which are small as well as large, rural as well as urban.

Decent housing and community development are inseparably linked, in law and in fact, housing construction helps produce the attractive, wholesome neighborhood environments that in turn can draw new private investment while retaining existing business enterprises. Housing construction also produces economic benefits of its own in terms of jobs and tax revenues. From January 1977 to December 1978, HUD-assisted multifamily housing starts created three-quarters of a million jobs, onsite and offsite. For fiscal year 1980, HUD-subsidized programs would account for another 525,000 new jobs. The amendment, however, would deny jobs to more than 48,000 workers.

The economic implications of the amendment take on added significance when we realize that economic indicators increasingly point to a recession during 1979 and 1980. The recent OPEC oil increase alone could cost 800,000 Americans their jobs, while some economists are predicting 8 percent unemployment by the end of 1980. At the very time when job-creating measures will be desperately needed to cushion the shock of recession, a substantial drop in HUD subsidized construction will occur as a result of this amendment.

Mr. President, a fit place to live at a reasonable price is a promise which the law has held out to our people for 30 years. In fact, this is the 30th anniversary of the 1949 Housing Act, under which this Nation established that commitment. How tragic it would be to slash our effort still further by adopting this amendment. I urge the amendment's defeat.

Mr. WILLIAMS. Mr. President, I yield the floor and I will reserve the remainder of my time.

Mr. PROXMIRE. Before I yield to my friend from South Carolina, I want to briefly answer one of the arguments made by the manager of the bill. He argues that by reducing the number of units from 300,000 to 266,000, it has a cruel and extreme effect on housing.

Well, now, Mr. President, it is unclear how many additional units would be assisted in any event. There are various projections. Indeed, the administration projects that its requested funding level would be adequate to support 300,000 units.

My amendment would permit 300,000 units. That is their position, and they are expert in the field. I think we have to give some weight to what their estimates are.

In any case, the number of additional units assisted is about average by historical standards. For the last 6 years the average number of additional units assisted per year has been about 280,000. Even if we take the low estimate by my friend from New Jersey, he says it would be 266 and the administration says 3,000 that is just about what the average has been.

I submit that in a year of inflation when inflation is our No. 1 problem, and when any economist will tell you that there is no area where inflation is likely to be more serious than in the housing area—we already have housing costs that have risen at an 11-percent rate during the year and more lately; they have been consistently above the general inflation rate—when inflation is the problem for all Americans, rich, poor, moderate or whatever, it would seem to me that the right position to take is the position proposed by the administration. It is certainly not extreme. It is a position which was actually reduced by this Senate only a few months ago.

I am simply saying we can go up to the administration level, which is just a little bit below, modestly below, what the Senator from New Jersey is calling for.

Mr. President, I am happy to yield to my friend from South Carolina.

How much time does the Senator wish?

Mr. THURMOND. About 4½ minutes.

Mr. PROXMIRE. I yield 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to support the amendment offered by the distinguished Senator from Wisconsin. It is vitally important that we begin to make sense in our Federal budget process.

S. 1149, as it now stands, contains $1.286 billion in annual contract authority for assisted housing. This figure exceeds the administration's request by $145 million. As I read the committee report on S. 1149, I noticed that there is some apparent disagreement over which formula should be used to determine the exact amount of budget authority allowed by this bill. I think that we should worry less about some complicated formula, and concentrate on the real issue. The total of annual Federal outlays is a better indicator of the current economic impact of the housing program, and it is a figure that people can understand.

Mr. President, if we focus on annual outlays, we find that the housing assistance program is undergoing an explosive expansion. If the current spending trend continues, annual housing assistance payments will leap from $2 billion in 1975 to $9 billion in 1984. This means that the annual rate of increase is 16.2 percent. There is no way to restore any semblance of reason to the Federal budget if this program is allowed to expand that rapidly.

This amendment would authorize new housing assistance contracts. However, even if no new housing assistance contracts were allowed, Federal outlays will still expand by 7 or 8 percent a year because of the general increase in rental housing expenses. Something must be done to control the expanding outlays in this program. However, we must also try to insure that the housing program assists those who really need it the most. Two alternatives have been suggested. The first alternative would decrease the total level of new families. I think this is less acceptable than the second alternative, which would restructure the program in order to reduce the unit cost of housing assistance. This could be accomplished in any of several ways. The program could increase tenant rent payments from 25 to 30 percent of income. This approach would have the additional benefit of improving the fiscal stance of many local housing authorities. Another possibility would be to leave the 25 percent income limit intact, while removing certain exclusions now allowed in determining gross income, on which rental income is computed.

Mr. President, an attempt to make reasonable allocations for the housing program is not an effort to balance the budget on the backs of the poor. This country is faced with tough decisions. Our resources are limited, and we must make those limited resources do the best job we can. Everyone is going to have to face up to the fact that we cannot continue to spend money as we have in the past. All Americans will have to make reasonable sacrifices.

My comments are not antihousing, nor are they antipoor. The Federal Government is already obligated to spend nearly $210 billion on housing assistance, and this amendment would still allow for more than 250,000 additional new units. I believe this is strong testimony to our commitment to help those who need it.

This amendment makes sense at a time when we need to reintroduce reason to our budget process. I support it and I urge my colleagues to vote in favor of this amendment.

I commend the able Senator from Wisconsin for offering this amendment.

Mr. PROXMIRE. Mr. President, I thank my good friend from South Carolina.

The PRESIDING OFFICER (Mr. PRYOR). Who yields time?

Mr. PROXMIRE. Mr. President, I am happy to yield whatever time the Senator from Utah desires.

Mr. GARN. I thank the distinguished chairman of the Banking Committee.

Mr. President, I rise in support of this amendment. I think every American recognizes that the greatest problem in this country today is inflation. I think we must support lower funding levels, we must reduce Federal spending to control inflation. The amendment would save nearly $3.1 billion of spending over the period of the subsidy commitments, or the next 15 to 40 years—$3.1 billion is a lot of money, even in Washington, D.C.

Even with the amendment, the bill is nearly $1.4 billion over the budget authorization of the first budget resolution. I would like to see even a lower amount than the chairman advocates, but I believe this amendment is a reasonable compromise.

I also want to stress very strongly that any authorization is an increase in housing assistance to the poor. This is not a cut. Even at the level with the amendment, the bill provides an increase. The 3,100,000 families now receiving assistance would continue to be subsidized even if this bill had no authorization. Certainly, though, I am not advocating that.

Mr. President, I think we must confirm that this amendment maintains the current law that housing assistance plans, determined at the local level, set the mix of units between new construction, rehabilitation, and existing housing. I am pleased that the amendment of the Senator from Wisconsin does not mandate the mix of housing types from Washington at 50 percent existing housing, which was in some of his earlier discussions, and which the Budget Committee urged. I feel very strongly that the mix of housing types should be set at the local level, should be based on local decisionmaking, and should not be mandated across this country at a fixed level by Congress.

Mr. President, I do believe this a very important amendment. I want to close in my support of Senator PROXMIRE by indicating, once again, that this is not a cut over existing assistance levels; it is still an increase. In light of the tremendous budgetary problems we have been having and the need to reduce Federal spending, I hope the Senate will pass this amendment.

Mr. WILLIAMS. Mr. President, the Senator from Utah said we can always find other ways to spend money. Well, that might be a way to describe some spending around here, but I sure cannot understand how anybody can talk about just finding a way to spend some more money when we are dealing with the subject that we are dealing with, assisted housing for those of lower income, with particular emphasis on those who are fixed in low income because they are elderly. The numbers of those who are living in desperately substandard housing, who are of low income, who are just hoping they can be relieved, later in life, of that kind of life and live out their last years in something we could consider decent circumstances are just overwhelming.

I do not know; I wonder if the Senators have had the experiences I have had in my State, going to assisted housing, where we do have low-income people now in that assisted housing. I do not overstate it when I tell you, Mr. President, that when I go in there, invariably I hear from low-income, older people—most of them are women in later years, over 75—this is the kind of life they never expected. They came out of wretched poverty, and we hoped we had found a way, through our program to help them, but not today, with section 8 which has joined 202 in public housing simply being inadequate.

Just another way to spend some money. I will say, Mr. President, if we do not find some ways to start building more housing stock, with the declining rate of housing, with the housing that is being converted, with deterioration and abandonment—the figure I mentioned earlier and can mention again are about 5 to 1 of housing that is going off the rental market and what is coming back in new construction, then we will truly see suffering.

Again, coming back to what I see when I go home, when I can get home on a weekend, I notice that in the State of New Jersey, there are 35,000 people now eligible for assisted housing, who are elderly, who are waiting in line for admission to some kind of decent housing.

Another thing, coming again to housing for older citizens—and I know that Senators will agree with me on this—where we have that housing, it always is a success. We do not have the problems we have had in some of our housing programs in assisted housing for elderly; it is always a success.

It goes on and on. We marshal all the reasons on the basis of what exists out there in America today in terms of lower income people and housing needs, we marshal it all and it all adds up to support for the best we can get. And that is where we differ.

Those who support this amendment say we cannot afford 300,000 units of assisted housing, we must cut it down, which would be the third cut, really, down to what the Congressional Budget Office tells us is 266,000. We are talking about a little over 30,000 units of assisted housing and, believe me, when all of the evidence shows the need, where the housing needs are stated out of the housing assistance plans throughout the country, we see how far we are falling short with what we are doing here.

Mr. President, if you need any more evidence of the benefits that can befall those people who are lucky enough to get into our assisted housing, it was found, in hearings that we have had. There is a true relationship between the need for other expenditure and the nature of housing older people live in. The state of their health relates. If people are not in adequate and decent housing, and if they are in substandard housing, paying more rent than they should be paying in terms of their income forces them to make those awful choices between high rents and less nutrition. Illness follows this dilemma of a living pattern. There is a relationship, both in the well-being and the health of individuals, as well as the necessity of going to a nursing home before their time.

We can marshal all of these reasons and it adds up to let us do all we can to bring assisted housing to those who need it.

We have cut, we have cut, we have cut; we have cut to 300,000 units. I hope we can do much more, but let us not cut it one more time.

Mr. GARN. Mr. President, if I could respond to the Senator, I have to make the point once again that all we are differing about is the rate of increase. If any impression is left here that the Proxmire amendment is making severe cuts into what now exists, let it be corrected. The Senator from New Jersey is talking about 300,000 more units; the Senator from Wisconsin is talking about 265,000 more. In both cases it is over and above what we are already subsidizing.

So there is still a tremendous increase with the amendment.

I do not disagree with what the Senator said about the problem. I am going to hear it, I suppose, many more times today on many of these amendments. I heard his concern last night, on my amendment.

I have tried to indicate my concern. As a former mayor, I think maybe I have worked more directly on some of these problems than many of my colleagues.

We had an opportunity to vote for my amendment for the poor, as poor as we can get, in sweat equity projects. But, no, that was turned down. Where was all of this great concern on that amendment, and last night with the amendment of the Senator from Colorado (Mr. ARMSTRONG), when all the coalitions of low-income housing groups were in favor of his amendment. But no, that was defeated, too.

I wish my distinguished colleague from New Jersey would turn his concern—it certainly is sincere, I have known him for 5 years—into voting for some other amendments that would help the poor.

I feel very strongly that the most serious harm to the poor is inflation, and the major cause of inflation is deficit Federal spending. When we get that controlled, that is when we will really start to help the poor and do something for them.

Mr. President, the amendment is a good one and I support it.

Mr. PROXMIRE. Mr. President, before I yield to the Senator from Indiana, let met just make two quick points.

I ask unanimous consent that after the disposition of the pending amendment, after the vote on it, that the next amendment to be called up will be the amendment of the Senator from Vermont (Mr. LEAHY).

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Michigan reserve the right to object?

Mr. LEVIN. Mr. President, I reserve the right to object, and just inquire of the Senator from Wisconsin, I have an amendment which was hoped to be reached by 1:30 because I have a 2:30 markup which I am taking a leading role in. It is something that has been scheduled for quite some time. My amendment, I presume, will take about an hour.

I wonder how it will——

Mr. PROXMIRE. I think Senator LEAHY's amendment will be very short. There was already a debate. There will be a rollcall vote. But I think he expects it only to take 15 minutes or less of debate. Then the Senator from Michigan would be free to call up his amendment.

Is that all right?

Mr. LEVIN. When do we expect the present amendment to reach a vote?

Mr. PROXMIRE. I hope in 15 or 20 minutes. It is hard to say.

Mr. LEVIN. Could we add to that request that immediately following Senator LEAHY's amendment, mine then be called up?

Mr. PROXMIRE. I am happy to modify my request accordingly.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, just one other point before I yield to the Senator from Indiana.

The point we should keep in mind, in response to the Senator from New Jersey, is that only about 5 percent of all of the people of this country are in publicly assisted housing. Of the Nation's lower income people, the overwhelming majority, about 90 percent, are outside of it.

The Senator from Utah is absolutely correct. They are going to be hit by inflation. That is what hits 90 percent of the lower income people. Only a tiny percentage of the people, relatively, are in publicly assisted housing, that will be helped by this bill, or anything in this bill.

So that by this modest reduction, we do have a continual policy of trying to hold down spending and combat inflation, and that is a problem for the great majority of the poor who are outside publicly assisted housing.

Mr. President, I am happy to yield 3 minutes to my good friend from Indiana.

Mr. LUGAR. I appreciate the distinguished chairman of our committee yielding to me for this short statement on behalf of his amendment.

Mr. President, I think there is no doubt that the distinguished Senator from New Jersey has put his finger upon the reason for this debate. Each Senator approaches public housing programs and assistance to people in public housing in different ways.

There are many poor people in this country who are severely disadvantaged and who are suffering great difficulty. As the Senator from New Jersey pointed out, housing is vitally important to these people. Their meager existence makes obtaining proper nutrition, housing, and other basic necessities of life very difficult.

Further assistance to these people would be very helpful. I think all of us share that feeling. The President of the United States, as he formulated his budget this year, shared that feeling.

Ironically, the debate we are having now is whether the President's budget, essentially, should be upheld. Not whether one group of Senators has more feeling for the poor than another group. As the distinguished Senator from Wisconsin pointed out, the President's budget called for a 23-percent increase in funding for fiscal year 1980. This will enable an additional 7.6 percent of the population to be assisted next year.

This is a substantial move forward, and it was supported by a majority of the Banking Committee.

But the Senator from Utah has also pointed out something which I think bears underlining. That is, that many of us who are equally concerned about the problems of poor people, approach this subject in different ways.

The Senator from Utah this morning presented an amendment that would have been very helpful to the rehabilitation of blighted neighborhoods in this country. It would have stretched the meager dollars available for housing, but that amendment was found unacceptable, unacceptable because it raised the two words "Davis-Bacon."

These are code words that mean, however desirable something may be to the poor, it is unacceptable to a large number of Senators, because it is unacceptable to another group, in this case, organized labor.

That is the same problem, I think, that many Senators found wrong with Senator ARMSTRONG's amendment last night.

Those of us who wanted to insure that funds for the poor were used for the poorest people first ran into a busload of opposition from Senators who were equally compassionate for the poor, but did not feel that we should target funds to the poorest portion of the population. They preferred to spend the funds over a wide portion of the population, leaving a large gap between the number of people eligible for the program and the number who would actually receive assistance.

So this is not an argument over who is more thoughtful of the poor or more compassionate. It is an argument of ways and means of how best to help the poor. It is also an argument over the President's budget. A budget which still leaves a deficit of more than $20 billion, and will harm all Americans, especially the poor.

For these reasons and others, Senator PROXMIRE's amendment has merit. I think it substantially outweighs all of the arguments presented against it. The argument as to who is most compassionate cuts several ways and can be made in many different ways. However, it cannot be said that the proponents of this amendment are any less compassionate than the opponents. We merely approach the problem in different ways.

Mr. PROXMIRE. I thank my good friend from Indiana.

I yield 5 minutes to the distinguished Senator from Oklahoma.

Mr. BELLMON. I thank my friend from Wisconsin.

Mr. President, I want to express my strong support for the amendment offered by the Senator from Wisconsin.

If this amendment is adopted and survives the conference with the House, the bill now before us will still authorize funding for assisted housing at a level considerably above the level assumed in the first budget resolution for fiscal year 1980. I hope we will be able to hold appropriations down to the level assumed in the budget, but I cannot be too optimistic about that in view of experiences this week in the Appropriations Committee markups and the conference with the House on the fiscal year 1979 supplemental appropriations bill.

Mr. President, I feel we are relying far too little on the authorizing committees and authorizing legislation to constrain spending. Conversely, we are placing too much of the spending constraint burdens on the budget and appropriations process. Congress seems to be far too ready to "load up" authorization bills with pet programs and with excessive amounts of spending authority in the expectation that we will be more responsible later when we deal with appropriations. There are at least three problems with that approach: First, we frequently do not curb our extravagant tendencies when we come to appropriations; second, a lot of programs are not subject to appropriations control, because they are entitlements; and third, the fact that we have authorized a high level is frequently used as a lever to help raise the appropriations to levels that are outside the budget.

The Proxmire amendment gives us the opportunity to pare down an overly generous authorization for a very shaky program. By adopting this amendment, we can reduce the budget busting potential of the assisted housing program by $3.5 billion. I think we should cut even more, but we have to be practical around here and I am supporting the Proxmire amendment, because I believe it not only should pass, but that it can pass.

I want to summarize briefly, Mr. President, the reasons I and others on the Budget Committee have sought to constrain spending for assisted housing programs. I should interject at this point that I am pleased that Senator PROXMIRE, others on the Banking and Appropriations Committees, and a growing number of other people in both the House and Senate share these concerns.

First, the assisted housing programs are among the fastest growing Federal programs. Even if we made no new commitments after fiscal year 1979—that is, even if we rejected all new authorizations for fiscal year 1980 and beyond, the outlays under this program would grow from $3.6 billion in fiscal year 1979 to $6.8 in fiscal year 1984. That is over 13 percent a year, Mr. President. Moreover, from 1974, when the section 8 private rent subsidy program began, to the end of fiscal year 1979, the Federal Government's commitments to assisted housing have been more than $150 billion. This money will be paid out over the next 40 years under contracts already signed. I doubt that any of us thought the costs would grow that rapidly when the program was started.

My second major concern, Mr. President, is that even the extremely frightening numbers I have just cited understate the full dimensions of the Federal Government's obligations. The Congressional Budget Office has concluded that the future costs of this program are substantially understated, because the methods being used to calculate budget authority do not take into account the effects of inflation on rents subsidized under this program. CBO found that the actual costs of the new construction and substantial rehabilitation parts of this program could be two or three times as great as the budget authority now being appropriated. This means that Congress will have to appropriate far more than the $150 billion already committed if it is to keep these housing units in the program for the full life of the contracts now being signed.

My third concern is that the new construction part of this program is not only terribly expensive, but is also a painfully slow way of providing housing for low-income people. As of January 1979, about 600,000 families were living in section 8 housing. Five-sixths of these—about 500,000—were living in units that already existed when placed under section 8 contracts. The remaining 100,000 units were newly constructed. On the other hand, there were nearly 600,000 units of new housing and substantially rehabilitated housing, as well as about 280,000 units of existing housing, in various stages of the processing pipeline in January of this year.

Clearly section 8 new construction is both expensive and slow. That is why the Budget Committee thought it would make sense to assume a shift toward existing housing and away from new construction. It would seem to me that areas which have an adequate supply of rental housing could use mostly section 8 existing housing while other communities with housing shortages would need more new construction.

So, Mr. President, I urge the Senate to adopt this amendment. It is still going to leave in place a very generous fiscal year 1980 authorization of $27.2 billion for placing additional housing units under contract. Let me emphasize, Mr. President, that we are dealing with commitments over and above those in past years. These are new starts. The Proxmire amendment is a modest cut for these times in which most of us are going home and talking about austerity.

Mr. President, I ask unanimous consent that two extracts from recent CBO reports which provide data on the points I have discussed be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM CONGRESSIONAL BUDGET OFFICE PAPER ENTITLED: HOUSING ASSISTANCE PROGRAM ACTIVITY REPORT, MAR. 30, 1979

TABLE 1.—NUMBER OF UNITS IN THE SEC. 8 AND PUBLIC HOUSING PROCESSING PIPELINES

Processing stage	Sec. 8[1]			Public housing[2]
	New construction	Substantial rehabilitation	Existing housing	
Occupied	85, 525	12, 273	501, 681	1, 177, 566
Available for occupancy but not occupied	16, 643	3, 377	141, 729	47, 681
Under construction	184, 079	23, 431		61, 398
With initial commitment; construction not yet begun, subsidy contract not yet executed	139, 766	27, 188	28, 875	107, 402
Without initial commitment	137, 457	53, 642	121, 817	56, 000
Total	563, 470	119, 911	794, 102	1, 450, 047

[1] Sec. 8 occupancy data are as of January 1979. All other sec. 8 data are as of February 1979.

[2] Public housing occupancy data are as of June 1978. All other public housing data are as of September 1978.

Source: HUD Office of the Budget.

EXCERPT FROM CONGRESSIONAL BUDGET OFFICE ISSUE PAPER: THE LONG-TERM COSTS OF LOWER INCOME HOUSING ASSISTANCE PROGRAMS, MARCH 1979.

SUMMARY

Federal programs that provide housing assistance for lower-income families present the Congress with difficult budgetary considerations. Since these programs involve 15- to 40-year federal obligations for each unit of subsidized housing, an amount of budget authority is set aside at the time a commitment is made to pay at least a portion of the long-term direct costs. The procedures used to determine the amount of budget authority to be provided, however, do not consider all of the factors that will affect eventual expenditures. Also, there are some direct expenses and indirect subsidy costs that are not explicitly considered when new commitments are made. Thus:

The Congress cannot be confident that the amount of budget authority initially reserved will be adequate and that additional spending authority will not be needed in the future to meet the obligation; and

There is no way to determine from current budget documents either the total cost of different housing assistance programs or how those costs compare with nonhousing programs that are not funded in advance.

Current funding procedures for housing assistance programs

The Section 8 Existing Housing Program[1]

The Section 8 existing housing program subsidizes lower-income persons living in existing, private rental housing. Under this program, HUD provides funds to state and local housing agencies that, in turn, make payments to landlords on behalf of persons living in units that satisfy minimum quality standards and rent for less than government-established maximums. Tenants pay between 15 and 25 percent of their incomes toward their own housing expenses and HUD payments cover the remainder.

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[1] Section 8 of the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974 (P.L. 93-383).

When HUD enters into a Section 8 existing housing assistance agreement, an amount of budget authority is set aside to cover the assistance payments for the full 15-year term of the contract. In calculating the amount of budget authority, HUD currently considers only the amount of the first-year rent and the length of the subsidy commitment. Actual long-term costs, however, will depend not only on starting rent levels, but also on initial tenant incomes, the shares of income that tenants contribute toward rent, and the rates by which rents and tenant incomes change over time.

The Section 8 New Construction/Substantial Rehabilitation Program:

The Section 8 new construction/substantial rehabilitation program subsidizes persons living in newly built or extensively rebuilt housing. Under this program, HUD contracts with private developers prior to the start of construction to make assistance payments on behalf of lower-income tenants for a period of up to 40 years following completion of the project. When a new assistance commitment is made by HUD, an amount of budget authority is reserved to pay the difference between the tenant's contribution of 15 to 25 percent of income and the market rents for the housing for the full term of the agreement. As with the Section 8 existing housing program, the procedure used to determine the amount of funds to be set aside considers only the initial rent and the length of the commitment. Actual costs will depend on the same factors that affect multiyear costs in the existing housing program.

Current budget documents do not consider many indirect costs of the Section 8 new construction/substantial rehabilitation program. Indirect costs include mortgage-interest subsidies for private developers, foregone federal tax revenues from tax-exempt bonds issued by public housing agencies to finance certain projects, and tax expenditures resulting from favorable tax treatments that are available only to investors in subsidized rental housing.

The Public Housing Program:

Under the public housing program, HUD pays the full construction and financing expenses and a share of the ongoing operating costs for projects that are developed and owned by state and local agencies and rented to lower-income tenants. Public housing projects are financed through tax-exempt bonds and notes issued by the local agencies. At the time that HUD makes an assistance commitment, an amount of budget authority is reserved to pay the principal and interest costs on the public indebtedness in 40 equal annual installments. The annual operating subsidies that are paid to local agencies to reduce tenant rent payments to levels slightly lower than those in Section 8 are not financed in advance but are funded, instead, through annual appropriations. Long-term revenue losses resulting from the tax-exempt bond financing are also not shown in the budget when new public housing commitments are made.

PROJECTED PROGRAM COSTS

Total Long-Term Costs in Comparison to the Amount of Budget Authority Available:

The long-term costs of all housing assistance programs depend on the rates of increase in housing expenses and tenant incomes over an extended period of time. Even under fairly optimistic assumptions concerning future increases in rents and tenant incomes, direct subsidy costs are likely to exceed the amount of funds reserved under the Section 8 programs, especially for the lengthier new construction/substantial rehabilitation commitments (see Table S-1). Because funds are not provided at the outset to pay operating subsidies, the long-term direct subsidy costs of the public housing program consistently exceed the amount of budget authority reserved. When indirect expenditures are included, the imbalances between long-term costs and the amount of budget authority set aside become even greater. Under five sets of assumptions concerning future housing expenses and tenant incomes, the projected long-term costs and budget authority shortfalls for the three programs are as follows:

The 15-year costs of Section 8 existing housing subsidy commitments entered into in fiscal year 1980 range from $45,600 to $59,000 per housing unit. Long-term costs range from $600 less than the amount of budget authority reserved to $12,800 more than the amount of funds available for each unit of housing.

TABLE S-1.—BUDGET AUTHORITY RESERVED FOR FISCAL YEAR 1980 SEC. 8 AND PUBLIC HOUSING SUBSIDY COMMITMENTS AND PROJECTED LONG-TERM COSTS PER UNIT UNDER VARYING ASSUMPTIONS REGARDING FUTURE INCREASES IN HOUSING EXPENSES AND TENANT INCOMES[1]

[In dollars except years]

Program	Duration of commitment (years)	Budget authority reserved[2]	Direct subsidy cost[3]	Total direct and indirect cost[4]
Sec. 8 existing housing	15	46,200	45,600–59,000	45,600–59,000
Sec. 8 new construction/substantial rehabilitation	20	101,900	94,700–151,800	97,800–154,800
	30	152,900	161,200–343,000	173,100–361,500
	40	203,900	242,600–710,300	272,800–756,900
Public housing	40	141,600	226,800–426,800	268,400–491,000

[1] Projected costs are based on current program conditions. Assumptions regarding future increases in housing expenses and tenant incomes range from a low-cost case in which expenses and incomes increase at the rate by which they grew over the 1957-77 period to a high-cost case in which future increases are based on CBO economic projections for fiscal year 1981. See text and the appendix for a complete description of the assumptions used.

[2] The amount of budget authority reserved to cover new assistance commitments is calculated using procedures currently employed by HUD.

[3] Direct subsidy costs for the sec. 8 program include rental assistance payments and administrative fees, as appropriate. Direct subsidy costs for public housing include debt-service payments and annual operating subsidies.

[4] Indirect costs include mortgage-interest subsidies under the sec. 8 new construction/substantial rehabilitation program and foregone revenues on tax-exempt bonds for both sec. 8 new construction/substantial rehabilitation and public housing projects. Tax treatments unique to subsidized mental housing projects are included in the indirect costs of sec. 8.

Source: CBO estimates.

The direct subsidy costs of Section 8 new construction/substantial rehabilitation commitments made in fiscal year 1980 are projected to be as much as three times as great as the amount of budget authority being set aside. Direct 20-year costs are from $94,700 to $151,800 per unit, ranging from $7,200 less to nearly $50,000 more than the available budget authority. Direct subsidy costs for 30-year commitments vary from $161,200 to $343,400; 40-year costs go from $242,600 to $710,300, or up to $500,000 more than the amount of budget authority available. Indirect financing subsidies and tax expenditures add up to $46,500 to long-term costs.

The long-term direct costs of public housing exceed the amount of budget authority reserved, because funds are not provided at the outset to cover annual operating subsidies. Total 40-year direct expenditures for fiscal year 1980 public housing subsidy commitments range from $226,800 to $426,800. The total of all direct and indirect 40-year costs ranges from $268,400 to $491,000 per unit.

COMPARATIVE PROGRAM COSTS

Because of variations in the duration of commitments made under different housing assistance programs, comparisons of total program costs do not provide a fair picture of relative expenses. A comparison of average annual expenditures in constant fiscal year 1980 dollars over the lives of the subsidy commitments presents a better characterization of relative program costs. Average annual constant dollar cost figures are also more directly comparable to the yearly appropriations requests that appear in the federal budget for programs that are not funded in advance.

Among current housing assistance programs, Section 8 existing housing is the least costly, with public housing somewhat less expensive than the Section 8 new construction/substantial rehabilitation program (see Table S-2). The average annual constant dollar cost of serving the same mix of households in each of the three programs ranges from $1,560 to $1,750 per unit in Section 8 existing housing, from $2,200 to $2,530 in public housing, and from $2,490 to $3,510 per unit for the Section 8 new construction/substantial rehabilitation program. The differences in costs between the Section 8 existing housing program and the new construction programs are due primarily to the lower rent levels in existing housing. The cost differentials between public housing and the Section 8 new construction/substantial rehabilitation program reflect differences in the subsidy mechanisms and may also reflect differences in the quality of the housing provided. Differences in the rules for calculating tenant rent payments increase the cost of public housing relative to the cost of both Section 8 existing housing and the Section 8 new construction/substantial rehabilitation program.

TABLE S-2.—PROJECTED AVERAGE ANNUAL COST PER UNIT FOR FISCAL YEAR 1980 SEC. 8 AND PUBLIC HOUSING SUBSIDY COMMITMENTS ASSUMING IDENTICAL TENANT INCOMES

[In fiscal year 1980 dollars]

Program	Length of commitment (years)	Range of constant dollar costs[1]
Sec. 8 existing housing	15	1,560–1,750
Sec. 8 new construction/substantial rehabilitation	20	2,750–3,300
	30	2,590–3,390
	40	2,490–3,510
Public housing	40	2,200–2,530

[1] Costs are calculated under 5 sets of assumptions regarding future increases in housing expenses and tenant incomes. See text and the appendix for a description of the specific assumptions used.

Source: CBO estimates.

I thank my friend from Wisconsin for yielding.

Mr. WILLIAMS. Mr. President, I understand the position of the Senator from Oklahoma well and his position of eminence on the Budget Committee.

One thing was stated that startled me, when he described this as a shaky program. I am wondering what he knows that I do not know. In the programs we are talking about here, section 8, there have been no failures. I wonder what there is about assisted housing that the Senator from Oklahoma knows that should be amplified to suggest that they are shaky.

Mr. BELLMON. Mr. President, I had reference to the fact that the costs of the program—as estimated by the executive branch, the authorizing committees, and the Appropriations Committees—have been substantially understated, according to the CBO study.

These costs do not take into account the likelihood of continued inflation. Therefore, as I said in my statement, Congress in the past has substantially underestimated what the cost of these programs is going to be.

Mr. WILLIAMS. I thank the Senator for the explanation.

Mr. President, I ask unanimous consent to have printed in the Record a statement by Mr. Heinz.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Heinz

Much of the debate on S. 1149, The Housing and Community Development Act Amendments of 1979 will focus on the number of Section 8 and public housing units authorized in the bill. The legislation calls for a 300,000 unit level which is the Committee's estimate of the number of dwellings to be produced with a contract authority of 1.286 B. This 300,000 level of low income units is the minimum necessary to meet the pressing housing needs of our poor and elderly citizens. 300,000 units will not reduce present housing shortages; it will not solve the intolerable overcrowded conditions that exist; it will not bring an end to substandard housing; it will not eliminate the 5 million elderly households in need of housing assistance. The 300,000 level is needed solely to stay even, to prevent conditions from getting worse. Even this number of units may be inadequate. But anything less than the proposed 300,000 units would be unconscionable. It would represent an abandonment of efforts to provide decent, affordable housing to low-income people.

There is little disagreement on the pressing need for low-income units. The Federal National Mortgage Association (FNMA) cites an annual need for production of 372,000 to 496,000 units. Former Senator Edward Brooke, who for two years articulately and forcefully argued the need for low-income housing in this body, tells me approximately 434,000 are needed. And I should stress that neither of these unit levels would cut into existing need at all. They would do no better than keep the current situation from getting worse.

The 300,000 level is not excessive. In fact, it is the lowest level of assisted housing placed before the Senate since the 1973 housing moratorium was lifted. It represents a 42 percent decrease from the 517,000 units reserved in 1976.

Low-income people and the elderly are facing a crisis in housing. Inflation is simply eliminating unassisted low rent housing. Let us look at the facts:

$83 is the rent a family with an income of $4,000 can afford at a 25 percent rent-income ratio;

In 1970, there were approximately 7.4 million units renting for less than $83;

By 1976, there was less than half this number; and

By 1980, only 700,000 units will be available for less than $83—and that assumes inflation does not increase, certainly not a safe bet in my opinion.

Now, it is certainly true that inflation is also moving families up from this very low income bracket. But the fact is that housing affordable by very low income households has been disappearing almost three times as rapidly.

The 300,000 unit level represents a concerted effort by the Banking Committee to balance the growing housing needs of low income people and the desire of Congress and the American people to limit federal spending. Both these goals are achievable. The contract authority in S. 1149 will have a negligible impact on FY 80 outlays, approximately $13 million according to CBO. Thus, there will be no impact on the 1980 deficit from an increase or decrease in contract athority.

In addition, we should keep in mind the growing consensus of opinion that the country is rapidly moving into a recession—quite possibly a severe one. Forecasters are predicting increases in the unemployment rate. Assisted housing is a job creator—for each new unit of housing built in 1978, there were 1.4 work years of employment created.

I hope my colleagues will not be taken in by simplistic arguments that housing assistance levels must be reduced in the name of controlling federal spending. There is no question that cut backs in various programs will be needed and that they will cause hardships among various groups. However, low income groups should not be asked to bear a disproportionate burden. They have the fewest resources. These groups already face rapidly rising costs in energy, food, medical care and other areas. They are increasingly unable to afford these basic necessities and are forced to choose between heat or food, health or housing. We simply cannot allow assisted housing shortages to increase and I ask for the Senate's support on approving the 300,000 unit level.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield to the Senator from Montana such time as he needs.

Mr. MELCHER. I thank the Senator from New Jersey.

Mr. President, it is absolutely essential that we readjust our sights and our goals and our actions in Congress to whatever the economy is, as it varies from month to month and as it can be projected into the coming year. In every regard concerning our economy, I think we have to come down very strongly with the judgment that the amendment of the Senator from Wisconsin would be most damaging.

If we cannot make these readjustments in our budget estimates, in our actions here, which are guided by our own congressional budget—if we cannot make adjustments as are needed, we are only going to make the economy of this country worse.

If the Congressional Budget Office is to be accepted as an authority on whether or not we are in a recession, then it is obvious, as of yesterday or the day before yesterday or today, that we indeed are in a recession.

What does that mean in terms of this amendment? Every new housing start, we are told by our economist friends, means 2.1 jobs. If we are to believe that the recession is started now and it is resulting in decreased employment or increased unemployment, then we had better evaluate this amendment in terms of what effect it may have on employment.

The question is, What has housing to do with employment? Well, it is keyed to employment figures in this country—absolutely. What are our needs in this country? The Library of Congress has provided us, in the last few days, with a study that indicates that we need 6.7 million low-income housing requirements as of right now. That can be divided by 10, so that it means 670,000 units per year for the next 10 years. That is quite a shortage.

The bill before us would provide 300,000, less than half of what is projected by the Library of Congress to be needed this year. If we extend that, just 300,000 this year—we are not catching up—we will be 370,000 more behind for the next year; and the amendment would even cut that ability for 300,000 new units, whether they are completely new units, subsidized units, or whether they are repairing present households to a significant level, or whether it is just a slight modification.

I believe that with the facts we have, if we just take the Congressional Budget Office declaration that we are now in a recession period and equate that to what it means with respect to an increase in unemployment, and agree with the 2.1 jobs per year for every housing start that we are talking about in this amendment, then I would say that, upon that basis alone, we should reject the amendment of the Senator from Wisconsin.

When we take into consideration the additional fact of the Library of Congress study, that we need 670,000 new units for the low-income people, whether they are brand-new units or rehabilitation or modification of existing units, then I think we must agree that the 300,000 that are covered in the bill is a very moderate amount.

It is certainly entirely necessary and to cut any portion of that would be a disservice to this country.

I hope we can reject the amendment.

Mr. PROXMIRE. Mr. President, I will yield to the Senator from Maine. Before I do that I shall make on brief statement.

The distinguished Senator from Montana has made the argument that we are moving into a recession and this is a good way to put people to work. He argues that we should have more housing; we should, therefore, not go along with the amendment.

Mr. President, that would be a good argument except for the timing. The fact is there is generally a long lead time, up to 18 months, between the reservation and actual start of construction. So this increased funding would not be timely. It would not enable us to do anything about this recession.

We have not had a recession in years that lasted 18 months. Thus this would come on stream at exactly the time when we have already recovered from recession and exactly the time when inflation continued to be a serious problem.

Mr. President, I yield to the Senator from Maine whatever time he requires.

Mr. MELCHER. Mr. President, will the Senator yield to me for only a minute on that point?

Mr. PROXMIRE. I yield very briefly, but the Senator from Maine has been waiting.

Mr. MELCHER. Yes. I will only take 30 seconds.

Mr. PROXMIRE. All right.

Mr. MELCHER. I will say that if it is essential that we readjust our evaluation as the economy disintegrates, then it must also be essential that we take the action now to protect this modest authorization so that we can later on follow up not only a correction in our budget estimate, but a correction in the appropriations process, and one follows the other. Would not the Senator agree?

Mr. PROXMIRE. I would not agree with this particular case. Of course, it is my amendment, and I am convinced that the housing that we authorize in this bill will do nothing to fight the recession we confront now.

I am happy to yield to the Senator from Maine whatever time he requires.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. MUSKIE. I thank the Senator from Wisconsin.

Mr. President, S. 1149, the Housing and Community Development Amendments of 1979, provides authorizations for a number of important housing and urban development programs. I wish to commend the distinguished Senator from New Jersey (Mr. WILLIAMS) and the distinguished Senator from Utah (Mr. GARN) for the effort they have put forth to bring this large and complex bill to the floor.

This bill authorizes many programs which I have been proud to support through the years, and which I continue to support today: Section 202 elderly housing, public housing, section 8 housing, urban development action grants, section 312 rehabilitation loans, and others. Because these programs serve large numbers of people, because many are targeted upon the poor or the elderly, and because many have as their goal the revitalization of our Nation's cities, we are understandably eager to enact generous authorization levels for them.

Certainly all of us are in favor of helping the poor and the elderly, and of rebuilding America's cities. Yet the hard fact is that when we make fiscal decisions on programs like these, we must remember that we are now living in a time that forces us to make hard choices as to how we use limited resources.

My task here today is to assess whether S. 1149, as reported, is responsive to the need to make those hard choices. In general, I believe it is. However, as I will point out, in the one area of low-income housing assistance I believe an amendment to reduce the level of the proposed authorizations is appropriate.

Mr. President, S. 1149 provides 1-year, fiscal year 1980 authorizations for a number of housing and community development programs, plus 3-year authorizations for the section 202 Housing for the elderly and handicapped program. I ask unanimous consent to insert in the RECORD a table showing the authorizations in S. 1149, along with the President's budget request.

The table follows:

COMPARISON OF AUTHORIZATION LEVELS

[Dollar amounts in millions]

Program	S. 1149 as reported by the Senate Banking Commission	President's budget request
Function 370: Sec. 202 loans for housing for elderly and handicapped (increased borrowing authority)	$520	$500
Function 450:		
Urban development action grants	275	275
Sec. 312 rehabilitation loans	130	130
Sec. 701 planning grants	40	40
Research	50	53
Neighborhood Reinvestment Corporation and other	5	10
Function 450 total	500	508
Function 600:		
Subsidized housing	30, 686	26, 520
Public housing operating subsidies	742	742
Troubled projects subsidies	82	82
Function 600 total	31, 510	27, 344
Grand total: Budget authority	32, 530	28, 352

As the table shows, the authorizations in S. 1149 affect three budget categories: Function 370 (Commerce and housing credit), Function 450 (Community and regional development), and Function 600 (Income security). I will discuss S. 1149 by considering the authorizations falling under each of these functional categories.

FUNCTION 370, COMMERCE AND HOUSING CREDIT

In Function 370, the bill authorizes additional borrowing authority for the housing for the elderly and handicapped program of $520 million in fiscal year 1980, $950 million in fiscal year 1981 and $975 million in fiscal year 1982. The bill also extends HUD's basic mortgage insurance programs for 1 year. These authorizations appear to be consistent both with the President's request and with the congressional budget targets for Function 370.

FUNCTION 450, COMMUNITY AND REGIONAL DEVELOPMENT

Turning now to the Function 450 authorizations, for the urban development action grant program, S. 1149 provides a new fiscal year 1980 authorization of $275 million. This is exactly equal to the President's request, and would provide the program, which assists major public-private urban revitalization projects, with a 69-percent increase over the existing fiscal year 1980 authorization of $400 million.

S. 1149 also incldes a $130 million authorization for the section 312 rehabilitation loan program, which provides 3 percent Federal loans to bring homes and commercial property in designated areas up to code standard. And finally, for section 701 comprehensive planning grants, HUD research programs, the Neighborhood Reinvestment Corporation, and other small programs, S. 1149 authorizes a total of $95 million. These authorizations also are similar to amounts requested by the President.

Mr. President, there is a great deal of legislative activity this year which deals with community and regional development programs falling within Function 450. In addition to S. 1149, now before us, major program expansions are being proposed for the Economic Development Administration in S. 1145 and S. 1150, for the Appalachian regional development program and the regional action planning commissions in S. 835, and for the SBA disaster loan program in S. 918, which is now in conference.

As a result of this flood of authorizing bills, all proposing sizable funding increases, the Function 450 targets of the first budget resolution are under a great deal of pressure. In fact, the Budget Committee staff has calculated that if all legislation affecting Function 450 that is currently pending in the Senate were fully funded, without corresponding reductions in other community and regional development programs, the functional targets would be exceeded by $0.6 billion in budget authority and $0.4 billion in outlays. Further, if pending House legislation were fully funded, the targets would be exceeded by $3.4 billion in budget authority and $1.1 billion in outlays.

Mr. President, I do not intend by this accounting of potential budget overages to suggest that those comparativelv small Function 450 programs included in S. 1149 are authorized at excessive levels. My personal opinion is that they are not. However, I would hope that this list of potential problems will serve to alert the Senate that a large portion of the authorizations now being proposed for Function 450 program cannot be funded.

FUNCTION 600, INCOME SECURITY

Within Function 600, the Federal Government helps low-income people afford decent housing primarily through two major programs: The conventional public housing program, under which HUD contracts to pay debt service charges and operating subsidies, and the "section 8" leased housing program, under which HUD contracts with local housing agencies and private developers to pay the difference between a "fair market rent" and 25 percent of a tenant's adjusted income.

S. 1149 authorizes for these two low-income housing assistance programs, annual contract authority of $1.3 billion, an amount expected to translate into fiscal year 1980 budget authority of $30.7 billion. Funding of this amount could assist an estimated 300,000 additional dwelling units per year. By way of comparison, the President has requested annual contract authority of $1.1 billion, which translates into budget authority of only $26.5 billion, $4.2 billion less than would be authorized by S. 1149.

S. 1149 also authorizes $742 million for public housing operating subsidies, and $82 million for subsidies for financially troubled privately owned housing projects. These amounts are generally consistent with the President's request.

Because of its sizable low-income housing assistance authorization, full funding of the bill would be expected to cause the fiscal year 1980 first resolution budget authority target for Fuction 600 to be exceeded. Depending upon the size of the appropriation, and the extent of and offsetting reductions in other Function 600 programs, the size of the budget authority overage could be as much as $4.9 billion.

Mr. President, a potential budget overage of this size cannot be ignored. I understand perfectly the desire to increase the authorization for these programs.

One of the first committees to which I was assigned was the Committee on Banking and Currency 20 years ago, and I have a stake in many of the programs that are on the books, most of which I supported, many of which I had a role in writing, and so I am sympathetic to our housing problems in this country and our housing goals. Yet, the decision has been made, Mr. President, in adopting the first budget resolution that the battle against inflation and the need to balance the budget are also of the utmost importance.

Mr. President, we are in the midst of hearings in the Budget Committee on the second budget resolution, and all this week we have been listening to economists from the private sector representing the spectrum of thought in the economic sector in this country. We have heard from Dr. Rivlin of the Congressional Budget Office, from Mr. MacIntyre of OMB, from the Secretary of the Treasury, from the Council of Economic Advisors, and from nongovernmental economists. All of them tell us two things:

One, that comes as no surprise, notwithstanding the comments of the distinguished Senator from Montana, is that the first budget resolution was based on the assumption that the economy would moderate and slow down this year and that that was important in the fight against inflation.

It is true that the economy has slowed down this year more than was projected in January, February, and March, but at this point the unemployment rate still has not risen. It is lower than it was in January, the first of the year.

What we are being asked to do, therefore, before there has been a reduction in the unemployment rate, is to shift sharply our budget direction from a fight against inflation to a fight against unemployment, using an instrument which is not necessarily appropriate to that challenge, as the Senator from Wisconsin has pointed out.

Our number one problem, according to every economist who has come before us, is still inflation.

Mr. President, it is my conviction that only a steady course, a steady fiscal course by Congress, has any possibility of influencing the country to believe that we are serious about inflation and that we are going to use fiscal policy in a way to fight inflation. We have ample flexibility in the process to deal with a deep recession if one comes. No economist has predicted yet this week a deep recession. They predict a moderation and a greater slowing down of the economy than we predicted in January.

But the focus still must be on inflation.

Of course, if the Senate chooses to reach a different judgment on the basis of whatever instincts or information or advice Senators receive, that is the Senate's prerogative under the budget process. But I am constantly amused by the indignation generated in the Chamber when someone outside this body describes the economy in a way that is inconsistent with some Member's idea of what we should do about some program. I mean the whole purpose of the budget process is that CBO gives us its honest judgment about where we are economically and what we should do about it or what the options are. If others disagree with CBO, we undertake to bring those disagreements to the Chamber. We should get all the information we can. There is no easy macroeconomic answer to this tough dilemma which we face as between inflation as a high priority problem and unemployment as a possibly intensifying problem in the next 6 months.

We are literally between a rock and a hard place on it, but it is the emerging consensus, I believe, of the Senate Budget Committee that we should hold to a steady course, going forward on the basis of the assumptions made in the first concurrent resolution. We can always come back with a third concurrent resolution if the economy worsens to a greater degree than any economist has told us to expect this week. We have to keep our options open, and we will.

But to turn our policy around now on the basis of one program, and use as justification a sharp shift in macroeconomic requirements makes no sense. I mean our economic circumstances in this country are not such that there is always an unmistakable problem and an unmistakable answer. The choices are hard.

Mr. President, we have been following a moderate course now last year and this year. We have reduced the budget. Unemployment has gone down, and inflation has risen for three reasons as to which every economist who has come before agrees: Food prices, energy prices, and mortgage interest rates. Those are the three principal reasons that account for the rising inflation from 9 to 13 percent since the first of the year.

Now, given that analysis, it seems to me commonsense dictates that we hold to the fiscal policy that we laid down in the first budget resolution. If we break that policy today in the name of housing—and housing is a very big problem in this country, and I share the concerns of the sponsors of this provision in the bill about it—there are other reasons why some people in this body think we ought to be applying more resources to other programs. If we breach the budget in order to deal with this one, how do we say "no" to the next one that holds some prospect for greater employment? How do we say "no" to the next one? We have breached the dike. So that if macroeconomic policy requires that we change fiscal policy, then we ought to do it in the second budget resolution on the basis of the overall requirements of the economy, and we ought not to do it as a justification for enlarging a single program. We make the macroeconomic decision first, and we will make it before September 15. We make that decision first, and if we decide the condition of the economy requires that we adopt a stimulus policy then we consider what programs to use to implement it.

Housing would take its place in the line, I am sure, of objectives that can serve a useful purpose macroeconomically.

Well, this is my job, Mr. President, and I do not find it—I never find it—pleasant to say "no," to be discouraging to my colleagues who have such constructive public interests in mind as they present their positions.

But what I want to say to you right now is that this provision in this bill will breach the budget we adopted in the spring, no question about it. Second, it would send out a signal to our colleagues that we are shifting macroeconomic policy in the direction of antiunemployment instead of antiinflation, and, boy, I can see them jumping to that signal.

Third, I urge my colleagues to hold the steady course which we laid down in the spring, and I think if we do we will not regret it. That is not to say, Mr. President, that my crystal ball is any better than the crystal ball of the Senator from Montana, but I happen to be in position where I am supposed to offer a judgment from the vantage point of an institution created by Congress to advise on just such questions.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I would like to speak on this issue. But I have been browbeaten by the Senator from Nebraska who has a plane to catch, so I will try to make my remarks brief.

In deference to the Senator I ask unanimous consent that a copy of a memorandum on this issue put out by the National Low Income Housing Coalition be included and thus save me the necessity of reading that statement.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

NATIONAL LOW INCOME
HOUSING COALITION,
Washington, D.C., July 11, 1979.

Memorandum for U.S. Senate
From: Edward W. Brooke, Chairperson
Subject: Recommendations on the Housing and Community Development Amendment of 1979 (S. 1149)

The National Low Income Housing Coalition strongly supports S. 1149, the Housing and Community Development Amendments of 1979, as reported by the Committee on Banking, Housing and Urban Affairs. We are particularly concerned with three issues which may be raised on the floor: (1) the level of housing assistance for lower income people; (2) targeting these programs more effectively toward very low income people; and (3) application of the Davis-Bacon provisions to sweat equity and Indian housing programs.

Level of assisted housing programs. The amount authorized in S. 1149 is a significant reduction from this year's program and funding level. The bill represents a judicious effort, we believe, to balance the growing housing needs of low income people on the one hand and the evident desire of the Congress and the American people to reduce federal spending on the other. The Coalition had urged that this balance be struck at a higher level of housing assistance: 400,000 units, rather than the 300,000 which would be possible with the $1,286 billion in contract authority for Section 8 and public housing contained in S. 1149.

We understand that an amendment will be introduced to reduce the authorization to as low as the 257,000-unit target for assisted housing set by the First Concurrent Budget Resolution. We urge you to oppose this amendment for the following reasons:

The 300,000-unit level of housing assistance which would be authorized by S. 1149 is the lowest level of assisted housing placed before the Senate since the 1973 housing moratorium was lifted. *It is a 42-percent decrease from the 517,000 units reserved in 1976*. Since then there has been a steady decline in program levels. This is a moratorium by attrition and, if allowed to continue, will threaten the credibility of our commitment to providing decent housing for low income people.

Inflation in housing costs is placing a particularly heavy burden on low income people and the Consumer Price Index does not adequately reflect this impact. Inflation is literally wiping out unassisted low rent housing. For example, in 1970, there were some 7.4 million units renting for less than $83. By 1976, there were less than half this number. By 1980, if the trend continues, and there is good reason to believe it is getting worse, there will be less than 0.7 million units renting for less than $83 monthly. This amount is what a family with an income of $4,000 can afford at a 25-percent rent-income ratio. Inflation is, of course, also moving families out of this very low income bracket. Even so, we estimate that there will still be 5.5 million households below the $4,000 level in 1980. All of this is a complex way of stating the obvious: we need to provide at least 400,000 assisted units for very low income people just to keep their problems from getting worse than they are now. To improve their situation, we should be doing more.

The impact on outlays in 1980 from the contract authority contained in S. 1149 will be negligible. The Congressional Budget Office estimates them at $13 million. Thus, there will be no impact on the 1980 deficit from an increase or decrease in contract authority.

A reduction in program level to roughly 257,000 units which we estimate would be funded at the Budget Resolution level would come at a particularly unfortunate time. There is a clear consensus among economic forecasters that we are likely to be facing rising unemployment. It is thus doubly counterproductive to cut housing production programs at this time.

Finally, we believe you will agree with us that low income people should not be asked to suffer more than others as a result of efforts to control federal spending. Yet, direct outlays account for only one-fifth of federal expenditures related to housing. The remainder is in the form of tax expenditures—primarily homeowner deductions. We do not challenge the need for these deductions. But we submit it is inconsistent and unjust to attempt to control only those housing expenditures which benefit low income people, while leaving untouched the far greater tax expenditures which primarily benefit those at higher income levels. The Joint Committee on Taxation has estimated that housing-related tax expenditures, estimated at $18 billion this year, will double by 1984. The Congressional Budget process was intended to address both direct and tax expenditures.

Mr. TSONGAS. Let me simply make three points: One, as to the issue of inflation, everyone agrees who talks about the issue of inflation that one of the problems is housing, and this is a Congress committed to doing something about inflation, so what we will do with housing is we have a massive supply problem, and we will cut down the supply. So we are going to repeal the law of supply and demand which will have an enormous impact on inflation. If you want to do that you will get more housing. The logic of that is apparently not going to be appreciated.

Second, on the issue raised by the Senator from Montana that this is an economic stimulus package, we are indeed, as the distinguished Senator from Maine suggested, between a rock and the hard place, because the Senator from Maine says there is more employment today, therefore let us not have a stimulus. The Senator from Wisconsin says we will not have any impact for 18 months, and we may not need it then, so we do not need the program, so we are caught between both strategies and theories and neither case does provide for more housing, which does not seem to make any sense.

The third question is a question of equity and a question of priorities. In 1976 the reservation was for 517,000 units. What we are talking about today in the committee-passed bill are 300,000, a reduction of 42 percent.

I ask any Member of this Senate to show me an example of any other program where that kind of reduction since 1976 has taken place.

We are going to engage in cost cutting, in balancing the budget, for certain people who happen to be poor. Has anyone gone up to the military and said to them, "Look, we are going to take 42 percent of your capability that we gave you in 1976?" Is anyone going to do that? I submit no one will.

In 1977 there were 388,000 units reserved. It has gone down steadily, 326, 360, and we are down to 360—and I am speaking of thousands—the lowest since 1976. Rather than arguing to increase it, we are arguing to cut it back even farther. The message is quite clear. We are going to balance the budget all right. We are going to take it out of the hides of particular people, particular segments of our society, and those are the people who need housing, and especially in the northeastern part of this country.

These strategies may achieve some short-term gain, but there will be a very serious long-term problem that this Senate is going to have to deal with at some place down the road. It is too bad we could not start today.

I thank the Chair.

● Mr. CRANSTON. Mr. President, I oppose any decreases in the funding level set by S. 1149 for assisted housing programs. This legislation proposes a fiscal year 1980 funding level of $1.286 billion to provide for 300,000 units of assisted housing. I believe that such an authorization would uphold the Nation's longstanding commitment to decent, affordable housing for those with low incomes.

While housing quality is improving and overcrowding is diminishing, the gap between housing cost and the amount lower income people can afford to pay is increasing rapidly. According to figures from the National Low Income Housing Coalition, the number of households with incomes of $7,000 a year or less has been declining since 1970. But housing that is affordable by very low-income households has been disappearing almost three times as rapidly. Looking only at renter household income, an additional 400,000 units, renting below $83 monthly, are needed just to keep the present situation from getting worse for households at the bottom of the income scale.

An additional 600,000 units renting between $83 and $146 is needed to maintain the status quo for households with incomes between $4,000 and $7,000. Thus, to maintain the status quo for low-income people, we should be providing an assistance for an additional one million units. Given this current period of fiscal austerity, this is not possible. However, not to provide for at least 300,000 units, I believe, is unconscionable.

One need only look at the demands placed on this program. In California, the figures are astounding. The San Francisco Housing Authority has informed me that they accepted applications for this type of housing from August 21 to August 25, in 1978 for the year 1979. In that short week, they received over 3,000 applications. Since those applications have been received, the housing authority has only been able to certify less than 500 because of a lack of funds for the program. They expect that soon HUD will allow them to issue certificates for 80 more family units. But—this leaves over 2,400 people seeking housing assistance in that city alone. In the city of Los Angeles, there is a list of 71,674 applicants that are seeking assistance from this program. The housing needs of all the States demonstrates that the 300,000 unit reservation request is not unreasonable.

We must maintain the contract authority at $1.286 billion because it is this funding level which would be sufficient to fund the 300,000 units. This level of funding represents a decline of 60,000 units from this year's level of activity. I am concerned that any further cuts in housing assistance from the current levels is not prudent because of the substantial unmet need for housing for low-income families and the elderly. The fact that the multifamily rental vacancy rate is at its lowest level, nationwide, in 20 years demonstrates the problem. But I recognize that Congress must balance the need for assisted housing with the need for fiscal restraint in our inflationary environment. Therefore, I support the level of funding for subsidized housing contained in S. 1149.

Finally, I would like to stress that people who receive modest incomes should not be asked to suffer more than others as a result of efforts to control Federal spending. It seems that housing programs are among the first programs that are cut when it comes time to tighten the fiscal belt. I suggest that we reject instead proposals that seek to spend overgenerously on programs which benefit special interests at the expense of a fair share of Federal revenues to help our own disadvantaged citizens improve the quality of their lives. I, therefore, urge my colleagues to oppose any cuts in the assisted housing authorization level.●

Mr. PROXMIRE. Mr. President, I am ready to yield my time if the Senator from New Jersey is.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WILLIAMS. Time is yielded back.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Wisconsin.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. Eagleton), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. Johnston), is absent on official business.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Goldwater), the Senator from Utah (Mr. Hatch), and the Senator from Pennsylvania (Mr. Heinz) are necessarily absent.

On this vote, the Senator from Utah (Mr. Hatch) is paired with the Senator from Pennsylvania (Mr. Heinz).

If present and voting, the Senator from Utah would vote "yea" and the Senator from Pennsylvania would vote "nay."

The PRESIDING OFFICER (Mr. Tsongas). Are there other Senators who wish to vote?

The result was announced—yeas 51, nays 40, as follows:

[Rollcall Vote No. 166 Leg.]

YEAS—51

Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Cannon
Chiles
Church
Cochran
Cohen
Culver
Danforth
DeConcini
Dole
Domenici
Exon
Garn
Glenn
Hart
Hatfield
Hayakawa
Helms
Hollings
Huddleston
Humphrey
Jepsen
Kassebaum
Laxalt
Long
Lugar
Magnuson
McClure
Muskie
Nunn
Packwood
Percy
Proxmire
Roth
Schmitt
Simpson
Stennis
Stevens
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—40

Baucus
Biden
Bradley
Burdick
Byrd, Robert C.
Chafee
Cranston
Durenberger
Durkin
Ford
Gravel
Heflin
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Pell
Pressler
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stevenson
Stewart
Tsongas
Weicker
Williams

NOT VOTING—9

Armstrong
Baker
Eagleton
Goldwater
Hatch
Heinz
Johnston
Ribicoff
Talmadge

So Mr. Proxmire's amendment (No. UP 334) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the motion by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 330

The PRESIDING OFFICER. The question now recurs on the amendment offered by the Senator from Vermont.

Mr. LEAHY. Mr. President, I am going to move very soon, assuming that the opponents of my amendment are willing to stay a fairly short amount of time—I shall be moving within a few minutes for a rollcall vote, but first, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I yield to the Senator from West Virginia.

TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on this amendment be limited to 20 minutes, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, will the Senator yield? Do we have a time agreement on the subsequent amendment?

Mr. ROBERT C. BYRD. Mr. President, we have a time agreement on all amendments.

Mr. DOMENICI. I mean, have we agreed which amendment will follow this amendment?

Mr. ROBERT C. BYRD. I think there is an order on Mr. Levin's amendment.

Mr. LEAHY. Mr. President, do I understand that none of this is coming out of my time?

Mr. ROBERT C. BYRD. I ask unanimous consent that none of this be charged to the Senator from Vermont.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I have two amendments pending. I would agree to 15 minutes on each and let them follow Mr. Levin's, if that is satisfactory.

Mr. ROBERT C. BYRD. I make that request.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. DOMENICI. I thank the leader.

Mr. LEAHY. Mr. President, I believe some of these people are already cosponsors, but I ask unanimous consent that Senators Huddleston, Williams, Tsongas, Sarbanes, Cranston, and Moynihan be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, the amendment is quite simple. It adds $10 million to the 701 program. That is the principal funding source for A-95 review of the Federal grant application required by OMB.

That sounds very technical. Basically, Mr. President, what this is about is that we have an awful lot of areas in this country—every single State has them—where people cannot afford planning and development departments, something that can deal with the increasing complexity of Federal funding. This allows these areas that cannot afford full-time planners and developers and so on funds to hire people who can deal with the increasing complexity of Federal funding. We have regional planning commissions. Every one of us has numerous ones within our jurisdictions.

The procedures save millions of dollars by eliminating duplications and inconsistencies from one jurisdiction to the next. I can think of, in my own State, one $15,000 grant that saved $1.5 million of taxpayers' money on a sewer project; another $14,000 grant saved a half-million dollars on a housing project.

I think most of the former Governors and mayors, legislators, and so on, who deal at the local level know the value of this and know the absolute necessity of it, especially in the rural, smaller areas.

Mr. President, I ask unanimous consent that Senator Ford also be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from New Jersey has the time in opposition.

Mr. GARN. There would have to be time on this side of the aisle.

The PRESIDING OFFICER. In that case, the Senator from Utah has the time.

Mr. GARN. Mr. President, I yield myself time to oppose this amendment. I do it reluctantly, because I am very familiar with the 701 planning grants program. I worked with them a great deal, used these grants in my capacity as mayor of Salt Lake City. Everything that the distinguished Senator from Vermont says about the 701 program is true, but I think we have a problem of budget constraints and attempting to hold down the budget, at least to the President's level. $40 million was the amount recommended by the President. The only reason I rise to oppose the Senator from Vermont is not on the substance of what he says about this, but rather I think we simply must hold the funding level down as close to the President's recommendations as we can. I oppose the amendment on that basis. We must hold down the amount of money, even though this is certainly a good program.

Mr. WILLIAMS. Mr. President, I only want to indicate, as a cosponsor, my strong support. I should like to have two things printed in the Record at this point: A very illuminating letter from the commissioner of community affairs in New Jersey, a former Member of the House, Joseph Le Fante, who describes in some excellent detail what 701 comprehensive planning has meant to us. He regrets the decline in the appropriations for this program and urges me strongly to support the Senator from Vermont, which I would have done even without Commissioner La Fante's suggestion. I am glad to ask unanimous consent to have it printed at this point in the RECORD, together with Neal Peirce's article in the Washington Post of recent date, "Housing the American Dream." It shows exactly why planning is necessary to prevent certain very, very damaging and wasteful patterns of development that occur without planning.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Housing the American Dream

(By Neal R. Peirce)

DETROIT.—A grim scenario for the Detroit area in the year 2000, emerging from computer studies by the Southeast Michigan Council of Governments, illustrates how rapidly and totally local patterns of sprawl development are turning the United States into an automobile-dependent, oil-dependent, OPEC-dependent nation.

Unless the last several years' patterns of rapid development at the suburban fringe are curbed, the computer projects that the city of Detroit and its older, more established suburbs could lose more than a third of their population by the end of the century. All growth would shift to outlying suburbs.

As a result, there would be an additional million cars on the roads of southeastern Michigan, driving 40 million miles more a day than now, wiping out every gallon of the gasoline savings that are projected to come with lighter, more energy-efficient autos.

Such sprawl and oil gluttony, once questionable for aesthetic or environmental reasons alone, can now be held responsible for directly undermining the national security of the United States. Our highly energy-dependent economy is held hostage by foreign powers; even when we can buy the oil, the prices demanded feed inflation. That means, notes Detroit city official James Bush, continued devaluation of the dollar, contraction of credit and the real danger of national or worldwide recession.

The Detroit pattern is part of a national phenomenon of the number of autos increasing two to three times as rapidly as population. No other nation on earth—not even far-flung Canada and Australia—uses gasoline, in relation to overall economic output, as profligately as we do. Per-capita energy consumption in such nations as Germany and Sweden, with standards of living as high if not higher than ours, is 45 to 55 percent lower than it is in the United States.

The inordinately high costs associated with high auto dependence and sprawl growth don't, however, stop with energy. As many as 466 square miles of southeastern Michigan farmland could be lost to highways, subdivisions, shopping centers and industries by 2000. Almost 2 million acres of U.S. producing cropland are lost annually to development. Sadly, the best and most endangered farmland tends to be near urban centers. As it's devoured for development, more marginal lands, requiring expensive irrigation systems and heavy applications of energy-consumptive fertilizer, are required. Again, the national interest suffers.

If southeast Michigan's present path of sprawl continues, at least $2.4 billion worth of existing school space will be abandoned in the city and older suburbs—even while $1.3 billion or more is spent on new schools on the urban fringe.

Yet somehow, Proposition 13's notwithstanding, one suspects metropolitan areas would find some way to pay the immense extra cost for sprawl development if it were not for the intractable energy problem. Even before the Iranian oil crisis, the Congressional Office of Technology Assessment was warning that the nation's continued heavy use of the automobile would necessarily cause a severe petroleum shortage and cripple the country's economy within the next 20 years.

Little is done either locally or by the federal government to boost masstransit capacity, even though the nation's "straphangers" save the nation a billion gallons of gasoline a year. By their more parsimonious approach to commuting, says Detroit's Bush, bus and subway riders save the energy that other Americans "need for continuing their suburban, automobile-oriented way of life."

Across the nation, a few progressive urban counties—Suffolk on Long Island, Howard in Maryland, King in Washington—are making efforts to buy farm development rights and thus slow sprawl. Effective metropolitan land-use plans have emerged in a handful of areas, such as Honolulu, Minnesota's Twin Cities and Portland, Ore. But the majority are fearful of strict controls.

If sprawl is to be contained, is there available land to house the millions of Americans in the postwar baby-boom generations, as they reach maturity and look for permanent housing? The answer is yes: but in garden apartments, condominiums, town houses and other forms of more dense, transit-accessible housing, and not in the "American Dream" of a free-standing house on its own lot in a low-density, totally auto-dependent suburb.

Can developers and builders sell more densely built housing, especially as "infill" in existing cities and suburbs? Again, the answer is yes: So huge is the demand now for housing, and so formidable will it remain through the 1980s and probably beyond, that developers will be able to sell any reasonable amount of housing of whatever description they produce, whether in town or country. If they choose close-in locations and dense development, they can be true patriots by saving immense energy for the country, plus billions for the taxpayers in inflation-ridden times.

If suddenly the condominium or town house and the bus at the corner take precedence over the free-standing house and commuting gas-guzzler, there should be no grounds for despair. First, the national interest should take precedence over personal convenience or preference. Second, sometime the American Dream had to grow up.

STATE OF NEW JERSEY,
DEPARTMENT OF COMMUNITY AFFAIRS,
June 18, 1979.

Hon. HARRISON A. WILLIAMS, Jr.,
U.S. Senator, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR WILLIAMS: I understand the Senate Appropriations Subcommittee will mark-up the Appropriations bill for the Department of Housing and Urban Development later this month. Of the many vital housing and community development programs administered by New Jersey's Department of Community Affairs. I am particularly concerned with what has become a steady decline in funding levels for the 701 Comprehensive Planning and Management Assistance Program. I have been informed that Senator Patrick Leahy will attempt to introduce an amendment in Subcommittee to restore funding for the 701 program from the authorized level of $40 million to the FY '79 level of $53 million, and I urge you to contact your colleagues on that Subcommittee to support Senator Leahy's amendment. The HUD 701 program represents the only national commitment to comprehensive planning, and its continuation is vital to the State of New Jersey, as well as other states and units of local government throughout our nation.

Since 1975, there has been a steady decline in federal appropriations for the 701 program. One hundred million dollars were available to states and other local units of government in 1975 (New Jersey received $817,000). During FY '79, New Jersey will receive $375,000 of the $53 million federal appropriation. The forecast for 1980 could be as low as the $35 million which the House bill proposes. This would effectively cut the State portion by 60 percent (or $150,000) and reduce the Division of State and Regional Planning by 14 persons since December 1978 to 19 employees, or 47 percent of current staff. This forecast assumes that special grants currently underway will not be renewed.

Comprehensive Planning Assistance (701) Success Stories

Hackensack Meadowlands: Once a sprawling marsh dotted with landfills, dumps and occasional warehouses within sight of the World Trade Center and Empire State Building, this 1,300 acre area is undergoing a transformation including wildlife sanctuaries, the Meadowlands Sports Complex, major shopping centers, new housing construction at Harmon Cove and a variety of national corporate offices and plants. All of this activity is being realized through the efforts of the Hackensack Meadowlands Development Commission whose establishment, along with the inter-municipal tax sharing program, came about as a result of a 701 sponsored research undertaking by the New Jersey Department of Community Affairs.

Atlantic City: Since the advent of casino gambling in Atlantic City, there have been many direct concerns leveled at the New Jersey Department of Community Affairs consisting of the formulation of the Atlantic City master plan, regional housing needs, displacement of low income and retired people, as well as development issues surrounding the construction of new casinos. Working through the Governor's Cabinet Committee on Atlantic City, staff supports the Assistant Commissioner in addressing these issues. A 48 page staff report on the 1,300 page Atlantic City master plan was prepared for the Governor's Cabinet Committee as a state position pursuant to the Casino Control Act, which provides for the comprehensive and orderly development of Atlantic City, along with casino licensing. To date, four casino development proposals have been reviewed, on-location technical assistance to the City is provided daily, a monitoring program on regional impact is being established, and 300 potential sites for modular housing suitable for low-and-moderate-income housing were evaluated for the initial construction of 100 units.

State Development Guide Plan: In 1977, a draft report dealing with growth issues, called the State Development Guide Plan, was prepared with 701 funds and released by Governor Byrne. This report, authorized by Section 15 of P.L. 1961 c. 47, addressed those land development issues required by HUD as a land use element and began to set the framework for land policy issues in New Jersey. Subsequently, the Governor established in his office the Office of Policy and Planning to coordinate land use decisions and organized the Cabinet Committee on Development Policy and Projects as a forum to air various views on these issues. Work is proceeding to develop the draft plan into a more complete and definitive statement on development policy to be used as a guide for all cabinet officers.

Federal Project Notification and Review System (A-95): Originally authorized by Circular A-95 issued by the federal Office of Management and Budget, this program has developed into a large responsibility for the New Jersey Department of Community Affairs. Funded through 701, eight staff members conduct the Office of the State Review Coordinator, the activities for which include the review of regular A-95 applications; special reviews for Community Development Block Grants (CDBG); special reviews for Comprehensive Employment and Training Assistance Grants (CETA); special Governor's reviews under A-95, Part III; federal development projects under A-95, Part II; railroad abandonment projects; and a state program of large-scale development review. The Clearinghouse has developed a system which utilizes 22 review agencies in state government, including the mandatory civil rights and environmental reviews. In 1978, approximately 1,300 individual reviews were conducted under A-95, alone totaling more than $1,700,000,000 in requests for federal assistance, and 145 Community Development applications, representing $220 million were also reviewed. As a result of these activities, state government has been able to provide a more coordinated response to each proposal for federal funding as it relates to the State's program objectives and a coordinated growth policy.

Fair Share Housing: Resulting from a New Jersey Supreme Court ruling that all developing municipalities in New Jersey must provide for their fair share of low-and-moderate-income families in the region, Governor Byrne issued Executive Order No. 35, directing the N.J. Department of Community Affairs to prepare a plan for an equitable distribution of such housing needs among municipalities in the entire state. Supported by 701 funds, an allocation plan was prepared consisting of a draft and, after a year of public comment a final version. Although perhaps unique as a state document, the report is widely quoted and utilized as a technical basis for adjudicating many disputes between land developers and municipal zoning boards. As a corollary, many municipal planning boards were able to use this report and the State Development Guide Plan as points of reference in overhauling local planning and zoning regulations as required under New Jersey's newly revised land use laws. The allocation report is also used as a reference in evaluating local Housing Assistance Plans that are required in applications for Community Development Grants.

Pinelands: In 1977, Governor Byrne issued Executive Order No. 56 establishing the Pinelands Review Committee which, with the assistance of 701 supported staff of the N.J. Department of Community Affairs, issued a report on the strategies necessary to deal with the New Jersey Pinelands. As a result, Section 502 of the federal National Parks and Recreation Act, signed into law by President Carter on November 10, 1978, provided for a Pinelands National Reserve and authorized $23 million for acquisition of critical lands and $3 million for planning. More recently, Governor Byrne, by Executive Order No. 71, created a Pinelands Planning Commission to prepare the plans as specified in the federal act. The order also places a moratorium on building in the Pinelands and provides for an exemption process if certain criteria are met. To administer this process, a Pinelands Development Review Board was created consisting of state officials. Staff assistance, partially funded through 701, is provided which not only assists in reviewing development applications, but also investigates areas of research that were uncovered in the review process for incorporation into the plan. As of this writing, the concepts embodies in Governor Byrne's executive order are under consideration by the New Jersey Legislature. Senate Bill 3091 has passed the New Jersey Senate and is expected to come up for a vote in the New Jersey Assembly soon. If effect of institutionalizing the planning and management process identified under the 701 research undertaken earlier and expanded in the federal act.

Attached is a list of substantial contributions that have been made to our State through the use of 701 planning assistance funds. A reduction from the FY '79 appropriation level would lead to a severe curtailment of these projects. Adoption of Senator Leahy's amendment would benefit every section of our State, and your consideration of this issue will be most appreciated.

Sincerely yours,

JOSEPH A. LEFANTE,
Commissioner.

Mr. LEAHY. Mr. President, I ask unanimous consent that Mr. LEVIN be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I think everybody is well aware of 701 planning grants and their effect in their home States. I think most people have probably heard from the planning commissioners in their own States. I think everybody knows the arguments pretty well on both sides of this matter. I also know that some of my colleagues have airplanes to catch. I am perfectly willing to yield back the remainder of my time and go to a vote if Senator GARN is.

Mr. GARN. Yes, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the quetsion is on agreeing to the amendment of the Senator from Vermont. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Nebraska (Mr. EXON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. JOHNSTON) is absent on official business.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators who wish to vote on this amendment?

The result was announced—yeas 49, nays 42, as follows:

[Rollcall Vote No. 167 Leg.]

YEAS—49

Baucus
Bayh
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chafee
Church
Cohen
Cranston
Culver
DeConcini
Domenici
Durenberger
Durkin
Ford
Glenn
Gravel
Hart
Heflin
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Long
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Morgan
Moynihan
Nunn
Packwood
Pressler
Randolph
Riegle
Sarbanes
Schmitt
Simpson
Stafford
Stennis
Stevenson
Tsongas
Williams

NAYS—42

Baker
Bellmon
Bentsen
Boren
Boschwitz
Byrd,
Harry F., Jr.
Cannon
Chiles
Cochran
Danforth
Dole
Garn
Hatfield
Hayakawa
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Metzenbaum
Muskie
Nelson
Pell
Percy
Proxmire
Pryor
Roth
Sasser
Schweiker
Stevens
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—9

Armstrong
Eagleton
Exon
Goldwater
Hatch
Heinz
Johnston
Ribicoff
Talmadge

So the amendment (UP No. 330) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order the Senator from Michigan is recognized.

UP AMENDMENT NO. 336

(Purpose: To retain the 45-day review provision for HUD regulations)

Mr. LEVIN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 336.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, line 24, strike everything after the word "out" and add "the figure '90' in the second sentence and replacing it with the figure '45'."

Mr. LEVIN. Mr. President, I ask unanimous consent that the following Senators be listed as cosponsors: Senators BAYH, BOREN, DECONCINI, GARN, MORGAN, MCGOVERN, SCHMITT, SIMPSON, STEWART, and STEVENS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I am offering this amendment in order to retain in the law a legislative review provision which the committee has restricted in the bill which they have reported to the floor. As the law currently stands, the appropriate Senate or House committee receives proposed HUD regulations 20 days before they are scheduled to go into effect. If either committee sees fit during that 20-day period to report out a bill or joint resolution invalidating or modifying the regulation, then—and only then—does this existing law trigger an additional 90-day grace period before the regulations can go into effect. During that 90-day period, Congress has the opportunity to act, by bill or joint resolution, to prevent the regulation from becoming effective. The bill before us eliminates that provision.

My amendment retains the essential thrust of the existing law, modifying it slightly by reducing the grace period from 90 days to 45 days. It retains a structure which guarantees the Congress some time to consider HUD regulations before they go into effect. In no way does it require committee consideration of every regulation. Indeed, the statute is explicit and clear in stating that "congressional inaction on any rule or regulation shall not be deemed an expression of approval of the rule or regulation involved." The provision my amendment seeks to retain guarantees that Congress will have an opportunity to act to prevent proposed regulations from thwarting our legislative intent. My amedment continues to provide Congress with a procedure which allows us to prevent regulations from doing damage to our constituents rather than being restricted to acting after that damage has been done.

Mr. President, I am unwilling to loose that limited but useful tool after only a year's experience with it. I believe that the law we currently have—and which this amendment would retain—is an extremely modest attempt to re-assert congressional authority. This amendment is very different from so-called legislative veto provisions which, parenthetically, I also support. First, this amendment does not exclude the President from the process. Second, this amendment requires both Houses of Congress to act before a regulation is rejected. Third, this amendmen does not apply to regulations already issued. Fourth, this amendment would retain existing law—not add to it. This amendment is, as I have indicated, extremely modest, simply continuing to give both Houses of Congress time before HUD regulations become effective to act in clearly permissable and traditional legislative ways in order to guarantee that regulations are consistent with legislative intent.

The existing law, which would be retained in this amendment, is modest in other ways as well. It does not impose an undue hardship on HUD by creating a massive timelag between promulgation and implementation of regulations. All it calls for is 20 days—20 days in which a congressional committee can consider regulations that implement a law which such committee may have spent years developing. If a committee does not report out a bill or joint resolution rejecting or modifying the regulation, it automatically goes into affect at the end of those 20 days. If a committee does act, then Congress as a whole has a maximum of 45 days to work its will. At most, then, this provision of existing law may delay the effective date of a regulation by 65 days.

When you consider that agencies take years to develop regulations, this 65 days does not seem inappropriate. When you consider that regulations may cause massive economic and personal hardship, this 110 days does not seem excessive. When you consider that regulations, once in effect, may be more difficult to modify and may consume years of congressional action, this 65 days does not seem immoderate. When you consider that regulations are presumably supposed to be carrying out legislative intent, then giving Congress the time and the mechanism to help assure regulatory fidelity is not illogical.

But while this provision is modest, its benefits can be extensive. I support this mild legislative review provision, because I believe that too much power has shifted to regulatory agencies which have operated without due consideration for the will of elected officials. Such agencies have no electoral accountability to the people. I came to this body after serving for 8 years on the Detroit City Council. In those 8 years I turned, as do many local elected officials, to the Federal Government for assistance in solving the problems my community confronted. Often we were successful at a local level in urging Congress to adopt legislation which would have been helpful to my community and communities throughout the Nation.

But after those laws were passed, regulations were issued—regulations which in many cases circumvented the will of Congress, thwarted the intent of the law, and stripped the legislation of its benefits. I well remember, for example, how delighted I was when the Congress passed the Emergency Homeowner's Relief Act of 1975. As you may recall, we were in the midst of an economic downturn then, and my city was feeling the effects of that downturn with particular severity. Many purchasers of HUD homes were laid off from their jobs and their unemployment made it impossible to meet their continuing obligations. Congress recognized the problem and acted to solve it. The Emergency Homeowner's Relief Act authorized HUD to aid the unemployed HUD homeowner get through their temporary financial problems without forcing them to lose their homes.

That was the law. But then HUD issued regulations to implement it. Those regulations said the assistance provisions of law would be triggered only when the national default rate reached 1.20 percent. At the time the regulations were issued, the national default rate was only 1.10 percent. At the time the regulations were issued the national default rate had never reached 1.20 percent. And at the time the regulations were issued, Detroit's default rate had already reached an astronomical 4.2 percent—almost four times the existing national average.

The impact of HUD's regulations were clear—they prevented the congressionally authorized assistance from reaching the people who needed and deserved it. They prevented the will of Congress from being realized. They successfully challenged the institutional integrity of Congress and they accelerated the shift of power to the unelected bureaucrats and away from the elected representatives of the people.

Each of us knows of examples where legislative intent was unduely expanded or restricted by agencies. The provision of law which I seek to retain is a reasonable way to come to grips with this problem. It allows the normal legislative process—including committee consideration and floor debate in both Houses—to be utilized, if we see fit, in order to prevent improper regulations from going into effect. This provision of the law, Mr. President, will allow us to act to prevent damage, to stop a wrong before it is committed, to preserve the legislative power and institutional integrity of Congress.

Mr. President, the provision of law which my amendment seeks to retain, has only been in existence for 1 year. I do not see why we should abandon the experiment it represents after so brief a period of time. This is, as analysts have told us, the year of regulatory reform and this is the oversight Congress. If those claims are true—and I hope they are—then we ought to be actively exploring alternative approaches to reform and oversight. This provision of law, which my amendment retains, is just such an approach. We ought to gain more experience with it and modify it if necessary—not simply eliminate it after less than a year's experience with it.

Finally, some opponents of legislative review say that it places an inappropriate burden on Congress. As I understand this argument, they are really making two points.

First, they say Congress should pass laws and not review regulations of implementing the laws we pass. I say that we do have a very real oversight responsibility. And when administrative implementation acts to prevent a law from working as we intended it to work, then we have a special and particular obligation to exercise that oversight responsibility. My amendment does not require the committee to examine every regulation of HUD—it simply gives us the practical ability to do so. When particular regulations are called to our attention—and they will be—this provision gives us the power to act.

It does not mandate action. The history of the use of hundreds of legislative mechanisms in our laws suggest we will only rarely decide to repeal or modify regulations. But at least the power to do so will be there—and I believe that power is a great deterrent to administrative abuse and is often just as important as the power to pass the initial legislation itself.

Second, they say that special interest groups will have undue power and that Congress will have to make some tough decisions. I say that we ought to make those tough decisions. That is what we are here for. We cannot maintain the integrity of the legislative process if we abrogate our legislative powers and responsibilities to other institutions. If we keep on passing laws and allow agencies to unduly expand or contract them, then there is no accountability politically because the agencies are simply not subject to the collective will of the electorate. I do not believe that the Founding Fathers conceived of a system in which unelected officials make basic legislative decisions. I do not believe that we will be unduly swayed by special interest pleadings. I have faith in our integrity to do what we believe is right. I also have faith in the checks and balances which exist within the special interest community—you will find vocal, powerful, and potent interests on many sides of any issue.

In conclusion, this amendment simply says that Congress can have up to 65 days to use traditional legislative methods to disapprove or modify regulations which both houses deem to be inconsistent with original law. It does not allow one House to act alone, it does not cut the President out of the process, and it does not apply retroactively to existing regulations. It does provide us with a more immediate way of doing what we have the power to do now in more protracted ways.

This amendment is needed to help us fufill our constitutional duty and to help us regain our traditional legislative power and responsibility. I see no reason to abandon this provision based on a year's experience with it.

This amendment would continue in law one mechanism by which Congress can assert, in a timely fashion, its authority over the regulatory and bureaucratic machinery which all too often usurps our responsibilities and circumvents our will.

I thank the cosponsors.

Mr. President, I understand that with the change from the 90-day to a 45-day grace period, the amendment is now agreeable to the chairman and to the ranking minority leader.

CONGRESSIONAL REVIEW OF HUD REGULATIONS

Mr. MORGAN. Mr. President, I rise in strong support of the amendment offered by the distinguished Senator from Michigan, Mr. LEVIN, to maintain present law allowing a period of 90 days for Congress to review proposed regulations of the Department of Housing and Urban Development.

S. 1149, as reported to the Senate by the Committee on Banking, Housing and Urban Affairs, repeals the present 90-day review period, which emerged from a conference last year with the House of Representatives. The other body had previously passed legislation providing for a single-house veto of HUD regulations.

I believe the 90-day review period is thus a reasonable and workable way of insuring that the intent of Congress is not curcumvented by regulation. Further, I believe that the 90-day review period is a potentially valuable tool for insuring that the regulations of that vast and important department, which affect the lives of so many Americans, do accurately reflect the policy decisions of the Congress.

The Congress has too long abdicated much of its responsibility to the various executive departments. We all recognize that the Congress cannot and should not attempt to be involved in the details of day-to-day administration of a program. But we also recognize that there has been an unfortunate tendency to allow a tremendous scope in the regulatory process. I believe the continuation of the present review procedure would insure a desirable degree of accountability in that process.

Of course, the Department of Housing and Urban Development does not like the idea of having to submit its regulatory proposals to the Congress for review. It impinges upon their authority to interpret the law exactly as they please. But I believe the policy process can be substantially improved by making certain that the Congress has a chance to take a careful look at important regulations before they take effect. I commend the Senator from Michigan for his leadership on this issue, and urge the Senate to adopt the pending amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. I yield myself 30 seconds. That is correct. I had reservations as to the amendment as first presented. In discussions with the Senator from Michigan, with the change and the readjustments, the shifting down to 45 days, the knowledge that this whole subject matter is also over in the Governmental Affairs Committee, I am happy to say for this side that I can accept this amendment.

Mr. GARN. Mr. President, I would have preferred the retention of the 90-day delay provision, but I will accept the compromise of 45 days.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. WILLIAMS. I yield back the time.

Mr. GARN. I yield back the time.

Mr. LEVIN. I yield back the time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

Mr. LEVIN. Mr. President, first of all, I thank the Senator from New Jersey and the Senator from Utah for their cooperation.

UP AMENDMENT NO. 337

(Purpose: To permit the continuation of operating subsidies to low-income housing projects after the end of an annual contributions contract)

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 337.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 11, insert the following:

SEC. 204. (a) Section 9(a) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out "(1)" and "(2)" in the second sentence and inserting in lieu thereof "(A)" and "(B)";

(3) by adding the following new paragraph at the end thereof:

"(2) The Secretary may not make assistance available under this section for any low-income housing project unless such project is being assisted by an annual contributions contract authorized by Section 5(c) but not subject to section 8, except that after the duration of any such annual contributions contract with respect to a low-income housing project, the Secretary may provide assistance under this section with respect to such project as long as the low-income nature of such project is maintained.".

And change "SEC. 204. (a)" on line 11 to "(b)" and "(b)" on line 15 to "(c)".

Mr. LEVIN. Mr. President, it has come to my attention that the annual contributions contracts of the earliest public housing projects built some 40 years ago in this country will soon expire. An annual contributions contract is that contract between HUD and a local housing authority which provides Federal financing of the housing authority's projects and which includes a provision for the payment of operating subsidies. These annual contributions contracts can pertain to new construction or modernization. Operating subsidies are payments made by HUD to cover the costs of maintenance and operations which are in excess of the tenants' rents.

HUD's current reading of the applicable law on the subject forbids HUD to make operating subsidy payments unless an annual contributions contract is in effect. The result of this interpretation is that local housing authorities will be denied the necessary subsidies to keep these housing projects available for low-income tenants.

My amendment would authorize HUD to continue to make operating subsidy payments to low-income housing projects after the conclusion of an annual contributions contract, so long as the low-income character of the particular project is maintained. HUD paid for the construction of these low-income units and it would be contrary to the intent of the program to alter their purpose by failing to meet the operating costs.

Seventeen low-income housing projects will experience the expiration of their annual contributions contract next year; 85 such projects will do so in 1981.

This amendment will insure the continuation of these projects as low-income housing and thereby ease the minds of thousands of tenants of low-income housing projects who are uncertain as to the continuation of the very necessary HUD operating subsidy.

This is an amendment that HUD supports. It creates no unexpected or unplanned expenditures, and I understand the chairman and the ranking minority members of the committee are in agreement with it.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. I yield myself 30 seconds. This amendment, Mr. President, would allow older public housing projects to continue to serve low- and moderate-income people. I strongly support it.

A number of public housing projects are this year nearing the end of their 40-year terms of assistance from HUD. As a result, their operating subsidies are not guaranteed to continue. Since this is older housing, project income from rents is insufficient to meet operating and maintenance costs, and operating assistance is necessary to prevent the units from deteriorating.

This amendment would allow older public housing projects to continue to serve low- and moderate-income people. It is particularly important to assure such availability in light of the growing crisis in rental housing supply.

The only alternative to this amendment is to require localities or States to make up any funding shortfall these projects experience because of insufficient rental income. Many localities and

States are too hardpressed to accept the burden.

It does make sense, however, to examine the extent to which continuation of such subsidies are cost-efficient and productive and we shall want to monitor the situation closely when we consider housing and community development reauthorization next year.

Mr. GARN. Mr. President, I support this amendment and yield back my time.

Mr. WILLIAMS. I yield back my time.

Mr. LEVIN. I thank the Senators from Utah and New Jersey and yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico was to be recognized.

Mr. DOMENICI. I have agreed that Senator HOLLINGS can go ahead of me for 3 minutes. He will be followed by Senator HELMS for a very few minutes, and then Senator TOWER for 3 minutes.

So I ask unanimous consent that that be in order.

Mr. WILLIAMS. All agreed to here. There is no objection.

UP AMENDMENT NO. 338

(Purpose: To permit community development grants with respect to that part of a community which is part of an urban county but which is located outside the county)

Mr. HOLLINGS. Mr. President, I call up my amendment and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 338.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(f) (1) The first sentence of section 106 (d) (2) of such Act is amended by striking out ", and States" and inserting in lieu thereof ", to units of local government which are part of, but are not located entirely within the boundaries of, urban counties, and to States".

(2) Section 106(d) (2) of such Act is amended by adding at the end thereof the following: "The Secretary shall condition any grant under this subsection to a unit of local government which is part of, but is not located entirely within the boundaries of, an urban county on the receipt of satisfactory assurances that (A) the funds will be used in that part of the unit of local government with respect to which the grant was made, and (B) the funds received by the urban county under subsection (b) (2) will not be used in that part of the unit of local government which is not located within the boundaries of the urban county.".

Mr. HOLLINGS. Mr. President, this amendment comprises the block grant program for those cities that are not within the urban area of an urban-designated county, that is, where the city itself is split between the two counties. This has been worked out on both sides of the aisle.

This amendment will address in particular the difficulties encountered by the city of Greer in my home State. The city straddles two counties in South Carolina: Greenville and Spartanburg Counties. This has caused considerable difficulty in evaluating Greer's funding situation relative to the community development block grant program.

Greer has entered into a cooperative agreement with Greenville County and the city of Greer has now become a full participant in the urban county program. However, in computing the Greenville County entitlement, HUD had opted to exclude the population, poverty, and housing statistics for that portion of Greer which rests in Spartanburg County.

The ultimate effect of this decision has been to exclude the neediest segment of the Greer community from computations leading to the allocation of funds. This is particularly significant in Greer's case since the vast majority of the city's housing problems and poverty are located in the Spartanburg County section of the city.

Certainly, this is not the intent of the Housing and Community Act passed in 1974. Although the act does not guarantee funding for all political jurisdictions in the country, it does guarantee all political jurisdictions an opportunity to at least be considered for funding on the basis of the magnitude of the problems at the local level. Under normal circumstances all political jurisdictions within the country are either eligible for "entitlement" funding or are eligible to apply for either metropolitan or nonmetropolitan "discretionary" funds.

The interpretation which has been made in Greer's case specifically precludes a large segment of the city from being considered in weighing the needs of the community.

Therefore, the amendment that I offer today would amend the community development block grant program, authorized by title I of the Housing and Community Development Act of 1974, to make eligible for small cities grants units of general local government which are considered part of an urban county for purposes of the program, but which are not located entirely within the urban county's boundaries.

Under existing law, units of general local government located within counties which may qualify as urban counties have the option of being considered part of the urban county for funding purposes, or of seeking funding from the small cities discretionary balance. A unit which is treated as part of the urban county cannot at the same time compete for discretionary funding. This has resulted in an anomaly for unit's which opt for inclusion in the urban county but which are located in part outside the county's boundaries.

Although the urban county is permitted to expend block grant funds in any portion of a participating unit of government unless such expenditure is plainly innappropriate to meeting the county's needs, only that portion of the unit's population and other factors of need which are located within the county's borders are taken into account in allocating funds to the county under the program. The result is that funds relating to the population and need characteristics of the portion of the unit located outside the county are denied to the county, and instead they are included in the formula calculation used to determine the State's discretionary balance fund, while the unit is barred from competing for such discretionary grants.

The amendment would remedy this situation by making such units eligible for funding from the small cities discretionary balance, based on recognition that the population and need factors of that portion of the unit which is outside the county's borders are used in allocating the balance.

Under the amendment, the Secretary of HUD shall condition any grant under this subsection to a unit of local government which part of, but is not located entirely within the boundaries of, an urban county on the receipt of satisfactory assurances that the funds will be used in that part of the unit of local government with respect to which the grant was made and the funds received by the urban county will not be used in that part of the unit of local government which is not located within the boundaries of the urban county.

HUD supports my amendment and it has been discussed by the leadership on both sides of the aisle. I urge its adoption.

Mr. WILLIAMS. Mr. President, I yield myself a short amount of time.

This action is necessary to take care of a unique and unusual situation, and I am happy to agree to it.

Mr. President, I do not oppose the amendment, Greer, S.C. is in an unusual situation.

Its least distressed section lies within an urban county and receives urban county funds. Its most distressed section lies outside the urban county, and is not counted toward the urban county entitlement. This confusing relationship precludes its eligibility for discretionary funds, unless it withdraws from the urban county which would imperil the urban county's entitlement status.

I understand that the amendment offered by the distinguished Senator from South Carolina would allow Greer to receive discretionary funds on the condition that any money it obtains from the urban county be spent solely in the urban county. This would address the particular situation of Greer, and that of other communities in similar circumstances, without giving them an unfair funding advantage. I understand that the Department has no objection to the amendment, and that it has been cleared on both sides.

Mr. HOLLINGS. I yield back my time.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. HOLLINGS. I thank the distinguished Senators from New Mexico and North Carolina.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 339

(Purpose: To define the acceptability of risks for the purpose of title VII of the Housing and Urban Development Act of 1970, and for other purposes)

Mr. HELMS. Mr. President, I thank the Chair and my distinguished friend from New Mexico. I shall be brief. I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 339.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 2 and 3, insert the following:

LIMITATION ON CERTAIN ASSISTANCE

SEC. 321. (a) Section 716(a) of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following: "In determining the acceptability of any financial risk to the United States under any guarantee pursuant to this part with respect to or for the benefit of the new community at Soul City, North Carolina, the Secretary shall not take into account any funds which may be provided under Federal financial assistance programs.".

(b) Section 716 of such Act is amended by adding at the end thereof the following:

"(c) On or after the date of enactment of the Housing and Community Development Amendments of 1979, the Secretary may not make any guarantee under this part with respect to or for the benefit of the new community at Soul City, North Carolina.".

Mr. HELMS. Mr. President, I have been greatly concerned for several years about the obvious waste of Federal funds at Soul City, N.C., a so-called new community, sponsored by the Department of Housing and Urban Development. The idea for this project began in 1969 when Floyd B. McKissick first announced his intention to build a "new town" of 18,000 people—a job which he said would take 10 years and cost $25 million. By the time HUD agreed to back the project in 1974, the town was to be developed over a 30-year period and was projected to have a population of 46,641. Now, 10 years after that first announcement, the Federal Government has invested over $29 million in loans and grants in Soul City and the surrounding area. This $29 million town with a population of 124 has 33 houses and one industry which is now in bankruptcy.

Early this year the press and others began to take a second look at this "boondoggle." Articles in the Wall Street Journal and in the Raleigh, N.C., News and Observer exposed not only failures to attract industry, residential developers and people; but, in addition, revealed questionable financial practices in Soul City's receipt of HUD loan guarantees.

Mr. President, I ask unanimous consent that three articles concerning Soul City from the May 13 Raleigh News and Observer be printed in the RECORD at this time.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

PROGRESS LAGS AT SOUL CITY AS COSTS SOAR

When Floyd B. McKissick announced his plans in January 1969 to build a "new town" of 18,000 people in rural Warren County, he said the job would take 10 years and cost $25 million.

Five years passed before the federal government agreed to back his development—Soul City. By then, the dream had grown to a city of 46,641, to be built over a period of 30 years.

Last January, 10 years after the new town had been announced, Soul City's population was 124.

A News and Observer examination of federal records indicates the project is years behind in its development schedule and is drowning in red ink. The federal government already has invested $26 million—$10 million in government-backed loans and $16 million in grants—to help Soul City, with the promise of more to come.

Even with all of this, a 1978 federal study, obtained by The News and Observer under the Freedom of Information Act, says that to survive, Soul City will need an additional $46.4 million in grants between 1978 and 2004.

Since 1974, when the U.S. Department of Housing and Urban Development approved McKissick's development plan, Soul City has achieved less than 10 percent of its housing, employment and population goals, federal records show.

The government, however, isn't ready to give up, according to William J. White, general manager of HUD's New Community Development Corp.

"I don't think we're at the stage where we say we failed on the whole thing and we should toss in the sponge," White said in an interview in Washington.

"I think what we're going to do in this administration is to try every possible thing we can think about to help beef up this project."

The federal government, during both Democratic and Republican administrations, has tried hard to keep Soul City afloat. McKissick, a 57-year-old lawyer who was national director of the Congress of Racial Equality during the civil rights movement of the 1960s, has political clout in both parties.

Federal money began pouring into the project after he changed his political stripes from Democratic to Republican in 1972 and campaigned for President Richard M. Nixon. McKissick switched parties again last year to vote in the Democratic primary and then changed back to the Republican Party.

McKissick first switched to the Republican Party on July 21, 1972, the day Robert J. Brown, then the highest-ranking black in the White House, came to Warrenton to speak at a banquet honoring McKissick.

The Senate Watergate Committee later discovered a memo from Fred Malek, a White House and campaign official, to John N. Mitchell, then U.S. attorney general and director of the Committee to Re-Elect the President, detailing Brown's role in Nixon's re-election campaign:

"Effective allocation of new grants requires close coordination betwten the White House and the campaign team. As a first step, I have asked Bob Brown to identify all major sources of grant and loan monies which could be allocated to Blacks. Then, Jones and Sexton, working through their field organizations, will be responsible for finding recipients in key cities who will be supportive of the re-election effort."

BLACK VOTE

Paul R. Jones was executive director of the campaign's black vote division. Ed Sexton was a member of the Republican National Committee. Both were members of a five-man team that was to execute the black campaign plan.

Soul City, about 50 miles north of Raleigh, is one of 13 new towns started with government-backed loans since 1970. The government has foreclosed, or begun foreclosure, on seven of the 13.

White estimated the government's loss at "a couple of hundred million dollars" on the bankrupt new towns. In the interview, he categorized Soul City's 1974 goals as "unrealistic." But, he added:

"They (Soul City) are not any different, really, from any of the ongoing new towns. None of them met their goals that were established back during that period."

The Soul City Co., a partnership headed by McKissick, began construction of the town in March 1974, after signing a contract with HUD in which the Government agreed to guarantee $14 million in loans to the company.

LOANS PILE UP

The company borrowed $5 million at that time, another $5 million in 1976 and is expected to ask for the last $4 million this year or early next year.

In addition, HUD has made $9 million in grants on behalf of the project and other government agencies have granted Soul City $7 million—a total of $26 million invested so far.

Grants have been used to install water and sewer lines; build roads and erect street lights; help finance Soultech I, the town's only industrial building; and build a health clinic.

The 1974 contract with HUD required the following accomplishments by Dec. 31, 1978:

Population: 1,824.

Housing units: 773.

Industrial land sales: 212 acres.

Industrial jobs: 930.

A recent status report to HUD shows Soul City had accomplished the following as of Dec. 31, 1978:

Population: 124 (78 percent of the residents are members of racial minorities, mostly black.)

Housing: 33 units completed or under construction; 25 occupied. (Soul City also has a mobile home park.)

Industrial land sales: 9 ares. (The Soul City Co. later foreclosed on that property and took it back.)

Manufacturing jobs: 15. (The report did not have a category called "industrial" jobs.)

135 JOBS

The report said there were a total of 135 jobs at Soul City, including 33 with The Soul City Co. and affiliated organizations; 26 "service"; 25 "construction"; 7 "commercial and office'" and 29 "other," including 27 workers paid through the federal Comprehensive Employment and Training Act.

McKissick, the $70,000-per-year president and general partner of the development company, remains outwardly confident.

"I believe we can still do it," he told The Wall Street Journal in an article published last month. "Soul City is almost a religious idea. It can't be judged in white man's terms."

McKissick declined through a spokesman to be interviewd by The News and Observer.

Gordon R. Carey, general manager of The Soul City Co., said last week that McKissick, who was injured in an auto accident March 6, was still under a doctor's care. McKissick, however, was able to travel to Washington earlier this month to confer with HUD officials.

McKissick has said the partners in The Soul City Co. invested more than $1.5 million of their money and that "several of us" were still personally obligated for more than a million dollars.

While McKissick would not discuss Soul City's problems, documents obtained from HUD reveal a series of mounting difficulties and miscalculations:

February 1974: Soul City's cash flow report, a document that estimated how much money would flow into the project from the sale of land and from all other sources, said the project would succeed without federal grants.

December 1976: The company's revised cash flow report said $33 million in federal grants would be needed during the period 1975-2003.

January 1978: A study by HUD staff concluded that Soul City would need a total of $46.4 million in federal grants (1978-2004) and, even then, would wind up with a $7.5 million deficit.

SURVIVAL

The Soul City development company was supposed to be able to develop the project, repay its government-backed loans and make a profit from money it earned on the sale of land.

But the 1978 HUD study estimated that almost half of the project's revenues during the period 1978 to 2004—$46.4 million of $108.2 million—will have to come from government grants if the project is to survive.

The study predicted that even if Soul City gets the grants, it will spend more than it takes in, beginning in late 1980. The study forecast deficits of $1.2 million in 1980; $2.4 in 1981 and $3.5 million in 1982. To take care of those deficits HUD will be forced to guarantee another loan to Soul City or take over the project, the report said.

HUD continues to support Soul City, White said, because it is located in an economically poor, rural area.

"This department would like very much to see if there's any way that you can help solve some of the poverty problems by this kind of development," he said.

CONTRIBUTIONS

Through its ability to get federal funds, Soul City has helped make several contributions to the region: a regional water system for Vance, Warren and Granville counties; a health clinic; and recreation facilities, including a swimming pool and tennis courts.

So far, because of the project's slow development pace, the water system has been a financial liability for Soul City.

Soul City contracted with Henderson and Oxford in 1973 to buy 1 million gallons of water a day when the regional water system was completed. It's finished now and last month Soul City used 69,564 gallons, about 2,300 gallons a day.

Soul City's water bill in April was $6,248.21—$22.68 for the water it used and $6,225.53 for 29,930,436 gallons of water it had to pay for under its contract, but did not use.

After 10 years, Soul City has only one industry: Welmetco Ltd., a cut-and-sew operation that makes field packs, duffle bags and shoulder straps for the military.

INDUSTRY

Because of the development's failure to attract industry, sales of residential lots have been sluggish. Last year Soul City sold only five lots, according to the company's land development report to HUD.

HUD realized even before it began guaranteeing loans to Soul City that there was "considerable risk" involved because there was no industrial base in the vicinity, according to a 1975 report on Soul City by the U.S. General Accounting Office. But a political push from the White House helped get the project off the ground.

The GAO found a June 21, 1973, memorandum from an unidentified person at the White House to the undersecretary of HUD that read in part:

"The whole New Communities program is and was epected to be an experimental venture with inherent risks. We should not now argue that because one of these new communities is 'marginal', it should be scrubbed.

"If we now say 'no' to McKissick, we will stand accused not only of reneging on specific commitments to him, but of reneging on the President's (Nixon's) commitment to the whole minority enterprise concept.

"We should give Soul City the green light and inform the interested agencies that we have done so."

GOALS, ACCOMPLISHMENTS CONTRASTED AT SOUL CITY

The goals for Dec. 31, 1978, listed below were taken from The Soul City Co.'s 1974 contract with the U.S. Department of Housing and Urban Development.

The actual accomplishments as of Dec. 31, 1978, were taken from Building and Land Development Status Reports submitted to HUD by the company.

	Goals	Actual
Population	1,824	124
Industrial jobs	930	*15
Housing units	773	33
Industrial sales	212 acres	9

* There were 120 other jobs, including jobs with The Soul City Co. and affiliated organizations (33), service (26); construction (25), commercial and office (7), and other (29).

FAMILY FINDS THE GOOD LIFE AT SOUL CITY

(By Pat Smith)

Floyd B. McKissick and his wife, Evelyn, seem to have found the good life at Soul City.

Government records indicate that, as president of The Soul City Co., McKissick earned $70,000 a year as of April 1978, an increase of $20,000 over his salary in 1975.

McKissick declined to be interviewed by The News and Observer, but he told a reporter for The Wall Street Journal recently that he wouldn't sell his house in Soul City for $300,000.

The McKissicks' house, a modern structure built around a small garden, has four fireplaces and four baths. It is located on an isolated 3.7-acre lot off Liberation Road. A private parking lot with space for 14 cars adjoins the house.

McKissick owns a 1973 Citroen automobile. His son, Floyd Jr., owns a 1973 Mercedes-Benz, according to records at the state Division of Motor Vehicles.

Soul City continues to be a family enterpise.

The development's Daisy B. Williams Lake is named after McKissick's mother-in-law; the Magnolia-Ernest Recreational Complex, a swimming pool and three tennis courts, is named after his parents.

McKissick's wife is chairwoman of the Soul City Sanitary District, an elective nonpaid position, and is part-owner of a souvenir shop, the only store in Soul City's small shopping center.

McKissick's son, Floyd Jr., was listed in records obtained from the U.S. Department of Housing and Urban Development as director of planning and residential sales, at a salary of $20,000 a year.

Lewis H. Myers, a former son-in-law, is a sanitary district commissioner and is listed in records at HUD as The Soul City Co.'s director of corporate and institutional development, at an annual salary of $21,000.

RED TAPE, LAWS NO PROBLEM WHEN SOUL CITY SEEKS NEW FUNDS

(By Pat Smith)

Uncle Sam has treated Soul City like a favorite nephew, forgiving its shortcomings and sending more money.

When a federal law got in the way of helping Soul City, for example, officials at the U.S. Department of Housing and Urban Development found a way around the law.

HUD guaranteed a $5 million loan to Soul City in 1974. When that money ran out in December 1976, HUD wanted to help Soul City borrow another $5 million.

But HUD had a problem:

A federal law required HUD to find that Soul City was an "acceptable risk" before HUD could guarantee the loan. However, Floyd B. McKissick's "new town" development in Warren County was in financial trouble by late 1976.

LOSSES

According to documents obtained by The News and Observer under the Freedom of Information Act, land sales were behind schedule and the company's financial statement for 1976 reported a net loss of $1.2 million.

HUD found a solution:

It would pump more money into Soul City's "cash flow," a report that estimated the amount of money flowing into the project from land sales and all other sources.

HUD promised to give Soul City $33 million in grants over a 22-year period. At the same time, it required Soul City founder McKissick to sign a paper agreeing that he would not sue HUD if HUD didn't deliver on the grants.

When McKissick agreed, a U.S. Treasury Department agency loaned Soul City the additional $5 million.

A News and Observer examination of government records provides other examples of HUD's assistance:

Soul City's 1974 contract with HUD said the company would have to create at least 300 industrial jobs by Dec. 31, 1976, to qualify for the second $5 million government-backed loan.

McKissick did not meet that requirement, but he got the loan anyway. HUD justified its decision to back the new loan by saying that Warren Manufacturing Co. and American National Housing Co. would eventually provide 300 jobs at Soul City. Both companies are now defunct.

HUD deferred the interest payments on the December 1976 $5 million loan until November 1987.

HUD deferred payment of government loan fees totaling more than $1 million until November 1996.

William J. White, general manager of HUD's New Community Development Corp., said he wasn't going to second guess decisions made before his appointment in 1977, but he added, "To look at Soul City solely in terms of financial viability is not the way to look at it."

$500,000 IN GRANTS

In order to find that Soul City was an "acceptable risk," HUD designed a new cash flow report that made the assumption the government would give Soul City $500,000 in grants in 1976, $3 million in 1977, $2.1 million in 1978, and so forth through the year 1996, for a total of $33 million.

A Dec. 1, 1976, letter to McKissick from James F. Dausch, former deputy general manager of the New Community Development Corporation, explained the reason for the grant projections.

"Such projections were used for purposes of projecting the future cash flow of the project so as to enable the (New Community Development Corporation) Board to make the finding of acceptable financial risk required under Section 716 of the (Urban Growth and New Community Development) Act.

"The Soul City Co. acknowledges that the Secretary (of HUD) is under no legal obligation to provide such grants at any time," Dausch's letter said.

$4.9 MILLION

HUD did, however, give Soul City at least $4.9 million in grants during a two-year period ending last October, the latest date for which The N&O could obtain grant figures.

At the same time HUD was juggling Soul City's cash flow, a HUD consultant was criticizing HUD's methods of dealing with cash flows and certifying other government-backed new town developers as acceptable risks.

That report, dated December 1976, said:

". . . there is considerable verbal evidence that some cash flows were negotiated." This apparently occurred most frequently with respect to the grants anticipated to be received from agencies outside of the New Communities Administration.

"The NCA could not assure either the developer or itself that the grants would in fact be received, but did not want the application . . . to be impaired by a weak cash flow," the report said. "Consequently, the cash flows were 'made to work.'"

$14 MILLION

HUD agreed in 1974 to guarantee up to $14 million in loans to Soul City. So far, the agency has guaranteed $10 million in loans and McKissick is expected to ask for the last $4 million this year or early next year.

In an interview at his office in Washington, White said he was not certain that his agency would guarantee the last $4 million loan.

"We would have to do a financial analysis as to whether or not that's an acceptable risk to the government before we would issue an additional guarantee," White said.

Mr. HELMS. Both because of my own concern and because of the protests of outraged North Carolinians and others around the Nation, I prepared legislation to end HUD support for the project. This legislation would prohibit further grants and loan guarantees to Soul City, as well as eliminate the possibility that HUD would go through with a $4 million loan guarantee previously committed in 1974.

In the meantime, HUD authorized a task force to review the feasibility of the project. Although the task force still wanted to pour another $48.6 million into the project, an outside study by AVCO Community Developers, Inc., revealed that Soul City simply could not make it. Even without any debt—and it has at least $10 million in debt guaranteed by HUD—the study showed that Soul City could not be "viable as a going concern." It stated that:

> The cost of operating this project as a new community exceeds the amount of funds which can possibly be derived from the sales of land even if that land is totally free of debt.

The report concluded that:

> Substantial additional infusion of cash by HUD into Soul City are not likely to better the situation.

HUD then decided to abandon the project and to attempt to reacquire the property by negotiation with the Soul City Co. If this approach failed, HUD stated its intention to foreclose on the property.

Mr. President, if HUD is indeed taking the long overdue step of bringing the Soul City project to a halt, then I am, of course, gratified. I hope I am correct in my impression that this is what HUD has decided, even if belatedly.

I am, however, very concerned with recent announcements by Floyd McKissick, one of the principals of the Soul City Co., that he will fight HUD's move to reacquire the property.

According to a New York Times article on July 3, 1979, he is seeking support for a campaign to force HUD to reverse its decision to withdraw financial support of Soul City.

I, frankly, cannot imagine anyone justifying the continuance of any project with a track record like that of Soul City. We simply cannot afford to continue this project—and HUD agrees.

However, because the Soul City Co. appears unwilling at this time to negotiate a reacquisition, I am today offering an amendment which would legislatively clarify this matter once and for all and which would provide HUD with the complete authority to terminate the project. The scope of my amendment, as it was first drafted, would have totally prohibited all loans and grants—including HUD discretionary funding—from going to the Soul City project. I do realize, however, the need for some degree of flexibility in HUD's winding up of this project. For this reason, I have modified my amendment so as to leave open the possibility of continued Federal funding of certain worthwhile projects that are of particular benefit to adjacent communities.

I understand that the amendment, as modified, is now acceptable to the managers of the bill and to the Department of Housing and Urban Development. Understandably, we are all unwilling at this point in time to sanction additional spending in view of the fact that Soul City has no chance of success. While there should be no additional spending for the primary benefit of Soul City, there are certain projects of substantial benefit to the surrounding area that should not be arbitrarily terminated or not considered. Specifically, I am referring to the Warren County sewage treatment plant to be located in Warrenton—which is to be utilized by Warrenton, Norlina, and whatever remains of Soul City—the Warren County water line presently under construction, and the highway project to realine State road 1102. I believe the Government has a commitment to continue these regional projects even though Soul City will no longer be a viable community within the region.

I have received the assurances of the distinguished managers of the bill, Mr. WILLIAMS and Mr. GARN, that the Subcommittee on Housing and Urban Affairs will continue to work with HUD officials in terminating the Government's involvement in this project. I deeply appreciate their cooperation and that of the subcommittee staff. Of course, my own staff will also be in contact with HUD officials to offer whatever assistance we can expedite the termination process.

As a footnote, it is interesting to note that Soul City is the eighth Government-sponsored new town to fail since this program began in the early 1970's. Losses to the taxpayers of this country run into the millions. Soul City and the other failures are dismissed by some observers as worthwhile dreams that simply never materialized. It is high time, however, that the Congress of the United States realize that the hard-pressed American taxpayers are sick and tired of paying for foolish "dreams."

Mr. President, I urge adoption of the amendment.

As I understand, the managers of the bill are going to accept this amendment.

Mr. WILLIAMS. It is my feeling that the amendment, modified from its original form, would take care of the problem we saw, and this amendment would assure the Department would have adequate flexibility to terminate the Government's role in the new community at Soul City. Consequently, that situation having been handled to the satisfaction of those who are in charge of the termination of Soul City, I can say we will accept the amendment.

Mr. HELMS. I thank my friend from New Jersey.

Mr. GARN. Mr. President, I support the amendment of the Senator from North Carolina, and I appreciate his willingness to cooperate with us in the language of the amendment.

I yield back the time.

Mr. WILLIAMS. I yield back the time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas is recognized.

UP AMENDMENT NO. 340

Mr. TOWER. Mr. President, I send to the desk an amendment and ask that it be reported.

The PRESIDING OFFICER (Mr. MORGAN). The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Texas (Mr. TOWER) proposes an unprinted amendment numbered 340:
>
> At the appropriate place, strike section 106—

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 1149

Strike section 106(d), change section 106 (e) to 106(d) and add the following new title at the end of the bill:

TITLE V—POCKETS OF POVERTY

SEC. 501. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the Secretary) may make grants under this section to a city or urban county on the basis that only a certain area of the city or urban county, rather than the entire city or urban county, is severely distressed. Such grants may be made only out of funds appropriated for use on or after October 1, 1979, under section 119 of the Housing and Community Development Act of 1974.

(b) Any such grant may be made only if the Secretary has made a determination that—

(1) In the case of any metropolitan city or urban county, such city or county includes a defined geographic vicinity having a population of at least ten thousand persons, or 10 per centum of the population of the metropolitan city or urban county, whichever is less, and which vicinity also meets minimum standards for determining distress to be established by the Secretary, which standards shall be based on such factors as percentage of poverty, condition of housing, and levels of unemployment within the vicinity.

(2) In the case of any nonmetropolitan city, such city includes a defined geographic vicinity having a population of at least two thousand five hundred persons, or 10 per centum of the population of such city, whichever is more, and which vicinity also meets minimum standards for determining distress to be established by the Secretary, which standards shall be based on such factors as percentage of poverty, condition of housing and levels of unemployment within the vicinity.

(3) The project for which grant funds will be used will directly benefit the low- and moderate-income families and individuals residing in the severely distressed defined geographic vicinity.

(c) Applications for assistance under this title shall be made in accordance with the provisions of section 119 (b), (c), and (f) of the Housing and Community Development Act of 1974, unless otherwise modified by this title.

(d) For the purpose of making grants under this title, the Secretary shall establish selection criteria, which must include (1) factors determined to be relevant by the Secretary in assessing the comparative degree of physical and economic deterioration among eligible areas and (2) such other criteria as the Secretary may determine, including at a minimum the criteria listed in clause (3) of subsection (e) of section 119 of the Housing and Community Development Act of 1974.

(e) A city or urban county eligible for assistance under section 119(a) of the Housing and Community Development Act of 1974, shall not be eligible for assistance under this title.

(f) The Secretary shall utilize up to, but not more than, 20 per centum of the funds appropriated for use in any fiscal year under section 119 of the Housing and Community Development Act of 1974 for the purpose o making grants to cities and urban counties under this title.

Mr. TOWER. Mr. President, this amendment deals with the urban development action grants (UDAG) program. S. 1149 already contains a provision making cities with pockets of poverty eligible for the UDAG program. This amendment is designed to make that provision more workable.

First, the amendment deletes the references to "contiguous census tracts" in the definition of a pocket of poverty. The use of census tracts may not be appropriate in determining a pocket of poverty since census tracts may incorporate areas with widely varying economic characteristics. In that event, the effort to target UDAG funds to areas of real distress would be frustrated. In addition, many cities are not tracted, making it impractical to use census tracts.

This amendment would eliminate this problem by substituting the words "a defined geographic vicinity" for contiguous census tracts. This will allow pockets of poverty to be determined on the basis of real need rather than by the orbitrary boundaries of census tracts.

Second, the amendment makes it clear that the Secretary of HUD shall consider such factors as percentage of poverty, condition of housing and levels of unemployment in the pockets of poverty to determine which cities are eligible for UDAG funds. The existing provision in S. 1149 does not specify the factors to be considered in determining eligibility. It merely states that cities and urban counties with pockets of poverty must meet the criteria for eligibility used under the existing UDAG program. All of those criteria are not available on a sublocal basis and could not be used to measure distress in a pocket of poverty. However, the three factors included in this amendment are available on a sublocal basis and could not be used to measure distress in a pocket of poverty. For that reason, they are specifically mentioned in the amendment. It is not expected that HUD would use all three of these criteria to determine eligibility for cities with pockets of poverty, just as it does not require presently eligible cities to meet all the criteria under the existing program.

But, the amendment does include the types of factors which can be used in determining eligibility for cities with pockets of poverty.

Third, the amendment removes the requirement that cities and urban counties with pockets of poverty provide "comparable services" to those areas in order to qualify for a UDAG grant. A comparable services provision would be difficult to administer efficiently or equitably. Deliberations over comparable services could tie up this program so that no funds would be made available to cities with pockets of poverty. Moreover, presently eligible cities are not required to meet such a test, although they may have problems in making services comparable throughout their communities. In addition, the amendment makes subsection 119(b) of the act apply to cities with pockets of poverty, thereby requiring the Secretary to determine that the cities involved have demonstrated results in providing housing for persons of low and moderate income and equal housing and employment opportunities for low- and moderate-income persons and members of minority groups.

For those reasons, the amendment would strike the comparable services provision from the bill.

Finally, the amendment makes clear that the funds made available to cities with pockets of poverty will not be available to cities that are presently eligible for the UDAG program. Those cities already qualify on the basis of their overall economic situation, and should not be allowed to also qualify on the basis of a pocket of poverty. I do not believe that anyone intended they would, and this amendment makes it clear that this was not intended.

Mr. President, it is my understanding that Senator TSONGAS has an amendment to mine, and I am prepared to yield to him at this point.

The PRESIDING OFFICER. The Senator from Massachusetts.

UP AMENDMENT NO. 341

(Purpose: Pockets of poverty)

Mr. TSONGAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair must inform the Senator that the time on the Tower amendment would have to be yielded back before the amendment in the second degree would be in order.

Mr. TOWER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The amendment will be stated.

Mr. TSONGAS. The amendment is entitled "Pockets of Poverty."

The PRESIDING OFFICER. The Chair would inquire, is this amendment an amendment to the Tower amendment, or a substitute for it?

Mr. TSONGAS. It is an amendment to it. It adds a new section.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposes an unprinted amendment numbered 341 to the Tower unprinted amendment numbered 340.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In making grants under this section, the Secretary shall require the applicant to make available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-federal share requirements of Federal grant-in-aid programs, an amount equal to 20 percent of the amount of the grant provided under this section to be used in carrying out the activities described in the application.

Mr. DOMENICI. Mr. President, I ask my good friend from Massachusetts, how long is it going to take for his amendment to the Tower amendment?

Mr. TSONGAS. One minute.

Mr. DOMENICI. I thank the Senator.

Mr. TSONGAS. Mr. President, since Senator TOWER proposes to delete the portion of his original amendment which called for nondistressed cities with pockets of poverty to provide services in these areas at levels comparable to other areas of the community, I feel obliged to offer a modification to the Tower amendment which will require these nondistressed cities to obligate 20 percent of the UDAG project costs from local, State, or other Federal resources.

This will have the same effect as the comparable services provision in that it will require these communities to make an additional commitment to these areas. It is preferable to a comparable services requirement in that it is less subjective and requires an additional local commitment to these areas. This provision will improve the targeting of this proposal, and will insure that UDAG funds will not go to nondistressed cities which are not prepared to share a substantial commitment to these areas. To the extent that a locality chooses to use other Federal funds to meet this match requirement, this will have the additional benefit of targeting other Federal resources to the most distressed areas.

I yield back the remainder of my time.

Mr. TOWER. Mr. President, I am willing to accept the amendment requiring a local match from cities with pockets of poverty. I do so reluctantly, however. Cities that are presently eligible for the UDAG program are not required to meet this requirement, and it seems rather inequitable to require it of cities with pockets of poverty. Those cities are facing the dual problems of meeting the needs of their inner city and a growing population.

However, I understand that the amendment would allow cities with pockets of poverty to use State and certain Federal funds to meet this matching requirement. In view of this, and in view of the fact that I feel this is preferable to a "comparable services" requirement, which I have deleted in my amendment, I am prepared to accept a local match requirement along the lines contained in the Senator's amendment.

Therefore, Mr. President, I am prepared to accept the amendment of the Senator from Massachusetts as a modification to my own amendment, and ask that my amendment be so modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

S. 1149

Strike Section 106(d), change Section 106 (e) to 106(d) and add the following new Title at the end of the bill:

TITLE V—POCKETS OF POVERTY

SEC. 501. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the Secretary) may make grants under this section to a city or urban county on the basis that only a certain area of the city or urban county, rather than the entire city or urban county, is severely distressed. Such grants may be made only out of funds appropriated for use on or after October 1, 1979, under section 119 of the Housing and Community Development Act of 1974.

(b) Any such grant may be made only if the Secretary has made a determination that—

(1) In the case of any metropolitan city or urban county, such city or county includes a defined geographic vicinity having a population of at least ten thousand persons, or 10 percent of the population of the metropolitan city or urban county, whichever is less, and which vicinity also meets minimum standards for determining distress to be established by the Secretary, which standards shall be based on such factors as percentage of poverty, condition of housing, and levels of unemployment within the vicinity.

(2) In the case of any nonmetropolitan city, such city includes a defined geographic vicinity having a population of at least two thousand five hundred persons, or 10 percent of the population of such city, whichever is more, and which vicinity also meets minimum standards for determining distress to be established by the Secretary, which standards shall be based on such factors as percentage of poverty, condition of housing and levels of unemployment within the vicinity.

(3) The project for which grant funds will be used will directly benefit the low- and moderate-income families and individuals residing in the severely-distressed defined geographic vicinity.

(c) Applications for assistance under this title shall be made in accordance with the provisions of section 119 (b), (c), and (f), of the Housing and Community Development Act of 1974, unless otherwise modified by this title.

(d) For the purpose of making grants under this title, the Secretary shall establish selection criteria, which must include (1) factors determined to be relevant by the Secretary in assessing the comparative degree of physical and economic deterioration among eligible areas and (2) such other criteria as the Secretary may determine, including at a minimum the criteria listed in clause (3) of subsection (e) of section 119 of the Housing and Community Development Act of 1974.

(e) A city or urban county eligible for assistance under section 119(a) of the Housing and Community Development Act of 1974, shall not be eligible for assistance under this title.

(f) The Secretary shall utilize up to, but not more than, 20 percent of the funds appropriated for use in any fiscal year under section 119 of the Housing and Community Development Act of 1974 for the purpose of making grants to cities and urban counties under this title.

(g) In making grants under this section, the Secretary shall require the applicant to make available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-Federal share requirements of Federal grant-in-aid programs, an amount equal to 20 percent of the amount of the grant provided under this section to be used in carrying out the activities described in the application.

Mr. WILLIAMS. Mr. President, through the winter there was considerable discontent with some of the provisions, but since we have reached the glorious summer, I can speak for the majority here in saying we approve the amendment that is now the combination of the Tower amendment together with the Tsongas amendment.

Mr. GARN. Mr. President, if Senator TOWER and Senator TSONGAS can get together, far be it from me to oppose that combination.

Mr. DOMENICI. Mr. President, will the Senator from Utah yield?

Mr. GARN. I yield.

Mr. DOMENICI. After what I have been hearing all afternoon, let me say it is a rare privilege to be on the floor this afternoon to be a part of the Senate approving an amendment that will be known as the Tower-Tsongas amendment. Has there ever been such an amendment offered heretofore? Does the Senator from New Jersey know of any similar occasion?

Mr. TSONGAS. Mr. President, the Senator will note that the Senator from Texas and I are right next to each other in the alphabet, which may have promoted compatibility.

Mr. WILLIAMS. I do not. But I might add that when the Senator from Texas and the Senator from New Jersey have teamed up, we never even have to have rollcalls.

Mr. TOWER. That is right.

Mr. DOMENICI. I am pleased to have yielded to permit this remarkable occurrence.

Mr. TOWER. It just goes to show everything is gravitating toward the center.

Mr. TSONGAS. Mr. President, I object to that remark.

The PRESIDING OFFICER. For clarification, the Chair would note that the Senator from Texas having accepted the amendment of the Senator from Massachusetts, the amendment of the Senator from Massachusetts is now withdrawn, it having been accepted as a modification of the amendment of the Senator from Texas. Is all remaining time on the amendment of the Senator from Texas yielded back?

Mr. TOWER. Yes.

Mr. WILLIAMS. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. UP-340) of the Senator from Texas (Mr. TOWER), as modified.

The amendment, as modified, was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 231

(Purpose: To provide for a study of elderly and handicapped housing in rural areas and to establish an Office of Elderly Housing)

Mr. DOMENICI. Mr. President, I call up my amendment No. 231 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. WILLIAMS, Mrs. KASSEBAUM, Mr. CHILES, Mr. SCHMITT, Mr. CRANSTON, Mr. PRESSLER, Mr. PERCY, Mr. COHEN, Mr. HART, Mr. CULVER, Mr. DeCONCINI, Mr. HEINZ, Mr. JEPSEN, and Mr. STONE, proposes an amendment numbered 231.

On page 24, between lines 19 and 20—

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(e) Not later than six months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a special report on the present and future direction of Federal housing programs and the capacity for meeting the housing needs of the elderly and handicapped in rural areas. Such a report shall contain—

(1) an assessment of the operation of present programs in rural areas;

(2) an assessment of the housing needs and desires of the elderly and handicapped people residing in rural areas;

(3) an evaluation of how Federal programs can be used most effectively to meet the needs of the elderly and handicapped living in rural areas;

(4) an examination of the various alternatives available in housing assistance programs to meet the housing needs of the

elderly and handicapped in rural areas and their linkage to the program; and

(5) an assessment of the rehabilitation needs of the 202 projects constructed before 1976 and of the adequacy of the section 8 subsidy mechanism for these projects.

Such report shall include a study of how elderly housing can be developed and operated effectively and in a cost-effective manner in rural areas. Such report shall be developed after consultation with other Federal agencies involved in housing and rural development, Federal, State, and local agencies involved in housing assistance programs, and other agencies involved in providing services to the elderly and handicapped.

(f) (1) The Secretary of Housing and Urban Development shall establish within the Office of the Secretary an Office of Elderly Housing under the direction of an Assistant to the Secretary. The Assistant to the Secretary for Elderly Housing shall—

(A) be responsible for the Department's implementation of the Age Discrimination Act of 1975, as amended;

(B) participate in the formulation of policies and procedures affecting the development and management of housing and other related programs for the elderly;

(C) coordinate interdepartmental and intradepartmental activities with respect to housing programs serving the elderly;

(D) provide technical assistance and facilitate access to appropriate agencies within the Department responsible for the planning, development, and management of programs for the elderly;

(E) participate in the planning and budgeting of Department programs with respect to elderly housing and related programs;

(F) serve as an ombudsman within the Department on behalf of consumers of housing for the elderly and related services;

(G) assist in the evaluation of Department programs directed toward serving the elderly; and

(H) make an annual report to the Secretary on the adequacy and effectiveness of the Department's efforts with respect to serving the elderly.

(2) The Assistant to the Secretary shall be involved in all Departmental activities affecting elderly housing and related programs. The Assistant to the Secretary shall be of sufficient status and rank to work closely with all operating units within the Department. The Office of the Assistant to the Secretary for Elderly Housing shall be allocated sufficient staff and budget to perform its functions.

(3) To facilitate the ombudsman and assistance role of the Office of the Assistant to the Secretary for Elderly Housing, the Secretary shall designate in each of the Department's regional offices an elderly housing specialist to be designated as an Assistant to the Regional Director for Elderly Housing. The functions of such personnel shall be to assist in carrying out, at the regional level, the responsibilities of the Assistant to the Secretary for Elderly Housing.

Mr. DOMENICI. Mr. President, this amendment is cosponsored by Senators WILLIAMS, KASSEBAUM, CHILES, SCHMITT, CRANSTON, PRESSLER, PERCY, COHEN, HART, CULVER, DECONCINI, HEINZ, and STONE. Amendment No. 232, is cosponsored by Senators WILLIAMS, KASSEBAUM, SCHMITT, CRANSTON, PRESSLER, PERCY, COHEN, HART, CULVER, DECONCINI, HEINZ, and STONE. Both amend S. 1149, the Housing and Community Development Amendments of 1979. I ask that they be considered en bloc.

The PRESIDING OFFICER. The clerk will state the second amendment.

UP AMENDMENT NO. 232

(Purpose: To authorize waivers of minimum capital requirements under the section 202 program)

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. WILLIAMS, Mrs. KASSEBAUM, Mr. SCHMITT, Mr. CRANSTON, Mr. PRESSLER, Mr. PERCY, Mr. COHEN, Mr. HART, Mr. CULVER, Mr. DECONCINI, Mr. HEINZ, and Mr. STONE, proposes an amendment numbered 232.

On page 24, between lines 19 and 20, insert the following new section.

The amendment is as follows:

On page 24, between lines 19 and 20, insert the following:

(e) Section 202(a)(2) of the Housing Act of 1959 is amended by adding at the end thereof the following: "The Secretary is authorized to grant a waiver of any minimum capital investment requirement imposed in connection with the program under this section in order to assist and facilitate the effective operation of the program under this section in connection with development of housing for the elderly whenever the Secretary determines that the local nonprofit sponsor—

"(i) has a creditable reputation for satisfactory job performance;

"(ii) has not defaulted on any contract;

"(iii) has proven stability in the community and has community acceptance and support; and

"(iv) has the support and endorsement of the appropriate local or State housing authorities.".

Mr. DOMENICI. Mr. President, I ask unanimous consent that the 15 minutes which was allotted to each of the amendments be cumulative and be available for the two amendments now being considered en bloc. I do not think I will use the time, but this is for clarification purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. The purpose, as I stated upon introducing these amendments, is to focus more attention on the role of the section 202 housing for the elderly and handicapped in promoting rural development and to strengthen the management capabilities for elderly housing within the Department of Housing and Urban Development.

Section 202 of the Housing Act of 1959 was designed to provide "independent living" for the elderly and handicapped individuals whose incomes are above the public housing income limits, but below the level to afford standard private sector housing. The section 202 housing program provides direct loans to construct new or substantially rehabilitate housing for the elderly and handicapped.

The section 202 direct loan program has become the primary Federal financing mechanism for developing specialized housing for the elderly under the auspices of nonprofit community based sponsors. The section 202 is one of the Department of Housing and Urban Development's most successful programs. The success of section 202 is, in large part, because nonprofit sponsors have made a long-term commitment to provide housing and services to the elderly. It should be noted that the 202 nonprofit sponsors have not experienced a single default in this program. The section 202 financial record has been excellent with a foreclosure rate of less than 1 percent after 20 years of operation. Tenant turnover in existing projects is extremely low, indicating that this is one Federal program that is meeting a real need in a cost-effective manner.

The amendments I introduced are designed to further enhance the section 202 program by focusing on two areas that are in need of attention—rural development and the Department's management capabilities. Historically, we have paid little or no attention to the housing needs of rural elderly in the section 202 program. According to the January 1979 report on elderly handicapped housing by the Department of Housing and Urban Development:

> Most Section 202 projects are located within cities (85%) and this tends to be the case for other types of elderly housing.

The section 202 program continues to have a strong urban bias. In the initial program, between 1959 through 1974, less than 8.5 percent of the funds went to towns of less than 10,000 persons. In the revised programs since 1974, there has been some movement to correct this urban emphasis, but the rural share continues to be inadequate. Overall approximately 15 percent of the units are reserved for nonmetropolitan locations and as before, many rural parts of States have yet to receive a single approval. This situation was identified in a study of federally assisted housing programs for the elderly and in rural areas, which was completed in August 1978 by the Housing Assistance Council, a nonprofit organization dealing with rural low-income housing needs.

Let me clarify further by stating that, in an ongoing battle for resources, the urban elderly should not be pitted against older persons who live in rural areas. Our goal should be to provide adequate housing for all elderly in need. A valid housing policy for the aging must reflect integration of, and planning for, the needs of both populations. We must develop a variety of housing services which will meet the needs unique to each group. In so doing, we must recognize the widespread inaccessibility of services and the increased cost of service delivery in rural areas. These elements are important to the decisionmaking process if we are to allocate funds equitably between rural and urban areas.

Amendment No. 231 will require the Secretary to submit to the Congress a special report on the present and future direction of Federal housing programs and the capacity for meeting the housing needs of the elderly and handicapped in rural areas. The report will include a study on how elderly housing, in rural areas, can be developed and operated efficiently and in a cost-effective manner.

The amendment also establishes within the Department of Housing and Urban Development an office for elderly housing to insure sensitivity to the needs and problems of the elderly residing in federally assisted housing. There is a long history within the Department of an office which dealt directly with matters affecting the elderly. From 1961 to 1977 a policy, program, advocacy, and coordination office for the elderly existed within the Department. Unfortunately, since May of 1977, there has been no focal point for integration of housing, services, policy and program evaluation within the Department and with other agencies. Further, the ongoing reorganization of the HUD central offices, as reflected in the Department's new organizational chart, fails to reflect a concern for the housing and service needs of the elderly. Effective intervention in the formation of policies and procedures affecting the development, management and design of elderly housing programs is essential within the Department. The demand for HUD financed new housing, as well as rehabilitated housing and rental assistance, will increase dramatically in the next 30 years as the elderly population continues to grow at a much greater rate than the general population. What we need is a specially focused approach to coordinate the involvement of HUD personnel in guaranteeing viable housing programs for the elderly. Organizations serving the elderly are calling for the reestablishment of a HUD office to deal with matters effecting older Americans, pointing out that with the elimination of the Loan Division—the principal point of contact for housing sponsors—there appears to be no effective, single office in the reorganization for trouble shooting, problem solving, technical assistance, or advocacy on elderly housing issues. My amendment establishes a special office for the elderly with the authority to intervene effectively in the formation of policies and procedures affecting the development and management of projects for the elderly.

The second amendment (No. 232) will authorize the Secretary to grant, in certain cases, a waiver of any minimum capital investment requirements imposed in connection with the section 202 program in order to assist and facilitate participation by small and minority nonprofit sponsors in the section 202 program. There are a number of nonprofit sponsors both urban and rural that have been denied equal access to participation, because they do not have the cash readily available.

Our research indicates that the aforementioned problem has developed for nonprofit sponsors in various parts of the country in such States as North Carolina, California, New York, Florida, New Mexico, Washington, Maine, West Virginia, Delaware, Wisconsin, Iowa, and Connecticut, to mention a few. Rural America verified this problem by placing direct calls to the above-mentioned States.

Mr. President, this amendment is not designed to discourage small and minority nonprofit sponsors from making every effort to raise the minimum capital investment requirement, nor does it attempt to change the present law. But, it does make the law flexible by allowing the Secretary to give greater consideration to potential small minority nonprofit sponsors, and just as important, allows them an equal opportunity to participate in competitive bidding for Federal contracts.

Finally, Mr. President, these amendments were strongly endorsed by the Ad Hoc Coalition for Housing for the Elderly, which consists of 25 national organizations including the American Association of Homes for the Aging, in a resolution dated June 7, 1979.

Mr. President, I believe that these two amendments will further enhance our commitment to do all we can to provide adequate and meaningful housing assistance to the elderly and handicapped in rural areas as well as to the urban elderly and handicapped. I respectfully urge my fellow colleagues to give their support to these amendments.

I yield the floor.

Mr. President, I think the distinguished floor leader on the majority side is in agreement with the amendments; in fact, he is a cosponsor. I have discussed them with my good friend from Utah, the minority manager (Mr. GARN), and I am not sure whether he has an objection or not, but I think he is aware of what the amendments do.

I do not want to take a lot of time, but I do want to state that I am pleased that Senator CULVER is a cosponsor.

Unless there are questions, I am prepared to reserve the remainder of my time. Suffice it to say that we believe housing for the elderly is a very important part of the Federal Government involvement in housing, and one of my amendments would require that HUD set up within the Department an office particularly focused in on and charged with handling all of the programs that deal with housing for the elderly. In other words, we would have within HUD a special office to make sure that the expertise is pooled, that the appropriate attention is given to this phase of the Federal Government's housing program.

I am not one who thinks the Federal Government can do everything, but I am convinced that if we are going to do things for people, the elderly ought to get their share. And when we have programs for the senior citizens which are part of a broad spectrum of programs, be it housing or otherwise, the agency charged with administering them should give the appropriate attention and develop the expertise to make sure our senior citizens receive their fair share of attention and resources.

I do not think we have been doing that in housing. I hope the amendment will pass and that HUD will begin to do that by this special office on housing.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I certainly agree with the intent of this amendment and I will not oppose the amendment. But I do have some concerns, and I would like some clarification from the Senator from New Mexico.

HUD has recently completed a consolidation of staff for processing section 202 elderly housing loans and section 8 subsidies so another reorganization may be disruptive. HUD has committed a large percentage of housing assistance to elderly housing so it does not appear that an elderly housing ombudsman or an advocate are necessarily needed. But as I said to the Senator before this was brought up, we have no information on administrative costs and have held no hearings on the need for this. He mentioned to me that it was not the intent to hire additional personnel but to utilize people already hired. I just wanted to clarify that for the record, that it was the intent that HUD would not be hiring a new level of bureaucracy and a lot of new people.

Mr. DOMENICI. I want to say to my good friend from Utah that from what we have determined there are already a number of specialists already in HUD in three or four departments who engage themselves in whole or in part in senior-citizen housing. We assume that they will be pooled together and brought in under one office or one administration to direct their attention to the elderly. We expect nothing but the most minimum expense.

Mr. GARN. I will quote from the language of the amendment that this new administrative assistant to the Secretary "shall be of sufficient status and rank and be allocated sufficient status and budget."

Again, even with that language, the Senator anticipates that this will be staff and budget which already exist?

Mr. DOMENICI. Indeed we do.

Mr. GARN. I thank the Senator.

Mr. DOMENICI. I thank the Senator from Utah.

Mr. CULVER. Mr. President, I am pleased to join with Senator DOMENICI and others in cosponsoring these two amendments today.

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from Iowa?

Mr. DOMENICI. I yield such time as the Senator needs.

Mr. CULVER. I think it important to centralize and have a focal point in the administration for these elderly programs within HUD, and I think it should be done under a specifically designated Assistant Secretary. At the present time, the responsibility for the carrying out of this program is spread over four different Assistant Secretaries and some 25 different Federal housing programs. It seems to me that this will enhance the efficiency and the coordination in terms of maximizing the benefits which are attendant under these authorities.

I believe there is a very real need to do that. In my own State of Iowa, which has the third highest percentage of elderly of any State in the entire country, some 40 percent of HUD's assisted housing programs are for senior citizens. However, despite the size of the program, Mr. President, there is little or no coordination or planning within HUD or HEW currently on this issue.

The establishment of the office proposed in this amendment would provide, I believe, the administrative framework for focusing on the very real and pressing needs of our senior citizens as they seek to obtain adequate housing.

The first amendment we are offering will also require the Secretary of HUD to report to Congress and to the President, the future direction of Federal housing programs for meeting the needs of the elderly in rural areas.

I think it is very unfortunate today, Mr. President, that many of the elderly who may be forced by economic circumstances to seek assisted housing opportunities are frequently required to leave their own communities and go to some urban area, often miles away, in order to obtain adequate housing. They have to leave family and friends in order to do this. It is my hope that HUD will be able to address this particular need of the elderly and the handicapped, who are also covered by the amendment, in our rural communities.

Finally, the second amendment would authorize the Secretary to grant special waivers of any minimum capital investment required in the HUD section 202 program of housing for the elderly and the handicapped.

Here again, Mr. President, this provision would allow for greater participation by small and minority nonprofit organizations in this valuable and useful program.

I believe the current capital improvement investment requirement has at times discouraged a number of interested organizations from participating in the program or seeking to provide elderly and handicapped housing opportunities in their community. It is our hope that this amendment will add an important degree of flexibility in administering this program.

I wish to emphasize my support for these two proposals and commend Senator DOMENICI for his leadership in these areas. I urge their acceptance by the Senate.

● Mr. PRESSLER. Mr. President, I am pleased to cosponsor two amendments to S. 1149. These amendments are sponsored by Senator DOMENICI.

The first of the two will require the Secretary of Housing and Urban Development to submit to the Congress a special report on the present and future direction of the Federal housing programs and the capacity for meeting the housing needs of the elderly and handicapped in rural areas.

Mr. President, this past Saturday, I held a seminar on aging in Rapid City, S. Dak. A section of the program that day dealt with housing for the elderly. Senior citizens at the meeting expressed concern that such housing, in rural areas such as South Dakota, is inadequate. It seems that whenever a housing unit is built for the elderly, it fills up so quickly that it leaves a waiting list. The average wait for those on the list is 3 years. Further research needs to be done in this area.

As Senator DOMENICI said earlier, the January 1979 report on elderly handicapped housing by the Department of Housing and Urban Development:

> Most Section 202 projects are located within cities (85%) and this tends to be the case for other types of elderly housing.

We should be providing adequate housing for all of the elderly in this country, whether they live in urban or rural areas. The report that this amendment authorizes will provide for a study on elderly housing in rural areas. The study will seek to find the most efficient way to develop and operate elderly housing in rural areas.

This amendment would also establish within the Department of Housing and Urban Development an Office for Elderly Housing. Mr. President, our elderly population is increasing every year. In the late 1700's, 2 percent of our population was 65 or over. In the early 1900's, the elderly represented 4 percent of our population. Today, they comprise 11 percent of the population. What is more, the elderly population in our country continues to grow faster than the under-65 portion. Because of this trend, it seems sensible to establish within HUD an Office for Elderly Housing.

The second amendment that I am cosponsoring today would authorize a waiver, in certain instances, of minimum capital requirements under the section 202 program.

This amendment would encourage greater participation by small and minority businesses in the section 202 program. It simply makes the law flexible enough to deal with the special considerations that sometimes should be given to small and minority businesses in order to encourage their participation.

Because there is a definite need to expand housing for the rural elderly in this country, I ask that my colleagues give these two amendments their favorable consideration.●

Mr. WILLIAMS. Mr. President, I am pleased to support and urge acceptance of Senator DOMENICI's amendment 231.

The amendment being offered by the distinguished ranking minority member of the Special Committee on Aging will result in two major improvements in the Federal response to the housing needs of older Americans.

First, it orders the Secretary to report to the Congress, within 6 months after enactment, the status of present efforts to meet the shelter requirements of the rural elderly and handicapped, as well as recommendations for making this response more effective in the future.

Under present law, up to one-quarter of the loan funds made available each year under the section 202 program of assistance to nonprofit housing sponsors are reserved for projects in rural localities. This ratio, which HUD has been adhering to, is roughly equivalent to the proportion of the aged residing in America's rural areas. Further, it is my understanding that some of the 202 funds earmarked for SMSA's are in fact utilized for projects in areas having a rural character.

Thus, I believe that it is clear that, proportionally, the rural elderly are receiving at least their fair share of section 202 funds. What is needed, however—and what this amendment provides—is an in-depth examination of whether modifications and interagency coordination can result in this HUD program being better able to meet the special characteristics of this group of older Americans.

Further, this portion of the amendment requires the Secretary to assess the rehabilitation requirements of "old" section 202 projects as well as the need for rental subsidies to promote their continued fiscal health, and to make certain that residents are not paying disproportionate shares of their income for housing. I believe that this examination is a prudent step that will help to maintain the program's excellent financial record, and its ability to provide safe and afforable shelter for the elderly and handicapped.

The second portion of this amendment would establish, within the Office of the Secretary, an Office of Elderly Housing, directed by an assistant to the Secretary, this Office will, among other functions—

Implement HUD's compliance with the Age Discrimination Act;

Help to formulate housing and service programs for the elderly, provide technical assistance, and serve a coordinating role both within HUD and with other Federal agencies serving the aged, such as the Administration on Aging; and

Serve as an advocate and ombudsman for the elderly, within the Department, as it plans and implements housing for the aged.

The amendment would also help to insure that this coordination and advocacy role is replicated at the regional level through the designation of an elderly housing specialist in each regional office, to carry out similar functions.

Mr. President, the creation of an assistant to the Secretary for Elderly Housing will bring a new degree of overall direction to HUD's efforts to provide affordable and appropriate housing, and related services, to older Americans. I enthusiastically urge my colleagues to accept this amendment.

Mr. President, I am happy to endorse this amendment No. 232 of my colleague from New Mexico, (Mr. DOMENICI).

The amendment under consideration would afford the Secretary a new range of flexibility in awarding section 202 loans, by permitting the waiver of the minimum capital investment requirements currently required of nonprofit sponsors.

This waiver option will facilitate the participation of new sponsors in the program, and will particularly help minority sponsors seeking to serve those older Americans who have not received their proportionate share of benefits under the section 202 program in the past. In order to continue the excellent fiscal record of this HUD program, the Secretary is required to evaluate other factors which are indicative of competent and responsible sponsor performance—such as lack of defaults, community support and reputation, and endorsement by relevant local and State housing bodies.

Mr. President, this amendment will provide a means of removing what has constituted a barrier to the increased participation of new and minority section 202 sponsors, with adequate safeguards to preserve the quality of construction and management. I recommend its passage to my colleagues.

Mr. President, the amendments are acceptable to this side.

Mr. GARN. Mr. President, the minority is prepared to accept the amendments.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

UP AMENDMENT NO. 342

Mr. TSONGAS. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. TSONGAS) proposed an unprinted amendment numbered 342.

Mr. TSONGAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER Without objection, it is so ordered.

The amendment is as follows:

On page 9, after line 20, add a new section 205.

"Section 236 of the Housing and Urban Development Act of 1965 is amended by striking out Section 236(m) and inserting the following new sentence: As used in this section, the term "qualified tenant" means any individual or family having an income which would qualify such individual or family for assistance under Section 8 of the United States Housing Act of 1937, except that such term shall also include any individual or family who was receiving assistance under this section on the date of the enactment of the Housing and Community Development Amendments of 1979."

Mr. TSONGAS. Mr. President, section 8, section 236, and rent supplement programs are all designed to aid low-income tenants, but each has a different legislative description of tenant eligibility and adjusted income.

The House bill has resolved this problem as it pertains to the rent supplement program, and has brought those eligibility requirements in line with section 8.

However, due to a technical oversight, the House bill does not contain provisions to bring the section 236 program in line with the section 8 program.

The technical amendment I am proposing will end once and for all the confusing and conflicting requirements which have created problems for tenants, owners, and HUD. The amendment will make uniform the eligibility and adjusted income definitions of the three programs, and will use the section 8 method of calculating rent.

This will reduce the number of forms from five to one. It will have no budgetary impact. It will have no effect on existing tenants.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, I do not know whether I favor or oppose this amendment. We had not been given it prior to this time, and we have not completed reading it. It was just handed to us. We were not aware this amendment was coming. If anyone has anything further to say about it, I will take that time to sit down and read it.

Mr. TSONGAS. If the Senator will yield, I wish to state that it was given to the Senator apparently attached to the previous amendment.

Mr. GARN. I understand.

Mr. WILLIAMS. Mr. President, as I review this amendment I believe it makes a great deal of sense. I can see why the Senator has offered it. The department strongly wants it; that is correct, is it not?

Mr. TSONGAS. That is correct.

Yes, it is.

Mr. WILLIAMS. Mr. President, I agree to the amendment.

The PRESIDING OFFICER. Has all time been yielded back?

Mr. WILLIAMS. I yield back my time.

Mr. GARN. Mr. President, OK, there is probably nothing wrong with the amendment, but not having had time to really look at it and see what the impact would really be, if the manager on the other side would agree that if we do discover some problems, we agree to let him know and that we could knock it out in conference as it is not in the House version. I do not anticipate any problems. I would just like the opportunity to be certain.

With that reservation understood. I yield back my time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 343

(Purpose: To make a technical amendment to the National Mobile Home Construction and Safety Standards Act of 1974)

Mr. BAYH. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for himself and Mr. LUGAR, proposes an unprinted amendment numbered 343.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, between lines 2 and 3, insert the following:

SEC. . Section 620 of the National Mobile Home Construction and Safety Standards Act of 1974 is amended by inserting after "conducting such inspections," the following: "and the Secretary may use any fees so collected to pay expenses incurred in connection with such inspections,".

Mr. BAYH. Mr. President, I introduce this amendment on behalf of myself and my distinguished colleague (Mr. LUGAR). It is a technical amendment which will clarify a provision of the National Mobile Home Construction and Safety Standards Act dealing with inspection fees.

Since the start of the HUD program in June 1976, a $19 per unit fee has been paid by the manufacturer for such inspections. This fee has been used to cover the in-plant inspection expenses of private and State agencies, and inspection activities of State administrative agencies who are enforcing the standards of the Federal mobile home program in their States.

Mr. President, these inspections are required to assure compliance with the HUD construction and safety standards. The State administrative agencies further assure compliance with the act by conducting mobile home inspections in response to consumer complaints.

After 3 years of program operations, the Office of Management and Budget (OMB) and the Treasury Department have recently raised questions as to whether the statutory language concerning the fees is technically adequate to permit the funds raised from fee collections to be used to finance inspection operations. There is some doubt on this issue, and a technical amendment, in accordance with the original congressional intent, will put the matter to rest.

Furthermore, I am offering this amendment because a settlement of the issue by legislation will be beneficial to both the mobile home industry, and to prospective purchasers of mobile homes. Inspections are required to assure that construction and safety standards promulgated by HUD are being obeyed. Where there is noncompliance, the mobile home may not be shipped in interstate commerce. Thus, absent the inspections, the industry by and large must shut down. And, absent the use of fee collections, there does not appear to be any lawful sources of funds currently available to pay for these inspections. Accordingly, a hiatus in inspection activity could last for well over a year.

The fact that the fees were to be used to finance inspections was clearly set forth in the legislative history of the Mobile Homes Act. Also, HUD has been informing Congress of this matter in annual reports. Moreover, the absence of annual appropriations for this activity is conspicuous, and makes plain that the fees were being used in this fashion.

Therefore, Mr. President, in order to prevent a possible shutdown in the mobile home industry, a technical amendment to the fee provision in the mobile home statute is desirable. I might add that this amendment has the full support of the administration. I know of no objection from my colleagues, so I ask that the amendment be accepted.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, the amendment is acceptable to us. We agree with it.

Mr. GARN. Mr. President, we have no objection to this amendment.

I yield back our time.

Mr. BAYH. I thank both my colleagues for their courtesy in this matter.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

UP AMENDMENT NO. 344

(Purpose: To amend section 202 of the Housing Act of 1959 with respect to health care facilities)

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself and Mr. STONE, proposes an unprinted amendment numbered 344.

Mr. CHILES. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, between lines 19 and 20, insert the following:

(e) (1) Section 202 (d) (8) (A) of such Act is amended by striking out "or infirmaries or other inpatient or" and inserting in lieu thereof "adult day health facilities, or other".

(2) Section 202 (f) of such Act is amended by inserting "(including adult day health services)" after "health".

ADULT DAY HEALTH FACILITIES

Mr. CHILES. Mr. President, I bring up this amendment to S. 1149 on behalf of myself and Senator STONE. It encourages the Department of Housing and Urban Development to allow sponsors of 202 housing for the elderly and handicapped to utilize community space for adult day health facilities.

Adult day health facilities provide group care to ambulatory adults during the day in a safe, comfortable environment. Selected medical treatment, health, and personal care services are provided to adults in order to prevent or delay entrance into 24-hour institutional care. Services are usually provided on a regular, recurrent basis, allowing the participant to remain living in his or her own home—whether that is in an apartment in the building which also houses the day health facility, with family or friends in the community, or in his or her own home in the community.

Inclusion of space for such services in a 202 project has traditionally been discouraged by HUD. In fact, the current 202 statute specifically states that infirmaries, or other outpatient or inpatient health facilities can be included in the allowable community space under the 202 program. However, concern about turning 202 projects into "institutions" has led HUD to ignore any health services references in their 202 regulations and handbook.

Mr. President, I can understand HUD's concern that the 202 program not become a type of skilled care facility or nursing home for the elderly and handicapped. I share their concern. In fact, my amendment is intended to retain the independent living character of the 202 projects by allowing community space to be used for adult day health services which means that the resident can walk from their apartment to the health center, receive the necessary care and return to their apartment. Such outpatient health care is instrumental in keeping elderly persons from being prematurely institutionalized.

My amendment is not intended to require each 202 project to have such a health facility. Approximately 700 adult day health centers now serve the needs of the elderly who reside in their own homes or housing projects. However, I do not want prospective 202 sponsors to be discouraged by HUD from having such a center because HUD has deliberately ignored the statute and has, in essence, prohibited such use of community space; 202 projects are a logical place for day health centers to serve the residents as well as the community elderly.

My amendment is not intended to require that each 202 project use 202 funding for actual health services. The amendment merely permits as allowable community space, space for adult day health services. This simply means that any sponsor who wishes to have such a health facility within its project may make space available to the appropriate health providers qualified to administer such care.

Mr. President, I have long sought alternatives to institutionalization for the elderly. Through home health care, adult day care, home-delivered meals, congregate services and congregate housing, the Congress has begun to develop a comprehensive care system for maintaining the independence of the elderly. I strongly urge HUD to assist in this development by recognizing the statute's reference to health facilities. I urge my colleagues to support this amendment, which will encourage 202 housing sponsors to have adult day health facilities within their projects, where elderly residents can have immediate access to health care.

Mr. President, I yield to the distinguished chairman.

Mr. WILLIAMS. Mr. President, I am pleased to accept the amendment of the distinguished chairman of the Special Committee on Aging.

The prevention of the premature and unnecessary institutionalization of elderly residents of 202 housing is a key element in preserving their independence and dignity, and in helping to control medicaid expenditures. This amendment, by furthering that goal, will build upon the Congregate Housing Services Act, which it was my privilege to offer and see enacted last year. The availability of adult day health services to section 202 residents recognizes that the natural aging process does require us to give some assistance to the elderly to assure their continued independent living.

I commend the Senator for this amendment and urge its acceptance.

Mr. President, the adult day health facilities will certainly advance something that we know is important, trying to protect as much as we can the opportunity to assure continued independent living for older people. I applaud the amendment and urge its acceptance.

Mr. CHILES. I thank the distinguished chairman for his remarks. I know this is a subject he has been interested in for some time.

Mr. GARN. Mr. President, I do not oppose this, assuming HUD is not mandated to fund the facilities.

Mr. CHILES. That is correct. We are just trying to get them to recognize in their regulations that part of this space provided in 202 projects can be used for these day health facilities. It is really trying to see that the people are not institutionalized at an earlier date than they would need to be if they had some kind of outpatient facility.

Mr. GARN. Mr. President, I am willing to accept the amendment.

I yield back my time.

Mr. CHILES. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHILES). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 345

(Purpose: To increase the GNMA multifamily mortgage limits to the level of FHA multifamily mortgage limits)

Mr. JAVITS. Mr. President, I send an amendment to the desk, for myself and Senator MOYNIHAN, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STEWART). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. MOYNIHAN, proposes an unprinted amendment numbered 345.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Government national mortgage association maximum mortgage amount.

The second sentence of section 302(b)(1) of the National Housing Act is amended to read as follows:

(a) "Notwithstanding the provisions of clause (3) in the preceding sentence, the association may purchase a mortgage under section 305 with an original principal obligation that exceeds the otherwise applicable maximum amount per dwelling unit if the mortgage (1) is insured under sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), 234(e)(3), or 236, and (2) at least 20 percent of the units covered by such mortgage are assisted under contracts authorized by section 8 of the United States Housing Act of 1937."

(b) At the end of section 313 of the National Housing Act add the following new section:

"(i) Notwithstanding any other provision of this section the association may purchase a mortgage under section 313 with an original principal obligation that exceeds the otherwise applicable maximum amount per dwelling unit if the mortgage (1) is insured under sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), 234(e)(3), or 236, and (2) at least 20 percent of the units covered by such mortgage are assisted under contracts authorized by section 8 of the United States Housing Act of 1937."

Mr. JAVITS. Mr. President, this amendment would lift the purchase and sales price limits for units in multifamily projects insured by FHA purchased by the Government National Mortgage Association under both its regular program and the tandem purchase program—the so-called Brooke-Cranston program, which operates only in certain circumstances and is not presently in operation—provided that the developer or sponsor provides that at least 20 percent of the families in the project qualify as lower income families under contracts authorized by section 8 of the U.S. Housing Act of 1937.

This amendment addresses the acute problem of the severe shortage of multifamily housing in increasing numbers of urban areas across the country and the ever-increasing costs which the escalating rise of inflation are imposing, and pricing lower and middle income families out of available mulitifamily housing.

It will help to assure an increase in the production of suitable multifamily housing, while at the same time insuring that a part of this housing, to wit, 20 percent, whch I have mentioned, will be available to lower income families.

I believe the amendment will encourage the financing and developing of mixed income multifamily projects and, therefore, will offer a real incentive to urban revitalization, and also as a means of making available the section 8 program to viable projects that are other than 100 percent subsidized.

This is a problem that severely restricted the use of the section 8 program.

So this is an attempt to expand more greatly the utilization of that financing technique, and I believe it will be very helpful and effective in respect of encouraging this type of housing.

I hope very much that the managers will be able to accept this particular amendment.

Mr. GARN. Mr. President, on behalf of the minority, I have no objection to this amendment.

Mr. WILLIAMS. Mr. President, I am happy to accept the amendment of the Senator from New York.

This amendment would allow higher purchase limits on the GNMA-tandem program for mortgages that involve section 8 projects. GNMA-tandem program allows GNMA to purchase mortgages at below market interest rates, and absorb the difference between the market rate and the lower rate as a Government subsidy. This change will make the GNMA-tandem program a more effective source of financing of section 8 projects.

This is not a new policy—in earlier HUD programs such as the 236 and 221 interest rate subsidy programs, Congress allowed higher GNMA-tandem purchase limits for those programs.

The effect of this amendment is to simply reflect the Department's current objectives to provide financing for construction of section 8 housing.

This is another step that will help us address the severe shortage of rental housing—especially low and moderate income rental housing.

Mr. President, at this point I say that I do support the amendment.

Mr. JAVITS. I thank the Senator.

I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York.

The amendment (UP No. 345) was agreed to.

UP AMENDMENT NO. 346

(Purpose: To increase from 75 percent to 90 percent the amount by which a high cost area mortgage may exceed the maximum FHA mortgage limits)

Mr. JAVITS. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. MOYNIHAN, proposes an unprinted amendment numbered 346:

On page 17, line 3, strike out "75" and insert in lieu thereof "90".

Mr. JAVITS. Mr. President, we have had a constant problem in high cost areas of the country, and I suppose mine, other than Alaska, is probably one of the highest cost areas, on the maximum mortgage limits which are placed on FHA mortgages for individual units of construction.

The Secretary was given a good deal of discretion, but so difficult have been the cost increases that this discretion is simply inadequate, even though the committee bill has it now up very high, to wit, 75 percent above basic cost limits.

So I have sought a little help in that regard.

Now, there are plenty of protections. The Secretary must approve the high limits and may set a percentage below 90 percent for specific areas, so that there is no likelihood of the thing running away from us. But in order to give us the opportunity in these high-cost areas, and I assure the Senate it does not give me any pleasure to designate ours as one of the highest costs, but to give us some chance to use these programs, we need somewhat more latitude than the bill provides.

I have offered the amendment accordingly, for myself and Senator MOYNIHAN, and I hope very much the two managers of the bill may see fit to accept the amendment.

Mr. WILLIAMS. Mr. President, this has been changed. I understand it was acceptable before the change and it is acceptable since the change.

Mr. GARN. Mr. President, I would have preferred to stay with the increase in the committee bill, but will accept the increase to 90 percent.

Mr. JAVITS. I thank the Senator.

I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York.

The amendment (UP No. 346) was agreed to.

Mr. JAVITS. Will the Senator yield me 5 minutes on the bill?

Mr. WILLIAMS. Yes.

Mr. JAVITS. If I could have the attention of the managers of the bill, we have a problem.

I believe it is necessary to establish the clear intent of the Senate with respect to GNMA mortgage-backed securities. My colleagues Mr. EXON, Mr. MOYNIHAN, Mr. MATHIAS, and Mr. ZORINSKY have informed me that they share my concern. Accordingly, I ask the distinguished chairman of the subcommittee to clarify my understanding of that portion of the committee's excellent report on this bill which deals with the topic of hospital refinancing. I have read this portion of the report with great interest. Am I correct in my understanding that the committee believes that the Department of Housing and Urban Development Act of 1974 when, on March 29 of this year, it placed a moratorium on the socalled combination financing technique for hospitals under which Federal loan guarantees under sections 242 and 306(g) of the National Housing Act are used to collateralize certain tax-exempt obligations?

In asking that question, may I say that I have taken into account, and very seriously, the protections which the Congress enacted in the Health Planning and Resources Development Act in 1974 requiring in each State a certificate of need which assures that only those services, facilities, and organizations found to be needed by the State are offered and developed in the State, and requiring that each State include requirements for approval of any new construction or significant capital expenditure defined as being greater than $150,000.

May I have the managers' reply to that?

Mr. WILLIAMS. The distinguished Senator's understanding is correct. The committee believes that the Assistant Secretary for Housing, in issuing this moratorium, acted improperly and in a manner which was inconsistent with section 817.

Therefore, we are urging the Secretary of Housing and Urban Development, in no uncertain terms, to rescind this moratorium.

Mr. JAVITS. I thank the distinguished Senator.

I note that the report shows special concern for preserving the combination financing technique for the purpose of refinancing hospitals. I ask the distinguished gentleman from New Jersey whether the committee intends that this technique be available to hospitals which have loans insured under section 242 of the National Housing Act, and which wish to use the combination financing technique to effect a reduction in their interest rate on these loans.

Mr. WILLIAMS. In answer to the distinguished Senator's question, let me say that, in reviewing the moratorium which has been placed by HUD on the combination financing technique, the committee particularly wanted to preserve for those hospitals with indebtedness insured under section 242, many of which are located in inner cities and serve disadvantaged populations, the chance to achieve the cost savings in the form of reduced interest rates which would result from the combination financing technique.

Mr. JAVITS. Finally, I direct the attention of my colleague to the following sentence in the report:

> It does not include, however, any borrowing for new hospital construction which is not mandated by or in conformance with such applicable Federal or State health codes, unless applications were filed with HUD or HEW prior to May 9, 1979.

As I understand it, the committee intended by this language that the combination financing technique should be available to any hospital which had indicated its intent to use this technique with either HUD or HEW prior to May 9, 1979, and I ask the distinguished subcommittee chairman if my understanding is correct.

Mr. WILLIAMS. That is correct. That is what we intended.

I thank the Senator.

Mr. President, I am grateful to my colleagues for their cooperation.

I call attention to one other thing, and that is the need to protect our Government's existing $1.2 billion investment in public housing through adequate maintenance and modernization assistance. This persists not only in my State—and not just in New York City, but in 27 other cities of varying sizes—but also in many other States in the country.

HUD has maintained that housing authorities lack the capacity to spend and administer any more than the amount they have asked for at this time, of $37.5 million.

However, in our city, our housing authority already has committed more than 90 percent of its $100 million in modernization funding to date, in this one city alone; and according to HUD prototype cost estimates, complete modernization of an existing public housing unit could be financed, on the average, for only 60 percent of putting up new housing.

Last year we approved a set-aside of $50 million in contract authority for modernization, and the House already has approved a minimum of $55 million this year.

I hope very much that the conferees will consider this issue carefully.

I might say, parenthetically, that I have had a great deal of experience with rehabilitation and with what is invested in infrastructure in foreign aid. One of the principal problems we have is that people do not begin to realize what maintenance means to preserving an investment.

I do not know what the right amount is. All I say is that when you get there, I hope you will keep your eye on the ball, so that we do not drop $100 million, $200 million, or $300 million, because we are unprepared in the maintenance.

These costs are all there in order to preserve viable investments.

Another thing I say to Senator GARN: I have noticed, too, that disrepair invites vandalism and more disrepair. It is an interesting thing. We tried that out in the New York City parks. When something is busted, it will be busted more; and when something looks good and is in shape and is useful, it tends to be preserved.

Mr. GARN. I agree completely with what the Senator from New York is trying to explain.

It does not make a great deal of sense to appropriate money to build new housing stock and let the existing housing deteriorate to where no one could use it any more.

Mr. JAVITS. Mr. President, I had intended today to offer an amendment to provide HUD with standby authority to insure temporary loans to homeowners to avoid default during periods of high delinquency such as might occur during a recession. The amendment is modeled after a 1975 program to give temporary assistance to homeowners, although I had intended to limit the assistance to insurance of temporary loans rather than to include direct payments from HUD to the homeowner which was incorporated in the 1975 legislation.

Under my proposal, the program would be implemented only if the delinquency rate on home mortgages reached a certain level. A homeowner would be eligible if he or she were unemployed due to adverse economic circumstances and if counseling and mediation fail to find another solution to the delinquency problem.

Although mortgage delinquencies were at an all time low this year, I am concerned that delinquencies could rise sharply during a time of recession. My concern is heightened by the fact that the ratio of household debt payments to disposable income is at record levels. While much of this is due to rising installment credit, part of the increase is attributed to mortgage credit, which is also rising as a percent of personal income.

I have discussed this amendment with my distinguished colleagues the majority and minority managers of this bill. I understand their desire to have additional information before passing such a measure. I understand also that they are planning hearings on the problems of housing in a recessionary economy. Therefore, because of their assurances that they will consider my proposal at these hearings, I will not offer the amendment at this time.

I used to be a member of the Banking and Currency Committee and have been deeply concerned with housing all my legislative life.

I shudder to think what could happen, considering prices which have been paid for housing in this country, especially in recent times, to many people who finally have reached their goal of owning their own home.

I know the committee would want to look into this very carefully, and that is why I did not offer the amendment. I am not given to either shooting off my mouth if I do not know what I am talking about nor expecting anyone to act on someone's speaking off the top of their heads.

I hope very much that the committee will give this matter very serious consideration.

We are supposed to look down the road, as intelligent people, instead of waiting for a disaster to hit us.

I did not realize, when I thought about this and wrote it, how imminent it might be. Unhappily for me, I have been saying for more than 2 years that we are in for a terrible crack if we do not do what needs to be done structurally in economic terms at home and abroad. But here we are; we are at it.

So I hope very much, I say to both my colleagues, that they will look into this matter carefully, to see that we are not caught short.

Mr. WILLIAMS. Mr. President, I am grateful for the statement the Senator from New York has made. Certainly, it is incumbent upon us to be very watchful and alert to what is developing and the needs that might be shown if the problems we face do become worse. I agree to continue vigilance.

Mr. JAVITS. I thank the Senator.

UP AMENDMENT NO. 347

Mr. CRANSTON. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 347.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place in the bill insert the following:
>
> SECTION . (a) Section 11(h) of the Federal Home Loan Bank Act (12 U.S.C. 1431 (h)) is amended by adding, after the comma following "in the stock of the Federal National Mortgage Corporation," the following: "in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, for the purpose of aiding members of the Federal Home Loan Bank System,"
>
> SEC. . (b) Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by adding a new subparagraph (E) in subsection (4) as follows:
>
> "(E) SMALL BUSINESS INVESTMENT COMPANIES.—An association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, for the purpose of aiding members of the Federal Home Loan Bank System, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 per centum of the assets of such association."

Mr. CRANSTON. Mr. President, this amendment will enable the Federal Home Loan Bank Board to provide improved assistance to minority-owned and -managed Federal savings and loan associations. This amendment would authorize the Bank Board's 12 district banks and Federal savings and loan associations to invest in a minority enterprise small business investment corporation (MESBIC) that will provide troubled minority S. & L. associations with investment capital, funds for modernization and expansion, and all forms of technical assistance.

Section 11(h) of the Federal Home Loan Bank Act authorizes certain investments for the Federal home loan banks. This amendment is needed to provide specific authority for the proposed SBIC investment. The Federal home loan banks believe a 301(d) SBIC should be formed to assist minority associations and have raised the funds to capitalize it. They request Congress to amend section 11(h) to make it clear that each home loan bank has authority to invest in the SBIC.

Section 5(c) of the Home Owner's Loan Act of 1933 authorizes certain investments by Federal savings and loan associations. This amendment is needed to enable S. & L. associations to invest in the SBIC. The Bank Board, therefore, requests Congress to amend section 5(c) to authorize Federal savings and loan associations investment in the SBIC.

There are 77 minority-owned or -managed Federal savings and loan associations in this country. In 1978, the Bank Board, through its minority association development division, conducted a survey of the operations of the Federal Home loan bank system's 77 minority savings and loan associations. The survey showed that nearly half of these minority associations had low earnings, poor office locations, and operating deficiencies. The Bank Board explored ways to strengthen minority associations in these areas. The efforts resulted in an agreement between the Bank Board and the Office of Minority Business Enterprise (OMBE), at the Department of Commerce, whereby OMBE transferred $70,000 to the Bank Board for use in the establishment of various assistance programs.

Under the agreement with SBA and OMBE, an SBIC will be formed to provide equity capital and technical assistance, where needed, for minority-managed savings and loan associations. The Small Business Investment Act authorizes the Small Business Administration to provide a 301(d) SBIC with up to four times the amount of funds with which the SBIC was initially capitalized. The low cost to an SBIC of these SBA funds enables the SBIC to reinvest or relend these funds to small business concerns at a comparatively low cost.

Under this program, the Bank Board's 12 district banks will put up $5 million and the Small Business Administration will match this, at a 4 to 1 ratio, with a $20 million contribution. Investment by nonminority Federal associations could increase this amount.

This proposal has been worked out carefully and thoughtfully by the Bank Board with the assistance of the Department of Commerce and the SBA. It has the full support of these agencies and the savings and loan leagues including, of course, the American Savings and Loan League, which represents minority associations. It has received the endorsement and active encouragement of the White House, as well as numerous individual savings and loans.

I ask unanimous consent to have printed in the Record additional information explaining the Bank Board's proposal in greater detail, as well as a statement by former Bank Board Chairman Robert H. McKinney announcing the program. I ask for the Senate's favorable consideration of the amendments needed to enable the Bank Board to implement this important program.

There being no objection, the material was ordered to be printed in the Record, as follows:

A Comprehensive Assistance Program for Minority Savings and Loan Associations

In the summer of 1978, the Bank Board established as one of its major goals the development and implementation of a program to encourage the growth and expansion, safety and soundness of minority-owned and managed savings and loan associations. A division of the Office of Industry Development, the Minority Association Development Division ("Minority Division"), was assigned primary responsibility for development, coordination and implementation of this program.

The Bank Board's decision to target the establishment of a minority association assistance program as a major goal of the Bank Board stemmed from a 1978 Bank Board survey conducted by the Minority Division. The survey revealed that nearly half of the nation's 77 minority-managed associations are experiencing financial difficulties. The Minority Division then conducted an in-depth study of the performance of the minority-managed associations to identify their major problems.

PROBLEM AREAS IDENTIFIED

The Bank Board utilized a broad range of information sources for its study, including examination reports for individual associations and other Bank Board records, on-site interviews with association management, and first-hand knowledge of Bank Board staff. The study revealed that minority-managed associations generally suffer from the same problems experienced by many small savings and loans, such as small staffs and inadequate funds for staff training, high employee turnover, and lack of the expertise and experience needed to diversify the association's activities. However, the study also identified four areas that are the major sources of problems peculiar to minority-managed associations. These four problem areas, briefly discussed below, are: (1) ineffective administrative policies; (2) inadequate knowledge by association management of the savings and loan industry; (3) poor office location; and (4) high operating costs.

1. Ineffective administrative policies:

The study showed that while many minority-managed associations have established written appraisal, lending and collection policies, many do not adhere to these policies. In particular, many minority-managed savings and loans do not maintain adequate loan documentation. As a result, minority-managed associations generally are faced with disproportionately high ratios of scheduled items to assets.

2. Inadequate knowledge by management of the S&L industry:

Perhaps the principal factor identified as a cause of the poor performances of many minority associations is underqualified directors and managers. In many cases, the directors of minority associations have had no previous experience in either the savings and loan industry of any related fields. Similarly, many managing officers lack the training and experience necessary to discharge adequately their duties. As a result, minority associations have neither adequately diversified their income-producing activities nor adopted aggressive growth policies. In addition, many minority associations have difficulty keeping abreast of technical innovations in the savings and loan industry.

3. Poor office location:

The location of most minority-managed associations in economically-depressed areas is a major impediment to their growth. Because most minority-managed associations are situated in low-visibility locations in inner-city neighborhoods or in other limited market areas, it is difficult for them to establish a broad customer base.

4. High operating costs:

The study also revealed that customers of minority savings and loans generally maintained lower-than-average savings account balances. At the same time, customers of minority associations tend to use their savings accounts as transaction accounts, and thus their transaction activity is high. As a result, minority associations usually encounter higher-than-average operating costs.

PROGRAMS TO IMPLEMENT SOLUTIONS

After completion of its study of the various problems experienced by minority-managed savings and loans, the Minority Division's next step was to revise and implement solutions for the problems identified through the study. Toward that end, the Minority Division has been working with various government and industry sources on designing a number of programs to assist minority-managed savings and loans. Recently, these efforts resulted in the award of a contract from the Department of Commerce's Office of Minority Business Enterprise transferring $70,000 to the Bank Board to fund four assistance projects. Transfer of the Commerce funds and the initiation of four minority association assistance programs was announced by the Bank Board on April 25, 1979, at a signing ceremony attended by representatives of the White House, the Department of Commerce, the Federal Home Loan Banks, various trade groups, and the savings and loan industry.

Three of the specific assistance projects have been allocated $20,000 of the Department of Commerce grant. One project involves the development by a major accounting firm of a manual designed to assist the directors of minority-managed associations in the execution of their duties. The same firm is also working on a second project to develop a model Operations Review Program for use by auditors and accounts of minority-managed associations. The Operations Review Program will be tested in the field and later made available to the accounting firms that represent minority-managed associations. The third project will provide on-site technical assistance for the management of minority associations on a test basis by a savings and loan management consulting firm.

The largest portion of the Commerce grant, $50,000, has been alloted solely to cover the costs of organization and implementation of a MESBIC. The MESBIC would be operated by the 12 Federal Home Loan Banks to provide needed capital and technical assistance to minority-managed associations. "MESBIC" is the acronym commonly used to describe a special type of Small Business Investment Company (SBIC) organized pursuant to Section 301(d) of the Small Business

Investment Act of 1958.[1] The purpose of a MESBIC is to invest in business concerns owned and operated by socially or economically disadvantaged persons.

The MESBIC is a particularly appropriate vehicle through which to channel financial and management assistance to minority-managed savings and loan associations because it would make use of a mechanism already established by Congress for the purpose of assisting minority businesses. That mechanism is the Small Business Administration's (SBA) SBIC program, which is the Federal government's central small business assistance program. Utilization of the MESBIC program would allow minority-managed savings and loan associations to benefit from the SBA's expertise.

The MESBIC program is intended to be an important component of the Bank Board's minority assistance efforts. The Commerce grant will provide the funds needed to develop and test the other programs, but these programs cannot be implemented beyond the test stage without a viable long-term source of funds. The MESBIC was conceived as a vehicle for providing the long-term source of funds needed to implement these and other assistance programs that prove successful. The MESBIC also would serve as a vehicle for channeling funds into minority-managed associations.

THE MESBIC PROGRAM

The Federal Home Loan Bank System's twelve District Banks would organize the MESBIC, invest $5 million in equity shares of the MESBIC, and supervise operation of the MESBIC. The Bank Board will work closely with the District Banks to further the success of the program.

ORGANIZATION OF THE MESBIC

The MESBIC would be a private corporation chartered under the laws of one of the 50 States and licensed by the Small Business Administration. The Bank Board has received considerable encouragement and indication of support from the SBA in this effort. The SBA license entitles a MESBIC to receive funds up to four times the amount of the MESBIC's equity capital. The MESBIC would be incorporated as a profit corporation and operated on a break-even basis.

The twelve District Banks have agreed to provide the MESBIC with $5 million in equity capital. All organizational costs and initial operating expenses will be covered by the $50,000 allotted to the MESBIC program by the Department of Commerce contract.

The twelve District Banks would be the controlling stockholders of the MESBIC, and would be responsible for electing the directors of the MESBIC and for appointing its management. This appears to be a sound way to structure the MESBIC because it allows the Banks, which are familiar with the needs and problems of individual minority-managed associations in their individual Districts, to identify those associations in need of aid, determine how those associations could best be assisted, and decide how much money should be invested in each association.

Two statutory amendments are needed in connection with the organization of the MESBIC. Section 11(h) of the Federal Home Loan Bank Act authorizes certain investments for the District Banks. An amendment is required, however, to provide specific authority for the District Banks to invest in the MESBIC.

In addition, the Bank Board is seeking a legislative amendment that would enable Federal savings and loan associations to invest up to one percent of their assets in the MESBIC. This would require adding a subparagraph (4)(E) to Section 5(c) of the Home Owners' Loan Act of 1933. The Federal associations would be passive investors; they would not acquire any voice in controlling the MESBIC.

Participation in the MESBIC program would be an act of social responsibility on the part of Federal savings and loan associations. The MESBIC would enable Federal associations to participate in an effort which will further inner-city development, promote the image of the savings and loan industry and support the industry's housing commitment.

FUNDING THE MESBIC

In order for the MESBIC to be eligible for SBA funds, the District Banks' investment in the MESBIC must be in the form of "equity capital." Then, once the MESBIC is licensed by the SBA, it may receive SBA funds if it demonstrates a "general need" for them. The "general need" criterion would be satisfied once the MESBIC has committed its capital to investment in minority-managed associations. The SBA will provide funds to the MESBIC in four $5 million installments. To the extent investment in the MESBIC from Federal associations exceeds the $5 million District Banks contribution, the SBA contribution would also increase. The Bank Board has received a commitment of support from SBA for the concept.

Since the MESBIC is to be incorporated on a profit basis, SBA will provide two installments by purchasing non-voting, preferred stock issued by the MESBIC, and the other two installments by accepting 10-year debentures from the MESBIC. The preferred stock will be cumulative and provide a 3% annual dividend. It should be noted, however, that SBA's policy has been to forgo collection of the dividend as long as the MESBIC operates at the break-even point.

The debentures will carry interest rates equal to the cost on money to the Federal Government at the time they are purchased by SBA. However, during the first five years of each 10-year debenture, 3% of the interest will be written off by the SBA as a subsidy. Thus, an 8% debenture, for example, would carry an interest rate of 5% for the first five years, and 8% the last five years.

The cost to the MESBIC of the SBA funds will be lowest if it is operated at a break-even point. However, no matter how the MESBIC is operated, it will only have to pay a very low rate for its funds. It is this fact that makes the MESBIC an excellent vehicle for providing funds to strengthen minority-managed associations.

OPERATION OF THE MESBIC

The MESBIC's board of directors will be responsible for retaining a managing officer and adopting a detailed plan of operations. It is contemplated that the staff of the MESBIC will be limited to a managing officer with expertise in managing S&L investment portfolios and one or two support personnel. The MESBIC staff would be responsible for arranging and managing the MESBIC's investments, and would be assisted when necessary by the staffs of the District Banks and the Bank Board.

The MESBIC's directors would also decide which minority associations should receive MESBIC funds, and how the funds or proceeds from investment of the funds should be used. It is contemplated that MESBIC funds will be focused on correcting specific deficiencies of individual associations, and that the District Banks would closely supervise how the funds are utilized. Examples of some diverse uses of MESBIC funds are: relocation of poorly situated offices, training of management personnel, and provision of technical assistance in various aspects of savings and loan operations. The Banks, as directors of the MESBIC, will establish guidelines and policies for determining eligibility, amounts and interest rates, repayment, etc.

The MESBIC will have two ways of channeling funds into a minority-managed association. One is to provide the association with equity capital by purchasing stock or by accepting subordinated debentures. The other is to make long-term loans for relocation, technical assistance and expansion. Since the MESBIC's cost of funds will be low, the MESBIC can invest and lend its funds at comparatively low rates. It should be noted that SBA regulations will expressly prohibit the MESBIC from acquiring control of any minority associations.

TERMINATION OF THE MESBIC PROGRAM

While the District Banks may terminate the MESBIC at any time, it is contemplated that the MESBIC will operate for approximately 10 years. After that time, it will cease active operations and will begin the process of distributing its capital and any surplus.

When the MESBIC has recovered all funds invested in or lent to minority associations, it will return the Banks' investment and repay SBA for use of its funds. The MESBIC will then be completely liquidated.

PROGRAM ANNOUNCED TO STRENGTHEN MINORITY-OWNED AND MINORITY-MANAGED THRIFT INSTITUTIONS

The Federal Home Loan Bank Board and the Department of Commerce today announced a joint program aimed at strengthening the operations of minority-managed savings and loan associations.

The Bank Board and the Department of Commerce through its Office of Minority Business Enterprise (OMBE) have developed a four-part assistance plan to be financed by OMBE and in-kind contributions from the private sector. To fund these programs, OMBE is transferring $70,000 to the Bank Board.

Bank Board Chairman McKinney said, "Promoting the development of new and existing minority-managed associations is a major goal of the Bank Board. I feel today's action represents the first step toward realizing this goal.

"The contract which has been negotiated between the Bank Board and Commerce sets forth both real and practical solutions to tackle the problems that minority-owned associations face. We have found that the root of many of these problems stems from a lack of experience on the part of the managers and directors.

"These programs," McKinney continued, "demonstrate a considerable amount of thought and innovative planning on the part of both agencies to directly benefit minority business enterprise. Especially notable is that much of the valuable consulting time provided for in the contract will be donated so that this goal of assisting minority-managed associations can be achieved at as low a cost as possible."

A minority savings and loan is controlled at least 51 percent by socially or economically disadvantaged Americans. Today, 78 associations qualify as minority-managed and owned.

The contract will provide for the following programs:

1. A large accounting firm, Deloitte, Has-

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[1] The term MESBIC is derived from the name Minority Enterprise Small Business Investment Company which was the name formerly used by the Small Business Administration to define a special class of SBIC licensed to assist businesses owned by minority persons. The first MESBIC was licensed by the Small Business Administration in 1969. By 1972, 24 MESBIC's were licensed and, in that same year, Congress gave the SBA's MESBIC program statutory existence. Public law 92-595 amended the Small Business Investment Act by adding a new Section 301(d) which replaced and expanded the SBA's MESBIC program.

kins and Sells, will develop a model Operations Review Program to assist in strengthening minority-managed associations' operations. The model will then be tested in the field and the results will be analyzed by the American Institute of Certified Public Accountants. The program will then be tailored to meet the needs of all minority-managed associations.

2. A booklet is also being developed by the same accounting firm to assist existing and newly elected directors of minority-managed savings and loan associations in executing their duties and responsibilities. The booklet will answer many common questions that new directors may encounter and will serve as a general information manual to assist them in fulfilling their responsibilities.

3. Financial Consulting Services, Inc., a subsidiary of a large, experienced savings and loan—1st Federal Savings and Loan Association of Mobile, Alabama—will provide direct management and "on-site" technical assistance in various aspects of savings and loan operations for minority-managed savings and loans. Four or five minority-managed savings and loans will be selected to participate in this program. This "on-site" approach is important because many managers of minority-owned associations cannot afford the time away from their offices to participate in more traditional programs.

4. A Minority Enterprise Small Business Investment Company, better known as a MESBIC, will be organized as a vehicle for funding a long-range program to assist minority-managed associations. This MESBIC will attempt to raise $5 million in seed money that can be leveraged four times through support from the Small Business Administration. These funds will provide capital infusion for leading and technical assistance for minority-managed savings and loan associations.

Mr. CRANSTON. Mr. President, I gather that the able managers are aware of this amendment. I trust that it is acceptable.

Mr. GARN. Mr. President, I will not oppose this amendment. I am familiar with it.

However, I do want to complain about the Bank Board sending the written materials up just today. This was announced by Mr. McKINNEY in April.

Mr. CRANSTON. I agree.

Mr. GARN. I think these agencies owe the Senate some courtesy. They have had 2 months or more to get this matter up here to be studied.

It happens that I do not object to this amendment, but I say for the RECORD that the Federal agencies should beware. In the future, I may not be so agreeable and may say, "Just forget it, if you cannot give us some notice."

I do not make the criticism in the circumstance of them sending it up yesterday, when the bill was started, but of sending it up in the middle of the afternoon today.

Mr. CRANSTON. I agree with the Senator on the merits of the amendment and on the demerits of the agency in sending it so late.

Mr. WILLIAMS. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. WILLIAMS. I yield back my time.

Mr. CRANSTON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. I thank both Senators very much.

UP AMENDMENT NO. 348

(Purpose: To strike the exemption from State usury laws contained in the bill)

Mr. MORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 27, line 6–24, strike Section 319. Usury Exemption.

Mr. MORGAN. Mr. President, this amendment has not been offered or sent to the desk before because the matter just came to my attention, and for that reason I hope members of the staff who are listening on Capitol Hill will bring the matter to the attention of their respective Senators.

This amendment strikes one section from the bill which is repugnant to my philosophy of government, and I think to the philosophy of government of most people in this country.

The provision would suspend the constitutional provisions of various State constitutions which were adopted by votes of the people of those respective States, or any statutory provision which was enacted by members of the legislature of those States with regard to usury. In other words, if this bill passes as it now stands and as it came from the Banking and Housing Committee, there would be no usury laws in any State no matter whether those usury laws were adopted by the Constitution or by statutory means unless and until they went back and were reenacted. In other words, we are preempting the rights of the States to govern usury in their own States. We literally are striking from the books all of the usury laws that are in the State usury laws of this country.

I grant you the section goes on to say that if the States want to they can reenact their laws, but it first of all takes a responsibility away from the States that I do not believe the Federal Government should take away and, second, it places a burden back on the States to reenact those provisions if it chooses to do so.

Now State constitutions are not taken lightly in this country. Constitutions are usually proposed by State legislatures, or by constitutional conventions, and are voted on by the people of the State.

For the Senate to preempt a provision of any State's constitution without even so much as a discussion on the floor of the Senate is repugnant to me.

I believe in the Federalist system of government as envisioned by Thomas Jefferson and James Madison.

There may be times when the actions of particular States may not appear to those of us here in Washington to be in the best interests of all of the people in those States. But who are we to say on every matter that we choose to act on, that we know best what is good for the people of those States?

I remember the first year that I was here I heard a discussion one day between the distinguished Senator from Oregon (Mr. PACKWOOD) and the distinguished Senator from Minnesota (Mr. MONDALE) who is now the Vice President, with regard to Federal preemption of child day care center laws. And I remember an illustration that Senator PACKWOOD gave. It was a very subtle story but it illustrates the point very well. First of all, he propounded a couple of questions to the Senator from Minnesota. He said to him: "Senator, what makes you think that we people here in Washington are more concerned about the children in my home State of Oregon than the people there are?" And the second question he propounded was: "What makes you think that we know better what is good for the children in Oregon than the parents of children in Oregon do?" And he said to the Senator from Minnesota: "You remind me of a Presbyterian minister and a Catholic priest in my home town."

And of course it could apply equally to any denomination.

But he said: "The Presbyterian minister was a very staid, formal minister with his high collar, and he was normally seen in the pulpits only on Sunday morning and during the rest of the week he was in his study in quiet meditation." But Senator PACKWOOD said: "The priest was a very gregarious sort of individual, outgoing. If there was anything involved in the community he was involved in it. He coached the little league baseball teams. He was at the Rotary Club. Anything that was going on in the community he was in it."

And he said: "One day the two of them met on the street and the priest said to the minister, 'You know, Reverend, we do things differently. But there is no reason why we cannot go on and be good friends, is there?' " And he said, "The minister sort of straightened his collar and said, 'No, Father. You do things your way, and I will do things His.' "

Now this may be it is sort of a subtle story, but that seems to be the attitude that we here in Congress seem to take, that we know better what is good for the people of this country than the Governors and the legislators who are elected by the people. And I know there is a good argument that can be made any and every time we want to preempt State laws. Of course there is. And the argument is that there are 10 States in this Union that are obstinate and stubborn and really are not acting in the best interest of the people. And one of them, I say to my colleague from Arkansas, is the State of Arkansas they refer to, and the distinguished Senator from Arkansas was a Governor of that State, and I am sure he was much closer to the people of Arkansas, and the members of that legislature are just as concerned about the people there as we are in the Senate. If the people in Arkansas want their constitution amended or their statutes changed it seems to me they should do it and we should not do it by perfunctory vote here on the floor of this Senate.

Mr. PRYOR. Mr. President, will the Senator yield?

Mr. MORGAN. I am happy to yield.

Mr. PRYOR. I say to my distinguished friend from North Carolina that he has correctly identified one of those States that does have a 10 percent usury ceiling and that is, in fact, the State of Arkansas. This has been a part of our State constitution since 1874. I simply wish to say to my friend from North Carolina that at this very moment the State of Arkansas is holding a constitutional convention. The delegates are debating the usury provision in our 1874 constitution, and this matter will not be referred to the people of Arkansas for a possible change or possible reinclusion in a proposed new constitution until November of 1980.

So it is going to be a long time before the people of Arkansas find some relief. It is for this reason—notwithstanding the fact that I do not like to come up here and tell the States what to do back home—but it is for this reason, I tell my good friend from North Carolina, that I do strongly oppose his attempt to deny us some relief in this particular area in our state.

We just frankly cannot reach this decision for at least a year and a half until the people have the opportunity to make that decision. Until that time, we need some help, and that is why I have to oppose the Senator from North Carolina.

Mr. MORGAN. I will say to my distinguished friend that I am disappointed that he as a former Governor of a State feels that it is now expedient for us to preempt and usurp what I believe to be the responsibilities of State governments.

That is what happens. We have a situation in which there is some inequity that is going to occur, and in the name of correcting that inequity we in Washington come in and set one more precedent for the Federal Government's controlling and taking over the State laws of this country.

If this were the only preemption this Congress had dealt with recently I would not be so concerned. But I would venture to say that in the Banking Committee during the 4 years I have been on it we have had at least a dozen situations in which somebody from HUD or somebody from the Comptroller General's Office has come over to us and said, "Look, we know better than the States. Let us preempt the States rights on this matter."

I want to say something else, Mr. President: I believe in the federal system of Government. I believe in it when it supports my philosophy, and I believe in it when it does not.

But some of my friends in business who have complained so long and so loud about government regulation from Washington, want it when it suits their convenience. The Mortgage Bankers of America, and the President of the Mortgage Bankers happens to be from my State and my county, want this law because it will remove the usury limitations all over America.

But when they come to some other regulation which seems to cramp their style a bit, then they say, "Get Washington out of our business. Let the States do it." What they want is to have their cake and eat it, too.

I just do not believe we can afford to continue to take away from the States the responsibilities that have been theirs.

The Senator from Arkansas said that their usury law has been on the books for more than 100 years.

Mr. PRYOR. Since 1874.

Mr. MORGAN. Since when?

Mr. PRYOR. 1874.

Mr. MORGAN. 1874.

Surely in all that period of time someone must have visualized that a problem existed.

But even assuming that it is going to delay resolution for a year, what is 1 year's delay compared to tampering with the Constitution and the fundamental principles upon which this Government was founded? It may not be important in this case. This republic is not going to fall if we take away from the States the right to set usury ceilings.

But I will say to my colleague that another Governor, who was elected the same year I was, came here, having been Governor of his State, and immediately introduced a bill taking away Federal funds from the States if they did not enact a law to turn right on red. That Governor was probably crying the loudest about Federal intervention in States' rights.

If there is a usury problem let the Secretary of HUD go to the Governors—most of ceilings are statutory enactments not constitutional matters—go and persuade the people of the States to see that we need to remove these usury limitations. We should not just summarily decide here in Washington that we know better, that we know what is good for them.

Mr. President, I am going to vote against preemption even if I am the only man in this Senate to vote against it, and I may be. And I am going to call for a rollcall vote because I do not believe we ought to suspend the constitutions of the various States without at least subjecting the particular provision to a rollcall vote.

Mr. PRYOR. Mr. President, will the Senator yield to me?

Mr. MORGAN. I would ask the Senator to use the time of the opponents, if there are opponents.

Mr. GARN. I will yield in just a moment on my time. I would just make one very brief comment.

Mr. MORGAN. Mr. President, may I reserve my time?

Mr. GARN. I am speaking on my own time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. It is rare that the Senator from North Carolina and I disagree on an issue despite the fact that we are members of different parties. We normally agree. I would be with him today if it were not for one provision.

If this were merely a usurpation of the power of the States and overriding their usury statutes, then I would be up here with him.

But we do allow the States, in the case of Arkansas for example, if they so decide that they do not like what we have done, to say, "We will turn it around, we will go back and set a usury limit."

I realize that places the burden of an affirmative action on their part. But without that escape clause I would agree with everything in philosophy and principle the Senator from North Carolina has said here today. This is the only reason I would oppose his amendment, because the bill does allow the States to say, "Go jump in the lake, Congress. We are going to reinstitute that provision."

Now I would be happy to yield to the Senator from Arkansas.

Mr. PRYOR. I thank the distinguished Senator from Utah for yielding. I will not take a great deal of time. I, frankly, was not prepared to come over and debate this issue this afternoon. But being here I will do my best.

I would just like to reiterate the point the distinguished Senator from Utah has made that this is not, the way I look at it, a total usurpation of State's rights. This does not, for example, strike at the heart of the Arkansas constitution or any of those State constitutions which have a usury ceiling or State statute, because it provides for an escape clause.

The distinguished Senator from North Carolina, as I understand his proposal, wants to remove section 319 from this legislation. He would, in effect, do away with that entire section, which includes an escape clause for those states that feel Congress has erred dealing with this question of usury.

The second and final point I would make and would respectfully submit to my colleagues, Mr. President, is the fact, the simple fact, that in this particular debate on usury ceilings the distinguished Senator from North Carolina is, I am certain, attempting to keep Congress once again from doing something that ought to be and has historically been reserved as a state's responsibility and duty.

However, I strongly feel that there are those times when Congress in specific areas of legislative acts should help and become a partner with the States, and this is one of those times—when I believe Congress can grant at least a temporary escape valve to allow us to make our decision on the local level, to allow the people of those States to declare themselves on this particular issue.

But until this time, I respectfully urge my colleagues to oppose the amendment offered by the Senator from North Carolina and to give those States, like my own, the State of Arkansas, and others, the opportunity to have this breathing spell, the opportunity to work our will in our own decisionmaking powers on this particular, narrowly defined issue.

That is all I have to say at this point, and I yield back the remainder of my time to the distinguished Senator from Utah.

Mr. PROXMIRE. Mr. President, will the Senator from Utah yield me 2 minutes in opposition or will the Senator from New Jersey do that?

Mr. GARN. I would be happy to yield.

Mr. PROXMIRE. Mr. President, I oppose the amendment offered by the Senator from North Carolina. Usury ceilings have been a real problem for borrowers as well as lenders in this country not only in my State of Wisconsin but in every State of the Union. They are well-intended, but often they have the effect of shutting off or sharply curtailing mortgage credit.

I am glad the Senator from Arkansas spoke because I am very familiar with that situation down there. That State has been almost paralyzed by the ceilings. It has meant they have lost considerable business. The banks have been hurt very badly. They are sensitive about it, and very unhappy.

They have a constitution they would like to amend, but we are acting with complete propriety. We are not telling them what to do about State obligations but Federal implications here.

Usury ceilings create an incentive for lenders to invest in other States which are not subject to the same usury ceilings.

As interest rates fluctuate in the economy we have been periodically subjected to situations where credit is curtailed until the State legislature can act, or State constitutional processes proceed and these things often take a long time.

The case for a Federal override of usury ceilings is particularly strong with respect to FHA mortgages. Usury ceilings frustrate Federal housing policy. The provision in the committee bill is moderate in that it allows the State to reenact the usury ceiling. Thus it is not a permanent override. I am very sympathetic with the Senator from North Carolina, who is a wonderful Senator and a fine member of our committee. He has been on our committee since he came to the Senate, and he is a tremendous asset to it. He feels very strongly, I know, about States' rights, and I can see why this is a States' rights issue. But States seem to be coming to us and asking for help, relief, and assistance. As I say, it is moderate because it does mean if they wish to do so they can reenact a usury ceiling.

Mr. President, I thank the Senator.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I thank my distinguished chairman for his kind remarks.

But, you know, Mr. President, you can make a persuasive argument for the preemption of almost all State laws at one time or another. The people in these States where the chairman feels like our Federal programs are being hampered know that, and if they are not willing to change it, I do not believe that we should.

If our distinguished colleague, the Senator from Arkansas, had been up here as Governor of the State of Arkansas asking us to suspend the State constitution for him, I would have been a lot more sympathetic. But the difficulty is that the Senator from Arkansas is now a part of the Federal establishment. If the Governor of Arkansas were to come up here and say, "Look, I do not believe that my people in the past have exercised good judgment, they did not see fit to move fast enough to modify their constitution, and I think you and the Congress ought to take over," I do not think I would listen to him even then, distinguished as their young Governor is, but I would at least be more sympathetic to the complaint.

Mr. PRYOR. Mr. President, will the Senator yield for me to add a word?

Mr. MORGAN. May I inquire of the Chair how much time I have?

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator from North Carolina has 15 minutes remaining.

Mr. MORGAN. I yield.

Mr. PRYOR. I thank the Senator. I believe I see eye to eye with him on at least one area in which we are attempting to give relief for our people back home, and that is the exemption on farm credit loans. If I am not mistaken, the Senator from North Carolina is a cosponsor of similar legislation——

Mr. MORGAN. I hope not.

Mr. PRYOR. To give a preemption from the usury laws for farm credit loans, to give a preemption to our farmers back home to enable them to plant and harvest their crops.

Second, I say to the Senator from North Carolina that I feel very strongly that if today his amendment prevails in striking section 319 from the legislation, we will see a financial crisis in States that have a 10 percent usury ceiling, because we will see mortgage money totally stopped. It is just about stopped right now, and in days or weeks it will be cut off from some very deserving people.

Mr. MORGAN. That matter has been expected for some substantial period of time, and I think State Governors have been very well in a position to see what is down the road. As I say, I foresee that there will be some hardship, but I say again, that argument can be made in almost every situation.

I may have cosponsored a bill with my distinguished friend on farm credit, but I certainly hope it did not include in it a provision to preempt State usury laws. If it does, I will withdraw from cosponsorship of the bill when the appropriate time comes.

That illustrates the point I have been trying to make. If that is in there, it is like I did not know what was in the bill before us until I was asked to put the Farmers Home Administration laws in this. As a matter of fact, I think an amendment was already prepared for me to offer, and then I suddenly said, "Look, I just found out this was in here." Maybe I was advised and forgot it, but I have been told that there is in the House bill an exemption on preemption of usury laws for the Home Loan Credit Bank, or the home loan mortgage system. So what we are going to find is, we are going to exempt this one, and we are going to exempt that one—I mean preempt this one and that one—until we will soon be preempting all of the States' laws.

Mr. President, I have said about all I can say about it, except to say that my hobby for the last few years has been reading the letters of Thomas Jefferson and reading about Alexander Hamilton. The more I read of the writings of Thomas Jefferson, the more I marvel at the genius of Thomas Jefferson.

He predicted a gradual usurpation of power by the national government, which is what Alexander Hamilton wanted. He wanted a national government where all of the power would flow from Washington down. I think Alexander Hamilton would be happy if he were around today, I think Thomas Jefferson would not be surprised, because he predicted it during his life. He would not be surprised, but I think he would be saddened and disappointed if he were to take a look to see how much power has been removed from the people and brought to a strong central Government here in Washington.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MORGAN. Mr. President, in order to accommodate, if I could for just 1 minute address the floor manager of the bill, if it is agreeable to the floor manager I would ask unanimous consent that we delay the vote on this amendment and put it back to back with the final passage, or whatever amendments there are, if that can be done without any inconvenience. It might be of convenience to some of my colleagues.

Mr. WILLIAMS. Mr. President, that is certainly agreeable to our side.

Mr. GARN. I have no objection.

Mr. MORGAN. I would inquire of the Chair, would such a motion require unanimous consent?

The PRESIDING OFFICER. It would require unanimous consent.

Mr. MORGAN. I ask unanimous consent to that effect.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina? Without objection, the vote on the amendment of the Senator from South Carolina will occur back to back with the vote on passage.

Mr. MORGAN. Mr. President, I reserve the remainder of my time, after saying once again that I intend to vote against preemption of the provisions of State constitutions and State statutes even if I stand alone in this body.

I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, we have now before us a record vote on the amendment of the Senator from North Carolina before the vote on passage. We are also in a position where we have, if I could get the attention of the Senator from North Carolina, the other two bills that must be considered, and then after that would come the two votes.

Let me propound a unanimous consent request which will, I believe, take care of this situation.

UNANIMOUS-CONSENT AGREEMENT

I ask unanimous consent that following the vote on the pending amendment of the Senator from North Carolina, the Senate proceed to the consideration of H.R. 3875, and that all after the enacting clause of that measure be stricken and the texts of S. 903, S. 1064, and S 1149, as amended, be substituted therefor; and that, without any debate, amendment, or other intervening action, the House bill be advanced to third reading and the vote occur on final passage, with paragraph 3 of rule XII waived, and that it be in order at any time to order the yeas and nays on final passage of H.R. 3875.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Jersey?

Without objection, it is so ordered.

Does the Senator request the yeas and nays?

Mr. WILLIAMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays on passage of H.R. 3875 were ordered.

Mr. MORGAN. Mr. President, I yield back the remainder of my time.

Mr. GARN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. Bumpers), the Senator from Idaho (Mr. Church), the Senator from Missouri (Mr. Eagleton), the Senator from Nebraska (Mr. Exon), the Senator from South Carolina (Mr. Hollings), the Senator from Louisiana (Mr. Long), the Senator from Maine (Mr. Muskie), the Senator from Connecticut (Mr. Ribicoff), the Senator from Illinois (Mr. Stevenson), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Vermont (Mr. Leahy) is absent on official business.

Mr. BAKER. I announce that the Senator from Colorado (Mr. Armstrong), the Senator from Arizona (Mr. Goldwater), the Senator from Utah (Mr. Hatch), the Senator from Pennsylvania (Mr. Heinz), the Senator from Idaho (Mr. McClure), the Senator from Alaska (Mr. Stevens), and the Senator from Texas (Mr. Tower) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. Hatch) would vote "nay."

The PRESIDING OFFICER. Is there any Senator who has not voted who wishes to vote?

The result was announced—yeas 20, nays 62, as follows:

[Rollcall Vote No. 168 Leg.]

YEAS—20

Boschwitz
Byrd,
  Harry F., Jr.
Chafee
Chiles
Durenberger
Hart
Hatfield
Helms
Humphrey
Johnston
Morgan
Nunn
Packwood
Roth
Simpson
Stewart
Stone
Wallop
Warner
Zorinsky

NAYS—62

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Bradley
Burdick
Byrd, Robert C.
Cannon
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durkin
Ford
Garn
Glenn
Gravel
Hayakawa
Heflin
Huddleston
Inouye
Jackson
Javits
Jepsen
Kassebaum
Kennedy
Laxalt
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Moynihan
Nelson
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stennis
Thurmond
Tsongas
Weicker
Williams
Young

NOT VOTING—18

Armstrong
Bumpers
Church
Eagleton
Exon
Goldwater
Hatch
Heinz
Hollings
Leahy
Long
McClure
Muskie
Ribicoff
Stevens
Stevenson
Talmadge
Tower

So Mr. Morgan's amendment (UP No. 348) was rejected.

Mr. BELLMON. Mr. President, I ask unanimous consent to speak briefly.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BELLMON. Mr. President, every Senator has at some time in his or her political life faced constituents who have asked the agonizing questions, "Why is the budget so large—why cannot the deficit be reduced—where do the new programs originate—who is responsible—why cannot we reverse the trend of more and more spending?"

There may not be a single or simple answer, but the bill before us now, S. 1064, the Rural Housing Amendments of 1979, provides an excellent illustration of where our budget problems originate. Inside this bill is an extension of the authorization for a new program, the rural homeownership assistance program (HOAP). This extension adds to the risk that the program might get funded for the first time. The program has some worthy goals—providing homeownership assistance to low-income people in rural areas where alternative forms of housing, such as rental housing, are limited. Despite these worthy goals, if HOAP is implemented, the Congress would have once again been guilty of deliberately creating an enormously expensive program. Look at the cost: The authorization level is $985 million per year, but there is more cost. Since the HOAP subsidy would be an add-on to the existing section 502 housing interest credit subsidy program, it is necessary to add the two together in order to measure the total budget impact. Using FmHA assumptions, section 502 would cost an additional $860 million in budget authority. Thus, the total fiscal year 1980 cost of section 502 and HOAP together would be over $1.8 billion per year under this bill.

There is more cost. The $1.8 billion is understated, because no increase for inflation was included in the cost estimates. Since the contracts run for up to 33 years, an inflation adjustment must be made to the cost calculations. The true cost may be 40 to 50 percent, or even more, higher than the $1.8 billion mentioned. This is a tremendous cost for the intended program level of 16,000 units per year.

I believe there is even more cost. This program is intended to be a rural homeownership assistance program, but I suspect much of the enthusiasm for the program is generated by sponsors who hope that this year's rural homeownership assistance program will inevitably become next year's urban homeownership assistance program. If this happens, the cost will soar since HOAP is more generous than any existing housing program, rural or urban.

There is more. The program would be extremely expensive and complex to administer. A bureaucracy of FMHA personnel would need to be established to monitor eligibility, to establish the necessary separate reserve accounts for maintenance and insurance and taxes. The recapture provision, which is touted as a selling point for the program, works only if the property is sold to a noneligible, unsubsidized buyer, thus leaving fewer housing units available to low-income people.

The budget spending targets established by Congress only 6 weeks ago do not include funding for this program. Make no question about it—HOAP will bust the 1980 budget. HOAP seriously diminishes and may destroy the prospect of balancing the budget in fiscal year 1981.

At a time when fiscal restraint is needed, I find it inconceivable that Congress would initiate funding for a costly new program given the dismal experience with the HUD section 235 homeownership program which it resembles. I oppose funding this costly new program without fully exploring the possibility of using the existing FMHA programs to meet the housing needs of low-income people.

RURAL HOUSING INSURANCE FUND

Mr. President, under current law, no authorization limits are placed on the use of the RHIF, a revolving fund which finances most rural housing loan programs. The RHIF finances its loan program (but not its grant programs) with permanent indefinite borrowing authority and sales of paper to the Federal Financing Bank. By custom, but not by specific statutory authority, limits on the total amount of loans to be made in a given year are set in appropriations acts. The House bill would, for the first time, place specific authorization limits on the use of the RHIF, and by statute, subject all of its activities to the appropriations process.

I strongly urge support of this effort to close off a potential backdoor spending problem, and I hope that the Senate conferees will accept the House provision in conference. I would like to ask Senator Morgan whether he has studied the House provision, and if so, what his reaction is to it.

Mr. MORGAN. Mr. President, I appreciate Senator Bellmon's concern about the lack of specific statutory authority limiting the use of the rural housing insurance fund.

I want the Senator to know that I agree with him, I believe the authorizing committee bill should set specific spending ceilings for Farmers Home programs. I agree that the Appropriations Committee should have the opportunity to subject these authorizations to the appropriations process.

I want the Senator to know that the committee began work on specific program authorizations this year. Time constraints, however, forced us to defer the matter until next year. I want to assure the Senator that I intend to sponsor such legislation next year.

I have reviewed this year's House bill, and can say that I am sympathetic with the principle it incorporates. I cannot, however, at this time, foresee how the

Senate conferees will react. But I would assure the Senator, that I intend to support the principle that he is advocating.

Mr. BELLMON. I thank the Senator from North Carolina for his remarks.

Mr. President, I should like to call the attention of the floor managers to a provision in the companion House bill, H.R. 3875, relating to the rural housing insurance fund (RHIF).

I ask unanimous consent to have printed in the RECORD an excerpt from pages 41 and 42 of the House committee report on H.R. 3875, the Housing and Community Development Amendments of 1979.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

TITLE V—RURAL HOUSING

AUTHORIZATIONS

The Committee has for the first time placed authorization limits on the use of the Rural Housing Insurance Fund (RHIF) and subjected all activities carried out through the fund to the annual appropriation process. The RHIF operates under permanent borrowing authority which was not previously formally subject to annual appropriations limitation. Appropriation actions are now only required to restore losses realized by the fund and many of these actions are mandatory. The Committee has been concerned since the passage of the Budget Act in 1974 with the uncontrolled nature of this backdoor spending mechanism. Spending is best controlled before it happens, but prior to this action control on expenditures (on a statutory basis) was able to occur only by allowing the capital in the fund to be dissipated.

In taking these actions, the Committee believes that several important objectives will be attained. First, the Committee will now be required to scrutinize annually the rural housing programs as it does other housing and related programs within its jurisdiction. In a period of severe fiscal austerity such annual oversight is imperative to assure the most effective and efficient use of Federal programs. Secondly, the Committee provides a statutory basis for appropriation action to limit rural housing program activity, bringing this activity under the formal purview of the appropriations process in conformance with the Budget Act. Both objectives are essential for improving the congressional authorization and appropriation process for rural housing programs.

The Committee has set a limit on the aggregate principal amount of insured and guaranteed loans for fiscal year 1980. Of this amount no less than $2.857 million is made available for loans under programs designed to assist low and moderate income persons in rural areas and $38 million is made available for section 514 domestic farm labor housing loans. The Committee authorizes for appropriation for Fiscal Year 1980 $48 million for section 504 rehabilitation loans and grants; $25 million for section 516 farm labor housing grants; $1 million for technical assistance and research; $5 million each for advances for prepayments of insurance, taxes and other related expenses pursuant to section 501(e) and for expenses and claims in connection with correcting construction defects pursuant to section 509(c); and $1.2 million, $3.8 million and $1 million, respectively, for technical assistance, homeowner and delinquency counselling and for preconstruction loans. Also, the Committee limited to $500 million the aggregate amount of contract authority that may be used for the new deep homeownership subsidy program for fiscal year 1980. The Committee intends the new deep homeowner subsidy program be subject to annual authorization so that it may oversee the operation of the program prior to reauthorizing it for any period after Fiscal Year 1980. This practice is consistent with the manner in which the Committee acts with regard to most other housing subsidy programs. In addition, the Committee authorizes for appropriation $1 million for section 523 mutual and self-help housing loans and grants.

RURAL HOUSING AMENDMENTS OF 1979

Mr. MUSKIE. Mr. President, the legislation before us, S. 1064, provides fiscal year 1980 authorizations for rural housing grant programs and extends for 1 year the various rural housing loan authorizations of the Farmers Home Administration. In addition, the bill increases significantly the limitation applicable to housing assistance payments which could be made under the recently authorized, but thus far unfunded, rural homeownership assistance program.

I ask unanimous consent to have printed at this point in the RECORD a table setting forth the potential on-budget cost of the various elements of S. 1064.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[By fiscal years; in millions of dollars]

	S. 1064		
	1980	1981	1982
Rural housing grants:			
Budget authority	66.5	NA	NA
Estimated outlays	26.3	15.0	9.2
Rural housing loans:			
Estimated budget authority [1]	84.2	164.6	153.4
Estimated outlays	84.2	164.6	153.4
Homeownership assistance:			
Estimated budget authority	985.0	985.0	985.0
Estimated outlays	30.0	60.0	90.0
Total:			
Estimated budget authority	1,135.7	------	------
Estimated outlays	140.5	------	------

[1] Although the authorization is for only 1 yr, payments for interest subsidies on mortgages contracted for pursuant to the 1 yr authorization are made over the life of the mortgage contracts, and are scored as budget authority in the years in which the subsidy payments are made.

Mr. MUSKIE. Mr. President, this table shows that full funding of S. 1064 would result in budget authority of over $1.1 billion per year beginning in fiscal year 1980. The resulting budget outlays would amount to about $0.1 billion in fiscal year 1980, but would increase steadily thereafter as contractual long-term housing obligations came due.

The table further shows that the lion's share of these budget impacts would be accounted for by one program, the new homeownership assistance program, or HOAP as it is called. Funding of this program would fall in function 370, commerce and housing credit, where it would result in new budget authority of $985 million per year, and in new outlays that would begin at $30 million in fiscal year 1980 but would increase by an additional $30 million each year thereafter.

Mr. President, in the first budget resolution for fiscal year 1980 the Congress has approved function 370 spending targets of $6.9 billion in budget authority and $3.2 billion in outlays. As I explained to the Senate when the budget resolution was under consideration, these targets are such that they could accommodate continued funding of existing commerce and housing credit programs. However, unless the Congress determines to eliminate or significantly reduce funding for one or more of the major existing programs in this function, the targets clearly are inadequate to accommodate funding for any major new initiatives, such as HOAP.

Mr. President, based on the action of Congress to date with regard to programs falling in function 370 of the budget, I can now report that it does not appear that the Congress will this year eliminate or significantly reduce its funding of any major existing program in this function. Therefore, I must conclude that any funding for this new program would seem certain to cause the Congress to exceed its function 370 targets. Further, full funding would cause the budget authority target to be breached by nearly $1 billion.

Mr. President, in view of this, I feel I have a duty to alert the Senate to the fact that although the Congress may enact this new authorization for HOAP, it appears highly probable that budgetary constraints will preclude funding of the program.

This possible result was recognized and discussed at length in both the committee markup and conference on the budget resolution. The clear consensus opinion appeared to be that that result would not be without merit.

Given the budgetary pressures that are now apparent, and which make funding for HOAP an issue, I feel it is appropriate to repeat for my Senate colleagues the crux of the concerns that have been voiced about the program.

By way of background, it should be recalled that this new program was first authorized in the Housing and Community Development Amendments of 1978. As authorized then, and as now proposed in S. 1064, HOAP would serve as a supplement to the existing section 502 interest credit program.

The section 502 program subsidizes down to 1 percent the mortgage interest paid by participating low-income rural homeowners. For rural dwellers whose incomes are too low to enable them to use the section 502 program, HOAP would provide supplementary grants. Eligible rural families would pay 25 percent of their adjusted incomes toward mortgage principal and interest payments, taxes, insurance, utilities, and maintenance, with the Federal Government paying the remainder. Commitments would run for up to 33 years.

Under existing law, were HOAP funding to be appropriated, the aggregate principal amount of underlying mortgages that could be supported with HOAP assistance could not exceed $440 million. S. 1064 would change this limitation to $440 million per year. Using Farmers Home Administration's projections of an average mortgage of approximately $27,500, an annual activity level of approximately 16,000 additional units assisted, and average annual HOAP payments of approximately $1,875 per assisted unit, $440 million in mortgages would require $985 million in current year budget authority and result in outlays of $30 million per year over the 33-year maximum life of the loans. This is the potential cost of S. 1064's HOAP authorization, as I have previously described.

Mr. President, part of the rationale for HOAP is that it is consistent with the Farmers Home Administration's efforts to target housing aid more efficiently on those most in need. This is a commendable and desirable goal and one which I support in housing and in other program areas. There are a number of questions that have been raised about HOAP, however, which cause me to question the desirability of increasing the authorization as S. 1064 does.

First, we must all remember that this is a tight budget year, and if HOAP were implemented at the level authorized by this bill, it would be an enormously expensive program. I have already noted the $985 million per year cost of HOAP itself. However, since the HOAP subsidy would be an add-on to the section 502 interest credit subsidy, it is necessary to add the two together in order to measure the total budget impact involved. According to FMHA figures, the section 502 subsidy would be expected to cost $860 million in budget authority and $26 million in outlays. Therefore, the total fiscal year 1980 cost of section 502 and HOAP together would be $1.8 billion in budget authority and $56 million in outlays. Further, for each year in which the programs were funded at this level, outlays would increase by $56 million.

Mr. President, even this does not state the true long-term cost of the two programs. Analysis by Senate Budget Committee staff indicates that even this $1.8 billion per year cost projection seriously understates the Government's financial exposure at the 16,000 units per year program level intended. This is because these projections do not make any allowance for inflation. Since contracts will run for up to 33 years, inflation must be factored into cost calculations if those calculations are to have any meaning.

Using very conservative assumptions—that both incomes and the variable cost, nonmortgage components of the HOAP subsidy grow at an average annual rate of 6 percent over the next 33 years—it turns out that assistance for 16,000 additional units would be expected to cost an average of $2.6 billion per year, or 40 percent more than the $1.8 billion estimated by the administration.

Mr. President, initial appropriations for HOAP should not be provided until its budgetary implications are understood and appreciated, and until something is done to reduce its expected cost. Unfortunately, there are other problems with HOAP in addition to these.

To begin with, it appears that the HOAP program would be extremely expensive and complex to administer. For each housing unit assisted, FmHA personnel could be required to establish and monitor income levels, set up and run separate reserve accounts for maintenance and for insurance and taxes, calculate and make periodic payments of utility allowances, and make sure that the property is well-maintained. Because the program is so labor-intensive, staff increases could be required, further adding to the cost.

In addition, one of the major selling points of the program is its so-called recapture provision, under which FmHA would be expected to recover a portion of its subsidy payments from the appreciation in any assisted property's value when that property is sold. However, for the recapture provision to work, the property must be sold to an unsubsidized buyer. Such a sale would reduce the number of housing units available to low-income people, and force the Government to subsidize additional low-income housing units.

Questions have also been raised, Mr. President, about the need for this expensive new program, when we already have so many existing programs providing for various rural housing needs. For example, according to administration figures, 44 percent of rural people living in substandard housing units are over 60 years of age. Both the section 202 and public housing programs provide subsidized housing for elderly people. In many other cases, substandard rural housing can be brought up to code with the assistance of the section 504 program that makes loans and grants to repair or construct additions to existing housing. And for people whose incomes are so low that costs must be reduced still further if they are to be able to afford decent, safe, and sanitary housing, creative use can be made of a combination of the section 502 interest credit program, the section 504 program providing grants and loans to repair or construct additions to houses, and the mutual and self-help housing program under which groups of 6 to 10 families build their own homes by mutually exchanging labor.

Finally, Mr. President, if the Government begins a major program subsidizing mortgage principal, interest, taxes, insurance, utilities, and maintenance payments for low-income rural people, it will be difficult if not impossible to resist extension of such subsidies to all low-income individuals. The potential cost and budgetary impact of such an extension, which would undermine our efforts to balance the Federal budget, should be considered in deciding whether to fund this new program.

We do have real and significant rural housing needs in this country, Mr. President, and I have always supported efforts to meet those needs through sound, well-planned programs. Unfortunately, HOAP does not appear to be such a program. I, therefore, oppose increasing its authorization because if HOAP were to be implemented I fear that its enormous cost, combined with the other problems I have cited, would make it that much more difficult for rural housing supporters to convince the Executive and the Congress to give rural housing its fair share of funds.

This is not an easy statement for me to make, Mr. President, for there is a great deal of pressure being exerted to fund and expand the HOAP program. It would be easier either to remain silent or to simply endorse the program. However, because I feel that in the long run such a poorly designed program would harm, rather than help in the battle to provide decent housing in rural areas, I must say that I am opposed to the proposed HOAP authorization.

Were S. 1064 a bill intended solely to authorize HOAP, I would feel compelled to vote against it. However, S. 1064 also provides important authorizations for the rural housing grant programs, and it extends for 1 year the various rural housing loan authorizations of the Farmers Home Administration. The section 502 rural housing building and repair loans, the section 515 rural rental housing program, and the section 504 very low-income housing repair grants each provide very valuable and necessary assistance to all rural States. I know this to be a fact from the favorable evaluations of these programs in my own State of Maine. A good part of Maine is rural and the large number of low-income rural people and the extent of substandard rural housing has brought about a great reliance on these important programs.

Because these programs are so important to the social and economic health of rural America, I intend to vote for the bill in spite of my opposition to the HOAP provision. However, I would note that I am doing so with the expectation that, as was the case last year, the HOAP authorization will not be appropriated. Yesterday, by a 14-to-13 vote, the Senate Appropriations Committee approved $200 million for a pilot HOAP program. In light of this razor-thin margin, in light of the House's refusal to appropriate any money for HOAP, and because of the serious defects in this program which I have just discussed, I expect that the Senate will want to take a very close look at this recommendation when the agriculture appropriations bill comes to the Senate floor.

Mr. WILLIAMS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by Mr. HEINZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

FULL FUNDING FOR URBAN DEVELOPMENT ACTION GRANTS

I urge my colleagues to support full funding of the Urban Development Action Grant Program at the $675 million level recommended by the Housing Committee.

In its brief history, UDAG has had a remarkable record of accomplishment. Its first funding cycle took place in April, 1978. Since then, 398 projects have been approved, in some 300 distressed cities and counties, and 100 of those are already under construction. The Federal investment of $734.2 million has attracted a total of $4.5 billion of private investment, a ratio of 6.20 private dollars to every Federal dollar. The program has created a total of 171,500 new permanent jobs, and has saved an additional 78,435 existing jobs, not counting construction jobs. This record clearly warrants an expansion of the program.

A project in Pennsylvania, which I assisted in bringing to HUD's attention, vividly illustrates the importance of this program. The Phoenix Glass Company plant in Beaver County burned down in July 1978. The company decided that it was undesirable to rebuild the plant in that location and planned to discontinue operations in Beaver County entirely. This would have resulted in a loss of 353 jobs in an area which already had an unemployment rate well over 7 percent and had lost almost 9 percent of its employment base in the five years from 1969–1974. An Action Grant enabled the company to acquire a larger site and build a more efficient plant. The Federal investment of $2.9 million stimulated a private investment of $22.9 million, which was very important to the economy of Beaver County and to the hundreds of people who would otherwise have lost their jobs.

The recent GAO report on the UDAG program was based entirely on projects funded during the first funding cycle, and the projects that were studied are not representative of the program to date. Moreover, the analysis demonstrates a lack of understanding of how the program works. The GAO auditors, for example, were not aware that the legislation calls for leveraging of UDAG funds with other public funds as well as with private investment. The GAO study therefore discounted the significant impact the UDAG Program has had in motivating State and local government agencies to invest in improving the economies of distressed areas.

The GAO report questioned the leveraging ration claimed by HUD as well as whether HUD grants were being used to substitute for private funds that were otherwise available. The extent of leveraging that can be attained will vary according to the nature of the project and the economy of the local area. However, very often, the leverage is relatively low precisely because of the difficulties of attracting private investment and the need for Federal funds to make the project feasible. Even if GAO figures are accepted as accurate, the national leverage ratio would be 4.3 private dollars for every UDAG dollar, which is certainly an adequate ratio given the nature of the program.

It should be obvious that every new program will experience difficulties and require some time to operate smoothly. When UDAG Program was enacted, HUD had a small professional staff that had to quickly develop regulations and operating procedures and review numerous applications. Moreover, many of the early applications were hastily developed by the cities. More recently, HUD has hired a number of individuals with extensive economic development experience in the private sector, and has improved its procedures. Moreover, local government agencies have had more lead time to develop good projects. As a result, the demand for funds has risen substantially, as has the number of worthwhile projects in relation to the funds available. It is therefore appropriate to expand the program at this time.

In this time of budgetary stringency, there has been much talk about cutting back subsidies to local governments and individuals, and emphasizing programs that will make them self-sufficient. The UDAG Program is one of the few Federal programs that is designed to do this. UDAG involves a cooperative effort between the government and enterprise to promote investment in distressed areas, to create and preserve jobs, to reduce unemployment and dependency, and to increase local tax revenues. It is only through stimulation of private efforts and investment that we can create any permanent impact on these problems. It would therefore be very short-sighted to economize by cutting back funding for a program that assists individuals and communities to take care of themselves.

INDIAN HOUSING

Mr. STEVENS. Mr. President, I have previously indicated my concern with HUD's performance with regard to Indian and Alaska Native housing. Last year, during consideration of the HUD appropriations bill, I attempted to set aside $50 million in new annual contributions contracts for Indian and Alaska Native housing which would have provided about 500 additional units of Indian housing in this fiscal year. This would still have only funded about one-eighth of the existing need. I was aware of the committee's position with regard to set asides, but felt that a special case must be made for Indian housing. The distinguished chairman of the HUD Appropriations Subcommittee, Senator PROXMIRE, indicated his willingness to hold hearings on this subject and I withdrew my amendment. I am still hopeful that these hearings can be scheduled because there continues to exist a gap between HUD's goals in this area and the number of units actually constructed.

Under HUD's housing program in 1978, for instance, there were 4,858 unit reservations; 4,581 construction starts; and only 2,677 completions. The 1978 need in Alaska alone was over 7,000 units. As of March 31, 1979, an estimated 17,600 Indian housing units were under reservation but construction had not yet started. This is despite a stated goal of 6,000 new starts annually.

The budget request for fiscal year 1970 proposed a 33-percent cut in funding for Indian housing. This reduction is totally disproportionate to that of the rest of the budget; representing the largest proposed cut of all assisted housing programs. Given the fact the HUD has not been able to meet its obligation to native Americans to this point, it makes little sense to further erode the ability of HUD to fulfill its mandated responsibility. I was very pleased to note in the report that the committee members share my concern and have included report language expressing their desire that HUD achieve the 6,000 unit annual goal; the level which has been the expressed goal of Congress since 1971. I am aware that the House appropriations bill provides funding for 6,009 units and I will work on the Senate side to see that this body reaffirms its commitment to our Indian and Alaska Native population by restoring funding to at least the fiscal year 1979 figure.

Mr. WILLIAMS. Mr. President, I share the Senator's concern about the difficulties that have plagued the Indian housing program.

The severe and disproportionate cut in Indian housing units proposed in HUD's budget this year, together with the backlog of unconstructed Indian housing reservations and the need to improve Indian housing, all make it clear that the process is not working as intended.

I believe it will be useful for the Housing Subcommittee to examine the problems and issues surrounding the Indian housing program, and we will attempt to schedule hearings in the near future.

● Mr. PRYOR. Mr. President, I am very pleased that the Senate saw fit to reject an amendment to strike section 319 from the Housing and Community Development Amendments of 1979, passed today.

Section 319 of the bill provides for a Federal preemption of State constitutional and statutory usury ceilings for mortgages insured under title I and title II of the National Housing Act by the Federal Housing Administration and interim financing for such FHA-insured homes.

In Arkansas a constitutional provision dating from 1874 limits the interest that may be charged on any loan to 10 percent. "Interest" under Arkansas law is interpreted to include any sort of fee associated with lending money, such as commitment fees, loan guarantee fees, time-price differentials, et cetera. The penalty for exceeding the 10-percent limit is forfeiture of interest and principal.

As you might expect, the impact of this provision on the availability of mortgage money has been devastating as interest rates climbed to double digits in recent years. Money has left the State for higher rates offered elsewhere, and there is virtually no mortgage lending in Arkansas today. Good credit risks are turned away routinely.

Under current law Arkansas has not been able to turn to FNMA, the VA, or FHA for help. FHA and VA rates were recently lifted from 9.5 percent to 10 percent, making such loans impossible in Arkansas. Since the FHA rate is a national rate, no exceptions can be made, and no lower rate can be offered to a State with a lower usury ceiling. The preemption contained in S. 1149 would remedy this situation. Because of the reluctance of the Congress to see the Federal Government usurp a State prerogative, however, the committee has wisely added a provision which would allow States to reenact a usury limit applicable to FHA mortgages subsequent to enactment of this legislation.

The usury exemption provision in today's legislation will bring some small relief from Arkansas' strictly enforced usury limit. This bill, coupled with similar legislation relating to VA loans, will serve to ease the strain on Arkansas' housing situation until the question of a constitutional usury provision is decided by the citizens of the State in November 1980.●

MORTGAGE LIMITS FOR 202 HOUSING

● Mr. CHILES. Mr. President, we are all aware of the effectiveness of the 202 housing program which provides for 100-percent loans to nonprofit sponsors for the construction of congregate living facilities for the elderly and handicapped.

Although very popular and effective, some proposed projects under the 202 program have been running into trouble lately. 202 sponsors are finding it difficult to stay within the HUD mortgage limits when faced with the current construction cost estimates. The current estimates for a one-bedroom unit are approximately $35,000 to $40,000. However, HUD regulations for 202 set the unit cost limit for a one-bedroom at $24,900.

This wide gap between the actual construction cost estimates and the HUD mortgage limits has resulted in sponsors having to redesign the proposed facility, or making substantial contributions toward the extra construction costs themselves. Both of these methods could seriously damage the 202 program. A less expensive design often means cutting back on the nonunit space, such as community rooms, dining rooms, libraries, and craft rooms. This results in a lower standard of housing and environment for the elderly and handicapped, which goes against the congressional intent that this program offer high standards of housing for the low- and moderate-income elderly and handicapped.

Mr. President, no one knows the legislative history of the 202 program better than the senior Senator from New Jersey, who is the Senate's leading advocate for the 202 housing program. I would like to ask him if it is not true that the Congress clearly intended that the 202 program be a 100-percent loan program, and the fact that sponsors are having to come up with contributions to the construction costs is an infringement on this intent.

Mr. WILLIAMS. The Senator is correct. When we legislated the "new" 202 program, the Congress specifically mandated that the loans be 100 percent in order to attract an array of qualified nonprofit sponsors who could help meet the very serious housing needs of the elderly and handicapped.

Mr. CHILES. But these intended loans are falling short of construction cost estimates and are forcing sponsors to contribute to the construction costs. This can cause sponsors to cancel their applications which could delay construction of 202 projects. Therefore, I urge HUD to increase their unit cost limits for the 202 program to realistically reflect current trends in construction costs. In addition, the HUD regulations already allow for adjustments to be made in the cost limits to compensate for differentials in costs in various geographical areas. I urge HUD to move quickly to allow for higher cost factors for the 202 program.

Mr. WILLIAMS. I concur with the Senator's remarks, and would like to point out that HUD has increased the high-cost factors recently for other programs. I would hope that the Secretary would move quickly in adapting the 202 program to current construction costs. The 202 program has been a very effective program and we should take every step to insure continuing success.

● Mr. METZENBAUM. Mr. President, I would like to commend the Senate Banking and Housing Committee, and especially the Senator from New Jersey, Mr. WILLIAMS, chairman of the Housing Subcommittee, for the excellent work they have done with this housing legislation. Thousands of people depend directly on the programs authorized by this bill for decent housing through the section 8, rental assistance, public housing, and other programs. This bill also includes an increased authorization of the highly successful urban development action grant program, which has played a key role in our effort to revitalize the Nation's cities. This bill attempts to provide assistance to individuals and communities, while at the same time recognizing that we are living in an era of fiscal restraint. I believe the committee bill has struck a balance between those competing demands that can be accepted by all sides. I would urge my colleagues to support this bill and to resist any efforts to limit the programs further.

Mr. President, we are facing a major crisis in housing in this country today. Many middle-income families have been shut out of the housing market because of the rising prices for homes and the drastically higher prices of utilities. At the same time, we are seeing the supply of rental housing units dwindle, as owners in many urban centers are converting their units to condominiums and cooperatives or because they are abandoning inner-city properties.

The housing shortage has created a situation that is pushing the national rate of inflation, not merely keeping pace with it. The cost of housing is one of the leading causes of inflation. The latest median price of existing homes is over $50,000—up 15 percent from only 1 year ago. New homes now sell for a median price of $56,000—also up by 15 percent over last year. According to the Joint Center of Urban Studies, 46 percent of all U.S. families in 1970 could afford to purchase a median priced new house or existing house. But by 1976, as the median price of housing far outstripped wage increases, the proportion of people who can afford to buy their own home has drastically declined. Today, less than 27 percent—only one-fourth of our Nation's families—can afford to buy a house that is sold at the median price.

The national housing shortage has had a negative impact on all parts of our country and on all income groups, but it has been especially devastating for the Nation's poor. This legislation recognizes that the Federal Government has a moral and legal obligation to provide housing assistance by authorizing the construction of an additional 300,000 units to assist the low- and moderate-income families, a move which will help relieve pressures on the housing market as a whole. This production authority is only half of the annual production goal of 600,000 new housing units set by Congress in 1968. It is a full 25 percent less than the 400,000 units authorized in the fiscal year 1979 budget. This bill authorizes $6 billion less in total budget authority than did the 1979 bill.

The committee has recognized that it cannot authorize full funding for all the programs that are needed. But we cannot turn our backs on the Nation's poor and moderate income families. Any further cuts would be punitive and counterproductive.

Mr. President, I would especially like to support the committee's recommendation to increase funding levels for the urban development action grant (UDAG) program from the present level of $400 million to $675 million. In its first year of operation in 1978, this program demonstrated that the Federal Government can work with private enterprise to meet the goals of renovating our cities and generating new jobs in the Nation's construction and service industries.

In its first annual report on this program released last month, HUD stated that funds committed in 236 action grant programs around the country generated more than $2.9 billion in private funds. Just 1 year of the action grant program created or saved more than 134,000 permanent jobs and generated more than 76,000 jobs in the construction industry. Those funds were used in a variety of programs to get programs off the ground. They included commercial, industrial, neighborhood, housing, and rehabilitation projects. They have been targeted to those cities in the country that have a critical need for assistance, cities with high rates of unemployment, high minority concentration and lower median family incomes.

Many cities in my home State of Ohio have greatly benefited from this program. The city of Akron, which has seen several major employers, especially the large rubber companies, leave the area, has begun a major redevelopment effort in the downtown area with the assistance of action grants totaling approximately $13 million. The city of Toledo is currently involved in a major redevelopment of its downtown area in conjunction with the major glass manufacturers of that city, again with the assistance provided by several action grants totaling more than $12 million. Similarly, the city of Dayton is using action grant funds to renovate its downtown arcade and the city of Cincinnati is improving major industrial areas to create minority job opportunities with action grant funds.

On the whole, the UDAG program has shown that Government and private enterprise can work as partners to renovate our urban areas. For every $1 spent by the Government under this program, private companies are coming up with an average investment of $6. This is an innovative program that seems to be working with a minimum of Government bureaucracy. I strongly support the effort to increase funds for this program.

Finally, I want to express my hope that a portion of the funds under the section 8 program in this bill will be set aside for the public housing modernization program. In many major cities, including my home city of Cleveland, major public housing units are sitting vacant and vandalized because public housing authorities do not have the needed funds to renovate them and turn them into decent housing. The cost of modernizing a unit is on the average only 60 percent of the cost of producing new housing. Unfortunately, HUD has requested funds this year that are 25 percent below the fiscal year 1979 authority to be set aside for the modernization program. This is a resource that we should improve and maintain.

Mr. President, I would again like to commend the committee for its action on this legislation. It is extremely important legislation for our cities and for individual citizens who are faced with tremendous pressures in the housing market. The committee bill shows a deep commitment to maintaining a viable and effective national housing program. I urge my colleagues to support this bill.●

NEIGHBORHOOD STRATEGY AREAS

● Mr. DOLE. I would like to discuss the effects of a 1978 Department of Housing and Urban Development regulation on the city of Wichita, Kans., and undoubtedly other cities of its size and composition.

Wichita has been a recipient of community development block grant funding since the program's inception. While the block grant funding is primarily aimed at physical development, the program also states that a portion of that money should be used to provide social services in conjunction with physical development. Indeed, the social services can be an integral part of the development projects of communities.

HUD regulations for 1978 require that CDBG money be aimed at several designated neighborhood strategy areas. This change may make sense in the cities of our country which have pockets of poverty, but it imposes a hardship on cities lucky enough to have their poor dispersed throughout the community. Wichita has a significant number of needy people, but they are not concentrated in one area. In fact, only 17 percent of Wichita's poor live in areas now designated as neighborhood strategy areas. This means that 83 percent of the needy people of Wichita which have relied on social services partially funded by the community development block grant program will do without these services if Wichita cannot find other sources of funding.

Does the Chairman share my belief that the Department of Housing and Urban Development should recognize the differences between cities which centralized areas of poverty and cities, such as Wichita, which have needy citizens dispersed throughout the city?

Mr. WILLIAMS. I concur with the Senator that the community development program should acknowledge these difference in local circumstances. As the Senator from Kansas recognizes, the program is intended to principally support local physical development activities. The law is very clear that social services are eligible for funding only to the extent that they are necessary to support concentrated physical development activities.

Mr. DOLE. I would agree that the neighborhood strategy area concept is appropriate in many situations. We do need to serve those most in need with the limited number of dollars we have available for social services. I would also agree that the community development block grant program should not be turned into a social service program. That is not its purpose. But those portions of the CDBG program which do provide social services for the poor should not be distorted in such a way as to make the funding nearly useless. This has happened in Wichita. Wichita still receives approximately the same amount of block grant funding, and has the same amount available for providing social services. However, only 17 percent of those people previously receiving the funded services will now be recipients. This does not address the goals of dispersement and deconcentration.

Does the Chairman agree that the Department of Housing and Urban Development should recognize the effects of these regulations on communities such as Wichita, and work to see that the poor of our smaller cities are fairly treated?

Mr. WILLIAMS. As the Senator from Kansas is aware, the Senate will be considering next year the reauthorization of the community development program. I assure the Senator that I will pursue this issue with the Department and during this upcoming total reexamination of the program.

Mr. DOLE. I appreciate the Chairman's remarks, and thank you for sharing your views on this matter. I am concerned that regulations such as these are ignoring the needs of smaller cities with decentralized poor, and hope that HUD will address this situation. I am submitting a statement which more fully describes my concerns.

NEIGHBORHOOD STRATEGY AREAS

Mr. President, I would like to discuss the effects of a 1978 Department of Housing and Urban Development regulation on the city of Wichita, Kans., and undoubtedly other cities of its size and composition. This regulation will allow only 17 percent of the poor of Wichita to receive community services under the community development block grant program, and will encourage the poor of Wichita to move into a few designated neighborhood strategy areas where the poor are already concentrated. This will occur in contradiction to stated congressional objectives of dispersing the poor throughout the community.

BLOCK GRANT FUNDS USED FOR SOCIAL SERVICES

Witchita has been a recipient of community development block grant funding since the program's inception in 1974. The money has been directed to a number of useful community development projects. The CDBG funding is primarily aimed at physical development. However, the program also states that a portion of that money should be used to provide social services in conjunction with physical development. Indeed, the social services are an integral part of the development projects of these communities.

The portion of block grant funding used by Wichita for social services has ranged from 8 percent to 15 percent. That money has been directed to several programs—meals on wheels, roving, pantry, Women's Crisis Center, Seventh Step, Eureka Community Center, perpetual help and others providing badly needed aid to the poor of Wichita.

HUD REGULATIONS LIMIT USE IN WICHITA

Until 1978 this funding could be used to serve the poor throughout the city of Wichita, wherever they might live. However, 1978 HUD regulations now require that CDBG money be aimed at several designated neighborhood strategy areas. These areas are determined by the city following HUD guidlines. Guidance from HUD officers has resulted in eight areas in the city where the CDBG money can be directed for physical and related social programs. This change may make sense in the larger cities of our country, which have pockets of poverty, but it imposes a hardship on smaller cities lucky enough to have their poor dispersed throughout the community. Wichita has a significant number of needy people, but they are not congregated in one area. In fact, only 17 percent of Wichita's poor live in areas now designated as neighborhood strategy areas. This means that 83 percent of the needy people of Wichita which have relied on social services partially funded by the community development block grant program as an adjunct to physical development will do without these services if Wichita cannot find other sources of funding. Further, city officials indicate that they have pursued all other sources of funding to no avail.

LEADS TO CONCENTRATION OF POOR

This turn of events is ironic in light of the congressional directive regarding the intent of the community development program. The statutory objective mandates "the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower incomes * * *" the restrictive neighborhood strategy area requirements of these regulations do not further this objective in cities like Wichita, but rather have the opposite effect. They provide incentive for poor persons to congregate in those areas where services are available.

I would agree that the neighborhood strategy area concept is appropriate in many situations. We do need to serve those most in need with the limited number of dollars we have available for social services. I would also agree that the community development block grant program should not be turned into a social service program. That is not its purpose. But those portions of the CDBG program which do provide social services for the poor should not be distorted in such a way as to make the funding nearly useless. This has happened in Wichita. Wichita still receives approximately the same amount of block grant funding, and has the same amount available for providing social services. However, only 17 percent of those people previously receiving the funded services will now be recipients. This does not address the goals of dispersement and deconcentration.

REQUEST HUD ACTION

I request that the Department of Housing and Urban Development recognize the effects of these regulations on communities such as Wichita, and work with officials in the city of Wichita to determine possible changes in these regulations and alternative sources of funding for these programs. I have received indications from HUD officials they are willing to do so, and encourage their further attention to this matter.●

● Mr. NELSON. Mr. President, I want to take this opportunity to commend the Banking Committee for approving my amendments to the Interstate Land

Sales Full Disclosure Act as part of the fiscal year 1980 housing authorization bill. I know your committee shares my view that OILSR's current interpretations of that law does not square with what we in Congress had in mind when we enacted the Interstate Land Sales Full Disclosure Act in 1967. The amendment I introduced with nine other Senators and which your committee has twice approved, does legislatively set the record straight.

As stated in my introductory remarks on S. 896, the goal of the legislation is to take OILSR out of the business of regulating developers who run entirely intrastate sales operations.

"Intrastate" means what it says—that the residence of the buyer, the developer, and the situs of the land all must be in the same State. A tourist on vacation can not take advantage of this exemption unless he is touring his own State.

These developers are not, nor have they every been, a part of the problem the Congress sought to cure when it enacted the Interstate Land Sales Act in 1968.

As the law is now administered, these businesses are subjected to the cost and aggravation of an unnecessary, substantial paperwork burden; tax dollars are unnecessarily consumed to support a bureaucracy which is needed to handle the additional Government paperwork; and inevitably, the cost of land is increased for the consuming public.

In the past, OILSR had consistently ignored the fact that the Congress was addressing itself to an "interstate" problem. We did not seek to control "interstate" sales. Further, I feel very strongly that the States have the responsibility and because of their local presence, the ability to control any problems which may arise between in-State purchasers and in-State developers.

While there are States which do not have "mini-Interstate Land Sales Acts" to provide a basis for land sales protection, and some may not have "little-FTC acts" to provide a basis for fraud protection that does not make it a Federal question. That is a matter properly within the exclusive jurisdiction of the States.

Based on my review of State laws, most States have considered both the questions of regulation and the scope of coverage of land sold within their jurisdiction. Twenty-two States regulate land sales where the developer, buyer and the land are located within the State—a pure intrastate land sale.

In addition, 45 States have laws regulating the sale of out-of-State lots to their residents.

But the fact remains that 45 States have addressed the question—and apparently regulate in the area where problems existed, or they believe are most likely to occur—the interstate sale of land.

With the clarification provided by this legislation that the Federal Government will not be, and should not be, available to rush in on a moment's notice, it may stimulate States to enact further legislation to protect their own citizens. If States choose not to provide that protection, maybe that fact in and of itself says something about the severity of the intrastate problem.

The committee's action in adopting S. 896 provides for two important changes from current law. One is the exclusion of the "the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate in nature." This is by far the most important change offered. It is designed to take OILSR out of the business of regulating intrastate developers.

This exemption would relieve "intrastate" developers from the paperwork burdens of the act. In order to obtain this exemption, however, intrastate developers must meet certain conditions. These conditions have been put in the bill to insure that consumers are fully informed and protected when making their decision to purchase land, and I believe they more than compensate for the lengthy, complex and technical disclosure now required to be given currently under the act.

In order to take advantage of the intrastate exemption, the following requirements must be met:

First, the purchaser must have made a person, onsite inspection of the lot to be purchased;

Second, the lot must be free and clear of all liens and encumbrances; and

Third, the developer must inform the purchaser in writing, whether services such as water, sewer, and roads, will be provided.

The second feature is the limited allowance for the sale or lease of lots to out-of-State purchasers before there is any consideration of bringing the developer under the registration provisions of the act. There was an out-of-State limitation in previous OILSR regulations but it proved to be unworkable for the small developer.

S. 896 as introduced and reported by committee in this bill, while addressing what many of us have found to be a problem under existing law, does not provide a comprehensive review of the Interstate Land Sales Act, the industry, or the OILSR enforcement of its statutory mandate. That responsibility clearly falls upon the Banking Committee and the committee has conscientiously undertaken its responsibilities. The hearings first held by the Senate Select Committee on Small Business, which provided the initial forum from which this legislation flowed, addressed the overregulation problem within the context of the then-existing law. Subsequently, hearings before both your committee and your counterparts in the House on the agency's implementation of the act convince me, and many of our colleagues more than ever, that OILSR's stretching of their jurisdiction needlessly subjects independent enterprises, particularly small developers and realtors, to substantial and unnecessary costs and paperwork. Simply, Mr. President, it is time for the Congress to legislatively spell out what the policy of the Congress is, cut the Office of Interstate Land Sales Registration in half, and force it to confine its activities to the protection of buyers in the "interstate" market.

In addition, the bill proposes technical amendments to the so-called "Sparkman/Tower" municipal exemption enacted last year. For several reasons, that exemption has not brought the type of relief we expected. These proposed adjustments to those provisions help insure that both the intention and the substance of the exemption is corrected so as to make the provision usable.

Fundamentally, this legislation builds from a basic assumption: the on-site inspection, coupled with simple and minimum, but significant disclosures, is a sound method of consumer protection. I believe HUD agrees with this assumption. While they have previously recommended deleting the "on-site" or "free and clear" exemption from the statute because it is confusing, they have retained, and I am told, expanded, their old "limited offering" exemption.

This latter exemption would be self-determining, with only notice to HUD required. Sales to nonresidents would be permitted if sales are "incidental to the logical promotion of the subdivision to the local market." HUD's rules state, I am pleased to note that "this may occur, for example, when a local community is located on a State border."

But the point is that HUD still requires on-site inspection, coupled with contract specificity as to what improvements will be provided by the developer and which party will be responsible for the maintenance of proposed amenities. These identical protections are incorporated in this legislation, Mr. President.

The Banking Committee modified the legislation last year to insure that the fraud provisions of the Interstate Land Sales Act remained in full force and effect. I supported that amendment, agreeing that HUD should have reasonable authority to protect and prosecute fraudulent practices. That protection is retained with respect to both the intrastate and the so-called 100-mile exemption.

Mr. President, I believe the Banking Committee's action in approving amendments to the Interstate Land Sales Act was proper, timely, and correct. The Senate agreed last year. I am confident that new Members in this body will feel the same way this year, and that the Senate will again favorably enact this corrective legislation. Hopefully this year, with the record more clearly and forcefully made, and with the legislative process working to the fullest, we will be able to provide unmistakeable direction to HUD, and insure consumer protection, while at the same time reducing or eliminating the regulatory burdens on the industry.

It should be noted that the House of Representatives has also seen fit to include a similar intrastate exemption in the HUD authorization bill it has passed.

The House bill, however, is different from the committee-reported bill in two respects. First the House bill contains a definition of "intrastate." This definition is entirely consistent with my intent in drafting this bill and I fully support this clarification.

The second difference in the House bill relates to the interrelationship of Federal and State law in allowing this intrastate exemption. The House bill conditions the intrastate exemption on the State in which the land is located requiring the "delivery of a disclosure document to purchases, as determined to be necessary by the State." I totally agree with the thrust of the House amendment that States should be able to formulate their own disclosure standards for land sales activities entirely within their boundaries, and I would support a modification to the committee bill to achieve that result.

However, the House passed language appears ambiguous. Statements on the House floor, particularly by the chairman of the Housing Subcommittee, the sponsor of this amendment, are clear. Others make it less clear exactly what is intended.

The ambiguity arises over the meaning of "as determined necessary by the State." I understand the sponsor's intent to be that the intrastate exemption would be available on the date of enactment of these amendments.

Thereafter States would be able to enact additional disclosure requirements to sales occurring within their boundaries as they saw fit. This approach makes a great deal of sense and is one with which I would agree.

However, if this clause is read to mean that the Federal exemption is not available until the States determine what disclosure requirement should be operative, then we will have done little or nothing in enacting these modifications to the Interstate Land Sales Full Disclosure Act. The problem that has arisen with this act is a Federal problem. It was caused by a consistent misinterpretation by HUD of a law Congress passed 10 years ago. It would not be appropriate to allow each of the 50 States to determine when, if ever, the solution to the problem caused by the Federal law should become effective.

Furthermore, the interpretation of the House language that the Federal exemption is operative on the effective date of this act and that States may, in their discretion add further disclosure requirements, is eminently preferable to any alternative interpretation. It properly gives the needed Federal exemption right now. It puts the decision for who is exempt from Federal law where it belongs—in the U.S. Congress.

I think it is up to us in Congress to determine when these exemptions should be effective and it is my hope that we in the Senate and our colleagues in the House will exercise that responsibility.●

● Mr. CHILES. Mr. President, I would like to call attention to the portion of the Housing and Community Development Act Amendments of 1979 which seeks to improve the present administration of the interstate land sales law. I wish to compliment the members of the Senate Banking, Housing, and Urban Affairs Committee for including in the legislation before us today provisions to exempt certain intrastate land transactions from Federal regulation.

I strongly support this action taken by the committee to reduce the scope of Federal regulation of intrastate land sales. The limited exemptions proposed by the committee would eliminate expensive, time-consuming and unnecessary requirements presently imposed on small, primarily intrastate developers who were not a part of the intended clientele for regulation by the HUD Office of Interstate Lands Sales Registration (OILSR).

Mr. President, during the past few years there has developed on the part of Members of Congress and the administration an increasing awareness of the importance of knowing how Federal policies affect housing costs. Three years ago, when the housing price problem was just beginning to build, I asked the Congressional Budget Office (CBO) to analyze what was causing increased housing costs and what could be done about it. I later held a Senate Budget Committee hearing to discuss the CBO findings which revealed, among other things, the extent to which home prices had been affected by rising land costs. The study identified the problem of high land costs, aggravated by Federal regulation, as having contributed as much as 23 percent to the average home sale price increase from 1970–74.

Subsequent studies and discussions of housing costs have reaffirmed the need to identify and appropriately review Federal regulatory policies which tend to drive up land prices and contribute significantly to increased housing costs. The administration moved forward in responding to rapidly rising housing costs by appointing a nationwide task force to recommend specific actions to reduce housing costs. The HUD task force completed its review and published its recommendations in May 1978. Last November, it was my privilege to sponsor a statewide conference on housing costs at Tampa, Fla., to discuss in detail the complex issues surrounding rising housing costs and examine and evaluate the recommendations made by the HUD-appointed task force. Both the national task force on housing costs and the Florida Ad Hoc Advisory Committee on Housing Costs recommend a review of Government policies which fuel inflation by adding unnecessary costs.

Today we can point to four major factors which drive up housing costs—higher interest rates, rising fuel costs, increasing prices of materials and labor, and a mire of Federal regulation. Eliminating needless regulation is one of the simplest and most productive ways that we can attack rising housing costs.

The conference on housing costs offered valuable suggestions as to how the Government can immediately begin to reduce the regulation "tax" on housing. We can avoid duplication among Federal and State agencies; we can eliminate burdensome and complicated rules; and we can, most specifically, get off the back of small developers.

Provisions in the Housing and Community Development Act amendments represent a highly commendable step toward freeing small developers from some of the unreasonable burden that has been imposed on them. The registration of intrastate land sales has caused considerable additional, and unnecessary, paperwork, which in turn has caused time lags and delays in building. Of course, these delays translate into additional costs which are passed on to the homebuyer.

The new exemptions to Federal registration and disclosure provisions created by this legislation are described in the committee report:

> Under certain circumstances, the sale or lease of real estate by a developer engaged in a sales operation which is only intrastate in nature would be exempt. Hence, when the subdivision and principal residence of the purchaser are in the same State the exemption may be available even though telephones, the mail or other instrumentality of interstate commerce may be used by the developer.
>
> Also, under certain circumstances, the sale or lease of real estate, not to exceed 500 lots in a subdivision, by a developer to a resident of another State when the principal residence of the purchaser is within a radius of 100 miles from the property to be purchased would be exempt.

One of the most encouraging aspects of these exemptions is that they will benefit everyone. The industry benefits because the legislation reduces extra work and expense for small developers and builders. The consumer benefits because costs are reduced. And finally, the HUD Office of Interstate Land Sales Registration (OILSR) benefits because it will be able to devote more time and effort to protecting consumers from fraudulent and deceptive interstate land sales.

The housing conference emphasized that there should be a forceful application of laws which are fair and reasonable as they relate to sales practices. I could not agree more. Basic health, safety, and environmental quality must be assured. But with 20 percent of the cost of homes today already attributable to regulation, we must sort out what is necessary and what is not.

The Federal regulation of primarily intrastate land transactions is not necessary. The action taken by the committee with respect to these limited exemptions is an example of the Government's ability to take constructive steps to reduce consumer costs. It is an example of the Government's ability to assist industry in operating more efficiently. The action sets an example which should be welcomed by my colleagues in the Senate and the House of Representatives, members of the housing industry, and American consumers.●

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill (S. 1149).

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Pursuant to the unanimous-consent agreement, the question is on the engrossment of the amendments and third reading of the bill (H.R. 3875).

The amendments were ordered to be engrossed, and the bill to be read a third time.

Mr. ROBERT C. BYRD. Mr. President,

no debate is allowed during a rollcall, of course. But there will be no more rollcalls today.

There will be no session tomorrow. There will be rollcalls daily next week beginning with Monday when we come in at 10 o'clock and begin on the nuclear regulatory bill.

The PRESIDING OFFICER. The question is, Shall the bill (H.R. 3875), as amended, pass? The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Nebraska (Mr. EXON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. LONG), the Senator from Maine (Mr. MUSKIE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that the Senator from Vermont (Mr. LEAHY) is absent on official business.

Mr. BAKER. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted?

The result was announced—yeas 82, nays 0, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—82

Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Ford
Garn
Glenn
Gravel
Hart
Hatfield
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stewart
Stone
Thurmond
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—0

NOT VOTING—18

Armstrong
Bumpers
Church
Eagleton
Exon
Goldwater
Hatch
Heinz
Hollings
Leahy
Long
McClure
Muskie
Ribicoff
Stevens
Stevenson
Talmadge
Tower

So the bill (H.R. 3875), as amended, was passed, as follows:

H.R. 3875

That this Act may be cited as the "Housing and Community Development Amendments of 1979".

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

REHABILITATION LOANS

SEC. 101. (a) Section 312(d) of the Housing Act of 1964 is amended by striking out "and not to exceed $245,000,000 for the fiscal year beginning on October 1, 1978" and inserting in lieu thereof "not to exceed $245,000,000 for the fiscal year beginning on October 1, 1978, and not to exceed $130,000,000 for the fiscal year beginning on October 1, 1979".

(b) Section 312(h) of such Act is amended by striking out "1979" each place it appears and inserting in lieu thereof "1980".

COMPREHENSIVE PLANNING

SEC. 102. The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking out "and not to exceed $57,000,000 for the fiscal year 1979" and inserting in lieu thereof "not to exceed $57,000,000 for the fiscal year 1979, and not to exceed $50,000,000 for the fiscal year 1980".

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 103. Section 608(a) of the Housing and Community Development Amendments of 1978 is amended by inserting ", and not to exceed $12,000,000 for fiscal year 1980" after "1979".

NEIGHBORHOOD SELF-HELP DEVELOPMENT

SEC. 104. Section 705 of the Housing and Community Development Amendments of 1978 is amended by striking out "$15,000,000" and inserting in lieu thereof "$13,500,000".

LIVABLE CITIES

SEC. 105. Section 807 of the Housing and Community Development Amendments of 1978 is amended by striking out "$10,000,000" and inserting in lieu thereof "$4,500,000".

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SEC. 106. (a) Section 103(c) of the Housing and Community Development Act of 1974 is amended by striking out "a sum not in excess of $400,000,000 for supplemental grant assistance under section 119 for each of the fiscal years 1978, 1979, and 1980" and inserting in lieu thereof "for supplemental grant assistance under section 119 a sum not to exceed $400,000,000 for each of the fiscal years 1978 and 1979, and not to exceed $675,000,000 for the fiscal year 1980".

(b) Section 104(b)(3) of such Act is amended to read as follows:

"(3) The Secretary may waive all or part of the requirements contained in paragraphs (1), (2), and (3) of subsection (a) if (A) the application does not involve a comprehensive community development program, as determined by the Secretary, and (B) the Secretary determines that, having regard to the nature of the activity to be carried out, such waiver is not inconsistent with the purposes of this title.".

(c) Section 106(m) of such Act is amended by striking out "or fiscal year 1979" and inserting in lieu thereof ", fiscal year 1979, or fiscal year 1980".

(d) Section 119(c) of such Act is amended by adding at the end thereof the following: "For the purpose of this section, the term 'cities' may include townships, as determined by the Secretary.".

(e)(1) The first sentence of section 106(d)(2) of such Act is amended by striking out ", and States" and inserting in lieu thereof ", to units of local government which are part of, but are not located entirely within the boundaries of, urban counties, and to States".

(2) Section 106(d)(2) of such Act is amended by adding at the end thereof the following: "The Secretary shall condition any grant under this subsection to a unit of local government which is part of, but is not located entirely within the boundaries of, an urban county on the receipt of satisfactory assurances that (A) the funds will be used in that part of the unit of local government with respect to which the grant was made, and (B) the funds received by the urban county under subsection (b)(2) will not be used in that part of the unit of local government which is not located within the boundaries of the urban county.".

URBAN HOMESTEADING AMENDMENT

SEC. 107. (a) Section 810 of the Housing and Community Development Act of 1974 is amended—

(1) by redesignating subsection (g) as subsection (i);

(2) by inserting after subsection (f) the following:

"(g)(1) The Secretary is authorized to reimburse the Administrator of Veterans' Affairs, in an amount to be agreed upon by the Secretary and the Administrator, for property which the Administrator conveys to a unit of general local government, State, or agency for use in connection with an urban homesteading program.

"(2) The Secretary is authorized to reimburse the Secretary of Agriculture, in an amount to be agreed upon by the Secretary and the Secretary of Agriculture, for property which the Secretary of Agriculture conveys to a unit of general local government, State, or agency for use in connection with an urban homesteading program.

"(h) In order to facilitate the inclusion of locally held properties into urban homesteading programs, any property which meets the requirements of this section which is acquired by a local government, State, or a public agency, as defined in this section, for use in an approved urban homesteading program, and which is not acquired through the use of eminent domain will not be subject to the provisions of title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 where, in accordance with regulations prescribed by the Secretary, the seller knowingly waives his or her rights under such title."; and

(3) by striking out "subsection (c)" in subsection (i), as redesignated, and inserting in lieu thereof "subsections (c) and (g)".

RENTAL UNIT CONVERSIONS AND AVAILABILITY

SEC. 108. (a) In reviewing local housing assistance plans submitted pursuant to section 104(a)(4) of the Housing and Community Development Act of 1974, the Secretary shall evaluate whether applicants have accurately assessed the effect of the conversion of rental units to condominiums, cooperatives, and other ownership housing forms. This assessment shall measure the extent of ongoing conversion activities; shall estimate the expected number of units to be converted during the fiscal year for which assistance is being sought; and shall describe the—

(1) anticipated effect of such conversions on the availability of affordable rental housing for low- and moderate-income persons residing or expected to reside in the community,

(2) present and anticipated involuntary displacement of low- and moderate-income persons in the community due to conversion activities, and

(3) extent to which conversion activities affect the present and anticipated housing assistance needs of lower-income persons residing or expected to reside in the community.

(b) Within six months after the enactment of this Act, the Secretary shall submit to the Congress a report on the present and anticipated availability of affordable rental units for low-, moderate-, and middle-income Americans. Such report shall assess, but is not limited to—

(1) the present and anticipated effects of condominium and cooperative conversions, reinvestment activity, and abandonments, on the availability of such affordable rental units,

(2) innovative means which can prevent or reduce the involuntary displacement of tenants due to conversions, reinvestment, or abandonment, including financial and technical assistance to facilitate the conversion of private market rental units to nonprofit cooperatives or condominiums by tenants,

(3) the present an anticipated dependence of the multifamily construction market upon federally subsidized or insured construction, and

(4) steps which can be taken by the Federal Government to encourage increased construction and rehabilitation of such affordable rental units by the unsubsidized multifamily construction market.

TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW-INCOME HOUSING

SEC. 201. (a) The first sentence of section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" immediately after "October 1, 1977,"; and

(2) by inserting immediately after "on October 1, 1978" the following: ", and by $1,140,661,000 on October 1, 1979,".

(b)(1) Section 8(f)(1) of such Act is amended by striking out "80" both places it appears and inserting in lieu thereof "70".

(2) The amendment made by paragraph (1) of this subsection does not affect the eligibility of any family occupying housing subject to an annual contributions contract on the effective date of this section to continue to receive assistance under section 8 of the United States Housing Act of 1937.

(c) Section 9(c) of such Act is amended—

(1) by striking out "and" immediately after "on or after October 1, 1977,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $741,500,000 on or after October 1, 1979".

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

SEC. 202. (a) The first sentence of section 201(h) of the Housing and Community Development Amendments of 1978 is amended by inserting immediately before the period at the end thereof the following: ", and not to exceed $82,000,000 for the fiscal year 1980".

(b) Section 236(f)(3)(B) of the National Housing Act is amended—

(1) by inserting immediately after "October 1, 1978," in the first sentence the following: "or credited to such fund prior to October 1, 1978, but remaining unobligated on October 31, 1978,"; and

(2) by striking out "September 30, 1979" in the third sentence and inserting in lieu thereof "September 30, 1980".

STATE'S FAIR SHARE OF HOUSING ASSISTANCE AND INCREASED LOCAL FLEXIBILITY

SEC. 203. Section 213(d)(1) of the Housing and Community Development Act of 1974 is amended by inserting before the last sentence the following: "Any amounts allocated to a State or to areas or communities within a State which are not likely to be utilized within a fiscal year shall not be reallocated for use in another State unless the Secretary determines that other areas or communities within the same State cannot utilize the amounts in accordance with the appropriate housing assistance plans within that fiscal year. For the purpose of this section, the Secretary may allow amendments, from time to time, in accordance with rules and regulations under section 104(a)(4) of this Act, to housing assistance plans and shall provide an expedited procedure for the review of and determination with respect to such amendments.".

PRESERVATION OF LOW-INCOME CHARACTER OF ASSISTED HOUSING

SEC. 204. (a) Section 9(a) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out "(1)" and "(2)" in the second sentence and inserting in lieu thereof "(A)" and "(B)";

(3) by adding the following new paragraph at the end thereof:

"(2) The Secretary may not make assistance available under this section for any low-income housing project unless such project is being assisted by an annual contributions contract authorized by section 5(c) but not subject to section 8, except that after the duration of any such annual contributions contract with respect to a low-income housing project, the Secretary may provide assistance under this section with respect to such project as long as the low-income nature of such project is maintained.".

(b) The first sentence of section 8(e)(1) of the United States Housing Act of 1937 is amended by striking out "one month" and inserting in lieu thereof "two hundred and forty months".

(c) Section 201(d)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting the following before the semicolon at the end thereof: ", and the owner has agreed to maintain the low- and moderate-income character of such project for a period at least equal to the remaining term of the project mortgage".

VERIFICATION OF INCOME

SEC. 205. Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end thereof:

"(k) The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and federal income taxation and data relating to benefits made available under the Social Security Act, the Food Stamp Act of 1977, or title 38 of the United States Code. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.".

DEFINITION OF "QUALIFIED TENANT"

SEC. 206. Section 236 of the Housing and Urban Development Act of 1965 is amended by striking out section 236(m) and inserting the following new sentence: "As used in this section, the term 'qualified tenant' means any individual or family having an income which would qualify such individual or family for assistance under section 8 of the United States Housing Act of 1937, except that such term shall also include any individual or family who was receiving assistance under this section on the date of the enactment of the Housing and Community Development Amendments of 1979.".

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1979" in the first sentence and inserting in lieu thereof "October 1, 1980".

(b) Section 217 of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1979" in the fifth sentence and inserting in lieu thereof "September 30, 1980".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1979" in the first sentence and inserting in lieu thereof "September 30, 1980"; and

(2) by striking out "October 1, 1979" in the second sentence and inserting in lieu thereof "October 1, 1980".

(g) Section 245 of such Act is amended by striking out "September 30, 1979" where it appears and inserting in lieu thereof "September 30, 1980".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, is amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1980".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 303. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1979" and inserting in lieu thereof October 1, 1980".

MOBILE HOME FINANCING IMPROVEMENTS

SEC. 304. Section 2(b) of the National Housing Act is amended—

(1) by striking out "$16,000 ($24,000 in the case of a mobile home composed of two or more modules" in the first sentence and inserting in lieu thereof "$20,000 ($30,000 in the case of a mobile home containing two or more modules or in the case of a mobile home that contains more than 1,100 square feet";

(2) by striking out subparagraph (A) of the second paragraph and inserting in lieu thereof:

(A) involve such an amount not exceeding $26,250 ($36,250 in the case of a mobile home composed of two or more modules or in the case of a mobile home that contains more than 1,100 square feet); and ";

(3) by striking out "fifteen years and thirty-two days (twenty-three" in subparagraph (B) of the second paragraph and inserting in lieu thereof "twenty years and thirty-two days (twenty-eight";

(4) by striking out subparagraph (A) of the third paragraph and inserting in lieu thereof—

"(A) involve such an amount not exceeding $28,750 ($39,375 in the case of a mobile home composed of two or more modules or a mobile home that contains more than 1,100 square feet); and";

(5) by striking out "fifteen years and thirty-two days (twenty-three" in subparagraph (B) of the third paragraph and inserting in lieu thereof "twenty years and thirty-two days (twenty-eight";

(6) by striking out "$5,000 in the case of an undeveloped lot, or (ii) $7,500" in subparagraph (A) of the fourth paragraph and inserting in lieu thereof "$6,250 in the case of an undeveloped lot, or (ii) $9,375"; and

(7) by striking out "ten years and thirty-two days" in subparagraph (B) of the fourth paragraph and inserting in lieu thereof "fifteen years and thirty-two days".

SINGLE FAMILY MAXIMUM MORTGAGE AMOUNTS

Sec. 305. (a) Section 203(b)(2) of the National Housing Act is amended by striking out everything after "(2)" through the fourth semicolon and inserting in lieu thereof the following: "involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $70,000 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or $80,000 in the case of a two-family residence, or $99,000 in the case of a three-family residence; or $120,000 in the case of a four-family residence;".

(b) Section 220(d)(3)(A)(i) is amended—

(1) by striking out "$60,000" and inserting in lieu thereof "$70,000";

(2) by striking out "$65,000" the first place it appears and inserting in lieu thereof "$80,000";

(3) by striking out "$65,000" the second place it appears and inserting in lieu thereof thereof "$99,000";

(4) by striking out "$75,000" and inserting in lieu thereof "$120,000";

(5) by striking out "$7,700" and inserting in lieu thereof "$8,500".

(c) Section 222(b)(2) and section 234(c) of such Act are amended by striking out "$60,000" and inserting in lieu thereof "$70,000".

(d) The Secretary of Housing and Urban Development shall conduct a study of alternatives to the present system of fixed statutory maximum amounts for mortgages insured by the Department of Housing and Urban Development under titles I and II of the National Housing Act such study shall include an examination of possible alternatives, including but not limited to flexible mortgage ceilings, prototype cost limits, ceilings based on regional housing costs, median sales prices of homes, and construction costs. The Secretary shall report to the Congress on the results of such study, together with recommendations for legislation, no later than March 1, 1980.

MORTGAGE INSURANCE FOR DWELLING WITH WARRANTY PLANS

Sec. 306. Section 203(b)(2) of the National Housing Act is amended by striking out "the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction" in the third sentence and by inserting in lieu thereof the following: "(i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction, or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction".

MULTIFAMILY MAXIMUM MORTGAGE AMOUNT

Sec. 307. (a) Section 207(c)(3), section 213(b)(2), section 220(d)(3)(B)(iii), and section 234(e)(3) of the National Housing Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", "$36,000", "$22,500", "$25,200", "$30,900", "38,700", and "$43,758" whenever they appear and inserting in lieu thereof "$23,930", "$26,500", "$31,660", "$39,020", "$44,170", "$27,600", "$30,900", "$37,910", "$47,480", and "$53,690", respectively.

(b) Section 221(d)(4)(ii) of such Act is amended by striking out "$20,962", "$24,030", "$29,220", "$37,800", and "$41,494" and inserting in lieu thereof "$25,700", "$29,480", "$35,850", "$46,380", and "$50,910", respectively.

(c) Such Act is amended by striking out "by not to exceed 50 per centum in any geographical area" where it appears in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)ii), 221(d)(4)(ii), 231(c)(2), and 234(e)(3) and inserting in lieu thereof in each such section "by not to exceed 90 per centum in any geographical area".

(d) Section 207(c)(3) of such Act is amended by striking out "$3,900" and inserting in lieu thereof "8,000".

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MAXIMUM MORTGAGE AMOUNT

Sec. 308. (a) The second sentence of section 302(b)(1) of the National Housing Act is amended to read as follows:

"Notwithstanding the provisions of clause (3) in the preceding sentence, the association may purchase a mortgage under section 305 with an original principal obligation that exceeds the otherwise applicable maximum amount per dwelling unit if the mortgage (1) is insured under sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), 234(e)(3), or 236, and (2) at least 20 percent of the units covered by such mortgage are assisted under contracts authorized by section 8 of the United States Housing Act of 1937.".

(b) At the end of section 313 of the National Housing Act add the following new section:

"(i) Notwithstanding any other provision of this section, the association may purchase a mortgage under section 313 with an original principal obligation that exceeds the otherwise applicable maximum amount per dwelling unit if the mortgage (1) is insured under sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), or 234(e)(3), or 236, and (2) at least 20 percent of the units covered by such mortgage are assisted under contracts authorized by section 8 of the United States Housing Act of 1937.".

TEMPORARY MORTGAGE ASSISTANCE PAYMENTS

Sec. 309. (a) Section 230 of the National Housing Act is amended—

(1) by inserting "(a)" after "Sec. 230.";

(2) by inserting after "by recasting the unpaid balance," in the first sentence of subsection (a), as so designated, the following: "or has previously made monthly payments due under the mortgage pursuant to subsection (b),"; and

(3) by adding at the end thereof a new subsection (b) as follows:

"(b)(1) As an alternative to the acquisition of a loan and security therefor under subsection (a), the Secretary may, in the Secretary's discretion, make all or part of the monthly payments due under the mortgage directly to the mortgagee on behalf of the mortgagor in cases involving default caused by circumstances beyond the mortgagor's control which render the mortgagor temporarily unable to correct a mortgage delinquency and to resume full mortgage payments. Payments may be made only in accordance with the provisions of this subsection and shall be subject to any additional requirements the Secretary may prescribe.

"(2) No payments may be provided hereunder unless the Secretary has determined that such payments are necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able—

"(A) to resume full mortgage payments upon termination of assistance under this subsection;

"(B) to commence repayment of the payments made hereunder at a time designated by the Secretary; and

"(C) to pay the mortgage in full by its maturity date or by a later date for completing the mortgage payments previously approved by the Secretary under section 204(a) of this Act.

"(3) Payments under this subsection may be in an amount determined by the Secretary, in the Secretary's discretion, up to the amount of the principal, interest, taxes, assessments, ground rents, hazard insurance, and mortgage insurance premiums due under the mortgage, and the initial payment may include an amount necessary to make the mortgage current. Payments may not exceed amounts which the Secretary determines to be reasonably necessary to supplement the amounts, if any, which the mortgagor is capable of contributing toward the mortgage payments.

"(4) Payments may be provided for a period of not to exceed eighteen months, inclusive of any period of default for which payments are provided. Such period may be extended, in the Secretary's discretion, for not to exceed eighteen additional months where the Secretary has determined that, because of unforeseen changes in the mortgagor's financial circumstances, such extension will be necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able to make the payments and repayments specified under subsections (b)(2)(A), (B), and (C). The Secretary shall establish procedures for periodic review of the mortgagor's financial circumstances for the purpose of determining the necessity for continuation, termination, or adjustment in the amount, of the payments. Payments by the Secretary shall be discontinued at any time when the Secretary determines that, because of changes in the mortgagor's financial circumstances, the payments are no longer necessary to avoid foreclosure or that there is no longer a reasonable prospect that the mortgagor will be able to make the payments and repayments specified under subsections (b)(2), (A), (B), and (C).

"(5) All payments by the Secretary shall be secured by such obligation as the Secretary may require, and such obligation shall include a lien on the mortgaged property. Payments shall be repayable upon terms and conditions prescribed by the Secretary, and such terms and conditions may include requirements for repayment of any amount paid by the Secretary toward a mortgagee's expenses in connection with the payments or repayments hereunder. The Secretary may establish appropriate interest charges on payments made under this subsection which shall be payable notwithstanding any provision of State or local law which limits the rate of interest on loans or advances of credit, except that interest shall not be charged at a rate which exceeds the maximum interest rate applicable with respect to mortgages insured pursuant to section 203(b) of this Act.

"(6) Payments under this subsection may be made whether or not the Secretary has previously taken action to avoid mortgage acquisition or foreclosure, except that payments may be provided with respect to a morgage previously assisted under this subsection only under limited conditions prescribed by the Secretary.

"(7) All expenditures made pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the property to which the payments made hereunder relate, and any payments received hereunder shall be credited to such fund. For purposes of this subsection, expenditures may include amounts paid by the Secretary toward a mortgagee's expenses in connection with payments or repayments hereunder.

"(8) No payments shall be made under this subsection after September 30, 1984, except that payments which have been commenced on or before such date may be continued beyond such date as provided under paragraph (4) this subsection.".

(b) The caption of section 230 of such Act is amended to read as follows:

"TEMPORARY MORTGAGE ASSISTANCE PAYMENTS AND ACQUISITION OF MORTGAGES TO AVOID FORECLOSURE".

INCREASE IN SECTION 235 MORTGAGE LIMITS IN REVITALIZATION AREAS

SEC. 310. Section 235 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(o) The Secretary may insure a mortgage under this section involving a principal obligation which exceeds by not more than 25 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section if the mortgage relates to dwelling in an area designated by the Secretary as an area undergoing significant revitalization activity and the Secretary determines that such action is necessary to enable eligible families already residing in such area to remain in the area as homeowners.".

RESEARCH AUTHORIZATIONS

SEC. 311. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by striking out "and not to exceed $62,000,000 for the fiscal year 1979" and inserting in lieu thereof "not to exceed $62,000,000 for the fiscal year 1979, and not to exceed $50,300,000 for the fiscal year 1980".

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

SEC. 312. Section 519(f) of the National Housing Act is amended to read as follows:

"(f) There are authorized to be appropriated such sums as may be necessary from time to time to cover losses sustained by the General Insurance Fund.".

HOUSING FOR THE ELDERLY OR HANDICAPPED

SEC. 313. (a) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking "and to $3,300,000,000 on October 1, 1978" and inserting in lieu thereof the following: "to $3,300,000,000 on October 1, 1978, to $3,820,000,000 on October 1, 1979, to $4,770,000,000 on October 1, 1980, and to $5,745,000,000 on October 1, 1981".

(b) Section 202(a) of such Act is amended by adding at the end thereof the following:

"(6) In reviewing applications for loans under this section, the Secretary may consider the extent to which such loans—

"(A) will assist in stabilizing, conserving, and revitalizing neighborhoods and communities;

"(B) can serve as a relocation housing resource for elderly and handicapped families in neighborhoods and communities in which they are experiencing significant displacement due to public or private reinvestment; or

"(C) will substantially rehabilitate in an economical manner, structures having architectural, historical, or cultural significance.

"(7) The Secretary shall make available appropriate technical and training assistance to assure that applicants having limited resources and lacking prior housing management experience, particularly minority applicants, are able to more fully participate in the program carried out under this section.".

(c) Section 202(c) of such Act is amended by adding at the end thereof the following:

"(4) At the time of settlement on permanent financing with respect to a project under this section, the Secretary shall make an appropriate adjustment in the amount of any assistance to be provided under a contract for annual contributions pursuant to section 8 of the United States Housing Act of 1937 in order to reflect fully any difference between the interest rate which will actually be charged in connection with such permanent financing and the interest rate which was in effect at the time of the reservation of assistance in connection with the project.".

(d) Section 202 of such Act is amended by adding at the end thereof the following:

"(h) Not later than six months after the date of enactment of the Housing and Community Development Amendments of 1979, the Secretary shall transmit a report to the Congress containing recommendations on means to reduce the costs of the program carried out under this section without—

"(1) unduly burdening sponsors of programs and projects under this section; or

"(2) adversely affecting the ability of the program under this section to meet the housing needs of elderly and handicapped families.".

(e) Not later than six months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a special report on the present and future direction of Federal housing programs and the capacity for meeting the housing needs of the elderly and handicapped in rural areas. Such a report shall contain—

(1) an assessment of the operation of present programs in rural areas;

(2) an assessment of the housing needs and desires of the elderly and handicapped people residing in rural areas;

(3) an evaluation of how Federal programs can be used most effectively to meet the needs of the elderly and handicapped living in rural areas;

(4) an examination of the various alternatives available in housing assistance programs to meet the housing needs of the elderly and handicapped in rural areas and their linkage to the program; and

(5) an assessment of the rehabilitation needs of the 202 projects constructed before 1976 and of the adequacy of the section 8 subsidy mechanism for these projects.

Such report shall include a study of how elderly housing can be developed and operated effectively and in a cost-effective manner in rural areas. Such report shall be developed after consultation with other Federal agencies involved in housing and rural development, Federal, State, and local agencies involved in housing assistance programs, and other agencies involved in providing services to the elderly and handicapped.

(f)(1) The Secretary of Housing and Urban Development shall establish within the Office of the Secretary an Office of Elderly Housing under the direction of an Assistant to to Secretary. The Assistant to the Secretary for Elderly Housing shall—

(A) be responsible for the Department's implementation of the Age Discrimination Act of 1975 as amended;

(B) participate in the formulation of policies and procedures affecting the development and management of housing and other related programs for the elderly;

(C) coordinate interdepartmental and intradepartmental activities with respect to housing programs serving the elderly;

(D) provide technical assistance and facilitate access to appropriate agencies within the Department responsible for the planning, development, and management of programs for the elderly;

(E) participate in the planning and budgeting of Department programs with respect to elderly housing and related programs;

(F) serve as an ombudsman within the Department on behalf of consumers of housing for the elderly and related services;

(G) assist in the evaluation of Department programs directed toward serving the elderly; and

(H) make an annual report to the Secretary on the adequacy and effectiveness of the Department's efforts with respect to serving the elderly.

(2) The Assistant to the Secretary shall be involved in all Departmental activities affecting elderly housing and related programs. The Assistant to the Secretary shall be of sufficient status and rank to work closely with all operating units within the Department. The Office of the Assistant to the Secretary for Elderly Housing shall be allocated sufficient staff and budget to perform its functions.

(3) To facilitate the ombudsman and assistance role of the Office of the Assistant to the Secretary for Elderly Housing, the Secretary shall designate in each of the Department's regional offices an elderly housing specialist to be designated as an Assistant to the Regional Director for Elderly Housing. The functions of such personnel shall be to assist in carrying out, at the regional level, the responsibilities of the Assistant to the Secretary for Elderly Housing.

(g) Section 202(a)(2) of the Housing Act of 1959 is amended by adding at the end thereof the following: "The Secretary is authorized to grant a waiver of any minimum capital investment requirement imposed in connection with the program under this section in order to assist and facilitate the effective operation of the program under this section in connection with development of housing for the elderly whenever the Secretary determines that the local nonprofit sponsor—

"(i) has a creditable reputation for satisfactory job performance;

"(ii) has not defaulted on any contract;

"(iii) has proven stability in the community and has community acceptance and support; and

"(iv) has the support and endorsement of the appropriate local or State housing authorities.".

(h) (1) Section 202(d)(8)(A) of such Act is amended by striking out "or infirmaries or other inpatient or" and inserting in lieu thereof "adult day health facilities, or other".

(2) Section 202 (f) of such Act is amended by inserting "(including adult day health services)" after "health".

LEGISLATIVE REVIEW PROCEDURES

SEC. 313. Section 7(c)(3) of the Department of Housing and Urban Development Act, as added by section 324 of the Housing and Community Development Amendments of 1978, is amended by striking out the figure "90" in the second sentence and replacing it with the figure "45".

SINGLE FAMILY LOAN LIMITATION

SEC. 315. Paragraph (1)(B) of section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by striking out "$60,000" and inserting in lieu thereof "$75,000".

AMENDMENT TO THE FEDERAL HOME LOAN MORTGAGE CORPORATION ACT

SEC. 316. Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by adding at the end thereof the following sentence: "Such term shall also include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1954, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation.".

STOCK TO ADVANCES RATIO

SEC. 317. Section 6(c)(2)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 142 (i)(2)(ii)) is amended by striking out "twelve" and inserting in lieu thereof "twenty".

STUDY OF MORTGAGE INSURANCE PREMIUMS

SEC. 318. The Secretary of Housing and Urban Development shall conduct a study of the relative risks of loss which exist with respect to the various classes of mortgages which may be insured under sections 203(b) and 213 of the National Housing Act. Such study shall be conducted for the purpose of making recommendations on the advisability of reducing, in accordance with sound actuarial and accounting practices, some or all of the mortgage insurance premiums required for such classes of mortgages. The Secretary shall transmit such recommendations to the Congress not more than eighteen months after the date of enactment of this Act.

STUDY OF MINIMUM RENTS

SEC. 319. The Secretary of Housing and Urban Development shall conduct a study of the feasibility and financial desirability of requiring minimum rent payments from tenants in low-income housing assisted under the United States Housing Act of 1937. The study shall examine (1) the extent to which tenants in such housing are not required to or do not pay rent, (2) the incentives for greater tenant care of such housing which minimum rents may create, (3) the administrative costs of assessing and collecting minimum rents, and (4) for each of the five fiscal years beginning October 1, 1980 and ending September 30, 1984, the reductions in appropriations for the payment of annual contributions for assisted housing and for payments for the operation of low-income housing projects which several alternative specifications of minimum rent requirements would allow. The Secretary shall submit a report to the Congress containing the findings and conclusions of such study not later than 10 days after the Budget for fiscal year 1981 is transmitted pursuant to section 201 of the Budget and Accounting Act of 1921.

USURY EXEMPTION

SEC. 320. Title V of the National Housing Act is amended by adding the following new section at the end thereof:

"EXEMPTION FROM STATE USURY LAWS

"SEC. 529. (a) The provisions of the constitution of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders and the provisions of any State law expressly limting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is insured under title I or II of this Act.

"(b) The provisions of subsection (a) shall apply to loans, mortgages, or advances made or executed in any State until the effective date (after the date of enactment of this section) of a provision of law of that State limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance.".

MODIFICATION OF GRADUATED PAYMENT MORTGAGE PROGRAM

SEC. 321. (a) This section may be cited as the "Homeownership Opportunity Act of 1979".

(b) Congress finds that recent sharp increases in the cost of housing have excluded many middle income families and individuals from homeownership. These cost increases have rendered existing Federal housing programs, such as the graduated payment mortgage program under section 245 of the National Housing Act, less than fully able to make homeownership available to those affected by the housing cost spiral. The Congress further finds that modifying the restrictions on the maximum loan-to-value ratio on graduated payment mortgages can help make homeownership available to a broader segment of the population, particularly the first time homebuyer, and will also help stimulate and stabilize the production of housing.

(c) Section 245 of the National Housing Act is amended—

(1) by inserting "(a)" after "SEC. 245.";

(2) by inserting after the word "title" in the second sentence the following: ", except as provided in subsection (b) of this section,";

(3) by striking out "section" after "pursuant to this" and inserting in lieu thereof "subsection";

(4) by striking out the last sentence; and

(5) by adding at the end thereof the following:

"(b) Notwithstanding the provisions of subsection (a), the Secretary may insure under any provison of this title a mortgage or loan which meets the requirements of the first sentence of subsection (a) and which has provisions for varying rates of amortization if (1) the principal obligation of the mortgage or loan initially does not exceed the percentage of the initial appraised value of the property specified in section 203(b) of this title as of the date the mortgage or loan is accepted for insurance, and (2) the principal obligation of the mortgage or loan thereafter (including all interest to be deferred and added to principal) will not at any time be scheduled to exceed 97 per centum, or, if the mortgagor is a veteran, such higher percentage as is provided under section 203(b)(2) for veterans, of the projected value of the property. For the purpose of this subsection, the projected value of the property shall be calculated by the Secretary by increasing the initial appraised value of the property at a rate not in excess of 2½ per centum per annum. The initial aggregate principal amount of mortgages which are insured in accordance with this subsection in any fiscal year may not exceed 20 per centum of the initial principal amount of all mortgages secured by properties improved by one- to four-family residences which are insured in that year.

"(c) Any mortgage or loan insured pursuant to this section which contains or sets forth any graduated mortgage provisions (including but not limited to provisions for adding deferred interest to principal) which are authorized under this section and applicable regulations, or which have been insured on the basis of their being so authorized, shall not be subject to any State constitution, statute, court decree, common law, or rule or public policy (1) limiting the amount of interest which may be charged, taken, received, or reserved, or the manner of calculating such interest (including but not limited to prohibitions against the charging of interest on interest), if such constitution, statute, court decree, common law, or rule would not apply to the mortgage or loan in the absence of such graduated payment mortgage provisions, or (2) requiring a minimum amortization of principal under the mortgage or loan.".

COLLATERAL FOR ADVANCES

SEC. 322. (a) Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(1) by striking out the first two sentences of subsection (b);

(2) by amending subsection (a) to read as follows:

"(a) Each Federal Home Loan Bank is authorized to make secured advances to its members using such residential home mortgages and obligations of or guaranteed by the United States Government as the Bank Board may prescribe.".

MATURITIES FOR SUPPLEMENTAL LOANS

SEC. 323. Section 241(b)(2) of the National Housing Act is amended by striking out the phrase "but not to exceed the remaining term of the mortgage".

DEPOSIT INSURANCE AND SECURITY EXTENDED TO INDIAN TRIBAL GOVERNMENT DEPOSITS

SEC. 324. (a) Paragraph (2)(A) of section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" following the semicolon at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing or depositing the same in time and savings deposits in an insured bank;".

(b) Paragraph (1) of section 405(d) of the National Housing Act (12 U.S.C. 1728(d)) is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" following the semicolon at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing the same in an insured institution;".

(c) Subparagraph (2)(A) of section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing the same in a credit union insured in accordance with this title;".

(d) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by striking out "nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act" and inserting in lieu thereof "nonmember units of Federal, Indian tribal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act".

(e) The amendments made by subsections (a) through (d) are not applicable to any claim arising out of the closing of a bank, savings and loan association, or credit union prior to the date of enactment of this Act, but shall be applicable to any such claim arising on or after such date.

(f) Section 5153 of the Revised Statutes (12 U.S.C. 90) is amended by adding at the end thereof the following paragraph:

"Any national banking association may, upon the deposit with it of any funds by any federally recognized Indian tribe or including any officer, employee, or agent thereof in his or her official capacity, give security for the safekeeping and prompt payment of the funds so deposited by the deposit of United States bonds and otherwise as may be prescribed by the Secretary of the Treasury for public funds under the first paragraph of this section.".

OWNERSHIP OF MOBILE HOME SITES

SEC. 325. The Secretary shall make recommendations by March 31 of 1980 on programs and policies which would encourage individual ownership of mobile home lots through condominium or cooperative development of mobile home parks or through the development of mobile home subdivisions.

LIMITATION ON CERTAIN ASSISTANCE

SEC. 326.(a) Section 716(a) of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following: "In determining the acceptability of any financial risk to the United States under any guarantee pursuant to this part with respect to or for the benefit of the new community at Soul City, North Carolina, the Secretary shall not take into account any funds which may be provided under Federal financial assistance programs.".

(b) Section 716 of such Act is amended by adding at the end thereof the following:

"(c) On or after the date of enactment of the Housing and Community Development Amendments of 1979, the Secretary may not make any guarantee under this part with respect to or for the benefit of the new community at Soul City, North Carolina.".

AMENDMENT TO THE NATIONAL MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974

SEC. 327. Section 620 of the National Mobile Home Construction and Safety Standards Act of 1974 is amended by inserting after "conducting such inspections," the following: "and the Secretary may use any fees so collected to pay expenses incurred in connection with such inspections,".

AIDING MEMBERS OF THE FEDERAL HOME LOAN BANK SYSTEM

SEC. 328.(a) Section 11(h) of the Federal Home Loan Bank Act (12 U.S.C. 1431(h)) is amended by adding, after the comma following "in the stock of the Federal National Mortgage Corporation," the following: "in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, for the purpose of aiding members of the Federal Home Loan Bank System,".

SMALL BUSINESS INVESTMENT COMPANIES

SEC. 329.(b) Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by adding a new subparagraph (E) in subsection (4) as follows:

"(E) SMALL BUSINESS INVESTMENT COMPANIES.—An association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, for the purpose of aiding members of the Federal Home Loan Bank System, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 per centum of the assets of such association.".

TITLE IV—INTERSTATE LAND SALES

SEC. 401. (a) Section 1403(b) of the Interstate Land Sales Full Disclosure Act is amended—

(1) by striking out the phrase "Unless the method of disposition is adopted by" and inserting in lieu thereof "Unless the method of disposition is adopted for"; and

(2) by inserting after the phrase "the requirements of sections" the phrase "1404(a) (1) and";

(b) Section 1403(b)(1) of such Act is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by inserting after the phrase "the subdivision meets all local codes and standards and" the phrase "(B) each lot".

(c) Section 1403(b)(2) of such Act is amended by—

(1) striking out the word "public" both places it appears; and

(2) by striking out the semicolon at the end thereof and inserting in lieu thereof "or has approved other provisions made to insure the perpetual maintenance of such street or highway;".

(d) Section 1403(b)(4) of such Act is amended by inserting after "deed" the phrase ", grants, or similar deed conveying title to real property and commonly accepted in the State in which the subdivision is located".

(e) Section 1403(b)(5) of such Act is amended to read as follows:

"(5) prior to the time of closing, a title insurance binder or title opinion reflecting the state of the title, shall be in existence and issued or presented to the purchaser showing that in connection with the transaction marketable title to the lot purchased is vested in the seller;".

SEC. 402. Section 1403 of the Interstate Land Sales Full Disclosure Act is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting after subsection (b) the following new section:

"(c) Unless the method of disposition is adopted for the purpose of evasion of this title, the requirements of sections 1404(a)(1) and 1405 through 1408 shall not apply to—

"(1) the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate in nature. For purposes of this exemption, a lot may be sold only if—

"(A) the lot is free and clear of all liens, encumbrances, and adverse claims;

"(B) the purchaser or his or her spouse has made a personal on-the-lot inspection of the lot purchased;

"(C) each purchase or lease agreement contains a clear and specific statement describing the party responsible for providing and maintaining the roads, water facilities, sewer facilities, and any existing or promised amenities.

As used in this clause (1), the terms 'liens', 'encumbrances,' and 'adverse claims' do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restictions which would be enforceable by other lot owners or lessees in the subdivision, if—

"(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such reservations, taxes, assessments, which are applicable to the lot to be purchased or leased; and

"(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee;

"(2) the sale or lease of real estate not to exceed five hundred lots in a subdivision, by a developer to the resident of another State when the principal residence of the purchaser is within a radius of one hundred miles from the property purchased if—

"(A) the lot is free and clear of all liens, encumbrances, and adverse claims;

"(B) the purchaser or his or her spouse has made a personal on-the-lot inspection of the lot purchased;

"(C) each purchase or lease agreement contains a clear and specific statement describing the party responsible for providing and maintaining the roads, water facilities, sewer facilities, and any existing or promised amenities;

"(D) the developer executes and supplies to the purchaser a written instrument designating a person within the State of residence of the purchaser as his agent for service of process; and acknowledges that the developer submits to the legal jurisdiction of the resident State of the purchasers; and

"(E) the developer executes a written affirmation to the effect that he has complied with the provisions of clauses (A), (B), (C), and (D) of this clause (2), such affirmation to be given on a form provided by the Secretary, where such form shall include only the name and address of the developer, the name and address of the purchaser, a legal description of the lot, and affirmation that clauses (A), (B), (C), and (D) have been complied with, a statement that the developer submits to the jurisdiction of the Act in regard to the sale, and the signature of the developer. The affirmation shall be kept on file by the Secretary.

As used in this clause (2), the terms 'liens', 'encumbrances', and 'adverse claims' do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purposes of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable, or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, if—

"(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such reservations, taxes, assessments, which are applicable to the lot to be purchased or leased; and

"(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee.".

SEC. 403. Section 1404(b) of the Interstate Land Sales Full Disclosure Act is amended by inserting after "in a subdivision covered by this title, where the property report" the following: "is required to be provided but".

SEC. 404. Section 1412 of the Interstate Land Sales Full Disclosure Act is amended by inserting "(a)" after "SEC. 1412." and by adding at the end thereof a new subsection as follows:

"(b) For the purpose of an action to enforce a liability created under section 1410(b)(1), brought for a violation of section 1404(a)(1), the date of sale or lease shall be the time a contractual relationship is created between the developer or agent and the purchaser.".

SEC. 405. Section 1416 of the Interstate Land Sales Full Disclosure Act is amended by adding at the end thereof the following:

"(c)(1) In discharging his responsibilities under this title, the Secretary shall conduct all actions with respect to rulemaking or adjudication in accordance with the provisions of chapter 5 of title 5, United States Code.

"(2) The Secretary, by rule, shall prescribe the procedure applicable to every case pursuant to this title of adjudication (as defined in section 551 of title 5, United States Code) not required to be determined on the record after notice and opportunity for hearing. Such rule shall, as a minimum, provide that prompt notice shall be given of any adverse action or final disposition and that such notice and the entry of any order shall be accompanied by a statement of legal authority and other written reasons.".

TITLE V—POCKETS OF POVERTY

SEC. 501. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the Secretary) may make grants under this section to a city or urban county on the basis that only a certain area of the city or urban county, rather than the entire city or urban county, is severely distressed. Such grants may be made only out of funds appropriated for use on or after October 1, 1979, under section 119 of the Housing and Community Development Act of 1974.

(b) Any such grant may be made only if the Secretary has made a determination that—

(1) In the case of any metropolitan city or urban county, such city or county includes a defined geographic vicinity having a population of at least ten thousand persons, or 10 percent of the population of the metropolitan city or urban county, whichever is less, and which vicinity also meets minimum standards for determining distress to be established by the Secretary, which standards shall be based on such factors as percentage of poverty, condition of housing, and levels of unemployment within the vicinity.

(2) In the case of any non-metropolitan city, such city includes a defined geographic vicinity having a population of at least twenty-five hundred persons, or 10 percent of the population of such city, whichever is more, and which vicinity also meets minimum standards for determining distress to be established by the Secretary, which standards shall be based on such factors as percentage of poverty, condition of housing and levels of unemployment within the vicinity.

(3) The project for which grant funds will be used will directly benefit the low- and moderate-income families and individuals residing in the severely-distressed defined geographic vicinity.

(c) Applications for assistance under this title shall be made in accordance with the provisions of section 119(b), (c), and (f) of the Housing and Community Development Act of 1974, unless otherwise modified by this title.

(d) For the purpose of making grants under this title, the Secretary shall establish selection criteria, which must include (1) factors determined to be relevant by the Secretary in assessing the comparative degree of physical and economic deterioration among eligible areas and (2) such other criteria as the Secretary may determine, including at a minimum the criteria listed in clause (3) of subsection (e) of section 119 of the Housing and Community Development Act of 1974.

(e) A city or urban county eligible for assistance under section 119(a) of the Housing and Community Development Act of 1974, shall not be eligible for assistance under this title.

(f) The Secretary shall utilize up to, but not more than, 20 percent of the funds appropriated for use in any fiscal year under section 119 of the Housing and Community Development Act of 1974 for the purpose of making grants to cities and urban counties under this title.

(g) In making grants under this section, the Secretary shall require the applicant to make available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-Federal share requirements of Federal grant-in-aid programs, an amount equal to 20 percent of the amount of the grant provided under this section to be used in carrying out the activities described in the application.

TITLE VI—CRIME INSURANCE, RIOT REINSURANCE, AND FLOOD INSURANCE EXTENSIONS

SEC. 601. Section 1201 of the National Housing Act is amended—

(1) by striking out in subsection (b)(1), "September 30, 1980" and inserting in lieu thereof "September 30, 1981"; and

(2) by striking out, in subsection (b)(1)(A), "September 30, 1983" and inserting in lieu thereof "September 30, 1984".

SEC. 602. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(c) Section 1376(c) of such Act is amended by striking out "and not to exceed $114,000,000 for the fiscal year 1979" and inserting in lieu thereof the following: "not to exceed $114,000,000 for the fiscal year 1979, and not to exceed $74,000,000 for the fiscal year 1980".

SEC. 603. Section 115(a) of the Urban Property Protection and Reinsurance Act of 1968 (title XI of Housing and Urban Development Act of 1968) is amended by striking out "Department of Housing and Urban Development" and substituting in lieu thereof "Federal Emergency Management Agency.".

SEC. 604. Section 5313 of title V United States Code is amended by striking, at paragraph "(91)" the words "Department of Housing and Urban Development" and substituting in lieu thereof the words "Federal Emergency Management Agency.".

SEC. 605. The Director of Federal Emergency Management Administration, in consultation with the Appalachian Regional Commission, the United States Army Corps of Engineers, and other appropriate agencies, shall carry out a study to identify (1) the extent to which individual political jurisdictions have significant concentrations of population, businesses, and commercial and public facilities within special flood hazard areas under the national flood insurance program but have a limited availability of alternative sites for construction and development, and (2) the impact of the national flood insurance program on property values, the tax base, and economic activity in such jurisdictions, and shall report not later than March 1, 1980, to the Congress on the special problems of such jurisdictions and alternative means of meeting any problems identified. The alternative means considered shall include but not be limited to technical assistance, long-term subsidized interest rate loans, and development of alternative building sites.

TITLE VII—RURAL HOUSING

SHORT TITLE

SEC. 701. This title may be cited as the "Rural Housing Amendments of 1979".

EXTENSIONS AND AUTHORIZATIONS

SEC. 702. (a) Section 513(b) of the Housing Act of 1949 is amended by striking out "for the fiscal year during September 30, 1979" and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1980".

(b) Section 513(c) of such Act is amended by inserting after "September 30, 1979" the following: ", and not to exceed $30,000,000 for the fiscal year ending September 30, 1980".

(c) Section 515(b)(5) of such Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(d) Section 517(a)(1) of such Act is amended by striking out "1979" and inserting in lieu thereof "1980".

(e) Section 523(f) of such Act is amended—

(1) by inserting in the first sentence after "any such fiscal year," the following: "and there are authorized to be appropriated not in excess of $7,500,000 for the fiscal year ending September 30, 1980,"; and

(2) by striking out "1979" in the second sentence and inserting in lieu thereof "1980".

(f) Section 523(g) of such Act is amended by striking out "for the fiscal year ending September 30, 1979" and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1980".

(g) The second sentence of section 525(c) of such Act is amended by striking out "for the fiscal year ending September 30, 1979," and inserting in lieu thereof "for each fiscal year ending prior to October 1, 1980".

REFINANCING

SEC. 703. Section 501(a)(4) of the Housing Act of 1949 is amended—

(1) by inserting "and" after "clause," at the end of clause (A);

(2) by striking out ", and" at the end of clause (B) and inserting in lieu thereof a period; and

(3) by striking out clause (C).

ASSISTANCE ALLOCATION

SEC. 704. Title V of the Housing Act of 1949 is amended by adding at the end thereof the following:

"ALLOCATION

"SEC. 529. Notwithstanding any other provision of law, the Secretary shall assure when providing assistance for housing under this title that, in each fiscal year, at least 30 per centum of the eligible households assisted have incomes below 50 per centum of the national median income, and no more than 15 per centum of the eligible households assisted shall have incomes above 80 per centum of the national median income, except that the percentage requirements of this section shall apply to State or area median income rather than national median income in those States or areas with extremely high prevailing incomes, as determined by the Secretary.".

COMPENSATION FOR DEFECTS PROGRAM

SEC. 705. Section 509(c) of the Housing Act of 1949 is amended by striking out the word "eighteen" the second and fourth places it appears and inserting in lieu thereof the word "thirty-six".

PROPERTY DISPOSITION

SEC. 706. Section 510(e) of the Housing Act of 1949 is amended—

(1) by inserting, ", to repair and rehabilitate such property," after "United States therein"; and

(2) by inserting the semicolon at the end thereof the following: "; except that the Secretary may not sell or otherwise dispose of such property unless (1) the property meets the plans and specifications established for that type of housing by the Secretary under section 506(a) of this title, (2) the recipient of the property is obligated, as a condition of the sale or other disposition of the property, to meet such standards with respect to the property before such property is occupied, or (3) such recipient is precluded, as a condition of the sale or other disposition of the property, from using the property for purposes of habitation".

FARM LABOR HOUSING

SEC. 707. (a) Section 516 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(h) Notwithstanding the provisions of subsection (a)(3), the Secretary may, upon a finding of persistent need for migrant farmworker housing in any area, provide assistance to eligible applicants for 90 per centum of the development costs of such housing in such area to be used solely by migrant farmworkers while they are away from their residence. Such housing shall be constructed in such a manner as to be safe and weatherproof for the time it is to be occupied, be equipped with potable water and modern sanitation facilities (including a kitchen sink, toilet, and bathing facilities), and meet such other requirements as the Secretary may prescribe. Such housing shall be located in a safe and sanitary environment with adequate recreation area.".

(b) Section 516(c)(1) of such Act is amended by inserting before the semicolon at the end thereof the following: "; except that in no case may the monthly rental exceed 25 per centum of one-twelfth of the tenant's annual income unless the applicant is receiving assistance under section 521(a)(2)(A) of this title (or has been denied such assistance after making a good faith effort to obtain it) or the tenant is receiving assistance under section 8 of the United States Housing Act of 1937".

PREPAYMENT—LOW-INCOME CHARACTER

Sec. 708. (a) The Congress declares that it has been its intent since the enactment of sections 514 and 515 of the Housing Act of 1949 that prepayments or refinancing under section 502(b) of such Act should not operate in a manner which will deprive low- and moderate-income occupants, or potential low- and moderate-income occupants, of rural rental or farm labor housing financed under such sections, of their right to continue residency in that housing upon reasonable terms and conditions.

(b) Section 502 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(c) When enforcing the provisions of subsection (b)(3) of this section with respect to any loan under section 514 or 515 after the date of enactment of this subsection, or when approving the repayment of any such loan before the time when it was originally scheduled to be repaid, the Secretary shall take appropriate action to require the borrower and any successors in interest (1) to continue to use the housing for its original purposes during the 15-year period beginning on the date the loan is made or insured, and (2) to give assurance that no person occupying the housing shall be required to vacate prior to the close of such 15-year period because of early repayment. The preceding sentence does not apply where the Secretary determines that there is no longer a need for such housing.".

TECHNICAL ASSISTANCE

Sec. 709. Section 523(b) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) to make grants to, or contract with, national or regional private nonprofit corporations to provide training and technical assistance to public or private nonprofit corporations, agencies, institutions, organizations, and other associations eligible to receive assistance under this section in order to expand the use of authorities contained in this section and to improve performance; and".

RENTAL ASSISTANCE

Sec. 710. (a) The first sentence of section 521(a)(2)(A) of the Housing Act of 1949 is amended—

(1) by striking out "public and private nonprofit owners" and inserting in lieu thereof "the owners"; and

(2) by inserting a comma before "congregate".

(b) Section 521(a) of the Housing Act of 1949 is amended—

(1) by striking out, in paragraph (1)(H), "of loans made" and inserting in lieu thereof "of new loans made in any year"; and

(2) by striking out the second sentence of paragraph (2)(A) and inserting in lieu thereof the following: "Such assistance may be for up to 100 per centum of the units in any farm labor, cooperative, or other rental project assisted under this section. In approving such projects, the Secretary shall give priority to projects in which assistance is provided to 40 per centum or less of the units contained in the project.".

DEFINITION OF RURAL AREA

Sec. 711. Section 520 of the Housing Act of 1949 is amended by adding at the end thereof the following: "The Secretary may waive the requirement contained in clause (3)(A) of the preceding sentence in the case of any open country, place, town, township, village, or city eligible for assistance under section 119 of the Housing and Community Development Act of 1974 or other Federal program targeted to areas of distress, upon application showing the rural character, need for low income housing, lack of mortgage credit, and lack of sufficient funding from other Federal housing programs.".

TO INCREASE THE CEILING AMOUNTS UNDER SECTION 504(a) FOR LOANS AND LOAN-GRANT COMBINATIONS FROM $5,000 TO $7,500

Sec. 712. Delete the second sentence of section 504(a) of the Housing Act of 1949 and insert in lieu thereof the following: "No assistance shall be extended to any one individual under this subsection in the form of a grant in excess of $5,000, and no assistance shall be extended to any one individual under this subsection in the form of a loan or a combined loan and grant in excess of $7,500.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. Baker. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that S. 903, S. 1064, and S. 1149 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that H.R. 3875 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, this is the first housing bill that has been presented by me as chairman of the Subcommittee on Housing.

While I am a journeyman on the Banking Committee, having been in the Senate as long as I have, I am an apprentice in bringing the housing bill here. I had the help of some other apprentices, because we all are apprentices.

The staff worked extra hard to make this an efficient presentation of the legislation that came from the Committee on Banking, Housing and Urban Affairs. I particularly commend the new staff director of that subcommittee, Al Eisenberg. He did exemplary work in this complex area, and he did it with deep feeling and great heart.

I also thank the following staff members, who combined to make the work of this member and other members of the committee a lot easier by their total diligence and great intelligence:

David Yudin, Frank Shafroth, Steve Rhode, Shelly Turcotte, Dorothy Johnson, Charlesetta Griffin, and Flip Morse.

It was a pleasure to work with them as it was with Phil Sampson, Jesselie Barlow, and Mary Ann White of the minority staff, and we borrowed Phil Corwin of my personal staff and Jerry Lindrew from Labor and Human Resources Committee, because we knew—we had a matter that involved that committee—the Davis-Bacon Act. They were here to be very helpful also.

It was my first opportunity to work side-by-side with Senator Jake Garn of Utah here in the Chamber. I appreciated our association in committee and now I look forward to these opportunities of working with him in his capacity as the ranking minority member. It has been a pleasure, and I suggest that we were a good partnership. We like to see the job accomplished without undue debate—necessary debate but not prolixed to an uncomfortable degree.

We wanted to see the Members back at a very decent hour tonight, and we have done that I say to Senator Garn.

It has been a pleasure to work with him.

Mr. PROXMIRE. Mr. President, will the Senator from New Jersey yield briefly?

Mr. WILLIAMS. I yield.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from New Jersey for a splendid job in managing this bill. He conducted extensive hearings in the committee at great length and always with expertness and fairness.

Senator Williams is one of the busiest Members of the Senate. He is chairman of the Human Resources Committee, and he does a remarkable job on our committee. He is there all the time. He is extraordinarily intelligent and sensitive, and I think the way he handled this bill is an indication of his great competence and his fairness with everyone.

Of course, it is always great to have a chance to pay tribute to my good friend, the ranking Republican member of the subcommittee and of the committee, Jake Garn, who as usual did a top-flight job, and I think he refined and improved this bill in several very important respects.

Mr. WILLIAMS. Mr. President, I appreciate the gracious words and very gracious remarks of the Senator from Wisconsin.

Mr. GARN. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. GARN. Mr. President, I shall be very brief so as not to prolong this day that we have been able to cut short. I thank my colleagues for the compliments. They read their statements just like my mother wrote them for them, and I appreciate that.

It has been a pleasure to work with both of them.

Mr. ROBERT C. BYRD. Mr. President, I add my compliments to those that have been expressed regarding the splendid performance that has been demonstrated by Mr. Williams and Mr. Garn.

I also compliment Mr. Stewart and

Mr. Morgan for their handling of the bills that were passed earlier in connection with the whole subject of housing.

Again, Mr. Garn was the ranking manager in connection with those two bills.

Again Mr. Williams has demonstrated the skill, the patience, and the fine knowledge that he has been able to bring to bear from time to time on legislation out of the committee, and I thank him.

Mr. BAKER. Mr. President, I shall not take long.

I take this opportunity not only to commend the distinguished Senator from New Jersey and the Senator from Utah for their good work in bringing to conclusion these important bills earlier than we had anticipated but to briefly state my appreciation to the Senator from Utah for his service as ranking minority member of this committee.

Senator Garn is a freshman Senator, but he has come a long way and has done a great deal in the years that he has been here. It has been my special privilege to work with him not only as a Member of the Senate but as Secretary of the Republican conference, part of the Republican leadership. He is the ranking minority member of the Banking Committee. For his services on the Armed Services Committee, he is the undoubted and undisputed expert in this body on strategic arms limitations. His military experience and his expertise have lent much to the Members on both sides in the consideration of a range of military issues.

I have never seen a Senator who has contributed so much so soon as Senator Garn has.

I take this opportunity to pay him that special tribute at the conclusion of this difficult task which he performed after scheduling on fairly short notice. I express my personal appreciation to him for it.

ORDER POSTPONING CONSIDERATION OF SENATE JOINT RESOLUTION 77

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 251, Senate Joint Resolution 77, a joint resolution congratulating the men and women of the Apollo program upon the 10th anniversary of the first man landing on the Moon and requesting the President to proclaim the period of July 16 through 24, 1979, as "United States Space Observance," be indefinitely postponed. This was a matter that was disposed of yesterday on the House joint resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL BUREAU OF INVESTIGATION AUTHORIZATIONS—S. 1512

Mr. ROBERT C. BYRD. Mr. President, on behalf of myself, Mr. Bayh, Mr. Kennedy, Mr. Goldwater, and Mr. Thurmond, I send to the desk a bill which has been cleared on both sides of the aisle, and I ask that the title be stated by the clerk.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1512) to authorize additional funds for fiscal year 1979 for intelligence and intelligence-related activities of the Federal Bureau of Investigation.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the bill be dispensed with and the bill be considered as having been read the first and second time and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, S. 1512 would authorize to be appropriated for fiscal year 1979 for the conduct of the intelligence and intelligence-related activities of the Federal Bureau of Investigation the sum of $2,700,000. This authorization permits a transfer of funds already appropriated for the Department of Justice-Bureau of Prisons to the Federal Bureau of Investigation. Therefore, there will be no net increase in the appropriation for the Department of Justice for fiscal year 1979.

The administration has requested authority to make this transfer, and it has been considered by the Select Committee on Intelligence and the Committee on the Judiciary. The purpose of the expenditure by the Federal Bureau of Investigation will be to increase its capabilities for the conduct of foreign counterintelligence investigations to protect the United States against clandestine intelligence activities in this country by or on behalf of foreign powers.

The foreign counterintelligence program of the Federal Bureau of Investigation is governed by two authorization acts. The Department of Justice Appropriation Authorization Act, fiscal year 1979 (Public Law 95–624; 92 Stat. 3459), authorizes funds to be appropriated for the Federal Bureau of Investigation as a whole. Title I of the Intelligence and Intelligence-Related Activities Authorization Act for fiscal year 1979 (Public Law 95–370; 92 Stat. 626) authorizes funds to be appropriated for the foreign counterintelligence program of the Federal Bureau of Investigation.

S. 1512 amends the ceilings established by these two acts so as to permit the proposed transfer of funds to the foreign counterintelligence program of the Federal Bureal of Investigation. It is sponsored by the chairman of the Select Committee on Intelligence, Mr. Bayh; the chairman of the Committee on the Judiciary, Mr. Kennedy; the vice chairman of the Select Committee on Intelligence, Mr. Goldwater; and the ranking minority member of the Committee on the Judiciary, Mr. Thurmond. It has the support of both committees.

And I urge the support of the Senate.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1512

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(8) of the Department of Justice Appropriation Authorization Act, fiscal year 1979 (Public Law 95–624; 92 Stat. 3459), relating to funds authorized to be appropriated for the Federal Bureau of Investigation, is amended by striking out "$561,341,000" and inserting in lieu thereof "$564,041,000".

Sec. 2. In addition to the funds authorized to be appropriated under title I of the Intelligence and Intelligence-Related Activities Authorization Act for fiscal year 1979 (Public Law 95–370; 92 Stat. 626), there is authorized to be appropriated for fiscal year 1979 for the conduct of the intelligence and intelligence-related activities of the Federal Bureau of Investigation the sum of $2,700,000.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Baucus). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business of not to exceed 15 minutes and that Senators may speak up to 5 minutes each therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GENOCIDE CONVENTION: A DOCUMENT OF COMPASSION AND COOPERATION

Mr. PROXMIRE. Mr. President, the Genocide Convention is one of the most carefully studied documents in our history. Since 1949, lawyers, diplomats, politicians, and priests have pored over this treaty. Every syllable has been scrutinized. Every comma has been clarified. What has emerged—after 30 years of cautious analysis—is widespread support for the treaty and, I am forced to add, widespread denunciation of this body.

The Senate deserves much of the criticism that has been lodged against it. We have deliberately shut our eyes while other countries had the wisdom to sign and support the document. We have languished while other nations have taken action.

To the 83 nations that have acceded to the treaty, the Genocide Convention is a document of compassion and cooperation. To us, unfortunately, the convention has become a document of contention.

Why? The contracting parties have recognized the simple and unquestionable truth contained in the preamble to the convention:

> That at all periods of history genocide has inflicted great losses on humanity . . . and . . . that in order to liberate mankind from such an odious scourge, international cooperation is required.

The Genocide Convention is an important vehicle for such international cooperation. No one suggests that the convention alone eliminates the possibility that genocide will ever occur again. No one suggests that the convention is a cure-all. But many people and many nations have had the insight to recognize that the convention is a step—an international step—in the direction of a world free from the horrifying crime of genocide. It is time for the United States to take this step.

I urge my colleagues once again to promptly ratify the Genocide Convention.

THE NEED FOR SYNTHETIC FUELS

Mr. STENNIS. Mr. President, at the present time, the American people are attempting to come to grips with the impact of energy shortages and rising energy prices on their individual lives.

While I am concerned about this immediate problem, my attention is also focused on the critical, long-range energy problems of this Nation. Our position is precarious. The national demand for energy is substantial and is dangerously dependent on uncertain foreign sources. We must bring about a reversal of this situation and be independent rather than dependent on other nations for our energy.

I have recently had the opportunity to discuss our energy problems with Senator JACKSON, and my speech today is in no sense a criticism of his splendid work since 1973 and before. To the contrary, I highly commend him and the other members of the Energy Committee who have labored with him on this problem for many months.

It seems that I should explain just why I am speaking out on this subject at this time.

For 3 years I conducted the hearings for a Senate Appropriations Subcommittee regarding money items for special research in the field of new sources of energy or modification of sources now in use. This awakened me to the extent of the need, as well as the possible cost of this research alone.

Then I watched the efforts of three Presidents and each House of Congress as they grappled with this unprecedented problem and decided that ordinary methods of legislation and ordinary or usual procedures could not get the job done due to the immensity of the problem and the natural conflicts of interest within the energy field.

These energy needs and the problems have been underscored by the repeated annual hearings I have held on our present military posture. I have noted with some alarm our growing dependence on foreign sources for energy when we should be moving more toward independence in this field.

All these considerations caused me to believe it is the duty of all of us to speak out as to how we may now approach the problem, put our thoughts out before our colleagues with the hope that others will do the same and all of this will increase the chances for a new start. It is in this spirit that I offer these remarks.

FAILED TO LEARN FROM PREVIOUS LESSONS

Most troublesome to me is the fact that we have failed to learn from previous lessons. At the time of the Arab oil embargo in 1973, one-third of our oil needs were met by imports. Despite the painful economic experience of that embargo, we have allowed our dependence on foreign oil to increase to about 50 percent of our needs. This has happened despite the eightfold increase in the price of oil since 1973. We have permitted the well-being of our economy and of our way of life to become even more vulnerable to the decisions of oil exporting countries—some of whom are not counted among our friends.

America has made little real headway in the last 6 years in countering this national energy problem. While we have spoken about "energy independence," we have not made any progress in that direction. Our hopes were pinned to adoption of favorable policies by oil exporting nations and to a belief that they would understand that drastic increases in oil prices would ruin the world's economy with an unfavorable impact on themselves. These hopes have proven to be false. In this calendar year alone, oil prices have increased by 50 percent and the world's economy is headed for a recession.

The time for unfounded hopes and incremental solutions has passed. America must set a new, determined course for energy independence. This course will require drastic—possibly radical—steps and imaginative and vigorous leadership.

ROLE OF FEDERAL GOVERNMENT IS KEY

This leadership must come from the Federal Government. It is unreasonable to expect any individual U.S. oil company or other energy firm to be able to solve—even in part—this complex, international problem. Our private companies should not be called on to bear the cost of the highly expensive and risky research and development programs for new energy sources which will total many billions of dollars over the next few years. Moreover, the depth and intensity of competition in our private enterprise system will not provide the comprehensive, cohesive approach to our overall energy problem that is so vitally needed. The U.S. Government must direct this effort and underwrite the costs of solving our energy problem. At the same time, the rivalry between different sources of energy must be lessened. America will need all forms of energy in the future; the current intense rivalry between energy sources has hindered real progress on any energy program.

In directing our national effort to cure our energy ills, the Federal Government needs to clearly identify the new forms of energy to be emphasized and developed—and this must be done soon. Specific and certain objectives for quantities of new energy, costs, and deadlines must be established. At the present time, there are no guidelines upon which the American people or industries can plan their actions. As soon as the fundamental decisions have been made, the Federal Government must undertake a special, crash research and development program to enable production of practical forms of new energy.

To carry out this new energy program, the President will need strong emergency powers—similar to those given to the President in wartime—that will permit rapid and effective implementation of our national energy strategy. The lengthy periods required and delays permitted by normal governmental procedures would be intolerable in the current national crisis. We must be able to cut through the "redtape." Enough time has been lost—we must move ahead without delay.

As part of the emergency programs, the Congress will need to suspend certain environmental requirements. This is justified due to the time demands and the magnitude and seriousness of America's energy problem.

NEED TO DEVELOP SYNTHETIC FUELS

In seeking to solve this problem, the Government has a substantial list of long-range energy options—oil, gas, nuclear, solar, geothermal, wind, and water. However, this list of options is considerably shortened when seeking to provide new energy sources in the 1980's. For example, there is general agreement that solar energy will not be available in amounts capable of carrying our industrial and transportation energy loads until after the year 2000. Two options could provide large quantities of energy in the 1980's: Synthetic fuels and nuclear energy.

In that we depend on millions of internal combustion engines for industry and transportation—with 145 million cars and trucks on U.S. highways—there is an urgent need to develop liquid fuel substitutes. I believe that our best hope for near-term, alternative energy sources is to develop and produce synthetic fuels. Though called "synthetic," these fuels are not artificial products. Rather, they result from converting organic material into petroleum. Synthetic fuels include oil made from coal, shale rock, and tar sands; gas from coal; and alcohols, gasohol, and waste products used to produce energy. Development of these new synthetic fuels will not put anyone out of business. We will need all of the present U.S. sources of energy in the future in addition to developing new sources like synthetic fuels.

The problems with synthetic fuel substitutes for petroleum are the tremendous investment costs and the high cost per barrel of the end product. It is estimated that by the mid-to-late-1980's, synthetic fuels could be produced for about $40 to $45 per barrel. This compares to the current OPEC price of $23.50 per barrel of oil. Development of efficient production processes might reduce the price of synthetic fuels; however, it is unlikely that they could approach current oil prices. Yet, there is substantial uncertainty as to what oil will cost 5 years from now. The future rate of increase in oil prices would have to be only one-fourth of the rate experienced during the past 6 years for the price of oil to reach $45 per barrel by 1985.

While the required investment is substantial; the results, not completely certain; and the end product, expensive in today's terms, the U.S. Government should make the unwavering commitment of national resources to undertake the necessary research and development and production investments to provide America with substantial amounts of synthetic fuels to substitute for imported oil. Once the Government has developed the production processes, private industry would be depended upon to produce these new fuels.

One particular source of energy that we must use more is coal. America has abundant sources of coal—more than 600 years worth at present consumption rates. As I mentioned coal can be converted into both oil and gas. I urge that our research and development programs pay particular attention to coal and identify what coal can do that it is not now doing.

The benefits to the United States of development of synthetic fuels would be substantial:

Eliminate the leverage that foreign countries currently have on the United States—leverage that they have used to hurt our economy and have attempted to use to influence our relations with other foreign countries;

End the stranglehold that OPEC nations have on world energy sources;

Substantially improve our balance-of-payments position—if the United States could produce sufficient synthetic fuels to offset three-fourths of our current oil imports, the current U.S. balance-of-payment deficit could be eliminated; and

Bring about early additional sources of energy here in the United States so that the people of America will not be driven to extreme measures or hardships.

PARALLEL SYNTHETIC RUBBER PROGRAM OF WORLD WAR II

The synthetic fuel program that should be started and funded by the Federal Government should parallel the effort that the Government made during World War II to develop synthetic rubber. When the Japanese cut off more than 90 percent of our supply of natural rubber, the U.S. Government undertook and financed a program to develop and produce synthetic rubber. Expertise and technology information were provided by the chemical, petroleum, and rubber industries along with production workers. The Government provided nearly $2 billion to finance the construction, operation, and management of synthetic rubber processing plants.

This synthetic rubber program was a tremendous success. In 1942, only 5,000 tons of synthetic rubber were produced. By 1946, annual production had been expanded to 1.2 million tons. Under ordinary peacetime circumstances, it is estimated that it would have taken 20 years to develop synthetic rubber. In the matter of a few years, under the authority contained in the First War Powers Act of 1941, the program undertaken by the Government developed the necessary technology and production facilities to meet the wartime rubber needs of America. In addition to his emergency powers, President Roosevelt appointed a high level committee to review the synthetic rubber program. This group—consisting of Hon. Bernard M. Baruch, Dr. James B. Conant, president of Harvard University, and Dr. Karl T. Compton, president of Massachusetts Institute of Technology—provided valuable outside advice to the Government.

The synthetic rubber program of World War II exemplifies the resourcefulness and ability of the United States to attack a critical problem. It is exactly this type of program that is needed to provide synthetic fuels. The U.S. Government—operating under special emergency powers—would provide the leadership and funding; U.S. industries would provide technology and production expertise; and informed advice would be provided by business and academic leaders.

This is not a time to find people to blame for our energy problem. Three Presidents have had to deal with this problem, and the Congress, since 1973. We are all to blame to some degree, and I am willing to accept my part of that blame—whatever it may be. What is needed now is to find a way to effectively deal with this problem.

SUMMARY

In that our military security is involved with this energy crisis, I am prompted to want to act. For my part, I recommend that—

The Federal Government take the clear and certain leadership role;

Special emergency powers be granted to the President to permit rapid and efficient development of solutions to our energy problems;

Specific objectives for programs to develop new energy sources be established by the Federal Government;

The Federal Government fund an all-out research and development program to make practical the production of alternative forms of energy with particular attention to the potential of coal;

A high priority program to produce substantial amounts of synthetic fuel be started to help meet our near-term energy needs; and

After the Federal Government has developed synthetic fuel production processes, private industry would be depended upon to undertake the actual production and distribution.

The time has come for America to make the tough decisions on energy. The indecision of the last 6 years has resulted in a drift into a much more serious energy situation. It is time for America to solve its energy problem and become self-reliant. If we fail to be decisive, we will allow OPEC nations to dictate our economy and perhaps our economic destiny.

PRENOTIFICATION OF ADDITIONAL EXPORT-IMPORT BANK FINANCING FOR BRAZILIAN NUCLEAR POWER PLANT

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication which I have received from the Export-Import Bank pursuant to section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed additional direct credit and a financial guarantee to Furnas Centrais Eletricas S.A. (FURNAS), to assist the export from the United States of goods and services to be used in the completion of the Angra dos Reis nuclear power plant located near Rio de Janerio, Brazil. Section 2(b)(3)(iii) requires the Bank to notify the Congress of proposed loans or financial guarantees involving nuclear exports at least 25 days of continuous session of the Congress prior to taking final action on such proposals. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend an additional loan in the amount of $24 million and a financial guarantee in the amount of $12 million to be used in the purchase of U.S. goods and services to modify and complete Brazil's first nuclear powerplant. Eximbank has previously made loans and guarantees totaling $183,320,000 in conjunction with this project. The new credit will cover 60 percent of the additional costs of U.S. goods and services to be used in completion of the plant, bringing the total Eximbank commitment to $223,320,000. The loan will bear interest at the rate of 8⅝ percent per annum, payable semiannually in 15 installments beginning December 31, 1982.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., July 2, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(iii) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Brazil:

A. Description of transaction:

1. Background and purpose:

In late 1971, Eximbank authorized a direct credit of $69 million and a guarantee of private loans of $69 million to Furnas Centrals Eletricas S.A. (FURNAS) to finance the U.S. costs for the Angra dos Reis Nuclear Power Plant, Brazil's first nuclear power plant, located on the coast between Rio de Janeiro and Sao Paulo. As the U.S. costs for the project have increased. Eximbank has increased the amount of its direct credit by $40.68 million and its guarantee of private loans by $8.64 million. The last such increase was reported to you by our letter dated January 19, 1978. FURNAS has requested and Eximbank is prepared to provide an additional direct credit of $24 million and a guarantee of additional private loans of $12 million. This additional support, if approved, will bring Eximbank's total support for this project to $223.32 million.

FURNAS requires additional financing for several reasons. First, FURNAS has requested Westinghouse Electric Corporation, its principal supplier, to assume overall responsibility for the completion of the entire project, including the civil works, on a turnkey basis. This represents a significant change in the scope of the Westinghouse contract and is an attempt to streamline the procedures required to complete the project. The additional services will be performed by Westinghouse at a cost of approximately $36,750,000.

Second, Gibbs & Hill, the U.S. architect/engineer for the project will provide the additional engineering services required to carry the project to completion. These services will include consultation to FURNAS to assist FURNAS in responding to questions from Comissao Nacional de Energia Nuclear (CNEN), Brazil's nuclear regulatory body, on matters involving plant design as related to health and safety standards. Any design alteration required by CNEN will subsequently be implemented by Gibbs & Hill. In addition, Gibbs & Hill will design and supply an enhanced security system for the plant. The cost of the additional work to be performed by Gibbs & Hill will be approximately $2,500,000.

Third, FURNAS requires approximately $5,000,000 to cover the cost of equipment modifications, such as higher capacity service water pumps and titanium tubing for the condenser, as well as additional materials. In addition, FURNAS estimates that a contingency of $15,750,000 should be reserved to cover design and equipment costs resulting from any mandatory modifications required to secure the final operations license from CNEN. This contingency will also cover the cost of any shortage of miscellaneous items required for final equipment erection.

Eximbank considers the reasons for and the amount of the increased U.S. costs to be reasonable and necessary to ensure completion of this plant now scheduled for December 1980.

2. Executive branch approval:

In accordance with established procedures, Eximbank requested through the Department of State the views of the Executive Branch on the proposed transaction. State's Bureau of Oceans and International Environmental and Scientific Affairs advised that the Executive Branch has no objection to Eximbank's proceeding with this transaction.

3. Identity of the parties:

FURNAS is the largest subsidiary of Electrobras, which is the Federal Government of Brazil's electric power holding company. Since 1973 FURNAS has held the status of a regional power company responsible for the supply of power to Brazil's southeastern region and for the construction of all power developments and high voltage transmission systems of regional interest. FURNAS sells its power under long-term contracts to private and government-owned utilities.

The Federative Republic of Brazil will issue to Eximbank an unconditional guarantee for repayment of the Eximbank credit and the private loans guaranteed by Eximbank.

B. Explanation of Eximbank financing:

1. Reasons:

The Eximbank credit and financial guarantee totaling $36 million will facilitate the export of $60 million of U.S. goods and services. Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services. This transaction will have a favorable impact on employment for substantial numbers of United States workers, as well as on the United States balance of trade. Westinghouse has advised Eximbank that this sale will result in 5,117,000 man-hours, which is equivalent to 2,460 man-years directly created. The majority of equipment and services will be supplied from Pennsylvania and New York where the unemployment rates in March 1979 were 7.8 percent and 7.7 percent, respectively. None of the goods to be exported are in short supply in the United States.

2. The financing plan:

The total cost of United States goods and services to be purchased by FURNAS is $60 million which will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$9,000,000	15
Eximbank credit	24,000,000	40
Private loans guaranteed by Eximbank	12,000,000	20
Private loans not guaranteed by Eximbank	15,000,000	25
Total	60,000,000	100

(a) Eximbank charges: The Eximbank credit will bear interest at 8⅝ per annum, payable semiannually. A guarantee fee of ¾ of 1 percent will be charged on the outstanding amount of the private loans guaranteed by Eximbank. FURNAS will also pay commitment fees of 0.5 percent per annum on the undisbursed portion of the Eximbank credit and ⅛ of 1 percent per annum on the undisbursed portion of the private loans guaranteed by Eximbank.

(b) The Eximbank credit and the private loans, which total $51,000,000, will be repaid by FURNAS in 20 equal semiannual installments beginning on December 31, 1982. Under this schedule, the first 5 installments and a portion of the 6th installment will be applied to repayment of the private loans not guaranteed by Eximbank; the remainder of the 6th installment, the next 4 installments and a portion of the 11th installment will be applied to repayment of the private loans guaranteed by Eximbank; and the remainder of the 11th installment and all of the last 9 installments will be applied to repayment of the Eximbank credit.

Sincerely,

H. K. ALLEN.

MESSAGE FROM THE HOUSE

At 3:59 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the amendment of the Senate to H.R. 2154, an act to revise the Strategic and Critical Materials Stock Piling Act, to require that appropriations for acquisition of strategic and critical materials be authorized by law, to establish a National Defense Stockpile Transaction Fund, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 2729, an act to authorize appropriations for activities of the National Science Foundation, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-1761. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Federal Seed Act (53 Stat. 1275) to update its provisions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1762. A communication from the Clerk of the United States Court of Claims, transmitting, pursuant to law, a certified copy of the judgment order of the Court in the case Aleut Community of St. Paul Island and Aleut Community of St. George Island v. The United States; to the Committee on Appropriations.

EC-1763. A communication from the Acting Assistant Attorney General, transmitting, for the information of the Senate, notice of the pendency of a lawsuit International Union of Bricklayers and Allied Craftsmen, et al. v. Patricia Harris et al.; to the Committee on Banking, Housing, and Urban Affairs.

EC-1764. A communication from the Executive Director of the Administrative Conference of the United States, transmitting a corrected copy of the previously submitted recommendation of the Conference entitled "Hybrid Rulemaking Procedures of the Federal Trade Commission"; to the Committee on Commerce, Science, and Transportation.

EC-1765. A communication from the Secretary of the Interior, transmitting, pursuant to law, the decision of the Department regarding the application for repayment of excess gas royalties to the Atlantic Richfield Company for lease OCS-0438, Eugene Island Block 175, offshore Louisiana; to the Committee on Energy and Natural Resources.

EC-1766. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, notice of the receipt of a project proposal under the Small Reclamation Projects Act by the Lewiston Orchards Irrigation District, Idaho; to the Committee on Energy and Natural Resources.

EC-1767. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on carpool use of the Dulles Airport Access Road; to the Committee on Environment and Public Works.

EC-1768. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Endangered Species—A Controversial Issue Needing Resolution"; to the Committee on Environment and Public Works.

EC-1769. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Who's Not Filing Income Tax Returns? IRS Needs Better Ways to Find Them and Collect Their Taxes"; to the Committee on Finance.

EC-1770. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice of two new proposed systems of records for the Department of the Army under the Privacy Act; to the Committee on Governmental Affairs.

EC-1771. A communication from the Acting Director of the Management and Organization Division, United States Environmental Protection Agency, transmitting, pursuant to law, notice of a new system of records for the Environmental Protection Agency, under the Privacy Act; to the Committee on Governmental Affairs.

EC-1772. A communication from the Director of the United States Office of Personnel Management, transmitting a draft of proposed legislation to authorize payment from the Civil Service Retirement and Disability Fund for the expenses of retirement appeals; to the Committee on Governmental Affairs.

EC-1773. A communication from the Director of the U.S. Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes; to the Committee on Governmental Affairs.

EC-1774. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Critical Manpower Problems Restrict the Use of National Guard and Reserve Forces," July 11, 1979; to the Committee on Government Affairs.

EC–1775. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 694 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC–1776. A communication from the General Counsel, National Council on Radiation Protection and Measurements, transmitting, pursuant to law, a report entitled "Financial Statements and Supplemental Schedules for the Year Ended December 31, 1978, and Auditors' Opinion"; to the Committee on the Judiciary.

EC–1777. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, ordered in the cases of certain aliens who have been found admissible to the United States under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–1778. A communication from the Director, Administrative Office of the United States Courts, reporting, pursuant to law, upon the suspension of Speedy Trial Act time limits established by 18 U.S.C., section 3161(c); to the Committee on the Judiciary.

EC–1779. A communication from the Chief Commissioner, United States Court of Claims, transmitting, pursuant to law, re: Arizona Insurance and Investment Company, et al. v. The United States, Cons. Ref. 1–72, a report of the Trial Commissioner dated October 29, 1976, a report of the Review Panel dated December 6, 1977, a report of the Trial Commissioner dated December 1, 1978, a report of the Review Panel dated May 29, 1979, and order of the Review Panel dated July 9, 1979; to the Committee on the Judiciary.

EC–1780. A communication from the Attorney General of the United States, transmitting a draft of proposed legislation to provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information; to the Committee on the Judiciary.

EC–1781. A communication from the Chairman, Minimum Wage Board Commission, transmitting, pursuant to law, a report on the extent to which the exemptions from the minimum wage and overtime requirements of the Fair Labor Standards Act may apply to employees of conglomerates; to the Committee on Labor and Human Resources.

EC–1782. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, Interim Final Regulations for Part 164—Capacity-Building for Statistical Activities in State Educational Agencies; to the Committee on Labor and Human Resources.

EC–1783. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the annual report on research and demonstration projects for primary care; to the Committee on Labor and Human Resources.

EC–1784. A communication from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, on the primary health care needs of immigrants; to the Committee on Labor and Human Resources.

EC–1785. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report of audit of the Student Loan Marketing Association for the year ended December 31, 1978; to the Committee on Labor and Human Resources.

EC–1786. A communication from the Administrator, Veterans Administration, transmitting a draft of proposed legislation to amend title 38 of the United States Code to permit disclosure of names and addresses and other information maintained by the Veterans' Administration to a consumer reporting agency for certain debt collection purposes; to the Committee on Veterans' Affairs.

EC–1787. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, July 1979; to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Foreign Relations, the Committee on Finance, the Committee on Governmental Affairs, the Select Committee on Indian Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, and the Select Committee on Small Business, jointly, pursuant to order of January 30, 1975.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Appropriations, with amendments:

H.R. 4389. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1980, and for other purposes (Rept. No. 96–247).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

The following-named persons to be Members of the Interstate Commerce Commission:

Darius W. Gaskins, Jr., of the District of Columbia;

Thomas A. Trantum, of Connecticut; and Marcus Alexis, of Illinois.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Frederick H. Schultz, of Florida, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1968; and

Frederick H. Schultz, of Florida, to be a Member of the Board of Governors of the Federal Reserve System for a term of 4 years (new position).

(The above nomination from the Committee on Banking, Housing, and Urban Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HARRY F. BYRD, JR. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations: in the Army Reserve and National Guard there are 32 officers for promotion to major general and brigadier general (list beginning with Brig. Gen. James Carroll McElroy), and Rear Adm. Kent J. Carroll, U.S. Navy, for appointment to the grade of vice admiral. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. HARRY F. BYRD, JR. In addition, Mr. President, there are 9 midshipmen, U.S. Naval Academy, for appointment in the Regular Air Force in the grade of second lieutenant (list beginning with Eric C. Berry); and there are 507 in the Reserve of the Army and Army National Guard for promotion/appointment to the grade of colonel and lieutenant colonel (list beginning with Ronald J. Bordenaro); and 15 in the Navy and Naval Reserve for promotion to commander and below (list beginning with Alden S. Salcedo). Also, there are 80 for permanent appointment in the Marine Corps Reserve to the grade of colonel (list beginning with Glenn E. Allen). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, the nominations will lie on the Secretary's desk.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD on June 21, 1979, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GOLDWATER (for himself and Mr. DECONCINI):

S. 1503. A bill to amend the National Trails System Act to designate the General Crook Trail in Arizona and New Mexico, and the Beale Wagon Road in Arizona and New Mexico, for study to determine the feasibility and desirability of their designation as National Historic Trails; to the Committee on Energy and Natural Resources.

By Mr. STEWART:

S. 1504. A bill for the relief of Byung Ho Choe and In Sook Choe, husband and wife, and Ki Hyuk Choe and Ki Hwan Choe, their sons; to the Committee on the Judiciary.

By Mr. COCHRAN:

S. 1505. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of a deduction in the case of disaster loss shall be increased by an amount computed with regard to the replacement cost of property lost in a disaster; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 1506. A bill to convey all interests of the United States in certain real property in Sandoval County, New Mexico, to Walter Hernandez; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON:

S. 1507. A bill relating to the settlement of certain claims and controversies involving the waters of the San Luis Rey River in San Diego County, California, and to other matters; to the Select Committee on Indian Affairs.

By Mr. STAFFORD:

S. 1508. A bill to establish a Federal Energy Authority to build, own, and operate demonstration facilities to produce synthetic oil from shale and synthetic gas and oil from coal; to the Committee on Energy and Natural Resources.

By Mr. PELL:

S. 1509. A bill to set forth a national program for development of synthetic fuels, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JAVITS (for himself and Mr. Moynihan):

S. 1510. A bill for the relief of the Pedro Miguel Gomez family; to the Committee on the Judiciary.

By Mr. NELSON:

S. 1511. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act; to the Committee on Labor and Human Resources.

By Mr. ROBERT C. BYRD (for himself, Mr. Bayh, Mr. Kennedy, Mr. Goldwater, and Mr. Thurmond):

S. 1512. A bill to authorize additional funds for fiscal year 1979 for intelligence and intelligence-related activities of the Federal Bureau of Investigation.

By Mr. BOREN (for himself and Mr. Bellmon):

S. 1513. A bill to establish the Council for Energy Security, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARRY F. BYRD, JR. (for himself and Mr. Warner):

S. 1514. A bill to amend the Internal Revenue Code of 1954 with respect to interest on certain governmental obligations the proceeds of which are to be used to provide solid waste disposal facilities; to the Committee on Finance.

By Mr. PROXMIRE:

S. 1515. A bill to authorize the striking of bicentennial medals; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENTSEN:

S. 1516. A bill to promote the general welfare by establishing an Energy Mobilization Board to assure prompt and expeditious development of domestic energy resources in order to overcome the dependence of the United States on foreign nations for energy supplies which are essential to national security and the national economy; to improve Federal Government operations so as to assist in the expediting of regulatory procedures which affect energy development; and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself and Mr. Garn):

S. 1517. A bill to amend the Internal Revenue Code of 1954 to impose an energy development surtax on the net taxable oil income from domestic crude oil; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GOLDWATER (for himself and Mr. DeConcini):

S. 1503. A bill to amend the National Trails System Act to designate the General Crook Trail in Arizona and New Mexico, and the Beale Wagon Road in Arizona and New Mexico, for study to determine the feasibility and desirability of their designation as national historic trails; to the Committee on Energy and Natural Resources.

● Mr. GOLDWATER. Mr. President, I am introducing today, for myself and my colleague from Arizona, Mr. DeConcini, a bill to provide for a study to determine the feasibility and desirability of designating as national historic trails, the General Crook Trail in Arizona and New Mexico, and the Beale Wagon Road in Arizona and New Mexico.

These two old roads meet the criteria established in the National Parks and Recreation Act of 1978. Their routes are known and are in a remarkable state of preservation. Both have a high degree of recreation potential as hiking and riding trails through some of northern Arizona's most scenic country.

Of the two, the Crook Trail is the most developed at this time. It goes from Prescott, across the Mogollon Rim to Fort Apache, and on to Fort Craig in New Mexico. It was the chief supply and tactical route to Fort Apache during Crook's first campaign against the Apaches. In addition, the trail has been named Arizona's first State historic trail by the State parks board.

The Beale Wagon Road was probably the first federally funded road in the far Southwest, and was constructed in 1858–59 by Lt. Edward Beale, famed for the Army's experiment in Arizona with camels. It rivaled the California cutoff of the Oregon Trail for immigrant travel both before and after the Civil War. Its route is closely followed by Highway 66 across Oklahoma, New Mexico, and Arizona.

It gives me great pleasure to introduce this bill at the request of the Grand Canyon Council of the Boy Scouts of America. This is their special project and as it happens, locating the Crook Trail for preservation and public use was the Council's Bicentennial project. The young men have done a fine job and we are very proud of their contributions to Arizona's history.●

By Mr. COCHRAN:

S. 1505. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of a deduction in the case of a disaster loss shall be increased by an amount computed with regard to the replacement cost of property lost in a disaster; to the Committee on Finance.

● Mr. COCHRAN. Mr. President, I am introducing legislation to amend the Tax Code as it applies to property-loss suffered by an individual or business in a Presidentially-declared disaster.

Under current law, a taxpayer is allowed to deduct from income an amount equal to the "adjusted basis" of property lost. In essence, the allowable tax deduction is the original cost of the property, less depreciation claimed.

Unfortunately, because of increased costs of goods, due primarily to inflation, the original cost falls far below today's cost. So the victim of a natural disaster actually comes up far short of recouping what he or she loses.

I think that a fairer, more generous approach would be to allow the individual or business to claim a deduction from income to cover the replacement cost of the property. That is essentially what this bill provides.

I have received a revenue estimate on this bill from the Joint Committee on Taxation. Based on the historical pattern of natural disasters and based on a liberal interpretation of statutory rules under the section of the IRC allowing replacement of converted property held for productive use by "property of like kind," the estimated decrease in Federal budget receipts is $52 million—individuals, $12 million; businesses, $40 million.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (h) of section 165 of the Internal Revenue Code of 1954 (relating to disaster losses) is amended to read as follows:

"(h) Disaster Losses.—

"(1) Year in which loss claimed.—Notwithstanding the provisions of subsection (a), any loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1974 may, at the election of the taxpayer, be deducted for the taxable year immediately preceding the taxable year in which the disaster occurred. Such deduction shall not be in excess of so much of the loss as would have been deductible in the taxable year in which the casualty occurred, based on facts existing at the date the taxpayer claims the loss. If an election is made under this paragraph, the casualty resulting on the loss will be deemed to have occurred in the taxable year for which the deduction is claimed.

"(2) Amount of deduction.—Notwithstanding the provisions of subsection (b), in the case of any loss described in paragraph (1), the basis for determining the amount of the deduction for any loss shall be an amount equal to the sum of—

"(A) the adjusted basis as provided in section 1011 for determining loss from the sale or other disposition of property, plus

"(B) the excess of—

"(i) the replacement cost of the property, over

"(ii) the basis of such property (as determined under this chapter before any adjustments made under section 1011).".

(b) The amendment made by subsection (a) shall apply with respect to losses sustained after December 31, 1978.●

By Mr. DOMENICI (for himself and Mr. Schmitt):

S. 1506. A bill to convey all interests of the United States in certain real property in Sandoval County, N. Mex., to Walter Hernandez; to the Committee on Energy and Natural Resources.

● Mr. DOMENICI. Mr. President, the purpose of this legislation is to convey a 40-acre tract of land in Sandoval County, N. Mex., wholly and unconditionally, to Mr. Walter Hernandez.

When the New Mexico territory became part of the United States through the treaty of Guadalupe Hidalgo, all existing property rights were to be acknowledged and maintained by the United States of those Mexicans living in the ceded lands. In 1913 Jose Casados filed for a small holding claim for the land in question, based on his inheritance of the land from his ancestors. Subsequently, in July 1921, a patent for a homestead entry was issued to Bictoriano Santillanes for the same piece of property. Then in November 1922, another patent was issued to Jose Dario Casados for the same 40-acre tract. The Department of Interior offers no explanations as to why patents were issued to two different people for the same area of land.

In 1921, Dominga Casados, widow of Jose Casados, sold the land to John F. Young. Following Young's death in 1957, the land in question was willed to Walter Hernandez, subject of this bill, and his wife. The Casados, Youngs, and Hernandezes have all paid taxes on the property since 1922.

In 1942 the United States, through a condemnation action, took over 4,920 acres which included the disputed 40 acres. When notice of the condemnation was published in the newspaper, the patent held by Bictorio Santillanes was listed but no reference was given about the other patent. The Youngs were not aware that that 40 acres were included in the condemnation action.

In 1956 the Agriculture Department issued a special use permit to the Cuba independent schools, Sandoval County, for 266 acres of those acquired lands; included in those 266 acres were the 40 acres which the Youngs had purchased from Mrs. Casados.

In 1970, through special legislation, the Cuba independent school district sought to have conveyance of the 266 acres it was using under the special use permit. It was at this point that Mr. Hernandez became aware of the confusion and history of the 40-acre tract of land. At Senator Montoya's request, that bill was amended to omit the subject 40 acres in the belief that it belonged to Mr. Hernandez.

On June 1, 1978, an oil and gas lease was issued which also covers this portion of land. However, according to the treaty of Guadalupe Hidalgo, all land rights were to remain with the owners of the lands at the time of transfer of the territory acquired by the United States by the treaty. No subsequent legislation ever mentioned surface and subsurface rights in that area.

Equity demands that Walter Hernandez have clear title to his land. The House agreed in the 95th Congress and passed a similar bill. It is my hope the 96th Congress will end 50 years of bureaucratic snarls by enacting this bill and restoring Walter Hernandez' land to him.

By Mr. CRANSTON:

S. 1507. A bill relating to the settlement of certain claims and controversies involving the waters of the San Luis Rey River in San Diego County, Calif., and to other matters; to the Select Committee on Indian Affairs.

• Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to settle various claims and controversies involving the waters of the San Luis Rey River in San Diego County, Calif. I am introducing this legislation at the request of the city of Escondido, the Escondido Mutual Water Co., the Vista Irrigation District, the five bands of Indians—the Rincon, La Jolla, San Pasqual, Pauma, and Pala Mission Indian Bands. All of these parties have water rights in dispute, and have agreed to the settlement proposed in this legislation. It is my understanding that this administration wants to resolve longstanding disputes over water rights through negotiation—and legislation—whenever possible rather than through protracted litigation. I hope that this holds for the disputes in the San Luis Rey River basin.

Mr. President, by way of background, commencing in the mid-1870's certain lands in the San Luis Rey River basin were set aside as Indian reservations. Later when the Escondido Irrigation District was formed and plans were made to build a canal to divert water from the San Luis Rey River to the Escondido Valley, the district had to obtain rights-of-way across the Government land, including the Indian reservations. Such rights were granted in 1894.

When the Escondido Irrigation District failed in 1905, all its assets were acquired by the Escondido Mutual Water Co. In 1914 the Secretary of Interior, acting on behalf of the Indians, entered into a water rights contract with the Mutual Water Co. In 1922, again on behalf of the Indians, the Federal Government entered into a contract with William Henshaw which allowed him to build a storage dam and reservoir on the upper San Luis Rey River and divert the water from the basin. In 1946 the Vista Irrigation District acquired Henshaw Dam, the 43,000 acres of surrounding land, and the water rights.

The Indian bands are now in the Court of Claims seeking damages from the Federal Government for failure to protect their water rights. The parties are preparing pretrial submissions covering all the issues in the case. Once these submissions are complete a date for trial of both liability and damages will be set.

In addition, the Indians have filed suit in Federal District Court in San Diego against Escondido seeking a declaratory judgment that the 1894 and 1914 contracts were invalid, another suit against the Vista Irrigation District seeking to have the 1922 contract between Henshaw and the Federal Government declared invalid. The Federal Government has filed a suit against both Escondido and Vista alleging that they had breached their contracts. There have been extensive pretrial proceedings in these consolidated cases an trial is now set for November 1979.

There is a third legal issue involving power facilities which use San Luis Rey River water. In 1924 the Federal Power Commission granted the Escondido Mutual Water Co. a 50-year license for project 176, which includes the Escondido Canal and the Rincon and Bear Valley powerplants and Lake Wohlford as project works.

In 1971 Escondido applied for a new license for project 176 and in 1972 the five Indian tribles filed a competing nonpower license application. In 1972 the Secretary of Interior also filed a recommendation that the United States take over project 176 at the expiration of Escondido's original license. Although the Federal Energy Regulatory Commission issued a new license jointly to the city of Escondido, the Escondido Mutual Water Co. and the Vista Irrigation District petitions for a rehearing were granted and the effective date of the order stayed in May 1979. The matter continues to be in litigation.

Mr. President, the bill I am introducing today would settle all the water rights disputes and the outstanding legal issues. First, the bill provides that Escondido Mutual Water Co. transfer its rights on the San Luis Rey River—about 7,300 acre feet of water—to the Federal Government for a sum of money. The Federal Government would take over Escondido's license to operate project 176. In addition, Escondido would be granted water sufficient to maintain Lake Wohlford for recreational purposes.

Second, the bill provides that Vista transfer all its rights to the Federal Government and all its land at Henshaw Dam—about 43,000 acres—for a sum of money. Operation and rehabilitation of the dam, which was declared unsafe in 1971 by the California division of safety of dams, would be the responsibility of the Federal Government. The 43,000 acres of land above Henshaw Dam would be set aside for open space and recreational use. These lands comprise one of the largest single undeveloped properties in southern California and possess unique historical value as the original home of the Cupeno Indians who were forcibly removed in 1903.

Third, the bill provides that the Federal Government help with the development of the Indian lands with the water the Federal Government acquires from Escondido and Vista. In addition, the bill provides that the Federal Government pay the five bands of Indians a sum of money to settle the damage claims pending in the Court of Claims.

Through these provisions, the legislation would make possible the agricultural development of the Indian reservations, compensate the people of Escondido and Vista for the substantial investment they made based on contracts with the Federal Government which are now being challenged, provide significant flood control benefits to the people living along the San Luis Rey River through the rehabilitation of Henshaw Dam, allow the complete integration of the Escondido and Vista water systems which has not been possible because of the pending litigation, and provide environmental and recreational benefits above Henshaw Lake.

Mr. President, I do not know how much money this settlement will cost the Federal Government. The Escondido Mutual Water Co. is asking for $8.8 million, Vista Irrigation District for $60 million, and the five Indian bands for $50 million. Clearly the price tag of $118 million is unrealistic, especially considering the need to control inflation and trim the Federal budget. However, I understand that it may be possible to implement the settlement proposed in this legislation at considerably less cost.

I am introducing the bill so that we can have a hearing on the proposal, and get the administration on record regarding what it feels is a feasible settlement. Given the important question of the liability of the Federal Government for allowing the waters of the San Luis Rey River to be diverted and the inability to store more than 10,000 acre-feet of water behind Henshaw Dam at the present time, it should be in the interest of all the parties to proceed with legislation rather than spend another 10 years in the courts. But if the total cost of the bill is too high, I certainly will not pursue the legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (*a*) the Congress hereby declares that it is the policy of Congress to resolve, without further costly and lengthy litigation, the water rights claims of the La Jolla, Rincon, San Pasqual, Pauma and Pala Bands of Mission Indians to the San Luis Rey River in San Diego County, California, provided reasonable settlement can be reached.

(b) The Congress hereby finds and declares that:

(1) when La Jolla, Rincon, San Pasqual, Pauma, Yuima and Pala Indian Reservations were established, it was the obligation and intention of the United States to provide water for domestic and agricultural purposes, and such obligation remain unfulfilled;

(2) water must be provided to the La Jolla, Rincon, San Pasqual, Pauma, Yuima and Pala Indian Reservations in order for the purposes for the establishment of those reservations to be fulfilled, for the Indians living on or near those reservations to be economically self-sustaining and for the standard of living from their own productive efforts to be raised to a level comparable to that enjoyed by non-Indians in neighboring communities;

(3) an important issue involved is the liability of the United States for allowing the waters of the San Luis Rey River to be diverted to the communities of Escondido and Vista, California;

(4) the La Jolla, Rincon, San Pasqual, Pauma and Pala Bands of Mission Indians, the United States (through the Interior and Justice Departments), the City of Escondido, the Escondido Mutual Water Company and the Vista Irrigation District have been engaged in extremely costly litigation for the past 15 years in the Federal courts, the Federal Energy Regulatory Commission, the Indian Claims Commission and the Court of Claims with regard to the water rights controversy on the San Luis Rey River and, in the absence of a settlement, such litigation can be expected to continue for another 10 years at a minimum;

(5) the 43,000 acres above Lake Henshaw owned by the Vista Irrigation District are presently undeveloped and it is in the public interest for them to be permanently devoted to open space, agricultural and recreational uses. These lands also possess unique historic and archeological value and are the aboriginal home of the Cupeno Indians from which they were involuntarily removed in 1903;

(6) a critical situation exists on the Indian reservations along the San Luis Rey River and in Escondido in that:

(A) economic development of the reservations is stifled, unemployment on the reservations is very high and the Indians' standard of living is much lower than their non-Indian neighbors;

(B) the Indian lands are largely barren while comparable lands off the reservation are intensely cultivated, primarily with citrus and avocado groves;

(C) Henshaw Dam located at the headwaters of the San Luis Rey River above the Indian reservations is not considered safe. The California Division of Safety of Dams has determined that Henshaw Dam is prone to failure in the event of seismic activity. The restrictions imposed by the Division of Safety of Dams on the storage that can be accumulated in Henshaw has resulted in the waste of large quantities of water to the ocean, amounting to a loss of approximately $2,000,000 in 1978 alone. In its present condition, Henshaw cannot provide needed flood protection for any of the lands located below the Dam including the Pauma Valley, the City of Oceanside, and the La Jolla, Rincon and Pala Indian Reservations.

(D) the protracted litigation has prevented the full integration of the City of Escondido's water system with the water distribution system of the Escondido Mutual Water Company; and

(E) the exportation of San Luis Rey River water out of the watershed to the communities of Escondido and Vista, California, has contributed and is contributing to the degradation of water quality in the Pauma and Pala groundwater basins that underlie the Rincon, Yuima, Pauma and Pala Indian Reservations;

(7) this Act is proposed to settle the San Luis Rey River water rights controversy in a manner that will enable the La Jolla, Rincon, San Pasqual, Yuima, Pauma and Pala Indian Reservations to fulfill their principal purpose by becoming economically self-sustaining communities, will settle the existing litigation involving the waters of the San Luis Rey River in a manner that is fair, just and reasonable, and will enhance the environment and outdoor recreational opportunities available to the public in northern San Diego County in the State of California; and

(8) it is the intention of this Act not to discriminate against any non-Indian landowners or other persons, but to fulfill the historic and legal obligation of the United States toward the La Jolla, Rincon, San Pasqual, Pauma and Pala Bands of Mission Indians in a fair, just and reasonable way.

Sec. 2. (a) The Secretary of the Interior (hereafter referred to as the "Secretary") is authorized—

(1) to enter into a contract with the Escondido Mutual Water Company providing for the purchase by the United States of the facilities, lands, rights of way, and other interests in land licensed under Project No. 176 of the Federal Energy Regulatory Commission, except Lake Wohlford, Bear Valley Dam and all facilities, lands, rights of way and other interests in lands located below Bear Valley Dam, and for the acquisition of all of the rights of the Escondido Mutual Water Company to utilize and divert the ground or surface waters of the San Luis Rey River, including water stored in Lake Henshaw and water pumped from the groundwater basin above Lake Henshaw provided that such contracts shall ensure maintenance of Lake Wohlford for domestic and recreational purposes; and

(2) to enter into a contract with the Vista Irrigation District providing for the purchase by the United States of Henshaw Dam, Lake Henshaw, and all of the lands owned by the Vista Irrigation District above Lake Henshaw, and for all of the rights of the Vista Irrigation District to utilize, impound or divert the ground or surface waters of the San Luis Rey River, including all riparian rights appurtenant to the lands owned by the Vista Irrigation District above Lake Henshaw.

(b) All of the facilities, lands, rights of way, interests in land and water rights acquired pursuant to subsection (a) of this section, except the 43,000 acres of land located above Lake Henshaw, shall be held by the United States in trust for the sole use and benefit of the La Jola, Rincon, San Pasqual, Pauma and Pala Bands of Mission Indians.

Sec. 3. The Secretary is further authorized—

(1) to enter into a contract with the City of Escondido transferring to that City title to the 181 acres of Government land underlying or adjacent to Lake Wohlford that are included within the boundaries of Project No. 176 licensed by the Federal Energy Regulatory Commission for as long as those lands are devoted to recreational purposes;

(2) to enter into a contract with an entity established by the La Jolla, Rincon, San Pasqual, Pauma and Pala Bands of Mission Indians providing for the operation, control, care and maintenance of the facilities and other interests acquired pursuant to section 2(a) of this Act.

Sec. 4. In consultation and cooperation with the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians, the Secretary is directed—

(1) to adopt plans for the construction of irrigation systems for the La Jolla, Rincon, San Pasqual, Pauma, Yuima and Pala Indian Reservations to encompass all of the practically irrigable acreage within those reservations;

(2) to construct such irrigation systems in reasonable increments over a period not to exceed five years;

(3) to devise and adopt an operating plan for the impoundment, release, diversion, and utilization of the waters and groundwaters of the San Luis Rey River. In connection with such operating plan, the Secretary is authorized to enter into or to approve contracts for the sale and delivery of the waters of the San Luis Rey River in excess of the needs and requirements of the La Jolla, Rincon, San Pasqual, Pauma and Pala Bands of Mission Indians with the Escondido Mutual Water Company, the Vista Irrigation District, the City of Escondido and any other entities who may wish to purchase San Luis Rey River water: *Provided*, That such water shall be sold at a price comparable to that charged by the San Diego County Water Authority, and that the proceeds from the sale of such water shall be used (A) for the operation and maintenance of the facilities acquired pursuant to section 2(a) of this Act, except for the lands above Lake Henshaw; and (B) for the construction of the irrigation systems on the La Jolla, Rincon, San Pasqual, Pauma, Yuima and Pala Indian Reservations and the development of the irrigable acreage on said Reservations;

(4) to adopt as soon as practicable, in consultation with the California Division of Safety of Dams, plans for the rehabilitation of Henshaw Dam designed to make that structure safe in the event of seismic activity, for the improvement of the wells and other water gathering facilities from the groundwater basin above Henshaw Dam in order to maximize the safe yield of that groundwater basin and enhance the flood control capacity of the rehabilitated Henshaw Dam; and

(5) to undertake the construction required to implement the plans adopted pursuant to paragraph (4) of this subsection.

Sec. 5. The Attorney General of the United States is authorized and directed to enter into and approve settlements for all of the damage claims presented in the case of *Baron Long et al.* v. *United States*, Docket No. 80–A now pending in the United States Court of Claims. Upon the payment of the sums required by such settlements, the La Jolla, Rincon, San Pasqual, Pauma and Pala Bands of Mission Indians, and the United States on their behalf, shall agree to waive any and all claims for damages and all claims for annual charges against the Escondido Mutual Water Company, the City of Escondido and the Vista Irrigation District arising from the impoundment and diversion of the waters of the San Luis Rey River and the use of Indian lands for that purpose. Upon the payment of such sums and the execution of the contracts pursuant to sections 2(a)(1) and 2(a)(2) of this Act, the parties shall agree to the dismissal of the cases of *Rincon Band of Mission Indians et al.* v. *Escondido Mutual Water Company, et al.*, Civil No. 69-217-S *Rincon Band of Mission Indians et al.* v. *Vista Irrigation District*, Civil No. 72-276-S, and *United States* v. *Escondido Mutual Water Company, et al.*, Civil No. 72-271-S, all in the United States District Court for the Southern District of California.

SEC. 6. The Secretary is authorized to enter into contracts with the Metropolitan Water District of Southern California, the San Diego County Water Authority, or any member agencies of the Metropolitan Water District of Southern California or San Diego County Water Authority providing for the delivery of such District Water to the La Jolla, Rincon, San Pasqual, Pauma, Yuima or Pala Indian Reservations, and for the sale or exchange of San Luis Rey River waters for Colorado River and Northern California waters imported into San Diego County by such District and Authority. Such contracts shall be subject to the approval of the affected Band. The Secretary is authorized to construct whatever facilities may be necessary to deliver imported Colorado River or Northern California water, or both, to the reservations pursuant to paragraph (2) of subsection (a) of section 4 of this Act.

SEC. 7. (a) Within 90 days of the date of the enactment of this Act, the Secretary shall undertake all necessary studies and investigations and, within two years of the date of enactment of this Act, submit to the Secretary recommendations for a comprehensive plan for the management and utilization of Lake Henshaw and the 43,000 acres of land above Lake Henshaw purchased from the Vista Irrigation District for the purposes of open space, watershed, agriculture, recreation and tourism. The members of such Commission shall include one person recommended by the Governor of the State of California, one person recommended by the Board of Supervisors of San Diego County and one person recommended by the La Jolla, Rincon, San Pasqual, Pauma and Pala Bands of Mission Indians and two persons selected by the Secretary. Within six months after the submission of such recommendations, the Secretary shall adopt a comprehensive plan for the utilization and management of Lake Henshaw and the 43,000 acres of land above Lake Henshaw for the above specified purposes and shall submit such plan to the Congress. The Secretary shall begin implementation of that plan six months after its submission to the Congress.

(b) Until the adoption and implementation of the plan for the management and utilization of Lake Henshaw and the 43,000 acres of land above Lake Henshaw as provided in subsection (a) of this section, the Secretary shall administer those lands so as to preserve existing conditions to the maximum extent possible. The Secretary may enter into an agreement with the United States Forest Service providing for the temporary administration of the lands above Lake Henshaw, exclusive of appurtenant water rights, as part of the Cleveland National Forest.

(c) No uses shall be made of the lands above Lake Henshaw that will substantially impair the quality or quantity of water available for use on the La Jolla, Rincon, San Pasqual, Pauma, Yuima or Pala Indian Reservations unless the approval of the affected Band is first obtained. For purposes of this subsection, water uses amounting to less than 500 acre feet annually that have a *de minimus* effect on downstream water quality shall not be considered to substantially impair the quality or quantity of such water.

(d) If the comprehensive plan adopted pursuant to subsection (a) of this section includes the use of land for agriculture, recreation, tourism or other commercial ventures, the Secretary shall give preference to the greatest extent feasible to the La Jolla, Rincon, San Pasqual, Pauma and Pala Bands of Mission Indians, to their members, and to entitles owned or controlled by the Bands or their members, in leasing or conveying lands for such purposes.

SEC. 8. This Act is intended to provide a full and complete resolution of all issues in the Project No. 176 proceeding that have been brought before the Federal Energy Regulatory Commission. This Act shall serve as the legislation contemplated by sections 7(c), 14(a) and 14(b) of the Federal Power Act (16 U.S.C. 800(c), 807(a) and 807(b)). Upon execution of the agreements required by section 5 of this Act, Federal Energy Regulatory Commission shall dismiss all Project No. 176 proceedings including Docket Nos. E-7562 and E-7655 and Project No. 559.

SEC. 9. Notwithstanding any other provision of this Act, no authorization to make payments under this Act, or to enter into contracts, shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 10. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. ●

By Mr. STAFFORD:

S. 1508. A bill to establish a Federal Energy Authority to build, own, and operate demonstration facilities to produce synthetic oil from shale and synthetic gas and oil from coal; to the Committee on Energy and Natural Resources.

FEDERAL ENERGY AUTHORITY ACT OF 1979

● Mr. STAFFORD. Mr. President, there are those who suggest that it takes a national crisis to spur the Federal Government into action. When it comes to our supplies of oil and gasoline, it has taken two crises.

We survived the Arab oil embargo of 1973-74, and then settled back into our former ways. Now, with another oil and gas shortage upon us, it appears that our Government is finally ready to take some serious action.

Like it or not, our national lifestyle is dependent upon petroleum. Our Nation consumes 20 million barrels of oil each day—and we import 8 million of those barrels. Every estimate is that we will have to import more in the future, unless we do something about it.

That dependency upon imported oil has brought us to our current condition of scarcity and high prices—a combination that has triggered dramatic legislation in recent weeks.

The most comprehensive bill to be introduced in the Senate would fire up a crash Federal program designed to make our Nation 50 percent less dependent upon imported oil by 1990.

I am cosponsoring S. 1377 because I am convinced that massive Federal action is needed to free our Nation from the grip of foreign oil producers.

The Government aid is necessary because private industry—even big oil—simply does not have the sums of money needed, particularly in the face of the risks involved in developing synthetic fuels.

For instance, development of a single shale oil facility that would produce 100,000 barrels of oil a day would cost more than $1 billion and would take as long as 6 years to build. And, it would take 80 such facilities to produce as much oil as we import.

Thus, S. 1377 which I am cosponsoring is viewed in some quarters as a radical departure from past Federal efforts. But, I do not think it goes far enough.

I continue to be a firm believer in America's traditional free, competitive enterprise system. And, S. 1377 reaffirms that faith by proposing to provide private industry with Federal assistance to get on with the necessary task.

But, it is obvious that the private sector has not been able to meet the challenges of recent years. And, it is painfully obvious that private oil companies do not have the full confidence of the American people.

So, Mr. President, for those and other reasons, the bill I am introducing today proposes the creation of a Federal Energy Authority that would develop, build, own and operate demonstration facilities that would produce synthetic oil from shale and synthetic gas and oil from coal.

Each of the three federally owned and operated facilities would serve as both a model for research, development, and production, and as a yardstick for the price of the fuel produced and for environmental concerns.

Private companies would share the benefits of the federally owned facilities and the fuels produced there would be sold at wholesale to oil distributors, under strict rules to guarantee fairness of distribution and pricing in retail sales.

The federally owned synthetic fuel facilities would serve the Nation in much the same way major Federal electric power facilities have done. They would produce needed energy and would also serve as both trailblazers and yardsticks to private industry.

Since American taxpayers would be asked to put up the money for the initial investments in both the federally owned facilities and in the privately owned facilities under the proposals I have described, surely those taxpayers are entitled to some guarantee that they will share fairly in the benefits of those investments.

Right now, America has more than 160 billion barrels of oil shale alone. We have enough coal to meet 400 years of demand. We know how to turn shale into oil and coal into gas and oil.

There is simply no sense to our continued reliance on imported oil. It is in the national interest to start immediately to develop our synthetic petroleum resources, and it is the duty of the Federal Government to lead the way—and also to guarantee a fair return to the American taxpayer.

Mr. President, I ask unanimous consent that the text of the bill will be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Energy Authority Act of 1979".

PURPOSE

SEC. 2. It is the purpose of this Act to establish a Federal Energy Authority to build, own, and operate demonstration facilities that shall produce synthetic oil from shale and synthetic gas and oil from coal.

TITLE I—FEDERAL ENERGY AUTHORITY

ESTABLISHMENT

SEC. 101. There is authorized to be established a nonprofit corporation, to be known as the Federal Energy Authority. The Authority shall be subject to the provisions of this title, and, to the extent consistent with this title, to the District of Columbia Nonprofit Corporation Act.

BOARD OF DIRECTORS

SEC. 102. (a) The Authority shall have a Board of Directors (hereinafter in this Act referred to as the "Board"), consisting of five members appointed by the President, by and with the advice and consent of the Senate. Not more than three members of the Board may be members of the same political party.

(b) The members of the Board (1) shall be selected from among citizens of the United States (not regular full-time employees of the United States) who are especially qualified to carry out their functions; (2) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the country, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Authority.

(c) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Authority under the District of Columbia Nonprofit Corporation Act.

(d) The term of office of each member of the Board shall be seven years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (2) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, two at the end of two years, two at the end of four years, and one at the end of seven years. No member shall be eligible to serve in excess of two consecutive terms of seven years each. Notwithstanding the preceding provisions of this subsection, a member whose term has expired may serve until his successor has qualified.

(e) Any vacancy in the Board shall not affect its power, but shall be filled in the manner in which the original appointments were made.

(f) Any member of the Board may be removed from office by the President only for inefficiency, neglect of duty, or malfeasance in office.

ELECTION OF CHAIRMAN; COMPENSATION

SEC. 103. (a) The members of the Board shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of them as a Vice Chairman or Vice Chairmen.

(b) The members of the Board shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this subpart be entitled to receive compensation at an annual or daily rate determined by the President. The members of the Board shall be reimbursed for reasonable expenses which are incurred in connection with their services.

OFFICERS AND EMPLOYEES

SEC. 104. (a) The Authority shall have a President, and not to exceed three other officers as may be named and appointed, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, by the Board for terms fixed by the Board. Officers appointed under this subsection may be compensated, without regard to chapter 51 and chapter 53 of title 5, United States Code, relating to classification and pay, at a rate fixed by the Board. No individual other than a citizen of the United States may be an officer of the Authority. No officer of the Authority, other than the Chairman and any Vice Chairman, may receive any salary or other compensation from any source other than the Authority during the period of his employment by the Authority. All officers shall serve at the pleasure of the Board.

(b) Except as provided in the second sentence of subsection (a), no political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Authority.

(c) The officers and employees of the Authority (including members of the Board) shall be subject to the provisions of part A of title VI of the Department of Energy Organization Act (relating to conflict of interest). In applying such provisions for purposes of this subsection, references therein to the "Department" shall be treated as references to the "Authority" and functions assigned to the Secretary of Energy or his designee shall be carried out by the Board. The Authority shall be considered an independent agency of the United States for purposes of section 1924 and chapter 11 of title 18, United States Code.

NONPROFIT NATURE OF THE CORPORATION

SEC. 105. (a) The Authority shall have no power to issue any shares of stock, or to declare or pay any dividends.

(b) No part of the income or assets of the Authority shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) The Authority may not contribute to or otherwise support any political party or candidate for elective public office.

GENERAL AUTHORITY OF CORPORATION; RESTRICTIONS

SEC. 106. (a) In order to achieve the objectives and to carry out the purposes of this Act, the Authority is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operation and the exercise of powers and responsibilities vested in it;

(2) to appoint such officers and employees as may be necessary to carry out such functions, and to remove such officers and employees only for cause;

(3) without regard to section 3648 of the Revised Statutes (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements, and other transactions and to make such grants as may be necessary in the conduct of its work and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory, or possession of the United States, or with any political subdivision thereof, or with any other person; and

(4) to sue and be sued in its own name in any court of the United States.

(b) All contracts and other obligations entered into by the Authority shall be guaranteed by the full faith and credit of the United States. Nothing contained in this subsection shall be construed to commit the Federal Government to provide any sums for payment of any obligation of the Authority which exceeds amounts provided in advance in appropriation Acts or available from the fund established under section 109.

(c) All meetings of the Board of Directors of the Authority shall be open to the public except that the Board may hold closed sessions to consider matters relating to individual employees, proprietary information, litigation and other matters requiring the confidential advice of counsel, commercial or financial information obtained from a person on a privileged or confidential basis, or the purchase of property or services whenever the premature exposure of such purchase would compromise the business interests of the Authority. If any such meeting is closed pursuant to the provisions of this section, the Authority shall thereafter (within a reasonable period of time) make available to the public a written statement containing an explanation of the reasons for closing the meeting.

(d) The Energy Information Administration of the Department of Energy shall furnish the Authority information requested by the Authority and necessary for it to carry out its responsibilities under this Act, and the Authority shall be subject to the same limitations and restrictions on disclosure and use of that information as are applicable to the Energy Information Administration.

REPORT TO CONGRESS

SEC. 107. The Authority shall submit an annual report for the preceding fiscal year ending September 30 to the President for transmittal to the Congress on or before the 15th day of February of each year. The report shall include a comprehensive and detailed report of the Authority's operations, activities, financial conditions, and accomplishments under this Act and such recommendations as the Authority deems appropriate.

RIGHT TO REPEAL, ALTER, OR AMEND

SEC. 108. The right to repeal, alter, or amend this Act at any time is expressly reserved.

FINANCING

SEC. 109. (a) (1) There is hereby established in the Treasury a fund which shall be known as the Federal Energy Authority Fund (hereinafter in this section referred to as the "fund"), to be administered by the Secretary of the Treasury.

(2) Revenues from activities of the Authority shall be deposited to the fund.

(3) There are authorized to be appropriated $6,000,000,000 to carry out the purposes of this Act to remain available until expended.

(4) Funds appropriated under this section shall remain available until expended.

(b) (1) The funds authorized to be appropriated by this section shall be used by the Authority, in a prudent and financially responsible manner, solely for carrying out the purposes of this Act.

(2) Funds appropriated and made available under this section shall be disbursed by the Secretary of the Treasury as needed to meet the obligations undertaken by the Authority.

RECORDS AND AUDIT

SEC. 110. (a) (1) The accounts of the Authority shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. In addition to any other requirements, any person obtaining access to information under this paragraph shall be subject to the same limitations and prohibitions which would be applicable if that person were an employee of the Authority.

(2) A full and complete report of each such independent audit shall be included in the annual report required by section 107.

(b) (1) The financial transactions of the Authority for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) A full and complete report of each audit shall be made by the Comptroller General to the Congress. A copy of each report shall be furnished to the President and to

the Authority at the time submitted to the Congress.

(c) Any audit under this section shall be conducted at the place or places where accounts of the Authority are normally kept. The person or persons conducting the audit shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Authority pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances of securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Authority shall remain in possession and custody of the Authority.

TITLE II—SYNTHETIC FUEL PRODUCTION DEMONSTRATION FACILITIES

SEC. 201. (a) The Authority shall establish not less than three demonstration synthetic fuel production facilities including shale oil production, coal oil and coal gasification facilities each capable of providing a minimum of 100,000 barrels per day of synthetic fuel or equivalent.

(b) The Authority may contract for all necessary planning, architectural, engineering, construction, management, maintenance and distribution of production from such facilities in accordance with specifications designed by the Authority.

(c) In designing specifications pursuant to subsection (b) the Authority shall comply with all Federal, State and local laws with regard to environmental protection and enhancement.

SALE OF SYNTHETIC FUELS

SEC. 202. (a) The Authority shall make all fuels produced by any facility constructed with funds appropriated pursuant to this Act available for purchase.

(b) The Authority shall establish a price for such fuels as are made available for purchase at an amount which is competitive with other available synthetic fuels. Such price shall include an amount for the return of capital plus a recapture of operating expenses.

(c) All proceeds of sale shall be deposited in the Fund established by section 109.●

By Mr. PELL:

S. 1509. A bill to set forth a national program for development of synthetic fuels, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. PELL. Mr. President, I am today introducing legislation that will require the development of a synthetic fuels industry that would significantly reduce our national dependence on foreign fuels within the next 12 years.

The bill I am introducing would achieve this goal without mammoth Federal Government expenditures, without getting the Government directly into the business of producing fuels, and without creating a new horde of bureaucrats to stoke the paperwork furnaces of the Department of Energy.

There is general agreement that our energy problem will be eased and finally resolved only by vigorously pursuing every available alternative to continued reliance on imported petroleum. Those efforts must include:

A comprehensive program of energy conservation, requiring more efficient use of all kinds of energy, but most particularly petroleum products.

Development of conventional domestic energy sources including coal, oil, natural gas, hydroelectric power, and geothermal power.

A vigorous solar energy program. The solar energy program recently submitted to the Congress by President Carter provides an excellent foundation for such a program. Such a program should include increased emphasis on development of ocean energy resources including harnessing the energy of tides, waves, and ocean thermal gradients.

Development of synthetic fuels is a fourth and vital part of any comprehensive national energy program.

The bill I am introducing today would require development of a synthetic fuels industry in the United States capable of providing 10 percent of the raw oil for our nation's refineries by the year 1990.

The driving force behind this program, the key element which would make it work efficiently and effectively, is a requirement that refineries use synthetic fuels for 1 percent of their total raw materials in 1985. Thereafter, the required percentage of synthetic fuels would increase yearly to 10 percent in the year 1990.

Mr. President, this legislation is the direct result of the work of Prof. Carroll L. Wilson and Hoyt C. Hottel of the Massachusetts Institute of Technology. Indeed, in all truthfulness they should be considered the true authors of this proposal, and I believe our Nation owes them a debt of gratitude for their perceptive analyses of our national energy problems and their innovative proposals for workable solutions.

I have come to know Professor Wilson as a fellow member of the Club of Rome, a small, informal, worldwide group brought together 11 years ago by Aurelio Peccei of Italy to focus on basic long-range problems facing mankind, and in that work I have been consistently impressed by Carroll Wilson's ability to combine broad and long-range perceptives with blueprints for practical action.

The legislation I have introduced today is another example of that capability.

Conceptually, this legislation is based on the successful policy enacted by the Congress to conserve gasoline by increasing the average miles-per-gallon perform of automobiles. With that objective in mind, the Congress simply mandated a series of minimum average mileage requirements increasing in succeeding years.

That act has been highly successful. It was successful, because the Congress did not try to dictate, by law or regulation, how the goal of increased mileage should be met. The Congress did not impose weight limits on automobiles, and it did not specify carburetor design, or try to decide how many cylinders each engine should have. The Congress instead set an objective and permitted each auto manufacturer to determine the best way to meet that objective, using their own free enterprise capabilities.

The legislation I have introduced today applies the same methodology to the production of synthetic fuels. The legislation does not dictate what synthetic fuels shall be used, it does not dictate what synthetic fuel production method shall be used, and it does not say where the production plants shall be located or how they shall be financed.

These decisions will be made not by the Congress, not by a Secretary of Energy or a regulatory agency, but by the investors, the managers, and entrepreneurs of the American private enterprise system.

The technology to produce synthetic fuels from a variety of raw materials already exists. This technology undoubtely can be improved through further research and through construction of demonstration plants, funded by Government if necessary. But the improvements in technology that can be expected from research and demonstration projects is not so great that we cannot move ahead now with present technology to begin producing synthetic fuels. Indeed, the urgency of our national energy problem is so great that we cannot afford to wait for fine-tuning of production technology.

If we are to begin synfuel production, however, we must guarantee investors, managers, and entrepreneurs that a market for synfuels will be there. This legislation assures such a market.

There is widespread recognition that much mammoth undertakings necessary to resolve our national energy supply problems could well be delayed for years if they are subject to the usual governmental regulatory procedures and potential court reviews. I for one do not believe that we should jettison all of the review and regulatory requirements that have been constructed through the years to protect the consumer, the environment, or other public and social values.

I do believe it is necessary and possible to require expedited action by the review and regulatory agencies. We simply are not in a position in which we can afford to permit reviews, appeals, and litigation over national projects, with a strong priority national interest goal, to extend over 5 or 10 years.

Without an expedited procedure I believe it would be impossible for private enterprise to meet the synthetic fuel production requirements included in this legislation.

The Energy Supply Act (S. 1308) introduced by the distinguished chairman of the Senate Committee on Energy and Natural Resources (Senator JACKSON), of which I am a cosponsor, includes provisions to expedite review, regulatory actions, and judicial appeals on national priority energy supply projects. I believe that proposal offers a starting point from which an acceptable expedited procedure for major projects can be developed.

Mr. President, I believe the legislation I have introduced today offers the most effective and efficient method possible to develop a significant synthetic fuels industry in the United States.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "Mandatory Synfuel Consumption and Oil Conservation Act of 1979."

STATEMENT OF FINDINGS AND PURPOSE

Sec. 2. The Congress finds and declares that—

(1) the continued dependence of the United States on foreign petroleum sources for a substantial portion of national needs constitutes an unacceptable threat to the economic stability and future prosperity and welfare of the nation;

(2) reduction of United States dependence on foreign oil requires vigorous programs of conservation and development of alternative domestic energy resources, including solar energy, conventional domestic energy resources, and synthetic fuels;

(3) with existing technology there are significant opportunities for development of a domestic synthetic fuels industry capable of contributing very significantly to the reduction of dependence on foreign petroleum; and

(4) it is the purpose of this Act to encourage the development of a synthetic fuels industry using domestic sources of energy and capable of reducing dependence on foreign sources of petroleum.

DEFINITIONS

Sec. 3. As used in this Act the term—

(a) "Domestic refiner of crude petroleum" means any corporation, partnership, individual or other person engaged in the refining of oil into gasoline, kerosene, home heating oil, and other refined petroleum products so long as such refinery is located within the territorial jurisdiction of the United States or, if located without the United States, such refinery derives more than 75 per centum of its raw material feed from sources outside the territorial jurisdiction of the United States but sells more than 50 per centum of its refined products within such territorial jurisdiction.

(b) "Raw material feed" means oil, gas, or other petroleum based products used as raw material by refineries to produce gasoline, kerosene, home heating oil and other refined petroleum products.

(c) "Synthetic fuel" means any fuel which is suitable for substitution for petroleum or natural gas based fuels but is not itself produced from conventional petroleum or natural gas, including, but not limited to products produced from coal, oil shale, tar sands, wood, agricultural products, agricultural waste, silvicultural waste, animal waste, garbage, trash, biomass, and photosynthesis.

(d) "Secretary" means the Secretary of Energy.

(e) "United States" means each State of the several States and the District of Columbia.

(f) "Commerce" means any trade, traffic, transportation, exchange, or other commerce—

(1) between any State and any place outside of such State; or

(2) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (1).

PROGRAM

Sec. 4. The Secretary shall establish pursuant to this Act a program to promote the development of a synthetic fuels industry in the United States. The purpose of the program is to assure maximum use of synthetic fuels as the raw materials by domestic refiners of crude petroleum.

PRODUCTION GOALS

Sec. 5. The Secretary, by rule, within six months after enactment of this Act set production goals for the production of synthetic fuels in the United States in each of the calendar years 1985 through 1990. In setting such goals, the Secretary shall take into account the best estimates of availability of synthetic fuels. The production goal for synthetic fuels for calendar year 1985 shall be not less than 1 percent of the estimated raw material feed for domestic refineries for that year. The production goal for synthetic fuels for calendar year 1990 shall be not less than 10 percent of the estimated raw material feed for domestic refineries for that year.

ESTABLISHMENT OF QUOTAS

Sec. 6. (a) In each calendar year, beginning with the calendar year starting January 1, 1985, each domestic refiner of crude petroleum products engaged in commerce in the United States shall include, as part of the raw material feed into its refining process, synthetic fuel equal to not less than the percentage of total raw material feed set forth in calendar years shown in the following table:

January 1, 1985: 1 percent.

January 1, 1986: Determined by the Secretary under Sec. 5 of this Act.

January 1, 1987: Determined by the Secretary under Sec. 5 of this Act.

January 1, 1988: Determined by the Secretary under Sec. 5 of this Act.

January 1, 1989: Determined by the Secretary under Sec. 5 of this Act.

January 1, 1990: 10 percent.

(b) Not later than January 1, 1983, the Secretary shall prescribe by rule, the percentage of synthetic fuels required to be included in the total raw material feed in domestic refineries in calendar years 1986 through 1989. Such percentage shall apply to each refiner and shall be set for each calendar year at a level which the Secretary determines (A) is economically and technically feasible and (B) will result in steady progress toward meeting the percentage of synthetic fuel required in total raw material feed pursuant to this section for calendar year 1990.

(c) A domestic refiner of crude petroleum shall be permitted to transfer, with or without consideration, its minimum synthetic fuel requirements to another domestic refiner, provided, however, that the liability for a non-compliance penalty must be transferred with the minimum synthetic fuel requirement.

(d) Each refiner shall report annually to the Secretary the percentage of synthetic fuels used as raw material feed in his refinery operations during the preceding calendar year.

ENFORCEMENT BY THE SECRETARY

Sec. 7. (a) Any refiner who violates any requirement of Section 6 is subject to a civil penalty equal to twice the amount of the average cost of synthetic fuels required to meet the refiner's quota use of synthetic fuels fcr that calendar year.

(b)(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect within thirty days after the date of such notice to have the procedures to paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragrph (3) apply with respect to such penalty, the Secretary shall assess the penalty, or order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before a hearing examiner appointed under section 3105 of such title 5. Such assessment order shall include the hearing examiner's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further actions as the court may direct.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty.

(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2) or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3) the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order of final judgment shall not be subject to review. ●

By Mr. NELSON:

S. 1511. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act; to the Committee on Labor and Human Resources.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AMENDMENTS OF 1979

● Mr. NELSON. Mr. President, today I am introducing the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1979.

The proposed amendments are the result of careful study and consideration given to the problems of the affected employers and the insurance industry. The primary effect is:

To make the liability of the employer insurable, predictable, and affordable.

To expedite the payment of compensation to workers entitled to it by streamlining the administrative processes and modernizing an act which has not been fully reviewed for over 50 years.

To assure fair compensation to workers who suffer from industrial injuries, but also to establish compensation payments at levels which will encourage the prompt return of an injured and able worker back to the work force.

To improve the medical treatment and diagnosis available to injured workers by restoring greater control to deputy commissioners over medical services.

To reduce substantially the nonbenefit costs of the act caused by extensive litigation and uncertainty by clearly defining those who are eligible for benefits and the levels of benefits to be paid and by expediting the fair administration of the act.

The Longshoremen's and Harbor Workers' Compensation Act (LHWCA), originally passed by Congress in 1927 and most recently amended in 1972, established a system of workers' compensation for those workers injured while engaged in certain "maritime" activities. Industries with employees covered by the LHWCA include, among others, stevedoring, shipbuilding, recreational boating, offshore drilling and servicing and marina operators, as well as all private business in the District of Columbia.

Under the law employers must purchase LHWCA coverage. As now written, amended, and administered, the LHWCA contains many features and aspects which make it difficult to buy insurance at a reasonable price. The problem stems from the high degree of uncertainty, unpredictability, and ambiguity injected into the LHWCA by the 1972 amendments.

Because of this, insurance companies are now reluctant to write LHWCA coverage. When insurance companies are willing to write the LHWCA coverage (and there are only a handful in the entire country, who are still willing to do so), the premiums are, of necessity exceptionally high.

For example, the current manual (or book) rate set by the State Insurance Fund of New York (a State agency) for LHWCA coverage in New York for stevedoring activities is $87 per $100 of payroll, or an additional 87 percent of the payroll. To gauge the effect of the 1972 amendments, the New York rate was $29 per $100 of payroll prior to 1972. The rates for private employers in the District of Columbia, who are also covered under the act, have increased 400 to 500 percent since 1972.

Examples of problems created for small business are worth mentioning.

For instance, even though most of its business amount to routine machine shop work, a small inland ship repair yard on the Ohio River must secure LHWCA insurance for its 50 workers. Competitors doing similar machine shop work nearby are insured under the Ohio system. The small ship repair yard must pay for LHWCA coverage at 3½ times the rate his competitor pays.

Testimony at House oversight hearings illustrated the cost problem for a boat manufacturer in Minnesota, who, even though he is 50 miles from the nearest navigable water, saw his insurance rates more than double from 1971 to 1977 ($3.53 per $100 of payroll to $8.49 per $100). The company experienced this dramatic rise during a period when it had no LHWCA claims whatsoever.

Many of the businesses most dramatically affected by the act come from the ranks of small business—recreational boating, marina operators, small stevedoring firms and small ship repair or building operations.

Many small maritime businesses in Wisconsin as well as in the Great Lakes or coastal States are being threatened. I am informed that many small businesses are going "bare;" that is, carrying no LHWCA coverage, because they cannot purchase it, or because it is prohibitively expensive when available. A single serious accident could result in disaster for both the employer and injured employee.

There have been, however, unintended beneficiaries of the 1972 amendments to the LHWCA. One beneficiary has been Canada and its ports. According to testimony offered by the stevedoring industry at the House hearings on the LHWCA, a significant amount of cargo is transhipped via Canadian ports; that is, U.S. outbound and inbound cargo is moved across the border by rail or truck to and from Canadian ports.

U.S. stevedores and port facilities are losing this shipping business to Canada. One cannot say that all the lost business is due to the effect of the LHWCA, but it is probable that the disparity in workers' compensation insurance rates between the United States and Canada for stevedoring is a key factor in the high usage of Canadian ports. The Canadian insurance rate for stevedoring may vary from $2.50 to $13 per $100 of payroll at Atlantic and Great Lake ports. Across the border with similar payrolls, U.S. stevedores operate with LHWCA rates varying from $25 to $87 per $100 of payroll.

During the 95th Congress, the House Subcommittee on Compensation, Health, and Safety held 17 days of oversight hearings on the LHWCA. A careful review of the hearing record suggests that the Senate ought now to begin to focus on the LHWCA problem. I would hope, therefore, that these hearings will begin soon.●

By Mr. BOREN (for himself and Mr. BELLMON):

S. 1513. A bill to establish the Council for Energy Security, and for other purposes; to the Committee on Energy and Natural Resources.

ENERGY PRODUCTION COUNCIL

● Mr. BOREN. Mr. President, today, I am introducing legislation to create an Emergency Production Council.

We need bold leadership. We must get off high center. When the people are forced to sit in hour-long gasoline lines and then see on the nightly news that coal production is down 5 percent and over 10,000 miners are unemployed because of a tangle in Government regulation, they cannot understand why. When they read about companies trying for 12 years to get permits to build refineries and for over 4 years to build needed pipelines so that we can use Alaskan oil, they wonder if anyone can take charge and move us forward. The people have a great sense of urgency. Someone must devise a strategy to cut through the bureaucracy and develop the solution which this problem demands.

During the Second World War, the President was faced with the need to mobilize industry to supply the entire allied war effort. Combining the expertise of private industry and the public interest viewpoint of the Government, the President created a War Production Board to mobilize the production effort. For example, early in the war, as well as prior to the war, about 98 percent of rubber goods consumed in the United States was derived from natural crude rubber sources. Over 90 percent of this crude was being imported. When the war interrupted open sea transportation, imports were curtailed. This necessitated development of the synthetic rubber industry which in the past had produced only 2 percent of America's needs. Government and industry formed a "partnership" for the war effort and set production goals for synthetic rubber.

Through the War Production Board, they moved rapidly to achieve these goals. By the end of the war they had developed the industry to such an extent that 82 percent of all rubber products used in the United States were derived from synthetic production. A partnership between Government and industry had achieved what each alone had failed to do. Our national security was at stake then as now. If the energy situation that exists today is the "moral equivalent of war," then we must take steps to treat it the same way—through the creation of an Emergency Energy Production Council.

I have been developing this proposal and holding discussions on it for the last 3 years at the National Governors' Conference and as chairman of the Energy Committee of the Southern Governors' Conference. There has been widespread agreement among the Governors that the bureaucratic tangle which is strangling energy production and development must be eliminated immediately.

Since coming to Washington in January, I have continued to work on this proposal. On March 24 of this year, I provided a memorandum to the President giving the broad outlines of the authority which such a council would need. Later in March, and since then, I have sent more detailed proposals to members of the President's staff.

We must have a focal point—one body—one forum, for striking the balance between environmental and other concerns and the need for more energy production. We cannot afford the spectacle of one governmental agency ordering more production and other blocking it. It appears that some in Government want more energy production and others do not.

Some of the President's advisers want more production, while others do not. The debate must be resolved expeditiously. Decision postponement must not continue. A house will not stand which is divided against itself. It will require great courage for the President to seek this power to resolve the issue and strike the balance.

The bill will provide a mechanism for striking the balance, for making tough decisions and moving the country forward.

Under the bill, the President would appoint a nine-member Council with at least three members having work experience in the private sector of the energy industry. One of the members of the Council will be designated by the President as chairman, subject to confirmation by the Senate. The chairman will be the only full-time member of the Council, with other members of the

Council receiving per diem pay only. Staff for the Council may include loans through an interagency transfer plan. The Council should be prepared to meet as often as necessary to achieve the objectives set out by this act with the President and/or the chairman both authorized to call a meeting.

This Council, by majority vote of the appointed members, shall have the power to adopt energy actions which, if approved by the President and submitted to and approved by Congress, shall have the power of law. Technically, actions of the Council would be made in the form of recommendations to the President whose approval is required before submission to Congress, where it is subject to a 30-calendar-day legislative veto by either House.

Energy actions would include the issuance of a direct Presidential permit to construct, and/or operate any energy facility to produce, transport, refine, or provide for research and development of, or conservation of any form of energy without delay, notwithstanding the jurisdiction of any other agency whether it be Federal, State, or local. An energy action could also include the abolition or modification of any nonstatutory rule or regulation. Sanctions would involve the withholding of Federal funds to State and local units of government who fail to comply with timetables set by the Council.

The principal charge of the Council is to achieve energy independence for this country within two decades. To achieve this goal, the Council should: First, establish a comprehensive set of short-, middle-, and long-term goals for production of each kind of fuel, nonrenewable and renewable, by type. Second, develop projections of future consumption patterns for different types of energy users—military, government, and other civilian users. Third, develop a capital formation strategy for assuring that the capital necessary for each energy source is available through such mechanisms as guaranteed Government purchase prices for fuels and tax incentives. Fourth, establish a timetable for achieving these goals, and, fifth, study and develop conservation measures to reduce or limit consumption.

To prevent delays resulting from court action, judicial review should be limited. The Court of Appeals should have original jurisdiction over any complaints arising out of actions taken by this Council. The Supreme Court would have exclusive appellate authority. In both Courts these claims should, to the greatest extent possible, take precedence over all other matters pending on the docket.

I call upon my colleagues to show the courage necessary to meet this energy and bureaucratic crisis. This is a national crisis of the greatest magnitude. Not only our status as a great power, but even our very ability to function as an independent, sovereign nation is being threatened.

A few years ago we talked about 1984 and big brother controlling our lives as if it were science fiction. In 1979, it is becoming a reality. Frankly, Mr. President, I am appalled at the thought of the OPEC countries controlling my life, and I do not intend to sit back and let this burden upon the United States become heavier. The OPEC countries have thrown down the gauntlet in their recent increases in oil prices. I urge my colleagues to join with me in accepting their challenge and to make the United States independent from this cartel.●

By Mr. BENTSEN:

S. 1516. A bill to promote the general welfare by establishing an Energy Mobilization Board to assure prompt and expeditious development of domestic energy resources in order to overcome the dependence of the United States on foreign nations for energy supplies which are essential to national security and the national economy; to improve Federal Government operations so as to assist in the expediting of regulatory procedures which affect energy development; and for other purposes; to the Committee on Energy and Natural Resources.

ENERGY MOBILIZATION ACT OF 1979

● Mr. BENTSEN. Mr. President, I am a firm believer in the strength and ability of American industry to meet the challenge of securing adequate supplies of energy in the future. But industry has had its hands tied by excessive regulation and unrealistic market restraints. Bold Government action is essential—now—to assist industry in meeting the challenge. If the Congress fails to act decisively in this area then we will not—we should not—be forgiven by the people of this Nation.

I urge my colleagues to join me in supporting this legislation, and I ask unanimous consent that the text of the Energy Mobilization Act of 1979 be printed in the RECORD.

Mr. President, today I am introducing the Energy Mobilization Act of 1979 which I believe represents an attractive alternative to the indecision and vacillation which characterize our current energy policy.

Mr. President, the events of the past few months have dramatically illustrated the severity of our energy situation. If we continue on our present path, we will soon be at the complete mercy of OPEC suppliers who less than 2 weeks ago demonstrated their ability to command virtually any price they want for their product.

It is ironic that America—the greatest, most highly developed Nation on Earth—is so utterly dependent on unreliable sources of energy. As I pointed out last month in an address to the National Federation of Independent Business, we have abundant sources of energy—coal and shale oil—right here in the United States. We possess 48 percent of the coal on this planet, a resource containing more energy than the proven petroleum reserves of the entire world. There is more oil trapped in the oil shales of Colorado, Wyoming, and Utah than under the sands of Saudi Arabia.

Ideally, private industry in the United States should develop these resources on its own as decreasing supplies and increasing prices of crude oil and natural gas make synthetic fuels price competitive. Given time, I am sure American industry could do the job. But we have run out of time. We have wasted precious years looking for a quick fix to our energy appetite, and now we must take dramatic, rapid action to avoid a full-blown energy crisis.

I am proposing that we embark on a crash program to produce 1 million barrels per day of synthetic oil from coal and shale by the year 1985. I am proposing that we unite the financial resources of the Federal Government and private sector with the know-how and ingenuity of private industry to achieve an objective of overriding national importance.

Twice in the last 50 years our Nation has been faced with a need for joint Government-private action to meet a crisis situation. During World War II, through the efforts of the War Production Board, this country mobilized its industrial might and was able within 4 years to complete the Manhattan project for the manufacture of the first atomic bomb. It took less than 1 year to develop a process for the production of synthetic rubber on a massive scale. Throughout the war, we were able to produce planes, ships, tanks, and other materials in tremendous quantities.

This mobilization program was carried out with the cooperation of experienced industrial managers, engineers, scientists, and Government administrators working together for a common cause. The key to the effort was the use of a central coordinating authority—the War Production Board—with extensive powers over production and supply.

The lessons learned from World War II served us well when this country faced the outbreak of hostilities in Korea. Again, a key to the successful mobilization was the creation of a central authority—the Office of Defense Mobilization—with authority to take actions necessary to assure adequate production and supply.

Clearly the time has come for us once again to mobilize our industrial capabilities and managerial talents to confront a new challenge of enormous significance. The Energy Mobilization Act of 1979 draws on the lessons we learned during World War II and the Korean conflict and applies them to the current energy crisis.

This legislation creates for the first time a centralized, production-oriented agency. The Energy Mobilization Board, with significant financial resources and the authority to expedite priority energy projects through the regulatory maze which exists at all levels of Government.

The Board will consist of five members from the private sector selected by the President with the advice and consent of the Senate. Charged with the task of achieving definite production goals for a domestic synthetic fuel industry, the Board will have powerful tools to aid in meeting those goals.

The Board will be authorized to provide financial assistance to energy projects in the form of guarantees of private sector loans to both commercial-scale and smaller research-scale plants.

With a total loan guarantee authority of $100 billion, the Board is authorized to make guarantees of up to $3 billion to any one project in which private investors are willing to provide equity financing of at least 15 percent of the cost. To insure a market for the somewhat more expensive synthetic fuels produced from coal and oil shale, the Board is also authorized to expend $7 billion for purchases of these fuels for addition to our strategic petroleum reserves, use by Federal agencies, or sale for domestic use.

Additionally, the Board will be empowered to designate certain critically important projects as priority energy projects, and to fix decision schedules within which all Federal, State, and local agencies must complete review and action on such projects.

The combination of expeditious treatment by agencies, loan guarantees, and guaranteed purchases should enable a number of synthetic fuel projects to begin construction almost immediately. However, some promising technologies are not yet ready for commercial operation. Where private industry is not yet willing or able to test these technologies, the Energy Mobilization Board will be authorized to construct federally owned demonstration scale plants to be managed and operated by private industry. A similar approach used in World War II enabled us to develop a synthetic rubber industry from scratch within a year—no less bold an effort is needed today.

Because we do not want the Government in the full-time business of energy production, the Board will be encouraged to sell its interest in these demonstration facilities at the earliest possible date.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Energy Mobilization Act of 1979."

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SECTION 101. The Congress finds and declares that—

(a) Significant progress toward energy independence for the United States by 1985 and the long-term security of energy sources and supplies are essential to the maintenance of national security and defense preparedness, the health of the national economy, and the well-being of our citizens.

(b) Attainment of energy independence by the United States in a prompt and expeditious manner and in a manner consistent with the protection of the environment is not likely without financial commitments beyond those likely to be forthcoming from traditional capital sources in the traditional manner.

(c) Energy independence for the United States can be accomplished by reducing imports of energy resources and increasing domestic supplies of energy resources so that the political and economic vulnerability of the United States to disruptions in oil imports is reduced.

(d) Achieving the goal of obtaining a national production of synthetic fuels equal to the equivalent of one million barrels of oil per day by 1985 in an expeditious manner which gives due regard to the need to protect the environment can be facilitated by establishing a public entity of limited duration which will provide financial assistance by means of guaranteeing private sector loans and providing supports to assist the development and conservation of domestic non-nuclear energy resources and by encouraging the prompt resolution of questions coming before Federal regulatory or licensing entities.

PURPOSES

SEC. 102. It is the purpose of this Act—

(a) To encourage and assure the flow of capital funds to those sectors of the national economy which are important to the development of domestic sources of non-nuclear energy or which are otherwise important to the attainment of energy independence for the United States by 1985 or the long-term security of energy sources and supplies;

(b) To provide financial assistance where possible by funding of demonstration projects, by guaranteeing a market for the output of new energy technologies and by guaranteeing loans in conjunction with private sector financing for those activities which show the greatest potential of contributing to the development of domestic sources or the conservation of energy in a manner which preserves economically sound and competitive industry sectors, while minimizing any economic distortion or disruption of competitive forces;

(c) To hasten the commercial operation of new non-nuclear energy technologies;

(d) To develop domestic sources of energy in a manner which gives due regard to the need to protect the environment;

(e) To encourage private capital investment and activities in the development of domestic sources of non-nuclear energy;

(f) To set specific commercial production goals in synthetic fuels and alternate fuels for the year 1985; and

(g) To assist in carrying out the foregoing purposes through the creation of an Energy Mobilization Board, a public entity formed to provide financial assistance for projects that will contribute significantly to the attainment of energy independence by the United States.

TITLE II—ENERGY MOBILIZATION BOARD

ESTABLISHMENT

SEC. 201. (a) There is hereby created a public body, to be known as the Energy Mobilization Board (hereinafter referred to as the "Board").

(b) The principal office of the Board shall be located in the District of Columbia.

FUNCTIONS

SEC. 202. It shall be the duties and functions of the Board—

(a) To establish conservation and synthetic fuels production goals;

(b) To designate certain projects as priority energy projects and to establish decision schedules for actions on such projects by Federal, State, and local officials;

(c) To assure that adequate financial assistance for energy projects is available so that the goals set by the Energy Mobilization Board can be met;

(d) To establish purchase targets for use of synthetic fuels by Federal agencies and departments;

(e) To recommend legislation to the Congress which will aid in achieving energy independence by the United States by 1985; and

AUTHORITY OF THE BOARD

SEC. 203. (a) The Board shall have and be authorized to exercise those powers explicitly delegated to it by the Congress herein.

(b) The Board shall also have and be authorized to exercise those powers which may be delegated to it by Executive Order of the President at any time.

GENERAL POWERS

SEC. 204. In carrying out the purposes of this Act, the Board shall have the power—

(a) To make contracts with individuals and private or governmental entities;

(b) To lease or purchase and to dispose of such real property as may be necessary for the transaction of its business;

(c) To acquire and dispose of personal and intangible property (including money);

(d) To sue and be sued in its governmental capacity and to complain and defend in any court of competent jurisdiction;

(e) To represent itself or to contract for representation in all judicial and other legal proceedings notwithstanding the provisions of Title 28 of the United States Code or any other provisions of law;

(f) Subject to the provisions of section 206 of this Act, to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Board and to define their authorities and duties, require bonds of them, and fix the penalties thereof;

(g) To make provision for and designate such committees and the functions thereof, as the Board may deem necessary or desirable;

(h) To determine and prescribe the manner in which obligations of the Board shall be incurred and its expenses allowed and paid;

(i) To adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(j) To use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(k) To exercise all other lawful powers necessarily or reasonably related to the establishment and conduct of a public entity, to the achievement of its purposes and the exercise of its powers, purposes, functions, duties, and authorized activities.

MEMBERSHIP

SEC. 205. (a) The power of the Board to act shall be vested in its voting members except as to those functions, powers, and duties assigned to the Chairman of the Board as provided in this Act and such matters as may be delegated to the Chairman and officers of the Board pursuant to this Title. The Board shall consist of five voting members appointed by the President by and with the advice and consent of the Senate, who shall hold office at the pleasure of the President. The President shall designate one of such members as Chairman of the Board, and shall have the power at any time and from time to time to designate a new Chairman of the Board from among the members of the Board. Of the five members of the Board, not more than three shall be members of any one political party. At least three of the members shall have had experience in private banking or the finance industry, or in engineering, or in the management of a large commercial project. The Chairman shall devote his full working time to the affairs of the Board and shall hold no other salaried position.

(b) With respect to each Director, other than the Director who shall serve as Chairman of the Board, the President shall determine whether such Director shall serve in a full-time or part-time capacity (including service as a Director of any subsidiaries). Directors who are serving part time may hold other positions but shall devote such time to the affairs of the Board (and its subsidiaries) as is necessary to discharge their duties. Directors who are serving full time shall devote their full working time to the affairs of the Board (and its subsidiaries) including such responsibilities as may be assigned by the Board of Directors or the Chairman of the Board, and shall hold no other salaried position. Directors of the Board, whether serving full-time or part-time, shall be compensated at an annual or daily rate to be determined by the President. Directors shall be reimbursed for reasonable expenses which are incurred in connection with their services as Directors of the Board and its subsidiaries.

(c) Before assuming office, each Director shall take an oath faithfully to discharge the duties thereof. Whenever a vacancy shall occur on the Board of Directors, the President shall, with the advice and consent of the Senate, appoint a person to fill such vacancy. All Directors shall be citizens of the United States.

(d) The Board shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Energy Mobilization Board. A majority of the duly appointed and serving Directors shall constitute a quorum, and any action by the Board shall be effected by majority vote of a quorum. The Board of Directors shall adopt, and from time to time amend, such bylaws as are necessary for the proper management and functioning of the Board.

OFFICERS AND EMPLOYEES

SEC. 206. (a) The Chairman of the Board shall be the chief executive officer of the Energy Mobilization Board, and as such shall be responsible for the management and direction of the Board (including the making of expenditures associated with administration of the Board). The President shall fix the compensation of the Chairman of the Board.

(b) The Chairman of the Board may appoint and fix the compensation of all such personnel as may be necessary for the transaction of the Board's business in accordance, except as otherwise authorized in subsections (c) and (d), with the provisions of title 5 of the United States Code. Except as expressly provided in this section, title 5 of the United States Code shall apply to such personnel in the same manner and under the same conditions required for the civil service generally.

(c) In addition to the number of positions which may be placed in GS–16, 17, and 18 under existing law, not to exceed fifty positions may be placed in GS–16, 17, and 18. The provisions of title 5 of the United States Code governing classification and appointment in the competitive service shall not apply to ten of such positions, as designated by the Chairman of the Board.

(d) The Chairman shall define the duties of the officers and employees of the Board and provide a system of organization to fix responsibility and promote efficiency.

(e) The Chairman of the Board shall have authority to obtain the services and fix the compensation of experts and consultants in accordance with the provisions of section 3109 of title 5 of the United States Code.

(f) Under such regulations as the President may prescribe, officers and employees of the Government who are appointed, without a break in service, to any position for carrying out functions under this Act are entitled, upon separation from such position other than for cause within three years of employment, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary to that held with the Board.

(g) The employees of the Board, including full-time Directors and the individuals described in subsection (d), shall be considered employees of the United States Government for purposes of eligibility for benefits related to employment.

CONFLICTS OF INTEREST

SEC. 207. The provisions of chapter 11 of title 18, United States Code, shall apply to the directors and all officers and employees of the Board, and the Board of Directors shall have authority to promulgate regulations thereunder.

DELEGATION

SEC. 208. The Board of Directors may, by resolution, delegate to the Chairman of the Board such of its functions, powers, and duties assigned to the Board under this Act as it deems appropriate. The Chairman of the Board may, by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this Act to such other full-time directors, officers, or employees of the Board as the Chairman deems appropriate.

REGIONAL BOARDS

SEC. 209. (a) In accordance with the procedure set forth in subsection (e) of this section, the Board may create or cause to be created as many as ten regional boards to assist in the development of smaller synthetic fuels projects requiring a capital investment of $5,000,000 or less.

(b) Each regional board may guarantee loans of up to 85 per cent of the total capital cost of a smaller project, with the total guarantee authority of each regional board being determined by the Energy Mobilization Board.

(c) Each regional board shall have and enjoy the same privileges and immunities under the laws of the United States and of the several states and their political subdivisions as the Energy Mobilization Board, and shall have such functions and powers as shall be provided in its charter, provided that no charter shall grant authority for a regional board to engage in a function or to exercise a power which would be beyond the functions of powers of the Energy Mobilization Board under this Act.

(d) For the purposes of any provisions of this Act which relate to the financial condition of the Board, the Energy Mobilization Board and the regional boards shall be treated on a consolidated basis in accordance with generally acceptable accounting principles. All reports, including audits, relating to the Board which are required under this Act shall include all regional boards.

(e) The functions and powers of every regional board shall be set out in a charter which shall be valid only when certified copies thereof are filed with the Secretary of the Senate and the Clerk of the House of Representatives and published in the Federal Register, and all amendments to such charters shall be valid only when similarly filed and published. No regional board shall have a term of existence beyond the authorized life of the Energy Mobilization Board.

(f) The officers and directors of each regional board shall be appointed by the Chairman of the Board of Energy Mobilization Board. To the greatest extent possible, the Directors and officers of each regional board shall be drawn from the geographical community within which the regional board will conduct its operations. The provisions of subsections (b) through (e) of section 206 of this Act shall be deemed to apply to each regional board, provided that any provision of such subsections which limits the number of any category of officers or employees shall be deemed to apply to the Energy Mobilization Board and all regional boards taken collectively. Officers and employees of a regional board shall have the same rights and liabilities as officers and employees of the Energy Mobilization Board under this Act.

TAX STATUS

SEC. 210. The Board, its franchise, capital reserve, surplus, and income shall be exempted from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any state, county, municipality, or local taxing authority, except that: (i) Any real property owned in fee by the Board shall be subject to state, territorial, county, municipal, or other local taxation to the same extent, according to its value, as other similarly situated and used real property, without discrimination in the valuation, classification, or assessment thereof; and (ii) Any entity acquired or established, or activity undertaken, by the Board (except financial assistance as that term is defined in section 501 of this Act) which engages directly in the production, conservation, transportation, transmission, disruption, or sale of non-nuclear energy, fuels or non-nuclear energy-related commodities, facilities, or products. shall be subject to taxes imposed by the United States or any State or subdivision thereof in the same manner as if such entity or activity were not acquired, established, or undertaken by the Board.

TITLE III—PRIORITY ENERGY PROJECTS

This Title shall be cited as the "Priority Energy Project Act of 1979"

PURPOSES

SEC. 301. The purposes of this Title are—

(a) To provide for a coordinated, prompt, and simplified process for Federal approval of non-nuclear energy projects that are determined to be in the national interest;

(b) To expedite the Federal approval process without expanding or diminishing existing substantive Federal authority over proposed energy projects and without unduly interfering with the present statutory authorities and responsibilities of individual Federal agencies; and

(c) To foster integration of local, State and Federal procedures for permitting, licensing, and approving energy projects which are determined to be in the national interest.

DEFINITIONS

SEC. 302. As used in Titles III, IV, and V of this Act the term—

(a) "Approval" means any permit, license, lease, grant or other form of authorization or approval issued by an agency of Federal, State, or local government;

(b) "Atomic energy" means all forms of energy released in the course of nuclear fission on nuclear transformation;

(c) "Board" means the Energy Mobilization Board;

(d) "Designation request" means a request to the Energy Mobilization Board pursuant to section 304 of this Title for an order by the Board designating a project as a priority energy project;

(e) "Energy facility" means any physical structure, including any equipment, building, mine, well, rig, pipeline, transmission line, processing facility, transportation device, manufacturing facility, easement, right-of-way, or installation which will facilitate energy conservation and invention, exploration, development, demonstration, transportation, production or commercialization of any form of energy other than atomic energy, including, but not limited to, any facility owned or operated in whole or in part by any Federal, State, or local government or any combination thereof;

(f) "Federal agency" means an executive agency as defined in section 105 of Title 5 of the United States Code;

(g) "Major natural gas pipeline project" means any gas pipeline construction project in the lower 48 states requiring certification under section 7(c) of the Natural Gas Act of 1938, including any pipeline, compression, installation, equipment, building and right-of-way associated therewith which has a design capacity of 50,000,000 cubic feet per day or more is over 20 inches inside diameter, has a length in excess of 150 miles and is capable of transporting gas at pressures in excess of one thousand pounds per square inch gauge;

(h) "Person" means any individual, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust estate, or any entity organized for a common business purpose, and any instrumentality of Federal, State, or local government;

(i) "Priority energy project" means a project which has been determined by the Energy Mobilization Board to be in the national interest pursuant to its authority under this Title;

(j) "Project" means any plan, proposal, scheme, or undertaking to build, install, operate, maintain, repair, replace, expand, or in any other way produce or operate an energy facility; and

(k) "State" means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

AUTHORITY TO DESIGNATE PRIORITY ENERGY PROJECTS

SEC. 303. The Board is hereby authorized to designate a proposed energy facility as a priority energy project pursuant to the procedures and criteria provided in this Title.

AUTHORITY TO APPLY FOR PRIORITY STATUS

SEC. 304. (a) Any person planning or proposing an energy project may file a designation request with the Board. Projects which already have applications pending before agencies or on which construction has already begun are not disqualified from applying under this section.

(b) Not later than fifteen (15) days after the receipt of a designation request filed pursuant to subsection (a) hereof, the Board shall publish notice of the filing of the designation request in the Federal Register, together with a description thereof. Interested persons shall be afforded a period of time not to exceed thirty (30) days thereafter within which to submit written comments relative to such designation request for the Board's consideration.

(c) Prior to filing a designation request, prospective applicants shall contact the Board for the purpose of determining which Federal agencies are likely to be implicated under section 309 and what information such Federal agencies are likely to require from the applicant, in connection with the discharge of their statutory responsibilities, before said agencies can transmit to the Board the information and requirements specified in section 309.

(d) The Board shall transmit copies of the designation request, as well as any other information the Board deems relevant, to the agencies identified pursuant to subsection (c) of this section so that such agencies may begin preparation of the requirements specified in section 309 in the event that the applicant eventually receives designation as a priority energy project.

PROCUREMENT AND CRITERIA FOR DESIGNATING PRIORITY ENERGY PROJECTS

SEC. 305. Not later than sixty (60) days after receipt of a designation request filed pursuant to section 304, the Board shall determine whether the proposed energy project is of sufficient national interest to be designated a priority energy project. Upon reaching a determination the Board shall publish its decision in the Federal Register and shall notify the applicant and the agencies identified pursuant to subsection 304(c). In making such a determination the Board shall consider—

(a) The extent to which the project would reduce the Nation's dependence upon imported oil;

(b) The extent to which the project would contribute to the development of new production or conservation technologies and techniques;

(c) The time that would normally be required to obtain all necessary Federal approvals and the adverse impacts that would result from delay in completion of the project;

(d) The degree of specificity in describing the project in the application; and

(e) The extent to which the applicant is prepared to complete or has already completed the significant actions which the Board, in consultation with the applicant pursuant to section 304(c) has identified as significant actions that are likely to be required of the applicant pursuant to section 308(c).

(f) The magnitude of any adverse environmental impacts associated with the project and the existence of alternatives that would have fewer adverse impacts.

EFFECT OF DEADLINE

SEC. 306. In the event the Board has made no determination at the end of the sixty day period established in section 305, the proposed energy project shall automatically be given the status of a priority energy project.

RELATION TO THE NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 307. A determination by the Board under section 305 of this Title is not a major Federal action within the meaning of section 102(2) of the National Environmental Policy Act of 1969.

EARLY ACTION REQUIREMENT

SEC. 308. The Board shall encourage prospective applicants under section 304 to file applications for any necessary Government actions or approvals with the appropriate agencies as soon as possible in order that any eventual action or decisions may be expedited. The Board shall consider the ability of applicants to file such applications in a timely fashion in making its determination on an application under section 305.

FEDERAL AGENCIES REQUIRED TO SUBMIT INFORMATION

SEC. 309. Not later than thirty days after notice appears in the Federal Register of an order designating a proposed energy project as a priority energy project, any Federal agency with authority to grant or deny any approval or to perform any action necessary to the completion of such project or any part thereof, shall transmit to the Board and to the applicant for the priority energy project—

(a) A compilation of all significant actions required of or by such agency before a final decision or any necessary approval(s) can be rendered;

(b) A compilation of all significant actions and information lawfully and reasonably to be required of the applicant before a final decision by such agency can be made;

(c) A tentative schedule for completing actions and providing the information listed in subsections (a) and (b) of this section; and

(d) All necessary application forms which must be completed by the priority energy project before such approval can be granted.

PROJECT DECISION SCHEDULE ESTABLISHED BY THE BOARD

SEC. 310. (a) Not later than sixty (60) days after notice appears in the Federal Register of an order designating a proposed energy project as a priority energy project, the Board, in consultation with appropriate Federal, State and local agencies, shall publish in the Federal Register a Project Decision Schedule for the project containing deadlines for all Federal actions relating to such project. The Project Decision Schedule shall clearly identify the order in which licenses, permits and other Government approvals must be obtained by the priority energy project before such project can be completed. The Project Decision Schedule may also require concurrent review of applications and joint hearings by agencies of Federal, State and local governments.

(b) The deadlines in the Project Decision Schedule shall be consistent with the deadlines submitted to the Board under section 309 unless the Board determines that different deadlines are essential in order to expedite and coordinate Government review or in order to meet the requirements of subsection (c) of this section.

(c) Except as provided in section 312, no deadline established under this section or any extension granted under subsection (e) of this section may result in a total time allowed for completion of all final agency action and the issuance of all final agency decisions with respect to licenses, permits and other governmental approvals or authorizations in excess of one year beginning from the date on which notice appears in the Federal Register of an order designating the proposed energy project as a priority energy project.

(d) Notwithstanding any conflicting provision of Federal laws, the deadline imposed by the Project Decision Schedule for action or decisions by Federal agencies shall constitute the lawful decision-making deadlines for reviewing applications filed by the priority energy project.

(e) Upon the petition of an agency with authority to approve or disapprove any application, or of any priority energy project, and subject to subsection (c) above, the Board may review any procedure, extend any deadline, or modify in any other way, the Project Decision Schedule at any time within ninety (90) days after publication of the Project Decision Schedule: *Provided*, That no extension shall be granted unless the Board determines that such agency or priority energy project has exercised all due diligence in attempting to comply with the Project Decision Schedule and that it would be impracticable for the agency to reach a decision or complete the required action within the specified time.

DELEGATION OF DECISION AUTHORITY TO THE PRESIDENT

SEC. 311. If a deadline established by the Project Decision Schedule for a final decision or action by a Federal agency has elapsed and the agency has not made the decision or performed the required action, the President shall make the decision or perform the action within thirty days in lieu of the Federal agency. The Federal agency so involved shall make available to the President the entire contents of its files pertaining to the project, including any public comments. The decision of the President pursuant to this section shall be final.

EXTENSION OF PROJECT DECISION SCHEDULE DEADLINE UPON PETITION TO PRESIDENT

SEC. 312. (a) In the event that the Board refuses to grant to a Federal agency or to a priority energy project an extension under section 310(e) of the time for completion of agency action specified in the Project Decision Schedule, or in the event that a Federal agency or a priority energy project desires an extension such that the total time for completion of agency action would exceed one year from the date on which notice appears in the Federal Register of an order designating the proposed energy project as a priority energy project, the Federal agency or priority energy project may request an extension from the President of not longer than 120 days within which to complete all Federal actions and decisions relating to such project.

(b) In making his decision under this section, the President is to consider the purposes of this Act, the national need for expeditious completion of agency review of the priority energy project, and such other factors as the President considers relevant. The President shall not grant an extension unless he determines that the agency or the project requesting the extension has exercised all due diligence in attempting to comply with the Project Decision Schedule and that it would be impracticable for the agency to reach a decision or complete the required action within the specified time.

(c) The President shall make and shall publish his decision in the Federal Register within thirty (30) days from the receipt of the request for an extension. The decision of the President shall be final.

(d) Not more than one extension may be granted by the President under this section.

CERTIFICATION OF COMPLETED FEDERAL AGENCY REVIEW

SEC. 313. (a) If the Board determines that all Federal agency actions and approvals necessary to the completion of a priority energy project have been granted, the Board shall certify the same to the project. Such certification shall indicate the expiration date of any Federal approvals that have been granted to the project.

(b) A certificate issued by the Board under subsection (a) of this section shall constitute conclusive evidence in any judicial or executive proceeding that all necessary Federal permits have been granted for the duration specified on the certificate.

REQUIREMENT OF STATE COOPERATION AND INFORMATION

SEC. 314. (a) Not later than ten (10) days after notice appears in the Federal Register of an order designating a proposed energy project as a priority energy project, the Board shall notify the Governor of any State within which any portion of a priority energy project would be located and shall require the Governor to supply within thirty (30) days from the date of such notification—

(1) A compilation of all significant actions required of or by the State and local governments within the State before the priority energy project can be completed;

(2) A compilation of all significant actions and information lawfully and reasonably to be required of the applicant before a final decision can be made;

(3) A tentative schedule for completing the actions and providing the information listed in Paragraphs (1) and (2) of this subsection; and

(4) All necessary application forms which must be completed by the applicant before such approval can be granted.

(b) the Board shall provide any assistance authorized by law to assist State and local authorities in complying with requests for cooperation from the Board.

DECISION SCHEDULES FOR STATE AND LOCAL AUTHORITIES

SEC. 315. (a) The Board shall transmit to the priority energy project all information received from the Governor and from State and local governments pursuant to requests from the Board under section 314.

(b) Not later than sixty (60) days after notification of the Governor under section 314(a), the Board, after consultation with the appropriate State and local authorities, shall transmit to the Governor a schedule for timely review and decision setting deadlines for the completion of all State and local governmental agency actions relating to the priority energy project.

(c) The deadlines for State and local review established under the preceding subsection shall, to the extent possible, be consistent with the schedule supplied by the Governor pursuant to section 314(a), provided that no deadline established pursuant to this section may be such that the total time permitted for agency action exceeds one year from the date on which the schedule for timely review and decision is transmitted to the Governor pursuant to the preceding subsection.

(d) Notwithstanding any conflict provision of Federal, State, or local law, the deadlines imposed by the schedule for timely review and decision for State and local action shall constitute the lawful decisionmaking deadlines for States and local review of applications filed by the priority energy project.

(e) The Board may participate or intervene in the proceedings of any State or local agency which permits such participation or intervention in order to request such agency to adopt procedures recommended by the Board.

WAIVER OF STATE OR LOCAL LAW PROVISIONS CAUSING DELAY

SEC. 316. (a) The Board shall keep apprised of the processing of applications for priority energy projects by State and local governments. If the Board determines that a priority energy project is being delayed or threatened with delay by the inability or unwillingness of any State or local government to implement the schedule for timely review and decision, the Board shall notify the Governor of such State and transmit to the President a statement describing the delay and the causes thereof.

(b) The President shall have the authority to declare waived any provision of State or local law he deems necessary pursuant to this section.

(c) If the President, after consultation with the Board and the Governor of the delay-causing State, and after review of whether adequate steps have been taken or are likely to be taken to make unnecessary the waiver specified in this section, determines that such delay in implementing the schedule for timely review and decision remains likely to hinder or preclude construction or operation of the priority energy project,

(1) The President shall prepare and submit to Congress a report on such consultation and determination, containing—

(a) An explanation of why such delay remains likely; and

(b) A proposed waiver of the provisions of state or local law which he has determined under this section as remaining likely to hinder or preclude the timely construction or operation of the priority energy project;

(2) Such waiver shall not take effect if either House of Congress disapproves such proposed waiver in accordance with the provisions specified in section 551 of the Energy Policy and Conservation Act of 1975.

TITLE IV—MAJOR NATURAL GAS PIPELINE PROJECTS

PURPOSES

SEC. 401. The purposes of this title are to provide for an expedited process for certification of major interstate natural gas pipeline projects in the lower 48 states and to expedite the approval of construction of these pipeline projects without expanding or diminishing existing substantive Federal authority over such projects under the National Gas Act.

DESIGNATION OF MAJOR NATURAL GAS PIPILINE PROJECTS

SEC. 402. Upon application by a major natural gas pipeline project as defined in Sec. 302 of this Act, the Board is hereby directed to designate each such applicant project as a project for expedited processing by the Federal Energy Regulatory Commission (FERC).

RELATION TO NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 403. The mandatory designation by the Board provided for in Section 402 is not a major Federal action within the meaning of section 102(2) of the National Environmental Policy Act of 1969.

CERTIFICATION SCHEDULE TO BE ESTABLISHED BY THE BOARD

SEC. 404. (a) Not later than thirty (30) days after designating a proposed major natural gas pipeline project in accordance with provisions of section 402 of this Title, the Board in consultation with the FERC shall publish in the Federal Register a project certification schedule containing deadlines for all actions by the FERC relating to such project. This decision schedule shall clearly identify the dates for each element of the certification process under section 7(c) of the Natural Gas Act of 1938. This certification schedule shall also require concurrent reviews and joint hearings to the extent that they are necessary or appropriate.

(b) Notwithstanding any other provisions of the law, the schedule imposed by the Board shall constitute the lawful decisionmaking deadlines with respect to FERC consideration of applications for certification of major natural gas pipeline projects under section 7(c) of the Natural Gas Act of 1938.

(c) Upon petition of the FERC the Board may revise any procedure, extend any deadline or modify in any way appropriate and necessary the project certification schedule set forth by the Board at any time within thirty (30) days after publication of the schedule in the Federal Register; *Provided however*, that no extension shall be granted unless the Board determines that the FERC has exercised all due diligence in attempting to comply with the project certification schedule published by the Board and that it would not be feasible for the FERC to reach a decision or complete the required action within the specified time.

DELEGATION OF DECISION AUTHORITY TO PRESIDENT

SEC. 405. If the schedule deadline set forth by the Board has elapsed and the FERC has not made the decision approving or denying the certificate, the President shall make the decision within thirty (30) days in lieu of the FERC. FERC shall make available to the President its entire record on the project including public comments.

EXCEPTIONS TO PROCEDURES REQUIRED BY OTHER LEGISLATION

SEC. 406. The Secretary may establish a deadline for Federal agency action in a Project Certification Schedule that is shorter than the minimum period required under existing legislation.

PRECEDENCE OVER OTHER LAWS

SEC. 407. Notwithstanding any other provision of law, the actions of Federal officers or agencies pursuant to Titles III and IV of this Act shall not be subject to judicial review except as provided in this Act.

TITLE V—JUDICIAL REVIEW AND MISCELLANEOUS PRECEDENCE OVER OTHER LAWS

SEC. 501. The provisions of this Title govern the manner in which judicial review shall be available with respect to the actions of any Federal agency or officer relating to a priority energy project or to a major natural gas pipeline project, and the substantive and procedural provision of any other statute in conflict therewith shall be superseded for such purpose.

DECISION REGARDING PRIORITY ENERGY PROJECT STATUS

SEC. 502. A decision of the Board granting or denying an order designating a proposed energy facility as a priority energy project or designating a pipeline project as a major natural gas pipeline project shall not be subject to judicial review under any law except as required by the Constitution of the United States.

OTHER ACTION PURSUANT TO THIS ACT

SEC. 503. (a) Except as provided in section 502, claims alleging that an action taken pursuant to Titles III and IV of this Act will deny rights under the Constitution of the United States, or that an action is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right shall be brought not later than forty-five (45) days following the date of such action or such claims shall be barred, except as required by the Constitution of the United States.

(b) For the purposes of this Act, any action by any Federal agency or officer relating to a priority energy project or to a major natural gas pipeline project shall constitute an action pursuant to this tile.

TIME BAR: JURISDICTION OF THE COURT OF APPEALS

SEC. 504. (a) Any challenge to any action of a Federal agency or officer relating to a priority energy project or to a major natural gas pipeline project shall be barred unless an appeal or petition for review is filed in the manner and within the time limits prescribed by this Title.

(b) Any such appeal or petition for review shall be filed in the United States Court of Appeals for the circuit in which the priority energy project or major natural gas pipeline project or the most significant portion thereof would be located. Such court shall act as a special court and shall have exclusive original jurisdiction to determine such proceedings in accordance with procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have original jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act.

(c) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court, at that time, and shall be expedited in every way by such court and such court shall render its decision relative to any claim within ninety (90) days from the date such claim is brought unless such court determines that a longer period of time is required to satisfy requirements of the United States Constitution.

SUPREME COURT REVIEW

SEC. 505. (a) The Supreme Court shall have exclusive authority to review any interlocutory judgment or order of the Court of Appeals pursuant to this Title and the appellant must file a petition for certiorari or a certification as provided in section 1254 of Title 28, United States Code within fifteen (15) days after the decision of the Court of Appeals or his appeal shall be barred.

(b) Any review by the Supreme Court shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable take precedence over all other matters pending on the docket of the Court at that time, and shall be expedited in every way by such Court and the Court shall render its decision relative to any claim within forty-five (45) days from the date such claim is brought unless the Court determines that a longer period of time is required to satisfy requirements of the United States Constitution.

INJUNCTIVE RELIEF

SEC. 506. No court shall have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other approval or authorization pursuant to this Title except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this Act.

EXPIRATION OF AUTHORITY

SEC. 507. The Board's authority under sections 305 and 402 shall expire ten (10) years after the date of enactment of this Act. Notwithstanding the previous sentence, the provisions of the Act shall continue to be applicable to all energy facilities designated as priority energy projects or as a major natural gas pipeline project prior to the expiration of the Board's authority under sections 305 and 402.

TITLE VI—FINANCIAL ASSISTANCE

GENERAL DEFINITIONS

SEC. 601. As used in this Act, (i) the term "business concern" shall mean any individual, corporation, company, association, firm, partnership, joint venture, society, or other private entity which is engaged, or proposes to engage, in projects involving non-nuclear energy development, production, transportation, transmission, distribution, or conservation; and (ii) The term "financial assistance" shall mean the guarantee of private sector loans and obligations by commitment in connection therewith, which may be made by a financing institution for the purpose of financing any contractor, subcontractor, or other person in connection with any contract or other operation deemed necessary by the Board to achieve the production goals of this Act; and the establishment of demonstration projects.

AUTHORIZATION OF FINANCIAL ASSISTANCE

SEC. 602. Subject to the limitations set forth in this Title, the Board is authorized and empowered, in its sole discretion and upon such terms and conditions as it may determine, to provide financial assistance to any business concern which is engaged, or proposes to engage, in a project described in subsection 503(b) in order to enable such business concern to finance the ownership, construction, conversion, or expansion of productive facilities; or the acquisition of equipment, plant, machinery, supplies, or materials or the acquisition or development of land, mineral rights, and services; or to provide such business concern with working capital needed to carry out the project in an efficient manner. Financial assistance, and the terms and conditions thereof, may be renewed, modified, or extended by the Board as it may determine. No provision of this Act shall be deemed or construed so as to require or obligate the Board to provide financial assistance to any individual project or particular type of project.

PROJECTS TO WHICH FINANCIAL ASSISTANCE MAY BE PROVIDED

SEC. 603. (a) The Board is empowered to provide financial assistance for any project, described in section (b) below, if, in the judgment of the Board, such project will make a significant contribution to the achievement of energy independence by the United States or the long-term security of energy supplies for the United States and would not receive sufficient financing upon commercially reasonable terms from other sources to make the project commercially feasible: *Provided however*, That the maximum amount of financing from sources other than the Board shall be sought in connection with any project for which financial assistance is provided.

(b) The Board shall provide financial assistance only for those projects which in the judgment of the Board—

1. Employ, or would stimulate the application of technologies, processes, or techniques which are essential to the development, production, transportation, transmission, or conservation of non-nuclear energy and which are not in widespread domestic commercial use at the time of the Board's commitment of financial assistance;

2. Employ, or would stimulate the application of, technologies, processes, or techniques for the generation of electricity from fuel sources other than oil or natural gas or for the transmission of such electricity; or

3. Employ technologies, processes, or techniques for the development, production, transportation, or transmission of energy which at the time of the Board's commitment of financial assistance are in widespread domestic commercial use, provided that such project is (i) Either of such size or scope that it would not be undertaken without the assistance of the Board; or (ii) Involves an institutional or regulatory arrangement not in widespread domestic commercial use the success of which would lead to improvements in the development or production of energy, or individual transportation or transmission facilities related to projects described in clases (i) and (ii); or

4. Employ, or would stimulate the application of technologies, processes, or techniques for the protection of the environment necessary in connection with activities of the type described in paragraphs (1) through (4).

(c) For purposes of this section, the projects which shall receive financial assistance shall include, but not be limited to, projects producing fuels from coal gasification, coal liquefaction, oil shale, solar, geothermal, and biomass.

CRITERIA FOR SELECTION OF PROJECTS

SEC. 604. (a) In selecting projects to be given financial assistance, primary consideration shall be given by the Board to the question of the extent to which the project will assist in meeting the national production goal of synthetic fuels production equal to the equivalent of one million barrels of oil per day by 1985.

(b) To the extent to which the Board must select from competing applicant technologies, the Board may take the following factors into consideration—

1. The extent to which the project contributes to the development of new production or conservation technologies;

2. The extent to which the project has obtained all necessary Federal, State, and approvals;

3. The extent to which the Board feels that the technology has already been proved feasible on a commercial scale or the probability that the technology would prove to be feasible on a commercial scale; and

4. The extent to which a purchaser is already assured for the output from the project.

5. Such additional factors as the Board may consider relevant.

LIMITATIONS ON PROVISION OF FINANCIAL ASSISTANCE

SEC. 605. (a) Financial assistance provided by the Board shall be made upon such terms, and subject to such conditions, as shall be deemed by the Board to be commensurate with the purposes of this Act and the needs of the recipient. Financial assistance shall be provided in a manner which, to the extent possible, does not enhance unduly the recipient's competitive position.

(b) The Board shall not provide financial assistance to a project which would otherwise qualify for such financial assistance if, in the judgment of the Board the project applicant does not display satisfactory levels of efficiency, management capacity, or similar factors which are customarily considered by private sources of financing before making an investment decision.

(c) No financial assistance may be provided unless an application therefor has been submitted to the Board in such manner and containing such information as the Board may require and the Board has reviewed such application, taking into account competitive alternatives to meet the same energy need. Nothing herein shall preclude the Board from providing financial assistance to two or more similar projects if it determines such assistance to be appropriate and consistent with the purposes of this Act.

(d) In no case shall the aggregate amount of financial assistance made or committed under this Title to any one business concern or affiliated business concerns exceed $3,000,000,000.

(e) The liability of each enterprise investor shall be limited to the extent of its equity investment. However, that equity investment must be at least 15 percent of the total capital investment in the project.

LOAN GUARANTEES MADE BY BANK

SEC. 606. The Board is specifically authorized, on such terms and conditions as the Board may prescribe, to guarantee any lender against loss of principal and interest on securities, obligations, or loans (including refinancings thereof) issued to provide funds to any business concern where such funds substantially contribute to accomplishment of the purposes of this Act. All guarantees entered into by the Board under this section shall constitute general obligations of the United States of America backed by the full faith and credit clause. Any guarantee made by the Board under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof; shall be conclusive evidence that such guarantee complies fully with the provisions of this Act and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee; and shall be valid and incontestable in the hands of a holder of a guaranteed security, obligation, or loan, except for fraud or material misrepresentation on the part of such holder.

DEMONSTRATION PROJECTS

SEC. 607. (a) The Board is hereby authorized to build and jointly operate with private industry experimental synthetic fuel and alternate energy technology plants to develop technologies which are not yet ready for commercial-scale operations if, in the judgment of the Board, to do so will assist in meeting the national production goal of one million barrels of oil per day by 1985.

(b) To carry out the purposes of subsection (a), the Board is hereby directed to request the submission of proposals from persons offering to participate in projects which will demonstrate the commercial feasibility of the technologies to be assisted by this Act. The Board shall make this request within six months from the date of enactment of this Act by publication in the Federal Register and by such other notice as is customarily used to request proposals for major research and development undertakings.

(c) The Board shall review each proposal submitted pursuant to subsection (b) and shall select not more than ten (10) of such proposals to be given financial assistance pursuant to this Act. The funds derived from the activities of the Board under Title VII of this Act shall be used to finance the projects selected pursuant to this section.

(d) The Board shall have authority to enter into construction-management arrangements with the projects selected pursuant to subsection (c). Under these arrangements, the Federal Government shall build and own the experimental plants, but private industry shall operate them under such terms as the Board may establish.

(e) In the event of commercial success, the Board is authorized and encouraged to sell its interest in the experimental plants to the private enterprise(s) operating the plants.

LIMITATIONS ON THE TOTAL AMOUNT OF FINANCIAL ASSISTANCE

SEC. 608. The total amount of financial assistance through loan guarantees that the Board may have outstanding at any time, computed to include the same of (i) the full amount of the Board's actual and potential liability under all guarantees, and (ii) reserves for all other contingent liabilities, all as determined under generally accepted accounting principles, shall not exceed $100 billion, nor shall the amount of new or renewed loan guarantees provided by the Board in any calendar year exceed $20 billion. The Board's authority to provide financial assistance under this Act shall expire ten (10) years from the effective date of this Act.

FEES

SEC. 609. The Board shall charge reasonable fees for issuing guarantees and for making commitments to provide other forms of financial assistance pursuant to this Title.

ACCESS TO INFORMATION

SEC. 610. Every applicant for financial assistance under this Act shall, as a condition precedent thereto, consent to such examinations as the Board may require for the purposes of this Act, and shall further consent that any reports or examinations of the applicant by constituted authorities may be furnished by such authorities to the Board upon request therefor. The Board shall require such reports as it deems necessary from any business concern receiving financial assistance under this Act regarding activities carried out pursuant to this Act. The Board is authorized to prescribe the keeping of records with respect to all financial assistance and shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was provided.

ADVISORY PANEL

SEC. 611. The President may appoint a panel, of such duration, organization, and membership as he may deem appropriate, to study and report to the President, the Congress, and the Board concerning the effects of issuance of loan guarantees by the Board on the functioning of the Nation's capital markets, including effects upon the volume and distribution of capital flows to and within the energy development sector of the economy, and such other related matters as the President may specify.

TITLE VII—CAPITALIZATION AND FINANCE

CAPITAL STOCK OF THE BOARD AND DIVIDENDS

SEC. 701. (a) The Board shall have capital stock of $1,000,000.000 subscribed by the United States of America acting by and through the Secretary of the Treasury, payment for which shall be subject to call in whole or in part by the Board of Directors of the Board. Not later than one hundred and eighty days after the close of each fiscal year of the Board, the Board shall declare and shall thereafter pay a dividend on its outstanding capital stock, in an amount determined in the discretion of the Board of Directors but not less than the amount, computed by multiplying a percentage determined by the Secretary of the Treasury, taking into account the current average annual percentage yield on marketable obligations of the United States as of the close of such fiscal year, times the paid in value of such outstanding capital stock, except that the Board may defer payment of any such dividend if the Board has no earned surplus as of the close of such fiscal year or the Board of Directors determines that the funds otherwise available for payment of the dividend should be used in furtherance of the purposes of this Act. Any dividend deferred pursuant to this section shall, until paid, bear interest at a rate, determined by the Secretary of the Treasury and adjusted at the commencement of each fiscal year, taking into consideration the then current average annual percentage yield on marketable obligations of the United States.

OBLIGATIONS OF THE BOARD

SEC. 702. (a) The Board is authorized to issue and to have outstanding at any one time notes, debentures, bonds, or other obligations in such amounts as shall be necessary to finance the construction and operation of demonstration plants which the Board is authorized to build under Section 607 of this Act, subject to such annual limitations as may be provided in an appropriation Act, except that the Board shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the method, source, interest rate, timing and other terms and conditions of such obligation. The Secretary of the Treasury may direct that any such issuance by the Board be sold to the Department of Treasury for its own account or to the Federal Financing Bank.

(b) For purposes of purchasing the obligations of the Board pursuant to this section, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this section shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest due on obligations of the Board held by the Treasury may be deferred, at the discretion of the Secretary, but any such deferred interest shall bear interest at the rate specified in this section. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

(c) All obligations of the Board issued under this section shall be fully and unconditionally guaranteed as to principal and interest and shall constitute general obligations of the United States, backed by the full faith and credit of the Government of the United States of America. Such guarantee shall be expressed on the face of all such obligations.

BUDGETARY TREATMENT

SEC. 703. The receipts and disbursements of the Secretary of the Treasury in connection with the purchase of redemption of, and income from, capital stock of the Board shall not be included in the totals of the budget of the United States Government. The receipts and disbursements of the Board in the discharge of its functions shall be included in the totals of the budget of the United States Government and shall be subject to annual limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

LAWFUL INVESTMENT

SEC. 704. Obligations of the Board issued pursuant to this Act shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

FORMS OF NOTES, BONDS, AND OTHER OBLIGATIONS

SEC. 705. In order that the Board may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this Act, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Board, to be held in the Treasury subject to delivery, upon order of the Board. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Board shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

MONEYS OF THE BOARD

SEC. 706. All moneys of the Board not otherwise employed may be—

(a) deposited with the Treasury of the United States subject to withdrawal by the Board, by check drawn on the Treasury of the United States by a Treasury disbursing officer, or

(b) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

(c) With the approval of the Secretary of the Treasury, and by authorization of the Board of Directors of the Board, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Board.

FISCAL YEAR, AUDITS, AND REPORTS

SEC. 707. (a) The fiscal year of the Board shall coincide with the fiscal year of the United States Government.

(b) The Board shall retain a firm or firms of nationally recognized public accountants who shall prepare and report an annual audit of the accounts of the Board including the statements identified in section 851 of Title 31, United States Code. The General Accounting Office is authorized to conduct such audits of the accounts, and to report upon the same to Congress, as such office shall deem necessary or as Congress may request. All banks, accounts, financial records, reports, files, papers, and property belonging to or in use by the Board and necessary to facilitate an audit shall be made available to the person or persons conducting the audit and facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(c) The Board shall submit a quarterly report to the Congress and the President. The report will state the aggregate sums then outstanding or committed as loan guarantees or as assistance to demonstration projects and will list the business concerns so involved with the Board. The report shall also show, on an unaudited basis, the assets and liabilities of the Board as of the end of the Board's fiscal quarter preceding the date of the report and the number, functions, and compensation of persons employed or under contract by the Board at salary rates exceeding $2,500 per month.

(d) The Board shall submit to the Congress and the President an annual report containing the audited financial statements and report prepared by the independent public accountants pursuant to section 707. The annual report shall also contain, in addition to the information required in the quarterly report, a general description of the Board's operations during the year, a specific description of each project or activity in which the Board is involved, a status report on each such project or activity, and an evaluation of the contribution which the project or activity has made and is expected to make in fulfilling the purposes of this Act (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(e) On or before September 30, 1986, the Board shall submit to the Congress and the President a report containing a liquidation plan. The liquidation plan shall describe in the greatest detail practicable how each activity, project, or obligation involving financial assistance, and every substantial asset or liability of the Board will be liquidated, terminated, satisfied, sold, transferred, or otherwise disposed of. Each annual report thereafter made by the Board will describe what progress is being made in effecting such liquidation plan.

TITLE VIII—PURCHASE ASSISTANCE

SEC. 801. As the national security and defense preparedness of the United States could be endangered by foreign actions reducing or terminating the availability of critical and strategic materials, including energy supplies, it shall be one of the purposes of this Act to authorize purchases by the government of oil from synthetic processes to be added to the Strategic Petroleum Reserve, to be used by the Department of Defense or other Federal agencies, or to be resold by the Government to private purchasers for use within the United States.

PURCHASING AUTHORITY

SEC. 802. (a) The President, utilizing the provisions of this Act and any other applicable provisions of law, shall designate the Energy Mobilization Board as his agent for making purchases under this Act.

(b) The President is authorized and directed to order the Board to require that fuel suppliers provide synthetic fuels in any case in which the President deems it practicable and necessary and in the national interest of the United States.

(c) To assist in carrying out the objectives of this section, the Board, subject to subsection (d), may—

(1) Contract for purchases of or commitments to purchase synthetic fuels which may be used as fuels for Government use or resale; and

(2) Encourage the development and production of such synthetic fuels for national defense preparedness.

(d) Purchases, commitments to purchase, and resales under subsection (c) may be made without regard to the limitations of existing law for such quantities and on such terms and conditions, including advance payments, and for such periods as the Board deems necessary, except that—

(1) No contract for purchases or commitments to purchase may be entered into after September 30, 1990.

(2) Purchases or commitments to purchase involving higher than established ceiling prices (or if there are no established prices, currently prevailing market prices as determined by the Secretary of Energy) or anticipated loss on resale shall not be made unless it is determined that supply of synthetic fuels could not be efficiently increased at lower prices or on terms more favorable to the Government, or that such purchases are necessary to assure the availability to the United States of supplies overseas for national defense purposes.

AUTHORIZATION FOR PURCHASES

SEC. 803. There is hereby authorized to be appropriated $7 billion for use by the Board or its subsidiaries in carrying out the provisions of this title.

RIGHT TO REFUSE DELIVERY

SEC. 804. (a) Except as provided in subsection (b), any purchase or commitment to purchase synthetic fuels under section 702 shall be made by sealed competitive bidding.

(b) In any case in which no such bids are submitted to the Board or the Board determines that no such bids have been submitted which are acceptable to it, the Board may negotiate contracts for such purchases and commitments to purchase.

(c) Any contract for such purchase or commitment to purchase shall provide that the Board retains the right to refuse delivery of the synthetic fuels involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuels as specified in the contract involved exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuels on the delivery date specified in such contract.

(d) In any case in which the Board, under the provisions of this section, accepts delivery of and does not resell any synthetic fuels, such synthetic fuels shall be used by the appropriate Federal agency. Such Federal agency shall pay the market price, as determined by the Secretary of Energy, for such synthetic fuels from sums appropriated to such Federal agency for the purchase of fuels and the Board shall pay, from sums appropriated for such purpose, an amount equal to the amount by which the contract price for such synthetic fuels as specified in the contract involved exceeds such market price.

(e) The procurement power granted to the Board by this section shall include the power to transport and store and have processed and refined any products procured under this section.

TITLE IX—SUPPORT FOR SYNTHETIC GAS PRODUCTION

ALL EVENTS TARIFF

SEC. 901. The Board may provide financial assistance for a project conducted by a business concern whose rates are regulated by any State or local regulatory body only if: (i) The State or local regulatory body regulating such rates has issued a certificate of necessity for the project as prescribed by the Board, and (ii) Such State or local regulatory body, the business concern so regulated, and the Board have entered into a three party agreement which shall require the State or local regulatory body to permit, without prior hearing, quarterly rate adjustments on a basis such that had such adjustment been in effect for the twelve preceding months the net earnings of the business concern would have provided a minimum level of coverage of annualized interest charges. The Board shall establish the minimum level of coverage of annualized interest charges, to be applied uniformly until changed, which shall, in the judgment of the Board, be sufficient to assure repayment of the Board's investment and restore the credit rating of the business concern so regulated to a level capable of obtaining conventional capital at favorable interest rates without additional financial assistance from the Board. For the purposes of this subsection: (i) The term "net earnings" shall mean actual earnings before total interest charges and taxes on income adjusted for the annualization of any rate changes during the preceding twelve months; and (ii) The term "annualized interest charges" shall mean the annualized amounts of total interest charges, including interest components of leases and rents, but excluding any effect of future debt issues.

ROLL-IN PRICING PROVISION

SEC. 902. Under the provisions of this Act, all pipeline companies transporting a mixture of synthetic gas and "natural" gas shall be authorized and permitted to charge an average price for the mixture.

TITLE X—UNLAWFUL ACTS AND PENALTIES

FALSE STATEMENTS

SEC. 1001. Whoever makes any statement, knowing it to be false, or willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Board or a subsidiary, or for the purpose of obtaining money, property, contract rights, or anything of value, under this Act, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both.

FORGERY

SEC. 1002. Whoever (1) falsely makes, forges, or counterfeits any note, debenture bond, or other obligation, or coupon, in limitation of or purporting to be a note, debenture, bond, or other obligation, coupon, or thing of value issued by the Board or a subsidiary, or (2) passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited note, debenture, bond, or other obligation, coupon or thing of value purporting to have been issued by the Board or a subsidiary, knowing the same to be false, forged, or counterfeited, or (3) falsely alters any note, debenture, bond, or other obligation, or coupon, issued or purporting to have been issued by the Board, or a subsidiary, or (4) passes, utters, or publishes, or attempts to pass, utter, or publish, as true any falsely altered or spurious note, debenture, bond, or other obligation, coupon, or thing of value issued or purporting to have been issued by the Board or a subsidiary, knowing the same to be falsely altered or spurious, shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

MISAPPROPRIATIONS OF FUNDS AND UNAUTHORIZED ACTIVITIES

SEC. 1003. Whoever, being connected in any capacity with the Board or a subsidiary, (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to the Board or such subsidiary, or (2) with intent to defraud the Board and subsidiary or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Board or such subsidiary, makes any false entry in any book, report, or statement of or to the Board or such subsidiary, or, without being duly authorized, draws any order or issues, puts forth or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or (3) with intent to defraud, participates, shares, or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, commission, contract, or any other act of the Board or such subsidiary, or (4) gives any unauthorized information concerning any future action or plan of the Board or such subsidiary which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation receiving loans or other assistance from the Board or such subsidiary shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

INFRINGEMENT ON NAME

SEC. 1004. No individual, association, partnership, corporation, or business entity shall use the words "Energy Mobilization Board" or a combination of these words which a court of competent jurisdiction shall find reasonably likely to mislead or deceive, as the name or a part thereof under which he or it shall do business.

UNLAWFUL CONTRACTS

SEC. 1005. The provisions of sections 431 through 433, inclusive, of title 18, United States Code, shall apply to contracts or agreements with the Board or subsidiary pursuant to this Act. Such contracts or agreements include, but are not limited to loans, loan guarantees, purchase agreements, advances, discounts and rediscounts, acceptances, releases, and substitutions of security, together with extensions or renewals thereof.

ADDITIONAL PENALTIES

SEC. 1006. In addition to any other penalties provided in this title, the defendant in any action brought pursuant thereto shall, on conviction, be liable to the Board or subsidiary for any loss by the Board or such subsidiary and any profit or gain acquired by him as a result of the conduct constituting the offense for which he was convicted.

SUITS BY THE ATTORNEY GENERAL

SEC. 1007. No suit shall be brought alleging that the Board (or any Director, officer, employee, or agent thereof) has engaged in any action, practice or policy inconsistent with this Act; has violated any provision thereof; has obstructed or interfaced with any activities authorized thereby; or has refused, failed, or neglected to discharge duties or responsibilities mandated by the Act except by the Attorney General of the United States or his delegate. The Attorney General may, by petition in any Federal district court in any State where the Board is transacting business or where any such individual resides (or in the District of Columbia), seek such equitable relief as may be necessary or appropriate to prevent or terminate such conduct. Nothing in this section prevents the enforcement of the other provisions of this title by appropriate officials of the United States, nor precludes the application of chapter 171 of title 28, United States Code, to the Authority nor to prohibit suits by private parties against the Authority based on breach of contract.

TITLE XI—GENERAL PROVISIONS

SEVERABILITY

SEC. 1101. If any provision of this Act, or the application of any such provision to any person or circumstance, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SEC. 1102. (a) The provisions of the United States Code relating to public contracts and public buildings and works, including the Federal Property and Administrative Services Act of 1949, shall not apply to the operations of the Board. All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair (including painting and decorating) of projects for which financial assistance is provided by the Board or a subsidiary shall be paid at wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a through 276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 Fed. Reg. 3176, 64 Stat. 1267 and 40 U.S.C. 276 (c)). Federal labor standards and equal employment opportunity requirements and provisions shall apply to the Board and business concerns receiving financial assistance from the Board.

(b) The securities laws of the United States, including the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Federal Power Act of 1935 and the Investment Company Act of 1940, shall not apply to the Board. Any securities issued by the Board (including any guarantee by the Board, whether or not limited in scope), and any securities guaranteed by the Board as to both principal and interest, shall be deemed to be exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 and section 3(a)(12) of the Securities Exchange Act of 1934.

(c) Nothing in this Act shall be construed to change the Mineral Lands Leasing Act of 1920 (30 U.S.C. 181 through 287), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 through 1343), nor any other law governing the ownership, management, and disposition of Federal minerals or lands except that the Board may acquire Federal minerals or lands in accordance with such laws.

EFFECTIVE DATE

SEC. 1103. The provisions of this Act shall become effective thirty (30) days after the date of enactment of this Act. ●

By Mr. HARRY F. BYRD JR. (for himself and Mr. WARNER):

S. 1514. A bill to amend the Internal Revenue Code of 1954 with respect to interest on certain governmental obligations the proceeds of which are to be used to provide solid waste disposal facilities; to the Committee on Finance.

SOUTHEASTERN REGIONAL AUTHORITY—TAXATION OF SOLID WASTE DISPOSAL FACILITIES

Mr. HARRY F. BYRD, JR. Mr. President, the rising cost of oil and energy of all forms has made it mandatory that, as a part of our national energy policy, our nation look at alternative sources of energy.

One of the most promising methods of producing new sources of energy is the use of solid waste as an energy source. Municipalities are today confronted with environmental problems in disposing of their solid waste. Solid waste recovery facilities which combine energy production and solid waste disposal solve both environmental and energy problems confronting our Nation.

The bill which I am introducing, along with my colleague from Virginia, Mr. WARNER, would facilitate the development of solid waste and energy producing facilities through clarification of the current tax laws concerning tax exemptions for these facilities.

The bill provides that industrial development bonds issued by tax-exempt State and political subdivision may be used as a means of financing solid waste disposal facilities where steam or electric energy produced at such facilities are sold to and used by the Federal Government.

The bill further provides that tax-exempt industrial development bonds may be used to fund facilities which combine both solid waste disposal and energy production. This means that where the conversion from solid waste to electricity is part of an integrated process the entire facility, including steam boilers and electric generators, may be financed by tax-exempt bonds.

My interest in this proposal arises from a project in Tidewater, Va., the Southeastern Public Services Authority of Virginia.

The authority has seven participating Virginia counties and cities with a combined populaton of approximately 750,000 persons.

The authority plans to collect solid waste from each of these areas, process the solid waste, convert it to steam, which will then be converted to electricity, and sell the electricity to the Norfolk Naval Shipyard in Portsmouth, Va.

The authority has already spent over $2.2 million in local tax dollars for feasibility studies and engineering design work for developing its facilities, yet may not ever be completed unless current tax provisions are clarified.

Under current provisions of the Tax Code and IRS regulations, there may be a question as to whether the authority can be financed through tax-exempt bonds. This is because it will be selling its final product, electricity, to the Navy.

If it were selling such a product to a private user there would be no question as to its tax-exempt status. Since the Department of Energy and the Department of Defense have encouraged development and use of alternative sources of energy within the Government, it seems logical to provide in the tax law that solid waste disposal facilities which sell their products to the Federal Government may be financed on a tax-exempt basis.

The second problem which the southeastern authority faces is Internal Revenue Service regulations which limit tax-exempt status only to the solid waste portion of the facility. Electrical generators, which are an integral part of the facility, are not currently permitted to be tax exempt under IRS regulations. If the entire facility were not tax exempt, the project would not be economically feasible and would fail.

For this reason, the bill also permits tax exemption for the entire facility when it is an integrated process such as the Southern Public Service Authority.

Other municipalities throughout the country are also beginning to develop solid waste disposal facilities and to sell the energy to governmental and private users. It is estimated that as many as 40 projects of this nature may exist throughout the country.

According to the Joint Tax Committee, there will be a revenue loss in fiscal year 1980 of $2 million, 1981 of $13 million, 1982 of $39 million, 1983 of $81 million.

By Mr. PROXMIRE:

S. 1515. A bill to authorize the striking of bicentennial medals; to the Committee on Banking, Housing, and Urban Affairs.

BICENTENNIAL MEDALS—U.S. CAPITOL HISTORICAL SOCIETY

Mr. PROXMIRE. Mr. President, on behalf of the U.S. Capitol Historical Society, I introduce legislation authorizing use of the Bureau of the Mint's facilities for the striking of bicentennial medals. These medals will commemorate the 200th anniversary of historic events and personalities of the American Revolution. Revenues from the sale of these medals will be used by the Society in its continuing program to provide educational materials on the U.S. Capitol, the U.S. Constitution and the Bill of Rights. The Society is also responsible for the murals on the hallways and ceilings of the Capitol.

It is a pleasure for me to introduce this proposal on the society's behalf.

By Mr. DOLE (for himself and Mr. GARN):

S. 1517. A bill to amend the Internal Revenue Code of 1954 to impose an energy development surtax on the net taxable oil income from domestic crude oil; to the Committee on Finance.

ENERGY DEVELOPMENT SURTAX

● **Mr. DOLE.** Mr. President, if there is one word which characterizes the Federal Government's responses to the current energy shortage it is "panic."

The Federal Government, for the past 2 years, and particularly since the internal collapse of Iran, has given the American public many conflicting signals concerning our energy situation. Unfortunately, a good deal of time has been squandered by attempting to assess the blame on everyone except the Government.

It is a sorry state of affairs, and it need not have happened.

The price control of domestically produced oil in the early 1970's was a costly mistake and put this country on the course toward its present precarious predicament. Now, belatedly, oil prices are being decontrolled. The decontrol of oil will stop the senseless subsidization of oil imports and will bring on new supplies for the American consumer. The people of this country far prefer the availability of energy at a higher price than the current Government-induced shortage.

Mr. President, the Senate Finance Committee is currently considering the legislation to tax the increased revenues generated by decontrol and from increases in world prices.

The administration refers to their plan as a "windfall" profits tax. As I have stated before, the administration's plan is not a tax on profits. Nowhere is the term or even the concept of "profits" mentioned. The tax is simply an extremely complicated excise tax on crude oil imposed at the wellhead. In that sense it is similar to the crude oil equalization tax. The oil tax will not increase supplies of energy. It will, however, raise billions of dollars in new taxes. The excise tax is a revenue machine that will fill the Treasury, not shorten gas lines and fuel American commerce.

The tax passed by the Ways and Means Committee was punitive. It was tempered only slightly by the House.

ENERGY DEVELOPMENT SURTAX

Mr. President, I am introducing today legislation which focuses on the energy problem. My proposal—the energy development surtax—is designed to encourage the domestic exploration, development, and production of oil and natural gas while addressing the issues created by "decontrol." It is a fair solution, because Americans will be able to expect more energy for the higher prices they will pay.

Mr. President, the energy development surtax imposes an 80 percent surtax on income generated by oil decontrol and by increases in price on uncontrolled oil. The producer may reduce the surtax by increasing investment in energy production. In order to encourage production from existing wells, a partial deduction may be taken for increased production expenses due to decontrol. This will encourage increased production for existing wells which may not be currently economical. A production incentive credit may be used to offset the surtax if the producer dramatically increases his exploration and development expenses for oil and gas over previous years. In order to discourage the drilling of dry holes simply to reduce the tax liability, the surtax is reduced by only $1 for every $3 of increased exploration and development expenses.

Mr. President, the energy development surtax terminates in 5 years, which prevents the Government from achieving a vested interest in future oil price increases. In designing the energy development surtax, I recognized many changes which could be made. However, the bill incorporates the concepts which I believe are important.

First, because the tax is an income tax—not an excise tax—it will improve the cash flow to the industry. I question the wisdom of a policy which asks business to invest in energy production and then confiscates the tools to implement the policy.

PRODUCTION INCENTIVE CREDIT

Mr. President, under the administration's excise tax there is no assurance the increased revenues generated by decontrol will be invested in energy production. The decontrol of domestically produced crude oil and the recent increases in the price of uncontrolled oil will have a dramatic effect. However, nothing prevents any of the major oil companies from diversifying their holdings into nonenergy assets. The productive incentive credit will encourage the revenue to be put back into energy development.

Mr. President, I also believe there should be a small producers exemption to the tax. Independent producers are generally the ones who take the risk of drilling. This will prevent small producers from dealing with a new layer of complexity in the tax law.

Mr. President, under current technology only 10 to 20 percent of oil is recovered under primary production techniques. In order to encourage well workovers, my proposals provide that a portion of production expenses may be deducted. I might add, in recent years production expenses have been escalating at nearly twice as fast as the rate of inflation.

Mr. President, the tax I propose today raises substantial revenue to finance alternative energy development. However, the revenue raised is done in a way to achieve maximum energy development.

There has been some criticism regarding a production credit against the tax. Some who criticize this concept do not want producers to reduce their tax even if money is used to discover more energy. For others, the credit is too strict, because it requires the money to be dedicated to energy. I must say, the credit which is in my proposal is not complicated. Such criticism is misguided and designed to cloud the real issues.

Mr. President, I welcome constructive suggestions about the energy development surtax. I hope that the Senate Finance Committee will adopt the approach I have introduced. Unless we start a dialog about small producers exemption, cash flow, increased production costs, production incentive credits, the country is likely to be denied countless barrels of new production. I believe the energy development surtax is fair. While I support the development of alternative and synthetic fuels, in the short-term our survival depends on petroleum. This bill strikes a good balance between the quest for new supplies and the interests of the American public.

I ask unanimous consent that an analysis of the energy development surtax, a chart indicating the revenue impact, and the text of the bill be printed in the RECORD.

There being no objection, the bill and material was ordered to be printed in the RECORD, as follows:

S. 1517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF CODE

(a) SHORT TITLE.—This Act may be cited as the "Energy Development Surtax Act of 1979."

(b) AMENDMENT of 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. ENERGY DEVELOPMENT SURTAX.

(a) IN GENERAL.—

(1) AMENDMENT OF CHAPTER 1.—Chapter 1 (relating to normal taxes and surtaxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter U—Energy Department Surtax

"Sec. 1399. Imposition and amount of tax.
"Sec. 1399A. Production incentive credit.
"Sec. 1399B. Net taxable oil income.
"Sec. 1399C. Other definitions and special rules.
"Sec. 1399D. Records and information; regulations.

"SEC. 1399. IMPOSITION AND AMOUNT OF TAX.

"In addition to all other taxes imposed by this title, there is hereby imposed on the first seller of taxable crude oil a tax equal to 80 percent of the net taxable oil income of such first seller during each taxable year.

"SEC. 1399A. PRODUCTION INCENTIVE CREDIT.

"(a) There shall be allowed to each person liable for the tax imposed by section 1399 for any taxable year, as a credit against such tax, an amount equal to one-third of the excess of the qualified development costs of such person for the taxable year over the production base of such person for such taxable year.

"(b) LIMITATION ON AND CARRYOVER OF CREDIT.—

"(1) LIMITATION.—The amount of the credit allowed under subsection (a) for any taxable year shall not exceed the amount of the tax imposed under section 1399 for such taxable year.

"(2) CARRYOVER OF EXCESS CREDIT.— If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year, 50 percent of the amount of such excess shall be carried to the succeeding taxable year and added to the credit allowed under subsection (a) for such succeeding taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED DEVELOPMENT COSTS.—The term 'qualified development costs' means the amount paid or incurred by the first seller during the taxable year (with respect to areas within the United States or a possession of the United States) for exploration for, and development of, oil and gas, including, but not limited to—

"(A) intangible drilling and development costs (within the meaning of section 263(c)),

"(B) geological and geophysical costs,

"(C) expenditures for the construction, erection, and reconstruction of depreciable assets used for the development of oil (including oil shale and tar sands),

"(D) expenditures for lease equipment, and

"(E) other costs for the drilling and equipping of wells,

but does not include costs for lease or land acquisition.

"(2) PRODUCTION BASE.—The term 'production base' is an amount equal to the excess of—

"(A) the average of the qualified development costs during the highest 3 out of the 5 taxable years preceding the taxable year for which the determination is being made, over

"(B) one-half of the qualified development costs during such taxable year for exploration for, and development of—

"(i) certain Alaskan oil, and

"(ii) crude oil from Continental Shelf areas (within the meaning of section 638).

"SEC. 1399B. NET TAXABLE OIL INCOME.

"(a) NET TAXABLE OIL INCOME.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'net taxable oil income' means the excess of—

"(A) an amount equal to the gross income from all barrels of taxable crude oil with respect to which there was a first sale by the first seller during the taxable year, over—

"(B) the sum of—

"(i) the small producer exemption,

"(ii) the pre-decontrol price deduction, and

"(iii) the proportionate production expense,

of the first seller for such taxable year.

"(2) DETERMINATION OF GROSS INCOME.—For purposes of this section—

"(A) IN GENERAL.—Gross income from a barrel of crude oil means the amount for which the barrel is first sold.

"(B) SALES BETWEEN RELATED PERSONS.—In the case of a sale between related persons (within the meaning of section 103(b)(6)(C)), gross income shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

"(C) OIL REMOVED OR REFINED.—In the case of a first sale described in section 1399C (b)(1) (B) or (C), gross income from such sale shall be determined in the same manner as gross income is determined from the property under section 613.

"(b) SMALL PRODUCER EXEMPTION.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'small producer exemption' means an amount equal to the gross income from the number of barrels of crude oil with respect to which there was a first sale by the first seller during the taxable year which does not exceed the product of—

"(A) 3,000 barrels, multiplied by

"(B) the number of days in the taxable year.

"(2) LIMITATION.—In determining the small producer exemption under paragraph (1), the first seller shall take into account barrels in order of their respective sale prices beginning with the lowest such price.

"(3) ALLOCATION AMONG RELATED PERSONS.—

"(A) In the case of persons who are members of the same related group during any period, the small producer exemption determined under paragraph (1) for such taxable year shall be reduced for each person by allocating such amount among all such persons in proportion to their respective gross income amount determined under subsection (a)(1)(A) during such taxable year.

"(B) RELATED GROUP.—For purposes of subparagraph (A), the term 'related group' means—

"(i) a controlled group of corporations (as defined in section 613A(c)(8)(D)(i)),

"(ii) a group of entities among which an allocation would be made under subparagraph (B) of section 613A(c)(8), and

"(iii) members of the same family (as defined in section 613A(c)(8)(iii)) and any corporation, trust, or estate 50 percent or more of the beneficial interest in which is owned (directly or through the application of section 267(c)) by members of such family.

"(C) SPECIAL RULE.—If an entity is a member of more than 1 related group for any period, the computation of the entity's small producer's exemption shall be made by aggregating the entity's allocation under subparagraph (A) from all such related groups.

"(c) PRE-DECONTROL PRICE DEDUCTION.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'pre-decontrol price deduction' means an amount equal to the gross income which would have been received during the taxable year from the first sale of taxable crude oil if it had been sold at the adjusted pre-decontrol price.

"(2) PRE-DECONTROL PRICE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the pre-decontrol price is—

"(i) in the case of lower tier and upper tier crude oil, the first sale ceiling price (as of May 31, 1979) for such oil under regulations prescribed under section 4 (a) of the Emergency Petroleum Allocation Act of 1973, and

"(ii) in the case of other crude oil, (including certain Alaskan oil) the fair market value of such oil on May 31, 1979, as determined by the Secretary.

"(B) STRIPPER WELLS.—In the case of crude oil produced from a well which, after May 31, 1979, may be classified under such regulations as a stripper well, the pre-decontrol price shall be equal to the pre-decontrol price for a well classified as a stripper well on May 31, 1979.

"(3) ADJUSTED PRE-DECONTROL PRICE.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'adjusted pre-decontrol price', when used with respect to any barrel of crude oil, means the pre-decontrol price for such barrel plus an amount equal to—

"(i) such pre-decontrol price, multiplied by

"(ii) the inflation adjustment for the calendar month in which the crude oil is produced.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

"(B) INFLATION ADJUSTMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The inflation adjustment for any calendar month is the percentage by which—

"(I) the CPI for such calendar month, exceeds

"(II) the CPI for May of 1979.

The percentage determined under the preceding sentence shall be rounded to the nearest one-tenth of 1 percent.

"(ii) CPI.—The CPI for any month is the Consumer Price Index for All Urban Consumers published by the Department of Labor for such month.

"(d) PROPORTIONATE PRODUCTION EXPENSE.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'proportionate production expense' means an amount which bears the same ratio to the qualified production expenses of the first seller for such taxable year as—

"(A) the excess of—

"(i) the gross income amount determined under subsection (a)(1)(A) for such taxable year, over

"(ii) the pre-decontrol price deduction for such taxable year

"(B) the amount referred to in subparagraph (A)

(1).

"(2) QUALIFIED PRODUCTION EXPENSES.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified production expenses' means any amount paid or incurred by the first seller during the taxable year for the production of oil in an area within the United States or a possession of the United States, including, but not limited to—

"(i) operating and maintenance expenses,

"(ii) general and administrative costs,

"(iii) taxes (other than any income tax),

"(iv) well workovers, and

"(v) other direct and indirect expenses of production,

but does not include any payments for land and leases.

(e) Limitation.—In no event shall the net oil taxable income be less than zero.

"Sec. 1399C. Other Definitions and Special Rules.

"(a) Items Subject to Tax.—For purposes of this subchapter—

"(1) Taxable crude oil.—The term 'taxable crude oil' means so much of the production of domestic crude oil from any property with respect to which there is a first sale during the taxable year.

"(2) Lower tier crude oil.—The term 'lower tier crude oil' means any crude oil which, if sold on May 31, 1979, would have been subject to the lower tier ceiling price rule in effect on such date under section 4 (a) of the Emergency Petroleum Allocation Act of 1973.

"(3) Upper tier crude oil.—The term 'upper tier crude oil' means any crude oil (except certain Alaskan oil) which if sold on May 31, 1979, would have been subject to the upper tier ceiling price rule in effect on such date under such section 4(a).

"(4) Certain alaskan oil.—The term 'certain Alaskan oil' includes any crude oil produced from a well north of the Arctic Circle.

"(b) First Sale and First Seller.—

"(1) First sale.—

"(A) In general.—The term 'first sale' means the first transfer for value by the producer or royality owner.

"B) Use of crude oil before first sale.—

"(i) Oil removal from the premises before sale.—If crude oil is removed from the premises before it is sold, such oil shall be treated as having been first sold on the day it is removed.

"(ii) Refining begun on premises.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the premises, such oil shall be treated as removed on the day such manufacture or conversion begins.

"(iii) Oil used on the premises for the production of oil.—If crude oil is used on the premises for the production of oil, such oil shall not be treated as having been sold.

"(iv) Meaning of terms.—As used in this subparagraph, the terms 'premises' and 'refined products' have the same meaning as when used for purposes of determining gross income from the property under section 613.

"(2) First seller.—The term 'first seller' means a transferor determined under paragraph (1).

"(c) Fractional Part of a Barrel.—In the case of a fractional part of a barrel, computations under this subchapter shall be made on the basis of a like fraction of the whole barrel.

"(d) Credits Not Allowable.—For purposes of determining the amount of any credit allowable under subpart A of part IV of subchapter A of this chapter, the tax imposed by this subchapter shall not be treated as a tax imposed by this chapter.

"(e) Other Definitions.—For purposes of this chapter—

"(1) Crude oil.—The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(2) Domestic.—The term 'domestic', when used with respect to crude oil, means crude oil produced from an oil well located in the United States or in a possession of the United States.

"(3) Barrel.—The term 'barrel' means 42 United States gallons.

"(4) United states.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(5) Possession of the united states.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(f) Members of Affiliated Group Treated as One Person.—If two or more corporations are members of an affiliated group making a consolidated return with respect to the tax imposed by chapter 1 for a taxable year or years which include any entire taxable period, such corporations shall be treated as one person for purposes of the tax imposed by section 1399 for such taxable year.

"Sec. 1399D. Records and Information; Regulations

"(a) Records and Information.—Each person liable for tax under section 1399, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each operator of a well from which domestic crude oil was produced, shall keep such records, make such returns, and furnish such information with respect to such oil as the Secretary may by regulations prescribe.

"(b) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this chapter.".

(2) Clerical amendment.—The table of subchapters for chapter 1 is amended by adding at the end thereof the following new item:

"Subchapter V—Energy Development Surtax."

(b) Technical Amendments.—

(1) The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (4) the following new paragraph:

"(5) The energy development surtax imposed by section 1399.".

(2) Paragraph (1) of section 871(b) (relating to tax on nonresident individuals) is amended by inserting ", or in section 1399 on his net taxable oil income," after "taxable income".

(3) Subsection (b) of section 877 (relating to expatriation to avoid tax) is amended by striking out "or section 1201 (b)" and inserting "section 1201(b), or section 1399".

(4) Paragraph (1) of section 6015(c) (defining estimated tax) is amended by striking out "or 56" and inserting ", 56, or 1399".

(c) Certain Information Required To Be Furnished.—

(1) General rule.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"Sec. 6050C. Information Furnished by Purchaser and Operator Regarding Energy Development Surtax on Domestic Crude Oil.

"(a) Certain Information Furnished by Purchaser.—Under regulations prescribed by the Secretary, the purchaser of domestic crude oil (within the meaning of section 1399C(e)(2)) shall furnish to the person liable for tax under section 1399 with respect to such oil a monthly statement showing the following:

"(1) the amount of taxable domestic crude oil purchased from such person during such month,

"(2) the first sale price of such oil,

"(3) the pre-decontrol price and the adjusted pre-decontrol price with respect to such oil, and

"(4) such other information as may be required by regulations prescribed by the Secretary.

"(b) Information Furnished by Operator.—Under regulations prescribed by the Secretary, if the purchaser of domestic crude oil and the operator of the well from which such crude oil was produced make a joint election under this subsection, the monthly statement required to be furnished by the purchaser under subsection (a) shall be furnished by such operator.

"(c) Time for Filing Monthly Statement.—Each monthly statement required to be furnished under subsection (a) or (b) for any month shall be furnished before the first day of the second month which begins after the close of such month.

"(d) Certification Furnished by Operator.—Under regulations prescribed by the Secretary, the operator of the well from which crude oil subject to the tax imposed under section 1399 was produced shall certify (at such time and in such manner as the Secretary shall by regulations prescribe) to the purchaser the pre-decontrol price with respect to such crude oil. For purposes of section 6652(b) (relating to additions to tax for failure to file other returns) such certification shall be treated as a statement of a payment to another person.

"(e) Cross References.—

"(1) For additions to tax for failure to furnish information required under this section, see section 6652(b).

"(2) For penalty for willfull failure to supply information required under this section, see section 7241.".

(2) Technical and conforming amendments.—

(A) Section 6652(b) is amended by striking out "or section 6051(d)" and inserting in lieu thereof the following: "section 6050C (relating to information regarding energy development surtax on domestic crude oil), or section 6051(d)".

(B) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050C. Information furnished by purchaser and operator regarding energy development surtax on domestic crude oil.".

(d) Criminal Penalty for Failure To Furnish Certain Information.—

(1) In general.—Part II of subchapter A of chapter 75 (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

"Sec. 7241. Willful Failure To Furnish Certain Information Regarding Energy Development Surtax on Domestic Crude Oil

"Any person who is required under section 6050C (or regulations thereunder) to furnish any statement, information, or certification to any other person and who willfully fails to furnish such statement, information, or certification at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution.".

(2) Clerical amendment.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7241. Willful failure to furnish certain information regarding energy development surtax on domestic crude oil.".

(e) Information Furnished by Partnerships, Trusts, and Estates.—

(1) Information to be furnished to partners and to beneficiaries of estates and

Trusts.—Subpart B of Part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new section:

"Sec. 6050D. Information To Be Furnished to Partners and to Beneficiaries of Estates and Trusts.

"(a) Requirement.—Under regulations prescribed by the Secretary, each partnership, estate, and trust required to file a return pursuant to section 1399 for any taxable year shall furnish to each partner or beneficiary, as the case may be, a written statement showing the following:

"(1) the name of such partner or beneficiary,

"(2) information received by the partnership, trust, or estate pursuant to section 6050C,

"(3) such partner's or beneficiary's distributive share of the items referred to in paragraph (2), and

"(4) such other information as may be required by regulations prescribed by the Secretary.

"(b) Time for Furnishing Written Statement.—Each written statement required to be furnished under this section with respect to any taxable year shall be furnished before the first day of the third month following the close of such year.".

(2) Clerical amendment.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 6050D. Information to be furnished to partners and to beneficiaries of estates and trusts.".

(f) Effective Date.—The amendments made by this section shall apply with respect to domestic crude oil sold between December 31, 1979, and January 1, 1985, for taxable years in which such oil is sold.

Energy Development Surtax

The Energy Development Surtax is an 80 percent surtax on decontrol income that takes into account the costs of production unlike the flat excise tax on gross revenue proposed by the Administration and contained in H.R. 3919.

PRINCIPAL FEATURES

An 80 percent tax rate on net decontrol income;

A small producers deduction that will exempt producers up to 3,000 barrels per day;

A proportionate production expense deduction that recognizes the skyrocketing costs of oil production;

A production incentive credit to provide an incentive to significantly increase exploration and development of oil and gas; and

The EDS would terminate after five years.

REVENUE EFFECT

The Joint Committee on Internal Revenue Taxation has estimated that the EDS will raise approximately $4 to $6 billion per year in additional revenues.

ADVANTAGES OF THE ENERGY DEVELOPMENT SURTAX

The EDS will maximize the incentive to discover and produce more oil.

Establishes a policy that energy companies should reinvest increased revenues in energy development.

Small producers will be exempt from the tax since they are least capable of dealing with an additional level of taxation and since they have traditionally reinvested their earnings in more drilling.

The EDS production expense deduction recognizes that production costs have been inflating dramatically and are likely to continue to climb.

The EDS is an income tax collected at the same time as normal corporate taxes. Thus the producers will be given the cash flow to finance more drilling and they will be spared complex bookkeeping as associated with an excise tax.

Explanation of Energy Development Surtax

IMPOSITION OF TAX

The Energy Development Surtax is imposed on the first seller of taxable crude oil removed from a domestic lease.

RATE OF SURTAX

A surtax shall be imposed in the amount of 80 percent of the net taxable oil income.

NET TAXABLE OIL INCOME

Net taxable oil income is the gross income from the sale of all taxable crude oil reduced by the "small producers exemption," the "pre-decontrol price deduction," and the "proportionate production expenses" of the first seller.

The small producers exemption is equal to the total price on the lowest priced 3,000 barrels per day of crude oil sold during the taxable year. The small producers exemption must be allocated among related parties.

The "pre-decontrol price deduction" is an amount equal to the income which would have been received by the first seller if the oil was sold at its pre-decontrol price on May 31, 1979, adjusted monthly for inflation.

The "proportionate production expenses" is an amount of qualified production expenses multiplied by the ratio of the gross income from the first sale of oil over the pre-decontrol price deduction. Qualified production expenses include amounts paid or incurred by the first seller, including operating and maintenance expenses, general and administrative costs, taxes, and well workovers.

PRODUCTION INCENTIVE CREDIT

A "production incentive credit" for qualified domestic exploration and development of oil and gas may be used to offset the amount of the energy surtax. The production incentive credit is an amount equal to one-third of the "qualified development costs" over the "production base." Qualified development costs include intangible drilling expenses, geological and geophysical costs, expenditures for the construction of depreciable assets used from the development of oil and oil shale, expenditures for lease equipment and other costs for drilling and equipping wells. The production base is the average of the highest three out of the last five taxable years preceding the year for which the base determination is being made. The taxpayer in calculating the production base shall include only one-half of his qualified development costs for exploration and development of certain Alaskan oil and crude oil from the Continental Shelf areas.

PRODUCTION INCENTIVE CREDIT CARRYOVER

If the production incentive credit exceeds the Energy Development Surtax in any one taxable year, one-half of the credit can be carried forward into the next taxable year.

The payment and the filing of the return for the Energy Development Surtax shall be not later than the 15th day of the third month following the close of the taxable period.

DEDUCTIBILITY OF SURTAX

Any surtax paid shall be allowed as a deduction from the gross income of the taxpayer.

EXPIRATION OF SURTAX

The Energy Development Surtax will expire in five years.

ESTIMATED REVENUE EFFECT OF ENERGY DEVELOPMENT SURTAX ACT OF 1979 (SENATOR DOLE)

[In billions of dollars]

	Calendar year liability				
	1980	1981	1982	1983	1984
Net taxable oil income	5.5	12.7	16.9	17.7	18.7
Energy development surtax	4.4	10.2	13.5	14.2	15.0
Production incentive credit	−3.0	−3.7	−3.7	−5.3	−6.3
Energy development surtax after credit	1.3	6.5	9.8	8.9	8.7
Reduction in income taxes	−.5	−2.6	−3.9	−3.6	−3.5
Net energy development surtax	.8	3.9	5.9	5.3	5.2

Source: Joint Committee on Taxation, July 13, 1979. ●

ADDITIONAL COSPONSORS

S. 91

At the request of Mr. Thurmond, the Senator from Virginia (Mr. Warner) was added as a cosponsor of S. 91, a bill to amend title 10, United States Code, to remove certain inequities in the survivor benefit plan provided for under chapter 73 of such title, and for other purposes.

S. 246

At the request of Mr. Bentsen, the Senator from Florida (Mr. Stone) was added as a cosponsor of S. 246, a bill to amend the Internal Revenue Code of 1954 to encourage greater individual savings.

S. 736

At the request of Mr. Dole, the Senator from Texas (Mr. Tower) was added as a cosponsor of S. 736, the Employment Tax Act of 1979.

S. 1107

At the request of Mr. Stevenson, the Senator from North Carolina (Mr. Morgan) was added as a cosponsor of S. 1107, the Youth Opportunity Wage Act of 1979.

S. 1295

At the request of Mr. Baucus, the Senator from New York (Mr. Moynihan) and the Senator from New Jersey (Mr. Bradley) were added as cosponsors of S. 1295, a bill to amend title XVIII of the Social Security Act to provide for a program of voluntary certification for health insurance policies sold in supplementation of medicare.

S. 1349

A the request of Mr. Melcher, the Senator from New York (Mr. Moynihan), the Senator from Utah (Mr. Garn), the Senator from Utah (Mr. Hatch), the Senator from South Dakota (Mr. Pressler), and the Senator from Montana (Mr. Baucus) were added as cosponsors of S. 1349, a bill to create an International Council of Oil Importing Nations.

S. 1435

At the request of Mr. Packwood, the Senator from Texas (Mr. Tower), the Senator from Indiana (Mr. Lugar), the Senator from Pennsylvania (Mr. Heinz), and the Senator from Illinois (Mr. Percy) were added as cosponsors of S. 1435, a bill to provide a system of capital recovery for investment in plant and equipment, and to encourage economic growth and modernization through increased capital investment and expanded employment opportunities.

S. 1444

At the request of Mr. Baucus, the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of S. 1444, a bill to amend the Internal Revenue Code of 1954 and title 28 of the United States Code to provide for the award of reasonable court costs, including attorney's fees, to prevailing parties in civil tax actions, and for other purposes.

SENATE JOINT RESOLUTION 88

At the request of Mr. Cochran, the Senator from Alaska (Mr. Stevens), the Senator from Montana (Mr. Baucus), the Senator from Colorado (Mr. Armstrong), the Senator from Kentucky (Mr. Ford), the Senator from Arkansas (Mr. Pryor), the Senator from Arizona (Mr. Goldwater), the Senator from Utah (Mr. Hatch), the Senator from Kansas (Mr. Dole), the Senator from Mississippi (Mr. Stennis), the Senator from Wyoming (Mr. Simpson), the Senator from Alabama (Mr. Heflin), and the Senator from Maryland (Mr. Mathias) were added as cosponsors of Senate Joint Resolution 88, to authorize the President to proclaim the third Friday in October of each year as "American Enterprise Day."

SENATE RESOLUTION 184

At the request of Mr. Helms, the Senator from Indiana (Mr. Lugar), the Senator from Missouri (Mr. Danforth), and the Senator from Oregon (Mr. Packwood) were added as cosponsors of Senate Resolution 184, expressing the sense of the Senate regarding the matter of Josef Mengele.

AMENDMENTS SUBMITTED FOR PRINTING

COMMUNICATIONS ACT AMENDMENTS OF 1979—S. 611

AMENDMENT NO. 323

(Ordered to be printed and referred to the Committee on Commerce, Science, and Transportation.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to S. 611, a bill to amend the Communications Act of 1934, as amended, to provide for improved domestic telecommunications and international telecommunications, rural telecommunications development, to establish a National Commission on Spectrum Management, and for other purposes.

● Mr. PACKWOOD. Mr. President, the Senate Commerce Committee is deeply involved in updating the Communications Act of 1934. We have held many days of hearings and the issues are now in clearer focus. With this progress it has become apparent the industries currently involved in communications may be greatly affected. I hope we can minimize the adverse aspects our efforts may have on individual employees of the industry. I am today introducing language to pursue this purpose.

As an amendment to S. 611, or any other committee reported bill, it would protect the position, salary and other existing employee benefits when a company establishes a separate subsidiary that may be required by the bill. Employees required to transfer would be compensated for moving and associated costs. Other protections are also included.

Such employee assistance would not be without precedent. We established similar protections in the Airline Deregulation Act of 1978 and the Railroad Revitalization and Regulatory Reform Act of 1976.

Individuals employed by federally regulated industries merit our concern if policy considerations justify signficantly reforming the industry in which they work.

I feel confident that between now and final committee consideration we can significantly improve my draft language. I have informed committee members of this effort and asked for their comments and support. I hope other Senators will feel free to contribute as well.

I ask unanimous consent that the amendment be printed at this point in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

Amendment No. 323

On page 95 insert the following between lines 23 and 24:

Part Four—Employee Protection

Sec. 229A. Title II of the 1934 Act is further amended by adding at the end thereof the following new part:

"Part IV—Employee Protection

"Sec. 270. (a) Each employee of any Category II carrier, at the time such carrier establishes a separate subsidiary in compliance with the requirements of title II, shall be entitled to retain the position, salary, seniority, and all other rights with respect to employment and fringe benefits available to such employee immediately prior to the establishment of the subsidiary, whether such employee continues to be an employee of the Category II carrier or is assigned to the newly created subsidiary. The protections established under the preceding sentence shall continue for a period of five years from the time the employee is assigned to the subsidiary.

"(b) If, because of the creation of the subsidy, whether in connection with being transferred to the separate subsidiary or remaining an employee of the Category II carrier, such employee is transferred from one community to another, the Category II carrier or the separate subsidiary shall pay to the employee, in addition to such employee's regular compensation as an employee, the actual traveling expenses of the employee and the family of the employee, including the costs of packing, crating, drayage, transportation of household goods and personal effects, as well as the costs of one trip for the employee and spouse and family for a period of not less than five days, to the new area to seek appropriate housing facilities. If, pursuant to a collective bargaining agreement, the employee is entitled to different privileges on transfer, the employee shall, within ten days after being notified of the transfer, advise the Category II carrier of his choice of having the privileges available to him pursuant to the provisions of this paragraph or pursuant to the provisions of the collective bargaining agreement, whichever he chooses.

"(c) (1) In the case of the creation of any separate subsidiary in accordance with title II, the Category II carrier shall insure that each employee transferred to the separate subsidiary shall be entitled to at least the same pension, health, disability, death, insurance and other 'fringe' benefits as were provided to such employee as an employee of the Category II carrier prior to the creation of the separate subsidiary.

"(2) No Category II carrier may establish a separate subsidiary otherwise authorized by title II until the Commission makes a finding that such carrier demonstrated that it has allocated sufficient resources to the newly created separate subsidiary to insure that such subsidiary would be in the same position to discharge its obligation with respect to already earned pensions and other rights or benefits of each employee as if such employee had remained an employee of the Category II carrier; and that there is a reasonable expectation that future activities of the separate subsidiary will result in revenues sufficient to continue providing the employee with all of the rights, privileges, and benefits which such employee had as an employee of the Category II carrier for a period of not less than five years.

"(3) The protection provided by this subsection may be superseded by terms of a collective bargaining agreement entered into between the separate subsidiary and a collective bargaining agent representing such employee.

"(d) Any collective bargaining agreement in effect between the Category II carrier and representatives of employees immediately prior to the creation of the separate subsidiary shall continue in effect with respect to employees transferred from the Category II carrier to the separate subsidiary for the term of such original bargaining agreement.

"(e) If, within a period of five years after the period established by subsection (a), the individual who was an employee of the Category II carrier is discharged for other than cause, such employee shall be entitled to receive appropriate compensation from the separate subsidiary of no less an amount than such employee would have been entitled to receive had such employee been discharged for other than cause by the Category II carrier immediately prior to the time when the separate subsidiary was created. If a collective bargaining agreement is entered into between representatives of the employee and the separate subsidiary prior to the creation of the separate subsidiary, which confers greater rights or privileges to the employee being terminated, such employee shall have the option of choosing either protection and payment pursuant to the provisions of this subparagraph or pursuant to provisions of the collective bargaining agreement.

"(f) Any employee of a Category II carrier who has been reassigned to a separate subsidiary and is furloughed or terminated for other than cause within five years shall, prior to the last day of the fifth year after such furlough or termination, have the first right of rehire, regardless of age, in such employee's occupational specialty or its equivalent, whenever during this period the separate subsidiary hires such category of employees. The separate subsidiary shall maintain, in accordance with rules to be promulgated by the Commission within 6 months after the effective date of this title, lists of furloughed or terminated employees which will contain sufficient detailed information regarding furloughed or terminated employees to enable it to comply with the provisions of this paragraph.

"(g) No employee shall, without consent, have compensation reduced or be terminated or furloughed in contemplation of the creation of a subsidiary during the 6-month period immediately preceding the creation of such a separate subsidiary.

"(h) The provisions contained in this section shall apply only to employees of the Category II carrier who are transferred to a separate subsidiary and who are not officers of the Category II carrier.".●

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS—S. 562

AMENDMENT NO. 324

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself and Mr. Glenn) submitted an amendment intended to be proposed by him to S. 562, a bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

● Mr. PERCY. Mr. President, today Senator Glenn and I are submitting an amendment to S. 562, the Nuclear Regulatory Commission authorization bill. This amendment sets forth a process for siting permanent nuclear waste disposal facilities. This process is similar to the one outlined in S. 742, the Nuclear Waste Management Reorganization Act of 1979, which Senator Glenn and I introduced earlier this year.

The question of whether States should have the right to block the construction of nuclear waste repositories within their borders is one of the most vexing issues of the nuclear waste debate. Congress should address this question as soon as possible and establish a clear-cut and balanced policy for repository siting.

However, I believe that the State veto question should be addressed in the context of comprehensive nuclear waste legislation. The repository siting issue is closely linked to a number of other unresolved issues, such as the amount of input which States should have in setting Federal nuclear waste policy. All of these issues should be addressed at the same time, or we will run the risk of prolonging the current piecemeal approach of Federal nuclear waste management efforts.

In addition, all of these issues are currently being considered by the President as he reviews the report of the Interagency Review Group on nuclear waste management. The IRG has done an excellent job of reassessing Federal nuclear waste management efforts to date, and I expect the President to make significant changes in Federal programs based on those recommendations. I believe that Congress should wait for the President's decision before taking action in this area.

However, some of my colleagues feel that the State veto issue is so important that it should be addressed immediately. Senator McGovern and Senator Domenici both intend to offer amendments to the NRC authorization bill which would grant States an unlimited right to stop the Federal Government from building Federal nuclear waste repositories within their borders. As I stated above, I believe that Congress should consider such proposals within the context of comprehensive nuclear waste legislation.

However, if it is the sense of the Senate that this issue should be addressed on the floor at this time, then I will offer the amendment I am submitting today as a substitute for any amendments which would grant States unlimited veto power.

The amendment would require the Secretary of Energy to notify States of the Department's intent to explore sites within them for the purpose of constructing a nuclear waste repository. Subsequent to providing such notification, the Secretary of Energy would be required to enter into negotiations with each such State for the purpose of establishing a formal arrangement under which the State would participate fully in planning the siting, construction, and initial operation of such a facility.

Thus each State would be able to establish the mechanisms and procedures best suited to its individual needs for negotiating with the Federal Government over a waste repository.

At any point during the term of the arrangement, the State could file a report stating formal objections to the Federal Government's proposals for the facility. Upon receiving such a report, the Department of Energy would be prohibited from engaging in construction work at the facility or from loading any radioactive wastes into it. The Secretary of Energy would be required to forward the report, together with a detailed description of the Department's proposal for the facility, to the Congress.

Work on the repository could not proceed unless Congress passed a concurrent resolution stating that the Federal proposal adequately balanced State and National interests.

Congress would have 60 days in which to consider such a resolution, with consideration taking place under highly expedited procedures. If Congress did not pass a resolution in the 60-day period, the repository could not be built unless the State withdrew the report it filed with respect to the repository.

I believe that this approach strikes a fair balance between the national interest and the interest of an affected State. It insures that States will be able to participate fully and on their own terms in all stages of planning a Federal nuclear waste repository. It will allow a State to halt construction of a repository which it believes poses a threat to the interests of the State, and to have its concerns debated fully in the Congress. Giving States that right will provide a powerful incentive to the Department of Energy to advance only the most technically sound repository proposals, and to respond fully to State concerns while planning such facilities.

On the other hand, the congressional review procedures will insure that good repository proposals will not be vetoed for irresponsible reasons. It recognizes that opposition to a repository proposal may be so intense that a State would have to veto irregardless of the merit of the proposal. If a number of States with good repository sites were to exercise an unlimited right to veto, then we might end up putting a repository in a State with a less optimal site. If all States with acceptable sites were to veto, then we might have to turn the on-site storage pools at nuclear reactors into de facto permanent disposal facilities. Either alternative is unacceptable.

In closing, I would like to address the question of whether the Congress is up to the task which this amendment would give to it. To begin with, the amendment does not ask Congress to make final, definitive judgments on the complex technical issues which will undoubtedly be raised about these facilities. Instead it asks Congress to make a general finding about whether the Federal Government has done a defensible job of addressing those issues and other issues which are of concern to the States. In short, it asks Congress to play a vigorous oversight and review role. Such congressional review would not replace or prejudge either the NEPA process or NRC licensing of these facilities, and it would be through those processes that final judgments would be passed on the complex technical issues.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the Record at this point.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT NO. 324

On page 19, following line 16, insert the following:

Chapter 19 of the Atomic Energy Act of 1954, as amended, is amended by adding the following new section after section 241:

"Sec. 242. State Concurrence for Facilities for the Geologic Storage or Disposal of Radioactive Wastes.—

"a. The Secretary of Energy shall notify the Governor, the State legislature, and where applicable, the Tribal Council of any affected Indian Tribe of its intent to explore a site in such State, or within an Indian reservation, for the purpose of establishing, evaluating, or contracting for the construction of a facility for the geologic storage or disposal of high-level radioactive wastes, non-high-level radioactive wastes including transuranium contaminated wastes, or irradiated nuclear reactor fuel.

"b. The Secretary of Energy is authorized and directed to enter into negotiations with each State notified in accordance with subsection (a) for the purpose of establishing formal arrangements under which the State shall have the right to participate fully in developing Federal proposals for the siting, construction, and initial operation of any proposed facility described in subsection (a).

"c. At any point during the term of the formal arrangement established pursuant to subsection (b), the State may submit a report to the Secretary of Energy stating objections to Federal proposals for the siting, construction, or initial operation of any proposed facility described in subsection (a) within such State: *Provided however,* That the State may submit no more than one such report with respect to any such facility during the term of the arrangement. Such report shall state the grounds for the objections contained therein and shall suggest acceptable alternative proposals. The Secretary of Energy shall submit to the Congress the report of the State, together with his comments thereon, and a detailed description of the Federal proposal.

"d. Upon receipt by the Department of Energy of a report from a State pursuant to subsection (c), neither the Department nor its contractors shall engage in further construction work at the facility which is the subject of the report or emplace radioactive materials in the facility. Such prohibition shall remain in effect until such time as—

"(1) the State withdraws its report filed with respect to the facility,

"(2) Congress passes a concurrent resolution as defined in subsection e. (7) with respect to the Federal proposal which is the subject of the report filed by the State.

CONGRESSIONAL REVIEW PROCEDURES

"e. (1) Not later than forty-five days of continuous session after the date of the Secretary of Energy's transmittal to the Congress of a State report as described in subsection c., the comments of the Secretary of Energy thereon, and the description of the Federal proposal which is the subject of the report, the committees of the House of Representatives and of the Senate to which such State report is referred shall submit a report to their respective House on their views and recommendations respecting such State report together with a concurrent resolution, as defined in subsection (7), stating in substance that the Congress believes that the Federal proposal which is the subject of such State report represents a reasonable balance between the national interest and the interest of the relevant State. If any such committee has not reported such a resolution at the end of such forty-five-day period, such committee shall be deemed to be discharged from further consideration of such State report. If no such resolution has been reported at the end of such period, the first resolution as defined in subsection (7) which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

"(2) The Secretary of Energy may amend the Federal proposal which is the subject of a State report to address any objection to it raised in the State report during the first thirty days of continuous session after it is submitted to the Congress.

"(3) When the relevant committee or committees have reported such a resolution (or have been discharged from further consideration of such a resolution pursuant to subsection (1)), or when a resolution has been introduced and placed on the appropriate calendar pursuant to subsection (1), as the case may be, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to, or disagreed to, shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(4) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to a motion to postpone, or a motion to recommit the resolution, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the resolution is agreed to, or disagreed to, shall not be in order. No amendment to any concurrent resolution pursuant to the procedures of this section is in order except as provided in subsection (5).

"(5) Immediately following (i) the conclusion of the debate on such concurrent resolution, (ii) a single quorum call at the conclusion of debate if requested in accordance with the rules of the appropriate House, and (iii) the consideration of an amendment introduced by the majority leader or his designee to insert the phrase 'does not' in lieu of the word 'does' if the resolution under consideration is a concurrent resolution of approval, the vote on final approval of the resolution shall occur.

"(6) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a resolution shall be decided without debate.

"(7) For the purposes of this section, 'concurrent resolution' means only a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress believes that the Federal proposal which is the subject of a State report transmitted to Congress by the Secretary of Energy on , 19 (as amended by the Secretary of Energy on , 19) does represent a reasonable balance between the national interest and that of the State of .', the blank spaces therein being appropriately filled and the text in parenthesis being included if the Secretary of Energy has amended the report pursuant to subsection (2).

"(8) For the purposes of this section—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

"(9) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection g. of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(10) In considering any Federal proposal which is the subject of a State report submitted to the Congress pursuant to this title, the Congress may obtain the view and comments of the Nuclear Regulatory Commission on such proposal. The provision of views by the Commission shall not be construed as binding the Commission with respect to any subsequent licensing action pertaining to such Federal proposal.

"(11) The passage of a resolution by Congress pursuant to this title shall in no way be considered as binding with respect to any subsequent licensing action of the Nuclear Regulatory Commission pertaining to the Federal proposal which is the subject of such resolution.".●

ENERGY AUTHORIZATIONS—S. 688

AMENDMENTS NOS. 325 THROUGH 328

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted four amendments intended to be proposed by him to S. 688, a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

● Mr. WEICKER. Mr. President, I am today submitting four amendments to S. 688, the Department of Energy authorization bill for fiscal years 1980 and 1981.

These amendments will:

First, mandate the institution of a cash-only system for the purchase of gasoline at service stations;

Second, establish a mandatory gasoline conservation sticker plan by prohibiting private automobiles from driving 1 day a week;

Third, restrict the use of lighting in commercial, Federal, State, and local buildings to essential purposes such as business operations and cleaning, while prohibiting lighting for decorative purposes; and

Fourth, institute a mandatory gasoline coupon rationing program.

The current energy crisis—the long gasoline lines, the recurring OPEC price hikes, the failure of leadership by the President and Congress—demands a tough response.

Simply setting a limit on oil imports is not enough. We have to equitably distribute and conserve available supplies.

Requiring cash-only purchase of gasoline will encourage conservation. We will have to plan more carefully how we choose to use our autos. We will not have the luxury to fill up our tanks whenever we want to and just charge it for payment at a later date.

By restricting the use of lighting in commercial, Federal, State, and local buildings, while prohibiting its use for aesthetic purposes only, savings of upward of 200,000 barrels per day of oil can be achieved. This bill would not prohibit the use of lighting for identification or advertising purposes, and would not infringe or impede upon necessary functions, such as business and cleaning operations. What it would do is prohibit the unnecessary use of decorative lighting which, while pleasant to the eye, is certainly wasteful in an energy crisis.

The establishment of a gasoline conservation plan, which would mandate private vehicle owners to refrain from driving at least 1 day per week, will reduce our consumption of oil by as much as 300,000 barrels of oil per day. It is time that the various odd-even systems plans and minimum purchase requirements presently in effect in numerous States have eased the long gasoline lines; however, the effect that these programs have had is merely to reallocate gasoline supplies. My proposal will conserve gasoline.

Finally, I believe that we should have mandatory rationing of gasoline. I have taken the administration's standby plans and made them mandatory. People are tired of wasting their time in gas lines and they want to know that there is equitable distribution of available supplies. Coupon rationing would prevent long queues, and would assure every motorist of his fair share of gasoline.

Mr. President, I am sure that my colleagues will recall that this is by no means the first time I have urged mandatory conservation. I expect it will not be the last time.

There is nothing magical about these proposals. They will promote conservation in a fair and equitable manner, which is of immediate and fundamental importance to any plan for energy independence for America. I urge my colleagues to support these amendments when S. 688 is considered later this session.

Mr. President, I ask unanimous consent that the text of the amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 325

At the end of the bill, add the following:

TITLE X—MISCELLANEOUS

Section 1001 (a) Chapter 2 of the Truth in Lending Act is amended by adding at the end thereof the following:

"S 136. Credit card purchases of gasoline

"A credit card may not be used for the purchase of gasoline.".

(b) The analysis of such chapter is amended by adding at the end thereof the following new item:

"136. Credit card purchases of gasoline.".

AMENDMENT NO. 326

At the end of the bill, add the following:

TITLE X—MISCELLANEOUS

SEC. 1002. (a) Gasoline Conservation as used in this section the term—

(1) "conservation sticker" means any sticker, item, or device issued in accordance with the regulation promulgated to subsection (b) for the purpose of display on a motor vehicle to indicate the time and period during which such vehicle is prohibited from using any highway;

(2) "private motor vehicle" means any motor vehicle, including a motorcycle, which is used for other than commercial, agricultural, or public service purposes, as defined by the Secretary by regulation;

(3) "highway" means any street, alley, parkway, highway, avenue, or other roadway. And

(4) "Secretary" means the Secretary of the Department of Energy.

(b) Not later than sixty days following the date of the enactment of this section, the Secretary shall, notwithstanding any other provision of law, promulgate regulations for the establishment and carrying out of a program for the rationing of gasoline which shall include, a program which would prohibit the use of private motor vehicles in the United States for at least one twenty-four hour calendar day period in each and every seven calendar day period following the date of the enactment of this section.

Such program shall—

(1) prohibit the operation of any private vehicle subject to such program on any highway unless such vehicle has attached and thereto displayed in accordance with such regulation, a conservation sticker;

(2) provide means pursuant to which each owner of a motor vehicle subject to such program shall, in accordance with such regulation, be able to obtain a conservation sticker for use on a motor vehicle;

(3) provide that any households, as defined by regulation, with more than one private motor vehicle shall designate one such vehicle as the primary vehicle and each other vehicle shall be issued a conservation sticker prohibiting its use for at least one forty-eight hour period in each seven calendar day period.

(c) The program established by the Secretary under this section may provide, subject to their consent, for the use of officers of a State or political subdivision thereof or of State or local boards to handle hardship waivers and appeals and perform other functions, including enforcement, relative to the implementation of the program established by this section.

(d) The Secretary, in consultation with the Postmaster General of the United States and the Secretary of the Department of the Treasury, shall promulgate regulations which require all United States post offices, and all banks the deposits of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation to distribute conservation stickers in accordance with such regulations.

AMENDMENT NO. 327

At the end of the bill, add the following:

TITLE X—MISCELLANEOUS

SEC. 1003. (a) Section 372 of the Energy Policy and Conservation Act is amended by:

(1) inserting "(a)" after "Sec. 372."; and

(2) adding at the end thereof the following new subsection:

"(b)(1) The Secretary shall promulgate regulations, not later than ninety days after the date of enactment of this subsection, which shall require corporations, and State and local government entities to restrict the use of lighting in buildings to essential purposes and to prohibit lighting for aesthetic purposes.

"(2) Nothing contained in this subsection shall be construed as prohibiting the use of lighting for identification and advertising purposes.".

AMENDMENT NO. 328

At the end of the bill, add the following:

TITLE X—MISCELLANEOUS

SEC. 1004. (a) That notwithstanding any other provision of law, the President shall implement within sixty days after the date of enactment of the subsection a program to ration the purchase of gasoline by the issuance of coupons under procedures specified in the Standby Gasoline Rationing Plan number 1, submitted by the President to the Congress on March 1, 1979 and as amended by Standby Gasoline Rationing Plan number 6 submitted by the President to the Congress on May 8, 1979, pursuant to the Energy Policy and Conservation Act.●

FEDERAL TRADE COMMISSION AUTHORIZATION—S. 1020

AMENDMENT NO. 329

(Ordered to be printed and to lie on the table.)

Mr. HELMS (for himself, Mr. SIMPSON, and Mr. HAYAKAWA) submitted an amendment intended to be proposed by him to S. 1020, a bill to authorize appropriations for the Federal Trade Commission.

● Mr. HELMS. Mr. President, this amendment to S. 1020, the Federal Trade Commission authorization bill, prohibits the use of funds by the FTC for the development or promulgation of regulations or rules with regard to voluntary standards and certification procedures.

On December 7, 1978, the Federal Trade Commission (FTC) published a proposed trade regulation covering the voluntary standards and certification process. The proposed rule applies to private standards development, to related certification activities (that is, seals of approval), and to the use of standards and certifications in the marketing of products. (Products already regulated by the Food and Drug Administration and codes of professional conduct would be exempt from this rule.) FTC's purpose in this rulemaking is to control the methods by which standards are developed and used because the Commission believes the present operation of the voluntary process leads to anticompetitive actions, deception, delay in the introduction of new technology and increased costs. Its rule is aimed at eliminating these alleged abuses.

The current FTC proposed trade rule would attempt to do through regulation what failed to be accomplished by legislation—Senator Abourezk's ill-fated "Voluntary Standards and Certification Act of 1978" which, after hearings, was never reported out of committee. The proposed rule establishes, in great detail, procedures for decisionmaking by standards developers and certifiers. The FTC argues that, in theory, the rule would enhance market competition and technological development. The FTC, however, has offered no clear record of fact to demonstrate that the current voluntary standards procedures are being administered unfairly or are impeding industry or technology. The rule constitutes major FTC intervention in every aspect of the current voluntary system of standards setting. The regulation covers virtually every detail of the process from membership in standards writing committees, to appeals, to marketing of standards certified products, to requirements to act ("forced standards writing") under certain circumstances.

This proposed regulation is opposed across the board by a broad spectrum of private sector organizations and business firms. They point out that the FTC approach would slow down standards progress, would impede development of new technology, would reduce flexibility in the application of the country's 20,000 existing standards, would inhibit private business and citizen participation in the voluntary standards work, would inflate costs to firms and consumers, and would involve the Federal Government in an activity in which it has no meaningful experience or expertise. The proposed rule also seems to conflict with the Office of Management and Budget policy in general support of the current voluntary standard procedures. The construction industry, because of its heavy reliance on codes and standards, would be especially affected by this regulation. However, the proposed FTC rule would reach all standards throughout industry and is of concern to every section of the business community.

Although the FTC argues that this rule deals primarily with procedures, the rule would, in fact, regulate the substantive as well as the procedural aspects of the standards and certification process. By creating a "duty to act," by controlling who will participate, and by mandating what objectives standard making bodies may pursue, the rule establishes control over the entire voluntary codes and standards process. By setting the grounds for complaints and appeals against the standardmaking and certifying organizations, the rule determines what issues the two bodies can consider in performing their function. Factors such as consistency, reliability and dependability are not considered in this rule. Yet, they are some of the major reasons why the codes and standards process exists. By determining who will participate in formulating standards and in appealing the decision of the standardmaking bodies, the rule determines what values and priorities will shape the process.

Finally, while the rule hopes to increase the speed by which new products and technology are introduced into the market, it may have the exact opposite effect. The rule creates massive uncertainties in the standards and certification process that will cause only confusion and delay in the operation of the 400 organizations in this field as they attempt to understand and meet the requirements of the rule. Uncertainty as to how the FTC would enforce or even review such a rule may bring the entire process to a stop at least temporarily and cause some organizations to leave the field entirely.●

ENERGY SUPPLY ACT—S. 1308

AMENDMENT NO. 330

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. STEVENS (for himself and Mr. Randolph) submitted an amendment intended to be proposed by them, jointly, to S. 1308, a bill to set forth a national program for the full development of energy supply, and for other purposes.

(The remarks of Mr. Stevens when he submitted the amendment appear earlier in today's proceedings.)

EXECUTIVE AMENDMENTS SUBMITTED FOR PRINTING

SALT II TREATY—EX. Y, 96–1

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted two understandings intended to be proposed by him to the resolution of ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, done at Vienna on June 18, 1979 (Ex. Y, 96–1).

Mr. PERCY. Mr. President, I am introducing two understandings to the resolution of ratification of the SALT II treaty. I have discussed my intention to do this last Monday on the floor and have since had legislative counsel draft formal language.

There has been a great deal of discussion about the extension of the protocol and I know many other Senators are interested in making certain that the protocol cannot be extended without advice and consent of the Senate. I have heard several witnesses on both sides of the SALT issue state that an understanding on this issue is not necessary—that it is clear in the protocol itself and in international law in general that a treaty and the commitments contained in the treaty do not continue after the expiration date of the treaty.

But there is more here than a point of international law. There is concern that this protocol is precedential and that the limitations or restrictions in the protocol will be extended beyond its duration. The concern is that we have already compromised significant bargaining chips in SALT II and that the systems restricted in the protocol may already be considered a basis for a future agreement.

The treaty documents do contain some language that gives this concern about the precedential nature of the protocol some justification. In the statement of principles, the parties state that they will pursue in future negotiations a resolution of the issues included in the protocol.

I do not believe that the Senate wants to commit the United States in advance to enter into an agreement with the Soviet Union that extends the restrictions contained in the protocol. I think this is an ambiguity in the treaty on which the U.S. Senate should make a clear statement, and I have suggested some language that would do just that. The understanding would further state that any future agreement on the restrictions must be sent to the Senate for its advice and consent to ratification.

I am also introducing an understanding that relates to article XII, the noncircumvention clause. I believe that the U.S. Senate should state that nothing in the treaty prohibits the United States from continuing traditional patterns of defense collaboration and cooperation with its allies, including the transfer of technology relating to cruise missiles. The administration made a similar statement formally to our NATO allies and I believe that the Senate should formally adopt this as part of the ratification process.

In hearings this week, administration witnesses objected to the mention of any specific weapons systems. One argument was that any list would be seen as exclusive rather than inclusive. I believe this language makes it clear that cruise missile technology is only one area where collaboration will continue. Another reason given by administration witnesses for not mentioning any specific weapons system is that the United States should not be in a position of seeking Soviet approval for any particular area of collaboration with our allies. We are not seeking Soviet approval for anything. It is a statement of U.S. understanding that nothing in the treaty prohibits the United States from cooperating closely with its allies. Cruise missiles are singled out because range restrictions on ground-launched and sea-launched cruise missiles are contained in the protocol and these restrictions apply to both conventionally armed and nuclear armed cruise missiles. We do not want this restriction in the protocol to limit our cooperation with our allies under the noncircumvention clause.

I hope that the Senate and the Foreign Relations Committee will give favorable consideration to both of these understandings.

Mr. President, I ask unanimous consent that the text of these two understandings be printed in the Record.

There being no objection, the understandings were ordered to be printed in the Record, as follows:

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the understanding, which is to be made a part of the instrument of ratification, that nothing in the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms prohibits the United States from continuing traditional patterns of collaboration and cooperation with its allies, and this would include the transfer of technology relating to cruise missiles".

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the understanding, which is to be made a part of the instrument of ratification, that—

"(1) nothing in the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, in the Protocol relating thereto, or in any related document commits the United States to enter into an agreement with the Union of Soviet Socialist Republics which maintains in force after December 31, 1981, any prohibition or restriction under the Protocol; and

"(2) if the President signs such an agreement, before such agreement enters into force with respect to the United States, the President will submit such agreement to the Senate as a treaty for its advice and consent to ratification".

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. GLENN. Mr. President, the Committee on Governmental Affairs will hold 2 days of hearings on S. 1377, the Synthetic Fuels and Alternate Fuels Production Authority Act, on July 17, at 10 a.m., and on July 18, at 2 p.m., in room 3302 Dirksen Senate Office Building.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the sessions of the Senate on Monday, July 16, Tuesday, July 17, and Thursday, July 19, at 2:30 p.m., to hold hearings on the SALT II Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MAN'S—AND WOMAN'S—BEST FRIEND

● Mr. CHILES. Mr. President, a recent case in Florida has brought a sensitive matter to my attention.

State and local public housing authorities govern whether or not residents of public housing facilities will be allowed to have pets. Many housing authorities prohibit pets in their buildings while others allow waivers to be made for particular residents.

I would like to encourage State and local housing authorities to consider the latter option when certain elderly residents and their pets are in question. Many of us are aware that dogs are man's—and woman's—best friend. Some would argue the same for cats and other animals. This is especially true for the elderly. But, pets are often more than companions to older persons as they assist in protecting them, in alerting residents of doorbells or knocks on the door, and assisting on walks when the owner's eyesight and hearing are beginning to fade.

I hesitate to legislate that all public housing facilities allow pets. However, I think that every State and local public housing authority should be sensitive to the needs of the elderly and recognize the value the pet has for many. Elderly who own pets when moving into public housing should be given consideration for keeping the pets. To deprive such residents of their longtime companions is often cruel.

For these reasons, I would like to urge the Department of Housing and Urban Development to encourage State and local public housing authorities to give special attention to requests by elderly residents to retain pets in the housing facility. Such consideration was recently given by the Housing Authority of Orlando and I would hope that other authorities would be as considerate. The following article from an Orlando newspaper describes the waiver granted to the Orlando elderly resident. I wish to submit it for printing in today's RECORD.

The article follows:

AUTHORITY BENDS RULE TO AID LONELY WOMAN

(By Dorothy Madlee)

Mrs. Lillian Wise hadn't really thought much about acquiring a dog. Then, one chilly day three winters ago, she happened to be outdoors when a neighbor casually started to toss a live two-days-old puppy into a blazing incinerator.

She took the tiny, squirming brown sausage of a dog from the man's hand. She slipped it inside her sweater for warmth, and carried it into her house.

That's how love started between Mrs. Wise, now 80, and Patty, who is part dachshund, maybe part collie.

Like many widowed persons whose children, grandchildren—even great, great-grandchildren—are in faraway places, Mrs. Wise had been very lonely. Now her home was alive again. The helpless mite grew.

"Patty is like my child—I talk to her," Mrs. Wise said. "I depend upon her a lot."

As once Mrs. Wise had saved Patty's life, the little dog may later have saved hers. Emerging from her bathroom one night, Mrs. Wise confronted a man who had entered by cutting away a screen.

"Little Patty ran at him, barking and growling, and the man turned and jumped out the window," she said.

But the building Mrs. Wise and Patty lived happily in—"She never bothered anyone, never went outdoors except with me"—was sold and she couldn't find housing she could afford on her $288-a-month Social Security check.

She was lucky, she said, to be offered an apartment in the Orlando Housing Authority's Tampa Court. But, she was told, she must get rid of her dog.

After trying vainly to find a boarding home for Patty that she could afford, a weeping Mrs. Wise took the dog to the Orlando Humane Society. But she didn't go away and forget her, as many people do.

Every morning for nearly a month, Mrs. Wise drove to the shelter and asked if she might take Patty for a walk. The reunion always was ecstatic. After the walk the woman left in tears. Whimpering a little, Patty was returned to her cage. It happened every day, watched with helpless distress by the Humane Society staff.

The society suspended its rule that a pet not adopted after a certain number of days must be destroyed to make room for a newcomer. It agreed to keep Patty longer, waiving the usual "sponsor" fee.

Dick Myers, society president, wrote to S. Ray McDaniell, director of the Orlando Housing Authority, describing Mrs. Wise's plight.

"Much is heard about the millions spent on the physical well-being of our senior citizens," he wrote. "Is their emotional well-being of no consequence?

"When this dog ultimately has to be destroyed, who will break the news to Mrs. Wise? You . . . me . . . who?"

A few days later, a resounding cheer broke out in the society shelter as Myers read a letter from McDaniell. In the first suspension of the no-pet rule ever made by the authority, and only for the duration of Patty's life, Mrs. Wise may keep her dog.

A shining-eyed woman came to the shelter Friday to collect her pet.

"Thank God, I'll not be alone any more," she said to Brenda Rathel, office manager. "Now I can go to sleep at night."

Mrs. Wise's story has a happy ending because a number of people found themselves personally in her corner. But . . .

The "no pets" rule is standard in federal housing projects. It's also enforced in private or church-owned housing complexes for the aged. At life's loneliest time, the elderly are denied the loving, cheering companionship of a dog or cat.●

HOSPITAL COST CONTAINMENT

● Mr. COCHRAN. Mr. President, numerous legislative proposals have been introduced here in the Senate and over in the House calling for mandatory cost containment for medical services. By and large, these proposals would operate through a system of reward and punishment, with the Federal Government serving as final arbiter.

It is expected that we will take up consideration of a major cost containment proposal here in the Senate during this session of Congress, probably in September. I know that the Senate Finance Committee is hard at work trying to hammer something out.

Mr. President, I am opposed to mandatory cost containment. Obviously, we all want to see medical costs kept as low as possible. But I do not think that Government regulation is the way to go about holding down these costs. I base this opinion on several considerations.

First of all, without substantial growth in the bureacracy, the Government will be hard pressed to assess accurately compliance with these cost goals.

Second, even with such bureacratic metastasis, I am afraid that the governmental accounting effort will be inefficient at best. All too many examples from the past bear this out.

Third, the growth in hospital costs has largely been a product of cost increases and technological advances that hospitals have been forced to pass along. Unless we are prepared to put a cap on costs up and down the line, from start to finish, it seems inequitable to me to to clamp down on the hospital service provider.

Fourth, what the people want from government, now, is less government. Mandatory hospital cost containment would involve yet another significant intrusion by Government into the private sector.

What we need instead of hospital cost containment is Government cost containment. If we can successfully hold down the growth of Government, then inflation and other areas of the economy, such as medical costs, will take care of themselves.

Mr. President, I received a letter the other day from the administrator of North Mississippi Medical Center in Tupelo, Miss., that clearly spells out the success possible through voluntary cost containment. Through innovative efforts such as shared hospital services, unemployment compensation self-insurance, and just sound business practices, this hospital and others like it have been able to reduce the growth in costs far below the levels cited as justifying mandatory hospital cost containment. Indeed, as the letter makes clear, medical care costs are growing at a much slower pace than Government costs.

I ask that a copy of this letter be printed in its entirety in the RCORD and urge that my colleagues read this excellent letter closely.

The letter follows:

NORTH MISSISSIPPI MEDICAL CENTER,
June 27, 1979.

Sen. THAD COCHRAN,
U.S. Senate,
Washington, D.C.

DEAR THAD: As Administrator of North Mississippi Medical Center, I would like to inform you of my support and the institution's support for the health industry's Voluntary Effort to contain health care costs. It is my belief, and documentation substantiates the fact, that, although hospital costs have risen dramatically the past ten to fifteen years, other private and governmental costs have skyrocketed as indicated in Table 1.

TABLE 1.—*Rising costs between 1967 and 1977*

	Percent of increase
Hospital costs	194
Physician's fees	214
Legal fees	220
Postal rates	226
Social security taxes	308
Budget for the Department of Health, Education, and Welfare	364
Federal budget	400
Cost of running the U.S. Congress	422

Across the country, prices and hospital costs vary just as the cost of living varies. Through cost containment efforts at North Mississippi Medical Center, we are keeping costs down effectively. Tables 2 and 3 reflect the Medical Center's per patient day rates and room rates as compared to other hospitals on a national, regional and state level.

TABLE 2.—*Comparison of inpatient cost per patient day, 1978*

Voluntary Hospitals of America, (30 hospitals)	$196.70
H.A.S.—National (212 hospitals—400 beds and over)	184.28
H.A.S.—Regional (14 hospitals—400 beds and over)	161.41
H.A.S.—State (15 hospitals—100 beds and over)	155.15
North Mississippi Medical Center	140.16

TABLE 3.—EQUITABLE LIFE ASSURANCE SOCIETY COST COMPARISON OF DAILY ROOM RATES

	Private	Semi-private	Intensive care
Alabama	$87.50	$87.50	$184.50
Arkansas	76.00	69.50	161.50
Louisiana	79.50	71.50	172.00
Tennessee	87.00	73.00	169.00
New York	158.00	147.50	277.50
California	143.50	134.50	349.50
North Mississippi Medical Center	67.00	62.00	140.00

Although our figures look impressive, we are hard pressed at keeping prices down, much less keeping within unrealistic guidelines. When suppliers' prices rise, North Mississippi Medical Center pays that price and must pass on some increase to patients. For the most part, our suppliers are not government regulated and to expect a recipient to keep prices low when the supplier is not bound by any regulation is highly unrealistic.

Table 4 reflects the price and percentage increases North Mississippi Medical Center has experienced the last year. We face these increases, yet proposed government regulation dictates our increases stay well below the following inflationary figures.

TABLE 4.—NORTH MISSISSIPPI MEDICAL CENTER ANNUAL INCREASE IN SUPPLIES

	1978	1979	Percent of increase
Food	$793,075	$886,668	11.8
Drugs	666,038	871,567	30.9
Surgical supplies	624,975	687,072	9.9
Utility supplies	390,840	575,763	47.3

We are "biting the bullet." We are keeping costs down, and we are worried about the different health care plans proposed by those with no practical working knowledge of the health care industriy.

The following information presents several programs we have instituted at North Mississippi Medical Center to boost efficiency and contain costs:

1. Participation in the Shared Hospital Services of Mississippi, Incorporated. Shared Hospital Services of Mississippi, Incorporated is a non-profit 501C3 corporation designed to emphasize cost containment through shared services and group purchasing of 21 hospitals in Northeast Mississippi. The organization has been in existence for approximately one and one-half years and has resulted in an estimated $1.2 to $1.3 million in annualized savings. At North Mississippi Medical Center alone, the savings have been in excess of $120,000. The corporation has emphasized group purchasing of such items as IV solutions, pharmaceuticals, syringes and needles, admission kits, and urological products. The organization is now moving into other areas of shared services, including continuing education, in-service education, and other programs that are not based solely on the group purchasing concept.

2. Unemployment Compensation Self-Insurance. In 1977, North Mississippi Medical Center elected to go "self-insured" in regard to unemployment compensation insurance as provided for by the State of Mississippi Employment Tax Laws. Computing the estimated taxes that the Medical Center would have been required to pay if it still participated in the State program, the approximate savings for fiscal year 1979 will be $187,000.

3. Tupelo Service Finance, Incorporated. In 1971, North Mississippi Medical Center established the Tupelo Service Finance, Incorporated, a wholly owned subsidiary of the Medical Center, to collect delinquent hospital accounts and to provide short term financing for those patients who wish to pay their accounts on a monthly payment plan. Prior to that time, the Medical Center had been utilizing local collection agencies to perform the collection function at a rate of 39% of the collected amount. In an effort to reduce this cost to the hospital and subsequent cost to the patient, Tupelo Service Finance, Incorporated was established to collect hospital accounts at an estimated cost of 11½% of the amount collected. This change resulted in a 27½% savings and an estimated savings for fiscal year 1979 of $195,000.

4. Participation in Voluntary Hospitals of America, Incorporated. North Mississippi Medical Center is one of thirty charter members of the Voluntary Hospitals of America (VHA) and the only member in the State of Mississippi. The organization is a cooperative which emphasizes cost containment as its objective. VHA has successfully negotiated with major hospital supply and equipment firms for national contracts, especially equipment, insurance programs, employee benefits, and other areas where there could be tremendous cost savings. At North Mississippi Medical Center, over $300,000 has been saved in the equipping of a new Radiology Department, and other cost savings have been experienced in the purchase to standardized forms, radiology supplies, and other capital items. The success of VHA can be attributed to the willingness on the part of the administrators of the member hospitals to get together, standardize, and commit themselves to cost containment measures.

5. Bidding on Hospitals Supplies and Equipment. Starting in 1974, North Mississippi Medical Center began asking for bids on practically all hospital supplies and specified equipment requests. An approximate $400,000 per year savings can be documented as a result of bidding such supply items as food, medical and office supplies, and numerous other products. In addition to the savings resulting from bidding supplies, the Medical Center can estimate an additional $300,000 savings due to the bidding and negotiation process developed for the equipping of the new ancillary service wing. This tough negotiation policy resulted in the Medical Center receiving the best equipment at a reasonable cost.

6. Plant Engineering Developments. In order to respond to the increased needs of the Medical Center regarding preventive maintenance, biomedical engineering, and internal renovation, the hospital Maintenance Department was expanded into the Plant Engineering Department. This department has the "in-house" capabilities that allow us to delete the commissioning of outside contractors of many projects. In the area of preventive maintenance, the Medical Center has implemented a totally computerized program for all fixed and movable equipment. The program schedules and details all work to be performed concerning HVAC and electrical equipment and all aspects and documentation of the safety program. The system assures that equipment will receive the proper maintenance required to keep it in good working order and increase its useful life.

Biomedical engineering is fast becoming an integral part of any hospital's maintenance program. North Mississippi Medical Center now has the biomedical capability for maintaining all clinical and direct patient care equipment and therefore will replace the need for emergency and service contracts from outside vendors. This program results in both high quality maintenance and a cost saving to the institution and the patient. In any growing institution, there becomes a need for renovation of areas of the physical plant. At North Mississippi Medical Center, renovation was badly needed to bring old patient care areas up to new floor standards. Instead of calling upon local contractors to complete the renovation, the Medical Center reacted to the challenge by using its own Plant Engineering Department. The commercial costs for such work would have run an estimated $11 per square foot. The Medical Center costs only ran an approximate $7.65 per square foot. Total savings averaged about $8,600 per floor. The success with this project has resulted in more internal renovation being completed by Medical Center staff instead of outside contractors.

7. Development Program. The Development Program was established in November 1974 and departmentalized by the Board of Directors in May 1977. The program is established for the purpose of insuring long range, continual financial support for the Medical Center, outside of routine hospital operations. It is expected North Mississippi Medical Center will have tremendous requirements for expansion and growth of both programs and facilities in the future. In regard to the current $28 million expansion of the Medical Center, the Development Program has set a goal of raising $3.1 million and will meet that goal through local fund raising activities with only a small portion of national foundation grants. This $3.1 million represents income that will supplant the need for increasing patient charges in order to cover the costs of Medical Center expansion. In the past, Lee County has provided some tax support for North Mississippi Medical Center expansion, but the availability of these funds for future use will be limited. It is therefore necessary that the institution plan for its own financial stability and develop means by which capital expansion can take place without interruption.

Through voluntary effort, each hospital working within its own framework, its own specific circumstances has saved the American people $1.48 billion in the last year. That savings was realized without cost to the people and without jeopardizing the quality or availability of hospital care.

Both President Carter's bill and Senator Kennedy's proposal would create more bureaucracy, more paperwork, and add costs that will not enhance actual patient care, which, after all, is our business. How much will it cost to operate the new bureaucracy? Will the new bureaucrats be equipped to make decisions that may affect patient care? How much will it cost hospitals to fill out the forms needed to feed a bureaucracy? So far, these questions have been left unanswered.

As a hospital administrator, I support voluntary cost containment efforts. As a taxpayer and potential patient, I see no reason to substitute an unknown quantity (the Carter and Kennedy plans) for a voluntary effort that has already proven its effectiveness.

At North Mississippi Medical Center, we firmly believe in the Voluntary Effort for the good of our patients and for the good of the industry. Please feel free to contact me for more information regarding our cost containment efforts. I would be happy to show you our efforts "first hand" if you can use it.

Please let us know how we can assist you. We are interested in your feelings on the subject of government regulated health care.

Sincerely yours,

DAN S. WILFORD,
Administrator.●

AFGHANISTAN

● Mr. PELL. Mr. President, I was pleased that the conferees of the International Development Assistance Act of 1979 acted to retain the amendment which I offered along with Senator LUGAR providing for the termination of all economic assistance to Afghanistan.

The action by the conferees was entirely appropriate as the Afghan Government has not responded in an adequate fashion in the aftermath of Ambassador Adolph Dubs' death. Our Ambassador died when the Afghan authorities turned a deaf ear to pleas by U.S. representatives in Kabul to negotiate Dubs' release after his capture by terrorists in February of this year. Instead, Afghan security personnel, acting with the aid of Soviet advisers, resorted to force and the Ambassador was killed in the ensuing fusillade. The pro-Soviet Marxist regime, which had come to power in a bloody coup in April 1978, refused to acknowledge any responsibility for Dubs' death.

The conferees' action was appropriate for other reasons. The situation in that country has gone from bad to worse. The Government has steadily lost whatever support it might initially have had from the Afghan people. Its increasingly isolated leaders have conducted repeated purges of Government officials, both civil and military in order to insure their continuance in office. Widespread rebellions against the Government are taking place in many areas of the country.

As might be suspected, the people of Afghanistan have suffered grievously. Too little attention has been paid to the deplorable human rights situation in that remote, landlocked country. Since the particularly bloody and vindictive coup by a Marxist-oriented faction in April 1978, estimates of political executions and indiscriminate killing by the regime range well in the thousands. Although reliable figures are difficult to obtain, thousands more have been imprisoned on political grounds, to the point, I am informed, that temporary compounds have been established because the prisons are overflowing.

Soviet influence in the country continues unabated. In fact, the participation of Soviet advisers in the growing civil war is increasing to an alarming degree. They are pouring in heavy equipment—including a large number of helicopter gunships—to prop up a government which a large number of Afghans refuse to accept. Every day many ill-equipped Afghans are killed with sophisticated Soviet equipment as they struggle to throw off the shackles of this odious regime.

The conferees have acted wisely in insuring that the United States will not provide any assistance to Afghanistan. The growing Soviet influence and dismal human rights situation coupled with the Government's callous behavior in the Dubs' killing more than justifies such action. This action should serve notice to all that our Nation will not tolerate such flagrant disregard for human life and dignity.●

ACTIONS OF SENATE PARLIAMENTARIAN IN TREATY TERMINATION LAWSUIT

● Mr. GOLDWATER. Mr. President, after my exchange this week with the majority leader concerning what the past practice of the Senate might be relative to allowing its employees to appear before a court or to present sworn statements with respect to a court proceeding, I came across a Senate resolution agreed to in 1974 which has some bearing on the matter.

Section 2 of Senate Resolution 357, which was agreed to on July 11, 1974, reads as follows:

> SEC. 2. By the privilege of the Senate and by rule XXX thereof, no Member or Senate employee is authorized to produce Senate documents but by order of the Senate and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate.

The resolution specifically authorized Dr. Riddick, then Parliamentarian of the Senate, to appear as a witness in a court case in response to a subpena. In that respect it is different from the present situation where Mr. Zweben acted without the issuance of a subpena. But section 2 of the resolution does not by its terms relate only to the order of a court or any legal officer of the court. Nor is section 2 limited only to the matter of Senate papers and orders to produce such papers. The section expressly covers both the production of papers and the revealing of information gained by Senate employees as part of their official duties.

It is of particular interest that section 2 provides that no such information may be revealed by a Senate employee to a court "without the consent of the Senate."

Under this precedent, not even the approval of both the majority and minority leaders is sufficient to authorize an employee of the Senate to reveal information secured in their official duties, but the consent of the whole Senate is required.

Mr. President, I did not intend to discuss the subject any further, but I believe the Senate resolution of 1974 adds further light upon the traditions of the Senate and should be cited in order to complete the historical record.●

STATEMENT IN SUPPORT OF SENATOR PERCY'S AMENDMENT TO THE NRC AUTHORIZATION, S. 562

● Mr. GLENN. Mr. President, the amendment to S. 562 introduced by Senator PERCY today, which we have coauthored, reflects our longstanding belief that both State and Federal interests must be accommodated in any program to develop facilities for the permanent storage or disposal of nuclear wastes. This is the approach we have embodied in the Nuclear Waste Management Reorganization Act of 1979, S. 742, a bill which deals not only with State-Federal relations in this area, but with a number of other, extremely important issues concerning our Nation's nuclear waste disposal program, as well.

A number of other bills which attempt to deal comprehensively with the range of issues associated with nuclear waste management have also been introduced and, like S. 742, are now pending before various committees of the Senate. In view of these broad efforts to address this problem, I consider it unfortunate that in the absence of thorough committee review, expedited Senate action is being sought on this important, long-range facet of the nuclear issue, namely, the role of the States in the development of waste repositories. To my view, separate and thoroughly reviewed legislation on the subject is by far the preferable course.

However, if it is the sense of the Senate that this issue be addressed in the context of floor consideration of S. 562, I believe the alternative mechanism for involving States in Federal waste repository decisions which Senator PERCY and I have set forth in S. 742 is far superior to granting States an unqualified veto over the development of repositories within their borders. Under the Percy-Glenn amendment which would be offered as a substitute to an amendment to S. 562 providing an unqualified State veto, a State would be able to object to Federal repository proposals and any such objection would bar further work on the project. However, the proposal and the State's objections would then be referred to the Congress for further review for a period of 60 days of continuous session; only if both Houses of Congress by concurrent resolution determined that the proposal equitably balanced State and national interests would the proposal be able to proceed.

Even in the context of such a congressional review, however, the States would retain a strong voice since the Percy-Glenn amendment requires affirmative action by both Houses of the Congress to overrule the objections of the State involved. In other words, if the Congress took no action the State's objections would stand. The congressional review would take place under expedited procedures to avoid unnecessary delay and would not interfere with any licensing activities of the Nuclear Regulatory Commission with respect to the proposed facility.

One of the most important benefits of having Congress review the matter is that Congress could consider the whole range of issues associated with the locating of a nuclear waste facility within a given State. For example, such questions as impact assistance, payments in lieu of taxes, improving transportation links, or providing funds for emergency planning all can be taken up in the context of congressional review, and State objections focused on these issues can be addressed. A concurrent resolution which supported going forward with the waste repository or other facility in contemplation that assistance of one type or another would also be provided would then serve as a good faith pledge on the part of the Congress to provide the necessary funds in the budget process. Under the amendment, moreover, the Department of Energy could amend the proposal during the first 30 days of congressional review; this mechanism will provide considerable opportunity for negotiations between the affected State, the administration, and the Congress to work out a satisfactory arrangement.

Mr. President, what is essential is that we develop a workable process for siting these facilities, which are so important to our continued use of nuclear power, in a way that reflects both the very important interests of the States, and the overall national interest in finding a solution to this vexing and longstanding problem.●

POPULATION GROWTH

● Mr. PACKWOOD. Mr. President, I wish to report that, according to U.S. Census Bureau estimates, the total population of the United States, as of Sunday, July 1, 1979, was 220,784,253. Despite the widely publicized reductions in fertility levels, this figure represents an increase of 1,864,818 since July 1 of last year. Also, it represents an increase of 165,762 in just the last month.

During the past year, therefore, we have added more than enough people to fill the cities of Houston, Tex. and St. Louis, Mo. Over the past month, we have added more than enough people to fill the the city of Lincoln, Nebr.

The problem of increasing population is far more severe on the international scene. The Population Reference Bureau, Inc., of Washington, D.C., estimates that the world population will expand to 4,321 million in mid-1979 and to 6,168 million by the year 2000. In other words, the world population will expand by nearly 2 billion over the next 21 years and if the current estimated growth rate of 1.7 percent persists, global population will double in 41 years.

The numbers themselves are virtually overwhelming. The implications of the effects of this population increase on each Nation's health, social, environmental, and economic well-being are profound. A special feature of the Bureau's data sheet, the Physical Quality of Life Index (PQLI), is particularly interesting in this regard.

Unavoidably, as population growth places unprecedented demands on our planet's resources, the problems of one country become more and more the problems of all countries. For this reason alone it is up to the United States to provide the global community with leadership in the common battle against the population explosion.

Mr. President, because of the importance of this matter, I ask to have printed in the RECORD the "1979 World Population Data Sheet," as recently issued by the Bureau. Also, I would like to offer my congratulations and thanks to the Bureau, which is now in its 50th year of increasing our awareness of population changes and problems. I believe many will find the information contained in the data sheet to be of interest.

The material follows:

1979 WORLD POPULATION DATA SHEET

Region or country [1]	Population estimate mid-1979 (millions) [2]	Birth rate [3]	Death rate [3]	Rate of natural increase (annual, percent) [4]	Number of years to double population [5]	Population projection to 2000 (millions) [6]	Infant mortality rate [7]	Population under 15 yr (percent)	Population over 64 yr (percent)	Life expectancy at birth (years) [8]	Urban population (percent) [9]	Physical quality of life index (PQLI) [10]	Per capita gross national product (US dollars) [11]
World	4,321.0	28	11	1.7	41	6,168.0	95	36	6	60	39	65	1,800
More developed [1]	1,173.0	16	9	.7	99	1,349.0	28	25	10	71	68	92	5,210
Less developed [1]	3,148.0	33	12	2.1	33	4,819.0	107	40	4	56	28	55	490
Africa	457.0	46	17	2.9	24	831.0	143	44	3	47	25	33	450
Northern Africa	106.0	43	14	2.9	24	185.0	127	44	3	53	41	41	700
Algeria	19.1	48	14	3.3	21	38.4	142	48	4	54	52	41	1,110
Egypt	40.6	38	12	2.6	27	63.5	108	41	3	55	44	44	310
Libya	2.8	47	13	3.5	20	5.7	130	49	4	53	60	43	6,680
Morocco	19.4	46	14	3.2	22	35.6	133	46	2	53	38	40	570
Sudan	17.9	46	18	2.7	26	32.3	141	44	3	46	20	34	300
Tunisia	6.4	36	10	2.6	27	9.8	125	45	4	55	50	46	860
Western Africa	137.0	49	19	3.0	23	262.0	158	46	3	44	20	26	370
Benin	3.5	49	19	3.0	23	6.6	149	46	4	43	14	27	200
Cape Verde	.3	28	9	1.8	38	.4	105	41	3	58	20	45	140
Gambia	.6	48	23	2.4	29	1.0	165	42	2	41	16	21	200
Ghana	11.3	48	17	3.1	22	21.2	115	47	4	49	31	39	38
Guinea	4.9	46	21	2.5	28	8.2	175	43	3	41	20	20	230
Guinea-Bissau	.6	41	23	1.8	38	.8	208	37	4	39	23	14	160
Ivory Coast	7.7	48	18	2.9	24	14.0	154	45	2	46	32	29	710
Liberia	1.8	50	17	3.2	22	3.5	148	47	2	48	29	26	430
Mali	6.5	49	22	2.7	26	11.6	190	48	1	40	17	14	110
Mauritania	1.6	50	22	2.8	25	2.9	187	42	6	40	23	18	270
Niger	5.1	51	22	2.9	24	9.6	200	46	3	40	9	14	160
Nigeria	74.6	50	18	3.2	22	148.8	157	47	2	45	18	27	420
Senegal	5.5	48	22	2.6	27	9.7	159	44	3	42	32	21	420
Sierra Leone	3.7	46	19	2.6	27	6.5	136	43	3	46	15	28	200
Togo	2.5	49	19	3.0	23	4.8	163	46	3	43	15	24	300
Upper Volta	6.7	48	22	2.6	27	11.8	182	44	3	40	4	16	110
Eastern Africa	130.0	48	18	2.9	24	243.0	138	43	3	46	12	32	220
Burundi	4.4	47	20	2.7	26	7.8	140	44	2	42	5	25	130
Comoros	.4	40	18	2.2	32	.5	160	44	3	46	10	43	180
Djibouti	.1	48	24	2.5	28	.2	(*)	(*)	(*)	(*)	70	(*)	580
Ethiopia	31.8	50	25	2.5	28	55.4	162	45	3	40	12	22	110
Kenya	15.4	51	12	3.8	18	32.8	119	49	2	53	10	39	270
Madagascar	8.5	45	19	2.6	27	15.1	102	43	3	46	16	41	210
Malawi	5.9	51	19	3.2	22	11.8	142	44	4	43	9	30	140
Mauritius	.9	27	8	1.9	36	1.3	46	37	4	63	44	72	760
Mozambique	10.2	45	19	2.6	27	18.1	140	43	3	44	6	27	150
Reunion	.5	26	6	1.9	36	.7	41	40	3	65	51	72	2,680
Rhodesia	7.2	47	14	3.4	20	14.0	121	47	3	52	19	46	500
Rwanda	4.9	50	19	3.0	23	9.6	127	46	3	43	4	27	130
Seychelles	.1	26	8	1.8	38	.1	43	41	6	65	37	73	650
Somalia	3.5	48	20	2.8	25	6.3	177	45	2	41	28	19	110
Tanzania, United Republic of	17.0	46	16	3.0	23	33.1	125	45	3	47	7	30	200
Uganda	13.2	45	14	3.0	23	25.4	136	45	3	50	7	40	260
Zambia	5.6	49	17	3.2	22	10.8	144	46	3	46	36	38	450
Middle Africa	52.0	45	20	2.6	27	88.0	165	43	3	43	28	27	250
Angola	6.9	48	23	2.4	29	11.9	203	43	3	39	18	16	330
Cameroon, United Republic of	8.3	42	19	2.3	30	13.1	137	41	4	44	29	27	340
Central African Empire	2.4	43	19	2.3	30	3.8	190	41	4	44	36	18	250
Chad	4.4	44	21	2.3	30	7.6	165	42	4	41	14	18	130
Congo, People's Republic of	1.5	45	19	2.6	27	2.5	180	43	3	44	40	27	500
Equatorial Guinea	.3	42	19	2.3	30	.5	165	41	4	44	45	28	340
Gabon	.5	33	22	1.1	63	.8	178	32	6	41	32	21	3,730
Sao Tome and Principe	.1	38	12	2.6	27	.1	75	(*)	(*)	(*)	24	(*)	420
Zaire	28.0	46	19	2.8	25	47.2	160	44	3	44	30	32	130
Southern Africa	32.0	39	11	2.8	25	53.0	96	42	4	56	44	52	1,250
Botswana	.7	51	17	3.4	20	1.3	97	48	6	56	12	51	440
Lesotho	1.3	40	16	2.4	29	2.1	111	39	4	50	3	48	230
Namibia	1.0	44	15	2.8	25	1.7	142	44	3	49	32	38	1,000
South Africa	28.2	38	10	2.8	25	47.4	92	42	4	57	48	53	1,340
Swaziland	.5	47	19	2.8	25	.9	168	48	3	44	8	33	580
Asia	2,498.0	29	11	1.8	38	3,588.0	99	38	4	57	27	58	650
Southwest Asia	96.0	40	13	2.7	26	165.0	117	43	4	56	46	52	1,800
Bahrain	.3	44	9	3.6	19	.5	78	44	3	63	78	61	3,790
Cyprus	.6	19	9	1.0	69	.7	27	26	10	71	42	85	1,740
Gaza	.4	53	18	3.5	20	.7	125	51	5	52	87	(*)	(*)
Iraq	12.9	47	13	3.4	20	24.8	104	48	3	53	66	45	1,530
Israel	3.8	26	7	1.9	36	5.5	20	33	8	73	86	89	2,920
Jordan	3.0	46	13	3.3	21	5.8	97	47	3	53	42	47	710

Footnotes at end of table.

1979 WORLD POPULATION DATA SHEET

Region or country [1]	Population estimate mid-1979 (millions) [2]	Birth rate [3]	Death rate [3]	Rate of natural increase (annual, percent) [4]	Number of years to double population [5]	Population projection to 2000 (millions) [6]	Infant mortality rate [7]	Population under 15 yr (percent)	Population over 64 yr (percent)	Life expectancy at birth (years) [8]	Urban population (percent) [9]	Physical quality of life index (PQLI) [10]	Per capita gross national product (US dollars) [11]
Asia—Continued													
Kuwait	1.3	42	5	3.7	19	3.1	39	44	2	69	56	75	12,700
Lebanon	3.1	36	11	2.4	29	4.9	59	42	5	63	60	79	(*)
Oman	.9	49	19	3.0	23	1.7	142	45	3	47	5	(*)	2,520
Qatar	.2	44	14	3.0	23	.4	138	45	3	48	69	31	11,670
Saudi Arabia	8.1	49	18	3.0	23	15.6	150	45	3	45	21	29	4,980
Syria	8.4	44	13	3.2	22	16.3	114	49	4	57	48	52	900
Turkey	44.3	35	10	2.5	28	69.6	119	40	4	59	45	56	1,110
United Arab Emirates	.9	44	14	3.0	23	1.9	138	34	3	48	65	34	14,420
Yemen	5.8	48	25	2.3	30	10.0	160	46	3	45	9	27	390
Yemen, Democratic	1.9	48	21	2.7	26	3.5	155	48	3	45	33	32	320
Middle South Asia	912.0	37	15	2.2	32	1,450.0	129	42	3	50	21	40	320
Afghanistan	18.3	50	27	2.3	30	31.2	226	44	3	39	15	17	190
Bangladesh	87.1	47	18	2.9	24	155.1	153	43	3	46	9	32	90
Bhutan	1.3	43	21	2.2	32	2.0	147	42	3	43	3	(*)	80
India	660.9	34	15	1.9	36	1,010.5	122	41	3	50	21	41	150
Iran	36.3	44	14	3.0	23	63.8	104	45	3	57	47	52	2,180
Maldives	.1	50	23	2.7	46	.2	(*)	44	2	(*)	11	(*)	80
Nepal	13.7	44	21	2.3	30	22.1	152	42	3	44	4	27	110
Pakistan	79.9	44	14	3.0	23	145.1	136	46	3	51	26	36	190
Sri Lanka	14.5	26	8	1.8	38	19.9	51	39	4	68	22	82	200
Southeast Asia	346.0	36	13	2.2	32	539.0	97	43	3	50	21	56	340
Brunei	.2	28	4	2.4	29	.4	23	43	3	66	64	(*)	6,620
Burma	32.9	39	14	2.4	29	52.7	140	40	4	51	22	50	140
Democratic Kampuchea (Cambodia)	8.9	43	17	2.6	27	13.7	150	45	3	45	12	38	(*)
East Timor	.7	44	21	2.3	30	1.1	175	42	3	40	11	(*)	(*)
Indonesia	140.9	35	14	2.0	35	210.5	91	44	2	50	18	48	300
Lao People's Democratic Republic	3.7	44	20	2.4	29	5.8	175	42	3	40	15	26	90
Malaysia	13.3	31	6	2.5	28	20.1	44	41	4	66	17	73	930
Philippines	46.3	34	10	2.4	29	77.9	80	43	3	58	32	71	450
Singapore	2.4	17	5	1.1	63	3.1	12	31	4	71	100	86	2,890
Thailand	46.2	32	9	2.3	30	75.9	68	43	3	61	13	71	410
Vietnam	50.1	41	18	2.3	30	77.8	115	41	4	48	22	52	170
East Asia	1,145.0	20	8	1.2	58	1,434.0	51	34	5	65	31	74	980
China, People's Republic of [12]	950.0	20	8	1.2	58	1,193.0	56	35	5	64	24	71	410
Hong Kong	4.7	18	5	1.2	58	6.2	14	29	6	72	92	87	2,590
Japan	115.9	15	6	.9	77	128.9	9	24	8	75	76	96	5,640
Korea, Democratic People's Republic of	17.5	33	8	2.4	29	27.3	70	42	4	61	43	75	700
Korea, Republic of	37.6	24	7	1.7	41	51.2	38	38	4	65	48	82	810
Macao	.3	30	8	2.2	32	.3	78	38	5	(*)	97	69	940
Mongolia	1.6	37	8	2.9	24	2.7	70	44	3	61	47	78	830
Taiwan [13]	17.3	24	5	1.9	36	24.5	25	35	4	71	77	87	1,180
North America	244.0	15	9	.7	99	289.0	14	24	11	73	74	95	8,620
Canada	23.7	16	7	.8	87	29.0	14	26	8	73	76	95	8,450
United States	220.3	15	9	.6	116	260.4	14	24	11	73	74	95	8,640
Latin America	352.0	35	8	2.7	26	597.0	86	42	4	62	61	71	1,240
Middle America	89.0	41	7	3.4	20	171.0	72	46	3	63	58	72	1,030
Costa Rica	2.2	30	5	2.5	28	3.4	34	44	4	68	41	85	1,240
El Salvador	4.5	42	8	3.4	20	8.5	60	46	3	59	39	64	570
Guatemala	6.8	43	10	3.3	21	12.3	76	45	3	58	36	54	790
Honduras	3.1	47	12	3.5	20	6.2	103	48	3	55	31	53	450
Mexico	67.7	41	7	3.4	20	132.3	70	46	3	65	64	75	1,110
Nicaragua	2.5	47	12	3.4	20	4.8	122	48	3	53	49	55	830
Panama	1.9	29	6	2.3	30	2.9	47	43	4	68	50	79	1,220
Caribbean	30.0	29	8	2.0	35	43.0	70	40	5	63	49	73	1,100
Bahamas	.2	25	5	2.0	35	.3	25	44	3	69	58	84	3,450
Barbados	.3	19	9	.9	77	.3	28	31	10	70	44	90	1,760
Cuba	9.9	20	6	1.4	50	12.7	23	37	6	71	64	85	900
Dominica	.1	22	7	1.5	46	.1	24	(*)	(*)	58	27	(*)	370
Dominican Republic	5.3	37	9	2.8	25	8.5	96	48	3	58	47	64	840
Grenada	.1	27	6	2.2	32	.1	24	(*)	(*)	63	15	78	450
Guadeloupe	.3	17	6	1.1	63	.4	35	37	6	68	48	81	2,380
Haiti	5.7	42	16	2.6	27	9.9	130	41	4	49	23	40	230
Jamaica	2.2	30	7	2.3	30	2.9	20	46	6	69	41	85	1,150
Martinique	.3	14	6	.9	77	.4	32	37	6	68	50	83	3,340
Netherlands Antilles	.3	28	7	2.2	32	.4	25	38	5	62	48	82	1,750
Puerto Rico	3.5	23	6	1.7	41	4.6	18	35	7	72	62	90	2,460
Trinidad and Tobago	1.1	25	7	1.8	38	1.4	30	38	4	67	49	85	2,380
Tropical South America	193.0	36	9	2.8	25	332.0	99	42	3	60	60	67	1,280
Bolivia	5.2	44	16	2.8	25	8.9	157	42	4	48	34	39	540
Brazil	118.7	36	8	2.8	25	205.2	109	41	3	61	61	66	1,390
Colombia	26.1	31	9	2.2	32	42.3	98	43	3	59	60	72	710
Ecuador	8.0	42	10	3.1	22	15.1	70	44	4	60	42	69	770
Guyana	.8	27	7	2.0	35	1.2	50	44	4	68	40	84	560
Paraguay	3.0	39	8	3.1	22	5.3	64	45	3	62	40	75	760
Peru	17.3	40	12	2.8	25	29.5	80	44	3	55	62	65	830
Suriname	.4	30	7	3.5	20	.7	30	50	4	66	66	83	1,500
Venezuela	13.5	36	6	3.0	23	24.1	49	43	3	65	75	79	2,820
Temperate South America	41.0	23	9	1.4	50	51.0	57	30	7	67	80	83	1,560
Argentina	26.7	22	9	1.3	53	32.9	59	28	8	68	80	85	1,730
Chile	11.0	24	8	1.6	43	15.1	56	35	5	63	79	79	1,170
Uruguay	2.9	21	10	1.1	63	3.5	46	27	10	69	83	86	1,450
Europe	483.0	14	10	.4	173	521.0	20	24	12	72	68	93	4,910
Northern Europe	82.0	12	11	.1	693	85.0	13	23	14	73	73	95	5,380
Denmark	5.1	12	10	.2	347	5.3	9	22	14	74	67	96	8,050
Finland	4.8	14	9	.4	173	5.1	12	22	11	72	59	94	1,650
Iceland	.2	18	6	1.2	58	.3	10	30	9	76	87	97	4,570
Ireland	3.3	21	10	1.1	63	4.0	16	31	11	71	52	93	2,880
Norway	4.1	12	10	.3	231	4.4	10	24	14	75	44	97	8,540
Sweden	8.3	12	11	.1	693	8.6	8	21	15	75	83	97	9,250
United Kingdom	55.8	12	12	0	(*)	56.6	14	23	14	72	76	94	4,430

Footnotes at end of table.

1979 WORLD POPULATION DATA SHEET—Continued

Region or country[1]	Population estimate mid-1979 (millions)[2]	Birth rate[3]	Death rate[3]	Rate of natural increase (annual, percent)[4]	Number of years to double population[5]	Population projection to 2000 (millions)[6]	Infant mortality rate[7]	Population under 15 yr (percent)	Population over 64 yr (percent)	Life expectancy at birth (years)[8]	Urban population (percent)[9]	Physical quality of life index (PQLI)[10]	Per capita gross national product (US dollars)[11]
Europe—Continued													
Western Europe	153.0	12	11	.1	693	158.0	13	22	14	72	80	95	7,700
Austria	7.5	11	12	.1	(*)	7.6	17	23	15	72	52	93	6,140
Belgium	9.8	12	11	.1	693	10.7	12	22	14	71	95	93	7,580
France	53.4	14	10	.4	173	57.2	11	24	14	73	71	95	7,290
Germany, Federal Republic of	61.2	10	12	−.2	(*)	59.7	16	21	15	72	92	94	8,160
Luxembourg	.4	11	12	0	(*)	.4	11	20	13	71	68	92	7,150
Netherlands	14.0	12	8	.5	139	15.5	10	25	11	75	77	96	7,160
Switzerland	6.3	12	9	.3	231	0.4	11	22	13	73	55	95	9,960
Eastern Europe	109.0	18	11	.7	99	121.7	24	23	11	71	58	92	3,140
Bulgaria	8.9	16	11	.5	139	9.6	24	22	11	71	59	92	2,590
Czechoslovakia	15.2	19	12	.7	99	17.2	20	23	12	70	67	93	4,090
German Democratic Republic	16.7	13	13	0	(*)	16.6	13	21	16	72	76	94	4,940
Hungary	10.7	17	12	.4	173	11.3	26	21	13	70	51	90	2,570
Poland	35.4	19	9	1.0	69	41.2	24	24	10	71	56	92	3,150
Romania	22.1	20	10	1.0	69	25.8	31	25	10	70	48	91	1,580
Southern Europe	139.0	16	9	.7	99	158.0	24	26	11	71	60	89	2,930
Albania	2.6	30	8	2.2	32	3.8	87	40	4	68	34	76	610
Greece	9.5	15	9	.6	116	10.6	20	24	12	72	65	89	2,810
Italy	56.9	13	10	.4	173	61.2	18	24	12	72	67	92	3,450
Malta	.3	18	9	.9	77	.4	14	25	9	71	94	87	1,680
Portugal	10.0	18	10	.9	77	11.8	39	28	10	69	29	80	1,850
Spain	37.6	18	8	1.0	69	44.0	16	28	10	72	70	92	3,190
Yugoslavia	22.2	18	8	.9	77	25.6	35	26	9	68	39	84	1,960
U.S.S.R.	264.0	18	10	.8	87	311.0	30	26	9	70	62	91	3,010
Oceania	23.0	22	9	1.3	53	30.0	43	31	8	69	71	86	5,560
Australia	14.4	16	8	.8	87	17.9	14	27	9	72	86	94	7,340
Fiji	.6	27	4	2.3	30	.8	41	41	2	70	37	79	1,220
New Zealand	3.2	18	8	1.0	69	4.0	14	29	9	72	81	94	4,370
Papua-New Guinea	3.1	45	16	2.9	24	5.1	106	44	4	49	13	42	480
Samoa, Western	.2	37	7	3.0	23	.2	40	50	3	63	21	84	350
Solomon Islands	.2	41	10	3.1	22	.4	52	44	3	(*)	9	(*)	250

GENERAL NOTES

World population data sheets of various years should not be used as a time series. Because every attempt is made to use the most recent and most accurate information, data sources vary and changes in numbers and rates from year to year may reflect improved source material, revised data, or a later base year for computation, rather than yearly changes.

Sources of data: Aside from population estimates and projections (see footnotes 2 and 6), number of years to double population (footnote 5), the physical quality of life index (footnote 10), and per capita gross national product (footnote 11), most of the data in this data sheet were reported in the following United Nations (U.N.) publications: Demographic Yearbook, 1976 and 1977 editions; Population and Vital Statistics Report, Data Available as of Jan. 1, 1979, statistical papers, series A, vol. XXXI, No. 1: "Demographic Estimates and Projections for the World, Regions, and Countries as Assessed in 1978," provisional report prepared by the U.N. Population Division, Jan. 25, 1979. Some of the figures shown were from other sources, including U.S. Bureau of the Census, World Population: 1977, October 1978; unpublished materials and reports of the Census Bureau's Foreign Demographic Analysis Division; Dorothy L. Nortman and Ellen Hofstatter, Population and Family Planning Programs, 9th ed. A Population Council Fact Book, 1978; World Bank, "Population Projections: 1975–2000." prepared by K. C. Zachariah and My Thi Vu of the World Bank's Population and Human Resources Division, April 1978: various analytical studies; and official data reported by individual countries. The source for any figure shown on the data sheet may be obtained by writing or telephoning the Population Reference Bureau.

Figures for the regions and the world: Population totals (cols. 1 and 6) take into account small areas not listed on the data sheet. These totals may also not equal the sums of their parts because of independent rounding. All other regional and world figures are weighted averages for countries for which data are available.

FOOTNOTES

[*] Indicates that data are unavailable.

[1] The data sheet lists all geopolitical entities with a population larger than 200,000 and all members of the United Nations (U.N.) regardless of population size. Classification of "more developed' and "less developed" regions follows the latest (1978) practice of the U.N. The "more developed" regions comprise all of Europe, North America (Canada and the United States), Australia and New Zealand, Japan, and the U.S.S.R. The U.N. now includes Cyprus, Israel, and Turkey in the Southern Europe subregion and considers them "more developed." In this data sheet Cyprus, Israel, and Turkey are included in the overall count on "more developed" regions, but are retained in their original subregion of Southwest Asia in the detailed regional breakdown. "Less developed" regions comprise all other countries for which data are available. Argentina, Chile, and Uruguay (temperate South America), formerly classified as "more developed," are now included in the overall "less developed" category.

[2] Based on a population total from a very recent census or on the most recent official country or U.N. estimate; for almost all countries the estimate was for mid-1977. Each estimate was updated by the Population Reference Bureau to mid-1979 by applying the same rate of growth as indicated by population change during part or all of the period since 1970.

[3] Annual number of births or deaths per 1,000 population. For the more developed countries with complete or nearly complete registration of births and deaths, nearly all the rates shown pertain to 1976 or 1977. For most less developed countries with incomplete registration, the rates refer to the 1975–80 period. These rates were used in the medium variant estimates and projections as assessed by the U.N. in 1978 (U.N. "Demographic Estimates and Projections . . ."). These figures should be considered as rough approximations only. For some countries, estimates were obtained from published reports of the U.S. Bureau of the Census, the World Bank, the World Fertility Survey, government statistical offices, and special studies.

[4] Birth rate minus the death rate. Since the rates were based on unrounded birth and death rates, some rates do not exactly equal the difference between the birth and death rates shown because of rounding.

[5] Based on the rate of natural increase shown and assuming no change in the rate.

[6] Except for the United States and Taiwan, estimated by the Population Reference Bureau by applying the percentage increase in the population 1979–2000 implied by the U.N .medium variant projections to the population total as estimated for mid-1979. For the United States, the figure shown is the series II projection given in the U.S. Bureau of the Census, Projections of the Population of the United States; 1977 to 2050, P-25, No. 704, July 1977, For Taiwan, the figure shown is from the World Bank projections, April 1978.

[7] Annual number of deaths to infants under 1 yr. of age per 1,000 live births. For countries with complete or nearly complete registration of births and deaths nearly all rates pertain to 1976 or 1977. For many less developed countries with incomplete registration, rates are the latest available estimates generally obtained from the U. N. sources noted above; from World Health Organization, World Health Stastics Report, vol. 29, No. 11, 1976; or from U.S. Bureau of the Census World Population: 1975, and World Population: 1977.

[8] Average number of years a newborn child could be expected to live if current mortality conditions were to continue throughout his or her lifetime. For the more developed countries with reliable mortality data, nearly all estimates shown pertain to part of or all of the 1970–77 period For most of the less developed countries with unreliable mortality data, estimates refer to some part of the period since 1970 and were prepared by one of the following organizations: the U.N. Population Division: the International Demographic Statistics Branch of the Population Division of the U.S. Bureau of the Census; or the World Bank's Population and Human Resources Division. Estimates of life expectancy for most of the less developed countries should be considered as rough approximations only.

[9] The percentage of the total population living in areas defined as urban by each country.

[10] The physical quality of life index (PQLI) was developed by the Overseas Development Council, Washington, D.C., in response to the need for a nonincome measure that summarizes the many aspects of human well-being. It combines 3 indicators—infant mortality, life expectancy at age 1, and literacy—into a single composite index. The index runs from 0 to 100, 0 being the lowest level of well being and 100 being the highest. For a more detailed description of the nature and uses of the PQLI, contact the Overseas Development Council, 1717 Massachusetts Ave, NW., Washington, D.C. 20036.

[11] Data refer to 1977 except for 14 of the smaller countries for which the data refer to 1976. All data for the individual countries are from World Bank, World Bank Atlas; Population, Per Capita Product, and Growth Rates, 1978.

[12] Although most observers agree that the population of the People's Republic of China is now over 900,000,000 and that birth and death rates have dropped significantly in recent years, there is a substantial range of opinion regarding China's current total population and levels of fertility and mortality. After evaluating estimates from a variety of sources, the Population Reference Bureau considers the estimates shown in this data sheet to be reasonable.

[13] The U.N. does not show figures for Taiwan. These figures were estimated separately on the basis of official Taiwan data. ●

SCHLESINGER AND CAMP DAVID

● **Mr. METZENBAUM.** Mr. President, today marks the 16th time since March 7 of this year that I have addressed the Senate on the need for the resignation of Secretary of Energy James Schlesinger. I have been joined in this effort by many of my distinguished colleagues.

The events at Camp David over the last few days illustrate more eloquently than any of our remarks the deep frustration facing the Nation and the President in regard to our energy problems. There can no longer be any doubt that the Department of Energy has, in large measure, contributed to the credibility gap that now exists and has brought the President to this point in his administration.

Within a few days, the President is expected to address the Nation and provide us with a new direction in our energy policy. I am confident that, with strong new proposals and with new leadership at the Department of Energy, the American people will rally behind the President and win the battle.●

BILLS TO REFORM THE FEDERAL COMMUNICATIONS ACT

● Mr. BIDEN. Mr. President, television media has developed into such a pervasive communications system it reaches into virtually every household in our Nation. It is the predominant source of news, entertainment, public information, and culture available to the majority of Americans. It is an opinion molder, an educator, a creator of public awareness, a medium through which ideas, and perspectives are exchanged. In short, the impact of television upon today's society is phenomenal.

People need to know what is happening in the world, and across the Nation. But more importantly, they need to know what is happening in their own State and community. They need fresh factual information on those matters which will affect them personally. In my own State there is very little coverage of matters important to Delawareans, because there is no commercial television originating within the State. And there are only two States in the Union which do not have first-class television service originating within their borders—New Jersey and Delaware. This means that there are two States in the Union which are victims of de facto discrimination regarding the most powerful public media used by man. And it is senseless.

It is senseless that a child in Delaware grows up believing that the Governor of Maryland is his Governor, because the only Governor he ever hears about is in Annapolis. It is senseless that residents of New Jersey learn only of major catastrophe and crime within their State because that is all the powerful out-of-State television stations portray as important in New Jersey. It is senseless that people within a State do not learn about the crucial issues facing them, because there is no first-class commercial television station available within that State.

Senator BRADLEY recently gave an eloquent and persuasive statement to the Communications Subcommittee on the Commerce Committee, which is holding hearings on the Reform of the Federal Communications Act. He called for statutory allocations of television channels that would insure that every State would have at least one first-class commercial channel. Because I join Senator BRADLEY in that goal, and because I think his statement should be read by all our colleagues, I request that it be printed in full in the RECORD.

The statement follows:

TESTIMONY OF SENATOR BILL BRADLEY

Mr. Chairman and members of the Subcommittee: I want to express my gratitude and appreciation for the opportunity you have given Senator Williams and me to present our case on the need for first-class commercial television service for New Jersey. The subcommittee and the chairman have been more than generous in affording us the opportunity to appear today.

It is astounding that in 1979, New Jersey is, with Delaware, the only state which does not have major VHF television service. Although it does have a few UHF stations, our state does not even have the lesser advantages that full-service commercial UHF brings to the rest of the country.

This situation is the result of allocations of television service that go back a quarter of a century. The fact that they are rooted in history does not give them any precedential value, but I recognize that it takes a great effort to change a situation which has existed for so long.

The FCC has the power to correct this problem. But it has so far failed to act in this case or to demonstrate the will necessary to meet our needs. I say this despite the fact that Chairman Ferris has expressed his support for a solution to New Jersey's problem, and I do not doubt his good intentions. But I fear that the FCC will not address our problem constructively, and come up with viable, practical and effective remedies, unless it is forced to.

For that reason, I intend to do whatever is necessary to force the FCC to take this problem seriously, and to devise the proper solution. I will be proposing amendments to the Committee on this legislation, and on other appropriate bills, so that New Jersey's television problem will be addressed and solved in the very near future. I intend to make this issue one of my highest priorities.

WHY NEW JERSEY NEEDS ITS OWN TELEVISION

Members of this subcommittee know well the importance of television in modern America. The advent of television rivals the invention of movable type as perhaps the greatest single revolution in the ability of humans to communicate. In the short time since television has become generally available, it has come to dominate the news, information, culture and other aspects of our lives. Polls and investigations demonstrate that it is the most influential single form of communication in the country. It has transformed our political system, making citizens more aware of public events, political issues, and personalities in their communities and in their state.

That is the case everywhere in the country—but not in New Jersey. We live in an era when perhaps 70 percent of all Americans get most of their information about events in their state from television, and when over half of Americans believe what they see on television. Yet surveys show that New Jersey citizens are less informed about events in their state than residents in any other state.

The reason is that New Jersey does not have the coverage of New Jersey events and issues that other states have about their own activities. A 1977 Eagleton Poll showed that citizens of my state knew more about the mayor's contest in New York than they knew about New Jersey's gubernatorial race. This is because the stations they watch come from other states, and the service those stations give is to their own affairs, not ours.

It is all but impossible for businesses and public servants to use television as a means of getting their messages to citizens of the state. Recently, at a seminar on the problem of television in New Jersey, John Deardourff, a nationally known media consultant, stated that "New Jersey is the most difficult and, in relative terms, the most expensive market in the Nation. All television is expensive but it is incredibly expensive in New Jersey".

The figures he gave illustrate the point. The cost per 1,000 viewers for prime time is $4.90 for New York, and $17 for New Jersey. In Philadelphia, the figures are $5 and $22. The reason is, of course, people who buy time for New Jersey pay high New York and Philadelphia rates, but only a small proportion of the viewers are from the target state. Vice President Mondale commented recently that New Jersey is the only state in the Union where he can hold a press conference without a television camera, even though he spoke only ten miles from New York.

Let me not be misunderstood. I do not claim that New Jersey doesn't get sufficient television. In fact, New Jersey's citizens are blessed—or perhaps cursed—with the ability to receive many stations. Over 95 percent of New Jerseys viewers have access to ten or more different signals, and 80 percent can get 15–25 different stations, a truly outstanding variety and number of television outlets. The average New Jersey citizen tunes in over five stations a week, a number higher than the citizens of any other state. And New Jerseyans watch almost 43 hours of television a week, the fifth highest amount in the Nation.

The important point is not the amount of entertainment they receive nor the number of stations they can get, but whether information important to their daily lives is available. The programming they see is not about New Jersey. It is programming about New York and Philadelphia.

The New Jersey part of this broadcasting is infinitely small. There are eight New Jersey UHF stations. Four are public service stations, which are hampered by signal weakness and lack of resources, and which do not serve the state as a major commercial station could. There are two commercial UHF stations in the southern portion of the state. Wildwood, which is an NBC affiliate, has about 2,500 television families. The other, in Vineland, is not yet broadcasting. Other UHF stations reach specialized audiences or are pay-television.

New Jersey cannot rely on foreign stations for knowledge about itself. Recently, one of the major New York network stations sent me a compendium of its coverage of New Jersey in a typical month for this year. They may have sent that survey out of pride, but I think the survey dramatically proves my point.

Of the 77 New Jersey items during the month, 40 were concerned with crime, arson and misfortunes of various kinds. But there was only one culture story—about a flower and garden show—and two about the Pine Barrens moratorium. In all, there were only three public affairs stories during the month that mentioned the governor.

I can't compare the New Jersey coverage to the kind of coverage this station gives New York events. But if this is a sample of what New Jersey sees about itself on New York television, it is no wonder that New Jerseyans, despite a great sense of pride in their communities, have little feeling of state identity. It is no wonder that to some people New Jersey has become known for its crime, its pollution, its urban problems, and its Turnpike. The coverage of the foreign stations in New York and Philadelphia fosters that kind of image.

The plain and simple truth is that the people of New Jersey deserve their own television station. That they have been deprived of one is a disgrace, and a national disgrace.

With over 7 million residents, New Jersey is the most densely populated state in the union, and the ninth largest. It is a dynamic state, boasting an outstanding industrial base, fine educational institutions and countless corporate headquarters.

Despite its urban reputation, New Jersey is amazingly diverse. Almost two-thirds is rural. In the northwest are many lakes, state parks, small towns, farms and beautiful areas for camping, swimming, boating and fishing. In the central portion and in south Jersey, there are also miles and miles of farmlands and about as rural an atmosphere as any state could claim.

New Jersey has many areas for recreation, and tourism is the state's second largest industry. Within a few hours' drive of the millions of people who live in north Jersey, in New York and in Philadelphia, are approximately one million acres of nearly deserted, almost pristine wilderness in the Pine Barrens, where the population is only 23 people per square mile. This wilderness constitutes 25 per cent of New Jersey's total area.

New Jersey has the third largest per capita income in the country. Its buying income is $50 billion; it has regional sales of $22 billion; food sales of $5 billion, and the figures go on. It has been estimated to be potentially in the top five television markets.

It is inconceivable that people living in such an extraordinary environment should be compelled to go without the benefits of full television service that could keep them abreast of all that is going on around them.

Imagine what your own home state would be like if it had no television station within its boundaries. You too would be outraged.

I have no doubt that New Jerseyans could and would support their own station, even in competition with New York or Philadelphia.

I am confident that even against foreign stations offering the same fare, New Jerseyans would soon develop a loyalty to a station which told them what their businesses, musicians, artists, high school teams, government and neighbors were doing. They would watch network shows and professional sports on that very same station. It would not be too long before the New Jersey station created a sense of jealous loyalty.

NEW JERSEY AND THE FCC

For the past seven years, a coalition of citizens and public figures have sought to get the FCC to recognize and deal constructively with New Jersey's problem. But the Commission has done nothing.

We asked for rule-making to get relief, but that came to naught. Then we challenged the license renewal of Channel 13, which had been assigned to New Jersey and then moved to New York. But the FCC said "Past is past", and refuses to return the station to New Jersey. We have also challenged the licenses of other New York and Philadelphia stations, but all the Chairman and the Commission seem to offer is trivial letters and decades of fruitless litigation.

We have had years of excuses for inaction. Despite the genuine interest that Chairman Ferris has shown, and the constructive first steps he has taken recently, it is evident that we cannot rely on the FCC alone for help. This Committee, and the Congress, must mandate the Commission to address our problem and to come up with a solution quickly. New Jersey cannot and should not have to wait another seven, or ten, or twenty years for the FCC to get around to a remedy on its own.

For the past year, the Commission has been toying with the idea of sending a letter to the New York and Philadelphia stations, asking them to increase New Jersey coverage and to create a "presence" in the state.

This is by far the easist solution for the Commission, even if it is curiously unable to write its letter. But it costs money to go into New Jersey for stories, and most of the audience of those stations aren't interested in New Jersey. While we'd like more coverage, it can't be simply more of the kind we're already getting. More than crime and fires happen in New Jersey, and roving bands of mobile cameras won't get it on the air. Even with the greatest of will, we couldn't realistically expect the kind of comprehensive service for New Jersey from stations whose first—and properly first—obligation is to the community in which they are licensed.

Even if we had such a commitment, how would it be enforced? Those stations seem to respond with increased coverage every time the New Jersey issue heats up. But when it dies down, so does the coverage. The FCC couldn't effectively enforce a coverage requirement, and I wouldn't expect them to. It serves no one's purpose to quibble over minutes and seconds. And even with expanded news coverage, the problems of advertising and other economic realities make this suggestion clearly unsatisfactory.

The ideal solution would be for New Jersey to have its own VHF station. While it may be possible for another VHF to be forced into New Jersey, the only obvious alternatives is to move one of the New York, or Philadelphia stations, or channel 8, which is now assigned in Lancaster and New Haven. This would obviously be the best for New Jersey.

But I am not unaware of the difficulties. In New York, the network stations are the flagship stations and perhaps the most profitable in the country. We would not be surprised when the existing licensee resist vehemently any effort to have them moved to New Jersey. Candor forces me to recognize the validity, at least in part, of the pessimism Chairman Ferris expressed the other day.

If his statements, and the history of the Commission are any guide, I fear that the FCC hasn't the will or the political courage to take the necessary action to solve New Jersey's problem by moving one of those VHFs. I am not certain how Congress can legislate will-power and political courage, but I am certainly open to suggestions because we want to try.

From time to time, we have heard suggestions the UHF might be a fruitful possibility. I have a prejudice against UHF which is shared by many Americans. As Chairman Ferris testified, there are physical limitations such that UHF does not have the technical qualities of VHF. He has suggested that UHF could become more compatible with technical development, improved transmitting characteristics, better antennas, and better receivers.

It is true that UHF has improved in recent years. In 1975, only 59% of UHF stations were profitable. In 1977, that figure rose to 76% and overall revenues exceeded $200 million. I am told that a Charlotte, North Carolina station which ten years ago went for $1½ million recently sold for $20 million. Audience surveys have shown that the public now accepts UHF stations more, especially when they are network affiliated, and there are UHF stations in the country which day in and day out have larger audiences than their VHF competitors. But as things now stand, a UHF is not an acceptable alternative.

THE NEED FOR LEGISLATION

The time has come for some fresh and imaginative thinking by those of us from New Jersey, from the FCC, and from Congress.

While I am not an engineer, I refuse to believe that the range of television technology cannot provide us with imaginative ideas to solve our problem. Even in a brief conversation with members of the subcommittee staff, some intriguing possibilities were suggested. The tragedy is that the FCC has not yet shown any affirmative thinking.

I am encouraged that Chairman Ferris has ordered a technical and economic study which should begin to explore new possibilities. But the record of the FCC's receptivity to innovative thinking is not good. It has been said that the Commission's rules lock it into 1947 thinking. I hope that the new Chairman and new Chief Scientist will be forthcoming in their study with a host of constructive suggestions, and that they will explore not only the technical problems, but the economic and market questions that need study.

I look to the FCC to examine our problem closely and constructively. Charged as it is with providing television service to all citizens—including those in New Jersey—it is the Commission's responsibility to do more than merely reject the solutions offered up to them. I call upon them to provide New Jersey with first-class comprehensive commercial television service of its own.

That service must be economically viable. It must not only start in New Jersey, but it must stay there, and program there. New York City is, after all, the largest television market in the country, and Philadelphia is not far behind. Overshadowed by markets of that size, it would be unrealistic to expect any new station not to be tempted by the market across the river. Our television problem, therefore, will not be fully solved unless at the time we create new stations in New Jersey, we also create the conditions that would enable the stations to operate as New Jersey stations and to resist the lure of the larger New York and Philadelphia markets.

We must make clear to the FCC that it has to ensure that the stations ultimately authorized to operate on the channels assigned to New Jersey are also able to obtain the programs of the major television networks.

As network affiliates, there would be no need for the new stations to become part of the New York City and Philadelphia television markets. In fact, it would be economically impractical for them to do so since both markets already have a full complement of well-established network-affiliated stations. But stations that are assigned to and serve only New Jersey should be able to compete with the New York City and Philadelphia stations by emphasizing local news, public issues and events that are beyond the attention of the New York City and Philadelphia stations. That coverage should enable the New Jersey stations to develop a substantial audience, as has happened in other areas that are overshadowed by larger markets.

Mr. Chairman, it is quite clear to me that we will all have passed from the scene before a solution will come from the FCC of its own volition. The time has come for decisive congressional action. I can think of no better way to correct the inequities that confront New Jersey under existing law and administration than through the legislation designed to chance the old system. I urge the Committee to address New Jersey's problem in the same constructive way it is approaching the general problem of broadcasting reform.

A beneficial legislative approach should provide, by amendment if necessary, that the FCC is statutorily required to provide New Jersey with first-class commercial television service, service that is economically viable, that broadcasts in New Jersey for New Jersey, and that provides programming competitive with network service emanating from New York and Philadelphia.

Senator Williams and I will be taking up a lot of your time in the coming weeks seeking your help for language in the bill that meets these criteria. We also expect to be going to our colleagues in the Senate with our case, so that by the time your legislation goes to the President, we will have the support of this body for a resolution of the New Jersey issue.

I want to thank the Chairman and the members of the subcommittee for their patience and their attention. I have some materials attached to my statement which I ask be included in the formal record of hearings.●

HEALTH CARE PLAN IS POLITICAL PLOY

● Mr. THURMOND. Mr. President, during the past few months there has been rising interest in a nationwide health care plan. Mounting medical costs coupled with spiraling inflation have caused more public interest in maintaining health care at a reasonable cost.

A recent editorial in the Greenville News-Piedmont provides an interesting observation on this issue which I think pertinent in considering a matter of this importance.

Mr. President, in order to share this article with my colleagues, I request that it appear in the RECORD at the conclusion of my remarks.

The article follows:

HEALTH CARE PLAN IS POLITICAL PLOY

President Carter's national health care plan, Teddy Kennedy's plan and the other versions of nationalized medicine being kicked around Washington are, for the most part, political beats. In fact, they will add new financial burdens to the weary backs of Americans instead of giving the relief they promise.

The plan just announced by the president probably is the least objectionable of the lot. Its projected cost is only $24.3 billion a year, as compared to triple that sum for the more comprehensive national health care plan being pushed by Kennedy.

The truth is that Carter doesn't know how much his proposals will cost. The public can be assured, however, that given government's track record of projecting cost of its programs, the actual annual figure will be considerably higher than $24 billion.

But don't worry. The president isn't suggesting that taxpayers carry the entire load. He wants employers to chip in about $6.1 billion on the bill. It is amazing that Carter can expect the American public not to realize that money paid by private industry for government programs comes out of the pockets of workers just as surely as does the money collected by the IRS.

The president is under political pressure to produce some sort of health care legislation. The unions want it. Kennedy wants it. Beyond that we see no great outcry from the people for socialized medicine. England, which has had it for years, is trying to find a way to drop the whole idea.

While the Carter plan contains some attractive elements, especially the idea of catastrophic health insurance for all employees, the sum total of the proposals would be to start this country on the road so sadly taken by Great Britain. Do we want the people who deliver our mail attempting to deliver health services?

We believe that the private sector, given proper incentives by government, can meet and finance the health needs of our citizens. Adding another layer of bureaucracy and another layer of taxation can accomplish nothing more than speeding America's drive toward economic destruction.

President Carter has made a modest proposal, at least on the surface. South Carolina congressmen, however, will do well to look a little deeper. The administration plan is a political sop and ought to be nailed as such.●

INTERNATIONAL TERRORISM

● Mr. JACKSON. Mr. President, I was privileged to attend the Jerusalem Conference on International Terrorism sponsored by the Jonathan Institute in Jerusalem, Israel, during the first week of July.

In this connection, I would like to share with my congressional colleagues the address which I made to the opening session of the Conference in hopes it will contribute to the American effort to combat the menace of international terrorism.

I ask that the full text of my address be printed in the RECORD.

The address follows:

TERRORISM AS A WEAPON IN INTERNATIONAL POLITICS

Mr. Prime Minister, Mr. Peres, Professor Netanyahu, distinguished participants in the Jerusalem Conference on International Terrorism, ladies and gentlemen:

As we gather here this evening our thoughts turn to Lt. Col. Jonathan Netanyahu. We recall the quality of his personal character, his inner devotion to the public good, his voluntary performance of the most demanding duties that the defense of democracy entails, and the sacrifice consummated in the heroic rescue at Entebbe. Jonathan's heritage is an unpurchaseable treasure of the spirit that moth and rust cannot consume nor thieves break through and steal.

When in George Bernard Shaw's play, they tell Joan of Arc that they are going to burn her at the stake, she foresees the effect upon the people. "If I go through the fire," she says, "I shall go through it to their hearts for ever and ever." So Jonathan went through the Entebbe fire to our hearts for ever and ever.

I believe that international terrorism is a modern form of warfare against liberal democracies. I believe that the ultimate but seldom stated goal of these terrorists is to destroy the very fabric of democracy. I believe that it is both wrong and foolhardy for any democratic state to consider international terrorism to be "someone else's" problem.

If you believe as I do, then you must join me in wondering why the community of liberal democracies has not banded together more effectively to oppose these international murderers—and to loudly and vigorously expose those states which cynically provide terrorists with comfort and support. One of the great coverups of this century is the effort by Western governments, who know better, to muffle the facts about Soviet-bloc support for international terrorism.

I'm not talking about individual acts of madmen. I'm talking about highly organized groups with international connections and support who systematically rely on major acts of violence as a political instrument.

I'm thinking of the Basque and Puerto Rican terrorists, the European terrorist groups, and the PLO attacks, or threats of attack, against moderate Arab states which might be motivated to support the Egyptian-Israeli peace agreement.

I have in mind the PLO attacks against moderate Palestinians—the murder of a moderate leader in the Gaza is a recent brutal example.

I am reminded of radical Palestinian terrorist attacks on airliners servicing Israel.

I'm thinking of the Palestinian operations in Lebanon, and the activities of Turkish terrorists.

Such acts of terrorism are part of a broad campaign aimed at the disintegration of democratic societies through undermining the confidence of their citizenry in their governments.

International terrorism is a special problem for democracies. To a totalitarian regime like the Soviet Union, it is mainly a nuisance. The government applies whatever force is needed to liquidate the group and its members; borders are closed to unwanted entry or exit; individual rights are held subservient to "law and order"; publicity can be denied by fiat. The biggest difference between the Soviet Union and such states as Libya, Iraq, and Iran is that these governments are not as efficient—yet.

A democratic government, on the other hand, rests on the consent of the governed. It is responsible for assuring the democratic freedoms of speech, assembly, travel, press and privacy. These conditions, obviously, facilitate terrorist operations, directed against a particular government or as the battleground for opposing terrorist groups. When the PLO and Iraqi terrorists were at war, they chose to fight it out in Europe, not in the Middle East.

Terrorism is not a new phenomenon. What is new is the international nature of the terrorism.

Today's terrorists have modern technology to help them—permitting rapid international communications, travel, and the transfer of monies; they can work with others of like mind across the international borders of the world's free nations.

More important, however, these groups receive extensive support from the Soviet bloc. Most terrorists use Soviet or East European weapons; they have been trained in the Warsaw Pact countries—or in such Middle East countries as South Yemen and the PLO-controlled areas of Lebanon; they generally flee for protection and rest to East Europe or to such countries as Libya. The primary supporters of international terrorism are the Soviet Union and those states which the Soviets support—the Warsaw Pact and the radical Arab camp.

Modern terrorism is a form of "warfare by remote control", waged against free nations or against non-democratic but moderate states which dare to sympathize with freedom. In this kind of war, the totalitarian regimes see little risk of retribution directed at them.

What can be done?

First, and foremost, liberal democracies must acknowledge that international terrorism is a "collective problem."

Everything else follows from this. When one free nation is under attack, the rest must understand that democracy itself is under attack, and behave accordingly. We must be allied in our defense against terrorists.

The cooperative effort of Western European countries to combat terrorism in Europe is a major step in the right direction. But we must go further. Terrorists must know that when they operate against any liberal democracy, they will receive no sanctuary and no sympathy in any free nation. By not making our position crystal clear, we allow fanatic groups to think we tolerate policies like those emanating from Iran concerning the Shah, members of his family, and certain others. I quote an Iranian announcement:

"Anyone who wants to assassinate these people in Iran or outside [could be] free anywhere to carry out the order of the court. They cannot be arrested by any foreign government as a terrorist because they will be carrying out the order of Iran's Islamic revolutionary court."

And let me emphasize two propositions whose truth should be evident to all democracies:

To insist that free nations negotiate with terrorist organizations can only strengthen the latter and weaken the former.

To crown with statehood a movement based on terrorism would devastate the moral authority that rightly lies behind the effort of free states everywhere to combat terrorism.

Secondly, every free nation must work against Soviet and radical state efforts to define away terrorism.

The idea that one person's "terrorist" is another's "freedom fighter" cannot be sanctioned. Freedom fighters or revolutionaries don't blow up buses containing non-combatants; terrorist murders do. Freedom fighters don't set out to capture and slaughter school children; terrorist murderers do. Freedom fighters don't assassinate innocent businessmen, or hijack and hold hostage innocent men, women, and children; terrorist murders do. It is a disgrace that democracies would allow the treasured word "freedom" to be associated with the acts of the terrorists.

Third, we must turn the publicity instrument against the terrorists, and we must expose Soviet and other state support of terrorist groups whenever we identify it.

When PLO terrorists toss a bomb into a market place, or murder a holy man, or shoot rockets randomly at a village, each and every democracy in the world should stand up to condemn those radical Arab states and the Soviet Union who train, arm, finance, harbor, and encourage them.

When an act of terrorism occurs, and the odds are it will occur in one of the free countries, democracies should unite in sponsoring resolutions in the United Nations condemning the act. Where we have evidence of support for the terrorists by some other state, this support should be censured in the strongest terms. If the Soviet Union, its allies, and the radical Arab and Third World states want to vote against such resolutions—let them.

Let's educate the whole world as to who opposes and who tolerates international terrorism.

I am convinced that this will make a difference; I am convinced, for instance, that the exposure of East European support for European terrorism has contributed to the lessening of this support and to the signs of some cooperation to combat terrorism between these countries and the nations of West Europe.

Fourth, liberal democracies must work together to apply sanctions against countries which provide sanctuary to international terrorists.

The Bonn Anti-Hijacking Agreement is a good start. It is ironic that the pilots and the airlines, and not our statesmen, provided the leadership which led to this agreement.

We can do more. For instance, is it moral to trade openly and freely with states who use the profits from such trade to finance the murder of innocents? Why should those who conduct remote control warfare against us rest easy that we will contribute to financing our own destruction?

Fifth, within each of our own countries, we must organize to combat terrorism in ways consistent with our democratic principles, and with the strong support of our citizens.

Israel has long done this. And the nations of Western Europe are moving in this direction. In my country, we are making some progress in organizing federal, state and local agencies to deal more realistically with terrorist threats. A number of my colleagues in the U.S. Senate are working to improve our counter-terrorism capacities.

As I see it, the best means to cope with terrorism is to structure national programs to reinforce the capabilities of local authorities. Local police and governments know their area; they know their people; they are the primary link between citizens and government.

Now this final word:

In providing for her own defense against terrorism, Israeli courage has inspired those who love freedom around the world. The Entebbe rescue was a classic lesson for all free nations that terrorism can be effectively countered with strength, skill and determination.

These are qualities in short supply in many countries where freedom comes more easily. Indeed, the great need in the world today is for men and women who stand in the tradition of Jonathan Netanyahu—strong, dedicated, courageous, dependable.

My friends, I know that we shall return home from this historic conference more determined and better prepared to do what we can to combat the menace of terrorism and to defend the freedom of us all.●

S. 344: THE LOW PERCENTAGE OF HIGHWAY BILLBOARDS ACTUALLY REMOVED SINCE 1965

● Mr. STAFFORD. Mr. President, in recent weeks and months, I have placed a variety of articles in the RECORD that show how ineffective the Highway Beautification Act had become, due to the relentless pressure from the billboard industry.

Realistically, little has been achieved since passage of the act in 1965. Some 200,000 billboards subject to Federal removal remain standing, while new loopholes are written into the law. The latest and most glaring loophole was included in the 1978 highway amendments, which became effective following the date of a chart that I intend to place in the RECORD. Those 1978 amendments required that compensation be paid by the States for any billboard removed, even if the decision and basis for billboard removal was strictly one of local zoning, unrelated to the standards in the Highway Beautification Act. That 1978 change has added several hundred thousand billboards to the list requiring compensation, plus another $1 billion in cost to the taxpayers.

Mr. President, some States have not removed a single billboard that fails to conform to the Federal beautification law since the law was signed in 1965. Other States have removed only a tiny fraction of the signs. And, of course, strict, numerical counting of signs really is not a very fair calculation. In many States, a number of old, small billboards have been taken down along side roads, while huge new billboards have gone up or remained up along the Interstate System.

Mr. President, the Committee on Environment and Public Works will hold hearings on this issue and my bill, S. 344, on July 17 and 18. I hope these hearings will receive the careful attention they deserve.

To give my colleagues an idea of how poorly many States are progressing under the 1965 act, with all its new loopholes, I request that a list of the States, showing the percentage of nonconforming signs acquired, be printed in the RECORD.

The list follows:

NATIONWIDE SUMMARY REPORT—SIGN ACQUISITION AND REMOVAL UNDER THE HIGHWAY BEAUTIFICATION ACT AS OF SEPT. 30, 1978

		Nonconforming compensable signs							
		Acquisitions					Removals		
	State	This period	To date	Remaining	Tofal	Percent acquired	This period	To date	Percent removed
	Connecticut	11	85	187	272	31	11	85	31
	Maine	0	1,015	42	1,057	96	3	1,013	96
	Massachusetts	13	32	148	180	18	9	26	14
	New Hampshire	19	580	638	1,218	48	34	544	45
	New Jersey	0	0	473	473	0	0	0	0
	New York	370	913	5,035	5,948	15	370	906	15
	Rhode Island	0	8	89	97	8	0	8	8
	Vermont	0	917	0	917	100	0	917	100
	Puerto Rico	0	0	0	0	[2] 100	0	0	[2] 100
	Total	413	3,550	6,612	10,162	35	427	3,499	34
3	Delaware	15	181	127	308	59	1	138	45
	Maryland	4	477	1,520	1,997	24	5	357	18
	Pennsylvania	281	7,365	11,100	18,465	40	281	7,365	40
	Virginia	24	371	3,581	3,952	9	4	343	9
	West Virginia	9	684	737	1,421	48	9	684	48
	District of Columbia	5	5	0	5	100	0	0	0
	Total	338	9,083	17,065	26,148	35	300	8,887	34
4	Alabama	5	1,911	2,162	4,073	47	6	1,900	47
	Florida	17	1,814	12,993	14,807	12	6	1,356	9
	Georgia	10	573	23,871	24,444	2	18	568	2
	Kentucky	0	2,771	[1] 640	3,411	81	0	2,718	80
	Mississippi	4	380	1,997	2,377	16	3	323	14
	North Carolina	105	914	4,489	5,403	17	36	808	15
	South Carolina	56	1,473	2,192	3,665	40	56	1,473	40
	Tennessee	0	165	8,350	8,515	2	0	147	2
	Total	197	10,001	56,694	66,695	15	125	9,293	14
5	Illinois	19	9,194	2,370	11,564	80	21	8,160	71
	Indiana	54	1,230	10,053	11,283	11	61	1,111	10
	Michigan	122	5,108	4,154	9,262	55	129	4,816	52
	Minnesota	97	6,403	789	7,192	89	351	4,817	67
	Ohio	317	2,166	6,396	8,562	25	210	1,775	21
	Wisconsin	14	2,322	19,792	22,114	11	21	1,963	9
	Total	623	26,423	43,554	69,977	38	793	22,642	32

NATIONWIDE SUMMARY REPORT—SIGN ACQUISITION AND REMOVAL UNDER THE HIGHWAY BEAUTIFICATION ACT AS OF SEPT. 30, 1978—Continued

		Nonconforming compensable signs							
		Acquisitions					Removals		
	State	This period	To date	Remaining	Tofal	Percent acquired	This period	To date	Percent removed
6	Arkansas	47	614	3, 314	3, 928	16	58	492	13
	Louisiana	4	171	1, 852	2, 023	8	14	137	7
	New Mexico	0	290	1, 198	1, 488	19	14	290	19
	Oklahoma	9	1, 745	3, 639	5, 384	32	57	1, 737	32
	Texas	237	7, 399	11, 769	19, 168	39	237	7, 399	39
	Total	297	10, 219	21, 772	31, 991	32	380	10, 055	31
7	Iowa	267	7, 025	1, 874	8, 899	79	216	3, 451	39
	Kansas	0	2, 696	12, 189	14, 885	18	102	2, 582	17
	Missouri	0	0	6, 397	6, 397	0	0	0	0
	Nebraska	61	5, 114	8, 927	14, 041	36	33	5, 073	36
	Total	328	14, 835	29, 387	44, 222	34	351	11, 106	25
8	Colorado	14	1, 614	1, 920	3, 534	46	0	1, 569	4 40
	Montana	4	7, 110	2, 791	9, 901	72	77	6, 885	73
	North Dakota	17	1, 580	1, 349	2, 929	54	4	1, 559	51
	South Dakota	(1)	[1]1, 586	[1]5, 685	7, 271	22	(1)	[1]1, 563	23
	Utah	20	2, 064	425	2, 489	83	10	1, 563	63
	Wyoming	34	456	2, 298	2, 754	17	34	456	17
	Total	89	14, 410	14, 468	28, 878	50	125	13, 595	47
9	Arizona	28	1, 345	5, 213	6, 558	21	17	1, 317	20
	California	29	1, 923	1, 937	3, 860	50	63	1, 890	49
	Hawaii	0	0	0	0	[2]100	0	0	[2]100
	Nevada	0	694	123	817	85	0	693	85
	Total	57	3, 962	7, 273	11, 235	35	80	3, 900	35
10	Alaska	0	0	0	0	[2]100	0	0	[2]100
	Idaho	3	1, 191	713	1, 904	63	16	1, 199	63
	Oregon	0	1, 964	[1]45	2, 007	98	7	1, 931	96
	Washington	207	2, 577	210	2, 787	92	57	2, 347	84
	Total	210	5, 732	966	6, 698	86	80	5, 477	82
	Grand total	2, 552	98, 215	197, 791	296, 006	33	2, 661	88, 454	30

[1] Incomplete data received.

[2] No signs acquired or removed.

●

PAPERWORK REDUCTION IN FEDERAL HOUSING PROGRAMS

● Mr. BENTSEN. Mr. President, last year at this time, when the Senate was considering the 1978 HUD authorization bill, I introduced an amendment which required the Federal Housing Administration to merge the forms they use for similar purposes in their single-family housing programs. My amendment was unanimously adopted by the Senate and was signed into law by President Carter on October 31, 1978.

Since then, the three housing agencies have been working diligently to carry out the requirements of my amendment. A number of meetings have been held and, even more important, forms have been drafted that can be used for all three housing programs. The Office of Management and Budget has been overseeing this cooperative effort.

On May 14, 1979, I wrote HUD Secretary Patricia Harris and asked for an interim report on compliance with my FHA/VA/FmHA amendment. This report is due any day now and I will make it available as soon as I receive it.

The amendment I introduced last year is an important part of an effort I am making to require Federal agencies to reduce unnecessary and overlapping paperwork. Both HUD and VA administer programs which help American families purchase homes. Although the two programs differ in minor respects, they have many similarities and, in particular, they require similar forms. There is much duplication among those forms. There is no reason why they can not be merged.

The effect of merging the forms used by FHA and VA would be to reduce the paperwork facing homesellers and mortgage lenders. I found that homesellers who want to qualify their homes for both programs have to have two separate property appraisals, both conducted by Federal appraisers, at a cost that is borne by the homeseller. Since the property is being appraised for a Federal program, there is no reason why one appraisal will not suffice.

My amendment was designed to cut out this nonsense.

Unfortunately, FHA and VA are not the only Federal agencies that generate unnecessary paperwork. Last year, after the General Accounting Office reported to me that American businesses spend 69 million hours each year filling out Government forms and another 250 million hours filling out tax forms, I asked GAO to examine the paperwork under specific Government programs.

The first of these reports, which is due soon, will look into the Department of Agriculture's paperwork requirements under the Packers and Stockyards Act. The GAO will look at the burden and the usefulness of the forms used under this act. After I receive the GAO's report, I will introduce legislation to correct any problems GAO finds.

GAO has also begun looking into paperwork in transportation programs and paperwork in environmental protection programs. I will have these reports later this year or early next year, and I will introduce legislation to deal with problems in these areas.

The FHA/VA paperwork reduction amendment I introduced last year is thus only the first of a series of amendments or bills I intend to introduce to cut out unnecessary and duplicative paperwork. I am monitoring the progress on last year's amendment very closely. If I am not satisfied with the progress shown in Secretary Harris' report, I will toughen up my amendment next year.

Excessive Government paperwork is a major business expense and a source of inflation. The fight against paperwork is never-ending, but I intend to keep up the battle.●

GOVERNMENT REGULATIONS HINDERING DOMESTIC OIL PRODUCTION

● Mr. STONE. Mr. President, the American people are frustrated—and rightly so—by the current energy situation. They are tired of long lines and high prices as a result of our dependence on unstable OPEC oil. They are equally tired of waiting for the Federal Government to adopt an effective national energy plan. Mr. President, now is the time for the President and the Congress to put such a policy into place. We must increase and expand our domestic oil production and develop alternative sources of energy so that we can be free of OPEC.

Mr. President, in addition to long-term solutions to the energy crisis, we must have policies which deal with the short-term problems. To this end, I have written a letter, along with my distinguished colleague from Delaware (Mr. ROTH) to Mr. Charles DiBona, president of the American Petroleum Institute. This letter asks the members of the API to submit to us examples of Government regulations which hinder or prohibit domestic oil production. A similar letter was sent to Mr. Jack Allen, president of the Independent Petroleum Association of America.

Mr. President, by reviewing these cases, we can take immediate action to increase our domestic supply and production, and thereby help our people through this summer and next winter. Mr. President, I request that a copy of our letter to Mr. DiBona be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., July 13, 1979.

Mr. CHARLES DIBONA,
President, American Petroleum Institute, Washington, D.C.

DEAR MR. DIBONA: The direct and indirect impacts of the current world oil shortage on the United States economy—from gasoline lines to truckers' strikes and from farm fuel shortages to dislocations with the recreational/resort sector of the economy—have led to increased Congressional interest in an effective national energy policy. For the first time, the Congress and the Administration are beginning to move simultaneously to address this critical problem.

We are searching for Congressional actions which will enhance the prospects for U.S. energy supply in the months and years ahead. While energy conservation is an essential element in ameliorating the demand-push for energy, the need for a strong, vital economy dictates that at least equal attention be directed at energy supply.

For the long-term, both Congressional and Administration attention is beginning to focus on incentives for alternate energy sources and synthetic fuels. In the intermediate term, the full impact of price incentives for the development of new oil supplies and the substitution of alternative energy sources in major oil-burning facilities should help balance the supply/demand for domestic petroleum.

In short, with respect to energy, we have growing confidence that the Congress, working with the President, will act shortly and responsibly to set a sound future course for this nation.

The immediate need—and the one area which is receiving too little attention—is to maximize domestic supplies to overcome our short-term energy shortages. The American people will support a long-term national commitment to alternative energy sources, but their immediate concern is for gasoline, diesel fuel and fuel oil to get through the summer and next winter.

At the just-concluded Tokyo economic summit, President Carter pledged the United States to oil import levels no higher than the 1977–1978 levels. With this ceiling on imports, and even with strong energy conservation measures, the vitality of the U.S. economy over the next few years will depend upon our ability to generate additional short-term supplies of domestic petroleum.

We are aware that there are sources of short-term domestic oil supplies which could be brought into production within a period of months if existing impediments to their production could be removed. In certain cases these impediments may include regulatory and/or legislative obstacles—federal, state and local—which do not take into account our immediate national need for short-term supplies. In order that we can immediately begin to work in Congress to overcome these short-term shortages, a list of all such cases (including anticipated production figures and the exact nature of the impediment) is essential. We urge you to have the individual companies within the American Petroleum Institute membership examine their own projects which fall into the above category, and submit that information to us at the earliest possible date, and if possible, by August 1, 1979.

Sincerely,

RICHARD (DICK) STONE,
WILLIAM V. ROTH, Jr.●

INTERSTATE LAND SALES REGISTRATION

● Mr. BENTSEN. Mr. President, it is my pleasure to recognize the important contribution that this committee has made in slicing away some of the Government redtape which so binds our lives today. The committee has included as a section of this bill the contents of the bill S. 896, dealing with interstate land sales registration requirements. As an original cosponsor of S. 896, I am pleased that the committee recognized the need for these changes and incorporated them in the bill now before us.

As we all know, there have been many flagrant abuses in the interstate sale of land in past years. In recognition of that fact, and in an effort to control these fly-by-night operations, the Congress passed the Interstate Land Sales Full Disclosure Act.

This bill addressed a real need; the need to protect our citizens from unscrupulous land salesmen. However, as has so often happened in the past with new regulatory agencies, the Office of Interstate Land Sales Registration has far overstepped the original borders which Congress intended for it. In this agency's all-encompassing definition of "interstate" real estate operators have been required to register merely because they advertised in public channels such as radio, television, or newspapers.

I firmly believe that the intent of Congress in passing this law was to regulate only those transactions which are truly interstate. It is a totally unnecessary infringement on the authority of individual States for the Federal Government to regulate land sales which are wholly within the boundaries of one State. Also, there is no need for Congress to closely regulate the sale of land when such sales are made to customers who live close enough to the lot which they are purchasing to easily inspect that lot, and who in fact have inspected the lot and are fully aware and are satisfied with all terms of the transaction.

In recognition of this fact, this provision would exempt real estate sales operations if both the buyer and the seller live in the same State. In addition, small developments of 500 lots or less are exempted from registration requirements if they sell to customers who live within 100 miles of the development even though they may live across the State line. Some basic disclosure requirements are also included to assure that these exemptions are not abused.

Mr. President, the regulations and redtape associated with our massive Federal bureaucracy are a major factor in the inflation which is ravaging our country today. It has been estimated that the cost of these Government regulations to our economy exceeds $100 billion per year. This is an intolerable burden—it must be reduced. It is essential that we take every opportunity, as in this instance, to eliminate statutory requirements which lead to unnecessary regulations and to tighten those statutory requirements when agencies have overstepped the boundaries which were originally intended by Congress.●

THE NATIONAL TRAILS SYSTEM ACT

● Mr. DECONCINI. Mr. President, it is indeed my privilege to cosponsor this proposal which would designate the General Crook Trail and the Beale Wagon Road for study and possible selection as National Historic Trails.

Mr. President, in 1978, Congress enacted the National Parks and Recreation Act of 1978, which amended the National Trails System Act of 1968 to allow for trails of particular national historic interest to be singled out for recognition and protection. At that time, several trails were designated for study for possible designation at National Historic Trails. Now, through this bill, we have an opportunity to further expand the National Trails System to include two trails of exceptional historical, scenic, and recreational value.

Edward F. Beale was commissioned by President Buchanan in 1857 to survey a wagon road from Fort Fefiance, N. Mex. to the Colorado River. The trail he plotted was likely the first federally funded road in the Southwest and was vital to early wagon travel in northern Arizona.

Gen. George Crook, as commander of the Military Department of Arizona, opened a trail from Prescott, Ariz. to Fort Craig, N. Mex. in the 1870's. The trail was an important step in providing rapid and safe passage for troops and supplies traveling across central Arizona. The trail greatly speeded the development and settlement of the Southwest.

Both of these trails are reminders of the determination of the pioneers who struggled with, and ultimately overcame, tremendous hardships in their efforts to settle the Southwest. In these times when Americans are reexamining their past and recommitting themselves to that pioneer spirit, it would indeed be a shame to allow either of these trails to be lost or forgotten.

The importance of the Crook Trail has already been recognized by the Arizona State Legislature, which designated it as the first Arizona State Historical Trail upon the recommendation of the State Parks Board. The major portion of the Beale Wagon Road, which traverses such spectacular sights as the Painted Desert, was personally located by Dr. Eldon Bowman, chairman of the Trails Committee of the Grand Canyon Council of Boy Scouts of America, at the request of the Kaibab National Forest. He found the trail largely undisturbed and currently useable as a recreation trail. Dr. Bowman is certainly to be commended for his outstanding contributions in that effort.

The inclusion of these trails under the protection of the National Trails System Act has been enthusiastically supported throughout the State of Arizona. The many groups which I have contacted have expressed their unanimous endorsement for the proposals. Mr. President, this bill is clearly in keeping with the intent of the National Trails System Act as amended, and will certainly enhance our cultural and historic heritage.●

THE FEDERAL DISABILITY RETIREMENT PROGRAM

● Mr. PRYOR. Mr. President, yesterday during oversight hearings, the Subcommittee on Civil Service and General Services received a very enlightening, but also very disturbing, statement by Mr. H. L. Krieger, Director, Federal Personnel and Compensation Division, U.S. General Accounting Office, regarding the Federal disability retirement program.

I was shocked to learn that at the end of fiscal year 1978 there were about 323,000 disabled retirees who collect annuities totaling about $2.2 billion annually. Additionally, during 1978, approximately about 32 percent of all new retirees retired on disability. As I stated at the hearing I certainly intend to pursue the subject of disability abuse in the Federal Government, as well as to continue to work toward the improvement of the efficient operation of the Civil Service Retirement System.

The following is an excerpt from the statement of Mr. H. L. Krieger, which I am sure my colleagues will find as interesting as I have found it to be. I request that it be printed in the Record.

The excerpt follows:

Excerpt

DISABILITY RETIREMENT

One feature of the civil service retirement system on which we have issued several reports is its disability retirement provisions. Many employees retire on disability, and these retirements have added substantially to the cost of the system. At the end of fiscal year 1978, there were about 323,000 disabled retirees who collect annuities totaling about $2.2 billion annually. During 1978, about 32 percent of all new retirees during the year retired on disability. Based on our work, we believe it is highly questionable that all these retirees were incapable of further Government service.

Under the civil service system, employees are considered to be legally disabled if they are unable, because of disease or injury, to perform usefully and efficiently in the grade or class of position last occupied. As interpreted by the Office of Personnel Management, this means that an employee unable to do one essential function of his job is entitled to disability retirement. All disabled employees retire on full disability because no provision exists for partial disability.

If a disabled employee can perform in other positions and the agency can find a position for which the employee is qualified, we believe an agency should have reassignment authority and actively seek an alternative position. In a November 1976 report on disability retirement ("Civil Service Disability Retirement: Needed Improvements," FPCD–76–61), we estimated that about 15,000 annuitants receiving disability benefits in 1975 were probably capable of performing other types of work at the time of retirement. Disability retirement applications require information regarding agency efforts to reassign the employee to a suitable position. However, our report noted that this information was not included in 62 percent of the cases sampled.

The Office of Personnel Management has no procedures for determining whether permanently or temporarily disabled annuitants are performing functions similar or identical to those performed in their last Government job. Our November 1976 report showed that of 51 disability cases reviewed 18 annuitants could be performing jobs similar to their prior Government jobs. The files, however, contained no evidence that attempts had been made to obtain more details on the nature of the work.

Disability payments continue until annuitants become medically or economically recovered. Economic recovery is assumed if, in each of 2 consecutive years, annuitants' earnings equal or exceed 80 percent of the current rate of compensation for their last Government job. This income limitation provision can be manipulated. Annuitants have earned more than the pay for their prior Government jobs over a 2-year span, received sizable annuity payments, and yet were not considered economically recovered. We reported examples of annuitants who earned from $17,000 to $42,000 more in 2 years than their Government job would have paid but were continued on the disability roles because they did not exceed the 80-percent maximum in each of the 2-years. For example, we found one retiree who was determined to be disabled for a job paying $22,000 a year and who earned $16,777 and $47,480 in other employment in 2 consecutive years. The annuitant continued to receive his disability annuity, because he was not economically recovered under the law.

We made numerous recommendations to the Civil Service Commission (now the Office of Personnel Management) for improvements in disability retirement policies and administration. In a July 1976 letter to us, the Commission reserved comment on most of our recommendations until it could complete a study it said it was conducting which would address many of the areas discussed in our report. We issued a follow-up report on disability retirement in July 1978 ("Disability Provisions of Federal and District of Columbia Employee Retirement Systems Need Reform" FPCD–78–48). During this latter review, the Commission advised us that its promised study had not been completed because of higher priority work. To our knowledge, this study has still not been completed.

We also made certain recommendations to the Congress for changes to the disability retirement laws. We recommended that the Congress (1) enact legislation that would encourage, instead of discourage, retention of potentially productive employees by requiring agencies to assign employees to vacant positions within the same occupational class when the applicants are able to do that job and (2) revise the definition of economic security to preclude annuitants from earning more than the current pay for their former Government jobs and yet retaining their annuities.

Disability reform would assist considerably in reducing civil service retirement cost and assuring greater equity for all covered employees.●

DOE REPORT SHOWS NORTHERN TIER PIPELINE ADVANTAGEOUS TO UNITED STATES

● Mr. MELCHER. Mr. President, an analysis by the Department of Energy concludes that, as submitted, only the Northern Tier Pipeline, of all the applications to build pipelines from the west coast to the east, would eliminate crude oil shortages in eastern Washington, Montana, and North Dakota and that it is also the only pipeline that could supply new refinery capacity in the three States plus Minnesota and Wisconsin.

With a substantial west coast surplus of Alaskan crude oil, Northern Tier would provide the largest net national economic benefit, the analysis finds.

The report by the Department of Energy's Office of Policy and Evaluation is part of the final environmental impact statement which deals with three proposed pipelines that would cross Canada to Edmonton and Northern Tier Pipeline Co.'s proposal which would originate at Port Angeles, Wash., and terminate at Clearbrook, Minn. The other three proposals are Foothills, originating at Skagway, Alaska; Kitimat, originating in Kitimat, British Columbia, and Trans-Mountain, originating at a point in the straits of Juan de Fucca in the State of Washington—all of which would terminate at Edmonton, Alberta, Canada.

The Department of Energy report notes that national security, net national economic benefit and equitable supply distribution will all have a bearing on any Federal action on a pipeline proposal. A final decision on which line is best for the United States is expected to be recommended by the President on or about October 16.

The DOE report notes that Northern Tier would eliminate all projected shortages of crude oil for refineries and necessary petroleum products in the States of Washington, Idaho, Montana, Wyoming, North Dakota, Minnesota, Wisconsin, Illinois, Indiana, Ohio, and Michigan.

Noting that none of the three Canadian proposals included 100 miles of new pipeline to connect at Edmonton with the Rangeland Pipeline near Alberta, which supplies Billings and Laurel in Montana, the Department of Energy states that the tariff to Billings would range from $1.05 to $1.99 per barrel less for Northern Tier than for the other three proposals. In a footnote, the DOE analysis says if any of the Canadian proposals go forward, it would be likely that the link to Rangeland Pipeline would be built although not included in the company's present proposal.

Using a new Federal Power Commission type method to estimate tariffs, the Department of Energy's projection found tariffs slightly higher on Northern Tier to St. Paul and Chicago than the Kitimat or Trans-Mountain proposals, but clearly lower than the Foothills line from Skagway.

Mr. President, it is my observation that this method of tariff computation is one never used on oil pipelines and is 20 percent higher than Northern Tier's estimate. The new method of computation probably would never be approved by the Federal Energy Regulatory Commission. That Commission would probably rule that the lower computation figures contemplated by Northern Tier Co.'s tariff estimates would be the method followed on any of the proposals. If that is the case, Northern Tier's projected tariffs to both St. Paul and Chicago would be about the same or lower than the Canadian proposals.

The Department of Energy report notes that in computing tariffs on a method such as an inflation-adjusted, original cost basis, the tariffs would be substantially lower and would favor Northern Tier since it is a new pipeline for a much greater portion of its entire route than the Canadian proposals which would use existing pipelines in Canada from Edmonton to Clearbrook, Minn.

Rating the pipelines on a basis of their net national economic benefit, Northern Tier was rated at nearly $7 billion benefit, considerably higher than any of the other three. The economic benefit was calculated on the basis of transporting 400,000 barrels of Alaska North Slope crude oil per day to end the glut of oil on the west coast and carrying at least another 100,000 barrels of other oil per day. Northern Tier would actually transport between 700,000 and 900,000 barrels per day.

The report further noted that domestic crude production in the lower 48 States has declined in recent years from 10 million barrels per day in 1970 to 7.5 million barrels per day production in 1978. It expects a further decline of about 2 percent per year in crude oil production in the lower 48 States through 1985.

Within the next 23 months the Department noted a likely increase in Alaskan North Slope production of 150,000 to 300,000 barrels per day and singled out California as likely to provide a significant near-term increase in oil production. Without development of a sufficient solution to west coast surpluses, the Nation may be denied the benefit of some of the increases in Alaskan and California production. It is the Department of Energy's assessment that unless at least one west-to-east pipeline is constructed the United States may lose a valuable opportunity to increase domestic production and solve the west coast crude oil surplus.

The report noted that Montana refineries face sharp shortages in crude oil supplies beginning in 1980 and reaching a 70,000-barrel shortfall in 1982—about half the Montana refineries' capacity—unless the pipeline or other alternative forms of crude oil transportation are found.

In its comments on the relative security of the pipelines, the DOE says that because the United States and Canada have an "Agreement Concerning Transit Pipelines" which guarantees noninterference and nondiscrimination for pipelines carrying hydrocarbons, and Canada gets crude oil through pipelines in New England, the lines would all be equally secure. The DOE added, however:

> Since the Eastern Canadian refineries are in large part dependent on the Interprovincial Pipeline (from Edmonton south) it is possible that the ability of these proposals (the pipeline applicants in Canada) to deliver to Chicago may be interrrupted or limited by pro-rationing on Interprovincial at some time in the future.

The report notes that current spare capacity on the Interprovincial line from Edmonton to Chicago is now only 250,000 to 300,000 barrels daily.●

FINANCIAL STATEMENT OF SENATOR DECONCINI

● Mr. DECONCINI. Mr. President, I am today making public my complete financial statement by inserting in the CONGRESSIONAL RECORD a copy of it, along with a letter of clarification by the attorney who prepared it. I have publicly disclosed my net worth and identified my assets and liabilities each year since I first filed for the U.S. Senate, because I feel strongly that the public has the right to know the total and complete financial situation of its elected representatives.

My statement is much more precise than that required by Senate rules. In fact, I believe the Senate rules are inadequate and ambiguous and should be clarified and made more precise.

Reporters, through no fault of their own, can drastically under or over represent a Senator's net worth. For example, I was reported to have a net worth of at least $3 million over my actual worth. There is nothing improper about financial success, however, I believe the public that we represent deserves to see a full and accurate picture of our financial interest.

The statement follows:

TUCSON, ARIZ.,
June 29, 1979.

Hon. DENNIS DECONCINI,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DECONCINI: Pursuant to your instructions, we have prepared a Balance Sheet with accompanying schedules for the year ending December 31, 1978. The Balance Sheet includes both the separate and community property of you and your wife.

The Balance Sheet and its Schedules were prepared without audit but were prepared from information we believe reliable, including information supplied by you and information available to our firm by reason of representing you and members of your family, in matters involving state and federal taxation, including the preparation of federal and state income tax returns. We conducted such other inquiries that we deemed necessary to determine the assets in which you have an interest and the extent of your interests therein.

The reported basis of each asset is that basis which would be used in calculating gain or loss for federal income tax purposes.

Based on the foregoing, it is our opinion that the Balance Sheet and Schedules accurately disclose all property, including, but not limited to, real property, partnerships, corporations, trusts, or other entities in which you have a financial interest and the extent of your financial interest therein.

In addition to the preparation of the Balance Sheet and schedules, you requested, an estimate of your net worth if your assets were valued at their market value. Based upon our good faith estimate of the market value of your assets, it is our estimate that the combined net worth of you and your wife is approximately $2,800,000.

This acknowledges that our firm does not have a financial interest in any of the assets.

Sincerely,

SIDNEY LEX FELKER.

DENNIS AND SUSAN DECONCINI—BALANCE SHEET, DEC. 31, 1978

ASSETS		
Current assets:		
Cash in banks	$61,815	
Accounts receivable—Committee for DeConcini for Senate (Note 1)	72,026	
Loans receivable—Unsecured	5,750	
Other receivables	9,863	
Total current assets		$149,454
Income properties (Schedule I):		
Buildings	363,289	
Less: Accumulated depreciation	96,816	
Total	266,473	
Land	116,564	
Total rental properties		383,037
Other investments:		
Stocks and bonds (Schedule II)	42,906	
Undeveloped land	69,002	
Real estate mortgages and contracts receivable	18,756	
Real estate partnerships (Schedule III)	330,687	
W. M. Investments, an investment club	5,405	
Roadrunner T.V., a partnership	2,500	
Cash surrender value—Life insurance	61,098	
Residence—Virginia	159,065	
Personal property	30,831	
Prepaid expenses	57,080	
Assets owned by Susan DeConcini (Schedule IV)	439,735	
Total other assets		1,217,065
Total assets		1,749,556

LIABILITIES AND NET WORTH		
Current liabilities:		
Loan payable, Arizona Bank	$20,000	
Current portion of long-term debt	43,191	
Deposits payable	74	
Total current liabilities		$63,265
Long-term debt:		
Mortgage notes, secured by rental property (Schedule I)	183,277	
Mortgage notes, secured by residences	115,710	
Loans payable	111,672	
Mortgage note—Secured by land	8,302	
Mortgage note—Secured by real estate owned by Susan DeConcini	36,359	
Total	455,320	
Less: Current portion	43,191	
Total long-term debt		412,129
Net worth		1,274,162
Total liabilities and net worth		1,749,556

Note (1): The receivable of $72,026 from the Committee for DeConcini for Senate represents loans made by Dennis DeConcini to the committee. It is impossible as of this date to determine whether the balance or a portion thereof will be paid.

SCHEDULE I

DENNIS DECONCINI—SCHEDULE OF INCOME PROPERTIES, DEC. 31, 1978

	Land	Improvements	Accumulated depreciation	Net book value[1]	Mortgages	Mortgagee
Lots 11, 12, 13, block 68, Country Club Manor, Tucson, Ariz	$17, 339	$22, 019	$22, 018	$17, 340	None	
Part of lot 2 and lot 3, block A, National City Annex, Pima County, Ariz.	8, 300	27, 000	14, 576	20, 724	$13, 916	I. DeConcini Trust.
Lot 24, block A, National City Annex, Pima Country, Ariz	4, 021	35, 070	25, 327	13, 764	None	
Lots F and G, block 204, Mission Beach, Calif	27, 500			27, 500	15, 229	Beth V. Paynter.
Portion lots 45, 46, 47, 48, block 38, Ocean Beach, Calif	26, 830	85, 710	15, 331	96, 669	84, 881	Marie Krause (2d), Home Federal Savings (1st).
Lot 23, block 5, Nettleship Tract No. 1, Pacific Beach, Calif	28, 574	129, 110	16, 318	141, 366	57, 557	American Savings and Loan.
Property—234 North Norton, Tucson, Ariz., Assessor's Code 125-08-0530.	4, 000	64, 920	3, 246	65, 674	11, 649	Jefferson Life Insurance.
Total	116, 564	363, 289	96, 816	383, 037	183, 277	

[1] Estimated fair market value—$571,095.

SCHEDULE II

DENNIS DECONCINI—SCHEDULE OF STOCKS AND BONDS, DEC. 31, 1978

Number of shares	Name	Cost	Number of shares	Name	Cost
40	Arco	$2, 432	100	U.S. Filter	$1, 459
200	Brunswick Corp	3, 025	1	State of Israel Bond	1, 000
20	E-Systems	420	6	Monterey Water Co	5, 400
119	Fidelity Trend	2, 500	100	Communication Systems	1, 738
40	Homestake Mining Co	1, 440	900	Valley National Bank	18, 512
10	IBM	2, 692			
100	Inter-Island Resorts, Ltd	516		Total	42, 906
100	Liberty Corp	1, 772			

SCHEDULE III

DENNIS DECONCINI—SCHEDULE OF REAL ESTATE PARTNERSHIP INTERESTS,[1] DEC. 31, 1978

	Total	3-D properties	2-D properties	4-D properties	DeConcini Hurley	2-D Larriva	3-D Niles	4-D Gallo	Demby properties
Real estate (at cost or tax basis):									
Depreciable assets: Buildings	1, 258, 598	793, 556	41, 524	68, 038	95, 551		33, 053		226, 866
Other improvements: Furnishings	64, 975	59, 296							
Total	1, 323, 573	852, 862	41, 524	68, 038	101, 230		33, 053		226, 866
Less: Acc. depreciation	236, 055	161, 305	231	189	24, 591		15, 997		33, 742
Net depreciable assets	1, 087, 518	691, 557	41, 293	67, 849	76, 639		17, 056		193, 124
Land	1, 158, 159	91, 566	76, 953	720, 201	48, 836	41, 548	8, 864	70, 191	100, 000
Total real estate	2, 245, 677	783, 123	118, 246	788, 050	125, 475	41, 548	25, 920	70, 191	293, 124
Other assets:									
Other partnership interests	109, 263			109, 263					
Shopping Center, Inc., stock	400, 000			400, 000					
Mortgage notes receivable	235, 189		146, 198	56, 795		12, 528		19, 668	
Accounts receivables	24, 883	15, 885		8, 973				25	
Prepaid expenses	1, 563	196							1, 367
Cash	129, 670	70, 335	5, 382	36, 343	2, 970	618	7, 460	8, 175	(1, 613)
Total other assets	900, 568	86, 416	151, 580	611, 374	2, 970	13, 146	7, 460	27, 868	(246)
Total assets	3, 146, 245	869, 539	269, 826	1, 399, 424	128, 445	54, 694	33, 380	98, 059	292, 878
Long-term debt:									
Mortgage Notes due:									
Financial institutions	853, 890	586, 851	21, 630				20, 734		224, 675
Notes due individuals	987, 604	221, 624		725, 980	40, 000				
Total long-term debt	1, 841, 494	808, 475	21, 630	725, 980	40, 000		20, 734		224, 675
Other liabilities:									
Current maturities	39, 265	39, 265							
Other	8, 248	7, 467			605				176
Deferred gain—Inst. sales	105, 521		80, 927	18, 249		6, 345			
Deferred gain—Condemnation	14, 574		14, 574						
Total other liabilities	167, 608	46, 732	95, 501	18, 249	605	6, 345			176
Partners capital:									
Dennis DeConcini	[2] 330, 687	15, 471	78, 847	152, 025	43, 920	12, 151	3, 426	16, 343	8, 504
Other partners	806, 456	(1, 139)	73, 848	503, 170	43, 920	36, 198	9, 220	81, 716	59, 523
Total partners capital	1, 137, 143	14, 332	152, 695	655, 195	87, 840	48, 349	12, 646	98, 059	68, 027
Total liabilities and capital	3, 146, 245	869, 539	269, 826	1, 399, 424	128, 445	54, 694	33, 380	98, 059	292, 878
[1] Senator DeConcini's interest in each partnership is (percent)		33⅓	50	25	50	25	25	16.66	12.5

[2] Estimated Fair Market Value $1,071,000.

SCHEDULE IV

SUSAN DECONCINI—BALANCE SHEET, DEC. 31, 1978

ASSETS			
Current assets:			
Cash in banks		$4,192	
Securities		54,590	
Total current assets			$58,782
Real estate investments:			
Buildings and improvements—California rentals	$78,897		
Less: Accumulated depreciation	37,352	41,545	
Buildings and improvements—Arizona rentals	162,180		
Less: Accumulated depreciation	28,308	133,872	
Land—California rentals		39,355	
Land—Arizona rentals		110,786	
½ interest in 12 acres—Maricopa County, Ariz		5,220	
½ interest in 5 acres—Maricopa County, Ariz		2,175	
½ interest in 120 acres—Maricopa Garden Farms		48,000	
Total real estate investments			[1] 380,953
Total assets			439,735
LIABILITIES AND NET WORTH			
Liabilities: Mortgages payable—California rentals			36,359
Net worth: Susan DeConcini			403,376
Total liabilities and net worth			439,735

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[1] Estimated fair market value—$717,084.●

S. 1493—DEPARTMENT OF COMMERCE, TRADE, AND TECHNOLOGY ORGANIZATION ACT

In the RECORD of July 12, 1979, at page 18272, at the end of Mr. STEVENSON'S remarks on S. 1493, the printing of the text of the bill was inadvertently omitted from the RECORD. The permanent RECORD will be corrected to read as follows:

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Department of Commerce, Trade, and Technology Organization Act".

DEFINITION

SEC. 2. As used in this Act, the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress finds that—

(1) the output of approximately one-third of the crop acreage of the United States is exported and about one out of every nine manufacturing jobs depends, directly or indirectly, on exports;

(2) it is in the national interest to maintain and promote the export of United States goods and services and thereby contribute to the health of our domestic economy;

(3) it is in the national interest to assure continued access to foreign markets by United States producers of goods and services;

(4) it is in the national interest to maintain and promote technological innovation in order to assure the competitiveness of United States goods and services in world markets; and

(5) the capability of existing Federal Government departments and agencies to deal with issues of domestic business international trade and industrial technology is fragmented and dispersed, resulting in inadequate and uncoordinated attention being given to these important issues.

PURPOSE; FUNCTIONS

SEC. 102. (a) The purpose of this Act is to establish in the executive branch of the Federal Government a coherent organizational structure to promote the international economic interests of the United States through the consolidation of separate existing agencies which share jurisdiction over—

(1) industry affairs relating to international trade;

(2) export promotion and financing activities;

(3) the formulation and implementation of United States policy with respect to unfair international trade practices;

(4) international investment policy;

(5) international trade negotiating authority; and

(6) industry and trade economic analysis and reporting.

(b) The functions vested in the Department of Commerce, Trade, and Technology under this Act are—

(1) to formulate and implement policy on international trade matters which will promote the export of United States agricultural commodities, industrial and service products, and raw materials in order to strengthen the international trade position of the United States and ensure that American business and labor are protected from unfair international trade practices;

(2) to direct a comprehensive program of collecting and analyzing information on domestic and foreign business, labor, commercial, and technological trends;

(3) to seek and provide new trade and commercial opportunities for United States businesses abroad;

(4) to assist small businesses in developing export markets;

(5) to direct long-range planning on international trade matters;

(6) to facilitate and aid in financing exports of goods and services in cooperation with other appropriate Government agencies;

(7) to consult with other departments and agencies where appropriate to assure the effective administration of programs which have impacts on international trade and technological competitiveness;

(8) to administer export controls, including controls on export of strategic goods and technology;

(9) to gather and disseminate information on imports, including their effects on domestic production, employment, consumption and technological innovation, in order to help insure appropriate and prompt responses to changing import trends;

(10) to act to insure adequate supplies at competitive prices of critical materials necessary for national security and the continued functioning of the Nation's economy; and

(11) to conduct such studies and investigations as may be requested by the President or Congress.

TITLE II—REORGANIZATION OF INTERNATIONAL TRADE FUNCTIONS

REDESIGNATION

SEC. 201. The Department of Commerce is succeeded by the Department of Commerce, Trade and Technology (hereinafter in this Act referred to as the "Department"), and the Secretary of Commerce or any other official of the Department of Commerce is hereby redesignated the Secretary or official, as appropriate, of Commerce, Trade, and Technology.

PRINCIPAL OFFICERS

SEC. 202. There shall be in the Department a Deputy Secretary who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall act for and exercise the functions of the Secretary during any period of absence or disability of the Secretary or in the event of a vacancy in the Office of the Secretary. The Secretary shall prescribe the succession to the functions of the Secretary in the event of absence or disability of or vacancy in the office of such Deputy Secretary.

DUTIES OF THE SECRETARY

SEC. 203. (a) The Secretary of Commerce, Trade, and Technology (hereinafter in this Act referred to as the "Secretary") in carrying out the purposes of this Act shall promote and undertake the development, collection, and dissemination of technical, statistical, economic, and other information relative to industrial innovation, technology, domestic and international trade and investment; consult and cooperate with other executive agencies in gathering information regarding the status of innovation, technology international trade and investment in the United States and other countries and consult and cooperate with State and local governments and other interested parties, including, when appropriate, holding informal public hearings.

(b) Orders and actions of the Secretary in the exercise of the functions transferred under this Act, and orders and actions of any entity the responsibilities of which are transferred to the authority of the Secretary and vested in the Secretary pursuant to the functions specifically assigned to any such entity by this Act or any other Act of Congress, shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency or other authority exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, actions upon the record, or administrative review that apply to any functions transferred by this Act shall apply to the exercise of such functions by the Secretary.

(c) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as that vested in the department, agency, or authority exercising such functions immediately preceding their transfer, and their actions in exercising such functions shall have the same force and effect as when exercised by such department, agency, or authority.

(d) In carrying out the functions transferred under this Act, the Secretary shall consult, exchange information, and carry on joint planning, research, and other activities with the Secretary of the Treasury, the Secretary of State, the Secretary of Agriculture, and the heads of such other executive agencies as the Secretary deems appropriate.

(e) The Secretary shall jointly study, with the Secretary of State, the Secretary of the Treasury, the Secretary of Agriculture, and the heads of such other executive agencies as the Secretary deems appropriate, how Federal policies and programs can ensure that international trade and investment systems most effectively serve both national and international economic needs. The Secretary shall include in the annual report required by section 307 of this Act an acocunt of the studies and activities conducted under this subsection, including any legislative recommendations which the Secretary determines desirable.

TRANSFER OF FUNCTIONS AND AGENCIES TO THE DEPARTMENT

SEC. 204. (a) There are transferred to and vested in the Secretary—

(1) such functions of the Secretary of State, the Department of State and officers and components of such Department as relate to—

(A) commercial affairs and business activities, including export promotion, but not including the reporting of economic conditions in foreign countries; and

(B) international investment policy;

(C) negotiation and implementation of bilateral and multilateral commercial agreements with foreign nations, including commodity agreements.

(2)(A) all functions of the Secretary of the Treasury, the Department of the Treasury, and any officer or component thereof which are carried out through the Assistant Secretary of the Treasury for International Affairs, except those functions of such Assistant Secretary which relate to monetary policy, international exchange, Saudi Arabian affairs, and United States membership in bilateral and multilateral monetary institutions;

(B) all functions of the Secretary of the Treasury relating to dumping and countervailing duties;

(C) all functions of the Secretary of the Treasury administered through the office known as the Office of Foreign Assets Control;

(3) all functions, powers, and duties of the Special Representative for Trade Negotiations, the Office of the Special Representative for Trade Negotiations in the Executive Office of the President, and all officers and components thereof;

(4) all functions, powers, and duties of the International Trade Commission, and of the Commissioners, officers, and offices thereof;

(5) the functions of the Secretary of Labor with respect to determinations of worker eligibility for assistance under chapter 2 of title II of the Trade Act of 1974; and

(6) the functions of the Secretary of the Interior conducted through the office known as the Division of Interindustry and Economic Analysis.

(b)(1) The Export-Import Bank is transferred to and established in the Department as an agency and instrumentality of the United States under the general supervision and direction of the Secretary, as provided in section 2 of the Export-Import Bank Act of 1945 as amended by section 310(j) of this Act.

(2) The Overseas Private Investment Corporation is transferred to and established in the Department as an agency and instrumentality of the United States under the general supervision and direction of the Secretary, as provided in section 233 of the Foreign Assistance Act of 1961 as amended by section 310(i)(2) of this Act.

TITLE III—MISCELLANEOUS PROVISIONS

ADMINISTRATIVE PROVISIONS

SEC. 301. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys and investigators, as may be necessary to carry out the functions transferred by this Act to the Secretary and the Department, except that the total number of individuals which may be so appointed shall not exceed the total number of individuals which were performing such functions on the day preceding the effective date of this Act, unless otherwise provided by a provision of law enacted after the date of enactment of this Act. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

(c)(1)(A) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)) if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Secretary is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under paragraph (1)(A) of this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

(d) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the officer, agency, or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such officer, agency, or office, or part thereof.

(e) Except as otherwise provided in this Act, the Secretary may delegate any of the functions under this Act to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provisions of this Act shall relieve the Secretary of responsibility for the administration of such functions.

(f) The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions transferred to the Secretary or the Department by this Act.

(g)(1) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out the functions transferred to the Secretary or the Department by this Act.

(2) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under subsection (h).

(h) The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department in the performance of the functions transferred by this Act. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

REORGANIZATION

SEC. 302. The Secretary is authorized to allocate or reallocate the functions transferred to the Secretary or the Department by this Act among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this section does not extend to the abolition of organizational entities established by this Act or the reallocation of functions among the officers of the Department as specifically designated by this Act.

TRANSFER OF PERSONNEL

SEC. 303. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions and agencies transferred to the Secretary or the Department by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions specified by statute or reorganization plan to carry out functions and agencies transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 304 of this Act.

(c) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(d) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 304. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from that agency, commission, or other body, or component thereof, such agency, commission, or other body, or component shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

INCIDENTAL DISPOSITIONS

SEC. 305. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions and agencies which relate to or are utilized by an officer, agency, commission or other body, or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions and agencies transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

SEC. 306. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) (1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, the functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearing, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

ANNUAL REPORT

SEC. 307. The Secretary shall, within thirty calendar days after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year.

REFERENCE

SEC. 308. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or the Department.

TRANSITION

SEC. 309. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions and agencies under this Act.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 310. (a) Section 19(d) (1) of title 3, United States Code is amended by striking out "Secretary of Commerce" and inserting in lieu thereof "Secretary of Commerce Trade, and Technology".

(b) Section 101 of title 5, United States Code, is amended by inserting ", Trade, and Technology", immediately after "Commerce".

(c) Section 5312(8) of such title is amended by inserting ", Trade, and Technology" immediately after "Commerce".

(d) Section 5313 of such title is amended by adding at the end thereof the following:

"(25) Deputy Secretary, Department of Commerce, Trade, and Technology".

(e) Section 5314(4) of such title is repealed.

(f) (1) Section 5315(12) of such title is amended by striking out "Commerce (8)" and inserting in lieu thereof "Commerce, Trade, and Technology (11)".

(2) Section 5315(39) of such title is amended by inserting ", Trade, and Technology" immediately after "Commerce".

(g) Section 5316(145) of such title is amended by inserting ", Trade, and Technology" immediately after "Commerce".

(h) Section 102(10) of the Department of Energy Organization Act is amended by inserting "Commerce, Trade, and Technology" before "State,".

(i) (1) The first paragraph of section 231 of the Foreign Assistance Act of 1961 is amended—

(A) by inserting "and to promote the international trade position of the United States" after "development assistance objectives of the United States"; and

(B) by striking out all after "agency of the United States".

(2) Section 233(b) of such Act is amended by striking out "Administrator of the Agency for International Development" and inserting in lieu thereof "Secretary of Commerce, Trade, and Technology".

(j) Section 341(c) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "There shall be a Board of Directors consisting of the Secretary of Commerce, Trade, and Technology who shall serve as Chairman, the President and First Vice President of the Export-Import Bank, and three additional persons appointed by the President, by and with the advice and consent of the Senate."; and

(2) by striking out "five" in the second sentence of such section and inserting in lieu thereof "six".

AUTHORIZATION OF APPROPRIATIONS

SEC. 311. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department.

SEPARABILITY

SEC. 312. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

EFFECTIVE DATE

SEC. 313. (a) The transfer of functions and agencies pursuant to sections 204 and 205 of this Act shall take effect one hundred and twenty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for this Act may be nominated and appointed as provided in this Act, and

(2) the Secretary may promulgate regulations pursuant to section 301(f) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 314. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provision of law, the President may designate an officer in the executive branch to act in such office for ninety days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute to consider the nominations on page 1 beginning with "New Reports" and going through the nominations on page 2 down to and excluding Calendar Order 244 under "Department of Commerce."

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I reserve for the purpose of advising the majority leader that the nominations identified by him on the Executive Calendar are cleared on our calendar, and we have no objection to proceeding to their consideration and confirmation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the minority leader.

Mr. President, I ask unanimous consent that the various nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed are as follows:

CORPORATION FOR PUBLIC BROADCASTING

Geoffrey Cowan, of California, to be a member of the board of directors of the Corporation for Public Broadcasting.

Paul S. Friedlander, of Washington, to be a member of the board of directors of the Corporation for Public Broadcasting.

Kathleen Nolan, of California, to be a member of the board of directors of the Corporation for Public Broadcasting.

Howard A. White, of New York, to be a member of the board of directors of the Corporation for Public Broadcasting.

Michael A. Gammino, Jr., of Rhode Island, to be a member of the board of directors of the Corporation for Public Broadcasting.

Jose A. Rivera, of New York, to be a member of the board of directors of the Corporation for Public Broadcasting.

Michael R. Kelley, of Virginia, to be a member of the board of directors of the Corporation for Public Broadcasting.

FEDERAL COMMUNICATIONS COMMISSION

Tyrone Brown, of the District of Columbia to be a member of the Federal Communications Commission.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to reconsider the vote by which the nominations were confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER REVISING TIME LIMITATION AGREEMENT—S. 562

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that with respect to the time agreement on S. 562, Calendar Order No. 188, the Nuclear Regulatory Commission bill, there be the following revision: To wit, that it be in order for Mr. DOLE to call up two amendments, one dealing with the Western Hemisphere Conference and one dealing with the White House Energy Board, and that there be a time limit to each of those amendments of not to exceed 30 minutes, and that the time be controlled equally by Mr. DOLE and Mr. HART. I have cleared this with Mr. HART, the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that Senators may speak as long as they desire in the period of morning business.

Mr. CRANSTON. Mr. President, I do wish to speak for a little while, and then I will be glad to recess the Senate.

Mr. ROBERT C. BYRD. Yes.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. I ask unanimous consent that it be in order for Mr. CRANSTON to speak even though there is no measure pending before the Senate, and I ask that morning business now be closed, and that it be in order for him to speak, and he will recess the Senate in his own time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I thank the Chair.

SALT II: IS 308–0 FAIR?

Mr. CRANSTON. Mr. President, one of the leading and persistent issues raised by the critics of the SALT process and one of the perplexing and superficially unfair provisions of the SALT II Treaty is the apparent anomaly that the Soviets have 308 heavy intercontinental ballistic missiles and the United States has none and is allowed none.

The simplistic cries are raised:

How can any treaty be fair that gives the Russians 308 "heavies" and the Americans none?

How can any treaty comply with the mandate of aggregate equivalence passed by this Senate in ratifying SALT I when they have 308 heavy ICBM's and we have none and can have none?

Who wants to play a ball game where one score is given as 308 to 0 at the start and this Senate is asked to ratify that score as part of the official rules?

The answer is both simple and complex.

The simple answer is that the 308 to 0 score is only one element, and when all the elements are considered one of the major goals of SALT II is achieved and guaranteed: equal overall aggregates of strategic nuclear forces with freedom to mix the forces within the aggregates.

The complex answer lies in the extensive history of the SALT process and the respective strategic postures of the United States and the Soviets when that process started in 1969.

Winston Churchill once described the Soviet Union as a riddle wrapped in a mystery inside of an enigma. Although the SALT process has not been quite that cryptic, the complexity of nuclear weaponry control and the necessity of discretion—if not secrecy—in the negotiation process, plus the omnipresent political realities—and unrealities—have tended to obfuscate the history and development of the 308 to 0 score on heavy ICBM's.

It is not my intention to review here in detail this history and development—time and space do not permit. I have reviewed this personally; I have seen this reviewed by the administration; and I am confident it will be reviewed during the course of the Senate committee hearings and the Senate floor debate. No Senator can cast a conscientious or informed vote without reviewing this personally.

At this stage of Senate consideration of the SALT II Treaty, however, I do think it appropriate to raise this issue on the floor and briefly recapitulate how the 308 to 0 anomaly did develop.

President Nixon and General Secretary Brezhnev froze the number of heavy ICBM missiles with the signing of SALT I in 1972. At the time the Soviets had 308 heavies, the United States had none—this reflected the then existing structure of Soviet and U.S. strategic forces. The fact that the United States had no heavy missiles at the time of the freeze was not because of any act of the Soviets but because the United States had decided to pursue a Triad strategic force with smaller, more accurate ICBM's that could be MIRVed. The U.S. military expressly decided it did not deem the heavy missile cost-effective.

As the SALT negotiations proceeded to the Vladivostok meeting between President Ford and General Secretary Brezhnev, each side had negotiating goals. The United States pursuant to the mandate of the Senate in ratifying SALT I, had a primary goal of achieving equal overall aggregates, which meant excluding our extensive forward based systems and the French and British nuclear forces from the aggregates. The Soviets had a primary goal of preserving what they perceived to be the backbone of their strategic forces: Their heavy ICBM's.

At the conclusion of Vladivostok the United States had achieved a commitment from the Russians to the concept of equal aggregates, and the FBS and French and British nuclear forces were excluded from the aggregate. The Russians had achieved a commitment that the freeze on heavy missiles (the 308–0) would remain.

As related by Ambassador Earle, chairman of our SALT delegation in testifying Tuesday, July 10, before the Foreign Relations Committee:

> The SALT I Interim Agreement, signed in 1972 by President Nixon and General Secretary Brezhnev, froze the number of modern heavy ICBMs at 308 for the Soviet Union and none for the U.S. At the Vladivostok summit meeting in 1974, President Ford and General Secretary Brezhnev agreed that the SALT I freeze on the number of launchers of modern heavy ICBMs would continue, as would the ban on new construction of additional fixed ICBM launchers. Both sides further agreed at the same time that U.S. forward-based system in Europe would be excluded from the SALT II limits, and that French and British nuclear forces would be excluded from the negotiations. In effect, the U.S. got something we wanted in exchange for giving up the option to build something we had no intention to deploy.

Vladivostok, of course, resulted in other agreements as well, but it is clear that in agreeing on the general concept of equal aggregates, the Russians were to retain their 308 heavies and the forward-based system (FBS) of the United States and the nuclear systems of our allies were to be excluded.

Gen. George Sergnious, Director of the Arms Control and Disarmament Agency, while noting it is part of a compromise" has characterized this result as a "tradeoff" in his recent speech to the Governors' Conference:

> Every provision has a complex negotiating history of compromise and tradeoffs that we have decided on balance will enhance our national security. One example, that has been mentioned frequently, illustrates the complexity and the tradeoffs.
>
> Under SALT II the Soviets are permitted 308 heavy intercontinental ballistic missiles. We are allowed none.
>
> After dismantling most of our large 1960 vintage liquid fueled missiles, we have never seriously considered building a new heavy missile of our own. So at Vladivostok in 1974, President Ford and Secretary Kissinger achieved a breakthrough in the structure of the SALT II agreement as part of a compromise which included relinquishing our demand for reductions in Soviet heavy ICBMs, and our foregoing the right to build a missile we had no plans to build, for two points of great importance to us and to our Allies. One was complete exclusion of U.S. forward-based systems from SALT totals, even though these systems, which number in the hundreds, can strike targets in the Soviet Union. The second was the Soviet agreement to drop their insistence that the nuclear forces of France and Great Britain be taken into account under SALT.
>
> I believe we did very well in this tradeoff. I know our Allies would agree.

Mr. President, I believe these statements of Ambassador Earle and General Seignious accurately describe how the 308 to 0 came about. And although the 308 heavies were not the literal and sole "quid" for the FBS and Allied nuclear systems "quo," they were the principal elements in the tradeoff resulting under the concept of equal aggregates.

I was present when now retired Lieutenant General Rowny, the former JCS representative to SALT, testified yesterday (July 12) before the Foreign Relations Committee that his recollection and opinion is that the Russians dropped the FBS argument because we insisted that we would have to count their systems which could strike our FBS systems, our troops in Europe, and our NATO partners.

However, as the evidence and record will establish, this view of General Rowny's is not shared by our contemporaneous members of our SALT delegation such as Ambassador Johnson, Colonel Clyne, and Ambassador Earle. Indeed, as Ambassador Earle testified on Tuesday, July 10, the heavy ICBM provision was "resolved in direct negotiations with the Soviets at Vladivostok, and not by the delegations." That is, President Ford, Secretary Kissinger, and General Secretary Brezhnev resolved the issue in face-to-face discussions, to which General Rowny was not privy or at which he was not present.

On the evidence and on the record, General Rowny's recollection is not correct—or is at least based on a misperception—and the account by Ambassador Earle and General Seignious is substantively accurate.

I also suggest that General Seignious is right when he says we did "very well in this tradeoff" and Ambassador Earle is right when he says we "got something we wanted in exchange for giving up the options to build something we had no intention to deploy." When the net result of all that was given is balanced against all that was received, then 308–0 does become fair, does become acceptable, if not advantageous.

Moreover, the 308–0 score is a perception of an imbalance of power, not an actual imbalance of power. As demonstrated in the exchange between Senator BIDEN and Secretary Brown Wednesday (July 11) before the Foreign Relations Committee, big is not necessarily better, and the Russian heavies do not give the Russians any significant advantage in strategic forces over the United States. An equal aggregate balance does exist under SALT II and an objective examination of the facts dispels any perception of an imbalance.

I, for one, would not propose renegotiating this 308–0 provision at the price of putting on the negotiating block our forward-based systems and the nuclear forces of France and Great Britain.

But even more important, there is no way to go back to the negotiating table without opening up all issues under SALT II. Are we willing to risk all we achieved in the last 7 years to renegotiate this one element? I believe to pose the question is to answer it.

Mr. President, the quoted statement on the history and development of the 308–0 anomaly by General Seignious was made in a speech to the Democratic Governors' Conference, Louisville, Ky., July 7, 1979, on "Survival and Security: the Essence of SALT."

The speech of General Seignious analyzes the significance of SALT II to our national security, for strategic nuclear balance and for nuclear arms control. This concise and objective statement warrants our consideration.

I ask unanimous consent that the full text be printed in the RECORD:

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SURVIVAL AND SECURITY: THE ESSENCE OF SALT

(By George M. Seignious II)

Good afternoon, Ladies and Gentlemen. Governor Hunt asked me to focus today on the significance of the new SALT II agreement.

I want to preface my remarks by noting a few things SALT is not. It's not our perfect agreement; it's not the Soviet's perfect agreement, and it's not the millenium in arms control.

It is, however, a careful and major step forward to limit strategic offensive nuclear arms. It is a negotiated compromise that compromises neither our own security, nor the stability of the strategic nuclear balance, nor the continuing quest to limit nuclear arms. It is a consensus treaty that provides progress for the present and hope for the future.

To accept this treaty so as to maintain the rights and obligations undertaken by the Parties in signing SALT II would be in no way an infringement on the Constitutional process of advice and consent.

The SALT II Treaty achieves what has always been one of our principal goals in SALT: equal overall aggregates of strategic nuclear forces with freedom to mix the forces within the aggregates. Under SALT II, both nations will be limited to a total of 2,250 launchers of land-based intercontinental ballistic missiles (ICBMs), submarine-launched ballistic missiles (SLBMs), and heavy bombers. As opposed to an unrestrained arms race for an unachievable strategic superiority, these limits will get equal ceilings from which the two nations can make further reductions.

SALT II will also take steps to limit the qualitative race in weapons technology. I'll make no claims that SALT II stops this aspect of the arms race dead in its tracks, but it does include some very important measures.

The most significant of these, I believe, is the so-called "fractionation" limit on missile warheads. As part of this limit there will be a ban on increasing the number of warheads on existing types of ICBMs, and there will be a limit of 10 warheads on the one permitted new type of ICBM. This will restrict significantly the Soviet advantages of larger ICBM throw-weight. For example, the Soviet SS–18 heavy ICBM could carry 30 or more warheads rather than the 10 SALT will permit. With over 300 SS–18s by the 1980's, that means as many as 6,000 fewer warheads on just one type of Soviet missile.

Verification is a hallmark of SALT II. This agreement has been designed to be adequately verifiable, and it is, and it will be, from the outset, regardless of the loss of the monitoring stations in Iran.

The verification provisions of SALT II do more than serve our basic need to be certain that the Soviets are living up to their obligations under the agreement. These provisions, and indeed the entire process of strategic arms negotiations, actually enhance the knowledge we have about Soviet strategic forces:

Under SALT II, the Soviets will not be allowed to interfere with the intelligence systems we use to verify SALT;

Under SALT II, deliberate concealment, including encryption of telemetry, which impedes verification of compliance, is banned. Without this ban, the Soviets could use any and all means of concealment. Our intelligence task would be greater; our information would be less; and we would have to plan our own forces against a far less certain and more dangerous Soviet threat;

For the first time in the history of strategic arms negotiations, the Soviets will provide figures on their own offensive forces as part of an agreed data base, figures which we will be able to verify independently. This is a break in a centuries-old tradition of Russian secrecy. It provides a clear, agreed baseline on which to judge treaty compliance and from which future negotiated reductions can be made.

People often ask: "What do we do if we discover a Soviet violation or even if we suspect one?" As a result of the first SALT agreement in 1972, we established at Geneva a U.S./Soviet Standing Consultative Commission where any compliance questions, any suspected activities, by the Soviets or by us, can be challenged at once. We have not been hesitant to challenge. The fact is, there is not one outstanding challenge that we have made against the Soviet Union that has not been resolved to our satisfaction. If a violation persisted without correction or if a violation threatened our security, then we could abrogate the agreement and build the forces necessary to meet the threat. This would be a serious development, and the Soviets know it.

SALT II also provides real, tangible limits on Soviet strategic forces. I've mentioned the warhead limit. Let me give another example. We estimate that the Soviets, without the overall SALT ceiling of 2,250 on missile launchers and heavy bombers, could have 3,000 of these system in 1985—just by continuing the momentum of their current programs.

These limits on Soviet forces illustrate an important point that is often overlooked in the debate over SALT—the fact that the SALT negotiations are the only way for us to restrict Soviet forces.

In the nuclear age, SALT provides the only solution to the most difficult task that faces a strategist: to find some way to limit the forces of your opponent. No matter how many weapons of our own we build, we cannot stop the Soviets from building right along with us. And with nuclear weapons against which there is no adequate defense—the result of such a race is not more security for one, but greater insecurity for all.

In addition to limiting Soviet forces, SALT will preserve our ability to maintain the strategic balance, and the true perception of strategic equivalence. We will be able to proceed under SALT II with all of the strategic force options we have decided are necessary for our security.

The President has stated as a matter of national strategic policy that each part of our strategic nuclear force will remain survivable. SALT II will not restrict our ability to carry out that policy:

With longer range Trident submarine-launched ballistic missiles so that our nuclear missile submarines can hide in a far greater ocean expanse;

With long-range cruise missiles on our bombers so that these bombers can remain outside of Soviet air defenses and still strike targets in the Soviet Union with great accuracy;

And with a new, mobile intercontinental ballistic missile—the MX—that will provide an answer to the growing vulnerability of our land-based missiles.

I would not be truthful if I told you that we won't have to increase our spending for strategic programs, with or without SALT. National security is an unending requirement, and the scope and pace of Soviet strategic programs leave us little choice. But there is no doubt that the cost without SALT could be many tens of billions more than it will be with SALT. There is no doubt that within the framework of SALT II, we can maintain a more viable and more effective strategic force at a much more moderate cost.

We will still have to plan against the maximum Soviet capabilities possible under SALT II. Entrusted with the defense of our nation, we would not be doing our job if we did otherwise. But this is a far cry from the threat and the uncertainty that would confront our military planners if there is no SALT II.

The SALT negotiations have been long and arduous. The text of SALT II—of which we have copies for you today—demonstrates the complexity of this undertaking and the sober seriousness with which both nations have gone about it.

Every provision has a complex negotiating history of compromise and tradeoffs that we have decided on balance will enhance our national security. One example, that has been mentioned frequently, illustrates the complexity and the tradeoffs.

Under SALT II the Soviets are permitted 308 heavy intercontinental ballistic missiles. We are allowed none.

After dismantling most of our large 1960 vintage liquid fueled missiles, we have never seriously considered building a new heavy missile of our own. So at Vladivostok in 1974, President Ford and Secretary Kissinger achieved a breakthrough in the structure of the SALT II agreement as part of a compromise which included relinquishing our demand for reductions in Soviet heavy ICBMs, and our foregoing the right to build a missile we had no plans to build, for two points of great importance to us and to our Allies. One was complete exclusion of U.S. forward-based systems from SALT totals, even though these systems, which number in the hundreds, can strike targets in the Soviet Union. The second was the Soviet agreement to drop their insistence that the nuclear forces of France and Great Britain be taken into account under SALT.

I believe we did very well in this tradeoff. I know our Allies would agree.

The number 308, in addition, is well below what the Soviets could achieve without SALT. And we have, as I mentioned earlier, restricted the number of warheads this missile can carry to a figure one-third of what it could carry, thus significantly restricting the military potential of these missiles.

These are no small achievements.

I would like now to step beyond the details, the numbers, of SALT and briefly discuss the U.S./Soviet relationship in a broader sense.

This relationship, as we all know, is a mixture of cooperation and competition.

Some would link SALT to every world problem, and some would decorate SALT like a Christmas tree with burdens it neither merits nor can endure. The reality is that three administrations, two Republican and one Democratic, have negotiated SALT II for the national security of the United States, not for detente, or for good will, or for trust.

SALT II is in our national interest and should stand apart from all but the most provocative challenge. We cannot quarantine SALT entirely from Soviet actions in other spheres. Some Soviet actions, if taken, could signal a fundamental challenge we could ignore only at our peril.

But to burden SALT with every aspect of the Soviet challenge would mean that we could settle nothing with the Soviets unless we settled everything. The nuclear threat to everyone's security is so overriding that we cannot wait until that day.

For those who would discard SALT because of Soviet activities elsewhere, I ask: What would they offer in return? What Soviet challenge could they meet in the nations of Africa and Asia by rejecting SALT? Would our security be better served if Soviet actions abroad took place in an atmosphere of unrestrained and dangerous strategic arms competition?

For many Americans looking at our foreign policy, the central questions are: Can we negotiate, can we coexist beneficially, how can we compete if that is necessary, with a closed Soviet society seemingly bent on world revolt? Nuclear missiles cannot be targeted at this threat. The task for us and for our Allies is to find an appropriate response to each aspect of the Soviet challenge. To use SALT to meet every aspect of that challenge means that we would surrender our national genius of imagination and the fiber of American will to a more base and unproductive endeavor—far below the innovative creativity of the greatest nation on earth.

SALT II will in no way hinder our ability to compete with the Soviet Union where competition is required.

SALT II, however, will enable us to continue the important process of cooperation, a process in which, as in negotiations, one nation's gain need not be the other nation's loss.

Without SALT ratification, the process of cooperation would surely be put into a deep freeze as both nations focused on a strategic arms race that would benefit neither.

The first and most important casualty would be our mutual efforts to stop the spread of nuclear weapons. Today, when we are faced with the threatening eventuality that many more nations may choose to acquire nuclear weapons, cooperation between the United States and the Soviet Union, and other nations, to reduce this threat is a guide to our future, common survival.

Survival and security are the essence of SALT. Neither would be served by rejection of SALT II.

The significance of last month's meeting in Vienna is that the leaders of both the United States and the Soviet Union recognize this reality and have pursued these negotiations to their conclusion, despite setbacks, despite competition elsewhere in the world.

This process will—indeed it must—continue. The fundamental reality, for our foreign policy and for security, is that there is no other choice.

ORDER FOR PROCEDURE NEXT WEEK IN RE S. 737 AND H.R. 4387

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that next week when the bill S. 737, a bill to provide authority to regulate exports, is reached, following the disposal of the energy-water appropriations bill, that that bill, S. 737, be temporarily laid aside and that the Senate may proceed with the consideration of the agriculture appropriations bill, H.R. 4387, and that no call for the regular order bring down that bill while the other bill has been temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, on Monday the Senate will come in at

10 o'clock. After the two leaders have been recognized, Mr. WEICKER will be recognized for not to exceed 15 minutes.

At the conclusion of Mr. WEICKER's remarks, the Senate will take up S. 562, the Nuclear Regulatory Commission bill, under a time agreement.

There will undoubtedly be some rollcall votes on Monday. As in the past, I have stated that the Senate on Monday will not be in beyond 6 or 6:30 p.m. So whether or not action is completed on that bill remains to be seen. I would have my doubts at this point.

Upon the disposition of the Nuclear Regulatory Commission bill, the Senate will take up H.R. 4388, the energy water appropriation bill. There is no time agreement on that bill at the moment.

Upon the disposition of that bill, the Senate, under the previous order, was to go to the Export Administration bill, S. 737. But by a subsequent order that bill is to be laid aside temporarily and the Senate will take up the agricultural appropriation bill, which is H.R. 4387.

So there will be votes on each of those measures, and I would suggest to Senators that there is no doubt there will be a Friday session from here on out and, quite likely, Saturday sessions as we go along and get deeper into the session, with the work piling up and appropriations bills coming on the calendar frequently.

RECESS UNTIL 10 A.M. MONDAY, JULY 16, 1979

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate, and I am convinced there is not, I move, in accordance with the previous order, the Senate stand in recess until the hour of 10 o'clock on Monday next.

The motion was agreed to; and, at 5:32 o'clock p.m., the Senate recessed until 10 a.m. Monday, July 16. 1979.

CONFIRMATIONS

Executive nominations confirmed by the Senate, July 13, 1979:

CORPORATION FOR PUBLIC BROADCASTING

Geoffrey Cowan, of California, to be a member of the board of directors of the Corporation for Public Broadcasting for a term expiring March 26, 1984.

Paul S. Friedlander, of Washington, to be a member of the board of directors of the Corporation for Public Broadcasting for a term expiring March 26, 1984.

Kathleen Nolan, of California, to be a member of the board of directors of the Corporation for Public Broadcasting for a term expiring March 26, 1984.

Howard A. White, of New York, to be a member of the board of directors of the Corporation for Public Broadcasting for the remainder of the term expiring March 26, 1980.

The following-named persons to be members of the board of directors of the Corporation for Public Broadcasting for terms expiring March 26, 1984:

Michael A. Gammino, Jr., of Rhode Island.

Jose A. Rivera, of New York.

Michael R. Kelley, of Virginia, to be a member of the board of directors of the Corporation for Public Broadcasting for a term expiring March 26, 1982.

FEDERAL COMMUNICATIONS COMMISSION

Tyrone Brown, of the District of Columbia, to be a Member of the Federal Communications Commission for a term of 7 years from July 1, 1979.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

EQUITABLE TAX TREATMENT OF INDEPENDENT CONTRACTORS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. LAFALCE. Mr. Speaker, last year, after a series of contradictory and unfair administrative actions by the Internal Revenue Service, the Congress enacted a section in the Revenue Act of 1978 which provided temporary relief from oppressive retroactive assessments by the IRS for small businesses, the self-employed and other independent contractors. Since that temporary relief expires at the end of this year, the Congress must move to establish guidelines for the identification of independent contractors, unless it wants the IRS to do so in an arbitrary manner.

Therefore, I have cosponsored H.R. 3245 which would clarify the standards used for determining whether an individual is an independent contractor or an employee for Federal income tax withholding, social security and unemployment tax purposes. These standards are necessary, because the IRS has in recent years attempted to reinterpret the status of independent contractors without regard for the traditional common-law concept of an employer-employee relationship.

This bill establishes five requirements that must be met, in order to classify an individual as an independent contractor. In other words, it would create "a safe harbor" from harassment by the IRS. If an individual does not qualify under these five criteria, he or she does not automatically become an employee; rather, the person is then judged under the traditional common law test. Thus, this bill's intent is not to replace the common law; its purpose is to end the chaos and uncertainty in those industries where the IRS's reclassification program has been applied. Individuals who have traditionally been considered independent contractors by the courts and the IRS will thereby have their historic status protected.

These five requirements are an excellent balance between strictness and fairness. All five standards must be met, before the individual can enter this "safe harbor". The standards include control of hours worked, place of business, investment or income fluctuations, written contract and notice of tax responsibilities, and filing of required IRS returns. These standards are particularly aimed at insurance agents, door-to-door salesmen and real estate agents who have been inequitably and unduly harassed by the IRS.

The Ways and Means Subcommittee on Select Revenue Measures has held hearings on the status of independent contractors and H.R. 3245. I urge the subcommittee to report this bill to the full Committee, and I hope that the Ways and Means Committee would then expeditiously consider it, because the temporary relief deadline is approaching. H.R. 3245 would end the confusion, harassment and uncertainty caused by recent IRS enforcement practices. Independent contractors deserve no less, and this bill would provide that protection from an arbitrary IRS.●

THE DEPARTMENT OF EDUCATION

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. FISHER. Mr. Speaker, by a very narrow margin, the House of Representatives has approved a bill to establish a Department of Education. The new department will be composed of functions transferred from the Office of Education in the Department of Health, Education, and Welfare and other education programs from other Federal departments. It will have a budget of about $15 billion and 24,000 employees.

The major argument for creating a new Cabinet-level Department of Education is to improve the administration of education programs. Education programs do not receive adequate attention under the present structure in which education funds are a small portion of much larger departmental budgets. While increasing the visibility of Federal education programs, the departmental charter emphasizes the primary governmental responsibility for education lies with State and local governments.

The creation of a new department will not solve all the problems of education and carries with it some potential difficulties. It could lead to a national education policy which would diminish our

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

pluralistic system of education. This is not an immediate danger, but it is a possible development that will require vigilance to prevent.

During consideration of the Department of Education bill, the House approved several amendments which cause me a great deal of concern. I refer to amendments which would permit voluntary prayer in schools and prohibit certain actions that increase racial integration. I have fought for the freedom of religion concept embodied in the first amendment and for integrated schools and programs to increase educational and other opportunities for minorities. I am troubled by the prospect of a new Federal department whose mandate impedes the full expression of religious freedom and progress toward racial equality. These amendments do not belong in legislation dealing with the reorganization of educational programs in the Federal Government.

Despite my misgivings, I voted for the Department of Education bill. The bill now goes to a conference of House and Senate members to resolve differences between the two versions of the bill. I sincerely hope that the conferees will delete these nongermane amendments added by the House.●

. . . AND INTO THE CLOUDS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. DERWINSKI. Mr. Speaker, presumably on Sunday, we will all benefit from the President's 2 weeks of intensive economic and political soul-searching. The key issue is obviously that of availability and cost of energy sources.

An editorial in the Thursday, July 12, Chicago Tribune focuses on the administration's mishandling of the deregulation of oil prices, and predicts that this basic policy will be continued. The editorial follows:

[From the Chicago Tribune, July 12, 1979]

. . . AND INTO THE CLOUDS

If the administration's argument in favor of a given policy is garbled enough, it can serve as an argument for the opposite policy. A case in point is Press Secretary Jody Powell's explanation why Mr. Carter rejected the recommendation of both of his involved cabinet members—Secretaries Schlesinger of Energy and Blumenthal of the Treasury—to decontrol the price of gasoline.

"If gasoline were deregulated now," Mr. Powell said, "it would drain several tens of billions of dollars from the economy and would add significantly" to the rate of inflation.

Well, in the first place, higher gasoline prices would not drain a penny from the economy unless the money were to go abroad to pay for more imports—and the effect of higher prices would be to reduce consumption and imports, not to raise them.

Higher prices for gasoline would simply transfer money from the consuming sector of the economy to the producing sector, and this is precisely what more and more economists—even in government—agree is necessary if we are to beat inflation. In any event, the transfer is only temporary. Machines do not spend money; whatever is spent on them ultimately winds up in the pockets of a consumer.

Nor do we think the decontroled price of gasoline would rise as high as the $1.50 Mr Carter fears, because it has been only in the last few months that the price rose to the controled maximum. Had controls been removed a year ago, when there was a surplus of gasoline, the price would not have risen at all. Even with the higher OPEC prices, it's unlikely that the cost of gasoline would jump that fast, especially with the higher production that would accompany higher prices. Certainly the impact on the United States would be less than in Japan or West Europe, where nearly all oil is imported from OPEC.

Now about inflation. Mr. Powell seems to suggest that draining money from the economy aggravates inflation. The best we can say of that theory is that it is novel. The truth is precisely the reverse. Inflation comes when the money supply rises faster than the volume of goods and services it can buy. Draining money from an economy means that goods have to compete harder for the available cash—and prices go down.

To the extent that a consumer spends more of his money for gasoline, therefore, there will be a downward pressure on the prices of other things. Or at least there will be unless a panicky government pumps more money into the hands of consumers by new spending programs or ill-considered tax cuts. For decades, this has been the instinctive reaction in Washington. Politicians think they must protect the voter from anything that threatens to impose a sacrifice on him, even if the protection is illustory and fuels more inflation—as has consistently been the case. Is Mr. Powell telling us that the administration has learned nothing from the record, and that the same thing will happen again if gasoline prices are freed? If so, heaven help us.●

ENERGY PROBLEM

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. ADDABBO. Mr. Speaker, in light of the energy problem with which the country is being faced these days, I would like to take a moment to commend a gentleman whose colossal efforts to counter the pressures we are all facing are worthy of praise.

Samuel LeFrak is the chairman of the LeFrak Organization, responsible for apartment complexes in Queens, Brooklyn, and Staten Island consisting of up to 250 buildings. In an attempt to contribute to the fight against dependency on OPEC oil, the LeFrak Organization will be embarking on a $2 million conversion venture of oil to methane gas heating systems in all of its apartment buildings. I believe the task which this organization has taken in hand is noteworthy as an example of the measures we Americans should be taking to help us cope with our energy crisis.

I am submitting for inclusion in the RECORD a reprint of a recent New York Times article which elaborates on the project:

LEFRAK SWITCHING FROM OIL TO GAS TO HEAT 54 BUILDINGS

(By Peter Kihss)

In what the two groups described yesterday as the nation's largest residential conversion from oil to natural-gas heat, the Lefrak Organization will switch over 54 buildings housing 9,214 families before the next heating season in cooperation with the Brooklyn Union Gas Company.

The conversions in Queens, Brooklyn and Staten Island range from the 20-building Lefrak City complex in Rego Park with 4,646 apartments to a 38-family building in Forest Hills and a 19-acre garden apartment project with 176 families in New Dorp, S.I.

"I'm declaring war on OPEC," said Samuel J. LeFrak, chairman of the builder organization, referring to the Organization of Petroleum Exporting Countries. He estimated the change would save 6.1 million gallons of imported oil during the next heating season, and looked to converting an eventual 250 buildings.

CONVERSIONS TO COST $2 MILLION

The initial conversions will cost about $2 million, according to Anthony Scavo, Lefrak vice president for construction, financed from a $10 million credit by the Manufacturers Hanover Trust Company.

The cost of the gas used will be equivalent to 42 cents a gallon of residual oil, as compared with 55 to 62 cents for such oil now, according to Brian J. O'Toole, manager of energy sales for Brooklyn Union. Mr. LeFrak said that costs, including debt service, would currently balance out, but that fuel oil prices were rising 4½ percent a month.

The Lefrak buildings will be on a contract using gas unless temperatures fall below 20 degrees, when they would switch to oil so that gas would be available for priority customers, mainly one- and two-family homes.

In a news conference at the Lotos Club, 5 East 66th Street, Mr. LeFrak and Eugene H. Luntey, Brooklyn Union president, said that natural gas was abundant, but that major oil companies had evinced little interest in exploring for it.

Mr. LeFrak said his Lefrak Oil and Gas Organization, set up in 1971, had been meeting 65 percent success in drilling in Western and Southwestern states. He said it now delivered the equivalent of 5,000 42-gallon barrels of oil a day, providing gas for such customers as Jones & Laughlin steel plants.

"FOREVER SOURCE OF ENERGY"

Mr. Luntey called methane gas "the forever source of energy," which could be produced from garbage, coal and even vegetation. A two-year Brooklyn Union research project at the city's Arthur Kill landfill in Staten Island, he said, indicates that 15 percent of the gas supplied by his utility could be derived from methane produced by decomposing garbage.

Brooklyn Union said its largest previous conversion from oil to gas was at Big Six Towers in Woodside, Queens, which has 1,200 units.

Gas is now plentiful in the metropolitan area, but in October 1971, the state's Public Service Commission began limiting new connections. Five years later, Brooklyn Union was allowed to start adding up to a billion cubic feet of new service a year. All restrictions were lifted for it last December and for Consolidated Edison last February. Some limits remain for some upstate areas.●

FOR ANATOLY SHCHARANSKY ON THE ANNIVERSARY OF HIS TRIAL

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. DOUGHERTY. Mr. Speaker, this is not the first time that this body is addressing the fate of Soviet Jewish dissident Anatoly Shcharansky. His trial on trumped up charges of anti-Soviet activities and direct allegations that he was an American agent was an outrage. He was sentenced to 3 years in prison and 10 years in a strict regime labor camp not because he committed any real crime but because he had the courage to apply for an exit visa to Israel, sought to tell the West what life is like as a Jew in the Soviet Union and monitored Soviet compliance with the human rights aspects of the Helsinki accords. The Soviets obviously wanted to make an example of him to intimidate others from speaking out concerning human rights violations and their desire to leave.

For the moment the Soviets want to give the impression of "easing up" on their harassment of Jewish dissidents. The reasons are that they want SALT II ratified and be granted most favored nation trade status. However, this can change overnight knowing the chameleon nature of the Soviet Union when it has what it wants.

I, and my colleagues, will continue to press for Shcharansky's release. We will not forget him and I do not want the Soviets to think we have forgotten him. He is a symbol of courage and hope to millions of people around the world.

As in the past, I ask again that the Soviet Union permit Anatoly Shcharansky to receive proper medical treatment, release from prison, and an exit visa to join his wife, Avital, in Israel.●

TAX-EXEMPT STATUS

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. BETHUNE. Mr. Speaker, I would like to compliment the gentleman from Ohio, Mr. ASHBROOK, for his amendment today to H.R. 4393, to prohibit the Internal Revenue Service from using its funds to carry out proposed regulations for private, tax-exempt schools. As a cosponsor of a similar bill to prevent the IRS from terminating the tax-exempt status for private schools, I am pleased to see this matter finally reach the floor of the House for a vote. Frankly, if the majority had had its way, this matter would still be buried in committee.

This country has a long history of exempting charitable organizations from taxation. This history dates back to 1894 and was reaffirmed in 1970 by the celebrated U.S. Supreme Court case of *Walz* v. *Tax Commission of the City of New York*, 397 U.S. 664 (1970).

I believe Professors Bittker and Rahdert, of Yale University, get to the gist of the matter well in their paper on, "The Exemption of Non-profit Organizations From Federal Income Taxation," as follows:

> The exemption of non-profit organizations from federal income taxation is neither a special privilege nor a hidden subsidy. Rather, it reflects the application of established principles of income taxation to organizations which, unlike the typical business corporations, do not seek profit."

Frankly, I am amazed at the audacity of the IRS to propose such sweeping social reforms. The proposed IRS ruling strikes at the heart of the principles held closely by this country—to separate church from state. As a revenue-producing agency, the IRS ought not be meddling with social policy, and I would once again like to thank my colleague, Mr. ASHBROOK, for his efforts to bring this issue to the floor so that we could settle the matter, once and for all.●

ALTERNATIVE ENERGY

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. ALBOSTA. Mr. Speaker, as the President prepares to take a new course in energy and the economy, it is appropriate for us to urge him today to include strong measures to promote the production of those energy resources that maximize economic and environmental values. One of these energy resources is wood.

While the President, in his June 20 message on renewable energy, and the Congress, in such actions as passage of the synthetic fuels bill in the House, have indicated support for alternative fuels, it is essential that vital fuels of great potential such as wood be used in every practical fashion and to their fullest potential.

In order to do this, the implementation of alternative energy proposals must be evenhanded. Subsidies for one form of alternative energy, whether in grants, loans, or tax provisions, should not be so much greater than support for other forms that an unfair advantage is produced.

For instance, in the production of fuel alcohol, methanol from wood and other sources, and ethanol from grain and other agricultural products, Federal advantages should be equal to the extent possible. Automotive fuel taxes should be lifted from both, construction funding should be available to both, and Federal purchasing should take advantage of supplies of both.

For all forms of biomass, or energy from growing things, it has been estimated that the potential contribution to this country's energy needs by 1985 is as much as 5 million barrels of oil a day. That is over 12 percent of our current energy use.

By 1990, with the proper forest management and development of commercial scale production technology, this country could produce up to 10 billion gallons of methanol per year from wood alone without decreasing wood supplies for traditional uses of wood. Furthermore, this could be done under stringent environmental regulations so as not to upset ecological systems or damage the environment.

The direct use of wood in the home and in industrial boilers provides a potential savings of oil that is almost a one-for-one ratio in terms of available heat (Btu's).

In conclusion, we must support all appropriate forms of energy development, and we must support them strongly and evenhandedly. Before long, the economic benefits of each will become apparent and this country will be much, much closer to commonsense in the economics of energy.●

PETER PAN AND THE CAMP DAVID CRISIS

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. BURGENER. Mr. Speaker, in the July 13, 1979, edition of the Los Angeles Times, Robert J. Samuelson writes with great perception and clarity about the state of the Presidency. The article is entitled "Peter Pan and the Camp David Crisis." The article follows:

PETER PAN AND THE CAMP DAVID CRISIS

(By Robert J. Samuelson)

Washington thrives on melodrama. This and little else explains the air of gravity surrounding President Carter's recent retreat to Camp David. To be sure, his popularity ratings are low, and public discontent over inflation and gasoline scarcity is high, but the resulting "crisis" was no more real than Peter Pan.

Hokum, pure and simple. The White House and the news media collectively managed to turn a silly episode of presidential pouting and sloppy staff work into a momentous affair of state. Mostly, it says a lot about the Administration, the national temperament and the government's apparent paralysis in dealing with economic and energy issues.

Part of the paralysis stems from our continued fixation on the Presidency. He is Mephistopheles and Messiah—the source of all trouble and the expected savior. This is a particularly warped way to view our inflation and energy problems, because it diverts attention from the economy's underlying limitations.

A democratic society operates on the assumption that informed public opinion ultimately leads to enlightened government policy. Maybe that's wishful thinking, but its something that we must accept on faith. People can reasonably expect that their President should provide meaning and coherence to everyday phenomena—inflation, gasoline scarcities and environmental mistakes—that seem to have obscure, almost mystical, origins. It is the uncertainty and fear, more than the problems themselves, that have people so unsettled.

If a President ought to be a source of reasoned calm, Carter increasingly seems the opposite. His decision to give a major energy talk last week before knowing what he would say is as laughable as it is sad and revealing.

Prodded by jittery assistants, Carter allowed himself to be panicked by one of Washington's fickle moods: a momentary "the sky is falling" fear prompted by gasoline lines and bad inflation news.

More damning still was the speech's cancellation. It showed that the President's grasp of the energy problem is so shaky that, presented with a timely opportunity to command public attention, he did not know what to do with it. Given "options papers," he can check boxes, but does he have any underlying philosophy? His confusion has become the public's.

In a way, Carter typifies a generation of politicians who are curiously ill-equipped to deal with the basic political issues of the day because they matured during an era when Presidents devoted their attention to foreign policy and social problems. Those issues occupied center stage, and the economy was taken for granted.

Now, economic issues have assumed primacy, but most of the political establishment—Republican or Democrat—has yet to catch up. Carter came into office clutching a cookbook of conventional liberalism, and has been wrenched away only by events beyond his control; Sen. Edward M. Kennedy (D.–Mass.) is still clutching it. Most Republicans summarize the nation's economic ills in a catch-all condemnation of Big Government.

It is a lot more complicated than that. The country now faces an inevitable period of economic change caused by scarce energy supplies, declining productivity and a belated recognition that private enterprise creates many public costs—pollution, health hazards—that cannot be ignored. Together, these pressures mean that Americans can no longer expect automatic increases in material living standards.

If Carter is wondering about the nature of presidential leadership, it is to reconcile the public to the inevitability of these changes and to refocus policy away from the economy's short-term performance toward these long-term adjustments.

Inevitable change, it ought to be added, does not mean catastrophe. There is no good reason why a modest shift from consumption to investment—for energy production and conservation, for environmental protection, for more efficient industry and for more plentiful housing—cannot sustain relatively high levels of employment. And not every dollar of consumption is sacrosanct. People can squeeze more pleasure from their incomes by spending more thoughtfully.

We find ourselves in a position today when public figures are either unwilling or unable to discuss the economy with the candor and clarity necessary to prime public confidence. In Carter's case, some of this must be put down to personal style. He is not good at teaching, which is half the job of being President. He preaches, but rarely explains.

But the problem goes deeper. No politician of national stature, deals honestly with inflation. On the one hand, inflation creates an unavoidable uncertainty that inhibits the investment needed to avert stagnation. On the other hand, any high rate of inflation is difficult to reduce without a period of slow growth and high unemployment that keeps prices—and ultimately wages—down. The only way to avoid this dilemma is to convince people that current wages can't always keep up with past price increases.

Most politicians, Republican or Democrat, simply decline to discuss such unpleasant thoughts. The political process excels at promoting changes that have large numbers of beneficiaries—witness Social Security or higher education. But it naturally resists changes that hurt people, even if resistance only postpones and compounds the ultimate hurt. Our energy situation today would be immensely improved if government had never made a single rule concerning oil or natural gas.

For all the fuss, maybe the ultimate Carter program will contain some good ideas. As important as the specifics, though, is the state of mind. Unless Carter can tie his particular proposals to a convincing vision of where America is today, how it got there and where it is going tomorrow, Congress may quietly demolish his package.

A President's ultimate weapon is his command of public opinion: The job is more than checking options boxes.●

DOING BATTLE WITH WORLD HUNGER

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. LaFALCE. Mr. Speaker, the last few years have perhaps lulled us into a false sense of confidence about the possibility of worldwide malnutrition and mass starvation. Those years have witnessed bountiful harvests in most of the chief grain-producing areas, including the United States, Canada, the U.S.S.R., the Peoples Republic of China, Western Europe, and India. These harvests have cushioned us from the certainty that at any point in the future large areas of the globe could be exposed to the specter of mass deaths and suffering from the lack of basic foodstuffs.

Harvest forecasts for this year should help dispel that illusion. Although the United States is expecting a record harvest, recent heavy purchases in the West by the Soviet Union and China demonstrate that they are experiencing significant shortfalls in production, which will mean a tightening of world grain supplies. The military and political chaos in Indochina is causing an acute shortage of food throughout that wartorn area, and India cannot continue to expect perfect monsoon conditions year after year.

Last year, both the Agricultural and the Foreign Affairs Committees approved the creation of a national wheat reserve for periods of severe regional or worldwide grain shortages. Unfortunately, the House was unable to consider these proposals during the rush to adjournment in October.

In order to help rectify that situation, my good friend and distinguished colleague from New York (Mr. McHugh) has introduced H.R. 3612, the Food Security Act of 1979; and I am pleased to join with him in cosponsoring this worthy bill. It would authorize the President to establish a Government-held wheat reserve of 4 million metric tons—147 million bushels—by purchasing wheat in the public market for later periods of regional and world scarcity.

This bill is also in the interests of U.S. producers. Government purchases of wheat in the market would have a modest, but beneficial impact on the price of wheat; and the wheat reserve would not be a cloud over the price of wheat in the market, because the wheat reserve would be completely isolated from the market, after the wheat is acquired. The wheat reserve would only be used for emergency food assistance to needy Third World countries, when sufficient supplies of grain were no longer available under regular Public Law 480 food for peace programs.

The Agricultural and Foreign Affairs Committees are currently holding joint hearings on H.R. 3612. I urge both committees to expeditiously consider H.R. 3612 and report a sound and meaningful wheat reserve bill, so that the House as a whole can be afforded the opportunity to pass a bill to establish a national wheat reserve. To do less is to run the risk of imperiling millions of innocent people throughout a possibly famine-stricken Third World.●

INTRODUCTION OF THE ALCOHOL PRODUCTION TAX INCENTIVE ACT OF 1979

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. FISHER. Mr. Speaker, today I am introducing the Alcohol Production Tax Incentive Act of 1979, which modifies the tax laws to encourage the production of gasohol from agricultural or forestry products. Gasohol, a combination of gasoline and ethyl or methyl alcohol, has proved to be a practical alternative fuel for motor vehicles.

My bill provides for the rapid writeoff of certain equipment used to produce gasohol. It allows a taxpayer to amortize over a 60-month period the investment in equipment or special purpose structures which are used for the production of gasohol from agricultural, forestry, biomass, or coal products. Research and bulk storage facilities for such fungible commodities which are used in conjunction with gasohol productions also would be eligible for this amortization.

Generally, the tax laws permit the cost of equipment and other facilities to be recovered more slowly through deductions for depreciation over the useful life of the property. More rapid writeoff, as proposed in this bill, would encourage investment in gasohol production by providing the equivalent of a tax-free loan.

The bill is consistent with other provisions of the tax laws, such as rapid write-off of pollution abatement equipment, which are designed to encourage desirable social policy. The financial incentive it provides can be the impetus to expanded distillery operations to produce fuel from renewable, domestic energy resources, and thus reduce dependence on foreign oil.

I recently visited the Smith Bowman distillery, located in my congressional district, and discussed with the managers the process of producing ethyl alcohol from corn and then combining that with gasoline to produce gasohol. The company has announced it will begin producing 2,200 gallons of 200-proof alcohol a day by the end of the year, or about 22,000 gallons of gasohol.

The steps taken by this Virginia distillery are important, but more needs to be done to supplement gasoline supplies by means of synthetic production. The House has recently passed legislation to encourage development of synthetic fuels through loan assistance and output purchase guarantees. This bill makes further use of tax incentives. It is an important step toward greater energy production and national self-sufficiency.●

TRADE AGREEMENTS

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. MOFFETT. Mr. Speaker, on July 11, the House passed the Trade Agreements Act of 1979 by an overwhelming margin. I was one of the few Members of Congress who did not vote in favor of this legislation.

While I have a great deal of respect for the diligent work of our trade subcommittee chairman, Mr. VANIK, and commend his efforts to insure that a broad range of organizations had the chance to offer their views on this comprehensive trade bill, I believe we have too much at stake in terms of potential job loss to pass legislation such as this. I also found the speed with which we were expected to act on this bill did not provide ample opportunity for full analysis, nor did we receive full cooperation in obtaining answers about specific portions of the legislation. Some of these answers were critical to an informed and intelligent judgment on this bill. The discussion that did take place was largely confined to trade subcommittee members, and even they had difficulty obtaining information on various provisions. I realize the limitations which were built into consideration of this trade bill, pursuant to the 1974 Trade Act. But as one who was not here in 1974, I find it puzzling that Congress had locked itself into such a method on such a critical piece of legislation.

Mr. Strauss recently commented in an interview in the New Yorker magazine that he would pass this trade bill, and make it so easy, "They won't know what happened." Ambassador Strauss, in his inimitable way, summed up my fears about this bill. In 5, 10, or 20 years, I am afraid we may look back and wonder why this legislation passed, and passed with so little open debate or discussion. Even at this time, we do not have full information on the new tariff schedules nor have we received a draft of the administration's export improvement proposals. Both of these bear a direct relationship to the trade bill we passed. While we are told that tariffs are not within congressional purview, it is clear that tariff reductions were made in return for nontariff concessions obtained by the United States. We should, at least, have knowledge of what was given away for the things we got back.

Certainly, there are some positive aspects of this trade bill. Expediting the procedures to counteract unfair trade practices in the form of countervailing duties and antidumping penalties are long-needed and important steps forward. In addition, I was pleased to see the recognition given by the committee to the lack of zealous enforcement of current antidumping and countervailing duty laws.

But these bright spots cannot justify inattention and lack of analysis about the long-term effects of this bill. The forthcoming tariff reductions negotiated simultaneously with the nontariff barrier provisions, I fear, will further undermine the ability of older manufacturing industries (in my district) to compete. The bill also mandates the waiver of the special preference on a great deal of Government procurement now available to companies located in areas of high unemployment. Again, this will be difficult for older industries often found in distressed urban areas. These more mature industries have been badly hurt by imports as it is. In the cases of both the ball bearing and fastener industries, import relief had to be extended, because of unfair import practices. Although certain items in both these industries have been exempted from tariff reductions, this relief will expire eventually. We have no idea what the fate of these essential American industries will be at that point. At a period when they are trying hard to recover from the flood of imports, and with the State of Connecticut as a whole having suffered nearly 39,000 job losses in the past 7 years, we should have better answers. We should know what this major trade legislation will mean for them.

Which brings me to a final point. Frankly, I cannot discern much benefit to our older, smaller industries coming from the MTN. Many of them will not have the capital or the marketing skills to make use of the increased export opportunity this bill is intended to bring. And, in the event of lowered tariffs, they will not have the production flexibility to withstand the increased imports.

Yet most of the jobs in this country are created by small businesses such as these. The Smaller Business Association of New England tells me that 99 percent of new jobs begun between 1969 and 1976 fell outside of the top 1,000 Fortune firms.

Most of U.S. exports are not handled by small firms. In fact, over 80 percent of our export volume in manufactured goods is carried by the 200 largest companies.

We are witnessing a growing trend of job and industry displacement to nations abroad. Unfortunately, the trade agreements do little to counteract this trend. The MTN should have been given more time for study. It involves more major issues and changes in existing law than any other trade legislation.

And its effects will be seen for years to come. Yet, Congress has been cut short in its consideration of this bill's ramifications. When the livelihood of workers and the existence of smaller industries are at stake, we should not be satisfied by partial answers or incomplete information. I, for one, feel we do not have the full picture and should not have given the MTN our final approval without it. For the reasons outlined above, I could not vote for this bill.●

TRIBUTE TO VICTOR DeMARTINI

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. HOLLENBECK. Mr. Speaker, July 15, 1979, marks the 50th anniversary of Mr. Victor DeMartini's service as the borough clerk of Northvale, N.J. I join borough officials and residents of the community in paying much-deserved tribute to Mr. DeMartini in recognition, not only of the longevity of his service, but of the standard of excellence to which he prescribes.

A public servant in the truest sense of the word, he is responsible for a half century of smooth continuity in local government. He has modernized office procedures, streamlined operations, and generally assured that, on a day-to-day basis, Borough Hall stands ready to respond to the needs of her citizens.

Mr. DeMartini provides a wealth of knowledge and experience upon which many others have come to depend. I am proud to offer him my congratulations on this recognition, my personal gratitude for his assistance to me, and my best wishes for many more successful years in public service.●

ACID RAIN THREAT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. OBERSTAR. Mr. Speaker, on June 22, the House considered an amendment to the HUD-independent agencies appropriations bill which would have increased funding for the Environmental Protection Agency's acid rain research program. (CONGRESSIONAL RECORD, June 22, 1979, p. 16167.) I was disappointed that the House rejected the amendment offered by the gentleman from New York (Mr. AMBRO).

The effort, however, was not in vain. The debate has made the Members of the House more aware of acid rain pollution.

As this Nation uses more coal for power generation, atmospheric levels of SO_2 will increase, resulting in even greater acid rain pollution.

I would like to share with my colleagues an excellent article from the June 27, 1979, issue of the Christian Science Monitor (and subsequently reprinted in the International Falls, Minn., Daily Journal) which describes the causes of acid rain as well as some potential solutions:

ACID RAIN: AN UNWANTED INTERNATIONAL EXPORT

(By Geoffrey Godsell)

OTTAWA.—There is a cloud—literally a cloud—over Canadian-U.S. ties. So far it has had no perceptible effect on relations between the two countries, which overall are as warm as they have been in decades. But since that cloud drops acid rain—again literally—the fallout cumulatively could have a very souring effect.

What is acid rain? It is rain that contains sulphuric and nitric acid as a result of pollutants poured into the air from industrial chimneys and car exhausts. Because of prevailing wind patterns, acid rain often falls in areas hundreds of miles away from the original source of the pollution.

This is just what is happening in northeastern North America—particularly in northern New York state, the New England states and eastern Canada. The main (but not sole) source of the pollution is the industrial concentration in Ohio and Pennsylvania.

Within Canada, the biggest single "sinner" is International Nickel's smelter at Sudbury, Ontario—which has a 1,250-foot chimney belching its sulphur dioxide fumes as high as humanly possible above the immediate surrounding area. But Canadian environment specialists say that the amount of sudphur compounds blown into Canada from the U.S. equals roughly Canada's total discharge of those compounds into the atmosphere. About 25 or 33 percent of that Canadian output, though, is carried southeast into the U.S.

In this cross-border pollution, Canada is the more aggrieved victim for two reasons:

The prevailing winds, particularly during the summer months, are from the southwest to northeast up the St. Lawrence corridor. They carry pollutants from south of the Great Lakes (Ohio and Pennsylvania) northeastward—and thus into Canada.

The geological bedrock of most of the affected area in Canada is such that it prevents lakes and rivers from performing the natural process which enables water elsewhere to neutralize to some extent acid rain when it falls. (Northern New York state and northern New England share some of this unhelpful bedrock. It lacks limestone, a natural alkali that counters acidity.)

A parallel situation exists in Europe. There the industrial areas of Britain and West Germany pour sulphur and nitrogen oxides into the atmosphere which prevailing winds dump on southern Scandinavia—particularly southern Norway—in the form of acid rain. The effect there—as measured so far—has been exactly what it is in northeastern North America. Lakes and streams become increasingly acid and the fish population is killed off, beginning with the good game fish. The coarser varieties seem to have the power to survive longest. But in many smaller lakes at higher altitudes, the entire fish population has already been destroyed.

The study of this environmental problem has a vocabulary of its own. Acid rain is part of what is called by the specialists "long-range transport of air pollution" (LRTAP). They measure acidity and alkalinity by a unit called "pH". A pH rating of 7 is neutral, neither acid nor alkaline. Above 7 is alkaline, below 7 is acid.

Clean rain gets a rating of about 5.7 since it is very slightly acid from the carbon dioxide naturally present in the air in minimal quantity. But as soon as rain achieves an acidity rating of 5, it causes fish to begin to die in lakes and streams where the bedrock prevents a natural neutralizing process. The line on a map linking places of equal pH rating is called an isopleth.

(The accompanying map and diagram show how the pH 4.7 isopleth has advanced into Canada over a decade and a half and how fish have been progressively killed off as the water in Lake George, Ontario, has become increasingly acid.)

Canadian specialists say that the technology exists to deal with the problem. The challenge is the cost. And (ask the Canadians) how do you think you can persuade the US Congress or anybody else south of the border to spend money to check pollution originating in the US when the main beneficiaries will be Canadians and not Americans?

One Canadian expert said that to cut offending emissions by 50 percent in the main US source area would cost $5 to $7 billion a year. To similarly reduce Canadian emissions would cost about $350 million a year. (Canada has a few big "sinners," the US many more—but most of them not as big as the Canadian ones.)

There are three main roads of attack immediately available to lessen sulphur oxide discharge. One is flue gas desulphurization (FGD), or cleaning the discharge while it is still in the chimney. A second is, where coal is burned, to remove the sulphur from the coal before it is used. The third is simply to use clean coal—of which both the US and Canada have supplies, but far away in the West.

Ironically, environmentalists who specialize in LRTAP are concerned at the prospect either of expanded use of coal for thermal power in the wake of the Three Mile Island nuclear generator mishap or of a slackening in controls on the use of "dirty" coal in response to any oil shortage. Whatever nuclear power plants might do, at least they do not contribute to acid rain.

Both the US and Canadian Governments are aware of their mutual interest in limiting LRTAP on both sides of their common border. They have set up a mechanism to tackle it—a consultative group which has held two meetings so far (July, 1978 and March, 1979) and is now preparing a report summarizing exactly who is doing what to whom. This response, of course, is still a long way from remedial action—or from any commitment to spend money on it.●

THE NEW WASHINGTON, D.C.

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. McKINNEY. Mr. Speaker, the energy crisis that we confront today has many facets. We are all aware of the problems being posed to our Nation's transportation needs; the triggering effect these problems have on the Nation's economic well-being; the apprehension that we face a true energy crisis; and the ever-present fear, or shall I say knowledge, that things will indeed get worse before they get better.

If there is a positive side to the energy "crunch," we can see it reflected in our Nation's cities. The former "flight" from the inner city has already been stemmed and in some instances, reversed. The inner city has replaced suburbia as the new "status" for the up and coming. This influx has seen major transformations in once-dying inner city areas. During the seventies we have been constantly bombarded with stories of the "new Atlanta," the "new Baltimore," the "new Boston" and, as witnesses here on Capitol Hill, the "new Washington."

Washington's transformance from the scared city following the 1968 riots to one of the premier cities of our Nation has not been easy. And, while we have made tremendous strides in coming this far, the challenges and the tasks ahead are quite formidable. We cannot ignore the fact that progress brings problems.

Today, the Federal Government and the District Government form a "working partnership" in resolving some of the issues inherent in an urban area of close to three quarters of a million people. These issues are far-ranging but perhaps none will have as far-reaching an affect on the future of the city as the need to address the "housing crisis" which has for so long confronted the Nation's Capital.

The energy crisis and the housing crisis go hand in hand. While it is almost impossible in this day and age to avoid a discussion of gas lines or real estate values here in the District, it is often unfortunate that the problems created by soaring real estate values are not addressed with the same fervor as rising prices. In fact, housing, or the lack thereof, for most of the District residents was the major problem facing the newly elected Mayor of Washington, D.C., Marion Barry, when he took office last January.

Last month, Mayor Barry, after less than 6 months in office, put forth a draft of a new housing policy for the District which was produced to initiate community-wide discussion of housing policy issues. This document includes some challenging goals which, if pursued with the endeavor reflected in the first months of the Barry administration, might well turn around what once seemed like an insurmountable problem. Quite rightly, the Mayor sets as a theme for his administration the pursuit of twin goals—an increase in economic expansion while maintaining an economically and racially integrated city. What it all boils down to is the fact that Mayor Barry, while welcoming the influx of "new" residents and the increasing tax base that the new residents bring with them, will not sit idly by and allow the middle and low income families who have remained in the city through its most difficult times to be forced out.

In setting out to accomplish his goals, the Mayor's focus is broad in scope. He addresses not only the regular problems of providing, rehabilitating, and maintaining both private and public housing stock, but his housing policy will also be extended to assure neighborhood diversity and stimulation of economic expansion opportunities. These goals will provide the economic and social independence necessary for middle and low income families to survive as citizens of the District of Columbia. Of course, the city cannot do this alone and, thus, recognizes the role that the Federal Government, but more importantly the private sector, must play. The District's growth as a revitalized urban center will include welcoming, accommodating and serving its new citizens in conjunction with recognizing, addressing, and solving the problems of its present populace.

Since we are still only dealing with a housing policy draft which has yet to be finalized, I will refrain from specific comment on singular policies, many of which I find quite admirable. The Mayor must now take his ideas to the people for they, whether they live in public housing projects, changing neighborhoods, or established geographical communities, will be the key to where we are going, how we will get there. I think that it is not out of line for me to say that every resident of the District, every citizen of the metropolitan area, indeed, every American shares the dream and the hope that Washington, D.C., can and should be a model city. Mayor Barry and the team which he has put together to govern the "new Washington" should be given wholehearted support and encouragement by all of us as they go about fulfilling this dream.●

CONGRESSIONAL TRIBUTE TO JOHN LYONS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. BOB WILSON of California. Mr. Speaker, today, San Diegans will pay tribute to one of their most active and involved citizens—John Lyons.

John Lyons descends from one of the early California families of old San Diego. The family tradition of public service established in the 1850's by his grandfather, who was the second sheriff of San Diego, has been carried on by John, who has been a Teamster official for the past 33 years and secretary-treasurer of Teamsters Local No. 36 since January 1967. In recognition of John's abilities and dedication to public service, Governor Reagan appointed him to the consumer advisory board under the Department of Consumer Affairs for the State of California in 1971. He served two full terms.

John's interest in civic affairs is boundless. His main interest lies in the Leukemia Society of America. He is the national vice president of the society and helped form the San Diego Chapter of the Leukemia Society. He is, or has been, a member of the board of the Boys Clubs of San Diego, Volunteers of America, Epilepsy Society, National Conference of Christians and Jews. He is also a member of the Eagles and Elks. In addition, he is past March of Dimes Campaign Fund Drive Chairman for San Diego.

In January 1973, the San Diego City Council confirmed the appointment of John as chairman of San Diego's first affirmative action program advisory committee. In November of the same year, he was on the Advisory Committee of the San Diego County Medical Society's Community Health Education Advisory Committee. He is a former board of directors member of Boys Town of the Desert.

He is active in the Chancellor's Club of the University of San Diego. In May 1973, John was honored by the Children's Asthma Research Institute and Hospital of Denver, and was presented with the Humanitarian Achievement Award of the Year. In January 1973, he was appointed to the board of directors of the Comprehensive Health Planning Association of Imperial, Riverside, and San Diego Counties, and served 3 years. He is presently a member of the Muscular Dystrophy Advisory Board, a former board member of the American Cancer Society, and is presently serving as a board member of the San Diego Chamber of Commerce.

In April of 1975, John was appointed by Mayor Pete Wilson to the City of San Diego's American Bicentennial Committee. He now serves on the San Diego Convention and Visitors Bureau board of directors, and is a member of the San Diego Regional Advisory Council for the American Arbitration Association.

In November of 1975, he was appointed by the International Brotherhood of Teamsters to the National Construction Committee and is presently serving as an executive board member of the Joint Council of Teamsters No. 42, Los Angeles. He is a member of the board of advisors for the Construction Industry Advancement Fund.

John is a former president and still active member of the Friendly Sons of St. Patrick and in 1972 was selected as San Diego's "Outstanding Irishman of the Year."

In 1970, a group of San Diego businessmen, labor officials and public officials held a "John Lyons Day" Celebration as a testimony to his many accomplishments. Proceeds from the luncheon were donated to the Leukemia Society. In 1976, the San Diego Chapter of the Leukemia Society designated John as a "Good Guy" at their annual "Good Guys" banquet.

John Lyons is truly an outstanding member of our community and the testimonial dinner honoring him that will be held this evening in San Diego is very well-deserved. I am proud to join his multitude of friends in paying him tribute.●

WINDFALL PROFITS TAX

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. ROTH. Mr. Speaker, Americans are deeply suspicious that the energy crisis is not real, that it is just an opportunity for higher prices and greater profits for the big oil companies. In a democracy, people must believe that a policy is fair if it is to be supported.

Many Americans believe that the policy of decontrol without an effective windfall profits tax is unfair.

Decontrol will divert sizable amounts of money from oil users to producers. The Congressinal Budget Office (CBO) estimates that the amount diverted would be approximately $1 billion in 1979, over $5 billion in 1980, and over $11 billion in 1981. This means a total of about $18 billion would be transferred from consumers to producers by 1981 unless there is an effective windfall profits tax. With higher OPEC oil prices, which are apparently around the corner, the amount would be even larger.

U.S. oil producers are entitled to reasonable profits for their products, but they are not entitled to receive the full proceeds resulting from the actions of a foreign oil cartel (OPEC). After all, the price of crude oil increased from about $3 per barrel in 1972 to about $14 in 1978.

The increase was not based on an economic justification related to cost of production but on a sheer political decision on the part of the OPEC cartel. And the OPEC prices keep rising. Why then should the big oil companies of the United States be allowed to reap a windfall because of decontrol which will see a further increase in oil prices? The big oil companies of the United States apparently have plenty of profit already. They have been investing vast sums of money in other industries that are unrelated to energy, so why should they reap an unearned harvest from decontrol?

I am pleased that the Ways and Means Committee has recommended a number of changes in the administration's proposal which will generally improve and increase the windfall tax features of this bill, H.R. 3919. The President's proposal for taking profits at a 50-percent rate was inadequate in my view. Also, we should not overlook the fact that the administration's energy tax proposals seemed to leave unresolved the status of windfall profits tax after October 1981. Revenues to the oil companies and possible Federal tax revenues from decontrol are far more significant after 1981 than during the period 1979 to 1981. Thus, I believe the fact that this bill provides greater certainty on windfall profits taxes beyond 1981 is important.

Some oil price increases may be justified in the interest of encouraging production. But studies show that beyond a certain point further price increases would have very little stimulative effect on additional production. Thus, I believe the higher rate is much more equitable and, therefore, warranted and desirable. It will more adequately tax the windfall arising from decontrol of crude oil prices and from excessive increases in world oil prices. The revenue from such a tax could finance major spending programs to develop new sources of energy for the United States and to promote energy conservation. This, of course, can be done by putting the proceeds of the tax into an energy trust fund.

This bill does not deal with the utilization of the trust fund. It proposes this be accomplished by subsequent legislation to avoid delay in collecting revenues.

I will be prepared to speak in greater detail when such legislation comes before us. However, whatever the size of the energy trust fund resulting from this legislation, one can safely predict that the amount of money will not be equal to men's imagination as to how it should be spent. So while reserving detailed comments for later, I do want to briefly mention the need to relate the uses of the trust fund to the energy problem which faces us and which prompts the bill now before us.

I believe that resolution of the energy problem demands actions on several fronts. Oil is not our only energy source. A sound energy policy requires that we pursue a diversified strategy of meeting our energy supply and efficiency needs. Even if oil producers were allowed to retain all of the additional revenue from decontrol and succeeded in spending it on oil exploration and development, that would not be acceptable. There is a wide range of technologies and resources such as solar, synthetic fuels, and shale oil, to name a few, that need further research and development before they can be commercialized. Private firms cannot be expected, on their own, to undertake the kind of research and development that is necessary. Federal assistance is likely to be needed. Thus, it is vital that we use a portion of the proceeds from the windfall tax to fund the projects that will, over the long run, reduce our dependence on such rapidly depleting resources as natural gas and crude oil.

Second, we need to improve energy conservation in this country. There are a number of ways to do this. One of the primary users of fuel is the automobile. Hence, we should consider using a portion of this trust fund to improve public transportation.

I believe that the additional revenues received by oil producers, as a result of decontrol of oil prices and increases in world oil prices substantially above those in 1978, are proper objects of taxation. In my view, an effective windfall profits tax should tax away a proper portion of these additional revenues and yet allow producers to receive adequate prices for those types of oil whose production can be expected to increase in response to such an incentive. This is the sort of criteria I am using to consider this bill together with the expected amendments. In addition, as I indicated at the outset, Americans are deeply suspicious that the energy crisis is not real—that it is just an opportunity for higher prices and greater profits for the big oil companies and that in a democracy people must believe a policy is fair if it is to be supported. In my view, an effective windfall profits tax is what Americans would consider to be fair and this appears to be a proper yardstick for deciding on this bill.●

T. SGT. BERNARD M. HAUTALA: MAINTENANCE MAN OF THE MONTH

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. OBERSTAR. Mr. Speaker, economy in Government is a little like Mark Twain's famous comment on the weather: "Everybody talks about it, but nobody does anything about it."

T. Sgt. Bernard M. Hautala did something about economy in Government. His contribution has made a one-time saving to the U.S. Air Force of $130,000 and recurring savings of $52,600 a year through imaginative improvements he made on SAC missile launchers at Ellsworth Air Force Base in South Dakota. Sergeant Hautala's technical innovation won him the truly distinctive honor of maintenance airman of the month, making him eligible for the Air Force's coveted Gen. Thomas S. Power Award, the highest individual honor the Air Force bestows upon a technician in the Strategic Air Command.

Sergeant Hautala's contribuion is as extraordinary for the financial savings it has meant for the Air Force, as for the reflection on his own creativity and technical expertise. To the U.S. Air Force award for Sergeant Hautala, I am tempted to add another: The Mark Twain Award, for "Doing Something About It." Sergeant Hautala deserves national recognition for the splendid contribution he has made, proving that one person can make a difference.

Sergeant Hautala's father, Bernard Hautala, is a lifetime resident of Eveleth, Minn., located in my Eighth Congressional District, where for many years he has served as treasurer of the United Steelworkers of America Local 1938.

The following article, from the June 28, 1979 Plainsman, describes in more detail Sergeant Hautala's contribution.

[From the Plainsman, June 28, 1979]

TSGT. HAUTALA NAMED SAC MAINTENANCE MAN OF THE MONTH

(By TSgt. George B. Wallace)

TSgt. Bernard M. Hautala, 44th Strategic Missile Wing, (44SMW), has been selected as the Strategic Air Command Maintenance Airman of the Month for March 1979.

As a site security maintenance team evaluator, inspector and technician, Sergeant Hautala has earned this award for his outstanding competence, initiative and superior managerial skills.

He was recently dispatched as a technical advisor on a forced entry into a missile launch facility because the secondary access door, (B-plug) could not be raised or lowered. Once outside the launcher equipment room, which houses all the electronic and standby systems for the missile, Sergeant Hautala promptly identified the cause of the malfunction as the B-plug linear actuator. The linear actuator had sheared and was suspended four feet and posed a serious safety hazard to maintenance personnel because the titled B-plug weighs seven tons. There was only one of the 12 B-plug locking bolts holding that door in place. A crane was used to keep the B-plug from falling while Sergeant Hautala and another team member freed the binding locking bolt.

Sergeant Hautala supervised the removal of the B-plug without further damage and saved the Air Force $130,000 in overall material costs.

Sergeant Hautala's extensive knowledge as a maintenance technician resulted in his selection to represent the 44SMW at a technical data rewrite conference at the Boeing Company in Seattle. The purpose of this conference was to develop a comprehensive technical order that technicians could easily understand and use. His inputs were accepted and incorporated into the new technical order and are expected to save the Air Force an estimated $12,600 annually.

Sergeant Hautala also developed improved procedures for troubleshooting the missile security system. These included a sequence for checking long and short range receiver cables, routines to locate antenna connector problems, and a better method of collecting and analyzing alarm data. These revised procedures enabled the wing to reduce the number of physically manned sites by 80 percent, a savings of approximately $40,000 annually.

In a letter signed by Maj. Gen. Martin C. Fulcher, deputy chief of Staff Logistics, Headquarters SAC, General Fulcher said that Sergeant Hautala's achievements in missile maintenance, training and supervision are indicative of a vigorous attitude and unsurpassed ability. General Fulcher also said that selection as Maintenance Airman of the Month represents a truly distinctive honor. By winning this award, Sergeant Hautala becomes eligible for The General Thomas S. Power Award, the highest individual honor bestowed on a SAC technician.

Brig. Gen. John R. Lasater, then 4th Air Division commander, said in his letter that Sergeant Hautala's selection as Maintenance Man of the Month for March sets him apart as a professional among professionals. "We salute him for his extraordinary efforts and contributions to the mission," General Lasater said.

Col. Howard R. Tarleton, then 44SMW commander, said that Sergeant Hautala's selection for this distinctive honor is a tribute to his knowledge, dedication and professionalism.

A native of Eveleth, Minn., Sergeant Hautala has been assigned to Ellsworth since 1967. He is currently enrolled in an electronics correspondence course and has plans to obtain an electronics engineering degree. He is active in cub scout affairs and enjoys camping, water skiing, fishing and collects old coins and stamps. Sergeant Hautala is married to the former Phyllis Wiese. They reside in Rapid Valley with their three sons, Michael, 9, Keith, 8, and Steven, 18 months.●

SHATTER THE SILENCE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. KOSTMAYER. Mr. Speaker, as a participant in the "Shatter the Silence Vigil," I am honored to have the opportunity to speak out on behalf of Mr. Isaak Shkolnik. Two years ago, I "adopted "Isaak Shkolnik as a "prisoner of conscience" and have been following his struggle for freedom ever since. Today, I would like to bring my colleagues up to date on the plight of Isaak Shkolnik.

Isaak Shkolnik has been imprisoned in the Soviet Union since 1973 when he was convicted of spying for Israel. However, his conviction, like the charges and the trial which preceded it, was a sham. The only crime Isaak Shkolnik committed was that he tried to emigrate to Israel.

In 1971, Isaak, his wife Feiga, and his daughter Luiza applied for emigration visas to Israel. His wife and daughter were subsequently granted visas to emigrate to Israel, where they now have been living for the past 6 years. Isaak, however, was charged with treason and arrested in July of 1972.

Mr. Shkolnik, a radio technician, was first charged in 1968 with spying for Great Britain and passing secrets to British engineers. The charges were changed, though, from spying for Great Britain to spying for Israel after British officials denied having any connection with Isaak Shkolnik. After 9 months of maintaining his innocence at his trial in 1973, Mr. Shkolnik changed his plea to guilty after being informed that he would otherwise face the death sentence if convicted. He was sentenced to 10 years of imprisonment, which was later reduced to 7 years at hard labor.

Isaak Shkolnik is scheduled to be released from prison any day now. And yet, even with his release, he will continue to be a prisoner in his own country. Not until he is granted permission to emigrate and is able to rejoin his family in Israel, will Isaak Shkolnik be a free man.

Over the past 2 years, I have repeatedly written to Soviet officials asking them to give Isaak Shkolnik his freedom. I have also written to Isaak to let him know that people in this country are thinking of him and trying to help him. With Isaak's release pending very soon, I again am appealing to the Soviet Government to allow Isaak Shkolnik to emigrate to Israel.

This is not a question of ideology or politics, but a matter of simple human compassion for a man who wants nothing more than to be reunited with his family in a land that will let him live in peace. This is a simple request for a man who has served a 7-year term in a work camp for a crime he did not commit.

Today, I join with my colleagues in urging the Soviet Union to live up to the promise of the Helsinki agreement, which is dedicated to human freedom. One of the most basic freedoms is the right of every person to leave a country in which he is not happy, including his own country. And, a freedom which transcends all governments and national boundaries is the right of a family to live together. In the Helsinki agreement, both the United States and the Soviet Union recognized family reunification as compelling grounds for emigration. It is my hope that the Soviet Union will recognize Isaak Shkolnik's separation from his family in Israel as ample justification to grant him permission to emigrate.

I am very encouraged by the increased number of emigrants allowed to leave the Soviet Union as well as by the release of five key dissidents earlier this year. In 1978, more than 29,000 Soviet citizens were allowed to emigrate compared to 17,000 in 1977. This is clear evidence that our voices here in the United States have made a difference. And it is all the more reason for us to redouble our efforts on behalf of Soviet Jews and other persecuted dissidents.

In closing, Mr. Speaker, I want to commend my colleague, JAMES HOWARD, for organizing the Shatter the Silence Vigil 1979. For none of us in this country can afford to forget the plight of Isaak Shkolnik and the many other Soviet citizens who have been persecuted for attempting to exercise their basic rights. Silence is toleration, and there is no greater danger to our own freedom than for us to stand by silently while the human rights of others are being denied. As long as I am here in Congress, I will speak out on behalf of Jews in the Soviet Union and elsewhere who continue to be denied the right to emigrate to Israel and live in freedom. Let us all pray and work for the day when the courageous cry of Soviet Jews—"Next year in Jerusalem"—will become a reality, not just for Isaak Shkolnik, but for the many other Soviet Jews who continue to be held in the Soviet Union against their will.●

U.N. FINANCIAL PRACTICES

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. RAILSBACK. Mr. Speaker, the Washington Post published a series of articles alleging various improper financial practices on the part of the United Nations and its agencies. Since then, a number of officials have sought to clarify the necessity and propriety of such practices by the U.N. One of the finest explanations is that written by our former colleague Charles Whalen, now president of New Directions. Mr. Whalen sets forth an informed view of the U.N.'s practices and needs and puts the allegations in their proper context. A full and objective picture is essential to understanding the U.N.'s actual financial situation. Mr. Whalen's article helps paint such a picture.

As a member of Members of Congress for Peace Through Law's Task Force on Restrictive Amendments, I am especially pleased to submit this piece for the RECORD, since Chuck Whalen served as MCPL's chairman in the 95th Congress. I applaud his continuing commitment to the concept of strengthened and efficient international institutions.

FISCAL PRUDENCE AT THE U.N.

(By Charles W. Whalen, Jr.)

Fiscal prudence dictates that management of public funds be subjected to careful scrutiny. International institutions that administer U.S.-contributed dollars certainly should not be exempt from such analysis. The Washington Post, therefore, is to be commended for its decision to examine the financial practices of the United Nations.

Regrettably, the conclusions that emerge from the two articles on this subject [A1, June 17 and 18] reflect an innocence of any acquaintance with accounting procedures and a misunderstanding of how the United Nations system operates.

First, Post reporter Ronald Kessler contends that the $1.4 billion maintained in United Nations bank accounts around the world is "excessive." This figure only has meaning when it is applied against the liability side of the ledger, for out of this sum must come payment for current obligations and future commitments. The family, for example, with $10,000 in its checking account on July 1 may find itself in debt on Sept. 1 when college tuition bills come due.

Since most U.N. agencies do not have borrowing authority, meeting two- to four-year commitments out of unpredictable annual contributions requires the accumulation of substantial reserves to meet predictable payments as they come due. Too, many development organizations, such as AID, are required to maintain one dollar in the bank for every dollar of future expenditure commitments. But on December 31, 1977, UNICEF's cash balance of $131 million was less than one half its 1977 contractual commitments. Using AID's standards, UNICEF's deposits should have been $304 million.

The "commitment" discussion is further complicated when the subject of "pipelines" is introduced. In congressional jargon, this refers to undisbursed commitments. Funds are appropriated and then earmarked, but they are not instantly disbursed, since contracts have to be let, equipment purchased and personnel hired. To the untrained observer, these unliquidated obligations distort the "net worth" of the agency in question.

Second, the series asserts that the U.N. does not earn the highest possible return on its checking accounts. One should not compare 1977 interest rates with current rates, which are substantially higher. Further, it was only recently that federal statutes allowed any interest payment on demand deposits. And, of course, the United Nations and its 40 agencies have more than a thousand accounts scattered throughout the world. Many countries retain their contributions, until callable by the United Nations, in their national treasuries or in domestic financial institutions at rates that, as sovereign nations, they arbitrarily establish.

Third, The Post avers that United Nations financial procedures do not conform to accepted business principles. The United Nations simply cannot be equated with private enterprise. It may not borrow funds against shortfalls or in anticipation of revenues. Decisions of the "board of directors," comprised of representatives of 151 independent nations, often are politically motivated. Contributions of inconvertible currencies can be spent only in the donor's country. Uncollected assessments cannot be written off as "bad debts."

The timing of The Post's articles also is unfortunate. They come in the midst of the appropriation process for United States contributions to the various United Nations agencies when it is not easy to have orderly consideration of these questions.

On June 27 two House foreign affairs subcommittees held joint hearings to consider The Post's allegations. Virtually every one of Mr. Kessler's charges was refuted or explained in its full context, convincing those present that his criticisms were unfair. Unfortunately, one could not discern this from The Post's June 28 account of the session.

RETIREMENT OF ANDREW BENEDICT

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. BONER of Tennessee. Mr. Speaker, on August 1, 1979, a great man, Mr. Andrew Benedict, Jr., is retiring from First American National Bank in Nashville, Tenn., after 44 years of service. I rise today in honor of Mr. Benedict, who in those 44 years has epitomized the characteristics of quality and determination that have been the driving forces behind the success of American free enterprise. In those years, Mr. Benedict, having begun as a runner for the bank in 1935, rose to be elected the chairman of the boad on August 1, 1969.

He has served with the bank as the assistant cashier, assistant vice president, vice president, executive vice president, and president. In 1971, ever working to improve the position of the bank, he guided First American National Bank through the difficult transition to being a subdivision of First Amtenn, the holding company of which Mr. Benedict will retire from as chairman of the board on August 1.

Mr. Benedict has been not only a leader in his company, but a leader in the banking industry. He is currently the chairman of the Tennessee Bankers Association, having served as its president in 1978–79. He has served on the Government Borrowing Committee of the American Bankers Association and is the past chairman of the ABA's Credit Policy Committee. H is also past president and director of the Association of Reserve City Bankers.

In the community, Mr. Benedict's keen intellect and untiring efforts have been recognized by his election to the board of trustees of Vanderbilt University, from which he received his B.A. with the class of 1935, a member of Phi Delta Theta and Omicron Delta Kappa. He is also a member of the hospital committee and the Medical Center Board, and a past president of the Vanderbilt Alumni Association. As a vice president of the Middle Tennessee Council, Boy Scouts of America, the commissioner of the Middle Tennessee Council and a past president of the Big Brothers of Nashville, Mr. Benedict has shown unending concern for the welfare of the youth of the community.

Mr. Benedict's leadership in the banking industry will be sorely missed; however, his community and church activities will more than keep him busy. He is also a trustee of Lake Junaluska Assembly (southeastern district of United Methodist Church), a former member of the Board of Publication of the United Methodist Church, a past chairman and member of the official Board of West End Methodist Church, trustee of the Church of Christ Foundation, a member of the board of the Tennessee Independent Colleges' Fund, treasurer of Tennessee Taxpayers' Association, a member of the associate board of St. Thomas Hospital, a trustee of Watkins Institute; and past president and director of the Rotary Club of Nashville.

A 33 degree Scottish Rite Mason and Shriner, Mr. Benedict is sovereign grand inspector general in Tennessee and grand treasurer general of the Supreme Council, 33 degree, Ancient and Accepted Scottish Rite of Freemasonry, S. J. He is past master and trustee of Corinthian Lodge No. 414 F. & A.M. of Nashville and a member of the York Rite Bodies. He is also a member of the Royal Order of Scotland and the Red Cross of Constantine.

Mr. Speaker, I would like you and my colleagues to join me in congratulating Mr. Benedict on a distinguished career of both leadership and service in the banking industry and in wishing him much good luck in his future endeavors. His wife, the former Sarah Richardson Bryan, his two children, Mrs. Russell F. Morris, Jr., and Andrew B. Benedict III, and his six grandchildren must surely be proud of Andrew Benedict. I know the community of Nashville is proud of him, and he certainly deserves the highest regard of the House of Representatives.●

FAIR IMPORT TARIFFS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. BOB WILSON of California. Mr. Speaker, I believe the major cause of our balance-of-payments deficit and trade imbalance to be the climate of international competition that is titled unfairly away from the United States. Whereas our import tariffs tend to be low and imports can be marketed relatively inexpensively in our country, not so abroad. Foreign countries have tacked large import tariffs onto the goods we export thus causing our products to be sold abroad at prices much higher than those against which they are competing.

As an example, the following article cites our trade with Japan and mentions that Japanese saki is taxed at 25 cents a gallon when it enters the United States, but that our domestic wines are hit with a $5 charge per gallon when entering Japan. That is just plain wrong, especially when viewed in the light of Japan's numerous recent protestations that they are bending over backward to ease the huge trade imbalance between the two countries.

With regard to trade in general and Japan in particular, I commend the following from the San Diego Wine Spectator to the attention of my colleagues in the hope that if enough wood is piled on the fire, someone will notice the heat.

The article follows:

WINE IMPORTS CREATE BILLION DOLLAR TRADE DEFICIT; BARRIERS A CAUSE

MENLO PARK, CALIF.—The international marketing firm of Boles & Company, Inc. has reported that the U.S. has sustained more than a billion dollar trade deficit in wine over the last two and a half year period.

According to president John M. Boles, imports of foreign wine in 1976 amounted to $310 million and exports $5.6 million. In 1977, the figures were $387 million and $8.2 million respectively. Through August of 1978, wine imports amounted to $356 million compared to exports of $5.9 million.

In the same two-and-a-half-year period, the U.S. exported less than one-half of 1 percent of imports, and in calendar year 1978, the wine imbalance will approximate 2 percent of the overall national trade deficit.

Boles & Company, Inc. indicates that numerous factors can be attributed to the lack of success in exporting U.S. wine, the most critical being non-reciprocal trade and tariff policies on behalf of our major trading partners. As an example, the company points out that foreign wines brought into the United States are subjected to import taxes of about 37 cents per gallon, while U.S. exports are taxed, by importing countries, anywhere from twice that figure to seven dollars per gallon.

From another perspective, Japanese Sake, imported into the United States, is taxed at 25 cents per gallon compared to a tax of $5 per gallon on U.S. wine entering Japan.

In calendar year 1977, the four best customers for U.S. wines were Canada at $2.4 million followed by the Netherland Antilles and Nigeria, each at $700,000 and The Bahamas at $600,000. On a combined basis, total sales of U.S. wines to Japan, Western Europe and all of our other trading partners were less than exports to the Netherland Antilles.

"The lack of success in exporting wine has very little to do with the quality and prices offered by U.S. producers," says Boles. "Foreign import restrictions and multiple layers of taxation make it almost impossible to compete in foreign markets. It is both clear and indisputable that the U.S. market is substantially more open to foreign producers than their markets are to us.

"One of the most frustrating situations, for instance, is that of Japan," Boles continues, "taking into account our trade imbalance with them coupled with their much publicized intentions to import more U.S. goods. Although the wine example is interesting, it is by no means unique.

"U.S. manufacturers, from sophisticated technology products to relatively simple consumer items, continue to be frustrated in their export development activities. Certainly not all of the blame can be placed on foreign restrictive trade policies. We, at both the private and public sector levels, must learn to be most effective in a truly competitive world market place."

Boles & Company, Inc., an international trading company headquartered here with offices and subsidiaries in Europe, Australia, Latin America and Japan, markets a wide variety of products ranging from computer and defense systems to consumer products.●

AN IMPORTANT MESSAGE ON ENERGY

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. GRASSLEY. Mr. Speaker, In its July 16 issue, Newsweek magazine did an unusual and courageous thing. It outlined in some detail an aggressive, all-encompassing, and probably workable national energy plan. That, Mr. Speaker, is something that neither the executive branch nor the Congress, nor even this House, have been able to coordinate, despite more than 18 months of debate—despite several years of national and international signs warning of the need—and despite the crisis that now threatens to engulf us.

Newsweek is to be commended for its message, and congratulated for its courage and its timing. As I said in a letter to the magazine, some of their proposals may need more work before they are seriously considered; others may never prove workable because of the lack of consensus the article mentions; but on balance, the Newsweek plan is one that makes eminently good sense. I urge each and every Member of the Congress—in both Chambers—to read the article. Space and cost considerations prevent the inclusion of the entire article here, but I hope, Mr. Speaker, that all of the Members will take note of the following significant excerpt:

WHAT MUST BE DONE

Though energy may never again be cheap and America may never produce enough of its own energy to be self-sufficient, a national energy policy can pave the way to a more secure and balanced energy future. The main goal is to reduce U.S. dependence on imported oil, making the transition with minimum shock to the economy, the environment and American life by the late 1980s. But the foundation must be laid now.

Newsweek presents a series of proposals that demand national consensus and immediate action. Many have been mentioned before, and a few have been enacted into law. No exotic and distant technologies, like fusion, are offered. There is no panacea, but used in concert, the proposals can shift the nation from paralysis to progress on energy.

The program rests on certain fundamental assumptions. First, free markets tend to allocate scarce resources far more efficiently than government bureaucracies—a fact driven home as never before by the long gasoline lines and closed service stations of recent weeks. Second, some trade-offs on environmental, economic and social issues will doubtless be necessary if the U.S. is to achieve its long-range goal. They must be made cautiously, wisely, and with every effort to correct inequities and minimize damage. Finally, the policies must be wide-ranging, flexible and resilient enough to retrieve error. There is no one solution to the energy crisis, merely a chance to guarantee that national policy will provide for a more secure future.

Decontrol of domestic oil, natural gas and gasoline prices, a course on which the Carter Administration has finally embarked, is absolutely necessary. By keeping a cap on prices and holding them below world market levels, the U.S. Government has sought to "protect" American consumers. What price controls have actually done is to insulate Americans from world reality—the end of the era of cheap oil. They have encouraged consumption at a time when conservation should be a top national priority. They have subsidized costly imports just when the U.S. should be trying to kick its foreign-oil habit. And they have effectively discouraged alternative energy sources that become economic only as the price of petroleum rises. It is time to get on with decontrol as fast as possible:

DECONTROL OF OIL PRICES

Carter's plan to lift the price lids on domestic production by 1981 is on the right track. But the schedule should be simplified. Rather than permit domestic prices to rise toward the world price in tortuously defined categories, all newly discovered oil and oil produced by enhanced-recovery techniques should be allowed to fetch the world price immediately. "New" oil (from fields discovered after 1972 or post-1972 additions to old production) should rise to the world price level in January 1980. "Old" oil should rise to the highest controlled price in January 1980—and to the world level a year later.

Newsweek supports a tax of approximately 50 per cent on the "windfall" profits oil companies will realize through decontrol. The billions of dollars in revenues from such a tax will be needed to ease inequities and to help fund other energy projects. But all newly discovered oil, oil from enhanced-recovery and Alaskan production should be exempt from the tax. And after 1990, the "windfall" excise tax should be dropped altogether.

DECONTROL OF NATURAL-GAS PRICES

All price controls on natural gas should be lifted immediately. The Byzantine schedule for decontrol enacted last year is confusing and many unnecessarily delay the development of new resources. Producers correctly complain that the legislation which sets separate decontrol schedules for about twenty classes of gas, makes rational investment difficult. Since gas is a clean and efficient fuel that may prove plentiful, every effort should be made to speed production.

DECONTROL OF GASOLINE PRICES

The controls must be lifted and the government allocation system abolished. In trying to regulate and distribute the nation's gasoline supplies, the system has merely succeeded in turning a 5 per cent shortfall caused by Iran's crisis into a 15 per cent shortage of gasoline at the nation's pumps.

If gasoline price controls and the allocation system were abolished, the market would be permitted to ration supply by price. Service stations, acting through gasoline wholesalers, would buy whatever gas they could get and supplies would flow where demand, measured by price, was highest. If gas were selling for $1.05 a gallon in Newark and $1.25 in nearby New York City, for instance, the network of suppliers would shift gasoline to New York faster than government bureaucrats would. Motorists, meanwhile, would "shop" service stations for the best price, and some semblance of order would be restored. Over time, prices would stabilize and might actually decline to levels only slightly higher than the old controlled prices.

No one knows for certain just how decontrol would affect domestic energy production. The Administration estimates that decontrolling oil prices will add nearly 1 million barrels a day by 1985. But even if decontrol merely helps stabilize declining U.S. production, it will be well worth it.

Natural gas provides a much greater opportunity. Historically, it has been the stepchild of the energy industry, produced mostly as a byproduct of oil, and low prices have quashed the incentive to explore for more. But by some estimates, the U.S. has a bonanza of natural gas—trillions of cubic feet in deep basins, coal seams, shale-rock formations and high-pressure salt-water deposits. The cost of finding and producing that gas has been prohibitive under price controls. Only by assuring producers that they can get an adequate return on the huge investments they must make will the U.S. find out how much natural gas it actually has.

In the short run, decontrol of energy prices is sure to add to the U.S. inflation rate as its impact ripples through the economy. Decontrol of gasoline prices alone could add as much as 20 cents to the price of a gallon at the pump. But that is one of the trade-offs that must be accepted. Higher energy prices will also cut demand and dampen economic growth somewhat. But the U.S. is in a better position than it has been in the past to sustain an economic slowdown with minimal damage. According to demographers, the U.S. is likely to experience a labor shortage in the 1980s, which would mean that a slower-growing economy would not cause as much unemployment as in the past.

Certain segments of society are sure to feel the impact of decontrol more than others. The poor, for example, will find it even harder to pay their energy bills. But a variety of Federal mechanisms—including income-tax breaks, direct Federal grants or perhaps heating-oil stamps—could ease the burden. The same holds true for geographical regions, particularly the oil-dependent Northeast, that will be especially hard-hit by higher energy prices. One promising plan, proposed by New York Gov. Hugh Carey, calls for an Energy Corporation of the Northeast—a bank, funded by the Northeastern states, that would help finance development of regional energy alternatives, such as Appalachian coal. But in designing appropriate policies to help the hardest hit, lawmakers must keep two crucial principles in mind; decontrol must proceed, and measures designed to reduce inequities must not reward increased energy consumption.

COPING WITH OPEC

The U.S. must take steps at once to end its role as helpless hostage to OPEC:

A STRICT LIMIT ON IMPORTS

At the recent economic summit conference in Tokyo, Carter agreed to a "goal" of limiting petroleum imports to current levels—8.5 million barrels a day—for the next six years. That goal should be redefined as an iron-clad limit and strengthened: in 1980, the U.S. should import no more than it does this year, and each year thereafter it should lower the ceiling by 250,000 barrels a day until 1986, when the limit would be permanently set at 7 million barrels a day. There are several ways such a system could be administered and all can be easily invoked under existing Federal law. The most equitable and efficient appears to be a fairly straightforward Federal auction system in which refiners would bid for the imported supplies. Once the U.S. took such action, other Western nations might follow suit.

The risk is that a sudden domestic shortage could temporarily drive energy prices even higher than the world market levels. But with decontrol spurring domestic production and conservation suppressing demand in the years ahead, serious shortages are unlikely. The import limit would also give oil companies new incentives to search for domestic oil and to make synthetic fuels from coal and oil shale. And it would serve notice on OPEC that the world's biggest consumer will no longer soak up the cartel's production at any price, and thus might relieve some of the price pressure on the rest of the world.

CLOSER TIES TO MEXICO AND CANADA

The U.S. should launch an all-out effort to improve relations and design cooperative energy agreements with Canada and Mexico. The first order of business is clear: patch up the badly bungled negotiations with Mexico to buy its natural gas. It will not be easy; Mexico has a deeply ingrained mistrust of American economic imperialism, and the Carter Administration's rebuff of a Mexican gas deal has exacerbated the ill will. But if the U.S. makes unequivocal its intention to buy Mexican gas, most of which is now flared off as an unwanted byproduct of oil production, a start could be made toward wider cooperation. The U.S. could promise development aid and investment in return for guarantees of oil supplies—a help to both national economies.

At the same time, the U.S. should commit itself, once and for all, to the trans-Canada pipeline that would bring Alaskan gas to the energy-hungry Midwest. Such a commitment would serve a dual purpose: it would please the Canadian Government, which is in favor of the pipeline, and would be a clear signal to American consumers that there will be enough natural gas to avoid disruptions and that industry can safely switch from oil as a boiler fuel.

EXPORT OF ALASKAN CRUDE

The law prohibiting any export of Alaskan oil should be repealed immediately. It has resulted in an absurd anomaly: a glut of oil at ports in California, where refineries are not equipped to handle all of the heavy, high-sulfur Alaskan crude, even as West Coast drivers queue up in gas lines and the U.S. struggles with a national crude shortage. The excess Alaskan oil could be shipped to Japan; in return, Mexican petroleum intended for Japan could be sent to the U.S., where it could be processed in Gulf Coast refineries.

NEW WORLD RESOURCES

The U.S. must make every effort, through the World Bank and other existing international agencies, to stimulate exploration and development of energy resources in the Third World. Even if new discoveries never reach the American market, they will add to world supplies, relaxing the pressure on consuming nations and weakening OPEC's whip hand.●

PROHIBIT EXPORT OF GRAIN FOR FOREIGN PETROLEUM

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. DICKINSON. Mr. Speaker, earlier this week I introduced H.R. 4751, legislation to establish a system of bartering American wheat and feed grains for foreign petroleum. I believe this plan has great promise to make up the "shortfall' we presently have and, at the same time, stem the outflow of American dollars overseas and minimize Government involvement. I include in the RECORD as this point a copy of a letter I have written to the President in this connection, as well as the actual language of the bill.

H.R. 4751

A bill to prohibit the export of grain to any petroleum producing country which has petroleum production in excess of its domestic requirements, except pursuant to an agreement providing for the exchange of such grain for petroleum

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That the Export Administration Act of 1969 (50 U.S.C. App. 2401–2413) is amended by inserting the following new section immediately after section 4A:

"GRAIN EXPORTS TO PETROLEUM PRODUCING COUNTRIES

"SEC. 4B. (a) No grain in raw form may be exported from the United States to any country which the Secretary of Commerce has, pursuant to subsection (b)(1), designated as a country with exportable petroleum, except pursuant to a contract (a copy of which has been filed with the Secretary of Commerce) which provides as follows:

"(1) To the extent that such country produces petroleum in excess of its domestic requirements, all grain exported from the United States to such country pursuant to the contract is to be exchanged for crude petroleum produced in such country, with such petroleum to be exported to the United States.

"(2) Petroleum exported to the United States pursuant to the contract is to be transported to the United States at the expense of the petroleum exporter and delivered to such American company engaged in the business of refining, marketing, or distributing petroleum as the exporter of the American grain may designate.

"(3) The grain exported from the United States pursuant to the contract is to be exchanged for petroleum in an amount which is not less than the amount of domestically produced crude petroleum for which such grain could be exchanged in the United States (as determined on the basis of the prevailing price in the United States at the time the contract is made for such grain and of the prevailing price in the United States at the time the contract is made for similar quality crude petroleum produced in the United States).

"(4) Refined petroleum products may be substituted for an equal amount of crude petroleum, with a corresponding change in the amount of grain to be furnished under the contract so that the amount of grain which is exchanged for such refined petroleum products is not greater than the amount of grain which would be required to obtain the same amount of comparable domestically refined petroleum products by exchange in the United States (as determined on the basis of the prevailing price in the United States at the time the contract is made for such grain and of the prevailing price in the United States at the time the contract is made for comparable petroleum products refined in the United States).

"(5) No grain exported pursuant to the contract is to be reexported to any other country.

"(6) The contract shall apply with respect to grain to be exported from the United States during not more than one marketing year.

"(b)(1)(A) The Secretary of Commerce shall, from time to time, designate as countries with exportable petroleum those petroleum producing countries whose petroleum production exceeds their domestic requirements, except that such a country shall not be so designated if the Secretary determines that all excess petroleum currently being produced by such country has been obligated for export to the United States under contracts of the type described in subsection (a).

"(B) If the Secretary of Commerce is unable at any time to obtain sufficient information from a petroleum producing country to determine whether its petroleum production exceeds its domestic requirements, the Secretary shall designate such country as a country with exportable petroleum.

"(2) A designation made with respect to any country pursuant to paragraph (1) shall remain in effect until such time as the Secretary determines—

"(A) that the petroleum production of such country does not exceed its domestic requirements; or

"(B) that all the petroleum currently being produced by such country which is in excess of its domestic requirements has been obligated for export to the United States under contracts of the type described in subsection (a).

"(3) Each designation made pursuant to paragraph (1) and each determination made pursuant to paragraph (2) shall be published in the Federal Register.

"(c) As used in this section, the term 'grain' means wheat, corn, rice, barley, rye, oats, grain sorghum, soybeans, soybean meal, and such other grains as the Secretary of Commerce, in consultation with the Secretary of Agriculture, may designate.

"(d) The Secreatry of Commerce may issue such regulations as he deems necessary to carry out the provisons of this section.".●

FOOD STAMPS OUT OF CONTROL

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. ROTH. Mr. Speaker, on July 11, the House passed H.R. 4057 authorizing an additional $620 million for the food stamp program to permit the program to continue in its current form through September 1979. I voted against the bill.

I believe in helping the poor and needy by providing food. However, without quarreling with the intent and purpose of this program, we must recognize that the way the program has been carried out is something else again.

This program is not one you would point to as an example of effective or fiscally responsible Government. The program began in fiscal year 1965 with an appropriation of $60 million. The basis for the House action on July 11 was the administration's request for $620 million—over 10 times the first year cost—to keep the program from going under for just 3 months. Approval of the administration's request means that the total cost for the food stamp program for all of fiscal year 1979 is about $7 billion.

REFORM RHETORIC

I was not here before this year but in reviewing the legislative history of this program, there is a lot of rhetoric about reform. If the cost growth in this program over the years and, indeed, for fiscal 1979 is an example of reform, I am sure that American taxpayers would prefer something else.

It seems clear that neither Congress nor the administration has effective control of this program. It is an open ended entitlement program which supposedly the Budget Reform Act of 1974 was designed to bring under control. At present, the administration and the Congress appear to be performing a rubber stamp role. Past efforts to place a ceiling on spending under this bill have not been successful.

We are told that increased cost of food is one of the primary causes which prompted the administration's recent request for an additional $620 million for the remainder of this fiscal year. But the facts show that the number of persons participating in the program is also rising appreciably. Proponents of the food stamp program have indicated that there is a direct connection between the number of persons participating in the program and the unemployment situation in the Nation. But there is reason to question the conventional wisdom on this program.

UNEMPLOYMENT DOWN

For example, last week the administration announced that the unemployment rate in the Nation is at its lowest point since 1974. Yet we see this program continuing to grow at a substantial rate. American taxpayers are increasingly concerned about the onerous burden they are being asked to carry while the cost of Government programs like this one continue upward and out of control.

Again, let me reiterate my concern for helping provide food for the hungry. The food stamp program has been a godsend to millions of truly needy families and I do not resent helping them. But like my constituents, I believe we need to bring this program under effective control forthwith. We should eliminate abuses, step up enforcement, and improve the management of the program as a whole.

If Congress fails to do this, the program will lose public support because the taxpayers are literally fed up with Federal Government programs. It is time Congress reexamined this program and put it back on the intended course. The program was designed to prevent hunger and to assist the poor in meeting an adequate standard of nutrition. It was not intended to be a means by which poor people can save money on food in order to spend it for other necessary or desirable things. It must not be allowed to become—as I fear it has for all too many—a substitute welfare program or for others an attempt to solve our poverty problems.●

FARM CREDIT ACT AMENDMENTS

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. JONES of Tennessee. Mr. Speaker, today I am introducing at the request of the Farm Credit Administration a bill entitled the "Farm Credit Act Amendments of 1979." For the information of my colleagues, I am inserting into the RECORD the letter received from the Farm Credit Administration which includes a summary of the bill.

The letter follows:

FARM CREDIT ADMINISTRATION,
Washington, D.C., June 28, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Transmitted herewith, by direction of the Federal Farm Credit Board, is a bill to further amend the Farm Credit Act of 1971.

This proposed legislation is the product of intensive review by the institutions of the

Farm Credit System and the Farm Credit Administration of their experience under the Farm Credit Act of 1971. Many suggestions for legislative changes were surfaced in the course of that review. The list of suggestions was studied and refined, and a set of recommendations for legislation was submitted to the Federal Farm Credit Board for its consideration. The proposals approved by the Board, which are reflected in the enclosed bill, would assist the System in achieving the objective, as stated in the 1971 Act:

"Of improving the income and well-being of American farmers and ranchers by furnishing sound, adequate, and constructive credit and closely related services to them, their cooperatives, and to selected farm-related businesses necessary for efficient farm operation."

There is a broad consensus within the System in support of these proposals.

Some of the proposals would reflect changed circumstances affecting agriculture in the United States. Some would permit the institutions of the Farm Credit System more adequately to meet the credit and related needs of their member-borrowers. And some would enhance the effectiveness of the Farm Credit Administration in carrying out its statutory responsibilities of supervising and examining Farm Credit System institutions.

The proposed legislation would add several major authorities to the current statute. Under current law, a cooperative is eligible to borrow from a bank for cooperatives only if at least 80 percent (70 percent in the case of rural utility cooperatives) of its voting control is held by farmers, producers or harvesters of aquatic products, or eligible cooperatives. The proposed legislation would lower the requirement for such control to 60 percent or (as the law presently provides) such higher percentage as the district boards may establish. Growing membership in rural cooperatives by non-farmers makes it increasingly difficult for the banks for cooperatives to serve these organizations under the standards currently in the Act. The proposed authority would enable the banks to continue to serve the credit needs of cooperatives in rural America without abandoning the principle of farmer control as a condition of eligibility.

Another major authorization would permit the Federal land banks to make loans in excess of 85 percent of the appraised value of the real estate security. The change would be limited to loans guaranteed by State, Federal or other governmental agencies. The Federal land banks have been involved with the Farmers Home Administration in programs which are now giving greater emphasis to loan guarantees. Modification of the present 85 percent standard would permit the land banks to continue to reach borrowers, particularly young farmers, they have been serving under programs of agencies such as the Farmers Home Administration.

The legislation proposed would also authorize the Federal land banks and the production credit associations to make loans to farmers and ranchers and producers or harvesters of aquatic products for financing basic processing and marketing directly related to their operations and those of other such farmers, ranchers, and producers. This proposal would permit the land banks and production credit associations to expand the scope of their services in the processing and marketing areas to bona fide farmers and aquatic producers who already are eligible to borrow from the System. Borrowing for these purposes would, however, be limited to those producers whose own operations supply at least that percentage of the total processing and marketing financed which is established by the boards of directors of the banks involved.

Finally, the legislation proposed would authorize the banks for cooperatives to finance transactions for the exportation of agricultural or aquatic commodities by American cooperatives which are borrowers from the banks. This would be accomplished by authorizing the banks, in connection with transactions of a member cooperative, to make or participate in loans to a foreign or domestic party in which the member cooperative has an ownership interest or which engages with the cooperative in the purchase or sale of agricultural or aquatic commodities or farm supplies or the lease of real or personal property. Also the banks would be authorized to extend to such parties other technical and financial assistance. However, such financing and assistance could be provided only upon a determination by the bank involved that the member cooperative would benefit substantially therefrom. This authority would also permit the banks to finance leverage lease transactions of member cooperatives.

The proposals would also permit the banks to provide their member cooperatives with other financial services to enable them effectively to participate in foreign markets for agricultural and aquatic products. These would include buying and selling of obligations originating in export transactions making deposits in domestic or foreign financial institutions approved by the Farm Credit Administration, maintaining credit balances, and participating in ownership interests in business entities for the purpose of collecting information about foreign markets and expediting export transactions for their members.

The proposed legislation has several other significant features. The accompanying summary describes them. It is hoped that prompt consideration can be given to this bill and that early enactment can be accomplished.

The enclosed bill is submitted pursuant to the responsibility of the Farm Credit Administration, under the Farm Credit Act of 1971, to recommend legislation directly to the Congress. It has not previously been referred for clearance to the Office of Management and Budget. It is, however, being referred to that office concurrently with this submission. We are, therefore, unable to state at this time whether the proposals are consistent with the administration's program.

Sincerely,

DONALD E. WILKINSON,
Governor.

Enclosures.

SUMMARY OF OTHER SIGNIFICANT PROVISIONS OF THE PROPOSED FARM CREDIT ACT AMENDMENTS OF 1979

Some of the provisions of the proposed legislation cover Farm Credit institutions in more than one banking group (the term "group" refers, respectively, to (1) the Federal land banks and Federal land bank associations, (2) the Federal intermediate credit banks and the production credit associations, and (3) the banks for cooperatives). Some of the provisions cover only the institutions in one banking group; others pertain to the Farm Credit Administration. The provisions are summarized under headings reflecting this arrangement.

PROVISIONS AFFECTING MORE THAN ONE BANKING GROUP

1. New authority would be granted to the Federal land banks, Federal intermediate credit banks, banks for cooperatives and production credit associations to buy from and sell to other Farm Credit institutions interests in loans, and to participate with such institutions in making loans. While the Federal land banks are presently authorized to participate in loans with other Federal land banks, and the Federal intermediate credit banks, production credit associations and banks for cooperatives are authorized to participate in loans with like Farm Credit institutions and, in the case of the latter institutions, with other lenders, System institutions in one banking group have not heretofore been authorized to participate in loans with institutions in other banking groups.

The new authority for participation would be accomplished through participation agreements or by inter-group sales and purchases of loans. The terms of any loans participated in by Farm Credit institutions under this authority would be as agreed upon by such institutions, except that factors such as borrower eligibility, membership term, loan amount, loan security and purchase of stock would be governed by the provisions of law applicable to the institution originating the loan. Therefore, either by investment or direct participation, System institutions operating under different titles would be authorized to cooperate in making loans.

Further, the land banks would be authorized to sell interests in their loans to non-Farm Credit System lenders and to participate with such lenders in making loans. These provisions would permit System institutions to make more efficient use of their equity capital base and more fully meet the financing needs of creditworthy borrowers.

2. Several of the proposals would affect producers and harvesters of aquatic products. The draft bill would authorize the Federal land banks to make loans to producers and harvesters of aquatic products, thus permitting them to provide long-term first mortgage real estate loans to these borrowers for purposes such as the construction of docking and storage facilities. Another provision would authorize the Federal intermediate credit banks to discount for other financial institutions loans made to such producers and harvesters. Under present law, the banks may not discount such loans for other financial institutions even though production credit associations are authorized to make loans to aquatic producers and harvesters. This proposal would give loans made by other lenders to producers and harvesters of aquatic products the same treatment now accorded to loans made to farmers and ranchers. Finally, there are provisions which would make clear that cooperatives solely engaged in furnishing aquatic business services are eligible to borrow from the banks for cooperatives.

3. The proposed bill would also permit Federal intermediate credit banks and banks for cooperatives to transfer more than 25 percent of their net savings to an allocated surplus account and thus create and maintain risk funds which they believe to be adequate. Presently, not more than 25 percent of such savings may be transferred to this account.

4. The proposed legislation would make clear that all Farm Credit institutions are authorized to enter into general loss sharing agreements with other institutions of the System without regard to the type of loss.

5. The bill would authorize the institutions of the Farm Credit System to organize corporations to perform non-lending service functions which the institutions are themselves authorized to perform. The Act presently authorizes agreement between institutions in a district for the provision of joint services to borrowers and agreements between districts for those services which can be most effectively made available by joint undertakings. The proposed change would permit the System institutions to take advantage of the organizational benefits found in the corporate form in carrying out these joint service functions. The corporations, which would be chartered by the Farm Credit Administration, would not have power to perform any service function which the organizing Farm Credit institu-

tions themselves are not authorized to perform nor would the corporations be authorized to make loans or extend other similar financial assistance. They would be subject to supervision and examination by the Farm Credit Administration.

6. The bill would revise the process for the election of district directors by reducing from three to two the number of nominees who would be candidates in the election poll. This would ensure that the person elected district director would receive a majority of the votes cast and would bring the process into line with the practice generally followed in most elections.

7. The Act presently requires that the presidents of Farm Credit banks serve on the finance committees or subcommittees which have responsibilities with respect to the funding of the System. It is proposed that the president be authorized to designate a person to serve in his stead on the finance committee or subcommittee. This would permit the president to utilize, for this purpose, the best qualified resources available to him and more effectively to utilize his own time and talents.

8. The legislation includes provisions which would make clear beyond any question that lending by System institutions is not subject to limitations on interest rates imposed by State law. It has been the position of the Farm Credit institutions, supported by language of the Act as well as by expressions of intent by the Congress, that the interest rates applicable to loans to the Farm Credit System are not subject to State interest rate limitations. From time to time quesions have arisen, in periods of elevated interest rates, as to whether the present language of the Act compels the conclusion that System institutions may continue to lend on a self-sustaining basis, even if so doing results in interest rates exceeding those allowed by State law. To dispel any such questions, the proposed bill would make explicitly clear that State limitations on interest rates are not applicable to lending by System banks and associations.

9. The proposed legislation also contains a provision which would make clear that if the Federal Truth-in-Lending law is amended (for example, to remove agricultural credit from its coverage), requirements similar to those formerly contained in the Federal statute could not be reimposed upon System institutions by State law.

PROVISIONS AFFECTING ONLY THE FEDERAL LAND BANKS—FEDERAL LAND BANK ASSOCIATIONS

10. The bill would redefine equity in the land bank system. It would authorize banks to institute capitalization programs which would involve transfers of equity from land bank associations to banks, and these transfers could be considered adjusted or donated capital and accounted for as such by the banks.

11. The Federal land banks are authorized by current law to pay dividends to Federal land bank associations, including differential dividends. The proposed bill would authorize the Federal land bank associations which pay dividends to land bank borrowers, to pay them on a differential basis. Further, both the land banks and the land bank associations would be authorized to pay patronage refunds, an authority which is presently available to the production credit associations and the banks for cooperatives.

PROVISIONS AFFECTING ONLY THE PRODUCTION CREDIT ASSOCIATIONS

12. To facilitate production credit association loan participation transactions, the associations would be authorized to issue participation certificates to commercial banks and other lenders with respect to that portion of the loan held by the associations.

PROVISIONS AFFECTING THE FARM CREDIT ADMINISTRATION

The proposed legislation contains several provisions relating to the Farm Credit Administration itself. They would provide the Farm Credit Administration with flexibility in connection with salary and other personnel matters to enable FCA to obtain and retain a staff having the capabilities that the responsibilities of the agency demand. It would also provide the Farm Credit Administration with certain other authorities to effectively discharge its responsibilities.

13. Under the bill, the per diem for members of the Federal Farm Credit Board would be established at the daily equivalent of the rate prescribed for officials at the GS-18 level. This would be consistent with the approach recently adopted for the board of the Consumer Cooperative Bank.

14. The Federal Farm Credit Board would be authorized to fix the salaries of the Governor and the Deputy Governors of the Farm Credit Administration at levels which could not exceed the maximum rate of basic pay in the Executive Schedule. FCA would be authorized to establish its own salary and classification system for employees below the Deputy Governor level, but salaries could not exceed the annual rate of basic pay for positions at Level V of the Executive Schedule.

15. The bill would also authorize FCA to establish its own qualification requirements for positions by exempting FCA from the competitive examination requirements presently applicable to it. And FCA would be exempted from present Federal travel, procurement and property disposition regulations.

16. A degree of portability of employees from the Farm Credit System to the Farm Credit Administration would be authorized by providing for transfer of annual and sick leave accrued by System employees to Federal employment when they are employed by the Farm Credit Administration. Portability of retirement benefits would also be provided for through treating, for Federal Civil Service Retirement purposes, the years of employment in the Farm Credit System as Federal service subject to a restriction prohibiting duplicate retirement benefits.●

CONVICTION BY TRUMPED-UP CHARGES—RUSSIAN STYLE

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 10, 1979

● Mr. OTTINGER. Mr. Speaker, today marks the first anniversary of the trial of Anatoly Shcharansky, a trial that resulted in a conviction based on trumped-up charges of treason and slander against the Soviet state. The trial itself made a mockery of the Soviet judicial system and reflected the oppression and injustice that is so pervasive in the Soviet Union. Despite the outrage the trial precipitated throughout the world, Shcharansky remains imprisoned in a Soviet jail.

Recent reports have indicated that Shcharansky's health continues to deteriorate and that his symptoms may be signs or more serious problems. These conditions alone should be cause for his speedy release if the Soviet Union is at all sincere in its obligations under the Helsinki accords.

In light of the recent SALT II agreement and the increased number of Soviet citizens allowed to emigrate from the Soviet Union, it seems that there has generally been a warming of relations between the United States and the Soviet Union since the time of Shcharansky's trial. Yet for Shcharansky and for so many other Soviet citizens wishing to emigrate conditions have not changed. Their struggle persists.

On the anniversary of this trial, we once again speak out in the name of freedom and justice, and against the continued persecution of individuals wishing to exercise their basic human rights. As we take note of the faith and courage of these brave individuals, we remind the Soviet Union that we will not allow the determination of these people to be forgotten or ignored, that we will persist in our efforts until the most basic principles of individual rights and human dignity are recognized by the Soviet Union. On this anniversary, we rededicate our efforts on behalf of Anatoly Shcharansky and the other prisoners of conscience deprived of their basic human rights.●

TOWARD A FREE MARKET IN OIL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. CONYERS. Mr. Speaker, on July 16 and 17 the Ways and Means Trade Subcommittee will be holding the first legislative hearings in this Congress on the oil import crisis. Among the bills under consideration is the Oil Imports Act of 1979 (H.R. 3604) which Representatives ROSENTHAL, ROSE, and myself, along with 35 other Members, have sponsored to create a Federal corporation to purchase all foreign oil brought into the United States. Nothing can be of greater importance than to create an alternative to the present oil import structure.

The American people's anxiety about oil is not only directed at its soaring price and uncertain supply. It also reflects the perception of their lack of control over the basic resource. The picture of a small number of oil-producing countries and a handful of multinational oil companies arrogantly and distantly lording over this essential resource is an understandably distasteful and infuriating one.

Why should not the sudden shortages and abrupt price hikes not appear incomprehensible to the ordinary citizen? As prices at the gas pump climb, the gasoline supply, rather than stabilizing, becomes even more unstable though official theory would have it otherwise. On the one hand citizens are told that America's potential supply of coal synthetic fuels, and oil is among the greatest in the world. Yet, on the other hand, they observe that little is being done to make use of these riches. The public learns one day that global petroleum reserves may be vast enough to sustain the current rate of demand for another few hundred years. The next day they are badgered with the notion of a long-term world oil shortage. Americans wonder how it happens that history's most powerful nation has its hands tied in the face of a cartel composed of small, developing countries. To place all the blame on the shoulders of the cartel and fail to deal with the major role the big oil companies play in sustaining the cartel is bound to lead to erroneous judgment and faulty policy.

The bedrock of American economic belief is the solvent power of free-market competition. Yet any impartial survey of the economic scene would reveal otherwise: The enormous control of oil, capital, and other resources that is exerted by cartels, the "Seven Sisters" of oil, multinational corporations, and other gigantic economic actors. Nevertheless, Americans continue to worship at the temple of competition, except for their shocked recogniton of its appalling absence. While the OPEC cartel fixes the price of oil, "big oil" restricts its supply so as to avert another world oil glut that would erode prices and undermine profits.

The alternative to the present oil import structure has to do four things: First, create an independent purchasing agent for all foreign oil brought into the United States; second, a capability to engage in government-to-government purchases from the OPEC countries and long-term development contracts with non-OPEC producers that would spur production of the vast, untapped reserves that exist in the Third World; third, establish a Federal authority that could limit imports and oversee their allocation in times of shortage, that the United States alone among the industrial powers presently lacks; and fourth, to create a public national oil corporation to develop the half of all our domestic energy resources that exist on Federally-owned lands.

The Oil Imports Act (H.R. 3604) addresses the need to create a countervailing purchaser power to deal with the price-fixing of the OPEC cartel. A public energy corporation to develop the energy resources on Federal lands would provide the necessary competitive force to offset the market power of the oil companies.

The hearings before the Trade Subcommittee have assumed a major importance at this juncture. It is my hope that the committee will move toward legislating an alternative to the present oil import structure.●

SALT II: THE NEW MAGINOT LINE?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. MICHEL. Mr. Speaker, Midstream magazine recently published an article written by Lev Navrozov, an immigrant from the Soviet Union, dealing with verification problems of the SALT II Treaty. Mr. Navrozov points out that even if SALT II is verifiable, it would still not be in the interest of the United States because the Soviet Union has overwhelming conventional force strength. In any event, the author raises some serious questions and I hope all of our colleagues get a chance to read what he has written.

At this point I wish to insert in the RECORD, "SALT: A Maginot Line on Paper" by Lev Navrozov, Midstream magazine June/July 1979:

SALT: A MAGINOT LINE ON PAPER

(By Lev Navrozov)

In 1933–39, every normal French child familiar with his school map of Europe could understand that the Nazis would be able to bypass the Maginot Line (not to mention the fact that no line of fortifications was impregnable any longer, what with aviation capable of bombing it or flying over it, paratroopers, and tanks). Yet the bulk of the French government, academia, and the press did not understand this because they did not want to. For the belief in the Maginot Line was real bliss: it enabled the French to carry on, with easy hearts and serene minds, their personal lives, careers, pleasures. Nor did the government have to do anything about defense except speechifying, signing papers, banqueting—the only thing many bureaucrats know how and love to do.

Even an American school child can understand that the series of Soviet-American strategic arms limitation negotiations and agreements which President Nixon began (secretly) in 1969 and which has become known as SALT is a fraud, a trap—nay, possibly the ultimate and irreversible suicide of the non-totalitarian world. But the bulk of the U.S. government, academia, and the press does not want to understand this for the same reason the French did not want to look at a school map of Europe in 1933–1939 in order to see that the Maginot Line could be sidestepped even if it was blissfully impregnable.

Let us first all imagine ourselves in the dreamland where strategic arms limitation agreements with a powerful totalitarian regime are: 1. verifiable; and 2. establish parity in "strategic arms."

Even in the 1950s, the top U.S. foreign policymakers and strategists (such as George Kennan, Henry Kissinger, and Marshal Shulman) did not deny that the Soviet armed forces in Europe were superior to the Western forces and could overrun the other half of Europe. The Soviet seizure of the rest of Europe would have meant the demise of the United States. Indeed, the scientific-technical potential and manpower of all European countries in toto roughly matched that of the United States. The merger of this potential with the natural resources, manpower, and scientific-technical potential of Russia would have created a totalitarian unit that would have forced the United States to surrender by sheer vast preponderance in every kind of military power. This had been the rationale of the American participation in both World Wars: to prevent the merger of all Western Europe and Russia under the sway of a single military power.

How to deter the superior Soviet ground forces? The response of the top U.S. foreign policymakers was clear to all, including the Soviet military. Should the Soviets use their superior ground forces to seize the rest of Europe or the whole of Japan, not to mention any part of the Middle East, Africa, or Latin America (though few could imagine the Soviet insolence of reaching Cuba) the United States would use its superior "strategic arms"—what the Soviet military call technika—to retaliate. Thus was a balance reached.

What has developed since the mid-1950s? The Soviets have gained so much strength that even their "ground forces in actual service," moving about in airborne and amphibious "combat armored vehicles," aided by conventional tanks (which are also better and far more numerous than those of the U.S. military) can shred the whole U.S. Volunteer Army perhaps more easily and quickly than the Nazi armor shredded the Anglo-French troops in France in 1939. But the irony is that while the two-million-strong Volunteer Army is all the United States has, the Soviet regime trains a new army of two to three million men every two years; since 1973, for example, the Soviet regime has trained three to five armies of the size of this same U.S. Volunteer Army.

The relative scale of military activity is clear from the fact that Soviet senior and junior colleges train *eighteen* times as many engineers as the American colleges do, and almost all these Soviet engineers, who usually have a strategic profession, like steelmaking, and a purely military one, like demolition work, mean an unprecedented, global, mechanized, all-armor "ground army," globally airborne, amphibious, and saturated with ABC (atomic, bacteriological, chemical) units. As for the modern "special" (guerrilla, subversion, and espionage) wars, Vietnam has indicated that the United States cannot fight them at all.

Yet via the SALT Agreements the U.S. government is now *seeking* parity for its once vital "strategic arms," its only erstwhile means of deterrence or retaliation. What about parity in airborne and seaborne "ground forces," including "tactical nuclear rocketry," armor, and "special forces," such as those of Cuba in Africa? What if the Soviets invade the rest of Europe tomorrow—with Africa and the Middle East (including *both* Egypt and Israel) thrown in for good measure?

To this, George Kennan, the "architect of Western defense," answers that the "possibility of Soviet control" strikes him as a "minor catastrophe" (compared with the "pollution of the earth"); the United States is not worth defending anyway, and "after all, people *do live* in the Soviet Union."[1]

The answer given by ex-President Nixon, "who started it all," is as follows. In his Paris television interview in November, 1978, Richard Nixon said that the Central Intelligence Agency had misled the U.S. government for 11 years by grossly underestimating the Soviet military buildup. In 1976, the CIA publicly admitted that its previous annual estimates of "Soviet defense spending" had been totally wrong. In other words, the SALT Agreements launched by President Nixon are based on a mortally dangerous mistake: on the false CIA estimates prior to 1975, according to which the Soviet regime is a peaceful country that spends a minimum on defense, possibly about half of what the U.S. spends, and even that only because the population is still traumatized by the Nazi invasion of forty years ago.[2]

Thus, according to Richard Nixon and the CIA today, the SALT Agreements (even if they were verifiable and ensured "strategic nuclear parity") should have been thrown into the wastebasket, for they are based on a mortally dangerous mistake of the CIA annually repeated for 11 years, up to 1975.

But the paralysis of perception and analysis in America is such that President Carter has quietly inherited the SALT Agreements, based on a mortally dangerous mistake, which has been admitted by the CIA and Richard Nixon. Once the mistake has been publicly admitted, the U.S. government cannot honestly seek parity in "strategic" (air, space, and naval) arms only, for the Soviet airborne and seaborne all-armor "ground forces" are incomparably superior. But the pretense is that parity in "strategic" (air, space, and naval) arms is just what the United States today needs to "ensure peace on earth." Well, the totalitarian takeover of this earth by in-

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Footnotes at end of article.

comparably superior totalitarian airborne and seaborne all-armor "ground forces" may, after all, be quite peaceful too, without a single shot fired.

To sum up, even if the SALT Agreements were verifiable and ensured "strategic parity," they would be a mortally dangerous trap, based on an admitted, allegedly honest, mortally dangerous mistake.

Out of the spate of writings arguing that the SALT Agreements are verifiable. I have selected two articles, which I believe are fairly representative of the whole argument. An article by Les Aspin well represents the pro-SALT section of the Congress.[3] Mr. Aspin serves on the House Armed Services Committee, is chairman of the Government Operations Committee, and the Oversight Subcommittee of the House Select Committee on Intelligence. *Scientific American* is the best strategic point from which to propagandize the scientific community without giving the other side a chance to speak up. On the other hand, Jan M. Lodal's article in *Foreign Affairs* is, obviously, the most authoritative presentation of arguments of the pro-SALT bulk of the government-academic community, led by the U.S. President himself.[4] Dr. Lodal's name is followed by an impressive array of long government-academic titles like "Director of Program Analysis for the National Security Council," while *Foreign Affairs* is an official or quasi-official government magazine. I have the impression that all the other pro-SALT articles and papers resemble and repeat essentially either Representative Aspin's or Dr. Lodal's article.

In most articles and papers on SALT, the verifiability of the SALT Agreement is taken for granted, or almost so. Dr. Lodal devotes a tiny fragment of his paean to SALT II to the problem of verification.

Like many other such articles, Dr. Lodal's presentation reminds one of Das Kapital. The idea of Das Kapital is absurd: a private employer exploits his employees because he is a private employer. But the average man reading Das Kapital is quickly lost in the quagmire of erudite verbiage. The theme of Dr. Lodal's article too is absurd, as we will see below; yet the average American reader of such articles is soon bogged down in a morass of expert gibberish. He will find that the government-academic experts talk glibly about "FRODs," for instance.

Now, what is a "FROD"? Fortunately, in Dr. Lodal's article there is an elaborate 300-word footnote (a dissertation per se) praising "FRODs"—"functionally related observable differences"—as an "innovative solution" in the field of verification of Soviet compliance with SALT. So the reader can learn that the Soviet military may slap, say, refuelling probes on bombers in order to claim (should the American side see these bombers) that these bombers are, legally, not bombers but tankers, because they have refuelling probes. This is like placing a pot of geraniums on a rocket-launching pad to claim that the clearly visible pad is, legally, a garden, for surely a flower is a legal sign of a garden, not of a rocket-launching pad. Here Dr. Lodal et al have developed the "innovative solution" of "FROD." They have established that the refuelling probes attached to a bomber to justify the insolent claim that it is not a bomber, are not "FRODs," since they are not "functionally related" to the "bomber's ability to drop bombs." Just as flowers are not "FRODs" with respect to rocket launching pads.

As is usual in the relevant government-academic world of frauds and "FRODs," any absurdity is scholarship or science if this absurdity is sufficiently long-winded or bulky, boring, scientific (with graphs and charts), and preferably incomprehensible to outsiders. Dr. Lodal et al do not seem even to understand the problem of verification. By "verification" he means the "development" of "innovative solutions" like "FROD," and the painstaking registration of these absurdities in the SALT Agreements. Dr. Lodal et al are not worried by the fact that the Soviet regime can produce secretly any number of bombers and keep them in top-secret hangars, while the United States cannot follow suit because a Daniel Ellsberg will immediately publish the exposé in The New York Times and will be lionized as a peace fighter (not to mention the fact that as an open society without even a border to speak of, the United States is naturally spy-ridden). What Dr. Lodal et al are concerned with is the proper legal stipulation in the proper legal papers.

At one point in this three-and-a-half page section on verification, a tiny straw of truth slips in, perhaps inadvertently. "The Soviets could continue . . . producing the SS–16 missile," Dr. Lodal surmises. Indeed, the Soviets can secretly produce anything, not only SS–16 missiles, as long as the production is possible in closed quarters. Something like vague anxiety wafts from Dr. Lodal's lines:

"Such a state of affairs would leave the Soviets only a few weeks away from being able to deploy an operational SS–16 ICBM system."

To be sure. The Soviets will continue to produce SS–16s full steam ahead without a thought to a scrap of paper called "SALT II Agreement." Then they will, say, deploy all these secretly produced SS–16s all at once—and perhaps in a deliberately ostentatious violation of the SALT II Agreement, in order to stampede the United States into a further or final surrender. But of course, Dr. Lodal et al resolve their anxiety: "The Soviets" have "agreed to ban the production of all missile components that are unique to the SS–16 ICBM version." But how can the West verify this noble Soviet "ban" of Soviet production of certain missile components or any missile components? The question would again seem irrelevant to Dr. Lodal et al. Again, by "verification" he means that the Soviets have expressed their agreement to ban the production of certain missile components, and their agreements will be duly registered in the relevant papers duly called "verification provisions." Surely the Soviets will not violate their own duly registered agreement to ban a certain kind of production?

Having proven in this way that the SALT II Agreement is verifiable, Dr. Lodal devotes the rest of his dissertation to explaining how good this agreement is for the United States and a "stable peace."

Representative Les Aspin's article in *Scientific American* is all about the verifiability of the SALT II Agreement.

I have a slightly special relationship to it; the magazine was sent to me by a scientist from the University of Texas; the day I received it (February 8) I mailed a letter to Dr. Flanagan, the Editor, pointing out why Representative Aspin's article fails to pass muster even on the scientific level of a Soviet high school. I concluded by saying that as a citizen, a scientist, and a fair-minded person, Dr. Flanagan was in duty bound to "give the other side an equal opportunity to make its case."

Three weeks later I received the following reply:

> Thank you for your letter of February 8. It is good of you to take the trouble to give us your views, but an article in rebuttal to the one by Representative Aspin would not be suited to our current needs.
>
> Sincerely,
>
> DENNIS FLANAGAN,
> *Editor.*

So an article arguing that the SALT II Agreement is verifiable is suited to the current needs of *Scientific American*, while an article arguing that it is unverifiable is not. The 134-year-old *Scientific American*, the pride of American science, does not want to hear the other side; it is not suited to its current needs, as the editor put it, without even noticing the macabre humor of his wording. What can then be expected from less scientific quarters?

Mr. Aspin starts off his article by stating the maxim that any unverifiable arms-control agreement with a powerful totalitarian regime is not worth the paper it is written on:

"The keystone of any international arms-control agreement is the ability of each side to make sure the other side abides by it."

This at least saves us from the need to discuss whether the SALT II Agreement would benefit the Soviet superiority in "strategic arms" even if it were real (that is, verifiable). Yes, the SALT II Agreement would ante up the Soviet rules' strategic superiority even if this Agreement were real. But what is the point of tons of paper written in Washington and elsewhere to prove or disprove this if these "agreements" are *not* verifiable and hence do not exist except as a fanciful form of U.S. retreat, surrender, and unilateral disarmament (in addition to those explicit official measures of unilateral disarmament which the U.S. government took before 1976 as a result of the now admitted, allegedly honest, mortally dangerous mistake, and after 1976 in order to impress the outside world with saintliness and the U.S. taxpayers with thriftiness).

Mr. Aspin is well aware of the fact that "charges" are "beginning to be heard" that the "Russians" (as nearly all U.S. experts on Russia call Soviet rulers and subjects indiscriminately) "will seek to evade" the SALT II Agreement. So Mr. Aspin wants to meet the opponents' arguments face to face and smash them to smithereens (the task being facilitated, just as in the case of *Pravda*, by the decision of *Scientific American* to give the floor to one side only).

First of all, what about Dr. Lodal's waft of vague anxiety? What if "the Soviets could continue producing" the three kinds of "strategic launchers" Mr. Aspin enumerates as limited numerically by the SALT II Agreement: Intercontinental Ballistic Missiles (ICBMs), Submarine-Launched Ballistic Missiles (SLBMs) and long-range heavy bombers? Then, as Dr. Lodal words it, "such a state of affairs would leave the Soviets only a few weeks away from being able to deploy" all three kinds of "strategic launchers." This alone converts the SALT Agreements into so many scraps of paper, and Mr. Aspin bravely attacks the silent opponents:

"The [Soviet] production lines for the two existing types of heavy bomber, referred to by U.S. military analysts as the Bear and the Bison, have long been closed."

How does Mr. Aspin know they have been closed? The U.S. intelligence agencies say so? Here is what the Director of the U.S. Defense Intelligence Agency explains to the U.S. Congress:

> As a matter of fact, one of the fundamental surprises to the whole intelligence community in the 16 years that I have been in the business is the strong effort the Soviets have made to get themselves a broad ocean navy.[5]

If the "whole intelligence community" could not detect the building in the Soviet shipyards of a "broad ocean navy," how can the U.S. intelligence claim to know that certain production lines do not operate inside some Soviet surface or underground enterprises in areas where no foreign foot has stepped since 1945? Though why go so far? Here is Moscow's Likhachov Automobile Plant (which A. J. Brandt Company of Detroit built in the 30s) duly producing cars and trucks. But inside this plant there is a plant producing amphibious armored combat vehicles for the global airborne amphibious "ground forces." This double structure applies to every major Soviet industrial enterprise or research laboratory. How can the U.S. intelligence agencies learn what is

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produced by these secret military enterprises inside or under the ostensibly civilian enterprises?

True, the Western bureaucracies supposed to be concerned with expertise on Russia and China, foreign policy or strategy, too often brag of their phony omniscience: thus, the CIA had, until recently, been bodily suggesting that the Soviet (or Chinese) infrastructure is fairly ridden by Western James Bonds.[6] But actually, no Western agency has even planted a single agent inside the post-1921 Soviet infrastructure, and those fearless Soviet inhabitants who volunteered their information were all given away immediately to the Soviet secret police through the farcial ignorance and ineptitude of Western (e.g., Anglo-American) intelligence.

Characteristically, Mr. Aspin does not even mention these exploits of U.S. James Bonds in Russia, of which the CIA Director bragged only four years ago, but refers to U.S. technical (non-human) intelligence only. Thus, U.S. satellites are now equipped with multispectral sensors that can penetrate camouflage and can also observe nighttime activity. Infrared sensors are particularly good at detecting underground missile silos and silos that have been camouflaged. As long as the ground in the immediate vicinity of the suspicious object is at a different temperature from that of the surrounding terrain (or has different infrared-emission characteristics) an underground or camouflaged missile silo will stand out in the infrared image.

About nine-tenths of this description is devoted to the infrared sensors, a scientific miracle that Soviet school children knew from Soviet popular science magazines in the 60s. Yes, if the ground above an underground missile silo has a different temperature, an infrared sensor will detect it. But suppose the silo is built under a nice civilian structure, or the latter is built over the silo? A Soviet school child will opine that in this case the infrared sensor will not detect anything.[7] The U.S. SALT experts disagree? Then they must study physics at the Soviet sixth-grade level.

Mr. Aspin proceeds from the implicit assumption that the U.S. intelligence experts are innovative scientists, while the Soviet counter-intelligence or camouflage experts are 18th century (bearded) peasants. The following example may give Mr. Aspin a more realistic perspective.

In the 50s, in anticipation of U.S. satellite detection in peacetime and aircraft reconnaissance during war, the Soviet rulers launched massive studies of wave camouflage, that is, the concealment of military installations and activities from enemy detection by the waves these may emit. One of these studies, for example, was a fundamental monograph by Leonid Brekhovskikh, Waves in Layered Media, which was published by Nauka, the publishing house of the USSR Academy of Sciences, in 1957. In 1972 the monograph was published in English in New York and has since become a scientific bestseller; a new edition is being prepared at this writing, 22 years later. I do not mean to say that Soviet science is 22 years ahead of its American counterpart. The truth of the matter simply is that in *some* fields (such as dentistry, for example) American arts and sciences may be 22 years ahead, while in other fields (such as military camouflage) they may be 22 years behind. There is no such thing as overall progress or overall sophistication: the New York Metropolitan Opera is unmatched while the New York subway is, by Moscow standards, a primitive, ghastly derelict.

So a fundamental study basic to wave camouflage, which is being published eagerly today in New York, appeared in Russia in 1957. By the 60s methods and materials had been developed for camouflage throughout the electromagnetic spectrum. Yet Mr. Aspin in Scientific American in 1979 describes miracles of science like multispectral and (infrared!) sensors. Says Mr. Aspin: "multispectral sensors . . . can penetrate camouflage." Sensors cannot penetrate camouflage. They can only pick up, say, X-rays (inside a Soviet installation) penetrating its thin walls and going out. But as every textbook of physics suggests, line the place with lead foil, and no X-rays will go out, so that no sensor will pick them up. Alternatively, a beam of some waves can be sent to strike a Soviet installation so that sensors could pick up the echoes of waves reflected from some objects inside. In this case camouflage is even easier, for the waves sent in this way must penetrate into an installation, then go out and carry to sensors some adequate image, not just a medley of echoes, which a Soviet counter-surveillance instrument may transform, deform, jam, or drown.

Let us leave science for a moment and rely on plain common sense. Here is a Soviet civilian enterprise producing, for example, components of civilian aircraft. Inside it or under it is an enterprise producing components for those very "strategic arms" the SALT II Agreement limits. Even if we imagine that the U.S. "multispectral sensors" pick up all the waves, how do the waves emitted by, or reflected from, the production of bombers differ from the production of civilian aircraft of a similar size? Not at all. Even if there is a certain give-away wave-emitting process in the production of a certain bomber component, surely this process can be screened reliably or transferred to another place where the waves of some civilian enterprise will drown or jam the emissions of the military technology. The Soviet economy is planned as an integral military machine, camouflaged, ABC (atomic-bacteriological-chemical)-strike-protected, maximum-battleworthy.

Mr. Aspin's attempt to prove that U.S. intelligence can detect a Soviet military line of production is based on fantasy:

"Renewed production of these two aircraft [the Bear and the Bison] could be detected by the U.S. with a high degree of confidence as is evident from the demonstrated ability of this country to monitor the production of much smaller pieces of Russian military equipment, such as tanks."

This is a crude invention. How could the U.S. intelligence agencies ever be able to detect the production of Soviet tanks, if they were unable to detect the construction of a Soviet "broad ocean navy," with ships measuring more than the length of a football field? No U.S. intelligence agency knows how many combat-ready tanks the Soviet regime has: the figure they give is usually approximate within ten thousand (40,000–50,000), yet even this figure is a pure guess, stemming from the desire of these agencies to conceal that they have no idea whether the number is not, actually, 60,000 or 70,000.

So much for the obviously total inability of the West to detect the Soviet secret production of long-range heavy bombers and strategic missiles of the types "limited" by the SALT Agreements.

As we saw above, the Soviet regime does not necessarily need their deployment, for it can store and then deploy them on short notice. However, even the deployment itself can be successfully concealed by modern Soviet means of camouflage. According to Mr. Aspin, the Soviet military ("Russians") not only seem to have no idea of camouflage, but are also blithering idiots. For example:

"The Russians might try to build more ICBM launchers in the open, on the assumption that the vastness of their country would hide the violation, but that would be a mistake. U.S. surveillance satellites currently provide complete photographic coverage of the U.S.S.R. at frequent intervals."

Perhaps the "Russians" do not yet know what an earth satellite is in the first place? Or perhaps the "Russians" do not understand secrecy, concealment, surprise attack? Perhaps the Washington strategists who spent more than 10 years, 30,000 American lives, and 100 billion dollars failing to defend South Vietnam should teach all this to the Soviet military who reconquered Czechoslovakia within hours, or enabled their ally to get South Vietnam without losing a single Soviet life? The French strategists of 1933–1939 were less smug, flippant, and insolent when they tried to teach the "ignorant Nazi fools" how to wage wars.

Speaking of the U.S. ability to detect the deployment of Soviet bombers, Mr. Aspin repeats the old chestnut about high resolution cameras that all popular science magazines for school-age readers in Russia chewed on in the 60s:

If suspicions are aroused by the regular large-area survey photographs, "close look" cameras can be ordered to rephotograph the area in question, providing more detailed information. The present generation of high-resolution cameras on U.S. surveillance satellites are theoretically capable of making a clear photograph of an object one foot across from an altitude of 100 miles. Photographs at this resolution would leave little doubt about the nature of the activities in question.

Mr. Aspin even presents a world map of this coverage with a 300-word caption, ending on the same jubilant phrase:

"In addition to their large-format cameras, such satellites carry "close look" cameras capable in theory of making photographs with a ground resolution of about a foot from an altitude of 100 miles."

But surely the photograph surveillance of World War II had an *incomparably* higher resolution than that—a ground resolution of an inch, not a foot!—because the planes could fly very near the ground. Let the U.S. SALT experts open reference books on CAMOUFLAGE, WORLD WAR II, and read all those stories of successful concealment of whole armies or whole river basins (like the basin of the Alster, about 450 yards wide). Do the U.S. SALT experts assume that the Soviet science of camouflage has moved backward in the last 40 years? Mr. Aspin states that:

"The additional deployment of [Soviet] heavy bombers would also be hard to hide. There are no more than 10 heavy-bomber airfields in the U.S.S.R., and all of them are closely watched by U.S. surveillance satellites. If the Russians were to decide to build new airfields equipped to handle such planes, their detection would be easy; runways cannot be hidden underground."[8]

In a 40-year-old Soviet film, *If War Tomorrow*, which Stalin loved, all the Soviet military airdromes were underground, a dream he could not realize at that time for lack of cement, steel, and construction machinery. A runway can, just like a missile silo, be camouflaged by structures over it. Given some willingness and imagination the American SALT experts can also imagine a properly wave-camouflaged underground bomber hanger *near* a runway so that bombers can *taxi* onto a runway, through a wave-camouflaged passage. (The same applies to missile depots, of course, connected with silos for their "reloading," for example, to fire several missiles from one silo.)

We have been referring to the production and deployment of the already existing types of strategic weapons "limited" by the SALT Agreements. But what if the Soviet rulers, unsatisfied with their continued production and even deployment of these types of weapons and the resulting steady growth of their numerical superiority in these weapons, also want to invent or develop new types of such strategic weapons?

"The introduction of a new strategic weapon involves at least five stages: research,

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development, testing, production and deployment."

This general statement made by Mr. Aspin is perfect. He has now only to add that out of these five Soviet stages, three Soviet stages—research, development, and production—are undetectable by the West in principle, as has been described above, and one—Soviet deployment—is undetectable given an adequate level of Soviet camouflage. Instead of saying this, Mr. Aspin boldly resorts to a sweeping invention:

"At any one of these stages the present ability of the U.S. to detect clandestine activity on the part of the U.S.S.R. ranges from fair to excellent. The key point, however, is that the Russians would have to disguise all five stages, and the odds against their successfully doing so are extremely high."

But this is not all. Very boldly, Mr. Aspin continues:

"Consider the ways in which the U.S. is currently able to monitor just one of these stages: the testing of strategic launchers."

What a charmingly naive sleight-of-hand! Mr. Aspin pretends that the "testing of new strategic launchers" is just a random sample of the above five stages. ("Consider . . . just one of these stages.") And he proceeds to consider this stage for the length of an entire column. Actually, this is the only stage at which the emergence of a new Soviet strategic launcher is accompanied by strong wave patterns characteristic of each missile. So how do the Soviet rulers go about this stage?

First, like every telemetric device, a U.S. satellite or ground station can be secretly tampered with and secretly manipulated telemetrically. Telemetry is the field of electronics concerned with the electrical measurement of data (such as air temperature or pressure fluctuations) and the transmission of the results by radio to a ground station. Obviously, the usual detection-concealment struggle is possible in telemetry as well, and the totalitarian society has, again, all the advantages of concealment and detection versus its free opponent, since Soviet spies freely penetrate the United States and get the secret information on satellites they need even if they are sometimes exposed by accident.

Second, the Soviet rulers can concentrate on the two preceding stages of new strategic launchers: research and development. The SALT II Treaty will last through 1985, and the "Protocol" through 1982. If in these three to six years the Soviet weapons-builders have no need for the test-firing of the new strategic launchers they will have developed, well and good: the respective U.S. research and development have been slowed down for three or six years respectively, if only by the sheer psychological impact (inevitable in a free open society) of the SALT Agreements. Should the Soviet weapons builders happen to have a need to fire-test their new strategic launchers before the expiration of the above terms, then the Soviet rulers may "abrogate" the SALT Agreements. President Carter has abrogated the treaty with Taiwan. Why can't the Soviet rulers abrogate the SALT II Agreement whenever they choose? Indeed, Krhushchev violated the nuclear test moratorium not because he needed any nuclear tests, but simply to "show 'em what's what." At a certain stage it certainly might pay to stop playing at peace games with the United States and terrorize it into surrender. The totalitarian goal of a treaty may be precisely its surprise violation, as was the goal of the Soviet rulers' treaty with Dubcek in Czechoslovakia in 1968, or of the "Paris Accords on Vietnam" in 1973 (which were hailed as the greatest triumph of diplomacy, strategy, and foreign policy, with Kissinger awarded the Nobel Peace Prize).

As for Soviet "cheating on the overall strategic ceiling" by "converting non strategic weapons into strategic ones," even Mr. Aspin admits that it "presents a more challenging problem of verification." To translate this into plain language, Mr. Aspin's imagination fails to invent anything plausible to explain how on earth the West can verify, for example, the production (and storage) of components for this conversion if it cannot verify *any* Soviet closed-quarters production, and storage).

Besides, how can the Western experts determine in the first place the strategic nature (range and payload)of weapons that they can often see (if and when these weapons are not camouflaged) only in photographs with, say, a "ground resolution of about a foot'"? Usually they don't even know the names of these weapons and call them by their own nicknames.

"Assuming skillful and determined cheating on the part of the U.S.S.R., both the range and the payload of the Backfire could probably be disguised."

End of paragraph. Thank God for this admission. Unfortunately, Mr. Aspin simply leaves it at that, to mar his hymn to the SALT Agreement as little as possible. But the implications of this admission are stupendous: this means that the Soviet rulers can deploy even openly, without camouflage, all kinds of strategic weapons and pass them off as tactical ones, since the West often does not know even the real names of these weapons, not to mention their real range or real payload.

There is another interesting preliminary point. The expression "tactical weapons" often means weapons targeted on Western Europe, the Middle East, or Japan, while "strategic weapons" often means the same weapons targeted on the United States. One of the points of the SALT Agreement is to pretend that only the United States exists on this earth, and that the United States will successfully fight the entire outside world, blackmailed into surrender, seized, and gone totalitarian under the conquering hegemony of the Soviet regime.

With melancholy British understatement, the London journal *Conflict Studies* says in its February, 1979 issue:

"So far, SALT discussions have included only weapons that can reach the United States. . . .

"The strategic nuclear threat to Europe, Japan, the Middle East, and Far East is becoming more apparent and more dangerous as the Soviet Union develops and deploys more new weapons systems. . . . Nor has any pressure been exerted on the Soviet Union in any discussions, official or unofficial, to reduce the strategic nuclear threat to Europe, which has steadily increased over the years. . . .

"A disturbing characteristic of some Soviet medium-range strategic weapons systems is that they could be used to deliver nuclear, conventional, chemical or biological warheads, thereby enhancing not only Soviet capability to wage war, but also their capacity to indulge in political coercion or blackmail."

Europe, Japan, and Israel have been left out of SALT for ten years because SALT originated in 1969–1975 out of the CIA's 11-year-old mistake according to which the Soviet regime was a peaceful country, merely afraid of another Nazi-like invasion—and hence spending a certain tiny minimum of its GNP on defense.

But what about the Soviet conversion of "tactical weapons" (that is, weapons targeted on Europe, Japan, or Israel) into "strategic ones"? Mr. Aspin admits:

"By surreptitiously stockpiling SS–16 third stages and payloads the Russians could at some point in the future be in a position to upgrade SS–20's into SS–16's on short notice. This course of action could provide them with a significant numerical increase in their ICBM force with very little warning."

This is the problem Dr. Lodal mentions and resolves by the registration of the Soviet agreements not to behave so wickedly. Mr. Aspin introduces a variant:

"The SALT II agreement, however, will specifically ban the further production, testing and deployment of the SS–16 ICBM and will further require that existing SS–16's be dismantled. Thus if the Russians were to try to augment their ICBM force by adding a third stage and a different payload to the SS–20's, in effect making them SS–16's, they would be doing so without any opportunity for testing the new system."

This indicates that Mr. Aspin, for all his bold assurances to the contrary, understands that the West *cannot* verify the production of SS–16s or anything else that can be produced in closed quarters: this is why Mr. Aspin, unlike the much more simple Dr. Lodal, lays all the emphasis of the *test firing* of SS–20s "upgraded" into SS–16s.

But what if the Soviet military manage to do it without test firing? Mr. Aspin says:

"The issue of upgraded SS–20's turns out to be another testing issue. To have any confidence in upgraded SS–20's, particularly enough confidence to satisfy traditionally conservative Russian military planners, the U.S.S.R. would have to test some of them, and as was pointed out above surreptitious testing of new strategic missiles by the U.S.S.R. is a practical impossibility."

So the guarantee is a psychological trait of the Soviet military—namely, traditional conservatism—which Mr. Aspin has discovered in Washington, D.C.

There are Soviet "'reconfigured' heavy bombers," Mr. Aspin complains. That is, heavy bombers that "serve in reconnaissance and anti-submarine-warfare roles," for example. According to Mr. Aspin "about a dozen" of "reconfigured heavy bombers": were originally built in such a way that they could be rapidly converted into heavy bombers at their airfields, making prompt verification of their nonstrategic roles extremely difficult.

But how does Mr. Aspin know whether there are "about a dozen" of them or about a thousand? Surely, all Soviet civilian aircraft is designed and built as "reconfigured" military aircraft and even piloted by military flyers.

Next comes the problem of the Soviet secret equipment of bombers with cruise missiles, making these bombers "strategic." What if Soviet cruise missiles are "internally mounted," that is, mounted inside the bombers? Mr. Aspin wiggles out of the question very clumsily:

"Internally mounted cruise missiles would be detected most readily at the time of their introduction, because the aircraft involved would presumably have to be sent to some central facility to be modified, and the U.S. follows the activities at such facilities quite closely."

The trick of this argument is the preposition "at" in the final phrase, "at such facilities." Mr. Aspin himself seems to realize that if he says "in" or "inside" such facilities, his whole argument will collapse because the U.S. cannot follow any Soviet activity inside any Soviet (closed) facilities—unless the U.S. has agents among the Soviet personnel, which no CIA braggart seems to claim any more. Nor is it clear why the Soviet aircraft "presumably" has to "be sent to some central facility." Evidently, the scene of the Soviet transportation of cruise missiles inside closed containers to closed aircraft depots is too unpleasant to visualize, and so "presumably" it must be the other way round in order to let U.S. satellite cameras photograph the Soviet equipment of bombers with cruise missiles at open-air facilities. Mr. Aspin should also request that the Soviet military choose a fine day and wear conspicuous uniforms.

Alas, Mr. Aspin admits that:

"There is no systematic way of verifying the range of deployed cruise missiles. Significant differences would be revealed neither by the missile's exterior nor by its flight test. Unlike ballistic missiles, cruise missiles do not have to be tested at full range or even near it for the military to have confidence in their performance. Like aircraft, they can be flown for a limited time under cruise conditions, and their range can be estimated on the basis of the amount of fuel consumed."

So what is the solution? Is it coincidental, providential, miraculous:

"As it happens, the U.S. Joint Chiefs of Staff do have good estimates of the range of existing Russian cruise missiles, and the U.S.S.R. does not yet have air-to-surface cruise missiles capable of strategic ranges."

What an extraordinary piece of good luck! *As it happens*, the "range of existing Russian cruise missiles" is known! No U.S. intelligence had known of the existence of Soviet cruise missiles themselves in the first place until Brezhnev told the world about it, but here the *range* of *existing* Soviet cruise missiles happens to be known. Is this a private communication from the U.S. military to Mr. Aspin? The Soviet regime "does not yet have air-to-surface cruise missiles capable of strategic ranges. Not yet? To what time does this "not yet" refer? To 1978? to 1977? Or had Mr. Aspin received a private providential communication as *Scientific American* went to press?

But more private providential news—of the same kind about Soviet ALCM (Air-Launched Cruise Missiles, as the U.S. SALT experts call them, for to call them simply Air Cruise Missiles instead of "ay-el-see-em" would be too comprehensible):

"Moreover, the Russians are not expected to have many long-range ALCM's for a number of years, and so it is unlikely that they could exceed the numerical restrictions in the SALT II treaty before it expires in 1985."

So the "Russians" are "not expected" (by whom—the CIA's imaginary James Bonds in Russia?) to "have many" strategic air cruise missiles. But how many is many? Providential messages are supposed to be rather vague, are they not?

"As for the payloads of cruise missiles, there is no way at present to distinguish a nuclear-armed cruise missile from a non-nuclear one by external observation. Once again, however, the Russians are not expected to have long-range ALCM's with either nuclear or conventional warheads for a number of years, so that violations of this provision before the treaty expires are unlikely."

Once again, the "Russians" are "not expected" to have and to do what Mr. Aspin would not like them to have and to do.

"Assuming that the Russians do perfect strategic ALCM's, the U.S. would still not be at a loss. If the Russians were to begin refitting existing aircraft with new ALCM's suspicions would be aroused and the U.S. would be aware of the potential for cheating."

But how can suspicions be aroused if the West cannot notice any Soviet "internally mounted" cruise missiles either when they are produced, or when they are transported, or mounted in bombers?

"Even if a new Russian bomber were equipped with ALCM's but the U.S.S.R falsely asserted it was not strategic and the U.S. was not able to contradict the assertion, it is doubtful that more than about 120 bombers would be available before the expiration date of the treaty."

So here you are! Soviet bombers can be equipped with cruise missiles without anyone in the West knowing it, but the point simply is that it is doubtful (to Mr. Aspin?) that there will be more than about 120 bombers of this kind. Ask Mr. Aspin or the relevant U.S. intelligence expert how he has arrived at this figure—120—and why it is not 240 or 1200, and he will either answer that this is a U.S. top military secret or merely present his wild concoction—of ill-digested or misunderstood, yet duly tabled, charted, and even computerized Soviet propaganda, the usual stuff of the CIA's reports on Russia for about 20 years, not 11, as Richard Nixon claimed.

The last third of Mr. Aspin's article recaps the previous two-thirds with bravura.

"The ability of the U.S. to detect potential violations of the SALT II Agreement by the U.S.S.R. can be summarized in terms of three broad levels of confidence. First, there are the numerous cheating methods for which the verification capabilities of the U.S. are excellent, and the possibility of successful evasion on the part of the U.S.S.R. is remote."

Under this "excellent verification" heading Mr. Aspin briskly lists even "ALCMed bombers." True, on the previous page Mr. Aspin himself said that "it is doubtful" that more than about 120 unverified bombers of this kind "would be available before the expiration of the treaty." But Mr. Aspin expects the reader to forget what even Mr. Aspin himself wrote on the previous page and join the final bravura march.

"Second, there are several areas in which the verification capabilities of the U.S. are at present quite weak. In all these cases, however, the possible cheating is not militarily significant."

See how easily it all falls into place? The U.S. excellent verification capabilities cover what is militarily important, and the weak ones what is not. Well, what is not? The "small-scale deployment of additional ICBMs." So the large-scale deployment of ICBMs is excellently verifiable and important while the "small-scale deployment" is poorly verifiable and unimportant. But what is the "small scale"—dozens or hundreds of ICBMs? Where does the "large scale" begin? At thousands? How can the U.S. detect excellently the deployment of thousands of new ICBMs, if it can detect only poorly the deployment of dozens (or hundreds) of them? Are ICBMs a kind of flower or berry on a bush, so that thousands of them hidden in the expanses of Russia will strike the eye by sheer multitude?

Third and finally, there are areas where the "U.S. may face serious verification problems." But these areas belong to the future, to "the mid-80s." For example, Soviet "current cruise missiles are primitive," as Mr. Aspin well knows privately from an unidentifiable providential source. Surely, they are primitive and will remain so until the mid-80s. So they have no bearing on verification under the SALT II Agreement. The same applies to MIRV (Multiple Independently Targetable Re-entry Vehicles). The same unidentified yet insolently misleading voice has told Mr. Aspin that "MIRV's cannot be installed on the old (Soviet) missiles," the false impression being that the Soviet missiles are "old" by definition, and so the problem of MIRVing them belongs also to some time after the expiration of the SALT II Agreement.

The end of Mr. Aspin's article is an explanation of how objective, conservative, and cautious his data and estimates are. On the one hand, the surveillance capabilities of the U.S. cited in this article are almost certainly underestimated.

On the other hand, the potential for violations is also overstated here because inordinately skillful cheating by the U.S.S.R. has been assumed throughout, a routine assumption in assessing one's own verification capabilities.

Mr. Aspin's implicit assumption that the Soviet military are 18th-century peasants, unfamiliar with photography, and blithering idiots to boot, is evidently the assumption of inordinately skillful cheating.

In conclusion, Mr. Aspin assures the reader that though Soviet cheating is possible, there is no incentive for the Soviet rulers to cheat. They "can still do much under the terms of the treaty":

"They can scrap existing missiles and replace them with more reliable and more accurate models. They can greatly increase their inventories of multiple-war-head-missiles. They can direct a greater effort into areas not prohibited by SALT II, such as antisubmarine warfare, that could be perceived in the U.S. as threatening."

Why cheat if the SALT Agreements, even if compiled with, do not seem, according to Mr. Aspin, to constrain any further growth of Soviet global military power at all?

To be sure, when the SALT I Agreement was signed, Henry Kissinger explained that the Soviet advantages in strategic launchers as agreed upon were offset by the U.S. advantages in MIRV technology: the Soviet regime allegedly had none such since no Western intelligence agency had detected any. About three months after the 1972 Agreement had been signed, the Soviet rulers let the West "detect" their SS–17, SS–18, and SS–19 missiles equipped with MIRV warheads.

Mr. Aspin is right in the sense that if the SALT II Agreement prevented no Soviet military development whatsoever, the Soviet military would not violate it secretly or openly except for the purpose of suprise terror. However, the SALT Agreements have arrested and will arrest Western defense development if only psychologically, as a paper Maginot Line—with its sense of spurious and treacherous security.

On the other hand, Mr. Aspin explains, if the Soviet rulers cheat, a mere "handful of additional missiles or bombers would add too little to their arsenal to be militarily significant."

Again, why cheat? The Soviet military machine has long been far superior to the U.S. armed forces, and this superiority will grow even if the SALT Agreements are complied with. So what's the use of the Soviet cheating and adding a handful (or a hundred? or a thousand?) of Soviet missiles and bombers to the anyway superior Soviet global armed forces?

FOOTNOTES

[1] For more detail, see my article "Mediocrity and the Rescue of the West," *The Yale Literary Magazine*, Spring, 1979.

[2] See my article "What the CIA Knows About Russia," *Commentary*, September, 1978.

[3] Les Aspin, "The Verification of the SALT II Agreement," *Scientific American*, February, 1979. The headline in large print under the title of the article is: "The U.S. has at its disposal ample 'national technical means' of surveillance to detect any attempt by the U.S.S.R. to gain a significant military advantage by violating a new arms pact."

[4] Jan M. Lodal, "SALT II and American Security," *Foreign Affairs*, Winter, 1978–79, pp. 250–53.

[5] *Allocations of Resources in the Soviet Union and China*, 1975, Hearings Before the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee, Congress of the United States, p. 99.

[6] See, for example, CIA Director Colby's testimony to the U.S. Congress in 1975, *ibid.*, pp. 59–62.

[7] The Soviet school program is saturated with physics, chemistry, etc. When I turned here to sixth-graders who attended a luxurious school in an upper-middle-class neighborhood, none of then even knew the words "physics" or "chemistry." But one of them

published an honest-to-goodness newspaper, another knew the names of plants in Latin, etc. Well, one cannot know everything.

[8] *Anything* can be hidden underground, given steel and cement, and the Soviet regime produces more of both than the United States but uses both mainly for war preparations. The Soviet civilization is indeed going underground to be nuclear-strike-resistant, and not just camouflaged.●

REJECTION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE'S HOME HEALTH SERVICES REPORT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. WAXMAN. Mr. Speaker, today I am pleased to introduce House Resolution No. 357 on behalf of Mr. RANGEL, chairman of the Ways and Means Subcommittee on Health; Mr. PEPPER, chairman of the Select Committee on Aging; and 19 of our colleagues. The resolution expresses the sense of the House that the "Home Health Services Report," recently submitted to the Congress by the Department of Health, Education, and Welfare (DHEW), is inadequate and fails to comply with congressional intent as contained in section 18 of the 1977 Medicare/Medicaid Antifraud and Abuse Amendments (Public Law 95-142). The resolution rejects the "Home Health Services Report," returns it to DHEW with instructions and requests it be resubmitted by September 1, 1979.

The absence of a comprehensive home health care system is a subject of increasing concern to our elderly and homebound citizens. Our colleague, CLAUDE PEPPER, and the Select Committee on Aging have done an excellent job of calling attention to the myriad of confusing and overlapping jurisdictions, regulations, and entitlements which govern home health programs in DHEW. These deficiencies seriously thwart efforts to improve and expand such services and exact a cruel toll on the very individuals they were intended to help.

In 1977, the Congress was looking for ways to make the provision of home health care services more efficient, more inclusive, and more equitable. It recognized that the present system, which often encourages institutionalization, does not make social or economic sense and that proposals for consolidating the plethora of DHEW programs were desperately needed. Accordingly, the Congress approved a provision in the medicare-medicaid antifraud and abuse amendments (section 18) which requested DHEW to submit a report "* * * analyzing, evaluating and making recommendations with respect to all aspects (including the availability, administration, provision, reimbursement procedures, and cost) of the delivery of home health and other in-home services authorized to be provided under titles XVIII, XIX, and XX of the Social Security Act."

The report was submitted to the Congress last April. Careful review of the document finds that it lacks specific legislative recommendations. I share the annoyance of my colleagues that the document was submitted 6 months late, cost taxpayers more than $60,000, was poorly prepared, and deliberately ignored the desire of the Congress to receive recommendations for regulatory and legislative changes.

Incredibly, the Department acknowledges the report's inadequacies. During hearings held by the Senate Special Committee on Aging on May 21, 1979, Senator WILLIAM COHEN (Republican, Maine) asked DHEW Under Secretary Hale Champion whether the report was of any significance. Mr. Champion replied:

> No, I don't think that it advances your state of knowledge anymore than it advanced our knowledge. * * * I don't think it was adequate * * *.

Mr. Speaker, in my view, this report is nothing more than a compendium of existing in-house programs and a documentation of previously recognized problems. By failing to address itself to Congress' specific request for legislative recommendations, the Department has demonstrated a cavalier disregard for congressional prerogatives and an insensitivity to the serious concerns which motivated our request for this information.

Countless hours of testimony have already been devoted to describing inadequacies in the delivery of home health care services. The needless suffering in communities caused by program fragmentation and nonsensical regulations are all too real. We do not have need for any further documentation of the existence of a problem. What we do need, and what we specifically requested from the DHEW, are proposals for legislative and administrative changes which will improve the delivery of home health care services.

House Resolution No. 357 rejects the unresponsive document submitted by DHEW and demands that it be brought up to the standards Congress specified in the statute. House Resolution No. 357 sends a powerful message to DHEW that the Congress is concerned about the quality of home health care in this country. It reprimands the Department and provides impetus for Secretary Califano to insure that reports emanating from DHEW comply with their statutory mandate.

The legislative action of rejecting a report submitted to the Congress from an executive department is almost unprecedented. Not since the Civil War has the Congress formally disapproved a department report in this fashion. In fact, as the "Home Health Services Report" was originally requested by statute rather than resolution, passage of House Resolution No. 357 establishes an important and historic precedent.

House Resolution No. 357 expresses in clear and unmistakable terms the Congress' commitment to upgrading the quality of home health care. In addition and perhaps of equal importance, it reestablishes our obligation and authority to hold Departments responsible for the quality of work submitted to the Congress.

Mr. Speaker, an identical resolution, Senate Resolution No. 169, was reported favorably by the Senate Finance Committee on June 20, 1979. July 11, 1979, the full Senate endorsed the measure by unanimous vote. It is my hope our consideration of House Resolution No. 357 will demonstrate a similar strong commitment to developing a better system of delivering home health care services.

Mr. Speaker, I would ask that a copy of House Resolution No. 357 be printed in the RECORD at this point.

The resolution follows:

H. RES. 357

Resolution relating to the report by the Secretary of Health, Education, and Welfare with respect to home health and other in-home services

Whereas section 18, of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Public Law 95-142) directed the Secretary of Health, Education, and Welfare to report to the Congress within one year of enactment with respect to all aspects of the delivery of home health and other in-home services authorized to be provided under titles XVIII, XIX, and XX of the Social Security Act; and

Whereas the Secretary failed to submit such report in a timely fashion; and

Whereas the Secretary failed to include in such report recommendations for legislation with respect to home health and other in-home services, including the reasons for such recommendations, an analysis of the impact of implementing such recommendations on the cost of such services and the demand for such services, and the methods of financing any recommended increased provision of such services under such titles, as required by such section; and

Whereas the House has expressed its will with regard to the need for expanded opportunities for receipt of home health and other in-home services in numerous ways, including overwhelming passage of the Medicare Amendments of 1978: Now, therefore, be it

Resolved, That it is the sense of the House that—

(1) the report of the Secretary of Health, Education, and Welfare entitled "Report on Home Health Services United Titles XVIII, XIX, and XX" is not responsive to the requirements of section 18 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Public Law 95-142); and

(2) such report be returned to the Secretary with the direction that it be revised to comply with the requirements of such section, including the requirement that recommendations for legislation be submitted, and that such report be returned to the appropriate committees of the Congress not later than September 1, 1979.

RESOLUTION TO MAKE HEW RESPONSIVE TO HOME HEALTH CARE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. PEPPER. Mr. Speaker, I am pleased to join with my colleagues Mr. WAXMAN and Mr. RANGEL in reintroducing the resolution I introduced with Mr. WAXMAN as cosponsor on May 22, House Resolution 280. This measure came about in response to a report which was submitted by the Department of Health, Education, and Welfare, pursuant to section 18 of Public Law 95–142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments.

That provision required the Secretary of HEW to give Congress a report "analyzing, evaluating, and making recommendations with respect to, all aspects * * * of the delivery of home health and other in-home services." Beyond indications that a few administrative changes affecting program operations would be made, the report stopped short of recommending legislative action, citing budgetary restraints. It thereby failed to comply with the intent of that provision of law. Moreover, after Congress gave the Department a full year to produce this report, it arrived almost 6 months after the legal deadline for its submission.

The "clean" resolution we are today reintroducing is identical to House Resolution 280. It declares that the report is not responsive to the requirements of section 18 and provides that it be returned to the Secretary with directions that it be revised to comply with such requirements, including the making of recommendations for legislation and that the report be returned to Congress by September 1, 1979. I am delighted that on June 28, the Health and the Environment Subcommittee ordered House Resolution 280 reported to the full Committee on Interstate and Foreign Commerce. A companion resolution, introduced in the Senate by Senators William Cohen, Lawton Chiles, chairman, and members of the Senate Special Committee on Aging and the Finance Committee, was reported by the Senate Finance Committee on June 20 and adopted by the full Senate on July 11, 1979.

Earlier drafts of this report included meaningful proposals for legislation, as the law required. But by the time it came to Congress, the report was stripped bare, for all intents and purposes, leaving mainly an overview of current home health programs and charts and figures—in short, a discourse on problems which exist. Both the House and Senate have demonstrated their support of expanded home health care, by passage, during the 95th Congress, of H.R. 13097 and H.R. 5285, respectively.

Some changes should be made now, particularly those involving the medicare home health benefit. I am pleased that the Ways and Means Health Subcommittee, so ably chaired by our distinguished colleague, Mr. Rangel, is moving expeditiously to draft the Medicare Amendments of 1979, which hopefully once again—like the bill passed by the House last year by a vote of 398 to 2—will amend medicare to eliminate the prior hospitalization requirement under part A, delete the limits on the number of visits, and remove the $60 part B deductible for home health, steps which are strongly supported by the Select Committee on Aging, which it is my privilege to chair, and of which Mr. Waxman is a valuable and distinguished member.

Other changes may also be desirable. We asked the Secretary for guidance and policy direction. The report we received has been universally criticized for its ineffectual response to the mandate of Congress. Preparation of this report cost an estimated $62,000. We owe it to the taxpayers of this Nation to insure that the reports we initiate have some significance.

It is my strong hope that the full Interstate and Foreign Commerce Committee will see fit to report this resolution to the House at the earliest possible moment. Several members of the Subcommittee on Health and Long-Term Care, which I also chair, have joined as cosponsors of this resolution.

These include Mr. Abdnor, ranking minority member, Mr. Grassley, Mr. Ford of Tennessee, Mr. Drinan, Mr. Bonker, Mr. Ratchford, Mr. Stack, Mr. Mica, Mr. Marks, Mr. Regula, Mr. Hollenbeck, and Mr. Whittaker.●

MISS MELANIE BEST—1979 RUGGLES SCHOLARSHIP ESSAY AND AWARD

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. ARCHER. Mr. Speaker, Miss Melanie Best of Houston, Tex., was recently selected as the recipient of the 1979 Ruggles Scholarship Award by the National Right to Work Committee. Miss Best is currently a freshman at Texas A&M University and will be continuing her journalism studies at the University of Texas. The award was based on the essay entitled "The Right to Work" written by Miss Best and I would like at this time to commend that article to the attention of my colleagues in the Congress:

The Right to Work

"No right . . . can be more vital and more worthy of protection than that which enables a man to subsist, and no provision can be more damaging than one which prevents a man from working," says Paul Sultan in his description of the right-to-work principle. Proponents of right-to-work laws stress that the requirement that all employees be members of a union as a condition of employment provides a screen between the labor force and employment opportunities, a screen effectively preventing some employees from exercising their "right" to employment. The following describes major argument for legislation protecting this right.

1. COMPULSORY UNIONISM IS DISCRIMINATORY

When laws allow unions to insist on membership as a condition of employment, strong unions can force management to join them in discriminating against the economically helpless and politically weak nonunionist. Such tactics are typical of and add to union power. Such discrimination against the person who decides to avoid unionizing is indefensible.

2. COMPULSORY UNIONISM IMPOSES HARDSHIP ON THE NONMEMBER

As the union-security contract becomes more pervasive, and the number of alternative nonunion jobs is reduced, laborers find their "freedom of choice" narrowing to a decision between union membership or nonemployment, particularly when the craft skills of the displaced worker are not required in alternative nonunionized employment outlets.

3. COMPULSORY UNIONISM DENIES THE FREEDOM OF ASSOCIATION

A corollary right of the freedom of assembly, the freedom of association can be operative only when individuals have a choice to join or not to join. Americans are not compelled to join a particular church or advocate a single political philosophy. No other private organization has the right to conscript members. Why unions?

4. UNION-SECURITY CLAUSES CONTRIBUTE TO UNION MONOPOLY

Right-to-work proponents hope to minimize union abuses by minimizing the power base of unions. Without the guarantee of a security clause and the exclusive representation and control of the labor force, union leadership is less able to disregard the welfare of the rank-and-file and less able to impose irresponsible demands on industry.

5. COMPULSORY UNIONISM DENIES POLITICAL FREEDOM

Unions are becoming increasingly politically involved. Although prohibited from contributing to candidates for federal office, unions do give widespread publicity of state and federal voting records, classifying them as "right" or "wrong." The AFL–CIO Committee on Political Education offers further evidence of union interest in extending political influence. Right-to-work advocates contend that union dues and fees make possible the support of political causes and candidates opposed by the individual unionist.

These arguments represent various aspects of the support for the right-to-work. Essentially, it is the right to choose between joining and not joining, without the fear that the ability to work—vital to the survival of any individual—will be denied.

As J. C. Gibson pointed out in his book on compulsory unionism and the right-to-work:

"To deny this basic right is not only a deprivation of liberty, not only an impairment of the opportunity for advancement in life, but it also imperils life itself."●

A REPUBLICAN ANTIDOTE TO A DEMOCRAT RECESSION

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. SHUSTER. Mr. Speaker, the Republican policy committee, which I chair, today went on record unanimously with its approval of a tax and economic program which will make an immediate remedial response to the economic crisis hanging over everyone in this Nation. I insert into the Record, the full text of the policy committee statement:

A Republican Antidote to a Democrat Recession

Our Nation's economy is in serious trouble. Even the Carter Administration has dropped the pretense that there will be only an economic "pause," followed by an extended period of growth. The recession now gathering force will result in a serious drop in the standard of living for all Americans. For the two million Americans who will lose their jobs, plus the 5.9 million already unemployed, the coming year will be one of privation.

The Carter Administration and the Democratic majority in Congress have repeatedly refused to correct the disruptive economic policies which have brought our economic growth and development to a standstill. The

President, instead, has guided the nation into a period of recession with rapid inflation and has pursued energy policies which leave us vulnerable to exorbitant price-gouging by the OPEC nations. The only innovation displayed by the Democrats has been in finding scapegoats for Administration mismanagement.

The Republican Policy Committee believes the facts are staggering and inescapable:

Inflation is up sharply, averaging an annual rate of 13.4 percent so far in 1979. Such inflation is unprecedented in peacetime, except for the war transition year of 1946. Rising inflation is causing a massive tax increase as wage-earners are pushed into higher tax brackets. The 13.4 percent inflation is causing a 21.4 percent increase in individual federal income taxes.

American wage-earners face a further tax increase from recently enacted Social Security legislation. Collections will rise more than $6 billion in 1979 from mandated boosts. Another scheduled increase in 1980 will add $3.3 billion more to the Social Security tax bite.

With two consecutive quarters of declining output, the National economy has stalled and declined. After growing at an annual rate of 6.9 percent in the last quarter of 1978, real GNP edged up only 0.8 percent annually during the first quarter of 1979, and is estimated to have fallen at an annual rate of 2.4 percent in the second quarter. Can a rise in unemployment be far behind?

Projected increase in unemployment have eliminated the possibility of a balanced Federal budget unless immediate policy changes are made to improve the economic outlook. As unemployment rises, tax revenues shrink while mandated government spending to aid the jobless increases.

American productivity, the source of all real wage increases and the key to protecting American jobs, has been stopped cold. Reviving productivity growth, and putting more goods on the shelves is the only hope for ending inflation.

Savings and investment in America (the source of productivity) are the lowest in the Western world. Under present circumstances, saving is a losing proposition because interest rate returns for small savers is less than the loss of value on the principal from the rate of inflation. Yet, savers are taxed on this phantom interest income. The real rate of return on savings is a net cost to the passbook holder.

Investment in productive assets has been similarly crippled by inflation. Depreciation allowances have been reduced so sharply in value by inflation that only a fraction of the real cost of replacing equipment is recovered. Thus, reported profits after depreciation is deducted are overstated by more than $20 billion, and business is overtaxed by nearly $10 billion a year on these phantom profits.

The economic picture will not improve by itself, nor does the Policy Committee anticipate any strong, positive proposals from the Carter Administration that will turn matters around.

The Republican Policy Committee is compelled to propose a Republican Remedy to the Democrat recession and strongly endorses a Republican Economic Plan designed to avert the worst impact of the recession and set the economy on a long-term path to healthy and stable growth through a combination of personal tax cuts, savings incentives and depreciation adjustments. This Republican Economic Plan is designed to restore purchasing power to consumers and expand supply, thus holding down the price of goods available for purchase.

To achieve these goals, the Republican Economic Plan calls for a $36 billion tax cut to include:

An immediate and permanent reduction in personal income tax rates of at least 10 percent, resulting in an individual tax cut of $28 billion.

Indexation of the personal income tax rates to eliminate the continual and unlegislated tax increases cause by inflation.

To alleviate the negative effects of the recent Social Security tax increases—cutting individuals' spendable income and making it more expensive to hire workers—this plan would freeze Social Security taxes at their present 1979 levels and provide for a more moderate future financing arrangement. ($3.3 billion)

To stimulate a permanent, long-term turnaround in productivity rates, to spur capital investment in plants and equipment and create new jobs, to restore ultimately our competitiveness in world markets, and to fight inflation by adding to the supply side of the economy, we advocate elimination of the out-moded "useful life" concept for depreciation and favor instead a speed-up in depreciation rates for structures, equipment and vehicles to facilitate the expansion and modernization of the Nation's productive plant. ($5 billion)

The Republican Policy Committee believes that this $36 billion tax cut, to have maximum impact now when it is needed, and not later when the economic downturn has become irreversible, ought to be enacted in time to become effective no later than October 1, 1979—the beginning of Fiscal Year 1980. This means action must begin immediately. The Policy Committee calls on the Carter Administration and the Democrat-controlled Congress to respond in a bipartisan manner by endorsing this Republican Economic Plan and support its immediate enactment. The House Ways and Means Committee plans later this month to decide what to do with the taxes raised from the windfall profits tax on decontrolled oil. It is appropriate for the package of proposals outlined above to be considered in connection with these Committee deliberations. Republican Members of Ways and Means will press to achieve this goal. We hope that all Members—regardless of party—will see the wisdom and necessity of this proposal and will join with us in a common effort to make an immediate response to the economic crisis hanging over everyone in this Nation.●

DONALD KENNEDY'S DEPARTURE FROM THE FDA

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. WAXMAN. Mr. Speaker, June 29 was Donald Kennedy's last day as Commissioner of the Food and Drug Administration. While he was Commissioner of the FDA, he presided over the most complex policy issues in consumer protection: the saccharin ban, use of nitrites, laetrile, and ingredient labelling of cosmetics and foods. It was a role that Donald Kennedy clearly relished, and a responsibility he carried out with optimism and determination.

Ironically, advances in technology have made the FDA Commissioner's job harder, not easier. Why? Because tests which measure contamination and carcinogenicity of our foods, drugs, and cosmetics have been greatly refined in recent years. Consequently, we now know products of great benefit to public health can still pose serious risks for certain individuals.

Government policy on food and drug matters can no longer be made on the basis of a finding of absolute safety. Modern tests can detect contaminants in minute quantities. While still Commissioner, Donald Kennedy described one of the difficulties of the job as stemming from the fact that few risks can be described as "zero" anymore.

In the debates on saccharin, nitrites, laetrile, ingredient labelling of foods and cosmetics, Donald Kennedy had to strike just the right balance between cautioning the public and reassuring them. He believed that complex scientific issues, and issues where scientific data was in conflict, could be sorted out and explained in simple terms to an interested public.

He believed in the consumer movement, and broke precedent by forthrightly publishing a list of medically equivalent drugs to help consumers, doctors, and pharmacists choose the least expensive medications available in the marketplace.

He proposed that Congress speed up the drug approval process by enacting the Drug Regulation Reform Act. Commissioner Kennedy was anxious to allay consumer concerns about a "drug lag" in the United States which some charged was preventing desperate patients from obtaining medications used routinely abroad.

Donald Kennedy saw the job of FDA Commissioner as one of an activist, an ombudsman for the concerns of the American consumer. He based every decision on the best available evidence. He never sidestepped appropriate action, even if announcing a new regulatory decision might prove controversial.

Commissioner Kennedy is just the sort of person our Federal Government should be able to attract. His vigor, intellect, and integrity were admired by everyone with whom he worked. His contribution was to prove that Government regulation is essential, is beneficial, is protective of public health. It is this very regulation which has made it possible for the United States to have the very highest standard for safety and efficacy of food and drug products.

I would like to close my remarks by having reprinted in the CONGRESSIONAL RECORD two tributes to Donald Kennedy, one written by Colman McCarthy and published in the Washington Post on June 27, 1979, and the other, a July 2 New York Times editorial praising his independence and skill as an administrator. I agree wholeheartedly with these tributes which itemize the number of complex policy issues Donald Kennedy confronted while he was Commissioner and how ably and energetically he addressed each one.

In the months ahead as the Health and Environment Subcommittee wrestles with these complicated issues, Donald Kennedy's voice will be greatly missed.

[From the Washington Post, June 27, 1979]

REGULATION—FOR HUMAN BEINGS

(By Colman McCarthy)

Donald Kennedy, departing this week as commissioner of the Food and Drug Administration, has lasted 27 months in Washington. That's little more than a stopover, by calendar time. But much the way one year of an animal's life is said to equal five or 10 years of a human's, 27 months at the head of FDA easily equals a decade of calm life elsewhere.

By most of the standards that matter—candor, intelligence, skepticism about the hustles of the special interests—Kennedy gave bargain service to the country. With a budget of about $300 million, the FDA, in effect, is empowered to spend just $1 per person per year.

That comes to a dollar's worth of protection against 350,000 over-the-counter drugs, 12,000 prescription drugs, tens of thousands of food and drug companies, all the nation's restaurants and the plottings of major manufacturers whose advertising budgets alone surpass the funding of FDA.

In giving the public good dollar-per-person value, Kennedy's problem was that many citizens saw themselves being served up, not served, by the FDA. So what if the U.S. government declares that bacon is dangerous to a rat's health? Why doesn't the FDA merely announce that everything causes cancer and then leave us alone.

In one dispute after another—his forceful and well-founded efforts to ban saccharin, nitrites in meat, antibiotics in animal feed, Laetrile—Kennedy was pictured as being more intent on regulating the public than regulating food and drugs.

That wasn't true, but it had enough illusion of truth to lead to defeats in most of his regulatory battles. Kennedy could make few scientific judgments without igniting a political firestorm.

With Laetrile, the FDA's attack on quackery was depicted in state legislatures as an assault on individual freedom of choice. With saccharin, Kennedy was the mad dentist yanking out the nation's sweet tooth. On nitrites, he went after the sacred American hot dog.

Perhaps it is enough to celebrate that at least for a brief time the FDA had a chief who was willing to take a stand, and heave a sigh that it's too bad he was ever being knocked down. But that isn't the issue. The dark note of Kennedy's 27 months is that frustration was structured into the job of heading the agency long before he arrived.

Everyone agrees that independence of thought is a fine quality for a commissioner. The trouble comes when it leads to independence of action. Following an FDA decision, any number of congressional committees can begin loosening the roots of government by attacking the enforcement process. Three years ago, the agency estimated that nearly half of its commissioner's time went to preparing for or appearing at congressional hearings, with most of his statements being controversial or defensive.

If Congress doesn't meddle or stall, an industry will. In 1972, the Center for Science in the Public Interest asked the FDA to take action to apply the ingredient labeling law to the liquor industry. After seven years of memos, hearings, periods for public comment, court suits and appeals, the earliest the drinking public can know what's in the bottle is January 1983. If then.

As Kennedy leaves for Stanford University, one fear is that the agency will be pulled back to recover from his "activism." Going "too far, too fast" has been a common criticism of Kennedy. This is the popular Washington put-down of outsiders who come to town thinking that public policy should not be unmoored from the citizens needs and rights.

In a long conversation I had with Kennedy after his first days in office, I was heartened by how often he put issues and disputes into the context of human beings. He spoke of people being victimized by a particular hazardous food or drug.

The best of the government's regulators possess that instinct. It is crucial because many offices of federal agencies are filled with listless and time-worn officials who have forgotten that it is men, women and children they are being paid to protect, not bureaucratic turf, past policies or other abstractions of power.

It would have been good if Kennedy stayed longer, although none of the last four FDA commissioners has lasted more than three years. Kennedy's distinction is that the intensity of his service, rather than longevity, more than fulfilled his commitment.

[From the New York Times, July 2, 1979]

TWO HANDS FOR DONALD KENNEDY

The Food and Drug Administration lost its best commissioner in a long time Friday when Donald Kennedy moved to Stanford University. When he came to Washington two years ago, the agency was torn by internal dissension and charges in Congress that it had become chummy with the industries it regulates. Morale has been raised and the F.D.A.'s reputation is decidedly one of independence. One measure of the respect that Mr. Kennedy won is that spokesmen for both consumer and industry groups, who seldom agree on anything, rate him equally high.

Mr. Kennedy is an exceptionally articulate as well as competent scientist. His predecessors at the F.D.A., all physicians, were less comfortable with the controversies of scientific testing. When Mr. Kennedy said some animal study was solid, or shaky, his judgment carried authority. He taught people not to laugh when rats were fed the human equivalent of 800 bottles of diet soda a day; he understood the theories of science and probability that bred such odd experiment.

He lost some big battles of regulation. Congress refused to let him ban saccharin. It impeded his drive against the indiscriminate use of antibiotics in animal feeds. Secretary Califano, of Health, Education and Welfare, blocked Mr. Kennedy's efforts to phase out nitrites in meat. Several states ignored his warnings against laetrile, the supposed cancer cure. He was probably right on all these issues. If political authorities chose to overrule him, he made them pay the price of confronting expert judgment.

Several of Mr. Kennedy's reforms are likely to grow in importance. He published a list of medically equivalent drugs to help consumers, doctors and pharmacists choose the least expensive versions on the market. He began a sweeping revision of the drug laws, which may someday clear Congress. And he made people think more clearly about food safety laws.

A few years ago, a senator who had grown weary of scientists who hedge their testimony with on-the-one-hands and on-the-other-hands begged for more one-handed scientists in Washington. Donald Kennedy has shown that even a two-handed, knowledgeable scientist can be decisive. The country will be lucky if those traits are again combined in his successor. ●

TRIBUTE TO ARTHUR FIEDLER

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1979

● Mr. EARLY. Mr. Speaker, I wish to join with all my colleagues in this most fitting tribute to Arthur Fiedler, the renowned conductor of the Boston Pops Orchestra, who passed away at his home in Massachusetts last Tuesday.

The tremendous personal energy and innovative genius of Mr. Fiedler in generating an ever-widening interest and appreciation among the general public, and particularly young people, in classical, semiclassical, and popular music is unmatched in the history of the arts.

In an ultrasophisticated age afflicted with an unparalleled multiplicity of modern anxieties and aggravations, he created and nourished a very special brightness of the spirit among millions of Americans through the simple, everlasting mediums of laughter, joy, and soothing sound. He was able to do this because of his own unwavering belief in the human value of his work. He was overwhelmingly persuasive in convincing others to accept his belief because he taught and converted, not by dictate, but by personal example.

Arthur Fiedler will be historically famed as a musician of extraordinary skill and an orchestra director of inimitable style and flourish, but he will be best loved and remembered by the people of Massachusetts and the Nation as a genuinely wholesome man who brought peace to others because he was at peace with himself and because in the midst of troubled times he remained always as cheerfully natural as a cooling wind and as wonderfully exuberant as a joyful child. He truly improved, at a low ebb, the quality of life for untold multitudes of his fellow human beings and that will be his permanent and rightful monument in the books of history and the hearts of his followers. I extend my deepest sympathy to Mrs. Fiedler and the other family members in their great sorrow.●

THE SUSAN B. ANTHONY DOLLAR

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. EVANS of Delaware. Mr. Speaker, I ask consent that an editorial that recently appeared in the Wilmington (Del.) News Journal concerning the new dollar coin be inserted in the RECORD. In addition, I ask consent that my dissenting views that appeared in the Banking Committee report on the Susan B. Anthony Dollar Coin Act of 1978 be also inserted in the RECORD.

The articles follow:

[The Wilmington News Journal, July 10, 1979]

THE DOLLAR HAD ENOUGH GRIEF

Can't Washington do anything right?

That's the reaction we hear to the one-dollar coin, the one that displays Susan B. Anthony on one side and the American eagle on the other.

The new coin, which went into circulation this month, appears to be a serious goof. In shape, size and weight, the one-dollar piece is so similar to the quarter that there is bound to be nothing but confusion at the cash register and at the bank teller's window.

Try this simple test: Put a few quarters and a few dollar pieces into your coin purse or your trouser pocket. Then try to take out the desired coin by touch. Only a visually impaired person who has developed an extra-sensitive touch can get the right coin out with any amount of certainty.

If you happen to be in a darkish room after you have taken out the coin and wish to inspect it, that too is not easy, since both coins are round and the dollar is only insignificantly larger than the quarter. To be sure, when the light is good, you can see that one coin depicts a woman and the other a man, but you need decent illumination for that.

Americans used to object to the similarity between one and two dollar bills. There the difference in value involved a doubling. Between the quarter and the dollar there is a fourfold difference, and the likelihood of confusion is even greater.

There is only one place for the new dollar coin to go: Back to the mint. What a waste of our good tax dollars (bills and coins).

DISSENTING VIEWS OF MR. EVANS OF DELAWARE

The Congress of the United States should not authorize the Treasury Department to mint a new smaller dollar coin at this time. Before we undertake this action, a survey should be undertaken by the Treasury Department, using generally accepted survey techniques to assess the future public acceptance of this new medium of exchange. Without such information, Congress cannot make a reasoned decision on this important issue which will affect every American and could end up costing the taxpayer millions of dollars.

In the hearings held by the Subcommittee on Historic Preservation and Coinage, the main thrust of the testimony given and the issues pursued was not whether the public would use the new dollar coin but who should be on it. Few of the witnesses addressed the issue of consumer acceptance. In fact, Stella B. Hackel, Director of the Bureau of the Mint, stated that neither survey research nor marketing research of any kind had been done in preparation for the Treasury's introduction of the new coin. Indeed, in a study commissioned by the Department of the Treasury by the Research Triangle Institute entitled "A Comprehensive Review of U.S. Coinage System Requirements to 1990" to assess future needs, the study noted that a "statistically reliable household survey of consumer attitudes and preferences toward coinage alternatives was not feasible within the constraints of the study so their opinions were not solicited directly." Clearly it is only reasonable to conduct a consumer attitude study before introducing a new coin.

The Federal Reserve Board is in favor of the new coin because they say it will save $31 million. However, this support contains a very important caveat. Gov. Philip E. Coldwell, a member of the Federal Reserve Board stated that:

> "If the proposed new coin is produced but fails to circulate or circulates without reducing the pool of dollar notes, additional costs rather than savings will be incurred by the Federal Reserve, with a consequent reduction in payments to the Treasury. And, our recent experience with the $2 note indicated that circulation of the proposed new coin is not automatically insured."

Additionally, Frank D. Register, executive director of the National Association of Retail Grocers of the United States stated that the proposal raises real concerns with regional grocers and these concerns involve the customers they serve:

> "Almost without exception, the grocers whom I have talked with about the proposal (new dollar coin) state that they have had very limited success in getting consumer acceptance of the $2 bill, recently introduced into our stores. Customers do not want the $2 bill and often refuse to accept it."

The recent experience regarding consumer acceptance of the $2 bill underscores the importance of determining whether the coin will have widespread circulation. In 1974, the Federal Reserve System commissioned a group from the Harvard Business School to undertake an intensive study of the feasibility of reintroducing the $2 note. A national public opinion survey was commissioned through Louis Harris & Associates which interviewed 1,600 residents nationwide. Although 73 percent of the respondents indicated a negative reaction to the reintroduction of the note, the study concluded that consumer acceptance could be achieved if the Federal Reserve Board retained a professional marketing counsel to develop and market it.

For unknown reasons the Federal Reserve Board failed to follow up the recommendation by retaining such counsel. Needless to say, the $2 bill has failed to circulate widely.

The Federal Reserve Board attempted to approach reintroduction of the $2 note in a reasonable matter. They commissioned that a study be done to assess public acceptability of the note. Unfortunately, they did not follow through in carrying out the recommendations made. It is very possible that the $2 bill could have become popular if marketing techniques had been used.

The procedure employed to put the new dollar coin on the market has been a dismal one. No studies have been done and no marketing strategy has been developed. If the $2 bill could not be sold to the public given the efforts made to do so, then how can we expect the dollar coin to be successful when even less thought and attention has been given to it? We are courting disaster by not taking a reasoned approach to this proposal.

Another issue which deserves more attention is the potential inflationary impact of the new coin. I have many reservations about whether this coin could be inflationary in and of itself. It certainly reflects the ravages of inflation. There is certainly a public perception that the coin is inflationary and will undermine further our already shaky dollar. We should not be introducing a new coin at a time when our dollar is being buffeted by other currencies.

Finally, the issue of who should appear on the coin has unfortunately overshadowed the merits of whether a new dollar coin is a good idea. Somehow, the issue of the new dollar coin has become embroiled in the controversy over the equal rights amendment. I do not believe that a vote for or against the new coin reflects at all upon one's support for the E.R.A. Blurring these issues is indeed unfortunate for the minting of a new coin must be considered on its own merits. With this in mind, I urge my colleagues to vote against this legislation until a consumer attitude study is undertaken.●

HAPPY BIRTHDAY TO WOMEN'S POLITICAL CAUCUS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mrs. SCHROEDER. Mr. Speaker, yesterday, July 12, the National Women's Political Caucus began their national convention, marking their eighth birthday. The National Women's Political Caucus (NWPC), a bipartisan organization founded in 1971 by 271 women has emerged as an important force in winning, wielding, and using women's growing political power.

In addition to keeping close tabs on and offering constructive testimony on legislative issues and nurturing women's political participation and awareness at the grassroots level, the NWPC has played an important role as watchdog of political appointments through the formation of the coalition for women's appointments. This process of monitoring and recommending women for key posts is important in building women's power base.

I applaud the NWPC on their birthday for a job well done. I think the founding mothers would be proud of the NWPC's efforts to fulfill their dreams. In honor of their birthday, I insert the following excerpt from Christabel Pankhurst:

EXCERPT FROM 1907 SPEECH

> The spirit of the movement was wonderful. It was joyous and grave at the same time. Self seemed to be laid down as the women joined us. Loyalty, that greatest of the virtues, was the keynote of the movement—first to the cause, then to those who were leading, and member to member. Courage came next, not simply physical courage, though so much of that was present, but still more the moral courage to endure ridicule and misunderstandings and harsh criticism and ostracism. There was a touch of the 'impersonal' in the movement that made for its strength and dignity. Humor characterized it, too, in that our militant women were like the British soldier who knows how to joke and smile amid his fighting and trials. If only the Liberal leaders had also been, like the Suffragettes, gifted with a sense of humor! ●

THE HEALTH CARE FOR ALL AMERICANS ACT: IMPROVING MEDICARE FOR THE ELDERLY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. WAXMAN. Mr. Speaker, on May 14, 1979, I announced my decision to sponsor the Health Care for All Americans Act in the House of Representatives. As chairman of the House Subcommittee on Health and the Environment, I am working with Senator KENNEDY, chairman of the Senate Human Resources Health Subcommittee, in a mutual endeavor to get both Houses of Congress moving simultaneously toward enactment of a universal, comprehensive national health insurance system—a promise first held out to Americans over a generation ago. I plan to begin hearings on national health insurance before the Subcommittee on Health and the Environment in the fall.

Many Members of Congress have expressed interest in learning the details of the Kennedy-Waxman national health insurance proposal, and how it differs from the administration and so-called catastrophic health insurance proposals. Earlier this month, two briefings for Members of Congress were scheduled. However, some Members were unable to attend because of subcommittee and committee meetings or other schedule conflicts. For this reason, I would like to summarize in the CONGRESSIONAL RECORD the points made in our national health insurance briefings.

This will be the first of a series of articles on how the Health Care for All Americans Act can improve the quality and access to health care services at a reasonable cost. Today's article illustrates how the Kennedy-Waxman bill affects a particular segment of our Nation—our senior citizens who use the health system more than anyone else.

Medicare held out a promise when it was enacted in 1965 that today only national health insurance can fulfill. For Americans over 65, medicare was the first step toward security from fear of high medical bills for physician and hospital care.

But medicare today does not buy that kind of security. A million Americans over age 65 are not even eligible for the limited benefits medicare does provide.

Physicians often charge patients more than medicare will pay. The result is today many elderly pay more for health care than they paid before medicare was enacted.

THE GREYING OF AMERICA

Profound demographic changes confront the United States in the years ahead. We have demographic evidence that our elderly population is growing, both in absolute numbers and as a percentage of our country's population. Today, 24 million Americans are over 65 years of age. This number will soar to 55 million, or nearly 1 in 5 Americans, by 2030. It would be shortsighted of us not to plan now for the medical needs this growing segment of our population will have in the years ahead.

NEED FOR COMPREHENSIVE HEALTH SYSTEM

What is needed to address the unprecedented demands this aging wave will make on our economy and our society is a universal, comprehensive medical care system. Yet we continue to ignore this obvious need for consolidation and long-term planning. While social security, medicaid and medicare are the best known programs that provide benefits for the elderly, there are over 130 additional separate Federal programs that are aimed at this over-65 population.

The time has come to end arbitrary eligibility requirements for the elderly, as well as the costly deductibles and coinsurance provisions that erode senior citizens life savings. The solution is universal, comprehensive national health insurance which will reform our present health care system, build on its strengths, control its costs, and develop a continuum of health services. For the elderly, this continuum will assist them to stay healthy longer in their later years, and encourage home health care and outpatient care.

GAPS IN MEDICARE COVERAGE

The litany of gaps in our present medicare system is well known. Medicare today does not cover hypertensive screening, medical devices such as dentures, or drugs for outpatients. There are inflexible limits on the number of hospital and skilled nursing home days covered.

The Kennedy-Waxman Health Care for All Americans Act does not address every gap in medicare and medicaid—but it undertakes the most needed reforms—specifically arbitrary limits on eligibility and on the number of hospital days covered. Furthermore, our bill with its cost containment mechanisms and provisions for national planning of health care delivery creates a more favorable setting for reimbursement of home health, outpatient and other services which are alternatives to costly institutionalization.

Gaps in medicare benefits and exclusion of 1 million senior citizens from coverage has become a serious problem in our Nation. As long as these gaps exist, our elderly will have to buy expensive policies to have health security. In July 1978, the Federal Trade Commission reported that one quarter of our senior citizens who attempt to purchase extra insurance to cover medicare gaps are actually sold unnecessary, expensive, and duplicative coverage.

Two-thirds of our elderly—more than 15 million out of 24 million older Americans—own some form of medigap insurance. They do so because if they live on a fixed income, as most elderly Americans do, the prospect of paying even part of their medical bills out of pocket is a fearsome prospect. In 1966, the year that medicare actually began paying benefits, older Americans were paying an average of $445 per capita for health care.

By 1977, annual per capita expenditures for health care among the aged increased to $1,738. Furthermore, during the decade that followed enactment of medicare, the percentage of health care expenses that medicare paid for dropped from 46 to 38 percent.

HOW NATIONAL HEALTH INSURANCE CAN IMPROVE MEDICAL CARE FOR THE ELDERLY

The Health Care for All Americans Act begins to address these benefit gaps. Health maintenance organizations and private insurance plans will have to compete for enrollees. To attract new enrollees, and hold down costs for treatment of illness, these plans could offer preventive health and early diagnostic benefits in addition to benefits mandated by our bill.

Our bill will strengthen the medicare program for the elderly and disabled, and will overhaul medicaid. Medicare benefits would be upgraded to provide full coverage for inpatient hospital services, physicians' services in and out of hospital, home health services, X-rays, and laboratory tests. There would be no arbitrary nonmedical limits on the number of hospital days or physicians' visits. Doctors would not bill medicare patients; they would be paid directly by the insurance plan. Prescription drugs, presently the third highest out-of-pocket health expenditure by the elderly, will be added to medicare benefits under national health insurance if the prescription is for medication to treat a chronic condition.

Under our bill, older Americans will no longer be forced to pay nearly 60 percent of their health bills out of pocket, or live in fear that runaway inflation in our health system will wipe out the savings of a lifetime. So called catastrophic health insurance legislation is at best a piecemeal solution.

It would not control costs—it will inflate them even faster. It will not cover the costs of a patient's first week of hospitalization and intensive care.

Under our bill, medicare would be extended to all Americans over 65 and would be improved to include the same broad coverage a good private insurance plan would provide, with no deductibles and coinsurance. In additon, medicare and private insurance plans would operate identically in payment of doctors, hospitals, and other providers, and how they administer their activities.

Medicare eligibles would also receive additional benefits beyond those covered for the general population. This brings insurance coverage into closer alinement with what we now know are the more diverse medical needs of the elderly.

The private health insurance plan of their choice would be provided to people formerly on medicaid, including all people who receive Supplemental Security Income. Our bill would eliminate state-by-state discrepancies in eligibility for medical coverage. Everyone, regardless of means requirements will be eligible for private insurance benefits.

The Health Care for All Americans Act, unlike the administration's health insurance proposal, does have built-in cost controls.

An annual health budget will balance all revenues paid to insurers for health services and administrative costs with all revenues from wage-related premiums and other sources. The total annual increase in health expenditures will be limited under the Health Care for All Americans Act to a maximum of the average rate of increase in the gross national product (GNP) over the preceding 3 years.

Hospitals and doctors will be paid on the basis of prenegotiated amounts. They will not be permitted to charge patients more than the insurance plan pays. National, areawide and State budgets for health services will be set by negotiations between providers on the one hand and insurers, the public and national and State health boards on the other hand.

National health care costs in 1985, under the present system, are estimated to total $361.6 billion. Under the Kennedy-Waxman bill, they will total an estimated $330.6 billion, a reduction of $31 billion in 1 year under national health insurance.

We believe our Nation can no longer afford not to enact national health insurance. The new, comprehensive system will be less inflationary than the present nonsystem of health delivery with its uncontrolled costs that are creating economic havoc.

Uncontrolled health costs are a leading cause of inflation in our economy and of increased spending by Federal, State and local governments. They drive up the prices of the goods and services we buy and take ever larger chunks of our disposable incomes for uncovered health services and higher insurance premiums. This is particularly cruel for senior citizens who live on fixed incomes.

The Nation could save at least $73 billion of its projected health bill in 1990 by adopting a comprehensive NHI plan with incentives for economy.

We can save on hospital costs and improve health by developing more neighborhood, primary care clinics and ambulatory services, by improving administrative and procurement practices, eliminating unnecessary surgery, shortening stays, admitting only emergency patients on weekends, and reducing unneeded tests, X-rays and medications.

We can save on physician costs and improve health by increasing the number of primary care physicians, decreasing and redistributing the oversupply of specialists, establishing standards of quality care, and making available more prepaid and group medical practices.

We can save on nursing home costs, while improving the health and independence of patients, by developing such alternatives as day care clinics, congregate living services, homemaker and home health services. The Congressional Budget Office has reported that as much as 40 percent of the nursing home population in the United States could be cared for in less intensive settings if only adequate community-based care were available.

We can save on health insurance costs by Federal regulatory requirements on benefits, pay-out ratios, selling duplicative policies, inadequate disclosure and other abuses.

In short, we can get more and better health care at less cost under national health insurance than we are now getting.

I am particularly conscious of the concerns of our senior citizens because my congressional district is the second most elderly by median age of all congressional districts in the United States. I feel this is the national health insurance proposal which most fully addresses their needs for medicare reform.

I made my decision to work on enactment of the Health Care For All Americans Act only after a long and careful analysis of the alternative. The alternative is to let our present piecemeal health care system drift aimlessly into costs far beyond the current high rate of inflation.

Some have a preconceived notion that the Health Care for All Americans Act has no grassroots constituency. This is not so. Too many elderly Americans cannot afford the medical system we have now. Your constituents do write you complaining about today's medicare gaps, high deductibles, and copayments.

That is the constituency—one of many—better served by the Health Care for all Americans legislation.●

FRESH LOOK AT THE DRAFT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. PAUL. Mr. Speaker, a recent editorial from National Review questions some of the traditional beliefs about a drafted Army, as versus a volunteer one, and the necessity of a large land Army for our national defense.

It is worth reading.

The editorial follows:

Difficulties with the volunteer army have led to proposals to re-institute Selective Service registration and even the draft. Senator Gary Hart of Colorado opposes both, and from a novel but also persuasive point of view. A military reformer and strategic philosopher, Hart thinks the draft would make us militarily weaker than we are now because it would reinforce an obsolete structure.

The U.S. Army, he pointed out in a recent speech in the Senate, wastes personnel. Its divisional structure is based on a World War II attrition/firepower doctrine which has been overtaken by demography and technology. It thus takes forty thousand soldiers to man and support a U.S. division, as compared with 25,000 to 28,000 in comparable modern armies. With an up-to-date "shock" or "maneuver" doctrine, the U.S. Army would need 300,000 fewer men to sustain its 19 divisions.

Even more fundamentally, Hart argues that the U.S., because of geography, is a sea and air power rather than a land power, and should apportion its resources accordingly. "A larger and more powerful Navy would . . . provide a military force better suited to our island geography, our worldwide economic interests, and even to the defense of NATO. Our European allies can generate the manpower NATO needs. . . . But only the United States can counter the growing Soviet navy."

Senator Hart has been arguing for some time that the U.S. needs a more efficient and mobile army, and greater investment in our naval and air forces. His position has been gaining adherents.●

CREATIONIST THEORY IN SCHOOLS

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. GRASSLEY. Mr. Speaker, I would like to draw my colleagues' attention to an article that appeared in the Wall Street Journal on June 15, 1979. The article describes efforts by "scientific creationists" to push for legislation mandating teaching of their theories in schools if evolution is taught.

Basically, the creationists take issue with the evolutionists' belief that the world is billions of years old and that life developed in a random manner. They question the accuracy of the radioactive dating process used by evolutionists and argue that the Earth and its inhabitants were created according to an immutable plan.

While teaching the creationist theory in public schools has not been prohibited, opponents contend doing so may violate religious freedom and would be unconstitutional. Creationists insist that their concept, like evolution, is a scientific theory supported by evidence and should, therefore, be considered in classroom discussions on the origins of the Earth. For this reason, I encourage my colleagues to read the following article:

Modern Creationists Seeking Equal Time In U.S. Classrooms

AND, TO DARWINIANS' DISMAY, THEY SUCCEED SOMEWHAT; A REVOLT AGAINST SCIENCE?

(By Lawrence Rout)

Cedar Falls, Iowa.—Larry Salyer devotes one week to the origin of the Earth.

For two days, he teaches his seventh-grade science students at Holmes Junior High the tenets of Darwinism—that the Earth is billions of years old and that man, through natural selection, descended from earlier animals.

In midweek, Mr. Salyer switches from evolution to an older theory, one that he himself believes in. Many scientists, he tells the class, believe that the Earth was the work of a creator a mere 10,000 years ago. Moreover, he says, "these 'scientific creationists' say that a man was always a man, a dog was always a dog, and the frog didn't turn into a prince."

The dual approach is well-received in this Eastern Iowa town of about 33,000 persons. "We want to know all the facts," one student says, "not just the ones the evolutionists want us to hear." Parents haven't complained either.

Elsewhere there is concern, though, because the creationist gospel echoes well beyond the security halls of Holmes Junior High. In states from New York to California, moves are afoot to give the old-time theory of Creation equal time in science classes. State legislatures have been flooded with bills.

STATUTE STRUCK DOWN

In 1975, a Tennessee statute ordering equal time for Creation was struck down by the U.S. Court of Appeals for the Sixth Circuit. John Whitehead, a Cleveland lawyer who works for the creationists, says the statute had required equal time for "Creation as taught in the Book of Genesis." The Tennessee law was "rightfully declared unconstitutional," he says, "because it was teaching the Bible." Today's bills, he says, seek to teach "the Creation as revealed by science."

So far, no state has passed any of the new bills, and creationists don't think their viewpoint is getting a fair shake. Teachers do tend to shy away from Creation—even in Holmes Junior High not all teachers teach it—because they feel that to teach Creation would be to teach religion and that that would be unconstitutional. In addition, many teachers simply view the theory of Creation as discredited.

"It's the Scopes trial reversed," says Ronald Lee, a creationist who heads the Iowa State University chapter of Students for Origins Research. "Before, they restricted evolution," he says. "Now, they're restricting Creation."

Proponents of evolution see it a bit differently. "What you have is a bunch of right-wing conservatives upset at what they perceive is an infringement on religious freedom, and they're trying to disguise it in the form of a scientific controversy," says Robert Sloan, professor of paleontology at the University of Minnesota. "They indulge in every kind of logical fallacy to state a rather overblown case."

INSTITUTE SPARKS DRIVE

Two thousand miles westward, nestled in an administration building on the campus of Christian Heritage College in San Diego, is the Creation Research Institute, the main object of Mr. Sloan's wrath. The institute has seven full-time employes, a $470,000 annual budget and a goal of "bringing about a revival of belief in special Creation as the true explanation of the origin of the world."

For teachers such as Mr. Salyer, the institute has prepared a plethora of textbooks, monographs and filmstrips. One popular offering: "The Twilight of Evolution," described as a "summary of the impact of evolution on modern life, as well as (the theory's) ultimate end."

The institute also makes its case in presentations to local school boards—some boards have agreed to add the creationist view to their suggested subject matter—and in debates with evolutionists. Mr. Sloan concedes that "the creationists tend to win" the debates.

"They have a number of polished speakers whose profession it is to go out and debate," says John T. Robinson, a professor of zoology at the University of Wisconsin who took part in a debate there with a representative of the Creation Research Institute. Mr. Robinson says the audience of about 3,000 persons was packed with "bused-in creationists from churches, who cheered every time the creationists made a point."

Another explanation for the creationists' victories in debates is offered by Richard Bliss, director of curriculum development at the Creation Research Institute. "We win because the scientific data for the Creation model is far better than the evolution model. They regress toward the religious; we stick to the science."

Mr. Bliss says, for instance, that "when you look at the fossil record, and the sedimentary rock, it screams out that there was a great catastrophe, that it was buried suddenly." But when evolutionists hear this argument, and its parallels to the Biblical flood, he says, "they seem to be paranoid that what we are proposing is religion."

The evolutionists agree that every place on earth was under water at one time, but they say that it wasn't all under water at the same time. They say they know this because of radioactive dating, the technique that scientists use to determine the ages of objects and materials.

This technique can be faulty, creationists say. Lane Anderson, a high-school physics teacher in Park Ridge, Ill., says that Hawaiian volcanic rock known to be only 200 years old was mistakenly dated at 200 million years. Mr. Robinson of the University of Wisconsin replies, "The way they talk about dating is so far from the scientific fact that it isn't funny, and they know it."

Mr. Anderson insists that the 200-year old rock story is fact. "Yet nobody knows about it," he says, "because there is a tendency for these things not to make the news. Its tough for the creationists to get things published in scientific journals."

"IT ISN'T SCIENCE"

For good reason, evolutionists say. "Our point of view as biology teachers," says Manert Kennedy, president of the National Association of Biology Teachers, "is that this doesn't have a place in the science classroom because it isn't science."

On the contrary, the sicentific evidence for Creation is overwhelming, says David Menton, a creationist who is an associate professor of anatomy at Washington University at St. Louis. "More and more reasonable scientists are speaking out against this silly theory of evolution," he says.

He points, for instance, to "incredible structures, such as the human eye, that make our most complicated computers look like beer-can openers." He asks rhetorically whether it is possible to "account for this by random chance, as the evolutionists do." The evolutionists' reply, as stated by Mr. Sloan of the University of Minnesota: "It is random chance that the genes are first produced, but not all are maintained. Only those genes that produce good results are saved."

Mr. Menton and others also argue that the fossil record is on their side. "Even the evolutionists' best experts say that there isn't any fossil evidence of one animal's developing into another," says John Jensen, an Iowa state senator who has introduced a bill to require the teaching of Creation alongside evolution.

"I'm a farmer," Mr. Jensen says, "and we're raising better cattle than we used to. But when we cross cattle, we get cattle. We don't get a dog."

"SLEIGHT OF HAND"

Such an argument is "mental sleight of hand," says Michael Singer, an assistant professor of zoology at the University of Texas who has debated a creationist. "The fossil record gives us a logical sequence of organisms that differ from each other in a way totally consistent with the evolution of one into another," Mr. Singer says. "The evidence of organic evolution is stronger than ever."

Besides, Mr. Singer says, "the guy who debated me implied that the people in the audience who believed him would be better Christians and would treat their fellow man better; I took strong exception to that."

Many evolutionists concede that the creationists are making progress. "They just seem to have gotten a full head of steam," says Mr. Kennedy of the biology teachers' association, "and the indications are that they aren't going to give up."

Some evolutionists suggest that the creationists' advances are part of a continuing revolt against science and technology, but John Whitehead, a professor of anthropology at Ball State University in Muncie, Ind., has a different explanation: "People, and especially undergraduate students, are willing to accept just about any crackpot scheme these days."

Keith Nissen, a colleague of Mr. Salyer's at Holmes Junior High, disagrees. "If you're going to go by the evidence that exists," he says, "Creation is the only thing you can believe. I'm a show-me guy, and I've been shown." ●

GASOHOL—A PROMISING ALTERNATIVE FUEL

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. ROTH. Mr. Speaker, today America's leadership is seeking solutions to our Nation's energy problem. This calls for taking a number of actions. One promising measure is to use alternative fuels such as gasohol for motor vehicles. H.R. 811, which encourages the use of methanol, is such a measure. The bill encourages construction of methanol producing facilities by allowing a 5-year rapid amortization in addition to the 10-percent investment tax credit. It would also exempt fuels that are at least 10-percent methanol from Federal excise taxes.

Methanol can be produced from such substances as coal, wood, and industrial waste. The United States has coal in quantities estimated to meet our energy needs for hundreds of years. By producing methanol from industrial waste, we get a double-barrel effect. We improve our energy situation and also help clean up America's environment by reducing the ever-growing problem of waste disposal.

METHANOL LOOKS ATTRACTIVE

In earlier years methanol was thought to be too expensive for this purpose. But with the escalating cost of gasoline over the last several months, methanol looks more attractive. Moreover, there is reason to believe that the price of methanol could be reduced if production were increased substantially. Currently, the quantity of methanol made in the United States is only 1 to 2 percent of the amount of gasoline we refine. Unless we act to produce more methanol, we are omitting a potentially abundant energy source.

The severe energy crunch we are experiencing now underscores the need to leave no stone unturned in our search for a solution. This bill, H.R. 811, to encourage the production and use of methanol as an alternative fuel for motor vehicles, represents the kind of practical action that Americans are calling for. Enactment of this bill could contribute measurably toward improving our energy situation in a relatively short time. Accordingly, I am pleased to join Congressman WHITEHURST in supporting this measure.●

PRICE RATIONING IN GREAT BRITAIN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. MAZZOLI. Mr. Speaker, while I continue to have reservations about the wisdom of decontrol of oil prices—reservations made somewhat less acute by the actions of the House in adopting a solid windfall profit measure—I would call my colleagues' attention to the following Christian Science Monitor article which discusses the effects of price decontrol in the United Kingdom:

[From the Christian Science Monitor, June 25, 1979]

BRITISH GAS STATIONS: ONLY "REGULAR REGULARS" CAN BUY

(By Rushworth M. Kidder)

Gasoline prices hover around $2.20 per gallon, with ambulances paying up to $3.60 per gallon to maintain supplies.

Many filling stations close early. Others change their "Regulars only" signs to read "Regular regulars only."

A member of Parliament reports that the only garage in his rural area has been without gasoline for 12 to 17 days.

A scenario for 1990? Not at all. This is contemporary Britain.

The fuel problem, partly drowned by last week's thunderous budget announcement, persists as a steady, nagging background noise. A recent speech in Parliament by David Howell, Secretary of State for Energy (not to be confused with budget-man Sir Geoffrey Howe, Chancellor of the Exchequer) set forth what promises to be an almost textbook case of confrontation between Conservative and Labour economic theorists.

The case, quite simply, turns on the allocation of a scarce resource—motor fuel—in a climate of increasing demand. Britain's own North Sea oil is flowing at a rate of 1.5 million barrels per day. Yet estimates from various sources put the current shortfall in Britain between 5 percent and 20 percent.

It is estimated that between half and three-quarters of British production is sold overseas—while 1.2 million barrels per day is being imported. The major North Sea oil companies involved—British Petroleum (BP), Esso, and Shell—are quick to point out that the imports are necessary, since various refining operations require various sorts of crude oil.

Government sources are quick to point out that the sale, bringing in more than the companies spend on imports, helps the balance of payments.

Nevertheless, the figures are upsetting to many, and the fledgling Tory government faces a barrage of flak from welfare-state artillery as it tries its free-market wings.

David Howell's speech set forth the government's side, which:

Rejects rationing as rigid, unfair, and enormously costly to administer.

Commits the country, in Mr. Howell's words, to "an overall cut in demand of 5 percent."

Encourages the newly revamped Petroleum Industry Association (a trade association for refiners and distributors in the United Kingdom) to, as he said, "achieve a more even and effective distribution overall."

Standing up firmly to a battering by the opposition, Mr. Howell reiterated the government's faith in the free-market system, in which price, and not bureaucratic intervention determines supply and demand.

The clash of opposing theories was evident throughout the questioning. Arguing for rationing, Liberal Party leader Davil Steel observed that when ambulances pay $3.60 per gallon, "That's not a free market, that's a black market."

Mr. Howell's retort was equally crisp. "We do not think the answer to every problem is to spend the taxpayer's money," he said.

Conservative policy will be put to the test at the gas pumps. There, prices have risen dramatically this week: 14 cents (7 pence) per gallon from the new excise tax, 6 cents (3 pence) from a hike in sales tax, and 4 cents (2 pence) from a price increase.

There are indications, however, that demand may depend less on price than on habit. A Texaco dealer in London's swank borough of Chelsea told The Christian Science Monitor that despite shorter hours and higher prices his business was booming.

Tank-toppers, squeezing in only a gallon or two, flowed steadily through his station while he was open—and banged at his door when he wasn't. He can obtain only about 80 percent of the gasoline he requests from suppliers.

But there also are signs that the government's patience (or "amazing complacency" as the opopsition calls it) is bearing fruit. Motorists in outlying areas found that prices had stabilized somewhat over the past weekend and there were few reports of gasoline being difficult to find.

The Petroleum Industry Association has begun to collect and analyze supply figures from the major companies so that it can locate areas of greatest need and urge distributors covering those areas to supply the lack.

There also may be a gradual shift toward public transportation—despite price increases annuonced over the weekend for Lonlon buses, subways, and taxis.

The state-run British Rail has announced a plan that will sharply reduce fares for family travel to holders of a $20 Family Railcard. The holder pays full fare; children and spouse pay a flat rate of $1. The announced intent is to make it cheaper to go by rail than by car.●

OUR WELL-OILED MILITARY MACHINE

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. PAUL. Mr. Speaker, the reason we have Government is to defend our rights, against both international and domestic aggressors.

That is why the Department of Defense is our most important Federal agency.

But in making sure that we have the best defense in the world, we need to remember that the Pentagon houses some bureaucrats whose motives are no different from those in HEW, even though they may be in uniform.

For every MacArthur and Patton, there is a Colonel Califano.

"James North," a Washington reporter writing under a pseudonym in the Washington Monthly, recently told about the Wimex disaster, and that the military computerized communications system, upon which our security depends, is highly unreliable. Worse, its shortcomings have been covered up, in the best bureaucratic fashion.

The American taxpayers have paid many billions for a computer system that does not do the job.

This is an extremely important article, and I would like to call it to my colleagues' attention.

The article follows:

"HELLO CENTRAL, GET ME NATO" THE COMPUTER THAT CAN'T

(By James North)

Suppose the Russians decided to help solve their energy problems by invading Iran. You are the president, and you must decide what steps to take. It would be important, in those critical moments, to have accurate information. You would want to know, for example, how many Russian tanks were invading, and where the ones that weren't were. What forces did you have at your disposal, where, and at what state of readiness? And the bigger questions, the Armageddon questions: Were any nuclear weapons involved? What did the satellites say about the position of the Russian submarine fleet? Were they mobilizing on any other fronts? In fact, you would need to take in an incredible amount of data, and you would need to issue a series of complex commands. Most important, you would want to do all this instantly.

That is why our military depends on computers. The need for instantaneous communication has outstripped the capacities of the human brain. Computers can store the information and make it available to the humans who make the decisions. Indeed, computers are an example of the type of military hardware that neither hawks nor doves seriously argue we can do without. We need the machines to help prevent the accidental triggering of a war, and we need them to fight a war if it ever comes to that.

Unlike missiles or airplanes, however, computers don't attract many headlines. The debate over the MX missile will likely destroy several forests before it is over. And if a major weapon costing $10 billion was publicly exposed as a failure, if the missile keeled over and crashed on the launching pad seven times out of ten, the pictures would be in every paper.

But what if the Pentagon spent $10 billion on the computer that is the nerve center of the entire U.S. military apparatus, and then botched up the job so completely that the system didn't work at all almost 70 per cent of the time, and was pitifully inadequate the other 30 percent? Would you hear about it?

Well, it's happened.

In the spring of 1977 the Pentagon conducted its most recent test of the World Wide Military Command and Control System (the acronym WWMCCS is pronounced "Wimex"), the computer system on which it plans to rely to get the American military through the eighties. The purpose of the test was to see how well the system held up under simulated emergency conditions, when our military leaders demanded quick answers to complicated problems. The exercise, labeled PRIME TARGET, linked up computers in the U.S. Atlantic Command (LANTCOM), European Command (EUCOM), Readiness Command (REDCOM), Tactical Air Command (TAC), and National Military Command Center.

During the test, EUCOM attempted to obtain or send information through the computer network 124 times. It failed 54 times as the result of "abnormal" shutdowns of the computer.

LANTCOM tried 295 times and failed 132 times.

TAC went 19 for 63, a failure rate of 70 per cent.

And the so-called Readiness Command, the unit whose men comprise America's first line of defense in the event of any military emergency anywhere in the world, found itself able to receive and send instructions in only 43 of 290 attempts, a success rate of 15 per cent. Overall, the computers tested worked only 38 per cent of the time.

It wasn't the first occasion on which Wimex had shown itself spectacularly incapable of doing its job. Since 1966 the Pentagon's multi-billion dollar computer program has been a continuing horror story. Despite a decade of expense, the machines are still so unreliable and incompetent that military personnel are forced to "work around" them by using telephones and other old-fashioned forms of communication—not only in times of crisis, but in the everyday conduct of their jobs. It's as if the World War II Pentagon had outfitted our army with radios and telegraphs that were so defective that the soldiers had to make do with messengers and semaphores.

BATCHES AND CRASHES

The Wimex fiasco began in the late 1960s. At the time, the Army operated a loosely knit federation of 158 different computer systems at 81 different sites around the globe. These networks had been individually installed to meet the specific needs of different branches of the armed services and employed widely divergent types of computer equipment. Under this patchwork system, it was costly and difficult to exploit the computers' potential to gather up intelligence from diverse sources, talk to each other, funnel the information to where the decisions would be made, and transmit the orders back. Since the military was growing increasingly reliant on computers to do these things, the Pentagon in 1966 decided to develop a standardized system that could be used by all commands. The alternative to a reliable computer network might be disaster.

Indeed, it was a series of disastrous communications failures in the late 1960s that led the military planners to think again about the adequacy of our computer system. First, during the six-day Arab-Iraeli War, the *U.S.S. Liberty*, cruising off the Sinai peninsula, was fired on by Israeli gunboats after the ship had failed to receive information that would have warned it away in time. Another communications snafu led to the shooting down of a U.S. spy plane off the coast of North Korea. Then came the seizure of the *U.S. Pueblo* by the Koreans, a crisis that could have been avoided if the message sent by computer warning the *Pueblo* of potential trouble hadn't been misrouted. In hundreds of smaller, unpublicized incidents, the military found itself plagued by delay or mixups of messages.

As a result, in December of 1971 Deputy Secretary of Defense David Packard issued DOD Directive 5100–30, aimed at reorganizing the Wimex system "to provide the means by which the President and the Secretary of Defense can: receive warning and intelligence upon which accurate and timely decisions can be made [and] assign military missions and provide direction" to the commanders in the field. To accomplish Packard's goal, which clearly seemed to be in the interest of U.S. survival, Congress authorized the Pentagon to spend massive amounts of money. Since 1966 our military has paid out between $10 and $15 billion developing its centralized computer network. The bulk of that has been spent since Packard's directive on the creation of a new Wimex consisting of 35 computers at 26 command posts around the world. The U.S., the Congress was told, would have the finest computer support system in the world. What it got was a system that was obsolete from its inception.

The problems started with the decision, in 1972, to use Honeywell 6000 computers as the basic "hardware" for Wimex. The Pentagon's rationale for the Honeywell purchase is still a mystery—the military has repeatedly denied investigators from Congress' General Accounting Office access to the documents that might explain the decision. But several things are clear. First, the Honeywell machines are designed to receive or communicate data in so-called sequence processing, or "batches." The "batch" system, according to a GAO report issued last April, is "extremely inefficient" even for military needs in time of peace. Col. Perry Nunn, the Pentagon's acting director for "information systems" and "communications command and control," described the problem: "Suppose the P.L.O. hijacks a plane and lands it somewhere in the desert. If I've got to provide help, I need to know where the nearest airfields are, how much fuel they have on hand, how long their runways are, and dozens of other support questions. The computer can't answer, and may have to dump [give a batch printout] a whole set of nearby countries and all their airfields. And you have to go through these doggoned things by hand."

What the military needs—and could have bought—is a computer that can do what is called "real time" data processing. "Real time" capability means that the computer, even while it is being questioned, can incorporate other data it is receiving from satellites and other sources into its response, so the commanders get the most current information before making their decision. According to GAO, "the need for real time processing . . . was known to DOD before the Honeywell computers were purchased, and other computers, available at that time, could have provided that capability." Instead we have a Wimex network that even Pentagon officials concede is ten years behind current technology. Some military commands, like the Strategic Air Command, have gone to extra expense to install real time computers in their efforts to "work around" the deficiencies in the basic Wimex system.

As the shortcomings of the Honeywell computers became evident, the military attempted to compensate by spending $1 billion dollars on "software" to beef up Wimex's capabilities. The hope was that if the software (which is simply the programs that tell a computer what to do) was fancy enough, it could make up for deficiencies inherent in the machines themselves. But it hasn't worked out that way. In fact, the very complexity of the software has a lot to do with the Wimex system's abysmal 38 per cent reliability. In operation prime target, for example, the machines simply couldn't handle the programs, and as a result the computers shut down frequently. Other times, messages were misrouted for the same reason. A Pentagon report dated March 29, 1976, succinctly summarizes the support the president can expect from Wimex in time of crisis: "The network crashes [shuts down completley] approximately every 35 minutes, while the longest time without a crash was approximately one hour."

The Defense Department's computer experts are asking Congress this year to spend another $140 million for Wimex software. GAO opposes the request, arguing that Congress should consider "stopping or curtailing" the program. As one congressional staff member familiar with the controversy put it, "What they are trying to do is take a Volkswagen chassis and make it into a Cadillac, and that's just not possible. Their decision to buy those Honeywell computers was a bad decision, and this looks like the sort of problem where it's going to cost a lot of money to bail the Pentagon out. It's not just a bug in the system, you know, it's a damned disease."

BUILT-IN BLINDERS

The specific reasons for the Defense Department's computer blunders are still a national security secret, one we shouldn't expect DOD to accidentally declassify in the near future. But a few of the sordid details of the software program have come to light. For followers of our military bureaucracy, the plot is a familiar one. All the classic elements are here.

First, there are the built-in blinders. When it came time to administer the software program, the Pentagon needed someone familiar with the details of the system, especially with the work being done by Computer Sciences Corporation, the major contractor and supplier of software for Wimex. Computer Sciences had come under criticism for its performance under the contracts, particularly from a senior electrical engineer on the project named John Bradley. But the need for familiarity overcame the need for objectivity, and the Pentagon installed as chief of the Defense Communication Agency's "network" branch a man named Irving Bialick. Bialick was familiar with the system, all right, since before coming to the Pentagon in 1974 he had worked for Computer Sciences designing it. He was also the owner of 1,700 shares of Computer Sciences stock, which he finally sold in 1977 for $15,000.

Then there was the unwillingness to admit a mistake. As early as 1973 Bradley had spotted reliability problems in Wimex. That year, before a test of the system, Bradley repeatedly urged, among other things, that the computer contractor should station an expert at each computer used in the test to quickly determine the cause of any failures. "It's a hell of a lot easier and less expensive to fix a problem when you find it in the early stages than it is after you adapt it to the whole computer network," Bradley recalls. Nevertheless, Bradley, whose job as "reliability engineer" seemed to justify concern over such problems, was instructed by his superior, Marsden Champaign, to worry about other things.

The usual steps were taken, of course, so that the bad news didn't reach the top. When Bradley violated this unwritten rule and stressed the need for reliability and on-site inspection in a manner that might reach the Joint Chiefs, Champaign decided Bradley had to go. After two critical letters from Champaign. Bradley was transferred to a clerical job.

Finally, Bradley became a whistleblower. As he saw test after test, and failure after failure, prove him right, he began to get angry. Part of it was personal. Bradley had filed a grievance to get an engineering job back, asking to be placed in a position where he could "make a contribution." Part of it was ideological. Bradley is what most people would call a "hawk." He worries about national defense—and the defects in Wimex, he said, were "enough to keep you awake at night."

In April of 1973, Bradley went to the White House for a meeting with General Robert A. Rosenberg, an official of the National Security Council. Bradley told Rosenberg of the flaws in Wimex. Rosenberg asked him to put it in writing. Bradley did so, in a two-page letter dated April 29, 1977.

Two months later, Bradley was fired. He was charged, among other things, with making false and misleading statements about the reliability of the computer system. Freed from the need to go through channels, Bradley willingly talked to a reporter "on the record" about the problems Wimex was having. After he did, the GAO conducted an investigation of the Wimex project that substantially confirmed his charges.

Today Bradley is unemployed, living on his wife's salary and a $1,000 a month pension. He has amassed $50,000 in legal bills in his battle to regain his job. He is not likely to succeed. Both Bialick and Champaign testified against him at his civil service hearing.

So the men who made the mistakes are still in charge, and the one who didn't is out in the cold. The Wimex story could be a rerun of hundreds of Pentagon scandals that have sapped our defense and helped bankrupt our Treasury over the years, from the P–40 of World War II to the C–5A and the F–14. In each case, the Pentagon has entrusted our safety to the men who have the least incentive to tell us when something is going wrong. So we end up with guns that jam, missiles that miss, computers that "crash." To prevent this sort of disaster, we have for years needed people with access to the facts who are able, before it is too late, to ask the questions that men like John Bradley can only ask at the risk of their jobs.●

GRAYSON SAYS NO PRICE CONTROLS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. COLLINS of Texas. Mr. Speaker, probably the best authority in this country on price controls is Jack Grayson who is chairman of the American Productivity Center in Houston. I knew Jack when he was dean of the SMU Business School. He established a national reputation when he served from 1971 to 1973 as Chairman of the Price Commission here in Washington.

He has seen price control and states with emphasis that price control will never work in peacetimes.

I just read an interesting summary in the recent issue of Business Week. I would like for you to read a few key paragraphs of the Grayson analysis in Business Week:

> The most frightening aspect of the current gasoline crunch is not the long lines. Nor the price. Nor OPEC. It is not even the shootouts at the service stations.
>
> It's the almost total absence of serious consideration and open support by businessmen, politicians, and economists for a return to the market system to ration demand and increase supplies.
>
> The answer to our problems has to be complete decontrol—decontrol not only of oil, but also of gasoline—and elimination of the price and wage "guidelines" program along with it: a complete dismantling of the increasingly complicated, inefficient, inequitable, and unworkable machinery of energy and wage-price controls.
>
> I recommend this not from blind ideological faith in the market system, but from (1) a reading of the history of the failures of wage-price and allocation controls for over 40 centuries, (2) an observation of the current failures of energy and wage-price guidelines, and (3) my own personal experience in directing controls, during Phase II of President Nixon's wage-price program.

Yes there is. I offer these recommendations:

Remove all price and allocation controls over gasoline and other fuels.

Remove all wage and price controls.

Abolish the Council on Wage & Price Stability

Return to a market economy.●

FLAWS IN THE NATION'S HEALTH CARE DELIVERY SYSTEM

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. WIRTH. Mr. Speaker, in this time of high inflation and a large budget deficit, it is difficult to support most of the costly national health insurance proposals now under consideration in the House. Nonetheless, I recognize that millions of Americans suffer every year as a result of flaws in our health care delivery system. Let me describe the problems as I see them.

First. In recent years, annual expenditures in the United States for health care have reached astronomical proportions. As a member of the House Budget Committee, I have been arguing that health care costs must be brought into line. Last year, the Nation spent over $180 billion on health care. Nearly half of that sum was paid by Federal, State, and local governments. At the Federal level especially, these costs place a huge strain on the budget and contribute significantly to the size of our current deficit. Moreover, business leaders have repeatedly noted that health care costs are becoming a major cost factor in production, and therefore, a significant factor in competitive pricing and inflation. For example, $140 of the cost of the average auto manufactured in the United States last year went to pay for health insurance premiums of auto company employees.

Second. In light of the drastic increase in health care costs over the last 10 years, I am concerned that 22 million Americans have no health insurance protection from either public or private programs. Most of the rest of us are covered by policies with maximum benefit limits that too often prove inadequate in the face of long-term illness. Thousands of families face financial ruin each year because of catastrophic illnesses.

Third. The distribution of health resources in the Nation remains uneven. In some places, we have surpluses of beds, manpower, and equipment; yet, in 133 counties in the United States there is no active physician engaged in providing care to patients.

Fourth. Finally, market forces that hold down prices and discourage waste in other sectors of the economy do not operate in the field of health care. More than 90 percent of all hospital bills are paid by third parties—insurance companies, medicare, or medicaid. This means that neither the patient nor the hospital nor the doctor feels the pinch of rising costs in deciding what kinds of facilities and care are to be provided. Consumers do not make comparisons and shop around, and this contributes to the duplication and waste that can be found in the industry.

The number and variety of national health insurance proposals now before the Congress demonstrates the lack of agreement on how our health care delivery should be changed. It is going to take a great deal of work before any consensus is reached, and I would be surprised if we had any design agreed upon before the 1980's. Nevertheless, the debate has reached an important stage and the continued participation of interested individuals will be greatly beneficial to the Congress.

After studying these problems for 3 years, I am convinced that inflation in the health care industry can be halted without jeopardizing the quality of care we currently enjoy. The Congress must immediately address this problem, by imposing mandatory controls if necessary.

Meanwhile, we must continue to try to make the partnership of the public and private sectors in health care work more effectively. We cannot overload the system; we cannot skew it by sharply increasing the Federal role overnight. Providers are working with Government to control costs. The public's demand for broader health care coverage will have to be tempered by awareness of limited resources. Finally, the Government must understand and balance the often conflicting demands made by the parties involved.●

BURNET C. WOHLFORD—ESCONDIDO PIONEER

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. BURGENER. Mr. Speaker, Escondido, Calif., in my congressional district has lost one of its foremost citizens of the past century recently and the community will miss him dearly. Burnet C. Wohlford, whose life in Escondido spanned 82 years, served for over 50 years as chairman of the Escondido Mutual Water Co.

As a young man, Burnet Wohlford studied law at Harvard and Stanford before serving as an ambulance driver during World War I in the Balkan States.

He returned to Escondido after his service to head the Escondido National Bank, and his career in business, farming, and public service paralleled the growth of his hometown.

His prudent leadership of the Escondido Mutual Water Co. for over half a century brought credit to this one small, yet exemplary, water delivery system.

As a good friend of many years, B. C. Wohlford will be sadly missed by everyone involved in Escondido community affairs and the best interests of the community.●

CONSERVATION WITHOUT FEAR

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. OTTINGER. Mr. Speaker, for many years I have sought to convince my colleagues and the Nation that conservation represents our best energy investment opportunity. I have often been criticized, as a result, as a no-growth advocate. Now, at long last, I am getting some strong support for my view, most notably from the Harvard Business School. I doubt that anyone will accuse them of having a no-growth bias.

The Washington Post has captured this "new" message in its lead editorial today, entitled "Conservation Without Fear." Most importantly, the Post editors have realized that conservation does not mean deprivation. Note this key passage:

> Does a conservation policy mean that Americans must accustom themselves to ever and ever less comfort and convenience, and a downward descending curve to steamy summers and glacial winters? . . . The answer, according to the best experts, is no.

Conservation does not mean no growth. Conservation does not mean pain and suffering. Conservation is our best, rational economic option. I urge my colleagues to read this editorial and listen to the wise advice which it and the Harvard Business School study offers:

> CONSERVATION WITHOUT FEAR
>
> A committee of the National Academy of Sciences recently concluded that in the year 2010 "very similar conditions of habitat, transportation, and other amenities" could be had in this country from an economy that consumed—pay attention here—either twice as much energy as we do today, or 20 percent less. Translated from the academy's solemn prose, this remarkable assertion apparently means that we have a choice between enjoying the same lifestyle—goods, services and total economic activity—fueled by the equivalent of either some 70 million barrels a day of oil—or 30 million barrels. The difference comes from conservation.
>
> Ever since the first oil shock of 1973, a number of voices have been touting the potential of conservation as a primary energy source for the United States. Generally, they have been discounted as obsessive environmentalists—or some other form of vague romantic. Now, however, the Harvard Business School—untinged by any hint of no-growth bias—adds its voice to the chorus with the release of its six-year study, which concludes that energy conservation is the country's largest energy resource for the next decade. Indeed, the business professors, of all unlikely men, conclude that conservation, coupled with relatively modest new production incentives, is not only the best, but also the most politically acceptable energy plan.
>
> What does this mean for the average American who three days from now must begin to abide by the government's first major conservation initiative, mandatory thermostat settings? Does a conservation policy mean that Americans must accustom themselves to ever and ever less comfort and convenience, on a downward descending curve to steamy summers and glacial winters? Will conservation solve our energy problems by taking us all back to the cave?

The answer, according to the best experts, is no. There is, they say, a wide array of conservation possibilities that can both save large amounts of energy (a barrel saved is a barrel not imported) and does it without slowing down, heating up, frustrating or in some other way cramping the style of the American consumer. The possibilites range from higher mileage standards for cars and trucks, to more energy-efficient building design and retrofit of existing buildings, to letting factories that need steam share the same site as power plants, which make steam as a waste product from making electricity (known as "cogeneration" to the trade, this is common practice in Europe).

Most such changes have this in common: They require changes in our institutions—government regulations, industrial practices, building design, etc.—but, unlike the thermostat-setting rule, they do not directly affect the consumer's daily routine. The family that purchases a new appliance that meets more exacting efficiency standards and thereby saves energy can only be expected to be pleased.

This is not to dismiss the value of measures like the pending thermostat requirements. Any savings, in the current situation, will help. But the growing opinion among energy analysts is not just that conservation is a vital energy resource that should be tapped, but—more interestingly—that the steps which promise the largest return are those requiring institutional, not personal change.●

AID PROGRAM IN EGYPT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. HAMILTON. Mr. Speaker, I recently received a letter from Don Brown, U.S. AID Mission Director in Egypt, describing the accomplishments of the U.S. economic assistance program in Egypt since its resumption in 1974.

I believe that this letter offers a fair and accurate summation of what we are trying to do in Egypt. There are some areas in which many of us would like to see further and quicker progress. The efforts of the Committee on Foreign Affairs will continue to focus on seeking improvements and quicker implementation of the American economic assistance effort in Egypt.

Mr. Brown's letter of July 9, 1979 follows:

DEPARTMENT OF STATE, AGENCY FOR
INTERNATIONAL DEVELOPMENT,
Washington, D.C., July 11, 1979.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: During a recent visit to Cairo, Congressman Long asked us to prepare a summary statement of program accomplishments since the United States resumed economic assistance to Egypt in 1974. In view of your continuing interest in following matters concerning the Egypt program, I thought you would also be interested in a description of our overall program objectives and the broad accomplishments of the program to date in relation to these objectives.

When we resumed our AID relationship with the Egyptians in 1974, the economy was at a virtual standstill. Between 1966 and 1974 real growth averaged less than 3 percent a year. Although Egypt had regained part of the Sinai oil fields and the Suez Canal, earnings from these sources were not yet appreciable and exports were lagging. Egypt was heavily in debt—much of it short-term—and a balance of payment crisis was developing. Its industry and infrastructure were badly deteriorated owing to a lack of investment which over a decade or more had instead been channeled into meeting defense requirements. Finally, added to these problems Egypt's policy structure, after years of misdirection, was badly in need of reform.

Under the circumstances, we saw the need for a dual approach which combined short-term balance of payment and economic stabilization efforts with longer term activities aimed at developing self-sustained growth with equity. The former objectives we sought to realize through financing imports under the Commodity Import and PL 480 programs and, in concert with the IMF, the IBRD and other donors, providing advice to the Egyptian Government on short-term monetary and fiscal matters. The latter objective of self-sustaining growth with equity we are attempting to achieve through a range of projects and activities which aim to increasing production, expanding employment and meeting the basic needs of Egypt's poor.

Other donors—notably the IBRD, the Germans, the Japanese, the Common Market Community, and until recently the Arab states—have also provided significant amounts of short and longer term assistance. In addition, Egypt has also managed to increase earnings substantially from expatriate worker earnings, tourism, petroleum and the Suez Canal. As the largest and most active donor, however, the United States can take major credit for the following positive economic trends:

Since 1975 Egypt's real growth rate has averaged over 9 percent per year;

Domestic private investment has grown by 69 percent since 1975;

The national savings rate has grown from 6.9 percent in 1975 to 24 percent in 1978;

The rate of annual investment tripled between 1974 and 1977;

Egypt's balance of payments position has dramatically improved and most of its short-term debt has been converted to longer term.

These macro developments point to the general success of our short term efforts. Despite this progress, however, economic stabilization and balance of payments support continue to be important concerns. Inflation continues at a high rate, exports have not increased substantially, and with the recent drop in Arab assistance future balance of payment difficulties are possible. We anticipate that short-term assistance will continue to be required for the next several years. In general, however, we are satisfied that our short-term efforts have so far been successful.

The success of our longer term efforts is more difficult to measure at this moment as many of our projects and activities now underway are not scheduled to produce major results until 1980, 1981, or later. Despite this, however, implementation of many of these on-going AID activities has advanced sufficiently for us to be reasonably confident of significant results in the next few years ahead. In addition, interim results on a number of projects have already had a positive effect. For example:

Construction is now underway on three separate power plants in the cities of Ismailia, Talka and Helwan which will add 600 megawatts of power to Egypt's grid. The Talka and Helwan plants should be completed and in operation early in 1980. In the interim, electrical distribution equipment which is about 65 percent installed in Suez Canal cities is providing better power distribution in these cities;

Major renovation and expansion of Cairo and Alexandria sewer systems are underway which should have a major impact on the health and living standards of many of Egypt's urban poor. While much of the expansion of the system will not be complete for several years, in the meanwhile AID-financed sewer cleaning operations are already having an effect in many parts of both cities;

At the Mahalla Textile Complex AID is financing a major expansion of facilities. The new buildings that will house the U.S. source equipment are almost complete and plant equipment is arriving. A U.S. professional team has been on site for over a year and the plant management reports that technical assistance alone has increased plant productivity by 30 percent;

An AID-financed project is examining ways of expanding poultry production in Egypt including village flocks and larger commercial operations. Although the project is scheduled to continue for several years, preliminary finding by the U.S. technical assistance team will enable us to expand production aspects of the project this year;

Telecommunications renovation and expansion is vital to growth of Egypt's commercial and industrial sectors—particularly to foreign and private sector investment. AID and other donors are assisting in an overall modernization effort of Egypt's telecommunications which will take five years or more to complete. In the meanwhile, an AID-financed microwave net has been installed and has already improved communications in central Cairo.

These are a few of the interim results that have been realized on a number of projects now underway. In addition, however, the breadth and depth of our activity has enabled us to enter into a dialogue with the Egyptian Government on policy issues in a variety of areas. Again, while major results may not be realized for a number of years, some changes have already started. For example:

As part of our Housing Program we are attempting to reorient the Government's policies to both make Government programs more economic and responsive to needs of the poor. The Government agreed to a number of policy changes at the time our first loan was approved. Other policy areas are now being examined as part of our technical assistance effort.

As part of our industrial and infrastructural projects we have the Government's agreement to examine rates, prices and tariffs on such items as cement prices, port tariffs, electricity and water rates in order to reduce subsidies and make operations more economic.

As part of our population efforts we have been able to shift the emphasis of the Government's programs from over-reliance on economic and social development as the primary means of reducing fertility to an approach which pays more attention to family planning. To support this effort the Ministry of Health has reorganized to give more attention to family planning.

As part of our agriculture program we are assisting the Government to examine its input and output prices—again with the intent of reducing overall subsidies—but also to increase economic returns to farmers.

Of course, in all of this activity we are seeking not just economic development but the increased welfare of Egypt's poor. While we are convinced that continued investment in growth is necessary if Egypt is to maintain employment and provide the services its people require, we are seeking to channel this in ways which impact directly on the poor. Again, major results from most projects will not be evident for several years, yet the poor are already affected by the AID program in a variety of ways. For example:

The poor rely heavily on unleavened bread which is readily available in stores throughout the country at subsidized prices. One out of every three loaves on the market has been financed under the PL 480 program;

Approximately one million people a day, most of them the urban poor of Cairo and Alexandria, travel to work on AID-financed buses;

Many poor neighborhoods in Alexandria and Cairo for the first time in years have streets clear of sewage as a result of cleaning efforts financed by AID;

Emergency medical care in Cairo and Alexandria has been greatly improved as a result of 135 ambulances financed by AID;

A number of elementary schools in the poorest areas of Cairo have been renovated and painted through self-help efforts of parents with materials financed by AID;

Over 1.8 million children and mothers are fed daily in schools and maternal-child-health clinics in rural Egypt.

I believe change is taking place in Egypt. The short-term objectives of our program are being met, and we have made a good beginning on our longer term objectives. In the meanwhile, the AID program is having a daily impact on the lives of the poor. Perhaps as a microcosm we could consider a neighborhood in old Cairo as an example of the change which is taking place. The neighborhood is one of the worst in Cairo. Raw sewage ran in the streets, refuse was scattered everywhere, and a water fountain which served over 18,000 people was in a bad state of repair. Perhaps worse was the apathetic state of the people in the area. Today conditions are changing: the water fountain has been replaced (as part of our on-going renovation of 600 such fountains in Cairo) and drainage installed. The sewer lines have been cleared and the streets and the nearby cemetery are now clear of sewage. Refuse continues to litter the street but clean-up efforts are beginning, and we are in the process of discussing with the Government a major voluntary clean-up campaign throughout Cairo. There is still much to be done in this neighborhood as there is much to be done throughout Egypt; nonetheless, a promising start has been made.

I hope this information will prove helpful to you. Please let me know if you would like anything further from us.

Sincerely yours,

DONALD S. BROWN,
Director.●

ALL VOLUNTEER VERSUS RETURN TO THE DRAFT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. PAUL. Mr. Speaker, I can still remember the first time I heard the voice of Paul Harvey, and the awakening to the principles of freedom that it brought to me.

For many years now, the wise words of this man have been welcomed in the homes of millions of Americans.

Recently, he offered a few thoughts on the efforts to revive the military draft, in Grit magazine. Paul Harvey's words here, as well as in all other areas, are worthy of the most serious consideration. I would like to draw them to my colleagues' attention.

The article follows:

ALL-VOLUNTEER VS. RETURN TO THE DRAFT

Those who propose reviving the military draft argue that "the military is not getting enough of the right kind of personnel."

Who is?

Indeed, it can be argued that our entire civil service system is lacking in the number and quality of workers Congress might prefer.

Shall we, therefore, undertake conscription of all federal employees?

William Meckling, former executive director of the President's Commission on an All Volunteer Armed Force, dares to suggest that if our military forces are not attracting enough of the right kind of volunteers, then something is wrong with the military.

And to pass the buck to our sons and daughters—to make them pay when we should be doing the paying—is a selfish cop-out.

Meckling says that if Americans are not volunteering for military service, then a nation which professes "freedom" should make the service more attractive.

In the first place, the masses-of-marching-men concept is three wars out of date. What our nation requires to manpower its technological deterrent forces are technicians. And they are going to cost us more money.

Instead of punishing people for serving their country, they should be rewarded. And instead of a burden on the budget, they should become taxpayers.

For the record, the Army, Navy, Air Force, and Marines have been able to meet quotas—despite modest levels of compensation. The only trouble they've had is in getting enough specialists in medicine and enough talent in the reserves.

As for the quality of manpower, during the draft 68 percent of recruits were high school graduates. Today, 69 percent are, even though a new recruit's pay today is 33 cents an hour less than the national minimum wage.

If the defense of our country is going to cost more, let's pay it—not our kids.●

THE NEED FOR ENERGY CONSERVATION

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. BOLAND. Mr. Speaker, in a recent series of editorials entitled "Search for An Energy Policy," the Boston Globe outlined the scope of the problem we face with regard to energy and offered some suggestions as to how that problem might be solved. It is my firm belief that a massive conservation policy is an absolutely essential first step in the development of an effective energy policy. Not only can conservation produce substantial dividends in terms of reducing the number of barrels of oil we use, but it is also the one element in an energy policy which can truly involve all Americans. We will need to develop a spirit of common sacrifice and a feeling that we are really "pulling together" as a nation if we are to successfully resolve our energy dilemma.

The third editorial in the Globe's energy series, "An End to Waste," which appeared on July 3, forcefully argues in favor of conservation. I would like to insert that editorial at this point in the RECORD:

AN END TO WASTE

Almost every energy source has some drawback. Fortunately there is one source that produces no pollution, is silent and is better than free because using it increases one's cash. It is conservation. We have known about it for years, but we have only barely begun to tap its vast potential.

A study produced for the Ford Foundation a few years ago estimated that conservation alone could cut energy use in America by 50 percent with no harm to the national economy. Another, being completed at the Harvard Business School, puts the figure at 30–40 percent.

At the very least, there is no doubt the conservation can eventually produce savings much greater than the entire present volume of oil imports—imports which account for roughly half the country's total oil consumption, and one-fourth of all its energy needs.

If that were only half true, conservation still would be capable of more than eliminating our present shortage.

It will take new incentives to turn things around because conservation has a bad name. The word, for example, has acquired too many Spartan connotations. Some of its more ardent supporters, moreover, have discolored our thinking about it by linking it to irrelevant concerns like zero growth and a less industrial society.

The doctrine that increased energy consumption is directly related to increased economic growth, and vice versa, is not only false, it misses the point. Sensible conservation maintains existing levels of economic activity on reduced levels of energy use. The savings it makes possible are similar to those a business realizes from increased productivity.

The sacrifice that may be involved should not be confused with deprivation. Prudent action on energy consumption is preferable to letting things go on as they are. If we take the latter course, the sacrifices we will eventually be forced to make will be genuinely painful.

A national conservation policy should seek to achieve three goals: greatly improving the gasoline mileage of cars, increasing the heating and cooling efficiency of buildings, and reducing the needlessly wasteful consumption of electricity in manufacturing.

Nothing will help more than increased car mileage. In one of its few serious responses to the energy crisis in this decade, Congress four years ago enacted a statute setting fuel economy standards on all automobiles made after 1977.

In 1974, US-made cars were getting a paltry average of 12.8 mpg. The law set a standard—based on the average mileage of a manufacturer's whole line—that will rise to 27.5 mpg in 1985.

Pressure to postpone that goal must be resisted. If anything, the law should be strengthened by increasing the fines for noncompliance. What is at stake here is immense; a five-year effort to more than double the energy efficiency of a machine that accounts for one-fourth of the nation's total consumption of oil.

It will also be necessary to rethink incentives favoring the purchase of more efficient cars.

Consider, for example, the case of the 1969 Clunker, paid for and getting 11 mpg. The 500 gallons of gasoline it burns each year in commuter trips costs about $500. The insurance on the car in Massachusetts is $200, and the annual excise tax is but $19.

The price of a smaller, much more efficient car is $6,000, with savings of perhaps $300 a year in gasoline costs. However, if it is bought from a savings account, it will cost up to $600 a year in lost interest. Add a few hundred dollars in sales tax, at least a doubling of the annual insurance bill and a stiff excise tax for the first few years.

It would be wrong to try to legislate Clunkers off the road. Many are bought in the used car market where the poor are the most numerous customers.

Time is the most equitable solution. The car population turns over roughly every decade. Given the federal mileage standards, the next generation will be much more efficient. Meanwhile rationing would encourage the purchase of small, more efficient cars and allow those who have unused coupons to exchange them for cash.

The 55 mph speed limit not only saves lives, it also saves oil—200,000 barrels daily, according to the Administration. Higher fines would encourage observance of the speed limit. More car pooling and use of mass transit would also help.

The second pillar of policy must be our homes, apartments, office buildings and factories.

If thermostats are set at 80 degrees in summer and 65 degrees in winter, the nation will save up to 400,000 barrels of oil daily. That saving is certainly worthwhile but there are other areas where still greater savings can be made.

Dramatic strides have been made in the construction of new homes and buildings. Unlike automobiles, the lifespan of buildings can run into generations. Retrofitting them with insulation and storm windows can be extremely expensive.

The stimulative techniques being used by the government are the right ones: tax credits, loans and loan guarantees. To this list we would add direct subsidies in the form of grants to the poor.

The problem is that at existing levels, the incentives now offered are not adequate. The present $300 subsidy nowhere nearly meets the cost of insulating a private house, which may run into the thousands of dollars. To work, an incentive system must pay up to half the cost on an energy-saving project.

In addition to direct subsidies for conservation, there should be improved financing provisions. Utilities, which can borrow at more favorable rates than individuals and over longer terms, ought to be encouraged, if not required, to provide conservation financing for their customers, with repayment through the customer's monthly bills.

The federal commitment required would be a worthwhile public investment, but it must be financed within an overall budgetary policy of prudence. That is one reason why we would prefer a higher windfall profits tax.

Since the Arab oil embargo and subsequent explosion in prices, American industry has in general been the nation's most successful energy conserver, outperforming individuals and office and apartment building owners.

This record may be due in part to federal incentives already available to industry. Industry, and business too, could make still further energy savings if they moved ahead with cogeneration. This system, widely used in Europe, captures waste heat from on-site electrical generation and uses it for such other purposes as space heating or cooling, heating of water or even industrial processing. It can be effective in individual buildings as well as in large-scale plants. For maximum efficiency utilities should be required to purchase any excess power produced.

There may be other lessons in conservation to be learned from Europe. Sweden, with a standard of living very close to our own, uses little more than half the amount of energy we consume in America. The same is true of West Germany.

We are a nation nurtured on the idea that bigger is better. In the field of energy use that notion is now absolutely wrong. It costs more now to produce a barrel of oil than it does to save it. And in the process of acquiring each barrel we are diverting money from more productive endeavors, increasing our dependence on foreign nations, endangering our national security, raising havoc with our economy, risking near chronic stagflation.

No individual proposal for developing new domestic energy, in fact no combination of proposals for additional production, offers the potential of conservation. It is economic, nonpolluting, environmentally safe, and job-producing. It produces none of the debilitating social and political strains that accompany proposals for new nuclear or coal-fired electric generation plants. It is essential to breaking the stranglehold which the OPEC countries have on our national economy. It hastens the day of alternative energy sources by reducing the demand the sources will have to meet.

We have spent billions of dollars in this country to produce energy; we now must spend billions to conserve it. Conservation is the key ingredient of any effective national energy policy.

We have devised a whole series of mechanisms both public and private to facilitate energy production. We now must be equally creative in establishing tools at the local, state and federal levels to spur energy conservation. Virtually any money spent, by either the public or private sectors to conserve energy will be money well spent.●

SEARCH FOR AN ENERGY PLAN

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. MOAKLEY. Mr. Speaker, today, I would like to share with my colleagues the last two of a series of editorials entitled "Search For an Energy Policy" by the Boston Globe. In part 7 of the series, the enormous potential of renewable energy sources is examined. Alternative energy sources, such as solar and geothermal, will have an increasingly important role in our energy supply as our fossil fuel reserves continue to dwindle and the Globe joins in the call for an intense program of development and demonstration.

In the last part of the series, the Globe calls for a new commitment from both the Government and the Nation. They recognize that to meet the challenges the Nation faces a concerted effort will have to be made by all.

The articles follow:

[Search for an Energy Policy—Part 7]

ALWAYS THE SUN

In the end, as it was in the beginning, there is the sun.

Man's first energy source will be his last. The only question is when and how.

Solar energy, the ultimate hope, needs to be better understood, however, if it is to serve the world more effectively than it does now as soon as possible.

Its development must be managed with infinitely more urgency, attention to priorities, and conceptual coherence than the federal government has showed to date.

Time, and energy, are wasting.

Solar power must not be confused with religion; it must not be confused with lifestyle preferences; and above all, it must not be thought of solely as a bunch of funny-looking panels on rich people's homes that provide heat and hot water.

In fact solar energy is a generic term, referring to a variety of naturally occuring sources for the generation of heat and light that are essentially inexhaustible.

Solar energy is water; it is also wind and wood, as well as sunlight.

Finally, solar energy is not the stuff of science fiction. It is not a 21st Century term, either. It is an energy source the nation needs and must develop quickly.

Ideally, country's energy future would unfold like this: There would be a gradual end to the era of oil; the transition period—about two generations—would be essentially painless thanks to an abundance of other conventional energy sources, such as natural gas, coal, and even nuclear power. Then solar and other renewable energy sources would take over in the normal course of economic events.

That would be ideal, but it is not going to happen.

Two things have gone wrong. In the first place, the country has become dependent, to an extent that seriously threatens our national and economic security, on oil imports from the Arab-dominated Organization of Petroleum Exporting Countries. This level of imports, nearly half the nation's total oil consumption, must be reduced; that means the United States must get by on less oil.

Secondly, it is necessary to realize that even if it should, the country cannot depend on enough of an increase in nuclear and coal production to get by over the next 10–20 years.

That means, among other things, that renewable energy sources must be tapped much sooner and to a greater extent than previously planned.

Present policy is too timid. Unless changed, it will not get us to where we need to go.

National policy with regard to the renewables is today a mess of jumbled priorities.

Standing on the roof of the White House two weeks ago, among the flashy, newly installed solar panels, President Jimmy Carter told the nation that, by the end of this century, 20 percent of its energy needs should come from renewable sources (the number is now about six percent, almost all of it from hydroelectric power generated by large dams and from wood burning).

The 20 percent figure was not plucked out of the air. According to backup material provided by the Energy Department, it is based on an assumption that the additional tax credits and other incentives for solar projects that Mr. Carter proposed three months ago will be enacted. However, it assumes nothing else, and specifically takes for granted the continued operation, as is, of the energy business.

The Energy Department has also provided another figure—nearly 30 percent. This is the share of energy that renewables could generate if the government, to quote the Administration document, "would play a much more active role in the design of residences and commercial buildings, in industrial decision-making and in energy planning generally."

That is precisely what the government should do. It is the status quo in energy—a passive, pliant government amidst a private energy economy functioning against the public interest—that has produced the current chaos.

Thirty percent by the year 2000 is clearly within grasps of vigorous, assertive public policy. We should raise our sights.

We must also change our priorities.

This year, the federal government will spend $568 million in direct support of the development of solar technologies; next year's budget allows for an increase to $657 million. In addition, the cost in terms of lost revenues from tax incentives adds about another $150 million to the nation's bill.

These numbers get much more interesting when they are broken down. For example, more than half of this year's direct expenditures on solar technologies, nearly $350 million, are for applications not expected to make it to the marketplace for decades. By contrast, spending on techniques now nearing commercial feasibility amounts to less than $250 million..

Looking at it another way, spending on techniques whose short-term possibilities are significant is budgeted to increase next year by about the general rate of inflation. By contrast, spending on more futuristic applications, much greater to begin with, would rise at twice the inflation rate.

The country's jumbled priorities are dramatically apparent in this additional statistic: Of the nearly $2 billion the government will spend this year in support of inexhaustible energy sources, solar energy's share is barely 25 percent.

The largest amount, more than $700 million, supports work on a plutonium-powered nuclear reactor called the breeder. Moreover, nearly as heavy an investment as in solar energy, some $500 million, is being made in fusion power—so called because of its promise of releasing energy through the fusing of the nuclei of heavy hydrogen, a promise that may or may not be realized over the next several decades.

The amounts the government is spending on the nation's long-term energy future are not really the issue, except in the case of the breeder, where the Carter Administration, quite properly we believe, is cutting back.

Fusion experiments, still in the laboratory stage, are extremely expensive but, given the gigantic potential of the technology, the expense is well worth it.

That is also true of current spending on longer-range solar energy possibilities. An excellent example is the $100 million being spent each year on what are called photovoltaic cells, or devices that convert sunlight directly into electricity. The know-how here already exists; it has been used for years in the space program where cost was not a concern. The problem lies in making photovoltaics competitive in the real world, and their potential fully justifies the current expense.

It is the amount of money the government is not spending on the nation's short-term solar energy future that is the issue. What is called for is a program of massive subsidies to owners of homes and commercial buildings to provide genuine incentives for the use of renewable energy sources to provide heat and hot water.

The tax credits available under existing law, up to a maximum of $2000, are demonstrably insufficient. The actual cost of solar projects is typically much larger (the one on Jimmy Carter's roof cost nearly $30,000). That means it can take 10 years or more before the savings from greatly reduced utility bills pay off the original investment.

It should be national policy to reduce greatly that payback period. That would require subsidies worth up to 50 percent of the cost of a project. The government should also move to sweep away legal obstacles, in building codes for example, to the smooth development of the solar industry. The result would be a huge job and federal revenue-creating construction boom, as well as a reduction in the consumption of fossil fuels.

The result could also be a huge US export boom. To the nation that pioneers in the development of solar energy systems will go spoils in the form of vast markets. For the Third World, the advantages of solar-based economies over nuclear power and OPEC oil—cost, safety, ease of operation, job creation—are obvious and exciting.

Equally so is the short-term potential of other forms of solar energy, most notably something called biomass. The term refers to the burning of vegetable matter—wood, waste, even seaweed. With vigorous government backing, biomass, according to the Energy Department, could displace 7 percent of the energy now produced by conventional means by the end of the century, almost as much as all sunlight-capturing systems. It should get that backing.

Unfortunately, solar energy has become too much the province of futurists. Its future is indeed awesome—as a source of electricity, as harnessed wind, as energy-bearing plantations of ocean vegetation, as light to be captured in space.

It is a future well worth substantial public investment now.

Our attention, however, should be riveted on matters of more immediate concern. The country must run on less oil; its expectations about nuclear fuel and coal as substitutes need to be lowered, for reasons involving public health and safety as well as economic realities.

In such an environment—a gap between supplies from conventional sources and current rates of rising consumer demand—the country is in the fortunate position of being able to choose three attractive alternatives to letting chaos, virulent inflation and deep recission match energy demand with supply. One is conservation.

Another is a crash program to produce oil and gas by unconventional means, from the bottom of existing wells, from shale rock, and from coal.

The third is an equally intense effort to bring renewable sources into a major energy role much sooner than currently planned.

All three alternatives are easily within reach and grasp. What is missing is the simple assertion of national will to reach out and grasp them.

(Next: A challenge we can meet.)

OUR CHOICES

1. Limit OPEC imports.
2. Ration gasoline.
3. Subsidize conservation.
4. Tax windfall profits.
5. Limit expansion of nuclear.
6. Go slow on coal.
7. Expedite synthetic fuels.
8. Develop biomass and solar.

[Search for an Energy Policy—Part 8]

A CHALLENGE WE CAN MEET

For the sake of the country the time has come for Jimmy Carter and the members of Congress to confront directly and boldly what is surely the greatest peacetime threat to the national security since the Great Depression.

To date, Mr. Carter has been a disaster as a leader on the energy issue. And for 10 years, Congress has been even worse.

In times of crisis it is in the very nature of the American system that attention rivets on the President. That is the locus of leadership, where a response to a serious national problem must begin.

If there is any cause for hope this weekend it is this: The public's fury and clamor for action has coincided with the realization within the White House that this is it for the President. If there is any hope for the resurrection of his battered Presidency, it lies in a bold, dramatic move in the next few days. That is true for the nation as well.

No President alone, however, can solve the problem. In this case, Congress must put aside its decade-long paralysis and wallowing in parochialism, and function as a truly national legislature.

Had the Congress followed the President's admittedly fumbled lead on energy in April of 1977, this country would be in much better shape today. The decimation of his proposed national energy plan was a shocking betrayal of the public trust.

To keep Congress from faltering again, the people must stay angry, even though the immediate crunch eases. The political, economic and international system that put us in gasoline lines, when we were lucky enough to find them, is still operating.

The people must also cease their hunt for scapegoats, their refusal to accept the reality of a crisis in energy supply, and prepare for genuine self-sacrifice.

Business and labor must stop their selfish effort to foist the burden of energy prices on each other, a senseless struggle that takes place at the public's ever-increasing expense.

It is time—the President was correct on this two years ago—for the moral equivalent of war.

The United States, largely because of this year's energy events, is headed into a recession, possibly a serious one. Unemployment is in danger of becoming a severe problem again.

Given current economic and political circumstances, there is no end in sight to double-digit inflation, especially in the prices of necessities like food, fuel and housing.

The country is just beginning to absorb a serious blow from the Organization of Petroleum Exporting Countries—a 60 percent increase so far this year.

What is true for the United States is even more true for the rest of the world—above all the poorest nations, for whom the crisis will not be measured just by unemployment and price statistics, but also by deaths from starvation.

The energy crisis this nation faces is, in the broadest sense of the phrase, the overriding issue of our time. It touches every aspect of personal, national and international life. It is a major cause of inflation; it is the dominant force shoving the country toward recession; it threatens our way of life. Its proportions are on the scale of the most momentous events of this century, the two world wars and the Depression.

For Americans, it is also unique. Throughout our history we have responded to shortages by pushing forward to new frontiers, by acquiring more, by producing more. In this world, that can't be done any more.

Today, a national energy policy must rest on several shared principles. None is more important than the notion that in the conservation of energy lies the country's security and prosperity for the next century.

It is around this theme that the President should build his policy—not Spartan frugality at the expense of growth and jobs, but sensible shifts in consumption habits that will save not just energy, but more importantly vast sums of money that could be invested in growth and job creation, instead of being wasted paying higher prices.

Other principles, of course, are crucial.

Sound energy policy is always flexible and taps all available resources. There can be no pet peeves, sacred cows or panaceas.

American energy policy must become boldly anti-imports, on both cost and national security grounds.

It must address the needs of the poor, whose belts have long since been tightened.

It must also be uncompromising and vigilant in its insistence that public health and safety be protected.

Energy policy, finally, must be determined in its movement. There should be no deviations in policy in response to gluts in oil supplies that will occur occasionally, but which will always be transitory.

Along the way, much will be required of all of us.

President Carter must come down from Camp David with recommendations for a comprehensive energy policy built around conservation and tough limits on oil imports.

After the President has proposed, Congress must dispose. This time around, to dispose must not mean to discard. Congress must enact an energy policy that meets the test of comprehensiveness.

The oil industry must recognize that the purpose of energy policy is not to put into law what its executives decide around the conference table. What's good for an oil company is not necessarily what's good for the country.

From all Americans, what is needed is conservation as part of our way of life. Europe, where per capita use of energy is half that of the United States, can teach us a lesson. A conservation ethic need not cut our standard of living.

It is not a concept that fits easily into the American character. It goes directly against the grain of the prevailing belief that a better life results only from a bigger pie, and that an essential ingredient is more energy.

One of the very first European descriptions of life in America was contained in an English comedy written in 1605. It described a land where "all their pans are pure gold, and all their chains with which they chain up their streets are massy gold . . . and for rubies and diamonds they go forth on holidays and gather 'em up by the seashore to hang on their children's coats."

The myth has endured. It has shaped what Americans expect from America. Americans have in fact made it into a reality. For generations, the country has produced an ever-rising living standard to pass on to its children.

A great abundance of natural resources has played a role, to be sure, but an even larger role has been played by an equally great abundance of will, commitment and ingenuity—by a continuing ability to make use of those resources with which the country has been graced.

The task today is to make what we have work more efficiently. The effort will require millions of individual decisions from millions of Americans who want to keep the American dream alive for their children. And it will take inspired and credible and daring and even visionary political leadership to set a new national course, one that mines the best of the nation's greatest resource, its people.

A PLAN FOR SOLVING AMERICA'S ENERGY PROBLEMS

A national energy policy should have three continuing purposes: conservation, reduced reliance on oil imports and serious development of other major energy sources.

It also must be tailored to the requirements of different time frames.

FOR THE SHORT TERM

We recommend that the government do the following:

Reduce oil imports 25 percent to six million barrels daily by the end of next year.

Ration gasoline.

Put a hold on new nuclear plants until safety issues are resolved by the government.

Intensify the effort to find a safe place to store nuclear wastes.

Increase investment in energy research and development, emphasizing synthetic fuels and solar power, and also push ahead with production where feasible.

Switch at least temporarily to more abundant natural gas.

Allow a cautious increase in coal production.

Step up recovery of hard-to-reach oil in existing fields.

Collect and audit all oil industry information on supplies and prices.

Increase subsidies for home insulation.

Increase incentives for industrial and commercial conservation efforts.

Provide higher subsidies to offset the impact of higher energy prices on the poor.

Toughen oil windfall profits taxes.

We recommend that the public make an extra effort to:

Obey the 55 mph speed limit.

Leave cars at home at least one day a week.

Use mass transit and join car pools wherever possible.

Raise thermostats to at least 80 degrees in summer, and lower them to at least 65 degrees in winter.

FOR THE FUTURE

We recommend that the government:

Speed up production of hydroelectric power and wood-burning capabilities in New England.

Step up production of synthetic fuels, through a federal energy corporation, emphasizing shale oil and oil and gas from coal.

Greatly increase federal funding for proven solar technologies: water heating, space heating, gasohol and burning of garbage and animal waste.

Stiffen building codes to facilitate use of simple solar systems.

Set higher standards for automobile efficiency.

Increase electricity generation by industries using steam.

Carefully monitor any increase in nuclear power and coal production.

Phase out the burning of oil in electric power plants and in factories.

Increase research and development on ways to convert sunlight into electricity.

Continue heavy public investment in research into breeder reactors and fusion power.

Invest heavily in long-range renewable energy sources, such as wind and advanced solar technologies.

Gradually limit the use of oil to the petrochemical industry, fertilizers, motor vehicles, and medicine.●

ENERGY

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. BADHAM. Mr. Speaker, for the past few days there have been many comments, including a few of my own, on the cynical memo sent by Stuart Eizenstat to President Carter on June 28. In it he suggested that the blame for the problems the Nation now faces should be shifted to the OPEC nations as a means of regaining "our political losses."

I have pointed out that this scapegoat approach to politics simply delays the day when recognition is given to the fact that much of the blame lies with the Federal Government itself and that the solution can be found only in a change in our policies.

I now insert the text of the memo which was printed in the Washington Post on Saturday, July 7, in the CONGRESSIONAL RECORD in order that the American people may have in the official records of the Congress the verbatim transcript as evidence of the political cynicism of the current administration:

MEMORANDUM FOR THE PRESIDENT, FROM STU EIZENSTAT—SUBJECT: ENERGY

Since you left for Japan, the domestic energy problem has continued to worsen.

The actions taken to help the truckers have not yet broken the back of the strike. Jack and I are continuing to review the problem. As you know, the vice president will today announce a series of actions to help improve the situation.

Gas lines are growing throughout the Northeast and are spreading to the Mideast.

Sporadic violence over gasoline continues to occur. A recent incident in Pennsylvania injured 40.

Gasoline station operators are threatening a nationwide strike unless DOE grants an emergency profit margin increase.

The latest CPI figures have demonstrated how substantially energy is affecting inflation—gasoline prices have risen 55% since January.

Congress is growing more nervous by the day over the energy problem. The Moorhead bill was pushed through the House yesterday, so members could go home for the recess claiming to have done something about the problem. It is fair to say that in normal times, a bill as significant as Moorhead's would have been considered much more carefully. Despite that vote, and the forthcoming vote on Thursday on the windfall tax, members are literally afraid to go home over the recess, for fear of having to deal with very angry constituents. That fear was expressed to the vice president and me yesterday when we briefed members on the Tokyo summit. They were almost completely uninterested in the summit, and spent all of two hours talking about gasoline and related problems.

Press accounts are starting to appear about the administration's inability to deliver on the commitment to have 240 million barrels of distillate in stock by October. The Northeast will soon be pressuring us to clarify whether we still believe 240 is possible.

The continuing problem of conflicting signals and numbers from DOE persists. The DOE gasoline allocation formulas are now coming under particularly heavy attack. Yesterday, the state of Maryland sued DOE for misallocating gasoline. Other states can be expected to shortly follow that politically popular route.

In sum, we have a worsening short-term domestic energy crisis, and I do not expect to see (with the possible exception of a break in the truckers' strike) any improvement by the time you return.

I do not need to detail for you the political damage we are suffering from all of this. It is perhaps sufficient to say that nothing which has occurred in the administration to date—not the Soviet agreement on the Middle East, not the Lance matter, not the Panama Canal treaties, not the defeat of several major domestic legislative proposals, not the sparring with Kennedy, and not even double-digit inflation—have added so much water to our ship. Nothing else has so frustrated, confused, angered the American people—or so targeted their distress at you personally, as opposed to your advisers, or Congress or outside interests. Mayor Koch indicated to me (during a meeting the vice president and I had with the New York congressional delegation on their gas problems) he had not witnessed anything comparable to the current emotion in American political life since Vietnam.

While the Vietnam analogy is a strained one in many ways, it is one which this week press accounts are beginning to make. The similarities between problems of credibility and political opposition from the left are real though clearly undeserved. We can expect to see repetition in coming weeks of the analogy, which was prevalent at the ADA convention I addressed over the weekend.

All of this is occurring at a particularly inopportune time. Inflation is higher than ever. A recession is clearly facing us. (Indeed, when our July budget forecast comes out with a zero GNP estimate we should not attempt to avoid the obvious, as Ford tried to do, but we should be honest and admit a recession is likely.) OPEC is raising prices once again. The polls are lower than they have ever been. (The latest Harris poll shows something never before seen—a Republican opponent, Reagan, leading you by several points.) Kennedy's popularity appears at a peak. And the Congress seems completely beyond anyone's control.

In many respects, this would appear to be the worst of times. But I honestly believe we can change this to a time of opportunity. We have a better opportunity than ever before to assert leadership over an apparently insolvable problem, to shift the cause for inflation and energy problems to OPEC, to gain credibility with the American people, to offer hope of an eventual solution, to regain our political losses. We should seize this opportunity now and with all our skill. If we fail to do so, the late hour may foreclose a similar opportunity again coming our way.

My recommendations for how to do this, many of which I have discussed previously with you and separately with Ham and Jody, are as follows:

(1) Use the OPEC price increase as the occasion to mark the beginning of our new approach to energy. It must be said by you—and by us—time and again publicly to be a watershed event. We must turn the increase to our advantage by clearly pointing out its devastating economic impact and as the justification for our efforts against the OPEC cartel and for increased domestic production of all types. We have provided you with a tough statement that will accomplish those ends and buy us a week or so before the public will expect more specifics. I urge you to use that statement and to keep it as strong as possible. A statement which goes light on OPEC or a commitment to synthetics and other domestic initiatives will not convince the public that anything is different, that we are embarking on a new effort, or that there is hope that the energy problem will be solved, or that we will ever stand up to OPEC (which Americans want even more than cheap gasoline).

(2) Your decision to eliminate or cut short your Hawaii stop vividly demonstrates your commitment to dig into this problem without delay.

(3) When you return, and before you go to Camp David, you should at least hold one full day of meetings at the White House to consult with your advisers about the various energy problems, to assess the summit, to report to those congressional leaders in town, and to determine how and when you should report to the public. A full day's work on energy with your advisers would be helpful to us to get our signals and orders straight, but also to demonstrate your continuing commitment to solving this problem.

(4) That one day or so of energy events cannot be allowed to pass without repeated follow-on events when you return from Camp David. Every day you need to be dealing with—and publicly be seen as dealing with—the major energy problems now facing us. Unless the attention to energy is almost total during the two-three weeks after your return, we will not turn the course of events around, and certainly we will not convince the American people that we have a firmer grasp on the problem than they now perceive. Your enormous success in the Middle East peace process was due, to a very large degree, to your personal constant involvement over a sustained period of time. The energy situation is different in many ways than the Middle East, but the need for you to stay the course, to demand answers, to convince others of the need to act and to compromise, and to control the competing forces within the government is very similar. With that type of involvement, we can regain the initiative and rise above much of the confusion and bureaucratic tangling now occurring. We can arrange a schedule of events that are meaningful and worthwhile during this period.

(5) You must address the enormous credibility and management problems of DOE which equal in public perception those which State or Defense had during Vietnam (whether fairly or not). We can discuss this in detail upon your return.

(6) Shortly after you return, we will have a memorandum for you to decide how to propose spending the funds raised by the windfall tax. The memorandum will include the results of a comprehensive interagency review now under way to examine the synfuels issue and develop a significant proposal for you to announce. Once you decide the direction you want these new production initiatives to take, you might consider a major address to the nation. That address could review the energy situation, explain the causes of current problems and announce our new initiatives. The address would be around the third week of July.

(7) In addition to the synfuels and energy production announcement, I believe we should announce separately the creation of a National Energy Mobilization Board. Such a board would be designated to select energy projects—like pipelines, port facilities or research and development facilities—which are to be built in the national interest, eliminating all of the normal regulatory tangle that slows such projects down. During the World War II, we had such a board to get war-related projects expedited. This board would be modeled after the World War II example. I have asked DOE to staff this out and have explored the idea quietly within the administration and on the Hill and have found an enormous receptivity. Your announcing the creation of this board would confirm your intention to treat this matter as one of the highest national security.

(8) You have a variety of speeches scheduled after your return—the governors, NACO, Operation PUSH, CWA. Each of those occasions should be used to talk about energy. That is the only subject the public wants to hear about and we should use those opportunities to get our message across repeatedly. The windfall tax campaign was successful because of your repeated discussion of it during a short period of time. That success can be repeated through these speech opportunities.

With strong steps we can mobilize the nation around a real crisis and with a clear enemy—OPEC.●

A TRIBUTE TO CONGRESSMAN WILLIAM D. FORD

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. DINGELL. Mr. Speaker, I am pleased and proud to call attention to a great honor bestowed recently upon our colleague and my good friend, Congressman William D. Ford.

The Wayne-Westland Community School District, in Congressman Ford's 15th District, has named its new vocational training center the William D. Ford Vocational Technical Center.

Having worked closely with Bill Ford both before and during his 15 years in the House, I have seen first hand the dedication and untiring hard work which he devotes to anything he undertakes. The naming of this new center in his honor is a well-deserved tribute to a truly outstanding legislator and a man who is a credit to the House of Representatives.

I would like at this point to insert into the Record a copy of the resolution adopted by the Wayne-Westland Board of Education in naming this center for Bill Ford. This resolution briefly outlines Congressman Ford's career and his efforts in making possible the William D. Ford Vocational Technical Center.

The resolution follows:

Resolution

Whereas, William D. Ford was born in Detroit, Michigan, and attended Henry Ford Trade School, Wayne University and Nebraska State Teachers' College before entering the University of Denver where he received a bachelor's degree in 1949 and a law degree in 1951, and

Whereas, William D. Ford practiced law in the suburbs of Detroit for nine years prior to his election to the Michigan Constitutional Convention in 1960, where he served as vice-chairman of the Judiciary Committee, and, subsequently, in 1962 was elected to the Michigan State Senate, and

Whereas, Congressman William D. Ford was elected to the 89th Congress from the Fifteenth District in Michigan in 1964, and has been reelected and served with honor and distinction consecutively since his first term, and

Whereas, Congressman William D. Ford serves as a senior member of the House Education and Labor Committee where he has established an enviable record on behalf of the American worker as an active member of the Subcommittee on Labor Management Relations and previously as chairman of the Agricultural Labor Subcommittee, and has also built a reputation as the foremost proponent in the drafting and enactment of all major educational legislation in recent years as Chairman of the Subcommittee on Post-secondary Education and ranking member of the Subcommittee on Elementary, Secondary and Vocational Education, and

Whereas, Congressman William D. Ford has been instrumental in bringing our concept of a Wayne-Westland Educational Service Complex into reality with his persistent efforts in fighting many battles which eventually resulted in the awarding of two Local Public Works' grants to our school district, and

Whereas, the Vocational Technical Center is an integral part of the total Educational Service Complex now under construction and Congressman William D. Ford has a special interest in vocational education and is directly responsible for legislation which has provided funding for the Wayne-Westland Vocational Technical Center, now, therefore, be it

Resolved, that in grateful appreciation for Congressman Ford's continued support and dedication to education and especially for the untiring efforts of Congressman Ford in bringing this complex to fruition, the Wayne-Westland Board of Education, hereby, names this new facility the William D. Ford Vocational Technical Center.

Fred Warmbier, President; Thomas Barrett, Vice President; Stephen Kelly, Secretary; Gerard McGrath, Treasurer; Mildred Batterson, Trustee; Kenneth Marshall, Trustee; Donald Rusnock, Trustee; Dr. Timothy J. Dyer, Superintendent.

Officially adopted June 25, 1979.●

BOWERS ANSWERS QUESTIONS ON HIGHWAY ACT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. ANDERSON of California. Mr. Speaker, earlier this year I wrote to Carl

S. Bowers, Federal Highway Administrator in the U.S. Department of Transportation, asking him several questions related to the implemenation of the Surface Transportation Assistance Act of 1978. I thought his responses to these questions so complete, informative, and generally applicable to all States, that I would like to share them with our colleagues.

The article follows:

BOWERS ANSWERS QUESTIONS

Question: We have before us a $51 billion 4-year program. In California, new highway construction has all but stopped. The reason: We have to redirect our funds to maintaining our existing system—to protect our investment. Now, what are your priorities? Do you favor rehabilitation or new construction? How much will we spend over the next five years just to maintain our present system? Are sufficient Federal authorizations on the books?

Answer: We find that the highway program nationwide is shifting emphasis away from new highway construction and toward reconstruction and rehabilitation of existing highways. With the exception of the Interstate System, most capital expenditures for highways are for existing system improvement and preservation.

Our priorities at the Federal level are consistent with this nationwide trend. Last year, we estimate that over 60 percent of all Federal-aid highway funds were expended on the reconstruction and rehabilitation of highways within their existing alignment. This represents a definite redirection of priorities, since as late as 1972 this percentage was close to 40. We expect this trend to continue and fully support it since preserving and improving the excellent highways we already have is, in most cases, the wisest use of our limited resources.

The 1978 Act provides over $33 billion during the next 4 years for highway development. Assuming past trends continue, somewhere between 60 and 70 percent of that will be spent on improving our existing highways. In addition, the States and local communities will spend a significant amount of their own funds on reconstruction and maintenance of existing systems.

We believe that authorization levels established in the Surface Transportation Assistance Act of 1978 provide sufficient funds for an effective Federal-State program to preserve our nation's highway system.

Question: The Federal, State, and local governments have invested significant amounts of money in our highway system. Do you have any figures on how much each—Federal, State, local—have indeed spent?

Answer: Over the last 20 years, that is 1957 to 1976, all levels of Government have expended about $349 billion for highways. Highway funds are provided primarily by the Federal and State Governments, $98 billion (28 percent) and $194 billion (56 percent), respectively. Most of these revenues are generated from user charges. Local governments provided the remainder, $57 billion (16 percent), which are derived from property taxes and local general funds.

Over this 20-year period, capital improvements have accounted for $193 billion (56 percent), maintenance and operation costs have accounted for $83 billion (24 percent) and $73 billion (20 percent) has been spent for administration, highway patrol and safety, and debt service on bonds issued for roads.

Question: Secretary Adams assures us that any new "Surface Transportation Administration" will not result in UMTA being swallowed up by your much larger Federal Highway Administration. To safeguard this, would you be willing to see a transit oriented official become the head of this new agency?

Answer: The Department's proposal for a new Surface Transportation Administration will contain assurances that the UMTA program and staff are not "swallowed up" by the Federal Highway Administration. As the proposal indicates, the STA will not alter either the highway or transit programs, but rather provide a more effective organizational framework for their management and coordination. In addition, we are considering several internal organization options which would ensure that a proper balance be maintained between transit and highway interests.

With regard to the modal orientation of the STA Administrator, our original STA proposal indicated that the Administrator and the Deputy would complement each other. We have also discussed with interested groups other options which would place the modal advocacy role closer to the program level. We are confident that the President's nominee for STA Administrator will have the experience and capability to recognize the relative needs of both highways and transit, and will be acceptable to the Congress and the transportation community.

Question: As the author of the amendment authorizing $20 million for FY 1980 for our Bikeway program, I was very disappointed to find that the Administration was not seeking even $1 for this energy efficient mode.

During the markup of the 1978 Act, I received unanimous support for the Bikeway amendment. Almost every member of the Committee complimented me on the amendment, offered their support, and said they would like to co-author it.

It seems inconceivable to me that the Administration would, in effect, downgrade this program by failing to request any money at all.

Our State of California says the existing section 217 program will not build any bikeways. It's too restrictive. The competition for other highway projects is too fierce. California had $30 million in bike projects under provisions of the 1976 Act—yet, you only funded for $300,000.

That's why we, in the 1978 Bill, specifically wrote in the $20 million Bikeway program.

Now, the administration is failing to request even $1 for the Bikeway program. Wouldn't you say that this action on the part of the Administration is totally inconsistent with President's energy, inflation, and transportation policies—not to mention the physical fitness benefits?

Answer: The decision not to request funds for section 141 of the STA of 1978 is not an indication of the Department's lack of interest in bicycling. However, highest priority in our budget requests necessarily went to our major on-going highway and transit programs that are the foundation for Federal surface transportation assistance. Other programs, while worthwhile efforts in themselves, are not of such high priority in view of the need for fiscal constraint in the Federal budget.

Moreover, the bicycle program—like several of the other programs for which separate funding was not requested—is eligible for assistance under ongoing programs. Bicycle facilities are eligible for funding under the normal Federal-aid highway program. All regular Federal-aid highway funds are available for constructing bikeways in connection with highway construction projects. In addition, section 217 allows States to spend up to $2.5 million per year of their regular Federal-aid highway funds for constructing bikeways independent of highway construction work. States and local communities may build bikeways if the need is established.

Besides funding bikeways under the Federal-aid highway program, the Department is involved in numerous projects related to bicycle transportation. Several research studies are ongoing. Many of the projects selected for funding under the Bikeway Demonstration Program are being implemented. Also, we are in the process of updating our bikeway design and construction standards, as required by section 141. On February 8 an Advance Notice of Proposed Rulemaking was published in the Federal Register requesting comments on the development of standards.

Question: Harbor Freeway—1978 Act added Harbor Freeway in L.A. to Interstate System. Have you formally designated this yet? How will this designation affect the Federal-State matching ratios for such projects as the hook-up of State route 91 (Artesia Boulevard) to this New Harbor Interstate? Will more Federal funds be available?

Answer: The Harbor Freeway was designated as an Interstate route on December 29, 1978. Designation of the route makes it eligible for upgrading to full Interstate standards using Interstate funds. The upgrading could include the improvement of the interchange at Artesia Boulevard. However, determination of basic eligibility of a specific improvement and the limits of Interstate participation in such improvement is made at the time a State advances a specific project proposal. The determination is based on the current eligibility policies governing use of Interstate funds. Interstate projects in California are authorized at 91.49/8.51 Federal-State matching ratio. This ratio would apply to newly designated Interstate. More Federal funds will be made available to the State as a result of this new route since the law provides that each State will ultimately receive the full eligible cost of completing all routes on its system.

Section 160—provides for an interdepartmental coordinating study.

Question: What individual has the lead on coordinating this study? How have the other participants in the study like the Department of Energy or H.U.D. for example, coordinated? How many times have representatives met on this and what is the status and expected completion date?

Answer: Martin Convisser, Director, Office of Environment and Safety, has the lead on coordinating this study for the Department.

Secretaries of the Department of Energy, Housing and Urban Development, and Commerce, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget have been contacted and informed about the study. They have designated representatives to participate in the study.

So far there has been one meeting of the full study group within DOT to develop a proposed study plan; a basic questionnaire has also been sent to DOT headquarters and field offices to solicit more detailed information on the substantive problems of conflict or duplication. A general meeting of all participating agency representatives will be held shortly.

The expected completion date is November 9, 1979, as provided in section 160.

Section 165—Dulles Airport Highway Access Study.

Question: Would you please report on your progress and summarize your expected conclusions?

Answer: A working group composed of representatives from OST, FAA, FHWA, and UMTA has completed its analysis of issues. The final report with recommendations is now being prepared and will be submitted to the Secretary shortly.●

SOLAR NECESSITY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. EDWARDS of California. Mr. Speaker, in his recent solar energy message, President Carter outlined his plans for the utilization of solar energy. I sincerely praise Mr. Carter, as he is the first American President to venture into this new but vital industry. Although the President's bold actions are unprecedented, they seem to lack the enthusiasm that is essential. He has projected that by the turn of the century, 20 percent of the Nation's energy needs will be met by solar and renewable resources. If the United States hopes to reduce her dependence on foreign oil in the upcoming century, we must stress maximum implementation and research in the field of solar and renewable resources and set goals much higher than 20 percent.

Many solar projects are already underway in cities throughout the United States. The city of Santa Clara is leading the country in the field of solar energy as city officials have taken a direct position in helping to foster its growth. After creating a solar division within their water department, the city installed over 100 solar heaters in privately owned swimming pools. The pools at their new recreation center and at the world famous Santa Clara International Swim Center are now all heated by solar generators. Santa Clara has also sponsored the installment of solar heating units in five homes. The homeowners pay a fixed monthly price of $28 and the units are both guaranteed and owned by the city. The city of Santa Clara is continuing to expand their solar utility program while they promote solar research at the University of Santa Clara as a result of their success.

As Santa Clara succeeds on the community level, Sweden has recognized the necessity to prepare themselves for the upcoming century. Although Sweden receives 20 percent less sunlight than the United States because of their geographical location, careful studies have shown that maximum utilization of solar and renewable resources will allow oil dependent Sweden to achieve self-sufficiency by 2015. The energy supply system will be characterized by a large number of energy sources such as solar heating, windpower, hydropower, biomass, and photovoltaic or solar cells. Photovoltaic cells will be converted into electricity, which will comprise quite a large fraction of Sweden's projected energy system in the form of engine power, chemical processes, lighting, and so forth.

By beginning to buildup solar technology today, Sweden hopes to alleviate the problem of deferring investments to a time when oil prices and support of capital intensive technologies may prove crippling for the Swedish economy. Instead, today a smooth transition can be made to the renewable system while oil prices are still relatively low. It is for these reasons that I feel a more intensive solar and renewable energy program is both possible and necessary. We all must realize that the world's oil reserves are vanishing and immediate action is necessary.

The gasohol bill which I have introduced to Congress and similar measures which encourage the use of alcohol fuels, will help to reduce our dependency on costly oil by instituting the use of gasoline mixed with alcohol, a practice which has been succeeding in Brazil for years.

Not only must we concentrate on oil-saving legislation, but we also must revitalize existing energy programs. The first of these is the Federal photovoltaic utilization program, a 3 year program beginning in 1979, for which $98 million was appropriated to install effective systems in Federal agencies. The Carter administration requested no funds for the program in 1980, and at the end of 3 years, only about $55 of the $98 million that has been appropriated will be spent. Another photovoltaic bill was recently passed for which $1.57 billion, or approximately $160 million per year for 10 years, was appropriated. In its first year, DOE spent only $118.6 million of the appropriated money and only $155 million was authorized for the already lagging commercialization of photovoltaic cells by the appropriations committee this year.

If the United States hopes to decrease her fuel costs in the future, the implementation and commercialization of solar and renewable energy systems must begin today. As automobiles were astronomically expensive when they were first offered to consumers, so are various solar units. We cannot afford to stall production of solar equipment to a time when oil prices are so high that we will be thrown into a position where every alternative will prove too costly. We have the technology and the money now. In our present fuel crisis, it is obvious that we must expand our solar and renewable resource programs so that we will be prepared to meet our future energy needs.●

FUEL SAVER ALERT SYSTEM WILL END NONPRODUCTIVE ENERGY CONSUMPTION

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. CAVANAUGH. Mr. Speaker, energy independence must be the first priority of our Nation. If we are to regain control of our economic, social, and political destiny we must make every effort to relieve our country from the grip of OPEC. The President is now desperately looking for new and dramatic methods to rescue the Nation.

I have urged the President to look to the source of all of the past great achievements of our Nation for the answer to this most dramatic challenge. The imagination, energy, determination, and inventiveness of the American people has been the source of our Nation's greatness and these same qualities are still present and capable of meeting this latest challenge.

The cheapest source of energy is conservation—energy efficiency—so that vehicles, equipment, buildings, and appliances do their work with a minimum of waste. While this is a self-evident fact we have done little to develop policies and mechanisms for implementing energy efficiency.

While many Americans have sought solutions to the problems of wasteful energy uses, I believe one of my constituents has developed one of the most practical, simple, and realistic devices to achieve the essential goal of energy efficiency.

Mr. Tony Dombrowski of Omaha, Nebr., is the kind of independent, imaginative, and hard-working American that has made our Nation the greatest in the history of mankind. He is repelled by the prospect of America not being in control of its destiny and has applied his personal energies and imagination to devise the methods necessary to reestablish our national energy and economic independence.

Several weeks ago Mr. Dombrowski introduced me to his proposal to drastically reduce nonproductive energy consumption. Mr. Dombrowski recognized the wasted energy consumption of his own trucks and equipment and decided to do something about it to save fuel and money. Mr. Dombrowski's "fuel saver alert system" can be attached very simply to any vehicle. This device, which can be produced for the American market at a cost of about $70 to the consumer, works this way: the speedometer cable leading from the transmission is connected to the apparatus for the prime purpose of informing the unit that the vehicle is in a nonproductive mode. This indicator along with the ignition in an "on" position, activates the micro switch, which, in turn, activates a timing device. When the timer has gone through 3 minutes, a buzzer and flashing red light informs the operator that nonproductive fuel is being wasted. After 1 minute more has expired and the buzzer and red light have been ignored, another timer activates the horn on the vehicle. That second alert will allow everyone in the vicinity to know that the operator is consuming nonproductive fuel. That final warning should be an enforcer that will lead to the discontinuance of the wasteful operation by either turning off the motor or putting the engine into a useful purpose.

At least one conservation practice is that easy to put into operation. A simple buzzer or a harsh blast of the horn will remind the conscientious motorists that they are in wastefull idle—and it will point out to supervisors and managers on a job that harmful waste is taking place in their operation and that the company is once again paying for nonproductive labor that can be easily prevented.

I will be proposing a system of energy conservation tax credits to inspire the development, testing and sale of devices that will help moderate or reduce our national thirst for nonrenewable energy resources. The Federal Government, in addition, should redouble efforts to encourage domestic automobile manufacturers to seek new ways or devices to increase the fuel efficiency of trucks and car engines. Heavy equipment manufacturers, likewise, should be encouraged to develop devices to reduce energy consumption especially that which is nonproductive wasted consumption. It is no secret that we waste a great deal of energy in this country. Certainly, the Government's fuel waste can and should be reduced. The Department of Energy and the Department of Transportation should be using the Federal automobile and truck fleet of 280,000 vehicles to demonstrate and pilot model new energy saving devices. The Department of Defense, the largest single fuel user in the Government with 142,000 vehicles can surely do likewise. The Army Corps of Engineers should be actively investigating ways to reduce nonproductive energy consumption related to idling of heavy equipment engines. Soon I will be introducing legislation that will mandate the use of devices that will reduce the nonproductive energy consumption of all Federal vehicles. To the extent that we can reduce or eliminate the nonproductive fuel consumption we will be lessening our dependence on OPEC countries for oil and weakening their ability to further shock our domestic economy with inflation causing price increases.●

ANSWER TO PENTAGON WOES

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. PAUL. Mr. Speaker, Col. Robert C. Heinl, Jr., USMC, always contributed lucid defense analyses to the national security debate. Coming from a proud service of volunteers, the U.S. Marine Corps, and having seen what unwilling soldiers meant for the war in Vietnam, he wrote a column about the draft in 1971.

Colonel Heinl's words are still as pertinent today as they were then, and I would like to draw them to my colleagues' attention:

[From the Rome (Italy) Daily American, Sept. 7, 1971]

ANSWER TO PENTAGON WOES

(By Col. Robert D. Heinl, Jr.)

WASHINGTON, Sept. 7.—In 1780 after Horatio Gate's disastrous rout at Camden, George Washington despairingly wrote Congress, "what we need is a good army, not a large one."

By its summer paralysis of the draft, Congress may be doing the national defense an unintended service.

Conceivably, this dog-days deadlock may even have compelled the Pentagon to relearn what George Washington so succinctly stated: in war it is quality that counts.

Even now, after only a few weeks of congressional cold turkey, military manpower planners already appear to be experiencing withdrawal symptoms and are looking harder and sooner at the stern implications of a no-draft situation that Congress seems in no hurry to remedy.

The death's head that grins at Defense Secretary Melvin Laird, at the Joint Chiefs of Staff and, of course, the manpower people is that, without the draft, we may simply be unable to raise anything like the number of soldiers required to maintain 13½ divisions and, as they say, "meet our commitments."

Meet our commitments. The phrase is a portentous one.

Under current contingency plans we have to be ready to fight at least one-and-a-half wars (until recently it was two-and-a-half). We have to keep eight divisions earmarked for NATO (four actually in position in West Germany). We have to maintain a strategic reserve. X plus Y plus Z equals 13⅓ divisions.

Yet the hard reality, given the present collapse of their morale, discipline, self-esteem, and battleworthiness, is that the armed forces, by private admission of numerous senior officers, are today not fit to fight half a war, let alone one-and-a-half—even if we had 33½ divisions and a thousand percent military pay-raise, too.

In the recent uproar over Montana's Democratic Sen. Mike Mansfield's proposal to cut U.S. forces in Europe—again, a controversy over commitments—what nobody seemed to recognize is that an American division in West Germany right now virtually amounts to a gap disguised as a combat division.

If the Russians were to march next week, the true state of affairs would become quickly evident, just as the condition of our division in the Far East became quickly apparent in July 1950 when we tried to stem the North Korean onslaught.

GAP DISGUISED AS GI

Moving from the macroscopic to the microscopic, an unwilling, demoralized draftee is, under today's conditions, a gap disguised as a soldier.

To test that proposition we have only to look at our remaining forces in Vietnam: seditious, near-mutinous, avoiding combat, drug-ridden, murdering their officers, racially tormented, and unfit and unwilling (save among such brave exceptions as the chopper pilots and the advisers) to fight.

In Europe (according to senior commanders who will speak frankly) disintegration and loss of military control, though less dramatic, are nearly as appalling.

Given these awful givens, certain facts have to be faced, and Congress, by stalling the draft, may be forcing the public and the Pentagon to face them.

—The armed forces, with some exceptions, need to be rebuilt from the ground up. Nothing less will do.

—The only serviceable building materials for the new armed forces will be men who want to be soldiers, sailors, or airmen. "True volunteers" is what the Gates Commission called them, and true volunteers alone will serve the purpose.

CLINICAL LABORATORY IMPROVEMENT ACT OF 1979

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. LELAND. Mr. Speaker, I have introduced H.R. 4754, the Clinical Laboratory Improvement Act of 1979 (CLIA), in order to amend the Public Health Service and Social Security Acts to revise and coordinate existing programs for the regulation of clinical laboratories. H.R. 4754 would thereby provide for implementation of a uniform Federal licensure system for clinical laboratories based upon compliance with quality standards to be promulgated by the Secretary of Health, Education, and Welfare. This bill would also modify the reimbursement provisions of present law with respect to percentage-based arrangements between hospitals and physicians and with respect to charges for clinical laboratory services included in a physician's bill.

A major objective of this legislation is the extension and expansion of the licensure requirement contained in CLIA 1967 (Public Law 90–174) that authorized the Secretary to regulate clinical laboratories which operate in interstate commerce. Under its implementation 960 such laboratories functioning have been substantially improved and the quality of resultant medical diagnoses and treatments have undoubtedly increased. However, 12,000 other clinical laboratories presently function free of licensure or under weak and incongruent regulations and programs. Monitoring performance data of the medicare, accredited and State licensed laboratories indicate a lack of consistency in the implementation of and compliance to Federal standards. And this will continue to be a problem under present law. Moreover, HEW indicates that " * * * the accuracy and precision of laboratory results continues to be a national problem with error rates ranging from 8 to 25 percent." CLIA 1979 therefore proposes to establish a uniform regulatory program for these laboratories. National standards would be established and applied to laboratories as a criteria for licensure. Military and Veterans laboratories would be exempt, and the Secretary may as well exempt rural laboratories and laboratories located in the offices of groups of not more than five practitioners.

The 1979 GAO report "The Medicare Hospital Certification System Needs Reform" found that the State certification system is unreliable and often recertified hospitals that did not meet statutory requirements. Further, they found that HCFA "concentrated on monitoring States' management performance rather than addressing how consistently or correctly the States applied medicare regulations." Indeed, present law requires HCFA to base certification on a hospital's ability to meet conditions and standards resulting in their orientation to locate only significant deficiencies. The success of CLIA 1967 in contrast was primarily due to the Center for Disease Control's orientation of assistance and improvement. CLIA 1979 would eliminate the differences between medicare, JCAH, and State certification processes by employing a single and uniform regulatory program aimed at improvement.

Improvement in laboratory services under this act will be achieved through the establishment of quality control and proficiency testing programs, through establishing uniform personnel standards based on training, experience and examination, and through financial and technical assistance to States to aid them in carrying out the various requirements of CLIA 1979. To insure that the provisions are translated into a meaningful program, the Secretary will be required to establish a uniform regulatory program and an advisory council in the Department to aid him in his efforts. The establishment of this council is consistent with the Secretary's reorganization of HEW and will facilitate the merger taken in the interagency agreement in standard setting and administration.

I have requested the Secretary, in this bill, to conduct a study regarding the efficacy and specificity of laboratory tests used in hospital admission procedures and of routine laboratory tests used in the diagnosis and treatment of disease. By identifying an acceptable error range for various test results, we may achieve a more cost-effective use of our laboratory health care dollar by giving the clinician a more definitive measure of the patient's health status. Other studies provided for include, assessing the quality and proficiency of laboratory testing in physician's offices, assessing the problems of rural laboratories, assessing manpower laboratory requirements and assessing the relationship of national standards to certification and to career mobility of laboratory personnel. The resulting data will help guide Congress in establishing the need for regulation of those laboratories exempted in this legislation.

The act contains provision prohibiting fraudulent and abusive renumeration practices including kickbacks, bribes, or rebates. Where the activity of laboratories licensed under this act constitutes a substantial risk to the public, the Secretary may bring suit to enjoin continuation of such activity. An employee testifying in a proceeding relating to violations of this legislation is protected from being discharged or discriminated against.

The social security amendments in H.R. 4754 encourage the conversion of percentage arrangements of hospital based physicians to contractual arrangements by permitting payment to physicians for reasonable charges for laboratory tests or payment made for personally performed services. I can find no rationale for projected outlays under present law of $20 million in 1980 for nonservice related charges. I as well request in this legislation exclusion of payment for commissions, and rentals of facilities based on percentage arrangements.

The evidence for enactment of such legislation is overwhelming. I recognize the approach to laboratory legislation that Senator JAVITS has taken in S. 590 and have therefore taken a forward lead in presenting a fresh legislative initiative to my colleagues in the House of Representatives. It is my intention to see that the work on CLIA over past Congress becomes manifest in this Congress by its passage into public law. I ask my fellow Congresspersons to join me in sponsoring and supporting this necessary legislation.●

THE RECORD OF THE SOVIETS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 13, 1979

● Mr. PAUL. Mr. Speaker, in considering the SALT Treaty, we should look not only at its provisions, but the party we will be signing it with.

I believe the treaty would be a mistake on both counts, and I would like to call to my colleagues attention an excellent article on the latter point that recently appeared in the Washington Star.

THE RECORD OF THE SOVIETS

(By Richard H. Eibel)

How would you feel about your country if you knew that a Herbert Hoover, Alf Landon and Wendell Willkie were shot for opposing FDR; or that all cattle ranchers of Texas were shipped to labor camps in Alaska for raising too many cattle and not sharing them with the federal government?

How would you feel if you remembered that Fred Astaire and Judy Garland defected abroad, that the FBI put Ernest Hemingway on a plane to Moscow and deported him for writing uncomfortable truths?

How would you feel if you learned that writers John Updike, J. D. Salinger and John Cheever as well as evangelist Billy Graham and the Rev. Jesse Jackson were pulled out from some remote prison and exchanged for Gary Powers? How would you feel if you lived with a painful memory or the fact that Generals Pershing, MacArthur and Patton with their entire staffs were shot on trumped-up charges of spying for a foreign power and that Dwight D. Eisenhower feared his popularity with the troops?

How would you feel if you knew that a page with the labor leader's Samuel Gompers' biography was cut out of American encyclopedias and that Johnny Cash was forbidden to perform because some of his songs were officially perceived to be too dangerous for the security of the nation? How would you feel if you learned that the United States annexed one-half of Mexico and graves were discovered in Arizona with remains of thousands of murdered Mexican patriots?

How would you feel if you knew that LBJ still ruled in Washington since his ascent to power in the early 1960s and that by now he did not trust anyone under 75?

How would you feel if you knew that among the defectors from America were FDR's daughter, U.N. diplomat Shirley Temple Black, Robert Frost and Arthur Ashe? How would you feel if Boston conductor Arther Fiedler was stripped of his U.S. citizenship by a rubberstamp Congress, and if Muhammed Ali was forbidden to attend a boxing competition abroad because his political views were deemed too unreliable?

How would you feel if American tanks entered Ottawa to make sure that Pierre Trudeau stayed in power and if the French Canadian leaders were lured to the United States and shot to prevent a possible secession of Quebec?

All of the ridiculous items listed above and much, much more are true about the equivalent personalities and events that were experienced within the past two generations in the Soviet Union and its so-called "sphere of influence."

How can anyone even begin to contemplate signing an important treaty based on mutual trust with leaders of a nation that has such a strange record is beyond my comprehension.●